U. S. Congress.

Congressional Record

APPENDIX

OF THE

FIRST SESSION OF THE SEVENTY-FIFTH CONGRESS

OF

THE UNITED STATES
OF AMERICA

VOLUME 81—PART 9

JANUARY 5, 1937, TO MAY 19, 1937

(Pages 1 to 1200)

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1937

DEPOSITED BY THE
UNITED STATES OF AMERICA
NOV 12 1937

Congressional Record

APPENDIX

SEVENTY-FIFTH CONGRESS, FIRST SESSION

C. H. J. Taylor

EXTENSION OF REMARKS
OF
HON. JOSEPH B. SHANNON
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 5, 1937

ADDRESS BY HON. JOSEPH B. SHANNON, OF MISSOURI, AT THE UNVEILING CEREMONY OF PORTRAITS OF THE RECORDERS OF DEEDS OF THE DISTRICT OF COLUMBIA ON DECEMBER 15, 1936

Mr. SHANNON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered by me on December 15, 1936:

Mr. SHANNON. The assignment given me tonight, to recall some memories of a former recorder of deeds of the District of Columbia whose color happened to be black, is a very pleasant task, because, as it happens, I personally knew C. H. J. Taylor, who held that position by appointment of a Democratic President, Grover Cleveland, some 40 years ago.

I was a young man in politics at that time. Needless to say, a Democrat of the Negro race was considered somewhat of a curiosity, especially in the State of Kansas, and Taylor was a Kansas man. Kansas was still winning elections in the name of Abraham Lincoln, as the Great Emancipator, and parading memories of the border warfare as a campaign issue every 4 years, when this man Taylor stepped out of the old beaten path to proclaim to people of his race that the time had come for the Negro to begin a little independent thinking on his own account.

He reminded them that the man who wrote the Declaration of Independence wrote a declaration of freedom for the Negro long before the thirteenth amendment became a part of the Constitution. Jefferson, as a Member of the Continental Congress, had drafted such an ordinance providing for the abolition of slavery after the year 1800 in the territorial country from which the States of Alabama, Mississippi, Tennessee, and Kentucky were to be carved, and that document failed to become a law by the vote of only one State.

URGED INDEPENDENT THINKING

I am not inclined to pitch the few remarks that I am to make about Mr. Taylor upon any political alignment. I only mention the fact that this man, at a time when it was considered a political heresy for any colored man to publicly espouse the Democratic faith, had the courage and the foresight and the independent intelligence to realize and to tell his people that the time had come for them to form their judgments, not upon particular party alignments, based on the old war issues, but to do some forward thinking along other lines than those linked with the outworn issue of slavery.

Mr. Taylor had that courage, coupled with an intelligence and independence of thought which, in my opinion, links his name with such men of his race as Booker Washington, the educator; Paul Dunbar, the poet; Paul Robeson, actor and singer; Countee Cullen; and others whose names have brought honor to the Negro race of this country.

C. H. J. Taylor rose to distinction, not because he was a Democrat, not because of any of his political affiliations—for in his early career he made others—but because of his independence of thought, his liberality of opinion, and his courageous advocacy of issues that he believed were for the good of the people of his country, regardless of race.

EARLY SUCCESS IN LAW

Taylor was a man of education. He was a graduate of Betch College, in Savannah, Ga. He studied law and was admitted to the bar in 1878. Born in Perry County, Ala., in 1858, he began the practice of law when he was only 21 years of age and soon attracted notice from the old practitioners and judges as a lawyer of no common ability. Like many people of his race, he was a natural orator. My knowledge of him came in the first Cleveland administration, when he espoused the cause of Cleveland and tariff reform, and went on the rather forlorn mission of stumping in Kansas for the Democratic ticket.

His efforts gave him a national reputation. He served for a time as an assistant city counselor in Kansas City, Kans., but after the election of Grover Cleveland in 1884 he received the appointment of United States Minister and Consul General to Liberia, the Negro Republic on the coast of Africa. The duties of this office he discharged with honor and distinction. He made friends among the Liberian rulers and found occasion to study while there the ethnical problems of his people. He did not merely perform the duties of a representative of his home Government; he seized the opportunity to study the tribal relations of the country from which his people had sprung, and accumulated a knowledge of the African tribes, their customs, and their primitive virtues that enabled him, on his return home, to give throughout the country a series of interesting lectures of great historical and racial value.

EDUCATOR CITES TAYLOR'S SERVICE

I paid a visit a few days ago, just before coming here, across the Kansas line to Taylor's old home town, Kansas City, Kans. I was fortunate to meet there a remarkable old colored man who had been Taylor's neighbor years ago. His name is J. J. Lewis. For more than 40 years Mr. Lewis taught school in the State of Kansas. He is a man of fine education, who has poetry at his tongue's end and who can speak fluently several languages.

Mr. Lewis was delighted to talk about C. H. J. Taylor. He said that people of his race in these days can scarcely realize the courage it took to come out and espouse a Democratic cause in 1884, when the black man was being told from every stump that the cause of all his woes was the old wartime Democratic Party. But, he added, Taylor was a great student of history and he was a man of philosophic judgment and prince of independent opinion.

Lewis said that Taylor's attitude toward his people was that he wanted them to be more original and independent. He hated imitation. He wanted to inculcate in them self-confidence and teach them not to be supine followers of any political creed just because of its label. When the Knights of Labor movement came along, Taylor found in it some elements of liberal principles, and he urged Negroes to join it for their own protection. He became a Democrat because he thought its doctrines were more favorable to the laboring man and its tariff-reduction policies beneficial to the general welfare.

NEW DEALER OF 50 YEARS AGO

As I listened to this fine old representative of his race recall the character of his friend Taylor, it occurred to me that Taylor was a new dealer of 50 years ago—a man who believed that the old order needed changing. And I was more convinced of this when Mr. Lewis put into my hands a pamphlet that reproduced a lecture delivered by C. H. J. Taylor in 1887, after his return from Liberia, to an audience of several thousand in Baltimore, Md. It is a remarkable document, and in its pages, worn and frayed by time—for it is long out of print—one can see reflected clearly the character of this distinguished man. The lecture was a story of Taylor's activities as Minister to Liberia and his researches into the history of his tribal people. I wish it were possible for me to read extended extracts from that lecture of 50 years ago, but my limited time forbids.

Let me quote just a few of Mr. Taylor's observations that will indicate the broadness of his outlook, his sympathetic philosophy, and his humanitarian faith.

He found, he said, the normal Negro of Africa "industrious, honest, truthful, temperate, kind in his actions toward his fellows, and merciful toward a vanquished foe. Give a message to one of them, or a package to be delivered, and you could rely always upon its reaching its destination."

Mr. Taylor found the fundamental principle of the New Deal in vogue there among the rudest tribes. He said:

"For one man among an African tribe to be poor meant that all were poor. The Governor who rules over the Krumen of Montserrado County, Liberia, told me that if one Kruman had even a

quart of rice it was shared with every Kruman until the rice was gone. No Kruman ever thought of a monopoly of rice or of hoarding supplies from his neighbors."

Mr. Taylor continued that their sense of justice was absolute, their trials fair, and that he never heard a word while in their country of jury bribing, fraud, or unfairness in trials.

BISHOP W. T. VERNON PAYS TRIBUTE

In my inquiries concerning C. H. J. Taylor I also talked to Bishop W. T. Vernon, of the African Methodist Episcopal Church of Kansas City, Kans. Bishop Vernon was Register of the United States Treasury under Theodore Roosevelt, and he had known Taylor well. Sustaining the views expressed by Taylor in his lectures, Bishop Vernon had this to say:

"In my travels in Africa among the native people I found certain well-defined principles that were outstanding. So long as they remained away from civilization and were wholly under the rule of the chief, whose word was law, they were scrupulously honest and lived the simple life.

"I have lived among them 2,000 miles back in the interior of Africa. I could do this with perfect safety. I have slept in their heathen kraals or villages, using pillows filled with sand for comfort. I have eaten their simple fare unafraid. I could leave my door open and sleep at night without a tinge of nervousness. I was undisturbed. They would voluntarily come and sleep on the ground at night like faithful dogs and keep guard. There was no thievery and no violence.

"It was only when the natives came down out of Pondoland or out of Transkei to work in the diamond mines of Johannesburg and Kimberley, where they contacted civilization and where their habits of life were changed, that they were easy prey to the habit of drinking and found themselves at times inoculated with various social diseases. They went back to their tribes drunkards and often diseased. It was then that thievery and disillusionment became common.

"It was in the midst of these surroundings that the missionaries needed someone to live among them and guide them."

PLEADED FOR RACIAL SOLIDARITY

Bringing the lessons he had learned in his Liberian ministry home to America, C. H. J. Taylor pleaded for racial solidarity, not along political lines, but along educational and humanitarian lines. He told his people that they were getting book learning, but that they must learn to distinguish between book learning and intelligence. Eloquently, on every occasion, Mr. Taylor sought to elevate his race to an understanding that would make them equal in intelligence as they had become equal in political rights, and to urge upon them pride of race and love of labor.

Mr. Lewis told me that Taylor was fond of poetry and that one of the little verses that he often quoted in his public addresses ran something like this:

"Live for something. Be not idle.
Look about you for employ.
Sit not down to useless dreaming.
Labor is the sweetest joy."

You can readily gather from these brief snatches, from the philosophy of this distinguished member of his race, that the honors that were bestowed upon C. H. J. Taylor were well merited. As the old couplet of copybook days puts it:

"Honor or shame from no condition rise;
Act well your part; there all the honor lies."

Mr. Taylor acted his part well. Dead these many years, he has not been forgotten.

I am glad to pay this slight tribute to the memory of a man who triumphed over all handicaps, achieved an education and a profession, and left a name, among his own people and among the officials of his Government and the sponsors who honored him, as one who did his duty by his fellow man, and whose public career was a credit to his honor, his loyalty, and his high conceptions of citizenship.

Industrial Democracy

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, January 6, 1937

RADIO ADDRESS BY JOHN L. LEWIS, PRESIDENT OF THE UNITED MINE WORKERS OF AMERICA, ON DECEMBER 31, 1936

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address on the subject of Industrial Democracy, delivered by John L. Lewis, president of the United Mine Workers of America, on Thursday, December 31, 1936.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I speak tonight for the millions of workers exploited by American industry. I ask for them enlarged opportunity and increased participation in the wealth they produce. I ask for them a greater degree of industrial democracy. Their supreme need at the present time is, indeed, the fundamental need of our country itself. Industrial democracy means the freedom, happiness, and security which should be the inheritance of all Americans. In economic terms it means collective bargaining and fair industrial relationships. It also means the increase and broadening of mass purchasing power, which is an essential condition to the attainment of a stable prosperity by all business, industrial, and financial interests.

During the year just ended substantial progress has been made by the working people of the country toward the achievement of this goal. In numerous industries they are building new unions for their protection and advancement.

The Committee for Industrial Organization has been functioning for a year. It now has some 15 national and international unions associated, and has been instrumental in organizing some hundreds of thousands of new members. It is educating the American workers to a greater appreciation of the value of organization, and its influence is extending into the ranks of the technical, professional, and white-collar groups in a manner which indicates that they, too, will avail themselves of the opportunities for self-organization, and the opportunity to participate in the benefits of modern collective bargaining.

In the technical, professional, and white-collar groups of workers throughout our country are engaged some three and a half million persons. Through the bitter, tragic years of the depression, since 1929, they have come to realize that their position in business and industry is no more secure than that of the manual worker. Corporate employers have treated them with the same ruthless lack of consideration universally extended to the workers in production. A striking example of this tragic lack of consideration is noted in the record of the American Telegraph & Telephone Co., one of America's premier corporations, enjoying a practical monopoly in its special field. Mr. Walter S. Gifford, president of this corporation, was chairman of former President Hoover's Reemployment Commission. The work of this agency resulted in failure, whereupon Mr. Gifford returned home and in a comparatively short time discharged 132,000 employees of the American Telegraph & Telephone Co. in order to maintain the dividend payments of the corporation on the basis of $9 per annum. Practically all of this great number of dispossessed workers represented the professional, technical, and white-collar classifications.

In that field of public service represented by classified employees of the Federal Government and the inferior political subdivisions of the Nation are again something in excess of 3,000,000 persons whose need of articulate organization is a paramount necessity to protect them in their status and to assure them security in the vicissitudes of life. There are obvious manifestations that the campaign of organization among industrial workers has aroused the intense interest and sympathy of these employees and that they also intend to organize and become articulate.

The Committee for Industrial Organization is carrying its plans forward. Extensive unions have been promoted and expanded in the steel, automotive, glass, shipbuilding, electrical manufacturing, oil, and byproduct-coke industries. Tremendous enrollment of the workers is under way. Unabashed by employer opposition, they are joining the unions of their industries, literally by the thousands.

The year 1936 has witnessed the beginning of this great movement in the mass-production industries. The year 1937 will witness an unparalleled growth in the numerical strength of labor in the heretofore unorganized industries and the definite achievement of modern collective bargaining on a wide front where it heretofore has not existed. Not only the workers but our Nation and its entire population will be the beneficiaries of this great movement. Labor demands collective bargaining and greater participation by the individual worker, whether by hand or brain, in the bountiful resources of the Nation and in the fruits of the genius of its inventors and technicians.

Employers talk about possible labor trouble interfering with continued expansion and progress of industry. They ignore the fact that, unless people have money with which to buy, the wheels of industry slow down and profits, and likewise capital, disappear. It would be more fitting and accurate to talk about "employer trouble"—that is something from which wage earners are suffering. I refer you to the refusal of some of the largest and most powerful corporations in this country to follow modern labor practice or to obey the law of the land. They deny the entirely reasonable and just demands of their employees for legitimate collective bargaining, decent incomes, shorter hours, and for protection against a destructive speed-up system.

It is the refusal of employers to grant such reasonable conditions and to deal with their employees through collective bargaining that leads to widespread labor unrest. The strikes which have broken out in the last few weeks, especially in the automotive industry, are due to such "employer trouble." Modern collective bargaining, involving negotiations between organized workers and

organized employers on an industry basis, would regularize and stabilize industry relations and reduce the economic losses occasioned by management stupidity. The sit-down strike is the fruit of mismanagement and bad policy toward labor. Employers who tyrannize over the employees, with the aid of labor spies, company guards, and the threat of discharge, need not be surprised if their production lines are suddenly halted.

Mr. Alfred P. Sloan, Jr., president of General Motors Corporation, in his published year-end summary, refers to the possibilities of industrial strife in industry. Is it possible that Mr. Sloan is predicting continued hostility on the part of his corporation toward the demands of its employees for fair consideration? The giant General Motors Corporation is at present pursuing the dangerous course of refusing to answer the request of the United Automobile Workers for a national conference for collective-bargaining purposes. The union has repeatedly requested such a conference, but was told by a vice president that any grievances should be taken up with plant managers or general managers in the various localities. It is absurd for such a corporation to pretend that its policies are settled locally. Everyone knows that decisions as to wages, hours, and other conditions of employment are made at a central point for all the plants controlled by General Motors. General Motors is, indeed, a Du Pont-controlled organization, and it is the Du Ponts, and not the plant managers, who lay out the broad lines of labor policies. The United Automobile Workers' representatives have already been told by various plant managers that their reasonable demands must be referred to higher company officials before an answer can be given. The union will continue its demand for a conference with persons who have the power to negotiate. Any other arrangement would be a perversion of collective bargaining and is an evasion of definite industry obligations.

The steel corporations are likewise trying to avoid collective bargaining with their employees. They have tried, by fostering and subsidizing company unions, to get around the law. Instead they have transgressed the law. The steel companies themselves are organized, and they appreciate and exploit the value of organization in the conduct of their business enterprises. The United States Steel Corporation is trying to enforce upon its 220,000 employees the outmoded labor policy adopted by its board of directors in 1901, a policy which denies the right of self-organization to any employee of that corporation or its subsidiaries. At the same time the United States Steel Corporation associates itself with an organization known as the American Iron and Steel Institute, which, on July 1, 1936, in an advertisement published in 375 newspapers, presumed to speak for the iron and steel industry and denied the right of the steel workers to similar organization in their own interests.

The steel companies talk about outsiders who wish to interfere in their industry. But who are the outsiders? The chosen representatives of the men who have devoted their lives to making steel and who have contributed labor and endured the risk of their occupation? Or men from the money marts, who have no knowledge of the process of steel making but who want the power to juggle the lives of human beings in the same manner that they juggle the intricate and involved affairs of the corporations controlled by their holding companies?

Huge corporations, such as United States Steel and General Motors, have a moral and public responsibility. They have neither the moral nor the legal right to rule as autocrats over the hundreds of thousands of employees. They have no right to transgress the law, which gives to the worker the right of self-organization and collective bargaining. They have no right in a political democracy to withhold the rights of a free people.

The workers in the steel industry are organizing; the workers in the automotive industry are organizing; the workers in other industries are organizing; any sane concept of industrial relations would indicate that the labor problems of these industries should be settled across the council table.

The unlicensed and unrestrained arming of corporations against the workers has no place in any political or industrial democracy. Recent revelations before the La Follette subcommittee of the Senate have revealed in part the plans of industry to club, gas, and cripple workers with the lethal weapons of warfare. Huge stocks of such weapons have been purchased at enormous expense, and over $500,000 worth of tear and mustard gas has been delivered to industrial plants, and the expenditure necessary for the purchase of these war supplies is charged to the cost of production. Who is to eat and swallow this enormous quantity of gas? You workers! This gas, these clubs, and these machine guns are intended to make you contented with your present jobs, with your present wages, with your present conditions of employment. They are intended further to compel you to accept a company-operated and company-managed union, as the agency through which you can voice your grievances. How do you like it, workers? What do you propose to do about it?

You men in the steel towns and other unorganized mass-production areas have recently come to an understanding of what the employers think is good for you. You face organized espionage; you work in plants stocked with vomit gas and machine guns—these to be used by professional strikebreakers, often badged as officers of the law. You have detective agencies and employer associations, manufacturing company unions; you have skilled provocateurs to rig the stage for injunctions. You have all this, cloaked by high-powered corporation lawyers—who also sit on the board of directors of the tear-gas companies and of the spy corporations. The next day they sit on eminent committees of the Liberty League, solemnly finding labor laws unconstitutional. They also stand before the Supreme Court successfully arguing those laws void.

This real alternative to industrial democracy has been slightly exposed by the La Follette committee. This alternative is what industrialists want left undisturbed under this sudden "era of good feeling." They do not want the Senate and you workers to discover how the antilabor policies of great industrialists have filled the land with a fat business of spying and armed strikebreaking and civic corruption. They have stored mills and plants with the paraphernalia of war and its mercenaries—they suborn police and judiciary—and they want the Senate and you to blind your eyes to their warfare and their plan in the name of "good feeling."

May I respectfully suggest to the La Follette committee, which has hauled before it a few of industry's criminal agents, that it summon industry's brass hats, however eminent, to answer why they hire and feed this antilabor army, and why they maintain warehouses overflowing with industrial war munitions and paraphernalia? May I humbly warn the Senate that labor wants this investigation pressed home, and wants industry disarmed, lest labor men on their march to industrial democracy should have to take by storm the barbed-wire barricades and machine-gun emplacements, builded and maintained by the rapacious moguls of corporate industry? The agents of the Federal Government should enter these plants and gut them of their deadly weapons, so that Americans in the industrial communities may walk erect and enjoy, with the pride of free men, their inherent and rightful privileges.

The people of our Nation have just participated in a national referendum. By an overwhelming majority they voted for industrial democracy, and elected its champion, Franklin Delano Roosevelt. The issues were summed up and epitomized by President Roosevelt in his Madison Square Garden address on the night of October 31, 1936. From the text of that memorable speech I quote President Roosevelt as follows: "This is our answer to those who, silent about their own plans, ask us to state our objectives. Of course, we will continue to seek to improve working conditions for the workers of America—to reduce hours overlong, to increase wages that spell starvation, to end the labor of children, to wipe out sweatshops. Of course we will continue every effort to end monopoly in business, to support collective bargaining, to stop unfair competition, to abolish dishonorable trade practices. For all these we have only just begun to fight." These words, broadcast to a Nation, represent President Roosevelt's concept of industrial democracy, and were endorsed by the American people. They are the policy of this administration. They were in the mind of every worker in this land when on election day he cast his vote for the man who uttered them.

Labor now demands the right to organize and the right to bargain. Labor demands a new deal in America's great industries. Labor holds in contempt those who for mercenary reasons would restrict human privileges. Labor demands legislative enactments, making realistic the principles of industrial democracy. It demands that Congress exercise its constitutional powers and brush aside the negative autocracy of the Federal judiciary, exemplified by a Supreme Court which exalts property above human values. Either by constitutional amendment or statutory enactment, the right of Congress to legislate for the welfare of the people and the perpetuity of the Republic must be assured. The Court has overstepped the bounds of its own authority and has gratuitously offended over two-thirds of the Nation's citizens. Labor will support the elected representatives of the Republic in any attempt to restore to the Federal Congress the legislative powers, of which it has gradually been stripped by the judicial encroachment and arbitrary decrees of the Supreme Court.

Prodded and goaded by the financial interests dominant in steel, automobile, and other major industries, the coal industry has just taken an amazing action. It has done so without public rebuke or criticism. The basic agreement of the coal industry expires March 31. The agreement contains a provision binding operators and mine workers to assemble on February 17, 1937, "to consider what revisions, if any, shall be made in this agreement as to hours, wages, and conditions of employment." Notwithstanding this provision, the coal operators of the Appalachian area representing three-fourths of the Nation's bituminous coal tonnage, on December 15, 1936, formally notified the United Mine Workers of America that they had already met among themselves and decided upon the wages, hours, and conditions of employment affecting the mine workers for an additional 2-year period. They decided that the 7-hour workday would be lengthened to an 8-hour workday, at the same daily wage; they decided that the rates for tonnage workers would remain the same as heretofore; they decided that the important question of interdistrict and intradistrict differentials would remain undisturbed until 1939.

The plain and simple fact is that the Appalachian operators, as the result of financial intrigue, have deliberately breached the Appalachian agreement and have arrogated to themselves, notwithstanding the provisions of the agreement to the contrary, the power to decide for themselves the wage policies and provisions of the industry. Of course, the United Mine Workers of America will see that they do no such thing. It is, however, obvious that since the coal operators themselves have formally breached the agreement, the United Mine Workers have an equal right, at will and without notice, to denounce its provisions and withdraw their members from the mines of the defaulting coal operators.

Labor desires a peaceful solution of the problems of its relationships in the mass-production industries. The organizations

associated with the Committee for Industrial Organization are not promoting industrial strife—they are hoping for industrial peace on a basis that recognizes the rights of the workers, as well as the employers. Peace, however, cannot be achieved by employers' denial of the right to organize; by denial of conferences for bargaining purposes; by the purchase and use of arms, ammunition, and tear gas; by a continued policy of arrogance and repression.

The time has passed in America when the workers can be either clubbed, gassed, or shot down with impunity. I solemnly warn the leaders of industry that labor will not tolerate such policies or tactics. Labor will also expect the protection of the agencies of the Federal Government in the pursuit of its lawful objectives.

The stage is set. Industry can go forward with profit to its investors, and with security to our citizenship; or it can elect to destroy itself by blindly following its unreasoning prejudices, and refusing to conform to the modern concept of proper industrial relationships.

The leaders of industry will decide, and upon them rests the responsibility of deciding wisely.

Dedication of New Station X Post Office, Bronx, New York City

EXTENSION OF REMARKS

OF

HON. EDWARD W. CURLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1937

ADDRESS BY HON. EDWARD W. CURLEY, OF NEW YORK, ON OCTOBER 29, 1936

Mr. CURLEY. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following address delivered by me in New York City on October 29, 1936:

Mr. Postmaster and friends, the past 3½ years under President Roosevelt will prove to be the most eventful in history since the Nation, long beleagured by adverse economic forces, hailed hopefully the organization of a new emergency agency of the Federal Government. This new agency is the Federal Emergency Administration of Public Works, sharing with other revival forces the momentous responsibility of doctoring a sick and sluggish economy, quickening its lagging pulse, and restoring it to its former vigor. This new agency came to be known as the Public Works Administration, and abbreviated to P. W. A. P. W. A. has gone about its appointed task, creating jobs and building works in fulfillment of its charge. Its history in the national attack on the depression has been definitely fixed as one of the most powerful agencies affecting the forward recovery movement of the New Deal. P. W. A. not alone made jobs to reduce unemployment but it speeded the country's rescue in this hour of its greatest economic crisis.

The buildings the P. W. A. constructs and the great engineering works it establishes served their immediate purpose and remain to benefit the people of our own and succeeding generations. For all construction purposes to stimulate recovery Congress appropriated $3,151,029,882, of which less than half went to P. W. A.

The policies of P. W. A. provide for a partnership in the establishment of public works whereby the community, benefiting from an improvement, makes the major contribution from its own funds, to be expended in connection with those granted by the Federal Government. Under the first program undertaken by the P. W. A. it provided for a grant of 30 percent of the total cost of labor and materials, and the local governmental body accepting the grant was required to provide the remainder of the cost. This arrangement was liberalized in the second and in the current programs, and P. W. A. now provides up to 45 percent of the total cost, with the grantee putting up 55 percent of the total.

For 25 years efforts were made by the Bronx public officials to secure a central post-office station for the Bronx. In 3½ short years we have realized those efforts have at last been crystallized into an actual fact. It is now in course of construction. We are honored again today by the dedication of this beautiful building, station X. This fine post-office branch station is but one of a vast program of similar projects being erected in every State in the Union. There have been 89 already completed and 250 more are under contract.

There were 20 post-office stations alone in the city of New York.

Last October Congress passed a law providing for a 40-hour working week for postal employees, and it is now in operation. The Post Office Department is one of the great departments in our national administration. Under President Roosevelt it turned a national deficit of $150,000,000 in 1932 into a surplus of $4,000,000 at the end of the last fiscal year of 1935–36. It does a monumental human service for the Nation. It handled the distribution of the $2,000,000,000 veterans' bonus without a hitch. We are proud of the constructive work being done in our own community, and I wish to convey the gratitude of my constituents to you, Mr. Postmaster.

A Civil Service Court of Appeals

EXTENSION OF REMARKS

OF

HON. VIRGINIA E. JENCKES

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1937

Mrs. JENCKES of Indiana. Mr. Speaker, I have introduced a bill (H. R. 258) which, in my opinion, will go a long way toward correcting an evil that has existed in the operation of the civil-service laws for a long time.

This bill has for its purpose the creation of a civil-service court of appeals, a tribunal to whom a civil-service employee may appeal when, in his opinion, he is unjustly reduced in salary, suspended, or removed from the service.

The establishment of such a court would not only strengthen the civil-service law but it would also inspire confidence in the employees if they knew that they were not only to be furnished a copy of the charges in writing and given an opportunity to answer same but would also, if necessary, have the opportunity of examining the evidence on which their reduction, suspension, or removal had been brought about.

Under existing conditions civil-service employees have charges preferred against them in writing and they answer same to their immediate superior. Too often, far too often, after the employees have answered the charges, additional allegations are made of which the accused employee has no knowledge whatsoever, and, of course, when the case reaches the head of the department and no answers are found to these allegations the natural assumption is that the employee is guilty and has no answer to make, and in many cases the final decision on the case is influenced by the failure of the employee to fully answer all of the charges and allegations. This question has been one which has given the employees a great deal of concern for some time, because they feel that as the Government has safeguarded itself by throwing very rigid regulations around their entrance into the civil service that the Government should see to it that there is an impartial body to whom they could appeal if an unjustified attempt were made to reduce them in salary, suspend, or remove them from the service. The whole jurisprudence of the United States is based on a just and equitable settlement of all questions that arise between its citizens being passed upon by competent courts.

In view of the treatment accorded the citizens of the United States it seems manifestly unfair and unjust that an employee should be reduced, suspended, or dismissed on the judgment of one individual, regardless of how fair that person might be, and the employee should have the right to have the evidence in his case reviewed by an unbiased board whose decision would be final.

It is my conviction that with the creation of this civil-service court of appeals that when it had rendered its decision, that all parties concerned would be satisfied, and it would have a tendency to create a feeling of good will and bring about a better understanding between the workers and their employer, the Government of the United States. Charges as a rule originate with the employees' immediate superior, and after the charges are answered they are then sent to the head of the department in which the accused is employed.

A practice has grown up in some departments that when the superior officer sends the charges and answer to the head of the department involved, that he submits a recommendation as to the punishment to be inflicted. This in reality amounts to the prosecutor recommending to the court who is the head of the department the penalty that the court is to impose. The head of the department being human is in a large number of cases influenced in his decision by these recommendations on the theory that the head of the department has the accused employee under his jurisdiction and that the head of the department must be upheld.

No prosecutor in a civil suit would have the temerity of suggesting to a court the decision it should make. This practice is particularly obnoxious when it must be remembered that in many cases this same officer has added allegations to the original charges which the accused employee has never seen.

The last session of Congress passed a law creating the National Labor Relations Board, which gives to the laboring man the right to see that he secures a square deal; and this bill which I have introduced will assure a square deal to the civil-service employees as far as their positions are concerned.

The letter carriers of my district are particularly interested in seeing a civil-service court of appeals established, and the National Association of Letter Carriers, in national conventions running over a period of years, have repeatedly gone on record in favor of such a board, and again did so at their last convention held in Cleveland, Ohio, in September 1935. This question is not one that is advocated by the employees alone, for it will be noted that in the Fifty-third Annual Report of the United States Civil Service Commission, which will be presented to this Congress, that authority be given the Civil Service Commission to investigate and conciliate differences between employees and supervisors arising from removal, reductions, or suspensions.

The recommendations of the Civil Service Commission would indicate that they realize that the present system does not meet the needs of present-day conditions and that a change is necessary.

Mr. Speaker, while subscribing in principle to the recommendation of the Civil Service Commission as to the need for some such authority, I feel, however, that this entire matter should be handled by an impartial tribunal such as I have suggested in the bill that I have introduced; for with this court of appeals the interest of both the Government and its employees will be fully protected.

Mr. Speaker, I express the hope that before the adjournment of this session of Congress that we may have the pleasure of seeing a civil-service court of appeals as outlined in my bill enacted into law.

Amendment of Constitution Proposing a 6-Year Term for President of the United States

EXTENSION OF REMARKS

OF

HON. GEORGE HOLDEN TINKHAM

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1937

STATEMENT BY HON. GEORGE HOLDEN TINKHAM, OF MASSACHUSETTS

Mr. TINKHAM. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following statement which I made public recently:

Governments of the people on all sides are being threatened by dictatorships. Demagogues have always been the assassins of republics. They do not hesitate to sacrifice their country for personal power and fame. The pages of history do not record the survival of any important republic once it had known a dictatorship.

In view of the present trend, to protect the United States in the future from dictatorship, from the rule of a demagogue, the Constitution should make a President ineligible for a second term.

A resolution proposing an amendment to the Constitution to effect this purpose and to extend the term of the Presidency from 4 to 6 years will be introduced in the next Congress.

George Washington foresaw the possible rise of a dictator in the United States. He pointed out that when disorders and miseries come upon a people they gradually incline the minds of men to seek security and repose in the absolute power of an individual. He said that "sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty."

President Jackson proposed a single Presidential term of 4 or 6 years, with prohibition against reelection.

The Democratic platform of 1912 contained the following plank: "We favor a single Presidential term, and to that end urge the adoption of an amendment to the Constitution making the President of the United States ineligible for reelection, and we pledge the candidate of this convention to this principle."

The Democratic Party of that day apparently purposed to guard against party States under party dictatorship.

The original purpose of the electoral college was to have chosen as President the man best fitted for that office and to prevent the selection of a party chief or the leader of a faction.

The Presidency should be administered wholly for the public interest and for all the people. It should not be administered in the interest of a party or of a faction.

In contradiction to the spirit of the Constitution, the Presidency has come to represent a party. The President is now a party man in office, and as much of his power is party power he does not represent the people as a whole.

Judges are appointed for partisan purposes, and consequently justice is tainted at its source.

Officeholders are more loyal to the President who appoints them than to the public who pays them.

In recent years a President seeking reelection, during his first term takes the platform repeatedly for party or factional purposes. A President who is a candidate to succeed himself abuses his opponent, who in turn abuses him, thereby degrading the office and the Government and bringing both into contempt.

A single term of 6 years would elevate the administration of the Presidency by eliminating its competitive political character after election. It would perfect the public Government service by eliminating the use of this service for political and personal ends.

Under the present system a President is continually thinking of his reelection and he builds a political machine to bring about the desired result. Such is the nature of man and such are his natural ambitions. Under the present system a President is continuously subject to the influence of groups with selfish interests, and if for political reasons he heeds these groups the public interest necessarily suffers.

Appointments made by a President who could not succeed himself would be less likely to be political in character than under the present system. If the Presidential term were extended to 6 years, the uncertainty caused by elections would occur less frequently, and with elections occurring less frequently the expenses of them would be reduced.

The Constitution provides for the impeachment of a President who fails to perform his duty and to obey the Constitution, whether he is elected for 4 or 6 years.

There is now no constitutional guaranty against dictatorship in this country and the consequent complete destruction of the Republic. The proposed amendment would give that guaranty and it should be adopted.

JOINT RESOLUTION

Resolved, etc., That the following be proposed as an amendment to the first paragraph of section 1 of article II of the Constitution of the United States, which will be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States, namely: Amend said paragraph to read as follows:

"The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of 6 years and shall be ineligible to a second term, and, together with the Vice President, who shall hold for a like term, and shall also be ineligible to a second term, be elected as follows."

The Right Arm of Statesmanship

EXTENSION OF REMARKS

OF

HON. AUGUSTINE LONERGAN

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Friday, January 8 (legislative day of Wednesday, Jan. 6), 1937

ADDRESS BY HON. HOMER CUMMINGS, ATTORNEY GENERAL OF THE UNITED STATES

Mr. LONERGAN. Mr. President, I ask unanimous consent to have inserted in the RECORD an address on the subject of The Right Arm of Statesmanship, delivered by Attorney General Cummings at a meeting of the Bar Association of the District of Columbia on December 5, 1936.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Toastmaster, President Bastian, members of the judiciary, distinguished guests, and my friends of the Bar Association of the District of Columbia, the annual dinner of this association is an

event of unfailing interest. I am grateful for the courtesy that draws me here. While recent happenings in the national field have left us a bit breathless, nevertheless, the period of excitement having passed, we may now consider more objectively the common problems of the bar. Perhaps we are a bit more relaxed, possibly somewhat more disposed to take counsel together and, it is to be hoped, considerably wiser. Excessive fears no longer haunt us. Democratic processes have again demonstrated their resiliency and, let me add, the Constitution still stands.

True, there remain, as there have existed from the beginning, vital questions of interpretation. These, no doubt, will be resolved in accordance with the American constitutional method—a process of adaptation and growth, following its course to the essentials of justice through the orderly ways of discussion and education.

Surely we must recognize that it is rather childish to assume that all our problems have been worked out for us by our forefathers. Each generation must determine its own destiny in its own way, dealing of necessity with the actual conditions which it confronts. If I may resort to physics for an illustration, I would say that the law is fluid, not solid. It moves, it flows, it passes on.

Many centuries ago Heraclitus asserted that life is always in a state of flux, like a river. The law, in like fashion, flows on. At times it fills the course of our common life to its banks, occupies the crevices, and surges forward, a full-breasted tide. And again it drops back into eddies and seems for a while to lose current and vitality. Nevertheless the great movement is as inevitable as life itself, for law is but an aspect of life, and, as Emerson once wisely remarked, "Life is more important than anything that can be said about it."

These observations bring me more intimately to the thought that is in my mind as I address you here tonight. As events move on and the great future widens before us, what part is the legal profession to assume?

Economic and social problems, the consideration of which was postponed by the World War, have now recurred with fresh insistence. Ideas are loose in the world. We may run from them but they will hunt us down. The American people have not abated an iota of their faith in our institutions, but they are in a mood to demand something more substantial than thin political gruel. They are not content with the languid reaffirmation of undisputed things. They want results. They are entitled to results. It is not strange, therefore, that they should prefer a conception of progress that places its accent on human rights rather than on property rights; and they are entitled to have this choice respected.

Manifestly they think as a nation and in terms of a nation.

It is idle, therefore, to assure them that agriculture is a State matter or a question for the farmers alone. They know that nature has decreed it otherwise. The winds and the dust and the drought do not heed State lines. They have unmistakable jurisdictions of their own.

Likewise it is futile to assert that unemployment is merely a State or local affair. It has arisen to the dignity of a national problem of the first order. Mr. Harry L. Hopkins, the very able Works Progress Administrator, referring to the large gains already made, nevertheless took recent occasion to remark that while we shall in all probability reach the production level of 1929 in the relatively near future, there will still be six or seven million jobless people in the United States. Technological displacement, increasing population, and the new workers who have entered the labor market have been decisive factors in creating this disturbing situation.

Mr. Hopkins believes that "with wisdom and foresight the problem can be solved in a way that will hurt no one and will bring to the people as a whole the greatest era of health and prosperity and happiness ever attained in any nation, but it can be done only if the Government works with business and business works with Government toward a common end."

The great South African statesman and soldier, Gen. Jan Smuts, sometime back, took occasion to warn the people of all nations that the depression which had affected so many countries was not merely cyclical, but disclosed a complete change of world economy. Since that utterance was made, many of the governments of the Old World have gone forward with their absorption of private industry under conditions of absolutism and tyranny, which a lover of American liberty contemplates with extreme distaste. Herein lies a warning for us.

We are a great creative nation. We have enormous accumulations of capital and, fortunately, we are coming to have a more enlightened view as to the trusteeship involved in the ownership and control of property. Power must not be employed to destroy the human beings it should serve. The products of child labor and the sweatshops must not be used to displace the toil of fathers of families endeavoring to live according to American standards. An evolutionary process is going forward. It is idle to stand in its way or to proclaim that it does not exist.

And now I recur to the theme that is implicit in these observations, addessed as they are to a company of lawyers. The growth of great aggregations of capital, the corporate structures that have been built up to serve them, the rich rewards that are open to all those engaged, professionally or otherwise, in these enterprises have, unless we are very careful, a tendency to blunt our perception of public need. We are absorbed in personal or narrowly professional matters. Our time is intensively taken. Client relations serve to accentuate the stress laid upon private as opposed to public interests. If business finds itself meeting these unaccustomed problems with an eye primarily directed toward personal profit, it is not perhaps strange. I dare say also that it is equally difficult for the practicing lawyer to forget the habits of a strictly individualistic age and attune himself to the fresher outlook which he must ultimately take if he is to survive as a wise counselor and friend.

We are not merely the advisers of those who would preserve the status quo at all hazards. We are servants of society, accredited representatives of a judicial system which has for its ultimate purpose the administration of justice in its highest sense. In these great areas of change and progress would we not be better citizens, better patriots, aye, and better lawyers, if we were a little less concerned with the technicalities which have served so well in many a strategic contest and a little more given to a broader view of that movement of society which seeks to stake out a more advanced frontier of justice?

The fault is not all on one side and the exigencies of modern life have much to answer for, but the fact remains that many of our learned brethren have given less and less attention not only to public service but even to a public way of thinking while in private practice. In the meantime statesmanship has shattered the bonds of precedent and is seeking ways to fulfill the just hopes of our people. It is something of an anomaly that in the face of great problems we turn our affairs over to public servants who strive to supply the means to answer the public need, while at that very moment many of the most gifted members of our profession exercise their ingenuity and their experience to break down the structure thus created.

I am sure that you will not think I exaggerate when you reflect upon the fact that in many quarters there has been a growing distaste for tactics of obstruction and for the ingenious devices which have been invoked to thwart or circumvent the processes by which Government seeks to attain its legitimate ends. I confess to a feeling of uneasiness when I reflect upon this state of the public mind. The public is conscious that that which was unplanned or selfishly guided in the past must take its place in an orderly governmental process and that a great cleansing and rebuilding program must go forward. It is impatient with artificial restraints and becomes irritated by those refinements of logic which are calculated to render attempts at social reconstruction sterile or abortive.

One of the unfortunate byproducts of this changing point of view is a tendency upon the part of many of our people to be restive under the slow processes of the law and to cease to look upon the structure of our society as the basis of security and prosperity. This is not a wholesome situation and we must make shift to amend it. Lawyers cannot abdicate their great function as statesmen without a tragic loss to America. They must not lose their position as the friends of progress. They must not permit prejudices to accumulate against the profession. They must seek earnestly to determine how they may regain that lost prestige which was so admittedly theirs in the larger and more spacious days when America was in the making.

Questions of vast significance are moving to their solution. I doubt if there has ever been a period in our history when there was a greater need of lawyers capable and willing to give their great ability to the wise solution of our insistent problems. We not only need men of this sort in the legislatures, in the Congress, and in executive and judicial positions, but we need them in private practice, where with generous wisdom they may advise helpfully in those processes of accommodation which are so pathetically essential in these modern days. The Nation as a whole needs the service of the profession as a whole. The inward unity of America is a precious thing, and no element of our national life can afford to forget it or neglect to serve it.

Let it not be forgotten that social progress and, indeed, all measures of governmental readjustment must take on a legal form. When one considers the intricacies of modern business and the unexpected fashion in which a measure, apparently well conceived, may produce undesired collateral results, the difficulties of legislation are readily apparent. The program should not be merely the product of an administration at which the profession is entitled to take potshots after it has been formulated; it should be a program of America in which the administration, business, labor, agriculture, and the legal profession generously collaborate.

I am proud of the great traditions of our profession. With rare exceptions the vital documents of liberty that mark the progress of humankind have been formulated by lawyers. The charters of our colonies, the constitutions and statutes of our States, the Federal statutes, the Declaration of Independence, and the Federal Constitution, without which America, as we know it, would not exist, have to our imperishable fame been the products of our labors. All through our history great leaders of the bar have spoken movingly in the cause of human rights and in every era have fashioned some form of enactment to make certain of each popular advance.

Is it not appropriate that we should once more take stock of ourselves and consider again the heights to which our brethren of earlier days carried the standards of our profession? How better can this be done than by reflecting upon our duty to those innumerable, unnamed, unknown, and sometimes forgotten clients—the people of America.

I am conscious that our profession has been thoughtlessly relinquishing some of its highest prerogatives. I am jealous of its reputation, and, realizing the mighty influence it is capable of exerting, I am apprehensive lest it forego that opportunity. To criticize, to debate, to litigate, all these things are very well, but the profession must not surrender its role of leadership, it must not forget that the law is the right arm of statesmanship.

Transportation of Goods Made by Convict Labor

EXTENSION OF REMARKS
OF
HON. TOM CONNALLY
OF TEXAS
IN THE SENATE OF THE UNITED STATES
Friday, January 8 (legislative day of Wednesday, Jan. 6), 1937

DECISION OF THE SUPREME COURT OF THE UNITED STATES IN KENTUCKY WHIP CASE

Mr. CONNALLY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD the decision of the Supreme Court of the United States in the case of Kentucky Whip & Collar Co., petitioner, against Illinois Central Railroad Co. This decision upholds the so-called Ashurst-Sumners Act, relating to the shipment in interstate commerce of convict-made goods. The reason for my request that the decision be printed in the RECORD is that a year ago, when there was pending before the Senate a bill relating to the oil industry authorizing the Government to prohibit the interstate shipment of oil produced in violation of State law, many Senators took the attitude that Congress had no power to prohibit the interstate shipment of an article that was not, within itself, deleterious or harmful. The decision in question makes quite clear that that is not a necessary element in the exercise of the power, and I ask that the decision of the Supreme Court may be printed in the RECORD.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

Mr. Chief Justice Hughes delivered the opinion of the Court.

This controversy relates to the constitutional validity of the act of Congress of July 24, 1935, known as the Ashurst-Sumners Act (49 Stat. 494).

The act makes it unlawful knowingly to transport in interstate or foreign commerce goods made by convict labor into any State where the goods are intended to be received, possessed, sold, or used in violation of its laws. Goods made by convicts on parole or probation, or made in Federal penal and correctional institutions for use by the Federal Government, are excepted. Packages containing convict-made goods must be plainly labeled so as to show the names and addresses of shipper and consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced.[1] Violation is punished by fine and forfeiture.[2]

Petitioner manufactures in Kentucky, with convict labor, horse collars, harness and strap goods which it markets in various States. It tendered to respondent, a common carrier, 25 separate shipments for transportation in interstate commerce, of which 10 were consigned to customers in States whose laws prohibited the sale of convict-made goods within their respective borders, 5 to States whose laws did not prohibit such sale but required that the goods should be plainly marked so as to show that they were made by convicts, and the remaining 10 to States whose laws imposed no restriction upon sale or possession. None of the packages were labeled as required by the act of Congress and, in obedience to the act, respondent refused to accept the shipments.

Petitioner then brought this suit for a mandatory injunction to compel the transportation. The district court dismissed the bill and the circuit court of appeals affirmed the decree. The district court declared the act to be invalid so far as it prohibited transportation of convict-made goods into States which proscribed sale or possession, but sustained the provision which required labeling (12 Fed. Supp. 37). The circuit court of appeals sustained the act in its entirety (84 F. (2d) 168). This Court granted certiorari (Oct. 12, 1936).

Petitioner contends (1) that the Congress is without constitutional authority to prohibit the movement in interstate commerce of useful and harmless articles made by convict labor and (2) that the Congress has no power to exclude from interstate commerce convict-made goods which are not labeled as such.

First.—The commerce clause (art. I, sec. 8, par. 3) confers upon the Congress "the power to regulate; that is, to prescribe the rule by which commerce is to be governed." This power "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution" (*Gibbons* v. *Ogden*, 9 Wheat. 1, 196). By the act now before us, the Congress purports to establish a rule governing interstate transportation, which is unquestionably interstate commerce. The question is whether this rule goes beyond the authority to "regulate."

Petitioner's argument necessarily recognizes that in certain circumstances an absolute prohibition of interstate transportation is constitutional regulation. The power to prohibit interstate transportation has been upheld by this Court in relation to diseased livestock,[3] lottery tickets,[4] commodities owned by the interstate carrier transporting them, except such as may be required in the conduct of its business as a common carrier,[5] adulterated and misbranded articles, under the Pure Food and Drugs Act,[6] women for immoral purposes,[7] intoxicating liquors,[8] diseased plants,[9] stolen motor vehicles,[10] and kidnaped persons.[11]

The decisions sustaining this variety of statutes disclose the principles deemed to be applicable. We have frequently said that in the exercise of its control over interstate commerce the means employed by the Congress may have the quality of police regulations (*Gloucester Ferry Co.* v. *Pennsylvania*, 114 U. S. 196, 215; *Hoke* v. *United States*, 227 U. S. 308, 323; *Seven Cases* v. *United States*, 239 U. S. 510, 515). The power was defined in broad terms in *Brooks* v. *United States* (267 U. S. 432, 436, 437): "Congress can certainly regulate interstate commerce to the extent of forbidding and punishing the use of such commerce as an agency to promote immorality, dishonesty, or the spread of any evil or harm to the people of other States from the State of origin. In doing this it is merely exercising the police power for the benefit of the public, within the field of interstate commerce."

The anticipated evil or harm may proceed from something inherent in the subject of transportation, as in the case of diseased or noxious articles which are unfit for commerce (*Hipolite Egg Co.* v. *United States*, 220 U. S. 45; *Oregon-Washington R. & N. Co.* v. *Washington*, 270 U. S. 87, 99). Or the evil may lie in the purpose of the transportation, as in the case of lottery tickets, or the transportation of women for immoral purposes (*Champion* v. *Ames*, 188 U. S. 321, 358; *Hoke* v. *United States, supra; Caminetti* v. *United States*, 242 U. S. 470, 486). The prohibition may be designed to give effect to the policies of the Congress in relation to the instrumentalities of interstate commerce, as in the case of commodities owned by interstate carriers (*United States* v. *Delaware & Hudson Co.*, 213 U. S. 366, 415). And, while the power to regulate interstate commerce resides in the Congress, which must determine its own policy, the Congress may shape that policy in the light of the fact that the transportation in interstate commerce, if permitted, would aid in the frustration of valid State laws for the protection of persons and property (*Brooks* v. *United States, supra; Gooch* v. *United States*, 297 U. S. 124).

The contention is inadmissible that the act of Congress is invalid merely because the horse collars and harness which petitioner manufactures and sells are useful and harmless articles. The motor vehicles which are the subject of the transportation

---

[1] Secs. 1 and 2 are as follows:

"That it shall be unlawful for any person knowingly to transport or cause to be transported, in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institution, from one State, Territory, Puerto Rico, Virgin Islands, or district of the United States, or place noncontiguous but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, Puerto Rico, Virgin Islands, or district of the United States, or place noncontiguous but subject to the jurisdiction thereof, where said goods, wares, and merchandise are intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise in violation of any law of such State, Territory, Puerto Rico, Virgin Islands, or district of the United States, or place noncontiguous but subject to the jurisdiction thereof. Nothing herein shall apply to commodities manufactured in Federal penal and correctional institutions for use by the Federal Government.

"SEC. 2. All packages containing any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package."

[2] Id., secs. 3 and 4.

[3] Act of May 29, 1884 (23 Stat. 31); *Reid* v. *Colorado* (187 U. S. 118). See *Champion* v. *Ames* (188 U. S. 321, 358, 359).

[4] Act of Mar. 2, 1895 (28 Stat. 963); *Champion* v. *Ames* (188 U. S. 321).

[5] Act of June 29, 1906 (34 Stat. 584); *United States* v. *Delaware & Hudson Co.* (213 U. S. 366, 415).

[6] Act of June 30, 1906 (34 Stat. 768); *Hipolite Egg Co.* v. *United States* (220 U. S. 45); *Seven Cases* v. *United States* (239 U. S. 510).

[7] Act of June 25, 1910 (36 Stat. 825); *Hoke* v. *United States* (227 U. S. 308); *Caminetti* v. *United States* (242 U. S. 470).

[8] Act of Mar. 1, 1913 (37 Stat. 699); act of Mar. 3, 1917 (39 Stat. 1069); *Clark Distilling Co.* v. *Western Maryland Rwy. Co.* (242 U. S. 311); *United States* v. *Hill* (248 U. S. 420); *McCormick & Co* v. *Brown* (286 U. S. 131).

[9] Act of Mar. 4, 1917 (39 Stat. 1165); *Oregon-Washington R. & N. Co.* v. *Washington* (270 U. S. 87).

[10] Act of Oct. 29, 1919 (41 Stat. 324); *Brooks* v. *United States* (267 U. S. 432).

[11] Act of June 22, 1932 (47 Stat. 326); act of May 18, 1934 (48 Stat. 781); *Gooch* v. *United States* (297 U. S. 124).

See also act of May 25, 1900 (31 Stat. 187); *Rupert* v. *United States* (181 Fed. 87); act of July 3, 1918 (40 Stat. 755); *Bogle* v. *White* (61 F. (2d) 930).

prohibited in the National Motor Vehicle Theft Act [12] are in themselves useful and proper subjects of commerce, but their transportation by one who knows they have been stolen is "a gross misuse of interstate commerce", and the Congress may properly punish it "because of its harmful result and its defeat of the property rights of those whose machines, against their will, are taken into other jurisdictions" (*Brooks* v. *United States, supra,* p. 439). Similarly, the object of the Federal Kidnaping Act [13] is to aid in the protection of the personal liberty of one who has been unlawfully seized or carried away (*Gooch* v. *United States, supra,* compare *United States* v. *Wheeler,* 254 U. S. 281).

On the same general principle the Congress may prevent interstate transportation from being used to bring into a State articles the traffic in which the State has constitutional authority to forbid, and has forbidden, in its internal commerce. In that view we sustained the acts of Congress designed to prevent the use of interstate transportation to hamper the execution of State policy with respect to traffic in intoxicating liquors. This was not because intoxicating liquors were not otherwise legitimate articles of commerce. On the contrary, they were recognized as such "by the usages of the commercial world, the laws of Congress, and the decisions of courts" (*Leisy* v. *Hardin,* 135 U. S. 100, 110; *In re Rahrer,* 140 U. S. 545, 556; *Louisville & Nashville R. Co.* v. *Cook Brewing Co.,* 223 U. S. 70, 82). It was because intoxicating liquors were legitimate subjects of commercial intercourse that the States were powerless to interfere with their transportation in interstate commerce (*Bowman* v. *Chicago & Northwestern Rwy. Co.,* 125 U. S. 465, 489; *Leisy* v. *Hardin, supra,* pp. 110, 113; *Rhodes* v. *Iowa,* 170 U. S. 412; *Vance* v. *W. A. Vandercook Co.* (No. 1), 170 U. S. 438; *Louisville & Nashville R. Co.* v. *Cook Brewing Co., supra*). But because of the effects ascribed to the traffic in intoxicating liquors, the States in the exercise of their police power in relation to their internal commerce could restrict or interdict that traffic without violating the Federal Constitution (*Foster* v. *Kansas,* 112 U. S. 201, 206; *Mugler* v. *Kansas,* 123 U. S. 623, 657–659). To aid the States in securing the full protection they desired, Congress brought into play its power to regulate interstate commerce.

By the Wilson Act of August 8, 1890,[14] intoxicating liquors transported into any State were subjected upon arrival to the operation of State laws to the same extent as though they had been produced within the State, although still in the original packages. This act was upheld in *In re Rahrer, supra.* But the statute did not apply until the transportation was completed by actual delivery to the consignee (*Rhodes* v. *Iowa, supra,* p. 426; *Adams Express Co.* v. *Kentucky,* 214 U. S. 218, 222; *Louisville & Nashville R. Co.* v. *Cook Brewing Co., supra*). As "the right to receive" was not affected by the Wilson Act, "such receipt and the possession following from it and the resulting right to use" remained protected by the commerce clause (*Clark Distilling Co.* v. *Western Maryland Rwy. Co.,* 242 U. S. 311, 323). In this situation the Congress passed the Webb-Kenyon Act of March 1, 1913,[15] which prohibited the transportation of intoxicating liquors into any State when it was intended that they should be "received, possessed, sold, or in any manner used" in violation of its laws. The Court upheld the constitutional validity of this act as a regulation of interstate commerce (*Clark Distilling Co.* v. *Western Maryland Rwy. Co., supra*). It was supplemented by the act of March 3, 1917, known as the Reed amendment [16] (*United States* v. *Hill,* 248 U. S. 420, 424).

The ruling in *Hammer* v. *Dagenhart,* 247 U. S. 251, upon which petitioner relies, in no way contravenes or limits the principle of these decisions. In the Hammer case the Court concluded that the act of Congress there under consideration had as its aim the placing of local production under Federal control (Id., pp. 271, 272). Far from disapproving the decisions we have cited, the Court expressly recognized their authority. "In each of these instances," the Court said, "the use of interstate transportation was necessary to the accomplishment of harmful results. In other words, although the power over interstate transportation was to regulate, that could only be accomplished by prohibiting the use of the facilities of interstate commerce to effect the evil intended" (Id.). And within a few months after the Hammer case the Court, in *United States* v. *Hill, supra,* emphatically reiterated the doctrine of these cases and, in particular, that of *Clark Distilling Co.* v. *Western Maryland Rwy. Co.,* sustaining the Webb-Kenyon Act.

The course of congressional legislation with respect to convict-made goods has followed closely the precedents as to intoxicating liquors. By the Hawes-Cooper Act of January 19, 1929,[17] the Congress provided that convict-made goods (with certain exceptions) transported into any State should be subject upon arrival, whether in the original packages or otherwise, to the operation of State laws as if produced within the State. In *Whitfield* v. *Ohio,* 297 U. S. 431, petitioner was charged in the State court in Ohio with selling convict-made goods in violation of the State law. It appeared that the goods had been sold in the original packages as shipped in interstate commerce and that there was "nothing harmful, injurious, or deleterious" about them. But this Court said that the view of the State of Ohio, that the sale of convict-made goods in competition with the products of free labor was an evil, found ample support in fact and in the similar legislation of a preponderant number of other States. The Court observed that the Congress had prohibited the importation of the products of convict labor.[18] All such legislation, State and Federal, proceeded upon the view "that free labor, properly compensated, cannot compete successfully with the enforced and unpaid or underpaid convict labor of the prison." The Court upheld the power of the State, so far as the Federal Constitution is concerned, to base nondiscriminatory legislation upon that conception, and as it appeared that the Ohio statute would be unassailable if made to take effect after sale in the original package, the statute was held to be equally unassailable in the light of the provisions of the Hawes-Cooper Act. As to the validity of the latter act, the Court followed the decision in In re Rahrer, supra, in relation to the Wilson Act.

The Ashurst-Sumners Act as to interstate transportation of convict-made goods has substantially the same provisions as the Webb-Kenyon Act as to intoxicating liquors and finds support in similar considerations. The subject of the prohibited traffic is different, the effects of the traffic are different, but the underlying principle is the same. The pertinent point is that where the subject of commerce is one as to which the power of the State may constitutionally be exerted by restriction or prohibition in order to prevent harmful consequences, the Congress may, if it sees fit, put forth its power to regulate interstate commerce so as to prevent that commerce from being used to impede the carrying out of the State policy.

In the congressional action there is nothing arbitrary or capricious bringing the statute into collision with the requirements of due process of law. The Congress in exercising the power confided to it by the Constitution is as free as the States to recognize the fundamental interests of free labor.[19] Nor has the Congress attempted to delegate its authority to the States. The Congress has not sought to exercise a power not granted or to usurp the police powers of the States. It has not acted on any assumption of a power enlarged by virtue of State action. The Congress has exercised its plenary power, which is subject to no limitation other than that which is found in the Constitution itself. The Congress has formulated its own policy and established its own rule. The fact that it has adopted its rule in order to aid the enforcement of valid State laws affords no grounds for constitutional objection.

Second. As the Congress could prohibit the interstate transportation of convict-made goods as provided in section 1 of the act, the Congress could require packages containing convict-made goods to be labeled as required by section 2. The requirement of labels disclosing the nature of the contents, the name and location of the penal institution where the goods were produced, and the names and addresses of shippers and consignees was manifestly reasonable and appropriate for the carrying out of the prohibition (*Seven Cases* v. *United States, supra; Freeman* v. *United States,* 239 U. S. 117; *Weeks* v. *United States,* 245 U. S. 618, 622). The fact that the labeling was required in all shipments of convict-made goods, regardless of the law of the State of destination, does not invalidate the provision, as its scope could reasonably be deemed to be necessary to accomplish the legitimate purpose of the act (*Otis* v. *Parker,* 187 U. S. 606, 609; *New York ex rel. Silz* v. *Hesterberg,* 211 U. S. 31, 40; *Purity Extract Co.* v. *Lynch,* 226 U. S. 192, 201; *Everard's Breweries* v. *Day,* 265 U. S. 545, 560).

The decree is affirmed.

[12] See Note 10.
[13] See Note 11.
[14] 26 Stat. 313.
[15] 37 Stat. 699.
[16] 39 Stat. 1069.
[17] 45 Stat. 1084.

[18] Act of June 17, 1930, 46 Stat. 689.

[19] In the report of the Committee on the Judiciary of the Senate recommending the passage of the Ashurst-Sumners Act the committee said (S. Rept. No. 906, 74th Cong., 1st sess.):

"For many years the Congress has considered bills relating to the sale of prison-made goods. Extensive hearings have been held on these measures, which have thoroughly revealed the evils attending the sale of such goods in the open market in competition with goods manufactured and produced by free labor. These evils impelled the Congress in 1929 to enact the Hawes-Cooper law, by virtue of which prison-made goods, upon their entry and delivery into a State, became subject to the laws of that State.

"At present 21 States, with a population in excess of 75,000,000, have enacted laws prohibiting the sale in the open market of prison-made goods. This bill is designed to prohibit the transportation of such goods into the States which have thus legislated in cases in which such goods are to be received or used in violation of the State law. The principle involved in this bill has been frequently sustained by the Supreme Court of the United States."

Congress, the Courts, and the Economic Problem

EXTENSION OF REMARKS
OF
SENATOR ELBERT D. THOMAS
OF UTAH
IN THE SENATE OF THE UNITED STATES
Friday, January 8 (legislative day of Wednesday, Jan. 6), 1937

ADDRESS OF HON. JOSEPH C. O'MAHONEY, OF WYOMING, AT THE COSMOS CLUB, WASHINGTON, D. C., JANUARY 7, 1937

Mr. THOMAS of Utah. Mr. President, I ask unanimous consent to have printed in the RECORD a notable address de-

livered on January 7, 1937, by the senior Senator from Wyoming [Mr. O'MAHONEY], and broadcast over the network of the National Broadcasting Co., on the subject of Congress, the Courts, and the Economic Problem.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In the memorable message which President Roosevelt delivered to the Congress of the United States yesterday, he summoned the whole Nation to give renewed consideration to the relationship of Congress and the courts and the effect of that relationship upon the economic and social problems which are pressing for solution. I think it is not an overstatement to express the opinion that posterity will look back upon that message as the beginning of the rehabilitation of democracy throughout the world.

The task must be accomplished here, for if democracy fails in the United States, it cannot exist anywhere on the face of the globe. I am one of those who possess an abiding faith in the permanent triumph of our system of government as the charter of all human liberty.

LAWMAKING POWER COMES FIRST

It is worth while to consider the fundamentals of that system and of the Constitution upon which it rests. It is elementary that our Government is divided into three primary branches—the legislative, the executive, and the judicial. No one should overlook the fact that the first of these powers is the legislative power. The framers of the Constitution devoted the first article of that instrument to the legislative branch of the Government. In the Congress was vested the primary power of every self-governing people, namely, the power to make the law.

The second article of the Constitution is devoted to the definition of the powers and duties of the executive branch of the Government, the branch which bears the responsibility of enforcing the law after it has been made.

When the Constitutional Convention had thus provided for making the law and enforcing the law, it then created the courts. There is a very common misconception abroad in the land at this hour that the courts are clothed with some part of the lawmaking responsibility. That is not the fact. The courts exercise no jurisdiction whatsoever in making the law. Their power is only to interpret it. It is a great and dignified power, a most responsible and necessary power, and one which must be safeguarded in any government that pretends to be a democracy.

JUDICIAL POWER LIMITED

The fact, however, which is commonly overlooked is that the Constitution of the United States definitely restricts the power of the courts. The language is so plain that no one can misunderstand it. Section 2 of article III of the Federal Constitution begins in this fashion:

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and the treaties made or which shall be made under their authority."

It will be observed that by this language the judicial power is restricted to cases—that is to say, to controversies—arising between citizen and citizen. When the court sits it has before it not the broad view of public policy or economic theory which is presented to the lawmaking body, but only that narrower view which is presented by the contending litigants who come before the court with their special pleadings and their special statements of fact, seeking to establish a particular objective which has no necessary relation to public welfare.

In this fact we find the explanation of the apparently contradictory nature of the decisions which have been handed down through the years. They are contradictory only because very few cases are based upon the same state of facts.

Every good lawyer knows that the art of pleading before an appellate court is the art of distinguishing from the case he is urging the adverse precedents of the past and of finding sets of fact which resemble those occurring in his particular case and of quoting favorable opinions on such similar facts to sustain the point of view he urges.

When I come, therefore, to consider the relationship of Congress and the courts, I shall not begin by condemning the courts or by even seeming to condemn them. I am ready to acknowledge in the great majority of the distinguished citizens who honor the bench of the United States the same devotion to principle, the same patriotism, the same desire to serve their country which are to be found not only among the Members of Congress and of the executive branch, but among the masses of the people of the United States.

A BASIS OF ACCOMMODATION

When I seek, therefore, to find that basis of accommodation between the legislative and judicial branches of the Government, which was urged upon us all yesterday by a great President of the United States, I shall approach the problem as a lawyer would approach a particular case and I shall seek to find those distinctions of fact and opinion upon which we may build a law which will not only be within the terms of the Constitution but within the terms of the decisions by the courts. It can be done.

Indeed, it must be done. It is the task of Congress so to legislate that the courts shall have no difficulty in saying with respect to any law, "This comes clearly within the constitutional prerogatives of the lawmaking branch." I am confident that, given the opportunity to distinguish a particular law from apparently adverse decisions of the past, the courts will uphold the laws of Congress intended to bring permanent recovery to the people of the United States.

A great jurist, whose name will never be divorced from the history of the Supreme Court and to whom all historians give the credit for the firm establishment of the national power, once clearly defined the place which Congress occupies under our constitutional system. I quote from John Marshall, than whom there probably will never be a greater Chief Justice. He says:

"If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States. The wisdom and the discretion of Congress, their identity with the people, and the influence their constituents possess at elections, are in this, as in many other instances, as that, for example, of declaring war, the sole restraint on which they have relied to secure them from its abuse. They are the restraints on which the people must often rely solely in all representative governments" (*Gibbons* v. *Ogden*, 9 Wheat. 1, 195).

The Congress which assembled at the Capitol this week has come to Washington with a fresh mandate from the people of the United States. It was chosen, no one can doubt, by a Nation which is looking to it to find a sure and certain way out of the troubles which have beset us, a way which will preserve the fundamental principles of Americanism and at the same time put an end to unemployment and poverty. If this objective is to be accomplished, it can be accomplished only by the national power, because, as everyone knows, State power is inadequate to serve the purpose.

THE ARTIFICIAL CORPORATE PERSON

We ask ourselves, therefore, Wherein has been the difficulty in the past? Why have the efforts which Congress has heretofore made to enact laws establishing social justice, justice for labor, justice for the consumer failed? The answer comes readily to the tongue. Because the courts have found that the laws which have been drafted have been in conflict either with that part of the Bill of Rights which reserves to the States or to the people the powers not delegated to the National Government nor prohibited to the States, or with those other provisions to the effect that no person shall be deprived of life, liberty, or property without due process of law.

Wherever the doctrine of the reserved powers or the doctrine of due process of law has been raised by the courts, it has been raised, I am confident, in the minds of most of the judges in defense of individual or personal rights. Of course, in our long history there have been justices who have entertained economic and political views different from those of the Congress and the Executive, and have been unable to restrain those views from finding expression in their opinions, but I feel that if we search diligently enough we shall find the formula which will enable all judges to give full play to the lawmaking powers of Congress and to the attainment of the ends of social justice.

A review of the decisions which have been rendered in numerous cases affecting commerce among the States, the field in which all our difficulties of depression and recovery exist, has convinced me that the answer to this question lies in drawing the distinction between the corporate person through which our modern economic system is handling the trade, commerce, and industry of the people, and the natural person, who has been and is being deprived of natural rights by the modern economic Frankensteins.

THE NATURAL PERSON

This was very clearly illustrated in the decision rendered by the present Supreme Court when it invalidated the Guffey Coal Act. The mistake, however, was primarily made by Congress in confusing these two separate identities. A natural person, a citizen of flesh and blood, precedes all government. He makes the government. He draws the constitutions and he makes the laws. But a corporation has no natural rights. A corporation is a creature of the law. A corporation proceeds from some government. It does not, never has, and never can originate government. That is for the people, and it was to preserve this right in natural persons to govern themselves that the Declaration of Independence was drafted and the Constitution of the United States adopted. But in the Guffey case there came before the Court a half dozen corporations, artificial persons created by some States, not by the Federal Government; corporations that were exercising functions which had an absolutely intimate effect upon commerce among the States, the regulation of which by the Constitution has been committed to the Congress. They came to that Court asking an interpretation of a law which drew no distinction between corporations and natural persons, and the Supreme Court, in handing down the decision which invalidated that act, was thinking not of the rights of corporations but of the rights of men. Listen to what Justice Sutherland said when discussing the nature of production:

"One who produces or manufactures a commodity, subsequently sold and shipped by him in interstate commerce, whether such sale and shipment were originally intended or not, has engaged in two distinct and separate activities. So far as he produces or manufactures a commodity, his business is purely local. So far as he sells and ships, or contracts to sell and ship, the commodity to customers in another State he engages in interstate commerce. In respect of the former he is subject only to regulation by the State; in respect of the latter to regulation only by the Federal Government."

Is it not obvious that if Congress, in drafting that law, had drawn the distinction between the corporate creatures of a government and natural persons, the Supreme Court could not have thrown around the corporation the protection of the Bill of Rights,

that charter of human liberty which was written at a time when corporate activity was the exception and not the rule?

COURT EMPHASIZES NATURAL RIGHTS

This confusion of corporations with natural persons is also to be found in the case handed down by the Supreme Court on June 1, 1936, invalidating the minimum-wage law of the State of New York. In this case, as in the Guffey case, the members of the Court were thinking of the rights of natural persons, and the Justice who read the opinion quoted with approval from a previous decision to this effect:

"The right to make contracts about one's affairs is a part of the liberty protected by the due-process clause."

Why this emphasis upon the rights of one? Why this emphasis upon the liberty of the natural person to make a contract with another person without interference by either the Congress of the United States or the legislature of a State? Why?

Justice Butler, in the minimum-wage case (In re Tipaldo), points the way out when, in characterizing the act of the New York Legislature which was invalidated, he said:

"The general statement in the New York act of the fields of labor it includes, taken in connection with the work not covered, indicates legislative intention to reach nearly all private employers of women."

INTERSTATE CORPORATIONS

There's the rub. These laws have been so drafted in the past that they bring within their purview the activity of the individual citizen when there is no necessity for doing so. In solving this great question of economic depressions arising in the field of national commerce we are not concerned with the little local activity of a man with a truck who hires his neighbor. We are concerned with the activity of those tremendous organizations of economic power and wealth created by States which have no jurisdiction in the field of interstate commerce, and which carry on that commerce in a manner which places them above the law. Created by the laws of one State, they operate throughout the Union. They gather their capital from the investors of 48 States. Their officers and directors are recruited from the four corners of the country. They obtain the raw materials, the machinery, and the equipment with which they work from every section. They transport these materials to production plants often located in several States, not for the purpose of producing for those particular States but for the entire Nation. The States which create them and in which frequently they have no more than a formal office in which a formal meeting of stockholders is held once a year, have neither the jurisdiction nor the desire to regulate the field in which they operate. And Congress has not regulated them because every time it has attempted to do so it has drawn its laws in such fashion that they applied to all people as well as to corporations.

NATIONAL CHARTERS FOR NATIONAL COMMERCE

That, Mr. Chairman, is the reason I have proposed and am prepared to urge upon this Congress and upon the people of the United States the enactment of a statute which will require every corporation engaged in commerce among the States to take its charter either by way of license or by way of Federal incorporation from the Government to which the framers of the Constitution gave the power to regulate the commerce in which they are engaged.

No one can deny that a corporation is an instrumentality of commerce. No one can deny that commerce carried on by these corporations is national in its scope. No one can deny that a corporate charter is a contract between the people's government and the natural persons who desire to do business in a corporate form. No one can deny that every legislature in the Union has the power if it desires to exercise it, to require that every corporation created under its authority shall not exploit children in the course of its business, shall not discriminate against women, shall not deny labor the right of collective bargaining, shall not give its directors power to dispose of the property of stockholders in ways that are adverse to the interest of those stockholders.

That is a matter of elementary law. It follows without any possibility of contradiction that in the field of commerce, over which the Congress of the United States has jurisdiction, the Congress may likewise impose similar restrictions upon all corporations that undertake to operate in that field.

Let us say to the organizers of these artificial entities when they enter the domain given to Congress to regulate, let us say in clear and unmistakable language:

"If you desire to engage in commerce among the States as a corporation, if you desire to receive this special privilege of shedding your personal responsibility for the debts of your business, you must, as a consideration to the people of the United States, agree to accept a charter which will give you no corporate power to do those things which all experience shows are inimical to the public welfare. If you do not care to accept these restrictions you may fall back upon due process of law and your constitutional rights to operate as an individual. Then, wholly within the State in which you are free from the standards, you may, if you dare to do it in the face of your neighbors, employ infants, crush labor, impose on women, rob the consumer, deceive the persons from whom you borrow your money. You may do anything you please that the State law permits, but you must do it in your natural person and as a natural person bear all the responsibility."

POWER OVER PRODUCTION

Ah, but it is said, production and distribution of the commodities of interstate commerce are not within the jurisdiction of the Congress. The courts have said so, we are told. But here again we find the same failure to distinguish the facts which has led to the present impasse.

There is no legal authority for the contention that intrastate commerce is reserved to the States and that the Congress may not interfere with it. There is no real authority for the statement, and I say this in full cognizance of the decisions in the A. A. A. case and in the Guffey Coal case that production is wholly a local matter. Read again the language of the great Chief Justice who defined the national power, who gave the Constitution the interpretation that makes it an instrumentality by which the people of the United States intend now to secure social justice. Marshall said:

"The genius and character of the whole Government seem to be that its action is to be applied to all the external concerns of the Nation and to those internal concerns which affect the States generally; but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the Government. The completely internal commerce of a State, then, may be considered as reserved for the State itself" (*Gibbons* v. *Ogden*).

What is the completely internal commerce of a State? Marshall has answered you. It is not only those activities and concerns which are completely within a particular State but which do not affect other States and with which it is not necessary to interfere for the purpose of executing the general powers of the Government.

The activity, like production, may be completely within a particular State; but if Marshall knew his Constitution—and I think he did—if it affects other States, it is within the field reserved to Congress; and again, even though the activity be completely within a particular State and actually does not affect other States, nevertheless, according to Marshall, if it is necessary to "interfere"—and observe the word he used—"interfere" with it for the purpose of executing the power to regulate commerce among the States, Congress may interfere with it.

QUOTING JUSTICE M'REYNOLDS

But John Marshall is not the only great lawyer to whom we may resort for support in this point of view. It was very happily expressed a few years ago when the tobacco cases were being argued before the Supreme Court by a distinguished jurist, who is now a member of that body, and who joined with the Honorable George W. Wickersham, Attorney General in the Taft Cabinet, in a powerful argument to sustain the validity of the Sherman antitrust law and its application to production. I refer to the Associate Justice of the Supreme Court, the Honorable James C. McReynolds, from whom I quote:

"We submit that under the power granted by the commerce clause Congress may prohibit whatever as an efficient cause will probably occasion as a natural and reasonable consequence material obstruction or hindrance to efficacious operation of its lawful will. In the law of torts long experience has compelled the doctrine that liability flows from the efficient cause and is not confined to that nearest to the injury. A similar imperious necessity requires acceptance of the principle now advocated."

That last sentence is not mine. It is the language of Justice McReynolds, but I unhesitatingly assert that it applies to the problem which confronts us with greater force than at any time in our history. An imperious necessity requires the acceptance of the principle I now advocate that every corporation engaged in commerce among the States, whether it is engaged in mere traffic or in production or in distribution, shall carry on that commerce upon the conditions laid down by the Congress of the United States, the constitutional law-making branch of the Government, in a manner which will guarantee permanent recovery.

A Tribute to Air Pilot Eugene Schacher

EXTENSION OF REMARKS

OF

HON. TOM CONNALLY

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Friday, January 8 (legislative day of Wednesday, Jan. 6), 1937

TRIBUTE BY HON. JESSE JONES, CHAIRMAN, RECONSTRUCTION FINANCE CORPORATION

Mr. CONNALLY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a short tribute by the Chief of the Reconstruction Finance Corporation, Mr. Jesse H. Jones, to an air pilot, Eugene Schacher, who was killed in an accident to an airplane in which Mr. Jones was a passenger.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

TO EUGENE SCHACHER:

I thought you would live, you had such determination, such courage, such endurance and self-control under the most terrify-

ing circumstances and such great physical pain. You stuck to your post in a veritable furnace, with the white heat literally burning your clothes off your body. You did this notwithstanding Pilot Ed Hefley begged you to leave the pit to him.

When the door into the pilot room blew open, and the flames were reaching into the cabin, you came out and closed the door, going back into the furnace.

Again the door blew open, so terrific was the speed, and again you came out, this time a human torch, and went back into the fiery pit. But when it seemed the fight was winning, and that the plane might be landed, you came back and warned your passengers that the landing would be rough.

You unlocked the door so that all could escape from the burning plane when the landing was made. You did this when your hands were burned to the bone. You could hardly hold the key.

Your whole thought was for your passengers, and then, when Hefley did not follow us out, you were the first to go back for for him and drag him from the burning cockpit.

Your fortitude under the greatest imaginable suffering was an inspiration and a lesson. You never lost your smile during the terrible hours that followed for you. Such courage, such fortitude, such endurance, it has never been my privilege to witness.

You are up there, looking down upon your family, your devoted wife and two loving children, one but 3 weeks old, your soul as white and as clean as the clouds through which it soars, and I pray God for the knowledge to understand for what purpose He saved my life by sacrificing yours.

The Neutrality Resolution

EXTENSION OF REMARKS

OF

HON. USHER L. BURDICK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1937

Mr. BURDICK. Mr. Speaker, by the terms of the resolution now before the House and under the rule by which it was brought in here, it is impossible to offer any amendment that will be consistent with the stated purpose of the resolution. The purpose, as plainly expressed in the resolution, is to prevent the sale of munitions of war to the Spanish Government. Attempts have already been made to amend the resolution so as to prevent the sale of munitions of war to any country engaged in war or insurrection. This amendment should be made if we honestly wish to keep out of world entanglements. Under the rules of this House, every such amendment is objected to on the ground that the amendment is not germane to the bill; and when made this objection is good, and the Chair has today sustained all objections to the amendments as offered.

Under the rules of the House, there is no possible chance to make amendments to a limited and narrow neutrality resolution, and it is perfectly idle for the chairman of the committee having the resolution in charge to agree that amendments may be made when he knows that no amendments can be made under the rules that will go beyond the purpose of the act as expressed in the resolution itself. The purpose of the resolution is to prevent the sale of munitions of war to the Government of Spain. No other country can be included.

The Government of Spain is the government which this country recognizes as a sovereign identity. It is that government which is now making its last stand in the city of Madrid, trying desperately to defend itself against the opposition to this established government. The people of Spain voted to establish this government and the election resulted in the present Government. Those opposed to this form of government refused to abide by the decision of the voters and are attempting to destroy that government by means of armed forces. We cannot just fully understand the Spanish mind on the question of elections. Here in the United States we have elections (sometimes), and when the result is determined, all classes forget the past and unite to go ahead with the kind of government the people have voted in. Seventeen million people, voters of the United States, on November 3 last, voted against the present administration, but these 17 million were outnumbered, outguessed, outgeneraled, and defeated. Today these same voters are peaceful and hope the government will be better than they had anticipated.

This, however, is not the Spanish way of performing after a defeat in an election. As applied to Spain, what is the result of this resolution? It prevents the established government from receiving munitions of war from this country. I now ask this question, Does the resolution prevent the rebels from securing munitions from private persons in this country? If the resolution does not cover the case of the rebels (and it does not), then this neutrality resolution that passed the Senate unanimously, and the House with only one dissenting vote, is a blow at the established Government of Spain and gives aid and comfort to the rebels. Is not that the direct effect of the resolution?

In my judgment there is only one way to keep this country out of war entanglements in Europe and elsewhere, and that one way is open to this Congress in several bills before the House and Senate. That one way is to make it impossible for private persons, corporations, or concerns to engage in the manufacture, sale, and exportation of munitions of war either in times of war or in times of peace. Such a bill is now before this body in House bill 177. Will that bill be seriously considered by the committee which brought in the present resolution? Will that bill receive any consideration at all? I am afraid that the committee will not favor any bill which will take away from private persons, firms, or corporations the right to engage in this business. As long as private interests can engage lawfully in this business, then we can be prepared almost daily during this and succeeding Congresses to be ready for more resolutions of the character of this one. As long as profits can be made, as long as individuals can increase their business of selling munitions, just so long will their policy, their propaganda, and influence be used to encourage the use of their products; and this means war.

It is well understood now that the participation of this country in the World War was brought about by the influence of the munition makers and their financial operators. The result was that private interests reaped a heavy harvest in profits, and this country was plunged in sadness through the loss of 350,000 killed, wounded, and maimed, through the colossal cost of the war, amounting to $39,863,000,000, and in loans made to the Allies, now amounting, with interest, to $24,000,000,000. Do we want any more of this? Have we had enough? If we have, let us pass an act that will end this procedure for all time, and not pretend our neutrality under resolutions such as the present one. The country will wonder whether we are sincerely trying to avoid war, or whether we are not attempting to indirectly take sides in the present revolution in Spain.

Under the conditions under which this resolution came before this House it makes it impossible for a Member to vote "no", for by that vote he would declare himself in favor of furnishing munitions to Spain. If he votes "yes", as almost every Member will, then he will be charged in some quarters, at least, with giving aid and comfort to those who are now seeking to destroy that form of government in Spain which this Nation recognizes as the sovereign authority in that nation. If we want to actually do the job to a completion, we should, at this session of Congress, outlaw the private manufacture of all munitions of war, particularly defining what munitions consist of. Such an act was introduced by me on the first day of this Congress and is now before the House for action. This bill is numbered 177.

Just one more question and I am through. Suppose the opposition to the present Spanish Government were in control of that government, and those who are now entrusted with the Government were rebels, would this Congress pass the same act with the same enthusiasm as it will the present resolution? If this question is answered in the affirmative, then the resolution was fair so far as it goes; if the question is answered in the negative, then it was wrong to pass the resolution at all. When such an important resolution is purposely framed for a narrow purpose and brought in under rules that prevent amendments and with no reason-

able time to debate it, I charge that there are many Members of Congress who will vote for the resolution who will not know whether the resolution is presented in good faith to protect this country, or whether it is intended to indirectly and actually take sides in the Spanish revolution.

Letter to Andrew Jackson From His Mother

EXTENSION OF REMARKS

OF

HON. JOHN E. RANKIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, January 8, 1937

Mr. RANKIN. Mr. Speaker, today being the anniversary of the Battle of New Orleans, wherein Gen. Andrew Jackson won his greatest military victory, and raised America for the first time to the dignity of a world power, I have thought it not inappropriate to insert in the CONGRESSIONAL RECORD, probably for the first time, a letter written to Andrew Jackson by his illustrious mother, Mrs. Elizabeth Hutchinson Jackson, when Andrew was only 14 years old.

It is the last letter ever written by Mrs. Jackson to her son. She had just left him to go to Charleston to nurse some neighbors confined in a British hospital ship, where she lost her life in the service of her country.

I doubt if a finer document of its kind is to be found in English literature. It takes its place alongside of a similar expression of Shakespeare in Polonius' advice to his son.

Anyone reading these words from Mrs. Jackson, can understand where her distinguished son derived those sterling qualities which rendered him immortal. History shows that he took her advice.

Mrs. Jackson's letter reads as follows:

Andrew, if I should not see you again, I wish you to remember and to treasure up some things I have already said to you.

In this world you will have to make your own way. To do that you must have friends. You can make friends by being honest, and you can keep them by being steadfast. You must keep in mind that friends worth having will in the long run expect as much from you as they give you. To forget an obligation or to be ungrateful for a kindness is a base crime—not merely a fault or a sin, but an actual crime. Men guilty of it sooner or later must suffer the penalty.

In personal conduct be always polite but never obsequious. None will respect you more than you respect yourself.

Avoid quarrels as long as you can without yielding to imposition. But sustain your manhood always.

Never bring a suit in law for assault and battery or for defamation. The law affords no remedy for such outrages that can satisfy the feelings of a true man.

Never wound the feelings of others. Never brook wanton outrage upon your own feelings. If ever you have to vindicate your feelings or defend your honor, wait till your wrath cools before you proceed.

The Federal Government Should Promote Scientific Research That New Industries Shall Be Created to Bring About Increased Employment and Aid Humankind

EXTENSION OF REMARKS

OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 8, 1937

ADDRESS BY HON. JENNINGS RANDOLPH, OF WEST VIRGINIA, ON DECEMBER 10, 1936

Mr. RANDOLPH. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following address delivered by me before the Council for Industrial Progress at the Federal Auditorium, Washington, D. C., Thursday afternoon, December 10, 1936:

My presence here is to place before you the suggestion of a method by which the unemployment within our Nation can be greatly reduced or eliminated and by which a large measure of general business prosperity can be ultimately achieved.

Among the many suggestions which have been made and plans which have been conceived—such as public works, reduction of hours of labor, limitation of profits, and many others—little attention has been given to the one great factor in our economic development which has in the past supplied the workers of the Nation with millions of jobs and given to capital a tremendous field for investment—that one which has made possible the high standard of living for which America is world famous.

This factor in our economic and industrial development is our American inventive genius coupled with our great strides in the field of scientific research.

It has given us the motor-vehicle industry, with nearly 390,000 jobs and a production valued at approximately $4,000,000,000, according to the 1935 Census of Manufactures. It has given us the motion-picture industry, which employs over 27,000 wage earners and salaried workers and which has a pay roll of over $100,000,000 annually. It has given us the rayon industry, with jobs for over 50,000 persons and a product valued at more than $180,000,000—to mention only three examples.

The suggestion I have to present today is that we give our most serious consideration to the problem of fostering and promoting scientific research of a character which will produce new industries—new industries to absorb the unemployed and to provide investment outlets to relieve congested capital. Casual inspection of our industrial history is convincing evidence that a plan for promoting an intensive research program will go far toward the solution of these problems and that it will automatically raise the standard of living of the American people to new levels, both with respect to the number of people affected and with respect to the total of goods and services from which a consumer may choose his plane of living.

A starving man cannot wait for a scientist to make a discovery which will result in a new industry to give employment to labor, it may be argued. Neither can capital remain idle for an indefinite time without causing a serious economic crisis. It is the task of an emergency program to provide immediate relief in such a case.

However, in a long-range program of a permanent nature, I urge upon you the vital necessity of including a suitable provision for promoting scientific research, so that new industries may be created and the wealth and prosperity of our country immeasurably increased. This means that we will be making a double-barreled attack both upon the problem of unemployment and upon the problem of providing adequate investment outlets in the industrial field.

From the legislative standpoint the question arises: Can government help in the promotion of an intensive program of scientific research? Can government aid scientists to discover the basic knowledge necessary for the birth of new industries?

The Constitution of the United States provides that Congress shall have the power "To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." The patent system is today the one major activity of the Government with respect to the promotion of science. Congress also has the constitutional power to "fix the standard of weights and measures", and as a result the Bureau of Standards furnishes this important service, both to industry and to science.

Another method by which government may attempt to promote scientific research on a large scale is to be found in the Department of Agriculture. The Bureau of Chemistry and Soils, for example, has just announced the development of a new process for producing lactic acid from whey, a byproduct of milk. The announcement forecasts the birth of a new industry as a result of this scientific discovery. It has been pointed out that the Department of Commerce does not have a comparable organization to promote scientific research in the field of commerce and industry.

Late in the last session of Congress I introduced legislation which provided for direct Government aid in the field of scientific research, because I believe that the Government can and should provide such aid, and that it should actively encourage scientists in their work. The bill (H. R. 12261) provides for the establishment of a scientific research division in the Bureau of Standards and for a scientific research commission to supervise the activities specified in the measure.

It is not the purpose of this bill, which will again be introduced, to help create more and better mouse traps; it does not aim to produce more labor-saving devices; and it does not contemplate invading that field commonly known as "industrial research." It is confined to the field of pure scientific research which is usually too far removed from profits to interest the average industrial organization—that field of scientific research which must be conquered at any point before inventors and engineers can enter to perform their work.

Other countries have sought capital outlets through territorial expansion and aggression. The United States has provided such outlets by promoting internal improvements through the medium of the public-works program.

Other nations have provided capital outlets by building great armaments at the expense of their taxpayers and they have

partly solved their unemployment problem by creating huge armies. But the United States can solve the same problem in the sensible American way by encouraging its inventors to produce new industries instead.

An individual may ask, "How can a new industry affect me?" or "Why should I care whether or not a new industry comes to town?" You will find the answer to such questions in a study recently completed by the Bureau of Labor Statistics. This study shows conclusively that for every two men employed on a public-works project five men are employed by private industry in order to supply the public-works project with materials. On the average, public-works projects have increased the employment in our forests and mines, in our factories and mills, and in transportation at the ratio of 2½ to 1; and this does not include the additional employment created in the production of food, clothing, and countless other commodities that reemployed people buy.

It is clear that if we had a new industry of sufficient size ready to add now to the Public Works Program, practically every industry in the Nation, no matter how far removed, would feel the beneficial effects.

In conclusion, let me point out one important fact.

The Bureau of Public Roads estimates that the county, State, and Federal taxes on motor vehicles in 1932 (a depression year) amounted to over $1,000,000,000. Just think what that means! If a program of intensive scientific research, aided by Government, develops a new industry comparable in size to the automobile industry, it is not beyond the realm of possibility that new sources of Government revenues will be opened up in sufficient measure to wipe out the national debt. At least, such a development can be expected to divide the tax burden so that increased taxes on industries already established will be unnecessary to retire existing debts.

Charles F. Kettering, of General Motors Research Corporation, said earlier this year that if just one other industry comparable to the automobile or to the telephone industry "had been put into a laboratory force bed about 30 years ago, today we'd have no unemployment that you could find with a demagogue's spyglass."

This brief outline of the suggestion I have offered is placed before you for earnest consideration. I cordially invite your suggestions as well as your support in letting no time be lost in the creation of an instrument to make available the aid of the Government in the promotion of research which may lead to worth-while and important discoveries for the benefit of humankind.

Proposed Amendment to the Constitution of the United States

EXTENSION OF REMARKS

OF

HON. CHARLES I. FADDIS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 8, 1937

Mr. FADDIS. Mr. Speaker, I have this day introduced the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. The Congress shall have power to make laws to regulate agriculture, commerce, industry, and labor.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States, as provided in the Constitution, within 7 years from the date of the submission hereof to the States by the Congress."

It is a well-recognized fact that the words of the Bible relative to being your brother's keeper are not only good moral philosophy but good economic philosophy. The Nation cannot say to an individual your economic condition is your own concern and that of no one else. The economic condition of all the citizens of a nation is a national concern. Our national progress is dependent upon the buying power of the masses of the people of the Nation. If we are to continue as a progressive Nation, we must go forward; and if we are to go forward, the legislative bodies of the Nation, which bodies are the direct and duly elected representatives of a sovereign people, must beyond the possibility of a doubt be invested with the sovereignty necessary to correct our economic and social defects in order that our economic and social disasters of the past may be eliminated.

By this amendment to the Constitution I am attempting to secure for the Congress the additional power necessary to enact legislation to provide for the general welfare. If ratified, it would give Congress the power to regulate laws and conditions of labor, fix minimum wage standards, regulate industry, business, production, agriculture, commerce, labor, trade, and to prevent unfair trade practices. It is an attempt to secure this power from the fundamental source of all Government power—the people themselves.

By the introduction of this amendment, I do not mean to imply that it is not my firm belief that the delegates to the Constitutional Convention of 1787 fully intended that the Constitution, as they drafted it, should contain all the elasticity necessary to enable Congress to provide remedial legislation to remedy undesirable contingencies which they could not foresee. The statements and debates during the proceedings of the Convention are conclusive proof of their intentions. Furthermore, realizing that the representatives of the people would be susceptible to all the shortcomings of other individuals and therefore could, and most likely would, at times err in judgment or intention, they very wisely provided that these representatives of the people must, at short intervals, return to the people for new authority to enact legislation.

Certain fundamental principles necessary for the preservation of the liberties of a free sovereign people were written into the Constitution in no uncertain language. The only reason more of these principles were not explicitly included was that they were at that time unknown quantities. The necessity for religious liberty was quite apparent, but our modern economic and social problems were unknown. They were exploding the theory of the divine right of kings and believed that the theory of an absolute judiciary had been exploded 3 centuries before. They most certainly did not mean that a statute might be interpreted by questioning the authority of the lawmakers, because that gives the lawmaking power, in the final analysis, to whoever questions the law—in our present situation to the Supreme Court, a body not responsible to the people in any manner whatsoever.

As one who has been privileged to avail himself of the services of some of our educational institutions, and the father of children who are doing likewise, I realize that the lack of knowledge of the people of this Nation regarding their Constitution is deplorable. In our schools it receives scant consideration. Can this be a part of a plan put into effect by John Marshall and his associates to place the understanding and control of the Constitution beyond the people? There is no authority, either in the Constitution or in the proceedings of the Convention, for the teaching in our public schools that the Supreme Court is the balance wheel in our system of government.

Gouverneur Morris, one of the earliest exponents of the power of the Supreme Court to pass upon the constitutionality of an act of Congress, when called upon to point out from where in the Constitution they derived this power, could only reply that they derived it from a higher power than the Constitution. An attempt to apply the theory of divine right to sanction a usurpation of the power of the people. There is nothing sacrosanct about the Constitution and no reason why its interpretation should be left to the minds of lawyers whose entire training is based upon precedent. Because we have always had depressions and starving peoples is no reason why such conditions should continue. Open up the musty records of the past to the minds of the students of this Nation and let this mist of misinformation be dissipated by the sun of understanding.

Education, however, is a matter of time, and our problems of today will not stand aside to await its effects. Believing that it is the duty of the legislative bodies of this Nation to exercise the sovereign powers vested in them and enact legislation necessary to the general welfare, and the duty of the executive branch to execute the laws so passed, I realize that such action may be forced to await a program of education; therefore I have introduced this proposed amendment to the Constitution.

We must recognize that the Constitution is an instrument to defend liberty without opposing true progress, and as

such must be preserved. The most democratic part of our Constitution is that part which provides its method of amendment. After all, it is the people's Constitution and is meant to promote their welfare. Constitutional amendments are more stable than are legislative acts, decisions of courts, or executive decrees. They are less subject to the winds of political chance than any other forms of law.

The Constitution itself provides a method of correcting the impotency of our present system of government, which impotency has come about because of a radical change in our economic and social conditions and because of the usurpation of legislative powers by the Supreme Court. A method to amend the Constitution is provided for in that document, and the people may avail themselves of this method if they so desire. When we give them the opportunity to do so, we are fulfilling our highest functions as legislators. Any attempts at temporary alleviation is only makeshift legislation.

Our experiences during the last quarter of a century have demonstrated that under the present general construction of the Constitution there are certain evils in our social and economic system with which the Federal and State Governments are alike impotent to deal. There is a "no man's land" in the legislative field, which must be opened to occupancy by one of these two bodies—or the people will perish. Too long have we devoted our energies to a program of individual economic promotion, which has resulted in a concentration of wealth and power, under which a democratic existence is impossible. If we continue to neglect our social and humanitarian duties to the masses of the people, our national vision will be lost and may never be regained.

In dealing with the widespread injustice created by our complicated social and economic problems the States have demonstrated their utter impotency. In my humble judgment, the only agency capable of synchronizing these various interwoven problems and bending their energies into a harmonious system working for the good of all of the people is the Federal Government. To that end and for that purpose I submit this proposed amendment to the Constitution of the United States.

Construction of Commercial and Naval Airships

EXTENSION OF REMARKS

OF

HON. JOHN M. O'CONNELL

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, January 8, 1937

Mr. O'CONNELL of Rhode Island. Mr. Speaker, I have today introduced important bills covering the construction of 2 large commercial airships for American trans-Atlantic service and 1 great naval airship equipped with numerous long-range, rapid-fire guns and 20 specially designed combat airplanes. The purpose of these bills is to promote national defense and foreign trade by having suitable American designed and constructed airships operating for the benefit of our overseas commerce, and the said airships may be converted to military use with trained operating personnel immediately available.

The creation of commercial air-transport services by dirigible airships as a supplement to the American merchant marine is now demonstrated to be practical by the operations of the German airships *Graf Zeppelin* and *Hindenburg*. In my judgment, we have in America the greatest professional engineers in the world, and we should be able to design and construct much better airships than the Germans.

During the past 12 months I have been in touch with many of America's leading engineers and I am advised we can very greatly improve airships, to be stronger and safer, of more efficient control, to operate at higher speed, and have greater pay loads than present-design airships.

My bills provide that American airships shall be constructed with Government funds loaned, at 3½-percent interest, to an American organization whose engineering and operating personnel, with associated and advisory engineers, scientists, inventors, and technical organizations, shall be of leading American professional talent and may include representatives of the Navy, Army, Commerce, or other Government departments.

American leadership among nations was achieved through the originality and ability of our engineers, scientists, and inventive genius who were encouraged and supported by the faith of a people who demanded continuous improvement upon American principles, and who would not countenance an imitation of the production of another nation.

The Federal Aviation Commission, the Science Committee, the Commerce Department's Business Advisory Council, the National Advisory Committee for Aeronautics, the Navy and Commerce Departments have all urged the construction of American dirigible airships as being valuable for increasing our foreign trade and for national defense in event of war. Inasmuch as we have failed to provide for the construction of airships, do we lack faith in our eminent advisors and in our eminent engineers?

From a press report of November 21, 1936, Commander Charles E. Rosendahl, veteran dirigible expert in charge of the Naval Air Station at Lakehurst, N. J., is of the opinion that "the time has come to return some of the antiairship fire." In an address at Rensselaer Polytechnic Institute last night, sponsored by Sigma Xi, national honorary scientific society, the ranking officer who survived the crash of the *Shenandoah* said he was confident many Americans were pleased with the announcements from Washington that the Navy high command was studying recommendations for resuming the construction and development of big dirigibles.

The United States has built and operated, with at least some degree of success, three naval rigid airships and no commercial airship whatever—

Commander Rosendahl said.

After one and a half years' service we lost the last two, the *Macon* and the *Akron*, from causes which could have been avoided. Because full success was not attained in this meager effort that dragged over some 15 years, there are those who clamor for an entire cessation of American airship development.

Saying that both scientific men and businessmen had recommended a commercial airship program, Commander Rosendahl asked:

Can it possibly be that American opinion of American scientists, engineers, and operators has slipped to such a low level that so little public support has been given to airships?

Replying to critics who classify dirigibles as "fair weather" transportation, he declared:

Try to reconcile that classification, so to speak, with the actual statistical milestones of the *Graf Zeppelin's* actual performance between September 1928 and September 1936, inclusive, a period of 8 years' continuous operation. During that time she made 555 flights, was in the air 16,000 hours, traveled more than 1,000,000 miles, carried 13,000 persons, 91,000 pounds of mail, 126,000 pounds of freight, and made 132 ocean crossings. The remarkable adherence of this first ocean-going commercial airship to her schedule was accomplished in all sorts of weather.

No one doubts the eventual ability of heavier-than-air craft to fly nonstop ocean distances, but they still can carry only a meager paying cargo together with sufficient fuel for such distances. They are flying gasoline tanks rather than flying cargoes.

The few assorted airships, large and small, old and new, have carried more than 250,000 passengers without so much as an injury to a single one. German commercial airships fly on and on, in comfort and safety, on schedule. The rest of the world tries hard to kid itself academically that it really isn't being done; that the *Graf Zeppelin* and the *Hindenburg* are only phantom characters of fables. No advance in heavier-than-air has changed the basic usefulness of both blimps and rigid airships in a navy such as ours.

For the past 6 months the American newspapers have featured German commercial airship operations and have also printed reports concerning several proposals for establishing an American trans-Atlantic airship line. I will quote one of these reports:

WASHINGTON, November 24.—Suggestions to Congress for inaugurating a trans-Atlantic dirigible service were drafted today at a Commerce Department conference. Called by J. Monroe

Johnson, assistant to Secretary Daniel C. Roper, the conference was attended by Commander Charles E. Rosendahl, navy lighter-than-air authority; Commander Garland Fulton, another Navy expert; Gill Robb Wilson, New Jersey aviation director; and Sam P. Weatherill, Jr., of Philadelphia. Under plans discussed today, the Government would provide construction and operating subsidies for lighter-than-air craft in much the same manner as aid now is given to the merchant marine. It was suggested that, pending construction of an American dirigible, the service might be inaugurated by buying or chartering a ship from Germany.

Sesquicentennial of Lynchburg, Va.

EXTENSION OF REMARKS

OF

HON. HARRY FLOOD BYRD

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, January 8 (legislative day of Wednesday, Jan. 6), 1937

ADDRESSES BY GOVERNOR PEERY AND EDWIN A. HALSEY

Mr. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD the address delivered by Governor Peery, of Virginia, at the celebration of the sesquicentennial of the city of Lynchburg, Va., October 14, 1936, together with an address made on the same occasion by Col. Edwin A. Halsey, Secretary of the United States Senate, in presenting to the Senator from Virginia [Mr. GLASS] the first coin minted by the Treasury Department with his profile.

There being no objection, the addresses were ordered to be printed in the RECORD, as follows:

ADDRESS OF GOV. GEORGE C. PEERY AT LYNCHBURG, VA., OCTOBER 14, 1936, AT THE CELEBRATION OF THE SESQUICENTENNIAL OF THE CITY OF LYNCHBURG

Mr. Chairman, I am deeply grateful for the invitation that brings me to Lynchburg today. It is a high privilege to participate with you in the celebration of the sesquicentennial of this historic and heroic city. A century and a half is not a long time in the history of a nation. It is not such a long time in the history of a city—especially of one, like yours, that has witnessed such a steady and marvelous growth. I believe you have also made it an occasion for the homecoming of native sons and daughters of Lynchburg who have gone to other fields of work. They, of course, forever treasure the memories and associations of the city of their nativity. And they are always glad to come back. I believe someone has said of us Virginians:

"It makes no odds to the Virginian where he goes, he carries Virginia with him. He never gets acclimated elsewhere. He may breathe in Alabama, but he lives in the Old Dominion. There his treasure is and his heart also. He does not reproach anybody for not being born in Virginia; he thinks the affliction great enough without the reproach."

And I have a faint suspicion that we sometimes apply this philosophy in a still more provincial way—we are willing to admit that the particular locality in Virginia from which we hail is the best in the State. At any rate, so long as we comment upon this common failing among ourselves there is not much danger of recrimination.

An address upon such an occasion as this must deal somewhat in history. I approach the task with some trepidation because I know that native Lynchburgers will know more of their own history than I can ever hope to know. I cannot hope to present to you new facts about your city, but only to recall with you some of these facts and enjoy with you the satisfaction which recounting them from time to time brings.

The year 1786 marked the birth of your city. John Lynch, a hardy pioneer of that day, was its sponsor and founder. An act of the general assembly passed in that year provided that 45 acres of land, the property of John Lynch, lying contiguous to Lynch's Ferry, should be vested in John Clarke, Adam Clement, Charles Lynch, and six others as trustees, to be by them, or any six of them, laid off into lots of half an acre each, with convenient streets, and establish a town by the name of Lynchburg. It was very appropriate that the name of the newborn town should include the name of its sponsor and founder. His father was Charles Lynch, who was an Irish immigrant who came to America from Ireland about 1720. He married and became a landowner in Virginia. He was a man of outstanding character and influence, and became a member of the colonial house of burgesses, representing the territory that now includes Campbell County. His sturdy character and good common sense brought to him the reputation of one of the foremost citizens of the colony. His home was known as Chestnut Hill. It seems a little singular that with his Irish blood and ancestry he should have become a Quaker, but this was true. He was interested in the growing of tobacco and in the operation of warehouses. At that time the James River was an important artery in the commerce of that section. It was, of course, necessary that travelers and traders should cross the river at convenient points where the course of traffic required. Ferries for the accommodation of the public were established. John Lynch, one of the sons of his pioneer father, saw the opportunities which the establishment and operation of a ferry would bring, and a ferry known as Lynch's Ferry was the outcome. The ferry became a very useful one, and the possibilities for that immediate section warranted John Lynch in obtaining a charter from the general assembly and naming it a town. At that time the borders of Virginia extended to the Great Lakes, and Kentucky, Ohio, Indiana, Illinois, and Michigan were a part of her vast domain. General Washington had retired to Mount Vernon. The Original Thirteen States had won their independence from Great Britain. Patrick Henry was again Governor of Virginia.

Since then 150 years have witnessed the growth and development of a thriving and progressive city. The James River Canal has come and gone. Three great trunk lines of railroad, one from north to south and two from east to west, cross at Lynchburg, and likewise three main State highways converge here. Over these railroad and truck transportation handles the heavy volume of freight and other traffic that comes to the city and radiates from it.

From its modest beginning, Lynchburg has become a city of about 40,000 population. It has developed into an important manufacturing, jobbing, and retail center. It is one of the large dark-tobacco markets. Large industries have been developed for the manufacture of shoes, cast-iron pipe, plows, wagons, textiles, and other commodities. It has become an important educational center. In addition to a splendid system of city schools, it has Randolph-Macon Woman's College, Lynchburg College, and Virginia Episcopal School for boys. Twelve miles distant is Sweet Briar College for women. It is a city of splendid schools and churches, with a live and progressive citizenship directing its destiny.

Apparently the first church was established by the Methodists in 1804. The next was by the Presbyterians. Then followed a Baptist, an Episcopal, a Protestant Methodist, a Second Presbyterian, and a Friends Meeting House in the order named. A Catholic and a Universalist Church were built in 1843. The subsequent growth of churches in the city has been in keeping with the growth of the city along other lines.

John Lynch, the founder of Lynchburg, had a brother, Charles Lynch, who became a colonel of infantry in the Revolutionary War. He served with distinction throughout that struggle. He performed another distinctive service during that formative period. Williamsburg was the nearest court where felons might be given a formal trial. It was 200 miles away. Transportation was slow and difficult in those days. It was a difficult problem to take prisoners and witnesses 200 miles for trial. A more practical and speedy plan was devised for handling offenders of the law. An improvised court, without strict legal authority, was set up. Col. Charles Lynch was made presiding justice, with Col. William Preston, Col. James Calloway, and Capt. Robert Adams as associate justices. Trials were held by this local court.

The accused were allowed to hear their accusers and to offer witnesses in their defense. Some of the milder offenders upon conviction were sentenced to be flogged; while others, such as the Tory sympathizers, who plotted conspiracies against the colonists, were sent to prison. After the war was over, some of the British sympathizers threatened suit against Colonel Lynch and his friends. And to forestall any such action, the General Assembly passed an act reciting that Colonel Lynch and others "by timely and effectual measures" suppressed the conspiracy to levy war against the Commonwealth and that they should "stand indemnified and exonerated of and from all pains, penalties, prosecutions, actions, suits, and damages on account thereof." It is unfortunate that the term "lynch law", which originated from this service and proved so helpful to the hardy pioneers in that formative period should now be applied in an entirely different way. This Col. Charles Lynch settled on the Staunton River, where the town of Alta Vista is now situate.

At a place called New London, a little nearer in, a trial in a court that was duly established took place after the Revolutionary War in which Patrick Henry participated as counsel. His ability and skill as an advocate were witnessed with great satisfaction in the trial. The case was that of Hook against Venable. Hook was a Scotchman, a man of wealth, and suspected of being unfriendly to the American cause. During the distresses of the American Army consequent on the invasion of Cornwallis in 1781, a Mr. Venable, of the Army Commissariat, had taken two of Hook's steers for the use of the troops. The act had not been strictly legal. On the establishment of peace, Hook brought suit in the district court to recover for the steers. Henry appeared for the defendant, and is said to have deported himself in the cause to the infinite enjoyment of his hearers with the exception of the unfortunate Hook. It is said that after Mr. Henry became animated in the cause, he appeared to have complete control over the passions of his audience. At one time he excited their indignation against Hook, and vengeance was visible in every countenance.

Again, when he chose to relax and ridicule him, the whole audience was in a roar of laughter. He painted the distresses of the American Army, exposed and almost naked to the rigor of a winter's sky, and marking the frozen ground over which they marched with the blood of their unshod feet. Where was the man, said he, who had an American heart in his bosom who would not have thrown open his fields, his barns, his cellars, the doors of his house to have received with open arms the meanest soldier in that little band of famished patriots? At the close of the trial the jury

retired for form's sake, and immediately returned with a verdict for the defendant.

It was during 1781 that Tarleton, the British cavalryman, made a raid from near Jamestown to New London and Liberty (now Bedford) for the purpose of capturing and destroying certain stores then being gathered at those two places. He succeeded in a small way, but his actions were of value to the Colonists in bringing out men to the colors in the Yorktown campaign which followed a few months later. It was on this raid that Peter Francisco defeated nine of Tarleton's dragoons. After the Revolution Francisco was elected doorkeeper of the house of delegates in Richmond. At his death he was given a military funeral, and today his portrait hangs in the Governor's mansion.

In the past when war clouds gathered and there came the call to arms the men of this city and territory responded as true patriots and brave soldiers. The war of the Revolution saw them fighting under Lynch and Greene and Light Horse Harry Lee. Again they went forth to fight the British in the War of 1812. Some went to Mexico in '47. In '61 the men of Lynchburg responded to the call of the Confederacy and followed the struggles and tragic fortune of Lee. And then came the Spanish-American War and the great World War, in neither of which did the men from your city fail to do their part. Lynchburg sent five general officers to the Confederate Army: Early, Rodes, Garland, Dearing, and Munford. One of them in '64 defended your city from the enemy's attack. General Early, on his way to the Shenandoah Valley, was informed that General Hunter was advancing against the city for the purpose of destroying the railroads and stores. He at once changed his line of march for Lynchburg, and reached the city in time to secure a position and repulse Hunter's attack. He then advanced on Hunter and drove him into West Virginia.

Not only has your city furnished men who have contributed to the military history and glory of our State and Nation but you have also furnished men who have achieved eminence and taken front rank in civil and political life.

I would not attempt to name them all. But I mention two. Fifty years ago you celebrated the one-hundredth anniversary of your founding. At that time you honored one of your native sons, who was soldier, statesman, and orator—one who bore the mark of wounds for the Confederacy, one who achieved great distinction and became a United States Senator, Maj. John W. Daniel.

Today you have another great man who has brought glory and distinction to your city, our State, and the Nation. He also has membership in the Senate of the United States. He is a statesman in his own right, a clear and independent thinker, and known for his courage and ability throughout the Nation. I need not tell you I refer to Senator CARTER GLASS, the most respected and esteemed man in the United States Senate today.

And so your city, for many reasons, has just cause for pride on this, her sesquicentennial anniversary, and I bring you with pleasure my felicitations and hearty good wishes.

The membership of the commission having in charge the ceremonies commemorating the sesqui-centennial of Lynchburg follows: Judge Don P. Halsey, president; R. T. Watts, Jr., vice president; Carter Glass, honorary president; Mrs. John H. Lewis, vice president; John W. Craddock, vice president; Thomas W. Gilliam, treasurer; Fred W. McWane, secretary.

ADDRESS OF COL. EDWIN A. HALSEY, SECRETARY OF THE UNITED STATES SENATE, IN PRESENTING TO SENATOR CARTER GLASS THE FIRST COIN MINTED BY THE TREASURY DEPARTMENT WITH HIS PROFILE, UPON THE OCCASION OF THE LYNCHBURG SESQUICENTENNIAL, OCTOBER 14, 1936

The outstanding souvenier of the sesquicentennial of Lynchburg is a silver half dollar, authorized for this occasion by a special act of Congress. Since the foundation of the Republic the likenesses of only the preeminent patriots of the Nation have been selected to grace its coins and currency.

Lynchburg, in searching for one forcefully to symbolize the salient features of our city, has chosen you, Senator GLASS. Through your endeavors for the establishment of the Federal Reserve System and your initiative and cooperation in the enactment of banking laws, stabilized currency has become universal. Your governmental services have been a credit to your State and country.

Lynchburg is proud of your record, and Virginia felicitates herself in having you as one of her Senators. Fortunate is Lynchburg that Providence selected it as the site for your activities. This city has stood the test of time. Its chevrons of chivalry have never been tarnished. Its record of valor ranks with the best. Its enterprise has developed a community of which one may well be proud. Its manhood has brought renown to its borders. The beauty and charm of its womanhood are not surpassed. Lynchburg's fame will increase as time marches on; and you and your career form a fitting capstone to these things of which our fair city can justly boast.

It is now my pleasure to present to you the first coin to come from the mint in commemoration of this happy and eventful anniversary, the coin bearing your profile—the only time in the history of our country that a single living citizen has been thus distinguished. The United States, in thus honoring you, Senator GLASS, honors Lynchburg.

The President's Address at Madison Square Garden

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Monday, January 11, 1937

ADDRESS OF PRESIDENT ROOSEVELT, DELIVERED IN MADISON SQUARE GARDEN, NEW YORK CITY, OCTOBER 31, 1936

Mr. ROBINSON. Mr. President, the address of the President of the United States delivered October 31, 1936, at Madison Square Garden, New York, outlined some of the policies which he advocated and would attempt to put into effect if reelected. I ask unanimous consent to insert the address in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

On the eve of a national election, it is well for us to stop for a moment and analyze calmly and without prejudice the effect on our Nation of a victory by either of the major political parties.

The problem of the electorate is far deeper, far more vital than the continuance in the Presidency of any individual. For the greater issue goes beyond units of humanity—it goes to humanity itself.

In 1932 the issue was the restoration of American democracy; and the American people were in a mood to win. They did win. In 1936 the issue is the preservation of their victory. Again they are in a mood to win. Again they will win.

More than 4 years ago in accepting the Democratic nomination in Chicago I said: "Give me your help not to win votes alone but to win in this crusade to restore America to its own people."

The banners of that crusade still fly in the van of a Nation that is on the march.

It is needless to repeat the details of the program which this administration has been hammering out on the anvils of experience. No amount of misrepresentation or statistical contortion can conceal or blur or smear that record. Neither the attacks of unscrupulous enemies nor the exaggerations of overzealous friends will serve to mislead the American people.

What was our hope in 1932? Above all other things the American people wanted peace. They wanted peace of mind instead of gnawing fear.

First, they sought escape from the personal terror which had stalked them for 3 years. They wanted the peace that comes from security in their homes—safety for their savings—permanence in their jobs—a fair profit from their enterprise.

Next they wanted peace in the community—the peace that springs from the ability to meet the needs of community life—schools, playgrounds, parks, sanitation, highways—those things which are expected of solvent local government. They sought escape from disintegration and bankruptcy in local and State affairs.

They also sought peace within the Nation—protection of their currency, fairer wages, the ending of long hours of toil, the abolition of child labor, the elimination of wildcat speculation, the safety of their children from kidnapers.

And, finally, they sought peace with other nations—peace in a world of unrest. The Nation knows that I hate war, and I know that the Nation hates war.

I submit to you a record of peace; and on that record a well-founded expectation for future peace—peace for the individual, peace for the community, peace for the Nation, and peace with the world.

Tonight I call the roll—the roll of honor of those who stood with us in 1932 and still stand with us today.

Written on it are the names of millions who never had a chance—men at starvation wages, women in sweatshops, children at looms.

Written on it are the names of those who despaired, young men and young women for whom opportunity had become a will-o'-the-wisp.

Written on it are the names of farmers whose acres yielded only bitterness, businessmen whose books were portents of disaster—home owners who were faced with eviction—frugal citizens whose savings were insecure.

Written there in large letters are the names of countless other Americans of all parties and all faiths—Americans who had eyes to see and hearts to understand—whose consciences were burdened because too many of their fellows were burdened; who looked on these things 4 years ago and said, "This can be changed. We will change it."

We still lead that army in 1936. They stood with us then because they believed. They stand with us today because they

know. And with them stand millions of new recruits who have come to know.

Their hopes have become our record.

We have not come this far without a struggle, and I assure you we cannot go further without a struggle.

For 12 years this Nation was afflicted with hear-nothing, see-nothing, do-nothing government. The Nation looked to Government but the Government looked away. Nine mocking years with the golden calf and 3 long years of the scourge. Nine crazy years at the ticker and 3 long years in the bread lines. Nine mad years of mirage and 3 long years of despair. Powerful influences strive today to restore that kind of government with its doctrine that that government is best which is most indifferent.

For nearly 4 years you have had an administration which, instead of twirling its thumbs, has rolled up its sleeves. We will keep our sleeves rolled up.

We had to struggle with the old enemies of peace—business and financial monopoly, speculation, reckless banking, class antagonism, sectionalism, war profiteering.

They had begun to consider the Government of the United States as a mere appendage to their own affairs. We know now that government by organized money is just as dangerous as government by organized mob.

Never before in all our history have these forces been so united against one candidate as they stand today. They are unanimous in their hate for me, and I welcome their hatred.

I should like to have it said of my first administration that in it the forces of selfishness and of lust for power met their match. I should like to have it said of my second administration that in it these forces met their master.

The American people know from a 4-year record that today there is only one entrance to the White House—by the front door. Since March 4, 1933, there has been only one pass key to the White House. I have carried that key in my pocket. It is there tonight. So long as I am President it will remain in my pocket.

Those who used to have pass keys are not happy. Some of them are desperate. Only desperate men with their backs to the wall would descend so far below the level of decent citizenship as to foster the current pay envelope campaign against America's working people. Only reckless men, heedless of consequences, would risk the disruption of the hope for a new peace between worker and employer by returning to the tactics of the labor spy.

Here is an amazing paradox! The very employers and politicians and newspapers who talk most loudly of class antagonism and the destruction of the American system now undermine that system by this attempt to coerce the votes of the wage earners. It is the 1936 version of the old threat to close down the factory or the office if a particular candidate does not win. It is an old strategy of tyrants to delude their victims into fighting their battles for them.

Every message in a pay envelope, even if it is the truth, is a command to vote according to the will of the employer. But this propaganda is worse—it is deceit.

They tell the worker his wage will be reduced by a contribution to some vague form of old-age insurance. They carefully conceal from him the fact that for every dollar of premium he pays for that insurance the employer pays another dollar. That omission is deceit.

They carefully conceal from him the fact that under the Federal law he receives another insurance policy to help him if he loses his job, and that the premium of that policy is paid 100 percent by the employer and not one cent by the worker. They do not tell him that the insurance policy that is bought for him is far more favorable to him than any policy that any private insurance company could afford to issue. That omission is deceit.

They imply to him that he pays all the cost of both forms of insurance. They carefully conceal from him the fact that for every dollar put up by him his employer puts up $3—$3 for $1; and that omission is deceit.

But they are guilty of more than deceit. When they imply that the reserves thus created against both these policies will be stolen by some future Congress—diverted to some wholly foreign purpose—they attack the integrity and honor of American Government itself. Those who suggest that are already aliens to the spirit of American democracy. Let them emigrate and try their lot under some foreign government in which they have more confidence.

The fraudulent nature of this attempt is well shown by the record of votes on the passage of the Social Security Act. In addition to an overwhelming majority of Democrats in both Houses, 77 Republican Representatives voted for it and only 18 against it, and 15 Republican Senators voted for it and only 5 against it. Where does this last-minute drive of the Republican leadership leave these Republican Representatives and Senators who helped enact this law?

I am sure the vast majority of law-abiding businessmen who are not parties to this propaganda fully appreciate the extent of the threat to honest business contained in this coercion.

I have expressed indignation at this form of campaigning, and I am confident that the overwhelming majority of employers, workers, and the general public share that indignation and will show it at the polls.

Aside from this phase of it, I prefer to remember this campaign not as bitter but only as hard fought. There should be no bitterness or hate where the sole thought is the welfare of the United States of America. No man can occupy the office of President without realizing that he is President of all the people.

It is because I have sought to think in terms of the whole Nation that I am confident that today, just as 4 years ago, the people want more than promises.

Our vision for the future contains more than promises.

This is our answer to those who, silent about their own plans, ask us to state our objectives.

Of course, we will continue to seek to improve working conditions for the workers of America—to reduce hours overlong, to increase wages that spell starvation, to end the labor of children, to wipe out sweatshops. Of course, we will continue every effort to end monopoly in business, to support collective bargaining, to stop unfair competition, to abolish dishonorable trade practices. For all these we have only just begun to fight.

Of course, we will continue to work for cheaper electricity in the homes and on the farms of America, for better and cheaper transportation, for low interest rates, for sounder home financing, for better banking, for the regulation of security issues, for reciprocal trade among nations, for the wiping out of slums. For all these we have only just begun to fight.

Of course, we will continue our efforts in behalf of the farmers of America. With their continued cooperation we will do all in our power to end the piling up of huge surpluses which spelled ruinous prices for their crops. We will persist in successful action for better land use, for reforestation, for the conservation of water all the way from its source to the sea, for drought and flood control, for better marketing facilities for farm commodities, for a definite reduction of farm tenancy, for encouragement of farmer cooperatives, for crop insurance and a stable food supply. For all these we have only just begun to fight.

Committee Jurisdiction of Laws Declared Unconstitutional

EXTENSION OF REMARKS

OF

HON. HENRY F. ASHURST

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Monday, January 11, 1937

CORRESPONDENCE RELATING TO ACTS OF THE SEVENTY-THIRD AND SEVENTY-FOURTH CONGRESSES

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD some correspondence relative to acts of the Seventy-third and Seventy-fourth Congresses.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

[Telegram]

PHOENIX, ARIZ., *October 12, 1936.*

Mr. DIX W. PRICE,
Clerk, Senate Committee on the Judiciary,
Capitol Building, Washington, D. C.:

Some persons of good repute, but who are erroneously informed, have said that all the various laws passed since March 4, 1933, which were declared by the Supreme Court of the United States to be beyond the power of Congress to enact were considered and approved by the Senate Committee on the Judiciary. Unless I have misremembered, the Senate Committee on the Judiciary never had jurisdiction over and never approved any of the various laws passed since March 4, 1933, which were declared unconstitutional save and except the Frazier-Lemke farm moratorium law and possibly a provision of one of the bankruptcy laws. Please carefully examine all records and write me fully, sending copious memoranda showing exactly what bills declared unconstitutional by the United States Supreme Court, passed since said March 4, 1933, were approved or reported favorably by said Senate Judiciary Committee. Please have expert in Congressional Library aid you if you require assistance in gathering correct data on this subject.

Personal regards.

Senator ASHURST.

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
October 13, 1936.

DEAR SENATOR ASHURST: In reply to your wire of October 12, asking me to check the records of the Senate Committee on the Judiciary as to the acts of Congress approved since March 4, 1933, which acts or parts thereof have been declared unconstitutional by the Supreme Court of the United States, I am able to render the following answer:

Enclosed you will find a list of all provisions of acts of Congress passed since March 4, 1933, which have been declared by the Supreme Court of the United States to be beyond the power of Congress to enact. This list of 12 provisions is edited by the Legislative Reference Service of the Library of Congress. You

will note that only two of the bills concerned were sent to or considered by the Senate Committee on the Judiciary, namely, the Frazier-Lemke Farm Moratorium Act (S. 3580) and the Municipal Bankruptcy Act (H. R. 5950), both of the Seventy-third Congress.

Thus it is my pleasure to report to you that the committee records, verified by the office of the Secretary of the Senate, establish your original impression in the matter to be authentic and correct.

With kind personal regards,

Respectfully,

DIX W. PRICE,
Clerk, Senate Committee on the Judiciary.

Hon. HENRY F. ASHURST,
United States Senator, Phoenix, Ariz.

PROVISIONS OF FEDERAL LAWS PASSED SINCE MARCH 4, 1933, HELD UNCONSTITUTIONAL BY THE SUPREME COURT OF THE UNITED STATES

1. Act of March 20, 1933 (48 Stat. 11, sec. 17 in part). H. R. 2820, Seventy-third Congress, Committee on Finance.

Clause in the Economy Act of 1933 providing "* * * all laws granting or pertaining to yearly renewable term insurance are hereby repealed", held invalid to abrogate an outstanding contract of insurance.

Lynch v. *United States* (292 U. S. 571, June 4, 1934).

Opinion by Justice Brandeis; unanimous.

2. Act of May 12, 1933 (48 Stat. 31). H. R. 3835, Seventy-third Congress, Committee on Agriculture.

Agricultural Adjustment Act (not considering the amendatory act), providing for processing taxes on agricultural commodities and benefit payments therefrom to farmers.

U. S. v. *Wm. M. Butler, Receiver of Hoosac Mills Corporation* (297 U. S. 1, Jan. 6, 1936).

Opinion by Justice Roberts; Justices Stone, Brandeis, and Cardozo dissenting.

3. Joint resolution of June 5, 1933 (48 Stat, 113, sec. 1). House Joint Resolution 192, Seventy-third Congress, Committee on Banking and Currency.

That (a) every provision contained in * * * any obligation which purports to give the obligee a right to require payment in gold * * * or in an amount in money of the United States measured thereby is declared to be against public policy * * * any such provision contained in any law authorizing obligations to be issued by or under authority of the United States is hereby repealed * * *.

Perry v. *United States* (294 U. S. 330, Feb. 18, 1935).

Opinion by Chief Justice Hughes; nine Justices sitting; Justices McReynolds, Van Devanter, Sutherland, and Butler dissent from decision, and Justice Stone from the constitutional holding.

4. Act of June 16, 1933 (48 Stat. 195, ch. 90). H. R. 5755, Seventy-fifth Congress, Committee on Finance.

A. Section 9 (c).

Clause of the oil regulation section of the National Industrial Recovery Act, authorizing the President "to prohibit the transportation in interstate * * * commerce of petroleum * * * produced or withdrawn from storage in excess of the amount permitted * * * by any State law * * *" and prescribing a penalty for violation of orders issued thereunder.

Panama Refining Co. et al. v. *Ryan et al; Amazon Petroleum Corp. et al.* v. *Ryan et al.* (293 U. S. 388) (Jan. 7, 1935).

Opinion by Chief Justice Hughes; Justice Cardozo dissenting.

B. Title I, except section 9.

Provisions relating to codes of fair competition, authorized to be approved by the President in his discretion "to effectuate the policy" of the act.

Schechter Poultry Corp. v. *U. S.* (295 U. S. 495) (May 27, 1935).

Opinion by Chief Justice Hughes; Justices Cardozo and Stone concurring.

5. Act of June 16, 1933 (48 Stat. 200, sec. 9 (c)). H. R. 5755, Seventy-third Congress, Committee on Finance.

Section 9 was distinct from the body of title I (primarily relating to industrial codes). It was given a separate subject heading—"Oil regulation." Subsection (c) provided that "the President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any State law or valid regulation * * * thereunder * * *. Any violation of any order of the President issued under the provisions of this subsection shall be punishable by fine of not to exceed $1,000 * * *."

Panama Refining Co. et al. v. *Ryan et al.*; and *Amazon Petroleum Corp. et al.* v. *Ryan et al.* (293 U. S. 388) (Jan. 7, 1935).

Opinion by Chief Justice Hughes; 9 Justices sitting; Justice Cardozo dissenting.

6. Act of June 16, 1933 (48 Stat. 307, sec. 13). H. R. 5389, Seventy-third Congress, Committee on Appropriations.

Temporary reduction of 15 percent in retired pay of "judges (whose compensation, prior to retirement or resignation, could not, under the Constitution, have been diminished)", as applied to circuit or district judges retired from active service (but still subject to perform judicial duties) under the act of March 1, 1929 (45 Stat. 1422).

Booth v. *United States* (together with *Amidon* v. *United States*), 291 U. S. 339 (Feb. 5, 1934).

Opinion by Justice Roberts; unanimous.

7. Act of June 13, 1933 (48 Stat. 134, sec. 5 (1)) as amended April 27, 1934 (48 Stat. 646, sec. 6). S. 2999, Seventy-third Congress. Committee on Banking and Currency.

Provided that "any member of a Federal home-loan bank may convert itself into a Federal savings and loan association under this act upon a vote of 51 percent or more of the votes cast at a legal meeting called to consider such action" (in original act—upon a vote of its stockholders as provided by the law under which it operates), thereafter to be entitled to benefits of the section, and subject to examination and regulation as other associations under the act.

Hopkins Federal Savings and Loan Association v. *Cleary* (296 U. S. 315) (Dec. 9, 1935); also *Reliance Building and Loan Association* v. *Cleary* and *Northern Building and Loan Association* v. *Cleary*.

Opinion by Justice Cardozo; nine Justices sitting; unanimous.

8. Act of May 24, 1934 (48 Stat. 798, adding chap. LX, secs. 78–80 to the Bankruptcy Act). H. R. 5950, Seventy-third Congress, Committee on the Judiciary.

The act authorizes municipalities or other political subdivisions of States, specifically including improvement districts, to readjust their indebtedness, by petition to Federal district court. Such petition must contain a plan approved by creditors holding—in case of a water improvement district—30 percent of the district's obligations. If, after hearing, the court finds that such plan is equitable, not unduly discriminatory, and is accepted by creditors holding two-thirds of the indebtedness of the district, it is to be confirmed, and binding upon the district and all creditors, secured or unsecured.

C. L. Ashton et al. v. *Cameron County Water Improvement District No. 1* (May 25, 1936, No. 859).

Opinion by Justice McReynolds; nine Justices sitting—Chief Justice Hughes and Justices Cardozo, Brandeis, and Stone dissenting.

9. Act of June 27, 1934 (48 Stat. 1283, c. 868 entire). S. 3231, Seventy-third Congress, Committee on Interstate Commerce.

The Railroad Retirement Act, establishing a detailed compulsory retirement system for employees of carriers subject to the Interstate Commerce Act.

Railroad Retirement Board v. *Alton R. R. et al.* (295 U. S. 330) (May 6, 1935).

Opinion by Justice Roberts; Chief Justice Hughes and Justices Brandeis, Stone, and Cardozo dissenting.

10. Act of June 28, 1934 (48 Stat. 1289, c. 869). S. 3580, Seventy-third Congress, Committee on Judiciary.

The Frazier-Lemke Act, adding subsection (s) to section 75 of the Bankruptcy Act designed to preserve to mortgagors the ownership and enjoyment of their farm property and providing specifically, in paragraph 7, that the bankrupt left in possession has the option at any time within 5 years of buying at the appraised value, subject meanwhile to no monetary obligation other than payment of reasonable rental.

Louisville Joint Stock Land Bank v. *Radford* (295 U. S. 555) (May 27, 1935).

Opinion by Justice Brandeis; unanimous.

11. Act of August 24, 1935 (49 Stat. 750). H. R. 8492, Seventy-fourth Congress, Committee on Agriculture.

Agricultural Adjustment Act amendments.

Rickert Rice Mills v. *Fontanot* (297 U. S. 110) (Jan. 13, 1936).

Opinion by Justice Roberts; unanimous.

12. Act of August 30, 1935 (49 Stat. 991). H. R. 9100, Seventy-fourth Congress, Committee on Interstate Commerce.

Bituminous Coal Conservation Act of 1935—"Guffey Coal Act." Decided May 18, 1936.

Opinion by Justice Sutherland; Justices Cardozo, Brandeis, and Stone dissenting; Chief Justice Hughes concurring in part.

Products of Child Labor in Interstate Commerce

EXTENSION OF REMARKS

OF

HON. JOSEPH C. O'MAHONEY

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Monday, January 11, 1937

MEMORANDUM BY JOHN A. CHAMBLISS, OF CHATTANOOGA, TENN.

Mr. O'MAHONEY. Mr. President, I ask unanimous consent to insert in the RECORD a brief memorandum prepared by Hon. John A. Chambliss, of Chattanooga, Tenn., a distinguished member of the Tennessee bar and also a member of the senate of that State. This memorandum contains the suggestion of the application of the principle upheld by the Supreme Court in the case of Whitfield against Ohio to the products of child labor. This principle is also carried out in title IV of the bill I have introduced proposing to provide a system of Federal licenses and charters for corporations engaged in commerce among the States.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

I

If Congress desires to remove the impediment to State control of products manufactured in other States by child labor, the present act doing so as to prison-made goods might be amended to read as follows:

"[All goods, wares, and merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, in any penal and/or reformatory institutions, except commodities manufactured in Federal penal and correctional institutions for use by the Federal Government,] and all goods, wares, and merchandise manufactured, produced, or mined, wholly or in part by any person (other than a bona-fide boys' or girls' canning club recognized by the Agricultural Department of a State and of the United States) operating (a) any mine or quarry situated in the United States in which children under the age of 16 years are employed or permitted to work; or (b) any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States in which children under the age of 14 years are employed or permitted to work, or children between the ages of 14 and 16 are employed or permitted to work more than 8 hours in any day or more than 6 days in any week, or after the hour of 7 o'clock p. m., or before the hour of 6 o'clock a. m., [transported into any State or Territory of the United States and remaining therein for use, consumption, sale, or storage, shall upon arrival and delivery in such State or Territory be subject to the operation and effect of the laws of such State or Territory to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in such State or Territory and shall not be exempt therefrom by reason of being introduced by the original package or otherwise.]"

(NOTE.—The words in brackets are those in the act of Congress as to prison-made goods held constitutional in *Whitfield* v. *Ohio*, 297 U. S. 431. The language added brings child labor within the scope of the enactment and is taken from 259 U. S. 20.)

II

Following action by Congress, if a State desires to control by exclusion the products of child labor, it should amend any present statute forbidding the sale of prison-made goods (or enact a statute) to read as follows:

"[No goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, in any other State, by convicts or prisoners, except convicts or prisoners on parole or probation,] and no goods, wares, and merchandise manufactured, produced, wholly or in part, by any person (other than a bona-fide boys' or girls' canning club recognized by the Agricultural Department of a State and of the United States), operating (a) any mine or quarry situated in the United States in which children under the age of 16 years are employed or permitted to work; or (b) any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States in which children under the age of 14 years are employed or permitted to work more than 8 hours in any day or more than 6 days in any week, or after the hour of 7 o'clock p. m. or before the hour of 6 o'clock a. m., [shall be sold on the open market in this State]."

(NOTE.—The words in brackets indicate the language of the State statute, also considered and held constitutional in *Whitfield* v. *Ohio*; the language added brings child labor within the scope of the enactment and is taken from 259 U. S. 20.)

Address Before Mississippi Valley Association

EXTENSION OF REMARKS

OF

HON. HARRY S. TRUMAN

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Monday, January 11, 1937

ADDRESS OF HON. BENNETT CHAMP CLARK, OF MISSOURI, BEFORE THE EIGHTEENTH ANNUAL CONVENTION OF THE MISSISSIPPI VALLEY ASSOCIATION IN ST. LOUIS, MO., NOVEMBER 23, 1936

Mr. TRUMAN. Mr. President, I ask unanimous consent to have printed in the RECORD an interesting and able address delivered by my colleague the senior Senator from Missouri [Mr. CLARK] before the Eighteenth Annual Convention of the Mississippi Valley Association, held in St. Louis, Mo., November 23, 1936.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF HON. BENNETT CHAMP CLARK, UNITED STATES SENATOR FROM MISSOURI, BEFORE THE EIGHTEENTH ANNUAL CONVENTION OF THE MISSISSIPPI VALLEY ASSOCIATION

Mr. President and members of the Mississippi Valley Association, it is a privilege for me once more to meet with the representatives of your association to take counsel for the welfare of the great valley which we all love and in which we all have a common interest. It is an honor to once more be permitted to assist in welcoming you to Missouri, the keystone, and to St. Louis, the capital of the Mississippi Valley. We welcome you as representatives of that tremendous inland empire who not only share with us the hopes and aspirations for the development of the Nation as a whole, which we share with all sections and all classes of our people, but who also necessarily have with us an essential identity of the interest and feeling growing out of our common residence in the imperial domain watered by the Father of Waters.

The very purpose of the Mississippi Valley Association is to afford the best opportunity for exchange of counsel and for the fullest cooperative action in the common interest of all portions of the Mississippi Valley.

We do not aim at sectionalism—our representatives and spokesmen have never pursued a policy of narrow sectionalism. We recognize and proclaim that the adequate development and conservation of the national resources of the Nation is a national problem. We have supported and our Representatives and Senators in Congress have almost uniformly voted for the fullest development of the transportation facilities of other sections of the country as well as our own. We cheerfully supported the appropriation of hundreds of millions of dollars for the improvement of harbors and channels in the Great Lakes system. We willingly bore our proportion of the burden of the enormous cost of the construction of the Panama Canal. We have consented to the pouring out of money by the hundreds of millions in the perfection of the harbors of the Atlantic, Pacific, and Gulf coasts, and in the construction of canals and maritime thoroughfares in the interest of navigation upon those coasts. We have advocated the expenditure of millions of our own money in the reclamation of arid lands in the West and in flood protection for other sections as well as our own. We have acquiesced in the outlay of untold millions in the development of hydroelectric energy in sections in which we had no concern except the common interest which every patriotic American must necessarily feel in the progressive development of any and every section of the country. And so we feel that we cannot be accused of any sectionalism opposed to the national interest when we meet together to consider the situation and the needs of the great section in which we live or when we call on the other sections of the Nation to reciprocate the spirit we have always shown in cooperation for the development of the natural resources of the Nation as a whole.

We in the Mississippi Valley have rivalries and divergence of interest among ourselves. Some cities and localities in the valley are the bitterest trade rivals and adversaries of other cities and localities in the valley. But we meet here on common ground to consider those matters which are of common interest to all of us, those policies of deep concern in which the interest of the Mississippi Valley as a whole transcends the interest of any particular city or locality or State.

And we have many such problems. For, bountifully as God has endowed the great Mississippi Valley in resources, with great fertility of soil, with vast stores of mineral wealth, with great forests, with diversification of climate, with magnificent natural waterways, yet nevertheless, through entirely artificial causes, our valley as a whole has labored and is laboring at a serious disadvantage in economic and material competition with the remainder of the country. One has only to look at the map showing population trends in the United States to discover that while States on the Atlantic, Gulf, and Pacific seaboards and the Great Lakes had increased vastly in population between 1920 and 1930, the Mississippi Valley as a whole remained so nearly stationary as to almost amount to an actual loss. New York, Massachusetts, Rhode Island, Connecticut, New Jersey, North Carolina, Florida, Alabama, Louisiana, Texas, California, Oregon, and Washington all gained hugely, but the great States of Missouri, Arkansas, Kentucky, Kansas, Nebraska, Iowa, North and South Dakota, and Minnesota, in the Mississippi Valley, each gained less than 10 percent in their population.

A glance at the map of population changes by counties is even more striking and more tragic. Not only did most of the counties in these States actually lose population during the same period but we discover as well that in such States as Wisconsin, Illinois, Indiana, and Ohio there has been a distinct loss in most of the counties making up the Mississippi Valley and a concentration of growth in the counties adjacent to the Great Lakes. Other maps, showing production of minerals, changes in manufactures, even production of agricultural products, all show that the Mississippi Valley has been laboring under a serious disadvantage in comparison with other sections of the country.

To my mind these disadvantages may be summed up in brief—transportation or access to markets. We in the Mississippi Valley are suffering from the tragic fact that, rich as is our splendid empire in natural advantages of soil and mine, bountiful as are our products, we are shackled with a disadvantage in the matter of transportation which nullifies our great natural blessings.

The development of this Nation was originally along the lines of watercourses, the first arteries of transportation in the country. Most of our great centers of population, even most of our State capitals, were located in the beginning with reference to their

proximity to these watercourses. Wars were fought over their control. The focal point in the war between France and England which preceded our Revolution and which raged around the world was at the site destined by nature to be a great metropolis which we know as Pittsburgh, at the confluence of the Allegheny and the Monongahela. Jefferson, peace-loving as he was, was yet willing to risk war with both France and Spain to insure for our western settlers the undisputed right to the free navigation of the Ohio and the Mississippi and the possession of its mouth. This ardent determination on the part of our people led to the Louisiana Purchase, the greatest transaction in real estate in the history of the world and the real foundation of our national greatness.

Before the Civil War the natural flow of trade west of the Alleghenies for the most part followed the watercourses generally north and south its natural channel. Coincident with the cataclysm of the Civil War, when commerce between the North and South absolutely ceased, by the aid of huge Government subsidies great railroad systems were constructed, one effect of which was to divert the flow of commerce to an east and west basis by rail. The natural north and south flow, with a natural outlet to deep water and ocean freight rates at the mouth of the river, became a thing of the past. Our rivers themselves fell into disuse and were permitted, through lack of care and improvement, to become unsuitable for the necessities of modern water transportation. Our farmers and our manufacturers were at a heavy disadvantage because of the difficulties of reaching the markets of the world. We were at the mercy of the railroads during the period of the worst juggling and manipulation of railroad rates in behalf of favored interests and localities that the country has seen.

And this condition endured for a generation. Then came the construction of the Panama Canal, in which, as I have said, our people cheerfully cooperated as a great national enterprise. But it is only fair to say that with the delay in the full development of our inland waterway system the operation of the Panama Canal has proved to be to the Mississippi Valley the greatest economic misfortune that ever befell any vast and fertile portion of the habitable globe. With the Mississippi Valley dependent wholly upon railroad transportation for access to deep-water rates, our industries were placed at a tragic disadvantage with other sections less favored by nature as to resources, but closer to deep water. We have seen our industries move gradually toward the coasts and have seen those which remain struggle against the fearful handicap of high transportation rates to the markets of the world. We have seen factories move and as they moved take with them in the long run the industrial population which should be our best customers for the products of our farms.

I have used before this association, and I venture to use again, an example which illustrates the effect of the Panama Canal upon Middle Western industry. My father-in-law in his lifetime manufactured cream separators and gas engines at Waterloo, Iowa, a community which he had helped to build from a village to a thriving industrial city of 60,000. Located in the center of the richest agricultural area in America, this community and many another in this whole section had been able to thrive because they were directed by the initiative and force so characteristic of the Middle West and because they had access to the very highest type of intelligent, industrious labor constantly coming in from the surrounding farms. In excellence of products they could compete with anyone in the markets of the world. But with the opening of the Panama Canal the burden of transportation rates came to be insupportable in competition with other sections of our own country, to say nothing of other countries. My father-in-law discovered that when he sold a bill of goods on the Pacific coast he could ship by rail to Baltimore, thence by ocean through the Panama Canal to the Pacific coast, and save a third of the freight. The effect is obvious. By the use of the Panama Canal the industry of the Atlantic coast and the industry of the Pacific coast have had the benefit of a differential in those rich markets which sets up an obstacle to the industry of the Mississippi which is almost insurmountable without the fullest and most complete development and use of the great inland waterway system with which we have been favored by the Creator.

No man or set of men and no section can stop the march of progress. None of us can be heard to express regret for the construction of the Panama Canal. It was a great engineering feat; a great national accomplishment. I would not undo, if I could, what has been done. But by the fullest development and utilization of the resources at our command, I would place the Mississippi Valley in a position to participate fully in the benefits and blessings of such great improvements. More than that, I may say frankly that so far as I am concerned, so long as I am a Senator representing a great Mississippi Valley State and as a member of the Senate Committee on Interoceanic Canals, I intend to set my face resolutely against the recurring suggestion of a new Nicaraguan Canal until the development of our inland waterway system is an accomplished fact.

Let me say that I do not speak in antagonism to the interests of the railroads. I am not a railroad baiter. I do not believe in Government ownership of railroads. It is not necessary now to discuss the admitted vices of overcapitalization, of rebating, of unfair and corrupt political activity, of management from Wall Street rather than by competent and proven railroad executives, which contributed so vastly to the sorry situation in which the railroads finally found themselves. These things are recognized and admitted on every hand. I believe that measures have already been taken which will forever prevent a recurrence of such conditions. If the measures already adopted shall prove ineffective, I have no doubt that effective means will be found.

If I believed that the railroad system of the country had outlived its usefulness, that the march of progress had rendered it obsolete, that the time had come when the railroads no longer should be maintained by the public as against other forms of transportation, no amount of sympathy which I might feel for the investors in the railroad system or even for those who have been and are employed by the railroads, would prevent me from believing and from saying publicly that the interest of no class or classes of citizens should be permitted to stand in the way of the natural development of the country. If I entertained such beliefs, I would say that the time had come when the railroads must go the way of the stagecoach, be the effect what it might on classes or individuals. The owners and drivers and horse wranglers and all others interested fell before the march of progress when the railroads came into being. None of us have a vested interest which can impede more than temporarily at most the implacable tread of advancing civilization. When the time comes, if it ever does, when the railroads are to be supplanted by some newer, more economical, more convenient system of transportation, the railroads will go as the stagecoaches went and no amount of sympathy or repining for the investors in railroads or the employees of railroads on the part of any of us will delay the event 1 hour.

But that time has not arrived. I entertain no such belief. In my judgment it will not arrive and should not arrive for at least a generation to come. No system of transportation which has so far appeared could possibly take the essential place of the railroads in our national life. Our railroad-transportation system is a precious asset in our national life. Therefore, whatever may have been the faults of financing or management on the part of the railroads in the past, in this period, when we are once again advancing toward reconditioned prosperity, our railroad system should be encouraged in every proper way, under adequate public regulation, not only to participate in, but to lead the way in the general recovery.

We should never allow a recurrence of the old bad days of the plundering of investors and shippers alike by the financial interests which speculated in railroad control. On the other hand, we should not permit any degree of prejudice or any school of theory to stop or render ineffective so essential an artery of our commerce and communication.

But to say that the railroads should be permitted and encouraged to exist and thrive and prosper is by no means to say that they should be allowed completely to dominate our transportation system, that we should have no alternative, that there should be no check to establish a balance in our transportation system.

We in the Midwest have eaten the bitter bread of complete railroad domination of our economic life. We are trying to escape from it. We do not wish ever to return to it. Only by such a departure can the imperial domain of the Mississippi Valley maintain its proper place in the national life.

I believe that if the railroad management of the Nation truly knew its own interest it would be content to exist side by side with a water transportation system, each under public regulation, each in the field to which it is best adapted, performing its function toward the public, the two acting in coordination with a system using the highways to work out the very cheapest and most efficient result for shippers in any portion of the Nation.

No one form of transportation has a vested right to the patronage of the public. Each is entitled to be considered according to the merits of its claim. But the interest of the public is paramount and whether any of us will it or not, the interest of the public will at last prevail.

I hope to see the day when a shipper will be able to go to one office and state his business and then have his consignment billed from that one office, either all rail or all water or all truck or any combination of the three which may be to the advantage of the shipper as employing the best and cheapest combination of transportation.

This, of course, necessarily involves the full utilization of our waterways. In the meantime there are great barriers to be crossed.

I think I will not be accused of any taint of partisanship when I say that the last few years have witnessed the greatest advance in our history in the physical completion of our inland waterway system. President Roosevelt has been our friend and has advocated and brought about unprecedented appropriations and allotments for the purposes of improvements of our rivers. From Louisiana and Mississippi clear up to Montana and Minnesota and over to Pittsburgh and Wheeling we have all pulled together. We all recognized a valley interest in the Fort Peck Dam in Montana and we got that. We all recognized the vital necessity for flood control in the Pittsburgh area and we got that. We all recognized that Missouri and Arkansas and Tennessee and Mississippi and Louisiana were all vitally interested in the development of navigation on the upper Mississippi and we got that. We have pulled together on other projects of general interest to the valley, some of which objects have been attained and others which will yet be attained.

But I would be unworthy to discuss such a subject in such a gathering if I did not frankly call your attention to the fact that while we have made great material progress from the standpoint of improving the physical condition of our rivers to make them suitable for navigation, we have been constantly hamstrung from another source. While Congress in its wisdom, or at least by the

mandate of the American people, has been appropriating millions of dollars of the taxpayers' money to put us on a comparable basis with other nations in the utilization of our natural waterways, the Interstate Commerce Commission has been steadily attempting to thwart the designs of Congress through the exercise of its rate-making functions.

I wish it to be understood that I have nothing except respect for the personnel of the Interstate Commerce Commission. Its membership is and has always been of the highest character. I know many of its members personally. I entertain respect for all of them and for some a personal affection. The Commission has done a great work. It was set up in the vicious days of railroad rebating and discrimination to curb a particular evil. Within the limits of its original authority it has been singularly effective. Indeed, I think that some of the complaints of the railroads that they have had too much regulation may be justified.

The fact remains that the Interstate Commerce Commission as set up under the present system is a railroad-minded commission, and of necessity must be. The whole body of their precedents deal with railroad matters. Consciously or unconsciously, they deal with all rate matters from the standpoint of the railroad.

It is no reflection—and certainly none is intended—on any member of the Interstate Commerce Commission, past or present, to say that it is not a proper body either to pass on rates for water transportation or to pass alone upon rail rates affecting water transportation. Their whole system negatives a result fair to water carriers.

I have in my office a set of some 25 volumes comprising the precedents of the Commission compiled by an exceptionally able member of the Commission. Last year I delayed the confirmation of the renomination of this member of the Commission on the ground that he had reversed himself in opinions to the detriment of water transportation facilities. He was able to show me that he was justified by the precedents of his Commission, and since he was a man of exceptionally high character and ability, I finally consented to his confirmation.

The issue which we confront is not a personal one, to be carried out by opposing the appointment or reappointment of a particular man. The lamentable fact is that the Interstate Commerce Commission under the present law is bound by a body of precedents dealing with railroads alone, and in almost every decided case has been willing to allow the railroads to resort to practices in competition with water carriers which it is expressly forbidden by law to permit one railroad to do as a matter of competition with another railroad. The net result has been for a governmental agency to flagrantly flout the will of Congress in its attempt to reestablish commerce on our inland waterways.

I favor the proper regulation of water and truck transportation as well as rail. But I am completely unwilling to turn over the regulation of competitive forms of transportation to a body, railroad minded, acting under a law designed to refer only to railroads and with a body of precedents which take no cognizance of any other form of transportation.

It may be that the good effects of the Interstate Commerce Commission may be preserved by merging it in a larger body not bound by its present narrow concepts and precedents. It may be that the result may only be achieved by abolishing the Interstate Commerce Commission and setting up a new regulatory body on a broader conception than existed 50 years ago. But, in any event, it should be the iron resolve of patriotic citizens in the Mississippi Valley to see that neither caprice of officials who make allotments or prejudice or precedent on the part of the Commission keep us from our right and destiny of having access to the sea for the products of our soil and factory.

Bills and Resolutions Introduced by Mr. Ashurst and Enacted by Seventy-third and Seventy-fourth Congresses

---

EXTENSION OF REMARKS

OF

HON. HENRY F. ASHURST

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Monday, January 11, 1937

LIST OF BILLS AND RESOLUTIONS INTRODUCED BY HON. HENRY F. ASHURST, OF ARIZONA

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a list of bills and resolutions introduced by myself which became laws in the Seventy-third and Seventy-fourth Congresses, respectively.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

BILLS INTRODUCED BY SENATOR ASHURST THAT BECAME LAWS IN THE SEVENTY-THIRD CONGRESS

S. 157. To amend the act of March 4, 1915, relative to desert-land entry.
Approved February 14, 1934. Public Law No. 89.

S. 2377. For the relief of A. E. Sholley.
Approved June 11, 1934. Private Law No. 227.

S. 2379. To provide for the selection of certain lands in the State of Arizona for the use of the University of Arizona.
Approved May 21, 1934. Public Law No. 239.

S. 1582. Providing that no indictment shall be insufficient because of formal defects or because of presence of clerks or stenographers.
Approved May 18, 1933. Public Law No. 16.

S. 2080. To provide punishment for killing or assaulting Federal officers.
Approved May 18, 1934. Public Law No. 230.

S. 2460. To limit the operation of the statutes of limitations in certain criminal cases.
Approved May 10, 1934. Public Law No. 217.

S. 2461. To amend the act giving the Supreme Court authority to prescribe rules with respect to proceedings in criminal cases after verdict.
Approved March 8, 1934. Public Law No. 117.

S. 2575. To punish smuggling contraband articles into penal institutions, inciting riots therein, etc.
Approved May 18, 1934. Public Law No. 234.

S. 2841. To punish certain offenses committed against banks organized or operating under laws of the United States or any member of the Federal Reserve System.
Approved May 18, 1934. Public Law No. 235.

S. 2845. To extend the provisions of the National Motor Vehicle Theft Act to other stolen property.
Approved May 22, 1934. Public Law No. 246.

S. 3040. Giving Supreme Court authority to make and publish rules in civil actions at law.
Approved June 19, 1934. Public Law No. 415.

S. 3209. Permitting employment of certain counsel in case of United States against Weirton Steel Co.
Approved April 14, 1934. Public Law No. 162.

S. 3436. Permitting employment of certain counsel in cases of United States against Electro Metallurgical Co., New-Kanawha Power Co., and Union Carbide & Carbon Co.
Approved May 25, 1934. Public Law No. 253.

S. 3646. Vesting courts with discretion relative to the forfeiture of vessels and aircraft seized for violations of law.
Approved June 19, 1934. Public Law No. 420.

BILLS AND JOINT RESOLUTIONS INTRODUCED BY SENATOR ASHURST THAT BECAME LAWS IN THE SEVENTY-FOURTH CONGRESS

S. 1572. To amend an act entitled "An act to regulate the manner in which property shall be sold under orders and decrees of any United States courts", approved March 3, 1893, as amended.
Approved April 24, 1935. Public Law No. 41.

S. 2904. To prohibit the interstate transportation of prison-made products in certain cases.
Approved July 24, 1935. Public Law No. 215.

S. 3059. To authorize the acquisition of land on McNeil Island.
Approved August 2, 1935. Public Law No. 226.

S. J. Res. 59. Providing for the celebration on September 17, 1937, of the one-hundred-and-fiftieth anniversary of the adoption of the Constitution of the United States of America by the Constitutional Convention; establishing a commission to be known as the Sesquicentennial Constitution Commission.
Approved August 23, 1935. Public Resolution No. 53.

S. 3058. To amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto, and for other purposes.
Approved August 20, 1935. Public Law No. 289.

S. 3336. To repeal titles I and II of the National Prohibition Act, to reenact certain provisions of title II thereof, to amend or repeal various liquor laws, and for other purposes.
Approved August 27, 1935. Public Law No. 347.

S. 3433. Limiting the operation of sections 109 and 113 of the Criminal Code and section 190 of the Revised Statutes of the United States with respect to counsel in certain cases.
Approved August 29, 1935. Public Law No. 394.

S. 2421. To amend the act entitled "An act forbidding the transportation of any person in interstate or foreign commerce kidnaped or otherwise unlawfully detained, and making such act a felony", as amended.
Approved January 24, 1936. Public Law No. 424.

S. 3120. To authorize and direct the Secretary of the Treasury to transfer certain moneys to "Funds of Federal prisoners."
Approved January 27, 1936. Public Law No. 379.

S. 3328. To provide an official seal for the United States Veterans' Administration, and for other purposes.
Approved January 27, 1936. Public Law No. 430.

S. 2603. To authorize the Attorney General to determine and pay certain claims against the Government for damage to person or property in sum not exceeding $500 in any one case.
Approved March 20, 1936. Public Law No. 481.

S. 1379. To amend section 103 of the Code of Criminal Procedure for the Canal Zone and section 542 of the Code of Civil Procedure for the Canal Zone.
Approved May 13, 1936. Public Law No. 578.

S. Con. Res. 28 and S. Con. Res. 35. To print additional copies of the revised annotated Constitution, and further to revise same.

Approved May 14, 1936.

S. 4594. To supplement the act of June 25, 1929 (ch. 41, 46 Stat. L. 41), which authorized and directed the Attorney General to institute suit against the Northern Pacific Railway Co. and others.

Approved May 22, 1936. Public Law No. 610.

S. 3841. To amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto.

Approved June 26, 1936. Public Law No. 818.

S. 2897. For the relief of Lt. Robert A. J. English, United States Navy.

Approved February 11, 1936. Private Law No. 381.

Water-Supply Sources

EXTENSION OF REMARKS

OF

HON. BRENT SPENCE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 8, 1937

ARTICLE BY H. W. STREETER, SANITARY ENGINEER OF THE UNITED STATES PUBLIC HEALTH SERVICE, CINCINNATI, OHIO

Mr. SPENCE. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following article on the Ohio River, its future as a water-supply source, by H. W. Streeter, sanitary engineer of the United States Public Health Service:

[From the Engineering News-Record of May 2, 1935]

THE OHIO RIVER—ITS FUTURE AS A WATER-SUPPLY SOURCE—A NAVIGABLE STREAM, RECEIVING THE DRAINAGE FROM A VAST AREA AND TRAVERSING SIX STATES, THE OHIO RIVER PRESENTS A DIFFICULT HEALTH PROBLEM—A STATEMENT OF HOW COLLATERAL USES OF A GENEROUS SUPPLY SOURCE MODIFY THE PROBLEM OF USING IT FOR PUBLIC WATER SUPPLY

(By H. W. Streeter, sanitary engineer, U. S. Public Health Service, Cincinnati, Ohio)

The essentially dynamic nature of the water-supply problem is nowhere better exemplified than in the basin of the Ohio River. This great stream is bordered by 6 States and drains portions of 14 States comprising the most important industrial area of the country. In its 960 miles of length the Ohio serves not only as a source of water supply for many cities, towns, and industries but also as the ultimate means of disposal for sewage and industrial wastes from the entire drainage area. Being navigable throughout its entire course, this river has become a major artery of commerce for bordering communities, particularly since its full canalization has been effected.

The drainage area of the Ohio, aggregating some 203,000 square miles, presents a widely diversified picture both in physiography and climate and in industrial and agricultural development. Its northeastern portion is largely industrial in character, being devoted to coal mining and steel manufacture centering around the Pittsburgh district. The northwestern section, though partly industrial, includes much agricultural territory, such as is found in the plains of western Ohio, Indiana, and eastern Illinois. The entire southern portion, which includes most of Kentucky and Tennessee, is principally rural and, except for a few cities, is but sparsely settled.

The marked contrast between the density of population in these various sections of the drainage area has been shown in Public Health Bulletin No. 143, United States Public Health Service, 1924, a report of a comprehensive sanitary survey of the Ohio River Basin made in 1915–16. The extreme range noted at that time was from less than 50 people per square mile in the southern portion of the watershed to more than 600 per square mile in the area surrounding the Pittsburgh district. Although the total population of the watershed has increased since 1915 from about 15,400,000 to some 18,000,000, there probably has been little change in its relative distribution.

Corresponding roughly to this distribution of settlement and industry over the drainage area is the distribution along the main stream. Throughout the first 100 miles of river, extending from Pittsburgh to Wheeling, the settlement is practically continuous, with numerous iron and steel industries lining the banks. It is this section of the river which has given the name "the American Ruhr" to the Ohio River. Some 150 to 250 miles farther downstream, extending from Pomeroy to Portsmouth, is another well-populated 100-mile section of the river, also highly industrialized. Below Portsmouth, at intervals of slightly over 100 miles each, are the large cities of Cincinnati and Louisville. From the latter city to the mouth, except for Evansville, the settlement along the river is relatively sparse and mostly rural, with tributaries draining a region of much the same general character.

The mean annual discharge of the Ohio at its mouth approximates 300,000 second-feet. The normal seasonal range is from 50,000 to 1,000,000 second-feet, roughly a twentyfold variation. The recorded minimum flow has been as low as 10,000 second-feet (during the 1930 drought period), and the maximum as high as 1,500,000. During normal years, extreme fluctuations of 40 feet or more in river stage occur.

The construction of navigation dams throughout the river has converted it into a series of elongated pools during periods of low water. Most of these dams are of the bear-trap wicket type and do not function at higher river stages when open-channel flow conditions prevail. The effect of these dams is to retard the velocity of flow during pool stages, thereby promoting sedimentation and prolonging the times of flow of water from point to point. During higher stages the increased velocities of flow flush out the accumulated deposits, thus providing a self-cleansing action.

GROWING POLLUTION PROBLEMS

The dual use of the Ohio River as a source of water supply and as a means of waste disposal has dated from the early days of settlement along the river. Up to the first decade of the present century, when the various cities began to install modern water-purification systems, public water supplies along the river were heavily polluted by sewage, and the death rates from typhoid fever consequently were very high. With the general advent of water filtration, supplemented later by chlorination, the prevalence of this water-borne disease declined rapidly, until at present it has almost reached a vanishing point.

During the past few years, however, growing difficulties have been experienced in obtaining water supplies of satisfactory quality from the river, particularly in the more highly polluted sections above Louisville. Among these have been: (1) The increasing content of sewage bacteria in raw waters at filtration-plant intakes with wider degrees of variation and higher peaks during freshets; (2) tastes and odors in water supplies due to phenols, organic matter, or microscopic organisms; (3) increasing prevalence of microscopic growths in the river during pool stages, adding to the difficulties involved in the efficient and economical operation of water filters; (4) excessive hardness and acidity of the river water during periods of low stage, causing boiler scale, corrosion of pipes and boilers, and increased soap consumption. In addition, in recent years several widespread outbreaks of gastro-intestinal disorders have occurred in Ohio River cities, having every characteristic of water-borne ailments. The specific cause of these outbreaks has not thus far been defined, but they appear to be due to some organism or toxic substance capable of penetrating ordinary water-purification processes and not detectable by the usual laboratory tests.

Although these several difficulties doubtless have been influenced by a complexity of factors, they appear to be due largely to a progressive increase in sewered urban population, both along the main stream and on its tributaries, and to a concurrent increase in the discharge of mine drainage waters and certain other industrial wastes, notably those associated with the steel, coke, and gas industries. Canalization of the river, though beneficial during periods of low water in promoting sedimentation and prolonging the times of natural purification, also has resulted in an increased scouring of deposited sewage matters during periods of freshets, thereby causing higher peak loads on water-purification systems at such times. In general, the effect of canalization of the river has been to improve conditions during low-water periods at the more distant points below major sources of pollution, but to move the denser pollution zones upstream closer to these sources.

Particularly serious conditions of pollution of the Ohio, in their effects on public water supplies, are found at present in the Pittsburgh-Wheeling and the Huntington-Portsmouth sections of the river. Between Pittsburgh and Wheeling the main source of difficulty is the excessive hardness and corrosiveness of the river water resulting from the presence of free acids and acid salts of iron and manganese, which interfere with effective purification of the water at times and yield effluents unsatisfactory in some respects for domestic or industrial use. Were it not for the bactericidal and coagulating effects of the acids and iron salts this section of the river probably would be highly offensive at low river stages and would impose an excessive bacterial load on water-purification plants.

In the Huntington-Portsmouth section the cumulative effects of retarded sewage decomposition upstream, combined with heavy local pollution of the river, have made this zone of the river the most highly polluted bacterially of any stretch from which water supplies are taken. To produce water supplies safe for domestic use all of the resources of modern water purification combined have had to be utilized, including double-stage coagulation, long periods of sedimentation, heavy chlorination, and the use of activated carbon. All of the water-purification plants in this zone are now overburdened by excessive raw-water pollution.

Although the Cincinnati, Louisville, and Evansville water-purification plants have not thus far experienced any degree of overburden comparable to that of plants farther upstream, they have been overloaded occasionally during recent years, not only from a bacterial standpoint but also from heavy growths of filter-clogging organisms in the river. The hardness of these water supplies has

increased steadily, and on several occasions phenols have penetrated as far downstream as Louisville, with resulting taste and odor troubles, which apparently cannot be completely alleviated by water-purification methods.

If the present situation were to be summed up in a few words, it might be said that pollution of the entire upper half of the Ohio River system has brought about a progressive deterioration in the quality of water supplies as far downstream as Louisville, in spite of the application of every resource afforded by modern water purification. Although this deterioration has not thus far been serious below Portsmouth, the present margin of safety at cities like Cincinnati and Louisville is relatively narrow and appears to be growing smaller each year.

URBAN POLLUTION TO INCREASE

Looking to the future of the Ohio River as a source of public water supplies, it is desirable first to consider the trend of urban population growth along the river and in the watershed as affecting the expected changes in the present status of pollution. Between the years 1915 and 1930, according to a recent estimate by Crohurst (Public Health Bulletin No. 204, U. S. Public Health Service, 1933), the urban population located directly on the river above Cincinnati increased 27.3 percent and the rural population 2.3 percent, the combined increase being 16.6 percent. For the entire drainage area above Cincinnati the urban population increased 36.7 percent and the rural 4.1 percent, the combined increase being 17.7 percent. In 1915, 82 percent of the urban population was sewered, and, roughly, 89 percent of the sewage thus contributed was discharged without any treatment.

Making due allowance for some degree of anticipated reduction in the rate of urban population growth, it seems fairly safe to assume that from 1930 to 1945 the increase in urban population located directly on the Ohio River above Cincinnati should be not far from 20 or 25 percent, and the corresponding increase in urban population on the drainage area should be fully 30 or 35 percent. The resulting added pollutional effect on the Ohio River proper should fall somewhat between these two ranges, being shaped primarily by the increase in urban population located directly on the river but influenced to some extent by the corresponding increase along the main tributaries. Although this effect would be modified by any decided change in the proportion of the total urban population sewered, or in the degree to which sewage treatment might be extended, neither of these two factors appears to have undergone any material alteration since 1915.

With existing conditions of pollution in the upper section of the river and their all-too-apparent effects on the quality of public water supplies, it is entirely conceivable that a 25- or 30-percent increase over the 1930 degree of pollution may bring about a critical situation in certain zones of the river, notably in the Huntington-Portsmouth stretch, where conditions have already passed the limit of safety. If the mine-sealing project recently instituted should result in eliminating any large proportion of the acidity from the Allegheny and Monongahela Rivers, the probable effect on the Ohio between Pittsburgh and Wheeling would be beneficial insofar as the reduction of hardness and corrosive properties of the water was concerned; but it would be otherwise with respect to sewage pollution, as the influences now tending to inhibit organic decomposition would be absent or greatly diminished.

The effects of further increased sewage pollution of the river likewise may be expected to intensify the growing difficulties being experienced at Cincinnati, Louisville, and smaller cities in the middle and lower sections of the river in obtaining consistently safe and palatable water supplies for domestic use. These difficulties are now occasionally serious both at Cincinnati and Louisville, despite the fact that both of these municipal filtration plants have preliminary storage reservoirs in addition to complete rapid-sand filtration.

The hardness of Ohio River water during low stages of the river often exceeds limits that are now considered as desirable for domestic and boiler-water supplies. With the increase in the volume of mine-drainage and acid-iron waste waters discharged into the upper section of the drainage area, both the total and incrustant hardness of the river have shown a slight gain during recent years, though the greater part of its mineral content is derived from underground geological formations.

The development of flood-control reservoirs at the headwaters of the main tributaries of the Ohio, if it should be carried out on an extensive scale, doubtless would tend to ameliorate to some extent the present extremes of hardness in the river water by providing more balanced flows, and especially by increasing low-stage flow of the river. The extension of the mine-sealing program also would have some degree of beneficial influence in this respect. Any excess of hardness remaining after these measures have been made effective could be removed only through water-softening operations in connection with individual purification systems. Should public demand for softer water become sufficiently insistent, the extension of existing purification plants along the river to include water softening is likely to be undertaken, regardless of the outcome of the flood-control and mine-sealing programs, as it is doubtful whether the complete institution of these projects would insure at all times water supplies of satisfactorily low hardness, consistent with the advancing public standards in this respect.

AN IMPROVEMENT PROGRAM

From a technical standpoint, efforts to restore the safety, palatability, and suitability for domestic use of water supplies taken from the Ohio River probably will be desirable along the following broad lines:

1. A general program of sewage treatment along the Ohio and its major tributaries, designed to hold both the average and maximum degrees of pollution of the river at the various water intakes within a safe limit for effective purification.

2. Extension of mine sealing so as to eliminate as far as practicable acid mine drainage waters from the tributaries of the Ohio.

3. Further efforts toward the elimination of acid-forming, taste-producing, and other industrial wastes harmful to water supplies from the river and its main tributaries.

4. Development of flood-control projects that will tend to stabilize flow conditions in the Ohio, and especially to provide more dilution water during periods of extremely low river stages.

5. Extension of existing water-purification plants so as to provide ample preliminary storage, where feasible, and to include facilities for water-softening operations during periods of excessive hardness in the river water. In all other respects, water-purification systems along the Ohio now appear to have been developed practically to their highest possible degree of elaboration and general efficiency.

In any program of remedial measures it should be recognized that it would be both unnecessary and practically impossible to attempt any full restoration of this river to its original state of pristine cleanliness. If all of the sewage and industrial wastes were removed from the river, the drainage water from rural and agricultural areas would still constitute a major source of pollution, requiring purification of water supplies by essentially the same methods as are now followed. Probably the most reasonable criterion of limiting pollution would be the maximum capacity of efficient water-purification systems, both as to producing hygienically safe effluents and removing chemical substances rendering water impalatable or generally unsuitable for domestic use.

Before concluding this article, it is desirable to consider very briefly some of the administrative and legal aspects of the problems which may be involved in undertaking any comprehensive program of remedial measures such as that above described.

Up to the present time the only concerted action thus far taken by the States bordering the Ohio River toward ameliorating the damage to public water supplies resulting from virtually unrestricted pollution of this river system has been the formation of an Ohio River Board of State Sanitary Engineers, organized several years ago through the initiative of the Surgeon General of the United States Public Health Service, for the immediate purpose of curbing the discharge of phenol-bearing wastes into the river by coke-byproduct manufacturing plants. The results attained in this respect have been very encouraging, as complaints of chlorophenol tastes in water supplies taken from the river have been considerably diminished during the past 10 years and have resulted largely from the occasional leakage of these wastes through the recovery processes installed for stream protection. An effective notification system has been established by this board, whereby operators of downstream filtration plants are forewarned when these upstream spills occur.

The more recent functions of this cooperative board have been very largely those of coordinating regulations and administrative policies of the States bordering the Ohio River with respect to pollution of the river and its tributaries. No interstate compacts have thus far been negotiated or put into effect, nor has any definite action been taken by these States with respect to a general and systematic program of stream sanitation for the Ohio River system as a whole. The chief value of the board's activities to date has been in the interchange of information and in mutual cooperation when more acute situations of common interest arise, such as that of phenol pollution.

The chief difficulty faced by interstate boards of this character, insofar as the application of comprehensive remedial measures of stream sanitation is concerned, is that any voluntary treaty or formal agreement of joint action must be ratified by several State legislatures before it can become legally effective. Along the Ohio River this difficulty has been enhanced by the fact that in at least one State bordering the river specific exception is made of the applicability of existing stream-pollution control laws and regulations to this particular river, because of its being an interstate stream.

The size and importance of the Ohio River and its vital relation to the industry of the country at large would seem to make it imperative that no effort be spared to remedy the present insanitary condition of this waterway, which has jeopardized the safety and wholesomeness of the domestic water supplies of riparian dwellers, and to some extent has damaged the river for commerce, recreation, and industrial uses. The principal obstacles now standing in the way of an intelligent and comprehensive program of river sanitation in this drainage area appear to be legal and administrative, as the necessary engineering data are fairly complete and well established, mainly through studies made during recent years by the United States Public Health Service. The institution of such a program should not be long delayed, as the present trend of population and industrial development presages more critical conditions in the near future unless they can be effectively curbed. The remedy lies in the hands of the several States bordering the river, in cooperation with the Federal Government, which also has a rightful interest in the broader interstate aspects of the problem. The more narrow local and commercial interests involved in this problem must, however, give way to the common good of all and place themselves solidly behind these governmental agencies before any real progress can be made toward its permanent solution.

Prohibiting the Exportation of Arms to Spain—And A National Peace Policy

EXTENSION OF REMARKS

OF

HON. H. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1937

Mr. VOORHIS. Mr. Speaker, it has been borne in upon me over and over again during the course of the recent campaign, that the people of my own district, and, I believe, of all America, are in deadly earnest about this matter of peace. Moreover, they are becoming profoundly conscious of the fact that America can remain at peace only if their Congress acts to definitely, finally, and generally curb trade in the munitions of war and the financing of foreign war by American money lenders. The people unquestionably desire such legislation and I believe they are also thinking very seriously about the question of their own right to pass final judgment, by a national referendum, on declarations of war where no invasion of our homeland is involved.

I have even found the people quite ready to see this Nation adopt a policy of saying to those who seek profit out of war trade in any commodity, that they must do so at their own risk, and must not expect the United States to be drawn into another war beyond the seas on any pretense whatsoever.

Every great decision of life involves the sacrifice of some values in order that greater values may be preserved. So it is now with this great problem of war, neutrality, and peace. We must face the fact that the preservation of peace for America requires the sacrifice of the opportunity to profit by contributing to the slaughter of other peoples in the world through the lending of money or the sale of munitions of war. Let us face that fact now while we still have the opportunity to do it calmly and wisely. Let us face it with courage and full consciousness that we have a solemn duty before God, both to our own America, in preserving her sons from future slaughter on foreign shores, and also to all the other peoples of the world, in protecting them against having some war they may be called upon to fight made longer and more terrible because America contributed the wherewithal for its battles.

I am here not to press my own views upon this House of Representatives but rather to attempt to enact into effective legislation the will and the wishes of the people in the district I represent. What I say and what I do will, I trust, always be said and done with this principle of democracy in mind. I am thinking about it now.

It is therefore most encouraging to me to have heard in the course of this debate definite assurances from the chairman of the Foreign Relations Committee that this important committee will soon report a bill to the House which will meet directly this problem of neutrality and the promotion of peace in all its aspects. It is my earnest hope that such a bill will provide for a prohibition of trade in war munitions and a prohibition of war loans, not only to the distressed nation of Spain but to any and all parts of the globe. I believe such prohibition should be mandatory. I believe that this House, together with the Senate, is properly the policy-forming body of the United States and that nothing it could do would bring more lasting credit and heartfelt thanks to its Members than to adopt a national policy with regard to these matters which will really make for peace.

Beyond this I am in fundamental agreement with those Members who have expressed themselves as believing that our neutrality provisions cannot be complete until we have passed legislation to take the profit out of war, to prohibit the manufacture of munitions of war for private profit, and to convert the munitions industry from one conducted for private gain and perhaps even for promotion of war to one conducted by our Nation for the sole purpose of providing for the national defense.

If I judge the temper of the Seventy-fifth Congress aright, all of these greatly needed final steps toward the attainment of workable machinery to insure America's peace will be definitely realized at this session. If I am right, then indeed this will be a great Congress. If I am mistaken and overoptimistic, then it will be a Congress which will have failed to meet the challenge of its hour upon the stage of history.

Reorganization of the Government

EXTENSION OF REMARKS

OF

HON. CARTER GLASS

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, January 12, 1937

RADIO ADDRESS BY HON. HARRY FLOOD BYRD, OF VIRGINIA, ON JANUARY 11, 1937

Mr. GLASS. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address delivered last night by my colleague [Mr. BYRD] on the subject of the reorganization of the Government.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Today the postage account of the executive departments of the Federal Government is nearly twice as much as the general fund budget of my own State, Virginia, and this postage now is nearly four times as large as it was 4 years ago.

As chairman of the Senate committee on reorganization and simplification of the Federal Government, this simple item of postage impressed me with the colossal growth of our Federal activities as measuring the proportions of our executive agencies, served as they are by a civil personnel more than twice the numerical strength of our armed forces.

One hundred and forty-seven years ago a group of great Americans seeking governmental simplicity—the soul of democracy—created the Federal Government. Since then much has been said from time to time about Federal aid in the solution of our national problems, and much has been done, but in our zeal to lighten other burdens we have overlooked the fact that we have loaded upon ourselves the most complex and costly bureaucracy of all times. With little regard for order or coordination we have pyramided agency upon agency as the apparent necessity for each new function arose. This procedure has continued almost uninterrupted for nearly 150 years through times of emergency and times of tranquillity until today we have hundreds of Federal agencies employing regularly as of November 30, the latest available figures, nearly 840,000 persons on the civil executive pay roll but exclusive of those on relief, military, legislative, and judicial rolls, or those receiving pensions in one form or another.

There have been 10 so-called reorganization attempts since the Government began. The first was in 1830. Several never got beyond the report stage. Two of them resulted in the creation of whole new departments. Another, requested by President Wilson, was designed to strip down the vast wall of governmental war machinery, but limitations of a Senate amendment prevented its effectiveness. Still another attempt was embraced in the Budget and Accounting Act of 1921.

In an attempt in 1930 the President was authorized to consolidate the Pension Bureau and the Veterans' Bureau.

President Hoover submitted recommendations in December 1932 under terms of the Economy Act of that year, but they died with his administration.

I introduced in the Senate about a year ago a resolution calling for an investigation of the executive agencies of the Federal Government for reorganization and simplification in the interests of efficiency and economy.

If a task is important to accomplish for the good of the country, we should not be discouraged by the danger of failure or the difficulties to be met and overcome.

Retrenchment, as such, is always unpopular, no matter how obvious the need; no matter how much the results are necessary and to be desired. Efficiency is always exacting. The economical way is the hard way in anything. But there are times in the histories of governments, as in the lives of individuals, when these things must be brought about if we are to continue on an even course in the pursuit of national happiness. Such a time is upon us.

President Roosevelt has announced his personal interest in the subject, ordered his own study of the problem, and requested the

House of Representatives to do likewise. Tomorrow the President will address the Congress on this subject, and I look forward to his leadership to restore order and efficiency in our governmental operations. No top-to-bottom reorganization of any State has ever been accomplished without executive leadership of a governor.

I believe the country wants a thorough reorganization here at Washington—one that will not merely be a regrouping or revamping of boards, bureaus, and commissions, but the abolition of many bureaus and boards and the transfer of necessary activities to existing agencies so that actual economy in reduction of cost will result.

In any regrouping now undertaken we must bear in mind that 20 departments, boards, or bureaus expire in 1937. Congress established these activities to meet an emergency, and the country was so informed. To regroup these emergency departments now in permanent branches of the Government means continuance of such functions after the emergency is over; perhaps for all time to come.

Never before in our history has an opportunity existed such as it does now for a constructive reorganization of the Federal Government—a reorganization that will save the taxpayers hundreds of millions of dollars, substitute simplicity for confusion, without impairing the objectives of Congress and the President—a reorganization that will eliminate duplicated efforts, simplify the processes of government, reduce red tape and the consequent annoyance to the American citizen who, of necessity, must have business dealings with his Government and finds himself confronted by several departments with overlapping authority.

It is not, of course, the purpose of the Senate committee to disturb underlying policies of governmental services. Policies are for Congress to decide. The committee objective is the simple aim of every American citizen in his personal and business affairs—to determine whether what we are doing can be done better and more economically.

Inefficient government and duplicated effort means high taxes—high not only in the actual rate but higher still in the poor returns for the money spent.

We, as Members of Congress, are trustees for the taxpayer's dollar, and our obligation is to make it buy the fullest value.

The manifold activities of government must be systematized and directed with maximum efficiency.

No essential agency should be starved, but saving should be found in consolidation and simplification.

Unless the Government simplifies itself it will defeat its own objectives. Most objectives are gained only by the most simple, direct, and efficient methods.

The Federal machine has become so top-heavy and unwieldly as to defeat by conflicting activity and needless red tape the accomplishments of purposes for which legislation has been passed.

This has resulted in a tremendous expenditure for overhead administration, and excess overhead cost is simply a waste of public money.

The fact is, we are emerging from the depression loaded up with the greatest and most costly bureaucracy in all history. Forgetting for the moment the cost of this gigantic government, it is not unfair to say the Federal Government has been highly complex since before the turn of the century. Now, to the previous accumulation of independent agencies, we have been saddled with nearly half again as many as we had in 1932. Some of them are proper. Others overlap. Some have outlived their usefulness or have been superseded. Most of the new ones were set up in a time of crisis with virtually no regard for how they fitted into a coordinated Federal Government pattern. There are glaring cases of duplicated effort. Some of the agencies actually have been found competing with themselves. Where the Government was complex before, it is confusing now.

To point out 50 Federal agency legal divisions in Washington is enough to describe the Federal jungle.

There have been at least 24 agencies concerned with lending Government funds; 5 others are in liquidation.

There have been at least three agencies concerned with insuring deposits and loans.

There have been at least 34 agencies concerned with acquisition of land.

There have been at least 16 agencies concerned with wildlife preservation.

There have been at least 10 agencies concerned with Government construction.

There have been at least nine agencies concerned with credit and finance.

There have been at least a dozen agencies concerned with home and community planning.

There have been at least 10 agencies concerned with materials of construction.

There are innumerable other instances of glaringly obvious overlapping functions and useless agencies. The duplication is apparent not only in Washington but in every nook and corner of the country. Make the test in your own community. Check your telephone directories. A Government compiled directory in Washington shows 143 separate Federal agency numbers here, and that is exclusive of hundreds of branch and extension numbers.

Agency offices at the seat of the government are sprawled from Alexandria, Va., to Baltimore, Md. The Social Security Board recently advertised for office space in the District of Columbia and did not get a single bid. It took one unit to Baltimore.

An example of the situation here is Resettlement Administration with 13 separate Washington addresses.

There are 46 personnel officers listed here for the Government.

Available Federal records show 104 information and publications offices here.

One hundred and twenty-six Federal agency libraries are listed in the District of Columbia.

There are 51 traffic managers here whose duties are to arrange for personnel transportation, freight in some instances, and sometimes to make purchases.

It is estimated that there are hundreds of ex-newspapermen employed by the Federal Government in the press sections which have become such prolific adjuncts to the numerous agencies.

In 1930 the Federal and District Governments paid in Washington alone for 17,142 telephones. In 1936 the number increased to 32,882.

In Washington alone the Federal Government now has 114,792 listed civil executive employees, as announced by the Civil Service Commission, not including those on judicial, executive, military, and relief pay rolls. This is comparable to the number employed on Armistice Day, November 11, 1918, when we were fighting a war for our existence as an independent nation. We now have twice as many employees in Washington alone as we had in the prosperous days of 1927.

Uncle Sam pays an annual rent bill of $25,000,000. If he paid taxes on his own property, the Washington collector alone would demand $6,000,000 per year.

More new jobs have been created since 1933 than during the first century of the Nation's existence, and even now we are still adding at the rate of nearly 100 new employees for each day in every month, and this is the average for the past 6 months.

In 1916 our total cost of government, including interest on the public debt, was $1,000,000. Now the interest on our public debt alone is nearly as great as the total cost of government in 1916. Today we are spending more than eight times the amount we spent in 1916. This is not by any means all due to recovery and relief. Eliminating recovery and relief, we are spending now six times as much as we spent in 1916, and the new Budget starting next July gives no hope for a substantial reduction in public spending.

But to me the most astonishing result of my investigation is the increase in Federal activities outside of Washington.

On March 1, 1933, the Federal Government leased 6,084 buildings or parts of buildings outside of Washington. In the period from March 1, 1933, to July 1, 1936, the Government built 664 new buildings outside of Washington, at a cost of $239,000,000. Yet, on July 1, 1936, notwithstanding the buildings constructed, we increased the leased buildings to 11,842—twice as many. The figures are available only until July 1, 1936, and today the number is greater.

The floor space of leased and Government-owned buildings outside of Washington on July 1, 1936, was 102,319,199 square feet, as compared to 56,239,294 square feet of leased and Government-owned buildings as of March 1, 1933.

None of these figures include Military Establishment or veterans' hospital space or public-health buildings.

The magnitude of our expansion outside of Washington is illustrated by the fact that we lease or own office space equivalent to 52 Empire State Buildings, or more than one Empire State Building for each State in the Union, and again I repeat, this does not include the floor space of buildings owned or leased in the city of Washington. This surprised me, because I was under the impression—and perhaps you were also—that the main increase in governmental activities had occurred in Washington itself. Yet it appears that coincident with the expansion at Washington an equal or greater expansion has been made outside.

I challenge one and all to find a citizen who will deny the need for governmental simplification. Everywhere this work has been hailed with the emphatic assertion:

"It should be done."

But the assertion invariably has been accompanied with the lamentation:

"But it can't be done, because:

"Of the tremendous pressure of entrenched bureaus and departments.

"Of the tremendous pressure of practical politics.

"Of the lavish propaganda built up to popularize the activities of the agencies both at Washington and in virtually every locality."

But I, for one, believe that public sentiment will sooner or later demand a reorganization not only to simplify the Government but to reduce substantially its cost.

No greater service to the new policies of government adopted by Congress can now be rendered than to promote a governmental reorganization to administer these policies in the most direct, simple, and economical manner.

As the emergency passes, I do not believe the country will long submit to Federal expenditures to the extent of nearly 10 percent of our present national income for ordinary expenses, exclusive of expenditures for recovery and relief, as is the case today, and to this must be added local and State taxation.

Justification perhaps existed for extravagance in the creation of new bureaus during the trial and stress of the emergency, but now, with the passing of the crisis, this extravagance should and must be eliminated.

What I am saying tonight is no reflection on the many thousands of men and women devoting their lives to service in the Government.

Many are my friends and my official contact with them has frequently impressed me with their patriotic service and ability, and this is especially true of those who have long been connected with Government. To their capacity is due the fact that the vast

uncoordinated Washington Government has operated as well as it has.

It is for Congress to make possible a simplification which will broaden the opportunity of these experienced executives to increase the efficiency of their vitally important work.

There is no legitimate fault to be found with increasing the sound service of our Government in response to reasonable demands of modern times for those things necessary for our protection and progress. It is right that Government should progress in a measure commensurate with the progress of our civilization and the growing complexity of our social and economic life, but by the same token the Government should constantly strive for the same economy and efficiency exacted of citizens by the advances in other phases of progress. That applies not only to the Federal Government but to the multitude of State, city, township, and county, and district governments as well. How else can we survive the demands of the Federal Government and hundreds of thousands of local and district governments?

Preelection Address by Hon. James A. Farley

EXTENSION OF REMARKS

OF

HON. MATTHEW M. NEELY

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, January 12, 1937

RADIO ADDRESS OF HON. JAMES A. FARLEY, OF THE DEMOCRATIC NATIONAL COMMITTEE, NOVEMBER 2, 1936

Mr. NEELY. Mr. President, I ask unanimous consent to have printed in the RECORD an address broadcast by Chairman James A. Farley, of the Democratic National Committee, on the night before the election.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The story has been told. I believe everybody in America has made up his mind how he will vote tomorrow. Four years ago, on a parallel occasion, I told the people that Franklin D. Roosevelt and John N. Garner would be overwhelmingly elected President and Vice President of the United States. I was not speaking then at random, but from a definite conception of the spirit of this country.

Tonight let me tell you in all sincerity that I am just as sure of what tomorrow's election will bring forth as I was 4 years ago. Our country will reaffirm their confidence in our great leaders even more emphatically than was the case in 1932. I spoke of them then as leaders of the Democratic Party. Now I speak of them as leaders of the Nation, regardless of party. They are the champions of all who look forward to greater prosperity and wider happiness for our country.

There has been and is no doubt in my mind as to the outcome of the election. It has been apparent throughout the campaign that the people not only approved of what has been done by the Roosevelt administration but are determined that the policies of the President shall be carried on for 4 more years.

This conviction on the part of the electorate I know to be Nation-wide. It is a response to the national character of the things that President Roosevelt has accomplished. His aims and ideals have concerned the future happiness of 125,000,000 people, and in the hearts of a vast majority his deeds are imperishably recorded.

Never in my experience have I seen such cooperation, such sympathy, and such devotion as has been manifested by the organization folks who have contributed so much to the success of this campaign. I want to express my sincere thanks and gratitude to those who have worked in harness with me every hour of every day since the convention at Philadelphia sent us off to a glorious start.

My especial regards are extended to every member, man and woman, of the Democratic National Committee. Their burden in every State has been a heavy one. They have served so ably and so faithfully that there is not a corner in the land tonight where I feel that anything has been left undone that needed doing.

The State chairmen and State directors have been no less active and useful and the thousands of county chairmen and women have even more than usual performed the sort of effective service that wins elections.

I cannot and must not stop there. The enthusiastic cooperation which has been extended me has reached on down to the district and precinct workers, where thousands of party Trojans have been at work for the past 4 months doing the sort of routine but necessary things that spell organization, and organization spells success. Our speakers were on the road for months, forgetful of weather and personal discomforts, carrying the message of Roosevelt democracy to all who would listen.

Our organization at national headquarters worked with tireless energy and clocklike precision. The colored people and the voters of foreign extraction gave us perfect cooperation and unwavering loyalty. They worked with the zeal that is born of conviction and deep political faith.

To all those folks I have just mentioned let me extend now the grateful and hearty thanks of the Democratic National Committee, of myself as chairman, and of President Roosevelt personally. You have been patriotic soldiers in a conquering army. The triumph of the principles for which you have fought in this election will be a source of pride and satisfaction to you throughout your lifetime. And I wish to add a brief word of praise for the election officials of both parties, who will work from dawn tomorrow until the votes are counted.

None of these loyal soldiers in the great army of Democratic workers will ever get credit enough for what has been done. It would be impossible for anyone to reward or praise them sufficiently. I want them to know that I appreciate beyond any possible measure in words their loyalty and devotion. They have made it possible for me to say, with all of the assurance and conviction at my command, that through them a great victory has been won.

We need now only to confirm that victory. There is one more task for all of us. This responsibility lies even more heavily on the humble party workers than those who have played directing parts so far.

We must, all of us, get out the vote and see that no opportunity is overlooked to get every supporter of the President to cast his vote tomorrow. I have been a precinct worker myself for a quarter of a century. I know that there is a job to be done on election day; that it is hard and unexciting, but I also know that it is tremendously important.

This has been a hard-fought campaign. It has closed with shrill cries of hate and bitterness from our opponents. They have in desperation said and done things which lack foundation either in form and substance. I regret that they were unable to restrain the wails of the loser. The last-minute misrepresentations only do them harm and the country as a whole no good. It means that a little more time will have to pass before the scars heal up and we once more achieve that unity of purpose which has made us a great nation.

What, for instance, has been accomplished by the deliberate effort which has been made to mislead the workers of the United States with respect to the Social Security Act? Its enactment will be written in the pages of history as one of the greatest accomplishments of the Roosevelt administration. It means that in the future the working men and women of the country may labor without doubt and fear of what may be their fate in old age. It is insurance against the poorhouse or the charity of our neighbors when we have reached the limit of usefulness. The contributions which workers and employers make share and share alike are not a tax but insurance premiums, which provide benefits at rates below any that private companies could afford to make.

And perhaps most important of all is the fact, generally overlooked, that the Social Security Act provides for unemployment insurance without any cost at all to the workingman. It is a Federal pledge that the people will never again be compelled to suffer as they did during the recent Republican depression.

I sincerely and honestly believe that those who have been responsible for attempting to destroy the faith of the people in what they believed to be a means of protection against want and misery in their declining years have much to answer not only to those whom they have tried to mislead but to their own consciences as well.

Every American who favors social security as a substitute for the dole and other forms of emergency relief must regret the injection of this issue into the campaign in the warped way in which it has been presented.

The sweeping victory which President Roosevelt will win tomorrow at the polls will be due in substantial measure to the loyalty and devotion of the working people of America and of the women of America. To my mind it is extremely significant that these two great groups of people are overwhelmingly in favor of the President's reelection because they suffered most from the ravages of the depression. They know the agony and the heartaches of financial insecurity, misery, and want. They know who was their friend and protector in the great depression brought on by Republican neglect and incompetence.

In expressing this sincere and grateful appreciation to every unit in our victorious army I would be extremely remiss if I overlooked the businessmen, big and little, who supported our cause with such undivided loyalty. They helped us financially in a most substantial manner. These men have performed a lasting service both to their profession and to their country. They have been alive and alert in sustaining every move of the Roosevelt administration to sponsor human betterment and to relieve human want. I commend these businessmen especially because they have stood for their convictions against the noisy and at times unfair partisan attacks of a minority in the industrial world.

To my mind one of the most heartening things during the past few years was the fidelity of millions of unemployed men and women to the cherished institutions of America. It is pleasant to recall that they maintained their faith in democratic institutions while members of the Liberty League were whining for a dictatorship.

Let me say before closing that the Democratic Party is deeply grateful to these millions of progressive Republicans who made victory possible in 1932 by the election of our candidate, Mr. Roosevelt. We know that you have not been disappointed—that the Chief Executive has kept faith with you and faith with the

country by sponsoring one of the greatest relief and human-welfare programs in history.

We welcome the support of these millions of progressive Republicans once again. We rejoice in the fact that no one has dared question the patriotism of this great band of stalwart liberals who have placed principle above party by uniting in support of President Roosevelt. Let me assure these progressives once again that they will not be disappointed—that they will not be betrayed. The next 4 years will find President Roosevelt adhering, as he has in the past, to the great humanitarian principles which always guide his conduct in public office.

I wish to say a word of thanks to those great newspapers which have supported us in this campaign and also to those newspapers which, even though they failed to support us editorially, gave the Democratic cause an even break in their news columns. That is all we asked—an even break. To the radio people also I extend the sincere thanks of the Democratic National Committee. We have had splendid and continuous cooperation from those who manage the broadcasting facilities of America. The fact that President Roosevelt personally has been able to bring his message into nearly every American home—by his own voice—has been a tremendous factor in this campaign.

The campaign is at its end. We are grateful to the millions who have listened faithfully to the barrage of political oratory over the airways, especially during the past couple of weeks. No doubt it will be a relief to you to turn off the switch with the realization that you have heard your last political speech. All that can be said has been said. The decision is in your hands.

The zero hour is approaching. Within a short time the polls will be open. Within a few hours the greatest popular referendum in history will be under way. Within a few hours millions upon millions of free Americans will enter the voting booth to select the man whom they believe best fitted to administer the affairs of this great Nation for the next 4 years. There is no other issue.

The Democratic Party is proud of its candidates and their records. In a little over 3 years the President of the United States has rebuilt the Nation's economic timbers and restored the Nation's courage and confidence. He has led us in the pathway of peace, progress, and prosperity to a position of world leadership never surpassed in American history.

The United States is a great country and in every crisis a great leader has come forth. These great names are written in letters of gold upon the pages of American history.

In the last couple of years another name has been added to the list of imperishable American names. Tomorrow more than 25,000,000 of his fellow citizens will give a vote of confidence and thanks to the stalwart leader who brought us safely through the great crisis—to the gallant leader who has kept faith with humanity—Franklin D. Roosevelt.

Neutrality and Peace

EXTENSION OF REMARKS

OF

HON. GERALD P. NYE

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Tuesday, January 12, 1937

ARTICLE BY HON. BENNETT CHAMP CLARK, OF MISSOURI

Mr. NYE. Mr. President, in last Sunday's Washington Star, as well as the New York Times of the same date, was published an article by the junior Senator from Missouri [Mr. CLARK] under the heading "Price of Peace for United States is Termed Real Bargain." I ask unanimous consent that the article may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star of Jan. 10, 1937]

PRICE OF PEACE FOR UNITED STATES IS TERMED REAL BARGAIN—MANDATORY NEUTRALITY LAW IS URGED BY SENATOR CLARK—WOULD LIMIT POWERS OF PRESIDENT

(By BENNETT CHAMP CLARK, United States Senator from Missouri)

I believe the people of the United States are more interested in keeping our country out of war than almost any other one thing. In fact, I have never seen such a unanimity of sentiment on any one question.

Most people realize that some sacrifices must be made if we are to do this. Certainly all who have thought about its possibilities do.

To accomplish it we must cheerfully sacrifice the chance for quick and big profits, the possible temporary expansion of our exports and resulting employment at good wages for persons who might otherwise engage in making war exports. We must deprive American ships of cargoes that would pay excellent freight rates. We must deprive American bankers and investors of profitable commissions and high interest investments. We must not permit American insurance companies to underwrite war risks, no matter how attractive the rates.

In the long run, I am sure it will be cheaper—that everyone concerned in America will be better off, even financially, to say nothing about human suffering, loss of life, and the other horrible consequences of our being dragged into another war.

It was profitable exports, the high-interest loans, the war-risk insurance; yes, even universal employment at high wages and high prices for our farm products which dragged us into the World War in 1917 and is also largely responsible for the depression and agony from which we are emerging.

MUST PAY THE PRICE

We want something which is very real and very dear to our people—peace—and we must be willing to pay the price for it; though we can be comforted by the fact the price represents a real bargain. The quick profits of war exports and other unneutral activities come home to roost almost inevitably.

There are two schools of thought about the best way to go about neutrality legislation. One is to permit the President to exercise discretion, not only as to what may not be exported following the outbreak of any war which threatens to involve the United States, but as to which nations may and which nations may not receive war supplies decided to be contraband.

My own belief, and I think that of a majority of the Senate and House, is that the less discretion vested in any governmental agency the better. We must have a fact-finding authority, and that authority should be the President. We must leave to his judgment the decision of when a war threatens to involve the neutrality of the United States. That is a fact-finding function. Someone has to do it. The President is the proper person.

But to give the President discretion, for example, as to which is the aggressor in this war which may arise is a very dangerous power. Its exercise would be an act of war. Its exercise would tend to drag the United States into the conflict rather than keep it out.

TERRIFIC PRESSURE LIKELY

Moreover, such a discretionary power would subject the President needlessly to terrific pressure. Every possible influence would be brought to bear on him to hold that Nation A was the aggressor, and therefore we should permit shipments to Nation B. I cannot exaggerate this, for I think the pressure would be overwhelming and intolerable. It will be bad enough even on the question of fact finding—of deciding when a war threatens to involve our neutrality.

Such permissive legislation, moreover, leads us directly into the League of Nations by the back-door route. If we are going to join the League of Nations in the interest of world peace, we should go in the front door.

We have a perfect illustration of the folly of this permissive policy in the recent Italo-Ethiopian mess, when Premier Laval, of France, and Sir Samuel Hoare attempted to coerce Italy by the threat of cutting off her supplies of oil. Mussolini replied that such a blockade would be an act of war and intimated what might happen to the British fleet in the Mediterranean. France and Britain backed down, with considerable loss of prestige.

Permissive neutrality legislation leads inevitably to sanctions, and we know just how dangerous sanctions are.

The argument against any embargo of war supplies, especially arms, ammunition, and the implements of war—the language used in the present temporary law—is that manufacturers thinking of this profitable business will thereupon locate their plants in other countries, possibly countries against which some day the United States may engage in war, and that as a result, when that war comes, the enemy country will have a tremendous advantage over us.

NEW INVENTIONS CITED

This argument is followed up by the allegation that in the process of carrying on the munitions business discoveries are made, new inventions worked out, all of which tend to give the country in which these things happen a big advantage.

The answer is simple. When we got into the World War the tremendous facilities for munition making which war exports had built up from 1914 to 1917 were nothing like adequate for our purposes. Whereas the munitions makers blocked and delayed the efforts of the Government to augment those facilities, notably in the case of the Old Hickory plant in Tennessee.

Answering the second point—with respect to new inventions, secret formulas, etc.—we brought out in a Senate committee hearing that, with the approval of military and naval intelligence, our private munitions makers were actually encouraged to sell their secret formulas and inventions to Russia and Japan.

The difficulty about getting started in quantity production of arms and munitions is the lack of the jigs, dies, and tools. Up to today our War and Navy Departments have been, it seemed to me, sadly deficient in this essential.

SUPPLY OF DIES NEEDED

A proper supply of jigs, dies, and tools would make it possible for any factory to begin turning out, with little delay, the sort of rifle or other weapon or ammunition desired. During the World War most of our soldiers used an inferior rifle because the munitions makers did not have the dies, jigs, and tools to permit their manufacturing Springfields, which were an infinitely superior rifle—in fact, the best in the world.

We begged, borrowed, and stole about 20 Springfields for our regiment and gave them to our sharpshooters. Had there been a

reserve stock of dies, jigs, and tools in the Springfield and Rock Island arsenals we could have put all sorts of factories to work making this better rifle.

The Government is spending a very small amount to supply this lack. Last year I introduced an amendment to give $15,000,000 for this purpose. It was defeated, and every indication was that, for reasons of their own, the War and Navy Departments were actually opposing the appropriation. They did not want to discourage the private manufacture of munitions. In fact, they wanted to encourage it. And this notwithstanding the fact that I had been assured by the War Plans Division that $15,000,000 could be very usefully spent in this connection.

One of the great difficulties in putting more teeth into the new neutrality law is how broad to make the actual naming of contraband articles. The present law prohibits exports of "arms, ammunition, and implements of war." That should stand. There should be no discretion about that. After that, I think commodities should be divided into categories.

DIFFERENT CATEGORIES URGED

For instance, copper, manganese, and steel should be in a category well up in the list after arms and ammunition. Whereas foodstuffs and cotton should be in another category.

My own thought is that this last category, foodstuffs and cotton, should be on a strictly cash-and-carry basis. And I mean "strictly." They should not move to the belligerents on American ships. They should not be insured by American insurance companies. In short, after being loaded on foreign vessels in our ports, there should be no risk whatever to any American interest.

What did the foreign buyers care back in the early days of the World War when our own Government set up a war-risk insurance corporation? If the ship was torpedoed, Uncle Sam paid the bill. But, primarily, the American flag must be taken off munitions ships.

I would not be content with warning American citizens not to travel on belligerent vessels. I would make the forfeiting of the passports the penalty for such traveling, one of the most dangerous possibilities of rousing public sentiment against one of the belligerents which could exist. It was the lives lost on the *Lusitania* which enraged so many in this country, not the loss of the vessel nor her cargo; lives of American citizens who, under my idea of what the law should be, would be kept off belligerent vessels.

Social Security for Alaska

EXTENSION OF REMARKS

OF

HON. ANTHONY J. DIMOND

DELEGATE FROM ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 11, 1937

RADIO ADDRESS OF HON. ANTHONY J. DIMOND, DELEGATE FROM ALASKA, RECORDED FOR DELIVERY OVER RADIO-BROADCASTING STATIONS IN ALASKA

Mr. DIMOND. Mr. Speaker, under leave given to extend my remarks in the RECORD, I include the following address, which has been recorded for delivery over radio broadcasting stations KFQD, KGBU, and KINY in Alaska:

My dear friends, you may remember that last winter I suggested the calling of a special session of the Alaska Legislature in order to enact promptly the necessary Territorial laws so as to give the citizens of Alaska the very substantial benefits of the Federal Social Security Act; but at that time it was found impossible to hold such a session on account of the death of one of the members of the legislature and the resignation of several others, which thus would necessitate the calling of a special election. Upon a review of all of the facts, the President decided that, since the next session of the legislature would be held early in 1937, it would be better to wait for that session to consider the enactment of additional social-security legislation for Alaska. It may be well, however, to note in passing that had it been possible to hold a special session of the legislature in the early months of 1936, Alaska would have been entitled to receive from the Federal Government for old-age assistance and assistance to dependent children and to the blind a sum in excess of $200,000, without the need of appropriating a single additional dollar of Territorial funds.

But that is all now behind us. When you hear this the Alaska Legislature will be in session at Juneau and no subject to be considered at that session can be of greater importance than social-security legislation in line with the Federal Social Security Act. During the past summer I said on many occasions that the then forthcoming session of the Territorial legislature was of more consequence for the people of Alaska than the corresponding session of Congress because of the very fact that the legislature would have for consideration the matter of passing appropriate legislation to secure for Alaska all of the advantages of the Federal Social Security Act.

Since I spoke on the subject last summer State after State has passed legislation to provide a larger measure of social security for its citizens and obtain the benefits of the Federal act, so that at the present time we find that the number of States whose public-assistance plans have been approved by the Social Security Board—and by States I include the District of Columbia and the Territory of Hawaii—are as follows:

For old-age assistance, commonly known as old-age pensions	42 States.
For aid to the blind	28 States.
For aid to dependent children	27 States.

The Federal grants to States for public assistance between February 1 and December 31, 1936, are as follows:

For old-age assistance, approximately	$83,000,000
For aid to the blind, approximately	3,600,000
For aid to dependent children, approximately	10,500,000

Remember that these sums are Federal grants only, and no account is taken of the appropriations made by the several States.

Further following out the statistical data which is now available, we find that persons receiving old-age pensions all over the United States number in excess of 1,000,000; that the blind persons receiving aid are in excess of 32,000; and that the dependent children receiving aid reach the number of nearly 300,000—all under the Federal Social Security Act and appropriate State legislation.

The unemployment-compensation feature of the Federal Social Security Act has also been adopted by a considerable number of States since I last spoke on this subject in Alaska. At the present time we find that 35 States have passed unemployment-compensation laws which have been approved by the Social Security Board. Those States embrace some of the States having the largest population and the greatest industrial development, including New York, Pennsylvania, Massachusetts, Texas, Wisconsin, Indiana, Virginia, and many others. We find that more than 14,000,000 workers are covered by State unemployment-compensation laws which have been passed, and that Federal grants to States for unemployment-compensation administrative costs have amounted to date to nearly $3,000,000.

You will remember that under the old-age-assistance feature of the Federal law the National Government offers to contribute a maximum of $15 per month per person to those who are above the age of 65 and in need, under suitable territorial legislation, and also offers to make contributions for the aid of the blind and of dependent children under similar territorial laws. Financial aid is also offered by the Federal Government for maternal and child welfare and for extension of the Public Health Service.

The unemployment-compensation part of the Federal Social Security Act seeks to stimulate and to aid the States and Territories in taking care of the unemployed. A tax is now being collected under the Federal act upon industries in Alaska, as well as in the States; but the act provides that in the event the Territory shall pass a suitable unemployment compensation act, 90 percent of the taxes so collected in the Territory are refunded to the Territory to be used as compensation for unemployment, plus the expenses of administration. By another law passed several years ago, the Federal Government offers financial aid—in the case of Alaska a minimum of $10,000 per year—to establish and maintain a system of employment offices in the Territory which will be necessary anyhow under a proper unemployment-compensation act. The Territory has everything to gain and nothing to lose by the enactment of a suitable unemployment-compensation law.

But in order to obtain all of these benefits for old-age assistance, for assistance in the care of dependent children and the blind, and for unemployment compensation, it is necessary that the Territorial legislature enact appropriate laws. The laws so required are very simple and in all respects reasonable.

Some people have expressed the fear that some time or other the Supreme Court will hold the Federal Social Security Act unconstitutional. While I would not venture to give an opinion as to what the Supreme Court will do with regard to any phase or section of the Federal act, I have not yet met a single individual who has expressed any apprehension that the old-age-assistance feature of the Social Security Act is likely to be held invalid on constitutional or other grounds. While some say that the Supreme Court may declare unconstitutional the unemployment-compensation part of the Federal act, and that part of the act by which annuities are purchasable for workers through contributions made by both employers and employees, it is generally admitted that constitutionally the provisions of the act which provide for assistance to the old and needy, to the blind, and to dependent children are on firm ground.

The Federal Government would, indeed, be a weak and futile thing if it could not aid in providing for the Nation's poor and for the blind and for suffering children. As above indicated, more than 1,000,000 of the Nation's citizens who are old and broken in fortune, more than 32,000 blind persons, and nearly 300,000 children are receiving today, through the benefits conferred by the Federal Social Security Act, although under State laws and with cooperative State assistance, a greater degree of peace and comfort than they could possibly know had the Federal Social Security Act not been passed.

It may be well to again say here that social-security legislation is not and ought not be partisan in its nature. When the bill was up before Congress it was discussed and debated upon its merits

and not from a partisan standpoint, and a reference to the RECORD shows us that it passed both Houses of Congress by overwhelming majorities. The vote in the House of Representatives was 371 for passage and 33 against passage; the vote in the Senate was 77 for passage and 6 against passage. To the best of my knowledge and belief, the Members of Congress who voted for this act, both Republicans and Democrats, have never sought to excuse their votes and are still definitely in favor of social-security legislation. It is reassuring to me to know that almost every member of the Alaska Legislature before election pledged himself or herself to the enactment of the Territorial legislation necessary to secure for Alaska the benefits of the Federal Social Security Act. To speak of my own party alone, you will recall that the Territorial platform adopted unanimously by the Democratic Territorial convention held at Seward last January contains the following provision: "We endorse the Federal Social Security Act and pledge the party to enact in the Territorial legislature the laws necessary to make its provisions applicable to Alaska." There is nothing obscure or indefinite in this declaration, and every member of the legislature who was elected at the last election on that ticket stands definitely pledged in honor and in conscience to the enactment of the desired legislation, a pledge which will, of course, be faithfully carried out.

While the adoption by Alaska of legislation to give to the Territory the benefits of the Federal Social Security Act is bound to cost something in Territorial funds, that cost will, I am confident, be not prohibitive. Remember that Alaska has an enviable record for payment of old-age pensions and for the care of dependent children and for care of the destitute. A reference to the appropriation act made at the 1935 session of the Territorial legislature shows that for the ensuing 2-year period the legislature then appropriated:

For the Alaska Pioneers' Home	$150,400
For allowance for aged residents, commonly known as old-age pensions	400,000
For care of dependent children	90,000
For relief of needy and indigent, a total of	130,000
Making a grand total of	770,400

While the enactment of an old-age-assistance or old-age-pension law in harmony with the requirements of the Federal Social Security Act will extend old-age assistance to a much larger number of persons than is the case at the present time, we must remember that the Federal Government is offering to pay us up to $15 per month for each aged individual thus given a pension or assistance. From reference to the census records for 1930, we find that at that time, according to the best estimates which can be obtained, there were then in the Territory of Alaska 2,549 resident citizens 65 years of age and over—please remember the number—2,549. Of this number, 871 were native Indians or Eskimos and the remainder, or 1,678, were principally white persons. But the old-age pension or assistance is not granted to everyone regardless of need. It is, like our present old-age assistance set-up, granted only to those who are in need of it. While it is impossible to say just how many of the residents of Alaska over 65 years of age are in need of old-age assistance, we can be sure that there are a substantial number who do not need and who will not claim such assistance.

But, whatever be the cost, it is our duty—our clear duty, as I see it—to take this forward step in aid of social security and to take it now. While Alaska has done more than most States or Territories to care for those who are old and in need, much remains to be done, and we ought to go forward without delay. The Social Security Act endeavors to set up a community method of self-protection. We all realize that economic or social misery in one part of the population has its baleful and degrading effect upon the other and more fortunate part. We all realize that security is a relative and not a fixed term, and we are endeavoring to make some provision, although not entirely adequate, against enforced idleness and against want in old age. We all understand that some men and women, humanly speaking, never have a fair opportunity to make provision for old age, and thus in their declining years they are in want. These people are what someone has called the "casualties of civilization", and we ought to take care of them just as we take care of our casualties in war. When a soldier in battle is wounded we do not leave him on the field to die—we bind up his wounds and bring him to a hospital and care for him and give him an opportunity to regain his health. And in the same fashion, when people get old, when they are stricken with blindness, they should be given relief. The same arguments which may be advanced to support laws for care of the old and of the blind apply with a much greater force to dependent children. The elementary feelings of humanity must prompt us immediately to take care of our children who are unfortunate, surely through no fault of their own.

Mr. Winant, formerly Governor of New Hampshire, the Chairman of the Social Security Board, and, incidentally, a Republican in politics, has said that the Social Security Act is the most humane document written into law in this century, and that, I believe, is the mature judgment of the vast and overwhelming majority of the citizens of our country.

The application of this most humane law for the benefit of the people of Alaska will not cost the taxpayers of Alaska very much; but whether it cost much or little, the citizens of our Territory are entitled to the protection which the law offers, and which the law offers for all citizens without regard to race or color. It is reassuring and comforting to know that practically all Alaskans favor this most humane act and desire its adoption in the Territory and that the overwhelming majority of those who now enjoy the legislative power conferred upon them by the ballots of the voters of Alaska are already pledged by the most solemn obligation to the passage of the required legislation.

The Relief Situation

EXTENSION OF REMARKS

OF

HON. WILLIAM P. CONNERY, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 12, 1937

REPORT BY THE UNITED STATES CONFERENCE OF MAYORS

Mr. CONNERY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following report on the existing relief situation covering 100 major American cities with special reference to the continuation of the W. P. A. work program through June 30, submitted to the President of the United States by the United States Conference of Mayors:

INTRODUCTION

On January 13 last we presented to the Congress of the United States what, in our judgment, was at that time a comprehensive survey of the relief needs of the country, together with an estimate of the amount of Federal appropriations which would be necessary to meet those needs during the fiscal year 1936–37. On March 12 last we gave to the President what, in our judgment, was a full and impartial appraisal of the W. P. A. program of the National Government. This latter report was given consideration by the House Committee on Appropriations when hearings were held on the deficiency bill last spring. Today, on the basis of studies made within the past 2 weeks by the United States Conference of Mayors, we present the results of a Nation-wide survey of the existing relief situation and probable future needs with special reference to the responsibilities facing the Government for the balance of the current fiscal year, namely, for the period up to June 30 next. We are deeply hopeful that this report may be helpful to the administration in its preparation of recommendations to the Congress with regard to the continuation of the Works Progress Administration program.

UNEMPLOYABLES A LOCAL AND STATE RESPONSIBILITY

At the outset we desire to reiterate that we are definitely opposed to any demands being made upon the National Government for additional Federal appropriations for direct relief. The problem of providing adequate aid to the so-called unemployable relief group is a responsibility which we believe rests solely with the localities and the States—and while the unemployable load is a heavy one, it is up to our States and localities to provide the finances required to meet this need. In our judgment, no better or sounder formula than Federal responsibility for the destitute able-bodied workers, on the one hand, and city and State responsibility for the unemployable group on the other, has yet been advanced. We have little faith with those who expect the National Government to do it all. In assuming this burden of direct relief, may we point out that cities are in addition contributing 18 percent of the total cost of the present W. P. A. program, as well as paying out of local resources 55 percent of the cost of all municipal P. W. A. projects approved by the Government. At the present time there are approximately one and one-half million cases on the direct relief rolls of the States and localities. The facts show:

Costs of relief to localities[1]

Year	Direct relief costs	Local share of C. W. A. and W. P. A.	Total
1933	$199,000,000	$21,000,000	$220,000,000
1934	226,000,000	69,000,000	295,000,000
1935	243,000,000	46,000,000	289,000,000
1936	190,000,000	225,000,000	415,000,000

[1] Local funds only; State expenditures not included.

And this financial burden, under our existing tax laws, has been and is being met almost exclusively through the only source of revenue open to local governments, namely, the general property tax.

WORK AND NOT THE DOLE

We are charged also with the responsibility of again reporting to the Federal Government, in accordance with formal action taken at our last annual conference, that we believe work and not the dole is the American way of providing for the unemployed. By adopting this national policy not only have we maintained human

life but we have received from our large expenditures something of value and benefit to every community in the Nation.

The integrity, usefulness, and public benefit of the W. P. A. work, which can be undertaken or continued in operation during the next 6 months, is attested to by reports from practically every city in the country. Typical examples, from among the detailed data found in section II of this survey, are as follows:

"The W. P. A. projects which the city has sponsored and which it is ready to undertake or continue during the next 6 months represent most useful and needy work of benefit to the people of Boston. These projects contemplate, among other things, the demolition of unsafe buildings, increase of airport and park and playground facilities, reconstruction of highways, extension of sewage and water lines, and improvements in public buildings, such as the city's hospitals, fire stations, police stations, and schools." (City of Boston.)

"The city of Los Angeles has 26 projects in operation under the W. P. A. for a total expenditure of $44,362,000. It is ready to undertake 132 projects, all of which have been approved by W. P. A. officials, for a total expenditure of $20,386,000. Every item in these lists represents useful and needed improvements of a permanent nature for the benefit of the people of this city. They include such work as sanitary sewers, storm drains, street improvements, airport construction, and park and playground development." (City of Los Angeles.)

"The projects sponsored by the city of Dayton and Montgomery County are needed improvements and of immeasurable benefit to the people of this community. These projects have done, and are doing, much to improve the condition and beauty of Dayton. Amongst these projects permit us to mention the Dayton municipal airports, a close to seven-hundred-thousand-dollar job; McCook Field improvement; sewage-disposal improvements which run between eight and nine hundred thousand dollars; various swimming pools and school buildings. These works are not only public benefits but reflect favorably, I believe, upon the attitude of our citizens toward this program." (City of Dayton.)

"All of the projects sponsored by the city are useful and of benefit to the community. Our construction projects are all for needed improvements which would be done by the city if funds were available. We have a large amount of construction work to be done within the next few years and will be able to employ relief labor on many of these projects." (City of Milwaukee.)

"The construction program in San Francisco under W. P. A. auspices represents every municipal activity and is one we are proud of." (City of San Francisco.)

"All works projects submitted by the city of Detroit represent useful and needed improvements and are of definite benefit to the people of our community." (City of Detroit.)

"The city projects now operating and planned for the next 6 months represent very useful and needed improvements in the city. These projects consist primarily of sewers, streets, and other similar projects which will be of lasting benefit." (City of Louisville.)

"Every project that the city has undertaken has been beneficial and useful to the community." (City of Oakland.)

"The projects which the city has sponsored are of a highly desirable nature, such as grading and graveling of streets, removal of old street-car tracks and repaving, installation of sewers and water mains, construction of playgrounds, and airport improvements." (City of Flint.)

"The city of Tampa has not sponsored and will not sponsor any W. P. A. project that is not useful and worth while as an eventually necessary public improvement for the people of the community." (City of Tampa.)

"It has been the policy of the city of Kalamazoo to sponsor only worth-while projects." (City of Kalamazoo.)

"During the year 1936 every effort has been made by the city administration to improve the character and quality of the W. P. A. program in this county. This applies both to the preparation of plans and to the supervision of the work in the field. Many good, useful, and necessary improvements were made, such as repairing and reconstruction of streets, improvements to parks and recreational areas, improvements to public buildings and public property generally, and the development of the lake front and the municipal airport. The latter two improvements are undoubtedly the outstanding W. P. A. projects in the State of Ohio. Neither is completed at the present time. In the case of the lake-front development additional work for W. P. A. employment is available for a period of at least 2 years. The city is also expecting to employ private landscape architects for the purpose of conceiving and making complete development plans for all of the large parks owned by the city. This will provide additional work for W. P. A. for a number of years hence. Also, the city expects to go forward with its program of improvements to streets, sewers, buildings, and other public property." (City of Cleveland.)

"The projects we authorized application for all represent useful and needed benefits to the people of our community." (City of Reading.)

"The city of Akron takes considerable pride in the integrity and permanent usefulness of the projects which we have sponsored." (City of Akron.)

THE EXISTING SITUATION

On March 18 last, in submitting his message dealing with the relief problem to the Congress, the President requested an appropriation of $1,500,000,000 in order that the W. P. A. would be enabled to provide work for the destitute unemployed during the fiscal year 1936–37. It was indicated that only $1,500,000 was being requested, instead of the two billion stated in the message as being the minimum amount necessary to carry the then W. P. A. load for a 12-month period, on the basis that upon business was to be placed major responsibility for reducing the financial burden of the Government through absorption of W. P. A. workers by private industry. This was stated in the following words:

"The ultimate cost of the Federal works program will thus be determined by private enterprise. Federal assistance which arose as a result of industrial disemployment can be terminated if industry itself removes the underlying conditions. Should industry cooperatively achieve the goal of reemployment, the appropriation of $1,500,000,000, together with the unexpended balances of previous appropriations, will suffice to carry the Federal works program through the fiscal year 1937. Only if industry fails to reduce substantially the number of those now out of work will another appropriation and further plans and policies be necessary."

While improvement in business in general and the reemployment of private industry since last March has been substantial and encouraging, and the trend is still undoubtedly upward, the fact remains that these economic advances have not obviated continuing need for direct relief and for W. P. A. work opportunities for the destitute employable persons. We understand that funds available to the W. P. A. are sufficient to carry the program only through the present month, and we assume, therefore, that within a very few days the President will submit to the Congress, in accordance with his message of last March, a statement of the requirements for W. P. A. for the balance (5 months) of the present fiscal year. It is to this specific problem that this report from the major cities of the country is directed.

Let us emphasize at this point that no group of public officials in the United States more deeply deplores the fact that the relief rolls still remain at a high level and that business has not been able to absorb the great majority of the unemployed than do the chief executives of the important urban areas throughout the Nation. The welfare and progress of these great industrial communities, their very life, depend upon sound business conditions and regular employment in private industry of all of their citizens. Of course, this is the goal toward which we all must work, and let it be said that each city has endeavored to do its part in this effort. However, the efforts of all concerned have not as yet been adequate to eliminate unemployment and destitution.

The emergency problem facing the Federal Government is therefore that of determining the financial requirements for W. P. A. for the next 5 months. To that end our survey has endeavored to chart the probable relief picture, insofar as W. P. A. is concerned, for this period. Based on reports submitted by 100 major cities to the United States conference of mayors, the details of such reports being attached herewith as supporting data, the following conclusions have been made and are herewith presented:

I. It is apparent that the number of those eligible to and receiving W. P. A. work during December cannot be expected to be decreased within the next 5 months.

II. As a matter of fact, reports from a number of cities show that a substantial number of employable relief persons have not at any time up to now been given W. P. A. work. This number is conservatively estimated, on the basis of individual studies made, at approximately 500,000 cases.

On December 31, after careful combing of W. P. A. rolls resulting in the elimination of all nonrelief workers, 2,200,000 persons were employed by the Works Progress Administration. If we add to this number those employable relief persons who are eligible to W. P. A. work opportunities, but who have not yet been given work, we find that the probable number of persons who ought and should be employed this winter and spring numbers approximately 2,700,000 persons. This number represents the minimum number of employable relief cases, for which general group the Government has rightfully and courageously assumed responsibility.

In support of (I) above, the following are typical reports from among the reports submitted by 100 cities and which reports are attached herewith:

"While industrial employment in 100 representative concerns in Cuyahoga County has nearly doubled since 1933, and is now within 10 percent of the peak of employment in such industries in 1929, the number of relief cases has increased about 30 percent during the same period. * * * It appears that the relief load has apparently reached a 'resistance level' and that henceforth the closing out of cases will become more difficult. * * * No substantial reduction in the relief load can be expected within the next 6 months." (City of Cleveland.)

"We do not look for any increase in industrial employment, basing this on the industrial employment index which now stands at 117.7, the highest point of the industrial employment index since September 1929." (City of Detroit.)

"According to relief authorities, there is no indication of the relief load being lessened in the coming winter and spring." (City of St. Louis.)

"Considering employables on direct relief and those now employed on W. P. A., there are approximately 16,000 persons depending on the Government for sustenance. This condition exists in spite of the fact that industrial employment now tops the 1929 figure for the same month." (City of Toledo.)

"We are of the opinion that the figures as of November 15 are rock bottom and until industry takes up some of this load, the problem of providing work for these people will be with us." (City of San Francisco.)

"The load to be carried by W. P. A. for the winter and early spring months will be greater than at present, due to dismissal of

seasonal employees by industries and contractors and due to completion of the Parklawn housing project." (City of Milwaukee.)

"The need for W. P. A. employment during this winter will not be any less than at present. Unless private employment picks up considerably this spring and takes in a greater percentage of relief persons as compared to nonrelief, no substantial decrease in need of W. P. A. can be expected this spring." (City of Louisville.)

"* * * This chart shows no indication that the relief load for the coming winter will be less than a year ago; rather, it shows the opposite." (City of Des Moines.)

"There is no indication that the load for the coming winter and spring months should be less than is now carried by W. P. A. * * * Instead of a decrease, the number should be substantially increased for the months of January, February, and March." (City of St. Paul.)

"From all information we have, the relief load can be expected to be increased during the winter and spring months. * * * Present industrial employment is as high as this district can possibly go." (City of Youngstown.)

"There is absolutely no indication that the relief load for the present winter months should be less than now carried by the W. P. A. Industrial activity, even near to normal in the Wheeling district, has failed by a large number to absorb available labor; and the winter months, bringing cessation of much outdoor work, has increased the number of persons seeking employment and relief. For the next 3 months the relief needs will be increased rather than diminished, as can be realized from the growing number of applicants for relief and work reported by the Ohio County department of public assistance and the Works Progress Administration. The former organization is now carrying a case load of 888 families, while the W. P. A. is employing approximately 1,350 persons, all with dependent families. The only pending change in this situation will be the removal of some 50 indigent aged persons from the county relief rolls to the old-age pension list. Meanwhile a steady and definite increase in relief needs is in progress, due to restricted opportunities for private employment in winter weather." (City of Wheeling.)

"There are now approximately 23,000 persons engaged on W. P. A. projects in Boston. Every indication is that the W. P. A. load for the coming winter and spring months should be increased rather than lessened. At no time has the W. P. A. program cared for more than 50 percent of the needy employables in this community. The city of Boston is now spending for relief between $11,000,000 and $12,000,000 a year, of which approximately one-half is raised by borrowing to prevent a further increase in our tax rate, now $38 a thousand. There appears to be no prospect of the absorption into private employment of any very substantial number of present W. P. A. workers during the coming winter or spring months." (City of Boston.)

In support of (II) above, namely, that many employable relief persons have not yet been given W. P. A. work, the following are typical:

"Los Angeles County has approximately 15,000 cases of employable persons who are receiving direct relief because the Federal work program has not absorbed them." (City of Los Angeles.)

"There are still about 4,000 workable people on the relief rolls in the city of St. Louis who have not been absorbed by the W. P. A. program." (City of St. Louis.)

"W. P. A. has never absorbed all of the needy employable cases in Cuyahoga County. At present there are more than 10,000 needy employable cases on direct relief. In order to absorb all employables, the W. P. A. quota for this district should be fixed at approximately 45,000." (City of Cleveland.)

"The number of persons actually assigned and working on W. P. A. projects in the city of New Orleans as of December 1936 is 20,407.

"The number of persons eligible and waiting assignment in New Orleans for this same period is 1,701." (City of New Orleans.)

"There are approximately 8,000 persons on the city's relief rolls who are employable and who are not and never have been afforded W. P. A. employment. In addition, there are about 4,000 cases being provided for by the city's welfare department where there are one or more employables in the family who are not and never have been afforded W. P. A. employment.

"Besides these, there are approximately 15,000 persons who are registered as qualified for W. P. A. employment and who have not received the same and who have not applied for and are not receiving relief from the city." (City of Boston.)

"There are still many employable relief cases in the city who have never been on W. P. A." (City of Cincinnati.)

"The number of employable relief cases in this city who have not yet been given employment on W. P. A. is, as near as we can determine, about 2,500." (City of Milwaukee.)

"It is readily seen that W. P. A. has never assumed the full burden of taking care of the able-bodied unemployed." (City of San Francisco.)

"Never since the end of the C. W. A. program has more than two-thirds of the employable persons on relief been given jobs on work-relief projects." (City of Des Moines.)

"On December 1 there were about 520 certified persons awaiting assignment on W. P. A. projects. Although we have been very careful in investigating everyone before certifying him for a W. P. A. project, there has always been a very substantial number more on the certified list than the quota allowed the city of Louisville, and in many cases there has been a waiting period of several months before an assignment is given. Even assuming that the present W. P. A. quota will be maintained, still a very substantial number of employable relief persons will be without work and there will be no chance of their receiving work, either private employment or on the Federal work program, as our quota is below what it should be." (City of Louisville.)

"There are in Hillsborough County about 3,000 people now employed by W. P. A. An additional 3,000 people are registered and certified as relief cases who have been unable to get any employment with W. P. A. There are an additional 3,000 people registered for W. P. A. employment, but who have not yet been certified to W. P. A., but who are eligible to be certified for W. P. A. employment." (City of Tampa.)

"A report from the local emergency relief administration dated December 10 shows a total of 1,011 cases on direct relief; 481 are listed as employables not employed on W. P. A. This has always been a disappointment to us, since W. P. A. was expected to take all employables off relief. At no time have all been taken off relief and this group has increased greatly in the last few weeks." (City of Kalamazoo.)

"There are about 6,000 certified W. P. A. cases—quota is at present 3,007; others have not been absorbed. Business is on the upgrade, but not enough to take care of the balance of the employables." (City of Lowell.)

"In the city alone there are practically as many employable relief people as the number now working under W. P. A., and these unemployed have not yet been absorbed by any Federal work program." (City of Youngstown.)

"The number of employable relief people in Akron who have not yet been given W. P. A. work is 1,274." (City of Akron.)

Based upon an average cost to the Federal Government of $65 per month per worker, if the W. P. A. program is to meet the problem of providing work for the total employable relief population approximately $877,500,000 will be required for the 5 months' period—February 1 to June 30. We sincerely trust and petition that this responsibility will be fully accepted.

CONCLUSION

In conclusion, may we emphasize the cardinal principles which we believe should be maintained in our approach to the existing relief situation:

1. It should now be realized by the Nation that the problem of unemployment relief is no longer of an "emergency" character.
2. That unemployment is a national problem, requiring continuing national action.
3. That Federal responsibility for those who are involuntarily unemployed and destitute is both proper and required by present conditions.
4. That in meeting this responsibility work and jobs and not soup kitchens and bread lines is the American method.
5. That provision for the unemployable group is a truly local and State responsibility which should in all cases be assumed.
6. That the present W. P. A. has done and is doing useful and needed public work of benefit to the people of the Nation.

We again express, on behalf of the United States Conference of Mayors, our deep appreciation of the sympathetic consideration given by the Government to the problems facing the cities.

There follows herewith detailed and supporting data from major cities in all sections of the United States.

Drought in the Third District of Nebraska

EXTENSION OF REMARKS

OF

HON. KARL STEFAN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 12, 1937

Mr. STEFAN. Mr. Speaker, I wish to congratulate you upon your reelection as Speaker of this great deliberative body. I pledge to you my support of all good legislation independent of partisanship. My first duty shall always be to work for the best interests of all the people of the Third District of Nebraska.

Mr. Speaker, I cannot allow this opportunity to pass without reporting to you and Members of this House the conditions which prevailed in my district when I left it a few days ago; also the conditions as I believe them to exist today.

There is considerable criticism to be directed at the administration for failure to recognize the true conditions which exist in the Third Congressional District of Nebraska. Apparently those relief officials here in Washington who put out orders to take nearly 4,800 men off of W. P. A. in my district forgot that we lost our crop. They put the 22 drought-stricken counties of our district in the same position as districts in industrial centers where business had recovered and where apparently there are no hard times, and they put us in the same condition as farm districts

where there was a crop. They did this when winter was coming on us and when people needed help more than they ever needed help in the summer or fall months. The result is that thousands of needy people in towns and on farms are faced with a desperate situation. Taking these people off of relief so soon after the election campaign, during which they were practically assured they would be taken care of, scents very much of exploitation of human misery. Changing rules and regulations and transferring farmers from W. P. A. to R. A. at a time when farmers have no feed to feed their livestock, when people in town have no money with which to buy food or clothing for their children and families, represents cruelty. The long tangle of Government red tape and the time it takes to unscramble rules and regulations which are ever changing has resulted in the delay of bringing relief which was apparently working half-way smoothly before such orders for a change came in.

The sufferers are not only those who believed they would continue receiving this Government and State aid but also those city and county officials who today are bewildered as to what they can and cannot do. Some of us anticipated something like this would occur and in such anticipation made vigorous protests before the new rules began to be placed into operation. It is also certain that the relief money which is now being held up by these new rules will be long in coming and human suffering will continue. The farm-to-market road program which was working so well is disrupted by these new rules. County commissioners and county supervisors who have had many men working on road projects are bewildered as to what will happen next. Scores of men working on roads which are unfinished have been laid off and are referred to a different agency to seek aid. Many miles of roads upon which improvements were being made in the farm sections of my district will be left incompleted and many worthy road projects are on the unfinished list. The relief question is now the biggest question confronting the people in my district. Official Washington attention has been called to the fact that a great wrong has been done to this drought-stricken area by placing it in the same class with districts where actual recovery has been made.

The facts do not indicate that the change was necessitated by lack of relief funds voted by Congress. The W. P. A. authorities in Washington may claim that the cuts that they have ordered in relief rolls are necessary because of lack of money, but when it is known that there is $80,000,000 of unallocated W. P. A. money in Washington available to the President for release to meet current emergency it will be seen that the cuts in the relief rolls were, in reality, not caused by any fault of Congress. When there is over $80,000,000 of unallocated W. P. A. money available to the President, certainly some of that money should be rushed to the Third Congressional District of Nebraska to alleviate the real suffering that now exists.

Fault for present conditions cannot be placed on county governments or city governments, but must be charged to those in Washington who have the power of spending so many billions of dollars of the people's money that were voted for relief by the people's representatives. My office in Nebraska has been filled daily with people who are suffering because of the change in policy and rules. Only a few days after the deadline, December 14, for laying off of the last 1,800 men in my district, the number of complainants coming to my office grew by leaps and bounds.

Conditions on the farm are deplorable. Let me give you an illustration: One farmer, who has never been on relief and refuses to go on relief, states this:

I was greatly surprised when the Government began laying off men at this season of the year. My wife and I live on $2.50 and $2.75 a week, that is just what our cream check amounts to. That buys everything we eat except our butter and milk and includes what clothing we are able to buy. My revenue from 240 acres of land was $10 in cash and 10 bushels of rye. The land is so dry there isn't a chance for a crop in 1937 unless we get twice the normal supply of rain next season. We have at present about 4 inches of snow. It will scarcely lay the dust. We had about 30 inches of snow last winter, and following that the worst drought in the Nation's history.

People in rich Washington cannot realize the true conditions which exist on many of the farms in my district nor can they realize what many, many farmers are facing today, due to a crop failure. Here is another illustration, that of a farmer who has eight children and who has lived on his farm for 35 years. At one time, his quarter section of land was clear, without any indebtedness. He hoped some day to get another farm for some of his children, so he mortgaged this quarter section of land and made a payment on an adjoining section of land. Due to the drought, crop failure, and high interest rates, this man today owes nearly $20,000, both quarters are heavily mortgaged and he has no money with which to buy feed, no money to pay taxes, no money to pay interest or even part of the principal on his indebtedness. This farmer, who for 35 years has tilled the soil, not because of mismanagement, but because of conditions, is facing the loss of his lifetime's work. He is one of hundreds of farmers who are in the same condition. Many of these are giving up and many are not giving up. Those who are not giving up feel that had we had only half a crop this year they would have been able to pay a little on their interest, something on their taxes, buy some feed for their livestock and hope for a better future. These are among the farmers who say that only a crop can bring this agricultural country back to where there is hope for the farmer. Among the hundreds of visitors to my office, during the last month, are many of those who still have this hope and are staying on the farm, but there are many who have given up hope and are coming to town asking for bread.

The congressional office was bombarded by young men ranging in ages from 16 to 26 years. In some farm neighborhoods very close to Norfolk, Nebr., there were groups of these young men numbering from 10 to 20—all living in one neighborhood. They used to be able to get a job on the farm to work for their neighbors, then perhaps get married and rent a farm and start living by themselves.

Many of these have been to Oregon, California, Washington State, only to come back and report that out there on the west coast there was no job for them and they have come back to live with their parents—parents who have a hard time to take care of themselves. Little can be done, under the regulations, for these unattached young men who are physically strong, able-bodied, and willing to work. They, too, are the victims of a crop failure. What is going to become of them? These are farm boys who have the same ambition as boys in town. On the other hand, there are scores of young men who live in town, some of them highly educated, high-school graduates, who also are asking, "What are you going to do with us?" In reality, the relief question is a serious one in the Third Congressional District of Nebraska.

Time was once in this district when farmers who had cleared the mortgages on their farms and had grown old could move to town and live off the rent on their land. There is one old man who owned 600 acres of land in my district, practically all clear of indebtedness. This man, who lives in town now, is penniless and has to borrow money with which to buy food for himself and his wife. He is land poor. This is what happens when there is a crop failure in Nebraska.

Because of the terrible blizzard which has been raging in the Third Congressional District of Nebraska and because of the suffering of needy farmers who lost a crop in that district, I feel it important that I call attention of Members of this House today to a new rule which has been sent out by the Resettlement Administration to farmers in my district. This rule cuts down the livestock units to 12 to farmers who need money to buy feed to keep this livestock from starving. This unit of so few animals eliminates a foundation stock and will not only pauperize the farmer but force him to leave the farm and go to the town on relief. I wish here to enclose a statement which I made to Secretary of Agriculture Wallace a few days ago when I, with others, personally called on him, and also a statement from E. W. Rossiter, of the feed loan committee of the Nebraska Bank-

ers' Association. This statement and other matter will explain the situation in my district.

STATEMENT TO SECRETARY WALLACE BY CONGRESSMAN STEFAN

I want to present to you in writing one phase of the emergency drought situation which at the moment transcends in importance any other single phase, at least insofar as my district in northeastern Nebraska is concerned.

The 1936 drought and crop failure in that area was complete. Accordingly farmers are without feed for their livestock, and they have turned to the Resettlement Administration for the help without which they cannot pull through.

The immediate crisis has been produced by reason of the regulation promulgated by the Resettlement Administration which limits feed loans to farmers having not more than 12 units of livestock. In order that the actual situation may be adequately met, the authorized units of livestock should be raised to at least 20. A 12-unit limitation is entirely too small for farms consisting of 160 acres and more. The foregoing figures indicate the average size of farms in my district. It is ruinous to compel farmers to reduce their herds to such size as to practically insure retirement from agricultural production next year or at least to impair production if the operation can be continued at all. These farmers have only the necessary number of horses with which to farm their land. Their cattle are dairy cattle—not beef cattle. They must be permitted to keep enough cows for the family living this winter and as a base for dairy production next year. The same is true of hogs and chickens. The rule of 12 units seems to be without respect to the size of farming operations and more suitable to small farms not exceeding 80 acres. It is, therefore, thought that the unit limitation should be raised to at least 20 to prevent the reduction from becoming ruinous to the point of causing some farmers to abandon their farms during this winter and of crippling the production of all farmers affected next year.

I am attaching hereto, for your further information, copy of a memorandum entitled "An Emergency", prepared by Mr. E. W. Rossiter, of Hartington, Nebr. I ask you to read it carefully.

The immediate situation in northeastern Nebraska does amount to an emergency, first, because the program is not large enough to meet the obvious need and, second, because delay in the administering of a program of suitable size is occurring. Nebraska is now in the grip of winter. Temperatures are low and snow covers the ground. Feed must be immediately rushed in many places else much stock will actually perish. Losses have already occurred.

This suggested increase to 20 units is submitted to us as being not only necessary but sound, first, because the actually existing distress of farmers requires it and, second, because under the circumstances which obtain in the drought area, relief to farmers will produce the best results if the relief is substantial enough to enable farmers to remain on the farms throughout the winter and to have necessary livestock on the farms next year. The 20-unit limitation is in contemplation of only the necessary stock for farms averaging in size as do ours, and not in contemplation of any surplus or feeder stock.

I have already indicated that the actually existing emergency is one in which time is the essence of the remedy and that action must be taken at once to save the situation.

Will you please direct immediate investigation into the matters that I have undertaken to call to your attention and into the facts outlined by Mr. Rossiter in the attached memorandum, and advise me of the action that can and will be taken?

AN EMERGENCY

When a cyclone, flood, earthquake, or other serious disaster strikes a section of our Nation, the Red Cross organization is on the job. Food and shelter for human beings, feed for livestock, and other assistance is forthcoming without delay. No mortgage or security is demanded. No order is issued to compel the farmer to sell down to 12 units of livestock before help is given.

In this drought area in the Corn Belt our farmers have suffered a real disaster, because no crop, no grain, and no foodstuffs were produced in this year, 1936. They face a real emergency. It is a situation as desperate as any the Red Cross has ever served. While livestock slowly shrinks as a result of the starvation ration on which it is attempted to carry them along, while animals die because of insufficient feed, all our farmers get is rules, and still more rules, which must be complied with before loans can be secured from the Resettlement Administration for the purchase of feed.

This is not the farmers' problem or the problem of the local community to solve. It is a situation that requires emergency treatment on a Red Cross basis. By this we mean requirements for security, and delays for investigation and the unwinding of red tape should be eliminated and funds be made available forthwith.

The limitation of 12 units to the farm is positively ruinous. It means no hogs and no cattle can be grown on the majority of these farms in the drought area during 1937 if this 12-unit limit is enforced.

Such reduction means not only less income for the farmers, who will be forced to throw even greater supplies of grain on the market because of having no stock to feed (thus further reducing their ability to repay the Government loans), but it also means less hogs and cattle to go to the market centers, requiring less labor to process them, with resulting increase in unemployment in that sector and higher prices to the consumer because of the small supplies of meat produced.

Lack of available funds is the latest excuse given for imposing the 12-unit limit on the farmer who would secure a feed loan. We make the assertion that there is no money which the Government is advancing for any purpose which is more worthy or more necessary than to supply funds for feed for livestock in this drought area. It is truly a disaster which demands emergency treatment, and that without any further delay. We urge our newspapers and business organizations to make this fact known to the administration in Washington.

E. W. ROSSITER,
Chairman, Special Feed Loan Committee,
Nebraska Bankers' Association.

Is Radio Living Up to Its Promise?

EXTENSION OF REMARKS
OF
HON. JAMES M. MEAD
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, January 13, 1937

ADDRESS DELIVERED BY COMMISSIONER GEORGE HENRY PAYNE, MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION

Mr. MEAD. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered by Commissioner George Henry Payne, member of the Federal Communications Commission, at the university of the air, College of the City of New York auditorium, December 18, 1936:

In the first place, let me say that the question I was asked to discuss—Is radio living up to its promise?—poses a pretty problem. If you take radio, as the scientific world regards it, as the transmission through the ether of messages, it has more than met its promises. If you mean by radio broadcasting, you are on debatable ground.

It is important to remember that broadcasting is but one of the 27 services. A few of the more important radio services other than broadcast service may be mentioned here.

Radio is used extensively in telegraph and telephone service to foreign countries and in maritime service, which includes radiotelegraph and radiotelephone communication between ships at sea and between ships and the shore. It has become indispensable to aviation and to the police of the country. It is used in the transmission of news to the newspapers by means of what is known as the multiple-address radiotelegraph service, the messages being automatically recorded by means of printers. There are also maintained a number of experimental services which permit further research and development in the radio science.

Not far off is a new service which is associated with broadcasting and is very much in the public eye at the present time. I refer to television, which is still in the experimental stage, but is bound some day to play an important part in our social and business life. In these services radio has certainly lived up to its promise.

Assuming, then, that the problem that I am to discuss is broadcasting, I can say that I have received many protesting letters and messages from people who felt that through inferior broadcasting programs their homes were being invaded by doctrines and ideas calculated to create unhappiness in their homes and to invade their rights.

The situation recalls the keen analysis of Sainte-Beuve in his delightful essay on Cardinal De Bernie. That interesting character had astonished the world by suddenly changing from a flippant man of the world and maker of whimsical, gay, and not always decorous verse to a serious-minded statesman and prime minister. Sainte-Beuve's explanation was that he had suddenly come to the conclusion that inasmuch as it took just as much trouble to accomplish little things as it did to accomplish large things, he would devote himself hereafter to accomplishing the great things of life.

So with broadcasting—the same amount of effort would give us nobler programs instead of the jazz and trash of today.

Every movement that tends to make broadcasting more cultural and more intelligent is deserving of the greatest respect and the most earnest support. I am glad, therefore, to be included in the program of the fifth anniversary of the university of the air, especially under its present distinguished sponsors.

It is not an easy problem, however, that you have posed for me—"Is radio broadcasting living up to its promise?" Frankly, my own opinion is that it is not, but I feel I would be unfair if I did not qualify that statement by saying that elements, mainly political and some economic, have been as much to blame as the broadcasting industry itself. Nor would it be fair to say that broadcasting

has not come up to expectations when some fine programs have been the delight of American audiences.

But—and this is the question—when we have allowed private corporations to develop a national resource that elsewhere in the world is government owned and controlled, should not those who are making large fortunes from this resource give us better programs?

To anyone who studies the situation from the inside there is quite evident a contempt for educational and cultural influences that is most unusual in any field of scientific development.

What would have happened in the field of medicine, philosophy, law, science, literature, politics, or journalism if the first impulse had been money making? When we look back over the long struggle of humanity to achieve civilization and some surcease from the sorrow and the ills that flesh is heir to, how little would have been accomplished if there had not been, in all those fields, men and women ready to suffer and even to die that humanity might benefit. What untold tragedies might have resulted if the men and women who made all those sacrifices were actuated by a desire to make a million dollars rather than by a love of humanity.

Fortunately in the radio field, while the great actuating impulse of those who are in control of the industry is money, the engineers and scientists on whom they depend for the development of their fortunes are, in the main, men who are unselfish. Some of them, and I am speaking of those who are associated with the Federal Communications Commission, have a devotion to high ideals that will challenge comparison with any other time.

A more disagreeable aspect, and a more sinister one, deterring radio from living up to its promise, is the fact that the radio lobby in Washington has filled the radio "industry" with the novel idea that they control the Government.

For two and a half years I have watched the operations of this lobby which has endeavored to dictate the actions of the Federal Communications Commission.

When I speak of its contemptuous attitude toward educational and cultural matters I am not hazarding any guess. I am speaking from facts. An important broadcaster, a man who has acted as an official of an organization, sat in my office one day arguing about the perfectability of the radio program. We were naturally at different ends of the question—he declaring that the programs as given today were perfect. Finally I drew out some letters and extracts from letters of many college presidents throughout the country and showed him that they were far from satisfied with the present set-up.

His answer was, "What the devil do them college presidents know!"

One argument, effective though unreal, that has kept public opinion from forcing the production of better programs has been that the pioneers of the radio art are entitled to a just share of credit and profits for their pioneering. But have the real pioneers had any sizable share in the profits?

Of the 43 scientists who since 1912 have contributed most to radio's scientific development and progress, only 2 have received compensation in any way commensurate with their achievements.

We have here a complex and serious economic phenomenon. Great discoveries are made and the discoverers profit little. The public, which owns the ether, is amused, delighted, and astonished, but spiritually profit little. A third party steps in and, discovering nothing, inventing nothing, and owning nothing, nevertheless makes great fortunes.

Mr. Gifford, president of the American Telephone & Telegraph Co., went so far as to say in a paper, brought out by the Federal Communications Commission telephone investigation, as follows:

"If anyone tries to tell me that he is acting in a business capacity in the public interest, I am inclined to say, 'Oh, bunk!' in my own mind, unless the public interest and his interest coincide."

Here we have the philosophy of decline and decay, denying the very principle of altruism.

For 2 years I have argued and pleaded and reasoned with this most difficult division of our activities to take a fairer attitude toward the public. I finally came to the conclusion that I could get better results if I appealed to them from a public forum, and so I accepted invitations from Harvard, Columbia, and other universities to enunciate under dignified auspices what I thought were proper reforms.

You can imagine my surprise when, instead of getting the cooperation of those whom this Commission is supposed to regulate, I was told publicly in their trade journal that I "should mind my own business."

Attacking every endeavor of the cultural and educational interests to improve the quality of radio programs is a most vicious lobby. It is not a particularly intelligent lobby, for if it knew its business it would see that the educational and cultural interests ask so little that they could be easily conciliated by small concessions. But, arrogant in its belief that it controls the Commission, it is not inclined to concede anything.

Developments and inventions that are now going on and being made in the radio field will affect the mental life and education and possibly the material interests of every person in the country. Behind this development, fraught with so much importance to our people, a fierce struggle is going on for the control of the great resource of the air.

Private interests favoring private monopoly are naturally anxious that there be just as little governmental "interference" (regulation) as possible in what they call their "business." Those who believe that we must not repeat the mistakes of the past and allow the wasteful private exploitation of our resources are just as keenly aroused in behalf of the Government taking a strong stand to protect the public interest.

The indifference of the public to the importance of this struggle is lamentable. Fascinated by the wonders of radio and the astonishing developments in the entire field of communications, the people have given little attention to the economic control of these new developments. Unless the public is aroused, its interests are apt to be neglected and lax administration is apt to creep in. In this way private monopoly, without warrant of law, establishes itself and, too late, the public bestirs itself to recover ground that never should have been lost.

I lunched a few days ago with Dr. Alexis Carrel and Dr. Ward Crampton, and the subject of discussion was the upbringing of the human race, the awakening of man to something like an appreciation of his powers—spiritual and mental—and the possibilities of his future for happiness and usefulness.

The fruitfulness of that conversation I could not relate if I took the 2 hours of its actual duration. But this thought I can give as a summation. What a blessing radio would be, if under the direction of Dr. Carrel and Dr. Crampton, it stimulated the American public to find some answers to the questions that Dr. Carrel propounded in his great book Man, the Unknown. What a blessing radio would be if, instead of urging children to harass their tired mothers to buy various nostrums, time and attraction were given to the endeavors of Dr. Crampton to bring our boys to a better understanding of their future needs and to a greater knowledge of their possibilities for usefulness and happiness.

To sum up, I do not hesitate to say that radio has not lived up to its promise because its promise is limitless and its development has hardly begun. It has failed, however, in that it has catered to the lesser intelligent rather than to the greater.

To those who are battling for a more intelligent discussion of the problems of broadcasting; in fact, all the problems of communications, I would say, be of good cheer and of great hope. If the solution—an intelligent and honest solution—is not just around the corner, like Mr. Hoover's prosperity, it is not as far away as it was a year ago, and certainly not as far away as it was when the Federal Communications Commission came into existence. If we, the Commissioners, have not seemed to live up to our opportunities, the trouble lies, as it lies with the question of radio, in the fact that the opposition—those who are organized for selfish and greedy purposes—have been stronger than we thought and more arrogant than it is possible to believe. But in their very arrogance there lies their self-destruction. The increasing interest in radio is stimulating hundreds of thousands of people to think more clearly as to their rights. It is stimulating the great mass of people to see that radio does live up to its promise. More and more we hear of men and women in far-off places rebelling against the conditions as they are and demanding better and more intelligent programs. More and more as we fight for better radio and more enlightened governmental supervision, I see the truth of what John Stuart Mill so beautifully said:

"All the grand sources of human suffering are in a great degree, many of them almost entirely, conquerable by human care and effort, and though their removal is grievously slow, though a long succession of generations will perish in the breach before the conquest is completed, yet every mind sufficiently intelligent and generous to bear a part, however small and unconspicuous—will draw a noble enjoyment from the contest itself which he would not for any bribe in the form of selfish indulgence consent to be without."

Tax-Exempt Securities

EXTENSION OF REMARKS

OF

HON. FRANK CARLSON

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 13, 1937

Mr. CARLSON. Mr. Speaker, at the beginning of this session of Congress and in future Congresses we are going to be faced with the responsibility of appropriating and voting large sums of money. Fortunately the credit of the United States Government is still unimpaired, but we must remember that easy credit has ruined many businesses and many men.

I believe the time has arrived in this United States Government when we should seriously consider the adoption of a constitutional amendment prohibiting the issuance of tax-exempt securities. In fact, I believe the time is past due. Having this in mind, today I am introducing a House joint resolution proposing an amendment to the Constitution in order that the United States and the State governments may tax the income from securities issued by the United States or

the States. A similar amendment was introduced by the senior Senator from Kansas, Senator CAPPER, in the Senate last Saturday. This amendment would not apply to security issues already made, and it contains a provision permitting the United States Government and the State governments to issue tax-exempt securities for a period of 5 years should our Government become involved in war.

I realize when this resolution is considered by this body—if it is—that sound argument will be presented as to why it should not be submitted to the States, but I do not believe those arguments will outweigh those in favor of its adoption.

In the first place, the issuance of tax-exempt securities tends to encourage extravagance in Government expenditures. I believe the time has arrived when we must seriously consider the ever-mounting increasing cost of government.

Second, the issuance of tax-exempt securities tends to discriminate between taxpayers and violates the sound principle of taxation—the ability to pay. It is estimated that we now have some $40,000,000,000 invested in tax-exempt securities.

Third, the presence of great blocks of tax-exempt securities in the market discourages investment in new enterprises, which are sorely needed to reduce our employment problem.

Mr. Speaker, it is my intention to discuss this subject more fully in the near future, and would appreciate the advice and assistance of other Members interested in a sound financial policy.

Independent Board of Civil Service Appeals Should Be Established

EXTENSION OF REMARKS

OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 13, 1937

Mr. RANDOLPH. Mr. Speaker, I am particularly in favor of the establishment of an entirely independent board of civil-service appeals for the reason that the original bill, which I formerly introduced, brought forth a flood of letters, telephone, and personal calls from Government employees in which they claimed that such a board was the only tribunal under which they would be enabled to obtain justice. On yesterday I introduced an amended bill, H. R. 2727, which I trust will receive support of Members of this House.

Employees with long and faithful service have been dismissed without justification or explanation under the heading "Necessary because of reduction of force", which was sufficient reason for throwing them out of work and permitting supervisory officials to retain favorites, or increase the force a few days later, and heads of departments when appealed to either pay little attention or perfunctorily sustain their subordinates.

In cases of dismissals the civil-service laws are intended to protect employees, since the employee must be furnished with charges justifying his dismissal, but this is generally covered by the phrase "for the good of the service"; and, although the employee has the opportunity to defend himself, if he loses, and usually does, there is no final board to carefully look into his case, and too many officials find this the easiest way to oust employees.

The theory is advanced—and is probably true—that an employee could not obtain an unbiased decision under a board of appeals on which an official of the department under which his complaint originated presided, together with another official from the Civil Service Commission, because past experience has shown that the Civil Service Commission usually joins with the recommendations of department heads against employees; and, although the third member of such a board might decide in favor of the employee, he or she would be overruled by the majority.

During the regime of the former Personnel Classification Board employees were permitted to appeal from improper allocation of their positions, but almost invariably their cases were disposed of upon the recommendation of the department against overwhelming proof in support of their appeal, and doubtless this would be the result under any board of appeals that was not entirely separate and distinct from the control or jurisdiction of governmental departments as well as the Civil Service Commission.

There are undoubtedly numerous injustices in Government service in which the victims have no recourse. A really worth-while board of appeals, as provided in this legislation, composed of three members, two of whom must have had at least 20 years' experience in the classified service of the Government, entirely independent and with power to investigate and render final decision, would undoubtedly hearten employees, raise the morale, and be of inestimable benefit to the service.

Relative to the new efficiency-rating system that has been set up by the Civil Service Commission, against which so much complaint has been made, this measure provides for a return to the old system, under which employees are entitled to an annual promotion to the next higher rate within the salary grade of their positions, and that appropriations shall be made accordingly, and it also abolishes the "average provision" carried in the appropriation acts.

Reorganization of the Government

EXTENSION OF REMARKS

OF

HON. WILLIAM H. KING

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, January 14, 1937

INTERVIEW WITH HON. HARRY FLOOD BYRD, OF VIRGINIA

Mr. KING. Mr. President, the President's message with respect to the reorganization of governmental departments and agencies submits an important question for the consideration of Congress and, indeed, of the people themselves. The junior Senator from Virginia [Mr. BYRD], as chairman of a special committee, has been making a study of the question with a view to bringing about reorganization in many branches of the Government, and particularly with a view to promoting efficiency and economy in the Government service.

In the Saturday Evening Post of January 2, 1937, was published an article by Raymond G. Carroll, based upon an interview with the junior Senator from Virginia. The article is worthy of careful consideration, and doubtless will be read with interest by Senators and others who have not had an opportunity to study the question for themselves.

I therefore ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Saturday Evening Post of Jan. 2, 1937]

PRUNING AND SPRAYING—AN INTERVIEW WITH HARRY FLOOD BYRD, UNITED STATES SENATOR

By Raymond G. Carroll

Under an old apple tree near Winchester, Va., United States Senator HARRY FLOOD BYRD began his talk with me and continued throughout the day in one or another of his 21 orchards along the Shenandoah Valley. Ours was a stop-and-go interview.

As the creator and chairman of the Senate Special Committee to Investigate the Executive Agencies of the Government With a View to Coordination, after having previously, as Governor of Virginia, freed that State of useless boards, bureaus, funds, and officials, Senator BYRD seemed to qualify as a "natural" upon the problem of Government retrenchment.

This is the time of the general winter pruning of the Virginia apple trees, lasting from the beginning of the month of November in open weather until early spring.

Mr. BYRD paused to look down a beautiful well-trimmed row of Staymans. Then, indicating with a gesture the perfect symmetry of their trunks, clean and straight, with uniformly spreading shoots, he said:

"Government is wonderfully like an orchard. It, too, requires constant attention, regular prunings to keep it fruitful, and frequent sprayings to defeat attacks of blight, analogous to the growth found on unwatched trees. Weeds and underbrush must be kept cleared from the orchard floor, just as the excess should be stricken from the Federal pay roll."

He continued: "As a practical man, interested only in plain facts, I would go back of the surgery of the orchard to state some preventive doctrine. The necessity of the expense and the ability of the people to pay the cost are the two essential principles for first consideration in a problem of government. When they have been reconciled, there next arises the duty of seeing that the people get the utmost value in public service from what is paid for by taxes. No one can deny that under this formula enormous savings can be made. I hold that the administrative costs of the Federal Government can now be greatly reduced without impairing the ultimate aims of President Roosevelt and without interfering in the slightest degree with the objectives of the emergency legislation. The executive departments and agencies have grown to 135 in number. The problem of overlapping agencies is almost as old as the Government itself, and has grown with it, and both political parties share the responsibility for this condition.

"Placing laws on statute books is only the start. The way the law is administered means much. Many good laws have not accomplished their purpose because of the failure to administer them efficiently. A government is not static; no less than an individual, it will slip backward if it does not move forward. However, we must not confuse mere change with progress. The old fundamental principles of representative government are as sound as ever. The need today is not so much for new governmental ideas as it is for an application of practical methods to the old fundamentals. We Members of Congress are trustees for the taxpayer's dollar, and our obligation is to make this dollar buy the fullest value. The Government is an instrument to make the administration of public affairs responsive to the public will and efficiently to perform its duties. Useless offices must be abolished. Duplicated services must be consolidated. The manifold activities of the Government must be systematized and directed with the maximum of efficiency. But economy must not be destructive. No employee should be permitted to work for less than fair compensation. No essential agency should be starved, but the saving should be found in the consolidation and simplification of government. That was the method we used in Virginia, and we obtained results."

Senator BYRD and his two brothers, Richard, the explorer, and Thomas, a business executive, are the sons of the late Richard E. Byrd, a brilliant lawyer, who was once speaker of the Virginia House of Delegates. Asked for an opinion on the November election with respect to its effect upon the continuance of the present towering Federal structure, he remarked: "My father always said that the time of the gravest danger is the time of the greatest victory. In this country we are exceedingly proud of our democratic institutions, which express the variable character and condition of the people. They are founded on instincts, swelling in this or that direction under the mood of current desire. Right now the majority of the Nation has emphasized a deserved fondness for a great leader. Yet a change of 1 in 10 votes, if they were placed with political skill, could erase the electoral result."

"The best course to pursue?" the Senator was asked.

THE REAL TASK

"My feeling is that before it is too late it behooves our Government to simplify itself, else, I repeat, it will defeat its own objectives. Eight to ten bureaus trying to do the same thing is not simplification. It is confusion. Most objectives are gained only by the most simple, direct, and most efficient methods. Why should the public have to go to six or seven different departments or agencies to get a single thing done, if it can be done better, more efficiently, and more economically by one? It is not reasonable to go on as we have been going and it is very costly. I recognize that a real task is before the Government in its endeavor to reform itself. It is unthinkable, in my opinion, that the proposed reorganization should be regarded as a haphazard chopping off of employees. Pay-roll reduction would follow naturally any successful effort for increased efficiency and the resulting economy. It is to be presumed that those let out would be those who do unnecessary work. There is a recognized theory that oldsters make way for the younger generation. The fact is that once a government pay roll is set up it too often is permanent unless attacked fearlessly. The yardstick should be whether the Government needs people rather than whether people need these jobs. As a farmer and fruit grower, I well know that a fruit tree cannot be healthy and productive unless the dead and unnecessary wood is cut out from time to time. The time has come to prune away the deadwood in the Federal Government so that a more simplified, efficient, and economical administration of public affairs can give, at a minimum cost, those services necessary for our well-being and advancement. Step by step, for many years, we have built up at Washington, with ramifications all over the country, a vast and costly bureaucracy. Activities of the various departments and agencies overlap and efforts are duplicated. This has resulted in a tremendous expenditure for overhead administration. In many instances the machine has become so top-heavy and unwieldly as to defeat, by conflicting authority and needless red tape, the accomplishment of the purposes for which the legislation was passed."

"But is something real going to be done about it?"

"I sincerely believe so", said Mr. BYRD, adding: "The President, I know, is deeply interested and is giving to the problem his personal attention. No effective reorganization of any State government has been accomplished without executive leadership. In the Nation the leadership of the President is likewise essential and will, I know, be welcomed by both branches of Congress. I may say that the Senate special committee approaches the task assigned to it with a full appreciation of the difficulties to be met and overcome. We well know the resistance to be expected when the effort is made to reduce the cost of government by eliminating unnecessary employees and duplicated activities. We have engaged the services of those best equipped to perform the labor of advising us, and this work is already in progress. Every effort will be exerted to present to this new Congress a constructive plan of reorganization. Of course, our committee will give full cooperation to the President's Committee and that of the House of Representatives. We know that if the Federal orchard is to be properly pruned and sprayed, it will require close cooperation between the Chief Executive and Congress. The common aim of those at work on this problem is to simplify the processes of government and to reduce the cost of their overhead. We believe millions of dollars of the taxpayers' money can be saved annually. The taxpayers of America buy public service. They have the right to demand a dollar of value for each dollar they pay in taxes. For years we have heard criticism of the complicated and expensive administration of our national affairs. What has been done about it? I came to the Senate less than 4 years ago. Since then the number of regular Federal employees—not soldiers, sailors, District employees, or judicial and legislative employees or those receiving either direct or indirect relief—has increased from 66,302 to 114,611. We have added to the Capital population alone 48,309 new employees, who, with their dependents, make a sizable city. For the same period for the Nation the number of regular Federal employees of the same classification has increased from 564,103 to 835,704. This is exclusive of relief, farm benefits, C. C. C. camps, W. P. A., and drought beneficiaries.

"The Government can get money only by taxation or by borrowing it. Nothing can be truer than the fact that what you spend you must pay. This applies to a nation as well as to an individual. When the Government borrows, it issues bonds. The interest must be paid by taxation, and later the bonds must be paid. Every dollar we borrow adds the cost of the interest to our regular expenditures. Last fiscal year the Federal Government alone spent about seven and a half billion dollars exclusive of loans and bonus payments. We borrowed $1.10 for every $3 expended. The Member of Congress who originates new and novel methods of spending the people's money is hailed by many as a great and progressive statesman. The public official who endeavors to conserve the taxpayers' money by avoiding extravagant spending is labeled a conservative reactionary. Many appear to believe that the Government has a magic treasure chest. We hear so much about billions of dollars that it may not be amiss to ask: How much is a billion? A man with a $5,000 annual income would have to work 200,000 years to earn $1,000,000,000. A billion of dollars should never be thought of as merely a sum of money. It should be thought of as representing many years of labor by many thousands of people."

Senator BYRD is experienced in the pruning and spraying of an overlapping, unwieldy Government structure. Before the reorganization of Virginia's State government in 1927–28, following a State survey made on the initiative of its Governor, who is the present junior United States Senator, Virginia was governed by more than 100 bureaus, boards, commissions, and departments, many overlapping in duties and independent of one another and also independent of the Governor, financed by 48 special funds outside of and in addition to appropriations from the State treasury, burdened by the maintenance of more than 800 unnecessary tax officials and hampered at every turn by outworn taxing, financial, and administrative machinery. After the reorganization, Virginia found herself freed of administrative deadwood and simplified administratively into 12 general departments, 11 of which are directly responsible to the Governor of the State. This reconstruction of the State's taxation, fiscal, and accounting system resulted in an annual saving of more than $800,000, an increase of revenues of more than $2,000,000, and a conversion of a deficit of $1,368,004 into a surplus of over four million when he left office.

TOO MANY GOVERNMENTS

Since the junking of the governmental horse and buggy for a straight 8, Virginia has regularly balanced her budget, before, during, and since the depression. Her bonds recently sold higher than did Federal bonds. Virginia is one of three States in the Federal Union that, since 1933, have continuously paid into the National Treasury in taxes more than they have received in Federal benefits, but this is due mainly to the State's production and fabrication of tobacco.

Asked if he did not think it possible for the retrenchment policy so successful in Virginia to be repeated with equal success in the National Government, Senator BYRD replied: "It would be a very fine thing to bring about, a goal to be wished for and sought

after devotedly. But it can come about only by an aroused public opinion that demands action, for the only way to permanent prosperity is still the difficult path of economy and efficiency, and the balancing of budgets of both States and the Federal Government."

Mr. BYRD is the type of citizen who declares that our civilization is yet only at its cockcrowing and its morning hour. He sees us suffering from an epidemic of too much government everywhere, which can be cured only by the pruning knife and the spraying can. It is not alone the Federal Government that needs slimming. He said:

"We actually have nearly 200,000 governments in the United States, counting school districts. Almost every individual has five or more governments over him—Federal, State, county, local, and school. Many people have three or four more. President Roosevelt, from his experience as Governor of New York, in his book, Looking Forward, wrote that there were 13,544 separate independent units of government in that State, and he found that citizens in some communities were blanketed under 10 layers of government.

"There are too many governments, and there is too little efficiency. Governments, great and small, now support more than one-seventh of our population. And this does not include those on relief. Our overlapping unnecessary layers of government must be removed, and what better time and place to start burden lifting than now, and in the overcrowded Federal structure? It must be remembered, however, that outside of the Federal Government we have 48 State governments, 3,000 counties, thousands of incorporated municipalities and townships, together with drainage districts, school districts, fire districts, lighting districts, road districts, water districts, each with governmental functions and imposing taxes. Small wonder that our taxation has increased from 8 percent of our national income in 1913 to nearly five times that in 1936."

AN OLD DOMINION EXAMPLE

For a permanent remedy, Senator Byrd suggests: "I believe the Federal Government should cooperate with the States in the simplification of our tax system to avoid duplication of taxes. Certain classes of taxation should be reserved by the Federal Government and others given exclusively to the States. Just as Federal machinery has been set up to investigate and curtail the present abnormal costs of the National Government, so every citizen should study and investigate his local government and demand that it also be made efficient and economical. When we have removed some of the layers of government all down the line and organized the essential activities on an efficient basis, then, and then only, can we enjoy the benefits of the sort of government to which we are entitled at a cost which we can afford."

Clarke County in the Old Dominion State, which is the residence county of Senator BYRD, came through the depression with the extraordinary record of not accepting one penny of direct Federal relief. Concerning this, he said: "We are naturally proud of it. Clarke County refused to accept four Federal relief commissioners, each to receive $150 monthly, to engage in the task of drumming up others to accept Federal aid. We are average people of pride and prudence, and we took care of our own. Our course discouraged the professionalizing of being helped by the Government among us. I hold that the Government is not obligated to give a job to everyone out of employment, but it has an obligation to stmiulate economic conditions that produce work. It is obligated to prevent starvation or freezing or severe personal hardship resulting from some major disaster like drought or floods. But, in doing so, we must preserve ideals and safeguard self-respect. To go further in direct relief as a national permanent policy destroys pride and opportunity to achieve the sort of independence regarded as the birthright of all Americans. Incidentally, Clarke County, which never went on relief, gave more than 500 percent plurality for Mr. Roosevelt on November 3 last.

"When new revenue is needed", continued the Senator after we had returned to his office, "the easiest way to find money is by increasing taxes. The much more difficult way is to provide for any necessary new expenditure by an improved efficiency, to eliminate the frills and luxuries of government, and to simplify and consolidate. The grants to the States from the Federal Government are not gifts, as the tax money they represent must finally come from the citizens of the 48 States. My own State, as the sixth taxpaying State in the Union, will pay back, I predict, $10 in principal for every $1 received as a so-called gift from the Federal Government.

"After 4 years of service as Governor of Virginia, and now, after nearly 4 years of service as United States Senator from Virginia, I am confirmed in the opinion that government, whether State or National, should keep taxes as low as possible, and at the same time be prepared to make all reasonable progressive increases in those expenditures demanded by a developing State and Nation.

"Taxes can be reduced without impoverishing essential Government activities by, first, improving the purchasing power of the taxpayers' dollar by increased efficiency; secondly, by the creation of new taxable values. As the President has said, this may be achieved through increasing the national wealth; and, thirdly, by an equalization of taxes, so that all must pay a just share of the public burden."

Senator BYRD's acquaintance with the President is of long standing. They met years ago when Mr. Roosevelt was Assistant Secretary of the Navy, and they met again as Governors, at which both of them served 4 years; Mr. Roosevelt in New York, 1929 to 1933, and Mr. BYRD in Virginia, 1926 to 1930. Both are apple growers and interested in the farm problem from a direct personal association with the soil. The soil gives both independence and reflection.

THE MECHANICS OF INVESTIGATION

Mr. BYRD was asked about the chronological order in which the three distinct Federal groups studying the possibilities of governmental contraction got under way. He did not think that it would be necessary to "coordinate the coordinators", as each would reveal itself in its use and purposes.

Senator BYRD said that the history was written in the documentation of authorizations, as follows:

"Senate Resolution 217, Seventy-fourth Congress, second session

"Resolution creating a special committee to investigate executive agencies of the Government with a view to coordination

"By Mr. BYRD; January 9, 1936, referred to the Committee on Rules; January 16 (calendar day, February 11), 1936, reported with amendments and referred to the Committee to Audit and Control the Contingent Expenses of the Senate; February 24, 1936, reported with additional amendments, considered, amended, and agreed to."

"RESOLUTION

"*Resolved*, That there is hereby established a Senate committee to be composed of five Senators, of whom three shall be from the majority political party and two shall be from the minority political party, to be appointed by the President of the Senate. The committee is authorized and directed to make a full and complete study of all the activities of the departments, bureaus, boards, commissions, independent agencies, and all other agencies of the executive branch of the Government, with a view to determining whether the activities of any such agency conflict with or overlap the activities of any other agency and whether, in the interest of simplification, efficiency, and economy, any of such agencies should be coordinated with other agencies or abolished, or the personnel thereof reduced. The committee shall report to the Senate at the beginning of the Seventy-fifth Congress, and from time to time thereafter, the results of its investigation, together with its recommendations, if any, for necessary legislation.

"For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate in the Seventy-fourth and succeeding Congresses, to employ such experts and clerical, stenographic, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per 100 words. The expenses of the committee, which shall not exceed $20,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee."

Members: Chairman, Mr. BYRD; JOSEPH T. ROBINSON, Senator from Arkansas; JOSEPH C. O'MAHONEY, Senator from Wyoming; CHARLES L. MCNARY, Senator from Oregon; and JOHN G. TOWNSEND, Jr., Senator from Delaware. The first three are Democrats and the last two are Republicans.

Experts: Louis Brownlow, journalist and public administrator; Luther Halsey Gulick, Government researcher and university professor; Harold Willis Dodds, president of Princeton University; John D. Clark, economist and lawyer, professor at the University of Nebraska; and William Tudor Gardiner, ex-Governor of Maine.

THE WHITE HOUSE,
Washington, March 20, 1936.

The honorable the VICE PRESIDENT OF THE UNITED STATES.

MY DEAR MR. VICE PRESIDENT: Last October I began holding some conversations with interested and informed persons concerning what appealed to me as the necessity of making a careful study of the organization of the executive branch of the Government.

Many new agencies have been created during the emergency, some of which will, with the recovery, be dropped or greatly curtailed, while others, in order to meet the newly realized needs of the Nation, will have to be fitted into the permanent organization of the executive branch. One object of such a study would be to determine the best way to fit the newly created agencies or such parts of them as may become more or less permanent into the regular organization. To do this adequately and to assure the proper administrative machinery for the sound management of the executive branch it is, in my opinion, necessary also to study as carefully as may be the existing regular organization. Conversations on this line were carried on by me during November and December, and I then determined to appoint a committee which would assist me in making such a study, with the primary purpose of considering the problem of administrative management. It is my intention shortly to name such a committee, with instructions to make its report to me in time so that the recommendations which may be based on the report may be submitted to the Seventy-fifth Congress.

The Senate already has established a special committee to consider certain aspects of this same problem, and I write to you to ask that the Senate, through its special committee, cooperate with me and with the committee which I shall name in making this study, in order that duplication of effort in the task of research may be avoided, and to the end that it may be as fruitful as possible.

Sincerely yours,

FRANKLIN D. ROOSEVELT.

In a letter from President Roosevelt, bearing the same date as the foregoing, the Speaker of the House of Representatives was given the same information, with this added request: "The Senate has named a special committee to consider aspects of this general problem, and I respectfully suggest that the House of Representatives also create a special committee of a similar character through which the House of Representatives could cooperate with me and with the committee that I shall name in making this study."

The President's committee, which was later appointed, includes Mr. Brownlow and Mr. Gulick, the Senate committee's experts, and Prof. Charles E. Merriam, of the University of Chicago.

On March 23, 1936, Representative BANKHEAD, of Alabama, proposed consideration of a resolution creating a committee with such a purpose, which was duly adopted.

The members of the House committee named were: Chairman, JAMES P. BUCHANAN, Representative from Texas; JOHN J. COCHRAN, Representative from Missouri; PRENTISS M. BROWN, Representative from Michigan, who has since been elected to the Senate; Frederick R. Lehlbach, Representative from New Jersey; and JAMES W. WADSWORTH, Jr., Representative from New York. The first three are Democrats and the last two Republicans.

KNOWLEDGE IS POWER

Concerning the employment of the Brookings Institution to make a "functional survey of government" to serve as the base of the Senate committee's report to Congress, supplemented by other agencies, Senator BYRD said: "The advice of staff experts and the information of all three committees are mutually available."

In conclusion, Senator BYRD said: "Ferrero tells us that Augustus Caesar was the real originator of government research. 'There is power in knowledge', he said, and he set up in his own palace a bureau of intelligent slaves and freedmen to study the financial status of his government, keep him advised of departmental conditions, and recommend improved methods. Louis XVI's famous Minister of Finance, Necker, described, as an institution which did not exist but which was badly needed, precisely the sort of library which a half dozen or more organizations that specialize in Government surveys now maintain. Government research in the United States was part of the same movement that gave industry scientific management and research. It strives to cause governments to live within their income, save money for taxpayers, and plan for future progress."

Statement on Election Night by Hon. James A. Farley

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, January 14, 1937

STATEMENT BY HON. JAMES A. FARLEY, CHAIRMAN OF THE DEMOCRATIC NATIONAL COMMITTEE, ON NOVEMBER 3, 1936

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD the statement issued by Hon. James A. Farley, chairman of the Democratic National Committee, on the night of November 3, 1936, when the result of the election had become known.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Tonight's victory is not a partisan triumph. Though the election was won under the Democratic banner, the size of the majorities, both the popular and the electoral college majority, makes it very plain that it was principle and not party that was sustained in today's voting.

After today I do not think that anybody will doubt the spirit of liberalism that actuated our citizens. The result is no surprise. It was unthinkable that a President whose wisdom and whose policies, whose courage and steadfastness of purpose had lifted the Nation out of the depths of the depression and started it to a prosperity that was the envy of all the world should not have been sustained and applauded by the people whose economic salvation was effected through his captaincy of the forces of government.

We may now look forward to 4 years of uninterrupted effort to accomplish the completion of economic recovery, of industrial welfare, and of the permanent establishment of real liberty in the United States.

I have an idea that the people who so viciously assailed the President during the campaign, who called him a Communist, a would-be dictator, an enemy of business, are now rather ashamed of the bitterness they brought into the campaign. For myself, I hope these attacks will be forgotten. I am sure that the President entertains no bitterness even to those who in the fury of political struggle so grossly assailed him. He realizes, I feel justified in stating, that he is more than ever the President of all the people for all the people contributed to the splendid endorsement he has received.

No American need have any fear of the future. Franklin D. Roosevelt's mission is to see that all of us have a square deal. No individual and no corporation that is on the level with the people has any cause to dread Mr. Roosevelt's second term. Anything to the contrary that was voiced in the fury of the campaign with the idea of frightening the people away from their President was absurd when it was spoken or written and is more absurd today. I know that all who hear these words will join me in the hope that the scars of this great political battle will soon be healed. Nobody on our side of the fence has any thought of reprisal or oppression.

With the united people working with him, the President of the United States will complete the job of making this a happier, richer, freer country than it was before.

Naturally, the result of the election is a source of deep satisfaction, but I think all of us realize that it was less a triumph for Roosevelt and Garner than it was for the people of our country. It is to their clearness of vision, their perception of the rights and wrongs that were the issues, that America is now set on a course that will not only clear up the depression distress but will make such miseries impossible in the future.

Louisiana Farm Problems

EXTENSION OF REMARKS

OF

HON. ALLEN J. ELLENDER

OF LOUISIANA

IN THE SENATE OF THE UNITED STATES

Thursday, January 14, 1937

ADDRESS BY HON. JOHN H. OVERTON, OF LOUISIANA, ON DECEMBER 17, 1936

Mr. ELLENDER. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by the senior Senator from Louisiana [Mr. OVERTON] at a State-wide farmers' meeting held in Alexandria, La., December 17, 1936, in which he discussed Louisiana farm problems.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In attending this meeting of farmers and their representatives throughout Louisiana, I have come more for the purpose of learning than of instructing. I entertain the view that the farmers collectively understand their problems and can propose measures and policies for the solution of these problems better than can any Congressman or United States Senator or, perhaps, any Secretary of Agriculture.

I wish to begin by congratulating you upon the fact that during the last 4 years we have had an administration that has done more for the farmers as a whole than any administration in the history of our Nation. Under the guidance and direction of President Franklin D. Roosevelt, the Congress of the United States and the Department of Agriculture have undertaken real, substantial relief for our agricultural interests. We have now had practically 4 years of actual experience in the administration and effect of various laws that have been enacted and policies that have been adopted to help the farmers. Benefiting by that experience, the Roosevelt administration, during the next 4 years, should be in a position more effectively and more permanently to solve our agricultural problems.

As far as I am concerned, I shall be very happy, as United States Senator, to undertake, as far as practicable, to have translated into legislation such measures as you deem to be to your best interests. I shall undertake to carry out, insofar as I am able to do so, the policies that you suggest with reference to cotton, rice, sugar, and all other agricultural products.

I think that every effort should be made to continue in effect crop production, or what is generally known as seed loans. There is an increased difficulty from year to year in having this measure enacted into law. And yet I find that it is one of the most popular forms of agricultural relief. Through seed loans the Federal Government renders direct financial aid to the small farmer, who today is unable to obtain such aid from any other source. It enables the small farmer to stick to his farm and to make his crop when, otherwise, he might be thrown as a relief charge upon the Government. It is with pleasure and pride that we here in Louisiana can point to the fact that the farmers of this State have almost a perfect record in the repayment of seed loans.

We have, through Federal cooperation, become a tick-free State; and, through Federal cooperation, we are now undertaking, as far as present allotments will permit, to give to portions of our unserved rural areas the benefit of electric current and energy. At my urgent request the Rural Electrification Administration sent Mr. Falkenwald into Louisiana and he has prepared and is about

to send to Washington favorable reports on rural electrification in various parts of the State. It is my purpose to request the Rural Electrification Administration to return Mr. Falkenwald to Louisiana in order that he may work with and assist the farmers and rural residents in the formation of cooperative associations to carry into effect the various projects of rural electrification. This work is in its infancy, but we may, with reasonable assurance, look forward to the time when a very large proportion of the farmers and rural residents of Louisiana will be in a position to receive the untold benefits of electric current, energy, and power.

We in Louisiana have a serious problem affecting our rice industry. Louisiana is the greatest rice-producing State in the Union. The problem that confronts us is not legislative but administrative in character. Rice is an export crop. We shall have, this year, some two million bags over and above the current market demands. Every effort should be made to obtain increased markets for rice in foreign countries and especially in Cuba. We have signally favored Cuba. She is the foster child of the United States. We won her independence for her and have protected her sovereignty. We buy from Cuba practically twice as much as Cuba buys from us. We have reduced the tariff on sugar importations from 2 cents a pound to nine-tenths of a cent a pound. Certainly there should be some response on the part of Cuba with respect to an industry so vital to the American farmer as the rice industry. A reciprocal-trade agreement should be entered into between the United States and Cuba that will, in effect, guarantee a fair market for American rice in Cuba, or Cuba should adopt a tariff policy that will provide a differential in favor of American rice that will insure a substantial purchase and consumption of American rice. As it is today, under existing policies, the Cuban market is practically closed to American rice.

But, my friends, the most important and pressing legislation affecting a crop in which Louisiana is peculiarly and vitally interested is the legislation that will be enacted at the next session of Congress dealing with the sugar problem. The Jones-Costigan Act expires December 31 of next year. Congress will be called upon to consider anew our national policy affecting sugar production in the continental United States.

For over 150 years sugarcane has been cultivated in the State of Louisiana. The lands that are devoted to its production cannot, for the most part, be planted advantageously to any other crop. When President Wilson was at one time considering placing sugar on the free list, he sent experts from the Department of Agriculture to show the people in the sugar bowl of Louisiana how their lands could be successfully planted to other crops. After several months of investigation, these experts reported that most of the lands could not be planted profitably to any other crop.

We must do all that we can in our power to protect this vital agricultural industry of Louisiana and to place it, legislatively, as far as practicable, upon a permanent profit-producing basis. The annual yield of our sugar farms and plantations in Louisiana, including sugar, sirup, molasses, and other byproducts, is approximately $30,000,000. It is an industry which reclaimed practically all of south Louisiana from the wilderness, built its schools and courthouses, organized its banks, dotted its area with thriving towns and cities, and is the rock upon which its splendid civilization rests. It is an industry worth fighting for to the last ditch by Louisiana's Senators and Representatives in the Halls of our National Congress.

The quota method inaugurated under the Roosevelt administration has proved itself to be the most satisfactory method of dealing with our continental sugar problem. I advocate the continuance of the quota system with this modification: I believe in a restrictive quota being imposed on the importation and induction of sugar into the continental United States from and out of all offshore producing areas and in the unrestricted production of sugar in the continental domain of the United States. In view of the rapid expansion of sugar production in offshore areas, and particularly in our insular possessions and Territories, a restriction on importation and induction of sugar from these areas is absolutely essential to protect the domestic sugar market against the glutting of that market by the dumping of sugar from these areas into the United States at ruinous prices. The domestic farmer is entitled to protection against the cheap labor and production of tropical offshore areas.

Why should any restriction be placed upon the continental production of sugar?

The basis of the quota system is the domestic consumption of sugar in the United States. It is the continental market that, under the quota system, is to be supplied from continental production and offshore areas. The American farmer is entitled to a preferential right to the American market. "The American market for the American farmer" is a sound economic policy. When, therefore, under the quota system, we undertake to supply only the continental sugar market and base quota allotments solely upon continental consumption requirements, there is neither reason nor justice in placing a restriction upon the production of the continental growers of sugar.

Furthermore, the Federal Government, through legislation and the Department of Agriculture, is pursuing the policy of curtailing production in our export crops. Sugar is an import crop. We produce continentally today only a slight percentage over and above one-fourth of our continental consumption requirements. When, therefore, our farm lands are being divorced in part from the production of such export crops as cotton and wheat, there is no reason why such lands as are suitable for the purpose should not be planted to sugar beets or to sugarcane, under, of course, proper safeguards and regulations of soil conservation.

It has been argued that a restrictive quota should be applied to the continental production of sugar in order that, with correspondingly increased importations from offshore areas, and particularly from Cuba, better foreign markets may be created for American producers. But it is my belief that the best market for American products is to be found in the American farmer. It is here that he buys his farm implements, radios, trucks, clothes, automobiles, and all the necessities of life, and he pays his taxes for the support of our local, State, and Federal Governments. I am opposed to the sacrifice of the American farmer upon the altar of foreign trade and commerce.

If we shall fail in the enactment of legislation that will permit the unrestricted production of sugar in the continental United States, I shall then advocate, as an alternative, one single general quota for production in the United States; and a quota sufficient to take care, as far as possible, of present and potential production. There is no difference chemically or in food value or in taste or appearance or otherwise between beet sugar and cane sugar. There is no reason why there should be a separate quota for cane production and a separate quota for beet production. All continental producers should stand upon the same basis and, in that event, they would have a common cause and a common interest. If we have a common quota, each area will be able rightfully to take advantage of a deficiency in production in any other continental area. We are, under the present quota system, faced with this anomaly; that, while a deficiency in production in a beet-producing State or States inures to the benefit of other beet-producing States, yet a deficiency in the entire continental beet production inures to the benefit not merely of continental cane producers but of all sugar-producing areas, domestic and foreign.

If the policy of a single continental quota is not adopted, I shall strenuously advocate an increase in the quota for Louisiana. In the base period of 1909–14 production of sugar in Louisiana averaged 335,000 tons. Its production in 1935 was 333,000 tons. In the current year of 1936 it bids fair to exceed 350,000 tons. And yet, under the present law, we are given the ridiculous quota of 220,200 tons. It is upon this inadequate quota that benefit payments, under the Agricultural Adjustment Act, were made and upon which benefit payments are being made under the Soil Conservation Act. It is by reason of this absurdly low quota that the sugar farmers of Louisiana have been so severely penalized. Louisiana is the only sugar-producing area that has been penalized. And its farmers have suffered severe penalties not by reason of violations of their contractual obligations to the Department of Agriculture, but because better varieties of cane and favorable weather conditions increased their production. We have, therefore, another anomaly confronting us under the quota system. We have one agency of the Department of Agriculture properly encouraging, in cooperation with local agencies, an increased production of sugarcane through the introduction of new varieties of cane, while another branch of the Department of Agriculture is improperly imposing a wholly inadequate quota and penalizing us because its own new varieties are causing us to exceed our quota.

The views that I have expressed to you today are subject to modification as the views or interests of constituents or sound policy may hereafter dictate. I am only one of 96 Senators and only one of 531 Members of the National Congress. But, within the limitations of my capacity, I shall continue to do what I can to further the interests of Louisiana and of Louisiana's farmers. And permit me, in conclusion, to say that, as I majored last year in the very important legislation of flood control, I shall undertake this coming session to devote my activities largely to the formulation of legislation with respect to our sugar industry, for the reason that the whole question will be thrown anew into the lap of Congres during 1937 and it is, therefore, perhaps in a more perilous situation than any other of our agricultural products, and because it is a problem of so vital and special concern to the State of Louisiana.

Exemption From Tax of Admission Tickets Sold by the Committee on Inaugural Ceremonies

EXTENSION OF REMARKS

OF

HON. EDWARD H. REES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 14, 1937

Mr. REES of Kansas. Mr. Speaker I ask unanimous consent of the House to extend my own remarks in the RECORD, being with reference to House Joint Resolution 106, introduced by the gentleman from North Carolina.

House Joint Resolution 106 seeks to exempt from the tax on admissions amounts paid for admission tickets sold by the Committee on Inaugural Ceremonies, to be held in Washington, January 20, 1937.

Under the Revenue Act of Congress of 1926, as amended, it is provided, among other things, that any admissions,

or all proceeds, which inure exclusively to the benefit of religious, educational, or charitable institutions shall be excluded from taxation.

It occurs to me that the Seventy-fifth Congress at the beginning of this session is establishing a rather peculiar precedent by asking that tickets providing for admission to the inaugural ceremonies should be especially exempted from the payment of taxes. This in view of the fact that a great number of the tickets, as I understand it, will be bought by Members of this Congress and by constituents who are coming here to attend the ceremonies at prices ranging from $3 to $5 each.

I do not know the amount which will be expended for these tickets, but I am informed that the committee expects to sell from seventy-five to a hundred thousand dollars in tickets for the ceremonies.

If the proceeds from the sale of these tickets are to be used for charitable or educational purposes, then they are exempt under the present law. If the proceeds are not going to be used for charitable or educational institutions, as provided by law, then anyone who buys these tickets should pay the tax, as is now provided by law, in just the same manner as other individuals are required to pay taxes on tickets that are used for functions and entertainments of various kinds.

In this session of Congress there is going to be a great deal of discussion and debate with reference to the payment of taxes to pay the obligations of the Federal Government that have been incurred and will be incurred by this Congress.

It seems to me that it is unfair to the people of this country that because Congress is in a position to do it that it should ask for a special act to exempt these tickets from the payment of taxes. Anyone who can afford to buy tickets to attend these ceremonies can certainly afford to pay his fair share of the taxes. Any man who can afford to pay as much as $5 for one of these tickets can certainly pay the extra 50-cent tax.

We should be consistent as well as fair in our position on these matters. I believe we are unfair when we ask that a certain group of persons be exempt from the payment of taxes while, on the other hand, we are asking people to pay taxes on admission to other functions or entertainments where the law imposes such tax.

If the proceeds from the sale of these tickets are to be used for charitable or educational purposes, they are exempt under the present law. If the proceeds are not to be used for such purposes, then they ought to be taxed.

I hope that the resolution will be rejected by this House.

Committee Assignments and Relief Measures

EXTENSION OF REMARKS

OF

HON. USHER L. BURDICK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 14, 1937

Mr. BURDICK. Mr. Speaker, having been granted permission to extend my remarks made yesterday on the floor of the House in respect to committee assignments, permit me to say further that under the rules of this House it seems impossible for any independent group to receive recognition as a group. The reason is that only two parties are recognized. For 77 years those two parties have been and now are the Democratic and Republican Parties. While the Republican Party, during the last election, carried only two States in the Union for President and could muster only eight electoral votes, yet because of this age-old custom the Republicans as a matter of right, under the rules of the House, are entitled to dictate their committee assignments. They are recognized as the minority party. No other party, such as the Progressives of Wisconsin or the Farmer-Labor Party of Minnesota, has this right.

The Nonpartisan League Members of Congress from North Dakota, including both Senators and both Congressmen, are still classified as Republicans, although our views do not square with the orthodox Republicans. Our views agree, in the main, with the views of the Progressives of Wisconsin, yet we remain identified with the Republican Party. If we, from North Dakota, expect any committee assignments, therefore, we must receive whatever assignments the orthodox Republicans will grant us. It would be comparatively easy to secure Republican recognition, but the National Republican Party, as represented in Congress does not represent the views of those progressive Republicans of the West. To get recognition we would have to stand in reverential awe of the high moguls of a party that does not have the confidence of the American people. We would have to vote for the candidates for House officers whom they select. That I refused to do; that I will never do unless the reactionary control of the Republican Party is overthrown. It seems to me, if we are to profit by the experience of the past, that the Republican Party must liberalize itself if it is to live. Four years ago the conservative element controlled the Republican national convention. When its deliberations and its candidate went before the voters of the country, only 7 of the 48 States were carried in the election. Last year the same elements controlled the Republican national convention and its deliberations, and its candidate went before the voters of the country and only two States were carried.

In this present Congress the same elements are in control of the Republican organization, and they evidently intend to stagger on with their conservative views, shutting their eyes to the demands of the American people for a liberal Republican Party. I do not know when the conservatives will come to the end of their reign, probably never in the party, but, in my judgment, the end of the party's history is in sight, if it is not already here. No individual whose name has been connected with the reactionary past can lead this party to victory in the midst of a liberal voting population. If these leaders have their party's welfare at heart, they will voluntarily give up the leadership and permit the liberal element in the party to formulate its future course.

As a progressive Republican I will not submit to this leadership if I never see the inside of a committee room. The party lash holds no fears for me; they can strike my name from committee assignments or refuse to give me a chance to serve where my ability best prepares me to serve, or they can do anything else; I still will not subscribe to leaving the Republican Party one single day longer in the control of men who the people know are reactionaries.

There are certain things that a party cannot do. They cannot stifle the voice of a Member if he has the courage to fight for the right. I can find a way to get in on the floor of the House; I can find a way to speak when my party refuses to grant me time. It means a fight to have to do this, but a fight it will be. I did not bring it on, and in the words of Shakespeare I say:

> Lay on, Macduff;
> And damn'd be him that first cries, "Hold, enough!"

There is something tremendously more important to suffering people in the drought area than a fight over committee assignments. For 7 years in a great area of this Nation, covering 10 States, the precipitation has been too scant to raise a normal crop. Nothing like it ever happened within our day. Probably in the next half century nothing like it will happen again. It is a national calamity. The millions of people living in this area cannot leave; they are living on the best land to be found anywhere. They have no place to go. It should be the duty of a great Nation, the strongest on earth, to assist these people in their hour of need. For a half century or more in the West these farmers have contributed to the comfort, happiness, and development of every section of the Nation. They have fed the Nation, and their returns have never been commensurate with the measure of their toil. Shall we help them now, or shall we permit the great food factories all over the Nation to dry up and disappear? Shall we permit another Goldsmith to write

another version of the Deserted Village upon the richest agriculture plains of the United States?

These farmers need help, and they need it now. The Resettlement Administration is extending what help it can, but it has not sufficient funds to extend the aid that is absolutely necessary. All funds at the disposal of this agency will have been expended in another 2 weeks.

Farmers are being given grants of $17 per month, and no more. Think of it in the Northern States, where fuel alone will consume more than half of this amount. What do you expect the farmer to feed his family on, with an average of five in a family? Can five people be fed and clothed on $8.50 a month? I would like to see some Congressman try it. It costs me less to live than any Congressman in Washington, but I cannot do it on $8.50 per month. If someone bought my clothes and kept me in clean shirts I could not do it. Our human relief policy now in operation is a condemnation of our vision as statesmen.

Soon our farmers will need seed; they do not need seed when it is too late. We have always been too late. They need seed when the season for planting arrives. In the past the farmer has been engaged at seeding time in an endless procession of trips here and there to get some mortgage holder to release or sign this and that. When the seed did finally arrive it was too late. Will we repeat the performance again?

The farmers need feed for the livestock. They cannot get it because there are too many restrictions placed around their getting it. Under the rules and regulations he must get releases, waivers, and what not, and many of them cannot get the mortgagees to release. Even the multitude of Government finance institutions that have served him in the past now beset his way to relief. He must secure releases from the Regional Agriculture Administration, from the Emergency Seed and Feed Administration, and before he gets what he is told to get his livestock dies.

It seems to me the expenditures of the Government in relieving the many millions living in the 10 drought States ought not to be charged up against the administration. The administration is not responsible for the climatic conditions of the country, and because the President insisted that relief be granted, this expenditure should not be charged against the administration. Instead of trying to criticize the President for extravagance in expenditures we should make more money available for relief purposes. No nation can commit a wrong by feeding the people in the nation who are powerless to help themselves because of conditions that no man can prevent. Every citizen has a right to live; I hope we have not come to a place in our travels of a nation when we will dispute this. The least worry of any citizen in this Republic who is willing to work, if he can work, ought to be about getting something to eat. Yet I fear there are a great many millions in this country who, because of pride, backwardness, or poor administration, are going without enough to eat.

There has been widespread dissatisfaction with the administration of relief. The administration of it has been in many places unfair, inadequate, and unjust. I have severely criticized the administration of relief. The President said in his message that the administration needed correction, adjustment, and revision. It surely was courageous of him to admit that his department of government was not beyond criticism.

He has admitted his mistakes. Will we admit ours? Will we try to correct at this session of Congress the mistakes of the past? If we are as honest as the President, we will go at this relief problem and do the job and do it on time. Any other course is a responsibility which can rest nowhere else than upon this Congress. For our inactivity or procrastination we cannot blame the President or the Supreme Court. If we do not approve of the rules and regulations of the Relief Administration, let us ourselves write those rules and regulations, and not try to get rid of a hard job by handing it over to someone else. I have just introduced in this Congress a series of acts which will bring relief and do substantial justice in the right area. I know I cannot pass all of these bills—perhaps none of them. I have some sense of humor left. I do not pose as a Moses in the House. I have presented these measures for the purpose of submitting to the majority those measures which may tend to add some light to the enactment of necessary legislation. I have written in these acts those ideas which the people in the drought areas are thinking about, and this Congress may rely upon the people themselves to offer ideas of legislation which the emergency demands, and do it independently of any political purpose.

I trust that we shall act upon these necessary measures and complete our work by February 1. If we do, we will bring hope and timely help to millions in this country who have bravely suffered in silence.

National System of Charters and Licenses for Corporations

EXTENSION OF REMARKS

OF

HON. JOSEPH C. O'MAHONEY

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Friday, January 15, 1937

RADIO ADDRESS BY HON. JOSEPH C. O'MAHONEY, OF WYOMING, ON JANUARY 13, 1937, AND STATEMENT BY THE TWENTIETH CENTURY FUND

Mr. O'MAHONEY. Mr. President, on Monday last, through the courtesy of the National Broadcasting Co., I was given the opportunity on a national radio hook-up to discuss the bill which I have introduced in the Senate to provide a national system of licenses and charters for corporations engaged in commerce among the States.

I ask unanimous consent that the radio address be printed in the RECORD, and that at the conclusion thereof there may appear a statement issued on Monday last by the Twentieth Century Fund with respect to the concentration of employment in the hands of large corporations.

There being no objection, the address and statement were ordered to be printed in the RECORD, as follows:

NATIONAL CHARTERS THE BASIS OF RECOVERY

The bill I have introduced in the United States Senate to provide a national system of licenses and charters for corporations engaged in commerce among the States goes to the heart of the new issue now rapidly developing in American politics—whether there shall be more or less government in the ordinary economic affairs of the people.

POLITICAL AND ECONOMIC CONCENTRATION

The American theory of government from the earliest times has been, in the words of Thomas Jefferson, "that government is best which governs least." But for 50 years the Government has been steadily expanding.

On June 30, 1936, exclusive of those enlisted in the Army and Navy, there were 824,000 Federal employees. More than 300,000 of these were outside of the classified civil service. The number of employees who had regularly taken examinations and had been appointed under the civil-service laws on that date was 498,000. On June 30, 1900, there were only 94,893.

This growth has been due to the fact that there is no public agency in the country except the Federal Government great enough to match the power of the huge corporations which now dominate our economic life. For a full generation, as these corporations have grown, spreading across State lines, overawing State legislatures, we have instinctively turned to Washington for the protection of the public interest.

The reason will be readily understood when I call attention to the fact that on June 1, 1930, according to the figures compiled by A. A. Berle, Jr., and Gardiner C. Means in their invaluable work, The Modern Corporation and Private Property (published in 1934 by the Macmillan Co.), 200 of the largest nonbanking corporations had combined assets amounting to $81,000,000,000, or approximately half of all the corporate wealth in the United States.

More important than this concentration of economic power in the hands of a few corporations was the corresponding fact that the control of this wealth was steadily falling into fewer and fewer hands within the corporations.

The number of stockholders has been tremendously increased. Even 25 years ago the stockholder who owned less than 100 shares in any corporation was almost nonexistent. Today there are

literally tens of thousands of small stockholders owning from one to a hundred shares. They contribute the largest proportion of the capital of these entities, but nothing to the control.

OWNERSHIP WITHOUT RESPONSIBILITY

In other words, the commercial and economic life of our people, managed when the Constitution was drafted, by natural persons who exercised direct control of their property, is now managed by corporations, the stockholders of which exercise no control over it. We have reached, so far as national commerce and industry go, the status of ownership without control and without responsibility. It must be obvious that such a situation cannot continue.

Stockholders in these great organizations meekly sign their proxies in blank every year conveying to the managers unlimited power to do what they please with the money and assets of the corporation. The story of the last few years has revealed how many of these managers—not all I am very glad to say, but too many—use their powers to enrich themselves by the payment of huge bonuses, by entering into contracts with subsidiary corporations which they own, and by innumerable corporate devices, violating every rule of financial integrity. All of this has contributed directly to the unemployment problem which is still on our doorstep.

I do not propose to take a single hostile act against any corporation, but I do say that no person who has studied this development, side by side, of a centralized government and a centralized economic system can fail to realize that unless we establish a sound, equitable national rule for the self-government of industry, there is no alternative but the continued growth of the bureaucracy at Washington.

When the Constitution was adopted business was essentially local in its scope. The farmer produced for the merchant in town and the merchant in town sold to the farmer the industrial products of the town. The commercial relations among the States were carried on by individual traders. The corporation as an instrumentality of commerce was practically unknown. Indeed, in those days Adam Smith, who by many is regarded as the founder of the science of economics, actually predicted that the joint-stock company would never come into general use, because, as he puts it, man could not be expected to manage other people's money with the same interest, concern, and efficiency they managed their own. What Adam Smith overlooked was that brilliant, ambitious men would rapidly learn how, through the corporate device, to use other people's money for their own benefit and raise themselves to positions of economic mastery compared with which the power of the political princes of the Middle Ages was almost as nothing.

The framers of the Constitution recognized that the new Nation should have control of national commerce, and accordingly it was provided that Congress should have the power to regulate commerce with foreign nations and among the States.

Because the genius of our people has always been to give the individual citizen the largest possible freedom, this power was exercised only when absolutely necessary. Meanwhile, the corporations created by the States began to expand.

It is essential to remember here that a corporation has no rights; it has only privileges. A corporation exists only by virtue of a grant from some government. Heretofore these grants have been made by the State governments, and the principal cause for all of the conditions which brought about the depression was the fact that these corporations, which control so large a proportion of the national wealth, are the creatures of State governments which are without jurisdiction to regulate commerce among the States.

A few States, in order to invite the revenue which is derived from corporation fees, have made it possible for ambitious men to create interstate corporations under charters which give them unrestrained power to do as they please with the money of their stockholders and to exploit all classes of the people—labor, investor, and consumer.

Let me give you an example. In the ordinary transactions of life if a man trusts you with his money, you would not willingly use that money to the disadvantage of the person who placed it in your hands. Yet some States permit companies to be formed under a charter which actually relieves the officers and directors from all legal responsibility to their stockholders for the exercise of the power vested in them. Officers and directors may actually vote themselves contracts by which they gain unconscionable profits at the expense of their stockholders.

This system was one of the principal causes of the tremendous losses in stocks and bonds occasioned by the collapse of 1929. Unless we take steps to correct that situation now, it takes no prophet, but only a man of common sense, to predict that in another 10 years we shall have a collapse far greater than that through which we are now coming.

I have said that there is no public agency in the country capable of dealing with this situation except the Federal Government. That has been demonstrated by experience. When the depression came the cities were unable to cure it. The States were unable to cure it. Even big business was unable to cure it, and the people finally had to turn to the Federal establishment. Only by the action of the Federal Government under the wise leadership of President Roosevelt was this country saved from complete disaster.

A NATIONAL RULE NEEDED

We all know that. What I desire to emphasize here is that industry was just as powerless as the States. President Hoover wanted to stop the depression, and he called the leaders of industry to Washington and asked them if they would not please do something about it. Nothing was done, because, although the problem was national, economic power was in the hands of State corporations and the Federal Government was without statutory authority to establish a uniform rule and devise a national cure. So we had to use the taxing power and the power to borrow money.

We were without statutory authority, but we were not without constitutional authority, because the Constitution gives to the Federal Government the power and, as I assert, the duty to regulate commerce among the States in the public interest. Corporations engaged in this commerce are instrumentalities of that commerce, and because they are such instrumentalities they are subject to a constitutional exercise of Federal power.

No State since the establishment of this Government has been admitted to the Union until its constitution was approved by Congress. Yet we permit States which cannot set up their own government without consent of the Congress to create corporations which actually dominate, control, and regulate the entire commercial and industrial life of the country under charters which have never been submitted to any national authority for public approval. In other words, we allow the States from which the power to regulate interstate commerce has been withdrawn, to create the agencies which now control that entire field.

Therefore, I propose that instead of permitting this national commerce to continue to be controlled by corporations created by the States, we pass a Federal law which shall clearly define the corporate powers of all interstate corporations.

Let no one imagine that the proposal embodied in my bill is intended to clothe the Federal Government with any new power or give to any agency of Congress new authority to direct business. Because laws like the Interstate Commerce Act and the Federal Trade Commission Act and the Clayton Antitrust Act have given Federal boards discretionary power, most people when they hear of Federal licenses and charters jump to the conclusion that this means more interference by Government in private business. I cannot say too clearly that I am trying to get away from that sort of interference. I am trying to get back to fundamental principles. I am trying to restore to business the power to govern itself rather than to vest any new powers in the Federal Government.

A SIMPLE PROPOSAL

The principle upon which I act is simplicity itself. I would require every corporation engaged in commerce among the States to take out either a Federal charter or a Federal license. The charters are for corporations yet to be created. The licenses are for corporations already created. By a license I do not mean a permission to do business which can be granted or withdrawn according to the will of some Government official. Not at all. The word is used merely to indicate the authority granted by the people's Government to natural persons to engage in business among the States as a corporation but on terms and conditions which public conscience recognizes as necessary if we are to have justice for labor, investor, and consumer. Into those licenses and charters will be written the fundamental powers of the corporation, the powers which define what it can and cannot do.

Instead of giving more power to Government officials to distinguish between "good" and "bad" trusts, as the phrase had it 25 years ago, I propose to take away from corporations and from corporate managers the corporate power to do the things which all experience teaches us lie at the basis of our economic ills. Under a Federal charter or license such as I propose, no officer or director would have the power to deceive his stockholders, to enter into contracts against their interest and for his own benefit.

How important this is may be judged from the report issued by the Securities and Exchange Commission on Saturday, December 26, 1936. This Commission—another of the Government agencies, by the way, created for the purpose of combating the concentration of corporate control—has made a study of the holdings of officers, directors, and principal stockholders in the 1,736 corporations, the securities of which are listed on national exchanges. It was shown that on December 31, 1935, these corporations had outstanding 2,054,000,000 shares, of which 458,000,000 shares, or approximately 21 percent, were owned or controlled by 15,277 "insiders", to use the phrase employed by the Securities and Exchange Commission. In other words, 1,736 corporations, with outstanding shares amounting to more than two billion, were controlled by 15,000 persons, who owned only 21 percent of the stock. To put it in another way, 79 percent of the stock representing "other people's money" was the tail to the insiders' kite.

This is not democracy; it is not Americanism; and until the way has been found to establish a national rule for these corporations, we shall not have found a permanent cure for our economic ills.

Now, let me say that I recognize that most corporate managers are altogether honest and efficient and that they want to do the right thing. Indeed, most corporations fall into that category, for most of them are created by States which do not have the loose corporate laws which have caused most of our trouble. But even though three-fourths of the States have good corporation laws, as long as one State permits loose charters, then those few persons who desire to use the corporate device to exploit all the people may and will continue to do so.

If this continues, then, as certainly will continue the expansion of the Federal power. And if the Federal power continues to expand, then to a greater and greater degree the freedom of the individual will be controlled.

CENTRALIZED POWER NOT NECESSARY

I assert that it is not necessary to have either a centralized bureaucracy or centralized money power controlling the affairs of

the people of this Nation. All that we need to do is to provide a system of national charters for that national commerce upon which our economic life depends. The bill which I have introduced may or may not be sufficient for this purpose. I am perfectly well aware that it contains many imperfections, but I have no hesitation in saying that it points the way we must go if we are to preserve our American ideals of individual liberty.

A last word: After 7 years and the expenditure of billions of dollars by the Federal Government, creating the largest national debt in all history, we still have in the United States eight or nine million unemployed persons, of whom about 2,350,000 are employed on Federal work projects, with almost 500,000 employable persons on relief rolls ready and anxious to work, but for whom no work is provided either by the Government or by industry. In addition, it is estimated that there are at least 4,000,000 persons in the United States who have not written their names on relief rolls but who are without employment of any kind and without resources. The Government cannot continue to support these people on a miserable security wage. The way must be found to absorb them in commerce and industry, and this we cannot hope to secure until we establish a national rule for national commerce—a rule which shall banish child labor and which by some reasonable provision for minimum wages and maximum hours will increase the consuming power of the masses of the people, without which we cannot solve the unemployment problem.

CONCENTRATION OF EMPLOYMENT—STATEMENT OF TWENTIETH CENTURY FUND, INC., NEW YORK CITY

JANUARY 11, 1937.

Four cigarette manufacturers employ 91.4 percent of all the wage earners in that industry; by contrast, the six largest manufacturers of women's clothing employ only 3.7 percent of the workers in that field. These extremes, the Twentieth Century Fund points out, illustrate how greatly the importance of big business varies between different manufacturing industries when the largest companies are measured by the proportion of workers dependent upon them.

Following a 2-year comprehensive study of the place of the large corporation in the United States by a special research staff, the fund's first report to the public will be issued this month. It includes data compiled expressly for the survey by the Bureau of the Census regarding the concentration of employment in 84 manufacturing industries which employed 3,500,000 persons in 1933, and in most of which a considerable degree of concentration was believed to exist.

In each of 24 of these 84 industries more than 50 percent of all wage earners are employed by the 3 largest corporations; in 12 more the proportion ranges from 40 to 50 percent. At the other end of the scale there are 20 industries in which the proportion is 20 percent or less.

The industries in which the largest corporations employ more than 90 percent of the wage earners are a widely assorted lot. Besides cigarette manufacture, they are: Typewriter manufacture, with 94.8 percent of the workers employed by the four largest corporations; asphalted felt-base floor coverings, with 78.9 percent of workers employed by the three largest concerns and more than 92 percent by the six largest; copper refining and smelting, with 71.6 percent of workers employed by the three largest companies and 90.5 percent by the six biggest; corn-sirup manufacture, with 62 percent employed by the three largest and over 90 percent by the seven largest; sewing-machine manufacture, with more than 90 percent of the workers, and photographic-apparatus manufacture with 88.7 percent, employed by six or fewer concerns.

Between 80 and 90 percent of all wage earners in the respective fields are employed by the six largest concerns engaged in the manufacture of explosives, matches, firearms, watchcases, cash registers, rayon, beet sugar.

Important industries in which there is relatively little concentration of employment, with the six largest corporations using 20 percent or less of the total number of wage earners, include textiles dyeing and finishing, the canning of dried fruits and vegetables, the manufacture of confectionery, paper, stamped ware, silk and rayon goods, cotton goods, furniture, men's clothing, women's clothing, paper boxes, and planing-mill products.

The degree of concentration of employment in some of the great industries that fall into neither extreme is indicated by the following figures:

The three largest motor-vehicle manufacturers employ 63.9 percent of all workers in the industry. The figure for the three largest tire manufacturers is 62 percent; for cane-sugar refiners is 60.6 percent; and for tin-can manufacturers, 62.8 percent.

The four largest soap makers employ 60.6 percent of all wage earners in their industry. The proportion in the manufacture of agricultural implements is 64.6 percent.

The three largest distillers of alcohol and alcoholic liquors employ 47 percent of the total number of wage earners.

The three largest manufacturers of woolen carpets employ 52.3 percent of the industry's total of workmen.

The three largest steel manufacturers employ 45.3 percent of the total number of steel workers.

The three largest meat packers employ 44.1 percent of the industry's pay roll.

The four largest manufacturers of electrical machinery employ 43.1 percent of the industry's total number of workmen.

The three largest oil refiners, engine manufacturers, chemical manufacturers, and shipbuilders employ about one-third of the workmen in those fields.

The three largest shoe manufacturers and the three largest woolen-goods makers employ about one-fifth of the total enrollment in those industries.

The first section of the fund's study of big business asks and answers the question, How big is big business? Two succeeding sections will deal with profits and with salaries. The studies are purely factual. When all three sections of the survey have been published, the committee in charge will supplement it with conclusions and recommendations. This committee is headed by Ralph E. Flanders, president of the Jones & Lamson Machine Co. The other members are: A. A. Berle, chamberlain of the city of New York; William J. Donovan, former assistant to the United States Attorney General in charge of antitrust matters; Dexter M. Keezer, president of Reed College; Harry W. Laidler, director, League for Industrial Democracy; Laurence H. Sloan, vice president of Standard Statistics Co. The executive secretary of the committee is Evans Clark, the Fund's director.

In accordance with the Fund's customary procedure, the committee enjoys virtually complete autonomy under powers granted to it and with funds appropriated to it by the nine trustees, who are: A. A. Berle, Jr., Bruce Bliven, Henry S. Dennison, John H. Fahey, Edward A. Filene, Oswald W. Knauth, Morris E. Leeds, James G. McDonald, and Roscoe Pound.

Neutrality Policies

EXTENSION OF REMARKS

OF

HON. HOMER T. BONE

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Friday, January 15, 1937

RADIO ADDRESS BY HON. BENNETT CHAMP CLARK, OF MISSOURI, ON JANUARY 12, 1937

Mr. BONE. Mr. President, on January 12 the senior Senator from Missouri [Mr. CLARK] delivered over a Nation-wide radio hook-up a radio address on the subject of Neutrality. I ask unanimous consent that the address be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

No question can possibly be of greater concern to the American people as a whole than the question of the establishment of a permanent neutrality policy designed to keep us out of foreign wars with which we have no concern.

It is a fact, lamentable but definite, tragic in its implications, so certain that he who runs may read, that the post-war era has come to an end and that the world is once again wallowing in a pre-war era—that precarious condition where jealousies and hatreds between nations have been fanned to such a pitch, where international suspicion has been so acutely aroused, where excessive competition in armaments on every side has so set the hair trigger of calamity, that the bad temper of a dictator, the ineptness of a diplomat, the crime of a fanatic, may at any moment loose irremediable disaster upon the world.

I do not wish to be an alarmist, but it is not necessary to be one to recognize the threats of war in other portions of the world which make the danger of far-flung combat more imminent than it was at this season of the year 1914. Who of us that remember back to that tragic autumn will ever forget the shock with which we learned that hostilities on a major scale so long prepared for had actually begun? Who would assert that the skies are not now much more threatening than they were in January 1914?

I have not time in this brief period to assess the blame for past mistakes, or even to lament the sacrifice of some of the flower of our youth in the last war. The question tonight is not how we might have kept out of the last war but how we may keep out of the next; how we may keep your boys and my boys from being sacrificed in quarrels which do not concern us. We are confronted not by theory but by the hard practical question of just how we propose to avoid being dragged into another general war if one comes.

Let me say that I make no pretension to knowing of a policy which can provide an absolute and infallible guarantee against involvement in war. There is none, certainly none which can be written into law or enacted as legislation. The only way to surely prevent our involvement in another war is to prevent that war from breaking out. But if nations insist on preparing for armed conflict, and that conflict comes, then I insist that we must do everything in our power to stay out. And I believe that the United States can stay out of the next war if it wants to, and if it understands what is necessary to preserve neutrality and is willing to pay the price. The price will be high, its payment may be painful, but it will represent the greatest bargain in mere dollars and cents, as well as the greatest moral victory in the history of civilization if it actually keeps us out of war.

The sentiment of the American people today is overwhelming against our involvement in any foreign war. It was almost equally so in 1914. As late as 1916 a Presidential election was decided on the slogan "he kept us out of war", but 5 months later we were fighting to "make the world safe for democracy" in the "war to end war."

Woodrow Wilson strove ardently to keep this country from drifting into war. He failed because we had no definite policy of neutrality before the war began and one could not be improvised while the war was in progress. After the sailing of the first munition ship in 1914, our feet were firmly committed to the path which led to war, provided the war lasted long enough.

A real neutrality policy would involve the taking of the American flag off of munition ships. It would involve the removal of protection from our foolhardy citizens who endanger the peace of the Nation and their fellow citizens by deliberately traveling upon belligerent ships. It would mean the embargoing of the shipment of munitions and implements of war to all belligerents, the strict limitation of shipments of raw materials particularly suitable to the manufacture of munitions, and the export of other raw materials only at the risk of the buyer. It would involve the sacrifice of some transitory profits. But it would be far cheaper in the long run to sacrifice the tear-rusted, blood-stained profits of the munitions trade than to undergo the enormous sacrifice of blood and treasure which involvement in war would cost.

There has been much discussion as to whether the proposed neutrality should be "mandatory" or "permissive." Part of this discussion is undoubtedly due to a confusion of terms. No one questions that it is necessary to have some fact-finding authority to determine when a state of war exists of sufficient magnitude to justify the calling into effect of our whole neutrality legislation. No one can seriously doubt that this authority should be in the President. There is no place else to lodge such power. Now some people call this lodging discretion in the President and making the act permissive. I prefer to call it constituting the President as the fact-finding authority. Nomenclature is unimportant except as it may lead to confusion in issues.

But once the facts have been determined, the course of our neutrality should be mandatory. Our embargoes and our whole neutrality policy must apply to all belligerents alike. To be effective, its application must be automatic once a state of fact is declared.

To allow a permissive power which might conceivably lead the United States into such a sorry pass as the Hoare-Laval attempt at oil sanctions against Italy in the Italian-Ethiopian crisis would be contrary to our entire aims for neutrality. To authorize anyone—even the President—to select the aggressor nation and use discretionary power to punish the aggressor nation is to authorize the commission of an act of war which we must be prepared to back up as an act of war.

It is for the protection of the President and Congress that the neutrality policy of the United States should be made mandatory, automatic, ready to go into effect upon the finding of fact by the President. Remember that if it is discretionary, the pressure from commercial interests anxious to revel in lush war profits will be terrific and insupportable both upon the President and Congress. Even with a mandatory law in effect this pressure will be tremendous, but we would then be behind the bulwark of a law requiring repeal to alter its effect.

Remember that we are now talking not with reference to a particular President or a particular Congress but with reference to a permanent neutrality policy for the United States, to be settled upon before a crisis developed rather than in the hurly-burly of war, when it is too late.

Moreover, I believe that the declaration of a flat, mandatory, automatic policy of absolute neutrality is the greatest contribution we could possibly make to the peace of the world. If the nations of the world are made to realize that if they persist in the course of madness they cannot be either financed or supplied from our shores, it will be the greatest deterrent to war which we could possibly contrive. Let us make it plain that Uncle Sam does not intend again to play Uncle Santa Claus to the war lords of the world.

Let us not fool ourselves. After a war has been started all the public opinion in the world cannot change by one jot or tittle the manner in which the most desperate of the belligerents chooses to carry it on. The present disgraceful Spanish conflict proves this beyond peradventure. If one side uses gas or aerial bombing against the civilian population of the enemy, the other side will use the same weapons the next day. The munition makers of the world stand ready to produce them.

Our only hope of keeping out of war, of keeping away from using gas or aerial bombs, or from being on the receiving end is to lay plans for keeping out of war now, before the war has started.

Our hope and safeguard lies in the statesmanlike and humanitarian attitude of President Roosevelt. He is the foremost statesman in the world. He has set an example to the world in his expressed determination to keep us out of war, come what may. He is entitled to the united support of the American people in his efforts to bring about the establishment of a neutrality policy before a crisis develops.

The time for action is now. A little later may be too late. Let us put our own house in order. Let us announce to the world that we have determined upon a policy of real neutrality designed to prevent us from being entangled in the quarrels of other nations. Let us preserve to our children the rich heritage which we received from our fathers.

Address of Chairman Farley to His Fellow Workers

EXTENSION OF REMARKS

OF

HON. NATHAN L. BACHMAN

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Saturday, January 16, 1937

RADIO ADDRESS OF JAMES A. FARLEY, CHAIRMAN DEMOCRATIC NATIONAL COMMITTEE, ON NOVEMBER 10, 1936

Mr. BACHMAN. Mr. President, I ask unanimous consent to have printed in the RECORD the address of appreciation and thanks to his fellow workers in the late Presidential campaign delivered by Hon. James A. Farley, chairman of the Democratic National Committee. The address was broadcast over the radio from New York City on November 10, 1936.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

My fellow workers—and by this I do not mean only the devoted group who have labored with me in headquarters to help in accomplishing a great result; I wish to include more than 25,000,000 other men and women who stood fast against the arguments and blarney of those who sought to break down our faith in Democratic ideals; that vast multitude which neither influence nor pressure could move from their confidence in their President and the sincerity with which he has adhered to his purpose of doing his best for the general welfare.

We were all workers together in a common cause. I will never forget the splendid service this staff rendered. Neither hours nor pay mattered to them. We have seen them snatching a sandwich at their desks in lieu of a dinner, lest a precious moment might be lost. We have been here half the night—not infrequently all night—to do what seemed necessary to do; to meet whatever situation arose. In retrospect we might have been pursuing a desperate, forlorn hope instead of moving to what most of us felt and which proved to be a foregone conclusion. Nobody had to be urged or spurred to do his utmost; and I, as your chairman, thank you not only for your magnificent cooperation but for the service you rendered to the Nation. This goes as far as my voice can reach, because, except for the unity of purpose and the devotion which millions all through the country distributed to the effort, the magnificent result of November 3 could never have been reached. Sleepless nights and hasty meals were not confined to headquarters.

Now that belongs to the past; and a splendid past it was. We must now look to the future. What is involved for us in the days to come? I will try to tell you.

In the first place, we must realize that our task was not finished with the reelection of an administration, with an endorsement such as our country has not witnessed for more than a century. Every American may be proud of such an achievement, and everyone is entitled to a period of satisfaction and celebration of the great victory. But beyond that lies a time of renewed effort.

There must be no ceasing of vigilance and devotion. It will not be the hectic fervor of the campaign. Nevertheless, there can be no let-up if the United States is to reap the full fruits of what was planted a week ago. Then our goal was to tell Franklin D. Roosevelt that we believed in him, and wanted him to continue to captain the progress of America. Now our objective must be to see to it that there must be neither interruption nor hindrance to that progress. We, as individuals and as a party, have perhaps even a greater responsibility put upon us than was the case 4 years ago. Then a sick and distressed country departed from the regime that could not lift us out of our misery, and put our candidates in charge. Undoubtedly, many who voted with us then did so with no greater incentive than a desire to escape from a leadership in which they had lost faith. Then we had most of the press of the United States with us. We had the support, or, at least, the countenance of those vast aggregations of capital which were toppling before the forces of adversity, and welcomed any agency that offered even a hope of relief.

The battle just ended saw a different line-up. There was massed against us most of the great newspapers, affiliated with, or dependent on, or perhaps actual members of the enormously wealthy groups. Their business, no longer sick, thanks to the Roosevelt policies, sought a return to the old regime, under which that group—and not the Federal Government—directed the policies of national affairs. I say this without bitterness or any thought of crowing over their recent defeat. I am willing to credit the vast majority of our recent enemies with sincerity as great as our own. They were entitled to their theory of government—a very old theory that what aided them the most was the best policy; that they, and not the people, were the fittest judges of what was wisest for human good.

As for what was said and done in the heat of the campaign—let's forget it. It is not hard for men—particularly men who have been accustomed to power—to lose both their judgment and their tempers when they meet opposition. It is easy for them, in the fury and fervor of a campaign to assign with perfect sincerity to those they are fighting, the worst of motives, and to assume that those whom they deem the foes of their interests are destitute of every decent human quality; that they are blind, fanatical demons of destruction. But what of it?

I honestly believe that as time heals the aches of defeat and discloses that nobody is seeking to take away from them anything to which they are entitled, the vast majority of these folks will come into line and wonder what they became so excited about. As the years go by and business continues good they will come to understand that communism is not a threat in the United States; that they are not menaced with a dictatorship—that there is no danger of confiscation by taxation or otherwise.

It will dawn upon them that in the White House sits a man as deeply—perhaps much more deeply—concerned with the success of industry and commerce than they are themselves. He knows that a successful administration means a prosperous country, and he knows that a prosperous country implies that the prosperity must be general. It is a fine thing to be a multimillionaire, but if the making of one swollen fortune means the pauperization of a million people, the gain in national happiness is hardly commensurate with one individual's contentment.

Every now and then I read in the newspapers of a change of rules in the game of contract bridge. The penalties are altered and the value of tricks changed. As I understand it, the purpose of these modifications is to make it more certain that the skillful player shall have an opportunity to make the most of the hands he holds. Possibly there is a parallel to this in wider affairs. If the changes in the card game prove unworthy, some authorities get together and correct the faults, but the game goes on and, the rules being the same for everybody, nobody thinks the heavens are falling because a grand slam is worth more or less than it was.

So it is with government. People accustomed to the old rules under which they were fortunate may demur at the departures, but that does not demonstrate that the changes are not valid.

When the antitrust laws were passed there was a fierce outcry from the trusts. When the income tax was established those in the higher brackets insisted that it meant confiscation and the destruction of individual initiative; when the Interstate Commerce Commission came into being the moan was that the railroads were being regimented; and when the Federal Trade Commission was inaugurated we were told that it implied the calamitous dictation of business by government. Yet the biggest fortunes of our time grew under the administration of some or all of these acts.

The shrewdest businessmen found that under the altered rules efficiency was still the dominant element of success and that equal or greater opportunities still awaited those with vision enough to recognize them.

It would be absurd to think that the ultimate perfection of the rules, either of business or government, or play, had been reached. Doubtless our remote descendents will still find flaws and correct abuses.

So my prediction is that when they settle down to it, everybody will wag along pretty much in the same old way. The strong fellows will succeed in magnificent fashion; the rest will prosper measurably, or not at all, according to their individual abilities.

But none of this is automatic. While I feel that most of those who vainly sought to deflect popular support and appreciation from the President will quit their grumbling and change their methods to accord with things as they are, there will always remain a substantial minority who will seek to retain all the advantages they had. We cannot accept it as a fact that the fight for human rights and a fair deal all around ended with the reelection of Franklin D. Roosevelt, John Garner, and those whopping majorities in the Senate and House of Representatives.

That is why I say we—and I mean the whole people who voted the endorsement of the Roosevelt administration—are confronted with the gravest responsibility. We must keep alive the militant spirit which won so much to preserve and consolidate our gains. I am not speaking politically, for millions of those who worked with us to retain Franklin D. Roosevelt as President were not Democrats in the narrow sense of party partisanship. I am thinking particularly of the great volume of independents who vote, regardless of the party emblem, for the men they deem the best fitted for office and the policies they deem most beneficial for our country.

The reactionary group is perhaps temporarily stunned by the events of last Tuesday, but its spokesmen soon will come out of it and resume their normal activities, and we must not underestimate their power and influence. The politicians of the opposition will work with them, for there must always be an opposition as well as a dominant party in this country. This will never be a one-party country, thank Heaven, because no political organization could be kept up to the mark if there was not criticism and dissent to insure against excess of power. So, as I have often said, we will remain in power only so long as we perform efficient public service.

It is going to be a monumental task to keep the Nation on the narrow path that lies between absolutism and liberty. We have seen in the past wild schemes and Utopian dreams that seemed to sweep the country in great gusts of popular approval. The extremist is ever with us—the extremist of radicalism and the extremist of conservatism—he may be perfectly sincere or perfectly selfish in his aims; he may believe implicitly that he has found the way to abolish poverty. Conceivably he may be eloquent enough to sway the masses and attract to his banner the discontented, the envious, and the gentler philosopher who feels that something is wrong with the world and that the new prophet may be the one to lead us out of the wilderness.

It is the job of the administration at Washington to steer our straight constitutional course despite the gales of this description that blow every once in a while. Now, no one man can do it all. Not even our great chief, with all his breadth of mind, his vast humanity, his patience, his courage, his devotion to public welfare, and his experience. He must have behind him the support of the people. It is not enough that they have faith in him. They must be missionaries, each in his own field.

I do not mean, of course, that they should follow him blindly against their own opinions and judgment. I do not mean that they should abstain from criticism, for constructive criticism is the lifeblood of successful administration. Between such intelligent adverse comment and mere faultfinding there is a wide distinction. So I ask each of you to be on the lookout for mischief makers who would make the course of continued progress more difficult.

The overwhelming majority recorded for the President indicates that we are more nearly a united country than at any time since the foundation of our Government. Let us keep it so. So I call on every "committee of one" to still consider himself as in the service of good government, and every "good neighbor" leaguer to continue his work for the promotion of a complete understanding of the aims for which he enrolled at the beginning of the recent campaign.

If there be any special decoration for service among so many who did their splendid utmost for their party and their country permit your national chairman to accord it to the party workers. I have, and will always feel, a debt of gratitude to all of them—to the national committee men and women, to the State chairmen, and committeemen, to the county chairmen and their organizations. Most of all let me thank the precinct leaders and the precinct workers, for it was these foot soldiers in the Democratic work on whom the burden fell and who carried it so faithfully. The votes were always there; we knew that. But it was these men and women who got the vote out that produced the grandest majority in history.

We had in our organization, besides the regular State and local committees, groups of every race, creed, and color; we had businessmen's associations, labor volunteers, all party agriculturalists, professional men's clubs. The Women of '36 and other women banded under various names to carry on the fight. Young Democrats, First Voters, Republicans for Roosevelt—all vied in their efforts and a wonderful work they did. I will not attempt to name them all, but, while thanking them for that service, I beg of them not to count themselves disbanded. Their post was not merely in the advocacy of a great man for a great office. They were part and parcel of a movement for national progress that will leave its mark in the history of the United States. Now they must take their part in the responsibility with which they endowed the President, to the end that the good that will come of it shall be enduring.

It was kind of you, my fellow workers, to do me the honor you have accorded me tonight. We have been a happy group, and I insist that in that we must include in our thoughts those who far from this hall did the real work of the campaign—the workers in the fieldand the voters who kept the faith. Ours has been the happiest organization in which I have been fortunate enough to be a member. We came through without feuds or heartburnings. Even in the most stressful moment of the campaign, where the varying views as to what should be done and should not be done battered against each other, I cannot recall a moment of rancor.

Throughout the Nation I am proud to say the spirit has been the same. We were not vexed by party vendettas or petty jealousies anywhere. All the Roosevelt supporters buried whatever factional troubles may have existed—and there never was a political party free from these—and stood shoulder to shoulder for a Roosevelt victory; and for this I thank them, as I thank you colleagues, here tonight.

May we long continue to be a happy party.

With Youth Plowed Under

EXTENSION OF REMARKS

OF

HON. TOM CONNALLY

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Saturday, January 16, 1937

POEM BY GEORGE S. HOLMES

Mr. CONNALLY. Mr. President, I ask unanimous consent to have printed in the RECORD a poem by George Sanford Holmes entitled "With Youth Plowed Under."

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

WITH YOUTH PLOWED UNDER

By George Sanford Holmes

Neutrality—too long a buttress vain,
When Congress writes anew your definition,
May it engrave the legal brand of Cain
On traffickers in arms and ammunition.

They outfit rival camps from tanks to tents,
From bombs to battleships and lethal trifles;
They'd kindle chaos on two continents
To peddle antique second-handed rifles.

To such as these a law's but barren breath,
Though cunningly contrived by Senate scholars;
Mars' supersalesmen, merchandising death,
Will flout it still for blood-enameled dollars.

No man-made mandate can outlaw the greed
That gluttons on incendiary cargoes;
No civil statute can drive men to heed
The conscience and its whispered self-embargoes.

'Twixt Peace and Profits Business must choose,
'Twixt Law and Loot that breeds but blood and blunder;
Ere itching palms ignite the fatal fuse
That harrows No Man's Land with youth plowed under.

Address Before the Seventh New England Bank Management Conference of the New England Council

EXTENSION OF REMARKS

OF

HON. T. ALAN GOLDSBOROUGH

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 18, 1937

ADDRESS BY HON. MARRINER S. ECCLES, CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. GOLDSBOROUGH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address before the Seventh New England Bank Management Conference of the New England Council in Boston, November 13, 1936, by Hon. Marriner S. Eccles, Chairman of the Board of Governors of the Federal Reserve System:

Mr. Chairman, fellow bankers, and friends of New England, it is very gracious of you to permit me to come before you today. I assure you that it is a privilege for me. Had I come to New England prior to November 3, during the period of a heated campaign, whatever I might have said might have been misconstrued. Anyone in public office would have found it very difficult to make a public address without being accused of making a political speech.

I am not a partisan. To me political questions resolve themselves, when you look through them, into economic and social questions; and if we could forget party labels and consider political problems from the economic or social aspect and in an unemotional manner, it seems to me that we would have a much clearer conception of our problems and be better able to arrive at practical solutions.

New England is looked upon, of course, as a conservative section of this country. I am a conservative, a believer in development of private initiative, private banking, and business opportunity; but when I analyze just what it is that I want to conserve, I come to the conclusion that it is, after all, property rights, the opportunity for expression of individualism. And then, when I look a little further, I realize that the great majority of people in this country own very little property, and that what they want to conserve is the right to work and the security of a reasonable standard of living for themselves and their families now and in the future. I realize that human rights must be preserved if property rights are to be preserved, and property rights must be preserved if human rights are to be preserved.

The interests are not conflicting. They are a part of the same thing. As the owners of property and as leaders under a system of capitalism, it seems to me that we cannot expect to conserve that which we are so desirous of conserving without attempting or being willing to conserve and assure that which the great majority of our people want to be assured of.

As I look back and consider what we have gone through from the time of the boom period of the twenties up to the present, I am impressed with this fact: That to have safety in banking we must have stability in our economy; that it isn't possible to have such great fluctuations in the national income as we have had, and at the same time devise any formula for sound credit and investment policy for banks.

Loans and investments which are perfectly good when the national income is $80,000,000,000 become worthless or nearly so when the national income, through the process of deflation, is permitted to be cut in two. The same debt structure cannot be supported on a national income of $40,000,000,000 that is supported on a national income of $80,000,000,000.

It is just as important to bankers that deflation be prevented as it is that inflation be prevented. Why bankers recognize the necessity or desirability for government or for public bodies which are instruments of government preventing inflation on the one hand and object to the intervention by government to stop the processes of deflation on the other hand is difficult for me to understand.

Deflation, if anything, is more destructive to bankers than inflation. They are twin evils and both should be prevented, if possible. The volume of money—that is, the means of payment, including bank credit, as represented by deposits and currency—and the velocity or turn-over of funds are a measure of our national income. We know in a money economy that the way we effect an exchange of all goods and services is through the mechanism of money. It stands to reason that when the total volume of money, which includes bank deposits, and the turn-over of that money diminish, the volume of business has also diminished. If we expect to maintain stability or reasonable stability of business, we must find ways and means of maintaining a more uniform availability of money and of encouraging a more uniform flow or velocity than we have had in the past.

In looking at the record of the past, it seems to me that it should serve somewhat as a guide and that we should profit by its teaching. There is great disagreement as to what all of the causes of deflation were, just as there may be some disagreement as to the causes of reflation, but I would like to read here what seems to me to be a very brief and reasonable explanation of some of the primary causes of deflation.

The Brookings Institution, which is an endowed, nonpartisan body, recently made a study, and in their report of income and economic progress, on page 37, they have this to say:

"The consumptive requirements or wants of the people were far from satisfied during the period of our highest economic achievement. The value of the total national production of goods and services in 1929, if divided equally among the entire population, would have given to each person approximately $665. There were nearly 6,000,000 families with incomes less than $1,000; 12,000,000 with incomes under $1,500; over 16,000,000 with incomes under $2,000; and over 19,000,00, or 71 percent of the total, with incomes less than $2,500. A family income of $2,500, at 1929 prices, was a very moderate one, permitting few of the luxuries of life. Hence it was clear that the consumptive requirements, and especially the wants, of the masses of the people were far from satisfied."

Speaking of what appears to be at least one of the reasons for some of our difficulties, the same report (p. 156) goes on to say:

"As to income distribution and its results, we found * * * the proceeds of the Nation's productive effort going in disproportionate and increasing measure to a small percentage of the population—in 1929 as much as 23 percent of the national income to 1 percent of the people. We found the unsatisfied wants—needs according to any good social standard—of the 92 percent of all families who are now below the level of $5,000 annual income sufficient to absorb the product of all our unused capacity under present conditions of productivity and still demand much more from such unexplored potentialities as might hereafter be opened up.

"We found the incomes of the rich going in large proportion to savings, and these savings strongly augmented by others impounded at the source by corporations through the practice of accumulating corporate surplus. These savings, after providing for such increase of capital goods as could be profitably employed, we found spilling over into less fruitful or positively harmful uses, ranging from foreign loans (bad as well as good) to the artificial bidding up of prices of domestic properties, notably corporate securities.

"Thus we begin to discern the answer to our question whether the basic defect in our economic system, not discovered in the technical processes of production, is to be found in the way in which we conduct the distribution of income. The answer is affirmative: This is the place at which we do find basic maladjustment."

Now, whether you agree with that statement or not, the fact remains that the system of production did not break down. The fact remains that the surplus income which corporations failed to pay out in dividends, in wages, or in reduced prices, together with the surplus income of individuals, that is, the income that they saved beyond what they spent and which they either invested directly or through savings banks or insurance companies, made up the great volume of what we may term savings funds, and a very substantial part of those funds went into foreign loans and into stock-market or brokers' loans.

Bank credit did not expand to a point which in itself would have caused the speculative inflation that we had in 1929. Between $5,000,000,000 and $6,000,000,000 went into the stock market through loans by others to brokers. The speculative inflation was outside of the control of the bankers.

Had a greater portion of these funds that went abroad and that went into the market gone to consumers through lower prices, or higher wages, or a wider distribution of dividends, or a combina-

tion of the three, thus maintaining a greater consumer buying power and an increased standard of living on current income, we would have had a very different situation. We would have had a far better opportunity to maintain stability. The people as a whole must receive sufficient buying power to enable them to buy what the productive facilities which we have created produce, or otherwise the value of our investments and our savings, as we found out, shrinks or disappears entirely in many cases.

There was a maldistribution of the national income which resulted in getting consumer buying power out of relation to our productive capacity, and you couldn't maintain that consumer buying power forever on credit. I don't mean bank credit, because there was a great deal of other credit; in fact, most of the credit was outside of the banks.

And when this point of saturation was reached, when the people as a whole could no longer buy out of current income what was being produced, when they could no longer get credit to keep on buying on the basis of credit what was being produced, and we were unwilling to take our surplus savings and continue to loan them abroad, and thus give the foreigner buying power to buy what we produced, we found that the market for what we produced began to disappear. With its disappearance we saw prices tumble, and with the tumbling of prices and the disappearance or the reduction of the market for the sale of our goods we saw unemployment increasing.

And we saw, therefore, a contraction of credit. This supply of money which is created by the banks began to disappear. Every time a bank loan is paid off, that much money disappears. And the disappearance of that money created a downward spiral which was self-accelerating. Many bankers and businessmen had what I conceived to be the false philosophy of believing that there was a natural bottom where this thing would stop—that government should not interfere with the operation of "natural law", and that deflation should be permitted to take its course. They felt that to have the Government unbalance its Budget would destroy confidence, and that to fail to maintain the gold convertibility of our money would further destroy confidence. Therefore we continued to adhere to the fetish that the Government was like an individual, that it should contract its expenditures in times of deflation when everybody else was contracting expenditures—that we should adhere to the gold standard at all hazards, and that by so doing somehow in some way business people, those with money and those with credit, would undertake to go out and to build new plants and to produce more goods and thus put people back to work. It was not reasonable, to my mind, to expect that individual investors or business concerns would make new investments at a time when everything they had was becoming less valuable and less profitable every day. The individual or corporation is not going to invest money and put people to work unless there is a reasonable expectation of profit.

And so we found what we call "confidence", what we depended upon to turn the tide of deflation, failed to turn it, and we kept on to a point where we had destroyed or extinguished one-third of our money supply through bank-credit contraction and bank closings, and had reduced the turn-over of money compared to what it was in the late twenties by more than 60 percent.

The reduction in the supply of money times the reduction in its turn-over was reflected in a reduction of the national income from $83,000,000,000 to approximately $40,000,000,000 from 1929 to 1932 and a complete collapse of the credit structure. No other country in the world even approached the degree of credit contraction and deflation that this country went through. In Britain the contraction during the depression was, as I recall it, about 10 percent. In Canada the contraction of the volume of bank money was less than half of what it was in this country; and even in France, during the long period of time that they have attempted to adhere to the gold standard, while deflation continued, their contraction does not approach what we had in this country.

The Government can do for all of us what we individually cannot do for ourselves. The Government can and should spend money for social purposes. It is not animated by the profit motive, as business concerns and businessmen must be. It can and did stop the process of deflation through providing funds first to shore up the credit structure; to stop foreclosures on homes and farms by taking over and refunding the defaulted securities; and then by a program of public works and relief. The size of that job was far greater than it should have been permitted to be. The cost of turning the tide of deflation would have been much less if the Government had intervened earlier on a sufficient scale to stop the destruction before it reached such vast proportions. When the Government finally interceded, it supplied the deficiency of the means of payment by borrowing money when no one else would, because no one else could borrow money and invest it profitably. It borrowed money from the banks and from those depositors of banks whose funds were idle in the banks, whose funds were not circulating, and put that money into circulation. The Government gave its bonds for the money and used the money to give buying power to people who didn't have it. That money created a demand for goods which otherwise would not have been marketed or produced; it created business that otherwise would not have existed; and eventually the money came back into the banks in the form of deposits. In addition to putting existing but idle funds to work, the Government, by borrowing directly from the banks, created new money, which it likewise put into circulation. Thus, an increase both in the volume and in the velocity of the supply of money was created.

In other words, to the extent that they bought Government bonds—on a large scale during the period of 1933 and 1934, less in 1935, and very few in 1936—the banks created money, just as they would have created it had they loaned the money instead to individuals or corporations. They credited the Treasury's account on the one side and they put in their investment portfolio Government bonds or bills or notes on the other side, and as the Treasury checked those funds out and put them into circulation, that money created business and finally came back into the banks in deposits to the account of various individuals and corporations. The funds went through the mill of production and distribution, produced goods and services, came back into the banks, and are there today.

Now that process increased employment. It made it profitable for business to employ people in order to fill orders for goods. You know what it did to many of the loans that you had which you charged off or which were considered slow or doubtful. You know what happened to your security portfolio. You know that some Government bonds which you owned in 1931 and in 1932, when the Government debt was far less than it is now, were selling at 83, 20 points less than their selling point today.

Why did this great change in conditions come about? Because the Government intervened to increase the supply of money by borrowing when nobody else was in a position to do it. The Government thereby increased the velocity or the circulation of money; that in turn increased employment and increased the volume of production until it is higher now than it was in the 1923-25 period. It has increased the national income until at the current time it is running more than $20,000,000,000 above what it was 3 years ago, and that has increased the Federal income so that the Federal Budget will be balanced in the near future.

I have said for 3 years that you cannot balance a Federal Budget until you correct the causes for its being out of balance. A Federal Budget can only be balanced out of national income, and the national income can only be increased by the increase in the volume and the flow of money, and private interests will not increase the volume or the flow of money except as it is profitable to do so, but a Government, acting collectively for all of us, can do for us under such circumstances what we cannot do for ourselves, acting individually.

That has been done, and the Federal Budget will be balanced out of an increased national income. It is my belief that there will be very little more borrowing by the Federal Government. With the large Treasury balances, with the assets which are being liquidated bringing funds into the Treasury, together with tax revenue, it is my belief that the market will not be given an opportunity to take substantial additional issues of Government securities, even though the Budget is not technically balanced.

I believe thoroughly that a technically balanced Budget will be reached by 1939, and that a balanced Budget, so far as having to go to the market for additional funds is concerned, will be reached by 1938.

Now we have experienced the influence of deflation on the banking system. We have seen an example of the influence of reflation on the banking system and on our economy as a whole. If we can determine the forces that make for deflation and deal with them, and again can determine the forces that make for inflation and deal with them, we have some chance of approaching successfully the problem of maintaining a greater degree of stability than we have been able to achieve in the past. I think it is much more necessary to deal with that problem now than ever before because of the complexity of our economy, because of the interdependency of its many parts, because of the fact that we are a creditor nation, and because we no longer have the great frontiers that we once had in the West and South. Yet I firmly believe that with far-sighted leadership on the part of the bankers and the businessmen, it is possible to devise ways and means for a better, more orderly functioning of our economic system, with a minimum of Government encroachment upon the field of private enterprise and initiative.

The Government's field, it seems to me, is broadly this: As deflation starts, as evidenced by unemployment, it is in the interests of all of us that the unemployment problem be met; when private business cannot profitably employ people, and therefore lays them off, it seems to me that we must be willing to have them employed on socially beneficial public work by a public body, and thus stop the process of deflation in its inception. The cost is relatively small. In fact, it is negligible if action is taken before the national income is permitted to diminish greatly.

In times of full business activity, Federal revenue, which is one of the greatest factors in stopping inflation, should greatly exceed Federal expenses. At such times Federal revenue should be diverted to the reduction of the Federal debt. This in turn has the effect of offsetting private credit expansion by the banking system as recovery proceeds and thus of keeping the supply of money more or less constant.

If for any reason we get out of balance again and unemployment starts to develop, surplus Federal revenue should be promptly diverted into the spending stream and away from the stream of the reduction of Federal debt. If that isn't sufficient to meet the unemployment situation and stop credit contraction in its inception, we should be ready to incur a budgetary deficit. In other words, the Government must be looked upon as a compensatory agency in this economy to do just the opposite to what private business and individuals do. The latter are necessarily motivated by the desire for profit. The former must be motivated by social obligation.

I want to say just a word about what I suppose is uppermost in your minds. You are not worrying today, of course, about deflation. You are pretty well satisfied with recovery up to date.

You have been worried about the Government debt and unbalanced Budget, and you have had fear that it would create an inflation and destroy the value of your money, the value of your investments.

Now I have answered one of your questions, and that is the one with reference to a balanced Budget. Inflation comes not only from a continued budgetary deficit, financed by the banks, but inflation can come through an expansion of private credit. I believe that that can be met. It can be met first, as I stated a moment ago, by diverting surplus Federal revenue to retiring Federal debt as private debt expands. It can be met by the powers which have been given to the Federal Reserve Board, by extinguishing excess reserves, and even going so far, if need be, to force the banks to borrow. That, of course, would stop the process of private credit expansion.

There is a distinction between a speculative inflation and what we may term a general inflation of the entire price structure. There is little immediate danger of the latter. Prices have been maintained on the average for the past 2 years on one of the most stable bases that this country has had in years. However, we have less power to control a speculative inflation unless it is built upon bank credit. When stocks are bought out of funds already created, it is much more difficult for the Reserve authorities to stop that process. But that is a far less dangerous speculative inflation than one which is built upon bank or broker credit. In 1929, you will recall, the credit extended to the market by banks to brokers and by others to brokers was around nine billions, whereas today it is less than one billion.

The Board now has the power that it didn't have at that time to fix margin requirements on brokers' loans and bank collateral loans for the same purpose. The law also prohibits member banks from acting for others in making loans on securities as collateral to securities brokers or dealers.

I think that with the powers that are in the Federal Reserve Board, coupled with the right fiscal policy by the Government, first by balancing the Budget and then by using surplus income in times of prosperity to reduce the Federal debt, we can stop inflation. Foreign funds coming to this country are an undesirable development and create a problem that I think can be met, but which must be carefully and closely watched. The excess reserves of our banks today are due almost entirely to foreign funds coming into this country. If it were not for the foreign capital that has been transferred into this market because foreign investors had more confidence in America's future than in their own, we would have no excess reserves whatsoever. We would really have a deficiency, taking into account present reserve requirements which the Board prescribed recently. Those funds came in here in the form of gold, and that gold was perfectly worthless to us so far as our need for it is concerned. It only costs us money to store it. We gave to the foreigners dollar credit, which they invested in our stocks, bonds, and properties. And we are paying them interest and dividends and rents on those funds while they are so invested. And we will likely pay them a substantial profit if they choose to convert those funds into their own currencies and take them somewhere else.

With the $2,000,000,000 stabilization fund, which is neither in the money market nor reflected in our excess reserves, and with the present excess reserves of more than $2,000,000,000, together with the power of the Board to reduce reserve requirements back to where they were, which would restore a billion and a half of reserves, we have a total of $5,500,000,000 available that we could lose, theoretically, in gold, without causing member banks to borrow from the Reserve System. I merely mention that to give you an idea of the resources available to meet any great out movement of gold. And that, mind you, would be without decreasing further the gold value of the dollar, or increasing further the price of gold.

That gives to the Federal authorities broad powers, if intelligently used, affecting domestic stability as well as an international stability. What other countries might do that could upset the national equilibrium, of course, we cannot control. The Federal debt is about $13,000,000,000 more than it was at the bottom of the depression, and if the entire amount of Treasury balances today, the entire amount of liquidation of assets were used for further Government expenditures, the debt would not increase above $13,000,000,000, which added to the $21,000,000,000 debt at the time of the bank holiday would make the total debt $34,000,000,000. Now, the cost of servicing that debt is not a serious problem. It is about 1 percent of an $80,000,000,000 national income. The cost of servicing the British debt is about 3 percent of their present income, which is the highest income they have ever enjoyed.

A $13,000,000,000 increase in the debt for a nation with our wealth is a small cost to pay for recovery. A $13,000,000,000 debt is less than 2 months of our predepression national income. It is equal to the Federal deficit during but 1 year of the World War. However, we have something to show for the $13,000,000,000 now. Moreover, $4,000,000,000 of it hasn't yet been spent, and we paid a bonus which was a liability to be paid at some future date—at least, we put it in the form of a Government bond, and put it on the books—it was a liability before that wasn't on the books.

In other words, the $13,000,000,000 hasn't left the country. It hasn't gone overseas. It is on deposit in the banks, and it is that increase in the means of payment and the increased velocity of that fund which has made it possible to bring about the increase in national income, which is yielding the revenue to balance the Budget; to bring about the increased well-being of the people, and the increased safety and increased security of the banks.

Now, let me recapitulate for a moment. As I have indicated, our problem today is not the national debt, which is large, but not oppressively burdensome for a nation of our wealth and resources. And we are rapidly reaching the point of a balanced budget, when it will not be necessary to create new deposits by the sale of Government securities to the banks. These causes for anxiety no longer exist.

As for the problem of excess reserves, which, as I have said, are almost entirely the result of the inflow of foreign funds, we are in a position to deal with the present volume of reserves, and to meet very heavy withdrawals of funds if there should be a reversal of the inward movement. Therefore the present volume of reserves does not present an unmanageable problem.

However, we have reached the stage in recovery at which it is no longer desirable to have additions either to our banking reserves or substantially to the volume of deposits. We have adequate means at our disposal to cope with the present volume of reserves and of deposits, but we have no way of preventing a further continuous inflow of foreign capital which would superimpose another huge and possibly unmanageable volume of both deposits and reserves upon our banking system. This is our most immediate problem from the standpoint of the Federal Reserve System, as well as from the viewpoint of the Treasury. The President has called attention to this problem and has requested the Treasury, the Reserve System, and the Securities Exchange Commission to study it thoroughly, with a view to recommending such ways and means as may be appropriate for dealing with it.

It is manifestly unfair for our own people, for American investors, to be required to pay a capital-gains tax and to pay income taxes, which range as high as 75 percent in the highest income brackets, while foreigners are able to purchase our securities and to profit by our recovery without being subject to any taxation other than the nominal 10 percent assessed against dividends under the so-called withholding tax. Foreigners are free to withdraw their funds and their profits at any time and to take them out of the United States without paying a fair share or a comparable share of taxes, such as are imposed upon our own people. Now, this is not an equitable situation.

But, beyond that, the speculative movement of foreign funds into and out of the principal money markets of the world has long been a seriously disturbing factor. It upsets the domestic economy of the country losing the capital, and in our own case, as I have pointed out, it is the sole source of our present excess of reserves. Such action as the Reserve System has taken and is now contemplating once more in order to prevent these foreign funds from becoming the base for an unhealthy, speculative expansion at home is, after all, action dealing with effects and not with the fundamental cause. Furthermore, such action does not prevent inflowing foreign funds from swelling the bank deposits of the country.

That is not all. These speculative movements of foreign capital put a strain not only upon the domestic economies of the countries directly affected, but they impose a heavy load upon the stabilization funds set up to maintain an equilibrium among the principal currencies of the world and to facilitate normal trade and commerce. Why should the foreign speculator be permitted to throw monkey wrenches into this vitally necessary economic machinery? Why should the foreign speculator at the same time escape a fair share of taxation?

Neither Government nor Federal Reserve policy in the interest of promoting and preserving full recovery can be effectively exercised when such conditions exist and threaten to get beyond the boundaries of control. Monetary management, under existing powers of the Reserve System, operations of the stabilization fund, Treasury financing policy in relation to the creation and maintenance of a necessary but not excessive level of bank deposits, and the problem of interest rates and the maintenance of easy but not excessively easy money conditions are all exposed to upset under the impact of large-scale, speculative shuttling of funds among the principal capital markets of the world. Stability of currencies and of external trade conditions as well as internal stability are jeopardized by such speculative movements.

I have outlined broadly an immediate problem which deserves to have the best thought of the banking world brought to bear upon it—which calls for understanding and intelligent action. It challenges particularly the attention of the banking community if the bankers are to have a full sense of responsibility for guidance and leadership when the country is confronted by difficult but by no means insoluble problems such as this. And, as bankers, you and I must be willing to accept our proper share of public responsibility and to offer a leadership that is prepared to meet such problems.

Looking to our responsibility in the future, I was impressed by reading this statement in a newspaper:

"The election calls for a renewed sense of responsibility, not only in the President, but in all of us; for it is no longer a question for any of us whether or how far we are prepared to collaborate with the President, but whether and how far we are prepared to collaborate with the national will. It ought to mean that business and industry will face the challenge of formulating programs of collaboration with Government for the good of the Nation, to satisfy the desire of the Nation for more security and more stability, for better homes and steadier wages, and greater assurance of continuous employment."

Let us as bankers, and I speak with feeling because I am a member of the fraternity of bankers—I have been in the bank-

ing business all of my life—let us get the touch of reality. Let us forget our homesickness for a past that, desirable as it may have been, we cannot bring back, and let our record in the future be one of leadership in helping to direct the course of social and economic well-being.

Let us change the record of the past, which has been one of opposition to every progressive move by the Government. The National Banking Act in 1860 was violently assailed as an infringement upon the rights of the people, or upon States' rights. The income tax of 1895, both before and after it was declared unconstitutional by a 5 to 4 Court decision, had the organized and united opposition of business and bankers, and it took 18 years to get a constitutional amendment. The Federal Reserve Act was bitterly opposed by businessmen and bankers through their organizations. Workmen's compensation acts have been opposed by organized business. The 8-hour day was opposed by organized business. Child-labor laws have been opposed in many States by organized business. Social-security legislation and old-age pensions are widely opposed by organized business and bankers. The Securities Exchange Act of 1934 was opposed by business and bankers. The Banking Act of 1933 was opposed by bankers and business. The Banking Act of 1935 was opposed by them.

Now, that is a bad record, and we don't need to blame anybody but ourselves because we find ourselves in the rear of the procession, and find ourselves discredited today with the mass of the American people. We might just as well admit it. We have failed to meet the challenge of our responsibility of leadership.

Now, I say to you as bankers, have the courage to think clearly, and to regain the touch of reality, and to take your place as the leaders in this great capitalistic economy which we want to preserve.

I thank you.

Chairman BYRNE. I think I speak for each person in this room when I say we have been highly privileged to listen to this searching and authoritative analysis by Governor Eccles of things, things which are past and things which are facing us and things which are in the future. We are very grateful to the Governor for coming here today, and I want to assure him that he is very welcome.

Power of the Supreme Court to Declare Acts of Congress Unconstitutional

EXTENSION OF REMARKS

OF

HON. CHARLES I. FADDIS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 18, 1937

Mr. FADDIS. Mr. Speaker, I have introduced H. R. 2284, a bill designed to prevent the Supreme Court from exercising the power, which it has usurped and under which it has declared acts of the legislative branch of our Government unconstitutional, thus preventing the execution and enforcement of these acts.

Mr. Speaker, I am not attacking the Supreme Court. No one has more respect for that eminent tribunal than I have. Neither am I hypnotized by any sacrosanct illusions as to the Supreme Court. It is composed of men who are subject to all the frailties of other men. They are liable to err or to be influenced by association or training. They are especially liable to follow the inevitable tendency of bureaus—to fight to enlarge their own jurisdiction. I fully realize the necessity for the Supreme Court, in our system of government, as a tribunal to pass upon questions of interpretation of laws and of questions of law and of fact, except that it has no constitutional grant of power to pass upon the constitutionality of acts of Congress. The people have a check upon the legislative and executive branches of our Government, but none upon the judicial branch. Therefore, it should, of the three branches of government, be held most scrupulously to the letter of the law.

Usurped power is the most dangerous of all power, and if allowed to function unchecked will result in the nullification of the Constitution. In setting aside acts of Congress, the Court goes to great pains to point out that Congress must have an express grant from the Constitution to pass any law. Why does it not, in such cases, cite its express grant of authority under the Constitution to pass upon such questions? To question the political authority of the lawmakers is certainly not an ordinary civil function of a court. On the contrary, it would be an extraordinary function.

The burden of the argument of those who maintain that the Supreme Court has the power to exercise the judicial veto is to the effect that such a power should exist, therefore the Supreme Court should have it. No one who values his reputation as a student of the Constitution and its origin will assert that the power of judicial veto is conferred to the Supreme Court by the Constitution. In interpreting the Constitution, as in interpreting an act of legislature, where there is any doubt of the meaning due to the wording it is necessary to examine the proceedings of those who drafted the language in doubt in order to ascertain what they desired to accomplish by the wording. An examination of the proceedings of the Constitutional Convention of 1787 shows that the question of the judicial veto arose four times and was rejected each time.

Madison introduced a resolution August 15, 1787, proposing a council of revision to be composed of the Supreme Court and the President. The same resolution also proposed to allow Congress to override such a veto by a two-thirds majority of each of the two branches of the legislature. The proposition, even so modified, was rejected by a vote of eight to three by States (pp. 547–548, Formation of the United States). Madison was throughout the Convention one of the foremost advocates of a judicial veto, but wished to limit it to cases of a judiciary nature. Even he seems to have shared the general fear of a tyrannical court, which might seek to extend its jurisdiction into political fields. These fears seem to have been fully justified.

It is true that a resolution was introduced by Luther Martin requiring the judiciary of the several States to declare all State laws in violation of the Constitution as unconstitutional, and was passed July 17, 1787 (pp. 391–392, Formation of the United States). This resolution was written into the Constitution as paragraph 2, article VI. It is clearly stated and is mandatory in character. The State courts are explicitly bound by it, State laws or constitution notwithstanding. It may be that the passage of this resolution is responsible for some of the misinformation later spread in order to support the usurpation of power by the Supreme Court to pass upon the constitutionality of acts of Congress.

It seems to me that throughout the proceedings of the Convention the general feeling prevailed that the Supreme Court must not be placed in a position where it could accumulate any power other than that actually conferred upon it. It seems to me that the delegates to the Convention, realizing that the personnel of the Court might be liable to wander into political fields, went to particular pains to clearly state what powers they should possess. Certainly the powers of the Court are much more specifically set forth in detail than are the powers of the legislative branch of our Government. So much for the mistaken idea of constitutional grant of power to the Supreme Court to pass upon the constitutionality of acts of Congress. There is none, either direct or implied.

In section 7 of our Constitution it is clearly stated:

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law.

Now, Mr. Speaker, I am not a lawyer, but I can read and understand the English language. The two sentences which I have quoted above clearly set forth without any "ifs", "buts", "whereases", or "wherefores" the method of enacting legislation. A means of Executive veto is provided for, and a means to override this veto is provided for the legislative—the sovereign branch. The number of days the President may delay the signing or returning of a bill, as well as all other details, is specifically set forth in section 7, but nowhere in this section is the Supreme Court even mentioned, much less vested with any veto power. Furthermore, the last phrase in the last sentence which I have quoted, "it shall become a law", uses the mandatory "shall." It does not say it shall become

a law if the Supreme Court permits it to, but it says "it shall become a law", meaning after it has complied with the requirements stated above. To my mind there is the whole matter in a nutshell, robbed of any confusing, misleading, pettifogging equivocations. To my mind, the phrase "it shall become a law" is a mandate to the Executive to execute and enforce the law, irrespective of the opinion of the Court, unless the decision of the Court applies to questions falling under its jurisdiction by an express constitutional grant of power.

The framers of the Constitution, evidently believing that the time might come when the legislative branch of the Government would find it necessary to defend itself from the Court, gave them this means of defense in article III, where they provided for the establishment of the judicial branch. In section 8, article I, they had already definitely empowered Congress "to constitute tribuna's inferior to the Supreme Court." Evidently they believed this power needed emphasis, because in the article which particularly deals with the judicial branch they repeated it.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

This section makes the establishment of one Supreme Court mandatory, but leaves the number of Justices, the place where it shall sit, and the fixing of their salaries, subject to the restrictions under the Constitution, up to the Congress. The Court is not an autonomous body, but is dependent upon the Congress for most of its powers. This section also informs the Court in their own article, in no uncertain language, that Congress is the sole creator of the inferior courts. Certainly no one will dispute the fact that the Congress may abolish what it may create. Since the inferior courts are the creatures of the Congress, the Congress, in its sovereignty, may create or regulate its jurisdiction. Indeed, it may, if it so desires, abolish them. If the creature should become superior to the creator, it would certainly be an anomolous situation, and a direct blow at the sovereignty of the people.

Section 2, article III, clearly defines the field of action of the Supreme Court, and in the second paragraph gives it original jurisdiction—

In all cases affecting Ambassadors, other public ministers and consuls, and those in which a State may be a party * * *.

Then follows this sentence:

In all other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

It is only reasonable to assume that the framers of the Constitution placed these provisions of limitation upon the jurisdiction of the Supreme Court to be used if the Congress should consider it necessary or wise to do so. Since this power is expressly granted to the Congress, we must assume that the Congress is capable of exercising it. Under it the Congress may deny the Supreme Court appellate jurisdiction in all cases except in those "affecting Ambassadors, other public ministers, and consuls, and those in which a State shall be a party."

Now, Mr. Speaker, in this legislation I am not asking for any extraordinary powers for the Congress. I am asking only for the ordinary powers delegated to the Congress by the Constitution in order that it may properly exercise the sovereignty delegated to it by the majority of the electorate. I am not seeking to overthrow the Supreme Court, nor to limit any of its constitutional powers. I do seek, however, to bring an end to a situation wherein, because of restrictive decisions by the Supreme Court, the legislative branch of our Government has been partially deprived of the power to enact much-needed labor and social legislation. Under the provisions of this act the Supreme Court would still enjoy all of the jurisdiction delegated to it by the Constitution, and the Constitution would be adequate to care for the needs of a modern nation.

If the Supreme Court insists in hewing to the line, then let the Congress hew to the line. It is time to put an end to a situation when those who interpret the law may do so in a manner which gives them also the supreme lawmaking power. The creation of vested rights by a small minority to the detriment of the general welfare has flourished too long under such doubtful authority as the statement of Gouverneur Morris when he asserted "That the Supreme Court derived the power of judicial veto from a higher power than the Constitution." The timidity of the Congress in asserting its legislative power brought on one Civil War. Jefferson, Jackson, and Lincoln openly took issue with the Court and were sustained by the people. Who, I ask, would be the victor today if the President of the United States would undertake to use the forces at his command to execute and enforce an act of Congress passed and signed in accordance with the terms of paragraph 2, section 7, article I, of the Constitution of the United States, which the Supreme Court had declared was repugnant to the Constitution?

The question of judicial review of acts of Congress has arisen many times throughout our history. It is time that the question be decided, once and for all. If the final decision of vital questions is to be left to the Supreme Court, then the sovereignty of the people is, indeed, lost, because it will, in the final analysis, have been surrendered to a branch of our Government which is responsible to no one, and over which the electorate has no control. The legislative branch, that branch to which the people look for aid, will be helpless, lost in a maze of legal intricacies, which foster labor, economic and social injustices, but permit no action to remedy them.

A Finer Life on Nebraska Farms

EXTENSION OF REMARKS

OF

HON. HOMER T. BONE

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Tuesday, January 19, 1937

ADDRESS BY HON. GEORGE W. NORRIS, OF NEBRASKA, ON JANUARY 4, 1937

Mr. BONE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address by the Senator from Nebraska [Mr. NORRIS] at Lincoln, Nebr., on January 4, 1937, dealing with rural electrification, before the convention of the Nebraska Farm Bureau Federation.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I have been asked to deliver an address upon the subject A Finer Life on Nebraska Farms with special emphasis on rural electrification.

In the modern home, whether in the country or in town, electricity is an absolute necessity. Electricity is the result of human labor applied to natural resources. It is an element in modern civilization not yet fully understood. We cannot see it, we dare not handle it, and yet we are aware that it is the most powerful element known to science. Every rippling stream that trickles down the mountain side and flows through the meadows to the sea, is capable of performing much of the drudgery of human life and of adding to the comfort, the happiness, and the pleasures of mankind. Our mountains of coal and our unlimited supplies of fuel oil can be converted into this useful element by the application of the labor of man.

Why should the farmers of America be denied the comforts that can come only from the use of this modern agency? Agriculture is our basic industry. Without it, civilization must fail. There is no industry anywhere in the world that equals agriculture in importance. The men and women who produce the food we eat and the products from which our clothing is made must receive not only the cost of production but a reasonable profit besides or our country will degenerate into an aristocracy wherein the farmer will be nothing but a slave. The country that does not have a prosperous agriculture, and does not pay its labor a fair recompense for its toil, will eventually fail and decay.

On the other hand, a country whose farmers are prosperous and whose laborers, whether in the shops or in the countinghouse, receive a fair recompense for their toil will prosper and its people will be happy and contented.

Of course, electricity is not the only thing needed to make farm life happy. The farmer's home should be free from mortgage. A great organization like the American Farm Bureau Federation can do much to bring this about. The slogan should be "An electrical home free from debt." For too long a period has the farmer been compelled to produce at a financial loss. Too often his interests have been neglected by those holding political power. There has been too much of a feeling, even among farmers, that success could be obtained by buying more land and executing additional mortgages. Like Tennyson's brook, interest goes on forever. The farmer has had to pay too high a rate of interest. Inasmuch as he represents the fundamental industry, he ought to have the cheapest rate of interest paid by any class of our citizens. The ultimate goal ought to be that he pay no interest at all. The Government can well afford to see that this underlying and fundamental industry is properly protected, even to the extent of loaning interest, not as a permanent proposition, not for the purpose of buying large farms, but for the purpose of lessening the burden of the encumbrances, with the ultimate object of paying off and entirely liquidating farm indebtedness. The Government would be justified in loaning money upon farms at the lowest possible rate of interest which would eventually enable the farmer to own a home free from mortgage. This governmental assistance should be given only to those who actually live on the farm and till the soil. Under no circumstances should the Government be instrumental in loaning money either to a farmer or anyone else for the purpose of speculation. Speculation in land is as injurious as speculation in bonds on Wall Street. A model government would be one whose farms are free from debt and actually inhabited by the owner, and one where farm tenancy would be a rare exception instead of the common practice.

The Government is justified in making it possible for the industrious farm tenant to become the owner of a farm home. This would be a condition in which land speculation would be unknown, and it seems to me it could well be the goal for which this great organization should strive. Farm life should be attractive as well as profitable. It must be made more attractive than it is now if we are to stop the migration from the farm to the city. Electricity will probably do more than any other one thing to bring this about.

The Rural Electrification Act passed by the last Congress is a step in this direction, but the farmer should realize that in taking this step he is met with the same opposition the municipalities have met in trying to get electricity at a cost it is possible for the consumer to pay.

Electricity is a necessity in every modern home. It is produced from our natural resources. Experience shows that its generation, transmission, and distribution can be brought about most economically and efficiently by monopoly. In fact, to get the best results, monopoly is essential. Assuming this to be true, I lay down the proposition that from its original generation to its final consumption by the consumer there should be no possibility of either private or corporation profit. It is similar to water in the modern home. It follows, therefore, there should be public generation, transmission, and distribution of electricity. No free people can permanently prosper or even endure, if a necessary element for human happiness or existence must be owned by private monopoly if that monopoly controls one of the natural resources God has given all his people. Electricity comes from our natural resources. Its economical development requires monopoly; it is a necessity of life; therefore it should be supplied to our people without a profit to any person or private corporation from its generation, transmission, or distribution.

One of the greatest combinations ever put together by human hands is the private monopoly in the electrical field. It is one of the most corrupt monopolies which has ever existed. It has covered the country from ocean to ocean and from lake to gulf, and has been felt in every community of the United States. The private power companies have formed the most gigantic trust that has ever entered the field of human activity. They have sent their secret emissaries into our schools; they have bribed university professors; they have secretly entered our church organizations and our secret societies; and they have contaminated our elections from school directors to President of the United States. They have controlled political conventions, from those of municipalities to those nominating candidates for the Presidency. They have controlled newspapers from one end of the country to the other. They have overcharged the consumers and robbed the investors. The story of their sins makes a tale that disgraces our modern national history.

The investigation of the Federal Trade Commission shows that the private power companies are guilty not only of all these sins but of many more. They have watered their stocks and issued millions of dollars of bonds without any security whatever. The report of this Commission shows that they have nearly $2,000,000,000 of watered stock in their capitalization. They have built up holding companies and perfected interlocking systems of directorates which make it almost impossible to ascertain what persons or corporations own any particular generating system. They have deluded the public, deceived the investor, and built pyramids of power out of thin air. The Power Trust is not only a reality—it stands like a huge octopus on the road of human progress. It robs consumer and investor alike for the sole benefit of those who sit on top of a pyramid made of countless corporations, organized not for any useful purpose, but for the purpose of deceiving the people and making it impossible for them to realize the length and breadth of these great edifices of illegal, inhuman ingenuity.

The last Congress undertook to remedy the situation by passing what is known as the Holding Company Act. The evidence showed that innumerable corporations owned one another, none of them performing any useful service to society. I have made the charge on the floor of the Senate, and have made it many times since, that no one can point to a single case where a holding company has been justified except in the first degree, and then in but few instances. Investigation showed that one holding company spent practically a million dollars to defeat the passage of the Holding Company Act. This evidence was shown by its own testimony and from its own books. There is no doubt whatever but that, if all the facts could be disclosed, we would find that from ten to twenty millions of dollars were spent by the Power Trust to defeat this one act alone.

Rural electrification must meet this kind of opposition before it can be established completely. Since the passage of the act private power companies all over the United States have undertaken to go into districts, where the farmers were organizing to enjoy the privileges of the act, and build some transmission lines into the most thickly settled portion of the district, with a view of making it impossible for the other farmers in that territory to enjoy the benefits of rural electrification. There are instances where they have offered rates far below the cost of production in order to get the cream in a given territory. There are other cases where they have offered to put in electric-light fixtures free of cost.

It has been the policy of the Government in establishing these districts to try to supply as many farmers as possible with electricity. To do this in any district it has tried to go into the thinly populated portions, and also where it is thickly populated, thus putting the cream and the lean portions together, making a complete, electrified district. The activities of the Power Trust are interfering with this program and, in many cases, it has, by its interference, made it impossible for the full benefits of the act to be enjoyed by the farmers in any given community.

The Rural Electrification Act is not perfect. Compromises were necessary in several respects in order to get legislation on the subject. It must be remembered, too, it is the first attempt by Congress to do anything of this kind. We were entering, to a certain extent, an unexplored field. There were no precedents to guide our footsteps. It will not be surprising, in fact it is rather to be expected, upon a fair trial, that amendments to the law will be found necessary.

You farmers will remember, too, that for 20 years you have been pleading with the private power people to extend their lines into the country. As a rule they refused to do so unless the farmers themselves paid for the construction of the lines, and after the farmers paid for them, the private power people still owned them. Then they added insult to injury by charging a rate so high the ordinary farmer could not afford to pay it. In carrying out the principles of the Rural Electrification Act, its administrators need the sympathetic help and assistance of the farmers of America. In our own State in many instances the private power companies have tried their best to prevent the farmers from enjoying the benefits of this act. All at once, they have become very solicitous of the welfare of the farmers. They have shown wonderful activity in trying to build lines out into the country, always with the intention of preventing the farmers from getting the full benefit of the Rural Electrification Act.

In Nebraska we have three great projects which will generate a large amount of electricity. They are the Sutherland project (Platte Valley public power and irrigation district), the Columbus project (Loup River public power district), and the Tri-County project (the Central Nebraska public power and irrigation district). The proper and economical way to get the most benefit from the electricity developed by these three projects is to have them controlled and managed as one unit. There should be no competition between them, either as to rates, or as to territory to be served. Of course, the model way would be to have them all operated as one unit. Our legislature should pass the necessary laws to make it possible for these great projects to be administered economically and scientifically and operated as one project. They are all great projects, but, like many others, they have one drawback—they generate a large amount of secondary power. Electrical power, as you know, is either primary or secondary. Primary power is that which is supplied every minute in the year. Secondary power is that which is generated only a portion of the year and, as compared with primary power, it is very much less in value. A municipality or a farm organization desiring to supply the homes of its citizens with electricity must, of course, have primary power. It cannot use secondary power. In fact, there is no market for secondary power except to corporations having a large generating capacity to be used when secondary power fails. Hence, practically the only customer for secondary power is the Power Trust. The private power companies have a large generating capacity, and in the case of these Nebraska projects the only purchaser for the secondary power produced is the Power Trust.

It will purchase it at its own price, of course. Now, if these three projects are operated as a unit, under one authority, the secondary power of one can be combined in many instances with the secondary power of another, thus in effect converting the secondary

power into primary power. In other words, these great projects would help one another out in the transfer of power, so that nearly all the power produced will in effect become primary power. If this is done, we will have in Nebraska one of the greatest, best, and most economical systems of generation and transmission of electricity in the United States. It will enable the municipalities and farm organizations throughout a great portion of our State to have electricity so cheap that its use will become universal. We would have electricity at a price which would compare very favorably with its cost in the Province of Ontario, Canada, or under the Tennessee Valley Authority in the Tennessee Valley.

But all is not harmony among these three great Nebraska projects. Some of the officials of the Sutherland project from the very beginning have fiercely opposed the Tri-County project. As a matter of fact, the Sutherland project and the Tri-County project should have been combined as one. It was a serious mistake when they were separated into two projects. Several millions of dollars would have been saved if these two projects had been developed as a single unit. The private power companies have secretly, but always fiercely, fought the Tri-County project. This can easily be understood when it is realized that the Tri-County project will produce more primary power than either of the other two projects and that, without Tri-County, much of the power produced would be secondary.

The Tri-County project, by transmitting power from one project to another, will make it possible to fill out the lapses of the secondary power produced and, in effect, convert it into primary power. If Nebraska is to have full benefit of cheap electricity, the Tri-County project is an absolute necessity. It is the keystone in the arch. If it fails, the secondary power produced by the other projects will of necessity be sold to the Power Trust. It will be the only purchaser, and it will be but a few years until the private power companies, from the very necessity of the case, will be in control of both the other projects. If that occurs, all the funds that have been spent will have inured practically to the sole benefit of the private power people.

We have this peculiar condition confronting us. The officials of the Sutherland project, on the one hand, are reaching forth to get financial assistance from the Federal Government, while, with the other hand, they are seeking to strike down another governmental project similar to their own. Every possible effort is being made by these officials to increase the expense of the Tri-County project. This conduct can bring no advantage or benefit to the Sutherland project, but will do it injury, and, so far as electricity is concerned, make it impossible for the people to get any benefit from the expenditure of public funds. However, it will be of great benefit and profit to the Power Trust.

The officials of the Government of the United States are trying to harmonize differences between these projects and to have them operated in harmony and with economy. It is only in this way that the municipalities and the farmers of our State will get the benefit of cheap electricity. Cheap electricity is a necessity if the farmers are to realize the benefits of the Rural Electrification Act. So far there has been much unnecessary, expensive, and, I sometimes think, malicious litigation, all having for its object killing the Tri-County project. Injunction suits in both State and Federal courts have been interposed at every step. The delay and expense are rapidly making it impossible for the people of Nebraska to realize the full benefits that should come from the proper administration of these projects, based upon the development of the natural resources of our great Commonwealth.

The farmers of Nebraska, like the farmers of the Nation, and like the municipalities in our own State and every other State, are vitally interested in cheap electricity. Nothing will contribute so much to the happiness, prosperity, and comfort of life on the farm as will electricity.

It will mean a new hired girl in the farm home—one who will do most of the drudgery that exists in that home. This hired girl will work 24 hours in the day, and the longer and harder she works, the more she will enjoy it and the less will be her rate of pay. She works Sundays, the same as weekdays. She lights the house, washes and irons the clothes, cooks the meals, refrigerates the food, separates the cream, churns the butter, supplies the home with bath and toilet facilities, does the sewing for the family, operates the electric fan and the radio, and does innumerable other things with ease and comfort which otherwise would require toil and drudgery.

Cheap electricity will also supply a hired man for the farmer. This hired man will saw the wood, light the barn, milk the cows, fill the silo, water the lawn and the stock. He will even irrigate the farm and do all these and innumerable other things without complaint and with complete satisfaction.

The farmer will eventually become the best customer for electricity. He has all the uses for it the city dweller has and hundreds of other uses besides which the city dweller does not have. It will add not only to the comforts and pleasures of farm life, but it will help financially. It will do things better and more easily than they could otherwise be done. Altogether, it will make the farm a happier, more comfortable place on which to live and will also make it more profitable. All we need to do is to convert the natural resources, Heaven's greatest gift, into this element of human happiness.

Let us not deceive ourselves with the idea that this is a local question. These three projects, so far as electrical power is concerned, are State-wide in their application. Within transmission distance from any of these generating plants, all the people in city and country alike have a direct interest in seeing that every kilowatt of power that can be produced by the proper handling of these three projects is properly distributed among our people. Engineers do not agree as to the exact amount of power these three projects will produce. Neither do they agree as to how much of that power is primary and how much is secondary. A conservative conclusion based on engineering estimates, however, will show that more than 120,000 kilowatts, or 160,000 horsepower, would be produced.

From the somewhat conflicting estimates of engineers it is conservative to say that more than one-half of this would be primary power. If, by the operation of the three projects as a unit, a large portion of the secondary power can be converted into primary power, it would require the imagination to fully comprehend the wonderful benefits that would come from such operation to the people of Nebraska. Municipalities and farm organizations in Richardson County, in the extreme southeastern part of the State, would have interests identical with those in the county where the power was generated. The same would be true anywhere within transmission distance. A farm organization, organized under the Rural Electrification Act, in Lancaster, Gage, or Johnson Counties, would derive the same benefits as would a similar organization operating in Platte County almost within hearing distance of the waters rushing over the dam.

We must remember, too, we are just entering into this new era made prosperous and happy by electricity. The possibilities of greater improvement and further invention lie beyond. If we judge the future by the past, the possibilities hold much of rich life for the farmer. Let us hope that all the richness and all the comforts of a grander, purer, and higher life may be just ahead for the farmers of America.

The Public Range

EXTENSION OF REMARKS

OF

HON. JAMES P. POPE

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Tuesday, January 19, 1937

ADDRESS BY HON. THEODORE A. WALTERS, FIRST ASSISTANT SECRETARY OF THE INTERIOR, ON JANUARY 13, 1937

Mr. POPE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by the Honorable Theodore A. Walters, First Assistant Secretary of the Interior, before the fortieth annual meeting of the American National Livestock Association, held at El Paso, Tex., on January 13, 1937. This is a very interesting address, and contains much information valuable for livestock men.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Chairman, delegates to the fortieth annual convention of the American National Livestock Association, ladies, and gentlemen, it is no formal expression forced by the requirements of polite society when I say that it is a very real pleasure for me to be with you this afternoon. The honor and preferment are such as to impel my deepest gratitude. At this, my earliest opportunity, I greet you with praise on my lips and grace in my heart.

A great privilege and special honor is mine this afternoon in that I have been requested to personally deliver to you, and through you to the livestock industry, the good wishes and felicitations of our beloved President, Franklin Delano Roosevelt.

You represent a basic and necessary industry. Until that unknown and perhaps unborn genius of the chemical laboratory discovers ways and means to extract from the earth, air, and water the subtle necessities of life in assimilative form, your industry will yet be in its infancy.

The human family is not only dependent on you for a large percentage of its necessary food supply but also for much in the way of raiment and useful material for the applied arts and sciences. You who contribute to the necessities of life are possessed of permanent employment while those who produce for the changing and varying demands of the seekers after pleasure "have sown the wind."

The importance of the livestock industry in the economic structure of the Nation may be more fully realized by comparing it with agriculture as a whole. In 1935 the cash income from livestock was, in round numbers, $3,700,000,000. The cash income from

all other agricultural products was $3,005,000,000. The simple process of subtraction shows that the national income from your industry exceeded by $700,000,000 that derived from all other agricultural commodities. For the same year the industry carried on in the 11 public-domain States, which blanket the Rocky Mountains and are folded over against the Pacific Ocean, produced an income of $525,000,000—approximately 14 percent of our total national income from that source.

As the natural result of changed economic, industrial, and social conditions in this country we are the involuntary occupants of a new era. The period of extravagant exploitation has passed, and I trust there is none "so poor as to do it reverence." Roughly, we spent a century from the War of 1812 to the beginning of the World War in 1914 in exploiting the great natural resources of a continent so rich that we vainly imagined that they were inexhaustible. We felled the forest; broke with our plowshares the virgin sod of the Great Plains. We tunneled the mountains for precious metals. We spanned the continent with ribs of steel and ran upon them fast-moving trains to carry the products of mine, forest, farm, and range to the consumer or down to the sea where ships waited to carry them to the ends of the earth. A constant stream of settlers from the older States, swollen by immigrants from Europe, poured out upon the plains and on out through the passes in the mountains into the valleys beyond. They staked out their homesteads and erected their humble cabins. The herdsmen drove their flocks and herds without fee upon the public domain. We were an agricultural people dependent largely upon the soil.

With the close of the nineteenth century the frontier had vanished. The free-land era of American civilization had largely passed away. The "winning of the West" had been completed. This winning had its difficulties and left its scars. It was not all poetry. The cowboy following his dogies was not the glamorous, romantic one usually seen in the movies. Hardships, privations, and tests of human endurance were his. With the coming of the night, in storm or calm, the canopy of heaven was his roof and the lap of earth his bed. They were men of courage and were not afraid. They pursued their purpose undismayed. They subdued the wilderness and opened up the way for a more modern civilization and economic structure.

The homesteader, constantly seeking free land, moved in upon the range. Whether the liberal laws enacted by Congress in this respect were wise or inconsiderate is not now for us to say. The settler constantly disturbed and changed range conditions. The sheepman came. Much of the range was found peculiarly adapted to this industry. Clashes, many times determined and sanguinary, occurred between sheepmen and cattlemen. The public domain was by tradition and decision of the Supreme Court of the United States free to all—a no man's land. The first in time was first in right to consume the forage and in effect monopolize the waterholes in the semiarid regions.

On much of the public domain as it now exists, water was and is life. Control of the water hole carried with it the use of the range. The unrestrained and uncontrolled use of the range encouraged the native human passion of selfishness and the desire to consume before someone else did. Free use became abuse. There was no feeling of self-interest or ownership which prompts conservation, protection, or development. A very natural result followed. The range lands were increasingly depleted of their natural coverage. On large areas much of the natural vegetation entirely disappeared. The forces of nature in her leveling process had full sway. Wind and water attacked the unprotected soil. Melting snows and rains carried the moisture retaining, fertile top soil down to the sea. The wind gathered it up in its wings and carried it to the four corners of the earth. Sheet and gully erosion in aggravated form has covered up much rich bottom land with sand and gravel from the hills. It is silting the river beds and increasing the destructive character of floods. It causes the sedimentation of dams, ditches, and harbors. The engineers tell us that the sediment now carried by the Colorado River will completely silt in Boulder in 200 years. Silt deposits completely filled the small Austin Dam Reservoir in 10 years.

With millions of acres of the range eroded and overgrazed to the point where many of the native grasses and shrubs have disappeared; with serious decreases in population with corresponding evil effects on the social and economic life of the communities; with the range users frequently making the fatal mistake of trying to break even by crowding more stock on an already depleted range, it became more and more apparent that the Empire Builders' battle cry, "The Winning of the West", must be changed to "The Saving of the West."

The present administration at Washington, having the welfare of all at heart, and directed by a President who knows the needs of the present and sees the possibilities of the future, aided and advised by an honest, constructive, and fearless Secretary of the Interior, the Honorable Harold L. Ickes, concurred in and supported the law now known as the Taylor Grazing Act. We believe that upon its successful operation and administration hangs the future security and prosperity of the livestock industry dependent upon the public domain.

The Grazing Act, like most of our laws, was sired by experience and dammed by necessity. The remaining public domain, one of our last great public resources, had become the helpless prey of devastating erosion, with all its train of evils. The resulting failing water supply threatened not only agriculture but was a serious challenge to the increasing urban populations dependent on the streams and rivers which take their rise on the public domain. In this region of meager precipitation the availability of water is the factor which determines and limits industrial, economic, and social development. All plans for security of organized society of the future must take this definitely into account. About 85 percent of the water of the principal watersheds of the West is derived from a region of about 232,000,000 acres. It is of utmost significance that four-fifths of this controlling water-producing area is made up of range lands.

At the risk of being tiresome, especially to those from the Western States, I take this opportunity to state the substance of the Taylor Grazing Act. It authorizes the Secretary of the Interior to place in grazing districts a total of not to exceed 142,000,000 acres of vacant unappropriated and unreserved lands from any part of the public domain, which are not in national forests, national parks and monuments, Indian reservations, * * * and which in his opinion are chiefly valuable for grazing and raising forage crops. A district is created only after a notice and hearing of objections, if any, within the area to be affected. The act authorizes the issuance to citizens of the United States or those who have filed their declaration, at a reasonable fee, of renewable permits to graze livestock within a district for a period not to exceed 10 years. In the issuance of permits preference shall be given to those persons within or near a district who are landowners engaged in the livestock business, bona-fide occupants or settlers, or owners of water or water rights. Authority is given the Secretary of the Interior to rehabilitate overgrazed and eroded areas, to construct physical improvements necessary for the care and management of livestock while on the range, to cooperate with local organizations for the conservation of wildlife and to exchange, sell, or lease public lands in order to further the effective administration of grazing districts.

The act shall not be construed as in any way altering or restricting the right to hunt or fish within a grazing district under the laws of the United States or of any State. Neither does the granting of a permit vest the holder with any right to interfere with this privilege within a grazing district.

The act and its administration announces a new public-domain policy—one that emphasizes the land and not those who use it. It is a long-range policy of conserving the existing soils and forage and revitalizing depleted land so that they, too, will contribute to the wealth of the Nation and to the security of your industry. The act is in essence a land-use measure. I think it must be conceded that if we have not offered the solution we have asked the proper questions.

Up to the present time, 49 grazing districts have been organized. Advisory boards, representative of the several kinds of stock using the range, have been elected. Rules and regulations defining the qualifications of those entitled to use and the time and extent of such use have been adopted. These districts cover a gross area of 253,012,888 acres, of which 110,173,499 acres are public domain. On these lands 7,522,475 head of stock were grazed in the year 1936. The practicability of including other lands is being studied by those most familiar with the subject. The near future should witness the proper classification, for administration purposes, of all the public lands in the West.

As a factor in the administration of the act the Secretary of the Interior wisely concluded to include what are termed advisory boards. His purpose was to obtain the counsel and advice of the local stockmen in the solution of the multitude of problems which were incident to putting into operation a new measure. These advisors are elected by the qualified licensees and are generally composed of equal numbers of cattlemen and sheepmen. They have been wisely chosen and are a fair and honest cross section of the industry. They are a vital part of the administration. Experience has shown that they perform their work in a most conscientious and intelligent manner and their recommendations as to policies are sound. The traditional conflict between these two classes has vanished with the old order, never to return. They are interested in the future of the range and the dependent industry as a whole. Instead of a highly centralized bureau for the administration of the 142 millions of acres of grazing land coming within the purview of the act, a new precedent-making, decentralized agency, reserving and encouraging local autonomy, has been put into operation. At the same time Federal supervision and appellate jurisdiction is retained by the Division of Grazing with final jurisdiction in the Secretary of the Interior. The last 2 years have proven that home rule on the range is not only workable but desirable.

As a part of our national land legislation the Taylor Grazing Act stands out as one of the most significant of all our land laws.

It came after every possible method of settlement and development by private ownership had been fully explored. All the public domain, and more, capable of returning to the homesteader a living for his efforts, had been patented or filed on. The act deals with a type of land never before the individual subject of legislation, the left-over land—the culls, as it were. Three generations of settlers passed them by. They are the most arid and least productive land in the Union. In and of themselves they are almost valueless. But when considered in connection with a proper integrated relation to private lands and water that are largely dependent upon them they are indispensable. They have as yet an undetermined watershed value. In the national economy this may exceed their value for range purposes.

Proper use of the public domain and the private lands dependent upon it are at the foundation of the Grazing Act. Grazing privileges are dependent upon ownership or lawful possession of dependent lands or waters. The act provides: "Preference shall be given in the issuance of grazing permits to those within or near a district who are landowners engaged in the livestock business, bona-fide occupants or settlers, or owners of water or water rights, as may be necessary to permit the proper use of lands, water, or water rights owned, occupied, or leased by them."

Our rules and regulations defining "dependent" and "commensurate" property are:

"Dependent" if public range is required to maintain its proper use.

"Commensurate" for a license for a certain number of livestock if such property provides proper protection according to local custom for said livestock during the period for which the public range is inadequate.

Such a land-use statute presupposes that the proper use of the private land and water was either a known fact or that it could be readily determined. As a matter of fact, the western country has been so hastily settled, and there has been such a shifting of population due in no small degree to changing climatic and economic conditions, that few if any know the proper use of their holdings. Proper use may vary with the supply and demand for commodities such as it can produce. World as well as local conditions exert a determining influence.

In face of the far-reaching and statesmanlike objective of working out a land-use pattern for the proper relationship of private and public lands in the West, it was impossible to put immediately into effect and operation the land-use conception until proper use could be ascertained.

Temporary licenses were issued to take care of the existing range livestock industry until necessary data could be assembled for an intelligent determination of the proper use of the private land and water. The issuance of licenses is only a step in the process of determining a proper basis for granting permits.

Within the short time of 2 years the act has been in effect a large part of the necessary information relative to the carrying capacity of the range, seasons of use to which they are most suited, needed improvement, and the quality and proper use of commensurate properties of applicants has been assembled. Emphasis has been put upon this effort, with due regard for the penalties that follow unstudied haste. The survey of the State of New Mexico is almost complete. This could not have been accomplished without the intelligent cooperation and wholehearted assistance of the stockmen. They have been untiring and self-effacing in their efforts. The Department is most appreciative of their willing contribution of wide and varied knowledge gained in the rough school of experience.

For the first time in the history of the range as a whole it is contributing to its own betterment and improvement. Twenty-five percent of all fees collected are returned to be used in making the range what it should be. Fifty percent is remitted by the Treasury of the United States to the treasurer of the State where it is collected, to be expended as the State legislatures of such States may prescribe for the benefit of the county or counties in which the grazing districts or lands producing such moneys are situated.

A program of range improvement is well under way. Much valuable work in this regard has been done by the C. C. C. boys. We have 45 camps now and we hope to get many more. The boys enjoy the vastness and freedom of the range. No more healthful surrounding could be found for the young men who are contributing their full share in making America a better place in which to live. Already water holes and small reservoirs holding 30,000,000 gallons have been completed. Wells have been sunk. They are equipped with pumps and storage facilities. More than 1,500 miles of truck trails and minor roads have been constructed to provide stockmen easier access to range and camp. Fences have been constructed for the purpose of controlling the movement of stock. Three million acres have been treated for rodent control. Noxious and poisonous weeds and shrubs have been eliminated from vast areas.

Upon the proper answer to the many questions and to deal constructively with the complex, pressing problems that arise in the administration of the Grazing Act, depend in no small degree the future well-being, not alone of the range livestock industry but also of the interspersed private owner and taxpayer. Yes; the proper answers spell in large letters the prosperity of 104 counties of 10 Western States. Proper use means life in more abundance. Abuse means a broken and depleted economic structure.

The old frontier for the stockman, as for the homesteader, is gone. It lives only in song and story. Let us cherish its virtues and remember no more its vices. The Secretary of the Interior, with the intelligent assistance of the range stockmen, under the Taylor Grazing Act, is establishing a new frontier. I use the word "frontier" with respect and with full consciousness of its true meaning—"an advanced region of settlement and civilization." We are solving new economic problems and are weighing difficult administrative questions. From the conflict between sheepmen and cattlemen or that which ranged between competing herdsmen, we now move under one command, one administration, in a determined effort against the further destruction of our overgrazed and eroded public domain. United in our objective with those who reside on and use the range, we will overcome further deterioration of the soil. We hope to reproduce the covering of grass and vegetation that made the range what it was. We are striving to conserve the natural fall of life-giving moisture. The orderly use of the range is being solved. The stabilization of a great and necessary industry is near at hand. In building a new frontier we hope to perpetuate all the spirit and romance of the old and weave it into a revitalized, coordinated, regulated, and sustained undying legacy of greater national wealth and security to those who come after us.

The First Unicameral Legislature of Nebraska

EXTENSION OF REMARKS

OF

HON. HOMER T. BONE

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Tuesday, January 19, 1937

ADDRESS BY HON. GEORGE W. NORRIS, OF NEBRASKA, ON JANUARY 5, 1937

Mr. BONE. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by the senior Senator from Nebraska [Mr. NORRIS] at Lincoln, Nebr., on January 5, 1937, before the first unicameral Legislature of Nebraska.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I congratulate you on being members of the first unicameral legislature. The opportunities that will come to you officially to better the conditions of our people by the improvement of the legislative machinery are very great. Your work will attract the attention not only of the people of our great Commonwealth but of the entire country. Upon you and your work will be focused the eyes of all students of government all over the Nation.

Every professional lobbyist, every professional politician, and every representative of greed and monopoly is hoping and praying that your work will be a failure. Everything that special interests can do to embarrass you and to misinterpret your action will be attempted. On the other hand, every lover of his fellow man, every person who wants to place our State on a higher standard of efficiency, every person who is anxious to bring about improvement in our State affairs, every patriot who wants to place our Government on a higher level for good, every lover of human liberty and equal justice, and every believer in the business administration of State affairs as distinguished from political-machine control, is hoping, praying, and believing that your official work will be crowned with unlimited success and to the satisfaction and approval of believers in good government everywhere.

The unicameral legislative amendment was adopted by an overwhelming majority of our people. The adoption of the amendment was opposed by lobbyists, by professional politicians of all parties, and by every person or corporation who expected to get an advantage, financial or otherwise, in securing the passage of legislation favorable tc their ideas. Many honest people voted against the adoption of the amendment for one reason or another which appeared adequate and sufficient to them, but all such people are earnestly desiring that the new amendment be given a fair and honest test.

You are members of the first Legislature of Nebraska to hold your positions without any partisan political obligation to any machine, to any boss, or to any alleged political leader. Your constituents do not expect perfection. They know that it is human to err, but they do expect, and have the right to expect, absolute honesty, unlimited courage, and a reasonable degree of efficiency and wisdom. The people of Nebraska will not condemn you even if they do not agree with all of your official actions. We realize that honest men, patriotic men, and wise men do not always agree. In fact, disagreement on things which are not fundamental is an evidence of courage and independence. We expect an economical and efficient administration and, above all, an honest administration free from any partisan bias, political prejudice, or improper motives.

You have an opportunity to render a service to your fellow citizens that no other legislature has ever had. I believe you will meet your responsibilities with courage and ability. From now on Nebraska has a right to expect a business administration. Your work will be watched to a greater extent than the work of any legislature in the past. When you carry out the theory and the principles of the new amendment it will be easy to observe everything you do. Publicity of all your acts will help to reward the faithful and to punish those who do not follow the true spirit of the new amendment.

That your work may be successful and that it may receive the approval of all honest-minded citizens is not only my personal wish

but I believe it is the hope and desire of a great majority of the loyal citizens of Nebraska.

Argentine Sanitary Treaty

EXTENSION OF REMARKS
OF
HON. WILLIAM E. BORAH
OF IDAHO
IN THE SENATE OF THE UNITED STATES
Tuesday, January 19, 1937

RADIO ADDRESS BY FRED BRENCKMAN, WASHINGTON REPRESENTATIVE OF THE NATIONAL GRANGE, ON JANUARY 16, 1937

Mr. BORAH. Mr. President, I ask unanimous consent to have printed in the RECORD an address on the subject of the Argentine Sanitary Treaty, delivered on January 16, 1937, over the radio by Mr. Fred Brenckman, Washington representative of the National Grange.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The dairy and livestock interests of the country are making preparations to oppose ratification by the United States Senate of the proposed sanitary treaty or convention between this country and the Argentine. This has been reposing in the files of the Foreign Relations Committee of the Senate, headed by Senator KEY PITTMAN, of Nevada, since the last session of Congress.

The purpose of the treaty is to modify a quarantine that the United States imposed against the importation of animals and animal products coming from the Argentine because of the prevalence of foot-and-mouth disease in that country. The quarantine was imposed by the Department of Agriculture on January 1, 1927, and has been in effect for 10 years.

The quarantine was further strengthened by the enactment of section 306 of the Tariff Act of 1930, which in general language, applicable to all nations, laid down more stringent rules for the protection of American agriculture against foreign animal and plant diseases and pests. Under this section of the tariff act when a quarantine against the importation of products or commodities from any foreign country is imposed it applies to that country as a whole.

Those supporting ratification of the Argentine sanitary pact declare that there are now certain zones or areas in that country that are free from foot-and-mouth disease, and the proposal is to permit the importation of animal products from such zones, even though the disease is known to be prevalent in other parts of the country. Article 3 of the proposed convention reads:

PROVISIONS OF PROPOSED TREATY

"Each contracting party recognizes the right of the other party to prohibit the importation of animal or plant products originating in, or coming from territories or zones which the importing country considers to be affected with, or exposed to, plant or animal diseases or insect pests dangerous to plant, animal, or human life, until it has been proved to the satisfaction of the party exercising such right that such territory or zone of the other party is free from such contagion or infestation, or exposure to contagion or infestation. Neither contracting party may prohibit the importation of animal or plant products originating in and coming from territories or zones of the other country which the importing country finds to be free from animal or plant diseases or insect pests, or from exposure to such diseases or pests, for the reason that such diseases or pests exist in other territories or zones of the country."

Unfortunately, foot-and-mouth disease is no respecter of zones or areas, and those opposing ratification of the pending treaty point out that its consummation will be fraught with great peril to the dairy and livestock interests in all parts of the United States. It is contended, moreover, that whenever other countries impose an embargo against imports coming from the United States, the embargo applies to the country as a whole, and not merely to certain zones or areas. The modification of this rule on our part would, therefore, be contrary to the rules and usages to which we must submit in our intercourse with other nations.

The advocates of ratification claim that the present quarantine is unfair to what is known as Argentine Patagonia, a sheep-raising country, which is asserted to be free of foot-and-mouth disease at the present time. But the language of the treaty is so broad and general that in the event of its adoption it would be possible to bring in animal products from any zone or area in the Argentine supposed to be free from infection. That this broader application of the terms of the treaty is what the people of the Argentine have in mind is clearly indicated in an article appearing in the National Provisioner for January 9, 1937. This article, which quotes La Res, an Argentine livestock journal, reads:

WHAT PEOPLE OF THE ARGENTINE EXPECT

"Argentine hopes of exporting meat to the United States have been considerably strengthened by recent developments, according to La Res, Argentine meat magazine. The statement of President Roosevelt at Buenos Aires, in which he advocated ratification of the proposed United States-Argentine sanitary convention, was especially welcome.

"La Res emphasizes the view of Dr. Saavedra Lamas, Argentine Foreign Secretary, that 'we ask that the United States send its best experts here to study the situation. If, after a thorough investigation, these experts report that there is any basis for the fear that foot-and-mouth disease may be introduced into the United States in Argentine meat, we shall abide by that decision.'

"It is claimed that such an investigation, though welcome, would be superfluous because 'the certainty that it is not transmitted has been repeatedly proved and acknowledged by the experts sent out by the United Kingdom, besides the fact that we know without any doubt that our sanitary inspection is carried out with unexcelled efficiency in the matter of the exportation of meat.'

"Relaxation of American restrictions would be justified from the point of view of the American consuming public in the eastern industrial zones, according to La Res."

The statement by Dr. Lamas quoted by La Res refers to the fact that the United Kingdom is satisfied with the sanitary inspection carried out by the Argentine. It is worthy of note, however, that Great Britain is one of many countries in the world in which foot-and-mouth disease is prevalent, and it can be easily understood why such a country would be more lax in the enforcement of sanitary regulations than the United States, which has paid the price of eradicating this highly infectious and contagious disease. Moreover, Great Britain is a deficit meat-producing country and is under the necessity of getting its supplies from beyond its own borders.

ONE OF MOST INFECTIOUS ANIMAL DISEASES

Foot-and-mouth disease has long been recognized as one of the most contagious and infectious animal diseases known. It has existed for centuries and, as I have said, is prevalent in many countries of the world. In the United States slaughtering infected and exposed animals promptly and burying or burning their carcasses has been the chief means relied upon for eradication.

Since 1900 there have been six outbreaks of foot-and-mouth disease in the United States which were eradicated or suppressed by the slaughter method. It has also been the practice to thoroughly clean and disinfect all premises, destroying by fire such materials as could not be properly disinfected.

In 1914 the United States experienced one of the most serious outbreaks of foot-and-mouth disease in the history of the country. It involved the States of Connecticut, Delaware, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Iowa, Kansas, Kentucky, Maryland, Montana, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia.

In the eradication of the 1914 outbreak the following number of animals, in round numbers, were slaughtered: Cattle 77,000, swine 85,000, sheep 9,700, together with many goats. The grand total of animals slaughtered was more than 172,000. Illinois and Pennsylvania were the worst sufferers.

The next outbreak of foot-and-mouth disease made its appearance in California and was confined to that State. It was found that a herd of 600 hogs that had been fed on garbage obtained from Mare Island Navy Yard was the first to develop the disease. The appearance of the disease was definitely traced to a vessel that touched at the navy yard and which carried a supply of meats secured at oriental ports where the foot-and-mouth disease existed.

WHOLESALE SLAUGHTER OF DEER

During the 1924 outbreak of the disease in California it spread to the deer running on the Niagara range of the Stanislaus National Forest. To bring the situation under control more than 200 hunters were employed to shoot the deer on this range, and a total of more than 22,000 deer were shot to prevent the spread of the infection.

Aside from the very serious bearing that an epidemic of the foot-and-mouth disease has upon various branches of agriculture, it always entails serious dislocations and losses to industry and commerce. The 1924 outbreak in California was accompanied by a distinct stagnation in many lines of business and industry. Severe embargoes and restrictions against the shipment of California products were imposed by Arizona, Nevada, Oregon, and Washington, together with the Territory of Hawaii. In the case of Arizona the restrictions as to the movement of automobiles and of persons were sternly enforced and were supported by a show of arms. Even barnyard fowl and citrus fruit became contraband under practically all the quarantine embargoes.

It was likewise noted that during the prevalence of the epidemic tourist travel to California declined perceptibly. With reference to those who journeyed by train, the decline amounted to 21 percent. Nearly all trade between San Francisco and Honolulu was suspended for many months.

Among those opposing ratification of the Argentine Pact is the National Association of Commissioners, Secretaries, and Directors

of Agriculture, which expressed itself in no uncertain terms at its recent annual convention, held in Nashville, Tenn. Literally scores of farm and livestock associations have adopted similar resolutions.

American agriculture in the past has suffered heavy and grievous losses as a result of the introduction of the European corn borer, the Japanese beetle, foot-and-mouth disease, and other insect, plant, and animal diseases that came into this country from abroad. The Grange believes in the strict enforcement of quarantine and sanitary regulations and joins forces with the numerous other organizations throughout the Nation that are opposed to the ratification of the pending convention or treaty with the Argentine.

The Mattson Kidnaping

EXTENSION OF REMARKS
OF
HON. JOHN M. COFFEE
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1937

Mr. COFFEE of Washington. Mr. Speaker, as a Representative in Congress from the Sixth District of Washington, in which area the Mattson and Weyerhaeuser kidnapings occurred, I am naturally profoundly concerned that all steps be taken by the Congress and legal authorities that such diabolically fiendish, maniacal degenerates as the Mattson criminal must be, be brought promptly to the end of their trail.

The United States Department of Justice has offered a reward of $10,000 for the apprehension of the Mattson murderer, and the State of Washington is about to offer an additional substantial reward. It is the duty of each of us to advise our local authorities of any suspicious characters found to be lurking in our neighborhood or near a public school. Let us cooperate with the police to the end that their task in arresting and convicting unspeakable fiends, such as the Mattson kidnaper, be made more easy.

Dr. W. W. Mattson is an average father. He is my personal friend. Any father in America tonight can put himself in place of Dr. Mattson and envision graphically the excruciating agony that must have been his lot during the interminably long hours of day and night, when he was so fruitlessly attempting to rescue his beloved son from the foul hands of the unknown wretch who had "snatched" him.

Then, Mr. Speaker, let all of us, who represent the various sections of the United States, likewise picture, if we can, the soul-stirring, heart-searing suffering that was the lot of Mrs. Mattson, the mother of the murdered boy. But their suffering was not concluded by the tragic discovery of his poor, abused little naked body in the woods near Everett. No; their suffering had just begun. Throughout the remainder of their lives they will be filled with self-accusing doubts and wonderment as to whether or not they had neglected to surround the boy with proper safeguards against an adventitious criminal. They will never be able while life remains to blot out their love of that boy and to overcome the blasting memories of the days and nights of horror attending the kidnaping episode.

These parents, Dr. and Mrs. Mattson, my personal friends, are average parents of America. Dr. Mattson was not a man of great wealth. True, he had built a beautiful home, but it was not a mansion, nor is it unduly pretentious. Dr. Mattson is a successful surgeon in my home city of Tacoma, the population of which is about 120,000. His residence is located upon a scenic promontory overlooking Puget Sound at a point about 200 yards north of the magnificent former home of the late J. P. Weyerhaeuser, grandfather of the Weyerhaeuser boy who was kidnaped 18 months ago. There may be some connection between these two crimes.

Certainly the entire Nation is shocked and aroused to a fever pitch of indignation, as never before, by the maniacal brutality which characterized the crime. It is almost inconceivable to us that any human being could be so low as to bruise and lacerate the defenseless body of this helpless boy, after abusing the lad in frightful fashion, not only cutting the flesh but hammering the skull. My God! Is this the civilization you and I are fighting to preserve?

Within a day or two after the little boy's body was discovered, Mrs. Mary Case, a beautiful matron of New York City, was found in an overflowing bathtub, her body beaten, cut, and crushed by another fiend whose confession was reluctantly wrung from him by the New York police a couple of days later.

Mr. Speaker, have we been guilty of some reprehensible omissions in our economic structure? Do the injustices which exist under our system cause brooding and inculcate such widespread suffering as to result in the breaking down of all sense of morality and decency in some of our weaker fellow men?

The yellow press has made a Roman holiday out of the Mattson killing. The foul specimen who committed the murder was advised almost hourly of every move of the local authorities. He could listen to the radio broadcasts of the directions taken by the police. He could hear the short-wave police broadcasts of their movements. A Roman holiday by newspapers interested in selling their wares and not flinching from the employment of questionable methods out of which to make profits.

In our blessed America, of which we are so proud, there would appear to be grave social and economic injustices which cause reactions, crazed outcroppings, and unspeakable crimes. Are the average parents of America to be menaced by the dread possibility that their beloved little son or daughter may some day be abducted and the "light of their life" be darkened by this all too omnipresent menace afforded by the kidnaping wave in the United States?

Some there are who suggest a remedy in the form of an amendment to the Lindbergh Act, whereby the requirement in the law that Federal authorities sit idly by 1 week after the kidnaping occurs before intervening shall be wiped out, and the G-men officially allowed to take charge of the case at once. There are others here in Congress who suggest the enactment of a statute making it a felony for distracted parents, under the bludgeons of a blackmailing thug, to pay ransom for the return of a kidnaped relative. Whether these suggestions are practical remains to be seen. One cannot stamp out crime by the mere passage of a drastic law. The tendency to crime springs from widespread suffering of grievances, real or fancied. All psychiatrists recognize that paranoia is on the up-grade in the United States. Paranoia, in one of its phases, is the inclination on the part of the sufferer to believe himself to be chronically the victim of persecutions. In other words, he suffers from a persecution complex. He becomes an introvert, imagining that the entire world is picking on him and that he must do something drastic to revenge himself upon his minatory tormentors. He broods and broods over this situation until something snaps within the convolutions of his brain. He goes berserk. He strikes down the first thing he sees.

This situation in the United States cries aloud to Heaven for careful research and investigation looking toward the offering of practical remedies. Let us bring comfort to the mothers and fathers of America. It is no longer just the millionaires who must worry about their children's safety. The Mattsons are a family of comfortable competence but are in a financial category that must be described as far from very wealthy. To raise $28,000, I know my friend Mr. Mattson must have had great difficulty. But the kidnaper does not wait to look up one's record in Dun & Bradstreet. If he imagines you are wealthy, that is sufficient. He will not engage in a debate with you as to your pecuniary resources. He strikes, and the deed is done.

Ah, Mr. Speaker, the Mattson tragedy is not that of Tacoma or the State of Washington—it is America's tragedy, a blot upon the escutcheon of our American culture. It appeals to all of us—it touches our hearts and our minds. What shall we do about it?

Free Port of New York

EXTENSION OF REMARKS
OF
HON. EMANUEL CELLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, January 18, 1937

RADIO ADDRESS BY HON. EMANUEL CELLER, OF NEW YORK, ON JANUARY 8, 1937

Mr. CELLER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I recently delivered over the radio:

We have heard in history much of the free port of Danzig, the free port of Oslo, of Hamburg. We are soon to have the free port of New York. At the outset I wish to emphasize that a free port has nothing to do with free trade. It is a foreign-trade zone—simply a policed and enclosed portion of a port where goods may generally be imported free of duty and customs supervision, and there graded, sorted, manipulated, mixed with domestic material, repacked, reclassified, warehoused, labeled, etc., and need only be subject to duty when released from the zone. As far as customs are concerned, the zone is foreign territory. Whenever and wherever free ports have been established, exports and imports, and particularly retransshipment of merchandise, have been quickened and augmented. New York, at this juncture, greatly needs that quickening to its foreign commerce, especially retransshipments, i. e., where large shiploads are consigned to a New York importer, to be broken up at New York into smaller shiploads for retransshipment without duty payment to West Indian and South American ports. That type of trade is lost to us now. Our New York free port will bring it back.

The tariff policy of the United States throughout its political history has been shaped to protect our manufacturing, mining, and agricultural industries. With the aid of this customs protection, our industries have grown to be among the strongest in the world. In affording this protection the supervision over foreign products entering our country necessarily has been extremely strict. For those foreign goods which enter our ports and are not destined for our consumption, or which do not meet our standards, there has been adopted a system of bonded warehouses. In these bonded warehouses foreign merchandise may be stored for a period of 3 years without payment of duty.

In permitting these facilities of the bonded warehouse, the Government, through tariffs and through the Customs Bureau, has so hedged the procedure with regulations that only with great cost and loss of time may advantage be taken of bonded warehouses. These stringent regulations have caused foreign shippers in some instances to avoid our ports as much as possible when goods are not consigned for this country's consumption. The free port will do away with these difficulties and will encourage foreign shippers to use our ports. Likewise, importers in this country tend to import only those goods needed for immediate consumption, because the time and capital involved in placing such merchandise in custom bond may be greater than savings obtained by buying in larger quantities and controlling reserve stocks close at hand. A free port makes unnecessary these irritating impediments.

As our world commerce grew, the necessity for some method which would make easier the flow of commerce through our ports manifested itself. In searching for a means which would not imperil our protective tariff, nor hinder the customs guarding of our revenues and yet aid foreign commerce, the principle of foreign-trade zones or free ports was finally adopted.

The first free port bill was introduced into Congress in 1894. After 40 years of struggle, the free-port principle prevailed, and in 1934 the Celler free port bill was passed.

During those 40 years most of the opposition came from the interior sections of the country which feared a loss of their industries to the seaboard and from those who feared a breach would be made in our high-tariff wall. Most of the opposition was due to misinformation and lack of knowledge.

The Celler Act sets up an interdepartmental board composed of the Secretaries of Commerce, Treasury, and War and known as the Foreign Trade Zones Board. Mr. Thomas E. Lyons, an estimable gentleman, is the operating directing head of this Board. This Board passes upon applications from public or private corporations desirous of establishing foreign-trade zones.

Charges for use of its facilities are determined upon a fair and reasonable basis, subject to approval of the Government regulating authority, the Foreign Trade Zones Board.

The act declares that foreign and domestic merchandise, whether dutiable or free, may be stored in the zone for an unlimited period of time. While in storage these goods may be broken up; that is, smaller, more convenient packages or units may be made. Merchandise may be repacked; that is, it may be packed for more attractive distribution, for varying conditions of handling, to meet certain requirements. Merchandise entered in a knocked-down condition in order to save ocean-freight charges may be assembled ready for the market. Shipments may enter a zone in one unit and there be broken down into units destined for many markets over the world. Products within a zone may be sorted and graded for any requirement, such as size, quality, customs, classification, and the like. Many commodities moving in world commerce are in need of cleaning and the removal of foreign matter. This may be done in a foreign-trade zone and with no payment of duty. Materials entering a zone may be mixed with other materials of a like nature, whether foreign or domestic, for the purpose of obtaining a higher or lower grade. These and other manipulations may be permitted in a zone duty free. Prohibited operations within a zone stipulated under the act are retail trade, except when approved by the Board, public exhibition of merchandise, and manufacturing. Under the enabling act the operator may lease space in the zone to private individuals or companies. The operator also may charge for the use of its piers, handling equipment, services, and labor. All charges and rates are assured the reasonableness and stability of a public utility.

Operation of a foreign-trade zone will undoubtedly decrease the cost, the time, and the labor in the importation and distribution and handling of foreign goods. It will facilitate proper coordination of land and water terminals; it will make for uninterrupted flow of goods entering and leaving the port at greatly reduced charges and costs.

The prohibition against manufacturing was incorporated mainly as the result of fears which it is believed are unfounded—that is, that foreign manufacturers would produce products at our doorstep, and also that inland manufacturers would desert their present sites for the more advantageous location in a zone where goods containing dutiable foreign material could be manufactured and shipped abroad at less cost and with greater expediency. Regardless of the reasons for not permitting manufacture, the effect of the prohibition reaches into and restricts other operations not properly regarded as manufacturing. Of course, most legislation is the result of compromise. Rather than risk undue opposition from Congressmen from interior States, I agreed to eliminate manufacturing. However, in the coming session I propose to amend my bill to permit manufacturing and also, incidentally, to permit the exhibition of goods.

During the past depression we watched our foreign trade melt away to the vanishing point—from more than nine and one-half billion dollars in 1929 to less than three billion in 1932. We felt the effects of world economic nationalism. We believed this nationalism was based on false premises, and therefore set about doing our part to reopen trade channels. We did this because no creditor nation such as the United States can possibly continue to carry on or develop its foreign trade if it is not willing to receive at least as much of the items that enter into foreign trade as it exports. Such a balance between exports and imports is the healthiest kind of international exchange.

The program which has been our guide in this effort includes the Reciprocal Trade Agreements Act of June 12, 1934, which has set about reducing and eliminating artificial and destructive trade barriers, and which is demonstrating its soundness by the remarkable success it has achieved in the short period of its existence. Another step in the program is the World Two-Way-Trade Fair, which is to be held next May in the Port Authority Commerce Building in New York. This fair is being held for the purpose of fostering the foreign trade of this country by bringing together the cream of our exportable commodities and those of foreign nations. It is a great educational enterprise bound to be an important step in our return to the heights of world trade. Finally in the program is the establishment of foreign-trade zones under my bill. The President signed my bill in my presence and said he hoped for four free ports, two on the Atlantic, one on the Gulf of Mexico, and one on the Pacific.

Thus the steps in our program for the expansion of foreign trade are the opening of world markets by means of reciprocal-trade agreements, the acquaintance of the world with the products and facilities available here and abroad, by means of the Two-Way-Trade Fair, and the simplification in the movement of commerce in this country by means of the foreign-trade zone.

The first port granted permission to establish a foreign-trade zone has been New York. Early in 1937 a segregated area on Staten Island will be opened for traffic—a modern land-and-water terminal where the world's merchandise may come and go relatively free from all customs control. However, the permission granted New York is conditioned upon operation by February 1, 1937.

The New York City administration perhaps unwittingly has been somewhat dilatory in its actions under the permit. My friend Mayor LaGuardia, who is an ardent advocate of the free-port principle, has been wrestling, apparently, with the problem as to whether operation of the port should be public or private. Public operation by the city would end in dismal failure. I believe the mayor now realizes this. It can only be operated with private capital and private initiative and ingenuity. It is a business involving, among other things, the sending of salesmen to Singapore, Vladivostok, Stamboul, Buenos Aires, and many other far-flung ports and places. Politics should have no part in it. Imagine an agent—say a Democrat—about to consummate an arrangement with a shipper in Paris for a shipment of wines and brandies to the free port at New York for retransshipment to Nassau, to Habana, and to ports west of the Canal. A change of administration occurs. A Fusion or Republican mayor summarily recalls that agent. The business is lost. Free-port technicalities and business intricacies cannot be mastered under any political

hierarchy—be that hierarchy labeled liberal or Tammany. Furthermore, Washington is growing impatient at New York's delay in actually setting up the zone. I respectfully warn the mayor and his colleagues that further extensions beyond February 1 within which to begin actual free-port operations may be difficult. In conclusion, I am pleased to note that Comptroller Taylor, of New York City, has espoused vigorously the idea of setting up the free port of New York. He doubtlessly will cooperate wholeheartedly with us to that end.

Book Review: Honeysuckle; Romance Down South? No; the Piedmont Is Washing Away

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 12, 1937

HONEYSUCKLE, BUT NOT SOUTHERN ROMANCE

Mr. MAVERICK. Mr. Speaker, this is a book review, not a speech. I shall speak of the land down where the honeysuckle grows, but it shall not be a song rich in southern romance and the strumming of guitars. It will be about the practical uses of honeysuckle and other plants in keeping lands from washing away in the Piedmont area of southeastern United States.

This tale is told in "Soil Defense in the Piedmont", Farmers' Bulletin 1767, United States Department of Agriculture, hot off the Government printing press. This bulletin is as important to the subway straphanger, who lives 18 floors up, touches buttons for lights, and uses steam heat, as it is to the apple-knocker of the Piedmont hills.

GASHED AND TORN LIKE DEAD MAN'S HILL

The Piedmont is the Appalachian foothill country of Virginia, the Carolinas, Georgia, and Alabama; roughly, the beautiful lands wrested gradually and sometimes in huge chunks by our ancestors from the Cherokee Indians and a few other tribes. For two centuries we have grown tobacco, corn, cotton, and other crops on this land, and now these 40,000,000 acres are impoverished by erosion.

This Government pamphlet shows the land is gashed and torn by gullies. The pictures show the land looking like Dead Man's Hill in France after bombardment. Almost 12,000,000 acres have been retired from cultivation. Twenty-eight million have suffered badly from erosion. From 1920 to 1930, 50,000 farms were abandoned largely because of erosion.

But what about the honeysuckle? Read:

> Honeysuckle, although it has little or no feed value, is an effective gully control plant. It is invaluable north of the effective range of kudzu. Honeysuckle grows vigorously behind temporary dams in gullies and on gully banks if a handful of good soil is placed under the plant when it is set.

And of kudzu—well, just read the pamphlet. Kudzu, my friends, is a legume, and legumes are needed to build up the soil.

A simple definition of a legume would be:

> A plant that has the power to reach into the air for nitrogen and to store it in its roots as plant food for succeeding crops to use.

CITY DWELLER, YOU CANNOT EAT UNLESS THE SOIL IS SAVED

Why should a city dweller know all this? Well, he cannot live unless he can eat, and he cannot continue to eat unless the soil is conserved. This book tells how to save and conserve soil; it tells about contour plowing, terracing, strip cropping, contour furrowing of pastures, growing crops in rotation—how these practices will enable us to farm indefinitely and prosperously.

It is something new in Government bulletins. If you take the pamphlet and open it, spreading out the front and back cover, you see a scene of modern, sensible, soil- and water-saving farm practices etched on the land. You see pictured a system of farming by which men can live like human beings and leave something for their children.

CHAPTERS PARADE TO DRUMS OF CONSERVATION

Its principal titles are: When the Land Was New; Measured Soil Losses. Another: Buried Bottom Lands—you should see the pictures! Dwindling Water Power—this one scares you; we have got to stop the silting of reservoirs. Here is another: Awakening Interest in Soil Defense. Swell. This is better than spending all the national income on machines of war; after all, we must defend the soil, or else we die, just as in war. Then: Modern Measures of Soil Defense—new machines, new soil-saving practices, new crop rotations, renewed hope, instead of new guns, new military tactics, and soldiers marching and dying in hopeless rotation.

More chapters: Healing Land Cancers. It says:

> Once a field is gutted and gashed by gullies and abandoned, Nature must work hundreds of years to restore it to a semblance of its original condition—

And pictures to prove it, as in all of the other chapters! I mention one more chapter—Soil-Saving Associations. These are better, a good deal, than political clubs wrangling over fancied rights and wrongs. And such associations build and save by using the sciences of chemistry, physics, botany, and economics. They do not thrive on dead political theories, blind courts, selfish commercial organizations, and political patronage.

"BEHOLD, YE SHALL BE DESTROYED * * *"

This bulletin describes the work of the Soil Conservation Service in the Piedmont, a program headed by H. H. Bennett, 35 years in the work, a modern Jeremiah who does not yell at you like the prophets of Israel: "Behold, ye shall be destroyed * * *" but gives you the facts and arguments and makes you like it.

Congress only created the Service 3 years ago and already it is one of the most efficient branches of our Government. There are young men in it who have the spirit, education, and brains to find new paths and to follow them. The Soil Conservation Service has definite objectives and is doing a splendid excellent job.

The Lawyer and Democracy

EXTENSION OF REMARKS

OF

HON. JOSEPH C. O'MAHONEY

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Friday, January 22, 1937

ARTICLE BY CHARLTON OGBURN

Mr. O'MAHONEY. Mr. President, in the American Law Review in 1915 there was published an article entitled "The Lawyer and Democracy", written by Mr. Charlton Ogburn, at that time one of the leading members of the bar of Savannah, Ga. Mr. Ogburn is now a member of the bar of New York City and of Washington, D. C. He has become more eminent in the profession as the years have passed. He still retains his belief in the fundamental principles of democratic government and his conception of the lawyer's place in that government.

I ask unanimous consent that this illuminating article be printed in the Appendix of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

> The American Government has been a Government of lawyers. Theoretically a Government of the people, for the people, by the people, representative participation has made it in practice a Government by those to whom authority has been delegated. An overwhelming majority of these representatives of the people have been members of the bar. Lawyers have dominated every Congress and the official family of every President. Out of 27 Presidents of the United States, 22 of the number have been lawyers. The making of the laws and the administration of the

laws of this Nation, as truly as the interpretation of these laws, have been in the hands of lawyers.

That this has been a more successful government than governments by militarists, imperialists, bureaucrats, and diplomats none can deny. If lawyers have been the undisputed political leaders of America, they have likewise, in only a slightly lesser degree, been its intellectual leaders also. Except for the brief period when the church dominated thought, the intellectual leadership of this country has clearly rested with the legal profession. The founders of our common schools and of our State universities have been mainly lawyers. The leaders of governmental reform have, with few exceptions, been members of the bar. In every crisis in the life of this Nation since the days of James Otis and Patrick Henry lawyers have been at the helm, safely directing the course of affairs and maintaining the fight for popular liberty and national independence.

Lawyers have been the leaders of the people because they have been in close touch with the life of the people and have understood the needs and aspirations of the people.

This Nation was founded on the idea of personal freedom and was the outgrowth of the struggle to attain it, in connection with economic independence. The right to the enjoyment of individual liberty, free from oppression by the Government, the right to the possession and accumulation of property, free from interference by the King—these were among the motives that impelled the founders of this Nation to endure many hardships in order that they and their children should not be deprived of these rights without due process of law.

This struggle was only a continuation of the hard fight long waged in the mother country. The men who settled America and their brothers who remained behind in England were fighting the same battle under different conditions by different methods. And it was the same fight their fathers had fought before them.

The victory the founders of this Nation achieved for the enjoyment of personal liberty and the possession of individual property free from interference by the sovereign was complete. The economic conditions under which they lived were favorable. The resources of the country were bountiful. The advantage that many persons took of the rights thus secured them under circumstances so auspicious was so prompt that soon aggregations of wealth became so amassed as to interfere with the opportunity vouchsafed under a democracy. The fight of the people against the tyranny of the sovereign in this country is a fiction. The people are now turning to the Government for protection against the tyranny of property. Reform has gone deeper into the structure of society, and works for the rescue of nonproperty holders for the freedom denied them by the unequal distribution of wealth.

The problem of government now, therefore, is the development and protection of social rights and the modification and restriction of individual rights.

Our law, however, was built up around individualism before the theory of collectivism was evolved. Our supreme law is the Constitution. Every clause of it is packed with the history of the struggle of the middle classes against the sovereign. Its distrust of the people is shown clearly in the method it provided for the selection of the President. Its ignoring of human impulses is shown in the system of checks it sought to maintain.

The common law, which is the trunk of our law, with few prunings and few growths, was received directly from England and echoes in its every principle and application the conflict our English ancestors waged with a tyrannical king. The landmarks in the history of our law are such events as the signing of the Magna Carta in 1215, the Petition of Rights in 1628, the Bill of Rights in 1689, etc.—all representing the victory of individual and property rights over the oppression of the sovereign. Even our criminal laws and police regulations reveal their origin by embodying the eighteenth century ideas of punishment, of suppression, of using the State as a policeman.

What effect does this study of the system of law have on the mind of the lawyers and the judge? What influence in turn do the lawyer and judge, saturated with the philosophy of such a legal system, exert on the law's further development? In seeking an answer to this question the writer is guided by his own observations made in the study and the practice of law. He derives from other members of his profession the substance of this answer through their own spoken and written words.

Beginning the study of law, the student devotes himself to textbooks or case books explanatory of the system of law evolved from the individualism of earlier centuries. All of his ideas are obtained from this historical study.

Whether he imbibes these principles directly from the textbook writers or whether under the guidance of the law professor he works out these principles from the "cases" handed down by the judges, his understanding of the law is virtually the same. He is directed to the English and American judges of earlier days, to Erskine, to Blackstone, to Coke, and others, as the fountainhead of common-law learning. He becomes saturated in the eighteenth century philosophy, in which the law schools are seeped. Of economics, of politics, of the system of social sciences that have lately grown up he is taught nothing. That these sciences may be as important to an understanding of the laws of society of today as are these 200-year-old cases does not concern the law school. Its function is to teach a craft. It prepares the lawyer to win lawsuits.

When he has begun his practice before the courts the young attorney finds this same philosophy of the law his chart. For the settlement of legal principles of today he must cite precedents musty with age. He becomes more concerned with the precedents themselves than with the principles back of them. He piles precedent on precedent, as if to overwhelm the court with the weight of them. His desire to serve aggregated wealth is likewise a powerful incentive to conservatism. Then when he is raised to the bench he has become too deep-rooted in the past to be able to shake off the cold grip of the dead judges that have ruled his thinking.

To know the past and to understand the developments through prior centuries is necessary. Unless men acquired and accumulated a knowledge of what has gone before we would still be cave dwellers. On the other hand, to live in continual contemplation of the past, to look solely to history for a criterion of our actions is fatal. This is true of individuals, of institutions, of peoples. Nothing, for instance, is so obstructive to a city's growth as historic traditions when they come to mean more to its citizens than the glories of the future. Tablets commemorating the deeds of ancestors, when they take the thoughts away from the needs of posterity, had best be torn down. A city whose chief source of pride is in the monuments to dead heroes that grace its parks had just as well be all monuments. A harbor that becomes of greater significance to a community because it was the scene of some Revolutionary War event than because it is fraught with possibilities, say, for South American trade, had best be filled in and made into farm land.

What we look upon becomes a part of us as much as what we live upon. It is significant, therefore, that in a lawyer's office, or a judge's chambers, among the mural decorations, for instance, we are likely to find a framed copy of the Magna Carta—that instrument, 700 years old, exacted by property owners from a despotic king.

The effect this contemplation of the past has upon lawyers and judges is strikingly exhibited in the committee reports, resolutions, and addresses of the American Bar Association. To select this field of research is more fair to the profession than to take the arguments of lawyers before the highest courts or the decisions of learned judges in leading cases. In bar association meetings lawyers speak for themselves, rather than for clients, and they are influenced by motives not to win cases but to improve conditions affecting the profession and the Nation.

If we attend meetings of physicians, of engineers, of scientists, of educators, the proceedings impress us with the fact that in these fields wonderful achievement and advancement is being made. If we attend bar association meetings we are forced to the conclusion that lawyers are still "threshing over old straw." The addresses before the American Bar Association and the reports of its committees, all representative of the best that is in the profession, afford a discouraging answer to our question. The tone of these addresses and reports, almost without exception, is reactionary and narrow. Toryism is noticeable in almost every vote taken by the association. Its members are appealed to to counteract the growth of populistic movements as dangerous to the permanency of Government. There is a constant deploring of the modern attacks on ancient landmarks. It would seem almost that the profession is endeavoring to use the bar association as a broom to sweep back the waters of this rising flood of modernism.

We discern in the addresses no new perception of the needs of the masses. We hear no analysis of the ancient reasons back of the precedents, no differentiating conditions now and then. There is always the same insistence on the principles of the freedom of contract; the same reliance on the antiquated political and economic philosophy of the eighteenth century; the same eloquent tributes to the Constitution, with its safeguards of individual property rights, struck off in the light of eighteenth century politics.

If the great body of lawyers in America are alive to the world-wide movement in liberal democracy that is beginning to shake this new century, their spoken and written words give little indication of it; If their average thinking has been touched by this movement, the tone of these addresses fails to show it. Leaders of the profession, in some instances, have demonstrated their awareness of this revolution by their protests against certain of its manifestations. But these very protests, and the manner of their reception, prove that the American bar is either ignorant of or indifferent to its underlying purposes.

One of the most active committees of the American Bar Association, for instance, is the committee to oppose judicial recall. The writer is not concerned in this article with the merits or the dangers in the recall of judges. What he does want to direct attention to is the a priori thinking which characterizes the reports of the American Bar Association on this subject—the dogmatic assertions in these reports that the movement is vicious, the stressing of the legal phases of the questions almost to the total elimination of its social features.

Another pointed illustration of the kind of thinking now being done by lawyers is the charge made by the American Bar Association at its 1914 meeting that the Clayton Act of the present Congress, giving the right to labor unions to exist, confers special privilege. This arbitrary characterization of an important law passed by the Congress of the country after long debates, signed by the President, and not yet interpreted by the Supreme Court, is neither lawyerlike nor statesmanlike. The fact is entirely ignored that in associating themselves into unions laboring men evince the same tendencies toward self-protection that brought about the

formation of this Government and that are among the objects to be attained in all governments.

A further side light on the attitude of the lawyer toward live, modern problems is sufficiently discernible in two expressions from a leading lawyer of New York, which are quoted in his language, as follows: "When a man is poor and cannot find any other man who, legally or morally, ought to pay him money, his poverty is not a case of injustice, but of hardship." And again: "When the Beef Trust sells beef, is it under an altruistic obligation to the public or to any individual in the community to sell its own property for less than he is willing to pay? In employing its workmen, is it under a similar obligation to pay them higher wages than the workmen are willing to accept?"

In an address before the American Bar Association meeting of 1912, which the writer attended, a very eminent lawyer felt called upon to come to the defense of John D. Rockefeller. His words were as follows: "Well, somebody would have to control all that money if Mr. Rockefeller did not, and I have an abiding faith that it will accomplish much more good for humanity in the hands of Mr. Rockefeller than it would in the hands of Mr. Gompers." Such a vital issue as woman suffrage the American Bar Association is unwilling even to discuss and treats it as something too dangerous to touch. A few more instances will doubtless suffice for present purposes.

On the subject of inheritance taxes I think I am justified in saying that the following quotation expresses the attitude of a majority of the members of the American Bar Association: "In any country where a written constitution contains the usual Anglo-Saxon bill of rights there exists an essential repugnancy between the constitution and such legislation" (taxing inheritance). "Private property is taken for public use without compensation * * *. It is not creditable to the American bar that it has allowed this repugnancy to remain unchallenged and has permitted its clients' property to be seized on the flimsy pretext that a man has no right to execute a transfer of his property to take effect at his death without the State's consent."

The phase of the modern movement in democracy which has met the greatest opposition from the bar has been the movement for direct participation in government by the people. Lawyers are strong believers in the sufficiency of representative government to carry on needed reforms. They do not consider that the danger from the selfish vote of the few is greater than from the uninformed vote of the many. Nor do they fully realize the deep determination of the people never again to allow the corporations to get control of representative government and its agencies and establish "a government of the many by the few and for the few", as was the case several years ago in virtually every State in the Union, brought about by an alliance between party machinery and corporations. Lawyers have apparently not been keenly aware of the admirable trend in political thinking toward a stronger Government, as evinced by Woodrow Wilson's strengthening of the executive and of the passing of the negative type of government and the development of the positive type. And they do not realize that this trend will require as an offset greater direct participation, which, instead of overturning our democracy, will, in fact, give us our first real democratic government.

Very strikingly do the proceedings of the bar associations reveal still other evidences of the lawyer's lack of progressive thinking. The eighteenth century idea of private justice is so strongly embedded in the minds of lawyers that they do not fully grasp the modern meaning of "social justice."

The "excessive individualism" abounding when this country was largely agricultural, around which our laws were developed, has so impressed itself upon the members of the American bar that their vision of the social theory of property, established and maintained for social purposes, is obstructed by the large proportions in which the individual idea of private property looms up before them. That private ownership even of land must yield as against public interest is still inconsistent with their processes of thinking. They are reconciled to the taking of private property for public use under the right of eminent domain, for the reason, doubtless, that public-service corporations which profit by this right are their clients. But that private property can be taken for the use of the State, that forests and land, mineral rights, and water powers can be saved for the whole people from private exploitation, if the good of the people demands it, is as yet contrary to the lawyer's ingrained idea that the State exists for the welfare of the individual.

Possibly nothing obstructs the lawyer's acceptance of the modern theory of social justice more than the principle of individual freedom of contract running through all the law. Here, again, the lawyer has allowed his rapt contemplation of the past to warp his powers of thinking in applying new conditions to old principles. Hence he fails to see that there can be no individual freedom of contract when there is such a glaring inequality of economic status.

This refusal to adopt the social theory of contract is a chief reason why the courts uphold the oppression of wage earners, child labor, immoderate hours for laborers, and unhealthy occupations for women.

There are, of course, a number of leading lawyers and judges, students of politics and society of today, who are thoroughly alive, not merely blind worshipers of the past. But the bulk of the profession have been trained in an environment that has, in a most natural way, so affected their mental processes that they have become, scarcely through any fault of their own, incapable of meeting new conditions in the social order. And these lawyers often fool themselves into thinking that the reading of half a dozen articles on the currency question or the tariff act is keeping in touch with public progress. Likewise, they often believe they are nobly serving their community, for example, by presiding over local school boards; that their generous impulse toward education is sufficient. They do not seek for other proofs of fitness.

The number of laws recently enacted in the United States that give expression to the cry of human rights against property rights shows that legislatures are yielding to the demands of modern society. But these steps in progress are taken in spite of the activity of the great body of lawyers, rather than because of it.

The resistance offered by our courts to the onward push of liberal democracy cannot be attributed entirely to an antiquated system of law. The common law is elastic and flexible; and it will ordinarily yield under properly directed pressure to modern requirements. Through the power of judges to overrule prior decisions the law contains within itself the ability to reform itself. But the blame should rest rather with the lawyer and the judge, who, lacking in progressive thinking, are influenced in their interpretation of the law by their own inability to grasp modern industrial and social problems, and who believe "that the tendency to err is in the direction of not declaring enough laws unconstitutional."

If orderly government is to endure, we must have the assistance of those who, because of their fundamental knowledge of the law and experience in the law, are particularly able to guide opinion into proper channels of legislative enactment, who are technically capable of framing laws that will embody the demands of modern society and at the same time meet the requirements of the Supreme Court that passes upon their validity.

This need is illustrated by the history of recent legislation known as workmen compensation acts, which at first were so improperly drawn that the Supreme Court declared them void, but when redrawn properly were unanimously upheld. The laymen's efforts at lawmaking will necessarily be crude on the technical side. The advancement of society is made through its use of the services of those most able to minister to its needs. The making and the construing of laws for a society as complicated as is ours of the twentieth century, require special training, experience, and effort. If lawyers were in the same degree as formerly leaders in politics and reform, undoubtedly the Constitution and the judiciary would come in for much less muckraking.

The need of this leadership will be greater in the future than ever before. The effects of the European war, if nothing else, will make it so. The efforts to better the conditions of living have not been halted by this war, as some believe. The thinking that the war is causing the masses of men and women to do will give a pressure to reform and an impetus to democracy greater than either ever had before.

In qualifying anew for this great leadership lawyers could satisfy their conservative training and natures, if need be, by studying afresh the purposes of the framers of the Constitution—that its aim should be the control of government by the people. If this control has been lost, let it be the duty of the lawyers to discover the means by which it can be regained. Let them reread the Declaration of Independence, which declares that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation upon such principles and organizing its powers in such a form as to them shall seem most likely to effect their safety and happiness.

If lawyers must seek examples in the past, let them remember that the distinguished members of their profession who signed this Declaration of Independence were radicals—and more than radicals; and if the lives of the great lawyers of the past who helped to make this country great have any significance for us now, it should be to inspire the lawyers of today to stand with the people in their fight for a real democracy and to devote themselves unhesitatingly to the service of this democracy in the critical period upon which it is now entering.

Unemployment Remains Our Greatest Problem

EXTENSION OF REMARKS

OF

HON. H. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1937

Mr. VOORHIS. Mr. Speaker, America is experiencing a business recovery. It is making many people's hearts

lighter. Our concern today should be that we do not let it make our hearts too light or our minds too much at ease. For, though business is better, though profits are larger, though our production is back to approximately 90 percent of what it was in 1929, though 1,500,000 people have been reemployed in the past year, nevertheless, there are still 5,000,000 less people employed by private industry today than there were in 1929. My authority for this statement is the Alexander Hamilton Institute, a very conservative source of business and economic information.

Unemployment is still our major problem. With the possible exception of the problem of war and peace, it is the outstanding problem of our age and we cannot forget it, we cannot run away from it, we cannot adopt the dangerous policy of attempting to let it solve itself.

THE IMMEDIATE QUESTION

The immediate question which the House is called upon to consider is the deficiency appropriation for W. P. A. My contention is that the W. P. A. appropriation is the most important one we shall be called upon to make. It is America's backlog. It has been the bread and butter of people who otherwise would either have had to starve or depend upon charity. If our recovery is to be sustained, I believe sufficient funds must be appropriated so that W. P. A. can continue in the next 6 months to employ at least as many people as it has employed on the average during 1936. This will require not less than $1,000,000,000.

The rest of my remarks will be by way of explaining why I believe this.

As we analyze carefully our present situation certain startling facts become apparent. A careful checking of the most accurate figures we possess on the subject will reveal that in 1929, the year of our all-time production peak, there were between 3,000,000 and 4,000,000 people unemployed in our country. Had this not been the case, the crash of that year might not have been so bad as it was. For all the experience since that time with the enlightened policies of Mr. Roosevelt has been to prove that the key to prosperity lies in distribution of income to those who do not have income, in putting bread and butter money into hands that will immediately spend it because they must. Unemployment means no purchasing power—unless you have a program of corresponding Government employment to prevent this from happening.

I have said that there are today 5,000,000 fewer people employed by private industry than there were in 1929. I do not particularly blame private industry, except in that it has lengthened working hours. But the fact is there are 5,000,000 less people employed today than in 1929. W. P. A. employed 3,036,000 at its peak in February 1936. In the calendar year 1936 it employed an average of 2,550,000 persons. W. P. A., then, in 1936 did not even come close to employing all the unemployed. It employed about one-fourth of them. In 1929 we had at least 3,500,000 unemployed. Today, in spite of business recovery, there are 5,000,000 fewer employed than there were then. That makes 8,500,000.

YOUTH ADDS ITS THOUSANDS

It may be said that there have been 5,000,000 reemployed since the depth of the depression before Mr. Roosevelt took office in 1933. That is true, but during each of these years there have been 400,000 young people graduating from our schools and our colleges and going forth to seek a place where they could earn their living. And this has been happening every year since 1929, which means for 7 years, and adds up to another 2,800,000 people who have either not found jobs or have pushed someone else out of them.

Since, understandably enough, we have not yet found ways and means of retiring our aged citizens from industry, the only offset that can be made against this group of young people who must be added annually to the numbers of those who should have jobs, is the number of people who die. And since our death rate is 11.3 per 1,000, we discover that for every 400,000 who graduate from our schools, 45,000 people die and thus cease to be active in looking for jobs. In 7 years this would amount to 315,000, so I will subtract a round 400,000 from the number and say 2,400,000 new potential workers have been added to our unemployed since 1929.

I do not discount one single bit the fact that the policies and accomplishments of the Roosevelt administration—to my mind the greatest in our history—have brought about reemployment of 5,000,000 people since 1932. Neither do I discount the fact that we have started the work of providing security in old age. But I am speaking of today, of the month of January 1937, and as of this date I can state truthfully that we are not retiring people from industry at 65 or at any other age. We are helping them in their need, helping boys and girls through school, too, by the N. Y. A.; but we are not removing either of these groups from the numbers of people who need jobs.

A STARTLING TOTAL

We then have 3,500,000 unemployed in 1929, 2,400,000 new workers added since that time, and 5,000,000 of the number of employed in 1929 who are still out of jobs. This makes a round total of 10,900,000 unemployed at the present time. And may I repeat that W. P. A. employed 3,036,000 at its peak and an average of 2,550,000 in the year 1936. On December 26, 1936, there were 2,188,000 employed by W. P. A.

I can imagine some are thinking that not all of our unemployed are capable of filling jobs. To some extent that is true. We have made some people unemployable in the past few years. But neither W. P. A. nor Government public works have done this. On the contrary, the absence of an adequate program of public works and the failure of industry to employ our people have together done this. And on the whole the net result of W. P. A. has been to prevent more people from becoming unemployable than would otherwise have been the case.

RISK IN CUTTING W. P. A.

And now shall we cut W. P. A.? Shall we provide less money than was provided last year? Two arguments in favor of such a course will, I know, be given. One is that business recovery will go on reabsorbing people in the coming year. If I have not already answered this argument, I do so now with a quotation from the weekly report on business conditions given out by the Alexander Hamilton Institute on January 2, 1937:

> There are indications, however, that employment will show little, if any, increase in 1937 in view of the prospect of some curtailment of output. It is certain that the output of agricultural products will show a decline as the result of the 1936 drought. Some recessions in industrial output is also indicated by the excessive rate of the past 2 years and by signs of an interruption of the inflationary movement which has been a fundamental factor accounting for the current recovery movement.

NEED FEDERAL SYSTEM

The next argument may be that the accuracy of my figures is called in question. If so, let me point out the obvious fact that we have at present no accurate means of knowing how many jobs are available in industry or of what kind, and that we do not even have accurate knowledge of the number of people unemployed. A census of unemployment will help, temporarily. But what we must have sooner or later is a Nation-wide system of Government employment and labor coordinating bureaus. In these bureaus every unemployed person must be registered and every employer required to record each week his need for additional workers. And if it were within the power of the Federal Government to do so, I should like to see it abolish every private employment agency in the land in favor of such a scientific system as I have described. For until we know that those now on W. P. A. can find a way to support their families in private industry we have no business to cut it down, either from the standpoint of maintaining the recovery we have thus far made or from the standpoint of humanity to our unemployed.

I am of the opinion that every breadwinner in America has a right to work.

Last year, in employing 2,500,000 people, W. P. A. spent an average of $170,000,000 a month. This was exclusive of considerable sums spent by the Resettlement Administration, the bulk of which went to provide relief for drought sufferers. Six months is the period for which we are now appropriating funds. Six months at $170,000,000 per month would be $1,020,000,000. This is what will have to be appropriated to enable W. P. A. to do the same job it did last year. And if anyone expects recovery to make that job any smaller he must consider that against any such prospect must be set down the two counterbalancing facts: First, that these are the winter and springs months when employment is normally at its lowest ebb; and second, that the job of caring for drought sufferers has only just begun.

TRANSIENTS AUGMENT PROBLEM

Our country has another great problem still remaining. It is the problem as old as America, of people seeking new places in which to settle; the problem of the transient family. W. P. A. officials tell me, and truly, they cannot employ these people until older residents of a given locality are given work. And so, barring an adequate appropriation to the W. P. A. and the Resettlement Administration, these folks must continue to be kicked back and forth across the Nation, without roots, without health or hope, and without a chance for rehabilitation. Local relief agencies, at least in my own section of California, cannot possibly deal with this problem. In the year ended June 1936, 87,000 people alone seeking refuge from the drought entered California. It is a national problem and must sooner or later be dealt with on a national scale.

I am not pleading with the House to appropriate money to be thrown away. I am pleading for funds with which to employ people to do useful work, to build schools, to provide flood-control protection, to preserve our soils and forests, to harness our rivers, to perform a thousand useful and necessary tasks. And maybe there are others here who like myself are receiving earnest appeals from communities in their districts not to let W. P. A. cut down its contributions on the local projects because the towns and cities have gone the limit and cannot find funds to finish the projects if the Government does not keep up its share to the figure it originally promised.

BREAD-AND-BUTTER PROPOSITION

Remember, this appropriation is a bread-and-butter proposition. No one lives in luxury on $55 or $65 or $85 a month. That money is the life of millions of Americans. It is a cheap price to pay, even if it costs many hundred million dollars a year, to keep America at work. Congress will make no other appropriation as important as this.

And I submit to those who may object and say, "Where will you get the money?" the following figures just as a suggestion and as a partial answer. In 1935 the 480,000 people in this Nation who had the largest incomes had an aggregate income of $7,000,000,000 in round figures and paid in income taxes just $609,000,000.

The matter of balancing the Budget is not really the point. There are other places we can economize, and I believe we should do so. There are additional revenues to be had, too, and, if absolutely necessary, I believe we should get them. But if there is any place where it is wrong to economize, it is in the realm of a man's right to earn a living and support his family. For that is a man's soul—and a nation's soul, too. In my humble opinion, the greatest single work of President Roosevelt has been his leadership in bringing our Federal Government to take responsibility for the protection in this country of the right of people to earn a living. That job is not done. It will not be done for some time to come.

WILL WE PROFIT BY EXAMPLE?

If this recovery is to continue into a lasting prosperity, it has got to be a balanced recovery. The collapse of 1929 was the direct result of the failure of those who guided the destinies of our Nation in the twenties—to see to it that income of farmers, unemployed and poorly paid workers kept pace with our industrial progress. Indeed, I believe the very low income-tax rates of the Mellon regime had considerable to do in making the crash worse.

Let us not make the same mistake.

Public Power Bloc, or Group, of House Members

EXTENSION OF REMARKS

OF

HON. JOHN E. RANKIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, January 22, 1937

RESOLUTION ADOPTED BY THE ELECTRIC POWER BLOC

Mr. RANKIN. Mr. Speaker, the press has already carried a report of the organization this morning of an electric power bloc, or group, by Members of the House of Representatives.

The Members of that group elected me their chairman, and elected Hon. KNUTE HILL, of Washington, secretary.

I am inserting in the RECORD at this point a statement of the policies of the organization as set out in a resolution adopted at this first meeting, and which reads as follows:

As individual Representatives in Congress, we are banded together for the purpose of striving to save for the American people, now and for all time to come, the hydroelectric power of the Nation, one of the greatest natural resources in all the world.

If we lose it now, it is gone forever.

We regard the hydroelectric power in our navigable streams and their tributaries as public property, national wealth, which belongs to all the American people and should be used for the benefit of all.

Whoever controls the water power of this country in the years to come will control the Nation.

We believe this power should be made available to every home in America at rates based upon the cost of generation, transmission, and distribution.

We believe the Government should hold in perpetuity the dams it now owns or has under construction, or in contemplation, and should build and own the transmission lines to convey the electric energy generated at those dams throughout the distribution radius of each one, and sell it wholesale to cities, towns, cooperative associations, and other public agencies at the minimum rates necessary to amortize that part of the investment charged to power in 40 or 50 years, with the distinct and specific requirement that it be distributed to the ultimate consumers at the yardstick rates, or rates based upon the cost of its purchase and distribution.

We believe in encouraging and assisting, through governmental aid, the counties, cities, towns, cooperative associations, or other public units in owning and operating their electric distribution systems.

We are unalterably opposed to pooling the public power produced by the Tennessee Valley Authority on the Tennessee River, or at Boulder Dam on the Colorado River, Bonneville or Grand Coulee on the Columbia River, or by any other governmental project or agency with that of any private power company or private distribution agency.

We are opposed to pooling public transmission facilities with those of private power companies, or of selling public power wholesale to private power companies, except on short-term contracts, with no binding agreements to renew, and then only with the specific written provision that it is to be retailed to the ultimate consumers, without discrimination, at the yardstick rates, or rates based upon the cost of generation, transmission, and distribution.

In order to avoid duplication, we favor the Government's purchasing the transmission lines where they would parallel the public lines necessary to carry public power to its destination, provided these lines can be purchased at their actual values. If not, then we favor the Government's building its own transmission lines, regardless of duplication.

We favor the municipalities owning their own distribution systems. Where those distribution facilities are owned by private power companies, we favor aiding the municipalities in buying them out, provided they can be purchased at their actual values. If not, then we favor aiding the municipalities in constructing their own distribution systems and stand-by plants.

We favor rural electrification on a national scale, in order to supply electric energy to every farm home in America at the yardstick rates, and we urge that the amount appropriated for rural electrification be greatly increased and that the restrictions

or requirements be relaxed so as to facilitate the electrification of the farm homes of the Nation.

We believe in adopting the allotment plan or loan and grant plan, now employed in supplying funds to municipalities through the P. W. A., in order to promote the building of these rural lines. Some such arrangement seems to us to be absolutely necessary if we are to electrify the farm homes of this country during the life of this generation.

We would have it understood and so provided that these lines, when built and paid for, are to belong to the farmers themselves.

We favor the continuation of the Electric Home and Farm Authority and such extension of it as may be necessary to enable that organization to extend credit to the householders of America at the lowest rates of interest possible, in order that they may equip their homes with those electric appliances necessary to lift the burdens of drudgery from the shoulders of the householder, or the housewife, and other members of the family, and enable them to live in comfort and decency and to enjoy their share of the blessings of this advanced electric civilization.

Through such a policy we hope to give all our people the benefits of cheap electricity and to make our country the richest, the most prosperous, the most powerful, the most independent, the most contented, and most enlightened nation the world has ever known.

Spanish Embargo Act—Why I Voted "No"

EXTENSION OF REMARKS

OF

HON. JOHN T. BERNARD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 21, 1937

Mr. BERNARD. Mr. Speaker, I take this opportunity to extend my remarks to clarify the position that I took on the so-called neutrality resolution presented on the floor of this House by the esteemed chairman of the House Committee on Foreign Affairs, the Honorable SAM D. MCREYNOLDS, of Tennessee, the afternoon of January 6, 1937.

NO OPPORTUNITY FOR DEBATE

I was opposed to this hurriedly, almost secretly, introduced resolution to embargo shipments of arms from this country to the legally constituted democratic Government of Spain. In voting against this unneutral "neutrality" act I stood alone in this Congress. To have taken such a lone stand here was not easy and could not have been done by me on such a grave matter without the deepest and most sincere examination of the questions involved and of my own motives.

Such examination tells me that this was not a time for expediencies, trickery, or excuses, or for betrayal of the masses of the people who elected many of us on our promises to fight here for peace. It tells me that this was a direct attack on democratic Spain disguised under the mantle of neutrality.

Why is neutrality looked upon as the same thing as peace in so many quarters? How is it that this confusion exists here? I think that this is the reason: In the past the great criminal debauches we know as wars have generally been waged between those nations and their innocent peoples which have been caught in the clutches of rival imperialists. Who dares to stand up today and say that the terrible world slaughter of 1914 was not brought about because rival privileged classes and plutocrats sought to outgrab each other? Who dares to say that our people were not dragged into this orgy of death in the interests of our own financial overlords? In fact, a vast majority of the wars of the past are now recognized as having been just such struggles over loot. However, we know that there have also been other kinds of wars, such as our own Revolutionary War, as well as wars against colonial aggressors, wherein entire peoples have attempted to protect themselves against enslavement.

The American people, having come to know these facts, have also become determined that they shall not again allow themselves to be pushed into aiding one or another group of imperialist gangsters in their greedy and bloody struggles against each other. In such a situation they say, "We shall not allow one gun, one airplane, or one bayonet to be shipped or to be used for the butchery of innocent peoples driven, misled, or attacked by such masters." Above all, they say, "We will not tolerate any move that will lead to our becoming involved in the support of one such group of brigands against another similar group. We will demand and enforce rigid neutrality upon our own plutocrats and see to it that they pick not even a crumb from the table of death."

This is the sentiment of the vast majority of the American people, and this is a policy that I will fight for.

Does this embargo that is so brazenly aimed at the first democratic and nonimperialist Spain that the world has ever seen conform in any way with the just demands of the common people of this country? Everyone must deny this. The facts are clear. A popularly and democratically elected government of Spain has been treasonably and rebelliously attacked by a handful of its wealthy privileged classes urged on and openly supported by the two most militaristic and predatory governments of Europe.

MERCENARIES SUPPORTING REBELLION

Armies of trained mercenaries and the most deadly weapons of war have been supplied in order to slaughter the Spanish people. Fascism is engaging in the open rape of Spain. The American people have not and will not supply any of the mercenaries or the weapons for such barbarous forces. On the other hand, it has aided and desires to aid the nonimperialist victimized peoples of Spain insofar as recognized international law, humanitarianism, and aversion to butchery will permit.

VIOLATION OF INTERNATIONAL LAW

The hitherto accepted principles of international law have been invariably taken to mean that, when faced with rebellion, any legal recognized government, whether democratic, dictatorial, imperialistic, or otherwise, is entitled freely to purchase materials and supplies and to receive the open support of all other legal governments and nations. In the past, whenever an oppressed people have risen in arms against an oppressive government, these principles have actively applied, and even oppressors have been given free access to American markets without question. Attempts to destroy commerce and such goods on the part of agents, allies, or supporters of such rebellious peoples have been universally treated as piracy and either put down by force or penalized by heavy indemnity.

In the case of Spain this legal and time honored practice has been abandoned since last July by many countries of Europe. Can such action be called neutral?

SHAM NEUTRALITY

By way of illustration imagine if you can a keenly fought ball game between bitter rivals. Suppose the "neutral" umpires suddenly decided after the game had started to make a drastic change of the rules which would apply only to this one contest. Supposing that everyone recognized that these new rules would tremendously favor one side and penalize the other. Could such action be called neutral? Further suppose that the team which was so favored by this change of rules itself proceeded to violate them in the sight of everyone without receiving as much as a reprimand from the umpires. Would any baseball crowd in America allow such umpires to get away either with the claim of neutrality or with whole hides?

Such neutrality is a sham which cannot fool the common working people of any country.

However, let us dismiss the particular facts relating to Spain and deal with the general problem confronting us. Let us remember the tremendous urge toward peace that is abroad throughout our country. Let us recognize the determination to prevent ourselves from being drawn again into predatory wars. Certainly, I am the last to say that there should not be legislated a real neutrality policy which will promote peace throughout the world and prevent our being dragged into the looting expeditions of any other countries.

SPANISH EMBARGO HYPOCRISY

I deny, however, that legislation affecting our international relations and obligations can be neutral when it is aimed to apply only to one country. This is true, whether or not

that country is, for example, Cuba—remember the Platt amendment; Japan—consider the Japanese Exclusion Act; China—think of extraterritoriality; or any other country. To attempt to cloak such legislation in the garments of neutrality is damnable hypocrisy. Even if the legislation were itself sound and desirable, under no circumstances can it be other than partisan in character. When, as in the present case, the object of such partisan legislation is to choke off democratic Spain from its legitimate international rights at a time while it is being assailed by the Fascist hordes of Europe, the hypocritical claim of neutrality becomes a thousand times more damnable.

SPANISH DEMOCRACY AT CROSSROADS

At this very moment black-winged birds of death, sent to Spain by the rapacious forces of selfishness, greed, and intolerance, are raining bombs upon defenseless people, young and old alike. Fierce, savage, brutal Moors and mercenary soldiers are butchering the brave defenders of Spanish democracy; and why? Why? Because Spain actually has today a government "of the people, by the people, and for the people." Yes; the Spanish people have opened their eyes; they have begun to push aside the yoke which had kept them for centuries in ignorance and darkness; and how did they do this? By establishing by an overwhelming vote of the people a republic—a democracy. But by doing so they brought upon themselves the wrath of the international bankers; the war lords; the merchants of death; the forces of fascism.

No; those who make billions out of human misery and bloodshed decided long ago that real democracy shall not be tolerated on earth. What matters if Italy, Germany, and Portugal are sending troops and munitions to crush the spirit of liberty in Spain, a friendly sister republic? Our money lords are thoroughly satisfied. That is their wish and desire. They are in thorough sympathy with the Spanish aristocrats, the class that some 40 years ago attempted to extinguish the Cuban fight for independence.

PRO-FASCIST NEUTRALITY

The neutrality adopted by Congress, at the insistence of the Roosevelt administration, is, to use the words of the liberal weekly, the Nation, "pro-Fascist neutrality." As the Nation points out:

> Under international law American citizens are prohibited from aiding the military clique which has risen up against the duly elected Government of Spain. In the past the United States has never challenged this law. On the contrary, we were insistent, at the time of our own Civil War, the scrupulous observance of the rule; and have repeatedly hidden behind it when supporting puppet Latin American dictatorships of our own choosing. To take action now in denying supplies to the Spanish Government in its hour of need would be a deliberately unfriendly act.

What this means in the light of future war developments is not reassuring. I read again from the Nation:

> Any announcement by the United States that it will not under any circumstances furnish the belligerent countries with the sinews of war is an open invitation to Hitler to launch his attack. Supplies that are denied the democratic countries would be just as useful to Hitler as the same amount of supplies sealed and delivered to Nazi Germany.

The New Republic also sees the aggravated Fascist danger flowing from false neutrality.

> It is obvious that a genuine neutrality on the part of Italy and Germany will not be obtained by the latest diplomatic efforts of the two western democracies. That removes any obligation of theirs not to intervene. It is intolerable that the Spanish Government should be deprived of legitimate sources of supply while the rebels are receiving aid that in any case greatly increases the danger of war. If Franco wins, the war-willing powers will be immensely encouraged for their next aggression.

In the name of neutrality the United States Government officially supports the Fascists of Spain and of the world. Knowing full well that Franco is getting not only arms but tens of thousands of troops from Germany, Italy, and Portugal, the embargo stops the shipment of munitions to the legal Government of Spain. In actuality it places the blessing of our Government on the bloody murder of Spanish toilers, peasants, and their loved ones. This is not the wish of the American people.

Permit me to quote from an editorial which appeared in a recent issue of the New York Post entitled "Pirates Disguised as Crusaders." Incidentally, this paper is one of the very few dailies that actively supported President Franklin D. Roosevelt for reelection. I quote:

> The pirates of old at least had the courage to fly the Jolly Roger. They gave their victims a fighting chance.
>
> But Hitler and Mussolini continue to disguise their own adventures in piracy as a holy crusade to save the world from communism and atheism.
>
> They are as unabashed as Captain Kidd when England tries to set an example by putting a ban on volunteers.
>
> They note the move with satisfaction—and make plans to send 100,000 more soldiers to help Franco overthrow the Spanish Republic.
>
> Hitler and Mussolini used the red bogey at home and are now using it abroad.
>
> What of the red bogey in Spain?
>
> The impartial Foreign Policy Association concludes its study of "Issues behind the conflict of Spain" by reporting—
>
> The Spanish civil war was not provoked by Communists, either in Spain or Moscow. Those immediately responsible were the army generals. The evidence available to date affords no substantial support for the charge, so assiduously fostered by certain sections of the American press, that communism was mainly to blame for plunging Spain into bloodshed.
>
> The Communist Party has been credited by most authorities with not more than 50,000 supporters in Spain in a total population of 29,000,000. * * * The program of the Spanish popular front government, against which the army rebelled, called for liberal rather than radical reforms.
>
> Nor can the pagan and anti-Christian Hitler represent himself as the savior in Spain of the religion he persecutes at home.
>
> The Reverend Father Michael O'Flannagan, brother-in-law of De Valera, in blessing the Irish Republican Brigade, which is now fighting under Frank Ryan for the Spanish Republic against the Fascists, told the Irish anti-Fascist volunteers, "The Foreign Legion and the Moorish troops are to Spain what the Black and Tans were to Ireland."
>
> Blackfriars, organ of the English Dominican Fathers, recently said: "Every Catholic must sympathize with the Spanish Catholics. But it is false and fundamentally un-Christian to range one's self for this reason on the side of the insurgents and to refuse his sympathy to those who resist them because they believe, with reason, that they are faced with a ferocious reactionary tyranny."
>
> Hitler and Mussolini aren't the first scoundrels who protested that they were only trying to save the home, the church, motherhood, and the flag.
>
> The skull and crossbones of the Jolly Roger lurk behind their oily phrases.

As a result of our official policy the Junkers and Caproni bombers may now drop their loads of death upon the people of Madrid with the assurance that no American airplanes and no American antiaircraft guns will ward off their onslaughts. They may loose clouds of poison gas if they will, because American gas masks will not stop them. The Spanish farmer, worker, artist, office clerk, and the young womanhood of Spain will now have to fight against the well-equipped Fascist army with little better than dilapidated second-hand military equipment.

EMBARGO HELPS REBELS

In effect this embargo says, "We, the Congress of the United States, in the hope of preventing our getting into a foreign entanglement, will be neutral. We will boycott both the lawfully democratic elected Government and the rebels. In other words, boycott both the police and underworld. What care we if the shipment of arms and men by Fascist Germany, Italy, and Portugal to the Spanish rebels continues unrestricted? What care we if our so-called neutrality legislation prevents the democratic Government of Spain from making purchases in the world markets that, under international law, have been accorded by us to every recognized government for the past 150 years?"

Every schoolboy knows that if it had not been for such aid as that given by Lafayette in 1776 the English Tories would have crushed the armies of our Revolutionary fathers. If it had not been for France's aid our great American democracy might never have been established, and today we rightfully honor and praise the noble deeds of that great General Lafayette. In Washington, in many of our school buildings throughout the width and breadth of this land we have statues of that noble general who, with a band of soldiers, left his native land and came to our shores to help us in that hour of need. No story of the history of

our country would be complete without mentioning the aid rendered to us by France during the Revolutionary days. Yet, supposing that France had said, It is true that those Pilgrim Americans are trying to establish a democracy, it is true that they are trying to break away from the yoke of England, but war exists and therefore let us be neutral, let us place an arms embargo.

How about our purchases abroad of war materials in the War of 1812?

It would seem, my friends, that we have forgotten the importance of the ability of the Northern Armies to purchase needed materials abroad during the Civil War. What would have been the outcome of the Civil War if a Hitler and a Mussolini had shipped munitions and had sent troops from their regular armies to aid the Confederacy, disguised as volunteer soldiers of fortune?

In short, my friends, when a duly elected democracy is threatened with overturn by certain disloyal generals, using troops and stolen equipment to attack the lawful authorities of the country, such as in Spain, and are aided and abetted by foreign forces, and when similar democratic governments duly elected by the people turn a deaf ear and deny arms to the legitimate and lawful attempt of that democracy to defend itself, then the common people and all true lovers of democracy may well be fearful.

PRESERVE OUR DEMOCRACY BY DEFENDING DEMOCRATIC GOVERNMENTS

My friends, there is only one way that American democracy can survive, and that is by striving to protect our democratic rights and liberties. This can be helped by a foreign policy which will try to preserve and protect the democratic forms of government in the other parts of the world. As real true friends of democracy, let us not waver in the perpetuation of our ideals, and let us, as exponents of those principles, preserve and protect them to the end where they will be safe from all Fascist attack.

If we are to have legislation that expresses the legitimate peace desires of the American people, it must give a new direction to international law and a new group of statutes to govern our relations with all countries and all peoples without discrimination. It must genuinely support peace and be the pet hate of the pro-Fascist war makers. It certainly can have no resemblance to the embargo against Spain which is designed to wring cheers from the Fascists of Berlin and Rome and groans from the peace advocates and anti-Fascists in those countries and the entire world.

In conclusion let me say further that no worthy instrument for peace or neutrality will need to be dragged out of a hat and jammed down our throats in the course of a couple of hours' time. It will not be necessary for either House of Congress to surrender its deliberative duties, chain up its committees, and gag both itself and the people who sent us here to represent them.

The resolution to embargo shipments to Spain is a partisan, pro-Fascist, antidemocratic measure. It is against the interests of peace, and I oppose it.

The Legislative Outlook—From a National Point of View

EXTENSION OF REMARKS
OF
HON. EMANUEL CELLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 19, 1937

RADIO ADDRESS BY HON. EMANUEL CELLER, OF NEW YORK, ON JANUARY 10, 1937

Mr. CELLER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I delivered recently over the radio:

A lady was once examined for jury duty. Among other things she was asked, "Do you believe in capital punishment?" "Yes," she quickly replied, "all those Congressmen should be punished."

That point of view may be more widespread than you think. On the surface, Congress is usually in bad odor. It passes income taxes, customs duties; it restricts here and interferes there. Naturally, therefore, its circle of enemies increases. But, truly, the feeling of irritation at Congress is but skin deep. The granting of imposts is followed often by the lifting of others. Prohibition is effaced by repeal. The wounds are soon healed, and the feeling grows that maybe Congress is not so bad after all.

At the inception of each session the question is asked: "What is Congress going to do?" Whatever speculation there may be concerning the bills to be passed, this is certain, the Congressman will legislate, sincerely and patriotically, for "the good and welfare of the country." The country looks to Congress as it does to the President—with confidence.

I am not possessed of clairvoyance, yet I can safely make the following pertinent observations and forecast concerning the new session.

APPROPRIATIONS

The President, in his budget message, speaks of the need for curtailment of outgo. Revenues have increased greatly. Larger sums are pouring into the Treasury from income taxes, liquor taxes, and customs. Such additional revenue and savings, due from consolidation of agencies and bureaus, and the general reduction in over-all Government costs will greatly reduce the 1938 deficit from the present high level. The President, with the aid of Congress, will try to balance the Budget and begin to reduce the national debt in the fiscal year of 1939. By Budget balancing I mean current expenses will not exceed current revenues. This does not anticipate such extraordinary or emergency expenditure like drought relief or work relief. Under the President's plan, the deficit for the fiscal year beginning July 1 will not be more than four hundred million compared with over two and one-half billion in the current fiscal year and over four billion seven hundred million in the fiscal year of 1936, which ended last June 30. Congress will continue such public items as soil conservation, public roads, rural rehabilitation, aid to tenant farmers, slum clearance, C. C. C., and the like.

Significance may be attached to the announcement by Senator GLASS, of Virginia, that he will retain his post as chairman of the Senate Appropriations Committee. He, together with Chairman BUCHANAN, of the House Appropriations Committee, will hold down expenditures to a minimum. Both will protect the Treasury with the same faithfulness that Cerberus guarded Hades.

LABOR

Every effort will be made to obtain new legislation to restore some of the protections labor lost with the death of N. R. A. Congress should and will go to great lengths to stamp out child labor. Twice we passed laws obliterating that curse. Twice the Supreme Court declared our efforts unconstitutional. First we sought to tax child labor out of existence. Then we sought to deprive the productivity of child labor of its interstate character. The Supreme Court interposed objections denying our power.

The Judiciary Committee of the House, of which I am a ranking member, then proposed, and both Houses passed, a child-labor amendment to the Constitution. But, alas, three-fourths of the States, the necessary number, have not yet adopted it. Only a comparatively few more sovereign States need approve. Very properly, the President has addressed himself to these recalcitrant and backward States. His clear-cut, clarion call to the people of these denying States should undoubtedly result in action toward ratification.

Child labor remains, however, a festering sore upon our body politic. We can hardly call ourselves civilized and permit the sweating and driving of children in mine, mill, and factory. It must cease.

If the States will not ratify, Congress must again act and will act. Otherwise we stultify ourselves. We must draw with infinite care an act that will pass constitutional muster. The Supreme Court, in a certain sense, may be on trial. As a Times editorial properly said: "The President's trumpet in his message to Congress does not give forth an uncertain sound. But, happily, it is not a summons to battle. It is, rather, a note appealing for peaceful cooperation in securing national * * * blessings which are the heart's desire of all the American people." We can pass again an anti-child-labor bill along the lines of the bill we passed last session, which prohibits prison-made goods crossing State lines. The Court declared the latter constitutional. Perhaps with what Roosevelt calls "an increasingly enlightened view", that Court will hold sound a child-labor bill drafted along similar lines.

The same holds for long working hours and starvation wages. No decision has yet been reached as to the best judicial wording of such proposals. They must and will be drawn with greatest care. We in Congress are bent upon scotching these labor iniquities. There is fixed determination, both upon the brow of the President and of Congress. I say that despite the adverse decision of the Court last spring declaring invalid the New York State minimum-wage law. Even the Supreme Court must be made to follow election returns. If the Court again sends back our measures, there will be but one course to follow—and Congress will follow it—pack the Court; i. e., increase the number of the judges from 9 to 11, making sure that the two new incumbents were pledged to favorable action on these labor bills. There is ample precedent for such action. Presidents and Congress have quarreled

with the Supreme Court frequently in our history. Jefferson and Jackson waged pitched battles with the judges.

Congress, of course, could otherwise take the bit in its teeth and require, by legislative enactment, that no law could be declared unconstitutional save by a two-thirds or a three-fourths vote of Supreme Court. One thing is certain—the President and Congress will not be worsted in this battle. Water never rises above its source. Congress is asking nothing beyond the wishes of the source of its power—the people.

NEUTRALITY

On Wednesday last I had the pleasure of voting for the bill making it unlawful to export arms, ammunition, or implements of war to Spain, or to any other foreign country for transshipment to Spain, or for the use of either of the opposing forces in Spain. Why this ban was originally limited in the Neutrality Act of the last session to warfare between nations seems difficult in the light of events subsequent to the passage of the act. Of course, no one then suspected a civil war as now exists in Spain, with foreign nations aiding one side or the other. Certainly this Spanish holocaust must be discouraged. Unpatriotic Americans shall no longer ship airplanes, bombs, and other munitions to be used to maim and kill innocent women and children. I am happy to know that one of the first acts of the present Congress was to prevent our soiling ourselves in such rapine and plunder.

Of course, I am not oblivious to the other point of view. If we cut off supplies to both sides, not only in the present warfare in Spain but in any other war that may come, we may be contributing to the doom of the innocent victims of the strife. Small nations may be at the mercy of the great. Poor nations at the mercy of the richer ones. Peaceful nations will be at the mercy of warlike ones. In fact, democracy may be at stake because democratic nations may be at the mercy of Fascists or Nazi aggressors. What should be our course if the ferocious Hitler were to invade Holland or Belgium. That thought must give us pause. Furthermore, a complete, permanent embargo of arms would destroy the munitions business in this country. Manufacturers would locate in other countries against whom some day the United States might wage war. That enemy country might have a fateful advantage. However that may be—for the time being, American munitions shall be kept from Spain.

TAX-EXEMPT SECURITIES

There is one constitutional amendment which I shall propose. It will, I think, be favorably received by my Judiciary Committee and presented to the House, where it is almost certain of passage instantly. I am, however, not so sure of the passage of same in the Senate. I refer to an amendment which will preclude the further issuance of tax-exempt securities. We shall soon reach in this country the high level of issuance of over $35,000,000,000 of tax-exempt securities. It is time to call a halt. There should no longer be such a refuge to which persons of wealth can repair in order to avoid just burdens of taxation.

RELIEF

Our good President and W. P. A. Administrator Hopkins have agreed that the Federal work-relief program will be carried through until next June 30 on approximately its present pay-roll basis.

Congress will pass the necessary legislation to perfect such a program. Congress, undoubtedly, will make the necessary emergency appropriation, within a few weeks, of $500,000,000. That will cover relief to February 1. Through to June, the cost will be almost eight hundred million. Congress will appropriate that sum or whatever is necessary to keep body and soul together for those on the relief rolls—less any difference that can be transferred to W. P. A. from other agencies to which money has been allocated and which is not needed immediately. Congress must and always will provide a way to take care of needy and helpless. It must and will provide the workless with a dry bed and three meals a day. Bonds must be floated to supply the funds. Those funds must be provided at all costs and hazards so that no one shall starve or be shelterless.

Congress will concern itself also with a long-range work-relief program. That policy must be adequate, but not extravagant. Industry must be encouraged to take up the slack. Business must be made to realize its duty in the way of providing jobs and reducing unemployment. If business will not create jobs, the Government must. Business pays the piper in either event. But there can be no Budget balancing if W. P. A. and P. W. A. continue its activities unabated. Business had better take warning. Two jobs must be created where only one grew before.

RECONSTRUCTION FINANCE CORPORATION

The Reconstruction Finance Corporation had its genesis in the Hoover administration. It needed and received the Roosevelt magic touch to vitalize it and convert it into one of the greatest boons of the New Deal. Its loan powers expire January 31. That loaning power must be renewed for 1 or 2 years. Its Chairman, Hon. Jesse H. Jones, its directors, to name a few, Mr. C. B. Merriam and Mr. Charles B. Henderson, and its counsel, James B. Alley, and their colleagues, can and should be trusted with the extension of the powers which they have so carefully and wisely exercised. In New York and elsewhere some banks and insurance companies are not doing their duty in the matter of making real-estate mortgage loans. The Reconstruction Finance Corporation Mortgage Co. has made many commitments, but it has been called upon to make comparatively few loans. As soon as the Reconstruction Finance Corporation Mortgage Co. commits itself to a loan, some insurance company or bank makes the loan—a loan which said bank or insurance company should have made in the first instance. Thus the Reconstruction Finance Corporation stands in the offing with a whip to spur, if not force, financial institutions to make much needed loans.

CORPORATE SURPLUS TAX

The unparalleled distribution of dividends at the end of last year was not wholly due to returning prosperity. It was in a great measure due to the pressure on corporations to escape heavy tax penalties for retention of earnings. These enforced dividends might add to the appearance of prosperity. I fear, however, that their ultimate effect may not only retard expansion of business production and employment but might also leave numerous corporations with very small reserves to combat any future reverses. In any event, the surplus tax should be amended in three respects:

First, many corporations cannot precisely know what they have earned during any year until several months after the year is ended. Such earnings are not always in cash. They may be in the form of inventories or merchandise. A corporation should not be penalized for not paying out of its earnings until it knows at least what its earnings are. There must be a breathing space of at least 2 months to determine exactly the amount of such earnings.

Secondly, there should be some exemption for bona-fide reinvestment of earnings in new equipment and new plants. Otherwise expansion is made subject to unjust penalties.

Thirdly, exemptions must be granted for some of the surplus retained by corporations in debt. Otherwise there is no reasonable protection to creditors nor assurance of sound management. Payment of dividends rather than debts sounds illogical.

WOMEN ON JURIES

It is rather anomalous, but nevertheless true, that women can serve on most State juries. Unfortunately this is not the case in my own State of New York. If women serve on most State juries, there is no good reason why they should not serve on Federal juries. I shall offer a bill for that purpose.

Income and Processing Tax Refunds

EXTENSION OF REMARKS

OF

HON. JOHN J. COCHRAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, January 22, 1937

Mr. COCHRAN. Mr. Speaker, the report for the fiscal year 1936 of refunds of $500 or more of internal-revenue taxes, required under the provisions of section 3, act of May 29, 1928, to be made by the Treasury Department to the Congress, was made available to the press by me as chairman of the Committee on Expenditures in the Executive Departments today. The report was referred to my committee.

I desire to make clear this report represents amounts that have been paid taxpayers during the fiscal year ended June 30, 1936, and not amounts that are to be refunded.

The statement submitted to the committee lists only those who received $500 or more. The total amount of income-tax refunds paid during the fiscal year, which total includes many amounts smaller than $500 and not required to be reported, was $21,397,877.81. This amount included interest at the rate of 6 percent per annum from the date of the overpayment to the approximate date of refund. The number of taxpayers who received income-tax refunds was 179,720.

TOTAL PAID OUT BY GOVERNMENT, $21,397,877.81; TOTAL BACK TAXES COLLECTED, $213,557,591.05

While the law provides the Commissioner of Internal Revenue is required to report the amount of refunds annually, it does not require him to list the amount collected in back income taxes. Therefore, in order that citizens will understand that everything is not going out and nothing coming in to offset the refunds, let me say $213,557,591.05 was collected during the same period that the $21,397,877.81 was refunded. The amount collected was nearly 10 times as much as the amount refunded. When I say these amounts were refunded and collected, I mean that the actual cash

transactions have occurred. The Government has paid the refunds, and the Government likewise has collected the additional taxes and deposited it in the Treasury Department.

REFUNDS IN PAST YEARS

Now let us see what has happened in the past. The income-tax refunds for 1936 totaled slightly in excess of $21,000,000. For the fiscal year 1932 the total of the cash paid out for refunds and interest was in excess of $80,000,000; for the year 1931 it was nearly $70,000,000; for 1930, more than $126,000,000; and for the year 1929 more than $190,000,000 was paid. I predict in future years the total amount expended for refunds will be no greater than for the fiscal year 1936. It is my impression that the large expenditures in past years had been occasioned to a considerable extent by the relief provisions and by the complexity of the tax laws during the excess-profits tax years, and to an initial lack of understanding of the provisions of the taxing statutes enacted as an incident to the World War.

The more common errors of taxpayers which resulted in overpayments of income taxes, according to the records of the Department, were the reporting of nontaxable income, failure to take credit on foreign taxes, failure to take proper credit for depreciation and obsolescence of physical properties, and the affixing of revenue stamps erroneously or in excess of amounts due. The larger refunds to a considerable extent are based upon final decisions of courts or the Board of Tax Appeals and (or) determinations by the Treasury Department based upon decisions by courts or the Board of Tax Appeals.

REFUND OF PROCESSING TAXES

The refunds to payors of processing taxes, totaling $11,525,456.31 during the fiscal year, and items over $500 being included in the report, did not in fact or to any material extent represent erroneous collections, since the statute levying the tax directed the return of that portion of the tax collected on articles exported, or sold for charitable use or on cotton used in the manufacture of large cotton bags. The processing taxes statute did not provide for exempting articles from taxation as usually was the method in respect of other internal-revenue taxes. The total amount of processing taxes returned under these conditions was less than one-tenth of 1 percent of the collections for the fiscal year.

INTELLIGENCE UNIT

While the Bureau of Internal Revenue has made a record of which it can be proud, there is one unit, the Intelligence Unit, that deserves favorable mention. Elmer L. Irey is the Chief of this unit. It is charged with investigating not only tax frauds but also the personnel of the Treasury Department. The job has been well done. On former occasions I have addressed the House concerning the Intelligence Unit and strongly urged that additional appropriations be allowed to employ more men, guaranteeing it would be an investment that would bring millions to the Treasury. Prior to the present administration the appropriation was around $650,000, and for this amount it brought the Treasury as a result of investigation of tax frauds over a period of 6 years an average of $33,000,000. No better recommendation can be advanced for this unit than its record of $650,000 annual expenditures and $33,000,000 annual additional collections.

The present Secretary of the Treasury, Mr. Morgenthau, early saw the value of this service and added to the personnel, thus increasing not only collections but also the prosecution of those who sought to defraud the Government. It was Irey's unit that sent Al Capone and other leading racketeers to the penitentiary. It took several years to break organized crime in large cities, but the Intelligence Unit deserved the credit for the beginning of the end. Their activities started years before the Bureau of Investigation secured the authority that made J. Edgar Hoover and his G-men famous. It was Frank Wilson, the present head of the Secret Service, then an assistant to Irey, who, under Irey's direction, brought about the conviction of Capone and many of his henchmen, as well as many other leading gangsters throughout the country. The public hears little of the work of the Intelligence Unit, but it is on the job night and day.

It is not the amount collected in additional taxes that really make this unit a valuable one to the Government, but the lesson it teaches others when one who has been in the habit of disregarding tax and other Federal laws. Now, when the time arrives to make out their income-tax returns, they realize what has happened to others who sought to evade payment, and an honest return results. This means hundreds of millions coming to the Treasury annually that otherwise would not have been collected.

The Stabilization Fund

EXTENSION OF REMARKS

OF

HON. PETER J. DeMUTH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1937

Mr. DeMUTH. Mr. Speaker, the bill (H. R. 2519) extending the time within which the powers relating to the stabilization fund and alteration of the weight of the dollar may be exercised is of great importance not only to the people of the United States but of vital importance to the export business of our country.

This bill was reported favorably by the Committee on Coinage, Weights, and Measures. It provides for the extension of time to June 30, 1939, of the act approved January 30, 1934, which was to have expired January 30, 1937.

The original act, now called the Gold Reserve Act, authorizes the President to reduce the gold content of the dollar to not less than 60 percent and no more than 50 percent of its present weight. The President by proclamation reduced the content to just below 60 percent, or 59.6 percent. This bill continues the right the President has under the Gold Reserve Act to further devalue the gold content. It is felt this authority should secure this country against a similar action on the part of a competitor nation.

The act also set aside a sum of $2,000,000,000 of the $2,800,000,000 which was created by reducing the gold content of the dollar to be used by the President of the United States through the Secretary of the Treasury to stabilize the dollar in foreign exchange and to keep it in the same relative position with foreign currencies. To date this entire fund is intact and the Secretary of the Treasury reports a substantial profit from its operation.

This legislation has proven to be of tremendous advantage to the United States, in that, before its enactment, due to the operation of a then secret fund by Great Britain, the United States lost heavily in world trade and our President and Secretary of the Treasury were impotent to meet the problem. It also stabilized local prices at more nearly normal levels.

Great Britain saw that the United States had met and mastered the situation, so, together with France, Belgium, the Netherlands, and Switzerland, requested and joined with the United States in an agreement to no longer devaluate their currency.

Due to the necessity of quick action at all times, this act can be effectively operated only by delegating this power and its operation to the executive department.

We are convinced that through this act alone was the international monetary system stabilized and our foreign markets preserved. Furthermore, the act has contributed greatly to the preservation of world peace. The international money market is no longer controlled at London nor at Wall Street but at Washington, United States of America.

The Pencil City

EXTENSION OF REMARKS

OF

HON. JOHN R. MITCHELL

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1937

LETTER FROM THE BEDFORD COUNTY (TENN.) FARM BUREAU

Mr. MITCHELL of Tennessee. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following letter:

SHELBYVILLE, TENN., *December 24, 1936.*

Hon. J. R. MITCHELL,
Cookeville, Tenn.

DEAR FRIEND: By parcel post we are sending you 500 pencils, made and donated by the National Pencil Co., of Shelbyville, Tenn., and presented by the Bedford County (Tenn.) Farm Bureau.

These pencils, branded "Cedar King", are made from the very best Bedford County red-cedar timber, and the parts as well as the workmanship are of the very highest grade.

This timber was cut from the forests of this section perhaps more than a century back, and split into rails by our forefathers when they cleared this land for cultivation. For many years it served its purpose as protection to the crops. Then these rails became more valuable for the uses of civilization, so wire fencing was substituted, and they were hauled into town for cutting into pencil slats. These are now being worked into finished pencils of all kinds, thus giving hundreds of people employment, as well as distributing a weekly pay roll of thousands of dollars.

Shelbyville, Tenn., is now known around the world as "the pencil city", for, besides furnishing nearly one-third of the pencils used in this country, they are supplied from here to nearly every nation on the globe.

The "Pencil City" has three large factories—the Musgrave Pencil Mill, the Empire Pencil Co., and the National Pencil Co.—who are the makers of the pencils herewith presented to you.

Please place one on each desk in the House of Representatives and ask the Members to use them for "checking up on you" and reporting to us, and also as a means for figuring out the problems of the farmer, that he may continue to improve his land as well as raising his standards of living.

With the very best wishes to you and your colleagues, we remain,

Sincerely yours,

THE BEDFORD COUNTY FARM BUREAU,
E. M. MOLDER, *President.*
C. L. SHAFFNER,
Corresponding Secretary.

R. F. C. Creates Competition for Bankrupt Paper Industry

EXTENSION OF REMARKS

OF

HON. ALBERT J. ENGEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 22, 1937

Mr. ENGEL. Mr. Speaker, on Friday the House had under consideration H. R. 2301, a bill to continue the functions of the Reconstruction Finance Corporation, and for other purposes. The rule under which this bill was considered provided for general debate confined to the bill which would continue not to exceed 2½ hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency. The bill was then to be read under the 5-minute rule.

In the discussion of the rule the chairman of the Rules Committee, Mr. O'CONNOR of New York, emphasized the fact that this was an open rule, implying there would be open debate under the 5-minute rule.

Despite the fact that this bill continued for more than 2 years the life of the Reconstruction Finance Corporation and four other distinct governmental agencies, and despite the fact that these agencies had handled something like eight and a half billion dollars, the minority party was limited to 1 hour and 15 minutes in the debate on this important measure. In view of the statement made by the chairman of the Rules Committee that this was an open rule, I was very much disappointed when the chairman of the Committee on Banking and Currency, at the end of 20 minutes' debate under the 5-minute rule on amendments, 10 of which he consumed himself, moved that all debate on that section should close, and the motion was carried. I was compelled to offer, without any explanation of any kind, the following amendment to the section:

On page 2, line 10, after the word "advisable", strike out the period and insert the following: ": *Provided further*, That no loan shall be made to any individual or corporation for the purpose of engaging in any business not heretofore engaged in."

The amendment was, of course, voted down and flattened out by the Democratic steam roller which the chairman of the Banking and Currency Committee had so well greased. Of course, it is true that I could have explained the amendment after it was voted down by moving to strike out the last word in the next section when the next section of the bill came up. This would be like preaching a funeral sermon after the corpse had been buried or calling a doctor after the patient was dead. However, I do wish to place in the RECORD my reasons for offering this amendment.

On April 28, 1935, I attended a very interesting meeting of paper and pulpwood men at a downtown hotel. Men were there representing both the manufacturers and employees in discussing the condition of the paper-mill and pulpwood industry. We were told at that time that 60 percent of the Canadian tonnage and 40 percent of the American tonnage was either in the hands of the receiver or in bankruptcy; that this was due to an overproduction in the paper industry and to the inability to compete with foreign countries in the production of pulpwood products.

I have a number of paper mills in my district. These mills have been operating throughout the depression on a limited scale, furnishing labor and keeping people off relief. None of these companies has made any money during recent years because of the overproduction and because of their inability to compete with the product of foreign countries.

I was under the impression that the Reconstruction Finance Corporation was organized and existed for the purpose of helping existing industries in financial distress. I did not know that they were permitted to make loans for the purpose of organizing new competitive industries. I was, therefore, amazed and surprised when a short time after this meeting I was informed that the Reconstruction Finance Corporation had made a loan of $4,000,000 to the Crossett Lumber Co., of Crossett, Ark., for the construction of a new 110-ton kraft pulp and paper mill. This company never had been in the paper business before.

On August 9, 1935, I wrote Mr. Jesse Jones, Director of the Reconstruction Finance Corporation, protesting against the action of the Reconstruction Finance Corporation in loaning money to erect another mill. I pointed out that the erection of such a mill would only mean a greater surplus, a greater overproduction, and the placing of more of these mills into the hands of the receiver or throwing them into bankruptcy. The continuation of this policy would mean, of course, that men employed in these mills would either have to accept reduced wages so this product could be manufactured in competition with other products or be thrown out of employment altogether. I mentioned the fact that I had received petitions protesting against the action of the Reconstruction Finance Corporation signed by practically every employee of every paper mill in my district. The only answer I received was to the effect that they had made the loan as stated in my letter.

Here we have an instance where an agency of the Government which was expected to aid existing industries in distress actually helping to put them out of business by the financing of an entirely new industry. It is a significant fact that the Crossett Lumber Co. operates exclusively in the State represented by the majority leader in the other body, Senator JOSEPH ROBINSON.

It is to prevent a repetition of this sort of an action on the part of the Reconstruction Finance Corporation that this amendment was offered.

The Tenant Problem

EXTENSION OF REMARKS
OF
HON. HAMPTON P. FULMER
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Monday, January 25, 1937

RADIO ADDRESS BY HON. MARVIN JONES, OF TEXAS, ON JANUARY 16, 1937

Mr. FULMER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered recently over the radio by the gentleman from Texas [Mr. JONES]:

The new Congress promises to be a busy one from the standpoint of agriculture. The time limit will not permit a discussion of all the legislation that is in prospect. I hope early in the session we may pass a crop loan bill for the purpose of financing production of crops by those who are not able to secure credit elsewhere. This has proven to be one of the best steps which the Government has taken.

It will also be necessary to make some changes in the Soil Conservation Act. This was hurriedly prepared under the stress of circumstances following the decision of the Supreme Court in which the A. A. A. was held invalid. Naturally some changes and improvements must be made.

Some additional changes must also be made in the general farm credit structure. Administrative operation of any agency, like the operation of an automobile, develops weaknesses that must be corrected. However, in today's discussion I expect to emphasize the farm-tenant problem.

There are many angles to the tenant problem. That land tenantry has been increasing gradually for a number of years, that it is desirable to check this increase and to change the trend back in the other direction, every thinking person will agree. There are more than 2 million farm tenants. That many of them desire to be and are capable of being home owners cannot be argued. But to secure a solution to this problem is another question. It cannot be solved by the moving of a magic wand or the expressing of a wish. It cannot be solved by an appeal to the emotions or by a display of sentiment. These have been indulged in for more than a generation.

As a starting basis, two things must be accomplished. First, it must be made financially profitable to own a small farm home. Second, a way must be found to finance the purchase of small farm homes by owner-operators on long-time payments at low interest rates.

MAKING HOME OWNERSHIP PROFITABLE

In making farm ownership profitable, several steps are necessary. The first and most important is to maintain a fair price for farm products. This price is the most important single element in the whole question. Much progress has been made along this line through the operation of the Farm Act and other acts that are now in operation, but further provision in this direction must be made and maintained in order that there may be an assurance of a fair price for the products of the farm.

In other words, tenancy is not the problem. It is but a manifestation of the problem. Neither the landlord nor the tenant has had sufficient income. Behind the tenant question is the problem of price and income.

TAXES

Then, too, the question of State, county, and district taxes is extremely important. In most of the States an undue share of the taxes has been borne by the small farmers. The farm cannot get away. It is easily found, frequently the small tract of land, both in the town and in the country, has borne a larger pro-rata share of the taxes than the larger tracts of land. Besides, both the larger and the smaller tracts of land have borne an undue share of State and local taxes.

STATE COOPERATION

Much assistance can be rendered by States and subdivisions if they will cooperate in the program. It seems to me that on small tracts the taxation should be limited either by providing a small exemption or by providing a maximum total ad-valorem property tax that can be levied against small tracts. Some of the States have already taken steps in this direction. As a part of the effort to solve this situation, steps should be taken to secure State and local cooperation all along the line. Under the system now prevailing in many of the States a full property levy is made by both State, county, and district units against all lands regardless of whether there is a crop failure or any form of income from the land. The program will be greatly handicapped in any section where this condition prevails.

In many States and localities a portion of these taxes could well be shifted to other forms of income and property. This added inducement would go far to make any steps taken by the Federal Government in financing such a program successful. With the cooperation of the State and subdivisions, the Government could well afford to finance the purchase for worthy and ambitious tenants of a small farm home, to be paid for on long-time amortization payments at a low rate of interest. These payments could thus be made on a basis that would not cause an undue burden on the purchaser. In practically every community in America there are worthy tenants who would like to own a home and who would work hard to pay out a home if it could be purchased under such conditions as to give them an opportunity to see daylight.

LOCAL COMMITTEES

In working on this program last year the House Committee on Agriculture wrote a provision that stipulated that in each county where the program was to be put into effect a committee of three local citizens who were familiar with local conditions should assist in administering the act, and that the largest possible authority should be given to these local citizens.

This is an important step. These local committees would understand local conditions; they would know the character of the people who would make application to come in under the act.

We have written into the measure a provision that no land shall be bought or sold in any county except with the approval of such local committee, and that such committee shall first pass upon all applications.

Wherever possible the tenant should be consulted in the purchase of the farm. It would seem that if the tenant were consulted in the selection of the place, in the price to be paid, and the details of the transaction he would be much more likely to succeed, as he would have his heart more fully in the effort. He, too, should have some responsibility in a transaction of this kind.

SPECULATION

In handling this difficult question it is all important that speculation be prevented. When a prospective home owner is financed on a long-time amortization basis with low interest rates there would be, no doubt, an immediate rise in the market value of the place if it were subject to sale to anyone who might wish to buy it. This was true in Ireland, where the purchase of homes was financed. Immediately speculators offered the tenants considerable sums for their contracts. Naturally some of them sold. This ran the whole matter back into the field of speculation, and in the high-price days of 1926 tenants' rights sold as high as $100 per acre.

We have undertaken to meet this in advance by stipulating that no sale shall be made of property thus purchased until it is paid for, unless the consent of the local committee is first secured, and such sales are limited to purchasers who expect to own and personally operate the farm homes. Of course, after all the obligations against the place have been made, the buyer would be permitted to make such disposition of it as he might see fit. In other words, the whole purpose of the plan is to encourage home owning. In order to accomplish this end it will be necessary to keep the whole matter out of the field of speculation. The committee has sought to provide adequate safeguards to give assurance that this will be accomplished.

TERMS OF PURCHASE

The second important basis involves the method of financing. The purchases will probably be on amortization payments covering a period of 48 years or more. The rate of interest should not exceed 3 percent. It is felt that with payments arranged on this basis, the industrious tenants in a good farming section will be able to meet the annual payments and thus finally pay out and own a home of his own.

AN OLD QUESTION

The tenant problem is an age-old one—in fact, almost as old as the race. It has, however, developed into a serious question in this country principally within the last 50 years. It has now developed to the point where it is a serious menace. It exists in practically every State in the Union. It is more acute in the South, perhaps, than in any other section of the Nation. This is due largely to the fact that after the War between the States there was very little money in the South and most of the financing necessarily came from the outside. This caused interest-rate payments to flow out of that great section of the country. This, in turn, made it necessary to have a money crop. The logical development was the one-crop system, because it was the single one that would produce the returns necessary to replenish the section for the outflow of money and high interest rates.

NOT LIMITED TO ONE SECTION

The rapid increase in tenantry, however, has developed into a problem in many sections of our country. This was due in the main to land speculation. The boom years threw land into speculation and into mortgages. The depression years caused difficulties and foreclosures and consequent change of ownership. This increased the number who were compelled to rent land. Any attack on the problem, therefore, must be Nation-wide in scope and not limited to any particular area. It is truly a national problem and the remedy must apply to all sections alike.

ESSENTIALS OF GOVERNMENT

There are four primary essentials of organized government. They are the home, the church, the school, and the state. If any one of these four fails, it would be like trying to make a table stand with three legs.

The church is the great moral factor. It deals primarily with the question of right and wrong in human conduct. It is a force that helps to build character, and strengthens the security and

safety of individuals in their dealing with each other. It is one of the pillars of our national security.

The school is another of the pillars. No free government can live except among an enlightened people. Mirabeau Lamar, one of the Presidents of the Texas Republic, said that a "cultivated mind is the guardian genius of democracy. It is the only dictator which freemen acknowledge and the only security which freemen desire." A cultivated and trained citizenship is essential to liberty. On no other basis can there be security or safety.

The home is the first unit of all organized society. It is the starting point, the beginning of training, the place where character building is started; the Republic is anchored in the hearts of the home owners of this land.

The state is the fourth pillar—the organized form of the people's government. To succeed it must have the benefit of the other three pillars. Thus the hope of our country is builded around the home, the school, the church, and the state. These are the pillars of our national security.

I want to read you a part of one of the many letters I receive from farmers:

"I have farmed several different years; in 1934 the drought put me out of the business. I went to work as a farm hand at $1 a day. That isn't enough to buy food and clothes, so we often cannot buy clothes. I have a wife and three children and also support my mother-in-law. I am not begging for sympathy. I am just stating facts. I am a very good farmer and it is my greatest desire to own my own home. I don't want anyone to give it to me. I want to earn it. I can perhaps own it if the Government helps me purchase one."

Regardless of the merits of any other essentials, there can be no difference of opinion about the desirability of home ownership. To stop the trend away from home ownership and throw the tendency back in the other direction is the purpose of this measure.

The immortal songs, Home Sweet Home and the Little Gray Home in the West, were not written about a rented shack or a tenant's temporary abode but about a home in the real sense of the word—a home that the family can call its own—a home that is an enduring retreat for the units of organized society. Around the fireside are born and nurtured all the finer sentiments that make up the better qualities of the human race. They are builded on an enduring basis. There they form the nucleus of a patriotic citizenship that is the final hope and safety of a worth-while people.

In my judgment, the Government could take no finer step than to make possible the ownership of small farm homes and to formulate policies that would make those homes secure. The threats of those who do not at heart believe in our system of government and who would like to tear down its institutions would not get far among the home-owning and liberty-loving people of the country. On the contrary, such a course would be building toward a stronger and more glorious future.

I want to thank the officials of this fine farm organization for the privilege of speaking on the National Grange hour. The Grange is a great American institution.

Seed Loans, a Species of Crop Insurance

EXTENSION OF REMARKS

OF

HON. JOHN R. MURDOCK

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1937

Mr. MURDOCK of Arizona. Mr. Speaker and gentlemen of the House, in putting the question to the gentleman from Iowa [Mr. GILCHRIST] as to whether he does not feel that the measure before us is a species of "crop insurance" I do not wish to show opposition to the measure, but quite the contrary. I favor this bill granting small loans for seed, and the like, to certain American farmers. I want, in this way, to go on record as favoring these seed loans, although it is understood that the farmers of my own State will not benefit to the extent that the farmers of the far South and the farmers of the drought-stricken areas of the Middle West may benefit thereby.

It may be assumed by some that we who are from the Rocky Mountain area, or who are from the far western mining States, lack the vital interest in agriculture which the Members have who spoke on the measure today. Although I come from a mining State, agriculture is an important industry in that garden spot of the Southwest which is called Arizona. Even if it were not the case, agriculture is of such vital interest to the entire Nation that I, from the viewpoint of the national good, would feel it both a duty and pleasure to support some such provisions as we have before us to aid the small farmer with the extension of credit.

There is considerable discussion as to whether the bill should say 5½-percent interest or 4-percent interest, or some other rate. The statement has been made that a 10-percent rate would hardly cover the cost of administering these loans. It has also been pointed out that, since the Government borrows money for less than 2 percent, it ought not to charge farmers more than that rate on these loans. It must be obvious that the Government makes no profit off of the farmers through the difference in rates of Government borrowing and Government lending. The chairman of the committee has made it clear that there is no disposition to make anything off of these farmers. The whole intent is to aid the farmers. In that spirit we should make the rate as low as possible, even as low as 4 percent, although that figure may not entirely cover the overhead cost of administration.

Mr. Speaker, we have heard much recently about the desirability of crop insurance. I feel that the country needs a well-worked-out, sane, and adequate plan of crop insurance. Surely our farmers have more than enough to face in the hazards of nature, insect pests, and the vicissitudes of the market and ought to be heard in their cry for protection against some of these hazards. I trust that such legislation as we may ultimately pass will be no halfway measures. I submit, however, that the bill we have up for passage today is in effect a species of crop insurance, though, of course, it is entirely inadequate as such to meet our crop-insurance needs. In lending $400, or whatever sum the two Houses may agree upon, to farmers to produce crops, taking a first lien on the crops grown, the Government is in effect insuring such farmers that they shall have some crops from the seed purchased or else there will be no collection on the money thus loaned. If they should have a crop failure, the Government, of course, stands to lose the money furnished. Now, that is the reason why I look upon this as a species of crop insurance.

I do not regard it as adequate crop insurance, but merely call attention to the fact that it has that aspect, and, in the light of that interpretation, I feel that farmers ought not to object to an interest rate as high as 5½ percent, even though the Government borrows money for less than 2 percent. Some of these loans may not be paid back due to crop failure. The moderate interest rate would thereby help protect the Government from an outright loss when the total operation of this fund is considered. I trust that the small farmer will look upon whatever interest rate is established, even if it should be as high as 5½ percent, in such a light that the rate does not represent a profit on the part of his Government, but represents his own contribution to crop insurance to the extent that this bill furnishes it. However, even in the light of this suggestion, I favor the 4-percent rate of interest and shall vote to amend the present bill to that end.

Do We Have Social Security?—Necessary Changes in Social Security Act

EXTENSION OF REMARKS

OF

HON. HENRY ELLENBOGEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1937

ADDRESS BY HON. HENRY ELLENBOGEN, OF PENNSYLVANIA, BEFORE THE PENNSYLVANIA CONFERENCE ON SOCIAL WORK AT PHILADELPHIA, JANUARY 21, 1937, AT ITS TWENTY-NINTH ANNUAL MEETING

Mr. ELLENBOGEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech delivered by me before the Pennsylvania Conference on Social Work at Philadelphia, January 21, 1937, at its twenty-ninth annual meeting:

For 5,000 years the human race has planned and fought to increase the security of the people. Wars and revolutions were waged through the ages—many of them in the name of economic security; and now, in the year 1937, after 4 years of the most energetic and direct efforts to increase the security of the individual in the United States, we survey the field. What do we find?

WE ARE STILL FAR FROM SOCIAL SECURITY IN THIS COUNTRY

We still find poverty in the land. We still find insecurity in many forms. It is futile to speak of a more abundant life for the masses of the American people until their needs for adequate food and clothing have been fully met and until decent housing has been provided.

THE MINIMUM ESSENTIALS FOR SOCIAL SECURITY IN THIS COUNTRY

We have attained a high degree of culture in many ways, but we cannot speak of civilization, as far as the masses are concerned, until we have achieved:

1. Reasonable assurance of employment.
2. Adequate medical care and protection against loss of income during illness.
3. Payment of benefits during periods of unemployment.
4. Decent provision for old age.
5. Provision for dependent children, the blind, for public-health services, and against certain vicissitudes of life.
6. Safe and sanitary housing at low cost.

We cannot point to the attainment of an American standard of living for the masses of the American people until every person willing and able to work has a reasonable opportunity to obtain employment, and until we have in active operation adequate systems of health insurance, unemployment insurance, and old-age assistance and insurance.

During the past 2 years we have witnessed in the United States the greatest forward step for social security that was ever taken.

THE IMPORTANCE OF THE SOCIAL SECURITY ACT LIES IN ITS ACCEPTANCE OF A GREAT PRINCIPLE

Under the leadership of President Roosevelt, the principle that the governments, Federal and State, are responsible for the security of the individual has become part of the consciousness of the American people and has been translated into law. The Social Security Act embodies a noble concept. It is a declaration that it is the business of government to remove the fear of insecurity from the lives of our people and to guarantee to them protection against certain natural hazards and against the shortcomings of our industrial system.

In this law we laid down the foundation for a structure of real security for the American people. We must now supervise the construction of the building, change the plans where change becomes necessary, and point out inherent defects, so that they may be corrected in time.

SOME IMPERATIVE CHANGES IN THE SOCIAL SECURITY ACT

I want to discuss briefly some of the changes in the Social Security Act which are imperative if we are to achieve the goal of real social security for the vast masses of the American people.

And no one can gainsay the fact that security has not yet been achieved by large numbers of our people who are desperately in need of it.

First. There is still considerable unemployment. There is, of course, little social or economic security for those who have been unemployed for several years. They are cared for by relief or by the W. P. A., but they are excluded, at least as long as they are unemployed, from the operation of the unemployment insurance laws and of the Federal old-age annuity system. Further, the majority of our young men and women after graduation look in vain for employment in private industry. The unskilled worker of 45 years of age or over is practically locked out from employment in industries. This illustrates the fact that the primary, the first need for economic security—a reasonable opportunity of employment for every person willing and able to work—is still far off.

Second. There can be no security without protection against economic loss from illness. Health insurance must be a cornerstone in every program of social security.

The manual laborer, the white-collar employee—in fact, almost everyone except those relatively few who have high incomes—need health insurance to protect their incomes while they are ill and to pay for medical and hospital expenses. Health insurance is needed by wider groups of the population than any other form of social security and is the easiest to administer, but it is still far away from enactment into law.

THE GREAT DEFECT OF THE SOCIAL SECURITY ACT—ITS ALLOCATION OF COSTS FOR SUPPORTING THE PROGRAM IS UNFAIR AND ECONOMICALLY UNSOUND

Third. The most serious defect of the Social Security Act lies in its methods of financing the benefits which it seeks to confer. For instance, the entire burden of financing old-age annuities (as distinguished from old-age pensions) is divided between employees and employers. This fund is obtained by taxes upon wages and pay rolls. The pay-roll taxes, which are paid by the employers, will, of course, be added to the cost of production, and be reflected in increased prices. Ultimately they will be paid by the consumer.

He, for the most part, is the same employee who already pays, by direct taxes upon his wages, one-half of the cost of the old-age annuity system. So that in the end the employees, both by direct wage taxes and in increased prices, will pay practically the entire cost of old-age annuities.

Fourth. I make the same indictment of the unemployment insurance set-up of the Social Security Act. The entire cost of unemployment insurance is obtained by a pay-roll tax beginning at 1 percent and gradually increasing to 3 percent, which is paid by the employer. But, as in the case of old-age annuities, the employer will add this tax to the cost of production and therefore to the price of his products. In the end the consumer will pay the entire cost of the unemployment-insurance system.

To summarize, practically the entire cost of the two most important social-security programs set up in the Federal Social Security Act, will be borne by the low-income groups, and particularly by the wage earners. This is unjust and economically unsound. Moreover, it is a real threat to prosperity which must be removed.

PRESENT HIGH WAGE AND PAY-ROLL TAXES WILL REDUCE PURCHASING POWER AND CREATE UNEMPLOYMENT

The ultimate tax for unemployment insurance will be 3 percent; for old-age annuities it will be 6 percent. Even giving the utmost weight to the amount of benefits which will be distributed, this total tax of 9 percent of the pay rolls will mean a tremendously large reduction in the purchasing power of the people, either in the form of increased prices or decreased wages, or both.

Such a substantial decrease in the mass purchasing power of the American people is of great significance. It is bound to have a far-reaching influence upon our future economic development. While the maximum amount of the taxes will not be levied until in later years, right now, at the threshold of the program, the total tax on wages and pay rolls is 4 percent—2 percent for unemployment insurance and 2 percent for old-age annuities. Even a 4-percent reduction in the purchasing power is a tremendous amount. The natural effect must be to reduce employment and to create unemployment. Another bad effect certain to take place will be to accelerate the time when the installation of labor-saving devices become profitable in order to avoid or decrease the pay-roll tax.

This again means less employment and more unemployment.

If this defect is not remedied, the Social Security Act will be in part self-defeating, because it will bring about the very unemployment which it was created to abolish.

WE MUST CHANGE THE METHOD OF FINANCING

The remedy is obvious. We must change the method of financing. We must see that the benefits distributed under the act (which benefits go into the stream of purchasing power) at least equal the decrease in available purchasing power through pay-roll and wage taxes.

The United States is the only country in the world which uses pay-roll and wage taxes as the exclusive method of financing such a program. As I have pointed out, this method of financing cannot be defended on economic or social grounds. It cannot be retained without serious injury to the economic system and without endangering the solvency of the fund set up by the act. I propose a reduction of the wage and pay-roll taxes and a Government contribution toward the cost of maintaining the system. This is the method followed in other countries.

SPECIFIC CHANGES NECESSARY IN THE SOCIAL SECURITY ACT

Now, let us look specifically at some desirable changes in the Social Security Act.

First. Federal old-age annuities (compulsory old-age benefits):

(a) The present tax is 1 percent on wages and 1 percent on pay rolls, and it increases one-half of 1 percent on each every 3 years. This tax increase should take place every 6 years, and the maximum total tax should not be 6 percent, as now provided, but at the most 4 percent.

(b) The Government should contribute one-third of the money necessary to pay old-age insurance benefits. The Government contribution should be raised by income and inheritance taxes, since this is the only feasible tax which does not decrease the purchasing power of the masses.

(c) All benefits should be increased.

(d) The date of payment of benefits should be advanced from 1942 to 1939.

Second. Employment insurance:

(a) The Government should contribute one-third of the necessary funds; we should continue to collect the other two-thirds from employers by pay-roll taxes.

(b) The period during which unemployment benefits are payable should be increased.

(c) The entire system should be revised so as to provide for one tax-collecting agency instead of two as now provided—Federal and State—and so as to reduce the amount of accounting and paper work to be done by the employers.

THE PRESENT UNWIELDLY TAX-COLLECTING SET-UP IS INDEFENSIBLE

The present tax-collecting system is indefensible. It provides for the collection of pay-roll taxes by the Federal Government and then sets up 51 additional tax-collecting agencies—the 48 States, the District of Columbia, Hawaii, and Alaska—to do exactly the same thing. These 51 State collecting agencies must be abolished. This would save tens of millions of dollars in paying for useless duplicating tax collections, millions of dollars which are collected from the masses of the people. It would also eliminate the necessity for each employer to make duplicating tax returns, one to the Federal and one to the State government, would cut in half his expenses in filing his tax return, and would avoid justified resentment against the compulsion to execute such unnecessary and cumbersome forms.

It would also permit the care of migratory labor.

Third. As regards the public-assistance provisions of the Social Security Act, such as old-age pensions, pensions for the blind and

for dependent children, the concept and method is splendid, but the benefits should be increased and the age limit for old people decreased.

So great are the details which could and should be discussed, and so manifold are the changes necessary, that it is impossible to cover them all within the confines of this short discussion. But before concluding I will ask your indulgence to dwell upon one phase of the old-age annuity system—that is, the question of reserves:

THE RESERVE FUND CONTEMPLATED IS TOO LARGE AND THE TYPE OF INVESTMENT TOO LIMITED

(a) I believe that the reserve as now contemplated is too large. Under our present national income, a reserve of not more than $10,000,000,000 would appear to be sufficient.

(b) The law should make more specific provisions for the character of investment of the reserves obtained under the old-age annuity system and under the unemployment-insurance system.

In determining the type of investment we should keep in mind two points:

First. The fact that all this money is contributed for social purposes and therefore should be used only for purposes which will provide social services.

Second. The safety of the investment.

LOW-COST HOUSING AS AN INVESTMENT WHICH IS SOCIALLY AND ECONOMICALLY SOUND

The European countries have paid much attention to the investment of their funds. They have kept these two viewpoints in mind, some of them providing specifically that these amounts must be invested in properly secured loans for the construction of low-cost housing. In this way we would at once have an investment which is secure and safe beyond peradventure of a doubt, and, second, an investment which would create for the contributors of the fund decent housing which they need as much as the other forms of security.

The investment of the surplus funds collected for old-age annuities and unemployment insurance in loans on publicly subsidized low-cost housing developments under the housing program proposed in the Ellenbogen housing bill would mean the construction of hundreds of thousands of homes at low cost for the people of the United States.

No more important change can be made in the act and the integration of the other forms of social security with the need for adequate, safe, and sanitary housing at low rents. Social security is as yet in its initial stage in the United States. It is important that we make it as perfect as we can before the cumbersome and complicated set-up now provided begins to endanger the structure itself. As men and women who are interested in the social welfare of the people, you, ladies and gentlemen, have a particular duty to perform in seeing that the multitude of necessary changes in the Social Security Act are brought about.

We are on our way! The concept of social security has become so solidly fixed in the minds and hearts of the people of the United States that a steady and continuous progress toward the ultimate goal seems assured.

Let us make that progress as rapid as possible by avoiding evils in the beginning through every safeguard we can devise.

Flood Control

EXTENSION OF REMARKS

OF

HON. THEODORE G. BILBO

OF MISSISSIPPI

IN THE SENATE OF THE UNITED STATES

Tuesday, January 26, 1937

EDITORIAL FROM THE WASHINGTON POST

Mr. BILBO. Mr. President, during the closing days of the second session of the Seventy-fourth Congress the Senate had before it the question of fixing the responsibility for flood control in this country. In that connection I ask unanimous consent to insert in the RECORD an editorial from the Washington Post of January 25, 1937, bearing on this question, and stating some facts which ought to be brought to the attention of the Senate and of the country.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NATIONAL FLOOD CONTROL

When flood waters begin to surge through homes and factories, exposing many thousands of human beings to hunger, disease, extreme hardships, and extensive loss of property, they arouse within the whole country a sort of helpless feeling.

It is not surprising, then, that the plight of 350,000 men, women, and children driven from their homes in distress makes a powerful appeal to human sympathy. There should be no difficulty in raising the funds sought by the American Red Cross to cope with this disaster. The least that can be done is to relieve these victims of sufferings encountered through no fault of their own.

In the matter of preventing catastrophes of this sort, however, there is no such widespread interest. Terrible as they seem to be at the time, floods are soon forgotten, except by those who actually suffer. When once streams have shrunk to their normal size and the debris of flooding has been cleared away, there is a strong inclination to gamble on future good fortune. During the last 60 years, for example, Weather Bureau records show that the Ohio River Valley has experienced 55 floods. Yet only 1 of its 60 tributaries has been adequately safeguarded against disasters of this sort.

Following last spring's floods, Congress enacted a measure authorizing expenditure of $320,000,000 for 200 control projects in 40 States, in addition to $272,000,000 to protect the lower Mississippi Valley. No money was made available, however, and it is obvious from the status of the Treasury that the outlay for flood control this year will have to be carefully limited.

In spite of this outlook, there is ground for satisfaction in the clear recognition of Congress that the control of navigable streams is a national responsibility and in the studies that are now being made. President Roosevelt will submit to Congress this week a plan to conserve the water resources of the Nation. It is hoped that special attention has been given to the flood menace since the study made by the National Resources Committee seems to have been inspired in part by the flood-control controversy in Congress last year.

Many years will be required to assure control of the great river systems. But that work cannot begin too soon. It goes without saying that every project should be a part of a carefully prepared national plan kept scrupulously free from "pork barrel" ventures.

In the meantime communities ought to take greater precautions to protect their own areas from localized floods. In recent years a great deal of stress has been laid on the control of "little waters." Now the swollen condition of the Ohio River calls attention to the efficacy of that policy. After the tragic flood of 1913 the Big Miami River was fettered by a series of dams built on a cooperative basis through taxation of property owners obtaining the benefits of protection. As a result, Dayton and other cities in this valley have nothing to fear from the storms that have put other parts of the State under water.

Suffering may also be minimized by zoning urban areas subject to flood for nonresidential use. Frequently such areas can be reserved for parks. Obviously more planning is needed all down the line. If the current flood encourages that tendency, its effects will not be wholly disastrous.

Necessity for Relief in Areas Affected by Drought

EXTENSION OF REMARKS

OF

HON. VINCENT F. HARRINGTON

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 26, 1937

Mr. HARRINGTON. Mr. Speaker and Members of the House, I cannot let another day pass without calling the attention of this body to the serious situation that exists in the western half of my district in northwestern Iowa as a result of last summer's drought. Before resorting to this appeal, I have exhausted every possibility of securing relief from department agencies. For 3 weeks or more I have literally camped on the doorsteps of the conscientious gentlemen in the Department of Agriculture, who are aware of the distressed conditions in the drought area, and would correct these conditions if they could, but are impotent in the face of depleted funds.

My colleague from the district across the Missouri River in Nebraska has already on two occasions appealed to this body to recognize the situation and render aid. Every word that he has spoken in regard to the suffering farmers and the perishing livestock is as true of my district as his, except his statement that human suffering will ensue on February 1 unless there is a further and immediate appropriation of funds to the Resettlement Administration. I except that statement because human suffering already does exist in my district and it is rapidly approaching the condition of a calamity.

I hardly believe it necessary to background this situation for the benefit of my colleagues. The blighting drought of last summer seared a path across the country that wiped out every vestige of vegetation, obliterated crops, and took some

toll of livestock and farm animals. For more than a year now the farmers of the drought area have realized no income from their labor and investment except the weekly cream checks from the sale of their milk and dairy products, a matter of some three and four dollars a week. Despite this niggardly return, they have bravely carried on as best they could until now this last source of income—the munificent three or four dollars a week from the cream checks—is being cut off because the farm animals that produce the cream are starving for want of feed.

I say to you in all earnestness that these farmers are desperate. Since the first of the year blizzards have been raging and subzero weather has prevailed almost continuously. There is intense suffering—not only starving livestock, but hungry human beings. Some of these people are already abandoning the farms, selling their emaciated animals, and flocking into the small towns and cities, there to become an added burden on already overburdened relief agencies. The tragedy lies not only in their human plight but in the abandonment of the soil.

My friends, I am not proud of the fact that the great farm rebellion of 1931 and 1932 originated in my district. I am not here to condone the incidents of that uprising. On the other hand, I do insist that the farmers of my district are good, honest, patriotic, law-abiding American citizens of a peaceful and long-suffering nature. But there is a limit to their patience and ability to suffer. Five years ago 10-cent corn and 2-cent hogs under the Hoover administration brought them to the brink and goaded them into action. Today the drought has reduced them to far more straitened circumstances than then.

It is true that Resettlement and W. P. A. have lightened some of the load; but hundreds, yes, thousands of these people are still being kicked from pillar to post. The limited funds and technical requirements of these agencies preclude them from relief. They do not belong to the bottom stratum of agriculture—the one-mule class—hence Resettlement rejects them. They are not big enough or solvent enough to qualify for farm-credit loans. And because of their few "frozen" assets they get a cold shoulder from W. P. A. Now, what are we going to do about them?

In the face of this emergency the Iowa Legislature on Saturday passed an emergency bill permitting Iowa counties to issue anticipatory warrants up to $75,000, from which funds emergency feed loans may be made to distressed farmers. This stopgap is entirely inadequate.

As evidence I submit herewith copy of letter addressed to Hon. Henry A. Wallace by the board of supervisors of my home county, Woodbury:

JANUARY 23, 1937.

Hon. HENRY A. WALLACE,
Secretary of Agriculture, Washington, D. C.

DEAR MR. WALLACE: For the past 2 days the Iowa Legislature suspended regular order of business to consider, and last night Governor Kraschel signed, an emergency bill permitting Iowa counties to issue anticipatory warrants up to an aggregate of $75,000, from which funds emergency feed loans may be made to distressed farmers.

Woodbury County supervisors in session today find a total of 3,500 farmers in Woodbury County, 2,500 of them needing assistance. This would mean the small sum of $30 per farmer, an entirely insufficient amount.

Following the drought of 1936 our farmers (averaging 160 acres per farm) have used up their available resources.

For the past 3 weeks heavy snow and severe cold weather has greatly increased the problem.

The general assembly emergency legislation hereinbefore referred to puts the entire tax burden upon the drought-stricken counties, and these are the counties least able to bear increased taxes.

Following the 1934 drought, this relief was given by the Iowa emergency administration, and a small portion of the relief given was from the State funds, but the major portion came from the Federal funds.

We are proceeding immediately to make available to Woodbury County farmers their small allocation of not to exceed $30.

Please appreciate, however, that this cannot be but a momentary stop-gap for Woodbury County farmers and that some very definite and quick relief must be made available if Woodbury County farmers are to save any livestock.

There is a growing belief among the Woodbury County farmers that you do not understand the seriousness of the situation or action would have been taken before this time.

We assure you that the matter is of a most desperate nature and must have your immediate attention.

Yours truly,

WOODBURY COUNTY BOARD OF SUPERVISORS.

Today a great flood rages down the Ohio and Mississippi Valleys. Thousands of people are homeless, many are suffering, some are dead. Newspaper headlines and radio bulletins dramatize the situation as a national catastrophe. Purse strings are readily loosened to the call for succor. The Red Cross is on the job. Relief will be rendered promptly and adequately, and properly it should.

The same capricious and merciless forces of Nature that contrived this flood likewise left a trail of drouth and desolation down the middle of our continent last summer. The consequences of the drought are just as disastrous as the ravages of the flood waters. But because there is nothing dramatic about a blistering sun beating down upon a field of corn and because the full brunt of last summer's drought is only just now being borne by the people in the burned-out area, the drought catastrophe did not and does not now lend itself to dramatization. Consequently our farmers suffer.

Relief is imperative, not next month or next week, but now. I fear the consequences of letting this situation go another week without receiving attention on the ground. Such attention calls first for the authorization of funds and secondly for the proper agency of the Department of Agriculture immediately sending an administrator to the scene who is commissioned to act as the situation demands, let the red tape fall where it may.

Statistics on Emergency Crop and Feed Loans

EXTENSION OF REMARKS

OF

HON. MARVIN JONES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1937

STATISTICS OF CROP AND RELIEF LOANS

Mr. JONES. Mr. Speaker, pursuant to permission granted and in compliance with the request of the gentleman from Georgia [Mr. TARVER], I submit the following tables for printing in the RECORD:

1921–36 EMERGENCY CROP AND FEED LOANS

TABLE 1.—*Consolidated statement of number and amount of loans made and collected through December 1936 and balances outstanding Dec. 31, 1936*

State and office	Loans made		Amount collected	Balance outstanding		
	Number	Amount		Number	Amount	
					Total	Percent of loans made
Maine	6,549	$1,646,295	$1,274,133	2,436	$372,162	22.6
New Hampshire	586	61,985	47,296	216	14,689	23.7
Vermont	828	72,238	49,643	355	22,595	31.3
Massachusetts	568	97,158	70,075	228	27,083	27.9
Rhode Island	1	160		1	160	100.0
Connecticut	385	74,270	60,418	120	13,852	18.7
New York	3,903	574,480	458,901	1,157	115,579	20.1
New Jersey	1,195	209,366	177,747	357	31,556	15.1
Springfield total	14,045	2,735,889	2,138,213	4,870	597,676	21.8
Pennsylvania	8,522	992,464	585,338	4,717	407,126	41.0
Delaware	875	115,202	64,383	532	50,819	44.1
Maryland	4,845	587,562	333,699	2,810	253,863	43.2
Virginia	31,416	7,126,868	5,313,291	30,816	1,813,577	25.4
West Virginia	10,880	845,306	442,320	6,229	402,986	47.7
Puerto Rico	5,288	940,088	342,554	3,765	597,534	63.6
Baltimore total	111,746	10,609,490	7,083,585	48,869	3,525,905	33.2
North Carolina	198,919	18,672,830	17,239,532	33,681	1,433,298	7.7
South Carolina	204,602	21,207,455	19,360,599	42,167	1,846,856	8.7

1921–36 EMERGENCY CROP AND FEED LOANS—continued

TABLE 1.—*Consolidated statement of number and amount of loans made and collected through December 1936 and balances outstanding Dec. 31, 1936*—Continued

State and office	Loans made		Amount collected	Balance outstanding		
	Number	Amount		Number	Amount	
					Total	Percent of loans made
Georgia	240,727	$23,763,934	$21,731,405	50,728	$2,032,529	8.6
Florida	25,003	2,772,411	1,506,281	11,141	1,266,130	45.7
Columbia total	668,651	66,416,630	59,837,817	137,717	6,578,813	9.9
Tennessee	99,689	7,177,273	6,182,995	27,823	994,278	13.9
Alabama	119,871	10,497,162	8,916,435	27,123	1,580,727	15.1
Mississippi	186,646	15,640,851	14,210,615	50,181	1,430,236	9.1
Louisiana	141,850	11,419,332	10,509,827	31,759	909,505	8.0
Arkansas	257,187	21,591,659	18,858,230	87,996	2,733,429	12.7
Memphis total	805,246	66,326,277	58,678,102	224,882	7,648,175	11.5
Ohio	14,822	1,553,263	1,148,294	5,126	404,969	26.1
Kentucky	74,708	4,741,969	3,407,741	31,808	1,334,228	28.1
Indiana	15,035	1,658,664	1,221,893	5,167	436,771	26.3
Illinois	10,261	1,099,114	819,794	3,751	280,320	25.5
Missouri	51,510	5,250,887	3,650,748	24,205	1,600,139	30.5
St. Louis total	166,336	14,303,897	10,247,470	70,057	4,056,427	28.4
Michigan	25,731	2,201,622	1,517,075	11,357	684,547	31.1
Wisconsin	34,196	2,358,085	1,210,295	19,748	1,147,790	48.7
Minnesota	48,082	5,479,786	2,734,987	29,947	2,744,799	50.1
North Dakota	175,851	33,418,277	6,955,273	146,730	26,463,004	79.2
St. Paul total	283,860	43,457,770	12,417,630	207,782	31,040,140	71.4
Iowa	5,361	722,878	565,374	1,730	157,504	21.8
South Dakota	102,769	20,997,525	6,827,205	78,058	14,170,320	67.5
Nebraska	31,381	4,986,558	2,693,485	17,094	2,293,073	46.0
Wyoming	9,695	1,604,118	864,728	5,573	739,390	46.1
Omaha total	149,206	28,311,079	10,950,792	102,455	17,360,287	61.3
Kansas	58,966	10,212,902	3,345,875	43,265	6,867,027	67.2
Oklahoma	64,681	5,813,061	3,459,173	31,041	2,353,888	40.5
Colorado	30,332	4,599,939	2,099,045	19,961	2,500,894	54.4
New Mexico	27,456	3,814,866	1,888,762	17,370	1,926,098	50.5
Wichita total	181,435	24,440,762	10,792,855	111,637	13,647,907	55.8
Texas	250,116	25,502,803	17,706,259	81,725	7,796,544	30.6
Arizona	2,377	424,015	318,404	852	105,611	2.5
Utah	11,096	1,158,673	904,345	3,616	254,328	21.9
Nevada	490	64,862	57,359	78	7,503	11.6
California	3,138	536,441	445,282	689	91,159	17.0
Hawaii	106	20,097	10,696	52	9,401	46.8
S. L. C. total	17,147	2,204,088	1,736,086	5,287	468,002	21.2
Montana	79,425	14,425,602	4,545,189	57,689	9,880,413	68.5
Idaho	15,726	2,396,965	2,058,372	3,531	338,593	14.1
Washington	10,553	2,419,664	1,763,953	3,254	655,711	27.1
Oregon	7,072	950,839	677,528	2,660	273,311	28.8
Spokane total	112,776	20,193,070	9,045,042	67,134	11,148,028	55.2
Total	2,760,564	304,501,755	200,633,851	1,062,415	103,867,904	34.1
Agricultural credits	961	1,513,024	943,014	518	570,010	37.7
Miscellaneous adjustments		52,015			52,015	
Grand total	2,761,525	306,066,794	201,576,865	1,062,933	104,489,929	34.1

Farm Credit Administration, Division of Finance and Research.

1934–35 DROUGHT-RELIEF LOANS

TABLE 2.—*Number and amount of loans made and collected through December 1936 and balances outstanding Dec. 31, 1936*

State and office	Loans made		Amount collected	Balance outstanding		
	Number	Amount		Number	Amount	Percent of loans made
New York (Springfield)	399	$48,823	$36,480	173	$12,343	25.3
Pennsylvania			52	[1] 1	[1] 78	60.0
West Virginia			50	[1] 1	[1] 245	83.0
Baltimore total			102	2	323	76.0
Florida (Columbia)	964	397,701	114,276	841	283,425	71.3

1934–35 DROUGHT-RELIEF LOANS—continued

TABLE 2.—*Number and amount of loans made and collected through December 1936 and balances outstanding Dec. 31, 1936*—Con.

State and office	Loans made		Amount collected	Balance outstanding		
	Number	Amount		Number	Amount	Percent of loans made
Alabama				[1] 1	[1] $75	100.0
Louisiana	7,363	$452,553	$65,628	6,837	386,925	85.5
Arkansas	13,408	683,402	217,020	10,241	466,382	68.2
Memphis total	20,771	1,135,955	282,648	17,079	853,382	75.1
Ohio			120			
Indiana				[1] 1	[1] 52	100.0
Illinois	1,450	123,359	88,720	528	36,639	29.2
Missouri	20,610	2,031,368	867,421	12,529	1,163,895	57.3
St. Louis total	22,060	2,156,727	956,261	13,058	1,200,586	55.7
Michigan			350	[1] 4	[1] 1,325	79.1
Wisconsin	5,777	1,024,851	106,394	5,104	918,457	89.6
Minnesota	27,133	6,683,957	463,527	24,406	6,220,310	93.1
North Dakota	44,404	12,119,681	362,259	42,640	11,757,188	97.0
St. Paul total	77,314	19,828,489	932,530	72,154	18,897,280	95.3
Iowa	7,154	1,012,389	424,429	4,310	587,960	58.1
South Dakota	43,989	16,263,348	1,275,655	40,439	14,986,847	92.1
Nebraska	24,916	7,257,093	1,343,469	20,294	5,912,899	81.5
Wyoming	3,305	2,830,567	609,011	2,643	2,221,556	78.5
Omaha total	79,364	27,363,397	3,652,564	67,686	23,709,262	86.6
Kansas	16,412	3,382,690	725,007	12,615	2,657,608	78.6
Oklahoma	12,518	1,150,297	461,073	8,687	689,224	59.9
Colorado	7,408	2,333,062	507,347	5,883	1,825,420	78.3
New Mexico	5,482	1,813,062	584,553	4,180	1,228,509	67.8
Wichita total	41,820	8,679,111	2,277,980	31,365	6,400,761	73.7
Texas (Dallas)	42,834	6,970,224	2,053,183	30,794	4,917,041	70.5
Arizona	278	60,398	27,658	115	32,740	54.2
Utah	4,007	1,752,497	269,016	3,255	1,483,481	84.7
Nevada	102	119,618	38,496	63	81,122	67.8
California	1,251	241,049	148,341	477	92,708	38.5
S. L. C. total	5,638	2,173,562	483,511	3,910	1,690,051	77.8
Montana	6,396	1,672,064	511,083	5,178	1,360,981	81.4
Idaho	1,678	1,051,717	245,411	1,201	806,306	76.7
Washington	1,175	387,954	235,910	555	152,044	39.2
Oregon	201	142,816	29,539	134	113,277	79.3
Spokane total	9,450	3,254,551	821,943	7,068	2,432,608	74.7
Grand total	300,614	72,008,540	11,611,478	244,130	60,397,062	83.9

[1] Transferred from drought area.

Farm Credit Administration, Division of Finance and Research.

Crop-Production Loans to Farmers—H. R. 1545

EXTENSION OF REMARKS

OF

HON. KARL STEFAN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1937

Mr. STEFAN. Mr. Speaker, by leave given me to extend my remarks on House bill 1545, which we passed in this House Monday, January 25, I wish to call the attention of the House again to the fact that, so far as my district in Nebraska is concerned, this legislation will be of little value if farmers are forced to give a first lien on their livestock. That is because most of those farmers who now have their livestock free of debt can no doubt receive money from the regular lending agencies.

The need right now in my district is to help those farmers who still have a little equity left in their livestock and who want some aid in the way of loans to keep that livestock and to stay on the farms. It has come to a question now whether these farmers who are not eligible for a loan under this act are to stay on the farms or if they are to turn over their livestock to creditors and go to the towns and cities and

seek relief for themselves and their families. There are hundreds of farmers who find themselves in this condition today in the Third District of Nebraska.

I have many letters and telegrams from my district indicating that the district is just recovering from a serious blizzard. Roads are just being opened after a fall of heavy snow. Subzero weather has been prevailing there, and the result is that human beings are suffering along with starving livestock. How some of this livestock survived this storm is beyond my comprehension. This livestock has been thin for many weeks due to lack of feed and due to forage which contains no nutrition. Forage which comes from trench silos into which were swept meager and pitiful stalks from fields which grew no corn. The entire crop was lost due to the drought. Farmers in my district sold down their livestock to such a point that they have barely enough animals on hand to start farming again next spring. On much of the remaining livestock these farmers have borrowed money. Money they cannot pay back, because they had no crop to sell from which to derive money to pay even the interest on that debt. Therefore, these farmers will not benefit by this act.

These farmers must be helped by the Resettlement Administration which is making small feed loans to farmers under certain ruling. This ruling is that farmers who have more than an 18 unit of livestock cannot become eligible for a feed loan from the Resettlement Administration. That department recently, after many pleas by the Prairie States group and this office, changed this unit requirement from 12 to 18. But more leniency and a more liberal rule should be adopted if these farmers are to weather this winter and start farming again in the springtime.

Only today I received this telegram:

Can nothing be done to save horses and cattle still alive? Very few will be alive by spring to begin farming.

This condition in my district is as serious as the flood conditions which exist in the Ohio and Mississippi Valleys today. These conditions in Nebraska should be given the same emergency aid.

Discussing H. R. 1545 a little further, I wish to state that unusual emphasis is placed on repayment of these loans. So far as many farmers in my district are concerned, they wish to pay back these loans, but from my personal knowledge many of them will not be able to do so for some years to come if they are forced to sell their crops at a low price and pay back money which they borrow to buy seed when that seed was selling at an exorbitant price.

I call attention to Members of this House my bill, H. R. 2261, which provides that the Governor of the Farm Credit Administration be authorized and directed to effect repayment of these seed loans to farmers for crop production and harvesting through the delivery by the borrowers, after harvest of commodities, bushel for bushel, of the same kind and grade as that for which the loans were originally made. In other words, these farmers who will not be able to pay back in money are anxious to pay back bushel for bushel that grain for which they borrowed money from their Government. It is a fair way of repayment of these Government loans. It is a sure method. It is a popular method among the farmers. Farmers in my district are anxious to pay back what they borrowed if they ever have a crop again. If we raise another corn crop and that new corn goes down in price, the farmer who has borrowed will have to pay back an unreasonable amount of money. Today corn in my district is selling around $1.20 a bushel. Seed corn is hard to get and commands a high price. The farmer must borrow the limit to buy a few meager bushels of seed. Take, for an illustration, the corn price today. The farmer borrows at the rate of $1.20 per bushel today. If the new corn crop is heavy next harvest and drops to, say, 45 or 50 cents a bushel, the farmer will be paying $1.20 a bushel for 45- or 50-cent corn. Paying back bushel for bushel in kind would let this depressed farmer come back on solid ground again. Paying back at the high and speculative price of today he merely digs himself deeper into indebtedness.

I hope the committee will give me a fair hearing on my "bushel-for-bushel" bill and that Members of this House will give the farmers in the drought-stricken sections of Nebraska the same chance to recover and go back to farming again as they are giving today to the cotton farmer of the South. The Government today is holding millions of bales of cotton as the result of their program to help the cotton farmer out of his plight. Let the debt-ridden and drought-stricken farmers of my district in Nebraska have the same Government benefits as are extended to the farmers in other sections of our country.

Relief Appropriations

EXTENSION OF REMARKS

OF

HON. MICHAEL J. STACK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 26, 1937

Mr. STACK. Mr. Speaker, I am persuaded that the sum specified in the proposed works relief appropriation bill is inadequate to meet the calls for assistance which I firmly believe will be made on the Government during the coming year. The belief is held that the appropriation may be safely reduced by $1,000,000,000 on the theory that industry will absorb sufficient of those now on relief to justify this reduction. This, in my judgment, is a mistake. Industry gives employment only when it needs labor. Appeals to its generosity have been, and always will be, unavailing. How can any reasonable man bring himself to depend upon our "economic royalists" to aid such a worthy enterprise as reducing unemployment if he gives any consideration to their historic antagonism to the laboring classes? Even as we discuss this question their subsidized organs are hysterically advancing the argument that they cannot be expected to make any effort to reduce unemployment unless the Government removes what they impudently term "the shackles and impediments to business"—unless, as these emissaries express it, the tax collector is restrained and industry is freed from the perils of Government now besetting it. And this in the face of increased orders and mounting profits.

Their present determined resistance to the just demands of labor is an added indication that these industrial barons feel no responsibility for assisting in the return of a general national prosperity. They are the same ruthless and arrogant crowd. They have refused, and will continue to refuse to direct their energies to anything more worthy than increasing their own profits unless they be permitted to dictate to Government—but that day, happily, is past.

I know it is an appealing theory to some of us that this can be accomplished, but when the needy cry to us for aid we cannot alleviate their sufferings by propounding a theory. We cannot fend off destitution by preaching idealism. We cannot appease hunger by the practice of economy. When these scourges stalk through the land they must be resisted by means as practical as they themselves are dangerous. It is not enough to tell our people that they shall not starve. Elegant phrases will not do. We must insure them against starvation. We must drive the fear of starvation from the eyes of our children. We must lift the agony of this fear from the hearts of our men and women. We cannot short-change the hungry of the Nation. We cannot hand them a stone when they ask us for bread. We must be prepared against want; and the only way to be prepared is to have sufficient funds in the hands of our relief agencies to meet

it when it comes. Let us think less of a balanced Budget and more of a balanced meal for the hungry.

The depression is not over by any means. Through wise leadership and the efforts of a militant democracy, it is being dissipated. There yet remains much to be done. It is still necessary to keep the budget of the people balanced rather than that of the Nation. We should appropriate an amount sufficient to insure the balance of every American family budget for at least a year. If we provide less than this and fall upon more evil days than we now anticipate, we shall experience the mortification of having failed those who sent us here to defend their rights and protect them in time of national peril. If greater fortune smiles upon us than I can now envisage, we can turn back into the Treasury whatever sum is not needed. It is better to be sure than sorry.

Our relief plan has earned dividends in the way of returning prosperity and happiness. We should continue to invest in it to the limit needed. Surely it is not too much to ask a great and powerful nation to care for its own until they can care for themselves, and I appeal to you to spare no effort to stay the march of destitution in our country until such time as we can devise means to drive this grim specter forever from the land. This can be done by an appropriation of at least $1,200,000,000.

Crop Production and Seed and Feed Loans

EXTENSION OF REMARKS

OF

HON. MILTON A. ROMJUE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1937

Mr. ROMJUE. Mr. Speaker and Members of the House of Representatives, it is gratifying that an agreement has been reached for the reduction of the rate of interest as proposed from 5½ to 4 percent in regard to loans in connection with the legislation to provide loans to farmers for crop production and harvesting during the year 1937. This legislation, I am glad to say, is of very great importance to the farmers of various sections of the United States, and particularly at the present time.

I am glad to give my most hearty support to this legislation, which is intended to be of material assistance to the tenant, sharecropper, and small farmer of our country. Certainly the agricultural interests, and particularly the producer of agricultural crops and livestock during the past few years, have had to encounter very unusual and extraordinary circumstances. In many of the farming sections the very severe droughts on the one hand and the very extreme floods on the other have well-nigh made the farmers' problems, and particularly the farmers of small capital, almost insurmountable.

This legislation applies to loans of as much as $400 for crop production and seed-loan purposes, as well as for feed. It is only a part of the program and policy of President Roosevelt's administration to aid and assist agriculture. The legislation itself will be of great help to the poorer class of farmers who are so much in need of assistance. The success of this legislation depends to quite an extent upon the method of the carrying out or execution of the loan. The administrative features of the law will largely be regulated by rules and regulations established and promulgated by the board in charge of the administration thereof.

I have called attention to the fact that it is primarily intended and the general purpose of the law is to assist the tenant, sharecropper, and small farmer. As is commonly understood, of course, the tenant is not ordinarily the owner of the farm, and usually the sharecropper likewise is not. The small farmer, not like the tenant and sharecropper, usually and very generally is the owner of a tract of land, and the difficulties with which he has had to contend during the past few years, with extreme droughts and floods, has so depleted his operating funds that he frequently finds that the little farm he owns is sometimes covered by a mortgage or deed of trust to secure a loan which is often almost equal to the value of the land he owns.

In providing the sum of money for the purposes specified, up to the sum of $400, I have called attention to the fact that it is a rather important feature to small land owners which does not apply to the tenant and sharecropper. For instance, where the small land owner, who already has a mortgage or deed of trust against his land, the sum of $400 or any sum of money less than that which will be furnished him by the Government on proper application and showing, it appears that under the law of nearly every State in the Union his growing crop, while in the process of being grown and until it reaches the ripened stage and becomes ready for gathering or harvested, is classified as "emblements", and the owners have title to it while still "emblements" with the fee title to the land. Now, where a bank or other private creditor has a mortgage or deed of trust against such a farm, the growing crop, until ripe or ready for harvesting, passes by transfer of the title by a foreclosure to the purchaser at foreclosure. Of course, after the crop becomes ripe and ready for harvest, the crop, so far as the passing of the title is concerned, is changed.

The purpose of this law is to help the small farmer and not the man who holds the mortgage on his place. There seems to be some difference of opinion as to the scope of this legislation as to the protection of the small farmer and also as to the protection of the money advanced by the Government. Certainly very strict regulations should be laid down by the administration of this fund so that under the regulations or under the law itself the rights of the Government are protected in regard to the money advanced to help the farmer as between the banker or private individual who has the loan against the farm and the Government itself. To illustrate this: In the event a sale under foreclosure might take place, say, in the months of September or early October of any year, or at any other time during the year before the crop is matured, if the proper protection is not provided in the administration of the law it would be possible to find that the banker or private holder of the loan against the farm might step in and receive the benefits of the money advanced by the Government to the small farmer who had planted and husbanded his crop, and thus the Government would be left in a position to lose all or part of the fund advanced to the farmer and the farmer himself not receive the benefit of the advanced money. Certainly both the Government and the farmer ought to be protected as to this money advanced by the Government to the farmer for this loan, instead of the one who holds the deed of trust, so far as the Government loan extends.

Assurance has been given by members of the committee in charge of the legislation that adequate protection would surround this matter if not within the law by regulation. It is an important feature and should certainly not be overlooked in the administration of the act; and the fund advanced by the Government to the small farmer should be impressed with such a security and trust relationship so that the small farmer may receive the benefit of the loan, and at the same time the Government not be taken advantage of by the holder of the mortgage or deed of trust which has been previously given against the land. In protecting the Government and the farmer in this particular the rights of the holder of any previous mortgage or deed of trust have not been invaded or interfered with in the least.

I am glad to note that this legislation seems to almost universally meet the approval of the present Congress.

Child Labor

EXTENSION OF REMARKS
OF
HON. WILLIAM P. CONNERY, JR.
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, January 26, 1937

MEMORANDUM ON EXTENT OF EMPLOYMENT OF CHILDREN UNDER 18 YEARS OF AGE

Mr. CONNERY. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following letter from the Secretary of Labor, together with the memorandum referred to therein:

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, January 19, 1937.

The Honorable WILLIAM P. CONNERY, JR.,
Member of Congress, Washington, D. C.

MY DEAR CONGRESSMAN CONNERY: In response to your request, I am sending you a summary of the memorandum on the extent of employment of children under 18 years of age, for use in connection with the Rogers resolution.

Sincerely yours,

FRANCES PERKINS.

INFORMATION ON EXTENT OF EMPLOYMENT OF CHILDREN UNDER 18 YEARS OF AGE JANUARY 15, 1937

The Department of Labor has available information in regard to the employment of children under 18 from the following sources: (1) The 1930 Federal census; (2) reports of the number of employment certificates issued to children leaving school for work; (3) a brief survey of child labor in six States made in the summer of 1936.

UNITED STATES CENSUS STATISTICS, 1930

According to the census of 1930, 2,145,959 boys and girls under 18 were gainfully employed. About one-third, 667,118, were under 16 years of age and more than one-tenth (235,328) were under 14. Of the children under 16, 30 percent were employed in nonagricultural industries, chiefly as laborers and semi-skilled operatives in factories, as errand and delivery workers and sales boys and girls in stores, in messenger service and office work, and in domestic and personal service, including work in hotels, restaurants, laundries, etc. It should be remembered that this census was taken when unemployment conditions had already reduced work opportunities for children as well as for adults. Also, since it was taken as of April 1, children employed in seasonal occupations which reach their peak in the summer months were not included.

TREND OF CHILD LABOR, 1935–36

Employment certificate statistics secured by the Children's Bureau give the number of children leaving school for work in certain States and cities reporting to the Bureau. Not all children going to work receive certificates, either because the law does not require it or because they go to work illegally; also the completeness of the data depends upon the standards of the law and the adequacy of administrative methods. The numbers, however, are sufficiently large and representative to give a reliable indication of the trend in the number of children going to work from year to year. Information for young persons 16 and 17 years of age is much more limited than for children 14 and 15, because comparatively few States require certificates for this age group.

Before the N. R. A. codes with a 16-year minimum age went into effect, a rise in general factory employment was accompanied by a rise in the number of employment certificates issued to children 14 and 15 years of age. While the N. R. A. was in operation this tendency was reversed and employment of children decreased notwithstanding a continuing rise in factory employment. In 1935, the year the codes went out of existence, the number of certificates issued increased and the usual tendency for child labor to follow the trend of general factory employment was resumed, and has continued through 1936. In areas where comparable information was obtained, where there was no change in the State child-labor standards (11 States, 87 cities in other States, and the District of Columbia), two and one-half times as many 14- and 15-year-old children were certificated for employment in the first 5 months of 1936 after the invalidation of the N. R. A. codes than in the corresponding months of 1935 when the codes were in effect.

SURVEY OF CHILD LABOR IN SIX STATES IN 1936

The Children's Bureau has just completed field work on a survey of child labor in six States in 1936, covering 2,000 children under 18 years of age in Alabama, Georgia, Indiana, Missouri, New Hampshire, and Massachusetts. These figures do not in any sense represent a complete census of employed children of these age groups but merely a cross section of the conditions of employment for young workers in these States. Preliminary findings of this survey show that approximately one-half of these young persons were employed in manufacturing establishments; slightly more than one-fourth in trade, including both wholesale and retail establishments; 13 percent were engaged in service occupations, including work in restaurants, beauty shops, and automobile service stations; and the remainder in a variety of miscellaneous occupations. A comparatively small proportion of the children under 16 were engaged in manufacturing industries. Hours of work of 40 hours or more were reported for two-thirds of these young persons. Nearly one-third reported a workweek of 50 hours or more and 15 percent a workweek of 60 or more hours. Their median weekly earnings were $6.48; that is, one-half had received less and one-half more than $6.48 for their week's work. The weekly earnings for one-third of these young workers were less than $5; for three-fourths, less than $10.

Extension of the Merit System

EXTENSION OF REMARKS
OF
HON. ROBERT RAMSPECK
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, January 27, 1937

RADIO ADDRESS BY HON. ROBERT RAMSPECK, OF GEORGIA, ON JANUARY 16, 1937

Mr. RAMSPECK. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following speech which I recently delivered over the radio:

The first civil-service law was passed by Congress during the administration of President Arthur in 1883. It was extended to the field service of the Post Office Department by President Grover Cleveland.

President Cleveland, in 1889, ordered the civil service extended to include railway-mail clerks, but before his order became effective he was succeeded by President Harrison, who postponed the effective date and in the interim almost half of the postal clerks then employed were replaced by political employees.

President Theodore Roosevelt placed some of the fourth-class postmasters under civil service and the remainder were brought under the law by order of President Taft. They have never been removed.

During the administration of President Wilson the postmasters of the first, second, and third classes were brought under civil-service procedure, but President Harding promptly returned them to the spoils system, where they remained until last summer. President Franklin Roosevelt has again placed these postmasters under civil-service procedure as to selection by providing that the Civil Service Commission shall hold competitive examinations for such postmasters and that the Postmaster General shall recommend for appointment the person who makes the highest grade. He has also asked Congress to place the offices of the postmasters under the civil-service law.

In the last Congress I sponsored a bill to place all postmasters under the civil-service law. It was brought to a vote under a rule requiring a two-thirds vote for passage. There were 205 votes for it and 112 against, and it failed because of not having quite two-thirds of the votes cast.

In the present Congress I have sponsored the same bill. It will be considered by the House Civil Service Committee at an early date and I strongly feel that it will be passed.

This bill provides that the incumbent postmasters may be reappointed and classified by a noncompetitive examination if the Postmaster General so recommends. If the incumbent is not reappointed, then a civil-service employee in the vacancy office may be given a noncompetitive examination and promoted to the position of postmaster. If neither of these methods is used, the Civil Service Commission holds an open competitive examination just as it does for any other position within the classified civil service and the Postmaster General must appoint one of the three persons receiving the highest grade as a result of the examination.

Critics of this bill have objected to the provision permitting the reappointment of incumbent postmasters by noncompetitive examination. I would remind them that the incumbents now serving as postmasters were appointed after having successfully passed a competitive examination. It must also be remembered that the incumbents were recommended from the eligible lists established as a result of such examinations by Congressmen. Under the circumstances it could not be expected that Congress would vote for a bill that denied the possibility of reappointment

to those appointed by Congressmen. In proposing progressive legislation you must be practical, and I think it would be impossible to pass such a bill if it displaced the incumbents.

There are approximately 14,000 postmasters of the first, second, and third classes. Since the Post Office Department was established both major political parties have used these positions for political purposes. Most of these officers have been men who rendered political service to the victorious party, and in a great many instances they did little or no work. However, they have collected millions of dollars in salaries from the taxpayers of the Nation. In effect, this system permits the party in power to pay its workers from the Public Treasury.

The Post Office Department is a business institution. It is a Government monopoly. Its patrons are entitled to the very best service, and I believe that by placing the postmasters under civil service the system will be improved and the public will get better service.

There is another reason why I favor extension of the civil service to include all postmasters. Under the present system the employees of the Department are barred from promotion to the highest paid positions. They cannot take part in politics because they are civil-service employees and are prohibited from belonging to political organizations. They see the better paid jobs going to politicians and they do the work. It is not right and does not promote good morale in the Service.

So strongly do I believe in giving these positions to civil-service men when they are qualified that I appointed as postmaster in Atlanta a civil-service employee of that office who had served as such for more than 30 years. It has proven to be a wise move, and has resulted in splendid service to the public of that city.

I take this occasion to congratulate the present Postmaster General for the fact that he has promoted many career civil-service employees to key positions in the Postal Service. With the exception of three Assistant Postmaster Generals, every position in the Post Office Department here is filled by a civil-service employee, and the Fourth Assistant is a career civil-service employee. As a result of this action on the part of Mr. Farley, it is admitted that the Postal Service is now at the height of efficiency.

In addition to placing postmasters under the civil-service law, I favor extension of the merit system to all positions except those of a policy-forming nature. I have pending a bill which gives to the President that power. He does not now have that right as to agencies in the creation of which Congress exempted the employees from the act. My bill provides that before any employee secures a civil-service status he or she must pass a competitive examination. In this respect it is at variance with the Brownlow report recently submitted to Congress with the approval of the President. My reasons for asking competitive examinations are many. In the first place, most of the present employees not under civil service were selected without having the recommendation of any person responsible to the voters. In many instances they were appointed because of friendship with or relationship to some officials of the agency in which they are employed. They are not properly distributed between the States in some agencies. In many cases employees of superior ability are in minor positions working under persons of less ability.

If we require open competitive examinations, all of our citizens will have an equal opportunity of securing these positions. The quota law will apply and we will get a fair distribution of the positions between the various States. In each case a character investigation will be made.

When the Prohibition Bureau was brought under the civil-service law in the Coolidge administration it developed that quite a number of the employees in that agency, appointed without civil service examinations, had criminal records. That will not happen when an agency is under civil service and the positions are filled by competitive examinations.

By requiring competitive examinations for all positions brought under the civil-service law we give an opportunity for present employees to better their position. They would not have that opportunity if noncompetitive examinations are permitted because they would all be examined only for their present positions.

At the present time there are more than 300,000 positions in the Federal Government outside of the civil service. This is because of the fact that in setting up the emergency agencies during the depression Congress exempted these positions. Such of these positions as are to become permanent should now be brought under the civil-service law. By giving the President this authority he can direct their inclusion in the civil-service system from time to time as it is decided that the agency in question is to be retained.

There is another reason why I favor extension of the civil service to these positions. All civil-service employees are covered by the retirement law of the Federal Government. They contribute 3½ percent of their salaries to the retirement fund, and after 30 years of service and having reached the retirement age, which runs from 60 to 70 years for various types of positions, they receive an annuity of $100 per month or more. The employees not under civil service do not participate in this system and are not included in the social security program. There is no provision of Federal law to provide for the Federal Government worker not under civil service. By putting them under civil service we also include them in the retirement law.

It has been demonstrated by experience that security of employment, good working conditions, and fair pay produce an efficient personnel. In every case where an agency has been placed under civil service increased efficiency has resulted.

Members of Congress have been besieged during recent years by applicants for positions with the Government. I myself have more than 30,000 such applications. We are not equipped to investigate the qualifications of these applicants. We have not the time to deal with this problem and at the same time give proper study to legislative proposals. If this burden could be taken away, we would have more time for legislative duties, and the country would benefit, because the acts of Congress would be more carefully studied by the membership of Congress.

As a final reason for favoring the extension of civil service, may I call your attention to the fact that Congress has the duty of creating new positions and of appropriating funds for salaries. If we also have a voice in the selection of the persons to fill the new positions, we are under constant pressure to create additional jobs. We all have applications from friends we want to please and whose political activities in our behalf we deeply appreciate. In meeting this pressure we must ask the executive branch of the Government for positions for these friends. Thus we place pressure upon the executive branch which results in their asking us for more money for more positions. We create a vicious circle, which results in a larger organization and more and more expenditures.

We will all agree that the Government should not have any unnecessary employees; that the organization should be held at the minimum with which efficient service can be rendered.

However, if we are to have economy and prevent the employment of persons not needed for efficient service, we must reverse this circle; we must relieve the pressure upon ourselves for the creation of additional jobs. We must make it unnecessary for Congressmen to ask the executive branch to employ "just one more" because that one has rendered some service placing us under obligation to such person.

If we are to stop this practice, we must place all positions not of a policy-forming nature under civil service, where they will be filled, not by ourselves, not by some department or bureau chief, not because of political service rendered nor because of kinship, fraternal relationship, or former business association, but where they will be filled on the basis of merit and ability and character.

We will then have a more efficient personnel. We will achieve better legislation, and we will promote economy and save money to the taxpayers without curtailing the services rendered and without reducing salaries.

Protection From and Control of Floods

EXTENSION OF REMARKS

OF

HON. THEODORE G. BILBO

OF MISSISSIPPI

IN THE SENATE OF THE UNITED STATES

Wednesday, January 27, 1937

EDITORIALS FROM THE NEW YORK TIMES AND THE WASHINGTON HERALD

Mr. BILBO. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an editorial from the New York Times of the 26th instant, and also an editorial from the Washington Herald of the 27th instant, dealing with the question of floods.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times of Jan. 26, 1937]

THE FLOOD

Cincinnati and the Ohio River lowlands, southern Indiana, Kentucky from Louisville to Ballard lie partly under water. In nine States half a million wander about homeless—200,000 in the Louisville area alone. And the end is not yet in sight. Downstream from Cincinnati the Ohio is still rising. The Mississippi is threatened. From the Red Cross comes a call for $4,000,000. The President orders the Army, Navy, Coast Guard, C. C. C., and W. P. A. to the rescue.

How often must this tale of devastation and anguish be repeated before at last the waters of the mightiest navigable streams on earth are under reasonable control? "Build higher and stronger levees" is the formula of the cities. But the engineers know that levees so far from preventing floods actually endanger downstream settlements by concentrating the torrents. "Let us have more retention reservoirs, like those that have saved Dayton in the present emergency", demands another group. But the engineers point to 60 tributaries of the Ohio, of which 13 are navigable, which must be held in check and then explain that reservoirs alone do not

spell salvation. "Plant more forests and cover crops so as to hold back the water and let it soak into the soil", plead the conservationists. The plain truth is that there is no one way of holding back rivers as huge as the Mississippi, the Missouri, the Ohio, and their many tributaries—no way to prevent floods. But a combination of levees, reservoirs, headwater dikes, forestation, proper utilization of land can do much to reduce these aqueous horrors to minor disasters. Fifty-five Ohio floods in 60 years are clearly too many. And the engineers predict that the waters will rise even higher in the future.

It is not that we are blind and reckless but that we are not unanimous in our demand for a comprehensive system of protection and for a sound method of assessing its cost. At present the Federal Government, the States affected, levee boards, cities, counties, railways, and private property owners build dikes and levees much as they please. No fewer than 10 agencies in various governmental departments have some authority over streams. Dwellers in stricken cities maintain that they should not bear the cost of flood control; those outside the inundated areas argue that they derive no benefit from protective structures. Yet when utilities are crippled, business is paralyzed, communication is interrupted, and half a million must flee for their lives, it is obvious that the problem concerns the Nation as well as particular States and communities. And it is also obvious that the Federal Government must be given far wider powers than it has yet received—powers that will enable it to assess costs fairly as well as to draw up and carry out an all-embracing plan of control.

From the studies made by the Water Planning Committee it is clear that more is involved than the protection of regions now periodically flooded. The checking of droughts and of erosion is but part of the problem. Indeed, the physical preservation of the United States is the actual issue. More is wanted than the strengthening and heightening of levees, the provision of spillways and diversion channels, the building of reservoirs. There must be control of the headwaters, the damming of gullies, regulating reservoirs like those of the Miami district, the canalization of streams, forestation, a restoration to grass of lands now a prey to the wind, a proper supervision of farming. A Nation that prides itself on its technical accomplishments will not look upon such a program with despair. Rather does it test its social responsibility and the depth of its patriotism. If we can think of spending $750,000,000 on a Nicaragua canal because it may be of some military advantage to us, surely we can think of saving the United States from being washed away into the Gulf of Mexico and the oceans and from being blown away by eroding winds.

[From the Washington Herald of Jan. 27, 1937]

FLOODS CAN BE CONTROLLED

Disastrous floods in the Ohio Valley, repeated 55 times in 60 years, indict the policy of inaction that obstructs effective flood control.

Responsibility for this inaction rests largely upon the Federal Government which knows how to stop floods but has not stopped them.

Control of floods is not impossible.

Comprehensive plans for restraint of flood waters, worked out in detail by competent engineers, have been available for years.

Far from being insoluble, the problem exists today simply because the methods of solution have not been used.

As Senator COPELAND, of New York, asserts:

"We have been talking about this flood control for decades. For at least one decade specific recommendations have been in Government files. Some of these recommendations have been waiting so long that resurveys were necessary."

There has always been plenty of talk about flood control, but little action.

The Hoover administration talked about it.

The Roosevelt administration continues to talk.

But nobody does anything.

For such procrastination there must be blame.

Senator COPELAND points out that Congress last year approved a program of flood control that according to Army engineers would eliminate all danger of floods in the Ohio Valley.

But the Budget Bureau failed to approve the spending of the money that would have taken that program off the blueprints and put it in action.

That program would build 14 great reservoirs on the headwaters of the Ohio River, impounding surplus waters in flood seasons and releasing them in dry seasons.

That program would have entailed the expenditure of $310,000,000; certainly an insignificant sum beside New Deal expenditures in other directions.

What a monument it would have been to the New Deal and to President Roosevelt if permanent barriers against floods had been erected by some of the millions spent.

Reservoirs alone will not control floods. Control of headwaters is necessary. Diversion channels and spillways are necessary. Forestation and grasslands are necessary. Dikes and levees are necessary.

But most necessary of all is action instead of talk.

Labor in Private Industry

EXTENSION OF REMARKS

OF

HON. GLENN GRISWOLD

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 27, 1937

RADIO ADDRESS BY HON. WILLIAM P. CONNERY, JR., OF MASSACHUSETTS, ON JANUARY 26, 1937

Mr. GRISWOLD. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following radio address of the Honorable WILLIAM P. CONNERY, Jr., of Massachusetts, over station WOL and the Inter-City Broadcasting System under the auspices of the National Council for Prevention of War, on January 26, 1937:

Ladies and gentlemen, with many millions of American workers still unemployed and, I regret to say, the present outlook for their obtaining employment in private industry rather slim, naturally these millions of American workers are looking to the Congress of the United States for relief.

I do not use the word relief in this instance as meaning either work relief or direct relief. Unfortunately, unless our laws are radically changed this work relief and direct relief will soon cease or be placed on a permanent basis.

Recently the National Industrial Conference Board, an employers organization, made a careful survey of the hours per week worked by those employed in industry during the year 1936 and their survey showed that the workweek averaged some 35 hours.

This survey, I believe, was confined to the larger employers, and while indicative of the fact that American industrialists have apparently realized the necessity of a shorter workweek, if our workers are to find employment in private industry this survey does not cover those industrialists who are responsible for exploiting the workers through long hours. Of course, in a competitive industry if a few employers will force their workers to work 45 or 48 hours, while other and more enlightened and more patriotic employers, seeking to cooperate with President Roosevelt, place their workers on shorter hours, it is only a matter of a short time when the decent and patriotic employer will either be forced out of business or compelled to force his workers into a longer workweek.

You will note that even with this apparent reduction in many industries to some 35 hours per week, we still have with us many millions of American workers unable to secure employment or dependent upon the Government for work relief or direct relief.

There may be several solutions for our present condition and there may be many ways found whereby these millions of American workers will again find themselves with a steady and a profitable job.

However, up to the present time there has been but one practical way suggested which has met with the approval of the majority of those who have studied our unemployment problem, and that is the shortening of the workweek period.

We tried, through the N. R. A., to have American industry agree voluntarily to a shorter workweek for the workers. I am glad to be able to say that such men as Gerard Swope, of the General Electric Co., many of the textile manufacturers, and especially those in my own district in Lawrence, Mass., as well as some others, were sufficiently interested in their workers and sufficiently interested in the welfare of our country to comply with the request of President Roosevelt and the Congress of the United States, and even after the death of the N. R. A. have continued the 40-hour workweek. However, these men in many cases are forced to compete with the products of chiselers, and they have had a hard time in keeping their plants open and remaining on even the 40-hour workweek basis in the face of some competition.

There is hardly a day passes in the Congress of the United States but from 5 to 10 or more Members of the Congress call upon me, as chairman of the House Committee on Labor, which committee has for the last 3 years reported to the House at each session a 30-hour workweek bill, and ask when they will be able to vote for a 30-hour workweek bill.

This year, with the support which we expect to secure from the fair-minded employers of our country, and with the possible cooperation of other branches of our Government, we are hopeful of enacting legislation which will provide for something like a basic 30-hour workweek for all workers engaged in the production of those goods or articles which are shipped or received in interstate commerce.

This legislation, we have every reason to believe, will make possible employment opportunities for some three or four millions of American workers.

However, I do not want those who are listening in to assume that the passage of this legislation will eliminate unemployment of all of our millions of unemployed.

For some time forward-looking students of our labor problem have realized that there are certain conditions, about which the Government has so far not taken cognizance, which prevent the employment in public and private industry of those who, unfortunately, have passed the age of 45.

American employers are not wholly to blame for this condition.

Under our present laws, in most States we provide workmen's compensation insurance for those who are disabled while at work. This insurance, in most States, is carried by private insurance companies, who are interested principally in the profits which accrue to them through the carrying of this insurance.

In order to reduce their losses to the lowest they have, so I understand, been able to convince too many American industrialists that when they employ men over 45 years of age or when their pay roll averages show more than 40 years' age that such employer should pay to these insurance companies a heavy premium in the form of additional rates without the same insurance companies paying any larger benefits to those workers who may be injured while employed.

The net result of this condition being that those workers over 40 or 45 years of age now unemployed who are not protected through their membership in strong labor unions must continue to look to the Government for relief, whether you call that relief work relief or direct relief. These men cannot go hungry and must be provided with clothing and shelter.

Either industry must provide suitable employment for those now over 40 or 45 or the Government must and will provide for them.

Our laws do not at present provide for these men until they reach the age of 65. What are they to live upon until they become 65? What are they to live upon for the next 15 or 20 years before they reach the age of 65?

Some students of industrial problems are already advocating a permanent Works Progress Act to care for these men.

Should such a system be created, it means continued so-called high taxes in order to provide the moneys necessary to finance yearly these Works Progress projects.

To my mind, our leading financiers and large industrialists, those who are now clamoring for lower taxes, have an opportunity of showing their willingness to help reduce taxes by providing employment for these able-bodied men, even though they have passed the age of 45.

The majority of these men are well qualified and capable of rendering full service. They are not old, except in years. They are not weak nor are they decrepit.

The answer to a great extent to this problem lies with our wealthy capitalists and operators of large industries.

They will either cooperate with President Roosevelt and the Congress and provide jobs for these men or they will provide the funds in the form of increased taxes and Uncle Sam, as usual, will provide the necessary jobs.

I thank you.

Appreciation of Service

EXTENSION OF REMARKS

OF

HON. LUTHER A. JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 27, 1937

ADDRESS OF HON. FRITZ G. LANHAM, OF TEXAS, ON THE OCCASION OF THE CONFERRING OF HONORARY DEGREES UPON THE VICE PRESIDENT AND MRS. JOHN NANCE GARNER BY BAYLOR UNIVERSITY

Mr. JOHNSON of Texas. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following address delivered by my colleague, Hon. FRITZ G. LANHAM, of Texas, on the occasion of the conferring of honorary degrees upon the Vice President and Mrs. John Nance Garner by Baylor University, at Waco, Tex., November 21, 1936:

We have come as Texans to a cherished Texan shrine of learning and culture for the observance of ceremonies of which the whole Nation will take interested note. Here we bask in the light of educational inspiration in halls devoted to man's betterment and progress and in an assemblage representative of laudable accomplishment in the development of mind and heart and soul.

In its broadest sense education is man's best gift to himself. It has contributed the food he eats, the clothes he wears, and the shelter which protects him. It has sent the "iron horse" charging along the rails; it has driven gigantic liners across the seas like mighty leviathans of the deep; and, in this later and greater day, it has verified a dream of the ages and has enabled the manbird and the ladybird to soar through the air. It has created government and order. It has lengthened time and shortened space. To comfort and diversion it has given a new meaning. It has made cold places warm and hot places cold, high places low and low places high. Because of it the desert has blossomed as the rose, and waste places have bloomed with tropical luxuriance. In large measure it has conquered disease. It has brought antiquity next door. It has harnessed electricity to the twentieth century and borne us onward with incredible speed. In short, it has made real the fabled fountain of youth and the mythical El Dorado, and by its potent charm it has elevated man from a selfish dweller in caves to a broad-minded and useful citizen of society.

As the beneficiaries of this bounty we delight to do honor to the men and women of all the ages who through sacrifice and service have thus contributed to the welfare and happiness of humanity. They have labored in every worthy field of human endeavor and have bestowed their gifts upon mankind in the true spirit of altruism. Many of these donors have been denied the privilege of training in college walls. Following the generous promptings of their hearts to serve, through sheer ability and industry they have reached the heights of helpful attainment. Were George Washington living today, institutions of learning would likely vie in according appreciative recognition of his achievements, but the Father of our Country never sat in the classroom of a university. Who more strikingly than he has exemplified in teaching and in practice that trinity of educational graces epitomized in the epitaph which the learned and lettered Thomas Jefferson wrote for his own tomb, Freedom of the body, freedom of the mind, freedom of the soul? We are fortunate to live in a progressive day when the enduring works of public-spirited men and women are appreciated by their own generation. The hearts of a grateful people demand occasions like this, occasions which give honor to those among us to whom honor is due, occasions which impress upon the youth of the land the wholesome truth that duty well performed will have its proper need of praise.

In the spirit of this splendid sentiment we are assembled to observe the fulfillment by Baylor University of a noble purpose. These are exercises of graduation free from conjecture. Degrees are conferred upon the youths of our land in the hope of service to be rendered; honorary degrees are conferred for the actual realization of such hope. The successful life finds expression in the practical exemplification of learning. From the completion of a college course may come the boon of a certain cultural self-satisfaction, but real education transcends selfish ends and is manifested in and measured by accomplishment rather than training. How truly did Emerson say, "Genius unexerted is no more genius than a barrel of acorns is a forest of oaks." Potentiality is to performance what precept is to example. The test of a university's usefulness is not to be found in the mere number of its graduates, but in the benefits they bestow upon their fellowmen in keeping with the advantage of their preparation. The urge of education is to conquests in the field and forum of uplifting achievement. It is in appropriate acknowledgment of this truth that Baylor University honors itself and honors us in conferring today degrees of honor upon two distinguished Texans who have passed summa cum laude the examinations in the practical school of life's experience.

Perhaps the most significant predicate of these awards is that the recipients have served even more signally as teachers than as students. What we learn we best impress upon our own minds and hearts by imparting it to others through the genial influence of example. It is thus that the seeds of education come to fruition. It has been said, perhaps with some accuracy, that an education is what one has left after everything has been forgotten that one has learned. It may be true that some who so graciously listen to my words, and whose deeds tarough bountiful living have made this world a better one, could not now pass the entrance examinations of the universities from which they hold degrees. Personally, I prefer the confession of such inability to the ordeal of submitting to the test. But this relatively universal fact attests the verity of the belief that the twofold function of education is preparation for service and the translation of its training in all its aspects into active usefulness.

By this true standard of dignity and worth, how abundantly do the Vice President and Mrs. Garner deserve the distinguished consideration this day accorded them. They have realized that life is something more than mere conformity with prosaic texts. In the intricacies of the public service, with its many problems and details, it presents constantly permutations which no mathematician could compute and no university curriculum include. The course of their conspicuous careers has been guided wisely by the formulas prescribed by head and heart. In home and office alike, as efficient colaborers for the common good, they have manifested that rare wisdom which true education imparts.

The popular acclaim which attests their eminence is not limited by the boundaries of our State or Nation. Their record of service has made them citizens of world importance, but they wear their honors with that becoming modesty which marks the highest type

of American manhood and womanhood. Today, yielding to the humanitarian trait so characteristic of their natures, likely their joy in this occasion arises more from the gratification it affords their friends than from the tribute to their personal triumphs.

Surely, as citizens of Texas we may be pardoned for finding in these exercises a justifiable basis for our own State pride. Men and women are largely the products of the soil which nurtures them and the people who love them. We like to believe that Texas and Texans have had a participating share in the merited glory that has come to the Vice President and Mrs. Garner. We feel that their achievements have been so distinctively American because they have been so typically Texan. From the early days of our colonization our citizenry has included men and women from every section of our country. They have brought the literary culture of the East, the hustle and bustle of the West, the commercial enterprise of the North, and the proverbial chivalry and hospitality of the South. Here through the natural forces of attrition the sons and daughters of all these climes have worn the rough edges from their natures and acquired the graces of the cosmopolitan American. It is not surprising, therefore, that the Vice President and Mrs. Garner have been free from provincialism in its every phase and have exemplified the splendid virtues and graces dear to every section of our land. With such a history and such a heritage little is the wonder that throughout the Nation people of the North, South, East, and West unite in proclaiming their broad-minded Americanism.

Texans have also the wonderful inspiration of the lives of our pioneers. We have treasured the vision of Austin, the resolution of Houston, the courage of Travis, the persistence of Crockett, the learning of Lamar, and the patriotism of them all. True to the best of our annals and traditions, the Vice President and Mrs. Garner have kept faith with the fathers. They are not their passive admirers, but their worthy successors. In meeting the obligations imposed by the new times and circumstances which confront us, that same vision, that same resolution, that same courage, that same persistence, that same learning, and that same patriotism have characterized the lives and labors of those whom this day this great university honors.

They who are fortunate to know the Vice President and Mrs. Garner can think of them only in terms of appreciative and affectionate regard. In public and private station two lives were never more completely one. Their hands and hearts have ever been joined in the fulfillment of their beneficent mission. These ceremonies which betoken our gratitude for the inspiring example of their worth and service are a fitting tribute to the American family and home of the first order. What better goal could learning seek than the preservation of these fundamental institutions in honor and in strength, upon which necessarily depend the maintenance and perpetuity of our social and national ideals?

In the poem Ulysses, Tennyson ascribed to the Grecian leader this statement: "I am a part of all that I have met." It is a pleasant thought today that we are a part of this great university, a part of the lives of the notables here assembled, a part of the careers of the eminent Texans we honor, a part of the expression of liberty in its fullness which the principles of our country and its Government so gloriously foster. Such an occasion as this is made possible by the national institutions of freedom and democracy which have come to us as the prized heritage of the ages. We should feel recreant to the promptings of our hearts if we did not both thank and congratulate the authorities of Baylor University for the stalwart Americanism which has inspired these ceremonies. With that vision which perceives the very spirit of our national existence, and that example which insures its enduring excellence, they have prescribed and practiced in the conferring of these degrees an appreciation of superior service in a formula which may be followed with confidence.

National Defense

EXTENSION OF REMARKS

OF

HON. LISTER HILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 28, 1937

ADDRESS OF HON. SCOTT W. LUCAS, OF ILLINOIS, ON JANUARY 27, 1937

Mr. HILL of Alabama. Mr. Speaker, on yesterday it was my privilege to hear the gentleman from Illinois [Mr. LUCAS] deliver an eloquent and able address at the national defense conference in session at the Mayflower Hotel. Under leave granted me I extend my remarks by inserting the address in the RECORD:

I congratulate the patriotic women of America in their coming to the Nation's Capital to participate in their annual conference upon national defense. I make bold by saying that so long as patriotic men and women of America can find the time to pay tribute to the memory of those who have defended the Stars and Stripes in order that American liberty might endure the free institutions of this country will continue. That is precisely what you patriotic women are doing in this National Defense Conference. Coming here from every section of the United States, representing every worth-while women's patriotic group in America, you demonstrate to the world that you have not forgotten the ideals for which free men have fought, lived, and died during our existence as a Nation. Your presence here admonishes those of today and those of the future that your program of national defense is based upon the Nation's record and experience of the past. Your presence at this conference is noble and praiseworthy and commends itself to the thinking people of the Nation because you assemble here upon the high plateau of patriotism, and that alone. And so in the discourse of this address let it be understood that I come before you with no thought of partisan politics. I speak to you as an American patriot on a question where partisanship and political affiliations divide and fall like the snowflakes in a blinding storm.

And so at this hour our thoughts go drifting over the past, ever having in mind the strength and security of our armed forces in time of war. Even though we have been victorious in all of our struggles with the enemy, yet it is universally agreed by those who know that at no time have we ever been adequately prepared to fight. Time prohibits a lengthy discussion of our early history in national defense. I turn for the moment to the World War, which is so fresh in the memory of us all. All agree that we were wholly unprepared when the declaration of war came in April 1917 and all will agree that when the armistice brought to a close the most deadly and costly conflict that civilization has ever known we were still unprepared.

Notwithstanding that handicap, America gave all she had in that struggle, because we believed with an ardent fervor that America was fighting a war to end all wars. With such a far-reaching humanitarian goal, we were willing to give and give, in money and manpower, in order to effectuate and make permanent such a high and noble purpose. No sacrifice was too great, no burden was too heavy, if such a world-wide achievement could be accomplished. And so we placed 4,000,000 men in the field; we increased the national debt approximately twenty-six billions; we gave to the allied nations some $10,000,000,000 in cash. The war was costly in human life and in American property; and just what we accomplished remains for the historians to tell. It will always be remembered that America's position in that war was wholly an idealistic one. We craved no territory; we sought no reward, save the liberation of man from the future horror of like catastrophes throughout the world. The record of the World War is a ghastly one—every world power worth while arrayed on one battlefield or the other; more men, more guns, and more ships than in any previous conflict that man has known. Millions were killed. Thousands upon thousands were completely annihilated, and today many white stones in the cemeteries of France tell the pathetic story of those soldiers "known only to God." Thousands upon thousands were wounded and disfigured for life, men who today are still fighting the cause and seeing nothing but darkness through the brightest clouds of sunshine. And especially are you and I interested in those American boys who are still awaiting for their armistice to be signed, yet who, in many instances, have been completely forgotten by the great mass of American people.

The reasonable and unbiased mind must look upon this ghastly and ghostlike picture with the thought that the people of Europe should have finished for all time to come with the brutality, the horrors, and the futility of war. But many Americans fail to realize that Europe for centuries has been aflame with national differences, economic disputes, greed, envy, and conquests for territory, resulting in one war after another. It is not difficult, when the background of history is carefully analyzed, to understand why it is impossible to change the spots of the leopard overnight. It is not difficult to understand why Mussolini punished the black man of Ethiopia and appropriated his land, goods, and chattels for the use of the Italian people. It is not difficult to understand the civil strife in war-torn Spain, with all of its international complications. It is not difficult to understand the Hitler daring, the Mussolini arrogance, the Stalin deception, the Blum firmness, and the Baldwin tact as these respective representatives of great nations play an old European game which has been their chief mode of entertainment for centuries past.

My friends, America is through participating or taking part in European quarrels. We have had enough. And again, without attempting to inject a single thought of politics into this address, I commend with enthusiasm and vigor the neutrality policy of this administration as it affects the people of this Nation. When President Roosevelt by proclamation declared an embargo upon the shipment of arms, ammunition, and implements of war to belligerent nations he took a long step toward keeping this Nation out of foreign wars and entanglements which may develop through the present European crisis. But when the President issued his second proclamation, namely, that American citizens who traveled

on belligerent vessels did so at their own risk, notice was given to the world that the United States was going to avoid, if possible, becoming involved in the war troubles of other nations. And when, only a few days ago, every Member of the House of Representatives except one voted in the affirmative to restrain the shipment of arms, ammunition, or implements of war to either side in Spain, that action was not only a confirmation of the policy of the administration but it was also exceedingly significant and timely as a warning to the nations of the world that we are grimly determined to take every honorable and legitimate course in directing this Nation away from the throes of cruel and useless war.

I agree in the main with the general policy laid down by the State Department, that if we can honorably aid in the settlement of international disputes to the extent of bringing about peace and still retain the respect of the nations involved, we should not hesitate to offer a helping hand, but under no circumstances should we intervene in problems which are not our concern, and especially problems which may be of such serious and disputable character that war might be declared for their solution.

We want no more wars with the European nations for the purpose of making the world safe for democracy, and the reason is obvious. You and I know that our contribution of manpower and our furnishing of billions of dollars to the allied nations during the World War had for its fundamental purpose the idealistic policy of the ending of all wars for all time to come. We are further cognizant of the unfortunate fact that immediately following the armistice, and at the time when the peace treaty of Versailles was being discussed, the leaders of this country were received with a contemptuous pleasantry, and that intrigue and double dealing were the order of the day.

One of the striking gestures of bad faith upon the part of the European powers is evidenced by their default in the war obligations due this country. Only Finland has kept the faith. Every other nation refuses to make an honest attempt to pay even a penny of interest on the obligations due the taxpayers of America. All of these actions of duplicity, default, treachery, and deception since the war have completely shattered my faith in any treaties, statements, or agreements of the European nations. I say candidly and frankly that, in my opinion, the Congress of the United States is in no temper to send American boys into another European catastrophe unless some of those bold expansionists covet or seek with design territory or property which belongs to America. If and when that happens we guarantee to repel and meet force with force.

So we are compelled to observe Old World conditions as they are. If analyzed in the fair light of truth, no reasonable mind can gainsay that America should not have an adequate national defense. In view of the constant menace of Japan and the constant unsettled condition of Europe, is there anyone who believes that we should not have a Navy that is the equal of any navy in the world if our American ideals and our institutions are to be properly protected? As one who has been an ardent proponent of an adequate national defense, I am happy to have voted, as a Member of Congress, for an appropriation which had for its purpose the building of the Navy to treaty strength as was understood in the Washington and London disarmament conferences. In spite of all of our gestures toward military disarmament, all of our efforts for universal peace throughout the world, and all of our sincerity of purpose in trying to eliminate the horrors of war, we have learned to our sorrow that every proposal fell upon misunderstanding ears. After 18 years we have not obtained the slightest concession from Old World diplomacy. Yes; it is high time that America builds her Navy so that it will be on a parity with that of any other nation when we put out to sea.

I am happy to have had the privilege of voting in the Seventy-fourth Congress for a bill which increased our Army to 165,000 men and 14,000 officers. This is the largest group of men that America has had in military uniform since the World War. The Army, the Navy, the Marine, and Air Corps, plus the National Guard, are the real bulwark of defense for American people and their liberties.

But, in addition to this, it is indispensable that we enact legislation which will take the profits out of war if we shall have a complete national-defense program that will be approved by the great majority of men and women throughout America; and legislation is now pending in Congress, drafted by the American Legion and loyally supported by your patriotic groups, for the purpose of taking the profits out of war. I am one of those who believe in the universal draft in times of war. The men who defended liberty in the greatest conflict in all civilization have emphatically declared that conscription of all wealth and materials as well as men is the acme of American patriotism. The fundamental and underlying principles of this doctrine are economically sound and socially desirable. Obviously this measure does not, and will not, meet with universal approbation. "It is too drastic and severe", say the munition makers and profiteers. But when you compare their lot with the flower of American manhood who will do the actual fighting and dying for the continuation of this Republic, it is not drastic enough. If $30 per month is sufficient for the man who has to do all the bleeding and suffering in the trenches for the American cause, a noncombatant should find no trouble in living on a like amount. The people of America abhor war; we shall have none of our own choosing; but if our rights are violated, if our liberties are challenged, and our institutions threatened, and war ultimately comes, we ought to compel all noncombatants, public and private, to make sacrifices commensurate with those who do the fighting. To permit thousands upon thousands of noncombatants to become millionaires overnight at the expense of the American soldier giving his all in defense of this country, as was done in the World War, constitutes one of the darkest and most irreverent chapters in American history. In the name of the comrades who today are sleeping forever because of war, it is with confidence that I boldly assert that the America of the future will never again make such a mistake of human inequality. Property in another war will never be rated higher than human life.

This is an adequate program of defense insofar as the enemy without is concerned, but it is the enemy within our grates which today is also furnishing a menacing threat. We are passing through an economic period which has frequently tested the structural fibers of America. We are in an economic battle which is more dangerous to the perpetuity of the Nation than the great World War. Communistic activities and other subversive movements are constantly feeding upon the poverty of the Nation. Political phobias and quack doctrines, as the panaceas of America's ills, have been spread throughout the land by designing demagogs.

I appreciate thoroughly the evils and the un-American doctrine of communism; I thoroughly understand that they seek to impose upon the American people, if possible, destruction of all forms of religion and to teach hatred of God. I thoroughly understand that they believe in the destruction of all private property and that their theory of obtaining control of government is the opposite of ours. We believe in change through the ballot; they believe in change by force. But even with all of this, and all of the propaganda which they are disseminating throughout America, I am not one of those individuals who see a Communist behind every tree while riding along the roadside. I am sometimes convinced that some of the so-called "red baiters" do as much to advertise and spread the cause of communism as the most devout Communist. I am not afraid of a communistic revolution in this country so long as the American people are kept properly informed through a program of education and not through a program of legislation. Through a program of education we shall be able to meet the challenge and conquer the Communist at any time by using American arguments of conviction in answer to the un-American cause he represents.

And, in addition to this, it is also necessary that at all times due consideration be given by a grateful Nation to the man who is down and out through no fault of his own. The only concern the Communist gives me is his ability to thrive upon poverty and distress through which the American people have been traveling for the last several years. Communism will never obtain a foothold in America as long as men and women can work and receive a sufficient amount of money to buy the necessities of life. We read and heard repeatedly the bitter and vicious utterances of Browder, the noise of Coughlan, the demagogery and the bellowing of Townsend and "Share-the-Wealth Smith", and the intellectual pleas of Thomas. Probably no individual representing third-party movements received more publicity than this group who are out of step with the American theory of government, and yet no group in history were so hopelessly and so thoroughly defeated.

My friends, I have an abiding faith in the American people. Even at this hour, when 600,000 people have been made homeless throughout the Nation by the onrushing waters of the Ohio and the Mississippi, the American determination and courage in all emergencies will again sally forth and meet the desperate plight in which these unfortunate individuals find themselves. When we consider the economic depression through which we have drifted; when we think of the droughts of 1934 and 1936; when we realize that parts of North and South Dakota, Montana, Kansas, and other Western States have been ravaged for years by drought, pestilence, and dust storms; when we recall the flood of 1 year ago, which was almost as destructive as the flood of today, we who are more fortunate should offer a prayer of thanksgiving that these noble souls have retained their moral energy and American courage in a great crisis. Only yesterday I heard the distinguished chairman of the Appropriations Committee, in explaining the relief appropriation, advise the Members of the House that, so far as he was concerned, everything possible would be done by a grateful Government to see that these unfortunate Americans are given every consideration under the exigencies of the occasion. America will not fail in this hour of distress throughout the land. A nation that is young and virile and courageous always conquers when her cause is just.

I think you will agree with me that even though local disasters are constantly hammering upon the governmental doorstep in one fashion or another, we are consoled and comforted when we look across to the European nations and witness the hot vapors of revenge, conquest, power, misery, and despair which by day and by night escape from the boiling kettle of European complications and intrigue. You and I know that sooner or later the kettle will boil dry. Then the explosion will follow. Yes, with all our troubles, those who would leave America in exchange for a permanent residence in Europe are few and far between. In conclusion, I am aware that your organizations are dedicated primarily to peace, but you, like the great majority of Americans, believe as Washington did, that the best means to preserve that peace is to be prepared for war if the priceless heritage of American liberty is to be sustained.

Financial Requirements of the W. P. A.

EXTENSION OF REMARKS
OF
HON. JOHN M. COFFEE
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Thursday, January 28, 1937

Mr. COFFEE of Washington. Mr. Speaker, on Tuesday, January 26, 1937, this body was considering the first deficiency appropriation bill (H. R. 3587) providing, among other things, for an appropriation for $655,000,000 for W. P. A. expenditures plus $80,000,000 for Rural Resettlement Administration, $35,000,000 for miscellaneous departments, and $20,000,000 for the Treasury Department. I wish to call your attention to the provisions for expenditures in the W. P. A.

During the campaign in the fall of 1936 the general public was led to believe, by frequent assertions from men high in administrative authority, that no needy person would be forgotten and that every employable would be taken care of. Relying upon these representations, the beneficiaries of relief everywhere voted enthusiastically for the Democratic ticket, recognizing in the candidates, high and low upon that ticket, sympathetic friends. Shortly after the November 3 election the W. P. A. workers were dismayed by an order ordaining a drastic cut in the number of those upon relief.

In my home State of Washington the situation was aggravated by an influx of more than 6,000 families from the drought-stricken area of the Middle West, who had to be taken care of or permitted to starve. The State administrator on relief, Don Abel, was compelled to cut the number of those on relief from 43,000 to 28,000. This was to be accomplished by dropping from the W. P. A. rolls single men and single women and those over 65 years of age who were held to be eligible for a State old-age pension.

The drastic weeding-out process commenced early in November and proceeded along its demoralizing course as the nights grew longer and days grew colder, and midwinter set in, with its congealing blasts. Protest meetings were held throughout the areas, at which resolutions were drawn calling attention to the hardships and calling for prompt reinstatement of those laid off. Finally the allotment to the State was increased from 28,000 to 30,000, then to 32,500, so there is some slight improvement. However, there is now need for at least 48,000 heads of families to be placed upon the W. P. A. rolls instead of 43,000 as formerly.

The Project Workers' Union, the Workers Alliance of America, the Central Labor Councils of Tacoma and Seattle, the Washington Commonwealth Federation, and scores of liberal and labor organizations have made every effort to restore the needy and suffering to self-respecting employment under the W. P. A. The answer has always been the same, "We haven't the money. When Congress provides the money we will put you back to work." I exculpate the State administrator from any blame for the condition. Perhaps the necessity for economy was acute because of the shortage of funds, but the condition was something which could not be exercised away from our gaze.

We cannot conjure out of our sight or ears the pitiful spectacle of the suffering and indigent fellow citizens, nor can we stifle the heart-rending cries of those who saw about to be taken away from them that little which they could yet retain.

O Mr. Speaker, in a nation which has more than $10,000,000 for a white-marble palace for its Supreme Court judges, which can spend $50,000,000 upon a dreadnaught, the efficiency of which is outmoded by modern science; in a country which freely votes large sums for portraits of political figures, millions of dollars for the preservation of the birds in the air, the beasts in the field, and the insects in the ground—must we be so callous as in the name of economy and the croaking of "balance the Budget" to refuse to extend the largess of the richest nation on earth to the good people of these United States, typical of those of whom Abraham Lincoln had in mind when he said, "God must have loved the common people because he made so many of them"?

The W. P. A. spent for the whole country something over $117,000,000 a month during the preceding fiscal year. During the 6 months commencing July 1, 1936, there was spent an average of $170,500,000 a month. The congressional delegations of the Pacific Northwest States recently met for the purpose of considering this grave situation. A committee therefrom appeared before the Committee on Appropriations and presented the needs for increased moneys for the W. P. A. It was brought out that in Montana the employment had dropped at Fort Peck Dam. Only 2,500 men are now employed as compared with 10,000 recently; 5,000 families have migrated into Montana vainly seeking work at Fort Peck, only to increase the relief load. In Idaho 4,000 families from the drought area have come in, 2,000 of whom are in need of immediate relief.

The gentleman from California [Mr. VOORHIS] offered an amendment providing that $1,000,000,000 should be substituted in place of $790,000,000 for relief expenditures, including the W. P. A. I am proud of the fact that I voted for this amendment, so as to provide at least a minimum of funds for the W. P. A. and thereby enable it to reemploy those unjustly laid off and in part, at least, take care of the needs of the Nation.

I also voted for the amendment to the bill offered by the gentleman from Wisconsin [Mr. BOILEAU], because his amendment provided for a minimum of $1,040,000,000 for the W. P. A. The liberals made a fruitless fight on the floor for increased financial aid for the W. P. A., but regular Democrats had been advised from an apparently authoritative source that when and if there was need for more funds for the W. P. A. the President would forward promptly to Congress another deficiency bill to supply the requisite funds.

In the debate one of my colleagues on the Republican side insisted that the amount should be cut to a half billion dollars for relief on the ground of economy and offered an amendment to that effect.

Mr. President, it is to be regretted that we should economize at the expense of those about whom the President spoke so eloquently in his inaugural address for the sake of balancing the Budget.

Balance the Budget, of course; but not while the Government can extend succor to end human misery. When the President feelingly spoke of his solicitude for the one-third of his fellow citizens who were undernourished and underfed, he was not making an idle gesture. I join with him in a practical effort to keep America's citizens in self-respecting employment until private industry can absorb the load.

Women's Responsibility for the Maintenance of a Genuine National Defense

EXTENSION OF REMARKS
OF
HON. FRED M. VINSON
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES
Thursday, January 28, 1937

ADDRESS OF HON. VIRGINIA E. JENCKES, OF INDIANA, ON JANUARY 28, 1937

Mr. VINSON of Kentucky. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following

address delivered today before the Twelfth Women's Patriotic Conference on National Defense by the lady from Indiana [Mrs. JENCKES]:

My dear friends, I consider it a duty as well as a pleasure to address the Twelfth Women's Conference on National Defense on the subject Women's Responsibility for the Maintenance of a Genuine National Defense.

It is encouraging indeed to the American people that this very fine group of American women have organized themselves for the purpose of holding an annual conference to discuss ways and means of providing our great Nation with adequate national defense.

If we are to have a genuine national defense, we must have a real understanding of what national defense means. National defense does not exclusively mean a sufficient number of warships, fighting planes, a large army, and ample munition factories. While these physical agencies are necessary, they are only necessary as a last resort. The first line of national defense is in the hearts and minds of our people.

I want every woman who is a member of this conference to realize that America will never have a real national defense until the women of America consider national defense from the viewpoint of their own individual homes.

I ask this question of our American women: Do you know of the subversive methods of secret propaganda which are in operation throughout America to break down religious beliefs, to break down respect and love for our American form of government and to set up in America, by revolutionary methods or otherwise, a form of government which now prevails in foreign countries whose citizens never knew the blessings of a real democratic form of government? Do you know that many of our citizens are directly and indirectly influenced by the foreign philosophies which have been planted in America by clever propagandists and which are being taken up innocently, without knowledge of their true destructiveness, by many of our otherwise fine American citizens?

I ask our American women, do you appreciate your right to take part in our American form of government through the ballot? I ask our American women, do you realize your potential strength? Do you use your ballot at every election for the purpose of developing a national defense, starting with the defense of our American homes, and continuing in setting up spiritual as well as material defenses for all of our American ideals? Without these an army, a navy, a marine corps, a national guard, aviation defense, even if second to no nation on the face of the earth, can be of small avail.

It is needless for me to say that all American women detest and hate war. It is needless for me to say that our American women will always protest war and influences which bring on wars; but just so surely as our American women know the value of strength in each individual member of our American families, so our American women appreciate the value of real strength in our regularly constituted forces which are organized and maintained for national defense and not for aggression.

The time has passed when danger to America is represented by armed forces of foreign aggressors. The great danger that confronts America today is the subtle propaganda which is directly and indirectly being promoted through foreign agencies which are being advanced and maintained openly and secretly by foreign governments and foreign organizations, who through clever presentation and economic advantages are spreading theories which are at variance with the ideals set up by the founders of our Republic and which have been maintained and protected by the blood and sacrifice of our citizens, who have met every challenge to American freedom by the sacrifice of self. The task is less difficult when we send our men away to the inspiring music of the national anthem to physically combat an armed foe. It is harder to recognize subversive propaganda which converts our patriotic citizens to false ideals. Several days ago newspapers throughout America carried stories of the intrigue and the propaganda which has been launched here in America by direct agents of foreign interests. This propaganda takes many forms. The most dangerous form is the subtle conversion of patriotic Americans to direct and indirect support of these false ideals which, if ever developed to a point where the ballot could be influenced, could change our form of government overnight, just as has happened in many countries of the continent of Europe.

It may interest the women of this conference to know that for practically 6 months the American flag was not displayed on the flagpoles in front of the Union Station in Washington, our Nation's Capital. The poles were rusting; the halyards were broken. When I protested this condition I was ridiculed. I was lampooned as a publicity-seeking flag waver and even denounced for it. When an analysis was made of what caused this ridicule and denunciation, I found that the secret propagandists resented any attempt to display the official emblem, the Star-Spangled Banner, which would be a constant reminder to the people of our patriotic obligation to our Government.

I found that in the designing of our new buildings to be built in Washington flagpoles were deliberately eliminated from the roofs of the buildings, thereby preventing the display of the American flags which have for so many years greeted visitors to Washington as they rode up and down Pennsylvania Avenue. We all remember how visitors to Washington were thrilled in the old days as they rode up and down Pennsylvania Avenue to see on nearly every Government building an erect, white-painted flagpole, with Old Glory at its peak. Through the influence of foreign design, these new buildings, which cost our taxpayers hundreds of millions of dollars, do not have flagpoles on the roofs. Some of them have flagpoles costing thousands of dollars which are placed in front of the doors of the buildings. This prevents the flag from being seen until one gets right up to the building. In some instances flags are stuck out of windows, showing the American flag in a dipped position.

There is a very marked similarity of our new buildings on Pennsylvania Avenue and the buildings in Red Square, Moscow. I ask you to compare photographs and you will fail to find flagpoles on the buildings in Moscow and you will fail to find them on top of the buildings in Washington. This is a real attempt by the propagandists to remove from the gaze of the citizens the emblem which visibly reminds them of the blessings of a democratic form of government, and makes it possible for a few evil-minded citizens to control the wealth and the actions of the masses. I protested this, and it is interesting to know that the ridicule which was heaped upon me was motivated by the same influences which can be directly traced back to the propagandists who are spreading this foreign philosophy throughout America. I defy anybody who says that these forces do not exist. We have recently had definite proof that Washington is a hotbed of such influences. I am satisfied that they will not make progress, because sooner or later our American citizens will be thoroughly aroused, and when our American citizens are thoroughly aroused and informed we can always depend upon them to do the right thing for the good of the Nation.

National defense should not become a political football. The development of national defense, starting with the defense of the American home, including the defense of our borders and including the best defensively armed forces on earth, will insure permanent peace and prosperity for America. It has been said that the hand that rocks the cradle rules the world. I say to the women of America who are demanding an adequate national defense that in addition to rocking the cradle, learn to use in an intelligent manner your greatest weapon of national defense—your ballot. I ask the women of America to take an interest in the affairs of their municipality, their State and National Government here in Washington. Become informed, do not allow partisan politics to sway you from supporting efficient, patriotic public servants, and opposing those influences which break down the protection of our American homes and firesides.

I have been given statistical information which shows that 50 percent of all of the votes cast in municipal, State, and Federal elections are cast by women, and yet there are very few women who have been elected as Members of the Nation's Congress. As women have always been the protector of the spiritual side of humanity, and as women are largely responsible for the protection and development of religion and the finer influences which make our homes precious havens of moral security, so the modern woman must assume additional responsibilities in order to protect her home and insure adequate national defense through the intelligent use of her ballot. You may rest assured that if our American women will use the ballot, America will always have an adequate national defense.

Women appreciate what defense of the home means. While our men have gone off to war, the women at home have had thorough understanding of the needlessly aggravated sufferings of war caused by improper and inefficient national defense. So I plead with you who are members of the Twelfth Women's Patriotic Conference on National Defense, arouse yourselves and carry the message of a truly adequate national defense to every woman in America! Tell them that they must use their ballot in order that our American homes and American cities and our Nation may have a permanent national defense composed of patriotic public opinions, based on American ideals, administered by loyal, efficient public servants, and protected by trained forces whose objective is national defense and not international aggression.

In our desire for peace let us not lay ourselves open to the attack from within. Let us realize that our real danger comes not from the armed forces of foreign nations; our real danger today is the secret, under-cover, subversive propagandist, armed to the destruction of our American patriotic ideals by mental poisons which are deliberatey, directly and indirectly, being spread and in some instances financed through foreign forces.

I appeal to the patriotic women of America through this conference to arouse yourselves. We women will never consent to the nationalization of industry, of children, or the internationalization of those ideals which we women hold so near and dear. American women must know the truth. American women must acquaint themselves with the war against our Government that is silently waged today. American women, thoroughly informed, will be the most helpful factor in maintaining permanent and adequate defense, not only against the enemy who carries bomb and bayonet but the insidious and more dangerous foe who carries the war into our own homes and schools—yes; and churches, even—with soul-destroying propaganda. There is the real enemy at our gates, there is the danger to the United States in which women can and must be front-line defenders. The peace and protection of our beloved country depends upon you.

Flood Relief

EXTENSION OF REMARKS
OF
HON. MATTHEW A. DUNN
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, January 28, 1937

JOINT RESOLUTION (H. J. RES. 167) BY HON. MATTHEW A. DUNN, OF PENNSYLVANIA

Mr. DUNN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following joint resolution introduced by me today:

Joint resolution to provide at least a billion dollars for the immediate relief of the suffering people in the flooded areas of our country

Whereas within the past 10 days hundreds of thousands of people in the United States have been made homeless because of the terrible floods and fires; and

Whereas inestimable damage has been caused by floods and fires; and

Whereas hundreds of thousands of men, women, and children are homeless because of these floods and fires; and

Whereas an epidemic of disease will spread throughout the country unless something is done immediately to prevent it; and

Whereas the human suffering cannot be measured by dollars and cents: Therefore be it

Resolved, etc., That the President of the United States shall be empowered to take from the Treasury Department a billion dollars, or more if necessary, to provide food, shelter, clothing, medical aid, and other necessities for the immediate relief of the suffering people of our country; and also to provide funds for those whose homes and business establishments have been damaged by the said disaster.

National Defense

EXTENSION OF REMARKS
OF
HON. PETER G. GERRY
OF RHODE ISLAND
IN THE SENATE OF THE UNITED STATES
Friday, January 29, 1937

ADDRESS BY HON. DAVID I. WALSH, OF MASSACHUSETTS, ON PREPAREDNESS AND NATIONAL DEFENSE AT THE WOMEN'S NATIONAL DEFENSE CONFERENCE AT WASHINGTON ON JANUARY 27, 1937

Mr. GERRY. Mr. President, I ask unanimous consent to have inserted in the RECORD an address recently delivered by the senior Senator from Massachusetts [Mr. WALSH] on the subject of national defense.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

I consider it a privilege to discuss with the women's patriotic conference the question of Preparedness and National Defense in Terms of Peace. I have been informed that there are here represented approximately 40 national women organizations, comprising many millions of the finest of our womanhood. Some of you have had first-hand experience in the horrors of war. All of you have forbears or kin who have shouldered arms in the defense of our country. I am confident that you yield to no one, to no group, militant or pacifist, in your desire for peace, in your abhorrence for war. It is grievously unjust to charge, as is often done, that those who raised their voices in demand for preparedness and adequate national defense, were lusting for war. The truth is the exact reverse, you are against war and the frightful consequences in the event of war with unpreparedness.

All lovers of our country and all lovers of humanity, and that means all of us here and most of us everywhere in this great Nation, are devoutly and devotedly striving for peace. Our difficulties and differences begin when we start to talk about how we shall attain our goal.

First and foremost let me say, we must deal with the question of peace and national defense in the light of present conditions throughout the world.

Despite the horrifying memories of the World War, which are still fresh in the minds of this generation, the race in armaments continues unabated, in fact, with accelerated speed. Practically every major power has joined in this mad race and even the extraordinary demands upon national budgets do not seem able to slow down the large building programs, which embrace mechanized military units, motorized transportation, destructive tanks capable of high speed, modern naval craft and, what is perhaps most ominous, vast numbers of airplanes fully equipped for bombing and scouting, and which constitute a sinister menace not only to the armies and navies of other powers, but to the helpless populations as well. Who can doubt that in war these weapons would be used for every purpose of annihilation, for the spreading of poison gas and disease germs, and the terrorization and slaughter of innocent women and children sheltered in the homes of the enemy country.

Recent developments abroad have injected a new danger into the international situation. I refer to the growth of authoritarian dictatorships in certain of the countries of Europe. They are founded on an idea that is alien to the spirit of democratic government. They seek the suppression of the individual and the suppression of human liberty. They are warlike and bellicose in spirit and purpose and have proceeded to build up military, naval, and aircraft armaments on a scale heretofore unimagined in Europe.

Furthermore, communism is a real and definite threat today to the continuance of democracy. With stealthy and subtle strategy the "red menace" has spread its tentacles over a large part of Europe. We have evidence of its presence on this continent.

In self-defense, nations which sincerely desire peace, and whose governmental structure is essentially democratic, have likewise been forced to build up their armaments. Indeed, these authoritarian dictatorships are believed, because of comparison with their vast armed forces, to entertain contempt for the weak and inadequate military force of the leading democratic governments of Europe. They are even alleged to be encouraging peace and disarmament movements in these democracies so as to weaken the efforts on the part of these governments to command respect because of their unquestionably inferior adequate military defenses.

In view of these facts, is it not the part of wisdom and common sense that our Nation should pursue a course in relation to armament that will result in the creation of such national military defenses that we may be able, whenever these conflicting groups initiate a war, to defend ourselves against aggression and attack?

Our Government is now confronted with the problem of determining what we shall do in a world where efforts of limitation of military arms have failed and where every large power in the world is and has been rapidly increasing its military armaments.

Your study of this problem—and I believe the overwhelming sentiment of the American people support you—have led you to the firm conviction that adequate national defense is the best, in fact, the only means of preserving peace under the present conditions. We are not pioneers in advocating this principle. The President of the United States, Franklin D. Roosevelt, believes and is living this principle. John Adams, Jefferson, Monroe, Jackson, and practically all our Presidents uttered these same sentiments. Was it not Washington who said: "To be prepared for war is one of the most effectual means of preserving peace"? It was Theodore Roosevelt who said: "The United States Navy is the surest guarantor of peace which this country possesses."

We have a reasonable conception of what is adequate national defense, not only from what our own country's experts determined upon, but which four other great powers of the world in conference with us determined as adequate. I refer to the agreement reached between representatives of the Governments of Great Britain, Italy, France, Japan, and ourselves when efforts were made to limit naval armaments. This agreement determined upon the size of the navy of each of the great powers in the light of peace being obtainable through limitation of naval armaments.

The United States has led the world in preaching the gospel that the road to peace is through disarmament. After 16 years of conferences and treaty making it is regrettable to announce that practically no progress has been made toward limitation of armaments. During this period we have seen three concerted efforts to limit naval armaments by international agreement fail. These efforts finally ended on December 31, 1936, with the termination of the treaties that had been made and on that date expired. We are now back where we were before the World War.

These nations are now extending and increasing their navies beyond the limitations agreed upon. Surely adequate national defense from the standpoint of our Navy ought not to be less than we ourselves ask for, and that other nations agreed we needed, when good will and efforts to maintain peace through naval limitations was advocated.

We have no desire to enter into a naval armament race. The present United States naval building program does not authorize the construction of a single vessel in excess of those allowed by the peacetime treaties which have now expired. If we continue our present program, we will not reach the strength referred to until late in 1942. At the present time we do not contemplate any increase in strength in combatant vessels beyond those already authorized. Our present policy therefore should be to insist upon that degree of national defense which was agreed upon when the great nations of the world were seeking to limit armaments.

Moreover, the abandonment of the limitation treaties places us in the position of watching and observing the naval building programs of other nations.

If their building programs compromise our relative strength and security, we shall then have to determine a new measure of adequate national defense.

Let me suggest that we concentrate in the next few years more on building up the personnel of our Navy than on the number and types of naval vessels.

In the final analysis the ships are subordinate to the officers and men who man and fight them. Mr. Hubbard, president of the Navy League of the United States, has expressed my thought: "All our great sea victories were man-made—not ship made." We have a splendid Navy personnel, and I would like to see an effort made to increase the personnel, not necessarily by new enlistments in the regular naval service, but by the expansion of the Naval Reserve. The Naval Reserve to the Navy corresponds to the Army Reserve in the Army.

In my opinion the Reserve force of the Navy is quite inadequate in comparison to the size of our Navy. Six of our colleges and universities have Naval Reserve units, who train young men to become Naval Reserve officers during the school year, and who are given a month's sea cruise on a designated naval vessel during the summer. These college units are the best source for training young Naval Reserve officers to assume active duty in future emergencies. There are also some Reserve units for training seamen. We have Reserve units located in various parts of the country. These officers and men hold weekly drills and are available for immediate service with the fleet. The Navy annually admits cadets whom it trains in aviation and who, after attending flying schools and 3 years with the fleet, are placed on an inactive status. All of these Reserves may be called to duty in an emergency. All of these units should be materially increased.

Though we insist upon adequate military defense, nevertheless, we must fervently pray for peace. Let us continue to treat with other nations to cut down competition in navies and armies. Let us promote the case of international good will by every reasonable means within our power. We advocate adequate national defense merely because we cannot leave our trade, our dignity, or the liberties of our citizens to the mercy of any foreign power. We cannot leave the lives, the resources, and possessions of our people uninsured. The terrors of war are unspeakable and its carnage horrifying beyond our shuddering thoughts. But its presence, like the Angel of Death itself, is unknown; nor can any of us foretell when it may descend upon us. This is why we advocate adequate national defense.

Interparliamentary Union

EXTENSION OF REMARKS

OF

HON. ALBEN W. BARKLEY

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Friday, January 29, 1937

ADDRESS BY HON. ELBERT D. THOMAS, OF UTAH, AT THE THIRTY-SECOND INTERPARLIAMENTARY CONFERENCE IN BUDAPEST ON JULY 4, 1936

Mr. BARKLEY. Mr. President, I ask unanimous consent to have inserted in the RECORD the very able address delivered by the junior Senator from Utah [Mr. THOMAS] at the meeting of the Interparliamentary Union held at Budapest during the past summer.

There being no objection, the address was ordered to be printed in the RECORD as follows:

Mr. President and fellow delegates, that the general secretary of this organization took an uncertain chance when he asked an American to speak on the Fourth of July was realized, I am sure, by our president, because he has reminded me by his ruling that these remarks must have definite limits. I shall not disappoint him, nor shall I cause our general secretary to face criticism on the score of long speaking.

I am asked to speak for America. This I cannot do, for under our Constitution the American people speak for themselves, and they alone can speak for America. Nor can I speak for my colleagues in the Senate of the United States, because under the rules of the Senate there is unlimited debate which implies that each Senator will speak for himself. Those rules are obeyed—quite differently from the way in which the limited debate here has been obeyed. You see, we get obedience by having no limit. We tell a Senator he may speak on to the end of the session, and in that way we get obedience! [Laughter.]

I have noted in the speeches and also in the report of our secretary a spirit of discouragement concerning the affairs of the world. As students of history, if we remember the past, there is nothing in the present to be particularly discouraged about, for throughout history, conditions in the world have been always, as it were, in a state of flux, and never has the ideal been found. I know of no time and of no place when and where men have lived in a state of bliss and conditions have been such that there has not been concern. Discouraged as we may be, I know of no time in the whole history of the world when so many men, women, and children were living quite so well as they are living today. That, gentlemen, is something.

We have talked about the League failure. We should not talk about the League's failure or the League's success. Those are words which have no place in the growth and development of institutions. It is the League's development or the League's retrogression that we should think about.

I am sure that I cannot contribute much to the great deliberations here, but I may suggest a thought, and I give it to you from my heart: The idea that nations shall meet and discuss their problems before the whole world is greater than any organization established for that purpose; the idea behind the Interparliamentary Union is much greater than the union itself; the idea of the League is very much greater than the League itself; the idea behind the great American Constitution is so much greater than the Constitution itself that we Americans constantly wonder if our actual Constitution is not failing. For us to turn against these ideas means for us to turn our backs on institutions which mean much to the world's welfare. For an American to lose faith in international cooperation would be for him to lose faith in the greatest fact of the American governmental history, for in the United States of America there are 53 separate and distinct parliamentary organizations, and 49 of them represent sovereign entities, absolute, except for powers reserved in the people, in their own spheres. It is out of these experiments, it is from these experiences that we have become what we are. We know how far the Federal idea can go. We know the bounds in which the whole may speak and the curbs it may place on any one of its parts. The theory behind that which international organization now calls a sanction we placed in our Federal Constitution. We know both its strength and its weakness. From our experience we know how far to go and when to stop.

The American Federal Government guaranteed in our Constitution a republican form of government in every one of the various States, but never once has the Federal Government attempted to do anything about it. Why? Because we knew, from the very experiences which we underwent when we organized and wrote our Constitution, that once an attempt were made to coerce a State, the Union itself might be destroyed.

I believe I have caught the spirit of the delegates here; I do not know whether I can reflect it, but if so I should like to in what I shall now say. Mr. Rockefeller has restored great monuments at Versailles. Are the French people whom the present French Republic today comprises resentful that a monument which represented a theory of government no longer prevailing and contrary to present theory is to be made to live in stone? No; because they see something more vital than the theory, something finer than the past it represents. France does not wish to return to that past, but she may cherish the beauty it produced. There is no compromise there. That which is good she preserves. That which is bad had no place in the restoration. Her pride is not touched that an American contributes to a perpetuation of the beauty of her past. France does not resent that the world rejoices with her in this monument to her culture. If the world can unite in appreciation of beauty, it may unite in appreciation of other accomplishments. That desire of nations is with us today, for as I turn from one delegation to another I am reminded of the spirits of their pasts.

First, as I face the Greek delegation, my thoughts turn to ancient Greece and I remember what Sophocles caused his Antigone to say, "It is easy to join for hate and for evil-doing, but it is hard to join for love and for peace." Is that not our struggle today? Inspired by the presence of our Japanese friends I select a Hokku poem which, it seems to me, reflects the idea and the spirit of the Inter-Parliamentary Union. The poem gives us this picture:

There are many roads that lead to the top of the mountain,
But when once the summit is gained the same moon is seen.

Speech after speech from far-off corners of countries represented here reflect the Japanese poet's dream, no dream to us who have climbed the mountain! The moon and the ideal it represents are ours! I fancy a picture of the striving of nations, I can feel the spirit of those nations, and I note that there has been expressed here, time and time again, in very deed, the long-prayed-for "desire of nations." Whether that desire will be fulfilled or not depends upon the way in which the people of the world accept the responsibilities of the present day. Shall we act like the ancient Hebrews who patted themselves on the chest and were proud, and claimed they were the chosen people of the Lord, or shall we be like the thoughtful of those ancients who realized that only those were entitled to be called God's chosen people who first of all chose to be God's chosen ones? We can behold the moon of world unity only if we climb the road that leads to the summit. We can be that which we seek to be only by striving in harmony with the fulfilled purposes of our hoped-for ends. If good will is to come to us, we must reflect good will. If the world is to be made a place of peace, we must learn and must live the way of peace.

The Grand Coulee Dam and Power Plant

EXTENSION OF REMARKS

OF

HON. LEWIS B. SCHWELLENBACH

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Friday, January 29, 1937

STATEMENT BY THE COLUMBIA BASIN COMMISSION OF THE STATE OF WASHINGTON

Mr. SCHWELLENBACH. Mr. President, I ask unanimous consent that there be printed in the Appendix of the RECORD a statement concerning the Grand Coulee Dam and power plant. The statement has been issued by the Columbia Basin Commission of the State of Washington, having been prepared by James O'Sullivan, its secretary.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JANUARY 21, 1937.

The Columbia Basin Commission, in behalf of the people of the State of Washington, herewith submits the reasons why the commission sincerely believes Congress should make adequate appropriations for the completion of the Grand Coulee Dam and power plant. Since prospective revenues from the sale of a vast amount of power to be generated at Grand Coulee are depended upon to pay for the cost of the dam and power plant and one-half of the cost of the ultimate reclamation of the Columbia Basin land, the commission will devote the larger part of this statement in showing that there will be a market for this power. The reasons are as follows:

1. Congress has authorized and adopted the construction of the Grand Coulee Dam and power plant: On August 30, 1935, Congress solemnly authorized and adopted the construction of the Grand Coulee Dam and power plant. Congress thereby approved the project and authorized appropriations from year to year for its completion. It is true that by an amendment to the Interior Supply bill passed in the last session Congress provided that no obligations in excess of $63,000,000 shall be incurred in connection with the Grand Coulee Dam and power plant without further appropriations by Congress or contract authorizations, or both. This amendment did not affect the authorization act. Speaking in the Senate on June 18, 1936, with reference to this amendment, Senator CARL M. HAYDEN, the Senate floor leader of the conference committee that drafted the amendment, said:

"It is evident that this restriction cannot in any manner affect the law authorizing the construction of the project. It merely provides that no money shall be appropriated to continue the construction of that dam and incidental works, once it is completed to the height that is now contracted for, unless Congress shall make a specific grant for that purpose. In other words, the basic law authorizing the construction of the Grand Coulee Dam is not changed by this limitation."

2. Foundations worthless unless dam is completed: The foundations of the Grand Coulee Dam and power plant now under construction by the Bureau of Reclamation will be of no value for flood control, navigation, power development, or reclamation unless the dam and power plant are completed. The lowest blocks of the foundations will be only 12 feet above low-water level and will create only a mere ripple in the river.

It must be clearly remembered that there is no low dam, complete in itself, under construction at Grand Coulee. The original plans for a low dam, to be 150 feet high above low water, 3,400 feet long on the crest, and 240 feet thick at the base, with a power plant of 700,000 horsepower, were entirely discarded by the change order of June 6, 1935. The contractors were directed to build and are building, in lieu of the low dam, the foundations of the Grand Coulee high dam. These foundations are 500 feet thick at the base. When completed, the Grand Coulee high dam will be 374 feet high above low-water level, 4,200 feet long on the crest, 500 feet thick at the base, with a power plant of 2,700,000 installed horsepower.

It must also be remembered that it is not necessary to begin to build the Grand Coulee high dam. It is already under construction. It has been authorized by Congress. The investment in the foundations—viz, $63,000,000—represents one-half the cost of the Grand Coulee high dam, if the cost of the power machinery is excluded.

3. Delay in completion may involve United States in tremendous loss: The foundations of the Grand Coulee Dam and power plant will be completed in December 1937. An appropriation of $7,500,000 is necessary to complete the foundations. An additional appropriation of an equal amount will be necessary to continue construction at Grand Coulee during the balance of the fiscal year ending June 30, 1938. Should Congress fail to appropriate funds for the continuance of the work during the period mentioned, it will constitute either a repudiation of the authorization act or a decision to defer completion, perhaps for many years. In either case the United States will be involved in huge financial losses.

Repudiation of the authorization act means that the United States will not, at any time, complete the Grand Coulee project. This means that an investment of $63,000,000 will be scrapped, except insofar as it can be salvaged by the sale of these foundations, at a low price, to the private electric utilities which are looking now with covetous eyes upon this project and consider it a splendid investment.

Delay in completion will be equally disastrous. A delay of 10 years would mean accumulated interest charges amounting to more than $25,000,000. It would mean an increased cost in construction of at least $10,000,000. It would mean more than this. The splendid power market which now awaits the completion of the Grand Coulee Dam would be served by the construction of new plants by municipal and private electric utilities that would meet the needs of the Northwest for the next 25 or 30 years, and perhaps longer. In this event the Government would have on its hands a very large investment and would have lost the power market necessary to its liquidation.

4. Failure to complete project would utterly ruin comprehensive plan for river development: The Chief of Army Engineers has recommended to Congress a plan for the development of the Columbia River, consisting of the construction of 10 dams between the Canadian boundary and the sea. The key dam in this plan is the Grand Coulee High Dam. Its storage of 5,000,000 acre-feet increases the prime power downstream by several million horsepower and increases the depth of the river for navigation purposes for 600 miles downstream from Grand Coulee an average of 4½ feet. The prime or commercial power output at Bonneville Dam, now being constructed by the United States, will be increased 50 percent. Failure to complete the Grand Coulee High Dam strikes a deadly blow at the plans for the highest feasible development of this mighty river.

5. Grand Coulee Dam will be self-liquidating: The Grand Coulee project, unlike most Federal developments, will be self-liquidating. The cost of the Grand Coulee Dam, with several power units installed, will be about $130,000,000. With full power development its cost will be $178,790,000. If, later, reclamation is undertaken, its cost, spread over a period of from 30 to 40 years, will be $197,841,000. The Grand Coulee project will produce 2,700,000 installed horsepower, of which 1,240,000 horsepower, or 8,100 million kilowatt-hours, will be continuous or firm energy and 5,000 million kilowatt-hours will be flood-water or secondary energy. Engineers of the United States Army and Bureau of Reclamation have prepared financial set-ups for the liquidation of the costs of the project. These set-ups show that if Grand Coulee power is absorbed in a period of 15 years following completion of the dam, and if the power sells at the switchboard for 2.25 mills per kilowatt-hour for the prime or commercial power and 0.5 mill for the secondary or flood-water power, the revenues will pay for the dam and power plant, with 4-percent interest, in 30 years after the completion of the dam, and, in the next 20 years, pay for one-half of the cost of reclamation. This would leave the settler to pay $88 per acre for his water right, without interest, payable over a period of 40 years, and an annual maintenance of not to exceed $3.29 an acre.

Will the power market absorb Grand Coulee power in the period and at the price stated? A fair consideration of the past and present rate of growth of the power market in the Grand Coulee power-market area should convince the most skeptical that there will be an ample market for Grand Coulee power if the dam is completed without interruption. After an exhaustive survey Army and reclamation engineers found that between 1902 and 1930, inclusive, the Grand Coulee power market had grown at the rate of 9.5 percent, compounded annually, or in other words, had doubled about every 8½ years. After a careful consideration of the trend in the consumption of electricity and after making the conservative assumption that the growth of this power market would gradually decline until it reached a rate of growth of but 4.5 percent, compounded annually, by 1960 these engineers predicted that there would be twice as much new power required in the area as would be necessary to absorb all of Grand Coulee power within the period and at the prices stated.

The findings and prediction of the engineers are amply sustained upon investigation. Grand Coulee power can be economically transmitted a distance of 300 miles. It will, therefore, serve all of the State of Washington, the northern half of Oregon and Idaho, and the western tip of Montana. The consideration of the remarkable increase in the use of electric energy in this region is revealing. The Federal Power Commission shows in a report (power series no. 1), covering 91 percent of the plants producing power for public use, that prior to 1901 the installed capacity of the major electric utilities in the Pacific Northwest was but 6,000 kilowatts, or about 8,000 horsepower. In 1934 the report of the Commission shows that the installed capacity of these major electric plants in the Pacific Northwest was 1,435,770 kilowatts, or about 1,914,360 horsepower. If all of the plants producing power for public use are taken into consideration the total installed capacity, according to the United States Geological Survey on January 1, 1934, in the Pacific Northwest, was 2,344,000 horsepower, of which 470,730 horsepower represented steam electric generation, which for the most part is used as a stand-by for the hydroelectric plants. The progress in the development of electric power plants in the United States during this period was equally remarkable. The installed capacity increased, according to the report of the Federal Power Commission, from 47,193 kilowatts, or about 63,000 horsepower, prior to 1901, to 31,583,186 kilowatts, or 42,118,000

horsepower, in 1934. According to the United States Geological Survey, the total installed capacity of electric generating plants for public use in the United States increased from 1,212,000 kilowatts, or 1,616,000 horsepower, in 1902 to 47,831,766 horsepower on January 1, 1935.

Between 1919 and 1929, inclusive, according to the United States Geological Survey, the annual production of electricity for public use in the United States increased from 38,921,000,000 kilowatt-hours to 97,352,000,000 kilowatt-hours, an increase of 150 percent in 10 years.

Between 1920 and 1935, inclusive, the installed capacity of electric generators in Washington, Oregon, Idaho, and Montana, according to the United States Geological Survey, increased from 1,001,333 horsepower to 2,384,717 horsepower, an increase of 1,383,384 horsepower. The increase for the State of Washington alone during this period was from 366,667 installed horsepower in 1920 to 1,202,845 installed horsepower in 1935, or an increase of 836,178 horsepower. If we credit Grand Coulee with the Columbia River power market area, which includes Washington and Oregon, plus northern Idaho and western Montana, the increase in installed capacity in the market area during the period mentioned has amounted to 1,212,767 horsepower.

The present trends in the growth of the power market in the Pacific Northwest indicate that the rate of growth will be as great as that forecast by the engineers. We have but just scratched the market in the use of electricity for light, cooking, refrigeration, air conditioning, heating, and rural electrification. With lowered costs to the consumers which will result from the competition of Government plants, a better load factor, and increased efficiency, it is quite possible to double and even treble the use of electric power within a comparatively short period. According to the Electrical World for January 3, 1931, the per-capita use of electricity in the United States in 1930 was 1,025 kilowatt-hours, while in Canada it was 2,124, and in Norway 3,560. If we used as much power per capita in the United States as is used in Canada, it would be necessary to double our generating facilities. Maj. John S. Butler, district engineer, United States Army, who had charge of the Army surveys of the upper Columbia River, including the Columbia Basin project, says in his report that "it is the general consensus of opinion among the utilities that the residential market is far from saturated. A statistical study by the Electrical World concludes that there is possible an annual economic domestic use of 40,000 kilowatt-hours per home for a large percentage of the customers."

At Mason City, Wash., where the contractors who are constructing the foundations of the Grand Coulee Dam have their camp, electric heating is a pronounced success. With electricity costing the worker 3 mills per kilowatt-hour plus a flat fee of $4 per month, the total cost of electric heating, cooking, lighting, etc., in the residences of the foremen is but $12 per month during the coldest months of winter. With electricity costing 5 mills per kilowatt-hour, electric heating, according to Washington State College, will compete with any other type of heating.

The rapid recovery of the power market from the depression also sustains the prediction of the engineers. During 1935 and 1936 the growth of the power market in the Pacific Northwest and in the Nation has broken all previous records. In 1935, 17 percent more electric power was produced in the State of Washington than was produced in 1929. During the first 11 months of 1936, according to the report of the Federal Power Commission, the production of electric power for public use in the State of Washington was 27.8 percent greater than during the corresponding period of 1929. For Washington and Oregon the increase was 21.2 percent, and for Washington, Oregon, and Idaho, 15.1 percent. During 1936 the production of electricity for public use in the United States also continued to break all previous records. The increases over the corresponding months in 1935 were as follows: July, plus 15 percent; August, plus 14 percent; September, plus 18 percent; October, plus 15 percent; and November, plus 13 percent. Using the output of 1926 as 100, the production for 1929 was 135; 1932, the depth of the depression, 113; and 1936, 165.

The production of electricity, in kilowatt-hours, for public use in Washington, Oregon, Idaho, and Montana and in the United States for different years, according to the Bureau of the Census for the period between 1902 and 1917 and the United States Geological Survey for the period since 1917, is shown in the following table:

Year	Washington, Oregon, Idaho, and Montana	United States
	Millions of kilowatt-hours	*Millions of kilowatt-hours*
1902	2.4	4,768
1920	3,390	43,555
1929	6,222	97,352
1930	6,006	95,936
1931	5,512	91,729
1932	4,676	83,153
1933	4,922	85,402
1934	5,302	91,150
1935	6,034	99,398
1936 (except December)	6,186	103,016
1936	[1] 6,754	[2] 113,069

[1] With December estimated at 568,000,000 kilowatt-hours.
[2] With December estimated at 10,053,000,000 kilowatt-hours.

It will be observed that from 1902 to 1936, inclusive, the power market in the Pacific Northwest increased from 2,400,000 kilowatt-hours to 6,754,000,000 kilowatt-hours, and in the United States from 4,768,000,000 kilowatt-hours to 113,069,000,000 kilowatt-hours. This is an astonishing record. The table clearly establishes that in the Pacific Northwest and the Nation the power market for 1936 smashed all previous records.

The rate of growth of the power market would have been even greater in the Pacific Northwest during 1935 and 1936 had there not been a recurring shortage of precipitation in western Washington, Oregon, Idaho, and Montana. In 1929 an acute shortage of power existed in these sections. Tacoma was obliged to secure the services of the electric plant of the airplane carrier *Lexington*. The Puget Sound Power & Light Co. was obliged to construct Rock Island Dam on the Columbia River in order to secure a dependable source of hydroelectric power. Electric utilities on Puget Sound were compelled to construct extensive additions to their steam plants. This was a wise provision, for again in 1935 and 1936 there occurred another lack of precipitation. Failure of precipitation in these areas is becoming chronic as a result of the denuding of the forests.

The result is that there is another critical power shortage threatening in the Pacific Northwest today. During 1935 Seattle City Light was compelled to operate its steam plant and to purchase power from Tacoma. Ever since then it has been compelled to purchase increasing quantities of power, also oil for the operation of its steam plant. In 1935 the Washington Water Power Co. of Spokane was transmitting power to Montana and to Portland in order to meet acute shortages of power in those places. The Puget Sound Power & Light Co. system is loaded to capacity, and one-third of its power comes from steam generation. The Washington Water Power Co. recently has been compelled to purchase 20,000 horsepower generated by the steam plant of the Puget Sound Power & Light Co. on Puget Sound in order to meet demands for power in Montana. To sum up, the power systems in the Pacific Northwest are today crowded to capacity and have been compelled to utilize their steam plants to capacity to meet the demand for power. These steam plants are never used when there is sufficient water power because of the increased cost of production. These steam plants are standby plants.

Had there been ample electric power available in the Pacific Northwest during the past 2 years, the consumption would have been even greater than it was. The Montana Power Co. is now rushing the construction of a dam at Polson, Mont., to meet the acute shortage. Were Grand Coulee power available before this construction was undertaken, the Montana Power Co. would have taken 150,000 horsepower from Grand Coulee. It is a well-known fact that the private electric utilities in the Pacific Northwest would very much like to acquire the foundations at Grand Coulee and to complete this magnificent development to meet their needs in the next 15 or 20 years. The Grand Coulee project has its major source of water supply in a glacial field in British Columbia that is the largest on the North American continent, with the exception of Alaska.

Major Butler's computations as to the prospective power market for Grand Coulee power, which he confined to the State of Washington, the northern half of Oregon, and Idaho and western Montana, were as follows:

Years:	*Kilowatt-hours*
1930	4,041,000,000
1935	6,480,000,000
1940	10,230,000,000
1945	15,650,000,000
1950	22,930,000,000
1955	31,830,000,000
1960	41,630,000,000

On the basis of the above figures, Major Butler predicted that there would be enough demand for power to load two power plants the size of Grand Coulee. If Grand Coulee is completed, private and municipal electric utilities will make their plans to take all of their future power needs from Grand Coulee and Bonneville because it will be cheaper power than they can produce themselves. They may complete present developments. The power market will not have to increase as fast as Major Butler predicted to load Grand Coulee, Bonneville, the Skagit development, and all other developments in the Pacific Northwest, both public and private. His estimates of the power-market growth could be reduced from 33⅓ to 50 percent and still furnish an ample power market for all present and prospective power developments in the Pacific Northwest.

Grand Coulee power can be generated and transmitted to Puget Sound cheaper than power can be generated there. The same is true of Bonneville power.

In view of the marvelous power-market situation in the Northwest, it is imperative that the Grand Coulee Dam be completed now so that its power will serve the needs of the future and not be supplanted by other developments that will have to be made if Grand Coulee is not completed.

So far we have considered only the natural growth of the power market as being capable of loading the Grand Coulee power plant. But if reclamation of the Columbia Basin lands should be undertaken, there will be an additional population of 1,500,000 in the Northwest that would require, in proportion to the present use, 1,000,000 horsepower from Grand Coulee. Further, there will be 780,000 horsepower required for pumping into the Grand Coulee. Dean A. E. Drucker, of the school of mines of Washington State College, estimates that we could use 3,800,000,000 kilowatt-hours of

Grand Coulee power annually for a period of 25 years in processing the low-grade minerals of the region. Several hundred thousand horsepower from Grand Coulee can well be employed in pumping for irrigation along the Columbia River and on other reclamation projects in the State. The heating of homes and business buildings within a 200-mile radius of Grand Coulee Dam alone would consume all of its power. At Mason City electric heat is stored in furnaces between midnight and 6 a. m., when there is no load on electric-power systems. This heat, drawn off during the day through hot-air conduits, is an absolute success and will compete with any other kind of fuel if this off-peak dump power can be obtained for 5 mills per kilowatt-hour. Electric furnaces for the smelting of iron are proving more economical in Seattle than electric smelting with coke, where electricity is obtained at 3 mills per kilowatt-hour. In the home of the writer of this article, in Spokane, there is being used monthly more than 800 kilowatt-hours for electric cooking, lighting, etc. This is more than eight times the average domestic use in the State of Washington. The cost averages $9.50 per month. If this cost were reduced one-half, the domestic consumption of electricity in the State of Washington would soon double. With modernized, insulated homes, it will be very economical to heat with electricity and use electric power for the cooling of these homes in the summer. True, we have just entered upon the electrical age.

On page 51 of the report of the Seattle department of lighting, December 31, 1933, is given the average rate in cents per kilowatt-hour charged customers for light and power in 1931 in various communities, as follows:

Winnipeg municipal plant	0.879
26 cities of Ontario	1.45
Tacoma municipal plant	1.726
Seattle municipal plant	2.818
All private power concerns in United States	5.78

In Winnipeg the average annual consumption of electricity is four times what it is in the State of Washington. Grand Coulee power can be produced at a cost of between 1.14 and 1.4 mills per kilowatt-hour for the prime and 0.5 mill for the secondary. Adding enough to the cost to amortize one-half the cost of reclamation, the price of the prime power will be 2.25 mills at the switchboard. This power can be generated and delivered wholesale for an average price of 3 mills per kilowatt-hour. If this wonderfully cheap power can be made available to the people of the Northwest at a reasonable price it will tremendously increase the consumption of electricity in the region.

As already stated, the sale of Grand Coulee power will pay for the Grand Coulee Dam and power plant, with interest, in 30 years after its completion. In 50 years the revenues from this power would build up a surplus of $146,000,000 with which to defray one-half the cost of reclamation, should the dam be completed and reclamation undertaken after the Grand Coulee power plant is fairly well loaded. The cost of the water right to the settler is estimated at $88 an acre, payable over a period of 40 years. He will also have an annual maintenance of not to exceed $3.29 an acre to pay. The settler will be able to obtain his land for about $7.50 per acre. With such land having an annual productive capacity of from $65 to $35 per acre when planted to alfalfa, corn, peas, etc., there can be little doubt that the settler will be able to make his payments. The cost of the water right will be only about half the cost on the successful Kittitas project in the State of Washington.

6. Grand Coulee project is needed to insure growth and prosperity of Northwest: While it will not be possible to undertake the reclamation of the Columbia Basin lands until after the Grand Coulee Dam is completed and its power plant is substantially loaded, nevertheless the reclamation of these lands will be necessary for the future growth and prosperity of the Northwest. These States made their greatest rate of growth in the decade ending 1910, when they had land for settlement. In the decade ending 1930 their rate of growth was less than that of the United States. The strait jacket that is restricting the growth of this region is the absolute lack of agricultural land. The State of Washington has 43,000,000 acres of land and less than 16,000,000 acres in cultivation. Thousands have recently come in to the Pacific Northwest from the drought-stricken regions of the United States looking for agricultural land. The Pacific Northwest, as well as the entire region west of the Rocky Mountains, is today shipping in vast quantities of staple feed and food supplies that should be produced at home.

7. Grand Coulee project is needed for the growth and prosperity of the United States: Completion of the Grand Coulee Dam is absolutely necessary so that in the future it will be possible to reclaim the Columbia Basin lands. More land is rendered unfit for cultivation in the United States annually than has been reclaimed by the Bureau of Reclamation since 1902. In 1935 the United States imported more than $1,000,000,000 worth of farm products, one-half of which could be successfully raised in the United States. In that year 43,000,000 bushels of corn were imported. It would require 600,000 acres of Columbia Basin lands to produce this corn. The irrigation of the Columbia Basin lands will be sorely needed long before we anticipate.

Furthermore, but 7 percent of the total trade of the United States is foreign trade. The United States has lost many of its foreign markets. There is an urgent need to build up the domestic market that will be free from tariff barriers. The Columbia Basin project, if the experience in the Yakima Valley can be considered as a criterion, will furnish an annual market for 200,000 carloads of agricultural and manufactured products produced throughout the Nation.

8. Completion of Grand Coulee needed to furnish employment: Careful estimates indicate that more than 8,000,000 citizens of the United States are still out of work, despite the recovery from the depression. It is probable that at least one-half of these will be permanently out of work, even though we reach the peak of recovery. Certainly in December 1937 there will still be an urgent need for giving extensive employment to the citizens of this country. During 1935 and 1936 the Grand Coulee project gave employment to an average of 3,996 men. Fully as many more were employed furnishing materials, supplies, and equipment for the work. Up to January 1, 1937, the Bureau of Reclamation and the contractors for the dam purchased more than $22,000,000 worth of equipment, materials, and supplies in 41 States of the Union and the District of Columbia. The Grand Coulee Dam is merely being assembled at Grand Coulee. Fully 3,000 men, during the past 2 years, have been employed in connection therewith.

The Grand Coulee project, as already indicated, is one of the finest, most economic, empire-building proposals in the Nation. Certainly, from the standpoint of work relief alone, our unemployed should be at work on this kind of a project that creates values that will repay their costs many times over.

Grand Coulee should be completed because the entire development involved can be done in units over a period of from 40 to 50 years. It must be remembered that the Grand Coulee project constitutes a program of development that will cover perhaps 40 or 50 years and will therefore thrust no unusual burden upon the Federal Government. In addition to the $63,000,000 invested in the Grand Coulee foundations, but $65,000,000 additional is required to complete the dam and to install several power units. If the Federal Government deems it unwise, when the dam is completed, because of the investment required, to proceed with reclamation, it can stop and permit Grand Coulee power to complete the power installation and pay for the dam and power plant. If, later, the Government should decide that it was wise to irrigate some of the land, it can irrigate the land under the west main canal and stop. The Grand Coulee project does not, in any wise, commit the Federal Government to the completion of the entire Columbia Basin project. If the Grand Coulee Dam is completed, it alone will serve far more useful public needs in river regulation and power development than many nonliquidating projects in this country. Of course, a well-rounded program involves the ultimate reclamation of the Columbia Basin lands, but it must again be remembered that even this program involves several generations of development instead, for example, of 10 years in the construction of the Panama Canal.

Our Wildlife Resources

EXTENSION OF REMARKS

OF

HON. A. WILLIS ROBERTSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 29, 1937

ARTICLE BY HON. RICHARD M. KLEBERG, OF TEXAS

Mr. ROBERTSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following article written by the gentleman from Texas [Mr. KLEBERG]:

[From Texas Wild Life for October 1936]

OUR WILDLIFE RESOURCES

By RICHARD M. KLEBERG

In recognition of the possibilities inherent in the organization of the Texas Wildlife Federation, and particularly with reference to the apparent useful purpose to be accomplished by its official magazine, I offer these thoughts for whatever they may be worth to its readers.

Every reader of history makes his or her own interpretation of the written page. As historians have attempted to record the history of our country from its birth, this is no attempt to emulate them. History and its revelations have been and are for other pens than mine.

How swift and how wide the stride, and how noiseless the fall of the foot of time! On October 12, 1492, Christopher Columbus set foot on American soil. In 1620, on the 21st day of December, the Pilgrim Fathers disembarked from the *Mayflower* to cast their lot on the shore of our country. One hundred and forty-seven years ago, on September 17, the United States of America began to function under constitutional government by law.

Columbus was enraptured with his vision of a new land and he doubtless told a story which, to his auditors, qualified him as a teller of fairy tales or as a peer to Baron Munchausen. In the stride of time, from then until the landing of our forefathers, the concentric waves caused by the impact of his discovery reached the shores of many countries and the minds of men in many climes whose history runs far back into thousands of years before

his great discovery. Through these ages the foundation for education and consequent civilization was laid. The greatest enemy to education and civilization is forgetfulness.

Let us not forget to remember that our Texas, whose birth and independence of 100 years ago we now celebrate, was host to nature, and nature's children, and in the main today our own Texas holds in trust for the balance of the United States the greatest opportunity for the restoration of nature's priceless treasures more than any other State of our beloved Union.

No historian has been able to fathom the inscrutable past back to the beginning of the first American, the noble red man. He was here long before Columbus, or other white men ever saw our land. The red man's pastimes, yes, his very life, depended upon the game then so bounteously abundant in North America. His people and his tribal government had no enforceable game laws, or restrictions, save and only those required through mother nature's teachings, and the tribal sagacity of the Indian chieftains in all of the tribes of Indians. Despite irrefutable evidence that he had been here many hundreds of years before the coming of the white man, the bountiful supply of game life—bird, fish, and animal—which was here, is and should be a great and mighty tribute to his accomplishments as a student in the great school of nature in comparison to the record of our white forefathers and those who have followed them, including our own generation.

Because we forgot to remember, we have lost in most of our country (I hope for only the time being) one of the most priceless adjuncts to nature's invaluable schoolhouse. The priceless wildlife resources of our country have been so rapidly depleted and destroyed in the brief span of the last 35 years as to approach catastrophe. Hunting and fishing have not from time immemorial been supplanted as the world's leading pastimes. Members of the human race from earliest history have been hunters and fishermen.

In my candid and humble opinion, transcending by far the importance of the wildlife resources feature as a pastime is the quality of their being the incentive to our citizens and future generations for their attendance in the great school of nature. I am earnestly and emphatically convinced that no man, regardless of his opportunities insofar as colleges and other educational institutions are concerned, can be so really and finely educated as one who has a degree from the great school of nature as a foundation for his literary attainments.

I am prompted to declare allegiance to these convictions as a legitimate son of Texas. One but has to remember Sam Houston, Bowie, Travis, Crockett, and others whose services are commemorated in this centennial year. Yes; and by the ever-present knowledge of the constitution and the bill of rights of our great State. Lives of such men and documents such as these could not have been produced save and only through their being founded on the rocklike qualities of attainment that are found in the master's degree from the school of nature. The example of only one of these will suffice to reflect the glory which belongs to all of them.

Sam Houston, the George Washington of Texas, the hunter who lived in and attended nature's school with the Indians, and whose peerless leadership, statesmanship, and patriotism may be equaled but never exceeded, stands out as exhibit A in the bill of particulars and uncontrovertable evidence which is here submitted. His life and achievements alone should be far more eloquent than my pen and humble reason in advancing my plea to restore, through reminding those who have forgotten, that we must educate those who never knew, the importance of reestablishing in its erstwhile place that part of the school of nature left in trust to us in Texas for future generations in the remaining wildlife resources of this our own, our native State.

Where there is a will to advance an important and fundamentally great cause, there is always a way. There must first be developed, through the pages of your publication, a theme that will develop a will on the part of the people of Texas to curb the instincts of the destructive hunter, and supplant therefor the will of the constructive hunter. Those of us who have children of our own in Texas should be willing, if need there be, to forego, in the main, the satisfaction of the hunter's instincts for the educational advantage of those who follow us. If and when we hunt and fish, we should conform to the laws and recommendations of a properly constituted game, fish, and oyster commission as no small part of our contributions as trustees.

I yield to no man my love of the outdoors or the quality or measure of my enjoyment in hunting and fishing. To me a day in the outdoors, the sight of a buck, a drove of turkeys, a band of ducks or geese is almost as keen a delight and mental treat without a gun in my hand as with one.

I would hate to visualize a Texas where my children's children would never taste game or fish on the table; but, my reader friends, unless we remember not to forget, some of us will see that day.

As a Member of the National Congress, it is my purpose never to lose sight of an opportunity to assist in the rehabilitation of the wildlife resources which come within the province of the Federal Government, and as a citizen of Texas I bespeak for your organization and your magazine an appreciated acceptance by our people to be evidenced by their concerted action to rehabilitate the natural wildlife resources brought to use by Sam Houston and other devoted Texans 100 years ago. All that is needed to accomplish this is an intelligent comprehension and interpretation of the results of the past 100 years in our having forgotten to remember.

Emergency Relief

EXTENSION OF REMARKS

OF

HON. CHARLES L. McNARY

OF OREGON

IN THE SENATE OF THE UNITED STATES

Friday, January 29, 1937

STATEMENT OF HON. HENRY CABOT LODGE, JR., OF MASSACHUSETTS, SUBMITTED TO SENATE APPROPRIATIONS COMMITTEE ON JANUARY 28, 1937

Mr. McNARY. Mr. President, for the past 2 days the Senate Committee on Appropriations has been studying the deficiency appropriation bill passed by the House dealing, among other matters, with relief and work relief. Yesterday the distinguished junior Senator from Massachusetts [Mr. LODGE] appeared before the committee and made a very interesting and informative statement on the subject. I ask unanimous consent that his statement may be included in the CONGRESSIONAL RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. Chairman and gentlemen of the committee, I am submitting an amendment to the pending bill making further appropriations for emergency relief. This amendment sets up a mandatory formula for the distribution of relief funds among the States on the basis of population and valuation and provides for the expenditure of these funds by local officials acting under State law free from Federal interference.

The proposition of local control is favored by the Governor of my State and has the support of many of the mayors of Massachusetts, regardless of party. If this system had been in effect during the period June 30, 1935, to December 31, 1936, Massachusetts would have been allocated $233,315,890 instead of $223,482,528.01, which she actually did receive. Under the system which I propose Massachusetts would receive about $31,758,000 on an appropriation of $790,000,000. If last year's system is followed Massachusetts would only receive about $30,415,000. (These figures are based on the report of the President of the United States to the Congress of the operations under the Emergency Relief Act of 1935–36 as of Dec. 31, 1936.)

I submit that there is need for a definite basis of distribution. Taking my State as an example and using the best available figures, we find Massachusetts ranking sixteenth in per-capita wealth based on 1929 figures, yet ranking forty-second among the several State in the percent of its relief expenditures financed out of Federal funds from January 1933 to December 1935. We find further that the total amount of relief per capita for Massachusetts was $35.16, while Montana got $102.59 per capita and New Mexico $94.07 per capita. (These figures based on the census of 1930.)

Continuing, we find the need of the several States at the time the emergency relief appropriation funds first became available under the Emergency Relief Appropriation Act of 1935, as follows: That the total funds per case in Massachusetts was $800.99. Wyoming was allotted $3,673.51 per case; Arizona, $1,860.10 per case; Delaware, $1,697.70 per case; Maryland, $1,394.78 per case. Thirty-four of the States were allotted more money per case than Massachusetts. (These figures based on figures in House Hearings on first deficiency appropriation bill for 1936.)

The States herein mentioned are picked at random and used solely for the purpose of illustration.

The question of population of the several States is of great importance in the allocation of relief funds. Because, ordinarily, where there is density of population there you will find the center of manufacturing, industrial, and mercantile establishments. Massachuseetts is eighth in population of the several States. Again making comparison with other States solely for the purpose of illustration, we find Wyoming forty-seventh in population, Maryland twenty-eighth, Arizona forty-third, and Delaware forty-sixth. Yet all these States far exceed Massachusetts in the Federal relief funds allotted per case.

Certainly the cost of living is as high in Massachusetts as in these other States. Certainly the standards of living in Massachusetts are equal to these other States. Why, then, this unfair discrimination?

The question of valuation of property is also of great importance in the allocation of relief funds. Because, as in the case of population, where there is a concentration of valuation of property you will usually find the center of manfacturing, industrial, and mercantile establishments.

The total assessed valuation of all properties in Massachusetts subject to levies of the general-property tax was $7,442,863,000 in 1931.

Again comparisons are made with the following States solely for the purpose of illustration: Wyoming $418,659,784 in 1932; Maryland, $2,761,586,579 in 1931; Arizona $674,729,235 in 1931; Delaware $292,168,868 in 1932. (These figures from Financial Statistics of State and Local Governments, Department of Commerce, 1932.)

The assessed valuation of all property in Massachusetts exceeds the combined valuation of these four States, yet each of these States far exceed Massachusetts in the Federal relief funds allotted per case.

Just because Massachusetts has been fair in her sharing the burden of the cost of the depression is no justifiable reason for discrimination against her in the matter of relief.

I mention my own State frequently because conditions there are familiar to me, not because this is a sectional question. It is essentially a national question. Every unemployed person and every taxpayer stands to gain by a basis that is definite and removed from administrative caprice. I submit the following added reasons in support of any amendment:

1. There would be an administrative saving, because existing State agencies could take care of much of the administrative work.

2. There would be a saving resulting from the increased efficiency which local control and local knowledge would promote. For example, on page 283 of the hearings before the subcommittee of the Committee on Appropriatons, House of Representatives, in charge of deficiency appropriatons, Mr. Bell, Acting Director of the Bureau of the Budget, is quoted as saying:

"We are constantly going over our previous allocattons, trying to get money back that we do not think is needed on the projects for which orignally allocated."

This is one statement out of many appearing in that record. I do not quote it in any spirit of personal criticism. It is inevitable in any highly centralized system that too much will be allocated here and too little will be allocated there. I cite it as an example of something which my proposal would correct.

3. At the present time our mayors and selectmen are held responsible by the voters for the financial condition of their respective communities. Yet they are unable to lay out a budget and make a workable plan without hearing from Washington. They should know exactly where they stand in this matter of relief so that they can make plans, thereby givng better service to unemployed and employed alike.

4. Our Federal system rests in part on the theory that the decision on a question of government should be made by that governmental unit which has the greatest knowledge of the problem. It is up to us here in Washington to legislate on the tariff and on the national defense, for example, because we have access to information on these questions which are not available to mayors, selectmen, and county commissioners. By the same token the local officials in the United States have a greater knowledge of who's who and what's what in the place where they live. They should be able to decide better than anyone else who is deserving and who is not. They should be able to decide better than anyone else what projects are beneficial to the community and which ones are not. Certainly if they, with their intimate knowledge, cannot solve these questions, nobody can.

5. Under the present system we hear the complaints of favoritism and of injustices. Such complaints are inevitable under any system and under any political party. I do submit, however, that under the existing arrangement we have a state of affairs that makes it difficult not "to pass the buck", and which makes it hard, indeed, for someone having a complaint to fix the responsibility. My proposal makes it easier to fix responsibility, which makes it that much easier for government to discharge the obligation which it has to the taxpayer and to the unemployed.

There must be a real basis, clearly understood by the American people and appealing to their sense of justice, for the distribution of our Federal funds. My amendment will, I believe, give to the several States their fair sh are of Federal relief funds—no more and no less. It is another effort toward placing relief on a basis which is both intelligent and humane—toward seeing to it that moneys appropriated for the relief of human need are distributed on the basis of where the need is the greatest. This is not only fair to my State, it should enlist the support of every fair-minded American, wherever he may live.

AMENDMENT PROPOSED BY MR. LODGE, OF MASSACHUSETTS, TO H. R. 3587, ENTITLED, FIRST DEFICIENCY APPROPRIATION ACT, FISCAL YEAR 1937, AT HEARING BEFORE SENATE APPROPRIATIONS COMMITTEE, JANUARY 28, 1937

Strike out, beginning with line 19 on page 3 to and including line 5 on page 4 and substituting therefor the following:

"To continue to provide relief and work relief on useful projects in the United States, the District of Columbia, and Territories of the United States ——— together with such unexpended balances of funds appropriated and made available by the Emergency Relief Appropriation Act of 1935 and the Emergency Relief Appropriation Act of 1936, which are hereby reappropriated and made available for the purposes of this paragraph.

"SEC. 2. The Works Progress Administration shall apportion the appropriation among the several States, the District of Columbia, and the Territories of the United States in the following manner: One-half in the ratio which the population of each State, the District of Columbia, and the Territories of the United States bears to the total population of all the States, the District of Columbia, and the Territories of the United States, as shown by the latest available Federal census; and one-half in the ratio which the total assessed valuation of all property subject to levies of the general property tax of each State, the District of Columbia, and the Territories of the United States bears to the total assessed valuation of all property subject to levies of the general property tax of all the States, the District of Columbia, and the Territories of the United States as shown by the latest available statistics.

"SEC. 3. That whatever sums may be due the several States, the District of Columbia, and the Territories of the United States under the provisions of this act shall be given directly to the several States, the District of Columbia, and the Territories of the United States, to be distributed by the political subdivisions of the several States, the District of Columbia, and the Territories of the United States in accordance with and subject to the action of the government of the several States, the District of Columbia, and the Territories of the United States free from the control of Federal administrative authority.

"SEC. 4. That any amount apportioned to any State, the District of Columbia, or Territory of the United States under the provisions of this act unexpended at the end of the period during which it is available for expenditure under the provisions of this act shall revert to the Treasury of the United States."

Cooperation With Private Power Corporations

EXTENSION OF REMARKS

OF

HON. HOMER T. BONE

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Friday, January 29, 1937

BULLETIN OF THE NATIONAL POPULAR GOVERNMENT LEAGUE

Mr. BONE. Mr. President, I ask unanimous consent to have printed in the RECORD a bulletin prepared by the National Popular Government League dealing with the question of the proposed pool of public and private power systems. I am submitting this request because of the discussion Wednesday by the Senator from Nebraska [Mr. NORRIS].

There being no objection, the bulletin was ordered to be printed in the RECORD, as follows:

COOPERATION WITH THE PRIVATE POWER CORPORATIONS

THE PROS AND CONS OF POWER POOLING

The present controversy over the proposal that the Government cooperate with the power industry through the establishment of "regional power pools" brings to a focus the most important utility issue raised since the conservationists of 30 years ago launched the policy of regulation. It is necessary at the start to find exactly what a power pool is and what it is not. This is a new subject and a good many persons and even press writers are talking at cross purposes, notwithstanding the fact that the leading proponents of power pooling have expressed themselves clearly on the subject.

WHAT IS A "POWER POOL"?

A power pool, as herein considered, is one patterned after the British "grid" system and may be roughly defined as a utility set-up in which all publicly owned and privately owned electric-generating facilities and transmission lines in a specified region are placed under the control of a central board appointed by the Government, which is composed of representatives of public plants and private corporations. Distribution of current to ultimate consumers is not touched.

Ownership remains in status quo. Hence we have a sort of partnership between public and private facilities. All generating plants must pour their current into the pool. All city and private retailers must purchase their wholesale power from the pool. For example, the Alabama Power Co., wholly privately owned, is not a pool. The Ontario Hydro, wholly publicly owned, is not a pool. Neither would it be a pool for the Tennessee Valley Authority, or other yardstick project, to arrange in certain cases for joint use of transmission lines under strict conditions which keep the Government in exclusive management of its own business and also permit municipalities and farm cooperatives to purchase their wholesale power direct from the Government plants when they elect to do so. That would eliminate "duplication" of lines to advantage provided the companies would accept reasonable compensation.

But these matters will grow clearer as we proceed. We may now consider the case for the pool and against the pool and then try to strike some balance as to its significance and worth.

THE CASE FOR THE POOL

1. Report of the Mississippi Valley Committee by Mr. Morris L. Cooke, chairman

The first official presentation of the pool idea as a national power policy was made in the report of the Mississippi Valley committee on October 1, 1934, by its chairman, Mr. Morris L. Cooke, now Administrator of the Rural Electrification Administration.

Mr. Cooke presents the multiform problems which arise out of building dams for flood, low water, and erosion control, navigation, power development, etc. He finds they are interrelated and that power "is a coordinating factor in river development"; that best results however demand unification of the electrical supply; that we have now a hodge-podge of private systems and isolated municipal plants; that all this should be unified along the lines of the British grid system which he describes and illustrates by colored charts under the heading "The 'Grid' in the U. S." He does not describe the machinery by which this is to be done here except to recommend "progressive application of the common-carrier principle" in transmission lines. He envisions "a single ocean of energy embracing every power source whether publicly or privately owned." Government must take the lead and control transmission. He holds:

"It should not be difficult to reconcile the public and private interests involved * * * the plan here projected does not involve the question of public or private ownership of either generation or distribution * * * the private companies would gain through increased use of their present facilities; through not having to finance in part at least new generating and transmission equipment" and in other ways. "The proposal does not involve competition with private interests * * *. This goal does not involve necessarily any great increase in the number of publicly owned lines, especially if the private companies cooperate in effecting unification * * * public control is important * * * not the percentage of publicly owned plants * * *. Both public and private plants will find advantage in the larger unified scheme * * *. The legal and operating problems appear relatively trivial in contrast to the great social purpose to be accomplished."

2. The World Power Conference address by Mr. Basil Manly, Vice Chairman, Federal Power Commission

In an address on Regional Coordination and Integration of Electric Utilities: The Federal Point of View, at the World Power Conference last September, Mr. Basil Manly, Vice Chairman of the Federal Power Commission, gave the most extended exposition of and argument for power pooling yet made by a Government official. It is solidly informative and can be obtained from the Director of the World Power Conference, Interior Building.

Mr. Manly also cites the British grid system as an example of power pooling and finds it "well adapted to the solution of the problems of electrical supply for the area which it serves and to provide a sound foundation for future expansion."

While warning against hasty commitment to any specific plan, he sets out five major considerations which must obtain in the organization and management of regional power pools for the Nation. Those are:

(a) Federal agencies to operate the pool consisting of a board of directors on which Government men should predominate, but in which regional areas and private utilities would have "effective voice."

(b) The board must have power to "acquire control of or construct" a transmission network. He adds: "In the opinion of the writer, it would not be desirable for this agency to purchase transmission facilities or construct them except where necessary. All the practical objectives of the pool can be obtained as effectively by lease of transmission facilities as by purchase."

(c) All public and private company members of the pool must be required to place their generating plants and transmission lines under the control of the board.

(d) All distribution systems, public or private, must purchase their wholesale power from the board.

(e) The board must be authorized to finance or construct additional transmission lines or generating stations if and when necessary.

The address concludes:

"Summarizing the various considerations which have been outlined above, it would appear that in the proper coordination of the operations of Federal projects with those of privately owned utilities we have the means not only of avoiding what may otherwise prove to be a dangerous and destructive conflict but also of securing for large geographical regions, and perhaps for the Nation as a whole, benefits that could not be secured except through the development by the Federal Government of the potentialities of our vast water resources and the utilization of the energy thus created in proper coordination with the energy resources of private utility systems."

See address, pages 23-24.

3. Public statement by Dr. Arthur E. Morgan, Chairman, the Tennessee Valley Authority

It is well known that Chairman Arthur E. Morgan and Director of Power David E. Lilienthal, of the Tennessee Valley Authority, have had conflicting views on power policy. From press reports it appears that after studying the British grid system on the ground 2 years ago, Mr. Lilienthal concluded that any general application of its principles to the Tennessee Valley region was inconsistent with the text and plain intent of the Tennessee Valley Authority Act. Dr. Morgan believes in the pool system and advises a much greater degree of cooperation with the Commonwealth & Southern Corporation than Mr. Lilienthal believes advisable or safe. Dr. Morgan made a public statement of his views in the newspapers of Sunday, January 17. I quote:

"I am of the opinion that some type of power transmission pool, as recently suggested by the President, perhaps somewhat along the lines of the British grid system, may prove to be desirable. One form of pool might be somewhat as follows:

"The power pool organization would own the transmission lines. It would not generate electricity, but would buy it from the private or T. V. A. power plants, which would remain in their present ownership. The pool would transmit that power and sell it at wholesale to any local distribution system, either publicly or privately owned. The transmission pool would buy from the cheapest sources and would sell wherever the power was needed. This method would reduce the total amount of generating capacity necessary, for if any region needed more power than the plants in that region could supply, the shortage could be met from some other region where there was a surplus. Such a project would raise questions vital to all interested parties. Before a transmission pool could be established it would be necessary for the parties to agree on the general conditions of purchase, transmission, and sale." (New York Times, Jan. 17, 1937, p. 1 seq.)

On September 28 Dr. Morgan prepared another extended memorandum setting out his views on power pooling and pleading for cooperation with the utility companies. They are puzzling and subtle documents. There is an appearance of fairness to both sides of the power controversy alongside unwarranted assumptions and innuendos which lead to shocking and surprising conclusions and recommendations.

For example, throughout both documents Dr. Morgan insists that it is high time for the Government and the T. V. A. Board to make known its general policy and attitude toward the private companies in order that they may know the fate awaiting them. Further, he does not believe in the "throwing of great power systems into premature and unprepared-for public ownership"; and "I believe that a considerable period of experiment and development will be necessary before America is prepared for wholesale public ownership."

Here are two false impressions. First, that progressives are advocating a rapid acquirement of a large proportion of the great private power systems. Second, that there is no T. V. A. power policy in existence. Both are ridiculous.

Those who fought for 12 long years against the "ruthless" tactics of the Power Trust, which Dr. Morgan admits have been practiced "by some" private companies, can assure him they had a definite policy in view and that policy was written into the T. V. A. Act. It is the greatest public ownership power project ever started in this Nation. It gives every preference to municipalities and nonprofit cooperatives desiring wholesale public current. Senator NORRIS knew the dangers of sabotage and was careful to put in the act a requirement that every officer and employee should take an oath that he or she had faith in the principles of the act. It therefore comes as a sad surprise to the progressives of the country that Dr. Morgan apparently does not understand the act and has little faith in public projects.

He says:

"I regret to say that the power companies in the Tennessee Valley region have not been assured as to what are the intentions of the T. V. A. concerning them. It is my personal conviction that such disclosure should be made."

Does the doctor think the T. V. A. Board has power at will to alter the purposes of the act by administrative methods? Next, Dr. Morgan says:

"Public officials should cease coercion, as by subsidies to duplicating and computing systems, by threats of constructing duplicating system if arbitrarily fixed prices are not accepted, or by threats of disruption of private systems with the effect of preventing refinancing of the private companies."

The assumption here is that the progressives—and President Roosevelt himself must be included in this—have inaugurated unjustifiable warfare against the utilities. That has been the claim of the Power Trust for 25 years. Every time the Government or the States have attempted to regulate them or have been forced to expose their shameless and corrupting tactics they have set up the cry of "persecution." The shoe is on the other foot. It is the utilities who have started warfare whenever government has attempted to protect the public interest or utilize public property for the public welfare. It is notorious that the power division of the T. V. A. has leaned backward to be fair to Commonwealth & Southern, and, as Senator NORRIS has pointed out, it is this holding company which has broken its word and flouted public authority.

Again, Dr. Morgan urges the need of more "experiment with public ownership." Well, the first public light plant was established in 1882. We now have around 2,000 of them. Several are of large size, like Los Angeles, Seattle, Tacoma, Springfield, Jacksonville, etc. Los Angeles has just built one of the greatest transmission lines in the world. Foreign visitors to the World Power Conference were amazed at the Government dams completed and under construction. We have the example of our neighboring Ontario Hydro—a $400,000,000 dollar concern. It is the success of these "experiments" that made the demand for yardstick plants and municipal ownership today. It is a chief purpose of the

Power Trust to cause delay and kill this movement. Dr. Morgan's timid engineering soul may want to experiment another generation. The people do not. He may have confidence in the good will and trustworthiness of most private-company executives. The people and those who have had to fight them know better.

Finally, in his memorandum of September 28, Dr. Morgan advances other amazing propositions. He demands that if a municipality—Chattanooga, for example—desires to establish a public distributing system in its borders, it must first purchase the private company—and mark this—"at fair value." This means water and all, in practice. He does not say what should be done if the company refuses to sell. There are other conditions of like order. But enough. Public minded experts agree that the conditions of "cooperation" urged by Dr. Morgan are in contravention to the T. V. A. Act and will frustrate its purpose.

THE CASE AGAINST THE POOL

The foregoing will make clear at least the essential principles of the British grid system of pooling which it is proposed to apply to the United States, of course with necessary modifications. We may now turn to the statements of some prominent opponents of the power-pool policy.

1. United States Senator George W. Norris

(Statement written for this bulletin)

Senator GEORGE W. NORRIS is strenuously opposed to any scheme of cooperation between the Government and the private power companies, especially in a set-up which would give the private interests any control whatever of public agencies or limit them in any way. In this connection, it should be remembered that for 15 years Senator NORRIS, in Senate debates and articles, has constantly proclaimed the doctrine that electrical supply is a natural monopoly and has supported the engineers in their demonstration of the fact that the lowest production cost and hence lowest retail rates can be achieved only through widespread unification and integration of generation, transmission, and distribution facilities. He desires this, however, to be operated under public auspices as the only real solution of the power problem.

Concerning the present proposal to introduce the British grid system, he says:

"I have no faith in the so-called power-pool system which, in effect, proposes to put the people into partnership with the Power Trust.

"I agree with the engineers that from a technical standpoint so-called 'unification' is sound as it would save some duplication of generating and transmission equipment. I agree with the financiers that it would save some capital investment and interest charges and hence somewhat lower the cost of wholesale current. From what I have learned from the writings of technicians and experts, this is mainly what they are thinking about. But they seem to have little concern, and cannot guarantee to Congress and the people, that the benefits would be passed on in full measure to the people in lower rates, but that is the main question. Who is to get the benefit of the economies? Let us look into this problem.

"These pools would be managed by joint boards on which governmental bodies and private corporations would be represented. It would be unfair to ask this $13,000,000,000 private electrical industry to turn its generating stations and huge transmission networks over to a public board on which it was not represented.

"But who dare say that the Power Trust would not instantly go into politics to control the appointments to the board of men supposed to represent the public interest? This is what the power corporations have tried to do and in a large degree succeeded for 30 years in the appointment or election of State regulatory commissions. The result inevitably would be that the grids or pools would be administered in the interest of the Power Trust, rather than of the consumers.

"But even if the Power Trust should turn honest and induce some angels to come down from Heaven to represent them on the boards, it would not remove the chief financial objection to this bright scheme. Municipal and Government owned electric plants amortize their investment and the people always look forward with pleasure to the time when the capital debt on their plant would be paid off and their rates reach rock bottom. Private corporations refund and never liquidate their capital debt and this pool scheme would make the utility corporation's capital (probably water and all) a fixed thing on which the people would have to pay interest and dividends for all time to come. They can never achieve the low rates they need and can get from their own plants if, as the new scheme proposes, this private interest load is kept on their backs.

"Another serious objection to the pool between private corporations and public systems of generating, transmitting, and distributing electricity is this: The private companies are very properly moved in their entire operations by profit. They are in the business for profit. Public systems are not concerned with profit. They are concerned only with service. The pooling of these two interests is illogical and, I think, impossible. Advantage might be had in pooling of private corporations, all moved by profit. Advantage could be gained by the pooling of public systems, all moved by service. But you cannot pool private systems with public systems any more than you can mix oil and water. They are fundamentally and inherently different.

"I am opposed to the proposed power pool. I would carry out the T. V. A. Act in good faith and adopt its principles at other Government plants. I would not destroy the legitimate investment of any person in private companies. When they become dissatisfied with the profits they are making, I would buy them out and pay a fair price.

"Private utility operators have proved they cannot be trusted. Five years ago they solemnly promised the American people they would abandon their wicked ways, play square, stop deceptive propaganda, get out of politics, and discipline unruly members who broke these pledges. The industry has not kept faith. Their antisocial tactics continue as before, and they have even broken their solemn contract with the T. V. A. They are not to be trusted, and hence I look with grave suspicion on all this fine talk about 'cooperation', 'unification', 'integration', and so on. We are only beginning to get the real benefits of our long fight with the power interests, and this is not the time to get into harness with them."

2. Address of J. D. Ross, member of the S. E. C., and engineer-manager of City Light, Seattle, Wash.

Mr. J. D. Ross, member of the Securities and Exchange Commission, electrical engineer, and superintendent of Seattle's $55,000,000 "City Light" system, addressing the Investment Bankers' Association at Augusta, Ga., December 5 last on Public Power: Its Financing and Its Advantages, expressed his opposition to pools as follows:

"Any attempt at a partnership (between public and private systems), it is safe to say, has never been a success and can never be a success. You cannot make a partnership between a concern that carries its indebtedness forever when its structures have rotted into the earth, and whose ideal is to make dividends on that perpetual capital cost, and a concern that rapidly pays out its debt and whose ideals are for service instead of profit. Any compromise of a rate between these two would be injurious to the public when their proper right is a lower rate.

"Cities and districts are best intertied to Federal plants where there are economic benefits on one or both sides, because their ideals and their system of operation are the same.

"Both municipal and Federal systems may be intertied with private power concerns, but only for the interchange or sale of power and not in any way with a partnership of management."

3. United States Senator Homer T. Bone, of Washington

(Statement written for this bulletin)

Senator BONE, as an attorney and supporter of the Tacoma public plant, has had 25 years' practical experience with the methods of private utilities, and is an expert in this field. He says:

"I am opposed to any so-called power pool which would of necessity and will probably involve an inclusion of the valuation of private utility properties as a part of the assumed value of such a pool, thereby protecting the inflated rate structures of such companies. We have the same proposal in my State, due to the imminence of the great public projects at Bonneville and Grand Coulee.

"The only way that private power companies can protect their so-called investments and validate the flood of securities sold to the public and grabbed by the insiders for nothing, is to now literally kid us into some sort of a pool arrangement. The whole theory of such a pool is antipathetic to the whole yardstick doctrine. The idea is a clever one, but it is clever at the expense of the whole theory which I believe underlies the New Deal program on power. Its adoption means that the yardstick idea goes into the ashcan."

4. Editorial comment from the Electrical Workers Journal, official organ, the International Brotherhood of Electrical Workers, December issue, 1936

"There is an old saying, potent in its practicality, as follows, 'If you can't beat 'em, join 'em.' Many wise ones now believe that the private utilities have adopted this slogan in reference to the Tennessee Valley Authority development * * * critics declare that if the grid system is borrowed from England that it is likely to do the following things:

"1. It is likely to do away with the yardstick method, because in pooling power one can no longer determine what power is privately generated and what is publicly generated. Therefore there will be no standard by which cost of production may be determined.

"2. American private utilities are so loaded with water and inflated values that no just rate can be granted the consumers if the electricity generated in watered plants is pooled with electricity generated in publicly owned plants. This is not the case in Great Britain."

5. Representative John E. Rankin, of Mississippi

Congressman JOHN E. RANKIN, of Mississippi, holds that the power interests are in favor of the pooling of power suggested for the T. V. A. region. In a statement issued November 28 last he said in part:

"An attempt is now being made by the power interests to wreck the T. V. A. and thereby wreck the entire power program of this administration by tying them up with a grid system. It would destroy the T. V. A. yardstick. If they can succeed in this they hope to do the same thing at Boulder Dam, Grand Coulee, Bonneville, Peck, St. Lawrence, and all the other public projects now under construction or in contemplation. * * * To yield to this demand now is to capitulate to the very corrupt influences over which we have just won our most signal victory (meaning the election of November 3) and deliver the consumers back to the Electric Trust. It would be a crime for which I do not believe the American people would stand."

6. Editorial from Labor, official newspaper of the standard railroad labor organizations

Under the heading "Proposal to 'Pool' Power Resources", Labor on December 29, last, said editorially:

"The administration is being urged to enter into a pooling arrangement with the big power companies. On paper the scheme is calculated to lure the unwary, but even the most cursory examination will reveal many pitfalls. * * * The lamb and the lion are to lie down together but experience suggests the lamb would soon be inside the lion. For more than a quarter of a century cities, States, and the National Government itself, have endeavored to regulate the Power Trust, but in a majority of instances the experience has resulted in the trust controlling the regulators. We greatly fear that would be the upshot of the proposed pooling arrangement.

"The Federal Government has poured vast sums into the development of Muscle Shoals and other projects to set up yardsticks to determine a fair price for electricity. The plan has worked. * * * Tens of thousands of consumers have been freed from the greed of private monopoly. The Power Trust has been literally 'scared stiff' and is frantically appealing to the Congress to save it from the first real competition it has ever been compelled to face. And now when victory is in sight the Government is asked to lay down its arms and form a combination with the interests which have been gouging the people for more than a generation."

ATTITUDE OF THE POWER INDUSTRY

What the power industry desires the Government to do with power generated at navigation and flood-control dams was stated by Mr. Floyd L. Carlisle, chairman of the board of Niagara Hudson speaking officially for the industry at the World Power Conference on National Power and Resources Policies:

"I strongly urge in the public interest that the power development in these (Tennessee and Colorado River areas) and other areas by the Federal Government to be sold to and distributed by the existing private companies and municipalities which are now distributors of electricity."

That, in my opinion, is what Dr. Morgan calls in his article a "horse-trading proposal." That is what the industry wants but knows it cannot get. Is pooling the next best bet?

Perhaps the best answer is the fact that a survey of around 200 editorial and news and magazine articles before and after the White House conference of September 30 to "explore the possibilities of pooling" shows a large majority of conservative newspapers hailing cooperation and the pool proposition. It is common knowledge that the industry favors the pool policy, doubtless on its own terms, but it is my guess it will soon be ready to accept the essentials of the British grid system.

President Wilkie, of Commonwealth & Southern, is for some kind of a pool. The Electrical World, of November 21, says:

"Expressing his own opinion, Dr. A. E. Morgan said that the power pool issue between the Tennessee Valley Authority and public utilities looks more favorable than heretofore. If this opinion is borne out by future developments, Wendell L. Wilkie, president of Commonwealth & Southern, may develop into the public utility here of the hour for the patience and foresight exhibited in transmission pool conferences."

SOME FACTS ABOUT THE BRITISH GRID

Origin. The movement for the British grid system originated with the leaders of the private power companies themselves aided by the bankers and large users of industrial power and not with the progressive forces of Great Britain, concerned over large use and cheap rates for the masses of the people.

"Dr. Charles Merz, of Great Britain, who was a leader in its development and installation, said, 'The grid was not imposed upon the country and upon the industry by act of Parliament.' He pointed out that the legal and traditional background of utilities and their ownership in Great Britain made the (electrical) industry ask for the grid legislation as the easy way to bring about results that all thought desirable." (Electrical World, Sept. 19, 1936. Article on the World Power Conference.)

England had no transmission networks like the United States. The grid is new. Cheaper electric power was held to be necessary if British industry was to compete in the world markets—hence the grid which was financed by the sale of bonds to the public and placed under "The Central Electricity Board" on which the public and private industry are represented. It was created by an act of Parliament in 1926 under the conservative Baldwin government. It does not concern itself with retail distribution or cheap rates to the people.

Status. For 50 years municipally owned plants had far outnumbered privately owned plants in Great Britain. As of 1926, the relationship stood as follows:

	Public	Private
Number of "undertakers" or utilities	320	245
Number consumers	1,890,000	700,000
Kilowatt-hours generated	4,348,000,000	2,271,000,000
Operating revenue	£23,965,000	£13,825,000

Rates: Retail schedules have not been materially reduced since the grid was started 10 years ago, but an intensive campaign for larger use has been waged with the result that the net average cost for domestic service in municipal plants has somewhat dropped. As in the United States, most British municipal plants keep rates up and turn profits into the city treasury to reduce taxes. In 1934 approximately $18,750,000 was so turned back and not applied to rate reduction as in Ontario.

Private company profits, 6 to 15 percent: An examination of the financial status and income of several typical private companies, members of the English grid, shows that from 1928 to 1935, inclusive, they have been paying annual dividends of from 7 to 15 percent and in several instances bonus in addition (Stock Exchange Official Year Book, London, 1936, pp. 1957–2038).

A compromise: The British grid is a typical English compromise in which the financial interests and the conservatives not only benefited themselves and made their position more secure by adopting up-to-date methods but headed off the progressives of Great Britain, led by the Labor Party, in the movement for nationalization. There is great discontent over high rates as shown by a Parliamentary Committee on Distribution, which reported last summer. A distinguished English authority recently wrote me that the Central Electricity Board had done a good job with no hint of corruption, but "on the other hand the restrictions imposed upon it by legislation gave protection to every vested interest to insure that nobody could be damaged by its activities in the smallest possible degree."

SUMMARY AND CONCLUSION

Proponents of the power pool, it will be noted, base their arguments largely on technical and engineering grounds and assume pools will be managed in the public interest.

Opponents admit technical advantages but point to management. They hold that the pool system would put the utilities into politics more vigorously than ever and that they would corrupt "cooperation" just as they have "regulation."

However, they point out, if honest cooperation be assumed, the refusal of private companies to amortize capital investment costs as do public plants constitute an overwhelming objection from the consumer's viewpoint.

Take a look at that. The industry now claims a total capital investment of $13,000,000,000. Around 60 percent of that is in generating and transmission plants, or around $7,800,000,000. If this were frozen into national power pools the people, allowing 6 percent interest, would go on paying annually $468,000,000 forever. It would not be amortized as in the Federal and municipal systems.

The other thing to which the proponents of power pools appear to close their eyes is the fact that we are still in a state of war forced upon us by the private utilities and that there is no indication that the Morgan interests and others which actually control the industry are ready for an honest peace. It is a thousand-to-one shot that they would continue the same tactics they have used for 30 years, are using today, whether inside a "cooperative" set-up or outside of it.

From the consumer's viewpoint, the safe course is to pursue the policies set up by Congress in the T. V. A. Act which Director Lilienthal of the T. V. A. has endeavored to execute and which now appears to be the real cause of the controversy between himself and Chairman Morgan of which the public has heard so much and knows so little.

A True Merit System Needed

EXTENSION OF REMARKS

OF

HON. ED. V. IZAC

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 28, 1937

Mr. IZAC. Mr. Speaker, we have spent several hours in consideration of H. R. 1531. Although I voted for the bill on final passage, I did so with the belief that it was the best we could obtain at the present time, and that, as its sponsor claimed, it might prove to be the first step in the formation of a career service for the Post Office Department.

An investigation of the RECORD will show that I supported every amendment offered to better the merit features of the bill and that several of these amendments were accepted by the membership in the teller vote only to be reversed by action of the House on the final roll call. I believe it incumbent on me to point out some very pertinent facts in connection with this legislation.

By Executive order of last July the President of the United States made it mandatory that appointments to first-, second-, and third-class post offices be made from a competitive examination with the best qualified receiving the appointment. That, to my mind, is the true merit system as it should function practically.

H. R. 1531, on the other hand, provides for the appointment of one of the first three on an eligible roster, which still permits discrimination against the one who has passed highest in a competitive examination. This is not a true merit system.

I should like to point out further that by "blanketing in" all of those who happen to be in office today very little chance of promotion will result for the civil-service employees in these post offices, for it appears that the only way an opportunity for such employees is likely to be created is by the death of the present incumbent.

I should like to see a real opportunity for promotion for every person in the Postal Service because it is in keeping with our American traditions that "even the lowliest among our sons may some day be President."

I am also inclined to believe that the adoption of this bill will mean the elimination of those preference rights heretofore granted to veterans of our wars.

Lastly, I fear that the adoption of this bill will not result in the elimination of politics from the consideration of appointees to these post offices; and I am sincerely in favor of legislation which will result in giving appointments to those best qualified as determined by a competitive examination open to every citizen, without discrimination, fear, or favor, and without interference on the part of the Members of Congress.

As for myself, Mr. Speaker, I feel that my time can be better employed in the interests of all of the people of my district if I am relieved of the necessity of making investigations and recommendations for the filling of these offices. Therefore, I heartily concur in any decision or move that would result in the placing of this responsibility entirely in the hands of the civil-service authorities.

I trust that the Civil Service Committee will continue its efforts and finally present to the Congress a bill which will place all of our vast army of public servants in a true merit system.

The Farm Program

EXTENSION OF REMARKS

OF

HON. GEORGE McGILL

OF KANSAS

IN THE SENATE OF THE UNITED STATES

Friday, January 29, 1937

ARTICLE BY HON. HENRY A. WALLACE, SECRETARY OF AGRICULTURE

Mr. McGILL. Mr. President, I ask to have printed in the Appendix of the RECORD an article written by the Secretary of Agriculture, Mr. Wallace, relative to the farm program, printed in the New York Times under date of January 3, 1937.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times of Jan. 3, 1937]

WALLACE MAPS A FARM PROGRAM—BALANCE WITHIN AGRICULTURE AND INDUSTRY, AND BETWEEN THE TWO GROUPS, IS HIS OBJECTIVE

By Henry A. Wallace, Secretary of Agriculture

I. THE COTTON COUNTRY

Anyone who travels from Arkansas to Georgia by automobile, as I did recently, cannot help realizing that the agricultural problem is far from solved. In this area there are hundreds of thousands of miserable, unpainted shacks, constructed more than 50 years ago, some of them with holes in the roof and some without glass in the windows or doors in the door openings.

In the territory through which I traveled the weather was, on the whole, more favorable than usual, and the cotton yields per acre were higher than customary. The price was relatively good, partly because of the way in which the crop had been damaged by droughts in Texas and Oklahoma.

The cotton farmers of Southeastern United States were in a relatively prosperous situation, according to all accounts; and yet I have never seen among the peasantry of Europe poverty so abject as that which exists in this favorable cotton year in the great cotton States from Arkansas on to the east coast.

Because I was traveling with representatives of the Resettlement Administration who knew intimately many of the people in the unpainted shacks, it was possible to stop to visit with them. Both Negroes and whites, they seemed, on the whole, to be an unusually courteous, fine lot of people with an extraordinary sense of obligation with regard to debts.

There are hundreds of thousands of children born in tenant and sharecropper homes who, if given the same chance, would do as well as the children of the well-to-do people in any city or town. It is important to think about these people because they are the great reservoir of our future population. They produced, just prior to the depression, 60 to 70 percent more children than were necessary to replace themselves. At a time when our immigration has been largely shut off and when the farmers of the North are producing only 30 to 40 percent more children than are necessary to replace themselves, the significance of the miserably housed, miserably fed, miserably clothed but, in general, genetically fine and prolific people of the South becomes apparent.

It is not the fault of these people that their situation is what it is, nor is it the fault of the landlords and wealthy people of the South. The entire United States is to blame.

By what slender threads hangs the welfare of these one-horse tenant cotton farmers! The sickness or death of the mule brings instant tragedy. The hazard of weather is always present. There is always the danger of a sudden drop in cotton prices. And dark and sinister, standing in the background, continually threatening these millions of human beings, is the possibility that technology may make some sudden change in the kingdom of cotton. What will the mechanical cotton picker do?

But even more important, what about the effect of various types of artificial fibers which are more and more being perfected? What about the desire of the industrial nations of the outside world to buy cotton from nations to whom they can send industrial goods rather than from a country which keeps out their industrial goods by a high tariff?

Over all southeastern United States the land is gullied and washed. Tens of millions of acres have lost their topsoil completely. Regions which supported fine plantation homes before the war now fail to produce as much as 100 pounds of cotton to the acre. We have heard about ghost towns left by lumber or mining operations; even more pitiful are the ghostly rural areas from which the fertile soil has disappeared, and where people cling to their homes under an impossible situation, not realizing fully what has happened. Changing markets, changing soils, changing technology, and possibly even changing climate, all these things one ponders when one meets the misery of the farmers face to face.

II. THE GRAIN BELTS

There are many other parts of the country where the agricultural situation is as desperate as in the South. But there is no other place where the effect of our international policy is so strikingly felt. The Corn Belt and the Wheat Belt each have standing over them a specter almost as threatening as the one standing over the Cotton Belt; but the wheat and the corn farmers are in a better position to make adjustments. Moreover, they have a higher standard of living in the first instance.

The wheat problem is world-wide and there is every probability that 2 years of just average weather over the entire world will create a wheat crisis almost as great as that of 1932. There are many types of agricultural products, the demand for which expands with the increased purchasing power of consumers. But in the case of the more advanced countries, like the United States, England, and France, prosperity brings about very little increase in wheat consumption.

The new varieties of wheat, the new types of machinery, the land opened up in Argentina, Australia, Canada, and Russia, and the encouragement given to wheat growing in the nations of Europe by governments fearful of war—all these things indicate the certainty of a wheat problem which, with ordinary weather, can easily express itself in terms of 50-cent wheat to American farmers within 2 years.

The corn-hog situation is not quite so ominous as that of wheat, but with ordinary weather it also will bring about extraordinary problems. The market for corn has been diminished by more than 10 percent because of competition from gasoline. It has been diminished perhaps another 10 percent because science has developed methods of feeding which enable a bushel of corn to produce more pounds of milk or meat.

The market for corn through hogs has decreased because the Germans no longer take our lard and the British now satisfy only 8 per cent of their pork requirements in the United States, whereas formerly they satisfied 20 percent. Human beings in the United States eat perhaps 50,000,000 fewer bushels of corn a year now than formerly.

While the use of corn sugar has increased, the industrial use of corn, as a whole, has gone up very little and there is no likelihood that it will go up substantially at any time in the near future. When petroleum supplies run short, as they inevitably will some day, it seems more likely that the industrial chemists, in their search for motor fuel, will turn to some cheaper source of power than corn.

Of course, on the bright side of the farmers' picture is the fact that 80 percent of corn is turned into animal products and the

demand for animal products expands with increased prosperity. The building expansion which now seems to have started in a substantial way in the United States will undoubtedly be accompanied by increased consumer purchasing power. This should result in increased demand for meat and dairy products made out of corn. Balancing off the dark against the bright side of the picture, we can realize that 2 years of ordinary weather can easily bring corn prices down to 30 cents a bushel on Midwest farms.

III. BALANCED ABUNDANCE

I have been asked to discuss the "economy of scarcity" as it relates to agriculture and the country in general. This phrase has caused more unfortunate misunderstanding than almost any phrase I know of. No person in his senses can advocate an "economy of scarcity."

It is true that the capitalistic system, in its competitive search for profits, brings about scarcity again and again. But anyone who has any responsibility whatever for helping to work out governmental "rules of the game" which influence volume of production must deplore anything which could bring about an "economy of scarcity."

It would make for clearer thinking if we ceased to use the phrase "economy of scarcity" indiscriminately, or to use the phrase "economy of abundance" without regard to the realistic problems of the market. It would be better if we turned our attention instead to ways of progressive balance as a means of attaining balanced abundance.

It is not an "economy of abundance" to have in the United States a carry-over of 400,000,000 bushels of wheat if the result of such carry-over is to push wheat prices down to 30 cents a bushel and to create unemployment in the cities.

Under the capitalistic system the human stomachs in that part of the world with which the United States can do business profitably under the present rules of the game can hold only so much wheat. If more than this amount of wheat is produced, the result is not the feeding of the multitudes but the destruction of the purchasing power of thousands of farmers and city people.

The capitalistic system, if it is to be saved, must strive for governmental rules of the game which promote balance. If the capitalistic system really is to serve modern society, it must not only strive for such rules but also for those rules which favor the increased use of technology in a way to promote a course of progressive balance. Instead of this phrase "progressive balance", some might prefer to say "balanced progress." It carries a slightly different meaning, but I think both phrases are suggestive of the thing I have in mind.

In changing the rules of the game from year to year in order to promote balanced progress it is essential for all the people of the United States to have continual access, in an unprejudiced way, to the items of news which disclose to us the signs of the times. Balanced progress in agriculture is more difficult to attain than in industry, because there are so many more individual competing units and because of the unforeseeable effect of weather, insects, and crop disease.

Industry, in order to make balanced progress, has more and more used the device of the corporate form of organization, chartered on a State basis but operating, in the case of the great industrial commodities, on a continent-wide basis. Ofttimes these great corporations, with their concentrated buying power, can take unfair advantage of the farmers, especially in years of unusually favorable weather.

Because of this situation farmers have more and more come to feel the need of developing for themselves, through the Government, a type of bargaining power which gives to them the moral, legal, and economic equivalent of that which the corporate form of organization gives to the great corporations.

IV. REGIMENTATION?

Some people say that if there is to be balanced progress there must be "regimentation." They say this is especially true in a decentralized industry like agriculture. I suppose there has always been regimentation since human beings began to live together. All laws have in them something in the nature of regimentation. For myself, I have always preferred to use the phrase "rules of the game" rather than "regimentation."

Undoubtedly the most extraordinary regimentation in the United States today is that represented by the rules of the game that the Federal and State Governments have permitted our industrial and other corporations to set up and to use for controlling so much of our economic life. The average employee, the average consumer, even the average stockholder, accepts or has to abide by the decisions made by our corporations, sanctioned by Federal or State law—decisions that directly affect employment, prices and profits.

"Corporate regimentation" is so omnipresent, so much a part of the air we continually breathe, that we have ceased to recognize it. The great corporations were first in the field of regimentation, and apparently some of them are jealous of agriculture and labor, as these two great consuming groups endeavor to work out corresponding rules of the game for themselves.

Agriculture started working out rules of the game corresponding to those in the great corporations under the Agricultural Adjustment Act of 1933. Crude as this act may have seemed, it had in it so much that was economically and socially sound that a majority of farmers of the United States seem determined to continue in this direction. They disclosed their attitude in the election of 1936, and even more emphatically following the election.

There is no question in my mind that the Constitution of the United States, interpreted in the spirit of the founders rather than in the spirit of special pleaders for the great corporations, is such as to enable the farmers to work together for balanced progress. But undoubtedly the precedents established by the Supreme Court in recent years serve in some measure as a barrier between the people of the United States and the spirit of the living Constitution. In this connection, the new booklet by Charles Beard, entitled "Jefferson, Corporations, and the Constitution", contains some well-taken points.

V. APPLYING THE RULES

With ordinary weather the problems of agriculture in the years immediately ahead are certain to be so complicated by shifting of markets and the impact of technology that it will require the utmost cooperation on the part of men of good will in all classes if the most serious difficulty to the entire social structure is to be avoided.

In saying this I realize that the problem of keeping progress and adjustment in business on a balanced basis is almost as great as that in agriculture. And there now begin to appear not only the problem of balance within agriculture, within labor, and within industry, but also the problem of progressive balance between these groups. In seeking such balance between the groups it is exceedingly important that the emphasis be laid on increasing balanced production of those things we all need and want, at a price low enough to pass such increased balanced production into consumption, but at a price high enough to keep such increased production coming. To bring about such balance on an ever-ascending standard of living it seems essential that there be a widespread diffusion of purchasing power.

Obviously, governmental rules of the game, insofar as they apply to any particular class or region, should not violate this broad concept of the economic welfare of the whole. Public opinion should be so well informed that it will be impossible for any group or class to violate for long the formula of the general economic welfare. The corporations which hold up prices unduly and unfairly, or which restrict production unduly, should have their governmental power to fix prices or restrict production taken away from them.

It is exceedingly important that the governmental rules of the game, whether expressed in monetary policy, tariffs, attitude toward corporations, or what not, should not distort the judgment of millions of people as to the eventual rewards which may be expected for certain types of activity.

From an economic and a governmental point of view, one of the great sins of the 1920's was the governmental policy which encouraged the accumulation of billions of dollars in corporate surpluses that were used to finance the stock market boom—a boom which distorted the judgment of millions of people. Those in positions of responsibility in the Government should continually be alert to dangers of this sort. It is a governmental duty to see that the rules of the game avoid encouraging speculative excesses which send productive human efforts into channels where they are not eventually needed.

While nothing has yet appeared during this recovery period in the nature of a speculative boom in real estate, we must guard against the possibility of such a boom starting in the next 3 or 4 years and finally destroying the benefits of a considerable part of the New Deal. The question might be raised as to whether certain modifications might be made in both our Federal and State laws to minimize the harmful effects of real-estate speculation. Also the real-estate associations themselves might for their own benefit foster education among their members to minimize the harmful effects of real-estate booms.

VI. PROBLEMS TO BE SOLVED

During the coming 10 years, under the Government rules of the game that are adopted, it seems to me we should be creating a greater degree of economic and social security for the next generation of farmers in the United States than has been provided so far.

We shall be determining the degree to which the unforeseeable accidents of farming, such as weather and pests, can be eliminated by the gradual adoption of practical forms of crop insurance. We shall be determining the degree to which sensible production adjustment can maintain farm income at a point high enough to do justice to agriculture without harm to the consumers. We shall determine the extent to which the soil fertility of the United States can be maintained for future generations. We shall determine whether or not it is within the power of government to stop the wastage of human as well as soil resources that grow out of farm tenancy, and start the tenant farmers of the United States gradually on the road to ownership or at least greater security of tenure as fast as they demonstrate their ability to farm efficiently and plan their personal economic affairs sensibly.

The people of the United States, both in the cities and in the country, are awake to these problems as never before. They have the faith that we shall strive resolutely to solve them.

I have been asked, "Is there danger of a peasant group in the United States?" I am tempted to say that one-third of the farmers of the United States live under conditions which are so much worse than the peasantry of Europe that the city people of the United States should be thoroughly ashamed. One of the first problems is to bring this group up to a level as high as that of the peasantry of Europe. This is the job to which the Resettlement Administration has addressed itself in its activities embracing some 500,000 farmers. It is a slow job, which will still be only partially solved 50 years hence.

The United States has been as backward in meeting the problems of its farmers as it has been in providing social security for its city workers. In parts of the United States, there is a tremendous pressure of population on the land which makes any solution difficult, and at the moment impossible. Yet in the country as a whole, we have a sufficient volume of natural resources so that we can, when American ingenuity addresses itself effectively to the problem, bring about a solution for both our farmers and our city workers far superior to that which has been reached in the countries of northwestern Europe.

But we are not out in any way to copy Europe. For we believe that, with our advantages, now that our social conscience has been aroused, we can do a better job of pursuing a course of progressive balance to attain balanced abundance than has been done in the past. We should, of course, profit by the experiences of other countries. But our real task is to achieve progressive balance within agriculture, within industry, and between agriculture and industry.

In other words, we need to work out relationships that are balanced but not static, and that bring progress and abundance. Our man-power, our machinery, our science, and our resources can, if these relationships are worked out, give our people a standard of living such as they have never known. I am convinced that this will ultimately be possible under our American form of democracy and through social and economic devices that are in keeping with the spirit of the Western Hemisphere.

Centennial of Michigan

EXTENSION OF REMARKS

OF

HON. GEORGE D. O'BRIEN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 29, 1937

Mr. O'BRIEN of Michigan. Mr. Speaker, 100 years ago, on January 26, 1837, Michigan was admitted as a State of the Federal Union. There had been some delay owing to a dispute with Ohio about the southern boundary line. The Ordinance of 1787 for the government of the Northwest Territory provided the southern line of Lake Michigan as the line of the southern boundary of the State. Ohio, however, claimed a more northerly boundary line. Finally, Michigan acceded to the Ohio claim and took in lieu thereof territory known as the upper peninsula.

Previously, stirring events in early colonial history had taken place in Michigan. The saintly Father Marquette had made the first settlement in 1668, and along the eastern shore of Lake Michigan had passed to his eternal rest.

The courtly Cadillac had founded Detroit in 1701. At this time the solitude of the vast forests of Michigan was unbroken by the sound of the woodman's axe. The great oaks, hickories, walnuts, and maples towered secure in majestic grandeur, and in all the region of the pine there was audible as yet neither promise nor prophecy of the rich harvest which the lumberman of another day was to reap. The elk and the deer and the bear and the beaver and buffalo were undisturbed in the woods, and choice fish were abundant in the lakes and streams of the peninsula. The wealth of iron and copper ore in the Lake Superior region was as yet unknown. With the triumph of General Wolfe on the Plains of Abraham and the fall of Quebec, the territory embraced in Michigan passed from the French founders into the possession of the English. The early French settlers, however, had left an abiding imprint on the region and for many decades Detroit retained its character as a French settlement. When peace was negotiated at the close of the Revolutionary War the line of the Great Lakes was followed as the proper boundary between the lands of the American Union and the lands of the British crown, and no name is more conspicuous in securing the Northwest Territory, as it was then called, to the American Union than that of the colonial soldier and pioneer explorer, Col. George Rogers Clark. Conspicuously written in the annals of early Michigan is the name of Father Gabriel Richard, who instituted higher education and preached the gospel and ministered to his flock as the true shepherd. In the War of 1812 Detroit fell into the hands of the English by the surrender of General Hull, but at the same moment started the career of that illustrious son of Michigan, Lewis Cass, who broke his sword rather than surrender, even in the face of his superior officer. Then followed his career as Governor of the Territory of Michigan, as Secretary of War in President Jackson's Cabinet, as Ambassador to France, Senator of the United States, Secretary of State, and candidate for the Presidency.

The Ordinance of 1787 for the government of the Northwest Territory had proclaimed, "Religion, morality, and knowledge being indispensable for good government, schools and the means of education shall forever be encouraged." No commonwealth in the world makes provision more broad, complete, or thorough for the general education of the people. It has been the settled conviction of the people of Michigan for many years that there can be no more worthy expenditure of public moneys than in the training of men and women in useful knowledge, and they have acted upon that conviction.

Twenty-five hundred years ago the prophet Nahum spoke:

> The chariots shall rage in the streets. They shall jostle one against another in the broad ways; they shall run like the lightnings.

In Detroit, the heart of the automobile industry, beats the pulse of the modern industrial civilization. The automobile has revolutionized industry and revolutionized living. The founders of the industry were themselves workmen, mechanics. Out of the almost incredible growth of the industry has developed a new aristocracy of wealth and power and a new serfdom of machine workers. Let all concerned revert to the birth of this industry and realize that its pioneers were themselves workingmen—toilers and mechanics—and then out of its great richness lay the basis for a secure living for those that toil; for a recognition of the rightful worth of labor. The great forests of Michigan which once yielded a lumber industry that was the greatest in the country; its mines of copper and iron and coal; its almost unlimited deposits of salt; the newly discovered sources of oil; its fresh-water fisheries; its wheat farms and fruit trees; its climate and beautiful lakes; its people drawn from many varied races of the earth, a true melting pot; and its greatest richness, the energy and courage of its citizenry, all combine to justify the scroll on the seal of the sovereign State of Michigan, "If you seek a fortunate peninsula, look around you."

Aliens on Relief

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Friday, January 29, 1937

EDITORIAL FROM SATURDAY EVENING POST

Mr. REYNOLDS. Mr. President, I ask unanimous consent to have published in the Appendix of the CONGRESSIONAL RECORD an editorial from the Saturday Evening Post of January 23, 1937.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Saturday Evening Post of Jan. 23, 1937]

ARE THERE A MILLION ALIENS ON RELIEF?

There may be as many as 1,000,000 aliens of illegal entry on our relief rolls, supported by taxpayers, according to Arthur Krock, of the New York Times. Mr. Krock offers this as another explanation of the administration's curious hesitation to take a census of the unemployed.

He suggests that Congress may be about to be asked virtually to suspend the naturalization laws, that this army of aliens of illegal entry may quickly be made citizens in as good standing as any others.

The Times is a pro-administration newspaper, generally unfriendly to immigration restriction. Mr. Krock is in entire sympathy with his newspaper's position in both instances. His figures and conclusions, therefore, are that much more impressive.

"This correspondent does not pretend", he says, "to any knowledge of the number * * * of unemployed aliens on illegal residential status in the United States. He shares the belief that there are hundreds of thousands, and has heard guesses of a million. He is aware of the anxiety on this point in the administration, and that this anxiety is one reason why some of the President's aides have opposed an accurate census of the unemployed."

Pointing out that deportation—if there were anywhere to deport a million persons—would be more drastic than anything in history, he continues:

"This is all very well from the humanitarian point of view. But if the facts are made official and public while the naturalization laws remain as they are * * * there will be furious attacks against the Department of Labor and the Relief Administration uttered by persons representing many viewpoints. Since aliens illegally in the United States are subject to deportation there will be proof of failure to enforce the law. Since infringements of quotas will be manifest another unpunished violation will be equally apparent. And since it is not unreasonable, after all, for American taxpayers to resent levies * * * to provide livings for citizens of other countries, there will be a large, sincere, and normally humanitarian group that will raise the roof.

"If a vast infiltration of aliens on the rolls of the unemployed shall be disclosed after the passage of a law clearly revealed as having been based on administration knowledge of facts not made available to the public, probably there will be a storm anyhow. * * * That is why some people in the administration, fearing * * * that the collection of actual statistics cannot much longer be dodged, are studying the naturalization laws with a view to suggesting emergency revision."

If Congress were to do this, the break-down of immigration restriction could not of course stop there. An increasing number of aliens inevitably would flow across our borders, secure in the knowledge that the law is loaded with blanks.

"Manifestly," Mr. Krock continues, "* * * it was impossible for Administrator Hopkins and his Federal and State aides to make an effective inquiry into the citizenship status of every one who applied for relief. Hunger and destitution are affairs of the hour. * * * Reasonable people would expect, and probably condone, infractions in a reasonable degree. But if a census should disclose what is feared by some in touch with the reemployment and relief activities, reason might fly out the window, and Mr. Hopkins and Secretary Perkins might find themselves the centers of a storm violent enough to sweep them both out of office."

Reason already has flown out the window, it seems to us. Madam Perkins evidently does not like the immigration laws that it is her duty to enforce. She cannot be accused of even having pretended to like them. Presumably the Border Patrol has been as vigilant as its meager numbers permit, the port inspectors faithful; but the Department itself has shown little interest in stopping illegal entry, and definitely less in punishing it, once detected.

Immigration restrictions, for which this magazine has fought steadily since the war, has two fundamental social purposes. One is to protect American labor from a constant labor surplus that is used to wages and living conditions intolerable by our standards.

What has labor got to say about that?

General Motors Corporation

EXTENSION OF REMARKS
OF
HON. GERALD P. NYE
OF NORTH DAKOTA
IN THE SENATE OF THE UNITED STATES
Friday, January 29, 1937

ARTICLE BY SAMUEL ROMER ENTITLED "PROFILE OF GENERAL MOTORS"

Mr. NYE. Mr. President, a most important article appeared in the issue of the Nation of January 23, 1937. The article is under the title "Profile of General Motors." I ask that the article be printed in the Appendix of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Nation of Jan. 23, 1937]

PROFILE OF GENERAL MOTORS

By Samuel Romer

When sit-down strikes in five General Motors automobile and parts plants resulted in a practical paralysis of production operations and forced direct negotiations between national officers of both the corporation and the union, few of the workers involved realized that they were participating in the first important battle of a civil war which will largely determine the industrial progress of America during the next decade. For the attack on General Motors was basically an attack on one of the important sectors of Wall Street; other sectors are steel, oil, aluminum, and rubber. And the defense of the General Motors Corporation was the beginning of a Nation-wide strategic defense in the coming struggle.

When the United Automobile Workers and the Committee for Industrial Organization with which the union is affiliated chose the automobile industry as their first base of operations, they did not pick a weak link in the national set-up of Wall Street. For G. M. is one of the giant corporations of America—its assets of $1,268,532,025.85 being topped in the field of manufacturing enterprise only by those of the American Telephone & Telegraph and United States Steel. General Motors stands by itself in the automobile industry; its assessed value equals that of Ford, Chrysler, and Studebaker combined, with a few of the lesser shops thrown in for good measure. Ten years ago it challenged the invincible Ford and licked him. Fifty-five percent of the nation's 320,000 automobile workers are located in the 69 G. M. plants in the United States; thousands of others are bossed by G. M. throughout the world. G. M. manufactures and sells not only automobiles but household appliances, gasoline, airplanes, and even air rides.

It began its existence in 1908 with the goal of absolute domination of the industry. In the early hectic days, when every first-class mechanic who could raise a few thousand dollars opened his own plant, Wall Street took alarm at the spectacle of more than 600 competing firms. Ward, Hayden, and Satterlee (the latter a Morgan in-law), a New York law firm, began negotiations with Benjamin Briscoe, of the Maxwell-Briscoe Co., an early pioneer, and William C. Durant, whose Buick then led the field, and suggested a meeting. They met, Briscoe later wrote, for "the purpose of having one big concern of such dominating influence in the automobile industry as, for instance, the United States Steel Corporation exercises in the steel industry, so that its very influence would prevent many of the abuses that we believed existed." The projected combination would have included the big four of that time—Buick, Ford, Reo, and Maxwell-Briscoe—with all checks countersigned by Morgan. This plan fell through when the late Senator Couzens, acting for Ford, and R. E. Olds, of Reo, each demanded $3,000,000 cash before they would enter the combination. The idea was then discarded; Morgan wasn't ready to spend $6,000,000 to bottle-neck automobiles—it was too great a speculation!

Durant and Briscoe, aided by George W. Perkins, a Morgan partner, continued conferences on a further proposal to form International Motors—with the same object in view. But when Stetson, the Morgan attorney, accused Durant of double-crossing the others by privately purchasing stock during the conferences, the Buick manufacturer broke off negotiations and began the organization of his own holding company, the General Motors Co. of New Jersey. He immediately set about to achieve domination of the industry: his first important act was to take an option on the Ford Motor Co. for an $8,000,000 sale price with $2,000,000 cash as down payment. He was dealing with badly scared men in Henry Ford and James Couzens—the Selden patent decision had just been handed down and it spelled ruin for those manufacturers who, like Ford, wouldn't play ball with the rest of the crowd. But if Ford and Couzens were scared, they still retained enough of their business acumen to demand a 25-percent down payment. Durant couldn't raise the money and Ford continued making automobiles.

But there were many manufacturers, large and small, who weren't worried about the cash—and these Durant bought by giving them huge blocks of stock. In two years General Motors had the entire or controlling interest in 20 automobile and parts plants and was producing 10 makes—21 percent of the entire United States output. Durant ran wild in his expansion; his exaggerated stock issues and "gifts" of huge blocks of promotion stocks to friendly executives created whispers of "water." He was running heavily in debt to suppliers and commercial banks without the liquid capital to balance. A final inexplicable flier in the worthless stock of the Heany Lamp Co. for $7,000,000 completed the rout, and late in 1910 the Wall Street wolves closed in on their prey.

For a $15,000,000 debt refunding, a syndicate headed by Lee, Higginson & Co. and the J. & W. Seligman & Co. forced Durant to agree to voting-trust control of the corporation, with the bankers retaining four of the five votes of the trust. Durant was through—2 years after he had founded General Motors with grandiose hopes.

There is something likable about Durant. For one thing he is one of the few who didn't come from Wall Street to run the industry; instead he came from the industry to run Wall Street ragged during the boom years of the twenties. Although he later became known, thanks to the American Magazine, as one of the Wall Street bulls, he always had an open contempt for the vested crowd and delighted in beating them at their own game. From them he learned the technique of the double-cross, and he applied it to them with a vengeance. That today he is a beaten man is a tribute to the power of organization; that it took "the crowd" more than two decades to beat him is a tribute to his shrewdness and pugnacity.

When he was forced out in 1910 he scornfully disdained to ride along while the bankers took the wheel. Even as the reorganization of G. M. was begun, and by a stroke of a pen five of the less profitable makes were eliminated, Durant set about organizing the Chevrolet Motor Co. In New York he met John J. Raskob, secretary to Pierre S. Du Pont, who was seeking a market for the stupendous war profits of the munitions concern. Durant talked; Raskob became convinced. Together with Louis G. Kaufman, an

independent New York banker and capitalist, they paved the road for Durant's return by buying General Motors stock on the open market.

Legend has it that on October 1, 1915, when the voting-trust agreement expired, the anti-Durant conspirators were startled by the entrance of their foe into the G. M. conference room. Slowly, confidently he walked to the head of the table and flinging down his proxies declared: "Gentlemen, I control." Legend, as usual, is probably wrong in the exact details of the proceedings, but the story undoubtedly expresses Durant's feeling when he regained domination of G. M. Durant was again king—even if the Du Ponts were parliament. A last-minute attempt by the anti-Durant block to mobilize the stockholders was of no avail; after a weak fight Charles W. Nash, who had built up the net income from $2,474,177 in 1910 to more than 10 times that in 1915, sought new fields to conquer and subsequently began Nash Motors. Durant was again running the works—subject to the qualified control of the Du Ponts. He was later to discover that he had jumped from the frying pan into the fire.

Things ran smoothly for a while. In 1919 G. M. acquired 60 percent in Fisher Body; later it made the latter a unit of its empire. (As an example of the complete victory of finance over manufacturing in G. M. control, Fisher Body is almost perfect. There were seven Fisher brothers at the time of the merger; today only two are left on the G. M. board of directors—and they don't say much.) In 1919 a 1,000-percent stock dividend was declared for all shareholders, and a tremendous debenture stock issue of more than $217,000,000 was ordered. The issue was undersubscribed, however, and when Durant used his entire personal fortune to try and bolster the falling market of 1921—G. M. shares fell from $376 in March to $13.25 in December—the Du Ponts decided that they were through playing with the automobile magnate. Along with Morgan they closed in; and Durant was again through. The Du Ponts still were parliament, but Morgan was now king.

Today Lammot Du Pont, president of du Pont de Nemours, is chairman of the board; Alfred P. Sloan, Jr., who rode in on Pierre Du Pont's coattails in 1920 as operating vice president, succeeded Pierre as president in 1923. Other Du Pont men on the board of 35 are three more Du Ponts, Donaldson Brown, a Du Pont in-law who acts as riding boss in his capacity as chairman of the powerful finance committee; Walter S. Carpenter, Jr., and Raskob. Morgan is represented by Junius S. himself, George F. Baker, Owen D. Young, Clarence M. Woolley, George Whitney, and Seward Prosser. Seven Du Ponts and four Morgans sit on the finance committee of fourteen. Other interesting members of the board are Sir Harry McGowan, of the Imperial Chemical Industries of England (the British Du Ponts); Fritz Opel, of the Adam Opel, A. G., of Russelsheim, Germany, and Arthur B. Purvis and R. Samuel McLaughlin of Canadian Industries. A cross-section of the interlocking directorates (229 seats) represented on the G. M. board would make even Mrs. Dillon quail.

General Motors began as a holding company, but it soon became an operating enterprise. Its affiliates are divided into the following groups: 8 passenger- and commercial-car companies with 18 plants, 20 body and parts companies with 37 plants, a national service company, Delco Appliance and Frigidaire, 2 airplane plants, Eastern, Western, and Transcontinental air lines, Ethyl gasoline, 4 members of its own financial group, 4 real-estate corporations, 3 research companies, and an impressive world-wide network of sales and assembly companies. The corporation has never passed a dividend since 1916—when Durant returned to power; before that time it reinvested in itself its entire net income. Even in 1932, when it operated at an enormous deficit, it paid dividends of $53,993,330 from its surplus. In 1934 it divided a $64,443,490 melon; in 1935 its net income of $167,226,510 was exceeded in its enormity only by its 1926 to 1929 incomes. (It is in comparison with these figures that the importance of the 1936 bonus of $10,000,000 can be measured.) Its officials rank among the highest-paid men in the country, and their salaries are supplemented by dividends and generous bonuses. From the $348,841,524 invested in the corporation since its formation, General Motors paid cash dividends of $1,299,700,081 through 1935, part of the net income for that year of $2,031,044,988.

But although G. M. has been more than generous with the top layers, ordinary workers have received an average yearly wage of $1,525, according to the 1935 report. This figure is, of course, too high—it includes the nonautomobile worker and the highly skilled craftsman, along with the men on the assembly line and at the punch presses. Independent reports have established something under $900 as closer to the annual wage of the average automobile worker. G. M. has been no shining exception to the rule in the automobile industry that "high wages" may be a fine-sounding slogan to sell cars but nothing to worry about in actual manufacturing operation. G. M. boasts of the wide diffusion of its stock ownership. There are 337,218 shareholders, the financial report declares. But nearly half of these, or about 140,000, hold 10 shares or less. The Du Ponts themselves hold only about 10 percent of the stock but, nevertheless, retain control by pyramiding their holdings into nearly 33 percent.

G. M. has followed the orthodox tradition of the automobile barons in its dealing with its employees. The men, even their private lives, are considered company property. Its espionage organization is almost as highly developed as the feared Ford service; cities like Flint and Pontiac and Detroit are completely under its thumb. Long before the notorious Black Legion appeared in the down-river Ford area, G. M. workers in Pontiac dreaded the "Bullet Club", a secret political organization whose officials practically displaced the formal employment agencies in hiring and firing.

The importance of the skirmish victory won by the union when the corporation agreed to meet with the union officers in an effort to settle the strike may well be overemphasized. G. M. has always followed a flexible policy in its labor relations. Even during the open-shop heyday of 1922–25, when its executives boasted that not a union man worked in their plants, unions were tolerated on the highly skilled crafts, such as the metal polishers, and verbal agreements were often reached. G. M. shapes its labor policy in relation to the question of nuisance value; it has not hesitated to meet and bargain with groups when it would have been expensive to do otherwise. With production almost completely shut off by the sit-downs, while Ford and Plymouth sales are reaching top marks, G. M. may well decide that a temporary settlement is its best strategy. But such a settlement will decide nothing in the larger battle; it will only mark a truce as both sides prepare for the next drive.

In 1935 the 350 officers, directors, and managers of General Motors received an aggregate reward of $10,000,000 in salaries, bonuses, and commissions. This represented, for 11 executives, an increase in "wages" of from 50 to 100 percent over 1934. In the same period General Motors granted a 5-percent increase in the hourly rate of its wage workers. We print below a list of the 27 executives who received more than $50,000 in 1935. Figures are taken from Government reports and from the statements of the corporation as reported in the New York Times.

Alfred P. Sloan, Jr., president	$374,505
William S. Knudsen, executive vice president	325,869
Donaldson Brown, chairman, finance committee	249,862
John L. Pratt, vice president	249,862
John T. Smith, general counsel	245,437
William A. Fisher, vice president	224,107
Edward F. Fisher, general manager Fisher Body division	221,347
Charles F. Kettering, director, research laboratories	216,036
James D. Mooney, vice president	205,543
Richard H. Grant, vice president	203,478
Albert Bradley, vice president	190,091
Ormand E. Hunt, vice president	190,041
Charles E. Wilson, vice president	189,991
Marvin E. Coyle, general manager	133,670
John J. Schurmann, Jr., president, General Motors Acceptance Corporation	119,013
B. C. Place, salesman engineer	92,298
Elmer G. Biechler, president, Frigidaire	84,745
Frederick C. Kraeger, general manager, Delco-Remy division	84,424
Lewis D. Curtice, president, Buick division	81,260
Charles L. McCuen, president, Olds division	81,099
Stephen M. Du Brue, director, art and color section	77,763
Thomas P. Archer, vice president	69,144
James M. Crawford, chief engineer, Chevrolet division	68,375
Floyd O. Tanner, executive manufacturing staff	58,287
Ernest W. Proctor, comptroller	52,754
John J. Carter, Olds divison	52,325
David E. Ralston, Olds Motor Works	51,437
Grand total	4,192,773

Loans to Farmers

EXTENSION OF REMARKS
OF
HON. NAN WOOD HONEYMAN
OF OREGON
IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1937

Mrs. HONEYMAN. Mr. Speaker, I wish to say in connection with House Resolution 80, providing loans to farmers for crop production and harvesting during 1937, that this assistance has been of inestimable value to the farmers of my State, since similar loans were first granted in 1921.

While few of these loans were necessary in the early years the demand for them increased as a result of the depression, and during the past 4 years 9,773 farmers have benefited from them. These loans, averaging less than $125 per family during this period, have enabled these families to continue their chosen occupations on the soil they have long dwelled on, and to build by their own toil and initiative for the future.

Oregon is large in area and has a wide variance in geologic and climatic conditions. While the arable land is unusually fertile and productive with irrigation or sufficient rainfall there is a vast acreage, nonirrigated, in the central and

eastern portions of the State, which I might term one-crop areas producing either grain or feed. My colleagues from the far West will appreciate the problem this offers when adverse weather or marketing conditions arise.

West of the Cascade Mountains, farming is more diverse, intensified, and specialized, and the farmer specializing in the production of one of the lesser and more delicate food commodities also has occasional years of failure, but can readily build back with the grants of these seed loans, his seed costs being relatively higher than that of those raising staples.

Checking back over the past 4 years I find that while in 1933 there were 3,241 loans, averaging $112.62, granted in Oregon, the following year there were only 931 loans necessary, these averaging $120.19. Statistics may seem dull indeed, but, translated into a human picture, this shows that 2,310 families who needed this slight help in 1933 were able to continue production without that help in 1934. In 1935 there was a slight increase in the number of loans, and the average amount sought was $148.09, while last year 4,480 loans were required but the average dropped to $128.21.

Generally speaking, crops have been more satisfactory since these loans were sought and the market has improved so that I anticipate a drop in the demand for loans this year. Whatever that demand is, however, the farmers of my State have been quick to meet their obligations, and on November 1, I am informed, had repaid the Government 89.3 percent of the money borrowed for crop production and harvesting. That, I believe, approaches the highest recovery of any State, which attests to the long-term agricultural stability of Oregon.

In my opinion, the Government will suffer no loss at all from the administration of this aid as it has preserved the means of livelihood, independence, and spirit of energetic farmers who have, through all adverse circumstances, held to the soil and in most instances worked out, with this small help, their own economic salvation.

Until a satisfactory program of crop insurance, which, of course, would alleviate the necessity of this type of assistance, can be worked out, I favor the continuance of these loans, for I feel that few types of aid offer such continuing benefits without any actual cost, contemplating that interest charges pay administrative overhead.

Social Security

EXTENSION OF REMARKS
OF
HON. WALTER F. GEORGE
OF GEORGIA
IN THE SENATE OF THE UNITED STATES
Friday, January 29, 1937

EDITORIAL FROM THE ATLANTA CONSTITUTION, JANUARY 28, 1937

Mr. GEORGE. Mr. President, a few months ago the Honorable Clark Howell, who was connected all his life with the Atlanta Constitution, one of the great newspapers of the Southeast, passed away. He was succeeded by his son, Maj. Clark Howell, Jr., in all respects a worthy successor of his distinguished father. I ask to have printed in the RECORD an editorial from the Atlanta Constitution of January 28, 1937, upon the important subject of social-security legislation, dealing with the problem not only from the standpoint of State legislation but dealing also with the Social Security Act from the national viewpoint as well.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Atlanta Constitution, Jan. 28, 1937]

THE SECURITY LEGISLATION

The general assembly has before it measures intended to give Georgia a cooperative status with respect to the national Social Security Act. While this legislation is being shaped, the important fact that Congress is certain to amend the law in significant particulars should be borne in mind.

The general public is not aware of the depth and range of these necessary changes. The act as it stands is a clumsy performance. That was the verdict of experts at the time it was adopted. It is now the opinion of many others who have had a chance to observe it as a working proposition.

Among critics of the Social Security Act, none speaks with better authority than Abraham Epstein, long a recognized expert on social security, who has contributed to the New Republic an article in which he discusses the subject with a moderation of tone which only heightens the effect of his appraisal.

He fears that unless steps are taken promptly to alter the present act in material respects, disillusionment is certain to seize upon the people of the United States, with the result that the cause of social security will be gravely injured. By failing to stress the social rather than the insurance phase of the problem, Congress has gone far toward defeating the purpose behind this legislation, Mr. Epstein contends.

That is why, he argues, that while the relief features of the law can be easily improved, the old-age insurance plan must be dealt with in a much more fundamental fashion. "The main defects in the old-age insurance phase of the act," says Mr. Epstein, "arise from the Federal Government's desire, contrary to all experience abroad, to establish a system of compulsory old-age insurance in order to escape all governmental responsibility for the accumulated problems of old-age indigency * * *."

One result is that we face a prospect of huge reserves amounting to $47,000,000,000 in 1980. Another result is that to get rid of State subsidies quickly, as well as to build up reserves, extremely high contributions are the order of the day. On this Mr. Epstein comments that "since they could not be set high enough to accomplish this double purpose adequately, the Government preferred to sacrifice the older workers. Its old-age security scheme, therefore, does not secure the aged."

But Mr. Epstein reserves his most telling fire for what he calls "the present cumbersome tax-credit plan for unemployment insurance." He doubts that it can be amended into effectiveness, because it involves "such a top-heavy administrative mechanism", sets up 48 additional State tax systems making for confusion, inequality, and bad feeling, and provides little real security for the unemployed. Whatever else may or may not be done for the sake of correction, Mr. Epstein insists that "unnecessary duplicating taxes and bookkeeping must not be perpetuated."

Mr. Epstein is executive secretary of the American Association for Social Security. He cannot be charged with political animus when he presents this critical analysis.

Certainly, it would be unfair to label as enemies of social security those who urge less emotion and more knowledge in the treatment of this problem.

We have emerged from an era of labels and slogans. In providing for sound, honest, feasible security for the aged and the unemployed we must utilize experience and rely upon facts.

The Georgia General Assembly should move slowly and surely in order that the pitfalls encountered by Congress in enacting the National Social Security Act may not be encountered.

Public Assistance and Relief

EXTENSION OF REMARKS
OF
HON. HARRY L. HAINES
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Friday, January 29, 1937

LETTER FROM HERBERT F. GOODRICH, CHAIRMAN, PENNSYLVANIA COMMITTEE ON PUBLIC ASSISTANCE AND RELIEF

Mr. HAINES. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letter written to me by the chairman of the Pennsylvania Committee on Public Assistance and Relief:

PENNSYLVANIA COMMITTEE ON
PUBLIC ASSISTANCE AND RELIEF,
Philadelphia, Pa., January 27, 1937.

Hon. HARRY L. HAINES,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN HAINES: I am instructed by the members of the Pennsylvania Committee on Public Assistance and Relief to forward to you a copy of the following resolution presented and passed at a meeting of the committee in Harrisburg last evening. The committee earnestly solicits your careful consideration of the proposal contained in the resolution.

"The members of the Pennsylvania Committee on Public Assistance and Relief, meeting at Harrisburg, respectfully urge the continuance of the Works Progress program in Pennsylvania at its present level until continuing business recovery assures other

employment for those dismissed from the Federal program. This committee of citizens appointed by Gov. George H. Earle a year ago to study relief problems believes that the early drastic reduction of the works program reported in the press would cause great hardship and would impose oppressive burdens upon Pennsylvania, which is already taxing itself heavily to maintain adequate direct unemployment relief."

Very respectfully yours,

HERBERT F. GOODRICH, *Chairman*
(By direction of the committee).

Dinner of Electoral College Committee

EXTENSION OF REMARKS
OF
HON. F. RYAN DUFFY
OF WISCONSIN
IN THE SENATE OF THE UNITED STATES
Saturday, January 30, 1937

ADDRESS BY HON. JAMES A. FARLEY, CHAIRMAN OF THE DEMOCRATIC NATIONAL COMMITTEE

Mr. DUFFY. Mr. President, I ask unanimous consent that there be printed in the Appendix of the RECORD a very able address delivered by Hon. James A. Farley, chairman of the Democratic National Committee, at the dinner of the Electoral College Committee held in Washington on January 19 last.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Under the brilliant and honest leadership of Franklin D. Roosevelt we have won the most tremendous victory in history.

But it was more than the personal vindication of a great statesman and his humane policies—it was an impressive demonstration to all the world, at an hour when the world needs the lesson most, of the intelligence and virility of democracy when it has a dynamic leadership.

It was a declaration from the American people that they have fully awakened to the perils threatening American principles and institutions, and have determined that they shall not be offered up as a burnt offering to privilege and plutocracy.

This victory means that the torch of liberty and democracy, lighted by Jefferson, has, by the mandate of Americans of all political persuasions, been entrusted to the keeping of the most gallant crusader of Jeffersonian democracy that this land has ever known.

It means that Roosevelt has a mandate from the Nation to finish the great work that he began when, finding the country in economic chaos and financial ruin, he set it on the highway of recovery.

That victory was not the mere triumph of the Democratic Party; it was a victory of democracy and American institutions regardless of party.

Now that the tumult and the shouting of his opponents has been silenced beneath the avalanche of ballots, I reaffirm what I have often said, that during the last 4 years Franklin D. Roosevelt has been fighting the bravest battle ever fought for the preservation and vindication of American principles and ideals.

It was because human greed so long had set aside these fundamental principles and ideals that we suffered through 4 years of unprecedented human misery. It was because of the misery of the people and paralysis of Government in those dark days that American institutions and American democracy were fighting for existence with their backs against the wall.

You know that the average American had begun to doubt the capacity of democracy to protect his vital interests. You know that the opinion grew among the masses that political parties were different only in name and that no matter which party won, the people always lost.

Thus the soil was fertilized for the seed of subversive doctrines.

The sceptics of democracy were giving clamorous voice to their contempt in the halls of the universities. The voice of communism never was so defiant on the soap boxes of crowded cities; and partly because of the fear of an outraged people and partly because it reflected their secret hopes, you know that the beneficiaries of privilege were talking glibly and openly of a dictator or a despot to keep the people in their place.

Never in American history had confidence in democracy and in American institutions sunk so low as during the 4 years that preceded the inauguration of Franklin D. Roosevelt.

And then at the darkest hour came the miracle.

A new captain appeared upon the ship of state. The uncanny silence that had chilled the hearts of everyone instantly was broken by a drastic order from the bridge in the clear, calm voice of confidence and courage. A leader—at last a leader on the bridge!

And how we all thrilled with the realization that at last we had found a leader who not only knew where he was going but already was on his way.

And never had conditions called so loudly for the vibrant voice of a modern Jefferson and Jackson when the leader came.

He knew that democracy and American institutions cannot survive in a land economically half slave, half free.

He knew that the rapidly increasing concentration of the Nation's wealth in the hands of the few is an evidence of disease.

He knew that privilege is a cancer that must be cut out by the surgeon's knife.

He knew that there is no democracy when money and not men determine the policies of the state.

He knew there can be no possible justification for the existence of a system under which the rights of the many are subordinated to the appetitie of a greedy few.

He knew that no institutions can long hold the affection of the people if they are perverted to the enrichment of a privileged caste.

And so Franklin D. Roosevelt had the courage and the vision to undertake the revival of confidence in democracy and American ideals by the elimination of privilege, by the restoration of the Government to the people, and by proving the efficacy of democracy under constitutional government by demonstrating that a democratic republic is able to protect the rights of all the people against the banded powers of pillage.

That was his program; that has been his achievement; and because of that in the last campaign all the powers of reaction could not prevail against him.

And tonight with a rousing mandate from 46 of the 48 States of the Union this foremost champion of democracy in all the world goes forward with the task of making America safe for humanity by economic, social, and political reforms that will make for a greater, sounder, and more equitably distributed prosperity than we have ever known before.

In 4 years he has done more for honest business and honest banking than ever before, and more for safe investing than ever before, and more for labor, more for agriculture, more for miners and operators, and more for women and children than ever before in the annals of this land.

And by an unparalleled majority the American people of all parties and sections have placed the stamp of their approval upon the record made. That is the meaning of the election. And by that token we shall go ahead and finish the job that he began and make America a better abiding place for our children.

But we shall go ahead with charity for all and with malice toward none.

The majority was too tremendous to justify any bitterness on our part toward those who sought to turn us back to black reaction. Their punishment is in their own humiliation. We have no hates to cherish. We have no enemies to punish. We have no grievances to redress. And no man or element of good will and honest intent need fear the next administration of Franklin D. Roosevelt. There is room in the old homestead of Americanism for any of the wanderers of the night who wish to come back home.

For the victory was not ours alone; it was the victory of all Americans.

Our critics realize now that the people do not intend that Americans unable to secure work shall starve.

They realize that the people expect us permanently and definitely to put agriculture on a par with industry and finance, so that the men who till the soil and feed the Nation shall no longer be treated as outcasts from their father's house.

Our critics realize that the people expect us to give to labor a Magna Carta of human rights and to crush communism from abroad by justice here at home.

They realize that the people have ordered us to stand like Gibraltar for the social-security program that sprang from the great heart of Franklin D. Roosevelt.

And they realize that the people are behind us in the determination that the great mining industry on which we are all dependant shall not be wrecked by human greed.

They realize that the Nation approves our decision to put such reasonable legal restrictions on the unscrupulous greed of the few to protect all honest and legitimate business and businessmen.

And knowing all this, they ought to realize that the Capital of the Nation, which we restored to Washington, is going to remain here for a long time to come.

This is an hour for legitimate rejoicing, but it is something more important than that—it is an hour for a solemn consecration of all our minds and hearts and souls to the service of America's democratic institutions by making them conform to the vital needs of the American people of today.

The victory is so great that the responsibilities it carries are all the greater, and these responsibilities, while to the party, are to a greater extent to the country.

We must not forget that there have been times in our history when a political party has won a sweeping victory only to be overwhelmingly swept from power in the next election.

But that invariably has been due to the fact that in its jubilation it has overlooked its solemn responsibilities.

That, I pledge you, we shall not do.

Our enemies confidently count upon the enormity of our majority to sow the seed of dissensions within our ranks. They hope to restore government to privilege by marching to future victory through our divided columns. And the answer is that there will be no divided columns.

There is not a man in America with a knowledge of politics who does not know that the American people are demanding that our

forces shall continue to follow the enlightened leadership of vision that is Roosevelt's.

Wherever he goes we follow; we know the voice of but one commander.

And so it is with a feeling of solemnity that we dedicate ourselves on the eve of the new administration to proving ourselves worthy of the brilliant leadership that is ours and of the awe-inspiring confidence of the Nation.

I would be unworthy of my position if on this occasion I withheld a wholehearted acknowledgment of the great part played in the victory by liberals and progressives regardless of previous party affiliations.

There was a reason why great men and women came to us from the Republican and other parties. This was the first campaign since the days of Andrew Jackson in which the American people have had a clear-cut issue on the fundamentals of Americanism. It was not a red-herring campaign. It was not a fake fight on nonessentials; it was a resubmission to the people, after too many years, of just such primary principles as those that swept Thomas Jefferson into power a hundred and thirty-six years ago.

And if we prove worthy of the confidence reposed in us, millions of Americans, regardless of previous political affiliations, will continue to march shoulder to shoulder with us to future victories until this land is permanently made safe for democracy.

This is a grave hour in the world's history. The world is passing through a crisis the like of which it has not known in centuries.

The happiest lands in the world today are those in which democracy holds sway. And yet there never has been a time since the establishment of government by the people and for the people when cynics have been so busy denouncing the right of the people to rule themselves. Even from the heads of nations we hear democracy openly ridiculed, human rights frankly scorned, and liberty denounced; and this high-handed practice of personal rule is casting its shadow on the world.

If liberty and democracy are to survive, the democracies of the world must face the grim realities and, through reforms when needed, justify democracy to the minds of men.

If there are fewer critics of democracy in America today than in the year preceding the inauguration of Franklin D. Roosevelt it is because he has shown by his works that democracy is effective and that the people, and all the people, can be served through the right operation of the democratic principle.

But one thing stands out like a beacon light in the darkness—that democracy and plutocracy cannot dwell in the same house. If American democracy survives, plutocracy must go. To attempt to serve both masters would be as absurd as for a man to try to ride two horses going in opposite directions at the same time.

Now that the people have spoken—now that the Nation, after a memorable and full debate, has rendered its verdict—we have a right to assume that petty obstructive opposition will cease, and that all real Americans, in a spirit of reasonable patriotic cooperation, will give intelligent support to the new administration. The American ear has grown weary in recent months of the loud wailings of the modern Jeremiahs whose interests have been properly served by the benefactor they have jeered.

The American people have shown that they understand that while these unyielding reactionary enemies of the President may abuse him and denounce him and slander him, their only real grievance against him is that they cannot burn their brand of servitude upon his back.

And so we hail this triumph as a victory for the democratic institutions for which Roosevelt has so bravely battled, as a victory for the philosophy of Jefferson and the faith of Jackson.

It was a victory for the American institutions he has rescued from the brink of chaos and ruin; it was a victory for the workers who toil in mines and factories; it was a victory for the children he has sought to save from economic slavery; it was a victory for honest business which he has protected from the ruthless avarice of a powerful few; it was a victory for the aging humble folks from whom he has lifted the haunting fear of an old age of beggary and want; it was a victory for the humanity he has served and the Nation he has saved.

These are the real victors in the immortal battle for the common good that was led with such gay courage and brilliancy by Franklin D. Roosevelt.

A Nation-Wide T. V. A.

EXTENSION OF REMARKS

OF

HON. HUGO L. BLACK

OF ALABAMA

IN THE SENATE OF THE UNITED STATES

Saturday, January 30, 1937

EDITORIAL FROM FLORENCE (ALA.) TIMES

Mr. BLACK. Mr. President, I ask unanimous consent to insert in the CONGRESSIONAL RECORD an editorial appearing in the Florence Times, of Florence, Ala., under date of January 26, 1937, entitled "A Nation-Wide T. V. A.? Cheap at Any Price."

In connection with the editorial I desire to call attention to the fact that in the Tennessee Valley there have been unprecedented rains. As a matter of fact, the statement is made that such rains have not been seen in the Tennessee Valley in a long time. In spite of that fact, the river gage at Decatur was 23.9 on the morning of January 25 and the same on the morning of January 26. I call attention to that fact in connection with the editorial, to carry out the idea expressed in the editorial that the T. V. A. has proven its value in connection with flood control.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Florence (Ala.) Times of Jan. 26, 1937]

A NATION-WIDE T. V. A.? CHEAP AT ANY PRICE

Knowledge at hand indicates that a program, comparable to that of the Tennessee Valley Authority on the Tennessee River, can be completed on every important river and every important tributary in the United States at a price of about $8,000,000,000.

That is a lot of money, but it pales into insignificance as we read of the disastrous floods which are sweeping down the rich and fertile central section of the United States, bowling over puny man and his barriers and almost wiping out whole cities, such as Cincinnati and Louisville, as the angry waters rush on to the sea.

What is $8,000,000,000 when spent in building up the resources of the United States and saving our most valuable assets of land, cities, and men? The American people hired out (or donated) well over that amount to Europe for destructive purposes, and practically every dollar remained abroad. Spent here on a national T. V. A., that amount would save our resources and assets and put every man and woman to work.

It is more than conservative to say that the immediate loss in the Midwest on this occasion has reached the billion-dollar mark and the agony of one-half million homeless people is indescribable.

Last year a similarly disastrous flood was experienced, and no doubt there will be a repetition once or more each year until some such program is carried out on these giant rivers and their tributaries. The Government now has the support of the people for such a program, as well as the experience with which to make it a success, for the T. V. A. project, not yet half complete, is holding the Tennessee River well in hand, impounding the racing waters to fill up vast reservoirs. This water, when released during low-water periods, will serve the double purpose of maintaining first-rate river navigation and generating electric power, the first purpose, flood control, already having been effected through its storage in flood periods.

Eight billion dollars for such a program is cheap in every sense of the word. And unless some such program as a Nation-wide T. V. A. is forthcoming and executed our fertile river valleys will become as the Yangtze in China, unfit for human habitation and a scourge rather than a blessing to the Nation.

And now, when millions of men are unemployed and when the capital-goods industries, such as steel and concrete, lumber, and others, still need priming, is the time to begin such a program. It would solve unemployment almost overnight and in such a way that we would have years in which to plan for permanent work for the men when the construction program ends. In its carrying out we would utilize our natural resources and manpower, the idleness of which is our greatest waste.

How to build it? Let that up to American engineers, the most gifted and resourceful in the world. How to finance it? That is no more difficult of solution. Let the United States Treasury issue currency against the dams and improvements to be constructed as the work progresses, and not bonds. If the stand-patters cry inflation, remind them that $8,000,000,000 inflation, spread out over a period of even as few as 10 years, would represent less than 2 or 3 percent per annum of the national income. The currency would not be paid out at once; it would be released gradually to meet pay rolls and purchase materials and absorbed into the economic structure almost unnoticed other than bringing about a healthy economic and social condition in the Nation. Inflation is an odd bogeyman in America. The United States is a big country and it would take the stand-patters, who shout inflation until they are hoarse, a long time to walk across it and survey its resources. By the time they had done that they would be in favor of the program themselves.

Let them remember that credit, and not gold, makes the wheels turn, as witness the fact that less than 10 percent of our business was transacted with cash as a medium of exchange in 1929, when our national income reached the all-time high of $80,000,000,000.

Then, when the program has been completed and the Government is reaping big revenues from power and increased tax values and national income, let the Federal Treasury annually retire the currency issued to do the work in proportion to the amount of interest that would have to be paid on the total sum at rates now prevailing. Then we would truly have an America for Americans; the richest, healthiest, most secure, and greatest nation in the world.

The result of such a plan would likewise remake America for Americans. It would bring America into that day of which we dream; a land of safety, happiness, and prosperity, which even now shines out on the distant mountain peaks to stir us out of our fear and lethargy caused by the present national tragedy.

What opposition could there be to such a program in the light of our experience? Would Congress oppose? Certainly not. Would the people? No. And as for Mr. Roosevelt, that would represent the beginning of the carrying out of a dream he has cherished ever since he first began public life, and the more so since T. V. A. was conceived.

T. V. A., viewed from a broad angle, is no longer an experiment; it is a success. The knowledge that has been gained here must be applied on a national basis or else we perish.

Address by Former Ambassador Soares, of Brazil

EXTENSION OF REMARKS

OF

HON. DENNIS CHAVEZ

OF NEW MEXICO

IN THE SENATE OF THE UNITED STATES

Saturday, January 30, 1937

ADDRESS BY FORMER AMBASSADOR JOSÉ CARLOS DE MACEDO SOARES, AT THE CATHOLIC UNIVERSITY, OF WASHINGTON, D. C., ON JANUARY 27, 1937, UPON RECEIVING THE TITLE OF DOCTOR OF LAWS HONORIS CAUSA

Mr. CHAVEZ. Mr. President, on January 27 the Catholic University of America conferred upon Dr. José Carlos de Macedo Soares, of Brazil, the degree of doctor of laws. I hold in my hand the address of Dr. Soares on that occasion, and ask unanimous consent to have it inserted in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is a source of great pleasure for me to associate myself with the Catholic University of Washington. I must confess that at this moment, and particularly within these venerable walls, I feel that I am guilty of the sin of pride, such is the sentiment that dominates me on being made the honored recipient of the title of doctor of laws by your university.

This is my second visit to this great Nation. The first, a long and circumstantial one, occurred, however, about 25 years ago, and the question arises, Has this lapse of time involved a loss of contact with American life? I assure you that such is not the case. My interest, my sensibility, my curiosity as a Brazilian have kept my mind always open to the least happening in my continent, and consequently to the greatest things in the New World. This bountiful land of America, which we discovered, which we peopled, and erected into great nations, represents in our moral life a far greater measure of labor, effort, and suffering than do the concrete results which we have achieved. For this reason I refer to the land itself—that is, to the continent—as being the material foundation of our nations; and to the New World as the spiritual environment, the mind and heart, and, finally, the civilization of America.

When recently this country celebrated the three hundred and fiftieth anniversary of the birth in Roanoke Island of the first white American child, a European writer stated that American civilization dated from this event, and was, therefore, in its infancy as compared with the ancient civilization of Europe.

Gentlemen, I know of no greater error than this, in the appreciation of the march of human civilization. Christopher Columbus, the *Mayflower* emigrants, the Portuguese, and the Spanish discoverers were not the founders of an American civilization. In the holds of their ships, of their galleys, of their brigantines, they brought the civilization of Christianity, which, in its turn, was but an estuary; the sources from which it sprang antedated by more than 20 centuries the coming of Christ. It drew into its bosom contributions from ancient Asia, from the Egypt of the Pharaohs, from the trading and seagoing peoples of the Mediterranean, from the Hellenic civilization, and from the Roman, who gave us the very foundations of modern law.

So, when we Christians crossed the ocean in the end of the fifteenth century and in the beginning of the sixteenth, we brought with us to a virgin land a civilization that was already formed and tried. There is not an idea, an aspiration, or a sentiment in America that does not originate from our past or that is not born from the moral precepts of Christianity. In this wide spiritual meaning America does not have a natal date. We came from afar, bringing a patrimony of humanity. Here we formed in the North the first nation in the world today, and tomorrow we shall have in the South other three or four of the greatest, of the richest, and of the most powerful nations on earth.

However, gentlemen, whenever the intellectuals of the Old World consider us, they find us so different that it is but natural that the differentiation of the civilizations should occur to them. The ancestors do not recognize their own progeny. They wonder at the novelty of certain attitudes, are fearful of a turbulent youthfulness, and, as is characteristic of human routine, stigmatize everything that surprises through being different.

Two great questions are propounded by European intelligence on examining American civilization. The first relates to our social formation; the second bears reference to our political structure.

Are we socially at a less-developed stage than that of European organization? It is ascertained that there is no stratification of social classes in America, as there is, irreducibly, in Europe. But our social formation is neither analogous nor parallel to the social formation of Europe. When we took possession, the vastness of the land imposed itself upon our conception of life in American society. Geographical and economic factors established habits upon which tradition was founded. A new social formula thus emerged, free entirely, without prejudices, without feudal hierarchies, and in which there were neither seigniories nor serfdom. At no time was this so in Europe—whether amongst the primitive tribes or in the Roman conquests or in the barbarian invasions—at no time has society been based on the free individual, to whose aspirations no limit is set but that of his own capacity of achievement, who is equal to his fellow creatures, and a man before God.

There is no American democracy, say the European sages, because our regime created an authoritative executive power, with a fixed mandate provided by a written Constitution, and which is accordingly exercised during the course of the mandate untouched by the possible fluctuations of a representative system. That government is democratic which auscultates popular sentiment, conforming to its pulsations and striving to achieve its ideals. There is no true democracy, therefore, without the intelligence, the culture, the training, and experience of its leaders. We verify fitly that regimes of violence improvise their leaders, who are consequently recruited from the ranks of brute force, of audacity, or of perversity, rather than from the rarer breed of men who are guided by heart and mind.

In this connection, Jules Sauerwein's phrase was very fortunate: "President Roosevelt is the spiritual leader of democracy."

Still more to the point was President Roosevelt's declaration in his inaugural speech: "Nearly all of us recognize that as intricacies of human relationships increase, so power to govern also must increase—power to stop evil; power to do good. The essential democracy of our Nation and the safety of our people depend not upon the absence of power but upon lodging it with those whom the people can change or continue at stated intervals through an honest and free system of election."

We are therefore, gentlemen, legitimate heirs of the most ancient civilizations; we are Christians of the Anglo-Saxon and Latin branches. We have come from afar. We discovered and peopled these lands which stretch from the Arctic to the Antarctic Circles. The aborigines we found here died out or were absorbed. There is nothing in America that is not Christian, that has not come with us down through the history of humanity. We have indeed built according to new formulas the new nations of America. These formulas imply a different spiritual concept from that existing in European society. Different because the moral and material environment of our continent have made it so. We are not, therefore, at any phase or stage of European social evolution. We had a new and different beginning. We follow other paths. Our political institutions have suffered corresponding changes and are equally new and different from those we left with our ancestors on the other side of the Atlantic.

I have been entering, gentlemen, into these considerations—which have surely already occurred to you and are undoubtedly part of your knowledge—in order to bear witness to the truth of a political idea of your great President, Franklin Roosevelt, who has championed the cause of peace and brotherhood of the American republics, and which he has called the policy of the "good neighbor." A policy demands a foundation of ideas. The ideas of America will have to be in the first place the unity of its Christian civilization—from Greenland to the extreme limits of Patagonia. We have brought our moral idea along the paths of discovery, we have impregnated the virgin land with the spirit which inspired us, and under this inspiration we have founded our nations and created the New World.

After finding ourselves morally unified, we verified the social and political differentiations between ourselves and Europe. We came over together from the Old World and here we parted. I wish to stress this phrase: "We came over together"—with one idea, that of the common weal; "here we parted"—adapting ourselves to the new land, complying with its special and unchangeable laws, remaining under the sign of liberty, acknowledging the indomitable force of the free individual; thus we shaped our own destinies and formed the nations of America.

The ideal in America is liberty—as great, as vast, as profound as is permitted by another excellent ideal: that which is encompassed by the moral principles of Jesus Christ. Consequently, the policy of America can never be that of an egoistic and material interest, being, as it is, the vocation of liberty within the principles of Christian feeling.

Such is, gentlemen, the true foundation of the policy of brotherhood and peace of the American Republics. Our nations, arisen from a common origin, formed under common principles, are a community endowed with family spirit, dedicated to friendship, fated to brotherhood, apt to become still greater in happiness and tranquillity under a common ideal—the ideal of American peace.

The Bill to Redeem Cotton Certificates Issued Under the Bankhead Act

EXTENSION OF REMARKS
OF
HON. WRIGHT PATMAN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Friday, January 29, 1937

Mr. PATMAN. Mr. Speaker, the Secretary of Agriculture, under the authority of the law known as the Bankhead Act, encouraged farmers to reduce the production of cotton. The plan embodied an obligation on the part of the farmer to restrict his production to a certain amount of cotton during the year 1935, which amounted to about 60 percent of what he had been producing on an average each year for a period of years preceding 1935. In other words, if the farmer had been producing about 15 bales a year, he was permitted to produce in 1935, tax-free, about 9 bales. If he produced over nine bales, he would have to pay a heavy tax on the remainder in order to sell it.

The farmers cooperated splendidly and reduced their crops accordingly. Many farmers, after reducing their crops in order to fully comply with their promises to the Government not to produce too much cotton, failed to produce even as much as they were permitted to produce on account of insects, floods, droughts, and so forth. However, if a farmer was permitted to produce, tax-free, 10 bales of cotton in 1935, and he only produced 5 bales of cotton, he had the consolation of knowing that he could keep his unused certificates for the 5 bales and use them during the next crop year, 1936. Congress made it a criminal offense for a farmer to transfer these unused certificates to another farmer who had produced a surplus unless the transfer was made through the local county agent, and 4 cents a pound was actually paid by the farmer purchasing them to the farmer selling them.

Those in charge of the cotton program for the Government during the year 1935 wired the county agents and insisted that the farmers be encouraged to pool their certificates; that there would be a sufficient demand for them from farmers who had produced a surplus to absorb all unused certificates. The farmers pooled their certificates, expecting them to be sold on the basis of 4 cents a pound. The Bankhead law was being tested in the courts, and people who had a surplus were holding up on mortgaging their cotton, paying the tax or buying certificates in lieu of the tax, until the case was decided in the Supreme Court of the United States. In February 1936 the Supreme Court held the law unconstitutional. The Department of Agriculture prorated all money that had been received on the pooled certificates to the farmers pooling their certificates, and the amount paid to them was equal to about 16 cents on the dollar.

All the farmers did not pool their certificates but are still holding them. They were not permitted to use them during 1936 as they expected to because the law was held unconstitutional.

The farmers carried out their part of the understanding and agreement. By reason of their cooperative efforts the cotton price was improved and economic conditions bettered. If these certificates are not redeemed, it will result in the farmers who did not cooperate with their Government profiting by reason of the efforts of those who did cooperate.

It will cost about $28,000,000 to pay the remainder due on the certificates that were pooled and to pay on the basis of 4 cents a pound the certificates that were not pooled. This is a small sum compared to the good accomplished by these cooperating farmers.

This money, if paid, will go to hundreds of thousands of farmers, many of whom do not earn more than $200 or $300 a year, which includes their own labor, the labor of their wives and children, and the cost of fertilizer, feed, seed, and so forth.

The farmers carried out their part of this arrangement in good faith. They have been injured by failure to receive the amount they expected to receive on these certificates. The Government should now pay these certificates on the basis of 4 cents a pound, since the Supreme Court ruling denied the farmers the opportunity to use the certificates during the year 1936 to their advantage or to sell them.

The bill which I have introduced for this purpose is as follows:

A bill to provide for redemption of certain cotton certificates issued under the Bankhead Cotton Act

Be it enacted, etc., That upon application to the Secretary of Agriculture by any producer of cotton to whom tax-exemption certificates for the crop years 1935–36 were issued under the Cotton Control Act, approved April 21, 1934, the Secretary is authorized and directed to pay out of appropriations made pursuant to this act.

(a) To any such producer, who transferred certificates originally issued to him for the crop year 1935–36 to a certificate pool established under such act for the exchange of certificates, the difference between the amount heretofore received by him for the certificates he transferred and an amount ascertained by multiplying 4 cents by the number of pounds of lint cotton represented by such certificates; and

(b) To any such producer, to whom certificates for the crop year 1935–36 were originally issued, an amount ascertained by multiplying 4 cents by the number of pounds of lint cotton represented by the uncanceled certificates originally issued to him which such producer surrenders to the Secretary and which he at no time transferred to any pool or to any other person.

SEC. 2. As used in this act, the term "producer" includes the heirs or legal representatives of a producer. A transfer to such heirs or legal representatives shall not be considered a transfer within the meaning of section 1 (b).

SEC. 3. The Secretary is authorized to utilize the personnel, services, and facilities of the Agricultural Adjustment Administration in carrying out this act.

SEC. 4. There are authorized to be appropriated such funds as may be necessary to carry out this act.

Flood Control

EXTENSION OF REMARKS
OF
HON. FRANCIS T. MALONEY
OF CONNECTICUT
IN THE SENATE OF THE UNITED STATES
Saturday, January 30, 1937

EDITORIAL FROM THE HARTFORD (CONN.) TIMES

Mr. MALONEY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an editorial from the Hartford Times of Thursday, January 28, 1937, entitled "Our Flood Control Costs." I should like to say in connection therewith that I think the editorial expresses the sentiment of the majority of the people of Connecticut in regard to Connecticut's willingness to contribute toward the cost of flood relief in New England.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Hartford (Conn.) Times of Jan. 28, 1937]

OUR FLOOD-CONTROL COSTS

We confess to a lack of understanding of suggestions which come out of Washington that the four New England States aside from Maine and Rhode Island are unable to agree about dividing the cost of land and other damages in connection with flood control.

Mr. Roosevelt is quoted as saying that he has been unable to establish a priority list for flood-control works because no State had come forward with assurances that it would finance land and damage costs.

We can conceive that there will be much difficulty about selecting reservoir sites in Vermont acceptable to the people of that State. We cannot conceive that there needs to be any great difficulty about agreement of Connecticut and Massachusetts to bear the brunt of land and other damage costs.

The flood-control program recommended by the Army engineers is practically all for the protection of Massachusetts and Connecticut. Connecticut, at least, has taken for granted that as a chief beneficiary it would be called upon to pay a large part of the cost of acquiring reservoir sites. We assume Massachusetts feels the same way about it.

So far as we are aware no one has even suggested publicly to Connecticut either an amount or a proportion of an entire amount which would be considered a fair share of this State. Until that has occurred it hardly seems fair to say that the States have not been able to agree upon this question.

If it would help to have Connecticut formally declare its position in the matter, such declaration might appropriately be made. Presumably Connecticut expects to pay pretty nearly half of any such damages, at least up to four or five millions of dollars, with the expectation that Massachusetts will pay the remainder, less the relatively small amounts assigned to Vermont and New Hampshire for the benefits to them. If it would clear the atmosphere to have some such statement as that formally made, why not do it?

Bill to Authorize Rewards for Apprehension and Conviction of Kidnapers Before Crime Is Committed

EXTENSION OF REMARKS

OF

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 29, 1937

Mr. PATMAN. Mr. Speaker, I have introduced a bill to authorize the Attorney General to offer rewards in certain cases. Public Law No. 295, approved June 6, 1934, which I was author of, provided that the Attorney General may offer rewards up to $25,000 for the arrest or information leading to the arrest of any person charged with violation of criminal laws in the United States. By reason of this reward the Department of Justice was materially assisted in capturing Dillinger, Karpis, and others. A reward under this law cannot be offered until the crime is committed.

The new proposed bill will permit the Attorney General to offer a reward up to $25,000 for information leading to the discovery, apprehension, and conviction of any person or persons guilty of violating the Federal kidnaping law which was approved June 22, 1932. This will permit a reward to be offered in advance—before the crime is committed—up to $25,000. The very minute that a kidnaping occurs there will be a price on the head of the kidnaper if this new proposal is carried out. We will not be waiting until the horse is stolen to take steps to bar the door. Criminals who know that this price will be placed upon their heads will more likely refrain from committing this type of offense. In order to prevent conspiracies to obtain the reward and "frame-ups" this kind of reward will only be paid upon conviction.

The proposed law further provides that the Attorney General may match 50-50 rewards offered by State officials for a similar purpose to cover future violations of a State kidnaping law. It will not require a Federal reward to be offered along with the State officials, but it will authorize the Attorney General to offer it if he desires.

The bill is as follows:

A bill to authorize the Attorney General to offer rewards in certain cases

Be it enacted, etc., That the Attorney General is hereby authorized to offer from time to time in his discretion a reward or rewards for information leading to the discovery, apprehension, and conviction of any person or persons guilty of a violation of any provision of the act of June 22, 1932, as amended, entitled "An act forbidding the transportation of any person in interstate or foreign commerce kidnaped or otherwise unlawfully detained, and making such act a felony." No reward exceeding the sum of $25,000 shall be offered in any one case. The reward in any one case may be apportioned and paid on such conditions as may be imposed by the Attorney General.

SEC. 2. The Attorney General is hereby authorized to offer from time to time in his discretion a reward or rewards for information leading to the discovery, arrest, and conviction of any person on a charge of violation of any law penalizing the crime of kidnaping in any case in which a like offer is duly made by any State official: *Provided*, That the amount of the reward offered by the Attorney General shall not exceed the amount of the reward offered by State or local authorities, nor shall it exceed the sum of $10,000 in any one case. The reward in any one case may be apportioned and paid on such conditions as may be imposed by the Attorney General.

SEC. 3. The Attorney General is hereby authorized to determine, adjudicate, and adjust claims to rewards authorized under this act, and his decision thereon shall be final.

SEC. 4. Appropriations to carry out the provisions of this act are hereby authorized.

Election Prediction of Chairman Farley

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, February 1, 1937

RADIO ADDRESS BY HON. JAMES A. FARLEY, CHAIRMAN, DEMOCRATIC NATIONAL COMMITTEE

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD an address made by Hon. James A. Farley, chairman of the Democratic National Committee, over the Columbia Broadcasting System on Tuesday, November 3, 1936, at 2: 45 p. m.

The value of this statement by Mr. Farley is such as to fully warrant its preservation as a historical political document by publication in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

This is not an electioneering speech. Nothing I could say at this time could have the slightest effect on the election now going on. So this is not an appeal for votes, for the majority of ballots will have been cast by the time those who are listening in on the radio hear this report.

Of course, as you know, there have been no ballot boxes opened anywhere in the country—East or West—except in a few tiny country precincts in New England and in the South. Consequently there can be no honest or authoritative summary at this time of how the vote is going.

But it seems to me that because of the tremendous interest in today's event that the people might like a report of how we at Democratic headquarters figure the election is progressing.

Messages are, of course, pouring into headquarters from the local organizations and from individuals, and the significant thing is that more people are voting everywhere than ever before. That tells how seriously the country is taking this election and we, at Democratic headquarters, feel that this is a very good sign.

In the course of the morning and early afternoon I have heard from every State in the Union. I have had reports from most of the more than 3,000 county chairmen in all parts of the country. Without exception, what they tell me gives us the greatest satisfaction.

Let me tell you of some of the things I have been told today. The word from New Hampshire is that the trend of the early voting is encouraging in the extreme. I firmly believe that New Hampshire by nightfall will have joined the company of those who are proud to be counted on the side of the President. The State all but joined the Democratic victory parade 4 years ago.

Words of even greater cheer reach me from Massachusetts. The Bay State is still with us, I am assured. The ratio of Democratic votes already cast, according to our watchers at the polls, insures victory for the President by a plurality of 150,000 in that State.

Naturally these reports are subject to the charge that they are partisan sources. However, there would be no sense in a precinct leader on election day giving the national chairman of his party anything but his honest opinion.

New York, I am proud to say as a resident of that great Empire State, is doing what I knew it would do, supporting the President with enthusiastic loyalty at its command. Reports reaching me from the up-State districts are evidence of the fact that by the time the polls close President Roosevelt will have received from his native State the most overwhelming vote of confidence that any of its citizens has ever received. And keeping stride with him is Gov. Herbert Lehman.

What then of Pennsylvania? Again the reports reaching me tell of a great groundswell for Roosevelt. The State which Herbert Hoover carried in 1932 by the narrow margin of 150,000 votes will be a Democratic stronghold tomorrow. I feel able to tell you now that western Pennsylvania is voting for Roosevelt, and more wonderful still, that Philadelphia, which has not gone Democratic since the Civil War, is "going to town" today for the Democratic ticket.

And here's news from Illinois. Reports have come to me from both down-State and Cook County. They assure me that regardless of the intolerant opposition the Democratic Party has

encountered there, Illinois will give President Roosevelt a plurality of at least 500,000, and I, for one, will not be surprised if that figure does not total 100,000 more than that.

I have not forgotten Ohio and Indiana. They, too, are right in line with their sister States in the East. I have heard today from many sources in those two States, including some of those who at times during the campaign have not been at all sanguine. They have been watching the outpouring of Democratic supporters, and by noon there was not a single dissenter. Ohio and Indiana are going Democratic.

That, fellow Democrats, covers the high spots of the situation in the East as it stands this afternoon. The East has not deserted President Roosevelt. On the contrary, it is for him in a greater degree than ever before.

I say the landslide is on, because from not a place west of the Hudson have I heard a word that would lead me to believe that the Republican candidate will carry a single State from that great river to the Pacific Ocean. The farm States, the mountain country, and the coastal region are supporting the President without a break in their lines.

And the South, of course, and the border States, stand fast and firm on our side. Friends of the President everywhere owe a debt of gratitude to that section. In our campaign this year we have relied upon the Democratic loyalty of the South. We knew that the South was impregnable; that the faith of its citizens could not be shaken and their confidence could not be destroyed. We could count on the South and devote our energies to sections where there may at some time during the campaign have been an element of doubt. I wish, therefore, to thank the South, not in a spirit of apology, for I do not think that is ncessary, but to say how much I appreciate the fact that the States below the Mason and Dixon line not only bore with us through what at times may have appeared as neglect but that, in addition, they gave liberally of their money and their men and women for the work that had to be done elsewhere.

There, fellow Americans, is a report on the state of the Nation on election day. I am happy and grateful to be able to bring you news of the successful accomplishment of the task which the great majority of the American people had entrusted to the national Democratic organization.

I speak merely as one member of that organization. It stretched from coast to coast and from border to border, reaching down into every precinct in every State. I wish that you who have shown such a vital and friendly interest in the workings of the national committee would remember that without the services of the entire army of those who have stood by my side it would have been impossible to carry through your commands. The untold privates in any army make or break the generals, and in this campaign I have had at my right hand party workers whose devotion has been constant and whose energies have surpassed belief.

I must address my thanks also to those millions of others who may not have in the past been, and may not even now consider themselves, Democrats. Their support was more than heartening in the thick of the battle and they will, I know, rejoice in the success that is now ours. We welcome them as much on the eve of victory as we did when the battle was on.

May I conclude with the statement that the victory has been won. I would not say this if I did not know it to be true. The sweep spreads from the Atlantic to the Pacific, from the Lakes to the Gulf. The outcome will be more impressive than it was in 1932. You cannot work as we have, in contact with thousands of individuals throughout the land, without getting the feel of national sentiment. It is this which has made me so confident of the outcome.

Lest some should feel that I am unduly impressed by the messages from the local party leaders, let me remind them that nobody is as capable of estimating how a precinct is voting as the precinct captain.

As I said in the beginning, the ballot boxes are still closed, but may I remark, the betting in Wall Street is 6 to 1 that Roosevelt wins and even money that his electoral vote will not be less than 425.

Activities of Government in Relation to Agriculture

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Monday, February 1, 1937

ADDRESS BY HALLORAN H. BROWN, PRESIDENT, NEW YORK STATE HORTICULTURAL SOCIETY

Mr. COPELAND. Mr. President, I find it interesting always to read what the country newspapers have to say about matters. In my county there is published the Rockland County Times, edited by an able and energetic newspaperman, Mr. Michael McCabe. In the issue of January 30 there is published a remarkable address delivered by a neighbor of mine, Mr. Halloran H. Brown, who is president of the New York State Horticultural Society. The address, together with the comments of the editor, are included in this issue of the Times, and I ask that they may be inserted in the RECORD.

Further, Mr. President, let me say that I hope the address will be widely read. Mr. Brown is an outstanding farmer of my State and is as well informed on agricultural problems in New York as any man could possibly be.

There being no objection, the address and editorial comment were ordered to be printed in the RECORD, as follows:

[From the Rockland County (N. Y.) Times]

BROWN DEPLORES PATERNALISM—SUCCESSFUL MONEY FARMER AND HORTICULTURIST DELIVERS CONSTRUCTIVE ADDRESS TO FARMERS AND ORCHARDISTS THURSDAY EVENING

Mr. Halloran H. Brown, Rockland County's leading figure in agricultural and horticultural activities, who was recently elected president of the 83-year-old New York State Horticultural Society, at the annual meeting and dinner held in Hotel Governor Clinton in Kingston Thursday evening, delivered a most interesting and instructive address.

The organization consists of nearly 1,000 members, representing practically all sections of horticultural and agricultural activity throughout the entire State, and has many members along the border line—Vermont, Massachusetts, Connecticut, New Jersey, Pennsylvania—and up along the Canadian border.

This great organization has so much to do with providing the people of this entire vicinity with a greater portion of the necessities of life and domestic luxuries in that no one section of the United States has such a variety of fruit-growing activities as has New York.

While other States have their specialties, the range of fruits produced in New York State comprises every known table delicacy except tropical fruits, and we lead the world in our production of one of nature's gifts—real Baldwin apples.

There undoubtedly are other men in the association with progressive, intelligent ideas. There must be. Otherwise they would not have elected such a competent, progressive, successful member as Brown to preside over the destinies of the association. He not only is a leader in all avenues of social and horticultural activities in the county, in that his orchards and vines bear abundantly, but he is the pioneer cold-storage magnate of the county, owning and constructing his own cold-storage and sorting plant on the Monsey-Egypt Road.

In his inaugural message to his associates Thursday evening Mr. Brown said in part:

President Roosevelt's Budget message to Congress for the 1938 period asks for agricultural appropriations of $659,347,399. This is one-tenth of the total appropriations asked for different purposes, and is an increase of $15,165,556 for agriculture over the last period. We so-called farmers apparently are the little, white-haired boys of the Government, to the exclusion of all other classes, except labor. Out of the one hundred and twenty-five to one hundred and thirty million inhabitants of the United States, probably 27,000,000 are classed as farmers, and labor is somewhat more. The farmers have a Cabinet member—the Secretary of Agriculture—in the President's Cabinet, who is supposed to represent them and look out for their interests. Labor also has a Cabinet member—the Secretary of Labor—in the President's Cabinet, who is supposed to represent them and look out for their interests. These two classes are the ones directly and intimately represented by a department of our Federal Government. These two classes of our population are the most numerous and represent the most votes to the politicians.

The Agricultural Department's activities are extensive. Independent farm agencies are numerous and their operations intimate, and enter into every phase of our life, except religion. Reports are issued by the Agricultural Department telling farmers everything, from how to get rid of household pests to how to build his house and barns, plant his crops, and doctor sick horses, cows, and chickens. The Government tells him how to avoid soil erosion. And if the farmer cannot succeed in one section of the country it helps to move him to another, supplies him funds with which to buy land, build new dwelling houses and farm buildings, buy new machinery, seeds for planting, and, in fact, tries to help him to do everything in his everyday life. In this matter of helping unsuccessful farm tenants or owners to buy new farms, if the Government is not careful, it will be the owner, sooner or later, of a great deal of real estate in the United States. In addition to all of this Government help we have, independent of the Federal and State Governments, agricultural colleges, agricultural schools, and agricultural educational groups to help promote the farmers' welfare. These educational institutions and groups, such as farm bureaus, both State and local, closely cooperate with the Agricultural Department and the different governmental farm agencies.

Their tendencies become more paternalistic year after year, and it will not be long before the farmer will have to obtain a license

from the National Government to operate his farm, be given a number, and be told what crops he may raise and what crops he may not raise, and how much. He will be told what he will have to pay his farm help, if he has any, and the hours they shall work; for what he may sell his crops; and he will be penalized by taxes on quantities raised in excess of the allotted amounts. Maybe this is what the farmers want. The enormous vote by the farm element at the last election for the continuation of governmental paternalism would seem to indicate this.

The occupation of farming (I prefer to call it a profession because it requires great industry, application, and determination) is more intricate and more hazardous than most of the other occupations or professions. For instance, the profession of the law: Most of our laws are established by custom or are printed in books as acts of legislation or court decisions. The lawyer, in studying law, is principally concerned as to in what printed volume he can find the law or in which printed decision he can find the interpretation of the law.

As to the medical profession: Most of the knowledge of anatomy or physiology or materia medica is published in books, and the doctor has to have a familiarity with these. But in the profession of farming the farmer is surrounded on all sides by uncertainty; because he does not know what the weather is going to be; what the rainfall or snowfall will be; what droughts, winds, or insects he will have to overcome.

It has been said that there are too many farmers. It has also been said that there are too many lawyers and too many doctors. The trouble, to my way of thinking, is that there are too many in the 27,000,000 so-called farmers, who are not farmers—men who should be streetcar conductors, truck drivers, ditch diggers, or who should be in some other occupation which does not require the knowledge, skill, and industry that a farmer should have. I believe that the same thing is true as to doctors and lawyers.

Why is it not just as necessary for the Government to exercise the same paternalism for the lawyers and doctors and other professions, industry, and trade as it does for the farmer? The answer is: If this should happen, we would have a socialistic-paternalistic Government and we would all be told by the Government just what we might do and what we might not do in our private lives. Maybe this is what the people want. To my way of thinking (but I am only one and have only one vote) this would stop all initiative and ambition for further development and cut us all down to the same level.

There are certain ones, not only among the so-called farmers but in all classes and occupations, that are not successful and never will be successful, because they are not industrious. They are lazy, not only physically but mentally, and will not work, will not think, will not plan for themselves, but depend upon someone else to do for them.

Self-help is the root of all genuine growth in the individual, and, exhibited in the lives of many, it constitutes the true source of national vigor and strength. Help from without is often enfeebling in its effect, but help from within invariably invigorates. Whatever is done for men or classes to a certain extent takes away the stimulus and necessity of doing for themselves; and where men are subjected to overguidance and overgovernment, the inevitable tendency is to render them comparatively helpless.

It may be of little consequence how a man is governed from without, while everything depends upon how he governs himself from within.

Old fallacies as to human progress are constantly turning up. Some call for Caesars, some call for dictators. Such doctrine eventually means everything for the people, nothing by them—a doctrine which destroys self-help and speedily prepares the way for any form of despotism.

Daily experience shows that it is energetic individualism which produces the most powerful effects upon the life and actions of others. Schools and colleges give but the merest beginnings of culture in comparison with it.

Great men of all times have belonged to no exclusive class or rank in life. They have come from colleges, workshops, farmhouses, from huts of the poor, and mansions of the rich. In common, they have all overcome apparently insuperable obstacles, and obstacles thus surmounted and triumphs thus achieved justify the proverb "with will, one can do anything."

Thrift is industry, economy, and taking care of the little things.

Thrift began with civilization when men found it necessary to provide for tomorrow as well as for today. It began long before money was invented. Thrift means private economy. It includes domestic economy as well as the order and management of a family; but while it is the object of private economy to create and promote the well-being of individuals, it is the object of political economy to create and increase the wealth of a nation. Private and public wealth have the same origin. Wealth is obtained by labor; it is preserved by savings and accumulations; and it is increased by diligence and perseverance.

It is the savings of individuals which compose the wealth—in other words, the well-being of every nation. On the other hand, it is the wastefulness of individuals which occasions the impoverishment of states. So that every thrifty person may be regarded as a public benefactor and every thriftless person as a public enemy.

There is no dispute as to the necessity for private economy. Everybody admits it and recommends it. But with respect to political economy there are numerous discussions; for instance, as to the distribution of capital, the accumulation of property, taxation, relief, and many others. Just now we are dealing only with private economy or thrift. Economy is not a natural instinct, but is the growth of experience, example, and forethought. It is only when men become wise and thoughtful that they become frugal. Hence the best means of making men and women provident is to make them wise.

Coming down to a present-day subject, we should all remember that the Federal Budget is now nearly $8,000,000,000, and that before the depression it was but one-half of this—about $4,000,000,000. Next year the Budget will be close to $7,000,000,000. It should also be remembered that for every dollar the Government is collecting it is spending $2. The extra dollar is obtained by borrowing from the public. It is a serious question as to how long the Government can hand out money for relief of the farmers and for other causes. Therefore I want to strongly urge upon the farmers—fruit growers, if you please—to look more to their own endeavors and not count so much upon the Government because, while the Government is willing to help, I believe that at the present time the farmer as well as all other classes of people are depending too much upon the Government, and to this end it should be remembered that the Government has no money of its own. The money it spends it has to collect from us, the taxpayers. Some may not be aware that they are paying taxes if they don't pay them direct. If they don't pay them direct they are paying them indirectly through their purchases. This applies to the farmer as well as to everyone else, whether his income is small or whether it is large. It applies to the day laborer as well as to the president of a big industry or a banking corporation. It also must be remembered that all of the governmental borrowings of the past, as well as of the present and future, will have to be paid back some day, unless there is a repudiation of the national debt. Where will the Government get this money except through taxation?

In conclusion, I would like to speak of one or two problems with which we, as fruit growers, are more directly concerned.

There is some discussion at the present time about the establishment of a State brand. I see no harm in this; neither do I see any good. I believe the present laws regulating the various grades and packs meet all our requirements. There is one basic rule, and it is this: Do not put up a deceiving pack. Do not deceive your customer.

I believe we fruit growers could better spend our energy in trying to get a better distribution of our products through wider marketing facilities and a closer touch with the public, all tending toward a better price to the fruit grower.

The New York and New England Apple Institute is doing a good work along this line. I would urge all those who are not members to join and lend their moral support and financial aid.

BROWN'S PREACHING IS HIS PRACTICE

On another page of this paper the Times takes extreme pleasure in presenting a remarkably well-written speech delivered to the State horticultural society at the annual dinner by President Halloran H. Brown, of Monsey, Thursday evening.

That speech not only fits the farmer, but labor and industry.

He declared, and rightly so, that thrift, industry, and economy must go hand in hand.

He deplores the present tendency at paternalism for labor and agriculture, and he speaks a gospel he practices.

A graduate of Cornell University with a bachelor of arts degree, he taught school; then he accumulated a wife and a little farm and went in debt for modern appliances, he told his delightful father, whose close acquaintance the writer enjoyed.

He, besides other activities, is a member of the board of directors who have successfully rehabilitated the Ramapo Trust Co. When the old gentleman remonstrated that he couldn't afford a riding plow, Halloran retorted he couldn't afford to walk. (A walking plow would turn one furrow and only as fast as a man could walk; a riding plow would turn three furrows as fast as a sturdy team of horses could move with safety.)

Analyzing the turmoil by inference, our friend from Monsey told his fruit-growing friends to get away from subsidy and Federal or State help, and help yourselves as the real road to profitable results.

We commend that speech to men—and women, too—in all walks of life, no matter what their occupation may be.

It's worthy of close perusal.

America's Outlook

EXTENSION OF REMARKS

OF

HON. ROBERT F. WAGNER

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Monday, February 1, 1937

RADIO ADDRESS BY HON. DAVID I. WALSH, OF MASSACHUSETTS, ON JANUARY 30, 1937

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD a very instructive and able address on the subject America's Outlook, delivered by

the distinguished senior Senator from Massachusetts [Mr. WALSH] at the opening of the annual radio forum of the National Democratic Club of New York in the auditorium of their clubhouse on January 30 last.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The invitation to address you today suggested that my topic should be America's Outlook. Certainly that is a subject of universal concern and interest and of such tremendous scope as to leave wide latitude and entire freedom of expression. No speaker in the space of a half-hour address could hope to do more than to outline the broad perspective and to note the major questions which the future alone will answer.

The broad perspective, as we look back at the years immediately behind us, and those immediately ahead, is of a world which is now emerging from a financial and economic debacle, of an extent and severity without parallel in history and for which the term "depression" seems to be an exceedingly mild and inadequate word.

We see a world in which political and social revolutions have transpired, as a consequence of the economic and social upheaval, and the prostration of trade and industry, which was the aftermath of the World War of 20 years ago, and which we have come to regard as a direct consequence of that war.

We see a world today in which, in many countries, not only kings and emperors, but constitutions and democratic institutions have gone into the discard to be replaced by dictatorships. We see a world today over which the ominous clouds of war again hang low, with actual war first in the Far East, then in Ethiopia, and now in Spain, and with a widespread belief that a European war on a wide front is impending.

Our own country has no quarrels with any of its neighbors, no desire for war—on the contrary a supreme desire and high resolve for peace. Our own country has emerged from its own financial and economic prostration without recourse to revolution and without sacrificing its democracy.

We have done so with the aid and inspiration of a brave and courageous leader, a great humanitarian, a resourceful general, President Franklin D. Roosevelt.

Many grave problems still press for solution. Many hazards still cloud our outlook to the future. But first and foremost is the question of escaping involvement in another world war, if war comes.

No realistic discussion of America's outlook can avoid mention of the war risk. Sound statesmanship requires that our national policies be so shaped as to promote and safeguard peace for our own country, and so far as lies within our power, peace for the world. It is not enough that we proclaim our desire for peace, we must leave no stone unturned in an effort to insure peace.

In the past this has meant treaties to outlaw war. It has meant efforts, even though they have been abortive, to conclude disarmament agreements. It has meant attempts to reach an accord with other nations with respect to international trade and international finance, since it is recognized that economic factors are so often the breeders of war. It has meant unselfish efforts to spread the gospel of peace and good will among all the nations of the earth.

For the future it means implementing our Government with new ways and means of preserving our own strict neutrality in the event of war elsewhere; it means enactment of statutes to eliminate the profit motive within our own land as related to the supplying of materials or labor during a state of war; it means, finally, the strengthening of our national defenses—on land and on sea, and in the air.

When all the rest of the world is in arms, it is folly for us to believe that we can best insure our own peace by rendering our country defenseless. We are building up our Navy, augmenting our air armament, and modernizing our small Army and our Reserves, not as an instrument of aggression but in the belief that preparedness and adequate means of defense is the best insurance against war.

Congress at the present session will be called upon to enact neutrality legislation in line with the temporary neutrality resolution passed last year and amended in the opening days of the present session so as to halt shipment of war materials to Spain in civil war. We must have a permanent neutrality act which is direct, explicit, and impartial and 100 percent effective—and containing no loopholes.

Congress has before it proposals popularly described as "to take the profit out of war", which under present circumstances ought to be favorably considered at the present session.

Congress is being called upon to appropriate large funds for the Army and Navy. Appropriations to be made this year, in the category of national defense, will aggregate $1,000,000,000. This is a stupendous sum even in these days of $7,000,000,000 Federal Budgets. It is too much to spend, if a large Navy and a strong national defense is a mistaken policy. But no amount is too much to spend if it is an insurance against the involvement of our country in war.

I believe with all my heart that our national defense is a safety measure for peace, and I am confident that the great majority of my fellow countrymen share that belief.

Let me turn now to a consideration of America's outlook in terms of our country's affairs at home. I shall endeavor to refrain from any partisanship and speak to you without any personal bias. I do not invite controversy, but rather to picture to you briefly what is behind us and what is ahead.

There is no difference of opinion with respect to the things which our people desire and are seeking. Such controversy as has arisen or is now existing pertains to methods, rather than to objectives.

Every American desires and seeks to preserve our democratic institutions and retain constitutional government.

We all desire and we all seek social justice and equality of opportunity, and, as nearly as may be, equitable distribution of the profits of labor and capital.

We desire and we seek to avert the perils of extravagant booms and speculative excesses on the one hand and the recurring cycles of depression and panics on the other hand.

We desire and seek, in the name of social justice, the abolition of child labor and of sweatshops and of slums.

We recognize the obligations resting upon society to assist such of its members as through mishap or misfortune are unable to sustain themselves—those who, through either infirmities of age or the exigencies of economic processes find themselves without work and without means of support.

We seek not only to relieve and alleviate misfortune and privation, but also to improve the working and the living conditions of the great masses of our citizens—to increase and to multiply the opportunities and the advantages in which our country for a century has led the world, to provide in new degree security, not only from the horrors of war but also from the vicissitudes of everyday life.

These are our objectives. Let me catalog briefly what has been done toward their attainment, and then consider where we stand today, and what lies ahead.

We have rendered our banking system impregnable through Government guaranties of deposits, and through a more closely knit interrelationship of deposit banks, Reserve banks, and the Treasury. I mention this first because it was the first of the many progressive steps which have marked the 4 years which have elapsed since those dark days in February 1933, when it seemed as if the world was crashing down upon our heads. I mention it first because the events of those days have taught us that an impregnable banking system is one of the very cornerstones of our whole economic, social, and governmental edifice.

We have fabricated a system of controls over and aids to agriculture, a system admittedly very imperfect as yet but undertaken in recognition of the fact that our national well-being could never be fully achieved so long as our farm population was impoverished, innocent victims of floods and droughts, and deprived of stable and profitable markets for their crops.

We have provided Government supervision over, and regulation of, the issuance and sale of securities, and the operation of stock and commodity exchanges, in recognition of the fact that without such protection, our citizens were exposed to the perils of financial racketeers. Regulation such as has been established is in the interest not only of security owners and investors, but in the interest of all honest and upright financiers.

We have enacted laws to insure to labor its right to collective bargaining, and have sought, and must continue to seek, ways and means for preserving industrial peace.

We have placed a checkrein on our public utilities, and moved to strengthen governmental regulation of rates. We have saved our railroads from bankruptcy, and have saved millions of home owners and farm owners from mortgage foreclosures.

We have generously extended Government credit in a variety of directions, where to do so was to avert catastrophe, or to provide opportunity to go forward.

We have implemented the Federal Trade Commission with new authority and control with respect to price discrimination, in the distribution and sale of goods and commodities. We have provided by statute that goods and commodities sold to the Government shall be produced under such standards as to wages and working conditions as may be prescribed by the Government.

In this enumeration of what has been accomplished during these past 4 years, I have purposely left to the last, the reference to our biggest undertaking, and the one with which you are most familiar and the one in which it has seemed to me that every American citizen should take the most pride, even though it has been the target of so much criticism.

Our biggest undertaking has been to relieve the distress of the millions of unemployed, to provide food and shelter for those who were destitute, to provide jobs for those who were without work—though willing and able to work—and having done this, to fashion plans whereby in the years to come, and for the generations to come, there should be permanent provision for unemployment insurance, and for retirement and old-age pensions.

President Roosevelt, upon his taking office 4 years ago, pledged that no man, woman, or child in our land would be left to starve or to beg for bread. In making this pledge he voiced the heart and the will of every American citizen. This pledge was kept. Federal grants to the States, Federal relief, work relief, a vast program of Federal public works, the Civilian Conservation camps, were all component parts of a united effort to aid those in distress and to provide jobs for the jobless, as well as to stimulate business revival by providing purchasing power. It has involved expenditures of almost incredible amounts. It has necessitated the borrowing of many billions of dollars. It has entailed mistakes, some waste, and other shortcomings. But, in the aggregate, it relieved countless suffering, gave a new lease on life to millions of our citizens, and, in the large sense, it saved our Nation. In

that light it was worth all it has cost in money. It was indeed beyond price.

We have by no means solved the so-called unemployment relief problem. There are still many millions of unemployed, dependent upon Federal aid of one kind or another. Furthermore, it is of the highest importance to recognize the stern fact that even though private business and industry continue to expand and continue to take up the slack in unemployment and to provide more jobs, even so, there exists a very large number of persons and families for whom no means of support will eventuate and who must be aided by the community, the State, or the Federal Government as a permanent proposition. A large army of what we have come to term the "unemployables."

How large the army is is at best a matter of varying estimate and opinion, but Harry Hopkins, the W. P. A. Administrator, in testifying only 2 weeks ago before the House Ways and Means Committee, put the figure at 5,000,000 persons. He said (and I quote his exact words):

"It is my opinion that the hopeful picture would be two and a half million workers who were unemployed in 1936 placed in employment during 1937. Given this increase, and with production back to the 1929 level, we would have from six and a half to seven and a half million unemployed people in the United States. Even with increasing recovery beyond 1937, I think it is probable that we can expect from four to five million out of work."

Our plans for the years to come, our plans for permanent provision for those who find themselves disabled, or discharged, or at the age of retirement, are embraced in the Social Security Act, which Congress, at the behest of the President, wrote into law in 1935, and which provides for State unemployment insurance under Federal supervision; noncontributing old-age pensions with the cost divided between the States and the Federal Government; retirement annuities to be paid from a fund contributed by employers and employees through pay-roll taxes; Federal contribution to the States for the care of the blind and for the aid of mothers in childbirth.

This varied and far-flung program provided for in the Social Security Act is only just beginning to take effect. It will take years to fully effectuate it and a generation before its benefits will be fully felt. The law itself is as yet imperfect and incomplete. Thus, whereas it is estimated that 25,000,000 wage earners in business and industry will be entitled to participation in the retirement plan and the so-called old-age benefits, nevertheless they comprise no more than two-thirds of the total wage earners of the Nation. Excluded from the old-age retirement plan, as the law now stands, are farm laborers and persons employed in domestic service. Furthermore, the small, independent businessman or professional man or farmer is outside the plan. Yet all of these groups and classes are logically entitled to participation in old-age benefits, and some of them, whose wages or earnings are in any case relatively low, will be in as great need of such annuities in their old age as any of the groups of workers already provided for under the plan.

It seems to me that one of the important things which lies ahead is to extend this phase of the social-security program so as to make it of universal application. It is easier said than done. But such, I believe, should be our objective.

In what I have said in this brief summary of our Nation's upward progress during the past 4 years, I have taken time to mention only some of the more fundamental and far-reaching accomplishments. There have been many others. I have had nothing to say about our country's steady climb out of the depths of the depression and out of the depths of despair and the arrival of happier days—this does not need to be told, for it is self-apparent.

Our country stands today upon new foundations, with new controls over our social and economic processes and new concepts as to the obligations of men to their fellow men, the obligations of our citizens to their Government, and the obligations of our Government to the people.

What now about the future? What is America's outlook?

Some things are obvious. Some things are in the realm of conjecture and of hope. It is obvious that we have not yet eliminated the possibility of war. It is obvious that in seeking for ways and means of attaining our social and economic objectives at home, we have come into collision with the constitutional limitation upon the power and authority of the Federal Government and the constitutional guaranties respecting the liberties and the property of individual citizens. It is obvious that grave constitutional questions have arisen, a solution of which is by no means clear.

It is obvious, as is so forcibly brought home to us by the situation at the moment in one of our largest industries, that grave questions still remain to be solved respecting the rights of labor and of capital—that industrial peace and harmony is as yet an ideal, rather than a reality.

It is self-evident, in the light of the present flood catastrophe, that flood control, which we have been talking about and appropriating for over two decades, is still a stupendous national undertaking.

It is self-evident that whereas in the years immediately behind us we were suffering from too low prices, we are now facing the danger of too high prices, if the upward rise in prices is to continue.

It is self-evident that we are still considerably short of the point where Government revenues will be sufficient to meet all Government expenditures, and with a margin over for debt reduction.

These are some of the matters which are our immediate future concern, and some of the questions which the future alone will answer.

We stand today, a united people, inhabiting the most favored land on the face of the globe, with vast resources, both God-given and man-made.

We live under the most democratic and the most stable government in existence.

We are going forward under resolute and courageous leadership.

America's outlook at this hour is as bright as at any hour in our history. We have passed from beneath the clouds, and we see again the sun. It is great to be an American.

Control of Floods

EXTENSION OF REMARKS

OF

HON. AUGUSTINE LONERGAN

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Monday, February 1, 1937

STATEMENT BY DR. CHARLES P. BERKEY, OF COLUMBIA UNIVERSITY, AND AN EDITORIAL FROM THE NEW YORK TIMES

Mr. LONERGAN. Mr. President, I ask unanimous consent to have inserted in the RECORD a statement by Dr. Charles P. Berkey, professor of geology at Columbia University, on the question of flood control, published in the New York Times of yesterday, and also an editorial from the New York Times of yesterday on the subject of Curbing the Mississippi.

There being no objection, the statement and editorial were ordered to be printed in the RECORD, as follows:

[From the New York Times of Jan. 31, 1937]

CONTROL OF FLOODS "BEYOND PUNY MAN"—DR. BERKEY SAYS "REFORESTATION, LEVEES, AND A FEW DAMS" WILL NOT SOLVE PROBLEM—WOULD MOVE POPULATIONS—COLUMBIA GEOLOGIST FAVORS ABANDONING DANGEROUS LOWLANDS AND REPLANNING RIVER CITIES

Man can do nothing to prevent floods such as the one which has moved down the Ohio Valley, Dr. Charles P. Berkey, professor of geology at Columbia University, contends. Special reforestation, levees, and dams—flood-prevention efforts of man in such regions—cannot fully solve the problem, and the populations of the dangerous bottom lands should be moved elsewhere and the river cities replanned, Dr. Berkey said.

Nature is the master, and man should not "dispute the right-of-way of one of Nature's giants", he declared.

After asserting that most popular explanations for such natural phenomena as floods are unsound and that the cures proposed are usually hopelessly inadequate, Dr. Berkey said that the "lack of appreciation of geological processes and failure to take note of the danger signals lead to one disaster after another year after year."

"NATURE WILL HAVE ITS WAY

"Special reforestation, levees, and a few dams are expected to do what they have no competence for", he asserted. "Spoonfuls of water are impounded while lakefuls on upper reaches flood the courses of our river systems. Nature has its own way of disposing of an oversupply of rain or melting snow.

"It would be immeasurably more distressing if these waters were spread out over the surface of the ground to lie there stagnant until dried up by evaporation. Gravitation compels it to flow and the gathering of this run-off forms the streams that finally on occasion build up great floods.

"But they all follow the lines charted by the river itself in more orderly times when its chief work was to dig a channeled course for its own accommodation.

"The plain fact is that a river has nowhere else to go. The inner channel carries the stream in normal times, but in flood the valley bottom is covered also, and in great floods even the lower terraces are reached. The point is that these lands are its own property. Anyone encroaching on these particular lands is a trespasser in yearly danger and will learn by experience, if not otherwise, that Nature is still master.

"PREDICTS REMEDIAL ACTION

"Although in occasional instances special protective measures or diversions or impoundings are partly effective, the principal move indicated by the facts is very different. We are slowly learning that some of the things we have tried to do cannot be done. Our effort by comparison is too puny.

"The cure of flood disaster is essentially the same. Dangerous bottom lands should not have been occupied, of course. We know well how they come to be and why the stricken people return to the same spot in the vain hope that such a visitation may never come again. But the time must come when better plans will be laid. Helpless populations now crowded along the river bottoms

in our great cities will be provided habitations beyond the reach of danger. Cities can even be replanned.

"Instead of praying that the windows of heaven may be closed, or instead of attempting to dispute the right-of-way of one of nature's giants, perhaps it would show great wisdom to accept the situation and turn such portion of the river bottom as it must occupy on occasion back to the river again. Nature has provided a very demanding use for these places, and apparently the thing for man to do is to observe nature's danger signs and provide ways of meeting his own needs."

Dr. Berkey is secretary of the Geological Society of America.

[From the New York Times of Jan. 31, 1937]

CURBING THE MISSISSIPPI

For over a century levees have been the main, indeed the only, bulwark against the rising Mississippi. Time and time again they have given way. Yet they are not futile. Without them, cities like Cairo, Memphis, Vicksburg, New Orleans would hardly have grown to their present importance. But after the record-breaking flood of 1927, when water poured through 13 crevasses in the main line alone and inundated 23,000 miles of territory, it was recognized that levees could no longer be regarded as a complete protection against floods. Out of the watery horrors of that and other years came the plan of the late Maj. Gen. Edgar Jadwin, who ranks with Brunel, Eads, De Lesseps, and Goethals as one of the greatest of engineers. He boldly abandoned the "levees only" theory and at a cost of $325,000,000 constructed emergency floodways, strengthened and heightened the leeves along both banks from Cairo to the Gulf for a distance of nearly 2,000 miles, provided the now familiar "fuse plugs", spillways, and other safety devices. These inventions were not new. They had been used in controlling other rivers. But Jadwin integrated them into a system and thus began a new era in Mississippi engineering. The mightiest of North American rivers was to be both held in leash and humored.

This will be a critical week for the Jadwin plan—critical not because there is any doubt about its soundness but because it has not been entirely carried out. The main line of levees is ready. Of four emergency spillways, two are complete, one half finished, a fourth still in the blue-print stage. The emergency floodway designed to save Cairo is already in use; another, at New Orleans, will probably be put to the test later in the week. Engineers will watch these two danger points, as well as the heightened levees, with an anxious eye. South of the Arkansas River the protection is not what it should be, for lack of finished diversions. It would be little short of miraculous if no imperfections were revealed in a plan that has not been fully realized. But if the untried levees hold all the long way from Cairo to the Gulf, if the emergency floodways prevent the water from rising above strategic danger points, in a word, if the new defenses meet the expectations of Army engineers, the whole Mississippi Valley will have reason to erect monuments to Jadwin's memory.

Whatever obstacles malaria-breeding mosquitos and slipping earth may have presented in the construction of the Panama Canal, justly regarded as one of the technical wonders of the world, the struggle that these United States have been waging with the Mississippi for over a century has called for even more tenacity of purpose and engineering resourcefulness and the handling of even huger masses of material. And the struggle will never end. If photographs could be made semiannually from the stratosphere of the basin from the Great Lakes to the Gulf and projected in a few minutes as a motion-picture film, the river would appear as a colossal, writhing serpent. For it is forever washing away banks here and forming new ones there, eroding bends, finding new restless beds in which to lie. To meet local community needs and yet consider the geography of the ever-changing river as a whole presents social and engineering problems second to none. In the history of civilization the control of the Mississippi ranks as probably the costliest and most time-consuming single task that any nation was ever called upon to perform.

Abraham Lincoln

EXTENSION OF REMARKS

OF

HON. SAMUEL B. PETTENGILL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 1, 1937

TRIBUTES BY ROBERT LINCOLN O'BRIEN AND FRANKLIN K. LANE

Mr. PETTENGILL. Mr. Speaker, in view of the approaching anniversary of Lincoln's Birthday, I ask leave to have printed in the RECORD two of the most beautiful tributes which have ever been paid to the memory of Abraham Lincoln and Nancy Hanks.

One is by Robert Lincoln O'Brien, now the efficient chairman of the United States Tariff Commission, and originally appeared as an editorial in the Boston Herald on February 12, 1914.

The other is by the late Franklin K. Lane, formerly Secretary of the Interior. It is entitled "Lincoln's Eyes." The original of this classic in prose is to be found in the Congressional Library.

It is my hope that the public, especially school teachers and others in charge of programs for Lincoln's Birthday, will find these reprints of interest.

Mr. O'Brien's tribute is in the form of a dialog entitled "Nancy Hanks" and is as follows:

NANCY HANKS

NANCY HANKS. I see the calendar says it is 1914, nearly a century after my life in the world ended. Pray tell me, spirit of the present, whether any one mortal remembers that I ever lived, or knows my place of burial.

The PRESENT. Oh, yes. There is a monument over your grave at Pigeon Creek. A man named Studebaker, of South Bend, Ind., went there in 1879 and spent $1,000 in marking it.

NANCY HANKS. What do you mean? More money than I ever saw in my life spent on my grave, more than 60 years after I had made it. Was he a rich descendant of mine?

The PRESENT. He was no relative of yours. As a matter-of-fact citizen, he thought your grave ought to be marked. Twenty-three years later the State of Indiana erected a massive monument in your honor; 10,000 school children marched in procession when it was dedicated. The Governor of the State, now one of the great Commonwealths of the Union, was there, while a distinguished general from afar delivered the principal oration. This monument cost a larger fortune than you ever knew anyone to possess. More people than you ever saw together at one time assembled. And on the pedestal, in raised letters, one may read: "Nancy Hanks Lincoln." Can there be any mistake about that?

WHAT IS THIS WONDER?

NANCY HANKS. What is this wonder of wonders? I realize that my mortal remains, enclosed in a rough pine box, were buried under the trees at Pigeon Creek, and that no minister of religion was there to say even a prayer. I supposed that if anybody in all this earth of yours would be surely forgotten, and soon forgotten, it would be Nancy Hanks, the plain woman of the wilderness. My life was short—only 25 years—and in it I saw little of the great world, and knew little of it, and on going out had little further to expect from it. So, I pray, break to me the meaning of this appalling mystery.

The PRESENT. This is the 12th of February.

NANCY HANKS. That was the birthday of my little boy, a slender, awkward fellow, who used every night to climb a ladder of wooden pegs driven into a log, up into a bed of leaves in the loft, and there to dream. Whatever became of that sad little boy? He was not very well when I left him. All that winter he seemed ailing. I hated to go away. I was afraid his father could not give the care that the frail little fellow needed. Did you ever hear what became of my little 9-year-old boy out there in the woods of Pigeon Creek?

THE WORLD KNOWS OF HIM

The PRESENT. Of course I have heard what became of him. Few have not. The people who could answer your question number hundreds of millions today. There is no land and no tongue in which the information you seek could not be supplied, and usually by the "man in the street." Actual millions of people know that the 12th of February was the day you welcomed into your cabin in the frontier wilderness that little boy. His birthday in 22 States of the Union, including the imperial State of New York, has become a legal holiday. Most of the others hold some commemorative exercises. When the great financial market of the world opened in London this morning it was with the knowledge that the United States of America, the great republic over the seas, would record no stock transactions this day. The words, "No market—Lincoln's birthday", travel on ocean cables under every sea, and business in the great buildings, 40 stories high, of New York City has paused today.

NANCY HANKS. Pray tell me more of the miracle of my little boy's life. I cannot wait to hear what it all means!

APPEALS TO MANKIND

The PRESENT. If you had one copy of every book that has been written about him, you would have a larger library than you ever saw in your mortal life. If you had visited every city which has reared his statue, you would be more widely traveled than any person that you ever saw. The journey would take you to several European capitals. Every possible work that he ever wrote, every speech he ever made, every document he ever penned has been collected, and these have all been printed in sets of books with a fullness such as has been accorded to the works of only a few children of men. You could count on the fingers of two hands—and perhaps of one—the men in all secular history who so vitally appeal to the imagination of mankind today.

NANCY HANKS. And so my little boy came into all this glory in his lifetime!

The PRESENT. Oh, no. He died at 56, as unaware of how the world would eventually regard him as old Christopher Columbus himself. A few months before his death he expected soon to be thrown out of the position he was holding, and so he wrote a letter telling how he should strive to help his successor to carry out the unfinished work. Your little boy saw so little to indicate the place that time has accorded him. His widow was hardly able to get from Congress a pension large enough for comfortable support, and yet that same body, in less than a half century, appropriates $2,000,000—stop to think of that—for a national monument in his honor, and on plans so elaborate as to call eventually for far more than this sum.

LEADING THE IMMORTALS

But I could tell you only half the story. Men have retired from business to go into solitude to study his life. Others have been made famous by reason of having known him. I recall a New York financier who had known the high life of the world, mingling with the princes and statesmen of nearly every land. On his seventieth birthday his friends gave him a complimentary dinner. He chatted to them of what he had seen and where he had been. But he dismissed all the honors of the big world by saying that the one thing that remained most worth while in his threescore years and ten was that he had shaken hands and conversed in private audience with your little boy, whom this cosmopolite pictured as "leading the procession of the immortals down the centuries."

NANCY HANKS. This is beyond me. I am lost in mystery and amazement. What did my boy—that earnest, sad little fellow of the woods and streams—do to make men feel this way? How did it all come about?

The PRESENT. That might be as hard for you to understand, without a knowledge of what has taken place in the meantime, as the skyscrapers and the ocean cables and railroad trains that I have spoken about. But I will try to tell you something of what he has done.

NANCY HANKS. I am hanging on your words. I long to hear the story.

PATH OF RIGHTEOUSNESS

The PRESENT. We have in the United States a great democracy. We are making a great experiment for the nations. Your little boy gave friends of democracy the world over the largest measure of confidence in its permanency and success of any man that has ever lived.

Until recently more than a million people a year have poured into the United States from lands beyond the seas, most of them unfamiliar with our language and our customs and our aims. When we Americans who are older by a few generations went out to meet them, we took as the supreme example of what we mean by our great experiment the life of Abraham Lincoln. And when we are ourselves tempted in the mad complexity of our material civilization to disregard the pristine ideals of the Republic, we see his gaunt figure standing before us and his outstretched arm pointing to the straighter and simpler path of righteousness. For he was a liberator of men in bondage; he was a savior of his country.

He became President of the United States, but that affords a small clue to his real distinction. Few people refer to him as "President Lincoln." In the idiom of our people he is Abraham Lincoln, called by the name you gave him in the gloom of the wilderness. To that name of your choosing no title that the vain world knows could add anything of honor or distinction. And today, from the Atlantic to the Pacific Seas and in places under distant skies, children will recite in their schools his words; men will gather about banquet boards to refresh their ideals by hearing anew some phase of his wonderful story. Our Nation could get along without some of its territory, without millions of its people, without masses of its hoarded wealth; but it would be poor indeed were it to wake up on this morning of the twentieth century without the memory of your little boy.

Mr. Lane's tribute was inspired by the statue of Lincoln by Saint-Gaudens in Lincoln Park, Chicago. It is as follows:

LINCOLN'S EYES

I never pass through Chicago without visiting the statue of Lincoln by Saint-Gaudens, and standing before it for a moment uncovered.

It is to me all that America is, physically and spiritually. I look at those long arms and long legs, large hands and feet, and I think they represent the physical strength of this new country, its power and its youthful awkwardness. Then I look at the head and see qualities which have made the American—the strong chin, the noble brow, those sober and steadfast eyes. They were the eyes of earnest idealism, limited and checked by the possible and the practicable. They were the eyes of a truly humble spirit, whose ambition was not to live for power, but a desire to be supremely useful. They were eyes of compassion and mercy and a deep understanding. They saw far more than they looked at. They believed in far more than they saw. They loved men not for what they were but for what they might become. They were patient eyes, eyes that could wait and wait and live on in the faith that right would win. They were eyes that challenged the nobler things in men and brought out the hidden largeness. They were humorous eyes. They saw things in their true proportion and in their real relationship. They looked through cant and pretense and the great and little vanities of great and little men. They were the eyes of an unflinching courage and an unfaltering faith, rising out of a sincere dependence upon the Master of the Universe.

To believe in Lincoln is to learn to look through Lincoln's eyes.

Radio and the Flood

EXTENSION OF REMARKS

OF

HON. JOHN O'CONNOR

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 1, 1937

RADIO ADDRESS BY HON. ANNING S. PRALL, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION, ON JANUARY 31, 1937

Mr. O'CONNOR of New York. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of Hon. Anning S. Prall, Chairman, Federal Communications Commission, delivered from Washington, D. C., over the Blue Network of the National Broadcasting Co., Sunday, January 31, 1937:

Truly a glorious chapter is being written in the history of this Nation as we witness the heroism and the devotion to duty of thousands of Americans who are making perilous sacrifices in order that suffering and misery may be reduced in the flooded areas of the Ohio and the Mississippi.

The heroes of past floods have always included the doctors, nurses, public-utility workmen, and other relief workers. This one has proved no exception to that rule, but it has also produced a new group which might very properly be called the heroes of the air.

It is the duty and, I believe, the privilege of every American to aid his fellow citizens in time of need. To that doctrine we all subscribe. During the past week it has been ably demonstrated as the forces of the Nation banded themselves together to minimize the cruel effects of the floods now raging in the Ohio and the Mississippi Valleys.

In Cincinnati the authorities ordered a curtailment of the limited supply of electric power in order that the telephone company and the hospitals could operate. In Louisville the authorities urged the telephone company to maintain all possible operations, because it would be a most serious situation if the telephone and the police radio services were to go out of commission.

In many towns much danger to life was averted because telephone girls, to their everlasting credit, remained at their posts at the risk of life and health.

As Chairman of the Federal Communications Commission I fully realize that the telephone and the telegraph lines have played their parts in this emergency and have played them well, but I humbly salute radio for its tremendous contribution in this hour of need. Radio—both short-wave and broadcasting—has done a magnificent job in connection with these disastrous floods.

In some instances telephone and telegraph wires and central offices and exchanges were completely inundated, and other means of communication had to be employed. Much of this communication was by radio, the latest principal arrival to the family of electrical communications.

To the amateur operator, who, from his homemade set directed relief messages when all other means of communication had failed, to the small and to the powerful broadcasting stations I am happy and grateful to say that radio has met its greatest crises in a truly American way.

Ordinarily associated with entertainment activities, radio stations in the afflicted areas have taken off their uniforms, put on their overalls, and gone to work in earnest, reporting conditions, warning residents of impending danger, collecting funds, and serving as a clearing house for the efforts of relief agencies.

The physical damage in this wave of floods probably exceeds that of any previous one in recent years, and the death toll, large as it is, would undoubtedly have been much higher except for the efficient work of the station broadcasters and the amateur operators who dropped all other forms of radio activities to concentrate on relief and rescue problems.

The complete story of radio's contribution to flood relief as yet cannot be recorded; but sufficient reports have been received to indicate that in the saving of lives, the safeguarding of property, and in the raising of funds, radio—and the splendid men and women associated with it—has played a major role.

I know that the public has already learned of the splendid work which is being performed by the various communication organizations to provide prompt and efficient communications with the flooded districts. The record of the radio amateurs, while their activities are normally inspired without pecuniary interest, is rich

in contributions to the public interest. They have greatly aided in the present emergency by providing communication with isolated points which could not have been reached in any other manner. The Commission is happy to report that we have received from them the very finest cooperation throughout this emergency period. Through the days and nights these men, resisting weariness, stuck to their posts relaying messages to and from the afflicted districts.

Discarding all other programs, many broadcasting stations were on the air all day and throughout the night warning residents of danger, locating supplies, mobilizing truck drivers, pleading for medical supplies, establishing relief stations, and directing activities of relief workers under the direction of the police and emergency relief committees.

In Louisville, Ky., when the city power failed a large broadcast station some 175 miles distant was connected by land lines to the studio of the local broadcast station and thus direct communication was maintained to the many mobile units throughout the Louisville area. This hook-up was able to render untold assistance in the direction of rescue boats, doctors, police, guiding of fleets of trucks with provisions, cars with medicine and serum to the distressed areas.

Early in the flood stages all of the radio stations in Cincinnati, one of the major cities hit by the ravages of water, put themselves on a voluntary relief basis and at times became practically the main line of communication for police and relief officials in directing their rescue forces.

The employees of one station worked in studio temperatures 18 degrees above zero on a 24-hour basis.

Resourceful engineers established emergency broadcasting stations in trucks, in boats, and at every available position, frequently at the risk of their lives, in order that relief officials could direct their activities in the most effective manner. When power lines failed emergency power units were established and in one instance a motor generator was rushed by plane from Chicago to Louisville in order that a station could continue to function. A portable transmitter was rushed from Cleveland to Portsmouth, Ohio. All other means of communication had failed and the police of that city were permitted the use of this mobile unit in handling their messages to rescue forces.

In Louisville a radio station was used by the mayor to summon fire apparatus from neighboring cities. And when it appeared that the Louisville station would fail, other stations in nearby cities were quick to establish lines of communication and voluntarily offered their facilities so that there should be no disruption of service.

In fact, a number of stations banded together and simultaneously broadcast relief messages in the Louisville area in order that the failure of any one station would not curtail relief activities. I have just read a dramatic account sent to Broadcasting Magazine of a small 100-watt station which had lost all of its studio and office equipment—in fact, the station was practically destroyed—but with the use of emergency equipment it remained on the air, and at no time was there a halt in its activities.

While the most heroic work has been done by the stations in the immediate flooded areas, I am informed that every station in the country, together with the national networks, have made commercial sacrifices in order that Red Cross and other officials would have unlimited resources in the collection of funds and the gathering of food and clothing to be sent to the stricken people. I do not say this necessarily in a commendatory way. We expected that sort of cooperation, for it is a showing of public service of the character contemplated in the law which authorizes the licensing of stations.

The Army, Navy, and Coast Guard have rendered valuable assistance in maintaining radio communications in the stricken areas and also between those areas and the headquarters of relief direction. The Coast Guard, in cooperation with the Navy and the amateurs, rendered most effective service in the Ohio Valley. The Army and Coast Guard have already established radio networks in the Mississippi Valley, all linked to Washington, the capital of the Nation.

The Canadian Government has graciously cooperated toward reducing interference from Canadian broadcast stations sharing the same frequencies as American stations in the flooded areas.

The Federal Communications Commission has been alive to the present emergency from its very beginning and has given immediate attention to every request for special communication facilities.

This Commission is a regulatory body and not an operating organization. However, with the assistance of the telephone and telegraph companies and the radio communication companies, we have established an instantaneous communication link with all the Government agencies engaged in relief work, and in particular with the American Red Cross, with the view of assisting in any coordination between Government and private communication organizations to form an effective communication system in the stricken areas and between those areas and Washington. We are maintaining a 24-hour service at the offices of the Commission.

While speaking primarily of communications, we do not forget that other agencies are performing splendid service, notably the American Red Cross, the C. C. C. and W. P. A., various State and municipal governmental agencies, and numerous private organizations.

The police, both municipal and State, have rendered excellent service. We have authorized them to establish many additional stations for portable and mobile use in Indiana and Ohio.

At 3:50 a. m., Friday, January 29, the Commission received a request from a broadcast station in Memphis for authority to permit an amateur station to be established on an Army Engineer barge in the Mississippi River, in order that there might be sent direct to the public any directions for emergency evacuation and instructing the public in the threatened areas as to where to go and how to get there.

Within 5 minutes, after ascertaining that the use of a special frequency by this amateur would not interfere or interrupt other relief radio communications in the Ohio Valley, the authority was granted.

May I take this opportunity of stating again that radio in this national crisis was called upon and was not found wanting. To the loyal men and women who have, and still must remain at duty, I offer my most sincere appreciation. They were quick to sense their responsibilities; they have won the grateful thanks and the commendation of the Nation.

No happening in recent times has stirred the emotions of the Nation to the degree marked by this flood visitation. Before presenting this broadcast this afternoon I advised President Roosevelt of my intention to do so. More keenly concerned than most of us realize, he asked me to assure all of the individuals and groups—the Red Cross, the military services, the voluntary relief units, civic officials, broadcasters, and other communications services—who so valiantly jumped into the breach, of his sincere appreciation for the parts they have played in this national emergency. He has kept in close contact with conditions and is deeply touched by the unselfish and praiseworthy work performed.

At this moment I have no idea of the financial condition of the Red Cross war chest. But I know and you know that if ever funds were needed to allay hunger and relieve illness and distress, those funds are needed now—and now is the time to make your contribution—make it willingly—make it cheerfully—make it instantly, and make it with a prayer of thanks to God that your community and those near and dear to you have been spared the misery, the despair, and the suffering of our unfortunate neighbors in the flood-stricken areas of our Nation. Send your contribution to your local Red Cross unit and send it at once.

Accomplishments of the Administration

EXTENSION OF REMARKS

OF

HON. TOM CONNALLY

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Monday, February 1, 1937

RADIO ADDRESS BY HON. JESSE H. JONES, CHAIRMAN, RECONSTRUCTION FINANCE CORPORATION, ON OCTOBER 30, 1936

Mr. CONNALLY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by Hon. Jesse H. Jones at Dallas, Tex., on the evening of October 30, 1936.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

INTRODUCTION BY THE HONORABLE JOHN NANCE GARNER, VICE PRESIDENT OF THE UNITED STATES, SPEAKING FROM HIS HOME AT UVALDE, TEX.

I have the pleasant privilege of introducing the next speaker of the evening, Mr. Jesse Jones, of Texas.

Nearly all of you know of Mr. Jones. Many of you know him personally. I also have had that pleasure for many years, but very few know him officially as I do, so I just want to take one moment to tell you something about him as a public official. For more than 4 years he has been engaged in one of the most important enterprises known to civilization—the loaning of money and the establishment of credit. In that connection, I might say, he has, in that period of time, allocated and loaned more money to various institutions and enterprises than any other man in the history of the world; and, I might add further, for your information, to my certain knowledge he has done a good job.

Now, to have done the biggest job, and to have done it well, is some accomplishment, and that is what Jesse Jones has done. He is recognized by one and all, without regard to political views or affiliations, as one of the most efficient officials in Washington. He has a peculiar faculty of arriving at right conclusions without giving offense to the opposition, which is a rare quality and a very valuable one in dealing with the public. All the people of the Republic are honored by Jesse Jones' service to his country.

I take pleasure in presenting to the radio audience Mr. Jesse Jones, who will speak from Dallas.

ADDRESS BY HON. JESSE H. JONES

I find no fault with anyone about his political convictions, but aside from natural political alinements, for anyone in business, industry, and banking, including the occasional vocal head-

liner, to be against the Roosevelt administration is difficult for me to understand. Our memories may be short, but they are not so short that we cannot remember the situation with business in 1931, 1932, and 1933, when some of these headliners were appealing to Government to come to the aid of business and banking.

There has been as much done for business, banking, and agriculture as for people out of work. Business is making money. The farmer is getting a good price for his products, and the banks are no longer worried. Why? Because of Government lending and of Government relief to the unemployed, every dollar of which goes immediately into trade.

The R. F. C., the Home Owners' Loan Corporation, the Farm Credit Administration, the Federal Housing Administration, and Public Works have put more than $15,000,000,000 credit directly into the bloodstream of our economic lives.

If the Government had not made credit available as it has, Government credit, our steel mills and manufacturing plants of all kinds, including especially the automobile industry, would be running at half time instead of overtime, as is true with many of them. This would mean that millions more would be out of work. Factories do not run unless there is a market for their products, and Government lending and Government relief have created the market, the buying power.

We have not forgotten that banks were failing by the thousands in 1931 and 1932 and the first part of 1933, and in this connection we might also remember that just 5 days after President Roosevelt took office, Congress passed a law authorizing the R. F. C. to bolster the banks by investing in their capital stock.

Under the old order, the Republican way, we lent to banks on the security of their bills receivable, which in many instances was only putting off the evil day. It was capital the banks needed to protect their depositors, and with this new law R. F. C. provided that capital without stint, and on very generous terms.

And except for this preferred-stock law, passed 5 days after President Roosevelt took office, our banking system would have failed. We authorized capital investments in approximately 7,000 banks, from the largest bank to the smallest, a billion and a quarter dollars. This law enabled the R. F. C. to underwrite and capitalize thousands of banks that otherwise could not have qualified for deposit insurance, and there will be no loss to the taxpayer from these investments.

The Home Owners' Loan Corporation saved a million homes from foreclosure by taking up and extending the mortgages against them. It increased the loans on 420,000 of these homes so that they could be modernized and made more livable. These loans amounted to $3,093,000,000, the proceeds of which went to banks, insurance companies, and private investors in payment for the loans. Two hundred and ninety-one million dollars went to municipalities for back taxes. The effect of saving these million homes prevented as many more from being foreclosed.

The Farm Credit Administration saved more than a half million farm homes by taking up and extending the mortgages against them. These loans prevented the foreclosure of other farm homes, probably several times the number actually saved by Farm Credit. The money lenders in both cases finally realized that continued forced liquidation could mean but one thing—that of necessity the Government would be forced to continue rescuing home owners, both urban and rural.

The Federal Housing Administration, created to stimulate home building and home modernization by insuring loans for these purposes, has insured $1,200,000,000 in loans, charging a moderate fee for this insurance. Five hundred million dollars of this was for modernization loans to 1,217,000 home owners. The home-modernization campaign of the Federal Housing Administration resulted in approximately $2,000,000,000 of home modernization, only about one-fourth of which was insured by the F. H. A. Congress authorized $200,000,000 for use by this agency, but it has only been necessary to use one-tenth of this amount to date. Some more may be needed but not a great deal. Its receipts from premiums and other charges have been $4,300,000.

The Public Works Administration has made loans or grants to municipalities and other public bodies, including a few railroad-equipment loans, in all but 3 of the 3,072 counties in the United States. The R. F. C. buys these loans from P. W. A. to create a revolving fund for new projects. We have already bought $463,000,000 of these and have sold and collected $317,000,000 at a profit to the Government of $9,300,000.

We have made available for loans to agriculture in one form or another $2,152,000,000, and all our outstanding loans on cotton, corn, tobacco, naval stores, and to Federal land banks and joint-stock land banks are now only $304,000,000. Corn sold as low as 12 cents a bushel in 1932, and cotton at 5 and 6 cents a pound. This meant bankruptcy for the corn farmer and the cotton farmer, but nothing was done about it by the party in power, the Republican Party; and you big fellows, you bigwigs, cannot prosper if the farmer has no buying power. In 1933 the R. F. C. lent 45 cents a bushel on corn in the crib and 10 cents a pound on cotton. These commodities have been well above these prices ever since.

The R. F. C. has paid out on loans a total of $6,289,000,000 and has already collected $4,236,000,000, or 67 percent. We pay the Treasury interest for the money we borrow to lend, more interest than the Treasury pays. We have kept our expenses low, approximately one-half of 1 percent, and our interest rates to borrowers low. Notwithstanding this, we have accumulated an operating surplus actually collected of something over $112,000,000. This is more than enough to cover every individual loss that we may have from loans or bank capital investments. So there will be no loss to the taxpayer from R. F. C. lending and little, if any, loss from credits through the H. O. L. C., P. W. A., F. H. A., and Federal land banks.

Any argument that the Roosevelt administration has hindered recovery by interfering with business is ridiculous; and deep down in his heart, I think, every businessman, manufacturer, and banker knows this.

Furthermore, a few billion dollars judiciously lent and used to bolster the banks through investing in their capital in 1931 and 1932 would have averted the terrible catastrophe that finally overtook us. The country, from all quarters, was crying for help; the Republican Party was in power; I leave it to you as to what was done.

Let's not be fooled by statements that we would have had recovery without Government help. I have seen too much distress and so many broken men in my 4½ years' relief work for business and banking that I know better than this; and you know better. Our economic affairs were too badly out of gear. They had been abused, debauched, and neglected under Republican leadership.

Lending $15,000,000,000 directly was of itself the greatest possible stimulus to recovery and business, but the indirect effect of this lending is impossible of calculation. The Republican Party could have met these emergencies in 1930, 1931, and 1932—a stitch in time—but did not, though the distress and the cost would have been much less.

As for our fiscal matters, it has never occurred to me that the Budget could not and would not be balanced soon. The first thing necessary was to bring the country back so that it could be done.

A few prominent members of the Democratic Party, as well as some Republican speakers, have been reminding us how good our 1932 platform was, and claim that the President has not adhered strictly to it. The spirit of the platform is of much greater importance than the letter of it. It was written as a guide for our party to improve the welfare of the American people, and that has been accomplished, immeasurably so.

I read this platform again, coming down from Washington, and find nothing in it about bolstering and saving the banks, by putting capital in them. Nothing about saving homes from foreclosure, as was done by the Home Owners' Loan Corporation, or stimulating home building and home modernization, as was done by the Federal Housing Administration. I see nothing in the platform about the C. C. C. camps, that have taken hundreds of thousands of our boys off the streets and roads, and enabled them to help their parents, and to improve themselves physically, as well as their morale. I see nothing in the platform about lending on farm commodities as we have done through the Reconstruction Finance Corporation and Commodity Credit Corporation, saving farmers from bankruptcy. And nothing about helping the insurance companies, which are the reliance of millions of widows and orphans, and of protecting railroads from receivership and from greedy railroad bankers.

I wonder what any of President Roosevelt's critics would have done in his situation. Would he have gone back to the people or the party and asked for another platform? Would he have said to hungry people, to people out of work, to those whose homes and farms were being foreclosed, sometimes blown away by dust storms, and to those whose life's savings were being swept away through failing banks and otherwise, that he could do nothing for them because the platform did not provide for it? Would he have refused to protect bank depositors by putting capital in the banks? Would he have refused to help the farmer by lending upon his products until they could be marketed at a fair price? He would not. He would have accepted the responsibility, just as President Roosevelt did, and, in cooperation with Congress, proceeded to meet the situation squarely, by providing relief and work at living wages for people who must work for a living, and by saving banks, insurance companies, homes from foreclosure, and business generally. He would have proceeded to raise the price of commodities above the cost of production, so that producers, whether of farm commodities or of manufactured goods of all kinds, could avoid bankruptcy. That is, he would have if he had had the courage and the vision.

So many sound, constructive, and helpful things have been done by the Roosevelt administration that were not contemplated when the platform was written that it ill becomes anyone to complain about what has not been done, that the Budget has not been balanced. The Budget could not be balanced until business was balanced, and I should like to ask, was your budget balanced in 1931 and 1932? It was not! It is only balanced now because of the Roosevelt administration. And it is now up to those whose budgets have been balanced to help balance the Government's Budget instead of complaining so much about it.

I yield to no one in my allegiance to the principles of Jeffersonian democracy, nor in my admiration of democracy as interpreted and administered by Andrew Jackson, Grover Cleveland, and Woodrow Wilson. Any of these, or anyone else elected to the Presidency of the United States, worthy of that great office, would have accepted the responsibility just as Franklin Roosevelt accepted it. No two perhaps would have taken identical steps, but each would have aimed at the same goal, the welfare and well-being of all the people.

Incidentally, the American people ratified and approved the course of the President and Congress in the 1934 congressional election by increasing an already overwhelming Democratic majority in both houses, and they will approve it again on November 3.

From every standpoint, and allowing for disagreement as to particular phases of policy and administration, I regard the reelection of President Roosevelt to be in the best interests of everyone. In addition to meeting our domestic difficulties, he is especially well qualified to deal with international problems. There may be little likelihood of another war any time soon, but the skies are none too clear at that. It will be comforting to all of us, and especially to the mothers, whose sons are called upon to give their lives in time of war, to have a man in the White House who has had experience dealing with world affairs, not only during the 4 years just passed, but experience during the World War under Woodrow Wilson—a man who can exert the greatest possible influence in averting another war.

The net of the Roosevelt administration has been a decided improvement in the well-being of everyone—the farmer, the merchant, the manufacturer, the banker, all who must work for a living—and it seems clear to me that the interest of all lies in the reelection of President Roosevelt.

Clarification of Constitution By Amendment

EXTENSION OF REMARKS

OF

HON. ROBERT F. WAGNER

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Tuesday, February 2 (legislative day of Monday, Feb. 1), 1937

COMPILATION BY THE NATIONAL CONSUMERS' LEAGUE

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD a brief compilation, prepared by the National Consumers' League, consisting of addresses on the subject of the clarification of the Constitution by amendment delivered at the thirty-seventh annual meeting of the league in New York City on December 15, 1936.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

CLARIFYING THE CONSTITUTION BY AMENDMENT—ADDRESSES MADE AT THE THIRTY-SEVENTH ANNUAL MEETING OF THE NATIONAL CONSUMERS' LEAGUE, NEW YORK CITY, DECEMBER 15, 1936

FOREWORD

This pamphlet is printed as a contribution to the discussion of a vital subject now before the people of the United States.

The National Consumers' League shares the opinion of the majority of constitutional lawyers whom it has consulted that interpretation of the Constitution in the spirit and intent of its framers would free the Federal and State governments to enact needed labor and social legislation, but that restrictive decisions of the United States Supreme Court have partially deprived Government of that power.

The League believes that the most effective and democratic method of freeing government to carry out mandates of the people in establishing safeguards for the general welfare is through an amendment clarifying clauses of the Constitution which are sometimes so interpreted as to paralyze the exercise of necessary powers.

While fully committed to the principle of such clarifying amendment the league is seeking further advice from constitutional lawyers as to the form best adapted to securing desired objectives without endangering values which should be preserved. The amendment offered by Dean Charles E. Clark at the close of his address merits the careful attention of all groups interested in clearing the way for labor and social legislation through constitutional processes.

LUCY RANDOLPH MASON,
EMILY SIMS MARCONNIER,
Secretaries.

—

AN AMENDMENT A PUBLIC ISSUE

(By John G. Winant, Chairman, Social Security Board, president National Consumers' League, presiding at the luncheon meeting at which the following addresses were delivered)

The subject for this afternoon's discussion reads, "Shall the Constitution Be Amended?" In the minds of many of us this means, "Must the Constitution be amended to make possible necessary social legislation?"

The question is plain enough. Yet it is disappointing that we should be discussing it at all. For it puts in opposition things which should be in harmony. The Constitution is a living instrument of government; social legislation is a necessity of the people. Here there should be no conflict. To find an antithesis between them is to deny the need of legislative protection against the shocks of an unruly industrial system. Or it is to challenge the sufficiency of the Constitution for the emergencies of national life. In the discussion in which we are engaged values which ought to be in accord appear arrayed against each other. It is the very fact that the question of amendment has become a public issue that evokes wonder, protest, and anxiety.

—

THE LEAGUE ENDORSES A CONSTITUTIONAL AMENDMENT

(By Florina Lasker, chairman, committee of inquiry)

Ever since certain recent acts of Congress were ruled invalid by the United States Supreme Court increasing attention has been focused, as we all know, on the question of the adoption of a constitutional amendment to permit without question effective labor and social legislation. Not until the recent decision of the Supreme Court invalidating the New York minimum-wage law, however, not until then did this question become an issue of such importance that it can today no longer be ignored by any intelligent citizen in this country.

There is no doubt that thousands of thoughtful persons throughout the land were truly shocked by this decision. To most laymen, at least, it meant that the Supreme Court had declared that there is not power anywhere in government in this country to establish minimum standards of wages, hours, and other conditions of labor for workers.

Although this view was not accepted by the National Consumers' League, it could not but fail to regard this adverse decision as a crushing blow to its program. For over 30 years the league has sponsored minimum-wage legislation in the United States.

Already in 1907—at its eighth annual meeting—the league decided to study wages and standards of living of women wage earners in this country as a first step toward the introduction of minimum-wage legislation, for the experience of the league and its branches during the previous 8 years had convinced them that such legislation was necessary if wages were to meet the minimum needs of unskilled women workers. This experience had proved that although much could be accomplished by organized persuasion of employers, more drastic methods would have to be resorted to if a solution of this problem were to be found.

In 1910 the league drafted its model minimum-wage bill—a measure which was first enacted by Massachusetts in 1912. Identical or similar bills were soon passed in 12 other States as well as in the District of Columbia. These laws all provide that minimum-wage rates should be based on cost of living, thus setting up a flexible standard. In an effort to avoid possible constitutional objections, the law was limited in its application to women and minors.

The fate of these laws is history. After many years of contest the United States Supreme Court in 1923 rendered a decision upholding the opinion of the court of appeals in the District of Columbia which had declared the law unconstitutional. Disappointed, but not daunted by this adverse decision, the league determined to continue its campaign for the enactment of minimum-wage laws by the States. It was realized, however, that the time was not then propitious for the conduct of such a campaign. For the time being, therefore, the league turned to other methods in its efforts to raise the level of wages of unskilled women workers, again making and publishing studies regarding wages of women and minors employed in certain industries and establishing "white lists" to cover some of the industries studied.

In a period of relative prosperity such a program was not without results. But with the advent of the depression it was discovered that the league could no longer count on the voluntary cooperation of employers. Let it here be said, however, to the credit of the enlightened employer, that he still struggled during this period to maintain minimum wages and other labor standards, although eventually he usually found himself compelled, through unfair labor practices, to abandon such standards.

By 1933 labor standards had fallen so low that the league saw its opportunity to reopen its campaign for the enactment of State minimum-wage laws. A new minimum-wage bill was drafted in an effort to meet the constitutional objections raised in the Adkins case, rates being based now on the fair and reasonable value of services rendered.

So aroused was public opinion at this time that, following the enactment of the league's minimum-wage law in New York in 1933, similar laws were passed in rapid succession by seven other States.

Although gratified by this success the league and other groups and individuals interested in such legislation realized, of course, that final victory must await the decision of the Supreme Court regarding the constitutionality of the rewritten law. Last June, as you all remember, the Supreme Court again spoke, this time upholding the decision of the New York Court of Appeals which had declared the State minimum wage law unconstitutional. In spite of this unexpected blow the quest for a valid minimum wage law will be continued.

But is this enough? Shall the National Consumers' League and other interested groups be content to confine their efforts to salvaging the New York minimum wage and other similar laws by substituting for them laws which embody revisions made in the light of the recent Supreme Court decision? Shall the league rest its hope on such efforts and on a possible change of view of the Supreme Court? Moreover, has the time not come when the league, while continuing to sponsor certain necessary protective legislation for women and minors, must give increasing attention to needed labor and social laws for men as well as women and children?

Such questions as these were raised at the board meeting of the league held last June soon after the Supreme Court had handed down its opinion in the *Tipaldo* case.

After months of careful consideration and after the appointment of a special committee to explore the various methods of giving government power to establish minimum standards of wages, hours, and labor conditions for workers, the league's board of directors reached certain conclusions expressed in the following resolution which it submitted at the league's annual meeting held yesterday.

"The board of directors believes that the time has come for the National Consumers' League to declare itself in favor of an appropriate constitutional amendment to permit without question effective Federal and State labor and social legislation. The board therefore recommends that the league take appropriate action at the annual meeting:

"(1) To provide for inviting experts on constitutional law and bill drafting to act as a committee, in cooperation with other groups, to draft a proper amendment; and

"(2) To authorize cooperating with other groups in working for such an amendment."

It is gratifying to report that the action recommended by the board was taken by a unanimous vote.

May I add that in taking this step the league harbors no illusions regarding the difficulties of securing the enactment of an amendment to meet the needs indicated. Indeed had it not been originally conscious of the many difficulties surrounding the question it would have been made aware of some of these problems as a result of the inquiry recently conducted by its special committee appointed to study the question.

As a first step in this inquiry the advice was sought of friends of the league whose views on the constitutional question it particularly valued.

The replies received were not altogether encouraging. While 15 out of 18 of those replying favored in principle the adoption of a constitutional amendment to secure needed labor and social legislation, 4 of these expressed grave doubts as to the possibility of framing an amendment which would serve the purposes for which it was intended or of securing the adoption at this time of such a measure, even if it could be satisfactorily drafted.

To recognize the difficulties of drafting an amendment which will meet the views of all those interested in the league's program is not, however, to surrender to these difficulties, accepting indefinitely a policy of drift.

Remembering the plea of Washington before the Constitutional Convention when he admitted that it was probable that no plan for a Constitution then proposed would be adopted, he nevertheless urged that a standard be raised "to which the wise and honest can repair", the league is resolved to cooperate with other groups in raising such a standard. It is convinced that the mere formulation of an amendment to permit effective Federal and State labor and social legislation will at least clarify the issue.

But who can say that more will not be accomplished?

That we will not actually attain our goal through the adoption of a constitutional amendment which will give government power beyond question to enact needed social and labor legislation?

"The event", to quote Washington again, "is in the hand of God."

—

MUST THE CONSTITUTION BE AMENDED?

(By Robert E. Cushman, professor of government, Cornell University)

After the Supreme Court's decision in the N. R. A. case someone remarked, "Well, it seems that the depression is constitutional." Today we find ourselves facing the fact that the Constitution of the United States, as construed by the Court, guarantees the right to pay women and children starvation wages. It prevents Congress from prohibiting child labor or from requiring that goods which move in interstate commerce shall be produced under safe and sanitary conditions, by labor which is free to organize, observes reasonable working hours, and is fairly paid. Under these circumstances is it possible to say that we live under a Constitution which is adequate to the needs of a twentieth century nation? Must we not face the fact that the States do not enjoy a police power which permits them fully to promote and protect social welfare within their borders? Is it not apparent that Congress can by no means deal effectively with all the present problems which are truly national in scope?

The Supreme Court's vast power over social policy

We cannot discuss intelligently the adequacy of the Constitution to present-day national needs without taking into account the present job of the Supreme Court of telling us what the Constitution means. As Chief Justice Hughes once said, "We are under a Constitution, but the Constitution is what the judges say it is." The Supreme Court exercises the all-important power of judicial review—the power to declare void laws which, in its judgment, are contrary to the Constitution. Now, part of the Court's job of constitutional interpretation involves little discretion. It is closely defined and even technical. Thus it must decide when a law is ex post facto, or when a person has been put twice in jeopardy for the same offense. But the clauses of the Constitution which have been invoked by the Supreme Court to block needed social reform are not of this variety.

They are broad and vague clauses. "Congress shall have power to regulate commerce * * * among the several States." "No person shall be deprived of life, liberty, or property without due process of law." What do these clauses mean? They mean what the Supreme Court says they mean. And there is no escape from the conclusion that in saying what they mean the Court can and does give effect to the judgments, the hunches, the predilections, the prejudices, which make up the intellectual and emotional equipment of the judges. The due-process clause does not itself forbid minimum wages, but something in the minds of the Court forbids minimum wages, and that something they read into the Constitution of the United States. And, as Prof. E. S. Corwin has so neatly put it, the Court has a great advantage over all the rest of us because what it cannot prove it can still decide.

"When I use a word," Humpty-Dumpty said in rather a scornful tone, "it means just what I choose it to mean—neither more nor less."

"The question is," said Alice, "whether you can make words mean different things."

"The question is," said Humpty-Dumpty, "which is to be master—that's all."

In giving meanings to the words of the Constitution, the Supreme Court is "master"—that's all.

Now I am not interested in attacking the Court for its decisions—for the meaning, which like Humpty-Dumpty, it chooses to give to the words of the Constitution. I do not think those meanings have all been wrong, and I do not know any sure and certain standard of right and wrong by which to judge them. But I do wish to emphasize the vast and final power over social policy which any tribunal enjoys which has the last word to say as to the scope and content of the power of Congress over interstate commerce or the restrictions upon social legislation which are to be read into the phrase "due process of law." I wish to make it very clear that when we ask the question, "Is the Constitution adequate to the needs of the modern Nation?" what we are really asking is, "Has the Supreme Court so construed the broad language of the Constitution as to make it possible for the States and for the Federal Government to deal squarely and effectively with the problems of a complex modern society?"

Worship of the Constitution, and the Court

There are three viewpoints with regard to this which we must explore. The first of these need not detain us long. It is an emotional rather than an intellectual attitude. It embodies two major assumptions. It assumes, first, that the true meaning of the Constitution, like a sort of revealed religion, manifests itself with complete and perfect accuracy in the utterances of the Supreme Court. The judges do not invent or create that meaning; they merely "find" it, and translate it into the form of judicial decisions. This is a process which Prof. Morris Cohen, once referred to as the "phonograph theory of the law." The Court merely turns on the proper record; but it has nothing to do with what is on that record. The second assumption is that the Constitution, thus construed by the Court, embodies the ultimate in constitutional wisdom. If, therefore, the Supreme Court tells us that a desired program of social legislation is forbidden by the Constitution, we must accept the inevitable, and console ourselves with the knowledge that it was wrong for us to desire it. This is a form of constitutional ancestor worship which, fortunately, seems to be dying out. It does not appeal to realists. And I venture to suggest that it is no very flattering tribute to our forefathers to assume that their progeny, after a century and a half of political experience, cannot make their own decisions or acquire any new ideas.

Proposals to curb the Court

There is a second viewpoint which is much more common and commands much more respect. This assumes that the Constitution itself affords a perfectly adequate foundation for the Government of a great modern Nation. It assumes that our present difficulties come not from the inadequacy of the Constitution but from the restrictive and socially conservative interpretations which the Supreme Court has given to the Constitution. It proposes, therefore, that we take steps either to secure from the Court interpretations which will permit the Constitution, without amendment, to serve the needs of the modern Nation, or failing this, it proposes that we alter or curb the powers of the Court in such a way as to loosen its stranglehold on national social policy.

Now there is quite a variety of concrete things which it is urged that we might do to the Court in order to accomplish the purpose just mentioned. These vary widely in character and in the force of their impact upon existing institutions and traditions.

First, we can educate the Court to a more liberal attitude on the constitutionality of social legislation. We can persuade it to treat with more tolerance the legislative judgments as to social policy and to refrain from invalidating laws because of what Mr. Justice Stone referred to in his dissenting opinion in the recent Minimum Wage case as "our own personal economic predilections." Just how we are going to educate the Court and persuade it to abandon the judicial traditions of many years is not very clear. If it can be done, or if there is any prospect of such a change of judicial heart, this plan (if it can be called such) would command well nigh universal support. But there are few signs of weakening on the present bench, and a program of social reform which must await a change in the judicial mind as to the restrictive application of due process of law stands small chance of early achievement.

Second, we can pack the Court with liberal judges, either in filling the vacancies which normally arise or in filling new judgeships created for that specific purpose. It is to be hoped that vacancies on the bench will be filled with liberal and tolerant minds of the Brandeis, Cardozo, and Stone variety, and every effort should be made to strengthen the President's hand in making such appointments. But it is not easy to think of circumstances under which the deliberate addition of newly created judges for the pur-

pose of outvoting the present ones could fail to undermine judicial independence and weaken respect for the Court.

Third, we can juggle the jurisdiction of the Federal courts in ways which would make it difficult, if not impossible, for constitutional questions to be decided judicially. The jurisdiction of the courts can be regulated and pruned down by Congress. But we must bear in mind that if Congress leaves the courts any jurisdiction at all, it cannot prevent them from declaring laws void on constitutional grounds in cases which arise within that jurisdiction.

Fourth, we can require that the decisions of the Supreme Court declaring laws void shall be either unanimous or nearly so. This would strike at the problem of 5-to-4 decisions, so justly unpopular. It would reduce the number of laws held void, though it would not assure the upholding of any particular statute. It would, furthermore, give us the rather anomolous spectacle of laws which are legally in force in spite of the fact that six or even more Judges on the Court believe them unconstitutional.

Fifth, we can provide that decisions of the Court holding acts of Congress void may be overridden, after the manner of the President's veto, by a two-thirds vote of both Houses of Congress. This would, in effect, give us an easier method of amending the Constitution, although the amendments thus added would not be proposed and debated as such and would not be ratified by the States.

Finally, we can abolish entirely the Court's power to invalidate laws and leave Congress and perhaps even the States, the sole judges of their own powers under the Constitution.

This is not the place to discuss the general merits or demerits of these proposals to alter or revolutionize our system of judicial review. But I venture one or two comments upon them in their relation to the legislative program of an organization like the National Consumers' League which is interested in promoting specific social reforms. The proposal that we "liberalize" the existing Court either by persuading it to adopt more liberal ideas, or by filling normal vacancies with liberal-minded judges seems to me to be a sound and intelligent program which should receive the support of all thoughtful workers for social reform. Whatever else we may do we should bend every reasonable effort in this direction. But it is by no means certain that we can ever bring about such liberalization of the Court, or bring it about within any reasonable period of time. For immediate practical purposes this plan seems just a little too much like praying for rain.

The proposals to "pack" the Court, to change its jurisdiction, or to require its decisions to be unanimous or nearly so, seem to me to be extremely unreliable and uncertain as to the results they could be expected to achieve. It is impossible to tell just how any concrete constitutional issue would be affected by any one of these proposals. With its wings somewhat clipped the Court would still continue in the traditional manner to pass upon the constitutionality of social legislation. Just how far it would flop, or in what direction it would flop, is impossible to predict. There is no assurance that the validity of any particular social or economic program would be guaranteed by any one or by all of these changes in the technique of judicial review.

Finally, the proposals to abolish entirely the Court's power to invalidate laws or to permit Congress to override its decisions cut much deeper in their effect upon our constitutional traditions and institutions than the issues involved in any particular social program. If we abolish judicial review we do, of course, permit Congress or the States to pass any and all other laws. We leave to Congress and to the States the sole and final responsibility for the protection of what we call our civil liberties. Whether that is a desirable thing to do, whether that is a safe thing to do, we do not need to decide here and now. But it seems to me to be a remedy much more drastic than is required to attain the objects which we have immediately before us.

Need for clarifying amendments to the Constitution

There is a third viewpoint which we may take with respect to this whole problem of seeing that the Constitution is adequate to the social and economic needs of the Nation. This is to recognize frankly that the Constitution may actually require change by the orderly process of amendment. It is not unreasonable to suggest that a document drafted a century and a half ago might well have its clauses clarified and sharpened by amendments which make abundantly clear the scope of its delegations of power and the impact of its limitations. If we wish to make sure that the power of Congress under the commerce clause includes the regulation of laboring conditions in mines and factories in which goods are produced for the interstate market, then let us say so with definiteness and precision. If we are tired of having the due process of law clauses used by conservative judges to throttle needed social legislation, let us make clear what we wish the due-process limitation to mean; or if we feel that it has outlived its usefulness, let us even discard it altogether.

There are two reasons why this plan appeals to me and why I should be glad to see this organization support it. In the first place, it sharpens the mandate of the Supreme Court and narrows the unwholesome breadth of its discretion. It takes away from it the work it does not do well; but it leaves in its hands the work for which it is preeminently fitted. While in common with most people, I feel free to criticize particular decisions of the Court, I believe that our fundamental difficulty lies not in the way in which the Court does its job, but in the scope and nature of the job we allow it to do. The Court in construing the commerce clause or the due-process clause is engaged in making broad decisions of policy which do not properly belong to a judicial body. We should relieve it of that difficult and dangerous responsibility by clarifying those clauses so that their meaning and application is no longer a matter of honest dispute. I believe the Court itself would welcome such a change. I believe we should all be better satisfied if, without impairing the integrity or the traditions of our judicial system, we left to the Court the task of applying constitutional clauses which have definite and specific meaning, instead of attacking it for giving what we feel is the wrong meaning to clauses so vague as to have no clear and concrete meaning of their own. The issues regarding specific programs of social legislation would be removed from the forum of constitutional and judicial debate, where they do not belong, and could be faced squarely and sharply as issues of social policy. Our whole judicial system would gain in efficiency and in public confidence under such a change.

I favor this plan for clarifying amendments, in the second place, because it seems to me a more honest and intelligent way of keeping the Constitution of the United States up to date. This applies particularly to the powers of Congress. Those powers are delegated; and the powers not so delegated Congress does not enjoy. We may all agree that Congress should have full power to deal effectively with every truly national problem. It does not necessarily follow that it has such power. Are there no limits beyond which the commerce power, the taxing power, the spending power may not be stretched to cover new programs of national social policy? To what end do we limit the powers of the Government, if those limits have no reality, no sharp edges? It was possible to argue with great cogency that Congress could stamp out child labor by imposing prohibitive taxes upon the employers of children, or denying to them the privileges of interstate commerce. The Supreme Court invalidated the two child labor acts drafted on these lines, on the ground that Congress had exceeded its delegated powers and those decisions have been sharply attacked. But is it not clear that if we wish Congress to forbid child labor we shall do much better to ratify the child labor amendment and grant the power honestly and squarely than to resort to a sort of legislative bootlegging whereby important additions to the substantive powers of Congress are let in through the back door? If Congress is to deal effectively with numerous national problems involved in industry and agriculture, its power to do so should be made clear and unquestionable, instead of hanging somewhat dubiously upon the constitutional peg of the commerce clause, the taxing clause, or the postal clause.

If we know what we want the Constitution to mean, and what we wish to accomplish under its provisions, I see every advantage in using the simple English words which will convey that meaning and confer that power. I believe that the Constitution should be adequately amended to place beyond all doubt, and beyond the reach of all judicial restriction the power of State and Nation to deal with intelligent thoroughness with the pressing social problems of the present day.

—

CLARIFYING THE CONSTITUTION BY AMENDMENT

(By Charles E. Clark, dean of the School of Law, Yale University)

The suggestions I shall have to make this afternoon can be summarized as three in number: First, notwithstanding a certain ebb and flow of constitutional doctrine, little real change is now to be expected in the general rules of judicial review and of restriction on legislative action except by way of constitutional amendment; second, while the process of amendment presents difficulties both of securing approval and in drafting something at once adequate and not upsetting of values worth preserving, yet it can be supported by groups such as this league, both for the change desired and the educative effect of the effort; and third, an amendment can be prepared along lines which will be quite within our traditions and yet helpful for the purposes just stated. This would be in terms of redefining the concepts of interstate commerce and of due process of law along lines definitely indicated in our constitutional history.

I desire to stress especially the point that little change in the general constitutional doctrine can be expected short of amendment, because it does seem to me there is now a great deal of wishful thinking on the part of those supporting welfare legislation that constitutional changes are going to come through the remaking of doctrine or of the Court or of both. It seems to me that, whatever particular cases may be won or lost, it is fairly certain that the general constitutional theory will remain the same. In the past we have had ups and downs of constitutional doctrine, and various statutes, perhaps on the borderline, have been sustained. There is no question but the general trend has been restrictive and this is to be expected. For every victory as to a single act is but a particular instance, which serves to make even clearer the general power of control. Unless that power is relinquished—and there is really no suggestion in the decisions or dissents of such a possibility—the same pattern of decision will occur in our future crises.

A Dilemma for Justices and President

I can perhaps amplify my remarks in terms of what seem to me the dilemmas facing the governmental officials in question, first the dilemma of the individual Justice, be he conservative or liberal, and second the dilemma of the appointing officer, namely, the President. The dilemma before the Justice is how to prevent his action from being political, while that facing the

President is how to make his political enough for the ends in view. When I use the word "political" I do not intend it in any narrow or partisan or party sense, but in the Greek meaning of the term as referring to the best needs of the city or state. Furthermore, I recognize that the dilemmas I have stated will probably not be thought of or seem real to the individuals involved. Strong and vigorous personalities such as we have in these positions will not think of alternatives, but will answer their problems, as their outlook and beliefs require, with never a thought of dilemma. That this is true has a bearing on the situation we are in.

Let me turn first to the individual Justice. I say he needs to strive to make his action unpolitical, and yet such is the nature of the case that he cannot do so and remain true to his own convictions. He needs so to strive because the essence of judicial decision is to apply precedent and rule fairly and impartially between the litigants actually before the Court. Here, however, he is considering problems far beyond the immediate needs or troubles of these litigants, problems which affect the development of government in ways as yet untested. If he is a man of vigor and mental caliber to receive appointment to the Supreme Bench, he will have decisive views about these problems. He will have them whether or not he admits the fact or is even conscious of it. They will have come in large measure from his environment and his experience. We cannot expect him not to give effect to his own beliefs unless he is weak. Consider, for example, the extension of due process after the Civil War. Traditionally as it had been developed in English history for centuries, it referred only to matters of procedure, the giving of a fair trial according to Anglo-Saxon ideals; it did not constitute control of the courts over the legislature. In accord were the initial holdings after the Civil War when Justice Miller made that prophecy so famous for its inaccuracy that probably the fourteenth amendment would be used for no other purpose than to secure equality for the colored man. But the change came within the next two or three decades largely under the leadership of that strong-minded and virile personality, Stephen J. Field. Now I do not personally believe in the Field point of view. In fact, I can claim what minor virtue or vice is to be found in consistency, for I have written and spoken for a different view since my first expressions made as early as 1922. In all fairness, however, I must recognize that I come to the problem with a different environment and with the benefit of hindsight rather than foresight, and that it was Field's very strength of character which led to the change of view of the Court.

Occasionally, it is true, a strong Judge will resolutely attempt to pursue the policy of yielding his views to the legislative purpose; but such a Judge is rare and, as pointed out later, even he will feel compelled to protect personal liberties against legislative destruction. Unless we are to expect Judges without conscience and without backbone, we must expect that in general they will give effect to their own views and convictions on these important political problems. We are not likely to get pusillanimous judges, in view of the independence with which we surround our judiciary, and, if we could, it would be a terrible price to pay for the results sought for; for judges in their primary judicial function of giving justice between man and man ought to be strong and impartial.

But then we say, Can we not get Justices of social outlook? Of course, what that actually means is, Can we not get Justices who think the same way as we do and be strong-minded about it? However desirable such a one-sided approach to the whole problem of the judicial function may be, I submit that it is impossible in any event. For consider the dilemma facing the President in appointing Judges. How can he select persons at once strong and impartial and yet likely to represent the prevailing trend of political sentiment 25 or 10 or even 5 years hence?

I suggest that as a test each of you think of just a few names of persons whom you would be willing to back as potential judges in whom you would have confidence. Be sure that you play the game fairly in that you suggest men of sufficient prominence, territorial distribution, and ability, and yet possessing the outlook you desire, so that the appointment would meet with public approval and would be one that the President realistically might make. You will find your list small indeed, but more than that, you will find yourself unwilling to guarantee your own satisfaction with your choices 5 years hence. Now recalling that your list is individual and personal, that others would agree with it only in part at most, and that it is humanly too much to expect a President, subjected to all the pressure he has and not knowing personally all the persons recommended, to make a perfect score on appointments, it would seem clear that it is not going to be so easy to remake the Court in this way. Actually what we must expect in the future is what we have had in the past, i. e., strong-minded men conditioned by their environment and training.

But suppose the highest Court should, by what seems to me a miracle, be remade temporarily. The general theory of decision would remain the same. Consider the question of due process of law to which I have referred. The English conception of due process as limited to the fair procedure of trials remained the majority view of the Court until the nineties, and certain features of the changed and expanded meaning of the phrase concerning businesses affected with a public interest only were decided in the 1920's. Yet in 1927 Justice Brandeis pointed out that it was then too late to question that power of review over the substance of legislation. Even the Justices popularly denominated "liberal" are not disposed now to repudiate this power, merely to assert an absence of violation in particular cases. Thus, a negative decision under our present system is definitely a choosing of position to apply the power of review, rather than one of refusal of power. Furthermore, these Justices themselves will not now feel justified in repudiating due process as a review of legislation affecting personal liberties such as freedom of speech and of religion. The decision invalidating the Minnesota statute gagging the press is a striking example. It should be recalled, too, when we think of too hastily drawn amendments, for here are definite values in our present situation well worth preserving.

Unless, therefore, one is looking for here and there a minor victory in a particular case, some more definite and positive position is necessary than one merely of waiting for something to happen. It would seem that this league might more profitably consider a more positive leadership and attempt to mold public opinion than to assume such a purely negative stand.

Now it is quite clear that under our governmental system the power to be employed, and the only one at all effective, is that of amendment. It is the proper and democratic one of appealing to the people. It has been followed in the past. The fourteenth amendment was a reversal of the Dred Scott case; the sixteenth of the income-tax case, *Pollock* v. *Farmers Loan & Trust Co.*; the eleventh of *Chisholm* v. *Georgia*.

True, the process of amendment is long and difficult.

In the interest of democracy it would seem desirable to make amendment easier—to provide for prompt vote and approval only by majority of States, or perhaps even better by a plurality of popular vote. Such a change is well worth considering. I pass it now as not our immediate objective. But however the process operates, it would seem to me one that can and should be followed by those who feel that any part of the governmental process, including decisions of the Court, is not in accord with their conception of the proper function of government. Those who object to change on any ground of mere sanctity of our institutions are recreant to all the ideals of our history, and to our conceptions of democracy and liberty. Agitation for an amendment is quite within the bounds of good citizenship and should be undertaken, in accordance with their beliefs, by public-spirited groups without respect to the chances of immediate political effect. For the function of such groups is to educate the people generally, and such education may have its effect, in any long-range view, not merely on the electorate and on their chosen representatives, but on the course of decision itself. Nor should the difficulty of wording a proper amendment, admittedly considerable, be a final deterrent, for after all words can be made to convey ideas, and it seems a cowardly role to shrink from a task because of fear of mere words. Of course, I would not argue against scholarly research and argument aimed at persuading the courts of the wisdom and necessity of modifying their views; only that such research and argument need to be reinforced by the support of public opinion which agitation for an amendment may well stimulate.

Political responsibility should be direct

Now, as I shall attempt to show later, it seems to me an amendment can be devised with care and foresight, quite along lines of our tradition and history and yet not upsetting of our historic equilibrium of powers. But I desire to refer to some general considerations first. I believe advocates of change expect to do altogether too much at one fell swoop. They think of framing an amendment which will be as far-reaching and as permanent as government itself. We should not expect too much from any one step; but, if my general thesis is sound, the process of amendment should be a continuing one, and groups such as this league should consider it a part of their daily function in trying to keep government up to date to serve the interests in which they believe. It is often said that the Court will construe away any amendment that may be passed. That emphasizes not the undesirability of the amending process, but the necessity of repeating it as decisions may appear which prove not to be in line with the ideas of the majority of the electorate. It means further that an amendment should be framed to meet a concrete objective and limited to it, not made at large, so as to be indefinite, either meaningless or uncertain in its effect.

Now, many of the suggestions err in that they are neither so concrete nor is their purpose clearly thought out. Many of them proceed quite along the wrong line, in that they further divide responsibility for legislation, which is already too divided under our government doctrine. Everywhere we conceal political responsibility, rather than make it sharp and direct. This is shown not merely in our National Government, but in our States and even in our cities, where we create boards of finance to isolate the people from their officials. In fact, if far-reaching change in our Government is to be undertaken, it should be along the line of making responsibility to the people more direct. As a long-range proposition of reform we well might study the possibility of the adaptation of the English system for use here, so that both the Executive and the Legislature might be really held responsible to the people for their actions. Frequent elections could be made possible by the use of various mechanical means not yet resorted to, such as voting by radio or telephone, and by reducing the time and expense and general waste of our present long campaigns. Under such a system the power of judicial review might be eliminated altogether and the English system followed in that regard. But such a change, though well deserving of thoughtful consideration, is not within

the realm of political possibility at the present time, nor would I advocate it except after the most careful study. Without it, however, I doubt the wisdom of any attempt to abolish judicial review, which has enabled our Federal system to work, in that conflicts of State and Federal agencies and within the agencies themselves are now resolved.

Then I would reject attempts to tie the Congress and the courts more closely together, as by forcing the courts to give advisory opinions or subjecting the action of a court to review by the legislature. This still further confuses and mixes their relative responsibilities and would seem to tend to reduce the power and responsibility of each one. The effect of the advisory opinion, where tried, is anything but attractive. Its tendency is wholly restrictive. It lays a dead hand on the action of a legislature and frees it from the responsibility of devising and originating new proposals. It loads the dice against new legislation, for the court considers the proposed statutes in embryo stage without the support of responsible elements behind it, as, for example, the agencies of the Government, which under the present system are marshaled in support of the upholding of the legislation when trial is finally reached.

So the suggestion that Congress be empowered to overrule the action of the Court invalidating a statute it had passed divides responsibility yet more and makes the statute a football passing back and forth between the Court and Congress. One can think of various rather embarrassing situations, amusing if they were not serious, which could develop. Since it is the duty of the Court to give judgment as between parties litigant, and officially it only so acts, any case so reversed by Congress must again come back to the Court for the Court to make some change in the adjudication between the parties it has already made. Questions may arise when the Congress has made some slight change in the act, when the Court evades the issue of constitutionality, when it indulges in a presumption of legislative intent in favor of a construction avoiding the issue of unconstitutionality, and when the real difficulty is caused by the interpretation the Court has made of the act rather than its outright invalidation.

All these difficulties may present themselves and lead to the result that Court and Congress play hide and seek with each other and neither is to blame for the result. Moreover, this will not touch the question of acts of State courts in the slightest. Nor do I approve of the requiring of greater than a majority vote for a decision. That, too, where tried, has had a deadening influence on the courts. For it is designed to prevent virility and freedom of expression. It would mean at most that we should have less effective statements of minority positions than we now have. It does not touch the real question of where power resides; it only seeks to hobble its expression.

Finally, the suggestion that Congress may by statute take away jurisdiction for judicial review seems to me, on the whole, naive. We must realize that the courts act to adjudicate between man and man and only pass on the validity of acts incidentally to that end. Jurisdiction to decide between litigants cannot thus be limited without constitutional change. Here again decisions by State courts cannot be reached in any event. This seems to me another illustration of the wrong way to seek change.

A clarifying amendment

A real amendment should be, therefore, in terms of conferring legislative power, which under present constitutional doctrine has been held not to exist. Such amendment might be framed in terms of direct statement of legislative authority, but that presents great difficulty of expression and might easily result in an extension of power beyond what is dreamed. For example, the so-called social-welfare amendment may very easily lend countenance to legislation grossly restrictive of personal liberty.

A wiser plan is to make the amendment in terms follow well settled historical views actually held at least in dissent, if not formerly by the Court itself, and support by text writers of authority. They may concern and be limited to the moot points where the greatest controversy has existed. These are two, to wit, interstate commerce and due process. True, legislation can be invalidated on other grounds, but most of the important questions concerning welfare legislation arise in these connections, and it is believed that if amendments take care of these problems other difficulties will not prove insurmountable. If interstate commerce is construed according to John Marshall's view and in support of a strong national government, not of what Professor Corwin aptly terms "dual federalism"—that is, two competing and rival systems, neither free—if further it is construed in the light of the admonition that the Constitution shall be the supreme law of the land; if, moreover, due process is construed in its historical sense of referring to procedure alone—then we have gone far to eliminate objections to social legislation. Furthermore, if amendments are framed in terms of these definitions the amendments do not operate in a wide-open field, so to speak, where their limits are uncertain, but do operate specifically and directly along lines pointed out by our history and which many have always believed to be the sound ones.

Then, too, the protection to personal rights afforded by due process should not be relinquished, but it can be retained in more complete and precise form by extending the privileges of the first amendment, dealing with freedom of speech, of the press, and of religion, to govern State action, not merely that of Congress as at present. Consequently such an amendment would be framed in terms of defining interstate commerce more broadly, of restricting due process of law to procedural matters, and of extending the first amendment to State action. I suggest the following for consideration as a form of such amendment:

"SECTION 1. Commerce among the several States includes the production, manufacture, or distribution of industrial or agricultural commodities which are destined to be or have been transported from one State to another, or compete with commodities which are destined to be or have been so transported.

"SEC. 2. Due process of law shall have reference only to the procedure of executive, administrative, or judicial bodies charged with the execution and enforcement of the law.

"SEC. 3. The provision of article I, in addition to and amendment of this Constitution, shall apply to and govern the actions of the several States as well as of Congress."

Neutrality

EXTENSION OF REMARKS

OF

HON. GEORGE W. NORRIS

OF NEBRASKA

IN THE SENATE OF THE UNITED STATES

Tuesday, February 2 (legislative day of Monday, Feb. 1), 1937

RADIO ADDRESS BY HON. GERALD P. NYE, OF NORTH DAKOTA, ON JANUARY 18, 1937

Mr. NORRIS. Mr. President, I ask unanimous consent to have printed in the RECORD an address entitled "Why United States Must Be Neutral", delivered by the Senator from North Dakota [Mr. NYE] over the radio on January 18, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Kuhn, I recall that 16 months ago you invited me to address the forum on the subject of Neutrality, and what you said had been the unprecedented response of the public and the requests that followed for copies of it. We know that there did exist that early a tremendous support for proposals to prepare our Nation against that day when what Bryan called "the nations of eternal war" would be beckoning us to another war feast on soil and in water thousands of miles away from home.

But however large we then found public interest in the issue of neutrality, the fact had to be acknowledged that the woods were full of critics; that public opinion was still largely pressured by the thought that war was an inevitable thing, and that it was wasteful to expend energy looking for a way for us to avoid wars when they came to the world again. Numbered then on a few fingers were the voices raised in public in support of the feasibility or promise of successfully working out a policy of neutrality that might save us from recurrence of an unhappy, unprofitable, futile effort.

INTEREST IN NEUTRALITY

How different today! Many are the voices of leaders urging the adoption of a strong neutrality policy. Ever greater is the force of popular demand that we be uncompromising in the writing of a policy which will afford the maximum of protection against our country's being coaxed, led, bribed, or goaded into more foreign war. Heartening, indeed, is the trend of thought today upon this issue. It would seem to be the forerunner of great progress in congressional halls this winter.

But several have been my encounters with those who think they see shape being given to a carefully laid plan to break down and destroy this powerful public sentiment by trying to discredit individuals and break the confidence of the people in their thought that there would be strength in a genuine neutrality policy. By poisoning and blinding us to the knowledge which experience has given us as a guide, some may hope to destroy a purpose that might upset some selfish plans. Significant, indeed, are some of the things to be observed in this hour.

For example: Certainly the threat and danger of another European war is greater today than it was at any time prior to Sarajevo in 1914. This threat has a natural tendency to cause Americans to desire installation of the fireproof doors of neutrality with the least possible delay. "War threatens! Let us be sure to provide our policy of neutrality before war comes, lest we find ourselves in the same predicament we were in in 1914, when we concluded that to write a policy of neutrality, after war had come, was not possible without seeming to be unneutral to one side in that war! Write the neutrality laws now—while there is yet time." That is the urge upon people today. Against that attitude come the urgings of some that there really is no serious danger of war. Is it the intent to lull us to sleep, to drive us from our ourse of action to say out of war? One wonders!

TEMPORARY POLICY FAILURES

Again, in evidence of a possibly concerted program against genuine neutrality, one finds a growing tendency in some quarters to discount neutrality as an influence to prevent trouble for our country. There are those who would discredit such policy as is already on the statute books, pointing out that the law had no effect in the recent shipping of arms to Spain. "Ineffective", say writers concerning the entire neutrality policy, "because Congress failed to take in the possibility of civil war as well as of wars between nations!" It is sad to think that some have listened and nodded heads in approval of such doctrine, when, as a matter of fact, none contended that the temporary law of neutrality was anything more than the beginning—albeit a good beginning—of a larger policy.

Then, too, one hears increasing expression of the thought that war is inevitable and hence follows submissive resignation to the mad preparation for war in which our own Nation and the nations of the world engage today. This year the United States will spend nearly four times as much in preparation for another war as we did the year before we entered the war that was to end all war! One cannot view the armament race today and forget what those races have meant in the past. There is more than one good authority to testify that these races mean a guaranty of war—not a guaranty against war! Lord Grey of Falloden it was who, speaking of them, said:

"The moral is obvious: It is that great armaments lead inevitably to war."

GREAT ARMS "FALSITY"

The false thought that great armament guarantees understanding and peace continues to get wide hearing. While I remain a believer in a national defense capable of repulsing the attack of any possible enemy of my country, I cannot forget the experience, imaginary perhaps, of a friend who wrote:

"I have a neighbor with whom I wish to be a friend. He also wants to be a friend of mine, and we both agree that we must get along peacefully together, doing everything possible to further mutual understanding and friendship. In order to show him my good intentions I built a high barbed-wire fence with steel pickets on top between his house and mine. He, in turn, to convince me of his friendship, put a ferocious dog in his back yard. I then put bullet-proof glass in the window on his side and started wearing large pistols in my belt. The other day I saw him moving supplies of poison gas and hand grenades into his house. Now I have a machine gun mounted in the front yard, and for the life of me I can't understand why we don't get along better."

Yet we go on building greater and more armament, and move closer to the thought that the "inevitableness" of war makes neutrality unthinkable.

Insist I must upon offering still another evidence of effort to convert the American mind away from the possibility of any successful neutrality. It is this:

Clear as day is the record of facts, showing how an increasing American trade with the Allies from 1914 to 1917, how loans and credits to the Allies, underwritten by a few American bankers, united to play an important role in breaking down our resistance against participation in Europe's war. We remember how tales of horror, of the mutilation of helpless children and the violation of the Belgian nuns aroused us to a frenzy against the conduct of an inhuman war. We know now, of course, how untrue these stories were.

WOULD BLIND US TO TRUTH

But, lo and behold, the same artists who coined those ghastly fictions are in the picture today, engaged again in endeavoring to blind us to the truth. Here is one, for example, one who played a leading role 20 years ago, once more at work concocting and publishing in one of America's foremost magazines, statements cunningly calculated to hide from the American people all knowledge of the part bankers' loans to nations at war played in our attempt at neutrality. This ace propagandist now says that though a Senate committee tried for months to prove that a reason behind the entry of the United States into the Great War was the pressure of international bankers, that "at the end there was not even a scintilla of evidence to prove that American loans to Allies had any bearing whatever on the war decision of the United States." In point of imagination that almost tops the stories of atrocity which the same writer gave us 20 years ago.

If ever an investigation proved anything, this one did prove that relationship. Some few people, reading this propaganda yarn have written to inquire if accounts published at the time of the investigation disclosures and the report of the committee were true.

So it goes, proving how short our memories are and our susceptibility to blindness to truth.

It is to be expected that these next several weeks will witness many ventures into fields intended to drive people away from high resolve to write a permanent neutrality law that will do away with many of the dangers of our country being drawn into other peoples' wars, and leave us for the moment content with not much more a law to safeguard and back a desired neutrality than we had 20 years ago when, while proclaiming neutrality, we were really marching straight into war without realizing it.

If progress is to be made on the neutrality issues this winter it will be because a public, acknowledging experience of the past, refuses to be frightened away from the truth of past experiences and continues to insist that uncompromising action be accorded the challenge before us.

NOT EASY TO STAY OUT

A challenge is it! If and when war comes to Europe again we are going to find it much easier to get into that war than stay out of it, however high our national resolve to stay out may continue, unless we do more building than we have yet done to prevent the selfishness of a few becoming a national interest calling for a national protection.

However, hard forces may try to close American eyes to these truths, truths they will remain nevertheless; our prosperity growing out of Europe at war once came to embarrass and finally destroy our neutrality, and then went on to play a very material part in pitching us into a foreign war. In light of that experience a people who swear a determination to avoid more foreign war had better look to the necessity of building against these same influences getting in their work once again. We need a powerful neutrality policy and law.

Through recent months public sentiment has forced the writing of temporary law. It has been made temporary because of a contention that there was need for more study before we enacted permanent laws. The present law will expire May 1. It is necessary that any progress on the issue be accomplished before that date.

At the present time those who have been at work on the neutrality question for 2 years are perfecting their draft of a permanent law. Under the leadership of Senator Bennett C. Clark, who will introduce the proposal, we feel that we have reached language which will prove an effective force against the tides which in another foreign war would suck us into the conflict. The bill should be ready for introduction in a very few days.

APPETITE FOR BLOOD MONEY

Any proposal of genuine neutrality must first of all recognize the necessity of American resignation from any appetite for profit from the wars of other nations. With memory of past experience and what might very easily happen again, our program of permanent neutrality must embody the following principles:

First, a forbiddance of the exportation of munitions or implements of war to any nation engaged in war. The list of articles now defined as munitions might well be enlarged upon. Some, including myself, are in favor of an embargo against the exportation of anything to a nation at war, but recognize the futility of trying to accomplish so much in one bite. Embargoing only munitions leaves a very large field of commerce open to challenge our neutrality and peace.

Second, to cover this larger field of commerce, our laws of neutrality should empower the President to add to the list of embargoed articles when, in the time of war, it is found that some of our exportations are the raw materials used in manufacturing munitions. In this there would of necessity be large power of discretion left with the President, a discretion that must be imposed somewhere. But to cover the danger of this large commercial activity in commodities not defined as munitions we would accomplish much if our law provided for the so-called cash and carry plan which would deny to Americans any right, title, or interest in any article or commodity exported from the United States to any port or place intended for delivery to a nation at war. This would be notice that our country had no intention of letting the war trade of a few Americans drag 125,000,000 people into a conflict between others.

NO LOANS AND CREDITS

Third, our policy must forbid American loans and credits, financing of any kind, to nations at war. If American bankers must have a hand in foreign wars let them alone join the foreign legions.

Fourth, mindful of the experience of Americans on the British *Lusitania*, our neutrality laws must forbid passports to Americans who persist in traveling upon the ships of nations at war.

There are minor considerations involving civil wars, foreign investments in our securities, shipping regulations, and other causes which, of course, must be covered. But what I have outlined would, if made the law, go far in helping the United States to keep clear of other peoples' wars. That kind of law should provide for its becoming effective at once a state of war exists anywhere in the world. There must be no right for any one man to change its provisions. There must be no power under the law to a President to move the policy and law only against an aggressor nation. Such a privilege would at once make our neutrality law a war-making law.

You will hear much about this policy of discretion as against a mandatory neutrality during the debates. In any policy adopted some discretion must be given the President but not to the extent of choosing sides through the power to determine who is the aggressor in a conflict.

The discretionary kind of policy had its trial back in 1914 and 1915 when we were trying to be neutral. Then our neutrality policy was left quite wholly at the discretion of the President. He was a strong President, too. His determination to stay out

of Europe's war is well recognized. But our neutrality crumbled because of the chance given selfish interests to bring to bear such pressure as no man could possibly stand up under. Step by step this pressure broke down our policy of neutrality then. We ought never again leave a President up against such odds as Woodrow Wilson found in his path in those days.

MANDATE NEED NOT EMBARRASS

It has been argued, and we will be hearing more of it, that a hard and fast, definitely stated, mandatory kind of neutrality might, under circumstances, prove very embarrassing and adverse to our own national interest, and then to prove the point there is brought into play the preposterous picture of the Japanese attacking Canada, Mexico, or some South American republic, and we denying help to the republic because our policy forbids sale of munitions to any nation at war. Of course our neutrality proposal is not of force in any such emergency.

But we will hear again and again that a mandatory policy will prevent our selling munitions or supplies to Great Britain, for example, even though the European forces of communism or fascism, alone or combined, sought to destroy Britain. Now, any such argument leads to no end of possibilities, but let it be pointed out that should any condition arise which found our neutrality policy standing in the way of jeopardizing large American interest or preventing an according of what Americans would consider justice and fair play, who is there to insist that Congress would not alter our policy to whatever extent was necessary to provide that justice? Let us remember that we cannot with justice to all write a neutrality policy after war comes between nations, however great may be American interest in having it. On the other hand, we can change or set aside a policy after war comes if such a change seems justified by our larger interest. In any event, we should avoid leaving the power of discretion in such a change in policy with one man and avoid the invitation to pressure upon the one man from the combined interests of prejudice, selfishness, and greed.

If it be said that such a policy as has been outlined is cowardly because it abandons our defense for foreign trade in time of war, I answer that the time has come when America will not permit the interests of a few profit-bent men to drag an entire population into a life-and-death struggle thousands of miles away from native shores.

If it be argued that these provisions of neutrality would interfere with and restrict our foreign trade, we can well answer that all the foreign trade possible isn't worth a repetition of our experience of 20 years ago.

If it be held that our proposed neutrality program would find us abandoning the rights of neutrals upon the seas in time of war, there can be no denial of the response that we went to war 20 years ago to win freedom of the seas, won the war and then, in the treaties which have followed, got not so much as one word having to do with freedom of the seas; that there is no such thing as freedom of the seas to be recognized by nations when again they engage in a stuggle to the death.

BEGGING TROUBLE

While building walls intended to avoid the waste of our sons and our resources in the event of war between other nations, we find ourselves begging a lot of trouble to mess up our thinking—trouble in the form of questions never apt to arise but which, if they do arise, are quite easily met when the bridge is reached. If we would think straight to the accomplishment of the greater purpose we would make larger progress.

Some steps to keep out of war can be without cost to the people. But any policy of neutrality worthy the name is going to entail, if not an actual cash cost, certainly a sacrifice of possible cash gain. The kind of neutrality we want is a sort that is certain to interfere with the profits of certain interests, and deny all of us our share of such a business boom as comes out of participation in foreign wars in an economic way. But we have learned (or have not?), that that kind of prosperity is certainly not lasting and that it continually leads to our expensive participation in war with all its attendant heart break, long-standing debt, and economic demoralization. Our experience of 20 years ago ought to have taught us that we cannot be in other people's wars in an economic way and stay out of them politically. Then we should be ready, if we would really avoid war, to deny ourselves any taste of the profits available in the blood of other nations at war.

The old-timer in North Dakota learned the value of prevention. Is this Nation of ours to be forehanded and plow its firebreak against war, or will it wait until the horizon on the East is black with smoke and red with flame of destruction? If we believe in prevention, we will do well to build our firebreaks against war now before it is too late.

Enact a strong policy of neutrality! Afford law that will definitely take the profit out of war! Adopt the legislative program now in the making intended to take the motif of profit out of preparing for war, the motif that contributes so largely to mad armament races! Give the people the right to a voice in determining when, if ever again, the question arises: "Shall the United States participate in another foreign war?" Confine our military programs strictly to an adequate preparation against possible invasion! If we would do these things, we would afford a firebreak of genuine merit and tremendous economy.

Do Not Deface Our Capitol

EXTENSION OF REMARKS

OF

HON. KARL STEFAN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1937

Mr. STEFAN. Mr. Speaker, only this morning my attention was called to a two-column story printed on the front page of a local newspaper to the effect that a $4,000,000 fund is sought for "face lifting" the Capitol. The same article reads to the effect that the Capitol was considered too grand when plans were drawn more than 140 years ago, but which some think is not grand enough today, and may get a "face lifting" at a cost of $4,000,000.

I wish to call attention to the membership of this House, that in the year of 1935 the House Committee on Public Buildings and Grounds held extensive hearings on a similar bill, only this bill called for $3,000,000 for the same purpose. This bill was defeated in our committee. The Honorable FRITZ LANHAM, chairman of our committee, should be highly complimented because the hearings held by the House committee brought out valuable history and valuable testimony from some of the finest architects and artists in the world. I therefore ask Members of the House to secure a copy of no. 3, entitled "Hearings Before the Committee on Public Buildings and Grounds, House of Representatives, Seventy-fourth Congress, S. 1129." This under title: "Extension and Completion of the United States Capitol."

The new bill asking for $4,000,000 to alter our Capitol Building has been introduced by a Member on the other side of the House, for whom I have great admiration and who has worked on this question for some time with the very best motives in mind. A similar bill was introduced by the late Governor Montague, of Virginia, who was my colleague and my good friend, and whose motive I did not at that time and do not now, question. I believe the House has lost a great statesman and one who has added a wealth of service to this House and to the Nation.

Mr. Speaker, I take the floor at this time, not to criticize those who are proposing the changes in our Capitol Building, but I take the floor merely to protect American history, American architecture, and the preservation of the building, which I thought was completed 100 years ago. To spend $4,000,000 for the purpose of changing our Capitol Building at this time, in my opinion, would really result in throwing away $4,000,000 of taxpayers' money, and would also result in the loss of American history and American architecture, which could never again be replaced. First of all, the Dr. Thornton plan of sandstone would be entombed and taken from the sight of present and future generations. It would result in the removal of the Thomas Jefferson cornstalk pillar, which can be found in the old entrance to the Capitol on the east side; it would make the old original courtroom an inside room; it would efface and eliminate the spot over which George Washington laid the cornerstone of our Capitol.

It would also eliminate the historical steps upon which our Presidents have stood to give their inaugural addresses for the past hundred years; it would tear down historic columns; it would destroy and result in removing the scroll and art work on the front of our Capitol Building; it would destroy the beautiful court and move forward the center part of the Capitol, and in my opinion entirely alter the present historic value of the building; it would result in changing history, historical records, and even history books which tell in detail of the building as it stands today.

It is said that the purpose of this proposed legislation is to complete the Capitol Building as it was intended to be

completed by its original builders. Some arguments are also made that it would result in giving more room in the Capitol Building for Members of the House and Senate. It is also argued that one of the principle reasons for the change in the Capitol Building is that there is a defect in the dome, which appears to hang over the facade, and also that it is necessary to move the center part of the building forward in order to conform with the House and Senate wings. It is intended to face the entire center of the building with marble and also to eventually change the dome with the same material.

Testimony will be found in the hearings to the effect that the proponents of this bill will not be satisfied with the expenditure of $4,000,000 to change the front of the Capitol and face it with marble, but they intend eventually to remove the cast iron dome which is the largest in the world, and replace it with marble, and if the plans are allowed to begin, there will never be an end to the rebuilding of the Nation's Capitol.

I wish to call your attention to the testimony given during our hearings by Dr. L. B. Holland, Chief of the Division of Fine Arts, Library of Congress. Dr. Holland is opposed to the alteration of our Nation's Capitol. He was one of the most able witnesses before our committee and one of the most qualified. He is a graduate of architecture and a doctor of philosophy of the University of Pennsylvania, has practiced architecture in his own office and has taught architectural design at the University of Pennsylvania; he has spent 3 years in Athens as architect and professor of architecture at the American School of Classical Studies; he has been professor of fine arts at Vassar College and is now professor of fine arts at the University of Pennsylvania and a lecturer on architecture at Swarthmore College. He is Chief of the Division of Fine Arts of the Library of Congress and occupies the Carnegie Chair of Fine Arts there. He is a fellow of the American Institute of Architects, a member of the Archeological Institute of America, a member of the American Philosophical Society, chairman of the advisory committee of the Historic American Buildings Survey, and appears before us as chairman of the committee on preservation of historic buildings of the American Institute of Architects. Dr. Holland's testimony before us was to the effect that the Nation's Capitol Building is the outstanding historical building in the United States and there is nothing to compare with it. His committee is expected to keep a fatherly eye on all historic buildings, and see that they are preserved for future generations, and that information about them is distributed through the country. It was because of the service this organization renders that Dr. Holland took an interest in our hearings. Dr. Holland, in his testimony, was of the opinion that our Nation's Capitol was as near completion as our historic builders intended it to be, many years ago. Much has been said about the dome of the Capitol and its appearance, that it does not have solid and adequate support, but the testimony shows and Dr. Holland's testimony shows that the dome has adequate support.

He stated to us at our hearings that the building in the early days was absolutely complete, and if you are familiar, as I presume you are, with the looks of the Capitol at the present time, you will realize that, with the exception of the dome, all that is standing in exactly that same form at the present time. That is a perspective view of the same construction. So, a hundred years ago—a little over—the Capitol was completed.

Speaking of the dome, our testimony showed that this dome rests firmly on the old circular walls of the rotunda which Architect Bulfinch erected, because they are larger and higher than the old dome. The rings of columns on it are carried on brackets around the central drum and they spread the whole thing out on the building. A skirting has been added. The skirting is a wall of cast iron, not even a roof over it. It spans from point to point, and in reality is nothing but a screen. It might be stage scenery so far as any structural function goes. In order to do this all around the building, the eastern part of the skirting comes outside the back wall of the portico. Our ancient architects knew about that, because they had drawn the designs. Since then it has been repeated, over and over again, the dome is unsupported, but far from obvious. I have never met anyone who has noticed the discrepancy before it was called to his attention. Dr. Holland testified he did not himself, and when told about it and had been told several times and had casually looked at the building from the east and did not see any discrepancy he decided he would go over and find that discrepancy, which he did. He had considerable trouble in finding it and he testified that unless you have been told you do not realize that fact.

Dr. Holland testified that he would say that the bill which is liable to be brought up before us, will be a bill for alteration of the Capitol rather than for the completion of the Capitol.

Members of the House should know that the center part of our Capitol is of Virginia sandstone. This is the part which the proponents of this new plan wish to replace with marble. Members should also know this sandstone is painted about every 4 years and made to conform with the color of the House and Senate wings. It is also argued that it would take many years to have new marble conform with the age of the two marble wings. You should also know that the sandstone walls of the Capitol which you now see and the steps upon which our Presidents are inaugurated, are as the architects planned and built by our ancient architects. They are the same walls that were there when the British came to Washington and set fire to our Capitol. It was planned and carried out by Washington, Thomas Jefferson, and others. It was the first building of its kind since the Roman days and it was built of Virginia sandstone as was the White House. The damage to the White House and the Capitol by the fire set by the British soldiers in 1812, so damaged the sandstone that it was necessary to paint the walls and this has been done for many years. I am sure that no Member of this House would care to change the appearance or alter the White House, the home of our President, and I am sure that most of you will join me in fighting against any attempt to alter the Nation's Capitol—the finest historical building in the world, in my opinion.

Lawyers and Government

EXTENSION OF REMARKS

OF

HON. ROBERT F. WAGNER

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Tuesday, February 2 (legislative day of Monday, Feb. 1), 1937

ADDRESS BY ROBERT H. JACKSON BEFORE NEW YORK BAR ASSOCIATION JANUARY 29, 1937

Mr. WAGNER. Mr. President, on January 29, 1937, Hon. Robert H. Jackson, the distinguished Assistant Attorney General of the United States, delivered a notable address at the annual dinner of the New York Bar Association, held at the Waldorf-Astoria Hotel in New York City. I ask unanimous consent that it may be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is a comfort to speak again before my own bar association, which has always been very tolerant of my heresies. I will test its patience again. Bar association after-dinner speeches often voice the high and solemn esteem in which we hold ourselves.

It was probably after a bar dinner that the witty bard whose name our toastmaster honors wrote:

"Oh, how can a modest young man
Ere hope for the slightest progression
In a profession already so full
Of lawyers, so full of profession."

As the New Dealer on your program I suppose I represent the lesser breeds without the law. At least we are so represented at some bar meetings. It seemed last fall that the American Bar Association identified itself pretty thoroughly with Maine and Vermont. Some people think we need a bar association to represent the rest of the United States. Now that the Union League Club offers itself as a political purgatory for penitent Democrats, there is a chance that the bar will extend absolution to unrepentant ones and may even bring its liberalism nearer to date than the 1912 new freedom model.

The legal profession may justly claim much credit for the making of our Government. American democracy may justly claim a large part in making the prestige of the legal profession. No other people have submitted so generally to lawyer leadership. We have held all of the judicial and many of the legislative and executive offices. When lawyers exhibit toward government an air of ownership it is based on adverse possession. This profession is a pyramid with its base in general practice in every community and its apex in the Supreme Court. Judges are lawyers under the robe. Bench and bar are schooled in a common philosophy and each member shapes his attitude by common patterns of thought.

The profession tonight can scarcely boast of its popularity. The President has implied some doubts about the helpfulness of the lawyer's contribution to government. Governor Earle has talked about all of us the way we talk about each other during a lawsuit. The New York Times in reporting the election of Dr. Motta as president of the Swiss Federation said "He was a lawyer before entering politics." There are those who would say the same of some New Dealers. But they would choose to say it by way of epitaph rather than of introduction.

Can one be a lawyer after entering politics? Is the professional attitude inconsistent with public welfare? Is there a fundamental conflict between the legal philosophy we apply in our courts and the political principles of popular-majority government which we champion on the stump? Is our profession a public servant or a public nuisance? Why not hurl our answers back at our critics—if we have an answer?

We rest under a handicap. We are unwanted children. Everyone agrees that there are too many of us. I have long advocated a New Deal law to pay the law schools for not producing lawyers. The New Deal has performed a service to the bar by keeping so many law professors busy in Washington. They could do less harm making new laws than at their usual task of making new lawyers. The County Lawyers' Association survey shows even the existing professional field overpopulated. Some think society would do well to plow under the worst of us. Others think the worst of us do less harm to society than the best of us. They point out that it takes good lawyers to kill great measures for public betterment and that the little fellows are relatively harmless because not so powerful.

Then, too, our sincerity is always under a cloud. People believe that a profession whose voice and hand are for sale may have a price on its heart also. Exceptional lawyers do have convictions of their own. But there is a cruel realism about the underworld which calls any lawyer, even its own, a "mouthpiece." Even the upper world notes that a lawyer's retainers and his convictions seldom conflict. The correspondence is too frequent to be a coincidence. People wonder whether it is convictions that get retainers or retainers that beget convictions. Some even suggest that the pay-envelope campaign succeeds best among lawyers.

Lawyer prestige rests on judicial supremacy in government. Only by our monopoly of the high Court can we hold society to those technical legal patterns which only counselors at law can weave or unravel.

But lawyer control of the high Court rests only on public suffrance and tradition. The framers of our Constitution did not see fit to make provision that the membership of the Supreme Court must be only lawyers. They deliberately left it open to men of other learnings than the law. But from the very beginning we have kept it packed with lawyers, and now lawyers feel a vested interest in holding all seats on the Court for themselves.

Now, suppose some "radical" administration should propose to pack it with men of other vocations. There is no constitutional protection for our lawyer monopoly. We must rely solely on the record of a trust well fulfilled to perpetuate lawyer control. That is why we need to check up on ourselves. Does the record convince that legal knowledge, and that alone, is adequate to the settlement of the great public questions now settled with only lawyer votes? If, as the Court has said, it has only one duty in these cases, "to lay the article of the Constitution which is invoked beside the statute which is challenged and decide whether the latter squares with the former", are we the only men fit to do it? And if, as has been charged by some of its own members, the Court goes beyond this and "sits in judgment on the wisdom of legislative action", do we possess the only wisdom? Lawyers bring to the Court only one kind of thinking—at most.

The fundamental question is not one of personality of our representatives on the bench. A struggle between every progressive administration in our history against the Federal bench is not based on personalities alone but must be rooted in a conflict of philosophies.

Why does the legalism that guides court and bar so often find itself in conflict with the views of public leaders such as Jefferson, Jackson, Lincoln, and Theodore Roosevelt, not to mention living leaders who have survived lawyer opposition?

Legal philosophy sets up a method of thinking that is not accepted by any other profession. Unreasoning devotion to precedent is so normal for the lawyer that Joseph Choate in eulogy of James C. Carter, noted as almost an eccentricity of that genius "that he was not always willing to admit or to recognize the binding force of precedents, however numerous, which failed to run the gauntlet of his own reasoning powers. One of his favorite maxims was, that nothing was finally decided until it was decided right * * *." And Choate referred to this trait as "vulnerable."

Other men are known by their fruits, we judge our work only by logic. Congress looks forward to results, the courts look backward to precedents, the President sees wrongs and remedies, the courts look for limitations and express powers. The pattern requires the court to go forward by looking backward. Legal philosophy requires us to consider modern labor relations in terms of precedents made by slave owners, and social security in the light of decisions by men, who if they heard the term, would have thought it meant return of fugitive slaves. Our motto is "No concessions to the times."

Our record is one of fidelity to "fundamentals." Since 1787 the medical profession has changed its treatment of disease from blood letting to blood transfusion. We make no such disrespectful departures from the practice of the fathers.

We do not let the realities of life influence our legal decisions. When I was counsel to the Bureau of Internal Revenue an opinion was asked as to when a marriage would change a taxpayer's status. A young lawyer, destined I am sure, for high judicial honors, prepared the answer. He set forth the rule of law that a fraction of a day will not be recognized. Then he added the rule as to service of process by which we exclude the day of service from the count. He arrived by this legal logic at the decision that a marriage is effective on the day following the day of ceremony. Though I could point to no flaw in the legal reasoning I did not sign that opinion, though I signed many worse ones. His process of reasoning was similar to that by which courts sometimes reach decisions that seem to me far from the realities of life.

The heaviest responsibility ever given by any nation to its bar is that of interpreting our Constitution. With it came the greatest opportunity to demonstrate the capacity of the lawyer to govern. Have we made constitutional law simple, clear, and workable? Has government by litigation been prompt, certain, and free of technical sublety?

Our Constitution is a general outline of great powers and institutions. It is not a legal document. We know that because the original instrument contains only about 4,250 words. Counsel would use ten times as many to express in legal jargon the single idea that if a corporation fails to pay its bonds the investor may resort to its property. Each word in our Constitution, setting up a whole system of government, had to carry a great load of meaning. It was never thought, when they spared words in the interest of simplicity, that we would reach a point where nothing is lawful unless the Constitution had a word for it. They set up a living National Government and left the future to fill in much of detail, according to its own experience, its judgment and its own patriotic purposes.

Then the lawyers whittled at it with the rules applicable to private contracts until today you commence study of constitutional law, not with the document but with a long course in interpretation of interpretations. This mass of constitutional law, not found in the Constitution, is not the achievement of one age, it is a tribute to the diligence of several generations of our profession.

The legal profession has transferred to constitutional law its whole technique for determining private rights. It tries to adjudge the rights of the masses, as it would a case of trespass or a suit on a note. Edmund Burke declared that you could not draw an indictment against a whole people, but modern courts are trying to draw injunctions against a whole people.

In dealing with a nation, whose genius is invention, we cannot outlaw every action that cannot show a precedent. It would be as reckless for the President to steer public policy by precedent as to drive in the dark with only a taillight. If he cannot use precedent to make policy and the courts apply them to strike down the policy, we have the basis of perpetual conflict awaiting only extremes of determination on each side to break down our system.

Lawyers have tied up many major policies of government in legal doubts. The process in the lower courts, where each of 150 Federal judges claims for himself the right to nullify an act of Congress, produces conflicting "decisions" which confuse the public, and which have no finality. Nullification becomes almost a competition, while business and government await the disorderly and dilatory ritual of the law. Almost 2 years after devaluation our courts were debating its validity. Time means nothing to a lawyer.

No administration can halt its policies dealing with such problems as a banking emergency, unemployment, relief, or the currency to seek the judiciaries' views. The Government cannot learn the judge's views until after the law is passed and then only after a lapse of years as the view is slowly made available in private litigation. Moreover, the judicial contribution is only a

negative. It may tell what cannot be done to right a wrong or solve a problem, but it never tells what can be done.

Government by litigation has destroyed effective enforcement of public policy. Four lawsuits have usually served to sterilize each of those hopeful offspring of Congress designed to curb monopoly. We haven't always crudely killed them as unconstitutional; we have sometimes just sandbagged them with "interpretation."

The most subtle subverter of free government is a baffling complexity. Representative democracy is difficult and demands understanding from its citizens. But we have added on top of 48 representative democracies the most complex government of all—a federation of governments—in which we have tried to balance representation between area and population, to balance grants of power against checks of authority, to entrench many rights of property beyond reach of the popular will, to balance nationalism against provincialism, and to set up an equilibrium between progress and stability.

This intricate machine must function by compromise. Divergent social and political groups must be kept near enough together so that the differences will yield to arbitrament of ballot and court decision. We were once nearly wrecked by the rigid and unyielding legal philosophy which, in the Dred Scott decision, outlawed the Missouri Compromise, designed by Congress and Executive to avoid a war between States. Contending social forces came to rest and equilibrium, at least temporarily, in such compromises as the N. R. A., the Guffey coal bill, the Agricultural Adjustment Act, the minimum wage laws, the Labor Relations Act, and social-security acts. We need as many constitutional powers and ways to compromise these struggles as possible. Lawyers have been closing the roads to political compromise of basic problems which are the country's route to economic and social peace. The detour may be rough!

In England the lawyers are kept to their own business of conducting private litigation and do not settle public policy by lawsuits. That country has gone through a Labor Party administration, and had the flexibility to come through without a transformation of its institutions. Could we do as much?

We lawyers have produced a paralyzing complexity of government that frustrates democratic control. It is not a question of favoring conservative policy or liberal policy, property rights or human rights. Our problem is to make this great federation of States work.

When free government becomes too perplexing and futile the people turn to dictatorship. It is the simplest form of government. Out of the break-down of an attempt at free government which failed to function arose Hitler, Lenin and Stalin, Napoleon and Cromwell.

Felix Morley has well said, "Fortunately for the United States, no period of our history has been so dark that a majority of Americans have turned in despair to embrace the argument that they are incompetent to run their own affairs. Should that day ever come, democracy will go under and dictatorship will take its place."

When we consider the confused muddle we have made of simple problems like child labor or minimum wages, we may wonder if that time is so far away. Another world war or another depression may well pose problems that will break the red tape of government by lawsuit.

The great good there is in our philosophy, the value of our precedents, the advantage of judicial review all may be endangered. Our disorderly and inconclusive squabbles in lower courts over questions we know the lower courts cannot settle, our intolerable delay in settling questions on which executives must act, and then our disposing of vast problems of statecraft, such as defining "general welfare", "interstate commerce", or "due process" by legal specialists guided by precedents and boastfully regardless of reason or wisdom are not portents of health for us lawyers nor for our country.

Whatever our philosophy may do to impair our relations with the world outside, it binds us together in a great fellowship where New Deal is kin to Old Deal and radical at least understands reactionary. We appreciate each other's tricks and technique and skill. We play on opposing teams but we play the same game. Our common background of culture makes lawyers kinsmen and laymen strangers, and our fellowship is like that told by Kipling:

"The stranger within my gate,
He may be true or kind,
But he does not talk my talk—
I cannot feel his mind.
I see the face and the eyes and the mouth,
But not the soul behind.

"The men of my own stock,
They may do ill or well,
But they tell the lies I am wonted to,
They are used to the lies I tell;
And we do not need interpreters
When we go to buy or sell.

"Then men of my own stock,
Bitter, bad they may be,
But, at least, they hear the things I hear,
And see the things I see;
And whatever I think of them and their likes
They think of the likes of me."

The President and the Supreme Court

EXTENSION OF REMARKS
OF
HON. HAMILTON FISH
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1937

RADIO ADDRESS BY HON. HAMILTON FISH, OF NEW YORK, ON JANUARY 30, 1937

Mr. FISH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech which I recently delivered over the radio:

In order to make clear my position and attitude in the present Congress I propose to support all sound and sane liberal legislation in the interest of the people, whether it emanates from the White House or from the majority side of the House of Representatives, and to oppose all unsound, socialistic, and unconstitutional legislation.

I believe in popular government, in our free institutions, and in our three separate and independent branches of government. I do not quite understand the attacks that are being made upon the Supreme Court of the United States and upon its powers and membership. For a long time past the radicals, Communists, and Socialists have been telling the American people that the Constitution is a scrap of paper representing wealth, reaction, and Wall Street, and aiming their most virulent darts at the Supreme Court and the membership of our highest tribunal. As one who is alined with the liberal element within the Republican Party I believe that the Constitution is the greatest charter of human liberty ever conceived by the mind of man. It is what makes for our rights and liberties as free sovereign American citizens. It is the barrier against autocracies and dictatorships of the Old World, whether they be of the left or the right. As Al Smith says, it is the civil bible of America, and represents the rights and liberties of the minorities, racial and religious, involving large groups of American citizens. It is the safeguard of our free institutions and representative and constitutional government, and the bulwark against communism and socialism on one side and fascism and Hitlerism on the other. I am opposed to nullification of the Constitution to the invasion of the rights of the States and to the delegation of its constitutional powers by a supine Congress or the encroachment by the Congress or the President upon the powers of the Supreme Court.

I urged the nomination of Senator BORAH for President as I knew he was the greatest champion in public life of constitutional government, the powers of the Supreme Court, and our three separate and independent branches of government. What a blunder the conservatives made in opposing him. Would to goodness he had been nominated, and we would still have a Republican Party standing on and for the Constitution. The real test or yardstick of radicalism in America is one's point of view on the Court and the Constitution. No man in public life can be a dangerous radical who has faith in both.

We have been accustomed to the attacks of the radicals, Communists, and Socialists upon the Supreme Court, seeking to undermine and destroy the Constitution. The Constitution is the paladium of our liberties, and yet now we find the President of the United States joining with this chorus and virtually lecturing the membership of the United States Supreme Court and saying to them, "You must read the context of the Constitution with an enlightened point of view, not from the point of view upon which you took office and swore to preserve, protect, and defend the Constitution, and to interpret it on the basis of its provisions, but you must look at the election returns before reaching a decision."

You might as well say to the referee of a football game, "Instead of abiding by the rules of the game, appeal the decision to those in the grandstand"; or to an umpire in a baseball game, when a player is sliding to second base and is called out, then "change the decision and call him safe in accordance with the volume of boos and noise among the spectators."

I yield to no man in the Congress, whether he be Progressive Democrat, or Farmer-Labor, in my faith in popular government and in free institutions and the will of the people; but we have taken an oath of office ourselves to preserve, protect, and defend the Constitution of the United States against its enemies, from within and from without. Is it the contention of the radical element in Congress or of the Democratic Party that the right to review acts of Congress shall be taken away from the Supreme Court? If that is the issue, let us face it squarely and honestly. Let us debate it in the open and understand the issue. Are the Democrats saying that we must take this power away from the Supreme Court and let Congress legislate without any review by the Supreme Court or check or balance of any kind? If we did that, we would have the right and power to change our form of government by a majority rule of the Congress. We could legislate the President out of office. We could set up fascism in this

country overnight if the people's rights and liberties were not protected by the Supreme Court.

I am discussing this issue now because it has been raised by the President of the United States; not merely because of what he said a few week ago—that the Supreme Court and the judges of the Supreme Court must approach these questions from a more enlightened point of view—but because of things he has said previously. We might pass by his recent statement if that was the only one. However, as we must look into the record we find that the President only last year urged Representative Samuel B. Hill to put aside his reasonable doubts as to the constitutionality of the Guffey bill and pass the bill.

We know what he said when the N. R. A. was declared unconstitutional by a unanimous vote of the Supreme Court—that we had gone back to the horse and buggy days; that wheat would go down to 40 cents and cotton to 6 cents. I do not wish to inject a political and partisan issue into this discussion, but we Republicans feel that the change and improvement in business conditions started from the time the Supreme Court held the N. R. A. unconstitutional, which restored confidence throughout the country and lifted the fear and dread of government by bureaucracy and Executive order instead of by law. From that time wheat and cotton have gone up in spite of what the President said about horse and buggy days, when he sneered at the unanimous decision of the Supreme Court in the N. R. A. or Schechter case.

We repeat, however, thank God for the Supreme Court of the United States, which without fear or favor continues to uphold our American system and constitutional form of government in spite of radical termites, Socialists, and Communists who seek to undermine it and destroy its powers and functions.

It is perfectly true that a number of Presidents have in the past criticized the Supreme Court, including Jefferson, Jackson, Lincoln, and Theodore Roosevelt. Lincoln, however, believed the Constitution was all the law and the prophets. He did say that he thought the Dred Scott decision was wrong, but he would not resist it. There was no greater believer in constitutional government than Theodore Roosevelt since the days of Daniel Webster. Theodore Roosevelt believed exactly what I believe, and that is that the people made the Constitution, that the people are the masters of the Constitution, and that they have a right to amend the Constitution in an orderly and prescribed way by a two-thirds vote of the House and of the Senate and by ratification of three-quarters of the States. He advocated a review of judicial decisions, but that through a constitutional amendment.

We have the right to amend the Constitution. If there is need to amend it, let us amend it Why not propose the amendments? I for one expect to go along with some of these amendments. I have no use for the 5-to-4 decisions, and would be perfectly willing to give the Congress of the United States the right to override a 5-to-4 decision of the Supreme Court by a two-thirds vote in the same manner we override a Presidential veto. It takes a two-thirds vote of Congress to initiate an amendment to the Constitution. There is nothing radical about that in the case of 5-to-4 decisions; but what would you do in these other decisions where the vote was unanimous or practically unanimous? Would you have the entire membership of the Supreme Court reverse their decision on the N. R. A. case, the liberals and the more conservatives alike? How enlightened would you have them? I can see some excuse for this argument on a 5-to-4 decision, but the N. R. A. and the A. A. A. were not 5-to-4 decisions. I have already expressed my views on the invalidating of the minimum-wage law in New York State, which was a 5-to-4 decision and, to me, a shocking one, and I go for reversing it but not for resisting it

The President has raised an unfortunate and an unlawful issue when he lectured the Court in his speech to Congress on the state of the Union and urged the Court to look at the ballot box and have a more enlightened judgment because of some alleged popular opinion or temporary whim. I say as a liberal Republican that this is not only a novel doctrine, this is not only a new doctrine, but it is a revolutionary, unlawful, and a monstrous doctrine put forth by the President of the United States in which he tells the Supreme Court "not to mind the context of the Constitution but look and see what the people bac' home want." The only way—the prescribed way and the quickest way—to find out what the people want done is to submit a constitutional amendment.

What is the function of the Supreme Court? It is one of the checks and balances provided by the Constitution in order that legislation may not be passed contrary to the Constitution. The Supreme Court is the living voice of the Constitution that maintains its integrity and supremacy and a government by law. We either believe in the Constitution or we do not believe in it. If we do not believe in it, then let us go ahead and take back all the powers for ourselves, unrestrained by the Supreme Court, and legislate in any way we want. But if we believe in the Constitution and constitutional government, it is our duty to uphold the Supreme Court and call upon its members to express their views and reach their decisions in accordance with the text of the Constitution. Otherwise there is no power or authority to prevent the encroachment of the Congress upon the executive branch of the Government, or vice versa, or the invasion of States' rights or even the wiping out of those guaranties of the Constitution providing for freedom of speech, of the press, and of assembly.

If the President wants to propose an amendment giving the Congress control of minimum wages and maximum hours, I have no fear of it, because there will be a referendum to the people, and the people will decide the issue.

When the Congress criticizes the Supreme Court it criticizes itself. When a proposed amendment to the Constitution is passed by a two-thirds vote of Congress it is submitted to the people back home in the various States for their decision and, as a firm believer in popular government and the will of the people, I have no fear of the results or of a just decision. Then we shall have what the people want, and not what some individual thinks they want. If anybody has been negligent, it is the Congress; but in order to protect themselves with a good degree of hypocrisy they point the finger of scorn at the Supreme Court and try to place the blame on the Court instead of on themselves. The Justices of the Supreme Court would become unfit guides and unworthy guardians of American liberties and the welfare of the country if they should change their opinions as easily as weather vanes or the colors of their decisions like chameleons.

What happened in regard to prohibition? The people decided to do away with it, and it took them a year or so. What happened to the more recent Norris amendment? They put it through in a year and a half. The doctrine proposed by the President is an abomination of desolation. If it were followed by the members of the Court, it would destroy their usefulness and undermine the confidence and the respect of the American people for the impartiality, independence, integrity, courage, and wisdom of the Court. The record of the Supreme Court is one of the proudest and most honorable pages in American history, and we must not smear or besmirch it. If the American people desire to amend the Constitution, it is the duty and function of Congress to initiate the amendment and the people can put it through within a year or two. However, let us stop saying to the Supreme Court from now on: "Never mind the Constitution. Never mind its wording or context. Make your decisions on what you think the people back home want." That is a repugnant innovation. It is a degrading idea that will be rejected with disdain by the people as a dishonorable expedient.

The consequences of such a fatal doctrine would wreck the Court, as it virtually would require the justices to violate their oaths of office. I challenge any Democrat to show one single speech the President of the United States made during the campaign in which he even mentioned the Constitution or the Supreme Court. He avoided both like poison throughout the campaign and would not express a single view. Now, what right has the President to say that the election was fought out on the ground of constitutional government and to tell the Supreme Court to adopt a more enlightened point of view by listening to the election returns?

We do not deny the right of any individual to advance any constitutional change, but we propose to fight in every way within our power the efforts of all those who seek to undermine and destroy the powers of the Supreme Court to hold acts of the Congress invalid when contrary to the written provisions of the Constitution, without which restriction our republican form of government might be abolished and replaced by a dictatorship of the right or of the left.

The constitutional issue is apt to become the most important before the American people. We Republicans propose to uphold and defend the Supreme Court and the powers of the Court, and to preserve for the American people and for generations yet unborn the rights and liberties guaranteed by the Constitution and the blessings of orderly representative and constitutional government.

Pensions for the Needy Aged

EXTENSION OF REMARKS

OF

HON. WILLIAM M. COLMER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1937

RESOLUTION OF THE LEGISLATURE OF MISSISSIPPI AND A TABLE RELATIVE TO OLD-AGE ASSISTANCE

Mr. COLMER. Mr. Speaker, under leave to extend my remarks, I desire herewith to call the attention of the Congress to a condition which I pointed out at the last session

of the Congress was bound to be the inevitable result. I refer to that provision of the Social Security Act which requires the several States of the Union to match dollar for dollar the amount that the Federal Government provides for the aged in the form of pensions.

When this bill was under consideration by the Ways and Means Committee I called this matter to the attention of that committee and made a statement which appears of record at pages 1084–1085 of the printed hearings on the bill before the Ways and Means Committee. That statement is as follows:

Mr. Chairman and gentlemen of the committee, I am intensely interested in the Economic Security Act now under consideration by your committee. I am naturally interested in anything that tends to the betterment and the economic stability and comfort of the aged. President Roosevelt assured the Seventy-third Congress that he would recommend social legislation of this type. The people of the country as a whole, both young and old, are intensely interested in the problem. I have read with meticulous care and increasing interest the bill of the distinguished gentleman from North Carolina [Mr. DOUGHTON], the chairman of this committee, which proposes to put into actual operation legislation seeking economic security and comfort for the aged, the unemployed, and the unfortunate cripple. The theory of this piece of legislation is beautiful, but I am very much concerned about its practical operation. We are all agreed that some legislation looking to this end is desirable. This committee has had many plans submitted to it, some most fantastic and impractical, some more practical and logical. But I desire to discuss briefly one feature of the legislation introduced by your distinguished chairman, as I feel that that particular bill in some form will be the one most likely reported by your committee.

The point that I want particularly to call to your attention is the provision which requires that the States must contribute an equal amount to that provided by the Federal Government up to $15 per month. As I understand the bill, the Federal Government will contribute to the aged people over 65, who can qualify thereunder, an amount up to $15 per month, provided the State or other subdivision of the Government of which that particular aged person happens to be a resident will contribute an equal amount.

This means that before the unfortunate aged person who is in need of this pension can receive the benefits thereof, or even the amount contributed by the Federal Government, the State or other subdivision of the Government must contribute a like amount.

I want to say in all frankness and candor to this committee, whom I believe are really desirous of reporting out and enacting into legislation a bill that will be practical and workable, that this will not work. It may work in some States, but there are many others in which it will not work. This for the reason that the States are unable financially to meet the requirements. I can best illustrate this by taking my own State of Mississippi for example.

According to the census of 1930, Mississippi had 77,443 persons who are over 65 years of age. By the time this law is enacted there will be a very little variation in the figures. If anything there will be an increase. It is estimated that, of this number, approximately 13,000 are on relief. I have no definite way of arriving at what percentage of the 77,443 would apply for a pension, but it is reasonable to assume that a considerably larger portion would apply for the pension than applied for relief. I would think it would be fair to assume that somewhere in the neighborhood of 75 percent would apply for that pension. If the State matched the $15 provided for in this legislation, which is the maximum the Federal Government would provide under the bill, for 75 percent of the aged over 65, Mississippi's contribution would amount, in round figures, to $10,500,000 per annum.

Mississippi is not a comparatively wealthy State. Its total revenue receipts for the general fund in 1934 were only $14,000,000. The people in our State are already taxed by the State to the point where taxation has become onerous and burdensome in its efforts to carry on its school systems, road building, and other necessary expenses. It is quite obvious, therefore, that the State of Mississippi could not function under the set-up of this legislation and its dependent aged would be cut off from any benefits whatever. I am satisfied that the picture presented above, so far as Mississippi is concerned, is true in many other States of small, comparative wealth.

Now, what I desire is some practical form of legislation. Thirty dollars a month is small enough, but if the people of many of our States are to be denied the privilege of sharing in the contribution of the Federal Government because of the financial inability of the subdivisions of the Government to contribute as substantially as the Federal Government, we are faced with a serious dilemma.

It might also be pointed out that although the old people of a State that cannot match the Federal funds will not share in the benefits of the bill, the people of that State will be forced to contribute, in the form of taxes, to the payments of the aged of the other and more fortunate States. This will be taxation without benefit.

I think that old-age pensions and the care of crippled children should be recognized as a national problem. Therefore, if this committee concludes that it is impractical to make as much as a $30-a-month contribution to the needy aged by the Federal Government, the provision requiring the equal contribution by the State or other subdivision of the Government should be eliminated from the bill. And these needy persons in this aged class, who have contributed so substantially to the upbuilding of this Government, should at least be permitted to enjoy whatever amount in the form of a pension is granted by the Federal Government.

The very thing that I pointed out to the Ways and Means Committee and later on the floor of the House a few days before the bill was considered on April 16, 1935, and again when I unsuccessfully endeavored to amend the bill by striking out the provisions for State contribution while the bill was being considered on April 18, 1935, is now apparent to practically everyone in those States that are not regarded as wealthy States. In other words, Mr. Speaker, we find that these comparatively poor States have realized and are now experiencing the very principle that I so earnestly tried to enunciate and have enacted into law in connection with the Social Security Act.

This is best illustrated in my own State of Mississippi by a resolution which I have recently received. It is a concurrent resolution of the Legislature of the State of Mississippi, setting out a recognition of this very principle. The resolution follows:

House Concurrent Resolution 10

Concurrent resolution memorializing the President and Congress of the United States to appropriate annually a greater percentage of funds for old-age assistance

Whereas there is great distress and suffering among our aged people of the State of Mississippi as a result of the most severe depression in the history of our country; and

Whereas there are varying degrees of wealth among the States, just as there are varying degrees of wealth among individuals, with the result that a much greater burden is cast upon the poorer States in providing old-age assistance; and

Whereas it is commonly recognized that the aged of the State should be assisted: Now, therefore, be it

Resolved by the house of representatives (the senate concurring therein), That the President and the Congress of the United States be and they are hereby memorialized to undertake to so amend the Federal law as to eliminate or effectively liberalize the said statutes so as to make available its benefits to those citizens of the United States residing in States unable to match said funds dollar for dollar, to the end that the assistance to the aged in the various States shall be equalized; be it further

Resolved, That a copy of this resolution be sent to Senators HARRISON and BILBO and to the various Congressmen of the State of Mississippi, and that they be urged to back the relief herein called for.

Adopted by the house of representatives December 3, 1936.

F. L. WRIGHT,
Speaker of the House of Representatives.

Adopted by the senate December 4, 1936.

J. B. SNIDER,
President of the Senate.

Mr. Speaker, my object in calling the attention of the Congress today to this matter is that I hope that before this session of Congress is ended this unfair and deplorable condition may be remedied and the enactment of appropriate legislation by this Congress may be had. To this end on yesterday I introduced a bill, H. R. 4068, which, if enacted into law, would give these aged and needy people substantial relief. It seeks to amend the present act by providing that all persons 65 years or older who are not inmates of public institutions and others qualified under the present law will receive the $15 allotment of the Federal Government, regardless of State contributions.

Mr. Speaker, the following chart, furnished me by the Bureau of Research and Statistics of the Division of Public Assistance Statistics of the Social Security Board, gives a graphic picture of the amounts now received by the needy aged of the several States:

Old-age assistance during month of November 1936 in States reporting to the Social Security Board

[Data reported by State agencies corrected to Dec. 28, 1936]

State	Old-age assistance during November 1936					
	Number of individuals receiving assistance	Total payments to individuals during the month [1]	Average per recipient	Percentage increase (+) or decrease (−) from last month		Number of recipients per 1,000 estimated population 65 and over [2]
				In number of cases	In total amount paid to recipients	
Total for 42 States with plans approved	1,034,300	$19,353,939	$18.71	[3] +5.7	[3] +7.0	[4] 152
1. Alabama	[5] 10,619	[5] 114,635	10.80	+1.2	+1.0	89
2. Arkansas	[6] 14,139	[6] 127,224	[6] 9.00	−0.3	−0.2	154
3. California	59,058	1,862,999	31.54	+6.5	+6.8	146
4. Colorado	25,793	713,102	27.65	+2.6	+2.9	304
5. Connecticut	11,381	286,875	25.21	+4.1	+0.8	101
6. Delaware	3,034	32,144	10.59	+1.7	+2.4	150
7. District of Columbia	1,174	29,629	25.24	+20.2	+17.8	31
8. Florida	5,827	61,389	10.54	+36.0	+38.7	66
9. Hawaii	586	6,663	11.37	+0.5	+0.2	58
10. Idaho	7,822	182,586	23.34	+0.6	+0.4	289
11. Illinois	[6] 78,448	[6] 1,165,750	[6] 14.86	+18.6	+24.4	163
12. Indiana [7]	33,650	463,497	13.77	+4.4	+11.3	121
13. Iowa	29,781	436,101	14.64	+.3	+.3	141
14. Kentucky	6,218	60,493	9.73	+66.3	+69.4	36
15. Louisiana	[6] 12,010	[6] 151,211	[6] 12.59	+12.2	+11.8	146
16. Maine	3,964	79,522	20.06	[8]	[8]	48
17. Maryland	11,668	192,723	16.52	+4.0	+3.6	110
18. Massachusetts	[6] 44,714	[6] 1,165,370	[6] 26.06	+7.2	+8.1	142
19. Michigan	32,007	525,606	16.42	+1.4	+1.6	117
20. Minnesota	[9] 54,552	[9] 1,024,526	18.78	+4.7	+5.0	292
21. Mississippi	16,621	59,885	3.60	[10]	+.4	198
22. Missouri	56,635	647,332	11.43	+3.7	+4.0	190
23. Montana	7,882	160,828	20.40	+10.0	+9.7	269
24. Nebraska	23,802	394,936	16.59	+1.8	+8.2	251
25. New Hampshire	3,099	66,507	21.46	+1.4	+1.3	61
26. New Jersey	21,040	338,543	16.09	+3.0	+3.4	88
27. New Mexico	2,786	46,339	16.63	+2.0	+4.3	157
28. New York	68,920	1,475,504	21.41	+5.8	+6.5	99
29. North Dakota	6,107	95,781	15.68	+3.3	+4.0	175
30. Ohio	98,504	2,441,346	24.78	+2.0	+1.5	211
31. Oklahoma	40,946	472,753	11.54	+6.0	+53.0	360
32. Oregon	11,801	248,456	21.05	+1.4	+1.6	148
33. Pennsylvania	56,730	1,229,342	21.67	+8.2	+8.0	95
34. Rhode Island	3,009	51,906	17.25	+14.8	+15.1	68
35. South Dakota	5,747	124,114	21.60	+75.0	+72.0	144
36. Texas	90,256	1,396,820	15.48	+4.0	+3.3	332
37. Utah	5,106	114,671	22.46	+4.0	+4.3	199
38. Vermont	4,002	45,362	11.33	−.7	−.4	109
39. Washington	27,406	559,848	20.43	+5.3	+5.3	230
40. West Virginia	[11] 1,330	[11] 20,000	[11] 15.00	[12]	[12]	[11]
41. Wisconsin	33,592	628,951	18.72	+2.1	+3.3	159
42. Wyoming	2,534	52,670	20.78	+.9	+1.4	253

[1] Amount paid to recipients from Federal, State, and local funds, administrative expenses excluded.
[2] Estimated on the advice of the United States Bureau of the Census as of July 1, 1936.
[3] Comparison made for 40 States reporting payments for both periods.
[4] For 41 States, West Virginia estimate excluded.
[5] Of this number, there were 2,212 Confederate pensioners receiving $50,345, an average payment of $22.76.
[6] Preliminary figures subject to revision.
[7] Payments previously reported for October became payments for November due to change in accounting procedure.
[8] No payments made for old-age assistance for October.
[9] Preliminary figures to be revised to include retroactive grants.
[10] Less than one-tenth of 1 percent.
[11] Estimated.
[12] Not administering old-age assistance for October.

Price Discriminations

EXTENSION OF REMARKS

OF

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1937

ADDRESS OF HON. JOSEPH T. ROBINSON, OF ARKANSAS, TO THE NATIONAL FOOD BROKERS' ASSOCIATION, CHICAGO, ILL., JANUARY 24, 1937

Mr. PATMAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered by Senator ROBINSON, of Arkansas:

The suggestion was made by representatives of the National Food Brokers Association, when the invitation was extended me to speak on this occasion, that the subject of price discriminations be discussed, particularly with reference to the Robinson-Patman Act.

It seems logical to refer to three general aspects of the topic, namely: First, history of national legislation designed to prevent unfair trade practices comprehended in the phrase "price discriminations"; second, necessity for and purposes of the legislation; and, third, methods and proceedings for enforcement of the recent statute commonly called the Robinson-Patman Act.

CLAYTON ACT

The Congress wrote into the anti-trust laws the Clayton Act, approved October 14, 1914.

One of the primary objects of that legislation is to prohibit discrimination in price between different purchasers from the same seller, where such discrimination might substantially lessen competition or tend to create a monopoly. It would not be entirely accurate, but nearly so, to say that traders devised methods for evading this prohibition—methods which tended to destroy relatively small business enterprises and to develop trading combinations so powerful and far reaching in their influence and operations as to justify the fear that merchandising, both wholesale and retail, might be brought under the control of monopolies.

Admittedly, no mere temporary reduction in the cost of living would warrant the elimination of competition in the sale and distribution of the necessities of life, particularly including food products. It has been the claim of some of the beneficiaries of price discriminations that the prevailing system redounds to the benefit of consumers and that the cheapening of necessities is an essential and wholesome object to be promoted by custom and statutes. Manifestly, the lowering of prices, if accomplished in such manner as to destroy competition and give to a few large organizations control over supply and demand, would be more than offset by the permanent harm to be anticipated from monopolistic control. Those who favor private monopoly never question their own motives and are rarely concerned with problems pertaining to public policy. Usually their object is to make money for the stockholders and the corporations they serve, and they grow accustomed to regarding any privilege once exercised as an inherent right.

Whether it is the practice of those large dealers who are favored with special prices in their purchases to pass on to their customers the advantages thus secured is open to controversy. The point is that, even if it be true, price discriminations must be regarded as unfair and harmful when their probable effects, both immediate and future, are contemplated. You may follow out this thought to your own conclusion.

In spite of the direct prohibition against those forms of discrimination which were calculated to lessen or prevent competition and which were condemned in the Clayton Act, the objectionable system which the statute was intended to destroy continued and expanded until it became manifest that in many fields and with respect to many commodities the small dealer was hopelessly at the mercy of his competitors because the latter were receiving rebates, discounts, or allowances which in effect enabled the favored dealer to undersell his less fortunate competitor.

IS IT WORTH WHILE TO PRESERVE COMPETITION?

The question naturally arises whether it is worth while and wholesome to check the advance of monopolies and preserve competition; whether there is room under modern economic conditions for small business units and enterprises or whether mass production and control are the concomitants of progress.

Usually the issue is not so frankly stated. Sometimes it is covered up in long-drawn-out theories which, when analyzed, resolve themselves into the question whether competition or monopoly is to be preferred.

It would be foreign to my intention in these remarks to enter a detailed argument on this question. It seems sufficient to say that public opinion, educated by the results of studies by experts, looks with dread on the coming of the day when a few gigantic combinations of capital shall control the production and sale of the necessities of life. The average mind revolts at the thought that a few individuals may so combine their resources and their efforts as to fix prices at will on those things which are essential to comfort and happiness. Certainly the weight of the evidence and the argument is in favor of maintaining a fair system of competition.

Under the Clayton Act special forms of price discriminations, as among purchasers from the same seller, became common and are probably well recognized by those who hear these remarks.

Among these may be numbered excessive discounts on account of large-quantity purchases, allowances for alleged brokerage services and advertising, demanded and received by large purchasers and denied by the seller to the competitors of the favored purchasers.

The forms of discrimination mentioned have been so frequently resorted to that general mention appears sufficient for present purposes. All of them in varying degrees constitute poorly concealed methods of discrimination. They give unearned advantages to the large dealers and place all others in a situation of impotency and peril. The thriftiest and most diligent wholesaler or retailer is rendered powerless to conduct profitable enterprises under the handicap which such transactions impose upon them. Large chain-store organizations, for instance, obtaining

discounts, or allowances for services never performed, amounting to 25, 40, or even 50 percent, can easily crush and drive out those who are refused proportionate discounts and allowances. The latter, in many cases, must make up to the seller any losses sustained by reason of the favors extended his competitors. Some of the chains, as you already know, operate as many as 14,000 retail stores located at strategic market places, and wherever they operate the tendency is to establish monopolies by forcing small dealers with limited resources to sell below cost or to go out of business.

THE ROBINSON-PATMAN ACT

It was to remedy these conditions, deemed generally injurious and harmful to the public because of their tendency to create monopolies, that the Robinson-Patman law was enacted. In the passage of the act Congress struck directly at the forms of discrimination referred to, outlawed them and sought to so protect trade and commerce as to give encouragement and hope to those who, without such protection, must in the end be driven into bankruptcy and ruin. The law does not prevent sales to large purchasers which recognize fair differences in cost. Neither does it prevent the giving of brokerage commissions when actually earned or of advertising charges provided such allowances are extended to all purchasers by the seller in due and fair proportion. There never has been, there cannot be, sound or economic basis for such differences in price with respect to quantity purchases as have been extorted in numerous instances, some of which have been laid bare through investigations by the Federal Trade Commission under a resolution of the United States Senate. The rule laid down in the law for the determination of differences in cost as the basis for reduced prices on account of large quantity purchases is reasonable. It excludes those elements which invoke and constitute favoritism and recognizes only the factors which well established custom appears to justify.

BROKERAGE

Under the guise of food brokerage allowances, as well as through excessive discounts for great quantity purchases, the purpose of the Clayton Act was thwarted and often wholly defeated. As has been declared by this Association "brokerage or commission is compensation for a definite sales service when rendered. * * * Therefore, brokerage cannot be paid legitimately to anyone other than a food broker who actually performs this sales service."

Neither the Clayton Act nor the act of 1936 interferes with the allowance of such reasonable commission. A large buyer who establishes what is sometimes termed a "brokerage office", a purchasing company that remits to its subscribers its collections from sellers on their purchases, combinations of distributors which clear their orders for merchandise through a central office for the purpose of demanding quantity discounts, are not brokers in the true sense of the word. They actually represent the purchaser and not the seller. It is base subterfuge to designate these agencies as food brokers.

When they perform any service they actually represent the purchaser and there can be no sound reason for taxing their charges or commission against the seller. The effect of taking from the seller an allowance for an alleged brokerage service not performed by him is to reduce the price. It is equivalent in all fair reasoning to an excessive allowance for quantity purchase. The legitimate food broker has a clearly defined duty and performs a helpful, not to say indispensable, function. His efforts are worthy of recognition and compensation. When the brokerage organization is owned, controlled, affiliated with, or subsidized by purchasers, or a group of purchasers, that are in fact agents of the buyer concerned in obtaining the merchandise at the lowest possible price and "to the very best advantage for the buyers" such agents are not brokers in the true sense of the term and their compensation may not properly be termed "brokerage." The rule of law fixed in the Robinson-Patman Act with respect to this subject is definite. If the agent performs a substantial service for the seller, he is entitled to receive commission from the seller. If he acts for the buyer he must be paid by the buyer and allowance to him by the seller is unfair and forbidden. In every instance now recalled, after expenses are defrayed the earning of buyer organizations are in part remitted to the buyers, which fact shows that they are not brokers serving the sellers. While there are notable distinctions as to methods employed by these various buying groups, it is believed that the same test should be applied to all of them, namely: Are they brokers acting for the sellers or do they in fact serve the buyers? All of the methods in mind are designed to excuse the seller from paying or the purchaser from demanding a brokerage commission "in lieu of price concession."

The buyer who succeeds in securing a part of a brokerage enjoys unfair advantage over those who are denied such allowances. No plan has as yet been devised, and probably it is impossible to form such a plan, under which the buyer can earn a brokerage from the seller for the reason that the interest of the seller and that of the buyer are conflicting.

ADVERTISING

Substantially the same rules apply to advertising allowances. The rule in the act of 1936 is that if an allowance be made to one purchaser on account of advertising, it must be made available to all purchasers from the same seller under equivalent proportionate terms. There are some classes of business in which brokerage services are indispensable. This particularly includes the grocery business. There are others also where the seller in the ordinary conduct of his business must have information and advice from market experts. There is nothing in the law which interferes with payment to the seller for good-faith services. No well-founded theory has been advanced under which the seller may be properly required to pay for agencies which obtain information or perform tasks for buyers whose interest with respect to prices is adverse to that of the seller. The rule with respect to advertising allowances does not interfere with the legitimate promotion of sales. It recognizes the necessity for advertising, but it condemns and forbids the allowance of a fund alleged to be for advertising to one purchaser and the refusal of such allowance on equal proportionate terms to other purchasers.

ENFORCEMENT OF THE ROBINSON-PATMAN ACT

Immediately following the approval of the act of June 19, 1936, the Federal Trade Commission, charged by the law with certain responsibilities, entered upon a careful study as to its meaning and application.

While the Federal Trade Commission has many administrative duties, it also acts in a judicial capacity in the decision of cases and for that reason does not express opinions as to how cases will be decided. Following the enactment of the Robinson-Patman Act, the Federal Trade Commission received thousands of letters making inquiries respecting the interpretation of the new law. It also received complaints resulting in 19 investigations by the staff of the Commission. These complaints and investigations involve food manufacturers, yeast and cosmetic companies alleged to be discriminating and violating section 2a of the Clayton Act as amended by the statute of June 19, 1936.

Many of the complaints charged corporations with discriminations and with receiving brokerage contrary to law. Others involved buying agencies remitting their compensation from the sellers to the buyers.

No additional funds have so far been made available to the Trade Commission to carry out the purpose of the act. Existing appropriations were authorized with the duties of the Commission imposed by other laws in mind so that the Federal Trade Commission has been in a sense handicapped in its enforcement of the 1936 statute passed since the appropriation for the Federal Trade Commission was made or budgeted.

Nevertheless, all members of the Commission staff that could be made available were assigned to the handling of many inquiries received.

"A large percentage of the practices, when brought to the attention of the alleged violators, were desisted from and compliance to that extent was effected."

The number of complaints continued to increase so that by the end of the year 1936 the Commission was so burdened with cases that enforcement was retarded. The complaints referred to relate to numerous practices in the food, the oil, the tire, the cosmetic, steel, and furniture industries, and all such complaints are receiving as prompt consideration and action as the circumstances permit. It is said that many of the practices complained of involved the interest of rural and other consumers and relate to the prices at which farming equipment and steel fences are sold.

There are also embraced some cases concerning the effect of the statute on discriminations in the sale of produce. Efforts are being made by the Commission to terminate the discriminatory practices so that free and fair competition may be promoted.

On September 30, 1936, a little more than 3 months after the enactment of the Robinson-Patman Act, the Federal Trade Commission issued its first complaints under the new statute charging Montgomery Ward & Co. with receiving preferential consideration from Byrd & Son, sellers of floor covering rugs. The complaint alleges that the price to retailers was $4.85 for the identical rug purchased by the mail-order retail house at $3.55. In other instances, it was complained that the independent retailer purchased rugs at $3.72 while the competing retail mail-order house purchased the same commodity at $2.85.

This complaint was brought under section 2a defining price discrimination, and under section 2f making it unlawful to receive a discriminatory price which has the effect of impairing competition.

Two of the early complaints were against cheese corporations for violation of section 2a. The complaint alleged that the quantity of cheese required to be purchased to secure a price concession was so great that the ordinary retailer could not avail himself of the allowance, and that the savings in the cost of selling the cheese were not sufficient to make up the difference in price.

The Commission issued its complaint October 17, 1936, against the United States Quarry Tile Co., asserting that this manufacturer was selling to wholesalers at a price 15 percent below the price to retailers and that the wholesalers were also doing a retail business, thus having advantage of 15 percent as against the dealer selling at retail only.

Proceedings were commenced on November 6, 1936, against a number of cosmetic companies in which it is charged that such cosmetic companies were violating section 2a, 2d, and 2e by the allowance to some of their retail customers of a larger discount than to others who were in competition with the favored ones. It was also alleged that advertising allowances for the services of demonstrators were made to favored customers and not to others in competition with them.

The large yeast companies were sued by the Commission on the 21st of November 1936 for violation of section 2a relating to quantity discount which it was claimed had the effect of "injuring competition between the bakers who manufactured and sold bread in commerce."

A second proceeding against some of the cosmetic companies was initiated by complaint on December 19, 1936, charging that purchasers of $4,000 worth of cosmetics within a year secured a discount of 33⅓ percent plus 5 percent, while those purchasing more than $4,000 worth per year received additional 5 percent, and to purchasers who bought more than $18,000 worth in one year a 5-percent allowance was made which was not available to those purchasing less than $18,000 per year.

Neutrality

EXTENSION OF REMARKS

OF

HON. H. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1937

STATEMENT BY CONGRESSMEN ON NEUTRALITY

Mr. VOORHIS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following statement by 31 Members of the House on the subject of neutrality:

We voted to prohibit shipment of arms to Spain. Because the resolution operated against a single nation with whom our Nation is at peace, instead of establishing a general embargo, we cast these votes with some misgivings.

While the resolution forbade munitions being shipped either directly or indirectly to either side in the Spanish civil war, it is clear that, so long as no embargo exists against shipments of munitions to Germany, Italy, and Portugal, either the American munitions sent to those nations or their equivalents will eventually reach the hands of the Spanish rebels, since all three of these nations are universally reported to be furnishing munitions to the rebel forces. Hence, in effect, if an embargo is enforced against the Spanish Government, but not against other nations shipping to the Spanish rebels, the United States is placed in the position of actually or constructively acting as cobelligerents with the forces attempting to overthrow the Spanish Government.

Only as a means of recording our opposition to the sale by this country of the instruments of war, and because the chairman of the Foreign Affairs Committee, Mr. MCREYNOLDS, promised that a fair, complete neutrality bill would soon be presented with ample time for debate, did we vote for the Spanish embargo.

War or peace at this time is the most important subject before the American people. Throughout the Nation there is insistent demand for strong and sincere neutrality legislation which will be effective in keeping this Nation from being "drawn by political commitments, international banking, or private trading into any war which may develop anywhere", in the words of the Democratic platform.

It is our deep conviction that general neutrality should be considered now. We believe that the legislation must not be rushed through Congress, but there should be at least 10 hours of debate, and opportunity to offer amendments.

We believe that full information regarding the present situation should be provided by the State Department to Congress; that Congress in turn should inform the Nation and enact appropriate legislation. In no other way can we be fair to the people. In no other way can we carry out their unmistakable mandate to keep this Nation out of war.

We believe that the following points should be an integral part of our policy of keeping out of foreign wars:

1. The good neighbor policy of the President should be vigorously and faithfully applied to the end that our Nation will consistently refuse to interfere or intervene in the internal affairs of any other nation for any reason whatsoever.

2. Adequate neutrality legislation including the following points should be immediately enacted into law:

(a) A mandatory embargo on the export of war materials directly or indirectly to all belligerent nations and to all parties engaged in civil war.

(b) A mandatory embargo on loans and credits to all belligerents.

(c) An embargo on the export of war materials, the sale of which endangers the neutrality of the United States. The list of materials to be included in this embargo to be designated by the President, but the embargo being applied equally to all parties.

(d) A cash and carry trade policy with all belligerents.

(e) Travel of American nationals in war zones or on belligerent vessels to be prohibited and American vessels to keep out of war zones.

We believe the above steps should be taken immediately. We are, however, equally of the belief that if they are to be effective in the long run certain more far-reaching legislation will be necessary, namely:

1. A general embargo on the export of privately manufactured munitions to all foreign nations.
2. Nationalization of essential parts of the munitions industry.
3. Legislation taking the profits out of war.

Byron N. Scott; Jerry Voorhis; John M. Coffee; Fred H. Hildebrandt; Usher L. Burdick; Gardner R. Withrow; Maury Maverick; William P. Connery, Jr.; John T. Bernard; B. J. Gehrmann; Thomas R. Amlie; Jerry F. O'Connell; Dewey W. Johnson; R. T. Buckler; Sam Massingale; Martin F. Smith, of Washington; Louis Ludlow (with reservations as to C and 2); Herman P. Kopplemann; Caroline O'Day; Nan Wood Honeyman; J. E. Rankin; Walter M. Pierce; John R. Murdock; Walter G. Magnuson (with reservations as to E); Herbert S. Bigelow; Frank W. Fries; Knute Hill; Harry Sauthoff; Ed. V. Izac; Henry C. Luckey; Henry G. Teigen.

National Farm Loan Associations

EXTENSION OF REMARKS

OF

HON. LLOYD THURSTON

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1937

LETTER AND PETITION FROM SIGOURNEY (IOWA) NATIONAL FARM LOAN ASSOCIATION

Mr. THURSTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letter and accompanying petition from the National Farm Loan Association of Sigourney, Iowa:

SIGOURNEY NATIONAL FARM LOAN ASSOCIATION,
Sigourney, Iowa, January 20, 1937.

Hon. LLOYD THURSTON,
Washington, D. C.

DEAR SIR: We the undersigned members of the board of directors of the Sigourney National Farm Loan Association respectfully ask that you draft and support measures, to help the National Farm Loan Association. Our National Farm Loan Association was organized in 1918 and until very recently our stock was 100 percent, and until last May, we were able to have funds from closed loans to pay rent, office upkeep, and the secretary-treasurer salary. But because we were no longer able to do this we were forced to coordinate with another association, and to discharge our secretary-treasurer who was a farmer and a member of our association, and therefore better able to understand the problems of the farmers. In his place we had to appoint a man who is an ex-banker and not a member of our association, one who does not understand the problems of the farmer, but who is approved by the Federal land bank.

We have been denied participation in the general funds of the banks for ordinary operating expenses, unless we enter into this coordination and surrender our rights granted to us by law, which includes the right to elect our own secretary-treasurer.

Under this coordination plan it is also not to the best interest of the secretary-treasurer to close loans. Because of this our association has not closed a loan since last May. It also seems almost impossible to get the Federal land bank to approve loans of sufficient amount to be of any service to the applicant, even on the very best of Iowa land. In fact, we do not seem to be any further ahead in the matter of farm loans than we were in 1932.

We believe that if we were allowed to appoint our own secretary-treasurer that we would be able to save almost half of the funds allowed us by the Federal land bank and use them to take care of our losses, instead of unnecessary expense as is the case under the coordination plan.

We believe that the aims of the President and Mr. Wallace in regard to farm tenancy can be accomplished more economically through the local national farm-loan associations, having one in each county seat to look after loans, farms, and servicing loans already made. This may mean some shake-up and reorganization in the Federal land banks, and we believe this should be done.

Therefore we ask that you draft and support any measures to remedy the evils of coordination and to accomplish the things suggested by our President and Mr. Wallace.

Yours respectfully,

LYLE SANDERS.
ROBT. GALBRAITH.
HENRY FAAS.
FRANK YAHN.
CLAIR BOOMERSHINE.

PETITION

We, the undersigned stockholders of the Sigourney National Farm Loan Association, hereby endorse and support the enclosed letter and respectfully ask that you draft and support measures whereby we may be permitted participation in the general funds of the Federal land bank, to support and maintain an office, and to pay a secretary-treasurer chosen by us, to take care of matters pertaining to our association here in Sigourney, the county seat of Keokuk County, Iowa.

DAVID L. MEEKER.
ANTON J. HAHN.
MRS. L. GRACE SNAKENBERG.
C. F. KLETT.
BURRIS WULLSON.
ROBERT MCMAINS.
MRS. ELIZA J. LISK.
O. K. HULL.

The Supreme Court

EXTENSION OF REMARKS

OF

HON. TOM CONNALLY

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Wednesday, February 3 (legislative day of Monday, Feb. 1), 1937

ADDRESS BY HON. WILLIAM E. BORAH, OF IDAHO, ON FEBRUARY 1, 1937

Mr. CONNALLY. Mr. President, Monday night the senior Senator from Idaho [Mr. BORAH] delivered a notable address entitled "The Supreme Court." I ask unanimous consent that it may be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The address referred to is as follows:

Ladies and gentlemen, in a free government, no public official, the records and policies of no public institution should be regarded as exempt from searching consideration, or criticism, at the hands of the people. Neither can infallibility be expected of any man, or set of men.

In considering the history, decisions, and opinions of the Supreme Court of the United States, and in seeking to estimate its worth in the machinery and strength of our Government, it would be unreasonable, if not absurd, to proceed upon any different theory. That the Supreme Court in its long history has erred, I would be the last to deny; that it will err in the future, I entertain no doubt; that it has on some occasions felt the effect of mad party passions raging about it is probably true. But after all this is admitted, when its worth is measured by the service it has rendered to the cause of human liberty, to the advancement of human happiness, and to the maintenance of a government of law rather than a government of men, that it stands among the foremost institutions of the world seems true beyond peradventure of a doubt.

The effort to establish and maintain an independent and uncontrolled judiciary long antedated the adoption of our Federal Constitution. The great desire to have a place in government where the humblest citizen might seek justice with no fear that his cause would suffer from the influence of political power was interwoven with the long struggle for Anglo-Saxon liberty.

Far back in English history, still read with unfailing enthusiasm, Sir Edward Coke, Chief Justice of the King's Bench, flung the laurels of a lifetime in the face of his King when the first Stuart bade the chief justice postpone consideration of a matter pending until His Majesty could make known to him the wishes of the Crown. Since then volumes have been spoken and written on this subject, and the victorious progress of the English-speaking world owes much to the success of this vital principle in free government.

But the action of Sir Edward Coke was as exceptional as it was courageous. There was yet a long contest ahead before the example he set could be brought to acceptance by those in power. One of the main questions settled by the English revolution of 1688 was that the people should have the right to appeal for protection to an independent tribunal of justice. Prior to that time the judges were subject to removal by the King. Under this power he took some of the keenest intellects and brightest minds of the English bar and made of them the corrupt and willing instruments of oppression and injustice. Rather than to go before such a tribunal Essex took his own life in the tower. Under this system Pemberton was appointed, that he might preside at the trial of Russel, and was then recalled because his instructions, though strikingly unfair and partial were not sufficiently brutal to satisfy his ruthless master who had given him for a time his polluted ermine. Under such a system one of England's liberal statesmen, Sydney, was beheaded, freedom of speech destroyed, habaes corpus denied, and individual rights trampled underfoot. So when the English yoemanry, the common people, drove their monarch from the throne they wrote into the terms of the "act of settlement" that "judges' commissions be made during good behavior and their salary ascertained and established." This took it out of the power of the King to remove the judges and out of his power to impoverish them by withholding their salary. This was the first decided step toward an independent judiciary, and it was not long until the great English orator could truly say: "Though it was but a cottage with a thatched roof which the four winds could enter, the King could not."

Thereafter, instead of Jeffreys denouncing and cursing from the bench the aged Baxter, instead of Dudley taunting and tormenting the New England colonists, instead of Scroggs and Saunders, subtle and dextrous instruments of tyranny, we have Somers and Holt and York and Hardwick and Eldon and Mansfield laying deep and firm the great principles of English law and English justice—principles which still guard the personal rights of men and women and in lands far removed from the place of origin.

Someone has said that everything good in the Federal Constitution is a thousand years old. One would not like to accept that statement in full. But many of the good and wise things in the Constitution are a thousand years old. Much that may be found in the Constitution with reference to the courts and the liberty, the rights, guarantees, and privileges of the citizen, are a thousand years old. A thousand years before we set about our task of writing a charter of government those without influence or political power well understood the worth, and often prayed and sometimes fought, for a high-minded, humane, independent, and just judge, whom neither fear, favor, nor affection nor the hope of reward could bend from his course, as their only refuge against arbitrary power from the political side of the Government. The huge volume of English history in which was to be found the long struggle for personal liberty and unbought and unpurchasable judges lay open before the framers, and from it they copied with copious hands. The urge of originality was not so strong with them as their desire for truth. The sacrifices and suffering there recorded they were determined should not be recorded again in our country by the American people.

They therefore copied into our charter these rights, bought from long years of experience, and set up courts which they hoped, as Madison declared, "would consider themselves in a peculiar manner the guardians of those rights * * * that they will be naturally led to resist every encroachment upon rights stipulated for in the Constitution." In the brief time at my disposal I want to recall a few facts indicating how well the Court has performed the part assigned to it by Madison.

When Madison, perhaps the most accurately comprehensive and dispassionate mind of his day, declared that the court would "be an impenetrable bulwark against every assumption of power in the legislative or executive" he was not reflecting upon the integrity or purpose or the patriotism of men who would occupy the Executive chair or the want of ability or loyalty to American institutions of those who would make our laws. He was announcing a truth clear to him and as old as government and almost as unchanging and unchangeable as the ordinances of fate, that the political side of governments does not, and in the nature of things cannot, guard the personal liberty and individual rights of citizens with that degree of vigilance which free citizens are entitled to enjoy and without which free government cannot exist. Faction and party zeal, debate, and political ambitions cannot hold the scales of justice in impartial hands or weigh either the charges or the evidence with unresentful judgment. The most enlightened political leaders and the most advanced of governments have utterly failed to wisely administer justice without the aid of independent and incorruptible courts. That has been true from Pericles to Washington and from Washington to Roosevelt.

We need not travel outside our own history or seek examples outside our own country. From time to time the executive and legislative, or, in other words, the political side of the Government, have disregarded or trampled under foot practically every guarantee found in the Bill of Rights. Under the Federalists' regime free speech, free press, and free assembly, under laws enacted and passed by the Congress and signed by the President, were denied to the citizen. Men were charged with crime and thrown into prison for criticisms of public officials or the acts of government, and in language which the House of Stuart or the Bourbon kings would have scarcely regarded as offensive.

Under the Democratic administration which followed men were arrested without warrant, thrown into prison, denied counsel, in violation of the plain provisions of the Constitution. Under the Republican administration which followed men were denied the right of trial by jury, and the right of free speech and free press

were utterly ignored. In such instances the Supreme Court of the United States has, in the language of Madison, proved in every instance "in a peculiar manner the guardians of those rights."

But I claim for these facts nothing more than proof that in every free government courts removed from the turmoil and bitterness of politics are indispensable to the rights and liberty of the citizen, particularly the citizen who is without political influence or power. The experience of all history demonstrates this and common sense supports it. To reject or even essentially modify this great truth would present the most frightful and, at the same time, pathetic spectacle which the convulsions or decadence of nations affords—democracy on the back track.

It would be a serious error, if not a fatal mistake, to regard these questions touching the integrity of the Constitution and the independence of the Courts as party questions or to seek to treat them as such. If these are not governmental questions of concern to all people regardless of party, then there are no such questions. There are always those whose minds rise no higher than the level of party advantage, who may contend these matters may be made party questions. But I believe them to be small in number and far more diminutive in influence. To assume or to undertake to make it appear, especially in the light of American history, that any political party is the keeper of these heirlooms of democracy is too egregious for even the credulity of a political campaign.

Both the old parties have their records on this question, and they are not records that one would wish to recall except to avoid insofar as we can mistakes in the future. Neither of the old parties has hesitated at different times to disregard the guarantees of the Constitution or to denounce and assail the Court when its decisions failed to sustain their course. While the Court, under the leadership of Marshall, was delivering opinions which laid the foundation for national power and which were afterward proudly accepted by an entire people, the Court was being assailed and threatened with impeachment by the Democratic Party then in power. Bills were introduced designed to withdraw the jurisdiction of the Court. At this time the Court was criticized for ignoring State rights. In these days it is criticized because it does not wipe out State rights.

When the Supreme Court held that a citizen in private life could not be tried by a court martial and that every citizen accused of crime was entitled to his day in court, a perfect storm broke upon the Court from Republican leaders. The Republican leader of Congress declared: "Whenever the decision of the Supreme Court, in the judgment of Congress, is subversive to the rights and liberty of the people * * * it is the solemn duty of Congress to disregard it." The leading Republican paper declared: "It is this view of the decision ignoring the vital interests of the Government * * * that a reconstruction of the Court looms up into bold relief." What had the Court decided? Nothing more than that the plain provisions of the Constitution were binding upon the Congress, upon the Executive, and upon the courts. These were the grounds upon which party leaders thought proper to advise disregard of the Constitution and defiance of the Court.

Experience teaches that it is difficult to set constitutional bounds to the action of a political party enjoying great political power or to a political party not enjoying power and striving in desperation to secure it.

It seems unnecessary to recall more of these historic incidents relating to attacks upon the Court because of decisions which afterward come to be looked upon and regarded as sound in principle and some of them as bulwarks of human liberty. There are other and numerous instances of this nature which I doubt not will come readily to the minds of my audience.

I make this comment, however, that it is a demonstrable truth, supported by a wealth of facts, that the Supreme Court, in instances too numerous to be recorded tonight, has thrown the shield of the Constitution about the rights of the citizen when all other appeals for relief have failed him. When war, passion, or mob passion, or political zeal, or selfish schemes have carried men beyond reason or justice, the Court, when called upon, has interposed to avert great wrongs. This is well illustrated by two recent cases: One where three ignorant, illiterate, impecunious Negroes, victims of mob passion and official cowardice, at last found safety and life in the order of the Supreme Court. The other, where a babbling fool, preaching destruction of the Constitution and the Court as the tools of capitalism, found liberty under the terms and by authority of the very things he would destroy.

By reason of certain decisions the Supreme Court is again under severe criticism. Again the political side of the Government feels that the Court is in great error. A study of the decisions to which opposition has been raised will disclose that, while a number of important matters have been passed upon, the dominant, overshadowing constitutional question, one which will return again and again, involves the distribution of power between the States and the Federal Government. It was this question, as you know which came near dissolving in failure the convention which framed the Constitution. It was this question which, in the early part of our history, divided our people in a long and bitter controversy. And it was this question which entered so largely into that controversy which finally drenched the Nation in fraternal blood.

It is back with us again, augmented and complicated by reason of the problems growing out of our social and industrial development during the last 50 years. To use a somewhat worn and too familiar sentence, we are again at the crossroads as to this problem which, conjure it as we will, like Banquo's ghost, returns again and again to its place at the feast.

The great problem now is, Do modern conditions make it imperative that the Federal Government have greater, if not complete, control over most of the internal affairs of the States? That we have, in our legislation, not only since this depression but for the last 40 years, been crowding more and more upon the undoubted internal affairs of the State can hardly be doubted. And it has seemed that the Court has gone to the utmost limit in sustaining some of these measures. That it has felt, however, compelled to hold that Congress has at times transgressed the plain terms of the Constitution has been no surprise to those who still believe in our dual system of government.

In the case involving the validity of the National Recovery Act this question was one of the determining factors. The Court was unanimous—conservatives and liberals, Republicans and Democrats—in holding that Congress had gone an arrow's flight beyond the terms of the Constitution. This unanimous opinion is difficult to explain away. He would be a bold liberal who would declare that Justice Brandeis is not a liberal, a humanitarian, and profoundly learned in constitutional law. He has said on one occasion: "All rights are derived from the purposes of the societies in which they exist, above all rights rises duty to the community." Justice Cardozo, whose liberal views and monumental knowledge of law would hardly justify his being placed among those who are not abreast of the times, indicated in his concurring opinion that the act under consideration was something in the nature of a legal riot. I take the liberty of mentioning these Justices personally because of the general charge that the Court, while honest and capable, is suffering from a case of arrested development and plagued with the views of ancient days.

But is this not a wholly different matter than the failure of the Court to do its duty? Have we not in good conscience arrived at the hour when we should consult a higher authority than courts or Congress or Executives—the people, the final authority upon this question of the distribution of power? It seems to me that a question has arisen which only the people have the authority or the right to settle. Should there be a redistribution of power between the State and the Federal Government? A question of this nature under present conditions cannot be put at rest by decisions from time to time upon particular statutes—it is more than a matter of judicial construction. It is not for us to urge, or connive, at the courts, through strained and doubtful construction, filching from the people power which the people have not granted.

If the people desire that the Federal Government shall have control over their local affairs, it is for the people to say so. If the people desire to leave to Congress the unlimited discretion as to the things for which it shall appropriate money and the things it shall do with the money, it is for the taxpayers to say so. The Court has no right to speak for them. What question is of greater concern to the people or comes more into their daily lives than the question of how much of local self-government it is safe and wise to surrender? How much greater authority shall there be for establishing bureaucratic control over everything that touches our daily living? Those who feel the Federal Government should be given full control over our local affairs have open before them a tribunal from which there is no appeal, and, under our system, a tribunal with exclusive jurisdiction.

In a few days we will pause in our deliberations in the Senate long enough to read Washington's Farewell Address, an address as fresh and up to date in many respects as if it had been written yesterday. His views will always be relevant so long as democracy is relevant. I quote: "If, in the opinion of the people, the distribution, or modification, of the constitutional power be in any particular wrong, let it be corrected by an amendment in the way the Constitution designates; but let there be no change by usurpation", either by Congress or the Executive or the courts, or by all of them combined.

In conclusion, many proposals are being made relative to our supreme judicial tribunal—all the way from designating the number of judges required to declare an act of Congress unconstitutional to that of withdrawing from the court jurisdiction entirely. I presume some, or all, of these proposals will come along for discussion and consideration, and there is no reason why they should not. In my opinion, there is every reason why they should. By all means let the subject in all its ramifications and implications be discussed in the Congress and before the people. That is the way, and the only proper way, for democracy to settle its problems, and when our legislative body shall have adjusted the Court problem to the satisfaction of all, they may then rest from their labors. Besides, there is nothing more surely needed in this country, in my opinion, than a universal constitutional baptism. If our institutions are not fitted to serve the tranquillity and welfare of our people under present conditions, we surely should know it. And I know of no way to arrive at the truth of these things so well and so effectively as general, thorough debate. But any plan which undertakes to accomplish any redistribution of power between the State and the National Government without the full authority of the people, should be regarded as a mistake, a mistake that there is no reason for making. That is peculiarly the people's problem. And, under every rule or principle known to democracy, they, and they alone, should settle it. This purloining of constitutional power from the State by the Federal

Government, beginning far back in the past, has passed beyond all reason, and before the final pillage takes place those who are most deeply concerned should be heard.

"The present day", Metternich was wont to say, "has no value for me except as the eve of tomorrow; it is with tomorrow that my spirit wrestles." Disregard of today can have no place in the affairs of a democracy. We must meet each day's demands, and omission to do so is at our peril. But disregard of tomorrow is scarcely less dangerous. To establish the precedent of making vital changes in our national charter without the authority of the people expressed in the manner pointed out by the Constitution may seem expedient for today but it may torment us on many a tomorrow. We may not always have in power those who use the powers of government in the interest of the people. It has been stated by high authority that the Federal Government now has the power and the governmental machinery which, in the hands of those with evil purpose, could destroy the rights of the people. Who knows when they will arrive?

It has been correctly said that the laws which the Assembly of France passed in the name of humanity and freedom Napoleon III used to put the members of the assembly in jail. The power which the German people gladly gave to Bruning in a good cause his successor made use of to rob them of the last vestige of self-government and of every semblance of liberty.

Press Aides on Federal Pay Roll

EXTENSION OF REMARKS

OF

HON. H. STYLES BRIDGES

OF NEW HAMPSHIRE

IN THE SENATE OF THE UNITED STATES

Tuesday, February 2 (legislative day of Monday, Feb. 1), 1937

ARTICLE FROM THE PROVIDENCE JOURNAL

Mr. BRIDGES. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing in the Providence Journal of Friday, January 15, 1937, relative to the Federal employment of press aides.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Journal of Jan. 15, 1937]

FEDERAL PAY ROLL LISTS $1,200,000 FOR PRESS AIDES—ANNUAL SALARIES OF PUBLICITY MEN REVEALED BY SURVEY OF CAPITAL AGENCIES—NO DATA FOR OTHER YEARS—COMPILATION PROVIDES AUTHENTIC PICTURE OF PROPAGANDA WORK UNDER FIRE BY CRITICS

By James E. Warner

WASHINGTON, January 14.—Uncle Sam is spending about $1,200,000 a year paying salaries of employees whose principal duty is distribution to press and public information regarding his multitudinous activities.

Thirteen of the Government's major agencies are spending $78,972 a month—which is nearly $110 an hour, 24 hours a day—for the salaries of 312 such employees. Pay rolls of other agencies not included in this total will bring the grand total to more than $100,000 a month at a conservative estimate.

The Providence Journal assembled this information, similar to that gathered by the Brookings Institution for the Special Senate Committee on Governmental Reorganization headed by Senator HARRY F. BYRD, of Virginia, by contacting the 10 regular Government departments and the eight major alphabetical agencies.

TWO FAIL TO REPLY

Two of the regular departments—Justice and Labor—ignored repeated requests for the information. Another regular department, Interior, has a press section combined with that of an alphabetical, the Public Works Administration. Only one alphabetical agency, Resettlement Administration, failed to provide the statistics, stating that pressure of work made it impossible to get the information until it had been assembled for the Byrd committee.

Although incomplete because of these departments' failing to reply and the ignoring of smaller governmental agencies, nearly all of whom have at least one public-relations employee, the statistics assembled by the Providence Journal provide the first authentic picture of the scope of the Federal Government's propaganda agencies, which critics have charged are overmanned.

Whether such charges are well founded cannot be stated because of the lack of comparative figures for other years. Admittedly there are more press and public relations employees on the Government pay roll now than before the New Deal, but with the vast emergency program and expanded regular activities of the Government some additional employees were necessary to keep the public informed.

Senator BYRD's group has not yet completed its survey of the press-agent situation, some departments having failed to reply to questionnaires thus far. In the meantime, Senator BYRD said he is reserving decision as to whether the press corps of some departments are top-heavy.

AGRICULTURE LEADS

The Department of Agriculture leads all other Government agencies both in the number of press and propaganda employees and in the amount of monthly pay roll. Explaining the employment of 78 persons, with a monthly pay roll of $21,762, this department points out that it carries one of the world's largest research organizations, and that some press and public-relations employees are necessary to give the results of this research to the world.

Next in size is the press corps of the comparatively new Social Security Board, employing 61 persons, with a monthly pay roll of $15,125. It is finding what certain other emergency agencies, notably F. H. A. and H. O. L. C. discovered in 1933, that a high-powered press section is necessary to "sell" its program to the public.

Third in size is the A. A. A. press and public-relations corps of 46 persons, with a monthly pay roll of $11,679. In the absence of definite information, it is believed that Resettlement's propaganda section compares with that of A. A. A.

F. H. A., which has begun to cut down its public-relations section, which was among the largest at the outset of its program, now reports 25 employees, with a monthly pay roll of $6,913.

The War and Navy Departments, because both follow the custom of assigning line officers, who are carried on the military pay roll in any case, to duty as press-relations officers, reported only the small items of civilian clerical assistance for such officers, thus making the services lowest ranking of all departments in size of press bureaus.

INCIDENTAL COSTS OUT

Compilation of salary costs of public-relations employees, of course, does not take into account the incidental expenses of operating such bureaus, including telephones, printing, multigraphing, supplies, and distribution.

In view of the fact that the Journal's survey showed total monthly pay rolls of $78,972 for 13 agencies, a conservative estimate of the total pay roll of all press bureaus was made at well over $100,000 a month, or more than a million dollars a year.

Republicans charged during the campaign that the New Deal had "absorbed" hundreds of newspapermen in key propaganda posts. Magazine writers have estimated that the New Deal employs up to 1,500 former newspapermen. Precisely 75 former newspapermen are employed among the 312 public-relations employees of the 13 agencies covered by the Journal survey.

The following tabulation gives the number of employees in each of the Government departments which replied to the Journal request:

Department	Number employed in press or information section	Number employed in such work in field or other sections	Total all such employees	Number former newspapermen so employed	Total pay roll, 1 month
Treasury	9	6	15	6	$4,225
Agriculture	22	56	78	20	21,672
Interior—Public Works Administration	8		8	5	3,000
War	5		5	0	710
Navy	5		5	0	350
Federal Housing Administration	25		25	10	6,913
Post Office	4		4	2	800
State	4		4	0	1,358
Works Progress Administration	7	25	32	[1] 4	7,010
Agricultural Adjustment Administration	17	29	46	15	11,679
Commerce	8	5	13	6	3,130
Social Security	6	55	61	5	15,125
Home Owners' Loan Corporation	16	0	16	2	3,000
Total	136	176	312	75	78,972

[1] Washington only. Status of field employees not known.

Louis Resnick, director of the Social Security Board's information service, in explaining his agency's large press corps, said:

EXPLAINS LARGE CORPS

"It will be appreciated that successful administration of a new law affecting some 26,000,000 people directly, and many more indirectly, presents a tremendous problem in the conveying of information concerning the law and the rights, obligations, and benefits of taxpayers and others under the law. The informational service of the Board has been set up to facilitate administration of the act by bringing about widespread understanding of it on the part of those affected. Without this understanding the cost of administration, nationally and within the States, would, I believe, be substantially increased, employers and employees would be uninformed and confused as to the requirements of the law, and efficient and economical administration made impossible."

M. S. Eisenhower, information director of the Agriculture Department, pointed out that in the press section proper there are only 13 writers. He added:

"The Department is the largest research organization in the world, and in the course of a year we edit and print officially about 1,400 manuscripts, mostly technical in nature; in addition, we prepare each year several thousand brief technical reports for publication in various scientific journals. These manuscripts must be edited with painstaking care, referred to other specialists for comment, and often revised."

Calling the jobs of these research and technical experts one of the most important in the Agriculture Department organization because they "narrow the gap between research and actual farm practice", Mr. Eisenhower included them in his listing of information service employees. All the employees in this branch of the Agriculture Department and in some of the other departments are under civil service.

Bank Reserve Requirements

EXTENSION OF REMARKS

OF

HON. GERALD P. NYE

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 3 (legislative day of Monday, Feb. 1), 1937

EDITORIAL FROM THE PHILADELPHIA RECORD

Mr. NYE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an editorial appearing in the Philadelphia Record of February 1, 1937, relating to the recent order of the Federal Reserve Board increasing the reserve requirements.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Record of Feb. 1, 1937]

THE MONEY CHANGERS ARE IN AGAIN

The money changers are in again.

Four years ago President Roosevelt promised to drive them out of the temple.

But he only drove them as far as the front door. They have been hiding in the vestibule until after election. Now they are creeping back in on him.

This latest order of the Federal Reserve Board, increasing reserve requirements of member banks, is New Deal sabotage.

The excuse is future danger of inflation.

The immediate effect is a stiffening of interest rates—on Government as well as private loans. It will add at least half a percent to the rate on fifteen billion short-term Government notes which are being renewed from week to week. Half a percent on fifteen billion is seventy-five million a year for the bankers—one small item in the cost of this prophylaxis against the future possibility of inflation.

This is the second increase in reserve requirements within 9 months. The two increases freeze three and a half billion of credit currency. This huge sum is removed from our economic system. That many less dollars can be spent, lent. Thus, the market for dollars, as reflected in interest rates on notes, bonds, and mortgages, is strengthened.

It is doing to dollars what Secretary Wallace did to little pigs. But the money changers, who denounced the slaughter of pigs, are applauding the freezing of dollars. This is their inning.

Add to these Reserve Board orders sterilization of gold, by which the United States Treasury pays interest to bankers for all the gold it is compelled to buy. Add the announced policy of Secretary Morgenthau to carry more than a billion dollar Government deposits balance, maintained by short-term notes, on which the bankers collect interest, and no wonder the money changers rejoice.

Legal reserve requirement is a banking practice peculiar to this country, and generally admitted as ineffective in safegarding banks. It was instituted after the Civil War to restore confidence. The Federal Government, and later the States, required banks to carry certain minimum percentages of their demand and time deposits in cash, either in their vaults or on deposit in other banks or in quickly negotiable securities.

Of course, this was the one aspect of banking which the banker could be expected to take care of for himself, which is the attitude of every other banking system in the world. If a banker does not keep enough cash on hand, or within quick reach, to meet his day to day requirements, he is soon out of business. The safety factor is not whether the bank has 10 or 15 percent cash on hand, but how the other 85 percent of its deposits is invested. Legal-reserve laws are misleading because they focus public and Government attention on the less essential factor.

However, we inherited the practice from Civil War days, and made it the basis of our Federal Reserve System, which can serve a very useful function. Every member bank is required to keep a certain percentage of its deposits on deposit at its regional Reserve bank.

After May 1 these minimum reserve requirements will run as high as 26 percent. If a banker places $100,000 to the credit of a customer on his note, $26,000 of this credit must be sent to the regional Reserve bank. The banker must charge a higher interest rate to compensate for the large portion of his funds which are frozen in reserve requirements upon which he draws no return.

So higher reserve requirements mean higher interest rates, not only by taking money out of the market, but by adding to the cost of banking.

The conservatives wanted to let the depression cure itself. The classic formula for this self-cure is lower interest. Depression slows up borrowing, renders capital idle. Idle capital offers itself at lower and lower interest until business takes advantage of favorable terms to start borrowing again.

This is but one aspect of that grand old law of supply and demand which the money changer loves to quote to the farmer and the laborer but which he hates to apply to himself.

We are warned that if interest rates go much lower, capital will strike, refuse to lend. Well and good. Capital has the same right to strike as labor. If capital refuses to lend at unfairly low rates, that condition will correct itself. Business must offer better rates to break the strike. Government does not have to step in to protect capital.

This country is on the road to recovery.

But it is far from complete recovery.

The danger of an uncontrollable inflationary boom is so remote that extreme measures are out of order.

Chairman of the Board, Marriner S. Eccles, reminds us of the young doctor who became excited when he saw his patient recovering from a chill. So the doctor clapped an icebag on the patient's head to guard against the possibility of fever.

Our commodity index is still some 15 points below the 1926 level, generally accepted as normal. The volume of national business is fifteen billions below normal. We still have 9,000,000 unemployed.

If there be danger, it is in speculation on the stock and commodity markets, which can be curbed by special measures without putting brakes on all business.

The Federal Reserve System holds two and a half billions of Government securities which it could sell through the open-market committee to reduce reserves. The Government could reduce its working balance by nearly a billion dollars. All these normal measures could be taken without adding to the cost of government, without burdening business by higher interest rates, without retarding recovery.

Why has the open-market committee been inactive?

What has the Reserve Board done to speed recovery, to lower consumer credit rates, to aid flood rehabilitation?

Why has the Reserve Board chosen to put on the brakes by the one method which thus serves the money changers?

The President should be on guard.

Neutrality

EXTENSION OF REMARKS

OF

HON. JAMES P. POPE

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Wednesday, February 3 (legislative day of Monday, Feb. 1), 1937

EDITORIAL AND ARTICLE FROM THE NEW YORK TIMES

Mr. POPE. Mr. President, I ask permission to have printed in the RECORD a communication published in the New York Times, entitled "Standardized Neutrality", signed by James Wallace, president of Macalester College, St. Paul, Minn.; also an editorial published in the New York Times of the same date entitled "Neutrality Again."

There being no objection, the communication and editorial were ordered to be printed in the RECORD, as follows:

[From the New York Times of Jan. 27, 1937]

STANDARDIZED NEUTRALITY—FIXED POLICY FOR ALL CASES REGARDED AS MORAL COWARDICE

To the EDITOR OF THE NEW YORK TIMES:

To set up a policy of neutrality to be followed in all cases whenever and wherever war shall break out without any regard to the

facts, issues, and aims involved must be branded as moral cowardice or that of a man or nation devoid of any sense of moral values.

Such policy is following the line of least resistance. It is safety before principle. It is peace at any price. It is the policy of the priest that went by on the other side. It is flat denial of the moral unity of the world. It is aiding the strong nation as against the weak.

The assumption of the defenders of a fixed policy of neutrality that both parties to a war are alike guilty or that it is impossible to tell which is the more guilty is rarely true. We had no trouble at all in telling who was the more guilty when Japan, despite the protest of nearly all the nations of the world, made war on China and set up her puppet government over Manchuria. Just as conspicuous and offensive was Mussolini's guilt when in defiance of the organized efforts of the League of Nations and with cynical disregard of Italy's membership in the Kellogg Pact he sent his legions to conquer Ethiopia.

BEYOND CONGRESSIONAL POWER

There is one fatal objection to a fixed policy of neutrality: It is not in the power of Congress to control the conscience of the American people. They think and read too much. They have a wholesome sense of justice, rank hatred of tyranny, and warm attachment to civil and religious liberty. These great virtues are the very lifeblood of the Nation. Action by Congress seeking to belittle or to suppress their conscientious exercise would either fail or it would weaken the moral fiber of the people.

In reply to this chain of reasoning, I can hear some pacifist answer: "So you propose to involve the United States in all the wars that arise in the world!" Far from it. I propose, for the honor and good name of the United States and for the peace of the world, that our country live up to the Kellogg Pact, outlawing war as a feature of national policy, not only in letter but in spirit, not only in the condemnation of the overt act of war but also in its clear implications. More than any other nation is the United States the father of that world-embracing covenant and it solemnly behooves Washington to stand by the doctrine it enunciates with all the influence and fidelity it can command.

What should our Government have done when Mussolini went off on his military rampage against Ethiopia? It should have reminded him of Italy's signature to the Kellogg Pact, that this Government regards his war on Ethiopia as a flagrant breach of that solemn treaty, that the United States accepts the Kellogg Pact not only in its obvious meaning but it accepts its plain implication, that the covenant not only forbids the overt act of war but it forbids all its members from lending aid, comfort, sympathy, or support to any nation that willfully breaks that covenant. Consistently with this interpretation of the pact the United States forbids all shipments to Italy of military and other supplies which will aid that country in carrying out her willful breach of the pact she voluntarily signed; that this Government regrets extremely that the course Italy is pursuing is bound to affect very unfavorably the traditional friendship and admiration which America long cherished for the Italian Republic and which it desires earnestly to continue.

KELLOGG PACT IGNORED

Such a declaration would have commanded the high respect of all the peace-loving nations of the world. It would have expressed the deep convictions of the American people. On the contrary, the Government at Washington has allowed the Kellogg Pact to fall so completely into eclipse that it must seem to the world at large that the United States regards the pact outlawing war as little more than an iridescent dream.

There are several facts that Congress and the Government do not seem to have realized: Treaties, pacts, covenants do not enforce themselves. Treaties not lived up to or enforced speedily become dead letters. Standing for world peace means accepting responsibility. America being one of the most powerful and influential of the nations that honestly believe in world peace has corresponding responsibility and accountability for the maintenance of that peace.

But probably the most damning argument against the fixed policy of neutrality is that it will have the hearty approval of Hitler, Mussolini, and the military oligarchy of Japan. It was Mussolini only of foreign statesmen who approved our neutrality in Italy's war on Ethiopia.

Following the policy of the clam which closes its shell when danger threatens will never drive the war god from this earth.

JAMES WALLACE,
President Emeritus, Macalester College.

ST. PAUL, MINN., *January 24, 1937.*

NEUTRALITY AGAIN

The Senate Committee on Foreign Relations now has before it, and may begin today to consider Mr. PITTMAN's newest "neutrality" plan. It proposes several changes in existing law. Under the present act the President is required to place an embargo on "arms, ammunition, and implements of war" whenever he finds that a state of war exists "between, or among, two or more foreign states." The new plan would require him to apply an embargo also in the case of all "civil wars", if they are of such magnitude that the shipment of arms from this country would threaten to involve us. Also, it would require him to restrict the shipment of "certain articles or materials in addition to arms", if such action were deemed necessary to safeguard the peace and neutrality of the United States. It would be the President's duty to specify these articles and materials, and the list might include cotton, copper, oil, steel, automobiles, and, since modern war is a large-scale venture, virtually anything else that we produce.

The new law would thus broaden the present statute in two respects, but it would not change the philosophy behind it. Congress would still be attempting to prescribe by law a foreign policy applicable to all possible emergencies, and this policy would be one of taking to the storm cellar and barring the door in the event of any important threat to peace developing in any part of the world. Our isolation in such circumstances would be as complete as Congress could make it. We would make no distinction in our embargoes between the aggressor and his victim, between the criminal violator of international law and the nations which uphold it, between the tyrant and defender of our own democratic traditions.

This policy of isolation and this repudiation of responsibility doubtless represent the dominant opinion of Congress and the country at the moment. But it would be difficult to argue that the resolution now before Congress represents American courage and idealism at their best, and equally difficult to believe that it is actually as well adapted to the achievement of its purpose—the maintenance of the United States at peace—as a policy which threw the weight of our influence behind an organized effort to avert the outbreak of war itself.

Congressman Celler's Bill for a Federally Controlled Pan American Broadcasting Station

---

EXTENSION OF REMARKS

OF

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1937

Mr. CELLER. Mr. Speaker, I have this day offered a bill authorizing the Navy Department to construct and maintain a Government radio broadcasting station to be called the Pan American Radio Station, with such power and equipment as will enable such station effectively to transmit programs to all parts of the world, and particularly, to countries of the Western Hemisphere, with sufficient signal strength to permit programs to be rebroadcast in all countries of the Pan American Union.

The United States Commissioner of Education is instructed to provide programs of national and international interest. There is to be appropriated $750,000 for the construction of such station, and furthermore, an annual appropriation of $100,000 a year for operation and maintenance.

The plan and purpose of such legislation has had the approval and encouragement of responsible officials of the Department of State, Department of the Interior, Department of Agriculture, Federal Communications Commission, National Committee on Education by Radio, and the Pan American Union. Also, such project has already had the approval specifically of President Roosevelt, Secretary of State Hull, and Secretary of the Navy Swanson. It grows out of the radio resolution adopted January 1932 at Montevideo by the Seventh International Conference of the North, Central, and South American countries forming the 21 sister Republics of the Pan American Union.

Each American nation participating at the conference agreed to set up short-wave broadcasting stations and to broadcast such programs as to cement bonds of friendship and cultural understanding between the peoples of the 21 countries of the Pan American Union.

The radio spectrum by international comity has been divided into a definite number of bands of frequencies. Within each frequency band only a certain number of short-wave broadcasting stations can function. In all the world there are no more unassigned or "empty" channels for new short-wave broadcasting stations, except one; that is the channel preempted at the Montevideo conference for exclusive use of Pan American Republics.

President Roosevelt, in pursuance of such preemption and in accord with our sister nations, issued Executive Order No. 6472, dated December 2, 1933, making available for the United States Government the following frequencies: 6,120 kilocycles, 9,550 kilocycles, 11,730 kilocycles, 15,130 kilocycles, and 2,150 kilocycles.

In pursuance of such Executive order a station was to be set up in Washington, D. C., under the joint control and auspices of the State Department and Navy Department. The station was never set up. Many obstacles were thrown across the path of this much-needed reform by misguided and selfish persons. It is feared that this would be the entering wedge into governmental control of radio. That is ridiculous.

I am a firm believer in private initiative. I do not want to slam the door in the face of the efficiency, enterprise, and resourcefulness of private ownership. Our radio system, despite certain besetting evils of commercialism, is yet the greatest in the world, thanks to private control. But one Pan American short-wave station, set up in pursuance of the treaty, in an unassigned channel, on a noncompetitive basis, will not in the slightest militate against private initiative. It will not lead to Government monopoly.

These persons and entities must now cease their opposition, else they will get their fingers burned. Because of the pressure against carrying out the President's Executive order, I have introduced my bill. However, I specifically provide for cooperation of private stations in the maintenance and operation of the Pan American broadcasting station.

The United States Commissioner of Education, with the approval of an advisory council consisting of the Secretary of State, the Director General of the Pan American Union, the Chairman of the Federal Communications Commission, and such other governmental officials as the President may select, may at certain periods and under well-defined conditions allow said Pan American station to be used by a private company, provided there will be no profit and no advertising, and the programs are exclusively in the public interest.

Every nation in the world has a broadcasting station, except the United States. Every nation but our own can defend itself over the air against foreign and unfriendly attacks. For example, the Fascist and Communist governments are growing bolder every day in their proselyting activities. National boundaries mean nothing. The sovereignty of no nation is respected. Surely some antidote is necessary.

There are 2,000,000 short-wave receiving sets in this country, and the number is mounting daily by leaps and bounds. Such increasing short-wave receptivity might well command a Federal station.

Such a Federal-controlled station could be used (1) to create good will between this and other nations, (2) to eradicate international misunderstanding, and (3) to develop two-way trade between the United States and other nations by propagandizing for our own products, indicating to foreigners the worthwhileness of our goods and encouraging importations of our goods. In this way we will further the purposes of the administration in increasing foreign trade by supplementing the activities of Secretary of State Hull and the President through the reciprocal trade treaties.

The types of programs available might well be the following:

A. For Pan American use:

First. The concerts given at the Pan American Union at regular intervals, together with other events of inter-American character which are held at the Union, such as Pan American conferences, addresses delivered on the occasion of the observance of Pan American Day, and other similar events.

Second. Important events in which high officials of the Government participate; for instance, the message of the President at the opening session of Congress, and other addresses that may be delivered by the President and by other high officials of the Government.

Third. Concerts by some of the great musical organizations of the United States; for example, the New York Philharmonic, the Boston Symphony, and the Philadelphia Orchestra.

Fourth. Programs of music by North American composers as played regularly by the service bands in Washington—the United States Army Band, the Navy Band, and the Marine Band.

Fifth. Outstanding productions of the theater, such as the Metropolitan Opera Co., the Chicago Civic Opera.

B. For national and Pan American service:

First. Addresses by the President.

Second. Addresses by members of the Cabinet.

Third. Addresses by congressional leaders.

Fourth. Addresses by heads of commissions, departments, bureaus, and so forth.

Fifth. Account and interpretation of various governmental activities.

Sixth. National events:

(a) Opening of Congress and other important sessions.

(b) Fourth of July ceremonies.

(c) Ceremonies at Arlington.

(d) Account of Army inspections and drills.

(e) Account of Navy inspections and maneuvers.

(f) Graduation ceremonies at Naval Academy at Annapolis and Military Academy at West Point.

(g) Dedications.

(h) Conferences, national and international.

(i) National athletic events.

C. For national service:

First. Aims, functions, and policies of government, current governmental activities; Congress; officials in action; the new arms of government; debates and discussions about current governmental problems; interpretation and obeyance of laws.

Second. Economics and government; health and social welfare; education and culture; recreation; history of the country and its institutions; patriotism; national resources; industrial development; labor.

Third. Home economics; farm and home periods; crop reports; road conditions; weather reports; storm warnings; public and national parks; law enforcement; safety of life; fire prevention; preservation of forests.

Fourth. The rationalization of public life by the development of a new type of statesman and a new type of voter.

D. For education (the material under this heading applies to both Pan American and national broadcasts):

Under a rather large scope this includes vocational guidance, literature, music, arts, drama, geography, history, civics, nature study, and languages (Spanish and English reciprocal lectures).

Proper use of radio will affect the process and scope of education with results quite as revolutionary as followed the invention of the printing press.

By applying this new instrumentality of communications to education, costs may be reduced and quality improved.

The bill follows:

A bill authorizing the Secretary of the Navy to construct and maintain a Government radio broadcasting station; authorizing the United States Commissioner of Education to provide programs of national and international interest; making necessary appropriations for the construction, maintenance, and operation of the station and production of programs therefor; and for other purposes

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized and instructed to construct a radio broadcasting station of such power and using such equipment as will effectively transmit programs to all parts of the United States and from this country to other countries of the Western Hemisphere upon high frequencies assigned by the President and allocated to broadcasting, with sufficient signal strength to permit the same to be rebroadcast in those countries. The said station shall be located in the vicinity of Washington D. C., the exact location of said station to be selected by the Secretary of the Navy. The station shall be known as the "Pan American Radio Station."

SEC. 2. There is authorized to be appropriated the sum of $700,000, out of any money in the Treasury not otherwise appropriated, for the construction of the Pan American Radio Station, including buildings, land, studio equipment, lines, and all apparatus and equipment incident to the effective operation thereof.

SEC. 3. There is hereby authorized to be appropriated the sum of $100,000 annually, out of any money in the Treasury not otherwise appropriated, to be expended by the Secretary of the Navy for the operation and maintenance of the Pan American Radio Station. The Secretary of the Navy is charged with all duties incident to the proper operation and maintenance of the said station.

SEC. 4. The United States Commissioner of Education shall be in charge of all programs for the Pan American Radio Station. He shall provide and/or arrange for programs, which will render a distinct national and/or international service and which will promote a better understanding among the republics of the American continent and will be of educational and cultural value.

The general policies to be followed governing the operation of the Pan American Radio Station shall be determined by an advisory council consisting of the Secretary of State, the Director General of the Pan American Union, the Chairman of the Federal Communications Commission, the United States Commissioner of Education, or such alternates as they may designate, and such other Government officials as the President may select: *Provided*, The total membership of said advisory council shall not exceed nine persons.

The programs broadcast by the Pan American Radio Station may be rebroadcast by any station the emissions of which are intended to be received by the general public. No commercial advertising shall be permitted in the programs transmitted by the Pan American Radio Station.

SEC. 5. For the production of radio programs, including rental of technical facilities, there is hereby authorized to be appropriated for the Office of Education, Department of the Interior, such sum as may be necessary annually, said appropriation to be paid out of any money in the Treasury not otherwise appropriated.

SEC. 6. The United States Commissioner of Education, with the approval of the advisory council, shall, in his discretion, permit well qualified, privately owned commercial radio companies, actually operating efficient stations, to use, without charge, said Pan American Radio Station and its facilities, during such times and period and under such terms and conditions as to said Commissioner with the approval of said council may seem just and proper, having in mind always that the Pan American Radio Station is a governmentally controlled facility, provided:

(1) Such privilege to such private company is exercised without profit to said company.

(2) The programs contributed by said privately owned company are suitably controlled and censored by said Commissioner of Education.

(3) Said privilege to such privately owned company may be withdrawn at any time without notice by said Commissioner of Education.

(4) Such programs shall neither directly, indirectly, or remotely, involve the broadcasting of any advertising, and shall be exclusively in the public interest.

(5) Any use of the facilities of such Pan American Radio Station as aforesaid to such privately owned company does not interfere with or militate against the general purposes of this act.

Commissioner George Henry Payne, member of the Federal Communications Commission, is very much interested in the proposal. I espoused this cause after several conferences with him—for whom I have an affectionate regard. He spoke before the Graduate School of Business Administration, Harvard University, Boston, January 11, 1937.

When a little over a year ago Commissioner Payne discussed at Syracuse University the proposed Government short-wave broadcasting stations which had been planned for several years, and which had been enthusiastically supported, not only by high officials of the Government, including the Secretary of State, the Secretary of the Navy, and the President himself, but also the communication leaders of the House and Senate, he—Commissioner Payne—mentioned at the same time that certain unscrupulous and misguided captains of industry were attempting to block the entire project, even though they recognized its great importance from a national standpoint, merely because at some later date it might be looked upon as the entering wedge for the Government operation of all broadcasting. He tried to point out the absurdity of such a position, showing that a station of this sort, far from leading in that direction, would rather tend to allay the fears of those who have felt that broadcasting is in the hands of a selfish minority whose only object is to exploit the public with commercial nostrums for their own financial enrichment. The plans for this Pan American station provided as a definite step in the cementing of the bonds of friendship and the cultural understanding between the nations on the Western Hemisphere, the setting up of governmental short-wave-broadcasting stations in each of the participating countries. These stations were to be used in "promoting better understanding among the republics of the American continent through the broadcasting" of whatever would tend to give these American countries a better understanding of one another. In accordance with the plan that the United States was to take the lead in the development of this project, an Executive order of the President was issued, allocating radio frequencies for a proposed station in Washington, D. C. The Berne bureau was notified that these frequencies had been set aside; an engineering survey was made. And that was as far as the matter had gone when, a year ago, Commissioner Payne called attention to the fact that one of the reasons for the long delay was supposed to be the clever opposition of commercial interests who had apparently succeeded in opposing the building of this station on the ground that it might be the entering wedge of Government control and operation of broadcasting.

He stated then that unless constructive steps are taken by the industry itself to clean up some of the flagrant violations of public confidence and support, Congress itself will be obliged to take an active hand in the matter. Among other things Payne said:

One of the first steps in the development of a national policy, particularly a policy dealing with our foreign friends, is the construction of a national broadcasting station owned and controlled solely by the United States. Every other nation in the world has such a station.

Every other nation in the world is prepared to defend itself over the air from the attack of foreign or unfriendly agencies.

Every other nation in the world is prepared to see that the world understands its point of view—and yet this Nation, where the greatest development of radio has taken place, is absolutely without control over the commercial interests within its own borders, and outside of its borders is at the mercy of every propagandizing nation.

We ought to have a station through which the President of the United States could speak to the world, particularly at this time of world unrest and stress.

I am sorry to say that my fears were fully justified, and that not only have these same interests continued to block the development of this essentially American project, but actually within the last few months a vicious attempt has been made to take over from the Government these precious five frequencies which were allocated for this service by Executive order of the President, to take them over for commercial operation on the specious plea that since little progress had been made in the development of this project by the Government itself, it is now necessary for private interests to operate stations on the frequencies, in order to protect the use of these frequencies for the United States as a whole.

Payne further said that it was hardly necessary to point out that the very people who are urging this are the ones who have been opposing the project all along, and who, until the present, have effectively succeeded in sabotaging it.

He said he had complete documentary evidence to support all this, including the names of the persons and the organizations involved, and hoped that it would not be necessary to wash all this dirty linen in public.

"Spoils System"

This administration has done more to revive the "spoils system" than any administration since the days of Andrew Jackson.

The records disclose there are approximately 325,000 non-civil-service employees on the pay roll of the Government.

This bill proposes to freeze into office for life the thousands and thousands of first-, second-, and third-class postmasters who were appointed under the so-called spoils system.

EXTENSION OF REMARKS

OF

HON. JOHN M. ROBSION

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 28, 1937

On the bill H. R. 1531, relating to the appointment and tenure of office of first-, second-, and third-class postmasters.

Mr. ROBSION of Kentucky. Mr. Speaker, it has been urged by the Democrats in charge of this bill that it is a great forward step in civil-service reform and is a merit service bill for first-, second-, and third-class postmasters. This bill does not cover other officers or employees of the Government. It merely covers the so-called "presidential postmasters."

In this claim of being a real civil-service measure, I challenge the good faith of the administration. When did this administration become interested in real merit in service or in strengthening the civil-service laws of this Nation? General Jackson, when he became President, inaugurated the "spoils system" in making Federal appointments. He declared "To the victor belong the spoils."

It was under a Republican President in the eighties that a real policy of civil service and a real merit system were inaugurated, and each and every Republican administration since has strengthened the civil service and merit system. No administration since the days of Andrew Jackson has done so much to break down the merit system and civil service and resurrect the spoils system as the present administration. During the past 4 years, hundreds of thousands of officeholders have been appointed and placed on the pay roll without regard to civil service. The records show that when the last report was made, there were 325,534 non-civil-service employees of the Federal Government, and of course, in practically every instance these jobs have gone as a reward to Democrat politicians and faithful New Dealers.

On July 11, 1919, a Republican Congress passed an act providing preferences to honorably discharged soldiers, sailors, and marines, and certain members of their families. Under this administration that salutary law has been, time and time again, ignored.

Fourth-class postmasters have been under civil service for a number of years, but this administration has thrown out of their offices thousands of fourth-class postmasters on one pretext or another. The main reason for their being thrown out was the fact that they were Republicans and it was desired to make places for Democrats.

This administration has waited for 4 long years to bring in this bill to place first-, second-, and third-class postmasters under civil service. It has taken ample time to remove practically every Republican postmaster of the first, second, or third class in the United States, and I understand the only places where Republican postmasters of either one of these classes are still in office is where the Democrat politicians have been unable to agree on Democrats to take their places.

Now after the Democrats have filled all these places they come along with this bill and provide that we, in effect, give them a life tenure of office and call it civil-service reform. If the system that has been in force for the last 4 years of the administration was a "spoils system", as the Democrats now claim, then all of these Democrat postmasters of the first, second, and third class secured their offices by means of the "spoils system." The bill expressly provides that postmasters now serving who have satisfactory records shall continue until their 4-year terms of office have expired, after which, under section 2 of the bill, they may be reappointed noncompetitively for an indefinite term—in other words, they can hold office for life without being required to compete in any civil-service examination.

If the administration was in good faith and desired to inaugurate a real merit system for first-, second-, and third-class postmasters, this bill should at least provide that at the end of the 4-year terms of the present incumbents they should be required to take a real civil-service examination and other citizens should have the right to compete, and then the appointment should be made according to the civil-service regulations. This bill does not propose to do anything like that. The Democrats say "We have all of these good Democrats now in office under this terrible 'spoils system', and we propose to give them a life tenure without giving any other citizen a chance or the right to compete."

If that is the kind of civil service we are to have, it does not meet with my approval. If we are not going to have a real merit system, the country ought to know it.

The Democratic majority in this House has voted down every amendment seeking to make this a real civil-service measure. The Republican minority offered a substitute on its motion to recommit, an amendment which would insure a real merit system. This substitute or amendment offered by the Republican minority had, as I am advised, the unanimous approval of the National League for Civil Service Reform, and but for the political reprisals that might be made it would have been openly endorsed by many of those in the Government service who are strong friends of the merit system. The action of the Democratic majority proves to me that they are unwilling to accept a real merit or a real civil-service measure.

This bill can have no other purpose except to freeze into office for life thousands and thousands of first-, second-, and third-class Democrat postmasters. The merit system could scarcely receive a harder blow than this. This measure is unfair to the people living in these cities and towns that are to be served. When these postmasters were appointed, no one dreamed that they would be retained for life.

If it is thought proper to inaugurate a policy of having the first-, second-, and third-class postmasters serve for life, we should let the people of the Nation know it, hold a real competitive examination, and give all of our citizens an opportunity to compete and all who desire and are interested an opportunity to be heard when such appointments are to be made, and not wait until after these people are put into office for a 4-year term and then by legislative enactment lengthen the term for life.

CREATED FOR THE PEOPLE

There are no offices more important to the citizens generally of the Nation than the post offices. The postmasters come in contact with practically every man, woman, and child of the Nation. The kind of service rendered and the treatment accorded have much to do with the attitude of the people of the Nation toward the National Government.

Post offices do not exist for the benefit of Senators, Congressmen, or others in political life, nor were they created to give some man or woman a job. Their only purpose is to provide service to the people of their several communities, and in the selection of postmasters it should clearly appear that the applicant is not only well equipped by character, habits, training, and experience to give to the people the kind of service to which they are entitled, but the appointment should be pleasing to the patrons of the office or to at least a substantial majority of them.

This is a very important executive office. While I believe strongly in the merit system, yet I have never thought it wise to name postmasters for life. Too many persons named to important executive positions for life become autocratic and overbearing. Because of the daily contact of postmasters with the general public, it seems to me that a 4- or 6-year term at a time would be sufficient. If the postmaster has rendered efficient service, has given to the people courteous treatment, and has made good, then he could be and in most every instance would be reappointed, and if the postmaster had been indifferent, discourteous, autocratic, oppressive, and had not given the kind of service to which the patrons were entitled, the patrons would have an opportunity to make objections.

Let me repeat, if we are to have civil service first-, second-, and third-class postmasters, let these postmasters get into office under and through civil service and not put them in under the spoils system and then invoke the civil service to give them a life tenure.

While strongly favoring a real merit system honestly administered, I did not and shall not by my vote place the stamp of my approval in effectuating the results of the

"spoils system of this administration." If this administration will bring forward a real merit system bill which provides for a real, honest, impartial, civil-service examination and give all of our citizens an opportunity to compete in these examinations and then appoint from that list, it will receive my hearty approval.

"Peace by Constitutional Amendment", or "A Plan to Complete the Democratic Processes of Government"

EXTENSION OF REMARKS
OF
HON. LOUIS LUDLOW
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, February 3, 1937

RADIO ADDRESS BY HON. LOUIS LUDLOW, OF INDIANA, ON FEBRUARY 2, 1937

Mr. LUDLOW. Mr. Speaker, by unanimous consent of the House I am privileged to insert in the CONGRESSIONAL RECORD an address I delivered over the radio last night, as follows:

When I contemplate the subject assigned to me tonight, "Peace by Constitutional Amendment", I almost wish an alternative title had been added, namely, "Or a Plan to Complete the Democratic Processes of Goverment."

For what I intend to try to do tonight is to describe a proposal I have introduced in the Congress of the United States which not only would stabilize peace in this country by constitutional amendment, but would complete the democratic processes of government in the spirit that animated the fathers of this great Nation and in the spirit that found expression in letters of living light in the cherished Bill of Rights.

We pride ourselves on being a self-governing people, but that is at most only a half-truth. We are self-governing in our domestic affairs, but we are far from self-governing in our international relations, in which is wrapped up our fate as to peace or war. In America popular sovereignty stops at our frontiers. We, the people of America, can decide for ourselves whether we want a community waterworks; we can elect our dog catchers, our constables, and even our Presidents; we can take the New Deal or we can cling to the Old Deal; we can regulate all of our domestic concerns, but there is where popular sovereignty ends. In dealing with our foreign relations ours is not a popular government at all, but a pure autocracy. It does not—at least it need not—register the will of the people of America at all, but it does register the will of a very tiny official group which determines what our foreign relations shall be, and whether we shall have peace or war. Under the existing war-making power this little group can plunge the lives and property of our people into the yawning chasm of war at any time and the Toms, Dicks, and Harrys who have to do the dying, and their families who have to do most of the suffering, have nothing in the world to say about it.

So what I am pleading for tonight is that we democratize the war power by transferring that power from Congress to the people so that the people of America shall have a right to say for themselves when they want to go to war and when they choose to stay out of war—the right to say whether their sons shall be conscripted and sent to foreign lands to be mown down by machine guns, to be blown to bits by bombs rained from the skies, to be strangled by lethal gases, or to die horrible deaths from disease germs hellishly spawned in foreign laboratories.

To give the people that right, to permit them to say if, and when, this country shall go to war, I have introduced a proposed amendment to the United States Constitution which would transfer the power of declaring war from the little high-pressured group in Washington to the people, so that the great American nation of 127,000,000 human beings would be the jury that would decide this greatest of all questions. Let me read the text of my proposed amendment to the Constitution:

"SECTION 1. Except in the event of an invasion of the United States or its territorial possessions and attack upon its citizens residing therein, the authority of Congress to declare war shall not become effective until confirmed by a majority of all votes cast thereon in a Nation-wide referendum. Congress, when it deems a national crisis to exist, may by concurrent resolution refer the question of war or peace to the citizens of the States, the question to be voted on being 'Shall the United States declare war on ———?' Congress may otherwise by law provide for the enforcement of this section."

My proposal is based on the philosophy that those who have to suffer and, if need be, to die and to bear the crushing burdens and costs of war should have something to say as to whether war shall be declared. What could be more elementally just than that? I am for this proposal not only because it is obviously right on its face but because it would democratize the processes of government; because it would make the people of America, who are now self-governing at home, also self-governing in the more important field of international relations; because it would be the last finishing act completing the Constitution of the United States in the spirit of the Bill of Rights.

I imagine that right at this point, if the mechanics of radio broadcasting would permit, some of you radio listeners would interrupt me to ask:

"Why did not Thomas Jefferson include a provision for a popular vote on war in his cherished Bill of Rights? Why did not George Washington favor a war referendum?"

Pertinent and proper questions but easily answered. When the Constitution was framed means of communication were so poor that a war referendum was obviously impractical. The railroad, the telegraph, telephone, and radio were in the bosom of the unknown future. Even the pony express was as yet undreamed of. Letters mailed on the eastern seaboard were 6 months reaching the frontiers if, indeed, they ever arrived at all. Now it is all different. The fast train roars its way across the continent in 100 hours—the airplane in 24. The telegraph and telephone have annihilated time and space. Communication by radio is instantaneous. The only tenable argument ever made against a war referendum—the delay that might be involved—has been completely negatived by modern means of communication. We all know the faith that Jefferson and Lincoln had in the common people. It shines luminously through their entire philosophy. Certainly those who in this modern day and age would deny to the common people the right to vote on a declaration of war must have less faith in them than Jefferson and Lincoln had. The time, therefore, has come to complete the Constitution by adding one more article to round out the bill of rights giving the people the right to vote on war, thus making America a really self-governing Nation.

Under my proposed amendment the question of war or peace will be decided exactly as it should be decided by the citizens, women as well as men, in the privacy of the booths, unswerved by any influences except their judgment and their consciences, alone with their Maker. When the decision is obtained in that way it will be the true verdict of the judgment and conscience of America. And why should not the women, as well as the men, have a right to vote on a declaration of war? Women go down into the shadow of the valley of death to bring our boys into the world. Why should they not have something to say as to whether their flesh and blood shall be hurled into the hell of a foreign conflict?

In the Congress of the United States as it is composed at the present time only 6 of the 531 Members are women, so with the war power vested in Congress you see how utterly negligible is the opportunity to give expression to women's viewpoint on any particular war proposal. Women can do nothing to prevent war. All they can do is to suffer when war comes.

War broods tonight over a great portion of the globe. Dictators are thrumming the strings of war and preparing for another mass slaughter. If we loaf along and do nothing we will be caught in the clutches of another world war. I am convinced that the referendum amendment I propose is the very best insurance against our involvement. I believe it would be nearly 100-percent effective in keeping our boys out of foreign slaughter pens. In this tragic situation we are racing against time. If you believe as I do, please write to the Senators and Representatives in Congress from your State and express your interest in the Ludlow war-referendum amendment.

War and Fascism

EXTENSION OF REMARKS
OF
HON. GERALD J. BOILEAU
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, February 3, 1937

ADDRESS OF HON. JOHN T. BERNARD, OF MINNESOTA, AGAINST WAR AND FASCISM AT THE FOURTH ANNUAL NEW YORK CITY CONFERENCE, JANUARY 30, 1937

Mr. BOILEAU. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

Mr. BERNARD. Ladies and gentlemen, I deem it indeed a high honor to be given the opportunity to present my views on war and fascism. I come to you as a humble, common, ordinary

workingman who has been elevated to our National Congress by the rapidly awakening working masses, who today control the political destinies of the State of Minnesota under the leadership of the Farmer-Labor Party.

War and fascism are the two gruesome and horrible monsters engendered by a dying and decaying social and economic system. Any attacks on our present social order arouse sentiments of suspicion and fear in the hearts of many. I well understand that we are daily assailed by false and biased propaganda emanating from those organs that so largely influence the molding of public opinion. These instrumentalities are, by and large, owned and controlled by the international bankers and war makers; those who make fabulous profits from war. But the time has come when we must have courage to fearlessly seek the truth and work accordingly.

THREATENING WAR CLOUDS

The clouds of war are getting blacker and more threatening. The stage in Europe has been set and once more the war lords are ready to engulf us in a sea of human bloodshed. How can we best prevent war? By providing for Government ownership and operation of plants for the manufacture of munitions. Because it has been conclusively proven that the manufacturers of war materials throughout the world have been active in arousing war scares and in persuading their own countries to adopt war-like policies and increase their armaments. The war makers have attempted to bribe Government officials at home and abroad, they have disseminated false reports concerning the military and naval programs of various countries in order to stimulate military expenditures. They have sought to influence public opinion through the control of newspapers in their own and foreign countries. They have organized international arms trusts through which the armament race has been accentuated. Thus those who manufacture the instrumentalities of death have been one of the most potent factors in the promotion of war, because they are motivated only by profits regardless of human misery and destruction.

DISARMAMENT NO SOLUTION

There has been much talk about disarmament, but disarmament is not the only solution, because advances in science and invention have found new kinds of explosives. It is generally known that the greatest arsenal in the world is a fertilizer factory which can give us high explosives from the nitrate which is absolutely essential to the peacetime product. Chemical and industrial mobilization is stepping into the place that was formerly occupied by mass troops. And today that nation which is more adequately supplied with high explosives or poisonous gas, will find it relatively easy to destroy not only the armies but the civilian population of its enemy as well.

So long as every great nation, including the United States, expands its purposes for war and spends approximately 85 cents out of every dollar of annual national income paying for past and future wars there can be no guaranty that the covenant of the League of Nations or the Paris Peace Pact will avert another war. To avert wars we must oppose a threatening war with sanity and intelligence and vigorous purpose before it is too late. We must oppose it now. We must bring an indictment against war, because the war system is utterly false in theory, barbarous, and has a demoralizing tendency to the normal development of the human race. There is an obvious need therefore to call a mobilization of the common sense of the nations. To bring the entire war system to a definite end because the human race can abolish war if it so desires by compelling the governments and people of the world to face the fact of the decivilization of war.

WAR NOT PROFITABLE

It is a certainty that no profit will equal, to any nation involved in war, the calamity price paid for it. The League of Nations has officially announced that the cost of the World War has been nearly $187,000,000,000, or $93.50 for every man, woman, and child in the entire world. The Geneva statesmen have further calculated the cost of the World War to have been greater than that of all wars added together since the beginning of the Christian era. This cost is only for the period of combat and the transportation of the armies to and from the homelands. In addition all countries have had to pay interest on Liberty bonds, pensions to the soldiers, offerings for the wounded and disabled, and billions of dollars for the relief of men and women unable to secure work or robbed of income by the universal business depression, which can be to a certain extent directly attributed to the war. An eminent authority has calculated that the total death list for the World War was over 12,991,000. This is nearly three times as many as those killed in all wars of the previous 120 years. The common folk of the world, those who carry the burden and make the greatest sacrifices during war, must be enlightened and made to understand the impending calamity of another war. We must all conduct a relentless, ruthless war against war, because if we fail to do this we betray not only ourselves but our posterity. Like thousands of others I fell victim to the war hysteria and jingoism created by the press. But I had been in France only a few months when the stark, naked truth dawned upon me.

THE REAL REASON WHY AMERICA WAS DRAWN INTO WORLD WAR

In order to protect the $6,000,000,000 which the money lords of America had invested in Europe during the World War, it cost our country, outside of the hundreds of thousands of human lives, $39,000,000,000; and when I say our country, I mean we humble folks who have been cheated, fooled, and exploited for so long. We who create the vast majority of the wealth in our country are the ones who are paying; and so will our children keep on paying for generations to come, while the promoters of war have made billions out of that terrible human butchery. Millions of young men, the flower of this world's manhood, were slaughtered. Yes; they were murdered. They were sacrificed on the altar of selfishness and greed to satisfy the base and vile appetites of the worshippers of the golden calf, of the creators of fascism.

Picture yourself standing at the curb watching those boys march by. All brothers endowed with the same emotions of love, hope, and aspiration, regardless of color, race, or creed; ten abreast, two seconds apart, one, two, ten more. How long do you think you'd have to stand there before the gruesome parade would end? Ten days, 40 days—no; you would have to stand there for 65 days.

Think of the tears, the blood that was shed, the old mothers and fathers back home whose minds could not stand the strain. Think of the widows, the orphans, the maimed in body and mind who even today lie in hospitals. Ladies and gentlemen, the forces responsible for the World War are the same forces which so viciously today attack peace and democracy.

FASCISM MENACE TO HUMAN PROGRESS AND PEACE

The greatest menace that we have toward world peace today is fascism, because fascism has taken up an attitude of complete opposition to the doctrines of perpetual peace. Fascism has developed into a military tyranny. War, according to fascism, is "the supreme expression of the national life." "Above all", says Mussolini, "fascism believes neither in the possibility nor the utility of perpetual peace." Fascism has militarized the minds of people to the exclusion of all other sentiments. In Italy the Fascists have formed the Ballila, an organization of boys from 6 to 8 years of age, to be read stories of military heroes and to be impregnated with the false heroism of militarism. From 8 to 14, children are trained by direct contact with those heroes of the nation, the soldiers in the barracks.

Fascism is hostile to its neighbors. It demands an ever-enlarging place in the sun. To accomplish this it has shackled the press, suppressed the workers through the institutions of the corporative state and of the Polizei-Staat, forbidden strikes, outlawed autonomous unions, and created a system of nation-wide company unions.

Under the heel of the Fascists, in Italy today, strikers are punishable by imprisonment. In July 1926 peasants who were protesting against the 9-hour day were arrested and sentenced to 4 or 5 years in prison. In January 1932 when salaries of bank clerks were cut employees made noisy demonstrations in the banks of Milan, Genoa, and Rome. Police intervened, many were arrested, others wounded, and some killed.

The oligarchy of which Mussolini is the supreme chieftain consists not only of the capitalists and the munitions manufacturers, but big landowners who would not be able to survive in Italy if the masses of the working classes were not kept in strict obedience by three bureaucracies and the officials of the Fascist Party. This consists of about a million out of 12 million adult males in Italy.

Fascism combats the whole system of democratic principles. It denies that the majority can direct human society. It reduces to impotence not only the populace but the thinkers and leaders who dare to criticize by work or thought the validity of its doctrines. Fascism preaches the worship of the State as the supreme authority and teaches that men must surrender their civil and democratic rights and liberties to such authority.

EFFECTIVE WORK OF THE AMERICAN LEAGUE AGAINST WAR AND FASCISM

Ladies and gentlemen, only through the organized efforts of the broadest sections of the people of America can we effectively combat the menace of fascism. Here permit me to pay tribute to the tireless work of the American League Against War and Fascism, which is at this very moment conducting a city-wide conference involving hundreds of trade unions, religious institutions, youth groups, women's organizations, and fraternal and benevolent societies. It is broad, active movements of this kind that can and shall stop the twin menaces of war and fascism.

FARMER-LABOR PARTY WILL PREVENT WAR AND FASCISM

In this country a third national movement has been launched. The Farmer-Labor Party has already taken the reigns of the State government in Minnesota and the movement has spread throughout the entire Middle West. It is a real workers' and farmers' party, including thousands of independent merchants and professional men. It's philosophy is genuinely that of the millions of toilers of America. It is ever fighting to raise the standard of living of the vast majority of Americans who have been deprived of their just and equitable share in the fruits of production. It's by-word is "peace and prosperity to the masses", and it has conclusively proven that it is a party of action, not of lip-service.

Those of us who understand its fundamentals are positive that it is the only party for the common, ordinary people of America. We are equally sure that it is the only effective party that the people have which has unconditionally and without reservation pledged itself against war and fascism.

My friends, let us have the courage to stand for the principles of right and justice. Let us have the courage to refuse to allow ourselves to be dominated and intimidated by the cruel, heartless, inhuman tactics of the enemies of human brotherhood. For our own sake, for our own salavation let us have the

courage to do that which is right and fight with every ounce of energy the forces of reaction, war, and fascism. Let us tirelessly work for a National Farmer-Labor Party. The enemies of human progress do not hesitate to do that which is wrong.

Two Pictures of John and Mary

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1937

Mr. LUDLOW. Mr. Speaker, war broods at this hour over three-fourths of the population of the globe, and no human being can foresee when we may become involved unless some effective preventive measures are adopted. In discussing the war pall that now hangs over the world and in presenting a measure I have introduced for a constitutional amendment to provide for a referendum on war and for taking the profit out of war, in keeping with the pledge of the Philadelphia platform, I want to paint two pictures of John and Mary.

John and his wife Mary typify the good honest folks who are the bone and sinew of America. They symbolize our millions of sincere, God-fearing, home-loving people who stand for the best there is in life. They are sweethearts—John and Mary—married sweethearts, and their union has brought fine, healthy children to them to make their cup of happiness complete, Junior aged 1 and Sister aged 7.

PICTURE NO. 1

John and Mary were born and raised on adjoining farms in Indiana, close to the Nation's heart. They have been lovers since they were children. On the center table in their sitting room rests an old-fashioned plush-bound album, and the first picture in it is a snapshot of them, walking hand in hand through acres of golden rod on her father's farm when they were in their early teens and he was a barefooted freckle-faced boy and her hair was done in pig tails. On the margin of this picture Mary's prankish younger brother wrote a long time ago:

If a body meet a body
A-comin' through the rye;
If a body kiss a body
Need a body cry?

Goldenrod has always been the favorite flower of John and Mary. When the parson tied the knot that sealed their love in the sacred bonds of matrimony they stood before a great bank of goldenrod in the spare room under Mary's parental roof and in the presence of John's father and mother and Mary's father and mother and some of the good neighbors they solemnly promised the man of God to love and cherish each other "till death do us part."

Life on the farm had so many drawbacks and discouragements they decided to establish their new home in the city and with a world of tears and sighs and caresses they left the old folks and struck out for themselves in the metropolis, where John by many honest days' work, dutifully and conscientiously performed, has advanced to a subforemanship when this is written.

It is the evening-tide. John, returning to their pretty little cottage from work in the factory, drops heavily into the big chair in the sitting room, his favorite resting place. It is not of the hallowed memories of the past nor of his home, where happiness reigns supreme, nor of the great love that binds him to Mary and the children that John is thinking as he sinks dejectedly into the big armchair. His face is careworn and so white there does not appear to be a drop of blood in it. With a stubby bare foot Junior kicks over a castle he has built with wooden blocks and laughs gleefully, while mischief dances in his eyes. Then with a rapidity that is an astonishing feat in infantile locomotion he crawls across the room to Daddy's chair and looks up wistfully into Daddy's eyes. Ordinarily, John would have grabbed him in a twinkling and have lifted him high in the air but John is thinking with tremendous seriousness about something else and does not see him. Junior tugs at John's trouser leg, which is the signal that he wants to be hoisted. Just then Mary appears in the doorway, her face radiant with pride. At first she does not sense anything wrong and gazes at her "two boys."

"Look, John", she says, "Junior wants you to take him up and trot him on your knee, like you always do."

Still no response.

"Look at his sweet little face", persists Mary. "Why, John, how can you resist him?"

By this time Mary realizes from John's unusual behavior and sad expression that all is not well.

"John", she says, "something has gone wrong. Tell me about it. That's what I am for. You know I am the trouble clerk in this family. First, let me get a washrag and bathe your face to take the 'tired' off. Now, that's better. Now for a big kiss and now for the story. What is it, John?"

John: "Mary, it's about the war in Europe. What we have read about it in the newspapers doesn't tell half the story. I heard from confidential sources today that the United States is going to get into it and if that is so I may have to go.

Mary: "Why, John, that simply can't be. Why should you go over there to fight those people? We don't have anything against them. We don't even speak their language. And besides we are so happy here. Our home is paid for and you have a good job and we have the nicest little family in the world. Don't you love us, John?"

John: "More than everything else in the world combined."

Mary: "Then why all this incoherent talk about going to war? What put that silly idea into your head? Of course you are not going to war. You are going to stay right here and we are going to keep right on being happy."

John: "I am afraid you don't understand, sweetheart. If we enter the war I will be drafted and I won't have anything to say about it."

Six months later:

Reclining on the floor of the dugout John forgets all about the mud and vermin while he reads for the tenth time a letter he received today from Mary. His face beams as he thinks of the grand homecoming with Mary, Sister, and Junior when this horrible war is over.

And then:

Captain Atherton: "John, the colonel has ordered me to send a detachment of eight men over the top immediately to capture that machine-gun nest on the hill. You and seven others of this company will slip out in cover of darkness, each going a separate way, and will rendezvous at that big tree you see dimly yonder in the foreground. From there you will rush the nest. Are you ready?"

John: "Yes, sir."

Captain Atherton: "John, do you know what this means?"

John: "I do, sir."

Captain Atherton: "Do you have any word to send to your family, in case——"

John: "Tell my wife that I love her——"

Captain Atherton: "I will."

John: "Tell her to kiss the children for me."

Captain Atherton (trying to conceal his tears): "I will."

John: "And—and—and tell her I have gone to a place where there are no more wars."

John unbuttons his shirt, takes from his breast a picture of his wife and babies, furtively wipes away some tears with the sleeve of his coat, kisses the picture over and over again, replaces it, and then over the top and out into the darkness.

He has not gone 40 feet when—Rat, tat, tat, tat, tat! The first bullet from the machine gun takes out both of John's eyes. The second, third, fourth, and fifth pierce his heart and lungs and tear open his bowels, all in a split second.

They do not send him home for burial, because they say his remains are "too much disorganized" to be seen. They bury his mangled body near where it fell and today the poppies bloom over it just as they spread color and beauty over many other graves where noble Americans sleep.

The captain in a letter to Mary performs his painful duty of giving her John's message. He waits day after day for an answer, which finally comes after a long lapse of time in the form of a few broken, hysterical sentences. Mary almost weeps her heart out writing it, and in a separate package, wrapped with tender care, she sends a bouquet of goldenrod to be placed on John's grave with the message, "Love from Mary." How her heart ached when she wrote those words!

The mortgage company closes in on Mary's little home and takes it. The support of the two children is more than Mary, in her weakened condition, can bear, so they are sent to one of the orphans' homes which society thoughtfully provides for soldiers' children after it kills their fathers. Mary, to earn her own living, gets a job as an elevator conductor, but it doesn't last long. Those around her soon see that her mind is breaking under the strain of grief.

Then the final scene—a madhouse.

Mary, with broken heart and broken mind, tosses on the bed in her room, pouring out her grief in moans which tell of the storm that is raging in her soul. Her moans become shrieks.

"Let me die! Let me go home to John! Let me go to him to the place where there are no more wars! Let me go to John! Let me go to John!"

An attendant moves quickly down the hall, slams the door shut and turns the key. Mary must not be allowed to disturb the other patients.

PICTURE NO. 2

This picture is of the vintage of 2000 A. D.

John and Mary are sitting in the parlor of their pretty cottage overlooking a spacious flower garden with its wondrous wealth of blooms. Rambler roses in riotous profusion cover the front porch and fences on either side with a cloak of beauty. The air is redolent with the perfume of sweet-william and honeysuckle. At their feet play their two little children, Junior, aged 1, and Sister, aged 7, fine healthy youngsters. The big room is furnished well and with touches of elegance. The surroundings are those of a family in excellent circumstances.

Mary: "John, do you realize that it has been more than 80 years since we have had a war?"

John: "Yes; I guess you are right. The World War was the last. There hasn't been any war excitement since about the time we were born, when the European nations tried to drag us into that war in Tripoli. They needed Uncle Sam to pay the bills, I guess."

Mary: "Our fathers and mothers took good care of that war, all right, by staying out of it, didn't they, John? When the referendum was taken they defeated it so badly that I doubt whether they have completed counting the vote yet. You know, John, the only good wars are the wars we stay out of. I believe that with the referendum in operation we will never enter another war—certainly never another foreign war. If we ever have another war it will be a righteous war of defense, and we will never have that because nobody is ever going to attack us. Everybody looks up to us now because we keep out wars and extend the hand of fellowship to all the world and invite all nations to share our riches of friendship and good will."

John: "Yes; as an American citizen I am very proud of America's position in the world today."

Mary: "No nation even thinks of attacking us and I guess most of the war scares of 60 or more years ago were more imaginary than real—worked up by munitions dealers to sell munitions. At any rate we have heard very little about the munitions racketeers since the constitutional amendment was adopted taking the profit out of war. Our ancestors wisely conjectured that if you take the profit out of war there will be few wars. The racketeers have dropped out of the picture and we no longer have the periodical war scares that used to give everybody the jitters. Since other nations have begun to follow our precedent of allowing their peoples a popular vote on war, peace prospects are growing very bright all over the world. Wouldn't it be a great thing for humanity, John, if there never were any more wars on this grand earth that God gave us?"

John: "One reason why I think we in America are so secure is that we have adopted a policy of attending to our own business and allowing other nations to attend to theirs. If you rub a man on the chin with the butt of a revolver he somehow gets the impression that you don't like him. It is the same thing with nations. We don't rub any nation with the butt of our revolver any more and we don't have an enemy on earth. Our forefathers used to be frightfully scared of the Japanese and the Japanese were just as scared of us when we paraded our warships up and down the Pacific. When we ceased to exhibit the chip on our shoulder their fears subsided and when their fears subsided our fears also subsided. They didn't want war any more than we did. It seems so foolish of our ancestors to have thought that any nation would want to attack us."

Mary: "And times are so good. Why shouldn't they be, since we don't waste money on wars, any more? We have this nice home and you have a good job, and some day you are going to be the head of the works, and these lovely children of ours will have every opportunity to grow and bloom."

Picture no. 2 may not be exactly heaven itself, Mr. Speaker, but it is close to the vestibule of heaven. It is not an impossible picture. It is attainable if we have the vision and the courage to act. We can make that picture real if we close our ranks and move forward with prayers on our lips and love in our hearts. What an opportunity and what a privilege lie before us! Not since the morning stars sang together has there been a more definite and alluring call to the service of humanity.

O friends of mine in the Congress of the United States! We are the trustees of one of the most sacred trusts ever committed to human hands. We hold in our encircling arms the children of countless generations yet unborn. We owe to them the solemn duty of putting an end to wars, as far as it is humanly possible to do so.

Shall we be true to them?

Shall we be content with hell or shall we strive for heaven?

Public Defenders

EXTENSION OF REMARKS

OF

HON. BYRON N. SCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1937

RADIO ADDRESS OF HON. BYRON N. SCOTT, OF CALIFORNIA, ON FEBRUARY 2, 1937

Mr. SCOTT. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following address delivered by me over a National Broadcasting Co. network, Tuesday, February 2, 1937:

I appreciate very much the courtesy of the National Broadcasting Co. in granting me this time tonight, and thank them for making available the facilities of the blue network.

Almost every day in the House of Representatives some Congressman from some district takes the floor to discuss what he terms "the most important problem that will come before this Congress for its deliberation and action", picturing dire consequences for the Nation if his suggestion is not acted upon immediately.

While the proposition on which I speak tonight certainly cannot be placed in this category, at the same time I feel it to be of sufficient importance to merit consideration and perhaps enactment by the Seventy-fifth Congress.

I have introduced a bill, H. R. 3155, to provide for the appointment of a public defender in each United States district court in the country. The duty of the public defender, if this bill becomes a law, shall be to conduct the defense, without expense to the party involved of any person who, in the judgment of the court, is without means to employ counsel and is charged with, or convicted of, a crime against the United States. The bill likewise provides that the public defender shall prosecute appeals under like circumstances where, in his opinion an appeal will, or might be expected to, result in the reversal or modification of the judgment of conviction.

The appointing power would be lodged in the district court of the defender's district. His salary would be $7,500 per annum and his term of office 4 years. Sufficient office personnel is also provided.

Not the most important proposition to be brought before this session of Congress, no, but the reasons for and the justness of such legislation should be obvious to anybody who has given any thought to social legislation. I have yet to hear a legitimate argument against it.

Our most rapid strides in legislation of a social nature have been made during the 4 years of President Roosevelt's first administration. I feel that we have done some wonderful things and enacted some very good legislation that will go a long way toward correcting some ills that have existed in our country for too long a time. A good job has been done of scratching the surface, but we are by no means through. More must be done before we can even pretend toward perfection. The next 4 years should, and I feel confident that they will, see much more done to throw the full power of the Government behind the desires and efforts of those who wish for all actual, as well as technical, equality in the guarantee of life, liberty, and the pursuit of happiness. A small portion of this equality can be guaranteed if we make sure that every person hailed before a United States court has the benefit of trained, experienced, competent, and interested counsel whether he can afford to pay for it or not. The size of a man's pocketbook does not, should not, and must not measure the degree of that man's equality before the law. The question now becomes: Is this the measure—without legislation that I am proposing? How does a poor man secure counsel now?

In 1841 a lawyer by the name of George Nabb defended a Kickapoo Indian on a charge of murder. His client was convicted of manslaughter and then Nabb presented his bill to the Indian Office. The Court of Claims, in upholding the refusal to pay, said:

"The Constitution provides that the accused shall enjoy the right to have counsel. This is the declaration of right in the accused, but not of any liability on the part of the United States." Ever since that time the Federal courts have continued to assign lawyers to the causes of the poor without allowing them any compensation whatsoever. What have the results been?

Samuel Untermeyer says that "unjust convictions among the poor and helpless are more frequent than we care to admit. The most prolific abuses," he says, "occur in what are known as 'assigned' cases, in which the defendants are too poor to employ counsel. They come to the bar of justice crushed in spirit, and, if innocent, in mortal terror of the law and resigned to any fate." Honestly now, how much attention would you pay to a case if you knew you weren't going to be paid for it? Especially if you were busy?

Thousands of indicted people—poverty-stricken, terrorized, helpless—are led to plead guilty to crimes of which they are innocent, both through the pressure of police and prosecutors and through the lack of adequate knowledge of their rights given to them by their unpaid defenders.

A recent case of this occurred at Memphis, Tenn., when Federal Judge John D. Martin apologized to a Negro who had been convicted of a crime, partly due to his own confession, although he was really innocent. When the innocent man was asked why he had pleaded guilty, he gave this expressive answer: "Judge", the Negro drawled, "I was tired of sitting in that jail. I wanted to get it over with and start serving my sentence and get out. I wasn't getting nowhere." Let's give these fellows a break.

Thousands of innocent men and women are today pacing prison cells, suffering for crimes committed by others who remain free to continue their depredations against society. Every day judges sentence innocent victims to penitentiaries. This is the reasoned verdict of every investigation made of crime records under the rapid-fire, convict-if-you-can policy of court procedure that makes every poor person a potential victim of the system that the Constitution tried to prevent. This isn't right. It isn't justice.

Imbedded in the fundamental law of the land is the declaration that the accused shall have the right of counsel; and yet the Federal Government leaves the fulfillment of this right to the generosity of the legal profession through "assigned counsel." Fresh out of law school and eager for experience, or otherwise driven by their own economic need, these lawyers prey upon the ignorant and the helpless. The minute the case is assigned to them they start hunting up the relatives or friends of the accused and use every means to get a fee. If no fee is forthcoming, they generally advise the client to plead guilty or they try the case without preparation or investigation. Unfortunately, the class of lawyers who are assigned to defend those who cannot retain their own counsel is truly not representative of a great profession. If they could get true representatives of this great profession, it might be different.

Bar associations periodically issue pronunciamentos that the time will never come when a poor person cannot obtain honorable counsel; but the adroit, able, and powerful leaders of the bar never touch these cases except in the rare instance of a "cause celebre." They are too busy with their own paying clientele.

The idea of a public defender is not a new one, but dates back to the ecclesiastical courts in the middle ages where the office of advocate of the poor and that of the procurator of charity were regarded as highly honorable.

Today in many foreign countries provision is made for such an official, and in most of these countries the plan has existed for some time.

Public defenders are definitely established in many cities as in Omaha, Minneapolis, and San Francisco, and variations of this plan exist in connection with the inferior courts in Los Angeles and New York. In Connecticut the public defenders are county officers appointed by the superior court judges. In 1925 there were the two great defender organizations—the Public Defenders of Los Angeles County in California—it was the success of this office that led me to introduce H. R. 3155—and the Voluntary Defenders Committee of New York City. In some States the public defender is considered as a part-time officer of the court which allows him to handle other matters, while in other States his salary is commensurate with his duties, and therefore he must devote his entire time to his public duties. The latter is more advisable, I think.

Basing his judgment on his knowledge of existing conditions and an investigation of existing public defenders, Judge Edward M. Curran, of the police court of the District of Columbia has recommended that the bench and the bar of the District request of the Congress the passage of an act creating the office of public defender in and for the District of Columbia. I have introduced a companion bill—H. R. 3154—to do this very thing. It has been referred to the House District Committee. H. R. 3155 is before the House Judiciary Committee.

The cost phase of the proposition might be given some consideration. The fact is that a public defender's office saves money, cuts down expense and taxes, in addition to other benefits. The records of Los Angeles, Chicago, and other cities ably prove this.

The latest report of the public defender of Los Angeles County shows that the office reduced the cost of administering the law there last year by $250,000. Since the inception of the public defender's office in Chicago a few years ago there has been a net saving of $600,000. This is in face of the fact that the maximum budget for such an office is $50,000.

The financial saving comes from the fact that the public defender is interested in the defense of the innocent and the protection of the rights of all, and not interested in legal quibbles, delays, and unnecessary trials. If the accused has no case he is honestly advised to plead guilty. If he has a defense the machinery of the public defender's office for investigation and preparation of trials is available.

With an investigation staff and ample assistance, the public defender does not have to resort to delays. The case is prepared; there are no continuances in order to give the client an opportunity to raise a fee, for without any fee whatever the indigent person finds his constitutional right fully protected.

In a survey of the California public-defender system made by David Sokol, a young Los Angeles and Washington attorney whose writings have been a valuable source of information, it was found that although crime doubled during the height of the economic depression, there was no necessity for a proportionate increase in the number of judges in the criminal courts.

In the United States Labor Department Bulletin No. 607, prepared under the direction of Dr. Isador Lubin, United States Commissioner of Labor Statistics, is this comment straight to the point:

"In the field of criminal law there is enough available experience to demonstrate the ways and means to assure to the man of limited means that equal protection of the laws to which he is entitled as a matter of right and by constitutional guaranty. All that is needed is some agency, available to him without cost, that can make the ample provisions of the law actively effective in his behalf. For this particular aspect of the problem the system of paid assigned counsel under bar-association control in the smaller communities, plus a public or private defender organization supervised by the bar association in the larger cities, would furnish a complete, thorough, and efficient solution."

Not the most important subject to come before this session of Congress, no; but in the face of this rising tide of prosperity, let us not lose sight of the fact that we have not yet done everything that we can do to secure the rights of the underprivileged.

Coué once complained that his famous formula, "Every day and in every way I'm getting better and better", was of little use in America. It took too long to say. Americans just cut it down to "Hell, I'm well."

We're not well, but day by day we are getting better and better. Let's not jump to the conclusion that everything is all right, but let's add now and then a few of those things that fit nicely into a real social-legislation program. Let's adopt one of those ideas that will help guarantee justice to the other fellow. I think a public defender in the United States courts would help.

I naturally will welcome any criticisms, suggestions, or questions about the proposition, but please do not ask me if I think it is constitutional.

Novus Ordo Seclorum

EXTENSION OF REMARKS
OF
HON. WILLIAM E. BORAH
OF IDAHO
IN THE SENATE OF THE UNITED STATES
Friday, February 5, 1937

ADDRESS TO THE NEW ENGLAND SOCIETY OF CHARLESTON, S. C., DECEMBER 21, 1935, BY HON. JOSIAH W. BAILEY, UNITED STATES SENATOR FROM NORTH CAROLINA

Mr. BORAH. Mr. President, I ask to have printed in the Appendix of the RECORD an address delivered by the senior Senator from North Carolina [Mr. BAILEY] before the New England Society of Charleston, S. C., on December 21, 1935.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

A New England Society, existing in Charleston 116 years, is no anomaly. There has been for more than two centuries a mutuality of interest between Massachusetts and South Carolina in the matter of export trade; there has been a community of experience between the northeastern Atlantic peoples and the southeastern Atlantic peoples, deriving from the early settlements, more than three centuries; there is between these peoples an identity of origin and history, of ideals and aspirations, deriving from our Mother country and extending throughout nearly a thousand years! And in the present hour, when once again the peculiar character of our civilization is called in question, there is a strengthening of ancient bonds in the common duty to preserve that character as wrought out by long experience, made possible by an heroic revolution, consecrated by a great Civil War, and proved by a century and a half of the most amazing national progress recorded in all the history of mankind.

The bonds between the Englishmen of New England and the South could not be severed by the guns at Fort Sumter seventy-four years ago. They did involve mighty issues; they might even have involved the Union; they did usher in a devastating division; but they could not involve the common heritage which from the beginning has been the soul of our civilization—the heritage of individual liberty, received from Heaven, wrought out in the struggles of a thousand years, and at last on these shores established in that new order of the ages—our Republic of the United States, conceived of and constituted to preserve "to ourselves and our posterity the blessings of Liberty."

The great seal of the United States bears two inscriptions—on the obverse side "E Pluribus Unum", one Union of many—one Republic made up of many republics; a description of the structure of the new Government—on the reverse side, "Novus Ordo Seclorum", a new order of the ages, a description of the character of the Government. Until now the first inscription only has been familiar. Its meaning is universally understood, and it is established. But the other inscription is little known, and few realize its meaning. For 30 years prior to the Civil War, and for 15 years thereafter, the issues of our people were centered about "E Pluribus Unum", and there are now signs and portents that for an indefinite time to come our issues will center about "Novus Ordo Seclorum." For we have come to new hours of National destiny.

I propose to set forth here what was meant—and what is meant—by this second and almost unknown inscription; what was the character of that "new order of the ages" which the founding fathers conceived they had instituted in forming our Republic of the United States.

Wherein did the government which they framed differ from all other governments? What was in their minds that justified the solemn affirmation upon the great seal that they had founded a new order of the ages?

The difference between the new Republic and all other governments was not accidental; it was intended. Seventy-two of the ablest men of their time labored to establish it over a long period and with extraordinary intelligence, wisdom, and courage. Their task was to establish liberty as well as a government. They understood the civilizations of the past and had studied the failures of government in every age. They were familiar with the cruelties of unbridled power. They had realized in bitter disappointment that the great charters of England, whence they had come and which they had loved, were not sufficient; that the new land, with its broad frontiers, gave no assurance in itself; they had learned that bills of rights could not withstand the powers of rulers—of governments—howsoever long and universally accepted. They determined to erect a government dedicated to all the noble purposes of government, and at the same time so restrained as not to be able under any circumstances to deprive the humblest man of rights which they had declared to be inalienable—the rights to life, liberty, and the pursuit of happiness.

None knew better than they what these rights were—the rights of personal security, of personal liberty, and personal property; the rights of the Great Charter, of the Bills of Rights of Charles II and William and Mary; and of their enlargements in the Bills of Rights of the American States, the model of which was the great document of George Mason attached to the Constitution of the Commonwealth of Virginia; the rights that animated the Declaration of Independence and sustained the heroic war of our American Revolution. None knew better than they how precious to the spirit of man these rights were. They proposed a national government, a republic of many republics, which should not only not have the power to take away those rights, but which also should be dedicated to the preservation of those rights, "the blessings of liberty to ourselves and our posterity."

Their most difficult problem was to achieve this, and to do it they bent all their extraordinary powers. Forming a government was not difficult, but forming such a government was the supreme achievement of statesmanship. And at length, as a century and a half of happy national existence bears witness, this they did achieve in a Constitution that from the beginning has performed its intended mission and proved a light to all the nations, commanding the admiration of statesmen and scholars the world over now for nearly a century and a half, and serving its people as no other instrument of a government's existence ever has served a people.

Its superior character, its actual value to mankind, has rarely been questioned until the present hour of our modern confusion, and the partial eclipse of the flame of liberty by the ambitions of dictators, the agitations of socialists, the propaganda of communists and facists, under circumstances entailed by a war so great and so ruinous that it not only destroyed millions of men and immeasurable wealth but also impaired the nobler moral and spiritual standards that had with increasing power for more than 2,000 years guided all the counsels of liberals in every nation.

And by what means was so great an achievement wrought?

The answer is not doubtful. They created a government of specified powers—"thus far and no farther shalt thou go." They created a dual form of government, of States having control of the local activities and functions, of social welfare and civil rights, in the interest of direct representation and local self-government, and of a Republic having control of foreign affairs, of national defense, of money and currency, of foreign commerce and commerce between the States. In the interest of the rights of the States and of the powers reserved to them and to the people, they constituted a Senate of States rather than of men, a Senate of far more than legislative power, a Senate so established as to preserve the dual form of the Government, a Senate with power to convict a President, a judge, or other officials, who might disregard the rights of men, upon impeachment by the House of Representatives of the people. They wrote out the fundamental rights of men in the charter of the new Government and expressly recognized the powers reserved in the people. And over the exercise of the vast powers of the Government by the Executive, by the Congress, by the States and the people, they erected a Supreme Court, sole and independent, to preserve this Constitution, to declare whenever its powers were exceeded, and so to protect the people against every attempted encroachment upon their liberties in the new order of the ages—the order of a government existing to preserve, and forbidden to impair, the inalienable rights of any man. And finally they gave to the three great arms of the Government, the executive, the legislative, and the judicial, each a sole independence and distinctly declared function, in order that any one of them, or any two, might check encroachments by any one of them beyond its prescribed power.

Such was the new order of the ages, and such it must continue to be so long as we love our liberties. To alter it in any fundamental way; to take away, or even modify, any one of the great muniments I have mentioned, would mean to yield at length to the ancient view that men are unworthy of liberty, or that liberty is unworthy of men; to accept the old forms of government for which the fathers substituted this new order of the ages; to abandon the standards under which the English-speaking peoples have achieved their noblest progress; to deny the competence of such as ourselves for the rights which came to us from our Creator; to invite the return of all the old tyrannies of government, to overthrow which our fathers have struggled a thousand years—the tyranny of classes and of kings, the tyrannies of majorities no less than the tyrannies of aristocracies; to desert liberty itself in the hour when, having proved its value, it is needed as never before by the spirit of the heirs of its unspeakable blessings. Heaven forbid that we should ever repudiate our new order of the ages, which exalted man, and turn to the easy descent of that old order in which the Government was all, the man nothing!

I cannot wholly agree with those who say that our Constitution is not sacred. It is the creation of mortals; in the strict religious meaning of the word, one may agree that it is not sacred. But it is sacred in the sense that it is the sole instrument that establishes our sacred, Heaven-sent, and, therefore, inalienable rights. As they are sacred, so is the instrument of their preservation sacred. And if these rights are inalienable, and if they have come to us not by the gift of man or the concession of govern-

ments but by reason of what is within us as beings created in the image of God, then the one instrument that has proved sufficient to preserve them against all earthly power has the right to be called sacred, even in the religious sense. It is the most sacred of documents uttered by the human race. It is sacred to all who would preserve the priceless heritage of our great Republic, to everyone who holds that heritage sacred.

And as for those who are so often saying that the Constitution was intended to be changed, that formal provision was made for amendments, and that amendments have frequently been adopted, I have a solemn word: The founders of this Republic did not contemplate any changes in the Constitution that would tend to alter the character of our Republic or modify the new order of the ages which they had wrought out. They were building bulwarks of liberty to "preserve its blessings to ourselves and our posterity." They had posterity in mind—that is, all the generations to come. Their new order of the ages was for all ages.

Granted that they made provision for amendment, that provision relates to incidental rather than fundamental alteration, to the mechanics whereby our liberties might be served, not to devices which might impair them. Should it have been intimated to any one of them, or to the people of the States, that their "new order" was for a time only, or that the liberties they were fortifying were for a time only, or the inalienable rights they were protecting were to be inalienable only for an age, they would have repudiated the intimation as the negation of all that the Revolution was fought for and of the great motive of the convention that wrought the Constitution and the great movement that brought about its ratification. The words "inalienable", "our posterity", and "of the ages" connote no less; and the inscription on the great seal testifies on the face of the symbol of the Republic that they, at any rate, considered that they had wrought for all generations—Novus Ordo Seclorum.

The Constitution has, indeed, been amended, but never hitherto has it been even seriously proposed to amend its fundamentals. Every amendment adopted, save one, has been in the nature of incidental change and consistent with the preservation of individual liberty; and that one is the only one that has been repealed.

The first 10 amendments were no less than declarations of rights which had, from the outset, been taken for granted. The eleventh protected States from suits by citizens of other States. The twelfth prescribed the method of electing Presidents. The thirteenth, fourteenth, and fifteenth were the Civil War amendments, establishing the status of newly freed citizens and of the Constitution as the bond of an indissoluble Union of States, sovereign in all the powers reserved to them. The more recent amendments relate to income taxes, election of Senators by the people, the extension of the suffrage to women, and the date of the inauguration of Presidents and the regular sessions of Congress. None of these, nor all of them together, tend to establish a precedent for fundamental alterations that would expose our liberties to the power of the Congress or the Executive, or tend to affect the conception of our Republic as the new order of the ages. None, nor all, justifies the propaganda to the effect that the Constitution is to be disregarded by the Congress or adapted from time to time to suit the convenience of an hour or the exigencies of emergencies.

For an example, is the principle of the freedom of the soul for an age, or "for the ages"? And if for the latter, who will dare alter the restraints of the Constitution upon power which otherwise might deny it to the people? And so with the other liberties. Is the right of personal liberty for an age or all the ages? Is the right of personal security for an age or all the ages? Is the right of personal property for an age or all the ages? Are the blessings of liberty for the immediate posterity of the founders or for all Americans forever?

Today we are informed that there are pending in the Congress some 30 amendments to the Constitution, many of them striking directly at the fundamental conception of our Government. So soon do men forget!

Some of them would destroy the rights of the States to control civil rights, local activities, local commerce, local production, local industry, local contractual and social relations. Is it necessary to point out that the soul of our liberties is local self-government—the direct and instant responsibility of the servants of the people affected to those people? Is North Carolina to be governed by the Congress, in which it has but 13 representatives, or by her general assembly, representing the people of North Carolina by counties, and chosen by them and only by them. May we trust our liberties to any State, or any combination of States, that could outvote us? Are we to be made the victims of the will of a powerful group or class in some remote section?

Those who propose the undermining of local self-government in America propose reversion to Europe, they make way for fascism and the dictator, and likewise they propose no less than the dissolution of the Union—and the conflict upon that issue would not be between the North and the South! The heirs of a common heritage would be swift to unite in its preservation to their children.

And there are those who would destroy the power of the Supreme Court to keep watch and ward over the rights of men as established in our Constitution. They would give Congress the power to pass upon the constitutionality of its own acts, to be judge in its own cause, to determine the limitations of its power. Those who know the Congress know that it cannot be trusted with unlimited power, that it is not always disposed strictly to regard constitutional restraints, that men may be chosen who are ignorant of the Constitution, and that their ignorance gives them no concern, that for decades it has been increasingly exposed to class pressure and political expediency; and that it has become quite the custom to resolve doubts, conveniently raised, as to constitutionality in favor of their judgments as to the immediate expediency of a policy. These instant considerations, so familiar, ought to be sufficient to warn us all of the consequences that would ensue, should the right of citizens to test legislation in an independent tribunal of justice be impaired. To what, for example, would due process of law be reduced? To what but the exercise of arbitrary power?

But if these considerations should not be sufficient, let us reflect upon the plain teachings of history, that unbridled power has proved in every age not only the means of cruelty and oppression but also the fatal poison of governments. If history has taught us anything it has taught us that the liberties of men cannot be trusted even to the best of men; that they may be maintained only by expressly reserving them in the people themselves and safeguarding them by means of the structure of government itself. From Heaven derived, these liberties are the gift of God, which no mortal may give, no mortal may hold in trust, and no mortal should have power to take away.

Without judicial review by an independent court of justice of the acts of ministers and legislatures, of President and Congress, of States and individuals, how could any man or any community hope long to enjoy the liberties guaranteed by the Constitution, the inalienable rights of the Declaration of Independence? I see no evidence that modern rulers may be more surely trusted with unbridled power than their ancient or modern predecessors in the high places of power. To whom would one look? To majorities? Then he takes his chance of being one day in the majority and the next in the minority—his rights as precarious as the course of a leaf in the storm. Are we so ignorant of what is going on in the world that we take no warning of the negation of liberty and the exaltation of the sheer power of government in the rise and spread of Fascism, Nazism, Socialism, and Communism throughout Europe and in a part of Asia? Of the exaltation of States and the degradation of men? Are we so simple as not to reflect that the one antidote to these corruptions of society is liberty? That the fatal virus of those corruptions is the seductive assurance that there is something better for man than liberty?

To strike down the Court that guards the rights of the people, declared and provided for in the Constitution, would return us to the condition from which the fathers revolted and prove fatal to that new order of the ages which they instituted. Our liberties under the Constitution would no longer be the bond of our national life. There would be another bond—the bond of all the governments before ours—the bond of force. There would be no recourse under provocation save the recourse of revolution. In a word, we would have abandoned the arbitrament of justice for that of the sword. Well did one of our greatest statesmen exclaim, "Union and liberty, one and inseparable!"

I am no more for the rule of requiring more than a majority of the Court to declare an act of Congress unconstitutional than I am for taking away the Court's entire jurisdiction. The only course is to resist the beginnings in this matter. I am not for adding in any degree to the present presumption of constitutionality attending acts of Congress, a presumption by no means justified by the Congress itself. The point here is not so much regard for a Court which has greatly served, as for the rights of the people of the United States. I am not for impairing in any degree the historic power of the Court judicially to determine whether an act is within the powers granted by the people in the Constitution. The amendment to require the assent of two-thirds of the Court to hold an act beyond the powers granted by the people is a motion to vest in a minority of the Court, plus a majority of the Congress, supreme power; to clothe the Congress with a portion of the judicial power, hitherto independent of the Congress, and to violate our indispensable separation of the three branches of our Government.

It has even been proposed that Congress shall enact a rule to this effect. I challenge the power of the Congress to do this. The Supreme Court is an independent branch of our Government, and that independence is an indispensable muniment of our liberties. The Supreme Court is independent and it must continue to be independent. It makes its own rules and it must continue to make its own rules. It is in no wise subject to the Congress or the President, save that its members are appointed by the latter and confirmed by and with the advice of the Senate; and they may be impeached by the House and tried by the Senate. This is a sufficient check upon the Court. It is, of course, under the Constitution just as is the Congress and the President.

Here, again I repeat—the interference of the Congress by proposed amendment or otherwise would be nothing less than the violation of our American holy of holies, the laying of profane hands upon the Ark of the Covenant of the liberties of the people, the rights of the States, and the structure of the Republic. Here again I affirm that the consequence of alteration or modification of the Court's exclusive power to assert constitutional rights, would negative the work of the fathers and put an end to that new order of the ages which they instituted upon the foundation of the War of the Revolution: The Constitution

would dissolve and with it the liberties of the people, the rights of the States and the character of the Republic.

There is no substitute for our inalienable rights. There is no compensation for liberties taken away. There are no safeguards save those safeguards in the Constitution, the ancient landmarks which the fathers have set. We remove them not only at our peril but at the peril of civilization.

Mr. Toastmaster, I propose a toast: To the Constitution of the United States of America, the high contract between the people and the Government they created; the sheet anchor of their liberties yesterday, today, and forever; the charter of the unalterable new order of the ages—the order of a government in the people, of the people, by the people, and for the people, dedicated to their liberties and consecrated to their inalienable rights, handed down to us by noble fathers, the rightful and best heritage of our children and children's children—the charter of the rights of the people, and of the States, and no less the charter of the Republic of our United States—"Novus Ordo Seclorum."

Enforcement of Antitrust Laws

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Friday, February 5, 1937

ADDRESS BY HON. JOHN DICKINSON, ASSISTANT ATTORNEY GENERAL OF THE UNITED STATES, DELIVERED BEFORE THE COUNCIL FOR INDUSTRIAL PROGRESS, DECEMBER 10, 1936

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD an address delivered by Hon. John Dickinson, formerly Assistant Attorney General of the United States, entitled "The Enforcement of the Antitrust Laws." This is one of the most important contributions to the legal history of the present administration. I therefore think it should be preserved in the files of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In appearing this morning before the Council for Industrial Progress, in response to your invitation, I feel that I am discharging a public duty. The President, in creating the office of Coordinator for Industrial Cooperation and in appointing our good friend, Major Berry, to hold it, instructed him to supervise conferences of representatives of industry, labor, and consumers to consider problems connected with accelerating recovery and maintaining business and labor standards. This Council was set up under the authority so conferred, and the sessions we are attending are obviously conferences of the character referred to in the Executive order.

It has been brought to my attention that one of the subjects to which the Council has already devoted attention at a previous meeting and through one of its committees is the so-called antitrust laws and their bearing on problems of national industrial policy. Since July 1935 I have been the law officer of the Government charged with the administration, under the Attorney General, of this group of statutes, along with 23 other important Federal enactments, such as the Interstate Commerce Act, the Federal Communications Act, the Railway Labor Act, the Packers and Stockyards Act, the Commodity Exchange Act, and other Federal laws lying in the general field of economic regulation. Since this Council, under authority emanating from the President, apparently contemplates reporting with respect to the antitrust laws, it seems to me a public obligation to respond to your invitation and place at your disposal the results of my experience in the enforcement of those laws for the Department of Justice, as my period of 18 months' service in connection with their administration now draws to a termination.

I

There is one point of agreement from which I believe all discussion of the antitrust laws must properly start. It is the elementary proposition that when laws stand on the statute books they should and must be enforced until repealed or amended by appropriate legislative action embodying the will of the community expressed through its representatives. To have a law on the statute books and make no serious or successful effort to enforce it is to reduce law itself to impotence, bring it into disrepute, and thereby weaken the only orderly agency which the community has available to effectuate the ends which it desires to see accomplished through public action. A few years ago during the so-called prohibition experiment we witnessed the spectacle of laws remaining on the statute books without effective enforcement, and whatever the reasons or the justification, if any, that may have existed, the results were by common consent not such as we can afford to see repeated in the case of national legislation of major importance.

When I say that laws should and must be enforced until repealed or amended, no matter who or what interests may be affected by such enforcement, there is another implication of the statement which must always be understood, namely, that a law must be enforced, and can only be enforced, according to the tenor and construction given to it by the courts. In the last analysis the enforcement of law is in the hands of the courts, and any attempt at enforcement which runs counter to the construction placed upon the law by the courts is bound to fail. Under our system of government it is the province of the courts to construe the law, and their construction, so long as they adhere to it, is as much the law as is the statute itself, unless and until such construction is definitely changed or modified by legislative act. The administrative officers of the Government must follow the construction applied by the courts unless they wish to see their efforts at law enforcement defeated and set at naught when they resort to the courts as they must of necessity do in order to have the remedies of the law applied and its penalties exacted.

So far as relates to the enforcement of the so-called antitrust laws, a real and ever-present difficulty exists which arises from the fact that these laws are the subject of widespread popular interest among individuals and groups who are not familiar with the details of court decisions or with the technicalities of legal construction. In the popular mind the antitrust laws have come to be regarded as the symbol and embodiment of certain broad attitudes and points of view about economic matters without definite reference to the specific statutory provisions or to the construction which has been placed on those provisions in the process of court decision. In consequence much is frequently demanded of the antitrust laws by certain sectors of public opinion which the laws themselves as written by the Congress and construed by the courts do not supply, and, on the other hand, there is widespread belief that other things are exempted from the operation of the laws which, in fact, are not exempted as the laws now stand and as they have been authoritatively construed. In the one instance the officials of the Government are popularly charged with failure to enforce what in fact cannot legally be enforced, and in the other they are censured for enforcing what they are lawfully compelled to enforce. A proper public attitude toward the enforcement of the antitrust laws and a proper public attitude toward the question of whether those laws need revision or amendment depends first of all upon a much better understanding than exists at present on the part of the public generally as to what the antitrust laws, as construed and applied by the courts, do prohibit and what they do not prohibit, and I accordingly wish to devote the first part of what I have to say to you this morning to a contribution toward such better understanding from the standpoint of my experience in the antitrust work of the Department of Justice.

In the first place, there is apparently a widespread belief that the antitrust laws direct their legal prohibitions against bigness in business as such, against competitive practices in general whenever exerted by large-scale business organizations or great aggregations of capital to the disadvantage of smaller rivals, and against all price policies, particularly when pursued by large concerns, which may operate to minimize price wars or to mitigate declines in the price of the product. Many people apparently believe that all these things are illegal. It is a popular conception that every great concern is a trust and exists only through the failure of the Federal Government to enforce the antitrust acts. I am repeatedly asked why the Department of Justice does not proceed under the antitrust laws against this or that well-known large corporation, the size of which has come to be a matter of public knowledge, and which the public accordingly tends to regard on general principles as a trust and as such, therefore, subject to prosecution.

At the outset, therefore, it is essential to understand that as the antitrust laws have been construed by the courts, the mere size of a concern and the proportion of the market which it supplies do not of themselves constitute a violation of law. Nor as a general proposition is it unlawful for large concerns in the ordinary course of business, and as participants in the competitive struggle, to engage in competitive practices on the same terms as their smaller rivals so long as their conduct is simply directed toward the pursuit of their legitimate business advantage and not directly aimed at the suppression or destruction of competition in an illegitimate manner. In other words, as the antitrust laws stand, they do not make mere bigness unlawful, nor do they in general place upon the large business concern, because it is large, any special limitations in the competitive struggle which are not placed upon the smaller concerns also.

To this statement there are, of course, certain possible exceptions which readily come to mind, as, for example, in connection with contemplated mergers. But in the main it is true to say that if there are those who believe as a matter of policy that bigness in business should be shackled and subjected to special disadvantages, they cannot hope to see their objective in many of its aspects accomplished merely by the enforcement of the antitrust laws, but must seek for new legislation at the hands of Congress by convincing that body that sound legislative policy requires the adoption of their views.

In the same way it must also be understood that the antitrust laws do not outlaw business practices and price policies merely because such policies may operate to make prices relatively rigid or to discourage price wars and market breaks. We have had much discussion in recent years of the problem of so-called rigid prices. One of the most valuable byproducts of the great depression has been the stimulus it has given to a better and more thorough understanding of the workings of our present economic system, and as we have achieved that understanding students and analysts have pointed out that in many of our industries prices have a tendency to remain relatively stable over long periods of time, while in other lines of business they fluctuate more or less violently. From certain standpoints it has seemed to many observers that so-called rigid prices constitute an evil, and attention has been called to the fact that such rigidity often results from the existence in an industry of certain types of pricing policies, such as adherence to published price lists, the practice known as "following a leader", the practice of selling only on delivered prices, and the like. Because of the effect of these and other practices in promoting price rigidity, they are often referred to as in an economic sense "monopolistic", and the inference is therefore drawn that they must constitute a violation of the antitrust laws.

It is, of course, entirely true that practices of this character in many instances may result from conduct which does violate the antiturust laws, but that is obviously an altogether different thing from saying that such practices violate the antitrust laws in and of themselves. As a matter of fact, in the antitrust laws as they now stand there is nothing which makes price rigidity unlawful or which outlaws practices that result in price rigidity, unless such practices happen to be the consequence of definite concert or agreement which is unlawful because it violates the prohibitions of the antitrust laws against concert and agreement of certain kinds. Where, on the other hand, price policies and business practices which may happen to promote price rigidity are not the result of such unlawful concert or agreement, but have merely grown up in an industry as a byproduct of the adaptation of the various members of the industry to the conditions of the competitive struggle existing in that field, there is no prospect of a successful prosecution, because the courts do not construe the antitrust laws to outlaw such practices. Once again, therefore, if there are those who believe that price rigidity and the practices which promote it are contrary to public policy, they must appeal to Congress for legislative action rather than to the Department of Justice for antitrust proceedings.

With this picture in mind of what the antitrust laws do not prohibit and therefore of what cannot properly be expected from even the most vigorous and successful enforcement, we are in a position to look at what they do prohibit and to consider what is necessary in the way of enforcement if those prohibitions are to be made truly effective.

Broadly speaking, the antitrust laws prohibit the deliberate and intentional suppression of competition, whether by the separate action of an individual concern or by the combined action of two or more competitors. Separate action designed to suppress competition may consist of coercing a competitor to sell out or of destroying the market of a competitor or of wrongfully excluding a competitor from access to a market. Combined action may take the form of a merger between concerns having an important share of the market or of agreements or concert between such concerns relating to and in some way regulating their competitive methods and practices.

Obviously, the question of whether or not the business conduct of a concern engaged in competition with other concerns amounts to an effort to suppress or destroy competition in such sense as to be unlawful presents a difficult and complicated problem. In a certain sense the essence of competitive conduct, the very type of conduct which it is the purpose of the antitrust laws to protect and foster, is to take business away from rivals and to that extent to weaken, in the long run, the ability of those rivals to compete. On the other hand, it is settled by the adjudications of the courts that where one rival sets out to take business away or keep business away from his competitors so as deliberately to destroy them or to paralyze their competitive ability, then the law is violated. Obviously, the test is essentially a test of degree, depending in part upon motive, as evidenced by spoken or written expressions of intention, in part upon effect, as evidenced by statistical and financial results, and in part upon the employment of certain definite competitive devices which have come to be regarded as in and of themselves unfair and improper, such as fighting brands, tying clauses, local price cutting, price discriminations between customers, and the like. Some of these specifically illicit competitive devices have been isolated and expressly outlawed by statutory provisions, like those of section 2 and section 3 of the Clayton Act, and more recently of the Robinson-Patman Act, while on the other hand a broad general condemnation of all unfair methods of competition is contained in section 5 of the Federal Trade Commission Act. The law thus recognizes the paradox that competition in the broad sense can only be safeguarded by the outlawry of practices which are in and of themselves forms and methods of competition and part of the competitive process.

Combined, as distinguished from individual, action which is amenable to the antitrust laws may take the form either of a merger or of an agreement relating to some method or methods of competitive conduct. In the case of a merger the question of whether or not the prohibition of the law applies depends, in part at least, upon the reasonableness of the combination and almost wholly upon its economic results as disclosed by a study of the industry and an estimate of the effect of the proposed action upon the competitive situation. In the case of agreements between competitors, on the other hand, it now seems to be well settled by the courts that the legality of such an agreement between competitors with reference to their competitive conduct or their relations to their customers is not necessarily saved by the validity of the economic considerations which it is designed to serve. Here, assuming that the agreement is as broad as the market, the test seems to be almost entirely the directness with which it operates to cause interstate business to be carried on in a manner different from that which would prevail in the absence of the agreement; in other words, upon whether the agreement operates to regulate a significant relationship in commerce. Thus, if an agreement operating over practically an entire market prevents buyers from enjoying a privilege which they previously enjoyed, or affects price, or prescribes a term in a contract, it may be said with some degree of assurance that the agreement, irrespective of the possible soundness of its economic results, is an unlawful restraint of trade.

The prohibition of the antitrust laws with which we are now dealing, since its essence is prohibition of agreement and concerted action having a direct effect on commerce, applies to the action of employees seeking to better their condition no less than to the action of business concerns, and since possible economic justification creates no exemption from the operation of the law as construed by the courts in this field, it frequently results that clear violations of the antitrust laws arise in the field of labor disputes, where our economic and social sympathies are strongly enlisted on the side of those charged with the violation.

II

In view of the definiteness of the legal prohibition against agreements affecting competition, businessmen appear to have learned their lesson well, and few such agreements are today made candidly and openly. Insofar as they do exist, they have been driven largely underground and operate through the medium of secret concert and consultation. However, where concert and agreement operate in this underground fashion, so that the only reason for suspecting their existence is supplied by their visible results in the business practices, and more especially the price policies, prevailing in the industry, the difficulty of ferreting them out is greatly enhanced by the fact that usually these practices may equally well result from natural and spontaneous growth in the course of the adaptation of the industry to its competitive conditions in the manner to which I have already referred. It will be recollected that when speaking of such matters as price rigidities we saw that these furnished no ground for illegality if not the result of deliberate concert. The same thing is true of price uniformities. Accordingly, if the concert which underlies price rigidities and price uniformities is secret and concealed with care, it is often extremely difficult to distinguish the resulting situation from one which may be perfectly legal. Only by the most elaborate and painstaking kind of investigating work, going constantly hand in hand with economic analysis of the practices of the industry and the history of those practices, can the distinction ultimately be drawn and the illegal element of concealed concert brought definitely to light.

In view of the limited and technical nature of the prohibitions of the antitrust laws as I have outlined them, it must be obvious how difficult it is to prepare and present a case which will successfully establish a violation of those laws where the parties are adroit enough not to enter into an overt agreement and where they are not, like labor unions, under the practical necessity of taking action in the open. It can, of course, be done and is being done in case after case, but the amount of investigation and preparation which is required on the part of the Government is simply enormous and correspondingly costly. For example, a case of an attempt to suppress competition can hardly be established without, on the one hand, the discovery of definitely incriminating expressions of intention through painstaking detective work and the inspection and sifting of a great volume of documents and without, on the other hand, an exhaustive economic analysis of the competitive situation of the parties. The same sort of analysis of competitive conditions is also essential in all cases of mergers suspected of illegality.

Most difficult of all, as well as most important, are the cases of covert concert, because here, as I said a moment ago, it is necessary through a combined process of factual investigation and economic interpretation to distinguish between practices of spontaneous growth and therefore lawful on the one hand, and substantially identical practices resulting from secret agreement and therefore unlawful on the other hand. It is not unusual in a situation of this character that several hundred interviews have to be conducted by agents of the Bureau of Investigation with persons who might conceivably have some knowledge of pertinent facts, without in the end producing any legally sufficient evidence. Investigation after investigation of this character is conducted by the Antitrust Division, which terminates in a dead end and so never comes to public attention.

I have several times referred to the need for economic analysis. More often than not the question of whether a given business result points on the one hand to a covert agreement or, on the other, is merely a manifestation of a lawful business practice, can

only be answered by an economic analysis of the industry and its history. Such analysis must go hand in hand with the investigation of the facts in order that the investigation may be directed toward facts which are truly indicative rather than spend its energy in the mere accumulation of irrelevant details, and in order also that the information produced by the investigation may be properly interpreted, as it can hardly be by lawyers without the training of economic specialists. It is, therefore, perhaps, surprising that provision has never in the past been made for economic consultants in the Department of Justice and that none have ever been regularly attached to its staff until the past year. Within the past 6 months I have made the innovation of establishing the nucleus of a small economic unit within the limits of a restricted budget and it has already more than justified itself in keeping investigations out of blind alleys and in interpreting the information which they have elicited.

Ordinarily an antitrust investigation of any importance, when inaugurated by the Department of Justice, requires from the outset the services of several attorneys and of an increased number if a voluminous mass of documentary evidence becomes subsequently available. Almost always such an investigation requires several months to determine whether it is likely to produce fruitful results. Some investigations require an even longer time and an ever larger staff before a decision can finally be made as to whether there is sufficient evidence upon which to base a suit. In the meantime the Antitrust Division is receiving a constant stream of complaints of a minor nature, all of which must necessarily be given honest and careful attention in the ordinary course of routine, and in consequence the services of a considerable staff are required for this type of work alone. Obviously, if the Antitrust Division were willing to file suits on mere popular rumor and suspicion, without proper preparation and in disregard of whether such suits could ultimately be prosecuted to a successful conclusion, a vastly longer record of antitrust proceedings could be established, with a correspondingly larger list of failures in the courts. Under present conditions it is practically impossible properly to prepare more than two or possibly three important antitrust cases in the course of a year, depending largely upon the good or bad fortune encountered in the discovery of pertinent and persuasive evidence. Many prolonged and exhaustive investigations prove fruitless in the end because of failure to discover such evidence.

It is perhaps not commonly realized that practically always the question of whether an antitrust proceeding is instituted in one industry rather than another is determined by whether a private complaint from a supposedly aggrieved individual happens to be filed with the Department in respect to this industry rather than that. Antitrust proceedings almost without exception are the results of such private complaints rather than of the Department's own motive and initiative, and necessarily so. Obviously, if a complaint charging a violation of law is filed it must be investigated, and if supporting facts are discovered, the investigation must be pursued until it is definitely established whether evidence enough is available upon which to take the case into court. The number of such complaints flowing into the Antitrust Division is more than sufficient to occupy the staff, without leaving any surplus force available for the investigation of industrial fields as to which no complaints are received.

This practically exclusive dependence on private complaints for the initiation of antitrust proceedings has a tendency to make the enforcement of the antitrust laws sporadic and haphazard. For example, substantially the same business practices may exist in a number of industries but it may happen that in only one will a complaint be filed which brings the situation to the attention of the Division. If, as a result of such a complaint, an investigation is then instituted which ultimately leads to a decree enjoining the practices in question as unlawful in the particular industry investigated, it may well result that the same practices will nevertheless continue to be followed in other industries because no complaint is filed with the Antitrust Division and the Government is accordingly not aware of their existence.

Another result is that the Division often finds itself called on because of persistent complaints by interested persons to give a great deal of attention to practices of comparatively trivial importance from a public or national standpoint, while in the meantime other practices of far larger public consequence may escape scrutiny. There is the added difficulty that private complainants, having set the wheels of the Department in motion, are thereby occasionally enabled to make satisfactory terms with those against whom they have complained so that thereafter they become cold and unwilling witnesses for the Government. Indeed, they sometimes even go so far as to make strenuous efforts to induce the Government to abandon the proceeding for the initiation of which they were themselves responsible.

If these disadvantages which result from dependence on private complaints for the initiation of antitrust proceedings are to be removed, and if the antitrust laws are to be even-handedly enforced over the whole business field, with proper emphasis on public importance rather than mere private complaint as the moving force in the initiation of proceedings, two things are necessary. First, the Department of Justice must be equipped with a proper staff of economic analysts to study the surface indications of possible restraints of trade and to guide and direct the work of the Bureau of Investigation into those fields where the surface indicators suggest the existence of violations of law even though no private complaint happens to be filed. In the second place, the antitrust staff as a whole must be very greatly increased. It is obviously unreasonable to suppose that observance of the antitrust laws can be insured when the maximum of really important proceedings that can be instituted is limited to two or three a year.

Under such circumstances the chances of successful evasion and escape from discovery are relatively so great that the deterrent effects of the law can be ignored with a large degree of impunity.

In contrast with the Department of Justice, the Federal Trade Commission is equipped with the economic staff which is requisite if public policy is to be the moving force in the initiation of proceedings to enforce the antitrust laws. The Trade Commission, no less than the Department of Justice, is vested with power to initiate proceedings and there is no clear and clean-cut line separating the proper sphere of activity of the two agencies. To be sure, the Department of Justice alone is authorized to institute proceedings under the Sherman Act, but conduct which violates the Sherman Act is in many instances, although not in all, also a violation of the Federal Trade Commission Act which the Trade Commission is empowered to enforce. The relation between the two agencies is happily of the most cordial and cooperative character, but inevitably the overlapping of authority and the equal competence of two entirely separate agencies to initiate proceedings covering the same subject matter prevents the formulation and application of a coordinated policy under unified direction. It is also true that a great part of the time of the investigating staff of the Trade Commission is devoted to the conduct of special investigations made upon congressional request.

III

To recur to what I said at the outset, while laws stand on the statute books they should be enforced, efficiently enforced, and until amended enforced according to the tenor and construction given them by the courts. I have attempted to outline the nature of the prohibitions imposed by the antitrust laws and to point out that those prohibitions are to a certain extent technical in character and narrower in some respects and broader in others than is popularly supposed. As the antitrust laws now stand and as they have been construed they require for their enforcement in most instances of supposed violations an exhaustive and expensive type of investigation and preparation for trial which I have sought to explain.

Speaking from the standpoint of my own experience I venture the opinion that there are not available in the Government today adequate facilities for conducting such investigations and making such preparations over a wide enough field to warrant the belief that the antitrust laws can be enforced in anything like all instances of actual violation or even in a sufficient number of instances to give them a fully effective deterrent force. To give them such force on a truly national scale and over the whole field of business would, I am confident, require an expenditure of several million dollars annually by the Department of Justice alone and even that amount might prove insufficient.

It is, of course, open to question whether, in view of the somewhat special and limited character of their actual prohibitions, their enforcement would be worth the expenditure of the sums needed to make them truly effective. That is a question of policy to be considered by those like yourselves who are charged with the study of policy and the recommendation of legislative proposals. What is not open to doubt is that a law which stands upon the statute books can be fairly assessed only in the light of its application, and that the effect of applying a law cannot be adequately judged unless and until the means are supplied which make the effective enforcement of the law possible.

If we are not willing to recommend the creation of the facilities which are indispensable to the enforcement of the antitrust laws, there is no alternative but to suggest an alteration. That is substantially the alternative with which we are confronted at the present time. Either the machinery for the enforcement of the antitrust laws must be expanded or some other and different machinery for the accomplishment of the purposes of those laws must be devised.

I have deliberately discussed the antitrust laws this morning from the standpoint of technical details. I have said nothing about the large and inspiring purpose which underlies them, the prevention of arbitrary monopolistic power, the oppression of the weak by the strong, the protection of the interests of the consumer, and the protection of the right of labor. As to those larger purposes there is no room for disagreement. The problem with which statesmanship is today confronted is to translate those purposes into practical effectiveness, either through the enforcement of existing legislation or through the formulation of appropriate amendments. We cannot constructively take refuge, as there is sometimes a tendency to do, in mere generalities. There is a widespread and somewhat surprising tendency on the part of many businessmen today to express complete satisfaction with the antitrust laws as they are. The question suggests itself whether such satisfaction is born of the conviction that under present conditions the antitrust laws as they stand are incapable of adequate enforcement and at the same time bar the way to possibly more effective methods of accomplishing their objectives. The test of the sincerity of those who advocate leaving the antitrust laws unchanged is whether they are willing at the same time to advocate a large increase in the appropriations for the enforcement of those laws. If they are not, they may be justly challenged to join with those who propose revision.

Flood Control

EXTENSION OF REMARKS

OF

HON. JAMES J. DAVIS

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Friday, February 5, 1937

ARTICLE AND EDITORIAL FROM THE PITTSBURGH POST-GAZETTE

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a statement which I made February 1, carried by Raymond Z. Henle, Washington correspondent of the Pittsburgh Post-Gazette, in his column in that paper February 2. In connection with it I ask that an editorial of February 3 in the same newspaper dealing with the same topic, the urgent need for a long-range and adequate program for flood control, be printed.

My suggestion is in harmony with the program offered by the President on February 3 in his message to Congress embodying his 6-year natural resources plan. This issue represents national needs and not partisan politics. Longer delay will prove intolerable.

There being no objection, the article and editorial were ordered to be printed in the RECORD, as follows:

[From the Pittsburgh Post-Gazette of Feb. 2, 1937]

START BIG FLOOD-CONTROL PROGRAM NOW, SENATOR DAVIS URGES, HITTING AT DELAYS

(By Raymond Z. Henle, Post-Gazette Washington correspondent)

WASHINGTON, February 1.—A 10-year flood-control construction program to cost approximately $5,000,000,000 was advocated today by Senator JAMES J. DAVIS.

It should begin at once, DAVIS said, and accordingly introduced an amendment to last year's $300,000,000 flood bill by which the sum of $50,000,000 made immediately available in that measure would be boosted to three times that figure.

With such a start, said DAVIS, Congress should give prompt consideration to a national flood-control bill which would give the Nation permanent protection from river disasters.

"Now, when millions of men are unemployed," said DAVIS, "and when the capital-goods industries, such as steel and concrete, lumber, and others, if brought to activity, will respond as by a magic touch—this is the time to begin a thoroughgoing program of water conservation and flood protection."

STRESSES HUGE DAMAGES

"Over the next 10 years", he said, "such a program would cost not less than $5,000,000,000, but its worth to the Nation would be great beyond calculation and certainly would yield tangible results far in excess of results shown by the unrestricted and ill-assorted construction projects for which work-relief funds have been used during the last 4 years while the inhabitants of our great river towns have been the victims of national neglect."

Senator DAVIS said he has yet to hear "an intelligent discussion" of why flood-control appropriations "were withheld last year or why those in authority now seek to restrict them when their necessity is so obvious."

"If blanket appropriations again are to be asked for work relief", said DAVIS, "provision should be made to insure expenditure of a proper sum of flood control."

HITS AT HOPKINS RULE

"Expenditure of huge sums of money should no longer be left to the discretion of Harry L. Hopkins," said DAVIS, because, through him, "altogether too much of this money has been used to carry politically appointed administrative officials for patronage purposes."

"A major part of the new work-relief fund", said the Senator, "should be spent for the protection of the Nation from our uncontrolled waters and Congress should not lightly continue to pass over to any one person discretionary power as to its use.

"It is high time that the people of the Nation who have suffered from the menace of floods all the way from New England to New Orleans let their Representatives in Washington know how they feel in this matter."

[From the Pittsburgh Post-Gazette of Feb. 3, 1937]

FLOOD CONTROL MUST BE HANDLED IN BIG WAY

Whatever the finding may be as to the cost of adequate flood control, Senator DAVIS, of Pennsylvania, renders a service in emphasizing that the objective can be achieved only in a big way, through a truly national effort.

The Senator suggests a 10-year flood-control program to cost approximately $5,000,000,000, or an average of $500,000,000 a year. That is a vast sum; it is not to be accepted lightly simply because of the looseness with which the term "billion" has come to be used lately in some circles. Nor could it be justified merely by the unprecedented rate of Government spending in recent years, with much of the money going into made-work projects of little or no real value.

The cost of flood control has to be considered in relation not only to the loss of human life and inestimable property damage resulting from occasional superfloods, but also in the light of the vast aggregate damage wrought by ordinary floods year after year. Today 1,000,000 are homeless from floods in the Ohio and Mississippi Valleys, with property loss estimated well up in the hundreds of millions. It does not take many years of such losses to aggregate five billions, in addition to the waste of priceless lives and the cost of flood relief.

Planning to meet the need in 10 years, starting at once on the headwaters of the main streams, equally commends itself to reason. This is not a job to be done leisurely by piecemeal over a long period. Flood protection is demanded as soon as possible.

National wisdom also calls for spending the public money in ways that will do the most good. An adequate flood-control program and aggressive policy behind it would give much useful employment while hastening protection of life and property over wide areas.

Strengthening of Immigration Law

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Friday, February 5, 1937

EDITORIAL FROM THE ARIZONA REPUBLIC

Mr. REYNOLDS. Mr. President, I ask to have published in the CONGRESSIONAL RECORD an editorial appearing on January 27, 1937, in the Arizona Republic, entitled "Strengthening Our Immigration Law by a Series of Proposed Measures."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Arizona Republic of Jan. 27, 1937]

STRENGTHENING OUR IMMIGRATION LAW BY A SERIES OF PROPOSED MEASURES

Hon. ROBERT R. REYNOLDS, United States Senator from North Carolina, member of the Senate Committee on Military Affairs, and co-author of the Reynolds-Starnes immigration bill, designed to preserve all that is best of the present immigration act, has lately addressed a letter to all who desire that America may be held for Americans. Mr. REYNOLDS solicits their support of a series of bills to lessen the country's relief burden by removing from it all aliens, "to alleviate social conditions, remove our alien criminal population and provide for an alien registration act."

Mr. REYNOLDS presents a startling array of facts and figures. According to the census of 1930, there were 14,204,149 foreign-born in the United States, of whom 6,284,615 were aliens. The foreign-stock population at that time was 40,256,278, one-third of the country's total population.

During the first 10 years of quota law restriction in which the world passed through the most serious economic depression in its history, more than 3,500,000 aliens entered the country. Of these more than 2,000,000 were new immigrants. More than 1,000,000 were denied visas during the last 5 years by the Consular Service of the Department of State.

We learn from Mr. REYNOLDS' statement that one of every eight persons now on relief in this country, or who has been on relief, is an alien. Our relief agencies made no distinction between American citizens and aliens in administering relief. The Social Security Act makes no distinction in the application of its terms, between American citizens and aliens.

"Hundreds of thousands of aliens," says Mr. REYNOLDS, "are holding jobs in America drawing hundreds of millions of dollars in wages which are rightfully the heritage of American citizens."

Alien criminals are roving at large and preying upon American citizens though we have ample laws warranting their arrest and deportation. These laws have been ignored by complaisant public officials, though in so ignoring them they are violating the mandatory provisions of our present immigration law.

We have, in the presence in this country at this time of Harry S. Bridges, an alien, for 10 years an unnaturalized alien, a conspicuous illustration of the dereliction of our Department of Labor and our immigration officials. For the last 2 months Bridges has directed the maritime strike and has stood, an obstacle to its settlement. It has cost the country many millions of dollars and has made itself felt in every community in the land.

The bills to strengthen our immigration laws to which Mr. REYNOLDS refers will prohibit the employment of any alien by any department or agency of the United States Government; will enforce the mandatory provisions of our present immigration law with special reference to criminal aliens, and spies, and aliens on relief. One of these acts will reduce the immigration quotas by 90 percent. Another will establish quotas for the countries of the western hemisphere on a reciprocal basis; will prevent the separation of families so much stressed by those who would destroy all bars, by the simple process of denying entry to any alien who leaves his family abroad. Perhaps the most effective of the proposed remedial acts will be one providing for the registration of all aliens who shall hereafter be admitted.

"If," adds Mr. REYNOLDS, "we should be so unfortunate as to be drawn into the holocaust of another world war, it seems the part of folly to spend a billion dollars annually on national defense for the protection of our country and its institutions against an enemy from without, and permit more than six and a quarter millions of aliens to remain in this country to become potential spies and enemies to bore from within. These aliens have neither pledged, nor do they owe, allegiance to the United States."

By "alien" is not meant one who has accepted the act of naturalization, entitling him to the rights and privileges of the native-born American citizen, and who it may be presumed is a good American citizen.

Textiles as an Economic Problem

EXTENSION OF REMARKS

OF

HON. FRANCIS T. MALONEY

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Friday, February 5, 1937

ARTICLE BY HON. AUGUSTINE LONERGAN, OF CONNECTICUT

Mr. MALONEY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an article written by my colleague the senior Senator from Connecticut [Mr. LONERGAN] and published in the Boston Herald on January 31 last, making reference to the important subject of cotton.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Herald Annual Industrial Review of Jan. 31, 1937]

TEXTILES SEPARATE AND SPECIAL ECONOMIC PROBLEM

(By AUGUSTINE LONERGAN, United States Senator from Connecticut; member, Committee on Finance)

The tragedy of the cotton textile industry in New England is common knowledge to industrialists of the East, but it is doubtful whether the rest of the country, including even those sections which produce cotton for manufacturing and where there should be a special interest in the problem, fully comprehends the situation. For this reason a solution of our problem is more difficult to accomplish.

Some months ago I made a trip through parts of New England and saw at first hand what happened after several years of depression. I saw mills that once had thrived, now pitifully idle and with communities looking to the industry for some hope of earning a livelihood. Conditions have improved somewhat since then, in the general upswing of business recovery the country over, but the improvement has been far behind that of other industries. The reason is clear.

The textile industry has become a separate and special economic problem. The coal industry is one such problem, and the administration long ago recognized it and began to consider special remedies. The bituminous coal commission was established, and other appropriate steps taken to rehabilitate the industry. But no specific step of importance has been taken to help the textile industry, and as a result, we still have the problem of thousands of unemployed, and idle plants and machinery in the midst of general industrial revival everywhere.

MILLS IN NEW ENGLAND

The importance of the cotton textile manufacturing plants to New England and to the Nation can be shown by the following figures showing the number of mills in each State, total capital invested, and number of spindles and looms.

State	Mills	Capital	Spindles	Looms
Maine	15	$15,321,000	887,960	20,162
New Hampshire	19	13,582,100	457,324	11,184
Vermont	3	1,500,000	126,848	2,591
Massachusetts	193	102,076,572	6,361,012	73,001
Rhode Island	99	25,489,950	1,781,302	32,357
Connecticut	59	15,059,800	446,426	17,092
Total, New England	388	173,029,422	10,060,872	156,387

It has been difficult to get an estimate of the total number of former workers in these plants who are now unemployed, but there are thousands of such persons, without doubt, who are not equipped for any other work whatever. Most of them are now on relief.

The reasons why the textile industry is in its present predicament are now fully understood. The general causes of the depression affected them just the same as other industries, but in addition the cotton textile mills faced foreign competition of growing proportions, particularly in Japan.

It also confronted labor problems which gave industries in other sections an advantage. The public demand for cotton wearing apparel also began to diminish, and in addition there arose new competition from rayon manufacturers. And later there arose the problem of the growers, who, through Government assistance, are being saved from bankruptcy and who are now able to obtain better prices for their product.

This increasing price, justified as it is for the grower, makes it still more difficult for the manufacturer who still faces the same foreign competition and the same labor problems and other major difficulties of the depression.

TOLERANCE PLAN

Knowing of my deep interest in the welfare of the industry, the cotton tolerance committee presented to me a plea in 1935 which suggested relief through expansion of export markets. The Agricultural Adjustment Act had been adopted, and section 32 provided that 30 percent of import duties collected thereunder should be segregated for three purposes, one of which was to stimulate the export of American agricultural products.

It was the proposal of the committee that an export tolerance plan be adopted which would enable the industry to recover its peak of exports in 1929 when upwards of 600 million yards of exports were manufactured. There were 75 countries purchasing from us at that time whose trade has now reached the vanishing point.

In connection with the tolerance plan it was suggested that the 5,000,000 bales of cotton then held by the Reconstruction Finance Corporation as pledges for loans made to cotton growers, be sold to the industry at reduced prices and the manufactured product sold in export trade so that the domestic market would not be disturbed. Pledges on the cotton averaged 12 cents per pound, and it was proposed that the R. F. C. sell the cotton to the industry at 7 cents, giving an advantage which would overcome foreign competition and immediately reestablish the industry.

This plan, however, did not meet with favor by the State Department and the Reciprocal Tariff Committee which at the time had already completed some treaties and were arranging others, in which definite agreements, including some concessions on cotton, were being written.

The cotton tolerance plan, it was held, would seriously interfere with these treaties which are intended to operate for the general welfare of industry as a whole. And from my experience since I can say that these treaties have so operated, and have greatly rehabilitated many industries in Connecticut and all New England. But they haven't solved the special problem of cotton textile manufactures.

An alternative remedy was then suggested. It was asserted that money available to the Secretary of Agriculture under section 32 of the A. A. A. previously referred to, could be used in finding new domestic uses for cotton manufacturers. This, they said, would prevent interference with our reciprocal trade agreements. At the same time, they said, it would not interfere with the present domestic market, but merely enlarge it.

The tolerance committee had favored an export plan originally because they feared any effective industrial recovery from domestic markets alone would so overstock the Nation with cotton goods that a collapse would soon recur. They felt the real hope was in the export plan.

I compromised this difference by suggesting a plan of exports to our South American neighbors and other countries where the treaties would not be seriously affected, and at the same time develop new domestic uses for cotton as recommended by the Department of Agriculture. Thus far the export plan is still in disfavor, and present hope seems to rest on some plan affecting only the domestic market.

OTHER SUGGESTED USES

I have therefore proposed that several steps be taken. First, I have urged the Department of Agriculture to continue its cooperative efforts to find new domestic uses for cotton manufactures. Last year about $1,300,000 was available under section 32 of the A. A. A., and much of it was applied to testing a cotton fabric for bituminous surfaced roads, for use as a reinforcement membrane. Such experiments have been under way in South Carolina for several years.

The membrane is used to prolong the life of the road surface and reduce maintenance costs by preventing the development of cracks and holes in the surface, and edge failures. Because of its large potential outlet for cotton this use has attracted widespread attention. Other suggested uses, such as cotton fabric in the construction of low-priced homes, summer camps, garages, and similar temporary structures are being studied.

Its manufacture into tightly woven fabric or cheap canvas, to be used by gardeners, farmers, and home owners between rows of seeds or vegetable plants as a weed arrester and moisture retainer, is also being considered. The Cotton Textile Institute is also devoting intensive efforts to these studies, but at the same time friends of the industry have pointed out the great need for a research bureau in each plant or regional area to further advance this work.

Secondly, I have urged that the Government disgorge its present holdings of cotton held as pledges. At the present time the R. F. C. pledges amount to approximately 3,000,000 bales. This cotton is costing the Government about 15 cents a bale per month for storage, which, together with other charges, runs the holding charges up to about $2 a bale a year, or an aggregate of about $6,000,000.

This is a tremendous cost to the taxpayer, and the ultimate benefit is being received only by the cotton grower. He has been rehabilitated to a large extent by Government loans, for which the cotton is held. Many of the growers have redeemed their pledges, but the R. F. C. has found it practicable on two occasions to give a 25-point advantage to producers—this advantage being regarded as sufficient to invite them to purchase the Government pledges instead of cotton on the regular market.

These sales, together with redemption of pledges, has reduced the Government's 5,000,000-bale holdings to the present estimated 3,000,000 bales; but it is my contention that the Government still has not gone far enough.

I am urging that all of the 3,000,000 bales be disposed of in a way that will not injure the grower seriously, and will not disturb the regular market materially, but at the same time will rehabilitate the cotton-textile industry and will save the Government taxpayers a tremendous amount of money now being paid for storage for the cotton pledges.

MARKET SATISFACTORY

My plan is to offer the textile industry this cotton at a price fixed around 7 cents per pound. At this price the industry could begin immediately its work of restocking the domestic market, and finding new uses for its product. To prevent gorging the domestic market, or undue criticism from reciprocal treaty beneficiaries who might look upon such action as a Government subsidy in interference with treaty agreements, I have suggested that the Federal Emergency Relief Administration should arrange to purchase from such manufacturers cotton clothing for the needy on relief who could not purchase the clothing in any event.

The Road Away From War

EXTENSION OF REMARKS

OF

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, February 5, 1937

ADDRESS BY HON. EVERETT M. DIRKSEN, OF ILLINOIS, BEFORE TWELFTH WOMEN'S PATRIOTIC CONFERENCE ON NATIONAL DEFENSE, JANUARY 26, 1937.

Mr. ARENDS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by Hon. EVERETT M. DIRKSEN before Twelfth Women's Patriotic Conference on National Defense, January 26, 1937:

I was at a loss for a subject tonight, and so I sent to your national chairman the subject, The Road Away From War, largely because I wanted to talk in perspective tonight and to give you something to take back home. As I say, I make no pretensions to being an expert on the subject of security and national defense. I share with you, however, a spirit of humility as we approach the question of security, and whether my notions are unorthodox or whether they are orthodox, whether they are right or wrong isn't so material; the important thing is that somehow out of this common fellowship we may arrive at a sound approach to this all-important question of national security. If, then, I am rather sketchy tonight, don't think too much about it.

I had an experience that I am going to tell you about parenthetically. When Father John D. Ryan, who is located here in Washington, D. C., appeared before the Committee on the District of Columbia I thought I recognized him, for it was some 20 years before when I was a student in Minnesota that it had been my privilege to listen to a very celebrated debate between Father Ryan and Morris Hillquit, the eminent Socialist from New York. I remember that in rebuttal Father Ryan got up and said, "The remarks of my distinguished Socialist friend from New York remind me a good deal of those old colonial gowns that they wore at one time in the history of this country—those very roomy gowns that covered everything and touched nothing."

Then, when Mr. Hillquit got up by way of surrebuttal, he said, "Father Ryan's arguments remind me a good deal of this modern diaphanous, close-fitting gown that they wore in the age of flaming youth—this gown that touches everything and covers nothing." [Laughter.]

So my remarks tonight may cover everything and touch nothing and touch everything and cover nothing, but still I do believe they will have the virtue of showing this problem in perspective.

By way of prelude I want to take you back to the 6th day of April 1917. To me it has always been amazing, at least these last few years, that already we are standing on the ladder of detachment and looking back, getting a second-hand picture of the World War. It will be 20 years on the 6th of April 1937, only 2 months hence, that the Congress of the United States issued a solemn declaration of war. What a picture it must have been in the Chamber that night when the Senate and the House in joint session, with the galleries filled with colorful people, listened to President Woodrow Wilson as he brought a 36-minute message to that joint session, reciting the facts and the circumstances that led up to a request for a declaration of war. He went back to the White House, and after all the tumult and all the applause had subsided, he turned to his secretary, Joseph Tumulty, and he said, "Oh, how singular that they should have applauded my message this day in the Chamber. My message was a message of death to young men."

And then the stentorian oratory began to roll—17 hours of speeches—and at the end, by a vote of 373 to 56, or thereabouts, the Congress of the United States passed a declaration of war. We were, as the New York papers said, in Armageddon, and we didn't quite know how we got there on that fatal day in 1917.

I have no intention of rehearsing the facts and the circumstances of the war. Rather I want to walk with you a little while from that period in 1917 until tonight and to get a bird's-eye view of some of the high spots that should constitute elements in our thinking.

Since 1917 a distinguished Secretary of State, Frank Kellogg, who came from Minnesota, and whom it was my pleasure to hear when I was a student in the law school there as a lecturer on constitutional law, negotiated a series of treaties with seven high contracting nations in the world, and after it had been solemnly set upon paper—the treaty was scarcely more than a hundred words in length, renouncing war as an instrument for settling international disputes—some of the high contracting parties signatories to the Kellogg pact were already engaged in its violation. Japan was beginning to dismember China; Japan had already seized Jehol; Japan was already carrying on its propaganda and its promotional work in Manchukuo. It was only a few years after that treaty was signed that Italy began to cast her eyes eastward toward Ethiopia, and in spite of the sanctions of 53 countries violated the Kellogg pact. We look across the world today and there we see in Spain a species of civil war where the hand of brother is set against the hand of brother and the dead are already being counted in terms of millions.

I think of another thing that ought to challenge our thinking as we march on this roadway from 1917 to 1937, and that is—and it is important to you ladies—that there are over 40,000,000 children in the United States of America for whom the war is a second-hand experience. Have you ever thought of that? There are over 40,000,000 who were not even in this world when their fathers marched off under the Stars and Stripes. The only lessons they will get about that war are the word-of-mouth lessons that they get from those who participated or the things they dig out of the cold print of the history books. They constitute, then, a great fertile field for missionary work after our feet have been set in the right and narrow way that leads away from war and to the golden, glorious objective of universal peace.

Along with that I invite your attention to the fact that ever since that war the major problems in that deliberative body at the north end of the Capitol are almost entirely the direct inheritances of war. The bonus, that saw Senators defeated, that saw Representatives defeated, that became an element in Presidential campaigns, that wore furrows into the brows of statesmen and near statesmen, was an inheritance of the war. The problems that go with the Veterans' Administration are nothing but the inheritances of war. An unbalanced Budget and all the trouble that goes along with seeking to replenish that Budget can be traced almost directly to the evil seed that was sown in 1917. Those are some of the things that ought to be a great incentive to our thinking as we cast about to put our feet in the pathway that leads away from war.

I say to you folks tonight: What rhyme or reason, what sense is there in spending billions of dollars to effect recovery in this or any other country; what rhyme or reason is there for any statesman to agitate his brow, to find perhaps some facile way out of our difficulties, unless at the end there is an assurance of peace and that the work will not be undone?

Oh, there is going to be a walk back from every war in the future, if there are to be wars, even as there has been in the past. After 1775, when the debt of this country was funded, what happened? Alexander Hamilton had to set himself resolutely to the task of

finding revenue, so they imposed taxes upon the farmers who lived in the hills of Pennsylvania and Virginia and North Carolina, who had no roads with which to get their produce to market and who simply threw their corn into a tub after it was ground, added a little water, ran it through a still, and then put it in a jug and threw it over the saddle, because that was the only way they could get the product to market. As a result of that we had rebellion on the eastern seaboard.

We go back to the civil war and 13 years after the Civil War we were in the throes of a depression just as bad as the one that assaulted this country beginning in 1929. Some of you in the East no doubt can remember when they burnt engines and boxcars at Martinsburg, W. Va. Do you remember that? Do you from New York, perhaps, or your forbears have told you perhaps, that you could buy a dinner for 3 cents on Fifth Avenue? That was how intensive the depression was in 1878, just 13 years after General Lee surrendered his sword to Grant at Appomattox. That was the walk back.

About 13 years after the World War we began the walk back, and it will always be so. My friends, there will always be economic dislocation, there will always be anguish and travail and sorrow of spirit, unless we can find some way of getting away from destructive warfare in order to settle the differences of nations.

War is only a form of political action after all; it is the best definition I ever saw. Certainly we can find some other kind of political action than war in order to settle the controversies that arise between nations.

There is great incentive today, greater than ever before, to get away from conflict. I shall recite a few of those incentives. The other day there came before a subcommittee of the Appropriations Committee a request for appropriations for the Veterans' Administration. How much does the Budget estimate for the fiscal year 1938 for veterans, for domiciliary services, for hospitals? Five hundred and eighty-five million dollars for a single year. You tell me about incentive for getting away from war!

May I remind you there are still two dependents upon the pension rolls of Uncle Sam whose forebears fought in the War of 1812, 125 years ago. We are still spending $113,000 a year for pensions to dependents of soldiers in the Mexican War in 1847. Oh, yes; there is an incentive in good, hard dollars and cents for setting the vigorous thinking of this country toward a solution of this thing that we call war.

But there is something more than that, and something that grieves me this very night. General Hines came before the committee and said it was his best estimate that within the next 10 years we will have to have another 10,000 beds for veterans. What kind of veterans? World War veterans in whom the slender cord that holds the present to the past and the past to the future has been snapped after all these years. Think of it! Ten thousand more beds! And we thought we were going to get away from the continuing neurotic effects of war. There is the estimate of the man who is best informed on that subject of anybody, in my judgment, in the United States of America.

What other incentive? Four hundred and eleven million dollars in the fiscal year 1938 for the War Department for military activities; $562,000,000 starting the 1st of July 1937 for that fiscal year for the Navy of the United States—almost a billion-dollar defense budget. Add to it the $585,000,000 for veterans and you have a sizeable slice of the thing that the taxpayers of the United States are complaining about at the present time.

There come the demands of the service organizations for security and for defense, and on the other side is the constant pressure of those who believe that there ought to be economy somewhere along the line, and sprinkled all through is that golden thread of yearning, the desire of the people for this thing they call peace.

What a stake you folks have, particularly the mothers of the land. You have a very personal interest in the matter, because I prophecy to you this night that if there shall be another war in our generation it will be your sons who are going to walk into the battle, your sons and your grandsons who are going to walk into the withering fire of machine guns that are mounted behind pill boxes—your flesh, flesh of your flesh and blood of your blood, whose mucous membranes are going to be burned out with chlorine and mustard gas, and who are going to reach out convulsively for breath upon the slime of a battlefield, for breath that as it comes sears like the edge of a razor—your sons and your grandsons.

We have to get away from the confusion of the experts; with common sense and in a spirit of humility we must approach this problem and find the road away from war. What shall we do then? What instrumentalities shall we find for peace? Well, there is one, my friends, that must be written at the top. Even in an imperfect world filled with realists there is one attribute that always has to be kept in mind, and that is the teaching of the great Man of Galilee. He was a reformer of the human heart, and when we go on and on and on and reform the hearts of men everywhere in the world the job will have been done. We have to bring a species of forbearance and a species of sacrifice to this problem. The Apostle Paul wrote it so well and so succinctly when he said, "Let your forbearance be known in the sight of all men." Out of a sense of realism in a very matter-of-fact world we can sometimes be indifferent toward those moral attributes, and yet how necessary they are in carrying on the cause and ultimately finding the objective that we seek.

I hear those who say, "Oh, well, don't be silly; don't talk that way in 1937." With the smoke from guns and cannon and field-pieces rising in almost every nation on the other side of the water, I say to you frankly I am not insensible to the realities, but I do insist that as we try to find some practical program we must constantly have those great teachings in mind. Too often we are not willing to make sacrifices in order to find this thing that we call peace. We are willing to have it if it doesn't cost too much. There was never a good thing that came into this world that wasn't bought with sacrifice. I sometimes think of these pink-skinned, homely little babies that come onto the earth day after day, and I think of the travail and the labor and the pain and the anguish that goes with it before they can come into this world. You are not going to have any great swelling thought such as universal peace come into this world unless some sacrifice is made, and from that broad ground we can then say, "Is there a road from war in a realistic world?" Yes, my friends; I think there is.

What is this road? Is it the Tolstoy road? You have read Leo Nikolaievitch Tolstoy's philosophy, the philosophy of nonresistance. Well, perhaps that is not the road; perhaps that is asking too much. On the other hand, is it the extreme right road of the Jingo, the one who feels that on every occasion we ought to rattle the sword, we ought to make pretensions to national honor, no matter what it costs? Is that the road? Or is there still another road, the road of sanity, the road of humility, the road of common sense? Yes; I think there is such a middle road, and as we march down that road we can see there, in my judgment, four very distinct signboards that will give us a sense of direction, and on those signboards we will find the things that will indicate that it is the road away from war. The first signboard says this: "Eliminate all provocations of war." Does that mean anything? From the standpoint of a Member of the Congress of the United States, my friends, it means this to me: In 1901, as a result of the Boxer Rebellion in China, we signed a treaty, along with a dozen other nations, to leave there a few regiments of soldiers for the purpose of protecting the International Railway from Shanghai to the sea. They are there today, just a handful, perhaps six or seven hundred soldiers. They have been there for 36 years. As a result of that, I suppose, we have set up a United States District Court for China, and we maintain two judges and a district attorney in China today. Can you give me any good reason why we should maintain in China, thousands of miles away from here, in the Orient, a contingent of troops that is no larger than the number of people who are sitting in this hall tonight? Can you understand the frictions that must arise from that fact? Can you understand the provocation of having our troops over there when the reason and the need for their being there has long since passed away? That is what I mean by provocation.

We can follow the old admonition from the Scripture, "Make up with your adversary while he is still in the way", so that when he does go away there will be that happy spirit. If we keep our troops over there and we get into frictions with those in the Orient who knows but what some day that may be the spark, even as the pistol fire of a student whose name most people do not know today impinged the body of an archduke in a little mountain town in the Balkans and finally set fire to that great tinder pile over there that cost eleven and a half million human lives. Isn't it about time, in taking the road away from war, to get away from provocation? That is no. 1. Perhaps you do not agree, but that is my notion about it. I just want to challenge your thinking on it tonight.

Secondly, do you remember when the United States Navy was cruising in the Pacific not many months ago? Do you remember when our ships were thousands of miles from our own shores? What business did they have within a few hundred miles of the Japanese Peninsula? If I were to write the orders under which the United States Navy should maneuver they wouldn't go more than 200 miles from our coast line. I think that is enough. [Applause.] Oh, the explaining we had to do when our Navy was in oriental waters; the scare headlines that appeared in the Tokyo newspapers! Is that the road away from war? Or shall we keep our Navy in our own waters and get away from all danger of provocation and the spark that may one day ignite another conflagration that will take your sons and your grandsons as a toll to this grim god Mars?

Next, there is this idea of embargoing shipments from our country to other countries when they are at war so that we don't get into the kind of difficulty that we did in 1916. There is a considerable diversity of opinion today as to whether or not we should have a neutrality policy at all, and if we do, whether it should be a policy that vests broad discretionary power in the hands of the Chief Executive or whether all the provisions should be unequivocally written into the law and made mandatory.

I like to think about neutrality in terms of the reasons that are advanced against mandatory neutrality; I like to think of it in terms of our experience during the World War. We hear so much today about freedom of the seas. I picked up a Washington newspaper and saw an editorial that said we ought to have a neutrality policy but surely nobody could expect us to give up the freedom of the seas. I alluded a little while ago to this thing we call sacrifice. Yes; we want neutrality. Are we willing to pay for it? That is the question. The world is filled with people who want to eat their cake and have it too and it just cannot be done.

By way of testimony I would invite you to read an article written not so long ago by Rear Admiral Sims, who was our naval commander during the World War in European waters, and he has this to say: "You can't maintain freedom of the seas and not get into war in time of war." It just can't be done. We had that experience with the *Laconia*. Shall I refresh your memory as to what happened in 1916? An American who was doing business in

London as a manufacturer's agent had his sister and mother on the *Laconia* when it was torpedoed in English waters? What happened? Didn't he send a telegram to Woodrow Wilson and say, "Surely, surely you are going to avenge the death of my mother and sister"? He wasn't thinking of the other deaths that would be caused when we carried out his demand for vengeance. No; just satisfying the spirit of one heart that for a moment saw red. That is what happened over there. The vessel was carrying contraband; and if our vessels go over into one of those imbroglios with contraband articles, even when they sail from our shores under the philosophy of shipper's risk, whereby the vessel that leaves here does so at its own peril, you know what will happen if a torpedo finds it in mid-Atlantic and the wireless sends back a message; we forget that such a vessel carries munitions. The only thing we can think about is that American sailors and American people are on that vessel and they go down to a watery grave and it must be avenged. It is the hysteria, it is the emotionalism of war, and something has to be done about it. This idea of shipper's risk, this idea of discretionary neutrality, will not do if we are going to take the road away from war.

There runs in my mind somehow as I think of discretionary neutrality the incident of the lady who was for the first time learning to drive. They were out on a country road, her husband was beside her, and finally the car got out of control and started directly for a tree. She said, "Here, John, quick, take the wheel, there's a tree coming!" That is the way it is in war. We think that we are going to exercise temperance when war is upon us, but it will be just like the tree coming for that car—we want to shift the responsibility of the wheel to somebody else.

No, my friends, in my judgment that will never do. The only safe and sure kind of embargo is the kind that is mandated in the law of the Nation. Nothing else will do. Then if we have to implement our reason any further in order to be persuaded of that fact, we need only to look at the experience of 1914. Don't you remember when Bryan was the Secretary of State and a policy of neutrality was declared in this country? No loan should be made to the foreign nations. What happened? Well, they started buying goods over here. We relented and decided that while we couldn't loan them any money we could give them credit. Later on that didn't turn out very well, because sooner or later there was going to be a day of reckoning. Then after all those mysterious things that happened we finally decided that we couldn't sacrifice the internal prosperity of America for the sake of an idealistic policy. Yes; we had said we would maintain neutrality, we would make them no loans, but they were buying our goods, our shoe factories were running, our munitions plants were running, selling them the goods; some of our people in the factories were earning $20 a day. We couldn't disturb the lure of that great prosperity and so we had to find a way around it; so we extended credit.

Then, in order to save their own internal monetary economy, when the time came for us to ask for payment, we threw the "no loans" policy out of the window. We loaned them $10,000,000,000, and the money is still over there and we are still trying to collect it. That is how we evaded that policy from 1914 to 1916 and 1917. It shows that the mind of no man is proof against the emotional hysteria of war when once it comes.

There can be only one safeguard, my friends, and that is a neutrality policy that is so meticulously set out in the law of the land now when our thinking is sober, when our thinking is temperate, when our thinking is divested of the hysteria of war, and then we will come closest to a policy that is freest from mistakes. That is signboard no. 2 on the road away from war. Let's get away from provocation; let's have a mandatory neutrality policy; and, third, let's have an adequate defense.

However, I do not always see eye-to-eye, either with this conference or with my good comrades in the American Legion, in respect to this whole gospel of national defense. The reason I don't see eye-to-eye with them is because I don't go in for the philosophy of mass. We are living in a mass age; we think everything is a success in terms of bigness. Have you ever noticed that no football game is a success unless there are at least 40,000 people up in the grandstand? Oh, it doesn't make any difference that four or five collarbones are fractured among the 22 gladiators down in the arena; it doesn't make any difference whether the score is 0 to 0 or whether it is 50 to 0; that has nothing to do with the success of a gridiron contest. The success is measured in terms of great windrows of people who paid at the turnstiles to get in. The mass age! Why, we even carry it into our education today. Some of these college catalogs look like abridged editions of a Montgomery Ward or Sears Roebuck catalog. Yes; it is a success when every kind of course is offered. Everything is a success in point of mass and size and bulk.

I am wondering whether we are not being a little bit deluded in this matter of a huge Army and a huge Navy because we think in terms of size and of mass. I say that because I have tried to familiarize myself with some of the things that are going on in England. They have a different notion about it.

I read not so long ago a very fine essay on the subject Mobility or Stagnation. Oh, how important that was—mobility. I invite your attention to the fact that we are living in the streamline age. They are building streamline trains to average 91 miles an hour between Chicago and Denver. How did they do it? They are getting away from weight, they are getting away from size, they are going in for the new streamline philosophy. Maybe we ought to go in for streamline philosophy in national defense, and maybe we had better put the emphasis upon mobility and upon speed instead of size.

Benito Mussolini tried out a tank in the Ethiopian war that made 120 miles an hour and jumped a gap that was 30 feet wide. He says, "The day of trench warfare is over because this high-speed versatile tank says so."

Mobility—there is the point of emphasis. When you are thinking upon the defense structure, be it in the air or be it the Army or be it the Navy, I do hope some of your attention is directed to this idea of mobility and speed, so that perhaps we can get away from some of the expense incident to a huge defensive establishment, so that we can satisfy the taxpayers, so we can make some progress in the direction of an objective we have to achieve some day in this world; we have either got to achieve it or we have got to disbelieve that there is any punch and any effect to the philosophy of the great Man of Galilee, and that is the objective ultimately of disarmament. As you think of defensive establishments I do hope you will go in for some thought upon this whole question of mobility, because one day we may have to revise our whole thinking on this subject of national defense.

I am not going to touch on the question of universal draft, for, although that fits into the scheme of things, it will be discussed by others. But finally on this road away from war there is another signboard, and it is more important than all else. That signboard contains great moral admonitions and says there must be a will to peace. The trouble with this world is not that the capitalistic system is wrong or this system or that system is wrong. In my judgment, the trouble today is that the human spirit is disordered. That is the real basic difficulty in the world, and we are going to have to cure it, we are going to have to get right there. That sounds rather funny, doesn't it, at least from a realistic politician who goes out to his district and tries to talk to his people like any other politician would do? It sounds kind of hypocritical to talk that way, perhaps. Yet, my friends, you can't get away from it that the spirit must be right or there is going to be no progress.

I should be willing to say categorically here tonight that when there is a will toward peace there can be no war, and when there is a will to war there can be no peace. And your job, you whose sons and grandsons are going to pay the bill, whose flesh is going to be impinged with machine-gun fire and bullets from a sniper's rifle and all that sort of thing, is to help build up the faith of America and create a consciousness for peace. Without that attribute all else must fail.

We go about in our thinking and we say, "We would like to have peace." We do not implement it with a great deal of faith. I am afraid we are a good deal like the congregation of a colored church down in Mississippi who were assembled in the afternoon by the preacher to come and help him pray for rain because the drought had lasted for 6 or 7 weeks. They all came and they all started to pray for rain. Then the preacher intruded for a moment and said, "It's funny that you come here to pray for rain and not a single one of you brought an umbrella. You didn't have much faith apparently."

If we are going to set the human spirit right, we are going to have to bring the umbrellas of faith along and manifest that we really do believe that the heart is right and that the human spirit will be properly ordered.

There, in my judgment, are the four signboards that indicate the road away from war, and if you don't do anything else, forget everything else that I said tonight, but think some upon these four possibilities, for only by collective thinking can they finally be achieved and can we realize that golden objective of security. It is ours for the asking. Have you ever thought of that? We can have peace if we want it. It is just a question of whether we are willing to forbear and make the right kind of sacrifice.

I often think of Sam, who came up to Rastus one time and said: "Rastus, Ah's gwina git down on my knees and Ah's gwina pray de Lawd to sen' me a turkey."

Rastus looked at him and said, "Doan be silly, you no count Nigger; de Lawd ain't gwina sen' you a turkey by jest gittin' down on you' knees an' prayin' for it. You doan even know how to pray. Now, ef Ah wanted a turkey Ah wouldn't git down on mah knees an' say, 'O Lawd, sen' me a turkey.' No, suh! What Ah would say is dis: 'O Lawd, sen' me after a turkey.' Dat's a different thing." [Laughter.]

Let's go after this thing that we call peace. Let's put our feet in the roadway that leads away from war, and then the great hushed yearning of the hearts of America will have been answered. [Applause.]

The Flood Problem

REMARKS

OF

HON. EDWARD W. CREAL

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, February 5, 1937

Mr. CREAL. Mr. Speaker, the uppermost thought in the minds of all our countrymen today is the flood—the greatest flood since the days Noah's Ark rested on Mount Ararat. Mark Twain said everyone discussed the weather but no

one seemed to do anything about it. We must do something about the flood. When thousands of lives are lost, hundreds of millions of dollars' worth of property destroyed, millions of tons of topsoil washed into the sea, acres of slimy mud occupying the former sites of homes, bridges gone, miles of highways destroyed, disease, hunger, and pestilence stalking the land in midwinter, we must admit something must be done.

There is a gigantic task ahead to attend to the immediate needs of the people and something in preparation for the future is in order. I doubt most seriously if any engineering scheme in mind of those who think they know would be sufficient to cope with future floods. Our past work in expenditures of millions in patchwork is all wrong. When we build dams and levees for one locality with the sole object in view being protection of that locality we only protect it at the expense of some other community. This was demonstrated when a dam had to be dynamited to flood one section to save another. One grand engineering scheme for the whole Mississippi-Ohio Basin, by one master mind, one coordinated program executed with due regard for the whole section is the only kind of Government money that should ever be spent in the future on flood control.

Louisville, Ky., could protect itself for the next flood but such protection would drown those on the opposite side of the river. We built the Panama Canal, the Brooklyn Bridge, the Boulder Dam, the Erie Canal, and other great feats of engineering and a system of dams, spillways, and levees should be drawn for the Mississippi-Ohio Valley Basin in one project.

Enough loss of property was witnessed in the recent flood to almost build such a system. I cannot let the opportunity pass to place in the RECORD for all and to broadcast the thought again that the cause of such floods is largely chargeable to our own folly in the past when land was stripped of its timber and barren slopes became as the roof of a barn, rainfall poured into the channels choked with dams and levees in such quantity our expectations are continually surpassed. When the present tendency to finish stripping the hills and waste lands of its remaining timber has gone further we may have greater floods than we have just seen.

The greatest movement of this generation for the benefit of those who come after us is the step to begin reforestation and soil conservation by coverage crops. Both of these help hold the flood and hold the soil.

Japan sets out 35,000,000 trees annually in its small domains in a government program. While the engineering feat should be considered the Government movement of reforestation should also go on.

The western drought, almost as great a disaster as the present flood, except loss of life, is another penalty we pay for reckless deforestation.

When the Government retained a part of every section of land in many Western States it should have never sold it but kept it in timber. Man's life is too short to take much interest in something he will never receive benefits from himself. But the Nation is presumed to exist for ages and must look at the next 50 years as does the farmer from one crop to another. Our children and grandchildren are entitled to have this Nation preserved for them if we pay due regard to the welfare of those who will be here when the world has forgotten that we, as individuals, ever lived.

The future prevention of such disaster should be as much a part of present-day thought and as much a part of the business of this Congress as alleviating the present disaster. My own district, which almost completely surrounds Louisville with 19 counties, has been the hardest hit of any in the State except Louisville. Some 40,000 people of this district had in years past become citizens of Louisville and the majority of them are today homeless and back in the old home county from whence they came.

In true Kentucky style the people back in the home county have opened wide their doors of hospitality and with hearts bleeding with sympathy are ministering to their needs as best they can.

Deeds of valor in rescue work and trying scenes that cause the blood to run cold in horror are on the lips of countless thousands, and mental pictures that they would like to erase will haunt them all the days of their lives. The Red Cross work is timely and functioning. The contributions of the people of the Nation are greatly appreciated. But, as grateful as we are for all of this, we know that such is only temporary relief for the hour. Kentucky, the hardest hit State in the valley, has a problem that compels us, in spite of pride, to call serious attention to tomorrow. These homeless people must have a home and home work. Their jobs and business went with the flood down the coursing waters. What was an humble, contented household is in many places a lot covered with deep mud and slime.

We passed last week in this body an appropriation bill for fifty million to grant loans to the small farmer with which to buy feed, seed, and other means to raise a crop. Some farmers are now in need of other help, due to flood. I was pleased indeed to support it, but now these homeless people need a similar bill to grant loans to them for refurnishing or repairs or home building. If such is not provided for in some agency of the Government, or not recommended by the committee appointed to report on conditions and needs, I will again call attention to this body and introduce such measure.

In summary let me say that a real engineering program for the whole valley is a part of the program, giving a long-range preparation to restoring what we have destroyed. Immediate relief to sufferers by giving employment is the first question before us. There is a long way yet to go, but perhaps some day we can again sing "the sun shines bright on my old Kentucky home" when the low dark clouds of despair have been lifted and the crepe removed from the doors of the great Kentucky people.

It is in a way with wounded pride that Kentucky people have to play the role of asking pity and aid at the hands of strangers. I appeal to this body and to the Federal Government to be liberal in granting aid to a State made wretched, homeless, and jobless overnight. The number affected in the entire flood area is equal to more than one out of every hundred persons under our flag. It calls for some sacrifices on the part of the 99 to restore the 1. I express the gratitude of Kentucky to the Red Cross donors and to Members of this body for their generous attitude in our darkest hours.

American Federation of Labor Convention

EXTENSION OF REMARKS

OF

HON. RALPH O. BREWSTER

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, February 5, 1937

EXCERPTS FROM THE PROCEEDINGS OF THE FORTY-EIGHTH ANNUAL CONVENTION OF THE AMERICAN FEDERATION OF LABOR AT NEW ORLEANS, LA., NOVEMBER 19 TO 28, 1928, INCLUSIVE

Mr. BREWSTER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following excerpts from the proceedings of the Forty-eighth Annual Convention of the American Federation of Labor at New Orleans, La., November 19 to 28, 1928, inclusive:

President GREEN. We have asked an associate, a fellow delegate to many conventions of the American Federation of Labor, to address the delegates at this time. He has a message I know will be inspiring, educational, and interesting. You will remember how Brother Frey attended our conventions for years as a delegate and how he served on important committees. He is now serving as secretary of the metal trades department of the American Federation of Labor, and has been very busy attending to the work of the convention of that department which adjourned a few days ago. I take great pleasure in presenting to you Secretary Frey of the metal trades department.

ADDRESS BY JOHN P. FREY, SECRETARY, METAL TRADES DEPARTMENT AMERICAN FEDERATION OF LABOR

Mr. Chairman and delegates, an event occurred this morning while you were in session which carried special significance to the American trade union movement. When the American public pick up their newspaper tomorrow morning, from one end of our country to the other they will read of a statement bearing upon the question of wages and unemployment which will receive more interest than most statements that have been read since the election returns.

Coming into contact with what has taken place this morning, and talking to those who are responsible for what occurred, the information was conveyed to President Green, with the result that I again have an opportunity to call your attention to a question which has interested all of you and which interested me very much while I was a delegate to conventions of the American Federation of Labor.

Before calling your attention to what occurred, it may be advisable to preface the incident by recalling your attention to some things which affect our movement, so that what follows may have its full significance conveyed to you and conveyed to readers of America's newspapers, so that tomorrow morning they will see that in these United States of ours an understanding of economic problems has been reached such as never has existed in any other country, including our own, and which would have been undreamed of on our part a year ago. And as I desire to be accurate, you will pardon me if I follow somewhat the preliminary statement.

Our trade-union movement has invariably grasped the sound economics which relate human beings to industry, before the professional economists and businessmen have grasped the truth. We have been the pioneers in interpreting what was transpiring industrially, through the application of fundamentally sound economic thought. Time has demonstrated the soundness of our economic policies, even though at times the recognition may be somewhat belated.

One of the outstanding accomplishments of our movement was its economic interpretation of the fact that national prosperity depended upon the volume of wages. That the great economic problem facing American industries was underconsumption.

In 1925 the Atlantic City convention of the American Federation of Labor adopted a basis for wages which was revolutionary in its conception. It held that the real wage must increase in proportion to man's increasing power to produce; otherwise serious injury would follow to industry and commerce. The convention declared that the country suffered from underconsumption, that so-called overproduction existed only because the aggregate wages of the mass of the people were insufficient to enable them to purchase and make full use of the products of our industries.

The action of the Atlantic City convention did not meet with a prompt response on the part of many leading economists and businessmen, but as time passed it was recognized that the American trade-union movement had placed its philosophy of wages upon an absolute sound economic foundation.

While the convention was in session this morning an event took place which, in addition to placing the stamp of approval upon our basis for wages, and which also constituted what may be a turning point in the history of American industry and the relationship we have to it.

At the conference of the governors, who were assembled in the Roosevelt Hotel, this morning Governor Brewster, of Maine, delivered an address which was of outstanding importance to our welfare, as well as that of the country as a whole. Governor Brewster's address dealt with the question of wages, of underconsumption, due to insufficient wages and idleness. Its substance was not only a complete endorsement of our trade-union basis for wages but in addition was an endorsement of one of the policies of this Federation for the purpose of relieving unemployment, through the utilization of a reserve accumulated in times of plenty.

Of greater significance than the approval of this address by the governors' conference is the fact that the President-elect, Herbert Hoover, specifically requested Governor Brewster to expound these principles before the conference of governors and request the cooperation of States and other public authority in putting those principles into practice. The economic understanding of the relationship of wages to the prosperity of industry and commerce which we expressed at Atlantic City has now received the authorized approval of the President-elect of the United States.

In other words, the Governors of 30 States assembled in this city received the endorsement of the President-elect to the basic economic philosophy which guides our movement and which we have officially expressed. Before Governor Brewster delivered this address a thousand-word telegram had been forwarded to him containing its substance. Last night I understand a telegram was received from the President-elect by Governor Brewster empowering him in his name to give authority to this statement.

I have never seen a document from a public official containing a clearer grasp or a more effective expression of opinion than is contained in this address of Governor Brewster. If it had been made before election it could be discounted; made after election, it has a significance which not only you will grasp, but the American people as well. So that you will understand what occurred this morning I will read to you the address of Governor Brewster—and may I say that Governor Brewster had no idea we would be interested in his paper. It was by the merest accident that we discovered what was transpiring.

Let me say here that the statement I had prepared, so that I might express my own thoughts clearly, was read by Governor Brewster before I came to this hall, so that the linking up of our economic basis for wages has the approval of the man who stirred that Conference of Governors as it has not been stirred since they have been in session. Governor Brewster said:

ADDRESS OF GOV. RALPH O. BREWSTER, OF MAINE, AT CONFERENCE OF GOVERNORS AT NEW ORLEANS, ON WEDNESDAY MORNING, NOVEMBER 21, 1928

Government and Business

"In Egypt people suffered when there was a famine. In America people suffer when there is a glut.

"What is called over-production fills our storehouses. Factories close down. Men walk the streets and starve, not because there is too little, but because there seems too much.

"Supply outruns demand. A seeming surplus spells disaster to producers everywhere. Civilization may appropriately ask itself how far either supply or demand may be controlled. It may also ask how far our troubles may be attributed to overproduction or under consumption.

"America emulates Tantalus of old. Threatened by a flood of plenty, men are doomed to want. The organizing genius of America faces another supreme test.

"To what extent production may be regulated by voluntary action as a result of trade reports is still undetermined. Recommendation of a 10-percent reduction seems often to ultimate in a 10-percent increase as each producer seeks to bootleg on the trade. Control apart from combination has not thus far been achieved in any major field. Governmental-restriction America is not yet ready to consider, although the interstate commerce clause of the Constitution may finally be found the key.

"So much for supply. Demand is a bird of another feather. There is almost no limit to our wants. Purchasing power has been thus far the only limit on American demand.

"Unemployment at times has meant a decline of $5,000,000,000 in the capacity of the American people to buy. No one wants this. No one profits by its operation. Factories want work. Laborers desire employment. Merchants wish to clear their shelves.

"Meanwhile, the vicious cycle is increased in its downward plunge by the lack of purchasing power of the ever-broadening groups who find themselves without opportunity for employment of any kind. With their pockets bare, they enter upon a starvation existence that very greatly prolongs the period within which the surplus materials may be consumed and the wheels of industry again begin to whirl.

"Such conditions constitute a tragedy and a travesty upon the organizing genius of American businessmen.

"There is much to indicate that the expansion of capital facilities at appropriate periods may furnish a means of regulating in substantial measure the variations in demand.

"With an annual expenditure of seven billions upon construction, America is in a position to stabilize prosperity to a most remarkable extent. Public authority spends more than a billion and a half. With this we are here primarily concerned. Private business will soon follow such practical demonstration as government may make, since the great commercial interests of the country have the most vital stake. This may apply not alone to construction but to the renewal and extension of capital facilities of every sort. It is the considered recommendation of the one who has received the overwhelming mandate of the American people to guide and guard their progress in the next 4 years that a construction reserve may prudently be accumulated in time of plenty against the lean year that is to come.

"This involves simply the provision of the necessary funds or credit to be released when indexes shall indicate the need and such designation of projects as may commend itself to the authority concerned.

"No infringement of legislative prerogatives is involved, since no project may be carried out except as the legislature may direct, although the rapidity of the construction program within defined limits may be accelerated or retarded to synchronize with the national and local need. Creation of such a construction reserve is one of the best forms of insurance against the panics of our past. It may not be a cure-all but it certainly will alleviate our ills. In some measure it is possible to do for employment what the Federal Reserve System has done for finance and with equal advantage to the country as a whole.

"Picture the approach of an economic crisis with unemployment threatening on every hand. The release of three billions in construction contracts by public and quasi-public authority would remedy or ameliorate the situation in the twinkling of an eye. Federal indexes are already becoming available that remove the problem from the domain of speculation or opinion and place the need upon a basis of simple facts.

"No centralization of authority is proposed, but merely the creation of a condition by concerted action that shall make possible a remedy that will appeal persuasively to all. Follow the flow of those three billions to the contractor, to the laborer, to the materialmen, to the factory, to the factory employees, to the merchants, to the farmer. It goes like the house that Jack built and unemployment is at an end.

"These views of the way in which the States and other public authority may cooperate with the Federal Government in controlling in some measure construction work for the common good are presented to the Conference of Governors at the request of

Herbert Hoover as an authorized exposition of a portion of his program for stabilizing the prosperity of the United States.

"In requesting the presentation of this project to the Conference of Governors, Mr. Hoover emphasized the importance of establishing cooperation between Federal, State, and municipal governments. Neither ruthless competition nor blighting monopoly, with its inevitable public control, is the goal of America. Cooperation is the keynote of the new economic day. Cooperation implies individual units that spell incentive to achieve.

"Organization for prosperity is the next lesson that America may teach the nations of the world."

It seems to me that Governor Brewsters' speech is in itself a complete endorsement of the efforts we have made to educate the wage earners, the employers, and the public that the basis of prosperity in this country depends primarily upon the wages which the masses of the people are able to spend, and I felt, because of the national attention which will be paid to the action of the Governors' Conference this morning, that it was advisable that this same American public should know that it constituted in part the approval of the President-elect of the basis for wages which has guided this movement. It seems that for the first time in the history of any country, at any time, the chief executives of a number of States, considering industrial problems, have endorsed the philosophy and the understanding which the wage earners had first of all worked out.

President GREEN. I am sure we all very deeply appreciate this splendid address delivered by Secretary Frey. It will become a part of the permanent proceedings of this convention. I ask you all to read it over tomorrow.

Cotton Net Weight Bill, H. R. 1639

EXTENSION OF REMARKS
OF
HON. HAMPTON P. FULMER
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Friday, February 5, 1937

REPLYING TO AN ARTICLE CARRIED IN THE COTTON AND COTTON OIL PRESS, DALLAS, TEX.

Mr. FULMER. Mr. Speaker, under leave to extend my remarks, I am inserting herewith a general reply to an article carried in the Cotton and Cotton Oil Press, of Dallas, Tex., in which an attack on the merits of my cotton net-weight bill, H. R. 1639, was made some days ago.

I note that the party writing this article states:

I am just a little taxpayer, not having a good education.

Although I know that this statement is not true, certainly it is true with millions of cotton farmers, who, because they are unorganized, having been robbed all of these years by the well-organized and well-financed groups, including the jute interests, which has brought about untold poverty, misery, illiteracy, tenant, and sharecrop farming.

The writer of the article gives a statement showing how the farmers profit in using jute bagging, and, according to the figures given in connection with the net-weight sale of cotton, he would indicate that farmers would lose in selling their cotton on a net-weight basis.

Now, let us see about this:

Perhaps it is speculation that fixes the price of cotton on the New York Cotton Exchange, but the buying agencies of the textile mills of America and Liverpool fix the price, based on the New York Cotton Exchange, for the cotton they spin. While a great many farmers, even in this enlightened age, think they get paid for bagging and ties placed on their cotton, it is a known fact that the manufacturers of cotton figure off freights, storage, insurance, tare—bagging and ties—waste, and so forth, in making a price for their lint-cotton requirements.

It is surprising to me to see intelligent people making statements, apparently for no other purpose than to mislead struggling farmers and for a selfish interest, certainly knowing that the old method of baling and taring—putting on bagging and ties—cotton is the most wasteful, disgraceful, and expensive method possible, costing farmers and the cotton industry as a whole thousands of dollars annually.

Good cotton is selling today for 14 cents per pound. Twenty-one pounds of bagging and ties placed on a bale of cotton by a farmer, at 14 cents, would amount to $2.94. At 20 cents per pound it would cost $4.20. This same type of bagging and ties cost the farmer about $1 per bale.

Is there still a sensible man who knows anything about the cotton business who would state in good faith that the textile-mill operator pays $2.94 or $4.20 for jute bagging and ties, which cannot be spun along with the lint and which is usually sold as junk?

In the case of exported cotton the farmer places on his bale 21 pounds tare and the exporter proceeds to patch on 9 additional pounds of bagging, making a total of 30 pounds, so as to comply with the old wasteful method of deducting 30 pounds tare on exported cotton in foreign countries.

If we sold cotton on a net-weight basis today, it would require only 15 pounds of bagging and ties, and the net-weight price for the lint on today's market would be 15 cents instead of 14 cents gross-weight basis.

How about the useless tare which is now being put on, amounting to over 6 pounds in the allowance allowed the farmer over the net-weight requirements of 15 pounds, and by the exporter, amounting to 9 pounds, which makes 15 pounds useless tare, which is being shipped all over the United States and to foreign countries, costing thousands of dollars annually in extra freight for this extra useless tare? Would that not be quite an item in the way of a savings to the farmers in that the farmers always pay the freight?

I challenge the writer of the article to ask any textile-mill operator as to the cost of stripping a bale of cotton covered with jute bagging and the picking out of the fibers which adhere to the lint from this old, wasteful, and disgraceful jute bagging and see whether or not my statement is true; that is, this type of bagging, which is not used in any cotton country on the face of the earth except the United States—not even in India, where they grow jute—is costing the taxtile mills thousands of dollars annually, all of which comes out of the cotton farmers.

I am hoping that the writer of the article will get the actual facts as to the difference in the cost of insurance on an American bale because of the type of bagging we use and that of any other bale put up in foreign countries, and see whether or not I am making a correct statement when I state that the insurance on the American bale is considerably higher than on foreign cotton bales.

I make the statement that cotton wrapped in treated cotton bagging, which can be manufactured out of a low grade of cotton, consuming from 100,000 to 200,000 bales of cotton annually, will put up a neater bale and will preserve the cotton as far as country damage is concerned and will stand handling in exporting better than the jute bagging.

Let us see what the Department of Agriculture says about this—I am quoting from the hearings on my bill in questioning Mr. Cheatham, representing the Department of Agriculture:

Mr. FULMER. How did the cotton bagging stand up in comparison with the jute bagging in the shipment of cotton to Bremen, which was also reshipped to the United States for the purpose of testing the various types of bagging?

Mr. CHEATHAM. The cotton bagging, sir, seemed to stand up. The lightest weight, 12 ounces, or 5 pounds per pattern, stood up just as well as the 2-pound jute, we thought, and it looked much better and protected the cotton better from dirt, trash, and other impurities.

Why put on 21 or 30 pounds of jute bagging if this is true?

I challenge the writer of the article to deny that the American bale, placed on any foreign market, is the most disgraceful-looking bale of any bale of cotton put up by any of the foreign cotton countries.

Let us see what Dr. Holt, who represents the Department of Agriculture in Europe as one of its cotton men, who appeared before the Agricultural Committee, says:

Mr. FULMER. Right at that point, Dr. Holt, I would like for you to tell these people about the condition of American cotton when it arrives in Europe. You have been there when they have unloaded this cotton and noticed it on the platform, and you know the condition in comparison with other cottons.

Dr. HOLT. The American bale of cotton, the condition of it when it arrives in Europe, is really considered a disgrace. It is far below the condition of any other cotton.

Let us see what Mr. J. M. Bowen, president of the Spot Cotton Merchants' Association, New Orleans, La., has to say about whether or not farmers get pay for the bagging and ties placed on a bale of cotton. I am quoting Mr. Bowen:

Every man who is a cotton man knows that when excess bagging is put on a bale of cotton, that the farmer is the man who finally foots the bill, because when a cotton man buys or sells cotton he figures the amount of tare on it, and it gets right down to a net basis. The excess freight and excess insurance that is paid on surplus tare is taken out of the bale itself, which means that the farmer foots the bill.

There is no question that the disreputable appearance of our bales has given American cotton a black eye in Europe, and the sooner we recognize this and send to Europe a package that is comparable to the package that is put up elsewhere, just that much sooner are we going to be on a competitive basis.

Let us see what the owner of a cotton mill has to say about this. I am quoting from the hearings:

Mr. FULMER. You state that the mills, in buying cotton, buy cotton fiber and not bagging and ties?

Mr. ODENHEIMER. Yes.

Mr. FULMER. Then, as a matter of fact, the price, although it is on a gross basis, is fixed so as to eliminate bagging and ties?

Mr. ODENHEIMER. Yes, sir.

Mr. J. M. Locke, representing the American Cotton Shippers' Association, appearing before the Agricultural Committee, stated in reply to my questions along this line, as follows:

Mr. FULMER. Then the mills in making their prices to those whom you represent, that is, the cotton merchants, operating between the mills and the actual producer of cotton, take into consideration the tare, and, therefore, you do not have anything to do with fixing the price so as to take into consideration the weight of cotton bagging and ties?

Mr. LOCKE. Mr. Fulmer, my point was specifically directed to the point that the cotton merchant does make a profit on his tare, but it is a profit that is absolutely essential, since it is necessary to put a patch on the bale.

Answering the point you bring up, I quite agree that in the final analysis when the mill buys a bale of cotton they know that they are not going to consume the tare and they figure accordingly.

Mr. FULMER. And when the farmer gets a gross price, naturally, he is getting a price less the amount figured off by the mill for the tare.

Mr. LOCKE. Yes, sir.

It would appear to me that this would be sufficient evidence to convince the writer of the article or anyone else, regardless of his ability to grasp the real facts in regard to this most-important problem on account of his educational qualifications, that he is wrong in his contention.

I have read with a great deal of interest the statement in the article as to the habit of politicians these days in speaking as the champion of the farmer, and so forth. I am very glad that we have a President at this time who is perfectly willing to back those of us who represent that class of people who actually need representation in Congress, so as to see to it that those selfish interests who heretofore have been robbing these unorganized people to the extent that the Government proposes to help farmers do that which these farmers have been unable to do all of these years, because they have never been able to organize, with the hope of putting them in complete control of their own business, properly grading their products, properly marketing and distributing their products, and in a position to have some bargaining power in fixing prices in line with the prices which they have to pay for those things which they have to buy.

I note, also, that the article states:

The politicians might put a tariff on jute, thereby making it cost as much as the cotton product.

It would appear that the writer of the article is well pleased with the fact that jute is imported into this country, duty-free, coming from India, the next largest cotton-producing country to the United States, to the extent perhaps at this time of one and one-half billion pounds, taking our own cotton markets from the cotton producers and the cotton industry as a whole to the extent of from two to three million bales of cotton annually.

In the meantime those interested in jute should realize that India, Brazil, and Japan are robbing us of our foreign markets, and only recently representatives of the textile mills of the United States appeared in Japan begging the cotton merchants of Japan to enter into an agreement to cut their shipments of certain cotton goods to the United States to a certain extent which would be in the interest of the textile mills in the United States.

We have been plowing under 4,000,000 bales of perfectly good American cotton, denying the cotton pickers, ginners, oil mills, and thousands of others interested in the cotton industry that which they were entitled to in handling these 4,000,000 bales of cotton.

We were plowing under cottonseed oil that could have been manufactured into lard and sold or given to the hungry of the United States. Cotton ginners and those interested in jute have cussed more about this than anybody, yet they are against placing a tariff on jute.

We of the South have all of these years fought the well-established tariff policy which has been in existence for 150 years, but we have been unable to defeat this policy in that we have today, in the interest of the protected few at the expense, especially of the cotton South, the highest tariff rates we have ever had.

I can hear the writer of the article now shouting from the housetops: "America for Americans."

However, he is not interested in tying the mails of the United States with cotton twine. He is perfectly satisfied with India furnishing jute twine for this purpose, while farmers are losing their farms at the rate of 40,000 annually and while United States cotton-mill spindles are idle and the Federal Government using our hard-earned taxpayers' money to feed the unemployed.

Greater Texas and Pan-American Exposition

EXTENSION OF REMARKS

OF

HON. LUTHER A. JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, February 5, 1937

Mr. JOHNSON of Texas. Mr. Speaker, the House today upon motion by me passed Senate Joint Resolution 20, reading as follows:

Resolved, etc., That the President of the United States is authorized and requested, by proclamation or in such manner as he may deem proper, to invite the Pan American Republics and the Dominion of Canada to participate in the proposed Greater Texas and Pan American Exposition, to be held in the city of Dallas in the State of Texas during the year 1937.

A resolution identical in language (H. J. Res. 136) was introduced by me and referred to the Committee on Foreign Affairs, which committee, by unanimous vote, made favorable report thereon.

In order to expedite the passage of the legislation, I elected to call up today Senate Joint Resolution 20, which has already passed the Senate and which was introduced by Senator TOM CONNALLY, of Texas.

The resolution makes no appropriation whatever, but is for the purpose of authorizing the President to invite the Pan American Republics and the Dominion of Canada to participate in the Greater Texas and Pan American Exposition to be held in the city of Dallas, Tex., during the year 1937.

This exposition will be in the nature of a continuation of the central exposition of the Texas centennial celebration held in Dallas last year.

Over six and one-half million persons attended the 1936 exposition, and about $25,000,000 was expended in erecting buildings and improving grounds therefor, in which the Federal Government participated by erecting a large building in which were placed many valuable and educational exhibits showing the work of the various departments of the Federal Government.

It is thought that this investment should be conserved by holding another exposition in 1937. The visit last fall of President Roosevelt, Secretary of State Hull, and other officials of our Government to Buenos Aires has helped pave

the way for closer neighborliness and closer trade relations on the Western Hemisphere.

The Nation's business now looks to Canada and the Latin-American countries as our most important foreign customers in the immediate future, and it is fittingly appropriate that the investment made in the Centennial Exposition be utilized in 1937 in this Pan American Exposition.

The vast permanent buildings already erected, containing over 300,000 square feet, will be used, and one of the larger buildings, containing a floor space of 60,000 square feet, will be designated the "Hall of Latin American Republics", and space in this building will be accorded to the pan-American countries and Canada without cost for placing their exhibits therein.

The new International Highway to Mexico City has been completed, and thousands of tourists will travel through Texas this summer over this new international highway and will visit the Pan American Exposition.

Texas is strategically well situated for such an exposition, and it is believed that the holding of this exposition will result in the development of a finer feeling of friendliness and closer trade relations between the United States and the Latin-American countries.

It is assured that a number of Latin-American republics will be represented in this exposition to be held in 1937, and it is appropriate that the Government should extend official invitations to all of them and to Canada to participate therein.

This will be the only international exposition held in the United States in 1937, and the attendance this year should exceed that of last year. Texas extends a most cordial invitation to the people of the United States, the citizens of the Pan American Republics and Canada to come to Dallas and view this wonderful exposition, which will be a credit not only to Texas but to the Nation. It will open in June and continue until November.

Conciliation Service of the Department of Labor

EXTENSION OF REMARKS

OF

HON. GLENN GRISWOLD

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 5, 1937

Mr. GRISWOLD. Mr. Speaker, in view of the consideration on yesterday of House Resolution 96, which provided that certain information be furnished by the Secretary of Labor to the House concerning the so-called "sit down" strikers and labor conditions in Flint, Mich., I think it pertinent that the House have the following information: During the fiscal year of 1936 the Conciliation Service of the United States Department of Labor had submitted to it 1,012 industrial disputes comprising strikes, threatened strikes, and walk-outs. Out of the 1,012 cases submitted, 805 cases were settled, 76 cases were transferred to other agencies because of a lack of jurisdiction, and there are 36 cases still pending. There are five cases of the above-submitted number in which the Conciliation Service was unable to effect a settlement. In addition to the cases submitted during the fiscal year of 1936 the Department settled 23 cases which were pending and held over from the fiscal year of 1935, making a total number of cases settled by the Department in the fiscal year, of 828.

This record not only shows the efficiency and diplomacy of the Department of Labor in the ticklish matter of settling labor disputes, but it further shows how necessary it is that the Conciliation Commissioners of the Department of Labor maintain the confidence of the disputants which they now hold. Without this confidence they would have been unable to render such commendable and effective service. For the House to have required the Secretary of Labor to furnish the information requested in House Resolution 96, even had it been possible under the present powers of the Secretary of Labor for her to do so, would have most certainly tended to destroy the future usefulness of the Commissioners of Conciliation by placing them in a position of going into the matter of conciliation and mediation after having already investigated and reported on one side of the controversy and not on the other side.

While the general public hears of a few of the efforts of the Department of Labor in settlement of labor disputes which are Nation-wide, most of its work is done quietly and is, therefore, unpublished and unheralded. One instance is a sit-down strike of 1,800 employees at the Kelly-Springfield plant at Cumberland, Md., which was settled through the mediation of the Department of Labor this present week, and of which the general public has taken no notice. It is well that nothing be done to destroy the effectiveness of an agency of government that functions so well as does this particular agency.

Presentation of Arkansas Centennial Coin to Senator Robinson

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Friday, February 5, 1937

RADIO BROADCAST REVIEWING CEREMONIES IN THE CAPITOL BUILDING ON THE PRESENTATION TO HON. JOSEPH T. ROBINSON, OF ARKANSAS, A UNITED STATES COIN BEARING HIS LIKENESS

Mr. GUFFEY. Mr. President, in the Capitol Building the other day was enacted an incident the story of which should be preserved for posterity. I ask to have printed in the RECORD the manuscript of a nationwide broadcast reviewing the ceremonies of the presentation to the senior Senator from Arkansas [Mr. ROBINSON] of a 50-cent coin of the United States bearing his likeness. The ceremonies took place in the presence of the Vice President, the Arkansas delegation in Congress, and others.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

REMARKS OF THE ANNOUNCER BROADCASTING OVER THE COLUMBIA BROADCASTING SYSTEM, JANUARY 29, 1937, THE CEREMONY OF THE PRESENTATION OF THE SOUVENIR COIN OF THE ARKANSAS CENTENNIAL TO SENATOR ROBINSON

A historic incident, the memory of which will be preserved by an image on silver, was enacted at the Capitol today. Arkansas, celebrating its one hundredth anniversary of admission to the Union, signalized the occasion by the issuance, through an act of Congress, of a souvenir coin bearing the profile of its most distinguished citizen.

Today Senator JOSEPH T. ROBINSON, the able Senator from Arkansas, honored and popular leader of the majority of the United States Senate, received from the hands of Harvey Couch, chairman of the Arkansas Centennial Commission, a coin bearing Senator ROBINSON'S image. The likeness of a living man as a single individual has been imprinted on a coin only in one other instance, that of the distinguished senior Senator from Virginia, Senator CARTER GLASS.

The ceremony in connection with the presentation of this coin took place in the office of the Secretary of the United States Senate, Col. Edwin A. Halsey, and was witnessed by the Vice President of the United States, Members of the Arkansas delegation in Congress, and others. Standing at the side of Senator ROBINSON, when he received the coin from the hands of Chairman Couch, were Mrs. Robinson and Mrs. HATTIE W. CARAWAY, junior Senator from Arkansas, the first woman to be elected to the United States Senate. Mrs. CARAWAY, in being present at the ceremonies, thus witnessed the culmination of the purposes of the act which she had introduced.

Just prior to the ceremony in the office of the Secretary of the Senate, Senator ROBINSON had returned from a visit to the White

House where he had the honor to present to the President of the United States the first Arkansas centennial souvenir coin coming from the mint. Appreciative of the President's services in the recent flood emergency, the Senator thought by the presentation of this token to express Arkansas' gratitude to the President for his great assistance rendered to Arkansas at the time of this national calamity and as an act of recognition of help rendered on other occasions.

Senator ROBINSON presented one of the souvenir coins to the Vice President, to each member of the Arkansas delegation, and to Colonel Halsey.

STATEMENT OF HARVEY COUCH, CHAIRMAN OF THE ARKANSAS CENTENNIAL COMMISSION, IN PRESENTING TO SENATOR JOSEPH T. ROBINSON THE SOUVENIR COIN MINTED WITH HIS IMAGE

Mr. COUCH. Throughout the ages tribes, countries, nations, and representative bodies have signalized their outstanding patriots by placing a reproduction of their facial image upon shields, coins, or medals. It is with pride that Arkansas, in celebrating its 100 years of existence, selects the features of its senior Senator JOSEPH T. ROBINSON, to grace its official souvenir symbolizing this important occasion.

Since the existence of the State of Arkansas no one has brought to the attention of the Nation the State's outstanding qualities as have you, Senator ROBINSON. We appreciate your untiring efforts in behalf of the State, its people, and the Nation. Your patriotism, leadership, and statesmanship have been unselfish and distinctive.

So today you are honored, Senator ROBINSON, as few men have ever been by any State. You have been selected by your colleagues as a leader in the Senate. We are selecting you for this honor because of the things that you have done for our people and because of Arkansas' admiration and affection for you.

Wherever you have been you have carried Arkansas with you. You truly represent her valor, her consecration to duty and her hopes for the future. You have contributed much to make our Nation safe and her people great.

It is now my pleasure and very happy privilege to present to you an Arkansas Centennial half-dollar of this issue produced by the United States mint that marks the anniversary of Arkansas' 100th birthday. This coin, bearing your profile, signifies an unusual honor, as it is the second time in the history of this Nation that a single living citizen has been thus so signally placed on our roll of honor. This is a distinction. We of Arkansas are proud that the United States Government has selected you to be placed among the Nation's great. Arkansas is honored in your selection.

STATEMENT OF SENATOR JOSEPH T. ROBINSON, MAJORITY LEADER OF THE UNITED STATES SENATE, UPON RECEIVING THE FIRST SOUVENIR COIN OF THE ARKANSAS CENTENNIAL BEARING HIS IMAGE

Senator ROBINSON. I gladly accept this coin as an evidence of the partiality and affectionate regard of my people. It marks a distinction and honor for which I am very grateful and of which I am very proud. I shall do with it as I do with nearly everything else of value that comes to me—give it to Mrs. Robinson.

What the President's Message on the Supreme Court Means

EXTENSION OF REMARKS

OF

HON. HAMILTON FISH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, February 5, 1937

Mr. FISH. Mr. Speaker, if the President desires complete dictatorial powers, patterned after the Fascist or Communist dictatorships of the Old World, he could take no more direct step to bring it about than to reach out and gain control of the Supreme Court, as is contemplated by his message to Congress.

The Supreme Court is the palladium of American liberties and the bulwark against the delegation of legislative power to the President by a supine Congress and the creation of a virtual dictatorship or government by edicts instead of by law.

I have repeatedly warned the American people against the delegation of the constitutional powers of Congress to the Chief Executive, and have refused to compromise in any efforts to make him the master of Congress and of the Supreme Court.

I am glad that the issue is now finally before the American people, who are the real masters of the Court, the Congress, and the President. If the people want to do away with our three separate and independent branches of government and concentrate all power into the hands of President Roosevelt, that can be done by constitutional amendments.

My own position is that now that the emergency is over the Congress should not delegate any more power to the President but should begin to take back the power given him during the depression. The President, however, has become obsessed with a desire for additional legislative power and is now prepared to make himself the master of the Supreme Court.

The President's message on the Supreme Court is typical of his former sneering attacks on it. After the N. R. A. was held unconstitutional by a unanimous vote of conservatives and liberals alike he told the newspaper reporters that we had returned to the "horse and buggy" days, and that cotton would go down to 6 cents and wheat to 40. Later on he wrote Representative Samuel B. Hill to disregard any reasonable doubts he might have as to the unconstitutionality of the Guffey coal bill and to pass the bill. He now, in utter disregard of the constitutional provision for life tenure, proposes to coerce, intimidate, and force off the Supreme Court six of the nine judges who are over 70 years of age by an act of Congress, reflecting on their capacity and usefulness.

The President would be well within his rights to suggest a constitutional amendment to accomplish such a purpose, but to try to do it by legislation is just another perversion of the spirit and letter of the Constitution.

These continued attacks on the Supreme Court emanating from the White House merely aid and abet the Communists, Socialists, radicals, Fascists, and Nazis to undermine our free institutions and our representative and constitutional form of government.

Let us from now on debate the issue freely and openly and find out whether the people desire that the President control and dictate the decisions of the Supreme Court.

The following are the ages of the present members of the Supreme Court: Chief Justice Charles Evans Hughes, 75; Justice Willis Van Devanter, 78; Justice James Clark McReynolds, 75; Justice Louis Dembitz Brandeis, 81; Justice George Sutherland, 75; Justice Pierce Butler, 71; Justice Harlan F. Stone, 65; Justice Owen J. Roberts, 62; Justice Benjamin N. Cardozo, 67. It is obvious that out of the six members who are over 70 years of age only one, Justice Brandeis, is an outstanding liberal. Chief Justice Hughes is considered as neutral as between the liberals and conservatives, whereas the remaining four members are conservatives.

It is self-evident that if they are forced to retire by unfriendly legislation or to have additional members appointed to cooperate with them by the President, the net result would be an out-and-out New Deal Supreme Court by personal appointments of the President.

The proposal of the President, if carried out by the Congress, would probably eliminate such an experienced and distinguished legislator as Senator JOSEPH ROBINSON, as he is approaching the age limit. It would, however, give the President the opportunity to appoint such young "brain trusters" as Felix Frankfurter, the Corcorans, the Cohens, and possibly even Rexford Guy Tugwell, as there is no requirement that a member of the Supreme Court must be a lawyer.

In such a contingency we would see the paradoxical situation of the men who wrote the New Deal legislation for Congress passing upon its constitutionality as members of the highest tribunal in the United States. Shades of Chief Justice Marshall as the exemplar of the conservative element, and of Justice Oliver Wendell Holmes, representing the liberal thought.

If the President's program is carried out, it would mean that the Court would become a political football and would no longer command the respect, confidence, or admiration of the American people. The impartiality, independence, courage, and great legal training and experience of its members has made the record of the Supreme Court of the United States one of the brightest and most glorious pages

in American history. By this one act of the President, if put into effect by the Congress, the Supreme Court would be disrupted, disorganized, and its usefulness as a separate and independent branch of our Government would be undermined and destroyed.

That part of the President's message dealing with the jurisdiction of Federal courts and expediting justice is constructive and should have the wholehearted support of the Congress.

Presidential Electors' Dinner

EXTENSION OF REMARKS
OF
HON. CARL HAYDEN
OF ARIZONA
IN THE SENATE OF THE UNITED STATES
Monday, February 1, 1937

LIST OF PRESIDENTIAL ELECTORS AND PROGRAM OF PRESIDENTIAL ELECTORS' DINNER

Mr. HAYDEN. Mr. President, I ask leave to have printed in the Appendix of the RECORD a list of the Presidential electors, and the program of the Presidential Electors' Dinner held at the Mayflower Hotel, Washington, on January 19, 1937.

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

PRESIDENTIAL ELECTORS' DINNER, THE MAYFLOWER, JANUARY 19, 1937

PROGRAM

Invocation—Rt. Rev. James E. Freeman, D. D., bishop of Washington, D. C.
Message from the President of the United States—Joseph F. Moore, executive chairman.
Introductory remarks—Michael Francis Doyle, honorary vice chairman.
Presentation of members of President's Cabinet.
Vocal selections—George H. O'Connor.
Announcement of the votes of the electoral college—Col. Edwin A. Halsey, Secretary of the United States Senate.
Emery L. Frazier, legislative clerk, United States Senate.
Address—James A. Farley, honorary chairman, Electoral Colleges Committee; chairman, Democratic National Committee; Postmaster General of the United States.
Benediction—Rt. Rev. David T. O'Dwyer, D. D., Catholic University of America, Washington, D. C.
Music by United States Navy Band Orchestra, Lt. Charles Benter, U. S. N., leader.

INVOCATION BY THE RIGHT REVEREND JAMES E. FREEMAN, D. D., LL. D., D. C. L., BISHOP OF WASHINGTON

Almighty and most merciful Father, in reverent gratitude and praise we thank Thee that Thou hast made and preserved us a nation. Through all the changed and changing circumstances of life, through days of shadow and days of sunshine, Thou hast guided and directed us as a people. When our self-confidence has denied Thee and apostasy has marked our course, still Thy hand has led us and Thy love encompassed us.

In the hour of our confusion, where our ways seem obscure and uncertain, we turn with renewed confidence and devotion to Thee. In penitence we ask that Thou wouldst forgive us our sins and weaknesses and restore us to ways of obedience and a reverent observance of Thy law. Take from us everything that hinders us in the fulfillment of Thy divine purpose, and unite us as a happy people in the ties of a true comradeship.

We commend to Thy care and protection the President of the United States. Endue him with wisdom and courage that he may see and know Thy will. To all those to whom we entrust the authority of government give like wisdom and grace, and grant that as a nation we may go forward to fulfill that destiny which is in accordance with Thy will. In the time of prosperity fill our hearts with thankfulness, and in the day of trouble suffer not our trust in Thee to fail. All of which we ask through Jesus Christ, our Lord. Amen.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

THE WHITE HOUSE,
WASHINGTON, *January 19, 1937.*

Presented by: Joseph F. Moore, Executive Chairman, to the Presidential Electors of the United States:

It gives me great pleasure to send hearty felicitations and warmest personal greetings to the Presidential electors of the United States who are dining at the Mayflower Hotel on the eve of inauguration. Yours was a special participation, and the overwhelming victory which your votes registered is a measure of the responsibility which goes with so overwhelming a popular mandate. We shall assume that responsibility cheerfully and in full faith that democracy can be made to function in the world of today as effectively as it did in the simpler world into which our Nation was born a century and a half ago. I trust that the dinner will be the rousing success which loyalty and fidelity to principle merit.

(Signed) FRANKLIN D. ROOSEVELT.

ANNOUNCEMENT OF THE VOTES OF THE ELECTORAL COLLEGES BY COL. EDWIN A. HALSEY, SECRETARY OF THE UNITED STATES SENATE, AND EMERY L. FRAZIER, LEGISLATIVE CLERK, UNITED STATES SENATE

Electoral votes of each State	State	For President		For Vice President	
		Franklin D. Roosevelt, of New York	Alfred M. Landon, of Kansas	John N. Garner, of Texas	Frank Knox, of Illinois
11	Alabama	11		11	
3	Arizona	3		3	
9	Arkansas	9		9	
22	California	22		22	
6	Colorado	6		6	
8	Connecticut	8		8	
3	Delaware	3		3	
7	Florida	7		7	
12	Georgia	12		12	
4	Idaho	4		4	
29	Illinois	29		29	
14	Indiana	14		14	
11	Iowa	11		11	
9	Kansas	9		9	
11	Kentucky	11		11	
10	Louisiana	10		10	
5	Maine		5		5
8	Maryland	8		8	
17	Massachusetts	17		17	
19	Michigan	19		19	
11	Minnesota	11		11	
9	Mississippi	9		9	
15	Missouri	15		15	
4	Montana	4		4	
7	Nebraska	7		7	
3	Nevada	3		3	
4	New Hampshire	4		4	
16	New Jersey	16		16	
3	New Mexico	3		3	
47	New York	47		47	
13	North Carolina	13		13	
4	North Dakota	4		4	
26	Ohio	26		26	
11	Oklahoma	11		11	
5	Oregon	5		5	
36	Pennsylvania	36		36	
4	Rhode Island	4		4	
8	South Carolina	8		8	
4	South Dakota	4		4	
11	Tennessee	11		11	
23	Texas	23		23	
4	Utah	4		4	
3	Vermont		3		3
11	Virginia	11		11	
8	Washington	8		8	
8	West Virginia	8		8	
12	Wisconsin	12		12	
3	Wyoming	3		3	
531		523	8	523	8

WALTER F. GEORGE,
WARREN R. AUSTIN,
Tellers on the part of the Senate.
BROOKS FLETCHER,
GEORGE HOLDEN TINKHAM,
Tellers on the part of the House of Representatives.

BROADCAST ANNOUNCEMENT

The National Broadcasting Co. brings you an address by the Honorable James A. Farley, Postmaster General of the United States and chairman of the Democratic National Committee. Mr. Farley is guest of honor at this second quadrennial banquet being given by the electors of the United States here in the grand ballroom of the Hotel Mayflower in Washington, D. C.

Although the presidential electors of the United States play an important part in the election of a President of the United States, it was not until 4 years ago that they met as they have tonight. At that time about half the members of the college were present, but they set up an organization for a quadrennial meeting, and established a tradition which will live long in American history.

More than 1,900 persons are in attendance at this banquet tonight, which is one of the largest ever held here. All the auxiliary and adjoining dining rooms have been utilized to provide space for this enormous gathering. Many have been turned away for lack of accommodations. Members of the electoral college, Cabinet members, United States Senators, and Representatives, military and naval officials, and other high government officials and their ladies have come to attend this second quadrennial banquet.

Our distinguished speaker will be introduced by Michael Francis Doyle, who is the presiding officer this evening. Ladies and gentlemen, Mr. Doyle:

Mr. DOYLE. It is my pleasure to introduce the chairman of the Democratic National Committee, the honorary chairman of the Electoral Colleges Committee, the Postmaster General of the United States, Honorable James A. Farley.

(The address of Mr. Farley appears in the Appendix to the CONGRESSIONAL RECORD, p. 103.)

CLOSING BROADCAST ANNOUNCEMENT

You have just heard an address by the Honorable James A. Farley, Postmaster General of the United States and chairman of the Democratic National Committee, delivered before members of the Electoral College and others attending the second quadrennial banquet tendered by the Presidential electors of the United States. More than 1,900 persons attended this evening, continuing the tradition established 4 years ago. Mr. Farley was introduced by Michael Francis Doyle, honorary vice chairman of the committee in charge, and presiding at this dinner tonight. This program came to you from the grand ballroom of the Hotel Mayflower in Washington, D. C., a blue network presentation of the National Broadcasting Co.

BENEDICTION—RIGHT REV. DAVID T. O'DWYER, D. D., CATHOLIC UNIVERSITY OF AMERICA, WASHINGTON, D. C.

Most bountiful Father, we beg Thy blessing on this assembly gathered to celebrate the inauguration of our President.

Grant that the grateful spirit in which we contemplate the achievements and progress of the last 4 years may find further reasons for joy and confidence in the 4 years that are to come.

May Thy divine wisdom still guide our President; and may the dependence on Thee, which he never fails to acknowledge, continue to merit the rewards Thou dost bestow on the God-fearing and the dutiful.

And may what we see and feel at the inauguration deepen our sense of national solidarity, and strengthen the charity with which under Thy divine dispensation we are bound to all men through Christ our Lord. Amen.

PRESIDENTIAL ELECTORS, 1936

ALABAMA

Reese T. Amis, Huntsville.
Ben Bloodworth, Decatur.
B. J. Cowart, Haleyville.
Charles W. Edwards, Auburn.
Francis J. Inge, Mobile.
W. E. James, Cullman.
R. E. Jones, Anniston.
Ralph H. Parker, Birmingham.
N. Frank Pridgen, Dothan.
Howard H. Sullinger, Bessemer.
Tom B. Ward, Tuscaloosa.

ARIZONA

J. J. O'Dowd, Tucson.
J. G. Peterson, Mesa.
Mrs. W. H. Reeves, Prescott.

ARKANSAS

Mrs. Heartsill Ragon, Fort Smith.
Mrs. G. S. Nolley, Hamburg.
M. P. Walsh, Jonesboro.
Charles W. Barnett, Batesville.
Bernal Seamster, Fayetteville.
J. M. Jackson, Nashville.
Charles B. Thweatt, Little Rock.
Henry Givens, Malvern.
Joe L. Davis, Magnolia.

CALIFORNIA

Mrs. Hancock Banning, Los Angeles.
O. K. Cushing, San Francisco.
Leo J. Smith, Marysville.
Charles L. Culbert, Jackson.
W. R. Jacobs, Stockton.
Mrs. George Knox, San Francisco.
Daniel C. Murphy, San Francisco.
Gordon F. Irvine, San Francisco.
H. H. Whiting, Berkeley.
Argyll Campbell, Carmel.
Stephen P. Galvin, Carmel.
Lloyd Sheldon, Carpinteria.
Daniel Green, Glendale.
James B. Ogg, Alhambra.
Archibald W. Livingston, Los Angeles.
John Baumgartner, Los Angeles.
Mrs. Doris McAdoo, Santa Barbara.
Stanley S. Anderson, Los Angeles.
Dr. Charles McQuarrie, Gardena.
John H. Burke, Long Beach.
C. M. Brown, Redlands.
E. O. Busenburg, San Diego.

COLORADO

Clay R. Apple, Greeley.
Mabel C. Costigan, Denver.
Delavan W. Gee, La Jara.
Frank Hefferly, Denver.
David P. Strickler, Colorado Springs.
Walter Walker, Grand Junction.

CONNECTICUT

Mrs. Helen F. Ryan, Old Lyme.
Arthur Story, Norwich.
George Vansantvoord, Lakeville.
Charles T. Flynn, M. D., Hamden.
Thomas Hewes, Farmington.
William E. Thoms, Waterbury.
Charles D. Lockwood, Stamford.
Mrs. Winthrop B. Palmer, Westport.

DELAWARE

Henry T. Graham, Wilmington.
Dr. Charles M. Wharton, Dover.
Wilson M. Vinyard, Milford.

FLORIDA

Fred Andrews, Miami.
W. P. (Bill) Arnold, Tallahassee.
Erle B. Askew, St. Petersburg.
Mrs. George M. Dorman, Washington.
Wallace N. Keith, Tallahassee.
Lloyd Z. Morgan, Jacksonville.
J. J. Parrish, Jr., Titusville.

GEORGIA

Judge N. A. Morris, Marietta.
A. S. Bradley, Swainsboro.
Joe Tillman, Statesboro.
H. H. Wind, Cairo.
Israel Mannheim, Hawkinsville.
Arthur Maddox, Griffin.
Scott Candler, Decatur.
George Scheer, Eatonton.
John K. Davis, Cedartown.
Emory Bass, Valdosta.
Albert Hardy, Gainesville.
Ernest Camp, Monroe.

IDAHO

Mrs. Frank E. Johnesse, Boise.
William Lemon, Council.
Beecher Hitchcock, Sandpoint.
George E. Erb, Lewiston.

ILLINOIS

James B. McCahey, Chicago.
Eugene Meaney, Chicago.
J. W. Clendennin, Monmouth.
Leonard R. Condon, Rockford.
John Budinger, Chicago.
Christopher J. McGarigle, Chicago.
Terrence Moran, Chicago.
William J. Lynch, Chicago.
Henry Sonnenschein, Chicago.
Edward J. Denemark, Chicago.
Thomas Plucinski, Chicago.
Alexander J. Sobota, Chicago.
John M. O'Connor, Chicago.
Joseph A. Weber, Chicago.
John A. Logan, Sr., Elgin.
Emmett Jeter, Plano.
Jacob Aschenbrenner, Ashton.
Virgil C. Lutrell, Aledo.
Jacob Winkler, Galesburg.
Otis McClary, Barna.
Dr. R. E. Prosser, Bloomington.
Harvey F. Skadden, Danville.
John W. Yantis, Shelbyville.
Vernon Briggs, Mount Sterling.
Edmund Burke, Springfield.
Frank C. Smith, East St. Louis.
Byron Piper, Effingham.
H. T. Kerr, Fairfield.
John B. Lyle, Sparta.

INDIANA

Dale J. Crittenberger, Anderson.
Joseph M. Cravens, Madison.
James Costello, Gary.
Lawrence Corey, Monticello.
W. C. Landis, Elkhart.
Benton J. Bloom, Columbia City.
Alpheus A. Adair, Portland.
Thomas O'Mara, Terre Haute.
E. P. Wallace, Bicknell.
Albert E. Heckmann, New Harmony.
Ivan R. (Jack) Love, Seymour.
Leonidas Bracken, Muncie.
John B. Hinchman, Greenfield.
Frank C. Dailey, Indianapolis.

IOWA

J. V. Bray, Mount Pleasant.
E. J. Carroll, Davenport.

J. Q. Lauer, Waverly.
Hubert Carr, Manchester.
John Combs, Seymour.
Mrs. Geo. Richter, Des Moines.
W. A. Byers, Council Bluffs.
T. L. Jones, Boone.
J. A. Gartland, Rock Valley.
E. W. McManus, Keokuk.
Matt Cooney, Dubuque.

KANSAS

Aline K. Algie, Clay Center.
Ed Armold, Chapman.
C. J. Block, Nekoma.
Mary Fitzwilliam Carney, Leavenworth.
John W. Lemon, Pittsburg.
Bernard L. Sheridan, Paola.
Leo V. Turgeon, Wilson.
Walter A. Vincent, Wichita.
O. B. Wyant, Winfield.

KENTUCKY

George B. Martin, Catlettsburg.
L. M. Ackman, Williamstown.
Davis Moore, Bardwell.
Marshall Barnes, Beaver Dam.
McKay Reed, Louisville.
J. Lapsley Wilson, Greensburg.
O. M. Rogers, Covington.
Robert L. Vallandingham, Owenton.
J. L. Hays, Whitesburg.
C. B. Daugherty, Morehead.
Grover Lanham, Corbin.

LOUISIANA

R. L. Gay, Zwolle.
A. A. Comeaux, Abbeville.
Frank R. Gomila, New Orleans.
Thomas A. McConnell, New Orleans.
Charles O. Pecot, Franklin.
Harold DeGeneres, Shreveport.
Newt V. Mills, Mer Rouge.
L. U. Babin, Baton Rouge.
Parrish Fuller, Oakdale.
Huey P. Long, Sr., Winnfield.

MAINE

Eugene B. Sanger, Bangor.
Judson C. Briggs, Caribou.
Alfred K. Ames, Machias.
Carroll C. Perkins, Waterville.
Charles A. Gilman, Brunswick.

MARYLAND

William Preston Lane, Jr., Hagerstown.
John B. A. Wheltle, Baltimore.
Harry Arthur Cantwell, North East.
Joseph P. Healy, Baltimore.
James Cadden, Baltimore.
Wilmer C. Carter, Baltimore.
John T. Tormollan, Baltimore.
William J. Grove, Lime Kiln.

MASSACHUSETTS

Leo M. Harlow, North Easton.
Mrs. Clementina Langone, Boston.
Michael E. Troy.
Thomas F. Moriarty, Springfield.
J. Henry Gouguen.
Mary G. Mahoney, Worcester.
William H. Henchey, Woburn.
Eleanor C. Carr, Peabody.
Michael J. Batal, Lawrence.
Mary E. McGoldrick.
Charles F. J. Harrington, Watertown.
Mabel R. Worthy, Roxbury.
Stanley W. Wisnioski, Chelsea.
John F. Fitzgerald.
Lawrence E. Crowley, Brockton.
Grace Hartley Howe.
Mrs. Helen L. Buckley, Abington.

MICHIGAN

Henry Dattner, Grosse Pointe.
Harold Bledsoe, Detroit.
Theresa D. Jurkiewicz, Detroit.
William C. Sterling, Monroe.
John Conroy, Battle Creek.
Frank Kelble, St. Joseph.
Fred Echternach, Comstock Park.
E. Sumner Rust, Grand Blanc.
Mrs. Anna Wilson, Port Huron.
William A. Hemmer, Saginaw.
Miss Mollie Mahoney, Ludington.
Harvey Chamberlain, Standish.
Nancy C. Coon, Escanaba.
Andrew C. Roche, Calumet.
Walter I. McKenzie, Detroit.
Adelaide C. Williams, Grosse Pointe.
William Ryan, Detroit.
John C. Cahalan, Wyandotte.
Albert H. Hall, Detroit.

MINNESOTA

G. M. Helland, Spring Grove.
Herman A. Fasbender, Hastings.
Ben Collins, Minneapolis.
T. J. Doyle, St. Paul.
Mrs. Oscar Adams, Minneapolis.
Martin Teigen, Princeton.
Michael Mahoney, Morris.
Arthur R. Smythe, Duluth.
Dr. J. A. Roy, Red Lake Falls.
Francis A. Gross, Minneapolis.
William Perrizo, Minneapolis.

MISSISSIPPI

E. T. Woolfolk, Tunica.
Daisy McLauren Stevens, Brandon.
S. T. Pilkinton, Artesia.
Griff Callicott, Senatobia.
Frank Everett, Indianola.
J. Elbert Warren, Troy.
J. H. Daws, DeKalb.
G. W. Hosey, Laurel.
John T. Armstrong, Hazelhurst.

MISSOURI

Charles L. Blanton, Sr., Sikeston.
Robert S. Walton, Armstrong.
Clyde Powell, Edina.
Horace F. Blackwell, Lexington.
K. D. (Kip) Cross, Savannah.
Roger E. Sermon, Independence.
Michael Ross, Kansas City.
Frank L. Stufflebam, Bolivar.
Jess A. Wheeler.
G. F. Romines, Houston.
Guy C. Motley, St. Charles.
John Ferguson, Gape Girardeau.
Jesse McDonald, St. Louis.
Ray R. Dolan, St. Louis.
Oliver Ash, Sr., St. Louis.

MONTANA

B. C. White, Buffalo.
John Dwyer, Wolf Point.
Mrs. Lydia McAllister, Great Falls.
Mrs. Helen McGilvra, Butte.

NEBRASKA

Dr. A. P. Fitzsimmons, Tecumseh.
Edw. J. Dugan, Omaha.
Lloyd Kelly, Grand Island.
Pat Heaton, Sidney.
M. M. Runyan, Broken Bow.
Mary Luman, Arnold.
Hugo Nicholson, Wisner.

NEVADA

Ira L. Winters, Carson City.
Julian O. Epperson, Ely.
Mrs. Theresa J. McGovern, Las Vegas.

NEW HAMPSHIRE

Henri T. Ledoux, Nashua.
Robert Marvin, Portsmouth.
Alice C. Skinner, Hanover.
John L. Sullivan, Manchester.

NEW JERSEY

Mary Dougherty, Jersey City.
John W. McGeehan, Jr., West Orange.
Howard Height, Point Pleasant.
Paul F. Cullum, North Bergen.
Charles Engelhard, Bernardsville.
Stephen T. Quinn, Elizabeth.
John V. Hinchliffe, Paterson.
Joseph W. Mott, Atlantic City.
Paul Fenton, Metuchen.
J. Albert Homan, Trenton.
John J. Breslin, Jr., Teaneck.
John F. Boyle, Jr., Jersey City.
Edward J. Kelleher, Camden.
Edward D. Balentine, Irvington.
George A. Ohl, Jr., Newark.
William A. Rucki, Newark.

NEW MEXICO

Amelia Velarde, Santa Fe.
Clyde Woolworth, Jal.
Joe Gallegos, Socorro.

NEW YORK

Edward J. Flynn, Bronx.
James W. Gerard, New York City.
Frank V. Kelly, Brooklyn.
Harriet T. Mack, Buffalo.
Herbert Bayard Swope, Sands Point.
Edward F. Knecht, Forest Hills.

Edward J. Kerwin, Brooklyn.
Clifton Bogardus, Brooklyn.
Joseph J. O'Brien, Brooklyn.
Joseph Sartori, Brooklyn.
Daniel S. Quigley, Brooklyn.
Alice C. Good, Brooklyn.
Samuel Seiderman, Brooklyn.
Andrew R. Armstrong, Brooklyn.
Arthur Thompson, Tompkinsville, S. I.
David H. Knott, New York City.
George J. Atwell, New York City.
George W. Olvany, New York City.
Thomas J. McMahon, New York City.
John Godfrey Saxe, New York City.
Grover A. Whalen, New York City.
George W. Loft, New York City.
Morgan J. O'Brien, Sr., New York City.
Godfrey Nurse, New York City.
Nathan Hirsch, New York City.
John J. Duffy, Bronx.
Ira Sobol, Bronx.
George Meany, Bronx.
T. Fergus Redmond, Haverstraw.
Frank C. Walker, New York City.
Adelbert M. Scriber, Monticello.
Wayne Johnson, New York City.
Winfield A. Happuch, Hudson Falls.
Sidney Hillman, Lynbrook.
William F. Kennedy, Champlain.
Mary Palladino, New York City.
Vincent R. Corrou, Utica.
Joseph P. Ryan, New York City.
William P. Gannon, Syracuse.
William O. Dapping, Auburn.
Julia Dunn, Elmira.
John A. Murray, Rochester.
Albert F. Kleps, Sr., Batavia.
Max Zaritsky, New York City.
David Dubinsky, New York City.
Michael J. Cashal, Munsey Park, Long Island.
John J. Boland, Buffalo.

NORTH CAROLINA

J. C. Meekins, Columbia.
Julian Alesbrock, Scotland Neck.
Dr. John D. Robinson, Wallace.
Charles U. Harris, Raleigh.
Linville Martin, Winston-Salem.
J. Dolph Long, Graham.
John D. Bellamy, Wilmington.
Charles L. Bowman, Marshville.
Charles Price, Salisbury.
A. L. Quickel, Lincolnton.
J. E. Shipman, Hendersonville.
J. Melville Broughton, Tryon.
John A. McRae, Raleigh.

NORTH DAKOTA

M. A. Hildreth, Carrington.
Ole S. Johnson, Langdon.
John A. Layne, Fessenden.
John Stambaugh, Carrington.

OHIO

Alfred M. Cohen, Cincinnati.
I. N. Price, Cincinnati.
Albert A. Horstman, Dayton.
Dillon R. Smalley, Celina.
Joseph M. Rieger, Napoleon.
Earl E. Ertel, Loveland.
J. Ewing Smith, Bellefontaine.
C. J. Altmaier, Marion.
Frazier Reams, Toledo.
Philip Carpenter, Jackson.
William J. Barry, New Straitsville.
Walter F. Heer, Columbus.
X. G. Hassenplug, Tiffin.
J. Earl Cox, Akron.
Mary E. Dudley, Cambridge.
Alton H. Etling, Orrville.
Carl O. Teague, Utica.
George J. Duswald, Scio.
W. B. Kilpatrick, Warren.
William Hudlett, Cleveland.
George S. Tenesy, Cleveland.
James F. Conners, Jr., Cleveland.
Mrs. Mary E. Ketterer, Woodsfield.
Lockwood Thompson, Cleveland.
George White, Marietta.
James W. Huffman, Columbus.

OKLAHOMA

Ernest R. Brown, Pryor.
Fred P. Branson, Muskogee.
J. B. Moore, Ardmore.
E. C. Love, Chandler.
J. T. Blanton, Pauls Valley.
Bob Mooney, Temple.
Will C. Jones, Mangum.
Ruth Roberts, Woodward.
Tom Wallace, Sapulpa.
G. Ed Warren, Tulsa.
Arthur H. Lamb, Pawhuska.

OREGON

Albert Absher, Portland.
J. R. Marshall, Medford.
Will M. Peterson, Pendleton.
Frank A. Spencer, Portland.
Elton Watkins, Portland.

PENNSYLVANIA

Joseph Moss, Philadelphia.
Rowland F. Morris, Philadelphia.
Walter Pytko, Philadelphia.
John B. Kelly, Philadelphia.
Bart Collins, Philadelphia.
Grover Ladner, Philadelphia.
Ellen Gowen Hood, Philadelphia.
Anthony Barrett, Philadelphia.
Irvin M. James, Doylestown.
Robert E. Pattison, Jr., Paoli.
T. Linus Hoban, Scranton.
Charles B. Lenahan, Wilkes-Barre.
Harry D. Sausser, Ashland.
Jacob J. Schofer, Topton.
Philip T. Lonergan, Montrose.
George E. Simpson, Bradford.
Joseph Knox Fornace, Norristown.
James S. Magee, New Bloomfield.
John E. Myers, Lemoyne.
Samuel Messer, Oil City.
Frank Sharkey, Mauch Chunk.
J. I. Heretter, Gettysburg.
William Miles, DuBois.
Charles Frock, Uniontown.
Charles T. Sutton, Waynesburg.
Henry D. Goehring, New Brighton.
George E. Prindible, Patton.
W. L. Goehring, West Newton.
S. S. Bryan, Titusville.
Leo R. Horstman, Sharpsburg.
Carl Bechtol, McKeesport.
Lawrence L. Murray, Pittsburgh.
H. L. Woodmansee, Pittsburgh.
F. F. Sumney, Dravosburg.
Herbert Sander, Pittsburgh.
Matthew H. McCloskey, Jr., Philadelphia.

RHODE ISLAND

Anne S. K. Brown, Newport.
A. Norman LaSalle, Providence.
George Hurley, Providence.
Luigi Maiello, Providence.

SOUTH CAROLINA

D. C. Heyward, Columbia.
William E. Gonzales, Columbia.
E. A. Marvin, Whiteoak.
A. F. Weimortz, Elko.
S. H. McGee, Greenwood.
William P. Jacobs, Clinton.
N. S. Richards, Libertyhill.
D. M. Ellen, Bishopville.

SOUTH DAKOTA

John B. Taylor, Ipswich.
Fred Heidepriem, Custer.
L. W. Bicknell, Webster.
Stanley Barnett, Winner.

TENNESSEE

John W. Britton, Knoxville.
Louis Chambers, Lebanon.
R. D. DeFord, Savannah.
Elkin Garfinkle, Nashville.
Phillip Harris, Greenfield.
Charles P. Hatcher, Nashville.
W. D. Hudson, Clarksville.
Alan S. Kelly, South Pittsburg.
Blan R. Maxwell, Memphis.
Claude B. Stephenson, Centerville.
Robert L. Taylor, Johnson City.

TEXAS

Joe Pollard, Paris.
H. J. Lutcher Stark, Orange.
E. A. Tharp, Mineola.
Wallace Hughston, McKinney.
Harold Young, Dallas.
George A. Stallworth, Groesbeck.
A. A. Aldridge, Crockett.

Albert J. DeLange, Houston.
Fred Fehrenkamp, Moulton.
C. T. Bass, San Marcos.
V. C. Marshall, Heidenheimer.
Ward Bankhead, Weatherford.
R. J. Edwards, Denton.
N. M. Crain, Cuero.
E. H. Longley, Laredo.
H. T. Moore, El Paso.
Will St. John, Cisco.
R. E. Underwood, Amarillo.
Sam Richardson, Lamesa.
R. A. Tullis, San Antonio.
C. L. McCartney, Brownwood.
Mrs. Horace Soule, Houston.
J. D. Williamson, Waco.

UTAH

J. E. Wilson, Milford.
Mrs. Frances G. Callahan, Provo.
Mrs. Margaret G. Larsen, Salt Lake City.
E. A. Britzch, Nanti.

VERMONT

Roy L. Patrick, Burlington.
Leon S. Gay, Cavendish.
Mrs. Hannah Lord Davis, Chelsea.

VIRGINIA

William M. Tuck, South Boston.
Robert O. Norris, Jr., Lively.
Paul Crockett, Yorktown.
J. K. Hutton, Suffolk.
Gordon B. Ambler, Richmond.
Emory P. Barrow, Lawrenceville.
Rutledge C. Clement, Chatham.
A. W. Lescure, Roanoke.
Robert Whitehead, Lovingston.
John W. Fishburne, Charlottesville.
B. L. Dickinson, Marion.

WASHINGTON

Henry W. Stine, Burley.
E. P. Hennessey, Everett.
Louis Schaefer, Vancouver.
M. Scott Jamar, Pullman.
E. O. Connor, Spokane.
Fred Nelson, Orillia.
Mrs. Nona Bryant, Yakima.
Mrs. D. H. Webster, South Wenatchee.

WEST VIRGINIA

Mrs. Lynn S. Hornor, Clarksburg.
Mrs. Annie D. Woolwine, Bluefield.
Harry E. Watkins, Fairmont.
Ralph M. Hiner, Franklin.
Lorentz C. Hamilton, Grantsville.
Buford C. Tynes, Huntington.
John S. Hall, Williamson.
Charles G. Peters, Charleston.

WISCONSIN

M. L. Richdorf, Sheboygan.
William B. Rubin, Milwaukee.
Elizabeth Cook, Racine.
Paul A. Hemmy, Jr., Juneau.
Bart E. McGonigle, Ableman.
Anthony J. Szczerbinski, Milwaukee.
Henry L. Nunn, Milwaukee.
Joseph Barnett, Oshkosh.
William G. Bate, Stevens Point.
Gerald F. Clifford, Green Bay.
Edwin Larkin, Mondovi.
Fred A. Russell, Superior.

WYOMING

Mrs. Robert Jolly, Rock Springs.
W. E. Dinneen, Cheyenne.
Douglas Hutton, Sheridan.

ELECTORAL COLLEGES COMMITTEE, THIRTY-EIGHTH PRESIDENTIAL ELECTION

Officers: James A. Farley, honorary chairman; Michael Francis Doyle, honorary vice chairman; South Trimble, honorary vice chairman; Joseph F. Moore, executive chairman; H. Newlin Megill, executive vice chairman; John J. Doyle, executive secretary.

Committee: R. H. Bailey, Jr., George Gordon Battle, Norman W. Baxter, Walter Cummings, Vincent Dailey, Mrs. George H. Earle, Edward J. Flynn, James W. Gerard, Admiral Cary T. Grayson, Col. Edwin A. Halsey, Mrs. Louis McHenry Howe, W. W. Howes, Walter A. Jones, John B. Kelly, deLancey Kountze, J. Bruce Kremer, David L. Lawrence, Clarence Low, George Marshall, Matthew H. McCloskey, Jr., Marvin H. McIntyre, Charles Michelson, Emma Guffey Miller, John F. Moran, W. Forbes Morgan, Arthur Mullin, Morgan J. O'Brien, Ambrose O'Connell, Mrs. A. Mitchell Palmer, Edward L. Roddan, Maj. Matthew Rippon, L. W. Robert, Jr., Daniel H. Skilling, Ralph B. Strassburger, Frank C. Walker, Grover A. Whalen, Frank Wickham.

Safety on the Highways

EXTENSION OF REMARKS

OF

HON. RICHARD B. RUSSELL, JR.

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

ARTICLE BY HON. ROBERT R. REYNOLDS, OF NORTH CAROLINA

Mr. RUSSELL. Mr. President, I ask unanimous consent to have printed in the RECORD the first of a series of three articles on highway safety written by the distinguished Senator from North Carolina [Mr. REYNOLDS] and published in the New York Herald Tribune of January 31, 1937.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune, Jan. 31, 1937]

REYNOLDS LAYS PERILS ON ROADS TO APATHY—SENATOR FINDS FOURTH OF NATION'S DRIVERS PASS NO TESTS FOR PERMITS, OLD CARS STILL ROLL ON—DEATH TOLL IS LAID TO SHEER DISREGARD—DIVERSION OF GASOLINE TAX PROCEEDS HE TERMS ANOTHER FACTOR BEHIND FAILURE TO CURB DANGER

(By ROBERT R. REYNOLDS, United States Senator from North Carolina)

Usually responsive to all forms of public distress, great numbers of our people are showing a surprising indifference toward the almost ruthless killing and injuring of men, women, and children on the streets and highways. They show it in lack of concern for individual habits, driving, and walking. And they evidence it in only half-hearted support for corrective measures and programs to bring about safer conditions.

It is extremely difficult, in fact, to reconcile the sweeping demands for action or aid at the time of some heinous crime or sudden disaster with the public apathy toward the totally unnecessary toll of a million deaths and injuries each year from highway mishaps.

During the 12 months just ended around 38,500 motorists and pedestrians of all ages had their lives snuffed out in motor crashes and collisions. At least a million were more or less seriously injured, some of them doomed to suffer physical torture as long as they live. The tremendous property loss, small compared to the human loss, is evidenced by piles of debris in the form of wrecked cars in junk yards that line the roadsides.

Perhaps one reason for this too widespread unconcern for these tragic conditions is the flagrant misuse of the word accident. No matter what the circumstances are surrounding fatal or nonfatal wrecks or running down of pedestrians, press and public label these "accidents." In its strict sense the word "accident" implies something unexpected. But so long as our citizens tolerate existing street and highway conditions, deaths running into thousands and injury lists that seem like reports from a battle front are most certainly not to be unexpected. Until we as a people are prepared to frankly face the situation, and as individuals help to improve it, we cannot hope to soften the crushing weight of the tragedy. The inevitable result of careless driving and careless walking will be highway crashes and injuries.

What are the existing conditions to which I have referred? We have today some forty million persons driving motor vehicles and fully one-fourth of that number, or ten million, are not required to show their ability to exercise reasonable care before they take the wheel. Highways have not kept abreast with traffic needs and the improvement of cars. Supposedly reputable dealers sell automobiles for anywhere from $10 to $50, vehicles that are obviously a threat to safe use of the roads. Sound safety programs, which have undergone the acid test of experience, are hampered by the lack of adequate funds. Many educators are failing to grasp the significance of driver education and training as an essential feature of fitting students for the responsibilities of citizenship.

TAX DIVERSION IS DEPLORED

These conditions are made all the more tragic by the fact that nearly $150,000,000 a year, which is sorely needed for highways and safety requirements, and should be earmarked for that purpose when collected as motor taxes, are being diverted to a variety of purposes having no relation to highways and the safe movement of our motor transport. Thus we are trying to stop the foes of highway progress at one gate and letting them in at another.

Tax collectors, Federal, State, and local, have too long viewed motor levies, particularly gasoline taxes, as "pennies from heaven" and, have apparently lost sight of equity and the original purpose of these taxes.

Equally as alarming, if not more so, is the fact that millions of otherwise responsible persons daily ignore the fundamentals of

safe driving and safe walking. Individual responsibility and proficient driving is the quick and sure route to a reduction of the staggering toll of deaths and injuries which are truly a national emergency. No greater patriotic service can be rendered than helping to spread the call for assumption of this responsibility by each and every one of our citizens.

I may go so far as to say that available statistics relating to highway crashes—I shall not use the term "highway accidents"—offer a serious indictment of highway users generally. These statistics indicate that the larger percentage of motor crashes and resultant injuries occur on week ends—a period when there is more than the usual time for care and caution; that almost 60 percent are in daylight hours; that 79 percent of the vehicles involved were going straight ahead; that 93 percent of the drivers had a year or more experience at the wheel; that 84 percent of the crashes and collisions are in clear weather; and 75 percent are on streets and highways with a dry surface.

INNOCENT DRIVERS OFTEN SUFFER

Here is enough evidence for any grand jury, if it were possible to indict our 130,000,000 citizens as a unit on a charge of flagrant misuse of vehicles and highways and wholesale disregard for the rights of others. However, it must be conceded that the great body of motorists are responsible.

I am not unmindful that statistics and data available are inadequate and shot full of inaccuracies. For example, a half-blind driver in an antiquated car may suddenly turn into a main road. In trying to avoid hitting the shaky vehicle and injuring its operator, two experienced drivers of cars just from the factory may collide. Too often a report of such a crash is not complete, and if it were, the poor soul who should never have been allowed to use the road is powerless to ease the suffering of those injured and pay for the damage done.

Adequate official statistics are a crying need in connection with the highway safety problem, and they have too long been delayed. There is enough experience data available with reference to attempts to solve problems in other fields with inadequate facts on which to proceed.

But even the facts we have are enough to know that the problem of reducing the steadily increasing number of motor deaths and injuries is one of great concern. That the President of the United States is alive to it is evidenced by his statement in a letter addressed to Thomas P. Henry, president of the American Automobile Association, in which the Chief Executive said:

"We all know that protection of life and property on our highways is a paramount national problem."

Earlier in this article I referred to specific conditions having a vital bearing on the highway safety problem. As this article is a brief summary of the problem, as seen by one who is intensely interested, the conditions I mentioned should be enlarged upon.

ROAD RESPONSIBILITY EVADED

I referred to the fact that one-fourth of all operators are not required to show their ability to drive. This is due to the fact that 11 States—Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, South Dakota, Tennessee, and Wyoming—are without any form of drivers' license law, with the exception of the few licensing chauffeurs only. In addition, 10 others have license laws but are without strict requirements for examination of new drivers.

What of highways? We have in the United States today an average of more than eight automobiles to every mile of highway. This is on the basis of some 26,000,000 automobiles and more than 3,000,000 miles of roads. Approximately one-third of this mileage has some form of surfacing.

The major roads, those bearing the heaviest traffic, are embodied in the more than 500,000 miles of State highways, including the Federal-aid system of important interstate roads by reason of connecting at State borders. Of this latter total mileage some 358,078 miles is surfaced. But a great deal of this surfaced mileage is already obsolete in the light of present-day traffic demands. While there have been noteworthy achievements in building multiple-lane roads, bypasses around cities, grade separations, and the elimination of rail-highway grade crossings, more must be done on the basis of engineering experience.

This experience shows the definite need for building greater safety into highways through such developments as roads with a nonhighway strip in the center to separate the two directions of traffic, longer sight distances, particularly at curves, elimination of dips that form dangerous "road pockets", and provision for adequate facilities for pedestrians. The time is coming when the Federal Government will demand that these and more safety features will be required, where warranted, of States building roads with the aid of Federal funds.

MENACE OF ANTIQUATED CARS

The problem of low-grade, second-hand cars, with worn tires, weak headlights, and faulty brakes are known to everyone. These automobiles may be purchased for as low as $1 a week, nothing down. Just the other day I read of a person killed in New York by an automobile driven by an operator with one eye. He told the court that he had paid $3 for the aged car and had agreed to pay $2 more "if it turned out to be a good car." It is inconceivable that in a civilized nation such dangerous things are permitted. The person who sold that unsafe vehicle is as guilty of criminal neglect as the person who drove it.

Of course, safer roads, highway patrols, driver education and training, and strict enforcement of sound safety legislation will in turn require adequate funds. Much of the obsolete road mileage and other unsafe conditions are blamed on the depression. However, with public expenditures at the highest level in history, I hesitate to believe that the people of this country will approve as an explanation for the tragic toll of deaths and injuries the fact that there is not sufficient money available to bring about needed improvements.

Fortunately, cities as a whole have reduced motor deaths and injuries in the face of an increasing number of vehicles and greater use of the streets. In this connection I will quote Thomas P. Henry, a recognized authority on highway safety. He says:

"During the first 50 weeks last year a total of 6,524 persons were fatally injured in motor mishaps in 133 reporting cities, as compared with 6,988 in the previous 50 weeks. This reduction of 6.6 percent represents definite progress when it is considered that traffic congestion in cities was greater in 1936 by reason of increased use of motor vehicles. For the 133 cities and immediately adjacent areas the total number of motor fatalities was 8,943, as compared with 9,307 in the 1935 period, a decline of 3.9 percent. Thus, there was an improvement for both cities and their outskirts. While this analysis shows that only 69 of the cities had actual reductions, the declines were sufficient to bring down the total motor deaths for all the cities.

MAXIMUM SAFETY IS DEMANDED

"With 45 State legislatures in regular and special sessions, or about to convene, there is no greater humanitarian problem confronting the legislators than that of highway safety. It must be considered from the standpoint of highways planned to assure maximum safety for users; from the standpoint of sound legislation to assure that operators of vehicles are responsible drivers, and from the standpoint of adequate funds and personnel for highway patrols. All statistics indicate that while roads can be made safer, adequate enforcement of motor laws is a major problem on rural highways.

"While the problem on rural highways is entirely different from that in urban areas, nevertheless, if cities can improve the accident situation, in the face of limited street space, an ever-increasing number of vehicles and more extensive use of those already in operation, State authorities should be able to accomplish results on what is generally termed the 'open road.' However, the progress that State officials make must necessarily be measured in terms of the support given by the legislatures and by the people."

In the face of these statistics from cities, it is obvious that the accident problem is becoming more acute in rural areas, particularly along the heavily traveled highways. Obviously, if the States do not take aggressive steps to meet this problem there is already evidence that the Federal Government will do so as far as it can, with particular reference to interstate travel. Already a flood of safety measures are on the congressional calendars. These will be discussed in a subsequent article, when I hope to give a brief word picture of what is being done generally in the direction of solving the tremendous national problem I have endeavored to outline in the limited space of this article.

Highway Control

EXTENSION OF REMARKS

OF

HON. BENNETT CHAMP CLARK

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

RADIO ADDRESS OF HON. HARRY S. TRUMAN, OF MISSOURI, JANUARY 21, 1937, DURING THE "CURRENT QUESTIONS BEFORE CONGRESS" SERIES

Mr. CLARK. Mr. President, I ask unanimous consent to insert in the RECORD a speech by my colleague the junior Senator from Missouri [Mr. TRUMAN] on the subject of highway control.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

We are in the midst of the most useless, most reckless and unnecessary death rate from automobiles in our history. I want it stopped. One way to stop it is to take the crazy driver from behind the wheel of the car.

There are more than 25,000,000 automobiles in use in the United States. In 1935, 1,100,000 drivers were involved in accidents. Thirty-six thousand people were killed and 830,000 seriously injured, and more than a million minor accidents were not reported. The property damage ran into 10 figures. Every automobile driver should read an article published in the Readers' Digest last year called, And Sudden Death. It vividly describes

what takes place when cars collide and when a car hits a pedestrian. There are more innocent children killed in America every year than have been injured by the bombing of Madrid, yet the bombing of the Spanish capital seems atrocious to us, and it is.

Twenty-two States in the great Union are trying bravely to stop the useless and unnecessary slaughter by automobile drivers. These States require drivers' licenses with examination and severe punishment if a person attempts to drive who is not qualified. The other States allow anyone who can get into a car to drive it In Detroit, when a careful survey of fatal automobile accidents was made, it was found that 14 percent of these car fatalities were caused by insane drivers—not drunken drivers, but insane ones. Fourteen deaths in every hundred fatal automobile accidents in that great city were caused by actually crazy men at the wheel of the death car.

In some States licenses are issued but no examination is required. The license is a farce—a revenue and not a safety measure. Most city licenses are revenue measures.

I have introduced a bill in the Senate of the United States, and my friend, Congressman CARTWRIGHT, of Oklahoma, has introduced the same bill in the House of Representatives, requiring drivers who cross the State lines to have a driver's license requiring a physical examination, putting a minimum age limit on drivers, and requiring a proper identification of the license holder. We have no desire to create a new Federal bureau, but we do want to cooperate with those States that require safe driving, and we hope to encourage those States that have not strict driving requirements to enact them.

We, the American people, buy in normal times about 4,000,000 cars per year and pay $2,000,000,000 for them. That is an expenditure of about $125 per family per year. It is more than we spend for public schools and as much as the cost of the Federal Government in normal times.

The American automobile is a marvelous bargain and the Nation can afford it. Motor travel has become a part of our national life. We could not get along without it. We are buying this cheap, easy way to get from place to place in comfort, yet this very means of easy transportation is becoming our greatest hazard to life, limb, and property. We kill and injure more people—men, women, and children—every year in automobile accidents than were killed and injured for us in a year of the World War. With this wonderfully cheap and easy transportation our problem now has become one of safety and lifesaving.

Every kind of accident except automobile accidents shows a steady decrease from 1914 to 1936. The motor accidents have increased every year but one; in 1931 there was a decrease. Something must be done to stop this increase.

Careful surveys have been made by traffic engineers and it has been found that there are several contributing causes for these terrible accidents. But the principal factor is the driver himself. Those States that have adopted the standard drivers' license have raised the driver standard and have saved lives. It is estimated that if every State had adopted the standard drivers' license law in 1926 more than 25,000 lives would have been saved in the following 10 years. In every State where a strict drivers' license law is in force accidents have dropped in number.

I am quoting statements from people who know about the effect of licensing drivers. These statements are taken from Public Safety Magazine of the National Safety Council.

One of the strongest statements came from John Q. Rhodes, Jr., director of the Virginia Division of Motor Vehicles and president of the American Association of Motor Vehicle Administrators, who called the traffic situation the "greatest problem confronting the people of this Nation today." "One of the most effective methods that any State can adopt to reduce this ever-mounting toll is the enactment of a standard drivers' license law", he said. "The drivers' license law helps to raise the standard of drivers and tends to take off the road those who are not competent. * * *

"I am firmly of the opinion that no State interested in decreasing motor deaths and injuries can afford to do without this method of driver control, and in the adoption of such a law I cannot too strongly recommend that it be 'standard.'"

Pointing to the Massachusetts drivers' license law, which went into effect in 1903, Frank A. Goodwin, registrar of motor vehicles, said: "It is amazing to us that any State permits people to drive automobiles without regulating them in some way. * * * As a motor-vehicle administrator I have concluded that effective and lasting solution of the traffic-accident problem must come through strict and impartial enforcement of the law, and I don't see how that can be done without drivers' license legislation."

"A drivers' license law, properly administered, without fear and without favor, will do more to reduce accidents in this country than any other one thing", according to W. A. Van Duzer, director of vehicles and traffic for the District of Columbia. The National Capital has had a drivers' license law since May 3, 1903.

"Examining operators before licenses are granted is an important step in highway safety", Charles A. Hornett, New York Commissioner of Motor Vehicles, said. "It keeps the incompetent and reckless off the road, and is an indication that the operator is thoroughly qualified."

"Rhode Island's achievement in reducing deaths and injuries arising from motor-vehicle accidents has been made possible by the enactment of a broad, workable license law", according to Wilfred J. Paquin, chief of the division of motor vehicles.

Commending the National Safety Council campaign as a "most worthy movement", A. W. Magee, of New Jersey, said: "I feel that progressive motor-vehicle administration demands a drivers' license law in every State, and that with the adoption of such a law, persons who desire to operate motor vehicles will be shown fit to do so."

Citing his State's law which has been in effect 32 years, Murdock A. Campbell, of Vermont, said: "It is hard for me to contemplate the administration of motor vehicle laws and regulations without a drivers' license law. I most earnestly recommend the adoption of such a law in those States that are not now so fortunate to have one."

Michael A. Connor, of Connecticut, said: "The records indicate clearly that in States where a license calls for an examination and history of drivers, the traffic-accident experience is better."

Senate bill 589 provides:

"SEC. 2. No license shall be held to permit the operation of a motor vehicle in interstate commerce under the first section of this act unless the law of the State in which the license was issued provides—

"(a) That no license permitting the operation of a motor vehicle shall be issued except to persons passing an examination which includes a test of the applicant's eyesight (with or without spectacles), his ability to read and understand highway signs regulating, warning, and directing traffic, his knowledge of the traffic laws of the State, and includes an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

"(b) That such license must be renewed at least once in each 3-year period.

"(c) That it shall be unlawful for any person to (1) display or have in his possession any canceled, revoked, suspended, fictitious, or fraudulently altered license, or (2) to lend his license to any other person or knowingly permit the use thereof by another.

"SEC. 3. Any person operating a motor vehicle in interstate commerce shall display his license upon the demand of any law-enforcement officer, but no person shall be convicted for failure to so display his license if he produces in court a license issued to him and valid at the time of such alleged failure.

"SEC. 4. The Attorney General may authorize any law-enforcement officer of the United States or of the several States, or any political subdivision thereof, to enforce the provisions of this act under such regulations as he shall prescribe.

"SEC. 5. Any person who violates any provision of this act shall, upon conviction thereof, be fined not more than $300 or be imprisoned not more than 6 months, or both."

This proposed law does not create a Federal license nor a new Federal enforcement bureau but authorizes the Attorney General to make regulations for its enforcement by local authorities. I am hoping it will pass and that it will encourage all the States not having the required license law to enact one.

I am quoting from a report of Scientific Investigation of Driving Skill, under the direction of Dr. Harry N. DeSilva, Bureau of Street Traffic Research, Harvard University. "Obviously some important factor is being neglected; and on scanning the statistics of the causes of highway accidents, the conclusion is inescapable that it is the inability of the driver—his failure to anticipate dangerous situations and to handle the car skillfully—that is the underlying cause of the great majority of accidents."

As the National Safety Council maintains: "The driver is the most important element in our traffic-accident situation. Some drivers have accidents because they are actually defective in mind or body. * * * A much greater number have accidents because they do not know how to drive."

Flood Control

EXTENSION OF REMARKS

OF

HON. ALLEN J. ELLENDER

OF LOUISIANA

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

RADIO ADDRESS BY HON. THEODORE G. BILBO, OF MISSISSIPPI, ON FEBRUARY 5, 1937

Mr. ELLENDER. Mr. President, I ask unanimous consent to have printed in the RECORD a speech on the subject of flood control delivered over the radio by the junior Senator from Mississippi [Mr. BILBO] on February 5.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

One of the noblest works of art to be seen in the Vatican at Rome is ascribed to three Rhodian sculptors. Chiseled from the finest Pentelic marble are the figures of Laocoön, the high priest of Apollo, and his two sons, shown desperately struggling within the crushing convolutions of two enormous sea serpents.

According to Grecian mythology, these monstrous denizens of the deep, in a dim and distant past, were drawn by the goddess Athena from their natural abodes to the land, where they seized the high priest and his sons because he had advised the Trojans against accepting the wooden horse—gift of the Greeks.

In these modern times two serpents have again come out of the sea and forthwith entwined themselves around Laocoön and his two sons. These twin serpents symbolize the waters of the Mississippi and Ohio Rivers, lifted from Neptune's realm by the sun god and deposited on the land. The three Laocoöns typify the agriculture, industry, and commerce of a continent writhing and expiring in the closing coils of a tortuous strangulation, thus paying the penalty of their futile attempt so far to protect the people of the Nation from a common disaster.

Sixty billion tons of unimpounded floods, impregnated with immeasurable units of uncontrolled destructive energy, pouring with wild and relentless fury from the enraged and turbulent Ohio into the huge menacing Mississippi—python that sprawls its swollen, slimy, sinuous course through awe-stricken areas from Canada southward to the coast—constitute the superproblem confronting which this Nation this day is brought face to face.

As one contemplates the horrors of the present flood situation, the torrents of unbridled waters sweeping with irresistible surge through erstwhile peaceful homes and busy factories, upsetting all the orderly processes of living, causing irreparable injuries to the lives and possessions of a million people, leaving in the wake of its mad and merciless rush extreme hardships, dread disease, insatiate thirst and hunger, and incalculable loss of property, a desolation over whose debris stalks want, woe, and wild despair, the natural feelings of sympathy for the time being and every tender emotion become submerged and overpowered by the weightier realization of utter helplessness.

The country, nevertheless, after recovering consciousness from a shock so altogether deadening, has responded to the universal call of duty, the Macedonian cry, and the purse strings of the people in all the walks and conditions of life have been unloosened and the resources of a great Nation have been unsparingly drafted to dispatch aid to the homeless, the suffering, and the destitute.

The congressional delegations and the State authorities of affected areas have cooperated to the fullest extent with every available agency of Government relief and thrown the weight of their influence toward providing and speeding up effectual security and proper sustenance for the victimized territory.

Of course, in the matter of preventing a recurrence of this terrible and unprecedented tragedy, no such widespread interest at this moment is shown. I cannot refrain, however, from giving expression now to the confident hope that out of the wreckage and sodden residue of this great catastrophe will emerge in due time a clear statutory recognition by Congress such as I fought for when considering the flood-control bill of 1936, namely, that the control of floods is exclusively a national, a Federal, responsibility, a burden to be borne by every section of our common and more than ever closely united country.

No argument supporting such a declaration of policy as a basic principle by which to be guided in legislation designed to prevent future flood disasters can carry the weight and driving force that the privations, sufferings and sorrows, the property losses and evacuation of a million homes clearly and convincingly present at this time.

Through the natural promptings of an instinct common to the human family, the people of the United States, irrespective of race, creed, color, station, or section of the country, found justification, as recently so nobly exemplified, in contributing generously to the homeless and destitute flood sufferers of the Ohio and Mississippi Valleys. This very fact in itself should not only suggest to but convince an informed and sympathetic Congress that the question of providing adequate measures for preventing the recurrence of these growing and accumulative disasters is a responsibility to be assumed in whole and not in part by the National Government, the government of all the people.

That great army of river workers, more than 100,000 strong, digging doggedly, determinedly, on the last line of defense, facing the impending perils unflinchingly, toiling onward through rain-drenched days and starless nights, bordering hourly on the brink of exhaustion, fighting forever but surrendering never; the homeless women and children, the outcast aged and infirm, 1,000,000 souls or more, unfit for service on the battlefront, waiting on the nearest hilltops, patiently tenting on the campgrounds of charity, cold and shivering and suffering from the lack of food and comforts, fed to the ravenous maw of devouring floods—these deeds of daring and endurance, unsurpassed by the heroics and horrible events of war, constitute a compelling plea in defense of the policy of exclusive Federal responsibility for the control of rivers and navigable streams.

The innumerable interests outside the inundated areas, dotted all over the Nation, related in vital ways to industrial activities directly in the flow of the flood waters, are also seriously crippled and in many instances permanently impaired. A million people cannot be thrown out of employment overnight and forced to abandon their homes to the ravages of flood and fire without affecting in some degree adversely the welfare and well-being of additional millions of our population, as well as the economic stability of the country as a whole.

Nobody can do this job but the Federal Government. It is a task of such stupendous proportions that local effort must stagger and fall down at the undertaking, more especially when we consider the wide range of preventive measures to be employed, the many devices and instrumentalities located at widely separated sections of the country essential to an adequate flood-control system.

During the last decade outstanding engineers have proposed several plans for the prevention of disastrous overflows. One school of thought advocated the building of levees, the straightening of rivers, and the digging of canals, diverting the flowage into other channels capable of handling an additional volume of water. Another school advocated the construction of reservoirs, so that the waters may be impounded for release when no damage will ensue. Still another school recommended reforestation, planting of grasses, and effective methods for preventing soil erosion, the proponents of each of these recommendations felt certain they had found the solution of the problem. Later developments proved their contentions wrong.

As a matter of fact, all of these proposals have their merits, but no one of them is sufficient in itself to provide the necessary relief.

Higher levees, though requisite, will not cure the evil. New channels and spillways for diverting flood waters to unendangered territories, though essential, will not effect a remedy. Forestation and grass coverage are important, but will not avert the menace. Soil conservation, essential as it is, will not prove wholly sufficient. Reservoirs, an indispensable adjunct, are powerless to solve the problem. The employment of all these methods is the only solution. By a proper correlation and coordination of these several plans, the ideal system of flood-control can and will eventually be attained.

Since this is true it at once becomes evident that the means and methods of control involve activities incurring tremendous costs in areas far removed from those sections directly in the path of the floods. The program would involve a system of preventive measures, a scope of Government operations that would cover three-fourths of the territory of the United States, extending its ramifications into every vale and hamlet, every prairie and hillside, and every teeming city and valley from the Great Lakes to the Gulf and from the Alleghenies to the Rockies. Therefore these combined proposals, from which every section of the country will receive benefits, force the inescapable conclusion that the question of flood control is the sole and undivided responsibility of the United States and must be undertaken and completed by the strong arm of the National Government.

Any plan for the control of waters incorporates a movement affecting most of the basic functions of the life of a nation. In harnessing the destructive force of floods we must also take into consideration the relevant problems of land. There can be no planning for both land and water unless we plan for the whole people, unless we plan for the physical preservation of the United States, which, translated into a national policy, means national responsibility.

The most refreshing indication of a movement soon to be initiated in long-range planning with respect to the control of water and conservation of land is to be found in a report submitted this week by the National Resources Committee, and a message to the Congress accompanying same by the President, whose sympathies are always profoundly touched by human suffering, and whose heart bleeds in the presence of disasters avoidable by the proper and lawful exercise of the powers of government.

Among the recommendations of the Resources Committee projects are endorsed, designed primarily to control flood emergencies and at the same time improve domestic and industrial water supplies, provide drainage, irrigation, navigation, reforestation, soil conservation, and generate electric power. These things and more represent the ends to be attained as a result of any effective plan for the control of floodwaters.

The President, in referring to this report, said: "This summary list of projects involving the use of water is not to be regarded as fixed or final, as the report itself notes, but rather indicates a great forward step in the development of the planning process, considering not one project alone, but the relationships between a great group of projects dealing with water use and control."

The President's message, and the report of the National Resources Committee, interpreted as to the underlying and all-pervasive thought, are a committal to the theory that the effective flood-control system must embrace the physical preservation of the United States, and the utilization of the means employed for industrial and domestic purposes.

The Resources Committee, among other things, recommended an allotment of $85,350,000 for deferred construction of 14 reservoirs to be built in the upper regions of the Ohio Valley. The flood control bill of 1936 authorized the construction of this group, and other groups of reservoirs, but Congress failed to make the necessary appropriation to complete the entire program, according to the estimates of the Army engineers.

It is my contention that under the plan of this bill, which has now become a law, these projects, as a whole, will never be built and, if perchance this particular group of reservoirs should be constructed, the remaining projects of similar character necessary to an adequate flood-control system for the country, will never be perfected.

The trouble is—the machinery of Federal aid is clogged and disabled by the requirement in the law for local participation.

Federal-authorized expenditures are contingent upon local donations.

Section 3 of this law provides in general terms that the States, and subdivisions thereof, should pay approximately one-half the costs of these reservoirs, and that when benefits of any project accruing to lands and property in States other than the State in which the project is located, the Secretary of War must make an estimate of the amount each State or section thereof so situated shall pay, such estimation to be based upon the proportionate share of the benefits enjoyed. When and if this assessment is collected by the Secretary of War, or sufficient assurance given that it will be paid, the Secretary then proceeds to purchase the lands, easements, etc., as a preliminary step in the construction of the project. The assessments made against the States receiving benefits from any given project, or group of projects, and situated downstream from the State or States in which the projects are located, must be either paid or guaranteed before the work begins and before any part of the Federal allocation can be expended.

In order to cure this serious defect in the flood-control bill, I offered a substitute for section 3, definitely declaring a policy of exclusive Federal responsibility. My proposal was as follows:

"SEC. 3. It is hereby recognized that the Federal Government should assume the full burden and responsibility for the improvement of navigable waters, or their tributaries, for flood-control purposes, and that neither the whole, nor any part of the expenditures necessary for the construction of any project within the provisions of this act, shall be required of any State or States, political subdivisions thereof, or other responsible local agencies."

The Secretary of War, in making his assessments against the States receiving benefits from a group of reservoirs constructed near the sources of the Ohio River will readily appreciate the fact that all the States on the Ohio and Mississippi Rivers, from Pennsylvania to Louisiana, will, in some degree, receive benefits, likewise, reservoirs constructed in far away Wyoming, Nebraska, Idaho, Kansas, and the Dakotas along the winding course of the Missouri River and its tributaries, will, in some measure, benefit the States from Cairo to New Orleans. Also reservoirs constructed in the States of Illinois, and Wisconsin on the Illinois River and its tributaries, and the States of Minnesota, Iowa, and Missouri, on the upper regions of the Mississippi River; also Arkansas, Texas, and Kansas, on the Arkansas and Red Rivers that flow into the bottle neck of the Mississippi, will result in some degree of benefits to the States from Memphis to the mouth of the Mississippi.

In a map prepared by the Army engineers, this system will comprise more than 1,600 reservoirs in order that exact justice in the matter of protection may be meted out to each of the several States benefited by each one of these 1,600 pools of impounded waters. Therefore, in order to carry out the provisions of the present law, 1,600 allocations of costs would have to be made by the Secretary of War for each of the numerous States benefited. To be more exact, the Army engineers, in this flood-control map show 2,000 projects necessary to be constructed, and it is safe to estimate that 1,600 will be in the Mississippi Valley. It therefore follows that the States of Louisiana, Mississippi, Arkansas, Tennessee, and Ohio will be assessed for their pro-rata share of the cost of constructing this great chain of projects scattered from the Allegheny Mountains on the east to the Rockies on the west.

Making these allotments of the proportionate cost to be borne by the several benefited States from any one project, or a closely allied group of projects, and submitting them for ratification before actual work begins, as provided by law, will entail an interminable number of joint and collective acceptances, and these myriad transactions, with the benefited States, their subsidiaries, or responsible local agencies, will recur, as the work progresses, at frequent intervals over a period of 20 years or more.

Behold an infinitely long chain of separate negotiations of this character stretching out through the decades yet to dawn, and following the winding courses of all the rivers and rivulets of the continent, and then contemplate for a moment the inescapable eventuality of some one or more lengths in this tortuous chain being broken, thereby destroying the binding force and effect of a unified system of flood protection and, if not overwhelming the whole scheme of things in disaster, most surely defeating the noble purpose of guaranteed flood protection to all the people of the Nation.

The Army engineers and Secretary of War are strictly prohibited from launching any project until every dollar from every State assessed shall have either been paid or fully guaranteed. Furthermore, the payments of these assessments are not mandatory—the States cannot be made to participate. I contend that if this particular provision of the law is not changed it will mean the defeat of an effective flood-control program.

Furthermore, I hold that it is utterly impossible for the Secretary of War or the Board of Army Engineers to determine, with any degree of accuracy, the proportionate share of benefits accruing to the States from the construction of any group of reservoirs. What modern Pythagoras, what Einstein of our own age, can fix with unquestioned accuracy the proportionate share of benefits accruing to a group of States from the construction of reservoirs in distant lands; what finite mind is able to make a calculation so infinitely complicated? It is utterly inconceivable that the genius of man, even in this enlightened age of science and mathematics, can approach any satisfactory determination of the proportionate share of this cost, which as alleged and so required by law, should be borne by all the States to be benefited.

The whole theory is nonsense gone to seed.

The benefits derived by the States south of Cairo bordering on the Mississippi River from the construction of the 14 reservoirs in the Ohio Valley would be materially affected by the existence of similar projects built along the courses of all other rivers flowing into the Mississippi. The Ohio Valley project alone would not protect Arkansas, Mississippi, and Louisiana from flood disasters. Reservoirs on one or two other rivers, in addition to those in Ohio, might not give adequate protection. The degree of benefits, therefore, to be derived by the States below Cairo must be determined by the degree of accomplishment in the perfection of the entire system. How are the authorities charged with the duty of making these allocations to determine accurately just what Arkansas or Mississippi's proportionate share would be at this time in the construction of the Ohio group of reservoirs. It cannot be a fixed amount until the whole system is constructed. The States on the Ohio River will receive benefits from these 14 projects, when none whatever will accrue to States on the Mississippi River. This is true because the Ohio River sometimes overflows and causes great destruction of property and human lives without occasioning any break in the Mississippi levees when its waters are poured into the Mississippi River. Arkansas, Louisiana, and Mississippi suffer from the ravages of floods only when there is a conflux of excessive waters from all the rivers constituting the Mississippi River and its tributaries. No one of these tributaries can cause any appreciable rise in the Mississippi River. It requires an increasing tide in volume pouring in from all sections drained by the Father of Waters. With what degree of accuracy can the science of mathematics determine Arkansas' pro-rata share in the cost of any particular group of reservoirs when her flood fate is determined by fortuitous chance.

If local participation should be required in proportion to the benefits derived with respect to the cost of building levees and reservoirs, then it naturally follows that the same rule should apply with respect to reforestation, restoration of range grass, and all other methods employed to reduce the drought menace, and reclaim and transform a land of aridity into one of productivity. The supplying of cover grasses to arid wastes and of native tree plants to forest sections is as necessary an adjunct to the control of floods as the construction of reservoirs. It would be wholly unfair and unjust to insist upon local participation as applied to one method of flood control, and utterly disregard the policy because of its impracticability with respect to another form. If it is right to assess benefited States in the construction of dams for impounding waters, then the same policy should be pursued with respect to benefited States far removed from drought-stricken areas. They should also be taxed for the preservation and reclamation of these arid sections, because the very agencies necessary for the restoration of these areas to their former condition are the self-same agencies that contribute to the control of devastating floods.

In that wide expanse of territory drained by the Mississippi River, the lives and properties of the people are not endangered solely from the onrushing sweep of maddened floods leaping levees, destroying forests, gulleying lands, and submerging thousands of prosperous citizens in watery graves, but they are subject over a large area also to the terrible effects of water erosion which scourge the East as well as the West and impoverish thousands of people if allowed to go unchecked. The widespread damage done lies not only in the wake of these uncontrolled waters, but may be found in the insidious sheet erosion that takes away the irreplaceable topsoil of cultivated areas. Here, lack of reforestation, restoration of range grass on areas now laid bare by the plowshare, subject the lands and people to the terrors, not only of floods, but likewise of wind and storms, carrying terrifying clouds of dust across one-half the continent, so thick that the rays of the all-beholding sun are unable to penetrate.

It may readily be seen that the principle of local participation as applied both to the construction of levees, canals, and reservoirs on the one hand, and to reforestation, soil conservation, and restoration of native grasses on the other hand, is an impossible and impracticable undertaking.

Before the removal of our forests for commercial purposes, and before the extensive cultivation of our western prairie land for growing wheat and corn, thus depleting the cover grasses that since the beginning of time have kept the water line close to the surface, there was a period when the dangers from excessive waters were by no means serious. By the help of those natural agencies, localities were able to combat successfully the injurious tendencies of swollen streams.

It may be stated as an irrefutable fact that the ratio of the progress made in depriving our lands of the forests and cover grasses corresponds to the ratio of increased flowage of waters through our navigable channels and their tributaries.

Since our priceless forests have gone into the grinding, greedy craw of trade and commerce to improve the general welfare of all the people, to increase the growing wealth of the Nation; since this bountiful gift of nature, this invaluable heritage belonging to all people has gone into homes for their comfort and ease, has been fashioned into ships to carry their commerce, has been employed for fuel to propel their engines and warm their firesides, and for material to construct the coffins in which to bury their dead; since the perennial carpet of evergreen grass, which lay unmolested upon their expansive prairies for untold centuries like a benediction from a beneficent Heaven, has been upturned

by ruin's cruel plowshare in order that the Nation's wealth might be augmented, that the teeming millions of our country might be given an abundance of bread, that our soldiers might be fed on a foreign soil, and all those who fought with them to make the world safe for democracy; since all these things have transpired for the improvement and betterment of the general welfare, for the enrichment of the Nation's wealth, and the glorifying of a more exalted civilization, may I not now, with the utmost propriety, supported by every rule of reason and justice, call upon the radio listeners of the Nation to throw the full strength of their weight and influence toward a movement to restore to the people of America that which has been taken at a pitiful price lest it be our lot to have brought upon us the fate of those dwellers on the banks of the Nile, the Tigris, and Euphrates, and of the starving millions living on the sandy wastes of desolate China.

I insist that we return to the lands of our country those natural agencies which have been, and if restored, may yet be our best means of preservation. Give back to the people, without price, that measure of wealth taken from the land for the enrichment of the general welfare that is requisite to the restoration of the condition that will also promote the general welfare, and at the same time make every part of our Nation a fit place in which to live.

A common danger made possible by the removal from their natural placements of instrumentalities that have gone into the promotion of the public good and contributed to the progress of civilization should be eliminated by a restoration in proper degree of those selfsame instrumentalities by the Government, at the expense of the whole people, who together with the Government, have been the beneficiaries.

In conclusion, all that I have said in this discussion pertaining to the flood problems of the Ohio and Mississippi Rivers and their tributaries apply with equal force and effect to the flood control of streams east of the Allegheny and west of the Rocky Mountains.

I am fighting for an adequate flood control and the physical preservation of the whole Nation.

Low-Cost Housing and Slum Clearance—The Ellenbogen Housing Bill a Practical Solution

EXTENSION OF REMARKS

OF

HON. HENRY ELLENBOGEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1937

RADIO ADDRESS BY HON. HENRY ELLENBOGEN, OF PENNSYLVANIA, ON TUESDAY, FEBRUARY 2, 1937

Mr. ELLENBOGEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address I made over the Columbia Broadcasting System Tuesday, February 2, 1937:

Recovery today is an accomplished fact. Industrial production is approaching the level of 1929. Some activities have even exceeded that level. Most corporations have not only turned the corner but are approaching the peak of earnings again.

Only one major industry is lagging behind; that industry is the building industry. If we remember that at the height of its activities it gave employment, directly and indirectly, to 5,000,000 people, we can well understand why we still have 7,000,000 unemployed. Statistics compiled by the Federal Housing Administration show that in 1924 we produced 683,400 nonfarm dwellings, and in 1925 we built 727,100. During the 10 years from 1920 to 1929, an average of 541,760 urban dwellings were built in the United States. In 1935 we built only 103,400 dwellings; and even last year, in 1936, the total number of dwellings built in nonfarm communities was 216,400—only 40 percent of the 10-year average from 1920 to 1929.

The stimulation of the building industry is the most important single step that we must take to give employment to those still unemployed and to complete recovery.

A HOUSING SHORTAGE IS DEVELOPING

Last year I predicted that a housing shortage would develop in the United States. Today that shortage has become a fact. In New York, Philadelphia, Pittsburgh—in fact, in most of our large and small cities—families of low income are unable to secure homes. Even those who can afford to pay higher rents have found it difficult to find suitable dwellings. Conservatively estimated, we must build at least 10,000,000 new homes in the United States during the next 10 years—a million new homes every year.

LARGE PARTS OF THE POPULATION CANNOT PAY ENOUGH TO OBTAIN DECENT HOUSING

On January 5, 1937, the first day of this session of Congress, I reintroduced the Ellenbogen bill for low-cost housing and slum clearance. The bill contains a practical program for the construction, with public aid, of safe, decent, and sanitary homes for families of low income. It is estimated that in 1934, 37 percent of all nonfarm families had incomes of $800 or less. Twenty to twenty-five percent of the yearly income is the maximum a family should spend on housing. This would leave only from $160 to $200 a year for the housing of these 11,000,000 families—families who could never afford to pay the rent demanded for decent and sanitary homes. Private capital has never been able to build for them at a profit. Thus the building industry was shut off from the market for at least 40 percent of the population of the United States.

These millions were forced to live in slums or blighted areas. As the President expressed it in his address before a joint session of this Congress on January 6, 1937:

"* * * Many millions of Americans still live in habitations which not only fail to provide the physical benefits of modern civilization but breed disease and impair the health of future generations. The menace exists not only in the slum areas of the very large cities but in many smaller cities as well. It exists on tens of thousands of farms, in varying degrees, in every part of the country."

SLUMS ARE UNFIT FOR HUMAN HABITATION

These slum dwellings are unfit for human habitation. They breed crime and disease, and prevent a normal and healthy development of the children living in them. Overcrowding, immorality, and unsanitary conditions prevail in the slums. Light, air, and sunshine cannot enter. Tuberculosis is a common disease.

SLUMS BREED CRIME AND DISEASE

Prof. Clifford Shaw made a study in Chicago in 1926 which showed that in one of the blighted areas 27 percent of the boys between 10 and 17 years of age passed through the juvenile police probation office. The highest rate of male juvenile delinquency in the city of Chicago, 29.3 percent, was in the slum districts, immediately west of the loop. One-half of the 5,000 truants studied in Chicago lived in 9.8 percent of the total city area.

The Wickersham report of 1931 shows that in Philadelphia 46 percent of the juvenile delinquents came from 25.1 percent of the population in 9.4 percent of the city area. Similar conditions existed in every city.

In Buffalo in 1933 tuberculosis in blighted areas was at the rate of 57 per thousand, as against less than 3 per thousand in good-home districts.

CITIES ARE SUBSIDIZING THE SLUMS

Of the 18 city wards of Jacksonville, Fla., 1 slum ward accounted for over 16 percent of all diseases in the year 1933.

Slum conditions are not only a danger to the health and safety of citizens; they are a great expense to the cities. A study carried on in South Boston in 1933 of substandard areas inhabited by 769 families indicated an income to the city of $27,093.23, against expenses to the city of $275,113.14, or an excess of expenditures over income of $248,020.51. That means that the income from slums pays for only 10 percent of the expense to the city for police protection, fire, health, school, and other municipal services.

In Minneapolis the cost of fire protection alone for a slum area amounted to $70,000 in 1932, whereas the total tax assessment for the area amounted to $30,835.

An investigation by the city of Cleveland of a slum area which covered 2½ percent of the population of the city showed that 21 percent of the murders were committed there, 26 percent of the houses of prostitution were located, 6.8 percent of all boy delinquency arose in this area, 12½ percent of tubercular deaths occurred in it. The same investigation further showed that a total tax assessment against this area amounted to $225,035—most of which was uncollected—whereas the expenditure of the city for police, fire, health, school, and other municipality services amounted to $1,971,000. Therefore, the city, even if it collected all taxes in that slum area, would have an annual loss of about $1,746,000, a loss of 800 percent, which must be borne by the home owners living in other sections of the city this year, next year, and every year thereafter until we abolish slums. These conditions are typical of those in other cities, large and small, throughout the United States.

LET US SUBSIDIZE LOW-COST HOUSING INSTEAD OF SLUMS

The question is not whether we should remove the slums and subsidize housing for low-income families. The question which we must consider is whether we should continue to subsidize slums, as we have been doing in the past.

For instance, in the examples which I have given you, the city of Cleveland spends millions of dollars every year not for the purpose of improving conditions for its people but for the purpose of continuing a condition which is a danger to life, health, and the physical and mental well-being of future generations.

It is calculated that, if the city of Cleveland used the amount of money which it is now losing in the slum districts for the purpose of subsidizing housing, 7,300 new homes containing four rooms each could be erected. Instead of compelling the home owners in the other sections of the city to subsidize slums with their tax money, the city of Cleveland could tear down the slums and build 7,300 new homes—decent, sanitary, and healthy homes—for families of low income.

America must make up its mind whether it is going to continue to subsidize slum and blighted areas, or subsidize decent housing for low-income families. The loss in dollars and cents is only one

part of the picture. The other part is the disintegration of the physical well-being of the slum inhabitants. I hope America will make up its mind to construct for families of low income decent, healthy homes—homes full of light and sunshine.

You determine public policy in the United States. It is up to you to say whether you want to be taxed by your city government for the purpose of supporting slums or whether you would prefer the construction of new fine dwellings, so that your fellow citizens, who have only small incomes, can live in decent surroundings, in surroundings which will give them a fair chance in life.

EUROPE DID IT

Since the end of the war, over the last 17 years, this condition has been successfully solved in Europe. England has built about one and a half million new homes for families of low income with Government aid. At the same time a far larger and ever-increasing number of homes were being built by private enterprise.

Holland rehoused about one-fifth of her population. The city of Vienna did just as much. Before the advent of the Nazis Germany constructed more than 2,000,000 new dwellings with government aid. If we add up the housing achievements of several European nations with a combined population equaling that of the United States, we find that they have built in excess of 5,000,000 homes with government aid, having high standards of decency and comfort and at rentals available to low income families. It was done in Europe. It certainly can be done in the United States.

THE ELLENBOGEN HOUSING BILL

After studying the housing problem in the United States for 4 years I have reintroduced the Ellenbogen bill for low cost housing and slum clearance. This bill sets up the United States Housing Authority, a corporation to be wholly owned by the United States Government. The Housing Authority is charged with the duty of laying down standards for the guidance of local housing authorities and of aiding them in clearing the slums and in constructing homes for families of low income.

Subsidies, not exceeding 45 percent of the capital outlay for construction and land acquisition, are provided in the bill. Activities are to be decentralized. The housing projects are to be initiated, supervised, constructed, and managed by local housing authorities. The Federal agency merely will assure the observance of fair standards and will supply technical advice. It will extend financial aid to the local housing authorities. The emphasis in my bill is upon decentralization.

NO COMPETITION WITH PRIVATE INDUSTRY

Competition with private capital is impossible under the terms of this bill. These homes will be rented to families of low income for whom private industry cannot build. Private capital is expected to participate in the financing of low cost housing projects at low rates of interest, rates of interest which are made possible by the Government guarantee of these obligations.

THE ELLENBOGEN HOUSING BILL IS WIDELY ENDORSED

The Ellenbogen housing bill has been widely endorsed in every part of the United States. It has the endorsement of the United States Conference of Mayors, of the Federal Council of Churches of Christ in America, the National Council of Catholic Churches, the Special Conference of American Rabbis, the American Federation of Labor, the Committee for Industrial Organization, and the entire labor movement. It has been endorsed by many high officials in the Federal administration.

The bill has been endorsed by the Scripps-Howard newspapers, the David Stern newspapers, the New York Times, Baltimore Sun, and many others. It has been endorsed by hundreds of mayors, city councils, and by thousands of organizations all over the United States.

THE PRESIDENT ENDORSES SUBSIDIES FOR LOW-COST HOUSING

During the Presidential campaign of last fall, President Roosevelt, in a speech delivered in the State of New York on October 28, 1936, said:

"* * * We have, for too long, neglected the housing problem for all our lower-income groups. * * * We have not yet begun adequately to spend money in order to help the families in the overcrowded sections of our cities to live as American citizens have a right to live. You and I will not be content until city, State, and Federal Governments join with private capital in helping every American family to live that way. We need action and more action to get better city housing. * * * I am confident that the next Congress will start us on our way with a sound housing policy. * * *"

WILL YOU HELP?

Ladies and gentlemen, the fate of low-cost housing and slum clearance is in your hands. If you believe in stopping the waste of public money by subsidizing slums, you will favor the passage of the Ellenbogen housing bill. If you believe in using that money in the construction of decent and healthy homes for families of low income, you will support the Ellenbogen housing bill. If you believe in improving the living conditions of the masses of the people; if you believe in going forward, you will support this bill.

The passage of the Ellenbogen housing bill will give to the children of America the opportunity to grow up to a better life and to a more promising maturity. It will give to the people of America the opportunity to live in decency and comfort, in sanitary and healthy homes; homes full of light and air, homes full of sunshine.

Forest Destruction by Insects in California

EXTENSION OF REMARKS

OF

HON. CLARENCE F. LEA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 8, 1937

Mr. LEA. Mr. Speaker, the forest destruction that has taken place in the last 12 years in California is assuming proportions that call for most prompt and intelligent action to minimize or entirely prevent the continuation of this great economic loss. The ravages from the pine beetle are a continuing menace to 7,000,000 acres of forest lands in our State containing timber estimated at 60,000,000,000 board-feet of commercially valuable quality. About one-half of this timber is privately owned and the remainder belongs to the Federal Government.

Summarizing what occurred during the period of 1926 to 1936 we find that—

First. The two widespread barkbeetle epidemics—1926–29 and 1931–35—have caused the greatest loss of timber in the history of the State.

Second. As a general estimate, 10,000,000,000 board-feet of sound green timber has been turned into useless snags and rotting logs.

Third. The supply of wood material necessary to the industries of the State has been reduced to the point where a continuing supply is threatened.

Fourth. Lumber companies report that in a number of areas during the past few years highly valuable stands of merchantable timber have been reduced from 60 to 90 percent, due to depredation of pine beetles.

Fifth. The life of the pine logging industry is seriously threatened and has been measurably shortened. In one county alone—Modoc—bark beetles have deprived the sawmill of from 20 to 50 percent of the expected cut.

Sixth. The fire hazard over the entire timbered area of the State has been greatly increased, due to insect-caused accumulation of snags and inflammable material.

Seventh. Values in some of the State's finest recreational areas have been materially reduced, due to the loss of forest cover killed by bark beetles.

Eighth. During this period the volume of timber killed on our forest areas by bark beetles has exceeded the combined total taken by the timber industry and forest fires.

Ninth. In terms of monetary consideration based on a conservative estimate of $3 per thousand feet board measure, which is normally the selling price of stumpage, the State has lost during the past 10-year period $30,000,000. This is increased many times if we consider the value of this material to communities and industries within the State. At a normal mill price of $20 per thousand feet board measure, our State has been deprived of usable material with the value of $200,000,000.

NEED OF BETTER CONTROL

This situation cries out for a more practical and effective method combating these destructive forest ravages on our national asset. The forests affected are almost entirely virgin timber. They are a lumber supply and a watershed coverage of vast importance.

The questions of remedial measures present these facts:

First. Much of this terrific timber loss could have been prevented under a sound program of control based upon adequate research surveys to determine the first indications of these outbreaks. (Adequate funds have not been available for this purpose.)

Second. Present method of control consists of felling the tree, peeling the bark, and burning it.

Third. Cost of present control method is obviously prohibitive if carried on to the extent of adequate control. (Cost runs from $4 to $15 per tree.)

Fourth. It has been demonstrated that the year following an active program of control usually shows a reduction in the drain from 50 to 75 percent.

Fifth. New and less expensive methods of control must be developed through some adequate program of research and experimentation. (Some of the possibilities along these lines involve the introduction of predators, use of toxic oils, use of electricity, and so forth.)

Sixth. If an effective control program is carried out it cannot be limited to locally infested areas. It must include all infested zones to bring about effective results. (Such a program can only be founded upon adequate hazard zonation surveys.)

Seventh. Manifestly a proper attack on this problem requires further research to develop a more effective and economical control method; the forests must be classified from the standpoint of treating different areas according to the practicability of developed control methods. The execution of the most available methods will require a widespread cooperation of State and local agencies with the Federal Government.

We are hoping this session of Congress will not pass without effective provision being made for the research and classification preparatory to a more widespread program to conserve this great natural resource now being rapidly depleted.

Make Travel by Air Safe—Government Should Control Pilots and Require Them to Have Clearance Certificate From Competent Observers Before Leaving Ground

---

EXTENSION OF REMARKS

OF

HON. JOHN J. COCHRAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 8, 1937

Mr. COCHRAN. Mr. Speaker, regardless of what was responsible for crashes in the past, it seems to me the Congress and the Bureau of Air Commerce must take some action that will make it more safe to travel by air.

I am sure the public, like myself, was shocked to read the charge made Saturday that air lines forced pilots to fly in bad weather. David L. Behncke, president of the Air Line Pilots Association, insisted at the hearing before the Air Commerce Bureau that pressure on pilots had been used to require them to fly regardless of weather conditions. An affidavit by Mrs. Livermore, widow of Pilot Joe Livermore, who lost his life in a crash on December 18, 1936, stated her husband was given to understand he must fly regardless of weather conditions or lose his job. Of course, the charge was denied by the air lines.

It is not my purpose to discuss the charges or the denials, nor is it my purpose to discuss what has happened in the past but rather to offer a suggestion that might, if adopted, result in making travel by air more safe for our citizens who use this means of transportation. We have enacted legislation that has made travel by rail, highway, and sea more safe. I deplore the suggestion that our safety-at-sea law be repealed, and hope this effort will not even be dignified by a hearing. We should strive to put teeth in such laws rather than weaken them.

A pilot cannot leave the ground with passengers unless he is in possession of a license issued by the Department of Commerce.

The Government can control the licensed pilot. Failure to obey regulations should mean forfeiture of license. We can also reach the officials of air lines through the Post Office Department. Without the air-mail contracts, they cannot exist. Of course, our first duty is the safety of our citizens, but we are also charged with the safe transportation of the mails.

It seems to me laws are not needed, but if they are, I am sure Congress will respond promptly. This situation can be controlled by regulation. Let the Bureau of Air Commerce issue a regulation which will provide that no licensed pilot can leave the ground without a clearance from a Bureau of Air Commerce inspector. Place at every airport used by transport planes a competent official whose responsibility will be to issue the clearance papers. That inspector will be in possession of all weather reports. He should be selected as the result of a civil-service examination, and the salary should be sufficient to attract the best available personnel. If this suggestion is adopted, pilots will not fear the loss of their jobs. I am speaking now only from the standpoint of the pilot. Other regulations providing for improved instruments, and so forth, should also be issued.

There is no reason why the air lines should not pay a reasonable price for a clearance certificate, thus making the service sustain itself.

I have talked with officials of the Bureau of Air Commerce and also the Assistant Secretary of Commerce, and the information I receive is they have the power under existing law to issue the regulations.

If a better plan can be advanced, adopt it, but something must be done, and the time to do it is now.

Reserve Requirements and Bank Credit

EXTENSION OF REMARKS

OF

HON. ROBERT F. WAGNER

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

ADDRESS BY JOSEPH A. BRODERICK BEFORE BOSTON CHAPTER, AMERICAN INSTITUTE OF BANKING, FEBRUARY 4, 1937

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD an interesting and timely address on the subject Reserve Requirements and Bank Credit, delivered by Mr. Joseph A. Broderick before the Boston Chapter, American Institute of Banking, on Thursday, February 4, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

We have heard a great deal lately about reserve requirements. Much has been said about what amount of reserves is desirable; whether or not we ought to have excess reserves, and of what size. Considerable controversy has been had on the question of when and how the Federal Reserve System should act, first, in order to increase reserves, and later in order to diminish them.

I was connected with the Federal Reserve System at its beginning, and I am impressed by the change in the attitude toward reserves that has occurred under the stress of circumstances during the life of the System, which extends now over 22 years. When the System was first organized we thought of bank reserves primarily as money that banks are required to hold idle in order to be able to meet the demands of their depositors in case of a run. It is for this reason that we permitted smaller reserves for banks in country districts, where the withdrawals are not as abrupt as in the cities, and permitted lower reserves on time deposits than on demand deposits on the theory that time deposits turn over much more slowly and are, therefore, less subject to fluctuations. In the course of the years since the establishment of the System we have learned, however, that reserves are not an adequate protection to depositors, because if depositors want their money a 10 or 15 percent reserve can protect only the ones who get pretty far toward the beginning of the line. Those who have more confidence in the bank are likely to find that the reserves have been exhausted before they reach the teller's window. We have learned, furthermore, that the safety of depositors depends on the character of the bank's assets and in the ability to obtain temporary advances from the Federal Reserve banks. We have a system now by which bank deposits are safe so long as the assets of the bank are sound. Deposit insurance provides another source of safety, limited, of course, to deposits up to $5,000. There is nothing, however, that can take the place of wise and competent management in the running of banks. If its assets

are sound, no bank need be embarrassed by a run, even though the assets may be in long-time paper, because under the new legislation advances from the Reserve banks can be obtained on any asset satisfactory to the Reserve bank authorities.

It has grown upon us in the light of experience that safety of depositors is not the only nor the principal purpose of reserves. Throughout the world banks hold a certain proportion of reserves. In most countries this amount is determined not by law but by custom and the mandates of banking prudence. In our country, however, with its thousands of individual banks, we prescribe by law the proportion of deposits that the banks must keep as reserves. Member banks count as reserves under the law only balances held with the Federal reserve banks. However, the banks have found it necessary to hold in addition a certain amount of cash in vault to meet over-the-counter demands and a certain amount of balances with correspondents for secondary reserves and clearing purposes, so that the operating reserves of our banks are in fact considerably larger than their legal reserves and consist not only of balances with the reserve banks but also of cash in vault and amounts due from other banks.

We may ask, "What purpose other than the safety of depositors do the reserves serve?" Experience has demonstrated that a fundamental use of reserves is as an instrument through which undue bank expansion can be checked and undue contraction of credit mitigated. Bank reserves are the medium through which the policies of the Federal Reserve System to speed up or retard credit expansion are exercised. If it were not for this leverage the Federal Reserve System would be helpless in trying to discharge its responsibilities toward maintaining a more stable banking system and indirectly a more stable economy.

The System can influence the volume of reserves directly by open-market operations. When the System buys Government securities or acceptances, it pays for them by checks on itself which come to member banks and are deposited with the reserve bank where they become member bank reserve balances. It can diminish reserves by selling Government securities or acceptances for which the banks pay by drawing upon their balances and thereby reducing their reserves. Open-market operations are, therefore, the most direct way of influencing the volume of member bank reserves. The effectiveness of the discount rate fits in with these operations. If the banks find themselves short of reserves and borrow, either because of reserves lost through the purchase of Government securities from the reserve banks or through other causes, then the Federal Reserve System can make the borrowing more or less expensive by changing the discount rate. Open-market operations, therefore, set the stage for discount-rate policy and make that policy effective.

In order to understand the workings of reserves in the banking system, it may be useful to imagine for a moment that there is just one Federal Reserve bank and one member bank. The Federal Reserve bank has all the assets of the Reserve System and the member bank has all the assets of the commercial banking system. The member bank has a certain amount of deposits represented on the asset side by loans and investments. Against these deposits it is obliged to hold, let us say, an 8-percent reserve with the Federal Reserve bank. Assume that the bank is loaned up, that is, that it has as many deposits as its existing volume of reserves will support under the law. Assume then that another million dollars of reserves is deposited with the member bank, either because gold has been imported from abroad, or because the Federal Reserve bank has bought a million of Government securities. The member bank then has a million dollars more reserves than it requires, and it can proceed to lend about twelve millions to its customers, because when the transaction is over it will have twelve millions more of deposits, which is no more than its additional million of reserves can support. It may have loaned the money to Mr. A, and he may have written checks against the deposit to Messrs. B, C, and D, but since all of these gentlemen have their deposits with the bank, it being the only bank, the bank will not have had to pay out any money and the total amount of deposits it created would still be with it. That is what is meant by the statement that every dollar of reserves can expand twelvefold and be the basis of $12 of deposits. This is a simple point but one that it is difficult for bankers completely to assimilate, because it is contrary to their everyday experience.

An individual bank, one of 15,000 banks, which receives a million-dollar deposit cannot immediately lend several times that amount to its customers, because when the customers check against the proceeds of the loan the checks may be deposited with other banks and the original bank will not be in a position to meet its adverse clearing balance. No; the bank can only lend as much money as it has. The point, however, is that if it got a million dollars of reserves and deposited them with the Reserve bank, then loaned a million dollars to a customer, and the customer checked out all the money, this money would be deposited at some other member bank and that bank would have an increase in its deposits and an equivalent increase in its reserves. It, in turn, could lend the money, reserving only as much as it would need against the new deposit. The money would then be deposited in a third bank, which would take another slice out as a reserve against its deposit, and would lend the rest. The process would continue, provided there was a demand for the loans or an opportunity for investment, until the total amount of deposits created would be equal to 12 times the million dollars originally deposited. The net result would be that member bank reserves would increase by a million, their loans and investments by eleven millions, and their deposits by twelve millions. In other words, in practice the situation would work out in exactly the same way as was assumed under our illustration where there was only one member bank. After a process of passing around from one bank to another, the result on the banking system would be the same as though there were only one bank in existence.

In thinking about bank credit from the point of view of the national welfare, it is essential, therefore, to remember this distinction between reserves and other money. Reserve money is susceptible of a multiple expansion, whereas cash or deposits in the hands of the public cannot be the basis of expansion. What we have here is high-power money and low-power money, with the public handling the low-power money and the Federal Reserve banks handling the high-power money.

It may be worth while to ask, Where do reserves come from, taking the banking system as a whole? The answer is, in broad terms and leaving out Treasury operations, that reserves are created either through the import of gold, through a reduction in the public demand for money in circulation, or through Federal Reserve operations. The notable thing about this is that gold movements and the public demand for currency are not directly influenced by Federal Reserve policy. Reserves created through these two channels must be accepted passively by the Federal Reserve System, which may then decide whether their effect should be allowed to operate or should be offset by Federal Reserve operations. The third source of reserves, and the one for which the Reserve System has direct responsibility, is its own operation. The Federal Reserve banks can create reserves for member banks either by lending them money or by buying securities or acceptances in the open market. If they lend them money they put the banks in debt, which tends to restrain credit expansion, because banks do not like to be in debt, and, furthermore, the Reserve bank can make it expensive for them by raising the discount rate. It may also increase reserves, however, by buying securities which gives the member bank reserves without indebtedness and without cost.

These, very broadly, are the instruments through which the Reserve banks can influence the volume of credit. To these instruments there has recently been added the power to change member bank reserve requirements within certain limits fixed by law. This enables the Board of Governors, when it decides that member banks should have less idle reserves, to absorb a part of them by increasing the proportion of reserves that member banks must hold against their deposits. That is a drastic power when used to absorb reserves, and one that is difficult for the Federal Reserve System to use for this purpose except when member-bank reserves have undergone a tremendous expansion through large imports of gold from abroad, as has been the case in the past few years. When the Board of Governors raised reserve requirements by 50 percent last summer, and thereby absorbed $1,500,000,000 of reserves, the volume of reserves available after the absorption was still about $2,000,000,000 in excess of requirements, and since that time the volume has increased still further. The latest increase of requirements to the full limit authorized by law will reduce excess reserves to $500,000,000.

What are reserve requirements now? Under the law they were 3 percent on time deposits, 7 percent on demand deposits in country banks, 10 percent on demand deposits in Reserve city banks, and 13 percent on demand deposits in central Reserve city banks; that is, New York City and Chicago. On the average, prior to the change last summer, member-bank requirements for reserves were about 8 percent of total deposits, which enabled banks to expand credit by $100 for every $8 of reserves, or an approximate ratio of 12 to 1. After reserve requirements were raised by 50 percent the ratio became 12 percent, or $1 of reserves for every $8 of credit. By the increase announced on January 31, the ratio of expansion was further reduced, so that after May 1, when the last part of the increase will go into effect, the ratio will be $1 of reserves to every $6 of member-bank credit.

There had been for many years a gradual decline in this ratio until last summer. Prior to the Federal Reserve Act country banks were required to hold a 15-percent reserve, of which 9 percent could be held in balances with correspondents. Reserve city banks were obliged to hold 25 percent, of which one-half could be held in central reserve city banks, and central reserve city banks were obliged to hold 25 percent in cash. There was no distinction between time and demand deposits. When the Federal Reserve Act was passed it was felt that, because the reserves had been concentrated in 12 reservoirs, it was safe to make the required ratios of reserves lower, and they were reduced, respectively, to 18, 15, 12, and 5. In order to aid in financing the Government when the United States entered the war in 1917, the ratios were reduced still further to 13, 10, 7, and 3, but at the same time the banks were no longer permitted to count as legal reserves such cash as they found it necessary to have in their vaults. It was because of that additional operating reserve, which no longer counted as legal reserve, that the ratios on demand deposits were reduced by five points and on time deposits by two points.

Two significant changes were made by the Reserve Act and its amendments in the reserve structure. One was that the reserves carried in cash did not count as reserves and the other that the ratio for time deposits was reduced to 3 percent. Both of these changes resulted in carrying our reserve ratio to a lower level than prevailed or was contemplated at the time the law was passed. Owing to the ease with which cash could be obtained from the Reserve banks, member banks found that they no longer needed to

carry 5 percent of their demand deposits and 2 percent of their time deposits as cash in vault, but could reduce the amount considerably, and in addition many of the deposits which the banks carried began to be classified as time deposits, requiring only a 3-percent reserve. As a consequence the ratio that reserves actually held by the banks were to their time and demand deposits declined until it reached the low point of 8 percent.

The theory on which reserve requirements were reduced when the Federal Reserve Act was passed was the safety theory. From the point of view of safety, an organized banking system with a central reserve could afford to operate on a much smaller proportion of reserves than could an unorganized system consisting of thousands of banks. From the point of view of credit control which has developed, and which, as I have said before, is the basis of our requirements today, the existence of the Federal Reserve System is no longer a good reason for a minimum of reserve requirements, because the very elasticity of credit and currency made possible by the System makes a wider expansion possible than was possible under the old banking mechanism. The gradual reduction in actual reserves carried by banks has been one of the unforeseen consequences of the operations of the Federal Reserve System. We have learned that now, and have largely offset this development by raising reserve requirements by 100 percent, so that beginning on May 1 they will be 6 percent on time deposits and 14, 20, and 26 percent on demand deposits, depending on the location of the bank. In addition, it may be noted that, viewing reserves in relation to our gold base, our stocks of monetary gold have increased more than eightfold since the war.

At this moment the member banks have about $6,800,000,000 of reserves, of which $4,600,000,000 are required and $2,200,000,000 are excess. The growth in reserves during the past few years has been tremendous. It has amounted to more than $4,000,000,000. This growth was caused to the extent of about $800,000,000 by open-market operations of the Federal Reserve banks during the early days of the depression, but since the autumn of 1933 it has been due to gold imports and, to a minor extent, to silver purchases by the Treasury. It is interesting to note that since the autumn of 1933, when excess reserves were about $800,000,000, the Federal Reserve System has not acted to increase reserves but has seen them accumulate through the import of gold and through other sources.

Last summer reserves had reached an unprecedented volume and a portion of them was converted into required reserves by the Board's action. The reserves which were thus made inoperative were not reserves created through the operations of the banks themselves or through any domestic conditions, including Federal Reserve policy, but through the inflow of gold from abroad. This inflow created reserves, and the limited demand for credit at home retarded its use for credit expansion. Reserve requirements were increased by 50 percent last July, but now we still have $2,200,000,000 excess reserves which, on the basis of past experience and allowing for nonmember bank expansion as well as for member bank expansion, could pyramid into an additional $32,000,000,000 of bank credit. Added to the existing $57,000,000,000, this would bring the total to an unprecedented level of $89,000,000,000 of bank credit. If this happened, it would mean an inflation of the most hazardous character because the creation of any such volume of money would not be accompanied by a corresponding creation of the real wealth, of which money is only the symbol.

The Board has now taken the final step through increasing reserve requirements to reduce excess reserves on May 1 to about $500,000,000 and the potential expansion to perhaps $5,000,000,000 or $6,000,000,000. The present volume of bank credit, notwithstanding a lower volume of business operations, is larger than it was at the predepression peak in 1928 and 1929. The purpose of the Board's action was not to counteract an existing inflation but to prevent an injurious credit expansion, to use the language of the law. The Federal Reserve System is thus placed in a position where it will be closer to the market and can more easily prevent an injurious expansion if it should threaten to develop.

What are the effects on the banks themselves of an increase in reserve requirements? Insofar as individual member banks are concerned, they find that they have less funds available for investment or loans. The very fact, however, that the funds were excess reserves—that is, were idle—shows that the banks were not finding useful employment for these funds. What the banks as a whole lose, therefore, is not funds that they were using, but funds which, under present circumstances, were idle. Taking the banking system as a whole, such an action reduced the amount by which the volume of bank credit could be further expanded if the urge to expand began to take hold.

Another effect of raising requirements is that it limits the amount by which every dollar of reserves can be expanded. Prior to the action of last summer every dollar of reserves could support $12 of member-bank credit. After reserves were raised 50 percent that amount was reduced to $8. By the final increase of 33⅓ percent, the amount of possible expansion has been reduced to $6 for $1. This lower ratio in itself makes it easier for the Federal Reserve System to counteract an injurious expansion, because every dollar that is added to member-bank reserves will add $6 instead of $8 or $12 to the potential volume of member-bank credit. An increase in reserve requirements, however, places no absolute limit on the extent to which banks can expand, because whenever the banks are short of reserves they can borrow from the Federal Reserve bank, and if the Federal Reserve System feels that expansion should be encouraged the Reserve banks can give the banks additional reserves through open-market operations, which would relieve the banks of the necessity of borrowing.

What an increase in requirements accomplishes is to place the Federal Reserve System in a position where it can influence the behavior of member banks through the normal credit instruments of open-market operations and discount rates. This is the usual and desirable position for the System to be in. While the banks have reserves far in excess of their needs, the Reserve System is powerless to influence the rate of expansion or contraction of credit. The power to influence the volume of bank credit through reserves and through open-market operations and discount rates places upon the Federal Reserve System the grave responsibility of seeing that legitimate business is always accommodated at reasonable rates, and that the volume of accommodation in the aggregate is at a rate best adapted to a stable condition of business and credit. The Federal Reserve System recognizes the gravity of this responsibility. We also recognize that so many factors in our economic life are beyond our control that the goal of a full utilization of our national resources at all times without violent fluctuations cannot be achieved by monetary means alone. We can, however, contribute our share to this achievement, and it is to this purpose that our efforts are dedicated.

Flood Control

EXTENSION OF REMARKS

OF

HON. GEORGE W. NORRIS

OF NEBRASKA

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

ARTICLE BY HON. GIFFORD PINCHOT

Mr. NORRIS. Mr. President, in this morning's Washington Post there appeared what I deem to be a very fine article on flood control, written by former Governor Pinchot, of Pennsylvania. I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post of Feb. 8, 1937]

FLOOD CONTROL—EX-GOVERNOR OF PENNSYLVANIA AND CONSERVATION AUTHORITY PRESCRIBES FOREST CONTROL TO END OVERFLOWS

By Gifford Pinchot

A flood is like an epidemic. The time to stop it is before it begins.

Until now, however, we have been, so to speak, providing hospitals to take care of the victims instead of establishing quarantines to keep out the disease. We have been building engineering works to take care of the floods after they occur and have done practically nothing to prevent the floods from occurring or to reduce their height and destructiveness when they do take place.

Levees and other engineering works on the lower rivers are absolutely necessary, just as hospitals are necessary. But 1,000,000 flood sufferers know today that such engineering works are not enough.

We are like a man trying to work with only one arm. The arm we have not used is flood quarantine at the headwaters. It will take both arms to do this job, and hard work at that.

AMERICAN FLOODS INCREASINGLY WORSE

The history of floods in America is proof positive that they are getting worse and worse. They are worse not only because they are higher but because there are more people to suffer and more property to be destroyed; and the present flood is the worst of all.

There were floods in this country long before Columbus sailed the ocean blue, and I suppose there always will be floods, just as there always were and always will be accidents and diseases. But floods, like accidents and diseases, can be controlled and reduced; and the time to do it is not after they happen but before they begin.

Before we began to ravage our natural resources, even in flood time the streams were fairly clear. The soil was protected and kept porous and absorbent by the forests and the prairie sod. To all intents and purposes there was no bare ground at all, and so the enormous mass of soil and sand now carried by our rivers in flood remained where nature put it.

Since then we have cut and burned and cleared and plowed so unwisely that we have laid our soil open to the little fingers of the rain, which for years have been picking up and carrying away the richness of our land.

And not only carrying it off from where we need it but making of it a deadly weapon to destroy the safety, wealth, and happiness of our people.

BILLION TONS OF SOIL WASHED AWAY ANNUALLY

Every ton of earth that is washed into the tributaries of a river in flood increases by just so much the height and weight and fury of the waters. And every year the rain washes into our rivers, and our rivers carry to the sea, a billion tons of soil or more—8 tons each year for every man, woman, and child in America.

These billion tons become files and chisels and battering rams driven by the power of the stream. Nobody knows how much they add to the height or the damage of the flood.

But we do know that they cut away the land, fill great dams with silt and make them useless, cover rich bottoms with barren sand, raise the level of river beds, and so increase the peaks of floods, and must be dredged out of our rivers and harbors at the cost of millions every year. And in every flooded house along the Ohio and the Mississippi the waters will leave a layer of mud that is a part of the stolen wealth of eroded fields.

Do you want to assure yourself as to how far erosion has gone already? Then cross the continent by air in daylight, as I did recently, and you will see, as I did, the picture of a great nation not merely suffering from the results of a long train of neglect and disaster but in danger of disasters vastly greater, just because it has been too busy to think even a little way ahead.

You will see for yourself, if you have the seeing eye, how little waters have washed the better soil from little elevations in uncounted fields, how, where the land is rolling, great gashes have been cut into the hillsides; how stream beds are choked with the sand and the gravel that remain after the fertile soil has been carried to the sea.

IMMEDIATE FLOOD DAMAGE NOT THE GREATER LOSS

The flood damage, vast as it may be, is not the only loss, nor even the greater loss. The loss of fertile soil, carried away from farms and forests, from mountain slopes and fertile fields, is the greatest loss of all, and the most permanent. For this soil, on which our very life depends, cannot be replaced for generations, while homes can be rebuilt and cities will rise again.

Prof. T. C. Chamberlin estimated at 10,000 years the average time required to reproduce 1 foot of the soil we have wasted so freely. Already, I am told, something like a quarter of it is gone. And, as Chamberlin said, "When our soils are gone, we, too, must go."

Unchecked erosion is a clear case of heads I win, tails you lose. The uplands lose and the lowlands lose. The whole Nation loses. What made the wealth of field and forest soils higher up turns into destruction lower down. There is no good in it for any man, from the mountain to the sea. Everybody loses when the floods are out.

And there is no possible reason why this double-acting calamity should go on. We have long known what was needed to stop it. Thirty years ago the Inland Waterways Commission painted this same picture, pointed out that every river is a unit from its source to its mouth and must be treated as such, and urged headwater as well as lower-stream control.

But the engineers denied the effect of forest and sod on the run-off of streams, denied the need to quarantine the floods at the headwaters—levees and spillways to confine the floods after they came. You know the result.

The fact is that hospitals and quarantines both are required. The present flood has certainly shown that engineering works along the lower rivers are not enough, even though $1,000,000,000 have been spent upon them in the last 4 years. Quite probably the damage from this single flood will be as much as the whole cost of the levee system since the time when the Inland Waterways Commission pointed out the only sure method of flood control.

NO MYSTERY CONCERNING WHAT MUST BE DONE

There is no mystery about what is required. We need to stop forest devastation at the headwaters, and for that we must control the logging and the fires. We need to replant or protect the natural regrowth on lands better suited to the forest than the plow.

We need to stop making erosion worse by plowing uphill and downhill, and so providing channels to carry off the soil. Instead we must plow in level lines around the slope, as they have learned to do in the South.

We need to return many acres to soil-conserving and soil-protecting crops. We need to prevent overgrazing. We need terraces in places and planting for soil protection on bare slopes.

We need many little dams to hold back the waters of little streams. We must control and repair erosion that is already under way. And we need, of course, not only these and other related measures at the headwaters but also the continuance and improvement of levees and other engineering works lower down. We ought to do the one and stop leaving the other undone.

I repeat that we know what needs to be done. All that remains undetermined is the mechanics of how to get it done. Just how the cost and the responsibility shall be divided between the States and the Nation is still to be decided. Are we going to let that stop us?

What then are we actually going to do about? The present flood has put us on notice. Are we going once more to forget about the little waters when this gigantic calamity has passed into history, and so make sure of even greater calamities hereafter? Are we going to let the rivers keep on washing our future into the sea? "When our soils are gone, we too must go."

Safety in Automobile Driving

EXTENSION OF REMARKS

OF

HON. HARRY S. TRUMAN

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

ARTICLE BY HON. ROBERT R. REYNOLDS, OF NORTH CAROLINA

Mr. TRUMAN. Mr. President, I ask unanimous consent to have printed in the RECORD an article by the junior Senator from North Carolina [Mr. REYNOLDS], and published in the New York Herald Tribune of Sunday, February 7, 1937, on the subject of safety in automobile driving.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ROAD ACCIDENT TOTAL STRESSES NEED FOR ACTION, SAYS REYNOLDS—HIGHWAY PROTECTION PROGRAMS MUST BE SPEEDED IN NATION, SENATOR ASSERTS; FAR-REACHING CURBS BY STATE LEGISLATURES FORECAST

(By ROBERT R. REYNOLDS, United States Senator from North Carolina)

Some writer has referred to the United States as a country where the people once hanged horse thieves but now shows little individual concern over the needless killing of humans by automobiles. There is an element of truth in that statement, as serious as the indictment may seem. Certainly it deserves some thought at a time when an average of four persons are fatally injured and a hundred or more hurt in highway crashes every hour.

The tragedy of existing conditions has been brought home to official Washington many times. It was felt keenly when the wife of the Secretary of the Interior met an untimely death. It cast a shadow when the blind Senator Schall, of Minnesota, was struck down and killed on a highway as he wended his way homeward, trusting his life to the ability of drivers he could not see. Tragedy again stalked into the Senate when Senator Murphy, of Iowa, lost his life in a motor crash. Many others, including the Secretary of the Interior himself and the able Senator PITTMAN, President pro tempore of the Senate, narrowly escaped death in mishaps.

I mention these outstanding persons not because the lives of those killed were more precious to families and friends than any of the some 38,500 others meeting death on the roads and streets during 1936, but to emphasize the high degree of congressional interest in the problem.

This serious question is being raised on Capitol Hill: Must our citizens continue to live under the eternal fear that through the fault of some untrained driver or negligence or inattention on the part of other drivers lives may be lost at any moment?

Fortunately, I can answer that question in this article with an emphatic "no." Something is being done about the situation. Flag waving, speechmaking, slogans, and car stickers are giving way to definite plans of action. These plans are based on sound programs which have already stood the test of experience. We may expect some very definite results during 1937.

What is being done? States which have lagged in enacting sound safety legislation and have watched their death tolls rise while those in other States were reduced are clearing their legislative decks for action. The men who build cars are no longer placing emphasis on the speed of their vehicles. Public resentment against existing conditions is at a high pitch, and our people are being organized for intelligent action. Facilities for gathering adequate and official statistics are being improved. Safety education in our schools is being rapidly extended. Driver education and training are becoming a definite part of curriculums in high schools and colleges.

Equally as important, the Federal Government has a broad program for constructive research; building safety into highways that are interstate in character by reason of connecting at State lines, and the elimination and protection of rail-highway grade crossings—a program that is properly Federal in scope.

FREEDOM OF ACTION STRESSED

However, I might here sound the solemn warning that highway transportation has been developed because of the free movement it has offered to millions. As a result our country has attained a mobility never before known to man. Control of these vehicles, beyond that of commercial operators which are essentially interstate in character, properly belongs with the States. There are certain constructive things that the Federal Government can and should do. Some of them are being done. But any undue Federal restrictions on free movement, whether it be attempts to control speed through governors on automobiles, as has been suggested, or something else, will retard the development of a great industry and minimize the benefits we have gained from our new mobility.

I believe that in this statement I reflect the attitude of many of my congressional colleagues.

Nevertheless, we have many precedents in other fields of Government action where individuals and States did not solve problems that could have been solved, necessitating Federal action for the common good. I have high hopes that this will not come in connection with highway use. And I particularly address this reminder to legislators in those States which have continually failed to enact sound safety legislation.

Sound traffic laws, with effective administration and enforcement, offer hope for the quickest results in removing the specter of death from our streets and highways. It has been proven by the downward trend of deaths and injuries in those States which have enacted and made effective progress legislation, such as drivers' license laws, periodic inspection of vehicles in State-owned or controlled inspection stations, and safety-responsibility laws designed to control the proven reckless and irresponsible operators who cannot be reached by a less-drastic weapon.

Therefore, the fact that legislatures in most of the 11 States, now, without any requirement that new drivers show their ability, are moving toward the enactment of drivers' license laws, is certain to have a heartening effect. These States are Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, South Dakota, Tennessee, and Wyoming. (Florida, Georgia, Illinois, Louisiana, and Missouri now license chauffeurs.) An additional 10 States have a license law but are without a mandatory examination provision, and many of these laws will undoubtedly be amended. Thus we may anticipate that 1937 will see marked additions to the list of States requiring operators of motor vehicles to show their driving ability as a prerequisite to taking the wheel. Mere financial ability to purchase a used automobile is certainly not enough to secure the privilege of using the highways.

LEGISLATIVE GAINS FORECAST

Other legislative gains in the States, offering proof that something is being done about the safety problem, may be expected in the form of wider acceptance of uniform signs, signals, and markers, better trained and larger highway patrols, funds to enable the road departments to eliminate unsafe features of highways, and steps to halt the misuse of road funds, now diverted when they are most needed to build more modern and safer arteries of travel.

Legislative activity and other safety programs are, of course, being stimulated by the high degree of interest in safety shown by the manufacturers of automobiles. It is a tribute to their public spirit that they have always been concerned with the safe use of their products. One evidence of this is continued improvement in the mechanical features of cars to assure maximum safety and ease in operation. Another is the coordinated effort to ban advertising of high speeds which has the tendency to encourage fast driving. The automotive industry is also helping materially by the support being given to groups directly concerned with safety. As a result organizations with a total membership of nearly 40,000,000—patriotic and service groups—have been enabled to give more effective safety advice and to mobilize the public for intelligent action.

Up to this point I have dealt briefly with what is being done about the situation through sound legislation and the development of public interest in the problem. Equally as significant gains are being made in another field. It is the field of educating youngsters and grown-ups in self-protection when driving and walking, and in educating and training new drivers and those who will drive in the future.

BIG PROGRAM OF EDUCATION

At the moment the Federal Government is spending millions of dollars each year to assist the States in providing vocational education to fit young men and women for the practical art of earning a living. What could be more fitting than to have such institutions train students to drive and thereby help assure that they will live?

No better evidence of the widespread growth and effectiveness of the safety education programs in our schools can be found than the fact that the President of the United States paused in his official duties, some months ago, to extend greetings to several thousand school safety patrolmen gathered on the White House lawn. They were present from many States.

I checked just the other day and found that 250,000 boys and girls are enrolled in the patrols sponsored by school and police authorities in cooperation with the American Automobile Association. These trained youngsters, daily safeguard 7,000,000 schoolmates in some 3,000 cities and towns. This activity has repeatedly been approved by the United States Bureau of Education as an important phase of school work and it is additional evidence that something is being done about bringing to our people a greater degree of safety.

As safety education in the grade schools has been expanded, there has come a comparatively new field of educational activity. It is driver education and training, now making remarkable strides.

All these things that I have mentioned as being done are, of course, being carried out on widely scattered fronts. They are closely related to and have a vital bearing on the Federal program now under way. This program, directly under the United States Bureau of Public Roads, is evidence of national interest and, in turn, congressional interest, in highway safety.

MANY AGENCIES TO AID SAFETY

Naturally, every part of the Federal effort, whether it be financial assistance to the States for road building in accord with certain requirements, elimination of rail-highway grade crossings, grade separations; research studies in connection with road construction, directly or indirectly relates to safer roads. Of course, these specific things do not begin to tell the story of Federal interest.

The safety division of the I. C. C. Bureau of Carriers is doing effective work in the bus and truck field.

The Bureau of Standards aids the industry and the public through its exhaustive technical studies and research. The Bureau of the Census has improved its accident statistics which are essential to knowledge of the subject of safety. The United States Bureau of Education is active. And there are other activities almost too numerous to mention.

Earlier I referred to the Bureau of Public Roads. Two specific projects of this important and constructive Federal agency deserve more attention in any discussion of safety. One is the highway surveys now under way in some 40 States. These surveys are being carried out directly by State highway departments in cooperation with the Bureau. The purpose is to furnish data on road needs, distribution of traffic flows, and proper distribution of road costs. Thus the surveys will have a vital bearing on the development of future road programs.

Of more immediate value, from the standpoint of highway safety, is the research in connection with traffic conditions and measures for their improvement, authorized by an act of Congress of June 23, 1936. This work is under way and calls for a report to Congress in June. As evidence of its value, I quote from the Annual Report of the Bureau of Public Roads.

ELIMINATION OF GRADE CROSSINGS

"One matter that confronts highway officials which is of great present importance and which will be of much concern in the future is the eradication of those conditions that are now or may be conducive to accident, injury, and death. A prominent part of the effort to be made to correct conditions will be the elimination of highway-railroad grade crossings, and the work now begun with Federal funds should be continued."

Something is being done about the accident situation. The outlook for early results is most promising. We have intelligent action under way. It is being carried out on the basis of well-planned programs. But what may we expect in the future? In the third and final article of this series I hope to give some light on that question.

Development and Utilization of Our Mineral Resources

EXTENSION OF REMARKS

OF

HON. COMPTON I. WHITE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 8, 1937

Mr. WHITE of Idaho. Mr. Speaker and Members of the House, under leave to extend my remarks in the RECORD I desire to make a few observations with respect to the policy of our Government and that of our neighbor to the north, the Dominion of Canada, toward the development and utilization of the mining industry.

The records compiled by the United States Geological Survey as a result of scientific investigations made throughout the mining districts located in the Western States discloses that we have vast undeveloped mining resources, particularly the precious metals.

I have the honor to represent the district of Idaho that is said to contain one of the greatest undeveloped gold fields in the United States, a district that is credited by the United States Geological Survey by a conservative estimate with the production of $300,000,000 in placer gold washed from the gravel bars found along creeks and rivers of central Idaho by the pioneer gold miners during the sixties and seventies of the last century.

Many of the gold-bearing veins in this extensive mountainous section of Idaho are still undeveloped due to the handicap that has been placed on the prospectors and miners who have penetrated this rugged country and staked out claims, by the policy of our Government in failing to open the country to transportation by constructing the necessary roads into these isolated mining districts, and the restrictions

that have been imposed by the Security and Exchange Commission on the issuance and sale of mining securities, which prevents the investment of capital in mining development and leaves properties that can be developed into valuable mines lying dormant.

The difference between the policy being followed by our Government in dealing with the development of our mining industry and that being followed by our neighbor, Canada, is brought into strong contrast by the facts outlined in a letter from Mr. Frank E. Johnesse, a prominent and pioneer mining man, who has devoted a lifetime to the development of the mining resources of Idaho, which I insert as follows:

BOISE, IDAHO, *January 30, 1937.*

HON. COMPTON I. WHITE,
House of Representatives.

MY DEAR MR. WHITE: The timely bill which you have recently introduced in the House to provide much-needed amendments to the Securities Act of 1933 is, perhaps, the most constructive piece of legislation that has ever been created to encourage legitimate enterprise. And, since this vital subject will be thoroughly discussed before your intermountain group, I thought it apropos to mention several of the major objections to the said act.

Why is it that less than 5 percent of those who send for the forms with the intention of filing an application for registration with the Commission ever try to comply with the rigid requirements, once they become familiar with the nature of the regulations?

And how can one account for the further fact that more than 10 withdrawals of applications occur to each 1 that finally receives an effective date to proceed with financing?

The answer, it seems, represents the difference between irrelevant facts and logic. When immaterial yet damaging statements are required, it is apparent why so many applicants are forced to withdraw rather than invoke the wrath and penalities of the Commission.

Despite the fact that a new registration form was recently authorized by the Securities Commission for the benefit of mining companies organized less than 2 years, a careful analysis reveals that it is no less drastic and complicated than its predecessor.

Furthermore, the Securities and Exchange Commission insists that the fact of each official prospectus of a registered issue contain the following warning: "It is a criminal offense to represent that the Commission has approved these securities or had made any finding that the statements in this prospectus or in the registration statement are correct."

And again: "These securities have not been approved by the Securities and Exchange Commission. The (name of company) has registered the securities by filing certain information with the Commission. The Commission has not passed on the merits of any securities registered with it."

As a matter of fact, the Commission does approve or disapprove the merits of a security.

The act and the governing Commission were originally created to receive pertinent facts and figures from companies who desire registration, in accordance with a certain prescribed form, to insure uniformity and to merely accept the statements as such, inasmuch as the act carried with it both civil and criminal penalties in the event of misstatements or misrepresentations made by the issuer.

But the Commission has set itself up as a virtual dictator. It actually and unmistakably approves or disapproves the merits of a security, despite its contention, but doesn't openly assume the responsibility. It prefers to hide behind the maze of its own rules and regulations. It prefers to exercise police powers, judicial powers, disciplinary powers, and, at the same time, declares that it does not wish to hinder legitimate industry and enterprise.

Medicine as a tonic can be helpful when needed, but its constant use can also become fatal.

American initiative, ingenuity, progress, and development are being stifled by the autocratic powers of the Securities and Exchange Commission and the regulations created by the Securities Act of 1933.

These obstacles have tended to paralyze the revival of the mining industry throughout the Nation, as well as many other branches of industry in their promotional stages. In spite of the marked rise in the price of the precious and industrial metals, mining camps of the West remain dormant. Money that would otherwise be flowing into the district is restricted and thousands of men are idle that ordinarily would be employed.

This newer generation of legislators do not know western history. When they kill the goose that lays the golden eggs, they are killing western progress. Mining built the West, and it is certainly unwise to restrict mining development through destructive laws just because there are alleged to be a few unscrupulous people using the industry to fleece the public. The district attorney has the power to stop any fraud without the passage of any more laws.

The Securities Act, like the blue-sky laws of the various States, was not demanded by the widows and orphans who had been robbed of their savings by sharp practices of salesmen. They were sponsored by the Better Business Bureaus, the National Chamber of Commerce, and other agencies of the investment bankers, brokers, and stock exchanges. All had powerful lobbies working in every State legislature until the blue-sky laws were practically universal. They wanted a monopoly on the sale of securities—and they got it. But the Securities Exchange Act of 1934 proved to be a boomerang for them.

No question about it. The act is costing the Government more money that could otherwise be utilized for constructive purposes than the so-called saving to the poor people.

The Securities Act of 1933 is the most bureaucratic legislative measure ever passed by Congress. It is un-American and clear out of harmony with democracy. Yet it was passed by a Congress that was supposed to be overwhelmingly Democratic. It makes virtual dictators out of the Commission, who follow the recommendations of an office force made up largely of collegiate nonentities. Men who do not seem to possess the primary principles of business; simply academic theory. The act should be repealed and the sale and distribution of securities regulated by a fixed law instead of day-to-day changes to suit the whims and fancies of a chosen few.

The power given to or assumed by the Commission to make new rulings and to issue stop orders because of a slight and irrelevant technicality on the part of the applicant is most unjust and no doubt unconstitutional. It can easily destroy the foundations of worthy companies, wipe out the savings of investors, and destroy the integrity and reputations of responsible businessmen.

Mines produce new wealth from the ground and turn it into the necessities and luxuries of life. They provide employment at good wages for hundreds of thousands of citizens. They represent the major industry in many of the States, distributing prosperity that benefits the entire Nation.,

Unfair mining legislation benefits no one, does untold harm to a basic industry, destroys pay rolls, kills the best local markets for farm products, curtails freight shipments, and affects every business and individual in a mining territory.

There is no doubt that this act in itself is responsible for a large percentage of unemployment at this time. It is destroying the very purposes for which it was established.

And might I add that the money lost in fraudulent mining stocks is practically nil compared with the losses sustained in other classes of securities. Yet mining is looked upon with disfavor as the most radical of all enterprises, as the renegade of industry, when in fact it is the backbone of the Nation's progress and wealth.

The Securities Act must be changed to encourage rather than hinder the development and exploitation of mining properties. Mining has always stood upon its own feet. It has solved its own problems. Let it continue to do so without being penalized for its aggressiveness.

The eyes of the West—in fact, the entire country—are upon you. And with it goes their earnest and sincere hope that your efforts will be crowned with much deserving success.

FRANK E. JOHNESSE.

In contrast to the policy of our Government in dealing with mining, I desire to bring to the attention of the Members of the House a dispatch entitled "Government Aid to Mining in Canada", appearing in the New York Times of January 31, which I quote here:

GOVERNMENT AIDS MINING IN CANADA—FURTHER GEOLOGICAL EXPLORATION AND ROAD BUILDING PLANNED BY DOMINION AND PROVINCES

TORONTO, January 31.—As in past years, Government aid will be given to the development of the Canadian mining industry in the coming year. The chief assistance is the sending of geological exploration parties into improved areas. Periodic reports are published concerning the areas surveyed.

The Dominion Government and the governments of Ontario and Quebec, Canada's richest mineral Provinces, are most active in exploration work. Last year Ontario not only sent out 12 geological surveys but also gave assistance in the building of roads to remote mining districts. This year the exploration program will be carried out again. The Province of Quebec, which last year made the most gains of any Province in mineral production, will increase its activities this year, especially in the northwestern section, where rich gold discoveries were made last year.

"We are going to send out all the exploration parties deemed necessary this year", J. F. Sutherland, Deputy Minister of Mines for Ontario, announced this week. "A preliminary report is being prepared on the areas to be surveyed, and when that is completed we will select the personnel of the geological parties."

If the Federal Government will cooperate, new road-building programs in the northern Ontario mining areas will be carried out this year, he said. Last year, the Federal and Provincial Governments shared the cost.

Additional British capital for investment in Canadian mining projects entered Canada this week. The announcement followed one made last week that Consolidated Gold Fields of South Africa had entered the Canadian field. The new money was provided by a London concern which also has been interested in South African gold mining.

The capital will be used for the development of 29 claims in Fourniere Township, Quebec. Camps are being erected and steps will be taken to define veins already exposed, followed by diamond drilling and shaft sinking. The London concern is understood to have bought 200,000 shares of treasury stock of a Canadian company.

Mines reporting this week included the Howe Sound Co., which revealed an increase of almost 50 percent in sales of copper and gold bullion. Net income was $803,320, equal to $1.70 a share, in the last quarter of 1936, compared with $625,240, or $1.32 a share, in the preceding quarter. In the same quarter of 1935, net income amounted to $534,855.

Corresponding to the increased scale of mill operations, production of gold at the McKenzie Red Lake gold mines for the quarter to December 31 was the highest recorded to date by the company. The value of bullion produced and marketed amounted to $206,502 against $174,229 in the previous quarter, and $202,789 in the June quarter. The value of production for the year 1936 was $743,376, compared with $533,223 for the 9 months covered by mill operations in 1935.

In addition to the assistance the Canadian Government is giving its mining industry, as reported in the foregoing article, this Government is further assisting the development of the mining industry by the enactment of liberal laws governing the issuance and sale of mining securities and by a tax exemption on certain classes of mining properties and mining operations. This liberal government policy is attracting a large volume of capital from this country and some of our best mining men across the border to engage in developing Canadian mines. It appears from my personal observation that a larger number of new Canadian mining issues are being dealt in on the New York markets than the new issues of mining properties located in our own country, which is a natural result of the policies being followed by the two Governments. When we realize the importance of the utilization of our own mineral wealth to the business and general prosperity of our country, it appears that a more constructive policy in dealing with the development of the mining industry must be adopted by the Congress and by those in charge of the administration of the department of the Federal Government.

Additional Federal Judgeships

EXTENSION OF REMARKS

OF

HON. H. STYLES BRIDGES

OF NEW HAMPSHIRE

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

ARTICLE FROM NEW YORK HERALD TRIBUNE

Mr. BRIDGES. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the New York Herald Tribune of February 7 relative to additional Federal judgeships.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune of Feb. 7, 1937]

EIGHT BENCHES NOW EMPTY IN COURTS ROOSEVELT CITED—COULD ALREADY HAVE NAMED HALF OF JUDGES HE ASKS; POLITICS DELAYED ACTION

WASHINGTON, February 6.—Examination of the roster of Federal judges assigned to the circuit courts of appeals and the United States district courts in the light of President Roosevelt's plan for reorganizing the judiciary disclosed today that eight vacancies, some extending back a year or longer, already existed on those benches.

These vacancies, it was noted, represented nearly half the number of younger judges that could be appointed to the circuit and district courts under the President's plan to remove the asserted handicap of the judiciary of "insufficient personnel with which to meet a growing and more complex business." Political complications, however, are generally blamed for the prolongation of many of the present vacancies.

Such a situation, it was pointed out, had tied up appointments for two vacancies in the Seventh Circuit Court of Appeals, which serves Illinois, Indiana, and Wisconsin. One of these vacancies was caused by the death on November 18, 1935, of Judge Louis Fitzhenry, and the other by the retirement on March 30, 1936, of Judge Samuel Alschuler. Inability of political factions in the three States to agree on candidates for the vacancies is believed to be the chief reason for the long delay in making the new appointments.

A third vacancy on the circuit bench persisted from the authorization last June 24 of an additional judge for the third circuit, serving New Jersey, Pennsylvania, and Delaware, until the present, although the nomination of John Biggs, Jr., of Wilmington, for this post was sent to the Senate last Wednesday. Five vacancies exist in the district judgeships, one in Oregon, caused by death a few months ago, and one each in Kentucky, Missouri, Oklahoma, and West Virginia, which were created by Congress last June to ease congestion in those judicial districts.

The present Congress has confirmed appointees to two district judgeships. One was a successor to Judge Edwin R. Holmes, of Mississippi, whose promotion to the circuit bench was confirmed by the Senate on March 19, 1936, after several months of controversy. In that case the President waited almost a year to fill the vacancy.

The situation of the Federal judgeships in New York is well known. To relieve congestion there Congress, in the spring of 1935, created an additional judgeship, but the President waited a year to make the appointment—until Congress created two more Federal judgeships last spring, so that, as it was reported at the time, he could make three appointments and equally divide the patronage among Tammany Hall; Edward J. Flynn, the Bronx leader; and Senator ROBERT F. WAGNER.

Flood Control

EXTENSION OF REMARKS

OF

HON. FRANCIS T. MALONEY

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

EDITORIAL FROM MERIDEN (CONN.) RECORD

Mr. MALONEY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an editorial published in the Meriden Record of February 5, 1937, with reference to flood control.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Meriden (Conn.) Record of Feb. 5, 1937]

AFTER FLOOD-CONTROL REPORT, WHAT?

To that trite old duo, death and taxes, we might now add floods as being with us always, for somewhere annually the waters kick up enough rumpus to become a nuisance, if not an actual menace.

It would seem in this country that never before has the real significance of flood waters and their potential power to devastate loomed so big on the horizon as today.

The only redeeming feature of the harrowing scenes and wholesale destruction wrought in the West has been the magnanimity of human nature and the selflessness of heroic men and women who have battled the elements and won out in an uneven contest.

While duly impressed with the power of the human race to withstand such onslaughts upon mind and body as the floods have made, every day proves the necessity for finding means to prevent such grim tragedies.

Up to date one conclusive fact has been proved. The cost of actual flood control will be tremendous. No longer is it feasible to think of real prevention in ordinary terms. This time all previous bounds have been exceeded and it has been demonstrated that unless science can do such a compelling job as to eliminate possibilities as well as probabilities, flooded sections better be depopulated for good.

As a matter of fact Dr. Charles P. Berkey, professor of geology at Columbia University, says that man can do nothing to prevent such a flood as that which is now occupying the attention of the country.

Declaring that Nature is the master and that man should not "dispute the right-of-way of one of Nature's giants", he says that "lack of appreciation of geological processes and failure to take note of the danger signals leads to one disaster after another, year after year."

He refuses to take stock in special reforestation levees and dams to do that for which they have no competence.

"Dangerous bottom lands should not have been occupied, of course. We know well how they come to be and why the stricken people return to the same spot in the vain hope that such a visitation may never come again. But the time must come when better plans will be laid. Helpless populations now crowded along the river bottoms in our great cities will be provided habitations beyond the reach of danger. Cities can even be replanned."

Undoubtedly there is much truth in these deductions, but how far they would be acceptable to people whose interests are embodied in the flooded area is a question.

President Roosevelt has already submitted to Congress a report of the National Resources Water Committee which recommended a 6-year $5,011,000,000 Federal construction plan.

Of interest to Connecticut is the estimate that reasonable protection to the river basin could be afforded by a reservoir system costing $40,000,000. As anticipated, the report emphasizes the necessity for coordination and cooperation of Federal, State, and local agencies to attain flood control.

"Flood control in New England", the report said, according to the Associated Press, "must be approached not as an isolated problem but as one of several benefits, including power development, improved sanitation, enhancement of recreational opportunities, and betterment of streams for navigation, that may result in combination from the construction of storage reservoirs to collect floodwaters and release them later in relatively dry periods."

Obviously, it will not be possible for any one State which has been affected by floodwaters to insist on paying only for the project which happens to be within its own boundaries. The source of the trouble may be in another State. The ironing out of such problems will take infinite time and patience, and accounts for the apparent slowness which has characterized the report. It is nearly a year since the flood in Connecticut upset all calculations and yet so formidable is the situation that it has not been possible to decide on any definite lines in the way of real prevention.

Under flood-control plans the abatement of river pollution will introduce new factors which will prove beneficial to many parts of the State, bringing to New England added attractions in the way of recreational facilities.

The tremendous exposure which would attach to the absolute restoration of surface waters to their pristine purity undoubtedly would preclude the possibility of going the whole length in ideal transformation, but enough is planned to make a substantial difference.

The report gives an idea of the price which States must pay to secure even comparative safety.

Postmaster General Farley

EXTENSION OF REMARKS

OF

HON. JOHN H. OVERTON

OF LOUISIANA

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

EDITORIAL FROM THE SHREVEPORT (LA.) TIMES

Mr. OVERTON. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Shreveport Times of Thursday, February 4, 1937, under the caption "James Farley Honored."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Shreveport (La.) Times of Feb. 4, 1937]

JAMES FARLEY HONORED

When the Senate by unanimous vote confirmed the reappointment by the President of James A. Farley as Postmaster General of the United States deserved tribute was paid to a Cabinet member outstanding in his service to the President and the people.

The salute he received from the whole Senate constitutes official recognition of his high worth as a citizen and as a statesman.

Mr. Farley's rise to the forefront of national affairs is a dramatic episode. A self-made American, he began his career as a bookkeeper, and through vigorous initiative reached a commanding position in his chosen field. He then turned to the duties of government, legislative and executive. The Nation knows well what the driving power of his character has done there.

It was Mr. Farley who built the groundwork for President Roosevelt's nomination in 1932. Through months of preconvention activity he worked tirelessly for his chief. The convention success was repeated in similar conquests in the election of that year, the congressional elections of 1934, and in the recent overwhelming Presidential triumph.

Recognized by all impartial observers as a leader responsible in large degree for the Democratic Party's unprecedented ascendancy in the Nation today, this smiling six-footer has drawn to himself not only a vast array of friendships reaching from coast to coast but the respect of millions of Americans who have never met him.

With each passing year his stature in American life has grown. Today there is wide realization that while he is best known as a master of the art of politics, with a word as good as a Government bond, he is even much more. His understanding extends far beyond the mere technical management of a political organization.

He is a student of governmental processes and he knows human needs. Working with a chieftain possessing the same talents, Mr. Farley has been an ideal lieutenant. Like the President, he believes in action. He gets things done.

Convincing proof of his ability as an administrator is found in the fact that in the last campaign the Republicans could discover no flaw in the Post Office Department. It is significant, too, that during his tenure of office civil service in the Federal Government is to see one of its most notable advances.

We think it welcome news that on February 15, in Washington, D. C., a testimonial dinner will be held, at which friends of the administration will pay their respects to the Postmaster General for his service to the administration, the Democratic Party, and the Nation.

Also, it is appropriate that on this occasion the single speaker will be Mr. Farley's chief, Franklin D. Roosevelt.

Postmaster General Farley should feel, when the testimonial day arrives, that while he has best wishes from every State in the Union, nowhere is admiration for him stronger than it is in the Southern States.

Working with the President in rebuilding the Democratic Party and giving it enduring strength, Mr. Farley has been a mighty factor in breaking down the ascendancy of Republicanism, thus bringing to the South an opportunity to share in the fruits of national progress.

The South will not forget what he has done, and we are confident that all will join with us in wishing this great Democrat and American much happiness and even greater success in the years ahead.

Crop-Production Loans to Farmers—H. R. 1545

EXTENSION OF REMARKS

OF

HON. R. P. HILL

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1937

Mr. HILL of Oklahoma. Mr. Speaker, by leave given me to extend my remarks on House bill 1545, which was passed by the House on Monday, January 25, and which has subsequently become law, I wish to call attention of the House to the fact that in my congressional district, as well as many others in the drought area, it will be only through such an act can a heavy majority of the farmers make a crop this year. My only fear is that we did not make the terms for obtaining the loans liberal enough to include every worthy farmer in need of assistance.

Farmers of Oklahoma have faced crop failures year after year for causes over which they had no control. In 1936 they received the hardest blow of all because of the unprecedented drought, with the result that today my State is not only confronted with impoverished farmers but an actual scarcity of the seed necessary to plant a new crop.

I want to commend the Congress on its giving this important bill right-of-way in order that the money could become available before the season for planting arrived. Too often the slow movement of Government business has made it extremely difficult for the relief to become available in time to do the most good. At best, the red tape required to make this $50,000,000 available will cause too much delay. Not having the money in time for spring planting, for any cause whatsoever, would defeat the purpose of the bill.

I was particularly interested in helping to pass this legislation for a very specific reason. We are trying to reduce the relief rolls and help our citizenship to become self-supporting. Unfortunately, the relief program has as yet devised no program that contributed very much to advancing relief clients to a point where they become self-supporting. Too often it has been the opposite. We have 70,000 farm families in Oklahoma in need of financial help to make a new crop. If these families produce a good crop this year and get a fair price for it, they will be free of the relief rolls. Therefore by making these loans we not only invest the Government's money in a worthy cause but make possible real progress toward removing many thousands from the relief rolls, with an additional savings from that source.

Oklahoma always has been a good agricultural region. I believe it is reasonable to predict that prosperous times will again return to the farmers of my State. My faith in this prediction is so strong that I believe it is our duty to see

that these worthy farmers continue to get all the Government aid they need to guarantee them a chance to again become self-supporting and independent.

The Government has been most liberal—sometimes I feel too liberal—in its expenditure of relief funds. Money has been scattered about in large sums to prevent suffering and to help the unemployed. While this money has accomplished the objective of staving off suffering and starvation, it has been of very little real permanent help in rehabilitating our citizenship. Our problem cannot be solved by a permanent dole. When we have absorbed all the labor we need for a long-range and conservative program of construction on a national basis, we have gone as far as we should in stabilizing unemployment from the permanent standpoint. The real solution lies, I believe, in devoting a large portion of our funds to programs that not only meet emergency requirements but contribute directly and heavily to rehabilitation for all classes of the unemployed. I think the first step in such a program is putting agriculture on a profitable basis, and this seed and feed loan bill is an essential part of agriculture's program.

I want all the agencies engaged in rehabilitating the farmers of America given all the funds necessary to complete their work. Even if such a program must be done at a sacrifice of funds to less permanent enterprises, I feel the sacrifice is justified. The $50,000,000 provided for in this bill is a mere "drop in the bucket" compared to other Federal relief expenditures and the permanent good that can be anticipated therefrom. For instance, before this session of Congress closes we will be called upon to make a very large appropriation for the construction of battleships. Just one of these ships will cost as much as this entire seed-loan appropriation, and we all know that in the short space of 10 years or so a battleship becomes obsolete and the money so appropriated is gone and with no return to the Government.

I am pleased that this bill provides for an amount of loan sufficient to care for the needs of both large and small farmers. I am also pleased that the rate of interest on the loans is small and can be easily cared for by the borrowers at a minimum of cost.

This legislation is just and equitable. It reaches the forks of the creeks. It is "grass root" legislation. In my State annual income from agricultural products is greater than the many millions obtained from oil production, to say nothing of its being a much more widely distributed income. Farming is the basic industry. When its returns are assured, the whole citizenship of the country is benefited.

The "Red Rider"

EXTENSION OF REMARKS

OF

HON. GEORGE A. DONDERO

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 8, 1937

Mr. DONDERO. Mr. Speaker, the bill now before the House, H. R. 148, has my hearty support, and I shall vote to repeal the so-called "red rider", now a part of the law affecting the school teachers in the District of Columbia.

That law is an insult to the public-school teachers of America. It brings into question their loyalty and patriotism to our country. As one who has taught school and who has had nearly 20 years' experience in the administration of public-school affairs, I say that the public-school teachers of this country are as loyal and as patriotic as any group of people anywhere in the land, not excepting the Congress of the United States.

The so-called "red rider", effective here in the city of Washington, is degrading to the school teachers in that they are compelled to sign on the dotted line every month or twice a month a statement to the effect that they are patriotic, that they are loyal, and that they have not advocated or taught communism. That law endeavors to set up the principle that you can have patriotism by compulsion or force. It is the very antithesis of the principles upon which our Government is founded. It goes upon the principle that communism is not to be made known, that information regarding it is not to be given to the student body of the Nation.

I say let communism and what it is be brought out into the open. Let our people become familiar with it, and when they once understand that its theory, its idea, and its principle of government stands for a godless nation, stands for an overthrow of our system of government by force and violence, and stands for government by force and fear, then I have no fear that the people will respect, honor, and love the American democracy more and not less. When the two systems of government are compared, the American system will not suffer.

I would never vote to place upon the statute books a law which would compel the school teachers of my district and my State to take any other oath than we are compelled to take here in the House of Representatives in order to hold their positions or jobs. I see no objection to the school teachers giving factual information regarding communism or any other ism as long as they do not advocate it or urge it to take the place of our American democracy.

I appeal to my colleagues to join with me in voting to repeal this un-American, obnoxious, and iniquitous measure and to end forever the placing upon the statute books of the land any law that smacks of intolerance of any kind.

Don't Promote What You Seek to Avoid

EXTENSION OF REMARKS

OF

HON. H. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 8, 1937

Mr. VOORHIS. Mr. Speaker, I am in favor of outright repeal of the so-called "red rider", and am even opposed to the McCormack amendment. My reason is that I am convinced that legislation like this, by focusing needlessly the attention of the Nation upon communism contributes to the growth of the very thing it ostensibly attempts to avoid. I do not know of a school district in America where a public-school teacher could advocate the tenets of real communism and hold his or her job for 5 minutes.

I believe our public schools are the foundation stone of American democratic government and of our social institutions and traditions. I believe when we make the teachings of those schools a political football we start a process the end of which I hesitate to contemplate. For my part I have not lost faith in our teachers or our public schools. The "red rider", either in its original form or in the form of the McCormack amendment, which I admit is somewhat less objectionable, implies that the Congress has lost that faith.

Moreover, we must remember that every public-school board in America is the controlling force over its local schools. If we here prohibit the teaching of communism as we understand it, every school board in America can start forbidding the teaching of communism as they understand it. I can imagine some of them including public ownership of utilities or of electric power as a phase of communism. Other school boards may then forbid the teaching of fascism as some one or other understands that term. And who is to say where this process will stop?

I am dead against communism and its philosophy. I am dead against fascism and its philosophy. I am for the democracy of America, a free government of the people, by

the people, and for the people. And I know that both the Communists on their extreme and the Fascists on theirs are today engaged primarily in trying to create a certain state of mind across our country. Each extreme group is trying to represent to those whom they hope to influence all their opponents as people likely to use all manner of methods to bring about civil conflict and ultimate dictatorship. These extreme groups both feed upon a state of mind of fear and suspicion. If in our society people generally feel they can trust the great body of their fellow citizens to carry on the political and economic struggle, peacefully and according to American rules of the game, then neither extreme revolutionary doctrine can flourish to an appreciable extent at all.

To my mind, our greatest danger lies in the growth of the very kind of suspicion which this "red rider" fosters and encourages. The Communists wish to represent everyone not in their small camp as a Fascist. The Fascists wish to represent everyone not in their camp as Communists. Let these two groups work their will with us and we will have not a democratic America but one wracked with fear and suspicion, with her people split into two hostile groups. The only safe course is the course of freedom of thought and expression for which America has always stood. Let us stick to that. Let us not be deceived into action that will promote that which we would avoid.

Proposed Enlargement of the Supreme Court

EXTENSION OF REMARKS

OF

HON. ARTHUR CAPPER

OF KANSAS

IN THE SENATE OF THE UNITED STATES

Monday, February 8, 1937

EDITORIAL BY WILLIAM ALLEN WHITE

Mr. CAPPER. Mr. President, I ask unanimous consent to have printed in the RECORD an able and illuminating editorial by Mr. William Allen White, editor of the Emporia Gazette, with respect to the President's proposal to increase the membership of the United States Supreme Court.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Emporia Gazette of Feb. 6, 1937]

ADROIT

Adroitly President Roosevelt is proposing to pack the Supreme Court. And because he is adroit and not forthright, he arouses irritating suspicions, probably needless, about his ultimate intentions as the leader of his party and the head of his Government. For his plan to pack the Court did not spring full panoplied from his brain in the last few weeks or the last 2 months. But flouting the democratic process of open discussion, the President revealed to the American people in the long campaign no inkling of this plan. In fact, time and again during the campaign he was charged with exactly what he is doing. His silence then in this morning's light was a little more than insincere.

Last fall he met the charge that he was trying to become an unconstitutional leader by berating the wicked monopolists, the financial manipulators whose powers should be properly clipped and who certainly should be personally punished. But while crying against these "economic royalists" he would seem to have harbored subconsciously a seven-devil lust to become an unconstitutional royalist himself. This country can take care of those who break the laws in high places. That's comparatively easy. But those who scorn the orderly processes of democracy, those leaders who by instinctive indirection slip around our laws and annul the basic implications of American democracy, they become a menace more deadly than the economic royalists whom Roosevelt denounces. In a world challenging democracy, in a day when tyrants appearing as demagogues crying out against predatory wealth have shattered Europe's democratic institutions, this court message of the President's seems strangely like the first looming American symptom of danger.

It is not what the President is doing. Most of his recommendations are sound. At base his most drastic proposal is at least debatable. But the point is this drastic proposal has had no debate before the people. Moreover, by his power over Congress the President will deny free debate there.

It may be wise to pack the Supreme Court. Necessary economic change and social growth must not be choked by the judiciary. But how shall the judiciary be checked? This is a serious question. Whose wisdom has the President consulted? Here is a vital step down a new path amounting to a constitutional change. We should not go dancing dizzily down there overnight. Change should come in a democracy only after a considered, organized, intelligent movement of the whole people. No emergency justifies haste where liberties may be curtailed. Patience is a basic virtue in any democracy.

Every change of public opinion should be definitely reflected in a growing conviction of Congress, and finally by legislation formed after amendment and debate. But this morning we wake up and read a Presidential ukase. Surely the executive branch of the Government should not take full charge of the judicial branch of the Government between hay and grass. Surely in the long campaign last year we should have had some warning of this specific change which will affect our Government so profoundly. Surely Mr. Roosevelt's mandate from the people was to function as the President, not as "Der Fuehrer."

This Presidential adroitness, this uncanny capacity to avoid the direct joining of issues in full, fair, and free debate, this seemingly instinctive lack of candor, this smiling assumption of courage while avoiding all danger, this elaborate stage play to flatter the people by a simulation of frankness while denying Americans their democratic rights of discussion by suave avoidance—these traits are not the traits of a democratic leader. These are tricks which have been played in the new game wherein other peoples have lost their democratic liberties in other lands.

How long will the people be fooled?

Use of Electric Eye by Civil Service Commission

EXTENSION OF REMARKS

OF

HON. WILLIAM P. CONNERY, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 9, 1937

LETTERS FROM HARRY B. MITCHELL, PRESIDENT, UNITED STATES CIVIL SERVICE COMMISSION

Mr. CONNERY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letters:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., February 5, 1937.

Hon. WILLIAM P. CONNERY, JR.,
House of Representatives.

DEAR MR. CONNERY: I have tried several times to get you by telephone in regard to certain statements you made recently concerning the Commission on the floor of the House. For your information in this connection, I am enclosing herewith copy of a letter which I have written to Congressman WOODRUM.

Sincerely yours,

HARRY B. MITCHELL, *President.*

FEBRUARY 5, 1937.

Hon. CLIFTON A. WOODRUM, M. C.,
House of Representatives.

MY DEAR JUDGE: In response to your request as chairman of the subcommittee of the Appropriations Committee having charge of appropriations for the Civil Service Commission, I am writing you in connection with certain statements made by Representative CONNERY, which appear in the CONGRESSIONAL RECORD.

According to Mr. CONNERY, someone told him that the Civil Service Commission was about to install an electric-eye machine to rate papers, and that as a result of installing this machine 130 persons would lose their positions. I don't know who made these statements to Congressman CONNERY, but apparently whoever it was has a vivid imagination. There is no truth in either statement. The Civil Service Commission has no plans for the installation of an electric-eye machine; and it is going to need every employee that it can get for the money it has to do the work that is piled up in its office.

Some 3 years ago, the Commission asked for $25,000 for the development of a machine which Dr. O'Rourke of our Research Division had worked out. Congress appropriated the money but the General Accounting Office found the language of the law would not permit its expenditure as planned. The following year your committee refused to review the appropriation, and that ended the matter. Even if the machine had been installed, there would have been plenty for all employees to do in catching up with the Commission's work.

Sincerely yours,

HARRY B. MITCHELL, *President.*

Changes in Federal Court

EXTENSION OF REMARKS
OF
HON. W. D. McFARLANE
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, February 9, 1937

RADIO ADDRESS OF HON. MAURY MAVERICK, OF TEXAS

Mr. McFARLANE. Mr. Speaker, on February 5 the President sent a special message to Congress recommending certain changes in our court procedure. Today the Republican Legislatures of the States of Maine and Connecticut and the Texas Senate adopted resolutions urging their delegations in Congress to oppose the President's recommendations on changes in court procedure.

The last national election which gave the President a majority of more than 11,000,000 votes and 46 of the 48 States changed the slogan for Maine and the Nation to "As Maine goes so goes Vermont", and now we have added to that slogan Connecticut and the Texas Senate. With Texas one of the five States having no regulatory commission to adequately deal with regulation of the utility rates because of lack of proper legislation costs the consumers of utility services many millions of dollars in excess of a fair price for the different services rendered, with millions of dollars of delinquent taxes uncollected and no adequate effort made to collect them, with a tremendous deficit and taxes becoming more burdensome, and a sales tax being advocated to tax the poor to pay it, with a recent tremendous cut in the pensions of the aged, with nothing being done to enact the child-labor amendment, and little effort being made to remedy this and many other pressing problems pending before the senate, it seems to me that they would do well to mind their own business and allow us to do likewise.

My colleague the gentleman from Texas, Hon. MAURY MAVERICK, through the courtesy of the National Broadcasting Co., expressed his views in reply to those of the Texas Senate and the Senate of Maine on this question this afternoon, and under permission given me I desire to insert the following:

ADDRESS OF MAVERICK OVER N. B. C. FEBRUARY 9, 1937

Friends and fellow Americans. Lawyers, lawyers, lawyers! That's what we have been listening to. I have just heard over the radio from down in Texas, from one of the State senators, who, in criticizing the President's recommendations on Federal court procedure, said: "I don't think it expresses the opinion of the democracy of Texas." I think it does. And he says: "The action of the President is unprecedented." Well, it's not unprecedented and it is not unconstitutional. No one has attacked the constitutionality of it. It is perfectly constitutional.

Let's review some of the acts of Congress the Supreme Court has declared invalid. In the past 4 years it has knocked out the Agricultural Adjustment Act, the N. R. A., the Railway Retirement Act, the Municipal Bankruptcy Act, minimum wages and maximum hours. According to its recent opinions, it will probably knock out social security, old-age pensions, relief to the unemployed, labor legislation, and soil conservation. And even this: It knocks out laws that benefit the States, as it knocked out the New York Minimum Wage Act and also acts of the various commissions of the States, like the regulation of light, oil, gas, and railway commissions.

THE LAWYERS' VIEWPOINT AND THE AMERICAN PEOPLE

Another State senator says that the Supreme Court is well up with its work. But the American people are not well up with their work, and he spoke from the lawyers' viewpoint. I am not speaking from the lawyers' viewpoint. I am talking from the viewpoint of an American citizen who has to serve the American people.

Now, this other senator says that the "means" used were wrong. What does he mean? It is constitutional, and if he and other Liberty Leaguers want to change the Constitution, let them seek an amendment.

Another gentleman down in Texas, Mr. Hooper, just said over the radio: "I am a patriotic citizen and am unalterably opposed to the program of the President." Well, I am a patriotic citizen, too. I am for it. He says he loves and reveres and respects that great institution of the Supreme Court. So do I. And I want to see new blood in it, and I want them to protect the rights of the American people.

This gentleman says that we can accomplish all of the reforms we need within our own institutions. The recommendations of the President are within our own institutions. We have not deviated an inch from our institutions.

REPUBLICAN CONNECTICUT LEGISLATOR SOES OVER "PRIVATE" JUSTICE

Then a Republican gentleman from Connecticut—he almost sobbed over the radio. He said that the Supreme Court was a temple of "private" justice. Oh, possibly so; but we need "public" justice, and we don't want to forget that Mr. Roosevelt was elected in 1932, that many acts of Congress approved by him were declared unconstitutional, and after all the Republican and Old Guard denunciation of him for sponsoring those laws and saying he wanted more of them, he was reelected overwhelmingly, and the people want his views carried out.

Then someone said something about Thomas Jefferson—quoted at length on him. Don't you forget that this Court was packed on Thomas Jefferson and he denounced Chief Justice Marshall and the Supreme Court. In the case of *Marbury* v. *Madison* he paid no attention to it.

The man from Maine said we should have sportsmanship. I want to know, is it sportsmanship to let the American people go without the necessary laws? He can afford to gamble with other people's lives. He spoke of sabotage. It seems to me that the laws of the American people are being sabotaged. I think the American Bar Association has got into this play somewhere.

LET THE TEXAS SENATE TAKE BURDEN OFF TEXANS' BACKS

And so far as Texas is concerned, I want it understood I don't consider myself bound by the Senate of Texas, even if their action is approved by Maine. Maybe if the Senate of Texas will get down to attending to their own business, and will take the responsibility of passing a good utilities law for that State, and take the crushing burden of taxation off the backs of the people of Texas, they would accomplish more.

Permit me to warn the people of Texas and the United States: Don't let a lot of corporation lawyers lead you around by the nose. It is the same outfit fighting the President that he licked in November. They couldn't lick him with the people, so they are going to try to lick him with the Supreme Court.

The only thing the President proposes is that Judges may retire on full pay at 70 or stay on the Supreme Court and have additional Judges appointed. Why not have new blood? If the old Judges retire on a pension, the Court will not go beyond 9 members; and if they don't retire, there will be up to 15.

JUDGES BELIEVE IN RETIREMENT, TOO

Nobody can say there is anything wrong about retiring Judges at 70, since Justice McReynolds and former Chief Justice Taft both said that when they reach the age of 70 they should get off the bench. And the Chief Justice says the same thing, only he puts it at 75.

Since the Texas Senate sends me a message, I want to send them a message. One of them said it would be "dire disaster." I think it would be dire disaster unless we carried out the mandate of the people.

TEXAS SENATORS, HOW ABOUT CHILD LABOR?

Another thing I would like to tell the Senate of Texas: What about their passing this child-labor amendment? I don't think the people of Texas will like it very much if you join up with Hoover and Maine. Up to now the slogan has been, "As Maine goes so goes Vermont and Hoover." What are you boys trying to do—change that slogan to, "As Maine goes so goes the Texas Senate and Mr. Hoover"?

I can't believe you boys are on the right track. We have already had two elections, one in 1932 and one in 1936. I am mighty glad the Texas House didn't fall in line with their opposition to this bill. I believe public opinion is for it, and I want to tell the people of Texas that we are going to do our duty here in Washington, and I hope that the people will rise up and demand that they have justice.

Reciprocal-Trade Agreements

EXTENSION OF REMARKS
OF
HON. H. JERRY VOORHIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, February 9, 1937

Mr. VOORHIS. Mr. Speaker, in the discussion of reciprocal-trade agreements we have once again been confronted with the oft-repeated Republican complaint that "Congress is giving away its legislative prerogatives to an administrative department."

What is the truth about the matter? Has Congress really given away legislative powers? Has it done so without good reason? Has it permanently shorn itself of power in favor of the Executive? I believe the answer to all these questions is "no"; and that an accurate analysis of congressional action in these regards reveals that at the bottom they may be said to spring from a healthy willingness to meet new and unprecedented conditions in the best available way.

NATURAL RESOURCES DEPLETED

The fact is, of course, that there was a time in American history when men were few and natural resources abundant, and when each man, therefore, could, by the exercise of ambition, ingenuity, and hard work, solve reasonably well his own economic problem. Today, however, this is, by and large, no longer true. The economically powerful tend to become even more powerful. And millions of perfectly good, ambitious, hard-working citizens who are economically dependent upon these few owners of large productive properties tend to become ever more and more dependent upon the good offices of their government for such security as they may be able to obtain. Moreover, our natural resources are at the point, if not of complete exhaustion, at least of serious depletion; and the assertion of the public interest in their conservation and, where possible, replenishment is absolutely essential.

These two facts, (1) of economic dependence on the part of a majority of the population and (2) of depletion of natural resources, account largely for the necessity today of increased governmental activity, increased governmental efficiency, and increased governmental flexibility if our democracy is to successfully meet the very real challenge which confronts it.

And so the Congress, in which there sits a large majority of both Houses who have large faith in the integrity and ability of our present Executive has, as it seems to me, wisely chosen to assign broad policy for the executive departments to follow and then given an increased discretion to the executive departments in determining just how that broad policy can best be carried out.

A TRUSTED "GENERAL MANAGER"

Our aim should be single—efficient and effective government to meet the needs of the people of the United States. Were Congress to permanently sign away some of its powers that would be a different thing. But for Congress to say in effect: "For a stipulated length of time we instruct the State Department to manage America's foreign trade in a certain manner", seems to me no more a surrender of prerogative than it would be for the board of directors of a corporation to give a trusted general manager instructions as to objectives to be reached and general methods to be used and then leave to that manager the working out of the details of the job.

BASIC FACTS

Certain facts regarding our foreign trade are rather obvious. The first one is that America has and wishes to maintain a higher price level and higher wage standards than exist in any other nation. It is necessary for us to protect by import taxes our established industries against the competition of goods manufactured or produced under conditions of sweated, underpaid, and overworked labor. Moreover, many of us would like to see our Nation as nearly self-contained as she can be. There are many reasons for this. But all of us know—and this is the second great fact—that America cannot and should not be altogether self-contained. We know that some trade is necessary and desirable. The third fact is this: We know from past experience that a tariff which is too high not only does not benefit but is positively harmful to the great majority of our wage earners and farmers.

POSSIBLE TO DEVELOP TRADE

It is obviously possible to fix import duties at a point where American industries and agriculture can be prosperous and where American wage standards will be protected but where American manufacturers will not be able to add unduly to the price of goods and pile up surplus capital accumulation to the net detriment of the country as a whole. It is equally possible for us to protect our established industries from unfair foreign competition and at the same time to develop our import and export trade.

But none of these things can be done by hit or miss methods. And certainly all of them cannot possibly be done at once without the most careful and scientific methods being used. This is the reason then for using the method of the reciprocal trade agreements in place of the old method of fixing tariff rates on a logrolling basis in Congress itself.

For my part, I am not afraid that Secretary Hull or his State Department are going to let down the bars to goods produced in sweatshops in foreign lands.

DEVELOPING GOOD WILL

For my part, I am glad that Secretary Hull and his aides will attempt to promote international good will in the great realm of possible increased trade where this danger is not present. Especially am I glad that one result of the reciprocal trade-agreement policy has been a vast improvement in our relationships with Latin America. I should think some of the professed opponents of the trade-agreement policy would see the economic importance of this. For years there has existed the possibility of a great export trade to South America, most of which Europe has gotten instead of ourselves. International good will is a thing not easily obtained.

It has been suggested here—or at least implied—that it is somehow a bad thing for the Secretary of State to be too interested in promoting international good will. As I understand it, that is his main job. And I think he is to be commended and not criticized for recognizing it as such.

DEFINITE BENEFITS AND SUGGESTED IMPROVEMENTS

No one pretends that the reciprocal trade-agreement plan has worked out perfectly or that there are not particular spots in some of the treaties which are bad. Indeed, I myself am deeply interested in the possibility of a better protection against the importation of Cuban avocados. But, by and large, I feel sure our country is better off actually and relatively and that a part of this is due to the controlled trade increase made possible by the treaties. My own southern California citrus growers have benefited, and for that I am naturally thankful.

Nevertheless, I believe two principles should be carefully adhered to by the State Department in the negotiation of these treaties and I wish to state those principles here. The first of these is that no treaty should be concluded without full notice being given and opportunity for full hearings provided for all American producing groups which may be affected. The second of these principles is that so long as any limitation by whatever method is being placed on the production of an American agricultural product no provision should be made under a treaty which would encourage its importation.

THE IMPORTANT OUTCOME

Another fallacy that has been presented over and over from the Republican side is this: It has apparently been assumed that people can eat money and that therefore an excess of exports over imports will inevitably benefit the country. I know of no other way to explain the terrible fear of imports as such which exists among the minority Members. Now, a few people in a given nation might have all the money in the world and still its common folk might live a very poor and meager life. That happened once in ancient Rome. The thing that is important is not how much money we have, but how much we can buy with it, and how well what we do buy with it is distributed among all the people of the Nation.

We have heard a lot about the "home market" and been told that a high tariff would give us a good home market. Well, all I know is that it never has done so effectively over any long period of time. For what has always happened has been that the benefits of too high a tariff have been largely appropriated by a few people in the form of excess profits made possible by monopoly prices which have at times risen out of all proportion to the buying power of the people (whatever their money wages may have been) and

the result has been collapse. That was true in 1929. It was true on many occasions before that.

DISTRIBUTE BUYING POWER

The way, gentlemen, to develop and keep a home market is to increase the percentage of total available buying power which goes to the farmers, the wage earners, the unemployed, the aged, and the disabled veterans of war or industry in this Nation. Our trouble has been that our home market has not absorbed our goods and kept our farms and factories running, and that we have not had effective machinery to keep up the standards of living and the buying power of those who, through the years, have been allowed to become the victims of artificially high prices, raised behind tariff walls.

THE TASK AHEAD

Our task is to establish general prosperity. Trade can help. For example, an increase in trade will make possible a reduction of transportation costs. It will make possible the end of the shipping subsidy. It will make possible lower railroad rates. The beneficial effect of this upon our farmers should be obvious. It is up to us to see to it that with increased trade these transportation costs do come down. But our main job lies along the line of legislation to keep wages up by establishing fair minimum-wage standards below which wages will not be allowed to fall. Our main job is to have the courage to maintain decent, self-respecting, useful, productive employment for otherwise unemployed and penniless people. Our main job is to enable our farmers to receive their fair percentage of what the consumer pays for his products. Our main job is to extend and liberalize the benefits of our social security system. Our main job is to see to it that no veteran disabled in the service of his country is in want.

A TESTED METHOD

A hard job, you say. Yes; but it is the only way to preserve a home market. Production is and must be the basis of it; that is true. And the production must be on an abundance, not a scarcity, basis. But excessive profits on each item produced do not lead to abundant production. Quite the contrary. For example, abundant production of electric power in the Tennessee Valley has come because power has been produced there at the cheapest possible price to the consumer. There we have, in my opinion, the best single answer that has been given so far to our problems. And there are lots of other places in the country where we could have T. V. A.'s and where flood-control problems, problems of depressed agriculture, depleted and eroded soil, and water transportation, all can be solved and the cost paid for out of the proceeds of the development of electric power at a cost so low that its consumption will be increased manyfold. The T. V. A. has given the answer to destructive floods and loss of life. Let us not fear to apply its principles elsewhere.

THE PRESIDENT POINTS THE WAY

I close where I began, with a consideration of the surrender of legislative power by Congress. Our job is, in the words of the President, to give the country effective government. And, while the granting of greater latitude to executive departments in carrying out the will of Congress may well increase the effectiveness of government, there is another department of government whose encroachment upon the legislative power of Congress has ordinarily had quite the opposite effect. I refer, of course, to the slow, but steady assumption by not only the Supreme Court but even inferior courts of essentially legislative powers not assigned to them in the Constitution. I rejoice that the President has once more given us a lead. I rejoice that he has crystallized into a definite proposal some of the ideas that many of us have been thinking about and concerning which the gentleman from Texas [Mr. MAVERICK] recently spoke with such courage and logic on the floor of this House. And I trust that this Congress will have both the foresight and the courage, in accordance with the President's suggestion, to add to the efficiency of the judicial department and to assert its unquestioned constitutional right to legislate regarding our courts, that we may keep this American democracy the most effective Government on the face of the earth.

The President's Plan to Pack and Control the Supreme Court

EXTENSION OF REMARKS

OF

HON. HAMILTON FISH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 9, 1937

RADIO ADDRESS OF HON. HAMILTON FISH, OF NEW YORK, ON FEBRUARY 8, 1937

Mr. FISH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech delivered by me last night over the radio:

I want to thank the Columbia Broadcasting Corporation for giving me the opportunity to speak over their coast-to-coast network on the President's plan to pack and control the Supreme Court. On account of the shortness of the notice, I ask the indulgence of my radio audience if my remarks are inadequate to the importance of the occasion.

I fully realize that the question I am discussing is of the most vital and far-reaching importance, affecting the very rock and foundation stone of our representative and constitutional form of government. It is the greatest single issue raised since the World War, and possibly since the Civil War. It transcends all party lines. It is a great American issue. Stripped of its verbiage and camouflage the President's message on the Supreme Court is a direct attempt to pack the Court and control its decisions by the Chief Executive.

The plain issue before the American people is whether they believe in our three separate and independent branches of government, the legislative, executive, and judiciary—whether they believe in the Constitution of the United States and in our American system of government.

A supine, partisan, Democratic Congress has already abjectly surrendered and delegated away most of its constitutional powers to the President, including the control of the purse strings, leaving the Congress with no more legislative power than Ghandi has clothing. When the Congress gave the President $4,800,000,000 to spend as he wanted, the main reason for the existence of Congress disappeared.

It was the same principle that caused the Revolutionary War, inspired the speeches of Patrick Henry and James Otis, and long before of John Hampden when King Charles tried to take away the control of the purse strings from Parliament.

Congress has delegated away so much of its power that the President holds it in the hollow of his hand. The ironclad control of the administrative agencies of the Government by the President is thoroughly understood throughout the country. No one really questions the fact that under his domination Congress has ceased to function as a great deliberative and legislative body, and as an independent branch of the Government.

But, not satisfied with having taken over virtual control of the legislative powers, the President is now reaching out for control of the Supreme Court. Why? Because the Supreme Court has stood like a rock for the Constitution and has been a barrier against the unsound, socialistic, and unconstitutional measures jammed through Congress by the "brain trust."

If the President desires complete dictatorial powers, patterned after the Fascist or Communist dictatorships of the Old World, he could take no more direct step to bring it about than to reach out and gain control of the Supreme Court, as is contemplated by his message to Congress.

The Supreme Court is the palladium of American liberties and the bulwark against the delegation of legislative power to the President by a supine Congress and the creation of a virtual dictatorship or government by edicts instead of by law.

I have repeatedly warned the American people against the delegation of the constitutional powers of Congress to the Chief Executive, and have refused to compromise in any efforts to make him the master of Congress and of the Supreme Court.

I am glad that the issue is now finally before the American people, who are the real masters of the Court, the Congress, and the President. If the people want to do away with our three separate and independent branches of government and concentrate all power into the hands of President Roosevelt, that can be done by constitutional amendments.

Let us from now on debate the issue freely and openly and find out whether the people desire that the President control and dictate the decisions of the Supreme Court.

My own position is that now that the emergency is over, the Congress should not delegate any more power to the President, but should begin to take back the power given him during the depression. The President, however, has become obsessed with a desire for permanent legislative power and is now prepared to make himself the master of the Supreme Court.

The President's message on the Supreme Court is typical of his former sneering attacks on it. After the N. R. A. was held unconstitutional by a unanimous vote of conservatives and liberals alike he told the newspaper reporters that we had returned to the "horse and buggy" days and that cotton would go down to 6 cents and wheat to 40. Later on he wrote Representative Samuel B. Hill to disregard any reasonable doubts he might have as to the constitutionality of the Guffey coal bill and to pass the bill. He now, in utter disregard of the constitutional provision for life tenure, proposes to coerce, intimidate, and force off the Supreme Court six of the nine judges, who are over 70 years of age, by an act of Congress, reflecting on their capacity and usefulness.

The President would be well within his rights to suggest a constitutional amendment to accomplish such a purpose, but to try to do it by legislation is just another perversion of the spirit and letter of the Constitution. If the President is correct in his logic or his reasoning in regard to limiting the age of the justices at 70, then by the same token Senators BORAH, GLASS, NORRIS, and HIRAM JOHNSON should fold up their political tents and automatically retire from public life.

These continued attacks on the Supreme Court emanating from the White House merely aid and abet the Communists, Socialists, radicals, Fascists, and Nazis to undermine our free institutions and our representative and constitutional form of government.

The question of the age of the members of the Supreme Court is just a red herring dragged over the trail to cover up the real issue—the President's attempt to take over control of the Supreme Court and the functions of the judicial branch of the Government. I know of no other more suitable language descriptive of the President's proposal than to brand it just what it is—rank political trickery on the people, contemptible and dishonest, by using the age of the justices as an excuse to make the Supreme Court a rubber stamp for President Roosevelt.

Practically all the former great Chief Justices of the Supreme Court, including Marshall, Taney, Waite, Fuller, White, and Taft, were over 70 years of age while on the bench, and so is Chief Justice Hughes. The ability, integrity, and legal learning of these great men have enhanced the glorious record of the Court for over a century. Why, all of a sudden, has it become a crime for a judge to be over 70? Why, almost overnight, have the six present members of the Court who are over 70 become superannuated, incompetent, and disqualified on account of age? The answer is in simple language, because they refuse to become rubber stamps for the President and New Deal legislation contrary to the written provisions of the Constitution.

It is self-evident that if they are forced to retire by unfriendly legislation or to have additional members appointed to cooperate with them by the President, the net result would be an out-and-out New Deal Supreme Court by personal appointment of the President.

The proposal of the President, if carried out by the Congress, would probably eliminate such an experienced and distinguished legislator as Senator JOSEPH ROBINSON. It would, however, give the President the opportunity to appoint such young brain trusters as Felix Frankfurter, Donald Richberg, the Corcorans, the Cohens, and possibly even Rexford Guy Tugwell, as there is no requirement that a member of the Supreme Court must be a lawyer.

In such a contingency we would see the paradoxical situation of the men who wrote the New Deal legislation for Congress passing upon its constitutionality as members of the highest tribunal in the United States. Shades of Chief Justice Marshall as the exemplar of the conservative element, and of Justice Oliver Wendell Holmes, representing the liberal thought!

If the President's program is carried out, it would mean that the Court would become a political football and would no longer command the respect, confidence, or admiration of the American people. The impartiality, independence, courage, and great legal training and experience of its members has made the record of the Supreme Court of the United States one of the brightest and most honorable pages in American history. By this one act of the President, if put into effect by the Congress, the Supreme Court would be disrupted, disorganized, and its usefulness as a separate and independent branch of our Government would be undermined and destroyed.

I hope the Republicans in Congress will seize the opportunity to prove to the American people that they are not affiliated with the American Liberty League, the big taxpayers and reaction, by proposing immediately a constitutional amendment granting authority to the Congress to enact a minimum-wage law covering the entire Nation.

It is all very well to oppose the monstrous plan of the President to pack and destroy the Supreme Court, but we must not fail to offer constructive methods to insure social and industrial justice. I favor a constitutional amendment enabling Congress to write a minimum-wages law in order to abolish the evils and abuses that exist in the sweat shops and in those industries where men, women, and children are exploited by human vultures and chiselers to the detriment of their health, morals, and lives.

I would not even be opposed to a constitutional amendment to limit the ages of the justices of the Supreme Court to 70, but preferably 75 years of age. Certainly it could do no harm to submit such a proposal to the people back home through an amendment.

I would actually favor an amendment to the Constitution granting the Congress the power to enact legislation by a two-thirds vote in case of all 5-to-4 adverse decisions by the Supreme Court. We now override Presidential vetoes by a two-thirds vote and must adopt constitutional amendments by a two-thirds vote. There is nothing radical in giving the Congress the power to override 5-to-4 decisions. In fact, I believe it would strengthen the confidence and respect of the American people in the Court.

The only legitimate objection that I have heard against the powers of the Court are the unfortunate 5-to-4 decisions, which cause unfavorable public reaction. As a matter of record, only a few of the recent decisions have been by a vote of 5 to 4, including the minimum wage law of New York, and the Railroad Pension Act.

Republicans and constitutional Democrats should join hands to oppose the nullification of the Constitution, to the invasion of the rights of the States, to the delegation of the constitutional powers of Congress or to encroachments by the Congress or the President upon the powers of the Supreme Court.

The people are the masters of the Constitution, and have the right to amend it in an orderly and prescribed way, by a two-thirds vote of the Congress and ratification by three-fourths of the State legislatures.

There should be no party lines on this vital issue. The American people propose to uphold and defend the Constitution, and the powers of the Supreme Court, and to preserve for themselves and for generations yet unborn the rights and liberties guaranteed by the Constitution and the blessings of orderly, representative and constitutional government. Any other course would be fatal to our free institutions and our American system of Government, and the first open step toward the creation of fascism in America.

Let all Americans, regardless of party affiliations, notify by telegrams and letters their Representatives and Senators in Congress their views on the proposal of the President to pack and control the Supreme Court and to dictate its decisions. The people back home are still the masters of the Congress, the Supreme Court, and the President.

Thank goodness, we still have a government by a free people, through a free ballot and under free institutions, who control the destinies of the Republic. There is no room in America for any foreign forms of dictatorship or autocracy either of the left or the right. We believe in and have faith in our representative and constitutional form of government, and in our three separate and independent branches of government and propose to uphold and maintain them.

If the American people, and they are actually the final judges of this great issue, permit the President to take over the judicial functions then there is no barrier left to guarantee their rights and liberties including their constitutional rights of freedom of speech, of the press, and of assembly.

We either believe in the Constitution or we do not believe in it. The Supreme Court is merely the living voice of the Constitution that maintains its integrity and the supremacy of a government by law. Undermine the Constitution and the powers of the Court and we undermine the greatest bulwark of our Republican form of government guaranteed by the Constitution, which might be abolished or replaced by a dictatorship of the right or of the left.

I repeat my challenge to any Democrat or New Dealer to show one single speech the President of the United States made during the campaign in which he even mentioned the Constitution or the Supreme Court. He avoided both like the plague, and throughout his campaign for reelection would not express a single view about either. Now what right has the President to assume that the election was fought out on grounds of constitutional government and to attempt to pack the Court and make it subservient to its new master in the White House?

By no stretch of imagination did the President receive a mandate in the last election from the people to circumvent the Constitution, change our very structure of government, or to stack the Supreme Court of the United States.

Flood Control

EXTENSION OF REMARKS

OF

HON. ALBEN W. BARKLEY

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Wednesday, February 10, 1937

RADIO ADDRESS BY HON. BENNETT CHAMP CLARK, OF MISSOURI, ON FEBRUARY 8, 1937

Mr. BARKLEY. Mr. President, last Monday night, over the National Broadcasting System, the Senator from Mis-

souri [Mr. CLARK] made a very able and illuminating address on flood control. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The appalling disaster of the destruction by floods of hundreds of lives and hundreds of millions of our national wealth in the Ohio and Mississippi Valleys has once again fixed the attention of the Nation, for the time being at least, upon the vital necessity for comprehensive and adequate measures for the permanent control of this great menace to our national life.

The pity is that such disasters are always necessary to arouse national interest in what should be a subject of preeminent national concern until it is successfully and permanently dealt with in all its ramifications of reforestation, forest preservation, and soil-erosion prevention, as well as the ultimate accomplishment of flood control.

At present our Government is expending millions upon millions of public funds in the alleviation of suffering and the relief of those rendered homeless by this latest catastrophe. And this is entirely proper and necessary. In all probability not one Member of the House or Senate of the United States will oppose appropriations to meet these vital expenditures for purposes of mercy. But this necessity for this relief and the unanimity of sentiment with which it is being extended should not becloud the essential fact that in the most accurate and most tragic sense we are once again merely locking the stable door after the horse has been stolen. We are pouring out, from year to year, to soften the harsher and more immediate effects of recurring disaster money which if intelligently expended in years gone by for the support of sound measures for flood control would have gone far to prevent the occurrence of those very disasters. Such a policy can only be considered as an example of stupendous national folly.

To be sure, millions of dollars have been expended by the Federal Government on the problem of flood control, but until the most recent years these were all upon the main stem of the Mississippi or upon one lake in Florida, except such works as were incidental to other purposes, such as navigation or power. The great bulk of the vast expenditures which have been made for flood control have been by the States or by local subdivisions of the States, such as counties, cities, townships, or levee districts. By reason of the essentially interstate character of the flood problem, such improvements have necessarily been piecemeal and incomplete in character, uncoordinated, and completely lacking continuity. Moreover, the fact that when such local improvements are destroyed or impaired by flood the local community which constructed them originally is likely to be so prostrated and impoverished by the disaster as to lack the means to repair the damage makes such a system uncertain and ineffective, as has been many times demonstrated.

Not for many years—in fact, not until after the terrific floods of 1927 with its loss of hundreds of millions of dollars—was the principle that flood control on the main stem of the Mississippi is a national problem and national responsibility established, and then only after a terrific fight and over most virulent opposition. And still it was denied that floods on the tributary streams of the Mississippi or upon other great streams in the country such as the Columbia, the Connecticut, the Merrimack, the Susquehanna, the Sacramento, and many others afforded a national problem, and any efforts to have the subject dealt with in a comprehensive way were berated, ridiculed, abused, and thwarted. Shouts of "pork barrel" went up in House and Senate and in the press and in magazines at any attempt to secure action to meet the situation. What bitter irony do these cries seem today, and how remorseful should these cynics feel as they contemplate the wreckage of the extraordinary floods of 1936 and 1937 with their loss, direct and indirect, of probably a billion and a half of our national wealth, with pestilence following in their train, and with known deaths already far into the hundreds.

The fact that the control of floods is a major national responsibility seems so obvious that it is difficult to understand how it could ever have been disputed. Denuding of timberlands at the headwaters of the Ohio in Pennsylvania and West Virginia may contribute mightily to the inundation of Louisville in Kentucky. Water from swollen tributaries in Pennsylvania, Ohio, Indiana, or Kentucky may destroy Cairo or Paducah or break the levees and flood rich farming lands in Missouri and Arkansas. Floods from the upper reaches of the Missouri in Montana may submerge Kansas City. Extraordinary floods upon any of the important tributaries of the Mississippi were, until the permanent work done in the last 8 or 9 years by the Federal Government on the lower Mississippi, almost certain to cause great loss and suffering in Louisiana and Mississippi. The draining of a swamp on the St. Francis River in Missouri very likely contributed greatly to flooding citizens of Arkansas out of their fertile farms.

The national scope of the problem appears more clearly when we see the mayor of Louisville, Ky., forced to call for Federal troops and to appeal to the mayor of St. Louis, Mo., and the authorities of many other cities for policemen, doctors, nurses, blankets, and medicine and these reinforcements poured across the State lines by plane, train, truck, and boats. It is seen most plainly when Federal relief agencies are rushed to the front to ameliorate distress whether it was caused by unusual rains or extraordinary conditions on any of the tributaries of the Ohio or on the St. Francis or the White Rivers.

Let me say in passing that it was only by the grace of the Almighty that the upper Mississippi, the Missouri, the Tennessee, and the Arkansas were not at flood stage at the same time as the extraordinary flood on the Ohio. For if, as has sometimes happened, they had all flooded at the same time, no power could have kept the unprecedented height of the Ohio flood from causing one of the greatest disasters in the world's history in the lower valley.

Let me briefly recount the history of legislation upon this subject. In 1928, as I have said, after a protracted and bitter struggle, Congress passed the Reid-Jones bill, based largely on the so-called Jadwin plan, assuming Federal responsibility for flood control on the lower Mississippi and Lake Okeechobee in Florida.

The improvements on the lower Mississippi have proved notably successful. In fact, as a result of the very remarkable experiments conducted by the Army engineers in the experimental basin near Vicksburg, where any possible flood situation which may arise on the main stem by reason of the flooding of any of its tributaries can be reproduced in miniature, and as a result of the works constructed as a result of those experiments, the lower valley below Memphis is held tonight to be safe from the present devastation.

But effective as has been these constructions on the lower Mississippi, no attempt had been made at solving the problem of the tributary streams of the Mississippi or the problems of the numerous other great streams subject to destructive floods.

In 1935, after years of careful consideration and serious dispute, the House passed an omnibus flood-control bill designed to authorize—not to appropriate for, which is an entirely different process—only those projects most urgently and badly needed throughout the Nation. Slightly revised and amended, the bill was reported to the Senate. Here a brilliant filibuster delayed its passage, and it was finally done to death by the adoption of a motion to recommit. Amid shouts of "pork barrel", the press of the country very generally applauded its defeat. It was a subject which readily lent itself to witticism from those who did not realize that an unexpected flood which sometimes comes in any ordinarily arid section of Colorado or New Mexico might, in addition to causing enormous local damage, help to flood the Arkansas and add materially to the flood stages of the Mississippi.

It was not realized or admitted that floods on the Merrimack or the Connecticut or the Sacramento, or on the Los Angeles and San Gabriel Rivers in California might cause damage in one extraordinary flood nearly equal to the cost of fairly effective prevention of such floods and that a little additional expenditure might afford security for years to come.

So there were hosannas in many quarters for the defeat of this so-called pork-barrel measure, and the river courses of the country were left to pursue their untrammeled will. And it was placidly assumed that the question of flood control had been settled.

Then came the extraordinary flood of 1936, when Pittsburgh was laid under water, when Johnstown suffered another disaster comparable in loss of property, if not in loss of life, to the original tragic Johnstown flood, when the whole Susquehanna Valley was ravaged, when the Connecticut and the Merrimack Valleys were the scenes of unparalleled disaster, when even in the Nation's Capital transportation had to be suspended on main thoroughfares by reason of a rise in the Potomac.

On the basis of that great calamity we were able to report from the Senate Committee on Commerce a new bill, rigidly restricted to the selection of the Army engineers to the very urgent projects in which disaster might be expected at any time unless preventive work was commenced immediately. No project was included which had not been checked and rechecked as to its merits and its urgency by the branch of the Government specially trained for that purpose. Even with such restrictions the sum authorized by the bill was very large, amounting to $310,000,000 for only the most essential items.

Under the popular support created by the emergency of 1936, the bill was passed by the Congress but with certain hindering limitations. A limit of $50,000,000 a year was placed in the bill over the bitter protest of a handful of us in the Senate who conceived that the United States could spend money in no better way than for the prevention of these irremediable disasters. For instance, the largest item of the bill was an authorization of $70,000,000 for the protection of Los Angeles, surely a goodly sum. But this item was included on the sworn testimony of the best engineers in the Army that a situation existed on the Los Angeles and San Gabriel Rivers in California that might at any time cause one of the greatest disasters in the history of the world.

I was one of those who struggled to the limit of my ability against the imposition of the limit in the bill of the expenditure of only $50,000,000 a year. It seemed to me then and still does that while the Government was expending billions for various purposes, when millions were being spent on a project for harnessing the tides in Maine, and millions for a possibly useless canal in Florida, when a million was being expended for building a new village in Maine, when the telephone and telegraph bill of the Resettlement Administration for 1 year was running to the sum of two and a half million, a limitation of $50,000,000 for permanent improvements to conserve the national wealth of the United States and the lives and well-being of our citizens was so modest as to be inadequate. But we were overborne upon this point and, responsive to the cry of "pork", the limitation was placed in the bill.

The tragedy, however, was in the fact that we did not secure appropriation to the extent of the limitation. We did not obtain any appropriation at all, try as hard as we might. As the floodwaters receded, as the damage was repaired, so did popular interest subside. The measure was passed by the Congress and approved by the President so late that there was no appropriation bill to which we could attach the actual appropriation of funds necessary. So Congress adjourned confident that it had done an excellent job by the mere setting up of a system and by the mere authorization on paper of certain very important flood-control projects. I would be the last to deny that the establishment of this principle was of the utmost importance, but I insist that the delay in appropriations to make it effective cannot be justified. It was then asserted that further appropriations for flood prevention might unbalance the Budget. Now we are unbalancing the Budget by the expenditure of incalculable millions merely to relieve human suffering due to the irreparable loss of billions of our national wealth which can never be replaced.

To use only a local instance within my own knowledge, last year I pleaded for either appropriations or allocations of funds for the Mississippi-St. Francis-Black deltas in southeast Missouri. With the strongest recommendations from the Army engineers as to their merit behind us, we were unable to secure them. Tonight there are 25,515 homeless people from that region being cared for by Government agencies to say nothing of those who have been sent to other sections for care. This number, of course, is only a fraction of the 558,803 persons similarly homeless tonight in the Nation as a whole.

The actual loss in this section alone in this 1 year will exceed the cost of the improvements authorized in acts of Congress which we could not find sufficient funds to implement.

The loss from this one disaster in the Ohio Valley and the other flooded areas, direct and indirect, will certainly be not less than a billion dollars and may far exceed that figure. The loss of life from privation and from pestilence which inevitably follows floods will probably never be correctly estimated. Certain it is that the old adage that an ounce of prevention is worth a pound of cure has never been truer than in this instance.

All of these observations lead only to the conclusion that the problem of flood control is one of primary national interest and one which should engage the attention of the Congress and the Government, not only when there is actual suffering from existing floods to be combated but in the interest of a long-term consistent effort at flood prevention.

This problem of flood control cannot be dealt with either with regard to State or local lines or within narrow limits dealing with the discharge of water from particular streams. It must be realized, and it is now full late in the day for the realization to come, that it must be fundamentally considered in relation to the whole problem of our national resources.

Our Nation was originally blessed with national resources unequaled by any nation in the history of the world. Our forests have been sacrificed to private greed, without any substantial effort until very recent years to replace them in the very essential services for which God intended them in the natural course of physical events. Many swamps intended by Nature to be catch basins and prevent floods have been drained by man.

No nation in the world has so abused its agricultural resources as have we. By deforestation and by the absence of proper soil cultivation, with every flood millions of acres of the most fertile topsoil that the world has ever seen have been borne out into the ocean. In the course of this sweep, deltas and bars have been set up to impair navigation of our best rivers; sand deposits have been laid on top of our best river-bottom land; cities have been wrecked; millions have been made homeless. But, unlike the slow-flowing Nile, no one has yet been able to figure out any advantage from American floods.

The amount of rich topsoil which was carried by this present flood to the Gulf will always be incalculable. The ultimate fact in the impoverishment of the farm lands of the Ohio Valley is unmistakable.

Gifford Pinchot, former United States Forester and probably as well able as anyone else to be an authority on the subject, estimates that every year—normal years—rain washes into our rivers and our rivers carry to the sea more than a billion tons of the best soil of the Nation. His estimate as to the amount may or may not be correct. But anyone who has studied the problem knows that the loss is immense.

President Roosevelt has recently sent a very great message to the Congress upon the subject of the conservation of natural resources. It points out the interrelated parts of a great conservation scheme. With this I entirely agree. I think that this should be the ultimate aim of our people.

But I insist that, pending the adoption and application of this comprehensive scheme, the immediate means at hand for a comprehensive flood-control scheme should not be neglected. I believe that, pending the results of the vast reforestation and soil-erosion-prevention schemes, we should do what can be done to protect our people against the evils of flood, pestilence, and death. Therefore, I ask your support, until such time as a coordinated scheme of the utilization of all natural agencies to prevent floods may be accomplished, in behalf of those lesser plans which might save in 1 year what the cost might otherwise be in 1 year.

Inaugural Message of Governor Benson, of Minnesota

EXTENSION OF REMARKS

OF

HON. ERNEST LUNDEEN

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 10, 1937

INAUGURAL MESSAGE OF GOV. ELMER A. BENSON TO THE LEGISLATURE OF MINNESOTA

Mr. LUNDEEN. Mr. President, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD the first inaugural message of Gov. Elmer A. Benson to the Legislature of Minnesota, delivered on January 5, 1937. Senators will recall that Governor Benson was a distinguished and able Member of this body from the State of Minnesota.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

FIRST INAUGURAL MESSAGE OF GOV. ELMER A. BENSON TO THE LEGISLATURE OF MINNESOTA, JANUARY 5, 1937

If ever a lawmaking body received a clear mandate from the people, it is Minnesota's Fiftieth Legislature.

On November 3 the overwhelming majority of our citizens said that they will no longer be content to suffer at the hands of a system which, during periods of so-called prosperity, gives them nothing more than a mere existence, and, during periods of depression, inflicts upon them misery, hunger, and want.

There was a time when most people believed that those in economic distress were deliquents and misfits. We know better now. We know that no shortcomings on the part of the masses were responsible for the condition which threw millions upon millions of our wealth producers onto the breadlines.

Private industry has given ample proof of its inability to supply even our most elemental social and economic needs.

The people were rather slow in discovering how utterly incapable private industry is to guarantee security for anybody—even for itself. The big industrialists were the first to run to the Government for assistance—the very Government they despised and ridiculed and said should keep hands off business.

The railroad owners, virtually on bended knees, asked the Government to save them from bankruptcy—and the Government did. The big financiers, with tears in their eyes, pleaded with the Government to rescue them when they were in dire financial need—and the Government did. Our public utilities petitioned the Government to guarantee to them handsome profits on their investments, even profits on watered stock—and the Government did. But when our farmers asked the Government to guarantee to them the cost of production—this was sacrilege.

We have undergone a great transformation in our attitude toward government and the things we expect government to do for us. Government is no longer a mere huge policeman, protector of the rights of private property; it is now the great guarantor of social and economic justice and security for all the people.

There also has been a change in our political concepts. Conservative spokesmen have discarded the term "conservative" and have adopted the term "liberal." They have pronounced themselves in favor of the principles of social security, collective bargaining, equal educational opportunities for all children, and the like. Therefore, when the conservatives of this legislature join with the liberals in enacting a truly liberal program, they will in fact not only be carrying out the mandate of the people but they will also be carrying out their own campaign pledges and promises.

We can thus join in a common effort to do a real job for our people. Let us do it in a genuine and constructive way. I sincerely hope that this session will be free from petty politics, petty bickerings, petty maneuverings for political advantage. Let us display a common devotion to a common task.

In carrying out that task our guide must be the people's will. The people have a right to say under what kind of government and under what kind of laws they shall live. That is the essence of true democracy. We, as elected officials, have no right to substitute our will for theirs.

Before outlining to you what may be accomplished through State legislation, I should like to say just a few words on how Minnesota can lend its influence and prestige in influencing national legislation.

The State should take steps to avail its citizens of every benefit which can be derived from the various Federal services and aids. For example, we must seek more soil-erosion camps for this State; increase in seed and feed loans with a more lenient collection service; more Public Works Administration projects; more Rural

Electrification Administration projects; more liberal grants under the Resettlement Administration; no curtailment of employment to farmers in the drought areas; and more Works Progress Administration projects generally.

MEMORIALIZING CONGRESS

There was a time when Minnesota's voice in the national councils was a small voice crying from the wilderness. That is no longer the case. The late great Governor, Floyd B. Olson, gave Minnesota's liberal movement national recognition.

There are several matters of interest to the farm population upon which you should memorialize Congress:

Passage of the Frazier-Lemke refinancing bill; guaranty of cost of production to the farmer; crop insurance; elimination of the speculative marketing system; extension of Government credit to farmers, merchants, and cooperatives, and laws to assist tenants to become farm owners.

Farmers often must dispose of their crops during periods when markets are extremely unfavorable to them. You should memorialize Congress to establish facilities through the Farm Credit Administration which will permit farmers to borrow money on crops stored on their farms.

Congress should be urged to adopt a strong neutrality policy; prohibit sale and delivery of war contraband or the making of loans to nations engaged in any foreign war; take over and operate all munitions plants; conscript wealth in time of war, and make it a criminal offense to spread false propaganda designed to bring our Nation into war.

I urge that you memorialize Congress on the passage of the American Youth Act; the Frazier-Lundeen social security bill; pensions for widows and orphans of war veterans; passage of the Pettengill long-and-short-haul clause repeal bill; prevention of the Minneapolis and St. Louis dismemberment; giving Congress the exclusive and constitutional power to coin money and to regulate the value thereof; Government ownership and control of the Federal Reserve banks, and ratification of the proposed treaty with Canada for building of the St. Lawrence-Great Lakes Waterway.

I recommend also that you petition Congress to submit a constitutional amendment which would remove from the Supreme Court its assumed power to declare unconstitutional laws passed by Congress pertaining to child labor, regulating working conditions in industry and agricultural and industrial production, providing security against old age, unemployment, and sickness, and social legislation generally. Progressive America stands helpless to enact needed social and economic reforms while a reactionary Supreme Court has usurped autocratic powers never intended by the framers of our Constitution.

And now I shall turn to matters which you as legislators can deal with directly.

CIVIL LIBERTIES

One need be no pessimist to view with alarm the dangers threatening our civil liberties.

It is true that we in this country enjoy liberties of speech and assembly which are denied citizens of many other countries. Yet this should not give us a false sense of security. There are powerful groups ever ready to support the liberties of one class at the expense of the liberties of another; some, like the misnamed American Liberty League, take on the cloak of democracy and respectability. We must be on guard against this deception. Secret, subversive organizations like the Black Legion, the Silver Shirts, and the Ku Klux Klan present a constant threat to our freedom. And there are mighty leaders of industry who do not hesitate to ask autocratic control over the lives and liberties of their workers.

It rests upon you who make the laws of this State to guard our American heritage. Just yesterday the Supreme Court of the United States declared the Oregon criminal syndicalism law unconstitutional.

We can do something in that direction by repealing one of the most vicious laws upon our statute books—the criminal syndicalist law.

The law defines criminal syndicalism as "the doctrine which advocates crime, sabotage, violence, or other unlawful methods of terrorism as a means of accomplishing industrial or political ends."

Laws of this kind are frequently used as a spear with which to destroy the trade-union, farmers, and liberal political movements.

GENERAL LEGISLATION

The outstanding success of Minnesota's Bureau of Criminal Apprehension is an admitted fact. The facilities of the bureau should be enlarged. One of the most potent weapons in the apprehension of criminals is the radio. The bureau now functions with only one radio station. For a complete coverage of the State, five stations should be added.

The number of traffic deaths is still appalling, although in Minnesota we have done a better safety job than elsewhere. But our highways will be made safe and the number killed and injured each year greatly reduced only when we enact more effective motor vehicle laws and give our enforcement agencies additional power in enforcing them. The habitual careless driver and offender should be prevented from operating on the streets and highways. I urge that full consideration be given to the adoption of a standard driver's license law for the State of Minnesota as recommended by the National Safety Council.

Prosecutions arising from automobile fatalities due to criminal negligence come under the murder and manslaughter statutes. Successful prosecution of these types of cases under these statutes is virtually impossible. I recommend enactment of a law dealing specifically with deaths resulting from criminal negligence in the operation of a motor vehicle and classing the offense as a felony.

Paid lobbyists of special interests have had a corruptive influence over the lawmaking bodies of this country. I advocate passage of a law which would require registration of all persons engaged in lobby activities before the legislature. You will make a great stride in the direction of honest government by passage of this kind of a law.

There is no denying that, under present liquor laws, regulation of the liquor traffic has broken down. With repeal of prohibition, we were promised by our President, by Congress, and by the State legislature that the saloon would never return. Leaders of civic, religious, business, and other groups were unanimous in their opposition to a return of this demoralizing institution. But no one who has been following the daily press can escape the conclusion that conditions now are worse than they were under the old system when we had the saloon. It is quite obvious that liquor traffic in private hands cannot be controlled.

The State is interested in the question primarily as a matter of temperance and social control. The matter of revenue is of secondary importance.

Publicly owned liquor stores offer the most effective method of meeting the problem. You should give most careful consideration to the proposal of a State dispensary system.

Consideration also should be given to the proposal for a State-owned cement plant. There is no competition in the cement business; it is trust controlled, and no matter from whom the State purchases this material the price does not vary one iota.

I recommend passage of a loan-shark bill with teeth in it, so that its provisions can be enforced. Under various subterfuges loan sharks shamefully exact an excessive rate of interest. These companies should not be permitted to charge more than the lawful contract interest rate and should be placed under the supervision of the State banking department.

The legal rate of interest should be lowered from 6 to 4 percent. This will have a tendency to lower all interest rates which are oppressive.

The nonpartisan method of electing legislators has proven confusing and inefficient. It eliminates party responsibility and confuses the voter. I therefore recommend legislation which will again place the legislature on a partisan basis.

FARM LEGISLATION

The Farmer-Labor Party is mandated to make a special effort in the direction of constructive legislation pertaining to the welfare of the farmer and the worker. The Republican and the Democratic Parties also are mandated by their platforms toward efforts to lift the economic standard of farmers and workers. Although this is essentially a national problem, there are certain things we can do through State action.

I recommend that you extend the mortgage moratorium law for a period of 2 years. Unless the law is continued in effect we again will witness a great increase in the number of mortgage foreclosures and consequent loss of homes and farms by their rightful owners.

The law pertaining to deficiency judgments should be repealed.

This law is not only oppressive; it is downright immoral, violating every rule of ethics and of equity. Even though the general public is invited to bid on a mortgage foreclosure sale, as a practical matter it is only the mortgagee who usually bids—and this bid is frequently less than the amount of the debt itself.

I strongly recommend for your consideration a graduated tax on the business of carrying on farming by chain farms. The ownership of farms by those who work them makes for a sounder and more stable citizenship. We are rapidly building up an absentee land ownership. In some counties as high as 62 percent of the farmers are operating as tenants.

We must do something to counteract that tendency.

As farm-aid measures, I recommend a law requiring the use of a certain amount of barley in the manufacture of beer instead of only rice; an adequate and effective license tax on oleomargarine and other butter substitutes; authorization of the Department of Agriculture to carry on soil-conservation activities and cooperate with the Federal Government and county and local agencies in promoting soil-erosion control; a change in our law pertaining to butter standards so that we will have a single standard similar to the Federal law.

In order to eliminate duplication and overlapping of activities, an agency should be created within the State department of agriculture wherein will center activities of the county-agent system, the 4-H clubs, the livestock improvement association, the poultry improvement association, and similar activities.

I suggest also creation of a consumers' research bureau within the department of agriculture. In other States such bureaus have functioned in the interest of the general public and have done much to protect consumer and producer alike.

COOPERATIVES

The State should facilitate the development of cooperative enterprises of every description. The cooperative and public ownership enterprises of Sweden and other Scandinavian countries were largely responsible for the fact that the depression was felt there less than in those countries where business was confined almost entirely to individualistic enterprises. You should be liberal in appropriations to the department of agriculture in its activities relating to cooperatives.

I recommend a change in the cooperative law in order to permit cooperatives a greater latitude in the purchase of stock in other corporations. The change suggested, I believe, will materially aid their development and expansion.

LABOR

The greatness of a country, or a State, depends not upon the number of its millionaires but upon the standard of living of its masses. We are vitally interested not only in the prosperity of our farming population but also in the economic welfare of all who work, by hand or brain.

The State itself is the largest single employer and should set an example for paying living wages. How can we expect private industry to pay decent wages when the State itself does not do so? I urge you to adopt the union standard of pay for all State employees and to restore all pay cuts.

The issue of economy should not be raised as a bar. If the salaries of every State employee paid from the general revenue fund were abolished completely, the savings to the taxpayer would be only $1.89 for each $100 in taxes.

I advocate a civil-service law for all departments. The citizens have a right to expect at least the same degree of efficiency from State employees as is expected of employees in private enterprises. This cannot be done unless the State employee has some assurance of tenure in his job.

The State Employees' Retirement Fund Act should be amended so as to require the State to pay annually into the fund an amount equal to the deficit of the past year. This will assure solvency of the fund at all times.

The Workmen's Compensation Act has many defects which prevent workers' receiving the full benefits intended by the act. Workmen's compensation insurance is now optional with employers. There are about 15,000 employers in the State who have elected not to be bound by its provisions; the only protection thus afforded to their employees is that which they can receive through our civil courts.

The act should be made compulsory upon all employers. Also, all employers should be required to carry insurance coverage sufficient to meet all legal claims of employees. The files of the State industrial commission reveal that there are about 320 awards of compensation, totaling approximately $360,000, which have not been paid to injured workmen or their widows and dependents because the employers carried no insurance and were themselves irresponsible financially. Insurance companies writing compensation insurance should be required to accept all risks tendered them by employers who comply with the safety code and who are able to pay the premium on the insurance.

You should increase compensation benefits generally, particularly benefits for permanent partial disability. Benefits due to fatalities should be increased from $7,500 to $10,000.

Consideration should be given by you to the proposal for State fund workmen's compensation. This has worked out quite well in other States.

Importation of thugs and strikebreakers in labor disputes should be prohibited by law. Testimony bearing on the use of thugs and professional strikebreakers presented before the La Follette committee in the United States Senate shows the necessity for such a law.

The State should adopt a policy in regard to purchases and awards of contracts to give preference to firms that adhere to the principle of collective bargaining and pay union wages.

I recommend submission of an amendment to our State constitution giving the State the right to adopt laws pertaining to minimum wages and maximum hours of employment; liberalization of the present garnishment law so that all the wage earner possesses is not covered in the garnishment action; creation of a State agency for the collection of unpaid wages; a law regulating the length of trains; and a full-crew bill as regards railroads.

HOUSING PROGRAM

One of the great problems today—National as well as State—is to provide adequate modern housing facilities for our low-income groups. A low-cost housing program is essential.

Adequate low-cost housing is possible only upon the basis of an outright governmental grant of funds to pay land and construction costs. The State can set up a public housing agency to cooperate with Federal housing agencies and avail ourselves of all Federal housing grants.

INDEPENDENT MERCHANT

The independent merchant still suffers from unfair chain-store competition. He is part of our community life. He spends his money here. He keeps his wealth here. Chain stores are monopolistic enterprises whose owners reside outside the State. They contribute nothing toward community upbuilding. Their profits leave our borders, never to return.

I recommend that the chain-store law be made more drastic and revised in the light of recent court decisions.

The last Congress enacted a fair-trade practices bill known as the Robinson-Patman bill. I recommend that you pass a State fair-trade practices bill which will prevent harmful and undesirable business practices such as unfair rebates, and other recognized unfair methods of doing business.

YOUTH

The pathetic condition of youth during this depression is a challenge to those who believe in perpetuating the present order.

Thousands of our young folks who have spent the best years of their lives acquiring an education, training themselves for a life's vocation in either the trades or professions, many with college and university degrees, not a few who have graduated with marks of distinction, find that society has no use for their abilities and their talents. They knock from door to door in quest of employment, which is denied them.

Youth requires security even more so than do their elders. Destroy the faith and hope of youth, and you destroy the future not only of the Nation but of a civilization itself.

Minnesota can promptly take the leadership in the movement in behalf of youth. The late Governor Olson was the first State executive in America to outline a youth plan, which later became a pattern for the Nation and was adopted by the Federal Government.

The work thus started must be continued and advanced. I recommend enactment of a Minnesota youth act which should include creation of a State youth commission with power to determine the actual needs and conditions of youth, and formation of social, recreational, and employment centers, particularly in the rural areas.

Necessary funds should be appropriated to create works projects of such a nature as to make contributions to the vocational and educational training of youth. The department of education could cooperate in formulating such a program. We should aid needy students to pursue their education. Some form of joint Federal-State action is desirable, and funds should be jointly provided by the State and Federal Governments. The National Youth Administration forms a basis for cooperation.

Education for our youth is one concrete way of demonstrating to young men and women our faith in them. We need an expanded college-aid program and adequate means to assist in the general program of youth planning. Minnesota must not standardize living, particularly for its young, on a poverty basis. It must find the means to offer to youth something better than a pauper existence.

EDUCATION

Our national, as well as our individual, welfare depends upon an informed people. We must ever seek to attain a higher level of public education.

I recommend payment of all State aids in full. Minnesota in the past enacted desirable educational laws designed to equalize educational opportunity for children through furnishing a minimum program. But insufficient appropriations necessitate the prorating of the special State aids to education and thereby prevent the attainment of the minimum program fixed by law.

I urge consideration of expansion of educational facilities for unfortunate people suffering from any type of handicap. Likewise I believe the department of education should effect a much closer cooperation than exists at the present time with the board of control in the matter of an educational program for the wards in our various State institutions.

I urge the passage of a bill, together with such appropriations as may be needed, to furnish free transportation to all rural high-school pupils. Urban centers of population and of wealth owe a great educational debt to the rural territories of this State. And yet the sad fact exists that the rural child today has fewer and poorer educational facilities than other children in the State. Forty-four percent of rural children of high-school age in Minnesota are not now in high school because their parents, in many cases, cannot afford to pay the cost of transportation.

Appropriations in the general field of health and recreational services sufficient to enable the department of education adequately to carry out a real program should be made. There is great need for health programs and instruction in the field of health. A proper health program must proceed through a thorough-going educational program in health instruction, which can be carefully coordinated with a State-wide program in the field of recreation. If the youth of this State can be made into healthier and better citizens through this, the little that the State may expend will represent money well spent.

Adult education should become an integral part of our State educational program. In those countries which have undertaken it on a large scale adult education has clearly contributed to a higher standard of living.

These educational recommendations will, of course, require more money. But if you proceed upon the broad principle of equalization of educational opportunity and provide the means to effectively accomplish that ideal, you can make no mistake.

However, I need not point out to you that State aids to education act as a replacement tax, thereby relieving the tax burden of the local community.

I recommend that an interim committee be appointed to codify the school law and make such suggested recommendations in school-law revision as will insure better and more effective educational planning in the future.

TEACHER'S TENURE

The members of the teaching profession must undergo in preparation for their work one of the most rigorous trainings of any of the professions; yet they are public employees with no occupational tenure.

I urge you to enact some measure designed to give a greater degree of security to the teaching profession in the pursuit of its work. I suggest for your consideration enactment of a law which will place teachers under continuous contract, subject to dismissal for cause only, and after the reasons for dismissal are stated in writing and concurred in by a majority of the board of education.

STATE PLANNING

Intelligent State planning can be delayed no longer. We cannot afford to stumble along blindly, not knowing where we are going nor how we are going to get there.

Our lack of a land-use policy in Minnesota cost us dearly, not only in treasure but in wreckage of human lives. I need not tell you of the disastrous results of efforts to develop agricultural settlements on drained peat and other land in northern Minnesota, land never intended by nature for farming. We do not want to repeat these experiments.

The first step ever taken in Minnesota in the direction of land-use studies was the appointment by Governor Olson of a land-use committee in 1933. At present there is a land-use committee, created by legislative act, composed of the heads of various State departments. Its activities, because of lack of funds and other causes, have been rather negligible.

Three years ago President Roosevelt suggested to the various Governors that they appoint State planning boards to study the natural resources of their respective States for the purpose of developing an immediate and a long-time public-works program. A board appointed by Governor Olson has functioned with very beneficial results. Supplied with some funds by the State executive council, it has been able to conduct studies and to lay out plans and make recommendations on problems such as water conservation, social security and public welfare, taxation in its relation to income, educational administration, development of recreational facilities, transportation, rural electrification, public health and sanitation, and metropolitan and urban planning. At the present time it is carrying on an agricultural-land debt survey and a thoroughgoing study of the welfare needs of our State for a period of years.

I recommend that a State planning board be created and supplied with sufficient funds. I suggest that this board be made up of citizens appointed by the Governor, working without pay, with heads of State departments as ex-officio members, and a paid working staff of experts and persons of experience. The board would act in a purely advisory capacity, gathering data and laying out plans to be used as a basis for adoption of policies and programs by the elected representatives of the people.

INTERSTATE COOPERATION

In the course of this session a bill for the establishment of a commission on interstate cooperation, substantially the same as bills being acted upon by the legislatures of other States, will be presented for your consideration. In the past year and a half 17 States in the Union have created commissions on interstate cooperation for the purpose of mutual consideration of pressing problems calling for cooperative action, not only between the States but with the Federal Government. I recommend your careful consideration on this subject.

ELECTRIC POWER

Cheap electric power is one of the essentials of our modern civilization.

Approximately 85 percent of the farms in Minnesota are without electric service. Many of the farms which have electric power are paying exorbitant rates. Electric rates in Minnesota differ in nearly every community. A recent survey by the Federal Trade Commission showed rates varying all the way from 2 cents to 13¼ cents per kilowatt-hour.

Long experience has shown that regulation by State commissions will not bring the desired results. Endless litigation and prohibitive expense make it impossible for the State to procure any real reduction in rates through the courts.

In view of the unprecedented activity of the Federal Government in the field of rural electrification, the State of Minnesota should take an active interest in power problems.

During the next 10 years $410,000,000 in Federal funds will be available for rural electrification purposes. It seems obvious that we should be in a position to make the most of this aid.

The Minnesota Planning Board has made a study of the power question, and has recommended a State advisory power commission. The purposes of this commission would be to survey existing power plants, rates, and services; to prepare a comprehensive plan for the economic interconnection of existing sources of electricity in the State; to prepare a State-wide plan for rural electrification; and to furnish information and recommendations pertaining to electric service.

A commission of this kind would be able to uncover the facts which are so sadly lacking today and would pave the way for a greater enjoyment of the benefits of electric power for the citizens of this State. I recommend an act creating such a commission supplied with sufficient funds to carry on its work.

I further urge the removal of restrictive legislation hampering the normal development of the facilities of municipal power plants. There are in Minnesota 50 cities owning their own generating plants, 80 cities and towns own power-distributing plants, and 57 counties have established electric-power cooperatives.

The removal of restrictive legislation, such as the present law which prevents municipal power plants from extending their lines more than 30 miles from the boundaries of the municipality, would permit these cities and towns to band together into municipal leagues for large-scale operation, and it would also permit them to unite with rural cooperative power associations wherever this appears feasible.

I urge the submission to the voters of a constitutional amendment which would enable the State to produce electrical power and sell this power to municipalities at their gates for their own retailing and distribution.

CONSERVATION

The stage of academic discussion on matters of conservation is past. Problems affecting the use of tax-reverted lands, forest management, water conservation, and recreation are of immediate concern in planning for future long-time needs. Millions of acres of land, unsuited for agriculture, from which the forest growth and other sources of income have been removed, are now reverting to the State.

In retrospect we see the mistakes of the past, but unless we profit by these mistakes the northern counties will again be at the threshold of another cycle of discouragements and failures due to new owners on the one hand, and renewed efforts by taxing units to keep these lands on the tax rolls on the other.

Under the present law, lands reverting to the State are to be held in trust for the taxing units. No one has been able to determine just what the legislature had in mind when it placed this cloud upon the title of reverted lands. The law should be amended so as to make the lands revert to the State in fee simple and not be subject to the trust limitation.

The zoning of reverted land for agricultural and nonagricultural uses by counties should be required by statute. When such zoning affects State forests, State trust fund lands, and conservation areas, zoning plans, before being adopted by county boards, should receive approval by the department of conservation. Unless some system of zoning is put into effect a long-time program of forest development cannot be realized.

Although Minnesota is a region of streams and lakes, it is at the bottom of the ladder in water conservation laws. There should be enacted a law for the operation and maintenance of water-control works by the department of conservation.

We still have within the borders of our State some 19,000,000 cords of available pulpwood, of which 14,000,000 are of the better pulping kinds of trees. The annual growth of pulpwood is over 1,000,000 cords, while the consumption is only 600,000 cords. Under good practical forest management, our forests could not only maintain this supply permanently but provide room for growth.

The wood lots of the State comprise some four and a quarter million acres of salable timber. The farmers should be extended aid in the proper management and marketing of their wood-lot products through encouragement of cooperative marketing and finding new uses for the different kinds of timber grown on wood lots.

In the southern and southwestern counties of our State many of the groves and shelterbelts have suffered considerable damage through the present drought. Among works designed for relief of unemployment the rehabilitation of these groves and shelterbelts should receive serious attention.

For a number of years conservation activities were directed by a five-man commission. Such a commission at the time of its creation was considered as providing the best possible medium for administering and directing conservation. In some States this commission form of organization worked very effectively. In others a conservation commissioner appointed by the Governor gave equally good results. The five-man commission was in the nature of an experiment.

I am strongly inclined to the view that a conservation commissioner appointed by the Governor will center responsibility and make possible a more efficient carrying out of conservation policies. The five-man commission, under our law, is the policy-making body, while the commissioner is the administrative head of the department. No one has yet been able to define exactly what constitutes policy and what constitutes administration and where the line between the two is drawn. The result has been constant confusions and irritations. I recommend the abolishment of the conservation commission.

We must look to the development of our recreational facilities so that they are accessible to our entire population. We have here, also, a field for great cultural development.

Conservation and fish experts are agreed as to the necessity of removing rough fish from the lakes. Their removal, however, presents not only a conservation but a commercial problem as well. The experience of the department in dealing with commercial fishermen has not been in either the best interests of the State or of conservation. You should consider the feasibility of the State itself removing the rough fish instead of leasing the lakes to commercial fishermen.

The time when the present-known supplies of high-grade ores in State-owned mines will have been exhausted is in sight. Already research has developed methods of treating low-grade ores and to make them salable. In this field there is no precedent established in any other State, as this problem is unique to Minnesota. Provision should be made for the expansion of the research facilities of the department of conservation and the university school of mines.

UNEMPLOYMENT RELIEF

The continued unemployment of millions of workers throughout the country presents not only a gigantic relief problem, but makes necessary a complete revision in our approach to the problem of relief generally. The unemployed person in need of relief is not one requiring special social care; he is a victim of a system and of factors over which he has no control. Those who still require special social care should be separated from the jobless, whose sole need is work, or the income which he would derive from work.

A new Nation and State policy reflecting this new attitude toward the unemployed is vitally needed. Unemployment assistance should start not after the person out of work has expended all of his or her resources and has come to the stage of actual pauperization, but as soon as he or she becomes jobless.

The income of the jobless, of course, should come through social insurance, but until adequate social insurance can be established covering all workers, it is patent that either jobs must be supplied by the Government or cash allowances or unemployment assistance given.

A provisional work program could be administered through the industrial commission. Such a plan could take effect with grants by the Federal Government through the Works Progress Administration. We must impress upon the Federal Government that full continuance, and even increase of the Works Progress Administration, is imperative.

The unemployment problem, of course, is national in scope, and State and local governments cannot carry the burden. The Federal Government must assume its full responsibility.

GENERAL RELIEF

The necessity for general relief will continue. General relief is designed to meet the needs of those persons and families who do not fall into any of the categories of the Federal social security and employment programs; those who may become eligible later on, but who are not currently permitted to participate in the several types of State aid, and those who are eligible for the Federal employment and other programs, but who, because of the nature of the programs themselves, are not permitted to participate regularly.

Due to the rapidly changing programs themselves and the variable factors which enter into them, it is most difficult at this time to accurately estimate the financial needs of general relief. The Works Progress Administration, the Resettlement Administration, and kindred activities, as well as the degree of pick-up we can expect from private business, are important variables which make forecasting of general relief needs hazardous.

It must be remembered that any great change in the variable factors will correspondingly change the need one way or the other. Accurate estimates can probably be made after it is known what Congress intends to do with the works program, and when the results of studies now under way are made available. These results I shall communicate to you as soon as I receive them.

But we cannot escape our responsibility to our unfortunates and deny adequate care to those in need. Such a denial is unthinkable, particularly in the face of the economic forces over which the individual has no control.

PUBLIC WELFARE ADMINISTRATION

The State is lacking in administrative machinery to properly handle the work of public welfare. All public-welfare services, with the exception of supervision of public institutions now under the State board of control, should be centered in a new department of public welfare. This would include administration of Federal aids under the Social Security Act, such as old-age assistance, assistance to dependent children, aid to the blind, as well as general home relief. It would call for the cooperation of the various counties through establishment of county welfare boards, which would administer social assistance and treatment under the supervision of the State department.

The various forms of veterans' relief now are scattered in a number of agencies. Though it may be said that it is in the best interests of the veterans that they should avail themselves of needed services as set up in the State agencies, nevertheless as a group they themselves have felt the need of a special program to meet their special circumstances.

I recommend, therefore, that you establish a veterans' bureau which would have the function of supervising the Soldiers' Home and organizing general home relief and assistance to veterans and their families. This would mean consolidation of several State activities now separately organized or within other departments, such as war veterans' relief agency; Soldiers' Home board; division of soldiers' welfare; and veterans' claims handled in the adjutant general's office.

COMPLIANCE WITH FEDERAL SOCIAL SECURITY ACT

Passage by Congress of the Federal Social Security Act meant that Government recognized its obligation as guarantor of the social and economic security of the people. The standards which the law sets are still far from desirable, but at least it is a beginning. Ultimately security must be on the basis of a high American standard of living. Toward that goal we must strive, as well as toward an economy of abundance rather than of scarcity. We must fight not only against a lowering living standard for our masses, but for a constantly higher standard—a standard, I should say, limited only by America's capacity to produce wealth.

The special session called by the late Governor Olson passed an old-age assistance act to enable this State to qualify for Federal old-age assistance. I recommend more liberal allowance so that our old folks can enjoy at least a measure of comfort and liberalization of the law in other respects.

The administration of old-age assistance is in the hands of the board of county commissioners, with the exception of two counties, where it is administered by the board of poor commissioners. The county contributes one-sixth of the share. The weakness of the law is that if one county should fail to pay old-age assistance, the law is suspended for the entire State.

This is not a remote possibility. On two occasions a certain northern county passed a resolution stating that no funds were available to meet the county's share, but in each case the State agency succeeded in having county funds transferred for that purpose. There is no assurance that this can always be done. There are perhaps 15 other counties in similar financial straits, and the danger of suspension of old-age assistance for the State is always present.

Another feature is that it does not permit the State agency to exercise sufficient supervision. This results in a continuous compromise of the basic provisions of the act and prevents putting into effect a uniform plan throughout the State. A uniform plan is also a basic requirement of the Federal act and our inability to carry this out, under the present State law, may get us into difficulties later.

I recommend that the law be amended so that the counties are absolved from contributing their shares.

The last special session passed an unemployment insurance act to qualify under the Federal Social Security Act. I suggest some changes in the law.

The present act denies benefits to workers who, even though their grievances be just, are compelled to go on strike. Workers on strike must live and their families also must live. They have a right to attempt to better their economic condition. Had it not been for the strike weapon exercised by the American workingman, I am certain that the living standard of the workers of this country would today be no higher than it is in most of the European countries. Workers on strike because of just grievances should be entitled to benefits under the law, and I so recommend.

I believe also that the act is endangered through the system of merit rating of employers. The greatest determining factor contributing to steadiness of employment is the nature of the industry itself. Why should the employer in an industry which by nature is unstable or seasonable be placed in a disadvantageous position with the employers in an industry which, because of its nature, is able to stabilize unemployment? Furthermore, the operation of the so-called merit system will narrow the tax base and endanger the successful operation of the law.

I recommend that you abolish the merit rating provisions of the law.

I recommend that the minimum compensation be raised from $6 to $8 and the maximum from $15 to $18, leaving the alternative provision of three-fourths of the weekly full-time wage.

The waiting period provided for by the act is 2 weeks. In my opinion, this waiting period is too long. Many families are required by circumstances to live so close to the subsistence line that they will suffer serious want if 2 weeks must elapse before they can secure unemployment compensation. I recommend that the waiting period be reduced to 1 week.

In order to receive the full benefits from the Federal Social Security Act as pertaining to aid to dependent children and aid to the blind, our State laws must be changed. Bills will be introduced whose passage will qualify the State to receive Federal grants in both of these aids.

No change in our present laws is necessary to qualify the State to share its grants under the Federal act for maternal and child health service, service for crippled children, child-welfare service, vocational rehabilitation, and public-health work.

TAXATION

I shall now discuss with you the very important subject of taxation.

I have indicated to you what the people in their insistence upon liberal and humane government expect of us. We must either discharge our obligations to the fullest, courageously and honorably, or we must frankly tell the people that our form of government has not the capacities and the resourcefulness to do the things the people expect of government.

The new obligations which government must assume require additional expenditures. We may as well face the issue frankly and lay our plans. It is a long-time program upon which we are embarking, a program which squares with the most enlightened theories of modern government. There is no turning back from it, because the people will never want us to turn back—no more so than they would want us to return to the days of human slavery.

These increased expenditures must be regarded as current expenditures and must be met by current revenues. It would be unfair to meet them through bond issues or through increasing the State's indebtedness.

Our tax system must be revised, first, to remove the unjust tax load which now rests upon the home owner and farmer, and, second, to levy a tax upon wealth, upon those with capacity to pay, sufficient to meet governmental needs. As a means of aiding the home and farm owner I recommend that all homesteads and farms

operated by their owners be exempted from the State tax levy for at least the first $4,000 of assessed valuation. You can make the exemption even higher or exempt them entirely from the State levy. The amount of revenue the State will lose thereby could easily be made up through other forms of taxation.

I recommend a substantial increase in iron-ore taxes. When iron ore is shipped outside the State it is forever dissipated as a source of tax revenue. Our high-grade iron mines, it is estimated, will be exhausted in about 30 years. For this reason this transitory asset should produce a greater tax than that paid by the home owner and farmer, who will always be with us. Under our present system of taxation, the iron-mining companies pay a far smaller proportionate tax than does the farmer and owners of real property.

I submit for your consideration the following suggestions:

An increase in the occupational tax to 8 percent of the gross valuation of all ores at the mouth of the mine, eliminating all statutory and nonstatutory deductions.

The present tax is levied on the net value of ore at the mouth of the mine, derived at by using the mythical Lake Erie price of ore as a base. This mythical value is fixed by the very firms who are to be taxed. From this gross mythical price, six statutory and nine nonstatutory deductions are made, leaving a net valuation of about $1.19 per ton, upon which a 6 percent occupational tax is levied.

I recommend repeal of those provisions of the income-tax law which give exemption to iron-mining companies.

Iron-ore properties should be revalued also for ad-valorem tax purposes on the basis of the average yearly price of basic pig iron rather than the mythical Lake Erie price and a fee of 25 cents per ton charged by the State for weighing, testing, sampling, and grading iron ore, and service needed to protect the interests of the State.

All townships in which mineral bodies are located should be resurveyed in conjunction with the State. The present section and subdivisional corners are established by Oliver Iron Mining Co. monuments. Gross errors in surveys have come to light. These surveys involve all State mineral leases from which extensive revenues are derived.

Minnesota in 1892 issued a number of mineral leases for 50-year periods, which stipulate that the State receive a royalty of 25 cents per ton mined. Efforts unquestionably will be made to renew these leases under the same favorable terms to the mine operators. Operators have been able to lease valuable properties from the State and sublease them to other operators at a very handsome profit to themselves. The State should receive at least the same royalties in leasing its properties as is received by private owners who lease these properties to mine operators. Such has not been the case in the past.

The three laws passed by the 1935 legislature which further reduced the tax limitations affecting the village and school district of Hibbing and the township of Stuntz should be repealed, but proper legislation should be enacted to compensate the property owners of North Hibbing for damages which they incurred because of mining operations in that area.

I should like to say a word about the recent supreme court decision on iron-ore taxes. It has been traditional in this country that the judiciary never impose its judgment against the discretionary acts of administrative officers of government. Yet in its recent iron-ore tax decision, our supreme court wrote into the law as a mandate a specific formula which our taxing authorities are expected to follow. In doing so, the court, in my opinion, overstepped its authority and even went so far as to pass legislation. Here we have a good example of usurpation of power by the courts.

In conformity with the principle of taxation based upon ability and capacity to pay—a theory to which all the political parties in the last election declared they subscribed—I shall submit bills for the following:

Increase in moneys and credits tax together with a change in the method of collection; increase in the income tax in the higher brackets; tax on utility company franchises; increase in taxes on public utilities, including railroads, telephone companies, express companies, and the like; increase in estate, gifts, and inheritance taxes, and increase in taxes of insurance companies.

Tax experts who have studied these proposals inform me that they will produce an additional revenue of many millions of dollars.

Thus, if you adopt a tax-revision program in accordance with ability to pay, we need have no fear that the State will be unable to meet all of its obligations to its citizens in full. This is the proper method for raising governmental revenue, recognized by tax experts throughout the world. As a matter of fact, the cost of all social security should be borne by a tax on wealth—State and Federal. It is perfectly proper for you to urge Congress to revise our national tax system so that social security will be paid by wealth and not by the masses who can ill afford it.

In conclusion, may I say that the program I have outlined to you is the kind of program the voters on November 3 said they wanted adopted in this State. If you will carefully examine the political documents of the last election, you will find support for this program not only in the utterances of the spokesmen of the party to which I belong, but of the spokesmen of the opposition as well. There is no reason, then, why political considerations should be a bar to a union of all parties represented in this body to bring about its realization.

Let us, therefore, unite in a common effort for a common cause. As Governor, I shall extend every possible cooperation to the legislature and assist in making possible enactment of laws so sorely needed today.

I sincerely hope that out of this session will come a better understanding of the needs of our people and a desire to build and to work together for a better world and a better life for all the people.

In closing I should like to discuss with you a matter outside the field of the general subjects I have had the privilege of presenting to you. This is something which is in the thoughts of thousands of our citizens. It is the proposal to erect a fitting memorial to our late great Governor, Floyd B. Olson.

I need not tell you about Governor Olson, nor his human and intellectual qualities; you all knew him—most of you personally. Many of you belong to a different political faith than did Governor Olson. But regardless of your beliefs, I know that you all admired him for his rugged, sterling character, his statesmanship, his courage, his devotion to the cause which he believed right. The great masses of our State loved and adored him; his name has become a symbol in America for the struggle of the common man against the forces of greed, avarice, and social and economic injustice. He was Minnesota's first and outstanding citizen, a true champion of the people.

May I suggest formation by you of an Olson memorial committee to study and to lay plans, interview friends of the late Governor who desire to cooperate in such an undertaking, and report to this session of the legislature.

I thank you.

The Supreme Court

EXTENSION OF REMARKS

OF

HON. BERT LORD

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1937

Mr. LORD. Mr. Speaker, when this legislation was before this House last year I opposed it and voted against it. The legislation was defeated by an overwhelming vote. Now, after the tirade by the Chief Executive against the Supreme Court it comes up here again and the sponsors want to do something nice for the members of the Court, they say, and demote them to lower courts and continue to draw their salary as a Supreme Court Justice.

What Judge is there on the Court that will withdraw and be assigned to act on the circuit court? If a Judge is able to act at all, he certainly is more competent to continue on the Court he is working on, and when he is no longer able to carry on his work he will retire. This does not come from the Court, and to my mind is put forward as a slap in the face to them in an endeavor to get them to resign so that the "brain trusters" can get appointments on the Court. The people throughout this Nation are aroused over the proposed packing of the Court by the Executive, and they are not going to stand for this procedure. This bill, to my mind, is an entering wedge, and if it becomes a law, one or two may resign during the coming 4 years; and if so, this will be the beginning of the end of constitutional government. I am opposed to any changes in the Supreme Court and I shall vote against this and all other measures that have for their purpose breaking down or packing this Court.

We have nine of the outstanding men of our Nation, and while of different schools of thought, they all stand solidly for the American principles and should not be tampered with or cajoled by this Congress or dictated to by the Chief of our Nation.

I hope that this bill does not pass.

First Anniversary of the Philippine Commonwealth

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 10, 1937

ADDRESS BY MR. PORFIRIO U. SEVILLA, LL. B., AT THE HOTEL ASTOR, NEW YORK CITY, ON NOVEMBER 15, 1936, AT THE ANNIVERSARY CELEBRATION SPONSORED BY THE FILIPINO NEW YORKERS LEAGUE, COMMEMORATING THE FIRST YEAR OF THE COMMONWEALTH OF THE PHILIPPINE ISLANDS

Mr. REYNOLDS. Mr. President, I ask unanimous consent that there be published in the Appendix of the RECORD an address by Hon. P. U. Sevilla at the Hotel Astor, New York City, on November 15, 1936, at the anniversary celebration sponsored by the Filipino New Yorkers League in commemoration of the first year of the commonwealth of the Philippine Islands.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Honored guests, friends of Philippine independence, members of the Filipino New Yorkers League, and ladies and gentlemen, we are in truth gathered here tonight to celebrate a great occasion—to do honor to a sturdy and enterprising people—to commemorate their emergence as a mature and independent member of the family of nations.

For centuries the Filipino people were subjected to outside rule. Their physical and natural resources were exploited for the benefit and aggrandizement of the country which is now in the throes of a disastrous civil war. Spain, as we all know, assumed jurisdiction over our islands when she was without doubt the most powerful nation of the world. The spirit of conquest and subjugation prevailed.

The medieval despotism practiced by the Spanish Governors is still recalled with shudders. Since May 1, 1898, when Dewey triumphantly steamed into Manila Harbor, we have experienced a new kind of imperialistic policy. By the Treaty of Paris the Philippine Islands were ceded to the United States and we entered into what I prefer to call the protectorate period. I use that term advisedly, because from the inception of United States occupation the promise was made that eventually our freedom would be restored.

In the next 35 years the cause of Philippine independence ebbed and flowed, depending upon whether the imperialists or the anti-expansionists were in the ruling seats at Washington.

No real impetus, however, was given to the independence movement until the second decade of this century during the first administration of the immortal Woodrow Wilson. Our grand leader, the George Washington and Lincoln of the Philippine Islands, Manuel Quezon, personally interested President Wilson in the cause of Philippine independence. The Jones Act was the result of these interviews, and while nothing definite was covenanted, the bill did contain in its preamble a partial, the while vague, promise of eventual independence.

The World War then intervened and dashed any immediate hopes of realization of that promise. In the post-war period of prosperity imperialism again beclouded the independence issue, and as we all know, it was not until the election of Franklin D. Roosevelt to the Presidency of these United States in 1932 that the principles of Woodrow Wilson again found supporters in Congress.

On March 24, 1934, the Tydings-McDuffie Act became law, and provided for the calling of a Philippine constitutional convention for the drafting and formulation of a constitution for the government of the Commonwealth of the Philippine Islands. It is the constitution so adopted and the government so formulated, which became operative 1 year ago today, that we are commemorating tonight.

But in our ecstasy with our new status we must not forget that political independence is but one step in the vast program for development of the islands. We must likewise secure economic freedom. In order to achieve that we look to American capital and labor to continue to cooperate with the islands so as to cement even closer the bonds—commercial and otherwise—which unite our two lands. Most of the enlightened industrial leaders of both countries see the need for this.

It is only the blind industrialist who can expect to sell his products without purchasing other products in exchange. The foreseeing American capitalists, I believe, realize that by aiding the economic development of the islands he is likewise benefiting his own interests.

Take for example mineral oil. The enterprising oil companies will see the advisability of establishing oil refineries in the Philippines instead of shipping refined oil there. So, too, with the automobile industry. The construction of assembly plants in the Philippines will not only make for cheaper production but will also give employment and stability to the Filipino people.

While such projects undoubtedly will necessitate the initial expenditures of considerable capital, such will not be solely an eleemosynary act on the part of these companies. It will redound to their benefit manyfold. The increasing of the purchasing power of the Filipino people means a larger market for the sale of such products. Such, I submit, is elementary fundamental economics.

Internationally the Philippine Islands are beginning to be recognized as a power in the Pacific. It is rumored that we are to be offered a bid to join the League of Nations. Personally I am opposed to such a step at this time. As I see it, Filipino prosperity is dependent more and more upon the expansion of commercial relations between the islands and the United States. We must, for the present at any rate, keep out of European entanglements, of which there are, alas, too many.

The League of Nations has veered perceptibly from the idealistic course plotted for it by Woodrow Wilson. That it is practically impotent is evident from the history of the past few years. Witness the invasion of Manchuria and more recently the aggressive conquest of Ethiopia.

No; the League cannot help us. The solution of our problems lies not in Geneva but in mutual understanding between Manila and Washington.

Some people fear that the Japanese are looking avariciously at our Pacific republic. I do not take seriously those alarmists who prate about a threatened Japanese invasion of our homeland.

First of all, I do not believe Japan entertains any such plans. Secondly, we Filipinos have always confidence among ourselves in any national problems. Thirdly, I feel that the moral support of the United States and the interest of the American people in our continued welfare would be a sufficient deterrent to any such imperialistic ideas, if they did in fact exist.

We must proceed cautiously and wisely with a cooperative hand extended to the American people.

Uncle Sam, we unite in thanking you for the benefits you have given us, for the aid you have rendered in raising us to mature statehood. Although your nephew in the Pacific is now of age and is most happy to lead his own life, we do wish to continue our happy family life. We know you are proud of us and that we can still come to you for consultation and advice. In honoring our independence we do honor to the people of the United States. May our relations always continue to be pleasant.

Retirement of Supreme Court Justices

EXTENSION OF REMARKS

OF

HON. SAMUEL B. PETTENGILL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1937

Mr. PETTENGILL. Mr. Speaker, I wish it clearly understood that my vote for this bill is not to be interpreted as any suggestion that any Supreme Court Judge is not capable of performing the duties of his office, or that he should retire or resign.

On the contrary, I regret the suggestion recently made that Judges now on the Court, aged 70 or more, are not capable of doing good work and therefore should be replaced.

Lincoln the Lawyer

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Thursday, February 11, 1937

ARTICLE BY EMANUEL HERTZ

Mr. COPELAND. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Emanuel

Hertz, a distinguished attorney of my city, entitled "When Lincoln, the Lawyer, Rode the Circuit." The article was published in the New York Times of February 7, 1937.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times magazine of Feb. 7, 1937]

WHEN LINCOLN THE LAWYER RODE THE CIRCUIT—HE KNEW THE LAW AND THE LIVES IT TOUCHED

By Emanuel Hertz

A faded entry on the books of the Supreme Court of Illinois, dated March 1, 1837, bears record that on that day Abraham Lincoln, representative in the Illinois Legislature from Sangamon County, was admitted to the Illinois bar. As soon as the legislature adjourned Lincoln moved into the law offices of his friend, Maj. John Stuart, in Springfield, and began to practice. Stuart was an experienced and respected member of the State bar, and Lincoln's legal career thus began under the most favorable auspices.

It was a career which was to end only when Booth's bullet crashed into Lincoln's brain in Ford's Theater a little more than 28 years later. For 23 years he practiced his chosen profession in Illinois. For 4 years he practiced in the White House. Yet until recently no phase of his life had been more inadequately dealt with by his biographers, and the complete story of Lincoln as a lawyer must await the publication and study of literally thousands of documents scattered about in offices and private libraries of lawyers throughout the United States.

I speak deliberately of thousands of documents, for Lincoln worked long and hard at the law, a long and varied file of clients passed through his office, and in his partnerships it was usually he who acted as trial lawyer. He made his calm, logical, always fair-minded way through a multitude of cases which took him into every nook and corner of the great field of law to which the new settlers of Illinois were trying to adjust themselves. A recent biographer, Mr. Woldman, in Lawyer Lincoln, has made a scholarly beginning in a study which should command the support of all who love the memory of Lincoln and the traditions of the American bar. This centennial year of Lincoln's debut as a lawyer is a particularly auspicious time in which to recall what the law meant to Lincoln and what Lincoln meant to the law.

Lincoln had learned the elements of law out of basic sources. "Get books and read and study them carefully", he told a young aspirant in later life. "Begin with Blackstone's Commentaries, and after reading carefully through, say, twice, take Chitty's Pleadings, Greenleaf's Evidence, and Story's Equity in succession. Work, work, work is the main thing." These sources needed a good deal of interpretation to fit them for use under pioneer conditions. Lincoln supplied the interpretation and usually persuaded judges and juries to accept it. He was a great creative lawyer, who would have left his deep imprint upon American law even if he had never been elected to any public office.

He had a habit of going back to first principles in his arguments, then showing plainly the changes and progress which had taken place, and finally making a clear-cut application to the case before the court. One day one of his brother lawyers asked him why he took so many pains to lay his foundations.

"Why," replied Lincoln, "when the boys want to jump well—high and far—they go back a distance from the toe mark, and by speed and gravity they get a greater momentum than they could by standing still, and hence are able to jump higher and further. So I get a better start, which enables me to make a better speech. You complain that I am too particular in my argument, and that I include things too small and learning too common for the Supreme Bench. My friends, it will never do for a successful lawyer to take anything for granted in any court, high or low. The court may know the law, may see the bearing of it on your case, or it may not know the law or see the bearing of it in the case before them, and so to be sure that the court fully understands me I am thus particular."

Once he had mastered a case Lincoln rarely needed notes, books, or documents to refresh his memory. He knew fact and law from top to bottom, from center to circumference, inside and out, and knew them so well that he knew precisely what his antagonist must do to defeat him.

When the case was opened before the jury, preliminary to the introduction of evidence, Mr. Lincoln, if for the plaintiff, would open with a statement that by its freshness and vigor literally took the wind out of his opponent's sails. He had a way of stating very fairly all that seemingly could be said for the other side and then of summing up his own argument so simply and convincingly that the net result of the rebuttal by opposing counsel was often merely to tire and bore the jury. There was no such thing as misunderstanding Lincoln. The bailiff could comprehend him as well as the judge. He would give special attention to the dullest juryman.

If there were an opportunity to laugh a case out of court, he never overlooked it. His cross-examination of J. Parker Green is an illustration. Green was an important witness for the State, while Lincoln was acting for the defendant. Lincoln eyed the witness for a few seconds and then nonchalantly asked him his name.

"J. Parker Green", was the matter-of-course reply. "J. Parker Green," Lincoln mused aloud. "J. Parker Green. J. Parker Green. What a peculiar name. What does the 'J.' stand for?" "John."

"Well, why don't you call yourself John—John P. Green—instead of J. Parker Green? Most ordinary folks would call themselves J. P. Green instead of J. Parker Green, wouldn't they? Well", * * * And so for several minutes Lincoln pursued this line of questioning, to J. Parker Green's great discomfiture. In the end the witness' manifest embarrassment so impressed the jury that the effect of his previous damaging testimony was destroyed and Lincoln's client was acquitted. As Lincoln did not voluntarily take criminal cases in which he believed the prisoner guilty, the ends of justice probably did not suffer.

Once, however, Lincoln did have forced upon him, by order of the court and the prisoner's own choice, the defense of a man who seemed undeniably guilty of the offense with which he was charged, namely, stealing hogs. Lincoln took the man into a back room in order to find out what could be said on his behalf. The prisoner shook his head to all the lawyer's questioning.

"I have no facts to tell you, Mr. Lincoln. The truth is—well, jump in and fight 'em on general principles and clear me."

"But, look here", Lincoln protested; "here are half a dozen witnesses on the back of this indictment who will swear that you stole the hogs, and you won't even tell me whether you're guilty or not. It's curious—mysterious."

The prisoner remained obdurate. "It may be curious, mysterious to you," he said doggedly, "but it ain't to me. It's all right; it's clear as a gunshot."

Lincoln gave up and determined to go on with the trial, obeying the prisoner's final instructions: "Pitch in. Go it on general principles with a whoop and a yell. I'll be cleared, you bet." The case was plain enough. The half dozen witnesses gave their damaging testimony and no witness appeared for the defendant. The jury filed out and returned in about an hour with a unanimous verdict of "not guilty."

Lincoln followed the released prisoner out of the courtroom, more mystified than ever, and at last wormed the explanation out of him. "Well, Lincoln," said the vindicated culprit, "I'll tell you. I did steal the hogs, and more of them than I was indicted for—many more—and sold them to my neighbors, the jury, who knew well enough from the evidence that I'd stolen them from Mr. A.; and, what's more, if they convicted me, they'd have to pay for them."

Lincoln loved this yarn and used to tell it with great gusto to his fellow attorneys on circuit. But Lincoln's stories—and they were good ones—should not be allowed to obscure the fact that he took the law with tremendous seriousness, applied to it the powers of a great intellect, and joined with those powers the infinite tolerance and understanding of a magnanimous heart. Lord Shaw, of Dunfermline, was drawing no long bow when he compared him with Papinianus, Grotius, and Lord Mansfield, nor was Senator Beveridge when he stressed his likeness to John Marshall. His appealing qualities as a human being brought to him so many clients that his practice took him into practically every phase of the great domain of the law; his curious, incisive, and clarifying intellect made him take full advantage of every novel question.

When he was practicing with Herndon he took every such case under his personal charge, drew the pleadings, prepared the legal memoranda showing the study of authorities, and made the court appearances. He was the trial lawyer, the appellate lawyer, the brief lawyer and the pleader, and the lawyer consulted by most clients. Usually, under conditions prevailing on the eighth Illinois circuit, pleadings had to be drawn in a hurry and trials started without delay, but Lincoln was always fully prepared.

He knew the law, and he knew equally well the lives of the people whom the law touched. Homely imagery and scholarly citations came with equal ease to his lips. Even the layman will grasp the comprehensive nature of his practice when I state that some of the subjects touched on or dealt with included: the jurisdiction of justices of the peace, the validity of a slave as the consideration for a promissory note, enforcement of gambling debts, seduction, fraud, sale of real estate of a deceased person, guardianship, mortgage and mechanic's lien foreclosure, divorce, suretyship, county-seat wars, ejectment, wills, the defense and less often the prosecution of crimes, damages for personal injuries, slander, fees and salaries, patents, taxation, insurance, liquor questions, railway stock subscriptions, questions of constitutional law, and procedure at law and in chancery.

Such a list as this should forever dispose of the picture of Lincoln which Mr. Woldman helps to demolish as "an oafish country lawyer, perversely honest, who eschewed the technicalities of the law, who refused cases where there was the least doubt as to his prospective client's innocence, and who was naive almost to the point of simplicity when it came to charging fees for his service." This, as Mr. Woldman says, is "silly twaddle." Lincoln was a lawyer of great learning in the law and with great respect for it, tempering justice with mercy, but by no means a dreamy and impractical Don Quixote.

He could lose patience with an inconsiderate and impatient client, as when he wrote: "My mind is made up—I will have no more to do with this class of business. I can do business in court, but I cannot and will not follow executions [the selling of land on court order] all over the world."

He could be kindly with those who were hard pressed. He wrote to a client: "I could have got a judgment against Turley if I had pressed to the utmost; but I am really sorry for him, poor and a cripple as he is." He took the case of the widow of a Revolutionary soldier, who had been swindled by a pension agent. His own notes for the brief, from which he spoke, ran as follows:

"No contract—not professional services—unreasonable charge—money retained by defendant, not given by plaintiff—Revolutionary War—describe Valley Forge privations—ice—soldiers' bleeding feet—plaintiff's husband, soldier leaving home for army—skin defendant! Close!"

Everyone in the courtroom, including the defendant, was in tears when the argument was finished, the widow won her case, and Lincoln refused to accept a fee from her.

He could be firm in demanding a proper fee for his services from those who could afford to pay, and unforgiving when he was sure an injustice had been done him. In 1861 a delegation from Michigan came to him to urge the appointment of a Detroit lawyer to a vacant place on the Supreme Court. When all present had spoken, Lincoln rummaged in an old desk which had been brought from Springfield and read aloud a letter which had been written to him years earlier by the lawyer in question. It ran as follows:

"DEAR SIR: Your bill for $300 for legal service in the tax case received and contents noted. I think your charge is altogether too much. The work done was nothing but what a country lawyer could do, and I enclose a check for $100, which you will please accept in full for your services in that suit."

Lincoln replaced the letter, turned the key, and swung around to face his visitors. "Gentlemen," he said, "the man who wrote that letter has not the requisite sense of justice that would warrant me in appointing him to the Supreme Bench of the United States. Gentlemen, I wish you good morning."

He was honest, not out of policy but because it was literally impossible for him to be otherwise. A. H. Chapman has told of one instance in which Lincoln, convinced of the innocence of his client, relied mainly on one witness to clear him. The witness told, under oath, what Lincoln knew to be a lie, although no one else knew it. Lincoln rose when the testimony was concluded. "Gentlemen", he began, "I depended on this witness to clear my client. I now ask that no attention be paid to his testimony. Let his words be stricken out. If my case fails, I do not wish to win it by a falsehood."

His frankness, followed by a magnificent summing up of the merits of the case, brought a verdict of acquittal.

As the years passed Lincoln grew in knowledge of the law, in the simple and moving eloquence with which he could state an argument, in depth of character. As his greatness as a man developed, so did his greatness as a lawyer. There was no gap or inconsistency between his private and his professional character. He saw deeply and felt deeply.

Practically all Lincoln's biographers tell the touching story of Lincoln's last evening in his Springfield office, which he had visited in order to wind up as far as he was concerned a number of cases which were pending at the conclusion of his 16 years of partnership with Herndon. The two men talked of old times, exchanging reminiscences. Then Lincoln gathered up a bundle of papers and stood ready to leave. "Billy", he said, "if I live I'm coming back and we'll resume practice as if nothing had happened."

The deepest knowledge of the spirit as well as the letter of fundamental law was required in the decisions Lincoln had to make and the policies he had to propose as President: The interpretation of his war powers; the law of treason; the treatment of Confederate leaders; the suspension of the writ of habeas corpus; legal and constitutional questions of conscription; confiscation and the restoration of confiscated property; emancipation; State and Federal relationships during the Civil War; the compensation of slave owners; the freedom of the press, which was constantly endangered by the recklessness of northern newspapers in printing military information of value to the enemy; the stern necessity of limiting some of democracy's civil liberties in order that "government of the people, by the people, and for the people shall not perish from the earth."

Lincoln the lawyer was Lincoln at his greatest, and this centennial of his admission to the bar should be used to fix that fact forever in the public mind. The law goes first when dictatorships arrive. In the law, wisely and humanely administered, without fear and without favor, lies the hope of democracy. That is the lesson Lincoln has for us now, even as he had during the tragic 1860's.

Flood Control

EXTENSION OF REMARKS

OF

HON. DUDLEY A. WHITE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, February 5, 1937

Mr. WHITE of Ohio. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following with respect to upstream flood control. The entire Nation now is looking to Ohio for the demonstration of a system which actually works. This assertion is based on my appraisal of the recent report of the National Water Resources Board.

The results obtained in the Miami River conservancy district since the disastrous Dayton flood of 1913 are proof that even the maximum floods of the Mississippi-Ohio-Missouri Basin can be controlled. The far-flung scheme now advocated for national application is but a multiplication of the Miami River plan completed in 1922.

Army engineers who have been surveying and developing such a program for some 30 years estimate complete upstream control of the Ohio system would cost an additional $100,000,000, presumably to be shared about equally by State and Federal treasuries over a 10-year period. This amount would be spent on some 39 separate reservoir projects. The completed system would relieve the Mississippi of approximately 75 percent of its periodic floodwaters from the Ohio.

A COLUMBUS CONFERENCE

It is significant that the Council of State Governments has called its emergency flood conference to meet at Columbus on February 4, 5, and 6. The complex engineering, legal, and financial details of the reservoir-conservancy plan long have been the great obstacles to general application of the scheme. But with the complete success of the Miami River plan before it the country now has a perfected working model by which to guide future developments on a national scale.

NEW PHASE OF PROGRAM

It is a mistake to assume that the recommendations of the Water Resources Board are original or new.

Systematic flood-control programs, both State and National, have been under way in this country for more than 50 years. During the last 10 years the Federal Government alone has spent roundly $800,000,000 on flood-control work, exclusive of the costly New Deal power projects in the Tennessee, Columbia, and Colorado Rivers. On the Miami River system alone Ohio has spent some $35,000,000.

The first phase of the national program called for the construction of adequate levee systems to handle the normal high waters of every season. That phase of the plan now is completed. The levee system is giving maximum protection along the entire 2,200 miles of the Ohio-Mississippi system. The next phase calls for development of the up-stream control reservoirs to handle these disastrous super floods which come along quite regularly every 10 or 12 years. It is for a demonstration of this latter phase of the program that the Nation now turns to Ohio's successful working model in the Miami.

A similar plan might be applied on a less costly scale to the Sandusky River in the northern north-central section of the State.

At Fremont alone the overflow of the Sandusky in 1913 caused property damage to the extent of $1,000,000. Lesser floods in 1930 and 1936 added $250,000 to the damage toll. Other sections of the State have experienced even greater losses. Protection must be provided for such local areas. The control of many small floods at the source is the secret of preventing these great sweeps of havoc in the major valleys. That, it appears to me, is the lesson we must not forget as the waters recede.

Flood damage from all rivers in the United States has averaged $40,000,000 annually during the last 30 years. Average loss of life in all river floods has been 89 persons each year.

But these once-a-decade maximum floods are the great destroyers. Each takes a property damage toll ranging from $250,000,000 to $400,000,000 and snuffs out 200 to 500 lives.

These figures are from official records of the United States Weather Bureau.

In this most recent disaster—the same as always—the courage with which the flood victims have faced privation, loss, and suffering, and the generosity of all parts of the country in helping to lighten their burdens, again reveals the character and heart of America at its best.

With homes destroyed, with the labors of a lifetime swept away, with loved ones stricken with disease or death, yet the flood victims display the courage that knows no defeat and has made America great. As fast as the waters recede they start rebuilding. We must prove to them that their courage and faith has not been in vain; we must not forget them once the immediate dangers are past. The program of flood control must not be "lost in forgetfulness." Every quality of humane impulse and of economic reasoning demands that it be steadily and everlastingly pushed to definite completion.

In conclusion, should we not pay tribute also to the response and generosity of thousands of our citizens in towns and cities all over Ohio and all over the United States, beyond the ravages of the swirling, devastating flood waters? The communities in my own area, the northern part of the State, have raised thousands of dollars to lessen agony, danger, and loss of the flood victims. The same thing has happened in practically every city and county in the whole Nation. With this fine and proper generosity they respond to a national crisis that knows no boundaries, and with utmost confidence they turn money and supplies over for the great work of that great American institution—the Red Cross.

Therefore in time of crisis these acts again make us proud that we are Americans, and we will be prouder still when we boast of a complete and successful system of flood control.

Labor-Saving Machinery

EXTENSION OF REMARKS
OF
HON. ROBERT G. ALLEN
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, February 11, 1937

Mr. ALLEN of Pennsylvania. Mr. Speaker, when the House was debating the independent offices bill last week there was considerable argument concerning labor-saving machinery. It seems to me that the time has arrived when we must reach a definite understanding in this respect.

There are those who would scrap all labor-saving machinery, claiming that it has caused unemployment and is largely responsible for our economic distress. I submit here that it is the abuse of labor-saving machinery and not its proper use that has reduced us to this condition. The misuse of labor-saving machinery causes unemployment and widespread economic distress. This same machinery properly regulated and fairly handled would be a boon to our laboring classes instead of a curse.

The inventive genius of America has directed its efforts toward lightening the burden of mankind. The intent of the inventors has been completely thwarted, however, and instead of alleviating the burden of the working classes they have actually invented a mechanical Frankenstein which has returned to torment us and which now tends to destroy our economic and political systems.

We are not going to ease this situation by scrapping labor-saving devices. We should encourage the development and further invention of such devices, but at the same time the Congress of the United States must enact such legislation as will prohibit the continued misuse of these inventions. Labor-saving machinery in the future must be so regulated that it will do work for men rather than of men. If the private interests which control our vast mechanical empire today will relinquish a substantial share of the accrued profits of machinery to the wage earners, our difficulties will be reduced considerably. The Congress of the United States must not follow the advocacies of those who would scrap labor-saving devices; Congress must assume its responsibility to the welfare of millions of American citizens, however, by enacting legislation regulating hours of work and minimum wage scales, so that the abuses which have accompanied technological improvements can be corrected immediately.

Extension of Title I of the National Housing Act

EXTENSION OF REMARKS
OF
HON. PAUL W. SHAFER
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Thursday, February 11, 1937

Mr. SHAFER of Michigan. Mr. Speaker, I have today submitted to Congress a resolution which, if adopted, will extend title 1 of the National Housing Act from April 1, 1937, to April 1, 1940.

In connection with this resolution let me state that I have received many communications, not only from my own district but from all parts of the United States, urging the extension of this act. These communications are from businessmen, bankers, and small property owners.

It has been pointed out to me that the Federal Housing Act has been a decided help in providing employment in the building trades and has definitely increased the demand for products of the heavy-goods industries.

The act, it is also pointed out, has provided the Nation's banking institutions with one of the soundest media of investments, giving an excellent yield for their surplus funds. The loss experience on this type of loan paper has been excellent, very few banks reporting loans under title I in default.

It is also felt, according to the communications I have received and from my own personal investigation, that title I of the Federal Housing Act has been a decided factor in promoting a return to more prosperous times. It has helped the manufacturer, the banks, and the consumer, and, for that reason alone, I feel it should be continued, preferably for 3 more years.

I am requesting favorable action on this requested extension so that the benefits and opportunities resulting from this admirable legislation can continue to increase the employment in the Nation, raise the standard of home life, and increase our civic pride.

John J. McSwain

EXTENSION OF REMARKS
OF
HON. G. HEYWARD MAHON, JR.
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, February 11, 1937

RESOLUTIONS BY THE FACULTY OF THE UNIVERSITY OF SOUTH CAROLINA

Mr. MAHON of South Carolina. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

RESOLUTIONS AS ADOPTED BY THE FACULTY OF THE UNIVERSITY OF SOUTH CAROLINA AS OF TUESDAY, DECEMBER 8, 1936

John Jackson McSwain was born at Cross Hill, Laurens County, May 1, 1875, the son of Dr. E. T. McSwain and Janie McGowan McSwain. He attended the rural schools and later was prepared for college by the Reverend A. M. Hassell and at the Wofford College Fitting School. In the autumn of 1893 he matriculated at South Carolina College, receiving the degree of bachelor of arts, summa cum laude, in 1897.

He had entered as a beneficiary student availing himself of free tuition. His matriculation in the classical course, requiring Greek and Latin, indicates his sound academic training. At the time of his entry prospects were not bright that even diligent students could with certainty look forward to graduation. It was thought by many persons that the South Carolina College—by reason of the separation from it of its agricultural and mechanical courses and the popularity of Clemson College, which had taken over these departments, of its reduction from university to college, its small enrollment, and active opposition to it within the preponderant political group in South Carolina—was, amid the wretched economic stresses of 1893, only an ancient and honorable institution which could at best but drag out a limited existence in the field of education. But the same influences which brought young McSwain brought 30 other freshman students, who outnumbered the upperclassmen, for the enrollment in the college was but 68. Thus a better day seemed dawning.

In this group, coming into this background, was a new leader. He was well-known, able-bodied, scholarly. In his living and in his record he did as much as anybody to disprove the contention of the unthinking or malicious that the institution was a rich man's college. His frugality of living became an example, made good use of by the authorities later, to encourage worthy young men to enter college and to graduate.

In his method of study he was self-reliant; in his reading of Latin and Greek authors, for example, he turned aside from easy aids for a more intense study, and so gained a high mastery and feeling for these languages. To the end of his life he remained the scholar.

In his connection with his literary society, the Clariosophic, he gained leadership and ability to speak convincingly in public, representing his society in its public debates and as its president. His stand against fraternities was conscientiously based on the evils they then exhibited, and he consistently denied himself the benefits which might have come to him when he was asked to join fraternities. The coveted position as editor in chief of the Carolinian—considered the highest student honor—came to him after a tie vote when the president of the joint assembly of the societies, a fraternity man, supported him because of his recognized ability. As a student, McSwain personally directed the movement in the legislature by which Greek-letter social fraternities were abolished in State institutions. The college magazine was ably edited. Its files will show, too, the local honors that came to him—the Carolinian medal, the medal of the United Daughters of the Confederacy.

After his graduation he read law and subsequently entered the school of law of the University of South Carolina. Upon examination he was admitted to the bar in 1901 and then entered practice in Greenville, serving as referee in bankruptcy between 1912 and 1917. Immediately after the entry of the United States into the World War he enlisted in the officers' training corps, first being sent to Fort Oglethorpe, Ga., and later transferred to Camp Beauregard, La., where he was commissioned as captain of Company A, One Hundred and Fifty-fourth Regiment, Infantry. In August 1918 he was sent overseas, remaining there about 6 months, and was then mustered out, March 6, 1919. Upon resuming civilian life he again practiced law in Greenville.

In November 1920 he was elected to the House of Representatives from the Fourth Congressional District and thereafter he was returned by his constituents for eight consecutive terms. Early in his legislative career he was assigned to the House Committee on Military Affairs, becoming chairman of that body in December 1932. Many important reforms in the Military Establishment were advocated by him during the later years of his service, he being particularly interested in the development of the air force of the United States Army. However, military affairs did not entirely absorb his attention. In 1922 he introduced his first resolution "to promote peace and to equalize and to minify the profits of war." He also played an important part in framing the legislation leading to the establishment of the Tennessee Valley Authority.

Failure in health caused him to decide, in the spring of 1936, not to stand for reelection, and shortly thereafter, while enroute to his home from Fort Moultrie, where he had been visiting the Two Hundred and Sixty-Third Coast Artillery, South Carolina National Guard, he was stricken with the malady which resulted in his death at Columbia, August 6, 1936.

By his austerity and honesty, his self-reliance and manliness, by his leadership and high scholastic attainment, the fruition of habits which never left him, he convinced classmates and faculty that great things were in store for him, and he fulfilled the promise of young manhood in a position of great service.

At all times a faithful alumnus and friend of the college and university, it was fitting that he was made in 1936 a trustee of the institution.

Of him, President J. Rion McKissick has said:

"His deep interest in his alma mater never flagged but increased as time went on. The university could always depend upon him for any service he could render her. In his public life he measured up to the standards of service and achievement set by other illustrious sons of the university in the Congress of the antebellum period. His place in the affectionate remembrance of his alma mater is as secure and as enduring as the fame he won in the service of our country." (The State, Aug. 7, 1936.)

RESOLUTION OF THE FACULTY

Resolved, That the faculty express its appreciation of his loyal service to State and Nation, that a page in the minutes be dedicated to his memory, and that a copy of this resolution and of this memorial be sent to the members of his family.

PATTERSON WARDLAW,
R. H. WIENEFELD,
HENRY C. DAVIS,
Committee of the Faculty.

The Reciprocal Trade Program

EXTENSION OF REMARKS
OF
HON. HARRY L. HAINES
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, February 11, 1937

RADIO ADDRESS BY HON. OLIVER W. FREY, OF PENNSYLVANIA

Mr. HAINES. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following address, which was delivered recently over the radio by my colleague from Pennsylvania [Mr. FREY]:

I am indeed happy to have this opportunity to speak to you on the subject of The Reciprocal Trade Program. Unfortunately, radio time is limited, and in the few minutes I am privileged to use I cannot do more than suggest several matters which I believe have a bearing on our foreign trade and our national well-being.

During the early part of the nineteenth century the world was still largely agricultural. The needs of the people were simple, and the greater part of the food and clothing of the farmer could be produced on his own farm. Such industries as existed were small and undertook to supply only the needs of the immediate community. There was practically no organized trade. States, even small communities, were in fact economically self-sufficient.

Then, as the machine supplanted hand labor, came profound transformation. The output of the individual worker was multiplied tenfold—yes, twentyfold. Railroads, steamships, then motor trucks and airplanes were built, providing cheap, speedy, and widespread transportation. Capital was combined in corporate organizations, huge investments were made possible, and industrial operations assumed gigantic proportions. The result was mass production, and the cost of manufactured goods dropped to a small fraction of former costs. During the last three generations life has been completely revolutionized; we live in a new world, a world of complex activities, needs, and desires, and we insist upon a new and higher standard of living.

No two countries have the same natural resources; the peoples of no two countries have the same aptitudes. Because of these differences in natural resources, aptitudes of labor, as well as differences in soil, climate, mass-production possibilities, or lack of such possibilities in the various nations of the world, some countries became highly industrialized, while others remained primarily agricultural in character. The age of specialization came, and the nations became interdependent by reason of the interchange of raw materials, foodstuffs, and industrial products. Specialization continued, wealth increased, higher wages came with the lowered cost of production, and the population of the industrialized states, buying foodstuffs in exchange for their industrial exports, grew beyond the numbers which their agriculture could support. Under such circumstances a cessation of foreign trade must mean catastrophe for the economic and social life of agricultural and industrialized states alike; the standard of living is forced down to a disastrous level, and actual starvation by slow processes must result for many of the people.

The pace of the industrial revolution was accelerated during the first decade of the twentieth century, the interdependence of nations became more apparent, and the search for new resources of raw materials and for foreign markets became intense. Commercial rivalries developed and increased the bitterness among the nations; political rivalries were added to commercial rivalries, and in 1914 the World War was inevitable.

The toll of human life, the privations and the suffering endured by the people of the world between 1914 and 1918 were merely the advance guard of the ruin and chaos from which we have not by any means yet emerged.

Every great war is followed, as the night the day, by a fresh surge of economic nationalism. This is due in part to the need of protection against depreciated currencies, disordered world prices, and international "dumping", and partly because of military considerations.

For 15 years tariffs have been raised to unprecedented heights and economic nationalism has been in supreme control. Since the crash of 1929 entirely new and far more drastic implements for achieving self-sufficiency have been created, such as quota restrictions, exchange control, export and import licensing, Government trade, monopolies, and the like.

These weapons were introduced and used originally for defensive purposes to protect national currencies or domestic economies. Later, with the seeking and granting of exclusive preferences, these weapons came to be used as trade offensives. The result was a maze of restrictions regimenting trade and forcing it into highly uneconomic channels. The rivalry for trade became bitter and antagonistic, and between 1929 and 1932 international trade fell to a third of its former value.

In recent years American industry and labor have been facing new and unbelievably aggressive forms of foreign competition in both domestic and foreign markets. The world depression largely broke down the old type of competition between private corporations and firms conducted for individual profit. In its place has grown up a machinery of trade war by foreign nations, the economic armament of which is as dangerous to American trade as their military armament is menacing to world peace. The race for economic self-sufficiency is equaled only by the undue haste in the race to prepare for war. International trade war has been declared, and American industry finds its domestic and foreign markets invaded and partially destroyed.

Trade, both import and export, is now being carried on by many foreign nations with the aid of incredibly huge subsidies. This is true in Japan, Germany, and Italy, while in Russia foreign trade is an outright state monopoly. This state operation and control of foreign trade by four of the greatest exporting states has a violent and most disastrous effect upon the markets of the world. The industries of other countries cannot but feel the effects both in their home and in their export markets. This is unquestionably true in the case of American industries.

Another very important factor in the revolution in world trade which is a serious threat to American industry and labor is the Empire preference program of Great Britain. If this program is carried out it will exclude a great deal of our farm and manufacturing products from their principal export markets.

The old system of equal treatment of foreign competition has been cast aside. As previously stated, international trade is now frequently conducted by unequal and unfair methods, by which American products in foreign markets are discriminated against to the advantage of foreign competitors unable to compete on equal terms.

As a constructive effort to meet the threatened peril, if not disaster, to our farmers and manufacturers by reason of the loss of our foreign trade, Congress passed the Act of June 12, 1934, authorizing the President "to enter into foreign trade agreements * * * for the purpose of expanding foreign markets for the products of the United States."

Under this legislation negotiation shall be on the democratic basis of equality of treatment to all nations alike—the principle upon which American foreign commercial policy has firmly rested ever since the first days of our Republic. This means neither giving nor receiving exclusive preferences, but granting the benefit of tariff reductions to all nations which give to us the benefit of their own minimum rates. Concessions given by us to one are extended to other foreign nations, but only to those which give us in return the benefit of all concessions which they have made or may in the future make to third countries.

Under this method of tariff adjustment 15 agreements have been completed with as many foreign countries, among which are Canada, France, Holland, Brazil, Sweden, and Cuba, and additional agreements are under discussion at the present time with England, Czechoslovakia, and several other nations.

Since the passage of the Act very definite progress toward the goal set by Congress has been achieved and our foreign trade has shown tremendous improvement. However, even though the forces of recovery are gaining new strength every day, our foreign trade is still crippled by many trade barriers and discriminatory practices, and it is imperative that the reciprocal trade program be continued until we regain security for our export markets and in this way assure our domestic prosperity.

In a world where war and rumors of war are prevalent, and in which patriotic and sincere men, working and hoping for peace, find so much that is disheartening, we find some people who believe it is best for this country to become economically self-sufficient, in the hope that we may be immune to the effects of war which may occur between other countries. Unfortunately, it is extremely difficult, if not impossible, even for this vast country of ours to become self-sufficient. Not only must many essential commodities be brought to us from abroad but, in addition, and possibly more important, we must look to foreign markets to give employment to millions of our people whose surpluses we cannot consume at home. If this is true of our country, in spite of our infinitely varied conditions of soil and climate, our tremendous resources, and our stupendous industrial activities, we cannot but realize how much more true it is of many other countries, both in Europe and Asia, with dense populations and limited resources. They cannot achieve the goal of economic self-sufficiency. If, however, these foreign countries are able to export the products of their manufacturing industries and trade them for foods and raw materials, they can achieve national well-being. On the other hand, if these European and Asiatic countries cannot do this, they will be tempted to engage in wars of conquest to get new territories from which they can obtain the foods and raw materials they so sorely need. There could be no surer way to bring about a generation of war and misery throughout the world than to insist upon the policy of economic nationalism. And who among us can seriously believe that this country could remain unaffected if another world war should come? If this be true, could we make any greater contribution toward world peace than by so opening the channels of trade that every country would be permitted to work for its food and raw materials, rather than be required to fight for them?

In the consideration of this subject another matter presents itself very forcibly. We must think of the unemployment created when we are forced, even partially, to reduce our export trade and curtail our agricultural, mining, and manufacturing production of export commodities. This reduction of our export trade actually sets adrift countless numbers of people, employers and employees alike, who have no place to go except to the relief rolls; and such people now constitute, I believe, one of the major factors of our relief problem. We cannot ignore the fact that the collapse of our foreign trade has imposed an immense burden upon the Federal Budget. Because of the unbalance, as between agriculture on the one hand and industry on the other, the Government has been attempting to give to the farmers, as compensation for their lost export trade, many hundreds of millions of dollars a year; and additional vast sums are being spent by the Government in relief for the displaced tenant farmers, sharecroppers, and farm laborers. If we are correct in believing that our foreign trade must be recaptured, one other extremely important factor must be remembered, and that is the stabilization of the currencies of the world. No barrier to foreign trade is more disturbing than frequent and violent fluctuations, indeterminate in amount, in the rates of exchange among the currencies of the different countries. If the dollar is definitely fixed and firmly maintained at its present parity, it will mean that our own international business will be done increasingly on the dollar basis and that the dollar will become more and more a refuge where men in other countries may find shelter from the fluctuations of their local currencies.

In conclusion, permit me to express my conviction that the policy of negotiating agreements for reciprocal tariff reductions is a wise and a sound one; further, I wish to express my belief that, in addition to being economically sound, this policy will promote better understanding and good will among the nations of the world and is a real and a substantial step toward international peace.

Finally, I respectfully urge upon the American people the necessity of supporting the reciprocal trade program so that it may be carried out adequately and successfully.

Drainage Basins

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Thursday, February 11, 1937

SURVEY BY ABEL WOLMAN, CHAIRMAN OF THE WATER RESOURCES COMMITTEE

Mr. COPELAND. Mr. President, an appeal has been made to me, as chairman of the Commerce Committee, to have printed in the RECORD an analysis of the report submitted by the water resources committee of the National Resouces Committee. This request comes, as I say, from the National Resources Committee. A survey has been made by the chairman of the water resources committee of that organization, and it seems to me that it has such an important bearing upon the message sent to the Congress by the President the other day that it should be printed in the RECORD, so I ask such permission.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE DRAINAGE BASIN STUDY—A PRELIMINARY RECONNAISSANCE OF THE NATION'S WATER CONSERVATION PROBLEMS

(By Abel Wolman, chairman, water resources committee, National Resources Committee, Washington, D. C.)

What should this Nation, occupying a vast land of many lands, some wet and others parched, some alternately threatened by devastating floods and by tragic lack of water for crops and stock, do to organize and integrate the use and control of its waters in the best interest of its great population? This, in broad terms, was the task assigned to the water resources committee of the National Resources Committee in the winter of 1936.

A SOUND WATER POLICY

Although the Federal Government has developed policies concerning inland navigation, the reclamation of western lands, water powers on the public domain and on navigable streams elsewhere, and flood control no coordinated Federal water policy has yet appeared as a substitute for unrelated policies applicable, respectively, to individual types of water problems. This is not surprising historically, but it is clear that without a unified and coordinated policy the Federal Government will not be able to promote an effective integrated development of water resources.

A sound water policy, in the opinion of the committee, should have the following characteristics:

1. It will be concerned, in the final analysis, not with water per se, but with the promotion of public safety, public health, the public convenience and comfort, the economic welfare of the public, the establishment or maintenance of a high standard of living.

2. It will seek to promote the maximum integrated use and control of water, within the shifting limits imposed by considerations of technical feasibility and of economic and social justification.

3. It normally will treat drainage areas as units with respect to their waters in recognition of the train of connected problems that runs from river source to river mouth, from countless rivulets along the highland rim of the largest basin to the distant point where its master river enters the sea.

4. Though treating drainage areas as units, it will scrupulously observe the rights of the several States both in intrastate and interstate streams, seeking through cooperation to promote the full use of water in the best ways and in the proper places.

5. It will recognize and abide by the axioms that facts are indispensable prerequisites to sound action with respect to water, and that conclusions and commitments not based on predetermined facts almost certainly prove indefensible. In keeping with this recognition, it will promote by all feasible means continuous assembly the basic data essential for an evolving, unending water plan. At the risk of repetition, the statement may be made categorically that the adoption of a plan and program for the use and control of the waters of any river basin without a definitive study of adequate data bearing on all phases of the interlocking physical and cultural problems involved would be illogical, would result in economic waste, would invite controversy, and might preclude desirable action later. As already noted, controversies over water multiply. They are most likely to arise where pertinent facts are least known. An enlightened water policy will seek to obviate controversy by substituting facts for opinion.

6. It will assign the cost of constructing and operating projects undertaken from time to time as suitable elements in an evolving water plan among the public and private agencies concerned in as close accordance as possible with the distribution of benefits. The proposition that those who will profit from a given undertaking normally should pay, in a manner not involving avoidable or undue hardship, in proportion to the advantage they will reap should be the basic principle of action.

7. In determining whether or not water projects are justifiable, and in distributing the cost of meritorious projects among the beneficiaries, it will take properly into account social benefits as well as economic benefits, general benefits as well as special benefits, potential benefits as well as existing benefits, wherever they are involved. Some of these benefits are not capable of measurement, and accordingly they commonly have been ignored in the past in evaluating certain types of enterprises. They are subject to reasonable appraisal, however, and their intangible nature will not justify their neglect in the future. In great measure, they concern the public at large. A public water policy should assiduously conserve and promote public interest. To this end, social accounting must take its place with economic accounting. As effective water planning proceeds year after year without interruption—planning based on fundamental and exhaustive engineering, economic, and social studies that cover all relevant conditions—there inevitably will result, not only a clearer understanding of what constitutes the public interest but also a greater opportunity to promote it through equitable control and orderly development of water resources.

BASIC NEEDS

The investigation emphasized anew the important deficiencies in certain fields directly and indirectly related to water.

Almost all of the 127 basin reports submitted by the consultants stress the urgent need for developing basic hydrologic data now lacking.

The importance of these hydrologic matters cannot be exaggerated, and until existing facilities for normal work in the hydrologic field are increased along the lines recommended by the special committee, progress in dealing with water resources will be retarded more and more as years pass. The remedial measures recommended by the Committee would cost approximately $3,676,500 for the first year and $1,824,000 for succeeding years. Of these amounts, approximately 20 to 25 percent should be borne by non-Federal agencies.

A second tool indispensable for dealing with most water problems and useful for countless other purposes is the topographic map. Approximately half the entire area of the country is today entirely unmapped topographically. To correct this deficiency, the committee has recommended the adoption of the suggestions made by the Bureau of Surveys and Maps on October 29, 1934, and now under revision.

Since in many ways the problems of the use and control of water merge imperceptibly into problems concerning the use and protection of land, the planning of water use and of land use should not be separated. For this reason, quantitative studies of the effect of vegetal cover and soil erosion upon hydrologic phenomena, with particular reference to silting of reservoirs and to stream flow, are recommended at an annual cost of $250,000 for a period of 5 years. These basic national studies are recommended in addition to specific projects involving changes in vegetal cover and control of soil erosion in various drainage areas where the problems have become too acute to defer correction any longer.

Similarly, an investigation of coastal erosion and the effects of beach-protection works in selected localities is recommended, at a total cost of $250,000.

The study of individual projects throughout the United States has also made evident the necessity of regional power market surveys in order to provide for an orderly and integrated development of streams in particular regions. For the purpose of such surveys, a series of five regional investigations is proposed at a total cost of $625,000.

SELECTION OF PROJECTS

In the original assignment to the Water Resources Committee, a program of specific projects was requested. Since all the projects in a comprehensive water plan could not be undertaken simultaneously, a program involving priorities became necessary. Such a selection involved obviously the most difficult of the assignments, since many considerations may influence the judicious establishment of priorities among the projects of any given area.

The quantity and reliability of pertinent basic data available; the relationships of benefits and costs; the nature, relative desirability, number and scope of benefits; relative urgency, the situation with respect to relevant nontechnical factors; the relationships to later stages of an evolving water plan and the present status of the various projects under review are considerations that were given weight in determining the order of precedence.

In general the following three groups were utilized as the basis for consideration:

Group A (immediate). Projects which are ready for construction or study and which should be undertaken as soon as possible.

Group B (deferred). Projects which, while desirable for immediate construction or study, (a) involve unsolved questions of public policy or (b) can have their priority definitely determined only after additional studies which cannot be completed in time for this report or (c) are now obstructed by legal, administrative, or other difficulties. Group B also includes projects which should follow group A in sequence of construction or of study.

Group C (indeterminate). Projects which, although included in the plan of development for the basin, should follow group B in sequence of construction or whose specific priority in the program is as yet indeterminate.

It must be clear that individual action on and knowledge of more than 7,000 projects on the part of each member of the Water Resources Committee was impossible. Dependence had to be placed upon consultants' findings, upon State planning board recommendations, upon State departments of health and other State agency experiences, upon existing information in various engineering reports, and upon general knowledge of at least the major undertakings.

In many instances considerations of intangible and imponderable public policy influenced the decision as to classification. In others theoretical implications had to give way to practical necessities. Even though, in some few cases, projects partially completed perhaps should never have been started, it is exceedingly doubtful whether it was practicable or desirable to abandon undertakings on which 65 to 80 percent of the physical work had been completed, at the cost of many millions, without salvaging at least such parts of the structures as would afford some degree of permanent usefulness. If considered in de nova, some of the undertakings might, perhaps, have been recommended for abandonment, but under practical circumstances, even a poor undertaking into which millions had been poured might well justify completion to recover at least some values.

A number of projects now under study or already provided for financially are not included in the inventory.

The problems of water use and control fell approximately into 11 major classes, as shown below: Bank and coastal erosion control, domestic and industrial water supply, drainage, flood control, generation of electric power, irrigation, navigation, recreation, soil conservation and forest development, waste disposal and pollution abatement, wildlife conservation.

These problems may be dealt with separately or in combination. As indicated in the preceding statement on water policy, the committee has stressed the study of all relevant problems in each drainage basin. The result has been the inclusion of many projects designed to serve multiple purposes, thus recognizing the essential interlocking of numerous problems.

The estimated cost of the projects in group A–1 (investigation projects) is approximately $20,000,000; in group A–2, $1,727,000,000; and in group B, $1,024,000,000. With respect to certain large projects, only part of the requisite expenditure is shown in the cost column of the project lists involved. The aggregate sum needed to complete A–2 projects is $600,000,000, and to complete B projects is $400,000,000, since the amounts listed in the tables for many large projects are intended to provide for only the first 2 to 4 years work.

The total cost of completed projects in groups A and B, investigation and construction, would involve, therefore, approximately $3,771,000,000.

When it is recalled that in the period from 1920 to 1929 annual Federal expenditures for construction involving water use and control ranged from thirty to sixty-three million dollars, increased to seventy-eight million in 1929, and had reached by 1935 a figure of $374,000,000, the proposals by the committee for a reservoir of projects in groups A and B for a period of 5 to 10 years, for both Federal and non-Federal undertakings in the field of water control and use, appear modest and consistent with the normal rate of expenditures for such purposes in this country for many years in the past. The reservoir of undertakings, provided it is followed with continuing review and control in the future, should tend to replace the haphazard approach of the past with a program of orderly development.

Projects of a sanitary nature, water supply and sewage disposal, account for more than half the project costs in the A and B lists. This prominence in position is no doubt accounted for by the great public interest in the problem of sanitation and by the development of a number of projects by interested and efficient State boards of health. The relatively small quantitative showing of water-power undertakings is more apparent than real, since some power and undertakings are included also in projects listed under navigation, flood control, and irrigation, and to a considerable extend under projects for multiple use. In addition, some are deferred pending the completion of recommended regional power studies.

Although no conscious effort was made by the committee to distribute projects in proportion to population, because the method of development in a number of cases was regulated by other consideration, it is interesting to note that the New England, North Atlantic, Great Lakes-St. Lawrence, and Ohio Basin districts account for $874,000,000 in the A–2 list and $602,000,000 in B list, or approximately 50 percent of the project costs of the A and B lists.

The group C list aggregated $1,400,000,000. This collection of undertakings needs much more study and evaluation. In it may be found a number of undertakings which should normally follow group B in sequence of construction. It contains, however, a great number of projects whose characteristics are ill-defined and whose specific priorities in the program must remain for a time indeterminate.

COLLATERAL PROBLEMS DISCLOSED BY THE STUDY

A careful reading of the drainage-basin report will soon reveal the fact that a number of the problems associated with water use and control have been given therein incomplete consideration, analysis, and conclusion. Such deficiencies are not explained solely by lack of time in the preparation of the document, but by the very complexity and comprehensiveness of the issues involved. Some of these problems are briefly presented here in order to make clear once more that the present report should be accepted only as the beginning of a highly complicated series of studies which should be continued intensively for many years to come.

One of the more important phases of water use and control which needs a great deal more study is that which deals with the allied problems of land use. Much more investigation in various parts of the country is necessary in the field of vegetal cover and soil erosion, with particular reference to effects on stream flow. As precise control methods are evaluated, they must find their place in the water program.

Many policies now tacitly accepted by some, as in power, flood protection, and reclamation activities, need renewed analysis and extension. For example, a detailed review of the reclamation policy and problems of the United States is desirable in order to disclose quantitatively what our present situation is in the arid and semi-arid West, what potential lands are open for reclamation, and what effects such extensions of irrigated territory are likely to have upon the national and regional economy. In such a review considerations other than those of water must come into play to a degree which has not been adequately set forth in the drainage-basin study. The social and economic implications of water use and development have been given too little space largely because opportunities for exploring these highly complex collateral fields were not available. That the investigation should be pursued in that direction, as well as in others pointed out herein, cannot be too strongly stressed.

The drainage basin report includes, in the reservoir of proposed projects, undertakings of types which have been financed heretofore by the Federal Government, projects which have been jointly financed by Federal and local political subdivisions and works which have normally been paid for entirely by local groups. The lumping of such undertakings into one group has its dangers. It may give rise to the view that the Water Resources Committee is attempting to extend the sphere of 100-percent Federal financing. Exactly the opposite is the case. Federal, State, and local undertakings have been considered as units of individual drainage-basin programs, regardless of sources of funds.

This was the only basis upon which an integrated water plan could be evolved, but it should not be interpreted as carrying the implication that either local autonomy in, or, more important, local responsibility for, financing water projects should disappear from the scene.

Indeed, the committee emphasizes throughout its study the importance of preserving an equitable balance between Federal and local payments, commensurate with the incidence of benefits. What the exact yardstick should be for measuring such benefits and payments in the broad field of water use and control and with continued emphasis on evaluation of regional and multiple uses, the committee does not venture to suggest. It does not believe that the broad bases for a definitive national policy on all phases of the problem of financing water projects have been established. It recognizes the urgent need for developing such bases, and has set in motion activities in other directions which it hopes will contribute to the development of such bases. At the moment, however, this important and controversial field remains open as an arena for the battle between expanding national interest and declining local responsibility. Much might be said about various experiments now under way which in years to come should disclose some of the keys to sound national policy, but this is neither the time nor the place in which to set them forth.

The administrative and financial approaches in the Tennessee Valley, in the Pacific Northwest, in the Delaware Basin, in the Ohio Basin, in the New England region, in the drainage area of the Red River of the North, and in the basin of the upper Rio Grande, run the gamut of types of organization for the development of structural administrative machinery, for the establishment of technical facts, for financial adjustments and payments, and for the evolution of intermediate levels of governmental control. Which, if any, of these devices combining the strength of Federal and State machinery and the weaknesses of intermediate forms of government will prove to be the panaceas for this vast country with its complicated problems remains to be seen.

It should be borne in mind that much time and energy, much research in the field of interstate action, of State-Federal financing, of regional approach, and of manifold related matters will be necessary before one may suggest what is the best way to handle many of our water-resources problems. As the writer has pointed out elsewhere, slow motion, guided but not controlled by preconception, offers perhaps the least hazardous rate of attack.

SUMMARY

The drainage basin study has importance primarily in focusing attention on water problems from the regional and national standpoints. One of its chief purposes is to extend the vision of lay and professional citizens beyond the scope of local problems. It attempted to develop, with an unexpected degree of success, a mechanism for investigating problems of water use and control through the joint efforts of Federal, State, and local agencies, both public and private. It has been possible to outline in broad terms an integrated pattern of water development and control designed to solve the principal water problems in the various drainage areas of the country.

The investigation has disclosed many unexplored fields, a variety of basic deficiencies in essential data, and a series of specific construction and investigation projects of diversified character which may be used during the next decade as the elements of an integrated national water plan.

The study has been preliminary. It should stimulate thinking on a broad basin scale. That the report has serious limitations in fact and in perspective the Water Resources Committee is certainly aware.

In order to extend the past investigations, particularly in specific drainage basins where critical water problems press for solution, the committee is recommending an appropriation of $2,500,000 to be used to extend information beyond that now available in order to provide bases for interstate action on permanent programs for the use and control of water.

The Flood Disaster

EXTENSION OF REMARKS

OF

HON. EMMET O'NEAL

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 11, 1937

Mr. O'NEAL of Kentucky. Mr. Speaker, it would be a dereliction on my part if I did not take a few moments to discuss the recent catastrophe. My congressional district is Louisville, Jefferson County, Ky. It experienced all the horrors, all the misery, all the dangers incident to a disaster of this character. Although any river city has suffered serious floods in the past, there was never anything in the history of Louisville comparable to this one, and the undreamed of, the impossible happened. A city of 325,000, with adjacent communities adding another 75,000 to the metropolitan area, going the even tenor of its way, awakened to a situation requiring immediate action to save itself from possible extermination. The flood came and three-fourths of the area was cut off from practically all land passage to the one-fourth

which was not inundated. Two hundred thousand people were homeless, including those living in shanties up to residences representing large investments. The great body of people affected were those who by self-denial and frugality had saved enough to own their own homes and to improve them little by little each year. Because of past experience they had no thought that the city could be paralyzed. Yet the lights went out for a period of many days; the heating units were universally put out of commission; the pure water supply was cut off; the transportation system ceased to exist; and the individual, trapped by the water, was dependent upon boats for escape.

It is needless to rehearse the dangers and the hardships, but it is interesting to realize that it was possible to remove from the flood area, in the shortest period of time, literally tens of thousands of people with little loss of life. You cannot imagine what a stupendous accomplishment it was, without prior organization or prior planning, to perform this task. It was a demonstration of the abilities and the fine spirit of a typical American community.

Many examples of heroism could be given and many stories of unselfish and intelligent cooperation. When it seemed impossible to secure enough boats to remove people over the fast-rushing water which separated them from the highlands of Louisville ingenuity came forward and a bridge was built over a quarter of a mile in length from empty whisky barrels. This bridge of sighs made it possible to remove the children, the sick, the weak, and afflicted to refugee camps where food, clothing, and shelter could be provided; thus were thousands saved.

It is not my intention to boast of the accomplishments of Louisville and Kentucky and the rest of the flooded area, but I believe that it is right that I should call to your attention that America is still America, and that the ability to meet emergencies is yet with us. Our splendid mayor and the entire citizenship rallied immediately and perfected plans as to sanitation, feeding, and housing the refugees, for policing the areas affected, and doing the job. It was done magnificently, and to praise individually would be impossible, for every citizen offered himself and gave full measure to the task.

All of that is gratifying to one who is devoted to his home and happy in local friendships, but beyond that, a gratification comes from the realization of the spirit of America, which was shown in its sympathetic and intelligent cooperation. There could be nothing finer than the response from every part of the United States to the needs of the afflicted flood districts. The story was being told and lived over the radio, and in passing, it should be stated that the job could not have been done without WHAS, the Courier-Journal broadcasting station; and the cooperation of WSM, the Nashville station; and the other radio stations which volunteered their help and constantly worked day and night during the worst part of the flood. The situation, as presented to the people of America, brought a marvelous response from people everywhere in this country. I regret that I am not able to mention the thousands of individual offers of self and property, the acts of charity, and the many unselfish and self-sacrificing efforts on the part of those who did not live in the flooded area in the interest of the afflicted. They could be multiplied many, many times, and I am proud that I live in a country composed of people in every section of it who are capable of such understanding and unselfishness. It was magnificent that many cities should send their police to aid in the protection of life and property—as an example, the city of Philadelphia, which sent 100 police in one flight of aeroplanes, the only way that they could have reached Louisville. This service was duplicated not only by the cities as to their police but as to many other necessary services.

I should like to mention the contribution of the Army and the Navy, the Coast Guard, and other governmental agencies, but so much heroism and so much that was fine took place that it is impossible even to suggest them at this time. The Red Cross received in voluntary contributions a sum which will reach possibly $20,000,000.

But now there is before us a bill which is a further expression of the true American spirit. It is an unselfish effort on the part of all citizens to aid those in the stricken area. It empowers the R. F. C. to make loans to flood sufferers without red tape or harsh and impossible restrictions. It is the purpose of this bill to free the R. F. C. from limitations in the operation of the law which would require the borrowers in the flooded districts to do things impossible to do to secure a loan. It is not the wish, in my opinion, of the people of America that these loans be on the basis of a bank loan as to security and collateral. I believe and I think the purpose behind this bill is to make it possible for character loans to be made. Further, it is the desire of my community not to ask the Government to shoulder our entire burden, for the recent flood has demonstrated that the American spirit of independence still lives, and my people do not want to come to the Government as mendicants, but prefer to assume the burden of the recent catastrophe as far as their capacities will permit. It is reassuring to know that the Red Cross, the R. F. C., the Home Owners' Loan Corporation, the W. P. A., and all Government agencies are alert and desirous of being helpful.

Speaking for my community, I know I voice their sentiments when I thank the Government agencies, the Members of Congress, and the great American people for this magnificent exhibition of the finest things in life and the American character.

Permanent Flood Control—Additional T. V. A.'s

EXTENSION OF REMARKS

OF

HON. JOHN E. RANKIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, February 12, 1937

RADIO ADDRESS BY HON. JOHN E. RANKIN, OF MISSISSIPPI, ON FEBRUARY 11, 1937

Mr. RANKIN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following speech delivered by me over the N. B. C. radio system on Thursday, February 11, 1937:

My friends, we are now witnessing another great national disaster. Raging floods on the Ohio River have taken hundreds of human lives, destroyed millions of dollars' worth of property, rendered thousands of people homeless, and left within their wake rehabilitation problems of appalling magnitude.

Along the Mississippi from Cairo to New Orleans people are waiting with breathless anxiety the approach of the flood crest and praying that the levees will hold.

If a major disaster along the lower Mississippi, such as we witnessed in 1927, is averted, it will be because of two things: The partial control of the floodwaters on the Tennessee River by the Tennessee Valley Authority as a result of the high dams along that stream and the fact that there are no serious floods on the upper Mississippi and the Missouri Rivers to join those on the Ohio and swell the flood crest below Cairo.

If the floodwaters of the Tennessee had been permitted to flow unchecked into the Ohio and there had been floods on the upper Mississippi or the Missouri River to synchronize with the unprecedented flood on the Ohio, it would have been utterly impossible for the levees along the lower Mississippi to have withstood the onrushing tide, and there is no telling what the additional loss of life and property might have been.

This presents a national problem with which Congress will have to deal. We cannot ignore the probability of the recurrence of similar catastrophes, nor can we leave this problem to the States along those rivers.

These floods must be controlled. There are three principal methods through which that end can be accomplished—by levees, dams, and spillways. Reforestation and erosion control will help to some extent, but in the main these streams must be controlled by the three methods I have just mentioned.

We have a splendid levee system along the Mississippi which is serving its purpose well, but some method must be devised to hold back and control the floods on its tributaries. This can be done by a system of high dams, such as we now have, either built, under

construction, or in contemplation of construction on the Tennessee. In other words, we should have an authority similar to the Tennessee Valley Authority for the Mississippi River system, or else we should have one for each of the main tributaries.

These authorities should work out such a system of high dams, locks, levees, and spillways as would provide the greatest measure of flood control, improve navigation, and generate the maximum amount of electric energy to be supplied to the people within the distribution area at the lowest possible rates. No low dams should be built at all. They should be sufficiently high to impound large heads of water in order to hold back the floods and to supply water for the generation of the maximum amount of electricity throughout the entire year.

By a coordinated system of control of all the locks and dams and spillways on these streams, their floodwaters could be managed in such a way as to prevent disastrous floods along these tributaries, or the synchronization of their flood crests, and thereby protect the lower Mississippi from overflows in the years to come.

In the past this program has been obstructed by the opposition of private power companies to the building of high dams, which they feared would result in the generation of electric energy to be distributed to the people of the Nation at reasonable rates. The result is that we have some of our streams cluttered up with low dams that are practically worthless, so far as flood control is concerned, and that prevent the use of impounded water for the generation of electric power.

This mistake must be avoided in the future. I, for one, am willing to go the full limit, and I believe my colleagues in the House who agree with me on the power issue are willing to go the limit, toward the construction of high dams for the control of these floods and the promotion of navigation, provided the waters of these streams are used for the generation of electricity to be supplied to the American people at rates based upon the cost of production and distribution.

The hydroelectric power in these streams is the greatest natural resource in all the world outside of the soil from which we live. It is national wealth, it belongs to all the American people, and should be used for their benefit. Besides, it will help to pay for these improvements. By charging one-third of the cost of these dams to the generation of power, we can sell a sufficient amount of electricity to amortize that part of the investment within 40 or 50 years, and at the same time give to the people of the country electricity at an average of about one-fourth or one-fifth the rates they are now paying.

As I have pointed out before, the American people are overcharged more than a billion dollars a year for electric lights and power, and the rates in the average community are so high that they are preventing a liberal use of electricity, as well as a liberal employment of those electrical appliances necessary for the average business establishment or the average home.

During the year 1936 the people of the United States consumed 88,883,000,000 kilowatt-hours of electric energy, for which they paid $2,059,136,000, according to the Edison Electric Institute Bulletin for January 1937.

If they had paid the Ontario rates, or the rates charged by the Ontario Public Power Commission, the cost would have been $445,000,000 instead of $2,059,136,000, which shows that, according to the Ontario rates, the American people were overcharged $1,614,136,000 for electric light and power in 1936.

The answer of the power interests is that the Ontario Power Commission pays no taxes and therefore can sell and distribute power at lower rates. Let's add the taxes and see what the cost would be. A thorough investigation has demonstrated that the taxes paid by power companies in this country, for all purposes, amounts to only about 1 mill per kilowatt-hour, or a little less. Therefore, their taxes last year should have amounted to about $88,883,000. But, in order to give them full measure, we will add an additional eleven or twelve million and say that the taxes should have amounted to $100,000,000. Take that $100,000,000 from this overcharge of $1,614,136,000, and it will still show that the American people were overcharged $1,514,136,000 for electric light and power in 1936—enough to pay the national debt in less than 25 years.

Remember that these high rates hold down the consumption of electric energy to less than one-third of what it should be in the average home that uses any electricity at all. Remember, also, that the farmers of the Nation, the ones who need electricity most to carry on their work and to relieve the drudgery of their homes—remember that 9 farmers out of 10 in this country are getting no electricity at all, while in Japan 90 percent of the farms are electrified. In Germany 90 percent of the farms have electricity; in France, Norway, and Sweden 90 percent of the farms, and 100 percent of the farms in Holland and Switzerland are electrified.

So, while we are making this great improvement to protect human life and property, to save the soil of the Nation, and to improve the navigation of our streams, let's do it in such a way as will enable us to use the great wealth of hydroelectric power in these streams for the benefit of mankind. Let's turn these floodwaters which are now a curse to humanity into a blessing for the people now living and for the generations yet to come.

By this system we can not only control the floods along the Ohio and other tributaries of the Mississippi but we can neutralize the flood crests on those streams whenever it is necessary to prevent their confluence with the floods on the upper Mississippi or with each other. And by completing the dams now under construction on the Tennessee and the opening up of an outlet down the Tombigbee we can entirely neutralize the flood crests on the Tennessee and prevent them from adding to the dangers of superfloods along the Mississippi.

This connection of the Tennessee with the Tombigbee River is the only place where a spillway can be constructed to take any appreciable amount of water out of the Mississippi River watershed. The Army engineers are now making a thorough survey of the proposition and we hope to have their report in time for the formulation of legislation looking to a unified system of flood control.

This construction of the Tombigbee-Tennessee connection would not only help to control floods on the Tennessee but it would do so without danger to the people along the Tombigbee. It would also insure us ample flood control along that stream in the years to come. It would shorten the water distance between the Tennessee River and the Gulf of Mexico by 650 miles, and would give us an additional outlet to the sea.

By the completion of this system we can control the floods on these streams and prevent the periodical disasters which we have witnessed in the past and make the areas now flooded or endangered safe and secure places in which to live. We can improve the navigation of these tributaries, which we will need more and more as time goes on, and promote a system of soil-erosion control that will save the fertility of our country for future generations. And in addition to all that, we can generate a sufficient amount of electric energy to supply all the needs of the people living within a radius of 300 miles of any one of these dams at rates the people can afford to pay, electrify every farm home within the territory, make farm life more profitable, more pleasant, and more attractive, and at the same time, instead of overburdening our people with expenses for these improvements, we can make them self-liquidating to a large extent, insure the safety of the territory affected, improve the prosperity, comforts, and conveniences of the people of the area, and in the long run add billions of dollars to the national wealth.

Col. Daniel W. MacCormack

EXTENSION OF REMARKS
OF
HON. SAMUEL DICKSTEIN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 13, 1937

Mr. DICKSTEIN. Mr. Speaker, Col. Daniel W. MacCormack, Commissioner of Immigration and Naturalization, is no more. The first day of the year began with the untimely passing of this beloved public servant. Congress cannot omit this opportunity of pausing in the midst of its labors to mark the career of this genuine friend of the people.

Daniel W. MacCormack was born at Wick, Scotland, on April 9, 1880, and came to this country with his parents when 9 years of age. After attending college at Boston, Aberdeen, and Montreal, the Philippine Insurrection found Daniel W. MacCormack, still in his teens, serving the United States as an infantryman.

Then back, half around the world to the Western Hemisphere, the work of construction and operation of the Panama Canal occupied his interest until the outbreak of the World War. As a commissioned officer in the United States armed forces, he rendered distinguished service to the Allies, being cited by the commander in chief of the American Expeditionary Forces and decorated by the French Government. The Italian Government also bestowed an order upon him. After the armistice he was sent to Russia on a mission of peace, and then returned to the Orient as financial expert for the Persian Government, which nation he represented also in the League of Nations.

Following this he was engaged in financial fields until 1933, when there began what those who knew him best regard as possibly the most distinguished part of his career and his most lasting contribution to society. The Secretary of Labor appointed him Commissioner of Immigration and Naturalization and gave him free rein to organize and build up the Immigration and Naturalization Service of the United States. This he did with a will. And then, just as the first day of the new year came into being, a year to which he had looked forward eagerly with such hopes of accomplishment, he quietly slipped away on his last journey.

His was a remarkably keen and analytical mind, and in an incredibly short time he had familiarized himself with the highly complex and technical immigration and naturalization laws and procedure. One of his most progressive and successful methods was to divide his heavy responsibility with his staff of assistants, and, through the confidence he placed in them and the inspiration of his own example, he encouraged the development of higher qualities of leadership. He broadened their contacts and widened their horizons. In at least one instance, the case of a really ill man, he probably saved his life through providing a new and difficult, but highly interesting and mentally stimulating, field of technical work with which to occupy his especially fine mind and able hands.

The test of an employee's value became not the amount of his political influence but the extent of his desire to render helpful service and his willingness to learn his task more thoroughly and to improve his efficiency. Opportunity was given to the personnel in the lower grades to pursue courses of study, prepared by experts of the Service, in preparation for more responsible positions in the higher brackets. He was an enthusiastic advocate of a career service for his employees. An altruist, he had both feet firmly planted on the ground.

Broad in his sympathies, he numbered his friends among all nationalities, races, and sects. He objected to being a willing party to unjust treatment of the alien, whether brought about by harsh and unyielding laws or intolerance. Hardships imposed upon innocent and helpless children and wives, many of them citizens of this country, through the rigidity of the deportation laws that gave no discretion, were intolerable to his innate sense of fairness and justice, yet he was adamant in his insistence that the immigration laws be strengthened to the end that vicious alien criminals might be expelled from the country.

He had the courage of his convictions and had no hesitancy in withstanding tremendous pressure if the ends sought were believed by him to be improper. No criticism was too strong or attack too bitter to dissuade him from upholding what he conceived to be a just cause. On the other hand, no alien, regardless of poverty or humble station, lacked in him a champion if his cause seemed just. His passion was to render service to others. In his passing the loyal foreign born have lost a considerate friend.

Impelled by a desire to raise the standards of citizenship, he formulated a widespread citizenship program, which provides for cooperation between the Immigration and Naturalization Service, the public schools, and the Federal and State naturalization courts throughout the United States. Under it, applicants for naturalization are encouraged to learn the basic principles of the Constitution and Government of the United States and inspired to develop an attachment to them. This program is revolutionizing the education of the foreign born and is receiving widespread and enthusiastic support. Its success will be a monument to Colonel MacCormack's vision and practical methods. Educators will miss him greatly.

In the short period of 3½ years he accomplished results that most men fail to attain in a lifetime of strenuous effort. Just beginning to see the fulfillment of the plans to which he had so faithfully devoted his energy and talents, he was stricken down.

Colonel MacCormack was a brave man. In time of war he served his country with loyalty, and in peace he was not less faithful. With the completion of his journey here facing him, he quietly put his house in order and prepared for his next assignment without a murmur, sad only because he felt he had not yet completed the task to which he had set himself.

He was a kind man. Those who knew him best—his unselfish and indefatigable efforts to benefit his fellow men, whether his working associates or the public which he had sworn to serve—loved him most. The ones who were honored by his trust and privileged to share some of his staggering burdens came to realize the fine qualities of his friendship. Beneath an exterior that might have appeared to be reserved or even austere to the unacquainted beat the heart of a simple child. We mourn him.

He was an honorable public servant who, to the sacrifice of his personal affairs and health, literally poured out his life for his Government and fellow citizens. Two thousand years ago another Man, one who was much more than a man, said:

> Greater love hath no man than this, that a man lay down his life for his friends.

Miss Perkins truly said of him:

> He was a doer of the word; not a hearer only.

Whatsoever his hand found to do he did it with his might, and now he has gone for a while. Some years ago, at the University of Glasgow, John Caird declared that—

> No earnest effort for the good of humanity is ever lost; no life, however obscure, that has been devoted to the highest ends, to the service of mankind, to the progress of truth and goodness in the world, is ever spent in vain.

His grieving but brave wife and his other loved ones, his bereft associates, and his countless friends cannot believe that this is the end.

His earthly temple will rest on the beautiful slopes of Arlington National Cemetery, upon which he so often gazed from the window of his office. He will lie there with those countless others who, like him, unselfishly earned their country's homage. But his soul will continue on.

He has fought the good fight; he has finished the course; he has kept the faith. It is such lives as these that strengthen our belief in the words of Him who said:

> I am the resurrection and the life; he that believeth on Me, though he die, yet shall he live; and whosoever liveth and believeth on Me shall never die.

Teaching Communism in the Public Schools of the District of Columbia

EXTENSION OF REMARKS

OF

HON. DAVID J. LEWIS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, February 12, 1937

STATEMENT OF HON. DAVID J. LEWIS, OF MARYLAND, BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. LEWIS of Maryland. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following statement made by me on March 9, 1936, before a subcommittee of the Committee on the District of Columbia of the House of Representatives:

STATEMENT OF HON. DAVID J. LEWIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. Chairman and gentlemen of the committee, I am appearing to offer my opinion as to the lack of merit in the so-called "red rider" provision, and, with whatever weight may attach to my opinion, I desire to urge its repeal. I think those who rush in suddenly with mandates of guidance for the high-school system of the country—and I am thinking of the high-school features of this subject—who have not given more than passing attention or thought to the work that has been done by the high schools of the country are certain to bring harmful counsel.

It does not happen that I have had any direct experience with our school system, the high-school system in particular, as a pupil or a teacher or as an official in their management; but I would like to say here, in this public way, that having to direct my own education in a fashion, I have found that the wisest thing I could do was to send for the high-school books and literature on any subject. I have always found that upon any theme treated in that literature you have not only an elementary but you have a comprehensive treatment and that the subject is elucidated in a fashion generally lacking in other literature.

Indeed, I seldom find it necessary in my humble work to do more than master the treatments provided in the high-school books regarding any subject that they touch upon.

Many human beings now nameless, always to be nameless, are entitled to the credit of this great achievement in education. I should say that if the classics and the very higher mathematics be excluded, the high schools of the country today—and notably those of the District of Columbia—are offering a better curriculum, affording a deeper and wider education than Oxford could have given a few generations ago. The children, of course, are too young to appreciate these values, but their parents are old enough to have a realization and should thank the wonderful civilization in which they live for these incomparable values, showered freely upon their children.

A study of the subject of high-school regulations will be found in a book published by the Government, the Department of Education, prepared by Ward W. Keesecker. I would like to state that I find from it that the rule in the States has been not to obtrude a high degree of inhibitions or regulations upon the school authorities in the different States.

Some inhibitions have been given, some prohibitions are stated by statutes, and they are summarized in this work at page 110 [reading]:

"There are also few legal restrictions in this respect. The principal restrictions governing subject matter to be taught"—

He is referring to the statutes in the different States—

"provide that no sectarian, partisan, or unpatriotic instruction shall be given, nor any instruction which is prejudicial to individuals because of race or color."

These prohibitions deal with fundamentally accepted standards of human conduct in this country.

May I conclude by taking advantage of an article which appeared in the Baltimore Sun yesterday (Mar. 8, 1936), on the editorial page, written by Mr. Frederic Nelson, of that journal, whom I know is well known to the chairman. He writes [reading]:

"Although a lot of people don't like to hear about Al any more, the fact remains that nothing has been said in re teachers' oaths that Al didn't put in that message. And although the oath frenzy leaps from State to State, not one of his arguments has been effectively answered. It would be difficult to think of more appropriate reading this bright Sabbath Day than a few strophes from Al Smith's message to the New York State Legislature on May 18, 1930:

" 'This bill must be judged by what can be done under its provisions. It permits one man to place upon any teacher the stigma of disloyalty, and this without even hearing or trial. No man is so omniscient or wise as to have entrusted to him such arbitrary and complete power not only to condemn any individual teacher but to decree what belief of opinion is opposed to the institutions of the country.

" 'No teacher could continue to teach if he or she entertained any objection, however conscientious, to any existing institution. If this law had been in force prior to the abolition of slavery, opposition to that institution, which was protected by the Constitution and its laws, would have been just cause for the disqualification of a teacher. There is required of the teacher not only loyalty to the Constitution and laws of the State, but also loyalty to what is described as the institutions of the United States and of the State of New York.

" 'Opposition to any established institution, no matter how intelligent, conscientious, or disinterested this opposition might be, would be sufficient to disqualify the teacher. Every teacher would be at the mercy of his colleagues, his pupils, and their parents, and any word or act of the teacher might be held by the commissioner to indicate an attitude of "hostility to the institutions of the United States" or of the State.' "

Now, Mr. Chairman, we have here in Washington a very excellent high-school system, and since no evils have developed in the administration of that system under the existing laws and regulations, it does seem to me that unless this committee were to find a very definite abuse, that it ought not to lend its approval to one sentence of statutory regulation that related simply to one phase. I know of only one wise law that can be stated in a single sentence, and that was by the Master of the world himself: "Love ye one another." This "red rider" is taken from another kind of book.

Thank you very much.

The "Red Rider"

EXTENSION OF REMARKS

OF

HON. NAN WOOD HONEYMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, February 8, 1937

Mrs. HONEYMAN. Mr. Speaker, my district is 3,000 miles from Washington, yet for some months people have come to me there and deplored the so-called "red rider" to the appropriation act for the fiscal year ending June 30, 1936. These people are not Communists or agitators, nor do they have relatives on teaching staffs or children in schools here. They are loyal, straight-thinking American citizens interested in proper education and moral training, but they feel, as I do, that this "rider" serves no purpose in increasing patriotism and imposes upon members of a high profession a meaningless oath. I use that term, for I consider an oath that is subscribed to because of necessary material benefit is meaningless.

I know that the overwhelming majority of our teachers hold a voluntary pledge in their hearts to teach and advocate true Americanism. To require that a teacher must every 2 weeks, in addition to this moral conviction, perform a verbal act supporting it, is not only an impeachment of loyalty but works a restriction on their academic freedom. The requirement of a bimonthly oath should never have been put in the last appropriation bill and we should take the necessary steps to remove it.

There are members here who feel, as I do, that this is unfair and blundering legislation, but who are willing to accept half a loaf by supporting the amendment of the gentleman from Massachusetts to strike the word "teaching" from the clause and leaving its application to those "advocating" un-American doctrines. I do not agree that this is a question of compromise, but one for outright repeal.

As the amendment reads, it obviously brings up the question of what definition will be applied to the term "advocate", and who is to apply the definition. In other words, it is very possible that a teacher might be commenting on Russia, that these comments might be relayed by a child to his parents with the child's interpretations and amplifications, and, as a result, the teacher would stand unjustly accused of advocating communism.

Merely eliminating the word "teaching" does not clarify the situation, and I will not vote for this ambiguous amendment. I agree with the gentleman from New York [Mr. O'CONNOR] that the "only way to end it is to wipe it off the statute books."

I expect and hope to be found on the side of progressive education, whether it is in the District of Columbia or elsewhere.

Bondholders' Protective Committees

REMARKS

OF

HON. ADOLPH J. SABATH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 13, 1937

Mr. SABATH. Mr. Speaker and ladies and gentlemen of the House, the select committee of which I am chairman, which was created by Resolution 412 of the Seventy-third Congress and Resolutions 39, 79, and 354 of the Seventy-fourth Congress, filed a preliminary report on January 29, 1935, and a supplementary report on June 19, 1936.

As chairman of that committee I have made four different résumés before the House covering the committee's work and activities, and I feel it my duty at this time to again summarize the work it has done since the last report for the new Members and those of you who have not had an opportunity to familiarize yourself with the purposes of the committee, the causes leading to the formation of the committee, and its accomplishments.

In 1934, as the reports more fully disclose, approximately $20,000,000,000 worth of real-estate bonds and several billions of dollars of industrial securities had gone into default.

We found a most deplorable situation to exist.

Investment firms and houses of issue, with not a single dollar invested in these bonds, sought and got control through "stooge" committees of the defaulted securities held

by the investing public. We found that this had been going on since 1930, when defaults on a large scale first began to occur.

We found the defaulted bonds in the hands of these protective committees under deposit agreements which gave these committees full and complete power to do as they pleased with the securities without any liability whatsoever on their part. These deposit agreements could be amended by the committees, and were frequently amended, without any advance notice to the security holders or approval of any court or other authority. These bonds had been in a great number of instances hypothecated by the committees without any regard to their true value, and were even sold and liquidated to the detriment of the security holders. The record discloses that the insiders and their friends were the only beneficiaries. In the main, these committees burdened the security holders with unwarranted expenditures, legal fees, trustees' fees, experts' fees, and "fee-ed" them out of their securities.

We found that mortgage-guaranty companies had guaranteed mortgage bonds and mortgage certificates in amounts as high as a hundred times their authorized capital; defaulted securities had been sold and resold under the guise of new issues in amounts far exceeding the value of the collateral; bond indentures permitted the substitution of valueless collateral for good collateral, to the great detriment of the investors; the sale of hundreds of millions of supposedly first-mortgage bonds which were really mortgages on leaseholds, and almost invariably defaults in such cases resulted in the bondholders being wiped out entirely; there were innumerable instances of deliberate defaults on the part of responsible companies without any real necessity for such defaults, and incomplete or false reports, in order that the securities could be bought at depressed prices as a result of distressed sales; trustees were indifferent to defaults because they had not assumed any responsibility under trust indentures, delaying foreclosure for an indefinite period for self-gain and to the detriment of the security holders, if that was to the advantage of these racketeers; or foreclosing them prematurely if they could get management for themselves and their own receivers.

And that is not all.

Up to the time that our committee started its investigations these protective committees had refused to give any information to the depositing security holders; up to that time they had reorganized very few of the properties for the benefit of the small investor.

We found that trusting investors, unable to afford counsel, or whose holdings in individual companies were too small to warrant engaging independent counsel, were beseiged by "proxy chasers" and so-called "protective" committees. Not only were no dividends being paid on stock, no interest on these billions of dollars of bonds, but many were being called upon to contribute additional cash.

The houses of issue caused committees invariably composed of their agents to be formed.

It was these same houses which had issued these bonds and mortgages and certificates on excessive valuations of properties based on unwarranted and high appraisals. It was these same avaricious houses of issue, aided by unscrupulous contractors, accountants, and appraisers, which had floated second-mortgage and leasehold bonds, and which had resold many defaulted issues again in order to bail out many banks and themselves without informing investors of actual conditions with regard to existing defaults in taxes and interest.

The committees formed by such houses would use the names of outstanding citizens, who, unfortunately, permitted this practice, in many instances, without realizing that their names were merely being used as "window dressing."

It was easy for these individuals and houses of issue to control the entire situation, as they were the only ones who had the names of the security holders. They would immediately proceed to contact them and to obtain the deposit of bonds and securities, on the assurance to bondholders that it was the only way their interests would be protected. Yet in practically no case did a member of a protective committee own a single bond, nor have any interest whatsoever in the property.

Collusion by the committees has resulted in the discharging of guarantees, releasing of claims against insiders, and outrageous reductions in lease rentals.

In the Chicago hearings of this committee in November and December, evidence shows that the prospectus which was sent to the public urging them to invest their money in bonds, specifies that the Harding Theater was rented for $135,000 per year. Without consulting the bondholders, however, this rental was reduced first to $100,000, and later, with the sanction and approval of the court, to $25,000. You can form your own conclusions as to what happened to the bonds as a result.

There are many such instances where rentals have been reduced and new leases made by these so-called protective committees and receivers for terms of 10 and 15 years at shamefully low figures. It is doubtful that interest will ever be paid to holders of millions of these bonds because of such practices. The future has the same fate in store for the holders of many more millions of dollars worth of bonds unless we pass corrective legislation.

I might state here that due to public hearings, such as the one I have just mentioned, and the investigations of this select committee, many of the abuses have been halted temporarily.

Pursuant to the authority given this committee, it has also investigated abuses relating to foreign issues and to municipal and drainage bond issues. There again we find that a small group of New York men have constituted themselves as a bondholders' protective committee. I wish that all the Members, but especially those residing in Arkansas, Florida, and Georgia, could take the time to read the report of the gentleman from Florida [Mr. WILCOX], who cooperated with our committee.

There were brought to light many abuses on the part of these protective committees, most of them 1,000 and 1,500 miles removed from the localities whose bonds were involved. As usual, it was shown that no members of the committees had a single dollar invested in the securities.

The defaulted industrial issues, which we have also been able to investigate, were shown to be in a most chaotic condition. Our previous report deals with the situation in detail, but as an instance I cite the case of the Fisk Tire Co., mentioned in the report. A majority of the stockholders were forced—due to conditions—to sell their stock for 1 cent on the dollar and the bonds for 3 cents on the dollar. In this case the $45,000,000 plant was sold for $2,400,000, notwithstanding that there was $600,000 cash in the treasury.

In the case of the Amoskeag Corporation in New Hampshire, which was the subject of our October hearing in Manchester and Boston, we uncovered the manipulation of the company's officers in unloading over $30,000,000 in stock to the public just prior to the time the company ceased manufacturing its only paying product. The loss to investors was enormous, and resulting unemployment had a wide effect in the entire New England States. Yet after these plants were closed in 1935 the officers continued to draw about $150,000 in salaries, although they admittedly visited the plants but once or twice a year.

There are now pending reorganizations of many defaulted industrial issues, which require searching examination so that the investing public will not be victimized.

If those responsible for the frauds perpetrated upon the public are permitted to continue in the saddle, as they undoubtedly will unless they are properly supervised, we will later regret our failure to act.

A number of important companies which are now being reorganized, and where the publicly held securities are in default, are referred to in a telegram which I received from George F. Corrigan, Jr., one of our counsel.

JANUARY 11, 1937.

Hon. A. J. SABATH,
Chairman, Select Committee to Investigate
Bondholders' Reorganizations,
Washington, D. C.:

Firmly believe that it is absolutely necessary and for best interests of many thousands of small investors that at least the following investigations be completed, which involve hundreds of millions of dollars of defaulted securities: Radio-Keith-Orpheum, Cosden Oil Corporation, Consolidated Textile Corporation, Bush Terminal Co., Prudence Co., and Prudence Bonds Corporation, which alone involves $150,000,000 of defaults, including 18 separate bond issues and 48 separate certificate issues, Follansbee Bros., New Jersey title companies and building and loan associations, Schulte Retail Stores, United Cigar Stores, Utilities Light & Power, General Public Service, Amoskeag Manufacturing Co., and Postal Telegraph & Telephone. The above are only small part of active investigations now pending by representatives of your committee, and as several billion dollars of bonds and mortgage certificates in hands of public have not yet been reorganized or adjusted, it is indispensable that investigation be continued. Great majority of issues of S. W. Straus, American Bond & Mortgage, Empire Bond & Mortgage, Commonwealth Bond & Mortgage, Greenebaum, and innumerable other mortgage companies are still open and subject to possible continuance of fraudulent practices which are daily being uncovered by these investigations. Imperative also that authority be given to put results of investigations in form of complete detailed report. Letter follows.

GEORGE F. CORRIGAN, JR., *Counsel.*

During the past summer, after the committee had received many complaints about life-insurance companies, we obtained the service of three outstanding insurance actuaries who helped us to investigate that situation. The urgent pleas of many policyholders showed that tremendous losses were being suffered by benevolent, charitable, and labor organizations. The Modern Woodmen of America, for example, together with the Royal Neighbors of America, and railroad and labor organizations, lost approximately $19,000,000 in insurance company so-called reorganizations.

Dues or premiums of members were increased as high as 400 percent, or the face amount of policies were decreased from $1,000 to $250. Life-insurance companies sustained these enormous losses and were forced into receivership due to their investments in overvaluated bond issues, and liens were put on the policies of unfortunate hundreds of thousands—the poorest of our poor citizens—who had been paying weekly and monthly premiums for as long as 30 years. The evidence at our public hearings disclosed that one group of three New York financiers, under the leadership of David Milton, son-in-law of John D. Rockefeller, with an investment of either $13,000 or $63,000—they themselves do not seem to be sure which—acquired control and management, directly or indirectly, or brought about reorganization or merger, of about 42 different insurance companies, eliminating the greater part of the investment interest of hundreds of thousands of policyholders and stockholders.

Because of our inability to serve subpenas on many witnesses who were vacationing or ill, these cases are not as yet concluded.

Such are the types of cases we have endeavored to penetrate. Our time has been devoted mainly to saving the unfortunate security holders and bondholders, many of whom have been forced on relief rolls because they have been robbed of their life savings invested in these securities which they had every reason to believe were safe.

Yet if ever a committee of the House or Senate has been subjected to obstacles and annoyances it has been ours. Notwithstanding many unpleasant annoyances on the part of resourceful and powerful gentlemen whom we have had under investigation, we are immensely pleased that nearly every newspaper and magazine in the country has complimented the committee and called attention to its constructive work and the good accomplished.

We wish to acknowledge the cooperation on the part of the majority of Federal judges, many of whom rely to a great degree upon the report of our investigations in the reorganizations pending before them.

Mr. Speaker and ladies and gentlemen of the House, during my 30-year term of office this is the first select committee of which I have been a member. Although I will not claim that we have accomplished all that I had hoped for, I wish to assure the House that the committee has done everything within its power to bring to light these abuses. Fraudulent acts and collusion were given the pitiless light of publicity at public hearings held in Chicago, New York, Detroit, Milwaukee, St. Louis, San Francisco, Los Angeles, Miami, Boston, Manchester, Washington, Philadelphia, and other places where these abuses were prevalent. As a result there have been numerous indictments and convictions.

I can assure you of one thing. This has been no junket. Our committee members have worked hard and faithfully to bring to the attention of the House and of the American people the existing conditions with reference to defaulted securities and the manner in which they are being reorganized, all in the hope that legislation will be enacted that will prevent in the future similar abuses and robbery. To that end the committee prepared last session a bill which was reported favorably by the Judiciary Committee, but unfortunately too late to enable me to obtain its passage. Since that time we have obtained additional information and knowledge, so that we have amended the bill, and it is now known as H. R. 9. This bill I am satisfied will go far to protect the public in the future, and stop these vultures from feeding upon the weak and gullible investors.

During the life of this committee the nefarious practices have to some extent ceased. Pending enactment of our proposed legislation into law, can we permit a lapse into the old ways? Can we leave the millions of small investors at the mercy of those unscrupulous individuals who take advantage of lax and inadequate supervision over the responsibility of those handling funds during periods of default and of reorganization proceedings?

Such a course would be unthinkable!

As recently as January 3, 1937, an editorial appearing in the Newark Sunday Call, one of New Jersey's leading newspapers, stated in part:

> The public will look hopefully to the investigation of the Sabath committee of the House of Representatives for the answers to these and other questions which must be disposed of satisfactorily if the many solvent, well-managed associations are not to be handicapped by lack of confidence in the State agency responsible for their supervision.

I firmly believe that every Member will agree with me when I declare that the committee should go on, and in authorizing the continuance of this committee I honestly believe that every Member will be performing a duty to his constituents, as otherwise I fear all the work so far performed may go for naught, as there are hundreds of reorganizations pending in which it is imperative that this committee be active in disclosing all the facts for the protection of bondholders.

May I repeat that if any lapse of time occurs between the functioning of this committee and the passage of corrective legislation the damage that may be done to investors by those who stand ready to take advantage of such a situation will be irreparable. These matters affect millions of bondholders—your constituents and mine.

Retirement of Supreme Court Justices

EXTENSION OF REMARKS

OF

HON. RICHARD B. RUSSELL, JR.

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Monday, February 15, 1937

RADIO ADDRESS BY HON. CHARLES O. ANDREWS, OF FLORIDA, ON FEBRUARY 11, 1937

Mr. RUSSELL. Mr. President, I ask unanimous consent to have printed in the RECORD a very able and informative radio address delivered by the Senator from Florida [Mr. ANDREWS] on the subject of the reorganization of the Federal

judiciary, and in particular the retirement of Supreme Court Justices. The address was delivered over the Columbia Broadcasting System Thursday evening, February 11, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Having served 7 years in the highest trial courts and 3 years with the Supreme Court of Florida, I am, naturally, very much interested in any movement that may affect our Federal courts, and it is from this experience that I am undertaking to present my views to you tonight.

Let me say, in the beginning, that I do not flatter myself that I shall be able to enlighten lawyers and judges and other students of government. My effort is to try to convey to our laymen generally the proposition that now confronts the Members of Congress. We have much evidence that the public generally are vitally interested, and should, therefore, be taken into our confidence.

It is interesting to note the circumstances which have brought about the controversy over that portion of the recommendation of the President that the number of Justices of the Supreme Court be increased in the event those over a certain age decline to resign.

The present embarrassing situation has been brought about chiefly by the language of title 28, section 375, Statutes of the United States, which provides that:

When any judge of any court of the United States, appointed to hold his office during good behavior, "resigns his office" after having held a commission at least 10 years, continuously or otherwise, and having attained the age of 70 years, he shall, during the residue of his natural life, receive the salary which is payable at the time of his resignation; that, instead of resigning, any judge other than a Justice of the Supreme Court, who is qualified to resign under the foregoing provisions, may retire, upon the salary of which he is then in receipt, from regular active service on the bench, and the President shall thereupon be authorized to appoint a successor. It further provides that a circuit or district judge so retired may perform further service if he so desires, and that in the event any circuit or district judge does not elect to retire, the President may, if he finds any such judge is unable to discharge efficiently all the duties of his office, by reason of mental or physical disability of permanent character, appoint by and with the consent of the Senate an additional circuit or district judge of the district to which such disabled judge belongs.

It is clear that, under the above act, if a Supreme Court Justice elects to "retire" he must in terms "resign", but a circuit or district judge may "retire" without resigning. It is well known that Navy and Army officers may retire upon reaching a certain age, regardless of their health or fitness, and they are not required to resign.

My information is that if the Congress had seen fit heretofore to enact a law authorizing a Justice of the Supreme Court to "retire" without resigning, the President's message relating to the increase of Justices of the Supreme Court would very probably never have been presented to Congress. The word "resign" always carries with it an implied forced action or admission of disability or that the person resigning intends to engage in other business. For a Justice this is objectionable and not without good reason.

A bill which passed the House last session and again passed the House last Wednesday in substance proposes to extend to the Justices of the Supreme Court the same privilege with reference to retirement which obtains under existing law with regard to circuit and district judges.

Under the terms of that bill just repassed by the House, a retired Justice of the Supreme Court would be relieved from regular active service on the Supreme Court, by assignment or otherwise. A successor to him on that Court could be appointed. However, he may be called upon by the Chief Justice to perform such judicial duties, in any judicial circuit, including those of a circuit judge in such circuit, as such retired Justice may be willing to undertake. Under an old statute, Supreme Court Justices may even now perform duties in the circuits, but no such duties have been performed for several decades. This bill, therefore, if enacted by the Senate, would serve to relieve them of one part of their existing duties and leave them subject to assignment to the performance of less important duties in the circuits.

An act which many feel would entirely alleviate the situation and be far more effective and agreeable to all concerned would read substantially as follows:

"That when any Justice of the Supreme Court of the United States, having held a commission or commissions as Justice of said Court for at least 10 years, continuously or otherwise, and having attained the age of 72 years, may retire and thereafter regularly receive the salary which is payable to him at the time of his retirement, and he shall not thereafter be subject to other or further duties as judge or justice of any court; that upon the retirement of any Justice or Justices of the Supreme Court under the provisions of this act, the President shall, by and with the consent of the Senate, appoint a successor to any such Justice of the Supreme Court so retiring, as provided by law."

In other words, we should pass an act carrying in substance the above language which authorizes any Justice of the Supreme Court in terms to retire instead of resign, and without any suggestion or probability that he will ever be request by the Chief Justice to perform less agreeable services in any of the lower circuit or district courts.

Whether a Justice should ever retire in the interest of efficiency is scarcely debatable.

One of our most able Supreme Court Justices, when Attorney General during the administration of Woodrow Wilson, recommended that when a district or circuit judge failed to retire at the age of 70, an additional judge should be appointed. The same rule, many think, should obtain as to Supreme Court Justices.

When our distinguished Chief Justice was a private citizen in 1927, with a splendid record of service on the Supreme Court behind him, he delivered a most enlightening and interesting series of lectures at Columbia University, in one of which he said:

"While Congress could not provide constitutionally for compulsory retirement of a judge during good behavior by fixing an age limit, Congress could and did provide (1869) for a voluntary retirement on full pay, at or after the age of 70 when a judge had held his commission for at least 10 years."

He then stated that 10 Justices retired under that act, including Justice Gray, who died before his resignation became effective, and that on the policy of compelling retirement there are conflicting opinions. He then cited the fact that Chancellor Kent was compelled to leave the bench at the age of 60, and then at the height of his power proceeded to write his commentaries.

The distinguished Justice further stated:

"The community has no more valuable asset than an experienced judge. It takes a long time to become completely master of the material of his court. Contrary to general opinion, the work of the court tends to keep a man keen-witted and earnest. Fossilization is not due to the work of the court but probably to some physical defect which serves to impair mental activity."

He then added that:

"Doubtless there is a time when a judge reaches, on account of age, the limit of effective service, but it is very difficult to fix that time. Justice Holmes at 85 did his share of work, or even more, with the same energy and brilliance that he showed 20 years before. On the other hand, some Judges have stayed too long on the bench. An unfortunate illustration was that of Justice Grier, who had failed perceptibly at the time of the first argument of the Legal Tender case. As the decision was delayed he did not participate in it. A committee of the Court waited upon Justice Grier to advise him of the desirability of his retirement and the unfortunate consequence of his being in a position to cast a deciding vote in an important case when he was not able properly to address himself to it."

On the policy of compulsory retirement, he said:

"Under present conditions of living, and in view of the increased facility of maintaining health and vigor, the age of 70 may well be thought too early for compulsory retirement. Such retirement is too often the community's loss. A compulsory retirement at 75 could more easily be defended. I agree that the importance in the Supreme Court of avoiding the risk of having Judges who are unable properly to do their work and yet insist on remaining on the bench, is too great to permit chances to be taken, and any age selected must be somewhat arbitrary as the time of the failing in mental power differs widely. The exigency to be thought of is not illness but decrepitude. Men who take good care of themselves and live the protected and regular life of a Judge, are more likely now to be fit at 70 than were their predecessors at 65 under the conditions of 50 years ago."

We must infer from the above expressions taken from actual experience by our most highly respected and able Justice, that where a Justice is fully competent after he reached the age of 75, that it is more or less an exception and that the exceptions should not be made the rule.

The President's message points out that:

"In almost every decade since 1789 changes have been made by the Congress whereby the number of judges and the duties of judges in Federal courts have been altered in one way or another. The Supreme Court was established with 6 members in 1789; it was reduced to 5 in 1801; it was increased to 7 in 1807; it was increased to 9 in 1837; it was increased to 10 in 1863; it was reduced to 7 in 1866; it was increased to nine in 1869."

It has so remained, although the number of cases presented for review have increased many times.

In 1919, after several former attempts had failed, a law was passed providing that the President "may" appoint additional district and circuit judges, but only upon a finding that the incumbent judge over 70 "is unable to discharge efficiently all the duties of his office by reason of mental or physical disability of permanent character."

The President points out the impracticableness of this statute when he stated that:

"The discretionary and indefinite nature of this legislation has rendered it ineffective. No President should be asked to determine the ability or disability of any particular judge."

We all, no doubt, agree with that statement, and the law itself should fix the time when a Justice may retire with honor to himself and with due deference to the great office he has been honored with.

The act which I have outlined and believe would alleviate the situation and be agreeable to all concerned would permit the retirement of a Justice of the Supreme Court at the age of 72.

Should this, or the Sumner bill, not be effective, then some plan must be designed to bring about automatic retirement, as now applied to the Army and Navy, and it would, of course, be preferable to accomplish this result without a constitutional amendment, if possible.

The Supreme Court, Constitution, and the People

EXTENSION OF REMARKS

OF

HON. EDWARD R. BURKE

OF NEBRASKA

IN THE SENATE OF THE UNITED STATES

Monday, February 15, 1937

RADIO ADDRESS BY HON. JOSIAH W. BAILEY, OF NORTH CAROLINA, ON FEBRUARY 13, 1937

Mr. BURKE. Mr. President, last Saturday evening the senior Senator from North Carolina [Mr. BAILEY] delivered over the radio a very illuminating address on the proposal to reorganize the Federal judiciary. This is an address which should be read and studied by all American citizens. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The American people have within the last few days been suddenly confronted with a new and deeply disturbing question: The proposition has been put forward under alarming circumstances to increase the number of Justices of the Supreme Court from 9 (the present number) to 15, provided those Justices 70 years of age or more shall not retire.

There are six Justices of the Supreme Court who fall within the terms of this bill. The effect is to notify each of them that if he remains on the bench another Justice will be appointed to offset his presence because of the alleged infirmity of age. If he retires, another will replace him. It looks to a reconstruction of the Supreme Court at one stroke. It is either a judicial recall or a judicial neutralization. It implies even more than reconstruction of the Court. It predicates a new version of the Constitution.

What are the circumstances in which this far-reaching change in the fundamental structure of our Government is put forward?

First, we must take note of the fact that the Court has within the last 2 years found it necessary to hand down an unusual number of opinions holding acts, or portions of acts, of Congress unconstitutional; and that in every instance it has sustained the historic interpretation of the Constitution. If the present Court has been wrong, then the Court has been wrong for 75 years or more.

Second, that these acts were passed by the Congress at the instance of the President.

Third, that when these measures were under consideration by the Congress, many Representatives and Senators were troubled on the question of their constitutionality.

Fourth, that in one instance the President sent a letter to a Representative advising him to disregard his doubts as to the constitutionality of a bill, however reasonable.

Fifth, that many Members of the Congress felt constrained to waive for the time the question of constitutionality and leave the matter to the Court. That is, instead of bearing their part of the brunt of proposed legislation as beyond the power of the Congress, not a few of its Members thought best to pass the whole burden to the Court. Let it be said that this was done under the impulses of a sense of profound emergency, and with much regret on the part of some.

Sixth, that the effect of this procedure was to subject the Supreme Court to wide-spread criticism and not a few bitter attacks. The Court was described as an oligarchy; it was spoken of as exercising the veto power; careless men said even that it had nullified acts of the Congress—none of which accusations are true—and even a scurrilous and ribald book was printed in which the highest Court in our land, the highest on earth, respected always and everywhere, made up of learned and venerable men long known in our public life, was held up to scorn and contempt. I have read this book. There is more of falsehood and less of truth in it than in any similar number of pages of which I have had knowledge these 50 years I have been reading.

And, seventh, we must bear in mind that in his address to the Congress on January 6 the President complained of the decisions of the Supreme Court and made some suggestions, the full import of which did not appear at the time.

This is the general background in which legislation is proposed, which, if passed, would either enlarge the Court by six new members or cause six present members to retire and be replaced by six new members; in either event giving the President leave to appoint six new Justices and so reconstruct at one stroke the highest Court in our land; indeed, to tear down the Court as it is and create a new Court in its stead, an action without precedent in our long history.

What are the grounds upon which this astonishing action is proposed?

In his message to the Congress presenting the legislation, the President undertook first to argue that the Court was behind with its work. But the fact is against him here. The Court is up with its work. His own Attorney General has made his annual report for the fiscal year ending last July 1. In this report, on page 9, the Solicitor General of the United States, who represents the Government before the Supreme Court, says—I quote: "The work of the Court is current and cases are heard as soon after records have been printed as briefs can be prepared."

This statement ends the argument that this radical change is proposed in order to expedite the determination of cases. It is conclusive testimony from the President's own witness. It is, moreover, a matter of record.

The President argued in the second instance that the Court had declined to allow petitions in many cases, and that this indicated necessity for six additional Justices. As to this let us hear his Solicitor General, in the same report, page 13, in words as follows—I quote:

"A very large majority of the cases on the appellate docket do not possess sufficient merit to warrant consideration on the merits. * * * Many petitions for writs of certiorari (i. e., appeals) are filed which in the light of settled practice must be regarded as entirely without merit."

To be sure, that is a sufficient negation of the second of the alleged facts upon which the President seemed to base his recommendation. If petitions are without merit, they ought to be declined, and the reason for it lies in the petitions, not the Court.

And how, anyway, could 15 Justices hear and decide cases more quickly than 9 men? As a rule, the larger the number of participants in a discussion the longer and more difficult the consideration. It is easier for 9 men to agree than for 15.

Just who misinformed the President I do not know. That he was not correctly informed in these essential matters of fact is only too plain from official statements I have quoted from his Solicitor General and published in the latest annual report of his Attorney General.

The third consideration submitted by the President in support of the proposed legislation concerned the subject of age and mental and physical capacity—a subject, as he said, "of delicacy." It related to the two considerations I have just mentioned. The ages of the Justices was cited as the reason for conditions that do not exist. It is alleged that the Court's docket is congested because Justices are aged, but the docket is not congested. It is alleged that petitions for certiorari are refused because Justices are infirm, but the Solicitor General bears witness that they are refused because they are without merit.

He does not say that any one of the Justices is in any degree incapacitated. He is content to offer only the suggestion of "aged or infirm judges." But age is often the evidence of learning and wisdom. It is agreed that the nobler figures of the Senate have passed threescore and ten. And with them the Vice President. Their eyes are not dimmed nor is their natural strength abated. "Senatus" connotes age. No country can afford to dispose of its greater servants by any rigid rule as to age. Give to youth all it may claim, the place of the elder statesmen in a nation's life is universally recognized. And age ripens the judge and becomes him as it becomes no other. The old saying, "Young men for action, old men for counsel" has always held good. It is agreed that six of the present Justices are each more than 70 years of age. But the President's young Solicitor General, in constant contact with the Court, says that its work is current, that cases are heard and determined as rapidly as briefs are prepared. And the record in the latest year shows that 273 cases were heard and disposed of—a great amount of work done and the Court current.

The opinions in these cases are published in the reports and have been submitted to the bar of America. No one has been heard to say that, at any point or in any case, there is evidence of want of mental vigor. It has been a most difficult period. But there has been no complaint from any quarter of delay or deterioration. On the other hand, probably never before have the Court's opinions been so widely published or so closely studied or submitted to tests so searching.

There has been division in the Court—as there always has been when great questions were presented. But no one has attributed this division, on either side, to age or infirmity. We have seen the Court unanimous in the N. R. A. case, but that unanimity has not so far been attributed to weakness in the Court. It was unanimous in the Humphreys case, but no one has thought that that unanimity was due to any infirmity in the Court. We saw it divided 6 to 3 in the A. A. A. and Carter Coal cases, but none who read the opinions has said that the opinions of the Court or the dissenting opinions were due to age or infirmity, but rather all who have read them have been impressed with the vigor and high intelligence manifested in both.

And at all times it has been recognized that the Court's opinions have been consistent with the Court's historic interpretation of the Constitution—with the reading of the language of that document which Marshall and Story, Miller, Fuller, White, and Taft have made familiar, and which the whole country has approved in every generation.

So, while we have only the fact of age here to support the President's suggestion, the truth of the matter is against it. If there were a presumption on account of age, it is rebutted by the facts I have cited. The Supreme Court today is up with its work, is capable, is vigorous; and it is guarding the Constitution with a vigor and a courage worthy of all the great traditions of its noble history, and worthy no less of the great Republic which rests upon that history. If the Court has offended, the offense is that it has in a trying time maintained the interpretation of the Constitution which the people have received from their Court and approved in every period of their history.

I have now disposed of the three reasons the President gave in his message of February 5 for the proposed changes.

It is safe to say that no advocate of the President's proposition will offer to maintain it upon the considerations upon which the President relies in his message.

In view of their manifest inadequacy, one may be justified in looking a little beyond the express reasons set out in the President's message supporting this bill—to ascertain whether the President has other ground for his extraordinary action. But I would not look beyond the manifest facts. I would not risk opinion. I would draw no inferences. Let us see and consider only what the President himself said on the subject. He closed his message of February 5 with a significant remark, that if the measures recommended "achieve their aim, we may be relieved of the necessity of considering any fundamental changes in the powers of the courts or the Constitution." This indicated a purpose other than merely improving the judicial system.

I now recur to the President's message of January 6. In this message he discussed certain of his measures which the Supreme Court had held to be unconstitutional. He advised against amending the Constitution. He argued the necessity for general laws of the same type as those which the Court had declared to be unconstitutional. He put his faith in a different judicial interpretation. I quote his words:

"With a better understanding of our purposes and a more intelligent recognition of our needs as a Nation, it is not to be assumed that there will be prolonged failure to bring legislative and judicial action into closer harmony. Means must be found to adapt our legal forms and our judicial interpretation to the actual present national needs of the largest progressive democracy in the modern world."

Thus the President made known his desire for general laws asserting the Federal power over activities heretofore throughout our history confined to State regulation, laws like the N. R. A., which the entire Court held to be unconstitutional. And quite plainly he seeks a Supreme Court which will hold such laws to be constitutional, notwithstanding all the precedents to the contrary. He says that if we reconstruct the courts as he suggests, "we may be relieved of considering any fundamental changes in the powers of the courts or the Constitution." He would change the Court rather than amend the Constitution!

That is, he holds a differently constituted Court would sustain his view; and that, if given the opportunity, he may appoint six Justices and so reconstruct the Supreme Court as to reverse recent decisions, change the established meaning of the Constitution, and assert the power of the Congress to pass general laws like the National Recovery Act—regulating activities which from the beginning until now have consistently been held to be within the province of the several States.

And so, reading his message of January 6 last, together with his message of February 5, 1937, we have no difficulty in perceiving the obvious fact that our President seeks to reconstitute the Supreme Court of the United States in the clear intention of bringing about a new interpretation of the Constitution, by decisions sustaining his view of the powers of the Congress and the rights of the people and the States. This is the "means" which he said on January 6 must be found "to adapt our judicial interpretation", and so avoid amendment to the Constitution.

In this, I submit with great respect, the zeal of the President has carried him far beyond wisdom and right.

The remedy is worse—infinitely worse—than the difficulty to which it is addressed. Grant that his motive is good, that his objective is worthy, he cannot afford to set such a standard or such a precedent.

It was never intended that any President or any Congress should control the Supreme Court of the United States or any other court. We settled that with the Stuart Kings of England 300 years ago. It is, if I may quote the President on another occasion, "more power than a good man should want or a bad man should have."

Courts, in order to administer justice, must be independent. Grant that his motive is the purest, I deny a President's right to seek to mold the Supreme Court to his heart's desire. I deny the right of Congress to seek to form a court that will interpret the Constitution to suit its interpretation, its judgment, or its will. None may seek to influence the Court save by the accepted processes of justice. President, Congress, and Court are each under the Constitution. It is the people's instrument, the charter of their rights, the sheet anchor of their liberties. And it must be interpreted, if it is to be of value, only by a court of justice independent of all influence, free of all politics or personal will, free of all force, inducement, or temptation, and upon the altars of reason and conscience, under the oath duly taken before the God from whom our liberties and the great instrument of their preservation were alike derived. As was said of old, so must it be said now and evermore to all who minister in the people's temple of justice:

"What doth the Lord God require of thee but to do justice, love mercy, and walk humbly before the Lord thy God?"

Grant that the President's objective is desirable, his method is indefensible. It must be resisted because it is wrong, and also because there is a right way. If the President or the Congress, or both, ought to have more power and the people of the States less, let an amendment to the Constitution be submitted to the people. Let us never seek to reconstruct a court to suit our wills. Upon proper grounds we may impeach and remove, but we cannot reconstruct a court. Truth and justice find their sources in a higher will than any man's or all men's. We interfere with the processes by which they are revealed at no less peril than that of the rash young man of old who laid hands upon the Ark of the Covenant of the chosen people.

I know that this question is not a party question. It strikes throughout America far deeper than party lines or partisan predilection. But I am glad that I can invoke the platform of my party at this moment. Precisely on the point of the President's position, the Democratic convention of 1936 has spoken. In full view of the opinions of the Supreme Court on the legislation of the administration, and in the prospect of the campaign, the candidate, and the election, the Democratic Party gave its most solemn assurance. I quote:

"If these problems cannot be effectively solved by legislation within the Constitution, we shall seek such clarifying amendment as will assure to the legislatures of the several States and to the Congress of the United States, each within its proper jurisdiction, the power to enact those laws which the State and Federal legislatures, within their respective spheres, shall find necessary in order adequately to regulate commerce, protect public health and safety, and safeguard economic security. Thus we propose to maintain the letter and spirit of the Constitution."

These are the words of the President's party's platform. This was his platform as recently as November 3, 1936.

I stand on this platform, and I have right to ask that my party shall stand on this platform. It is the platform on which the President was a candidate and on which he was standing in the campaign. It was accepted by the American people. It was good November 3, 1936. It is good at this moment. Not one word was said for the present proposition before the election. Had we offered a platform in which we promised to reconstruct the Supreme Court and so reconstruct it as to change the historic interpretation of the Constitution, the campaign would have been fought out on that question. And yet if this measure is to be considered, that is what we should have done. This at least would have given the people a chance to express their will in the matter. And it is a matter in which they have right to express their will.

If change in the meaning of the Constitution is desired, the way to bring that change about is to amend the Constitution, not the Court. That is what the platform says. If a "modern" constitution is desired, we can have it in only one way—that is, in the way we got the old Constitution—by the will of the people. It is their instrument. They made it, and only they may change it. We cannot alter the Ten Commandments by interpretation. The meaning they had the day they were given upon Sinai, that meaning they have had these 5,000 years and will have until the end of time. We cannot change the meaning of the Magna Carta by interpretation; we cannot change the meaning of our Bill of Rights by interpretation. May they abide forever! We can change the language of the Constitution in the way provided, but we cannot ordain an interpretation of the language as it stands to suit ourselves, nor may we contrive a tribunal for such a purpose. One may attach to that language a different meaning from that which the Court has given it, but he cannot reconstruct a court of justice to bring about that meaning. To do so would put an end to the significance of the Constitution as the instrument of the Government's existence and stability, as the supreme law of the land and the charter of the people's rights. For if one Congress may add 6 members to the Court in order to validate its acts, another Congress may add 10 more members to validate its acts. This would be to destroy the Court and the Constitution. And it would be better not to pretend to have either, but frankly confess that our Government has become a Government of men, not of laws.

Let me give you an illustration. Many of you have had lawsuits or served on juries. What sort of justice would we have if a litigant could increase the jury to suit his purposes, putting jurors thereon to do his will? What sort of jury would that be, if upon finding that it was divided, one might add to it six men to suit his purpose? Juries find the facts; courts, i. e., judges, find the law. It is just as important that the law be interpreted by an impartial court as that the facts be found by an impartial jury. There is a process of justice, and it is not political. It looks to the will of the law, not the will of men or any man.

A stacked jury, a stacked court, and a stacked deck of cards are in the same moral category—one has no more confidence in one than in another of them.

Set the precedent for a good purpose, and it will be invoked for a thousand bad purposes.

We cannot put Congress or President above the Constitution. Like the flag, it is over all. George Washington was our greatest man. He kept himself under the Constitution. But if he had not been willing to do so, the people would have broken down the Republic rather than put him above it. They loved him, they trusted him, he had served them as no mortal has ever served his fellow men; but his generation knew, as this generation knows,

that no man, no Congress, is great enough or wise enough or good enough to be entrusted with unbridled power. No man should ask in our land, even with the highest motives and the best objectives, to be given leave so to reconstruct the Supreme Court as to give him power to determine the meaning of the Constitution. That would put him over it, not under it. There would be at once an end of constitutional government, and the question with reference to legislation or any Executive act would not be, is it within the powers granted by the people in the Constitution?—but only, is it within the purpose of a President or Congress which have taken over the power to mold the Constitution to their will? Under such conditions where would be that which we now know as the judicial power—in the temple of justice, where the people have placed it, or in the will of the President and the Congress? Under such conditions what sort of a republic would this Republic be?

Very plainly more is now involved than has been involved in our entire history. Court and Constitution are at stake. We cannot properly measure their value. But I must offer, as I conclude, a further word to that end.

The Supreme Court of the United States is not the creature of Congress. It was brought forth by the people. It is their institution. It is not the creature of a moment. It has been in continuous existence nearly 150 years. We see it today embodied in nine learned and venerable men, but the Court consists of all who have ministered in its temple, the dead as well as the living. Its voice is the voice of past and present. Its function is truth and righteousness, the ancient word for justice. It does not rule. It merely affirms the will of the people in the instrument which they uttered to preserve their rights over against all powers of the Government. It does not veto acts of the Congress. It declares only when those acts transgress the limits set upon the powers of the Congress by the people in their Constitution. This and no more. It does not pass on the wisdom of legislation. It does not determine economic questions.

It has no earthly power. Congress has the purse, the President is Commander in Chief of the Army and Navy, and the Executive of the Republic. The Supreme Court has neither purse nor sword. It cannot even defend itself against criticism. Its decrees prevail only by reason of the spiritual appeal of justice in the human heart.

Beautiful to behold is the fact that now for 150 years without other aid, such has been the capacity of the American people for justice, such their native feeling for its processes, that in all seasons and events, in war and peace, in poverty and prosperity, in the day of small things and the day of great things, whether agreeing or disagreeing, they have exalted this Court; they have kept in above politics; they have protected it against all who would tear it down; they have upheld it against all who would bring it low; they have accepted its decisions as the ultimate determination of controversies, civil or criminal, in high or low estate, in life and in death.

On the other hand, it has never failed them. It has stood between them and all who would impair their rights. It has succored rich and poor with equal hand. It has vindicated freedom of speech and of the press. The humble ex-slave has found refuge in its precincts against the power of mighty States; and States have found by means of it their rightful place in the Union the fathers brought forth. It has guarded the rights of the people, it has preserved the rights of the States, it has maintained the rights and the powers of the Union—and all without purse, without patronage, without propaganda, without force; but not without power—not without the power in it and in ourselves which makes for righteousness. Our forefathers brought it forth; our fathers have preserved it for us; and we now will maintan it for ourselves, our children, and our children's children.

And what is this Constitution of the United States?

It is the charter of the national existence and stability; and it is more. It is the charter of the powers given to the Republic; of the powers reserved to the States; of the inalienable rights in the people. It is their instrument. They made it. They made it not just to constitute a government, but also to preserve their rights—the blessings of liberty to ourselves and to our posterity. They knew that any sufficient government would become stronger than any one of themselves. They created a government and gave it power—so much and no more—and they asserted rights in States which they could control; rights in themselves singly and as a whole which none could violate. They set up a court to declare the metes and bounds of the powers they were vesting, and made it independent, to define, to declare, and to affirm the powers they were holding to themselves or to their States.

The Constitution is no device to block the people's progress. It is the device of the people to preserve themselves, their States, their local self-government, their inalienable rights, their homes, and the future of their children. The people made it, and only they can change it—and only in the way they provided. Let others denounce it; let others criticize it; the people will preserve it as the charter of their liberties, their rights, their votes, their democracy, their place in the life of their Republic. It stands between them and the possibility of a dictator. They require every public officer to take solemn oath to maintain and support it. They give no man power save upon this oath.

Sometimes we forget; sometimes impatience overcomes our better judgment. But at last we remember. Down in our hearts we know that so long as the Constitution stands the Republic will stand; so long as the Constitution stands our rights are secure, our homes our own, and none may make us afraid. It restrains the overreaching hand of power. It stops the army on the threshold of the cabin. It asserts the dignity of man, his place in the earth, and the freedom of his soul.

Congress is mighty, but the Constitution is mightier. Presidents are powerful, but the Constitution is more powerful. Courts are great, but the Constitution is greater. Laws are strong, but the Constitution is stronger. And it is so because the Constitution is the expressed will of all the people, the supreme law of the land, to be altered only by themselves, and therefore the living soul of democracy.

The Court and the Constitution, they stand or fall together. The Constitution creates the Court, and the Court declares and maintains the Constitution. To weaken one is to weaken the other. To destroy one is to destroy the other. To weaken either is to weaken the foundations of our Republic; to destroy either is to destroy the Republic.

Lincoln Day Address

EXTENSION OF REMARKS
OF
HON. CHARLES L. McNARY
OF OREGON
IN THE SENATE OF THE UNITED STATES
Monday, February 15, 1937

ADDRESS OF HON. JAMES J. DAVIS, OF PENNSYLVANIA, DELIVERED AT THE ADAMS COUNTY REPUBLICAN CLUB LINCOLN MEMORIAL SERVICE, AT GETTYSBURG, PA., FEBRUARY 12, 1937

Mr. McNARY. Mr. President, the very able Senator from Pennsylvania [Mr. DAVIS] delivered a memorable address at Gettysburg last Friday evening, which I ask unanimous consent to have printed in the RECORD, together with a brief introduction by Franklin R. Bigham, of Gettysburg.

There being no objection, the introduction and address were ordered to be printed in the RECORD, as follows:

INTRODUCTION BY FRANKLIN R. BIGHAM, ESQ., OF GETTYSBURG, PA.

We are met today to honor the memory of Abraham Lincoln. We have come to spend a brief time together under the guiding influence of his ever-living spirit. We feel that in a very real way he belongs to us and we belong to him. This is true for many reasons, but most of all because he was a man of the people.

It is fitting that the one who speaks to us today of and for Lincoln should bear in his mind and character some of the noble attributes belonging to the Great Emancipator. Lincoln was great because he exalted the fundamental elements of human life in such a natural way. He let the flow of the irresistible longings of the human soul surge through his being and thus he reached through to the very heart of humanity itself. Probably the surest mark of Lincoln's greatness was the fact that everybody felt that they had some claim on his thought and affection. He was universal in his mind and character.

The one who speaks for Lincoln today knows from deep experience the elemental struggles of life which make for sturdy character. Like Lincoln, he was born in modest circumstances, nursed in obscurity, hardened by toil, broadened by suffering, lifted by service, and ennobled by the never-failing love and will of the people. No matter what high honors have come to him, he has found his greatest joy in keeping in touch with the people from whom he came.

The roots of his life have taken firm hold in the heart life of the fathers, the mothers, the boys, the girls, the little children of our land. The words repeated most often under the influence of his example are those of the great Master, who said: "Suffer little children to come unto me and forbid them not, for of such is the kingdom of heaven." For 10 years Secretary of the United States Department of Labor, in the Cabinet of three Presidents, for 6 years United States Senator from Pennsylvania, our Lincoln Day speaker at Gettysburg is the Honorable JAMES J. DAVIS.

ADDRESS OF SENATOR DAVIS

Lincoln lives in our hearts today. No one has ever thought of Lincoln in a tomb, 'neath any coffin lid. The sublime monument which has been erected to his memory on the Potomac River at Washington speaks not of his death, but of his living hold on the affections of his fellow countrymen. Lincoln was a simple soul, and true to his nature he drew the strength of a robust life from the great common people from whom he came. Lincoln was the

incarnated soul of the American Republic. He was of the people, by the people, and for the people. He knew no higher human destiny than to express the irresistible human desires of his day. Although he drew his force from the common elements of life, he rose to such dignity of character as to reveal a new beauty in the ordinary circumstances of daily living. Now we feel that the thoughts, words, and deeds which proceeded from his soul possessed an uncommon genius.

Of Lincoln, Woodrow Wilson said: "Of the mass, but he was so gifted and big that all men could look upon him, until he became the model for the mass." It was in that sense that he was a man of the people. His sources of vitality were where all pure springs are, but in him they assumed a nobler destiny than is found in the life of the average man. Lincoln's life was one-pointed. He had but one sublime passion, and that was his faith in democracy. In essence, democracy is a way of life in which government and society are ruled by public opinion. It is directly opposite to the way of life wherein public opinion is made subject to the government. Democracy reserves a large sphere of private, voluntary, nongovernmental activity where people enjoy freedom of speech, freedom of assembly, freedom of thought, freedom of press, and freedom of worship.

The principle of American freedom was on the auction block in Lincoln's day and he purchased it with his life's blood. Today we need a one-pointed political faith which will galvanize our souls to action. There can be no hope for the Republican Party in our day if we do not make it an instrument and an effective instrument of the mind and heart of the common people. Our party expresses its interest in more than a score of public issues, but I should like to ask you, where is the one principle to which more than all else the lives of all of us are dedicated? For what does our party stand which fills the souls and fires the hearts of the same sort of people for whom Lincoln lived and died?

There are those who predict the speedy death of our party. They claim that it no longer has a soul, that its spirit has fled the body, choked out by the mercenary grasp of "the princes of privilege." I do not accept this verdict, but in all sincerity I must say that if we do not speedily mend our ways as a party, take new life unto ourselves, new blood, young blood, the heart of Lincoln, the soul of the people, the voters of America will spurn our party as a dead and empty shell.

I am not one to condemn my party. What we need now is not prophets of doom and destruction but adequate and intelligent leadership. In the face of the circumstances attending the recent November election, it is nothing less than remarkable that there were found in this country 17,000,000 voters who under no circumstances whatsoever could be induced to abandon their principles. I do not think that this indicates the death of our party, but in all sincerity I believe it is a sign that the Republican Party is being quickened to newness of life.

If the Presidential election had been won by the New Deal on a narrow margin we might now be resting on our oars, counting on time to produce a change. Now, with all the great majority against us, we know that every one of us must work with all our might if our party is to endure. It is an up-hill fight, but that is the kind which challenges up-hill fighters and in the end that is the kind of stuff which any party must have in it if it deserves to live on.

I am not complaining because we are in the minority. I am not grieving because there may seem, at times, that there be but few of us. I am carrying on in the confident faith that the principles of our party deserve to live and I want to be one to do my part to see them translated from theory into fact.

We are on the upward swing in this country. It is evident on every hand. Better days are before us. They have been in the making for a long time. Out of the darkness of economic tragedy has come the dawn of a new era of prosperity. We realize, however, that it has been limited by artificial schemes of governmental planning which in various instances have run counter to common sense and the economic experience of the race. We have gone on despite these blunders.

As Republicans, we believe in the productive principle applied to national problems through labor and industry. For over 50 years this principle applied to national needs has given a greater degree of prosperity for a larger number of people than anywhere else in the world. Some have said that private business principles have made the rich richer and the poor poorer. Definitely this is not the case except when private business becomes monopolistic.

In truth the voluntary system of productive labor through business management has given increased advantages to all of us and not simply to a few. I say this as an observer and student of economic realities for over half a century. But the current trend towards governmental competition with business and agriculture impedes the incentive for private investment of capital or private employment of labor and is, to this extent, blocking national recovery.

Productive wealth has not produced poverty. Poverty may be found in two score places throughout the world where the productive wealth principles have never penetrated. As a Nation we started our upward climb with only our human abilities and have arisen to economic strength through the application of productive labor and business principles to our great natural resources.

These principles must now be coupled without strong insistence throughout the Republican Party on the rights of collective bargaining, old-age pensions, unemployment insurance, complete abolition of child labor, retirement plans for workers over 65 years of age, enforcement of our immigration laws and the many other measures which make for the well-being of the citizens of our land.

With the increasing mechanization of industry there are problems of shifting labor from one field of productivity to another. As we take the load off the worker's back we put it on his mind and that makes necessary new programs of wages and wage-retirement plans which labor, industry, and the consuming public must unite to bear. This finds us somewhat unprepared both in the fields of private industry and government, but a start toward these necessary goals has been made and we are on our way to meet the social responsibility for unemployment and old age which we can never escape. Our business judgment should prompt us to meet these needs as promptly and thoughtfully as possible. We should not wait until we have brought tragedy to the Nation and disfavor to our party leadership before we move to extend a helping hand to our fellows.

We must make sure in our thinking that there is now no further need for large scale influx of foreign labor to our shores. We are proud of the contributions which other nations have made to our national life through the millions of foreign born who have come here. In the future we should expect that those who come to work shall be able to meet special needs of industry which cannot be met adequately by our present population. We should bear in mind that the number of children born in rural areas at the present time is 50 percent greater than is needed for farm labor. These rural youth must therefore find employment in our cities if our farm problem is to be solved and opportunity must be held open to them if our problems of unemployment are to be solved.

Our problem primarily is to take what we have in America and put it together for the good of all. We have the men, the natural resources, the mechanical improvements, the Government, the financial ability, and all that is needed for a great prosperity. No limit can be placed upon our national well-being except that indicated by our lack of economic and social wisdom. If we use what we have we shall find that we have enough to meet the needs of every man, woman, and child within our borders.

The American people have a fundamental respect for fair play. We do not ask that we shall always win, but we do expect to carry on under the rules of the game. Governmentally that means that we conduct our national life according to the Constitution, our national rules, the fundamental law of the land. The only decent way to change the rules is by common consent of the people as provided by the Constitution. Making war on the umpire is something which public opinion has never tolerated in America.

The proposed change in the Supreme Court is essentially making war on the national umpire. This blow directed against the life tenure of the Justices can be enacted legally only through constitutional amendment. Any action which the Congress may take on this subject will be irregular, for it will be prejudicial to the plan of life tenure and therefore an undermining of the constitutional provision. The Constitution provides that judges of the Supreme Court shall hold office during good behavior. No legal change can be effected in their tenure of office without recourse to a constitutional amendment. The President has not suggested a constitutional amendment but has requested legislation by Congress to provide for a system of additional judges in case members of the Supreme Court do not retire voluntarily at the age of 70. This is definitely an attempt through congressional action to put pressure on the judges to retire at 70, and is to that extent a violation of the expressed purpose of the "tenure of office during good behavior" plan of the Constitution.

If the President wished the people to express themselves on this issue in our regular democratic way through election procedure, he missed a good opportunity in the recent campaign. It was then suggested that attempts might be made, if he were reelected, to pack the Court. He was asked to state his position on this issue. He did not respond. Now, after the campaign is over he asks for legislation which would invalidate the constitutional safeguards of the tenure of office for Justices of the Supreme Court, thus making way for a plan of his own which would subject the Court to his control. This indirect opposition to eminent legal opinion in the Government, which has shown no necessity for a change on grounds that the dockets of the Supreme Court are congested. I do not deny that changes need to be made in some aspects of our court procedure. Many outstanding lawyers, without regard for political affiliations, have offered constructive suggestions in these matters. But we must be sure that changes regarding the law be effected in legal ways. If we are to preserve our constitutional liberties, we must proceed according to the will of the people and the law of the land.

In discussing the issue of the Supreme Court some will say today that Abraham Lincoln acted to limit its power. What Lincoln did through war-time necessity cannot justifiably be urged as a sufficient guide for our present needs when our Nation is at peace. We are not now at war. We are on our way out of the depression. We have emerged from our economic distress under the circumstances of liberty which have attended the authority of the Supreme Court for over 150 years. We did not find it necessary to

limit the power of the Court in order to come to the present state of prosperity concerning which we have heard so much during the recent campaign. Therefore, I see no need for hasty action today. The State senate of our great Commonwealth has taken action for which it finally answers to the people. The general assembly has its own voice on this issue.

The pressure of public feeling in this matter is strong past all description. There is a divided sentiment in many quarters. But of the scores of telegrams which have come to me expressing the will of the people, only four have commended the administration's court plan in its entirety. My own stand on this issue is clearly defined. No change effecting the Constitutional right of life tenure for the judges of the Supreme Court can be enacted legally without a Constitutional amendment.

There was ample opportunity to contest the issue of an amendment during the campaign. The administration did not choose to raise it then. I now advocate that if this be considered a national issue, action on it shall be withheld until next year when the people through the ballot shall have an opportunity to show where they stand. Thus and only thus may we be sure that the principles of Lincoln shall endure and that "the government of the people, by the people, and for the people shall not perish from the earth."

Aliens in United States

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, February 15, 1937

ASSOCIATED PRESS DISPATCH FROM GENEVA

Mr. REYNOLDS. Mr. President, I ask permission to have printed in the Appendix of the RECORD an article entitled "United States Leads as Home of the Aliens", being an Associated Press dispatch from Geneva, dated February 6.

There being no objection the article was ordered to be printed in the RECORD, as follows:

UNITED STATES LEADS AS HOME OF ALIENS—STATISTICS OF INTERNATIONAL LABOR OFFICE SHOW ARGENTINA IN SECOND PLACE

GENEVA, February 6.—More aliens inhabit the United States and Argentina than any other countries of the world.

This is shown by world statistics compiled for the first time by the International Labor Office.

They are based on the latest available census figures and show that in 1930 1.6 percent of the world's populations resided in foreign lands. The United States had the greatest number of any country. The total in 1930 was 6,285,000 or 21.8 percent of the world total. Next came Argentina with 2,828,000, or 9.8 percent of the world total.

The grand totals or relative position of countries are believed not to have been appreciably changed during the last 6 years.

France comes third in the list with a foreign population of 2,409,000. Then in the order named come British Malaya with 1,087,000; Siam, 1,000,000; Algeria, 916,000; Hong Kong, 850,000; and Germany, 757,000.

THE LINE-UP

Considered by continents, more than a third of the world's aliens, 36.7 percent, reside in the Americas. Asia had 28 percent; Europe, 21.6 percent; Africa, 10.2 percent; and Oceania, 2.9 percent.

Dr. Imre Ferenczi, statistician of the Labor Bureau, under whose direction the statistics were compiled, emphasizes that all the percentages are approximate because they do not take into account Brazil, Cuba, and Ceylon, where there are large numbers of aliens. He thinks Brazil, which had an alien population of more than one million and a half in 1920, probably would rank fourth.

DECLINE IN UNITED STATES

With regard to the number of persons born abroad of foreign parents, the statistics show a decline in the United States from 147 a thousand inhabitants in 1910 to 116 a thousand in 1930.

The tide of Asiatic emigration is swelling, the statistics indicate. The number of Asiatics in foreign lands increased from 3,000,000 in 1910 to 9,500,000 in 1930. But the number of Europeans resident in foreign countries was more than twice as large as the total of Asiatics. In 1930 it stood at 22,400,000.

Great Britain leads the field in the number of citizens living abroad. The number in 1930 was 4,115,049. The United States was seventh with 466,500.

Enlargement of United States Supreme Court

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, February 15, 1937

RADIO ADDRESS BY HON. ROBERT M. LA FOLLETTE, OF WISCONSIN, ON FEBRUARY 13, 1937

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered over the radio by the senior Senator from Wisconsin [Mr. LA FOLLETTE] on Saturday, February 13, 1937, relative to the proposed enlargement of the United States Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Last evening Governor Landon was scheduled to speak against the President's judicial proposals. For some reason Mr. Landon failed to lead the attack.

Was it because he was advised by the Republican Party chieftains that it would be better strategy for them to rely on the reactionary Democrats to carry the brunt of the opposition?

Or was this sudden change of plan due to the many things which Lincoln had said against the arbitrary power of the Court which made a celebration of his birthday a poor occasion for attacking the proposals of President Roosevelt, another great leader in the long struggle to make government serve the interests of all the people?

You remember what Lincoln said in his first inaugural. I quote in part:

"* * * The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court the instant they are made in ordinary litigations between parties in personal actions the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal."

Does Governor Landon or anyone else doubt that if the wise Lincoln had had the chance he would have sought to reverse the Dred Scott decision by increasing the membership of the Supreme Court instead of having it reversed by 4½ years of civil war?

Do not be misled. The same forces which opposed the President in November are opposing him now. For strategic reasons other leaders will doubtless be chosen. As in the legislative battles upon New Deal legislation in past sessions of Congress, Democratic reactionaries will be relied upon to lead the fight. But the same basic issue is at stake. It is raised because the President and the Congress are determined to carry out the mandate of the November election and to restore the Constitution to the people, and to prevent the further abuse of judicial power.

The founding fathers were firm believers in a system of checks and balances. They believed in the separation of powers, but there is no evidence that they believed in the uncontrolled supremacy of any one of the three great branches of government over the other two. "It must be remembered", Mr. Justice Holmes said, "that the legislatures are ultimate guardians of the liberties and welfare of the people in quite as great degree as the courts."

Article I of the Constitution specifically provides that "all legislative powers herein granted shall be vested in the Congress of the United States." The founding fathers never dreamed that legislative policies adopted by the Congress in carrying out powers clearly delegated to it were to be subject to a rigid judicial review amounting to a judicial veto. Proposals to give the Supreme Court even a limited veto power over legislation were rejected by an overwhelming vote in the Constitutional Convention.

There is considerable conflict among historians and jurists as to whether the power asserted by Chief Justice Marshall in the famous case of *Marbury* v. *Madison* to refuse to enforce acts of the Congress on grounds of unconstitutionality was not itself an act of judicial usurpation. I hope that the reactionary Democrats who slander his memory by calling themselves "Jeffersonian Democrats" will not forget what Thomas Jefferson said. He did not mince words when he wrote:

"It has long been my opinion, and I have never shrunk from its expression, that the germ of dissolution of our Federal Government is in the judiciary—the irresponsible body working like gravity, by day and by night, gaining a little today and gaining a little tomorrow, and advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped."

The storm of protest rose so high that never again in his lifetime did John Marshall dare to apply his new doctrine—and even suggested himself that Congress be given power to overrule

Supreme Court decisions. The doctrine did not appear a second time until over 50 years later when another Chief Justice applied it in the Dred Scott case to plunge the North and South alike into the War between the States and bring upon the South the shameful terrors of the reconstruction period. And when the Court asserted the power the third time in the *Legal Tender cases* after the war, President Grant appointed two new justices, packed the Court if you will, and the Court reversed its own decision.

The Founding Fathers, the generations who built the spiritual and material foundations of this country were opposed to judicial usurpation and refused to regard the Supreme Court as sacrosanct. The views of those who framed the Constitution about the proper exercise of judicial power have been maintained throughout our history by liberal leaders including Jefferson, Jackson, Lincoln, Theodore Roosevelt, and my father.

The idea of an unchecked supremacy of the Supreme Court has been built up only over the last 40 years. It has been built up by corporation lawyers of the Liberty League ilk who have tried in the Court to counteract the reforms, like popular election of Senators, which are designed to make the will of the people the law of the land. It has been indoctrinated in our schools and in our thinking with the same conscious direction as the propaganda of the public utilities. If the Congress continues to acquiesce in such a pernicious doctrine, the Congress will be guilty of abandoning its constitutional rights and duties. The Constitution provides for a separation of powers, not for a judicial supremacy. The idea of judicial supremacy is not found in the Constitution or the writings of the constitutional fathers. It is an idea of smart lawyers who, beaten in the Congress, have sought for their own advantage to twist and distort the Constitution ever since its adoption.

A remolding of the doctrine of judicial supremacy to restore the balance of power among the three coordinate branches of government will be a return to rather than a departure from fundamental constitutional principles. The Supreme Court like the Congress should reign under and not over the Constitution.

I believe in a government of laws and not of men. But when the validity of our laws depends upon the whim and caprice of five out of nine fallible men, when a majority of the Court is accused by Justice Stone, joined by other minority members equally devoted to the Constitution, of adopting "a tortured construction of the Constitution", of reading their own "personal economic predilection" into the fundamental law of the land, government by the judiciary becomes government of men and not of laws.

A beautiful and historic example is what happened to minimum-wage legislation. It has been before the Court three times. On the basis of the recorded votes of the individual justices there have been seven who voted in favor of its constitutionality and six against its constitutionality. Yet the legislation was invalidated simply because a bare majority of the particular set of justices who happened to be on the Court at the time was opposed to that kind of legislation. Congress wanted it; the people wanted it; 7 out of 13 justices wanted it. But the other six did not. So the law went into the ash can. If that is not government by men I would like to know what is.

Even the Republican Party refused to defend such a flagrant act of judicial usurpation. Ten days after the Supreme Court's decision arbitrarily brushing aside the New York Minimum Wage Act for women, the Republican Party solemnly pledged itself to support State minimum wage legislation for women and recorded its belief that such legislation is within the Constitution as it now stands. This is one more public recognition of the fact that our Constitution is what the justices choose to make it.

Thus it is not the Constitution but the decisions of a majority of the justices which stand in the way of necessary legislation regarding labor, agriculture, finance, and the conservation of our human and material resources.

Congress, no less than the Court, is charged with the duty of protecting and defending the Constitution. If it is the judgment of the Congress that powers should be given to the Congress not already conferred upon it, the Congress must seek those powers by amendment. But if in the solemn judgment of the Congress those powers are already vested in it, by the Constitution it is the constitutional duty of the Congress, as a coordinate and independent branch of the Government, to take such steps as may be within its competence to exercise those powers. Congress cannot disturb a decision of the Supreme Court in a particular case, but Congress is not bound to submit to interpretations of the Constitution which deny to Congress its constitutional rights.

The founding fathers provided checks upon the Executive and checks upon the Congress, and it cannot be assumed that the judiciary was to be free from all restraint. Impeachment is not the sole check.

No jurist has ever questioned the expressed constitutional right of the Congress to determine the number of Justices who shall make up the Supreme Court of the United States. That is the check of joint congressional and Presidential action which the constitutional fathers, with almost prophetic foresight, provided to prevent the arbitrary obstruction of the popular will by a judiciary which has lost touch with the needs and aspirations of the people. The time and manner of the exercise of that check is a matter to be determined by the Congress responsible to the people of the United States.

The proposal of the President is nothing more nor less than a call to Congress to exercise its power under the Constitution to prevent the majority of the Supreme Court from thwarting the popular will.

Those who are opposing the President in this struggle rise to sanctimonious heights and brand as irreverent any attack on the Supreme Court. Our founding fathers never intended the Supreme Court to be the dictator of this Nation. Not a word in the Constitution sanctions it. But when the Court substitutes for the will of the people of this country its own will; when it supplants the prevailing economic theory with its own smug theory of days gone by; when it decrees that it is beyond the power of the people to meet the national needs—then it has become a dictator and we have succumbed to a Fascist system of control which is inconsistent with fundamental principles upon which our Government is founded. If it is irreverent to attack that dictatorship, then I am irreverent and every citizen who believes in true democracy should be irreverent.

Despite what the economic royalists, the Liberty League lawyers, and their bar associations may say, there is a single vital question in this controversy. That question is whether, when a handful of judges exceed their lawful authority by elevating their own personal opinions concerning economic or social policy above the Constitution of the United States, Congress shall exercise the check the Constitution gave Congress to meet such a situation.

The issue is between special vested interests represented by an economic theory of days gone by, on the one hand, and the will of the people to govern themselves, on the other. When a judge sets himself athwart the fundamental needs of the present, in defiance of his duty to his high office, what are we to do? Are we to sit supinely by and see our democratic processes paralyzed and our Constitution discredited as a workable institution in the modern world?

Smart Liberty League lawyers would have the people believe that the President would destroy the Court as an institution. A moment's reflection makes clear that his proposal is the farthest from that. It is merely an effort to make the Court responsive to the will of the people. It preserves the Court; it does not destroy it. It is a bold and courageous endeavor to make the Court useful in the forward march of our economic and social development.

There is a lot of talk of the President "packing" the Court. Let's not be misled by a red herring. The Court has been "packed" for years—"packed" in the interest of economic royalists, "packed" for the benefit of the Liberty Leaguers, "packed" in the cause of reaction and laissez-faire.

Let's be frank about this matter. The vested interests have for years prevailed in selection of judges. Under our form of government the will of the majority should prevail. If the majority of the people want progress, they should have it.

November 3 last made it clear and unmistakable where the vast majority of the people stand. They want to be free from the shackles of vested interests. They have rejected the "economic royalists." In the words of Lincoln they want a "government of the people, by the people, and for the people." They cannot have it if the Supreme Court placed itself above the Constitution and arrogates to itself legislative functions. One clear way in which they can have their will of last November expressed is to have the Congress "unpack" a Court which has long been "packed" by the forces of reaction.

A Congress which fails to "unpack" the Court has a short memory and is unresponsive to the voice of the majority. A Congress which fails to "unpack" the Court is allowing the "economic royalists" to rule this country with a Court "packed" against the people. This condition is intolerable. So long as the Court is "packed" against the people, the will of the majority cannot prevail. We then have not democracy but the worst form of dictatorship.

I think our experience has demonstrated that the average judge, even before he reaches the age of 70, is likely to lose touch with the problems of the working world and to find it difficult to refrain from reading into the Constitution his own particular social and economic views. But there is no question that that danger is much greater in the case of judges who have passed the allotted three-score years and ten.

The Constitution was drafted by men whose average age was in the forties. It was designed to govern a nation in which the active work and struggle is carried on by men and women from 20 to 60. It cannot be expected to work as a living guide for this active world while it is interpreted by men of 70—a whole generation removed from the men and women in the front line of life.

Chief Justice Taft in 1912 suggested the advisability of compulsory judicial retirement at 70. Chief Justice Hughes in 1928 suggested compulsory judicial retirement at 75. Many universities require teachers to retire at 65 or 70. Most corporations retire their executives in their sixties and retire their workers, without pensions, between 40 and 50.

The Constitution does not allow the Congress to provide for compulsory retirement at 70. But it does permit the Congress to provide for the appointment of new Justices so that the Court may not be dominated by men long out of contact with the immediate affairs and vital concerns of the working world.

The President's proposals are certainly moderate and reasonable. Had such proposals been made by a Harding, a Coolidge, or a Hoover, their motives would not be suspected. But the reactionaries contend that President Roosevelt has an evil motive and a sinister purpose in this as in everything else he has proposed for the good of the people. These critics deliberately conceal the fact that even if none of the Justices resigns, and none is obliged to resign, President Roosevelt would appoint only 6 out of 15 Justices, and the new Justices would still form only a minority of the Court.

There would still be nine Justices, seven of whom were nominated by Republican Presidents and two by a former Democratic President. Those who say these proposals would make the Court subservient to the wishes of President Roosevelt are really questioning the integrity and independence of Justice Brandeis, Justice Stone, and Justice Cardozo.

Beware of those who declaim so vehemently about an independent judiciary, for they are really concerned in having a judiciary subservient to their own ideas; and don't be fooled by the crocodile tears of those who point to the careers of Justice Holmes and Justice Brandeis as reasons against the President's proposal; check back on those weepers and you will find that they cursed the opinions of Holmes while he lived and fought the confirmation of Brandeis to the last ditch.

It may well be expected that the new Justices will be more conversant and sympathetic with the needs of the present and future generations than some of the older Justices. And there is every reason to believe that they will be loyal to their oaths to support and defend the Constitution.

All three Justices now under 70 were appointed by Republican Presidents; two out of three of these have been consistently liberal in their interpretation of the Constitution. The conclusion is inescapable that while some men may grow old without losing touch with the pressing problems of the day, it is difficult for the average jurist, irrespective of prior political affiliation and economic beliefs, after he has passed three score years and ten, to understand and appreciate the changed social and economic conditions with which legislators, if they are faithful to their trust, must deal.

Not a single appointment has been made to the Court since the depression. Not one of the Justices has had to struggle with the problems of a fundamental economic crisis more serious than war, both in its immediate ravages and ultimate consequences. The President's proposal does not require Justices over 70 to retire. The President's proposal merely provides that a passing generation of Justices shall not be the exclusive guardians of a Constitution which belongs not to any one generation but to successive generations. The founding fathers expressly established the Constitution to secure the blessings of liberty not only to themselves but to their posterity.

The proposed reform is long overdue. It is regrettable that the reform was not inaugurated many years ago before the present critical situation arose. But the acuteness of the present situation is no excuse for inaction; it is added justification for immediate action. If the dangers of dictatorship and violent change are to be averted, the processes of democracy must not be arbitrarily obstructed by the personal economic predilections of Justices who, untouched by the needs of the present generation, regard them as vain and capricious.

At a time when the stress of economic conditions has imposed a strain which has brought the collapse of democratic governments in many lands, it is vital that our own democracy should have the means which the founding fathers intended it to have to meet those conditions. This is not a struggle between the President and the Court; it is a struggle between the Congress and the President on the one hand, representing and responsible to the people, and, on the other hand, a Court appointed for life, which has lost touch with the people.

I am as concerned about civil and religious liberties of our people as any man in the United States. I have fought for many lost causes, some bitterly and passionately unpopular. If a dictatorship should ever come to America, I shall not be on the side of the strong battalions. But no kind of legal guaranty has ever been able to protect minorities from the hatreds and intolerances let loose when an economic system breaks down. And in particular a Court which the people will rightly blame for their inability to solve their economic problems will never have the moral strength and prestige necessary to protect human rights in time of crisis and chaos. Revolutionary changes come to pass because of bad social conditions and the impotence of government to correct those conditions. Since a majority of the Court stands as a threat to the successful working of democratic government, it obstructs progress and invites revolution.

For 50 years the corporation lawyers have been befuddling legislative problems with the meaningless jargon of their so-called constitutional law; they have chopped up the plain and simple words of the Constitution. By this process they have become rich and their clients have been protected in their special privileges. But where have they brought the people and the Congress of the United States that represents the people? Read for yourselves the majority and minority opinions of the Supreme Court on the problems which mean food, clothing, shelter, and hope to the average man and woman of this country, and then after reading them suppose you try to tell a Member of Congress what you think either Congress or the States can be sure they have power to do about any of these fundamental human problems.

I say, as one whose business it is to find out what can be done, that as the Supreme Court now interprets the Constitution, it is utterly impossible for either Congress or the States to take action which is anything more than a legal gamble on minimum wages, collective bargaining, social security, crop insurance, soil erosion, unemployment relief, housing, the protection of our river valleys from floods, or our national resources from a waste that spells ultimate national disaster. Even the Supreme Court itself, as the division amongst its Justices shows, no longer knows what the Constitution means.

Anyone who is not sticking his head in the sand knows perfectly well that we cannot hold our economic system together in such legal confusion. Only those who sit day after day at the focus of national problems know how dangerous are the forces of sectionalism and economic division which tug at us and how much more quickly great economic changes and great changes of public opinion come about in the modern world than they did in the world in which men now 70 lived their active life.

Never forget as you watch the ticker riding high that there are still millions of unemployed in this country, that we are having bigger strikes, bigger droughts, bigger floods, bigger agricultural difficulties—all coming upon us faster and faster—than men of 20 years ago would even dream.

Intelligent statesmanship requires that we make every legitimate effort to settle those problems now.

Intelligent statesmanship must not even take the smallest risk that effective legal means to deal with these problems will not be found until 3 or 4 years or even 10 years during which time the forces of reaction will fight, step by step, and State by State, every effort to get through a constitutional amendment.

Most of those who are urging or who are paying for propaganda to urge a constitutional amendment as the only way of meeting these difficulties are those who before last November were talking about the sacredness of the Constitution and the sinfulness of amending it. Driven from that first trench by the vote of 27,000,000 people in November, they are now back in their second trench urging amendment rather than the quicker means of bringing justice to the people which are unquestionably available to the Congress and the President under the terms of that same Constitution.

The Constitution requires that an amendment be ratified by three-quarters of the States—each State having one vote. But never forget that the 12 smallest States in the Nation—enough to block or delay amendment—can do this with only 10 percent of the population of the Nation. You can be sure that the economic royalists are not forgetting the usefulness of that 10 percent.

I have no doubt as to the wisdom of the substance of the President's proposals. He has pointed out the only way in which the popular will may be translated into effective legislative action during the next 4 years.

Liberals—be realists—don't let a lot of professional legalists—paid to do the job—blind you to the woods while they are showing you the trees. Progressives who hesitate or divide upon this issue must assume full responsibility if the mandate registered by the overwhelming majority of the voters at the last election is thwarted.

For the long future I am in favor of the submission by this Congress to the people of an amendment which would give the Congress power to override a decision of the Court declaring any act of Congress unconstitutional so as to provide in future years a more certain mechanism of restraining arbitrary judicial action.

But that amendment must be in addition to the President's proposal for immediate action by statute. While an amendment is taking its long and laborious course no man or woman who values the continuity of our legal traditions—no man or woman who realizes the desperate necessity of making democracy work and work now—can stand idle and submit to the chaos of judicial usurpation which it is within the constitutional power of the Congress to remedy.

New "Bill of Rights" For Motorists

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, February 15, 1937

ARTICLE FROM THE NEW YORK TIMES OF NOVEMBER 29, 1936

Mr. REYNOLDS. Mr. President, my able colleague the Senator from Utah [Mr. KING] has introduced a resolution asking the President to call a conference between Federal and State officials for the purpose of studying ways and means of drawing definite lines for taxation and eliminating the existing duplication of taxes and even multiple taxes. There is no field in which the duplicate-tax question is more serious than with reference to special motor taxes.

Motorists are today paying more than a billion and a quarter dollars in special taxes under many forms, particularly as regards registration fees and gasoline taxes.

The American Automobile Association, an organization that has spoken for the car owners since 1902, is one of the national groups now concerned with the effect of taxes on motor transport. The recent annual convention of that organization, upon the recommendation of its president, my good friend Thomas P. Henry, of Detroit, drafted a "bill of rights" for motorists that offers definite principles not only for taxation but also for road building and for highway safety. I ask unanimous consent that a clipping from the New York Times outlining this comprehensive but brief document be inserted in the CONGRESSIONAL RECORD.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[From the New York Times of Nov. 29, 1936]

A NEW BILL OF RIGHTS FOR MOTORISTS—A. A. A. SEEKS BETTER ROADS AND A ROAD BUDGET

In the course of its thirty-fourth annual convention, just concluded, the American Automobile Association adopted a bill of rights for the motorist with the avowed object of assuring full and free use of the automobile with the maximum of safety and the maximum of economy. Its provisions follow:

I

We must have roads suitable and adequate for the movement of modern motor traffic with safety. There must be multiple-lane highways, with opposing traffic streams divided. They must be free and not toll roads.

These roads must, in every instance, be predicated on traffic needs, and the State highway planning surveys should point definitely to where needs exist. They must embody every possible safety aid. We must not overlook the growing need for an adequate system of secondary roads and arterial routes through cities. Every State should have a long-range program of development, and the administration and conduct of such a program should be divorced entirely from politics.

II

These road programs should be definitely related to a road budget, which, in turn, is based upon a fair charge to all the beneficiaries of the highway—the community in general, real estate, commercial transport, the Federal Government, as well as the private passenger-car owners.

III

We must uphold the principle of reciprocity and freedom of travel for the passenger car among the several States, and we oppose discriminatory restrictions at State borders.

IV

Necessary consideration must be given to adequate sanitation along the highways and appropriate roadside development.

V

Special motor taxes and fees should be levied only by the State. No such taxes or fees should be levied by the Federal Government, any county, or municipality.

VI

The sum total of highway requirements must not be the only measure of motor-vehicle taxation. The rates of such taxation must be related to the average motorist's ability to pay.

VII

The revenues from special motor taxes and fees should be applied only to routes of general use. There should be general State control over all expenditures of revenues derived from special motor taxes and fees.

VIII

The revenue from special motor-vehicle fees and taxes should be dedicated exclusively to highway purposes. There should be adopted in every State appropriate provisions to prevent the diversion of motor-vehicle revenues to other than highway purposes.

IX

There should be set up in the Federal Government a highway safety authority composed of Federal officials and representatives of national organizations engaged in highway safety work, and there should be set up in each State a similar authority, composed of State officials and representatives of State organizations engaged in highway safety work, to cooperate with the Federal authority.

These Federal and State bodies should be charged with the duties of collecting accurate statistics and information on highway traffic accidents and coordinating efforts for the securing of proper laws and regulations and the efficient administration and enforcement thereof.

Retirement at 70

EXTENSION OF REMARKS

OF

HON. ERNEST W. GIBSON

OF VERMONT

IN THE SENATE OF THE UNITED STATES

Monday, February 15, 1937

ARTICLE FROM THE WASHINGTON STAR

Mr. GIBSON. Mr. President, in the Washington Star recently appeared a very interesting article entitled "Hundreds of World Leaders Performed Best Work Past 70." I ask unanimous consent that the article may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star]

HUNDREDS OF WORLD LEADERS PERFORM BEST WORK PAST 70—RETIREMENT AT THREESCORE AND TEN FOR 400 NOTED MEN WOULD HAVE PROVED COSTLY TO CIVILIZATION

The world would have suffered an irreparable loss had some of its great men been forced to cease work at 70, the age at which President Roosevelt would like to have Justices retire, according to Dr. W. A. Newman Dorland, noted physician and author of The Triumph of Maturity, published in 1927 by the Illinois Department of Public Welfare.

The loss would have been felt especially in the fields of jurisprudence, science, and art, he found from a study of the careers of 400 of the world's most distinguished men.

Savigny, the great German jurist, sometimes called the founder of modern jurisprudence, did not publish his famous treatise on Obligations until he was 74, Dr. Dorland pointed out in his work, a copy of which is in the Library of Congress.

"MASTER WORK" AVERAGE IS 50

The average age of man's "master work", he learned from his extensive studies, is about 50. Dividing the 400 into "workers" and "thinkers", he found the best work of the "workers" was done at 47, on an average, while that of the "thinkers" was done at 52.

Jurists and naturalists, he discovered, have made their greatest achievements later in life than any other class of "thinkers." Their average age for "master work" was found to be 58.

Dr. Dorland said he was prompted to study "the age of the acme of mental activity" by "the tendency, then visibly increasing in this country, of relegating the older and middle-aged men to the oblivion of an 'innocuous desuetude' in order that the supposedly more progressive and aggressive young men might be given a clear track in the rush to the front."

JURISTS GROUPED AS THINKERS

Among the "thinkers" Dr. Dorland grouped, in addition to jurists and naturalists, astronomers and mathematicians, clergymen, dramatists, historians, novelists, political economists, poets, and statesmen.

The "workers" included actors, artists, chemists, explorers, inventors, physicians, and warriors.

Dr. Dorland's researches revealed that 35 percent of the "great men" ceased their "mental activity" between the years of 60 and 70; 22½ percent between 70 and 80; 20¾ percent between 50 and 60; 10¼ percent between 40 and 50; 6 percent between 80 and 90; and 4 percent between 30 and 40.

Seventy-eight and one-fourth percent of the men "closed their life work" between the ages of 50 and 80, and 85 percent after the fiftieth year.

"While in the vast majority of cases", he wrote, "declining physical and mental ability progressed 'pari passu' to the cessation of life, there loom amid the general wreck of the bodily and cerebral powers some striking instances of remarkable mental vitality and virility, standing out, like beacon lights of hope, far beyond the period of normal decay.

CITES OLD-AGE ACHIEVEMENTS

"These mental heroes counterbalance the achievements of the young, if not in numbers truly in productive value and influence upon the culture and welfare of the race. No greater inspiration can be found in all the records of the life work than in a review of these achievements of old age.

"Thus Bockh, the 'baby' member of the group, at 70 published one of the greatest of his works, 'Zur Geschichte der Mondcyclen der Hellenen.'

"J. Pierpont Morgan (the elder), 'the old doctor of Wall Street', and the greatest reorganizer of railroads and industrial corpora-

tions the world ever produced, in 1907, when 70 years old, broke the financial panic by raising $40,000,000 in 40 hours, and thereby made his name one to conjure with in every money capital.

"At the same time, Weir Mitchel published The Adventures of Francois, and subsequently wrote The Red City, one of his best works.

"When 70, Sir John Tenniel, Punch cartoonist, drew his famous Dropping the Pilot.

RECALLS VANDERBILT'S FEATS

"Between the ages of 70 and 83 Commodore Vanderbilt increased the mileage of his road from 120 to 10,000, and added about 100 millions to his fortune.

"Grote, in his 71st year, began his work on Aristotle. At this time he writes: 'My power of doing work is sadly diminished as to quantity, but as to quality I am sure that my intellect is as good as it ever was.' He died in his 77th year, leaving Aristotle unfinished.

"At 72 Handel, blind for the last 6 years of his life, composed his oratorio, Triumph of Time and Truth, and died at 74, working until the last. Eight days before his death he played the organ at a performance of his Messiah.

"At the same age Meyerbeer produced his greatest opera, L'Africaine; Samuel Johnson published the best of his works, Lives of the Poets, and Littre completed his greatest of all dictionaries.

WORDSWORTH LIVED TO 80

"Wordsworth was appointed to the laureateship at 73 and lived to see his 80th birthday.

"George Buchanan, the stout old Scotchman, wrote his De Jure Regni, in defense of popular rights, at 73, and lived 4 years longer.

"Galileo at 73 made his last telescopic discovery—that of the diurnal and monthly librations of the moon.

"At 74 Kant wrote his Anthropology, the Metaphysics of Ethics, and the Strife of the Faculties, and Thiers helped to establish the French Republic and became President, holding the office for 2 years. Tintoretto at the same age painted his crowning production, the vast Paradise, a canvas 74 feet by 30. Verdi at 74 produced his masterpiece, Othello, which is thought to be an immense advance over anything he had yet written, and in his eightieth year wrote Falstaff, which was as brilliant as Othello. When 85 he wrote his Ave Maria, Laudi alla Virgine, Stabat Mater, and Te Deum, all wonderfully beautiful.

"Prince Hohenlohe at 75 became Chancellor of the German Empire.

"Holmes at 74 published his medical essays and Pages From an Old Volume of Life, at 75 wrote his essay on Emerson, at 76 published A Mortal Antipathy and The New Portfolio, at 78 wrote Our Hundred Days in Europe, and at 79 published Over the Teacups, dying at the ripe old age of 85.

"Longfellow at 75 wrote his imposing meditation, Hermes Trismegistus and the beautiful Bells of San Blas. At the same age Isaac d'Israeli published his Amenities of Literature, a three-volume work, and that notwithstanding total blindness for 3 years preceding.

"At 75 Henry Clay was still a leader in the land, Hallam published his Literary Essays and Characters, Metternich was driven from his power, Bismarck was forced from the Chancellorship by the German Emperor, Crispi assumed the Premiership of Italy, and Allen G. Thurman was nominated for the Vice Presidency of the United States.

"Hugo at 75 wrote History of a Crime, at 77 published Le Pape, at 78 L'Ane, at 79 Les Quatre Vents de l'Esprit, and at 80 Torquemada.

IRVING WAS WRITING AT 76

"Lamartine at 76 wrote a novel, Fior d'Aliza. Washington Irving lived to be 76 and wrote his Life of Washington in his last years. Perugino at 76 painted the walls of the Church of Castello di Fontignano, and Humboldt postponed until his seventy-sixth year the beginning of the crowning task of his life, the preparation of the Kosmos, which he successfully completed in his ninetieth year. Biot at 77 prepared an enlarged edition of his Physical Astronomy, which he completed at 83, living 5 years longer.

"Jacob Grimm died at 78, working to his last; and Laplace, dying at the same age, said with his last breath: 'What we know is nothing; what we do not know is immense.' Lamarck at 78 completed his greatest zoological work, The Natural History of Invertebrates, and lived until 85 years of age.

"Field Marshal Paul von Hindenburg at 79 assumed the Presidency of the German Republic and directed it safely between monarchy and communism; Georges Clemenceau, the doctor-statesman, in 1918, when 78, was Premier of France and one of the 'big four' who dictated the peace terms to Germany at the close of the World War; Sir James Murray edited the English dictionary until his death, at 78; and Whittier, at the same age, published Poems of Nature and St. Gregory's Guest.

BRYANT ACTIVE TO 84

"William Cullen Bryant, when 75, published his Letters From Spain and Other Countries and Letters From the East; when 77 he published his brilliant translations of the Iliad and the Odyssey; at 79 a volume of Orations and Addresses; and was active until his death from heat exhaustion when 84 years old.

"Browning wrote with undiminished vigor until his death at 77. When 75 he published Parleyings With Certain People, and Asolando appeared shortly before the close of his life. Joseph Jefferson, the beloved American comedian, was as effective in all his roles when 75 as when at the height of his physical power."

Dr. Dorland listed the following Titans among those who performed great achievements at 80 or older: Cato, Plutarch, Socrates, Arnauld, the theologian; Gladstone, four times Premier of England; the artist West; Goethe, the composer; Simonides, the poet; Ranke, historian; Prince Blucher, soldier; Buffon, French naturalist; Palmerston, Prime Minister of England; John Quincy Adams, Elbert H. Gary, and George H. Baker, business and financial leaders; Bancroft, historian; Peale, painter; Voltaire, philosopher; Tennyson, poet; Newton, physicist; Spencer, philosopher; Thomas Jefferson; Talleyrand, French statesman; Von Moltke, German warrior; John Wesley, theologian; Michelangelo, painter; Izaak Walton, author; Pope Leo XIII; and Chauncey Depew, railroad magnate.

"With such achievements of the truly aged confronting us", Dr. Dorland stated, "who's so bold as to attempt to set a limit to the usefulness of any man?"

Congressional Oratory

EXTENSION OF REMARKS
OF
HON. WILLIAM GIBBS McADOO
OF CALIFORNIA
IN THE SENATE OF THE UNITED STATES
Monday, February 15, 1937

ARTICLE BY EDWIN C. HILL

Mr. McADOO. Mr. President, I ask permission to have printed in the RECORD an article published in the Washington Times, entitled "Congressional Oratory", written by Edwin C. Hill.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times]
THE HUMAN SIDE OF THE NEWS
By Edwin C. Hill

CONGRESSIONAL ORATORY

There are a lot of studious, well-behaved young newcomers this second session of the Seventy-fourth Congress. They work harder and talk less than many of the old-timers, and that is, of course, as it should be. But connoisseurs of old-style congressional oratory will find things pretty dull, in the Senate and House compared to what they used to be.

The rip-roaring orators are passing. There is a whole lot less fireworks around Washington than in the old days. One of the best of this traditional American school is still on the job. He is Senator HENRY FOUNTAIN ASHURST, of Arizona, most melodious and courtly of Senators, and the most Chesterfieldian, too, as Victorian as Spencerian penmanship in these days of the decline of manners.

I wish he and Senator JAMES HAMILTON LEWIS, of Illinois, would get out the CONGRESSIONAL RECORD, rehearse a day or two, and put on again that Shakespearian word tourney of theirs which came off in the opening session of this Congress. Senator LEWIS, as the world knows, is also of that passing school of fastidious dress and ornate manners. Their eloquent encounter had to do with the construction of a certain line of Shakespeare.

SENATOR ASHURST

Profoundly informed were the two Senators as they engaged in eloquent tierce and riposte in their two-octave range of throbbing oratory in which each was trying in his own way to square the Bard of Avon with the fate of the Republic.

Senator ASHURST was born in Nevada to the piping of the silver-tongued Winnemucca coyote in the days when his family was crossing the desert from California into Arizona. He was a cowboy in his youth. He still knows endless verses, such as Little Dan, the Wrangler, and The Chisholm Trail.

He was, of course, a deputy sheriff, later a bookkeeper and a State assemblyman. He has been in the Senate since 1912.

He learned his letters from branding irons, and the interesting thing is that he learned them better than many Congressmen with a score of years of fancy schooling behind them. His syntax is flawless, and he is ready and apt in drawing on his resources, built by years of wide reading in the law and the classics.

The Honorable W. P. Geary presented him to a campaign audience as follows:

"I am proud to introduce to you * * * the silver-tongued sunbeam of the painted desert."

As a Senator, Mr. ASHURST made good as advertised. He was all that and more. The CONGRESSIONAL RECORD is fairly gem-studded with his eloquent outgivings, such as this one about Arizona:

"The rich purple tones in the distant gray hills, the pearl gray touches, the deep, translucent azures in the arching heavens, make up myriad glints of lights and colors."

With his right forearm athwart his vest, Senator ASHURST drops easily into discourse about the "Barmecidal feast":

"An occult gem which glistens with Opidian Eye", or announces that "I do not rise to chant my jeremiads."

His is the longest and most imposing frock coat and the most sensitive and adjustable vocal cords in Congress. It doesn't matter whether he is talking about the new bridge across the Windy Gap arroyo or the League of Nations—he'll sink it to a deep diapason, flute it up to a poignant skylark pitch, and invest it with a panoply of stately iambics.

The tall, impressive Senator wears a wide black ribbon on his eyeglasses with which he likes to gesture. He has a way of bowing deeply from the waist on the slightest provocation with that flowery but seemingly innate and instinctive courtesy which the Old West used to nurture.

Don't get the mistaken idea that he's just a dulcet-toned word accordion. He is a chairman of the important and powerful Senate Judiciary Committee, and before this committee will come the various proposals by which Congressmen will seek to enlarge their authority against the recent devastating decisions of the Supreme Court.

He is deeply informed on the Constitution and constitutional law; and while he is known as a man of liberal tendencies, there are no indications that he will aid in furthering extremist measures.

Neutrality

EXTENSION OF REMARKS

OF

HON. ELBERT D. THOMAS

OF UTAH

IN THE SENATE OF THE UNITED STATES

Monday, February 15, 1937

STATEMENT PREPARED BY PROF. JAMES T. SHOTWELL, OF COLUMBIA UNIVERSITY, AND PROF. QUINCY WRIGHT, OF THE UNIVERSITY OF CHICAGO

Mr. THOMAS of Utah. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD a statement concerning neutrality. This statement is of interest to the general public, and of worth as well as of information to the Senate as representing the opinion of a large group of our American citizenry.

This statement was drafted by Prof. James T. Shotwell, of Columbia University, and Prof. Quincy Wright, of the University of Chicago. The statement has become accepted as the official pronouncement of the League of Nations Association on Neutrality.

None of the joint resolutions before the Senate at the present time covers all of the ideas expressed in the statement.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A CONSTRUCTIVE NEUTRALITY POLICY

The people of the United States are today seeking the best policy to keep this country from becoming involved in war. They hope to find assurance of peace in a neutrality law. The debates now going on show that advocates of all the various types of neutrality legislation agree that in the event of the outbreak of a war some limitation on credits and trade, particularly in arms, ammunition, and implements of war, is necessary if we are to avoid becoming involved in war. The great divergence of opinion is in the answers to two questions:

(1) With whom shall we cease to trade in the event of war? Shall we adopt a policy of stopping trade with all belligerents, or shall we make it possible for the President to discriminate between the aggressor and the victim of aggression and place an embargo upon the aggressor only?

(2) What materials, in addition to arms, ammunition, and implements of war, shall be embargoed? Shall Congress enact a definite list, or shall the President have discretion to add raw materials and other commodities as circumstances develop?

Our answer to these questions implies a choice between legislation which is hard and fast (mandatory) and legislation which is flexible (discretionary).

The mandatory type of neutrality legislation would compel the President, as soon as a war breaks out, to forbid the extension of credits to all belligerents and the exportation to them of arms, ammunition, and implements of war, as well as such raw materials and other products as Congress may choose to include in the neutrality act.

The essential feature of discretionary legislation is the grant of authority to the President to determine the aggressor nation, to apply embargoes against that nation only and to extend the list of commodities to be embargoed in accordance with the particular circumstances of a given crisis.

There is, of course, a possibility of legislation which is partially mandatory and partially discretionary. The President might be given power to discriminate in the application of the embargo, while the law itself specifies the commodities to be embargoed. Or the President might be given the power to determine the commodities to be embargoed, while the law specifies that it should apply to all belligerents.

WHY WE OPPOSE MANDATORY LEGISLATION

The League of Nations Association believes that neutrality legislation of the mandatory type has serious weaknesses which would make it not only ineffective but definitely harmful to the peace of this country. These weaknesses are as follows:

(1) A mandatory neutrality law which makes no distinction between aggressor and victim, ignores or contradicts existing American treaties and the first principles of American diplomacy. We ourselves sponsored the Pact of Paris, in which the signatories "condemn recourse to war." We have clearly shown in our attitude toward the recent Manchurian and Ethiopian crises that we claim the right to penalize those who violate the pact. We have refused to recognize the fruits of aggression in both cases. We are also a party to the Argentine Antiwar Treaty, which condemns wars of aggression. Mandatory embargo legislation, contrary to the spirit of these treaties, implies the strict equality of aggressor and victim. Although we definitely condemned recourse to war, such legislation would actually encourage it by giving assurance of our disinterestedness to a potential aggressor. This reversal of our declared policy can only result in confusion and an outright hindrance to the efforts of other nations to insure the peaceful settlement of disputes.

(2) Mandatory legislation which specifies a large number of commodities in addition to arms, ammunition, and implements of war would have unnecessarily severe consequences upon the economic life of the United States in case of foreign war. In a war involving the major commercial nations it would entail cutting off a substantial proportion of our entire foreign trade. Even with its post-depression reductions, foreign trade is a highly important element in our national economy. No one can doubt that to cut off trade would result in a very serious depression. Not only exporters and importers but every worker and consumer in the country would suffer.

It is likely that as a result of the restrictions imposed upon American life by a mandatory embargo, the pressure for its removal would become so great as to push aside the entire neutrality policy. Such a change might be followed by our entry into war in the same way that our participation in the War of 1812 followed the repeal of Jefferson's embargo.

(3) Such mandatory legislation would also have serious economic effects in peacetime. The adverse notice which it would give to all countries who may become involved in a future war might induce a shift of their trade in time of peace to those countries ready to trade with them in time of war. Thus the decrease of American foreign trade might be expected to begin long before a war, with the effect of depressing our industry and agriculture, and of encouraging an exaggerated economic nationalism in all States. The result of mandatory legislation would, therefore, be directly opposed to the objectives of our present reciprocal trade agreements program.

(4) The expectation that war can be avoided through mandatory neutrality legislation alone overlooks the factors other than trade which are powerful influences making for entry into war. To be really effective in keeping us out of war an isolation policy must not only embargo trade and loans but must censor all forms of communication—radio, cable, mail, and travel. This would be necessary to keep out propaganda, which would attempt to bring us into the war. The unrest and suffering caused by economic depression would provide fertile soil for such propaganda.

WHY WE FAVOR DISCRETIONARY LEGISLATION

Discretionary neutrality legislation stands in sharp contrast to the mandatory type in that it embodies a positive approach to the problem of world peace. It would be preferable for the following reasons:

(1) Discretionary legislation would be strictly in keeping with the principles to which we have explicitly committed ourselves in the Pact of Paris and the Argentine Antiwar Treaty.

(2) Discretionary legislation would tend to prevent the outbreak of war by announcing in advance that the United States will discriminate against the state which has been found to be the aggressor.

(3) Discretionary legislation would tend to shorten and thus localize the conflict by exerting a decisive influence in favor of the victim of aggression. Any possible shortening of a war already in progress is of the utmost importance if only to reduce the period of time in which propaganda would be able to operate upon public opinion in this country.

(4) Discretionary legislation would not discourage world trade, except the trade with an aggressor. Thus the depressing effects of a war upon our economic life would be minimized and economic nationalism in time of peace would not be encouraged.

(5) Discretionary legislation would make it possible for the President to perform his constitutional duty of conducting our foreign relations, a duty which has been recently reaffirmed by the Supreme Court in the Chaco Embargo case, and at the same time to carry out our national policy of avoiding and preventing war. This he cannot do without the power to adjust embargoes to the circumstances which may arise in a particular international crisis. The power to declare war will, of course, remain in the hands of Congress.

A CONSTRUCTIVE POLICY FOR THE UNITED STATES

Since a constructive approach to the maintenance of peace is the only effective way of keeping the United States out of war, the League of Nations Association suggests that the following procedure be adopted by the Government of the United States in the event of a serious international crisis:

(1) As soon as the crisis arises the United States should consult with the other signatories of the Pact of Paris or of the Argentine Antiwar Treaty to seek a peaceful solution of the problems which have given rise to the crisis.

(2) While this consultation is in progress the United States and all other parties to the consultation should restrict loans and trade with both States involved in the controversy in order to discourage war preparations. The trade embargo should extend to arms, ammunition, implements of war, and such other war materials as may be determined upon in the particular circumstances.

(3) If the consultation results in an agreement, the crisis is over. If it does not, and hostilities begin, the consulting states should at once propose an armistice.

(4) If neither State accepts the armistice, both should be declared aggressors, and the restrictions upon loans and trade should be continued against both.

(5) If one of the States accepts the armistice and the other does not, the latter should be declared the aggressor. The consulting States should then raise the embargo in behalf of that State which accepts the armistice. The original embargo should remain in effect only against the aggressor State. New commodities might be added to the embargoed list as circumstances require.

The argument that this policy would mean taking sides in a war is true only to the extent that we take the side of law and order. The statement that a belligerent against whom we might discriminate would take this as a pretext for war against us is not realistic thinking, because no belligerent declares war against additional countries unless by so doing something is to be gained. It would obviously be a foolish adventure for any belligerent power engaged in the hazards of war to add the United States to its enemies.

In any case, our action in discriminating against the aggressor would be undertaken only in consultation with other signatories of the Pact of Paris. Consequently, we would always be associated with a majority of these signatories. By contrast, mandatory legislation which prevents discrimination against the aggressor might precipitate war with all nations collaborating against the aggressor, since we would be directly opposing their efforts. Finally, our risk could not entail much danger because of our strategic geographical position.

AMENDMENTS FOR THE NEUTRALITY ACT OF 1936

In order to make the foregoing procedure possible, the neutrality act of the United States should be amended to include these points:

(1) To authorize the President to add materials useful for military purposes to the list of articles which may be embargoed. (The present act covers only "arms, munitions, and implements of war", and this phrase has been given a very limited construction);

(2) To authorize the President to participate with other States in a policy of imposing an embargo whenever a consultation is summoned under the treaties to prevent war;

(3) To authorize the President, after consultation with other States, to raise the embargoes in behalf of the victim of aggression;

(4) To remove that section in the present act which provides special treatment for other American States in case they become involved in war. (This provision has the effect of placing a special penalty upon American States if they cooperate with the League of Nations in preventing or stopping war.)

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ALBEN W. BARKLEY

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Monday, February 15, 1937

RADIO ADDRESS BY HON. HOMER S. CUMMINGS, ATTORNEY GENERAL OF THE UNITED STATES, ON FEBRUARY 14, 1937

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD a very able address delivered last evening by Hon. Homer S. Cummings, Attorney General of the United States, on the subject of the reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, only 9 short days have passed since the President sent to the Congress recommendations for the reorganization of the Federal judiciary. Yet in that brief time unfriendly voices have filled the air with lamentations and have vexed our ears with an insensate clamor calculated to divert attention from the merits of his proposal. Let us, therefore, disregard for a moment these irrelevancies and direct our attention to a dispassionate consideration of the reasons for the action taken by the President and the remedy he suggests.

From the beginning of President Roosevelt's first administration I have been in intimate contact with him with reference to ways and means of improving the administration of justice. Literally thousands of proposals have been considered. In addition the critical literature of the law has been searched and the lessons of experience have been canvassed. Out of it have come certain well-defined conclusions.

First. In our Federal courts the law's delays have been intolerable. Multitudes of cases have been pending from 5 to 10 years.

Rather than resort to the courts, many persons submit to acts of injustice. Inability to secure a prompt judicial adjudication leads to improvident and unjust settlements. Moreover, the time factor is an open invitation to those who are disposed to institute unwarranted litigation or interpose unfounded defenses in the hope of forcing an adjustment which could not be secured upon the merits.

Furthermore, the small-business man or the litigant of limited means labors under a grave and constantly increasing disadvantage because of this inability to pay the price of justice. I do not stress these matters further, because the congestion in our courts is a matter of common knowledge.

Second. Closely allied with this problem is the situation created by the continuance in office of aged or infirm judges.

For 80 years Congress refused to grant pensions to such judges. Unless a judge was a man of independent means there was no alternative open to him except to retain his position to the very last. When in 1869 a pension system was provided, the new legislation was not effective in inducing retirement. The tradition of aged judges had become fixed, and the infirm judge was often unable to perceive his own mental or physical decrepitude. Indeed, this result had been foreseen in the debates in Congress at that time. To meet the situation the House of Representatives had passed a measure requiring the appointment of an additional judge to any court where a judge of retirement age declined to leave the bench. However, the proposal failed in the Senate.

With the opening of the twentieth century similar proposals were brought forward. The Justices of the Supreme Court, however, protested and the project was abandoned. When William Howard Taft, a former Federal judge, left the Presidency, he published his views. "There is no doubt", he said, "that there are judges at 70 who have ripe judgments, active minds, and much physical vigor, and that they are able to perform their judicial duties in a very satisfactory way. Yet in a majority of cases when men come to be 70, they have lost vigor, their minds are not as active, their senses not as acute, and their willingness to undertake great labor is not so great as in younger men, and as we ought to have in judges who are to perform the enormous task which falls to the lot of Supreme Court Justices."

In 1913 Attorney General McReynolds (now a Justice of the Supreme Court), in his annual report for the Department of Justice, urged that the Congress adopt a similar measure. Some judges, he argued, "have remained upon the bench long beyond the time when they were capable of adequately discharging their duties, and in consequence the administration of justice has suffered. * * * I suggest an act providing when any judge of a Federal court below the Supreme Court fails to avail himself of the privilege of retiring now granted by law, that the President

be required, with the advice and consent of the Senate, to appoint another judge, who shall preside over the affairs of the court and have precedence over the older one. This will insure at all times the presence of a judge sufficiently active to discharge promptly and adequately the duties of the court." In 1914, 1915, and 1916 Attorney General Gregory renewed this recommendation. Solicitor General John W. Davis aided in drafting legislation to carry out the proposal.

Instead of following this advice, however, the Congress in 1919 passed a measure providing that the President ("may" appoint additional district and circuit judges, but only upon a finding that the incumbent judge over 70 "is unable to discharge efficiently all the duties of his office by reason of mental or physical disability of permanent character." This legislation failed of its purpose, because it was indefinite and impossible of practical application.

The unsatisfactory solution of 1919 had been endorsed by former Justice Charles Evans Hughes, but in 1928 he made this further observation: "Some judges," he said, in part, "have stayed too long on the bench. * * * It is extraordinary how reluctant aged judges are to retire and to give up their accustomed work. * * * I agree that the importance in the Supreme Court of avoiding the risk of having Judges who are unable properly to do their work, and yet insist on remaining on the bench, is too great to permit chances to be taken, and any age selected must be somewhat arbitrary as the time of the failing in mental power differs widely."

Despite this long history of effort to obtain some measure of relief, we are now told in certain interested quarters that age has no relation to congestion in the courts. The verdict of experience and the testimony of those eminently qualified to speak from actual service on the bench are ignored.

Third. Attacks upon the constitutionality of measures enacted by the Congress have burdened the courts. The powers of government are suspended by the automatic issuance of injunctions commanding officers and agents to cease enforcing the laws of the United States until the weary round of litigation has run its course.

In the uncertain condition of our constitutional law it is not difficult for the skillful to devise plausible arguments and to raise technical objections to almost any form of legislation that may be proposed. Ofttimes drastic injunctive remedies are applied without notice to the Government or without opportunity upon the part of its representatives to be heard in defense of the law of the land.

Fourth. If the Constitution is to remain a living document and the law is to serve the needs of a vital and growing nation, it is essential that new blood be infused into our judiciary.

The Constitution is not a legal code. In the words of the great Chief Justice Marshall, it was "intended to endure for ages to come and, consequently, to be adapted to the various crises of human affairs." Justice Story likewise pointed out long ago that "the Constitution inevitably deals in general language. * * * Hence its powers are expressed in general terms, leaving to the Legislature, from time to time, to adopt its own means to effectuate legitimate objects and to mold and model the exercise of its power as its own wisdom and the public interests should require."

In short, the Constitution is not a dam erected to check the flow of the life of our people. It is a channel through which that life flows, directing, guiding, facilitating it, but at no point endeavoring to stop it. That the freedom of our people to direct their own destiny has been hampered, especially of late, by judicial action is scarcely open to debate. These limitations upon congressional power have brought into challenge a wide range of projects and measures overwhelmingly approved by our people.

To confess that our institutions are not capable of serving our needs implies an admission we should be reluctant to make. Questions of vast significance are moving to their solution. The problems of America are insistent. We are a Nation. Our people think as a Nation. They act upon a Nation-wide front. Industry has long since spread its arms beyond the boundaries of a single State—indeed, beyond the seas. Labor marches on the parade ground of a continent. It is idle to say that agriculture is a local matter, or a question for the farmers alone. They know that nature has decreed it otherwise. The winds and the dust and the drought and the floods do not heed State lines. They have unmistakable jurisdictions of their own. I trust it may not be deemed indelicate if I borrow the quaint phrase of Mr. Justice Holmes and suggest that some of our judges "need education in the obvious."

The judiciary is but a coordinate branch of the Government. It is entitled to no higher position than either the Legislature or the Executive.

The President recognized this situation in his first message to the new Congress, delivered on the 6th of January, when he said:

"With a better understanding of our purposes and a more intelligent recognition of our needs as a Nation, it is not to be assumed that there will be prolonged failure to bring legislative and judicial action into closer harmony. Means must be found to adapt our legal forms and our judicial interpretation to the actual present national needs of the largest progressive democracy in the modern world."

In his message of February 5 the President clearly and forcefully announced his considered and deliberate recommendation. "Modern complexities", he said to the Congress, "call also for a constant infusion of new blood in the courts, just as it is needed in executive functions of the Government and in private business. * * * Life tenure of judges, assured by the Constitution, was designed to place the courts beyond temptations or influences which might impair their judgments; it was not intended to create a static judiciary. A constant and systematic addition of younger blood will vitalize the courts and better equip them to recognize and apply the essential concepts of justice in the light of the needs and the facts of an ever-changing world."

These four outstanding defects of our judicial system—delays and congestion in the courts, aged and infirm judges, the chaos created by conflicting decisions and the reckless use of the injunctive power, and the need for new blood in the judiciary—are dealt with by the President in his message of the 5th of February, in which he submits a simple, well-rounded, comprehensive, and workable system which covers all these points and meets all these needs.

The proposed bill which the President submitted with his recommendations provides in substance that whenever a Federal judge fails to resign or retire at the age of 70, another judge shall be appointed to share in the work of the court. In no event, however, are more than 50 additional judges to be appointed, the Supreme Court is not to exceed 15 in number, and there are limitations on the size of any one of the lower Federal courts.

It also provides for a flexible system for the temporary transfer of judges to pressure areas, under the direction of the Chief Justice.

The President further recommended the adoption of a proposal now pending in Congress to extend to the Justices of the Supreme Court the retirement privileges long ago made available to other Federal judges. He also recommended that the Congress provide that no decision, injunction, judgment, or decree on any constitutional question be promulgated by any Federal court without previous and ample notice to the Attorney General and an opportunity for the United States to present evidence and be heard in behalf of the constitutionality of the law under attack. He further recommended that in cases in which any district court determines a question of constitutionality there shall be a direct and immediate appeal to the Supreme Court, and that such cases shall take precedence over all other matters pending in that Court.

This is the sum and substance of what the President proposes. This is the so-called attack upon our judicial institutions.

Despite the manifest need of these reforms, despite the comprehensive and reasonable nature of these proposals, despite the long history which brought them forth, despite the eminent judges and statesmen who have either expressed views or actually proposed measures of substantially the same character, the President is now the storm center of a virulent attack. The technique of the last political campaign has been revived. We are solemnly assured that the courts are to be made mere appendages to the Executive Office, that the judges to be appointed cannot be trusted to support the Constitution, and that the tragedies of despotism await only the adoption of the President's recommendations.

Yet no serious objection has been made to any one of the purposes or to any part of the plan, except its application to certain members of the Supreme Court. Why the Supreme Court should be granted a special exemption from the plan no one has been able to explain. If there were no judges on that Court of retirement age, there would be no substantial objection from any responsible quarter. What, then, is the real objection? It is simply this: Those who wish to preserve the status quo want to retain on the bench judges who may be relied upon to veto progressive measures.

Opponents of this measure assert that it is immoral. The reason they charge that it is immoral is because they are unable to charge that it is unconstitutional. Whether the plan is immoral or not must be tested by the results it produces. If it produces a wholesome result in a perfectly legal way, it can scarcely be called immoral.

It is true that the President's proposal may possibly but not necessarily have the effect of increasing the size of the Supreme Court. But there is nothing new in that. Jefferson, Jackson, Lincoln, and Grant, together with the Congresses of their respective periods, saw no objection to enlarging the Court.

Again it is loosely charged that the present proposal is a bold attempt to "pack" the Court. Nothing could be further from the truth. Every increase in the membership of a court is open to that charge, and, indeed, every replacement is subject to the same objection. Under the President's proposal, if there is any increase in the total number of judges, it will be due entirely to the fact that judges now of retirement age elect to remain on the bench. If those judges think it would be harmful to the Court to increase its membership, they can avoid that result by retiring upon full pay.

The Constitution imposes upon all Presidents the duty of appointing Federal judges, by and with the advice and consent of the Senate. Upon what ground, may I ask, do the opponents of the President justify the claim that he shall not perform the duty that all other Presidents have performed. George Washington appointed 12 members of the Supreme Court. Jackson appointed

five. Lincoln appointed five. Grant appointed four. Harrison appointed four. Taft appointed five, and elevated still another to be Chief Justice. Harding appointed four and Hoover appointed three. President Roosevelt has appointed none at all.

It is assumed and sometimes asserted that the appointees under the present recommendation would be subservient to the Executive. Recorded experience belies that contention. All judges must be approved by the Senate, and once seated are not subject to Executive domination or control.

Out of every flight of hysteria on this question there comes a further charge that the President's proposals will lead to dictatorship through the establishment of an evil precedent. But there have been far more significant precedents than this. Jefferson ignored a subpena issued by Chief Justice Marshall. Jackson, in a stubborn moment, told the Supreme Court to try and enforce its own decrees. Lincoln totally disregarded Chief Justice Taney's demand that the privilege of the writ of habeas corpus be restored. No one of these Presidents was a dictator, but each illustrated how powerless the courts are unless the purity of their motives and the justice of their decisions win them the popular support. Indeed, the Supreme Court in its opinions has specifically recognized this fact.

Let us have done with irresponsible talk about dictatorship. Let us turn our minds to realities. We hear much about the perils that beset democracy. If we are to defend successfully our institutions against all comers from the right and from the left, we must make democracy work.

Those who are violently opposing the President's recommendations insist that the reforms he seeks to bring about should be accomplished by amending the Constitution, and by that method alone. This is the strategy of delay and the last resort of those who desire to prevent any action whatever. Thirteen State legislatures can prevent the adoption of any constitutional amendment. The child-labor amendment, submitted 13 years ago, has not yet been ratified. Furthermore, if an amendment were secured, it would still have to run the gantlet of judicial interpretation.

The more thoroughly the President's plan is debated the more clearly will its merits appear. It meets legitimate need. It is reasonable, it is moderate, it is direct, it is constitutional. It works out our problems within the framework of our historic institutions, and it guides us to a clear path away from our present difficulties.

The envious and the malicious may challenge the integrity of the President and the purity of his motives, but the only apostasy of which he could be guilty would be to break faith with the people who trust him to carry on.

Lincoln Day Address

EXTENSION OF REMARKS

OF

HON. CHARLES L. McNARY

OF OREGON

IN THE SENATE OF THE UNITED STATES

Monday, February 15, 1937

ADDRESS BY HON. H. STYLES BRIDGES, OF NEW HAMPSHIRE, BEFORE THE NATIONAL REPUBLICAN CLUB, NEW YORK CITY, ON FEBRUARY 12, 1937

Mr. McNARY. Mr. President, on February 12 the junior Senator from New Hampshire [Mr. BRIDGES] delivered a Lincoln Day address before the National Republican Club in New York City. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is a great privilege to be here tonight, and I welcome the opportunity to participate in this program on the occasion of the anniversary of Lincoln's birth.

Lincoln Day is a hallowed day in the Nation, and it should be, because Abraham Lincoln was the Nation's benefactor, mankind's benefactor. Lincoln Day is also a hallowed day for Republicans and the Republican Party, and it should be, because it was Abraham Lincoln who molded the party and inspired it with the purpose to serve the American people in their social and economic advancement.

In paying homage to that wise and immortal leader no finer, no greater, tribute could be paid him than for each of us to resolve tonight to vindicate the principles of his party in the eyes and hearts of the American people.

The Republican Party has just been through a national political battle. It lost that battle, and because of that defeat there are those who are ready to bury it in its political grave. Those people are either timid and unimaginative, or uninformed of all the facts or are unwilling to face the facts and act accordingly. The loss of that battle is a challenge to keep on fighting for the principle that progressive ideas can be put into effect on solid foundations and on sound financial basis without prejudice to the rights guaranteed by the Constitution and without upsetting our economic balance. This, the Republican Party submits, can be done for the Nation.

The Republican Party finds itself in a position comparable to that in 1856, when its first standard bearer, Gen. John C. Fremont, was overwhelmingly defeated. After that defeat and during the days following that election do you suppose the head of Abraham Lincoln was bowed? Do you think that he despaired for the future of the party? Do you think that he tolerated suggestions and counsel that the newborn party be buried and that a still newer party be created to take its place? Of course, we all know the answer to those questions. Lincoln knew that the party had been built on a solid foundation; that it was the only party that was soundly progressive; that it was the only party that had the vision, the boldness, and the will to fight for "the rights of man." With a faith that behooves us to imitate, he fought back and led the Republican Party to a glorious victory in 1860. With such a heritage, the Republican Party can again come back in the future and fully vindicate its principles and ideals.

In this fight we do not lack for support. No rational person can or will consign to the tomb a party which had the loyal support of almost 17,000,000 American citizens. And those 17,000,000 people represent nearly 40 percent of the popular vote in the last election. Such evidence assures me that the Republican Party is alive.

In planning for the future we would do well to pause and reflect on the past for a moment. We can profit from the mistakes we have made. We must be honest with ourselves and face the facts as they are, not theorize on what we would like the facts to be. The Republican Party has made mistakes, and we should be sensible enough to know that the people know it, and I believe they are human enough to understand and forgive if we are honest enough to admit our errors and wise enough to profit by them.

The party must adopt a forward-looking, liberal policy and stress our liberal record. A true liberal is one who takes a liberal attitude toward the rights and privileges of all groups and classes, including those who hold opposing economic and political views. I submit that the Republican Party has been down through the years the party of true liberalism, and it is time that we took steps to emphasize our true colors. The Republican Party has always maintained a sound, forward-looking policy toward American labor and American agriculture. I need not recite its long record of progressive legislation except to submit that the party has sought and obtained protection and benefits for the laborer and the farmer commensurate with the progress of the Nation.

There were many very important questions before the people in the last election. So numerous were they that a clear expression could not be obtained on each of the issues. It follows, therefore, that those questions will rise again and that the people will be called upon at later elections to render a definite decision.

When formulating a program to meet those issues again I firmly believe that the Republican Party should endeavor to understand the motivating influences behind the political expression of a people just emerging from a hard and trying experience while at the same time facing new fears. Twin fears, the fear of war and the fear of insecurity, are vivid realities in the minds of the people today. The party is nothing more than a medium for political expression, and a successful party must, very properly, be responsive.

We of the Republican Party must begin now to prepare ourselves for the coming struggle between clashing political and economic doctrines. It will be a struggle for individual expression, opportunity, and economic freedom, as against a decreed existence on patterns fashioned in Government study rooms. We must stand for sound financial principles. We must stand for real security and protection for American agriculture, American labor, American homes, and American business.

I wish to speak of a few typical examples of what I believe the Republican policy should be.

I believe I express the sentiments of the members of the party when I say that I want the people of America to be able to look to the future without fear of insecurity or need. In fact, the Republican Party has plainly and unequivocally stated that it is in favor of sound social security, and I believe the party will work to carry out the principle on a sound, equitable, and workable basis.

Personally, I am in favor of sound social security, but I am opposed to a few of the features of the present act. I do not believe that so many workers should be excluded from the benefits of its provisions. I should like to extend to those of our citizens engaged in agriculture, among others, the same aids for security as we do for the industrial workers. If social security is sound for the average workingman, I do not see why it is not sound for the farmer. The farmers of this country must prosper if the industrial sections are to prosper, and to prosper we must lend them our encouragement and protection. I do not believe it is necessary to create a huge reserve fund of some forty-five to forty-seven billions of dollars in order to obtain satisfactory results. I have no objection to a reserve fund of moderate size, but I believe that social security should be placed essentially on a pay-as-you-go basis.

Provisions of the act applying to old-age assistance and the old-age-retirement plan are well-intended steps toward the solution of this problem. We are aware of the fact that in the complex world of today the productive life of our citizens is becoming shorter, due to the ever-increasing efficiency in the methods of

production. Many of our citizens are finding it difficult to accumulate sufficient reserve to carry them through their declining years in reasonable comfort.

The present act raises a vital question of procedure. We cannot afford in this Nation to impose a penalty on thrift. Real study should be given to the question of whether or not a reasonable old-age pension, currently financed, granted as a matter of right, and in such a way not penalizing thrift, might not be a more equitable solution of this problem and more consistent with American ideals.

I believe that the present corporate surplus tax places a penalty on thrift. Although the principle of the tax, within limitations, may have some merit, I believe that the law enacted is unsound. It is indeed fortunate for America that it was not in effect prior to the recent depression. Corporations should not be restricted to the extent that they cannot build up a sufficient reserve to enable them in more trying times to maintain their financial integrity, care for their employees, pay fixed charges, and pay reasonable dividends to stockholders who are dependent upon them to meet living expenses.

I was very happy to learn recently that the President has decided to make a study of the unemployment-relief situation. I think that is a very constructive step. It is my understanding that he intends to study these three questions:

1. For what parts of the unemployed population should governments assume some responsibility?
2. What kind of relief should be given?
3. How should the cost be distributed among the Federal, State, and local governments?

The problem of providing relief for the unemployed continues to be a serious problem in this Nation, and it is time that we strive for a more workable solution.

The Republican Party, and I as an individual, are wholeheartedly in favor of seeing that no man, woman, or child in this Nation goes hungry or cold.

In my judgment the present Federal system for administering relief is wrong. The system has met the primary requisites of relief, which is to provide the destitute in this Nation with the necessities of life.

However, outside of accomplishing its primary purpose of providing the necessities of life to the needy, the system in vogue has done nothing to permanently alleviate the conditions or to solve the problem.

If Federal relief is to be continued, I think that the appropriations should be drastically reduced, and that the apportionment of relief should be based on an up-to-date survey of those needy persons who are unemployed. I believe that such Federal relief funds as are disbursed should be given as grants-in-aid to the States. Local administration is essential and all relief workers should be selected on the basis of merit. Certain standards must be adhered to, and the Federal Government should have supervisory power where Federal contributions are made.

In the State of New Hampshire, which I have had the privilege of serving as chief executive, we have developed a well-rounded policy which recognizes the essential principles of good government. New Hampshire has on its statute books some of the most liberal, forward-looking legislation that can be found upon the statute books of any State in the Union.

Our legislation there has provided for State planning, development of our natural resources, aid to agriculture, minimum standards in industry, minimum wages for many classes of labor, interstate labor compacts, mothers' aid for fatherless children, control of municipal expenditures through a municipal budget act, a service organization for veterans, old-age assistance, child-welfare and maternity laws, assistance to present industries, unemployment insurance, and aid to communities in locating new industries. And although progressive, New Hampshire has its progressiveness founded upon sound financial principles.

As Governor of the State, I outlined to the legislature the following financial policy:

"The State must adopt the policy of the prudent citizen who does not spend more than he can reasonably earn and who does not borrow more than he may ultimately be able to pay."

That policy was carried out, and New Hampshire balanced its budget and has been operating on a pay-as-you-go basis. As a result, New Hampshire has a credit rating second to none in the Union.

The results of the last election, although showing an overwhelming majority for Mr. Roosevelt, did not alter the logic of economic principles.

You cannot spend your way to prosperity on borrowed money. Forced and artificial prosperity brought about on expanded credit is neither permanent nor enduring. The trend toward inflation in this country is exceedingly dangerous.

The Republican Party should stand four square for a policy of of pay as you go and a balanced Budget for this Nation.

The question of reorganizing the Government is again before the people. The need for reorganization, consolidation, and coordination was seen and recognized years ago, and Republican administrations have sought to reorganize the departments, bureaus, and commissions in a practical way. No one criticizes the aims of a plan designed to accomplish these objectives. Everyone is for a sound coordination, consolidation, and reorganization.

It is plain to be seen, however, that any plan might contain artful devices for creating power sufficient to jeopardize or even wreck our constitutional system of checks and balances. The American people should, and I believe the Republican Party will, be vigilant and on the alert to expose any such plans.

Although the plan presented by the present administration has many meritorious features, I have strong objections to some of its phases.

I am particularly opposed to the abolishment of the office of the Comptroller General and the substitution of a post audit by an auditor general. Such a plan dismisses the watchdog and provides for a check-up after the money is taken. I think the Comptroller General has been one individual who has stood out like a lighthouse during these stormy days of lavish expenditure.

I am opposed to exploitation of our civil-service system. If you will analyze carefully the administration's plan for civil service you will find a loophole which will permit the present incumbents, who received appointments through distribution of patronage, to retain their offices. Under the camouflage of civil service it is a plan for permanently freezing in office thousands of individuals professing the political faith of the party now in control, without regard to their competency or ability. I believe in the merit system, and I would advocate the widest possible application of civil service, with competitive examinations for all posts. I am heartily in favor of a bipartisan, independent Civil Service Commission, and I am absolutely opposed to the domination of this Commission by a single executive department head. I am opposed to the move to bring all independent commissions of quasi-judicial character under various executive departments. These quasi judicial commissions, like the Interstate Commerce Commission, should have the same independence as our courts.

I believe there is a grave question as to whether or not emergency Federal functions should be assigned permanently to executive departments.

The Republican Party should take a position on the question of reorganization which is constructive. If we are to carry out our liberal policies we must be jealous of the rights of the individual and we must resist attempts to seize those rights. We must be careful that any plan for centralization does not result in the tyrannies of bureaucracy. Bureaucracy must not be mistaken for liberalism. Self-designated liberals place great faith in bureaucracy while true liberals hold it in abomination.

The President's recent message relative to the reorganization of the judicial branch of the Government was amazing, but confirmed the veracity of many people who in past months foresaw the probability of a move on the courts and expressed it publicly. These persons voicing their beliefs were immediately scoffed at by New Deal leaders who said that no such plan for reorganization was contemplated.

Practically every citizen of our Nation realizes the subtle objective in this movement to reorganize the judicial branch of the Government. No one defends inefficiency in any court, but every thoughtful citizen will object strenuously to the use of alleged inefficiency as a vehicle to throttle or change the viewpoint or make-up of the Federal judiciary. This move attempts to tear down the very foundations upon which American freedom has been built, and I am absolutely opposed to the whole program.

The President's plan to reorganize the judicial branch of the Government should be read in the same light with his plan to reorganize the executive branch of the Government. They give a clear perspective of the aims and objectives of the administration.

The Republican Party can and must make a definite contribution to the welfare of America. We may not be in a position to control legislation, but we can, however, exert a very wholesome influence on legislative proposals by acting as a constructive critic. There are two sides to practically all questions, and we can work for the elimination of unsound, impractical provisions in bills sponsored by the administration. We can in no better way prove the value of a two-party system of government than by being a strong, vigilant, and constructive minority party.

Speaking as one representative of the Republican Party in Congress, I should like to see the party's representatives gather around the council table and formulate a constructive, forward-looking program.

I should like to see the Republicans of the Nation rally behind party organizations in all the communities of the Nation. We must not overlook the importance and necessity of being practical about organization work. Party organizations are built in the precincts, in the wards, in the cities, and in the counties; and we must build them where we lack them, and we must enlarge and strengthen them where they are.

Leadership is ineffectual without party organizations, and party organizations are ineffectual without intelligent leadership. We must have them both to inspire trust. We must have them both to translate ideas into deeds.

It was Theodore Roosevelt who once said, "This country will not long be a good place for any of us to live unless it is a good place for all of us to live." May we translate that idea into deeds.

And so, tonight, in resolving to build up the Republican Party and to vindicate its ideals and principles, we are encouraged and at the same time challenged by the words of Abraham Lincoln, who said:

"Let us not be slandered from our duty by false acquisition against us, nor frightened from it by menaces of destruction to government. Let us have faith that right makes right, and in faith, let us, to the end, dare to do our duty as we understand it."

Present Day Slavery

EXTENSION OF REMARKS
OF
HON. KENT E. KELLER
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Monday, February 15, 1937

RADIO ADDRESS BY HON. WILLIAM P. CONNERY, JR., OF MASSACHUSETTS, ON FEBRUARY 13, 1937

Mr. KELLER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following radio address delivered by Congressman WILLIAM P. CONNERY, Jr., of Massachusetts, over station WEVD, New York City, on Saturday evening, February 13, 1937:

Yesterday we celebrated the anniversary of the birth of Abraham Lincoln, one who forced the liberation, and made possible the freedom of the colored people, and who made possible the end of chattel slavery in our country.

Almost 500,000 American men and women, serving in the Northern and the Confederate armies, from 1860 to 1865, gave their lives that the then four and one-half millions of colored persons in America might be free. But, further, that chattel slavery might be abolished forever in America.

During slavery days the plantation owner was responsible for, and, from what I have been able to learn, did provide reasonably good shelter, food, and clothing for those in bondage.

Seventy years have passed and can we say that slavery no longer exists in the land of the free, the good old United States of America?

I regret to say that slavery does exist in America, and today such slavery is not confined to persons of any one race or color.

Today we have economic slavery. A form of slavery far worse than the slavery of the colored people in that the economic industrial slaves of America are not guaranteed either shelter, food, or clothing. Their living conditions are worse in that they bear an ever continuing mental and physical worry not alone as to whether they will have shelter, food, and clothing, but, in addition whether or not they will have even continued employment at the economic slave wages now paid to them.

The reason for the existence of slavery conditions in the Southland, prior to the Civil War was greed—power.

The reason for the existence of economic slavery among the supposedly free industrial workers of America today is greed—power.

Greed, as represented by those who exploit their fellowmen that they, the greedy ones, may secure additional riches and have the power the more easily to control the destinies of their fellow men.

Recently the Scripps-Howard newspapers, to my mind, rendered a real public service to the people of America, and especially to the industrial workers, when they had their representative, Thomas L. Stokes, make and publish the results of a survey of the industrial conditions existing in many of the more recently developed industrial regions of those Southern States where chattel slavery of the colored people previously prevailed.

"What is economic slavery?" some may ask. The answer is a simple one.

The employment of men or women or children at wages or under work conditions which imperils the health or the morals of such men, women, or children constitutes economic slavery.

The survey recently published in the Scripps-Howard newspapers shows that the wages paid to those workers employed in these more recently developed industrial sections were from nothing per week for the first 6 months, and $2 or $4 per week for the next 6 months, to a high wage of $10 per week thereafter. These wages were not paid to illiterate workers. These are the wages which were found to be paid, in many cases, to graduates of American high schools.

Mind you, these wages were that income from which American men, women, and children are supposed to eke out an existence or a living.

Can Americans live decently and healthfully on such wages? My answer is, unqualifiedly, no.

The National Industrial Conference Board is a body composed exclusively of manufacturers. This board quite often makes studies of conditions as they exist in America. Naturally, they are not biased in favor of organized industrial workers. The facts which they bring forth surely are not intended to bolster the cause of trade unionism, increased wages, or shorter hours of work for the workers.

It will interest you to know that the lowest income which the National Industrial Conference Board reports is necessary for a family of four persons to live upon decently in the United States for a year is $1,442.

When a family of four persons is compelled to live upon a yearly income of less than $1,442, according to these findings of the National Industrial Conference Board, then it is admitted that such family or families—and I regret today that there are millions of such families in America today—are living under conditions of economic slavery.

While I have stressed the industrial conditions which exist in some States, I do not want it understood that in these States alone are we to find economic slavery. I regret to say that economic slavery exists to too great a degree right here in our own supposedly well-organized industrial States.

I dwell upon the conditions which exist in some of these Southern States to make a comparison of conditions prevailing prior to and after the sacrifice of lives of some 500,000 good American men and women that slavery might be abolished in America only to find that economic slavery, surely just as bad and as vicious as that form of slavery which we abolished, exists today throughout our land.

However, it is only fair to say that the present-day slave owners, those who control the destinies of the economic slaves, are not the plantation owners of the South. Oh, no; not even are they residents of these Southern States.

The economic slave owner of today resides in most cases in the larger cities, has his home among those who live the best, and he enjoys the company of our so-called high society. Rarely does this absentee owner see the plant wherein his fellow men, women, and children are exploited that he may more easily enjoy his summers in travel in European countries or his winters along the balmy shores of Florida.

This is a subject to which I have given thought and study. Furthermore, I have taken the opportunity when industrialists have come to my office to complain of my continued agitation for shorter hours and minimum wages for American workers to ask the reason for this continued system of economic slavery in this the land of the free and supposedly the land of plenty.

Invariably I have been told that these conditions arise out of and are continued as a condition of our competitive system and the necessity of delivering onto the market merchandise and articles at prices which will sell in competition with similar products which are produced under conditions of economic slavery.

New York is looked upon as the needle-trades center of our country. Here in New York, as a result of an enlightened leadership of labor officials, the willingness of the workers to organize and to maintain strong trade-unions, the wages paid and the work conditions are said to be fair. Yet, due to the fact that employment in some of these industries is too often seasonal and the yearly work period rather short, the workers are too often unable to earn enough to maintain that standard of living which every real American contends our workers should have.

Yet the workers of New York, well organized and employed at wages and under working conditions which are superior to those prevailing in other sections of our own land, find that the products of their labor must compete in the stores of New York City with the products of the sweated and economic slave labor of other States and of other countries.

My attention has been called to a condition which certainly should be corrected. That is that clothing is cut here in New York and sent to the homes of people in Puerto Rico to be finished and is then sent back to New York and sold in your own stores as the product of the workers of your own State. I do not need to tell you that the wages which prevail in Puerto Rico, where the work is done in the homes and under sanitary conditions which would not be tolerated here, are but a fraction of the wages paid to workers doing similar work in New York and other organized centers.

The additional profits secured through the exploitation of these workers, and which forces unemployment on the organized workers of New York, do not go to enrich employers in Puerto Rico. These additional riches accrue almost entirely to Americans operating stores and factories in New York and other large American cities.

These conditions do not exist only in the needle-trades industries. I have simply dwelt upon this industry as illustrative of the unfair employment conditions which exist in almost every industry in America and which makes possible the continuance of economic slavery in America.

To cure this unhealthy and unfair competition I have joined with Senator CLARK of Missouri, in presenting to the Congress legislation which will permit the people of your State to bar from delivery into your State products produced under conditions which are lower than those conditions which prevail in your State.

It is my belief that the enactment of this legislation will prove of great benefit to the industrial workers of such States as New York and my own State, Massachusetts, as under such legislation those States in which the workers, through their trade-union organizations, have brought about decent wages and decent working conditions will not have to compete within the borders of their own State with products produced under conditions of economic slavery.

While dwelling upon this subject my mind runs back to legislation which has just been passed in the House of Representatives and which will soon come before the United States Senate for favorable consideration. This measure is the Reciprocal Trade Treaty Act.

This legislation I voted against for several reasons: First, because of the refusal of the State Department to agree that they would not enter into any trade treaty with foreign nations which

trade treaty would permit of the delivery into the American market of goods or merchandise at prices which were less than American costs of production of similar or competitive American-made goods. Naturally we will never be able to provide profitable employment for our millions of unemployed workers if we force the products of American workers to compete in the American market with the products of the underpaid wage slaves of European and Asiatic countries.

Secondly, I do not believe that the elected representatives of the American people should delegate the taxing power entrusted to them to any administrative agency of our Government.

In closing, I want to assure my listeners that the Committee on Labor of the House of Representatives, of which I have the honor of being the chairman, is wholeheartedly in favor of legislation which will eliminate economic slavery in the United States. Our committee is decidedly in favor of legislation which will protect the job opportunities of American workers.

The Committee on Labor further, I am happy to say, has during each of the last three sessions of the Congress reported to the House, and reported favorable action thereon, a 30-hour work week law, which further provides that there shall be no reduction in wages.

Such legislation, so far as I can see, will alone provide jobs for our millions of unemployed.

The Blizzard of 1937

EXTENSION OF REMARKS

OF

HON. KARL STEFAN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 15, 1937

Mr. STEFAN. Mr. Speaker, again I take the floor to call attention of the membership of the House to the service rendered by radio station WJAG, operated by the Norfolk Daily News at Norfolk, Nebr.

You will recall that last year I made mention of the service of this station during various blizzards and storms and its unusual work for the general public welfare. Located as it is in the center of the Third Congressional District of Nebraska, this radio station, which is operated practically entirely for the service of the public, has rendered such unusual service that I think it is my duty again to tell you of its work and service during the blizzard of 1937.

On January 1, 1937, a 5-inch snow closed all roads in north Nebraska. There was 4 inches of snow on January 8, 3 inches on January 20, an inch on January 29. There were smaller amounts or traces on January 6, 7, 13, 16, 17, 24, 25, 26, 27, 28, and 31. The snow for the month totaled 14 inches, normal being 5.1 inches.

State highways were closed, off and on, all month. Some were not opened until January 31. Many side roads were closed all month. The month of January 1937 was the coldest January in the history of the Norfolk Weather Bureau. On 23 days the temperature was zero or lower; the lowest, 22 below. On 8 days the temperature was above zero; the highest, 20 above. The average temperature for the month was 6⅔° above, normal being 19⅓° above.

Autos, busses, trains, farms and towns were snow-bound. Many communities were without daily papers for many days and kept in touch with the outside world by radio.

With this condition of weather existing, thousands of farmers, isolated in their homes, being without any means of transportation, with the roads in all directions blocked, this station rendered unusual and valuable service in giving reports of the road conditions, undoubtedly saved human life, helped those who were in distress and need, and reunited families which were separated by the storm.

This was accomplished by this radio station through the cooperation of the State highway department, the telephone and railroad officials, the bus lines, the Associated Press and many news correspondents, employed by the Norfolk Daily News over the entire district. The station located numerous truck drivers and delivery men who were snowbound and passed information along to their friends and relatives who had no telephone. This station broadcast messages about a snow-bound train keeping friends and relatives of passengers advised as to progress of rescue. It broadcast the names and addresses of 26 snow-bound motorists and relieved their friends and relatives. It also broadcast to the travelers themselves, some of whom had car radios, keeping them advised of the progress of the rescue party. Commercial traveling men were kept advised of the progress of snow plows approaching them. Then the highway department wanted to learn location of plows and crews working between towns. The radio station furnished that information.

This station is being thanked by my district by superintendents, ministers, newspapers, editorially, and listeners generally, and I think it only proper that we, here in the House, should have a complete history on this radio station in Nebraska which rendered such valuable public service.

Mr. Speaker, from the many letters we have been receiving in the third congressional office regarding the work of this station in bringing this valuable service to a blizzard-bound district, it develops that we in Washington are not yet sensitized to the conditions which really exist in that district, which has lost a crop and which has suffered from the drought. I wonder if, as Members, you realize how farmers in my district are living today as a result of a crop failure, and imprisoned in their homes, due to blizzards and blocked roads? Hundreds of these farmers are facing empty cupboards and depleted corncribs, with many head of livestock in the state of starvation. The entire resources of our Government have been placed at the disposal of the sufferers from the great flood of the Ohio-Mississippi Valley, millions of dollars have gone into the flood zone from all parts of the United States, and thousands of dollars have been sent to the flood sufferers from my State. Even those farmers in my district who are the victims of the Nebraska drought are among the contributors to their unfortunate friends in the flood zone. It is for that reason I feel that I must again urge that you do not forget, in taking into consideration human suffering, the conditions of people in the Third Congressional District of Nebraska. I wish to urge that more liberal rules be issued to those who are giving out grants and feed and seed loans in the drought counties in my district. I wish again to urge those of you who are interested in our fight to make the farm-to-market road program permanent to take into consideration the necessity of making it possible for farmers to reach these great tourist highways which get first attention after blizzards, such as I mentioned earlier in this brief speech. With more work on the farm-to-market road program, much of the suffering which is being experienced by thousands of farmers in my district can be alleviated. The winter in our district started around January 1 with a blizzard that blocked the roads, and even today some of the side roads are still blocked.

Many of these roads were opened up several times, but since then they have been of little use, due to the heavy winds which have closed them again with great drifts of snow. Many farmers have been without mail for weeks and many must drive miles through deep snow to receive word from the outside world. Some of these farmers have not been to town since the 1st day of January, and some living only 10 or 15 miles find that it takes them all day to reach town and back home again.

The weather in my district has been severe on livestock, due to the crop failure. The farmers in my district have gone to great expense in raising a crop and then losing it; and in order to keep on farming, many of them ship in the grain and have it hauled to their farms, 20 to 30 miles distant, and by the time it reaches their farms it amounts to about the same as raising three crops to get to feed one. Cream in my district is worth around 30 cents, eggs 18 cents, hogs about 9 cents, and farmers cannot produce these without a loss, with oats at 60 cents and corn at $1.25, with cotton cake $46 a ton.

I am endeavoring to point out to Members that financially the farmers in my district have been hit as hard as the

people in the flood district, because our farmers have lost several crops during the last few years. A great many farmers will find it impossible to farm the coming year without some help as to feed and seed; and if they must borrow money for this high-priced grain, even should they produce a reasonable crop, they would have nothing left after paying expenses. That is why, Mr. Speaker, many of these distressed farmers are interested in our bill to pay back to the Government bushel for bushel for seed and feed they are endeavoring to borrow so they can remain on the farm. Many would be willing to give a little more than bushel for bushel.

Some of our farmers have gone to town from some of these communities, some have gone to Oregon and Washington, but most of them are trying to stay on the farm if they can get the necessary credit to keep going. I feel that my district will never see prosperity again until we can fill our cribs with corn of our own raising and our grain bins with grain that comes from our own fields. We must have this help right now. Red-tape delay will be fatal to many farmers in my district.

This is one reason, Mr. Speaker, why so many Members who come from drought-stricken farm districts are anxious that the farmer be given the same privilege to borrow money at a low rate of interest, in order not only to refinance his farm, but give him the same advantage that the industrial people in the East are getting in the way of credit.

We in Nebraska have had great blizzards in the past. Every year about this time Nebraska pioneers tell stories of the suffering caused by the blizzard of 1888, and of human deaths, and that of livestock which followed in the wake of that blizzard. Modern science and the willingness of those who own radio stations, such as WJAG, as described in this speech, have alleviated much of this suffering, but my purpose in calling your attention today to these matters, is for the purpose of saying something on behalf of the farmers living in a drought-stricken country. With little to feed human beings, and nothing to feed livestock, these people, who are still heroic enough to remain on the farm, and do not wish to become a burden to their Government by coming into town and going on relief, are turning their attention to Washington and to their representatives asking that you do not forget those on the prairies in Nebraska while giving attention to the flood victims of the Ohio and Mississippi.

The other reason, Mr. Speaker, for my taking the floor at this time is to ask those who are benefiting by our appropriation for flood relief to give us consideration on legislation which we propose in order to bring permanent relief to the people in my district.

Foreign Trade Zones

EXTENSION OF REMARKS

OF

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1937

RADIO ADDRESS OF COMPTROLLER FRANK J. TAYLOR, OF THE CITY OF NEW YORK, ON JANUARY 6, 1937

Mr. CELLER. Mr. Speaker, Comptroller Frank J. Taylor, for whom I have an affectionate regard, and who is the splendid fiscal officer of the city of New York, has been, since his election, interested in my bill (Public, No. 397, 73d Cong.) to establish, operate, and maintain foreign-trade zones in ports of entry of the United States. He and the mayor of our city have aided materially in procuring a grant for the city of New York to operate a foreign-trade zone or free ports at the Stapleton, Staten Island, piers, Borough of Richmond. The foreign-trade zone is now in operation, but the future success thereof depends on the proper operation of that zone, the earnest cooperation of the city of New York, as well as the public officials of the city of New York.

I herewith submit a statement by our comptroller concerning our free port. It is an intelligent and frank discussion of its principles.

Foreign-trade zones, or "free ports" as they are more widely known in Europe, do not represent a new principle. Rather, they are a logical development of "free cities" which flourished on the seacoasts of Europe from the Middle Ages to recent times. These "free cities" served a very useful purpose in the movement of trade, which they were designed to foster. The advantage to foreign trade and commerce of the "free city" principle was great enough to be continued in practice. So out of the free city developed the bonded warehouse system, the drawback privilege, and the free port, or foreign-trade zone. Each serves its own purpose and the purposes of the others. They operate in harmony with and in no sense undermine the customs policy or security of the country.

The United States has used the bonded warehouse and drawback since the beginning of its political history. Now, our country has added to these facilities that of the foreign-trade zone, in pursuance of a bill sponsored by Congressman EMANUEL CELLER. It is the avowed purpose and principle of foreign-trade zones to expedite and encourage foreign commerce. New York, quick to realize the benefits to be obtained from the application of this principle, sought and obtained the right to establish and operate a foreign-trade zone. The site selected is on Staten Island, just north of the Narrows on lower New York Bay. It comprises 78 acres with four modern piers and is capable of adequate expansion in the future. Adapting and modernizing the area is nearing completion at this time, and the Nation's foreign-trade zone no. 1 will be ready for operation early in 1937.

The expedition and encouragement of foreign commerce is undertaken by means of the foreign-trade zone in the following manner. In a seaport a section of waterfront property is selected as a site. Surrounding the selected site is constructed a barrier with proper land and water entrances. The effect of this barrier is to segregate the enclosed zone from customs territory and to prevent smuggling. Within this restricted area are built the proper terminal facilities—piers, warehouses, roads, tracks, cargo equipment, bunder services, and so on.

The operation of this foreign-trade zone is similar to any terminal operation. It may be in private hands, or a State or municipality may undertake its operation. However, it may be operated, it is a public utility, and subject to all supervision and regulation of any public utility by the Federal Government. The reason for this is, of course, to assure users reasonable and stable charges and equitable treatment.

The majority of world goods do not travel a straight course from producer to consumer. More often they change hands in major markets or depots, various manipulations being undertaken along the way to prepare them for final disposition. In this preparation and distribution, domestic products have a decided advantage in not being subject to the charges and interference of customs surveillance. It is that added cost of customs supervision in countries and ports of transit that foreign-trade zones seek to eliminate.

The question has been asked, In what way are foreign-trade zones superior to the bonded-warehouse system? The answer is plainer when it is kept in mind that it is not the purpose of foreign-trade zones to displace bonded warehouses. The location of bonded warehouses is a matter of convenience, and as individual units are scattered throughout the country and centers of industry in a manner not feasible or economic to foreign-trade zones. The two systems are complementary to each other in the movement of goods. At locations where foreign-trade zones are justified they do offer superior services to users. Under the present law they offer seven of the eight classes of bonded warehouses, exclusive of the bonded manufacturing warehouse, at one central location.

Furthermore, these bonded-warehouse facilities are located at shipside with proper rail and road connections. I need not dwell on the savings effected through resulting economies in handling and transportation. However, the main superiority of foreign-trade zones over bonded warehouses lies in a simplification of customs procedure. Merchandise deposited in a zone requires no bond for payment of duty, it requires no customs seal on the door of the storeroom, it requires the presence of no customs official while being inspected by the owner. Moreover, access to merchandise may be had at any hour of the day or night. The charges and delays incident to customs inspection, weighing, and appraisal are absent in the foreign-trade zone.

The question again is raised about the drawback privilege, and the answer again is similar. Under the present law manufacturing is prohibited in foreign-trade zones. As the drawback is primarily for the benefit of manufacturers exporting products manufactured wholly or in part of foreign material, that section of the drawback privilege does not now concern us. Merchandise is eligible also for a drawback or refund of duty paid when it is reexported in the same packages and condition as when received, providing it has remained under constant customs control. Therein lies the advantage of foreign-trade zones.

Getting along to the facilities available in the foreign-trade zone, we find the user able to store his merchandise of any lawful description for the period he finds necessary. He need concern himself merely with the payment of moderate storage fees. We find the user able to repack his merchandise within the zone. This means that the importer of wines and spirits in bulk may bottle his product for the market, that receivers of goods that are damaged in transit may repack them for security, that merchandise may be repacked to suit the needs of whatever market they are destined for.

We find the user able to break down large shipments. This means bulk or combined shipments may be divided or separated into smaller or individual parcels which may be entered into the country or reexported separately. Importers know of the sizable economies in freight and packing effected through bulk and combined shipments. Another facility offered the importer or consignee is that of distribution. This means that a shipment may, in whole or in part, be stored in the zone, be imported into the country after payment of duty, be transshipped to other countries immediately, or reexported after manipulation. In short, by permitting distribution, every facility is available which will enable the importer to dispose of his goods to his best advantage. We find the user able to sort his imports, to grade his merchandise, to separate into marketable or usable grades, and to undertake cleaning operations within the zone. The importer is granted permission to mix his products with other foreign or domestic merchandise of like nature. Under present law, the only general rule which limits operations is that the operation cannot include manufacture or those manipulations which are eligible for draw-back privileges. All of these operations the importer and exporter may do, and do them free of bond and surveillance, not bothered by draw-back regulations or bonded warehouse requirements. The importer and exporter may employ his own labor, use his own facilities, as he desires. He may avail himself of the services offered by the operators of the zone, which may include labor, equipment, supervision, insurance, negotiable warrants, ship and freight brokerage, and forwarding. He may secure time and shipment lease of warehouse space, office space, open storage, and ground space for his own building. All of these are advantages enjoyed by the user of this modern foreign-trade facility, the foreign-trade zone.

The uses of the foreign-trade zone are by no means restricted to dutiable merchandise. A far wider use is implied by the law when it states the purpose to be "to expedite and encourage foreign commerce and for other purposes." These zones are scientifically planned for proper coordination of land and water facilities. Foreign-trade zones offer shipside warehouses, modern piers, cranes and other handling equipment, direct-rail connections, motor roads and motor transport. These facilities lower costs in handling and transportation, save time to the ship, to the railroad, to the motor carrier. In addition, the importer may take advantage of import rail rates on both dutiable and free merchandise as such merchandise does no lose its import status while stored in the zone.

Bringing this merchandise to the foreign-trade zone, owners can store it and use the warrants issued as collateral for bank loans. At their leisure, these firms can sell this merchandise abroad wherever a market offers and all without payment of duty.

In these few minutes I have attempted to present to you the principle of foreign-trade zones. I have said that it is not a new principle, yet in the United States it is new. It is capable of development and of serving a real function in our future foreign commerce. It is worthy of real study by all who ship their products abroad and all that receive products from the ends of the earth.

The establishment of a foreign-trade zone on Staten Island by the city of New York, it is believed, will benefit the port and the country, and that commerce will welcome the smoothing of its path, and the more economic and the more orderly distribution from producer to consumer.

Reorganization of the Judiciary

EXTENSION OF REMARKS

OF

HON. REUBEN T. WOOD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 15, 1937

RADIO ADDRESS BY HON. HUGO L. BLACK, OF ALABAMA, ON FEBRUARY 11, 1937

Mr. WOOD. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following radio address of Hon. HUGO L. BLACK, Senator from Alabama:

Ladies and gentlemen, our Constitution gives to the President and to the Congress, acting jointly, the power to deny to the Supreme Court any jurisdiction of any kind whatever, except in cases affecting ambassadors, ministers, consuls, and those in which a State is a party. The wise men who wrote our Constitution thus deliberately gave to the President and the Congress a clear power to restrict and confine the jurisdiction of the Supreme Court.

President Roosevelt has not asked the Congress to use this great power given to Congress and the President by George Washington and those other great men who wrote the Constitution.

Our Constitution gives to the President and the Congress, acting jointly, the power to strip the Federal district courts and the circuit courts of the United States of all jurisdiction of every kind, and even to abolish these courts entirely.

President Roosevelt has not asked the Congress to use this great power given to the Congress and the President by George Washington and those other wise men who framed the Constitution.

Our Constitution gives to the President and the Congress, acting jointly, the power to say when and for how long the Supreme Court shall hold its Court and hear causes. This great power was exercised by President Jefferson and the Congress on one occasion, when the Court was ordered by them not to sit and not to hear a single cause for practically a year.

President Roosevelt has not asked the Congress to use this great power given to the Congress and the President by George Washington and those other wise men who framed the Constitution.

Our Constitution gives to the President and to the Congress, acting jointly, the power to prohibit five to four opinions invalidating acts of Congress. Martin Van Buren, the trusted adviser of President Jackson, later himself President, and the distinguished Senator from Idaho, Mr. BORAH, both offered bills to prohibit such five to four opinions.

President Roosevelt has not asked the Congress to use this great power given to the Congress and the President by George Washington and those other wise men who framed the Constitution.

Our Constitution imposes upon the President and the Congress, acting jointly, the duty and responsibility of determining how many judges are needed in the Federal, circuit, and Supreme Courts of this land, in order that justice may neither be delayed nor denied. This power to determine the number of Federal judges, which is a part of the Constitution itself, is the one single power which President Roosevelt has recently asked the Congress to use in order to serve the public good. All the tumult and the shouting that you are now hearing, and which has the old familiar ring of 1932 and 1936, has been brought about because the President of the United States has recommended that Congress exercise this power, believed by Washington, Franklin, and the other great framers of the Constitution to be a wise safeguard for the American people. Those who attack the President of the United States for suggesting the use of this power, given by the Constitution, are thereby attacking the wisdom, the integrity, or the patriotism of our founding fathers, who wrote and established our Constitution. Those who charge that it is wrong to use this power in 1937 cannot escape the responsibility for charging a lack of patriotism to those who gave the power in 1787. Has the time come when it is dangerous and destructive to obey the plain mandate of the Constitution and to exercise a power which that great document entrusts to the President and to the Congress?

It is the plain duty of the President and the Congress, under the Constitution, to provide an adequate number of judges to transact public business in the Federal courts. Every citizen is entitled to have a sufficient number of Federal judges, competent and able both physically and mentally, to try his cause without delay. Everyone knows that the citizens have not had an adequate number of such judges in the recent past.

All lawyers and many citizens know of instances in which able judges, with distinguished records on the bench, have held their office too long. Can there be anything wrong, unconstitutional, or unpatriotic in providing for the appointment of additional judges to take care of the interest of litigants where such instances occur?

There are nine Judges on the Supreme Court. Last term the cases orally argued and submitted to the Supreme Court required months of the Justices' time, and, in addition, there were 867 applications for certiorari disposed of by the Court. Each of these cases came to the Court with a printed record and with briefs of opposing counsel. It is estimated that these records were printed on more than 100,000 pages. It was necessary to read all those records with care if a just decision was to be rendered upon the merits. Such a burden is too great for any nine men; and yet six of the eminent members of this great Court have already passed their allotted threescore years and 10. It is unfair to any man who has passed the age of 70 years to impose burdens so heavy that they would be a crushing weight upon a young man in the very prime of life. Private business requires retirement of those who reach 60 to 70 years, no matter how able they may be.

My time does not permit me to discuss with you many other excellent reasons to justify the wisdom and patriotism of President Roosevelt's suggestion. That suggestion seems to me to be in the public interest. I know that President Roosevelt was in the exercise of his constitutional duty when he recommended to the Congress that it discharge its constitutional duty to provide an adequate judiciary for the people of the Nation. His suggestion meets my wholehearted approval.

Vice President and Mrs. Garner

EXTENSION OF REMARKS

OF

HON. LUTHER A. JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 15, 1937

REMARKS MADE BY PRESIDENT PAT M. NEFF, OF BAYLOR UNIVERSITY, ON THE OCCASION OF THE CONFERRING OF HONORARY DEGREES UPON THE VICE PRESIDENT AND MRS. JOHN NANCE GARNER BY BAYLOR UNIVERSITY

Mr. JOHNSON of Texas. Mr. Speaker, on November 21, 1936, at Waco, Tex., Baylor University conferred the honorary degree of doctor of laws upon Vice President John Nance Garner and his wife, Mrs. Ettie Rheiner Garner.

The proceedings in conferring honorary degrees upon these two distinguished American citizens is of interest to the public.

Recently I extended my remarks, with consent of the House, by inserting in the RECORD the very able address delivered by my colleague, Hon. FRITZ G. LANHAM, of Texas, on that occasion.

Immediately following Mr. LANHAM's address, Hon. Pat M. Neff, president of Baylor University, in conferring the degrees paid a brief tribute to Mr. and Mrs. Garner, and under leave to extend my remarks in the RECORD, I submit herewith the eloquent and justly deserved tribute to them by President Neff.

Following the address of the occasion by Congressman FRITZ LANHAM, of Fort Worth, Dr. J. T. Harrington, president of the board of trustees of Baylor University, presented Mr. and Mrs. Garner simultaneously to President Neff as he stood ready to confer upon them the degrees.

Addressing first Mr. Garner, President Neff said:

John Nance Garner, a direct descendant of a patriot of the American Revolution, child of Texas Centennial parents, reared amid the rude and crude hardships of Texas pioneer life, product of Texas sun, Texas soil, and Texas society, Baylor University, the oldest institution of higher learning beneath Texas skies, proudly salutes you on this happy academic occasion as the State's most distinguished son.

With steady and stately strides in an unbroken career you have climbed from poverty to power, from obscurity to eminence, from a rough, romantic log hut on the primeval prairies of Texas to the second highest office beneath the dome of the Nation's Capitol.

Though you have walked with the great, you have never lost the common touch. Though you are the presiding officer of the most august legislative body on earth you instinctively covet the comradeship of those to fame and fortune unknown. Though crowned with honors, the common people rightly claim you as their own.

As a counselor of Woodrow Wilson when the world was at war, and now as an adviser of Franklin D. Roosevelt in preserving the peace of the nations, you have for a score of years towered a titanic figure in the political olympics of the American people.

In recognition of your splendid services to the State and to the Nation, Baylor University, in keeping with the provisions of its ancient charter granted by the Republic of Texas, and by the authority vested in it by the law of the land, now confers upon you with all its rights and privileges wherever in the world you may go, the honorary degree of doctor of laws. As evidence of this degree, I hereby present to you this diploma bearing the name and the seal of Baylor University.

Mr. and Mrs. Garner still standing together, the president conferred the honorary degree on Mrs. Garner, as follows:

Ettie Rheiner Garner, from the hour of your girlhood when at the marriage altar you plighted your love and your all to young John Garner, you have walked in stately and in queenly grace by his side, his pal and his partner, his counsellor and his confederate, his helpmate and his inspiration.

No labor has been his that was not yours. No task has been committed to his hands that you did not with him share the responsibility. No honor has been his that was not justly yours.

For more than half a century, as wife, as mother, and later as grandmother, you have maintained happily and efficiently two unbroken partnerships—the partnership with home and the partnership with husband.

You have shunned social honors and the comradeship of those who thronged the "halls of vanity fair", preferring to work in harness by the side of him whose honored name you worthily bear.

Work has been your great joy. It has been the well-tempered anvil on which your ringing hammer has helped to beat out two beautifully blended careers of public service. As comrades and coworkers in both public and private life, you and Mr. Garner are known wherever falls the shadow of the American flag.

In recognition of your personal worth and in appreciation of your outstanding accomplishments, Baylor University, on the recommendation of its faculty and by the authority of its board of trustees, now confers upon you, with its full academic significance, the honorary degree of doctor of laws. I am, therefore, happy to present to you, to have and to hold, this certificate duly executed by the authority of this institution.

And now, Mr. and Mrs. Garner, wherever scholars gather, a beautiful and appropriately colored hood is recognized as evidence of the degree upon each of you conferred. That you may wear these as badges of honor and as emblems of distinction, the committees will now place upon your respective shoulders the academic hood.

At this point hoods were simultaneously placed over the heads and on the shoulders of Mr. and Mrs. Garner. Mrs. Garner was then seated and President Neff turned to the audience and said:

Ladies and gentlemen, I am happy to present to you Dr. John Nance Garner.

Dr. Garner made a brief address.

The Independence and Integrity of the Supreme Court Must Be Preserved—Doubt, if Permitted to Obtain With Respect to Either Its Integrity or Independence, Spells the Beginning of the End of This Government

EXTENSION OF REMARKS

OF

HON. CHARLES A. PLUMLEY

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, February 15, 1937

EXCERPTS FROM ADDRESS DELIVERED BY HON. CHARLES A. PLUMLEY, OF VERMONT, AT THE LINCOLN DINNER IN UTICA, N. Y., ON SATURDAY, FEBRUARY 13, 1937

Mr. PLUMLEY. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following excerpts from a speech made by me Saturday night last, February 13, in Utica, N. Y.:

Mr. Toastmaster, today we celebrate the anniversary of the birth of the uncommon commoner—an American, great emancipator, savior of a nation; "a type that Nature wills to plan but once in all a people's years"—Abraham Lincoln.

So many people have so well said those things which all of us would be proud to put in words that little remains to be said, or can be said, which has not already been spoken. Poets, authors, statesmen—all have vied with one another in an attempt to do justice to the memory of the man and his achievements. Some poet has said:

"Some opulent force of genius, soul, and race,
Some deep life current from far centuries
Flowed to his mind and lighted his sad eyes,
And gave his name, among great names, high place."

True it is that a strange light shone from his sad gray eyes; all the magic of morning, noon, and night; all the mystery of dark forests and starry skies were in them; a stranger divinity shone from his face, carved with lines of worry and suffering, cut deep with care and love for mankind, a boundless love, fathomless as the sea, illimitable as space. No monarch ever had greater power than he and none ever employed it so tenderly, so benevolently, so graciously; no power of pardon, except that of Providence, was ever exercised so mercifully, so benignly; no other human being dried so many tears, stopped so many heartaches, revived so many hopes. Do not think me sacrilegious when I say, "He was a man of sorrows and acquainted with grief. He was bruised for our iniquities; he was wounded for our transgressions and the weight of our Government was upon him. He saved others. Himself he could not save."

Shepherd of the people, that old name that the best rulers ever craved. He fed us with counsel when we were in doubt, with inspiration when we sometimes faltered, with caution when we

would be rash, with calm, clear, trustful cheerfulness through many an hour when our hearts were dark. He spread before the whole land feasts of great duty and devotion and patriotism on which the land grew strong. He fed all his people from the highest to the lowest, from the most privileged down to the most enslaved.

This rugged, honest, steadfast perseverance and stanch Americanism still stand as examples, as objectives which the Nation and all of us as individuals may well try to emulate. Unwavering in his loyalty to the fundamentals of American government, his genuine respect for the Constitution and his great concern for the destiny of the Republic ended only with his death.

"So they buried Lincoln! strange and vain,
Has any creature thought of Lincoln hid
In any vault 'neath coffin lid?
In all the years since that wild spring of pain?
It is false—he never in grave had lain,
You could not bury him, although you slid
Upon the clay the Cheope pyramid,
Or heaped it with the Rocky Mountain chain.
If so, man's memories not a monument be,
None shalt thou have."

A redeemed and reunited republic is his monument.

* * * * * * *

Mr. Toastmaster, Lincoln, the lawyer, was Abraham Lincoln at his greatest. As we observe and celebrate the centennial of his admission to the bar, that fact should be forever fixed and established in the public mind.

Law goes first when dictatorships arrive. In the law, wisely and humanely administered, without fear and without favor, lies both the safety and the hope of democracy. This is the lesson Lincoln taught us in the tragic days of the 1860's, and it is the same lesson which Lincoln leaves with us today.

This is America. God save America. I am not an alarmist. I am not easily aroused or disturbed. I am concerned because I believe that the permanency of our national life and its integrity are involved in this governmental policy which we are asked to approve. I am sure that the preservation of our liberties and the perpetuity of our form of government is the tremendous stake at issue. It must be met. The questions confronting us are too momentous and too serious to be a football of partisan politics. They transcend all questions of partisan politics, of neutrality, of all tariffs, trade agreements, and everything else. They strike at the very root of our American institutions. They are steps to change our form of government. This is the issue involved.

* * * * * * *

This is not a partisan issue, this challenge to the American form of government. It is an American issue. It must be treated as such by all of us who put our country above our party affiliations.

I sedulously refrain from making this a partisan issue; I do, however, want you to hear the distinguished gentleman from Ohio [Mr. LAMNECK], a Democrat, who stated on the floor of the House on Wednesday:

"As Members of Congress we are the American people assembled here, not to take orders from anybody, but to convert the will of the citizens into legislation telling the executive branch of Government what to do. This House is the nearest approach of the National Government to the homes of America. The greatest guarantee of protection to these homes—the castles which no power has the right to invade without due process of law—the greatest guarantee to these homes, I repeat, is the judicial body of this Nation, crowned by the Supreme Court. This great tribunal, which has weathered the storms of 150 years, is the one remaining bulwark of the United States of America and of that great document of a government of the people, by the people, and for the people—the Constitution of the United States of America * * *. What this Congress is asked to do is undemocratic. We are only a few weeks from the general elections when the President of the United States and every Member of the House was elected. Did the President announce a purpose to change the Supreme Court if reelected? He did not. When he was asked if he would make any effort to alter the Supreme Court he was silent, but those who claimed to speak for him declared that any such inference respecting the candidate was "sinful, sinister, and utterly unfounded." If the President did have such a plan in view he should have declared it. Thus the people might have had a chance to express an opinion upon it. The Democratic platform did not contain such a proposal. The candidate's acceptance speech did not intimate such a purpose. Now, before the inaugural scaffolding is removed, the President proposes a change which would destroy the very foundation of the faith millions of citizens have in our Government."

Once more may I quote from what I consider one of the most forceful and eloquent speeches made on the floor of the House of Representatives, by that distinguished statesman, Congressman Cox, of Georgia, another Democrat, interrupting Mr. LAMNECK, who yielded, saying:

"Mr. Speaker, living within the presence of the fine things which the President has accomplished, it is difficult to withhold from him a power which he wants; but his recommendation that the membership of the Supreme Court be increased from 9 to 15, thereby enabling him, through willing appointees, to change the meaning of our basic laws and our whole form of government, asks for something which no one man in all this world ought to enjoy.

"The recommendation constitutes the most terrible threat to constitutional government that has arisen in the entire history of the country. It is nationalism with a vengeance, and, carried into effect, would mean the end of the doctrine of States' rights. In the sense that it makes possible change in the meaning of the Constitution by legislative and executive power, it violates the sovereignty of the people. It would upset our whole system of checks and balances, establish executive control over the judiciary, and destroy the majesty of the law. A political and terrorized court is no tribunal of justice, and with the independence of the Supreme Court destroyed and it made a pliable tool in the hands of the Executive, ours becomes a government of men instead of a government of laws. My sense of political responsibility and political morality impels me to resist. I pray God that no such calamity may ever befall this country that we all love as the vesting of all power of government in the hands of any one man."

Patriotic and powerful and American are these statements you have just heard.

Now, Mr. Toastmaster, I wish to call your attention to the fact that the election and inaugural are things of the past; the emergency is over, for so the President insists and admits; relinquishing not a single one of the emergency powers he asked for and was granted; with a complete control over Congress, with an undisguised contempt for the legislative prerogatives of that body, he has the consummate nerve and audacity to transmit a revolutionary message, by the terms of which he attempts to circumvent the Constitution and seize the Supreme Court; and, more daring and contemptuous, he accompanies that message with a bill (an evil precedent) which he has drawn up and made ready for enactment, to the end that the commands contained in the transmitted message, and by an act of lawless legality, may be obeyed and carried out by his cringing cohorts. He plans to demand that the Supreme Court obey his orders, and desires and intends to install autocratic government, toward which he aspires. No blow has been struck which, if successful, would so deeply injure the foundations of the Republic and the cause of democracy in the world.

Let me call your attention to the significant fact that the revolutionary danger which now confronts the people was foreseen with uncanny sagacity 50 years ago by James Bryce. In the American Commonwealth—upon this subject—the great English commentator wrote:

"Suppose a Congress and President bent on doing something which the Supreme Court deems contrary to the Constitution. They pass a statute. A case arises under it. The Court on the hearing of the case, unanimously declares the statute to be null, as being beyond the powers of Congress. Congress forthwith passes and the President signs another statute more than doubling the number of Justices. The President appoints to the new justiceships men who are pledged to hold the former statute constitutional. The Senate confirms his appointments. Another case raising the validity of the disputed statute is brought up to the Court. The new Justices outvote the old ones; the statute is held valid; the security provided for the protection of the Constitution is gone like a morning mist.

"What prevents such assaults on the fundamental law, assaults which, however immoral in substances, would be perfectly legal in form? Not the mechanism of government, for all its checks have been evaded. Not the conscience of the legislature and the President, for heated combatants seldom shrink from justifying the means by the end. Nothing but fear of the people, whose broad good sense and attachment to the great principles of the Constitution may generally be relied on to condemn such a perversion of its forms. Yet if the excitement has arisen high over the country, a majority of the people may acquiesce; and then it matters little whether what is really a revolution be accomplished by openly violating or by merely distorting the forms of law. To the people we come sooner or later; it is upon their wisdom and self-restraint that the stability of the most cunningly devised scheme of government will in the last resort depend."

Yes; it is always to the people, to their wisdom and self-restraint, that we come sooner or later. Would they have voted as they did if the President had shown his hand before the vote instead of after? Do they approve what he is now attempting to do? Will the unhappy examples of Germany and Italy be taken to heart in time? Or are we also destined to suffer a revolution passively, without thoroughly understanding its aim, its scope, or its consequences?

* * * * * * *

Mr. Toastmaster, under the circumstances confronting us liberty-loving Americans, it is difficult for me to speak dispassionately. As an American I must call your attention to the fact that by his persistent silence respecting the Court, though challenged in regard thereto, the President, as a candidate, gave the people of this Nation to understand and to believe, and rightly so, that he entertained no intent and had no purpose to precipitate any such program as he has launched against the Constitution and the Court.

As President he should be above the resort to subterfuge and trickery and the strategy with which this program is camouflaged. Let me say with all the emphasis I can command that the President and his advisors will have to learn the ages teach that the intricate processes and involvements of statesmanship and politics all fail or succeed according to the inherency of honesty in their promulgation.

Time's indisputable record shows beyond peradventure of a doubt that without the principled foundation of innate honesty, disingenuousness, subterfuge, trickery, questionable strategy will not stand the logic of events. Ultimately that which has found its

being through the channels of fraud and subterfuge and disingenuousness crumbles and falls into the bottomless abyss of ignominy and destruction.

It is inescapably true that there exists in the body politic a something—a moral force, if you will—that is greater and more powerful when set in motion than all the laws of human strategy and frailty; and this force, invoked, knows no wrong and operates throughout time to balance all maladjustments, to right wrongs perpetrated, to punish the guilty, and properly to fix and establish for all time the stigma of the responsibility for the underhandedness, fraud, or dishonesty employed to serve a temporary purpose.

The imaginary and temporary successes which seem to attend the efforts of the hypocrite, deceiver, and the disingenuous are not the victories. In the last analysis they are defeats. So shall this record read when relentless time closes its book.

Now, gentlemen, it is a serious situation which confronts us. It is not to be minimized. The destruction of our form of government is clearly the issue that confronts us. The amazing and startling proposal for packing and controlling the Supreme Court is un-American, unnecessary, poorly camouflaged, and by none other than the President of the United States. Think of it, gentlemen. His real purpose is not concealed from us. He insults our intelligence when he thinks we do not know enough to know it is because the Supreme Court has declared invalid many of his pet measures. He resorts to a plan for creating a Court that he can control and that will be subservient to and sympathetic with his ideas. Gentlemen, the independence and integrity of the Supreme Court must be preserved. If there ever be any doubt, it spells the beginning of the end of our Republic.

The President of these United States—our Chief Executive—confessedly and by usurpation, controlling the legislative branch of this Government, now proposes to command the judicial branch of the Government. This step is beyond absolutism and beyond revolutionary power. The seeds of revolution are sown by his message and by the transmission of the bill which accompanies it. So far have they gone—they should not go farther.

The American people are aroused. The President and his advisors should beware.

All red-blooded Americans of every political faith will resist this attempt to deprive them of their blood-bought liberties to the last drop of blood which is in their very veins.

* * * * * * *

This Constitution which the President twice swore he would defend, he now is undertaking to wreck, "ranks above every other constitution for the intrinsic excellence of its scheme, its adaptation to the circumstances of the people, the simplicity, brevity, and precision of its language, its judicious mixture of definiteness in principle with elasticity in details. * * * It opposes obstacles to rash and hasty change. It forces the people to think seriously before they alter it or pardon a transgression of it. It makes legislatures and statesmen slow to overpass their legal powers, slow even to propose measures which the Constitution seems to disapprove. It forms the mind and temper of the people. It strengthens their conservative instincts, their sense of the value of stability and permanence in political arrangements. It makes them feel that to comprehend their supreme instruments of government is a personal duty, incumbent on each one of them."

On this day and upon this occasion it is most fitting for us to observe that "to those great men who framed the Constitution and secured the adoption of it we owe a debt of gratitude which can scarcely be repaid. It was not then, as it is now looked upon, from the blessings which it has bestowed with general favor and affection. On the contrary, many of those pure patriots who stood for the firm advocates of its principles did so at the expense of their existing popularity. They felt that they had a higher duty to perform than to flatter the prejudices of the people or to subserve selfish, sectional, or local interests. Most of them went to their graves without the soothing consolation that their services and their sacrifices were duly appreciated. They were content to trust their characters and their conduct to the deliberate judgment of posterity.

"If upon a close survey of their labors, as developed in actual structure of the Constitution, we shall have reason to admire their wisdom and forecast, to preserve their profound love of liberty, and to trace their deep sense of the value of political responsibility, and their anxiety above all things to give perpetuity as well as energy to the republican institutions of their country, then indeed will our gratitude kindle into a holier reverence, and their memory will be cherished among those of the noblest benefactors of mankind."

I again assert that the danger of today is not in the loss of liberty by the use of force. It lies rather in the supine surrender of the rights of free men to a seductive, subversive program of paternalism which is gradually changing the form of our Government from a representative democracy to a bureaucratic state, mildly despotic in action, dangerously experimental in conception; a program in which human rights and property rights cease to rest on the firm foundation of established law, and come to depend upon the whims of a temporary majority.

No such crisis as now confronts us has confronted this country since the day Abraham Lincoln declared that our Nation could not endure half slave and half free.

The real issue, of course, is as to whether the Constitution shall be changed by the people as contemplated by its "horse and buggy" authors or by the whim or contrivance of an Executive or Congress. The safety and purity of a liberal democracy rests with the preservation of our unique constitutional process, the vital and integrated growth of the basic law through the spontaneous, deliberate, quiet, and express mandate of the people, without cunning short cuts or boisterous, "brain trust" bluffing. Woodrow Wilson once said, and it is true today, that "the Supreme Court is the refuge of liberal government."

In the matter of the change, the people must be consulted. The Constitution should not be changed by the Supreme Court. It should not be changed in Washington. It should be changed by the people, alone. You and I, our family, our friends—we, the people—in this country of ours are more important than our instrument, government. Government should be made to serve rather than dominate us. The state, which is man's own creation, exists for the sake of us, of our people, rather than as some would have us believe, that we exist for the sake of the state.

The people made the Constitution, the people can unmake it if they see fit; they can create, so also they can destroy; but I insist that the creation, the destruction, or the alteration or amendment must be the work of the people. It must be an expression of the will of a steadfast and decisive majority which has had ample time for full consideration of all the destruction or alteration or amendment does involve.

So besides the questions of the seizing and the crippling of the Supreme Court and the maintenance or destruction of the Constitution of the United States, all other questions of law and policies sink into utter insignificance. In its presence party lines should disappear, all sectional differences melt away like the early mists of dawn before the rising sun. The Constitution is our fundamental law. Upon its provisions rests the entire fabric of our institutions. It has disappointed the expectation of those who opposed it, convinced those who doubted, and won a success beyond the most glowing hopes of those who put their faith in it.

The Constitution of the United States still is the supreme law of the land. The American public will see to it that neither Congress, nor the President, on any plea of emergency, however disingenuous, may ever suspend its provisions in any particular, at any place, at any time, or anywhere.

Low-Cost Housing in Washington

EXTENSION OF REMARKS

OF

HON. ALFRED F. BEITER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 15, 1937

Mr. BEITER. Mr. Speaker, while low-cost housing has been but little developed in the United States, in several countries of Europe cooperative housing societies form an important phase of the modern community. Here the cooperative housing program has been best developed in New York City. In most instances where housing projects on a cooperative basis have been established in this country, the property consists of a single apartment building which the association has either erected or bought already constructed and which is managed in the interests of the members. In one or two cases the property consists of a group of buildings.

In order to be truly cooperative there should be genuine democracy; membership should be voluntary and form a group of persons with common interests, each possessing the right to vote on problems affecting their proprietary share.

The proposals contained in my bill, H. R. 3165, which I recently introduced in Congress, incorporate just these things. The bill does not grant title to any individual. The members of the housing association merely own shares in the association representing the value of the apartment or dwelling occupied. The only evidence of ownership consists of a certificate of stock and a permanent lease on the apartment occupied. Legal ownership of the property is vested in the association as a whole. A member desiring to withdraw from the association can turn in his certificate of stock and receive the amount he has paid in on shares after deductions, if any, have been made because of damages to property. In this way speculation and profit making are prevented. The project is not meant to be a speculative or investment project.

Fixed charges, such as interest on capital, bonds, and mortgages, depreciation, amortization, etc., and operating

expenses, are met by a monthly tax or cost to the tenant members.

The rates assigned to these units can be kept to a minimum due to the fact that the large items, which are usually included in a project of this kind, such as profit to owner and income taxes on the investment, allowance for vacancies, cost of tenant turn-over, and so forth, are necessarily eliminated from the expense budget. Another economy item is the spreading of low interest and amortization payments over a period of 40 years.

In using the sum of $5,500,000 (the maximum provided in my bill), based on interest at 4 percent per annum, liquidation can be effected in about 40 years.

The advantages in this proposal are that members live in permanence and security in homes which they obtain for a smaller investment and at a fairer cost than similar homes bought or rented for profit. Large salaries paid to promoters, landlords, and agents are eliminated. Instead of the rentals steadily increasing, the monthly charges decrease each year. Thus, the occupant of an apartment who pays $50 per month the first year may estimate that at the end of 20 years when loans are paid, the carrying charge will be approximately $22.50 per month.

When an occupant withdraws from the association, his shares must be offered to the association only at the price he paid for them. The shares are then bought back by the association at par value less any amount owing for nonpayment of monthly charges or damages to the property.

Contrary to published reports, my proposal is not a haven for Members of Congress only. Secretaries and their families, legislative employees and their families, and others would be granted the privilege of renting the facilities offered therein. In fact, any person who finds it necessary to reside in Washington during a session of Congress is eligible for an apartment under the terms of the act.

At present, these people are all subject to the exhorbitant rental demands of a clique of real-estate operators in Washington. In this city, more than anywhere else, the rental rates are in most cases far beyond the ability of the tenant to pay. Land values, building costs, and incomes in Washington do not warrant the rents demanded. There is a great need in this city for comfortable living accommodations at lower rentals than commercial enterprise is willing to provide.

Washingtonians will recall that some 16 years ago refrigerators were installed in a great many apartment buildings controlled by these rent pirates and rents were increased $2.50 per month. A careful examination of rent receipts will disclose that Washingtonians are still paying the $2.50 per month additional rent for refrigerators that have been paid for many times over. Sixteen years after these refrigerators were installed rentals still are $77.50, $82.50, $87.50, and so forth. In other words, the renting populace of Washington has paid approximately $640 for $150 ice boxes.

If a tenant member, under the terms of my proposed act, finds it necessary to sublet his dwelling, he may do so provided the new tenant is approved by the board of directors. The member remains responsible to the association for payment of the fixed monthly charges. Such subletting and rentals to nonmembers is not to be a regular policy, but is resorted to only to meet emergencies.

While I have suggested the area lying between Independence and Virginia Avenues and South Capitol and Seventh Streets in the southwest section and have stated it would be an ideal location for the project, being convenient for those employed on Capitol Hill, my bill does not prohibit the selection of any other site which may be found suitable and within reasonable distance of the United States Capitol.

A suggested plan and drawing for the proposed buildings have been published, but these are only tentative, and the bill does not provide for any certain type of architecture or building. Under the terms of the act a committee would be organized and authorized to study plans and sites for the proposed project.

Any proposed apartment development would contain various suggested set-ups, all of which would be subject to proper revision or change to meet the requirements of the committee.

One of the proposals which has had some consideration provides each tenant with electricity, light, and upkeep of the grounds, all included in the monthly rental. This suggested set-up would provide 560 suites of rooms with a total number of 1,876 rooms. Rentals per month would range from $45 for a furnished room and bath unit to $115 per month for an 11-room residence having all modern conveniences and equipment, including garage and grounds.

The purpose of this legislation is to fulfill the need for proper housing accommodations for persons who find it necessary to reside in Washington for only a part of the year and thereby are subject to even greater gouging on the part of real-estate operators than the all-year-round residents. I have given much thought not only to the problem as it affects Capitol Hill but to the need for decent living quarters for all residents of Washington at suitable rentals. I believe it would be well for the people here in the District to demand, through their citizens' organizations and federations, the establishment of a housing board to conduct surveys and supply statistical data on the rental situation and outline recommendations to Congress for a project based upon local need, earning capacity, and satisfactory living conditions. It might be that the need for increased wages for the lower income group of Federal employees would be lessened if the rentals they are forced to pay to grasping real-estate agents and landlords were more nearly comparable to that paid in other cities of the country. The high cost of living in Washington is due solely to the high cost of rentals. I hope that my legislation will provide a model housing project in the District of Columbia which will serve as a guide for similar projects in Washington and other communities throughout the Nation.

Character Loans for Flood Sufferers

EXTENSION OF REMARKS

OF

HON. EUGENE B. CROWE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 15, 1937

Mr. CROWE. Mr. Speaker, Senate bill 1439, in the amount of $20,000,000, to be known as a disaster loan corporation having for its chief function the making of character loans to stricken people in the Ohio Valley flood, is not only meritorious but humane. In my opinion this loan should have been in an amount of $30,000,000 to $40,000,000; however, if $20,000,000 proves not to be sufficient, Members of the House and Senate will no doubt come back for an additional appropriation for this most worthy cause.

Any complaints of this organization with the weak cry of its being a holding company or any other complaints that were made concerning it were entirely beside the point, and I believe that if Members who opposed this legislation on the floor would have had in their district a city covered with water from 70 percent to 99 percent such as Lawrenceburg, Aurora, Rising Sun, Patriot, Enterprise, Madison, Utica, and the city of Jeffersonville in the State of Indiana, that there would not have been a complaint by a single Member in the House. Particularly in those cities both the business and residence districts were flooded with water from 10 to 30 feet in depth. In many instances the home owners who all in the world they had was a home, saw it almost completely ruined, if not entirely ruined or washed away. Many of them now, good, honest people, are left with only their honor and their determination to recoup their losses and to start life anew. Twenty million dollars, in my opinion,

will not be nearly a sufficient amount to take care of this group of people who cannot finance themselves and who cannot find credit under the regular established banking credit of the country, but $20,000,000 will help some, and it is hoped, will be sufficient; but if not, I for one will be back asking for an additional and sufficient sum to do the job as soon as it can be determined how much money will be required.

While this money will be handled by the Reconstruction Finance Corporation, which Corporation does business in a banking, matter-of-fact sort of way, nevertheless, this $20,000,000, it is expressly understood, will be loaned wholly and solely as character loans and to those individuals who do not have bank credit facilities at their command.

Therefore, it is hoped and believed that it will be so administered that it will reach the hands of those to which the House and Senate intended it to go and particularly as the group of which I have acted as a member and secretary, known as the Special Flood Relief Committee, desires it to be loaned.

The Supreme Court

EXTENSION OF REMARKS
OF
HON. FRANCIS H. CASE
OF SOUTH DAKOTA
IN THE HOUSE OF REPRESENTATIVES

Monday, February 15, 1937

Mr. CASE of South Dakota. Mr. Speaker, certainly I favor steps that will improve the courts, but I am squarely against packing the Supreme Court by any man.

The President's proposal is not merely to change umpires but to make the judges rubber stamps for the Presidency. That is taking power from the people without their consent. If this can be done now, it can be done again, and every President who has a subservient Congress could make or remake courts to carry out his personal orders. There is no tyranny so complete as that which commands the courts.

The Supreme Court should always be a refuge for time-tested principles of justice and freedom. Judges may not be perfect, but a hand-picked court would never be free from suspicion. It is not reform, it is not progress to destroy the independence of the judiciary. No one man, the present Executive or any other, should ever control the court of last resort.

The Sumners' proposal recently approved by the House is an example of sound reform. It gives Supreme Court Justices the same right to retire that other Federal judges have, but does not coerce them. This came up 2 years ago with the endorsement of the American Bar Association, but was defeated. Certainly it is not a partisan issue. I voted for it, as did 20 other Republicans and many Democrats. The White House became alarmed, we are told, and asked for time before a vote was taken on Mr. SUMNERS' other proposal, which aims to speed up Justice Department action in lower court cases involving constitutionality. Any change in the number of judges or any limit on tenure should go to the people.

The country is making clear that when it voted another term for the President it did not mean to make him a commander of rubber stamps. I hope that this attitude will have a helpful effect in the consideration of other legislation.

In this connection it is interesting to read the prophetic words of James Bryce in his great work, The American Commonwealth, published 40 years ago. Mr. Bryce said:

> The fathers of the Constitution studied nothing more than to secure the complete independence of the judiciary. The President was not permitted to remove the judges nor Congress to diminish their salaries. One thing only was either forgotten or deemed undesirable, because highly inconvenient to determine—the number of Judges in the Supreme Court. Here was a weak point, a joint in the Court's armor through which a weapon might some day penetrate.

Then he supposes the very thing that we have seen happen. The Supreme Court holds that some pet act violates or exceeds the powers given the President or Congress by the people. The President and Congress then conspire to increase the size of the Court. Mr. Bryce pictures exactly what many now fear:

> The President appoints to the new justiceships men who are pledged to hold the former statute constitutional. The Senate confirms the appointments. Another case involving the validity of the disputed statute is brought up to the Court. The statute is held valid. The security provided for the protection of the Constitution is gone like the morning mist.

Then Mr. Bryce puts this question:

> What prevents such assaults which, however immoral in substance would be perfectly legal in form?

And he answers:

> Not the mechanism of the Government, for all its checks have been evaded. Not the conscience of the Congress and President, for heated combatants seldom shrink from justifying the means by the end. Nothing but the fear of the people, whose good sense and attachment to the great principles of the Constitution may generally be relied upon to condemn such a perversion of its forms. To the people we come sooner or later. It is upon their wisdom and self-restraint that the stability of government will, in the last resort, depend.

This is the time for Americans to ponder the words engraved on the Department of Justice Building in Washington:

> No free government can survive that is not based on the supremacy of law.

Retirement of Supreme Court Justices at Full Salary

EXTENSION OF REMARKS
OF
HON. GLENN GRISWOLD
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1937

Mr. GRISWOLD. Mr. Speaker, my position on this bill to retire Supreme Court Justices with full salary of $20,000 at the age of 70 after 10 years' service has nothing whatsoever to do with my position on the President's proposal to reorganize the judiciary. The two matters are entirely different. This bill was up for passage before the House in March 1935. It was then known as the Sumners bill and officially designated as H. R. 5161. At that time a large majority of the House membership voted against it, and the bill did not pass. I myself voted against it. My vote now is the same as before.

It has been argued here that this bill providing a full salary of $20,000 a year free from Federal income tax will be an "incentive" to the Justices to retire. The Supreme Court has always interpreted to us the intent of Federal statutes and the Constitution. Time after time they have held it their right to plumb the minds of legislators, living and dead, to determine the intent of the legislators. For this purpose they have read and studied the debates when legislation was passed and quoted from the debates to prove their point in their decisions. I do not object to this procedure in arriving at a conclusion. I approve it. But I say this: That if the Justices will apply their own doctrine of determining intent to their own retirement case as they do to other litigants, then they will know that it was the intent of the Congress when the existing law retiring Justices at the age of 70 was passed that the Justices retire at that age. The Supreme Court Justices should either observe the intent of the law themselves as the intent applies to them or not expect others to observe the intent of law. Above all, a man who inflicts

his judgments on others who have no recourse should apply the same rules to himself. We have a right to expect that from men who occupy the high place of a Justice in our Nation.

The old law fixes 70 years as a retirement age. This new bill does not force their retirement at 70 any more than the old law did. It merely offers an "incentive" of $20,000 a year free from tax to the Justices if they comply with the intent of the present law. If any Justice of the Supreme Court should accept the bait offered him by this new law and retire merely for the sake of the dollars involved, then he by his very act invites the disrespect of the American people because of his motive. By this new law you place the Justices in the embarrassing position of having to rest under the suspicion of retiring for mere pecuniary gain, even when the desire to retire is prompted by legitimate reasons. It would seem to me that with men of integrity you defeat by this bill the very purpose which you avow.

Under the general law every other Federal employee is required to spend at least 30 years in the service of the Government before retirement. Then the maximum he can receive is two-thirds of his salary. In some instances he receives less than one-half of it. The man or woman in the lower-paid brackets receives two-thirds or less and pays income tax on the amount received. Had the Johnson amendment been accepted the Justices would have been placed on the same basis so far as the tax is concerned. By the terms of this bill the employee is penalized for devoting a lifetime at low pay to the Government while the Justice of the Supreme Court is rewarded because he devoted only a few years at a salary per year equal, in some instances, to the amount the others received for 20 years' service.

I cannot, I will not, be a party to such discriminatory legislation. If the personnel of the Supreme Court should be changed, then change it by an outright vote, but do not try to do it indirectly as this bill tries to do it. It is beneath the dignity of the American people to try to influence a Justice of the Supreme Court with a monetary "incentive", and it should be beneath the dignity of a Justice to accept it.

The Case for Low-Cost Housing and Slum Clearance

EXTENSION OF REMARKS

OF

HON. HENRY ELLENBOGEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1937

RADIO ADDRESS BY HON. HENRY ELLENBOGEN, OF PENNSYLVANIA, ON FEBRUARY 13, 1937

Mr. ELLENBOGEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech delivered by me from Philadelphia, Pa., Saturday, February 13, 1937, at 2:50 p. m., over a national hook-up of the Columbia Broadcasting System, sponsored by the Philadelphia National Home Show:

Ladies and gentlemen, it is a happy circumstance that I am speaking from Philadelphia, the home of the Carl Mackley Houses, P. W. A. Housing Project No. 1. I want to thank the committee sponsoring the Philadelphia National Home Show and the Columbia Broadcasting System for giving me the opportunity of presenting the case for low-cost housing.

THE SITUATION REQUIRES GOVERNMENT ACTION

The United States is faced with a definite problem which we must meet. We are faced with facts—cold hard facts—not with theories. Here is the problem, here are the facts:

SOCIAL EVILS OF SLUM AREAS

First. One-third of the population of the United States lives in slums or blighted areas, under conditions which cause juvenile delinquency, crime, disease, insanity, and even death by fire in old tenement houses.

SLUM AREAS A FINANCIAL BURDEN

Second. Aside from the physical and moral deterioration which they cause, the slums and blighted areas are a great financial expense to every city in the United States, large or small. The expenditures there for fire and police protection, for street and sewerage facilities, for hospital and other municipal services exceed every year by millions of dollars the income which these cities receive as taxes from these areas.

Third. Even at the present reduced rate, public relief agencies, State or Federal, pay out millions of dollars in rent allowances to families on relief. In Pennsylvania, for instance, the State still pays $200,000 per week—$10,500,000 a year—for rent allowance. This is confined to families on State relief rolls; it does not include families on W. P. A.

PRIVATE CONSTRUCTION TOO EXPENSIVE

Fourth. In private-building construction, which must be carried on at a profit, the cost of construction for decent housing demands rents which approach, and in many cases exceed, $15 per room per month—much more than families of low income, or more than one-third of the population, are able to pay.

Fifth. Private enterprise, even if aided by Government loans at 4-percent interest, as was done in the case of limited-dividend corporations, can only help a small part of the lower middle class. Their cost of building is far too high to accommodate the lower-income classes. Limited-dividend housing developments carried on during the last few years in the State of New York, aided by Government loans at 4-percent interest, show an average rental of $11.30 per room per month—double the price which low-income families can afford to pay.

Sixth. Families of low income which constitute one-third of the United States cannot pay more than five or six dollars per room per month inclusive of certain utilities, such as light and heat.

CASE FOR SUBSIDIZED HOUSING UNDENIABLE

These are some of the outstanding facts. They show conclusively that without public subsidies we cannot have decent, safe, and sanitary homes for families of low income. No real-estate man, no banker, no man in public life, who has looked into the facts, can deny that we must have public subsidies in order to wipe out the shameful slums and construct decent homes for low-income families.

ACUTE HOUSING SHORTAGE IN UNITED STATES

Let me give you some more facts to round out the picture with which we are faced today.

Seventh. We have today a definite housing shortage in the United States. Conservatively estimated, we must build at least 10,000,000 new homes during the next 10 years—1,000,000 new homes every year.

UNEMPLOYMENT IN CONSTRUCTION INDUSTRY

Eighth. Unemployment is more widespread in the building industry than in any other. Of those who were employed in 1929 directly on the construction site, 1,000,000 (to be exact 975,000) men are still unemployed. In the manufacture of building material the unemployed total 300,000. The increased population of today demands an additional 290,000 to be employed in those industries. If we add affiliated industries we find between two and two and one-half million unemployed in building and allied industries. These figures are as of October 1936, a month which gives a fair average picture for the building industry.

HOUSING SHORTAGE

Ninth. During the 10 years from 1920 to 1929 we built on an average 541,760 nonfarm dwellings in the United States. Last year, 1936, we built 216,400, or only 40 percent of the 10-year average. The construction of dwellings is still only 40 percent of normal. Thus we are faced with a tremendous housing shortage on one hand and tremendous unemployment in the building industry on the other hand, a paradoxical situation.

WE MUST PASS HOUSING LEGISLATION

The solution seems simple. Let us pass legislation which will enable these unemployed building workers to construct these much-needed homes.

If we do that on a large enough scale we will not only wipe out the housing shortage and give employment to hundreds of thousands of people but we will bring definitely into the recovery movement, the one major industry which is still lagging behind—the building industry.

COOPERATION BETWEEN FEDERAL, STATE, AND LOCAL GOVERNMENTS NEEDED

We must pass Federal, State, and local legislation that will enable the construction of new homes for families of low incomes on vacant land, and that will gradually eliminate slums and blighted areas. The Federal Government, the States, the cities, and the towns must all play their part in this great effort to rehouse America and to end unemployment. The demand for housing must come from the local communities. The operation of housing projects must remain in the local communities. The general supervision as to standards should come from the State capitols and from Washington.

The kind of housing any community will get will depend upon its particular need and likes and upon the intelligent and civic spirit of its own citizens.

THE ELLENBOGEN HOUSING BILL AS A SOLUTION

I am not advocating a paternalistic or centralized program; to the contrary, I am advocating decentralization of all housing activities.

I submit that the Ellenbogen bill for the construction of low-cost housing and slum clearance is the solution of the problem as far as the Federal Government is concerned. This bill sets up the United States Housing Authority, an independent corporation wholly owned by the Government of the United States. The bill appropriates $200,000,000 to be paid out over a period of 3½ years to local housing authorities as subsidies. These subsidies must not in any case exceed 45 percent of the capital outlay for construction and land acquisition. The United States Housing Authority is also given the power to issue over a period of 3 years $450,000,000 in bonds, guaranteed by the Government, in order to obtain the fund for loans to be extended to local housing authorities. This money, of course, will be repaid and will not be a loss to the Government.

The Authority is further charged with the duty of giving expert assistance and guidance to the local housing authorities.

NO COMPETITION WITH PRIVATE INDUSTRY

There will be no competition with private capital under the terms of my bill, because the renting of homes will be definitely limited to families of low income for whom private industry cannot build. Private capital, however, is expected to participate in the financing of low-cost housing projects at low rates of interest—rates of interest which are made possible by the Government guarantee of these obligations.

CONGRESS WILL ACT AT THIS SESSION

I am certain that the Congress will pass the Ellenbogen housing bill, which I am sponsoring, or similar legislation, at this session of Congress, but that alone will not build the houses which we need. The Federal bill will be enabling legislation. Washington will provide the means and the money for those States and those cities which will have the initiative and the enterprise to construct low-cost housing projects.

STATE HOUSING LEGISLATION NEEDED

There are a few States that have passed the necessary legislation permitting their cities and towns to act. In my own State of Pennsylvania four bills have just been introduced for that purpose. They are backed by Gov. George H. Earle, always a pioneer for progressive legislation, and I am confident that they will pass.

I hope that the legislatures of the other States in the Union will do likewise.

LET US STOP SUBSIDIZING SLUMS

Ladies and gentlemen, the cities in which you live spend millions of dollars to subsidize their slums. They are spending millions of dollars to continue conditions which undermine the health and break down the morale of millions of our people. Let us stop this disgraceful spectacle. Let us stop the expenditure of public funds for slums. Instead, let us use the money to build healthy, decent, and sanitary homes for families of low incomes in the United States.

Make your voice and your influence felt so that we may go forward in improving housing conditions in the United States.

Let Washington pass the Ellenbogen bill or similar legislation, let the States do their part, and we will soon have decent housing for low-income families, sanitary homes on spacious grounds; homes full of light, air, and sunshine; homes with the promise of a happier life.

Mandatory Neutrality Legislation

EXTENSION OF REMARKS

OF

HON. HAMILTON FISH

OF NEW YORK

IN THE HOUSE OF REFRESENTATIVES

Tuesday, February 16, 1937

RADIO ADDRESS BY HON. HAMILTON FISH, OF NEW YORK ON FEBRUARY 9, 1937

Mr. FISH. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following speech I delivered over the Mutual Broadcasting System Tuesday evening, February 9, 1937:

I propose to speak this evening on the peace policy of the United States, and what price neutrality. The American people love peace and hate war, and covet no other nation's territory. All we ask as a nation is to be left alone to pursue the paths of peace and progress, having nothing but friendship and good will in our hearts toward the rest of the world. Without being sentimental, the American people approve the well-known Biblical saying of "Peace on earth, good will toward men." The question arises, however, What will be the policy of America in case of another world war?

Unfortunately, the world is filled with rumors of war and predictions are freely made that a world war is in the making and may break out within a year. It is only too true that you can almost hear the beating of the wings of the angel of death this evening as she hovers over Spain, France, Italy, Germany, Soviet Russia, China, and Japan. The savagery of the civil war in Spain exceeds anything that has occurred in warfare since the Duke of Alva's blood purge of the brave and stubborn Dutch over 300 years ago but on a much more colossal scale. Admiral Grayson, head of the American Red Cross, told me a short time ago that he estimated from the reports he received on a recent visit to Europe that within the first 6 months of the fighting 500,000 people had lost their lives in Spain. I believe this is a fair estimate, as the lowest I have seen is 250,000, and the highest 1,000,000.

Far more Spaniards have been slaughtered in 6 months than the combined losses of the North and South after 4 years of our Civil War. Why? Because modern weapons are far more destructive—machine guns, hand grenades, light and heavy artillery using high explosives, and tanks and airplanes. All these new implements of war have been turned loose against both the enemy soldiers in the field and civilians in the cities, including women and children.

War has reverted to barbarism, with both sides killing their prisoners and mowing down suspected civilians by the thousands. The very horror of the Spanish civil war should cause people to unite and cry out for peace all over the world. The tragedy of it is that it only compels nations to add to their already overburdened armaments and instead of promoting peace actually spreads hatred and germs of war.

What should be the American policy? I can only speak for myself, as one who has for 16 years served on the Committee on Foreign Affairs in the House of Representatives, and to that extent the spokesman of my party on international issues. First, if the old nations of the world insist on arming to the teeth and going to war, it is their war and not ours.

We are prepared to spend millions for defense but not one dollar to send American soldiers to foreign lands to fight other people's battles.

We are opposed to all entangling alliances, entrance into the League of Nations, war sanctions, and commitments. We propose to avoid taking part in all ancient blood feuds and boundary disputes, or "picking the chestnuts out of the fire" for foreign nations. Our policy is and must be to mind our own business, stay at home, and try to solve our own problems for the best interest of all the American people. We stand ready at all times to cooperate with other nations to reduce armaments and limit and curb war as far as it is humanly possible. We have no ulterior, selfish, greedy, or imperialistic aims, and would not accept an inch of territory if given to us on a gold platter.

I can conceive of no valid reason for the United States to become involved in war, unless attacked, if we are ready to make the necessary sacrifice of war profits and blood money to assure the maintenance of peace.

The preservation of peace should be the continuous policy of our country. There are many thinking people who sincerely believe that another world war is inevitable and that we cannot escape being drawn into it. I do not agree with either the logic or the reasoning of such arguments. In the World War it is well to remember that Norway, Sweden, Denmark, Holland, Switzerland, and Spain all kept out, although much nearer the war zones than we were. We became involved because we insisted on adhering to the ancient principles of international law governing the freedom of the seas, neutral ships, and neutral cargoes. We insisted on our rights to send our ships and cargoes into the war zones for the sake of profits. The attack by German submarines without warning followed, our rights were violated, and our honor impugned, and war was forced on us against our will.

The question is now raised, How can we keep out in case of another world war? My answer is, What price neutrality? Are we willing to sacrifice a large share of the war profits to stay out? If we are—and I favor such a course—we can easily keep out. I would not exchange the life of an American soldier for all the blood money and war profits combined.

I am in favor of mandatory legislation. Make permanent the embargo on arms, munitions, and implements of war to belligerent nations that expires next May and other features in the bill prohibiting the loaning of money or credit or traveling of American citizens in the war zones. But they should be made mandatory.

Both the President and Secretary of State Hull are internationalists and former supporters of the League of Nations. I am unalterably opposed to giving either one unnecessary discretionary powers to entangle us in the League or involve us in European disputes.

I am also opposed to the Congress delegating its constitutional power to declare war to the President, whether he is a Democrat or a Republican. He already has vast power over foreign affairs through appointment of envoys and missions, calling conferences, negotiating treaties and as Commander in Chief of the Army and the Navy.

I am opposed to the McReynolds bill, giving additional and enormous discretionary power to the President in the pending neutrality bill. We should give the President a minimum amount of discretionary power, as it is generally passed on to subordinates in the State Department who love to have their finger in

the foreign pie and are more apt to involve us in war than to drag out a plum.

The Congress should prescribe the rules and regulations by law, and not leave them to the State Department, which enjoys nothing better than meddling in the affairs of foreign nations and making commitments for us that might involve us or even eventuate in war.

Let the Congress write a mandatory neutrality law without evasion and state exactly what it means and let the penalties for noncompliance be severe, with heavy jail sentences. Let us not mince words and make known that the Congress, carrying out the wishes of the American people for peace, has written a mandatory bill that deliberately sacrifices all war profits on armaments and prohibits American ships from carrying cargoes in the war zones and to belligerents and American citizens from traveling in war zones except at their own risk.

The Democratic neutrality bills both in the House and the Senate might be justly termed "legislation of, by, and for discretion through the President." Why delegate any additional power to a man already burdened and who must pass it on to subordinates in the State Department. Congress, instead of delegating more power to the Chief Executive, ought to start taking back some, as he has more than he can possibly handle except through bureaus and other agencies.

I propose the Congress write into the neutrality bill that if belligerent nations want to buy from us they must send their own ships to our ports, pay in cash, and transport the cargoes at their own risk. We will sell them all they can buy of anything produced in America except arms, munitions, and implements of war. Why not sell all the foodstuffs, cotton, copper, oil, coal, and other raw materials at the risk of the buyer?

We are willing, for the sake of peace and humanity, not to sell munitions of war, but as long as other nations assume the risk of transport I am in favor of selling every commodity not listed as arms, munitions, and implements of war. I never did have any sympathy with selling weapons of destruction to kill people with whom we are at peace and have no quarrel for the sake of blood money. If we are to have a war in the future, it must be in defense of the United States and not in defense of war profiteers, munitions makers, or of any foreign country.

I do not believe that the administration can jam through the discretionary neutrality bills supported by the President and the State Department if the people back home know the issues and make known their views. One of the few defeats the President encountered in the last Congress was his failure to secure the right to determine the aggressor nation, which would be an unneutral and hostile act and virtually an act of war. The administration for the time being has abandoned trying to force Congress to grant such a dangerous power to the President or to the State Department. I am inclined to believe that the temper of the Congress is to refuse to delegate its war powers through discretionary legislation to the President.

Let the Congress write the neutrality law, which it is more competent to do than either the President or the State Department. The word "mandatory" is superfluous, as all acts of Congress are mandatory. The only discretionary power that should be properly given to the President is to specify the list of actual arms, munitions, and implements of war that are prohibited from being sold to belligerent nations or for transshipment to them.

In writing a permanent neutrality bill, let us write one that will keep us out of war, and not through delegation of discretionary powers involve us in one through the meddling by the State Department or through the unquenchable desire for profit.

I favor and urge the passage of the American Legion Universal Service Act, drafting wealth, industry, labor, and veterans on an equal basis, in case of a future war, and thereby taking the profit out of war, and imposing heavy antiwar profits.

I have introduced a House resolution (H. J. Res. 179) requesting the President to call a peace conference to be held in the United States, to show our willingness to cooperate for world peace, and to consider a practical method of carrying out the underlying purposes of the Briand-Kellogg Pact, to discuss the causes and cure of war, and to conclude new international agreements defining neutral rights and duties toward insuring peace, justice, and equality.

If this resolution on mandatory neutrality meets with your approval I suggest that you communicate with your Representative in Congress.

I do not like to inject a partisan note, but the following resolution presented by me and adopted at a recent conference of Republican Members of the House of Representatives speaks for itself, as showing the high-handed and autocratic attitude of the President:

"*Resolved, by the Republican conference of the House of Representatives*, That the action of President Roosevelt in failing to appoint a single delegate representing the minority party to the Inter-American Peace Conference held recently at Buenos Aires is contrary to traditional American custom and well-established practice of affording representation to the minority party on every important delegation or mission appointed by the Chief Executive to attend foreign conferences involving the peace of the United States; and be it further

"*Resolved*, That the action of the President in utterly ignoring the rights of the minority party is to be deplored and condemned as being a violation of the customary usages and practice of American diplomacy from the time of George Washington, and tending to destroy the nonpartisan character of such international conferences, and thereby injecting a partisan spirit and making international issues henceforth a political football to the detriment of the interests and welfare of the American people."

I feel very strongly that this departure from American traditions is typical of President Roosevelt and highly dangerous and will return to plague him and all succeeding administrations until the rights of the minority party are recognized and restored at all future peace conferences in which we participate.

In conclusion, I want to reiterate that I do not want to see the United States become the symbol of arms and munitions for sake of war profits or the potential slaughterhouse of the world. The American people want peace, and we propose, through mandatory neutrality legislation, to help maintain and preserve peace with all nations even if we must relinquish some war profits in order to keep out of war.

A Challenge to Congress

EXTENSION OF REMARKS

OF

HON. FRANCK R. HAVENNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1937

Mr. HAVENNER. Mr. Speaker, on March 9, 1937, a proposal to authorize an issue of revenue bonds for the acquisition of a municipal electric distribution system will be submitted to the voters of the city and county of San Francisco.

The opponents of this proposal have raised an issue which challenges the attention of the Congress.

More than two decades ago Congress passed an act granting to the city and county of San Francisco the right to develop a municipal water supply in Hetch Hetchy Valley in the Yosemite National Park of California. This act was introduced and sponsored by the late John E. Raker, then Representative from the First Congressional District of California, and is commonly known as the Raker Act.

The Raker Act required the city and county of San Francisco to develop hydroelectric energy in connection with the Hetch Hetchy water-supply system, and specifically provided that none of the electric energy so developed should ever be let or sold to any private individual or corporation for resale.

The city and county of San Francisco has expended nearly a hundred and fifty million dollars in the development of the Hetch Hetchy water and power system. It has constructed what is known as the Moccasin Creek power-house on the line of the Hetch Hetchy aqueduct, and for the past 12 years has been engaged in the production of hydroelectric energy in this power plant. Ever since this power-house was completed and put into operation its entire output of electric energy has been delivered to the Pacific Gas & Electric Co., a privately owned public utility corporation, under the terms of a so-called agency contract, whereby the Pacific Gas & Electric Co. purports to act as the agent of the city and county of San Francisco in the distribution of this electric energy to the people of San Francisco.

The Raker Act designates the Secretary of the Interior as the Federal officer responsible for the proper fulfillment of the terms and conditions of the Hetch Hetchy grant. Every Secretary of the Interior who has held office since the Moccasin Creek power-house was put into operation has at least inferentially indicated to the officials of the city and county of San Francisco that he doubted whether the so-called agency contract with the Pacific Gas & Electric Co. was in compliance with the provisions of the Raker Act. In 1935 Hon. Harold L. Ickes, the present Secretary of the Interior, issued an official opinion holding that the delivery of the Hetch Hetchy electric energy to the Pacific Gas & Electric Co. under the terms of the so-called agency agreement constituted an outright sale of the electricity to a private corpora-

tion for resale in violation of the provisions of the Federal law. Secretary Ickes served notice upon the city and county of San Francisco that it must, within a reasonable period of time, make arrangements to dispose of its Hetch Hetchy electricity in accordance with the law.

In the summary of his official opinion Secretary Ickes said:

The legislative history of the Raker Act clearly shows that the purpose of section 6 was to prevent the water or power developed on the Hetch Hetchy project from ever falling into the hands of a private corporation or monopoly. From the facts it appears that the power developed on the Hetch Hetchy project has fallen into the hands of just such a corporation or monopoly.

The only practical way in which San Francisco can now legally dispose of its Hetch Hetchy electricity, in accordance with the ruling of the Secretary of the Interior, is to acquire a municipally owned distribution system and sell the electricity direct to its people.

This is the proposal which will be submitted to the voters of San Francisco at the municipal election on March 9, 1937.

The opponents of municipal distribution of electricity are urging the voters of San Francisco to defeat this proposal at the polls, and then make demand upon Congress for an amendment of the Raker Act which will legalize the sale of the Hetch Hetchy power to the private corporation. They are advising the people to pursue this defeatist policy, notwithstanding the fact that the carefully prepared estimates of the public utilities commission of San Francisco show that the proposed plan for municipal distribution will enable San Francisco to make an immediate reduction of 10 percent in its current rates for electricity, and earn an annual net profit of $4,000,000, as compared with the average annual income of $2,000,000, which the city and county now receives from the sale of electricity to the Pacific Gas & Electric Co.

I am bringing these facts to the attention of Congress now, so that if the costly and misleading propaganda now being broadcast by the enemies of municipal ownership and distribution of electricity should deceive the people of San Francisco into voting down the pending proposal, the Members may be familiar with the history and the background of the inevitable demand that the Hetch Hetchy grant be amended so as to permit the sale of this publicly developed electric energy to a private corporation.

National Defense

EXTENSION OF REMARKS

OF

HON. MATTHEW J. MERRITT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1937

RADIO ADDRESS BY HON. MATTHEW J. MERRITT, OF NEW YORK, ON FEBRUARY 14, 1937

Mr. MERRITT. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I recently delivered over the radio:

Ladies and gentlemen, all citizens of the United States and of the civilized world do not want war; in fact, the American people shudder at the very thought of war; but much as they are opposed to war, they do not propose to become the victims of unpreparedness. There are too many horrible examples in this changing world of ours to be lulled into the false security of safety to believe that the time has arrived when we can discard our Army and sink our naval fleets.

We know too well that ambitious rulers, greedy governments, munition makers, and would-be profiteers in world trade and commerce are the prime instigators of war. When war actually comes they are to be found far behind the lines of action, safe in their homes thousands of miles from the danger zone, and gloating in their new wealth accumulated by the heroic sacrifices of others.

We should look with distrust and suspicion upon those who point to internationalism as a means of eliminating wars between nations; neither should we have patience with the individual who would scrap our machinery of defense and substitute in its place fantastic and untried theories of peace that are in direct conflict with the traditions and principles upon which this wonderful country of ours was founded.

We hold no illusions of permanent world peace, and appreciate full well that we can never reform the rest of the world; but, despite that, years that have passed our memories are still fresh when we were drawn into the great World War totally unprepared. Aware of what took place in the past and what is now transpiring in the rest of the world, the interest of the American people is again being revived for adequate sea power for America and the Navy's natural auxiliary to the American merchant marine. Most of us who are old enough remember those hectic war days when our own boys had to be transported on foreign-owned ships. That experience taught us that apart from men, money, materials, and war equipment supplied by America for that great conflict there was still one major need—ships. Ships to carry our men, ships to carry food, ships to carry the necessary war materials; in fact, we learned that the merchant marine in war demanded the utmost of consideration. We in America intend never again to be faced with such a problem. Our people are now aware that the building of an adequate merchant marine to support our Army and Navy in time of emergency is second to an adequate force of defense.

Many uninformed persons imagine that our battleships, destroyers, and submarines exist only to fight battles in fleet action, but they are wrong, for our ships and fleet can exert pressure without the necessity of even firing a gun. Many a would-be aggressor during the World War was scared off because of the knowledge that our merchant ships were protected by the guns of our Navy. These ships passed to and fro over the ocean on their lawful voyages.

Without armed ships to guard our troop ships and convey them to the war zone, a catastrophe too horrible to imagine would have happened. Yet history records show that only on a few occasions was it necessary to use guns for the protection of our troops, keeping in mind the tremendous ocean traffic that was necessary during the World War period. However, history also tells us that when it was necessary for American ships to use their guns, they did so with lasting and telling effectiveness. We all know that a prudent man will carry insurance to protect his property against loss or damage, the same as a well-managed city will protect its inhabitants by having a well-drilled police and fire department to prevent crime and conflagration, so it is just as reasonable for us to have an adequate Army, Navy, and merchant marine for defensive purposes as an insurance against national catastrophe.

Such preparedness in the past would have either prevented or shortened every war in the history of the United States. When the Revolutionary War was started we were not yet a nation and did not have any concrete military policy. Because of this lack of a definite plan, men were called out for a period of from 1 to 6 months, and at the expiration of their time were allowed to go home. As a result there was always an army disbanding and an army being recruited with raw men, who were untrained, unequipped, and undisciplined. This policy continued throughout the Revolutionary War, despite the fact that Gen. George Washington wrote to Congress in 1776 as follows:

"To bring men to be better and well acquainted with the duties of a soldier requires time. To bring them under proper discipline and subordination also requires time, but it is a work of great difficulty, and in this Army, where there is little distinction between officers and soldiers, requires an uncommon degree of attention. To expect, then, the same service from raw and undisciplined troops as from veteran soldiers is to expect what never did and never will happen. Men who are familiarized with danger meet it without shirking, whereas troops unused to service often apprehend danger where no danger is."

Thus said our great Washington, and his observations are as true today as they were then, when our great Republic was founded. As a result of the short-sighted policy then, the war lasted 6½ years, with a total of 400,000 American troops. However, the greatest number that Congress was able to raise any one year was 90,000 in the year of 1776. The British troops numbered far below that amount.

During the Revolutionary War we lost both Philadelphia and New York because of our inability to muster sufficient troops to protect the centers of population. We all remember the story of Valley Forge in 1776, when 8,000 of the Continental troops left bloody trails of red across the snow, caused by their bleeding feet. These men suffered the bitter cold of winter and had to huddle together to try and keep warm; yet a short 20 miles away, in Philadelphia, there was peace and plenty, warmth, food, and clothing and other comforts more than ample to take care of Washington's men. A well-organized plan at the beginning of the Revolutionary War calling for a thorough training of all men who would serve for the duration of the war—such plan would have made victory possible in half or quarter of the time. Congress at the conclusion of the war abolished the whole Army, except eight privates to guard military stores at West Point, and retained no officers above the rank of captain.

This country did not learn its lesson but maintained the same wasteful system during the War of 1812. We used 527,000 men during the 2-year duration of that war, and of this number about 400,000 were called for and served less than 6 months.

An experienced trained army of 35,000 men could have won the Revolutionary War, instead of the 400,000 troops that were being changed every 6 months, for the British force only totaled 16,500 men.

During the Florida-Creek war which lasted from 1835 to 1842, we used 6,000 men, and for want of a well-defined military policy our Nation of 17,000,000 people contended for 7 years to subdue 1,200 half-breeds of the Florida-Georgia border without accomplishing their forcible removal, which was the original and sole cause of the war.

In the Mexican War we had a large number of Regulars and Volunteers who were in the service long enough to become thoroughly trained, and as a result the American Army enjoyed an unbroken series of victories.

At the close of the year 1860 we presented to the world the sorry spectacle of a great nation nearly destitute of military forces. Our territory, extending for 3,000 miles from ocean to ocean, could only furnish two soldiers per mile. For protection west of the Mississippi we had but one soldier available for every 120 square miles.

The North and South started the Civil War on practically even terms insofar as available soldiers were concerned. If the Federal Government had had 20,000 regular troops available, there is no question that the Rebellion would never had taken place or would have been quickly suppressed and a peaceful means found to settle the differences between the North and the South. Instead millions of men were called to arms, thousands of lives unnecessarily sacrificed. Today, 80 years later, we are still paying the costs of our unpreparedness in 1860 in ways of pensions, interest on public debts, etc.

There is no question that a well-trained army of 300,000 to 400,000 men available in 1917 would have kept Germany in her place and we would not have been compelled to call over 4,000,000 men to arms, with the unnecessary resulting loss of lives.

One need not be an alarmist to admit that the world today is in an extremely unsettled and dangerous condition. When we see the warning signs abroad, such as rebellion among classes, the changing forms of government, leading to unrest and anxiety among the people, the betrayal and broken faith of the leaders, and economic condition, great care and wisdom in needed to avert international strife and conflict.

The peace of this Nation cannot be assured by a policy of faith and hope alone. We must build our armed forces—the Army, the Navy, Coast Guard, and merchant marine—not as a preparation for war but as a preparation against war. We must by the adoption of a clearly defined and comprehensive military policy protect our people and our possessions from the danger of becoming involved in foreign controversies. Our neutrality in the event of future wars can be guaranteed only if we have sufficient military and naval strength to discourage attack and invasion of our country. If we must declare war at some future date, victory can only be assured if we have armed strength to enforce our demands.

Lincoln's Birthday Address

EXTENSION OF REMARKS

OF

HON. EVERETT M. DIRKSEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1937

ADDRESS BY HON. EVERETT M. DIRKSEN, OF ILLINOIS, TO THE YOUNG REPUBLICANS OF ILLINOIS AT SPRINGFIELD, ILL., ON FEBRUARY 12, 1937

Mr. DIRKSEN. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following address which I made at Springfield, Ill., on February 12, 1937:

I esteem it a high privilege to come from the Nation's Capital to the capital city of this our native State and break with you the bread of fellowship, as we honor the memory of the immortal Lincoln.

We meet in that same city, where 76 years before, he took sad farewell from his neighbors and friends, implored Providence to give him strength as he approached the duties of the Presidency, and then proceeded to the Capital of this Nation, to assume the burden of directing the destinies of a land that was soon to be torn asunder with fratricidal strife.

We meet in a city that knew him so well and where the foundations of his career were laid.

We meet in a city to whence he was returned after he had been surrendered to the ages.

We meet in a city that has become a mecca for all the world, where young and old, rich and poor, great and humble, place their tribute upon the altar of his wisdom and humility. We feel here a profound gladness that he lived, that he ennobled all mankind, and that his inspiration shines on in a world where much remains to be done to bring peace and happiness and security to all men.

As I think of Abraham Lincoln's birth anniversary, there recurs to me the admonition of the Lord to Moses and Aaron after the Passover when he said to them, "And this day shall be unto you for a memorial." As his mental and moral stature grows with each succeeding generation, this day might well be a memorial to the people of all nations, for in him, as in no other man in the Christian era, do we perceive those attributes of charity, gentility, and humility which are so essential in the cause of human progress.

Were I to seek a text tonight, it would probably be taken from that inspiring letter which the Apostle Paul addressed to the Hebrews. Therein he commented upon the sacrifices made by Abel to gain righteousness and then said, "Being dead yet speaketh." How apt the thought for this occasion, for as no other man in the history of our land, Abraham Lincoln, being dead, yet speaketh to us who are the beneficiaries of his wisdom and his courage. His humility and common sense continue to speak in every crisis in our national life. Because he was timeless and placeless, because he loved peace and knew sorrow, because he knew no rancor or bitterness and sought only to reconcile, because he refrained from hate and malice and knew only charity, because he was patient and steady, each generation goes back to him for guidance and inspiration.

Tonight you and I, as young Republicans, who seek to render service in that same party which rallied to his standard, might well commune with the immortal Lincoln the better to orient our thinking and get a better sense of direction. Everywhere in the world the human spirit is disordered and filled with uncertainty. Democracies have toppled and people are in a state of bewilderment. What better than to turn to him who saved the people from themselves, who saw hate enthroned and hysteria rampant? His life is a deathless comfort for those who seek understanding and light.

He was our age as he graced the legislative halls of this great State and surely he has a message for the young men of his own party. He was our age in the days when he practiced law in this city and this State and brought his human counsel to the untangling of human affairs. He was our age when 90 years ago he sat in the Congress of the United States and helped fashion the legislative policies of the Nation. He was a young man's man and from him we seek a message of hope and guidance.

He would address the young Republicans of the Nation and he would address all young men of this Nation in the fashion in which the Apostle Paul counseled his younger colleague Timothy, when he said in his first letter, "Let no man despise thy youth." His own career is eloquent as a message to youth. At age 23 he found such evident pleasure in service and recited his own great elation as he was elected captain of a Volunteer company which saw service in the Black Hawk war. It was a beginning for a young man and from then on until he reached the age of 39 he had served three terms in the Illinois Legislature and one term in Congress. These were days of preparation for service. These were days of preparation for the great responsibilities to come. These were days when his thoughts were crystallizing into the convictions that were to anoint him as the savior of this Nation. Lincoln, a young man's man, being dead yet speaketh, and he speaks so particularly to the young men of this Nation who have an interest in the ultimate destiny of this democracy.

As Lincoln speaks does he indicate the direction for young men? He had but one direction. That direction was forward. Take thought of his clear and ringing affirmation of faith in the message which he addressed to the Congress in 1861 when the crisis was already impending. When there was bewilderment of spirit and confusion of thought on every hand he wrote, "Having chosen our course without guile and with a pure purpose, let us renew our trust in God and go forward with manly hearts." There is the direction he bids us take. Forward with manly hearts! What a message in an hour of uncertainty, and what a challenge, not only to the young Republicans but to all young men of this land.

Forward on what road, you ask? Forward on what road for the welfare of the Nation? Forward on what road for his party and our party? Forward to what? What troublesome questions these are as we contemplate the course of the Government and seek to shape a basic attitude toward that Government and its problems.

We envision a government with a national debt of $35,000,000,000, with every prospect that that debt will be materially increased during the next year. We contemplate an unbalanced Budget and the ominous rumblings of inflation as more borrowings only serve to expand the credit base and then ask, Is this the way?

We envision a government, which, after 4 years of vigorous effort and the exenditure of $10,000,000,000 to bring relief and inspire recovery, admits through its administrative officers that we still have seven or eight million jobless persons, and that we can expect a permanent jobless army of 5,000,000 of persons for whom some provision must be made, and we ask, "Can this be the way?"

We envision a government which devalued the dollar to 59 cents, which made it illegal for any of its citizens to possess more than $100 in gold and then abrogated the gold-redemption clause in all public and private contracts; a government which outlawed the use of gold except for the settlement of international balances in

bullion form, and then proceeded to bury most of its gold in a Kentucky vault surrounded by soldiers; a government which owns more than half of all the monetary gold in the world and is alarmed over the potentialities of inflation because of too much gold; a government with so much idle gold that it has been constrained to set up an inactive gold account in the Treasury of this country to prevent further accretions to our monetary credit base because of the dangers involved; and as we contemplate these vagaries of governmental finance and the uncertainties entertained by men who understand the intricacies of finance, we are constrained to ask, "Is this the way?"

We envision a government which courageously addressed itself to the banking problems in the dark days of 1933 and performed a splendid service in rehabilitating the banking structure of the country and reinfusing into frightened depositors a spirit of confidence. We find that banking structure so full of idle deposits that it has become necessary to raise the reserve requirements twice since the 16th of August 1936 to prevent further expansion of the credit base because of the speculative dangers involved; and then we respectfully inquire as to whether this is the way.

We envision billions of idle dollars and millions of idle hands, both of which are eager and willing to work. We wonder why these idle hands and idle dollars have not been brought together in common and productive enterprise, built upon a spirit of mutual confidence, and we ask, "Is this the way?"

We contemplate the inscription on the headstone that marks the last resting place of the A. A. A.—a monument to the philosophy of making prices higher by making commodities scarcer and then we learn that a new philosophy of abundance is to be followed which shall be carried out through a combination of soil-conservation benefits, and an ever normal granary plan, coupled with emergency crop-control powers, and then we ask, "Can this be the way?"

We see the unemployed in every hamlet, village, and city in our far-flung domain and then witness the continuation of a reciprocal-trade policy with foreign nations which proceeds on the theory that the American worker is best helped by promoting jobs for those in foreign countries by purchasing manufactured goods that are made with cheap labor under living standards that would be an outrage to the genius of the American worker, and we ask, "Can this be the way?"

We see a government devising new instruments of power with which to combat the ravages of the depression, and in setting up and manning these new agencies, it has all but destroyed the civil-service system for the selection of emergency personnel, and we ask, "Can this be the way?"

We envision a government which requested emergency powers, a request that was gladly granted by all parties in the common hope that these powers would serve to assuage the distress in the land; only to find that as the emergency fades there is a disposition to make these emergency powers permanent, and we might well ask, "Is this the way?"

We envision a Supreme Court clothed with all the power of a coordinate branch of the Government, hold up a warning hand and admonish the executive and legislative branches of the Government how far they may proceed under the people's own mandate as written in the Constitution; and then witness a sudden and sweeping proposal to enlarge the Court, and we ask, "Can this be the way?"

We examine the message of the President to the Congress in which is contained this significant sentence with respect to the proposed judicial reforms: "If these measures achieve their aim, we may be relieved of the necessity of considering any fundamental changes in the powers of the courts or the Constitution of our Government—changes which involve consequences so far reaching as to cause uncertainty as to the wisdom of such course." We read in this language the obvious purpose for the proposed reform as it applies to the highest tribunal in the land, and we are constrained to ask, "Is this the way?"

Truly these are strange days. Government is being revamped. Change clashes with tradition. A kind of returning prosperity is commingled with uncertainty. The people of this country seek assurance that we are on the right road. They seek assurance that what is being done is durable and will not at some future time imperil our democracy. Yet who will deny that in the hearts and minds of millions of our citizens, as they contemplate the policies and reforms of the present government, there remains a vestige of doubt as to whether this is the way to security, peace, prosperity, and abundance? Particularly is this true of those in the ranks of republicanism who fought the good fight, only to witness the devastating defeat of the party at the polls.

As members of that party whose standard the immortal Lincoln bore in another critical generation, we seek to interpret the forces of change that are abroad in the land today. We appreciate and must appreciate the emphatic way in which the electorate spoke on election day and defeated our own candidate by a majority of 11,000,000 votes. We are fully sensible of the fact that but 17 of the 96 Senators in the United States Senate and but 89 Members of the National House of Representatives today bear the party label of Lincoln. Not since the days when Benjamin Harrison sat in the White House have we had so small a representation in the House, and not since the days when Franklin Pierce was the Chief Executive have we had so small a proportion of Republicans in the United States Senate. We examine the roster of States and find that but 6 of the 48 are under Governors who bear the Republican label. We examine the complexion of the various legislatures and that of the city and county administrations throughout the land and observe a similar lack of Republican representation, and we as Republicans, and particularly as young Republicans, must find the answer to this sad state of our party. We are as much concerned with the general welfare of this country and its people as any other group or party in the land. We confess as deep and as abiding an interest in the fate of democratic government and in the preservation of the institutions of our country as any other class or party, and there devolves upon us the duty of making the Republican Party a vehicle of popular government.

So thorough and beyond all cavil was the defeat of our party in November of 1936 as to induce in the hearts and minds of many sincere and forthright members of our party a species of despair as to the future. Abraham Lincoln would put us to shame for such faint-heartedness. Not in the darkest hours of the Rebellion did he lose his faith or succumb to despair. Not once did he surrender to the philosophy of defeatism. In the midst of his trials he said: "I am driven to my knees over and over again because I have no other place to go." But there on his knees he sought and found the faith that drove back the forces of despair.

As we speculate upon the future of our party, as we seek solid ground, as we seek a party attitude upon the fundamental questions of the day that is in harmony with the popular will, we need the tenacious faith and the sincerity which marked Abraham Lincoln's course. To those who would seek to improve the future prospects of our party by changing the name, Lincoln would have said that changing the label would not change the spirit. To those who would aimlessly drift along in the hope that the forces of time and patience and accident might heal all sores and once more bring the party to high estate, Lincoln would have said that such a course is not worthy of the traditions of a party that has always stood for militancy and affirmative action. To those who would adopt some trial-and-error method of shaping new planks and writing new platforms in the hope of attracting votes, Lincoln would have said that it constituted a surrender to expediency. None of these would be worthy of the man whose memory we revere and whose name we invoke.

Since the days when Abraham Lincoln carried the Republican banner to victory and nurtured it to power and vigor, we have been invoking his blessing and reasserting our faith in his continuing leadership. The time has come to get right with Lincoln. In the interest of candor and sincerity it behooves us to get right with the sacred memory of Abraham Lincoln or forever cease using his name in vain, and I for one propose to follow his leadership. Then and only then shall we find the forward trail.

What we need more than ever before as we seek this road upon which to go forward with manly hearts is first of all a purposeful and sincere restatement of the whole scheme of government as he stated it in those immortal words at Gettysburg. We must first reaffirm our faith in the sovereignty of the people and mean it. That seems so elementary and yet so necessary. In the past there has been too much lip service to the principle that the people are sovereign and that the popular will is the law of the land. How can we expect to command the respect and the confidence of the people unless we state and restate as solemnly and as convincingly as we know how our faith in this representative democracy as a government of the people, for the people, and by the people. To the humblest farmer, to the humbliest artisan, to the greatest industrialist, we, as young Republicans, must carry this message. The record of November 3, 1936, is quite eloquent of the fact that there are many in the country who felt that we stand for a government of the few, by the few, and for the few. So long as that sentiment persists, whether rightly or wrongly, our party can make but haphazard progress. This is the people's government, and upon the rock of that political philosophy I for one shall take my stand.

We need something more than this philosophy as we seek the forward way. We need the Lincoln attributes of unselfishness and sincerity. It is not enough that we seek victory merely for the sake of victory unless we care to confess that we seek power. It is not enough that we seek the control of Government for the sake of control unless we care to confess that we seek spoils. Victory is worthless except as it makes for better and sounder government. Control is of little moment except as it provides an opportunity to shape the course of government in a way that best serves the welfare of the people and carries us along the forward road. Politics is something more than a game, and responsibility is something more than a plaything. The government of 130,000,000 people is a serious thing. It can be discharged only in a sincere and unselfish manner.

Armed with these great attributes which characterized Abraham Lincoln's actions and cloaked in his philosophy that this is a government of, by, and for the people, which of the many roads that lie ahead shall our party take? Which is the forward trail? Shall it be the Tory trail, the road of stand-pat reaction? If there be any who feel that Abraham Lincoln was not alert to the mutations of time and the verities of change, then let him read the ringing words that Lincoln wrote in the hectic days of 1862. To that same Congress of the United States, where it is my high

privilege to serve a constituency from the State of Lincoln, he incorporated these words in his message:

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, we must think anew and act anew. We must disenthrall ourselves, and then we shall save the country."

Do we need other counsel than this as we seek the forward trail for the Republican Party? As we contemplate a nation still held in the aftermath of a depression, a nation with disordered spirit, a nation still writhing in the throes of unemployment, a nation still filled with uncertainty as to its fiscal affairs, a nation still searching for a durable solution of the present farm problem and of even more aggravated farm problems to come, a nation seeking the road to industrial peace, a nation which seeks a way to accord to labor a greater share of the product of labor, the liberality of Abraham Lincoln and his capacity for embracing the forces of change, point the way. New action. New thinking. Meeting the need for change with temperateness and common sense. No slavish surrender to every capricious fancy and experimental scheme that is presented and yet a recognition of the fact that as conditions change, we as Republicans must adopt a liberal spirit that will keep in step with change. This rational liberalism, the liberalism of Abraham Lincoln, I conceive to be the first step on the forward road.

Lincoln's liberalism does not mean that we must outdeal the present administration in an effort to restore the Republican Party to the confidence of the people, for such a course would be the most transparent kind of opportunism. It does not mean that we must shape a course identical with that of the present administration, for that would be a cheap form of flattery. It does mean, however, that we must recognize new needs and new conditions and meet them with new action. It means an affirmative assurance to agriculture and to labor, to business and to industry, to the unemployed and to the aged that we clearly recognize the existence of a new social conscience and that by liberal action the Republican Party stands for social amelioration.

But as we follow the idealism of Lincoln in meeting the forces of change we must not be insensible to the fact that Abraham Lincoln had a proper regard for the impressive lessons of the past. He was not willing to sever all relationship with the thoughts and achievements of those who builded this Nation. He was not willing to believe that the beginning of wisdom was exclusively with his generation. As he addressed the destructionist radicals of his own day, he said:

"You are united in your determination to break with the past, but you are utterly divided among yourselves as to where you are going. You remind me of the little steamboat on the Sangamon River which had a boiler 3 feet long and a whistle 5 feet high and every time it whistled it stopped. It exhausted its power in noise."

As he rebuked those who would have him follow the Tory trail of reaction, so did he rebuke those who would have him follow the radical road that leads away from constitutional government. His address to Cooper Union Institute in the winter of 1860, only a year before the morning air was disturbed by ominous artillery fire upon Fort Sumter, he expressed a well-considered sentiment that is so apt in this hour of groping and uncertainty. On that occasion he said:

"I do not mean to say that we are bound to follow implicitly in whatever our fathers did. To do so would be to discard all the light of current experience, to reject all progress, all improvement. What I do say is that if we would supplant the opinions and policy of our fathers in any case, we should do so upon evidence so conclusive and argument so clear that even their great authority, fairly considered and weighed, cannot stand."

Here, then, is at once revealed to us a Lincoln who could discard the dogmas of the past as they failed in their adequacy for changing conditions and a Lincoln who cherished a decent reverence for tradition. Here is revealed a Lincoln who marched in the forward road of progress but who did not disdain the wisdom of the fathers. Here is revealed to us a Lincoln who was a rational liberal and who in the spirit of liberalism went forward with a manly heart.

To me that is the message of Abraham Lincoln to a country that is seeking solid ground and to a party that tasted the bitterness of overwhelming defeat. It is the message of Abraham Lincoln to a party that must be revitalized and brought into harmony with the basic tenets of a government of and by and for the people. It is the message of Lincoln to the young Republicans of the Nation who have the flexibility to meet changing conditions and the determination to preserve existing institutions until there appears a clear and unequivocal need for their abandonment. It points the forward way.

As we ponder the realistic problems of the moment and chart a course, the rational liberalism of Lincoln indicates to us that this Nation cannot continue half starved and half prosperous. It is the province of liberal government to see that all people share in prosperity. No liberal would confess that this country does not have the genius for securing more adequate pay for its workers and certainly no liberal will share the sentiment that we must expect to have 5,000,000 jobless persons who are willing and able to work. In the light of his humanity we must address ourselves within the framework of the Constitution to complete outlawry of child labor and the provision of maximum hours and minimum wages for the women of our country. As we reaffirm our faith in the people's government we can only conclude that these things should and must be done by amending the organic law instead of amending the Supreme Court.

His liberalism dictates that we can effect parity for the farmers of this country without regimentation or the destruction of food.

His liberalism dictates that we can provide for the needy and distressed and administer all necessary relief without making relief a sordid instrument of politics.

His liberalism dictates that we shun the shallow field of Government ownership because the true province of government is to do only that which people cannot do for themselves or which they cannot do so well.

His liberalism dictates that as we seek to ameliorate the condition of labor that we afford proper protection for both labor and industry against the cheap wage and the low living standard that prevails among foreign competitors.

His liberalism dictates that the hazards of a high-speed industrial civilization be met by assurances of social security and that security must be adequate and must not become the plaything of politics.

His liberalism dictates that the only solution for the grim problem of unemployment lies in a decent encouragement for the genius and enterprise of American industry.

These, in my humble judgment, are some of the inheritances from the immortal Lincoln. They indicate the road which we must follow and to you, my young Republican friends, I can only say in his language, forward with manly hearts upon this trail. To you and to all whose optimism may have waned after November of 1936, let me bring this reminder that as the train which bore him to destiny and death on the 11th of February 1861 was passing through Tolono, Ill., the last village in Illinois, he turned to those who had assembled to see him pass and said, "Behind the cloud the sun is still shining."

Retirement of Supreme Court Judges

EXTENSION OF REMARKS

OF

HON. WALTER CHANDLER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1937

Mr. CHANDLER. Mr. Speaker, it is rather surprising that the provisions of H. R. 2518 are not law already. When a similar bill came before the House in the Seventy-fourth Congress, conflicting questions were injected into the debate, and resulting misunderstandings caused its defeat; but a hasty glance at the legislative history of this general subject reveals that in 1869 Senator Charles Sumner, of Massachusetts, introduced an amendment to the Senate bill which became chapter 22 of the Forty-first Congress, seeking to permit the retirement of all Federal judges after reaching 70 years of age, following 10 years' service on the bench. The amendment was rejected because there was apprehension that it might defeat passage of the bill which increased the Supreme Court to nine members and created nine circuit judges. The House rewrote the bill and put in the retirement provision, but the Senate substituted the clause permitting resignation but not retirement of Supreme Court Justices. One reason given was that retired judges, "for the purpose of meeting a political question one way or the other, might come back and put themselves on the bench exactly when they were not wanted."

The bill now before the House avoids the possibility which appeared in 1869, as a retired Supreme Court Justice cannot return to the Supreme Bench, but can be called to service on the circuit court of appeals if he wishes to do so.

The age of 70 has been adopted because it is in the existing statute. There always will be disputes about the ideal age for retirement. Thousands of men have done their best work after 70 and equal thousands have reached the zenith before 40, so we do well to accept the psalmist's admonition: "The days of our years are threescore and ten" and leave the final

determination to the Justices themselves. We know that the average age of the Justices of the first Supreme Court was 48.5 years; that of the 76 men who have sat on the Court, 4 were in their thirties when appointed and 19 were between 40 and 50 years of age, and that the average age at the time of resignation or death is 67.8 years. It is safe to say that after one's sixtieth birthday 10 crowded, wringing years of continuous service on an overladen tribunal exercising the powerful jurisdiction of the United States Supreme Court is a sufficient strain to draw overwhelmingly from the mental and physical strength of the most vigorous.

If the age limit is set at a later period in life, it may encourage self-deception among the judges. In his essay on Old Age, Emerson gives us an interesting example:

> We had a judge in Massachusetts who at 60 proposed to resign, alleging that he perceived a certain decay in his faculties. He was dissuaded by his friends on account of the public convenience at the time. At 70 it was hinted to him that it was time to retire, but he now replied that he thought his judgment as robust and all his faculties as good as they ever were.

Therefore, the age of 70 years stipulated in the bill is a reasonable medium, if not the maximum.

This bill merely gives the Supreme Court judges the same privilege of retirement now given to circuit and district judges. It avoids the necessity of resignation and its attendant disadvantages. Permissive retirement is in the nature of a reward for duty well done and the judge does not relinquish his office (*Booth* v. *United States*, 291 U. S. 339). To resign an office is to give it up entirely. Resignation sometimes implies surrender or failure, but retirement generally denotes the accomplishment of an honorable career.

I would not blame anyone for not choosing to separate himself from a great office like that of Supreme Court Justice, especially after reaching an age when he cannot return to private practice, or has not accumulated a competency. But the proper performance of the work is the prime requisite and that requires the fullest possession of the faculties of mind and body. History records that Justices have remained on the Supreme Court after their usefulness has ended, and the embarrassments which occurred in a few instances may be recalled as illustrations. In the consideration of *Hepburn* v. *Griswold* (75 U. S. 603), involving the Legal Tender Acts passed during the War between the States, the Court was divided 4 to 4. Associate Justice Robert C. Grier had voted to sustain the acts. He was very feeble and an inconsistency developed in his analysis of the case. Public interest was running high and Justice Grier changed his opinion. The Court, through Justice Stephen J. Field, felt called upon to ask Justice Grier to resign, which he did following the passage of the act of 1869, and the decision in the case was changed thereby.

Almost 30 years later Justice Field had become so infirm that he had to be helped to his seat on the Court and, by the irony of fate, the message which he had delivered for the Court to Justice Grier was delivered to him, and the resentment displayed on its receipt probably was the outgrowth of his own embarrassment from his experience with Justice Grier.

Before any provision was made for resignations from the Court, Justice Gabriel Duval served for nearly 20 years while so deaf that he could not hear a word that was said; and Justice Henry Baldwin was a member of the Court for a time when his mind was deranged, and he died in such abject poverty that his friends raised a fund for his burial expenses.

Epes Sargent said that republics are proverbially ungrateful; but I am not willing to admit that charge. Governments must move slowly, and Americans are an impatient people. The passage of this measure will be an appropriate recognition of faithful public service, and will promote the administration of justice in "the supremest Supreme Court in all the world."

Achievements of Thomas A. Edison

EXTENSION OF REMARKS

OF

HON. BENJAMIN K. FOCHT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 11, 1937

ARTICLE FROM THE SUNBURY (PA.) ITEM

Mr. FOCHT. Mr. Speaker, having been granted leave to print in the CONGRESSIONAL RECORD something in commemoration of America's great inventor, Thomas A. Edison, and the first application of this mighty man's production in Sunbury, Pa., July 3, 1883, I herewith quote from the Sunbury Item a portion of the thrilling story of events that led up to and followed the turning into the circuit in the presence of Mr. Edison the first electric current known to be supplied for commercial uses, as follows:

Sunbury was selected as the site for the first electric-light plant in the world because of the high cost of gas here at that time, according to Mrs. Mary R. Wolcott, of Williamsport, genealogist for the Lycoming County Chapter of the Daughters of the American Revolution.

Mrs. Wolcott prepared a short history of the opening of the plant in connection with the recent death of P. B. Shaw, who financed Thomas A. Edison's successful venture into the electric business. It cost $25,000 to build the first plant at the corner of Vine and Fourth Streets, and practically all of this money was raised in Williamsport, with Sunbury interests contributing $700.

Mr. Shaw agreed to finance the plant and with Edison looked over several towns to open their experiment. They were sure they would be able to produce the electric lights, but felt it would be too expensive to compete with gas. However, gas was selling at the abnormal price of $10 a thousand feet in Sunbury at that time and it was decided to build the plant here.

W. L. Andrews was one of the builders of the 30- by 80-foot building at Vine Street on the ground now owned by George Steel. The electrical apparatus included a boiler of the Babcock & Wilcox type, two dynamos belted to an Armington & Sims high-speed engine. The capacity was 650, 10-candle lamps, or about as much electricity as is used in lighting an ordinary Market Street store window today.

The bus bars were made by straightening out some 0.0011 copper wire, fastened to wooden sheeting with iron staples. The switchboard instruments were two voltage indicators connected by pressure wires to the end of 3-foot long feed wires.

With the death this week of Mr. Shaw it is understood that this equipment will be taken in charge by Mr. Wardlaw, of the Edison Pioneers, and placed on exhibit in New York City. Mr. Shaw had kept at his home in Williamsport much of the equipment of the local plant. The dynamos for years laid neglected in the old car barn on Railroad Avenue until taken to New York some years ago.

After some difficulty the juice from the plant was turned into the circuit on the night of July 3, 1883. Mr. Edison was there and remarked that the only draw-back would be that people would not use it in their homes. With no insulators, the wires were tapped to the gas fixtures, and when it rained several nights later fuses snapped and electric sparks jumped all over the City Hotel, which was the first building in the world wired for electricity. Proprietor Drumheller and his guests ran out and stood in a drenching rainstorm until assured that everything was all right.

Eugene C. Morgan was the first superintendent of the plant. W. G. Hepner and W. W. Bateman were the first employees.

During Sunbury's sesquicentennial celebration a tablet was erected in honor of Mr. Edison on the front of the hotel. Maj. Gen. C. M. Clement spoke for Sunbury and welcomed the visitors, who included J. A. Wardlaw, secretary and creator of the Edison Pioneers, the original 140 men who worked for Edison prior to 1890, who responded with a talk on electricity.

Judicial Reform

EXTENSION OF REMARKS
OF
HON. J. HAMILTON LEWIS
OF ILLINOIS
IN THE SENATE OF THE UNITED STATES
Wednesday, February 17 (legislative day of Monday, Feb. 15), 1937

RADIO ADDRESS BY HON. ELBERT D. THOMAS, OF UTAH, ON FEBRUARY 16, 1937

Mr. LEWIS. Mr. President, I tender an address delivered by the Senator from Utah [Mr. THOMAS] upon an important subject of legislation now pending before the Congress, dealing with judicial reform, and ask that it may be incorporated in the RECORD in the proper manner.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I accept the theory of the need of judicial reform and I sustain the President's approach to this reform, for his suggestions are not drastic. They do not satisfy those who have been demanding constitutional changes, or legislation modifying the Court's own rules.

Democracy means fair play. It protects open discussion, expects differences of opinion. The fact that we have a written Constitution does not mean that we always know what the Constitution means, wherefore the necessity for judicial review.

Judicial review is essential to the proper functioning of a written constitution. I accept the process. I like it. It is with its abuse that I take issue. The abuse is not a simple one. The primary fault with judicial review as it works is simply this: After the judges have handed down a reasoned decision, giving their meaning to a particular part of the Constitution, then in the next case the judges do not go back to the original Constitution, but follow the precedent of their own decision or that of their predecessors. In a period of 150 years some of the original meanings in our Constitution have become different. A demand for reform must come.

The theory of our American Government is that the Constitution should be interpreted by living men. In this way our Constitution has become and is a living organism. With this I have no quarrel at all.

I believe in adjusting our constitutional process in the simplest way instead of in the hardest way. The hardest way and the longest way is to amend the Constitution. Therefore, I admire President Roosevelt's recommendations at the present time. There is nothing drastic in them. Many, to be sure, have tried to make it appear that the question is a fight between the President and the Supreme Court. But a more drastic part of the recommendation has nothing to do with the Supreme Court, for the President's most important corrective recommendation has to do with an ill which every thoughtful person will recognize is bad government.

This ill is the practice of district courts staying the processes of laws passed by the Congress and signed by the President, by issuing injunctions on no better justification than that in the opinion of the court those laws are unconstitutional. We cannot go into the history of such a condition, but it is with us, and a court of limited jurisdiction, therefore, can stop the whole process of a general governmental activity. Such is governmental chaos.

Consider this example: The Congress of the United States passes a general law and some citizen of the United States, or a corporation (which is a legal person), goes to a court in a district and gets an injunction. Thus a single man, who cannot be removed from office except by impeachment, can delay the will of the people of the United States, such will having been spoken through their Congress and approved by the President. This is a power altogether out of keeping with the democratic idea. The people have spoken out against this practice, not merely through the election, as they did in the fall of 1936, but when they passed the twentieth amendment they passed that amendment primarily because the old Congress before that amendment had to wait 13 months before taking office, so that the will of the people expressed in an election was to the extent of 13 months delayed.

Now, if the people were worked up sufficiently to pass an amendment to overcome a delay of 13 months, surely now the people are sufficiently desirous of overcoming a delay in the courts which might mean years. It is in matters like this that the President was forced to recommend a reform.

The ability to declare laws unconstitutional is a process of which I approve, but it has been abused, and every student of history knows it. If the American people will study history, political theory, and economics, and get their ideas from such sources instead of from the slogans or newspaper headlines, they need have no fear of the President's recommendations.

Can one conceive of anything more out of harmony with good government than the following? Laws have been enforced for as long as 56 years before they were struck down by the Supreme Court. In one case a law was declared unconstitutional which actually provided for the inclusion of States into the Union.

Until of late there have not been a great number of acts of Congress declared unconstitutional. It is a growing habit, and it is at the reforming of this habit that the Presidential recommendations are aimed. The first law to pass in judicial review was the famous case of Marbury against Madison, which the Court decided in 1803. This opinion struck down a law that was 14 years old. Then there was not another law stricken down until 1857, and then not another until 1865. Since 1900 to the present day 46 have been declared unconstitutional, and, of these 46, 13 opinions have been delivered since President Roosevelt became President.

The Constitution provides that "the judicial power shall extend to all cases in law and equity." The Supreme Court has promulgated its own rules of procedure, and it decided early that it would hear only real causes and controversies, which, of course, means that it does not assist the legislature by advisory opinions, as is done in many of our States. But there have been many cases that have gone to the Supreme Court that are there primarily for advice. For example, when someone sues for a difference in interest on a hundred-dollar Liberty bond between the old value of the dollar in gold and the new value of the dollar, that is not a real cause. That is a cause for an opinion. No man can go to the expense of carrying a case to the Supreme Court to collect a couple of dollars. You could hardly call a real case the maneuvering that occurred last year in the Federal district court in Maryland, where the client and the attorney met for the first time after they got into the courtroom, the whole case having been worked out by the attorneys and the client made to fit into it. These two illustrations are merely fictions of real causes. The Court, in practice, qualifies its own rules, and by rendering opinions in selected cases instead of real causes it becomes a part of the legislative branch of the Government. The Court, at least to this extent, has not only broken the spirit of its own rules but also the spirit of the very first section of the first article of the Constitution. The practice, though, is not necessarily bad. I cite the cases merely to illustrate my point.

The suggestive reforms are not as harsh as any other serious plan yet put forth. If the reforms become law in every detail, which, of course, they will not, the Supreme Court will still be the maker of its own rules of procedure, will still remain its own judge of all matters in relation to judicial review. The right of judicial review did not come from the Constitution. It did not come from law. It was assumed by action of the Court itself, and the right will remain exactly where it is. The use of this right by inferior courts with limited jurisdiction will be curbed as it should be.

Let me return to the fundamental theory of our Constitution. We have what is called a separation of powers, and the whole thing works, as I have said, by peaceful process.

If the President of the United States plays out of bounds and uses his veto power to such an extent that he coerces Congress, or if in recommending a law he uses the expression "must" in regard to laws, we cease to be a democracy and we become a dictatorship. If Congress plays out of bounds and becomes hateful toward the Executive and the Supreme Court and refuses to appropriate money for their maintenance, then we become what early writers called a mobocracy. Fair play has gone. If the courts take to themselves the power of using judicial review to such an extent that the court becomes a legislative body, which is contrary to the Constitution, and strikes down laws so commonly as has been done in the last few months, then the will of the people of the country is overcome by a smaller group still, and we have an oligarchy.

None of these situations is going to endure. America has learned that the processes of democracy are the best and fair play is what is sought and what will be coming.

The Supreme Court is a source of strength and stability to all of us. It can, though, and incidentally it has, gotten to the place where its arguments over the "jots and tittles" seem more important than the bread, the butter, the livelihood, and the welfare of men, women, and children.

Not to support President Roosevelt in his aim to overcome this unsatisfactory condition is to be out of harmony with our times. Forward looking men want better living conditions, not a change in a dictionary definition.

John Marshall interpreted the Constitution on the theory that in order for the Constitution to endure it must be "adapted to the various crises of human affairs." After Marshall and until the near present, due to our changing social, industrial, and labor conditions, and the growth of corporate business, constitutional cases hinged primarily upon the due process clause and the theory that liberty was to be preserved by sustaining the theory of freedom of contract. This invariably resulted in placing the legislative branch of our Government into such narrow bounds for action that legislation dealing with great "crises of human affairs", such

as war and depressions, was almost impossible. For the Supreme Courts set the limits, the bounds, and the type of law. As a result of the common resort to the striking down of acts of Congress, Mr. Chief Justice Hughes uttered the words, the "Constitution is what the judges say it is."

That is probably the best definition that can be written of just what that great document is under present circumstances. Think this situation through. The Court now, through an evolution of its own, stands not only as a judge but also as a body to prescribe how those crises are to be met. The effect of its action today is to stagger the forward-moving tendencies demanded by vastly changed conditions. The Court by its own theory cannot retreat from the position it has already taken. It therefore cannot reform from within. The Court was brought into existence by powers from without; it has been changed from time to time by these same powers from without because it could not institute the changes itself. The responsibility for bringing the necessary reforms is where it has always been under our Constitution—in the other branches; that is, with Congress and the President. The Court must help the Government meet and overcome the various crises of human affairs, or those crises will overcome the Government. After all, we have only one Government, with three coordinate branches, not three governments in a continual tug of war to decide which of the three shall speak for all.

The judicial reforms suggested by the President are therefore definitely essential to the future welfare of the men, women, and children who make America. The Court must be brought again to the place where it can work in a positive way for the people in meeting the various crises of human affairs, as it did under the great Marshall.

Business and the Proposed Federal Administrative Court

EXTENSION OF REMARKS

OF

HON. M. M. LOGAN

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Wednesday, February 17 (legislative day of Monday, Feb. 15), 1937

ADDRESS BY COL. O. R. McGUIRE BEFORE THE AMERICAN BAR ASSOCIATION

Mr. LOGAN. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by Col. O. R. McGuire on the subject of business and the proposed Federal Administrative Court. Colonel McGuire is chairman of the special committee on administrative law of the American Bar Association, and the address was delivered at a dinner given on December 8, 1936, in New York City by the law department of the National Association of Manufacturers.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Gentlemen, there is no disguising the fact that a great many American businessmen and their legal advisers are today disturbed over certain trends in government—not only in this country but throughout the world. Some of these businessmen and their advisers are inclined to damn such trends as bureaucracy temporarily triumphant in reaching its long and powerful arm to the regulation and control of the individual and corporation in the conduct of private business. These men are inclined to view the existing situation in this country as one of comparatively recent origin, resulting from the blandishments of bureaucrats, hungry for more power, and that the phenomena will soon pass away. There are others who believe that we are witnessing a further turn in the government cycle and that we are confronted with a gradual replacement of an individualistic and highly competitive society by an authoritarian state sweeping upon us as silently and as relentlessly as the tides of time.

It will not be expected that within the limited time at my disposal this evening, I shall be able to do more than to invite your attention to certain basic facts and to a number of general conclusions. I think both the basic facts and the general conclusions had something to do with the repeated action of the American Bar Association in approving, in principle, the establishment of a Federal Administrative Court, and with the action taken last year by Congress of American industry in likewise approving, in principle, the establishment of such a court to review on the law and the facts the decisions of administrative officials of the Federal Government.

Students of economics and sociology have developed the proposition that population tends to increase to the supporting power of the environment in a given stage of the arts and for a given standard of living. Also, conversely, that population tends to decline to the supporting power of the environment, other things being equal, if, for some reason or other, the supporting power of the environment is diminished. Into our own times, and for centuries past, Asiatic peoples have been living on a low margin of subsistence. Aside from Japan, within recent years—and now absorbing great slices of the Asiatic mainland as an outlet for her people—the population of such countries has remained fairly stationary; and the struggle for existence has been and is, so sharp and bitter that they have been unable to make advances in the arts which would increase the means of subsistence with a higher standard of living. Roughly, a similar situation prevailed in Europe from the fall of the Roman Empire to the Industrial Revolution, and in Japan to the advent of American warships with subsequent introduction of western machinery.

It was precisely during this period prior to the Industrial Revolution that the world saw regimentation with a vengeance. Emperors, kings, popes, barons, and guilds sought to and did regulate the economic activities of the peoples under their rule. That regulation, from above, was absolute. It extended, as we all know, to the prohibition of interests on borrowed money; the fixing of wages and hours of labor; the fixing of prices for subsistence supplies; the number and years of training of apprentices; the tying of the individual to the land; and various other devices designed to maintain the status quo and to protect the people in their trades and occupations. Such authoritarian regimentation was not unknown to the peoples of the Original Thirteen Colonies, and was practiced to some extent under old Peter Stuyvesant, right here in New York City.

However, the discovery of the New World with its subsequent colonization operated in some measure to relieve the pressure of population in Europe on the means of subsistence, but the greatest relief came from the industrial revolution with its rapid strides in the arts, operating to increase the means of subsistence, and thus the standards of living. It is estimated that with the stage of culture prevailing at the time of the Norman conquest of England, Europe could scarcely support a population in excess of 10,000,000, and that at the close of the fifteenth century the countries of all Europe, including England, had a population of about 50,000,000. The gradual but progressive improvements in the industrial and agricultural arts which set in during the seventeenth century resulted in a considerable increase in population. The best obtainable figures indicate that by 1750 the total European population aggregated about 127,000,000, increasing to about 175,000,000 by 1800; to about 250,000,000 in 1850; 300,000,000 in 1900; and 500,000,000 at the present time. Since 1789 the population of the United States has grown from a few million to approximately 130,000,000 souls, such growth being due to many things, including a great advance in the arts, decrease in the number of deaths over the number of births, and to immigration. With our great natural resources and equally great advances in the arts, the means of subsistence were so increased as to permit of our tremendous growth in population with a margin of subsistence so high as to be the envy of the world.

The back of the authoritarian state was not broken by the preachments of publicists. When people are hungry and cold they are not interested in arguments concerning individualism, and while there came a new Moses with the industrial revolution in the person of Adam Smith, his theories of individualism and laissez faire took root not because of the cogency of his reasoning but because the improvements in the arts and agriculture increased the means of subsistence and thus the standards of living. The people no longer needed an authoritarian state. Such a state became an obstacle to the advancement of industrialism. Perhaps the world has never seen a greater number of believers in the theory that a government was best which governed least than those gathered in America from about 1750 to about 1870 when we were creating, expanding, and developing a new nation, carving homes out of the wildernesses, spanning the country with steel, and exploiting the natural resources of a virgin continent. Those days of exploitation have passed away, and apparently so have the vast majority of the men who believed that government should protect them from physical harm at home and abroad, but otherwise leave them free to struggle ruthlessly with each other for the riches of a Midas.

And why have they passed away? And what has been the result of their passing? That they have passed away admits of no doubt. During the past 75 years, since the days of the Granger and Populist movements in America, and with increasing momentum since the World War, the peoples of the western world have everywhere turned to their governments for more and more protection and assistance—for more regimentation, if you please—in their struggles with economic and social forces. That is to say, the regimentation and control thrust upon them from above prior to the industrial revolution are being sought by them—with the power of the ballot in America. Both labor and a large part of industry are today convinced that ruthless individualism must be restrained for their survival. Could this be due to population and the available

means of subsistence approaching each other to such an extent that millions must eat the bread of public charity, even in so-called normal times and that millions of others see at all times a grave threat to their standards of living? This during a period in world history when technological advances in industry and agriculture are such that many times our existing population could be fed, clothed, and housed in decency and comfort if we could work out some means by which these millions could acquire the necessary purchasing power to take the capacity products of farms and factories.

While I state the question, I do not undertake the answer. However, one must be had if we are to stay in any measurable degree the onward march of governmental regimentation and control. Thinking people are searching for an answer, and it is to the pride of our profession of the law that at every great crisis in American history—from the attempt to suppress free speech here in New York prior to the Revolution to the present—the lawyer has understood and acted upon the truth that law is the right arm of statesmanship. By his wise counsel and advice to both business and governments we have succeeded in surmounting our difficulties thus far. No greater task ever confronted the lawyers advising both governments and business than confronts them today, and in so doing none of us dares to turn our backs on the lessons of history or shut our eyes to the implications of the future. We realize that lack of purchasing power in millions in a land of potential abundance is not exactly the same as excess of population over subsistence and that while in this respect the problem is unlike that prior to the industrial revolution, nevertheless, the demand of those threatened for governmental regimentation and control is substantially the same.

It is, however, not the function of the special committee on administrative law of the American Bar Association either to play the part of a modern King Canute or to attempt a solution of the economic and social problems which have led us to the present stage of governmental regimentation and control. Ours is a more modest function to study the existing situation, which has crept upon us as silently as the night during the course of many years, and to attempt to devise—within the Constitution of the United States—such modifications of existing governmental machinery as will insure to both the individual and business in clashes with the Federal Government that there will be impartially applied predetermined rules to an independent determination of facts in the settlement of any collision between the two parties. We think we have the solution in a Federal administrative court proposed to have jurisdiction independently of the administrative branch of the Government, to review on both the law and the facts the principal classes of disputes arising in the execution of the laws in those instances where the Constitution does not authorize the existing constitutional courts to hear and determine the disputes. There has been some suggestion from members of the bar that even in some of the principal cases now heard by the constitutional courts on the law, only, an administrative court should be given jurisdiction at the instance of the individual, to review both the law and the facts of the administrative decisions. Also, that the administrative court should have jurisdiction to render advisory opinions as to the interpretation of statutes and regulations so that the individual confronted by doubt and ambiguity with respect thereto may apply to the court and obtain an authoritative opinion which will protect him in his business conduct until such opinion is modified or set aside by a change in the law or by the Supreme Court of the United States.

The men of 1787 worked in Philadelphia on the basis of general principles. The debates in that convention as well as in the several States ratifying conventions do not show any evidence of prevision on the part of the writers and ratifiers of the Constitution that it would be called upon to sustain the weight of Government over a nation of 130,000,000 people with farms, factories, and cities reaching from the Atlantic to the Pacific and from the Great Lakes to the Gulf, with all the social and economic problems necessarily arising from such increase in population, expanse of territory, and technological advances. While the members of that convention in Philadelphia adjourned one day to witness the trial of John Fitch's steamboat, they apparently dismissed it as an interesting toy on a par of importance with the kindly Franklin's kite and brass key. There is no indication that they had any thought there would be such harnessing of steam and steel with their handmaid, electricity, as would enable in the twentieth century one great business enterprise, for instance, to employ more men than were with Washington at Valley Forge, or to produce in a few days more shoes than they would use, or more automobiles, radios, cement, steel, or what not, than the people could purchase or use. However, as I have said, these men built on principle and we not only think that the Constitution is adequate for the proposed reform but that such reform is necessary if the Constitution as we know it is to endure.

We now have Federal administrative courts with very limited jurisdiction in the instances of the United States Court of Claims, United States Customs Court, and the United States Court of Customs and Patent Appeals. Also, while not courts, we have the Federal Trade Commission, the Interstate Commerce Commission and the Board of Tax Appeals functioning somewhat as courts. The Supreme Court of the United States has sustained the right of the Congress to create these several tribunals, and we think there can be no reasonable doubt that likewise there would be sustained such shifting of jurisdiction among these tribunals as would enable us to broaden the jurisdiction of one of them or the consolidation of some of them to form a Federal administrative court.

Also, such a court is necessary to preserve the requisite equilibrium among the legislative, executive, and judicial branches of our Government. The Constitution made no provision for an administrative branch manned by a class of officers charged with the administration of the laws. There are but two indirect references in the Constitution that there could be created by statute such an administrative service. Starting with a few dozen clerks here in New York City where the Government was organized under the Constitution, the administrative branch has grown to an aggregate of approximately 800,000 civilian officers and employees and some 350,000 to 400,000 other personnel in our armed forces and auxiliaries. Thus we have a force, conservatively, of a million men and women in the executive branch of the Government who must take charge of the details of that great constitutional duty imposed upon a President that "he shall take care the laws be faithfully executed."

These men and women are located in Washington, at various places throughout the length and breadth of this land, and some of them are in foreign countries. It is physically impossible for the President or his chief advisers to supervise, except in a very general way, the duties performed by this vast army engaged in the administration of Federal laws. However, these men and women are the points of contact between the Government and the individual. The majority of them are under some form of civil service, but under every administration since the days of Andrew Jackson, many of the key men and women in the administration of the laws are appointed by, and go out of office with, each change in administration.

There is a place for politics in the making of laws and the determination of policy but in my humble judgment there is no place for politics in the administration of the laws. We elect our President and the Members of the Senate and the House on the basis of politics or because they stand for policies with which we agree—and necessarily in these days of universal suffrage, those on charity and those troubled over the uncertainty of their standards of living have a great voice in the policies which shall be placed in operation under statutes enacted from time to time. They may be artificially restrained temporarily, but no governmental restraints can ultimately prevail where a majority of the people living under such restraints are opposed to them. It required a bloody Civil War of 4 years' duration to establish that fact for us. But whatever may be the policy declared in the law—whatever may be the legal restraints, they should be applied impartially, expeditiously, and as inexpensively as possible, to all coming within their terms.

One of the purposes of the proposed administrative court is to insure that these ends are accomplished in a considerable number of classes of cases where there is no existing method of judicial review or where the existing review is limited to questions of law, only. Another purpose is an attempt to reduce the number of controversies which need to be taken to the courts through bringing home to both Government employees and private individuals that the law and the facts—not uncontrolled discretion—operate to determine such controversies. A third purpose is an attempt to insure that the Government officer acting as judge, jury, and legislator is restrained within the terms of the law and the facts in particular cases. A fourth purpose is to secure greater economy and efficiency in the administration of the Government, and a fifth purpose is to insure the control of the law over the administrative employees of the Government since it appears impossible to exercise personal control over them. No such controls by law over Government personnel existed prior to the industrial revolution to be invoked by the citizen in a tribunal presumably qualified and independent of pressure of any kind—though it is possible that in all Europe, possessing but a fraction of the population we have today in America, such an appeal could be taken direct to the emperor, king, or pope—provided the citizen could get through the cordon of hangers-on around such men. Any considerable number of personal appeals to the Chief Executive is impossible today as he does not have time or strength except for the greater issues.

In making our studies and resolving upon the remedy needed to insure an independent review of the law and the facts involved in administrative decisions, we are not unmindful of the difficulties to be encountered. There is, first, the wholly honest view held by many public officers and employees that such reviews would unduly delay administrative processes; that they can be relied upon to deal out even-handed justice even in those cases where they are legislator, prosecutor, judge, jury, and lord high executioner; that an administrative court, even though dealing every day with a large number of classes of governmental cases, could not be as expert in particular classes of cases as the men and women who are daily deciding them under the administrative processes; and that powerful industrial interests would attempt to invoke the powers of an administrative court to thwart and impede necessary and desirable social and economic reforms. Secondly, supporting many of these arguments at one point or another, are the organized minorities which have reached the acme of perfection in their lobbying activities through securing a statute to carry out their pet panaceas for our industrial and

economic maladjustments and then securing the appointment of an official largely, if not wholly, in sympathy with them to administer the statute making his decisions final and conclusive on both the law and the facts or at least on the facts. These organized minorities are represented by paid presidents, managers, secretaries, or whatever may be their titles at Washington, and through means of the telegraph, telephone, radio, and every known means of communication, they are able to marshal and deploy their forces in defense or attack with all the skill of a Napoleon leading his armies to battle. It is partly because these ably led organized minorities have been so successful that we have the regimentation and control now existing—and, in a great many instances, the majority of instances I should say, the economic force which has made them so successful was the desire of their members to maintain, and, if possible, improve their economic advantage at the expense of the rest of us.

While the administrative court would not correct this very serious situation in our Government, or bring to the aid of Presidents and Members of the Congress unselfish and constant support in resisting the unfair demands of organized minorities, it would insure an impartial administration of the law by officers and employees of the Government and prevent the attempted extension of the law to objects and ends not included therein.

As lawyers our first duty is to organized society in an attempt to insure to the weak and lowly as well as the rich and powerful equal and impartial justice. Our second duty is to our clients, whether rich or poor, governments, individuals, or corporations, to see that they obtain justice, nothing more, under or in the law. Above all, we who advise governments or great aggregations of capital have the responsibility of constantly reminding our clients that law and justice are but the handmaids of statesmanship and a protective shield against oppression, greed, and prejudice—all to the end that we in America may avoid the running of the cycle of organized society so ably portrayed by Polybius, the historian, writing before the dawn of the Christian Era and whose conclusions are supported by the fate of all subsequent governments, except our own.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. HUGO L. BLACK

OF ALABAMA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 17 (legislative day of Monday, Feb. 15), 1937

RADIO ADDRESS BY HON. SHERMAN MINTON, OF INDIANA, ON FEBRUARY 15, 1937

Mr. BLACK. Mr. President, I ask unanimous consent to have inserted in the RECORD a speech delivered by the Senator from Indiana [Mr. MINTON] on the subject of the President's proposal relating to the judiciary. The speech was delivered over a Nation-wide network of the National Broadcasting Co. on Monday night, February 15, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In his inaugural address January 20, 1937, the President of the United States said: "I see one-third of a nation ill-clad, ill-housed, and ill-nourished." He was talking about this Nation, not some other.

Congress passed legislation recognizing the right of labor to collective bargaining. Certain captains of industry said that's not constitutional. We won't obey it. Laborers struck for the principle and sat down in the factories to protect their jobs. A court said this was unlawful. Result: Employer and employee are at war. A strike is settled here only to have one break out yonder.

Congress passed legislation to extend to farming, the largest industry in the Nation, aid in its bankrupt and prostrate condition, such as the Government had been extending to manufacturing for 75 years, only to discover that it could help big business, but under our Constitution, as viewed by a majority of the Supreme Court, we couldn't help the farmer.

That there is a maldistribution of wealth in the Nation is evident when we recall that 3 percent of the people own 97 percent of its wealth. When legislation is proposed by Congress in an effort to meet some of the problems of poverty, bankruptcy on the farm, capital and labor, and the redistribution of wealth, we find it cannot be done. Men and women who ask only the right to live by their work in comfort, and enjoy some luxuries, find themselves frustrated and their Government powerless to help them. This is the picture that confronts us today.

In such a predicament we survey our governmental situation and find a Congress and President freshly returned from an election in which the people expressed approval with what had been done and gave their mandate to go ahead. The President and Congress are willing to go ahead, but they are unable to do so. Why? Because the Supreme Court by decisions, more often than not by a divided Court, says Congress has not the power to do the things it believes necessary to do. Under our system of government, as it now operates, five men on the Supreme Court have an absolute veto power over the legislative policy of the people's elected representatives. Five men on that Court exercise more power than 435 Congressmen, 96 Senators, and the President, and that in a field where they have no restraint except that imposed by their own conscience. If you were given an opportunity to do so, would you vote to put all the power of government in the hands of five men? Would you do it where you had nothing to do with the selection of any of the men? Would you do it where you have no power to remove them? However, that is exactly what has happened in this country under our constitutional development. This tremendous power lies in the hands of five men, who constitute a majority of the Supreme Court. This awful power should not rest in the hands of any five men. I go further and say that no five men should want it.

Let us recall the nature of our Government and the scheme of it. Our Government is set up on a system of checks and balances. Congress checks the President, the President checks the Congress with his veto, and the people every 2 and 4 years check both Congress and the President in an election, but who checks the Supreme Court? They are not elected by the people; they are nominated by the President and confirmed by the Senate, and when confirmed they hold office for life or during good behavior. There isn't a check upon their power save their own conscience, and your Constitution, in the words of Chief Justice Hughes, means just what the judges say it is. They are independent of the people. In discussing the power of the Court, Thomas Jefferson once said: "It should be remembered as an axiom of eternal truth in politics that whatever power in any government is independent is absolute also." (Jefferson to Roane, Sept. 6, 1819, vol. 7, 134.) Today the veto power of the Supreme Court is absolute. If our Government was set up on a system of three coordinate branches—executive, legislative, and judiciary—and it was, then we are woefully out of balance on the side of the Court.

A proposal is made to redress this balance of power. The proposal envisages the whole of the Federal judiciary, but I shall discuss it in relation to the retirement of Judges from the Supreme Court only. Here it is: The Supreme Court is now composed of a Chief Justice and eight associates, nine members in all. The President has proposed that Congress enact legislation providing that where Judges have been on the Supreme Court 10 years and have reached 70 years of age, they may retire, and if such Judge or Judges do not choose to retire, the President is authorized to appoint an additional Judge, with the limitation that the size of the Supreme Court does not at any time exceed 15. It may never reach 15. If Judges 70 or over retire, their place is filled and the size of the Court remains the same, but their vacancies are filled with younger and more vigorous men. If the Judges 70 and over do not retire, they cannot be forced to retire, and in that case the President is authorized to appoint an additional Judge. This might extend to a Court of 15 and enable the President to appoint 6 of the 15 Judges. This can happen only if Judges 70 and older do not retire. Please remember the proposed plan does not compel a single Judge now on the Supreme Court to retire. Neither does it change the Constitution or the power the Court now exercises under the Constitution.

From the earliest day to the present time the President, who appointed the Judges later to be confirmed by the Senate, saw to it that Judges who reflected their views were appointed. Marshall was a Federalist politician appointed as much on that account as on account of his great ability. When Lincoln appointed Chase Chief Justice he said, "We wish for a Chief Justice who will sustain what has been done in regard to emancipation and the legal tenders." (Boutwel, vol. II, 29.) This great American had no delusions about the power of the Supreme Court or what he ought to do about appointments to the Court.

The proposal embodied in the bill pending is not new. In 1869 the lower House of Congress passed a bill by a vote of 90 to 53 in almost identical terms with the pending bill, but the Senate rejected it. While Attorney General of the United States, Justice McReynolds, now a member of the Supreme Court, and later Chief Justice Taft, each recommended this identical kind of legislation to retire all Federal judges at 70 except the Supreme Court. If it is a good thing for the lower courts, why isn't it good for the Supreme Court? Why except the Supreme Court? This strange discrimination continues in the discussion today. No one seems to object to the application of this proposed legislation to all Federal judges except the Supreme Court. Several times Congress has used its power to increase or decrease the size of the Supreme Court to meet the problems of the day. Lincoln, much concerned about the constitutionality of the acts of his administration, had the Court increased from 9 to 10 to enable him to put a powerful friend on the Court. Thus the size of the Court was largest

under Lincoln. But Congress, fearing that Andrew Johnson might get a chance to fill a vacancy on that aging Court, reduced the size of the court from 10 to 7 by providing that no vacancy should be filled until the Court reached 7. Then, just as soon as Grant was in office, Congress promptly increased the Court, which in the meantime had been diminished to eight, back to nine, and, with the retirement of Judge Grier for infirmity, Grant had two places to fill on the Court, and he filled them with Judges known to favor the Legal Tender Acts. The constitutionality of those acts was the burning issue of that day. The very day he appointed these two Judges the Supreme Court, by a vote of 5 to 3, held the Legal Tender Acts unconstitutional. But with these two new Judges on the Court, the cases were all reargued and opened up, and the opinion holding the Legal Tender Acts unconstitutional, rendered a few months before, was reversed, and the two new Judges appointed by Grant did it. Does anyone today condemn Grant for appointing to the Court two Judges who were known by him to favor the Legal Tender Acts and thereby enabling the Court to sustain the policy of the administration by reversing itself?

The Supreme Court has had its size changed six times in its history, and it was charged that each change was dictated by politics. That is to say, certain national policies were being affected by the Court as then constituted and its size was enlarged or contracted in an effort to make the Supreme Court's opinions conform more nearly to the policies of the administration in power. In the light of our history it cannot be contended that the proposed legislation is unprecedented. It has ample authority in our history. Indeed, Congress has used its power to regulate the Court's procedure and jurisdiction to guarantee that its decisions did not upset the policy of the Government. Adams had the size of the Court reduced so his successor, Jefferson, might not have a chance to appoint a member of the Court. Jefferson had the Supreme Court's term abolished for 2 years that it might not interfere. The Congress increased the size of the Court to accommodate Lincoln, but reduced the size of the Court to thwart Johnson, and promptly increased it to accommodate Grant. But it is said that these were not large changes. Let me remind you that in the days gone by they changed the size of the Court enough to meet their problem. If it was all right to change the size of the Court by two to help Grant and by three to thwart Johnson, what's wrong with changing it six, if necessary, to help Roosevelt meet his problems?

Congress took away the right to appeal to the Supreme Court in order that it reconstruction acts after the Civil War might not have to meet the test of constitutionality. In recommending a change in the size of the Court the President has ample authority in our Nation's history—not only in his own party but more notably in the Republican Party.

The proposal to retire Judges at 70 is in keeping with the policy of the Government and private industry. In the Army and Navy, where the officers are trained at Government expense, we force them to retire at 64. In civil service we force them to retire at 70. Many States require their judges to retire at 70. In private industry many great corporations, like the Pennsylvania Railroad, force their executives to retire at 70. Indeed, the Supreme Court of the United States is the only group I know of that passes upon their own adequacy to serve. Chief Justice Hughes once wrote a book about the Supreme Court and in this book he said: "I agree that the importance in the Supreme Court of avoiding the risk of having Judges who are unable properly to do their work and yet insist on remaining on the bench is too great to permit chances to be taken, and any age selected must be somewhat arbitrary, as the time of the failing in mental power differs widely. The exigency to be thought of is not illness but decrepitude."

Someone has suggested that if the Judges are to be retired at 70 why not Congressmen? The answer to that is simple. His fitness to sit is submitted to the people every 2 or 6 years at an election, but the Judges never have to submit to election. They alone pass on their own fitness. I believe in elderly men in government, but not a government by elderly men only.

Out on the farm in Indiana the other night, by the lamplight, a humble farmer constituent of mine took his scratch pad and pencil and wrote me what he thought about this proposition. It seemed to me to express so dispassionately and fairly the opinion of the kind of people he represented and whose voices are too often unheard that I am going to read it to you. He said: "It might be advisable to have some men on the Court who are old and rich in wisdom and experience to give it balance and restraint, but it is certainly not in the public interest to have such a large majority so old they do not seem to be able to adjust themselves to the needs of the present time and are therefore able to block any progress made to meet those needs. We cannot remedy conditions by ignoring them."

It is suggested that the bill encourages dictatorship. Let us see. If the bill is passed, the President can nominate, but the Senate has to confirm. That is check no. 1 on dictatorship. And the President and Senate have to answer to the people; that is check no. 2. After a Judge is appointed he is there for life or good behavior; that is check no. 3. Check no. 4 is the honor and integrity of President Roosevelt, in whom you and I have confidence.

After he is appointed the Judge is as independent then as any other Judge. Let me tell you when dictatorships flourish—communistic or fascistic—that is when the mass of the people conclude that their government is impotent to protect them from the oppressions of the more powerful. We are trying now to prevent government failure, in whose wake always comes the dictator. The common people won the last election and we are only trying to preserve the fruits of that victory.

It is said that this is an attempt to pack the Court. How do we find the Court today? It is packed now by appointees of administrations gone and repudiated. Do you think these administrations are more entitled to pack the Court than President Roosevelt? Do you think that Harding, Coolidge, or Hoover were qualified to pick judges for the Supreme Court but Roosevelt is not? I think the Court is already packed, and this bill would unpack it. As I view it, in addition to aiding the Court in its work, a matter too often lost sight of in the passionate discussion of this bill, the principal effect this bill would have would be to bring new energy and thought to the Supreme Court. I cannot believe this undesirable. In answer to this argument about packing the Court I take the liberty of quoting from Mr. Raymond Clapper, one of the most brilliant columnists of the day: "In 4 years Roosevelt has had no opportunity to appoint a single member of the Court. * * * He is trying to speed up the appointments which in all probability he otherwise would have the opportunity to make before his second term is over, and thus eventually reverse the balance of the Court. But then it would be too late for him to deal with matters that need attention now. It happens that Congress has clear constitutional authority to do this. The question is one of ethics. Roosevelt proposes to take advantage of the technical power of Congress in the same way that the Court and opponents of his program have taken advantage of their technical opportunities under judicial procedure."

"That is not idealism. It is meeting practical opposition in a practical way, as everyone has to do at times in this world, or weakly resign himself to futility. Squeamish pedants will say Roosevelt should sit with folded hands. Practical persons prefer results to vain theorizing about hypothetical perfection."

It has been suggested that a constitutional amendment is the proper way. Of course, this suggestion comes loudest from those who would not support such an amendment. But why an amendment since this method is clearly within the Constitution and whatever the Constitution provides is certainly American? Why seek more power if we already have the power to meet a situation? The way of amendment, like that of the transgressor, is hard. Witness the child-labor amendment; for 13 years it has been wandering in the wilderness, and still lacks 9 States of being an authorized amendment. But do you realize that that child-labor amendment would not have been required if one judge had stepped over on the side of the act of Congress with the other four judges who thought the act was constitutional?

There is nothing in the pending bill that would keep us from amending the Constitution after the bill passes. Let us have an amendment, but we must have action now. We don't believe we should be required to wait 15 or 20 years on a prospect of action. In order to befuddle the issue the same people who in the recent election cried "dictator", "stand by the Court", "beware of communism", now make the same hue and cry. They would have the people believe that this is an attempt of the President to seize additional power. The truth of the matter is that the President has only joined hands with Congress in its fight to prevent the Supreme Court, under the guise of interpreting the Constitution, from dictating the legislative policy of the Government. If you think the Supreme Court hasn't done so, you read the dissenting opinions of the Justices of the Supreme Court for the last 50 years.

I urge you to recall your history. Three times in the history of this country, excluding the recent history seen without the perspective of time, the Supreme Court has collided with the avowed policy of Congress, and three times the verdict of history has been against the Court. I refer to the Dred Scott decision, reversed by a bloody Civil War; the Legal Tender decision, reversed within a year by the Court itself after its complexion had been changed; and the Income Tax case, reversed by an amendment after years of effort.

The greatest Presidents in this Nation's history, developed in the stress of great emergencies, have been at grips with the power of the Court, as they sought to serve the masses of the common people and found their purpose thwarted by the opinions of the Court. Jefferson, Jackson, Lincoln, and Theodore Roosevelt have been confronted with the issue and never faltered. President Roosevelt today meets with constitutional power the same challenge in a courageous effort, not to destroy your Government, but to make it work for the masses of the people.

Who among you believe that the President of the United States, who stood by you in the darkest hours that ever dawned in peacetime in America and saved you and this country from God knows what suffering and distress, is now your enemy, a traitor to you, his countrymen, and scheming and plotting to get power into his hands to injure you?

This is no effort on the part of the President to steal power unto himself. In less than 4 short years such power as you so enthusiastically gave him by your vote of confidence last November will be returned to you. I have faith in him to believe that when that time shall come you will find him no traitor to you or the best interests of our beloved country.

Susan B. Anthony

EXTENSION OF REMARKS
OF
HON. NAN WOOD HONEYMAN
OF OREGON
IN THE HOUSE OF REPRESENTATIVES
Wednesday, February 17, 1937

Mrs. HONEYMAN. Mr. Speaker, today on the anniversary of her birth we offer special tribute to the memory of Susan B. Anthony, and I say special tribute, because we honor her always, not only as the victorious leader in the cause of suffrage but as a great humanitarian.

Thirty-one years ago today, in this city of Washington, Susan B. Anthony made her final public address. It was her eighty-sixth and last birthday, but it is said her voice was firm and clear as she told her audience failure was impossible in her's and their crusade for equal rights.

My State of Oregon was one of the first to respond to her appeal by according women the right to vote; and she gave her last birthday purse as a contribution to the campaign fund of the Oregon suffrage cause.

As early as 1871 she visited Oregon, and the history of her visits is written in our statute books. Married women there may individually own property. They have freedom of contract. They may litigate in their own names and, as jurors, weigh litigation. Under all our statutes on domestic relations they have equality. They have equal authority with their husbands over their children; equal right to family earnings for necessities and the right to their own earnings above those necessary for the home.

Every one of these laws in our Oregon Code is a stone in the monument to the woman whose memory we revere today. None of them were on the statute books of any State until Susan B. Anthony began her fight for equal—or really human rights.

I am proud that the legislators of many States have followed the guidance of her spirit. And that the voters of my district have approved her program of equality by electing a member of her sex to serve them here.

In this service I shall keep in mind that Susan Anthony did not champion the cause of her sex alone, but the cause of all handicapped and oppressed peoples, that of the child apprentice, that of the colored peoples, that of the widow, the orphan, and the homeless.

The world changes, but many of the things she fought for are still live issues today. We still have child labor, we still have need for rational, voluntary temperance. We still can liberalize many of our educational institutions. We still, in many States, can strengthen a mother's position in the home.

Acknowledging our debt to this valiant leader let us pledge ourselves to carry on the work she began, so that no part of it shall go undone. For that, I know, would be the wish of Susan B. Anthony.

Judiciary Must Be Responsive to Needs of People Under Constitution

EXTENSION OF REMARKS
OF
HON. H. JERRY VOORHIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, February 11, 1937

RADIO ADDRESS BY HON. MAURY MAVERICK, OF TEXAS, AT AMERICA'S TOWN MEETING OF THE AIR ON FEBRUARY 11, 1937

CONGRESSMAN MAVERICK OPENS GREAT CONSTITUTIONAL DEBATE OF 1937

Mr. VOORHIS. Mr. Speaker, on last Thursday night, February 11, 1937, there began over the radio systems of America what history will probably record as the "Great Constitutional Debate of 1937." The town meeting of the air program, arranged by the National Broadcasting Co., presented speakers for and against the President's proposal for reform of the judiciary.

I heard the broadcast; and as I listened to the speeches, the questions of the people in the audiences, and the answers of the speakers, I thought of the millions of people throughout our Nation who were listening, pondering, trying to make up the Nation's mind by several million firesides. I thought of the historic times before this in our history when this same conflict between President and Congress on the one side and Court on the other has been waged.

As I listened, it seemed to me that the ablest and most fundamental arguments of all were presented by my colleague, Hon. MAURY MAVERICK, of the State of Texas, speaking from New York. His speech is reproduced in full herewith. As I listened my own thoughts ran something like this:

NARROW LEGALISTIC INTERPRETATION OR DEMOCRACY?

We have our choice, the President has his choice, between subservience to a narrow legalistic interpretation of a great document on the one hand and manly determination to justify the peoples' faith in democracy upon the other. Jefferson, himself a strict constructionist, faced that choice. On the one hand stood the fact that the Constitution did not specifically give him power to add to the area of the United States by purchasing land from a foreign power. On the other hand stood the need of the Nation for Louisiana. Jefferson chose loyalty to the peoples' need as the highest loyalty. He bought Louisiana and future generations have called him a great man. And fortunate indeed it was that up to that time it had occurred to no one that the Supreme Court could nullify an act of Congress. Else we might have been today a Nation confined to the east bank of the Mississippi.

It has been shouted from the headlines and charged on the floor of this House that if Congress decides in the President's favor in this instance democratic government will be threatened and we will be on the way to dictatorship. I believe such talk is ridiculous. The very people who say such things frequently add that we must not desert the time-honored practices of Anglo-Saxon people. In this I agree with them, but for the sake of their own argument they have suggested the wrong thing.

In England they have a constitution which briefly consists of time-honored precedents, unwritten but understood, and one of these precedents is that an act of Parliament is the law of England, subject to no court review whatsoever. Let us be plain, frank, and, if necessary, blunt. Every one of us knows that the only undemocratic element in our whole American structure of government is the assumption by nine Justices appointed for life of the right to nullify acts of Congress, passed by recently elected direct representatives of the people.

Argue for the perpetuation of that power if you will. But do not say you argue for it in the name of democracy. At bottom, the argument for continuation of the Court's assumption of power is evidence of a lack of faith in the ability, the patriotism, and the good will of the Congress. It is evidence of lack of faith in democracy. I do not share that lack of faith.

FORMER PRESIDENTS CALLED TYRANTS AND DICTATORS TOO

Every outstanding President our Nation has ever had has had conflict with the Supreme Court. The issue has been piling up. Andrew Jackson met it. Abraham Lincoln fought a war over it. And both these men were called dictators and tyrants. Theodore Roosevelt had it, too—and spoke out in meeting about it. He, too, was called a willful man seeking his own power and glory. Long ago, Washington and Jefferson were called dictators, and in Jefferson's case it was charged that the terrors of the French Revolution would visit America if he had his way.

Yet these are the great men of American history. This conflict between Presidents who attempted to act for America and the courts which blocked their efforts is not new.

It has piled up, and we in our generation are called upon to bear the brunt of it.

We cannot decide hurriedly or on the basis of passion or prejudice. Neither can we afford to be stampeded by fear. Every angle, every implication of the proposed legislation must be studied with care. But, as we do so, we will, I think, be driven more and more to the conclusion that, though we might prefer a more fundamental dealing with so great a question, and though we may not personally like everything in the President's proposal, nevertheless, it remains the only method whereby progressive legislation can get a fair hearing in the next few years.

SHOULD THE PRESIDENT'S PROPOSALS REGARDING THE SUPREME COURT BE ACCEPTED?

HON. MAURY MAVERICK FAVORS PRESIDENT'S PROPOSALS REGARDING SUPREME COURT

Mr. Chairman and fellow Americans, why should a change in the high Court's number be proposed? Because our country is today a land of raging floods, of blighting droughts, of gigantic strikes, of millions of unemployed and economically insecure men and women, of farmers and businessmen who were all but destroyed by one depression and who dread the possibility of another.

The Supreme Court has knocked out almost everything the mass of the people want and must have if we are to survive as a democracy. That includes minimum wages and maximum hours, protection against sweatshops and unfair competition, protection against crop surpluses and ruinous agricultural prices, pensions for railway workers, and decent tax laws for the States. If a majority of the Court maintain their present views, not only will they destroy all statutes relating to collective bargaining, social security, regulation of public utilities, but will even, as Mr. Justice Stone indicated last year, make it impossible for the National Government to continue anything like the W. P. A., or to intelligently aid the victims of floods and droughts.

SITUATION INTOLERABLE—MUST BE CORRECTED

The situation is intolerable. The President has suggested an undeniably constitutional bill attempting to correct the judicial situation. Fellow Americans, I favor that bill. The Court is a check on Congress and the President; but, in turn, under the Constitution, the President and the Congress check the Court. For the framers of the Constitution, in order to provide such a check on the Court, deliberately left the numbers of the Judges to the Congress and the appointment of the Judges to the President, with the consent of the Senate.

Why does the use of such a constitutional check on the Court raise such a roar from those who constantly applaud the Court's check on Congress and the President? Why is there now from reactionary forces an outcry against changing the number of Justices, when six times heretofore in the history of our country such a change has been made? If the Liberty League crowd object to the fact that the Constitution vested that power in Congress, let them come out in the open and try to procure a constitutional amendment eliminating it.

JUSTICES THEMSELVES FAVOR RETIREMENTS

The President is not trying to pack the Court, but is in fact following the advice of former Chief Justice Taft and Mr. Justice McReynolds, who urged that judges should retire at 70. Chief Justice Hughes says at 75—but the principle is the same. Yet the elderly Justices have refused to act on that good advice.

The proposed bill is designed, among other important proposals, to accomplish that very result. It seeks to bring about the retirement or to neutralize the activities of judges over 70. It is not a device for packing the Court—for it will not create a single new membership on the bench, if all judges resign at 70.

These very elderly Justices, if they followed the best opinion of their own judicial group, would have resigned. Their purpose, therefore, must be to stay on the Court merely to cast a vote against the registered will of the American people, first expressed in 1932 and overwhelmingly and definitely reaffirmed in 1936.

COMPULSORY RETIREMENT NOT REQUIRED

The bill does not require compulsory retirement, for that would be unconstitutional. Any Supreme Court Judge at 70 can, at $20,000 a year, either retire or stay on the Court.

If he does not retire, another will be placed there who is in the prime of life, and will assist in adjusting the Court to the modern world. There is no Executive usurpation or dictatorship in that. The bill has to pass both Houses of Congress. Then the President nominates a new member. If the nomination if approved by the Senate, the new member takes the oath of allegiance, and there is no reason to believe that, just because he has been appointed by Mr. Roosevelt, he would be less honorable than a Judge appointed by Harding or Hoover.

AMENDMENTS NOT OPPOSED, BUT RISK OF WAITING CANNOT BE TAKEN NOW

I am not here tonight to advocate a constitutional amendment curbing the power of the High Court. I am one of the sponsors of a constitutional conference, the chairman of which is to be Senator GEORGE W. NORRIS, to be held in Washington on March 18 to consider that subject. But that's another story.

There is nothing inconsistent between the proposed statute and efforts to procure a constitutional amendment. But we cannot take the risk of waiting for an amendment. The proposed child-labor amendment has not been adopted after 13 years. The passage of this bill would mean that you can have constitutional minimum wages, agricultural protection, social security, sane tax laws, unemployment relief—all free from attack—and have them now instead of gambling on the mere chance of getting them after a long delay of years. That is the real issue. It can be assumed that the new Judges will have wisdom enough to agree with Mr. Justice Stone and Mr. Justice Cardozo, both appointed by Republican Presidents, who hold such laws constitutional. The people who elected us last November expect us to get into action at once and not sit in Washington for a year or more making windy speeches and twiddling our thumbs.

Would it not be absurd, merely because a few judges refuse to retire at 70, to urge an amendment to the Constitution?

The Constitution, so the present Chief Justice has declared, is only what the Judges say it is. Not all of them, remember, but often only five out of nine of them. And what they say the Constitution means one year they frequently take back in another. A dozen or more times the Court, when its membership has changed by death or resignation, has admittedly and expressly overruled its own former constitutional decisions; and many more times has done the same without openly saying so.

ROOSEVELT HAS NOT APPOINTED A SINGLE SUPREME COURT JUDGE

Since we went into the trough of the depression, with the closing of the banks in March 1933, not a single judge has been appointed to the Supreme Court. That depression, perhaps the most important epoch in American history, occurred after every single one of the present Justices went on the bench. The grim consequences of that catastrophe come to them only second and third hand.

Many of the Justices bring to the consideration of current constitutional problems the views that they formed in an earlier, happier period—as different from that in which we are now living as if it had been a thousand years ago. The fundamental facts now existing those Judges do not see; they have not visited bread lines, or slums, or foreclosed farms, or been close up to the human forces of a great strike.

We should not have a majority of the Supreme Court consist of Judges whose psychology is based on the past, and who, unavoidably, by reason of their secluded position, are largely ignorant of present-day facts. For the Court itself says that constitutionality depends on facts.

A majority of the Court in the past 4 years have not only applied the wrong legal principles, but have also at times applied the right legalistic principles to the wrong facts. We can cure that by bringing into their deliberations the views of new judges to help make them understand the facts of life in the new world in which we now live.

Of course, some men are imaginative enough to sense the factual changes that have occurred outside the courthouse. But you must admit that that is a difficult task for a man over 70. On the average, men of those advanced years are not equal to that task. Many of our big corporations, like the Pennsylvania Railroad and United States Steel Co., work on averages and make no exceptions; they require every executive to retire at 70, whether he wants to or not.

PRESIDENTS AND SENATES NATURALLY CONCERN THEMSELVES WITH ATTITUDES OF JUDGES TO BE APPOINTED

Because the interpretation of the Constitution varies with the changes in the personnel of the Court, Presidents and Senates have always concerned themselves with the general attitudes of men appointed to the Court.

Such considerations are thoroughly moral and constitutional. And our traditions—largely established by Republican Presidents—sanction it.

Hooverism and pre-Hooverism are as dead as the Republican Party everywhere—outside the Supreme Court Building. We have no right to let such extinct beliefs dominate our economic life merely because a majority of the Supreme Court crystallized their attitudes in bygone days.

SPORTSMANSHIP FOR WHOM?—NINE OR ONE HUNDRED AND THIRTY MILLION?

Those who unsuccessfully tried to defeat the President for reelection are saying: "The constitutionality of laws involving the well-being of millions of Americans in a period of crisis must wait upon a mere gamble—the accident of the death or the voluntary resignation of a few aged Justices." Then someone speaks of "sportsmanship." But the Constitution does not require that kind of gambling with the lives and property of our 130,000,000 citizens. And I am not interested in a false theory of sportsmanship when it involves the welfare of America.

The President's proposal will not set a precedent for some later dictatorial government. The real danger of dictatorships will come not from any use of admitted constitutional powers conferred on Congress and the President but from the collapse of our economic system which the Supreme Court (as now constituted) refuses to let work—from the injustice of sweatshop wages, from the wastes of unfair competition and needlessly prolonged strikes, from millions of farm foreclosures and bankruptcies.

The suggestion that every time the Court misinterprets the Constitution there has to be an amendment is utterly insincere. That might mean a half dozen amendments a year. Chief Justice Marshall said that the Constitution was "intended to endure

for all ages to come, and consequently to be adapted to the various crises in human affairs." It was designed to be a statement of general principles, not a mass of detailed provisions.

HOLMES AND BRANDEIS CRITICIZE COURT FOR NOT PAYING TAXES

Specific amendments may easily be futile, considering the way the Supreme Court has acted in the past. In 1895 the Court held an income tax was unconstitutional, overruling several of its earlier decisions. So the people demanded an amendment, and, after 19 years, the sixteenth or income-tax amendment was adopted. To make sure that everybody had to pay, the amendment said the tax should be on incomes "from whatever source derived."

But the Court soon met, said nothing influenced a Judge but God and his conscience, and, I suppose under those influences, exempted their own salaries from any income tax. Justices Holmes and Brandeis dissented scornfully, saying they saw no reason why a Judge should not fulfill the ordinary duties of citizenship. But the views of the majority of the Judges prevailed, and, during the depression, the Supreme Court Judges have drawn their twenty thousand a year from the Government without any deduction for taxes.

DRAFTING, KILLING, WAR, LOANS TO EUROPE ALL CONSTITUTIONAL

I am a Congressman, an ordinary man, looking into the problems of ordinary men. The Supreme Court has said that war and conquest are constitutional; that Congress can draft a man and kill him in a war and be constitutional. It seems clear to me that we ought to have a Court of men in the prime of life which will hold that it's just as constitutional to help the starving, and that if the United States can constitutionally make loans and gifts to foreign countries to fight wars in Europe, it can constitutionally lend and give money to Americans in America when they are in distress, and that it is as lawful to use the Government's money to build decent houses for our citizens in times of peace as to build armies and navies for times of war.

Don't let a few lawyers fool you. They make their living out of having the courts run the country. Use your common sense. It is the same crowd fighting progress and democracy as did it in the election. The forces that were against the President then are against him now.

FINAL POWER SHOULD BE WITH THE PEOPLE

The final power in our Government should not lie solely with the President, the Congress, or the Supreme Court. The three branches should be coordinate.

You, fellow Americans, demand that each of the three branches exercise its own proper constitutional prerogative, and no more. If you do, then your imperative needs cannot continue to be ignored by the stubbornness of men who retired from active life a generation ago, and who are wholly without experience of the men and women now carrying the active work and struggle of America.

You will also know that you will maintain the principles of democracy and justice, that your liberties will be protected, but that our problems will be met with science, knowledge, and present-day actualities.

Report: The Future of the Great Plains. Forty Cents. Government Printing Office. Book Review

---

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1937

THE GREAT LONG ROLL OF THE DRUMS OF DEATH

Mr. MAVERICK. Mr. Speaker, America has been hearing the great long roll of the drums of death during the past few weeks, because once again gigantic floods have been roaring down the Ohio, the Mississippi, and other rivers. These floods are a problem of life and death to our country, and we must make every effort within the realm of human possibility to prevent their recurrence. Long-range soil and water conservation and flood-control work, involving the cooperation of the whole country, must be started now. In this work the Government of the United States must take the initiative and assume the leadership.

Still another phase of conservation, equally important, concerns the Great Plains. All this is told in an easily held book published by the Government Printer and called "The Future of the Great Plains." Anyone can get a copy of this book for 40 cents by writing to the Superintendent of Documents in Washington, D. C.

It is no tale of The Three Musketeers, and will not necessarily keep one up o' nights reading it. But it is all about the city man's bread basket, and if he and his children after him would reach for a loaf in the years to come they had better turn back the cover and take a peek inside. They had better take more than a peek—a good, long, searching look is called for—because this is, indeed, a remarkable and readable story of a huge area, including parts of 10 or 11 States, which compose the Great Plains, and which are pretty well "gone with the wind."

The book says:

This is a matter of direct concern to the Federal Government and to the country as a whole. * * *

SPECULATORS? NONSENSE; THIS IS NATURE'S DESTRUCTION!

And as if to answer a certain "great writer" and others who have made the senseless and, in any event, meaningless comment that the plains are filled with "speculators", it says:

It is a cruel error to regard any large portion of this population, as some uninformed commentators have done, as speculative investors whose calculations have gone wrong. Not in money alone but also in labor and endurance they have paid for better fortune than has yet been theirs.

The Great Plains farmer in many cases will need relief for some time to come. He will need credit for a longer period.

Indeed, as most everyone knows too well, the Federal Government had to take emergency steps on a great scale in 1934 and 1936 to safeguard human life, relieve destitute families, and rescue dying cattle. These emergency steps were made necessary not only by the drought but also by years and years of land wastefulness and misuse. The same fierce energy of the white man that so nearly exterminated the Indian and the buffalo had broken down the values of the land.

FALLACIES POINTED OUT; SOIL OF PLAINS GOOD, NO CHANGE IN CLIMATE

The book also points out certain truths that have long been overlooked, or at least not commonly understood. It shows, for example, that the soils of the Great Plains are not poor or infertile, as many people seem prone to believe. On the contrary, the Plains can boast of soils that are among the richest on the continent; soils that, given water, need concede nothing to the long-lauded blacklands of the South, the rich orchard lands of the Pacific coast, or the productive croplands of the upper Mississippi Valley.

It points out the fallacy of the widespread idea that the Nation is undergoing a major change in climate. It says:

There is no proof that a permanent change in climate, in the direction of greater aridity, is taking place.

It is true that the Plains, like many another great region of the country, has relatively wet and dry cycles. The great expansions of the cultivated and heavily grazed areas have come during wet periods. The great movements of settlers into the Plains have come during these wet periods. This was partly the result of chance, since the major wet period which followed the close of the Civil War happened to coincide with a period in our history when there was a concerted westward movement of our population. Good harvests, however, follow wet periods in the Plains, and it was all too easy for prospective settlers to mistake an unusually good year, from the standpoint of rainfall, for the normal, year in and year out rainfall.

SPECULATORS AT FIRST; RAILROADS; THEN TINY HOMESTEADS

This illusion—

Says the book—

was shared by speculators, by the land-grant railroads which had large tracts to dispose of and which wished to build up their freight traffic by States with land-grant scrip to sell and by the Federal Government itself, through its homesteading policy and its sales of public land. Newcomers were invited to homestead 160-acre tracts, although we now know that in most parts of the Great Plains a farm of this size is far too small to support a family. They were required to put this land under the plow, regardless of whether or not it was suited for cultivation. Not until 1909 was the homestead tract belatedly enlarged to 320 acres, and although in 1916 grants of 640 acres were authorized, the provision was made that they be devoted solely to grazing and stock-raising. Thus the homesteader often had to plow when plowing was harmful to the land, and he was sometimes forbidden to plow when plowing might have been profitable and beneficial.

Settlement followed the lines of the transcontinental railroads, as in earlier times it had followed navigable rivers. It was facilitated by the introduction of barbed wire, which made it possible to fence ranches at comparatively small cost.

BARBED WIRE ENTANGLES THE CATTLE BARON AND THE BUFFALO

This introduction of barbed wire had more than ordinary significance. From the end of the Civil War until about 1886 great herds were grazed on what was practically one vast pasture, thousands of square miles in extent, and stretching from my own State of Texas to Montana. This was the era of "cattle barons", who controlled herds and range land as far as the eye could see.

With the beginning of a number of drought years in 1886, and the continued enclosure of land by homesteaders and purchasers, these "cattle barons" found their range and their business increasingly restricted. They began to follow the buffalo into oblivion.

The book says that after 1890 there was only a slight increase in the number of range cattle on the Great Plains. There were more than 12,000,000 head of cattle in the range portion of eight Plains States in 1920, but this number was cut almost in half by 1935. Yet here is the crux of the situation, the monkey wrench in the machinery:

* * * Because there had been a continued and serious deterioration of the range, because a considerable area had been converted from range to tillage, and because severe drought conditions had burned the land during 1934, the Great Plains are estimated to have been nearly 100 percent overstocked in 1935.

YOU CAN'T HAVE YOUR CAKE AND EAT IT, TOO!

In other words, a combination of drought, barbed wire, homesteaders, heavy grazing, and an ever-increasing extension of the plow contrived to eat the frosting off the Great Plains cake. Although they should have known better, farmers and ranchers in the Plains were trying to eat their cake and have it, too! Even Houdini could not perform this trick.

Things really began to happen in the Great Plains along about 1910. New and powerful influences were felt. The tractor, the combine, and other power machinery was introduced on a large scale. The farmer was able to plant and harvest a much larger acreage than ever before. At the same time, the book explains, the farmer was obliged to secure a good cash crop in order to buy and maintain this expensive machinery.

This was just the beginning of a truly vicious cycle. When the World War came along with inflation in tow, the price of wheat boomed to new high levels.

BOOM, BOOM, BOOM, AND BOOM!

Every rise in the price of wheat meant an increase in the number of acres sown to wheat. As the drums boomed for the marching feet of American doughboys there was a corresponding boom in receipts, a corresponding boom in acreage. The Great Plains had apparently become, in fact, the long-sought land of milk and honey.

Then came the biggest boom of all. In truth it was a bang. After the war the price of wheat collapsed. The farmers were loath to have their milk and honey removed, and, to make matters worse, they were forced to continue planting larger and still larger acreages in what the book calls—

A desperate endeavor to get money with which to pay debt charges, taxes, and other unavoidable expenses. They had no choice in the matter. Without money they could not remain solvent or continue to farm. Yet to get money they were obliged to extend farming practices which were collectively ruinous.

This era of the plow was the crowning blow, the straw that literally broke the back of the Plains.

As late as 1934——

The book relates—

about 17,600,000 out of 44,800,000 harvested acres in the Great Plains were under wheat; in western Kansas in the same year over 6,000,000 out of 8,000,000 were given over to wheat. Soil not previously plowed was exposed to the wind, with no cover crop to protect it between seasons.

It is important to say that this book doesn't build up to a terrific climax of dust and devastation, and dump you there with a namby-pamby hopelessness, saying, "well, isn't this a fine mess we've gotten ourselves into? We're in it all right, but what are we going to do about it?"

WHERE DO WE GO FROM HERE, BOYS?

On the contrary, more than half of this book is given over to telling about what has already been done about it and what we should do about it from now on. It maps a definite program and offers sound recommendations for Federal, State, and local governments as well as individuals. It is a constructive book.

Included in the recommended lines of Federal action are prompt provision for investigations and surveys, Federal acquisition and control of certain lands in the range areas, measures to increase the size of farms, development of water resources, and a certain amount of resettlement.

For the States it recommends a prompt survey with a view to necessary revision and extension of present laws affecting land and water use and conservation, legislation to permit zoning of agricultural land, the establishment of cooperative grazing associations, State legislation permitting qualified, property-tax-paying voters of a county or other division to form soil conservation districts, revisions in taxing systems to meet existing economic and social conditions, and careful attention to problems of land occupancy and tenure.

LOCAL ACTION EMPHASIZED—SOIL CONSERVATION DISTRICTS

The importance of local action is emphasized. The book says:

The success of a long-time plan for essential readjustments in the Great Plains economy in the final analysis will depend upon local action even more than on Federal or State action * * * in the end local attitudes, policies, and actions are bound to be decisive.

It seems to me that State legislation to permit the formation of soil-conservation districts is among the most important of these recommendations. It is pointed out that three agencies of the Department of Agriculture—the Land Policy Committee, the Soil Conservation Service, and the Office of the Solicitor—have been continuously engaged in devising recommendations for appropriate State legislation for soil-erosion control. A standard State soil-conservation district law is the fruit of their cooperative labors, and the Secretary of Agriculture has recommended it to the State legislatures.

In brief, this law provides a procedure by which soil-conservation districts may be organized as governmental subdivisions of the State. These districts would exercise two types of power: (1) To establish and administer erosion control projects and preventive measures, and (2) to prescribe land-use regulations designed to prevent and control erosion.

The advantages coming out of the formation of such legally authorized districts, however, would not be limited to soil-erosion control. The same practices placed in force to bring about soil and water conservation would certainly have more than a passing influence upon the control of floods.

In other words, this is a plan with a double-barreled benefit. This is the type of legislation that would not only go far toward improving general land conditions throughout the Plains but would be of inestimable value in any program for the prevention and control of floods.

BELIEVE IT OR NOT, THE BOOK IS WELL WRITTEN

The Future of the Great Plains is a well-written book, telling a dramatic story honestly and accurately. And as if the story were not already powerful enough, there have been added in strategic spots throughout the text a series of neat, clear maps and charts, with geographic and economic explanations. There are many pictures, telling even more graphically than words the story of the Plains from its earliest days of buffalo, Indians, and lush grass, down through the boom days of cattle and wheat, and forward to the present day, when signposts of conservation are beginning to mark the road away from potential ruin to a new era of stabilized agriculture.

The President's Great Plains Committee has done an excellent job. The members have written with sincerity and with a confidence and authority that comes with knowing what

they are writing about. They have discarded, fortunately for everybody concerned, the stilted language of the scientist and the professor. Instead they have put their heads together in a friendly, purposeful way and cooperatively bent their energies toward attainment of their job. In stripping their report of all sham and pedagogic pretense, the committee members have even dropped the "Doctor" titles from their names.

The Future of the Great Plains is one more example of the growing importance of Government publications. Inexpensive, well printed, and written in readable English, such books are as necessary to the city and country families of today as were McGuffey's Readers in the old days. Buy the book. It costs less than one movie.

Labor and Legislation

EXTENSION OF REMARKS
OF
HON. PAT McCARRAN
OF NEVADA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 17 (legislative day of Monday, Feb. 15), 1937

RADIO ADDRESS BY WILLIAM GREEN, PRESIDENT OF THE AMERICAN FEDERATION OF LABOR

Mr. McCARRAN. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address delivered by William Green, president of the American Federation of Labor, on Saturday, February 13, 1937, on the subject of Labor and Legislation.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The guiding principle of the organized-labor movement in America is that the economic advancement of the workers can be most effectively achieved through exercise of their joint economic power to secure higher wages, shorter hours of work, improved working conditions, and a better standard of life. Since the inception of our great labor movement organized labor has built up improved standards of life for the wage earners gradually, persistently, step by step. In this, labor has relied on its own economic strength more than on statutory enactment to secure freedom from economic enslavement. This must remain the basic method of labor's self-advancement. For labor abhors compulsion. And, above all, it must retain its independence.

Through agreements negotiated by our unions we have steadily raised standards of work and living for all workers. In 1881, the year of its formation, the American Federation of Labor coordinated the demands for an 8-hour day and brought forth a powerful movement for the shortening of the workweek. The results speak for themselves. Between 1880 and 1890 the average workweek was reduced from 63 to 58 hours. Between 1880 and 1937 the labor movement enabled wage earners to reduce the average workweek from 63 to 42 hours, adding 21 hours to their leisure time and nearly tripling their average wages.

Today workers are more keenly aware than ever before of the need for self-organization. The individual worker's ability to direct his own economic life has now become almost nonexistent. His conditions of employment, his wages, his safety and security, and, most important of all, his ability to get and hold a job are beyond his control. With nearly 9,000,000 wage earners still unemployed, the worker cannot bargain individually with his employer. It is a question of his accepting the terms offered him or remaining jobless. That is why the importance of equalizing bargaining power between labor and management by organizing into unions and by collective bargaining has gained a new force and a new momentum among the wage earners of all types and classes in the United States in recent years. In the bitter years of the depression, when the number of unemployed workers at one time approached 16,000,000 and wages of those employed were cut to the bone, more and more workers came to realize that only through organization into unions could they gain the economic strength they so desperately needed. More of them learned that one union is much stronger than its individual members; that a group of unions is proportionately stronger than the separate units, and that a federation of all unions speaks and acts with authority for all wage earners in America.

But the workers' rights to organize and bargain collectively were bitterly fought by organized employers and concerted attempts have been repeatedly made to thwart the growth of labor unions. That is why labor has sought and secured the enactment of substantive laws, such as the National Labor Relations Act, to insure to the workers their freedom of self-organization and to protect them against the employers' intimidation, coercion, and management-fostered company unionism.

From the very outset organized labor realized that legislative enactments can and should be made to solve those problems which affected workers as a group and which were related to the public policy of our Government insofar as that policy extended to labor. The American Federation of Labor has accepted as its clear duty the task of increasing the dignity and influence of wage earners as members of the community and has acted as spokesman for them in bringing forth legislative proposals designed to protect labor's interests. As a result, a long list of social achievements have been made under the leadership of the American Federation of Labor.

The original platform of the federation included a proposal that a Federal Bureau of Labor Statistics be created so that data on wages and working conditions might be available. When this was secured, the federation urged the creation of similar agencies in the various States and asked Congress to create a Federal Department of Labor with a Secretary in the President's Cabinet to represent labor. The first Secretary of Labor was appointed in 1913.

Year after year the federation secured the enactment of laws limiting the hours of work of Government employees. The recent enactment of a 40-hour week in Federal service without reduction in pay has proved an important means of spreading employment among qualified public servants.

Similarly, hours of labor on public works contracted by the Government have been effectively limited. Last year the federation secured the enactment of the Walsh-Healey law, which requires the maintenance of fair standards on all manufacturing contracts let by the Federal Government.

Labor has sought and secured the extension of the merit-system principle in our Government by securing the adoption of civil-service laws.

A limitation of hours and the improvement of working conditions of postal employees, the adoption of an 8-hour law in the railroad industry—these and numerous other measures have served to provide much needed protection to various groups of wage earners and to safeguard their interests.

Since 1881 the American Federation of Labor has persistently sought the passage of laws forbidding child labor. Twice Federal bills sponsored by the Federation have been enacted into law, only to be declared unconstitutional by the United States Supreme Court. Today 27 States have ratified the amendment authorizing Congress to regulate child labor, and labor confidently expects that the necessary 36 ratifications will be obtained before the end of this year.

Another great struggle of labor for its rights was aimed to stop the invasion of the courts into the industrial life of our people by the issuance of injunctions against trade unions. A measure of protection against this insidious instrumentality against labor unions was given by Congress in 1914 in the form of the Clayton Act. By 1932 labor finally secured the enactment of the anti-injunction law known as the Norris-LaGuardia Act, which defined and limited the jurisdiction of equity courts. This law did away with the "yellow dog" contract, and through specific permission of peaceful picketing and in other ways this act gave labor the long-denied protection.

In the field of State legislation the Federation has secured many substantial advances. There are today workmen's compensation laws in 46 States. Promotion of State compulsory education laws, wider use of public schools, free textbooks, vocational training, regulation of night work for women and establishment of minimum standards of wages and hours for them, regulation and limitation of child labor—all of these measures and many others have been enacted by our States to bring about higher standards of living for the major group of our citizens.

The American Federation of Labor is carrying on its untiring work to bring better living conditions to the workers of the Nation. Its major legislative proposal today is contained in a measure sponsored by Senator WAGNER and designed to bring about a long-range program of housing for low-income groups.

An acute housing crisis already exists in this country. This crisis has been aggravated by the recent flood disasters. Entire communities have been wiped out from the Nation's map. These conditions cannot be satisfactorily remedied by emergency legislation. Only a comprehensive program of planned low-rent housing can bring adequate shelter within the reach of the lowest income groups and rid the country of slums.

Among other legislative proposals now in Congress and supported by organized labor is the measure introduced by Senator O'MAHONEY, of Wyoming, to provide a system of Federal charters and licenses for corporations. This measure would substitute a coordinated system of Federal charters of corporations engaged in interstate commerce for the present system of State charters. The bill provides that the business enterprises so incorporated agree to respect the workers' rights of self-organization and collective bargaining and prescribes as a condition of doing business socially desirable minimum standards such as the minimum wages for women and improvement of labor conditions in the sweated industries.

Legislation making the 30-hour week basic in all industry is also pending the consideration of Congress.

Extension of the benefits of the Social Security Act to additional groups is also contemplated.

The Federation also supports the plan for a careful study by a representative joint economic committee of the distribution of the national income to serve as a basis for recommendations of remedies against the recurrence of depressions and the elimination of unemployment.

New civil service laws granting Government employees a further reduction in the work week, adjusting inequalities in their pay and extending their sick leaves and vacations is also among the proposals sponsored by organized labor.

In addition the Federation is backing a comprehensive program of State legislation including State labor relations acts intended to extend the application of the National Labor Relations Act; a measure providing for State licensing of private detective agencies and private detectives and doing away with labor espionage and other measures intended to put an end to home work, prevent non-payment of wages to workers, and to limit the use of medical examination by private employers as a means of discrimination against workers.

The Federation is now in its second half-century of service to the American wage earners. It has made great forward strides in the past. It will unfailingly continue to carry on its work of making the wage earners' experience an active force in shaping the future development of a better and greater Nation.

I have discussed the general legislative program of the American Federation of Labor. George M. Harrison, the chairman of the Railway Labor Executives' Association; president of the Brotherhood of Railway Clerks, and also vice president of the American Federation of Labor, is intimately acquainted with the program of railway labor unions. Mr. Harrison, in what measures before Congress are railway workers interested?

Independence of the Judiciary

EXTENSION OF REMARKS

OF

HON. WARREN R. AUSTIN

OF VERMONT

IN THE SENATE OF THE UNITED STATES

Wednesday, February 17 (legislative day of Monday, Feb. 15), 1937

RADIO ADDRESS BY A. LAWRENCE LOWELL ON FEBRUARY 10, 1937

Mr. AUSTIN. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a brief address delivered over the radio on February 10, 1937, by A. Lawrence Lowell, former president of Harvard University, concerning the independence of the judiciary and the permanence of American institutions.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The bill on the courts now pending in Congress is unprecedented. Never before have vacancies on the Supreme Court been created in order to change its complexion; never has it been enlarged that the administration might control its opinions. That its language is general, applying permanently to all Federal judges over 70, conceals from no one the fact that it enables the present administration to appoint six new judges of the Supreme Court who will be expected to produce a majority on constitutional questions favorable to the President.

The bill has a double aspect: One, its relation to present political conditions, and the other its permanent effect upon the institutions of the country. For it is not a purely emergency measure to meet a temporary difficulty but an enduring statute altering permanently our judicial institutions, and as such it must be judged.

The two principal grounds on which the bill is based will, neither of them, hold water if impartially examined. One is that the United States courts are at present overburdened, that their work is in arrears, and that to perform it properly more judges are required. Now, as a matter of fact, save in a few places where additional judges may very well be provided, the Federal courts are not in arrears. They keep well up with their work and do not need an increase in membership. As for the Supreme Court, that has long had the habit of clearing its whole docket every year.

In the message accompanying the bill, complaint is made that the Supreme Court refuses to hear a number of requests for appeal. But that is what it ought to do; for it should not take up its time in hearing appeals already decided by an appellate court unless prima-facie grounds can be shown for thinking there may have been a possible error. Any other policy would swamp the Court, however, largely manned, with the hearing of baseless contentions. It is this power that has enabled it to avoid being overwhelmed by arrears, as it was before the intermediate court of appeals was created. Therefore, it is not true that the Federal courts are undermanned.

The other ground given for increasing the membership of the Court is that Judges at the age of 70 lose some of their judicial efficiency, and therefore while still capable of sitting on the Bench and deciding cases justly they can handle only a smaller number of cases and need to be supplemented by an additional Judge. That the powers of Judges are not impaired at 70 is evident to anyone who has known them or been familiar with their biographies or decisions. That a Judge at 70 is competent to hear and decide cases, but not so many of them as before, is an almost obvious absurdity.

Mark! However much a divergence of opinion on constitutional questions may have arisen between the Executive and judiciary, this bill does not cover only such matters. It extends to all judicial decisions between litigants and enlarges the opportunities of the appointing power to select judges who will carry out its views and may be open to its suggestions.

It is a precedent easy to follow. There is nothing to prevent any administration that does not like the attitude of the courts from passing a similar bill for changing their complexion. Evil practices of that sort are contagious.

In short, the question should not be regarded from the standpoint of a temporary divergence in attitude between the Executive and the courts, but as it affects the permanent institutions of our country and diminishes the independence of the judiciary. For any such tampering with the courts weakens the sense of responsibility and independence of the judges who should administer justice, not favors.

The fact is that the third or judicial branch of our triple form of national government has, over a period of a century and a half, justified the confidence placed in it. Charges of improper or corrupt conduct in the Federal tribunals have been very rare; scandals attaching to the judicial ermine have been nearly unknown; and although appointments for political reasons have been common, yet for the judge who takes his seat the sense of justice has excluded any payment of political debts. This is due to the security of tenure, to the absence of any fear of interference by the two political branches of the Government, and thus to the independence of spirit that maintains the traditions of impartial justice on the bench.

Let us not forget that the attitude of the bench, and the security on which it rests, are the price of a long fight for the liberty of English-speaking people. That justice among men should be freely administered, independent of control by the Crown was the result of a great struggle, of a bitter civil war in England, and was finally achieved by the expulsion of a king. The fruits of that struggle we inherited, and they have been always cherished by us.

In the Declaration of Independence one of the charges against George III was that "he has made judges dependent on his will alone, for the tenure of their offices"; and by the Constitution our forebears provided that no one should be able to do anything of the kind again in this land of ours. At least they have attempted to do so.

Are we now to return to the claim of the Stuart kings that judges should be lions, but lions under the throne?

Abraham Lincoln

EXTENSION OF REMARKS

OF

HON. JAMES P. POPE

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Wednesday, February 17 (legislative day of Monday, Feb. 15), 1937

EDITORIAL FROM THE BOISE (IDAHO) CAPITAL NEWS

Mr. POPE. Mr. President, I ask unanimous consent to have inserted in the Appendix of the CONGRESSIONAL RECORD an editorial from the Boise Capital News of February 12 entitled "A Man Called Lincoln." This editorial presents a rather unusual but, in my opinion, entirely true picture of the Great Emancipator. The author, Saxton E. Bradford, serves well the memory of Lincoln in this brilliant editorial.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Boise (Idaho) Capital News of Feb. 12, 1937]

A MAN CALLED LINCOLN

It seems there was a man named Abraham Lincoln.

In the traditional American manner he worked and fought his way through a backwoods childhood, a prairie youth, to a place in the hearts of his fellow men that can never be usurped.

When we think of leadership, we think of Washington; when we think of statecraft, we think of Jefferson; when we think of heart and soul, we think of Lincoln.

It is a pity that few Lincoln Day orators have taken the time, few have the capacity of mind and conscience to understand the true Abraham Lincoln.

It is shameful that his essential humanity has been to a large extent lost in the welter of myth and tradition we love to build around our national heroes.

First, it is to be remembered that Abraham Lincoln was for the common man above everything else. His battles with intrenched power and privilege were as bitter and as heartily criticized as those of Franklin D. Roosevelt. There never was an American President so villified in the public press, from the stump, and from the pulpit as Abraham Lincoln. He had the gall, for instance, to uphold the right of workmen to organize and strike in an effort to raise their standards of living. He had the colossal nerve to oppose the Supreme Court of the United States when it stood firm for the divine right of private property against the encroachments of the people's Government.

Abraham Lincoln was a pretty hard character in the eyes of the propertied class. It seems he had some inkling that the rights of human beings to food and clothing and freedom were greater than the right to acquire and hold wealth in spite of the welfare of one's neighbors.

In the White House, Abraham Lincoln hewed to the line, a lonely and abused man, as he had hewed in his youth the fence rails of pastoral Illinois. With conscience intact and vision clear he held to the firm principles of human relationships though the Nation trembled on the brink of collapse. Lincoln believed it were better to have no United States of America than to have a United States through which the word "freedom" rang only in hollow mockery.

Lincoln was interested in American institutions as the continuing expression of the ideals of the American people—not as a divinely inspired set of rules and regulations rising up to confound future generations. Americanism, Lincoln believed, was a dynamic principle of action, not a static form of ancestor worship. He believed the Constitution and the Declaration of Independence were expressions of the restless idealism of the American people, not empty paragraphs designed to ring hollowly through schoolroom and declamation hall, not a sequence of smug quotations to bolster up the specious argument of constitutional lawyers.

There are a lot of folks lately wondering if Lincoln wasn't right.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. WILLIAM H. KING

OF UTAH

IN THE SENATE OF THE UNITED STATES

Wednesday, February 17 (legislative day of Monday, Feb. 15), 1937

RADIO ADDRESS OF HON. FREDERICK VAN NUYS, OF INDIANA, ON TUESDAY, FEBRUARY 16, 1937

Mr. KING. Mr. President, on the 16th instant the senior Senator from Indiana [Mr. VAN NUYS] delivered over the radio an address on a question which is of great importance to the country today. I ask unanimous consent that it be inserted in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

With the reforms set out in the proposed bill looking toward more speedy and uniform procedure in cases involving the constitutionality of Federal statutes I am in hearty accord.

Under the present system we are confronted by a mass of contradictory decrees and decisions in our district courts and circuit courts of appeal and litigants are left in confusion and uncertainty under new statutes until the questions are finally passed upon by the Supreme Court. This usually takes many months.

With the objectives of this bill, therefore, to make the administration of justice more speedy, equal, and certain, I am in complete sympathy and have no doubt that legislation along those lines will be enacted.

With the provisions of the bill, however, to reorganize the courts by appointment of additional judges I cannot go along.

One of the arguments advanced as to the necessity for such judges is the alleged fact that the dockets of the courts are congested. This argument does not apply to the Supreme Court of the United States, because the docket of such Court is not congested and has not been for a long length of time. All matters brought before that tribunal are disposed of promptly and decisively.

If the dockets of some of the lower courts are in fact congested and the business of such courts justify additional judges, the presentation of the facts by the Department of Justice will, in my opinion, receive a ready response by the members of the Senate Judiciary Committee and the Senate itself.

But that part of the bill which provides for enlargement of the Supreme Court and some of the lower courts strikes more vitally at the fundamentals of American government than a question of temporary congestions.

It is openly admitted by many of its proponents that the real purpose of the bill is to change the complexion of the courts.

Let us meet the issue frankly and aboveboard and not seek to camouflage it with a mass of technical reforms with which we are all in sympathy. It is for that reason that I have moved to make separate bills of the two proposals.

I want to admit in my short argument that the Supreme Court may have been ultraconservative in its interpretation of some of the acts of Congress passed during this administration. With some of those decisions, I do not agree. But after having thumbed the lawbooks for nearly 40 years, I long ago ceased to abuse a court or jury which happened to disagree with me.

The very keystone of our governmental structure lies in the tripartite distribution of power between the executive, the legislative, and judicial branches of our Government. It was intended that the legislative department should be free and independent in its exclusive function of making the laws; that it was the exclusive business of the executive branch to administer them; and that the judicial department, and the judicial department alone, should construe them.

It is true that the Constitution itself does not expressly grant to the Supreme Court the right to invalidate Federal statutes upon the ground that they are unconstitutional. But for 134 years—ever since the decision of Chief Justice Marshall in the case of Marbury against Madison—that power has never been seriously questioned by the American people. It cannot be, if we are to maintain the well-balanced governmental structure handed down to us by the forefathers.

Marshall said in that memorable decision: "The powers of the legislature are defined and limited; and that those limits may not be mistaken or forgotten, the Constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may at any time be passed by those intended to be restrained? * * * The Constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts and, like other acts, is alterable when the legislature shall please to alter it."

I believe every thinking American citizen will agree with the force of that argument. No thinking citizen would countenance the placing of the Constitution on a parity with ordinary legislative acts which are altered, amended, or repealed at the pleasure of the Congress.

Yet I see no difference between that procedure and the changing of the personnel of the Supreme Court in order to obtain a judiciary which will see eye to eye with the whims and viewpoints of an ever-changing Congress.

In a few days we shall all reread or listen with reverence to the farewell words of the immortal Washington. May we ponder his admonition in which he said: "If, in the opinion of the people, the distribution or modification of the constitutional power be in any particular wrong, let it be corrected by an amendment in the way the Constitution designates—but let there be no change by usurpation."

To that doctrine I thoroughly subscribe.

We, as a nation, have gone through harrying and terrifying experiences in our social, industrial, and economic life during the past few years. The whole world has. So far, our old, time-tried, and fire-tested constitutional Government has stood the test, and we are well on our way toward complete recovery—thanks to the vision and courage of this administration.

If new evils are anticipated in the future, if our sad experiences have demonstrated that the checks and balances of our present form of government need readjustment, let the people say so, but let it not be attempted by Congress through tampering with the courts or tinkering with the Constitution.

I commend serious consideration of this vital issue by those classes of our citizenship whose rights and privileges in the past have been protected and safeguarded by our highest tribunal. The rights of free speech, free religion, and a free press have been preserved to us through all hazards. The Supreme Court has been the pivotal point upon which the rights and liberties of the people, the States, and the Federal Government itself have turned.

As has been well said, "Admit that the Federal judiciary may in its time have been guilty of errors, that it has occasionally sought to wield more power than was safe, that it is as fallible as every other human institution. Yet it has been and is a vast agency for good; it has averted many a storm which threatened our peace and has lent its powerful aid in uniting us together in the bonds of law and justice. Its very existence has proved a beacon of safety."

It may be that modern economic and industrial developments demand an enlargement of Federal legislative power. I am not discussing that question tonight. But if so, let it not be accomplished through subterfuge or indirection. Let it be done in the regular, constitutional, American way—by the people themselves—just as it always has been done, and I pray God always will be done.

The Supreme Court Crisis

EXTENSION OF REMARKS
OF
HON. CHARLES W. TOBEY
OF NEW HAMPSHIRE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, February 17, 1937

ADDRESS BY HON. CHARLES W. TOBEY, OF NEW HAMPSHIRE

Mr. TOBEY. Mr. Speaker, under leave to extend my remarks in the RECORD, I include an address I recently made, as follows:

There has recently been thrust upon the American people an issue which presents a crisis holding grave potential consequences for the American people. The question before us is, What is going to happen to our country and its constitutional government? Any other question becomes anticlimax in comparison therewith.

I refer to the sudden and drastic proposal of the President to gain personal control of our Supreme Court. It is an attempt of the Chief Executive, sworn to preserve, protect, and defend our Constitution, to acquire the power to alter the Constitution to suit his personal views. He seeks this power, not from the people but from the Congress. His purpose is to dilute the constitutional convictions of the Supreme Court by appointing six New Deal personalities thereto.

Let me make it clear at this point that I am speaking as an American citizen and not as a member of any political party. This issue is too far-reaching, it carries too grave consequences for anyone to resort to partisan arguments. Nor do I hold any personal feeling against those responsible for the attempt, but feel deeply that regardless of party, race, or creed, the time has come when all who value our form of government and the liberties thereunder should take a firm stand against this threat to constitutional government.

Stop to consider what the situation would be in the country if his proposal should become law. All authority of our Government—legislative, executive, and judicial—would be vested in one man's hands.

Let me quote from the writings of one of the most noted Chief Justices of our United States Supreme Court, John Marshall:

"The accumulation of all powers—legislative, executive, and judicial—in the same hands, whether of one, or few, or many, and whether hereditary, self-appointed, or elected, may justly be pronounced the very definition of tyranny."

As has been well said, "Our Constitution was made by men familiar with hard times and with every form of tyranny, and who well knew that the worst and most hopeless of tyrannies is the tyranny of the majority over a minority."

Each of you individual citizens of our country is a minority. Your individual rights are guaranteed by the Constitution. You cannot afford to sit back and let these rights be thwarted by the plan of the President. Our country belongs to the people. So do the Constitution and the courts.

Everyone knows that the President already holds Congress in the hollow of his hands; that it has done his bidding on every piece of legislation before it, but not satisfied with that power, he would, by packing the bench with personalities who see eye to eye with him, virtually be master of all three branches of the Government. He, who swore to preserve, protect, and defend the Constitution, which includes the separation of powers therein provided, would now throw overboard the entire system of checks and balances on which our Government is founded, and under which system the Nation has grown from an infant in swaddling clothes to become the leading nation in the world.

It is almost unbelievable, the effrontery of the thing.

He attempts to conceal his major intent behind an alleged desire for greater efficiency, but unless I mistake the signs and portents, the sham is being sensed the country over by voters of all parties.

How can 15 men function more expeditiously or efficiently at a judicial hearing than 9 men?

Let me answer this in the words of Chief Justice Hughes, who said, "Everyone who has worked in a group knows the necessity of limiting size to obtain efficiency. This is peculiarly true of a judicial body." As has been pointed out, since each member of the Court must become familiar with the details of each case that comes before it, the addition of six new justices will not in itself simplify this phase of the Court's work.

The attack on the Supreme Court is a subtle one. It is by indirection. It is political cleverness, of which we have had too much already. The Executive never mentioned these plans in his campaign, and refused to answer questions propounded to him along these lines. This attempt of the President makes a mockery of his repetition of the oath, "to preserve, protect, and defend the Constitution."

If he honestly believes in the principle of the changes he requests, let him present them to Congress for its consideration in the form of a constitutional amendment, then to be passed on to the people for their consideration and approval or rejection, to be decided entirely free from complications with any other issue and with partisanship reduced to a minimum. This is the way the matter should be handled and let it be determined by the great jury of American citizenship, and thereby give time for adequate consideration. But it is apparent his mind does not work that way. Motivated by a lust for power, which is now confirmed in this attempt, he insists that the matter go through in accordance with his message.

If by legislative act the President can eliminate two-thirds of the Supreme Court, or pack the Court to do his bidding, what would prevent another President from doing the same thing?

The present danger was forecast by the eminent British leader, Lord Bryce, over 50 years ago, when he wrote:

"Suppose a Congress and President bent on doing something which the Supreme Court deems contrary to the Constitution. They pass a statute. A case arises under it. The Court, on hearing the case, unanimously declares the statute to be null, as being beyond the powers of Congress. Congress forthwith passes and the President signs another statute more than doubling the number of Justices. The President appoints to the new justiceships men who are pledged to hold the former statute constitutional. The Senate confirms the appointments. Another case raising the validity of the disputed statute is brought up to the Court. The new Justices outvote the old ones, the statute is held valid; the security provided for the protection of the Constitution is gone like a morning mist."

Wake up, America! Cast off the apathy and indifference that have been our Nation's weakness, and through the spoken and printed word, through mass meetings, and from the public forum, let there go out over this country a rising tide of protest which will rebuke the Executive and end this attempt to wreck constitutional government.

Our fathers paid a tremendous price for our liberties and to preserve our constitutional government. Shall we passively submit to this outrage and be lulled into continued apathy and indifference by a siren's voice, by widespread largesse, or by a suggested Utopia?

New Hampshire holds in high regard the memory of her noted son, Daniel Webster, great defender of the Constitution. Let him speak to us again in this solemn hour of our Nation's history. Hear once more his words, uttered in another national crisis, when constitutional government was threatened:

"Other misfortunes may be borne and their effects overcome. If disastrous wars should sweep our commerce from the ocean, another generation may renew it; if it exhausts our Treasury, future industry may replenish it; if it desolate and lay waste our fields, still under a new cultivation they will grow green again and ripen unto future harvests.

"But who can reconstruct the fabric of demolished government? Who can rear again the well proportioned columns of constitutional liberty; who can frame together the skillful architecture which unites national sovereignty with States' rights, individual security, and public prosperity? No; if these columns fall, they will be raised not again."

Webster being dead, yet speaks to us in this momentous hour of our history, for the columns of constitutional liberty are tottering and he who proposes to tear them down is no less than the President of these United States. Wake up America before it is too late! Our most precious heritage is in danger.

Let Democrats and Republicans, Catholic and Protestant, Jew and Gentile, all who love America and the liberties guaranteed by our form of government, join in a mighty protest and say, as did the French at the Marne, "It shall not pass."

Reciprocity Sales

EXTENSION OF REMARKS
OF
HON. WRIGHT PATMAN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, February 17, 1937

Mr. PATMAN. Mr. Speaker, on February 15, 1937, I introduced a bill (H. R. 4726), as follows:

A bill to amend the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914

Be it enacted, etc., That the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, be, and the same hereby is, amended by adding, immediately after section 3, a new section, to be known as section 3a, reading as follows:

"SEC. 3a. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to directly or indirectly make a sale or contract for sale of commodities or a contract for furnishing any service on the condition, agreement, or understanding that the vendor of such commodity or the furnisher of such service will in turn purchase from the vendee or

person to receive such service, or from any person designated by him or it, any commodities or service, where the effect of such sale or contract for sale or contract for service or such condition, agreement, or understanding may be substantially to lessen competition or tend to create a monopoly in such line of commerce, or to injure, destroy, or prevent competition between competitors in such line of commerce.'

"SEC. 2. That section 11 of said act be, and the same hereby is, amended by inserting in the first sentence of said section, and in the first sentence of the second paragraph of said section, immediately after the word 'three' and the comma, the words 'three a' and a comma.

"SEC. 3. That section 16 of said act be and the same hereby is amended by inserting in the first sentence thereof, immediately after the word 'three' and the comma, the words 'three a' and a comma."

OBJECT OF LAW

This law, if enacted, will be for the purpose of stopping certain unfair trade practices and a trend toward monopoly. It will prohibit an automobile tire manufacturer from requiring its customers to sell the products of a certain oil company in order to continue to be the agent for their own product, and it will prevent an oil company from requiring its agents to sell a certain automobile tire if they handle tires, in order to continue to sell their oil products. It will also prohibit the large, powerful concerns that handle many products, some of which they have a monopoly on, and not handled by competitors, from requiring dealers to buy their products which are in competition with other manufacturers in preference to the other manufacturers, or such dealers will not be selected as customers to buy the commodities they cannot purchase elsewhere. Reciprocal trades and agreements are not helpful to the small concerns, but represent a very destructive weapon in the hands of the great concerns. If reciprocal trades are continued, the large concerns will in them have a useful vehicle with which to destroy independent business.

PART OF CLAYTON ACT

The law, if enacted, will become a part of the Clayton Act of 1914. It may be enforced by injunctions obtained by the Department of Justice, United States District Attorneys, or at the request of the person injured in a suit brought for that purpose. It may also be enforced by the Federal Trade Commission through a cease-and-desist order. Furthermore, a suit for triple damages will lie for violation of the act.

TRADES AFFECTED

This measure will probably affect steel, aluminum, and oil trades more at this time than any other groups. However, evils that the law is intended to correct are fairly widespread in numerous important industries.

WILL INCREASE POWER OF GOVERNMENT

The Federal Government, through the Department of Justice and Interstate Commerce Commission, has taken steps under certain conditions to prevent reciprocal buying practices. However, the power of the Federal Government to properly cope with all undesirable situations is questioned, and this bill will increase and expand those powers.

SHOULD NOT BE DIFFICULT TO ENFORCE

This law should not be any more difficult to enforce than the Interstate Commerce Act which is now effectively enforced against secret rebates and special discounts on transportation charges and on reciprocal trades involving carriers. I am convinced that such reciprocal trades tend toward monopoly and reduce competition. They should not be used as a club or threat to force or intimidate buyers. It is claimed by some buyers that they are entitled to make the best purchase possible, even to the extent of receiving special discounts and secret rebates. That same argument was made against special discounts and secret rebates on transportation charges, but now one who attempts to require such a special secret advantage in freight rates would not only be denied, but would be branded an undesirable trader and cheater.

PRESENT PRACTICES INJURIOUS TO SMALL CONCERNS

I have received information, which I consider reliable, that in many cases higher prices are paid on reciprocal purchases than would have to be paid from smaller dealers. Such trades seriously handicap the small concern. Coordinator Eastman of the Interstate Commerce Commission has condemned the reciprocal buying policy followed by some railroads in regard to routing of their traffic. The Interstate Commerce Commission once attempted to stop reciprocal buying policies in the meat-packing industry. A meat packing company official attempted to force railways carrying the traffic of his company to buy equipment from a concern in which he was interested.

Only recently it has been disclosed that a certain large concern on the Pacific coast tried to force its suppliers to use terminals owned by this concern.

Section 2 of the bill amends section 11 of the Clayton Act. Section 11 of the Clayton Act is as follows:

SEC. 11. That authority to enforce compliance with sections 2, 3, 7, and 8 of this act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers, in the Federal Reserve Board where applicable to banks, banking associations, and trust companies, and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

The other paragraphs of section 11 are too long to be included herewith. They relate to procedure of the different commissions in enforcing the Clayton Act.

Section 3 of the bill included a proposed amendment to section 16 of the Clayton Act.

Section 16 of the Clayton Act permits any person, firm, corporation, or association to sue for and have injunctive relief in any United States court having jurisdiction over the parties against threatened loss or damage.

REFERRED TO JUDICIARY COMMITTEE

This bill has been referred to the Committee on the Judiciary in the House, the same committee that sponsored the Robinson-Patman law.

Government Should Reimburse Tax Losses on Government-Owned Lands

EXTENSION OF REMARKS

OF

HON. A. LEONARD ALLEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1937

Mr. ALLEN of Louisiana. Mr. Speaker, in discussing the question of forest reservations I wish to say in the outset that I want to make it clear that I am not opposed to the Federal Government growing forests for our posterity. The Government has perhaps been too lax in permitting the depletion of our forests. Many States have I know. It is certainly true in many States that the private owner of timbered lands has denuded the land and in many cases has not left even seed trees. We are reaping the results of this waste now in erosion and increased floods. A sound plan to grow forests for future generations is laudable and meets the approval of all people who have given the matter mature thought. I certainly favor the Government fostering the growing of forests.

But the phase of the matter to which I wish to direct attention is the question of the effect upon the particular localities where forest reservations are established. Everyone knows that it is necessary that the Government own as much of the land as possible in the forest reservations. This results in large tracts of land being purchased by the Government in the localities in question. For instance, as I understand, there is only one national-forest reservation at this time in Louisiana, and it is the Kisatchie National Forest. Of the eight parishes in the congressional district which I have the honor to represent, a great portion of five of them is taken up in the Kisatchie National Forest. The citizens of this district have cooperated in a wonderful way with the Federal authorities. The particular phase of the question to which I address myself in this message is the loss in tax revenues which these five parishes have sustained.

The people of this district are great believers in schools and have one of the finest school systems in the Nation. They have consistently created school districts and authorized bonds to build schoolhouses and in many cases these bonds have many years to run. Likewise, they believe in roads and have splendid road systems and in many cases they have created road districts and authorized road bonds, which in many cases are outstanding. These bond issues were predicated upon all the property within the districts at the time the bonds were authorized. Every acre of land in a particular district, so to speak, was mortgaged to pay those bonds. In some small districts the Government has come in and purchased tens of thousands of acres of land which have been placed in the forest reservation. The millage assessed to pay these bonds fluctuates each year. The taxing authority is required to assess enough taxes to meet the maturities in bonds and interest for that year. This property being taken off the assessment rolls, it logically follows that the assessments upon the remaining property are increased.

This burden does not fall for the most part upon the large landowner, for in most cases the large landowner has let his lands go to the Government to be placed in these forest reservations, but the burden falls primarily upon the small landowner who wishes to retain his land rather than let it go to the Government. Thus the owner who elects to keep his land has suddenly found a great increase in his taxes. This burden is getting serious. For instance in Grant Parish, a small parish, too, according to the figures which I have, more than 122,000 acres have been removed. In Winn Parish more than 103,000 acres have been removed. More than 33,000 acres have been removed from one small school district.

If this condition is not corrected it is going to make the tax burden very heavy upon the individual who wishes to retain his land within these districts and even within the parish. It may even lead to some of these districts having to default. Of course, we will pay as long as we can. Our people have been struggling along courageously and assuming every burden, but it does not appear to be fair that this burden should be placed upon them when the Nation as a whole will get the benefit of it. If the Nation is to receive the benefit of it, then why not let the Nation bear the expenses?

What is true of the forest reservation in the Eighth Congressional District of Louisiana is true of other forest reservations throughout the country. I am not unmindful of the fact that the Government has purchased millions of acres in different sections of the country for this purpose and for other purposes. To undertake to correct this matter I have introduced in Congress a bill, H. R. 3685, which provides that the Secretary of the Treasury shall pay to the local taxing subdivisions each year the amount of the taxes lost because of the Government-owned lands therein. I think that as a matter of common fairness we ought to have this protection. I give below a table which I have worked out from information I have received from the taxing authorities in each parish involved and I respectfully ask that these figures be studied and I confidently believe that these figures will impel an unbiased mind to agree with me on the merits of the bill which I have introduced.

GRANT PARISH

Approximate acreage purchased by Government, 122,741.
District no. 8 road bonds to run to 1950.
District no. 9 road bonds to run to 1960.
District no. 1A school bonds to run to 1938.
District no. 9A school bonds to run to 1946.
District no. 11A school bonds to run to 1949.
Minimum loss in tax bond revenues in above, $162,800.86.

NATCHITOCHES PARISH

Approximate acreage purchased by Government, 109,697.14.
District no. A 1 road bonds to run to 1946.
District no. A 9 road bonds to run to 1948.
District parish-wide road bonds to run to 1944.
District no. 4 school bonds to run to 1938.
District no. 7 school bonds to run to 1940.
District no. 8 school bonds to run to 1941.
Minimum loss in tax bond revenues in above, $52,389.35.

RAPIDES PARISH

Approximate acreage purchased by Government, 61,163.
District no. 11 school bonds to run to 1956.
District Alexandria school bonds to run to 1964.
District no. 22 school bonds to run to 1951.
(NOTE.—No figures obtained for road bonds.)
Minimum loss in (school) tax bond revenues, $8,902.62.

VERNON PARISH

Approximate acreage purchased by Government, 79,813.94.
District no. 1 subroad district bonds to run to 1937.
School district Whiskachitta bonds to run to 1944.
School district no. 87 Pitkin bonds to run to 1949.
Minimum loss in tax bond revenues in above, $46,434.71.

WINN PARISH

Approximate acreage purchased by Government, 103,981.34.
District no. 11 parish-wide bonds to run to 1940.
District Calvin school bonds to run to 1944.
District Atlanta school bonds to run to 1944.
District Winnfield school bonds to run to 1942.
Minimum loss in tax bond revenues in above, $101,917.54.
Total minimum loss in bond revenues on bonds now outstanding, $372,445.08.

It will be noted that the above figures are for the outstanding bond issues only and do not include the road or school-maintenance taxes. The minimum loss in tax revenues for the bonds outstanding will amount to $372,445.08, and it is likely that the maintenance taxes for roads and schools will run nearly that much. The possibility and probability of having to vote future bond issues is likewise not taken into consideration in these figures. This land is taken forever out of commerce, will never again be subject to taxation, and the hope of revenue therefrom, no matter how badly needed, is gone. It should also be borne in mind that all of the above figures were made as of the 1935 assessment, and, as a matter of fact, much of this land has been owned for several years by the Government, and if that were counted in, the loss would be much larger than as shown here. I also understand that it is contemplated to enlarge the Kisatchie National Forest considerably. So, while the above figures may not be absolutely accurate, it is safe to say that the loss in tax revenue will increase through the coming years, and that means that the tax burden on the local landowner will get heavier each year. I trust that the Members of Congress will give the aforesaid bill the consideration which I sincerely think it deserves.

Constitution and Supreme Court—Reply to Indiana State Legislature

EXTENSION OF REMARKS

OF

HON. SAMUEL B. PETTENGILL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1937

LETTER OF HON. SAMUEL B. PETTENGILL, OF INDIANA, TO THE INDIANA STATE LEGISLATURE

Mr. PETTENGILL. Mr. Speaker, the Legislature of the State of Indiana, which I have the honor, in part, to represent, has adopted a concurrent resolution favoring the recommendations recently made by the President with respect to the Federal judiciary.

This resolution has already been filed and made a part of the RECORD by my colleagues, Mr. CROWE and Mrs. JENCKES, as well as the junior Senator from Indiana, Mr. MINTON. Consequently, I will not repeat it here.

I have written to the Indiana State Legislature setting forth why I do not agree with so much of the President's recommendations as have to do with the Supreme Court. Copy of my letter is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., February 16, 1937.

The SENATE AND THE HOUSE OF REPRESENTATIVES,
Eightieth General Assembly, Statehouse, Indianapolis, Ind.

DEAR MR. PRESIDENT, MR. SPEAKER, AND GENTLEMEN: I beg to acknowledge copy of a concurrent resolution memorializing the Senators and Members of Congress of the National Legislature from the State of Indiana to support the recent recommendation of the President, including those respecting the Supreme Court of the United States.

I appreciate your communication, as it is always my desire to have the benefit of the views of men in whose judgment and patriotism I have such confidence as I have in yours in coming to a decision on matters of great importance.

I have considered carefully all that you have said, and upon full reflection, I regret sincerely that I am unable to agree that the public interest would be served by following the course you urge.

With the same candor and good temper with which you have written me, permit me in return to set forth the reasons which impel me to come to an opposite conclusion.

First, let me say that I am not opposed to constitutional change by act of the people. I have voted for two constitutional amendments which are now the supreme law of the land. Further, I have disagreed more often than most lawyers with the judgments of the Supreme Court of the United States. As examples, I refer particularly to the decisions in the New York minimum-wage act and the railroad pension act.

Let me say also that I thoroughly approve most of the President's recommendations with reference to procedure in the Federal courts and am prepared to vote them into law.

The recommendation I do not approve is that the President be granted power to name at once six new judges to the Supreme Court. In effect, this is a request to create a new court. No such grant of power has ever been given to any President in the life of this Republic.

It is more power than a good man should want or a bad man should have.

A court so constituted could and probably will redefine the interstate-commerce, general-welfare, and other clauses of the Constitution so as to destroy this "indissoluble union of indestructible States" and place the most minute affairs of each of them at the mercy of a distant legislature in which they may have only 14 votes out of 531.

Do the people want this done? If so, they have the power to accomplish it. And I am a good enough American to carefully consider any specific proposal along this line for the people to vote upon and will cheerfully abide the result.

But before voting to change the Constitution, I want to know what I am changing.

The surface reasons for the proposal have already been answered by the official report of the Attorney General. There is no congestion or delay in the Supreme Court.

I am glad that this is not a party question. The Constitution is the property of the whole people. They alone can change it. It is not the property of a party. Congressional majorities have no right to so change the Court as to change the Constitution. To do so is an act of usurpation.

I hold no such mandate from the people I represent. I was elected upon a platform which pledged me if necessary to submit "clarifying amendments" to the people for their approval. Beyond that in conscience, I cannot go.

Beyond that, in wisdom, also, we ought not to go. I would oppose this matter by whomsoever or whatever party advanced, whether President Roosevelt and Attorney General Cummings or another Harding and another Attorney General Dougherty, or another Huey Long. It is precisely because this supreme power once exercised by a good man would be claimed by a bad successor that you and I, who think in terms of our boys and girls, should consider long and carefully before embarking on such a course.

What a progressive president would do, a tory or facist president, by the same means, would do again.

Those who now favor the proposal would denounce it from the housetops if it came from another President, for example, Harding. This demonstrates that the proposal cannot stand on its own legs.

It is for this reason that acknowledged liberals like Borah, Johnson, Wheeler, Clark, Van Nuys, Raymond Moley, and many others are as much opposed to this course as the ultraconservatives. It is not sound from any standpoint. I regret more than I can express that the President in his anxiety to serve the people has been persuaded to such a course.

We are about to celebrate the birthday of the man who is "first in the hearts of his countrymen."

In his Farewell Address to the people he loved and whom he had served without stint for 25 arduous years, George Washington said:

"If in the opinion of the people (not of Congress or the President) the distribution or modification of the constitutional power be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates.

"But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield."

These words were penned in 1796. They have been accepted as the highest political wisdom by the people to whom they were addressed and by their children. I stand on them. We should test the impulses of the moment by the ripened wisdom of 14 decades of time.

The Supreme Court has made mistakes. It will, no doubt, make more. But since it first assembled 148 years ago it has made fewer mistakes and held the confidence of five generations of Americans more surely than either Presidents or Congress.

I would prefer an occasional mistake to a perpetual distrust.

The Supreme Court has neither a purse nor a sword. But it does have power—the power that is yielded by all mankind to integrity, courage, learning, independence, and unbought justice. Its authority is a moral one only. Its commands are based on confidence and respect alone. As such it is the final "city of refuge" to which you and I and our children may go.

I am not wise enough to read the future, but I am certain that this is a solemn hour in the destiny of America.

I can only express my profound belief that a packed jury, a packed court, and a stacked deck of cards are all on the same moral plane.

I do not believe we can rebuild America upon such foundations.

I am, gentlemen, with great respect,

Faithfully yours,

SAMUEL B. PETTENGILL, M. C.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. HENRY F. ASHURST

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 17 (legislative day of Monday, Feb. 15), 1937

RADIO ADDRESS BY HON. WILLIAM G. MCADOO, OF CALIFORNIA, ON FEBRUARY 16, 1937

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a radio address delivered by the Senator from California [Mr. MCADOO] over the National Broadcasting Co. network last evening on the subject of the President's proposal for judicial reform in the United States.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, I want to talk to you tonight not as a lawyer but as a layman, and to give you, in untechnical language and with such clarity of expression as I am able to command, an outline of the issue raised by the President's proposal for judicial reform in the United States.

To do this we must know the constitutional background, the character of the judicial organization we now have, and the extent to which the President proposes an enlargement and reform of our judicial structure.

First of all let us turn to section 1, article III, of the Constitution of the United States. This provides:

"1. The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

"2. The judges both of the Supreme and inferior courts shall hold their offices during good behavior and shall * * * receive for their services a compensation which shall not be diminished during their continuance in office."

This is clear enough to the most ordinary mind. Everyone understands that the entire "judicial power of the United States" is not vested in a single Supreme Court all by itself. It is specifically vested in one Supreme Court and in "such inferior courts as the Congress may from time to time ordain and establish."

In pursuance of this power the Congress has established 10 circuit courts of appeal and 85 district courts in the various States.

What we are talking about, therefore, is the President's proposal for an increase of 6 in the membership of the Supreme Court and an increase of 50 judges for the district courts of the United States. He suggests also certain reforms in judicial procedure, the details of which I need not discuss in this speech. You will, therefore, see that, in the judicial reforms the President has in mind, the Supreme Court is merely an integral part of the enlarged organization of all the Federal courts, to enable them to give to the people speedy and equal justice.

The first question I wish to discuss is the proposed increase of members of the Supreme Court. Who has the power to increase the number of Justices? The President has no such authority.

Congress alone has the power; but it is the duty of the President, expressly provided in the Constitution itself, to "recommend to the consideration of Congress such measures as he shall judge necessary and expedient." From this it can be seen that in proposing an increase in the number of Justices of the Supreme Court he has simply performed his constitutional duty; and it can also be seen that it is a question of policy, of which the Congress is the sole judge, as to whether or not the President's recommendations shall be adopted.

I have already stated that the Congress has established 10 circuit courts of appeal and 85 district courts of the United States. We have 44 judges of the circuit courts of appeal and 157 judges of the United States district courts, making 201 judges of what we call the inferior Federal courts. Over these courts the Congress has complete jurisdiction. The laws which govern them are enacted by the Congress of the United States. The salaries of all judges—those of the Supreme Court and of the inferior courts—are fixed by the Congress.

One thing Congress cannot do is to fix the tenure or term of the judges, because the Constitution itself provides that all judges of the United States courts "shall hold their offices during good behavior."

This means, in actual practice, that judges hold their offices for life. They are the only Federal officers in the United States who have a life tenure. There has always been grave doubt as to the wisdom of the constitutional provision which enables judges to stay in office for a lifetime. Perhaps upon a referendum to the people, an overwhelming majority would vote to limit the term of Federal judges of all kinds to 10 years, more or less; but that is not pertinent to my argument.

I claim that a high duty is imposed upon the Congress by the Constitution to provide a sufficient number of judges to enable litigants in the United States courts to get prompt justice. It cannot be contended successfully that we have an adequate judicial system now. It should be our chief concern to secure to the people who are forced to go into the courts for the protection of their rights the benefits of a judicial system which will assure expeditious decision of their cases and at the lowest possible expense to them.

We have always boasted that the humblest citizen shall have protection of the laws and we frequently repeat the maxim—a false one, in my opinion—that "for every wrong there is a remedy." It may be said that no greater outrage can be committed upon the citizen who finds it necessary to take his case into the courts than to deprive him of justice by long and unnecessary delays, occasioned either by congested courts or by the technical tactics of clever lawyers, or by judges who have become incompetent and dull-witted, who sit for life, and are not accountable to any authority.

Every officer and employee of the United States Government, with the exception of the life-holding judges, is subject either to recall by the people in elections held at stated intervals or to dismissal through the Executive power of removal. But the judge cannot be reached except through impeachment proceedings brought by the entire House of Representatives and tried by the entire Senate, sitting as a court, where a two-thirds vote is required to convict. In the 148 years of our national existence only four judges have been removed by impeachment.

We do not establish courts to give offices for life to judges, nor do we establish them for the benefit of lawyers. The judges and the lawyers are mere instrumentalities through which justice for the litigant is supposed to be obtained, according to the form and letter of the law. We establish courts to secure justice for the people, and it is the people who must be considered first in any scheme of organization or in any measures which may be adopted within the limits of the Constitution to provide them with the means of securing justice.

Do you realize what frightful injustices and suffering are occasioned every day in the United States by the law's delays? Let me illustrate by a few supposititious cases:

The man with a broken back sues the corporation for damages for this injury received in the line of duty; the widow sues for damages for the death of her husband. In each of these cases, the man with the broken back and the woman widowed by the death of her husband, have little children dependent on them. Their only hope and salvation is the amount of damages they may be awarded by the courts. But the law's delays thwart them. Agonized in heart, they struggle along with undernourished bodies and undernourished children in the hope each day that a judgment may be rendered in their favor. Years elapse. When the decision is made, if they finally win, perhaps death has overtaken some of the children or the parents themselves. What is to compensate for these cruel and irreparable wrongs?

The merchant seeks from the Government a refund of taxes unjustly imposed. His solvency may depend upon a prompt decision. He may lose everything before judgment can be obtained.

The Government itself, claiming unpaid taxes which may or may not swell its Budget, finds years between the filing of the first pleadings and the disposition of the case.

In every instance the wrongs and injustices occasioned by the law's delays are unjustifiable if not irreparable. It is the high duty of the Congress to provide an adequate judicial organization to prevent these wrongs. There is no truer statement than that "justice delayed is justice denied."

You will see from what I have said that Congress and the Executive are powerless to reduce the life tenure of judges. They cannot provide for a compulsory retirement for age or for any other cause. All that the Congress can do is to offer to the judges the opportunity of retirement after they have reached a certain age with full pay for the remainder of their lives. Already this retirement provision applies to the judges of the circuit courts of appeals and to the district judges, but it does not apply to the Supreme Court. Under the President's plan, retirement at full pay is offered also to members of the Supreme Court. When a judge retires on full pay he does not give up his job. He is what we may call "a member of the judicial reserve." He is on the inactive list, but he is subject to call at any time for the performance of any duty of which he is capable when an additional judge or judges are needed.

It seems to me that this provision for retirement of judges on full pay for life is wise and generous.

Under the President's plan none of the Justices of the Supreme Court will retire except upon his own volition. The six additional justices, whom the President will appoint, will result in an increase in the Court from 9 to 15 members. Is this an unreasonable or unjustified increase?

If it were not for the fact that political questions are inseparably involved in the legislation enacted and to be enacted by the Congress in carrying out the policies of the administration, no one, upon the merits of the case, could successfully contend that such a reasonable increase in the number of judges of the highest court is not justified by present conditions and inevitable future necessities. But because of the so-called New Deal legislation, the constitutionality of some of which the Supreme Court may be called upon to pass, it is contended that the President is trying to "pack" the Court for the purpose of securing decisions favorable to his views or to his economic and political philosophy.

I dismiss this suggestion as unworthy of consideration because it impugns the honor and integrity of the Chief Executive of the United States and of the men he may appoint to office if this plan becomes law.

But if we conceive that he is guilty of such an unworthy motive, let us, as rational people, calmly consider whether or not he could carry out such a fell purpose. Can any dispassionate mind, for one moment believe that, if the President should appoint six additional judges to the Supreme Court, he would require of them a promise that they would decide any questions of constitutionality which came before them in accordance with his, the President's, wishes? The President is a man of honor. He would not attempt to impose such a condition on his proposed appointees. Moreover, no lawyer of standing and honor would accept a seat in the highest judicial tribunal in the world with such a humiliating condition attached to it.

But if such a corrupt bargain were made between the President and his appointee, let it be understood that every nomination for a seat on the Supreme Bench made by the President must, under the Constitution, be confirmed by the Senate. The procedure of the Senate is to refer the nomination to the Judiciary Committee, which makes a searching investigation into the life, character, and the standing of the nominee. Frequently, the Senate has rejected nominations of the President for the Supreme Bench. It is safe to say that any appointment made by the President and confirmed by the Senate would be worthy of a position in our highest court.

But to show how ludicrous is the charge that Executive domination or judicial subservience will result, let me ask you a question. After a judge takes his seat on the bench he is bound by no other consideration than his own conscience and the obligation of his oath to support the Constitution of the United States. How could a President be sure that a judge he appointed would decide cases involving legislation not even yet enacted in accordance with the Executive will? Any man worthy of a seat in the Supreme Court of the United States would be true to the highest ethical standards, to the most-exacting obligations of honor, and to the immutable rule that he shall dispense justice without fear or favor. A Justice of the Supreme Court is absolutely independent of the President, of the Congress, and of every extraneous influence. He sits for life, whereas Presidents come and go every 4 years. It requires a diseased and flabby mind to imagine that any member of this great judicial tribunal would profane his high office by agreeing to render decisions at the behest of anyone.

In all our history it cannot be shown that any member or members of the Supreme Court have been controlled by any President. To the honor of that great tribunal it can be truthfully said that throughout the century and a half of its existence not one man has disgraced the judicial ermine.

Where do we get the idea that nine is the sacred number and that the Supreme Court must forever be composed of only nine members? Turn your eyes back to the year 1869—4 years after the termination of the greatest civil war which ever raged in human history. The Congress of 1869 was torn by seething passions and hatreds engendered by 4 years of bloody, internecine strife. Deliberative judgment was not a characteristic of that time. It was this Congress which fixed the membership of the Supreme Court at nine. In 1869 the entire population of the United States was approximately 38,500,000. Has anyone the audacity to claim that the Congress of 1869 possessed such prescient and infallible judgment that it could fix at the right figure for all time the membership of the Supreme Court of the United States?

No one will contend for any such nonsense. Even in 1869, it was suggested in the debates in the Congress that the Supreme

Court should consist of 15 members in order to take care of the business of the country.

In 1937 the population of the United States is approximately 128,000,000, or three and one-quarter times the population in 1869. Growing out of this vast increase, as well as out of the multiplex and complex problems of our modern industrial, mechanical, and scientific age, and out of the colossal sociological problems which have accompanied it, litigation in the courts of the United States has increased tremendously. And yet there are those who contend that we should be bound by the sacred number nine of 1869.

It is my profound conviction that the number of judges of the Supreme Curt is insufficient to enable that Court, industrious and able as it is, to render the complete service required for the administration of justice. The ability of that Court to render service to the people should not be restricted either by the number of judges on the bench or by the amount of appropriations to maintain the Court. We cannot say, in a Government like ours, based, as it is, fundamentally upon justice, that only those who have the money and the patience to endure the law's delays, shall have a preferred position in the courts. The humblest citizen must have an equal opportunity with the mightiest and the richest to get justice. The denial of justice is one of the most insidious influences in undermining the people's faith in democracy. There is more damage to our domestic institutions from this growing mistrust of the Federal courts than there is in the menace of future wars. We spend nearly $1,000,000,000 a year for protection against that possibility. One-fourth of 1 percent of our annual expenditures for our Army and Navy would restore to the Federal courts that promptitude and celerity of justice which Americans are now denied.

But it is said that the new judges appointed by the President will be "dominated" by him; that they will be "subservient to his will", and that "their appointment will undermine the judicial system." Only last night a bar association solemnly resolved that these offensive charges against the President of the United States were fact. I am informed that no serious discussion of the merits of the President's proposals was attempted. The declarations are, of course, false. If the Senate of the United States were to act upon the pending bill in the same intemperate and reckless fashion, it would deserve the condemnation of the country. This important matter has been referred properly to the Judiciary Committee of the Senate. Extensive hearings will be had. The committee will finally submit a report to the Senate. This report will be the subject of debate and final action. It has been the history of the Supreme Court, as evidenced by certain conspicuous instances, that the appointees of Presidents have, in their decisions, gone entirely contrary to the political and economic philosophies of the men to whom they owe their appointments.

If the Supreme Court should be increased to 15 members, I assume that the Congress would provide that two-thirds of the Court would constitute a quorum for the transaction of general business and that the entire Court should, upon the request of any one member, sit in cases of great importance or where constitutional questions are involved.

The President proposes the appointment of 50 judges at large, to be assigned to duty in the congested district courts of the United States. The Chief Justice of the Supreme Court would be empowered to send these judges into these districts where the need for assistance was most required. The proposed increase in the number of judges for these courts is vital to the proper administration of justice. In some of the districts, the law's delays have become nothing short of scandal. There are numerous instances where, in cases taken under advisement by the judges after argument, decisions have been withheld for a year or more.

In one of the district courts, the docket shows that there were 1,593 pending private civil cases on January 31, 1937. Of these, more than one-third of the entire number were 6 years old and about 15 percent were 10 years old.

I concede that this is the worst example of congestion in the country. It may be said generally that out of 85 judicial districts, 34 are suffering from congestion. The important point is that 70 percent of all civil litigation is pending in these 34 congested districts. Therefore, approximately 70 percent of all civil litigation in the United States district courts is enmeshed in the law's delays.

I have omitted consideration of 14,045 Government civil cases, more than a majority of which are pending in the congested districts. As a consequence of these conditions more than two-thirds of the private civil litigation and more than a majority of the Government civil litigation are subjected to delays in the district courts of the United States.

I have given you a general outline of the President's proposals. The President alone cannot put them into effect and he cannot, by any means whatever, control the judges after they are appointed and confirmed by the Senate. It is the Congress alone which has the power to create the additional judgeships, and it is the Senate which must confirm the President's nominations for these appointments. All this is strictly in accordance with the Constitution.

And yet the charge is made that the creation of these additional judgeships will give the President dictatorial powers and will undermine the foundations of the Government. Can any rational human being extract from this situation any fact, or law, or conclusion which will justify the claim that the President will have dictatorial power, if the membership of the courts of the United States is increased? After he appoints these judges he has nothing more to do with them. I cannot conceive that the President's power can be increased or decreased in any possible way by an increase in the membership of the Federal judiciary.

But it is said that no President should be permitted to appoint as many as six members of the Supreme Court. Why, no one seems to be able to explain.

Between March 4, 1921, when President Wilson left the White House, and March 4, 1933, when President Hoover left the White House, three Republican Presidents appointed more than 300 judges of the Supreme and inferior courts of the United States. The duty to appoint these judges is imposed upon the President by the Constitution, and if it so happens that during the term of any President, because of death, retirement, or the creation of new judgeships a larger number of Federal judges is to be appointed, the President must perform his duty and send the necessary nominations to the Senate. The more than 300 judges appointed during the 12 years, to which I have referred, have certainly not been influenced by the Presidents who appointed them. The last Republican President appointed three members of the Supreme Bench. No one will claim that he exercises today any influence whatever over these appointees.

There is no occasion for apprehension or hysteria about the performance on the part of the President of his duty in nominating judges for the courts of the United States whenever that responsibility confronts him.

The subject with which we are dealing is of profound importance. We should approach it dispassionately and with an earnest desire to assist in promoting a more efficient and satisfactory administration of justice in our Federal courts. I believe that what the President proposes will produce that result. I am confident that the proposed reforms will effect a more expeditious disposition of litigation in the Federal courts, and that they will put at rest the prevailing criticism of the law's delays and of the unsatisfactory conditions now existing in the Federal courts.

I am sure that Franklin Delano Roosevelt is not, by nature, character, or purpose, susceptible to dictatorial rabies. He is an able, conscientious, and high-minded executive, with a lofty vision of the future of his country and with an eager desire to secure its realization. He can be trusted to use the powers of his great office for the advancement of democracy and for the welfare of the people of the United States.

Manufacturers May Be Prevented From Retailing Under Certain Conditions to Prevent Monopoly

EXTENSION OF REMARKS

OF

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1937

Mr. PATMAN. Mr. Speaker, on February 15, 1937, I introduced the following bill:

A bill (H. R. 4722) to prevent manufacturers of products from offering for sale and selling the same at retail in certain cases, and for other purposes

Be it enacted, etc., That for the purposes of this act, the word "manufacturer" shall be deemed to include a person, partnership, association, or corporation engaged in the production or manufacture of commodities, which commodities such person, partnership, association, or corporation is also engaged in offering for sale and selling in commerce, as commerce is defined in section 4 of the Federal Trade Commission Act, to wit, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, to wholesalers, jobbers, or retail dealers.

SEC. 2. For the purposes of this act the words "customer of such manufacturer" shall be deemed to include only a retail dealer who at any time already is established in the business of offering for sale and selling to consumers commodities produced or manufactured by such "manufacturer" as hereinabove defined.

SEC. 3. It shall be deemed to be an unfair method of competition in commerce, within the intent and meaning of section 5 of said Federal Trade Commission Act, for a manufacturer, as defined hereinabove, to offer for sale and sell at retail to consumers any of the commodities produced or manufactured by such manufacturer, where the effect of so offering for sale and selling such commodities at retail to consumers may be substantially to lessen competition between such manufacturer and his customers, or tend to create a monopoly in such line of commerce or to injure, destroy, or prevent competition by a customer or customers of such manufacturer, as customer is hereinabove defined.

SEC. 4. The Federal Trade Commission is hereby empowered and directed to prevent manufacturers, as hereinabove defined, from using such unfair method of competition, as hereinabove defined, in commerce.

SEC. 5. Whenever the Commission shall have reason to believe that any manufacturer is using such unfair method of competition, as hereinabove defined, and it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall proceed to prevent the same in the same manner and by the same procedure as provided by section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", as amended. The provisions of said section 5 and of sections 9 and 10 of said act, as amended, shall apply, for purposes of enforcement of the provisions of this section, as fully and with the same effect in law as though said sections were fully and literally incorporated herein. The circuit courts of appeals shall have the same jurisdiction to review the orders of the Commission and to enforce the same, and shall review and enforce the same, as provided by said section 5. All courts of the United States shall have jurisdiction to carry out the provisions of sections 9 and 10 of said Federal Trade Commission Act.

SEC. 6. This act shall take effect immediately after its approval.

The object of this proposed law is:

First. To give the Federal Trade Commission the power to prevent manufacturers of commodities from engaging in the retail business under the following conditions:

(a) In competition with an established customer of the manufacturer who has already built up a business in the manufacturer's products, and where such competition would destroy the customer's business. The manufacturer may cease to select such customer in the future and may go into the retail business himself, but as long as he has customers in the locality he must not use them as his agents, and at the same time destroy them with his own competing unit.

(b) Where competition may be substantially lessened.

(c) Where it tends toward monopoly.

Second. It will apply only to interstate commerce or commerce among the States and not to a purely intrastate business.

Third. It will not prevent manufacturers from going into the retail business or selling direct to consumers except where the effect of such retail sales will tend to create a monopoly, substantially lessen competition, or injure, destroy, or prevent competition by a customer or customers of such manufacturer.

Fourth. No one will be penalized by this law until a complaint has been filed before the Federal Trade Commission, a hearing has been held, and a cease-and-desist order has been entered.

Fifth. It will apply to the manufacture and production of all commodities, but will not apply to services. It is intended to include the manufacture of petroleum products.

Its main purpose is to check monopoly and prevent concerns by reason of mere power and size from unfairly destroying their own customers.

This bill was referred to the Committee on Interstate and Foreign Commerce, and a hearing will be requested at an early date. At this hearing I am sure amendments will be suggested which will receive the attention of the committee.

Michigan as a State

EXTENSION OF REMARKS

OF

HON. JOHN LUECKE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 18, 1937

ADDRESS BY HON. CHASE S. OSBORN, OF MICHIGAN, ON JANUARY 26, 1937, AT THE OFFICIAL OBSERVATION OF THE ONE-HUNDREDTH ANNIVERSARY OF ADMISSION TO THE UNION

Mr. LUECKE of Michigan. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include a centennial address delivered by Hon. Chase S. Osborn at Lansing, Mich., January 26, 1937, before a joint session of the Legislature of Michigan, as part of the official observation of the one-hundredth anniversary of the formal entry into the Union, as follows:

Michigan, as a State of the United States of America, is 100 years old today. In reality as a State outside the Union it might add 2 years more to its age. That is not important.

One hundred years is a long time in the age of a man. In the life of a State it is almost nothing. The most ephemeral of responsible states and nations have lasted more than a century, and some of them have lived more than 5,000 years. Michigan ought to live forever, if mankind has learned to endure as organized society.

In another sense Michigan is ancient and timeless. In order to envision this part of the earth that we call Michigan in as nearly a complete way as is possible to the human mind, we ought to turn to the period of major disastrophisms. These were the prehistoric ages, when North America separated from Africa and Europe in the drift and segregation of the continents. The geological history of Michigan is connected with this era. A vast subsidence resulted in the Great Lakes. The ice ages have covered Michigan with their life-killing caps and, in retreating, have left moraines and eskers. There was a period of vulcanism in this region, as evidenced in the Lake Superior region of the State. The Great Lakes covered much more of our territory than they do now. The emergence of Michigan from the mists and mysteries and myths is enmeshing and enthralling.

NORSE KNEW MICHIGAN

There is evidence that the Norse led by Leif Erickson and his men knew Michigan and the Great Lakes. They disappeared entirely from the region and left few traces. They are of interest but of no importance in the real history of the State.

Long before America controlled this region there were battles with the aborigines, beginning on the Atlantic littoral and gradually pushing westward until the whole land was conquered. One of the greatest of these contests was the Pontiac conspiracy. These early struggles were not confined to the Indians. The Spanish and the French and the English fought each other. The French were here for 150 years, or half again as long as the State of Michigan has been in existence. The Spanish had a foothold in Michigan for a time. On the basis of their capture of Fort St. Joseph, near Niles, in 1781, they laid claim to a large tract of western territory. When the American Colonies were fighting for their independence Michigan still remained English territory, and was not taken over by the United States of America until 1796. The last English flag was hauled down in 1828. In the final clash of the struggle for American independence, known as the War of 1812, although the Nation ultimately enjoyed victory, Michigan suffered the ignominy and hardships of defeat. The English withdrew from Detroit not long after its capture, but they did not leave the Sault until Governor Cass forced this in 1821. They kept their forces in the State, on Drummond Island, until 1828.

CASS A GREAT OFFICIAL

Lewis Cass, who belongs to the Territorial period of Michigan, was the greatest official Michigan has ever had. He was Governor of Michigan Territory at various times—1813, 1817, 1820, 1822, 1825, 1828—for 15 years. He did more constructive work for the Territory than everybody else combined. His policy with the Indians won peace after many dramatic episodes. His courage and his ability, his clear thinking and his patriotism supplied him with an equipment such as few men in the history of America have possessed. He was undoubtedly a greater man than either Henry Clay or Daniel Webster. While his fame shall never perish, it is to be deplored that the people of today do not know of his great worth and the immeasurable services he performed for Michigan. If I had anything in the world to ask of this legislature, I would request it to appropriate $25,000 for the preparation and publication of an adequate biography of Lewis Cass. It ought to cover the history of the country and intimately that of Michigan over the period involved. Dr. Milo Milton Quaife, secretary-editor of the great Burton historical collection in Detroit, who is best equipped for the big task, ought to be designated to direct the preparation and publication of this stupendous work. It would be bigger and more important than the life of John Marshall and would take rank with that of Washington and Lincoln. In fact, he contacted government much longer than Lincoln did. No statesman or soldier or executive in the history of all America stands out to better advantage than Lewis Cass, of Michigan.

CREAM OF SOCIETY CHURNED

We are prone to think that immediate troubles, like the weather of the day, are the worst and the strangest and most impossible and the most unwarranted and all the other superlatives of unpleasantness. A study of history shows that there has always been a churning of the cream of society in order that the butter of desired results may be won. It is enmeshing on this occasion to remember that 100 years ago today Michigan came into the Union under cloudy circumstances. The State had actually to be forced into accepting the demands imposed by the National Government. It is of consuming interest at this hour to refer to the conditions that obtained and the confused events that occurred in the birth throes of the State of Michigan.

Cholera had just ravaged Detroit and other parts of Michigan. Quickly on the heels of this scourge came the Negro riot in Detroit and the fear of arson and general plunder. United States soldiers were sent in, but the trouble was temporary and the excitement soon died.

Michigan Territory in 1834 included all of Wisconsin and some of Minnesota; in fact, all the territory west of the Mississippi and north of Missouri, as far west as the Missouri and White Earth Rivers. Counties were laid out in that distant country. St. Paul and Minneapolis were both in Michigan at that time; in fact, they were in Chippewa County. The Territory was one of the most remarkable and potential sections of the United States and even of the world.

AN EARNEST DESIRE

The desire of the people for State government had become an earnest one. A census was taken in 1834. It showed 87,278 inhabitants within that portion of the Territory, which, by the Ordinance of 1787 was to constitute one of the five States. This was considerably more than the 60,000 population required for admission to the Union as a State. Congress was therefore memorialized to set off the western territory, and in anticipation of this being done the inhabitants west of Lake Michigan—now in Wisconsin—were permitted to name one of their own number as a Delegate in Congress. In the proposed State of Michigan an election was held in April 1835, which selected delegates to a State convention for the purpose of drawing up a State constitution. This convention met at Detroit in May 1835. The constitution agreed upon by them was submitted to the people of Michigan in October of that year and was given their approval. The result of this was a boundary controversy with Ohio, which for a time threatened to be serious.

To understand the rights involved in the conflict between Michigan and Ohio, it is necessary to refer to the Ordinance of 1787. One of the articles of compact of that remarkable act was that there should be created, in the Northwest Territory thereby organized, not less than three nor more than five States. The boundaries of the proposed States were designated. If three were formed, they were to be bounded on the east and west by lines which now constitute the east and west boundaries of Ohio, Indiana, and Illinois, respectively, but which were to be continued north to the national boundary at the Canadian frontier. Congress, however, reserved the right to form one or two States in that part of the Territory which lay north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. This was declared to be an article of compact "between the original States and the people and the States in said Territory." By the express terms of the ordinance, it was to "forever remain unalterable unless by common consent." This never had been abrogated or changed by common consent. On the contrary, in the enabling act for the admission of Ohio to the Union, the northern boundary of that State had been fixed as an east and west line drawn through the southern extreme of Lake Michigan, running east from its intersection with a due north line from the mouth of the great Miami River to Lake Erie or the Territorial line, and thence with the Territorial line through Lake Erie to the Pennsylvania line. This is an all-important matter, if we are to fully comprehend this trouble over the boundary line which delayed the entrance of Michigan into the Union.

HAD TWO RIGHTS

In addition to the authority of the Ordinance of 1787 there was the act that provided for the organization of the Territory of Michigan, which had fixed this same northern boundary of Ohio as the southern boundary of Michigan Territory. The setting off at that time of Michigan Territory, with a western boundary that extended through the center of Lake Michigan to its northern point and thence north to the national boundary, was regarded as conclusive of the decision of Congress to form five States instead of three out of the Northwest Territory. The territory west of the Mississippi had been attached to Michigan Territory, but merely for temporary purposes of government.

The situation, therefore, was that the people of Michigan had two rights, solemnly guaranteed to them by the Ordinance of 1787, neither of which could be taken from them without their consent. One was to have for their southern boundary a line drawn due east from the southern extreme of Lake Michigan. The other was to be admitted to the Union as a State on reaching a population of 60,000. Up to the time of Michigan's request to enter the Union as a State, Michigan Territory had exercised jurisdiction to the line in dispute, had appointed officers, collected taxes, and granted charters to corporations which were still exercising their corporate functions without let or hindrance. The first Territorial road in Michigan was built from the Lower Falls of the Maumee to Detroit. Michigan contended that Indiana and Illinois were claiming territory in a way that annulled, in a completely unilateral manner, the compact of the Ordinance of 1787. In regard to the boundary between Ohio and Michigan, it took the position that Congress had never consented to any change. In fact, when Ohio applied for the consent of Congress to the boundary line it claimed it had not succeeded in obtaining it. There was a slight complication in the cases of Indiana and Illinois, but the case between Ohio and Michigan stood clearly upon the Ordinance of 1787, unaffected by subsequent congressional action.

MILITIA CALLED OUT

However, early in 1835 Governor Lucas, of Ohio, secured the passage of legislation in that State for taking possession of the disputed territory. This included the present city of Toledo. Michigan met this by legislation making it highly penal to accept or exercise any public office within the territory in question except under commission of the United States or of Michigan. The National Guard, then called the militia, was soon called out on both sides to enforce their respective claims. An armed conflict threatened. This caused President Andrew Jackson to take notice of the controversy. He asked the Attorney General of the United States for his opinion in the matter, and was told that until Congress should give express assent to the change in the Ohio boundary the territory in dispute must be considered as belonging to Michigan.

EMBARRASSING POSITION

President Jackson found himself in a most embarrassing position. Under the opinion of his United States Attorney General, it would be his duty to restrain the Ohio authorities and even to employ United States military power for that purpose if necessary. On the other hand, such action on his part might lose the State of Ohio to the party of which President Jackson was the head; and Ohio already was a great State, which might possibly hold the balance of power in the next Presidential election. Indiana and Illinois also were interested adversely to the Michigan claim. Their considerable political support might be lost. On the one side were three great States, with considerable votes in the electoral college. Only a Territory, with no vote at all, was on the other. John Quincy Adams said: "Never in the course of my life have I known a controversy of which all the right was so clear on one side and all the power so overwhelmingly on the other; never a case where the temptation was so intense to take the stronger side and the duty of taking the weaker was so thankless." This gives an idea of the Scylla and Charybdis President Jackson was obliged to pass. He was deeply stirred by the situation. He tried to smooth it out by sending Richard Rush and B. C. Howard as peace commissioners. Their efforts failed. Toledo was the real subject of the controversy. It was indivisible. There could be no compromise in regard to it.

In order to have better means of carrying out its intentions, Michigan in 1835 regularly organized a State government and assumed State powers. State officers, executive and legislative, were elected provisionally, and on the adoption of the constitution assumed their respective offices. Stevens T. Mason, Acting Governor of the Territory, was elected Governor of the State. Edward Mundy was elected Lieutenant Governor. Judges were appointed. Courts were organized. The legislature convened and elected Lucius Lyon and John Norvell United States Senators. In the general election Isaac E. Crary had been chosen Representative in Congress. All this was done more than a year before Michigan was formally admitted to the Union. The people were proceeding under the conviction that, inasmuch as the conditions imposed by the ordinance of 1787 had been fulfilled and the population exceeded 60,000, they had an absolute and indefeasible right to form a State government. They sent their Senators and Representative to Washington to demand admission to their seats in Congress, to which they claimed they were rightfully entitled. However, to have a right to recognition was one thing; to compel it was another. Congress alone could recognize a State as a member of the Union, and admit its representatives to seats in the Senate and House. If Congress refused to admit the Michigan Senators and Representative, they simply could not be seated. Michigan, if a State in fact—as it was—could only be so as a State out of the Union until such time as Congress should choose to grant it admission.

APPOINTS VIRGINIAN

So matters stood. It seemed unlikely that Michigan would be admitted as long as the boundary controversy with Ohio was unsettled. President Jackson so completely disapproved of the action of Acting Governor Mason in the matter of the controversy that he proceeded to displace him, and in September 1835 appointed to succeed him John S. Horner, a young Virginian, completely ignorant of the Territory. The people of the new State were incensed that an outsider should be sent in to govern them. If they could not have Mason, they wanted one of their own citizens, and there were plenty available who were much more capable than the Virginian. Horner came on and attempted to act as pacificator. No respect was accorded him. He was treated with indifference and even subjected to practical jokes. He was plainly given to understand, in a public meeting at Detroit, that the people of Michigan would be glad to have him go back to Virginia. President Jackson's Governor had a legal status, but in fact was never able to conduct the affairs of the office of Governor. The President told him not to recognize the State officers and the State courts created by the people. That had no effect. The people of Michigan recognized them, and they proceeded in the exercise of all the ordinary powers of sovereignty. This turned Horner into an official cipher. The imported Governor finally left Michigan and went over to the new Territory of Wisconsin, thus disappearing from the history of the State.

A situation in which a State exercised powers of sovereignty within the limits of Federal jurisdiction but not in the Union could not possibly continue any length of time. President Jackson was earnestly desirous of ending it. Congress proposed that it would admit Michigan as a State if it would resign the disputed territory to Ohio and accept in its place a much larger territory, about 19,000 square miles across and beyond the Straits of Mackinac, now known as the Upper Peninsula of Michigan. The proffered land had valuable mines of copper and iron, but this fact was not popularly publicly known. In fact, the wealth of the northern peninsula was largely undiscovered at that time. Washington submitted this proposal to Michigan, to be acted upon by a convention of delegates chosen by the people for this

purpose. If the convention accepted it, Michigan was to be immediately admitted into the Union as a State. But the independent, belligerent citizens of Michigan would not compromise. Their delegates, convening at Ann Arbor, September 4, 1836, rejected the Jacksonian terms with an emphatic vote.

STRONG FOR ADMISSION

However, there were interests favoring admission. These grew more powerful. The President saw that his friends used their influence to bring about a change of public opinion. They constituted a strong and growing party. The citizens of Michigan wished to take part in the Presidential election that was impending. Perhaps more than anything else, they wished to get their share of the expected distribution of the public lands or their proceeds. That was quite natural and not far different from the attitude of today. The Senators and Representatives that Michigan had chosen were anxious to take their seats. Politicians wished to be recognized and share in the distribution of Federal patronage. The State officers of Michigan, although undisturbed in their possession of their offices and recognized by the people, realized apparently that the Federal Government would not temporize much longer, and that in any conflict between the State and the Government, Michigan was sure to lose. Then there was a negative question that was not raised but may have been fully realized by the better-informed leaders in Michigan. Without the population in the disputed district Michigan did not have the 60,000 population that would assure admission. In any event, no matter how clear the right of the State might be, it would be obliged sooner or later to accept whatever terms Congress should dictate.

President Jackson's leaders in the State called for another convention. This assumed to represent the whole people, although in fact it originated in the caucuses of the Jackson party and represented practically no one outside that party. Justice Cooley, in his history of Michigan, which presents the controversy in all its details, says: "It suited the purposes of the movers in it to speak of their action as the 'action of the people in their primary capacity', a high-sounding phrase seeming to imply some right and often made use of when the purpose is to accomplish something of questionable nature by setting aside for the time the Constitution or the laws." Such is the pronouncement of this profound jurist.

Nevertheless delegates were chosen under the mere form of regular election. They convened at Ann Arbor, December 6, 1836. Although they had no more authority than any party caucus, they assumed in the name of the State the sovereign power of accepting the proposal of Congress.

RIDICULE DELEGATES

Justice Cooley says that no pretense could be more baseless than this assumption of authority. The people of Michigan ridiculed the delegates and called their meeting the "frost-bitten convention", much as those who opposed the purchase of Alaska called it "Seward's icebox." But Andrew Jackson was not to be foiled. His party, then dominant in Congress, accepted this action at Ann Arbor of a nonrepresentative convention as a solemn act in State government. Thereupon on January 26, 1837, Michigan was declared to have accepted the terms of Congress and thereby to have become a member of the Union.

My recital of the events relating to the politics and history of Michigan in 1835, to 1836, and 1837 are not my own words or interpretations. They are statements of Chief Justice Thomas M. Cooley, of Michigan, who was one of the most eminent of national and international jurists.

Thus Michigan came into the Union at the dictate of Andrew Jackson of the unbending will, who came as near being an absolute dictator as any President of the United States has assumed to be. It is an interesting parallel that just as Michigan began her first hundred years of statehood under Democrat administrations in both State and Nation, she is now beginning her second hundred years with the same party in power, both at Washington and Lansing.

It can readily be seen that the problems of the State and its government were greater and more difficult then than at any time since. In the year 1835 Michigan had three governors—Mason, Horner, and Charles Shaler. Mason finally became the first Governor of the State of Michigan.

SEVENTH STATE IN UNION

All of these things paved the way for the great progress that has since taken place. There was something of prophecy in the naming of the State. Michigan is from the Chippewa Indian word for great. Yesterday's vision is today's reality, and no fiction can equal it.

Michigan has become the seventh State in the Union. Its importance politically is no longer debatable. Arthur Pound, associate editor of the Atlantic Monthly, in the January 1937 number of that fine publication, declared that "as goes Michigan so goes the Nation." From an agrarian State it has come to be predominantly industrial, and yet there is a fine balance within its borders between the production of sustaining nourishment and that of other products. Detroit has become the automobile capital of the world. Other communities, including Grand Rapids, Lansing, Flint, Jackson, Saginaw, Pontiac, Muskegon, Kalamazoo, Battle Creek, and others, have advanced amazingly toward their high objectives. Michigan is only 23 years older than I am. I was born January 22, 1860. At that time Michigan had a population of 749,113. We may be able to understand a little the amazing growth of Michigan when it is considered that 4,000,000 people now residing in the State have come into it during my own lifetime.

There is no longer dissension in the State. Its two peninsulas are wedded lovingly the one to the other. This relationship is to become nearer and more perfect all the time.

Something has made all this possible. There is a high regard for justice and obedience to law in Michigan. There are infractions enough, but the malefactors are hunted out and punished. The humanity of Michigan has been refined by the best school system in America, which in many of its branches has stood as an example and model for the creation and growth of other systems of education. The University of Michigan has given to the State a marked degree of intellectual development and refinement, and it has attracted people from all over the world to Michigan, many of whom have remained here to become important leading citizens.

The human virtues are not monopolized by any single class of people. They are found upon the farms, in the industries, richly embedded in the schools, highly endowed in the churches. Altogether those who are permitted to live in our State and enjoy its gifts owe much to God and humanity.

POLITICALLY WHOLESOME

The church history of Michigan is highly creditable, and, while the moral and spiritual reserves of the State have not been brought up to what they once were in the balances, they are springing forward now with new resolve and energy.

Politically Michigan is wholesome. It is good for parties to change in power, even as it is necessary to have two parties. Both of them must have balanced nourishment and some division of responsibility.

All of us need to know more about the greatness of Michigan. Our State has an area as large or larger than Scotland, or Greece, or Switzerland, or Portugal, or Holland, or Austria, or Denmark, or England, or Belgium. It stretches as far east as Atlanta, Ga.; as far west as St. Louis, Mo.; and as far north as Montreal, Canada.

The northern part of the State has all the healthfulness and purity of the air of the high Alps without the hurtfulness of altitude. The geography of Michigan is unique in the world. The State touches on four of the five inland fresh-water seas called the Great Lakes. It has more than twice the Great Lakes shore line of any of the other Lake States. These waters create conditions for productiveness and health that are unequaled. Michigan is a perfect summer vacation land close to the great centers of population. It is rapidly becoming known as such. The huge Sault locks of Michigan, connecting Lake Superior and Lake Huron, accommodate more traffic than the Suez, Kiel, and Panama combined.

Michigan has the apex of industrial and cultural civilization, and it has also remote places where the air is unbreathed and the beauty of the woods and waters is still unspoiled. Michigan has fish in abundance in her waters and copper and iron and salt and oil and coal and lime in her foundations, and timber and corn and beans and sugar beets and apples and cherries and other products in her soil. Her resources are endless and have hardly yet been scratched. If a wall were built to the skies—which we do not wish at all, and the phrase is used only by way of illustration—Michigan would be entirely self-sustaining. It does not choose to live alone but wishes to help all the people of the earth, and it is doing so.

Yet greater even than all of these wondrous assets are the women and men of Michigan. One reason for the rapid advance that Michigan has made is the fact that its people believe in their State and have devoted their lives to it in a single-mindedness of good citizenship. Those who have come to Michigan even recently from other States or other countries have caught this spirit and are carrying it on. If we keep on doing our best, as we have done, and have the sense to be thankful to the Creator for all that He has given us, surely God will continue to bless Michigan in the years to come as He has done in the century that has now passed. The unfolded future has vast promise, so unmeasurable as to impoverish prophecy.

Pensions for Those of 50 or Over

EXTENSION OF REMARKS

OF

HON. MATTHEW A. DUNN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 18, 1937

BILL INTRODUCED BY HON. MATTHEW A. DUNN, OF PENNSYLVANIA

Mr. DUNN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following bill introduced by me:

A bill to provide a pension of $50 a month for men and women in the United States and its possessions who have attained the age of 50 years and whose incomes are less than $1,200 per annum

Whereas the time has come in the United States when men and women who have attained the age of 50 years have a difficult task

in obtaining employment in our mills, mines, and other business establishments; and

Whereas many departments of our municipalities, States, and the Federal Government will not consider persons who have applied for positions who have attained the age of 50 years; and

Whereas hundreds of millions of dollars are collected annually by a multitude of would-be charitable agencies for benevolent purposes; and

Whereas a great deal of the money collected for people who are in need goes for overhead expenses; and

Whereas millions of dollars are expended for the construction and maintenance of poorhouses which are abominable and a disgrace to society; and

Whereas it would be more economical and humane to provide a pension for our aged than to have them humiliate themselves by taking a pauper's oath in order to obtain relief or be admitted to a poorhouse: Therefore

Be it enacted, etc., That an appropriation be made to provide pensions for all persons in the United States and its possessions who have attained the age of 50 years and whose incomes are less than $1,200 per annum.

SEC. 2. The amount of pension paid to an applicant shall not exceed $50 a month or $600 per annum. An applicant for a pension whose income is more than $50 a month or $600 per annum shall not receive the full amount of $50 a month or $600 per annum but shall obtain the difference between the amount of his or her income and $1,200.

SEC. 3. An applicant for a pension shall deliver his claim in writing to the Treasurer of the United States in the manner and form prescribed by the Treasurer of the United States.

SEC. 4. All statements in the application shall be sworn to or affirmed by the applicant, setting forth that all facts are true in every material point.

SEC. 5. Any pension when granted shall commence on the first day of the calendar month following that on which the application was received by the Treasurer of the United States.

SEC. 6. If the person receiving a pension is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, the Treasurer of the United States may direct the payment of the pension to any responsible person for his or her benefit.

SEC. 7. If at any time the Treasurer of the United States has reason to believe that a pension certificate has been improperly obtained, he shall cause special inquiry to be made and may suspend payment of any installment pending the inquiry. If, on inquiry, it appears that the certificate was improperly obtained, it shall be canceled by the Treasurer of the United States, but if the certificate was properly obtained, the suspended installments shall be payable in due course.

SEC. 8. Any person who by means of a willfully false statement or representation or by impersonation or other fraudulent device obtains or attempts to obtain, or aids or abets any person to obtain a pension certificate to which he is not entitled, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding $500 or to undergo imprisonment not exceeding 1 year, or both.

SEC. 9. All moneys necessary to pay the pension guaranteed by this act, and the cost of establishing and maintaining the administration of this act, shall be paid by the Government of the United States. All such moneys are hereby appropriated out of all funds in the Treasury of the United States not otherwise appropriated. Further taxation necessary to provide funds for the purpose of this act shall be levied on inheritances, gifts, and individual and corporation incomes of $4,000 per annum and over.

SEC. 10. This act shall become effective within 60 days after its passage.

Flood Relief

EXTENSION OF REMARKS

OF

HON. NOBLE J. GREGORY

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 11, 1937

Mr. GREGORY. Mr. Speaker and Members of the House, those of you who have in recent years witnessed the mad rush of the mighty rivers of our Nation sweep like a destroying angel of power over thousands of happy and good homes, destroying acres of fertile soil, know how futile would be the efforts of the most-gifted tongue to describe the wreckage and the ruin, the horror, and the anguish left in the wake of the great flood which is now sweeping our Nation.

Scenes such as these are beyond description. The result of the pestilence, death, and famine can never be obliterated from the memory of the people who live within the flooded areas. Within recent days the columns of the press throughout the land have been blackened with great headlines giving the description of this flood, and I feel quite sure that the hearts of those living in the most remote sections, as well as the Members of the House, have been in thorough sympathy.

Too long have the people of these United States marked time in the enactment of legislation to protect its homes and firesides of our Nation against these great floods. Too long has the erection of dams and reservoirs been delayed; but our omissions in the past are not of concern now in the present disaster.

The First District of Kentucky, which I have the honor to represent, has more navigable rivers than can be found in any other congressional district in the Union. Through my district flow the Cumberland, Tennessee, Ohio, and Mississippi Rivers.

This great catastrophe has wrecked thousands of homes, thousands of farms, and has destroyed livestock, implements, and the savings and fruits of years, and possibly a lifetime, of honest toil.

Small towns have been ruined by this flood. Modest homes have been washed away from their foundations; furniture, clothing, and personal effects have been carried on by this wild rush of water.

The proud city of Paducah, Ky., which is less than 25 miles from my home town, has been ruined by this great catastrophe. Thirty-five thousand people, the entire population, have been driven from their homes without warning and with no preparation for the removal of their personal effects and the protection of their property. These people are my friends and my neighbors, and their plight at this time makes my heart heavy and stirs me to action in an effort to secure the relief which is due to them.

The people of Paducah and the citizens of the water-affected area are not personally chargeable with this disaster as it is not a matter of local concern. Water from far-distant States has rushed madly down these rivers and has flooded these American homes. I am one of those who believe that it is the duty of the Government to protect its citizens from famine, flame, flood and disaster, pestilence, and catastrophes brought by conditions over which they have no control, and when the political subdivisions in which they live are unable to extend to them necessary aid. If the life of our citizens is worthy of protection in war, it occurs to me that it is equally precious in time of peace.

There is before the House a bill which will extend aid and relief to those who are worthy and deserving of assistance. It is my understanding that this bill will make it possible for those without means to borrow sufficient funds with which to furnish their homes and rehabilitate their property.

It is my understanding from discussions with leaders of the various governmental agencies that the H. O. L. C. will go the limit in rehabilitating property which is now under mortgage. That the Red Cross will assist worthy persons in securing furniture, clothing, and household necessities. The W. P. A. will cooperate in the cleaning up which must of necessity follow this great flood. This bill now before the House does not provide that security shall be given as in previous bills of a relief nature, but it is my belief and the intent of those who are interested in this legislation that these loans should be more or less character loans for the assistance of worthy people without means who wish to rehabiliate their property, restock small stores, and, in fact, replace any necessity within the bounds of reason which has been caused by the flood. Hence this corporation is known as the Disaster Corporation. The purpose for which this corporation is created amply justifies its passage.

I shall always feel happy in that I have had the privilege of contributing my services to my people in the creation of this relief agency.

I am quite sure that no group in the House can question the honesty and sincerity of those who sponsor this deserving measure, and it is my hope that the Members of this House regardless of political lines and geographical location will support this measure without exception, thus demonstrating to the people of this great Nation that the great heart of America knows no geography in its sympathy and no sectionalism in its generosity.

The King of Fruits in West Virginia

EXTENSION OF REMARKS

OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 18, 1937

Mr. RANDOLPH. Mr. Speaker, almost everything—excepting oysters—grows better in the mountains.

WEATHER IS WONDERFUL

It is so with apples. The long days of clear sunshine; the nights filled with cool dews; the soil filled with minerals; all these lend themselves to building through the long summer growing months the very finest in apples. Life does not come easily in the mountains. Apples, like people, wrest a hardy living by a hardy life from the mineral-filled mountain soil. But it is good, both for the people and for the apples, that this is so. The mountains develop the finest qualities in man and in everything else; lean, hardy fitness; naturalness; solid worth.

In the mountains of West Virginia apples reach their ultimate. The king of fruits is truly enthroned on the chertland slopes that dip down to the Potomac and the Shenandoah Rivers in the east and to the great Ohio in the west.

SEVENTY MILES FROM WASHINGTON

In West Virginia are 6,200,000 apple trees, three-fourths of them planted in the commercial orchards whose long, orderly rows cover whole mountain sides of the eastern panhandle of West Virginia, some 70 miles west of Washington.

From these orchards come annually 7,000,000 bushels of those white-fleshed, cider-filled, tangy apples which only mountain soil, the sunshine and rain of summer, and the cool dews and frosty fall mornings in high altitudes can produce.

These 7,000,000 bushels of apples rank West Virginia seventh among the apple-producing States of the Union, and that is not an empty distinction, because apples are actually "the king of fruits"—the largest fruit crop by far grown in the United States or in the world. The national apple crop averages 160,000,000 bushels—1⅓ bushels for each and every American—and every State in the Union, except Florida, grows apples in quantities large enough to be listed by United States Department of Agriculture as affecting the market.

BERKELEY COUNTY LEADS IN EAST

The largest apple-producing county in eastern United States is Berkeley County, W. Va., fourth largest in the Nation, with three far-western counties only surpassing it in size of apple crop; none surpassing and few, indeed, equaling it in quality, in taste, in healthful vitamins and minerals; in that "'snap" of the hard, white, juice-filled flesh which makes apples delightful to bite into and a joy to eat. The figures I am using are all from United States census reports.

As to their health values: Apples contain vitamins A, B, C, and G. Apples contain iron, potash, magnesium, calcium; other needed minerals in generous amounts, particularly those grown in the mineral soils of the mountains. "Apples", says Dr. John Harvey Kellog, along with other authorities, "maintain the high alkalinity of the blood which is essential to resistance to disease", particularly the common cold. Apples are roughage, necessary to internal cleanliness. This is touching only briefly upon the healthful qualities of "the king of fruits."

ORCHARDS ARE THE LARGEST

In apple circles West Virginia is noted for the size and extent of its individual apple plantations and for the baronial character of its apple growers. West Virginia orchards average the largest in the world. A number of apple growers there own and operate 800 acres of apples each. One man operates 1,700 acres. Many have 600, 500, or 400 acres.

Such a man is in truth a "prince to the king of fruits." Each has a small army of retainers living upon the plantations and caring through the year for the thousands of trees, all, with their families, dependent upon the grower for their daily wage and livelihood.

Such responsibilities can be successfully carried only by men of real merit. Such a baronial life as this breeds men who think things through and hold fast to their conclusions; men, in brief, of force and character, whose rugged individualism is tempered by years of patient struggle with the forces of nature. In West Virginia are numerous growers who each year harvest and market 100,000, 150,000, or 200,000 bushels of apples, each bushel usually worth to them about a dollar.

ALL VARIETIES ARE GROWN

Almost all varieties of apples grow well on West Virginia's mountain soil. Two of the great modern varieties of apples—Grimes Golden and Golden Delicious—originated in West Virginia.

But we are particularly proud of our Staymans, of our York Imperial, our Rome Beauty, our Jonathan, and our Winesap, as well as of our Grimes Golden.

A graphic presentation of the size of West Virginia's apple crop may be had from this:

West Virginia's 7,000,000 bushels of apples, if loaded into refrigerator cars and coupled end to end, would make a solid trainload stretching out across the Nation from Washington to the suburbs of Norfolk, Va., 130 miles away, or, in another direction, from Baltimore, Md., well on beyond Philadelphia, Pa.

AN ALL-AMERICAN FRUIT

The apple is truly an all-American fruit. Grown all over the Nation, it is not only a delight to the palate when eaten out-of-hand, crisp, cool, and snappy, but it has 1,001 blendings with pastry and spices at the hands of her majesty the housewife, which are equally a palate delight and the finest kind of nourishment. We have only to speak of apple pie, apple cobbler, baked apples, apple butter, fried apples, apple pan dowdy, apple flamingo, brown betty, apple float, and such dishes handed down through many generations to illustrate the fact that, eaten raw or cooked, the apple is the all-American fruit.

And in the mountains of West Virginia the all-American fruit encompasses the fullness of its perfection.

John Bassett Moore on Pending Neutrality

EXTENSION OF REMARKS

OF

HON. HAMILTON FISH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 18, 1937

Mr. FISH. Mr. Speaker, under leave to extend my remarks, I am submitting a letter from John Bassett Moore, who is generally recognized as the greatest authority in the United States, and probably in the entire world, on international law. Mr. Moore was a former justice of the World Court and a former counselor of the Department of State under Woodrow Wilson. Mr. Moore's letter was read at a meeting of the Committee on Foreign Affairs yesterday, and

should be of interest to all Members of the House in connection with the pending neutrality measures.

NEW YORK, N. Y., *February 12, 1937.*

The Honorable HAMILTON FISH,
House of Representatives, Washington, D. C.

DEAR MR. FISH: My delay in answering your letter of February 5 has been unavoidable.

It would not be possible for me to appear before any of the committees in relation to the so-called neutrality measures lately introduced in Congress even if I had not fully expressed myself upon them in letters and statements submitted in writing heretofore. You are correct in saying that, so far as concerns the proposed surrender by Congress of its exclusive constitutional power to declare war, they for the most part in no respect differ from the measures introduced a year ago to empower the President, in his uncontrolled discretion, to engage in war and carry it on without the prior declaration which our fundamental law requires. To seek to save appearances by using in the title, phrases such as "to maintain the neutrality of the United States", or to "promote peace", is at best a form of self-deception of the most delusive and unsubstantial kind. No one who wished unlimited power to make war could ask for more than the authority, in his own discretion, to impose and revoke, and to modify and adjust, embargoes upon our foreign commerce. Not only are such embargoes never contemplated as friendly measures but they are radically inconsistent with the avowed theory of the present administration that existing commercial restrictions constitute the chief menace to peace. In the recent decision of the Supreme Court sustaining the embargo imposed by the President under an act of Congress on the shipment of airplanes to the belligerents in the Chaco war, various statutory authorizations to impose embargoes, or commercial nonintercourse, were promiscuously cited without any analysis of the circumstances under which it was done or any attempt to ascertain whether the object was friendly or unfriendly, conciliatory or coercive; and it has in consequence been hastily and inconsiderately assumed that such things might be, "and overcome us like a summer's cloud", without creating "special wonder" or any feeling of displeasure or resentment. Unfortunately, however, this view is as erroneous as it is superficial.

Writers on international law, in treating of international processes, classify them as amicable and nonamicable. Among the former are negotiation, good offices, mediation, and arbitration. Nonamicable processes are divided into two classes—those short of war and war itself. Those short of war embrace withdrawal of diplomatic relations, retorsion or retaliation, and the display of force, these three being progressively coercive in their nature and intention. After these come reprisals, "pacific" blockade, embargo, and nonintercourse. In describing these measures as being "short of war" it is not meant that they may not involve acts of war. What is actually meant is that, if not opposed, they may not result in the legal condition of things called a state of war. But, as they are essentially coercive in their nature, experience has shown that they are likely to result in an avowed state of war. As all history shows, wars have for the most part grown out of forcible or coercive acts committed before the legal condition of things called a state of war, formally declared, came into existence. Therefore, to commit to the Executive the power, in his discretion, to adopt and prosecute measures that naturally lead to war is virtually to transfer to him the power to make war, so that the formal declaration by Congress of the existence of a state of war would become an essentially perfunctory act.

In recent discussions of the subject of neutrality I have observed two fundamental misconceptions:

The first of these is that neutrality is an adjustable thing, which is to be changed from day to day according to changing conditions. No explanation has been made of what this means. No practical illustrations or examples have been confided to us. Apparently, everything is to be left to an occult Executive omniscience, which it would be unbecoming and unnatural for parliamentary bodies either to claim or to question.

But the entire conception is visionary and unsound. It is of the very essence of law that its rules should be fixed and certain, and especially is this the case with the law of neutrality. The administration of neutrality must be viewed both objectively and subjectively. With no fixed and certain rules to guide it, not only would a professedly neutral government be susceptible to the fluctuations of sentiment at home but its acts would inevitably be open to suspicion by all the governments at war, each interpreting them according to their effect upon its own fortunes. Nothing could more surely tend to involve us in war. Belligerents, moreover, have the right definitely to know the conditions which they are to meet. They cannot be expected to submit to measures of an occasional, shifting, or haphazard kind. The rules of neutrality, as they now stand, have been of gradual growth and embody the results of experience. Heretofore the United States has made important contributions to their development. It would be against the interest of the world, as well as against our own interest, to substitute for the definiteness and certainty of the law as it now stands a blank charter to juggle with unforeseen conditions as they may arise.

The second fundamental misconception by which recent discussions have been pervaded is the supposition that the United States became involved in the late war through the effort to assert and defend its rights as a neutral, and that, if we would keep out of foreign wars, we must abandon those rights. These assumptions are contrary to the fact. The more the evidence is disclosed and examined, the clearer it becomes that the United States, while from time to time protesting against belligerent interference with its trade, had no intention to resist such interference by measures of coercion; while, on the other hand, it asserted, as against certain powers, rights never before claimed by a neutral government. In saying this I particularly have in mind the treatment of belligerent armed merchantmen as peaceful ships. This was contrary to all precedent and also to the well-settled law as long before declared by our highest judicial authorities. Never before had a government professing to be neutral undertaken to guarantee the safety of the armed ships of a belligerent against enemy attack.

Believe me to be, with best regards,

Sincerely yours,

JOHN BASSETT MOORE.

San Francisco Voters Being Misled—National Power Policy Will Correct Situation

EXTENSION OF REMARKS
OF
HON. MAURY MAVERICK
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1937

MUNICIPAL SITUATION IN FRISCO INVOLVES RAKER ACT

Mr. MAVERICK. Mr. Speaker, I have recently read the remarks of the Honorable FRANCK R. HAVENNER, of California, concerning the Hetch Hetchy power situation in the city and county of San Francisco, Calif. Since the matter concerns an act of Congress sponsored by the late Congressman John E. Raker, and is a Federal law, I will express my opinion on it because it involves the power policy of the entire United States of America.

Only upon the express provision that San Francisco would not sell electric power to any private corporations for resale, was the act passed. The intent was to develop a municipal distribution system for the power generated on the Hetch Hetchy Valley project.

Now it seems that the private utility corporations are doing their work again, attempting to mislead the citizens of San Francisco. As for me, I would never vote a repeal of the power provisions of the Raker Act, nor do I believe that Congress would do so.

GOLDEN GATE ENTITLED TO PRIVILEGES OF OTHER AREAS

In this country today a power policy is being developed by the Federal Government. We have several regions, one of which is the Tennessee Valley Authority, where rates have been reduced and the living standards of the people of six or seven States raised thereby.

There is no reason why San Francisco should not have the same advantages as Tennessee and the surrounding Southern States. Also, Los Angeles has the advantage of Boulder Dam. I investigated the situation personally last summer during a visit to New Mexico, Arizona, and California.

For the reasons I state San Francisco should be given all of the rights and privileges of these other areas; and I should regard it as not only a breach of policy but a breach of contract should I vote for or consent to any change in the original terms of the Raker Act. The operations which were originated and are now coming to some reasonable fruition were on the basis of that act, and certainly the terms should be carried out.

SAVINGS GREAT IF PEOPLE ACCEPT—SOME COMPARISONS

This, I think, sets out the situation from the legal and moral viewpoint. But there is another thing worth considering. That is, that San Francisco will better itself and will save money by carrying out the municipal power idea.

I have had this matter studied by experts and have correct figures of a comparative nature. During the year 1935 the Pacific Gas & Electric Co., serving 782,155 customers, had gross revenues of $64,148,178. If rates similar to those instituted by T. V. A. wholesale contractors had been in effect, it

is estimated that gross revenues would have amounted to $41,165,402. This would have resulted in a savings of approximately $23,000,000, or 36 percent.

All of this is possible under the T. V. A. plan, or, stated differently, if the provisions of the Raker bill are followed. And the businessmen of the Pacific coast would have continued savings in large amounts.

SMALL CONSUMERS CAN SAVE 35 PERCENT EACH, OR TOTAL OF $7,000,000

It is also important to know that all of the average citizens of the San Francisco area would save large sums of money. On a basis of rates to residential customers which can be obtained through carrying out the provisions of the Raker Act, the residential customers would save $7,000,000, or 35 percent. The eventual savings would not only be the money, but would be the convenience of tens of thousands of San Francisco consumers.

I have nothing whatever to do with the local affairs of any other portion of the United States but that in which I live, and do not remotely suggest any course of action to the people of San Francisco. I only mention these things in order to show certain advantages and to give comparisons interesting to all the people of America, and especially San Francisco. But this matter concerns the entire power policy of the United States of America, and the various areas of the country should have similar privileges and work together.

The Supreme Court

EXTENSION OF REMARKS

OF

HON. ROBERT M. LA FOLLETTE, JR.

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Friday, February 19, 1937

ARTICLE BY EDWARD S. CORWIN

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an article published in the New York Times Sunday Magazine of February 14, 1937, entitled "President and Court: A Crucial Issue", written by Edward S. Corwin, professor of jurisprudence, Princeton University.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times Magazine of Feb. 14, 1937]

PRESIDENT AND COURT: A CRUCIAL ISSUE—PROFESSOR CORWIN EXAMINES THE ROOSEVELT PLAN IN THE LIGHT OF HISTORY AND CONDITIONS TODAY

(By Edward S. Corwin, McCormick professor of jurisprudence, Princeton University)

Although the President's recommendation that the Supreme Court be enlarged to 15 members is part and parcel of a general plan for the reform of the Federal judiciary, and is cogently supported by his message as a measure for dealing with superannuation on the bench, it has already drawn fire as an "adroit" way of "packing the court" with a membership favorable to the New Deal.

Indeed, the President himself says, at the close of his message, that if the measures which he recommends "achieve their aim, we may be relieved of the necessity of considering any fundamental changes in the powers of the courts or the Constitution of our Government", words that are fairly interpretable as admitting the purpose which the critics of the proposal assert to be its controlling one.

Furthermore, the recommended enlargement of the court appears as a logical—though not inevitable—outcome of the President's message of January 6, where, reporting on the state of the Union, he said:

"Means must be found to adapt our legal forms and our judicial interpretation to the actual present national needs of the largest progressive democracy in the modern world. * * * The judicial branch also is asked by the people to do its part in making democracy successful. We do not ask the courts to call nonexistent powers into being, but we have a right to expect that conceded powers or those legitimately implied shall be made effective instruments for the common good. The processes of our democracy must not be imperiled by the denial of essential powers of free government.

But why should not the President's supporters frankly defend the proposal that the Court be enlarged, a measure necessary in the present situation to readjust the balance between the departments and to effect an application of the Constitution which is demanded by conditions and which has been sanctioned by the people?

One thing can be said at the outset, that this would not be the first time the Court has been "packed." There is still, for instance, a tenth Federal circuit for which there once existed, but no longer exists, a corresponding member of the Court. This anomaly is a memento of President Lincoln's well-warranted fear that the Court over which Roger Taney presided might upset important war measures. Nor did Lincoln act without precedent, for 25 years earlier the Court had been enlarged from seven to nine Justices in order—among other things, perhaps—to water down the remnant of the old Marshall bench.

Also, we now know that when President Grant sent to the Senate the names of two new appointees to the Court, Messrs. Bradley and Strong, the same day that the decision in *Hepburn v. Griswold* was handed down, he did so in the fullest confidence that these gentlemen would do just what, in fact, they did do some time later, turn to and bring about a reversal of *Hepburn v. Griswold*. [On Feb. 7, 1870, the Supreme Court held in the Hepburn-Griswold case that the Legal Tender Act of Feb. 25, 1862, making "greenbacks" legal tender, was unconstitutional.]

In the words of Secretary Fish's diary, the President explained—this was some years later—"that at the time he felt it important that the constitutionality of the law should be sustained, and while he would do nothing to exact anything like a pledge or expression of opinion from the parties he might appoint to the bench, he had desired that the constitutionality should be sustained by the Supreme Court; that he believed such had been the opinion of all his Cabinet at the time."

The principal justification, however, for the President's recommendation must be found, if at all, not in the past but in the here and now. The question which it raises is really that of the soundness of the assumption which underlies the passages above quoted from his message of January 6. It is there assumed that the Court today enjoys great freedom of choice in interpreting the Constitution, that it can often give the Constitution a liberal or strict application as it elects, and that it is able, therefore, frequently to forward its own preferences without violating correct judicial decorum.

In other words, it is the President's evident belief that the Court has become a political body, not in the narrow partisan sense of the term but in the immensely more important sense of a determinator of public policies—a superlegislature, in brief.

This assumption, one may be sure, will be hotly contested. The evidence in support of it, nevertheless, is impressive. Thus the President will be able to cite the present Chief Justice's statement, made many years ago and so before the Court's censorship of acts of Congress had taken on its present scope, that "the Constitution is what the judges say it is"; also the late Mr. Root's admonition to the States in 1906 that if they did not exercise the powers theoretically belonging to them, interpretations would "be found" to enable the National Government to take over those powers; likewise Justice Stone's statement in the A. A. A. case that "while unconstitutional exercise of power by the executive and legislative branches of the Government is subject to judicial restraint, the only check upon our own exercise of power is our own sense of self-restraint."

Turning, moreover, from opinion to fact, what do we find? One thing is that the number of acts, whether State or National, which the Court has disallowed has increased enormously in recent years. Between 1789 and 1865 the Court pronounced void just two provisions of acts of Congress. Between 1920 and 1932, inclusive, it overturned 22 such provisions, while between 1934 and 1936, inclusive, it overturned 13 such provisions.

These statistics, standing by themselves are, to be sure, open to diverse interpretations. It is only when we look for the reason back of them that they take on their proper significance; but this too becomes evident on a little consideration.

The acts of Congress which the Court has set aside for transgressing clear, unmistakable words of the constitutional document are few indeed. Rather the basis of its decision has usually been some doctrine or theory which it has itself, not without popular approval necessarily, imported into the Constitution from the outside. Indeed, the New Deal legislation which has perished at the Court's hands has almost all fallen before just such doctrines or theories.

Thus the decision in the "hot oil" cases was based on the maximum which finds no mention in the Constitution, that "the legislature may not delegate its powers"; and the Railway Retirement Act was set aside on the ground that it deprived the carriers of their property without "due process of law", although the conception of "due process" thus invoked was unknown to the Supreme Court prior to the Dred Scott case.

And when we turn to the decisions setting aside the N. I. R. A. and the Coal Conservation Act we encounter yet another significant feature of the Court's present power. Both of these acts were passed on the theory that conditions surrounding production often affect interstate commerce detrimentally. This theory the Court answered by saying that such effects, however extensive or inevitable, were "indirect" and hence beyond the power of Congress to govern.

But the Constitution itself says nothing about "indirect effects", and still less—if that were possible—does it say that Congress may not safeguard interstate commerce from them. Indeed, no further back than 1923, we find the Court saying through Chief Justice Taft:

"This Court will certainly not substitute its judgment for that of Congress in such a matter unless the relation of the subject to interstate commerce and its effect upon it are clearly nonexistent."

Thus, not only do the Court's most important decisions frequently rest on extremely vague grounds, on grounds which are open to a variety of interpretations, but they also rest on grounds the Court's own interpretation of which has varied from time to time. Especially is this true of its decisions in recent years concerning the crucial issue of State versus national power.

In the Shreveport case, which was decided in 1914, the Court, speaking by the present Chief Justice, held that Congress was entitled to regulate the local charges of interstate carriers when they discriminated against interstate commerce. Defending at the time this holding against the argument that it authorized Congress to intrude on the reserved powers of the States, Mr. Hughes said:

"Within its sphere as recognized by the Constitution, the Nation is supreme. The question is simply of the Federal power as granted; where there is authorized exercise of that power, there is no reserved power to nullify it—a principle obviously essential to our national integrity, yet continually calling for new applications."

In the face of which, we find the court, in the N. I. R. A., the A. A. A., and the Coal Act cases, treating the reserved powers of the States as if they comprised an independent limitation on national power.

But, it may be asked, does not the principle of stare decisis [the doctrine of following rules or principles laid down in previous judicial decisions] contradict the President's assumption that the Court has become a political body? Not, it would seem, to any serious extent.

In the words of Justice Brandeis, spoken a few years ago:

"Stare decisis is not, like the rule of res judicata [a thing or matter finally decided on its merits], a universal, inexorable command. 'The rule of stare decisis, though one tending to consistency and uniformity of decision, is not inflexible. Whether it shall be followed or departed from is a question entirely within the discretion of the Court, which is again called upon to consider a question once decided.' "

It is true that these words occur in a dissenting opinion, but the opinions cited in the support of them are not dissenting opinions. Furthermore, Justice Brandeis was able to fortify his statement with an impressive list of cases—between 30 and 40—which the Court had, even at that date, overruled in whole or in part, in the field of constitutional law.

Writing in 1932 Prof. Thomas Reed Powell, of Harvard, summed up the position of the Court in relation to the Constitution in these words:

"Nine men in Washington have a pretty arbitrary power to annul any statute or ordinance or administrative order that is properly brought before them. The power is an arbitrary power, even though it may not be arbitrarily exercised. It is arbitrary in the sense that in the last analysis it is exercised as five or more of the nine men think best.

"The Supreme Court can hardly be said to be controlled by the Constitution because so seldom does the Constitution clearly dictate a decision. It is not controlled by its own precedents, for it feels free to overrule them. It feels even more free to make distinctions that no sensible person would think of making except to avoid confession that a precedent is being disregarded. All this remains true, even though in most of the cases it is also true that applicable precedents are either followed or are not there to be invoked. The Supreme Court does what it prefers to do when it prefers to do as nearly as possible what it has done before."

Certainly nothing has happened since 1932 to cast doubt on the soundness of this verdict.

The origin of the Court's power of censorship over acts of Congress has been the subject of investigation again and again. It is a story not without support for the Cleopatra's nose view of history. One of the foremost problems confronting the Philadelphia Convention was that of providing a curb on the State legislatures in the interest both of national power and of private rights.

The Virginia plan, upon which the Constitution was largely elaborated, ignoring the idea of judicial review, which had already appeared sporadically in three or four of the States, proposed a congressional veto. No sooner, however, did this proposal come up for discussion than the point was made that, on account of the bad condition of the roads, it must often be months before a State legislative act could be laid before Congress for its consideration. Must, it was asked, such acts be kept in suspension until passed upon, or must they be permitted to operate during the interval—either alternative being undesirable? And must Congress remain in continuous session in order to discharge its veto function?

Madison, principal author of the Virginia plan, conceded the force of these objections, and as we know, the proposed congressional veto was ultimately tabled in favor of the idea, which is incorporated in the supremacy clause of the Constitution (art. VI, sec. 2), of making the State courts—local bodies, in other words—a first line of defense of the constitutional powers of the new government. From this concession to the badness of transportation in 1787 sprang all the rest.

There is, to be sure, no necessary relation between the power which the State courts, and on appeal the Supreme Court, exercise when they censor State legislation in relation to the national Constitution. In such instances both judiciaries may logically be regarded as wielding the prerogative of a supreme government—a prerogative, moreover, for which a clear precedent existed from colonial days. When, on the other hand, the Supreme Court sets aside an act of Congress, it asserts the right, by virtue of judicial power alone, to censor the action of a constitutionally coordinate body—indeed, in the light both of British and colonial practice and theory, that of a superior body.

Nevertheless, the principle which today furnishes both branches of judicial review a common basis in constitutional theory was brought forward in the convention fairly early in its proceedings. Thus, in addition to the bad-roads argument, Sherman, of Connecticut, proffered the argument against the congressional veto, that it involved "a wrong principle", to wit, that "acts contrary to the Articles of Union would be valid."

In other words, the Articles of Union would be law in the strict sense of being cognizable and applicable by courts in the decision of cases. The supremacy clause, to be sure, defines "the supreme law of the land" as comprising "this Constitution, the laws of the United States made in pursuance thereof and the treaties made * * * under the authority of the United States." But at any rate, the Constitution is treated as law in the same sense as acts of Congress are, and who would question that of "the supreme law" it is the supreme part?

And yet, did the members of the convention draw this conclusion which, obviously, is not inescapable? The answer seems to be that some did and some did not. Most of the discussion bearing on the question was evoked by another feature of the Virginia plan, a proposal that a council of revision, to consist of the heads of the executive departments and "a convenient number of the national judiciary," should be vested with a veto power over national legislation.

The fact that the convention ultimately rejected this proposal also has given rise to the contention that it thereby indicated its disapproval of judicial review of acts of Congress. The conclusion is unwarranted. An argument repeatedly urged against the council of revision was that, since the judges would have occasion to pass upon the constitutionality of the acts of Congress in the exercise of their judicial functions, it would be improper to associate them with the legislative process.

But, on the other hand, it would also be going too far to say that the defeat of the Council of Revision proves that the convention accepted the thesis of judicial review. What the available records show is that judicial review was at the outset of the convention a still novel idea to those who had heard of it at all; that even its advocates had at first but the slightest prevision of its possible uses as a check on legislative power; that as this began to appear somewhat more clearly, the discovery was not altogether favorable to judicial review—some, Dickinson, for instance, and later Madison—beginning now to recoil from the idea of so great a power in judges; and finally that after all very few members did directly express themselves on the merits of the question during the convention.

For all these reasons the statistics which various writers have compiled to show a wide acceptance of the idea among the membership of the convention should be taken with a grain of salt. Not only do they depend far too much upon the argument from silence, but they also overlook the obvious fluctuation of opinion on the subject.

Nor is the verdict, which must be passed upon discussion of the subject while adoption of the Constitution was pending, substantially different. The great argument against the Constitution was, of course, that the new Government would be dangerous to the rights of the States and the liberties of the people, and to this argument advocates of the Constitution occasionally found the idea of judicial review as a check on the national legislative power a very convenient answer.

By far the most positive statement on the subject was that of Hamilton in one of the closing numbers of the Federalist, although he had overlooked the idea in an earlier issue where it would have been pertinent to mention it. Without invoking any clause of the Constitution, Hamilton here asserts "the doctrine," as he terms it, that "the courts were designed to be an intermediate body between the people and the legislature, in order * * * to keep the latter within the limits assigned their authority."

Although the essay probably made converts, Madison was not among them. For a few months later we find him declaring with equal positiveness that judicial review made "the judiciary department paramount in fact to the legislative, which was never intended and can never be proper."

Though the question of the power of the Court to disallow acts of Congress on constitutional grounds was in form settled by Marshall's famous decision in *Marbury* v. *Madison*, it has taken many decades to unfold the full significance of this holding. Thus, as was pointed out earlier in this article, the grounds on which the Court can today overturn an act of Congress are often vague and indefinite in the extreme, while frequently they appear in pairs of alternatives which vest the Court with uncontrolled freedom of choice.

Nor is this all, for the general trend of professional opinion has come to endow the Court's interpretations of the Constitution with the authority of the latter until they have been changed by constitutional amendment or have been overturned by the Court itself as having been erroneous. As someone has put it, "the Constitution is the Supreme Court's last guess."

With this dogma of the "finality" of the Court's interpretations of the Constitution—their finality, that is to say, as respects everybody but the Court itself—we are brought back to the President's message of January 6 and his more recent recommendation that the Court be enlarged. What he is saying, in effect, is that, as between an attempt to amend the Constitution and trusting to the Court to correct its own errors, he prefers the latter method of bringing the Constitution, as it is applied through the judiciary, into harmony with the needs of the times.

As a matter of fact, the latter is the method on which we have generally relied in the past, so why not now?

Without a sympathetic Court to interpret them, even constitutional amendments must prove disappointing. Furthermore, the adoption of a needed amendment can be prevented by 13 States which contain less than a twentieth of the population of the country.

But there are those who say that the only "square and honest way" of bringing about constitutional change is by amendment. Such an attitude is specious. Certainly it is so unless its exponents are able to answer satisfactorily two questions: First, what course have they in mind in case an amendment which is desired by an unmistakable majority of the people is defeated? Second, would they support an amendment to make the amending process really democratic?

Besides, do they mean that the changes which the Court has in the past wrought in the Constitution were not "square and honest"? If not, what do they mean?

National Banks

EXTENSION OF REMARKS

OF

HON. GUY M. GILLETTE

OF IOWA

IN THE SENATE OF THE UNITED STATES

Friday, February 19, 1937

EXCERPTS FROM ADDRESS BY THE HONORABLE J. F. T. O'CONNOR, COMPTROLLER OF THE CURRENCY, BEFORE THE NEBRASKA BANKERS' ASSOCIATION, LINCOLN, NEBR., NOVEMBER 9, 1934

Mr. GILLETTE. Mr. President, in view of recent statements with reference to national banks, I ask permission to have printed in the RECORD certain excerpts from an address delivered by Hon. J. F. T. O'Connor, Comptroller of the Currency, before the Nebraska Bankers' Association, Lincoln, Nebr., November 9, 1934.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

Probably the most generally circulated report is that the bankers cannot make loans because the national bank examiners are too critical and harsh in their examinations. This problem has been a matter of serious concern to the Comptroller's office. It was the opinion of all fair-minded men that assets should not be appraised at a figure which could be realized in a distressed market, but that assets had an intrinsic value or, if you please, a recovery value. It was agreed, therefore, to have bank examiners appraise assets on this basis. The Comptroller of the Currency sent, on October 26, 1933, to each of the 12 chief national bank examiners in the United States instructions to this effect:

"After the 'bank holiday' national bank examiners were largely engaged in the examination of banks which did not receive a license for the purpose of reorganization. It appears that some examiners in making examinations of licensed national banks have become what might be termed 'reorganization minded' and have lost sight of the President's recovery program and its relation to licensed banks. It is the administration's desire that credit channels be opened through licensed banks, and this policy cannot be accomplished if examiners follow a deflation policy in examinations. We are all concerned in having solvent banks, but there is a wide distinction between the potential and intrinsic value of assets of a going institution and liquidating values. Examiners in appraising and classifying assets of licensed banks will not apply liquidating values, but will appraise on the basis of fair values on a recovery basis. As an example—in dealing with bank buildings the examiner must realize that a bank building of a going bank has an intrinsic value, as distinguished from present depressed values, which combined with the element of recovery may fully substantiate the carrying value given to it by the bank. The same is true of mortgages, and in this connection the examiners should familiarize themselves with the instructions given with respect to real-estate mortgages by the Federal Deposit Insurance Corporation to its examiners.

"You will advise examiners who are examining licensed banks of this policy and see that it is carried out. Any examination now in process, or any future examination, will be governed by these instructions and where an examination has been completed, the examiner making the report will review the report on the above basis and rewrite such report if found necessary. If the examiner is not now available, it may be necessary to make a new examination on the proper basis."

Again on March 13, 1934, the following instruction was sent to all chief national-bank examiners:

"Reports of examinations received by this office recently clearly indicate that some few of the examiners throughout the country have not fully grasped the meaning of instructions communicated to the chief examiners under date of October 26, 1933, and are making more drastic classifications of assets of the banks examined by them than is necessary under the circumstances and more severe than is contemplated by the instructions contained in office letter referred to above.

"If there are in your Federal Reserve district any examiners who, in your opinion, are making unnecessarily drastic classifications of assets, please confer with them promptly, looking toward having their classifications as lenient as circumstances in each case will permit and in order that they will be in accord with the policies of this office.

"While you are familiar with the character of examinations made by your examiners, it is suggested that in determining whether or not any of them are too severe in their classifications, you give particular attention to their appraisals of banking houses, furniture and fixtures, and loans secured by real estate."

No system is perfect because men are not perfect. Here and there isolated cases appear where examiners have been too harsh. These instances are sometimes called to the attention of the proper officials; but where examiners are too lenient, that fact seldom appears. The instructions which I have cited have never before been made public. However, I believe the time has come to clarify a criticism which is unfair. The question naturally arises—what were the results obtained under the instructions? Again, for the first time, I will give you a complete picture of the examinations made by the national bank examiners as shown by 1934 reports of examination. As is well known to bankers, examiners classify loans under three headings, slow, doubtful, and loss. There is little room for argument when assets are placed in the loss column and very little question arises in the doubtful column. The slow column attracts the most attention and controversy. An examination of the reports filed in the office of the Comptroller of the Currency in each of 5,275 banks reveals the following interesting figures: The total amount of loans was $7,740,596,000. The examiners placed 2.88 percent of these loans in the loss column and 4.19 percent in the doubtful column and 27.05 percent in the slow column. The country has been advised of the definition of slow paper as follows:

"The examiners when classifying loans as slow should state briefly the reasons for such classifications, but should bear in mind that the responsibility for determining and taking such action as may be necessary to place such slow loans in proper bankable shape rests entirely with the bankers. The examiners, therefore, should refrain from instructing the bankers as to what course they should pursue with their customers whose paper is classified as slow."

This conclusively proves the understanding and sympathetic attitude on the part of your Government toward the banks of the country.

Constitutional Government

EXTENSION OF REMARKS

OF

HON. ROBERT M. LA FOLLETTE, JR.

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Friday, February 19, 1937

LETTER BY WILLIAM T. EVJUE

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have printed in the RECORD an open letter by William T. Evjue, editor of the Capital Times, of Madison, Wis., appearing in that newspaper February 16, 1937, in reply to

Frank E. Gannett, publisher of the Gannett newspapers, of Rochester, N. Y.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Capital Times, Madison, Wis., of Feb. 16, 1937]

A REPLY TO A LETTER

By William T. Evjue

FRANK E. GANNETT,
Publisher, the Gannett Newspapers, Rochester, N. Y.

MY DEAR MR. GANNETT: I have your letter of the 12th inst., in which you ask the support of the Capital Times in the organization of a "National Committee to Uphold Constitutional Government." Your organization is being brought into being for the purpose of fighting President Roosevelt's Supreme Court plan.

You state that copies of your proposal for this organization are being sent to every daily paper in the United States.

Your letter encloses a form petition addressed to the Members of the Senate and House of Representatives of the United States which is to express the opposition of the signers to the President's plan. You ask that I sign and circulate the petition which you have enclosed.

You also ask if I will volunteer to help organize a nonpartisan local committee which is to send a protest to Wisconsin Senators and Congressmen at once. You ask that I make a contribution to help carry the expenses of a national organization.

I shall do none of these things because I am heartily in accord with President Roosevelt's program with respect to the Supreme Court.

I presume that you have been chosen to regiment the newspapers of the country against the President's plan because, as the publisher of a powerful chain of newspapers in New York State and because of your leadership in American newspaperdom, you will bring a great deal of prestige to this organization.

When, however, I am asked to choose between the leadership of President Roosevelt and the big publishers of the country I shall choose to remain with the President. President Roosevelt has amply demonstrated his devotion to the public welfare. The wisdom of his policies, which brought the country out of black despair into its present condition, has also been adequately demonstrated.

On the other hand, the publishers of the United States during these years pursued a policy of self-interest and carried on a campaign of obstruction and opposition to the President which brought overwhelming repudiation to the press from the American people.

I suspect that self-interest is the basic urge in this new onslaught which is to be made upon President Roosevelt. Judging from the record of the big publishers during the past 6 years it is fair to conclude that your new campaign against President Roosevelt will be impregnated with the same narrow selfish partisan spirit that characterized the American newspapers' previous indefensible election campaign against the President.

When the N. R. A. was conceived and put into operation, other lines of business quite generally acceded to the patriotic appeal to join N. R. A. in order to cut down unemployment. But not the big newspaper publishers. Hypocritically hiding behind the freedom of the press, the newspapers sought and obtained exemption from the provisions of that act, and when the act was finally knocked out by the United States Supreme Court the newspapers showed their jubilation.

The American people were swindled out of millions of dollars through the stock manipulations of unscrupulous holding companies prior to the Roosevelt administration. When efforts were made by this administration to protect the investing public against these practices, the newspaper publishers lined up with those who said the Holding Company Act was unconstitutional.

The newspapers have raised the issue of unconstitutionality every time a bill has been introduced to protect the public against fraudulent advertising and adulterated foods.

The American newspaper publishers have been leading the fight against the National Labor Relations Act and have consistently raised the issue of unconstitutionality against every effort made to outlaw strikes by recognizing the principle of collective bargaining.

The most revealing thing to show the selfish attitude of American newspaper publishers is the opposition of publishers to the child-labor amendment. The sudden conversion of the American newspapers to the idea that the proper way now to proceed is through an amendment to the Constitution rather than through President Roosevelt's plan is probably due to the fact that the opponents of President Roosevelt have discovered how easy it is to delay and stall an amendment to the Constitution, as evidenced by the delay in adopting the child-labor amendment.

The big newspaper publishers and the vested interests for which they are the spokesmen have used the Constitution to protect the status quo and to protect their own selfish interests against every suggestion of social change made for the public good.

However, it is not the Constitution which you now propose to defend. It is your interpretation of the Constitution that you want perpetuated. It is because you fear that a plan may be evolved under which the Constitution will be interpreted to promote the public welfare rather than protect special interest and privilege that you are now organizing.

Just as you sought to alarm the American people against Roosevelt before election, you are now raising the bugaboo of dictatorship to thwart the President's plan.

Can anything be more dictatorial than five men appointed for life who torture and twist the Constitution of the United States into such a grotesque document as to create a "no man's land", under which both the Federal and the State Governments are helpless to deal effectively with questions that so vitally affect the public welfare as agriculture and industry?

Can anything be more dictatorial than an inferior Federal judge in Tennessee, appointed through the mediation of a Harding, Coolidge, or Harry Dougherty, who seeks to nullify the acts of Congress through the use of the injunction?

You speak of packing the courts. Have not the courts been packed since 1920 with corporation lawyers who have been elevated to the bench through the influence exerted by powerful special interests?

It is the privileged interests of the country who have been packing the courts. It is because a proposal is now being put forth to place men on the bench who are more responsive to the public-welfare needs of the day, rather than to the commands of vested interests, that causes you alarm.

The issue today isn't over the Constitution. The issue is: "Who is going to interpret the Constitution?"

For the past few decades, the five old men on the Supreme Court, representing a majority, have been torturing and twisting the Constitution to suit the corporate point of view.

President Roosevelt wants a court which will recognize that the Constitution of the United States can be interpreted to meet the needs of the day—that the Constitution has not become so sterile that it can be no longer used to promote the public good.

Therefore, I am not interested in your proposal. I am going to stand by President Roosevelt in the gallant fight he is making to make government serve the public welfare instead of privileged interests as heretofore.

WILLIAM T. EVJUE, *Editor.*

The Constitutional Crisis

EXTENSION OF REMARKS
OF
HON. FRANCIS T. MALONEY
OF CONNECTICUT
IN THE SENATE OF THE UNITED STATES
Friday, February 19, 1937

ARTICLE BY WALTER LIPPMANN

Mr. MALONEY. Mr. President, I ask unanimous consent to have published in the Appendix of the RECORD an article written by Mr. Walter Lippmann, and published in the newspapers of February 17, 1937.

Before I had given any careful consideration to the constitutional suggestion that Congress have the authority by a two-thirds vote to override a decision of the Supreme Court, it seemed to me that this might be a way of compromise that would modify other suggestions.

I think in one instance I indicated to at least one person that I might be able to support such a proposal. Since then I have gone over the matter and have come upon the article by Mr. Lippmann. My earlier casual impression has been entirely erased, and because the person with whom I talked is temporarily beyond an opportunity of contact, I desire to have this article printed in the RECORD. It is most impressive, has been helpful to me, and I feel that it might be very interesting to others who are so much concerned with the various suggestions concerning changes in the Federal judiciary.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TODAY AND TOMORROW

By Walter Lippmann

THE CONSTITUTIONAL CRISIS: SHALL CONGRESS BE SUPREME?

As a remedy for judicial obstruction Mr. Morris Ernst in his recent book, The Ultimate Power, has proposed the adoption of the so-called Madison plan, under which Congress by a vote of two-thirds in both Houses could override a decision of the Supreme Court.

This would make Congress the final interpreter of the Constitution. Congress could not only validate any of its own laws but

it could also validate any State law which the courts had challenged. Whether Congress could also declare State laws unconstitutional, even if the Supreme Court upheld them, is something that Mr. Ernst forgot to discuss. I do not know why Mr. Ernst forgot to discuss this point. For if the States are permitted to legislate freely, they could very easily obstruct many things which Congress would like to do. So I do not see how Mr. Ernst can escape going the whole hog and proposing that any law upheld by two-thirds of Congress is the supreme law of the land, and that no Federal court, no State court, and no State legislature may stand in its way.

It may be that this is one of the reasons why the Madison plan was not adopted by the Convention and was more or less forgotten by everyone, including Madison, until Mr. Ernst resurrected it from the limbo of plausible but mistaken notions.

I don't think that Mr. Ernst will like his own proposal when he reexamines it. For Mr. Ernst really does care for human liberty and for democracy and he has a most honorable record in defending them. What he is proposing is that by a two-thirds vote Congress may do anything it likes. No limitation of any kind upon the authority of two-thirds of Congress is suggested in his book. Mr. Ernst is, of course, thinking of labor laws and social legislation and the regulation of big business and seeing a Congress in which two-thirds are at the moment for the things he wants, and a President who is also for them, he looks upon making two-thirds of Congress supreme as a democratic and progressive reform.

But he has forgotten his own struggles for the preservation of civil liberty. Suppose his plan were in operation: Congress establishes a censorship of the press, the radio and the arts. What is to prevent it? The first amendment prevents it now. An editor can defy the censor and the courts will refuse to let him be punished; they will, in other words, hold that censorship violates the supreme law and is therefore not a law that can be enforced. But not under Mr. Ernst's plan. Two-thirds of Congress have only to vote that the court is overridden and the defiant editor goes to jail. A Congress creates an established religion, say, like the Tennessee law against teaching evolution. Mr. Bryan thought that was constitutional. Some new Bryan would have only to persuade two-thirds of Congress. Mr. Hearst's teachers' oath is adopted by Congress and applied to all schools in the United States. There is nothing to prevent it if two-thirds of Congress are determined to demand the oath.

Does Mr. Ernst really think such things could not happen here when propaganda is a high-powered industry?

Mr. Ernst does not discuss this aspect of his plan. He is bemused with the notion that "the ultimate power of government" must "flow without hindrance from the people to their elected responsive officials." This is a simple but fundamental miscalculation. Mr. Ernst thinks that by making Congress supreme he is making it supremely responsive to the people. On the contrary, he is enabling the Supreme Court Congress to be completely unresponsive to the people and is depriving the people of their ultimate power.

For what is there in his scheme which would prevent the two-thirds majority from unseating the minority, as the Socialist assemblymen were unseated in New York after the war? Nothing whatever. Mr. Ernst may say that there is an appeal to the people at the next election. But what is there to prevent a two-thirds majority from declaring that there would be no next election? That in substance was what the German Reichstag voted. It is all very well to say that this could not happen here. But anyone who has studied the dictatorship of Huey Long in Louisiana will do well not to be too trusting when the fundamental liberties of the people are concerned.

As a matter of fact, Mr. Ernst's plan, though I am afraid he has not realized it, not only makes two-thirds of Congress supreme but deprives the people of their sovereign power. The scheme abolishes not merely the judicial review and the Federal system but any Constitution whatever. For, even if the people initiated and ratified a new constitutional amendment, two-thirds of Congress would ignore it and do whatever it chose.

I believe not only that Congress could but that sooner or later it would. For my observation tells me that the human craving for power is insatiable and that it grows by what it feeds upon, and I am confirmed in this view by the spectacle of American liberals, so bent upon the attainment of their immediate ends that they are prepared to establish a system of government in which all liberty and all democracy in America would be staked on the outcome of one election. If liberal Democrats are willing to do that, what in the name of the Great Jehovah will the enemies of liberty and democracy do when they win an election?

I submit that the constitutional fathers of 1789 discerned more surely than does Mr. Ernst the dangers and difficulties of democracy today. The doctrine of the supremacy of the legislature, which Mr. Ernst advocates and they rejected, is a greater peril to democracy today than it was in 1789. They knew what demagogues had done to the republics of the ancient world. But they had not seen the new demagoguery based on the radio and the press and other modern instruments of propaganda. We have seen that in our own time. We have seen majorities elected in moments of hysteria and crisis who voted away their rights; we have seen democracies commit suicide by the acts of their representatives, and we have seen the result ratified by manufactured plebiscites.

And so I say that those who would make the legislature supreme in order to achieve social legislation in a hurry are burning down the barns to roast the pig. Surely it is unnecessary to do so, and tomorrow I shall venture to suggest a line of thought by which we may be able to find a way to roast the pig without burning down the barn.

Highway Safety

EXTENSION OF REMARKS
OF
HON. ROBERT R. REYNOLDS
OF NORTH CAROLINA
IN THE SENATE OF THE UNITED STATES
Friday, February 19, 1937

ARTICLE BY HON. ROBERT R. REYNOLDS, OF NORTH CAROLINA

Mr. REYNOLDS. Mr. President, my colleagues the Senator from Georgia [Mr. RUSSELL] and the Senator from Missouri [Mr. TRUMAN] have introduced a bill relative to highway safety and control. I ask to have published in the appendix of the RECORD an article appearing in the New York Herald Tribune of Sunday, February 14, 1937, in which they are mentioned.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the New York Herald Tribune of Feb. 14, 1937]

CAMPAIGN TO CURB ROAD PLAGUE HAMPERED BY LACK OF ESSENTIAL FACTS, SAYS SENATOR REYNOLDS—DEFINITE DATA ON NUMBER OF KILLED AND INJURED ON HIGHWAYS OF NATION TERMED FACTOR OF SAFETY; LIMIT FOR DRIVERS IN STATES WHERE NO TESTS ARE REQUIRED IS PLANNED; ADDITIONS TO ROUTE PATROLS

(By ROBERT R. REYNOLDS, United States Senator from North Carolina)

Is the "highway plague", the needless waste of life in motor crashes and angles, being conquered, or will it grow steadily worse? Will our people continue to tolerate existing conditions which, on the basis of available data, would mean a toll of some 375,000 motor deaths and an injury list of 10,000,000 within the next decade? Shall we contemplate this unpleasant prospect without preparing to act for the future?

To my mind, these are three of the most important questions of the day. Upon the way in which they are answered nationally depends, in a great measure, the progress of our country's foremost industry, the welfare of its workers, and the continued maximum use and enjoyment of individual mobility.

DEFINITE DATA ARE LACKING

One of the tragic angles of the situation today is that while a mass attack on the problem is under way and corrective measures are proposed, we lack definite information on the extent of the "plague", if I may call it that. No better evidence of this can be found than statements in the press within the last few days. For example, one group concerned with highway safety tells us that 38,500 persons were fatally injured during 1936. Another group, which has an official status to the extent that it is financed by Federal funds, says that the number of motor deaths last year was 35,695. This difference of 2,800 offers concrete evidence of the need for unimpeachable and official statistics.

The seriousness of the problem should neither be overestimated nor underestimated. We should have the facts.

Certainly we should realize that with safer use of the streets and highways as our goal, we should begin with a definite knowledge of just how many people are killed and injured annually and how, when, and where. The logical place for the gathering of such data is an agency of the Federal Government, with the cooperation of States and cities. It would seem that the Bureau of the Census, with its long experience in gathering vital statistics, is the proper agency, and it is partially doing the job now. I firmly believe that the Congress would provide the additional authority and funds necessary.

It is my understanding that several measures with such an objective are now being considered, and I shall be glad to support these or take the initiative in advancing such a proposal. The Government now is performing many less important functions in endeavoring to aid the States in solving problems that are not near so pressing as reducing the effects of the "highway plague."

In the first two of this series of three articles, I attempted to cover briefly the accident prevention problem and to tell some-

thing of what is being done about it. We now come to the years immediately ahead.

FUTURE CONTAINS MANY PROBLEMS

What about the future? Shall we continue to spend large sums for game conservation and forest protection—both worthy causes—and say that human life cannot be safeguarded on highways because the cost is too great? Shall we try to curb the sale of firearms and narcotics and then let any one drive an automobile in certain areas without regard for their ability or physical qualifications? Shall we inspect the quality of meats and let any character of assembled junk be driven on the highways? Shall we view our experience with the accident problem during the last decade and continue to let proved irresponsible persons use our roads? These questions must be answered.

As I have previously said, I am strongly opposed to any Federal regulation that will have the effect of discouraging car use and retarding the development of motor transportation. The accident problem is one that should be solved by the States and municipalities. However, there seems to be no question that unless some of the States which have lagged in meeting the problem take more aggressive action, there will develop a strong sentiment in favor of the Federal Government taking action.

Already numerous safety proposals have been advanced in the present Congress. Some of these will go farther than committee files. The more constructive will undoubtedly receive serious consideration. One of these latter is the measure introduced by my colleague, Senator TRUMAN, of Missouri. The Truman bill would have the effect of limiting to State borders all vehicles in States which do not require operators to show their ability to drive. In other words, operators in those States which are without an adequate drivers' license law or have a license law without a mandatory examination feature. In this connection, it may be noted that some 8,000,000 vehicles are now operated in 11 States which require no license whatsoever.

TESTS ARE DECLARED NECESSARY

To put it another way, in those States a person buys an automobile and takes the road without showing that he has good eyesight, is physically capable of driving, or that he has any knowledge of the traffic laws or is able to understand reasonable warning and direction signs. Here it might be pointed out that the proposed legislation does not attempt to force the States to license operators of motor vehicles. It simply provides that if operators are not required to show their ability to drive, they must remain within the State borders. In other words, it is a limit on interstate movement, a power that is invested in Congress. Provision is made in Senator TRUMAN'S bill to allow all States ample time to meet its requirements, its effective date being 2 years after enactment.

An important measure has been offered by Senator RUSSELL, of Georgia, which has the purpose of providing Federal funds for the establishment of State highway patrols.

I mention these two measures because they are indicative of congressional interest in the safety problem and are evidence of what may be expected in the future if States and municipalities fail to solve the problem.

As one who has used an automobile almost since it was first invented, who has driven a car in many lands where natives had never seen an automobile, and as one who appreciates the benefits of highway transportation, it is my earnest hope that our State legislators will meet the safety challenge of the day. The way has been pioneered. They have simply to draw on the experience of the States which are endeavoring to meet modern conditions in a modern way, rather than to continue ignoring these conditions and hoping for the best.

STRESS ON ACTION BY STATES

Up to this point I have laid considerable stress on legislation. I have done this because I believe that States should require all new drivers to demonstrate their ability to drive and upon such a showing be granted a license; that the States or their subdivisions should provide for periodic inspection of all vehicles, particularly after they have been operated for longer than a year; that States should have a weapon such as the safety-responsibility law for the control and removal from the roads all proved reckless and irresponsible operators, and that States should have some semblance of uniformity in the basic rules of the road and in signs, signals, and markers.

These things, universal in scope, will do much to solve the problem in the future. They are absolutely essential to safe movement of motor transport. But I do not intend to imply that legislation is a panacea that will bring quick relief.

Hand in hand with a minimum number of sound laws belongs strict and impartial enforcement, not by fee-grabbing magistrates and constables but by experienced jurors and trained officers. We must also have adequate State patrols composed of men whose presence on the highway give a sense of security. Careful selection and training of personnel will assure this type of patrol. A great number of States already have them in operation.

Too widespread contempt for many of our foolish and ill-advised motor laws and regulations is, in my opinion, one of the factors contributing to the conditions of today. Certainly in our cities too much time is spent in enforcing parking laws and too little time in enforcing more important traffic violations that retard the movement of vehicles, create congestion, and, in turn, cause accidents.

BASIS FOR SAFETY DEVELOPMENT

Able traffic experts, men with experience rather than academic training, are also extremely important from the standpoint of planning for the future. This is a dignified and important profession. But we cannot expect much from traffic planners who are hampered by politics and who do not have a free rein to apply proved traffic remedies.

Add to all these training for new drivers and those who will drive in the future and means for enabling responsible persons to improve their driving habits, and we will be prepared for the future on the basis of a well-rounded program. This is on the assumption, of course, that we will soon begin to rebuild our highways on the basis of traffic needs and build new roads with an eye to the future. Adequate roads are the basis of safe highway travel. The day of building roads simply to pass the road supervisor's farm is over. Consideration must also be given to the pedestrian in any road plans for the future.

In expressing these thoughts I am not unmindful that our legislators, National and State, are endeavoring to solve many new problems. One of these is the question of social security. While differences of opinion exist as to mediums and methods, there is universal sentiment in favor of some form of old-age benefits. This is of vital importance under the new conditions of today. But it is equally as important that we offer protection to our citizens to the end that they may live and enjoy the benefits of their thrift. We cannot do so if the existing national callousness toward the highway problem continues.

It has been aptly said that we Americans are slow to act in preventing emergencies but quick to act in providing relief when emergencies come. There is a certain amount of truth in that statement. With reference to highway conditions, we have failed to plan for the future, and, as a result, the number of fatalities and injuries has steadily increased. But we are now realizing that the situation is nothing short of an emergency, and I am hopeful that we are ready to respond and provide relief. That relief should be adequate planning for the future.

Mobilized public sentiment to demand correction of present conditions by universal acceptance of proved remedies is the crying need. And if this series of articles has helped, even in a small measure, to arouse sentiment for alleviating the "highway plague" they will have accomplished their purpose.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSIAH W. BAILEY

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Friday, February 19, 1937

EDITORIAL FROM THE NEW YORK TIMES

Mr. BAILEY. Mr. President, I ask permission to have printed in the RECORD an editorial entitled "Time for Deliberation", appearing in today's New York Times.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times of Feb. 19, 1937]

TIME FOR DELIBERATION

Two resolutions proposing constitutional amendments have been offered by opponents of President Roosevelt's Supreme Court plan. One would provide for the compulsory retirement of justices at the age of 75. The other would give Congress power in certain circumstances to override adverse decisions of the Court by a two-thirds vote of both branches. An opportunity to discuss these proposals, and others which may be offered later, will be available before the present debate has ended. Here it is sufficient to note that a plan to accomplish the President's objectives by the process of amending the Constitution would at least be more consistent with the 1936 platform of the Democratic Party than the plan which Mr. Roosevelt himself has offered.

The Democratic Party went before the country in the last election with a plank which dealt directly and specifically with the question of Federal authority in a modern nation. The party frankly stated in the platform adopted last year at Philadelphia that there were certain major problems—drought, dust storms, floods, minimum wages, maximum hours, child labor and working conditions in industry, monopolistic and unfair business practices—which transcend State lines and which can be dealt with adequately only by a combination of State and Federal action.

It did not suggest that it would attempt to solve these problems by changing the personnel of the Supreme Court by act of Congress. Instead it said that it would "seek such clarifying amendment"

to the Constitution as might be necessary, in order to enable the State legislatures and Congress, "each within its proper jurisdiction", to take appropriate action. To the national platform which embodied this statement of party principle Mr. Roosevelt gave his wholehearted endorsement at Philadelphia, and on this platform he appealed for votes.

Eight months later and after the election we now find the President proposing no "clarifying amendment" to the Constitution. We find him instead seeking a short cut around a constitutional amendment by the device of changing the present membership of the Supreme Court itself—a device not mentioned in the Philadelphia platform and not mentioned by the President himself in the course of his campaign. What is the reason for this sudden shift of plans and this abrupt resort to a method not proposed at Philadelphia?

The only reason stated officially thus far is the reason given by Attorney General Cummings in his radio address last Sunday evening. Mr. Cummings now finds that the method of amending the Constitution is not what it seemed to be at Philadelphia. It is instead a most unpromising course of action, and Mr. Cummings has so low an opinion of it that he calls it "the strategy of delay" and "the last resort of those who desire to prevent any action whatever."

We find, therefore, that the sequence of events has run as follows: The Democratic Party pledged itself last June to a policy which the spokesman of a Democratic administration now describes as a "strategy of delay" and a "last resort" of the obstructionists. The discovery that the Philadelphia plan was of no value, despite the fact that the country had accepted it as being offered in complete good faith, was made subsequent to election day, since no mention was made of a change of plans in the course of the campaign. The discovery was followed promptly by the proposal of an entirely different course of action from that proposed at Philadelphia. The only stated reason for this change of plans is that the pressure of present needs has become so great that the country cannot wait for the process of a constitutional amendment.

But from what source, one may well ask, does this great pressure come? Where is the crisis so acute that the Philadelphia program must be set aside and a hastily conceived proposal be rushed to its enactment? Where are the emergencies so grave that the American Republic cannot follow the constitutional procedure which it has followed since the day of its foundation?

No evidence of such emergencies appears anywhere in the appraisals of the present situation made by the President's own advisers. Mr. Wallace has just reported that American agriculture is in such a favorable position that the net income of the farm community is more than three times what it was in 1932. Mr. Roper has just reported that hourly wage rates in manufacturing industries are even higher than they were in the boom days of 1929. Miss Perkins has just reported that industrial employment has been increasing for 11 months consecutively and has now reached the highest point in 7 years. Mr. Hopkins has just reported that unemployment relief has been declining. Mr. Morgenthau has just reported that Federal revenues have reached a peak exceeded only on four occasions in the whole history of the country. Mr. O'Connor, as Comptroller of the Currency, has just reported that for the first time in 55 years no national bank has failed during a period of 12 months. The Federal Reserve Board has furnished authentic and voluminous evidence of the great gains achieved in industrial activity, in railway traffic, in home building, in bank deposits, and in manufacturing pay rolls. And Mr. Roosevelt himself has acclaimed the end of the depression.

All the more reason, since these things are true, why no hasty action should be taken to force a change in the Supreme Court of the United States by an enactment which would shake the prestige of that Court and constitute a dangerous precedent for the future.

All the more reason why no shift should be made in the traditional American system of checks and balances without a direct reference of that question to the American public and a direct mandate from the American people.

Need of Anti-Pollution Law

EXTENSION OF REMARKS

OF

HON. HARRY FLOOD BYRD

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, February 19, 1937

ARTICLE BY HON. AUGUSTINE LONERGAN, OF CONNECTICUT

Mr. BYRD. Mr. President, I ask permission to have printed in the RECORD an article entitled "Anti-Pollution Law Cited as United States Need", written by the Senator from Connecticut [Mr. LONERGAN] and published in the Washington Times of today.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times of Feb. 19, 1937]

ANTI-POLLUTION LAW CITED AS UNITED STATES NEED—SENATOR LONERGAN INSISTS FLOOD-CONTROL PLANS MUST BAR PERIL

By Senator AUGUSTINE LONERGAN

The great floods through the Ohio and Mississippi River Valleys should serve today to make the Nation conscious of the danger of pollution to public health.

During and after every major flood like this the public becomes aware that greatest flood dangers are not to be found in the force of flowing water, but in the filth it carries to contaminate drinking water and infest buildings and homes.

But the Nation might be startled to know that the filth now being carried in flood waters represents only a small portion of the gallons of pollution that are dumped into State and national waterways annually without much of a public protest.

Fortunately for the health of the Nation, treatment plants have been installed to remove the danger of common diseases, such as typhoid in our larger cities, but dangerous pollutants sometimes remain in the waters to affect them in unknown ways. Health authorities in Philadelphia recently have been studying the relation of cancer cases to the extent of pollution in the Delaware River, and elsewhere polluted water is under suspicion as the cause of diseases found most prevalent in certain communities.

The greatest danger is to those persons residing in rural areas or outlying communities where no system of water purification has been established for their protection. In many cases communities are financially unable to install adequate purification plants. Still others may face the problem of pollutants which can be eliminated only by expert study of the problem and application of the remedy.

Communities which depend upon their neighbors upstream to burn or destroy their garbage instead of dumping it in the stream to be passed along to them are often the same communities that dump their garbage into streams for the neighbors below. But fortunately, in the interest of public health, progress has been made in eliminating pollution emanating from towns and cities where there is money to install proper equipment. This leaves as the major offenders those towns without financial means and numerous industries that contribute to the pollution of the stream with chemical and mineral wastes.

Development of Sugar Industry of Florida

EXTENSION OF REMARKS

OF

HON. CLAUDE PEPPER

OF FLORIDA

IN THE SENATE OF THE UNITED STATES

Friday, February 19, 1937

LETTER FROM CLEWISTON (FLA.) CHAMBER OF COMMERCE

Mr. PEPPER. Mr. President, I ask permission to have printed in the RECORD a letter from the Clewiston Chamber of Commerce, of Clewiston, Fla., relative to the development of the sugar industry of Florida.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CLEWISTON CHAMBER OF COMMERCE,
Clewiston, Fla., February 16, 1937.

Hon. CLAUDE PEPPER,
United States Senate, Washington, D. C.

DEAR SENATOR PEPPER: In view of your interest in the development of the sugar industry in our section (the Everglades), we take pleasure in transmitting to you, for your information and consideration, a statement of the position of the Florida sugar producers, which is as follows:

1. They are opposed to any and all processing and excise taxes on sugar that will increase the cost of this vital necessity to the American people.

2. They are opposed to benefit payments to sugar producers as being unnecessary and unwarranted. They believe the sugar industry should stand on its own feet.

3. There should be no restriction on continental production of a nonsurplus crop. Less than 25 percent of our sugar requirements are produced in continental United States.

4. Increased continental production where no domestic surplus exists will increase the employment of American labor on an American basis (the highest standard in the world), increase the

demand on capital-goods industries, and make available the existing wealth of the State of Florida through the development of its natural resources.

The Everglades of Florida have been endowed by nature with all of the worth-while, and none of the sordid, elements that combine to make it the outstanding sugar-producing area of the United States. It is one of the greatest undeveloped natural resources of the country.

Based on Tariff Commission report on sugar for other areas and United States Sugar Corporation annual reports for Florida, cane sugar can be produced at lower unit cost in Florida than in Hawaii or Puerto Rico, and at approximately the same cost as the Philippines, and this despite the payment of American wages in Florida.

Spokesmen for "offshore" areas, testifying under oath during Tariff Commission hearings, stated that during the period 1929–32 they did not pay their labor sufficient to house and feed themselves. In the Florida Everglades field workers on cane plantations receive free housing, free medical fare, free recreational facilities, free schooling for children, merchandise, food, and other supplies from company-operated stores at cost, no compulsory buying, no running accounts, no profit to company, and in addition receive in cash very much higher than average farm wages in the United States.

Hawaiian production costs are stated to be 2.854 cents per pound; Puerto Rican costs, 2.818 cents; and Philippine costs, 2.360 cents (during hearings representatives of these areas stated such costs were too low to be used as averages); Florida costs in 1934 were 2.582 cents; 1935, 2.6459 cents; and 1936, 2.55 cents, including taxes, depreciation, and transportation to continental refinery.

The per-capita use of automobiles, radios, mechanical refrigerators, and telephones in Florida is many times greater than in any of the offshore sugar areas. The wage scale and standard of living is very much higher. Increased Florida production will not only mean many thousands directly employed but will likewise result in many thousands of additional employees in other continental activities.

The sugar quotas for 1937, established in accordance with the provisions of the Jones-Costigan Act and Public Resolution No. 109, Seventy-fourth Congress, are as follows:

	Short tons
Continental United States beet-sugar producing areas	1,613,576
The States of Florida and Louisiana	270,664
Puerto Rico	831,508
Hawaii	976,685
Virgin Islands	5,462
Philippines	1,035,742
Cuba	1,922,423
Foreign countries other than Cuba	26,610
Total	6,682,670

The allotment to the States of Florida and Louisiana for the year 1936 was 260,000 short tons. Florida, under A. A. A. regulations, was permitted to produce only 39,268 short tons.

The American market belongs primarily to the American people, but they are being deprived of that right through restrictions on the production of a nonsurplus crop. The American farmer who employs American labor should not be penalized even by partial exclusion from the market that essentially and by all historical precedent belongs to him.

No foreign country has any vested right to our continental market. In furtherance of their national defense and economic policies each and every nation, with the exception of the United States, seeks and expends great effort in trying to reach self-sufficiency. Other countries buy from us only those things which they cannot themselves produce or obtain at lower prices from others.

There should be no restriction on Florida sugar production. The American market for the American producer.

Yours truly,

CLEWISTON CHAMBER OF COMMERCE,
By J. E. BEARDSLEY, *Secretary*.

Extension of Reciprocal Trade Agreements Act

EXTENSION OF REMARKS

OF

HON. HARRY FLOOD BYRD

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, February 19, 1937

STATEMENT BY L. W. DOUGLAS, OF NEW YORK CITY

Mr. BYRD. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a statement made by L. W. Douglas, of New York City, former Director of the Budget, before the Senate Committee on Finance on House Joint Resolution 96, relative to extending the Reciprocal Trade Agreement Act. The statement was made February 15, 1937.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. DOUGLAS. Mr. Chairman and members of the committee, may I say first that, having been a Member of Congress for 6 years, I can well understand how grateful a Member of Congress might be when attempting to do something which he considers in the public interest to receive some support from a wholly disinterested source. It is because of that that I appear in connection with House Joint Resolution 96.

I must, Mr. Chairman, if I may take just a minute, make a confession. During my period of service in the Congress I opposed consistently the imposition of tariff subsidies with one exception, which had to do with copper. I am perfectly willing to confess to a certain degree of political cowardice, but there were certain extenuating circumstances. At that particular time, however, my particular State was unanimously in favor of a tariff. Moreover, at that particular time practically everything was on the tariff subsidy or the dutiable list. Under those circumstances it was very difficult to say to one's constituents that while the Congress was granting benefits, subsidies, and special privileges to other groups, I as a Congressman would insist upon withholding a similar special privilege to that particular commodity on which the welfare of my State, Arizona, depended. These broad reasons which motivated in this instance are dealt with generally later in this statement.

The efforts of the Secretary of State, authorized by the Reciprocal Trade Treaty Agreement Act, constitute one of the few frontal attacks anywhere being made on the causes of the present almost universal economic and political distress. House Joint Resolution 96 authorizes a continuation of these efforts.

No one can objectively view the post-war public policy of higher and higher barriers to trade—a policy begun here and imitated elsewhere—without concluding that it immeasurably intensified the economic and political disturbances of the last few years.

It would be an error to hold barriers to trade solely responsible for these disturbances. It would be a greater error to hold them blameless.

The public policy of imposing excessive protective tariffs must be judged in terms of its effects on monetary policy; on agriculture, and the apparent existence of agricultural and industrial surpluses; on monopolistic practices and the distribution of wealth; on the growth of the public attitude that the Government should distribute a great variety of special privileges to favored groups; on the centralization of and increase in governmental power as a remedy for the existence of private power which rests upon special privilege and as a consequence of the dispensation of Government favors; and on the organization of the State for and the threats of war.

The United States emerged from the World War as a great creditor nation. Our foreign debtors—public as well as private—could not pay us except in gold or in goods. It was only by these two methods that they could buy the dollars necessary to service and reduce their debts. By our tariff policy we made it impossible for them to meet their obligations by importing goods. Theoretically they might have reduced their costs of production sufficiently to import in spite of our tariffs. Practically they encountered insurmountable obstacles. Thus they were compelled to ship gold. The Federal Reserve System attempted to stem the flood-tide by adopting a cheap-money policy. While this was temporarily successful in arresting the movement of gold, it formed the basis for the hectic inflation of the late twenties. But when the collapse came in 1929 the inflow of gold was resumed in such proportions that in 1931 England finally was compelled to abandon payments. The insolvency of the Credit Anstalt was the superficial cause. The outflow of gold, caused largely by our tariff policy, was the deep-seated one.

Senator KING. We have had a very large influx of gold during the past year.

Mr. DOUGLAS. Oh, yes; indeed we have.

Senator KING. Which may tend to inflation.

Mr. DOUGLAS. Senator, I think it would be difficult to deny that it does.

The influx of gold during the past few years, however, has resulted from both our tariff policy as well as the devaluation of the dollar, added to the threat of various political disturbances abroad. I think that is a statement of fact.

The depreciation of sterling which followed September of 1931 caused such a drastic decline in prices here—particularly in exportable farm commodities—that we, too, abandoned gold, depreciated the dollar in terms of gold and foreign currencies, and resorted to a managed money.

For the moment there appears to be stability of exchanges. But it is probable that the end of depreciated currencies is not in sight and that permanent stability will not be attained until, among other things, the course of public policy runs strongly in the direction of a freer international movement of goods.

Thus those who seek stability of exchanges abroad and a sound currency at home must acquiesce in a reduction of our tariffs. They cannot enjoy the former without accepting the latter.

It is generally and quite rightly accepted to be true that our post-war tariff policy compelled a very large part of our agricultural population—particularly that part which sold the products of their effort in world markets—to pay for the things they purchased a relatively higher price than they received for the things which they sold. This has always been one of the injustices of the policy of protection.

During the whole post-war period agricultural and other exports were maintained by the granting of foreign loans which physically never left the country. When the collapse came and foreign loans ceased, exports decreased because foreign purchasers could not pay with goods, because they had little gold with which to buy and because import restrictions which many of their governments imposed in hopeless efforts to reinforce their own economies acted as effective barriers. Thus agricultural and, indeed, other raw material surpluses were created at home.

In efforts to reduce them we adopted a policy of paying people for producing less—a policy of scarcity—a policy of governmentally sanctioned monopoly. All of this stems from the post-war policy of protection. Those who object to an economy of scarcity should interpose no objection to the removal of its incentive.

The elimination of competition abroad, brought about by our tariff policy, has encouraged and fostered the growth of private monopoly, monopolistic practices, and many of the abuses which have crept into modern corporate management. Price fixing and restrictions on production imposed for the purpose of maintaining or elevating a price structure have the effect of limiting the amount of goods which can be purchased by the consuming public. Thus the practices retard the production of more goods at lower prices and thus they present, on the one hand an automatic distribution of wealth, and give rise on the other to artificial methods of accomplishing this purpose. In the final analysis, wealth is goods. Any method for its distribution other than that which slowly results in the fabrication or growth of articles at lower real prices must have the effect of limiting the production of goods and raising the prices at which they can be bought. Thus in the final analysis any effort to balance monopoly, supported by legalized privileges, with artificial methods of distributing wealth, is in itself a restriction on production aimed to balance, but not to check, the restriction on production inherent in monopolistic practices themselves. While some monopolies exist because of exclusive-franchise privileges and in rare instances because of an exclusive control of a natural resource, they have been developed principally behind the protection offered by tariff subsidies. A removal of the tariff subsidy is a removal of one of the conditions which reinforces monopoly.

Those who seek a system of free bargains made in open markets and those who seek a distribution of wealth through producing more goods at lower prices must acquiesce in the efforts of the Secretary of State to reduce trade barriers everywhere. They cannot obtain the former without accepting the latter.

A protective tariff is an impost levied to prevent importation from abroad so that a domestic producer may charge a higher price than the public otherwise would be required to pay. Were this not true, there would be no demand for a tariff. Thus it is a subsidy paid by the public to certain private beneficiaries just as much as though a direct tax had been collected and a direct appropriation made from the Public Treasury. Only certain groups can be thus benefited. Indeed, by their very nature many groups are beyond the possibility of reaping a benefit from such a subsidy. Clearly, however, it is eminently unjust that certain groups should receive benefits at the expense of all others; and so to balance the benefits paid to the few the many have gradually demanded and have received compensating benefits, immunities, subsidies, and monopolies at the hands of government. The vested interests so created, the vast amount of private power so acquired, and the widespread abuse of that power lend support to the view that there should be vested in government an even vaster amount of concentrated authority as a check on the amount of private power which its policies have fostered. However erroneous and reactionary this view may be, the fact is that it has its roots in the amount of power arising originally out of the inequalities and injustices inherent in a policy of excessive protective subsidies. Thus those who object to a centralized government vested with great authority to regulate, to tax, and to spend, should offer no opposition to the removal of one of its causes. They cannot enjoy a special privilege from the Government without subjecting themselves to its domination.

One of the sources of the present threat to the peace of Europe is the prevalence of economic nationalism—barriers to trade—encouraged as a matter of national policy. It would be straining the point to contend that barriers to trade alone are responsible for the explosive international political situation across the sea. Unrealistic provisions of the Treaty of Versailles, the ravages of inflation induced by government war-time expenditures, and deep-seated national jealousies all directly and indirectly contribute to make a highly inflammable political fabric. These might, however, slowly have been forgotten had the nations which are the centers of the trouble been able to obtain through peaceful channels of trade the raw materials which they needed. Unable to purchase raw materials because of lack of gold on the one hand and because other countries prohibit the importation of their produce on the other, they are being driven to synthetic economic self-sufficiency. This sort of a policy, whether voluntarily selected or involuntarily imposed, is impossible in a free society. Its operation demands a government of unrestrained power, for to be economically self-sufficient, food must be rationed, and only a government of unrestrained power can do this; restrictions must be imposed on the uses to which certain commodities can be put, and only a government of unrestrained power can do this; to be effective, the freedom of the press, of speech, of educational institutions, even of religion, must be abridged if not wholly withdrawn.

And, what is more, the standard of living must fall. As a matter of fact, it has fallen, for when a people cannot buy with their produce the things which they need, they endure—if, indeed, they do endure—a scarcity made up—if, in fact, it can be made up—by far more costly or far less effective substitutes manufactured by chemical synthesis or grown under wholly unnatural conditions. People whose standard of living is thus progressively depressed cannot long be held in leash. Eventually, in desperation, they will break their bonds and attempt to obtain by force that which through peaceful channels of trade other nations have prohibited to them.

Europe is rapidly approaching this precise condition today. If a war is to be prevented, nations must be given an opportunity—by peaceful and natural intercourse, to obtain the things necessary at least for a reasonable subsistence level. This is wholly impossible as long as all the implements of economic warfare—quotas, exchange restrictions, excessive tariffs, depreciated currencies—are prevalently employed.

To some it may appear that war abroad is of no significance to us at home, that an assurance of our neutrality is all that is important. For them it is suggested that even if we escape active participation it is certain that we cannot escape from the economic consequences of hostilities. Thus neutrality is not enough to isolate us from the fearful effects of a war. Prevention is the only security. To avoid war there must first be economic peace. The Secretary of State is endeavoring to travel in that direction. It may, perhaps, be too late to be effective. It is not too late to try.

All of these consequences of a policy of excessive paternalistic protection which in the late twenties developed into almost economic isolation are matters of experience and not of theory. An unprejudiced view of the unhappy course of events during the last decade reveals the truth of this conclusion.

Many people wonder why it is that, having pursued a protective tariff policy for 150 years, these consequences have not sooner been made apparent. In answer, it may be said: First, that our real protective tariff policy did not begin until 1870 and that in a country as large as ours—3,000 miles wide by 3,000 miles long—as rich as ours, with free trade throughout, consequences of given policies are frequently long delayed; second, that with only two exceptions the tariffs have been increasing in amount and the number of articles on the free list have been decreasing in number since 1870; that protection reached its height during the post-war decade. It is of the post-war decade to which this statement is directed.

The monetary consequences of our protective tariff policy were never before fully felt, first, because it was not until the termination of the World War that we became a great creditor instead of a debtor nation and, secondly, because, to repeat, protection reached its peak during the post-war decade.

Many who agree that our tariffs should be reduced believe that it should be done through bilateral quota treaties confined to specific articles. This is Government regimentation of foreign trade of the most vicious sort, necessarily accompanied by Government regimentation of our domestic economy. For Government regulation of the amount of a given article to be exported to a given country in return for a certain amount of a given article to be imported requires allotments among domestic producers on the one hand and Government distribution among domestic consumers on the other. Moreover, a commercial policy which imposes restrictions on the amounts which are to be exported ultimately leads either to its discontinuance or to restrictions on domestic production. Finally, an exclusive bilateral reciprocal treaty as a means of reducing trade barriers wholly ignores the fact that exchanges and foreign trade are not bilateral but multilateral, and that if it is to be reduced to a two-party basis it descends almost to the level of straight barter. This is the simplest form of exchange and the most restricted in nature. Even it requires much regimentation by the Government.

Thus the most-favored-nation policy is the only policy by which substantial reductions in trade barriers everywhere can be obtained.

The paternalism of our post-war policy, expressed, up to 1932, principally in the form of special tariff privileges is one of the most important causes of our present difficulties and of the difficulties which impend. Freedom of trade everywhere has been accompanied by freedom of institutions. Thus, those who believe in the freedom of institutions, businesses, education, religion, speech, should applaud and support the efforts of the Secretary of State. They go to the very source of our present troubles. They should be continued.

Thank you very much, Mr. Chairman.

Postmaster General James A. Farley

EXTENSION OF REMARKS
OF
HON. WILLIAM H. DIETERICH
OF ILLINOIS
IN THE SENATE OF THE UNITED STATES
Friday, February 19, 1937

EDITORIAL FROM THE ILLINOIS STATE REGISTER

Mr. DIETERICH. Mr. President, in the Illinois State Register, of Springfield, Ill., of February 16, there appeared an editorial paying a deserved tribute to Postmaster General James A. Farley. Notwithstanding the fact that it makes a complimentary reference to myself, I am anxious that the editorial be printed in the CONGRESSIONAL RECORD, as I believe we should pay every possible tribute to the Postmaster General.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Illinois State Register, Springfield, of Feb. 16, 1937]

A DESERVED TRIBUTE

Whatever disagreement there may be among partisans, it must be gratifying to fair-minded American citizens of all parties to have had it said of an outstanding political leader that he is "honest politically" and that he symbolizes honor in all things.

Postmaster General James A. Farley, chairman of the Democratic National Committee, was the subject of this testimonial. It was uttered by the Vice President of the United States, the Honorable John N. Garner, at a dinner given in Mr. Farley's honor, and with every State in the Union represented by its outstanding Democratic leaders, including the following famous Illinoisians: Gov. Henry Horner, United States Senators James Hamilton Lewis and William H. Dieterich, National Committeeman Patrick A. Nash, and Mayor Edward J. Kelly, of Chicago.

It was impressive, indeed, to hear the Vice President stress the element of honesty in his tribute to Mr. Farley. It was even more impressive to hear over the radio the vibrant voice of President Roosevelt honoring this same leader for his honesty, his integrity, his loyalty, and his fidelity.

Beautiful, indeed, was the tribute which the President paid to Mr. Farley when he said that the latter possesses "that loyalty from his friends that results from loyalty to his friends."

As "Jim" Farley is America's outstanding political general and tactician, it is interesting indeed to contrast the idealism expressed in honoring him with the sordid things being said of political leaders in so many other nations of the world.

Though American citizens become embittered during the prejudices of a great national political conflict, it is inspiring indeed that those prejudices can be laid aside as they are at this hour in paying national honor to a leader like Mr. Farley.

Though all the people of America could not attend in person the testimonial dinner given in Mr. Farley's honor in Washington last night, they did attend it in spirit. They unite with the President, the Vice President, and others in paying this deserved tribute to the integrity and ability of the guest of honor.

Reorganization of Government Departments

EXTENSION OF REMARKS
OF
HON. PATRICK J. BOLAND
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Friday, February 19, 1937

RADIO ADDRESS BY HON. PATRICK J. BOLAND, OF PENNSYLVANIA, ON FEBRUARY 18, 1937

Mr. BOLAND of Pennsylvania. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following address I made over the National Broadcasting Co. network on Thursday night, February 18, 1937:

The Government of the United States is the largest enterprise in this country, and the conduct of its affairs is the most important matter before the American people today. What it does and how it does it is your concern and mine, and in the time allotted to me tonight I shall discuss the business of running the United States and its reorganization as proposed by the President.

The Constitution decrees that Congress shall enact laws, but the mere enactment is not enough. Laws require administration and enforcement, so the framers of the Constitution provided for a Chief Executive of the Nation—the President of the United States—who, as the possessor of broad constitutional powers and other statutory and customary attributes, has become the administrator of our form of government and is the one, and the only one, charged by the Constitution with the administration of Federal laws and the operation of the Federal Government.

What a long way the duties of the President and of the American Government have traveled since the adoption of the Constitution. Picture Washington, our Capital, 1800, a small village on the banks of the Potomac, more famed as a trading center for the neighboring farmers than it was as the headquarters of a new nation. Picture the days when there were only four Cabinet officers—the Secretaries of State, Treasury, and War, and the Attorney General. The duties of government were few, the number of people comprising the administrative branch of that Government numbered less than a thousand. The population of the entire country was only 4,000,000. The problem and the relationship of the Government to the people were simple. But then the Nation began to grow, and with the momentum of an avalanche rushing down the side of a mountain, industrialism, empire building, and the American spirit of expansion, step by step, developed the vast, far-reaching glorious Nation that we know today. And to me it is material to inquire, "Has the American Government and the conduct of its affairs kept pace with its growth in population and wealth?"

Naturally, as the population, business life, and territorial limits of this Nation expanded, the governmental duties likewise increased. With these duties, new agencies, bureaus, and cabinet departments were created until today we find that here in Washington is a Government, lacking in coordination, overlapping, and composed of small independent bureaus. This condition—never intentional—has been the result of a long development and expansion of the duties of Uncle Sam. For 50 years after George Washington there were only six departments, then came the Interior Department in 1849, Agriculture in 1889, Commerce and Labor in 1903. In addition, after the Civil War, agencies and commissions began to arise, all under different presidents and for various reasons. The assassination of President Garfield by a disappointed job seeker brought the spoils system into disrepute and the result was the creation of the Civil Service Commission. The public nature of various industries caused in rapid succession the creation of separate independent agencies regulating railroads, telephone, telegraph, radio, power, stock exchanges, stock yards, food producers and whisky manufacturers.

The multiplicity of arms in our present governmental anatomy makes it impossible for one hand to know what the others are doing. As a result it has often been the case for two or three different agencies to conduct identical investigations, perform similar functions and use twice or three times the amount of money required to achieve the ends sought to be attained. Consolidation will certainly reduce such waste and duplication to an appreciable minimum.

Probably the most controversial problem to be faced in the whole program of reorganization is the one respecting such bodies as the Interstate Commerce Commission, Federal Trade Commission, Federal Communications Commission and Securities and Exchange Commission. These agencies are often referred to as the fourth branch of our National Government since to a certain degree their functions are legislative, administrative, and judicial. Each one was established to administer a different type of highly specialized and technical legislation. Yet, the enforcement of such laws in our present system is divided. Criminal prosecutions are handled by the Department of Justice and the civil enforcement by the respective commissions. The result is that a person involved in a technical violation of one of these statutes in many instances has no way of knowing just what agency or Department is handling his case at any given time. Furthermore, it fundamentally smacks of inefficiency due to the necessity of maintaining a separate staff of specialists in the Department of Justice for each one of such laws when the commissions themselves are fully competent to handle the criminal as well as the civil phases of such enforcement. Should it be deemed appropriate, however, to consolidate all of these various law-enforcement agencies, under one department in order to remove the existing flaws, I feel safe in saying that some provision should and will be made to preserve the independence of the semi-judicial and semi-legislative determinations.

It is very likely that some method will also be discovered to place all Government credit agencies, such as Federal Housing, Reconstruction Finance Corporation, and Home Owners' Loan Corporation, under one department. This step would clearly simplify the process of negotiating Government loans. It would then be no longer necessary to send applications and requests for information to four or five places before locating the appropriate bureau.

And, what is more important, by centralizing the credit agencies of the Government the responsibility for all Government loans could be more easily identified and ascertained.

If you walked into your bank you would not be shunted from department to department or sent to a branch 2 blocks away. No; the bank's activities are consolidated, and to me a suggestion that the Government's lending activities be likewise consolidated is not politics or dictatorial, but good business and common sense.

Imagine a letter being forwarded by you or your next-door neighbor inquiring as to whether or not the Government would grant a seed loan and that letter passing through four or five or six bureaus or agencies before it reaches the one most fitted to handle your particular case. Such a situation like that occurs every day in Washington, not once or twice but hundreds and hundreds of times. As a result an answer to your letter is delayed and time and money are wasted in the handling of it.

As I stated at the outset of my talk this evening, the conduct of the American Government is your business; and you, as American citizens, are entitled to efficient and capable administration of that business; but, in all fairness, remember it is a big business—700,000 employees—branches and agents all over the face of the earth. Why, the Treasury Department alone cashes over 500,000 checks every day.

The duplication, overlapping, and inefficient management in administration of government in the United States has been recognized for more than 20 years. A few attempts, mostly nonpartisan, have been made to correct it. Some minor changes have been effected, but no real headway has been made.

Now, however, the time has arrived for honest, sincere reorganization. Realizing this, the President, with courage so typical and with his usual consideration of the interests of the American people, in a message to Congress recommended the drastic reorganizaion of the governmental machinery. The report of an expert committee, appointed by the President, suggests a complete overhauling by the consolidation of 100 Federal executive agencies into 12 departments with a Cabinet officer in charge of each. This plan would continue the present Cabinet departments of the Government and create two additional departments, namely, the Department of Public Works and the Department of Social Welfare. The recent relief work in the Ohio Valley floods is indicative of what good can be done by centralizing all relief agencies. In short, the simplification of governmental functions results in savings in money, savings in time, and savings in energy. The extent of this reorganization and the soundness of the suggestions show that the President wants to give you the best administration of your governmental affairs in a coordinate and efficient manner. He desires that waste be eliminated; that government cost less; he envisions a smooth functioning governmental organization operating under and reporting to the President, who under the Constitution is the only one charged with the administration of governmental affairs. Yes; the President—Franklin D. Roosevelt—is supporting this proposed reorganization, but there are many obstacles and impediments to its successful enactment. We, as Members of Congress, day after day are met with declarations of small groups, entrenched minorities, and sinecures of this overlapping situation, who are jealous of and greedy for the continuance of various bureaus and agencies. Yes; agencies which neither report to the President nor the Congress—a situation never contemplated by the Constitution—and these minorities even go so far as to call the President a dictator, when they themselves are clothed in dictatorial robes.

Ladies and gentlemen, this Government can be likened to a great corporation with 130,000,000 stockholders. The president of that corporation has recommended that certain measures be adopted for the sake of economy and efficiency. He has suggested that certain loose ends in the management be either tied together or eliminated entirely. The President and the Members of Congress need your support. And I, as a Member of Congress, most earnestly and sincerely convey to you my conviction that the proposed reorganization of the administrative branch of the Government is both timely and necessary. I am sure that its adoption will give the American people a 1937 model of a real up-to-date government administration.

Three Years of P. W. A.

EXTENSION OF REMARKS

OF

HON. JOE STARNES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 19, 1937

ADDRESS BY HON. HAROLD L. ICKES, SECRETARY OF THE INTERIOR, BEFORE THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

Mr. STARNES. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by Public Works Administrator and Secretary of the Interior Hon. Harold L. Ickes, entitled "Three Years of P. W. A.", before the Associated General Contractors of America at their annual convention at San Antonio, Tex., February 17, 1937:

Approximately 3 years ago at your annual meeting in Washington, I had the honor of appearing before the Associated General Contractors of America. Then we were just getting under way with the biggest building program of its kind in the history of the world. A man who was neither an engineer nor a builder had been entrusted by the President with the administration of that program. Naturally, he wanted to make good and this would be difficult, if not impossible, without the good will and cooperation of the contractors of America who, under the plan that had been adopted, would build as many projects as possible on a basis of competitive bids.

When your efficient managing director, Mr. Harding, asked if I would come to San Antonio to speak to you tonight, his invitation was readily accepted, because it would afford an opportunity to tell you that the contractors of the United States, with few exceptions, during these past 3 years, have given the Public Works Administration the cooperation for which I had asked at your Washington meeting. The Administrator of Public Works ought to be able to qualify as an expert on this subject, because we believe that a new high record has been set, and one that will stand for a long time, of public works contracts let under the authority of one organization. P. W. A. construction contracts have been let on nearly 20,000 projects. The work has been spread among approximately 28,000 principal contractors. How many subcontractors there have been, it would be difficult to guess. The value of the contracts let, as of January 27 last, amounted to the huge total of approximately $2,465,000,000, with complete reports not yet in. Under our program there have been P. W. A. projects in practically every county, possession, and territory of the United States.

Although P. W. A. has done business with approximately 28,000 principal contractors and innumerable subcontractors, I am able to say now, with a pleasure which I am sure you will share, that to date there have been only 29 convictions affecting 34 persons who were either contractors or employees of contractors for violations of the law. And most of these convictions were for misclassification of labor and improper keeping of pay-roll records.

This is a fine record. It is all the more noteworthy when it is remembered how strictly P. W. A. has inspected the materials that have gone into every project as well as the work itself as it has progressed. I do not pretend to say that we have caught everything; that would not be humanly possible, but I can and do say that I am proud of the record that the contractors of America have made in helping us make good on our P. W. A. program. You, too, are entitled to be proud of that record.

Unfortunately, no business or profession is free from chiselers and cornercutters. The small percentage of undesirable citizens who are willing to accumulate money at whatever moral cost, makes it difficult for the decent majority to maintain themselves without resorting to practices that they despise. I am not unaware of the pressures that frequently are put upon contractors if they want to build public works. Therefore it is all the more to your credit that we have come through this public-works program with the excellent record that you have made.

It is hoped that you have experienced the same satisfaction in doing business with the Federal Government that we have in working with you. At the outset we were inclined to believe that it might be better for our program to do a large part of our work by force account. Then the conclusion was reached that we would get better results and more quickly put men to work, which was the primary motive underlying our entire program, if we took competitive bids on our projects and turned over the work in as many instances as possible to the lowest responsible bidder. On the basis of actual experience it may be said that the decision that was made back in 1933 was a sound one.

If the Federal Government has been insistent upon honest work, compliance with Federal laws and P. W. A. regulations, and upon true value received for its money, it has been equally concerned to protect contractors doing work for it from those extralegal exactions and unjust demands with which some of you on occasion have been all too familiar. In figuring on specifications it was expected that you would add a reasonable profit; but if you had to share that profit with those who were not entitled to any part of it, you could not bid as low as you otherwise might. P. W. A. had no interest in having any of the money voted by Congress to put the unemployed back to work and help to bring prosperity from around the corner reach any prehensile fingers that were not entitled to it. It may justly be claimed that our public-works projects have set a new standard in this respect. If any contractor has paid money to a chiseler or a grafter or a lobbyist or a crooked politician anywhere, then he did something that he did not have to do, because behind him was rallied the full power and prestige of the Federal Government to protect him in his rights.

One of our State directors came in to talk with me on one occasion about a very large project that was being built. He said that the contractor, whose contract ran into millions of dollars, was putting old equipment in first-class condition and buying new. This was before there was any assurance that we were really coming out of the depression. The State director

expressed surprise that the contractor could afford to buy these new tools of his trade, and the astonishing answer was: "I can do it because I haven't had to pay a cent of graft to anyone in connection with this project. They can't shake me down on a P. W. A. job."

P. W. A. has been of benefit to the contractors in other respects, if we can credit the many letters that have come to us and the complimentary statements that have been made. Many of the men in your calling have expressed their appreciation of the high construction standards set by P. W. A., of the improved cost accounting methods that we have insisted upon, and of the better pay-roll records that we have caused to be set up. These devices may have been a trial to some of you at first, but many contractors have now come to accept them as a benefit to themselves and to the Government alike. They have saved money and time all around and have made more efficient those who formerly had not used them but now do so.

It may justly be claimed that P. W. A. has been of great advantage to the communities in which projects have been built. While, of course, we have always regarded any project on which the Government has loaned money or to which it had made a grant as the enterprise of the city or county or State that was building it, nevertheless, as a protection to our investment, we have exercised the right to see to it that the project was being constructed strictly in accordance with the specifications. By working in friendly cooperation with the local authorities we have educated them, in very many instances, in improved methods of building. I wonder how many communities there now are that have learned better construction methods on their public works; that know that projects can be built more quickly than they had been built in the past; and, more importantly still, that have acquired the knowledge that public works can be put up as efficiently, as honestly, and as graftlessly as a private undertaking.

As an effective means of giving work to the unemployed, and as a potent instrumentality in recovery, the public-works program has fully justified itself. It has meant work for hundreds of thousands of men in every part of the United States. You contractors do not have to be told of the status of the building industry early in the summer of 1933 when President Roosevelt set the Public Works Administration in motion.

Since its establishment those who were opposed to the use of every honest device to bring back prosperity have loudly declared that the public-works program is unconstitutional. Of course, the Congress and the President set up the Public Works Administration and gave it money in the belief that they had the right to do so under the public-welfare clause of the Constitution. But it must be borne in mind that the founding fathers had neither precedents within their own experience nor historical authority for believing that the occasion would arise when the Nation that they were founding would find it necessary to do what President Roosevelt had the imagination and the will to do when he set up our public-works program.

We believe that what we have done is constitutional. In any event it is something of which we can well be proud—the outlay of a total of approximately $4,100,000,000, including the almost $2,500,000,000 already under contract, without even our political enemies being able to raise any issue of honesty or efficiency.

When the Congress appropriated money for a public-works program and the President, pursuant to the authority granted to him by statute, named a Public Works Administrator, there were no rules to follow, no precedents to guide. We started from scratch. All we knew was that we had a huge sum of money thrust into our laps and that that money was to be spent as rapidly as possible in order to put men to work on worth-while and socially desirable public structures. But we got busy at once. As rapidly as possible and as our needs required it, we built up a staff of several thousand persons. We employed engineers and lawyers and finance examiners by the hundreds with supporting staffs of secretaries and stenographers and clerks. Nor did we neglect to set up staffs of engineer inspectors and investigators.

We undertook only projects that could be justified. At first a goodly share of our money went to the various Federal departments and agencies for Federal projects. The reason for this was that practically every department had projects that it needed that could be undertaken quickly. But gradually the important phase of our program became that of non-Federal projects. When communities learned, as they were quick to learn, that on the basis of a loan and generous grant they could build municipal and other public facilities which they badly needed, they began to develop plans and to send applications to Washington. As an aid to them, one of the first acts of the Administrator was to provide, through the Public Works Administration, whatever legal, financial, and technical services were required to set up the application properly, thus saving communities, which were hard put to it anyhow, large sums of money.

Getting under way as rapidly as possible, P. W. A. kept pushing ahead to accomplish the purposes for which it had been created. Bridges were built, and roads, courthouses, jails, power plants, sewage systems, and waterworks. Huge dams were erected and rivers were dredged. Improvements were made on a large scale to correct present and to prevent future soil erosion. Every conceivable type of public improvement that would give employment to men we stood ready to do. Hospital facilities were vastly improved and increased, but that part of the P. W. A. record of which personally I am most proud is the construction of school buildings and of school additions that have been financed in all parts of the land.

When the depression hit the country in full force one of the first economies put into effect pretty generally, strange to say, was not only a curtailment of existing public-school facilities, but a practically total stoppage in the construction of needed new school buildings. P. W. A. has been largely responsible for the building of 6,344 schoolhouses, provided seats for 1,389,655 children. These school buildings have ranged from very small structures in rural districts to those of the largest type. P. W. A. during the last 3 years has been responsible for 75 percent of the school construction of the country. The major part of this program has consisted of grade and high schools but we have also found it possible to come to the assistance of colleges and universities.

What our school construction will mean in the future to a generation that, without this Federal aid, would have had to start life less well equipped educationally than it will be, can only be imagined.

If the building industry was flat when this administration came into power in 1933, the trained building craftsmen were in an even worse plight. Building, as you know, had headed into the doldrums well in advance of the stock-market crash in 1929. Here were thousands upon thousands of fine American citizens, accustomed to support themselves and their families according to American standards and lay by a little for a rainy day, walking the streets looking in vain for work—work of any sort. Even the men who had savings in most instances had not been able to lay by enough for a downpour of Biblical proportions. The result was that men in the building trades were desperately in need of work. Proud though they were of their ability to support themselves by their own labor, many had been reduced to the expediency of seeking relief.

The P. W. A. program was a lifesaver to these men. We did not take advantage of the depression to drive hard, necessitous bargains with them. From the beginning we paid the prevailing or even a higher rate of wage in every community; we protected the workmen, so far as possible, from that vicious practice resorted to by some conscienceless employers known as the "kick back", and we insisted that they should not work more than 30 or at the most 40 hours a week. On several occasions it has been my privilege to receive delegations made up of ranking officials of the building-trades unions who came to express their appreciation of what P. W. A. had done for them. Only 2 or 3 weeks ago there came to me through the mail a formal resolution signed by Mr. J. W. Williams, president, and Mr. M. J. McDonough, secretary-treasurer, building-trades department, American Federation of Labor, praising P. W. A. and its administration.

Nor were the thousands of craftsmen and laborers employed directly at the site the only ones to benefit from our construction program. Structures such as we were helping to finance and build meant work to many other thousands in forest, quarry, mine, steel, and fabricating mills, and on the railroads. During 1934 approximately 25 percent of all brick, 75 percent of all cement, and 45 percent of all structural steel produced in the United States were used on public-works construction projects.

During the early days of P. W. A. we used to speculate about the ratio of indirect to direct labor on a P. W. A. project. Discovering to our surprise that no one, anywhere, at any time, had determined this ratio authoritatively, we asked the Department of Labor to set its statisticians to work on the problem. After an exhaustive study covering 2 years these experts announced their finding that for every man-hour of direct employment at the construction site there were 2½ man-hours away from the site in indirect employment. That is to say, if a project produced 1,000,000 man-hours of direct labor, it should be credited with 2,500,000 man-hours of indirect labor, or a total of 3,500,000 man-hours. I have always felt that this indirect employment, reaching as it has into all parts of the country, has been one of the greatest benefits of our P. W. A. program. It has been a tremendous stimulus toward general recovery.

P. W. A. has helped the country in another respect that is not generally realized. When the depression struck, even those cities which still had a margin of bonding power were unable to undertake the public works that they needed and wanted because there was no market for their securities. High-grade municipal bonds went begging. The banks would not touch them and private investors were either unable or unwilling to buy. Not only was there no market for new securities, but bonds that were already on the market rapidly depreciated in value. This was not surprising at a time when the bonds of the United States Government itself, which are the safest investment in the world, sold substantially under par.

Under our policy of making grants, first of 30 percent and later of 45 percent, and of lending the balance at 4 percent on what we regarded as good security, we furnished an outlet for bonds which were not salable either to the banks or to the public. Our bond experts and our lawyers scrutinized carefully every bond issue that we took as security because it never was our intention to demand security that was not intrinsically sound. However, we proceeded on the theory that the country could and would come back economically, so that, even if temporarily municipal bonds were selling at prices considerably below their face value, if the bonds in question had been legally issued and

the community offering them was not exceeding its debt limit, we were willing to take them as security for a loan on a public-works project. And we always took bonds at par. Occasionally we suggested changes in State statutes or municipal ordinances which, when adopted, had the effect of strengthening these securities.

The sanitary district project in Chicago is an example of what P. W. A. did to sustain the municipal-bond market. Not only is this the largest sanitary engineering project in the whole world, it is one of the largest financed by P. W. A. Thousands upon thousands of idle men walked the streets of Chicago, as they were hopelessly tramping the highways and byways of every part of America. The Supreme Court had ordered a revamping of the Chicago sewage system at a high cost. In desperation, Mr. Ross A. Woodhull, now president of the Sanitary Board of Chicago, came to Washington. He wanted an immediate loan of $6,000,000, later expanded to $41,938,000. As security for the 70 percent of this sum that would represent the loan, he offered sanitary district bonds.

As a citizen of the Chicago metropolitan area I knew that sanitary district securities did not have very good standing in the bond market at that time. As a matter of fact their tentative value when we made this allocation was about 70 percent of par with no buyers. I argued to myself that these bonds would come back sooner or later unless the whole United States was going to the dogs and in that event it would not much matter what any of us did. So Mr. Woodhull was told that he could have his money on security that not a bank in Chicago would buy. We took these bonds in 1933 at par and sold them through the R. F. C. in 1936 at 101 and accrued interest, thus realizing a profit of $414,690.

The financial columns of the newspapers nowadays are full of lamentations because of the dearth of good municipal bonds. The dealers in such paper have customers but they lack the bonds with which to supply them. And yet if these dealers and the even more timid banks had only had that faith in the country which they love to express on public occasions, they would now have a supply of municipal bonds in their portfolios for sale to their customers at a profit. That there has been any market at all for many issues of municipal securities during the past 4 years has been due in no small measure to P. W. A. As in the case of the sanitary district of Chicago, we have taken at par hundreds of millions of dollars worth of bonds that no one else would buy even at bargain prices. The United States Government furnished practically the only bond market in the country. And these bonds have proved to be a good investment. We have actually made a profit on them.

Approximately $615,500,000 which P. W. A. has loaned to municipalities and railroads will be almost entirely recovered with interest. The last report that I have shows that we have collected in interest the sum of $18,173,000, which has been turned over to the Federal Treasury. We have also realized a profit of $9,706,000 on our sales through the Reconstruction Finance Corporation, of bonds taken as collateral for loans. Additional profits will be made as other bonds are sold.

As against this, only one-tenth of 1 percent of the total amount loaned by P. W. A. is in default, and at that the default in some cases is merely technical and will be overcome in due course. The total default, as of December 31 last, aggregated $636,000 on 203 issues, which has been offset many times by the $9,706,000 cash profit already realized on the resale of bonds.

As an emergency organization created to give employment to those out of work and to help bring about prosperity, P. W. A. is coming to the end of the chapter. The saddest duty that I have had to perform as a Government official has been to reduce our staff because our work is falling off. It is heartbreaking to have to let men and women go who have performed faithful service, and I hope that you contractors during the building revival that many experts see ahead of us will find it possible to employ these skilled and faithful men and women, for, as you know, the staff of P. W. A. was not built up on a political basis. It has not been a patronage dump. We had to have trained and experienced people, experts, and a sine qua non to employment by P. W. A. has not been political endorsements, but character and ability to do the work that was required to be done. I have been just as proud of our staff as of our program and the manner in which it has been carried out.

But while the emergency work for which P. W. A. was instituted is about completed, I hope that public works will be put on a permanent basis as a Federal agency. I am encouraged to believe that this will be done, because the excellent plan of the President to reorganize the executive branch of the Government provides, among other things, for a new department of public works. This would be such a recogntion of the important place that public works occupy as the construction industry and contractors have sought for many years. If this department is authorized by Congress, as I hope it will be, then I trust that one of the first duties of the Cabinet officer who will head that department will be to set up an agency which will have plans and procedures and methods furbished and kept up to date ready to use if another depression should hit us. Never must we be caught unprepared again. No administration and no individual should suddenly have thrust upon him such a responsibility as President Roosevelt had to assume in 1933.

I believe that such a program of public works as we have been engaged upon has fully justified itself as a most effective weapon in a war on depression. I am convinced that the country realizes this and that appreciation of what we have done will grow with the years. P. W. A. has established precedents and has set patterns. I would be the last to claim perfection for it, but at least, as the result of our hard won experience, the country is in a position to undertake much more quickly, and even more efficiently than did we, a public-works program of a similar sort if occasion should arise again. Not to be prepared to fight a depression with all known and tested instrumentalities is just as criminally stupid as it would be not to be prepared if war should invade our country.

The fires under the boilers of P. W. A. as an engine of national recovery may be banked but they must never be drawn. The thousands of useful, permanent public works, serving as many communities, stand as permanent monuments to what the Government, in cooperation with the contractors of America, has contributed to overcoming the depression, and form a solid foundation upon which to build a great new department.

In a sense my address to you 4 years ago was my salutatory as Public Works Administrator. Tonight in giving an accounting of my trusteeship before those whose help made the fine record of P. W. A. possible I am pronouncing a valedictory of a sort. If and when favorable action is taken by the Congress, on the suggestion of President Roosevelt, that a department of public works be established as a recognized major agency of Government, a new path into the future will have been blazed. In facing that future you are entitled to the consciousness that in doing a good and worth-while job as contractors under the President's emergency program you were doing a good and worth-while job as citizens of the United States.

"We the People" of 1937

EXTENSION OF REMARKS

OF

HON. GUY L. MOSER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 19, 1937

Mr. MOSER of Pennsylvania. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following with respect to the mooted question of "packing" the Supreme Court:

Our founding fathers displayed a foresight and wisdom that becomes the more palpable as, in 1937, we approach the commemoration of the one hundred and fiftieth anniversary of the adoption of the Constitution of the United States, September 17, 1787.

Sagely, providing a government of, by, and for the people, they established a system of balances, ever mindful to leave to the people the power of final judgment.

Thus, establishing the legislative, executive, and judicial branches of our Government, they reserved to the people, through the legislative branch, Congress, the power of impeachment of the executive and judicial, but gave no such power over the legislative branch, to either the executive or judicial branches, instead, preserving that power of veto to the people through the ballot boxes.

This axiomatic purpose, secured to posterity, received the stalwart endorsements of Jefferson, of Lincoln, and of Theodore Roosevelt, each of whom on occasion, advocated the people as the final arbiters of judicial decrees.

Chief Justice John Marshall, who served in that exalted station longer than any other, found in the "necessary and proper" clause of our Constitution the means for building our Nation from the weak, struggling infant he found it to a mighty giant destined to become the foremost leader of the world. During this process he advocated to Justice Chase that it were better to concede to Congress the power of veto of judicial decisions than have the judges appear before the people in the wrong light.

Said Thomas Jefferson:

> The opinion which gives to the judges the right to decide what laws are constitutional and what are not * * * makes the judiciary a despotic branch. The Constitution has erected no such single tribunal, that to whatever hands confided * * * its members would become despots.
>
> I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them but to inform

their discretion by education. This is the true corrective of abuses of constitutional power.

Said Abraham Lincoln:

Somebody has to reverse that decision and we mean to reverse it. If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court * * * in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal. Why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world?

This was Lincoln's position on the Dred Scott decision, the first outlawry of an act of Congress—by the Supreme Court—in the first 68 years of our Government's existence, save one, that of the use of mandamus prior to and pleaded in the Marbury against Madison case, and which prompted Chief Justice John Marshall to write Justice Chase as referred to above.

Said Theodore Roosevelt:

Let the people recall the decision. The highest right of a free people is the right to make their own laws; and this right does not exist if under the pretense of interpretations an outside body can nullify the laws. I hold that the people should say finally whether these decisions are or are not to stand as the laws of the land.

Says Franklin D. Roosevelt, President of the United States, in his message to Congress January 6, 1937:

It is worth our while to read and reread the preamble of the Constitution and article I thereof which confers the legislative powers upon the Congress of the United States. It is also worth our while to read again the debates in the Constitutional Convention of 150 years ago. From such reading, I obtain the very definite thought that the members of that convention were fully aware that civilization would raise problems for the proposed new Federal Government, which they themselves could not even surmise; and that it was their definite intent and expectation that a liberal interpretation in the years to come would give to the Congress the same relative powers over new national problems as they themselves gave to the Congress over the national problems of their day.

Constitution of the United States, section 8:

The Congress shall have power—

Clause 18:

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Read and reread, too, this "necessary and proper" clause which John Marshall found so useful:

Law is the embodiment of the moral sentiment of the people.—Sir William Blackstone.

We are under a Constitution, but the Constitution is what the judges say it is—Governor Hughes, now Chief Justice.

"We the people" through our Congress possess the power under our Constitution to impeach the executive and judiciary branches of our Government, and through our Congress and the general assemblies of the several States possess the power under our Constitution to change that Constitution and abolish the judiciary.

Under our Constitution, our Congressmen are held responsible to us every 2 years; our Executive, every 4 years; and, our Senators, every 6 years, one-third responsible each 2 years; but, our judges never. Appointed for life, the judges are no longer responsible to anybody.

Mr. Speaker, on February 11th, the gentleman from Illinois, Mr. Mason, discussing this subject in the House, quoted from "The Crisis" written by Thomas Paine, in the light of the campfire by night, with General Greene on the retreat from Fort Lee to Newark, N. J. This quotation was used to liken Members of the Congress to the deserting soldiers of the dark period of our country's history—the winter of 1776–1777. Quoting:

These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country, but he that stands it now deserves the love and thanks of man and woman.

Comparable to Members of this Congress, standing by their country on the mooted question of the Supreme Court, the gentleman from Illinois, might have well continued quoting from the Crisis, as follows:

Tyranny, like hell, is not easily conquered; yet we have this consolation with us that the harder the conflict, the more glorious the triumph. What we obtain too cheap we esteem too lightly; it is dearness only that gives everything its value. Heaven knows how to put a proper price upon its goods, and it would be strange indeed if so celestial an article as freedom should not be highly rated.

Washington ordered the Crisis read aloud to every regiment of the Army.

Prior to writing the Crisis, Thomas Paine had written Common Sense, styled by Washington as, "Sound doctrine and unanswerable reasoning." Here, Paine reasoned that:

No group of men, responsible to nobody, should ever be trusted by anybody.

This may well be applied to the Supreme Court, responsible to nobody, as contrasted to Members of Congress and the President, responsible to the people, every 2, 4, or 6 years.

Jefferson, Adams, Franklin, and Madison, all great statesmen of their time, wrote in praise of Paine's flaming arguments. Rev. Theodore Parker once said:

Every living man in America in 1776 who could read, read Common Sense. If he were a Tory he read it, at least a little, just to find out for himself how atrocious it was; and if he was a Whig he read it all to find the reasons why he was one. This book was the arsenal to which colonists went for their mental weapons.

The Judicial Code, providing full pay to judges on resigning from the bench, after 10 years of service on attaining the age of 70 years, was enacted April 10, 1869. It was amended February 15, 1909, March 3, 1911, February 25, 1919, and March 1, 1929. The Republican Party was in power on each of these enactments except one. The Judicial Code, as it now stands, provides, too, the President, if he finds any district or circuit judge is unable to discharge efficiently all the duties of his office by reason of mental or physical disability of permanent character, may, when necessary for the efficient dispatch of business, appoint, by and with the advice and consent of the Senate, an additional circut or district judge, precisely in the manner and form he [the President] has recently recommended be extended to the Supreme Court.

Notwithstanding the fact that this Congress voted on the 10th day of February, 315 to 75, only, to extend the right of retirement to Supreme Court Justices, instead of forcing them to resign, criticism has come to my desk that we have recklessly voted away the taxpayers' money to give pensions to the judges.

The fact that the law has stood for many years, permitting former Presidents to appoint substitute or relief judges to the circuit and district judges, held to have "mental or physical disability of permanent character" and has not been abused, commends instead of condemns its extension to Supreme Court Justices as well.

Under these circumstances, the hue and cry of the alarmists, of absolutism, depotism, and dictatorship, becomes "as tinkling brass."

When the Revenue Act of 1919 levied a tax on the incomes of individuals, including the salaries of all Government officials, the President, Members of Congress, and the judges should be included in their income-tax returns, it was circumvented and held void as to the judges on the empty and far-fetched argument, the Constitution provided the compensation of judges shall not be reduced during their continuance in office. This was done, notwithstanding the fact the sixteenth amendment provides that Congress may levy taxes on incomes from "whatever source derived." Both provisions were and are a part of the Constitution, the supreme law of the land. Justices Holmes and Brandeis dissented. Justice Holmes said he found nothing in the

Constitution to exonerate a judge from the ordinary duties of a citizen. A tax that applied to all other citizens seemed to be properly levied against the salaries of judges.

Mr. Speaker, it is true that our Constitution will soon be 150 years old. It is true that it is an eighteenth-century document. The Supreme Court, however, was not launched until and during the last decade of that century. During the first 57 years of the nineteenth century we had a liberal application, as well as interpretation, of the "necessary and proper" clause, as exampled by John Marshall during the first 35 years.

What we need is the nineteenth century's earlier liberal application and interpretation of our "eighteenth-century document" brought forward and applied to twentieth-century exigency.

We have, under the Revenue Act of 1919, carrying its income-tax law, an example of the futility of a constitutional amendment providing that Congress may levy taxes on incomes from whatever source derived.

We have, under the Economy Act of 1933, the example of the judges' disdain to the invitation of Congress to comply by contributing in the emergency their proportionate salary reductions, ever mindful of their income-tax decision. There were, however, two or three exceptions where judges took the salary cut.

We may well turn to Thomas Paine's flaming arguments:

No group of men, responsible to nobody, should ever be trusted by anybody.

Governor Murphy, of Michigan, and the General Motors Strike

EXTENSION OF REMARKS

OF

HON. JOHN LUECKE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, February 19, 1937

Mr. LUECKE of Michigan. Mr. Speaker, when Governor Frank Murphy took his oath of office he was faced with an ominous situation; one fraught with grave danger of widespread violence and inevitable fatalities.

The attention of the Nation was focused on the rapidly spreading strike in the huge automotive industry. The embattled workers were utilizing a new weapon, the "sit-down", in defense of what they conceived to be their rights.

This new technique enabled them to defy court injunctions, resist efforts to dislodge them, and effectively throttle operation of the plants.

The situation was without precedent and plainly demanded the utmost tact and caution if the horrors of civil strife were to be averted.

Stepping into the breach caused by a break-down in negotiations, Governor Murphy calmly and methodically acted to prevent an open outbreak of hostilities. After a series of minor disorders had occurred, he summoned the National Guard to the scene.

Thereafter, order was maintained with the troops having explicit instructions to act impartially in the situation. Peace was preserved and the interests of the public protected.

Simultaneously, Governor Murphy asked for an immediate resumption of truce negotiations. Meeting in an atmosphere of mistrust and bitterness, the conferees made little headway and the conferences were abandoned with mutual recriminations.

Tension increased with the passing of each day. There was talk of organizing vigilantes. A sweeping injunction against the sit-down strikers was issued. Hundreds of special deputies were sworn in. A new workers' organization sprang into being overnight. Every hour brought fresh discouragement.

The entire Nation awaited with abated breath for the seemingly inevitable outbreak of violence. One false move by the Governor and chaos would have resulted.

But throughout the long weeks of nerve-wracking conferences Governor Murphy moved forward with infinite tact and patience until at last, on February 11, he was able to announce the peaceful conclusion of the strike.

That the peaceful solution of the controversy was in large measure due to the Governor's masterful handling of the situation none will deny. The initiative, courage, and conciliatory spirit he exhibited enabled him to triumph over obstacles that would have overcome a smaller man. His statesmanship is eloquently testified to by both disputants.

But more significant than any tribute that might be paid to Governor Murphy in mere words, is the universal respect his dynamic leadership has gained for him. It remained for Gov. Frank Murphy to bring the greatest industrial disorder of our era to a peaceful conclusion without the loss of a single life.

Moreover, the action of Michigan's Governor in the face of unprecedentedly trying circumstances has pointed the way for a peaceful and rational solution of labor problems in the future, thus revealing the long-deferred dawn of a new industrial era in America.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Friday, February 19, 1937

RADIO ADDRESS OF HON. JAMES F. BYRNES, OF SOUTH CAROLINA, ON FEBRUARY 17, 1937

Mr. ROBINSON. Mr. President, while no bill providing for the reorganization of the Federal judiciary is now pending before the Senate, the subject matter of legislation relating to the reorganization of the judiciary is at this time very much in discussion both here and elsewhere. I ask leave to have printed in the RECORD, in connection with my remarks, an address delivered over the radio by the Senator from South Carolina [Mr. BYRNES] on February 17, 1937. The address is interesting and constructive, and I feel that it should be published.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In some of the great newspapers and in some of the meetings recently held by lawyers throughout the country there has been severe denunciation of President Roosevelt's proposals for the reorganization of the Federal courts.

I approve of those proposals.

Tonight I am going to try to analyze the arguments for you in common-sense terms—not in legal phrases—so you can judge them for yourself.

The President recommends to the Congress the reorganization of all of the Federal courts. That reorganization is to be effected by giving to every Federal judge over 70 the right to retire on full pay for life and, where a judge over 70 refuses to retire, by appointing a younger judge to assist in doing the work of the court.

Now, upon its face, no one questions the soundness of the principle that judges should be retired when they reach the age of 70. It is not a reflection upon men who are past that age; it is simply a recognition of the fact that, as a general rule, men who are past 70—past the allotted three score years and ten—cannot do as much work, nor as good work, nor be as wide awake to conditions of life in the active world as men who are younger.

We know that great corporations like the United States Steel Corporation and the Pennsylvania Railroad deem it wise to compel the retirement of chief executives at 70. In the Army and Navy we force retirement at 64. All Government employees are com-

pelled to retire at 70. And, except when they are excited about the Supreme Court, even the President's bitterest opponents would agree with the wisdom of this retirement rule.

The President's proposal contemplates the appointment of additional judges to the circuit courts of appeal whenever a judge upon such courts is over 70 and does not retire. You have heard absolutely no criticism of the application of this proposal to the circuit courts. Objection is raised only when it is proposed to apply the rule to the United States Supreme Court.

While it is essential that we secure only the best qualified men for all Federal courts, the Supreme Court is the court of last resort, from which there is no appeal if it makes mistakes, and there of all places we must be careful that the Judges are the most mentally energetic, the most wide awake, and the best equipped, to discharge their all-important task.

The test is not whether some men over 70 are good judges. The test is whether men of 50 or 60 years of age will, as a rule, make better judges. The only reason given why the Supreme Court Judges are different from all other judges is that Mr. Justice Holmes was a great Judge and served until he was 90, and Mr. Justice Brandeis is a great Judge at 80. But does the greatness of these two men change the wisdom of establishing a general rule? Chief Justice Taft was the best witness to the ability and the service of these two Justices, and yet he declared:

"There is no doubt that there are judges at 70 who have ripe judgments, active minds, and much physical vigor, and that they are able to perform their judicial duties in a very satisfactory way.

"Yet in a majority of cases when men come to 70, they have lost vigor, their minds are not as active, their senses not as acute, and their willingness to undertake great labor is not as great as in younger men.

"In the public interest, therefore, it is better that we lose the services of the exceptions who are good judges after they are 70 and avoid the presence on the bench of men who are not able to keep up with the work, or to perform it satisfactorily."

Chief Justice Hughes of the present Supreme Court not only suggested that it would be wise to compel all Supreme Court Justices to retire at 75, but he gave this warning:

"I agree that the importance in the Supreme Court of avoiding the risk of having Judges who are unable properly to do their work and yet insist on remaining on the Bench, is too great to permit chances to be taken, and any age selected must be somewhat arbitrary, as the time of the failing in mental power differs widely."

When Chief Justice Taft and Chief Justice Hughes suggested compulsory retirement of the Supreme Court Justices, it was regarded as evidence of their patriotism and wisdom. But when President Roosevelt suggests a plan to accomplish the same purpose, the safety of the Republic is threatened, the very liberties of the people are endangered.

The President's opponents declare they are willing to admit the wisdom of requiring retirement at 70, but do not believe it should be applied to the Supreme Court at this particular time. I think you will agree that is a weak argument. If it is a wise and desirable rule for that Court, as well as for all other courts, then there is no excuse for delay in adopting the rule.

But, say the critics of the proposal, admitting the wisdom of the retirement of Judges at 70, it should not be accomplished by adding additional Judges to the Court. The answer is that the only other way in which it could be accomplished would be by constitutional amendment, which would mean a delay of years.

The critics of the proposal argue that if additional Judges are appointed, the Court will become unwieldy. The Court will be increased only if the Judges now on the Court who are eligible for retirement refuse to retire. We can recall that when the membership of the Court was fixed at nine the population of this country was less than one-half of the population today. In the various States, as the population has increased, additional Federal judges have been appointed. This proposal would follow the same course as to the United States Supreme Court. Upon the Court today there are five Judges who are now or soon will be 75 years of age, and the sixth Judge to be affected by the proposal will be 71 next month. These six Justices are in position to determine whether or not the appointment of six additional Judges would cause the Court to become so large as to affect its efficiency. If they are of this opinion, I am sure they will be patriotic enough to retire at full pay and not force the appointment of the six additional Judges.

If we assume—and I dislike to do so—that the five Judges who are now or soon will be 75 would not retire, but would remain upon the Court as long as President Roosevelt is in office, that would mean that before the expiration of his term these Justices would be 79. I think you will agree that while there are exceptional men who at 79 could perform the arduous duties of a Judge of the United States Supreme Court, that it is exceedingly unlikely that all five of these distinguished Justices would at 79 or at 78 be able physically and mentally to carry on the exacting work of that Court. Each year there will be greater need for the presence on the Supreme Court of younger Judges to assist in bringing about the speedy determination of causes so essential to the administration of justice.

Not even a Liberty League lawyer will contend that the President's proposals are unconstitutional. What they fear is that the adoption of the proposal would result in the Court's having a different view of the constitutionality of the legislation enacted by the Congress in compliance with the mandate of the people. I think the fear is justified. At least I hope so.

Now, do not be deceived by this fervid oratory about preserving the Constitution and the liberties of the people. The real question is: How soon can we have laws helping the workingman and the workingwoman by establishing minimum wages and maximum hours, collective bargaining, unemployment insurance, and old-age benefits? How soon can we have laws helping the farmers by establishing control of surpluses and crop insurance? How soon can we have laws helping the unemployed with public works? How soon can we have laws helping sufferers from flood and drought, with protection through such projects as the T. V. A.? How soon can we have laws helping the full third of our population who are ill-housed to have a decent place in which to live? How soon can we have laws helping the children of the Nation by conserving the national resources until they grow to manhood and womanhood? Those are the things this fight is really about.

And the real question is whether we shall take a course of action which will make possible the enactment of such laws this spring, and their immediate enforcement, or whether we shall take a course of action which will postpone them for many years, and possibly deny them to us forever.

This fight is merely a continuance of the fight in the recent campaign over the things the President pledged to the people in a speech at Madison Square Garden. That is why you find against him exactly the same people who were against him in the election. And that is why everybody who was for him in that election ought to be for him now.

Last November 27,000,000 people—and 46 of the 48 States—gave to the President and Congress a clear mandate to have those laws passed and put into effect. Immediately after the election some of the President's bitterest opponents announced they were reconciled, if not happy. It was not so surprising. They did not care if 48 instead of 46 States declared for a program. They did not care if the people elected every Member of the House and Senate in favor of the President's program. They believed that if they could retain the present Supreme Court, whenever any case was considered involving the Constitutionality of an act of Congress, providing relief for agriculture, at least five Justices on the Court would continue to hold that agriculture is a local problem and beyond the power of the Congress. They believed that when any case was considered providing for collective bargaining, minimum wages, or social security, the same five Judges would vote against the constitutionality of such laws. They thought there might be more than five, but were certain that there would be five. And they recalled the statement of Chief Justice Hughes that "We have a Constitution, but the Constitution is what the Judges say it is."

But, say the critics of the proposal, admitting that it is constitutional, admitting that it is wise and the principle sound, admitting even that if five Justices insist upon remaining upon the Court until they reach 79, and younger Judges should be assigned to assist in the work, still we are opposed to the proposal, because its real purpose is to have the Court interpret the Constitution so as to hold constitutional the so-called New Deal legislation, and to accomplish that we believe the Constitution should be amended.

This argument is made by the same people who for the last 2 years have, through the newspapers, over the radio, and from the platform, warned the people that the safety of the Republic would be endangered if the Constitution should be amended in any particular. And every one of these persons who today urge that the Constitution should be amended would, in case that were attempted, devote their time and money to defeat such amendment.

Then why do they urge this course? It is because they believe that it would be impossible to agree upon the language of amendments which could secure the support of the necessary two-thirds of the Senate and House, and which, when submitted to the States, would be ratified by three-fourths of the States. They know it would be necessary only for 13 States either to reject or fail to act upon the amendments. And when submitted to the legislatures, adverse action by either house or senate would defeat ratification by a State. They know that action would be delayed maybe for years, and maybe forever. Certainly they hope it would be delayed until 1940, when they would have another chance to elect a President and a Congress. Even if ratification could not be delayed until 1940, they know that after the amendments were ratified, it would be necessary to come back to the Congress to enact the specific statutes. On the other hand, the course suggested by the President means congressional action at this time and requires only a majority of the House and the Senate.

Now, if you are in favor of these laws, what does your common sense tell you is the course for us to pursue? Should we act now in what is admitted to be a constitutional way, or should we delay action for years while we try to amend the Constitution?

What does common sense say to the cotton farmer of the South who wants more than 5 cents a pound for his cotton?

What does common sense say to the corn and hog farmer of the Middle West and to the wheat farmer of the Northwest, who are dreaming of crop insurance to protect him against drought?

What does it say to the families who have their homes and earn their living along our great rivers and want to be sure they are not flooded out?

What does it say to the Democratic Party, which, in pledging itself to help all these others, has found new strength in the enthusiasm of new recruits but will lose them forever with disillusion?

What does it say to the cause of liberalism in this country which has always professed to believe that the real road to freedom was the economic improvement of the masses of the population and not a lot of fine-spun theories of doctrinnaires and lawyers?

To each and to all of these common sense makes the same answer—the only answer—that Congress should act now.

Adoption of the President's proposal does not mean necessarily that all the legislation of the Congress would be held constitutional. It does mean, or should mean, that that legislation would be considered by a Court where it had a chance to be held constitutional. It would mean that if the six Judges should fail to retire, the President would nominate six persons to the Court. Those nominations would go to the Senate and no person could become a member of the Court unless he was confirmed or elected by the Senate. The six thus elected by the Senate would still constitute a minority of the Court. Even if they voted as a unit they could not hold any act constitutional unless they were joined by at least two Judges now upon the Court who were appointed by other Presidents.

No honest man wants a judge subservient to any official. But the hope of the 27,000,000 people who voted for President Roosevelt and who elected 77 Democrats out of 96 Senators, and more than 75 percent of the Members of the House, would be that the six Judges nominated by the President and elected by the Senate and at least two of the Justices now upon the Court would remember the memorable warning of Chief Justice Marshall, who first assumed the power for the Supreme Court to hold unconstitutional an act of Congress, and who said:

"We must never forget that it is a Constitution we are expounding—a Constitution intended to endure for ages to come, and consequently to be adapted to the various crises of human affairs."

They would hope, too, that they would recall the language of another Justice who in delivering the opinion of the Court said the Constitution should be interpreted "in the light of our whole experience, and not merely in that of what was said a hundred years ago."

But, say the President's opponents, this proposal should not be adopted because the President said nothing about it in his recent campaign. Does it impress you as reasonable that during the next 4 years no legislation to accomplish the results demanded by the people in the recent election can be enacted unless the President during the recent campaign discussed that method?

Another argument frequently used by those who assail the President is that he desires to "pack" the Court. If, by "packing" the Court, it is meant that he would nominate only persons who agree with him as to the fundamental interpretation of the Constitution, I hope that is true. Every President has done it. He would not be faithful to the 27,000,000 people who supported him if he did not select men who would cooperate with his program honorably and within the permissible interpretation of the Constitution. President Adams did that when he selected Chief Justice Marshall. President Jackson did it when he appointed Chief Justice Taney who was his Attorney General. President Theodore Roosevelt did it when he refused to appoint Justice Holmes until he was assured by Senator Henry Cabot Lodge, who urged Holmes' appointment, that Holmes' interpretation of the Constitution would be in accord with that of Theodore Roosevelt. On July 10, 1902, he wrote to Lodge:

"Now I should like to know that Judge Holmes was in entire sympathy with our views, that is with your views and mine and Judge Gray's, for instance, just as we know that ex-Attorney General Knowlton is, before I would feel justified in appointing him."

Chief Justice Hughes conducted a brilliant campaign for Herbert Hoover in the Presidential campaign of 1928. Because of this and because his political philosophy was the same as Mr. Hoover's, President Hoover 15 months later appointed him Chief Justice.

Now, I know that there are persons who do not like such matters to be mentioned, they prefer to believe that when a man is taken out of the field of politics and placed upon the Supreme Court, that he is thereafter to be regarded as having descended from on high and they place a halo around his head and the cloak of infallibility around his shoulders. Without reflecting in any way upon the Supreme Court, I am forced to believe that the Justices are still human and like all humans will sometimes err.

Of all the charges none is more absurd than the charge that adoption of the proposal would offer a precedent for some later President who was dictator-minded to control the judiciary. Such critics do not accuse the President of such aspirations. They fear that some reactionary President in the future—a new Harding or Hoover—might seek to be a dictator. But President Roosevelt is not proposing arbitrarily to add members to the Supreme Court. He proposes to add them only as he plans to add them to other Federal courts where judges now on the bench past 70 fail to retire. How far could a dictator of the future get with a precedent that depends upon that clear principle? No dictator would need any precedent of President Roosevelt. The President is not originating the idea of changing the membership of the Supreme Court. That has already been done six times in the history of that Court.

If in the future a dictator appears whom the American people are willing to let seize power, and even if, unlike any dictator history has ever known, he has moral scruples which require him to find a precedent for that seizure, he will not care whether he finds that precedent in the administration of President Roosevelt, in the administration of President Grant, or in the administration of President Adams. The only thing that will be important will be the people's disillusionment with democracy and their willingness to let a dictator seize power. That will depend entirely upon economic conditions within the country. All the laws and all the precedents will not prevent the rising of a dictator in a country which cannot make its economic system work in balance, which stays too long with a large percentage of its population, as the President pointed out in his inaugural address, ill-fed, ill-clad, and ill-housed, and which has a government unwilling or unable to enact and enforce laws for the relief of such conditions.

I am opposed to a dictatorship of any kind. I am opposed to the dictatorship of a President elected by the people. I am opposed to the dictatorship of a Congress elected by the people. I am more opposed to the dictatorship of five Judges, who are not elected by the people and who cannot in any election be removed by the people.

The first reaction to economic disaster is the generous mutual helpfulness of humanity. But sooner or later long-continued strain of disaster turns that humanity into great hatreds and intolerances. Against such hatreds and intolerances no legal guarantee on paper, whether of the American Constitution or of any other document, can, as a practical proposition, long protect minorities. No law can assure consideration for surplus mouths and surplus ambitions when there is not enough food or jobs or good will to go around. And in particular no court which a people feel they can justifiably blame for their continued inability to solve their economic problems will ever have the moral strength and prestige necessary to protect human rights in time of crises and chaos.

The key to protection of personal and religious liberty and political minorities is economic justice and stability. Twenty-seven million people in this country—46 out of 48 States—have given the President a mandate to find that key to economic justice and stability through laws to carry out the kind of program he outlined in his Madison Square Garden speech at the close of the campaign. The promise of economic justice and stability over the next 4 years, which will be given by the passage of such legislation this spring, outweighs a thousand times any imaginary danger to personal rights and political minorities resulting from injecting new and younger blood into the Supreme Court.

The real dangers of dictatorship will not come from the most democratic President we have ever had. Nor will they come from younger men on the Federal courts.

Those dangers will come from Justices who forget the warning of Chief Justice Marshall that the Constitution should be "adapted to the various crises in human affairs."

They will come from those lawyers, who, jealous and fearful of the loss of prestige of their profession, want us to postpone social justice for years while they strive to block it forever.

They will come from those who are blind to the fact that at this stage of world history time is of the essence, and that the difference between keeping faith with the people in 1937 and hoping to keep faith with them in future years may be the difference between a triumphant democracy, which works, and a disillusioned democracy, which fails.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ROBERT M. LA FOLLETTE, JR.

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Monday, February 22, 1937

STATEMENT OF GEORGE L. BERRY IN REGARD TO THE PRESIDENT'S RECOMMENDATIONS FOR FEDERAL JUDICIARY REFORM AND REORGANIZATION

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a statement by Maj. George L. Berry, president of Labor's Non-partisan League, concerning the President's recommendation for judicial reform and reorganization.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

In submitting to Congress his program for reform of the Federal judiciary President Roosevelt has taken a step essential to the fulfillment of the most important of the pledges made during his campaign for reelection. The Madison Square Garden speech on the eve of the election left no doubt that the President proposed, if reelected, to go forward with his comprehensive plan for improvement of the wages and the working and living conditions of American labor. The people of this country knew then, as they know now, that the pathway to every kind of social progress is barred by the hopelessly unsympathetic attitude of certain Federal judges left far behind in the rapid march of economic and political events of the past decade. President Roosevelt has moved directly, as the voters had every reason to expect him to move, at the one great obstacle to the program so overwhelmingly endorsed in the November election.

The President's message is a masterpiece of unassailable logic. The Constitution itself makes the Federal judiciary responsive to the elected representatives of the people. Congress has often acted under its constitutional power to change the composition or the jurisdiction of the Federal courts, to fit them to the developing needs of the country. There have been few emergencies in our national life when it was more imperative than it is now that the courts be brought into harmony with the will of the people. Congress and the President owe it to the Nation, and the President has recognized his obligation, to modernize the Federal courts—not to pack them, but rather to "unpack" a judiciary loaded by the fact that appointments of long years ago have put the America of 1937 in subjection to the America of 1897.

The opponents of President Roosevelt recognized as well as did his supporters that the major issue of the 1936 campaign was upon the continuance of the progressive principles of the President's first administration. Labor knew that the President favored legislation to increase mass purchasing power through minimum-wage regulation, and through the definite establishment of labor's right to organize and to bargain collectively. Labor knew that the President proposed to continue and to strengthen the social-security laws already enacted. The President's opponents understood his position upon these points, as the pay-envelope propaganda of the closing days of the campaign clearly demonstrated. Friends and opponents alike had every reason to believe that the President was not making an empty gesture in the direction of human progress in his stirring campaign addresses. The whole country knew that without court reform any new legislation would be futile, and that all existing New Deal laws were in danger of judicial veto.

Those now opposing the President's statesmanlike proposal are almost without exception the same interests who opposed him, openly or passively, in the 1936 campaign. It must not be forgotten that in spite of almost universal newspaper opposition, and in spite of the well-financed and energetic efforts of organizations representing the "economic royalists" of America, President Roosevelt was reelected by an unprecedented popular and electoral majority. Those votes meant the wholehearted support of the American people, and that support is still strongly behind the President.

Congress should act promptly to enact into law the recommendations of the President's message.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Monday, February 22, 1937

ADDRESS BY HON. THEODORE F. GREEN, OF RHODE ISLAND, FEBRUARY 21, 1937

Mr. ROBINSON. Mr. President, I ask leave to have inserted in the Appendix of the RECORD an address delivered by the Senator from Rhode Island [Mr. GREEN] over the National Broadcasting Co. network on Sunday evening, February 21, 1937, on the subject of the proposed reorganization of the Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

My fellow citizens: Like other Senators and Representatives I have had letters, some in favor and some against the President's proposal for increasing the number of Supreme Court justices under certain conditions. Some of my personal friends have written at length their objections to this proposal. I believe that thoughtful letters of this sort call for thoughtful replies. Such interchange of views helps us to make our ideas clear, find out the weak spots, if any, in our arguments, and correct, if necessary, our own conclusions. Let me, therefore, talk to you all as though you were personal friends who for one reason or another, are uncertain as to the desirability of this proposal. Let me give you the reasons for my conclusions, hoping that the reasons may appeal to you and help you to reach your conclusions. In what I am about to say, I am speaking for myself alone. Since, however, most of you do not know me personally, perhaps I ought to give you something of my background, although I believe thoroughly that a man should make and stand on his own record and that his background, while it may be an inspiration to himself, should not constitute any claim to the consideration of others.

I am a New Englander by birth and ancestry. We are, by and large, conservative folk in New England. We cling to the old ways. We cherish our traditions and our patriotic history. We reverence our ancestors who did much to establish our National Government and to determine the form of our institutions. I share that feeling myself, and am proud of those of my forefathers who represented Rhode Island in both houses of the Federal Congress and held high State office. They were devotedly attached to the principles of liberty and democracy on which our country was established, and though they were of an independent frame of mind, they were not revolutionaries, except for a number who fought in the Revolutionary Army under George Washington and helped achieve America's independence. I can claim, then, some familiarity with our national traditions, and it is with that as a background that I approach the questions raised by the President's proposals.

It seems to me the situation in this country calls for action. The people are restless. The recent sit-down strike was a symptom. We may expect others unless and until our social and economic problems are solved. Four years ago the depression which resulted from the inequalities of the machine age threatened the continuance of our present form of Government and of our capitalistic system, because nothing was done to remedy existing conditions. President Roosevelt courageously acted, and the tide turned. His program was twofold: First, to give immediate relief to the many millions absolutely destitute; second, to reform the conditions which brought on the depression. The first has been largely accomplished. It was difficult. But the second is more difficult, because it is less obvious and therefore apparently less pressing. A patient very ill will act willingly on the doctor's advice, and one convalescent will act on it unwillingly and with irritation, but one recovered will often refuse to follow the advice given to prevent a relapse or return of the ailment. He prefers to resume his former habits.

All the relief measures are mere palliatives and cannot continue indefinitely. We must find real remedies for the social and economic ills which affect us as they affect other parts of the world. Some other countries have chosen remedies which mean a change in their form of government, from a republic or a limited monarchy to a dictatorship or communism. America is seeking remedies within our present form of government. We must prove that a democracy can be effective, too; otherwise, as a patriotic American, I fear for the future of democratic institutions.

The House of Representatives and the Senate and the President have passed a number of laws to meet the threatening situation, only to have these laws declared unconstitutional by a majority, sometimes a mere majority, of the Supreme Court. Great lawyers in and out of Congress and some Justices of the Supreme Court itself have considered these laws constitutional, but a majority of the Court have decided otherwise, and the administration has abided by their decisions. While the people have overwhelmingly approved and demanded these laws, a majority of the Supreme Court says they cannot have them under its construction of the Constitution.

Many fair-minded citizens who do not question the sincerity or the ability of these Justices do question their open-mindedness. They say that some Justices long on the Court are so far removed from the common life that they construe the Constitution, not in the light of the conditions of today, but in the light of principles formulated under different social and economic conditions. A reactionary point of view is due in some instances to advancing years; though not in all instances, of course, for a youthful point of view does not depend solely on the number of years one has lived. In the case of elective officials the people can decide whether a man is too old for his work or not. This is one of the qualifications which they have to consider. When the term is for a few years, at the end of that term the people decide anew. But in the case of officials elected or appointed for life there is no one but the man himself to decide. This distinction is sometimes overlooked, but is important.

In the case of officials appointed for life, general arbitrary rules applicable to the average man have to be made, and some men young in body and mind have to retire so that others who are old in body or mind will do so too. Thus it is with officers in the Army and Navy, with most college presidents and professors, with many judges of State courts, and others, and so it should be with the United States Supreme Court Justices. Just preceding me on this radio there has been speaking the retiring president of one of our greatest universities. He is retiring not because he is old in body or mind but because he has reached the age limit of 68, set for any holder of that office.

You naturally ask, "Then why not pass constitutional amendments providing for additional authority to the Federal Government so that such laws may without doubt be held constitutional?"

The answer is this: In the first place, it is very difficult to get such amendments adopted. It would probably take a very long time, as in the case of the child-labor amendment. If the Liberty Leaguers and other opponents of the New Deal select a single branch of the legislature in each of 13 States for a special drive, such as they are putting on now against the President's proposal, it may take an even longer time. It is doubtful if the country can wait so long. We have not time to "appeal to the brooding spirit of the law, to the intelligence of a future day." This is not just a question of patient waiting for a desirable reform to be brought about in the indefinite future. It is a question of ten millions of the destitute and scores of millions of the very poor demanding a decent living now.

When the Supreme Court decides, as it has decided, in one case that the Federal Government cannot adopt a law regulating wages and hours and in another case that a State government cannot adopt one, either—in other words, that such a law cannot be adopted in this country at all under the present decisions of the Supreme Court—then the working people affected naturally reason that a democracy is ineffective and some other form of government might be better. Forms of government and economic systems are less important to them than the abolishment of destitution and poverty in this land of plenty. The refusal by reactionaries to recognize this fact is the greatest aid to advocates of communism, fascism, and other similar doctrines. It helps them far more than the speeches and writings of those who directly advocate such doctrines, which these very reactionaries endeavor to suppress. The President and those agreeing with him are, to my mind, the true conservatives today. They seek to maintain our existing institutions, whereas those opposing him are unconsciously forcing the abandonment of these institutions by tilling the ground for any demagogue to sow his seed.

In the second place, and this is important, it is very difficult to draft any such amendments without giving the Federal Government too much additional power. The present doctrines of the Supreme Court do not increase the power of the Federal Government at the expense of the State governments. It strikes at both. But some of the proposed alternative amendments to the Federal Constitution, while seeking to affect the Court's decisions, at the same time increase the power of the Federal Government at the expense of that of the States. What we should rather seek to do is to prevent the power of the legislative bodies being curtailed by the courts to a point where governments are unable to deal with the problems confronting them.

I believe that the Constitution as it now stands gives all necessary power if it is liberally construed in the light of present conditions. If this is so, then the remedy is not changing the Constitution itself, but interpreting its provisions of uncertain content in the light of existing conditions. This does not mean packing the court with men committed to any specific measures. This does not mean Justices ready to submit their ideas to those of the President or the Senate who jointly appoint them. It means securing Justices with minds open to new ideas and familiar with the problems of current life.

How then can this be accomplished? There is no way of testing a candidate's open-mindedness exactly. It is not entirely a question of age. But most older men are less hospitable to new ideas than most younger men. So if we can eliminate the older or add the younger we increase the chances of decisions more in accord with the necessities of the time. Let me give you an illustration. The New York minimum wage law was found to be unconstitutional by a decision of 5 to 4. Of the five who found it unconstitutional, four were over 70 years old. Of those who found it constitutional only two were over 70. That decision you no doubt will recall shocked the entire country. Both political parties on the eve of a Presidential campaign proclaimed in their platforms their opinions that such measures are constitutional. If any one of these four Justices over 70 had been on the other side the measure would have been held constitutional.

Let me call to your attention also that the minimum-wage case, like most of the other recent decisions in which State or Federal legislation was declared unconstitutional, did not involve provisions of the Constitution that are clear or unambiguous. There are clear provisions, as for instance, those which provide that an indictment must be found by a grand jury, or that Congress shall have power to raise and maintain armies. On the other hand, the 5-to-4 minimum-wage decision involved the construction of the clause in the Constitution which provides that no State shall deprive any person of life, liberty, or property without due process of law. The 5-to-4 decision which held unconstitutional the Railroad Retirement Act involved an interpretation of the clause giving Congress power to regulate commerce among the several States. The decision which held unconstitutional the Agricultural Adjustment Act involved consideration of the general-welfare clause, and of the amendment which declares that powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States, respectively, or to the people. In other words, these decisions rested not on the words of the Constitution but on the interpretation of the Constitution, which naturally involves a judge's personal views.

It has been one of the fundamental doctrines of constitutional interpretation that acts of Congress are presumed to be constitutional until their unconstitutionality has been established beyond a reasonable doubt. But recent decisions seem to indicate that some of the Justices have been ignoring this doctrine and have been reading their own views into the Constitution and have been striking down legislation merely because it seemed to them unwise. For this assertion I do not need to turn to the mouthings of irresponsible agitators or to the criticisms of those out of sympathy with our institutions. I turn to what the Justices of the Supreme Court themselves have said about decisions of that tribunal; I turn to the authorized interpreters of the Constitution.

I find that the dissenting opinion in the case involving the Agricultural Adjustment Act referred to the majority opinion as a "tortured construction of the Constitution." I find a dissenting judge in the minimum wage case saying, "It is difficult to imagine any grounds, other than our own personal economic predilections, for saying that the contract of employment is any less an appropriate subject of legislation than are scores of others, in dealing with which this Court has held that legislators may curtail individual freedom in the public interest." And I find that a very few years ago the late Mr. Justice Holmes in a dissenting opinion used stronger language than has perhaps been used anywhere outside the Supreme Court. He said: "I have not yet adequately expressed the more than anxiety that I feel at the ever increasing scope given to the Fourteenth Amendment in cutting down what I believe to be the constitutional rights of the States. As the decisions now stand, I see hardly any limit but the sky to invalidate those rights if they happen to strike a majority of this Court as for any reason undesirable. I cannot believe that the Amendment was intended to give us carte blanche to embody our economical or moral beliefs in its prohibitions. Yet I can think of no narrower reason that seems to me to justify the present and the earlier decisions to which I have referred." So it is clear from statements of justices themselves that the Supreme Court has been reading its own views into the Constitution.

Some of the President's critics propose that the composition of the Court be fixed by constitutional amendment. It is unconstitutional to fix an age limit for justices of the Supreme Court, but it is constitutional to change the number of justices and then appoint younger men to offset the older ones. The framers of the Constitution left this power to the Congress and the President. So this talk of unconstitutionality is entirely out of place The Congress and the President have exercised this power a number of times. Those who advocate doing this by constitutional amendment are the very ones who would themselves attack anyone else who proposes to change the Constitution.

Some critics talk glibly about "packing the Court." I wonder what they mean by this expression. Do they mean that the President will nominate for the Court men in whose point of view he has confidence? Do any of them really think that the President ought to put the names of a lot of eminent lawyers into a hat and draw out some to nominate? If this is what they think, then the answer is that no previous President has done so. Madison, Jackson, Lincoln, Grant, and Theodore Roosevelt, to name no more, all investigated the views of prospective nominees to the Court. Or do they mean by "packing the Court" that he will appoint a majority of the justices? Even if he should have to appoint all six made possible by the plan (and this is very doubtful), he would only appoint two-fifths of the entire Court, because during his first 4 years he has not appointed any. Among recent Presidents, both Taft and Harding appointed a greater proportion. Taft appointed five and elevated another to be Chief Justice out of a total of nine. Although this was more than a majority of the Court, I don't recall these critics accusing him of "packing" it. In other words, there can be no talk of "packing the Court", except in the sense that all other Presidents from George Washington down have packed it. Indeed, as many persons have pointed out, there would be greater justification in speaking of "unpacking the Court."

Reference is also sometimes made to the President's wishing to become a dictator. This is absurd. President Roosevelt has abided by adverse judicial decisions. He has not defied them. He has never ignored a summons, as did Jefferson; or challenged the Court to enforce its decisions once they were made, as did Jackson; or flouted a writ of habeas corpus, as did Lincoln; or campaigned for the popular recall of judicial decisions, as did Theodore Roosevelt.

The present proposal does not force the retirement of a single Justice. It does not impair in the slightest the independence of the Judges now on the bench or Judges to be appointed in the future. It does not make any change in the American doctrine of judicial review which gives the courts power to declare legislative acts unconstitutional. All it does is to provide that when a judge reaches 70 and does not retire, another shall be appointed to assist him in his work.

The President, as you well know, has the one absorbing purpose running through all his acts, to be of service to all the American people, and especially to the underprivileged, who need help from outside. He believes that it is the function of the Government to provide this help. In this he differs from some of his predecessors and from some of the Justices of the Supreme Court and from most of the people who are now oppcsing his proposal. The people had a fair opportunity during the last campaign of deciding between these different points of view as to the function of the Federal Government. The New Deal was the great issue in the campaign, and toward the end the Social Security Act in particular became an issue. The people overwhelmingly endorsed the President's point of view. There can be no doubt as to what they want.

There is only room for difference of opinion as to how that end can best be achieved. I have given you my reasons for concluding that it can best be achieved by adopting the President's proposal. Ask yourselves frankly this question, "Are those who are opposing

his proposal seeking a better way of achieving this end, or are they still opposing the end itself?" They ask us not to increase the Supreme Court by law, which the Congress can do constitutionally and properly. They ask us to do it by constitutional amendment. If we do as they ask, are these people going to favor such constitutional amendment, or are they then going to do all they can to defeat such an amendment?

Please do not misunderstand me. Not all the critics of this proposal are opponents of the New Deal. There are some believers in the New Deal who see objections to this proposal, and lay stress on these objections. It is true there are objections to it. There are objections, however, to every plan that has been proposed. So before opposing the present plan, let them think the matter through, discover and formulate some alternative likely to accomplish the desired end, and within a reasonable time. If they cannot do this, let them overlook their objections, because it is difficult to conceive what alternative plan can succeed if this plan fails. If no plan is adopted, we revert to the do-nothing policies which brought about this depression under the last administration. We will for the same reasons probably experience another depression, with its more menacing threat to the very existence of our present governmental, social, and economic system. It is therefore our patriotic duty to support the President in this campaign to make democracy an effective instrument in solving the social and economic problems of the modern world. For unless our democracy is effective we cannot expect it to endure.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. JAMES P. POPE
OF IDAHO
IN THE SENATE OF THE UNITED STATES
Monday, February 22, 1937

EDITORIAL FROM LEWISTON TRIBUNE

Mr. POPE. Mr. President, I ask unanimous consent to have inserted in the Appendix of the CONGRESSIONAL RECORD an able editorial from the Lewiston Morning Tribune, of Lewiston, Idaho, of the issue of February 7, 1937, on the President's proposal concerning the judiciary.

The Lewiston Tribune has long been known for its fair, intelligent, and reasoned attitude on public questions. It represents the finest type of news service and editorial comment that America has developed. This editorial is typical of the independent policy of this newspaper.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From Lewiston Morning Tribune, Lewiston, Idaho, February 7, 1937]

A BOLD STROKE

The President in his message to the opening session of the present Congress indicated quite clearly that he is thoroughly aware that the shadow of a conservative Supreme Court lies across the path of the entire New Deal, and that its challenge must be met before substantial progress forward is possible. For a better understanding of subsequent events, it might be well to recall some of the things the President said in that message:

"The vital need is not an alteration of our fundamental law, but an increasingly enlightened view with reference to it. Difficulties have grown out of its interpretation; but, rightly considered, it can be used as an instrument of progress and not as a device for prevention of action * * *. Means must be found to adapt our legal forms and our judicial interpretation to the actual present needs of the largest progressive democracy in the modern world * * *. The judicial branch also is asked by the people to do its part in making democracy successful."

In the light of that previous statement of policy, the President's proposal for reorganization of the Federal judiciary is neither surprising nor revolutionary. Compared to the suggestions which have been made in Congress for restricting the powers of the Supreme Court to invalidate legislation, the Roosevelt plan is conservative. It might involve an enlargment in the membership of the Court, but it would not deprive the bench of any of its present functions or authority. The Court would still remain the final arbiter, determining whether any particular act of Congress is in accord with Federal powers or by contrast is an infringement on powers granted to the States. It would continue to make its decisions in harmony with the terms of the Constitution, according to the Court's best judgment.

The meat in the President's proposal, of course, is that for each Federal judge past 70 years of age who refused to retire (including members of the lower and appellate courts), an additional judge would be appointed. It so happens there are six Supreme Court justices past 70 and, therefore, if the plan is adopted and the six hold on to their togas, six new justices would be named. The justices who have been most unrelenting in their opposition to New Deal legislation thus would become a minority instead of a majority of the tribunal, which then might consist of 15 instead of 9 jurists.

The meaning of this is, we think, fairly plain. The benefits in rectifying present judicial delays, due to lack of manpower on the Federal court benches and red-tape restrictions on appeal procedure are obvious, and none will have honest quarrel with these purposes. But overshadowing these surface values is the President's evident determination to proceed to carry out what he considers a mandate of the last national election, by seeking a court which will be an "instrument of progress"—through a method entirely within the framework of the law and with ample historical precedent—so that arm of the Government may assist, not hobble, a united people seeking to cope with the economic and social problems that have arisen to plague our highly complex industrial civilization.

Conservatives will view this larger issue with holy horror, such as the anguished cry of Representative SNELL of New York, the Republican House leader, that it is "the beginning of the end of everything" and the ponderous protest of Herbert Hoover that it has the "implication of subordination of the Court to the personal power of the Executive." But, despite this frantic and studied effort to picture any revision of the judicial system as un-American, despite the wave of propaganda which will again protest against any change in the old order, America has spoken overwhelmingly for such a change. America spoke with 26,000,000 votes cast for President Roosevelt at the ballot box last November, and America realizes that five votes on the supreme bench can still overrule the 26,000,000.

The law of evolution is—adapt or die. It is an inexorable law which cannot be invalidated by the Supreme Court. It applies to the grouping of society which we call a nation as well as to man.

Crop Insurance

EXTENSION OF REMARKS
OF
HON. JAMES P. POPE
OF IDAHO
IN THE SENATE OF THE UNITED STATES
Monday, February 22, 1937

EDITORIAL FROM WENATCHEE JOURNAL

Mr. POPE. Mr. President, I ask unanimous consent to have inserted in the RECORD an editorial on the subject of Crop Insurance, published in the Wenatchee Journal, of Wenatchee, Wash., in the issue of February 18, 1937.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wenatchee Journal, Wenatchee, Wash., Feb. 18, 1937]

"CROP INSURANCE"

The "crop insurance" plan of Secretary of Agriculture Wallace which is incorporated in a bill introduced in the Senate by Idaho's progressive Senator JAMES P. POPE will, we feel certain, be welcomed by all far-seeking wheat farmers and organizations genuinely interested in the welfare of agriculture.

The opposition will, of course, raise the usual cry that this "crop-insurance" scheme is doomed to failure and point to the A. A. A. to prove that you can't regulate the flow of agricultural commodities to market in the same way you regulate other commodities. The opposition, of course, will make no real effort to prove that the A. A. A. was a failure, insofar as regulating agricultural commodities is concerned. But that's neither here nor there.

There is, however, one feature about the "crop-insurance" plan which might tend to defeat the very thing it aims to accomplish—unless the Government is vigilant. This is in the fundamental feature which enables the Government to keep in bonded warehouses large surpluses of wheat during good crop years.

There is a provision in the bill which has been introduced by Senator POPE which enables a farmer who wants to take advantage of the "insurance" to pay his premiums either in cash or in wheat—if it's wheat that he is insuring. If a farmer pays in cash during a good crop year, the Government uses that money to buy wheat on the open market. This wheat is stored by the Government in bonded warehouses along with wheat of farmers who paid their premiums in wheat instead of cash. The wheat is kept in the bonded warehouses until a lean year comes along, when the Government redistributes it among farmers on the basis of the difference between the average crop year of the various farmers

and the production during the lean year when the wheat is being distributed.

What we're concerned about is the effect of these surpluses of wheat—even though they are in bonded warehouses—on the grain market generally and what it will do to current prices.

For although the opposition constantly keeps shouting "economy of scarcity" at any suggested program to regulate production of agricultural commodities, it is nevertheless an indisputable fact that the maintenance of our entire price structure depends on the principle of scarcity. Nobody will dispute the statement that it's the quantity and the availability of a particular commodity which determines its value in dollars and cents.

We grant that we don't understand all the complexities of trade on the Nation's grain markets, but we cannot help but feel that something is bound to happen to the grain market when most of the gamble is taken out of trading in futures.

So it would appear that in addition to providing the mechanics for the operation of a "crop insurance" program, the Government will have to put a few more teeth in grain-market regulations—if any program designed to help the man who actually raises the wheat is going to help him.

War Profits and Neutrality

EXTENSION OF REMARKS
OF
HON. GERALD P. NYE
OF NORTH DAKOTA
IN THE SENATE OF THE UNITED STATES
Monday, February 22, 1937

ADDRESS OF HON. BENNETT CHAMP CLARK, OF MISSOURI, FEBRUARY 15, 1937

Mr. NYE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address on War Profits and Neutrality delivered by the senior Senator from Missouri [Mr. CLARK] on Monday night of last week.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is a real honor and privilege for me to be able tonight to participate with so many of my comrades of the Veterans of Foreign Wars upon this program, and even remotely to have a part with the commander in chief of this great gold-chevron organization in the induction into the organization of thousands of old comrades newly recruited to the organization.

Let me say that I am proud to be a member of the Veterans of Foreign Wars. I am proud of the intelligent interest which the members of this great organization take in the public affairs, carrying on in peacetimes as they did in wartimes the fullest performance of their duties as citizens. I am infinitely proud of the fact that this organization, the very terms of whose eligibility rules insures that its members shall have all been personally familiar with the dread visage of war, is today one of the greatest forces in our Nation for the prevention of war.

Its membership looks upon the twin questions of neutrality and the taking of profits out of war with the hard practical realism of men who in times of national stress have been prepared to bare their breasts to the storm, who understand from actual experience what war is, who lost any romanticism on the subject in the bitter crucible of war itself, who realize that the desperate disaster of depression from which we are now slowly and painfully emerging is but the aftermath of the last war. They look upon current events from the standpoint of men whose personal loyalty to our Government and our institutions cannot ever be questioned but who are firmly resolved to save this country from needless involvement in future wars and to save our sons or nephews or grandsons from the sacrifices either physical or economic which our generation made in the last year.

Every intelligent person who is familiar with the situation as it exists in the world today must know that we have definitely passed out of the post-war era and that we are once more in a pre-war era, that dangerous, precarious condition where the mistake of a diplomat, the bad temper of a dictator, or the effects of fake propaganda from munition makers may at any moment set off a conflagration more devastating than the last war. If such a war should come, with the new scientific developments in warfare, the actual obliteration of our civilization might well be the result.

The Veterans of Foreign Wars believe, and I speak by authority, that this conflict should be stopped before it starts. And if war should develop anywhere in the world, we believe that the United States should be kept out of it.

We believe that our Government should in time of peace adopt a hard, iron-bound policy of neutrality, which will automatically go into effect upon the finding by the President that a state of war exists. This policy will cost us millions, but it will save us billions. It will save us from footing the bills for other nations whose aims were not our aims. It will save us from sacrificing our youth—your boys and my boys, and I have three whose welfare is the greatest concern of my life—in quarrels in which we have no interest.

We believe that our neutrality policy should be automatic and mandatory as soon as the President, as the necessary fact-finding authority, shall have determined a definite state of fact to exist. After war has developed abroad it will be too late to establish a neutrality policy. It will then be contended that any change in our previous policy is in itself a violation of neutrality. To be a neutrality policy at all it must be mandatory and must apply to all alike. The suggestion urged in some quarters of imposing upon the President of the unwholesome duty of choosing an aggressor nation and applying one policy to it and another to its adversary is not neutrality. It is the very opposite of neutrality. It would impose upon the President the duty of committing acts of war. It would mean the delegation by Congress of the duty imposed upon it by the Constitution of determining whether or not war should be declared. It would mean the placing of our President—any President—in the position recently occupied by Premier Laval of France and Foreign Minister Hoare of Great Britain when they brought their nations to the brink of war and then backed down. We believe that if the United States is to keep out of the next war it must be by a resolute determination in advance that we will not be lured either by the hope of transitory profits or the propaganda of either munitions makers or belligerents into a policy of drifting into conflict.

After hearings and deliberations extending over a period of more than two years, the Senate Munitions Committee introduced into the Senate at the last session the most drastic proposals for taking profit out of war that this country has ever seen. That bill was prepared after we had listened to testimony to the effect that the greatest firm of munitions makers in the United States had in the midst of war and in a time of great national peril haggled for months with Government officials about the building of a powder plant upon the question of excess profits for the corporation itself and of huge bonuses for the company's executives and other employees. It was introduced after we had listened to the executive of a great firm of munitions manufacturers unblushingly admit to having received three and a half million dollars in bonuses during the period of the war but sturdily maintained that the demand for adjusted compensation for service men showed lack of patriotism on their part.

Our bill failed in the last Congress through lack of time for its consideration. It has been reintroduced in this Congress and I am happy to say is officially supported by the Veterans of Foreign Wars. It proceeds upon the principle that in case of war, not only excess profits, but all profits and all income must be taxed to the uttermost; that we should pay for a war as the war is being fought to the end that one generation should not saddle an intolerable burden of taxation upon the next. It proceeds upon the theory that if boys are to be drafted to face high explosive and shrapnel and machine gun bullets neither capital nor income or anything else should be exempt from the same sacrifice.

Time does not permit me to discuss this measure in detail or the alternative measures designed to draw a red herring across the trail of adequate discussion of the subject of taking the profits out of war. I say only that in my opinion ours is the only measure with provisions so drastic as to hold forth hope that it may really be effective. I urge each of my comrades to secure copies of the various proposals and study them and to make his preference among them effective among his fellow citizens.

I thank the Commander in Chief for this opportunity to participate in this memorable initiation.

Enlargement of Supreme Court

EXTENSION OF REMARKS
OF
HON. HARRY FLOOD BYRD
OF VIRGINIA
IN THE SENATE OF THE UNITED STATES
Monday, February 22, 1937

ADDRESS OF HON. JOSIAH W. BAILEY, OF NORTH CAROLINA, FEBRUARY 20, 1937

Mr. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an exceedingly able address delivered over the radio on February 20, 1937, by the Senator from North Carolina [Mr. BAILEY] entitled "Woodrow Wilson Described It as an Outrage Upon Constitutional Morality." This address was delivered under the auspices of the National Grange, a strong and outstanding organization of farmers.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is a privilege that I prize, this of speaking under the auspices of the National Grange, the oldest of the farmers' organizations,

covering the whole country, permanent in character, founded on the brotherhood of field and forest, a most honorable brotherhood, and with a record of faithful, intelligent, and effective service unsurpassed. I am glad it is interested in public affairs without being political or partisan, and that it is devoted to the free discussion of public matters with especial interest in the farmers' problems. It seeks to inform, not to control; to find wisdom and right in the mulitude of the counsel of its members throughout the land. I congratulate you upon your leadership and the fine work your leaders do in Washington. Every Member of the House and Senate respects them and is honored to confer with them. We do not class them as lobbyists, but as fellow workers in a great cause. It is always a pleasure to work with Mr. Tabor and Mr. Brenckman as I did last year in the matter of protecting the farmers' fats and oils from foreign competition. We won a real and valuable victory, and much of the credit is due to them.

I am now to talk with you on one of the most important questions in all the history of our country—the President's proposal to increase the number of Justices of our Supreme Court from 9 to 15, providing those Justices now on the Court 70 years of age, or over, shall not retire—at any rate, to add 6 new Justices to the Court.

I intend to be considerate and kind, and I hope you will say that I am reasonable. I respect the President and the Presidency. I supported Mr. Roosevelt all the way—before Chicago, at Chicago, in the election of 1932, before Philadelphia, at Philadelphia, and in the election of 1936. I have not always agreed with him, but on all the great measures that were within the Constitution I have supported him. I have been regretful when it seemed clear to me that my oath as Senator to support, maintain, and defend the Constitution prevented me from supporting any measure; but I have kept my oath, as it was my duty to do, and this has given me peace of mind against all regret and against all criticism. I was reelected, but had I been defeated I would have recalled with satisfaction that I had kept my oath. I find myself now once more in opposition, but again I am comforted by conviction that I am doing my duty.

Let me now read to you the well-considered resolutions recently adopted by your national meeting, as they present a proper view of the Supreme Court and the Constitution:

"NO. 62. THE SUPREME COURT

"Whereas there has been talk to the effect that the Supreme Court, which in a very special sense is the creation of American genius and statesmanship, should be deprived of the right to pass upon the constitutionality of acts of Congress; and

"Whereas such a move would automatically destroy one of the three coordinate branches of the Government, removing one of the vital checks and balances established by the founders of the American system, leaving the people at the mercy of every whim of any temporary majority in Congress: Therefore be it

"*Resolved*, That we reaffirm our faith in the fundamental soundness of the Constitution, which made and preserved us a Nation, and under which, during a century and a half, we have enjoyed a greater measure of liberty, happiness, and prosperity than has ever before come to any other people. The National Grange reaffirms its defense of the constitutional guarantees of freedom of speech, press, and assembly."

Manifestly, the National Grange believes in the Constitution and the Supreme Court. Manifestly it believes that Court must be independent.

In this connection your national convention adopted another significant and timely resolution, as follows:

"NO. 63, CENTRALIZATION OF GOVERNMENT

"Whereas the tendency toward overcentralization of government has been in progress in this country for many years, with large elements of the population looking to the Federal Government for the solution of most of their problems, including those that be the primary concern of the States or of the people themselves; and

"Whereas it is fatal to the cause of good government, besides adding enormously to the tax burden to destroy the local sense of responsibility which causes the average citizen to scrutinize public expenditures; and

"Whereas it is manifest that the powers of the Federal Government can only be expanded by contracting or restricting in a corresponding degree the rights of the States and of individuals, therefore be it

"*Resolved*, That in keeping with the best principles and traditions of American democracy, we are opposed to any constitutional changes that would abridge the rights of the States to control their own affairs within proper limits, or that would impair the legitimate rights of the people in the affairs of local self-government."

When this matter was first put forward by the President, he did so on the ground that the Supreme Court was behind with its work, and that by reason of the infirmities of the Justices, on account of the advanced years of most of them, many petitions for appeals have been refused. This reason is no longer insisted upon. It was promptly made known that the official report of the Attorney General declared that the Court was up with its work and that the large majority of the petitions for appeals were without merit. Someone had misinformed the President.

Since the President's reasons were made public, the Attorney General, Senator BYRNES, Senator MCADOO, and Senator LA FOLLETTE have made radio speeches for the change in the Court. Mr. Secretary Wallace has also given out a statement. Do these gentlemen rely upon the reasons the President gave? Do they say that the reason for seeking power to appoint six new Justices of the Supreme Court is that the Court is behind with its work, or that appeals are declined by the Justices because they are aged and infirm? No, indeed. All that is now out of the window, and they have thrown it out. This is an unceremonious way for the President's friends to treat the reasons the President solemnly gave to the press and to the Congress, but that at any rate is not my fault. The fact is, I would not have done that—unless I had to.

Mr. Attorney General Cummings baldly says that we need new blood on the bench of the Supreme Court in order to bring about a different interpretation of the Constitution. Senators LA FOLLETTE, MCADOO, and BYRNES say we need new men for the same purpose. And so does Mr. Secretary Wallace. He frankly says that he has in view legislation which will be held invalid under the Constitution unless six new Justices favorable to the legislation shall be appointed. He candidly says we ought to change the Court in order to validate legislation.

Senator BYRNES, of South Carolina, generally reputed to be an intimate of the President, is quite candid. He promised that there are a whole lot of good things for us all if only we will add six Justices to the Court and thereby change the interpretation of the Constitution so as to give the Congress more power.

So the reasons put forward by the President—the alleged congestion of the docket of the Court and the ages of the Justices—are now abandoned by his advocates; they take their place in this discussion as mere pretexts that had no foundation; and the real reason is now frankly avowed only because there is nothing else to do—and that reason is that it is desired to bring about the appointment of six additional Justices of the Supreme Court for the plain purpose of validating legislation which its authors admit would be held unconstitutional by the Court as now constituted.

May I pause to wonder why the real reason was not put forward to begin with? Was that not the natural thing to do, if it was considered a good reason? Did the President have it in mind and not declare it to the Congress? May I ask why the reasons relied on by the President have so soon been abandoned? Certainly for his friends to do this leaves him in a bad position. Under the circumstances is it unkind to believe that it was realized that the proposition to add six Justices to our Supreme Court, in order to bring about the validation of proposed legislation, was too shocking to the mind of the President to admit of a frank avowal? That he revolted against so bald a proposal. That he felt that to do this would so shock the country as to defeat his purpose? Had he read what Woodrow Wilson said about it? I leave this for my hearers to determine. If anyone can find reasons more creditable to the President for this strange procedure, I shall be glad to hear them, and give him full benefit of them.

To hold otherwise would be to hold that the defenders of the proposition have repudiated as worthless the reasons upon which the President proceeded, or that they have been more frank than the President. I would not say this in words, but they are saying it by the course they are taking. If there is fault here, it is the fault of the President's advocates, not of myself.

At any rate now, all the debate about adding six new Justices to the Court in order to relieve aged and infirm Justices and expedite the Court's business is behind us. We have only to consider two questions, as follows:

1. Is it right to add six Justices to the Supreme Court in order to bring about a different interpretation of the Constitution from that which until now we have had?

2. Is it wise to set the precedent of changing the make-up of a Court in order to change its judgments upon the constitutionality of legislative acts?

Now, let us take up the first question. Is it right?

The Constitution was made by the people. It is their instrument. They do not make the laws. But they did make the Constitution—the law over all law, the supreme law. In making this Constitution they provided that it should be changed only by reference to themselves or to State legislatures. There is no other way. Is it right to change it by enlarging the Court that declares its meaning? Clearly, to do so is to evade the express will of the people; it is to change the Constitution by tearing down the Court and appointing new Justices, not by the ordained process of amendment by the people. This is manifestly wrong. Moreover, all public officers are solemnly sworn to support and maintain the Constitution. They are sworn not to change it except in the way the people themselves provided.

The Supreme Court has in the last 3 years handed down a number of decisions holding rather popular acts of Congress unconstitutional. But it has not changed the Constitution. These opinions have been consistent with the Court's opinions in analogous cases for 75 years or more. All the Court has done has been to say that the power to enact these acts is not given in the Constitution. It was not for the Court to say more or less. It does not pass on the wisdom or popularity of legislation. It passes only on the question of the power of the Congress. It does not say that Congress should not have the power. It says only that it does not have it.

If the Supreme Court, or any Justice, is corrupt or willful or arbitrary or unworthy of its high trust, there is the remedy of impeachment. It is under the Constitution and under the oath to maintain it. It has only the judicial power faithfully to declare its meaning when a question is properly raised. It has no veto power. It has no arbitrary power. It has only the solemn duty of judicially declaring what is intended in the Constitution with respect to the power of the Congress.

I come back now to my first question—Is it right to add six new Justices to the Supreme Court for the express purpose of altering

the historic and accepted interpretation of the people's supreme law, their Constitution, so as to enlarge the powers of the Congress?

I answer "No"—for to do so is to change the Constitution by means other than reference to the people. There is a right way to change the Constitution—that is by amendment submitted to the State legislatures or to the people. This is their way; and it is wrong to change their Constitution except in the way they provided. For they expressly reserved to themselves this matter of changing their Constitution. It is a wrong not against the Court but against the people. And it is a wrong against the character of our country. So great a liberal as Woodrow Wilson declared such procedure "an outrage upon constitutional morality."

Our second question is—Is it wise to seek to change the historic and accepted meaning of the Constitution by adding six new Justices to the Supreme Court?

In the first place, it is never wise to do the wrong thing. Wrong is never wise. Sometimes we may think it is, but always we see our mistake sooner or later.

In the second place, if one Congress may add 6 new Justices to the Supreme Court to enlarge its power, another Congress may add 10 to get more power, or to take away any right the people have under the Constitution. You would have a very changeable Constitution, and it would not be changeable by the people. You would never know what to expect. You would have not a court of justice, but a political court, a court to do whatever the Congress should demand. It would be better to have neither court nor Constitution and trust all your rights to Congress and President. Our ship of state would be "All sail and no anchor", as Macauley said.

Is it not clear that if we go about it this way, no change will be reliable? Whatever may be done in this way may be undone, and all without reference to the people; that it amounts to putting the Constitution in the keeping of a political body, the Congress that varies every election?

As matters stand, the people have precious rights set out in their Constitution. They have the right to personal security. Your home is your own, and no man may enter it save upon warrant of law duly passed or your permission. You have the right freely to worship God according to the dictates of your own conscience. You have the right to your farm, your home, and to your earnings. You have the right to vote. You have the right of trial by jury.

These and many other rights are yours so long as the Constitution is secure; and it will be secure so long as there is an independent Court to guard these rights. But how could you be sure of any of these rights if the Constitution may be changed by an interpretation brought about by the creation of new Justices at any time for the purpose of making it to mean whatever the Congress may desire it to mean?

Agree that we have a good Congress now and a good President now. We cannot be wise in setting a precedent which will show the way to others not so good. We must never forget that elections are uncertain. You may be in the majority today. Tomorrow you may be in the minority. And remember the Constitution and the Court protect individuals—1 man against 130,000,000 men; 1 man against Army and Navy, Congress, or President. The Constitution and the Court take the essential rights of every man out of politics. These rights are secure from political changes so long as the Constitution and the Court stand.

As matters stand you have an independent Court to declare and preserve your rights. But one false step, and the only way you would have to preserve your rights would be by force. The Court and the processes of justice are the antidote to force and revolution.

This thing cannot be undone once it is started.

So, my fellow Americans, I submit to you that this business, now openly avowed, of adding six Justices to the Supreme Court in order to change the historic meaning of the Constitution is neither right nor wise. I am not disposed to impugn the motives of my fellow men. I am entirely willing to agree that the legislation now in view may be good, although it has not been submitted and none of us know what it is. I could agree for the sake of the argument that it is necessary. All I am saying to you is that if you believe it to be good or necessary, there is a right and wise way to bring it about—let us have an amendment to the Constitution giving Congress the power to enact such legislation. Let us submit that amendment to the people as they have required us to do under our oaths; let them amend their Constitution according to their judgment. To be sure, if they wish to amend it, they are competent to do it, and only they have the right to do it. What is more, no change in the Constitution will stand except the people make it in the way they have appointed. And I am willing to trust them. It may take time, but if the people wish to do it, it will not take them long. And I must say that in a matter so important there is no wisdom in haste, and I am rather inclined to go slow with men who try to hurry me into action in so great a matter. When it comes to changing the supreme law of the land, the law in pursuance of which all laws are made, I am willing to take such time as the people may require in order that no mistake may be made.

There are many things to be done for the American people. There is much to be done for the farmers and, thanks to the Grange and other organizations, their cause is on the hearts of all public men as it never has been before. But if we destroy the Supreme Court, subordinate the judiciary to the Congress, and make the Constitution to mean whatever those in power may wish it to mean, all is lost; there is nothing good enough to justify that. The injury done will far outweigh any fancied or apparent immediate benefits. We must not pay the price of the stability of our institutions, the reliability of the people's charter of their fundamental rights, the subserviency of our Supreme Court for promised benefits, howsoever attractive. So long as the Constitution is maintained; so long as the Court is independent of Congress or President, or both; so long as the great principle of local self-government is protected; so long as the powers respectively in Congress, in President, in the judicial department, in the States, and in the people are maintained and respected we need have no fear of Facist regime or Socialist dictators. But if you give to Congress and President power over Court and Constitution, you give to them dictatorial power, and all the powers so well separated in the Constitution are united. This is the essence of dictatorship. That is a price not to be willingly paid for any benefit or reward however seductive. It is to surrender the Republic. This pending bill predicates just that—the control of President and Congress over your Constitution and the Supreme Court. And it is for this reason that it presents to the men, women, and children of our land the gravest issue since the Civil War. It is for this reason that we must resist its enactment to the last ditch. It is for this reason that those of us in the Congress who are opposing it now call upon all Americans to stand with us and make it known that they stand and will continue to stand.

Let me close with a paragraph from a great President, student of history and government, Woodrow Wilson, in his notable book, Government Under the Constitution:

"It is within the undoubted constitutional power of Congress, for example, to overwhelm the opposition of the Supreme Court upon any question by increasing the number of Justices and refusing to confirm any appointments to the new places which do not promise to change the opinion of the Court. Once, at least, it was believed that a plan of this sort had been carried deliberately into effect. But we do not think of such a violation of the spirit of the Constitution as possible, simply because we share and contribute to that public opinion which makes such outrages upon constitutional morality impossible by standing ready to curse them."

If I understand this language, Woodrow Wilson confides that public opinion stands ready to make this "outrage upon constitutional morality" impossible by cursing it!

Why Pack the Supreme Court?

EXTENSION OF REMARKS

OF

HON. GEORGE A. DONDERO

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 22, 1937

RADIO ADDRESS DELIVERED BY HON. U. S. GUYER, OF KANSAS, FEBRUARY 19, 1937

Mr. DONDERO. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Ladies and gentlemen, from time to time in the history of our country the Supreme Court of the United States has been the center of a raging storm of party passion and partisan rancor. But out of every such tempest it has emerged in its serene and solitary grandeur the most august tribunal in the world. Once again it is the target of vindictive passion, assailed by those politicians whose sinister design is not to directly destroy it but to corrupt it by "packing" its personnel to control its decisions and decrees.

In discussing this latest cabal against the Supreme Court it is with no personal bitterness against our affable President, however much I may disagree with his attitude toward the Supreme Court. This question rises above personalities and transcends all petty political lines and partisan alinements. There are more Democrats in the Senate who are against this corruption of our judicial system than there are Republicans. The bitterest opposition in the House comes from the Democratic side. I congratulate the country upon this healthful situation, for it demonstrates that in spite of the President's appeal to party loyalty and partisan spirit, there are hosts of Democrats in and out of Congress who place principle above party, and the welfare and destiny of their country above partisan considerations.

In this mobilization against the Supreme Court the words "liberal" and "progressive" are generously used in an attempt to engage the sympathy of those who sincerely wish to promote what is known as social welfare. Yet in the past quarter of a century there has been no more reactionary gesture than this arbitrary demand for the partisan "packing" of the Supreme Court of the United States in order that legislation may be enacted without too much discrimination regarding its constitutionality. That the Congress shall become the judge of the legality of its own acts. That would equal the stupidity of putting a criminal on the jury that was to try his case or the folly of making him his own prosecutor. Should the proposed legislation ever become the law the President would possess most despotic power to dominate both the

Congress and the Supreme Court. The experience of mankind has taught us that when any man possesses such power he soon exercises it. There is nothing in the record of the past 4 years to indicate that the President is an exception to this rule.

Alexander Hamilton, one of the keenest interpreters of human history, said in the first article of the Federalist papers: "Of those men who have overturned the liberties of republics, the greatest number have begun their careers by paying obsequious court to the people, commencing demagogues and ending tyrants."

There is nothing mysterious or confusing in this proposal. The President in his message to Congress requests the authority to appoint almost 50 additional Federal judges (which is unnecessary), including 6 additional Justices of the Supreme Court. Attached to this message was a bill that no committee of the Congress ever saw until this astounding message was read on the floors of the Senate and the House. As usual with New Deal legislation, it has been cooked up with the utmost secrecy in the kitchen cabinet of the "brain trust" and then sent down for a rubber-stamp Congress to enact. If such a proposal had been submitted to Congress by Calvin Coolidge or Herbert Hoover, the same men who are now defending this audacious demand of President Roosevelt would be denouncing it from the housetops as constructive treason and clamoring for their impeachment.

At times the destiny of nations, like that of individuals, hangs upon very slender threads—when a nation must choose between policies as fundamental as those upon which the Constitution itself was constructed. We are in the vortex of such a crisis at this moment. The fundamental policy involved is the concentration of power in the hands of the Executive—the rock upon which every republic that ever fell was wrecked.

In nature there are two dominating forces. One pulls toward the center and the other pulls away from it. One centripetal, the other centrifugal. Under the spell of these two forces the "stars sing together" and the staggering vastness of the universe of the Almighty revolves in perfect harmony.

In government there are two corresponding forces. One pulls toward the center and the other pulls away from it. One centripetal and the other centrifugal. One tends toward order, the other toward chaos. One toward organization, the other toward disintegration. One toward despotism, the other toward anarchy.

When our fathers met at Philadelphia 150 years ago to write down on parchment a charter of government for the evolution and preservation of liberty they attempted to so balance those two forces that their government would not be too strong for the liberties of the people, yet strong enough to maintain itself in a great emergency.

The fundamental rock upon which they hoped to balance these two forces was the division of the Government into three separate, distinct, and independent departments—executive, legislative, and judicial—reinforced with certain checks and balances so that no department should transcend the limits placed upon it by the people in their Constitution, or exercise the powers of any other department, except as provided in that Constitution.

Now we are confronted for the first time with the sinister threat of a colossal concentration of power in the hands of the Executive. To the Congress they would add the Supreme Court as another servile rubber stamp in the hands of the Executive. To be perfectly frank, the President proposes to control the decisions of the Supreme Court of the United States by appointing six additional Justices to that tribunal who will be pliant to his will. If that were accomplished it would reduce that Court from the exalted position it now occupies to the degradation of a submissive political mistress where it would deserve and receive the contempt of mankind. Upon such a court, so packed, no self-respecting judge would serve.

Neither the Supreme Court nor its decisions are sacrosanct. It is subject to criticism just as any other department and very properly so. But when the Executive attempts by autocracy and trickery to influence and mold the decisions of that tribunal by packing it with pliant political "yes men", the voice of the American people in the spirit of their Constitution should be heard in thunder tones of fiery protest.

This is the bold, unvarnished undertaking of the President to dominate the Court and control its decisions for the next 4 years in order to put over his New Deal laws, as he once suggested, "regardless to doubts of constitutionality." The President seems to be proceeding on the dangerous theory that the end justifies the means. In pursuing that course he is undermining the fundamental principles that underlie our system of government. No matter how exalted his purpose the result will be just as disastrous as it would be if his course were dictated by the most sinister of motives.

This is an attempt to circumvent the Constitution through a hand-picked Supreme Court of the United States. Men and women of all parties and from all sections who revere this great tribunal for its exalted standing throughout the civilized world, for its stainless record, and for the wisdom and courage of its decrees should rally to the support of a free and independent Supreme Court of the United States. Ever since the titanic struggle between Jefferson and his illustrious cousin, John Marshall, there have been abortive attempts to sabotage the Supreme Court. Thus far all such efforts have fallen impotent and harmless, with the Court more firmly entrenched in the affections of the American people.

Those who attack the Court always pretend that it is in defense of the weak and underprivileged, the downtrodden, and the poor. But the fact remains that the Supreme Court of the United States is the last refuge and defense of the sacred rights and privileges of the humblest citizen in the land. During the World War radical elements in this country tried in every way possible to defeat our arms and loudly denounced the Government for all proposed legislation for military or industrial conscription; but whenever these incendiaries fell into the clutches of the law they hurried to the embrace of the Constitution and the Courts to plead the guaranty of their rights under the Constitution. Even these enemies of our country had their day in court. So it has ever been. It is under the shielding wing of the Court and the panoply of the Constitution that the immortal rights of the individual are protected and enshrined. In the freedom and independence of the courts lie the safety of the individual and the fidelity of the courts to justice and equity.

The present assault upon the Supreme Court, its integrity, and its independence is the result of a lust for power of a Chief Executive who imagines that his recent reelection is a mandate to do as he pleases with scant regard for either the spirit or letter of the Constitution. So he smilingly and adroitly covets the privilege of making the Supreme Court the plastic instrument of his will, such as the Congress has too often been until it deserves the stigma of "rubber stamp", which public opinion has fastened upon it.

Should the bill attached to the message of the President become a law both the Congress and the Supreme Court would cease to exist, except as an adjunct to Executive power, and the dream of Jefferson's government divided into three separate and independent departments, upon which he said they founded the Commonwealth of Virginia, would be a thing of the past.

Has the Supreme Court of the United States been such a failure that we may dispose of it so lightly? It is my candid judgment, after a lifetime study of the history of my country, that the judiciary has been the outstanding success of the Government under the Constitution. That success was the result obtained from a free and independent judiciary untrammeled by political influence. Unafraid and unterrified, it performed incomparable service to a grateful people whom we are going to find very jealous of any trifling with the integrity and the stainless honor of that great tribunal.

It must, indeed, be a bold audacity that seeks to usurp the prerogatives of such a court or moves to meddle with the decisions of such a tribunal with methods contrary in spirit to any meaning the framers of the Constitution ever intended or expected to be included in the wildest interpretation of their work.

Four years ago the Congress delegated to the Executive unusual powers such as were never before granted in time of peace with the tacit understanding that when the emergency had abated the powers granted would be terminated. At least the emergency has not augmented, yet we are confronted with ever-increasing demands for new powers, and among the rest the power to write the decisions of the Supreme Court of the United States and shape its destiny for years to come by packing it with young partisan appointments, and, joined to a subservient Congress, absolutely control and rule the economic life of this country. Such an episode might with propriety lead some lean and hungry Cassius to inquire:

> "Now in the name of all the gods at once,
> Upon what meat doth this our Caesar feed,
> That he is grown so great."

The hunger for power is a glutton. Its thirst is insatiate. Given an inch, it seeks a foot. Given a foot, it asks a yard. Given a yard, it demands a mile. No! we do not expect to see our genial President, "the man on horseback", an arbitrary dictator; yet to an unbelievable degree he is a dictator already and, if armed with this law to increase the number of Judges of the Supreme Court which he still insists upon, he will possess powers of dictatorship which no sane man a decade ago would have ever dreamed a President of the United States would ever covet, much less possess.

If we keep up this pace how long will it be until some modern Louis XIV will announce as he rises to power, as did Louis when he ascended the throne of the Bourbons, "L' état c'est moi!" "I am the State!" How long will it be until some up-to-date Hohenzollern like William II, who declared that in his acts as sovereign he acknowledged responsibility only to his conscience and his God, will strut his stuff upon the ruins of American democracy. Of course, there is no immediate danger of any thing of that kind, but we are setting precedents that justify such fears for the future. When the black-shirted Mussolini assumed supreme command in Rome, he did so on a platform more democratic than Jefferson ever advanced, but today Il Duce wields a scepter more absolute and despotic than any Caesar ever swayed. "Eternal vigilance is the price of liberty."

Yellow Fever Hero Dies

EXTENSION OF REMARKS

OF

HON. HAMPTON P. FULMER

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 22, 1937

Mr. FULMER. Mr. Speaker, under leave to extend my remarks in the RECORD, I want to call to the attention of the

Members of the House and the country the recent death of one of the real heroes of America—a man who risked his life in the quiet of a Cuban camp during the Spanish-American War that the world might be set free from yellow fever.

I refer to Charles G. Sonntag, a member of that brave band of men who volunteered, under the leadership of Dr. Walter Reed, to submit themselves to the bite of infectious mosquitoes to find the one that bore the yellow-fever germ. As you remember, some of his comrades did not survive the test, but Mr. Sonntag, though he became severely ill with the dread disease, finally recovered and lived to see his Government award to him a special medal commemorative of his services beyond the call of actual duty.

Sixty-four at the time of his death, Mr. Sonntag was in his twenties when he and others of the Reed group underwent their ordeal. Without the blare of trumpets, without the roar of cannon, and without the urge of self-preservation, he quietly went into a screened tent and waited for the mosquitoes to bite, knowing that it meant almost certain death. In other words, he was willing to die that others might live; and thousands and thousands have benefited through the conquering of yellow fever made possible by the noble experiment which Mr. Sonntag survived.

Unassuming, Mr. Sonntag went through life in the same quiet way in which he had calmly made the test in Cuba. He was a member of the Medical Corps of the Army when he had volunteered after the Spanish-American War for the yellow fever research experiment.

For years Mr. Sonntag had farmed in what is known as the Sandyrun section, Calhoun County, South Carolina. Today he will be buried in Arlington with full military honors. Sonntag was my friend and I am expressing the memory of him in the following poem entitled:

WORTH

When you think of a man you seldom think
  Of the knowledge he has of books;
You seldom think of the clothes he wears,
  His habits, or ways, or looks.
You seldom think of the car he drives,
  Nor the bonds his gold has bought;
When you think of a man you mostly think
  Of some heroic deed he has wrought.
You judge him not by his blocks of stocks,
  Nor his power of name or pen;
You judge a man by the place he's made
  In the hearts of his fellow countrymen.
You think of the friend he's been to man,
  And the good deeds that he has done,
And you judge the sort of a man he is
  By the friends that he has won.

Robinson-Patman Act

EXTENSION OF REMARKS
OF
HON. WRIGHT PATMAN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Monday, February 22, 1937

EXCERPTS FROM ADDRESS OF HON. CHARLES H. MARCH, MEMBER OF FEDERAL TRADE COMMISSION, BEFORE ANNUAL CONVENTION OF THE NATIONAL CANNERS ASSOCIATION, CHICAGO, ILL., JANUARY 25, 1937

Mr. PATMAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

In recent years the large and powerful buyers have been using their advantage over small buyers by obtaining secret and unfair discounts in one form or another. The Federal Trade Commission in the Goodyear-Sears-Roebuck tire case held these practices to be unlawful. This decision was rendered in March of last year.

The Congress, also awakened to this growing wicked discrimination in price between different purchasers of commodities, already had several bills in both Houses of Congress and before adjourning in June enacted what has become known as the Robinson-Patman Act, which was passed and approved by President Roosevelt on June 19, 1936.

This Act will bring about a great improvement in the conduct of business in the whole land and will be productive of much good. Your ultimate customers are the retailers who have more at stake in this matter than the average citizen. If monopoly continues to grow, thousands of other businessmen will be the immediate victims.

In its final report to the Senate on its chain-store investigation, the Federal Trade Commission said:

"Should the trend of the past 20 years, and particularly the last decade, continue for a like period, we shall have a condition in some lines of chain-store merchandising that few will dispute is monopolistic."

The Commission found that the ability of the chains to buy more cheaply than the independent was "a most substantial, if not the chief factor" in the lower selling prices which account so largely for the growth of chains.

It found that these lower buying prices of the chains were frequently granted unwillingly by the manufacturer, who feared either that competitors would take away his large chain customers, or that the chains would discourage the sale of his goods, or make their own.

It found that there was frequently no definite relation between the quantities purchased and the prices or terms made to various purchasers.

It found that frequently price advantages were passed on to the chains in the form of brokerage or commissions through special allowances for advertising or display, and through various indirect forms of concession not allowed to independent retailers.

Even one who would defend these practices as the expression of normal competition must admit that their tendency is to make the chains bigger and bigger and to accentuate whatever other factors tend toward monopoly.

Congress had those facts before it when it passed the Robinson-Patman Act. Of course that act is not in terms confined to chain-store merchandising, or even to retail distribution. It applies to all commodities and to the effect of discrimination on purchasers who compete in their resale, regardless of who they may be.

The Robinson-Patman Act is an amendment to section 2 of the Clayton Act, which has been on the statute books since 1914. That section recognized that discrimination in price was one of the strongest weapons of monopoly. This had been demonstrated in the dissolution suits against the Standard Oil and American Tobacco combinations. In decreeing their dissolution, the Supreme Court specifically found that price discrimination had been an important factor in building up monopoly. Section 2 of the Clayton Act was intended to outlaw that method of creating monopoly. But it had to be shown that the effect of the discrimination might be substantially to lessen competition as a whole in any line of commerce or tend to create a monopoly therein.

While the Robinson-Patman Act retains that proviso, it adds another that is much easier to meet. Price discrimination is now declared unlawful where the effect may be

"to injure, destroy, or prevent competition with any person who either grants, or knowingly receives, the benefit of such discrimination, or with customers of either of them."

The general effect of that provision is to enlarge enormously the ability of one who is unlawfully discriminated against to protect himself.

Coupled with the right of suit for threefold damages under section 4 of the Clayton Act, this new provision sets up a requirement that should not be too difficult to meet. It makes easier the task of governmental agencies in enforcing the act. It is much easier to show the forbidden effect in individual instances than on an industry as a whole. In this it seems that the act has applied the philosophy which the Supreme Court held to underlie the Clayton Act, namely, to prevent practices, which if not stopped, tend toward monopoly.

Violation of the old law was also difficult to prove because of a proviso that discrimination in price was not unlawful when made "on account of" differences in the quantity sold or which made "only due allowance" for differences in cost of selling, transportation, or when made in good faith to meet competition.

The new law meets the matter of quantity in two ways: First, by providing that discrimination is permissible because of quantity only when it represents "due allowance for differences in the cost of manufacture, sale, or delivery resulting from" the differing quantities; second, by providing that the Federal Trade Commission may fix the quantity limits beyond which discrimination shall not be permitted.

"Where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce."

The old law was considered as requiring an affirmative showing by the Commission that the discrimination was not in good faith to meet competition. The new law puts the burden on the discriminator of showing that his discrimination is "in good faith to meet an equally low price of a competitor or the services or facilities furnished by a competitor."

The new law extends the principle of nondiscrimination into other areas than price as such. Whether they might be regarded as forms of indirect price discrimination or not, the act specifically declares it unlawful:

(a) To grant or receive, "except for services rendered", anything in the way of commission, brokerage, or other compensation to an intermediary who is acting for or is subject to the control of any party to the transaction other than the one paying such compensation; (b) to pay or agree to pay compensation to or for the benefit of a customer for his services or facilities unless the

same compensation "is available on proportionally equal terms" to competing customers; (c) to furnish or agree to furnish any services or facilities to one purchaser that are not "accorded to all purchasers on proportionally equal terms."

It is also declared unlawful for any person "knowingly to induce or receive" a prohibited discrimination in price.

The foregoing is intended merely as a general description of the Robinson-Patman Act and in no sense an interpretation. Neither I nor the Commission can express an informal opinion concerning application of the act to the facts of particular cases. One reason for that policy is that the Commission is required by statute to exercise the quasi-judicial function of officially and formally deciding specific cases of alleged discrimination presented to it under the procedure specified by the statute.

You men gathered here, representing the canners of the country, have a common cause with the small retailers. They are your most dependable and lasting customers.

The Commission has issued 14 complaints under the Robinson-Patman Act covering different phases of the law. Some of the cases have advanced to the stage of taking of testimony. These cases are being expedited with the end in view of having decision by the Commission at as early a date as possible.

While the Federal Trade Commission has thus, through formal and informal action, effected compliance, this is only a very minor part of the good accomplished by the Robinson-Patman Act. We know that whole industries have radically revised their selling prices and practices, resulting in compliance with the law to the benefit of the small businessman.

This law is not a hard law to understand. Any dealer who wishes to comply with it will find no trouble whatever in doing so. It is a question of being fair and impartial to his customers.

The Commission has rendered a definite service to the public in a difficult field of monopoly. In this it has served a purpose for which it was created and has thus conformed to the policy laid down by Congress. That policy is one of fundamental importance to the American people. The struggle to preserve free enterprise must not fail. There will be nothing gained by maintaining the forms of a freedom from which the substance has departed.

If we are to accept the process of concentration of business in a few hands as beyond control, then it is time to admit that our foremost national aim, individual opportunity, has been lost, and that what we had believed was our outstanding national trait, individual initiative, either has failed or is no longer worth preserving.

Hoover—National Manufacturers and Chamber of Commerce—Union and Liberty Leagues—Enemies of Democracy—All Oppose Judicial Reform—Read the Constitution Yourself

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 22, 1937

IMPORTANT PHASES JUDICIAL REFORM BILL

Mr. MAVERICK. Mr. Speaker, I rise today to make one statement, two observations, and one conclusion. I hope to clearly state some important phases of the controversy concerning the President's proposals for judicial reform. Also, I am glad to make this of record on Washington's Birthday.

I

STATEMENT

United States either goes backward or forward

From this day, America either goes forward or backward. The most vital and important proposal ever made in America is the President's plan to reform the judiciary.

II

FIRST OBSERVATION

Enemies of Democracy oppose change

Everyone who opposed the President and the Democratic Party last election are opposing judicial reform. This includes Mr. Hoover, who is getting very righteous, the Union League and Liberty League, the National Manufacturers' Association, National Chamber of Commerce, and the groups perpetrating the pay-roll fraud last election concerning Social Security.

All of these persons and organizations are opposed to minimum wage and maximum hour legislation, agricultural acts, Social Security, old-age pension, and other protective legislation. Their opposition is based on their opposition to progress, and not to any love for the judiciary.

Therefore, no one should pay any attention to their false bellowing about democracy. They are really opposed to democracy, anyway.

III

SECOND OBSERVATION

Powers of Supreme Court and Congress

When great "constitutional" lawyers and philosophers fall out, let the common people read their own Constitution.

Paragraph 2, section 2, of article III, is shown below. For distinction, the original jurisdiction is shown in ordinary type, and the appellate jurisdiction in italics:

In all cases affecting Ambassadors, other public Ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. *In all other cases * * * the Supreme Court shall have appellate jurisdiction,* both as to law and to fact, *with such exceptions and under such regulations as the Congress shall make.*

I cite the above so the American people may know that their representatives have a constitutional right to make exceptions and regulations in the appellate jurisdiction of the Supreme Court. Every lawyer in the country knows this. It has been recognized in more than 20 decisions by the Supreme Court.

And anyone can read the Constitution until doomsday and they will never find where the Supreme Court is given power to declare acts of Congress unconstitutional.

Any "right" of the Supreme Court is based on public opinion. It is only proper, then, that public opinion, science, and knowledge be considered.

IV

CONCLUSION

Right of people to democracy

I am trying to show the motives of the opposition; and that everyone admits the constitutionality of the proposals. Personally I consider the proposals are not far-reaching enough, but I strongly favor all the essentials and shall vigorously work for their adoption.

My conclusion is that this battle must be won. It is the people's fight. It is not Roosevelt's fight. To say he wants to be a dictator is a libel, or a piece of nonsense.

It is a question of whether the democratic processes shall succeed or not. Let us not look back to dead precedents. Let us, instead, respect the Constitution and ourselves by looking forward, with science and knowledge, to the necessities of today and tomorrow.

Supreme Court

EXTENSION OF REMARKS

OF

HON. ROY O. WOODRUFF

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 22, 1937

Mr. WOODRUFF. Mr. Speaker, we have just listened to the reading by the distinguished young Member, Mr. O'NEILL of New Jersey, of that immortal document presented to the American people by our first President when he laid aside his public duties and retired to private life. The world knows it as Washington's Farewell Address.

If there was needed anything more than the splendid service he gave to his country to mark him as an outstanding world figure of all time it was the prophetic advice which he handed down to posterity, and which will live in the hearts of our people as long as this Nation shall last.

A careful reading of that document will convince any unbiased person that the wise counsel handed down to us was based upon perfect knowledge of the lessons of history, an understanding of the dangers of human selfishness, the pitfalls awaiting a people who, careless of the perpetuity of their government—yes, careless of their very economic and personal liberty—close their eyes to the all-too-evident efforts an individual, or group of individuals, who seek personal or political aggrandizement through invasion of the rights and

privileges guaranteed to all the people of these United States by the Constitution itself.

As I listened today there flashed through my mind the recent message of the President, wherein he demanded legislation that would give him the right to change the Supreme Court through the appointment of six additional members from a tribunal which protects and preserves government by law to one that would install in its place a government by men. And I was struck with the thought that the Farewell Address was prepared with a vision that anticipated every pitfall, every danger that would beset us. It might have been written on the 5th day of this month. It might have been written with full knowledge of what was in the Presidential mind when he sent his message to Congress. Yet this warning was given the American people nearly 150 long years ago. The writer in that message foresaw just such an attempt to take from the people the right, which is their right alone, to change the fundamental law of the land when the President asked of Congress the power to control the Supreme Court of the United States.

The very name—Supreme Court—signifies, as the founders of the Republic intended, the final arbiter of the Nation's fundamental law. To discredit the Court is, in fact, to destroy both it and the Constitution itself, which when destroyed, the only protector, the only haven of refuge of the weak and the oppressed, disappears.

As more mature thought and deliberate consideration follows the shock of the Nation at the President's proposal of February 5 to change by subterfuge and indirection the form of our constitutional Republic, it becomes clearer day by day—I might almost say hour by hour—that Mr. Roosevelt has brought this Nation face to face with the necessity for the gravest decision that has faced it in its history.

As information accumulates regarding the particulars of the President's proposal, it becomes the inescapable conclusion that the essence of his plan is to change our constitutional Government, not by the constitutional method of an amendment submitted to the people for their deliberate consideration and for their approval or disapproval, but by the use of subterfuge, which Washington warned against when he said, "Beware of amendment by usurpation."

He also said:

> If, in the opinion of the people, distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

History is the voice of the accumulated wisdom of mankind, which has grown out of experience down the ages. There is no possible way in the human scheme that we may safely chart the future course except by turning to the past and reading there the lessons which history teaches. It ought not to be forgotten that civilization has existed for many thousands of years, and that our civilization of today is the culmination of the progress and mistakes, particularly the mistakes of those in the past.

The history of that civilization shows that we have not a single problem today in this Nation that is new to mankind. History shows, too, that every device of trying to solve those problems by seeking to evade the right solution, by trying to create new fundamentals of government and economics, has failed, has enslaved the people, and in the end wrecked the nations and retarded civilization.

For that reason, it seems to me that to turn to the historians, to the Founding Fathers, to the students of government at this time, in viewing this question, is perhaps the soundest, wisest way in which we can get a true perspective of the President's proposal. Therefore, I have gone to history for its verdict on an independent judiciary:

> Suppose a Congress and President bent on doing something which the Supreme Court deems contrary to the Constitution. They pass a statute. A case arises under it. The Court, on the hearing of the case, unanimously declares the statute to be null, as being beyond the powers of Congress. Congress forthwith passes and the President signs another statute more than doubling the number of Justices. The President appoints to the new justiceship men who are pledged to hold the former statute constitutional. The Senate confirms his appointments. Another case raising the validity of the disputed statute is brought up to the Court. The new Justices outvote the old ones; the statute is held valid; the security provided for the protection of the Constitution is gone like a morning mist.
>
> What prevents such assaults on the fundamental law—assaults which, however immoral in substance, would be perfectly legal in form? Not the mechanism of government, for all its checks have been evaded. Not the conscience of the Legislature and the President, for heated combatants seldom shrink from justifying the means by the end. Nothing but fear of the people, whose broad good sense and attachment to the great principles of the Constitution may generally be relied on to condemn such a perversion of its forms (American Commonwealth, pp. 269–270, Ed. 1888).

The above quotation from American Commonwealth might well have been written yesterday, but the author, James Bryce, penned it more than 50 years ago.

In describing the benevolent autocrat, Daniel Webster has perhaps better stated the case than anyone else, when a century ago he declared:

> It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions, real or pretended. * * * There are men in all ages who mean to exercise power usefully, but who mean to exercise it. They mean to govern well, but they mean to govern; they promise to be kind masters, but they mean to be masters. They think they need but little restraint upon themselves. Their notion of the public interest is apt to be quite closely connected with their own exercise of authority. They may not, indeed, always understand their own motives. The love of power may sink too deep in their own hearts even for their own security and may pass with themselves for mere patriotism and benevolence.

Still further did James Bryce clearly see the present situation as it has arisen:

> The fathers of the Constitution were extremely anxious to secure the independence of their judiciary, regarding it as a bulwark both for the people and the States against aggressions of either Congress or the President. They affirmed the life tenure by an unanimous vote in the convention of 1787, because they deemed the risk of the continuance in office of an incompetent judge a less evil than the subserviency of all judges to the legislature (or the executive), which might flow from a tenure dependent on legislative (or executive) will. The result has justified their expectations. (American Commonwealth, pp. 226–227.)

Equally as clearly did our own Judge T. M. Cooley see this situation when he wrote in the International Review of January 1875 these words:

> The gloss of zeal for the public service is always spread over acts of oppression, and the people are sometimes made to consider that zeal as a brilliant exertion of energy in their favor which, when viewed in its true light, would be found a fatal blow to their rights. In no government is this effect so easily produced as in a free republic; party spirit, inseparable from its existence, aids the illusion, and a popular leader is allowed in many instances impunity—and sometimes is rewarded with applause for acts which would make a tyrant tremble on his throne.

The essence of this whole proposition was stated by Bryce in American Commonwealth, when he said:

> The Supreme Court is the living voice of the Constitution—that is, of the will of the people expressed in the fundamental laws they have enacted. It is, therefore, as someone has said, the conscience of the people, who have resolved to restrain themselves from hasty or unjust action by placing their representatives under the restriction of a permanent law. It is the guarantee of the minority, who, when threatened by the impatient vehemence of a majority, can appeal to this permanent law, finding the interpreter and enforcer thereof in a court set high above the assaults of factions.
>
> To discharge these momentous functions the Court must be stable, even as the Constitution is stable. * * * It must resist transitory impulses, and resist them the more firmly the more vehement they are. Entrenched behind impregnable ramparts, it must be able to defy at once the open attacks of the other departments of government, and the more dangerous, because impalpable, seductions of popular sentiment.

In his philosophy of government, to which the President has now given us the key in his proposal to alter the Supreme Court to assure an interpretation of the Constitution in accordance with his desires and purposes, we see foreshadowed, where it is not already accomplished, the breakdown of that system of checks and balances established by the founders of the Republic. We see a determination to dynamite that perfectly proportioned political structure which has been America's greatest contribution to the science of government, and which was specifically designed to prevent

the creation of "instruments of public power" which imply so much of peril to the freedom of our people. Wise old Ben Franklin once said:

Who gives up liberty for security will in the end find that he has neither liberty nor security.

This is not a partisan question. It involves a decision which is fundamental, not alone in the life of this Nation as a constitutional republic but because it will vitally affect every man, woman, and child now living and who shall hereafter live in this country. It is for this reason that I have taken recourse, not to the heat of argument of today but to the dispassionately considered, clear verdict of the greatest thinkers, the greatest patriots, the wisest men of the past.

Thomas Jefferson, Madison, Washington, Lincoln, Adams are authorities who could be quoted along exactly these same lines, with almost these same expressions.

Are the people of today going to profit by the experience of civilization all down the tens and hundreds of centuries? Are they, by their alertness at this time, and by their demand that the foundations upon which the greatest Government of them all has been built, shall be preserved and not destroyed by the Congress? It remains for them to decide.

Our National Defense

EXTENSION OF REMARKS

OF

HON. J. BUELL SNYDER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 22, 1937

RADIO ADDRESS BY HON. J. BUELL SNYDER, OF PENNSYLVANIA, FEBRUARY 19, 1937

Mr. SNYDER of Pennsylvania. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

These are troublesome times. In the Far East we have seen a great nation beset by aggressors from without and torn by dissension from within, its ruler recently kidnaped and forcibly detained by the military governor of one of its provinces. Another nation, seeking its place in the sun and expanding to the west and south by both peaceful and forceful means, maintains a navy second to none in its own waters, and an army recruited by universal military service to a strength sufficient to overcome all opposition. To help support this great national effort, all who earn $10 or more per week must now pay income taxes.

In the area not far from the Holy Land a peaceful and independent nation has, within the past year, been conquered and made a dependency of one of the great military powers of the world. This conquest was accompanied by sanctions, fleet concentrations, and air maneuvers. For a time, this military struggle threatened the peace of at least the whole of Europe, if not the major portions of the world.

Today in southwestern Europe we see a nation, once the richest and most powerful on the face of the earth, involved in bitter civil war, the ramifications of which, on more than one occasion, have barely missed involving all the great nations of Europe in another major conflagration.

Recently in our own hemisphere two nations signed a truce and agreed to arbitrate their claims to a territory which each felt was its own. After many months of negotiation the division of territory is still unsettled. Will these nations finally accept a negotiated peace or will they again resort to arms?

Yes, my friends, the millenium has not arrived. We have not as yet seen the last of the great world conflicts. But throughout all the recent disturbances which I have just outlined we have increasingly manifested our desire for peace. We as a Nation are satisfied with what we have. We do not covet power. We do not covet riches. We do not want any more territory.

You are asking, "How can we continue to enjoy the blessings of peace? How can we avoid being embroiled in the disputes of foreign nations? These are the questions uppermost in the minds of our citizens.

Feeling as the people of the United States do, it is believed there are only two ways in which we may become entangled in a dispute:

First, we might be enticed into a conflict.

Second, we might be forced into a conflict.

To prevent us from being enticed into any conflict whatsoever, we must rely on the statesmanship of our people and their leaders. This has already been manifest in concrete form in many ways. We have decreed that the lure of individual profit shall not embroil us in another world conflict. We have asserted that individuals who for their personal convenience become involved with either belligerent, shall not thereby involve our whole Nation. We are the foremost nation in the world in advocating peace.

We have entered into sound treaties of friendship, good-will, and international trade agreements: All to assist the nations of the world in the maintenance of peace, to assure them that our intentions are not imperialistic, and to demonstrate to them that armed participation in the forceful settlement of their disputes has no allure for the people of the United States.

Now as to the means of preventing the Nation from being forced into a foreign conflict I am satisfied there is only one practical way to accomplish this: We must maintain our national defense forces sufficiently strong so that other nations will think twice before they choose to encroach upon our shores. We were forced into the World War by the Central Powers because of our apparent unpreparedness; they felt our tremendous latent power could not be brought to bear against them before they had victoriously ended the conflict.

Unfortunately for them, our Nation responded more rapidly than they had calculated.

But, also unfortunately for us, was our lack of preparedness that cost us thousands of lives, millions of dollars, much suffering, and an economic distress which has not as yet ended.

I believe I truly express the sentiment of the overwhelming majority of our people when I say that we must have a national defense strong enough to make any nation think twice about the advisability of attacking us on our shores, or attempting to force us into a conflict which many think is about to begin or is already in progress on foreign fields and shores.

We should have a Navy second to none. We should have an Army sufficiently powerful to carry out the national policies which I have just enumerated. Both Army and Navy must be equipped with modern appliances and each must be supported by a strong air component for which our would-be despoilers would have an intense fear.

The Washington and London naval treaties automatically terminated on December 31, 1936. Nevertheless, the plans evolved for our Navy under the provisions of these treaties and enacted into law in 1934 are still our objectives. It is not proposed to depart from them unless we are forced to do so by the action of some foreign power.

New naval vessels will be built to replace old ones. In the categories where there are deficiencies, the deficiencies will be made up. Practical adaptations of modern science and invention will be installed wherever possible. Skilled personnel will be provided to operate this improved equipment.

Briefly, then, an efficient treaty Navy is our goal, and the President has recommended that Congress make a reasonable appropriation to assure progress at a conservative rate during the next fiscal year with reference to our land equipment for national defense.

Our continent can now be crossed by air in 7½ hours. Regular air lines make the trip between New York and San Francisco in 21 hours. Think what this means to national defense.

Our air force, if properly located near the center of our country and equipped with modern planes, could reach either coast in 12 hours; or, if located on one coast, could reach the other in 24 hours. For effective defense our Army air force must be composed of at least 2,300 modern planes. (I personally think it should be composed of 3,600 modern planes.) Of course, we are rapidly equipping adequate air bases and providing for a sufficient number of appropriate landing fields.

Progress in the development of the motor vehicle compares very favorably with that of the airplane. In fact, the speed of the automobile has advanced so far that thought has been given to equipping the engines with governors. Rather than throttle the engines and retard progress, would it not be far better to remove the obstacle? Why not construct our roads so that they will be safe at increased speeds? I strongly advocate 40- to 60-foot highways between our great centers of population, and in particular do I advocate three 60- to 80-foot transcontinental highways over which in times of peace the products of farm, home, factory, and mine can be transported to market. And in an emergency, our motorized, mechanized, highly mobile Army can be quickly moved to the place where the emergency exists.

The plans for our national defense developed by the active elements of our Army and supported by the National Guard and Organized Reserves, are eminently sound. The Reserve Officers' Training Corps and the Citizens' Military Training Camps are strong bulwarks of adequate preparedness. The annual rifle matches conducted by the national board each year promotes efficiency and are most commendable. Above all, however, we must continually strive to equip our forces with the latest developments of science, invention, and industry.

The thought has frequently been advanced that seacoast defenses are no longer needed; that the defense of our critical coastal cities and bases should be entrusted to mobile elements. However, the surest and most economical way to protect seacoast areas from attack from land, sea, and air is to have modern seacoast defenses installed at strategic points. These stationary defenses would keep the enemy from the front door, while the mobile forces would prevent him from attacking from the flank and rear. I have examined some of our plans for seacoast defence and have personally visited the majority of the Coast Artillery installations. I am convinced that we must do two things:

First, we must continue the thorough modernization of existing appliances.

Second, we must provide additional long-range and anti-aircraft equipment.

We simply cannot take chances with our vital coastal cities. If an emergency should arise, we should be able to put at least 600,000 men in the field without undue delay. Our Regular Army and National Guard, numbering in all about 370,000, should have in their hands right now sufficient modern equipment to insure effective opposition to those who would attack us. For the remainder who first respond to their country's call, modern arms, uniforms, and equipment should be on hand. There would be no time to manufacture them when the emergency is upon us. We should have adequate equipment at all times in storage ready for issue if the storm should break. I have no doubt but that the mothers of the Nation would want their first defenders adequately outfitted with up-to-date armament and equipment if a conflagration should break upon our shores.

Contrary to what many people think, labor, industry, and capital coordinate their efforts with the Government in a set-up of national defense.

As I indicated at the beginning of my talk, these are troublesome times. The program for our national defense which the President has presented to Congress in his Budget for the fiscal year 1938 is a modest one indeed. It provides only for the strength already authorized and continues our modernization, motorization, and air programs at a most conservative rate. It provides for little more than the bare needs of our national defense.

It is our duty to support this program or a similar program in behalf of our national defense.

Washington's Monument

EXTENSION OF REMARKS

OF

HON. JOHN E. RANKIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 22, 1937

RADIO ADDRESS OF HON. JOHN E. RANKIN, OF MISSISSIPPI, DELIVERED UNDER THE AUSPICES OF THE DAUGHTERS OF THE AMERICAN REVOLUTION ON WASHINGTON'S BIRTHDAY, MONDAY, FEBRUARY 22, 1937

Mr. RANKIN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

My fellow Americans, 4 minutes have been allotted to me to discuss one of the greatest subjects of all time—Washington's Monument.

That gigantic obelisk on which we daily look out from the Nation's Capitol is merely a symbol of that monument which Washington left us in the form of this great Republic—the hope of civilization—which we trust will endure for ages yet to come.

It also symbolizes that monument which his memory has implanted in the hearts of all true, patriotic Americans.

The monument which we see is emblematic of the life and character of our Nation's first citizen. It is a towering finger of rectitude continuously pointing heavenward, indicative of the unblemished character of the Father of his Country.

It is plain to the point of severity—not even bearing upon its surface the name of the individual whose life it is designed to commemorate, for the simple reason that no name is needed. Everyone who looks upon it knows instinctively whose life it represents. It towers above all other monuments, as Washington's character towered above the undulating mass of humanity. It is square in its construction, indicative of a life that stood foursquare to all the world amidst the turmoil, confusion, and strife of the great upheavals of his day.

It is the same in times of war, when about its base are gathered the patriotic forces of the Nation going forth to fight for the principles which he sustained; it is the same in times of peace when those forces have melted back into the walks of private life and affectionately gather about it to celebrate the dawning of a better day.

Amidst the snows of winter, it forcibly reminds us of that majestic figure at Valley Forge; while in the heat of summer the children of a new generation playing beneath its shade, remind us of the matchless blessing which his heroic sacrifices in times of war enable us to enjoy in times of peace.

Amidst the fury of the storm, it stands as a protecting sentinel,

"As some tall cliff that lifts its awful form,
Swells from the vale, and midway leaves the storm—
Though round its breast the rolling clouds are spread,
Eternal sunshine settles on its head."

It reminds us of that flag which, waving amidst the smoke of battle, inspired the writing of The Star-Spangled Banner.

And when the storm has passed, when the night of tempest has yielded to the dawn, it catches the first faint rays of the morning sun and cheers the world with a radiance more inspiring than Memnon's morning song.

Thus the symbol of America's greatest patriot, like his life itself, continuously points the way for succeeding generations of Americans to arrive at the accomplishment of the greatest good for all; emblematic of that character which in sunshine and in storm, in peace and in war, in youth and in age, in public and in private life, stood

"* * * constant as the northern star,
Of whose true-fix'd and resting quality
There is no fellow in the firmament."

The Lesson of John Marshall

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Tuesday, February 23, 1937

ADDRESS OF HON. ALBEN W. BARKLEY, OF KENTUCKY, BEFORE THE ANNUAL BANQUET OF THE FEDERAL BAR ASSOCIATION, WASHINGTON, D. C., FEBRUARY 22, 1937

Mr. ROBINSON. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address delivered by the Senator from Kentucky [Mr. BARKLEY] yesterday evening, February 22, 1937, at the banquet of the Federal Bar Association, Washington, D. C., on the subject The Lesson of John Marshall.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Toastmaster, I deem it a high honor to be accorded the privilege of addressing this association of lawyers in the Nation's Capital.

Having been for a number of years an active practitioner in the courts of my State, and having for a term been a subordinate judge, and being now a member in good standing of the Bar Association of Kentucky, I am not a total stranger in the company of the legal profession.

The history of the American bar, as indeed of all bars, has been a record of cross-currents in both service and conduct among the members of the profession. It has given to the history of the Nation some of its greatest minds, some of its most courageous leaders in the cause of democracy and political emancipation. It has given to the Nation some of its most luminous intellects in the cause of economic justice.

On the contrary, the profession has often been pictured in terms of ridicule and opprobrium because of the misconduct of a few of its members who failed to appreciate or uphold the high standards which should be indispensable in the practice of law and in the administration of justice.

I venture to assert, however, that taken as a whole, measured by the standards of honesty and fidelity to professional ethics and public welfare which we set up for all who would claim to be worthy of American traditions, our profession will register its full share of that contribution to the enjoyment of "life, liberty, and the pursuit of happiness" which has been the goal of our national life from its inception.

The Constitution of our country separates the powers of our Government into three great branches—the legislative, the executive, and the judicial. But there is a fourth branch, not mentioned in the Constitution nor in the statutes, but which is as potent and vital a factor in the administration of government as any of those enumerated—the profession of the law.

For law is the very essence of government and of politics. Men may agitate and declaim; political platforms may promulgate and pronounce; the people may renounce and resolve upon every conceivable subject which commands their interests; but unless their crystallized opinions are translated into law through legislation, interpreted and applied through courts, and executed through the force and power of administration, there is no government and no ordered society anywhere.

In this process the lawyer occupies a preeminent station in the administrations of government, as he ought to occupy such a station in public esteem. To millions of our people the most intimate contacts with government are those which occur in the courthouses of the Nation, before the courts and the juries where vital human rights are weighed in the scales of justice and where lifelong impressions of "government" are formed by those who participate as well as those who merely observe the processes of democracy in their relationship to the people.

While it is true that leadership in the great social and political movements designed to enlarge the welfare of the common man

has frequently come from the legal profession, nevertheless the profession as a whole has too often lagged behind the rest of society in catching the spirit of any new freedom which might brighten the horizon with expectant hope, especially if that new freedom and that expectant hope brought into sharp array so-called property rights and so-called human rights.

I take it for granted that your association, made up for the most part of those who are associated with the Government in its legal divisions and who feel some measure of responsibility in keeping constantly before you the great objectives of popular government is more calculated to appreciate the necessity for sympathetic understanding and approach for every apparently new proposal advanced in the name of government than is possible among those who represent great private interests which may be antagonistic to the extension or exercise of power with respect to their own operations.

In view of the universal celebration of this day as the birthday of Washington, without whose great service to American liberty this Nation might today be a province of Great Britain, I have thought it not inappropriate, in these days of great issues and great consequential possibilities, to draw a lesson or two from the life and the career of one of Washington's most devoted followers and friends—John Marshall.

Neither time nor inclination permits me to indulge in an extended comment on the life or the character of this great lawyer and great American. I have in mind more the part which he played in the development of our constitutional system and our broad conceptions of national life.

I have no purpose to enter into any of the controversies which aroused men of great genius for government in the days of Marshall. But that he laid the foundation of national power, that he planted that foundation deep in the soil of urgent national necessity, and that he could foresee the coming of a day when there would be many more problems confronting the people with which the Nation must deal as a nation is so obvious from his course as Chief Justice of the Supreme Court that there can be no question with respect to his conception of our Government as a united nation.

It is difficult sometimes to arrive at a definite conclusion concerning the fierce controversies which raged among the people and among the States following the Declaration of Independence, during the Revolutionary War, during the life of the Articles of Confederation, during the Constitutional Convention, and during the years which immediately followed its adoption. Some of those who helped to write it subsequently changed their views as to its meaning. The Madison of 1816 was not the Madison of 1787. The James Madison who fought to include in the Constitution the definite authority for Congress to nullify the acts of legislatures was not the same Madison who later in the turmoil of political contests sought in a measure to minify the power of the Federal Government with reference to State legislation.

John Marshall had been close to the side of Washington in the Revolutionary War. He had fought in many of the battles of that war and had undergone the rigors of Valley Forge. He had witnessed the growing jealousies and controversies arising among the States, and he had deplored their efforts to place embargoes and restrictions of every kind upon the commerce of their neighbors. He had witnessed the ineffectiveness of the Articles of Confederation, and he realized that if this were to become a great, united, powerful nation, capable of dealing with the growing complexity of life, the Federal Government must be supreme in the field which it attempted to occupy.

It was because of this conviction that under his leadership and through him the Supreme Court held that a State could not tax an agency of the Federal Government. He realized and was first to declare that power of taxation is the power to destroy, and that if a State could tax an agency of the Federal Government it might destroy that agency and ultimately result in total impotence on the part of the National Government whose Constitution, laws, and treaties were declared to be the supreme law of the land.

It was because of his realization that a nation could not be composed of a group of warring, jealous States, each seeking to handicap and destroy the commerce of its neighbors that the Supreme Court, through him, decided that the power of the Federal Government over commerce among the States was an exclusive and superior power which could not be interfered with by the effort of any State to interfere with the free flow of commerce among the States by granting a monopoly upon the navigable waters to a single corporation or to any group of corporations.

It was because of his feeling that over the long period of years which he expected to mark the future history of the American Nation, the problems confronting the American people would become increasingly difficult and complex that he declared in one of his opinions that the Constitution of the United States should not only be interpreted in the light of the intention of its framers with respect to existing conditions, but that it should be so interpreted as to make it available for the solution of future problems that might arise in any future crisis in the history of the Nation.

In the laying of this foundation for national supremacy, Marshall came into sharp conflict with many of the men of his day. One of those men was his distant cousin, Thomas Jefferson. These conflicts were not only legal in their aspect but they were political as well, and it is an interesting fact to note that not only James Madison, over a period of nearly a generation following the adoption of the Constitution, changed his views with respect to its meaning, but it is also an interesting fact that Jefferson himself changed his attitude with respect to the powers of the Federal Government after he was clothed with authority as President of the United States.

Even where he felt the power did not exist, he advocated its creation.

One of the first questions that arose under the new Government was the power of Congress to expend money for internal improvements such as the building of highways, the deepening of harbors, and the improvement of rivers for purposes of navigation. Jefferson vetoed an act appropriating money for this purpose on the ground that Congress had no such jurisdiction under the Constitution. But he was so anxious that the Federal Government should have such authority that he urged the submission of an amendment to the Constitution clothing Congress with this power. Monroe, Madison, Jackson, and James K. Polk all vetoed similar measures on the same ground.

Yet under the doctrine laid down by Marshall that Congress not only has the power to regulate the actual transportation of a commodity in commerce, but likewise has the power to regulate and control the instrumentalities of that commerce, it has been the settled policy of this Nation for nearly a century to engage in the improvement of rivers and harbors and for more than a quarter of a century to engage in the construction of highways affording easier and more comfortable transportation facilities among the several States of the Union.

It was under the broad doctrine laid down in the case of Gibbons against Ogden which undertook to strengthen the power of the Federal Government over the instrumentalities of commerce among the States that the Federal Government has since occupied the field of such regulation not only with respect to steamships but to railroads, motor vehicles, telegraph, telephones, wireless, and radio systems and all means of communications and transportation dealing with the complex commercial life of this Nation. It was in part because of that broad foundation that the Federal Government became engaged in the regulation, control, and inspection of the meat-packing industry, and the food and drug industry affecting the life and health of the people of the United States.

Marshall realized that his judicial attitude with respect to these matters would and did involve him in bitter political controversies, for Marshall was a politician as well as a judge. He had served in various capacities in the State of Virginia. He was a member of the convention that ratified the Constitution in that State, which was brought about by only a majority of 9 votes out of a total of 165, largely through his influence and that of Washington, who was himself not a delegate. He had served as a Member of the House of Representatives from the Richmond district in the State of Virginia. He knew enough about the unsettled state of public opinion, as well as the efforts of local and provincial politicians, to stir opposition among the people to any National Government that might remotely affect State control of matters that were even national, to realize that there would be fierce political criticism as a result of his judicial opinions. Moreover, it was frequently necessary for Marshall to answer some of the principles of constitutional construction with reference to Federal power in the particular law suits before him for decision. Many of his most important pronouncements were merely obiter dicta, but frequently the obiter dicta in a previous case became the meat of the decision in a subsequent case. Thus we find Marshall projecting his mind into the future in order to lay the ground work for the decisions which he realized must arise in determining the extent of national power in dealing with questions that were national.

This criticism laid lightly upon the mind of John Marshall as it should with all men charged with official duty and responsibility. Schooled as he was in the hardships of Valley Forge and in the give and take of legislative debate and controversy in the courtroom, he possessed to an extraordinary degree a serenity of mind that clothed his acts with confidence. He not only did not wince at criticisms of his judicial views of the Constitution, but he welcomed them because they gave him an opportunity and a zeal for expounding his theories more elaborately than would otherwise have been necessary in order that the people might have an opportunity to pass judgment upon the wisdom and propriety of these important judicial and constitutional questions. He adhered to the position, which seems to me to be the proper one that judges, whether elective or appointive, should not be exempt from criticism. Judges have never been exempt from criticism or controversy except under the forms of absolutism in a government where free speech is unknown.

We are today dealing with and considering questions pertaining to the judiciary, and controversies raging around the immediate proposal recently submitted are of such a nature as to make one believe that they are novel and unheard of and that they expect some new evil turned loose among the people calculated to produce critical estimates of our judges and their decisions, but in this connection it might be well to remember that in 1821 one of my predecessors in the United States Senate from the State of Kentucky, Senator Richard M. Johnson, proposed an amendment to the Constitution intended to substitute the United States Senate for the Supreme Court in the determination of all constitutional questions; and in advocating his amendment on the floor of the Senate he stated: "Judges are made of no better clay than other folk." "Why, then", he asked, "should they be considered any more infallible or their decisions any less subject to investigation and revision?" Furthermore, he said: "Courts like cities and villages or like legislative bodies sometimes have their leaders, and

it may happen that a single individual will be the prime cause of a decision to overturn the deliberate act of a whole State or of the United States; yet we are admonished to receive their opinions as the ancients did the Delphic oracle or the Jews with more propriety the communications from Heaven delivered by Urim and Thummim to the high priest of God's chosen people."

Marshall was Chief Justice of the Supreme Court when these sentiments were uttered by Senator Johnson. The constitutional amendment which he proposed and the speech which he delivered in support of it grew out of his criticisms and opposition and that of large numbers of people to the position taken by the Supreme Court, and while we are yet free to disagree with the Supreme Court in its constitutional pronouncements, I think we are more ready to agree that it would have been a serious mistake to have substituted the United States Senate for the Supreme Court in the final adjudication in the controversies arising under the Constitution. Such an amendment would have destroyed the independent character of the three branches of the Government. It would have placed the Senate in the embarrassing position after enacting a law of passing upon its constitutionality, and the doctrine of "stare decisis" as applied too rigorously in the courts would have had a counterpart in the Senate in the doctrine of standing by the previous vote; for it would be difficult to imagine a Senator who had voted for a law subsequently voting to declare it unconstitutional.

Upon what, therefore, does the fame of John Marshall rest? He was, in fact, the fourth Chief Justice of the Supreme Court, but his fame as the interpreter of the Constitution looms so largely in our history that most people look upon him as really the first Chief Justice. Why does the legal profession and the great body of the American people who are familiar with our history esteem Marshall almost above any other Chief Justice or all of them combined? Is it because in a single case he held an act of Congress to be beyond its powers? I think not. For this was the only case in his long career of 34 years on the Supreme Court when his court made such a declaration. Is it because he may be regarded as having saved the people from an autocratic Congress or Chief Executive? I believe not. For during all his long career his course in no case invaded the legislative sphere. He had himself at one time been a Congressman, as I have already stated, and he had a very high regard for the responsibility of each branch of the Federal Government.

What then is the explanation for his supreme place in our constitutional history? The explanation lies in the fact that he was the torch bearer in the early construction of our Constitution. He made the Constitution a living, moving, breathing thing. He made it a workable instrument of government instead of a dead letter without power or meaning. He molded it to the needs of the people and the times through which they were passing. It was one of his cardinal principles that "It is a constitution that we are expounding." Therefore I venture to prophesy that if John Marshall were living today and occupied the same position which he held for 34 years he would not hesitate to hold the power of the National Government to be sufficient under the Constitution to prevent the collapse of our economic and social institutions and place the arm of the Federal Government at the pilot wheel of our ship of state, to bring order out of chaos and hope to the depressed spirits of millions of American people.

The Supreme Court has not pursued a straight line since the days of Marshall in the construction of our Constitution. There have been ebbs and flows in the tide of judicial continuity in the approach of the Supreme Court to the problems of modern life and with respect to their solution.

Following the death of Marshall and the appointment of Chief Justice Taney, there was a veering from the philosophy of Marshall, though it was not sufficient to nullify materially the influence of Marshall's decisions upon the action of the Court. Following Chief Justice Taney throughout the history of the Supreme Court there have been from time to time closer approaches and wider departures from the philosophy of Marshall's constitutional interpretations. We are in the midst of one of those departures from the philosophy of Marshall at this time. While Marshall sought to cement, to establish and strengthen the power of the Federal Government in dealing with problems under its jurisdiction, the more recent course of the same Court has been to find ways by which to nullify the powers of the Federal Government in dealing with problems that are national in their scope.

If I may inject the political note into this discussion, I will remind you that the two chief political parties in the United States during recent campaigns for the Presidency announced that the agricultural problem was a national problem and promised to deal with it in a national way, but the Supreme Court, in nullifying the only effective effort recently made by Congress to deal with agriculture in a national way, held that Congress had no such power, but that this was one of the indefinite powers left to the States and to the people. They held that Congress had no national power to deal with wheat, corn, cattle, and tobacco grown in a large number of States and presenting an identical problem in all of them, but the power to deal with this national problem existed only in the local jurisdictions of the respective States. Such a decision so offended the sense of propriety, and judicial as well as historical accuracy, that one of the distinguished Justices who dissented from this view described it as a tortured construction of the Constitution. The limits of time forbid that I should enter into any detailed discussion of the remedies now being proposed for this intolerable situation, whether by changing the Constitution to conform to the Court or changing the Court to conform to the Constitution. But if by legislative enactment, as well as judicial interpretation, our people long since abandoned the theory of Jefferson and Madison and Monroe and Jackson and Polk that Congress had no power to appropriate money for internal improvements, is it too much to hope that in the interpretation of other powers of Congress vitally affecting the welfare of our social and economic fabric the courts may approach the problem with the same degree of liberality with which they approached an infinite number of other problems which have been worked out under our Constitution?

Nor should we grow alarmed if there is widespread disagreement among the people and among lawyers over the correctness of the Court's interpretation. It is folly to assume that judges are greatly different from other human beings. It is folly to assume that they are not actuated on the bench and frequently controlled by their previous educational environment as well as their economic outlook. It is folly to suppose that any judge can obliterate and dissever himself from his legal associations, and lawyers in the private practice of their profession are as much divided in their outlook on economic and political problems as are judges on the bench; but what I object to is the assumption that where a court by a vote of 5 to 4 or 6 to 3 decides an act of Congress to be unconstitutional those who agree with the 4 or the 3 instead of the 5 or the 6 should be regarded as traitors to their country and as desiring to undermine the faith of the people in the courts or in the Constitution.

It is likewise folly to assume or expect that any President, in appointing men to the bench, will not take account of their background, as well as the liberality or narrowness of their approach to questions arising under the Constitution.

When Abraham Lincoln was considering the appointment of two men to the bench he made the statement: "It is essential that men shall be appointed who will sustain what has been done with respect to emancipation and legal tender." Was this an effort to pack the Court or was it merely an effort to select Judges whose minds would not be closed in advance to the determination of these questions in the light of their enactment and their necessity?

When Woodrow Wilson was about to appoint a man to the Supreme Court I was a member of the Kentucky delegation which called upon him to appoint a distinguished Kentucky lawyer to the position. When we had all expressed our opinion and made our recommendation President Wilson said: "Gentlemen, does your candidate believe that the law grows, or does he take the legalistic view that it is finished?"

In that question he revealed the type of man whom he desired to appoint to the Supreme Bench. He did not ask us how he would decide any given case. He would have scorned to have inquired of the candidate himself, and the candidate would have scorned an appointment under such circumstances. President Wilson desired to appoint a man who in the complexity of modern life, in the fierce conflicts of commerce and of industry, in the bitter struggle of men and women for economic advancement and equality, would not be impervious to the absorption of a modern and liberal outlook in the determining of the rights and privileges of the American people under our constitutional system. Was he trying to pack the Supreme Court, or was he merely seeking to provide a constant flow of fresh water into a stagnant judicial pool?

My theory of government is that we can no more operate a national government in this modern day in the precise pattern which it assumed a century and a quarter ago than we can operate our industrial and agricultural enterprises as they were operated a century and a quarter ago. Any farmer would spurn to harvest his wheat with the old-fashioned cradle and thresh it with a ground-hog thresher of two generations ago. The industrial organizations of the Nation would scorn the methods of production which were in vogue even a generation ago. The science of medicine and of surgery as fashioned upon the primitive operation performed by Dr. McDowell would be scorned today. To say this does not in any way minimize the greatness of his skill or the magnificent contribution be made to American surgery, but no afflicted American would be willing today to submit to an operation under similar circumstances in the face of the most modern appliances known to the skill of the surgeon. Education and religion have moved forward.

Must we admit that in the midst of improvement and advancement and a wider application of the knowledge of man in the solution of the problems that beset mankind in its private capacity only Government remains tied to the hitching post of antiquity, immovable and irresponsible? I do not subscribe to such a theory, and, though I am a lineal political descendant of Thomas Jefferson and believe that he wrought more nobly than any political philosopher of his or any day in the attainment of popular rights, I rather choose to follow Jefferson, the President, in some respects as against Jefferson, the theorist. I prefer to follow the Jefferson who, after the maturity of years, after he had held every office almost within the gift of the people, said that the Constitution should be the instrument for the guidance of the living; that this country belongs to the living and not the dead; and that no past generation had any more right to bind and fetter the spirits and souls of the present generation than we have to bind and fetter the souls of those who are to come after us.

I believe that the Constitution of the United States is a living, moving, vital instrument of government, not to be preserved in a museum but to be preserved by a fair and liberal interpretation of its powers, as well as a progressive and sane interpretation of its implied powers. In other words, John Marshall, in laying the foundation of our constitutional history, sought to find legitimate ways in the meaning of the Constitution for the solution of the national problems of the American people. In more recent days the Federal courts have sought to find technical and obstructive ways by which to prevent the exercise of the power of the National Government in a field where it must be exclusive; and has even gone to the

extent of holding that even a State cannot in some light exercise the power which it has denied the Federal Government. This peculiar judicial situation has brought to the doorstep of the American people a controversial method by which to tear loose from the dead hand of antiquity and to render our Constitution more in keeping with the needs of modern life and the solution of modern problems as Marshall himself sought to do, and as he predicted our Constitution would be compelled to do if it were to remain a charter in which the people would retain their confidence and their faith. In approaching these problems let us as lawyers justify the dignity of our profession, and let us justify the leadership which it ought to assume, and let us rekindle and restrengthen the faith of the public in the legal profession because it seeks to find legitimate ways by which things may be done that are necessary to be done rather than spending our lives in a technical effort to obstruct every progressive movement which makes it possible for the American people to work out their problems under an ordered society and under the processes of democracy.

Peace in Terms of National Defense

EXTENSION OF REMARKS
OF
HON. WILLIAM H. DIETERICH
OF ILLINOIS
IN THE SENATE OF THE UNITED STATES
Tuesday, February 23, 1937

RADIO ADDRESS BY HON. DAVID I. WALSH, OF MASSACHUSETTS, ON FEBRUARY 22, 1937

Mr. DIETERICH. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered over a National Broadcasting Co. network on Monday night, February 22, 1937, by the Senior Senator from Massachusetts [Mr. WALSH] on the subject of George Washington and Peace in Terms of National Defense.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

On this national holiday, which we have been observing today, every American citizen who loves his country and who is worthy of his heritage has had on his lips the name of George Washington and in his heart profound sentiments of admiration and gratitude.

Tonight it is my purpose to speak to you of Washington and to recall some of the circumstances and events of his day, and then to discuss the subject of peace in terms of naval defense. Washington and the others who founded our Republic and whose memories we revere had their problems. We have ours. But in some respects, despite the interval of a century and a half, their and our problems, purposes, and objectives are basically identical.

When Washington took control of the Army in 1775 there were less than 3,000,000 men, women, and children, black and white, in the Thirteen Colonies. Most of them were dependent on the toil of their own hands for their bread and shelter. Many winters some of them went hungry. Wood was their only fuel. Medical care was scarce. Schooling was rudimentary. Travel was slow and fraught with hardship and danger. Of recreation, as we know it today, there was none. Yet, except for their political grievances against the royal governors and the mother country, they regarded themselves as contented and prosperous. They did not complain of their lot nor grumble about hardships. They were accustomed to gather in their churches and render thanks to their Creator for his many blessings and mercy. They were God-fearing and God-trusting men and women, who found peace and contentment in steadfast reliance upon the Creator.

Today we have an aggregate national wealth represented by stores of gold, and other valuable resources far beyond the imagination of King Solomon. We have fine highways, free schools, libraries, hospitals, playgrounds, and public beaches. To be sure, we have unemployment. Poverty has not yet been abolished. Admittedly, we have deep and grave social and political problems with which to deal. I do not want to seem to minimize them, but I submit that all of our present-day troubles are small in comparison with our blessings; that our personal hardships are as nothing when compared with these so bravely endured by our forefathers.

One fundamental and priceless treasure, however, was possessed by George Washington and his compatriots which, for the most part, we today seem to have lost—that is the sustaining comfort of belief in the highest guidance and the protecting power of an omnipotent God.

Any comparison between the present and Washington's period that is not superficial will reveal the fact that the spiritual resources of strength, inspiration, comfort, and contentment to Washington and his compatriots have largely disappeared. The absence of this influence has become marked in every walk of life. Observe the absence of religious influence today in the three activities of our society, namely, the education of youth, in our business, and in our political life. Look about and witness the consequences of this loss of spiritual values, and rejection of religion in the present-day world.

The world has been rocked by explosive combats that have impaired faith in government, created class hatreds, permitted disproportionate distribution of wealth and recurring cycles of panic and economic prostration. We have reached a point in this combat of material and political forces, in this age of machines and money, and the pursuit of pleasure and power, that today many are apprehensive with respect to the survival of democracy. This is, indeed, a stupendous departure from the ideals of the men of Washington's era.

I do not hesitate to say to my fellow countrymen on this anniversary of Washington's birth that in my opinion there will be no lasting solution or permanent reconstruction of our economic life unless we return and once more become inspired by the divinely taught principles of justice, equality, and charity that guided Washington and the other patriots of his epoch. Unless the soul of the Nation is dominated by the spiritual rather than the material, of what avail are our laws and our Constitution?

If the spirit of Washington could speak to us tonight, would he not unequivocally proclaim that without divine guidance and assistance we as a people are doomed?

We must not only move to preserve the democracy, which Washington bequeathed to us, we must not only emulate the founding father's love of country, and their reliance on divine guidance, but we may also take a lesson from Washington with respect to one of our paramount present-day questions of national policy, the question of war and peace.

George Washington was a lover of peace, and therefore a firm believer in national defense. It was he who said, "To be prepared for war is one of the most effectual means of preserving peace." By what means did Washington plan for us to choose between peace and war? Here are his words: "Taking care to keep ourselves by suitable establishments on a respectable defensive posture", which means adequate national defense. He also urged for securing peace and avoiding war, national isolation, by keeping away from foreign entanglements and alliances, another name today for strict neutrality.

As we look about the world of today and witness the political and social revolutions that are transpiring, the dethronement of kings and emperors, the abandonment of constitutions and democratic institutions to be replaced by dictatorships, the ominous clouds of war that hang low throughout Europe, with three actual wars having taken place since the World War, is not our paramount problem to escape involvement in another war, if war comes?

The growth of dictatorships in certain countries of Europe injects a new danger into the international situation. They are warlike and bellicose in spirit and purpose and have proceeded to build up military, naval, and aircraft armaments on a scale heretofore unimagined in Europe. Again, communism, spreading stealthily and strategically its tentacles in every part of the world, has become a real and definite threat to the continuance of democracy.

I repeat, no realistic discussion of America's present-day problems can avoid mention of the war risk. Sound statesmanship requires that our national policies be so shaped as to promote and safeguard peace for our own country, and, so far as lies within our power, peace for the world. It is not enough that we proclaim our desire for peace; we must leave nothing undone in an effort to insure peace. In the past this has meant treaties to outlaw war, efforts to conclude disarmament agreements. It has meant attempts to reach an accord with other nations with respect to international trade and international finance, since it is recognized that economic factors are so often the breeders of war. It has meant unselfish efforts to spread the gospel of peace and good will among all the nations of the earth.

The United States has led the world in preaching the gospel that the road to peace is through universal disarmament. After 16 years of conferences and treaty making it is regrettable to announce that practically no progress has been made toward limitation of armaments. During this period we have seen three concerted efforts to limit naval armaments by international agreement fail. These efforts finally ended on December 31, 1936, with the termination of the treaties that had been made. We are now back where we were before the World War.

Despite the horrifying memories of the World War, which are still fresh in the minds of this generation, the race in armaments continues unabated; in fact, with accelerated speed. Practically every major power has joined in this mad race, and even the extraordinary demands upon national budgets do not seem able to slow down the large building programs, which embrace all the expected naval and military armaments, and, what is perhaps most ominous, vast numbers of airplanes fully equipped for scouting and bombing, which constitute a sinister menace not only to the armies and navies of other powers but to the helpless populations as well.

For the future national defense to us should mean implementing our Government with new ways and means of preserving our own strict neutrality in the event of war elsewhere; it means enactment of statutes to eliminate the profit motive within our own land as related to the supplying of materials or labor during a state of war; it means finally the strengthening of our national defenses—on land, on sea, and in the air.

Before discussing what the United States is doing with respect to strengthening its own defenses, let me picture to you very

briefly what other nations have been doing and are now proposing with respect to their own armaments.

Great Britain is embarked on a naval building program of immense proportions. In the single year of 1936 she authorized the construction of 61 naval vessels, including 2 battleships, 5 cruisers, and another aircraft carrier. She has built a new naval base at Singapore. She has increased the enlisted personnel of her Navy. She is expanding her air force and strengthening her army.

Japan, within the past year or two has authorized or completed a total of 88 additional cruisers, submarines, destroyers, and other types of naval craft and is acquiring many modern cargo vessels of high speed, easily convertible into naval transports.

France is building 2 battleships, and her 1937 program calls for construction of approximately 43 vessels.

Germany has now under construction or appropriated for 3 battleships, 2 aircraft carriers, 3 cruisers, 22 destroyers, 8 submarines, and 12 torpedo boats.

Italy's naval building program is proceeding rapidly, and even Soviet Russia has now turned her attention to naval defenses and is reported to now have in commission a submarine fleet of perhaps 100.

Our own Navy as of today has 16 heavy cruisers and is building 2. England has 19 today and Japan 12.

We have built and building 19 light cruisers, while Japan has 20 in this category and Great Britain has 34.

Our own fleet of destroyers, including those now under construction, totals 73. Japan has 82 and Great Britain has 108. What about submarines? We have a total of 42, built or building, whereas Japan has 61 and Great Britain has 53.

Aircraft carriers constitute the mobile base of a naval air force. When we finish the aircraft carriers we now have under construction we will have a total of six, Japan has six, and Great Britain has nine.

In comparative strength of combined air forces we are in seventh place, according to a public statement recently made by the Chief of the Army Air Corps. That means that six nations now have larger air fleets than the United States. We have a present total of 2,074 planes. Even Japan is reported to have as many military and naval planes as we have. Germany has 2,800 war planes; France, 4,000; Italy, 4,400; Great Britain, more than 4,600; and Soviet Russia is reported to have approximately 5,000 planes.

In the matter of comparative strength of our land forces you are well aware that our own standing Army is the smallest of any large nation. In fact, in numerical strength, it is about on a par with Turkey. Our own total Army strength, including all our trained Reserves, is about 400,000. The British Empire counts its Army, including its trained reserves, at 1,100,000. Germany has more than 2,000,000, not including any of her numerous semi-military organizations. France and Italy each, including both active and trained reserves, are maintaining an army of approximately 6,000,000. Japan has more than 2,000,000 men trained and ready for service. Soviet Russia has nearly 19,000,000 trained soldiers, of which number about 1,500,000 are on active service.

Thus it is apparent that our own naval and military defenses are far below the standard set by other nations for themselves, and, in view of what is happening elsewhere in the world, are, perhaps, below the level for our own safety. We are not, however, proposing to embark in any competitive race for naval supremacy. Our own naval program, large as it may seem to be, is, nevertheless, not more than is required if we are to have a Navy of treaty strength; that is, of the strength specified for ourselves in the peacetime naval treaties which recently expired. If we continue our present program, we will not reach our treaty strength until 1942. Whether it will prove necessary to accelerate our program and increase it is a question which future events will determine.

Our traditional policy has been, and ought to be, to think in terms of national defense—not in terms of offense. Our Navy is necessarily our first line of defense; and if impregnable, our complete defense, because by the circumstances of our geographical position, attack upon us, if attack does come, must come by way of the sea.

We had no navy when we fought the Revolutionary War. By courage, by strategy, and by cunning, though often with inferior forces, Washington won many battles. He lost many other battles and nearly lost the war because of one major reason. He was compelled to watch, helplessly, the continual landing of foreign soldiers on American soil while his own troops dwindled through battle after battle until Valley Forge, the time when the historians say "all was lost save hope." The Continental forces had no ships. Had they been able to prevent the continuous landing of foreign troops and supplies the colonists would have won the Revolution in a comparatively short time. Indeed, had they finally not been able to prevent the landing of troops and supplies we probably would not have won our freedom. It was not until France recognized the Colonies and despatched the French Fleet, through the efforts of John Paul Jones (in part) which prevented further landing of troops, that the Revolution was won. Naval blockade by the French was the final, if not the decisive, factor that made possible the existence of our Nation. We can well understand, therefore, why Washington recognized the need of a Navy sufficiently powerful to prevent the landing of foreign troops on American soil.

In the event of war, if we have a nucleus of an active Army, it can be rapidly expanded. Indeed the Army must expand to many times its insignificant peacetime strength before it could become effective for war. But not so with the Navy. It must be ready to withstand attacks immediately, at the very hour that war is declared, and repel any attempts of invasion until the Army can be recruited and trained. Theoretically at least, if the Navy were strong enough, the Army would never be called upon for the purpose of defense.

Furthermore, a strong and efficient navy with its planes and carriers is the only sure safeguard from foreign air aggression. Invasion from the air will come through the use of aircraft carriers—huge naval crafts that carry 100 planes each. The enemy, by the use of its aircraft carriers lying 200 or 300 miles offshore, within a comparatively few minutes could send hundreds of planes from its carriers under cover of night and launch a raid that could destroy our seacoast cities.

We have been speaking about warships and about building more warships—walls of steel for our defense. We have seen why this has and will continue to cost billions of dollars. But with all our extensive naval craft, we must remember that the defense of the country in the final analysis lies, unfortunately, with walls of men and not walls of steel. China relied upon walls of stone. So did the Roman Empire. Ethiopia relied upon walls of words, namely, international leagues and peace pacts. All such walls, whether they be of steel, or stone, or words, crumble unless they are backed up by walls of men. Naval vessels, however powerful, do not win wars. It is the manpower that achieves the victory. Therefore, it is of supreme importance that the man power of the country be prepared to defend our liberties in the event of an unforeseen and unexpected attack. Unless we have well-trained men who know how to navigate, how to fly, and how to fight, our warships and war planes are mere tissue. America more than any other nation, because of its small active military organizations, must give special attention to the training and maintaining of large reserve forces, not only for her Army but likewise for her Navy and air forces. We must have trained soldiers, sailors, and marines, as well as air pilots, who can speedily emerge from the peaceful avocations of life, ready to augment the active forces of the country's defense in the event of attack. We can build hundreds of airplanes in 90 days, but we cannot train the necessarily skilled pilots with knowledge of gunnery in less than a year to combat a superior force of trained pilots and gunnery experts participating in a hostile attack. Therefore, it seems to me highly important that this necessary force and essential training be provided.

It is inspiring to note the number, character, and extent of personal sacrifices already being made by the young men of the country enlisted in the active and reserve forces. There are many more willing and anxious to bring to their citizenship this necessary training, but, unfortunately, we have not provided the funds or facilities to take advantage of their spirit of willingness. I know of no better contribution we can make to our national defense than by training these thousands of young Americans who love their country, who hate war but who consider it the highest patriotic duty to be prepared to defend our liberties in any unforeseen emergency. What a mighty force the very patriotic spirit of such organized youths would become in suppressing and eradicating communism and other un-American "isms" that have infested so many of the countries of Europe and are believed to be propagating their undemocratic doctrines in our own beloved land. If we could inculcate into all the young men of the country the pride of service, the devotion to duty, and the respect for authority that the youth of America who have enlisted in our Army, Navy, and Marine Corps possess, we need have no fear for the Republic. These officers and enlisted men do not want war. They realize that they would be its first victims, but they fully appreciate that the highest and noblest service as citizens that they can render to their country is to be adequately prepared to defend it.

I wish that every American could know and see the fine group of American youths whose names adorn the service rolls of the Navy and the Army. Thousands of them this very night, many of them perhaps listening to this radio talk, far away from home, on and under the high seas, in the air, or in distant military posts, receiving a meager $36 per month out of which they must pay for their uniforms and clothing, are undergoing training often under most dangerous conditions, in order to be ready to protect you and me against any foe who dares to infringe upon or attempts to destroy our priceless heritage. I am pleading for a spirit of appreciation of this service. I am pleading for the inculcation in the souls of all Americans, their spirit of love of service, their spirit of happiness and contentment in being prepared to serve America—not in the heyday of peace and prosperity but in the hour of trial, of suffering, and of sacrifice.

You say we have no enemies and there is no danger of war. I reply that history—even our own history, shows that war is like the angel of death—it comes unexpectedly. It is no respecter of nations. No spot on earth has ever been immune from its devastation. History is replete with never-ending conflicts of the human family, fighting against subjection by mightier military forces and, in return, fighting desperately to throw off the oppressor and win back freedom.

We may hope for peace and pray for peace but we must be prepared to defend our Nation if attack comes. Every war veteran in America is as ardent for peace as any pacifist, yet they are the most militant group for strong national defense. They have breathed the poison gas of the enemy and they know war's unspeakable horrors. They hate war. It is to spare their families

and their children a repetition of these horrors that they counsel the policy of preparedness.

Let us read the lessons of history. Let us profit by the mistakes of the past. Let not our love of peace blind us to the realities in this present-day world. Let us preceive the dangers. Let us realize the priceless values of our homes, our loved ones, and our liberties. Let us remember again the words of Washington, "To be prepared for war is the most effectual means of preserving peace."

Plant-to-Prosper Meeting of Farmers

EXTENSION OF REMARKS

OF

HON. KENNETH McKELLAR

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Tuesday, February 23, 1937

A DISCUSSION BY ALFRED D. STEDMAN, ASSISTANT ADMINISTRATOR OF A. A. A., AT THE PLANT-TO-PROSPER MEETING OF FARMERS AT MEMPHIS, TENN., DECEMBER 16, 1936, COMMENTING UPON AN ADDRESS THERE BY MR. CARL B. FRITSCHE, MANAGING DIRECTOR OF THE FARM CHEMURGIC COUNCIL

Mr. McKELLAR. Mr. President, I have in my hand an address delivered by Mr. Alfred D. Stedman, Assistant Administrator of the Agricultural Adjustment Administration, at the plant-to-prosper meeting of farmers at Memphis, Tenn. I ask that the address be printed in the Appendix of the RECORD.

There being no objection, the address was orderd to be printed in the RECORD, as follows:

I came to Memphis for the specific purpose of discussing the plant-to-prosper program being carried on by farmers in this region in cooperation with the Memphis Commercial Appeal.

I brought with me a prepared address, which has already been given to the newspapers for release this afternoon. This address brings out clearly the value of the plant-to-prosper campaign and its close relationship to the work of the Tripie A in stimulating diversified farming, encouraging soil conservation, and in helping to stabilize production in the South of surplus export crops. The Memphis Commercial Appeal has done a fine thing in sponsoring and carrying on this program.

In this meeting today, nowever, it is necessary for me to depart from the text of the prepared address and to make an entirely different kind of talk than I had intended. For one thing, this audience has heard the very fine address of Mr. Delos James, of the United States Chamber of Commerce, showing the need for greater diversification in agriculture, and I do not wish to cover again ground that already has been very ably covered by him.

My second reason for asking permission to depart from the text of the prepared address is that Mr. Carl B. Fritsche, the second speaker, has just concluded an attack upon policies of Secretary Hull and Secretary Wallace. Mr. Fritsche has spoken for the Farm Chemurgic Council, of which he is managing director. In his speech here today he has urged the Chemurgic Council's proposition that agriculture should rely upon development of new industrial uses for farm products to provide enlarged markets at home. He has advocated this proposition, first, as a substitute for Secretary Hull's policy of reviving export trade by lowering tariff barriers through reciprocal-trade agreements with other countries and, second, as a substitute for the Triple A agricultural conservation program directed by Secretary Wallace.

Solely on my own responsibility, I want to discuss the other side of the proposition advanced by Mr. Fritsche. But in so doing I hope first of all to make clear the position of the Department of Agriculture with reference to development of new industrial outlets for farm products.

In his criticism of Secretary Wallace's article, published in the New Republic of December 2, Mr. Fritsche has pointed out that the article did not discuss possibilities of finding new industrial outlets. But if from that fact it is implied that Mr. Wallace and the Department of Agriculture therefore are indifferent to or uninformed about possibilities in this direction, the facts are exactly contrary to any such implication. The Department of Agriculture is strongly in favor of all practicable efforts to find new industrial outlets for farm products. Largely under direction of Dr. Henry G. Knight, Chief of the Bureau of Chemistry and Soils, the Department has started a large number of scientific experiments designed to discover and develop new uses and new demand in industry for products of the farm. Examples of the Department's efforts are the sweetpotato-starch plant at Laurel, Miss., a producers' cooperative undertaking, initiated and financed by the Government, the experiments sponsored by the Triple A to promote the use of cotton in highway building; and the establishment of the regional soybean laboratory at Urbana, Ill. The Department's work in the general field of developing new industrial uses of farm products dates back more than 60 years. Since 1933, when Mr. Wallace became Secretary, the Department has given more encouragement than ever before to it. In Mr. Fritsche's recital of chemurgic projects he was talking in instance after instance of projects which were planned, initiated, and are being carried on by the Department of Agriculture. In all, the Department's list of such projects which are under way right now probably runs well over twoscore in number. The Department of Agriculture is one of the finest scientific research agencies in the world, and, so far as available funds permit, the Department scientists are following every lead that promises to open up new industrial uses for farm products.

A brief statement about the Department's policy and work in this field is contained in a letter which Secretary Wallace sent on May 25, 1936, to Francis P. Garvan, who, as president of the Farm Chemurgic Council, is associated with Mr. Fritsche at the head of the chemurgic movement. Copies of that letter and a report detailing the Department's work have been made public and are available to anyone who wishes to write to the Department for them. That letter shows the position of the Secretary and the Department concerning the development of new industrial outlets for farm products. They are 100 percent in favor of all practicable efforts, by the Farm Chemurgic Council or any other agency, to develop new farm markets in industry. Let no one have any doubts about that. The more markets that the Chemurgic Council can develop by finding new industrial uses for farm products the better.

But the Farm Chemurgic Council's proposition as advanced here today by Mr. Fritsche is entirely different from what I have been describing as the position taken by the Department of Agriculture.

There are two ways to look at farm chemurgy. The first is that farm chemurgy is a good thing in itself, that it undoubtedly offers great opportunities for new outlets for farm products, and that full advantage should by all means be taken of these opportunities. That is the position of the Department of Agriculture.

The other way to look at farm chemurgy is as a panacea for all the problems of agriculture. This is the light in which it has been presented here today. It has been described, not as just one among several beneficial and necessary lines of activity in behalf of agricultural improvement, but as the one line of activity which can be followed to the exclusion of others. The Farm Chemurgic Council is now offering its proposal as a substitute, or, to use Mr. Fritsche's own words, "a constructive alternative" for the vital policies and programs of the Roosevelt administration.

The effort here is to convince the farmers that they should turn their backs upon the Triple A program, that they should discard the administration's efforts to expand export outlets for farm products through reciprocal-trade agreements, and that for an alternative they should rely solely upon the Farm Chemurgic Council's plan of developing new industrial outlets for farm products.

Mr. Fritsche's address clearly shows that the Farm Chemurgic Council would go even further than I have stated. It would not only discontinue any Triple A programs which include among their effects a degree of restraint upon production of surplus crops, and dispense with reciprocal-trade agreements, but also would sacrifice our foreign trade by embracing anew a policy of "trade isolation and self-containment" which means more and higher tariffs. He goes to the lengths of ridiculing administration leaders' efforts to increase foreign outlets for farm products by moderating tariff walls. "They still maintain", he says, "that we must develop our foreign trade—if any—in order to restore normal prosperity to the American farm."

Mr. Fritsche's argument for a policy of higher tariffs and import-trade exclusion is the same as that which was advanced in 1930 in behalf of the Smoot-Hawley tariff bill. "The American market for the American farmer" was an attractive argument then and it is an attractive one now. In 1930, when the Smoot-Hawley bill was up, its backers predicted that its passage would bring prosperity back in short order. But the actual results were foreign tariff retaliation, loss of trade, and wreckage of farm prices. By 1933 scarcely a man could be found who would stand up and defend the Smoot-Hawley Act.

The effects on the South of a policy of higher tariffs and trade exclusion were disastrous in the years following 1930, and they will again be disastrous if they are tried once more. The South depends upon export outlets for marketing of more than half its cotton crop. Does the Farm Chemurgic Council contend that new industrial outlets in this country could come anywhere near making good a sudden loss like that?

The blow to the farmers of America who produce export crops such as cotton, tobacco, wheat, and lard from loss of all foreign markets would be terrific.

The Farm Chemurgic Council spokesman attacks the reciprocal-trade policy on the ground that it is unfair to agriculture. But the abnormal increases in our farm imports, upon which he lays so much emphasis, and the disproportionate increases in industrial over agricultural exports are largely due to the effects of two great droughts, although Mr. Fritsche neglected to say so.

The present tariff policy represents a gradual reversal of the high-tariff exclusionism policy of the Smoot-Hawley Act. The idea of cooperative agreements between countries for gradual moderation of extreme barriers to international trade is of first importance to agriculture, because agriculture depends upon foreign markets for a larger part of its market than industry. The trade

agreements give agriculture a square deal in that they have lowered agricultural rates of duty less than the industrial rates. Back of the present trade agreements is the vision to see that our country cannot ask other nations to adopt more moderate tariff policies if we are going to cling to high-tariff exclusionism ourselves.

In embracing a policy of tariff exclusionism the Farm Chemurgic Council is proposing to farmers that they should sacrifice their foreign markets. It is doing this at a time when prospects exist for moderate improvement in foreign demand for American farm products.

In this speech of Mr. Fritsche the Farm Chemurgic Council is also proposing to the farmers that they simultaneously surrender the Triple A soil-conservation program, because this program has a secondary effect of restraining somewhat the production of export farm products.

It is opposed to the farmers' acquiring for future use any direct means of production control. So the Farm Chemurgic Council wants the farmers to give up their foreign markets, and also to give up any programs that might restrain production to fit the domestic market. The Chemurgic Council's proposition amounts to a recommendation of unlimited agricultural production of farm products and no markets or dwindling markets abroad for surpluses. It wants to lead the farmers back to the Smoot-Hawley tariff policy and persuade them to give up their Triple A program at the same time. In return for what the farmers would give up, the Chemurgic Council offers them the prospect of developing new industrial uses and hence new markets for farm products at home.

Before farmers agree to this proposition I suspect they will want to scrutinize it to see whether it is in fact a panacea. I believe they will find that while it is certainly a necessary and promising line of activity, it is one upon which they cannot rely to solve the whole broad problem of their need for markets.

I want to point out a few of the limitations of the farm chemurgic movement. First of all, developments of new uses of raw materials through scientific research are not accomplished overnight. They are usually the result of slow and painstaking work, often taking years of the efforts of highly trained men. Tremendous as the results of such efforts may ultimately prove to be, the scientific men in the Department who are devoting their lives to them would be last to suggest the farmers giving up the Triple A program and accepting the industrialists' ideas of higher tariffs in the hope that the resulting farm price and income losses would be immediately made good by markets instantly created by new industrial uses. The development of new markets in this way is a long-time project, and it is important that farmers recognize it as such.

For another thing, even when scientific men achieve an astounding success, and the results in some ways are highly advantageous to farmers, the impact in other ways may tend to cancel out or overbalance entirely the good effects upon the farmers' markets. For example, take the development of the automobile, and other motor vehicles, which have been of tremendous use to society in general. This development has had good effects upon agriculture in many ways, including the placing of purchasing power for farm products in the hands of the employees in the automobile industries. But the automobile has also deprived the farmers of a market for around 35,000,000 acres of corn and oats, once fed to horses and mules which are not now needed to do work that can be better done by automobiles.

Farmers also know that it is a mistake to suppose that the effects of scientific developments upon agriculture end with the discovery of new uses and new markets for farm products. If agriculture were static as to its own productivity, then it might be safer for farmers to rely exclusively upon science to develop new markets to replace the foreign outlets and the Triple A programs which the Chemurgic Council would take away.

But the fact is that science is also brought to bear upon problems of farm production, and by improved plan and animal breeding, by better knowledge and use of soils, and more scientific farming methods of many kinds agriculture can rapidly increase its capacity to produce. It is characteristic of our progressive country that we are determined to make use of new knowledge made available by science. To do otherwise would be to turn our backs upon the hope of progress. If a new cotton picker were perfected it would no doubt be used, and the long-time effects would be good. But a progressive country should also be prepared to deal with the immediate social dislocations and prices and income disadvantages which result from far-reaching developments of this sort. Through use of more scientific methods the opportunities for agriculture to step up its production are very great. Here are a few examples: In this country the average production per hen at present is only about 80 eggs per year, while in some flocks the average has been increased to more than 200. The present averages of butterfat production per cow, of feeding ratios per pound of meat production, and of yields of corn, wheat, and cotton per acre can all be increased greatly by more general use of scientific methods in animal and plant breeding. These are just a few examples taken from an immense field of scientific endeavor, but they illustrate the fact that agriculture is a dynamic producing industry, not a static one. Farmers will not make the mistake of supposing that their producing power will stand still while science is developing new industrial uses for farm products.

The fact probably is that in the future agriculture's growing power to produce will outrun all the increased markets that can be made available by scientific development of new industrial outlets. These increases in production will be of permanent benefit to society and to agriculture, because in the long run increasing production is the basis for a higher standard of living, if it is not accomplished through destruction of soil and other natural resources. But sudden increases in production or shrinkage of markets may cause temporary hardship by contributing to extreme unbalance of supply with demand. Farmers will not want to be deprived of their cooperative programs for meeting such emergencies. They will not want to give up these programs in return for extravagant promises that chemurgic developments may prove a panacea for all farm ills.

There is another reason why Department of Agriculture people, while doing their utmost for scientific development of new uses for farm products, still would not for a moment have farmers think of such development as a cure-all for the different problems facing agriculture. This reason is that in developing a new market for one agricultural product science may decrease the demand for some other agricultural product. Thus the development of warm cotton fabrics may help cotton growers but injure wool growers, and new uses of soybean oils may injure producers of flaxseed, of cottonseed, or of the animal fats and oils. When science developed synthetic methods of manufacturing dyes, it knocked the indigo growers out of their industry.

Summing up, it is clear that, when viewed realistically, the effort to develop new industrial outlets for farm products is not the panacea that is claimed. It is one legitimate line of endeavor in behalf of agriculture and presents opportunities of which the most should be made.

Men of science who are devoting their earnest efforts to this activity will not thank the Chemurgic Council for representing these efforts as offering benefits far beyond those actually attainable in the immediate future. They will not thank the Chemurgic Council for telling agriculture to surrender foreign markets, embrace the rock-ribbed protectionist doctrine of the high-tariff industrialist, and surrender their Triple A program, all in hopes that the Chemurgic Council will perform immediate and impossible miracles in the way of opening new markets at home. No greater disservice can be done to real science than to encourage the people to rely upon it for immediate help which it cannot give. No greater disservice can be done to farmers than to persuade them to go the limit in overproduction of export crops, simultaneously sacrifice their foreign markets for the resulting surpluses, and depend upon new industrial outlets opening at home which cannot by any stretch of the imagination be opened soon enough to replace the markets which would be lost.

Back in 1932 agriculture and the Nation learned the devastating consequences that can be invited by loss of markets abroad plus unlimited production at home. Surpluses which caused great unbalance between farm prices and other prices were a factor in the depression. The absence of purchasing power of farmers and of factory workers and their inability to buy back the things produced by agriculture and by industry led to accumulations of surpluses in the hands of a few, in break-down of the exchange of goods between farm and city, and to unemployment in the city and ruin on the farm.

The problems of agriculture and industry are many-sided. There are now great human needs in the South for farm products and factory products—needs which are unfilled, not because science cannot tell us how to produce the goods, nor because farmers do not know how to produce the foods, but because the problems of distribution have not been solved, and because purchasing power to buy these goods is lacking for many people. The chemurgic people tell us that they can provide new outlets for potatoes for starch, new outlets for corn for alcohol, and a host of other new industrial uses. But before such an outlet is of great use to the farmer it must also include the payment to him of a price at which he can afford to sell—and that means that the people must have buying power so they can purchase these new things. This is the point where so many of the chemurgic developments fall short of the expectations which are being built up for them.

Since 1933 the administration in Washington has developed industrial and agricultural programs which have tried to place purchasing power in the hands of the farmers and industrial workers.

For agriculture, these programs have been broad, and the administration is seeking to make them broader. The administration has never represented that the problems of agriculture have been solved. We need to carry on our great program of soil conservation, because the resource of soil fertility is the ultimate foundation of our prosperity. It is true that a great war abroad might transform our situation, but that fact only magnifies the need to promote military peace through a return to sane and peaceful trade relations and to carry on our reciprocal trade agreement program. Through this program, we need to expand so far as practicable foreign outlets for export crops, including cotton. Farmers, especially in some regions, need improved protection, in the form of crop insurance, against the consequence of drought. We need measures to cope with problems of tenancy. Farmers should have the right to cooperate to check unbridled competition in sale of soil resources and also to cooperate in programs to protect themselves against the price consequences of acute surpluses in time of bumper crops.

And, of course, we need all the help that science and industry can give in providing new outlets for farm products, too. But there is no justification for telling farmers that this one thing alone is a panacea that will make the other vital measures unnecessary. That, I hope, agriculture will not believe.

The Supreme Court

EXTENSION OF REMARKS
OF
HON. JAMES J. DAVIS
OF PENNSYLVANIA
IN THE SENATE OF THE UNITED STATES
Tuesday, February 23, 1937

ADDRESS BY HON. H. STYLES BRIDGES, OF NEW HAMPSHIRE, ON FEBRUARY 22, 1937

Mr. DAVIS. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD an abstract of an address on the President's proposal to change the membership of the Supreme Court delivered by the junior Senator from New Hampshire [Mr. BRIDGES] on Washington's Birthday anniversary in New York City.

There being no objection, the abstract was ordered to be printed in the RECORD, as follows:

President Roosevelt's recent proposal to change the membership of the United States Supreme Court probably raises the most crucial issue for this country to decide since the framing of the Constitution. That issue is whether or not we should destroy the independence of the Supreme Court. That is the real issue, and it must not be confused with the less important issues of whether or not the Supreme Court has been right or wrong in its decisions or whether or not the Justices should be retired at 70 years of age. Those issues are less important because, if need be, they can be settled by constitutional amendment without upsetting our form of government. The President has chosen a method to settle those issues which in and of itself raises a greater issue.

It is clearly his purpose to change the membership of the Court so as to obtain more favorable interpretations for his New Deal legislation. This proposal to bend the Supreme Court so as to meet the President's desires raises the issue of whether or not the Supreme Court's independence should be preserved.

The doctrine of the "separation of powers" of the executive, legislative, and judicial branches of the Government is fundamental in the American theory of constitutional government. The distinct separation of the powers of these three branches is the keystone upon which depends the maintenance of our democratic form of government. No dictator is able to gain a foothold as long as that keystone is preserved.

We all know that the Constitution is the supreme law of the land and that it is the province of the judiciary to interpret and apply the law, and if two laws conflict it is the duty of the Supreme Court to decide which one shall be given effect. The Constitution specifies certain exceptions to the legislative authority, and these limitations can in no other way be preserved than through the medium of the judiciary, whose duty it is to declare void all acts contrary to the supreme law of the land. The Supreme Court acts as the balance wheel of our Government, insuring the preservation of that form of government and the rights, privileges, and liberties of the minority interests guaranteed by our laws against the power and might of the majority interests. In a government of laws such as ours the complete independence of the courts of justice is essential. No President should be given the power to impair or destroy the independence of the courts, regardless of his party views or affiliations.

Perhaps the Supreme Court has made mistakes from time to time. It is made up of human beings who are not absolutely infallible. Nevertheless, no one can deny that the Supreme Court is the best umpire we can choose to preserve the game as we play it. It is well versed in the rules and by tradition it is enduring. It provides an intelligent check against fads, fancies, and emotionalism. Clashes have occurred in the past, but they have always been settled so as to leave the Court intact. If the people want to see the game played differently, they can always change the rules. The Constitution has provided for an orderly means of change by the process of amendment. That method calls for debate and sober reflection before any fundamental changes are made, and I submit it is the only way to settle grave questions of public policy.

If anyone believes that the Supreme Court is a menace to the social progress of the Nation, let that person glance at the record. Since 1789 Congress has enacted nearly 25,000 public laws. In all that time the Supreme Court has held unconstitutional only 84 different provisions of law, ranging from an entire act to the implications of a single phrase. Those provisions involved only 64 different acts in the technical sense, and it appears that there are only 8 instances where an entire act in the technical sense has been held unconstitutional.

Only a very few of the provisions held unconstitutional have affected the social and economic life of our citizens. Those facts assure me that the Supreme Court is not an obstacle to progress.

President Roosevelt is grieved because during the past 2 years the Supreme Court has held unconstitutional various elements of New Deal legislation. That is why he holds the Supreme Court in disfavor, and rather than submit his policies to the people in the form of an amendment he would choose the devious way of changing the membership of the Court so as to obtain a more favorable interpretation for those policies. He hides this purpose behind the mask of alleged inefficiency. To refute the charge of inefficiency I need only to refer you to the recent report of the Attorney General of the United States, in which he states that there has been a marked decrease in the number of pending cases at the close of the last fiscal year. And it is common knowledge that the Supreme Court has kept abreast of its calendar.

It is interesting to note that a large number of the Democratic newspapers which supported the President in the last political campaign have expressed determined opposition or grave doubt as to the wisdom of his proposal.

It is clear that this is not a partisan issue. Democrats, Republicans, and Independents alike are voicing protest against the President's proposal. It is truly an American issue and demands the attention of every public-minded citizen who is interested in preserving our democratic form of government. We find the institutions of democracy crumbling in all parts of the world. Let it not happen here.

George Washington, the Father of his Country, warned against these grave dangers in his famous Farewell Address:

"If, in the opinion of the people, the distribution, or modification of the constitutional power be in any particular wrong, let it be corrected by an amendment in the way the Constitution designates. But let there be no change by usurpation."

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. WALTER F. GEORGE
OF GEORGIA
IN THE SENATE OF THE UNITED STATES
Tuesday, February 23, 1937

STATEMENT BY HON. ROYAL S. COPELAND, OF NEW YORK

Mr. GEORGE. Mr. President, I ask unanimous consent to have printed in the RECORD a very able statement by the distinguished senior Senator from New York [Mr. COPELAND], which appeared in the New York Sunday Times of February 21, 1937, relating to the proposal to reorganize the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

[From the New York Times of Feb. 21, 1937]

COPELAND'S STATEMENT OPPOSING COURT PLAN

WASHINGTON, February 20.—The text of Senator COPELAND'S statement opposing President Roosevelt's plan for reform of the Federal judiciary was as follows:

"Tomorrow the Nation celebrates the birth of the Father of his Country. After earnest study of his views and the views of two other great Virginians I am more than ever impressed that a great fundamental principle is involved in the President's proposals.

"The occasion reminds me that Washington said: 'If, in the opinion of the people, the distribution or modification of the constitutional power be in any particular wrong, let it be corrected by the amendment in the way the Constitution designates—but let there be no change in usurpation.'

MADISON ON POWER LIMITS

"I am reminded that James Madison, the father of our Constitution, said:

"'The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

"'It is agreed on all sides that the power properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments.

"'It is equally evident that none of them ought to possess, directly or indirectly, an overruling influence over the others, in the administration of their respective powers. It will not be denied that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it.'

JEFFERSON ON THE JUDICIARY

"I am reminded, too, that Thomas Jefferson, father of the Bill of Rights, which outlawed religious bigotry or racial persecution in

America so long as the integrity and independence of our Federal courts are preserved, said:

" 'The dignity and stability of government in all its branches, the morals of the people, and every blessing of society depend so much upon an upright and skillful administration of justice that the judicial power ought to be distinct from both the legislative and executive, and independent of both, that so it may be a check upon both as both should be checks upon that.'

"We must never lose sight of the fact that the men who reasoned out our Constitution had lived through a desperate struggle against tyranny.

"The government which they formed was to provide forevermore a safeguard against any tyrannical control; they were resolved to keep the executive, legislative, and the judiciary branches distinct and separate, so that they might act as a check and balance on each other.

"As long as each remained so, free from encroachment on the part of either of the other two, the liberty of American citizens would remain intact.

WORDS FROM THE FEDERALIST

"Since that day, have we grown soft, have we forgotten the pricelessness of representative government and individual liberty? The Federalist tells us our plight:

" 'From the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its coordinate branches; and that as nothing can contribute so much to its firmness and independence as permanency in office, this quality may therefore be justly regarded as an indispensable ingredient in its Constitution and, in a great measure, as the citadel of the public justice and the public security.'

"America had been populated by refugees from political terrorism, from religious bigotry, from racial persecution, and from economic tyranny. They have left to use a priceless heritage of an independent judiciary as the sole protection of our people against political terrorism, religious bigotry, racial persecution, and economic tyranny.

"I am a physician. All my life I have joined with my professional colleagues in seeking new remedies for the physical sufferings of our people. All my political life I have joined with others who desire progress in seeking new remedies for the political and economic sufferings of our people.

NO EXCUSE FOR FORMULA

"I applaud the great social objectives of the administration. But, to be honest about it, I feel there isn't the slightest excuse or reason for such a formula as that now proposed.

"I know there are some 'doctors' who offer immediate cure-alls for every physical ailment. There can be no excuse for a like process in attempting to cure our social ailments. Popular opinion condemns both.

"There are great social movements going forward in this Nation for the improvement of mankind's lot in life. But they cannot achieve their goals in any single Presidential term.

"It is common knowledge that when Congress has enacted haphazard remedies in the past, it has passed legislation based upon unsound principles and created far more havoc than good. We must be warned by experience.

"To my lay mind, one of America's chief problems is the problem of the courts. It is a trite saying, but true as gospel, that the courts are the key of our liberties. From lowest to highest, the judges must be above reproach, beyond the reach of political, social, or personal influence and unresponsive to the pressure of popular clamor.

FITNESS FOR THE BENCH

"There are as likely to be bad men in a group so large as the sum total of the judiciary in the United States as in any other cultured group of equal size. This fact has been recognized by constitutional and statutory provisions for impeachment or removal.

"But unless and until the honesty, integrity, mental, and physical capacity or moral sense of an individual judge has been called in question and dealt with, according to law, there can be no excuse for seeking to invalidate or neutralize his judicial activities by some sensational and novel method.

"If the latter were the only possible procedure to give relief, the new court or the new judge would have every prospect of being as unsatisfactory as the original. There would be brought to the bench another judge or another group, unknown and untried in that particular court.

"From the standpoint of the critic of the present court, the change might be for the better, but on the other hand it might prove to be infinitely worse.

"If the President's proposal is sound now and we need a new Supreme Court to deal with the special problems of his administration, it would be equally logical to presume that we should need a special Supreme Court to deal with special problems that may arise in the future.

"If there is any justification for the pending proposal, there would be equal justification for the oration of special high courts to deal with every major problem that may arise in the future. There is no justification of the one without justification of the other.

"The very weakness of the pending proposal must be apparent. Indeed, it might turn out to be a bitter disappointment even to its advocates.

AMENDMENTS AS REMEDY

"As I see it, there is but one way to settle the vital questions involved; it must be done by proposing and submitting constitutional amendments.

"The only sure way to enjoy the benefits, if they be benefits, of any popular laws that have been determined to be unconstitutional, is to ask the American people to pass judgment upon them. Then it will make no difference whether it be the personnel of the present Court or the personnel of future courts—the will of the people will be carried out to the letter.

"If the pending proposal were enacted by the aid of what 'pressure groups' can do to influence the Congress, what would be the reaction if the enlarged court were to follow and confirm the decisions already made? What then would be done—would there be another recommendation for a further enlargement?

"No matter how we argue, we are merely going around in a circle. It is like a dog chasing his tail—he might catch it once, but even if he did, the futility of the performance would not be changed.

PERSUADED BY CONSTITUENTS

"Motivated by the great fundamental principles enunciated by James Madison and Thomas Jefferson, and mindful of the admonitions of the Father of his Country, it is with greater reluctance that I come to the conclusion that I cannot support and am compelled to oppose the President's proposal to increase the membership of the United States Supreme Court.

"I am confirmed in my belief by the 30,000 letters I have received from my constituents. Out of this huge total only a few odd hundred approve the proposal.

"Those who have written to me feel that the plan is unmistakably an attempt to 'pack' the Court. They believe that it is in fact an effort to control the Court.

"They are moved also by the thought that minorities would have no defense against the tyranny of majorities, and that a blow has been struck at the foundation of our form of government."

The Gold and Silver Questions

EXTENSION OF REMARKS

OF

HON. KEY PITTMAN

OF NEVADA

IN THE SENATE OF THE UNITED STATES

Tuesday, February 23, 1937

ARTICLE BY HON. KEY PITTMAN, OF NEVADA

Mr. PITTMAN. Mr. President, there has been considerable discussion recently with regard to the effect of our gold and our silver legislation and the administration of such laws.

I do not consider it appropriate that I take the time of the Senate at present to discuss these matters.

The subjects, however, are of great importance and erroneous statements should be corrected.

I had the honor to discuss the subjects before the mining congress at Denver, Colo., in September 1936.

This address has been published in the Mining Congress Journal for February 1937.

I ask unanimous consent to have such article published in the CONGRESSIONAL RECORD as a part of my remarks upon the subjects.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Mining Congress Journal for February 1937]

THE GOLD AND SILVER QUESTIONS

Presented to Metal Mining Convention of the American Mining Congress at Denver, Colo., October 1, 1936

(By the Honorable KEY PITTMAN, United States Senator from Nevada)

I deeply appreciate this invitation to discuss the subject of gold and silver legislation and administration before an audience that is so deeply interested in the subject. In the first place, let me congratulate you on having as your chairman, Mr. Stanly A. Easton, who is a practical miner, a student of monetary problems, and a recognized authority on the production, consumption, and uses of gold and silver. This Congress is to be congratulated upon the large and representative attendance.

The gold legislation was forced upon the United States by the action of other governments. They first departed from the gold standard and depreciated their currencies with regard to gold. By these acts they automatically increased the value of gold with reference to their currencies. They discredited currencies by such acts, created monetary panics, brought about the great urge for the hording of gold.

The United States Government has fixed the price of gold at $35 an ounce. It will be remembered, of course, that the price of gold, until various countries went off the gold standard, was

stabilized throughout the world at $20.67 an ounce. This price was originally established by Great Britain when it declared that a pound sterling would purchase 113.0016 grains of gold and that that number of grains of gold would purchase a pound sterling.

It must be remembered that the value of the pound sterling was based upon a pound of silver, and a pound of silver was equal to 20 silver shillings. In other words, the Government of Great Britain stated that so many shillings would purchase so many grains of gold. In other words, it was the silver shilling that measured the value of gold, and also measured the value of the pound sterling, which was and is the unit of monetary value in Great Britain.

When our Government established its Coinage Act in 1792 it followed some statutory monetary system that had been adopted in Great Britain. It adopted as its unit of monetary value the dollar. The value of the dollar was measured also by silver, namely, 371¼ grains of silver. In other words, the unit of value of the dollar was almost one-fifth of the value of the pound sterling. So as to maintain substantially the same ratio between the value of gold and silver that had been established by Great Britain, the value of the dollar was also made equal to 24.75 grains of gold. The value of gold was subsequently increased with reference to the dollar, and also silver, by fixing the value of gold at 23.2 grains for the dollar.

It will be observed that there were 16 times as many grains of silver as there were grains of gold as a measure of the dollar. This ratio between the value of gold and silver was not an accident. There had been an effort by governments as far back as the beginning of the eighteenth century to attempt to establish the relative value of gold and silver based upon the average production of such metals. It varied for a long time between 14 and 15 grains of silver to 1 grain of gold. Great Britain, early in the nineteenth century, established the relative value of the two metals at approximately 16 grains of silver to 1 grain of gold. That is where the expression of the coinage of silver at 16 to 1 arose. Our Government, in the establishment of the dollar and the ratio between gold and silver, followed the same formula and established such a ratio at substantially 16 to 1. Our monetary system was established on true bimetallism; that is, there was a joint measure of the dollar, both in gold and silver. In other words, as finally established, the dollar could be redeemed with 371¼ grains of silver or 23.2 grains of gold, and, on the other hand, our Government purchased through coinage 23.2 grains of gold for a dollar and 371¼ grains of silver for a dollar. I say this is true bimetallism, because there was a dual measure of the dollar unit, and our Government was at liberty to utilize either metal in the redemption of its currencies. This was considered wise at that time by reason of the fact that while the average production over a long period of time of the two metals was approximately 16 to 1, the relative production of such metals varied during certain shorter periods.

In 1873 there was an extraordinarily large production of silver in the world, caused by the opening up of new silver mines in the western part of the United States, and particularly the development of the great Comstock mines at Virginia City, Nev. This unsual and enormous production in silver frightened economists in the United States who were unfamiliar with the average production of silver and gold over a period of 300 years, and conceived that the world was going to be flooded with silver and that it would become as cheap as iron. How foolish they were has been proven by the proportionate decrease in the production of silver as to gold from that period of time down to the present. The average production during such period has been less than 15 ounces of silver to 1 ounce of gold, yet in 1873, in the preparation of a new coinage act, silver was demonetized—I may say secretly demonetized—because few had knowledge of the provision or its effect. In this act it was declared that gold and gold alone should be the measure of value of the dollar, and at the same time the legal tender character of the silver dollar was destroyed. Of course, the result of this act was the depreciation in the value of silver. Had gold been demonetized instead of silver the same depreciation in the value of gold would necessarily have occurred, because the chief value of either metal resides in its monetary value.

The falling price of silver and the strong reaction in all quarters against the demonetization of silver caused the enactment of certain laws for the purchase of silver for the coinage of silver dollars. Such an act was in force in 1893. At this period a monetary panic swept across the world, commencing in the early part of 1893. It originated in Great Britain and swept across the United States. The same deluded economists who brought about the demonetization of silver started propaganda to the effect that the panic was due in the United States to the purchase and coinage of silver dollars. And so, in 1893, the Silver Purchase Act was repealed. Silver in the world was thereafter used in a monetary capacity solely in the coinage and circulation of subsidiary silver coins; that is, dimes, halves and quarters, or similar coins in other countries. While the value of silver depreciated, such coinage of subsidiary coins, by creating some demand for silver other than in the arts and sciences, tended to stabilize silver between 50 and 60 cents an ounce, at which values it remained until the beginning of the World War.

There then arose a large demand for silver to meet the needs of an enormously increased commerce, and to pay the wages of soldiers. This increased demand made it impossible for the British Government of India to redeem its paper silver rupee notes. They were willing to redeem these notes in gold but the people of India were accustomed to the use of silver and would not accept gold. A crisis had been reached in India. A revolution was threatened by reason of the apparent necessity of the British Government in India to declare the inconvertibility of the paper rupee notes; in other words, that such notes could not be redeemed into silver. This was 1918, when the result of the European war was held in the balance. It was absolutely necessary that the British Government for India should obtain silver. They required at least two hundred million ounces of silver. They could not find any such supply in the world, except the supply of silver dollars lying in the Treasury of the United States and held there for the redemption of silver certificates issued against such dollars.

Our Government, under the Pittman Act, authorized the melting up or otherwise changing into bullion of 250,000,000 of standard silver dollars to meet the demand of India for silver. The demand was met, and a revolution in India was prevented. Except for this act, it is possible that the whole current of the war might have been changed. It is possible that the Allies might have been defeated. This large supply of silver in the Treasury of the United States proved beyond doubt the value of a large reserve of silver.

And so the increased demand for silver, although such demand was partially artificially met by taking silver coins out of reserve, caused silver to rise in price to around its monetary value of $1.29 an ounce.

After the end of the war, and in 1919, silver rose to the price of $1.38 plus per ounce throughout the world. This was above the monetary value of silver in all countries. Silver coins commenced to be melted up and sold as bullion in every country in the world, including the United States, because the value of the silver in the coin was worth more as bullion than it was as money.

The United States Government stopped the melting up of silver coins in the United States by breaking down the price of silver throughout the world. It accomplished this by making available to the exporters of silver 50,000,000 of our standard silver dollars to be dumped upon the markets of the world as bullion. It accomplished the purpose intended; in fact, it went further than was intended. The price of silver dropped from $1.38 an ounce to below $1 an ounce.

It was a carelessly and cruelly administered program on the part of the Treasury Department. It was the duty of the Treasury Department to bring the price of silver below the monetary value of our silver coins, but it was a breach of confidence to place in the hands of brokers and speculators the power to almost destroy the exchange value of silver money.

Great Britain, France, Belgium, and other countries availed themselves of this excuse and debased their silver coins. That is, they took part of the silver out of the coins and substituted base alloys. The surplus silver derived from this source they also ruthlessly and without limitations dumped upon the market of the world. And, mind you, this was done even after the acts of the United States had already accomplished the purpose which these other governments pretended they intended to accomplish by such debasement.

And then in 1926 the Government for India passed a law authorizing the melting up without limit of silver coins in the treasury of India and the dumping of such silver upon the market of the world without regard to demand and without regard to price. And so silver fell in price to as low as 24½ cents an ounce.

The impression rapidly gained that silver was worthless. Our Government did nothing to remedy this evil condition, and yet, at the time that these sales were proceeding from India in 1928 our Government had in circulation in the United States 539,961,701 silver dollars, or silver certificates secured by silver dollars, which they guaranteed to maintain at a parity value with gold and a value of $1.29 an ounce of silver. And at that time, in 1928, our Government had in circulation in subsidiary coins—that is, dimes, halves, and quarters—of the value of $299,010,231, which they guaranteed to maintain at a parity value with gold of $1.38 an ounce. Is it not evident that such destruction of silver was placing a tremendous burden upon gold and upon the Treasury of the United States?

And then commenced an effort on the part of some of our Congressmen to remedy this condition. Free coinage of silver bills were introduced. They were defeated by majorities that proved that no such acts could become law at that time. Silver purchase acts were introduced requiring the Government to purchase at least 50,000,000 ounces of silver per month. These acts were also defeated by such majorities that it appeared evident that no such acts could be passed.

In 1933 an economic and monetary conference was held at London. There were 66 governments represented at that conference, including the United States. The President thoroughly realized that the destruction of the monetary value of silver must be stopped, and to that end that unnatural and prejudicial acts of governments should cease. With the President's approval, on behalf of the delegation of the United States, I presented at the conference a resolution which was unanimously adopted. It provided that the Government for India, after the 1st of January 1934, should not sell silver from the melting up of its coins to exceed 35,000,000 ounces annually for a period of 4 years.

It was understood that after such sales, India would have disposed of its so-called redundant silver and would discontinue further sales from melted coins; that governments would refrain from debasing their silver coins below 0.750 fine; and that in the future, so far as possible, their coins would have at least such fineness; that low-valued paper currency would be withdrawn and silver coins substituted in lieu thereof, so rapidly as practicable; that the silver-producing countries would absorb into their treasuries an amount of current production of silver equal to the amount of silver sold by the Government for India, and also the Government of Spain, which was limited to 5,000,000 ounces a year for 4 years.

The Government of the United States, to carry out this agreement, found it necessary to purchase current production of silver in the United States. It was also necessary to raise the price paid for American silver above the world price, to prevent the silver leaving this country.

The rise in the world price of silver caused the President to raise the price of domestic silver to 77.56 cents an ounce. The world price of silver afterward dropped to around 45 cents an ounce. The President, however, refused to reduce the price of American-produced silver. He was fully justified in such refusal. This rise in the price of American silver caused the opening up of many mines in the United States—gold, silver, lead, copper, and zinc mines.

It is known that there are few purely silver mines. In fact, 80 percent of the silver produced in the United States is as a byproduct of other metal mines. Forty percent of the silver produced in the United States is as a byproduct of lead mines. Considering the very low price of copper, lead, and zinc, this rise in the price of silver enabled the operation of many lead, zinc, and copper mines that otherwise would have remained idle.

And then these Senators and Congressmen called upon President Roosevelt for his support. It was shown to him that in 1894 the proportion of our silver reserves to our total reserves of gold and silver was 54.9 percent silver and 45.1 percent gold. At the time the matter was presented to him the ratio had dropped with regard to such reserves until there was only 14 percent in silver in such reserves.

The result of such conferences with the President over a period of 6 weeks was the Silver Act of 1934.

It is contended by Handy & Harman and other metal brokers that the act has been a failure. Well, we expect such propaganda from speculators in silver. They make their money through the speculation in silver. They wish a free and open market for both gold and silver, without any regulations or control. They are not interested in the stability of money. They make more money when the value of gold and silver is unstable. They clip off a part of the gold and silver both going and coming, and the greater the instability the more they make.

The Government has purchased 936,998,000 ounces of silver under the Silver Act at an average price of 60 cents an ounce. This silver is being coined into silver dollars and is being sold to the banks and the trade and used in the payment of Government debts at a value of $1.29 an ounce. The Government has made a profit of $645,888,420 off the purchase of this silver.

Now, has the circulation of this silver injured our monetary system or our people? It is admitted that it does not constitute any material inflation. It may have added 20 percent to our circulating media in the form of currency. Certainly this does not mean much, as it is also admitted that 90 percent of our circulating media consist of bank credits circulated in the form of checks and drafts, bills of exchange, etc. It is through this credit circulating medium that the tremendous inflation occurred in 1929, which was a hundred times greater inflation than the slight increase to our currencies by the issuance of our silver dollars.

Let us see what further the Government has accomplished through the power of the Silver Act of 1934. It has enabled our Government to stabilize the currency of China and place the Chinese dollar on the gold-dollar basis of exchange. Our Government bought a quantity of silver from the Chinese Government and gave the Government of China a credit in American dollars for such purchase price. This, of course, was with the understanding that the Government of China would nationalize silver—that is, take all the silver in China it could obtain and place it in the Central Bank of China—that it would make the Central Bank of China the sole bank of currency issue; that it would have behind such currency issue a reserve of 65 percent; that one-fourth of this reserve should be in silver and three-fourths of it in gold or American dollars.

Except for the power of the Silver Act, this could not have been accomplished. Today China's exchange is stabilized by being tied to the American dollar. It has enabled China again to open its mints and continue the coinage and circulation of silver coins. So China is again substituting for its paper currency silver coins as rapidly as they can be coined and circulated. This is restoring the normal demand for silver in China, and, through the recoinage at a lower metallic silver content, is preventing the exportation of such silver coins from China.

Our Treasury Department has had an understanding with the Government of Mexico whereby the exchange value of the Mexican peso has been stabilized with the American dollar. Silver in Mexico has been nationalized; silver coins are being recoined at a lower silver content and are being rapidly circulated through Mexico. In fact, the Government of Mexico, through its central bank, has coined and issued over $300,000,000 worth of silver coins during the past year. This is reestablishing the natural demand for silver. It is possible and practicable for our Treasury Department to aid the Central American and South American republics, if they so desire, in the reestablishment of their monetary systems along similar lines. If this is accomplished, then such countries will again have silver coins as their natural domestic circulation, and the natural demand for silver will be further restored.

In addition to all of this, it ties the money of such countries to the American dollar for exchange purposes. It is a monetary law as well as a commercial law that trade follows such exchange alliances. Great Britain has always been aware of this law. Our Government has just commenced to understand it.

The President has time and time again announced that he is satisfied with both our gold and silver policy and sees no reason to change such policy.

As I have stated before, the action of our Government in raising the price of gold to $35 an ounce was impelled by the action of other governments. In 1931 Great Britain went off the gold standard. Immediately her currency was depreciated with regard to gold. That is, the pound sterling would not purchase the former amount of gold. In fact, the currency of Great Britain—that is, the pound sterling—was depreciated between 30 and 40 percent with reference to gold, while gold was, of course, equally appreciated in value. In other words, gold was valued with reference to the pound sterling at various times between $30 and $35 an ounce. Japan and other countries went off the gold standard and depreciated their currencies to even a greater extent with reference to gold, thus greatly enhancing the value of gold with reference to their respective currencies. The United States suffered greatly in its export trade from these depreciations of foreign currencies. Trade was invited to countries of the depreciated currency until our export trade was almost destroyed. It became absolutely necessary for our Government, as a defense measure, to depreciate the dollar with reference to gold, so the United States finally went off the gold standard and depreciated its currency by fixing the gold dollar at 15 5/21 grains of gold. This in effect meant that the gold in our dollar was worth approximately $35 an ounce. So long as our currency remains at its present level, gold must remain at $35 an ounce. We cannot appreciate the value of our currency relative to gold until other countries do likewise. By virtue of a scarcity of gold in other countries of the world, it is hardly likely that the currencies of such countries will be appreciated. In fact, there is a gentleman's agreement between the United States and Great Britain, France, and other countries, to stabilize their respective currencies at the present value thereof with relation to gold.

This act has given the United States the power to expand its currency issues and its credit. Such expansion results in the rise in commodity prices.

The indirect benefit of this rise in the price of gold has added to the incentive for the opening up of mines throughout our country containing gold. And, again, it must be remembered that gold is associated in ore with other metals, such as lead, zinc, and copper, and such gold content frequently permits the mining of such ores when otherwise they could not be mined. The rise in the price of gold and silver has resulted in the renewed mining operations of many old mines and the opening up of new mines throughout the United States.

The result has been the reemployment of over 400,000 men and women in the United States. These men and women were probably on the relief rolls. They are now engaged in natural and valuable occupations. It is contended that the Government is paying the silver miners a bonus to the extent of the difference in the price of silver in the United States and throughout the rest of the world. Well, this is not a bonus, because the Government makes more out of the silver that it purchases from the American producer than the producer makes. But call it a bonus if you will. The fact remains that it has been the cheapest and the most satisfactory relief measure that has been conceived. The total bonus, if it may be called such, would not exceed $15,000,000 per annum. This method of relief has been more economical and more satisfactory than any other form of relief.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. BENNETT CHAMP CLARK

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Tuesday, February 23, 1937

RADIO ADDRESS BY HON. BURTON K. WHEELER, OF MONTANA, ON FEBRUARY 19, 1937

Mr. CLARK. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address on the subject of the Reorganization of the Federal Judiciary delivered by the senior Senator from Montana [Mr. WHEELER] Friday night, February 19.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

On February 5 of this year the President of the United States sent a message to Congress recommending what he designated as a reorganization of the Federal judiciary. At the same time he followed the unusual procedure of sending to the Congress of the United States a bill, which I understand was prepared by the Attorney General of the United States, to carry out his proposed suggestions.

On last Sunday evening the Attorney General, speaking with the pride of authorship, presented to the country the administration's arguments for the proposal.

He told us that in the 9 short days since the President sent his recommendations to Congress, "Unfriendly voices have filled the

air with lamentations." This indicates at any rate that the people lost no time in letting the White House know that there were limits to their confidence. He goes on—they "have vexed our ears with insensate clamor." So they vexed the Attorney General. What a pity to vex him. And he calls the voice of America's millions "insensate clamor." We differ with him, and therefore he says we are unfriendly. Are we to understand that only those who agree are to be called friends?

What an attitude, my countrymen, that is to the exercise of the constitutional right of petition by Americans. What unrealized arrogance that reveals. "Upon what meat doth this our Caesar feed, that he is grown so great?"

Spontaneous protest at a measure which with specious plausibility would undermine the integrity of the judiciary, open discussion of the most fundamental problem of our governmental structure vexes the ear of the Attorney General.

As I listened to those words of the Attorney General my mind took me back to a scene in the Nation's Capitol attended by the President of the United States, his Cabinet, and the Members of Congress. It was the funeral ceremonies of my honored colleague, Senator Walsh. Those of us who attended the ceremonies will never forget the address of the archbishop from the text "I have finished my course, I have fought the good fight, I have kept the faith." How true and inspiring were those words spoken as we sat for the last time in the Senate Chamber with the body of one who had so well deserved them. You people will remember with what great satisfaction the announcement that Thomas J. Walsh had consented to serve as Attorney General was received throughout the United States. And you will recall with what dismay the news of his untimely death was received throughout the country. All knew that he would prove a great Attorney General. He was a great lawyer, a great liberal, a great progressive, a great Democrat. And I cannot but believe that had Thomas J. Walsh lived I would not be addressing you tonight. I would not be replying to the Attorney General of the United States. Walsh was a true progressive, not a political progressive. He was a real liberal, not an official liberal. He was a great lawyer. He respected the judicial system of his country. He respected the Constitution. He was intellectually honest. He recognized the facts. He evaded no issues. He made no appeals to prejudice. If he had been Attorney General, the present deplorable controversy would never have occurred. Loyal and true, he would have been candid with his President, and as brave as he was loyal. He would never have advised his President to pack the Supreme Court. And if his President had advised Congress to do so, he would have had to look for a new Attorney General. Himself advanced in years, he would not only have proved a living witness against those who hold old age as evidence of unworthiness but he would have repelled the thought of public attack on Justices of our highest court on the mere ground that they are old men. Strong and stern as he was, he was never cruel. He respected and honored gray hairs. He was incapable of making either private or public argument against a man because he was old. All the offices in the world could not have induced him to do that.

We sorrowed when he died, but we did not then realize how great was our loss.

I speak to you tonight as a lifelong liberal. I was the candidate of the great Progressive Party in 1924 for Vice President, having the honor to be on the ticket with that greatest of all liberals, that Progressive who blazed the way in America at great sacrifice—the late Robert M. La Follette. I was with him when the Attorney General of the United States was lined up with that great liberal Liberty Leaguer, John W. Davis. The people of this country know my record. I feel that I have put the Progressive cause above party and above personal interest. I believe I speak for the liberals of America when I say that true liberalism always opposed one-man power, always defends the rights of the people, always stands for fair play, always opposes indirection, always stands on the merits of its cause, always insists on the due expression of the will of the people. The liberals of America welcome the old as well as the young. We exclude no one on arbitrary grounds, whether of age, class, creed, race, or condition. We proscribe no one. A liberal cause was never won by stacking a deck of cards, nor by stuffing a ballot box, nor by packing a court. The trail of true progressivism is long, but it is right.

Let us examine the Attorney General's proposal and the arguments he advances in support of it.

The proposal, as you know, is in effect that an additional judge shall be appointed to the Court whenever a judge reaches the age of 70 and fails to retire or resign. The immediate effect of the proposal would be that six additional Justices would be appointed to the Supreme Court and 25 judges to the lower courts if the present judges do not resign.

In support of this proposal the Attorney General argues—I quote:

"First. In our Federal courts the law's delays have been intolerable. Multitudes of cases have been pending from 5 to 10 years." You would think he was including the Supreme Court. But the Attorney General's own report declares that there has been no delay in the Supreme Court—that the Court is current, and has been for the past 8 years.

I am of the opinion that a Supreme Court of 15 members could not act as expeditiously as a Court of 9 members. In this opinion I am fortified by the considered judgment of one of the closest students of the work of the Supreme Court over a long period of years. I refer to Prof. Felix Frankfurter, of Harvard Law School, charged by some with being the close adviser of the President.

The President intimated in his message to Congress that the Supreme Court had improperly declined to consider 717 cases in the past term. The Solicitor General of the United States charged with the conduct of the review of the work of the Supreme Court has expressed his opinion that no fault is to be found with the Supreme Court in the disposition of these cases.

And as for the lower courts, I question whether the Attorney General's concern with their delay can be so great when it appears that for many months there have been nine Federal judgeships that have remained unfilled.

The Attorney General's second point is this—I quote:

"Closely allied with this problem"—that is, the alleged congestion in the Federal courts—"is the situation created by the continuance in office of aged or infirm judges."

I have already shown that this does not apply to the Supreme Court. That Court is up with its work.

In only four of the lower Federal courts that are behind in their work is there a judge over the age of 70. For many months there have been these nine vacancies in the Federal courts and notwithstanding the Attorney General's alleged concern with the "law's delay", these vacancies have not been filled. If we need more judges, why has he delayed filling these nine vacancies?

His third point is, I quote:

"If the Constitution is to remain a living document and the law is to serve the needs of a vital and growing nation, it is essential that new blood be infused into the judiciary."

If this is what the administration is driving at, let us be candid and honest about it. Why put up a case about congested dockets and the law's delays when the records showed that they did not exist in any degree in the Supreme Court and only to a comparatively small degree in the lower courts? Did the Attorney General think the Congress and the people would not look up the records and read his own report? We have not carried our rubber stamping that far!

And so it is "new blood" the Attorney General wants—to keep the Constitution alive. Does not the Attorney General know that the President's bill allows him to appoint men 69 years old? If young men are wanted, why not offer a bill to prevent the appointment of any man over 50 or 60?

With reference to this "new blood" to which the Attorney General refers, liberals are led to believe that progressives will be appointed to the positions which this proposal would create. But, if we are to judge upon the record of the past 4 years and the appointments which have been made to the Federal judiciary upon the recommendation of the Attorney General, we can have no hope that great liberals, great statesmen, or great lawyers will be appointed to that body.

And what about new blood and liberalism, or young blood and liberalism? The oldest man in the Supreme Court is the greatest living liberal—Mr. Justice Brandeis, aged 80 years and going strong. He was leading the van when the Attorney General could not be found. There is not a man in America young enough or old enough to substitute for Mr. Justice Brandeis.

And next to Mr. Justice Brandeis, which justice was the greatest liberal of our time on the Court? Do I have to call the name of Oliver Wendell Holmes, Jr., whose opinions stand as the epitome of liberal thought in the history of the Supreme Court? He served on the Court in his ninetieth year and his mind was as resilient as it was when he was 50.

Age is no barrier to progress nor is youth its salvation. Justice Story was already a conservative when he was appointed at 32.

How senseless this prejudice—or effort to arouse prejudice against the Court on account of age in the light of the work of Brandeis and Holmes.

Look at Senator GEORGE NORRIS, of Nebraska—the great liberal of the Senate. Does his 75 years justify the suggestion that he is infirm, or that he is incapable of progressivism? Rather does it not enhance the power of his great leadership? Let the Attorney General but keep pace with him!

It is not because the judges are old and need assistance that the President of the United States sent a special message to the Congress. It isn't because there are six Justices on the Supreme Court who are over 70 that the administration is bending every effort to pass this bill. To claim, as the Attorney General does, that this proposal is designed only to furnish assistance to the older judges is to place the most serious problem which confronts our people on a plane of triviality. It masks with subterfuge the most pressing political problem which confronts us.

Stripped of his argument of specious plausibility, the proposal stands as an effort to control the membership of the Supreme Court.

That there is need for social legislation in the interests of the masses of the people of this country if our Government is to be preserved, thinking people all agree. That the Supreme Court stands as a bar to such legislation cannot be questioned upon the record of the past 20 years. That the courts have at times usurped the legislative power of the Congress no one can deny.

The Supreme Court has denied to the Congress of the United States the right to say that child labor in the cotton mills is not as much a Nation-wide problem as the shipment of a few hundred pounds of butter from Wisconsin to Delaware. To most laymen it appears that Justice Roberts, in the Agricultural Adjustment Act case, on behalf of the majority of the Court, said: There is no power to regulate agriculture. Congress cannot do it constitutionally, and the States are incapable of doing it practically. Neither State nor Nation has the realistic power to regulate ice or coal or minimum wages. We are now in an economic no man's land. What but chaos can come in a society where the judges

are the final arbiters as to whether coal or ice or bread is of interstate concern?

I do not differ with the President of the United States when he says that the abuses should be corrected. The issue is, however, how are we to correct these abuses?

I want to pass legislation that is going to be of permanent benefit to the present generation and to succeeding generations as well, rather than to accept some stop-gap proposal which is going to make it difficult, if not impossible, to get real and lasting reform.

Is there anyone that is so naive as to believe that the placing of six new men upon the Supreme Court is going to correct the evils of which we complain? In the light of past experience with such appointments, it would be an extremely self-confident President and an extremely self-confident Congress that could believe that approval of desired legislation could be assured in such a way. Jefferson, as President, appointed Justice Story, who became an ardent supporter of the nationalistic constitutional doctrines of John Marshall. When the Supreme Court decided the case of *McCulloch* v. *Maryland*, in which the powers of the National Government were greatly extended at the expense of the power of the State, four of the seven Justices who concurred in Marshall's opinion were the appointees of Jefferson, the exponent of States' rights, and one of the Justices had been appointed by Madison, also exponent of States' rights. Jackson, as President, met with this same fate. Judges whom he had appointed voted against him on many matters in which he was deeply concerned.

Lincoln suffered in the same manner. He appointed Chief Justice Chase to the Supreme Court. As Secretary of the Treasury under Lincoln, Chase had sponsored and procured the enactment of the Legal Tender Act, exerting great pressure upon the Congress of the United States to do so. As Chief Justice of the United States, he declared the act unconstitutional, and his break with his political friends was such that many people feared that he would declare many of the acts of Lincoln in carrying out the war unconstitutional.

We need not go beyond our own experience to demonstrate this fact. Liberals like NORRIS, La Follette, and myself fought the confirmation of Chief Justice Hughes on the ground that he was conservative and alined with the big interests. And yet upon the Supreme Court his viewpoint has been liberal. On the other hand, liberals in the Senate supported and urged the confirmation of Justice Roberts. As a member of the Supreme Court he has been alined very largely with the conservative members of that body. Had it not been for his vote with the conservative members, some of the important legislation would not have been declared unconstitutional.

What assurance have the laboring men and the farmers of this country that these six new men will decide the issues in their favor? What assurance can they have unless promises are exacted from them in advance, and if promises can be exacted from them in advance they would be unfit to act as judges. If promises were exacted, it would form a structure upon which dictatorship might be reared.

I am opposed to the executive branch of the Government usurping the powers either of the legislative branch of the Government or of the judicial branch of the Government—and the proposal of the administration has for its purpose only that.

There was a time in Europe when democracy and liberalism were synonomous. Today in most countries in Europe liberalism means fidelity to despotism and dictatorship. Believers in democracy are executed as reactionaries, and yet Hitler and Stalin talk of their democracies. Every despot has usurped the power of the legislative and judicial branches of the Government in the name of the necessity for haste to promote the general welfare of the masses and then proceeded to reduce them to servitude. I do not believe that President Roosevelt has any such thing in mind, but such has been the course of events throughout the world.

While the administrations proposal has the specious plausibility of achieving great ends with ease and dispatch, there can be no assurance that it will do any of these things, and in effect it stands as a bar to real reform.

I am weary of ill-advised and poorly conceived expedients. If this administration seriously desires reform, let us face the problem now.

Senator BONE and I have introduced an amendment to the Constitution of the United States providing that in the event the Supreme Court declared a law unconstitutional that after an intervening election, if the Congress repassed the act by a two-thirds majority it would then become a valid law. This is an amendment that was suggested by Madison. Its enactment was urged by the late Robert M. La Follette, by Theodore Roosevelt, and by numerous other liberals down through the years. Its purpose is to place the political power of the Government in the Congress, the representatives of the people.

Under this amendment there would be no hasty action. There would be time for considered judgment; and unquestionably the Congress would give more careful consideration in the repassage of an act declared unconstitutional by the Supreme Court than it would in overriding the veto of the President of the United States.

Administration spokesmen claim that this process would take too long and that it is necessary for them to act quickly and usurp the powers of the Court. Such claims are not borne out by the great majority of our other constitutional amendments. The twenty-first amendment, repealing the prohibition law, was ratified in 14 months; the prohibition amendment in 13 months; the twentieth or "lame duck" amendment in 11 months; and such has been the case where public opinion has crystallized and the amendment has been vigorously supported.

We have just taken part in an election in which the President of the United States carried 46 out of the 48 States; in 38 States, Democratic Governors were elected; and in 3 other States liberal Governors were elected. In view of this recent election, if the President of the United States would put his influence back of an amendment such as this, it would be ratified in a very short time. Apparently there are those of the President's advisers who suggest that such a measure could not be enacted; and I say to them that if the recent election was not a mandate for social reform, as I believe it was, then it is time for all of us to find out who won the election.

In closing let me repeat what I said to the press a few days ago—that every labor leader, every farmer, and every progressive-minded citizen in the United States would have been shocked and protested from the housetops if President Harding, President Coolidge, or President Hoover had even intimated that they wanted to increase the Supreme Court so as to make it subservient to their wishes. The progressives would have said, and rightly so, that it was fundamentally unsound, morally wrong, and an attempt to set up a dictatorship in this country.

And I am for a liberal Constitution. I recognize that that instrument is the fundamental expression of the people's will. I know something of the modern complexities. But I do not think the creation of a political court will solve them. I am ready for amendment to the Constitution, and I believe the people of this country are ready for such an amendment, but I want it to be amended by the people in the way they have provided and not by packing the Court to make it subservient to anyone's desires. There is no relief in that. We must do right things in the right way. This is no strategy of delay; it is the strategy of the right, of permanence, of real and abiding relief.

The Attorney General of the United States tells us we should trust the President. So we should. And I will tell him the President should trust the people—especially when it comes to changing the document which is theirs. The liberals of America have come thus far by trusting the people. Their movement is the people's movement. We shall continue to trust them. Every cause we ever had received its strength and won its victory from them. They can attend to their job. I am not afraid to trust them. They have the blood, the youth, the age, and the wisdom to keep the Constitution and the law alive.

If there must be a dictator in America, I nominate the American people for dictator.

Federal Housing

EXTENSION OF REMARKS
OF
HON. BYRON N. SCOTT
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Friday, February 19, 1937

Mr. SCOTT. Mr. Speaker, in recent months the attention of the people has been focused on the deplorable housing conditions of families of low income residing in the great slums of New York City. Approximately 516,000 families, or about one-third of the city's population, are today occupying houses which, according to present laws, are substandard. Many of these houses were built over a half century ago and are dilapidated and outworn; many are veritable fire traps; many are without windows or other adequate provisions for light and air; and many are without toilet facilities in the dwellings and have only communal toilets in the hallway or outside in the yard. All of these houses, according to our present American concept, are unfit for human habitation.

A crisis was reached in the slum districts last Christmas when landlord banks and insurance companies refused to make repairs required by the multiple-dwelling law and threatened the tenants with eviction on the pretext that it was against the law to occupy these dwellings in their present condition and it was uneconomic to repair them to comply with the law. Thus a terrible paradox resulted in which the multiple-dwelling law, originally designed to improve the conditions of these tenants, was being used as a weapon to deprive them wholly of a place in which to live.

The conditions in New York City are not greatly different from those which exist throughout the Nation. Housing authorities have estimated that approximately 15,000,000 low-rental dwellings are needed to house American families adequately. This need affects more than one-half of the Nation's population now forced to live in slum areas, in overcrowded dwellings, in dilapidated and unsafe firetraps, and in houses with no sanitary conveniences whatsoever.

This half of the Nation, with an income of less than $1,000 per year per average family of four, cannot obtain adequate housing at rentals within their means. An additional 25 percent of the Nation's population can afford to pay only part of the rents charged by private enterprise. Thus adequate decent housing is beyond the reach of three-quarters of the American families, who are forced to pay high rentals for housing unfit for human occupancy at the sacrifice of necessary food, clothing, medical care, and other human needs.

Private enterprise has proved its inability to provide adequate, decent housing for these families. The high cost of private building, including speculative land values, high construction profits, interest, amortization rates, taxes, and depreciation charges does not permit a rental which three-quarters of the American Nation can afford to pay.

The inability of 75 percent of the American Nation to obtain adequate housing constitutes a condition of social peril. Slums and bad housing are a social and economic liability. No one in the Nation escapes the high cost of their maintenance. Studies in Cleveland, Boston, New York, Philadelphia, Chicago, Detroit, and many other large cities have proven conclusively that slum areas add to the taxpayer's contribution to the cost of government. These increased costs result from juvenile delinquency and crime which breed in slum communities. These increased costs also result from the greater need for hospitalization, and fire and police protection of these slum areas. They are a charge on every citizen of the community. Millions of dollars out of Federal funds—by the payment of relief checks which go for rent—have gone into the pockets of landlords for the preservation of communities which are a blight and a charge on society as a whole. Modern society cannot long tolerate a condition which condones blighted lives and which actually permits a subsidy for the maintenance of slum communities.

The housing bill which I introduced in Congress last week aims to correct the deplorable housing conditions under which great sections of the American people are living today. It was designed to meet the needs for adequate housing for the low-income groups. In addition to the social advantage of providing decent healthful homes and conditions for millions of American families, it will create widespread and continuous employment. The benefits of this employment would not merely be confined to the actual construction, but would extend throughout the construction and related industries. The employment of labor, skilled and unskilled, in the development of new industrial methods and materials, would put to constructive use the potential productivity of our industrial system, in terms of modern housing and communities for the entire Nation.

The introduction of my housing bill was prompted by the failure of the Housing Division of the P. W. A. and other New Deal agencies, which after 3 years have produced only a negligible quantity of housing. It was prompted also by the inadequacies of such proposed legislation as the Wagner-Ellenbogen housing bill introduced in the last Congress and the Ellenbogen bill introduced in the present Congress.

The Wagner-Ellenbogen bill is inadequate for many reasons. First, because the total sum of $900,000,000, which is made available over a 4-year period for housing under the bill, is grossly insufficient in view of the admitted needs. Even this inadequate appropriation was whittled down while the bill was in process of being reported out of committee. Second, although low rents are referred to in general terms in that bill, no statement is made of a maximum rental. There is no assurance, therefore, that low rents will actually be realized. Indeed, the provision in that bill that outright grants by the Federal Government shall not be more than 45 percent of the cost of the housing, makes inevitable a rental charge which will be too high for the vast majority of American families. Finally, the bill places too much discretionary power in the hands of the authority which it creates. Such latitude may not only cause the bill to be deemed an unconstitutional delegation of legislative power, but it also carries the danger that the authority will construct very little housing, or possibly none at all, if it chooses.

The Ellenbogen bill introduced in the present Congress is subject to the same criticism and is likewise wholly inadequate.

My housing bill represents the only realistic and adequate approach to the housing problem of the low-income groups. The bill proceeds on the basic concept that private enterprise, in establishing rental charges, of necessity includes the items of depreciation and interest on the investment in land and construction cost as well as maintenance cost and local taxes. Experience has shown that a rental charge for new adequate housing which is based on all of these items is beyond the means of the majority of American families, which, according to the minimum decency budget established by the United States Department of Labor, can safely pay for rent not more than about $5 per room per month. Because of this, my bill, H. R. 4292, is founded on the concept that low-rental housing can be achieved only where there is an outright grant of the total land and construction costs and where the rental charge is based only upon the cost of maintenance and upon an appropriately adjusted payment in lieu of local taxes. Under present conditions, such a charge would not exceed $5 per room per month in large cities like New York, Chicago, and Philadelphia, and would be less elsewhere.

Accordingly, my housing bill contains provision for outright grants by the Federal Government of 85 percent of the land and construction cost to public housing agencies contributing the balance of 15 percent and agreeing to construct and operate the housing projects in accordance with certain fixed standards. The standards fixed are, first, that the rental charge shall not be more than $5 per room per month and shall be less where possible; second, that no family shall be eligible for this housing whose income exceeds $1,000 plus $250 for each dependent in excess of two—this means that a maximum annual income for the average family of four would be $1,500—third, that priority of application shall be the sole determinant of priority in right of occupancy; fourth, that union wages shall be paid to all employees in any way connected with the construction and operation of the houses; fifth, that the tenants shall have adequate tenure rights and shall not be discriminated against by reason of religion, political opinion, or labor affiliations, and finally, that adequate construction and maintenance standards shall be followed.

My housing bill also proceeds on the premise that the amount of housing constructed should be commensurate with the need. My bill, therefore, contains a provision establishing a schedule of annual construction under which the housing authority will be required to make outright grants to qualified local agencies for the construction of a total of not less than ten million dwelling units within a period of 10 years.

In view of the current action of the United States Supreme Court toward New Deal legislation, housing legislation by the Federal Government may be attacked as unconstitutional on the ground that it invloves an invasion of State and municipal rights and on the ground that it involves an unconstitutional delegation to the housing authority of legislative powers. Such charges cannot be sustained against my bill. Under my bill, the United States housing authority does not construct, own, or operate any housing. This is done exclusively by the local public housing agencies. Furthermore, the powers of the housing authority have been circumscribed as rigidly as possible for the purpose of assuring the realization of the objectives of the bill. Consequently, it cannot be said that unwarranted powers have been delegated to the authority. Finally, the right of Congress to appropriate moneys out of the Treasury stands unquestioned so that the bill rests on solid constitutional grounds.

It must be noted that in attempting to make the bill constitutional no compromise has been made with the basic concepts of an adequate low-rental housing program. On the contrary, in every respect the constitutional provisions are

also desirable instruments for achieving the objectives of the bill.

However, the people of the city of New York and of the Nation must not feel that the mere introduction of my bill in Congress is sufficient. They must come to a realization that this housing bill will not receive real consideration and support in Congress unless the people of the low-income group, who are vitally affected, unite in its support and show their sanction of the bill by direct demands upon their Representatives in Congress, by public meetings, by the organization of tenant groups, like the New York City Wide Tenants' Council, and by other similar methods. It is vital that every tenant should become part of a united movement which will compel destruction of the slum, the greatest blight on human civilization, and compel the construction of homes fit for human life. It is only through such means that a housing program can be completed which will assure decent housing to families of low-income groups.

The President's Address at the Farley Dinner

EXTENSION OF REMARKS

OF

HON. ROBERT F. WAGNER

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Tuesday, February 23, 1937

ADDRESS BY PRESIDENT FRANKLIN D. ROOSEVELT

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD the address delivered by the President of the United States on the occasion of the testimonial dinner to Hon. James A. Farley on Monday evening, February 15, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

This dinner to Jim Farley is on the part of all of us a very personal affair. It is not one of those official banquets with a formal list of formal speakers, talking on formal subjects into the small hours of the morning. It is not a political gathering, or a party gathering, or a victory gathering, or even a gathering to hatch some mysterious plot or pull off a coup d'etat.

The only label appropriate for this occasion is "Jim Farley and his friends." Many of us have known him through the years. Some of you have been associated with him for only a short time, but all of us have a common regard, a common affection for Jim Farley which transcends formality because it is based on the man himself.

History has recorded, and will continue to record, a great many interesting facts about Jim. In due time history will talk out loud about his younger days of local public service to his town and his county and his State. It will talk about his organizing of campaigns; it will speak of his fine service as the administrator of an important department of the Federal Government. It may even add his name to the distinguished list of major prophets. Even as the name of William Jennings Bryan sometimes suggests the arithmetic of 16 to 1, so perhaps the name of Jim Farley will suggest the more modern arithmetic of 46 to 2.

But when history is written, after all of us have passed from the scene, there will be something more important than the chronicle of success in accomplishment. Loyalty will be written there—that loyalty to friends which results in loyalty from friends.

Honor and decency will be written there—the honor and decency which have done much to raise the standards of public service in our Nation.

Good temper will be written there—the kind of good temper which is based on a sense of perspective, a sense of humor, and a sense of forgiveness. In all my years of association with Jim Farley I have never once heard him utter one mean syllable about any human being. I have never heard him suggest reprisal—except once, when after a particularly vicious and mean attack he said to me, "That fellow's mother ought to spank him."

On the Saturday before election, in speaking to the workers at headquarters, I praised Jim Farley for the way he had taken things on the chin and had come up smiling every time. That means courage, and there is not a man in the United States who has more deep-seated, thoroughgoing courage than he.

Back of it all ultimate history analyzes the cause of human actions and human qualities. It will, I think, agree with my analysis when I say that Jim Farley is not just a Democrat with a big "D", he is a Democrat in the sense that he has faith in his fellow man. He likes to believe that men and women are fundamentally decent, fundamentally honest, and that if they are given a chance through democratic processes, their decisions will be fundamentally sound. Because of this belief he has made, and I hope through all the years to come will continue to make, a definite contribution to the success of the democratic processes of American institutions.

Jim would not like it if I were to say, "We love him for the enemies he has made", but I can tell him that we love him for the friends he has made—men and women and children, regardless of party, in every community of every one of our 48 States, including Maine and Vermont.

I ask you to join with me in wishing health and happiness through all the years to come to my friend and your friend, a faithful servant of the people of our Republic, Jim Farley.

Oregon and Compulsory Drill

EXTENSION OF REMARKS

OF

HON. LYNN J. FRAZIER

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Tuesday, February 23, 1937

ARTICLE BY RICHARD L. NEUBERGER IN THE SOCIAL FRONTIER

Mr. FRAZIER. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Oregon and Compulsory Drill", written by Richard L. Neuberger and published in the February issue of the Social Frontier.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

[From the Social Frontier for February 1937]

OREGON AND COMPULSORY DRILL

Recently it was reported by Time, with considerable jocularity, that the first test of the compulsory military training issue at the polls had resulted in defeat for the adversaries of this feature of college life. Time implies that the rejection by Oregon voters of a bill to outlaw compulsory drill should silence controvery on the question. A number of other sources have voiced similar expressions.

Unless the background and ramifications of the Oregon situation are reviewed and analyzed, there is grave danger that the decision of the State's electorate will be interpreted as definite indication that an average American voting public is in favor of compulsory military training. Acceptance of such an interpretation would be a grave handicap to the Members of Congress condemning the use of Federal funds for compulsory drill; they have contended that the people of the United States are not in sympathy with any form of mandatory militarism.

There were seven initiative proposals on the ballot in Oregon this year. All seven were defeated. The bill to forbid compulsory military training had less financial support than any other; yet it received the greatest number of "yes" votes. Reports from the office of the secretary of state show that 131,917 persons supported the measure, 214,246 voted against it. The power proposal advocated by the State grange obtained 131,489 "yes" votes. The other five initiatives on the ballot all received far less votes than the military drill measure.

The tendency to vote "no" was strong in Oregon. Influential groups urged a "no" to all proposals. The utilities—fearful of passage of the public-ownership proposition—cried out to "Play safe." Gov. Charles H. Martin, reactionary chief executive of the State and a former major general, used every function of his office to advocate the defeat of every initiative. The inclination to say "no" in Oregon did not originate this year; it goes back to 1902, when the State first adopted the initiative and referendum. Unless they educated the electorate to say "no" to almost all proposals, the property owners realized that eventually the Single-taxers in Oregon would pass Henry George's basic economic reform. So for a third of a century the voters of Oregon have been warned and admonished to vote "no." In the last 6 years only one-fourth of the measures submitted to the people have been passed.

NINE HUNDRED AND ONE DOLLARS TO FIGHT MILITARISM

But there is another circumstance at least equally responsible for the defeat of the bill to end compulsory drill. It requires money to finance even a make-shift political campaign. Able men have been beaten for the Presidency because they did not have full strongboxes. The students sponsoring the military-training initiative had less money at their disposal than the sup-

porters of any of the seven bills on the ballot. The group to limit property taxes spent $13,489, and polled 79,604 "yes" votes. The backers of the drill measure spent $901, and polled 131,917 "yes" votes. To give another figure to indicate how little the student pacifists really had to spend, the advocates of a measure to improve the Portland school system expended $5,362, and polled 112,546 "yes" votes.

These statistics show that the bill to abolish compulsory drill had far greater appeal to the voters than measures much more adequately financed. In other words, given the financial support enjoyed by some of the other proposals, it is entirely possible the drill measure would have been adopted. It is an absurdity to attempt to campaign a State as large as Oregon—which is more than twice the size of New York—on $901. There were whole counties in which the sponsors of the bill never penetrated. They simply didn't have the money for traveling expenses. A candidate for office cannot win by staying at home, and neither can an initiative proposal be passed when its sponsors and supporters are without sufficient funds to finance an adequate campaign.

For more than a decade hundreds of Americans have participated actively in the attempts to free the Nation's colleges of the undemocratic institution of enforced military training. The Oregon vote was an opportunity to prove, once and for all, that the rank and file of the people do not want their boys to have to pay for their education by learning how to use rifles and bayonets. Getting the bill on the ballot was an achievement in itself; a group of students at the University of Oregon and Willamette University obtained more than 20,000 signatures and financed the printing of petitions entirely through their own efforts. Yet when the time arrived for the first test of the issue at the polls, only $901 was available in the entire Nation to finance the campaign. Seldom has any initiative been so inadequately financed.

There are many national peace organizations which include opposition to compulsory military drill as part of their programs. Their inactivity in the Oregon situation puts at doubt either their sincerity or efficiency. Many of these organizations are continually raising money. Is this money raised for the mere purpose of perpetuating offices and headquarters, or is it raised to promote the causes for which the organizations are presumed to stand? The $901 available in the campaign in Oregon brings to the front the question of whether the various peace groups exist to exist, or exist to advance peace and disarmament. Most of them were indifferent toward the Oregon vote on military drill.

Fortunately this indifference was not unanimous. Edwin C. Johnson, of the committee on militarism in education, lent the full support of his organization. The National Council for the Prevention of War was fairly active and its Portland office cooperated with the sponsors of the measure. Perhaps the most active single individual was Oswald Garrison Villard, who aided both financially and with his pen, and was generally an inspiration to the handicapped student group. Such notable persons as Dr. John Dewey, Rabbi Stephen S. Wise, Dr. John Haynes Holmes, and Senator Bennett Champ Clark were sufficiently interested to send splendid and helpful messages of support.

A CONSERVATIVE COOPERATES

A conservative editor, Paul R. Kelty, of the Portland Oregonian, was the measure's one really active newspaper adherent. In the last few weeks of the campaign he supported the bill editorially almost every day. His assistance was the main antidote to the scurrilous red-baiting carried on by the Oregon Journal, which used the Red Network as its handbook.

The Oregon military training decision has been reached. By a margin of 13 to 8 the voters have determined to continue compulsory drill. Their decision will rise to plague every opponent of mandatory military training in the years to come. "The people themselves don't object—look at the Oregon vote", already has become the theme of the supporters of compulsory drill. That the margin of defeat of the Oregon measure was not wider may be attributed only to the zealous work of a small group of students and ministers. The real-estate interests had $13,000 to cut down their taxes. The power companies had almost $20,000 to oppose public ownership. The school adherents had more than $5,000 for their initiative. But the adversaries of compulsory drill had only $901—less than one-tenth of 1 cent for each square mile of Oregon's territory. No successful campaign was ever conducted with such meager financing.

The bill to abolish enforced military courses required explanation. The people had to be informed that a "yes" vote meant "no" to compulsory drill. This very situation was confusing in itself. The title of the measure, prepared by the attorney general of the State, was also confusing. The sole way to acquaint the electorate of Oregon with the meaning and implication of the vote was by an intensive campaign of education—a campaign with newspaper advertisements, radio speeches, pamphlets, folders, and house-to-house canvassers; the sort of thorough campaign conducted by the real-estate companies and power interests. This sort of campaign cannot be financed with $901, particularly when the people to be reached are spread over an area twice as large as England.

It is unfortunate that the great national peace orgnizations had little funds available for the first electoral test ever made of the issue of compulsory military training. It ill bespeaks this phase of the peace campaign that advertising dentists had three or four times as much to spend on a bill to forbid the regulation of dental advertising. Surely opposition to compulsory drill must be premised on greater faith and enthusiasm than the desire to advertise rates for extracting teeth and making bridgework.

Trans-Atlantic Air Mail Follows 10 Years After Lindbergh's Flight

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 22, 1937

Mr. LUDLOW. Mr. Speaker, before the end of the present calendar year 1937, giant clipper airplanes will be whirring across the Atlantic on regular schedules, four round trips a week, carrying mail, passengers, and express.

With these vehicles of transport and intelligence thickening the skies it will seem that the genius of our aviators has truly accomplished marvelous results in annihilating time and space and drawing two hemispheres close together.

To many persons this bridging of the Atlantic Ocean with air service will seem like one of the modern wonders of the world—the Midas touch that will make the whole world kin.

It was my privilege as chairman of the subcommittee in charge of postal expenditures to report to the House the initial appropriation of $750,000 to establish this service, an appropriation that was approved by the House last Friday.

As I did so, my mind went back in retrospect to that eventful day in the summer of 1927 when the Lone Eagle returned to the Nation's Capital on the cruiser *Memphis* from his epochal, history-making flight to Paris. On that day America tore off the lid in showing its love and admiration for the intrepid aviator who first froze the marrow of the world by his heroic exploit and then lifted the world to heights of unimaginable ecstacy when the news flashed that success had crowned his daring concept.

It was an all-day undertaking—this business of extending the Nation's welcome to Colonel Lindbergh on his return to his native shores. President Coolidge welcomed him at a tremendous daytime celebration in the Washington Monument lot, and the evening exercises were turned over to the National Press Club, which staged an enormous meeting in the Washington Auditorium on Nineteenth Street. When Colonel Lindbergh came upon the stage, accompanied by his mother, who had joined him here, there was a riotous tumult of applause that was caught up and prolonged in great billowy waves by untold thousands on the outside who were unable to effect entrance to the building. A tall wisp of a boy with tousled hair, the youthful aviator was the coolest person there and he spoke with perfect composure, without notes.

It was my duty as president of the National Press Club to present Colonel Lindbergh to that vast audience. Little did I imagine when I did so that it would fall to my lot 10 years later to bring into Congress a proposal to establish trans-Atlantic air-mail and passenger service, a development that was destined to be hastened by his splendid pioneering feat. Ten years is hardly a second in the life of a nation, but what amazing progress American aviation has registered in that decade. Now we are about to see New York brought within 30 hours of London and China drawn within 8 days of the British Isles by these clipper ships of the air and a service established uniting the two great English-speaking nations in fraternal and business relationships that may be of vast importance to the future of the world.

As a matter of possible interest at this time, I present herewith the brief address I delivered 10 years ago when I introduced Colonel Lindbergh to that audience in the Washington Auditorium. It was as follows:

Mr. Chairman, ladies, and gentlemen, not for ages has the imagination of man been stirred as it was 3 weeks ago when Charles A. Lindbergh, fired by the intrepid spirit of the Western World, launched forth in his airplane alone, provisioned with four sandwiches and a bottle of water, a pioneer of the trackless seas. As America's shores receded in the distance he faced a vast wilderness of treacherous ocean.

As if roiled by the very boldness of this Columbus of the air—this winged Mercury, speeding like a thunderbolt of Jove—nature sent her tempestuous elements athwart his path; and while he battled with the storm and sleet, millions upon millions of his fellow beings sent up prayers for his safety to the throne of God. The 33 hours and 30 minutes from New York to Paris was a period of tragic suspense, when the whole world poured forth in a myriad of mystic ways its admiration for the incomparable aviator and its love for the mother who had brought forth such a boy.

To him mountains of peril were as nothing. His faith was buoyant and his hopes were high. Courage was his woof and fiber, and it is not difficult to imagine that stern fate, surprised by this peremptory challenge of her inexorable decrees, lifted her beetled brows and was touched by the very sublimity of his heroism, for she gave him a sporting chance.

And when he reached the other shores, he arose to another test of character as greatly as when he battled with time and the elements. Amid all of the adulations of kings and parliaments, he remained a modest, unassuming American, an honor to his home country, an ambassador of good will, doing more to foster amity between nations than could have been done by a thousand ministers of state.

"After all," he said in London, "two Britishers were the first to fly across the Atlantic." Again, when he learned that Chamberlin had started on the long flight, he remarked fervently, "I hope he makes it." Here he struck the major chord of his character in his desire to give to his comrades at home and across the seas a share of his imperishable glory. And when, in foreign lands, the ties of home began to press and strain against his heart and he confessed, in simple truth and sincerity, to being homesick, how America did yearn to take him to her bosom.

His name is now among the immortals. Around the firesides and in the vast, crowded halls of the future, wherever worth is recognized and genius is extolled, his achievement will be recalled with pride by countless generations yet unborn. Nothing finer could have been done; nothing grander could have been done; no greater epic could have been written into history; and tonight we thank Almighty God that in His infinite goodness and mercy He has permitted Charles A. Lindbergh to return to the arms of those who love him.

I now present Colonel Lindbergh.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 24, 1937

RADIO ADDRESS BY HON. HUGO L. BLACK, OF ALABAMA, FEBRUARY 23, 1937

Mr. REYNOLDS. Mr. President, I ask unanimous consent to have published in the CONGRESSIONAL RECORD an address delivered by the senior Senator from Alabama [Mr. BLACK] over the Mutual Broadcasting System, from station WOL in Washington, D. C., on February 23, 1937, regarding the proposed reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, our Constitution created the executive and legislative departments of our Government. It authorized one Supreme Court which was created and organized by a legislative act of the Congress at its first session. At the same time, the Congress created a system of inferior courts and by act of Congress fixed the jurisdiction of the inferior courts and the appellate jurisdiction of the Supreme Court. Neither the people who wrote nor the people who approved the Constitution ever contemplated that the Supreme Court should become all-powerful and omnipotent.

With wise forethought, the framers of the Constitution carefully provided checks for use by Congress to prevent the courts from becoming too powerful, and to give assurance that the Congress could prevent judicial usurpation. The Constitution, therefore, left to Congress, among other powers, the right to increase or decrease the number of Supreme and inferior court judges and complete power to fix the appellate jurisdiction of the Supreme Court. Mr. John Marshall assured the Virginia Convention considering the Constitution that this power was adequate for the Congress to use "as far as the legislature may think proper for the interest and liberty of the people." The Supreme Court has well said that this whole subject of fixing the jurisdiction of the courts "is remitted to the unfettered jurisdiction of Congress."

This power, like others given by the Constitution, was carefully planned and deliberately conferred. Most of the framers believed in popular government by the people themselves. Like Jefferson, they were not willing to trust lifetime judges with omnipotent powers over governmental policies. They were familiar with the lessons of history, and they knew that the people's liberty was safest with the people themselves or their properly elected representatives. They knew that their English ancestors had fought for their liberties through their legislative representatives, and that they were too often compelled to wage battle against the combined powers of the judges and the king. They provided in the Constitution for checks of the legislative branch by creating two legislative bodies and authorizing an Executive veto. Four times the Constitutional Convention declined to provide for a joint Executive and judicial veto on legislation.

The framers of the Constitution gave Congress adequate, complete, and what they believed to be necessary, power to check the courts by granting legislative power to determine the number and the jurisdiction of the judges and the courts. They were unwilling to leave lifetime judges wholly free from the people's control and also free from any checking influence of the people's elected representatives. They believed with Jefferson that "it is a misnomer to call a government republican, in which a branch of the supreme power is independent of the Nation." This constitutional power of Congress to increase and decrease the courts, the judges, and their jurisdiction, has been used by Congress on a number of occasions. There is no wrong in using a constitutional power when the people's liberty or interest require it to be done. Does the public interest imperatively demand that Congress exercise its unquestioned constitutional right to increase the number of Supreme Court Judges? Let us consider it.

Before doing this let me read you a statement made by the great Justice Brewer:

"It is a mistake to suppose that the Supreme Court is either honored or helped by being spoken of as beyond criticism. On the contrary, the life and character of its Judges should be the object of constant watchfulness by all, and its judgments subject to the freest criticism. The time is past in the history of the world when any living man or body of men can be set on a pedestal and decorated with a halo."

There are now nine Judges of the Supreme Court of the United States. Seven of them were appointed by Presidents Taft, Harding, Coolidge, and Hoover. Two were appointed by President Woodrow Wilson; none by Grover Cleveland, Theodore Roosevelt, or Franklin Roosevelt. The interval that has now elapsed since the appointment of a Supreme Court Judge is the longest in the entire history of the Nation.

Chief Justice Hughes has said that, "The Constitution is what the Judges say it is." This statement is correct if we alter it to read that, "The Constitution is what five of the Supreme Court Judges say it is, and what four of the Supreme Court Judges say it is not." It is interesting to note the uniformity with which certain of the present Supreme Court Judges have agreed on the unconstitutionality of laws, and certain other Judges have disagreed with them. The number of decisions in which the present Supreme Court Judges have participated in which acts of Congress were held unconstitutional, and the position of each Judge has been as follows:

Chief Justice Hughes has participated in 22 cases with 3 dissents; Mr. Justice Roberts, 16 cases with 1 dissent; Mr. Justice Butler, 26 cases with no dissent; Mr. Justice Sutherland, 26 cases with no dissent; Mr. Justice McReynolds, 36 cases with 1 dissent; Mr. Justice Van Devanter, 41 cases with no dissent; Mr. Justice Cardozo, 14 cases with 4 dissents; Mr. Justice Stone, 22 cases with 10 dissents, Mr. Justice Brandeis, 35 cases with 21 dissents.

It is thus seen that for a number of years our Constitution has been, to all practical purposes, what Justices Van Devanter, McReynolds, Butler, Sutherland, and Roberts said it was. Our Constitution has likewise been, in the main, what Justices Brandeis, Stone, Cardozo, and I must add Justice Holmes, said it was not. It is proper to add that the political and economic constitutional interpretations of these five Justices followed along the direct trail of the dominant interpretations since Justice Fields succeeded in overturning previous constitutional principles many years ago. What has been the constant and uniform trend and the necessary effect of this constitutional philosophy? Members of the Court themselves have charged that it amounted to a clear usurpation of legislative power by the Judges; that it changed the basic theory of our Constitution; that it protected wealth at the expense of poverty; that it stripped the States of their powers and transferred these powers to the dominant five or six judges. While it is impossible to paint the full picture drawn by these eminent Supreme Court Judges, let me quote a few of their judicial utterances.

Justice Harlan, in the famous 4-to-4 and later 5-to-4 Income Tax case, said of the decision:

"The decision now rendered dislocates—principally for reasons of an economic nature—a sovereign power expressly granted to the General Government and long recognized and fully established by judicial decisions and legislative action. * * * I cannot assent to an interpretation of the Constitution that impairs and cripples the just powers of the National Government. * * * Undue and disproportioned burdens are placed upon the many, while the few, safely entrenched behind the rule, are permitted to evade their just share of responsibility for the support of the Government ordained for the protection of the rights of all."

Justice White, later Chief Justice, said it overturned 100 years' practice and took "invested wealth and read it into the Constitution as a favored and protected class of property."

Justice Holmes said that the Court, in a Western Union Telegraph Co. case from Kansas, "curtailed the State's power to tax by judge-made restrictions."

Justice Holmes, in a 5-to-4 opinion depriving New York people of authority to protect workers in bakeries from long hours, said:

"This case is decided upon an economic theory which a large part of the country does not entertain. * * * But a Constitution is not intended to embody a particular economic theory."

When the Court, in another 5-to-4 opinion, held that Congress could not within the Constitution hold a railroad liable for the death of its employees resulting from negligence of other employees, Justice Moody insisted that the economic theories of five judges should not be interpreted as a part of our American Constitution.

In spite of these and other warnings judges continued to reframe the Constitution to fit their economic notions, and we find Justice Harlan, in the Standard Oil and American Tobacco cases, again calling attention to the continued practice of lifetime judges adding constitutional amendments to our basic charter.

Mr. Justice Butler, speaking for the majority of the Court in 1927, delivered a learned opinion informing the people of Nebraska that they could not pass a law regulating the weight of a loaf of bread "to protect the buyers from short weights and honest bakers from unfair competition." Justice Brandeis said that the action of the Court in this case was "an exercise of a superlegislature—not the performance of a judicial power."

Finally, in 1930, Mr. Justice Holmes emphatically protested that the fourteenth amendment did not give the judges the right "to condemn everything that we may think undesirable on economic or social grounds." Protesting further, Justice Holmes said:

"I have not yet adequately expressed the more than anxiety I feel at the ever-increasing scope given to the fourteenth amendment in cutting down what I believe to be the constitutional rights of the States. As the decisions now stand, I see hardly any limit but the sky to the invalidating of those rights if they happen to strike a majority of this Court as for any reason undesirable." He said the Court "should be slow to construe the fourteenth amendment as committing to the Court, with no guide but the Court's own discretion, the validity of whatever laws the States may pass."

This prevailing dominant five-judge economic and social philosophy is becoming a part of our Constitution—not by amendments approved by our people but by the decisions of lifetime judges. With complete confidence in the integrity of the purposes of those dominant judges who are now following and expanding the economic philosophy of some of their predecessors in the Court, I believe with Justice Holmes, and those other great Justices whose voices have been raised in protest, that their economic-social-constitutional philosophy is contrary to the letter and spirit of our Constitution. This philosophy of the five judges is gradually and sometimes silently (as Jefferson said) absorbing to the Federal judiciary, the only governmental department not responsible to the people, all the legislative rights of States and Federal Government.

This dominant five-judge philosophy I believe to be the exact philosophy of the political group that could obtain only 8 electoral votes in the last Presidential election. The philosophy was repudiated by the people of America in 1932, 1934, and 1936. It is significant that the vote of repudiation increased in each election. This philosophy led us to business chaos and in the direction of social and political disintegration. It brought starvation wages; health-breaking long hours of work; child labor in mills; business to bankruptcy; and farmers to crushing mortgages that could not be met with 5-cent cotton, 10-cent corn, 20-cent wheat, and other farm prices in proportion.

This judicial tinkering with the Constitution took from the people of my State and of every other State the right of their legislative representatives to regulate public-utility rates except on condition that the State shall be brought all the way to the Supreme Court in Washington for that Court to pass on a reasonable profit; it took from a sovereign State, "by an order of a subordinate Federal court", the right "to be represented by its attorney general in a suit brought by the State in one of its own courts"; it denied the State of Wisconsin the right to require a sleeping-car porter to refrain from making up an upper berth when the Pullman Co. could not sell it.

It told the people of Kansas, and later the Congress, that our Constitution, written by lovers of freedom and liberty, prohibited a sovereign State or a sovereign nation from passing legislation to outlaw the iniquitous yellow-dog contract. It declared to the people of the Empire State that the Federal Constitution made it unlawful for them to regulate the sale of theater tickets. It has judicially declared that the great business of agriculture, even though prostrate, is not a national problem, while bringing into its orbit of power the height of buildings, and the right to finally decree that the guarantee of a minimum living wage was beyond the scope of a democratic people in what was once the sovereign State of New York.

Favoring the complete separation of powers, executive, judicial, and legislative, I naturally believe it is time to stop these judicial usurpations brought about according to statements of their own judicial colleagues by the economic fallacies of a majority of the Supreme Court. To do this I favor using all the powers necessary to accomplish the purpose which were given to the Congress by the wise framers of the Constitution. Our Constitution can only be preserved by leaving each department of government free to exercise the powers given it and no more. A majority of our judges should not amend our Constitution according to their economic predilections every time they decide a case. By such action they block the orderly and necessary progress of the people and jeopardize our most sacred rights and liberties. Our democracy can work out its own problems within our Constitution if the rights of human beings as human beings are given first importance and if our Constitution is not so misinterpreted and altered as to shackle the democratic processes themselves.

In addition, therefore, to favoring additional Federal judges because we need them to transact our business with efficiency and expedition, I welcome the possibility of new ideas on the bench. Great modern problems still confront us. Our Constitution contemplates that the people shall solve them. They can and will do so if our courts abandon their unconstitutional interpretation of our Constitution. Many of the mistakes of the past have not been because of our Constitution, but because of the alterations and amendments of that great charter by our judges. When our great charter is changed, the people should do it—not the courts.

The time has arrived when those who favor fitting laws to modern needs in order to correct and cure social and industrial injustice must face their problems squarely and fairly. Everybody knows that Supreme Court decisions by a bare majority have for years been thrown as impassible barriers in the way of the solemn and well-matured legislative plans supported by the people. We all know that for a long time our Constitution will continue to be exactly what Chief Justice Hughes said, namely, "what the Judges say it is." There is only one place for those who believe in providing work for the jobless; in improving working conditions for those who toil; in prohibiting long hours of labor in industry; in providing minimum-wage laws; in aiding the farmers of America to make a decent living; in developing our streams to prevent floods and at the same time providing cheap power for the people. Let those who believe the people should have the right to pass laws to accomplish these purposes abandon theories, disregard the old, outworn charges of the Liberty League and its Republican allies that your President wants to be a dictator, and join in aiding to pass a bill to place additional judges on the bench.

These Judges, appointed for life, will be independent of the President and the Congress. The base charge that they would be controlled by anyone is as utterly unfounded as the charges hurled at Mr. Roosevelt in the recent bitter campaign.

Mr. Hoover's voice now rises above the clamor. He gives a slogan which is "Hands off the Supreme Court." This is exactly in keeping with his policies as President, when business and society were toppling all around him and his slogan was "Let it alone." Against this is President Roosevelt's philosophy, which is "Let nothing alone that is wrong." The people voted for Mr. Roosevelt's "do something" and against Mr. Hoover's "do nothing" in 1932, 1934, and 1936. For these policies of Mr. Roosevelt, written into the Democratic platform and approved by 46 of 48 States, "we have just begun to fight."

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. WILLIAM H. KING

OF UTAH

IN THE SENATE OF THE UNITED STATES

Wednesday, February 24, 1937

STATEMENT BY HON. BENNETT CHAMP CLARK, OF MISSOURI

Mr. KING. Mr. President, I ask unanimous consent to have printed in the RECORD a statement issued on February 12, 1937, by the distinguished senior Senator from Missouri [Mr. CLARK] on the subject of the proposal to reorganize the Federal judiciary.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

I have deemed it not only proper but a matter of absolute duty to withhold any expression of opinion as to the recommendations contained in the recent message of the President of the United States as to the coordinate judicial branch of the Government until I had had opportunity for giving to the message and to the actual draft of proposed legislation attached to it most careful and painstaking consideration.

It has seemed to me that the action proposed is of such fundamental and far-reaching scope and involves such essential changes in our governmental fabric that a decent respect for my oath of office as a Member of Congress must necessarily demand of me most careful consideration of the proposals before the expression of opinion on specific measures of legislation so suddenly presented for action. On the other hand, my respect for the President of the United States, for whose office I have the greatest respect and reverence and for whose person I have not only respect but admiration and personal affection, compelled me under my

oath of office to study carefully his recommendations before I could decide upon opposition to or variation from the measures proposed by him.

Moreover, I agree with the President upon so many of his premises and so many of the provisions of his proposed legislation that it is painful for me to be unable to agree with all of his recommendations. He is the undisputed leader of the American people. Indeed by the free and untrammeled action of a free people he is the foremost figure in the world today, enjoying by his own achievements and the favor of his fellow citizens greater prestige than has any President within the memory of anyone now living. These considerations impart to his recommendations an additional and entirely proper weight over and beyond the respect ordinarily due his offices. Nevertheless Representatives and Senators are still sworn on their own oaths and under our theory of government are responsible alone to their own consciences and the constituents who elected him.

With the very best will in the world, I am totally unable to agree with the provisions of the measure proposed by the President insofar as its immediate effects would involve the sack of the Supreme Court of the United States. I am in general accord with the other provisions of the bill so far as the inferior Federal courts are concerned. I believe that they would bring about beneficial results although I am by no means convinced that it is the most scientific or economical basis for supplying the undoubted additional assistance needed by the Federal courts. Nor do I believe that age is a test of liberalism, as some of the most reactionary judges of the inferior Federal courts are well below the age of 60.

The desirability of allowing the Attorney General to intervene in any case where the constitutionality of an act of Congress may be attacked seems to me to be so plain as not to require argument. The creation of the office of Proctor (whether known by that or some other name) to advise the Supreme Court in its supervisory jurisdiction seems to me an administrative matter which is unobjectionable.

I have always strongly believed in the creation of additional Federal judges as the needs of the various districts might develop. The cost of an additional judge is infinitesimal in comparison with either the actual property loss or the loss in confidence and morale which follows tardy administration of justice. It has always been my notion that these additional judges should be appointed on the basis of business in the various districts and circuits and upon the state of their dockets rather than the age of the judges. Nevertheless the general scheme proposed by the President would exert a very great influence on the expedition of justice in the inferior Federal courts. Therefore, I favor it.

I have always been in favor of permitting Supreme Court Judges to retire upon the same terms as other Federal judges—that is, upon full pay at the age of 70, provided they have served 10 years. They are entitled to the same protection that other judges have against the reduction of salary after retirement either by legislative action, increase of income taxes, or otherwise.

I have always been in favor of the compulsory retirement of judges at a specified age, even though it requires an amendment to the Constitution. I am not convinced that the voluntary retirement age of 70 should be also the compulsory retirement age. This doubt is strengthened by the fact that of the two greatest liberal judges of modern times, Mr. Justice Holmes served with unimpaired faculties until nearly 90 and then resigned without compulsion, and that Mr. Justice Brandeis, now 80, is still probably the greatest ornament of our bench.

I would have no ineradicable feeling against an increase in the size of the Supreme Court, even to 15, provided the necessity for such increase could be demonstrated upon the basis of the inability of the Court as at present constituted to handle its business, although in a court of last resort sitting as a single tribunal there might be grave danger of making it unwieldy and impairing the facility for consultation and deliberation necessary to the speedy administration of justice.

But there has been no showing whatever that the age of the Supreme Court Justices has caused that high tribunal to be either negligent or dilatory in its work. The Court, high as is the average age of its membership, is up with its docket. Causes coming to the Supreme Court may be promptly heard and disposed of without unreasonable delay. The denial of jurisdiction in many cases between private litigants seeking to reach the Supreme Court by the extraordinary writ of certiorari has been in pursuance of a policy deliberately adopted by Congress and approved by nearly all of the leading lawyers of the United States, including the present eminent chief law officers of the United States in their annual reports. The basis of this policy, of course, is that the highest tribunal should not be occupied with the reaffirmance in private disputes of principles already well established in the law, but that the Court should be left free to devote its energies in the determination of constitutional questions, and in its duties of coordinating the activities and decisions of the inferior courts along the lines of the President's message.

In passing it must be said that any delay which has occurred with respect to the determination of the validity of the legislation of the last 4 years has not been due either to delay upon the part of the courts or the adverse parties but by reason of the procedure of the Government itself.

My objection is not so much to the increase of the size of the Supreme Court, although I deem so large an increase inadvisable. It goes to the suddenness and violence of the process of change. It is because it amounts essentially to abolishing the Supreme Court of the United States as it has existed since the foundation of the Republic and the setting up of a new tribunal in its stead with reference to a particular situation and with reference to particular litigation which has recently been or may in the near future be pending before the Court.

I would be the last to believe the Supreme Court is sacrosanct or above criticism. I have read the criticisms of Jefferson and Jackson upon both the personnel and the decisions of the Court. I have read the bitter attacks of Lincoln upon the Dred Scott decision and other policies of the Court. My first memories are of an era when the Court was generally criticized by liberals—and by none more than by my father—for its action by a 5-to-4 decision declaring the income-tax provisions of the Wilson bill unconstitutional, which happened by reason of one Justice changing his mind overnight. But these matters have been corrected either by the march of time or by definite constitutional amendments.

If the proposal to increase the Court were one of permanent public policy to be decided upon its merits and to be put into effect gradually or at some date certain in the future, I would have an entirely open mind upon the subject with the inclination to agree.

But the conclusion is inescapable that to increase the Court at one time by the increase of an additional two-thirds of its present membership is to pack the Court with reference to a particular situation and particular litigation now pending or to be immediately pending before it.

It is not only changing the rules while the game is in progress. It is setting a precedent for the changing of our system of coordinate powers between the three branches of government.

Be it not forgotten that a precedent set by a good President of high ideals for good public purposes may be taken advantage of in some future time by a bad President or a mistaken President or one with ulterior motives. We cannot assume that so high-minded and idealistic an Executive as Franklin D. Roosevelt will always occupy the White House. If the Court can now be increased to nearly double its present membership with respect to particular litigation, some future reactionary President, with a subservient Congress, could increase it to 21 or to 55 or to 155.

Therefore, it seems to me that the President's proposals as to the inferior courts and as to assistance to the Supreme Court in its supervisory jurisdiction should be unhesitatingly adopted. It also seems that there should be no valid objection whatever to the authorization of Supreme Court Judges to retire at age of 70 upon full pay for life. But as to authority to at one time increase the Supreme Court by the addition of six members with regard to particular litigation, I find myself in complete and total disagreement. To me it seems a radical and unnecessary change in our whole system of government, without the submission to the people in the proper form of an amendment to the Constitution. Therefore I shall vote against that portion of the President's proposals.

Tribute to Postmaster General Farley

EXTENSION OF REMARKS

OF

HON. WALTER F. GEORGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 24, 1937

EDITORIAL FROM THE ATLANTA (GA.) JOURNAL

Mr. GEORGE. Mr. President, I ask unanimous consent to have inserted in the RECORD a tribute to Hon. James A. Farley, Postmaster General, which appeared in the Atlanta Journal of February 17.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

[From the Atlanta (Ga.) Journal of Feb. 17, 1937]

THE TRIBUTE TO MR. FARLEY

Never was tribute more heartily paid or more happily earned than that to Postmaster General James A. Farley, one of the foremost Democrats of his time, at the dinner given in his honor at Washington Monday night and attended by 1,700 admirers from the four corners of the Nation. As President Roosevelt, chief speaker of the evening, declared, it was "not a political gathering, or a party gathering, or [this with a twinkle of humor] a victory gathering to hatch some mysterious plot or pull off a coup d'état; the only label appropriate is Jim Farley and his friends."

The name of those friends is truly legion. For every one in the great company who cheered him at the dinner, there were thousands throughout America, in every State, every county, every town, who wished him in their heart of hearts all the happiness and good fortune he so richly deserves. His career as a public servant, a liberal leader, and a workmanly statesman has won the warm esteem of a fair-minded public, regardless of party lines. But the

virtues for which those who know him best honor and love him most were recounted by his old friend, the President. They are loyalty, honor, decency, and good temper—"the kind of good temper which is based on a sense of perspective, a sense of humor, and a sense of forgiveness."

It is peculiarly gratifying to Georgians that their State was so largely represented and so signally recognized at the dinner honoring this great Democrat and great American. Governor Rivers spoke happily for the Southern States and was one of the very few in a host of distinguished guests chosen to pay special tribute, the others being Governor Murphy, of Michigan; Governor Earle, of Pennsylvania; Mayor Kelly, of Chicago; and President Roosevelt. From all and each of his friends in Georgia, Mr. Farley has a world of congratulations and good wishes.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ELMER THOMAS

OF OKLAHOMA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 24, 1937

RADIO ADDRESS BY HON. BURTON K. WHEELER, OF MONTANA, ON FEBRUARY 21, 1937

Mr. THOMAS of Oklahoma. Mr. President, I ask unanimous consent that there be printed in the Appendix of the RECORD a very able speech delivered by the senior Senator from Montana [Mr. WHEELER] at Kansas City, Mo., over the Columbia Broadcasting System on Sunday evening, February 21, 1937. His subject was the proposed reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen of the radio audience, I wonder how many of you people want to hear a political discussion on this Sabbath evening? I am afraid that some of you who heard me Friday evening will think that I am speaking a good deal on this subject of the Court for one who comes of Quaker ancestry.

I am out here tonight in that typically prairie State of Missouri, away from the influence of those economic royalists who have been using other people's money for the purpose of guiding our economic destinies. I am away from Washington—from all of the political royalists who seek power in order that they may more fully control the political destinies of this country. It is well to come out here to the great open spaces in these typically prairie and mountain States where people are not grasping, either for economic or political power, but want to live their own lives in their own way, and are anxious to preserve the liberties that have been guaranteed to them by the forefathers of this country.

Just one week ago tonight the Attorney General of the United States, speaking with the pride of authorship, presented to the country the administration's argument for the proposal of the President to increase the Supreme Court by 6 members, and the lower courts by 25. You will recall that at the time the President delivered his message to Congress, he sent with that message a letter from the Attorney General of the United States in which the Attorney General spoke of the law's delays and the necessity for more judges to speed up the work. But the Attorney General said nothing about the nine vacancies on the courts of this country that have remained unfilled for many months. In the President's message he said, "I have recently called attention of the Congress to the clear need for a comprehensive program to reorganize the administration machinery of the executive branch of our Government. I now make a similar recommendation to the Congress in regard to the judiciary branch of the Government, in order that it also may function in accord with modern necessities."

The President did not tell you in that message he had not only asked for a reorganization of the executive branches of the Government, but that he wanted to put all of the independent bureaus of the Government under the executive branch of the Government. He did not tell you that he wanted to take the Interstate Commerce Commission, the Tariff Commission, the Federal Trade Commission, the Radio Commission, and all of the rest of the various commissions in Washington that were created as legislative arms of the Government, supposedly to be manned by experts for the purpose of furnishing independent findings of a nonpolitical character, both to the Executive and the Congress, and to carry out details of legislation which it is impossible for Congress to do.

The President of the United States is, in fact, the Secretary of State, the Secretary of Treasury, the Secretary of Commerce, the Secretary of War, the Secretary of Navy—as well as every other executive branch of the Government. And those of us who know our great Chief Executive know that those branches of the Government are all subservient to him. He is today the House of Representatives, and, to a large extent, the Senate of the United States. I say that because if the Members of the House of Representatives or the Senate of the United States voted their true convictions there would not be a chance in the world for this bill increasing the Supreme Court to pass either House of Congress. And I say that without any reflection either upon the Members of the Senate or the House.

I have great respect for both their honesty and integrity. They want to support the President of the United States—I want to support him. I helped to nominate him in the first convention. I was the first Member of the Senate that came out publicly for him. I had something to do with his nomination at Chicago. And I helped to elect him both times he ran. I want to stay with my party as long as my party is progressive and liberal. But when it went reactionary in 1924 I refused to go along with it.

The President and Attorney General of the United States supported that great liberal Liberty Leaguer, John W. Davis, when I was the running mate of one of the greatest liberals and progressives that this country has ever known. I refer to the late Robert M. La Follette. It would seem that the President not only wants to make each and every one of the independent branches of the Government subservient to him—as subservient as the Congress is—but now he proposes to make the Supreme Court subservient to him; and I say to you, my friends, without fear of contradiction, that we had better have no Supreme Court than to have a Supreme Court which is subservient to any one man. Stripped of all of its plausibility, that's what his proposal means.

Appeals will be made to you in the name of the unemployed, in the name of the farmers, in the name of the overworked and the underpaid, in the name of the mothers and the little children of this country. They'll be made to you by some labor leaders who are looking for their immediate gains. There'll be appeals made to you by some so-called farm leaders who want to reach their hands into the public coffers of the United States for the enrichment of their organizations. But when you listen to these appeals, remember that Napoleon, in commenting upon the French Revolution, said: "Vanity was the cause; liberty was the pretext." No one knew better than he, and no bigger hypocrite and fewer craftier politicians ever lived.

It has often been said that the Greeks always invented the bright idea of unpalatable proposals under palatable names. And Plutarch, in his Life of Themistocles, said: "In great crises and exigencies the common people turn not to reason but to strange and extravagant ideas."

If you will read your history you will find that neither democracies nor republics have lived very long, as a rule—a very short time. How long have benevolent tyrannies lasted? Generally not to exceed the life of the benevolent dictator. And some so-called benevolent dictators have turned out to be plunderers and despots. That, in my judgment, is the case of Hitler; that has been the case of some others that I can mention that I am sure are fresh in the public mind. And, strange to say, these dictators have always taken power in the name of doing something for the welfare of the widows and orphans, just as the Power Trust always seeks to maintain the status quo in the name of its widows and orphans.

Do not misunderstand me. I am for giving the Government of the United States the power to regulate child labor, minimum wages, and hours. I think the Supreme Court has been wrong in the narrow interpretation that it has placed upon the construction of the Constitution with reference to interstate commerce, the general-welfare clause, and numerous other provisions. But I have been opposed to one-man power—whether it's by a Harding, a Hoover, or a Roosevelt. I know how Government power can be abused. I know how laws can be set for naught. And I know that regardless of how bad our courts may be in your judgment, they have been the bulwark for preserving the liberties of the people of the United States. You laboring men don't think so? You farmers don't think so? Well, I do. I know the hysteria that swept this country during the war. I know how some of these superpatriotic mobs took some of you farmers out of your homes and beat you up. I know what was done by some of the corporations of this country to you labor leaders who were fighting for an increase in pay and shorter hours. I know how some of you were taken out of your rooms at night, and one man was hanged by the neck by some superpatriots. I know how in North Dakota, Minnesota, Wisconsin, South Dakota, and Montana members of the nonpartisan leagues were prevented from speaking, because I know how I was denounced as a pro-German and how they wanted to impeach a Federal judge because he ruled with accord to the Constitution of this country. In those days minorities called upon the Constitution for protection; called upon the courts to protect them in the rights of free speech—free assembly—free press. In times of excitement many of our so-called leading citizens want to deny free speech to those with whom they disagree. Witness what took place in Indianapolis during the last election. If the majority can override the Constitution or our interpretation of the Constitution once, they can do it again.

Make the Court subservient to one man or make it subservient to mob rule and you destroy the liberties of the minorities of this country. Though I am in the majority now, I remember when I was with the minority, and I am just as anxious to preserve the rights of minorities now as I was to have my rights preserved when I was in the minority. I don't believe Mr.

Roosevelt wants to become dictator, but I think when he sent that message to Congress he sent it up there without thinking this thing through. I think he was unduly influenced by the Attorney General of the United States. If I thought he wasn't, then I would be alarmed at the granting of this extraordinary power which the Congress has seen fit to give him in the name of expediency and efficiency. The Attorney General told you last Sunday evening that since the President had sent his recommendations to Congress "unfriendly voices filled the air with lamentations." He goes on to say "They have vexed our ears with insensate clamor." We differ with the administration and so we are unfriendly.

So you people, by sending your messages in protest, vexed the Attorney General. What a pity. He calls the voice of America's millions "insensate clamor." What unrealized arrogance that reveals. "Upon what meat doth this our Caesar feed, that he hath grown so great?"

Spontaneous protest at a measure which with specious plausibility would undermine the integrity of the judiciary, open discussion of the most fundamental problem of our governmental structure, vexes the ear of the Attorney General.

As I listened to those words of the Attorney General my mind took me back to a scene in the Nation's Capitol attended by the President of the United States, his Cabinet, and the Members of Congress. It was the funeral ceremonies of my honored colleague, Senator Walsh. Those of us who attended the ceremonies will never forget the address of the archbishop from the text, "I have finished my course, I have fought the good fight, I have kept the faith." How true and inspiring were those words spoken as we sat for the last time in the Senate Chamber with the body of one who had so well deserved them. You people will remember with what great satisfaction the announcement that Thomas J. Walsh had consented to serve as Attorney General was received throughout the United States. And you will recall with what dismay the news of his untimely death was received throughout the country. All knew that he would prove a great Attorney General. He was a great lawyer, a great liberal, a great progressive, a great Democrat. And I cannot believe that had Thomas J. Walsh lived I would be addressing you tonight I would not be replying to the Attorney General of the United States. Walsh was a true progressive, not a political progressive. He was a real liberal, not an official liberal. He was a great lawyer. He respected the judicial system of his country. He was honest and intelligent.

I am talking to you tonight as a liberal, and I didn't inherit my liberalism from my ancestors—I acquired it from hard knocks. The liberals of America welcome the old as well as the young. We exclude no one on arbitrary grounds, whether of age, class, creed, or condition; we proscribe no one. A liberal cause was never won by stacking a deck of cards, by stuffing a ballot box, nor by packing a court. The trail of true progressivism is hard and long, but it is right. There are no short cuts for the true progressive.

I am of the opinion that a Supreme Court of 15 members cannot act as expeditiously as a Court of 9 members. In this opinion I am fortified by the considered judgment of one of the closest students of the work of the Supreme Court over a long period of years. I refer to Prof. Felix Frankfurter, of Harvard Law School, charged by some with being the close adviser of the President.

The President intimated in his message to Congress that the Supreme Court had improperly declined to consider 717 cases in the past term. The Solicitor General of the United States, charged with the conduct of the review of the work of the Supreme Court, has expressed his opinion that no fault is to be found with the Supreme Court in the disposition of these cases.

In only four of the lower Federal courts that are behind in their work is there a judge over the age of 70. For many months there have been these nine vacancies in the Federal courts, and, notwithstanding the Attorney General's alleged concern with the "laws delays", these vacancies have not been filled. If we need more judges, why has he delayed filling these nine vacancies?

The Attorney General's third point is—I quote:

"If the Constitution is to remain a living document and the law is to serve the needs of a vital and growing Nation, it is essential that new blood be infused into the judiciary."

If this is what the administration is driving at, let us be candid and honest about it. Why put up a case about congested dockets and the laws delayed when the records showed that they did not exist in any degree in the Supreme Court and only to a comparatively small degree in the lower courts? Did the Attorney General think the Congress and the people would not look up the records and read his own report? We have not carried our rubber stamping that far!

And so it is "new blood" the Attorney General wants to keep the Constitution alive. Does not the Attorney General know that the President's bill allows him to appoint men 69 years old? If young men are wanted, why not offer a bill to prevent the appointment of any man over 50 or 60? Was it because some of the young hopefuls who desire to get appointments under Mr. Roosevelt are over 60?

And what about new blood and liberalism, or young blood and liberalism? The oldest man in the Supreme Court is the greatest living liberal—Mr. Justice Brandeis, aged 80 years, and going strong. He was leading the van when the Attorney General could not be found. There is not a man in America young enough or old enough to substitute for Mr. Justice Brandeis.

And next to Mr. Justice Brandeis, which Justice was the greatest liberal of our time on the Court? Do I have to call the name of Oliver Wendell Holmes, Jr., whose opinions stand as the epitome of liberal thought in the history of the Supreme Court? He served on the Court in his ninetieth year, and his mind was as resilient as it was when he was 50.

Age is no barrier to progress nor is youth its salvation. Justice Story was already a conservative when he was appointed at 32. Senator La Follette was more liberal at the end of his career than at the beginning.

How senseless this prejudice or effort to arouse prejudice against the Court on account of age in the light of the work of Brandeis and Holmes.

Look at Senator GEORGE NORRIS, of Nebraska, the great liberal of the Senate. Does his 75 years justify the suggestion that he is infirm or that he is incapable of progressivism? Rather, does it not enhance the power of his great leadership? Let the Attorney General but keep pace with him.

It is not because the judges are old and need assistance that the President of the United States sent a special message to the Congress. It isn't because there are six Justices on the Supreme Court who are over 70 that the administration is bending every effort to pass this bill. To claim, as the Attorney General does, that this proposal is designed only to furnish assistance to the older judges is to place the most serious problem which confronts our people on a plane of triviality. It masks with subterfuge the most pressing political problem which confronts us.

I do not differ with the President of the United States when he says that the abuses should be corrected. The issue is, however, how are we to correct these abuses? Certainly not by packing the Court with men who will do our bidding.

I want to pass legislation that is going to be of permanent benefit to the present generation and to succeeding generations ... well, rather than to accept some stop-gap proposal which is going to make it difficult, if not impossible, to get real and lasting reform. That has been the trouble with this administration.

Is there anyone that is so naive as to believe that the placing of six new men upon the Supreme Court is going to correct the evils of which we complain? In the light of past experience with such appointments it would be an extremely self-confident President and an extremely self-confident Congress that could believe that approval of desired legislation could be assured in such a way. Jefferson, as President, bitterly opposed Marshall, appointed Justice Story, who became an ardent supporter of the nationalistic constitutional doctrines of John Marshall. When the Supreme Court decided the case of *McCulloch* v. *Maryland,* in which the powers of the National Government were greatly extended at the expense of the power of the State, four of the seven Justices who concurred in Marshall's opinion were the appointees of Jefferson, the exponent of States' rights, and one of the Justices had been appointed by Madison, also exponent of States' rights. Jackson, as President, met with this same fate. Judges whom he had appointed voted against him on many matters in which he was deeply concerned.

Lincoln suffered in the same manner. He appointed Chief Justice Chase to the Supreme Court. As Secretary of the Treasury under Lincoln, Chase had sponsored and procured the enactment of the Legal Tender Act, exerting great pressure upon the Congress of the United States to do so. As Chief Justice of the United States he declared the act unconstitutional, and his break with his political friends was such that many people feared that he would declare many of the acts of Lincoln in carrying out the war unconstitutional.

We need not go beyond our own experience to demonstrate this fact. Liberals like NORRIS, La Follette, and myself fought the confirmation of Chief Justice Hughes on the ground that he was conservative and alined with the big interests. And yet, upon the Supreme Court, his viewpoint has been liberal. On the other hand, liberals in the Senate supported and urged the confirmation of Justice Roberts. As a member of the Supreme Court he has been alined very largely with the conservative members of that body. Had it not been for his vote with the conservative members some of the important legislation would not have been declared unconstitutional.

What assurance have the laboring men and the farmers of this country that these six new men will decide the issues in their favor? What assurance can they have unless promises are exacted from them in advance, and if promises can be exacted from them in advance they would be unfit to act as judges. If promises were exacted, it would form a structure upon which dictatorship might be reared.

There was a time in Europe when democracy and liberalism were synonymous. Today in most countries in Europe, liberalism means fidelity to despotism and dictatorship. Believers in democracy are executed as reactionaries and yet Hitler and Stalin talk of their democracies. Every despot has usurped the power of the legislative and judicial branches of the government in the name of the necessity for haste to promote the general welfare of the masses and then proceeded to reduce them to servitude. I do not believe that President Roosevelt has any such thing in mind but such has been the course of events throughout the world.

While the administration's proposal has the specious plausibility of achieving great ends with ease and dispatch, there can be no assurance that it will do any of these things, and in effect it stands as a bar to real reform.

I am weary of ill-advised and poorly conceived expedients. If this administration seriously desires reform, let us face the problem now.

Senator BONE and I have introduced an amendment to the Constitution of the United States providing that in the event the Supreme Court declared a law unconstitutional that after an intervening election, if the Congress repassed the act by a two-thirds majority it would then become a valid law. This is an amendment that was suggested by Madison. Its enactment was urged by the late Robert M. La Follette, by Theodore Roosevelt, and by numerous other liberals down through the years. Its purpose is to place the political power of the Government in the Congress, the representatives of the people.

Under this amendment there would be time for considered judgment. And unquestionably the Congress would give more careful consideration in the repassage of an act declared unconstitutional by the Supreme Court than it would in overriding the veto of the President of the United States.

Administration spokesmen claim that this process would take too long and that it is necessary for them to act quickly and usurp the powers of the Court. Such claims are not borne out by the great majority of our other constitutional amendments. The amendment repealing the prohibition law was ratified in 14 months, the prohibition amendment in 13 months, the twentieth or "lame duck" amendment in 11 months, and such has been the case where public opinion has crystallized and the amendment has been vigorously supported.

We have just taken part in an election in which the President of the United States carried 46 out of the 48 States; in 38 States Democratic Governors were elected and in 3 other States liberal Governors were elected. In view of this recent election, if the President of the United States would put his influence back of an amendment such as this, it would be ratified in a very short time. Apparently there are those of the President's advisors who suggest that such a measure could not be enacted, and I say to them that if the recent election was not a mandate for social reform, as I believe it was, then it is time for all of us to find out who won the election.

I am for a liberal Constitution. I recognize that that instrument is the fundamental expression of the people's will. I know something of the modern complexities. But I do not think the creation of a political court will solve them. I am ready for amendment to the Constitution, and I believe the people of this country are ready for such an amendment, but I want it to be amended by the people in the way they have provided and not by packing the Court to make it subservient to anyone's desires. There is no relief in that. We must do right things in the right way. This is no strategy of delay. It is the strategy of the right, of permanence, of real and abiding relief.

The Attorney General of the United States tells us we should trust the President. So we should. And I will tell him the President should trust the people—especially when it comes to changing the document which is theirs. The liberals of America have come thus far by trusting the people. Their movement is the people's movement. We shall continue to trust them. Every cause we ever had received its strength and won its victory for them. I am not afraid to trust them. They have the blood, the youth, the age, and the wisdom to keep the Constitution and the law alive.

If there must be a dictator in America, I nominate the American people as dictator.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. BURTON K. WHEELER

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 24, 1937

RADIO ADDRESS BY HON. GERALD P. NYE, OF NORTH DAKOTA, ON FEBRUARY 21, 1937

Mr. WHEELER. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by the distinguished Senator from North Dakota [Mr. NYE] over the National Broadcasting Co. network Sunday night, February 21, 1937.

I may add that, in my opinion, it presents the case against the administration's proposal in a most able and fearless manner.

It is in entire accord with the liberal and progressive course which the Senator from North Dakota has always followed in this Chamber.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

A most impartial writer on American democracy was James Bryce. Writing under the title "American Commonwealth", he recited what seemed to be a preposterous assumption of possible perversion of our form of government. I quote him:

"Suppose a Congress and President bent on doing something which the Supreme Court deems contrary to the Constitution. They pass a statute. A case arises under it. The Court, on the hearing of the case, unanimously declares the statute to be null, as being beyond the powers of Congress. Congress forthwith passes and the President signs another statute more than doubling the number of the Justices. The President appoints to the new justiceships men who are pledged to hold the former statute constitutional. The Senate confirms his appointments. Another case raising the validity of the disputed statute is brought up to the Court. The new Justices outvote the old ones; the statute is held valid; the security provided for the protection of the Constitution is gone like a morning mist."

Bryce might have gone a step further and shown how still another President and Congress, bent on undoing what the one had done, provided for another doubling of the number of Justices, the new ones pledged to outvote the old ones. That he did not thus carry forward his thought did not weaken his argument, however. That argument was presented 50 years ago. It is not difficult to fancy the number of Americans who read his lines which I have quoted and pooh-poohed the idea of anything of the kind ever coming to pass. Those readers doubtless read on and witnessed Bryce himself revealing how improbable such a development would be, since—and I quote him again:

"The fear of the people, whose broad good sense and attachment to the great principles of the Constitution may be generally relied on to condemn such a perversion of its forms."

Then, and for 50 years since, readers of the trouble Author Bryce borrowed, echoed: "Yes, indeed; think of what would happen to the President or the Congress that ever undertook so brazen an attack upon the Cnstitution."

Well, what would happen?

Without any advance warning, today comes the very thing that Bryce suggested as a possibility. The President asks Congress to do the very thing which for 50 years Americans have said just couldn't and wouldn't be done. What will Congress do about it? What will the people do about it? Will they look upon the effort as being one of perversion of the great principles of the Constitution? The answers to these questions must be forthcoming.

Bottomless seems the bag of surprises which President Roosevelt has drawn from for 4 years. But none of the surprises has been so challenging as his most recent one proposing an enlargement of the Supreme Court, under certain conditions, from 9 to 15 members. The proposal was such as makes for what will certainly be the greatest constitutional debate in modern times. It has brought to the desk of each legislator here in Washington a deluge of communications from the people who felt the challenge of the proposal. The mail to my desk on the subject would indicate strongly that whatever there has been of spontaniety of reaction on the subject has not been favorable to the President's proposal. What the reaction will be as the question is permitted to soak and as sides plead for following remains to be seen. However, the early response would indicate that among the people there existed a far larger jealousy of constitutional maintenance than one suspected.

It is argued in this connection that it would be but natural to expect a quick response from lawyers and those who lawyers could quickly prevail upon, and that this response would, again, naturally, be quite opposed to the President's proposal. But this has not been the case as I have observed it. The spontaneous reaction which finds witness on my desk emanates in largest part from the man and women of my State who are without legal training—men and women of the farms, doctors, and merchants.

Perhaps there should be law forbidding one not trained in law, like myself, to speak on questions involving such challenging constitutional questions as are presented by the President's court proposal. Then, again, perhaps there is advantage to be gained through participation in such a debate by those who are without the lawyer viewpoint. After all, that Constitution is the property and inheritance of all of us, certainly not alone the lawyers. The farmer out on the prairies and in the hills, the fruit grower of the West, the miners down under the earth, and all the other men and women who make up our country, are equally interested in the welfare of our Government and its institutions.

So, I speak only as a lay citizen, unskilled in the law, but mindful that all of us should study and become familiar with the basic facts upon which our Government rests. Anything which affects these basic foundations is as interesting to the ordinary citizen as to the lawyer. And, after all, up to this time in our history, what the citizen wants must control in the end. My approach to the subject is today that of the layman who looks, perhaps narrowly, yet quite alone to the problems of keeping the Constitution a living thing, an institution moving, growing, and in step with the needs of a tremendously aggressive and progressive race of people. In addition, it is my choice to speak as a legislator who has seen the development of most serious problems which legislation could not meet because a court of human beings found that the Constitution makers and the lawmakers of other days had not foreseen our possible needs of today.

I have a very definite feeling about the real meaning of the Government of the United States and our Constitution and about rule by courts. In my mind the key to the whole subject is the interest of the individual citizen, his rights and duties, and I have long thought that our whole constitutional edifice responds only to this key.

Considerable mental encouragement is to be gained from believing, as I do, that our plan of government contemplates the existence of primary power in the individual, from which, of course, it follows that we have an association of individuals, each

equal in power, not only to bestow power, but to limit, observe, and execute power. Anyway, the individual is the key to a proper understanding of our Government. For our governmental theory is so appallingly simple. Its dependence on faith in man, the people, is almost guileless. In Europe, where sophistry was rampant and faith in man nonexistent, it is no wonder that contempt greeted the work of our Constitutional Convention.

Even the framers of the Constitution gave their creation scant praise. Few were satisfied, some were contemptuous, some openly derisive, and it remained for old Dr. Franklin, largely inactive in the proceedings of the Convention, to say, as he did, that upon reflection he wondered not that the result of the Convention was so bad, but that it had turned out so well. For the whole flimsy idea of the framers proved to be, upon examination, simply the establishment of a set of rules, coupled with the novel belief that the soul of the citizen was sufficiently valiant and trustworthy so that, having made these rules, he would preserve, protect, and defend them during all the years to come. Just a statement and a promise, and of such is the Government of these United States. And the citizen is the key.

And so it was written: "We the people of the United States." This means the individual citizens, and from them all constitutional power has come, and from them likewise come all constitutional restraints.

Consequently, on the theory that full power exists in the citizen, there is no limit to the extent to which the citizen may go if he is convinced that more power should be granted, but until he is so convinced we are faced with a government of strictly limited powers.

Thus, in my mind, I see 120,000,000 or more component parts of our Government, each of whom, by his citizenship, sponsors our Constitution. Thus develops the true perspective of our coordinate branches of government, the legislative, the executive, and the judiciary. Each is but an agency of the association of citizens. These great divisions of government are not in fact the Government itself. They are not primary; they are wholly and essentially secondary. They are to do as they have been told, and they are to refrain as they have been admonished to refrain by the people through the Constitution.

And so the citizen made his rules and laid down the principle of constitutional obedience. The great burden of constitutional obedience therefore rests ultimately upon the shoulders of the citizen, and he and he alone can carry this burden. When he refuses, constitutional government is at an end, because he has destroyed the vital thing—obedience—which gave constitutional government life. And as his agents to carry out this covenant appear the legislative, executive, and judicial departments, coordinated to one end—not to form a government, not to rule the people, not to create governmental rights—but to the end that the rules made by the citizen shall be supported, protected, and defended. Thus it is that the servant is required, as a condition of government service, to file his written oath to defend this Constitution.

Again I say that the citizen is the key, because he is the master and all others are servants merely maintaining the rules, and such maintenance is what is meant by defending the Constitution.

To the Congress has been entrusted such legislative power as is granted under the Constitution to the Federal Government. This legislative power is a limited power, and the right of the Congress to make the laws is sharply limited to laws made in pursuance of the Constitution. None else are laws. Congress is a servant working for the citizen under written orders, and such orders specifically require that the laws enacted be pursuant to the Constitution. Is it therefore to be contemplated that with limitations so definitely imposed Congress is to be its own judge in determining the extent of the limitations? Such a result would be to make Congress, in effect, the principal and put it in a position where whatever it did was right, a result contrary to the basic theory of constitutional government.

To the Executive is given the execution of laws. He, too, is a servant, his rights and duties limited by the same Constitution. Save for these constitutional rules the Executive is without form; he may not create, originate, or decree. The framers had vital objections to Executive powers. Many of the troubles from which they had delivered themselves were the result of uncontrolled executive action. The limitations placed by the Constitution on Executive power make our constitutional government essentially opposed to a Fascist government where supreme power exists in the executive. In order therefore to preserve our form of government it was and is essential to limit strictly the power of the Executive.

Thus we have the first two of what we call the coordinate branches of Government, both wholly the creation of the citizen, empowered only by the terms of the constitutional grant of power to such departments. Each is wholly subordinate, wholly dependent on what it has been told it may or may not do as recited in the Constitution.

We must remember that these departments of Government were created for the benefit of the citizen, to do his service subject to the limitations imposed. If they are to have more power, that power must come from the citizen.

Since different departments have been entrusted with different powers, all emanating from the same instrument, a necessity at once arises for a means of interpretation of the common source of power, to wit, the Constitution. The framers knew of that type of government which permitted the executive to be his own authority in interpretation of power. The complaints against the English King in the Declaration of Independence shows how they felt about an all-powerful executive. The framers also knew of the workings of a self-controlling sovereign State government through experiences during 14 years in the existing Confederation. Power was in the citizen. The citizen wished to form a new government. The Constitution was a recital of how the citizen wished the Government formed and how it was to operate. It told Congress and the Executive what could and could not be done by each of them. It is interesting to observe these grants and restraints on a numerical basis. The Constitution contains approximately 80 grants of power as contrasted with 115 prohibitions. It presents approximately 20 grants of legislative authority and at the same time imposes more than 70 restraints. These figures show the Constitution as clothing the Government more with limitations than with powers.

But how was the Constitution to be interpreted in the development of the new Government? What agency would prevent conflicting interpretations of the supreme law from causing a governmental Tower of Babel? The answer was the creation of the judicial power as a coordinate branch of Government, and defined the judicial power as extending to cases in law and equity arising under the Constitution or the laws of the United States.

Now, what, under the Constitution, by its terms, is the status of the Constitution? It is the supreme law of the land, both State and National, binding on all citizens as well as the departments of Government.

All of the judicial power is vested in the courts and extends to all cases in law and equity arising under the Constitution, except the single limitation in article II of the Bill of Rights.

There is no self-executing power in the courts to control, direct, or admonish either the legislative or executive departments. The departments are coordinate, and the rights of the one may not lawfully impinge upon the rights of the other. So far as the legislative department is concerned, it may act and proceed either within or without constitutional authority or in defiance of it, with no fear of or threat of control or punishment on the part of the judicial power. The Court cannot itself directly review or nullify either legislative or executive acts, and it has never claimed or sought such power. But the judicial power is in the hands of the Court, and it is required to consider all cases in law and equity, and the Constitution being a law, it thus follows that, when the citizen challenges the act of his agent, the Congress, in a case arising under the Constitution, the Court is not only permitted but is directed by the Constitution to function, to the end that the case submitted may be decided and the grant of judicial power authorized by the people may be properly consummated.

Thus is the citizen the key to the whole situation. Through him alone, only at his demand, may the judicial machinery lawfully function to execute the judicial power. Without the citizen there can be no challenge of the constitutionality of an act of Congress.

Now, after this stroll over the functions of the coordinated branches of our Government (a constitutional stroll as it were), let us see what it is the President is proposing that challenges so many minds these days. He presents a plan covering more than one field. His plan covers not only the Supreme Court but deals with the inferior Federal courts, and further proposes a process of speeding up decisions of questions of constitutionality.

With the proposal to end the day when the individual or corporation, possessed of the wealth needed to accomplish that end, can indefinitely delay the effectiveness of a law through resort to injunction and long-drawn-out court actions and delays, I am in hearty accord. Government by injunction is distasteful and a destroyer of the patience necessary to maintain our foundations of government.

As to the President's proposal for a blanket increase in Federal judges, one knows this will mean a large increase in budgets to meet salaries and the expensive machinery of more courts. Until there can be absolute demonstration of a degree of congestion in our courts calling for this, I choose to refrain from any commitment on that subject.

But on the question concerning enlargement of the Supreme Court I have most definite and deep-seated fears and objections.

I do not view the Supreme Court as sacred. Certainly I do not feel that the Court is beyond criticism or blame, or that it is infallible. Nor do I assume that simply because a principle appears in the Constitution it is forever holy, for we well know that it was made up of compromises, based on a variety of influences, and its provisions should be subject, and are subject, to change, the changes, however, to be made only by the people. But we should jealously guard against letting an immediate irritation hastily drive us to impair essentials of the constitutional structure. To its real soul and purpose we should stay close. Especially is this true when our objective is not really one of fundamental change but only of temporary expediency. The President's proposal would present an entirely different face if it was proposed to alter the fundamental law. But so long as the effort is one to accomplish by indirection what ought to be gained only by direct action, it is well that there is a storm raised by the proposal these days.

Under our form of government the citizen is the source of all its power and should be the recipient of its benefits. We are told that the President is but trying to fulfill the expectations of the people who so overwhelmingly elected him last fall. It is suggested that the President has a mandate from the people in his pending proposal. What has the citizen said concerning the President's proposal? When has the issue been presented to the electorate? When, during the last two campaigns, did the President, either in his platform or speeches, inform the country concerning his proposals for a reconstruction of the Supreme Court? What nationally known supporter of the President even hinted concern-

ing an intention to change the Court? Who of us who serve in Congress, in either branch, even suspected what the President intended to propose should be done concerning the Supreme Court until his recent message was made public?

The Constitution came direct from the people. It starts with the phrase, "We, the people of the United States"; and I have always understood that it should be changed only by the people. It seems to me if the President had this proposed change in mind before the election he should, in view of its supreme importance, have frankly stated his purpose so that the people might have had some chance at least to give his purpose due consideration. On the other hand, if his present plan is of an origin so recent as to be created since the election, it seems to me we are entitled to inquire what has occurred since election suddenly to require this extraordinary solution?

In any event, what chance have you and I as ordinary citizens, had to express our opinions? What is your opinion as a citizen? We have always had but one method of expressing opinions on constitutional changes and that has been at the ballot box, one of the hallmarks of American democracy.

I don't like the phrase "pack the Court", any more than I like the term "fix the Court." Yet, beyond peradventure, the effect will be to "pack" the Court in a way that will be favorable not only to the President's present views but to other views which he may have—other views which, like his Court proposal, have heretofore been concealed from the people at large. These views may indeed be yours and mine, but that stands only upon a guess and a degree of confidence. Then again, if one President can change a Court to aid his particular views, another President in another day may follow the same method—a method which clearly sacrifices constitutional rights. Remember this: we are being asked to grant these new powers, not only for today, not only as affecting the A. A. A., or the Guffey Coal bill, or pending labor legislation, but for the long, cloudy, storm-ridden future with all the proposals that such a future may bring forth.

With the effects of the proposed step what they are, I have not yet been able to bring myself to feel that Congress should make the proposed move until the people have had a chance to say, in the orderly way provided, whether they wish it done. And in asking this decision by the people I find no substitute in the partisan propaganda, in specious promises, in adulation of the President, or in the contemptuous utterances directed toward opponents of the President's plan.

Do the epithets of "envious and malicious" used the other night over the radio in an attack upon the opponents of the President's plan apply to such critics of the plan as Senators BORAH and JOHNSON? Does a spokesman from the President's official family mean Senators WHEELER and BONE when he speaks of "unfriendly voices"? Is the position taken by Senators NORRIS and CLARK to be glibly disposed of as "a flight of hysteria"? Calling names is simply one kind of vicious propaganda, and only tends to befog the issue, if, indeed, it does not tend to further destroy faith and credit in the real purposes of the controversy. There is but one issue which should be met, and that issue is, What does the citizen think about reshaping the Court in this way? The wish now seems to be to rush Congress into a favorable decision, and all this without any opportunity to the people of the country to express their deliberate wishes on the subject. Such is not the American way of deciding important far-reaching changes in our Government. Threats, political influence, propaganda, do not offer the best method of inducing congressional action. "Let the people speak", is an older, better, safer, and more decent rule of procedure.

The understandings being paraded concerning the purpose and desired accomplishments under the President's plans are interesting. Alteration or reform of the judicial power (which is highly desirable to my way of thinking) is claimed by some advocates of the new plan. But anyone who has taken the pains to read the President's message and the bill he sent to Congress must know that his proposal does not touch the judicial power. It does propose to substitute younger men for older men now on the bench. Presumably these younger men will be more liberal, but that presumption is a rather meaningless one, in view of the fact that there have been liberals over 70, while some of the worst reactionaries the world has ever seen have been men in their thirties and forties. Look at the reactionaries in power abroad today. They are all young men; most of them are under 40. In any case, what assurance have we that a "rejuvenated" Supreme Court will approve advanced legislation of the sort the progressives want? None whatever. The N. R. A. may be said to fall within this category. As such legislation goes, the N. R. A. was not very advanced. It did help labor by shortening the working week and by giving indirect aid to the more progressive labor leaders in their efforts to organize the workers. On the other hand, it proved a great boon to finance, capitalism, and monopolies. And it undoubtedly hurt many small businessmen and the consumers (including the farmers). Yet even this law was too radical to suit the Supreme Court, which threw it out by a vote of 9 to 0. What would be the effect if six "liberal" Justices were added to the bench, even supposing that somehow or other they could be made to pledge themselves in advance to support a new N. R. A.? The best that we could hope for them would be a vote of 9 to 6 against the new law. And the more progressive or radical the legislation, the more likely would it be that even the new Justices would stand against it.

The greatest fallacy here lies in trying to deal with personalities rather than with basic principles. It is wholly wrong to assert that the Court has "usurped" authority. The power it has been exercising is implicit in the Constitution and has been recognized for more than a century by Congress itself. Even if this were not so, even if this power had actually been usurped, can we change this state of affairs merely by changing the names of the members of the court? Obviously not. To that end we need legislation, most likely a constitutional amendment, for in no other way can the popular will be successfully and effectively expressed. This business of thinking in terms of personalities I regard as one of the most dangerous trends of the day. It is a human trait no doubt, but it is a trait upon which Europe's dictators have built their power. In this country millions of people believe in Roosevelt. They accept whatever he does as good. It is easy to understand that this gives him an enormous power, which he could exercise for evil as well as for good. The reverse of that situation we now find in the Supreme Court question. The people seemingly do not realize that it is the power of the Court that they must change, not just its personnel.

Under the President's plan the people would not get that protection against judicial tyranny that they are being promised. Is it to be supposed that any sound progressive policy can be established on the basis of such misconception? Is that the way forward? On the contrary, such methods are attribute of reaction, not of progress. It is the Tories who make such empty promises, hoping thereby to convince the people that they are progressive, while they are really holding the fort for reaction.

The worst part of it all is that the people are too likely to be convinced. Many will actually believe that the President's plan will save them from the power of the courts. And, believing that—at least until the inevitable disillusionment sets in—they will not be disposed to press for such legislation or for a corrective consitutional amendment by means of which alone the power of the courts to override the popular will can be effectively curtailed. In short, the drive for such remedial legislation will be set back many, many years. This means reaction, no progress.

I am completely out of sympathy with those processes by which the Supreme Court majorities have thwarted the will of the people when they have sought to build for better opportunity for themselves and to win a larger share of reward for their labors. Emergencies arise, as they have, when the process of amending the Constitution is too slow and ineffective to permit Congress to do its full duty to the country. As a layman I fear the law's delay in hours of great national crisis. I am strongly inclined to the view that a method should be devised whereby, duly safeguarded, the Congress may revalidate an enactment which the Court has found invalid. I am sure this can be done.

Senators WHEELER and BONE, both nationally known progressives, both opposed to the President's plan, yet mindful of the need for amplification of congressional powers, have prepared an amendment to the Constitution which would permit Congress to repass, and thereby revalidate, an enactment. In the proposed amendment this power has been surrounded by ample safeguards, protecting both the rights of the people and sharply marking the limitations of the powers of the Congress. I cannot take the time to discuss this measure in detail. It will have ample publicity in the immediate future. I earnestly request its careful study and consideration by every citizen in the land, and I ask each citizen to compare its provisions with the plan which has been proposed by the President. The amendment proposed by Senators WHEELER and BONE is moderate, sensible, simple. It does violence to no American theory of government. It is not out of tune with our history, since it was seriously proposed a century and a half ago in the Constitutional Convention and in later years received the approval of President Theodore Roosevelt.

But more than all of this favorable background, and in essential contrast to the President's plan, the amendment proposed by the above Senators requires approval by the people of the Nation, in a constitutional way, both in the passage of the amendment and in connection with the later exercise of power by the Congress.

As I see it, no greater commendation could be made concerning the amendment thus proposed than to say it is to be submitted to the people, and no greater condemnation can be directed toward the President's plan than to understand that it is not intended that it shall be submitted to the people.

I am not deeply concerned with ideas of court reverence, legal precedents or procedure. I am, however, vitally interested in fostering reforms which have as their motto and certificate of authority that American maxim dear to our hearts, "Let the people speak."

However earnest the President may be in striving for better order and balance for forgotten men, his proposal to change the face of the Supreme Court by adding to its membership is a program in which I cannot yet bring myself. There are other and orderly ways to win results professed to be desired. Until those ways are at least tried I believe Congress to be upon very unsafe ground when it undertakes to reach a goal without remedying the fundamental obstacles standing before that goal. I fail to see wherein an 8-to-7 decision is any more desirable than a 5-to-4 decision, which has served to agitate us against the alleged course of permitting the Supreme Court to declare acts of Congress unconstitutional.

However foreign to the President the thought of dictatorship may be, in connection with his present request, it is good warning to look out, not for him necessarily, but for those who would in other days have opportunity to use the power which he would have us now extend.

As one who insists that the people will not long submit to rule by courts, as one who insists that the power of the courts must be checked, I insist that the President's plan relating to the Supreme Court should be hit hard on these grounds:

First, because the plan does not and cannot touch the judicial power which is standing in the way of progress;

Second, because it misleads the people, and thus is doing great harm to real progress;

Third, because it involves a direct challenge to the people who alone have the power to change the fundamental law.

And finally, because we have not resorted to the orderly process of correcting the faults before falling back upon short cuts which can only tend to weaken and shake the foundations of government upon which American hopes are built.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ROBERT M. LA FOLLETTE, JR.

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Wednesday, February 24, 1937

STATEMENT BY M. W. THATCHER, WASHINGTON REPRESENTATIVE, FARMERS' NATIONAL GRAIN CORPORATION, NORTHWEST FARMERS' UNION LEGISLATIVE COMMITTEE, CHAIRMAN WHEAT CONSERVATION CONFERENCE

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD a statement issued on February 3, 1937, by M. W. Thatcher, Washington representative, Farmers' National Grain Corporation, Northwest Farmers' Union Legislative Committee, and chairman of the Wheat Conservation Conference, relative to the President's proposal concerning the Supreme Court.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The organized farmers of this Nation have unmistakably and emphatically registered their determination to support President Roosevelt in his effort to provide them and all the common people with a Supreme Court capable of cooperating with the legislative and executive branches of our Government in an interpretation of our Constitution which will permit the people to work and live decently within its boundaries. How do I know?

Several days before Secretary Wallace knew of the President's plan to unpack the Court he had invited from all over this Nation the recognized leaders of the various organized farm groups. These representatives arrived at Washington, D. C., shortly after the President's Court message. Firmly, they again demanded Federal action to protect agriculture. In the face of the adverse decision of the Supreme Court in the A. A. A. case, they again demanded Federal control of agriculture, and they mean to have it. Their agricultural program was adopted—without a dissent against Federal control, crop control, production control.

The cruel deflation under Harding in 1921 was a deliberate plan to lay the heaviest part of the cost of the World War upon the farmers. That gave rise to the McNary-Haugen bill and the fight with Congress and Coolidge and Hoover for protection for agriculture. The farmers were denied.

The advent of President Roosevelt and the New Deal offered, for the first time in history, the Capital of this Nation as a warm and happy host to the American farmer. The farmer came; he is learning Washington customs, political chicanery, and how to appraise statesmanship.

The farmer knows that his products in interstate and foreign commerce cannot be regulated for his continued existence by State action. He knows the Supreme Court has been inconsistent and unfair with him. He knows that 20 years ago the State of North Dakota attempted to protect the farmers of that State in the matter of grades on grain and the value of dockage in it. Appealed to the United States Supreme Court by the grain warehousemen, the Court decided that when the farmer's grain was put in a wagon box it was in interstate commerce and, therefore, the State law was unconstitutional. All the present Members of Congress from North Dakota, as well as myself, were parties to or interested in that case. In the case of the A. A. A., agriculture is determined by the United States Supreme Court to be a local matter—for State legislation. The North Dakota grain case decision and that of the A. A. A. queries the United States Supreme Court: How do you square these with your interpretation of the Constitution? Where is honesty, consistency, good judicial reasoning?

The farmers in many States will hold special State conventions where their delegates will consider this battle to unpack the Court. They will realize the importance of direct action to unpack the Court and, thus, make possible an honest and liberal interpretation of our Constitution which will permit agriculture to work hard to produce abundance for our people, to be paid a living for their work, and thus be permitted to live upon the soil they till and love.

The farmers know there is no check on the Court after members are confirmed. They know any new member must receive approval of the Senate. They know the Senate thus participates in the selection of judges. They know, as the President knows, and as Congress knows, the unpacking of the Court is not a permanent cure for the present dilemma. The farmers know that a democracy cannot be static and that fundamental law follows long indulged suffering and the restraint of opposition. The farmers know that proper amendments to the Constitution are needed in order to kill moth-eaten legal precedents, to put new and current life and jurisprudence into the Court if it is to properly meet and deal with the accumulated disorders of an extremely complex social phenomenon. History records that this slow process comes and is met in cycles. Lincoln met it, so did Grant, now comes Roosevelt. It is not novel, it is historic. It did not make a dictator out of Lincoln or Grant—it preserved our democracy.

The President is impotent; the Congress is impotent; the deficit increases. Most people live in fear of insecurity or are on relief, all because we have a Supreme Court, the majority of which are property minded, ensnarled in the accumulated legalistic fiction and precedents of an ancient economy.

The redress through amendment rests upon the caprice of congressional agreement and ratification by three-fourths of the States. A long and questionable process which may and, we hope, will be successfully carried through while Mr. Roosevelt is in office, thus to safeguard our country against reactionary Presidents and Congresses of the future. But action is needed now, while we have a leader who aspires and dares to build and leave a strong democracy upon the termination of his Presidency.

Imagine a giant industrial organization with its general manager rendered impotent while his board of directors wrangle over the bylaws and thereafter must await approval of the stockholders by a three-fourths vote. That organization would go in the red and then into bankruptcy. We can hold the President responsible only in the measure we give him authority for action. That is the rule in proven business, and the United States should enjoy a business-like economy and administration. Is President Roosevelt wild and ambitious? Our country recently celebrated the birthday anniversary of our great Lincoln. He is revered and quoted. In 1861 President Lincoln, in his first inaugural address, breathed the ultimate right of revolution within our Constitution when he proclaimed: "This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing Government they can exercise their constitutional right of amendment or their revolutionary right to dismember or overthrow it." The President's program is moderate, effective, and wise as a temporary correction, but could ultimately prove to lose much of its value unless supplemented by effective amendments to the Constitution. The farmers of our country ask only for a fair deal.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. HUGO L. BLACK

OF ALABAMA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 24, 1937

ARTICLE BY RAYMOND CLAPPER

Mr. BLACK. Mr. President, I ask unanimous consent to have inserted in the RECORD a very interesting article which appeared in the Washington Daily News on Tuesday, February 23. The article was written by Mr. Raymond Clapper, and is entitled "Fear Held Responsible for Opposition to Court Reform."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Daily News of Feb. 23, 1937]

FEAR HELD RESPONSIBLE FOR OPPOSITION TO COURT REFORM—IT'S ALL IRRATIONAL, BUT THE NATION ALWAYS LOSES CONFIDENCE IN GOVERNMENT WHEN FACED WITH REAL PROBLEM, SO ROOSEVELT PLAN IS HEADED DOWN ROUGH ROAD

By Raymond Clapper

Fear, rather than reason, underlies much of the popular opposition to the Roosevelt court proposal. Fear of setting a bad precedent. Fear of a vague something that might happen some time. It isn't fear of what Roosevelt might do. It is fear of the unknown, like a child's fear of the dark. Unreasoning fear, but powerfully real.

That is the heavy burden under which the Roosevelt plan must struggle.

Much evidence could be offered to show that such fears are irrational, based more upon hysteria than history. We have had numerous high-handed precedents in our short national existence. Compared with some of them, Roosevelt's move seems timid and pale.

You always have the same cycle. First there is some situation calling for immediate action. Then follow shrieks of protests and gloomy predictions that the end of the Republic is at hand. Gradually the horrendous precedent fades back into history. It becomes a closed chapter sufficient unto itself, something for later historians to quarrel about.

Napoleon offered the Louisiana Territory to the United States in a distress sale. Jefferson first prepared a constitutional amendment since he did not think the Constitution authorized such a purchase of territory. On second thought he decided the delay would be too great. He approved the deal and then asked the Senate to ratify it. Angry Federalists said the Republic was gone. Some talked about seceding. In time everyone cooled off. For a few years recently, while Huey Long was alive, some people regretted that Jefferson had purchased the Louisiana Territory. But on the whole his action has received the gratitude of the Nation throughout the years.

Theodore Roosevelt wanted to build the Panama Canal. When Colombia tried, as Roosevelt saw it, to hold him up, a mysterious revolution occurred, and the United States in no time at all had a right-of-way across the Isthmus.

Authorities differ as to how it was done, but Roosevelt himself said later: "If I had followed conventional, conservative methods, I should have submitted a dignified state paper of approximately 200 pages to the Congress and the debate would have been going on yet, but I took the Canal Zone and let Congress debate, and while the debate goes on the Canal does also."

It makes Cousin Franklin, with his request for legislation tc change the personnel of the Supreme Court, look like a piker.

And what do you suppose Theodore Roosevelt would have done if the Supreme Court had set itself against his policies, as it has against Cousin Franklin's? He said plenty about the Court as it was.

Yet it is a question whether the fact that we have lived safely through such really high-handed episodes will ease the fears of those who think that this mild legislative proposal of Roosevelt's means the doom of democracy, which is what the president of the American Bar Association says of it.

Such fears are inflamed by being played upon by persons who know better but find this an effective way to combat the Roosevelt plan.

Ever since Alexander the Great cut the Gordian knot there have been times when the choice lay between futile plucking at the tangled thongs of circumstance or cutting through them in order to get on with the business in hand. Practical business executives face such choices frequently. Our best lawyers make their living by helping businessmen around technical legal obstacles. When the Pharisees reminded Christ of their constitutional interpretations, He simply answered that the Sabbath was made for man, not man for the Sabbath.

Yet when such a choice confronts us nationally we lose our confidence and lapse into a cold sweat of fear. We are afraid of our democracy. Afraid some tyrant will snatch it away from us. We fear ourselves. We feel much safer behind the robes and rules of nine supreme men. Even the thought of 15 scares the daylights out of us.

A Fair Deal to Home Merchants

EXTENSION OF REMARKS

OF

HON. WILLIAM M. COLMER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1937

Mr. COLMER. Mr. Speaker, on the 2d day of February a bill was introduced by me for the purpose of providing authority to the several States of the Union now having a sales tax to tax interstate sales on the same basis as like intrastate transactions. I am happy to report that the introduction of this bill has met with considerable favor in every part of the country.

PURPOSE OF THE BILL

The bill would require merchants shipping into States having sales-tax laws to pay the same sales tax that local merchants residing within the State having the sales tax are required to pay. The principle is sound, just, and fair. More than 27 States of the Union have adopted a sales-tax or gross income-tax law in some form. These involve levies based upon or measured by retail sales of tangible personal property. In many instances the merchants within the several States having sales-tax laws objected strenuously to the enactment of these sales-tax measures by their respective State legislatures. But once the principle was enacted into law these same merchants have almost universally cooperated with the tax administrators of their several States in securing enforcement of the laws. And certainly now they are entitled to reasonable protection in their business which is affected by this innovation in the tax field.

Experience in these States having this form of taxation has taught that interstate sales substantially compete with intrastate transactions which are subject to sales tax. The result of this diversion of business from local merchants and the avoidance of the sales tax is evidenced in a substantial degree in those States having the sales tax. In fact, there has grown up a practice in the sales-tax States of having goods shipped in from other States and thereby avoid the sales tax completely.

DISCRIMINATION

This practice of evasion of the State sales tax is so great that it results in a sharp and marked discrimination against the local merchants. For instance, the merchants of California, which is one of the States having a sales tax, are required to pay into the State treasury 2½ percent on all gross receipts of retailers and others making retail sales. These merchants residing in California are compelled, because of their citizenship and domicile within the State, to pay this tax which is the major source of revenue in the State of California. While on the other hand, a merchant residing in an adjoining State, or some other State which does not happen to have a sales tax, can ship goods into the State of California to the consumer free of California's sales tax. The result is unfair competition. The merchants of California who pay the sales and other forms of taxes which contribute to the general welfare of the State of California are entitled to fair competition. Under the present set-up they do not get it. They are discriminated against in favor of a nonresident merchant. This indeed is an unusual, if not a ludicrous, condition. To put it another way, the State of Oregon also has a sales tax. If a merchant domiciled in Oregon makes a sale within the border of his State he must pay a sales tax to the State of Oregon, but a consumer of California can order a bill of goods from a merchant in Oregon to be shipped in interstate commerce to him in California and receive the shipment tax free.

To use still another illustration, the State of North Carolina has a sales tax. The State of South Carolina does not. A resident of South Carolina can cross the North Carolina line, make a purchase from the North Carolina merchant, and have it shipped into South Carolina exempt from the North Carolina sales tax. But if the South Carolina consumer purchases the goods in North Carolina and undertakes to transport it himself into South Carolina, he must pay the tax.

This condition prevails in my own State of Mississippi. There the local merchants are required either to collect the sales tax or they are forced to pay it themselves. But the merchants of Alabama, which has no sales tax, and the merchants of Louisiana, which has a sales tax, can ship their goods in interstate commerce into Mississippi exempt from the Mississippi sales tax. The imposition of the sales tax in Mississippi has resulted in an enormous increase in the mail-order shipments. I believe it is safe to state that in some counties in my State the mail-order houses do almost as much business as the local merchants. The result is that these mail-order houses, which contribute nothing toward the maintenance and operation of the Mississippi schools, eleemosynary institutions, churches, and old-age-pension funds, have an undue and unfair advantage over the local merchants who must maintain these worthwhile and necessary institutions.

The result of all of this is unfair competition which results in unfair trade practices between the merchants of the several States. The purpose of H. R. 4214 is to stop this discrimination and unfair trade practices.

SALES TAX STATES

The following is a list of States now having sales tax in some form or another—there may be others: Arizona, California, Connecticut, Delaware, Illinois, Indiana, Kentucky,

Michigan, Mississippi, Missouri, New Mexico, Louisiana, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Dakota, Utah, Vermont, Washington, West Virginia, Virginia.

SCOPE OF THE BILL

The bill would require the payment of the same rate of sales tax as exists in the State to which the goods are shipped. It is a tax upon the interstate sales from seller to consumer. It would not affect the wholesalers or jobbers.

The bill is not a revenue bill for the purpose of increasing revenue, although it would result in a substantial increase in the revenue of the several States having sales tax laws. Its primary purpose is to further strengthen the Fair Trade Practices Act and place the retail merchants of the several States upon a parity. It is in no sense discriminatory between the citizens of the several States, but on the contrary it seeks to prevent a continuation of the discrimination that now exists against the merchants domiciled in the States having sales tax laws.

NEED FOR MEASURE

In view of the fact that approximately half of the States of the Union have adopted the principle of the sales tax, there is an urgent need and an increasing necessity for such a measure as this. The discriminatory condition which I have described is clearly detrimental to the mercantile interests of the several States as well as to equitable tax administration therein. If this condition is permitted to continue the harmful results from such unfair competition and tax avoidance will strongly retard business recovery and stability of governmental finances throughout the Nation which is now on the upward trend.

NOT NEW

This idea of permitting the States having sales tax to tax interstate sales is not new. It has been advanced in the Congress heretofore. In fact, it passed the Senate in the second session of the Seventy-third Congress, but for some unexplained reason was never considered by the House. Of course, there will be opposition to its passage this time, but this opposition will largely come from selfish interests who are today profiting by this unfair discrimination and who desire to see this discrimination continue. No one can successfully argue against its fairness.

Since the introduction of this bill the justice of its principle has resulted in thousands of expressions of approval from over the country. A large number of the legislatures of the several States have seen fit to approve it by appropriate resolutions.

Mr. Speaker, this bill is just in principle, and if enacted into law it will be fair in practice. I sincerely hope that my colleagues will seriously consider the inequity in the present condition and will join with me in this effort to bring about a uniform, fair, and just tax upon these interstate sales which are now escaping taxation. Let us equalize the burden of the sales tax in those States which have sales-tax laws and place the home merchant upon a parity with the nonresident merchant.

Robinson-Patman Act

EXTENSION OF REMARKS

OF

HON. CLIFTON A. WOODRUM

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1937

ADDRESS OF HON. CLIFTON A. WOODRUM, OF VIRGINIA, BEFORE VIRGINIA ASSOCIATION OF RETAIL CLOTHIERS, ROANOKE, VA., FEBRUARY 22, 1937

Mr. WOODRUM. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Little, if any, legislation of Congress in many years has so challenged the attention of the commercial world and stimulated its thought and comment as has the Robinson-Patman Antiprice Discrimination Act. Much has been written and said of it from an economic, social, and legal standpoint, and much more, no doubt, remains to be said. Its opponents have vigorously opposed it in no uncertain terms and in every conceivable manner, but the act has met with the approval of a decided majority of those whose practices it affects, and, in my opinion, there is no reason to believe that any devitalizing amendments are justified or likely to occur.

Aside from the fact that most of those who have written or spoken upon the Robinson-Patman Act have done so as partisans for or against the act, many of them knew but little of the subject. The result has been a wide variety of opinions and interpretations which has naturally created much confusion in the public mind. Furthermore, any case under the act involves a mixed question of law and fact. However, it is not so difficult when we bear in mind the simple purpose of the act—to insure fair and equal treatment of one's customers under like conditions. If one's purpose is to observe the act and to not discriminate in favor of or against any of his customers, he will have no serious difficulty. On the other hand, if the desire is to continue doing the things which the act was designed to prevent, or to run just as near the edge of the precipice as possible, he will encounter difficulties.

The Robinson-Patman Act, contrary to what is frequently stated, is not class legislation in the proper or even ordinary sense of that term. Its purpose was not to drive any group out of business, not to outlaw any legitimate business practices, nor unfairly to improve by legislation the competitive position of any class of manufacturers or merchants at the expense of any other class. On the contrary, the purpose of the act was to foster and promote free competition in commerce as between all traders by outlawing certain unfair and discriminatory practices promotive of monopoly, and for that reason inimical and dangerous to the entire commercial structure of our country.

Reduced to simplest terms, the act, in a truly constructive spirit, merely gives the force of positive law to certain fair standards of business conduct, variations from which were deemed by Congress, after painstaking inquiry, to be unfair practices against which protection by legislation was required in the public interest.

In this connection it is wholly unnecessary for me to refer at length to the great mass of evidence considered by Congress in arriving at its conclusion. Illustrative, however, is the voluminous chain-store report of the Federal Trade Commission, prepared pursuant to a resolution of the United States Senate. Therein were reported facts which lead inevitably to the conclusion that unless some action were taken to put an end to price concessions granted to large dealers and not justified by savings in cost of manufacture, sale, or delivery, nor in the majority of cases granted willingly but solely in response to the coercion of mass-buying power, slowly but surely the independent merchants of the United States are going to be forced out of business.

The Robinson-Patman Act, which became law on June 19, 1936, is brief, taking the form, for the most part, of an amendment to the Clayton Act, which was enacted in 1914. It is based on the constitutional grant of power to Congress to regulate interstate commerce. The act contains four sections: The first, or six paragraphs, amending section 2 of the Clayton Act and dealing with price discriminations; the second preserving the status quo of matters pending before or already decided by the Federal Trade Commission; the third providing criminal penalties for unlawful price discriminations; and the fourth preserving the right of cooperative associations to pass on net earnings to their members.

Paragraph (a) of section 1 provides, in part, that "it shall be unlawful for any person engaged in commerce * * * either directly or indirectly, to discriminate in price between purchasers of commodities of like grade and quality, where either or any of the purchases * * * are in commerce * * * and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them."

By this part of paragraph (a) price discriminations between purchasers of commodities of like grade and quality are prohibited if the effect of such discriminations is substantially to lessen competition or tend to create a monopoly in the line of commerce in which either the buyer or the seller is engaged, or to injure the competitive equality of any individual who is competing with either the seller or with the buyer or with customers of either the seller or buyer.

The subject matter of the Robinson-Patman Act is restraint of competition and monopoly; the object of the statute is to protect persons from the unlawful practices specified in the statute. This should be borne in mind in interpreting the meaning "where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them."

By this part of paragraph (a) price discriminations between purchasers of commodities of like grade and quality are prohibited if the effect of such discriminations is substantially to lessen competition or tend to create a monopoly in the line of commerce in which either the buyer or the seller is engaged, or to injure the competitive equality of any individual who is competing with either the seller or with the buyer or with customers of either the seller or buyer.

The subject matter of the Robinson-Patman Act is restraint of competition and monopoly; the object of the statute is to protect persons from the unlawful practices specified in the statute.

This should be borne in mind in interpreting the meaning "where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them."

Specific questions to be borne in mind are: (1) What degree of probability or possibility do these words of the statute require? (2) Whether "lessen competition", "injure, destroy, or prevent competition" implies a purely quantitative test—whether it requires the Federal Trade Commission to find that there is, say, 5 percent or 10 percent less competition on account of the practice—or whether it looks rather to the quality and fairness of the act. One construction may be at once eliminated, the bare possibility that the evil results will come about is not enough. The possibilities are indefinite; Congress certainly did not intend to give the Commission power to prohibit conduct merely because the Commission imagined a remote possibility of restraint. What degree of probability or certainty must there be? These words in the statute were obviously used by Congress merely to indicate that it is the tendency and probable effects of acts that are important rather than actual results.

The words "lessen competition", "injure, destroy, or prevent competition" are, in my opinion, not to be taken in a purely quantitative or arithmetical sense. I do not think it necessary for the Federal Trade Commission to find that the acts complained of resulted in, or will result in, say, 5 or 10 percent less competition than there was before. Such an interpretation would make the statute entirely unworkable; competition is not a thing that can be measured with a yardstick. It would, moreover, be inconsistent with the basic purpose of the legislation which is to insure fair and honest competition based on efficiency, service, and cost. The words must be read in the light of this general purpose. When it is shown that a person is selling competing customers at discriminatory prices not justified by "differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered", unfair conditions are established. This in itself is sufficient evidence that the effect "may be substantially to lessen competition" "or to injure, destroy, or prevent competition." The word "substantially", of course, implies the maxim "de minimis non curat lex." Mere trifling inequalities may be disregarded by the Commission.

The words "may be" indicate neither bare possibility nor certainty, but reasonable probability—a probability to be deduced by the Commission from the inherent character of the acts themselves. These words of the statute must be construed together with the whole section and they must be taken altogether to indicate generically the distinction between fair and unfair competition.

The unfair practices condemned in the Robinson-Patman Act are all of an involuntary, coercive, and unfair character. As to these it is the theory of the law that as long as fair methods are used, competitive conditions will prevail, but that unfair methods always work in favor of monopoly and restraint of trade. From their own inherent character they tend toward restraint of trade and monopoly. The Robinson-Patman Act specifically emphasizes this conception. Keeping in mind that the distinction is broadly between fair and unfair competition, the meaning of the statute becomes relatively clear. Differentials in price, making only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which commodities are sold, are obviously price differentials based on a business policy grounded on service, efficiency, and cost, and which Congress did not have in mind to destroy.

This interpretation harmonizes with what seems to me the sound method of approach to every problem of unfair discrimination or unfair competition. There are always two stages to the inquiry: (1) Is there prima facie a discrimination or an unfair method of competition—i. e., is there an act which gives a competitor advantage over another? (2) Is there a justification for this discrimination or method of competition? And there is a justification whenever and only when it is a reasonable and fair method of business competition grounded on efficiency, service, and cost.

An example may serve to make my meaning clear. Suppose that an article, say, a package of razor blades, normally selling at retail to consumers at 50 cents, is sold by the manufacturer to some retailers at more favorable price—prices which enable them to sell those blades to consumers, say, at 5 cents a package less than competing retailers who have not been so favored or at a profit of 5 cents more. It seems to me that it is quite immaterial whether the favored retailers sell at the lower price or keep the extra margin of profit. In either case it is not necessary to prove actual injury to competition.

We all know that inherent in a difference in price, such as I mention, there is a dangerous probability of injury to competition. I am not stating that any uniform rule applicable in all cases can be fixed. Nor am I contending that Congress intended that such a rule be formulated. In each case, under all the facts and circumstances, the effect upon competition is a conclusion to be arrived at by the Federal Trade Commission in the exercise of its expert experience. If a discrimination not based on difference in cost is so small as to be unsubstantial or a mere trifling, naturally the Federal Trade Commission would consider that such a case did not call for corrective action under the statute. The matter would fall under the principle of the maxim "de minimis." However, if the discrimination was of such a character that in the judgment of the Commission there was a reasonable probability of injury to competition, the Commission would be justified in putting an end to it. Proof of actual injury to competition need not be shown, for, as I have stated, in the first place, it is not called by the policy of the act; and, in the second place, it would be impossible to show that there was, say, 5 or 10 percent less competition than there was before.

In my opinion, sellers who pass on efficiency savings to their purchasers have no need to fear the Robinson-Patman Act, if the savings so passed on by them are arrived at by an honest, intelligent, and reasonably accurate analysis of their costs. Perfection will not be demanded. Moreover, since the passing on of such savings is permissive merely and not mandatory, sellers have ample opportunity fully to protect themselves and their customers by prudently fixing their differentials at something less than their analysis of their costs indicate their actual savings to be.

No exact mathematical adherence to this cost principle is called for by the act. Differentials in price, must for practical purposes, have more or less arbitrary boundaries. All that is necessary is that differentials must be relevant to the cost of service and must not be a covert means of favoritism. This is a question of business fact and judgment in each case that arises.

I have already indicated that in my opinion the words "may be substantially to lessen competition", "injure, destroy, or prevent competition", means merely that the discrimination must have the effect of imposing an unfair restraint on competition as distinguished from normal competitive methods. If the Federal Trade Commission should show in a given case that a manufacturer is discriminating in price between competing purchasers, that the differential in price is unjustifiable on grounds of cost, or made in good faith to meet an equally low price of a competitor and that the difference in price in a competitive sense is substantial and not trifling, I have no doubt that the Commission would be justified in concluding that its effect may be to substantially lessen competition. Generally discriminations of such character are bad because they tend to build up favored buyers at the expense of those not so favored.

Paragraph (a) further provides that "nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona-fide transactions and not in restraint of trade."

The necessity of price changes to meet market fluctuations and to dispose of perishable and other like goods was recognized and protected by Congress, paragraph (a) providing that "nothing * * * shall prevent price changes * * * in response to changing conditions affecting the market for or the marketability of the goods concerned." This presupposes, of course, good faith on the part of the seller, and the provision may not be used as a cloak to conceal unlawful discriminations in price.

Another important feature of paragraph (a) is that it does not prohibit discriminations as between interstate sales only, providing that unlawful discriminations are prohibited "where either or any of the purchases involved" are in interstate commerce. The effect, therefore, is to protect the intrastate purchaser from a price which discriminates against him in favor of an interstate purchaser and to protect an interstate purchaser from a price which discriminates against him in favor of an intrastate purchaser as well as to protect interstate purchasers from prices unlawfully discriminating against one in favor of the other. Thus effectively did Congress exercise its power over interstate commerce to shield both it and intrastate commerce, so far as it could constitutionally do so, from the destructive force of unfair and unjustifiable price discrimination.

Paragraph (b) of the Robinson-Patman Act provides that the Federal Trade Commission may make out a prima facie case of violation of the act on the part of a seller by showing that he has discriminated in price as between his customers. The seller must then go forward with the evidence in justification of his conduct. There is no novelty in this rule, as the Commission has so construed and applied the Clayton Act of which the Robinson-Patman Act is amendatory. Nor is there any unfair presumption of guilt or shifting of the burden of proof in this provision. Who knows better than the seller whether his discrimination is justified by his savings in cost? If the difference in price is so justified, the seller has not violated the law. No seller who exercises reasonably efficient and honest judgment in allowing price differentials need fear the prima facie case provision of paragraph (b), for, presumably, before putting such differentials into effect he will, in fairness to himself, his customers, and the public, have determined their justification.

Paragraphs (c), (d), and (e) are directed at unfair and unjust methods of indirect price discrimination in which some large purchasers, by the force of their mass buying power, have coerced sellers to engage. The Federal Trade Commission's chain store investigation revealed that tremendous amounts were being paid every year to some purchasers for entirely fictitious services, the effect of which was to cause substantial injury to the competitive position of purchasers to whom similar payments were not made. Chief among such methods of indirect discrimination were the payment of brokerage to an agent of the purchaser and the allowance to the purchaser of exorbitant sums for advertising purposes.

It was therefore provided in paragraph (c) that on sales to any purchaser no brokerage or commission could be paid to the purchaser or to any agent of the purchaser except for services actually rendered by them for and on behalf of the seller. As neither the purchaser nor his agent, in most cases, render any

service to or on behalf of the seller, acting on the contrary, for themselves, this paragraph may be considered as terminating the unfair practice of paying brokerage to a purchaser or his agent.

But the paragraph did not stop there. It was couched in language deemed sufficiently broad to frustrate all attempts at circumvention. Regardless of professions of agency, except for services actually rendered, paragraph (c) prohibits the payment of brokerage to any intermediary who is in fact controlled by or is identical with the purchaser, preventing purchasers from setting up dummy brokers, or brokers from setting up dummy purchasers, who are ostensibly but not actually independent agents. Likewise it proscribes the splitting of brokerage by a broker with the purchaser or with any agent or dummy broker controlled or owned by the purchaser, and it further prohibits the allowance of any commission or discount in lieu of brokerage to a purchaser who buys directly from the seller rather than through a broker.

It is observed that this paragraph was not directed at or intended to eliminate from our channels of commerce brokers as such, for they perform legitimate, useful, and highly important functions in the distribution of commodities, not only in the consummation of sales but in adjusting differences between sellers and buyers; it was directed instead at those who have, to the prejudice and injury of their competitors, manufacturers, brokers, and the public, demanded and received, largely as insurance against loss of their trade, the payment of allowances denominated as brokerage but for which they neither rendered nor purported to render any brokerage services.

Paragraph (d) strikes at the payment of advertising and other allowances by which some purchasers had obtained unfair and unjustified advantages over their competitors. It neither requires nor prevents the payment of such allowances, but provides that if granted, they must be made "available on proportionally equal terms" to all of the seller's competing customers. This means that sellers must give to all of their customers the same opportunity to earn such allowances as is given to any other customer competing with them, and it further means that when such allowances are granted in return for services rendered or to be rendered, the seller may not discriminate between his customers either with respect to the character and extent of their services or with respect to their performance thereof. Proportionally equal treatment, therefore, is the mandate not only in fixing the amount of allowances, but also in prescribing, and requiring performance, of the services to be rendered in return therefor.

Paragraph (e), similar to (d), prohibits a seller from furnishing any services or facilities to one customer upon terms not proportionally equal to the terms upon which he furnishes like services or facilities to other customers.

Paragraph (f) applies to purchasers only, making it unlawful for them knowingly to induce or receive a discrimination in price which is prohibited by the act.

Section 2 of the Robinson-Patman Act merely preserves the status quo of matters pending before or decided by the Federal Trade Commission.

Section 3 is the penal section. It provides that it shall be unlawful for any person to be a party to or assist in any sale "which discriminates to his knowledge against competitors of the purchaser", or for any person to cut prices or sell goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor. Violations are punishable by 1 year's imprisonment or a fine of $5,000 or both, upon conviction in a United States district court.

Section 4 expressly permits cooperative associations to return to their members net profits in proportion to the members' transactions with the cooperatives.

Except for its criminal provisions, administration of the Robinson-Patman Act is delegated to the Federal Trade Commission. To date the Commission has filed about 16 formal complaints charging respondents with violations of various provisions of the Robinson-Patman Act. Taking of testimony has already begun in two of these cases. Other formal complaints are about to be filed and a large number of informal complaints are under investigation with a view to determining whether violations of the law have occurred.

In a very considerable number of instances informal action taken by the Commission has resulted in terminating discriminatory practices without the necessity of issuing formal complaints, and innumerable conferences have been held in Washington by the Commission and its attorneys with representatives of various business firms for the purpose of assisting the latter as much as possible in formulating sales and distribution plans and policies in keeping with the law. Although the Robinson-Patman Act has been in force only a little more than 6 months and notwithstanding the very serious handicap of insufficient funds, so efficiently and effectively has the Federal Trade Commission gone about its enforcement of the act that a recent poll of representative manufacturers, wholesalers, and retailers engaged in the grocery industry, taken by the Associated Grocery Manufacturers of America, shows that more than 40 percent of those contacted have already experienced beneficial results from the act. The same poll, incidentally, shows an overwhelming majority of more than 75 percent of those expressing themselves approve the intent of the Robinson-Patman Act, with less than 10 percent indicating disapproval. About 15 percent did not state their views. These figures, I think, are significant in showing not only the accuracy with which Congress judged informed public opinion with respect to the Robinson-Patman Act, but also in indicating the vital need for its enactment.

My advocacy of the Robinson-Patman Act does not lead me to claim that it is perfect. That its administration and enforcement will reveal deficiencies and ambiguities warranting corrective amendatory legislation is to be expected. But I do maintain that the act is a long step in the right direction, a step which, in my opinion, brings us nearer the sound economic state of equality of opportunity in business without penalty upon service or efficiency, a step which will not and cannot be retraced so long as Congress desires to protect from unjustifiable discrimination the independent businessmen, large and small, who constitute the commercial backbone of the Nation and the public's bulwark against monopoly.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ROBERT M. LA FOLLETTE, JR.

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Wednesday, February 24, 1937

LETTER FROM STUART CHASE

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent that there may be printed in the Appendix of the RECORD a copy of a letter written by the well-known author, Stuart Chase, to the editor of the New York Times relative to the President's proposal regarding the Supreme Court.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEBRUARY 15, 1937.

To the EDITOR, NEW YORK TIMES,
New York City.

SIR: In the hullaballoo which has followed the President's proposal to ease the pressure of the courts on social legislation, the real point at issue is in danger of being submerged. The point might be phrased in the form of a question: What would you do if you were President of the United States, following a mandate such as that delivered in the last election? Hysterical appeals to imperishable traditions would not help you much, particularly if the traditions were constantly perishing in the face of concrete situations. Learned studies of what Jefferson, Jackson, and Grant did in the past would not help much. There are certain grave problems demanding solution in 1937. Your task is to find a way to attack them which is at once legal and effective. Looking over the frothing rhetoric to the real land and the real people of America you find that—

Six million farmers were left in a legal vacuum by the A. A. A. decision. The overwhelming majority of them are frightened, sore, and determined to secure legislation which will rescue agriculture from the curve of progressive degeneration in evidence since 1920.

Fifteen million industrial and clerical workers, more or less, were stripped of wage and hour protection by the N. R. A. decision. They are baffled, alarmed, and determined to secure this protection in some form. An unfavorable decision in the Wagner Act will increase their resentment. An unfavorable decision in the Social Security Act will increase it again.

Half a million coal miners and many operators are disgruntled and angry about the Guffey coal bill decision.

A million railway workers are thoroughly aroused over the Railway Retirement Act decision.

Eight million unemployed want work and will continue to be bitter and resentful until they get it.

A landless tenant class turns to the Government to save them from peasantry or worse.

Here are stock markets, banks, investment trusts likely to go on the loose again as they did in 1929, cleaning out millions of small depositors and investors without some form of orderly control, which will not be thrown out of court.

Finally, and perhaps most important of all in the long run, here is the continent of North America sliding to the sea at the rate of 3,000,000,000 tons of topsoil a year and increasingly stricken with flood, drought, and dust storm. Only vigorous action, inaugurated by the Federal Government on a regional rather than a State basis, can cope with this appalling situation. The Ohio River is not conversant with the interstate-commerce clause.

In brief, here are a series of acute problems in 1937 which somehow somebody must meet. Failing energetic action we are faced with a serious lowering of the survival value of the American community. It is not a case of eternal verities, the principles of the founding fathers, or hallowed traditions, it is a case of maintaining

a functioning community. The first duty of a government is not to preserve traditions, its first duty is to govern.

The President, I take it, has heard from the farmers, heard from the workers, sharecroppers, coal miners, railway men, the unemployed, the small depositor, and heard in no uncertain terms from the Ohio River and the Dust Bowl. As a result he sees the situation in practical terms, unclouded with imperishable principles and other absolutes. His guiding principle is to make this country more viable and a less hazardous place in which to live and work. He is on the spot. He is responsible, together with Congress, for doing something. He has the tough job of devising ways and means to give millions of distressed people definite hope for a better and more secure existence.

When he devises such measures, what does he hit? A stone wall. Five old gentlemen say, "No; you can't do it." Four old gentlemen say, "Yes; you can." So he can't do it.

The urgent needs, desires, and demands of the majority of the people are thus rendered irrelevant and immaterial.

What is the President to do? What would you do? Tell the 27,000,000 citizens who voted for the New Deal to forget their difficulties because five old gentlemen consider them insoluble, or to warn the five gentlemen that the people demand action. Perhaps you prefer a constitutional amendment as a more dignified way out of the impasse. I do. But what if you and I knew that to get an amendment at all would take a long time—the child-labor amendment has been kicking around State legislatures for 13 years—and knew further that by concentrating their still formidable powers in 13 States those who are quite satisfied with things as they are stand an excellent chance of heading off any amendment indefinitely? And here are all these farmers and workers. Now. Here are women laboring 48 hours a week in New Bedford mills for $5. Now. Here is the Dust Bowl beginning to blow again. Now. Here are millions of landless tenants progressively sliding to economic perdition. Now.

If we really cared about America, I think we should act. Now.

Yours very truly,

STUART CHASE.

The Growing Menace of Narcotic Drugs

EXTENSION OF REMARKS

OF

HON. HAMILTON FISH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1937

RADIO SPEECH OF HON. HAMILTON FISH, OF NEW YORK, FEBRUARY 23, 1937

Mr. FISH. Mr. Speaker, under leave to extend my remarks, I include a radio speech made by me under the auspices of the World Narcotic Defense Association as a part of its annual Narcotic Education Week program over the Columbia Broadcasting System, Tuesday evening, February 23, 1937, from Radio Station WJSV at Washington:

The present century is suffering from the most serious narcotic drug problem the world has ever known. This is largely because science has discovered the ways of producing high-powered drugs extremely profitable in exploitation from the basic drugs, opium, and cocaine. There are two angles to this scientific research. One is the commercial angle, seeking to find drugs that can develop a ready market in countries from which certain narcotic derivatives are excluded. These drugs must be so constituted that they can slip through the network of the laws covering exportation and importation, national and international. This research has developed narcotic forms that escape the law by some technicality, and yet are in demand because they can be restored to the narcotic character they are supposed to have lost by clever chemistry.

Synthetic chemists are progressing in the art of manufacturing narcotic drugs like morphine and heroin from a coal-tar base. Much of this research is quite honest in its effort to discover drugs that possess the pain-relieving qualities without the habit-forming qualities of basic narcotics. In fact, heroin masqueraded in this guise for some time, though it is now known as the most pernicious of all narcotic drugs in common use. It is the conscienceless exploitation by greedy commerce that has made the narcotic-drug problem so difficult to be handled. The narcotic-drug traffic has become a serious danger and the economic and social questions involved in its control are both vast and complicated.

The opium problem is no longer that of China and India specifically so long and so ruthlessly exploited by the opium traffic directed from Europe. Nor is the cocaine problem one of Peru and Bolivia, Ceylon and Java, exclusively. The opium and coca leaf produced is no longer used almost entirely by the addicts of those countries. A considerable part of this production now goes to the narcotic factories of the western countries, there to be turned into narcotic drugs such as morphine, heroin, and cocaine.

It is estimated that the amount of narcotic drugs consumed by addicts is 30 times the amount required for legitimate use. This amount is supplied by the greed of commerce and distributed largely through the craft of narcotic drug smugglers and clandestine manufacturers. The economic angle in the producing countries is one which must be given consideration if anything effective is to be done to reduce production. Every effort must be made to give such countries assistance in finding other crops and products to replace opium and coca leaf which now form an important part in their domestic and foreign commerce.

From the social angle the problem is equally serious. Poverty, crime, insanity follow in the train of the narcotic peril. Poverty is an inevitable corollary of such addiction for two reasons. One is that no one wishes to employ a drug addict, since the unreliability of these unfortunates is proverbial. The other reason is that the habit is an expensive one. The money earned by the user of cocaine or heroin or morphine is mortgaged to the satisfaction of the false appetite he has developed. No matter what the cost in money, reputation, or professional advancement, the drug addict must have his customary dose of narcotic. If for any reason the supply is interrupted, the mental life of the addict is upset. Such a person is virtually insane for the time being. From whatever angle the question is considered, one fact emerges: There is a relation between the increase in certain crimes and the increasing illicit traffic in drugs. It has been estimated that 80 percent of drug addicts become criminals, and that about 32 percent of the prisoners in Federal institutions are either drug addicts or were convicted in violation of Federal narcotic laws. From the array of indictments against narcotic drugs, which are derived from the evidence presented by the records of criminal courts, physicians in charge of narcotic clinics, officials of prisons, of hospitals, of welfare institutions, reports of State and National narcotic bureaus, reports of police departments and of public-health services, the conclusion that can be formed is that every narcotic drug addict is a potential criminal or social derelict.

The reasons underlying this conclusion are twofold; not only are the effects of narcotic drugs on the nervous system such that the physical organism is injured but the mind and will are so influenced by the habit urge that the addict is compelled to continue his indulgence on the penalty of suffering beyond endurance. The effects of heroin, cocaine, and marihuana are especially to be dreaded, because there is in these drugs an initial stage of false stimulation during which the user is at the mercy of excited and uncontrolled brain and nerves. It is in this stage that young recruits to criminal bands are made. Many young persons are today facing ruined lives because they started an indulgence in heroin, cocaine, and marihuana for the fun of it or on a dare. All in all, the army of narcotic drug addicts in this country furnishes one of our major social problems.

When we are considering the seriousness of the narcotic-drug peril there is one phase of it that we must bear constantly in mind. That is the impossibility of practicing this habit in moderation. These narcotic drugs are guaranteed to enslave you if you tamper with them. There is no halfway stage. You are free from the narcotic-drug habit absolutely or you are a victim of it absolutely. The narcotic-drug addict has sacrificed himself through the inevitable habit he has set up in his system. The addict to these drugs, opium, morphine, cocaine, heroin, marihuana, is a victim of a malignant habit from which he is powerless to free himself once a tolerance for the narcotic poison has been developed.

This serious narcotic situation must be remedied as a measure of social salvation, not only for the United States but for all countries. Secretary of State Cordell Hull has said: "Experience has demonstrated that nations acting alone are unable adequately to protect themselves against the illicit traffic in narcotic drugs; isolated action by one country can have no permanent or effective result while other countries allow free import and export of drugs."

America has taken the leadership in developing this cooperation. Her leadership appeared in 1909, when the first international conference was held in Shanghai under the presidency of the late Bishop Brent, and has been maintained ever since. American leadership extends to the technique of control, the United States Bureau of Narcotics being recognized as a model for efficiency, and the legitimate manufacturers in America as an example of 100-percent cooperation with the Government.

I have introduced in the Congress a bill (H. R. 229) to prohibit the importation of certain drugs which are used for making marihuana, a narcotic that is being extensively used by the younger generation in America. This bill is now before the House Ways and Means Committee, and I hope to get favorable action on it during the present session of Congress.

Marihuana is used largely in the form of cigarettes, which cause delusions and produce insanity and often lead to atrocities that only a drug-soaked mind could conceive. Marihuana is a sinister drug that has only recently become available and popular among the younger element. It is much cheaper than cocaine, heroin, or morphine, and to that extent more dangerous, and is fast becoming a serious menace.

There should be drastic laws not only against the importation of the ingredients but even more so against the manufacture and sale of marihuana in cigarettes or in any other form. This is a matter for the State legislatures and the Congress to take up and adopt effective legislation without further delay to curb and, if possible, wipe out this growing evil and menace to the youth of America.

The Supreme Court

EXTENSION OF REMARKS

OF

HON. HERMAN P. EBERHARTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1937

RADIO ADDRESS BY HON. HERMAN P. EBERHARTER, OF PENNSYLVANIA, FEBRUARY 21, 1937

Mr. EBERHARTER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech which I delivered recently over the radio:

President Roosevelt's historic message of February 5 already has caused more discussion and argument than any Presidential message since the World War. Many have been misled into taking the side against the President's proposal by the inspired and heated attacks made upon it. Most of these attacks, you may be sure, come from the very same forces which have ever opposed the President in his struggle for progressive reform of our economic system.

In making our decision on such an important question, let us not be swayed by emotion or hysteria. Let us not take too seriously the claim of the President's foes that he seeks to become a dictator or their intimations that his proposal for court reform is an attack upon the Constitution.

Let us examine the subject calmly and dispassionately. The President stated that it was his desire to strengthen the administration of justice and to make it a more effective servant of public need. The Constitution itself places upon him the duty of recommending to Congress such action as he shall judge necessary and expedient, and he therefore is merely performing his duty in that respect. It is likewise the duty of Congress under the Constitution to so legislate with respect to the Federal courts that they will function efficiently and to the end that justice may be freely and impartially dispensed.

The Supreme Court was not established by the framers of the Constitution for the main purpose of giving a lifetime office to Justices; neither were the inferior Federal courts established by Congress for the main purpose of giving lifetime jobs to judges. Let us not lose sight of the fact that all of these courts were established as instrumentalities through which justice would be secured and for the preservation of the rights and liberties of citizens.

If, therefore, the President and Congress move, mind you, by constitutional measures, to improve the machinery and further the purposes for which this Government was established, as set forth in the bill of rights, the President and Congress are merely doing their duty, and as they are bound by their oath of office.

I cannot see wherein the proposal is radical. Others have suggested that Congress override a decision of the Supreme Court by two-thirds of its membership. This would be immeasurably more drastic than the President's proposal. It would, in effect, be tossing the Constitution completely aside. I would not care to see Congress pass upon the constitutionality of its own acts, because I fear it would be too prone to approve of itself, without regard to the constitutional question involved.

As an American, I have the utmost reverence for the Constitution, and my natural inclination, as a lawyer, is respect for the orderly processes of government. The solution recommended does no violence to either my reverence for the Constitution or my respect for the orderly processes of law. I think I am safe in saying that every citizen of every political faith will admit that the country is faced with the necessity of attacking the problem of improving the judicial machinery. Judges themselves will agree with that statement.

It is not the fault of the President that new problems have arisen. They are a product of the times, times which make necessary a more flexible, more responsive, and more effective government. I think it was decided last November that a vast majority of citizens want progressive legislation; that they are eager for a solution of the problems of agriculture, the problems of labor, and the problems of industry. And I do not believe that these objectives, so earnestly desired by the people, should be denied by a narrow, legalistic interpretation of the Constitution. Or should it be said that the expressed desires of the electorate are being thwarted by the stubbornness or the whim of a bare majority of nine men, humanly fallible, who have adopted a tortured construction of the Constitution; who, in the words of one of their own Justices, read their own personal economic predilection into the fundamental law of the land.

What other conclusion can citizens come to after reading the decision in the New York Minimum Wage Act for women? That decision seems to have made wage slavery constitutional. Five men have said, in effect, in that decision: "The Constitution does not protect human rights." In other words, the Constitution is not a living document. There is not one word in the Constitution which forbids the Congress of the United States from enacting a minimum-wage law. It is merely the judgment, or call it prejudice if you will, on the part of a bare majority of the personnel of the Court which guarantees to the employer the right to pay women and children starvation wages.

I do not mean to leave the impression that all of the decisions of the Court, nor even a large majority of them, have been wrong. But I do want to submit to you that if the opinions of the minority of the Court had prevailed, the expressed desires of the people could have been attained. The conservative majority of the Court says agriculture is a local matter. It is with such decisions that I cannot agree, and with which the minority of the Court dissent.

In my opinion, the Constitution is, in its terms, sufficiently broad to amply protect our freedom and our human rights as well as our property rights. What is needed, as said by the President in his inaugural address, is "an enlightened interpretation" of the Constitution, and, in its final analysis, what else does the President's proposal amount to? No one for a moment believes that if some of the present Justices retire that they will be replaced by any but Justices who are preeminently qualified and competent. The President does not have, nor does he seek, the absolute power of making appointments to the Supreme Bench. He merely nominates, and the Senate of the United States must pass upon his nomination. Instances are numerous where nominations by a President have been rejected by the Senate. Any person nominated by the President and confirmed by the Senate would necessarily be possessed of the highest ethical standards and be true to the unchangeable rule that justice shall be dispensed without fear or favor. He would immediately become absolutely independent of the executive and legislative branches of the Government and of every outside influence. And why do some people look upon nine as a sacred number? Is it because the Congress of 1869, immediately after the bloody Civil War, fixed upon nine as the proper number of Justices of the Supreme Court? At that time the entire population of the United States was 38,500,000. Now it is 127,000,000.

If the Congress of 1869 had perchance fixed the number at 7, or 11, or 15, would those numbers now be looked upon with the same reverence?

The legislative, executive, and judicial branches of the Federal Government were intended to be coordinate and equal in power. The American form of government is based upon a system of checks and balances. The Senate is a check upon the House of Representatives, and vice versa; the President is a check upon both the House and the Senate; and the House and the Senate are a check upon the President; and, finally, the courts are a check upon both the President and the Congress. But where is the check upon the courts? In later years the fallacy has grown that there is no check upon the Supreme Court; and the Court has, in practice, taken upon itself, seemingly without objection, more and more power. From 1789 to 1864, a period of 75 years, the Court declared only 2 laws unconstitutional; from 1934 to 1936, 13 acts were declared unconstitutional.

But the framers of the Constitution wisely gave to Congress a power which, if used, is a check upon the courts. And that is the power to regulate jurisdiction and the power to name the number of Justices who shall be members of the Court. Should this constitutional power of Congress be exercised? The Supreme Court has by its decisions given to the Constitution new meanings by making new interpretations of its original clauses. It is claimed it has that right by implication. To give a new meaning to written words amounts to alteration; and so the Court has, by calling upon implied powers, made additions to the written Constitution of the United States.

It has been said that Supreme Court Justices seldom die, never resign, and never grow too old to draw their salaries. How many business firms or large corporations retain in executive positions men who are over 70? How many of them retain as their counsel lawyers who are over 70? How many lawyers over 70 are engaged in active practice at the bar? And how many of you, in selecting an attorney to handle an important case, would choose one who is past 70?

Why then should it be considered wrong to enact a constitutional statute to provide that when Justices do not choose to retire when they become 70½ years of age, that the President, by and with the advice and consent of the Senate, appoint an additional Justice?

The Members of Congress are answerable to the electorate; the President of the United States is answerable to the electorate; the Justices and judges of the United States courts are not answerable to anyone.

As a Congressman, I conceive it my duty to make democracy work. I am firm in the belief that our present Constitution can serve our needs, and that adoption of the President's proposal will give democracy a better chance of surviving.

I do not believe that it is my duty to perpetuate in office men who have been appointed by persons whose political and economic philosophy has been repudiated by the people. I owe my loyalty to those I represent, and I am convinced that they approve of infusing new life into our judicial system.

For the sake of preserving the Constitution as a living instrument, and to make democracy work, let all of us approve the recommendations of our President for the reform of the Federal judiciary.

My efforts and my energy, both in and out of Congress, will be wholeheartedly devoted to that end.

Food, Drug, and Cosmetic Legislation

EXTENSION OF REMARKS
OF
HON. CAROLINE O'DAY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, February 24, 1937

Mrs. O'DAY. Mr. Speaker, I rise today to ask what the Seventy-fifth Congress is going to do to protect the consumer of food, drug, and cosmetic products. There is no subject before us which is of more vital concern to the women of this country and for which there is a more urgent need.

My attention has been forcibly called to the necessity for adequate legislation in this field during the recent influenza epidemic. You have all been aware, as have I, of the flamboyant advertisements of various products as preventives or cures for colds, and therefore as helpful in avoiding pneumonia—this in spite of the fact that the medical profession admits that as yet no drugs have been discovered which will either prevent or cure colds.

In 1929 the United States Public Health Service called a conference of State and municipal health officers to consider the flu epidemic then raging. This committee published recommendations for guarding against colds and influenza. These included the usual ones of plenty of sleep and rest and careful diet, and the warning:

> Avoid the use of any so-called preventives. Vaccines, sera, and advertised preventives seem to be of no value, and may be harmful in this disease.

In making recommendations for treatment, they said:

> Do not take any so-called cure. There is no specific cure for this disease.

Current medical opinion bears out these statements.

The trade paper, Drug Topics, known as the National Newspaper for Retail Druggists, has been devoting a large proportion of its space to telling druggists how they can capitalize on the flu scare. The issue of January 18, 1937, for instance, had a streamer headline on the cover page: "Cold Remedy Sales Soar in Flu Crisis." On another page, an article headed "Cold Remedy Sales Break Records as Influenza Sweeps the Country", carried a State by State review of the increased sales of cold remedies. A little further on in this issue, a full-page advertisement of the cold remedies of one company carried the statement:

> Epidemics are raging. Preventives and remedies—for maximum profits—

And then pointed out—

> 50-percent average profit on every sale—order adequate stocks from your wholesaler today.

The manufacturer of another so-called cold remedy boasted in his advertisement in this paper—

> The peak of the mighty * * * 1936–37 advertising campaign and the peak of America's 1936–37 epidemic are being reached simultaneously. Right now the cold-conscious readers of 324 newspapers are being flashed dramatic 80-inch messages twice weekly. Right now 24 magazines are telling millions how to safeguard health with * * *.

And so forth. The advertisement ended by stating, "For the benefit of the public—for your own profit act." Another portion of the same advertisement dealt with free store displays of the product and ended with the frank statement—

> Within a week this material can be put up in your store doing a tremendously effective job for you and for your customers—making cough and cold profits for you far beyond any you've ever known.

People are being fooled into reliance on these drug products, delaying proper medical treatment, endangering their lives. The Federal Government under the present Food and Drug Act is powerless to prevent this deliberate exploitation of the public's fear of influenza.

That we continue to permit the cold-blooded capitalizing on human misery embodied in the advertisements of these products to the public and to the retailers is a disgrace.

Legislation which would prevent the making of such false and misleading claims in the advertising of drugs has been before Congress in one form or another since 1933, and we have failed to act.

This kind of advertising of drugs is just one example of the need for new legislation in this field. The Federal Government has no means of protecting the public from harmful or worthless cosmetic products. My attention was recently called to another case of blindness resulting from the use of an eyelash dye. A young woman in Texas, who was just finishing her course of training as beauty-shop operator, had her eyelashes dyed. Almost total blindness resulted. She has undergone one operation, and if she can manage to raise the necessary $40 for railroad fare from her home in Texas to St. Louis, she will have another, which may or may not restore her sight to the point where she can again be self-supporting. There is now no way that the Federal Government can prevent the sale of cosmetics which are likely to cause such disasters as this, or even to require that its ingredients, or a fair warning of its potential danger, be printed on its label, or that beauty shops take proper precautions in using it.

Neither can the sale of compounds which purport to be safe reducing agents be prevented. Newspapers and periodicals are replete with such advertisements as "Lose Ugly Fat This Easy, Safe Way"; some of these products are anything but safe, in fact have been known to cause death as well as serious illness—and yet they continue to be advertised and sold as "safe." Even though they may not be harmful, many of them are worthless. For instance, a widely advertised "diet", is composed of 77 percent soybean flour, 10.5 percent sugar, 7.5 percent cocoa; net contents 7 ounces; price $2; cost of ingredients 8 cents. Ingredients of such products should be listed on the label; the use of ingredients which may be dangerous, such as thyroid extract and dinitrophenol prohibited. Bills which have been before us would have given the Federal Government power to act, but 3½ years have passed since the first bill was introduced, and no new legislation has been enacted.

Women, especially, want also to know the quality of the food products they buy. At the present time we have no sure way of knowing whether the price we pay for canned fruit or vegetables is a fair price for the quality we get. We cannot see the contents of the can until it is opened. We know that a label bearing the word "fancy" or "superfine" means practically nothing. We want the Federal Government to be able to establish a standard of identity for each food product, to establish a minimum standard of quality, and then to establish graded standards of quality above the minimum. We want to know that when we require fine canned peaches, for instance, that we may ask for the best quality by grade and know that we are getting it.

This type of legislation has aroused as much interest among women as any other legislation which has ever been proposed. At the public hearings which have been held on legislation of this type in other sessions, in both the House and Senate, representatives from most of the largest organizations of women have appeared in support of it. The General Federation of Women's Clubs, the National Congress of Parents and Teachers, the National League of Women Voters, the American Association of University Women, the American Home Economics Association, the National Board of the Y. W. C. A., the Medical Women's National Association, the Women's Homeopathic Medical Association, the National Women's Trade Union League, the American Dietetic Association, the National Council of Jewish Women, and a number of other organizations have expressed the desires of their members for legislation in the consumers' interest.

The American Medical Association has voiced approval of the objective but has considered proposed legislation too weak in many respects in its public health aspects. The

American Pharmaceutical Association has been vigorous in its demand for new legislation. No group has openly opposed passage of legislation, but an analysis of some of the amendments proposed by the proprietary medical groups and food groups, as well as advertising agencies and publishers, shows their real attitude toward it.

I recommend to you the report of the hearings held in July 1935 before the subcommittee of the Interstate and Foreign Commerce Committee of which Mr. CHAPMAN, of Kentucky, was chairman. The need for this legislation is clearly evident from the testimony presented there.

I am constantly receiving letters asking what is going to be done by this Congress. Women are growing impatient as the evidence of the need for this protection stacks up, and Congress refuses to act.

I realize, fully, the variety of opposition which exists to this measure. The producer or manufacturer of every product affected, advertising agencies and mediums, are each and all fearful of the possible effect of legislation on their profits. It is possible, however, to be fair to the industries and producers, to give to the public the full protection which is its due, and also to protect the ethical manufacturer or advertiser from the unfair competition which he now must meet from the "chiseling" group.

This session of Congress should not adjourn until we have enacted legislation to protect the interests of consumers of food, drug, and cosmetic products.

Members of the Supreme Court From 1789 to 1937

EXTENSION OF REMARKS

OF

HON. ROBERT L. RAMSAY

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1937

Mr. RAMSAY. Mr. Speaker, I submit below a tabulated list of the Chief Justices and members of the Supreme Court of the United States since 1789, arranged in the order of their appointment.

I know of no printed compilation in which the political affiliations of the Justices are categorically given. The statements of political affiliations as given in the present compilation are based upon articles in various biographical encyclopedias, including the Dictionary of American Biography, the Biographical Directory of Congress, A. C. Feather's The Supreme Court of the United States, the National Cyclopedia of American Biography, as well as other biographical works.

Ordinarily the statements in these books as to political affiliations are only scanty, and in instances there is difficulty in drawing conclusions. The conclusions, therefore, may be subject to correction.

In the entries that follow the first date line in the section devoted to the term (Term:) is that of the commission. Where a recess appointment was made, a second date line will be found for the commission issued upon confirmation. The last date line is for the service of time from the day of taking the seat upon the bench to resignation or death, as the case may be.

I leave to the Congress of the United States the privilege of determining the part politics has played in the past in the appointment of judges of the Supreme Court of the United States.

JUSTICES OF THE UNITED STATES SUPREME COURT

I. Chief Justices

John Jay. December 12, 1745, to May 17, 1829. Term, September 26, 1789; February 1, 1790, to June 29, 1795. New York. Appointed by President Washington. Delegate from New York. Federalist.

John Rutledge. 1739 to July 23, 1800. Term, July 1, 1795; August 12 to December 15, 1795. South Carolina. Appointed by President Washington. Delegate from South Carolina. Federalist.

Oliver Ellsworth. April 29, 1745, to November 26, 1807. Term, March 4, 1796; March 8, 1796, to September 30, 1800. Connecticut. Appointed by President Washington. Delegate and Senator from Connecticut. Federalist.

John Marshall. September 24, 1755, to July 6, 1835. Term, January 31, 1801; February 4, 1801, to July 6, 1835. Virginia. Appointed by President John Adams. Member of Congress. Federalist.

Roger Brooke Taney. March 17, 1777, to October 12, 1864. Term, March 15, 1836; August 1, 1836, to October 12, 1864. Maryland. Appointed by President Jackson. Democrat.

Salmon Portland Chase. January 13, 1808, to May 7, 1873. Term, December 6, 1864; December 15, 1864, to May 7, 1873. Ohio. Appointed by President Lincoln. Senator. Republican.

Morrison Remick Waite. November 29, 1816, to March 23, 1888. Term, January 21, 1874; March 4, 1874, to March 23, 1888. Ohio. Appointed by President Grant. Republican.

Melville Weston Fuller. February 11, 1833, to July 4, 1910. Term, July 20, 1888; October 8, 1888, to July 4, 1910. Illinois. Appointed by President Cleveland. Democrat.

Edward Douglass White. November 3, 1845, to May 19, 1921. Term, December 12, 1910; December 19, 1910, to May 19, 1921. Louisiana. Appointed by President Taft. Democrat.

William Howard Taft. September 15, 1857, to March 8, 1930. Term, June 30, 1921; October 3, 1921, to February 4, 1930. Ohio. Appointed by President Harding. Republican.

Charles Evans Hughes. April 11, 1862, to —. Term, February 13, 1930; February 24, 1930, to —. New York. Appointed by President Hoover. Republican.

II. Associate Justices

John Rutledge. 1739 to July 23, 1800. Term, September 26, 1789, to March 5, 1791. Note: Served on circuit but did not attend the Court. Resigned to become chief justice of South Carolina. Appointed by President Washington. Delegate from South Carolina. Federalist.

William Cushing. March 1, 1732, to September 13, 1810. Term, September 27, 1789; February 1, 1790, to September 13, 1810. Massachusetts. Appointed by President Washington. Federalist. Appointed Chief Justice on January 26, 1796. Confirmed, January 27, 1796. Declined, February 2, 1796.

James Wilson. September 14, 1742, to August 28, 1798. Term, September 29, 1789; February 1, 1790, to August 28, 1798. Pennsylvania. Appointed by President Washington. Delegate from Pennsylvania. Federalist.

Robert Hanson Harrison. 1745 to April 20, 1790. Term, September 28, 1789. (NOTE.—Nominated and confirmed. Five days after confirmation he was chosen chancelor of Maryland and resigned as a member of the Supreme Court to accept that office. Maryland. Appointed by President Washington. Federalist.

John Blair. 1732 to August 31, 1800. Term, September 30, 1789; February 2, 1790, to January 27, 1796. Virginia. Appointed by President Washington. Federalist.

James Iredell. October 5, 1751, to October 20, 1799. Term, February 10, 1790; August 2, 1790, to October 20, 1799. North Carolina. Appointed by President Washington. Federalist.

Thomas Johnson. November 4, 1732, to October 25, 1819. Term, August 5, 1791; November 7, 1791; August 6, 1792, to March 4, 1793. Maryland. Appointed by President Washington. Delegate from Maryland. Federalist.

William Paterson. December 24, 1745 [1744?], to September 9, 1806. Term, March 4, 1793; August 5, 1793, to September 9, 1806. New Jersey. Appointed by President Washington. Senator. Federalist.

Samuel Chase. April 17, 1741, to June 19, 1811. Term, January 27, 1796; February 4, 1796, to June 19, 1811. Maryland. Appointed by President Washington. Federalist.

Bushrod Washington. June 5, 1762, to November 26, 1829. Term, September 29, 1798; December 20, 1798; February 4, 1799, to November 26, 1829. Virginia. Appointed by President John Adams. Federalist.

Alfred Moore. May 21, 1755, to October 15, 1810. Term, December 10, 1799; August 9, 1800, to March 1804. North Carolina. Appointed by President John Adams. Federalist.

William Johnson. 1771 to August 11, 1834. Term, March 6, 1804; February 6, 1805, to August 11, 1834. South Carolina. Appointed by President Jefferson. Democrat-Republican.

Henry Brockholst Livingston. November 26, 1757, to March 18, 1823. Term, November 10, 1806; January 16, 1807; February 2, 1807, to March 18, 1823. New York. Appointed by President Jefferson. Democrat-Republican.

Thomas Todd. January 23, 1765, to February 7, 1826. Term, March 3, 1807; February 8, 1808, to February 7, 1826. Kentucky. Appointed by President Jefferson. Democrat-Republican.

Gabriel Duvall. December 6, 1752, to March 6, 1844. Term, November 18, 1811; February 3, 1812, to January [14?] 1835. Maryland. Appointed by President Madison. Member of Congress. Democrat and Republican.

Joseph Story: September 18, 1779, to September 10, 1845. Term, November 18, 1811; February 3, 1812, to September 10, 1845. Massachusetts. Appointed by President Madison. Member of Congress. Independent.

Smith Thompson. January 17, 1738, to December 18, 1843. Term, September 1, 1823; December 9, 1823; February 10, 1824, to December 18, 1843. New York. Appointed by President Monroe. Democrat and Republican.

Robert Trimble. 1777 to August 25, 1828. Term, May 9, 1826; January 8, 1827, to August 25, 1828. Kentucky. Appointed by President John Quincy Adams. Democrat and Republican.

John McLean. March 11, 1785, to April 4, 1861. Term, March 7, 1829; January 11, 1830, to April 4, 1861. Ohio. Appointed by President Jackson. Member of Congress. Democrat.

Henry Baldwin. January 14, 1780, to April 21, 1844. Term, January 6, 1830; January 18, 1830, to April 21, 1844. Pennsylvania. Appointed by President Jackson. Democrat.

James Moore Wayne. 1790 to July 5, 1867. Term, January 9, 1835; January 14, 1835, to July 5, 1867. Georgia. Appointed by President Jackson. Member of Congress. Democrat.

Philip Pendleton Barbour. May 25, 1783, to February 24 [25?], 1841. Term, March 15, 1836; January 9, 1837, to February 24, 1841. Virginia. Appointed by President Jackson. Democrat.

John Catron. 1786 to May 30, 1865. Term, March 8, 1837; January 8, 1838, to May 30, 1865. Tennessee. Appointed by President Van Buren. Democrat.

John McKinley. May 1, 1780, to July 19, 1852. Term, April 22, 1837; September 25, 1837; January 9, 1838, to July 19, 1852. Alabama. Appointed by President Van Buren. Member of Congress and Senator. Democrat.

Peter Vivain Daniel. April 24, 1784, to June 30, 1860. Term, March 3, 1841; January 10, 1842, to June 30, 1860. Virginia. Appointed by President Van Buren. Democrat.

Samuel Nelson. November 10, 1792, to December 13, 1873. Term, February 13, 1845; March 3, 1845, to November 28, 1872. New York. Appointed by President Tyler. Democrat.

Levi Woodbury. December 22, 1789, to September 4, 1851. Term, September 20, 1845; January 3, 1846; December 2, 1845, to September 4, 1851. New Hampshire. Appointed by President Polk. Senator. Democrat.

Robert Cooper Grier. March 5, 1794, to September 26, 1870. Term, August 4, 1846; December 7, 1846, to January 31, 1870. Pennsylvania. Appointed by President Polk. Democrat.

Benjamin Robbins Curtis. November 4, 1809, to September 15, 1874. Term, September 22, 1851; December 20, 1851; December 1, 1851, to September 30, 1857. Massachusetts. Appointed by President Fillmore. Independent Whig.

John Archibald Campbell. June 24, 1811, to March 13, 1889. Term, March 22, 1853; December 5, 1853, to May 1, 1861. Alabama. Appointed by President Pierce. Democrat.

Nathan Clifford. August 18, 1803, to July 25, 1881. Term, January 12, 1858; January 21, 1858, to July 25, 1881. Maine. Appointed by President Buchanan. Democrat.

Noah Haynes Swayne. December 7, 1804, to June 8, 1884. Term, January 24, 1862; January 27, 1862, to January 24, 1881. Ohio. Appointed by President Lincoln. Republican.

Samuel Freeman Miller. April 5, 1816, to October 13, 1890. Term, July 16, 1862; December 1, 1862, to October 13, 1890. Iowa. Appointed by President Lincoln. Republican.

David Davis. March 9, 1815, to June 26, 1886. Term, October 17, 1862; December 8, 1862; December 10, 1862, to March 4, 1877. Illinois. Appointed by President Lincoln. Independent.

Stephen Johnson Field. November 4, 1816, to April 9, 1899. Term, March 10, 1863; December 7, 1863, to December 1, 1897. California. Appointed by President Lincoln. Democrat.

William Strong. May 6, 1808, to August 19, 1895. Term, February 18, 1870; March 14, 1870, to December 14, 1880. Pennsylvania. Appointed by President Grant. Member of Congress. Republican.

Joseph P. Bradley. March 14, 1813, to January 22, 1892. Term, March 21, 1870; March 23, 1870, to January 22, 1892. New Jersey. Appointed by President Grant. Republican.

Ward Hunt. June 14, 1810, to March 24, 1886. Term, December 11, 1872; January 9, 1873, to January 7, 1882. New York. Appointed by President Grant. Republican.

John Marshall Harlan. June 1, 1833, to October 14, 1911. Term, November 29, 1877; December 10, 1877, to October 14, 1911. Kentucky. Appointed by President Hayes. Republican.

William Burnham Woods. August 3, 1824, to May 14, 1887. Term, December 21, 1880; January 5, 1881, to May 14, 1887. Georgia. Appointed by President Hayes. Republican.

Stanley Matthews. July 21, 1824, to March 22, 1889. Term, May 12, 1881; October 10, 1881, to March 22, 1889. Ohio. Appointed by President Garfield. Appointed by Hayes and renominated by Garfield. Senator. Republican.

Horace Gray. March 24, 1828, to September 15, 1902. Term, December 20, 1881; January 9, 1882, to September 15, 1902. Massachusetts. Appointed by President Arthur. Republican.

Samuel Blatchford. March 9, 1820, to July 7, 1893. Term, March 22, 1882; April 3, 1882, to July 7, 1893. New York. Appointed by President Arthur. Republican.

Lucius Quintus Cincinnatus Lamar. September 17, 1825, to January 23, 1893. Term, January 16, 1888; January 18, 1888, to January 23, 1893. Mississippi. Appointed by President Cleveland. Member of Congress and Senator. Democrat.

David Josiah Brewer. June 20, 1837, to March 28, 1910. Term, December 18, 1889; January 6, 1890, to March 28, 1910. Kansas. Appointed by President Benjamin Harrison. Republican.

Henry Billings Brown. March 2, 1836, to September 4, 1913. Term, December 29, 1890; January 5, 1891, to May 28, 1906. Michigan. Appointed by President Benjamin Harrison. Republican.

George Shiras. January 26, 1832, to August 2, 1924. Term, July 26, 1892; October 10, 1892, to February 23, 1903. Pennsylvania. Appointed by President Harrison. Republican.

Howell Edmunds Jackson. April 8, 1832, to August 8, 1895. Term, February 18, 1893; March 4, 1893, to August 8, 1895. Tennessee. Appointed by President Harrison. Senator. Democrat.

Edward Douglass White. November 3, 1845, to May 19, 1921. Term, February 19, 1894; March 12, 1894, to December 19, 1910. Louisiana. Appointed by President Cleveland. Democrat.

Rufus Wheeler Peckham. November 8, 1838, to October 24, 1909. Term, December 9, 1895; January 6, 1896, to October 24, 1909. New York. Appointed by President Cleveland. Democrat.

Joseph McKenna. August 10, 1843, to November 21, 1926. Term, January 21, 1898; January 26, 1898, to January 5, 1925. California. Appointed by President McKinley. Member of Congress. Republican.

Oliver Wendell Holmes. March 8, 1841, to March 6, 1935. Term, December 4, 1902; December 8, 1902, to January 12, 1932. Massachusetts. Appointed by President Roosevelt. Republican.

William Rufus Day. April 17, 1849, to July 9, 1923. Term, February 23, 1903; March 2, 1903, to November 13, 1922. Ohio. Appointed by President Roosevelt. Republican.

William Henry Moody. December 23, 1853, to July 2, 1917. Term, December 12, 1906; December 17, 1906, to November 20, 1910. Massachusetts. Appointed by President Roosevelt. Member of Congress. Republican.

Horace Harmon Lurton. February 26, 1844, to July 12, 1914. Term, December 20, 1909; January 3, 1910, to July 12, 1914. Tennessee. Appointed by President Taft. Democrat.

Charles Evans Hughes. April 11, 1862. Term, May 2, 1910; October 10, 1910, to June 10, 1916. New York. Appointed by President Taft. Republican.

Willis Van Devanter. April 17, 1859. Term, December 16, 1910; January 3, 1911. Wyoming. Appointed by President Taft. Republican.

Joseph Rucker Lamar. October 14, 1857, to January 2, 1916. Term, December 17, 1910; January 3, 1911, to January 2, 1916. Georgia. Appointed by President Taft. Democrat.

Mahlon Pitney. February 5, 1858, to December 9, 1924. Term, March 13, 1912; March 18, 1912, to December 31, 1922. New Jersey. Appointed by President Taft. Member of Congress. Republican.

James Clark McReynolds. February 3, 1862. Term, August 29, 1914; October 12, 1914. Tennessee. Appointed by President Wilson. Democrat.

Louis Dembitz Brandeis. November 13, 1856. Term, June 1, 1916; June 5, 1916. Massachusetts. Appointed by President Wilson. Democrat.

John Hessin Clarke. September 1857. Term, July 24, 1916; October 9, 1916, to September 18, 1922. Ohio. Appointed by President Wilson. Democrat.

George Sutherland. March 25, 1862. Term, September 5, 1922; October 2, 1922. Utah. Appointed by President Harding. Member of Congress and Senator. Republican.

Pierce Butler. March 17, 1866. Term, December 21, 1922; January 2, 1923. Minnesota. Appointed by President Harding. Republican.

Edward Terry Sanford. July 23, 1865, to March 8, 1930. Term, January 29, 1923; February 19, 1923, to March 8, 1930. Tennessee. Appointed by President Harding. Republican.

Harlan Fiske Stone. October 11, 1872. Term, February 5, 1925; March 2, 1925. New York. Appointed by President Coolidge. Republican.

Owen Josephus Roberts. May 2, 1875. Term, May 20, 1930; June 2, 1930. Pennsylvania. Appointed by President Hoover. Republican.

Benjamin Nathan Cardozo. May 24, 1870. Term, March 2, 1932; March 14, 1932. New York. Appointed by President Hoover. Democrat.

United States District Court at Orlando, Fla.

EXTENSION OF REMARKS

OF

HON. JOE HENDRICKS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1937

Mr. HENDRICKS. Mr. Speaker, I want to express my sincere gratitude to my colleague [Mr. WILCOX] for his able assistance in helping me to secure the passage of this bill.

I should like to say to the gentleman from Michigan, who seems to oppose my bill providing for court quarters in the proposed new Federal building in Orlando on the ground that later on we will ask for an additional judge, marshal, clerk, and so forth, that I predict that if the city of Orlando and vicinity increases in population as it has in the past year, that we will have need for additional help.

At the present time the judge of the district court tries 35 percent of the cases in his court in Orlando and spends 40 percent of his time there, according to records furnished me by the clerk of the said court.

In 1930 the Federal Government took a census, and Orlando had 25,000 people. In 1935, just 5 years later, the State of Florida took a census, and the population of the city had

increased to 37,000. The population in my district has increased proportionately. Orlando is the largest city in my district; and, knowing the people of Orlando as I do, knowing them to be wide awake and progressive, I predict that in no far-distant future Orlando will be the largest city in the State—that is, if they continue progressively forward as they have in the past 10 years. I predict that some day the Justice Department will determine that we will require a full term of the Federal court in Orlando, and therefore I call upon my colleagues to help me pass this bill.

The Independence of the Judiciary—The Cornerstone of Our Republic

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Thursday, February 25 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. JOSIAH W. BAILEY, OF NORTH CAROLINA, FEBRUARY 23, 1937

Mr. COPELAND. Mr. President, I ask unanimous consent to have printed in the RECORD a notable radio address delivered by the able senior Senator from North Carolina [Mr. BAILEY], February 23, 1937, on the subject of The Independence of the Judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Since February 5, when the President delivered, first to the newspaper correspondents, and then to the Congress, his famous message concerning the judiciary, events have moved rapidly. In that message the President recommended that he be given authority to appoint six additional Justices of our Supreme Court, provided six present members of the Court 70 years of age or more shall not resign. Should they resign, of course, he would have opportunity to appoint six new Justices. In any view, therefore, the President asks the Congress for power to appoint six new Justices of the Supreme Court, and thereby reconstruct it—an action without precedent in our history. With the message he presented the bill to carry it into effect.

We must not forget that in this message the President gave to Congress his reasons for making this extraordinary request. He made his recommendation on the ground that a number of the Justices were so advanced in years that the administration of justice was delayed, that petitions for appeal were declined. Very promptly it was pointed out that the President's reasons, so far as the Supreme Court is concerned, were without substance. The report of his Attorney General was produced showing that the Court was abreast of its work and, so far as petitions for appeals were concerned, the Solicitor General declared that the large majority of them were without merit; that is, that they had been declined not because Justices were aged, but because the cases were without merit. Nothing is said about that now.

That these reasons, so far as they related to the Supreme Court, were without substance is now confessed, but there is no explanation from the President. One would say that if the reasons which prompted him to make his extraordinary recommendation were shown to be without substance, the recommendation would be withdrawn. On the contrary, all reports from the White House inform us that the President is pressing more ardently than ever for the power to appoint six new Justices, that it is a major objective and on the "must" list, and notwithstanding his advocates and defenders recognize that the reasons he gave are without foundation in fact, he proposes to exhaust all the resources of his influence to get his bill passed. One must conclude that the reasons he gave were not the only reasons which prompted him to support this measure.

This view is supported by the arguments of those who have been speaking over the radio, also by the President's remarks in the conference with the press correspondents, and also by what he has been saying to Senators invited to confer with him on the subject.

For example, his Attorney General has spoken over this radio, and frankly stated that what is desired is "new blood" in the Court—not to expedite the business of the Court but to produce a new view of the constitutionality of legislation.

Mr. Secretary Ickes, of his Cabinet, has uttered himself to the same effect.

Mr. Secretary Wallace, of his Cabinet, has done likewise.

Mr. Harry Hopkins has come out with a word from the Relief Administration on the same line.

Senators MINTON, GREEN, MCADOO, and BYRNES have followed suit—Senator BYRNES having told us that there was a whole Christmas tree of good things for us all if only we will give the President the desired power to appoint six new Justices.

Senator GREEN was quite candid. On Sunday night, those of you who were listening in heard him say—I quote:

"It means securing Justices with minds open to new ideas and familiar with the problems of current life.

"How, then, can this be accomplished? There is no way of testing a candidate's open-mindedness exactly. It is not entirely a question of age. But most older men are less hospitable to new ideas than most younger men. So, if we can eliminate the older or add the younger, we increase the chances of decisions more in accord with the necessities of time."

So says Senator GREEN.

That is, if Congress and the President conceive that the Court is not open-minded to new ideas—that is, the ideas of Congress and the President—the thing to do is to put up one that is. Since amending the Constitution is slow and difficult, the thing to do is to mold the Supreme Court to their objective. We can always find new Justices to accommodate us. If Justices over 70 do not find our acts constitutional, let us add Justices under 60. And if Justices under 60 do not agree with us, let us add Justices over 70.

Think of the wrong of this, the wrong in itself: Congress and the President may transform the Court of justice in order to transform the Constitution as interpreted not only by the present Court but by the Court as constituted throughout its history, for the decisions most complained of are consistent with the Court's opinions throughout its history.

Think of the example this sets. Already there are those who are saying this thing was done under Grant, and that is a sufficient reason for doing it now; and if we do it now, how long will it be before there will be others saying it was done under both Grant and Roosevelt, surely it may be done again and again and again. I have here before me a letter in the New York Times of February 22 from a Yale professor who makes precisely this argument. I quote:

"The proposal is a brilliant piece of statesmanship, not for today alone but for the long future as well."

Very brilliant indeed! It sets an illuminating and stimulating example to the long future. In every election henceforth the question will be, What sort of Constitution the candidates have in mind, and how many new members shall be added to the Supreme Court to write the sort of Constitution they will desire to accomplish their purposes? We will save ourselves much trouble by this process: It will never again be necessary to amend the Constitution—all we have to do is to enlarge the Court. Exceedingly brilliant.

The only other witness now needed is the eminent lady who occupies the position of Secretary of Labor. The last time she was heard from she was saying that the legality of the sit-down strike had not been decided. To be sure, she needs a new Court to decide that.

All of this ought to remind us that in his message to the Congress, January 6, this year, the President advised against resolutions to amend the Constitution, and said—I quote:

"Means must be found to adapt our legal forms and our judicial interpretation to the actual present national needs of the largest democracy in the modern world." The context of this remark was the necessity for broader powers in the Congress over activities and relationships heretofore exclusively within the powers of the States and the suggestion that they might be had by means other than amendment to the Constitution submitted as required.

And we must further bear in mind that in his message of February 5 he said, near the conclusion, that if the Congress should enable him to reconstruct the courts as suggested by him in that message—I quote: "We may be relieved of considering any fundamental changes in the powers of the courts or the Constitution."

I take it that in this short period since February 5 the air has been cleared. By common consent of advocates and opponents of the Presidents' bill, the motive for it, the purpose of it, is to enable the President to appoint six new Justices of our Supreme Court in order to bring about judicial determination, contrary to the interpretation of the Constitution consistently maintained by the Court throughout its history, and hereby to be relieved of considering "fundamental changes in the powers of the courts or the Constitution" by the ordained process of amendment submitted to the people.

It comes to this: The President asks for power to appoint six new Justices, and thereby bring about "fundamental changes in the powers of the courts of the Constitution", without submitting the matter as required by amendment to that instrument. He chooses to amend the Court rather than amend the Constitution in the way provided by the people. He proposes to alter the powers in the Constitution by six judicial appointments.

This then is the issue: Shall we change the powers in the Constitution of the United States by reorganizing the present Court with six new Justices who may be trusted to do this? The alternative issue is, Shall we propose to change those powers by submitting an amendment to the people as they have required in their supreme law?

To answer the first question in the affirmative is to assert the power of President and Congress over the Supreme Court; to affirm that whenever they find that the Court as constituted has

held an act or may hold a policy in contemplation unconstitutional, they may enlarge the Court and add to it a sufficient number of Justices to reverse its interpretation, to overthrow its decree.

This is to surrender Court and Constitution to the Congress and the President. It is fundamentally unconstitutional. It raises a constitutional question of the first magnitude—to be settled only by the people. Perhaps within the letter of the Constitution, it strikes into its heart.

It is to amend the Constitution by moulding the composite mind of the Court, and so to evade the demand of the people that the Constitution shall not be altered save by reference to themselves.

This is to destroy the Court—to make it a subservient political institution, not a court of justice. It is to destroy the heart of the judiciary—its independence.

In the present instance it is to enlarge the powers of the Federal Government at the expense of the powers reserved to the States and to the people—and this without reference to either. For my part I consider that the people of North Carolina in electing me Senator entrusted me to that extent with the powers vested in them and in their Commonwealth, that I am sworn not to impair their powers without their consent, that I have no more right to diminish those powers than a trustee would have to diminish an estate committed to him. On this condition I took my office.

Washington and Madison had a name for this sort of thing—they called it, as I shall show, by the ugly name—usurpation!

The battle, now in its initial stages, that will be fought out by every fireside in America the next several weeks, will be upon this issue. That I have fairly stated it is proved by the fact that both sides have already recognized it.

I propose tonight to recall to your minds what the greatest Americans have said on this subject, and if their language is severe I remind you it is theirs, not mine:

I call, first the name of Woodrow Wilson, twice elected President of the United States, twice the nominee of the Democratic Party, a great scholar, a master of government, the foremost liberal of his time. I quote from his book entitled "Government Under the Constitution." He was speaking on this very matter—changing the Constitution by adding Justices for the purpose—I quote:

"It is within the undoubted constitutional power of Congress, for example, to overwhelm the opposition of the Supreme Court upon any question by increasing the number of Justices and refusing to confirm any appointments to the new places which do not promise to change the opinion of the Court. Once at least it was believed that a plan of this sort had been carried deliberately into effect. But we do not think of such a violation of the spirit of the Constitution as possible, simply because we share and contribute to that public opinion which makes such outrages upon constitutional morality impossible by standing ready to curse them."

I remind you of Woodrow Wilson's terrible words: "But we do not think of such a violation of the spirit of the Constitution as possible, simply because we share and contribute to that public opinion which makes such outrages upon constitutional morality impossible by standing ready to curse them."

If I read him aright Woodrow Wilson confides that the American public opinion will curse this "outrage upon constitutional morality."

I quote next from Mr. Justice Joseph Story, the great and gentle Justice to whom all Americans owe an imperishable debt for his Commentaries on the Constitution; from volume III, page 482, of that great work—he is speaking on the indispensable necessity for the independence of the judiciary, independence of President or Congress, or both—I quote:

"Indeed, a republic with a limited constitution, and yet without a judiciary sufficiently independent to check usurpation, to protect public liberty and to enforce private rights, would be as visionary and absurd as a society organized without any restraints of law. It would become a democracy with unlimited powers, exercising through its rulers a universal despotic sovereignty. The very theory of a balanced republic of restricted powers presupposes some organized means to control and resist any excesses of authority. The people may, if they please, submit all power to their rulers for the time being; but, then, the government should receive its true appellation and character. It would be a government of tyrants, elective, it is true, but still tyrants; and it would become the more fierce, vindictive, and sanguinary, because it would perpetually generate factions in its own bosom who could succeed only by the ruin of their enemies. It would be alternately characterized as a reign of terror and a reign of imbecility. It would be as corrupt as it would be dangerous. It would form another model of that profligate and bloody democracy, which, at one time, in the French revolution, darkened by its deeds the fortunes of France and left to mankind the appalling lesson that virtue and religion, genius and learning, the authority of wisdom, and the appeals of innocence are unheard and unfelt in the frenzy of popular excitement; and that the worst crimes may be sanctioned and the most desolating principles inculcated under the banners and in the name of liberty. In human governments there are but two controlling powers—the power of arms and the power of laws. If the latter are not enforced by a judiciary above all fear and above all reproach, the former must prevail and thus lead to the triumph of military over civil institutions. The framers of the Constitution, with profound wisdom, laid the cornerstone of our National Republic in the permanent independence of the judicial establishment. Upon this point their vote was unanimous. They adopted the results of an enlightened experience. They were not seduced by the dreams of human perfection into the belief that all power might be safely left to the unchecked operation of the private ambition or personal virtue of rulers. Nor, on the other hand, were they so lost to a just estimate of human concerns as not to feel that confidence must be reposed somewhere if either efficiency or safety are to be consulted in the plan of government. Having provided amply for the legislative and executive authorities, they established a balance wheel, which, by its independent structure, should adjust the irregularities and check the excesses of the occasional movements of the system."

And now from James Madison, father of the Constitution, on the necessity for the independence of the Court:

"The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

"It is agreed on all sides, that the power properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments.

"It is equally evident that none of them ought to possess, directly or indirectly, an overruling influence over the others, in the administration of their respective powers. It will not be denied that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it."

And now from George Washington, Father of his Country. He is speaking on the subject of taking power from one department of the Government and giving it to another or from States to Congress, precisely the matter now before us:

"It is important, likewise, that the habit of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasion by the others, has been evinced by experiments ancient and modern; some of them in our own country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for, though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield."

If these words, "outrage", "tyranny", "usurpation", seem harsh, I remind you they are the words of noble men spoken in quiet hours for all posterity to hear in a time like this. I am well aware that if I used them, I would be accused of undue severity. They come from the hearts of your country's noblest men, the best friends the American people ever had.

No one is attacking the President's motives. We are attacking his remedy, his means, his method. We say that his remedy is far worse than any good that could come of it, that the means he would employ are more evil than any possible good objective he may have in mind. And in this we are supported by George Washington. We say that he is setting a precedent that has been denounced by Woodrow Wilson, Joseph Story, James Madison, and George Washington. No one is saying that the President seeks to be a dictator, but we are saying that Wilson, Story, and Madison and Washington have warned all men and women that this thing is the essence of dictatorship, that concerning it they uttered the words "outrage", "tyranny", "usurpation." That they foresaw this possibility and gave to us all warnings which none may lightly disregard.

I have brought to you tonight these messages from the honored dead. They speak from their graves. If the American people will not hear them and hearken, then no argument can avail; indeed if you will not hear Wilson and Story, Madison and Washington, you would not hear one though he rose from the dead.

I have brought these messages to you because there is much confusion now, and because it seems at times that much of the utmost value has been forgotten. I have brought these messages from men whose devotion to duty no man questions now, whose understanding of our Government no man disputes now, whose feeling for the masses of men and women no man questions now. Let them speak now when there are so many in high places who would be heard and who, in the fine phrase of Edmund Burke, "Take a constitution in hand as savages would take a looking-glass"; who alter their views upon every new note from the seats of power.

We have been a happy people here in the United States, so happy that the poor and oppressed in all the earth have come here. Not all of us have been fortunate, many have been poor, many have had difficulties, but the whole world recognizes that our lot has been incomparably better than that of the people of any other nation. No little of our good fortune is due to the fact that ours has been a different Government from any other—a constitutional

Government. We have had our difficulties and trials, but we have overcome them. We are today better off than the people of any other nation; we have been making great progress out of the depression. Just why in a moment so auspicious this disturbing attack upon the independence of the judiciary, this effort to alter the Constitution without the process of popular amendment, should have been set on foot is beyond understanding. Much may be conceded to emergency, but on every hand we are informed by the highest officials in the administration and the highest authorities outside of it that the emergency has passed. Let me remind you that we cannot continue to agitate the foundations of the Government and of the fabric of our civilization and hope for further progress out of the great crisis. Men ought at least to know that their Constitution is secure, that their courts are free; they cannot be expected to carry on without the guarantees upon which they have always depended. They are entitled to hope as they labor—that they labor not in vain.

And let me say, in all earnestness, above all things we must preserve the integrity of the character of our Republic. It was strong enough to throw all its vast resources between the people and the devastating hurricane of the depression; and it was so strong because of the strength it drew and its people drew from the Constitution. Many of us have lost great possessions in the recent experience, but all of us have come through with the best possession of all—our great constitutional representative democracy, which is known the world over as the best and the greatest of nations. One false step now, one fatal blow against the Constitution and the independence of the Court that guards it, and we will lose values far greater than all that were lost in the depression, and, worst of all, this will be a loss from which neither ourselves nor our children can recover. Our Republic is ours not only to enjoy, but also to preserve. Every citizen has a duty here. If you would know what the depression could mean, look to Europe—to Nazi regimes, to Fascist corporative states, to Socialist soviets—to governments in which there are no constitutions and no constitutional rights, no independent judiciary to assert the rights of a man against a state; no liberty—only the daily round of doing the taskmaster's will from hour to hour; look to Europe and then look to your United States, where yet we sing with uplifted hearts:

"Long may our land be bright
With freedom's holy light."

And where our children after us will sing the same glad hymn, if we but have the courage and the faith now to preserve to them our Constitution and the Court that guards it as our fathers preserved them for us.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. BURTON K. WHEELER

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Thursday, February 25 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. RUSH D. HOLT, OF WEST VIRGINIA, ON FEBRUARY 24, 1937

Mr. WHEELER. Mr. President, I ask unanimous consent to have inserted in the RECORD a very able speech delivered by the Senator from West Virginia [Mr. HOLT] over the National Broadcasting system on Wednesday, February 24, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I have listened to many of the speeches in behalf of the President's judicial reorganization plan. I have read the printed arguments of others. There are three general parts to the case presented in behalf of the proposal. First, that the courts are clogged; unable to accomplish their work because of congestion. Second, that we need youthful blood in the judiciary. Third, that the Supreme Court must be changed in order that certain laws will be held constitutional. Let us look at these. First, that the courts are clogged. The evidence is decidedly against such a statement. May I call a witness of the President to testify against him? Solicitor General Stanley Reed, in the last annual report of the Department of Justice, page 9, says:

"The work of the Court is current and cases are heard as soon after records have been printed as briefs can be prepared."

The President argued that the Court had declined to consider certain cases. Let me again call to the witness stand the Solicitor General, who said:

"A very large majority of the cases on the appellate docket do not possess sufficient merit to warrant consideration on the merits."

The second point is that we need youthful blood in the judicial structure because the judges are physically and mentally unable to do their duties after passing the age of 70.

A very interesting table was recently shown to me. This table set out that the present Supreme Court between the years of 1933 and 1936 had disposed of an average of 983 cases every year, and had disposed of 898 cases per year between 1930 and 1932. The average age of the Justices was 68.6 years between 1933 and 1936. Between 1890 and 1899 the average age of the Justices was 63. They disposed of an average of 468 cases per year then as compared to 983 of the present Supreme Court. May I quote from Justice Story, when he said in 1837 after additions had been made to the Court:

"We made very slow progress and did less in the same time than I ever knew. The addition to our number has most sensibly affected our facility, as well as rapidity of doing business. 'Many men of many minds' require a great deal of discussion to compel them to come to definite results; and we found ourselves often involved in long and very tedious debates. I verily believe, if there were 12 judges, we should do no business at all, or at least very little."

Men may be physically or mentally unable to do their duties at any age. Why don't these proponents of the plan set up specifically what Justice or Justices of the Supreme Court are mentally and physically unable to do his or their work? Their reply would not be that the Justices' mental faculties were at fault but that the opinions of the Justices were too independent to suit their purposes. As the youngest Member of the Senate, I do not find that liberalism is dependent upon age, nor do I subscribe to the theory that men should be thrown into the scrap heap when they reach the age of 70. Wisdom and justice are more important on the Supreme Court bench than youthful energy and vivacity. But why continue these arguments, as it is known that the first two reasons are used to camouflage the real purpose of the plan? Check the speeches you have heard and try to recall a single one that sooner or later in the argument did not present the particular reason for the attack upon the judiciary was the defeat of certain legislation by the Supreme Court decisions. The American people would have thought more of the plan had it been presented frankly, openly, and not by subterfuge. No one should object to the speeding up of court procedure. No one should object to many of the parts in the designed bill. What they do object to is the packing of the Court.

We have heard much about the encroachment of the judiciary on the other two branches of the Government. Admitting this for the sake of argument, let me say that the situation will not be corrected by changing the usurpation from the judiciary to the Executive. All fair-minded students of the situation will readily admit that there has been more encroachment upon the legislative functions of government by the Executive than by the judiciary. It is known that the Congress gave up these powers, these rights, to the Executive in many instances. The situation is not corrected by changing control from one to another unless the change effects a definite balance.

I have been very critical of many viewpoints of those serving in the courts. I have been outspoken against some of the Supreme Court's decisions. However, stopgap legislation will not cure. It does not aid the true cause of correction.

The Executive says to us in effect, "You must pass it as I say. You have no right to take my plan and take out those parts which you believe to be reforms. You must pass it as is. There will be no compromise. Unless I get all I want, I will not accept any."

A great deliberative body—the United States Senate as well as the House of Representatives—put under the pressure of "must."

That branch of the Government which is supposed to be an equal coordinate part with the executive and judicial confronted with the threat of "must." Executive encroachment upon the legislative branch should be condemned just as thoroughly as judicial encroachment.

What does "must" mean? It means two things. First, "If you do not do as I say, we will outlaw you from my party", and second, "If you do not do as I say, we will punish you and your friends."

Judicial usurpation of power! Afraid of one branch endangering the rights of the others! The whole plan is to establish the word "must" over the Supreme Court just as effectively as it has been established over the Congress of the United States. The immediate reply made to this is that there was a mandate granted in the November election to the President to do these things. Let us look at the Democratic platform:

"If these problems cannot be effectively solved by legislation within the Constitution, we shall seek such clarifying amendment as will assure to the legislatures of the several States and to the Congress of the United States, each within its proper jurisdiction, the power to enact those laws which the State and Federal legislatures, within their respective spheres, shall find necessary in order adequately to regulate commerce, protect public health and safety, and safeguard economic security. Thus we propose to maintain the letter and spirit of the Constitution."

There was no mandate to change the Supreme Court. Whenever there was an intimation that the Court would be tampered with, an administration spokesman would come forward immediately with a quick denial. Even before the campaign, Senator ASHURST, chairman of the Judiciary Committee and sponsor of the bill in the Senate, said this:

"And among the unjust criticisms which have been uttered, or printed, rather, about President Roosevelt was that he intended at some time—nobody knows when or where—to increase by some legerdemain—nobody knows when or where—the member-

ship of the Supreme Court of the United States, so that his policies might be sustained. A more ridiculous, absurd, and unjust criticism of a President was never made. * * * No person whose opinion is respected has favored attempting such a reckless foray and folly."

They say look at the 27,000,000 people who voted for President Roosevelt. Using the same logic, the Supreme Court would be increased continually by future Presidents. As Senator WHEELER said, if President Roosevelt had the right, another President, reactionary or conservative, would be entitled to the same privilege.

If there is a definite mandate of the people of the United States to do this, why not submit it to the people for ratification or rejection. Why fear the people? They quickly fall back, as all who desire power will do, to the excuse that it takes time, that we cannot wait, we must do this now; that we should remember the child-labor amendment as it has been before the people for almost 13 years. Yes; that is true; but on the other side of the picture one finds that the average constitutional amendment of the United States was ratified in less than a year and a half, also that the twenty-first amendment was ratified in less than a year.

They say if this bill is not passed we cannot protect the farmers, we cannot protect the laborer, we cannot do anything for social welfare. They try to make it appear that there can be no old-age pension, or no humanitarian legislation unless the step is taken.

They know that the promises and threats are demagogic and untrue. They try to make it appear that the opposition to this plan is the opposition of the Liberty League, entrenched wealth, or, as they say, the "economic royalists." That sounds good. They are good targets. In this classification one must place such liberals as Senator BURTON K. WHEELER, Senator WILLIAM E. BORAH, Senator HIRAM JOHNSON, Senator GEORGE NORRIS, Senator LYNN FRAZIER, and Senator GERALD P. NYE. Are they Liberty Leaguers? These men who have been fighting for the underdog and who have fought against entrenched wealth and economic royalists? When some of the proponents of the bill were on the band wagon of reaction, these men who oppose the President's plan led the fight for social welfare. Some of the loudest self-styled spokesmen for liberalism today were very quiet or were following the power of the Liberty Leaguers when these men mentioned a moment ago were struggling for the underprivileged. I ask you laboring men who work day by day, you farmers, or you who toil in any occupation, to put up the voting records of the proponents of the plan with those I have just mentioned. Let them come forward and show their liberal records as compared with these men who realize that this court proposal is not liberal and sound.

True liberalism is injured by this proposal. Changing the personnel is not the remedy. If we are to have a veto over the judicial power as they imply, submit a constitutional amendment to the people.

Packing the Court will never solve the issue. True liberals want an honest Court. A man who will go on the Court with a promise to support any legislation is unfit to be on the bench. The proponents are like a home-town baseball team which says:

"Your umpire has been calling strikes and balls wrong behind the plate; we will put an umpire on the bases who will call all your men out. That will make us equal and will solve the problem."

That is not the American way. They say this is not a move to pack the Court, but it is a move to unpack the Court. The very statement itself indicts the plan, yet in denying the packing process they point to incidents where members of the Court appointed by Presidents have later turned and opposed the plans of the Executive who appointed them. By this very statement they attack the plan and prove that it will not be effective; that it is unsound; that it does not go to the heart of the problem. If, as they say, those appointed to the bench may turn on the Executive and refuse to follow his ideas, as the ones in the past have, then what guarantee is given to the worker, to the farmer, and others, that there will be a definite legislative program of assistance which they can be assured will receive the approval of the Supreme Court?

The Supreme Court has declared certain New Deal laws unconstitutional. Some of these have been passed under the whip of patronage with much speed and greater dictation. Just as surely as the death of some of this legislation is due to what they claim to be judicial usurpation, its birth is due to Executive usurpation of legislative functions.

We are placing ourselves in a position as stated by President Roosevelt in these words:

"They realize that in 34 months we have built up new instruments of public power. In the hands of a people's government this power is wholesome and proper. But in the hands of political puppets of an economic autocracy such power would provide shackles for the liberties of the people. Give them their way and they will take the course of every autocracy of the past—power for themselves, enslavement for the public."

Is this the case he speaks of? Are we placing a power there? This is an appropriate time to speak of George Washington. He stated in his farewell address:

"It is important, likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create whatever the form of the government, a real despotism. * * * Let there be no change by usurpation; for though this may be in one instance, the instrument of good, it is the customary weapon by which free governments are destroyed."

The most serious blow against the objective of President Roosevelt was the N. R. A. "sick chicken" decision. This was not a 5-to-4 decision or a 6-to-3 decision, but a 9-to-0 decision; therefore before he could resurrect the dead Blue Eagle 10 blank-check Judges would have to be added.

It may be said, and I certainly will not dispute the fact, that the courts have made many serious mistakes; but there have also been mistakes on the parts of Congress and the Executive.

I appeal to the youth of America to join in the battle to protect the American form of government. Those favoring the proposal say that it recognizes youth. It does not recognize youth, and will prove an injury to us because we are the ones who will be affected for years to come by this most dangerous precedent.

The Constitution sets out three coordinate branches of government—the executive, the legislative, and the judicial. Let us keep all three, each with its powers, each with its limitations, and prohibit encroachment of one upon the other. If changes are to be made, make them in an American way by the process of constitutional amendment.

A Plea for Tolerance and Freedom

EXTENSION OF REMARKS

OF

HON. DAVID I. WALSH

OF MASSACHUSETTS

IN THE SENATE OF THE UNITED STATES

Thursday, February 25 (legislative day of Wednesday, Feb. 24), 1937

ADDRESS BY HON. ROBERT F. WAGNER, OF NEW YORK, BEFORE THE AMERICAN JEWISH CONGRESS, ON FEBRUARY 4, 1937

Mr. WALSH. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a very interesting and eloquent speech delivered by the junior Senator from New York [Mr. WAGNER] before the American Jewish Congress on February 4, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

A PLEA FOR TOLERANCE AND FREEDOM

My friends, friends of the American Jewish Congress, fellow citizens, I am deeply moved by this public manifestation of faith in the work I have done—in the ideals toward which the kind hand of Providence has from time to time guided my steps.

As I look around and see this gathering of true friends, of companions of long and time-tested standing, my memory runs back fondly across the years of our constant comradeship in progressive and humanitarian endeavor. Can any of us fail to rejoice in the great gains our Nation has since then achieved? Can any of us fail to perceive that today America holds the balance of power in favor of democracy, tolerance, human liberty, and peace?

Twenty-five years ago we took for granted the eventual extension of free government into every remote corner of the civilized globe. The concern of advanced men and women was not how democracy might be defended against its enemies, but rather how it might be utilized by its friends to enlarge the material and cultural opportunities of the masses. Today we cannot countenance so limited a view. If we take a world-wide inventory of events, we must record not progress, but startling retrogression. Not only has the complete fulfillment of democracy's possibilities been retarded, what is even worse, in many lands the great instrumentality of democracy itself has been thrown into the discard. Popular government is sneered at. The liberties which we hold more sacred than life are berated as shameful weaknesses. Such is the bitter aftermath of the carnival of hate and slaughter into which mankind was plunged in 1914.

And so it has come to pass that today, as never before in recorded time, the ideals of peace and tolerance are in need of a champion—not a champion to pit hate against hate, but one who sets a shining example in brotherly love. For now we see nations engaged, not in cementing the bonds of peace, but in forging once more the guns of war. The drone of military planes may be heard overhead as they practice daily above the quiet fields where 10,000,000 World War dead lie buried. The plain people of Europe today do not want war any more than they wanted it 23 years ago. But when their statesmen and generals play their reckless games of international greed, the lives of millions are the final stakes.

In hope and fear, tremblingly we pray that the bitterness and hatred engendered by the last war will not bring on the next. But already these evil sentiments are breeding their other offspring—the spirit of intolerance. In some areas, the unquenched fires of

malice and suspicion, unable to find victims abroad, are consuming their own citizenry at home. Persecution is running rampant against minority groups. In the name of nationalism, thousands are being expatriated whose sons and fathers and brothers died in defense of the nation. In the name of culture, millions are being degraded whose achievements have embellished every science and every art. In the name of racial superiority, there is being obliterated, from the very people for whom superiority is claimed, every characteristic which has made them great. Irresponsible zealots are tearing from their hearts the love of truth, and turning them into paths which inevitably lead to barbarism.

It is a peculiarly Jewish conception of history that the great empires which have held sway through the ages rose when their ethical standards were high and fell when their morality decayed. They who deny the sovereignty of right and admit allegiance only to the power of might naturally find no hospitality in their hearts for the Jew.

Fortunate are we in being so far removed from the scenes of these heartrending disorders. But mere physical distance is an illusory safeguard for the timid and a poor consolation for the sympathetic. No thoughtful person, no sensitive person, can regard any manifestation of man's inhumanity toward man as being only of local concern. Prejudice and persecution recognize no arbitrary bounds. If they live, they are sure to expand. They cannot live if not allowed to expand. The clash of competing ideas and practices is now heard by all save those who are asleep. Democracy and autocracy have come to grips. Brute force is at war with reason. Both cannot survive. Upon the outcome of that contest hangs the fate of 5,000 years of progress.

I have a profound conviction of the eventual triumph of reason. I believe that by precept and example America will restrain the dogs of war and exalt the practical example of the Prince of Peace. I believe that the spirit of tolerance, emanating from our shores, will spread its radiant wings eastward across the Atlantic. Every recession elsewhere in the direction of darkness and intolerance commands us in America to surge forward in the direction of liberty and light.

Every age, in historical perspective, tends to establish its own standards by which it is measured by posterity. In the eighteenth century the test of an advanced civilization was the degree to which the will of the majority prevailed. In the twentieth century the test has become the extent to which the integrity of minorities is respected and preserved. For us in America the ability to meet this twentieth century test is of more than academic significance. It may determine our survival as a united nation, for as a nation we are an aggregate of minorities—racial minorities, religious minorities, economic minorities—slowly learning to live peacefully, harmoniously, and cooperatively together.

We may frankly face the fact that the greatest single source of internal dissension is economic adversity. One of the great dangers of the depression was that the resentment of the sufferers might have been incited against some one group of our people. The unrest of hard times afforded the vendors of intolerance, envy, and ignorance a unique opportunity to sell their wares. And they tried to do so. But, despite their efforts, the trying tribulations of misfortune served only to enliven the atmosphere of good will and mutual endeavor. The vendors of intolerance, envy, and ignorance never gained standing in the counsels of the American people.

The kind of America I look forward to is one whose people are united, not uniform; presenting an aspect not of drab monotony but of the harmonious contrasts of the symphony. Each strain of the population should contribute its own beautiful distinctiveness to the composite glory of the Nation.

America's greatness lies in the fact that it has always associated human development with human freedom. And since the turn of the century there has come to us a growing realization that our temple of political liberty, if it is to stand, must be reinforced with the steel girders of economic and social justice. Steadfastly, soberly, we have been building these new concepts into the structure of our national life. One by one we have accepted and made our own the concepts that the injured worker shall be compensated by the industry he serves; that the physical well-being of workingwomen shall be conserved for the rearing of their children; that boys and girls shall have a chance to play in the fresh air and to go to school; that fair profits, steady business, and decent wages are mutually interdependent; that industrial peace cannot endure without industrial freedom; and that the hazards of unemployment and old age must be driven away by systematic forms of social security.

America must continue with unabated zeal its crusade for social justice. Despite the tremendous gains that have been made within our memory, the path ahead is steep and perilous. Thousands of our people still dwell in the vale of practical destitution; millions of our children still live in slums located at the center of areas of disease and crime; an actual majority of our citizens have not yet moved into that promised land of reasonable comfort and security which America's wealth makes possible and America's ideals makes mandatory. Vistas of human achievement stretch before us, awaiting only our will to achieve.

Liberty is hard to win. It is even harder to keep. Government alone cannot protect it. In every age and every land it can be maintained only if men and women devote all their energies and resources to the preservation of its sacred flame.

This flame of social conscience must guide the world in its race against disaster toward a higher and finer type of civilization. The American Jewish Congress, gathered here tonight, represents that ancient people of prophets and sages who first kindled this light of ethical idealism and bestowed its glow upon all mankind. Yours is now the privilege to keep it on high. And despite recurrent vicissitudes, take courage from your long and noble history; draw sustenance from your participation in the great American experiment; and make true the prophecy of the brave Lafayette, who said of our country in 1783:

"May this great monument, raised to liberty, serve as a lesson to the oppressor, and an example to the oppressed."

American Institute of Banking

EXTENSION OF REMARKS

OF

HON. ROBERT F. WAGNER

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Thursday, February 25 (legislative day of Wednesday, Feb. 24), 1937

EXCERPTS FROM ADDRESS OF HON. J. F. T. O'CONNOR, COMPTROLLER OF THE CURRENCY, AT A DINNER GIVEN BY THE WASHINGTON CHAPTER OF THE AMERICAN INSTITUTE OF BANKING ON FEBRUARY 20, 1937

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from an address delivered by Hon. J. F. T. O'Connor, Comptroller of the Currency, at a dinner given by the Washington chapter of the American Institute of Banking at the Willard Hotel, February 20, 1937. It is a very interesting and enlightening address.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

The American Institute of Banking has made a valuable contribution to the banking system of the Nation. For 37 years it has fitted young men and women for the more important positions in the banking field. Besides training its students in the various subjects which are absolutely essential to a proper knowledge of banking practices, it has developed a better understanding between the employees and the executives of the banks. In addition, many worth-while contracts develop from the acquaintances made at the various meetings where bank employees in the different cities come together. With a common aim, friendships are formed which last through the years. The institute's graduation day has achieved a new significance through the comparatively recent innovation of a Nation-wide broadcast of the graduation exercises with its linking together of thousands of students throughout the country.

There are now more than 24,000 graduates of the institute and a great many of them are taking advantage of the graduate courses which have been established in addition to the standard courses. All courses given by the institute are taught by experienced bankers and lawyers and particular care is given to the selection of the faculty for the graduate school. Among its members is the general counsel of the Comptroller's Office, Mr. George P. Barse. Mr. Barse each day renders opinions on different phases of banking practice, takes an active part in the preparation of cases involving bank actions, and represents the Comptroller's Office before the Supreme Court of the United States when matters affecting national banks are before that high tribunal. Mr. Barse is representative of the men who serve on the graduate faculty.

You will be interested in some figures, not heretofore released, from the last national-bank call, which was for December 31, 1936. New high records were set for both total assets and total deposits of the 5,331 national banks in operation. Total deposits have reached successively high figures for each call since December 31, 1935, but the former high record for total assets on December 31, 1928, has not previously been surpassed.

Total assets on December 31, 1936, were $31,070,441,000, and exceeded by $481,285,000 the total assets reported by 7,635 banks as of December 31, 1928. The current figure also shows an increase of $1,367,602,000, or 4.60 percent, since June 30, 1936, the date of the previous call, when there were 5,374 active banks, and an increase of $2,845,740,000, or 10.08 percent over the amount reported by 5,392 active banks as of December 31, 1935.

The total deposits on December 31, 1936, aggregated $27,608,397,000, exceeding by $1,407,944,000, or 5.37 percent, the amount reported as of June 30, 1936, and exceeding by $2,760,664,000, or 11.11 percent, the total reported as of December 31, 1935.

The aggregate deposits on December 31, 1936, consisted of demand and time deposits of individuals, partnerships, and corporations of $12,691,606,000 and $7,281,494,000, respectively; United States Government deposits of $565,356,000; State, county, and

municipal deposits of $2,057,872,000; postal-savings deposits of $92,874,000; deposits of other banks of $4,450,048,000; and certified and cashiers' checks, cash letters of credit, and travelers' checks outstanding, etc., of $469,147,000. The time deposits of individuals, partnerships, and corporations include time certificates of deposit of $608,330,000 and deposits evidenced by savings pass books of $6,360,083,000, the latter figure representing 15,525,438 accounts. Postal savings in national banks on December 31, 1936, showed a decrease of $44,502,000, or 32.39 percent, since June 30, 1936, and a decrease of $94,520,000, or 50.44 percent, since December of the previous year.

Against the net demand plus time deposits of $23,128,430,000 held by member and nonmember national banks on December 31, 1936, reserves of $2,741,745,000, or a ratio of 11.85 percent, were required to be carried under existing statutes with Federal Reserve banks in the case of member banks, and approved reserve agents in the case of nonmember banks. These banks, however, held reserves totaling $3,844,269,000, which were $1,102,524,000 in excess of the requirements, or 16.62 percent of net demand plus time deposits.

Loans and discounts, totaling $8,267,328,000, showed an increase of $508,179,000 since June and an increase of $762,007,000 in the year.

Investments in United States Government obligations, direct and fully guaranteed, were $8,685,554,000, in comparison with $8,447,364,000 on June 30, 1936, and $7,812,112,000 on December 31, 1935. Investments in such obligations on the date of the recent call comprised direct obligations of $7,300,159,000, obligations of the Reconstruction Finance Corporation of $142,698,000, Federal Farm Mortgage Corporation bonds of $343,317,000, and Home Owners' Loan Corporation bonds of $899,380,000. Other bonds and securities held, totaling $4,094,490,000, showed increases in the 6- and 12-month periods of $59,229,000 and $429,066,000, respectively.

Balances with other banks and cash items in process of collection were $8,462,578,000, including reserve with Reserve banks of $3,828,463,000, and showed an increase of $612,846,000 and $816,095,000 over the amounts reported as of June 30, 1936, and December 31, 1935, respectively.

Cash in vault of $518,503,000 decreased $13,191,000 since June, but increased $24,664,000 in the year.

The book value of capital stock on December 31, 1936, totaled $1,598,815,000, representing a par value of $1,605,011,000. The latter figure represents class A preferred stock of $315,771,000, class B preferred stock of $19,310,000, and common stock of $1,269,930,000. Surplus funds of $1,046,582,000, undivided profits of $368,525,000, reserves for contingencies of $146,467,000 and preferred-stock retirement fund of $10,621,000, making a total of $1,572,195,000, increased $97,842,000 since June and $225,484,000 since December the year previous.

Bills payable of $2,588,000 and rediscounts of $62,000, a total of $2,650,000, decreased $222,000 and $352,000 in the 6- and 12-month periods, respectively.

The percentage of loans and discounts to total deposits on December 31, 1936, was 29.94, in comparison with 29.61 on June 30, 1936, and 30.21 on December 31, 1935.

Little has been said of the Herculean task accomplished by Hon. Henry Morgenthau, Jr., as Secretary of the Treasury, in handling the Government finances. Through refinancing the Government obligations and through the exercise of good judgment in timing the offerings to the public, the Secretary has been able to save the taxpayers of the country huge sums of money. Let me give the picture briefly.

The interest-bearing public debt of the country on January 31, 1937, was $33,821,095,340. Based on the average interest rate as of December 31, 1933, which was 3.296 percent, the annual interest charge on that amount would be $1,114,743,302. At the average interest rate of 2.568 percent as of January 31, 1937, the annual interest charge on the same amount would be $868,496,007, representing savings of $246,247,295 over the amount of the interest charge if the earlier rate of interest still prevailed.

Before the Subcommittee of the Committee on Appropriations of the House of Representatives on the Treasury Department appropriation bill for 1938 the Secretary said: "During the 3 years I have been in the Treasury Department we have either refunded or secured new money for the Treasury to the amount of $24,000,000,000, or an average of $8,000,000,000 a year." After discussing the finances of the Government during the past 3 years, the Secretary further stated, "What will come about during the next 4 years will be comparatively small. The biggest part of the operation is behind us. For the next 18 months there will be $2,900,000,000, exclusive of Treasury bills, and $2,000,000,000 of Treasury bills, or a little under $5,000,000,000. That is for 18 months. We have been handling, not counting Treasury bills, $8,000,000,000 a year. Therefore the thing is very much reduced, and the debt is being evenly tapered over the next 25 years, or from now to 1960. There is no particularly large sum coming due in any one year. Frankly, compared with what I felt last year, I feel very comfortable."

With the Social Security Board, the Federal Deposit Insurance Corporation, and other Government agencies investing in Government bonds, and in view of the Secretary's statement with reference to future financing, I leave it to you to determine approximately what amount of Government bonds will be available to the public.

Conditions in Poland

EXTENSION OF REMARKS

OF

HON. SAMUEL DICKSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 25, 1937

Mr. DICKSTEIN. Mr. Speaker, I wish to address myself briefly on the situation which now prevails in Poland. The Members of the House who have been following the newspapers are undoubtedly aware of the fact that a very critical situation has arisen in that country with reference to the Jewish population. This situation might have been in existence for some time past, but only recently did it assume a very critical proportion.

Three million or so of Jewish people have been recently termed "surplus population." Somehow or other the Government of Poland is determined to get them out of the country. And unfortunately, there is no place for them to go.

Following our lead in 1921 most of the countries of the world have closed their doors to immigration. The countries of South America which could absorb any number of people from other lands have closed their doors just as we closed ours against immigration. And now we have these 3,000,000 Polish Jews literally unable to leave Poland and yet urged to get out of that country.

I am not unaware of the fact that this problem is largely an economical one. Unlike the situation in Germany, where the Jews are and were discriminated against because of their race, the Polish discrimination against the Jew is not due to his race or religion but is due to the fact that economically their lot is unstable, and the Polish Government does not know how to settle its own economic problem.

When with the Treaty of Versailles there had been reestablished the Republic of Poland after being dormant for some 100 or 150 years, it was the belief of all liberty-loving people that here there was created a new Nation which would carry on in the spirit of justice and equality, and provide a haven for the oppressed in all of Europe. After all, Polish tradition was of the finest. We cannot forget that in the Middle Ages, when most of western Europe discriminated against the Jewish people and when Jewish communities were slaughtered along the Rhine, it was Poland who generously opened its doors to the persecuted of all lands and welcomed them to her midst. And again when after the Reformation there was a lot of blood shed in Europe because of religious wars which were devastating the world, Poland furnished the island of safety for all who were persecuted because of their religion, and was the one country in Europe which maintained tolerance and religious freedom, when the rest of Europe was steeped in religious wars.

So that Poland tradition was ever on the side of liberty and progress. And when Poland was reestablished at the Peace Conference we all rejoiced that here again a liberal nation was allowed to reestablish its freedom and continue its traditions of progress among the war-torn nations of Europe.

Poland, however, has what is known as "minorities", perhaps to a larger extent than any other nation in Europe. The latest figures before me show that some 30 or 31 percent of the people of Poland are classed as so-called "minorities." In other words, they do not belong to the ruling group within the borders of the State but must be considered somewhat alien or somewhat of "a State within a State." Poland suffers because of that, although it is also Poland's strength. For by having these "minority nationalities" within her borders Poland is able to point out to the world how to cope successfully with such a condition.

Under the present treaty all "minorities were placed under the control of the League of Nations, but it seems that the

League of Nations has been losing prestige very rapidly, and most of the nations have decided not to leave their "minority" problem to the jurisdiction of the League of Nations, but to take care of these problems within their own borders as best they could by themselves.

And thus Poland likewise freed itself from the jurisdiction of the League of Nations in matters affecting its "minority" problem. And, unfortunately, the Jews of Poland are a "minority." Why it should be so is hard to fathom. After all, the Jews of Poland do not wish to be different from the rest of the people, nor do they wish to separate themselves from the rest of the body problem. But it seems that in the many years that Poland was torn between Austria, Prussia, and Russia the Jewish population of that country did not merge itself into the dominant group, but maintained to some extent its racial individuality, and we might even say its aloofness. As a result, a good many Jews in Poland never even acquired Poland speech or Polish customs, but kept themselves apart from the rest of the population. I say many of the Jews, for in addition to those Jews who failed to become absorbed in the Poland nationality, there are hundreds and thousands who have become so fully assimilated that by no stretch of the imagination can they be classed as being in any way alien or different from the rest of the Polish people.

Of course, statistics are a treacherous thing, and I am not prepared to say at this time how many of the 3,000,000 Jews in Poland belong to the assimilated group and how many of them should be classed as a "minority", but it seems that the Poland Government has a double problem. It not only has "surplus Jews" within its midst but it complains that it has a surplus farm population which must be taken care of by emigration.

I have seen some statistics in the newspapers to the effect that the Jewish birth rate is lower than that of the rest of the population, the Jewish birth rate being some 9 percent, when the rest of the population is 14 percent. Whatever it may be, the Polish people are a fertile race and the country is unable to support its masses. As a result emigration from Poland has always been the order of the day, and in former years large numbers of Poles, both Jew and non-Jew, would emigrate to the United States or to the South American countries. But, as I stated before, both our Government and the governments of South America have embarked upon a policy of restricted emigration, and so it is still hard to tell how Poland can overcome this necessity for emigration of its "surplus stocks", be they Jew or non-Jew. So far as the non-Jew population is concerned, emigration is still possible, since these emigrants are for the most part farm laborers, and there is a market for farm laborers in South America. So far as Jews are concerned, they belong to the middle class, and apparently there is no country in the world who could absorb this middle-class type of emigration.

Palestine for a while took care of a large number of Polish Jews who had left the country, but Palestine likewise has a restricted immigration policy and cannot absorb the many hundreds of Jews who would leave the country immediately to go to Palestine.

There therefore remains only one way by which this problem can be solved. Poland must be industrialized and find occupation for the city worker absorbing the many Jews who live in Poland's cities and permit them to make a living. The Jewish people have demonstrated before that they make fine factory workers, and I know that in the city of New York, in which I live, Jews form the backbone of a good many industries calling for manual labor in the factories such as the fur industry, the dress industry, and the like. Jews make good physical workers in industry and recently have even become skillful agriculturists, and are employed successfully in farm labor. Generally speaking, the tendency of Jewish workers is toward factory labor, and not to farm labor, and Poland has not yet developed sufficiently in an industrial sense to find employment for factory workers.

Poland needs reorganization and needs help from other countries to set itself economically right, but it should not be hard to obtain this credit. By dint of continued application and allowing Poland to develop its industrial production generally the world can only be the gainer, by having this large country join the ranks of the industrial nations of the world. Poland has the man-power, the industry, ability, and all that goes toward the making of a successful industrial community. With the solution of the Polish economic problem the Jewish problem will likewise be solved.

Poland, which for so many years was an oppressed nation, should understand more than any other country in the world how it feels to be a downtrodden people. All the antisemitic excesses about which we read in the papers so much should be stamped out with a firm hand.

When Pilsudski was the head of the Polish State no antisemitic excesses were allowed and the Jews of Poland demonstrated how loyal and attached they were to the Poland State. This attachment and loyalty should be rewarded in some way. I believe that if given the opportunity the Jews of Poland will prove that not only do they deserve to be treated like equals in an equal state but that they will apply their energies, intelligence, and abilities to the upbuilding of the Polish State and to the creation in Poland of a country which the world would marvel and admire and which will be a constant beacon light of freedom in the seas of trouble which prevail in eastern Europe today.

Leon Trotsky

EXTENSION OF REMARKS
OF

HON. ROBERT R. REYNOLDS
OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, February 25 (legislative day of Wednesday, Feb. 24), 1937

EDITORIAL FROM THE STATE AND LETTER FROM JAMES L. WILMETH, SECRETARY OF THE JUNIOR ORDER UNITED AMERICAN MECHANICS

Mr. REYNOLDS. Mr. President, I ask unanimous consent that there be published in the Appendix of the RECORD an editorial from the State, a magazine published in the State of North Carolina, entitled "Our Neighbor's Guest", and in connection with the subject matter of the editorial I ask that there be printed therewith a letter addressed to the Secretary of Labor under date of February 2, 1937, by Mr. James L. Wilmeth, national secretary of the Junior Order United American Mechanics.

There being no objection, the editorial and letter were ordered to be printed in the RECORD, as follows:

[From the State for January 1937]

OUR NEIGHBOR'S GUEST

Sunday's papers carried the news that Leon Trotsky had arrived in Mexico where he was warmly welcomed as a great Bolshevist.

Almost at once he expressed a desire to visit New York, and he may soon be seen in that city unless Stalin protests too strongly to Washington that Trotsky is public enemy no. 1 of the Soviet state.

Because he claims to be the true prophet of bolshevism, next to Lenin himself, Trotsky was run out of Russia by Stalin, who brooks no rivalry, was later expelled from Turkey, and lately from Norway, as undesirable; but Mexico has offered him asylum and probably a vantage point from which to penetrate this country.

An amusing as well as retributive side to the whole affair is that Trotsky, who preached and practiced wholesale murder in the red revolution, should now be seeking protection in a foreign country for fear Stalin, after a mock trial, may murder him, as happened recently to Zinovieff, Kameneff, and others of his former associates in Russia. Incidentally, he regards the United States, because of its large foreign population in the North and West, including many Mexicans in the Southwest and the Negroes of the South, as a fertile field for his communistic doctrines.

Already Mexico has accepted them in part, which accounts for the warmth of his reception there. Let us hope that he may be kept out of this country as an undesirable alien.

FEBRUARY 2, 1937.

The honorable the SECRETARY OF LABOR,
Washington, D. C.

DEAR MADAM SECRETARY: According to what purports to be reliable information, published in the newspapers of January 31, 1937, there is a project under way to give Leon Trotzky, Russian revolutionist now residing in Mexico, "a day in court", before an American commission of inquiry, sitting preferably in New York City.

The press publicity goes on to say that Trotzky would be given an opportunity to defend himself against charges made in Moscow recently, at the trial of 17 alleged anti-Soviet conspirators, that he had plotted to overthrow the Soviet Government. It is further recited that Trotzky is eager to visit New York, to refute the charges and accusations made against him in Moscow.

We are further advised that the editor of Trotzky's writings arrived in New York a few days after a long visit with Trotzky, in Mexico City, and that as a preliminary step toward the establishment of a commission to "try" Trotzky, the American commission for the defense of Leon Trotzky has announced a mass meeting at Mecca Temple, to be held on the evening of February 14, and further that the said committee has established headquarters downtown in New York, and that the committee numbers among its members, 70 American liberals.

We further learn that this self-appointed committee has cabled Stalin, Soviet dictator, protesting sentences passed upon defendants in recent trial or hearing, and urging suspension of death sentences, pending investigation by impartial committee of inquiry, composed of genuine friends of the Soviet Union.

The article in question states further: "The return of both Schachtman and Novack from a visit to Trotzky coincides with the conclusion of the Moscow trial, and has apparently stimulated interest in a movement to obtain Trotzky's admission to the United States."

The Junior Order United American Mechanics, a patriotic organization, organized 84 years ago, with councils or lodges in all of the States of the Union except six, has viewed with alarm the removal of the exile Trotzky and the establishment of his residence, by permission, in Mexico. We have feared that this was a preliminary step in an effort to have him admitted to the United States.

The statement contained in the public press, last noted above, seems to bear out the impression which has prevailed among our people. It occurs to us that the so-called attempt of this self-appointed committee to arrange for some kind of hearing or trial, for which there is no precedent in American trial procedure or jurisprudence, and to have Leon Trotzky present, is but an excuse for his admission to the United States.

We are opposed to his being even permitted to come within the territorial limits of the United States for this or any other purpose. We submit that the attempts of this so-called committee to stage or set up any such procedure is done for the purpose of creating sentiment in favor of this Communist exile, Trotzky, and that he should not be permitted to enter the United States on any such flimsy pretense or excuse.

We submit that the presence of this Communist exile would be inimical to the best interest of the United States and its citizens, and that he should not be permitted to cross the Mexican border to enter the United States for this or any other purpose.

The American people will watch the outcome of this effort to have this man Trotzky come to the United States with an aroused and awakened interest, and we sincerely hope and pray that you will use your good offices in refusing permission for him to enter the United States.

With considerations of respect, I am

Your obedient servant,

JAMES L. WILMETH, *National Secretary.*

The Miners' Union

EXTENSION OF REMARKS

OF

HON. RUSH D. HOLT

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, February 25 (legislative day of Wednesday, Feb. 24), 1937

ARTICLE FROM THE PARKERSBURG (W. VA.) SENTINEL

Mr. HOLT. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing in the Parkersburg (W. Va.) Sentinel on February 24, 1937, entitled "The Highway."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Parkersburg (W. Va.) Sentinel of Feb. 24, 1937]

THE HIGHWAY

By Charles Brooks Smith

WASHINGTON, February 24.—Two congressional committees have certain phases of proposed legislation affecting coal—West Virginia's main industry—before them. Outside of committees, however, the question of uppermost interest with West Virginians today is:

What part, if any, will the United Mine Workers be made to play by John L. Lewis in his battle to unionize the steel industry, which he is waging through his other union, the Committee on Industrial Organization, and which he set up as a substitute for the American Federation of Labor?

So far President Lewis has used the United Mine Workers in his new field to finance his C. I. O. Earlier he made use of it to finance the reelection of President Roosevelt. He publicly announced that his union, through him, had contributed $500,000 for this purpose. It was raised by special assessments on union miners, which were "checked off" before they received their wages, under the agreement which prevails between employers and the Lewis union.

Information in this direction is very easy to obtain therefore. The total number of Lewis' miners is conveniently estimated at 500,000. It actually may be more, but it is not likely to be less, in view of conditions prevailing in the industry at the present time.

ASSESSMENTS LEVIED IN WEST VIRGINIA

In West Virginia (an illuminating example) there were two special assessments of $1 each levied on the miners in November and December 1935 covering about 95,000 men and raising approximately $190,000. There were two special assessments of $1 per man in January and February 1937 covering about 100,000 men and raising approximately $200,000.

During 1936 there was an average of about 97,000 men working in the mines of the State, while the reports would indicate several thousand more. The reason for this discrepancy is that all of the mines are not operating all the time. The average number of working days in 1936 was about 190, as against 182 in 1935.

Union dues and special assessments, added to the higher costs of living, cut deeply into the miner's annual income. It would be heavy enough if the burden were limited to financing his own union, either in peacetime or striketime. Making him finance out of his meager wages political campaigns and strikes in other industries may seem to outsiders to be oppressing him. But if so that is his personal problem. He has not collectively, so far, complained out loud. There may or may not be reasons for silence. It's a guess.

The Future of the Republican Party—Liberal or Conservative?

EXTENSION OF REMARKS

OF

HON. HAMILTON FISH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 25, 1937

Mr. FISH. Mr. Speaker, under leave to extend my remarks, I include an article written by me, a considerable part of which was published in Liberty Magazine of February 27, 1937, as follows:

The big issue which confronts the Republican Party, inevitable and irrepressible, is whether it shall become the Conservative Party, dominated by the Liberty League, big business, employers of labor, wealth and reaction; or whether it shall liberalize its policies and leadership on the basis of its early principles enunciated by Abraham Lincoln and adhered to by Theodore Roosevelt, and become once again the party representing the interests of the plain people of America. Upon the outcome of this paramount issue the Republican Party will survive or perish.

Mr. Charles Michelson, director of the Democratic Publicity Bureau, has recently, in a public statement, advised the Republican Party to become conservative and to represent the conservative interests. Beware of Greeks bearing gifts, or of Michelson advising the Republican Party. This is the same kind of advice that Thomas Jefferson gave the Federalists in 1800, after which they never won a Presidential election, and that the Democrats gave the Whigs in 1850, when they started to disappear as a party.

If the Republicans follow Mr. Michelson's advice there will not be enough votes cast for the Republican ticket in the next national election to permit it to remain on the ballot or to continue as a party. We would be among the also rans, with the Communists and Socialists. The Democratic Party today is radical, and we must be liberal and avoid being either radical or reactionary. In the recent election we appealed to the conservative Democrats under the leadership of John W. Davis, and what did we get? Nothing at all. If the Republican Party is to disappear,

let it go down with its flag flying, as it began, as the party of human rights and constitutional government, but not as a party of wealth and reaction.

It is my conviction that the Republican Party must chart a liberal course between hide-bound conservatism and reactionaryism on one side and dangerous radicalism and socialism on the other. The party must be liberalized in leadership and policies in order to bring back within its folds the millions of wage earners in the industrial centers and the farmers and liberals of the West. If we don't, in the next election we won't even carry Maine and Vermont.

I know that the Old Guard and reactionaries sneer at the word "liberalize", but the people on the street know exactly what it signifies. To "liberalize" does not mean the adoption of radical, socialistic, or unconstitutional policies, or to enter into competition with President Roosevelt for the radical, Farmer-Labor, Socialist, or Communist votes. It means a return to the early principles of the Republican Party, proclaimed by Lincoln, that human rights are superior to property rights and that labor is prior to and independent of capital.

In using the word "liberal" I don't mean liberal with other people's money; I am in favor of a balanced Budget and the practice of national economy.

The stand-pat and reactionary leaders with which the Republican Party is honeycombed must be scrapped for new, younger, and more vigorous leaders who believe in the humane policies of Lincoln and Theodore Roosevelt, and who have faith in the plain people. Until this is done there will not be much chance of restoring the confidence of the voters. To bring back the millions of Republicans who have left the party in recent years, and particularly the wage earners, it is necessary that the Republican Party adopt sound, liberal, and humane policies and reestablish itself as the party of the people, dedicated to their service and to the advancement of social justice, the betterment of the American standard of wages and of living and to the further development of economic freedom throughout the Nation. We cannot afford to stand pat and changeless in a changing world.

The purpose of this article is to call on all Republicans, liberals, and conservatives alike who love the Republican Party and believe that it is needed more today than ever before, to reaffirm its early principles of human rights, social and industrial justice, and a square deal for labor, the farmer, the businessman, in private property and equal opportunities for all.

On such a platform the Republicans could be united and millions of wage earners and liberals who have been driven out of the party because of reactionary, stupid, and discredited Old Guard leadership would return to fight within the party for sound, sane, and liberal measures within the confines of the Constitution and our American system of government.

However, we might as well face the fact that any attempt to liberalize the party will be fought covertly by the Bourbons and the relics of a past generation, practically all of whom are over 60 years of age, who still have a powerful grasp on the Republican organization and leadership and are now engaged in slowly strangling the party to death. It is quite true that within the Republican Party the Old Guard die, but never surrender. It is no easy task to dislodge them and liberalize our policies, but it must be done if the party is to survive.

As I said in the preconvention campaign when I was urging the nomination of Senator WILLIAM E. BORAH as the Republican candidate for President, because I knew his great vote-getting powers and believed that he was the greatest champion of constitutional government since Daniel Webster and of popular government and our free institutions since Abraham Lincoln, the Old Guard would rather have the Republican Party defeated than to win with someone whom they did not control. It is unfortunately true that many of the Old Guard Republican leaders prefer defeat than to win if it jeopardizes their control of the party machinery; unless they are in the saddle they prefer the party to be defeated so that they can rule the wreck afterward. Since the recent election, however, there has not been much left of the wreck to rule.

The question is whether the Republican Party can actually survive under its own name and go forward to future victories. If the party is to disappear, then let's build a Constitutional Party, an American Party, a Liberal Party, or adopt the old Jeffersonian name of Republican-Democratic Party, but not a conservative party to represent a handful of big taxpayers, bankers, employers of labor, and special interests. That was not the purpose of the Republican Party.

I predict in the next election that the New Deal or Democratic Party will be split in twain, and the Farmer-Labor, Socialists, and various degrees of radicals will form a third party under the name of a Farmer-Labor Party and be headed by Senator LA FOLLETTE and John L. Lewis. If that develops, a reorganized, revitalized, and liberalized Republican Party, standing for social and industrial justice under the Constitution and our American system of government, will sweep the country in 1940.

I have a profound and abundant faith in the party and its glorious heritage. I could not be otherwise, as my grandfather, Hamilton Fish, a former Whig Governor and Senator from New York, voted for Fremont and Lincoln and served for 8 years in President Grant's Cabinet as Secretary of State, and my father was the Republican Speaker of the New York Assembly in 1895-96, and afterwards served in Congress.

The Republican Party faces a crisis, and this is no time to evade or pussyfoot on the issues or to use meaningless or weasel words. Upon solutions of the problem will depend whether the Republican Party will disappear as did the old Whig Party, its progenitor, unmourned and unwept. We must at the outset recognize the fact that the party has been grievously wounded and has suffered a tremendous loss of prestige, power, and popularity, but it can pull through and be revitalized to fulfill its glorious destiny of constructive and patriotic service to the American people. To do so it must make clear by words and actions that it has no connection, directly or indirectly, with the American Liberty League, which is anathema to the poorer people and whose members appeared to be the main financial bulwark of the Republican Party in the last election. The huge contributions of the Du Ponts, Mellons, and Morgans, and other so-called economic royalists, including the steel, oil, and public-utility interests, caused the wage earners to feel that the Republican Party was controlled by wealth and special interests and played directly into the hands of President Roosevelt during the campaign.

This fact, combined with the ghastly blunder of the Republican high command in making bitter attacks on the Social Security Act and inspiring the employers of labor to use the pay-roll envelopes, an un-American and undemocratic method of distributing vicious propaganda, against it, was disastrous. Mr. William Green, president of the American Federation of Labor, declared publicly that the Social Security Act was the most progressive piece of legislation ever passed by Congress for the benefit of American wage earners. No one claims that the act is perfect, but the underlying principles are right; and if amendments based on experience are needed to carry out effectively the purpose of the act, the Congress will readily comply.

The tragedy of the attack on the Social Security Act by the Republican National Committee for partisan purposes was that in the House of Representatives only 17 Republicans voted against the bill, and only 5 in the Senate. In spite of an overwhelming Republican vote for the measure in both Houses of Congress, it was denounced in the bitterest terms by John Hamilton, the Republican national chairman.

This deplorable political strategy was followed by practically all the bigwigs throughout the last month of the campaign, until it became the outstanding issue and caused the defeat of numerous Republican candidates for Congress in the industrial districts. The industrial population in the big cities lost faith in our Republican leadership and were almost driven out of the Republican Party by such stupid and amateurish blunders. We lost the city of New York by 1,375,000, and Philadelphia, Pittsburgh, Cleveland, Chicago, St. Louis, San Francisco, and Los Angeles by huge and unprecedented majorities.

In this terrific landslide of ballots in the big industrial centers Republican candidates not only for Congress but for all political offices were bowled over like nine pins, and replaced by Democrats who are now entrenched in power, and supported by vast patronage. Shortsighted and politically inexperienced Republicans take solace at our recent disaster and seek to compare it with the defeats of the Democratic Party in 1920, 1924, and 1928. Unfortunately, there is no real basis for such a comparison. When the Democrats lost the Presidential election in those years they nevertheless carried the solid South and most of the border States for their Members of the House of Representatives, Senate, and Governors, and also in a number of northern States as well, including the election of a Democratic Governor in New York in 1924 and 1928. Consequently, even in defeat the Democrats had a powerful minority in both the House and Senate and controlled extensive political patronage throughout the Nation.

In the November election the sum total of Republican success was 88 Members of the House, an all-time low in percentage, and 16 left in the Senate, and the Governors of Maine, Vermont, New Hampshire, and South Dakota. There were only six Republican Senators elected, four outstanding liberals—MCNARY, BORAH, CAPPER, and BRIDGES, and the other two—WHITE and LODGE—had labor support and favor the liberalization of Republican policies.

In spite of this overwhelming defeat, I still have an abiding faith in the sound principles of the Republican Party, which has made for the greatness, wealth, progress, and freedom of our country during the past 75 years, and also in the intelligence, judgment, and patriotism of the American people. They may be temporarily led astray by false leaders, but they will never depart for long from the principles upon which our Government was established by Washington, preserved by Lincoln and, under the Republican Party and its leadership, became the greatest Nation on earth.

I do not propose to outline a party platform in this article. That will be done by the Republicans in Congress as the issues develop. It is the duty and responsibility of the Republican Members of the House and Senate to initiate, shape, formulate, and consummate Republican policies upon which the party must be rebuilt, and it will be upon that record that the next congressional campaign in 1938 will be fought, and not upon any proclamations of the National Committee. The National Committee fumbled the ball on the Social Security Act last summer, and if we want to elect any more Members of Congress, it would be advisable to put the political snuffer on the National Committee before the remaining Republican wage earners are driven into the camp of our political enemies.

It must be self-evident that the Republicans in Congress must oppose all unsound legislation, wild and socialistic experiments, and unconstitutional measures, and that we must not compromise with the advocates of Marxism, socialism, radicalism, or any form of class hatred. On the other hand, we must not go back to the old order of alleged domination of the party by special privilege, wealth, and reaction. We must go forward on a sound, sane, and liberal

program, conservative on the fundamentals of government, such as the Constitution, Bill of Rights, private property, and against the delegation of legislative powers to the Chief Executive, and forward looking in our treatment of new economic conditions in the interest of both the American farmer and laborer. Both the farmer and laborer should receive a greater share in the profits of their labor under a modified system of capitalism.

The Republican Party still has the framework of a great national party. All we need to do is to have a rebirth and return to our earliest principles and original ideals, when we stood as a bulwark protecting the small property owners of the country against the encroachments of great wealth and monopoly on the one hand and of slave labor on the other.

We must make known without reservations our determination to represent the average American, and especially the American family having incomes from a thousand to $5,000 a year. We must assure them of security in job, homes, and savings. If we succeed in this, the Republican Party deserves to be and will be returned to power. If it continues to be the spokesman of wealth and ignores the largest and most representative group in our American population, then it does not deserve, nor will it be, returned to power or even long continue to be of much importance as a political factor.

The Republican Party was born in the West, not conceived by plutocrats but by farmers, townspeople, and plain folk, hoping for a new future of political and economic liberty that would give greater freedom and opportunity to everyone. I believe, down in their hearts, that the farmers of the West still incline to be Republicans. If we adopt a liberal program and give them some encouragement, they will support our candidates. But they are still fearful of the specter of Wall Street control of farm prices by stock and grain exchange manipulations and of the Old Guard Republican leadership.

I intend to continue the fight to preserve the Republican Party by restoring the faith of the plain people in its policies, of whom Lincoln said, "God must have loved, because He made so many of them." By acts of omission and commission and by the help of Democratic and New Deal propaganda, the wage earners and farmers have been made to believe that the Republican Party is their enemy and represents nothing but wealth and special interests. In order to offset this kind of political propaganda, let us follow the advice of Theodore Roosevelt, who said, "I propose to do everything in my power to make the Republican Party stand for sane and constructive liberalism, just as it did under Lincoln." The Republican Party can well afford, when in doubt, to go back to the plain people of Abraham Lincoln and learn from them. The common sense of the American people, who in peace create wealth and in war carry the muskets of the Republic, is an infallible guide. It was the source of Abraham Lincoln's wisdom. He said, "I have faith in the people. Let them know the truth and the country is safe."

Our party today needs leadership of the type, character, and ideals of Abraham Lincoln. Let us infuse the spirit of Lincoln and of Theodore Roosevelt into a liberalized and humanized Republican Party. Let us invoke the faith in the people that Lincoln loved and the faith of Theodore Roosevelt in popular government and a square deal for the American people as the guide and cornerstone for the rebirth of a militant Republican Party. Let us refuse to compromise with false doctrines, unsound socialistic measures, or with any form of alien dictatorship, or the undermining of the Constitution of the United States, which Lincoln believed was the whole law and the prophet of free government.

Let the Republicans, in the words of Lincoln, have faith that right makes might, and in that faith let us dare to do our duty as we understand it and to highly resolve "that a nation conceived in liberty and a government of the people, by the people, and for the people shall not perish from the earth." Let us neither ask for any quarter, nor give any quarter, but go forward without fear or favor for the preservation of American institutions on a sound, liberal, and militant Republican platform to victory in 1940 and the election of a Republican Congress and a Republican President.

President Roosevelt, Jim Farley, and the Democratic National Committee exerted every possible influence to defeat me for reelection to Congress, and threw almost everything at me except the kitchen stove, but the voters in my district refused to be dictated to and gave me a majority of approximately 24,000, or 5,000 more than in either 1932 or 1934. I do not claim any monopoly of political knowledge, but as one who has served for 16 years in Congress and was reelected by an increased majority, I will not remain silent and permit the Republican Party to commit suicide under leaders who refuse to recognize that a political revolution has taken place. Is the party of Lincoln and Theodore Roosevelt to be wrecked because of the vanity, selfishness, and obstinacy of its reactionary leaders, who are blind to present-day economic conditions and the needs and wishes of the people?

It is with the most solemn sincerity, growing out of the great love I have for the party to which I have belonged for so many years and in which I have worked to the utmost of my capacity—the party that has honored me many times and far beyond my deserts—that I sound the battle cry: Reorganize along liberal lines, under new and militant leaders, discard the defeatists and reactionaries and help reestablish the confidence of the American people in the Republican Party, in order that we may go forward in their interests without compromising with either communism, socialism, or class hatred on one side, or fascism, nazi-ism, or reactionaryism on the other, to victory in 1940.

College Students Have Brains—Believe It or Not—Questions at Swarthmore Prove It

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 25, 1937

ADDRESS OF HON. MAURY MAVERICK, OF TEXAS, BEFORE THE STUDENT BODY OF SWARTHMORE COLLEGE

Mr. MAVERICK. Mr. Speaker, by unanimous consent of the House, I am including herewith a speech I made at Swarthmore College January 21, 1937. Swarthmore College is an old, dignified institution, a Quaker college, and one of the finest institutions of learning in the world. In visiting there, meeting the professors, and talking to the students, I was very pleased to note a tolerant atmosphere. In this institution both students and professors discuss all important questions, apparently without rancor or ill will.

After my address the students indicated their knowledge of the subject by asking quite intelligent questions. I think these questions rate them as pretty good Congressmen themselves. I include the address and the questions and answers, as follows:

Dean HAROLD E. B. SPEIGHT. Congressman MAURY MAVERICK, of the Twentieth District of Texas, is one of those Congressmen who on reaching Washington make up their minds to represent not only their own constituencies but the United States of America. He follows the dictates of his conscience rather than the behests of groups of his constituents. As a member of the Military Affairs Committee, he has done, even when it was most unpopular, what he has believed to be right, preferring to do that rather than to take dictation from the generals.

Congressman MAVERICK was kind enough to come and speak to some of us last night, and we who heard him and discussed matters with him are very happy to have him address the student body of Swarthmore College. He tells me that when he was in college, students wouldn't go to listen to a Senator or a Congressman. We here today will hear him very gladly. Congressman MAVERICK.

Mr. MAVERICK. Mr. Chairman and members of the faculty and student body, as I came on the stand to talk I mentioned how, when I was a student, we would either boo a Senator or Congressman or we wouldn't listen to him at all. As an evidence of the fact that the students of today are more tolerant than they were when I was a boy, you seem willing to listen. [Laughter.]

I have asked that we have an open forum. I tell you now so that you can get ready to ask questions. And we are having a stenographic report made of it, and I am going to put it in the CONGRESSIONAL RECORD, just as though you were all Congressmen asking questions. But I am going to give you the same privilege of a Congressman, and that is we are going to have a copy of the remarks on file with the university, and if you make any mistakes in grammar, or if you would wish to appear wiser than your statement indicated, you can change it and give it a more intelligent slant. [Laughter.] So don't feel any hesitancy in getting up and asking a question.

I like to speak to students, because you are at a higher mental level than you will be 10 years from now. You who are young ladies will be married by then, and 90 percent of you will have the views of your husbands. [Laughter.] Most of the young men who are here will be employed, some as oil and gas attorneys, and they will probably think that it is absolutely right to destroy the natural resources of the country. Others of you will be executives in textile factories, and you will then think that a girl should work for 60 hours a week for $5. And so as a matter of fact, you really do have nearer an unbiased mind at this period than you will ever have as long as you live.

I want you to bear in mind that in this very audience there is at least more book education and more knowledge than there was among those who wrote the Constitution of the United States. And I am not talking about the faculty; I am talking about you that are out here. [Laughter.] You enter college having been told that our forefathers were wise men and that they wrote institutions that were perfect for all the ages to come. Just bear in mind we have just as much sense as our forefathers. I say that so that you will have some confidence in yourself and believe what I am telling you about yourselves is the truth.

THINKERS SHOULD OBSERVE DISCIPLINE BUT USE OWN HEADS

Another thing that I want to ask you to do: Don't accept blindly what your teachers tell you. And they don't want you to do so. If they say to you that a certain theory is right, just don't you

believe it. If they tell you that George Washington did so-and-so, don't believe it. Go to the library and look it up and see if it is true. Go to original sources. Use your own heads. You have got to learn everything yourself. Your teachers want to show you how to learn.

I don't mean by that that you should have silly student strikes and march around the campus and be late to your classes. If you have a class to go to, go there and get there on time. But when you go there, go with a free mind and do your own thinking.

I am going to speak on about four subjects and try to coordinate the subject matter so that we can have some program of thought. The first, I shall call liberty; the second is conservation; the third is peace; and the fourth is the Constitution of the United States.

LIBERTY NECESSARY FOR CIVILIZED SOCIETY

When I speak of liberty I speak of it in the sense of intellectual liberty. It is necessary if we are to have a civilized society. It is necessary because we must be able to change our views as times change, so we can fit our institutions to human needs.

There is good reason for this, and the historical concepts of everything we as Americans know in Anglo-Saxon society has been in accordance. Censorship long before the Revolution was held to be highly improper, according to Anglo-Saxon ideas.

And so when we became a free nation, we wrote a Bill of Rights and attached it to the end of our Constitution. You must remember that the body of the Constitution was written to preserve property rights and not human rights, and the people demanded a Bill of Rights after the Constitution had been adopted, and was made a part.

Two of the amendments to the Constitution are very important, and they are the only two that I will read, because in my opinion they form the basis of American life, and they are as follows:

FIRST AMENDMENT (LIBERTY OF SPEECH, ASSEMBLY, PETITION)

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people to peaceably assemble and to petition the Government for a redress of grievances."

FOURTH AMENDMENT (SEARCH AND SEIZURE)

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable cause supported by oath or affirmation, and particularly describing the places to be searched and the persons or things to be seized."

Since this is a Quaker college, I call attention to the fact that the fourth amendment was specifically written to include the Quakers, because it said "oath or affirmation", and they were recognized in the very beginning of this country as a matter of religious liberty.

What does the first amendment say? It says that the people shall have freedom of speech and press. It doesn't say that a Communist can't talk, and it doesn't say that a pacifist can't talk, and it doesn't say that militarists and any group of people who care to, can't talk. It means that everybody can talk. So students have a perfect right to be pacifists and tell the American Legion and the Veterans of Foreign Wars, of which organizations I am a member, what they think of them. Or you can praise them.

You also have a right to belong to the R. O. T. C. and walk around in a uniform and impress the girls or learn to be a soldier. The point that I am making here is that we in this country have been guaranteed in our Constitution the right of freedom, which is more than any other country on earth enjoys, except most of the British Empire, and such democratic nations as France, Norway, Sweden, Denmark, and a very few others.

TREND IN WORLD TO DESTROY LIBERTY

The trend all over the world now is to destroy liberty. There is a tendency to destroy liberty in this country too. For the past 2 years various "patriotic" bodies, so-called patriotic bodies, wanted Congress to pass laws making it a felony, for instance, to tell a soldier that he didn't have the right kind of treatment, or to say that we should have a smaller Army. Some of the gag laws would have been ridiculous except they were vicious.

We came through the last session defeating all that character of legislation. So the thing that we must do is to enter the next era and defeat all attempts to destroy the liberty of speech or freedom of any kind in the United States of America.

That is a job you as students have to perform as much as any citizens. Because most of us who are in power now, the older members—well, we haven't done so well with this country. We haven't preserved the liberties as well as we should. So you who are younger must take the job over and do better than we have done.

KINDS OF LIBERTY AND OPPORTUNITIES FOR JOBS

I have been speaking of intellectual liberty. But we also must have economic liberty—the right to make a living and live like human beings. In saying that I remember my college days. I had a rather inadequate education, but when I left the University of Texas as a young lawyer jobs were waiting for us in Mexico, if we didn't want to work in Texas. We had jobs waiting for us at anywhere from $1,500 to $4,000 a year.

Jobs are not waiting for you. After you have gotten a fine education, then you can go out and work in a gas station for $15 a week; that is, if you can get a job at all.

Having spoken of liberty and jobs, we now discuss the question, conservation of our natural resources, upon which humanity depends.

CONSERVATION OF NATURAL RESOURCES FUNDAMENTAL TO EXISTENCE

You know that when people first came to this country, when William Penn came here to Pennsylvania, this land was a great virgin forest. We had unlimited resources under the ground and above the ground—the land, the water, the air, and the trees. But it has gotten to a point now where those who have built up our artificial civilization believe that by balancing books we can make the land produce more and more—but it can't be done. In the South, by compound interest, the cotton lands of about 13 States have been practically destroyed. And lands all over the United States of America are also being destroyed. Let's bear in mind that no matter how well you keep books, and no matter how well you discuss legal and political and philosophic theories, you can't get more out of the land than the land has.

DROPS OF WATER WILL NOT OBEY A COURT WRIT

Concerning conservation on a big scale: Suppose a drop of water falls up in Montana. That water rolls on down all the way to New Orleans, through the Mississippi Basin. If some very respected gentleman like a Justice of the Supreme Court should issue a writ against that drop of water or declare its movement unconstitutional, that drop of water would keep rolling along, destroying as it went. So gentleman in high places, whether they are judges or Congressmen or bankers must learn that the natural law is the basic and fundamental thing.

The Mississippi Basin runs all the way over to the Continental Divide in Colorado and up into Montana and on this side over into the Great Lakes. That drainage basin is a tremendous body, and it runs naturally all the way down into New Orleans. We have States which cut across that big area and smaller drainage basins, but the State lines are artificial. As a result of some of our theories of States' rights and our insistence upon our "legal rights", we have tremendous floods over the Nation, destroying humanity and property rights. Somewhere around five hundred million to a billion dollars worth of property damage has been done in the present flood. Most of it is due to human folly.

In this Nation of ours we have 50,000,000 acres of land that has already been destroyed, that will never be used at all for 5, 6, 7, or probably 10 centuries. It can't be used, and it's gradually got to be built back into forest. These lands must receive the common care of the people of the United States, because it affects the whole Nation.

CITIES AND COUNTRYSIDES GREW PLANLESSLY

In this Nation we have—and I am still talking from the viewpoint of land and conservation—some beautiful cities and some beautiful scenery. But most of our cities have grown up planlessly. Industrial cities and most of our countrysides have grown up and have slum areas of one kind or another. And so a new concept is evolving. It is that in the future we must plan our cities and our countrysides in order to make them fair places in which to live.

In discussing that point, I am going to illustrate by discussing two phases of life on our continent, an Indian pueblo and the Tennessee Valley Authority. When we discuss conservation, we can use examples, but we have to think of it as applying to the continent as a whole.

Our forefathers came to this country and they were good, hard-working people—that is to say, they were neither better nor worse than we are. They were quite naturally ignorant of the natural forces. They had to live; they destroyed our forests, the lands, and natural resources. That is what they did for us. And we, alive today, are still doing it. But now we are beginning to know better, and we know we ought to preserve our lands in the future.

When we think of this land as one great continent, we must think of the man who lives a thousand miles away from us as having the same duties as we have, and of our having the same duty to him. It is necessary if we are to have a country, and to preserve it just from a purely physical aspect.

INDIAN PUEBLO AS AN EXAMPLE

Let me talk of the Indian pueblo that I visited in New Mexico. I drive into it, and I see that the people are suffering. You can tell that the children have bad teeth. Some of the children are blind. We see that the people are suffering from interior disintegration and exterior aggression. We see that this Indian pueblo is decadent. So we begin to compare it to the United States of America as to interior and exterior forces.

WHEN THE LAND DEGENERATES SO DO THE PEOPLE

The Indians had been pushed back into this little pueblo or reservation. That was because the people on the outside were using all the surrounding lands, forcing the Indians farther in. Hence the people were crowded, the land overcultivated and overgrazed, and there was a direct effect on the inhabitants.

What has the Government done to remedy the situation? They have gone into this pueblo and have made it possible for the people to get back some of the surrounding land that they had before. The Government has removed the bad outside influences and those who have been wasting the surrounding resources. The Government has granted the Indians more agricultural resources. The health and standard of living of the people have increased.

T. V. A. EXAMPLE OF GREAT AMERICAN PLANNING

And now let us consider the Tennessee Valley Authority, over in eastern Tennessee, where dams have been erected. The land there has been in a bad condition for almost a hundred years. Dams are erected primarily for flood control.

Then the water begins to fall over the dam. People say, "Well, we are going to make electricity and sell it to the people of the United States, by the Government of the United States." And then there was a great cry that private industry and personal initiative were being destroyed by the Government. But it results in happiness, efficiency, and a better standard of living.

There in the Tennessee Valley, which includes six or seven States, an economy which has lasted 150 years is being changed, and cheap electricity is being sold to the people. So the general attitude of those people who live in that part of the country is such that they believe they have as much right to electricity at cheap prices as you have to get water out of a river or by buying it from a city.

NEW CONCEPTS; GREATER RESPONSIBILITY OF GOVERNMENT

From all this we must conclude we are developing new concepts of government. We have a concept, for instance, of government ownership. We are told that that is socialism. But let us not worry for the moment about whether someone calls it communism or socialism. Let us see if it is necessary or beneficial for the welfare of the people of the United States. We at least know, as time goes on, certain kinds of enterprises become more and more the responsibility of the Government of the United States.

The first you might call socialistic or communistic enterprise we had in this country was the Army of the United States. Do you realize that the Army is owned and operated by the Government of the United States, and the officers and soldiers live, not on private, but on public property? Then we had the Navy. Then came the post office. Now by gradual evolution we have Government ownership of a great many of our natural resources, and no one thinks anything about it.

We Americans have come to this point: That nearly everyone agrees our natural resources must be conserved, and they must be owned by the Government if necessary. Without using any kind of European philosophy, we just come to the conclusion that we ought to do whatever is necessary to preserve this country.

PEACE IS PARAMOUNT

The next subject, having passed from the subject of intellectual freedom and actually conserving our soil, is the subject of peace. When I went to college, we would be addressed by men on the subject of war. We all sat up and had respect for our elders, or pretended to. Then Congress voted a war. Consequently, we went to war and a great many of us either got killed, or we came out with distorted visions of life.

So I hope that you students who are here today will have brains enough to help keep this country out of war. If war comes, I am going to vote against it. But public opinion must be against war and the people must be willing to make the sacrifice to really stay out.

NO BUSINESS IN LAST—STAY OUT OF NEXT WAR

We didn't have any business in this last war. [Applause.] There was no occasion whatsoever for our going into it. I am glad that I went into it, or rather I am neither glad nor sorry.

I think that the American people should evolve some sort of a theory in reference to war. I believe neutrality is the proper theory. We should take sides with neither party to a conflict.

You take, for instance, the other day we voted an embargo on the Spanish Government. I spoke against that because I thought it was unfair. We made an embargo on arms against the Spanish Government. We didn't make an embargo against Portugal and against Germany and Italy and Russia, who are sending arms and munitions to both sides. My theory is that we should have neutrality, and we should make neutrality apply to all sides alike. Likewise, we should get out of the business of selling munitions to any country.

WE ARE GRADUALLY DRAWN INTO WAR

It is a good thing for us to mention our entrance into the World War—why we went into the World War. In the first place, we started selling goods to the belligerents; that is to say, to the British. We became economically connected with the war at the very beginning. We began to sell the Allies all manner of merchandise and munitions, and we began to finance them. Our Secretary of State, Mr. Bryan, objected to it very strenuously, but finally people said, "Well, we ought to go into this business of selling the belligerents and make some money, because that doesn't mean that we are connected with the war."

BRITISH PROPAGANDA (AND NAVY), THE BEST: WAR FOR THE U. S. A.!

Our neutral rights were never respected either by England or by Germany. And England had the best propaganda, and she had the best navy, and so with her navy she kept us from selling to Germany. With her propaganda she got us to believe that we ought to join the war. We kept on selling and selling and selling. Finally we jumped into the war on the side of England to protect our investments, and that is the only reason that we went into the war as far as I know. There may have been incidents like the *Lusitania* that had something to do with it, but the principal final cause of our entrance into the World War was our economic connection, which had begun at the very outset of the war.

So, remember, if you are economically connected with a war, sooner or later you will be connected with it in a military way. If there is a war, let us resolve not to be connected with it in an economic way, because gradually, in order to protect our investments, we will be forced into it.

A great many people say we ought to enter a league of nations. Unfortunately, this world is in such a serious condition that the members of the League of Nations are dealing cards under the table. We cannot go into a diplomatic set-up where the other nations are dealing cards under the table and we are dealing our cards on top. And so for the time being it would be folly to become a member of the League of Nations.

We reach the conclusion that neutrality is best. And when we do, we should have neutrality of mind, and in fact, and economically. We should be willing to make the sacrifice of the loss of world trade. It is even cheaper in the long run.

THE CONSTITUTION OUGHT TO BELONG TO THE PEOPLE

We have discussed three subjects, and I come to the fourth section of my talk, and that is the Constitution of the United States and the Supreme Court. You have been taught from your earliest time to regard the Supreme Court as being composed of nine gentlemen who never make mistakes. But those nine gentlemen make mistakes, and they have made plenty of mistakes.

The time has come for us to reach up on the shelf and pull these gentlemen down, as we do Congressmen, Senators, and Presidents, and look them over and see exactly who they are and why they make certain decisions. People don't realize it, but the Supreme Court really governs the United States. Your representatives don't govern the United States. And these gentlemen are human beings just like you are and just like I am. One at least is a very common fellow, a very ordinary fellow, and I know that you will agree that he is a common and ordinary fellow, because he was a Member of Congress. [Laughter.]

The Supreme Court of the United States is composed of some very brilliant men, at the same time. Justice Roberts is a very brilliant man, although I disagree with almost every opinion that he has ever rendered. Chief Justice Hughes is a very bright man, and I disagree with half of his. Justices Cardozo, Brandeis, and Stone, they are very, very bright men, because I agree with nearly all their decisions. [Applause.]

But, seriously, we have a Supreme Court which has built up on precedents powers which are not in the Constitution. I want you to listen closely to this, because this is going to be the great debate in the United States for the next 10 years.

THE FORMATION OF THE UNION—FOR THE GENERAL WELFARE

When we wrote the Constitution of the United States we did it to form a more perfect union, and for the general welfare. That came first. Then, second, in a special section, Congress was given the specific power and duty to enact laws for the general welfare. Then the Constitution said that Congress shall have power to enact whatever laws are necessary for the carrying out of the general welfare.

PRESIDENT VETOES—CHECKS—CONGRESS PASSES OVER VETO—BALANCE

And then, if you keep reading, it says somewhere a little bit further on, that if such and such a law is unsatisfactory to the Executive that he shall have the power to veto an act of Congress but that Congress may pass it over his veto by a two-thirds vote.

Why was this provision made?

Because Congress in haste might enact a law—but the Executive vetoes it. Then the people of the United States by public opinion can say to their legislators, "Well, now, we believe you were right, and we want that law finally enacted. You pass it over the Executive." That is meeting sustained public opinion.

We are told that we have a nation of checks and balances. When we pass a law and that law is vetoed by the President, that is the check. When we pass a law over his veto, that is the balance. That is the check and balance system.

All right.

SUPREME COURT CHECKS PEOPLE'S LAW—IT STAYS CHECKED

Now, here comes the Supreme Court, and you take the Constitution; I am going to give a prize to the students of this college of $100,000 for anybody that can find in that Constitution a word that says the Supreme Court can declare an act of Congress unconstitutional. There is not one single word in the Constitution that says that they can declare an act of Congress unconstitutional.

Anyhow, authority or no authority, they declare an act of Congress unconstitutional. That's the check. But there never is any balance, because it stays "unconstitutional" as long as the Court wants it to stay. Then the people have no redress at all, no matter how great the emergency. That law is checked against the will of the American people. Now, something must be done about that so that the will of the people can be followed.

DRED SCOTT DECISION LEADS TO CIVIL WAR

People say, "Well, but these are wise men. They always do right." Let's see whether they do right or not. I will just take one particular decision, the Dred Scott case. You ought to get somebody to give you a digest of it. Of course, you can't read it; it's 275 pages long, and it would take 12 Philadelphia lawyers and 9 philosophers to understand it. The decision concerned the right of Congress to enact the Missouri Compromise on slavery. The Supreme Court held that all of this was unconstitutional, that Congress couldn't compromise on slavery, that the people had a right to have slavery in the Territories. And that made the Northern States angry, and immediately the Nation began to gird for war.

It was impossible to adjust the subject of slavery then, and the result of it was that the people of the United States went to war and killed each other for 4½ years. Then, after it was over, an amendment prohibiting slavery was adopted—after fellow Americans had finished killing each other. The matter might have been adjusted; the compromise was satisfactory to the people, but the Supreme Court said "no."

Then you take the income-tax amendment. The income-tax law was passed in 1864 to help pay for this Dred Scott war. It was declared constitutional by the Supreme Court. Later an income tax was found unconstitutional.

When the Court found it unconstitutional, they had to overrule and find void and unconstitutional five of their own decisions. Then people said it was necessary to have an amendment.

So the people took another 20 years to pass an amendment. And then when it passed at last the Supreme Court got together and held that a judge should not have to pay an income tax; that he was only guided by God and his conscience—and then they exempted themselves from the tax. [Laughter.]

TAKE THE MYSTERY AWAY FROM THE COURT

Concerning the Supreme Court of the United States of America: Let us remove all the mystery from it. As I told some of the faculty last night, we are taught to regard the Supreme Court as the Ark of the Covenant; that there is something that you can't even look at, much less question. You know, this Ark of the Covenant, you couldn't get up to it and see it. And Moses was the man that originated that idea. And so I told the faculty last night why it was that Moses kept the people away from the Ark of the Covenant. The reason was, there wasn't anything in there.

And when you go to thinking about the Constitution of the United States and all of the magnificent wisdom of the Supreme Court, we might find that it has some of the elements of the psychology that Moses used four or five thousand years ago. There is no reason behind many things we do.

I have spoken over a very wide variety of subjects. But I have tried, as much as I could, to talk about subjects that are fundamental to the American people. These include the liberty of conscience, the saving of our soil, the saving of our country in which we can live economically, and of having peace and staying out of war, and of having a Constitution and a body of laws which will conform to the natural law.

Those are the vital problems we must face. And the thing that we need more than anything else is that the students will have inquisitive minds, that they will have dubious minds, and that they will be courageous and say what they please and think what they please. That's what we've got to have in this country if we are to survive, and not go back to a low standard of living like they have in China. And so I make an appeal to you to think about these things.

When I conclude I am going to get you to ask me any questions that you want. The dean will tell you that if any of you want to leave that I will not feel badly. Then I am ready to attempt to answer any questions of those who care to remain. I thank you, my fellow students, very much. [Applause.]

DEAN SPEIGHT PROCLAIMS AN OPEN FORUM—FIRST QUESTION, SUPREME COURT

Dean SPEIGHT. The Congressman has kept within the time limit that he prescribed for himself by something like 59 seconds. This is the opportunity for those who feel that they must leave for any reason, and I will ask them to do so promptly if they wish to leave before the question period.

Question (by Mr. GEORGE BRADEN, of Indiana.) According to President Roosevelt, we should wait patiently for the Supreme Court to expand the economic powers of the Government by so-called loose-construction decisions by a liberal majority of the Court. In view of the composition of the present Court and its past record, do you agree with the President or do you feel that Congress should immediately attempt to curb the Court's powers of judicial review?

Mr. MAVERICK. We should not wait patiently on the Supreme Court any more than you wait patiently on the Congress or the President. We should meet the issue squarely, and now.

The Constitution does not say the Supreme Court has the power to declare acts of Congress unconstitutional. On the contrary, it says that Congress can make exceptions and regulations to the appellate jurisdiction of the Court. The power, therefore, that the Supreme Court has to declare acts of Congress unconstitutional are assumed, and were probably considered acknowledged by the acquiescence of public opinion. But if public opinion changes, since the power is based on public opinion, if at all, it would no longer exist. For the truth is that there is no constitutional authority.

Let us agree, therefore, that we must have, first of all, representative government. If the Supreme Court only passes on questions which are judicial, the situation would probably be cleared up. The trouble is that they have been legislating for the American people. If the situation is not cleared, Congress can exercise its constitutional power to regulate and make exceptions to the jurisdiction of the Supreme Court. But the public mind is so confused it may be necessary to submit an amendment. In my opinion, however, ample constitutional power exists at this time to deal with the economic issues before the American people.

ANOTHER QUESTION ON THE SUPREME COURT

Question (by Mr. ERNST D. COURANT, New York). Suppose Congress passes a law that is clearly unconstitutional; for instance, against free speech or something like that. How is that going to be declared unconstitutional, if the Supreme Court can't do it?

Mr. MAVERICK. That is a very good question and an intelligent one. It worries me a great deal.

First, however, let us discuss the record of the Supreme Court. It did not declare the Sedition Act of the Adams administration unconstitutional. People were jailed all over the country and denied writs of habeas corpus by Federal courts. It is fair to say that it never reached the Supreme Court; but that is another point we should consider—the fact that it takes so long for an individual's consitutional rights to be decided. When Jefferson came in, he said, "The act is unconstitutional, and I will not enforce it." So there was an act declared unconstitutional by a President. During the World War the sedition acts were held constitutional. Immediately afterward the State syndicalism acts were held constitutional.

However, I still believe that the Supreme Court should be permitted to exercise the right to declare acts of Congress unconstitutional where those acts violate direct inhibitions.

We now arrive at a very important point: Admitting the Supreme Court should declare direct prohibitions unconstitutional, certainly it should take the advice of its own Court and of its own decisions and should not exercise the general right except when absolutely necessary. And when an act concerns the general welfare of the people, such as the Social Security Act, the Agricultural Adjustment Act, which do not violate anyone's liberties, nor the specific prohibitions, the Supreme Court should not have or accept jurisdiction. To make it plain, the Supreme Court should not invade the field of legislation. Is that a reasonable answer?

Mr. COURANT. Yes, sir.

Question (by Mr. CHARLES D. HENDLEY, New York). What is your opinion on the American Youth Act? Do you know that piece of legislation?

Mr. MAVERICK. I don't understand the American Youth Act very well. I am for it, though, because its principles are right. I want its provisions to be extended. I believe that the Congress of the United States should recognize its responsibility to youth in such a way that every man and woman of the United States of America, who has anywhere near sufficient intelligence, should be given an education in order to prepare that particular citizen for citizenship.

Question (by Mr. LYLE B. GILL, Nebraska). The President's reorganization program has come in for a great deal of abuse lately. The liberals attack it, saying it is going to destroy the independence of several of our independent commissions, and they dislike seeing them brought under departmental heads; and the conservatives claim it is increasing the bureaucratic functions of the Government and tending toward centralization. Where do you stand?

Mr. MAVERICK. Well, if that question had been asked by one of my constituents, I would say that it is not a very fair question, because that report is about an inch thick, it has about 500 pages, and I am supposed to read it, but I have never read it yet. It is a very difficult thing to give an answer on that.

In a general way the Government has to be reorganized to eliminate a great many duplicating features. For instance, in the Government of the United States, there are 39 different agencies that have something to do with housing, and we have 39 different groups that are making research and compiling statistics on housing, but we are not having any housing by the Government. If we would cut out duplication in that case and have a reorganization, we probably would accomplish something. That is a fair example.

The reorganization act has many good features. For instance, it creates a social- or public-welfare department. This department will take over the Youth Act, relief, and the Work Progress Administration. It will concern itself with public welfare.

Generally speaking, we should reorganize for the purpose of having effective government. Effective government will only come when it is representative and that representation is for the general welfare.

There, again, comes the question of the Supreme Court. Suppose the Supreme Court decides that they do not like what the representatives of the people have done? This makes me think that probably the reorganization act really does not deserve all of the excitement that it has received.

Question (by Miss MAVIS LYONS, of New York). In relation to the last question, how much of the reorganization do you think will be put under the civil service, and [if so] would there be a reorganization in the way of civil-service examinations, salaries, and so forth, now?

Mr. MAVERICK. We have to reorganize civil service, and we have finally got to get it on an entirely different basis from what it is now. I will tell you some of the defects. For instance, the Social Security Department takes people out of the civil service. Civil Service sends Social Security a list and says, "Here is a man that you are going to use on Social Security." He might be wholly unfitted for an entirely new endeavor, of which he knows nothing. And we have had, for instance, the Resettlement Administration, the Youth Administration, and all of those different governmental functions that have grown up suddenly in this country. If we had put them on a civil-service basis, we never would have gotten the type of men peculiarly fitted for certain types of work.

One of the professors told me last night that for one job there was something like about 6,000 applicants, that all took this examination. So it's got to be rather arbitrary at the beginning.

I think eventually that we ought to build a civil service similar to the English system and put it on a merit basis. It should be made so that a young man can go into the Government with a sort of patriotic feeling that he will be treated fairly, no matter who is in control of the Government and so he can serve his country the rest of his life.

EMBARGO COTTON? SURE!

Question (by Mr. MICHAEL MARSH, District of Columbia). I would like to ask Mr. MAVERICK whether in case of a foreign war he would favor an embargo on cotton.

Mr. MAVERICK. Yes. I made a speech in Houston, Tex., the greatest cotton port on the face of the earth. They live off cotton and oil. I said we ought to have an embargo on cotton and close the port of Houston if it would save a single human life and keep us out of war. Out of a population of 300,000 I wasn't criticized. Everybody in town agreed. The people of the South don't want to

sell cotton if it will cause a war. Embargoes should be of a general nature, and cover all necessary commodities.

Question (by Mr. HENRY S. LANGE, New York). The proposed neutrality law puts a blanket embargo on munitions exports in time of war, and gives the President discretionary power to place an embargo on all other goods in time of war. It seems to me in this latter event, with this Presidential power, you are subjecting the President to the same economic pressures that Wilson was subjected to in the time of the World War.

And in the second place, an embargo in time of war definitely in effect destroys our neutrality in favor of one side or the other, because as in the case of the World War, if we had placed an embargo on munitions, we definitely would have destroyed neutrality in favor of Germany.

In the light of that, do you favor the present neutrality proposal?

Mr. MAVERICK. I favor what I call mandatory neutrality. In other words, that we have an embargo against all belligerent nations, with the possible exception of the American continent, because we have the Monroe Doctrine, and we have to sustain it. We must not allow any aggression of foreign powers on the American continent.

But I believe that we should definitely get out of the arms and munitions business entirely and altogether. I think that the only way we are going to have that is to have Government ownership of munitions, and then if the Government owns munitions it won't be polite to sell machine guns to other people with which to kill each other. And I think that's the way that can be stopped. In the meantime, let us have the "cash and carry" system for commodities, too.

Question (by Mr. LANGE). In that case, you don't favor the present bill?

Mr. MAVERICK. No; I never have been in favor of the so-called discretionary principle and have been fighting it ever since I have been in Congress. But we may get a good bill before it's over.

STUDENT ASKS ABOUT MOLASSES KING

Mr. SIDNEY L. WICKENHAVER, Pennsylvania. The newspapers have been commenting recently on the departure of several young administrators to take jobs with private firms, molasses firms, and so forth. In view of this, what governmental policy would you suggest to attract capable administrators to Washington and keep them from the higher salaries and better chances of advancement in private positions?

Mr. MAVERICK. Well, of course, you didn't use a very good example [laughter], because there is some question as to whether he was a very good administrator. However, you ask a very good question, and that is, we get a man down there, and he is in a temporary bureau, he is in the Resettlement or he is in the Youth Administration or something of that kind. He joins the Government and finds out that that is going to be abolished in 6 months, or he has a feeling it is. He is getting $10,000 a year and then he is offered $40,000 a year. He sees that $30,000 difference and he quits.

However, there are plenty of good men in this country that are willing to work for $10,000 a year. I'm one of them! [Laughter.] And I believe that we are not going to have any trouble getting administrators in the Government. Not many have quit, and there are hundreds of administrators that are doing capable work. And to make you young people feel well toward your faculty we have a great many professors down there whom we first called "brain trusters", and we have kicked them around and beat them around, and they are getting to be pretty intelligent fellows and are doing all right. [Laughter.]

Question (by Mr. DAVID TODD, District of Columbia). Do you know what the opinion of the present Congress is on the success of the C. I. O. controversy; that is, the Committee for Industrial Organization?

UNIONISM—INDUSTRIAL OR CRAFT?

Mr. MAVERICK. Well, I can only give my own opinion. I am for industrial unionism. And Bill Green, who is head of the American Federation of Labor, is a very nice gentleman. But Mr. Lewis seems to be a great American labor leader. Congress hasn't got any opinion because that's a fight between labor.

For instance, in my district there isn't a single unit of the C. I. O., not even one. I have the American Federation of Labor group. But my sympathies are with industrial unionism, and I am willing for all my people to know that.

But the answer is that when labor finally solves their own differences, Congress is going to be for the one that wins.

Question (by Mr. IRVING S. SCHWARTZ, Pennsylvania). Mr. MAVERICK, you have stated that you would like to see a revival of the N. R. A. which would keep all the good features of the old N. R. A. and eliminate the bad ones. Would you call among the good features of the old N. R. A. price fixing by industry and administration through code authorities which were trade associations?

Mr. MAVERICK. No. If we establish the N. R. A., it should be very simple, providing for minimum wages, the elimination of child labor, maximum hours, legislation to protect the lives of the people who work; and that's just about all in order to start it. The price fixing that we had was by the big industrialists, and the result was that it merely built up unregulated private monopoly.

We in this country have got to own, control, or destroy monopolies. That is a clear economic principle we must face. And when you get down to it, if the N. R. A. had been worked backward, that is, pay high wages and have unlimited production, the result might have been that production would have been greater, the masses of the people would have gotten more of the products, the people would have had high purchasing power, and the owners of the factories would still make profit and be very rich.

But they were too stupid to see that. The big business group wanted to make it so that they had guaranteed prices and paid low wages, and it did not work out.

STUDENTS WANT TO KNOW MORE ABOUT T. V. A.

Question (by Mr. DORWIN CARTWRIGHT, Tennessee). Mr. MAVERICK, in regard to what you have just said about monopolies, as applied to the T. V. A., how far do you think the Tennessee Valley Authority should go in competing with or eliminating electric monopolies in those areas?

Mr. MAVERICK. My personal opinion is, probably the best thing is to take over the monopolies close in. Down in the Tennessee Valley we find that the Edison Electric Institute was forced to give the prize to the Tennessee Electric & Power Co. as the best holding company and power company in the United States of America, because they were forced to give low rates by the Tennessee Valley Authority.

Here is what happened. Before the Tennessee Valley Authority came this power company was selling electricity. They were forced to reduce their rates one-half. When they reduced their rates one-half, they said, "We are going to go bankrupt." Instead, when they reduced prices they increased production three times and they made a profit and paid better wages to their employees. And you will find in the Hydroelectric Power Commission of Ontario that where you are paying for an electric light in the United States of America somewhere between 4 cents and 10 cents a kilowatt that you are getting it in Canada for nine-tenths of a cent up to about 2 cents or 3 cents. In other words, in Canada you get electricity for something like one-tenth in some instances up to about one-half as much as in this country. And they pay better wages and sell more of it. So I should say that the Tennessee Valley Authority should extend its operations. If it gets to a point where they are destroying private property, go in and pay the owners well for it. You don't have to destroy private industry.

Question (by Mr. GEORGE SINGISER, Massachusetts). You spoke about the value of civil liberties and how rare liberty now is here on earth. In the event of the next war, the present line-up seems to be that it will be democracy against fascism. A strict neutrality on our part toward the democratic countries—England and her allies—would favor Italy, Germany, and their allies, would it not? Don't you think in the case of fascism against democracy that it would be wise for us to drop our policy of strict neutrality and enter the war?

Mr. MAVERICK. Well, I am forced to disagree with you entirely on that, and I will tell you why. When I was a student at the university, and we were getting the British propaganda, we were told that the Germans were cutting off the hands of the Belgian babies, and that they were very wicked people, and that eventually we would have to go into this great conflict to save the world from the Germans.

What was the result of the World War? The result of it is that we won the war, but we lost it. Germany has still got the biggest army in western Europe, with the exception of Russia. And so that World War didn't solve anything at all. I know what you are thinking about. You didn't say this, but I believe you are thinking, "Well, civilization may be destroyed by these Fascists." But I don't think that we can save civilization if it is going to be destroyed. My attitude is that it is best that we not pass moral judgment on Europe.

We have made such a poor job of self-government that we'd better learn how to govern ourselves, to feed our own people, to give them houses to live in, before we go out taking part in foreign wars. And I say that in a sort of a spirit of humility, and not in an arrogant spirit. We'd better learn how to govern ourselves before we go meddling in European affairs.

TODD TALKS OF STRIKES

Question (Mr. ALDEN TODD, District of Columbia). In the beginning of your talk you mentioned "silly student strikes." If you know anything about the student antiwar strike on the 22d of April, that has been held for the last 4 or 5 years, would you give us your opinion on that?

Congressman MAVERICK. That wasn't a strike. That is the row that I had with the students at the university in Washington. I said, "What do you want to call it a strike for?" That's a legitimate demonstration. When I refer to a strike, I'm talking about when you are supposed to do something like go to classes at 9 o'clock, and instead of that you hold a parade and have placards up, "We want Dean So-and-So" or "We don't want Dean So-and-So." That's a strike. [Laughter.] What you are talking about is a legitimate demonstration. I am in favor of what you call the students' strike for peace, and I hope you keep it up for a long time and that you do well with it.

NATIONAL DEFENSE—AND ONLY NATIONAL DEFENSE

Question (by Miss MARGARET PETERS, Arizona). What do you believe and what do you think Congress should do about a strong national defense, particularly the navy-building program?

Mr. MAVERICK. I believe in reasonable national defense. We must remember that Russia has an army of 15,000,000 men, the greatest army on the face of the earth. Germany has a great army. All the nations of the world have armies.

I don't believe in cutting our Army too much. But I do believe that we have spent too much on both our Army and our Navy. This idea of building two big battleships seems wrong.

We are going to spend $50,000,000 apiece on them. That is $100,000,000. They are already obsolete, they are unwieldy. If we want to have national defense we could build 1,000 airplanes instead of building 1 battleship. It is cheaper and more effective to build the airplanes.

Our national defense should be for the continent of the United States and should be only for the United States. We shouldn't have an aggressive military attitude.

AND A YOUNG LADY WANTS TO KNOW ABOUT SOIL CONSERVATION

Question (by Miss HELEN F. HORNBECK, Michigan). Mr. MAVERICK, I think all of us here believe in conserving the soil in the Mississippi Basin and all of those important areas of our country. But last spring, the spring of 1936, Congress passed a law known as the Soil Erosion Act. Now, is that a soil-erosion act to conserve our natural resources, or is that just a screen to swindle the American people into thinking that some other kind of an agricultural program is really for soil erosion and soil conservation alone?

Mr. MAVERICK. There are two acts. One concerns only soil conservation and is truly a fundamental and necessary act. It is doing the greatest work in the United States of America. The head of that unit is H. H. Bennett, a very capable man who knows a great deal about the natural resources.

The other act which you say, or indicate, is a swindle is also called Soil Conservation Act. Frankly, it was passed to take the place of the Agricultural Adjustment Act. The purpose was to write an act which was constitutional and necessary for the farmers of this country. I will not admit that it was a swindle. The point is, according to my opinion, the Agricultural Adjustment Act was not only necessary but constitutional, and three judges said so. Justice Stone, as you will remember, said of the majority that they had only given their opinion on account of their "economic predilections."

Dean SPEIGHT. We have time for one more question.

Mr. MAVERICK. Before that question is put, I want to say that in the old days the speaker always said that "this is an intelligent student body." I didn't intend to say that, but you have asked more intelligent questions than any student body I have talked to so far. So your grade of intelligence is, I should say, A 1. That's a pretty high grade of intelligence, and I hope you will use your brains and keep your courage after you leave college.

Question (by Mr. EDWIN ROME, Pennsylvania). To get back to the question of neutrality for a moment, you say that this country must maintain a strict neutrality despite the loss of world trade. Well, do you think it possible that Congress, especially before an election period, would be able to withstand the pressure groups of foreign exporters, and keep our country on a strict neutrality basis, and take the long run view of things?

Mr. MAVERICK. The situation with reference to neutrality, or rather I should say the maintenance of peace, is better in this Congress than ever before. It is true that preceding the election racial minorities put heavy pressure on Congress. Nevertheless, fair legislation was enacted. On return to my district I talked to Italian-American groups. They had the American viewpoint because their children were in American schools and they wanted no special favors. I do not think that special pressure groups have so much power. The truth is that American people are pretty well agreed that they want mandatory legislation to stay out of war altogether. [Applause.]

Dean SPEIGHT. There remains one question which we shall carry away, I am sure, in our minds: How Mr. MAVERICK ever got into Congress! And there remains also a devout wish on the part of many of us that he may stay there a long time to keep it lively, and also that he may come back on another occasion to Swarthmore. We have greatly enjoyed his visit. [Applause.]

A Continuing Road Program

EXTENSION OF REMARKS

OF

HON. JOHN J. SPARKMAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 25, 1937

ADDRESS BY HON. JOHN J. SPARKMAN, OF ALABAMA, BEFORE THE ALABAMA ROAD BUILDERS' ASSOCIATION

Mr. SPARKMAN. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following address by me before the Alabama Road Builders' Association, in Montgomery, Ala., on February 3, 1937:

Mr. Chairman and gentlemen, I am delighted to be here to talk to you about a matter in which we are all interested, that of a continuing and cooperative road-building program with both the State and the Federal Governments interested and actively engaged in it. It is true that I am a member of the Roads Committee of the House of Representatives, an assignment for which I asked and of which I am proud. However, I am a new member of that committee and a new Member of the National Congress. I do not claim to speak for that committee nor for any member of it other than myself. I choose rather to speak to you as a fellow American and as a fellow Alabaman.

The participation of the Federal Government in road building has not been long in existence. It is true that in the spread of nationalism following the War of 1812 there was some highway activity, and probably other sporadic efforts along that line. But it was not until 1916 that the Federal Government launched a definite plan providing for the use of Federal funds coordinately with the State in the construction of roads. In the Federal Highway Act adopted November 9, 1921, a definite highway program was adopted. A system of roads was adopted consisting of 7 percent of each State's total mileage. This percentage represented the mileage necessary to connect the county seats and main market centers. It totaled 206,000 miles. Since that time the program has steadily grown, and yet much more remains to be done.

Before taking up a discussion of the incompleteness of the work, let me say just a few words justifying Federal participation. There was a time when road building was a purely local matter, and the only possible excuse for the Federal Government to engage in it was for National defense, an excuse not always accepted as sufficient. But that was the "horse and buggy" days when the greatest distance by road covered in a day was only a few miles. I had it vividly called to my attention during last spring's political campaign. A county official told me that when he made his first campaign covering a single county he would leave home on Monday morning and not get back until Friday night. In my campaign, I covered seven counties and spent only 2 nights away from my home. Not many years ago a few miles would have taken a full day's travel. This past summer my family and I spent a night in North Carolina, had breakfast in South Carolina, lunch in Georgia, and supper in Alabama.

The building of highways is no longer a local matter. The construction of the main thoroughfares is not a county or a State matter. It is a national problem, for the use of these highways is not confined to the citizens of any county or State. The main highways are now used by the citizens of the United States. The uniformity necessary for such an adequate highway system tying together interdependent communities, counties, States, and sections can come only from a nationally planned and executed program. More and more has the Federal Government recognized that truth and responded to it. Since June 1933 the Federal Government has appropriated, allocated, and authorized a total of $2,042,921,760 for roads. This huge sum makes amounts spent by the Federal Government for highways during all of the years previous shrink into insignificance.

I said it was far from complete. The Hon. WILBURN CARTWRIGHT, Member of Congress from Oklahoma, chairman of the House Committee on Roads, writing in Scribner's Magazine for December 1936 an article which everyone of you should read if you have not already done so, has the following to say:

"An erroneous impression which is gaining credence among people who are not fully informed is that there are already enough improved roads in America; that the American system of highways is pretty well completed. The facts are quite to the contrary, as was made plain in Washington by the testimony of highway authorities before the House Committee on Roads during March 1936."

In a lengthy hearing before the House Roads Committee held March 11 and 12, 1936, a great many interesting facts and figures were brought to light. Mr. W. C. Markham, executive secretary of the American Association of State Highway Officials, showed in that hearing that in the United States there was a total road mileage of 3,069,000 and that of that mileage 373,000 miles had been improved, leaving an unimproved mileage of 2,696,000. He showed further that of the 373,000 miles improved, only 197,637 miles had been actually hard-surfaced, and that 40,542 miles had been simply graded and drained.

Alabama's showing at the same date does not come up to the national average. For Alabama, there is shown a total mileage of 76,095, of which 5,560 miles had been improved, leaving an unimproved mileage in the State of 70,535. Of the 5,560 miles improved, only 2,494 had been hard-surfaced; 2,922 was untreated gravel; and 144 had been simply graded and drained. Alabama's State system at the same time had a total mileage of 6,470. In this connection, it might be well to say that all of the State systems are growing year by year.

All of these figures are taken from tables prepared by the American Association of State Highway Officials and are as of January 1, 1936. They are made exhibits to the statement of Mr. Markham, appearing before the House Committee on Roads on March 11, 1936.

In that same hearing, Mr. T. H. MacDonald, Chief of the Bureau of Public Roads, Department of Agriculture, showed that the Federal-aid system had a total of 226,000 miles, of which there was a surfacing on about 180,000 miles, but added the following significant statement: "Of that amount, however, about one-half is of the low-cost type that will have to be raised to a higher type."

Again quoting Mr. Cartwright in his article in Scribner's:

"No one can expect that the entire 3,069,000 miles of roads can be paved in the near future from gas taxes, but there is every economic reason why the 373,000 miles of main traveled roads should be paved without delay."

In that same hearing, Mr. McDonald states:

"The second point that seems very important is to answer this whisper we hear occasionally that we have sufficient roads and that we can take a road-building holiday."

Not only have we new roads to build. We have many miles of old roads to rebuild. This may best be judged from the testimony of Mr. McDonald who, in that hearing, made the following statement:

"In the States that are commonly referred to as having completed their roads, there are some of the most difficult and expensive problems ahead that we have anywhere in the United States. Many miles of the roads in the Eastern States, or in the States east of the Mississippi River, were completed 10, 15 or 20 years ago. Many of them are still "horse and buggy" roads. In those States a large mileage of main roads are just as far from being complete as in the new State systems. Some of them are farther away; some of the States that have undertaken their improvement programs after the development of motor vehicles have built their roads on better standards and more in harmony with the present-day needs. The older-built roads in many States do not approach the adequacy of the main systems more recently built."

A question was propounded by a member of the committee to Mr. McDonald as follows: "It is a continuing problem?" To which Mr. McDonald answered, "Yes, sir. In this connection, we will never finally finish a complete system of highways, any more than any railroad will finish its construction work."

With reference to its completeness, Mr. Thomas J. Keefe, general manager of the American Motorists Association, testified on March 12, 1936:

"Thus I see construction is still in its infancy * * *. So long as more than 25,000,000 automobiles and trucks use the highways of our Nation, the construction and maintenance of roads and streets will be of major importance among public works * * *. The Federal system of highways is by no means built up to a point that approaches public requirements. There is an impression to the contrary, but it is an erroneous impression. We are far from completeness of our highway system. As a matter of fact, the job is only about half done. To finish and rebuild the existing Federal system of roads in accordance with present standards will require quite as much money as has been invested theretofore upon existing mileage."

I want to call your attention to his statement referring to the existing Federal system, making no allowance in his estimate for the ever expanding bigness of the system.

Even though we might succeed in completing our main thoroughfares, the Government is becoming more and more responsive to its obligation to help improve secondary roads. It has been only in the last few years that any notice has been given to "farm-to-market" roads. Three great service charges borne by agriculture are: transportation, taxation, and interest. It is estimated that it costs the American farmer $1,000,000,000 a year to get his product to the ultimate consumer. No small part of this cost is the result of poor road systems over which his marketing must be done.

To quote Mr. L. J. Taber, master of the National Grange, "The farmer is entitled to use the cheapest and most efficient method of transportation that modern science and development can give to him."

Despite our great highways connecting large cities, our continental systems, or any other systems, unless the farmer can use them for marketing his products they profit him nothing. Again quoting Mr. Taber:

"No matter how good your highway may be, if the farmer cannot get from the peach orchard to the market, or from the melon patch to the market; if he cannot get from the cotton field to the gin; if he cannot get out to the main highway and on the trunk line to the stockyard from his pen, or toward the ultimate consumer, he is just as much denied this better system of facilities in transportation as though this great far-flung chain of roads did not exist.

"So agriculture insists upon the building of farm-to-market roads for the reasons I have indicated, and for still another reason—the farmer is entitled to this type of service."

I believe we all agree with Mr. Taber that the farmer is entitled to this service and that the Government of the United States should see that he gets it.

There are approximately 5,000,000 motor vehicles owned by farmers who are not now enjoying the advantages of improved roads and who are compelled to endure the hardship of marketing their crops when the weather permits, regardless of price range or glutted markets. Two million miles of his roads continue to be mud roads, passable in good weather but not to be depended upon throughout the year. The social welfare of rural communities has always been hindered by the lack of transportation. I, for one, believe that we should open up those rural communities and give to the farmer some of the social and cultural advantages and opportunities in life.

Of course, there are a great many things demanding expenditure of effort and money in a complete highway system. I cannot hope to cover all of them in this brief time. There is one other, however, that I should like to mention, and that is the matter of making our highways safe. The motorist is, and of a right ought to be, aroused by the realization of the tremendous accident bill he is paying. Statistics show that this accident bill has reached the terrifying total of more than $1,500,000,000 annually and has exacted a still greater cost in the lives of 37,000 and injuries to more than 1,000,000. All of this, of course, cannot be charged to a lack of modern highways, but a very great part of it is directly due to that lack.

I quote again from Mr. Cartwright's article in Scribner's:

"In a recent address before a conference of the National Safety Council in Chicago, Paul G. Hoffman, president of the Studebaker Corporation, declared that highway engineers have proved that it is possible to build highways which are almost accident-proof, and pointed to a number of specific examples of such roads. These, he said, all demonstrated conclusively that modern highway construction can give both safety and reasonable speed. Certainly there is every justification for enthusiasm for the contribution that engineering can make to highway safety through a program of street and highway modernization.

"The pitiable aspect of this situation", Mr. Hoffman continued, "is that our highway engineers know how this job should be done, but it takes money to do it, and during the past 5 years hundreds of millions of tax money taken from motorists for highway construction have been diverted to other uses. We have witnessed time and again the sad spectacle of public officials who have deplored the increase in accidents and at the same time encouraged diversion of highway funds which, if expended on modernization, would have saved hundreds of lives."

Earlier in this discussion I called your attention to the fact that the Federal Government had spent an enormous amount in the last 4 years for highway building and improvement. There is one point that I want to call to your attention, and that is that this immense amount of money has been paid by the motoring public. Statistics show that the motorists have paid in taxes and levies of different kinds an amount approximately equal to the amount returned in the way of highways.

There has grown up a definite feeling among the people responsible for these appropriations, allotments, and authorizations; that money collected from road users in the form of taxes of various kinds should go toward the construction, improvement, and maintenance of highways. As a matter of fact, this is written into the law as a statement of public policy. I quote from section 12 of the Hayden-Cartwright Act of 1934, as follows:

"Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least the amounts now provided by law for such purposes in each State from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators of all kinds for the construction, improvement, and maintenance of highways and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes, under such regulations as the Secretary of Agriculture shall promulgate from time to time: *Provided*, That in no case shall the provisions of this section operate to deprive any State of more than one-third of the amount to which that State would be entitled under any apportionment hereafter made for the fiscal year for which the apportionment is made."

The Hayden-Cartwright Act of 1936 again made available the sum of $125,000,000 a year for the fiscal years 1938 and 1939, said sums to be apportioned among the States and to be matched by them. Some of these States have found it difficult, if not impossible, to match the full amounts allotted to them under this act. Foreseeing such a happening, section 1 (d) provides:

"If within the fiscal years 1936 or 1937 the Secretary of Agriculture shall find with respect to any State that the proceeds of all special taxes on motor-vehicle transportation, as referred to in section 12 of the act of June 18, 1934 (48 Stat. 933), are applied to highway purposes as defined in said section and shall further find that after having so applied such proceeds to such highway purposes other than construction there will be insufficient balance remaining for construction with which to match all or any part of the regular Federal-aid road funds apportioned to such State for either or both said years, respectively, in accordance with the provisions of the Federal Highway Act of 1921, as amended and supplemented, all, or such portion, of such apportionment as the State is unable to match shall be available for expenditure in such State in accordance with said Federal Highway Act without being matched by the State with State funds."

I find upon inquiry in the office of the Chief of the Bureau of Public Roads that only two States have had their applications for the benefits under this section approved. These are Arkansas, whose application was approved in full, and North Dakota, whose application was approved in part.

I come now to the part that particularly affects Alabama, and about which I am particularly concerned. I find that Alabama has at present an unobligated balance of $4,813,298, consisting of the following items:

Regular Federal aid	$4,468,597
Public works, 1934–35	44,334
Works Program, highways	80,310
Works Program, grade crossings	220,057
	4,813,298

The last three items, of course, do not require matching by the State, but the large unobligated balance of $4,468,597 must be matched, and of this sum, I am informed, under the terms of the present law, $1,864,000 must be matched before June 30 or it will be lost to us.

The above figures, of course, do not take into consideration the 1938 apportionment of $4,212,802, consisting of the following items:

Regular Federal aid	$2,664,693
Secondary roads	532,939
Works Program, grade crossings	1,015,170
	4,212,802

The last item does not require matching by the State, but the first two items do.

Upon inquiry as to the eligibility of our State to receive its funds under the provision of Section 1 (d) of the Hayden-Cartwright Act of 1936, I am informed that we most likely cannot qualify, because we are charged with diverting road-users' taxes from highway purposes. I am not in position to give the answer nor to state a remedy. Legislation has been suggested providing for direct grants to the States for the purpose of matching these highway funds. Tying such a proposal in with relief labor, the provision might be attractive. Another proposal has been that the time be extended within which the State is required to match the funds. I repeat that I am not capable of suggesting methods or remedies. I simply state to you the facts and figures as I have found them.

Now, it is not my place to invade the province of the Legislature of Alabama and to tell you what to do nor to suggest legislation to you. I have been informed, however, since coming here that a constitutional amendment has been prepared for the legislature to propose to the people of Alabama. It is not for me to comment on that measure. But I should like to remind you that under the present system of diverting these funds to purposes other than highway purposes our State is subject to a double penalty. First, under section 12 of the Hayden-Cartwright Act of 1934, which I quoted to you above, Alabama stands to be penalized up to one-third of her share or apportionment when it is originally made each year. And then we are denied the privilege of drawing down our share without matching it when unable to do so in accordance with section 1 (d) of the Hayden-Cartwright Act of 1936. We are now in the position of losing a large part of our apportionment because of our inability to match it.

Now, in concluding, let me say that I believe that we should keep constantly alive an active and energetic road-building program, educating our people, and particularly the motoring public, upon whose shoulders falls the task of building our highways, to the fact that it is an unfinished and ever-continuing program. It is a program in which we all should be interested, because it touches the everyday life of each and every one of us. Quoting again Mr. McDonald, Chief of the Bureau of Public Roads:

"I doubt if there is any single operation of a public character, in which both the State and Federal Governments participate, that is carried on as universally with the same general objective in view as the construction and maintenance of the major public highways."

Silver Buying Policies Still Ineffective

EXTENSION OF REMARKS
OF
HON. PAUL J. KVALE
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES

Thursday, February 25, 1937

ARTICLE FROM THE NEW YORK SUN, JANUARY 4, 1937

Mr. KVALE. Mr. Speaker, in view of the varied and widely different opinions expressed regarding the currency problem, particularly as it relates to the coinage of silver, I ask the privilege of including under leave to extend my remarks in the RECORD, an article on the subject from the pen of a former Director of the United States Mint, now vice president of the National City Bank, which, as you well know, is not generally known as a radical institution. This article, which was printed in the New York Sun of January 4, while in conflict with my personal views in many respects, throws some interesting light on the subject. It reads as follows:

[From the New York Sun of Jan. 4, 1937]

SILVER BUYING POLICIES STILL INEFFECTIVE—YEAR'S PURCHASES BY UNITED STATES OFFSET BY CONTINUED GOLD IMPORTS—1,900,000,000 OUNCES HELD—OUTPUT OF METAL IS INCREASED—RESTORED CONFIDENCE OF CHINESE NEEDED

By George B. Roberts, vice president, National City Bank

Developments in silver during 1936, while less spectacular than those in 1935 and 1934, have been important none the less. They have included (1) readjustment of the buying program of the United States Government, limiting purchases other than those of domestic silver to metal offered in accordance with specific agreements with foreign governments, (2) continued demonstration of the unworkability of the Silver Purchase Act, (3) stabilization of the Chinese currency on a managed basis, (4) recovery of silver production to predepression levels, and (5) economic improvement in silver-using countries.

The silver-purchase program of the United States may be considered as falling roughly into three phases. The first extended from August 1934, when the silver-purchase program was inaugurated, to April 1935. During this period the Treasury, acting under continuous pressure from Congress, pursued an aggressive buying policy, as a result of which the price of silver rose rapidly to 81 cents an ounce, with disturbing repercussions on the monetary systems of China, Mexico, and other silver-using countries. The second phase, commencing with the suspension of aggressive Treasury bidding in May 1935, and lasting until the abandonment of the silver standard by China in the following November, may be characterized as the period of support. During this period the Treasury was called upon to absorb huge quantities of silver in the effort to bolster up an artificial price structure in the face of a continuous flow of silver smuggled out of China and selling by foreign speculators, who had been disappointed by the Treasury's failure to push prices on up to the statutory limit of $1.29 an ounce. With the final abandonment of the silver standard by China, the purchase program entered its third phase, characterized by withdrawal from open bidding in world markets and inauguration of the program of buying agreements.

As a first step in the new program, the Treasury in January entered upon an agreement with Mexico consenting to buy newly mined silver from the National Bank at the world price, and followed with a similar agreement with Canada in March. In May an arrangement was concluded with China whereby the Treasury agreed to take silver from the Chinese Government and in return to provide dollar exchange or gold in New York to be used for support of the yuan. After the withdrawal of the United States from the London silver market in December 1935 the price dropped from the previously pegged level of 65 cents an ounce to 44¾ cents, where it has held during most of the past year. The official buying price for new domestic production has remained unchanged at approximately 77½ cents ever since April 1935.

STATUS OF THE PURCHASE PROGRAM

Cost of the silver purchase program during 1936 may be estimated at about $240,000,000, for which we apparently received around 360,000,000 ounces of metal. Domestic silver purchases evidently cost about $46,000,000, covering 60,000,000 ounces, or thereabouts. Silver imports for the first 11 months of the year were valued at over $180,000,000, covering 190,000,000 ounces of bullion silver and $60,000,000 worth of foreign coin, or a total of about 300,000,000 ounces of foreign silver.

Altogether, since August 1934, we evidently have spent in "doing something for silver" over $700,000,000, of which the cost of the silver acquired abroad probably has been nearly $600,000,000. For this outlay the Treasury apparently has acquired approximately a billion ounces of silver abroad and over 200,000,000 ounces at home. Combined with our old holdings of silver bullion and metal in subsidiary coinage and silver dollars in circulation, our total monetary silver stock must now be in the neighborhood of 1,900,000,000 ounces.

Approximate status of silver purchases

[000,000 omitted]

	As of July 1934	Year ending— December 1934	December 1935	November 1936 [1]
Gold holdings	$7,931	$8,238	$10,068	$11,162
Needed silver holdings	$2,643	$2,746	$3,356	$3,720
Needed silver holdings (ounces)	2,134	2,213	2,596	2,877
Treasury purchases (ounces):				
Domestic silver	----------	21	38	60
Nationalized silver	----------	111	1	----------
Foreign purchases	----------	150	514	300
Total	----------	282	553	360
Cumulated	----------	282	835	1,195
Total holdings	[2] 726	1,008	1,561	1,921
Silver still needed	1,408	1,205	1,035	956

[1] Figures for 1936 estimated.

[2] Includes approximately 238,000,000 ounces in the form of subsidiary coin and silver dollars in circulation.

And still we have not realized the objective of the Silver Purchase Act which was to acquire a silver stock having a monetary value equal to one-third of the value of the gold stock. The accompanying table shows that, despite our huge purchases over the past 2½ years, we still have nearly a billion ounces to buy, compared with a closely similar total at the end of 1935, and about 1,400,000,000 ounces at the time the Silver Purchase Act began to operate. In other words, not only have we made almost no progress in satisfying the requirements of the act during the past year, but we still have about two-thirds as much silver to buy as we had in the very beginning.

The reason, of course, lies in the continuing imports of gold which have raised steadily the amount of silver needed to achieve the required 1-to-3 ratio. This ratio has been a will-o'-the-wisp, keeping continuously out of reach, despite the strenuous efforts made to overtake it. And still the gold keeps coming, requiring for each $1,000,000 of gold an additional 260,000 ounces of silver.

SILVER PURCHASES AND CREDIT

To the extent that the new buying program has meant the withdrawal of the United States from active competition for existing stocks of silver throughout the world, it is unquestionably a great improvement over the previous policy. The inconsistency of con-

tinuing to accumulate silver at a time when the gold stock alone is so large as to constitute a serious problem becomes increasingly clear. In purchasing silver, the Treasury issues money in the form of silver certificates which tends to swell the surplus reserves of the banks at the same time that the Treasury and the Reserve banks are endeavoring to keep excess reserves down by "sterilizing" gold imports and by raising member bank reserve requirements. At the end of November 1936 silver certificates outstanding amounted to $1,211,000,000, compared with $996,000,000 at the close of last year, and $496,000,000 as of the end of August 9, 1934, when the Silver Purchase Act first began to operate.

Moreover, in the general fund the Treasury is still carrying at cost prices a large quantity of silver which could be revalued at the coinage ratio and made the basis for additional currency issues. This silver bullion at the end of November totaled $343,000,000, or (assuming an average cost of something over 50 cents an ounce) approximately 650,000,000 ounces. Were this silver to be revalued at the statutory price of $1.29 an ounce, it would net the Treasury a "seigniorage" profit of at least half a billion dollars, and make possible the issuance of $840,000,000, or thereabouts, of new silver certificates. For the Treasury, however, to put out any such quantity of new money would inflate the currency and add greatly to the problem of excess bank reserves.

The spending of large amounts for foreign silver naturally has affected the exchange markets, as well as our balance of international payments. In addition to causing repercussions in silver-using countries, our program contributed in important measure to the strength of sterling in 1935 (when much of our silver buying was done in London), and in 1936 our purchases have been a factor in the exchange markets for the Chinese and Mexican currencies, and, to a lesser extent, the Canadian. The influence of silver purchases upon our balance of payments has been obscured somewhat by the practice of treating silver imports as a Treasury movement in the official tabulations of the past 3 years. Counting silver in this fashion, the official returns indicate favorable balances on commodity and service account during 1935 and the first half of 1936. However, counting silver imports as a commodity movement, as was the practice up to 3 years ago, the figures would show adverse balances on current account amounting to $128,000,000 during 1935 and $108,000,000 for the first 6 months of 1936.

While our purchases of silver no doubt have added to the buying power of certain foreign countries by giving them an additional supply of dollars, the program, nevertheless, is basically unsound in that the silver that we have been acquiring in such quantities can be put to no good use in this country. It is a mistake to suppose that this silver can be marked up to $1.29 an ounce and counted as part of the country's monetary reserve, as contemplated in the Silver Purchase Act. In the event of an adverse balance of payments resulting in an outflow of funds, this silver could never be sold at anything like such values, hence is an element of weakness in the currency.

INCREASED SILVER PRODUCTION

Demand for and supply of silver were closely balanced during the past year, owing largely to the purchases by the United States Treasury of domestic, Canadian, and Mexican production, as well as such silver as the Chinese Government had for sale in connection with its currency stabilization scheme. Total new production probably was up to the predepression level of 250,000,000 ounces, compared with 216,000,000 ounces produced in 1935 and 164,000,000 ounces in 1932.

The high domestic price of silver and the expanding output of nonferrous metals, of which silver is a byproduct, have been the chief reasons for the expansion of the United States silver production in 1936. Judging by 10 months' figures, this country mined more than 60,000,000 ounces, or as much as in 1929. Canada and a number of other countries are also producing as much as in 1929, but Mexico, the world's largest silver producer, is still about 25,000,000 ounces behind the predepression records of 105,000,000 to 110,000,000 ounces. It is quite probable that when the output of nonferrous metals is again restored to its former high levels the annual supply of new silver will reach 300,000,000 ounces. In other words, the encouragement given to silver mining by the United States silver policies, together with the larger output of gold, of which silver is an important byproduct, may be responsible for adding at least 40,000,000 ounces annually to the previous record output of silver.

Supplies of secondary silver appearing on the free market in 1936 were limited to additional demonetized coin from Hong Kong, where the silver standard was suspended in November 1935, and to sales of silver from the Indian treasury, Belgium, and possibly Spain. With the decline in the price of silver below 45 cents, smuggled silver from China has no longer been an important factor, while such silver as the Government had to sell was taken, as already stated, by our Treasury.

Hence, the total supply of all silver during the year must have been considerably smaller than in 1935, when, as Handy & Harman estimated, about 622,000,000 ounces were thrown on the world market. During the first 10 months of this year London handled about 160,000,000 ounces of silver, of which more than half was taken by British India, which has been the chief support of the open market. During the first 2 months the United States Treasury took about 60,000,000 ounces from London, which undoubtedly had been contracted for earlier.

Resumption of silver importations by India during the past year, while probably due chiefly to the relative cheapness of silver and dearness of gold, no doubt has reflected also the improved economic situation of that country. Good crops and better prices have generally increased the purchasing power of the peasantry. Of late, the absorption of silver by the interior has been less active, resulting in an accumulation of stocks in the hands of importers and speculators, but this probably is a temporary condition.

China, the largest user of silver before the depression, has not yet reentered the market, but there also economic conditions have been gaining. The past year, for the first time in a long period, China has had uniformly good crops, with no serious floods; and the better returns for agriculture, together with the devaluation and stabilization of the currency, have had a favorable effect upon business. Some progress has been made in currency unification in areas under Nanking control, and extensions of transportation facilities has been gradually bringing the various parts of the country closer together. As a result, the national unity has been steadily advancing, until the recent incident in Shensi involving the capture and later release of the Generalissimo Chiang Kai-shek, the full import of which is not apparent at this writing.

Chinese recorded imports during the first 10 months declined 2 percent, compared with those in the same period of last year. Recorded exports advanced 27 percent, thus reducing the recorded surplus of imports from 337,000,000 yuan in 1935 to 200,000,000 this year. Because of the extensive smuggling into North China and unrecorded Government purchases, the import trade balance unquestionably has been higher than that indicated by the figures. However, the volume of immigrant remittances, the principal item offsetting China's import trade balance in past years, appears to be expanding along with the improvement in the economic condition of Chinese living abroad.

In view of the fact that China and India long have been the principal markets for silver, conditions in those countries manifestly will be of great importance in determining the course of silver prices. In India, demand for silver already has reasserted itself, as noted above. To what extent the demonetization of silver has affected the habits of the Chinese with respect to silver is not yet clear. On one hand, the reports indicate that the use of bank notes and token currency is spreading even in the remoter regions of the country, and that silver coins are continuing to come out of hoards. On the other hand, freedom for dealing in silver has not yet been restored. Moreover, any serious political disturbance or unwise monetary policy on the part of the Government might still revive the demand for hard money. In general, however, with greater prosperity, it seems probable that China will need more silver, either for subsidiary coinage or currency reserves. The restoration of the silver standard, a possibility which, as some authorities believe, should not be altogether disregarded, would, of course, greatly expand the demand for silver. However, to adopt such a step, the Chinese would have to be thoroughly convinced that silver and their entire economy would not again be subject to such influences as in 1934 and 1935. Evidently, it is to the interest of silver producers and of the United States Government, as owner of large silver stocks, to cooperate wherever possible in restoring the confidence of the Chinese people in silver.

Kentucky Letters Regarding Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. M. M. LOGAN

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Friday, February 26 (legislative day of Wednesday, Feb. 24), 1937

LETTERS FROM SAMUEL M. WILSON, WILLIAM W. CRAWFORD, AND LAURENCE B. FINN, OF KENTUCKY

Mr. LOGAN. Mr. President, I ask unanimous consent to to have printed in the RECORD three letters from outstanding lawyers of Kentucky, one from Samuel M. Wilson, of Lexington, Ky.; another from William W. Crawford, of Louisville, Ky.; and the third from Laurence B. Finn, of Bowling Green, Ky., all relating to the Supreme Court.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WILSON & HARRISON,
Lexington, Ky., February 17, 1937.

Hon. M. M. LOGAN,
United States Senate, Washington, D. C.

MY DEAR SENATOR LOGAN: At the outset, let me ask your patient and serious consideration of what I am about to write, for it concerns a subject in which I and many other Americans are deeply interested, and I have never in my life been more in earnest about anything comparable to it.

When news of the President's astounding proposal in regard to the Supreme Court and the judges of inferior Federal courts was first heralded to the country, my first impulse was to wire you an immediate and solemn protest and urge your instant and

uncompromising opposition to the passage of the revolutionary measure. But the more I thought about it the more it seemed desirable, in voicing my disapproval of the monstrous proposition, to try to offer some adequate reasons for such disapproval. It also struck me as the proper thing, in the circumstances, to give you and other congressional representatives of the people time to examine and weigh the proposal for yourselves, and thus see if there is not enough virtue, steadfastness, and independence in the national legislature to check and thwart high-handed and unwarranted invasion of our constitutional system of government by the Chief Executive. Sufficient time, I think, has now elapsed for Senators and Congressmen, particularly those who are not mere "yes" men and are known for their intelligence, fidelity, and backbone, to have recovered from the first shock of the startling proposal, to have gotten their bearings, and to have formed some more or less decided opinions as to the viciousness and invalidity, as well as the inexpediency, of the unprecedented proposal.

While I have not as yet seen any published expression of your individual views, I feel sure you are in the thoughtful and self-reliant class, to which I have referred, and that, at all events, you are not going to be swept off your feet by mere partisan appeal. Whatever your deliberate opinion may be about the proposal, as one of your constituents, as well as a friend and well-wisher, I think it my duty to let you know how deeply shocked and alarmed I have been at the President's radical proposal with respect to the Supreme Court, for I can do no otherwise than look upon it as the most dangerous and deplorable assault upon our long-established system of free constitutional government that, in a time of peace, could possibly be imagined.

The papers have already been filled with arguments, pro and con, and a cleavage in Congress has to some extent developed, but I shall attempt to discuss the question, so far as possible, in my own way and by citing only such authorities as have come within the range of my own investigation and study, trusting it may all find favorable response with you.

To begin with, let me say that the separation of the powers of government under our Constitution (as under any truly free and representative form of government) into the three familiar branches or departments is so much a matter of course and is so generally taken for granted as a necessary and fundamental axiom of free government that it cannot be surprising to find that comparatively few lawyers and very few layment are ready, at a moment's notice, to explain why it is they instinctively feel that this principle lies at the very root of ordered freedom under a republican form of government, defined and safeguarded by a written constitution. Hardly ever, so far as my knowledge goes, has the doctrine or principle ever been called into question since this Government of ours was founded, and rarely has it even been touched upon in debate. For the past 150 years at least it has in this country simply been accepted and acted upon as one of the essential and incontestible principles of free government, and I feel sure that no patriotic American ever dreamed that, in this year of grace of the twentieth century, this sacred and immutable principle would require defense or vindication. As native-born sons of the Commonwealth and as free citizens of the united Republic, we have all in a sense imbibed this principle, as we did our mother's milk in infancy. Regardless of politics, the President, it seems to me, should have been the very last man in America to have ever impugned or contemned this vital principle. The consummation of his design would not only dishonor and degrade the Supreme Court; it would at once, ex proprio vigore, detract from the dignity and authority of every tribunal, both State and Federal, in the whole country. It is not only utterly bad, as applied to the Federal judiciary, but if carried out would set a dangerous precedent and furnish a disastrous example to each of the 48 States in the Union, and, with the breach once made in this supreme bulwark of our liberties, it would not be long until every vestige of free government would vanish from this "land of the free and home of the brave." My dear Senator, I don't have to tell you that "eternal vigilance is the price of liberty", and for the Attorney General of the United States to heap scorn upon all who oppose this iniquitous measure by asserting that only those oppose it who are in favor of the status quo is merely to adopt the cheap device of abusing one's adversary when better arguments fail. Of course, we are in favor of maintaining the status quo when indispensable vital principles are involved, and so are all true Americans who love their country and its priceless institutions. Truth, honesty, virtue, loyalty, and liberty are part and parcel of the status quo, and who but a miscreant would surrender such things for fear of being called a "conservative"? The Ten Commandments, which are as old as the hills, are themselves an important part of the status quo, but because that is so must we repudiate them and discard them in order to keep up with the lawless procession in this enlightened (?), "liberal" (?), and progressive (?) age? It makes one sick to listen to such puerile and unworthy arguments as those unblushingly advanced by Mr. Cummings.

But why all this to-do by myself and others who revolt at this new and unexpected threat to the sanctities of the status quo? For answer "let us look at the record" and see what some of the acknowledged sages and seers of liberty and democracy have said on the subject.

In 6 Ruling Case Law, pages 144–145, sections 144–145 (published in 1929), will be found the following succinct statement of the doctrine of the division of the powers of government between the three several departments:

"144. General principles: One of the fundamental principles of the American constitutional system is that the governmental powers are divided among the three departments of government, the legislative, executive, and judicial, and that each of these is separate from the others. The principle as to the separation of the powers of government operates in a broad manner to confine legislative powers to the legislature, executive powers to the executive department, and those which are judicial in character to the judiciary. The Supreme Court of the United States has announced that so far as these powers are derived from the Federal Constitution the departments may be regarded as independent of each other, but beyond that all are subject to regulations by law, touching the discharge of the duties required to be performed. It has also been said that the mere apportionment of sovereign powers among the three coordinate branches of the Government, without more, imposes upon each of those branches the affirmative duty of exercising its own peculiar powers for itself, and prohibits the delegation of any of those powers, except in cases expressly permitted; and that in making the constitutional distribution of the powers of government, the people assumed that the several departments would be equally careful to use the powers granted for the public good alone. Accordingly, the doctrine is generally accepted that none of the several departments is subordinate, but all are coordinate.

"145. Importance of separation of powers of government: It has been said that this principle of the separation of the powers of government is fundamental to the very existence of constitutional government as established in the United States, and it has been referred to as one of the chief merits of the American system of written constitutions. Although, as will later appear, there may be a blending of powers in certain respects, in a broad sense the safety of our institutions depends in no small degree on the strict observance of the independence of the several departments, each thereof being a check upon the exercise of its power by any other department. Accordingly, a concentration of power in the hands of one person or class is prevented, inasmuch as it is regarded as a condition subversive of the Constitution, and the chief characteristic and evil of tyrannical and despotic forms of government."

In *Wayman* v. *Southard* (10 Wheaton 1, 46; s. c. 6 Law Ed. 253, 263), Chief Justice Marshall said:

"The difference between the departments undoubtedly is that the legislature makes, the executive executes, and the judiciary construes the law."

In *Kendall* v. *United States* (12 Peters 524, 610; s. c. 9 Law Ed. 1181, 1215), the Supreme Court said:

"We shall not, therefore, enter into any particular examination of the line to be drawn between the powers of the executive and judicial departments of the Government. The theory of the Constitution undoubtedly is that the great powers of the Government are divided into separate departments; and so far as these powers are derived from the Constitution, the departments may be regarded as independent of each other."

Said the Supreme Court, by Chief Justice Waite, in *Union Pacific R. R. Co.* v. *United States* (Sinking Fund cases) (99 U. S. 700; s. c. 25 Law Ed. 496, at 501):

"One branch of the Government cannot encroach on the domain of another without danger. The safety of our institutions depends in no small degree on a strict observance of this salutary rule."

In the case of *Kilbourn* v. *Thompson* (103 U. S. 168, 190–192; s. c. 26 Law Ed. 377, at 387), the Supreme Court, by Mr. Justice Miller (a famous Kentuckian), said:

"It is believed to be one of the chief merits of the American system of written constitutional law that all the powers entrusted to governments, whether State or National, are divided into the three grand departments of the executive, the legislative, and the judicial. That the functions appropriate to each of these branches of government shall be vested in a separate body of public servants, and that the perfection of the system requires that the lines which separate and divide these departments shall be broadly and clearly defined. It is also essential to the successful working of this system that the persons entrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other. To these general propositions there are in the Constitution of the United States some important exceptions. One of these is that the President is so far made a part of the legislative power that his assent is required to the enactment of all statutes and resolutions of Congress.

"This, however, is so only to a limited extent, for a bill may become a law, notwithstanding the refusal of the President to approve it, by a vote of two-thirds of each House of the Legislature.

"So, also, the Senate is made a partaker in the functions of appointing officers and making treaties, which are supposed to be properly executive, by requiring its consent to the appointment of such officers and the ratification of treaties. The Senate also exercises the judicial power of trying impeachments and the House of preferring articles of impeachment.

"In the main, however, that instrument, the model on which are constructed the fundamental laws of the States, has blocked out with singular precision, and in bold lines, in its three primary articles, the allotment of power to the executive, the legislative, and judicial departments of the Government. It also remains true, as a general rule, that the powers confided by the Constitution to one of these departments cannot be exercised by another.

"It may be said that these are truisms which need no repetition here to give them force. But while the experience of almost a century has in general shown a wise and commendable forbearance in each of these branches from encroachments upon the others, it is not to be denied that such attempts have been made, and, it is believed, not always without success. The increase in the number of States, in their population and wealth, and in the amount of power, if not in its nature, to be exercised by the Federal Government presents powerful and growing temptations to those to whom that exercise is entrusted to overstep the just boundaries of their own department and enter upon the domain of one of the others, or to assume powers not entrusted to either of them."

Hon. Charles Warren, in his Congress, the Constitution, and the Supreme Court (revised edition, 1935), at pages 22–24, says:

"What are the chief principles of the Constitution?

"First, there is this division of the Government into three branches—the executive, the legislative, and the judicial—each to remain independent of the other. This principle was very familiar to the statesmen of the Colonies and, as already pointed out, was a cardinal feature of all the plans suggested for the new Government between 1781 and 1787. * * *

"Many writers and statesmen have said that the framers of the Constitution adopted Montesquieu's theory as to the division of governmental powers, but such is not strictly the case. These framers were practical men, working on a practical problem. They were not constructing a government on any set of definite or logical theories. They had encountered evil or unfortunate conditions in the past in their royal and state governments, and they planned now to avoid a renewal of those conditions by adopting theories to fit the circumstances. So far from intending each of the three branches to be wholly coordinate, they decided to curb any excess of power in any one branch by balancing it with an effective power in another. Where they had experienced an evil in an omnipotent legislature, they checked it; where they had actually felt the oppression of a too strong executive, they checked him; where they believed a court had been too independent, they checked it."

Further discussion of the subject by this able author will be found at pages 246 to 252 of the same work.

The separation or distribution of primary governmental powers and functions is somewhat fully discussed in Twelfth Corpus Juris, pages 802 to 803, section 234, and page 808, section 241, and in Cooley on Constitutional Limitations (8th Ed., vol. I, pp. 175 to 188).

Under Checks and Balances (vol. I, p. 388), of the Cyclopedia of Political Science, by John J. Lalor (1882), it is said:

"There are in every State three classes of powers—the legislative power, the executive power, and the judicial power. * * * We must, therefore, regard the proper separation of powers as the first condition of liberty, and the just equilibrium of power as the only means of preventing liberty from degenerating into license or anarchy, or from being destroyed by despotism.

"* * * The judicial power, charged with the application of the laws, the settlement of differences between individuals, and the punishment of offenses and crimes against persons or the State, ought to be made completely independent of the legislative power, which is easily done, and as independent as possible of the executive power, a result of more difficult attainment. At all events, the principle of the necessity of a separation between the judicial power and that of making and administering the laws is generally accepted and generally respected, except where mere arbitrary power prevails; were this principle not recognized, all notion, all possibility, of a just balance between the powers, confounded or separated by fictitious lines of demarcation, would be virtually done away with."

A very able and interesting, if somewhat philosophical, discussion of the general subject of the supremacy of written constitutions will be found in the article by Edwin S. Corwin, of Princeton University, entitled "'The 'Higher Law' Background of American Constitutional Law" (Harvard Law Review, vol. XLII, no. 2, pp. 149–185 (December 1928), and no. 3, pp. 365 (January 1929)). To be appreciated, this article should be read in its entirety. For present purposes I direct attention to but a single extract therefrom, which is as follows (42 Harvard L. Rev., p. 183):

"The colloquy thus imagined by Fortescue was enacted in solemn earnest 130 years later. On Sunday morning, November 10, 1608, Coke and 'all the judges of England and the barons of the Exchequer' faced James I at Hampton Court to confute the notion which had been instilled in him by Archbishop Bancroft that, inasmuch as the judges were but his delegates, he was entitled to decide cases in his own person. 'The judges informed the King', Coke records, 'that no King after the conquest assumed to himself to give any judgment in any cause whatsoever, which concerned the administration of justice within this realm, but these were solely determined in the courts of justice. * * *' To this the King answered that 'he thought the law was founded on reason, and that he and others had reason, as well as the judges'; but Coke pointed out the fallacy of this view in the following words:

" 'True it was that God had endowed His Majesty with excellent science and great endowments of nature; but His Majesty was not learned in the laws of his realm of England, and causes which concern the life, or inheritance, or, goods, or fortunes of his subjects, are not to be decided by natural reason, but by the artificial reason and judgment of the law, which law is an act which requires long study and experience, before that a man can attain to the cognizance of it; and that the law was the golden met-wand and measure to try the causes of the subjects, and which protected His Majesty in safety and peace.'

" 'The King', the report continues, 'was greatly offended', saying that 'then he should be under the law, which was treason to affirm', to which Coke responded in Bracton's words: 'Quod Rex non debet esse sub homine, sed sub Deo et lege.' "

At the foot of this letter will be found an enumeration of articles and notes which have appeared from time to time in the Harvard Law Review that bear upon the general subject of the separation of the powers and functions of government into three branches or departments, viz, the legislative, the executive, and the judicial.

It is generally assumed that the first clear enunciation of the doctrine of the separation of powers was given by the great French writer Montesquieu in his famous work, The Spirit of the Laws, first published in 1745. But, as Mr. Charles Warren has pointed out, this principle had been adopted and incorporated into the charters or constitutions of a number of the American States (notably Massachusetts) several years before the Federal Constitution of 1787 came to be framed. The people of the country, in other words, were widely committed to this doctrine before the Constitution of the United States was either drawn up, recommended for adoption, or ratified by nine of the Original Thirteen States.

De Tocqueville, another eminent French statesman, in his well-known work, Democracy in America, written and published in 1830, used this language:

"The peace, the prosperity, and the very existence of the Union are vested in the hands of the seven Federal judges. Without them the Constitution would be a dead letter; the Executive appeals to them for assistance against the encroachments of the legislative power; the legislative demands their protection against the assaults of the Executive; they defend the Union from the disobedience of the States, the States from the exaggerated claims of the Union, the public interest against private interests, and the conservative spirit of stability against the fickleness of the democracy."

Going back to the father of independence and the founder of the Democratic Party, we find that Thomas Jefferson, writing from Monticello to William C. Jarvis in 1820 (Jefferson's Works, Ford Ex. X, 161), said:

"If the three powers maintain their mutual independence on each other, our Government may last long, but not so if either can assume the authorities of the other."

Writing from Monticello again, to William Johnson, in 1823, Jefferson said:

"To preserve the republican form and principles of our Constitution and cleave to the salutary distribution of powers, which that has established, * * * are the two sheet anchors of our Union. If driven from either, we shall be in danger of foundering." (Jefferson's Works, Ford Ed., X, 232.)

From what precedes, two things, at least, must be obvious: (1) That the principle of the separation of powers is ingrained in the very structure and substance of our constitutional system and has been so from the very foundation of the Government, and (2) that this doctrine of "checks and balances" of centripetal and centrifugal political forces, so to speak, this consistent separation of powers, preserves the integrity and equilibrium of all three powers and serves to prevent the usurpation or absorption of any one set of powers, delegated to a single department of government, by one or both of the other two branches of government, and by that means and to that extent prevents abuses of constitutional authority and protects the rights and liberties of the individual citizens, of the several States, and of the people at large. With Congress subservient to the President, the domination of the Supreme Court by the President, either directly or through Congress, would amount to nothing less than a bloodless coup d'état, the establishment of a virtual autocracy. The President could then say, as did Louis XIV, of France, "L'État, c'est moi"—"I am the state."

In the case of *Gaines* v. *Buford* (1 Dana 481, at p. 505) the Court of Appeals of Kentucky, through Judge Nicholas (writing in 1833), said:

"By an article of the Kentucky Constitution, which is the foundation of the whole superstructure, the powers of government are divided into three distinct departments, and confided to separate bodies of magistracy; those which are legislative to one, those which are executive to another, and those which are judiciary to a third, with a declaration that no person or persons being of one of those departments shall exercise any power properly belonging to either of the others. It is of the last importance to the purity of our institutions that this division of powers should be preserved and this barrier against the encroachment of one department upon another should be properly kept up."

In the case of *Burkett* v. *McCarty* (10 Bush, 758), decided in 1874, in an opinion by Judge Robertson, the same court has said:

"The most vital principle of the Constitution is that which divides the three vital elements of all sovereignty—legislative, judiciary, and executive—among three separate organs of the people, and prohibits each from exercising functions not allotted to its sphere; and consistently with this conservative theory the legislature alone can define offenses and prescribe the punishment, and the judiciary alone can adjudge the accused guilty."

Said Mr. Justice Brandeis (the oldest member of the Supreme Court and a liberal of liberals) in his dissenting opinion, in *Myers* v. *United States* ((1926), 272 U. S. 52, 293–295; s. c. 71 Law Ed. 160, 242–243):

"Checks and balances were established in order that this should be 'a government of laws and not of men.' As White said in the House in 1789, an uncontrollable power of removal in the Chief Executive 'is a doctrine not to be learned in American governments.' Such power had been denied in colonial charters, and even under proprietary grants and royal commissions. It had been denied in the Thirteen States before the framing of the Federal Constitution. The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy."

In an address at Hardinsburg, Ky., at the centennial celebration of Breckinridge County, in November 1882, Col. Wm. C. P. Breckinridge said:

"I ought not to omit that, in the very forefront of her Constitution, is another instance of how exact and true was their conception of a free government. All the functions of government can be separated into three great departments, no more and no less: the power to make the law, the power to declare the law, and the power to execute the law—the legislative, the judicial, the executive functions. These exhaust governmental functions and powers.

"When they are united in one person, and he with power to make, declare, and execute his will as law, and at his pleasure, it is unlimited despotism. If he agree to first make the law, and only execute that, a great gain has been made. If the power to declare the law is taken from him, an immense stride has been made toward protection. If the power to make the law is taken from him, we have the beginning of a free government. Our fathers, in their constitutions of the Original Thirteen States, and of the Federal Constitution, following the general example of the British Constitution, separated these great powers and functions and made the powers of these departments separate. George Nicholas and the Convention of Kentucky went one step further, and for the first time in the history of political science that I am aware of, separated the persons as well as the powers. We are so accustomed to these simple sentences that we forget how valuable they are and how necessary to the preservation of pure and free institutions.

"Other States have adopted in ipsissimis verbis these sections:

"'Article I, First Kentucky Constitution

"'SECTION 1. The powers of government shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit, those which are legislative to one, those which are executive to another, and those which are judiciary to another.

"'SEC. 2. No person or collection of persons, being of one of these departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly permitted.'"

The importance of this constitutional separation of powers has recently been touched upon in the opinion and response delivered by Chief Justice Clay for the Court of Appeals of Kentucky on February 4, 1936, *In the Matter of the Request of the House of Representatives for an Advisory Opinion as to the Constitutionality of House Bill No. 222* (262 Ky. 437; s. c. 90 S. W. (2d) 692).

Of course, you are not unfamiliar with the constitutional crisis growing out of the old and new court controversy in Kentucky. In many respects that historic controversy resembled what we are now witnessing throughout the country in the mounting volume of controversy over the President's thinly disguised attempt to pack the Supreme Court. As of possible interest and for convenient reference, I am enclosing herewith a newspaper copy of an address I delivered in 1915 (now some 22 years ago—back in the dark ages of "the horse-and-buggy days", as the President might say) on The Old Court and New Court Controversy in Kentucky. Times change and men change with them, but principles are invariable and truth is eternal.

Not only are the "nine old men" on trial; the whole judiciary system is placed in peril by this latest move of an overambitious or overzealous Chief Executive. The success of the move would inevitably undermine the courts and weaken one of the chief cornerstones of our Government, and at the same time discredit all courts and all judges in the estimation of the entire body of our people. It is doubtful if we would ever recover from this deadly blow thus dealt to our liberties as regulated by constitutions and the laws. May Heaven avert the consummation of this ruthless and indefensible assault upon one of the three coordinate and coequal branches of our National Government. Every impartial and dispassionate thinker must admit that the artifice by which the President seeks to change the composition and complexion of the Supreme Court, even if it be not flatly unconstitutional, is highly inexpedient and would work incalculable mischief. In the existing circumstances it flagrantly violates the theory and the spirit of the Constitution, even if it be not directly contrary to its strict letter, and every sound consideration calls for its decisive defeat. Both the proposal and the arguments advanced to sustain it are dead wrong. By proposing and insisting upon the passage of the bill to "reform"—i. e., to pack—the Supreme Court the President is doing a disservice to his friends and supporters no less than to his political adversaries and opponents. With so many millions having done the same thing, it is nothing to boast of, but I can truthfully declare that I voted for President Roosevelt at the last election, as I did in 1932. I did it not wholly without misgivings, but I did it because I have never in my life voted any other than the Democratic ticket. I voted for you also at the last election, as I did when you were first a candidate and nominee for the Senate. Always I have considered myself a liberal Democrat (with or without a capital D). But I am not a Socialist and I don't want to be made a Socialist against my will or without my consent. Least of all do I want to abandon or junk the time-tested institutions which we have inherited from the fathers and which we have always counted as our most precious possession. This court proposal was not in the Democratic platform, nor was it made an issue or a topic of discussion in the last campaign.

Someone may say this all shows that you distrust the President. In this instance I do distrust him, and if instead of being a mere fallible human being he were an angel of light from heaven and should attempt to circumvent the supreme law of the land by undertaking to do what he now proposes to do I should still distrust him.

As a former incumbent of the bench and as a first-class constitutional lawyer you don't have to be told many of these things to which I have alluded, but my apology for this lengthy communication may be found in the deep concern I feel over the extreme gravity of the impending constitutional crisis and in the thought that for one merely to complain without giving reasons for such complaint is not very convincing.

This is not a question to be decided by a mere count of heads. The thoughtless or uninformed, even though a numerical majority, may easily be led astray by plausible yet fallacious arguments presented with impassioned and partisan fervor and allowing of no sufficient time for thorough debate or for deliberate, candid, and careful consideration. If this mortal wound to the body politic is to be inflicted, let it be done deliberately and not with indecent haste.

Speaking of the thoughtless and uninformed reminds me of a story I once heard of the celebrated Roger Hanson. Addressing a political gathering in Maryland he exclaimed: "I have heard much learned talk about habeas corpus. Why, down in Kentucky where I come from the average citizen never heard those mystical words uttered, and why? Because in all his life he never had any occasion to invoke the protection of a writ of habeas corpus." So I think it is with this sacred doctrine of the separation of powers. Few of our people have ever heard of it and fewer still understand it, because they have never heard it brought into question before.

I must ask your pardon for the extreme prolixity of what I have written. But granting that there may be an excess of verbiage and that here and there a word or a sentence might just as well have been left out, nevertheless in sum this letter not only expresses my own sentiments but the views of many other lawyers of my acquaintance here, both Democrats and Republicans. These men, like myself, are friends, not enemies, of yours, and in their thinking about this subject are actuated only by a sense of duty and responsibility as free citizens of a free Commonwealth.

With kindest personal regards and all good wishes, I am,

Very sincerely yours,

SAM'L M. WILSON.

HARVARD LAW REVIEW—ARTICLES AND NOTES BEARING ON GENERAL SUBJECT OF THE SEPARATION OF THE POWERS AND FUNCTIONS OF GOVERNMENT INTO THREE BRANCHES, LEGISLATIVE, EXECUTIVE, AND JUDICIAL, WITH SOME REFERENCE ALSO TO JUDICIAL POWER TO DECLARE STATUTES UNCONSTITUTIONAL

Volume 1, pages 234–238. Relation Between Courts and Public in Constitutional Interpretation.

Volume 7, pages 129–156. Origin and Scope of American Doctrine of Constitutional Law.

Volume 17, pages 1–19. Supremacy of the Judiciary in the United States and in Australia.

Volume 26, pages 744, 753. Doctrine in American Form of Government.

Volume 27, pages 45–67, 300–303. Power of Courts to Declare Statutes Unconstitutional.

Volume 29, pages 592–595. Criticism of the Doctrine of Separation of Powers and Functions as Set Forth by Montesquieu.

Volume 33, page 127. Judicial Control Over Legislatures as to Constitutional Question.

Volume 35, pages 127–153. Judicial Review of Administrative Action by Federal Supreme Court.

Volume 35, pages 787–796. Theory and Practice.

Volume 37, pages 1012–1058. Basis of the Doctrine and Its Application in Practice.

Volume 40, pages 30–70. Judicial Review of Legislation and Sir Edward Coke, and Status of the Doctrine in America Prior to the Adoption of State and Federal Constitutions.

Volume 42, pages 149–185, 365–409. Judicial Review—"Higher Law" Background of American Constitutional Law.

Volume 45, pages 1271–1273. Power to Declare Legislative Acts Unconstitutional.

CRAWFORD, MIDDLETON, MILNER, & SEELBACH,
Louisville, Ky., February 20, 1937.

Hon. MILLS LOGAN,
United States Senate, Washington, D. C.

DEAR SENATOR: I have faith enough to believe that you will not resent the intrusion of one of the citizens back home about one of the pending questions before the Senate.

I do not know when I have heretofore attempted to write my personal views to any representative of Kentucky.

However, the Court proposal of the Chief Executive is so far-reaching in effect and seems to me so destructive of a system that

has undoubtedly brought America to the foremost place in the world that I feel justified in filing "my petition" with you upon the subject.

As a young man, the financial position of our family was such that the principal recreation which I could afford was reading, and the habit thus acquired has been kept up rather constantly since. After I commenced the study of law I found the greatest satisfaction in works pertaining to semilegal history and a comparison of our system of government with others throughout the world.

I have become convinced that our people, as a whole, whether they be rich or poor, "liberals" or "conservatives", have been benefited more by the checks and balances of the American Constitution than by any other single feature which has been guaranteed to them to make life pleasant and democratic in the United States.

I am strongly opposed to the enlargement of the Court or to the immediate retirement of a majority of the members thereof and their replacement by the executive department of the Government.

First, as to the enlargement: In my humble opinion, instead of expediting business this will have a decided tendency to slow up business, if the work of the Court is to be as well done as the bar and public have thought it has been done in the past. I feel sure that your own experience as a judge of our court of appeals has shown you that it is unfortunate, where the court has so much business, that only one or two of the appellate judges read the record and report to the remaining judges what it contains. No matter how competent or unbiased the single judge may be, it is hardly the kind of review contemplated or desired. On the other hand, if each judge reads the record, it would seem inevitable that the number of cases decided would be less with an increased membership. There have been a number of enlightened articles in the past years on this particular phase of the matter.

Second, as to the immediate retirement of a majority of the members and their replacement by the executive department of the Government: The unparalleled liberty that American citizens have enjoyed and their freedom to hold and express views of their own and their right to live their lives as they see fit within the law has undoubtedly come about, in my judgment, from reading, through the independence of the American judiciary. Thus, while I am not so fatuous as to think that all decisions made by judges are right, I do believe that the people have been benefited by the Court's independence.

The respect that the judiciary, especially the Supreme Court, has had in this country is, to my mind, an unconscious tribute of the people as a whole to the wonderful value of an independent judiciary. The fact that the Supreme Court, as now constituted, has not agreed at all times with the Chief Executive in no way militates against this view. If it must agree with the Chief Executive on all occasions, the Constitution means nothing, because it will be changed by a changing Executive every time the situation is important enough in the opinion of the Chief Executive to need the change he desires.

Waiving the constitutional question as to whether a judge may be required to resign, either actually or in effect, I would have no objection to an age limit being placed on compulsory retirement, so long as it did not affect existing judges under circumstances that seem definitely to point to "packing" the Court for a definite purpose. Once men are placed in the position of getting their jobs because the appointing power wishes something done in a particular way, the independence of and the confidence in the judiciary is shaken to its foundation.

The fact that a constitutional amendment is slow of enactment seems to me to be an advantage rather than a disadvantage. It gives the people an opportunity to think well over what is proposed. If they are in favor of it, well and good. The necessity for any change in legal procedure that has been operating successfully for so many years cannot be so urgent as to deny the people an opportunity of voting on it. But to amend the Constitution, as it has been interpreted for years, by an overnight change in the personnel of the Supreme Court, would seem the surest way to prove to the country that we no longer have three divisions of power, but have lodged it all—executive, legislative, and judicial—in the Executive.

There is another urgent reason that seems to me to be against the proposal.

Complaint is made of the present act concerning "certiorari" instead of the absolute "right of appeal." When Congress is enacting as many measures as are presently being passed, and the States doing likewise, together with private litigation, there is entirely too much litigation to reach, "as a matter of right", a single, final tribunal. The only way to prevent this is by Congress preventing whole classes of cases from being appealed, or allow the work of the Court, no matter how much, to be held within the bonds of reason by use of the selective method. Invariably, where four Justices think the appeal is advisable, certiorari is granted. In many instances it has been granted where three think it is advisable.

The Solicitor General's report for 1934 and 1935 shows that the denials have been in cases of minor importance to the country as a whole or to the fundamental rights of the litigants themselves. The litigants have had not only a trial before the district court but also one before a circuit court of appeals. The State cases that go up go not on certiorari but as a matter of right. I think experience has shown every Federal practitioner conversant with the subject that the present situation is highly satisfactory. If Congress wishes to provide a quick method for the appeal of constitutional cases, well and good. I do not believe the profession, or anyone, would seriously object to that; but Government officials must cooperate, or else it cannot be done.

On the whole, I personally believe that the present method of appeal is thoroughly satisfactory. There are always minor instances where improvement in procedure can be made.

Whether litigation proceeds slowly or fast, as you thoroughly know, depends largely upon the counsel involved, and general laws are not going to expedite litigation if counsel themselves are not keen in expediting.

Americans have enjoyed the greatest liberty in the history of the world, England not excepted, as witness the suppression of a certain character of news relating to the royal family. There must be some reason why this has occurred.

Not necessarily because there is a written constitution enunciating truths of government, but because the checks and balances expressed in it have been so efficient in deterring and prohibiting the exercise of arbitrary power even in the greatest majority. Your own political experience shows you that the majority of today is the minority of tomorrow, and the temporary expedients are the curse of tomorrow. I have always felt that you were a long-time thinker and not given to just solving the problem for the moment without regard to the effect of such solution hereafter.

I hope you can see your way clear to requiring constitutional changes to be made in the method provided in the Constitution. If the changes needed are of a real permanent character, the question of time will be immaterial. If they are not, they will be worked out and settled before the changes come about.

On the other hand, if every time some official of the Government feels the urgent need to accomplish some purpose that seems to him for the time being to be immensely important the Court is to changed and people placed on it that will presumptively reinterpret the Constitution, not only will the checks and balances of the Constitution be destroyed but the faith in the judiciary thoroughly lost.

Respectfully,

WILLIAM W. CRAWFORD.

BOWLING GREEN, KY., *February 12, 1937.*

Hon. M. M. LOGAN,
United States Senator, Washington, D. C.

MY DEAR SENATOR: I am grateful to you for even considering the governmental policies suggested by me to meet the vexing conditions that confront the country growing out of the conflict of the economic theories of a majority of the judges of the Supreme Court of the United States on the one hand and the President and a majority of the Congress upon the other.

I am also pleased that my pamphlet on the power and authority of the Congress and the Federal courts under the Constitution was the subject of discussion between you and Senator NORRIS.

I wish I had more time to devote to public questions. This pamphlet is only the skeleton of the work which has been done and I believe that what I have compiled outside of the pamphlet is really more interesting than that which the pamphlet itself contains.

I note this statement from your letter, with which I thoroughly agree: "I doubt whether it is desirable to deny the Supreme Court the power to pass on the constitutionality of laws, but perhaps there should be some limitation." My pamphlet and my thoughts are so broad in recognizing the appellate jurisdiction of the Supreme Court that I believe the Supreme Court should pass upon the constitutionality of the laws that limit its jurisdiction. I also believe in the judicial powers of the Court being exercised wherever possible, but within its constitutional limitations as prescribed by Congress.

My judgment is that any law of a general character meant to exclude appellate jurisdiction of the Supreme Court would be unwise. Congress would not have the support of public opinion if it attempted to exclude appellate jurisdiction of the Supreme Court in cases involving privileges guaranteed citizens under the Bill of Rights or the right to the writ of habeas corpus.

My ideas are fairly well expressed by some extracts from the dissenting opinion of Justices Moody, Harlan, McKenna, and Holmes in the *Employers' Liability Cases* (207 U. S. 463, 509, 537, 541).

"The Court has never exercised the mighty power of declaring the acts of a coordinate branch of the Government void except where there is no possible and sensible construction of the act which is consistent with the fundamental organic law. The presumption that other branches of the Government will restrain themselves within the scope of their authority, and the respect which is due to them and their acts admit of no other attitude from this Court. * * * But the economic opinions of the judges and their views of the requirements of justice and public policy, even when crystallized into well-settled doctrines of law, have no constitutional sanctity. They are binding upon succeeding judges, but while they may influence they cannot control legislators. Legislators have their own economic theories, their views of justice and public policy, and their views when embodied in written law must prevail."

If you will again refer to my pamphlet you will see that I did not advocate eliminating Supreme Court appellate jurisdiction over any law that involved the rights secured by a writ of habeas corpus, or any personal right guaranteed by the Bill of Rights, or any act involving the taking of private property for governmental purposes without just compensation. What I do maintain is that if it is the opinion of Congress that any act which has been passed or which is about to be passed involves the social or economic policies of the Nation, then the views of Congress should prevail. For as wisely said by these four excellent judges, "The economic opinions of the judges and their views of the requirements of

justice and public policies even when crystallized into well-settled doctrines of law have no constitutional sanctity."

If established public policies relating to the economic and social welfare of the Nation have no constitutional sanctity, then it should not be within the province of the Supreme Court of the United States to hold such laws invalid on the grounds that they are not constitutional. The legislators of the Congress and United States Senate are elected for the purpose of selecting and choosing our economic, political, and social policies and their views of justice and public policies when crystallized into law ought to prevail under our theory of government. And if there is a branch of the Government that refuses voluntarily to stay within its constitutional sphere, then the constitutional power of that branch of the Government whose authority is trespassed upon should be employed "to fence it within" its own constitutional sphere.

Decisions of the Supreme Court of the United States attempting to prevent Congress and State legislators from passing proper rules establishing certain policies to be employed by capital and labor to prevent public calamity by irreconcilable disagreements and conflicts have been the subject of much discussion and complaint. The Supreme Court held in the case of *Lochner* v. *New York* (195 U. S. 45), in substance that there was no reasonable grounds for legislative interference with the liberty of persons or the right of free contract by determining the hours of labor in the occupation of a baker, etc.

This was a State statute and presents an extremely difficult legislative and judicial proposition to handle. But if Congress, in passing a law to regulate and determine the "liberty of persons to contract" concerning wages and hours of labor, should exclude the provisions of the act from the jurisdiction of inferior Federal courts and the appellate jurisdiction of the Supreme Court of the United States on the grounds that it was purely an economic problem of government, such a Federal policy would go far toward preventing the Supreme Court of the United States from holding such State legislative enactments unconstitutional. The Nation and the Congress desire to embrace the judicial philosophy of Justice Holmes who in a dissenting opinion in this case said:

"This case is decided upon an economic theory which a large part of the country does not entertain. If it were a question whether I agreed with that theory, I should desire to study it further and long before making up my mind. But I do not conceive that to be my duty, because I strongly believe that my agreement or disagreement has nothing to do with the right of a majority to embody their opinions in law. It is settled by various decisions of this Court that State constitutions and State laws may regulate life in many ways which we as legislators might think as injudicious, or, if you like as tyrannical as this, and which equally with this interfere with the liberty to contract. * * * The fourteenth amendment does not enact Mr. Herbert Spencer's Social Statics. * * * But a constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the State or of laissez faire. It is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar or novel and even shocking ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States."

The philosophy of these splendid judges as outlined in their dissenting opinions now constitute the social, economic, and political philosophy of a vast majority of the people of the Nation, a large majority of the United States Senate and Congress, and express the philosophy of the President. The pamphlet which I have prepared presents an easy and a constitutional way to make this philosophy effective with the minimum conflict.

Chief Justice Marshall, in the famous case of *Marbury* v. *Madison*, by necessary implication gave construction to the Federal Constitution similar to that contained in my pamphlet and expressly did so in the case hereafter cited.

I quote one sentence from the Marbury opinion:

"That they [the Supreme Court of the United States] should have appellate jurisdiction in all other cases, with such exceptions as Congress might make, is no restriction, unless the words be deemed exclusive of original jurisdiction."

Which is to say, with such exceptions as Congress might make does relate to appellate jurisdiction in all other cases except where the Supreme Court has original jurisdiction.

In the case of *United States* v. *Moore*, Chief Justice Marshall, at page 402, book 2, L. C. P. Co., United States Supreme Court Reports, said:

"As the jurisdiction of the Court [the Supreme Court of the United States] has been described, it has been regulated by Congress, and an affirmative description of its powers must be understood as a regulation under the Constitution prohibiting the exercise of other powers than those described."

Again Chief Justice Marshall said in this same opinion:

"This Court [the Supreme Court of the United States], therefore, will only review those judgments of the Circuit Court of Columbia a power to re-examine, which is expressly given by law."

All of which is conclusive of the fact that at no time has the power of Congress to regulate the original jurisdiction of inferior courts and the appellate jurisdiction of the Supreme Court of the United States (except where original jurisdiction has been given by the Federal Constitution) been disputed.

With best wishes, I am,

Your friend,

LAURENCE B. FINN.

Washington the Statesman in His Home County

EXTENSION OF REMARKS

OF

HON. HARRY FLOOD BYRD

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, February 26 (legislative day of Wednesday, Feb. 24), 1937

ADDRESS BY HON. R. WALTON MOORE, ASSISTANT SECRETARY OF STATE, AT MEMORIAL CONTINENTAL HALL, WASHINGTON, D. C., FEBRUARY 22, 1937

Mr. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an address entitled "Washington the Statesman in his Home County", delivered by Hon. R. Walton Moore, Assistant Secretary of State, at a joint celebration of patriotic societies in honor of the two hundred and fifth anniversary of the birth of George Washington, on February 22, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

"The Old World knows not his peer, nor will the future show us his equal; he alone towers over others, better than the past ones and greater than those who are to be." Those words, written by Joseph of Exeter in describing the King Alfred, who reigned in England a thousand years ago, in this later time may be applied without exaggeration to George Washington. There is no one in world history so universally acclaimed, as evidenced, among other things, by the action of the people of all nations paying tribute to his memory when in 1932 the two hundredth anniversary of his birth was being celebrated.

He, more than all his contemporaries combined, was responsible for the Colonies securing their independence and for the establishment of our system of government. This is very certain, and we can only conjecture what the situation would now be except for him. Would there be here an independent nation in the vast area of the United States, with no other nation interfering with its authority? Would there be here a congregation of harmonious and peaceful States not engaged in controversy or armed conflict with each other, or maintaining barriers of communication and trade against each other? Would there be a general adherence to the fundamental principles of representative democratic government? Would there be any such fair prospect of reasonable prosperity and happiness as now exists and as the beckoning future promises? Except for Washington there would probably be a negative answer to these questions.

There is no time this morning to follow the almost numberless biographers of Washington and narrate the valuable service he rendered when hardly more than a youth in curbing the aggression of another power on what was then the wilderness frontier of Virginia; or to detail his influential part in the events that led to the separation of the Colonies from the mother country; or to describe his remarkable leadership in the War of the Revolution, when, encountering the seasoned soldiers of Europe, he was ineffectively supported by the Continental Congress, and at the same time—and this is a fact to be stressed—was opposed by a large portion of his own people who called themselves loyalists, and came to be called Tories. After the war John Adams estimated that at least one-third of the population was in that category, and Chief Justice McKean, of Pennsylvania, approving that estimate, added that more than one-third of the colonial wealth and influence was identified with the opposition.

If there were opportunity to refer to incidents of the Revolution which perhaps escape common notice, it might be stated that Washington won the final victory at Yorktown on land once owned by his Belgian ancestor, Nicholas Martiau, who came to Virginia in 1620. And with respect to contemporary opinion of his ability and skill as Commander in Chief, there might be mention of the circumstance that Von Steuben, the most able and highly trained foreign soldier of the Revolution, wrote that it was enough honor for him to have served under Frederick the Great and George Washington. The very last letter Washington had written before giving up his commission as Commander in Chief was to thank the German for the great assistance he had rendered in carrying on the war.

Somewhat distant from here are the scenes of very many of Washington's activities, but it quickens the pulse to consider that he engaged in important and decisive activities in this particular neighborhood—in the Virginia county of Fairfax, where is Mount Vernon, which was his home from his sixteenth year, and where is the town of Alexandria, just across the Potomac, which in his day was the county seat of Fairfax. It quickens the pulse to consider that from Mount Vernon and Alexandria he started streams of action that broadened out into the ocean of his final achievement in creating our institutions and conducting the new Government upon its early course.

The simple task I have set for myself is mainly to touch upon some of the local transactions for which he was responsible in shaping the destiny of this country. That he did shape its destiny is undeniable, and correspondingly much might be said to show how the higher power seems to have prepared him for his mighty work and protected him in its performance. He was endowed with physical vigor and extraordinary common sense and with qualities of character that excluded any spirit of ambitious self-seeking. In various ways he was enabled to acquire a wider experience than is afforded by the ordinary processes of education. He thus became the natural leader of the 13 communities stretching along the shores of the Atlantic composed of people of diverse origin and conceptions. It has seemed to me that if it can be said of anyone, it can be said definitely of Washington that when exposed to peril he was under an invisible guardianship. To illustrate: On that fatal day of Braddock's defeat, most of the officers being killed, Washington assumed command and was in the very thick of the battle. Men were falling all about him, two horses were shot from under him, and there were four bullet holes in his coat, and yet he was uninjured. Soon after the battle he wrote a relative that he could only attribute his escape to divine interposition. Elsewhere he had similar experiences. For instance, at the Battle of Princeton, when the American vanguard wavered, Washington rode to the front and reining his horse within 30 yards of the British ordered his men to advance. The close-up musketry fire of the enemy column left him miraculously unscathed.

I turn now to Washington at Mount Vernon and Alexandria. In the decade prior to the Revolution the Mount Vernon planter calmly and patiently watched the political current and affected it by his own influence and action. It might have been supposed that he would ally himself with the prominent Virginians, most of whom were unable to see any injustice in the policies of the Crown that called for protest or resistance. In England his ancestors had followed Charles the First in the civil war. He himself had worn the British uniform in the colonial wars against the French and Indians with more distinction than any American. He possessed large means and socially he was in the first rank. But nevertheless he deliberately reached the conclusion that it was his duty, not only for the sake of America but in order to prevent a severance of the tie he greatly valued that bound the Colonies to Great Britain, to take the other course. In truth he was always a progressive, "like the stars, unresting but unhasting." At Mount Vernon, having studied and reflected, when the time came in 1765 for a consideration of the stamp tax, he was a member of the Virginia House of Burgesses, and he cast his vote in favor of the resolutions condemning the tax, which the foremost progressive, Patrick Henry, had introduced and supported with such flaming eloquence. In 1774 he was still in the house of burgesses. Parliament had enacted a statute providing that on important imports into the Colonies a tax should be collected for the use of the home Government. This occasioned a vehement remonstrance, and nowhere was it more vehement than in Massachusetts, where it led to the familiar event tersely recorded in the diary of John Adams, who wrote under date of December 3, 1773: "Last night three cargoes of Bohea tea were emptied into the sea." When the news of this incident reached England, Parliament passed a series of measures that bore heavily upon the Province of Massachusetts, and particularly the town of Boston. Quickly the Virginia progressives touched mind and heart with the northern Colony. In May 1774 the house of burgesses expressed its resentment, and ordered that June 1, the effective date of the Boston Port Act, be set aside as a day of fasting and prayer. The loyal Governor dissolved the house and at once the members assembled in the Raleigh Tavern and endorsed the proposal for a Continental Congress to meet at an early day. By that time the burgess from Fairfax County had deeply impressed himself on his fellow members, but he could not have dreamed that he would soon serve in the First Continental Congress and be accounted by Patrick Henry its wisest Member, and by that Congress be appointed Commander in Chief of the Colonial Army. Returning to Mount Vernon, he did nothing hastily. He quietly conferred with his neighbors and brought about at Alexandria on July 18, 1774, what was styled a general meeting of the freeholders and inhabitants of the county of Fairfax, at which Washington presided.

For long hours the day and night before that meeting he was in consultation at Mount Vernon with his Fairfax County friend, George Mason, the Gunston Hall planter, and they decided upon the action which they believed the meeting should take. They agreed upon the resolutions they thought should be passed. These resolutions, to which the historians have always referred as the Fairfax Resolves, expressed the views of Washington. They were written by Mason. They were from the pen of the remarkable man who was soon to prepare the Virginia Constitution, prefaced by the Bill of Rights, the first instrument ever written containing a complete constitutional plan of government, the man whose thoughts run like a golden thread through the Declaration of Independence and the Federal Constitution. The Fairfax Resolves are preserved in the Library of Congress, accompanied by a synopsis in the handwriting of Washington himself. Although they are thus cherished by our Government, and have been frequently printed, it cannot be said that they have received the attention which they deserve as one of the greatest political documents of the pre-Revolutionary period. A year or so ago when one of the ablest scholars and statesmen of this country was in my office I happened to speak of the Fairfax Resolves. He confessed that he had never heard of them, and, being furnished a copy to take away with him, he subsequently wrote me:

"I have read them with amazement, not only because of the stately and impressive literary form given them by Mason but because of the extraordinary depth and clarity with which they summarize the political philosophy of the day. I suppose the relations between the Colonies and Great Britain must have been a very constant subject of discussion among the group of great Virginia youths of whom Mason was one, and no doubt many of the historical facts and the inference possible to be drawn from them recited in these Resolves had been talked over at dinner tables and over wine and cigars, but even when one concedes that the circumstances of these resolutions were a part of the political atmosphere of the day, I think he must still be amazed that any one person could so completely summarize a great subject like that. I do not know anybody now living who could so authoritatively and comprehensively summarize the political philosophy of our day. All of us have taken turns at stating fragments of it, but Mason stated the whole case, and I share your belief that, admirable as the Declaration of Independence is, it is less miraculous if one has read the Fairfax Resolves and the Virginia Bill of Rights."

The Resolves are very elaborate, more lengthy, I think, than either the Declaration of Independence or the Constitution of the United States. This was because they were designed to rivet general attention upon all of the fundamental and current aspects of the controversy in which the Colonies were involved. They outlined the relation of the Colonies to the mother country and described in detail the injustice of the British policy—a policy which Edmund Burke was next year to denounce in his speech on conciliation as a method of attempting to indict a whole people. They asserted that Americans were "entitled to all the privileges, immunities, and advantages enjoyed by the people of England, among them the right of the people to be governed by no laws to which they have not given their consent by representatives freely chosen by themselves." Referring to the Crown, they asserted, "Though we are its subjects, we will use every means which heaven has given us to prevent our becoming its slaves." The oppression of Boston was explicitly condemned and it was stated: "That the inhabitants of the town of Boston are now suffering in the common cause of all British America, and are justly entitled to its support and assistance, and, therefore, that a subscription ought immediately to be opened and proper persons appointed in every county of this Colony to purchase provisions and consign them to some man of character in Boston to be distributed among the poorer sort of people"; and this further: "That should the town of Boston be forced to submit to the late cruel and oppressive measures of government, we shall not hold the same to be binding upon us but will, notwithstanding, religiously maintain and inviolably adhere to such measures as shall be concerted by the General Congress for the preservation of our lives, liberties, and fortunes." One statement in the Resolves, as adopted by the people of Washington's county, concerning the slave trade, which did not find a place in the Declaration of Independence, although the substance of many of the other statements was embodied in the Declaration, was to this effect: "We take this opportunity of declaring our most earnest wish to see an entire stop forever put to such a wicked, cruel, and unnatural trade."

Had the opinion thus voiced by Washington prevailed, and the opinion held by Jefferson been accepted, when a few years later he sought to have incorporated in the ordinance for the government of the Northwest Territory a prohibition of slavery not only in that territory but in any territory thereafter acquired which would have embraced the Louisiana Purchase and the Florida Purchase, there would have been no such agitation of the slavery question as in a few decades was to sound like the ringing of a fire bell in the night, no need of the compromise that were attempted, and no devastating War between the States. That was a very memorable meeting at Alexandria in July 1774, and it was followed by the people of Washington's county sending forward money, wheat, and flour for the relief of Boston.

In the following January, under the direction of Washington, there was another meeting at Alexandria which provided for the organization of a well-regulated militia force. The resolutions then adopted, which, unfortunately, are not in the Library of Congress, but in the hands of a private dealer in manuscripts, even specify the uniform to be worn, which I understand was the uniform chosen for the soldiers of the army of the Revolution.

Let me say in passing to those who are unwilling to forget the past, that there is no town in this country to which attach so many intimate memories of the founder of the Republic as his home town of Alexandria—memories that "no tide will ever wash away." He was devoted to its people and they constantly manifested their affection for him and their pride in his character and career. Month by month they saw him serving there as a judge of the court of the county, as indicated by the diaries and the court minute books, which are preserved among the records at the present county seat. One need only read the diaries and the local chronicles to know how many of them were his close friends, at whose houses he visited, and of the public places where he was acclaimed when he went away from and returned to the town. It was from Alexandria that he set forth on the Braddock expedition, and to Alexandria that he came back bearing the laurels that he had won in saving the British Army from complete destruction, and largely because his neighbors, the Fairfax riflemen, were fighting with him. It was from Alexandria that he went away to take command of the American Army, and there, after he had won the war of the Revolution, he was welcome by the people who knew him best. They were also the people who welcomed him home following the adoption of the Constitution at Philadelphia, and there at Alexandria was the

very first public celebration of the ratification of the Constitution when the news arrived that the requisite number of nine States had ratified.

When Washington, one morning in December 1783, surrendered his commission as commander in chief to the Congress, he desired to pass the remainder of his life in tranquility at Mount Vernon, which he so much loved, but the conditions were such that he could not be tranquil. As he looked out from his home he was full of fear lest the fruits of the Revolution should be wasted because of a feeble government being unable to conduct its affairs in such manner as to prevent dissension among the States, dissolution of the Union, and unpredictable chaos. Inevitably now he could not escape being the leader in peace as he had been the leader in war. From Mount Vernon he constantly sent out messages to those upon whom he could rely, urgently reminding them of the danger and exhorting the necessity of action. Here are brief extracts from his mass of Mount Vernon correspondence. To one he wrote: "Let us have a government by which our lives, liberties, and properties will be secured or let us know the worst at once." To another he wrote: "I do not conceive we can exist long as a nation without having lodged somewhere a power which will pervade the whole Union in as energetic manner as the authority of the State governments extends over the several States." To another: "I confess to you candidly I can see no evil greater than disunion; than those unreasonable jealousies which are continually poisoning our minds and filling them with imaginary evils for the prevention of real ones." All the time he had in mind the excessive weakness of the existing government under which the Thirteen States were so loosely tied together that at any moment they might fall apart. As the diaries show, there were many visitors to Mount Vernon, with whom he conferred on the unhappy and menacing situation. He was absolutely certain of disaster unless a remedy could be speedily found. Under his eye at Mount Vernon, as he gazed upon the broad expanse of the Potomac, was an illustration of the necessity of lodging in a competent government authority to regulate commerce among the States instead of leaving each State to fix its own policy. Maryland and Virginia were at odds with reference to commerce on the Potomac River, the dispute arising because of Maryland sovereignty over the river extending to high-water mark on the Virginia side. To take care of that problem there was concerted at Mount Vernon the plan for a commercial agreement between those States. Commissioners from the two States met in Alexandria and took up the matter with Washington at Mount Vernon and an agreement was concluded. This agreement was a spur to the effort which had his powerful support to hold a convention of representatives of the various States to suggest or put in effect methods to improve and strengthen the Government of the United States—the Government on whose capacity and action the entire future would depend. This resulted in the little convention at Annapolis, which could take no final action because of so few States being represented.

But it did something of tremendous significance. It recommended that a convention should be held at Philadelphia to do what might be possible in order to avoid the danger and the probable ruin which filled the mind of Washington with so much apprehension. And, as we all know, that convention was held 150 years ago, with Washington its president—always the wisest man in any public body to which he belonged, but the most silent. A Constitution was adopted which grew out of numberless compromises and which had his approval as the best that was possible, although he did not deny that it was in some respects unsatisfactory to him. As I understand, the commentators are practically in accord in the opinion that the central government for which it provided was vested with less power than Washington conceived it should possess. He stood for the integrity of the States, but being more farsighted than anyone of his time, he apparently foresaw there would develop conditions under which the theory of State's rights might be unduly exploited, to the disadvantage of the country as a whole. But in his estimation, the Constitution was immeasurably superior to the Articles of Confederation.

He knew that there would be difficulty in securing ratification of the new Constitution by the several States and he had first-hand knowledge of how great that difficulty would be in Virginia. He was not a member of the Virginia convention, but from Mount Vernon he exerted an enormous, and, there can be no doubt, decisive influence in favor of ratification by his own Commonwealth. I have no idea that the small majority cast by the Virginia convention in favor of ratification could have been had without Washington's influence.

In my judgment, it is incontestable that, save for the prestige and influence of Washington and his unwearied support of the efforts to preserve the fruits of the Revolution by establishing a new Federal system, the attempt might have failed altogether, and, in any event, the Constitution as we have it today would not have come into operation. And let it be again said that his influence was projected from his home at Mount Vernon.

Here we necessarily remember that the founder of our Republic, so much of whose work was performed just across the Potomac, was in a real sense the founder of the city very near his own county, where we are commemorating the two hundred and fifth anniversary of his birth. You will recall the grave uncertainty as to where the seat of the Federal Government would be located until, as a result of a dinner-table bargain between Hamilton and Jefferson, Congress provided that it should be located somewhere on the banks of the Potomac. But in the statutory expression of that purpose it was left to President Washington to select the place, and he finally selected the place where there is now the beautiful city bearing his name. He laid the cornerstone of the Capitol, using the Masonic trowel which is preserved in the Masonic Temple at Alexandria, along with other emblems of his career as a Mason.

To what I have so inadequately said about the master builder of our Republic, I would like to add the eloquent final paragraph of the biography of Washington in the American Statesmen Series by Henry Cabot Lodge. Says Mr. Lodge:

"As I bring these volumes to a close I am conscious that they speak, so far as they speak at all, in a tone of almost unbroken praise of the great man they attempt to portray. If this be so, it is because I could come to no other conclusions. For many years I have studied minutely the career of Washington, and with every step the greatness of the man has grown upon me, for analysis has failed to discover the act of his life which under the conditions of the time I could unhesitatingly pronounce to have been an error. Such has been my experience, and although my deductions may be wrong, they at least have been carefully and slowly made. I see in Washington a great soldier who fought a trying war to a successful end impossible without him; a great statesman who did more than all other men to lay the foundations of a republic which has endured in prosperity for more than a century. I find in him a marvelous judgment which was never at fault, a penetrating vision which beheld the future of America when it was dim to other eyes, a great intellectual force, a will of iron, an unyielding grasp of facts, and an unequaled strength of patriotic purpose. I see in him, too, a pure and high-minded gentleman of dauntless courage and stainless honor, simple and stately of manner, kind and generous of heart. Such he was in truth. The historian and the biographer may fail to do him justice, but the instinct of mankind will not fail. The real hero needs not books to give him worshipers. George Washington will always receive the love and reverence of men because they see embodied in him the noblest possibilities of humanity."

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. SHERMAN MINTON

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Friday, February 26 (legislative day of Wednesday, Feb. 24), 1937

ARTICLE FROM THE LOUISVILLE (KY.) COURIER-JOURNAL OF FEBRUARY 24, 1937

Mr. MINTON. Mr. President, I ask unanimous consent that there be printed in the RECORD an article appearing in the Courier-Journal of Louisville, Ky., under date of February 24, 1937, by Herbert Agar, headed "Why Such Hysteria?" dealing with the President's proposal in regard to the Federal judiciary.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Louisville (Ky.) Courier-Journal of Feb. 24, 1937]

TIME AND TIDE

By Herbert Agar

WHY SUCH HYSTERIA?

It is almost 3 weeks since the President made his proposals in regard to the Supreme Court. There has been time for thought, and for second thought, in preparation for the great debate before us.

One thing is already clear: The opponents of the President's plan, especially the journalistic opponents, were betrayed into an hysteria of overstatement for which they will shortly feel ashamed. As the debate develops it will become abundantly clear that the President's plan, whether wise or unwise, is neither radical, nor unprecedented, nor tricky, nor dictatorial, nor a threat to the Constitution.

If the streets of our American towns were full of storm troopers, if the backward Justices of the Supreme Court had all been slapped into concentration camps, if the leading critics of the President were being tarred and feathered and led through the streets with insulting placards hung about their necks, then there would be justification for these wild cries of rage, these laments over the death of liberty.

Under the circumstances, however, when we are merely faced with a modest proposal for introducing into our Supreme Court some men whose minds have been affected by the twentieth century, the hysteria is not only undignified but unworthy. Fortunately it shows signs of dying down, of giving way to reason, and to sensible counter proposals.

The writers who have been saying that the President's plan marks the end of American liberties must have begun to feel a little foolish when they read the article by Prof. Edward S. Corwin, of Princeton University, in the New York Times for Sunday, February 14. Professor Corwin is one of the very great authorities on

our constitutional history. His knowledge of the American past prevents him from finding Mr. Roosevelt's plan any threat to the American future.

Professor Corwin finds the reason for Mr. Roosevelt's proposal in "the President's evident belief that the Court has become a political body, not in the narrow partisan sense of the term but in the immensely more important sense of a determinator of public policies—a superlegislature, in brief."

And Professor Corwin adds that the evidence in support of the President's belief is impressive.

There are very few occasions, as Professor Corwin points out, when the Supreme Court has set aside acts of Congress for going against the clear, unmistakable words of the Constitution. "Rather the basis of its decision has usually been some doctrine or theory which it has itself, not without popular approval necessarily, imported into the Constitution from the outside."

This is especially true in regard to the New Deal laws which have been declared unconstitutional. As examples, Professor Corwin gives the "hot oil" cases, the Railway Retirement Act, the N. I. R. A. case, and the Coal Conservation Act. In regard to the last two cases, Professor Corwin comments:

"Both of these acts were passed on the theory that conditions surrounding production often affect interstate commerce detrimentally. This theory the Court answered by saying that such effects, however extensive or inevitable, were 'indirect' and hence beyond the power of Congress to govern.

"But the Constitution itself says nothing about 'indirect' effects, and still less, if that were possible, does it say that Congress may not safeguard interstate commerce from them. Indeed, no further back than 1923 we find the Court saying, through Chief Justice Taft: 'This Court will certainly not substitute its judgment for that of Congress in such a matter unless the relation of the subject to interstate commerce and its effects upon it are clearly nonexistent.'"

This interesting quotation from Taft shows that the Supreme Court not only rests vital decisions on vague grounds but also "on grounds the Court's own interpretation of which has varied from time to time."

In 1932 Prof. Thomas Reed Powell, of Harvard University, wrote as follows:

"Nine men in Washington have a pretty arbitrary power to annul any statute or ordinance or administrative order that is properly brought before them. * * * The Supreme Court can hardly be said to be controlled by the Constitution, because so seldom does the Constitution clearly dictate a decision. It is not controlled by its own precedents, for it feels free to overrule them. It feels even more free to make distinctions that no sensible person would think of making except to avoid confession that a precedent is being disregarded."

Commenting on Professor Powell's remarks, Professor Corwin writes: "Certainly nothing has happened since 1932 to cast doubt on the soundness of this verdict. * * * The grounds on which the Court can today overturn an act of Congress are often vague and indefinite in the extreme, while frequently they appear in pairs of alternatives which vest the Court with uncontrolled freedom of choice."

All this lends point to the comment that "the Constitution is the Supreme Court's last guess." It also lends point to the President's proposals.

Aware of the arbitrary nature of the Supreme Court's powers, aware of the extreme flexibility our Constitution has always shown when interpreted by someone who wants it to bend in a certain direction, Mr. Roosevelt believes that the quickest and the wisest way of bringing the Constitution into harmony with our times is to appoint some new Justices who are in harmony with our times.

There is no question that this is the quickest way. The opposition contends that it is not the wisest way, that a constitutional amendment would be more sportsmanlike. I shall discuss this argument in a later column.

Today I wish chiefly to call attention to the fact that the real issue, when we get down to it, is unrevolutionary; that it gives no warrant for the froth of hysteria in which the opposition journalists have indulged.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ROBERT M. LA FOLLETTE, JR.

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Friday, February 26 (legislative day of Wednesday, Feb. 24), 1937

MINORITY REPORT TO THE NEW YORK BAR ASSOCIATION

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD the minority report from the committee on Federal legislation of the Association of the Bar of the City of New York, signed by Simon H. Rifkind, and relating to the proposed reorganization of the Federal courts.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

MINORITY REPORT FROM COMMITTEE ON FEDERAL LEGISLATION ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK RE PROPOSALS OF THE PRESIDENT OF THE UNITED STATES FOR REORGANIZATION OF ALL THE FEDERAL COURTS

I dissent from the views of the majority of the committee. The importance of the main issue—i. e., the wisdom and the legality of appointing additional members to the United States Supreme Court—seems to justify a report on that sole issue setting forth certain considerations which have contributed to my reasons for dissent. Without accepting the views of the committee upon the other recommendations of the President, I will limit this report to a discusion of that main issue.

I. THE SIGNIFICANCE OF RECOMMENDATIONS BY THE ASSOCIATION

The purpose of any report of this committee on the subject of the President's proposals is to provide a basis for discussion of such proposals by members of the association. That discussion is in turn intended to result in public recommendations by the association with respect to such proposals.

It is relevant and proper to point out that—

(1) There is no justification for any public recommendation by the association, except as advice by the profession to the public upon matters as to which the profession is peculiarly qualified to speak.

(2) For many reasons, however justified or unjustified, the general public is none too friendly to lawyers and courts and may be suspicious of the motives of the profession on a subject which touches its self-interest and pride.

Under such circumstances it is extremely important that in order to maintain the confidence of the public in its advice the association act with complete objectivity and only after most careful analysis of the real issues involved.

It is further to be hoped, again for the sake of the weight of the association's advice with the public, that its recommendations shall not be subject to challenge for refusal to recognize obvious facts in the practical situation facing the President and the country.

These are not counsels of mundane judiciousness. Rather they are counsels of conditions of effective action by the association in furthering two objects in which all members of the association and all lawyers must be primarily interested—i. e., the preservation of constitutional democracy and the continuity of our legal traditions.

II. POLITICAL AND ECONOMIC FACTS UNDERLYING THE LEGAL PROBLEM

Every member will undoubtedly grant the existence of the following facts which any analysis of the problem must take into account:

(1) A great preponderance of the population has been trained by the events of the last 10 years to think concretely in terms of specific practical consequences rather than legalistically and abstractly about the working of our legal system. That preponderance concretely regards as beneficial to themselves, and will therefore try to achieve by every available political means statutes providing for—

(a) Maximum hours and minimum wages.

(b) Collective bargaining.

(c) Old-age and retirement pensions and various forms of social insurance.

(d) Relief for unemployment.

(e) Control of crop surpluses and crop insurance.

(f) Government aid for better housing.

(g) Complete protection by Government action against repetition of flood damage through coordinated river basin control similar to T. V. A.

(h) Much more extensive conservation of national resources.

(2) Federal and State statutes devised to meet these demands either have already been declared unconstitutional by the present majority of the Supreme Court or are in most instances of doubtful constitutionality under the decisions of that majority.

(3) Properly drafted statutes to meet these same demands are constitutional within the present Constitution without amendment, under the opinions of a minority of Justices of the Court, of whose disinterested competence this association undoubtedly holds as high an opinion as it does of that of the majority. That minority includes a former chief judge of the court of appeals of this State, President Coolidge's Attorney General, and Justice Brandeis, acclaimed even by the opponents of the President's proposal as the ablest judge on the Court today.

(4) Under traditional doctrine—itself a constituent part of our constitutional law and of our constitutional theory of the separation of powers—legislation is presumably within the powers granted the legislature under the Constitution unless it is clearly unconstitutional. It requires extremely casuistical argument to avoid the conclusion that legislation ruled unconstitutional by the vote of a bare majority of Justices is in truth constitutional because the very existence of the opinions of an eminent minority of Justices casts doubt upon its unconstitutionality.

It is significant that even the Republican platform in the last campaign expressly repudiated the contention of the majority in the New York minimum wage case that minimum wage laws could not be constitutional.

III. THE CRISIS IS A JUDICIAL, NOT A CONSTITUTIONAL, CRISIS

In these circumstances it is clear that the crisis in the relationship of the legal system to the demands of the public for legislation is a judicial and not a constitutional crisis—that "the personal

predilections" of individual judges and not the terms of the Constitution are obstructing the public demand for the kind of governmental action it wants taken. The human beings who chance presently to compose the majority of the Court threaten the continuity of that respect for the processes of the Court and of constitutional law which is indispensable to the maintenance of our legal traditions. The permanence of the Court as an institution is being imperiled by its temporary incumbents in office. It cannot, without grave danger to itself and to its essential social function—its function as a judicial tribunal—continue to frustrate, by mere interpretations of vague phrases in the Constitution, the considered judgment of the bulk of the electorate.

Mr. Justice Holmes had those considerations well in mind when he said, "The first requirement of a sound body of law is that it should correspond with the actual feelings and demands of the community, whether right or wrong."

The Court, like the Constitution, must be a dynamic organism, capable of using the Constitution in accordance with the classical conception of John Marshall that it was "intended to endure for all ages to come and consequently to be adapted to the various crises in human affairs." As a contemporary writer has well expressed it, those who are fit to maintain the institution of the Court must be "in living touch with the contemporary sense of the Constitution. For the Constitution is not merely a document which needs the dry light of trained judicial acumen and expert judicial technique such as age may particularly and even preeminently possess. It is more than a document: it is the general sense and understanding of the document, entertained by the actual age in which it is being applied. To expound the Constitution is to expound that general sense and understanding. And to expound that sense and understanding is to be in living and personal contact with it—not in the last phase of life * * * but in the earlier phase when we are still supple and still run easily in harness with the thoughts of others."

The President's proposals correctly appraise the problem as a judicial, not a constitutional, crisis. They therefore provide for a change in the power of individual judges to obstruct the public will rather than for a change in the terms of the Constitution. The method the President has proposed for making this change in the power of individual judges is admittedly within the letter of the Constitution and within the precedents of national usage under the Constitution.

The real question for decision by members of the association in their advice to the public is therefore this: Shall we meet a judicial crisis by using a statutory method sanctioned by the Constitution for such a crisis? Or shall we do so by making unnecessary use of an amendment method provided by the Constitution for dealing with a crisis produced by the inadequacy of the Constitution itself?

It is submitted that the burden of proof must lie heavily on those who would adopt a remedy more far reaching than is needed to meet the immediate problem.

IV. THE AVAILABLE ALTERNATIVES FROM WHICH THE ASSOCIATION CAN CHOOSE IN GIVING ADVICE TO THE PUBLIC

The public will not particularly appreciate or appreciably heed advice from the profession as to whether the public does or should want the kind of legislation above described. Nor will the public heed advice from the profession that, on balance, the public should better wait for such legislation until the unpredictable time when the constitutional interpretations of the Supreme Court will change by reason of resignation.

Those desires of the public are facts—stubborn facts. Those desires we cannot go behind. It is the association's limited function to suggest legal and constitutional means of implementing the popular will.

The only advice the public gracefully will take from the profession is on a narrow issue: What is the most effective method immediately available for the purpose of obtaining adequate assurances that the Supreme Court will not invalidate such legislation when it offends no clear or explicit provision of the Federal Constitution?

The only statutory method available to give such assurance is the increase in the number of Justices proposed by the President. There is no other statutory method (such as, for instance, regulation of the appellate jurisdiction of the Supreme Court) which will not, in all likelihood, be held invalid by the majority of the Court, as the Court is presently constituted.

Three types of constitutional amendment are suggested, other than constitutional amendments to effect the terms of the President's proposal.

Some favor a constitutional amendment to give Congress by a two-thirds majority a power to override the Supreme Court. That has evoked the objection that this would in effect abolish that article of the Constitution which deals with amendment and would establish in the United States a government by parliament rather than by a written constitution. It is not necessary to discuss that objection at this time.

Some favor amendment to require a two-thirds vote of the Court to hold a legislative enactment invalid—in effect vesting a minority of the Court with the power of decision. Others favor substantive amendments amplifying specific legislative powers and intended to validate the types of legislation which the Supreme Court has with such unprecedented frequency been invalidating during the past 2 years.

Amendments of the first two types alter the effects of judicial review. Amendments of the third type alter the relations of our Federal system of government. To accomplish by amendment, therefore, that compliance with public demand which three distinguished Justices believe can be had within the Constitution, the character of the Constitution would be so altered as to constitute a major change in American Government.

The President's proposals are therefore clearly the least radical in their effect upon the continuity of constitutional democracy and the continuity of our legal traditions. They should, therefore, presumably be the most satisfactory to this association. The proposals should not be rejected unless the association is prepared to offer a more satisfactory solution.

V. THE DISADVANTAGES OF UNNECESSARY USE OF THE METHOD OF CONSTITUTIONAL AMENDMENT

Any struggle over constitutional amendments will involve, not only a national political struggle in the Congress to obtain the difficult two-thirds majority but also 48 separate struggles in the political arenas of the States. The certainties of delay are obvious. The risk of critically disruptive economic factors in the period of that delay is also obvious.

Just as real, too, are dangers to the public respect for all courts and our legal traditions which will almost certainly arise in any long and hard political struggle over the Supreme Court.

Our courts have two distinct functions. Like courts in all countries, they have the usual judicial function of deciding private law questions affecting lives and property of citizens. Unlike courts in other countries, they have the legislative power to declare that statutes are null and void. It is in the exercise of that legislative power that in recent years the Supreme Court has acted out of harmony with widespread popular demands. But laymen do not easily distinguish between the strictly judicial powers of the Supreme Court and its legislative veto power. Accordingly we are in danger of having the highest Court of the land—and hence all our courts—come into popular disrepute with respect to all their functions.

That danger cannot be overestimated. The statutory remedy proposed by the President will be confined to a struggle in Congress during a comparatively short period. The long political struggle in the States over an amendment might open up a whole Pandora's box of now unforeseen troubles.

There is another difficulty involved in unnecessary amendment to the Constitution—unnecessary because used for the purpose merely of making constitutional the exercise by Congress of powers which distinguished Justices tell us are already granted Congress under the Constitution. I refer to the effect of each such needless amendment upon the general adequacy of the rest of the Constitution. Not only will the inevitable effect of the precedent of such amendments be to degrade the process of amendment of the Constitution; but to establish such a precedent of detailed amendments would be to mar the essential nature of the Constitution and to reduce it from an organic instrument to a detailed and involved code of laws. The multiplication of particular powers will inevitably lead to narrowing interpretations of all the powers conferred by the instrument, and thus the more amendments that are made the more that will be required. Legislation by Congress will become less and less significant, and legislation by constitutional amendment will become the customary method. When that happens, the demand for amendment in ever easier form will become irresistible. The result may well be that ultimately the entire legislative process will be directly conducted in the voting booths. That is the train of consequences which those invite who insist that our present judicial crisis shall be met by the amendment route. That route leads to the destruction of the Constitution as the symbol of the continuity of the orderly development of our national life.

No one ever assumed that the device of amendment—cumbersome, time-consuming, and often provocative of prolonged factional bitterness—would be employed to eliminate mere interpretations, by a majority of the Court, of vague phrases in the Constitution. At least 25 times has the Supreme Court reversed itself (either expressly or sub silentio) in its interpretation of the Constitution. Do the President's opponents suggest that in each such instance the country should have amended the Constitution?

The time required for amendment

There have been amendments which were ratified by the States within a year or less after proposal by Congress. But they have been the kind of amendments no strong economic forces felt they had an interest to oppose, like the lame-duck amendment or the prohibition repeal amendment, or amendments like that for the direct election of Senators which had been fiercely fought over for many years before Congress proposed it to the States.

The child-labor amendment is the only modern analogy which gives us any idea of the time it takes to get through an amendment to which powerful economic groups are opposed. The child-labor amendment has been creeping from State legislature to State legislature for over 13 years since it was first proposed to the States by a Republican President and a Republican Congress in 1924, and despite Republican sponsorship and the sponsorship of President Roosevelt himself it has so far been adopted by only 28 States—8 short of the requisite 36.

VI. THE PRESIDENT'S PROPOSAL IS CONSTITUTIONAL; AND IS ONE OF THE CHECKS AND BALANCES CONTEMPLATED BY THE FATHERS OF THE CONSTITUTION

The proposed statute is admittedly constitutional. It is not seriously disputed that the Congress is amply invested with constitutional powers to vary the membership of the Supreme Court. To what purpose was that power conferred upon the Congress? Is it not fair inference from its existence and from the contemporaneous use made of it by founding fathers, that it was intended as one of the devices of preserving that equality and

coordinate character of the executive, legislative, and judicial branches of the Government which is the constitutional structure of our Government—that it was the joint check of the Executive and the Congress upon the judiciary provided for in a system of government checked and balanced all around? Those who oppose it are, therefore, seeking to prevent the use of constitutional powers by Congress. If the existence of these powers is offensive to them, it is they who should seek constitutional amendment to remove those powers. They are making the bizarre argument that opponents of constitutional legislation have the right to have its enactment suspended until its proponents have procured a constitutional amendment to authorize conduct already authorized by the Constitution.

VII. PACKING THE COURT

By "packing" the Court, it is meant that the President would be likely to nominate in the hope of their confirmation by the Senate only persons who agree with him as to the fundamental interpretation of the Constitution. That is the traditional constitutional usage—a practical constitutional method of keeping a life-tenure judiciary reasonably contemporary in their outlook with the popular will as expressed in the administration in power. That has been done by practically every President who has made appointments to the Court. Each has virtually selected men who, he believed, would cooperate with his program honorably and within the permissible interpretation of the Constitution. Chief Justice Marshall was appointed by President Adams in whose Cabinet he was Secretary of State. Chief Justice Taney was appointed by President Jackson in whose Cabinet he was Attorney General. Chief Justice Chase was Secretary of the Treasury in the Cabinet of President Lincoln who wrote at the time: "We wish for a Chief Justice who will sustain what has been done in regard to emancipation, and the legal tenders." President Theodore Roosevelt refused to appoint Justice Holmes until he was assured by Senator Henry Cabot Lodge, who urged Holmes' appointment, that Holmes' interpretation of the Constitution would be in accord with that of Theodore Roosevelt. On July 10, 1902, he wrote to Lodge:

"Now I should like to know that Judge Holmes was in entire sympathy with our views—that is, with your views and mine and Judge Gray's, for instance—just as we know that ex-Attorney General Knowlton is, before I would feel justified in appointing him."

Chief Justice Hughes conducted a brilliant campaign for Herbert Hoover in the Presidential campaign of 1928. President Hoover 15 months later appointed him Chief Justice.

If the President's proposals are adopted and none of the Justices resigns and none is obliged to resign, President Roosevelt would appoint only 6 out of 15 Justices, and the new Justices would still form only a minority of the Court. There would still be nine Justices, seven of whom were nominated by Republican Presidents and two by a former Democratic President. Those who say these proposals would make the Court subservient to the wishes of President Roosevelt are, therefore, really questioning the integrity and independence of Chief Justice Hughes, Justice Brandeis, Justice Stone, and Justice Cardozo.

VIII. THE ENLARGEMENT OF THE COURT WILL NOT RESULT IN DICTATORSHIP BY THE EXECUTIVE

Despite repeated modifications of the composition of the Supreme Court, we are today living under a government in which not the Executive but the judiciary is supreme. Judicial supremacy is not only a departure from the constitutional scheme but a far more real and present danger than any to which the opponents of the President's proposal direct attention.

There is involved in the President's proposal no usurpation of power by anybody. There is no accession of power to the Executive, since the power proposed to be exercised is essentially the power of the Congress. The President's proposal cannot be enacted into law except with the concurrent votes of both Houses of Congress. The additional members of the Supreme Court are merely nominated by the President; they must be elected by the Senate through the process of confirmation. And the men so appointed will in all probability continue their judicial functions long beyond the duration of a single administration.

The Court does not initiate or enact laws. It can only kill them. Its sole constitutional power is to negate. Therefore even if the President controlled the Court, that would mean merely that he would be controlling a brake on the congressional wheels, be removing an impediment to the vitality of statutes enacted by the popularly elected Congress.

The argument that the adoption of the proposal will lead to dictatorship is not a legal argument. It is an argument purporting to be based on practical common sense. It can therefore be legitimately met with common sense.

Dictatorships are the products of the failure of democratic government to attain the objectives for which modern society is supposedly constituted. So long as the reasonable objectives of the American people can be attained through democratic processes, we need have no fear of dictatorship in the United States. But if public purposes universally desired are frustrated a condition of disillusion develops which may well lead to dictatorship.

The enactment of the President's proposal would make possible the prompt fulfillment and realization of the social and economic ideals of the present generation through the slow, deliberate operation of the democratic process. Every delay in putting them into effect, every risk taken by the slower process of amendment of having these demands presently unfilled as the Nation faces a necessarily uncertain future, is a real and not a paper risk of dictatorship. And no court which a people feel they can justifiably blame for their inability to solve their economic problems will ever have the moral strength and prestige necessary to protect human rights in time of crisis and chaos.

The key to protection of personal and religious liberty and political minorities is political peace and economic justice and stability.

At this critical juncture the continuity of all of our traditions, legal and political alike, are dangerously at risk with a Supreme Court composed of a majority whose "economic predilections" have lagged so abnormally behind that of their fellow countrymen. A reasonable lag of the Court behind the people may be a useful check. But an impasse like the present one means temporary paralysis and eventually reckless change.

The President's proposal breaks the impasse.

It is respectfully submitted that the association recommend the enactment of the President's proposal.

SIMON H. RIFKIND.

The Nature of Judicial Power

EXTENSION OF REMARKS

OF

HON. WILLIAM H. KING

OF UTAH

IN THE SENATE OF THE UNITED STATES

Friday, February 26 (legislative day of Wednesday, Feb. 24), 1937

ARTICLE BY CHALLEN B. ELLIS

Mr. KING. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an article written by Mr. Challen B. Ellis, a well-known attorney of Washington, D. C., on the subject of The Nature of Judicial Power.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NATURE OF JUDICIAL POWER

By Challen B. Ellis

The agitation for "curbing the Supreme Court" because it does not "cooperate" with the Congress and the President in expanding Federal power makes timely a reexamination of the nature of the judicial power as it is conferred on the courts of the United States, and particularly on the Supreme Court, by article III of the Constitution. The suggestion that the Supreme Court should cooperate, or can cooperate, with other branches of the Government will be seen to be a misconception of the true and only function of "courts", considering their essential attributes as intended in the Constitution, when it separates governmental powers into legislative, executive, and judicial.

The place of a court in any scheme of organized society is recognized the world over in all civilized countries, and its existence is presupposed by express mention or by implication in all treaties or compacts between civilized nations. In a general way, at least, even though vaguely, its separate and distinct functions, differing from those of the legislative and executive, are understood everywhere. Even though its acts are performed and its duties assumed by other branches of government in a commingling of powers, as in some countries, yet the sphere of its activities, as distinct from the sphere of making or executing the governing laws, is universally perceived.

In the development of the American system, the judicial function is sharply set apart in the mandatory division of government into three branches, and the commingling of any one with the other is forbidden by the permanent written charter. It is therefore peculiarly important in carrying out the letter and spirit of our Constitution that we fully apprehend the essential nature of that judicial power which is thus effectively isolated from all other powers of government and freed from encroachment or disintegration, if the solemn covenant made by the Constitution is to be obeyed.

1. The first and foremost characteristic of the judicial power is that it acts only in actual controversies. Its sole function is to hear and determine disputes between opposing parties having conflicting claims or demands. It is concerned and can be concerned only with the suit of A against B. There must be a "cause" and there must be two sides and there must be a "party" to each side. The "party" may be a citizen or an alien, a corporation or an association, and may be the State or an officer of the State or the Federal Government itself, but it must be an entity on each side and there must appear somewhere a dispute. Of course, the "cause" has many forms, and there are some of them, such as an application to the Court of a "stakeholder" as to the distribution of the fund, the request of an executor or trustee for instructions, where the dispute or the opposition is not so clearly apparent as in the case of breach of contract between the two contracting parties. But a little thought and analysis will show that the dispute exists and that there is a controversy and that the action of the Court will end that particular controversy.

This peculiar function to which a "court" is limited is recognized in the Constitution when it confines the judicial power to cases in law or equity—the meaning of "case" as an adversary proceeding having long before become fixed in our jurisprudence. It has many times been expressed by the Supreme Court in decisions denying jurisdiction, because no "case" or "suit" was before it. For example, in 1907 Congress passed an act authorizing one Muskrat, a Cherokee Indian, having an interest in property allotted to Indians under previous acts, to bring a suit in the Court of Claims, with appeal to the Supreme Court, to determine the validity of certain acts of Congress attempting to increase the restrictions upon alienation of Indian lands. In due time Muskrat brought his action, entitling it *"Muskrat v. United States."* When the papers came to the Supreme Court, the Assistant to the Attorney General made the point that the matter to be considered was not within the "judicial power" of the Court conferred upon it by the Constitution, because it was not a "case" or "controversy" between adverse parties to which alone the judicial power extends; and the Supreme Court so held, remarking that the "judicial power is the right to determine actual controversies arising between adverse litigants duly instituted in courts of proper jurisdiction" and that "the right to declare a law unconstitutional arises because an act of Congress relied upon by one or the other of such parties in determining their rights is in conflict with the fundamental law. The exercise of this, the most important and delicate duty of this Court, is not given to it as a body with revisory power over the action of Congress but because the rights of the litigants in justiciable controversies require the Court to choose between the fundamental law and a law purporting to be enacted within constitutional authority but, in fact, beyond the power delegated to the legislative branch of the Government."

This invariable feature of judicial process, once clearly understood—as so often it is not—should set at rest the contention or the charge loosely and thoughtlessly made that the "court", and especially the Supreme Court, exercises some kind of supervision over the other departments of Government and may sanction legislation and that it can give or withhold a kind of veto over legislative or Executive acts, and hence that it can cooperate or obstruct in carrying out the processes of government. Such a thought ignores the wholly independent nature of the judiciary—implicit in its constitution.

Of course, it is not meant to say that persons who hold the offices of judges do not or may not have conferred upon them other powers. Such is often the case, particularly in the States. A judge or a court composed of several judges may be authorized to make certain appointments, act as trustees, to count returns of election, etc. In Massachusetts the highest court is authorized to advise the legislature. But these facts do not affect the question as to the essential and limited nature of judicial power as such.

2. The second feature of judicial power is that it acts, in any particular case, only under rules of law governing in the jurisdiction and in effect at the time the controversy is brought up for settlement.

These rules are, generally speaking, of two kinds—the common law and the statute law. The common law is that body of rules of conduct, rights, and obligations existing between man and man in their dealings with each other in an orderly community understood and accepted by common consent, as they have grown up in the development of the law of England in the absence of statutory provisions on the subject and before the adoption of our Constitution. These rules of common law are in force only insofar as they are not covered by statutes or are not in conflict with the written law.

The statute law is, of course, the enactments of the legislative body of the jurisdiction, the city council, the State legislature, the people of the State expressing their will in the State constitution, the Congress, and the people of the Nation acting by their Federal Constitution.

These rules are not merely guides to the judge in determining the respective rights of the litigants in the dispute between them; they are binding on the judge, and he must apply them, whatever his view as to justice independent of them. His only right is to find out what the rule is which applies, and apply it. In doing so he must, of course, interpret the rule; that is, ascertain and declare its meaning. This matter of interpretation is the preeminent function of the judge; no other department of government can perform it in individual disputes. In a certain broad sense, every dispute which is the subject of a lawsuit is a matter of interpretation of the great body of the law governing the affairs of men. This power of interpretation is necessary in all organized society. Words are but symbols of thought and intention. They must be construed. The power to interpret must rest somewhere other than in the one or the other of the disputants. The realization of the necessity of this is what has given rise to the establishment of courts in all successfully organized societies.

Since in our system the law protects individual rights even as against the State itself, and as the State is often the party to litigation (as it always is in criminal cases), manifestly, the State, having laid down the rule for the whole body politic, cannot, when it is a party to a case under that rule, interpret it to suit its own exigencies in the particular litigation. This would be making one party to a dispute the prosecutor, judge, and jury, and there would be no "trial." The determination must be by an independent umpire, holding the scales even between the contending parties.

And lastly, and most important, the judge, whether a justice of the peace or the Supreme Court, must apply to the particular dispute between A and B all the law, and not merely some part of it, and must apply it according to its authority, the higher authority always being read into and modifying or voiding the lower authority. If one party invokes the city ordinance in support of his contention and the other invokes the State law on the same subject, in conflict with the ordinance, the court must decide the conflict and apply the higher law. In that particular case the rights are determined according to the law, for a city ordinance in direct conflict with a State law is of no more force than if it had never been enacted or had been repealed. It is in that sense, and that sense only, that a court can be said to hold an ordinance "void" or "unconstitutional." And so it is with conflicts between an act of Congress and the Constitution of the United States. The Court merely holds that, as between A and B, the constitutional provision governs the particular dispute and, being the "supreme law", must supersede any enactment of lesser degree, whether city ordinance, State statute, or act of Congress.

Thus, if Congress should enact that the property of A might be acquired by B (or even by a State or the Nation) without the payment of compensation, and B brings his suit to acquire the property, and have an award of it to him by the aid of the court, he will invoke the act authorizing such acquisition and the defendant A will invoke the provision of the Constitution which says that property shall not be taken without just compensation. Congress says it may be so taken; the Constitution says it may not be so taken. Which is to prevail? The answer is plain, if we are to have a government of laws. It is only in the sense that it decides this question in a conflict between two parties to a cause in litigation that a court may be said to hold a law "unconstitutional." If the court should hold the lower law prevails, the lower law would be paramount and the Constitution would be a nullity; the court would not be a judge of the law as the very conception of a court implies, but it would be merely an instrument of the legislative body. It would not be an independent and coordinate branch of government; it would be destroyed as such and there would remain but two divisions—legislative and executive.

3. The third essential element of true judicial power is that it acts only with a view to reaching a final enforceable judgment which effectively settles the given dispute between the litigants.

If it is judicial power that is to be conferred upon the Court, the Court must be permitted to reach a determination which finally settles the particular controversy before it. If this right is to any extent taken away or impaired, to that extent judicial power is withheld.

Of course, there may be many steps in the exercise of judicial power. There are many preliminary matters which are not themselves final determinations of the dispute but are merely steps in bringing the dispute to the point of settlement; and, of course, there are appeals permitted until the highest court which can act upon the question is reached. But these matters do not detract from the soundness of the thesis that the function of the Court, acting in a judicial capacity, is exercised for the purpose of ending the litigation as between the parties before it. Any act for any other purpose or with any other end in view is useless to the parties and to the State.

A little consideration will show that this must be so. The purpose of law and of society organized under laws is to eliminate the rule of force. It is a vital step in the evolution of society from anarchy—every man for himself—to order. If men are to dwell together in peace, there must exist among them something better than the arbitrament of the sword.

It is the experience of mankind through the ages that differences of view and conflict of claims will arise continually. And these must inevitably be settled in some fashion. So there was evolved, by universal need, the principle of submission to arbitration. But arbitration, as the name implies, means to settle, not to argue or prolong. It means to submit to a third party, not for the purpose of airing one's views but to end the conflict—whatever one's views may be.

If the dispute is not ended, the arbitration is fruitless. The conflict goes on and the purpose of society in establishing the court of arbitration is frustrated.

In this respect it is quite different from holding an election, appointing an official, passing a law, or issuing an administrative order. If, in such cases, the act cannot be performed for want of a sufficient number in concurrence, for example, there is nevertheless a solution reached; the former officer holds over, the old law remains in force, the former practice continues. But if a fight is not settled it continues—there is no alternative. In other words, if it is not settled peacefully, it is left to force or other means disturbing to the State.

So any restriction which prevents a court from reaching a final decision in any litigated case, whether a trial court or an appellate court, destroys the judicial power in that case.

In the case of a single judge composing the "court" the matter is clear enough. But in the case of several judges it may need elaboration.

It will conduce to understanding if we consider that, no matter how many judges there are, it is the unit, the court, which is the umpire, not the individual judge. It is the court which votes, not the judge or judges.

And this "vote", if it may be called such, is, by the very nature of the judicial process, a vote from reason—not from will. A member of the legislative body may yield his will, as he must when more than a majority vote is required for action, though his reasoning remains the same. But the submission of the question to the judge or judges for decision is submission to reason only;

it is reason which controls or the result is not judicial. And no man can yield his own thought, conscience, or reason.

If then the unit must act, and must act in a purely judicial capacity, it can act only by a majority composing it, if composed of more than one, each having equal authority.

So to ordain that a court of several judges must act by two-thirds vote is to destroy the essential requisite of judicial power to the extent such mandate applies.

Method for Constitutional Changes

EXTENSION OF REMARKS

OF

HON. ARTHUR H. VANDENBERG

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Friday, February 26 (legislative day of Wednesday, Feb. 24), 1937

ADDRESS BY HON. JAMES J. DAVIS, OF PENNSYLVANIA, AT PENNSYLVANIA THRESHERMEN AND FARMERS' PROTECTIVE ASSOCIATION DINNER ON JANUARY 19, 1937

Mr. VANDENBERG. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by the able Senator from Pennsylvania [Mr. DAVIS] at the annual dinner of the Pennsylvania Threshermen and Farmers' Protective Association at Harrisburg, Pa., on Tuesday, January 19, 1937, as published in the magazine Right of Way of the issue of February 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

[From the Right of Way for February 1937]

UNITED STATES SENATOR DAVIS FOR CONSTITUTIONAL CHANGE, BUT INSISTS IT BE MADE IN WAY SET BY DOCUMENT ITSELF

(Address of Senator JAMES J. DAVIS at Pennsylvania Threshermen and Farmers' Protective Association annual dinner, Harrisburg, Pa., Tuesday, Jan. 19, 1937)

During the last 50 years in which I have been observing public affairs I have witnessed an increasing interest on the part of all lines of government in the things which make for the common welfare of our individual citizens. These great ideals have been uppermost in the thinking of our statesmen, irrespective of party, and often men of varied political persuasion have joined forces to bring in improved conditions for the people. On January 6, in his annual message to Congress, President Roosevelt enunciated this great ideal when he said:

"The deeper purpose of democratic government is to assist as many of its citizens as possible—especially those who need it most—to improve their conditions of life, to retain all personal liberty which does not adversely affect their neighbors, and to pursue the happiness which comes with security and an opportunity for recreation and culture."

This is the ideal toward which our Government has steadily been moving during the years in which there has been a constant enlarging of the functions of Federal authority. Indeed, all of government has taken on increased responsibility with the growing need of our machine civilization.

NEED MORE MONEY

With our increase in population, development of our natural resources, skillful adaptation of modern methods of communication, we have need as a people for more money. We have more money than we had 50 years ago, but, still, in the face of our potential earning power and our earning opportunities, we do not have enough. Today people want more money. Business, agriculture, labor, investment, and banking will all profit as the people find it easier to exchange their labor and products for buying power.

During the 10 years while I was Secretary of Labor I was continually urging what I call the "saving wage", which will enable people to own their homes, possess automobiles, so that the people who work in the cities can live in the country, and the people who live in the country can easily contact the city markets, and the workers can have enough not only for their present needs but also enough to make satisfactory provision for their future. Workers need not only enough to buy from the farmer and the manufacturer but to save toward the owning of their homes and proper provision for their possible sickness and old age.

These are no longer theoretical ideals concerning which we speak but they are being worked out in realistic fashion through the cooperation of responsible agencies of labor, industry, and Government. We may be sure that we shall continue to move in this direction.

CHANGING THE CONSTITUTION

Naturally we may expect that amendment will be offered in social-security legislation. Sixteen years of practical governmental experience in Washington has indicated to me that there is not one single major legislative pattern which is maintained without change during the years. Change is necessary for progress. We need not, therefore, regard any man-made law to be held in a rigid, inflexible, cast-iron fashion. This applies to all laws devised by mankind and it applies to the Constitution of the United States.

We need not regard with fear the honest consideration which is being given today to certain possible changes in the Constitution, if arrived at openly and with the full knowledge of all the people. But we must be concerned lest such changes be brought upon us secretly or through the connivance of just a few and in disregard for the true spirit of our republican institutions of government.

Especially is this a time when we must be alert lest the judicial institutions of our Nation, which have been built up with such cost and constitute the bulwark of our liberties, be placed in jeopardy through mob spirit. Let us give proper consideration to the Supreme Court of our land, not that through it nine men may govern the land, but that through an observance of the law the Nation as a whole may come to have a more profound respect for discipline which we must place upon ourselves if our civilization is to endure.

NEED BALANCE

The primary problem of labor and business, as of agriculture and industry, is to hold themselves in a balanced relation to each other. Distressing difficulties arise when we get off balance. Industrial management, productive agriculture, the consuming public, the growing ranks of investors, and the workers are all interrelated. Those who attempt to ignore this intimate and necessary relationship through the artificial stimulation of class consciousness must beware lest in their zeal for reform they do not undermine the foundations of the Republic. Following the teachings of my father, for the last 50 years my one repeated assertion has been that labor and industry, agriculture and business, belong together. When they are dissociated and treated through legislation as though they were completely dependent instead of, in truth, completely interdependent, all of us suffer. We must have peace and harmony between all the great instrumentalities of modern life.

FORD PLAN

Much new legislation has been passed and much is now being proposed. So many bills were introduced during the first day in this session of Congress that I have not as yet been able to read all of the most important ones. The Walsh-Healey bill of last year suggested new business policies. But before the bill had been passed Henry Ford had started out to do in his industry what he contemplates should be done by business firms dealing with the Government. Other business firms are following the Ford idea. Ford's business is probably the greatest individual business the world has ever known and he has set up a new rule—one similar to the Walsh-Healey bill. Before the Ford Co. will purchase supplies from any outside company—and hundreds of firms do business with Henry Ford—he demands to know what the pay roll of the company is; what the working conditions are; and, as I understand it, he has resolved to purchase no supplies from any concern paying low wages, employing child labor, operating on the sweatshop principle, or supporting destructive business practices.

AGAINST CHILD LABOR

During the time I served as Secretary of Labor, in making addresses to many industrial organizations who had a percentage of their members paying extremely low wages, maintaining poor working conditions, long hours, and seeking a profit through the employment of child labor, I made clear the social evils inherent in such practices and the discredit it brought to those who continued them. Now as ever I wish to stand firm on this principle. I believe that manufacturers' associations and business organizations, most of whom wish to follow proper economic and humanitarian principles, ought not to permit to membership any firm which breaks down the best standards of labor and industry. The trade unionist does not believe in accepting to membership any man who will work below union standards of wages and working conditions because he knows that a violation of these principles will work a hardship not only on his own trade but on society as a whole. In my judgment, employers cannot afford to be any less careful in their protection of the standard practices of business and labor, for industrial management will suffer just as surely as the workers from the destruction of progressive standards of employment. These standards are absolutely basic to the development of buying power, and if they are weakened by lack of industrial insight and understanding the economic safety of all of us is imperiled.

PRAISES BUSINESS

I believe it most unfortunate for business that the impression has become general that businessmen favor the employment of child labor. Knowing businessmen as I do, I am convinced that quite generally they do not favor the retention of the evils of child labor. There are a few exceptions to this statement, but as compared with the vast majority of businessmen only a few seek to make a profit by a system of child employment against which the united forces of government, labor, and industry have been directed unmistakably.

SUGGESTS COURT STAND

Of all the millions of persons employed in industry, I doubt if there are 50,000 workers under 16 years of age, and these are centered in a few States. While I was Secretary of Labor I urged upon Congress the necessity of passing the child-labor amendment, and I am glad that Pennsylvania has registered its endorsement of this forward-looking measure. The Supreme Court has taken a strong stand regarding the interstate shipment of prison-made goods. It

is not too much to expect that a similar stand will be taken regarding the interstate shipment of goods made by child labor. Certainly it is worse to use the goods made from the competition of child labor than from prison labor, although nothing justifiable can be found in either.

FOR WORK RELIEF

Protection against unemployment is a natural desire of any man who works for wages. Protection against the day when work and wages end has been offered by a vast number of voluntary, private agencies such as fraternal benefits, labor union treasuries, and insurance groups of all kinds. What these agencies could do was necessarily limited and it was necessary for the Government to intervene in behalf of millions whom the depression placed in acute distress. Work relief and relief measures were instituted, and I voted for all of these. However, we should be fair enough to realize that industry also placed human values as a major consideration in their budget programs, as shown by the fact that during the depression industry spent $27,000,000,000 to keep men on pay rolls at a level which the state of business did not justify from the standpoint of immediate industrial profits. These expenditures were twice the sum spent by the Government itself. Those who applaud Government expenditures in behalf of the unemployed should remember what fraternal organizations, trade-unions, private, and industrial associations have done.

TERMINATION WAGES

Many progressive business firms have for a long time provided for the payment of termination wages, and others are following their example at the present time. These companies, when they find it necessary to lay off men, give them from 1 week to 3 months' pay—governed by length of service, age, and salary classifications. In cases of great need where relief must be sought from the Government such plans enable the unemployed to make adjustment without complete deprivation.

Before the advent of the Roosevelt administration, I earnestly sought to secure a large appropriation for work relief and public works. This was in 1932, when Senator LA FOLLETTE introduced a bill asking for an appropriation of $5,000,000,000 for public works. There were only 12 Senators who voted for it. I was one. Only three Democrats voted for it. I have believed in this program as a matter of principle and have supported it when it was far from as popular as it is today.

AGAINST CONCEALMENT

The needy and unemployed of the Nation have always found in me a friend. I trust that it shall always be so. But because I feel toward their distress as I do, it has been a matter of conscience with me to protest the use of large percentages of work-relief appropriations, intended for the underprivileged, for the payment of salaries to political appointees carried on administrative pay rolls as a patronage policy. In the light of the way in which political appointees have been paid the money which was intended for those who were completely destitute, it must now seem obvious that some change is now imperative. I have repeatedly asked for a list of the names, addresses, positions, and salaries of all the administrative personnel of the W. P. A. in Pennsylvania, but without success.

This information should be made available to the public. I believe that those who are on relief, receiving only small sums of money to protect them from starvation, and those who are on work relief in receipt of salaries in the lower brackets should be thoroughly protected from publicity. On the other hand, taxpayers have a right to know what salaries are being paid to administrative officials. The public has a right to know who its officials are. At the present time and during the last 4 years this public information has been concealed.

LABOR RELATIONS

I hope that the Labor Relations Act shall be held to be constitutional, but in case it is pronounced unconstitutional it will then be possible and necessary for the State of Pennsylvania to secure legislation for itself following these important policies. And if the Labor Relations Act should be declared unconstitutional, we should remember that the present administrative control of government in power in Washington extends to a majority of the States of the Union. These States can pass labor-relations acts for themselves if the Federal statute is denied.

GOVERNMENT WASTE

Washington is now busy talking concerning the reorganization of the Government plan which President Roosevelt has presented. In connection with it, and somewhat in contrast with it, is the plan of reorganization advocated by Senator BYRD, of Virginia. Irrespective of which plan of reorganization is adopted, we may be sure that some important changes will be made in Government housekeeping in the interest of economy. There is much needless duplication of governmental agencies, resulting in loss of money to the Government through excessive personnel, wasted materials, and the high cost of office space. I believe in economy in Government. At the same time I believe that Uncle Sam should be a model employer of labor. Any change which is made should be carried out in such a way as not to exemplify the brutality which Government reformers have condemned in business. Employees who are released from Government service should have the utmost consideration for their future placement. Moreover, it is necessary that Government workers in the lower brackets be given an increase in salary, at least as much as 10 percent, to keep pace with what the Government is now asking industry to do for industrial workers. Let the Government show the way to business economy, efficiency, and fair play.

AGE OF BUILDERS

We live in an age of builders. We are building great structures of government, industry, agriculture, and finance. In our building we must observe the fundamental principles of social and economic balance. We need not be so much alarmed that Government and industry have taken on such vast scope of development as we should be concerned because other areas of modern life remain stagnant and underdeveloped. Very possibly we may be sure that they cannot be maintained unless the buying power of the people by which they are sustained is increased proportionately to the demands made upon them. I am not suggesting that we look backward or go backward, but I am urgently asking that we go forward all along the line of our common needs and not in just a few places. There must be no unprotected salients in the front line of our modern social and industrial advance. While we are building let us not forget to build the 5,000,000 decent homes, with modern equipment, healthfully located, and properly financed which the housing needs of our people now demand. And while we are building let us not neglect to build within ourselves the spirit of self-respect, self-discipline, self-control, and self-culture which a great cooperative society such as ours must have if it is to endure.

Treading Dangerous Ground

EXTENSION OF REMARKS

OF

HON. BENJAMIN K. FOCHT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1937

EDITORIAL BY HON. BENJAMIN K. FOCHT, OF PENNSYLVANIA, IN THE LEWISBURG (PA.) SATURDAY NEWS OF FEBRUARY 25, 1937

Mr. FOCHT. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following editorial, which I wrote for the Lewisburg Saturday News of February 25:

Our own great citizen of Pennsylvania, the late Representative James M. Beck, was always eagerly listened to when he appeared on the floor of Congress and began to speak. He was quiet and unassuming, but brilliant in his understanding of all governments, and particularly the principles underlying our own great Republic.

Of Mr. Beck, the outstanding Washington commentator, F. W. Wile, says:

"No one would have been better equipped to take a hand in the Supreme Court controversy than the late Representative James M. Beck. In his famous book on the Constitution, Beck indulged in what now reads like grim prophecy. Describing an independent judiciary as 'the balance wheel of the Constitution' and the Supreme Court as 'the final conscience of the Nation', Beck said: 'This great power to curb legislatures and executives, and therefore majorities, has been exerted for over 130 years. While not infrequently the party whose power is thus curbed has vented its wrath and disappointment upon the Supreme Court, yet after the thunder of political debate has passed and the earthquake of party passion has spent its force, the "still small voice" of the Supreme Court has always prevailed. Each time the will of the majority is nullified, because inconsistent with the fundamental law, threats are made, as are now being made, to destroy this power, or at least to impair it by requiring the concurrence of seven out of nine Justices before a statute can be invalidated. The most effective restraint which freemen have ever imposed upon themselves is this extraordinary power of the Supreme Court. The value of such a restraint upon precipitate action is so great that it is improbable that the American people will, at least in the near future, thus destroy the efficacy of the great balance wheel.'"

In the counsel given by Machiavelli to the prince how to perpetuate his power there was everything pertaining to intrigue, vile deception, and murder.

To perpetuate American liberty Washington, in his Farewell Address to the people of the United States, chose a different method, and his wise advise was based on justice and righteousness.

This one thing among countless others should sink deep into the conscience of every citizen who would tamper with such alien policies of governmental changes as are advocated by President Roosevelt in his dangerous quest for added power—power beyond that delegated by the Constitution—and of which George Washington spoke in his Farewell Address in these clear tones:

"The basis of our political system is the right of the people to make and to alter their constitutional Government, but the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all."

In the presence of this counsel and caution many people who voted for President Roosevelt are wondering what kind of thinking he is doing, or what design is he nursing beyond his place of rightful power as Chief Executive. To go beyond that he treads upon dangerous ground; hence his former best friends are alarmed about this dummy duplicate Supreme Court he would appoint in disregard of constitutional procedure.

He cannot succeed in what are interpreted as his designs, although he might have accomplished practically the same thing if his methods were not hedged about with suspicious procedure. This has brought the beginning of the end of his power. The eclipse may be delayed, and yet it is inevitable.

We will close these observations on the future of our country by quoting what Abraham Lincoln said in a speech in 1842 of George Washington, the Father of his Country:

"Washington is the mightiest man on earth—long since mightiest in the cause of civil liberty; still mightiest in moral reformation. On that name no eulogy is expected. It cannot be. To add brightness to the sun or glory to the name of Washington are alike impossible. Let none attempt it. In solemn awe pronounce his name, and in its naked, deathless splendor leave it shining on."

Reorganization of the Supreme Court

EXTENSION OF REMARKS

OF

HON. ALBEN W. BARKLEY

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Monday, March 1 (legislative day of Wednesday, Feb. 24), 1937

ADDRESS BY GOVERNOR LA FOLLETTE, OF WISCONSIN

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered on Saturday, February 27, 1937, over the radio by Gov. Philip F. La Follette, of Wisconsin, on the subject of the proposed reorganization of the Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

President Roosevelt has asked Congress to pass a law affecting the membership of the Supreme Court of the United States. His recommendation has let loose the floodwaters of propaganda dammed up since the recent election. Newspapers and radio reiterate the charges that the President wants to "pack the Court"; that he is undermining our liberties; that he is about to upset our system of government.

We might well assume from all we have heard and read that something dire and revolutionary is about to be put over on us. Let us look carefully at what has been proposed. It is just this: If a judge does not retire when he reaches 70 years of age, then the President shall nevertheless appoint his successor. It is this very simple recommendation which has unloosed the turbulent waters swirling about us.

There is nothing new or spectacular in compulsory retirement for judges. Growing out of generations of human experience, most other nations and many of our States and municipalities have fixed an age limit for retiring not only judges but other officers and employees. Nearly every college and university has such a system for teachers. Corporations and industries have similar provisions for officers and employees. And in nearly all such retirement systems the maximum limit is 70 years.

There are, of course, exceptional people who retain their full powers after 70, but they are the exception and not the general rule. The danger of age is not the lack of learning or skill; the danger of age is rather a lack of contact with and appreciation of the problems of the present.

Long years of giving opinions from the judge's bench are all too apt to create a habit of mind which cannot adjust itself to the right of the oncoming generation to meet its own problems. In the past generation the judges have too often been unable to realize that—to quote Mr. Justice Holmes—"what seemed to them to be first principles are believed by half their fellow men to be wrong."

So there do not seem to be any very good reasons against a system that will compel or at least encourage judges to retire at 70. An exceptional man may render distinguished service in his ripe age, but when we come to examine the Supreme Court of the United States, instead of finding one or two elder judges as an exception, we find that the exception has become the rule itself.

There is not a judge on our Supreme Court of the United States under 60. Six of them are over 70, and five of them are at or over 75. With all respect due the dignity of advanced years, no one can sincerely defend having a majority of the Nation's high Court approaching 80 years of age. Yet, when the President brings this situation to the attention of Congress and proposes a method of dealing with it, he is denounced from one end of the country to the other.

Since the civilized world accepts the principle of a retirement system, the fact that a retirement system will affect a majority of the Supreme Court is not a reason against it. On the contrary, it is an extremely strong argument in favor of it. If it is sound to retire judges at a certain age limit, then the fact that two-thirds of the Court are past such an age limit is all the more reason to adopt the proposal promptly.

When Mr. Roosevelt became President he was not responsible for the situation as he found it. But as President of the United States and the leader of American democracy he is responsible if he does not deal with a situation which blocks the sound and legitimate progress of the American people.

The opposition to President Roosevelt's proposal comes mainly from those who are bitterly opposed to, and from a few who fail to keep their eyes fixed on, the essence of democratic government.

When any man, be he liberal or conservative, tells us that this proposal gives to the President dictatorial power or that it makes the courts subject to the whim of the President, he is not talking sense. Any judge appointed by the President under this proposal would in the future, just as in the past, have to secure the approval of the majority of the United States Senate for his confirmation. And having been appointed and confirmed, such judge would have exactly the same freedom from outside domination now enjoyed by the nine men who sit there today.

There is no more likelihood of the President's violating the proprieties in making the appointments under this plan than there would be in making appointments to the Supreme Court that are likely to be his in the coming 4 years regardless of whether this proposal is adopted or not.

It is true that under this plan the President would make six appointments to the Supreme Court. But if Hoover made three appointments in 4 years, as he did, there would be nothing extraordinary for Roosevelt to be able to make six in 8 years.

This proposal is nothing like the legislation of 1801. Then the political grandfathers of the Liberty League did pack the Federal bench with their political supporters. They kept President Adams up all night his last day in office signing appointments to the Federal bench to hamstring the incoming President, Thomas Jefferson.

Nor is this suggestion a patch on what the Republicans did in 1869. Then the Republicans did pack the Supreme Court to change a specific decision. They increased the membership of the Court and got a new decision. Can you imagine the uproar had President Roosevelt proposed to do what the Republicans actually did!

But those who oppose the President's recommendation say that it is merely a clever way of getting around unfavorable decisions of the Court and indirectly amending the Constitution. This opposition insists that there should be an amendment to the Constitution. May we not well ask, if there is some other and better method of reaching this problem, why was it not proposed and adopted by the Hardings, Coolidges, and Hoovers?

It is difficult to believe that some of those who urge amendment of the Constitution can be wholly sincere. A number of United States Senators have spoken over the radio in opposition to the President's program. They have recognized the need for action and in the same breath solemnly urged amendment to the Constitution.

This may sound plausible until you look into the record. These men have been in Congress for years, but they offered no amendments to the Constitution touching this problem until President Roosevelt made his recommendations. If this problem should be reached by constitutional amendment, then certainly some one of the 96 Senators or 435 Congressmen should have been able to find it out some time during the last 10 years.

But it is only since this controversy arose that most of these Senators and Congressmen have begun to think of amendments. These amendments, so recently thought up, are either political alibis to cloak their opposition to the President's proposal or these Senators and Congressmen have been asleep at the switch for the last 10 years.

Those who advocate amending the Constitution to reach this problem know that it cannot be done without years of delay. Over 10 years ago the Supreme Court held unconstitutional legislation aimed to stop traffic in the product of the labor of little children. A constitutional amendment was introduced to reach this situation. Yet 10 years later the fight for that amendment is still going on.

Again, in spite of the strong popular feeling against prohibition, it took 10 years of well-organized and well-financed agitation to secure an amendment to the Constitution repealing it. So it is not surprising that we find opponents to the President's program piously talking about amending the Constitution. These opponents urge amendment because it sounds plausible yet will accomplish nothing.

But the strongest reason in support of dealing with this problem directly by law rather than by amending the Constitution is that by amending the Constitution we will not reach the real problem that needs to be dealt with.

The basic problem is not one of amending the Constitution. That great document is as sound today as when it was first adopted. In the future, as in the past, time may prove that in some few particulars amendments may be necessary. But the framework and broad principles laid down by the Constitution of the United States are just as sound today as when they were adopted, 148 years ago.

The principal difficulty blocking progress of the people of this country is not our great Constitution. It is a majority of the Justices of the Supreme Court of the United States.

Of course the President's proposal will affect the decisions of the Supreme Court. It is intended to do exactly that. The point of view of some of the Supreme Court Justices and the decisions resulting from that point of view are in crying need of change. The spectacle of five men blocking the progress of 130,000,000 people by twisting and distorting the plain terms of the Constitution to accord with out-worn prejudices is a situation that needs correction. And this situation cannot be corrected by amending the Constitution. It must be corrected by appointing new Justices.

In view of the concrete situation on the Supreme Court of the United States today, I would favor President Roosevelt's proposal regardless of who might be President. I would be sure that on the average new judges, coming fresh from the problems of today, would be more likely to reach sound conclusions than men who have been long removed from active participation and whose ideas were formed during a past generation. There are exceptional people whose thinking and knowledge of conditions always remain fresh. But they are the exceptions. In most cases a conservative of today will have better understanding of present needs than a liberal of yesterday. I am willing—yes, anxious—to see an infusion of new blood to the Supreme Court, believing it will correct a substantial part of our present judicial difficulties.

I am doubly for President Roosevelt's proposal because I am confident that he will appoint men to the Supreme Court who will compel that tribunal itself to obey the Constitution.

Let there be no misunderstanding. In far too many cases when the Supreme Court of the United States declares a law unconstitutional it is not a question of law at all. It is a question of opinion. And of late there have been occasions when it was a case of prejudice.

Let us remember that there is not a single sentence in the Constitution itself which gives the Supreme Court the right to declare any law unconstitutional. The court exercises this great power even though the framers of the Constitution on four separate occasions refused by overwhelming vote to give it to them.

The court, timidly at first, more boldly later on, began to claim and assert this power. Inch by inch and foot by foot a majority of the court have added to this second rule.

Time after time laws were declared unconstitutional where there was not only a reasonable doubt but where some of the best legal minds in the country were convinced they were valid. So the power of the Supreme Court was finally stretched to the point where five men on that Court—appointed for life—could for all practical purposes veto laws just because they did not approve of them.

The most bitter criticism of this abuse of power has not come from soap-box orators. It has come from distinguished lawyers and judges.

Here is what former Judge (now United States Senator) Robert Wagner of New York said in 1931: "The Constitution * * * today is what the judges of the past have made it and the Constitution of the future will be what the judges in our day will make it."

Here's what Senator WHEELER, of Montana, had to say in 1931: "The Supreme Court of the United States is not only determining legal questions but it is likewise determining the great economic questions."

Another quotation:

"We are under a Constitution, but the Constitution is what the judges say it is * * *." Who do you think said that? Some rabble rouser? Not at all. That was the statement made in 1907 by the present Chief Justice of the Supreme Court of the United States, Charles Evans Hughes. But, of course, he was younger then.

Here's another one: "As the decisions now stand, I see hardly any limit but the sky to the invalidating of those rights if they happen to strike the majority of this Court as for any reason undesirable * * *." Ladies and gentlemen, mark that, not unconstitutional but undesirable. "* * * I cannot believe that the fourteenth amendment was intended to give us carte blanche to embody our economic or moral beliefs in its prohibitions." That statement is from an opinion in Butler against Missouri, written by Justice Oliver Wendell Holmes, of the Supreme Court of the United States.

I now quote from another statement: "* * * Under the fourteenth amendment the Supreme Court of the United States, as to most questions of a nature similar to the one by the Court passed upon in the railway case, becomes really the economic dictator in the United States." And who do you think said that? Senator WILLIAM E. BORAH, of Idaho.

Yet Senator BORAH is opposed to President Roosevelt's proposal to retire judges at 70; even though these men appointed by the Hardings, Coolidges, and Hoovers are, in his own words, the economic dictators of the United States.

And we can well ask Senator BORAH and his other colleagues who oppose the President's proposal: "If the President is wrong in asking legislation instead of amendment to the Constitution, what have these distinguished Senators been doing in the last 10 years? Why didn't they do something about this dictatorship?

"But even though you did nothing, why have you not the grace now to offer something besides criticism or procrastinating alibis when the President tackles the job you left undone?"

But today we have reached an impasse that can no longer be ignored. The Supreme Court has taken a final step which, if unchecked and uncorrected, means the end of American democracy. A majority of that court has now proceeded to hold an act of Congress unconstitutional in the face of clear language in the Constitution itself giving Congress the express power to enact such legislation. I urge you to read yourself the opinions of the court in *United States* v. *Butler* (297 U. S. Reports). In that case the Supreme Court held unconstitutional the Triple A, or Agricultural Adjustment Act. Under that law Congress levied taxes and distributed the proceeds of those taxes for the benefit of American farmers. In the words of Justice Stone—and I now quote him:

"The constitutional power of Congress to levy an excise tax * * * is not questioned. The present levy is held invalid not for any want of power in Congress to lay such a tax * * * but because the use to which its proceeds are put is disapproved. * * * The governmental power of the purse is a great one. * * * Every student of the history of governments and economics is aware of its magnitude * * * in every civilized government. Both were understood by the framers of the Constitution when they sanctioned the grant of the spending power of the Federal Government. * * * The suggestion that (this power) must now be controlled by judicial fiat because it may be abused by unwise use hardly rises to the dignity of argument."

Those are the words of a member of the Supreme Court of the United States and, incidentally, a Judge appointed by Mr. Calvin Coolidge. The clear and unmistakable meaning of Judge Stone's words is that five members of the Supreme Court of the United States themselves amended the Constitution of the United States by a judicial decree.

What purpose can be served by amending the Constitution if five judges can themselves change express words in that Constitution by their judicial decree? This problem cannot be corrected by amending the Constitution. It can only be remedied by amending the Supreme Court.

No one advocating President Roosevelt's plans seeks to deprive the Court of its important and legitimate functions. No one today seriously denies the Court's power to declare laws unconstitutional. What is demanded is a Supreme Court which will itself obey the Constitution. A Court which will do that will solve 90 percent of the problem.

Underlying all of this is a great issue which does involve the preservation of our system of government. Herbert Hoover spoke the other night on this very question. He cited the danger of dictatorship, either from communism or fascism. He noted the appalling collapse of democratic government in other parts of the world. Mr. Hoover is right; democratic governments have been under constant attack since the end of the World War. But what Mr. Hoover did not understand when he was President and what he and his group do not understand today is just this: The destruction of democracy is not produced by bad men. It is produced by bad conditions.

American democracy was never at a lower ebb than when Herbert Hoover left the White House. Mr. Hoover during his 4 years as President never lost an opportunity to talk about liberty. But he never did anything to help millions of people retain their "right to life, liberty, and the pursuit of happiness."

Then, on March 4, 1933, President Roosevelt began to act. He gave the Nation leadership; and the essence of democratic leadership is to find legal and constitutional means of doing what needs to be done when it must be done.

President Roosevelt accomplished what he did, not because of but in spite of a majority of the Supreme Court. He worked faster than they did; and in spite of the Supreme Court, reactionaries could never catch up with him. If faith in democratic government has been revived in America, it is due to the President's capacity and courage in making our Government function.

But we are not out of the woods. Old-age pensions, railroad pensions, unemployment insurance, regulation of public utilities, Government development of electric light and power, the Labor Disputes Act, and other vital legislation affecting every man, woman, and child in America are yet to be passed upon by the Supreme Court.

But experience with decisions of the Supreme Court has taught that social and economic legislation of this kind may be thrown out as unconstitutional. Not because it violates express or implied provisions of the Constitution but solely because members of the Court have different economic views from a majority of the American people. Every true American wants our basic principles strictly adhered to, and any law that violates these principles should be declared unconstitutional. But the Supreme Court has no moral or legal right under the cloak of legalistic phrases to usurp the sovereignty of the people and their chosen representative.

The Constitution, article I, section 8, reads as follows: "The Congress shall have power to * * * collect taxes, * * * provide for * * * the general welfare of the United States * * *." Under that broad grant of power Congress has levied taxes to provide old-age pensions, because Congress, together with a majority of the people of this country, believes that the older men and women of this Nation are entitled to a sound, self-respecting system of old-age pensions. Are the people of this country to be frustrated in that sound and humane purpose because five men on the Supreme Court don't happen to think that old-age pensions "promote the general welfare"?

Congress is given express authority to regulate interstate commerce. Under that clause, Congress has adopted legislation to diminish labor disputes by establishing the principle of collective bargaining. Is there any doubt in your mind that a strike like that in General Motors affects commerce, business, and workers in practically every State in the Union? You and I may know that to be the fact. But reactionaries seem to believe that a majority of the Supreme Court is likely to take the position that

Congress can enact no national legislation to touch that vital and pressing problem.

There is no problem today more critical or pressing than that of unemployment. Every thoughtful person agrees that our failure to solve that question will endanger the Nation itself. Yet if a majority of the Court pursues the line of recent decisions, it may well hold that the Congress has no power to deal with unemployment.

Over and above all questions of technicalities, or the construction of this or that phrase in the Constitution, is the great lesson of our time. Nothing can more certainly or effectively destroy the American system of government than its failure to function. No government can last that cannot or will not find constructive solutions for the critical and pressing problems of the average citizen.

The reactionaries who believe that the Constitution and the Supreme Court guaranteed in perpetuity a particular economic system, plunged this Nation into the awful tragedy of the Civil War. The reactionaries of today seek to make that same tragic mistake. They think that five men can preserve by judicial decree the outworn economic and social beliefs of a favored few. Nothing can more certainly destroy democratic government than to put it in a legal strait jacket in a futile attempt to block the great forces of human progress.

To do nothing in times like these in itself violates the spirit of our Government and its Constitution. The basic change in our way of living calls for measures never before adopted in our country. Let us not be afraid to use such measures if they are needed for the well-being of the people. Let us never forget that the most loyal servant of the Constitution in American history once took the terrifying responsibility of violating its letter in order to preserve its spirit.

Lincoln followed the words of the Master, "For the letter killeth and the spirit giveth life." It was Lincoln himself who said, "The intention of the lawgiver is the law." Our constitutional forefathers made their intentions clear in the Constitution itself when they said it was a document to "establish justice, insure domestic tranquillity, * * * promote the general welfare, and secure the blessings of liberty to ourselves and our posterity * * *."

It is our privilege to give vitality to those great concepts. It is our duty as loyal American citizens to apply those principles to the conditions of our time and so prove loyal, in the truest sense, to our traditions.

The President is fighting your battle. He will win with your help.

Political Philosophy of the President

EXTENSION OF REMARKS

OF

HON. JAMES F. BYRNES

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, March 1 (legislative day of Wednesday, Feb. 24), 1937

ARTICLE FROM THE NEW YORK TIMES OF FEBRUARY 28, 1937

Mr. BYRNES. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Arthur Krock, published in the New York Times of February 28, 1937, relating to the President's political philosophy and program.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 28, 1937]

THE PRESIDENT DISCUSSES HIS POLITICAL PHILOSOPHY—IN MR. ROOSEVELT'S VIEW, HIS PROGRAM SERVES TO SHIELD AMERICAN DEMOCRACY AGAINST DANGER FROM HOSTILE FORCES

By Arthur Krock

WASHINGTON, February 27.—"When I retire to private life on January 20, 1941", the President this week has been saying to his friends, "I do not want to leave the country in the condition Buchanan left it to Lincoln. If I cannot, in the brief time given me to attack its deep and disturbing problems, solve those problems, I hope at least to have moved them well on the way to solution by my successor. It is absolutely essential that the solving process begin at once."

This is his answer to those who have contended that the President has a third term in mind, and would remake the Supreme Court majority for a period of submissive cooperation with the other Federal divisions that will exceed the precedental time for Chief Executives. And it is his answer also to those who insist that nothing in the present condition of the country calls for new haste in an attack on problems, and that nothing will be lost by awaiting the long process of a constitutional amendment. Doubtless he will make these responses in detail for himself before the argument about the Supreme Court is ended by triumph, defeat, or compromise.

Responses from him are expected for, though it is only a few weeks since the Presidential election of 1936, the cry of "dictator" once more is heard. The provocation is Mr. Roosevelt's recommendation to Congress of a statute whereby all Federal judges—including those of the Supreme Court—must retire at the age of 70 or have a judge of equal powers appointed to supplement them.

Since the effect of the President's proposal would be to supervene the present Supreme Court majority with his own appointees if judges eligible to retire refused to do so, or to nominate a new majority if they did, he has been widely accused of intending to supplant the Federal system of checks and balances with one-man government, assure decisions upholding any legislation he might propose, and offer to some future dictator a precedent with which, with the approval of Congress, he could, by changing the age limit, wholly remake the Supreme Court when he took office or increase it to the size—and reduce it to the futility—of a mass meeting.

In discussing with the President these charges and the proposals which produced them, the writer became conscious of Mr. Roosevelt's complete certainty that the accusations are all founded in a misconception of his aims and their consequences, in a total lack of understanding of the crisis which confronts the country and calls for drastic remedies, and in a failure to appreciate how sincere and sure is his labor to maintain democracy rather than to suspend it or undermine its future foundations.

In the President's view—and discussion with him makes it clearer—the Supreme Court issue is but part of a larger problem: How to make democracy work in a world where democracy has in many lands been subvented. He believes that within the American democratic machine are all the essential devices. He feels they must be boldly grasped and employed to save democracy itself. Far from agreeing that recourse to statutes, within the plain permissions of the Constitution, to sweep away barriers to orderly progress and modern needs is an encouragement to future dictatorships, he is firm in the faith that this method stamps out the dictatorial seed. His belief is that legalistic or other obstructions to "action by our form of government on behalf of those who need help" are the real incentives to revolutions from which demagogues and dictators emerge. What he has done and is doing are to him the definite solvents of democracy.

LIKENED TO DEAD-END STREET

The President believes it is necessary not only for the Federal Government to be able to regulate against overproduction and underproduction, to regulate against unsocial types of employment and against the making of prices by speculation, but that it is also necessary for the Federal Government to have some authority to compel collective bargaining and to enforce the maintenance of contracts both by employers and employees. He feels that today there is real danger to the Nation because any law passed by the Congress to provide national remedies is open to constitutional doubts if the language of the present Supreme Court majority is literally followed. In this connection, the President compares present conditions to a dead-end street.

He takes the position that we have come to a dead-end street where three things are possible—stop the car and stay there; turn around and go back, or turn off into a side street, right or left, and proceed to an unknown destination.

The President, by reading and observation, and by tried and unusual familiarity with the attitude of Americans toward their public men, sees a future far more dangerous if he is balked of his solutions than if they are adopted. He sees a growing belief among the underprivileged that judicial supremacy is certain to cancel the progressive and humanitarian efforts of Congress and the Executive. He sees this belief easily firing into a desperate conviction, and he does not doubt that, should this happen, a leader will arise to tread down democracy in the name of reform.

The President has not forgotten Huey P. Long. While he does not say so in precise words, he entertains the opinion that one important reason why the Louisiana dictator was not able to extend his dominion further during his lifetime was because he was fortunately coexistent with wiser and more sincere remedies for the conditions which produced Long. In other words, had public opinion against the Hoover administration not been sufficiently formed by the elections of 1932, and had Mr. Hoover therefore been reelected, the President believes that Huey Long would immediately have become a great menace to the democratic process.

HIS PRIMARY AIM, DEMOCRACY

Now, finding—from his viewpoint—essential, legal and democratic Federal action obstructed by the Supreme Court majority, or held in long uncertainty that has the effect of balking both preventive and remedial measures for what Mr. Roosevelt thinks ails the country, he sees the possibility at least that a new, more appealing, and even more ruthless demagogue may arise to abolish American democracy for years. Whether a listener agrees with the President in his course and in his estimate of future menace, that listener notes in his words and tone no other primary objective than, as Mr. Roosevelt sees it, the preservation and the restoration of democracy.

Although there are many manifests of recovery, the number of the unemployed and the national relief bill impress the President with the certainty that much remains to be done if social dangers shall be averted and economic stability be attained. In averting

social dangers and attaining economic stability, the President sees the assurance of continued democracy. That is what he is determined to assure, and he finds as natural attendant circumstances a better spread of income, steady work for the employable, a good standard of living, protection for the aged, opportunity for the young, and national action. The program to effect these benefits, which the President never thinks of save as human rights, is, to his mind, the program to keep American democracy working. At times the President is faced with this sort of problem in moving his program:

For one reason or another, a measure of national action which to him is essential to safeguard democracy comes newly into council and therefore has not been included in any specific mandate. Do the people expect him, and does fair dealing require, that he seek a popular referendum before proceeding?

If the President is convinced that the measure is effective, and that time is of its essence, he goes ahead. Since all such enterprises—this being a democracy—must first pass the Congressional test, the President sees in Congress itself a sufficient referendum in vital instances. It is true that Congress is made up of politicians and, since 1932, that it has been dominated by members of the political group of which the President is party leader. But in conversation Mr. Roosevelt points out also that, being largely politicians, with district or State responsibility, Members of Congress, if only for political self-preservation, submit his proposals to the test of public opinion, and to the further test of the democratic process. These tests, in conjunction with the full and free debate which is the privilege of the Senate, seem to the President to answer the charge that in any legislative request he ever tries "to put anything over" on the people.

TWO ELECTIONS ARE RECALLED

He points out, for example, that many of his proposals to the Congress during the past 4 years have been either rejected by the Congress or have been so amended as to change them greatly, i. e., social security, bonus, $4,800,000,000 relief bill, and so forth.

He has been moving, through the medium of civil-service reform, to withdraw political patronage from the Federal equation, and this will be well out of the sphere of Presidential influence over Congress if and when the Government reorganization plan is adopted. Therefore, in the view of Mr. Roosevelt, the response of Congress to his recommendations is more and more a clear reflection of its free opinion as to the degree to which he represents wide and accredited popular leadership.

The President comes to the issue of the mandate with which he has been entrusted by the people with recent experience strongly in mind. He found it necessary, after taking office in 1933, to divert the course plotted by the party platform on which he was elected because of a change in conditions between June 1932 and March 1933—a change which all economic research and statistics reflect. In the congressional campaign of 1934 this diversion was made an issue by the Republicans, and in return Democratic candidates for Congress offered the President himself as the only issue. "Shall Franklin D. Roosevelt's course thus far be approved and he be given a congressional majority to proceed with the New Deal?" was the question as the people went to the polls in 1934. Overwhelming documentation of this is available in the political writings and oratory in that campaign. The answer was overwhelmingly in the affirmative.

In 1936 the President's diversion, of course, was again made an issue by the Republicans, who also pointed out that, if reelected, he would probably have several new appointments to the Supreme Court. The age of many Justices, if nothing else, was used to illustrate the certainty that, if reelected, the opportunity to change the Court majority would come to Mr. Roosevelt. Whether or not the voters troubled themselves much on that point the President does not know. But he does know that once again his course was given high majority approval, and 27,000,000 voters decided to put the country's fate in 1936:

HIS VIEWS ON AN AMENDMENT

The Philadelphia convention had promised "a clarifying amendment" to the Constitution if problems arising in the Supreme Court could be disposed of in no other way. The President, in December 1936, decided that the amendment process requires too much time for the country's needs and security. He feels that, by the general permissions of 1934 and 1936, he was given ample mandate to attempt what upon mature consideration, and even altered method, he thinks is best. Therefore, he does not for a moment believe that the majority which has supported him in full measure in three national elections shares the feeling that he has exceeded his permission. Nor does he consider that the American majority expected him to have been able, in what he views as a shifting and perilous time, to chart in detail and in advance the measures he might finally employ to achieve the end stated and, as he is certain, desired by the people.

Furthermore, the President by no means discards into finality "a clarifying amendment" as mentioned in the Democratic platform. Such an amendment, he argues, would be necessary if the problems cannot be disposed of otherwise. He takes the view that the great majority of both Houses of the Congress, including many Republican Members, believed in passing the New Deal bills of the past 4 years and that these bills were constitutional. He holds, as he stated in this year's annual message to the Congress, that the Constitution definitely permits the Congress to legislate in regard to the production of crops and the production of manufactured articles which enter generically as products into commerce between the States. It is his contention that the Constitution does not forbid regulation of railroads or communications or trade practices and that, if the same rules were applied in the case of commodities of all sorts, unwieldy crop surpluses, starvation wages, and unfair trade practices could be eliminated with the objective not only of improving social conditions but also of averting future panics.

If newer and younger blood in the Federal courts does not result in decisions which accord with the views of the majority of the members of the legislative branch and the views of the President, he is then wholly willing to admit that a clarifying amendment to the Constitution will be necessary.

HOW CONSTRUE WASHINGTON?

In a time of public controversy "so much", the President has said, "depends on what newspaper you read." Which is another way of saying that one's mental approach to an argument often forecloses the effect of that argument on one's conclusion—an indisputable fact. The President takes as an example of mental approach and inflection the wide use made on February 22 of extracts from Washington's Farewell Address against his Supreme Court program.

Suppose, he says, the reader begins his perusal with remembrance that Washington wrote the words in 1796 before the Supreme Court had attempted to override an act of Congress without the specific warrant of the Constitution. It is then, in his opinion, wholly logical to read the warning words of the Father of His Country against usurpation as a criticism of the course the Supreme Court has followed in many decisions since it assumed the power of invalidating. Why, he asks, does not this passage more forcibly apply to the majority reasoning in the A. A. A. or Guffey Act cases (denounced by minority members of the Court itself) than to any act of the Executive since 1796?

"It is important likewise that the habit of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another", etc.

From the time he entered public life the President has maintained as his goal the preservation of the American form of democracy. He thinks it still needs preserving, not from his forms or persuasions but from those who have prospered most under it and returned least. He believes that his program stopped the descent of the capitalist system, threatened by enemies within and without. He wants to raise and firmly buttress it against the attacks of these enemies by the time he leaves office "on January 20, 1941."

The President's highest hope, according to his open meditations, is to leave democracy stronger than he found it and set an insurmountable barrier against the encroachments of other systems. In the long view of history he wants this to be his political epitaph. Mr. Roosevelt is sterile of self-pity and therefore he never muses over assaults made on his predecessors which turned to praise when the record was engraved. He has noted them, as he notes contemporary attacks. But firm in his faith that Democrats must often forge new tools to shore up democracy, he believes that judgment should be based, not on the tools but on the solidity of the edifice when the work is done.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSIAH W. BAILEY

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, March 1 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY FRED BRENCKMAN, WASHINGTON REPRESENTATIVE OF THE NATIONAL GRANGE, ON FEBRUARY 20, 1937

Mr. BAILEY. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address by Fred Brenckman, Washington representative of the National Grange, on Saturday, February 20, 1937, on the subject, Looking to Our Foundations.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

People of all shades of opinion are registering their convictions regarding the proposals relative to the Federal courts which are now pending in Congress. That is as it should be, because the courts, the Constitution, and the Government itself belong to the people. Those who have been elected or appointed to any public office, however exalted, are the servants of the people and not their masters.

I have just received a telegram from New England. It reads in part:

"The executive committee of the Connecticut State Grange unanimously passed the following declaration: With no other than the deepest interest of all the people of the United States at heart, the Grange believes that the President's proposal to change the long-established status of the Supreme Court, if enacted, will fall little short of pronouncing the doom of that liberty granted to all Americans under the Constitution, a priceless liberty, fought for and sacrificed for by our forefathers. We deplore any attempt on the part of any person or group of persons to institute any substitution for this most ideal and perfect form of government yet conceived in the minds and hearts of men."

ATTITUDE OF THE NATIONAL GRANGE

The attitude of the National Grange, a nonpartisan organization of farmers, is that any proper and constructive steps that can be taken to eliminate delay and expedite the administration of justice in the inferior Federal courts should meet with general approval.

The Constitution provides that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish." There cannot be two or more Supreme Courts. That would lead to confusion and chaos. The Supreme Court sits as a unit in the hearing and disposition of cases. Therefore its work cannot be speeded up by increasing the number of judges. Moreover, it has been shown that during recent years the Court has kept abreast of its docket.

The proposal to increase the personnel of the Supreme Court to the extent authorized in the bill now before Congress, if adopted, would reduce the deliberations of our highest Court to the level of a mass meeting, unless gag rule should be invoked, as is sometimes done in the House of Representatives, with its 435 Members. By every rule of human conduct, the effect of such a step would be to slow up the machinery of the Court and to retard its work.

Aside from the objections to "packing" the Supreme Court, against which millions of patriotic citizens are rising in revolt, it is clear that the real issue is one which involves a redistribution of power as between the Federal Government and the States.

If the people want to change the Constitution in accordance with the rules laid down in that instrument itself, so as to give the Federal Government greater control over agriculture, industry, and commerce, that is their undisputed privilege.

FUNCTIONS OF THE SUPREME COURT

But, in all fairness, the Supreme Court has no right to change the Constitution through strained or unwarranted interpretation. If the Court should undertake to do such a thing in promoting some purpose deemed worthy at the moment, it is conceivable that under certain conditions its members might be tempted to overstep constitutional bounds to further corrupt and wicked designs, thus destroying the liberties of the people. In either event, they would be guilty of a violation of their oath of office and would deserve impeachment.

How the members of the Supreme Court themselves feel on this subject was indicated by Justice Roberts in some comments he made in connection with a decision of the Court invalidating some New Deal legislation:

"There should be no misunderstanding as to the functions of this Court. It is sometimes said that the Court assumes power to overrule or control the action of the people's representatives. This is a misconception. The Constitution is the supreme law of the land, ordained and established by the people. All legislation must conform to the principles it lays down.

"When an act of Congress is appropriately challenged in the courts as not conforming to the constitutional mandate, the judicial branch of the Government has only one duty—to lay the article of the Constitution which is involved beside the statute which is challenged and to decide whether the latter squares with the former.

"This Court neither approves nor condemns any legislative policy. Its delicate and difficult office is to ascertain and declare whether the legislation is in accordance with, or in contravention of, the provisions of the Constitution."

It must be conceded by those who understand the meaning of our constitutional form of government that this was a correct statement of the facts.

How the questions at issue are to be satisfactorily met and solved by the appointment of additional judges in the case of those now serving who are 70 years of age or over, and who fail to resign or retire, is not apparent. If the additional judges are to be men who are worthy to sit as members of our highest judicial tribunal; if they are to be men who deserve to fill the places that have been occupied by such illustrious figures in our national life as Marshall, Story, Holmes, Brandeis, and their kind, then instead of 5-to-4 decisions, to which some people object, we may expect some 8-to-7 decisions. That would be no improvement.

WASHINGTON WARNED AGAINST USURPATION

George Washington, who presided over the historic convention of 1787, addressing himself to posterity as a wise father speaks to his children, left a solemn warning against any attempts to change the Constitution by what he termed "usurpation." While freely conceding the right to change the basic law of the land in conformity with the rules incorporated in that instrument itself, it was his idea that whatever the Constitution might be at any particular time, it should be obeyed and enforced.

The whole question is one that goes to the very vitals of the American system of government. We are not confronted with any emergency demanding hasty and perhaps ill-considered action. It should be given the most impartial consideration. As Woodrow Wilson said on a historic occasion, "Let us have less heat and more light", and above all, when a decision is reached, it should be made by the people themselves.

THE RECIPROCAL TARIFF ACT

In the remainder of the time allotted to me I wish to discuss very briefly a resolution recently passed by the House of Representatives renewing the Reciprocal Tariff Act of 1934 for another period of 3 years. Hearings on this measure have been in progress before the Finance Committee of the Senate, headed by Senator PAT HARRISON, of Mississippi, who has been very fair and courteous to witnesses coming before his committee. In appearing on behalf of the Grange I suggested several amendments to the pending legislation that were unanimously agreed upon at our last national convention.

In substance I informed the committee that while the Grange favors any expansion of foreign trade which is advantageous to our people, we are persuaded, nevertheless, that so long as the protective system prevails the American farmer is entitled to the American market so far as he is able to supply it.

In the event of the renewal of this act, which is in the nature of a foregone conclusion, the Grange holds that a provision should be incorporated to the effect that any further trade treaties which we may make with other nations should be ratified by the United States Senate before taking effect. Such treaties should not contain the unconditional most-favored-nation clause, under which policy we gain concessions from one nation while making concessions to practically all other nations producing and exporting any given commodity.

The National Grange was an early advocate of a bipartisan, fact-finding Tariff Commission as an aid to Congress in legislating on this subject. It was our belief that so far as possible the political aspects of the tariff question should be subordinated, and that it should be approached as a business or an economic question affecting for good or ill the lives and fortunes of all the people of the United States. The Commission was established in 1916.

The Grange likewise supported the principle embodied in the Fordney-McCumber Act of 1922, and which was incorporated in the Tariff Act of 1930, known as the flexible proviso, designed to keep our tariff rates adjusted to changing conditions and obviating the necessity of more frequent general revisions of the tariff.

The theory has been that our tariff rates should be based on the difference in cost of production as between this and other countries. As we are all aware, getting the real facts in a case of this kind involves a rather complicated process and requires a trained staff, such as the United States Tariff Commission is supposed to have. With this plan functioning as it was originally intended, Congress should be able to legislate intelligently on the tariff question.

The plan for dealing with the tariff question embodied in the Reciprocal Tariff Act of 1934, which it is proposed to reenact, constitutes a radical departure from our traditional tariff policy, and to all practical intents and purposes reduces the Tariff Commission to the status of a fifth wheel on a wagon. This plan was approved by Congress and placed in operation nearly 3 years ago as an emergency measure, and the question is whether or not it should be continued and probably made permanent.

GRADY DEFINES "NEW TRADE POLICY"

Commenting in general terms on what he called the new "trade policy", Dr. Henry F. Grady, until recently chairman of the State Department's Trade Agreements Committee, in an article appearing in one of our quarterly magazines a year ago, declared:

"Our objective is the general amelioration of the world situation. We have already lowered many rates, which have been generalized to other countries. When we shall have gone the rounds of most of the important countries of the world, reducing in each case the duties on commodities of which it is the principal or important source, we shall have lowered our tariff on a great many items where the case for lowering is justified. As a result of extending these reductions to virtually all countries, we will obtain, it would seem, what the proponents of unilateral tariff reduction desire; but we will do it more carefully and scientifically than is possible by legislative action."

If that does not mean that the institutions established by the founders of this Republic are outmoded and a failure and that we should turn over to a few minor officials in the State Department, whose names the peoples do not even know, the task of legislating on this important question, what does it mean? That word "unilateral" is one that grates on my ear. Unilateral means one-sided. When it comes to reducing armaments, whether economic or military, the United States should be a leader; but we cannot afford to disarm merely to set the rest of the world a good example. The United States already has the largest free list of any nation in the world. The American farmers have been the goats of our tariff system for 100 years, and it is the considered judgment of the National Grange that the condition of agriculture is not being improved under the reciprocal-trade agreements that have thus far been negotiated.

FARMERS GETTING WORST OF BARGAIN

So far from that, it can be proved by arithmetic that the farmers are getting the worst of these deals. During the calendar year of 1936 our imports of crude and manufactured agricultural

commodities exceeded our exports in the sum of $753,000,000. On the other hand, our favorable balance of trade in nonagricultural commodities amounted to about the same sum. Let me remind you that $753,000,000 is equal to about one-tenth of the total cash income of the farmers of this country. While we appreciate the efforts that are being made to improve the conditions of agriculture in other directions—and the Grange is playing its part in this connection—nothing can compensate our farmers for the loss of the American market. It is not only the best market, but in the case of various crops and commodities the only market available to us.

Some of our large manufacturing concerns seem to be laboring under the delusion that a number of the reciprocal-trade agreements that have been negotiated will work out to their advantage because it will create a small foreign outlet for their surplus products at the expense of agriculture. It should not be necessary to remind these interests that under proper conditions the farm sections of the United States offer a better market for their wares than any foreign market. Minnesota is a better place to sell manufactured products than Mesopotamia. Kansas offers a better market than does Kamchatka. Pennsylvania is a better market than Peru or Patagonia.

In considering the possibilities of the home market for manufactured products it is worth remembering that there are no tariff walls to scale, no import quotas or similar restrictions. There is no racial prejudice to be overcome and it is not necessary to employ an interpreter in doing business.

Give the American farmer the home market for his products. This will increase his income and place him in a position to buy the products of industry. If the American farmer and his family had the money to satisfy even half of their legitimate wants, there would scarcely be an idle factory in the country, nor would the Government be compelled, as at present, to support such a large percentage of the population by appropriations from the Federal Treasury.

The Continuous Discharge Book

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Monday, March 1 (legislative day of Wednesday, Feb. 24), 1937

ARTICLE BY WILLIAM McFEE

Mr. COPELAND. Mr. President, 2 weeks ago there appeared in the New York Sun a very interesting article on the merchant marine written by William McFee, who was born in England, in 1881, and came to this country in 1911. During the World War he returned to England and served in the British Naval Reserves throughout the entire war as an engineer on transports and seaplane vessels. He served his apprenticeship as an engineer and went to sea for a number of years in British ships in the various grades of engineer up to chief. After coming to the United States he served as a seagoing engineer with the United Fruit Co. until the war, and after the war returned and again served in the United Fruit Co.'s ships as chief engineer for several years. In 1922 he gave up the sea and devoted himself to writing.

Mr. McFee has written a number of books based, to a large extent, on his seafaring experience. His experience in both British and American ships and his broad outlook on the general problem involved makes his discussion of the question of the continuous discharge book of more than ordinary importance.

I ask that the article by Mr. McFee be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Sun of Jan. 16, 1937]

McFEE ON SHIPS: UNIONS WOULD CONFUSE PUBLIC MIND IN REGARD TO THE PURPOSE AND USES OF DISCHARGE BOOKS

By William McFee

Only the other day I was turning over the discharge book of a British seaman. Some years have elapsed since the book was in use because its owner is an assistant marine superintendent and does not go to sea. It included discharges as able seaman from deep water sailing ships 40 years ago, as junior mate in steamers, as master in liners, etc. From the pages slipped out a certificate of competency, or as we say in America, a license, as extra master, an extremely difficult examination which includes astronomy and higher mathematics.

But what interested me was the endorsement of all this gentleman's discharges with statements as to his character and ability. At the end of each voyage the commander of the ship and the Government official in the shipping office had conspired together to brand him with the mark "V. G." on both counts. He became, therefore, a marked man. For 40 years his record was there on file for everybody to see.

This incident is referred to because once more the left-wing insurgents are in the news as protesting violently against the new act of Congress authorizing the Bureau of Navigation to issue discharge books. It is claimed by the strikers that these books, although they will contain no remarks as to the seaman's character or ability, as all other such books do, will be used to make a blacklist, by the owners, of men who are politically active or otherwise obnoxious to the management. There seems to be some reason for believing that officials at Washington will kow-tow to the hubbub and postpone the issue of the books in deference to the demands of the strikers.

THOSE WHO OPPOSE BOOKS

Six months ago in this column it was suggested that the holy war being preached against the Department of Commerce was largely inspired by men who would prefer that all discharges were abolished. A discharge is a formal admission that a contract has been concluded. The mere fact that going to sea means signing a contract to work under certain conditions is repugnant to those who are destroying the merchant marine. They are as opposed to discharges as they are to penalty clauses in their union agreements with the shipowners.

It is impossible for any man who has been to sea to believe that genuine seafaring men, with acquired skill and character which they are eager to use for promotion, will object to having a record of it on their discharges. It is equally impossible to conceive the politicians, who are organizing the protest against discharge books, desiring such a record. Discharge books are absolutely necessary to build up a personnel unless we are to saddle every steamship office with an investigating department to trace the actual antecedents of the applicant.

The theory that all seamen who have been at sea long enough to rate as A. B.'s and who have a certificate to that effect are equally valuable is preposterous and will be laughed at by every capable officer who has ever signed on a crew. He knows, and stewards and engineers know, that the assembling of a ship's company that can be welded into a body of men to be depended on in emergencies is not achieved in one voyage or two. The not-so-goods have to weeded out, the Weary Willies and Tired Tims have to be eliminated in favor of more promising candidates. The same thing applies to the licensed personnel. Merely having a license does not prove a man fit to be an officer. This cold-blooded statement will make some of the strikers foam at the mouth, but it stands. It will be backed by every shipmaster at sea and every superintendent on the dock. The strikers are demanding an inquiry into ships going to sea without experienced crews. If the system of union control of hiring is admitted no ship would go to sea properly manned. The steamship companies will be held responsible for crews and officers sent them by the unions which will have no responsibility in the matter and whose officials cannot be sued for incompetence.

WOULD CONFUSE PUBLIC

The catch in the strikers' publicity is this, and the landsman must bear in mind that it is to the left-wing insurgents' advantage to have the public confused. The shipowner is accused of desiring a blacklist, and welcomes the new discharge book as an easy legal way to obtain such a blacklist. But the shipowner, in the case of sailors, firemen, stewards, and others, does not engage these ratings. He never sees them. He employs superintendents who have been long at sea and who possess discharges covering many years of service. These officials are responsible for engaging commanders, officers, engineers, and chief stewards, who go to sea. These officers sign on the men in their own departments. They are the persons who scrutinize the discharges. They know their men by sight. When they have had trouble with a man it would not matter if he had 50 discharges and a letter from his pastor, they will not sign him on again. If he continues to be a stormy petrel and is more interested in making trouble than in making good, he becomes known. There used to be a fireman as big as night-club bouncers in Glasgow, men with huge muscles and chests covered with hair, who could not induce engineers even to look at discharge books. They were known too well. Their records were dotted with the ominous words "Voyage not completed", which means they had signed on and failed to join the ship. Or there was the master's laconic "D. R."—decline to report.

With regard to the demand of the Masters, Mates, and Pilots' Association on the Pacific coast that the steamship companies accept officers sent them by the union, it is difficult to take such effrontery seriously. Such licensed men, if they were any good, once they had a ship, would be the first to rebel against the policy of appointments by the union. The trouble is that an officers' union is in a cleft stick as soon as it affiliates with seamen and longshoremen. An officer is a human being. He is also a work-

ingman, in the sense of receiving wages. But at sea he is something over and above this. He is the representative of authority on shore. And so long as trade unions are irresponsible, being unincorporated and unsuable in the case of broken agreements, it would be criminal negligence in an operator to accept any Tom, Dick, or Harry with a license the unions happen to send to him.

Industrial Legislation and the Constitution

EXTENSION OF REMARKS
OF
HON. SHERMAN MINTON
OF INDIANA
IN THE SENATE OF THE UNITED STATES

Monday, March 1 (legislative day of Wednesday, Feb. 24), 1937

ADDRESS BY RT. REV. JOHN A. RYAN, D. D., BEFORE THE MANCHESTER CITY CLUB, MANCHESTER, N. H., FEBRUARY 22, 1937.

Mr. MINTON. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by Rt. Rev. John A. Ryan, D. D., before the Manchester City Club, Manchester, N. H., February 22, 1937. The subject of the address is Industrial Legislation and the Constitution.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The industrial legislation which is urgently needed to abolish unemployment and bring about a modicum of social justice, comprises minimum wages, and maximum hours for labor, a new and revised N. I. R. A. for both business and labor, and a new and revised A. A. A. for agriculture. The social and industrial legislation which has been already enacted but which has not yet been passed upon by the Supreme Court, comprises the Labor Relations Act, the Holding Company Act, and the Social Security Act.

In view of what happened to the N. I. R. A., the A. A. A., and the Guffey Coal Act, have we any good reason to hope that either of these groups of reform measures, the proposed laws, or the existing laws, can be validated without a constitutional amendment? In his book, The Twilight of the Supreme Court, published several months before the fateful decision in the Schechter case, Edward S. Corwin, professor of jurisprudence at Princeton University and one of our highest authorities on the Constitution, declared that the Supreme Court had before it a group of precedents which would justify it in sustaining the principal enactments of the New Deal, and another group of precedents which would warrant it in holding all these laws unconstitutional. When the principal New Deal measures came before it the Supreme Court was evidently guided by the unfavorable precedents. When the time comes for it to pass upon new legislation for the regulation of wages and hours, the Court might conceivably fall back upon the other set of precedents cited by Professor Corwin. In this connection we recall the words of Governor, now Chief Justice, Hughes: "We are under a Constitution, but the Constitution is what the judges say it is."

Undoubtedly this was the view taken by President Roosevelt in his message to Congress early in January. He maintained that the Supreme Court could honestly and reasonably uphold as constitutional all the economic legislation that is needed by the country. What the Constitution requires is not amendment but more liberal interpretations. The principal clauses which, under a more liberal interpretation, would uphold the necessary laws are those dealing with due process of law, with interstate commerce and with the general welfare. These could be so interpreted as to sustain all the New Deal legislation, all the legislative proposals that the President desires and all the measures that I am advocating in this address.

A more liberal interpretation would not violate the language of the Constitution. It would merely take the place of the older and inadequate interpretation. And the new construction would be at least as faithful as the old to the words of the Constitution. Indeed, one of the most objectionable of the existing interpretations cannot claim even the respectability of age. It was the first adopted, exactly 40 years ago, in the case of *Allgeyer* v. *Louisiana*, when the word "liberty" in the due-process clause of the fourteenth amendment was construed to include freedom of contract with regard to property. Eight years later, in *Lochner* v. *New York*, freedom of contract with regard to labor was grafted upon the same word "liberty" in the same clause. In that case it was decided that the State of New York was forbidden by the Constitution to limit the hours of labor of bakers to 10 per day. That law, said the Court, violated the freedom of contract which is guaranteed by the word "liberty" in the fourteenth amendment. And the same justice wrote the opinion of the Court in both cases—namely, Mr. Justice Peckham.

In the light of these facts, the President's recommendation, in his message of February 5 for a reorganization of the membership of the Supreme Court, loses all its alleged revolutionary flavor and revolutionary implications. The President does not call for a reconstructed Court to change or pervert the Constitution. He merely proposes that certain interpretations of the constitutional language shall be repealed and replaced by other interpretations which will be not less reasonable in themselves and much more conducive to social justice and the public welfare.

The fairest and most realistic way of looking at the President's proposal is to compare it with a proposal for new legislation by Congress. The interpretations which the President seeks from a reorganized Court would, in effect, be new judicial legislation to take the place of old judicial legislation; for neither the old nor the new judicial interpretations are either explicitly or implicitly commanded by the Constitution. They are clarifications, or additions, or virtual amendments.

The "amending function" of the Court has been neatly described by William H. Hessler in his recent book, Our Ineffective State (p. 185):

"In truth, we have two national constitutions in America. One is the familiar document appended to schoolbooks and dutifully reprinted every year in the World Almanac. The other is the immensely longer, unfamiliar mass of verbiage emitted by the Supreme Court in a century and a half. The one is our national fetish and the source of our political institutions. The other, called constitutional law, is the array of rules and precedents by which we are governed. This heterogeneous accumulation of judicial opinions may be regarded properly as a great bundle of amendments to the original charter."

Two methods of preventing judicial nullification of the necessary reform legislation are currently advocated as substitutes for the President's proposal. The first comes from Senator NORRIS. More than 12 years ago I advocated it myself. It would require the vote of seven of the nine Justices to declare a law unconstitutional. While this proposal is entirely reasonable and logical, it might possibly be declared unconstitutional by the Supreme Court. Nevertheless, I should like to see it enacted in addition to the measure recommended by the President.

The second method was suggested a few weeks ago by Donald Richberg. It is that Congress should deny to the Court the power to review the new laws or to pass upon their constitutionality. In Mr. Richberg's opinion, Congress could do this under Article III, section II, paragraph 2 of the Federal Constitution. By this provision, the Supreme Court is given appellate jurisdiction "with such exceptions and under such regulations as the Congress shall make." If Mr. Richberg's suggestion should be adopted, Congress would say to the Supreme Court, in effect: This law constitutes an exception to your appellate jurisdiction. But the Court might reject this measure also.

Coming back to the question asked a few minutes ago, I am inclined to answer it in the affirmative. That is to say: The proposed reforms could be legally and validly effected without a constitutional amendment. The membership of the Court could be enlarged or changed in such a way that a majority would pronounce the reform legislation constitutional. In that event the Court could base its decision upon those favorable judicial precedents which, according to Professor Corwin, were available to but were ignored by the Court when it failed to uphold the New Deal legislation. It is not a question of the words of the Constitution but of their interpretation.

The amendment method is confronted by two gravely formidable obstacles. The first has to do with the wording. If the amendment were expressed in general terms, it might give the Federal Government too much power. If the language were specific, it might enumerate a multitude of subjects, even then it might leave something out. The second obstacle arises from the organized and amply financed opposition to ratification. Let us bear in mind that an amendment conferring upon Congress the authority to fix minimum wages and maximum hours; to enforce collective bargaining; to require cooperation by capital and labor in certain industries, as provided by the Guffey Act; and to enable Congress to set up "yardsticks" for the control of prices in the electric-power industry, as under the T. V. A., would be fought to the last ditch by all the corporate wealth of the country and by all the believers in an extreme doctrine of States' rights. Do not forget that any group of 13 States, large or small, in the North or in the South, could block ratification.

The 13 States in opposition might contain only one-twentieth of the country's population. Rejection of the amendment through such opposition would scarcely exemplify the processes of democracy.

In my opinion the hostile elements to which I have just referred would be able to delay final ratification for at least 3 years. By that time the operation of unchecked economic forces would in all probability have increased the number of the unemployed to twelve or fourteen million and plunged the country into a new and more devastating industrial depression. As I see it, the potential emergency which the country faces today is as grave as was the actual emergency of the early months of 1933.

Nevertheless, I believe that the present Congress should submit to the States a proposal for an amendment which would confer upon Congress the power to pass the economic legislation which is imperative. But this step should be taken after the President's proposals have been enacted. Then the country could safely take plenty of time for the process of ratification. When the amendment had become a part of the Constitution the reform legislation would be safe against attack on the ground of unconstitutionality by future Supreme Courts.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. WILLIAM H. KING

OF UTAH

IN THE SENATE OF THE UNITED STATES

Monday, March 1 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. WALTER F. GEORGE, OF GEORGIA, ON FEBRUARY 28, 1937

Mr. KING. Mr. President, last evening the senior Senator from Georgia [Mr. GEORGE] delivered over the radio an interesting, able, and illuminating address regarding the proposed plan to modify our judicial system. I ask unanimous consent that the address be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

As a lifelong Democrat and, above all, as an American, I am an admirer of the leader of my party and the Chief Executive of my country. His recent reelection must be regarded as an expression of confidence in his administration. The vote cast for him last November transcended party lines. The vote came from the tillers of the soil, from the farmer in his field, from the sailor on the sea, from the workman in the factory, from the merchant, the teacher, the family physician. It came from the young and the aged. It came from the Pacific slope, from the intermountain country, from the central West, from the New England States, and most generously from the South. Never before in history had peacetime America been so united. What is the situation today, and why?

Without warning, the Executive has demanded of the National Legislature a subservient judiciary. At the Philadelphia convention last June, those of us who served upon the platform committee of the party, as we were given to understand, with the approval of the President, pledged, by exclusion, against short cuts of any kind when we openly declared that if the social and economic program of the party could not be solved by legislation within the Constitution, we would seek such clarifying amendment as would assure to the legislatures of the several States and to the Congress, each within its proper jurisdiction, the power to enact those laws. An increase in the number of Justices of the Supreme Court had been suggested before the convention met in Philadelphia.

During the memorable campaign that followed no responsible voice in any quarter was raised for the legislation which is now demanded of the Congress. The Executive may be justified in repudiating the position of those loyal Democrats who in good faith in every section of the country declared that we would take no short cut to obtain our worthy objectives.

The mandate of the November election is found not only in the plain declaration upon which we went to the electorate but equally in the silence of those who spoke for the party upon the question now raised, a question which disturbs not only the party, but above all the country. No one can assert that the proposal to increase the Justices of the Supreme Court as now recommended, in view of the decisions which that Court felt compelled to render, could not fail to divide open-minded, conscientious men and women, in public and private life, in all parties.

ATTORNEY GENERAL SCORED

And what is the recommendation and the power demanded?

No one objects to speedy determination of constitutional questions—no one but the Attorney General who directed dismissal of the lumber case which would have brought to determination the validity of the N. R. A. long before the decision in the Schechter case; no one but inexperienced lawyers in certain executive departments of the Government who stripped the courts of the power to render advisory opinions and who sought by the jargon of words to outlaw legitimate claims of American citizens following the invalidation of certain acts passed by the Congress.

Everyone knows that direct appeals from district courts must be safeguarded to save the Supreme Court from useless consideration of questions already decided.

No one objects to the right of the Government to intervene in any case involving the validity of an act of the Congress. Even this right cannot be absolute without useless delay, because the attack upon the act may arise upon the trial or in exceptions to instructions or refusals to instruct.

The idea of the court proctor is a happy one. District courts are fast becoming merely agents of the Department of Justice. A district attorney in a far distant State cannot directly amend an ordinary indictment without authority from the Attorney General at Washington.

The substantial recommendation submitted by the President—window dressing aside—is simply the proposal to bring about a change in the opinion of the Court by adding "new blood" to the Court. The proposal is to change the decisions of the Supreme Court by change, wholesale, in its composition. No one will deny the President the right to appoint to the Supreme Court in orderly course. What is denied is the right to appoint wholesale merely because the President and certain persons in the confidence of the President are dissatisfied with the decisions of the Court. Stripped to the waist, it is the obvious purpose of those who demand this procedure to change the interpretation of the Constitution, the construction of the Constitution, hence the Constitution itself. Anyone who would go upon the Court with his judgment deposited save in his own bosom would be the first to desert sound principles of government as soon as he was persuaded that such principles were becoming unpopular, judged by the most vulgar test of popularity.

CONSTITUTION NO "IDOL"

Those of us who cannot go along with the proposal do not make an idol of the Constitution and many of us would be the last to assert that all of the decisions of the Supreme Court have been wise or right. The patriotic Justices themselves would reject such claim.

There is nothing new in the idea of a written Constitution. It was necessary to put our Constitution in written form to define the powers granted to the General Government and to indicate the powers reserved to the States or to the people respectively. The theory of representative government had been tried out for centuries before the adoption of the Constitution. We did not stake the rights of free men on that principle alone. The division and distribution of public powers between three coordinate branches of government—the legislature, to make the laws; the judiciary, to declare the laws; and the executive, to enforce the laws—was used to one great end, to safeguard the concept of liberty as the inalienable right of the individual as a responsible moral being. Under our system the citizen is supreme—his rights yield only to considerations of the general welfare. We proposed to safeguard the liberty of the individual in organic law. We set up the judiciary to safeguard the Constitution and thus to secure the rights of the individual—to save the local governments their powers, to protect the rights of minorities, whether of sect, creed, or race, or of business. Minorities have no rights that will not vanish into thin air if the power of an independent judiciary is destroyed. Throughout our history the judiciary has held the unbroken shield of the organic law between minorities and unbridled legislatures and executives alike. The organic law unimpaired cannot long survive without the aid of an independent judiciary; an independent judiciary cannot live without the Constitution.

Those who are loudest in their assertion of faith in Democratic processes now claim that the method of amending the Constitution is too slow. Likewise they assert that the judiciary simply originally assumed the power to declare an act of the Congress void, and that the people in whom they profess abundant faith have acquiesced in a bold assumption of power by the judiciary. It is difficult to understand how the written Constitution, which created the General Government of the delegated powers, which in terms is declared to be the supreme law of the land, can be placed upon the level of mere statutory enactment, or regarded as a mere declaration of public policy. It is still more difficult to appreciate the conclusion now generally accepted that the Federal judiciary must strike down an act of a State legislature, as Ohio or New York, when such act denies to the citizen immunity guaranteed to him by the Constitution, and at the same time deny the power of the judiciary to strike down an act of the Congress in the same words and language which strips the citizen of the same immunity.

MATTER FOR PEOPLE

Unqualified judicial supremacy is nowhere asserted. It is not a question of supremacy. The people who ordained and established the Constitution and who alone of right may charge it simply delegated one power to the Legislature, another power to the Executive, and another to the judiciary. If a mistake has been made let it be corrected as provided by the people themselves in their Constitution. The superiority of the judiciary to the legislative power is not supposed. It is asserted that the power of the people is superior to both and that where the will of the Congress, expressed in its laws, stands in opposition to that of the people, as desired in their Constitution, the Supreme Court must in obedience to its duty declare the supremacy of the Constitution over the act of the Legislature. This has been the accepted doctrine from the beginning.

Hence, the true liberals in America are not deceived. Good laws obtained through expediency may live but a little while. Following the easy precedent which we are now asked to make, conceding the wisdom of the legislative program which we seek to secure, another President may wipe it all out. No enduring reform, social or economic, no stable or permanent advance can be obtained through such procedure. Lovers of men have been slow to approve the doctrine that the end justifies the means or yield to the sophistry that conditions demand an abanonment of tested principles. Men change—likewise conditions—but principles remain steadfast.

The question is not whether the present Chief Executive, who through his leadership has contributed greatly to our national recovery, may be trusted. The question is whether any President can be trusted to remake the Constitution even though the means adopted are not textually forbidden by the Constitution. I answer in the words of President Franklin Roosevelt when before the joint session of the two Houses of Congress January 3, 1936, he said: "* * * in 34 months we have built up new instruments of public power. In the hands of a people's government this power

is wholesome and proper. But in the hands of political puppets of an economic autocracy such power would provide shackles for the liberties of the people." The final strain upon our free institutions, long ago pointed out, will come not upon the Executive, however good or however selfish, not upon the Congress, where passion and local interest appear, however patriotic its individual Members may be; the final strain will come upon an upright, independent judiciary. If the proposal as now made is approved, the Federal judiciary will rest under suspicion for a long time to come. It will become the prey of faction. When democracy is everywhere challenged and when lawlessness raises its hideous head, not only in our land but throughout the earth, it would seem that part of wisdom to sustain that branch of our Government created by the people in their Constitution which has remained the stabilizing force and power in the American system.

A subservient judiciary—or one under just suspicion of subserviency—in the hands of a designing Executive, as President Franklin Roosevelt declared, will "provide shackles for the liberties of the people."

Such a judiciary, as recorded by the greatest common-law commentator, "will declare for law that which is more agreeable to the ruler and his ministers." This is not law; it is fact, and the experience of centuries confirm it.

Increase of the Membership of the Supreme Court

EXTENSION OF REMARKS

OF

HON. E. E. COX

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 22, 1937

RADIO ADDRESS BY HON. E. E. COX, OF GEORGIA, ON FEBRUARY 19, 1937

Mr. COX. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech I made over the radio from this city on February 19, 1937:

My friends, the request that comes to me is for a statement on the proposal to increase the membership of the Supreme Court, and this is my response:

The President's message to Congress, in which recommendation of increase of membership of the Court was embodied, fell upon the country like a bolt from a clear sky. Nothing was said in the Philadelphia convention, or in the Democratic platform, or in campaign speeches last fall that could have indicated that a move in this direction would be made at any time by anybody.

The bill that accompanied the message contains provisions that are meritorious. It is only that part of it relating to the Supreme Court to which exception is here taken; and since in this particular it means, in effect, the exertion of an undelegated power, naturally the country was stunned and frightened.

It is by no means pleasing to me to take a position contrary to that of my party chief, whose greatness I not only gladly concede but proudly proclaim. This proposal, however, transcends in importance all party welfare. It is a matter of the greatest national concern. It is something that strikes at the very roots of things, and if put into effect would bring about a shifting of the powers of government and make of the Constitution a meaningless scrap of paper.

If there were a real need for increasing the membership of the Court in order to handle increased business, the proposition would be quite different; but, according to the Attorney General's last report, there is no such need. Therefore, the argument set up on this point falls to the ground. The danger does not lie in increased membership of the Court, but it is to be found in the purposes for which increase is wanted, to wit, the enlargement of the power of the executive and legislative branches of the Government through amendment to the Constitution by judicial interpretation.

The time at my disposal does not admit of a full statement on this subject; therefore I turn my remarks to a brief reply to the speech of Attorney General Cummings which he broadcast over the radio on the evening of February 14. He said in effect that the purpose of the proposal is to infuse new life into the Court in the interest of speed and efficiency, and then proceeded to destroy this proposition with an argument in support of the position taken by objections whose "lamentations * * * vex" his sensitive ears. He said: "That the freedom of our people to direct their own destiny has been hampered, especially of late, by judicial action is scarcely open to debate. These limitations upon congressional power have brought into challenge a wide range of projects and measures overwhelmingly approved by the people."

What does he mean by this language? He means that the Court should be made up of men of a type of mind who will give the Constitution an interpretation different to that given to it by the Court as now constituted. He means that Congress should be given a free hand to legislate at will and without regard to constitutional restraints. He means that the independence of the Court shall be destroyed, that it shall be divested of certain constitutional powers and reduced to a position of subservience to the executive and legislative branches of the Government.

The Attorney General says again: "What, then, is the real objection? It is simply this: Those who wish to preserve the status quo want to retain on the bench judges who may be relied upon to veto progressive measures." And, again, he attacks the veracity of his first declaration, indicts the intelligence, patriotism, and character of the present members of the Court, and inferentially says that a new Court is wanted which will give a new meaning to the Constitution, a Court that will validate all legislation, whether constitutional or not.

The Attorney General says again: "We hear much about the perils that beset democracy. If we are to defend our Constitution against all comers, from the right and the left, we must make democracy work." Does he mean by this that democracy is in peril? If so, who has imperiled it, Congress or the Supreme Court? Is not the Constitution a sacred democratic institution, and if so, who insists upon violating it, Congress or the Supreme Court? What is the Attorney General's definition of democracy, and how does he want it to work? Is it democratic to seize and sack the Supreme Court, one of the coordinate branches of the Government? Is it democratic to change the meaning of the Constitution without popular consent? What is democracy but popular rule? Is this clubbing of the Supreme Court and undermining of the Constitution becoming in the highest law officer of the Government, whose sworn duty it is to defend that sacred document? Was the Attorney General speaking as a great constitutional lawyer or as a mere politician when he made this assault upon the Court? Does he believe that he is rendering high public service in this attempt to destroy public confidence in the judiciary? Is he willing that his reputation as the Attorney General of the United States and as an outstanding member of his great profession shall in any wise rest upon this performance?

The advocates of change charge the Supreme Court with responsibility for all constitutional limitations on legislative power, and therefore for the defeat of so-called progressive legislation; whereas the Court had nothing to do with forming the Constitution or the acts of Congress held contrary thereto. The function of the Court is to interpret the Constitution, and this it has done with strict fidelity to truth and reason. Its powers are always dormant until put into play by popular appeal. It decided no question except as presented as a justiciable issue. It never passes upon a law without being compelled to do so. They cannot, short of resignation, evade the duties put upon them as magistrates. If a law is bad, then the legislative body is responsible for it, and not the Court. If the Constitution is not adjusted to present-day needs and should be amended, then the fault is that of Congress in not submitting the question to the people.

No one contends that the Constitution is immutable. It is subject to change, but not by the Supreme Court or by the Congress, but by the people and in the manner provided by them. It is idiocy and self-debasement to say that the Supreme Court interprets the Constitution favorably to the rich and powerful and against the weak and the poor. No one believes this, and to make such an assertion to win popular support is to sin against truth and the obligation to speak the truth.

It is not claimed for the occupants of the bench that they are men of greater virtue than other good and honorable men, but it is claimed for them that they have the virtue of being faithful and honest servants of the Republic, and all patriotic people should deprecate the attempt to destroy the popular esteem and confidence which they rightfully enjoy. The members of the Court cannot defend themselves. They must keep aloof from popular controversies and not attempt to stir the hostile passions of the Nation.

The power of the Supreme Court to declare acts of Congress unconstitutional is a barrier that was set up by the fathers against a wild and tyrannous Congress. It is the peoples' best defense against the despoiler of human rights. Benjamin Franklin once said: "Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty or safety."

Permanent Panama Exhibit

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, March 1 (legislative day of Wednesday, Feb. 24), 1937

RESOLUTION OF THE MANUFACTURERS AND JOBBERS OF THE UNITED STATES AND AN EDITORIAL BY J. HAMPTON RICH

Mr. REYNOLDS. Mr. President, in 1913 my predecessor in the Senate, Hon. Lee S. Overman, who served in this body for 25 years, had inserted in the RECORD an article entitled

"Permanent Panama Exhibit", carrying with it a resolution from the manufacturers and jobbers of the United States, together with an editorial from the pen of J. Hampton Rich.

I today ask unanimous consent that there be published in the Appendix of the RECORD the same resolution and editorial, together with an editorial, also by Mr. Rich, which recently appeared in the Boone Trail Herald, of Winston-Salem, N. C., interesting itself in a proposal for a permanent Panama exhibit in the Canal Zone.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

Resolution favoring a permanent Panama exhibit

Whereas the manufacturers of the United States and jobbers as well desire to take advantage of all possible means to extend their trade in South America; and

Whereas a number of the largest manufacturers of the United States have expressed a desire that a common point be selected from which goods and wares may be exploited; and

Whereas a large number of national conventions, among these being the Associated Advertising Clubs of America, the National Brick Manufacturers' Association, and other associations and chambers of commerce and boards of trade passed resolutions favoring a point of exploitation; and

Whereas the matter having been brought to the attention of Col. George W. Goethals, and he having passed favorably on same, provided the manufacturers of the United States become interested: Therefore

Resolved, That we favor an exhibit hall and permanent exhibit with adjoining warerooms and showrooms to be opened at the opening of the canal to the world, or as soon thereafter as practical and as near after as possible after the world exposition at San Francisco.

Resolved, That this exhibit and exhibit hall shall have for its object the exploitation of the merchandise and manufactures of the United States to South America and the world, and to serve as a common ground on which to meet the trade from South America and the world, and a place where language and customs and manners of trade can be learned in the Latin-American countries.

Resolution passed by the Associated Advertising Clubs of America, National Brick Manufacturing Association, National Building Brick Association, Charlotte Chamber of Commerce.

EDITORIAL BY J. HAMPTON RICH IN AUGUST OF 1913

The possibilities of establishing a permanent exhibit and permanent exhibition hall with adjoining warehouses from which to distribute North American goods into South America is pregnant with the greatest possibilities to the North American trade.

The Panama Canal is the best advertising "copy" Uncle Sam has ever gotten out.

Exports to South America have shown a phenomenal gain in the fiscal year which ends with the present month. Prior to 1911 the total value of exports to South America has never reached $100,000,000. In 1911 the total $109,000,000, and in the current fiscal year which ends with the present month seems likely to be about $135,000,000, having more than doubled since 1905.

Argentina is the country showing by far the largest gain in our exports to South America. The figures now available in the Bureau of Statistics of the Department of Commerce indicate that the total exports to Argentina for the complete fiscal year will amount to about $55,000,000, against twenty-three and one-half in 1905, having thus considerably more than doubled in the period in question. To Brazil the total exports for the fiscal year will exceed $30,000,000 in 1905, an even larger percentage of gain than in the case of Argentina. To Chile the total for the year will amount to about $15,000,000, against five and one-half million in 1905, also a gain of nearly 200 percent. To Uruguay the figures of exports for the fiscal year which ends with the present month will aggregate about $7,000,000 in value, against a little less than $2,000,000 in 1905.

This increase in exports to South America, while occurring in a large number of articles, is especially notable in lumber, leather, mineral oils, and railway material. For example, the exports of lumber to Argentina in the 10 months ending with last April amounted to five and three-fourths millions of dollars in value, against $4,000,000 in the corresponding months of last year, and those to other South American republics over $3,000,000 against about $2,000,000 in the corresponding period of the preceding year. Illuminating oil exported to Argentina in the 10 months in question amounted to about 24,000,000 gallons, against about 13,000,000 in the corresponding months a year ago, and lubricating oil over 4,000,000 gallons, against less than 3,000,000 in the same months of last year. Glazed kid leather exported to Argentina in the 10 months of 1912 amounted to over $1,000,000 in value, against $370,000 in the corresponding months of the preceding year. Automobiles exported to South America as a whole amounted in the 10 months in question to one and one-half million dollars in value, against $688,000 in the corresponding months of the preceding year.

The total value of exports from the United States to South America as a whole was, 10 years ago, in the fiscal year 1902, $38,000,000; 5 years ago, in the fiscal year 1907, $82,000,000; and in the current year, as indicated above, will probably be about $135,000,000, an increase of more than 250 percent in the decade and of more than 50 percent in the last 5 years.

To lose the opportunity which comes with such culminative force at the opening of the Canal to exploit American goods and manufactured products to buyers in South America, who had previously gone to Germany for their goods, is little short of a crime.

A great exhibit hall, with facilities for showing exhibits, such as the Coliseum in Chicago, with representatives present with samples and goods, is sure to bring results with the great traveling trade who are destined to visit and cross the Canal.

The seeing of this exhibit will be made easy from the fact that the traveler who crosses will likely disembark from his ship and cross the Isthmus in a leisurely way by the electric-car line which will run parallel to the Canal.

Helper, a famous political writer in his day, a native of North Carolina, who was American consul at Buenos Aires in the years 1861–66, wrote eloquently of the Pan American or "Three Americas" railway, which would some day extend from Bering Sea to the Strait of Magellan.

The idea fascinated the mind of James G. Blaine, who openly championed it and did much to bring it into notice.

When the rails of Mexico's railway system reached the northern border of Guatemala, at Mariscal, July 1, 1908, the Pan American enthusiasts saw it as a great link in the gigantic railway dreamed of by Helper long years before a north-and-south trunk-line road was projected for that country.

The construction of less than 100 miles southward from Santa Maria will join the railway system of Salvador and connect the capital of that Republic with New York City by rail.

There are short lines in Salvador, Nicaragua, and Costa Rica which will eventually join terminals. Already a railroad extending through a large section of Panama, from David to Panama City, has been surveyed and construction begun. In Colombia there has not been much new construction that would be part of the Pan American system, but new lines are being contemplated and financed. In Ecuador railroad connections already exist between Guayaquil, a port, and Quito, the capital. A good part of this line would be the trunk system of the Pan American railway. In Peru the road from Cuzco south to Lake Titicaca and the road in Bolivia from Lake Titicaca south to the capital, La Paz, and then farther south to Chile would form important links in the Pan American system. A new longitudinal line is already under construction in Chile, and a road which reaches from the heart of Bolivia south through Argentina to Buenos Aires lacks only about 175 miles of completion. The construction of less than 500 miles of track will bring the South American section of the Pan American railway as far northward as Lima, connecting the capitals of Argentina, Bolivia, Chile, and Peru by bonds of steel.

Thus at the completion of the Canal in a few years we shall see a great concourse of trade passing not only "across" the Isthmus but "through" the Isthmus, making it a great "cross-roads" point of retracting lines of travel and trade.

We have thus gone into the railroad construction in South America in detail because when a railroad extends from Panama into all South American Republics it will greatly facilitate shipping. The shipping by rail is much safer, because there are no harbors on the South American coast and the ships' cargoes must be unloaded on lighters in an open sea while waves are running high, with great danger both to men and cargo.

The plan of establishing a warehouse and exhibit hall on the Panama Canal has been pronounced feasible and practical by the South American Commissioner in Washington, who is associated with Mr. John Barrett, of the Panama-American Commission.

The management might be vested in two companies—one a holding company to operate the building and warehouse, the other an exhibition company to carry on the exhibition.

I have just received the following letter from Mr. Barrett, director general, Pan American Union:

WASHINGTON, *D. C., March 5, 1912.*

I have to acknowledge receipt of your esteemed note of March 2, with press clipping from the Chicago Evening Post in regard to a showroom in the Canal Zone for displays.

The greatest opportunity before the United States for its future foreign commerce is in the 20 republics lying south of us, and as a result of the efforts of the Pan American Union the trade of the United States today with that part of the world is growing more rapidly than it is with any other foreign group of nations. We are, however, only at the beginning of what we can accomplish in the future if we will simply make the proper effort.

Under separate cover I am sending you a copy of my last annual report, which may be of possible interest to you.

Yours very cordially,

JOHN BARRETT.

EDITORIAL WHICH APPEARED IN THE BOONE TRAIL HERALD, PUBLISHED AT WINSTON-SALEM, N. C., FEBRUARY 1, 1937, AND EDITED BY J. HAMPTON RICH

Since the above was written a quarter of a century has passed by. However, it is interesting in the light of many events which have transpired, including the World War and changes in the map of the world consequent thereto, to note that the proposition of intertrade relations between the two Americas is still of prime importance. The recent visit of our President, Hon. Franklin D. Roosevelt, to South America, with his Secretary of State, and the conference on trade relations between the two Americas has lent new emphasis to the proposition of a permanent Panama exhibit.

The figures showing the amount of trade between South America and the United States show a large increase in spite of the fact that no such base for the promotion of such trade has existed.

The same emphasis can be placed on the proposition and the same necessity urged for such a proposition as was the case a quarter of a century ago.

Added to the idea of exhibit halls, commercial emporium, specialized information given by moving pictures and lectures, may be added the radio. Such a proposition is being promoted of a large radio station at Panama, to be used in this connection. It is the earnest desire of those who are interested in the initiation of this enterprise that the Congress of the United States will take such steps as will be necessary to make this middle-ground basis of trade and friendly conference and neighborly intercourse possible.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. WILLIAM H. KING

OF UTAH

IN THE SENATE OF THE UNITED STATES

Friday, February 26 (legislative day of Wednesday, Feb. 24), 1937

MAJORITY REPORT TO THE NEW YORK BAR ASSOCIATION

Mr. KING. Mr. President, the Senator from Wisconsin has just offered for the RECORD the minority report of the committee on Federal legislation of the Association of the Bar of the City of New York. I ask unanimous consent to have printed in the Appendix of the RECORD the majority report of that committee.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE COMMITTEE ON FEDERAL LEGISLATION OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK ON SENATE BILL 1392 HOUSE BILL 4417, TO BE CONSIDERED AT A SPECIAL MEETING OF THE ASSOCIATION AT 8:30 P. M., FEBRUARY 24, 1937

On February 5, 1937, the President transmitted to Congress a message upon the judiciary, with which he submitted a letter from the Attorney General and attached a draft of a proposed bill which has been introduced in the House of Representatives as H. R. 4417 and in the Senate as S. 1392. Copies of the bill, the President's message, and the Attorney General's letter are attached.

If this bill becomes law the President will be required to nominate and, with the advice and consent of the Senate, to appoint six new Justices of the Supreme Ccurt. The membership of the Court will thereby be permanently enlarged from 9 to 15, unless 1 or more of the senior 6 Justices shall retire or resign before such appointments are made. In that case the President will still be required to appoint six new Justices by appointing an additional Justice for each of the six senior Justices who does not retire or resign and filling the vacancies of those who do. He will also be required to nominate and appoint additional judges in the circuit courts of appeals, the district courts, the Court of Appeals for the District of Columbia, the Court of Claims, the United States Court of Customs and Patent Appeals, and the customs court, whenever any of the judges of these courts have become eligible for retirement and have failed to retire within 6 months thereafter. No more than 50 judges, including Justices of the Supreme Court, may be appointed under the provisions of the proposed bill.

In the circuit courts of appeals and in the Court of Appeals for the District of Columbia there are at present six judges eligible for retirement or entitled to resign and be paid their full salaries under existing statutes. In the district courts there are 13. Unless these judges resign or retire, the President will be required to add additional judges to the courts in which they sit.

The proposed law makes special provision for the transfer of the additional circuit and district judges from the circuits or districts in which they are appointed for service in other circuits and districts. It also provides for the appointment by the Supreme Court of a proctor, whose duties are to obtain and publish information as to the volume, character, and status of litigation in the district courts and circuit courts of appeals, to investigate the need for the assigning of district and circuit judges to other courts, to recommend methods for expediting the disposition of cases, and to perform other duties consistent with his office as the Court shall direct.

The President, in his message, predicates his proposal that he be authorized and required by Congress forthwith to nominate and, with the advice and consent of the Senate, to appoint six new Justices of the Supreme Court of the United States upon the assertions that the personnel of the Federal judiciary is insufficient to meet the business before them and that those judges who have passed the age of retirement are or may be incapacitated by the infirmities of age. These assertions can have no application to the business of the Supreme Court or to the capacity of its members. So far as the lower courts are concerned, it appears that, with four possible exceptions, none of the district or circuit judges required to be appointed forthwith is needed in the court to which he must be appointed. These facts are a matter of public record. A table is annexed hereto showing the appointments to be made and the condition of business in the courts to which the judges will be appointed.

Thirty days before the President delivered his message to Congress the Attorney General of the United States transmitted to the Senate and House of Representatives his annual report, containing the report of the Chief Justice of the United States as presiding officer of the Judicial Conference, which held its annual session in Washington on October 1, 1936, together with the report of the Solicitor General. The report of the Judicial Conference and the reports of the Attorney General and of the Solicitor General fully disclose the condition of business in each of the courts of the United States.

THE SUPREME COURT

The report of the Solicitor General, referring to the work of the Supreme Court, stated:

"During its October term, 1935, the Supreme Court disposed of 986 cases on the appellate docket, a larger number of appellate dispositions than at any of the 10 preceding terms, except the 1933 term, when 1,025 cases were disposed of. Every case argued or submitted at the term was disposed of before adjournment."

"* * * The work of the Court is current, and cases are heard as soon after records have been printed as briefs can be prepared."

No additional members of the Supreme Court of the United States are required in order to expedite its business. In fact, to increase the number of Justices would hamper and delay the dispatch of its business, because its decisions must be reached in conference, in which all the Justices participate. Prof. Felix Frankfurter thus wrote in Encyclopaedia of the Social Sciences, volume 14, at page 478:

"* * * There is no magic in the number nine, but there are limits to effective judicial action. Deliberation by the Court is the very foundation of sound adjudication, as is also a lively sense of responsibility by every member of the Court for its collective judgment. Experience is conclusive that to enlarge the size of the Supreme Court would be self-defeating. When this recurring proposal for increasing the number of Justices was once more made by the American Bar Association in 1922, Chief Justice Taft authoritatively rejected it.

"* * * A contemporaneously shifting personnel would disastrously accentuate the personal factor in constitutional adjudications, and divisional courts within the Supreme Court would require a mechanism for adjusting conflicts among the divisions. Happily these devices never attained enactment. But their persistent advocacy delayed the only efficacious remedy. Not till 1891 did Congress pass the requisite legislation. Instead of increasing the size of the Court, it decreased its business."

Their work demonstrates that none of the Justices is incapacitated by reason of age for the full performance of all of the arduous duties of his office.

Furthermore, if the proposal be to keep from the bench Justices over 70, it is ineffective. No Justice over 70 need resign or retire under the provisions of the bill. On the other hand, if the objective be to increase the number of Justices, not one additional Justice will be appointed to or sit in the Supreme Court of the United States at this time by virtue of the provisions of the bill if Justices over 70 do resign or retire.

The President's proposal to increase the membership of the Supreme Court is based in part at least upon an entirely erroneous conception of the functions of that Court as they have been developed under the provisions of the Judiciary Act of 1925. Upon the fact that out of 803 petitions for review filed by private litigants at the last term of Court only 108 were granted, the President predicates the following query:

"* * * But can it be said that full justice is achieved when a court is forced by the sheer necessity of keeping up with its business to decline, without even an explanation, to hear 87 percent of the cases presented to it by private litigants?"

The President concedes that many of the refusals to grant petitions for review "were doubtless warranted."

Prior to the Judiciary Act of 1925, because of its general appellate jurisdiction, under which it was required to entertain appeals taken as a matter of right without regard to the importance of the questions involved, the business of the Court became so congested that it was 15 or 18 months behind in its work. The purpose of the Judiciary Act of 1925 was to restrict or reduce the appellate jurisdiction of the Supreme Court in order to enable it fairly to meet the demands that were made upon it; and quite wisely Congress drastically reduced appeals to the Court as a matter of right, but provided discretionary jurisdiction so broad as to enable it to hear any appeal involving questions which in its judgment required review by the highest judicial authority.

Following the spirit and purpose of this act, the Court has limited the exercise of its discretionary jurisdiction to cases of real importance because of the questions of law involved. It has published in its rules the general principles which guide its exercise of this jurisdiction. Commenting upon the large percentage of petitions for review denied by the Court, the Solicitor General in his report said:

"* * * It is quite erroneous to regard the Court as constituted for the correction of error in every case. In the exercise of its discretionary jurisdiction under Judiciary Act of 1925 it has become a court for the decision of important questions of general application and for the settlement of conflicts in the decisions of other

courts. The limitations of the Court's statutory jurisdiction and its rules for the exercise of its discretionary jurisdiction should be more carefully observed. Many petitions for writs of certiorari are filed which in the light of settled practice must be regarded as entirely without merit."

The care with which the Court considers each and every one of these petitions should be emphasized. The Chief Justice in his address before the American Law Institute in May 1934 clearly set forth the practice of the Court in dealing with these applications:

"* * * Some current notions which have been expressed to me in casual conversations with members of the bar reveal extraordinary misconceptions. If there is mystery about this part of our work, it should be dispelled. I find that some think that applications for certiorari are distributed among the Justices ratably, that is, one-ninth to each Justice. Others think that the Justice assigned to a circuit deals with the applications from that circuit. Now the fact is that all matters calling for action by the Court in the disposition of cases are dealt with by all the members of the Court—unless for some reason a Justice is disqualified or unable to act in a particular case. Thus all the Justices pass upon all the applications for certiorari. During vacation the papers on these applications follow us wherever we are, at home or abroad. Having approximately 300 of them to deal with during the summer, you can see that during the period when the Court is not in session there is a large amount of judicial work to be done. When we meet in the fall, the accumulation of applications is presented to the conference of the Court, and then, as throughout the term, every application is acted upon by the entire Court.

"* * * It is not the importance of the parties or the amount involved that is controlling but the need of securing harmony of decision and the appropriate settlement of questions of general importance so that the system of Federal justice may be appropriately administered. I commend to the bar the provisions of rule 38 of the rules of the Supreme Court, which deal comprehensively with this subject."

If the Court is to continue the practice which the Chief Justice thus describes, it must be obvious that the addition of six Justices to its membership (all of whom must participate in the consideration of all petitions for review and in all of the conferences at which these matters are to be considered) will not expedite the disposition of its business but will certainly prolong the conscientious consideration by the whole Court of every question, whether it be an important case or merely a minor motion.

The Court is not and should not be a court for the correction of all errors arising in the course of judicial administration. It is a great Court for the settlement of important questions of law affecting the very life of the law itself and the growth and perfection of the administration of justice in the courts of the United States. The Chief Justice himself recently declared before a committee of Congress:

"* * * Cases should not go to the Supreme Court of the United States simply because of the amount of money involved, because of the character or prominence of the parties, or because of the counsel. The question before the Supreme Court is, manifestly, the importance of the question of law involved, the importance of an authoritative determination by the tribunal invested with that very important function. We consider these various applications with respect to that, not as to the parties, not as to the amount of money involved, not as to the counsel, but as to the law. The parties have the right of appeal to the circuit courts of appeal. That satisfies the rights of individual litigants. When it comes to a further review by the Supreme Court of the United States, the higher principle of importance to the public at large is involved" (hearing before Senate Judiciary Committee, 74th Cong., 1st sess., S. 2176).

THE CIRCUIT COURT OF APPEALS

The report of the Chief Justice for the Judicial Conference, transmitted to Congress in the report of the Attorney General, fully discloses the condition of the dockets of the circuit courts of appeals and of the district courts. The Judicial Conference was provided for in the act of Congress of September 14, 1922 (U. S. C., title 28, sec. 218), and is composed of the Chief Justice and each of the senior circuit judges of the 10 circuit courts of appeals. It is required by the statute to make a comprehensive survey of the condition of business in the courts of the United States. It had its annual meeting for this purpose in October 1936 and was aided in the performance of its duties by the Attorney General and the Solicitor General, with their aides. It considered complete statistical reports prepared by the Attorney General disclosing the disposition of pending cases in the circuit courts of appeals and the district courts, and the time required to reach the trial of civil cases after joinder of issue in all of the district courts. It also considered reports from each of the senior circuit judges of the 10 circuits based upon reports from the senior district judges in each of the districts, all of which are required to be made by the statute.

The judicial conference reported that the reports of the circuit judges show that the circuit courts of appeals generally are well up with their work. The senior circuit judge of the ninth circuit submitted a request that two additional circuit judges be provided for the ninth circuit, and the conference appointed a committee to consider the necessities of the ninth circuit.

If the President's bill becomes law he will be required forthwith to appoint four additional circuit judges—one in the first circuit, two in the third circuit, and one in the tenth circuit. He will not be authorized to appoint the two additional circuit judges in the ninth circuit deemed necessary by the senior circuit judge in that circuit. As found by the judicial conference, and as disclosed by the statistical data published in the Attorney General's report, there is no need for the appointment of these additional judges in the courts to which they will be appointed.

THE DISTRICT COURTS

The judicial conference reported with respect to the district courts that in 51 out of a total of 85 judicial districts their business is current; that in these districts all cases ready for trial are disposed of at the term following joinder of issue, and that there were no arrears except as to cases continued at the request of counsel. In only 18 districts were there delays of over 6 months. The most serious delays are in the southern district of California and in the southern district of New York. In the former district the delay has been reduced from 18 to 8 months by the appointment of additional judges in that district. With respect to the southern district of New York the conference expressed the hope that the recent appointment of additional judges would lead to a similar improvement here. After reviewing the condition of work in the various districts the conference at its session in October recommended only four additional district judgeships—one in the northern district of Georgia, one in the eastern district of Louisiana, one in the southern district of Texas, and one in the western district of Washington.

If the President's bill becomes law he will be required forthwith to appoint 13 additional district judges, all but one of whom will be appointed to district courts other than those in which additional appointments have been recommended by the judicial conference, and all but two of whom will be appointed to district courts in which the delay between joinder of issue and trial is not more than 6 months, although there are 17 other districts in which such delay exceeds 6 months.

ASSIGNMENT OF JUDGES

The provisions of the bill relating to the assignment of district judges to other district courts are unnecessary and in duplication of existing provisions of law carefully safeguarded so as to provide for the participation of the Chief Justice and the senior circuit judge whenever an assignment from one circuit to another is involved. For convenience of reference, copies of these statutes are attached. The President's bill dispenses with these safeguards and expressly limits the assignment of judges from one circuit to another by the Chief Justice to judges hereafter appointed. The proposed bill limits the number of judges to be appointed pursuant to its terms to 50. The President will be required to appoint 25 forthwith unless the judges who have reached retirement age resign or retire. During the balance of his term at least 25 judges will reach retirement age and if they do not retire or resign he will be required to make all the appointments authorized by his bill. The table annexed shows the judges who will be eligible for retirement during the President's term of office. The only judges who may be assigned from one circuit to another under the provisions of the bill during the President's administration will be those whom he has appointed. It is of importance that the Chief Justice should act in making assignments only as the law now requires, with the concurrence of the senior circuit judges of the circuits concerned in the transfer. The bill dispenses with this safeguard in the case of judges hereafter appointed. These judges may be assigned to try any case on any of the district court calendars. A "mobile force" of itinerant judges nominated by the Chief Executive presently in office, who are to be assigned to try particular cases in communities where they are unknown because, as this bill provides, they have been so recruited, may lead to abuse.

Furthermore, the proposed law is susceptible of the interpretation that it impliedly repeals all existing provisions of law relating to the assignment of judges from one court to another, and if so interpreted would limit all such assignments to judges hereafter appointed.

The fact is that wherever the work of a trial court is congested with overburdened calendars, and litigants are prejudiced by delay, the regularly sitting judges are always greatly concerned with the effect of protracted cases upon the prompt disposition of their regular calendars. It is for the trial of such cases that the services of visiting judges are peculiarly necessary. (See letter of the Attorney General.) Such cases, in large majority, are cases to which the Government is a party and in which it is vitally concerned. If by operation of statute all such cases are to be tried, so long as President Roosevelt retains office, by itinerant judges all of whom are his personal appointees, our courts and our laws will be brought into disrepute regardless of the impartial probity of those whom he may appoint.

In this connection it should be emphasized that over 50 percent of all the cases heard in the Supreme Court of the United States during the last term of court were Government cases—that is to say, cases in which the Court must stand as the impartial tribunal before which the rights of a citizen as against the Government are to be determined. In the district courts 42 percent of all the cases, not counting bankruptcy cases, involve controversies between the Government and one of its citizens. These percentages will no doubt substantially increase under new laws regulating the daily activities of private citizens. Such cases should be tried by judges without regard to the President who signs their commissions.

PROCTOR

The provisions of the bill for the appointment of a proctor are unnecessary and in duplication of the duties now performed by the Chief Justice, the senior circuit judges, the senior district judges, and the Attorney General, as required by the act of Con-

gress of September 14, 1922 (U. S. C., title 28, sec. 218). For convenience of reference, a copy of said act is annexed hereto. Comparison will at once disclose that the proctor is to perform all of the functions now performed by the senior circuit and district judges in advising the Chief Justice, and of the Attorney General as well. If he is to duplicate these services, nothing will be accomplished. If he is to displace them, the proposal is obviously without merit.

In concluding his message, the President stated:

"This message has dealt with four present needs:

"First, to eliminate congestion of calendars and to make the judiciary as a whole less static by the constant and systematic addition of new blood to its personnel; second, to make the judiciary more elastic by providing for temporary transfers of circuit and district judges to those places where Federal courts are most in arrears; third, to furnish the Supreme Court practical assistance in supervising the conduct of business in the lower courts; fourth, to eliminate inequality, uncertainty, and delay now existing in the determination of constitutional questions involving Federal statutes."

Only the first three of these "present needs" are dealt with in the bill now under consideration.

As to the first "need", the proposals, insofar as they apply to the Supreme Court, will not eliminate congestion. There is none. They are solely designed to give the President power to appoint forthwith six new Justices.

As to the second "need", the law now provides for such transfers under proper safeguards free from governmental influence. Under the President's bill these safeguards are abandoned with respect to appointees thereunder.

As to the third "need", the reason for this is not apparent. The duties of the proctor are now required to be and are being efficiently performed by the judges and by the Attorney General.

Stripped of these avowed but nonexistent purposes, the President's bill is reduced to a proposal that he shall forthwith appoint six new Justices of the Supreme Court when there is no need for their appointment upon any proper ground which he has assigned, and that he shall forthwith appoint 18 additional judges to courts where their services are not needed. The reason for the proposed legislation must be found elsewhere than in the age of the judges and Justices, the congestion of the dockets, or the denial of petitions for writs of certiorari by the Supreme Court. It is to be found in the President's desire to put into effect without constitutional amendment legislation of the character heretofore held invalid.

Whatever motives may have inspired them, the proposals themselves are intrinsically indefensible. Whether the Executive exercising a controlling influence over the Congress may by such means impair the independence of the judiciary without doing violence to the Constitution is beside the point. No President may do so without violating a principle of American government more fundamental than the Constitution itself. A people cannot remain free if their courts of justice are subservient to the Executive. Such powers as the President demands of Congress, once exercised, with whatever motives, will create for all time a precedent for the abuse of similar powers by one who may hereafter make and enforce the same demands.

Respectfully submitted and filed.

Committee on Federal Legislation; Vermont Hatch, chairman; Samuel Blumberg, John Neville Boyle, Samuel C Coleman, Chester W. Cutheil, Hersey Egginton, Milton Handler, William J. Hoff, Francis L. Kohlman, Harold R Shapiro.

The Proposed Extension of the Civil Service

EXTENSION OF REMARKS

OF

HON. CHARLES I. FADDIS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1937

Mr. FADDIS. Mr. Speaker, I fully realize in voicing objections to the extension of the so-called merit system or civil service that I will be accused of being a spoilsman. To this I plead guilty at the outset. I am wholeheartedly in favor of the spoils system of filling the most of our minor public positions, because I believe it to be the best system for this purpose yet devised. I am quite aware that I will be accused of wishing to accumulate personal power by appointments. To that I will answer that it is perfectly conceivable that a legislator can and will advocate a thing because he believes it to be for the best interests of the Nation in the long run. Until I can be shown some system which will be a permanent improvement over the spoils system, I will be in favor of retaining it.

I know that the responsibility of appointments, or the privilege, if you wish to call it that, is what is commonly called a headache. I know that every Member of Congress regards it as a nuisance, and very properly so. I know it is a fact that anyone having to do with appointments creates by each appointment many disappointments. I know that eventually these disappointments overwhelm many public officials and result in their defeat. Nevertheless, if they have made these appointments honestly and conscientiously, with due regard to the honesty, industry, and integrity of the appointee, and I believe most legislators do, they have rendered their Nation a signal service in making appointments. Such a task may at times be burdensome, but so are many of their other duties.

This is a representative government, and a legislator is a direct representative of his constituent. He knows, or should know, them and their desires. They trust him to be better informed regarding the affairs of government than they are, at least until they learn that he is not, because he can devote his whole time to keeping informed regarding them. If they do not trust him to make appointments, then they certainly should not trust him to enact legislation. The representatives of the people should have, at the least, a positive check upon Government employees and their appointment.

The civil service, or the so-called career system, sounds well in theory, but we know from past experience that theory often fails when put into practice. Theories are chimerical but conditions are actual, therefore, theories are often very appealing, although putting them into practice is apt to result in bitter disillusionment. The German invasion of France in 1914 was so hide-bound by the theories of Von Moltke as to be incapable of adapting itself to combat the actual conditions which confronted it. Hopelessly bound by the red tape of an established bureaucracy, the chance to achieve a quick decision was lost and with it the war, although the system was founded upon the freedom and the initiative of the subordinate.

The paroling of criminals was a beautiful theory a generation ago. Now we are face to face with the resulting condition—a nation flooded with vicious paroled criminals, preying upon society. Everyone knows that paroling criminals is a faulty system, but it is much easier to put such a theory into operation than to eradicate the resulting condition. Prohibition was a wonderful theory, but the condition which it brought about was undesirable. True, it was a noble experiment, if somewhat expensive. Slavery was built upon the theory of forcing some to labor in order that others might have the time and leisure to develop good government. The divine right of the kings and nobles to rule was a theory, the quenching of which required rivers of human blood.

The principle upon which this Nation is founded is that of a government which derives its just powers from the consent of the governed. To that end and to insure such a government, the officials of the Government must, at short intervals, return to the people to obtain new authority to enact and execute the laws. Our system of government is founded not upon theory but upon human experience. Human experience has proven throughout the ages that whenever the people lose control over their officials, either elected or appointed, they are sure to suffer at the hands of government. Since our system of government is founded upon human experience, it is not only desirable but necessary for all of its functions to be conducted by those who, because of their association, are as closely as possible in personal touch with the problems of the people.

We are today confronted with a condition of government in which the direct representatives of the people are impotent to remedy existing social and economic injustices, because they are hampered by a branch of our Government which is not directly responsible to the people. It is a condition brought about by a theory which is out of accord with the cardinal principle of representative government. To base the composition of any other branch of our Government upon such a theory will be even more disastrous.

The advocacy of civil-service extension is inconsistent with present policies.

Why this cry to take appointments out of politics? Is politics a reprehensible institution, and if so, why? Does anyone believe that the appointment of Federal judges is to be taken out of politics? Politics is the medium through which the citizens of this Nation manage their public affairs. It is the institution of the voters and is what they make it, whether it be good or whether it be bad. I am quite aware that the terms "statesman" and "politician" are no longer regarded as being synonymous, and I have no inclination to enter into controversy over the matter. The fact remains that while a politician is not necessarily a statesman, a statesman must also be a politician. That is one of the requirements of an official of a system of government such as ours, and I believe a very desirable one. Certainly a successful politician must mix with the people, have an intimate knowledge of their problems, vocations, and avocations, their thoughts, hopes, and desires.

Our system of government, run by politics and politicians, has produced a Nation unequaled in history. The people have a chance every 2, 4, or 6 years to approve or disapprove of the method in which it is conducted. A government run by the duly elected representatives of the people has brought to the citizens of this Nation more liberties, more luxuries, more economic freedom, and more advantages than those enjoyed by the citizens of any other nation, the opinion of the disciples of Stalin, Hitler, or Mussolini notwithstanding.

When we look to improving any department of our Government we must consider two factors, efficiency and economy. Where have the proponents of the merit system ever shown where either of these two factors have been or will be advanced? Under the Civil Service?

Their whole argument is based upon the supposition that with each change of administration the entire personnel of minor administrative officials is removed and replaced by political appointees, regardless of integrity, fitness, or qualifications. Such is not true, and never has been true. Those responsible for the operation of departments are desirous that these departments function in an efficient manner. Those who have to do with recommending employees are very desirous that these employees should possess all the requirements necessary to enable them to function efficiently. Any official, either elected or appointed, is critically judged by the character and ability of his appointees. Who could be more anxious that they fulfill all the necessary requirements?

I defy the Civil Service to show in any department under its control as high a state of efficiency as that of the personnel of the Agricultural Adjustment Administration, which was hurriedly organized, and without regard to the civil-service rules and regulations, under authority of the Agricultural Adjustment Act of May 12, 1933. In that organization it is believed there is a larger percentage of college-bred people with A. B., B. S., M. S., and even Ph. D., degrees in clerical positions than could be found in any governmental agency operating under the Civil Service Act. The high type of personnel selected by that organization is illustrated by the fact that during the 12 months following January 6, 1936, the date on which the Supreme Court of the United States declared certain features of the Agricultural Adjustment Act unconstitutional, 1,575 employees of the Agricultural Adjustment Administration in Washington found other employment and voluntarily separated themselves from the pay roll of that organization.

In the Agricultural Adjustment Administration, the law of apportionment requiring that appointments to the Federal service in the departments in Washington shall be apportioned among the several States and the District of Columbia upon the basis of population as ascertained by the last preceding census, as well as section 213 of the Economy Act, relative to the employment of husband and wife in the service at one and the same time, and the laws giving preference to soldiers, sailors, or marines or the widows of such, and the wives of injured soldiers, sailors, and marines, are strictly followed. All of which goes to show that there may be a merit system existing in the Government service without the positions necessarily being in the classified civil service, thus giving to the appointing power some latitude and discretion in selecting assistants.

The Agricultural Adjustment Administration has proven the correctness of that ancient saying, "For forms of government let fools contest, whate'er is best administered is best."

I challenge the Civil Service to show in any of the departments under its control one which will even approach in efficiency, industry, courtesy, loyalty, or devotion to duty the secretarial staffs of the Members of Congress or of its various committees. These employees are appointed by the purest of partisan politics and are, I believe, unexcelled anywhere in the world. Would any Member of Congress wish to undertake to run his office with secretaries who are watching the clock for 4:30 p. m.? Here is a genuine merit system built up by personal partisan appointments. These employees know the folks back home, understand and sympathize with their problems, and endeavor in every way to cooperate in solving them.

In any private corporation, those in charge of the policies of such corporations are not denied the right to a personnel fully in sympathy with the aims, purposes, and ambitions of the directing heads. Most certainly directing heads of an administration of government are entitled to the same support and sympathy, if they are to be expected to function efficiently.

As long as human nature continues to be the dominating factor which governs individual advancement, life tenure of office will not produce efficiency, promote initiative, or encourage industry. The founders of this Nation very wisely provided that Members of the House should return to the people for election every 2 years. Life tenure of office might be desirable to Members of Congress, as individuals, but no one can deny but that it would be detrimental to the Nation. Those who come from those sections of the world, upon which nature has not too lavishly bestowed her gifts, have contributed the most toward the advancement of the world. Industry was not developed and is not being managed by clock watchers. Neither can we expect the minor affairs of government to be conducted upon principles so contrary to human experience. "Only the game fish swim upstream."

If the civil service would direct its activities toward reforming itself from within instead of extending itself, it would be more favorably regarded. If it would carry into effect within its own organization, without any attempt at evasion, the duly enacted laws of the land, it would prove itself more capable of administering other functions of government. If it would rid itself of its internal politics, favoritism, and dissention, it might then be pardoned for its cry about partisan politics. But until it does these things, it can never command the respect of those who know the facts regarding the conduct of our various departments of government.

Why all this cry about the necessity of any additional appointees, coming from departments where these individuals have already proven their efficiency and industry by actual demonstration, taking a competitive examination before being placed under the civil service? Is not the honest and efficient performance of duty a better recommendation than the passing of any nonsensical examination concocted by some fanatical professor? What would be the cost to the Nation of such examinations? What does it cost this Nation to hold an examination for thousands of applicants to fill a dozen positions? This is by no means an uncommon occurrence. Of course this is an excellent method of providing more positions within a bureau, but is it economical?

There is no more reason why efficient employees in non-civil-service departments should be required to take such examinations to prove their capability than there is for those within the civil service to be reexamined each year. The fact that one can pass an examination is not as much proof of practicability as is the ability to handle voters successfully in an election ward. Certainly to be successful in the handling of voters requires a knowledge of human na-

ture, an ability to cope with various situations, and the display of resourcefulness and initiative, which could not be measured by an examination. Civil-service status can no more denote merit than political activity can signify criminality. To listen to many of the proponents of civil service talk one would be led to believe that anyone suspected of partisan political activity should be burned to the stake.

Let anyone having to do with any departmental activity around Washington testify regarding the service in the civil-service or non-civil-service departments. That received from those departments which are noncivil service is far superior to that received in those which are civil service. In the New Deal departments there is courtesy, industry, and devotion to duties. The employees do not rush out in a mob at quitting time, and there is not one record of any of them having been injured in the 4:30 rush to leave. The civil service can show no such record in this respect. The idea that political appointees are ignorant, discourteous, indolent do-nothings did not originate among those acquainted with the true facts in Washington.

I do believe that in certain departments, notably the Post Office Department, the positions in connection with rivers and harbors, and in arsenals, navy yards, and so forth, the civil service has served a useful purpose. These are departments obviously nonpolicy forming. No initiative is permitted, and the policies are routine, continuous, and quasi-technical. Because of their internal structure, the civil service has contributed to their efficiency in a very creditable manner. The fact that over all first-, second-, and third-class offices, and in those under the direction of the Army and Navy, a non-civil-service head has had a watchful eye on the minor employees has, in my opinion, had a very salubrious effect. It remains to be seen, in the case of postal employees, what the result of removing this watchful eye will be. If it results in improvement, it will be contrary to all the lessons of the past. Unchecked, bureaucracy will follow its inevitable tendency, as surely as water will run downhill.

Let us look to some of the inevitable results of extension of the civil service. No one will deny that it means the extension and strengthening of bureaucracy. Neither will any responsible student of government deny that bureaucracy is an insidious foe of representative government. Bureaucracy is the strengthening of the executive at the expense of the legislative branch of government. No form of government which is poorly balanced can, or will, properly serve the interests of the people. Bureaucracy has never made for either economy or efficiency, and never will. Every bureau is constantly fighting to enlarge its own field of jurisdiction. Consequently the result is to obtain more personnel to write more letters to get more answers, to require more personnel, and so on, ad infinitum. The civil service is the very backbone of bureaucracy.

The idea seems to prevail that to extend the civil service is to do away with the political influence in regard to appointments and promotions. Such action may indeed do so as far as partisan politics is concerned. This partisan politics will be replaced, however, by the inevitable internal politics to be found in every bureau, just as it is to be found in every church, school, civic, or fraternal organization in the Nation. It will be an internal politics far worse than partisan politics, because after all, the people of the Nation have a check upon partisan politics at every election, but they can have none on this internal politics. This internal politics is certain to cause friction between the responsible policy forming heads of the various departments and the personnel, more zealous in maintaining their own internal organization than in rendering efficient service; favoritism and internal dissention will run riot, and no one will be able to control or check it. Whatever party may be in power will have been changed by the electorate with the responsibility of government. Under such a system they will be hamstrung from the start.

The result of the so-called merit system will be to place the minor governmental positions in the hands of a group of professional Government employees located in Washington, D. C., and the nearby sections of Maryland and Virginia. These employees will know nothing about the rest of the United States and will care nothing. To them the Nation will be only a reservoir of taxation existing to support them and their section. Because of better opportunity to obtain inside information regarding vacancies and examinations, and inside influence because of relationship, this system will soon develop into a family affair—almost hereditary. Every Member of Congress knows full well if it were not for the fact that the appointments to the Military and Naval Academies are in the hands of Members of Congress, the commissioned personnel of the Army and Navy would long ago have been closed to all except the sons of officers.

The Federal Government in Washington, D. C., is the largest and most steady pay roll in the Nation. The entire Nation pays taxes to provide this pay roll. Is it just to the Nation that it should be prostituted to the interests of any one section or class of people? There are thousands of families throughout this Nation whose hearts have been gladdened because a son or daughter has been enabled to secure a position in Washington. Not only has their financial condition been improved by this, but their pride in country and their interest in the Government has been increased. Each section of this Nation is entitled to its fair share of these positions, just as they are entitled to their fair representation in the Legislature. They will never get this under the civil service.

The report of the Civil Service Commission concerning the condition of apportionment December 15, 1936, is conclusive proof of its tendency to centralize all appointments around the District of Columbia. This report shows that the allotment for the District of Columbia is 154 appointments under the civil service and that it has actually received 9,030. This one little favored, pampered, isolated spot in this vast Nation has received more civil-service appointments than has 30 States combined. Maryland and Virginia have each received more than double their allotted quota. The District of Columbia, Maryland, and Virginia have almost one-third of the civil-service appointments in the Nation's Capital. Here is an example where civil service, due to its favoritism and internal politics, is openly defying the provisions of the original civil-service law which provides that appointments should be apportioned among the various States according to population.

Everyone who knows anything at all about the inner workings of the civil service knows the difficulty which the head of a department has in getting rid of an undesirable or inefficient employee. In fact, adjusting such matters is so difficult that it has become common practice to kick the undesirable upstairs. In other words, to reward disloyalty, sloth, or inefficiency by promotion. Any Member of this House who is unacquainted with the facts can easily satisfy himself of the truth of the foregoing.

There is abuse enough under the civil service, as it is now constituted, in regard to duplication of jobs within families. Nepotism is a reprehensible practice which is justly and universally condemned throughout the Nation. It is true that nepotism is selfishly practiced by a very small percent of the Members of Congress, but this is the exception, not the rule. In spite of the fact that legislation has been enacted to prevent duplication of jobs within families, the internal politics in the civil service is at the present time strong enough to disregard acts of Congress passed to prevent this. What will be their powers along this line if they are made more powerful still. Most certainly, when Congress is under the necessity of burdening the taxpayers to provide employment for the unemployed, duplication of jobs within families is poor national economy. Is it fair that a husband and wife should both be employed by the Government and drawing, in thousands of cases, more than $4,000 a year jointly, while at the same time thousands of fathers of families are unable to properly feed and clothe their families? Such practices are obviously unfair to both the taxpayers and the needy. In Washington, D. C., thousands of such unjust cases exist. In many cases the wife is working under an alias and being

protected in this deception by the internal politics within the civil service. Another example of the disregard of the civil service for the legislative branches is the disregard for veterans' preference laws. Many of those in control of its internal political system regard anything of this nature as an interference and resort to every means possible to discriminate against veterans.

Another, and by far the most serious result of the extension of the civil service will be its political results. Today the civil-service employees represent a sizable political bloc. Include with those already in this bloc all the employees now appointive and the strongest political bloc within the Nation will result. Add to this number those of the States and we will have a block of public servants which will dictate all the legislation passed. At the present time many of their representatives are the most active lobbyists to be found in the Nation. Their efforts are directed solely toward raising their salaries, lowering their hours, and increasing their number, but never toward increasing their own efficiency. They carry on this work in spite of the prohibitions of political activity in the civil-service regulations. Every Member of Congress knows this to be true.

The above was proven to be true upon the occasion of the passage of the Ramspeck bill to place the first-, second-, and third-class postmasters under the civil service. Some Members of the House openly admitted that they did not believe it to be wise to extend the civil service. At the same time they shamelessly stated to their colleagues that they would have to support the bill because of pressure from civil-service employees. While the House was in the Committee of the Whole the amendments to prevent the placing of the postmasters under civil service carried in every instance upon a teller vote. When the Committee reported the amended bill back to the House and a roll call was demanded, many Members reversed themselves. Certainly matters are in a sorry state in this Nation when its legislators fear to go on record as voting their convictions because of fear of reprisals of any political bloc and especially one composed of Federal employees. Representative government cannot survive under such conditions.

Political blocs come and political blocs go according to various conditions and ideas. This fact has, so far, been the salvation of representative government, because they undoubtedly will always exert influence upon legislation. Very often their effect is favorable. But a bloc, composed of a number whose ideas and aims will be perpetual, which will increase in size proportionately faster than the population will increase, will never die. By the very nature of its composition, by its accumulated powers, by its strategic position it will increase, as does a snowball rolling down hill. Soon the sovereign electorate will be enmeshed in this web of bureaucracy which is responsible to no one but itself. Then representative government will be bound by the red tape of minor officials and hanged from the gallows of official tyranny, with a rope of its own manufacture.

Social Control of Power

EXTENSION OF REMARKS

OF

HON. GERALD J. BOILEAU

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1937

ADDRESS OF HON. GERALD J. BOILEAU, OF WISCONSIN, AT A CONFERENCE ON SOCIAL CONTROL OF POWER, CALLED BY THE LEAGUE FOR INDUSTRIAL DEMOCRACY, AT WASHINGTON, D. C., ON FEBRUARY 28, 1937

Mr. BOILEAU. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address I made at a conference on Social Control of Power at Washington, D. C., yesterday:

Human beings are quite likely to be susceptible to flattery, and as citizens we like to be told of the great accomplishments of the generations of American citizens who preceded us. We are proud of our progress in the field of government. We cherish our freedom and liberty. Our leadership in the field of education gives us great satisfaction. Our development as an industrial nation has been the envy of the entire world. The traditions of our country from its inception down to the present time are held in reverence by us all. The deeds of our forefathers are an inspiration to young and old alike. There is so much good that can be said of the generations of American citizens who preceded us that we are inclined to be intolerant of those who adversely criticise the policies pursued by those who pioneered and built a great empire out of the wilderness.

Mother Nature has provided us with an abundance of wealth. We have an abundance of natural resources and fertile soil. We are, and should be, thankful. Although we have good reason to be proud of so many things in connection with our national development, have we in fact reason to be proud of the manner in which we have permitted our natural resources to be used? A Divine Providence undoubtedly intended that our vast natural resources should be used for the common good of all the people who live here. Certainly it was not intended that a few individuals should be permitted to exploit the natural wealth of the Nation. Be that as it may, the fact remains that the Government's policy from the very beginning encouraged those who were so disposed to exploit our minerals, timberlands, water power, and all other resources out of which individuals could obtain personal wealth. Perhaps it is unfair to be too critical of the policies followed in this respect, but it does seem fair to criticise a system which, in addition to permitting private exploitation of what was actually public property, permitted a wanton waste and misuse of that property.

The denuding of our forests affords a most glaring example of the misuse of the gifts of nature. Vast sections of timberlands were acquired by individuals, largely from the Government, at little or no cost, and out of the desire to make profits came the destruction of these forests with no thought being given to the public welfare. The lumber barons did not cease their exploitations until these timber lands were completely stripped of all valuable timber. It is true, too, that much of the land had timber removed from it by private lumber interests while it still belonged to the Government. Now, vast areas in the North Central and Western States, which are suited only for the growing of forest crops, have become valueless because not even a sufficient amount of timber was left on the land to afford a natural reseeding. It has only been in recent years that any serious attention has been given to the problem of reforestation, and even now such a program is being pursued on such a small scale, comparatively, that we cannot be very optimistic about the prospects of the future. We have, of course, made some progress, but the exploitations of the past were so great that we must greatly increase our reforestation activities if we are to properly utilize lands which have no other value than for forest crops.

In nature's scheme of things, the forests provided a natural reservoir for the retention of moisture in the timber areas, to be released in dryer seasons in the form of rain, upon lands used for agricultural purposes. Therefore, as lands were converted from forest to farms, some method should have been devised by which this great reservoir would be artificially assisted in retaining the moisture until it was needed. Undoubtedly, it was not deemed necessary to offset the devastating effect of the gradual depletion of our forests, because a large part of our timber lands had been denuded before the harmful effect could be felt in the form of droughts and floods. It has only been recently that the destruction of our forests has advanced to the point where nature's reservoir has been unable to retain sufficient moisture to make agriculture profitable in the North Central and Northwestern States. It was not so many years ago that a crop failure was practically unheard of in the Lake States. There was always sufficient moisture retained from the winter and spring season to insure good crops during the summer. Floods were not so numerous nor so severe, and extended droughts were unheard of.

During the past 6 or 7 years the vast agricultural section in the Middle West has suffered from severe droughts. Waters that formerly would have been retained in the natural reservoirs of the North have rushed off into the streams and rivers, carrying much of the best topsoil along with them, and finally resulting in a flood condition in the valleys of the principle rivers of the Nation. The timberlands have been wasted, and this has resulted in the waste of our land and our water supply, and destruction of property caused by floodwaters.

How long are we going to permit this condition to exist? Are we going to continue, year after year, to grant Government subsidies to farmers who suffer from the lack of water, and at the same time build up expensive dikes along the principle rivers to hold back floodwaters and permit the annual loss occasioned by poor crops and floodwaters when a less expensive and more intelligent solution is obvious to all who have given thought to the problem?

In order to adjust the water supply we must prevent floods by preventing droughts and prevent droughts by preventing floods. The two problems must be worked out together. We must abolish the evil practices which have been tolerated under a system which has encouraged individuals to make personal profit, through improper use of our natural resources, regardless of the interests of the general public.

Reforestation of lands unsuited for agricultural purposes is, of course, a necessary part of any program directed toward the prob-

lem of preventing droughts and floods. However, there is so much land formerly covered with timber which is necessary for and suited to agricultural purposes, that we must devise purely artificial means in addition to reforestation of conserving the water supply so that such lands as are valuable can be used for farming. We should, therefore, construct a system of dams and reservoirs to retain excess water supplies that are now permitted to follow their mad and devastating course to the ocean. It is a gigantic problem that must be met by initiating a gigantic program of reservoir construction. Such a program will cost a lot of money, but will be cheap in the long run, as we cannot afford to make waste lands out of the vast area comprising the North Central and Western States upon which the Nation is so dependent for its food supply. Neither can we afford to permit repetition of the devastating effects of floodwaters year after year.

It will not be so difficult to convince the American people of the necessity for solving our drought and flood problems in this scientific manner. Of course, those who have profited most from the exploitation of our timber lands can be expected to resist the expenditure of public moneys to undo the damage they have wrought. An enlightened public opinion will, however, overcome this obstacle, and I am sure public approval can be obtained for such a plan.

Any scientific and systematic solution of the problem of properly utilizing our water supply should include the full development of the Nation's water power. The creation of reservoirs would necessitate the construction of dams and the public interest would require the development of as much power as is consistent with the program of drought relief and flood control.

Government funds should not be used in such a way as to either decrease or enhance the value of privately owned power sites in the vast area in which such a program would operate, so it would be advisable, as a first step, for the Government to acquire ownership of all power sites within the area in which the project is carried on. This means, of course, that power sites, both developed and undeveloped, which would be affected, directly or indirectly, by such public interprises, should be purchased and operated by the Government agency that would be charged with the responsibility of constructing and operating the whole project. Any plan that would be piecemeal would be doomed to failure.

Any plan looking to the conservation and proper use of our water supply should contemplate control over many of the important watersheds of the Nation—regulation of the flow in their principal streams and rivers—harnessing and development of all available water power, in the public interest. It is a gigantic undertaking, but nevertheless a practical one. Private enterprise has not suggested that it is competent to deal with the problems of drought and flood control. No one contends that it would be improper for the Government to engage in this type of business, which is probably due to the fact that no ingenious financier has yet been able to find any way in which such a program could be carried on by private initiative, at a profit. A satisfactory solution would require the expenditure of a vast sum of money, and the only direct income, aside from the benefits to the general public, would result from the sale of electric energy. The returns from that source, however, could not be expected to be sufficient to pay the cost of the entire project. The greater part of such expenditures should be charged to drought and flood control, and only a small part thereof should be charged to power development. The income from the sale of electric energy would probably be sufficient, however, to maintain, and perhaps gradually improve, the whole system after its initiation.

It has been argued that any program that has as its major objectives the elimination of droughts and the control of floods, would probably fail to produce a stable and dependable supply of power. This is probably true, and for that reason it would be necessary to supplement the power derived from this source with auxiliary power, to insure meeting all needs, at all times, in the area to be serviced with electricity. It would not be advisable over a long period to have both publicly owned and privately owned power facilities competing in the same area. Therefore, as it is necessary that the Government enter into the field of power development in connection with a drought and flood control program, it also becomes necessary, at least insofar as the area affected is concerned, that there should be a Government monopoly in the field of development and distribution of electric energy.

We should not begin to work on a project of this magnitude until we know exactly in what direction we are going. It will require careful study and planning in order to insure that the greatest efficiency will be achieved upon ultimate completion. The Army engineers and others have already done much of the preparatory work. After all of the preliminary work is completed it will be necessary then to agree upon a definite plan. Such a decision should be made by a group of competent engineers who are not influenced either by partisan politics or personal or sectional interests. Although it will probably be necessary that Congress approve a plan before it is put into operation, care must be taken to insure the acceptance of a plan free from the unsavory influences of congressional "logrolling." This problem must be worked out scientifically and systematically rather than through favoritism and politics. The public welfare must be given first consideration. Once we agree that drought relief, flood control, and power development are all tied in with one another and that development of power must be a necessary part of any intelligent and scientific plan to prevent droughts and control floods, we, as a Nation, should perform our obvious duty even over the objections of those few who would resist any movement that might deprive them of the opportunity of personal gain, even though the success of such a movement would promote the general welfare.

In conclusion let me say that this or a following generation must provide some means whereby we can properly use our water supply. We must retain a sufficient amount of water to provide moisture to grow crops in the agricultural sections of the Nation—we must prevent the waste of our water supply through the flooding of our streams and rivers—and finally, we must regulate the supply and movement of water in such a way as to develop the maximum of electric energy. All of this is necessary in the public interest.

The Beautification of Washington

EXTENSION OF REMARKS
OF
HON. ROBERT LUCE
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Monday, March 1, 1937

ADDRESS BY HON. CHARLES MOORE, CHAIRMAN OF THE COMMISSION OF FINE ARTS, AT WASHINGTON, D. C., FEBRUARY 18, 1937

Mr. LUCE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by Hon. Charles Moore, Chairman of the Commission of Fine Arts, at the Mayflower Hotel, on February 18, 1937, on the occasion of a dinner given in his honor by the Washington Society of the Fine Arts:

Would that I had the words—golden words—adequately to voice appreciation and thanks for your friendliness toward my associates and myself in our efforts to make Washington a fitting capital of our Nation.

Tonight we celebrate the completion of vital elements of the plan of 1901. Much more than that, I trust we are also girding ourselves for the ever-recurring struggle to preserve, to protect, to carry on the improvement of Washington along the very largest and finest lines we can conceive.

What a glorious adventure it has been during the 36 years since the plan of 1901 was presented formally to the Congress and to President Theodore Roosevelt and his Cabinet. The outstanding merit of that plan is its firm basis on the L'Enfant plan of 1792. The genius of that young French architect and engineer was that he saw things "in the large." His concepts were so big and so fine that they carry on "into a future, however, remote." Today, after a century and a half, features dearest to his heart remain to be realized by us and those who shall follow us.

We of this company, lineal descendants of the Committee of One Hundred, the first organized defenders of the plan, have fought for it and have fought against and defeated its detractors and opponents. With satisfaction we look back over those battles: First, a road to Gettysburg in place of the Lincoln Memorial, won under the command of Senator Root; a powerhouse on the water front with high chimneys to compete with the Washington Monument and by ugliness to dominate East Potomac Park, a project squelched by the eloquence of Cass Gilbert as well as by the toy balloons sent up by the Federation of Arts at the happy suggestion of Miss Mechlin; the location of the Arlington Memorial Bridge, in accord with the plan of 1901, settled by the overruling authority of President Harding; the prolonged struggle for the removal of the Botanic Gardens, and only this past year, the clearing of the Mall by the direction of President Franklin D. Roosevelt.

Looking back over 36 years we take satisfaction in our successes. But scars of battle remain, memories of heartbreaking clashes never will be wiped out of mind.

All of these things we have seen; in many of them we have had a part. Therein we have our satisfactions. But broader and deeper than satisfactions of the hour and day is the realization that we are but a small part of a great tradition deeply rooted in past centuries and bound to continue in a never-ceasing flow into an ever-widening future.

Consider if you will the remote origins of the plans of Washington.

Not unadvisedly did President Washington accept Pierre Charles L'Enfant's ardent offer to draw the plan for the first capital city to be carved from a wilderness. The President knew L'Enfant in war, wounded in battle, a prisoner in the hands of the enemy; knew him also in peace, as the architect of the finest building in the United States—the New York City Hall, in which the first President was inaugurated. L'Enfant's large concept of capital planning comported with Washington's own assurance of the future greatness of the new nation.

The far-sighted President brushed aside Jefferson's more limited and restricted plot scarcely reaching from Rock Creek to the

site of the White House. To L'Enfant he gave full scope to draw the boundaries of our Federal city as wide as those of the Paris of that day, nearly as extensive as London.

Did Washington also know that L'Enfant was an artist by birth as well as by training, the son of a member of the French Academy, familiar with Louis XIV's planned capital of Versailles, to which the cardinal features of the plan of Washington bear analogy, accustomed also to the exquisite royal famous gardens of Le Notre. Where else could L'Enfant have got his ideas of canals and fountains and all those other "embellishments", as he called them?

L'Enfant made the fatal mistake of undertaking to execute the plans he made as an artist. So he came to grief, much to the regret of Washington and the District people. L'Enfant, a full century after his death, 7 years after his plans were reinstated and enlarged by the Senate Park Commission, came into his own. His mortal remains, raised from their tree-marked grave on the Diggs farm, were borne in honor to the rotunda of the Capitol, thence to final sepulture on the brow of the Arlington hill, overlooking the city he designed.

During a slow century the much ridiculed plan was mutilated. Public reservations were sold to eke out District revenues. A botanic garden was located in the plaza approach to the Capitol from the west, there persistently to block development until last year. Worst of all, the park connection between Capitol and White House was chopped into disconnected pieces; and steam railway tracks bisected the Mall. Yet the L'Enfant plan was never wholly forgotten. In 1898 Congress paid respect to it by extending the streets and avenues of the fast-growing city throughout the entire District.

Until the end of the Civil War, Washington was a straggling, overgrown village. Then Alexander R. Shepherd, lifting it out of mud and dust, made a modern city.

From 1890 to 1900 the municipality was put into order; increased water supply and filtration were installed; cardinal streets were opened; railway grade crossings abolished; schools, hospitals, and charities were brought up to date. The Government paid half the expense, and lent the District part of the other half. Local and National Governments worked harmoniously.

In 1893 the Chicago World's Fair changed the whole aspect of American civic life. On sandy wastes of Lake Michigan's shore arose as if by magic a white city so harmonious in design, so highly developed in architectural treatment and landscape effects, so richly adorned with sculpture and painting that everywhere throughout the country admiration and emulation were universal. Washington was ready for the new order. The American people were determined that their capital should realize the possibilities the long-neglected L'Enfant plan revealed.

If this ephemeral white city could so stir the imagination and minister to the pride of a whole nation, why should not the same knowledge and taste transform our Capital into the well-ordered and highly distinguished city planned from the beginning?

So questioned the American Institute of Architects, led and guided by their secretary, Glenn Brown, in whom the spirit of L'Enfant was incarnate. Seizing the opportunity Senator James McMillan, of Michigan, chairman of the Committee on the District of Columbia, secured from the Senate authority to have prepared a plan for the development of the park system of the District of Columbia, including the location of future public buildings.

Well I recall the first steps to obtain the services of those Chicago "experts" euphemistically so-called. Burnham, chief of fair construction; McKim, architect of highest standing and achievement; Saint-Gaudens, arbiter of taste; and the younger Olmsted, whose distinguished father was the artist of landscape to whom so much of the fair's success was due. It became my duty, and privilege, to aid in the selection of these particular artists, to draw up the tentative program for their work, to supply information on local matters, to accompany them on their travels at home and in foreign lands as well, and incidentally to see that their fast-mounting expenses were paid from Senator McMillan's complacent purse, always with the sporting chance that Congress might not repay.

The friendships so formed continued through the lives of Burnham, McKim, and Saint-Gaudens; Olmsted, happily, is still in service. To Charles Eliot Norton's instruction at Harvard and his continued advice thereafter I owe my interest and pleasure in the work of the artist.

Having pondered the plans of L'Enfant, the Park Commission set up a fully equipped drafting room, borrowing the Senate press gallery. Fully to understand the spirit and implications of the L'Enfant plan, the members dropped their individual work in order to visit and to discuss on the ground, with the Washington work in mind, the sources of L'Enfant's inspiration, the famed gardens of Le Notre and their derivatives in Paris, in Rome, in England, and in Vienna. They traced even to their source the ideas and ideals L'Enfant expressed not alone in streets, avenues, parks, and circles, but also those "embellishments" of canals, fountains, and monuments planned for that "remote future" now seemingly at hand.

Steadily the outlines of the new plans advanced under intensive discussions. On a June night in Rome, after a full day at the Villa Medicis, the four travelers sat themselves down on the steps of the little temple in the Porghese Gardens (Saint-Gaudens was too ill to undertake the strenuous journey). Under the spell of the moonlight the vision of the new Washington began to shape itself. L'Enfant's park connection between Capitol and White House should be cleared of railroads, unified, and developed with a broad stretch of green, bordered by elms. (In moonlight, one could remove even railroads.)

The main axis, disregarded when the Washington Monument was located, should be restored by passing it from the Capitol dome through the Monument and extending it for a mile to the banks of the Potomac, where a memorial to Abraham Lincoln should be built. Capitol, Monument, and Memorial should form one composition, with the White House at the north end of the cross axis and a group of buildings in honor of the founders of the Republic at the south end. A basin, long, tree-lined, as at Versailles and Fontainebleau, should complement the tapis-vert of the Mall. From the Lincoln circle a low bridge should be focused on Arlington, where lie the honored dead of the Nation. The Grant statue, proposed for a location south of the White House, should form the embellishment of L'Enfant's west Capitol Plaza, at the head of the Mall. Thus the two buildings of highest national importance would be brought into reciprocal relationship as originally planned; and highest honor would be accorded the two Americans whose names before the world stand for liberty and freedom.

The decisions made that night in the Eternal City have been carried out during the years indeed, but each separate element has been achieved only at the end of prolonged opposition and heated controversy. Today the locations seem inevitable.

In London the Commission obtained from President Cassatt a conditioned promise to withdraw the Pennsylvania Railway from the Mall to a union station north of the Capitol, thereby removing the one prohibitive obstacle to the proper development of Washington.

The report of the Park Commission, which Mr. Olmsted and I prepared, was made to the Senate on January 15, 1902. It was accompanied by a wealth of plans, diagrams, models, and large renderings made by artists of first ability. Published at home and abroad by newspapers and magazines the new plans instantly won public favor and determined support.

In August 1902 Senator McMillan died, but not before he had secured legislation for the clearance of the Mall and the Union Station. So the plans were left, if not on the lap of the gods, at least at the reluctant feet of the Congress. President Theodore Roosevelt and Secretary Taft rescued the Mall design, seriously threatened by a determined attempt to wreck the entire scheme. At the end of 8 years a leading Senator called the plans a "showy sham", unworthy of being carried out.

But public sentiment was strong.

The Senate Park Commission died with the submission of their report. But its members continued to be consulted on Washington projects and in 1910 the Congress, at the instance of President Taft, created the permanent Commission of Fine Arts. The legislation was shaped by Senator Elihu Root, who took care to avoid those pitfalls of extended authority unpleasing to congressional minds. Mr. Burnham, Mr. Olmstead, the two surviving participants in making the plan of 1901, were called back into service, and Cass Gilbert, Thomas Hastings, Frank Millet, and Daniel Chester French completed the seven, with myself.

In 1926 Congress created the National Capital Park and Planning Commission with wide authority to cooperate with Maryland and Virginia in developing parkways in the surrounding territory as well as in the District itself. In 1933 the National Park Service took over the District parks. All three agencies work in cooperation and harmony where, as often, their functions impinge one on the other.

The success of the Lincoln Memorial did much to establish in favor the new Commission; and during the years both the President and the Congress have added duties and responsibilities to the work.

The World War made irresistible the need of new departmental buildings. While yet Calvin Coolidge was Vice President, he had learned from his physician, an active member of the Committee of One Hundred, the story of the Washington plans. At Mr. Coolidge's request, it was arranged that I give an illustrated talk at the doctor's home before the Vice President, his wife, and some hundred and fifty Members of the Senate and House and citizens. As the outcome of that evening, the first Sunday President and Mrs. Coolidge were in the White House, the doctor and I were asked to a family dinner. As the President sank into his chair at the table, he asked bruskly:

"If you had $50,000,000, could you build the buildings the departments need?"

"Yes", I answered, "provided it came slowly enough."

The New England ears pricked up.

"What do you mean by 'slowly enough'?"

"Simply this: There is now no Government agency organized to handle so large a sum as $50,000,000. The result would be haphazard locations, waste of public funds and scandal. If you will get ten millions a year for 5 years, you can go slowly enough to secure orderly arrangement, efficiency, and economy."

Within 2 weeks the President, with the approval of his Cabinet, asked Congress for a continuing appropriation for the construction of public buildings according to a schedule prepared by the Commission for General Lord, Director of the Budget. Such was President Coolidge's beginning of the Triangle development carried out efficiently and expeditiously by Secretary Mellon, under President Hoover.

So much for the past. What of the future?

One essential portion of the plan of 1901 has not been carried out. The White House has not been made the center of the executive work of the Government, as the Capitol has been made the center of the legislative work. Lafayette Square has not been surrounded by public buildings as planned. The fine development of Pennsylvania Avenue to the east finds no echo on the west. The White House is out of balance in the development of the

Capital. Instead that greatest of Washington thoroughfares is degenerating day by day. Another major surgical operation will be required to bring that thoroughfare into its proper development.

Picture to yourselves Lafayette Square, with the Treasury Annex carried through to H Street as planned, balanced by a State Department building on the west side, the old State, War and Navy Building, remodeled to correspond with the Treasury, to house the ever-increasing demands of the President's offices and functions too large for the White House. Then along Pennsylvania Avenue the new War and Navy Buildings designed in a manner and with landscape setting befitting the dignity and high function which those services perform in the task of national defense.

Often one hears the objection that too much money is spent on fine work designed for all time, on good architecture where only shelter is needed. We are told that style should follow function. One admits that buildings and parks, and monuments are but the setting for the life they serve. And in focal center of a great Nation what is the nature of that life?

The Capitol gets its real significance from the measure of wisdom and statesmanship underneath its dome. The White House is a symbol of leadership in and guidance to higher modes of life, directed by the men and the women whose vantage ground it is. The new Supreme Court is the outward and visible expression of the spirit of justice that emanates therefrom. So, too, the Pan American Union is the token of the solidarity of the peoples of the Western Hemisphere in their purpose to achieve liberty and prosperity through peace and good will. The Red Cross buildings stand for world succor and helpfulness in times of peril and disaster. Memorial and Continental Halls are the abiding place of that patriotic impulse fundamental in the concept of country. Today it was decided to place the Thomas Jefferson Memorial on the axis of the White House, south of the Washington Monument.

The true grandeur of nations lies in the cultivation of the arts of peace. Those arts are the real fountains that refresh the spirit overburdened with the wealth of material things. They stand for the freedom of the mind striving to attain the truth—truth like the shores of Ausonia, ever receding yet ever beckoning. They are the anvils on which the spears of war are beaten into the pruning hooks of peace.

In the cubicles of the Library of Congress the stored wisdom of the sages is studied for the guidance of the present. College and university train the leaders of tomorrow. The Coolidge concerts and the Washington Symphony Orchestra open the civilizing gates of harmony. The Folger Shakespeare Library makes us familiar with that bard of our own race whose thoughts are a part of our very lives. The Freer Gallery serves world's scholars searching long-hidden realms of oriental thought and beauty.

The Corcoran Gallery stands for American achievement in the fine arts, as the new National Gallery of Art will acquaint the people with the deathless treasures of the ages and place this country among the select of the art world. The Smithsonian and the Carnegie Institutions search the mysteries of man's relations to the boundless universe in which he dwells. The Cathedrals on St. Alban's and in Brookland, lifting their towers into the sky, stand for eternal verities emphasizing the firm distinction between right and wrong for people and for nations. All these fruits of the spirit are God's signposts along our path to a future even more remote than L'Enfant dreamed and Burnham prophesied.

Daniel H. Burnham, with instinct, has pointed the way for us and those who shall come after us:

"Make no little plans; they have no magic to stir men's blood and probably themselves will not be realized.

"Make big plans; aim high in hope and work, remembering that a noble, logical diagram once recorded will never die, but, long after we are gone, will be a living thing, asserting itself with ever-growing insistency.

"Remember that our sons and grandsons are going to do things that would stagger us. Let your watchword be 'order' and your beacon 'beauty.'"

The Supreme Court

EXTENSION OF REMARKS

OF

HON. PETER J. DeMUTH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1937

Mr. DeMUTH. Mr. Speaker, the message and proposal by President Franklin D. Roosevelt to have Congress pass a law to increase the efficiency of the Supreme Court, circuit courts, and district courts has caused a great deal of discussion on this subject. A number of methods dealing with this perplexing problem have been proposed. During the campaign many of the Democratic candidates for Congress condemned the Supreme Court for their action in nullifying progressive human legislation passed by Congress.

Last September in a radio address over station WWSW, in Pittsburgh, I discussed the Supreme Court, as follows:

The Supreme Court in the past 2 years flaunted the will of the people through the usurpation of the legislative powers of our Government.

The United States is the only country in the world where the will of the people as expressed through Congress, is nullified by a group of men who never need answer for their acts. This usurpation of power when attempted has been condemned by such outstanding Presidents as Jefferson, Jackson, Lincoln, and Theodore Roosevelt.

In referring to the case of *Marbury* v. *Madison* in 1803, Thomas Jefferson said, "For the Court to do so would be an usurpation of power that was not given in the Constitution, and that if such authority was permitted to be assumed by that body to decide what laws are constitutional and what are not, it would cause the Supreme Court to become a despotic branch of the Government with its judges playing the part of despots."

The Supreme Court did not attempt to usurp the legislative power again until 54 years later, namely in the famous Dred Scott case of 1857. Concerning this Abraham Lincoln declared, "Somebody has got to reverse that decision, and we mean to reverse it. If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal. Why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world?"

Chief Justice Hughes, while Governor of New York, said, "We are under a constitution, but the Constitution is what the judges say it is."

Remember, environment often affects people's judgment and that seven of the nine Supreme Court judges are former corporation attorneys whose duty it often was to defend property rights over human rights. It took 12 long years for the reactionary Republican Party to select most of the present Supreme Court judges. The lords of wealth and privilege from their securely guarded position glance down in contempt and say, You ordinary American citizens only think your will is supreme, but our guardians, the Supreme Court, has provided otherwise.

The interpretations and interpolations of the Constitution by the present Supreme Court has placed cancerous barnacles upon the Constitution which are eating away the liberty of our citizens as set forth in the Constitution. They condemn the American people to economic slavery.

The problem of the Supreme Court is not new with this administration, but was encountered by such great Presidents as Washington, Jefferson, Madison, Jackson, Lincoln, Grant, and Theodore Roosevelt, so the opponents of this bill should remember that most of our great Presidents found fault with the Supreme Court and questioned its usurpation of power to declare acts of Congress void.

The Supreme Court, while assuming this power, exercises it with full knowledge that the Congress and the President have the power to fix the membership of the Court, granted to them in the Constitution. Congress and former Presidents a number of times have exercised that power. They first fixed the number in 1789 at six. It was reduced to five in 1801. It was increased to seven in 1807. It was increased to nine in 1837. It was increased to 10 in 1863. It was reduced to seven in 1866. It was increased to nine in 1869. The Supreme Court knows perfectly well that the Congress and the Executive have the power by law to change the number on the Supreme Court Bench. It is a power which the Constitution grants. It is a power that these two branches of the Government have and have frequently exercised. Therefore, an increase of the members of the Court cannot be either unconstitutional or revolutionary.

In some letters I am asked not to interfere with the Constitution. This proposal to increase the number of Judges is standing by the Constitution. It is within the terms of the Constitution to increase the membership of the Court. It is not a violation of the Constitution. It is a measure strictly in accord with the Constitution.

It is claimed by our reactionary friends, repudiated at the last election, that to give President Roosevelt the power to appoint six judges is subversive of the Supreme Court. Such a contention is wholly unsound. President Washington appointed 10 Judges; President Jackson appointed 5; President Lincoln, 5; President Grant, 4; and President Taft, 6. We

had no revolution at that time. We had no breaking down of the Supreme Court when President Taft appointed six members to the Court. Why should anybody assume that because a President has, within two terms, the right to appoint six members to the Supreme Court it is subversive of the Supreme Court? Or that he is "packing" the Court? President Harding appointed four in a little more than 2 years, and even President Hoover appointed three. None of these appointees to the Court destroyed the Court; and if Mr. Roosevelt is allowed to appoint six, that will be no more than Mr. Taft appointed in one term.

In speaking of the appointment of judges, only four Presidents did not have the opportunity of appointing a Supreme Court judge. These were William Henry Harrison, who lived only about a month; Zachary Taylor, who served a year and 4 months; Andrew Johnson, who served practically a full term but was not permitted to make an appointment, and Franklin D. Roosevelt, who has served more than a term without making an appointment.

It is fair to say that Mr. Madison in his second term, Mr. Monroe in his first term, and Mr. Wilson in his second term did not appoint Justices, but it is a peculiar fact that with six Justices over 70 years of age with the privilege to retire, none have retired in the first 4 years of Mr. Roosevelt's administration.

It is well to note that although Harding served a little more than 2 years, he appointed four judges to the Supreme Court. Three of these filled vacancies that occurred shortly after President Woodrow Wilson's second term. Although entitled to retire, refused to do so until a reactionary President was again elected.

We have passed a law permitting the Supreme Court Judges, 6 months past 70 years of age, to retire at full pay. If they retire it will not be necessary to increase the number of Judges on the Supreme Court Bench.

The vast majority of our citizens are in favor of progressive humane legislation which was so decisively expressed by the large majorities given to the President and the Roosevelt New Deal congressional candidates. Therefore, if the members of the Supreme Court, 6 months past 70 years of age, do not retire, the vast majority of the American citizens will be greatly disappointed and their confidence in the Supreme Court will be tremendously lessened.

After all reactionarism and entrenched wealth was repudiated and the will of the people as expressed through the elected representatives and the Executive should not be denied by split decisions of nine fallible human beings sitting on our Supreme Court Bench, whose views on economic subjects and ideas of general welfare have been rebuked. Are the repudiated reactionary citizens who wish these men to continue on the bench of the opinion that these older men are progressive in their thoughts? Do these opponents of the President's proposal fear that the President will name young Judges with vigor and progressive ideas? I am confident the men the President will nominate will be men of equal trust and honor as our present Supreme Court Judges.

However, before leaving this point let me repeat that the charge of "packing the Court" is not only a charge that the President of the United States is going to "pack the Court" but that the Senate is going to help him "pack the Court." I do not think any Senator would help anybody pack the Court with a Judge who is not the proper kind of man to be a Judge, who is not an honest man and not a faithful student of the law. And I do not think our splendid President would engage in any such conduct. No man nominated for a place on the Supreme Court Bench can be placed there unless his nomination is confirmed by the Senate, and surely the Senate will not agree to the packing of the Court.

Therefore it is only just to conclude that the President's plan is most considerate and charitable to the opposition, and his message shows his chivalrous and sportsmanlike character. The plan is entirely constitutional; it is practical and will produce a more efficient Supreme Court, and Roosevelt as President will be doing his duty to his citizens and his country.

Lincoln's Birthday Address

EXTENSION OF REMARKS

OF

HON. ROBERT F. WAGNER

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Tuesday, March 2 (legislative day of Wednesday, Feb. 24), 1937

EXTRACTS FROM A SPEECH BY HUGH GORDON MILLER BEFORE THE GROVER CLEVELAND DEMOCRATIC CLUB FORUM, NEW YORK CITY, ON THE EVE OF LINCOLN'S BIRTHDAY, FEBRUARY 11, 1937

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD extracts from a speech on Abraham Lincoln and Robert E. Lee delivered before the Grover Cleveland Democratic Club, New York City, February 11, 1937, by Hugh Gordon Miller, as well as a letter in connection therewith.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

Tomorrow will be the one hundred and twenty-eighth anniversary of the birthday of that great humanitarian and true Democrat in principle, Abraham Lincoln. It will also be the fortieth anniversary of Lincoln Memorial University, founded at his instance and suggestion, and for 40 years carrying on an ever increasingly more valuable work for American citizenship among the forgotten youth of the mountain regions of Kentucky, Tennessee, Virginia, and North Carolina, at Cumberland Gap, Tenn., the section of the birthplace of Abraham Lincoln. That university tomorrow will not only celebrate its fortieth anniversary but its recent election as a member of the Association of Southern Colleges. Upon its invitation we are tonight joining in that celebration while observing the birthday of Abraham Lincoln.

This afternoon, over WOR radio network of the Mutual Broadcasting Co., which tendered the use of its facilities to us, the Honorable James W. Gerard, statesman, author, jurist, and diplomat, and the Honorable Jeremiah T. Mahoney, one of the Nation's leading crusaders for the cause of American citizenship, and the oppressed of other lands, under the auspices of the Grover Cleveland Democratic Club, and as a part of this celebration, spoke on the subject of Abraham Lincoln, and the splendid work the Lincoln Memorial University is doing.

This is the first time, so far as we know, that a leading Democratic club of the Nation has thus honored the memory of Abraham Lincoln on his birthday. This action is greatly to be commended on patriotic grounds and demonstrates that regardless of politics we are all Americans under the skin in any good cause which promotes good citizenship regardless of party labels. This demonstration honors Grover Cleveland and is a good omen for the great new era this Nation is now entering upon.

Abraham Lincoln, a humanitarian always, in his principles, his record, and achievements, in his actions transcended all sectional or party lines and we honor ourselves tonight in honoring that great liberal, progressive, democratic soul.

It is seldom that even historians and biographers find anything new and of importance these days about Abraham Lincoln, but I am going to ask you Northerners to join with us Sons of Confederate Veterans represented here, in clearing up once and for all a very important and much disputed point in the Civil War record of Abraham Lincoln, and as I happen to know this club's interest in American history, to aid us in giving to his admirers some portions of a long-lost speech of Abraham Lincoln—the one delivered on July 25, 1850, for the Common Council of the City of Chicago, which has never yet appeared in any history or biography or public work on Lincoln and which is known, apparently, to only a few. I shall first ask your attention to an authoritative account of what actually happened at the famous Hampton Roads Conference in February 1865, attended by President Lincoln and the commissioners, appointed by President Jefferson Davis, of the Confederate States. The importance of the negotiations has always been recognized by historians. Had the conference succeeded, the tragic slaughter of so many of the flowers of the North, as well as the South, before Petersburg and Richmond, the final crushing defeat of the Confederate Army at Appomattox, and the starvation and the devastation of the South, with the distresses of reconstruction, would have been largely avoided. Why, then, did the conference fail?

The Union was represented by President Lincoln in person, and his Secretary of State, William Henry Seward. The Confederate States were represented by their Vice President, Alexander H. Stephens, of Georgia, Judge Campbell, and Senator R. M. T. Hunter, of the Confederate Congress, who were appointed by President Jefferson Davis.

At the suggestion of Secretary Seward no minutes were kept. It is true that, without delay, Seward sent his version of the proceedings to France. No record is in existence.

The importance to history of this conference is obvious. Lincoln realized that at that time the fall of the Confederacy was inevitable. But his desire seems to have been what President Wilson called a peace without victory, at any rate a crushing victory and punishment of the defeated. His aim was conciliation and reunion not conquest followed by the drastic reconstruction which was forced by northern extremists upon President Andrew Johnson, and described so graphically by Miss Margaret Mitchell in her recent book, Gone With the Wind.

In a speech delivered over station WJZ of the National Broadcasting Co. network on August 3, 1932, under the auspices of the New York Southern Society during a series of such radio addresses by me on the Presidents born in the South—12 in number—I made the following reference to Abraham Lincoln and the Hampton Roads Conference, about which there has been so much mystery and bitter controversy, as a result of no official records having been kept. In that speech I said: "Abraham Lincoln was never other than a true friend of the South. That fact was shown in many ways which time will not permit me to refer to now. For instance, it is claimed, as a fact of history, that at the Hampton Roads Conference, even as he realized that the fall of the Confederacy was inevitable, he took the Vice President of the Confederacy aside, and pointing to a sheet of paper he held in his hand, said to him, 'Stephens, let me write "Union" at the top of that piece of paper and you and your fellow commissioners may write below that word any other condition you please.' That incident is a pretty good index as to how Abraham Lincoln, at all times, viewed the 'irrepressible conflict.'"

I did not at the time make the assertion as an actual fact of history but said, as you will note, "For instance, it is claimed as a fact of history", that President Lincoln made such a proposition in reference to the Union at that conference.

The distinguished editor of the Confederate Veteran, a magazine then generally accepted as the organ of the Confederate veterans, and published either at Knoxville or Nashville, Tenn., happened to be listening in over the radio, down there in the South, when I made that radio address. He, thereafter, wrote me a number of letters vigorously protesting that President Lincoln never made such a proposition to the Confederate commissioners at the Hampton Roads Conference; that there was no record of such a proposition and no authority to support the allegation that it ever was made. He asserted that it was all a myth and had long ago been exploded by all authorities on the subject. I was quite abashed and embarrassed, and, hedging and sparring for time, I began to hunt for some record to justify what I believed to be the facts. That proposition of Lincoln was well grounded in my subconscious mind as a fact of history.

The southern editor in question, no doubt in all sincerity, continued to vigorously press his point by correspondence, demanding that I should go again on the radio and apologize and repudiate what I had said. He would not listen to any explanation or defense from me, and though he refused to print my side of the matter at all, even in the qualified form I made the statement, he published a very strong editorial in the next issue of his magazine denouncing me to my native southern people and my father's Confederate comrades, and winding up with half a page editorial as follows: "Facts are needed, not sentiment, to establish history, and Mr. Miller should take the first occasion possible and the same means to correct these untruths of southern history which he has broadcast to millions of listeners."

I hunted up all I could find in print in reference to the Hampton Roads Conference and found that even Vice President Stephens, the chairman of the Confederate commissioners, had failed to report to President Davis or the Confederate Congress any such very important detail as Lincoln's proposition about the "Union", or if he had done so, it had never appeared in print or been reported officially in any work on the War between the States.

I was beginning to think that I had put myself as a radio speaker and the New York Southern Society in an awkward position on an important matter of American history. I had about concluded that I might have to go on the radio again and admit my mistake and apologize as Colonel Pope, the editor, demanded.

I recalled, however, that I had heard the late Col. Henry Watterson having made the same assertion in a lecture on the subject of Lincoln when I was a boy, so I wrote to the editor of his great paper, the Louisville Courier-Journal, and inquired if perhaps any of the colonel's old associates remembered such a statement on that subject by Watterson, and if so, if they could find out for me where he had obtained the information. An answer came in due time stating that nobody connected with the Courier-Journal remembered anything about the matter.

In further searching my memory I remembered as a boy having seen the same statement about what Lincoln said about the Union at that conference, in the Atlanta Constitution, the leading Georgia journal then as now.

I wrote the then editor, owner, and manager of the Constitution, the late Clark Howell, long the foremost journalist of the South, as his father, of the same name, had been before him. He did not answer my letter for about a month. He was a member at the time of the executive committee of the Democratic National Committee and was away campaigning for Franklin D. Roosevelt. Meantime the editor of the Confederate Veteran was hammering away at me, and I was getting quite desperate and discouraged. One day, after about a month, I found Colonel Howell's answer on my desk, then I felt much better. It has never been printed, and Colonel Howell passed away a few months ago. I hope in justice to President Lincoln and the truth of history it will now be published. We owe that to Clark Howell, a great southerner, a great American, as well as to history and to President Lincoln. I now present Colonel Howell's interesting letter in full.

THE ATLANTA CONSTITUTION,
Atlanta, Ga., October 25, 1932.

Hon. HUGH GORDON MILLER,
Attorney at Law, New York City.

MY DEAR MR. MILLER: I have been out of the city for some time, which accounts for delayed reply to yours of the 27th ultimo, with carbon copies of your letter to the editor of the Louisville Courier-Journal, and Mr. E. D. Pope, editor Confederate Veteran, Nashville.

You ask that I advise you if personally, or in the Constitution, I used the quotation attributed to Abraham Lincoln at the Hampton Roads Conference.

Henry Watterson correctly reported Mr. Lincoln in your reproduction of his statement on February 3, of your letter to Mr. Pope.

Stephens, of course, belonged to an older generation than I, but he and my father were close personal friends. I was a student at the University of Georgia when Stephens was elected Governor of Georgia. At the time of his inauguration I was at home.

My father gave Mr. Stephens a dinner attended by some 20 prominent citizens. I had a place at the table. During the dinner someone asked Mr. Stephens for the true story of the Hampton Roads Conference. Mr. Stephens at once told the story in detail. He said that he and Lincoln were in Congress together before the war and knew one another well enough for each to call the other "Abe" and "Alex."

While Lincoln was President he got word to Stephens that the war should be settled by peaceful methods, and that he believed a conference might bring it about. Stephens took the matter up with President Davis, and the Hampton Roads Conference was the outcome.

Stephens told the story of their meeting and of his having gone to the President's boat on a cold, bleak day heavily wrapped in shawls, of his being taken to the main salon where Lincoln awaited the Confederate commission. He said that after shaking hands all around his attendant began to unwind his heavy wrappings, laying them aside one after another on a nearby chair.

Lincoln watched the ceremony with interest and finally when the little 90-pound Georgian stood uncovered, Lincoln said, "Well, Alex, that's the most shucks I ever saw from so little a nubbin."

He then told of the opening of the negotiations and of Lincoln's suggestion that if the Confederate commission would let him write the word "Union", he would let them write the rest.

Stephens then showed Lincoln written instructions from Davis in which the commission was instructed to consider nothing that did not recognize the independence of the Confederacy. That ended the conference, for Lincoln replied that he could not negotiate on any other basis than recognition of the Union. Later on I wrote the story of what Stephens had said.

I received a letter from Henry Watterson stating that he had heard the same story from other sources, and was glad to know that what I had written verified what he had to say on the subject.

As you say, the war was not fought over slavery, but undoubtedly if there had been no slavery there would have been no war.

With best wishes, I am, sincerely yours,

CLARK HOWELL.

We are fortunate, therefore, in the interest of American history to get this connecting link in the evidence on this subject. We got it just in time, for I very much doubt if there is anyone else living who attended that dinner at Governor-elect Stevens' on the night in question. The authenticity of the recollection of Clark Howell is demonstrated by the anecdote embodied in the letter, though I do not believe any American, especially any southerner, would doubt Colonel Howell's word or recollection.

It is said that on account of his frailty of body Mr. Stevens often wore two overcoats. When he was asked on one occasion why he wore two overcoats his answer was that "three would be too many." Nobody surely could have invented Mr. Lincoln's remark about the "shucks" and the "nubbin." I am sure that nobody would question the statement of Clark Howell thus made over his signature under these circumstances.

The then president of the New York Southern Society, Mr. Percy H. Johnson, of New York, wrote the following for publication in reference to this matter: "Strange as it may seem, and unpremeditated as the event occurred, perhaps the most important contribution Mr. Miller made to history in this connection has been in clearing up definitely the most important phase of the historic Hampton Roads Conference on February 3, 1865, between President Lincoln, on the one hand, and the confederate commission headed by Alexander H. Stevens, vice president of the Confederate States, on the other. As to that matter we give full credit to Hon. Clark Howell, one of the leading statesmen and publicists of the South, and editor and owner of that great journal, the Atlanta Constitution. We not only have Mr. Howell's original letter from which the speaker quoted, but across the face of a printed copy of Mr. Miller's Lincoln radio address he has written: 'The story of the Hampton Roads Conference from the lips of Alexander H. Stevens cannot be doubted. I heard him tell it.' (Signed) Clark Howell, Atlanta, Ga., March 24, 1933. This important letter from Mr. Howell seemed, in the interest of truth and fairness, to make it our duty to settle the Hampton Roads Conference matter once and for all, and on the authority of one of our most eminent southerners

whose veracity could not be questioned. While we propose to perpetuate southern history and traditions, we want the truth, the whole truth, and only the truth, regardless of whether we refer to a Monroe, a Taylor, or a Lincoln. It is all now a part of the glorious and imperishable history of our common country. After all, Abraham Lincoln was a southerner, born in Kentucky. His parents and grandparents were southerners. As a result of that address, and Mr. Howell's contribution to same, what happened at the Hampton Roads Conference is no longer a matter of controversy.

"Why did the conference at Hampton Roads lead to no result? Of Lincoln's sincerity there can be no doubt. Overruling the protest of his Cabinet, he attended the conference in person and so brought the entire influence of the President to bear on the effort for peace. President Davis, on the other hand, although he had every facility for attending the conference, did not appear and was only represented by delegates.

"It is stated that President Lincoln discussed the situation with General Grant and laid it down that the terms to be imposed by the North were 'unconditional' surrender by the South, and that Lincoln demanded that at the conference. But this was not his demand. He was ready to concede to the South almost everything, except one thing, the Union itself.

The rock upon which the negotiation split was discernible before the conference opened. President Lincoln announced and put in writing that his aim was to secure peace for "our one common country." In appointing his commissioners President Davis wrote that they should enter "into a conference with a view to securing peace to the two countries." It was a settlement conditional upon the recognition of "two countries" that was out of the question.

The evidence that corroborates this view is abundant. Immediately after the Hampton Roads Conference, Lincoln visited General Grant at City Point, and, in his memoirs, General Grant writes:

"He (Lincoln) spoke of having met the commissioners, and said he had told them that there would be no use in entering into any negotiations unless they would recognize, first, that the Union as a whole must forever be preserved, and, second, that slavery must be abolished. If they were willing to concede these two points, then he was ready to enter into negotiations and was almost willing to hand them a blank sheet of paper with his signature attached for them to fill in the terms upon which they were willing to live with us in the Union and be one people."

Vice President Stephens, in his book, The War Between the States, offers a view of the occasion from the Confederate standpoint. Considered as adverse testimony, it would clinch the case for Lincoln. He says:

"He (Lincoln) was perfectly willing to be taxed to remunerate the southern people for their slaves. He believed the people of the North were as responsible for slavery as the people of the South; and if the war should then cease with the voluntary abolition of slavery by the States, he should be in favor individually of the Government paying a fair indemnity for the loss to the owners. He said he believed this feeling had an extensive existence in the North. He knew some who were in favor of an appropriation as high as $400,000,000 for this purpose.

Mrs. Roger A. Pryor was the widow of the Confederate general of that name. She lived just outside of Petersburg, near to the headquarters of General Lee, who visited her home at that time, and a volume of her reminiscences was published in 1904. She tells of an interview between her husband, General Pryor, and President Lincoln at the White House, which occurred shortly after the Hampton Roads Conference. She says: "The next evening General Pryor was graciously received by the President. Mr. Lincoln then turned the conversation to the recent conference at Hampton Roads, the miscarriage of which he deplored with the profoundest sorrow. He said that had the Confederate Government agreed to the reestablishment of the Union and the abolition of slavery, the people of the South might have been compensated for the loss of their Negroes and would have been protected by a universal amnesty, but that Mr. Jefferson David made the recognition of the Confederacy a condition sine qua non of any negotiations.

"Thus, he declared, would Mr. Davis be responsible for every drop of blood that should be shed in further prosecution of what then was a futile and wicked effusion of blood, since it was then obvious to every sane man that the southern armies must be speedily crushed. On this topic he dwelt so warmly and at such length that General Pryor inferred that he still hoped the people of the South would reverse Mr. Davis' action and would renew negotiations for peace. Indeed, he declared in terms that he could not believe the senseless obstinacy of Mr. Davis represented the sentiment of the South. It was apparent to General Pryor that Mr. Lincoln desired him to sound leading men of the South on the subject."

"Accordingly, on the general's return to Richmond, he did consult with Senator Hunter and other prominent men in the Confederacy, but with one voice they assured him that nothing could be done with Mr. Davis and that the South had only to wait the imminent and inevitable catastrophe."

Mrs. Pryor refers also to a conference between Gen. John B. Gordon and General Lee, who discussed the then condition of the Army of Northern Virginia. She writes:

"As a result of this conference General Lee went to Richmond to make one more effort to induce our government to treat for peace. It was on his return from an utterly fruitless errand that he said:

"I am a soldier! It is my duty to obey orders!" and adds Mrs. Pryor, "The final disastrous battles were fought."

It is thus plain that President Davis and General Lee differed over the wisdom of continuing the war. Lee was a general of serene detachment who had to face the fighting.

In February 1865 President Davis had every reason to know that the Civil War was drawing to its inevitable end. No nation in the world had recognized officially that the Confederacy was "a country." With all due deference to the memory of Davis, that unyielding attitude did not contribute to the true well-being of the South. President Lincoln on that occasion spoke diplomatically, but there was no doubt as to his authority to speak, and the rebuff that was administered to him distressed him and disappointed the North. As time passed, the northern politicians became more and more embittered. The tragic death of Lincoln left the avowed enemies of the South free to take complete command of the situation.

If President Lincoln's desires, efforts, and suggestions at the Hampton Roads Conference had been favorably received by President Davis, who dominated at Richmond, the final result to the southern people would have been almost as heaven compared with hell.

I have been asked further to relate to you authorities on American history, how I happened to rediscover the long lost and forgotten speech of Abraham Lincoln delivered as a eulogy on President Zachary Taylor on the occasion of that President's death. The speech was delivered in the city hall at Chicago at the invitation of the common council of that city on Thursday afternoon, July 25, 1850, appeared in one afternoon paper and has never appeared, so far as I could find, in any of the numerous histories or other works relating to Abraham Lincoln. I have never seen anyone who has heard of it other than as here related.

A printed slip about this "lost speech", inserted in the speech as I found it, reads as follows: "After lying buried for almost three-quarters of a century in the columns of a single newspaper, unknown even to Lincoln specialists, this eulogy on President Zachary Taylor was discovered by sheer accident."

It does not appear what the accident was which caused him to stumble on the newspaper, but Mr. William Barton printed and preserved it for the use of researchers who might in turn stumble upon is as I did by accident.

Mr. William Barton, the well-known historian, who wrote an interesting work on President Lincoln, in 1922, unearthed this lost speech from the files of an afternoon paper in Chicago of July 1850. I merely rediscovered it.

A few copies of the speech were printed by Mr. Barton or at his instance and one was deposited with the New York Public Library. That institution placed it very properly under lock and key in its rare volume room. There, as chairman of the President Zachary Taylor Sesquicentennial Commission, appointed by the Governor of Virginia, I happened to find it when looking for data on the several disputed points in the record of the life of President Taylor. I reported what I found to the Southern Society during that organization's celebration of the sesquicentennial of the birth of President Taylor, 2 years ago. That, so far as I can discover, was the first time the speech was ever presented to the public.

I went to the library the second time to find out if Mr. Manuel Hertz, in his recent work of great detail, covering Lincoln's life at that period day by day, had anything about this Lincoln speech. I could find no record of it in the Hertz work of two volumes.

Abraham Lincoln's eulogy on President Taylor who Mr. Lincoln as a prominent Whig ex-Congressman had actively campaigned for, and who had been bitterly disappointed by Lincoln's appointment to somewhere else as commissioner of the Land Office in Missouri, seems to have been wholly overlooked by the compilers of the various editions of the works on Lincoln.

Mr. Barton points out that even Hay and Nicolay make no reference to this speech in their life of Lincoln, nor even in their compilation of his speeches and writings. John Hay and Mr. Nicolay were Lincoln's secretaries during the Civil War period. There is but one reference to it in Whitney's Life on the Circuit with Lincoln and nothing is there quoted from it. It was printed at the time in but one Chicago paper, but it was set up from the original manuscript furnished that paper by Mr. Lincoln himself.

In a number of respects, as Mr. Barton points out in his memorandum accompanying the copy he filed with the library, this address of Mr. Lincoln presents points of interest. First of all, it is notable for its biographical character. It presents a good account of the life and services of General Taylor as they presented themselves to another statesman of his time. One feature of this Lincoln oration is particularly interesting. It appears to have been the only address of Mr. Lincoln in which he made use of his favorite poem, "Oh, why should the spirit of mortal be proud?" This favorite poem of Lincoln, Mr. Barton points out, was quoted by Lincoln so often to his friends that some, not familiar with the poets, supposed it to have been written by Lincoln. The poem, of course, was written by William Knox, of Glasgow, Scotland, but Mr. Lincoln, never claiming to be much of an authority on poetry, did not happen to be familiar with that fact. Mr. Herndon, the early law partner of Abraham Lincoln, in his lecture which served as the basis of all the literature concerning Lincoln, and Ann Rutledge, informs us that after the death of Miss Rutledge, Lincoln formed a peculiar and ardent attachment for this poem.

In a letter Abraham Lincoln once said, "I would give all I am worth, and go into debt, to be able to write so fine a piece as I think that is."

During his Presidency, Mr. Lincoln said: "There is a poem which has been a great favorite with me for years, which was first shown me as a young man by a friend and which I afterward saw and cut from a newspaper and learned by heart. I would give a great deal to know who wrote it, but I have never been able to ascertain."

Some of the words of Mr. Lincoln about President Taylor, delivered on that day long ago, were prophetic. They were both Whigs. There was, as you know, no Republican Party then. Today those words of Mr. Lincoln seem especially appropriate.

In that speech among other things Mr. Lincoln said: "The Presidency, even to the most experienced politician, is no bed of roses; and General Taylor and others have found thorns within it. No human being can fill that station and escape censure. Still I hope and believe, when General Taylor's official conduct shall come to be viewed in the calm light of history, he will be found to have deserved as little as any who have succeeded him."

"Upon the death of General Taylor, as it would be in the case of any President, we are naturally led to consider what will be its effect politically upon the country."

"In General Taylor's public relation to his country", continued Mr. Lincoln, "what will strongly impress a close observer was his unostentatious, self-sacrificing, long-enduring devotion to his duty. He indulged in no recreations, had visited no public places seeking applause, but quietly, as the earth in its orbit, he was always at his post. Along our whole Indian frontier, through summer and winter, in sunshine and storm, like a sleepless sentinel, he watched while we have slept for 40 long years." How well might the dying hero say at last: "I have done my duty, I am ready to go." It seems that both Lincoln and Lee often made use of and emphasized that significant and revealing word—duty.

"Nor can I help thinking", said Mr. Lincoln in conclusion, "that the American people in electing General Taylor to the Presidency, thereby showing their high appreciation of his sterling but unobtrusive qualities, did their country a service and themselves an imperishable honor. It is much for the young to show that treading in the hard path of duty as he treaded will be noticed and will lead to high places."

"He is gone", said Mr. Lincoln. "The conqueror at last is conquered. The fruits of his labor, his name, his memory, and example are all that is left us; his example, verifying the great truth that 'he that humbleth himself shall be exalted'—teaching that to serve one's country with a singleness of purpose gives assurance of that country's gratitude, secures its best honors, and makes 'a dying bed soft, as downy pillows are.'"

The last paragraph of that eulogy of Mr. Lincoln on President Taylor shows that even then, 10 years before his first inauguration, he was already a sad and melancholy man. He spoke as though he had some premonition of his impending fate as the next President who would be carried out of the White House in tragedy and death.

"The death of the last President", said Mr. Lincoln, "may not be without its use in reminding us that we, too, must die. Death abstractedly considered is the same with the high as with the low; but practically, we are not much aroused by the contemplation of our mortal natures by the fall of many undistinguished as that of one great and well-known name. By the latter we are forced to muse and ponder sadly."

Abraham Lincoln closed that eulogy on Zachary Taylor with four verses of his favorite poem, the only time he ever quoted it in a formal speech—the poem beginning—

"O why should the spirit of mortal be proud?
Like a swift, fleeting meteor, a fast-flying cloud,
A flash of the lightning, a break of the wave,
Man passeth from life to his rest in the grave."

It was a strange circumstance, my fellow countrymen, that long-lost speech of Abraham Lincoln on Zachary Taylor, a speech of the Lincoln who so soon, from the Presidential office, was, in stark tragedy, to follow Taylor to the tomb and the final solution of the mystery of the Hampton Roads Conference should have been unearthed and be given to the public in connection with these ceremonies under the auspices of the New York Southern Society, for both those great men were, after all, great southerners and great Americans, who added luster to the great Presidential tradition which, along with the Constitution and an enlightened people dedicated to human liberty, are the greatest bulwarks of the Nation.

In that speech, by the way, Abraham Lincoln speaks of "the great Democratic Party." I don't think any of his accredited followers then or since have ever admitted that there ever was such a thing as a "great Democratic Party." So, you see, the Republicans never were really followers of Lincoln. The tribute to the greatness even then of the Democratic Party was in Mr. Lincoln's reference to President Taylor's nomination and in the following sentence: "As the time for the Presidential canvass approached it was seen that general nominations, combining anything near the number of votes necessary to an election, could not be made without some pretty strong and decided reference to party politics."

Accordingly, in the month of May 1848, the great Democratic Party nominated as their candidate an able and distinguished member of their own party—General Cass—on strictly party grounds.

True, Mr. Lincoln was referring to the great party of the past, of Thomas Jefferson and Andrew Jackson. But it shows that after all there is in politics nothing in a name, and that the great party of Jefferson and Jackson and Cleveland and Wilson can still pass out if it forsakes its principles and traditions, just as the Whigs passed out, and the Republican Party now seems to be passing certainly from the ideals of Abraham Lincoln.

Americanism in Action

EXTENSION OF REMARKS
OF
HON. ELMER THOMAS
OF OKLAHOMA
IN THE SENATE OF THE UNITED STATES

Tuesday, March 2 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. JOSH LEE, OF OKLAHOMA, ON FEBRUARY 15, 1937

Mr. THOMAS of Oklahoma. Mr. President, I ask leave to have printed in the RECORD a radio address delivered on February 15, 1937, by my colleague [Mr. LEE] on the subject of Americanism in Action.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen of the air, I sincerely thank the United States Junior Chamber of Commerce for this opportunity to speak on Americanism. May I at the beginning read two sentences from a letter from the President of the United States to the national chairman of the United States Chambers of Commerce, Mr. M. M. Black, of Tulsa, Okla.:

"MY DEAR MR. BLACK: May I send greetings to the junior chambers of commerce throughout the United States, and express to them my appreciation of their efforts to strengthen the civic purposes of their members. It is very appropriate that a period should be set aside each year when emphasis will be laid upon the responsibilities of citizenship in our democracy."

The letter is from Franklin D. Roosevelt.

THE NATION'S FLAG

This morning I went to my office fairly bursting with the joy of living. The sun was shooting his golden arrows over the tops of the buildings, and as I came up to Capitol Hill Old Glory greeted me from the flagpole on the top of the Nation's Capitol. As I saw the national banner fluttering in the morning sunlight I received an extra charge of patriotism.

I thought of what it had cost to place that flag above the Capitol of the United States. I thought of the dreams and hopes and tears, yes, and the blood, that it represented.

PIONEERS IN AMERICA

A panorama of America's history flashed before my mind. I thought of the settler as he cut a clearing in the trackless forest.

I saw the pioneer and his family in the old covered wagon with the tongue pointing west, with all of their earthly possessions stored in that wagon, but, far more important than material things, that American ship of the desert was freighted with the hopes and dreams and the ambitions that made America great. There was an empire in the brain of every pioneer.

LAND OF OPPORTUNITY

Likewise I thought of the immigrants who had come to America, the land of opportunity. I once read a story of an Assyrian. In his country there was no opportunity. He was but a straw in the wind. Then he came to America, and the straw in the wind became a man. We must continue to keep America the land of opportunity.

The best way to preserve our system of the private ownership of property is to let everybody have the opportunity to own some property, and then they will want to keep the system in order to keep the property; but when the great mass of our people own no property, it is easy for the radicals to persuade them that they have nothing to lose by revolution but that they might even gain something in the shuffle.

FARM AND HOME OWNERSHIP

Since our Government can no longer offer free homesteads by opening a frontier, I believe we should attack the tenant problem by offering long-term, low-interest-rate loans that would make it possible for the farmer to own the farm that he farms, and the family to own the roof that shelters it; and when I say low-interest rates, I mean they should be low enough that the farmer can make the farm buy itself. The trouble with such plans in the past is that the interest rate has been too high. My personal opinion is that it ought to be 1½ percent, certainly not more than 2 percent.

We cannot build a great nation on a shifting population of homeless people. The gypsy feels no loyalty for the ground where he camps tonight because tomorrow he moves on. If you want our people to say with the poet, "This is my own, my native

land"; if you want them to sing, "My country, 'tis of thee, I love thy rocks and rills", give them a chance to own some of those rocks and rills.

Farm and home ownership is America's best answer to communism.

SPIRIT OF AMERICA

Now let us consider the secret of America's greatness. I have seen America's mighty fleet plough the rolling Atlantic. I have seen America's greatest Army pass in review, but those are not the things that have made America great. They stirred my blood, it is true; but the thing that has made America great has been the spirit of her people, that indomitable American spirit.

During the World War, the Americans, because of this spirit, were pushing their sector of the line too far into the enemy territory. A French officer came rushing up to the American colonel who was in command of this certain contingent of Americans. The Frenchman in his typical, excited manner, shouted to the American colonel to stop the American soldiers, that they were advancing too fast.

The American colonel replied, "If the Germans can't stop them, how do you expect me to?"

Yes, it has been that American spirit that has made America great.

Admiral Smith's son was in command of America's battleship *Congress*. A messenger came running to Admiral Smith and said, "Sir, the *Congress* has struck her colors!"

Admiral Smith bowed his head and said, "Then my son is dead." The admiral knew that as long as his son lived he would never give up.

The same men who bribed Benedict Arnold approached Gen. Joseph Reed to bribe him. He straightened to his full height, every inch an American, and said, "Gentlemen, I am not worth purchasing, but such as I am, the King of England could not buy me."

That, my friends, is the spirit of loyalty that makes true Americanism.

TRUE PATRIOT FEELS RESPONSIBLE

Our form of government gives more and asks less than any other scheme of government yet devised. Alexander Hamilton wanted a government strong and glorious; Thomas Jefferson wanted a people free and happy. In our Government they accomplished both. Hamilton wanted a strong central government. Jefferson wanted the final seat of power to rest with the people. The United States is a blend of those two ideas of government.

The true patriot loves his country, feels responsible for its defects, and takes credit for its merits. He is proud when justice is administered and grieved when it is denied. He is pleased by its efficiency and ashamed of its clumsiness. He basks in its liberty and broods at its tyranny. The guaranty of equal rights thrills him; the granting of special privilege galls him. The real patriot feels responsible for his government.

Our Government is what we have made it. We are prone to think that someone else in some other town should see that our Government is governing us as we want to be governed. There is a tendency to believe that greater talent exists somewhere else, and that things of state are not for us. But our form of government has placed the power in our hands and unless we use that power to the best of our ability we cannot expect popular government to succeed. With power goes responsibility. We are, indeed, responsible for the kind of political housekeeping that we do.

The motive that prompts the United States Junior Chamber of Commerce to promote this American program is typical of the true spirit of Americanism.

I thank you.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ALVA B. ADAMS

OF COLORADO

IN THE SENATE OF THE UNITED STATES

Tuesday, March 2 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. ROYAL S. COPELAND, OF NEW YORK, FEBRUARY 28, 1937

Mr. ADAMS. Mr. President, I ask unanimous consent that there be printed in the RECORD a very able radio address dealing with the Supreme Court delivered by the Senator from New York [Mr. COPELAND] on Sunday, February 28, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

[From the New York Times of Mar. 1, 1937]

In the history of America there are three chief periods which had to do with our developments as a nation. Briefly these are, first, the events leading to the Revolutionary War; second, what may be called the period of the Declaration of Independence; third, the time in which we live, the period of the Constitution.

There is something in the very atmosphere of America that from the earliest days made for self-reliance, independence of spirit, unwillingness to be dominated by autocratic rulers, as well as the capacity for formulation of these convictions in unmistakable language.

Our neighbors, the inhabitants of the Old World, are living in an atmosphere of dictatorships, remarkable political doctrines, and strange economic theories. America's most dependable safeguard against all these modern and dangerous heresies lies in full knowledge of the successful treatment our ancestors administered to similar ailments in other times.

As I see it, every American citizen should take pains frequently to recall what it was that impelled our forefathers to separate from the mother country. It is wise to do this, lest we forget the causes for so dramatic an act. Distracted by our personal troubles and everyday interests, we are liable to disregard, even if we are conscious of, the real significance of current events.

GEORGE III AND JUDGES

To study seriously what our ancestors suffered and what they finally did to rid themselves of despotism is good medicine for every generation. What those noble patriots did to win complete political freedom may help us in this generation and our children in successive generations to preserve that freedom.

A very short extract from the Declaration gives a thumbnail sketch of periods 1 and 2. Let me quote:

"The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world."

Among such facts we find this charge against George III: "He has made judges dependent on his will alone for the tenure of their offices and the amount and payment of their salaries."

It is almost sacrilege to say anything could be greater and more important than the Declaration of Independence. Yet, after the Revolution, in the very beginning of our national life, it failed as an instrument of practical value.

Following the success of our armies against England, the States fell apart. There were discord, argument, even threat of arms on the part of citizens of one State against the citizens of another. Disaster threatened the blood-won victories of our people.

General Washington became alarmed and, largely as a result of his efforts, the Constitutional Convention came into existence. Out of that gathering came what has been called the greatest document ever penned by the hand of man.

CONSTITUTION SET RULE

When the delegates undertook the task of establishing the bases of their Government, it is not surprising that they considered it as most essential to place the judges beyond the reach of either the legislative or the executive power. They wanted to fix it so that neither their terms of office nor the amount of salary could be used to bend the judges to the will of the President or Congress.

They therefore provided in section 1 of article III that "the judges of both the Supreme and inferior courts shall hold their offices during good behavior and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office."

Thus far the constitutional provision has accomplished the purpose which was intended by the founders of the Republic. The independence of our judiciary is one of the outstanding characteristics of our democracy. Thus far no major political party has dared to go before the people on an issue of making the courts subservient to the Executive power.

The makers of the Constitution did not specify the number of Justices that would constitute the Supreme Court. Undoubtedly they felt that in a young and growing country they should not attempt to determine the number of Justices that would be necessary to dispatch the increasing amount of judicial business.

They had a right to expect that if they gave to Congress the power to determine the number of Justices, Congress would exercise this power in keeping with the spirit of the Constitution and the character of our institutions.

It has, of course, been known for many years that Congress could exercise the power in a way to influence the decisions of the Court, but no one heretofore has seriously accused Congress of any such base motives. Over 40 years ago Lord James Bryce foresaw the possibility of some future effort by Congress to pack the Court, but thought that the attachment of the people to their fundamental law would condemn such a perversion of its forms.

BRYCE'S VIEW CITED

In his great work, the American Commonwealth, he stated:

"Suppose a Congress and President bent on doing something which the Supreme Court deems contrary to the Constitution. They pass a statute. A case arises under it. The Court on the hearing of the case unanimously declares the statute to be null, as beyond the powers of Congress.

"Congress forthwith passes and the President signs another statute more than doubling the number of Justices. The President appoints to the new justiceships men who are pledged to hold the former statute constitutional. The Senate confirms his appointments. Another case raising the validity of the disputed statute is brought up to the court. The new Justices outvote the old ones, the statute is held valid; the security provided for the protection of the Constitution is gone like a morning mist.

"What prevents such assaults on the fundamental law, assaults which, however immoral in substance, would be perfectly legal in form?

"Not the mechanism of government, for all its checks have been evaded. Not the conscience of the legislature and the President for heated combatants seldom shrink from justifying the means by the end. Nothing but the fear of the people, whose broad good sense and attachment to the great principles of the Constitution may generally be relied on to condemn such a perversion of its forms."

And now we have a proposal to do just that which Lord Bryce thought (correctly, it is hoped) that the people would not tolerate.

The President proposes that Congress enact a law authorizing him to appoint an extra judge for every member of the bench who does not resign or retire within 6 months after reaching 70 years of age, provided he has at that time completed 10 years of service. If a judge who has reached 70 years of age has not completed 10 years of service, then the President is to be authorized to replace or duplicate him upon the completion of the 10 years of service.

BRITISH ANALOGY DENIED

In support of their attitude toward the court, frequent reference is made to the British Parliament, which is a supreme law-making body without any constitutional restrictions. That it was the tyranny under this system which gave birth to the American Republic is ignored or forgotten. As a matter of fact, in declaring a law unconstitutional, the Supreme Court is not interposing its own will, but only enforcing the will of the people as set forth in the fundamental charter of our Government.

But it is alleged Congress should be the judge as to whether it has the power under the Constitution to pass a proposed law. As a matter of fact, since all Members of Congress likewise take an oath to support the Constitution, they must, when a proposed law is before them, decide whether they have the constitutional power to pass the legislation. But such judgment is not and cannot be final without destroying our form of constitutional government.

If Congress should restrict freedom of worship or freedom of speech in violation of the first amendment, or what to wear, or what doctor to employ, or if it should pass other unconstitutional legislation, such as an export tax, or a law providing for unreasonable searches and seizures, it is the Court that is called upon to punish the violation of such laws.

If the Court under such circumstances should enforce an unconstitutional law, it would not only disregard its oath, but it would violate a constitutional mandate.

The argument that Congress should be trusted not to pass laws in violation of the Constitution could hardly be given serious consideration. If such were the case, there would be no occasion for the President's proposal. It is precisely to validate unconstitutional legislation that the measure is sponsored.

During the consideration of the Guffey coal bill the Chief Executive of the Nation urged the Members of Congress not to allow any doubt as to the constitutionality of the measure to cause them to refrain from passing it.

The tendency of the legislative branch of government to exceed its limitations was well stated many years ago by Daniel Webster. He said:

"* * * there is no department on which it is more necessary to impose restraints than upon the legislature. The tendency of things is almost always to augment the power of that department in its relation to the judiciary."

The nature of many laws passed in recent years and the clamor of certain Members of Congress to circumvent the constitutional restrictions applied by the Supreme Court show that the nature of legislators has not undergone a material change since the days of Webster.

It is true that the proposed measure would not take away from the judiciary the right to pass upon the constitutionality of laws, but it is clearly an effort to overturn the decisions which the Supreme Court after due consideration has rendered. It is an effort on the part of Congress and the Executive to increase their powers without going to the people for it.

This in itself should be sufficient to defeat the proposal. Whether such a measure would fully succeed in its purpose may be doubted, but insofar as it would bend the Court to the will of Congress and the President, it is clearly in conflict with the fundamental principles of our Government.

SEES DANGEROUS PRECEDENT

History has rather clearly demonstrated that the success of a constitutional form of government depends upon the integrity and absolute independence of the judiciary.

Many countries followed the example of the United States by adopting written constitutions, but wherever and whenever in any of those countries the courts of the country have been brought under the dominance of the executive or legislative branches, constitutional government has broken down and constitutional guarantees have become empty shibboleths.

Hereafter, if a law passed by Congress and signed by the Executive should be declared unconstitutional, it would only be necessary to pass a law increasing the number of the judges for the purpose of nullifying such a decision. It is a game which would be played by conservatives and liberals alike and if such a state of affairs develops, constitutional government will have ceased.

The restrictions on the powers of the Government were placed in the Constitution by the will of the people. If there are those who think these powers should be enlarged, let them go to the people requesting such an increase in power in the manner provided in the Constitution.

But as to those who would by usurpation reshape our institutions and enlarge the limits on their authority, to them from Holy Writ comes this admonition:

"Remove not the ancient landmark which thy fathers have set."

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ROBERT M. LA FOLLETTE, JR.

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Monday, March 1 (legislative day of Wednesday, Feb. 24), 1937

LETTER FROM THOMAS F. KONOP

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a letter written by Thomas F. Konop, dean of the college of law of the University of Notre Dame, to Frank E. Gannett, concerning the proposal to reorganize the Supreme Court.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Madison (Wis.) Capital Times, Feb. 26, 1937]

NOTRE DAME LAW SCHOOL DEAN FAVORS HIGH COURT PLAN OF PRESIDENT ROOSEVELT—THOMAS F. KONOP, FORMER MEMBER OF WISCONSIN STATE INDUSTRIAL COMMISSION, ANSWERS ATTACKS ON PROPOSAL BY GANNETT CHAIN HEAD

(The following letter was written by Thomas F. Konop, dean of the college of law at the University of Notre Dame, to Frank E. Gannett, head of the Gannett newspaper chain, in reply to the latter's request for assistance in attacking President Roosevelt's proposal to reform the United States Supreme Court and the Federal judiciary system. Mr. Konop, formerly of Green Bay, Wis., was a member of the Wisconsin Industrial Commission from 1917 to 1921.—Editor's note.)

FEBRUARY 18, 1937.

FRANK E. GANNETT,
President, the Gannett Newspapers,
Rochester, N. Y.:

Since you ask for my suggestions and viewpoint on the President's proposal to increase the membership of the Supreme Court, I will present them to you.

I cannot agree with you. All this argument about "preservation of our Government", "independence of the judiciary", "preservation of our Constitution", "preservation of our liberties", "dictatorship and usurpation of powers", etc., comes largely from the same sources that opposed the President during last fall's campaign.

On this controversy about the increase of the membership of the Supreme Court, all we need to do is to refer to the Constitution for an answer to the criticisms made. It is not the President but his opponents that are unnecessarily making a political question out of the President's suggestion and thus dragging the judiciary into the political arena.

Let me state a few propositions and quote to you provisions of the Constitution which justify my position in this matter. First, the President has the power and the right under the Constitution to make the proposal.

No one now claims that Congress has not the power to increase or decrease, for that matter, the number of Justices on the Supreme Court. In the past, Congress has done both.

The first part of section 3 of article II of the Constitution reads as follows:

"He (meaning the President) shall from time to time give to the Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient * * *."

Can anyone question this power of the President to recommend to the Congress an increase in the number of Justices on the Supreme Court if he chooses it to be necessary and expedient?

Second, there is no usurpation by the President in making this proposal.

In the statement that you made to the American newspapers on February 6 you said: "Our Government is composed of three departments—legislative, executive, and judiciary. These are the foundation of our Democracy. As a result of the election and the transfer of powers by so-called emergency measures, the executive now dominates the legislative department. The President now proposes also to dominate the judiciary. Do we want to give

to this man or any one man complete control of these three departments of our Government which from the beginning of the Republic have been kept entirely separate and independent?"

The article by Mr. Lippmann which you enclose charges change of the Government by usurpation. Not only is there no change of the Government by usurpation on the part of the President, but the checks to prevent such usurpation are left unimpaired. It is my opinion that the President's proposal involves no fundamental changes in our Government.

There is no question that the American people are committed to the preservation of the three departments of Government—the legislative, the executive, and the judicial, with checks and balances as provided in the Constitution.

CHECK ON EXECUTIVE

The second paragraph of section 2 of Article II of the Constitution which gives the President the power to "nominate and by and with the advice and consent of the Senate shall appoint judges of the Supreme Court" is a check on the President in making appointments of Justices of the Supreme Court.

Section 1 of article III reads as follows:

"The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office."

Does not the fact that judges shall hold offices during good behavior, provide a sufficient check on the interference of the judiciary by Congress or the President?

Paragraph 2 of section 2 of article III reads as follows:

"In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

Third, the power of the Supreme Court and its usurpation of legislative power.

It is now well settled that the Supreme Court has the power to declare acts of Congress unconstitutional; that when the Supreme Court does declare an act unconstitutional, however we may disagree with the decision, it is the law, and it is the duty of all citizens to obey it. But, just because the Supreme Court has decided an act unconstitutional does not necessarily mean that it acted wisely and without error.

There is nothing sacrosanct about the Supreme Court or the Justices. The Justices are human, and to err is human. They do not know all the law, nor are they the fountain of all justice. Like all citizens, they have acquired their views on government from training, experience, and environment. They are not immune from criticism any more than Congress and the President are immune.

It is not only no crime for citizens to criticize the decisions of the Supreme Court, but under the right of free speech and free press guaranteed by the Constitution citizens have the right to criticize that Court and its decisions and to advocate a curtailment of its powers. Even the courts criticize and reverse their own decisions and thus admit their errors on previous occasions; and the Supreme Court of the United States has admitted error on a number of occasions. Courts frequently criticize not only their own previous decisions, but criticize decisions of courts of other jurisdictions.

Then, too, Justices in dissenting opinions criticize the decision of the majority. Cases could be cited where Justices in dissenting opinions charged usurpation of legislative powers on the part of the Court in declaring certain acts of Congress unconstitutional.

AN ANCHOR ON PROGRESS

You state that "the Supreme Court has been an anchor that has held America safe through many storms." I think that the present Supreme Court has been an anchor that has stayed the progress of our ship of state.

Within the past few years trial as well as appellate courts have declared unconstitutional several acts of Congress. These laws were enacted during a serious economic and industrial depression. Some of them were generally approved by agriculture, labor, and industry, and were enacted by overwhelming majorities and without the usual partisan division.

These decisions had a far-reaching effect on large masses of our population, and naturally have brought about more discussion pro and con than all the decisions of that tribunal in the last half century.

We can all agree that one good thing has resulted from these two decisions, and that is that the attention of the American people has been directed to the need and importance of a better study of our Government.

Most of the decisions of the Supreme Court declaring acts of Congress unconstitutional involved the power of Congress to regulate commerce and the taxing power, and many of them were by a 5 to 4 divided Court. The application of strict rules of construction by a bare majority was largely responsible for the results.

Instead of resolving doubt in favor of the powers of Congress, the majority of the Court, by strict construction and laborious reasoning, denied the exercise of the powers.

The Constitution was not written for a decade or a century. As construed by the Supreme Court now, the people look upon the Constitution as a bar to help them in times of distress and a barrier to progress and social justice. Reasonably and liberally construed, the Constitution will adapt itself to our progress. It will be viewed by the people as the charter of a living government. They will respect it; they will love it; they will defend it with their lives if need be against the threatening enemies, communism and dictatorship.

I do not want to criticize the individual members of the Supreme Court, nor do I want to impugn their motives. Is it not true that as we grow older that we become set in our views and critical of progress and ways about us?

Members of the Supreme Court are no exception. I, therefore, favor retirement at 70. I think 65 would be better. Under our general pension laws we usually provide for pensions after that age. Of course, to compel retirement at any age would require an amendment of the Constitution.

On this matter of liberal and strict construction of the Constitution, let me quote to you from a decision by the late Chief Justice Winslow, of the Wisconsin Supreme Court, in the case of *Borgnis* v. *Falk Company* (133 N. W. 209), in which the court sustained the constitutionality of the State compensation act: "* * * But the difficulty is that, while the Constitution is fixed or very hard to change, the conditions and problems surrounding the people, as well as their ideals, are constantly changing. The political or philosophical aphorism of one generation is doubted by the next, and entirely discarded by the third. The race moves forward constantly, and no Canute can stay its progress. * * * By what standards is the general language or general policy to be interpreted and applied to present-day people and conditions?

"When an eighteenth century constitution forms the charter of liberty of a twentieth century government, must its general provisions be construed and interpreted by an eighteenth century mind in the light of eighteenth century traditions and ideals? Clearly not. This were to command the race to halt in its progress, to stretch the state upon a veritable bed of Procrustes * * * the changed social, economic, and governmental conditions and ideals of the time, as well as the problems which the changes have produced, must also logically enter into the consideration and become influential factors in the settlement of problems of construction and interpretation."

A more liberal construction of our Constitution would not have stayed progress in social justice and would have promoted the general welfare of our people.

COURT AS AN UMPIRE

There are some who liken the Supreme Court to an umpire in a game and then accuse the people of unsportsmanlike conduct and condemn them for abusing the umpire. The analogy is much overdrawn and quite faulty. The Government of the United States is not a game or a sport set up to entertain and amuse people of the United States. The Supreme Court is not an arbiter appointed by outsiders to settle disputes in a game under outside management.

The Supreme Court is one of the branches of the American people's Government; and that Government is a democracy, a government of, by, and for the people. The three branches of government are the people's departments to administer, respectively, the three powers in manner provided for by the Constitution. Whenever the American people will consent to permit any one of its departments to place itself above the people and thwart the people's will, then we cease to be a democracy.

I have written somewhat at length. These are my opinions frankly expressed, as you wanted them expressed. I want my United States Constitution to be so construed as to make it workable and serviceable to the people who live under it. I want the Constitution to live, to be respected and revered, to be obeyed, and to be the charter of the greatest democracy on earth, not for a century but for ages. I believe that the authors of the Constitution so wanted it to be.

I am for the President's proposal, and, of course, cannot solicit signers to your petition. I am, therefore, returning to you the blank form.

Crop Insurance

EXTENSION OF REMARKS

OF

HON. GEORGE McGILL

OF KANSAS

IN THE SENATE OF THE UNITED STATES

Tuesday, March 2 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. JAMES P. POPE, OF IDAHO, ON MARCH 1, 1937

Mr. McGILL. Mr. President, yesterday evening a very able radio address was delivered by the junior Senator from Idaho [Mr. POPE] on the subject of crop insurance. I ask unanimous consent that the address may be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The last 4 years have been rich in legislative action of benefit to the farmer. The 1932 farm income was the lowest within a generation. It had decreased from about $12,000,000,000 in 1929 to $5,000,000,000 in 1932. The income of the farmer had decreased more in percentage than that of other industries. The widespread distress of the farmer was merely a forerunner of general economic distress throughout the Nation. Anyone who gives the least consideration to economic trends knows that when the basic industry of agriculture languishes, a general business collapse inevitably follows.

At the beginning of the Roosevelt administration it was realized that as a first step toward recovery, legislation must be enacted to restore a measure of prosperity to agriculture. The Agricultural Adjustment Act was passed. It contained a distinctly new approach to the farmers' problems. There were then 394,000,000 bushels of surplus wheat and about 12,000,000 bales of surplus cotton. Exports of these commodities were at an extremely low ebb. Since these huge surpluses existed, their depressing effect upon the market price was everywhere realized. It was necessary, in some way, to reduce surpluses. A substantial portion was purchased and used by the Government for relief of the destitute. A permanent program to reduce them, however, was necessary and the Agricultural Adjustment Act was considered as a means to that end. This meant curtailment of production. This principle, which has never before been applied to agriculture, met with serious objection from many sources. Many who were familiar with the common practice of manufacturers and merchants in the adjustment of their stocks to conform to the demand, could not bring themselves to approve a policy that would apply the same principle to agriculture. It was commonly said there should be no curtailment of production so long as there were consumers anywhere in the world who needed these products. The fact that Adam Smith, the great English economist, a century ago defined "demand" as "effective demand", and that neither the manufacturer, the merchant, nor the farmer could possibly escape the law of supply and demand and continue to exist, did not answer the objection in some minds.

It was determined by Congress, however, that an effort would be made to reduce production and to give the farmer benefit payments to compensate him for curtailing production. This law was in operation until it was declared unconstitutional by the Supreme Court early in 1936. Few people will now deny that the act was of tremendous benefit to the farmer and to the country. The fact is it played a major part toward recovery. When it was destroyed by the Supreme Court an immediate effort was made to enact a substitute. The Soil Conservation Act, under which the farmer would receive benefits for conserving his soil and, incidentally, curtailing his production of basic crops, was passed by the Congress. This law has now been in operation for about 1 year. It is meeting with a fair degree of success, and unless it is held unconstitutional by the Supreme Court, it is destined to become a permanent constructive program for agriculture. It is sought now to supplement this program with a plan for crop insurance and one for relief from farm tenancy. Bills have been introduced in Congress covering both of these matters. They constitute the major effort for beneficial farm legislation this year.

For more than half a century, crop insurance has received the attention of a few far-sighted economists. So long ago as 1868 a German economist prepared a rather complete report on the principles of crop insurance. This report was in response to a request from the Japanese Government. In it the author suggested many of the factors that must be considered in any successful program. He called attention to the fact that it would be necessary to spread the risk over a large territory; that insurance of farmers' yield would be practical, but that insurance of price fluctuations would be exceedingly difficult.

In this country a number of efforts were made by private insurance companies to cover growing crops. These efforts were generally attended with failure because of lack of capital, limited area, and lack of reliable actuarial data. These private efforts usually included price fluctuation. Certain mutual associations of farmers undertook to write tornado insurance with some degree of success, but they did not meet the need for a general crop-insurance program. Certain States have experimented with hail insurance with some success.

It seemed apparent, after these efforts, that to have a comprehensive and effective program of insurance for crops the Federal Government should take it in hand.

From time to time bills have been introduced in Congress to provide for crop insurance. They were based on various theories. Last year I introduced a bill authorizing the Department of Agriculture to put into effect a plan for insurance against extraordinary and unusual natural hazards.

Then followed the research work by the Bureau of Agricultural Economics, the appointment of a committee by President Roosevelt to make recommendations, and the introduction of Senate bill 1397, providing for crop insurance on wheat. Hearings are now being held on this bill and a wealth of information is being obtained.

This bill provides for the creation of a Federal Crop Insurance Corporation with a capital stock of $100,000,000, to be appropriated by the United States. This amount is to serve as a reserve to be drawn upon, if necessary, to pay indemnities during the first few years of operation in case losses exceed premiums. This would happen only in the event of widespread crop failures. If normal crops be produced, premiums will cover indemnities, and the money appropriated will not be used.

From the reports of the experts, if this bill had been a law in the beginning of 1930 and had been in operation since that time, no part of this money would have been used. For the years 1930, 1931, and 1932 there would have been an excess of premiums over indemnities. This excess would have covered the excess of indemnities which would have been paid during the drought years of 1933, 1934, and 1935. It is not expected there will be a succession of dry years in the immediate future, but it is well to provide against such an eventuality.

The bill further provides that the business of the Corporation will be conducted by a manager and board of directors, the directors to be appointed by the Secretary of Agriculture. Then follows a most interesting and novel feature of the plan. Premiums are to be paid in wheat and the indemnities will be paid in wheat except that such wheat may be translated into cash equivalent for convenience in handling. The premium wheat will be stored in warehouses and kept as a reserve for paying indemnities. This is the ever normal granary idea about which we have heard for several years. Let us for a moment consider the effects of such a program.

It is generally true that when there is a bumper crop of wheat, the price is low, and when there is a short crop the price is high. When the farmers will be paying an excess of premium bushels, the value is likely to be considerably less than when the farmers are receiving indemnities during a short year. The evidence shows that if this plan had been in effect from 1930 to 1936, wheat farmers in the Great Plains States would have paid in about 75,000,000 more bushels the first 3 years than they would have received as indemnities. The value of this wheat at the prevailing price was about $60,000,000. During the last 3 years about 75,000,000 more bushels would have been received by the farmers in indemnities than were paid in premiums. At the price of this 75,000,000 bushels at that time, the farmers would have received about $95,000,000, or $35,000,000 more than the value of the wheat paid in as premiums. The farmers would have made a profit of the $35,000,000. Heretofore, since farmers are generally unable to hold their own wheat, the speculators have made this profit. How delightful it would be for the farmers to be in a position where they could obtain these profits. This would go a long way toward making the wheat farmer independent.

The wheat, which is collected by the insurance corporation in the form of premiums, must be held in warehouses as a reserve to be paid out as indemnities to farmers suffering losses of crops. However, since the Federal Farm Board withheld wheat from the market with disastrous results, farming interests have been fearful of the practice. The farmers' fingers were burned. The large surpluses accumulated by the Farm Board were like Damocles' sword suspended over the market. Those whose business it is to deal in wheat realized that at any time hundreds of millions of bushels might be placed on the market as the result of an uncertain governmental policy. This uncertainty depressed the price paid to farmers for their crops.

That possibility has been precluded by the provisions of the crop-insurance bill. The reserve wheat held by the Government cannot be sold except to prevent it from deteriorating. It must be held and paid out only as indemnities to farmers. It cannot, under the provisions of the law, be dumped on the market to lower the price of wheat. There has been some discussion in the hearings, which are now in progress, as to the advisability of including such a provision in every insurance contract so there would be a contractual right of the farmer as well as a legislative declaration to prevent the insurance corporation from selling wheat in the open market. With such an assurance as this, wheat buyers will know that Government reserves will not come on the market except during periods of short yield, and the prices they offer consequently will be maintained at a high level. It must be remembered also that the crop-insurance program is designed for coordination with the soil-conservation program so that there will be no unmanageable surpluses as in previous years.

Production of wheat will not be increased as a result of the plan, and in all likelihood the supplies of wheat held in warehouses will not be any larger than they are at the present time. The only difference will be that reserves are held in storage by the Government in contrast to the present practice by which they are held by private speculators and financial interests. Private concerns are not only able but will dump wheat on the market at any time the price is high. When Federal crop insurance becomes a realization, the wheat will be held by the Government and cannot be placed on the market except through the farmers whose crops have been destroyed by natural hazards. During bumper years large supplies of wheat received by the Government as premiums would be removed from the market and during years of crop failure it would be returned to the farmers themselves. It would stabilize the price and the supply and tend to insure continuous production to the consumer.

The bill provides for insurance in loss of yields due to drought, flood, hail, wind, tornado, insect infestation, plant diseases, and such other causes as may be determined by the Board. The insurance will not cover the full value of average yields. The Board is given power to determine the percentage of coverage. The reason for this is that ordinary losses will be borne by the farmer and short yields, due to poor cultivation and inefficient farm operation, will not be covered. This is necessary to prevent farmers from being indifferent about their cultivation and to prevent them from planting larger acreage. The purpose is to encourage each farmer to be industrious and to use good farming methods and management.

It is further provided that the operating expenses of the insurance corporation, including charges for storing the grain, will be paid by the Government. An appropriation of $10,000,000 is provided for that purpose. The question may be raised as to whether the Government should pay the cost of operation. The reason for this provision is that such a plan would be beneficial to the general public. It would benefit the consumer by having an ample supply for his needs. It would benefit the banker by providing security for his loans to farmers. It would benefit the merchant, the manufacturer, the county, the State, and the Government. It would enable the farmer to pay his taxes and other obligations.

For 10 years the United States Government has been appropriating large sums for loans and grants for the farmer. Large amounts have been spent on account of droughts, floods, and epidemics of insect and plant infestations. The records show that about $615,000,000 was thus expended during the last 10 years, or an average of over $61,000,000 a year. A considerable amount of these expenditures would be saved by crop insurance, and an annual appropriation of only $10,000,000 to pay operating expenses would seem to be entirely fair and reasonable. This would tend to reduce the amount of premiums to be paid by the farmer to a minimum, and he would receive full indemnity at a reasonable rate.

While the bill applies only to wheat, provision is made for the accumulation of data on other crops. It is expected that within a short time, insurance will be extended to a number of other commodities—perhaps corn, cotton, and tobacco. It is also desirable that just as soon as possible insurance benefits be extended to other crops such as fruit. The fact that fruit is perishable, however, raises a new problem.

Doubt may exist in some minds as to the efficiency of the Government in dealing with insurance operations. There are many people who believe the Government is much less efficient in business matters than private industry. On this point it will be interesting to observe that in 1914, shortly after the World War began, Mr. McAdoo asked Congress to organize an American Risk Insurance Bureau for insuring ships and cargoes. The total of the policies issued was $2,250,000,000. The premiums received amounted to $46,000,000 and the losses paid were $29,000,000, leaving a profit of $17,000,000. The expense of conducting this business for 4 years was only $165,000, or a little over one-third of 1 percent upon the premiums received. When we remember private insurance costs about 60 percent of the premiums, this record of Government management seems remarkably efficient. Fifty thousand dollars was appropriated by the Government for working capital for this Bureau, but not a dollar was ever drawn for the reason that the premiums received from the first exceeded the losses incurred.

Here is another interesting thought in connection with this enterprise. In case of war, the demand for wheat would be very great. It will be recalled that prior to the World War we sold all the wheat we could produce and thousands of new acres were planted. At the time of our entry into the war we had no reserves of wheat for our own people. This danger of wheat thortage was recognized in 1914 by Prof. Josiah Royce, eminent philosopher of Harvard University. He said in a remarkable essay entitled "War and Peace", that "floods, famines, pestilences, earthquake, and volcanoes may interfere in various fashions with the economic as well as with the rest of the social life of the people thus afflicted. Apart from actual famines, a considerable failure of their crops may impair for a season the normal supplies of individual nations." If we should have a serious crop failure, under those circumstances, our people would be in actual need of wheat. The reserves contemplated under this plan would be a godsend. Dr. Royce pointed out the necessity of insurance for the farmer for these reasons back in 1914.

It is not certain that a program of crop insurance will be held constitutional by the present Supreme Court. Under the decision in the Agricultural Adjustment Act case it is doubtful whether this act would be constitutional. However, every effort has been made to draft it to meet all legal requirements.

Most of the discussion of crop insurance has been confined to the effect it would have on individual farm operators and the wheat market. I desire to call attention to the effect of this proposal in relation to one of the most serious social poblems confronting the United States at the present time. During the last 3 years the continued droughts of unprecedented severity in several Middle Western States have resulted in complete destitution and bankruptcy for a large percentage of the farmers in the area affected. Agencies of the Federal Government have extended various forms of relief to prevent actual suffering and starvation.

It is not the nature of American citizens to remain year after year in a place where they are unable to make a living. The same pioneering spirit, which originally settled the country west of the Alleghenies, impels those who have lost their incomes to move on to a new home and seek a new start in life. Last year the highways of the Western States were crowded with families moving west seeking new homes. In the State of Idaho alone there are more than 4,000 such families at the present time. Many other thousands have gone to Oregon, Washington, California, and other Western States.

These people stayed on their farms in the drought area until all hope was gone. They exhausted their financial resources and gave up the battle only when faced with destitution and stark privation. These families are not of the ne'er-do-well type. They are solid, substantial citizens, willing and anxious to work, seeking only an opportunity to make a living. The free land in the West is gone, and they have no money with which to purchase farms. Yet they cannot be permitted to starve. Something must be done for them. At the same time, the Government cannot go on supporting them year after year. The logical solution is to provide new tracts of farm land on which they can settle and prosper in the future.

The task of caring for transients from drought States who have migrated to the Pacific coast, however it is handled, will require the outlay of large sums by the Federal Government. In such cities as Twin Falls and Boise, in the State of Idaho, I have seen hundreds of destitute families who have migrated westward seeking homes. Many of them are living in hovels and shacks of their own construction, and suffering privations and inconveniences such as the United States Government should never permit any of its citizens to experience. Sooner or later, public demand will force action in these Western States to provide homes for their increasing population.

If a program of Federal crop insurance had been in effect these last 4 years, this condition would have been greatly alleviated. Families in the drought area whose insured crops were destroyed would have been reimbursed in indemnities from the insurance fund, requiring no outlay of taxpayers' money. If they decided, as they have now determined, that they could not look forward to anything better, they then could move westward. If their crops had been insured, they would have had funds with which to move. They would have money with which to purchase new farms and to establish themselves in the communities of their choice in the West. Simply because these families had no protection against the droughts for which they were in no way responsible they were permitted to become destitute.

Crop insurance will not prevent droughts in the future, but it will save from financial ruin and indigent transiency the individual farmers in areas on which droughts are visited. The sociological need and background for Federal crop insurance is as strong and real as the economic and actuarial basis of the program. To my mind, crop insurance carries an irresistible humanitarian appeal as one of the means of making life in America an abundant life, consistent with the abundancy of the natural resources with which our Nation has been endowed.

Hetch Hetchy Water Supply and Power Development Project

EXTENSION OF REMARKS

OF

HON. GERALD J. BOILEAU

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1937

Mr. BOILEAU. Mr. Speaker, for several years the city and county of San Francisco has been selling power developed at the Moccaison Creek power house on the line of the Hetch Hetchy aqueduct in violation of the Raker Act. When Congress authorized the municipality to develop water supply and hydroelectric power on this Federal property it did so only with the understanding that none of the electric energy so developed should ever be sold to any private individual or corporation for resale. The municipality has, however, been disposing of this power to a private corporation through the subterfuge of an agency agreement.

In a few days the people of the city and county of San Francisco will vote on the question of whether or not it is to acquire a municipally owned distribution system for direct sale of power to consumers. This is the only way in which the municipality can lawfully obtain the benefits of the Raker Act. The Power Trust is trying to defeat this proposal upon the theory that if the proposal to establish a municipally owned distribution system is defeated that Congress will then amend the law and permit a continuation of the unlawful practices which have been engaged in during the past 12 years. In view of the fact that the permission to develop hydroelectric energy in this project was granted only because it was specifically provided that the electric energy so developed should be distributed to the consumers by the municipality, I, for one, want to serve notice that there is a large group in Congress who will oppose to the utmost any and all efforts to amend the law in such a way as to enable any privately owned public utility corporation to distribute the electric energy produced in connection with the Hetch Hetchy water supply system.

Retirement Privilege for Supreme Court Justices

EXTENSION OF REMARKS

OF

HON. WILLIAM E. BORAH

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Tuesday, March 2 (legislative day of Wednesday, Feb. 24), 1937

A LETTER TO THE NEW YORK HERALD TRIBUNE

Mr. BORAH. Mr. President, I ask unanimous consent to have printed in the RECORD a letter appearing in today's New York Herald Tribune on the subject Can Supreme Court Justices Be Demoted? It will be found interesting and, I trust, instructive.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune of Mar. 2, 1937]

CAN SUPREME COURT JUSTICES BE DEMOTED?—CONSTITUTIONALITY OF THE RETIREMENT BILL QUESTIONED—RESTRICTION OF THE SENATE'S AUTHORITY

To the NEW YORK HERALD TRIBUNE:

The bill for the retirement on full and irreducible pay of Justices of the Supreme Court who have served 10 years and attained the age of 70 has been passed by both Houses of Congress. It has just been signed by the President.

In ordinary times, and standing alone, such a law probably never would be challenged. Nobody has objected to the law retiring and pensioning judges of the inferior Federal courts, because no ulterior purpose was apparent at or after the time of its passage. But under the present necessity for close scrutiny of every proposal affecting the Federal judiciary it would be unfortunate if either the old or the new retirement statute escaped notice in the absorbing discussion of the President's bill to change the composition of the Supreme Court. For it will be found upon examination that these statutes emphasize the need to deal by constitutional amendment, carefully considered, rather than by hasty and haphazard legislation, with all measures that seek to modify the Federal courts, even when the question is apparently so simple as that of pensioning and retirement.

The new Supreme Court retirement bill provides:

"That Justices of the Supreme Court are hereby granted the same rights and privileges with regard to retiring, instead of resigning, granted to judges other than Justices of the Supreme Court by section 260 of the Judicial Code (U. S. C., title 28, sec. 375), and the President shall be authorized to appoint a successor to any such Justice of the Supreme Court so retiring from regular active service on the bench, but such Justice of the Supreme Court so retiring may nevertheless be called upon by the Chief Justice and be by him authorized to perform such judicial duties, in any judicial circuit, including those of a circuit justice in such circuit, as such retired Justice may be willing to undertake."

Under the constitutional provision that Justices of the Supreme Court (and judges of the inferior courts as well) "shall hold their offices during good behavior", death, resignation, and impeachment are the only powers by which they can be removed. The office of a Justice of the Supreme Court "shall hold during good behavior" is clearly the office to which he was appointed, and equally clearly it is to be held in its entirety. It cannot be given up in part and in part retained. One is therefore moved to inquire:

1. By what authority under the Constitution may a Justice, by an act which is not a resignation, divest himself of the right to sit and vote in the Supreme Court, and by what authority may he then become, by the joint will of the Chief Justice and himself, a justice or judge of an inferior court, or any other sort of judicial officer that he and the Chief Justice may elect?

2. By what authority under the Constitution may a "successor" to a Justice of the Supreme Court be appointed, if the Justice is alive, has not resigned, and has not been removed for misconduct?

One effect of these attempts at retirement by legislation is a curious change, perhaps unwittingly made, in the power to appoint certain Federal judges. The Constitution provides that Justices of the Supreme Court shall be nominated by the President, and by and with the advice and consent of the Senate, appointed. Federal judges of lower rank are similarly appointed, but in their case the method is regulated by statute, as the Constitution permits. The method can be changed at any time, so that appointment of these judges could be by the President alone, by the Supreme Court, or possibly even by the Chief Justice alone, under the provision of the Constitution that "the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments." (Art. II, sec. 2, par. 2.)

Now the statute for the retirement of judges of the inferior courts provides that when one of these judges retires "the President shall thereupon be authorized to appoint a successor." The apparent effect of this provision is to establish a class of judges who may be appointed by the President alone, without the advice and consent of the Senate—if the law is in other respects constitutional. I am informed by members of the Senate Judiciary Committee that no President has yet raised the question of attempting to exercise this power.

It should be noted that another section of the same act (U. S. C., title 28, sec. 375) empowers the appointment of an additional judge upon the President's finding that any circuit or district judge is mentally or physically incapacitated for the full discharge of his duties. This section has not been used, because of the impracticability of any such finding, as President Roosevelt has pointed out. In contrast with the previous section, it includes confirmation by the Senate as essential to the appointment of such additional judge. In a single act, therefore, two different appointing powers are established for judges of two classifications, one composed of successors to retiring judges, the other of successors to disabled judges.

The provision for appointment by the President alone has been carelessly copied in the Supreme Court retirement bill, but there the Constitution intervenes and saves the situation, unless the absence of the phrase about the Senate's approval in itself invalidates the act. In the President's bill to change the composition of the Supreme Court and add judges to the lower courts the correct constitutional phrasing is used. Its passage would restore approval by the Senate for successors to retired judges of the lower courts, but would not save the Supreme Court retirement bill if the absence of the Senate phrase therefrom is a fatal defect. That bill would then have to be amended and reenacted.

A wise purpose to protect Federal justices and judges against any pecuniary manipulation that might induce withdrawal from the bench is shown by the provision of the Constitution that their compensation shall not be diminished during their continuance in office. The Supreme Court Retirement Act is essentially a part of the President's bill to change the composition of the Court, being the necessary definition of the retirement therein mentioned, but not therein provided for, and as such it is an offer of a pecuniary inducement to six of the judges to quit—not much of an offer, because it represents, in addition to what they would receive if they resigned, only exemption from income taxes and from the hazard of reduction or abolition of their pay by future Congresses.

The bill is an old one, having failed to pass 2 years ago because, it is now said, there was a feeling that it might offend the older Justices as a hint to quit. Reintroduced at the present session, it remained unnoticed until the appearance of the President's bill, when it was rushed to the floor of the House and passed as a totally unabashed hint to quit. The certainty of its easy and early enactment meant to the administration an important gain of time for its effective use as propaganda in support of the President's slow-moving bill. How easy to arouse a new outcry against the Court among people who had long been told that it was the source of all their ills, and would now be told how outrageous it was that the chief offenders should hang around after the generous Government had offered to pay their salaries for life if they would only stop working. Convenient, too, to have that boasted generosity expressed in a separate bill whose doubtful constitutionality would not imperil the main bill.

It isn't the possibly innocent origin of this bill, it is the adoption of that alleged innocence as a mask for a vicious enterprise, that is important.

Who outside the murky atmosphere of power-grasping intrigue at Washington could have imagined that this situation would have any other result than to fix the present Justices more firmly on the bench?

CIVIS AMERICANUS.

NEW YORK, *March 1, 1937.*

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. MILLARD E. TYDINGS

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Tuesday, March 2 (legislative day of Wednesday, Feb. 24), 1937

EDITORIAL FROM NEW YORK TIMES

Mr. TYDINGS. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial appearing in the New York Times of March 1, 1937, dealing with the reorganization of the Federal judiciary and entitled "The President's Powers."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times of Mar. 1, 1937]

THE PRESIDENT'S POWERS

In behalf of the President's Supreme Court plan it has been said by Mr. Cummings and by others that speed is the essence of the matter. This point of view was amplified yesterday in Mr. Krock's summary of the President's own position. Mr. Roosevelt believes that the United States is confronted by a crisis which calls immediately for drastic action. He describes this crisis as a question of averting grave social dangers and achieving economic stability. Specifically, he insists on the necessity of Federal regulation of wages and conditions of employment, Federal control of farm production, Federal legislation to provide work for the employables, protection for the aged, aid for the underprivileged, a better spread of income, a higher standard of living, and a more adequate guaranty against the recurrence of panic and depression. This is his answer, we are told, to those who maintain that there is nothing in the present condition of the country which justifies him in suddenly proposing a plan not mentioned in the Democratic platform and nothing which warrants his present attempt to settle a great constitutional question without direct and explicit reference of that question to the people.

It is true that at two points in the President's list of objectives—the first two points—the Supreme Court has balked the administration. A unanimous Court declared in the case of N. R. A. that the Federal Government has no power, under the Constitution as it stands, to fix wages and hours in intrastate business. A Court divided 6 to 3 declared in the case of A. A. A. that Federal regulation of agricultural production is equally unconstitutional.

But if this is true, it is also true that N. R. A. and A. A. A. represent the least successful of all the major policies of the Roosevelt administration. So generally unpopular, and so widely disregarded, was N. R. A. in its later stages that the Senate had already voted to discard it—even before the Supreme Court handed down its decision. A. A. A. played a less important part than drought in the reduction of farm surpluses. Even if no constitutional barriers now stood in the way of a revival of these measures, there are sound reasons—in a Federal democracy such as ours—for distrusting any centralization of power in Washington so vast that it would enable the Government to regulate wages in every industry and to control the planting of crops on every farm by means which would really be effective.

But when we turn from N. R. A. and A. A. A. to the other objectives listed by the President as essential to the solution of a present crisis, what reason is there to believe that the Supreme Court blocks effective action by the Government?

No one questions the power of the Government to spend whatever sum is needed to provide work for the employables, or its power to protect home owners from foreclosure, or its power to refinance farm mortgages at lower rates of interest, or its power to guarantee the safety of 50,000,000 bank deposits. No one questions its power to lend (through R. F. C.) $11,000,000,000 to shore up the credit structure of the country, or its power to achieve a better spread of income by imposing heavy taxes in the upper brackets in order to raise funds for social purposes.

No one questions its power to aid municipalities in providing better housing in slum areas, or its power to expand credit or restrict it, according to the needs of the occasion, or its power to proceed against monopolies in business. In the interest of the small investor every stock exchange in the country has been placed under Federal regulation and every new issue of securities must be registered with the Government. For the protection of the aged, a system of Federal old-age insurance has been set up for more than 20,000,000 people. In the interest of preventing a recurrence of panic and depression, complete control over the whole Federal Reserve System has been centralized in Washington.

Here, surely, are far-reaching measures and far-reaching powers to provide assurance for the future, to give aid to the underprivileged, to deal with any crisis that may now confront the country.

But this does not end the matter. Consider, in addition to all this, the extraordinary powers granted personally to the President—powers which he may exercise entirely at his own discretion, powers whose legality has not been questioned by any decision of the Supreme Court, powers with no strings whatever attached to them by Congress. Under existing law—

The President can again devalue the American dollar at any time that he so pleases.

He can operate, with the Secretary of the Treasury, a "stabilization fund" amounting to $2,000,000,000—his decision as to the secret management of this fund being "final, and not subject to review by any other officer of the United States."

He can cause to be issued $3,000,000,000 in notes, for the purpose either of reducing the national debt or of purchasing any Government securities.

He can put the United States on a bimetallic standard overnight by decreeing the free and unlimited coinage of silver.

He can fix the value of the silver dollar at any ratio he sees fit.

He can prescribe the rules and regulations under which gold can be acquired and held, transported, melted or treated, imported, or exported.

He can suspend trading on every stock exchange for a period of 90 days.

He can raise or lower by as much as 50 percent any tariff imposed by the United States on any goods imported from any foreign country.

He can spend, almost entirely at his own discretion—under the powers granted him in the Emergency Relief Act of 1936—a sum practically twice as large as the entire Federal Budget in the year before the war.

He can determine what "prevailing rates of pay" shall be granted to the 2,000,000 people on the rolls of W. P. A.

He can "empower" any agency of the Government to prescribe such rules as he may deem desirable for carrying out relief policies which affect the welfare of every community in the country.

No other President in the history of the United States has ever remotely had such powers. No President has ever had a better reason for referring directly to the electorate any proposed change in the Constitution or in the Court which is its guardian.

Mellon's Art—Accept, But on Reasonable Conditions—American Artists' Congress Objects—Mausoleum or Living Museum?—Give the Artist a Break!

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1937

ACCEPT MELLON'S ART BUT MAKE CONDITIONS FAIR

Mr. MAVERICK. Mr. Speaker, the purpose of my rising today is not Andy Mellon and his art but to question the bill which was intended to have been presented to us, being House Joint Resolution 217. It provides for the construction and maintenance of the National Gallery of Art and the acceptance of certain pictures and sculpture to be presented by Hon. Andrew W. Mellon upon certain conditions.

I am not opposed to the acceptance of any gift from Mr. Mellon, but note that I said "upon certain conditions."

In discussing this, one of my liberal friends said that I could not "afford" to object to a gift of art from Mr. Mellon. Why not? In any event, I am not objecting to the gift, but I am objecting to the manner in which it is offered. There is no haste. Many of those pictures have kept for 400 years, and there is no reason why they cannot keep for 2 more weeks.

GIFT HORSE A TROJAN—BAD SOLDIERS IN BELLY

"But", says another friend, "you cannot afford to look a gift horse in the mouth." Such may be true.

But I reserve the right to look at the teeth of a gift horse when the "donor" keeps a good strong rope around his neck, especially when he must be fed by the taxpayers. And, Mr. Speaker, we may find that this is a Trojan horse, rolled into the city of Washington while we are asleep, with its belly full of the wrong kind of soldiers and the wrong kind of generals.

AMERICAN ARTISTS' CONGRESS OBJECTS

The American Artists' Congress has objected very strenuously to this bill and has passed a resolution condemning it, setting out their ideas in full. (See below I, Resolutions of American Artists' Congress.) The resolutions are self-explanatory.

In correspondence and conversation I find that many of the leading artists of the country object to the manner of proposed acceptance of the art by Mr. Mellon. They do not object to the acceptance itself, but they do object to the self-perpetuating features and that it excludes the National Gallery from really becoming an institution for the promotion of art of the United States of America.

BOARD PERPETUALLY MELLONIZED; EXPENSES PERPETUALLY PUBLICIZED

First of all it abolishes the present public National Gallery of Art, such as it is. It creates a new "National Gallery of Art"—now get this, under perpetual private control at perpetual public expense. I should like for my colleagues and the country in general to get a copy of the resolution, study it, and see its provisions.

It provides for a board of trustees composed of nine members, five of whom are in effect appointed by Mr. Andrew Mellon, although they are supposed to be chosen by the

Board of Regents of the Smithsonian Institution. For note this: The bill says, "Subject to the approval of the donor." (For complete copy of sec. 2 (b), see below II), which also provides for perpetual control by Mellon appointees.

LET NATION HAVE MAJORITY; MELLON THE MINORITY CONTROL

This, it seems to me, should not be allowed to stand. Why not have a majority of the members appointed by the President of the United States, or other Government agencies and individuals, such as Congress, the Vice President, and the Speaker of the House of Representatives?

Then a minority could be appointed or approved by Mr. Mellon.

Why should we empower a board to perpetuate itself, which is only a private institution, and perpetually pay all its expenses?

NATIONAL GALLERY SHOULD REFLECT CHANGING TIMES

The report filed by the distinguished gentleman from Illinois [Mr. KELLER] says the self-perpetuating feature is justified because Harvard and the Metropolitan Museum of Art have the same provisions. This is not a fair comparison. Those institutions are not owned by the Nation. I can see no good reason why, if the public puts up money, they should not control that institution.

Certainly a national gallery should represent the art movements of the Nation and should be under national control. It should reflect the changing times, just as a scientific museum or any private enterprise.

MAUSOLEUM OR MUSEUM? ARTISTS MUST EAT. WHO SAYS ME NAY?

Mr. Speaker, another objection which I think is of paramount importance is the fact that no mention or provision is made for either annual or other exhibits, nor opportunities for living artists, nor even temporary exhibits of contemporary art. I suspect this from reading Sec. 5 (b) which says that "no works shall be exhibited unless they are of similar high standard of quality to those of the donor." No trustees of the donor are likely to believe that there is any contemporary art equal to that which is to go into the museum, and I think it is the understanding, as a matter of fact, that no contemporary art is to go into the new gallery.

Hence, living artists and living art will be eliminated. I can see no reason why the gallery should not at least have temporary exhibits and competitions. After being shown they could be removed. But the living artist would get a chance and bad art would be eliminated. Thus art and artists would receive encouragement. And artists eat.

Without sarcasm, I should like to make the observation that it is likely to turn out an art mausoleum instead of art museum, or gallery. We should guard against that.

NO CONTROL OVER BOARD; NEITHER TREASURY NOR COMPTROLLER. WHY NOT?

There is another point which I think is important. That is that neither the Secretary of the Treasury, the Comptroller, nor any other function of the Government has any right to even check the funds (see below, III, sec. 4 (d)).

There are no limitations on salaries, and employees are not subject to civil service. The report says that civil service applies to Government employees outside of a certain trust fund, but I can find no such provision. It appears that there is no civil service, inspection of books, or control of any kind.

In the bill there are several very objectionable features. One is the blanket authorization of appropriation.

Out of section 4 (a) are these words:

> For these purposes there are hereby authorized to be appropriated such sums as may be necessary.

By this you will see that we provide blanket authorizations forever and a day. Coupled with the perpetual control we also say in section 5 (a):

> The Board may function notwithstanding vacancies, and three members of the Board shall constitute a quorum for the transaction of business.

I do not know if this is a wise feature or not.

Mr. Speaker, I am told that the collection is estimated to be worth $50,000,000, and that with the building intended to be built of ten million and an endowment fund for future purchases of five million, that the donation will be valued at sixty-five million. But it is estimated that the annual maintenance cost, from the very beginning, will be $300,000 a year. This means that the maintenance cost will be much more than that, and the report says "in all there are about 100 paintings and 20 sculptures and some 190 American portraits."

The real estate intended to be set aside for the gallery is one of the most valuable pieces in the entire world. It is the area bounded by Seventh, Constitution, Fourth, and North Mall, and it is provided that all interfering streets are to be closed for this purpose. Whether this is the proper selection I do not know.

PICTURES (AND TAXATION) ALREADY MATTER OF CONTROVERSY

There is another feature which I believe we should consider. I do not wish to bring up any old sores, but the matter of taxation should be considered. I refer, my colleagues, to Docket No. 76,499, U. S. Board of Tax Appeals, entitled *A. W. Mellon, petitioner,* v. *Commissioner of Internal Revenue, respondent.*

It appears from a brief filed by Hon. Robert H. Jackson, a distinguished high official of the Attorney General's Department, that a ruling was rushed through March 8, 1933, by the "A. W. Mellon Educational and Charitable Trust" to exempt it from certain provisions. This "trust" owns what is intended to be donated and a controversy exists at this time. We are therefore on notice that a controversy exists, and should do nothing until we understand it.

Mr. Jackson says that the ruling of March 8, 1933, was obtained by "a concealment of material facts." That further, "it has not been operated during any of the years of its existence exclusively for charitable and educational purposes." Further, that it is not in good faith a charitable and educational trust. He also says that certain issues of stock were "intended to divert attention from Mr. Mellon's tax-evading sham sales of securities", and that this is supported by evidence of Lord Duveen of Millbank, a witness in the case. Reference is made to full report of Hon. Robert Jackson. Copies can be obtained from Attorney General's Department.

BILL SHOULD BE REWRITTEN TO MEET OBJECTIONS

Mr. Speaker, what I have been saying is not intended to in any way obstruct the establishment of a National Gallery of Art, which I hope will be established and will become the greatest in the entire world. But the matters that I have submitted are important; and since they involve many millions of dollars and many millions to be expended throughout the life of this Nation, I believe that we should further investigate and have additional hearings, with a special reference to the following:

First. Rewriting or amending the bill, considering all angles of the case.

Second. The creation of a board in which the Government of the United States shall directly appoint five members without Mr. Mellon's consent and four with Mr. Mellon's consent.

Third. The enactment of provisions for adequate financial control, subjecting the National Gallery to ordinary but not obstructive supervision of the Treasury or Comptroller's Office.

Fourth. Serious consideration of the location with reference to value, traffic, permanence, and suitability.

Fifth. Consideration of suggestions by American Artists' Congress and hearing their members as witnesses.

Sixth. The hearing as a witness of Hon. Robert H. Jackson, Assistant Attorney General, in reference to tax features.

Mr. Speaker, I believe that before this is finally enacted that all of these points should be considered.

I

RESOLUTION OF AMERICAN ARTISTS' CONGRESS

Objects to self-perpetuation and other features

The text of the resolution, with all its whereases cut out, sets out objections to the bill as follows:

1. Permits the A. W. Mellon Educational Charitable Trust, referred to as the donor, to put up a building called the National Gallery of Art, on a certain site.

2. Provides that a bureau be set up within the Smithsonian Institution to administer the National Gallery of Art and the collection of art works given by the donor to be housed in the gallery, with all future additions and transactions.

3. This bureau is to be administered by a board of trustees composed of four officers of the United States Government and five other persons, known as general trustees, who must not be officers or employees of the United States Government.

4. The first five general trustees shall be chosen by the Board of Regents of the Smithsonian Institution, subject to the approval of the donor.

5. The first five general trustees thereafter become a self-perpetuating body, filling expired terms or vacancies by a majority of its own membership.

6. Three members of the board of trustees are empowered to transact business as a quorum.

7. The United States Government is required to provide funds for the upkeep, cost of operation, and administrative expenses of the National Gallery of Art.

8. The board of trustees has complete power to make all decisions concerning the business affairs and artistic policy of the National Gallery of Art.

9. Their decisions are not subject to review by any officer or agency other than a court of law.

10. This bill provides that no works inferior in quality to the original collection given by the donor shall be exhibited in the National Gallery of Art.

Therefore, be it resolved:

1. That the National Gallery of Art, maintained by public funds, as provided in House Joint Resolution 217, properly belongs to the people of the United States who are entitled to a direct voice in its administration.

2. That the administrative provisions of this bill, which sets up a self-perpetuating board without responsibility to any agency other than itself, deprives the American people of their right to a controlling voice in the policy of the National Gallery of Art.

3. That the bill should insure that the National Gallery should adopt a progressive attitude toward the encouragement of contemporary art as exemplified by the existing Federal art projects.

4. To achieve the democratic control and progressive artistic policy which this bill makes impossible, it is necessary to amend it.

Artists' Congress suggests amendments to bill

In addition to the adoption of the resolution, the Artists' Congress suggests amendments to the bill, as follows:

Section 2 (b), page 2, shall be amended to read as follows:

"The general trustees first taking office shall be selected as follows:

"Two shall be appointed by the Board of Regents of the Smithsonian Institution subject to the approval of the donor; three shall be elected at a joint election conducted by delegates of the leading active organizations of artists of the United States, such as the National Society of Mural Painters, the American Artists' Congress, the National Academy of Design, the Artists' Unions, the American Society of Painters, Sculptors, and Engravers, the National Sculpture Society, and shall have terms expiring each on July 1 of 1939, 1941, 1943, 1945, and 1947, as designated by the Board of Regents. A successor shall be similarly elected for terms expiring 4 years from the date of the expiration of the term for which his predecessor was chosen, except that a successor chosen to fill a vacancy occurring prior to the expiration of such term shall be chosen only for the remainder of such term."

Section 4 (c), page 4, line 24: The following shall be eliminated: "and the original appointment to each such office shall be subject to the approval of the donor."

II

GENERAL TRUSTEES SUBJECT TO APPROVAL OF MELLON

It shall be in perpetual private control

The members shall be the Chief Justice of the United States, the Secretary of State, the Secretary of the Treasury, Secretary of the Smithsonian Institution—four, but five others are provided for as follows:

(b) The general trustees first taking office shall be chosen by the Board of Regents of the Smithsonian Institution, subject to the approval of the donor, and shall have terms expiring one each on July 1 of 1939, 1941, 1943, 1945, and 1947, as designated by the Board of Regents. A successor shall be chosen by a majority vote of the general trustees and shall have a term expiring 10 years from the date of the expiration of the term for which his predecessor was chosen, except that a successor chosen to fill a vacancy occurring prior to the expiration of such term shall be chosen only for the remainder of such term.

III

ACTIONS OF BOARD—NO CONTROL

Section of bill shown below

SEC. 4. (d) The actions of the Board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law.

The Raker Act—Hetch Hetchy Power for San Francisco

EXTENSION OF REMARKS

OF

HON. JOHN E. RANKIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1937

Mr. RANKIN. Mr. Speaker, when what is known as the Raker Act was passed, providing for the distribution of hydroelectric power produced at the Hetch Hetchy project in the Yosemite National Park in California, it was specifically provided that this power was not to be sold to any private power company for resale. This law has been violated for many years, but the time has come for its enforcement.

On March 9 the people of San Francisco are to vote on the proposition of acquiring their municipal distribution system, in order that they may be permitted to secure Hetch Hetchy power and distribute it to the people of San Francisco legally.

Private power companies are trying to make the people of San Francisco believe that if this proposal is voted down Congress will amend the Raker Act to permit the sale of this power to private power companies for resale.

I for one shall oppose any such amendment of the Raker Act to the bitter end, and I do not hesitate to say that, in my opinion, a vast majority of the membership of the House feel just as I do about it. I have stated before, and I repeat, that I don't believe they could get such an amendment through the present Congress in a hundred years.

They have tried to make the people of San Francisco believe that the Secretary of the Interior, Hon. Harold L. Ickes, would favor such an amendment to the Raker Act. I took this proposition up with Secretary Ickes and he states emphatically that he does not favor such an amendment, but he makes it plain that the Raker Act must be enforced.

Under the permission granted me to extend my remarks in the RECORD, I insert below my letter to Secretary Ickes and his reply.

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 2, 1937.

Hon. HAROLD L. ICKES,
Secretary, Department of the Interior,
Washington, D. C.

MY DEAR MR. SECRETARY: It has come to my attention that a newspaper report has been published in San Francisco, Calif., to the effect that you have expressed yourself as being in favor of an amendment of the provisions of the Raker Act (38 Stat. 242) relating to the sale and distribution of electric energy developed on the Hetch Hetchy project. This is a matter of great interest to me and I respectfully request that you advise me as to the correctness of that report and as to your views concerning the necessity or desirability for an amendment.

Sincerely yours,

J. E. RANKIN.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 2, 1937.

Hon. JOHN ELLIOTT RANKIN,
House of Representatives.

MY DEAR MR. RANKIN: I have received your letter of March 2 inquiring concerning my statements and views with respect to the necessity or desirability of amending the provisions of the Raker Act (38 Stat. 242) relating to the sale and distribution of electric energy developed on the Hetch Hetchy project.

The newspaper report to which you refer purported to be based on my statements made at a press conference on February 11. At that time I was interrogated by the press concerning my position on a special election to be held in San Francisco on March 9, at which time the electorate will be asked to ratify a charter amendment authorizing the issuance of revenue bonds to finance the acquisition of a municipal power distributing system for use in the sale of electric energy generated on the Hetch Hetchy project. I said that the question whether that charter amendment should be approved was a question which must be determined by the people of San Francisco. I have also pointed out on several occasions that San Francisco was under a moral and legal obligation to adopt some such plan of distribution as the proposed charter amendment would make possible; that the method of distribution now employed, namely, a sale to the Pacific Gas & Electric Co. for resale to consumers, is in violation of the pro-

visions of the Raker Act; and that it is my duty to enforce the act and to take whatever steps may be necessary to secure compliance with its terms. When interrogated specifically concerning the possibility of securing an amendment to the Raker Act which might validate the present method of distribution, I conceded the possibility of such an amendment. I also pointed out that San Francisco had had ample time within which to obtain such an amendment but had made no move to do so.

I did not indicate that I favored amendment of the act, and I do not favor any such amendment.

On August 24, 1935, I rendered an opinion that San Francisco was and for a long time had been violating the provisions of section 6 of the Raker Act by selling electric energy to a private utility company for resale to consumers. For your information I am attaching to this letter a copy of that opinion in which the entire history as well as the merits of this matter are considered. The violation of the statutory requirements still continues, but, as a result of my former opinion, a plan for direct municipal distribution of Hetch Hetchy energy has been devised and will be subjected to the vote of the people of San Francisco on March 9. In my opinion that plan, if effectuated, will constitute compliance with the statutory requirements. The plan appears to be both feasible and desirable from the standpoint of the people of San Francisco, and I understand that it is so considered by the Public Utilities Commission and the board of supervisors of San Francisco. Not only would it result in compliance with the provisions of the Raker Act but it apparently would also permit of lower electric rates and at the same time secure a large monetary return to the local government not now realized, thus resulting in a general reduction of taxes.

That such a plan can be and has been devised is proof in itself that there is no necessity for an amendment of the provisions of the Raker Act relating to the sale and distribution of electric energy. So, too, it may be said to be proof that an amendment is not desirable.

In any event, however, it is my opinion that no amendment should be made. The statute was enacted in 1913 and has in effect been a contract between San Francisco and the United States since that time. After so long a period of acquiescence it does not seem proper that the terms of that contract should now be changed. Particularly is that true in view of the fact that the particular provision of the law now in question, section 6, which prohibits sale of electric energy for the purpose of resale, was actively supported by the sponsors of the bill who had the interests of San Francisco clearly and specifically in mind. As shown in my opinion of August 24, 1935, this provision was inserted for the very purpose of securing the benefits of this power to the people of San Francisco and of preventing the exploitation of it by private utility companies as it is now and in the past has been exploited by the Pacific Gas & Electric Co. The conditions existing today are no different from those existing at the time of the passage of the act. And in the interim the wisdom of those who drafted and supported the act has been amply demonstrated. The private utility has done everything possible to prevent municipal distribution and to retain in itself the profitable retail business which otherwise would inure to the people and make possible lower rates and perhaps lower taxes.

An especial obligation rests upon a public body to carry out its undertaking in the utmost good faith. The city and county of San Francisco formally accepted the terms of the Raker Act. In doing so it also must have realized the advantage which would accrue to its people as a result of the limitation against sale of power for the purpose of resale. That was a bulwark against which private interests could not successfully carry an attack as they might against a mere declaration of power by the city itself or its officers.

Consequently I am of the opinion that there is no justification for an amendment to the Raker Act which would remove the bar against sale of electric energy for the purpose of resale and which would open this vast power resource to private exploitation. Such action would not be in the interest of San Francisco and its people or of the United States. The public interest demands, instead, active enforcement of the statute as it stands. Laxity in enforcement has already existed far too long.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

Foreclosure Proceedings of the Home Owners' Loan Corporation—Extension of Relief to Well-Meaning Borrowers

EXTENSION OF REMARKS
OF
HON. ALFRED F. BEITER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 2, 1937

Mr. BEITER. Mr. Speaker, it seems to me that the attention of the Congress at this time should be called to the problems of the Home Owners' Loan Corporation and the individuals who are in urgent need of protection and preservation of their homes. The purpose of the Home Owners' Loan Act of 1933 was to grant long-term mortgage loans at low interest rates to those who were in need of refinancing defaulted mortgages and were unable to procure the needed financing through normal channels.

The loans that were granted under the provisions of this act were made in most cases on homes which were already in default on private mortgages, and now the Government finds that foreclosure is necessary in a certain percentage of these properties.

Obviously, the Corporation cannot allow the owners of homes so mortgaged to retain them when they are paying nothing, either through unwillingness or a desire to defraud the Government. However, there are many cases where foreclosure is imminent where the owners are willing and anxious to meet their obligations but have been unable, through unemployment, to keep up their end of the agreement. I believe the Corporation is exercising discretion in the matter of foreclosures and does make generous allowances for those who are doing their best to pay. I am advised that a total of 1,021,818 loans have been made by the Corporation and that, as of December 31, 1936, foreclosure authorization had been made in only 67,735 cases, or 6.7 percent of the total loans made. Of these foreclosures, 90.3 percent represent a delinquency of 12 months or more, and the average delinquency of all foreclosures is 19 months, plus about 2 years of tax arrearages.

I know personally that many home loans were granted to persons who were only temporarily employed at the time, some on Works Progress Administration projects, others in temporary positions in private industry. It would be proper to assume that these loans should never have been granted if the Corporation now plans to foreclose for the reason that the applicant is unable to keep up his payments because of unemployment. Certainly, the Corporation had every right to expect that the applicant would soon find himself in an unemployed state if his position at the time of granting the loan was only temporary. Positions with the Works Progress Administration, the Public Works Administration, and other emergency agencies of the Government cannot be considered of a permanent nature. The question now arises as to whether loans made to individuals so temporarily employed can properly be cancelled.

It would seem to me that where a borrower is willing and anxious to pay and is prevented from meeting his obligations through no fault of his own that the right to appeal a foreclosure action should be extended to him. In other words, where a loan was made under circumstances such as I have described it would seem that the Corporation should be willing to grant an extension on the payment of the principal, or interest, or both, where reasonable assurance is had of rehabilitation of the loan. I would suggest, as a possible solution to this problem, the creation of appeal boards in the various home-loan districts, to be made up of, say, five members recruited from business, financial, legal, and social welfare circles. The purpose of this board would be to review all appeals made on foreclosure actions and its decisions would be considered as final. In this way I believe the good loans could be sifted from the bad and those who are inclined to regard the Government's aid as a gift can be quickly disposed of. On the other hand, those who are sincere in their efforts to keep up their obligations when able would have a better chance to prove their sincerity. The board could recommend extensions of payments or moratoriums in cases which appear to be meritorious. In many cases, the applicant has reached an age where it is difficult for him to obtain employment but other members of the family are perparing to enter the industrial field and can carry on the obligation if given time.

As a taxpayer I have no desire to participate in any movement to provide homes for thousands of people gratis. However, I do believe that it is extremely difficult for the persons charged with the administration of the Home Owners' Loan Act to personally inquire into each and every individual case. An investigation into the human side of the picture as well as the credit possibilities would be advisable and

helpful not only to the home owners affected, but to the Corporation itself. Other agencies of the Government have set up boards for purposes of reviewing appeals, such as the Veterans' Administration and the Civil Service Commission—the home owner should be afforded the same privilege as the veteran and the Government employee.

The "Red Rider"

EXTENSION OF REMARKS
OF
HON. JOHN W. McCORMACK
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 2, 1937

LETTER FROM HON. ALFRED N. PHILLIPS, JR., OF CONNECTICUT, RELATING TO THE AMENDMENT OFFERED BY HON. JOHN W. McCORMACK, ON THE SUBJECT OF THE SO-CALLED "RED RIDER"

Mr. McCORMACK. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letter:

FEBRUARY 10, 1937.

EDITOR, WASHINGTON POST,
Washington, D. C.

DEAR SIR: I feel impelled by a New England habit of "sending a letter to the editor" to address you.

Also, over the years some of us Democrats in Republican parts of New England have found it necessary from time to time to "write the editor" to keep the record straight. Hence this letter.

In your editorial of Wednesday, February 10, on the subject of the so-called "red rider" as affecting the District schools, you state this:

"The House was overcome by fear that a repeal vote would be misinterpreted by the people 'back home' as evidence of sympathy with communistic doctrines. Hence the majority voted for a modified repeal that is hardly less offensive than the original Blanton rider. The proposed compromise still casts a reflection upon the patriotism of the teachers. * * * The House showed moral cowardice in failing to vote for outright repeal."

To keep the record straight, I doubt very much whether anyone who voted for the McCormack amendment voted because of any fear of any consequences whatsoever. I certainly voted for it because I believed in it.

Surely any fair-minded person feels that our children and everybody else should be acquainted with the facts regarding the communistic form of government, if there are such facts to be brought forward today. However, now when various breeds of communistic cats are fighting in the same back yard over the tenets of present-day communism, it is hard to tell just what communism is. On the other hand, everyone who believes in our system of government must realize that it might be hurtful to it if those who believe in its overthrow by force were allowed entire freedom in expounding this doctrine. With this conviction, I for one, as a new Member here and without any past prejudices voted for the McCormack amendment, the amendment allowing the teaching of the facts of communism but not allowing its advocacy. I voted thus without any fear of anybody or anything except the fear of being untrue to my own beliefs were I to vote otherwise.

Americans must favor freedom of the press. However, I think that it is about time that newspapers stopped throwing mud at public officials with whom they disagree, charging them with base motives of one kind or another simply because these officials follow their consciences and act on public questions as their consciences lead them to act. If this is "cowardice", make the most of it.

Also I fail to see that any aspersion is cast on the patriotism of the school teachers in the District by the McCormack amendment, because it places upon them an obligation not to allow the advocacy of the overthrow of the Government of the United States by force. If so, then, as I see it, an aspersion is cast on the President of the United States and Members of the Congress because they are asked to take an oath of office in support of the Constitution of the United States of America.

In your editorial you state that "Unless the rider can be erased from the statute books, in its entirety, it would be better to retain it in the present outrageous form." Therein you raise another very important point, which I don't believe has had enough emphasis, although it was brought out in a debate on the matter in the House the other day. That point is this: The "red rider", having been written into the law, cannot be erased literally anyway. There it is, and there it has been, for better or worse, and this cannot be overlooked.

If the so-called "red rider" had never been written into the law in the first place, some of us who voted for the McCormack amendment would have voted against it had it been introduced in the first instance not as an amendment to existing legislation but as an original piece of legislation on this subject. However, we were faced with the fact that the "red rider" was law. Hence, as some of us viewed it, an outright repeal of the "red rider" might have been deliberately taken and twisted by subversive elements in the population of the United States as public notice and license to engage in activities directed toward the overthrow of our Government by force. Feeling that we did not wish to lend countenance to this, yet that we did wish to do away with the un-American repressive spirit of the original "red rider", and facing actual facts of government and men and events, and not the theoretical "blueprints" thereof, we voted for the McCormack amendment.

Frankly, I feel somewhat presumptuous as a new Member of Congress in addressing you. However, the new point of view of someone coming into the municipal picture here without his mind being cluttered up by past prejudices may prove of value. At any rate, as stated above, I believe that the record should be kept straight. Hence, again, Mr. Editor, this letter.

Very sincerely,

ALFRED N. PHILLIPS, Jr.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. HENRY F. ASHURST
OF ARIZONA
IN THE SENATE OF THE UNITED STATES
Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. M. M. LOGAN, OF KENTUCKY, ON MARCH 2, 1937

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a radio address on the subject of the proposed reform of the judicial branch of the Government delivered by the junior Senator from Kentucky [Mr. LOGAN] on Tuesday evening, March 2, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Before making up my mind whether I would support the recommendation of the President for reforms in the judicial branch of the Government, I gave the problem the best thought of which I am capable, based upon such knowledge as I have accumulated on similar questions. My first impressions were that the recommendations were inopportune, but my investigation and consideration have convinced me that the matter is one of urgent need.

We find lined up against the proposal those who are now, and have been, against the President in all of his efforts to promote democracy in the Nation. They are a powerful group, capable of exerting great influence. The members of the bar are another important group opposing the program. Lawyers are conservative by training, and in addition those that pay the best fees are those who are against extending the powers of the Government. The greatest surprise I have had is the failure on the part of the legal profession to define the issues. They, above all others, know that an issue must be joined before there can be a trial. Many seem to think that the proposal is an attack on the Constitution, and, if it is not an attack on the Constitution, it is an effort to limit either the jurisdiction or the power of the Supreme Court. As this is not true, no issue is joined there. The proposal, if enacted, would take no jurisdiction or power from the Supreme Court. It would transgress no provision of the Constitution. Therefore, to those who argue that such legislation would limit the jurisdiction or power of the Supreme Court, or would be violative of some provision of the Constitution, I must say—and they will recognize the truth of what I say—that there is no way to answer their learned arguments on this point, as their arguments are directed at an issue which has not been made and to things that are irrelevant.

Others advance the argument that the proposal is new, or that it is without precedent, or that it is an attempt to evade well-settled or established principles of constitutional law. Again the argument is irrelevant, as there cannot be an issue on this point. When the Constitution was made it was left to Congress to determine the number of the Justices of the Supreme Court, and it has done so from time to time. I believe the number making up the body has been changed six times by legislation. It is a perfectly orderly procedure that has been resorted to in the past.

Another argument advanced with great vehemence is that the President seeks to establish a dictatorship. If the issue is joined there, the burden must be on those who advance the argument to sustain it; and, of course, it cannot be sustained because it is wholly without foundation. I know the President and his motives better, I believe, than many of those out in the Nation who make the charge of dictatorship. In my judgment, after

the most careful investigation, he is attempting to prevent a situation which might result in a dictatorship. We must not forget that the Nation was ready for anything in the winter of 1933, with farmers rebellious, laborers without work, factories closed, transportation systems paralyzed, banks and other financial institutions unable to function, and the people in a state of mind unable to think for themselves. The President, by bold and skillful actions, removed such conditions and has brought prosperity to the Nation. This was done through a series of laws enacted by the Congress, with which you are all familiar. If the principles which brought the country out of the depression cannot be pursued further, it is evident, to my mind at least, that within a short period, perhaps less than 2 years, the country will be in as bad condition as it was in the winter of 1933. It could not be saved again, as the credit of the Nation has been used up in a large measure, and with the prevalence of such conditions disaster would come, out of which might develop a dictatorship. This the President seeks to prevent, perhaps in the only way that it can be prevented—that is, a legal and constitutional way that has been tried in the past.

The suggestion is made that the proper course to pursue is to resort to constitutional amendments. Those who oppose the President, and who profess to be the greatest friends of things as they are, are proposing constitutional amendments that would limit the jurisdiction of the Supreme Court and restrict or destroy its powers. I am against any proposal that interferes with the power or jurisdiction of the Supreme Court; and, in my opinion, it should have the same right in the future that it has had in the past to declare unconstitutional any act of Congress or a State legislature that may violate the Constitution. If an amendment should be proposed to clearly define the line of demarcation between jurisdiction of the Federal Government on one side and the States on the other, it would require years to secure its enactment, if it could ever be agreed upon by the Congress. It would perhaps go too far, or not far enough, and while I would favor a constitutional amendment that would more clearly define such line of demarcation, I am quite sure that it could not be adopted in time to save the Nation from serious harm, if not total annihilation.

There are those in the Nation, and many of them, who are opposed to the powers of the Supreme Court that are now vested in it. The number of those, if not now a majority of the Nation, may soon reach it, and the President has suggested the only feasible plan of saving the Supreme Court from the attacks which are now looming large on the horizon. The leaders of that group, in Congress and out, with few exceptions, are opposing the President's program because, in my judgment, they believe that if it should be carried to a conclusion, it will allay the feeling against the Supreme Court and that it will prevent their carrying out their intentions of placing our Nation among the group of the great nations in the world which vest the power to determine constitutionality of acts in the legislative body. In other words, they would have the same rule that prevails in England, France, Italy, Switzerland, Japan, Germany, and Russia—to mention only some of the great nations—prevail in our own Nation. We must not forget that aside from four of the dominions of Great Britain and Brazil, Argentina, and the United States there appears no other nation where the power to review legislation enacted by a Congress is allowed. The Tories and the extreme Liberals have joined hands in seeking to prevent this legislation, but their objects in doing so are as far apart as the poles.

Many suggest that the legislation would interfere with the liberties of the people, and again I say no issue can be made there. Then where is there an issue? There is one, and the burden is again upon those who make it, that enables me at least to treat as something worthy of consideration. It is charged that the President desires to pack the Supreme Court so that he may obtain from it opinions upholding his political views. I meet that issue squarely with the statement that it is not true. It is my deliberate conclusion that the President has no such thought in his mind, and, if he should attempt it, he could not pack the Court. Perhaps it has been tried indirectly in the past, but history refutes the charge that the Supreme Court has ever been packed, and the history of the future will show, when it is written, that it is not possible to pack the Supreme Court. It could only be done with a corrupt Executive, a corrupt Senate, and a corrupt appointee. Such condition does not now, and never could, exist in America. If I had time, I could mention instances where appointments have been made by a President, perhaps believing that the appointee was in accord with his political views, but he has often met with disappointment when the time came for the Court to act. It is a vain thing to say that political, social, and economic conditions have nothing to do with making these appointments. That has always been considered by Presidents and Congresses.

A law similar to that which has been recommended by the President was enacted in 1919 and applied to all Federal judges except those of the Supreme Court. At the same time, retirement privileges were granted to all members of the Federal courts except the Supreme Court. No one, of course, can point out any reason why the same provision should not apply to the Supreme Court as to other Federal courts. May I gently ask if the reason the Supreme Court was not included in that legislation grew out of the fact that Mr. Wilson, the President, had lost control of the Congress in 1919, and if a retirement act had been passed, or if he had been given power to appoint an additional judge for each who had passed the retirement age, Mr. Wilson may have exercised that authority, and Congress did not desire him to do so? If such was the case, it was purely political. It may be true that if Mr. Hoover had been elected President in 1932, or if Mr. Landon had been elected in 1936, vacancies would have been made voluntarily by members of the Supreme Court. If such had been the case, the motives would have been purely political. Certainly it is no worse for Congress to desire an appointment to the Supreme Court for political reasons than it is for a Justice who ought to retire to remain on the Court for political reasons.

Last fall the people endorsed, almost unanimously in the electoral college, and by the greatest majority known to history in the popular vote, the policies of the Roosevelt administration. The President would be unfaithful to his trust if he did not seek to do what the people have directed him to do, if he can carry out their mandate in a perfectly legal manner. No writer on constitutional law, or on the Supreme Court, or the Federal judiciary, has ever denied that political, social, and economic principles should be considered in making appointments to the Supreme Court. Even Mr. Warren, in his splendid book, The Supreme Court, specifically states that such considerations should enter into the appointments. If the Supreme Court does not fairly represent a cross section of the whole country so that all questions may be considered in the light of political, economic, and social views as applied to constitutional provisions, is it a crime to insist that additional members, or new members, should be appointed so that there might be a fairer consideration of those questions which affect the very existence of the Government? The President's program, if carried out, would do no more than to have new Justices on the Supreme Court who would sincerely, honestly, and intelligently examine into all questions and ascertain, if possible, whether the Court, as it now exists, has departed from the opinions of Marshall and his Court and Taney and his Court.

Have my brethren of the legal profession forgotten that the President is asking no more than that the Constitution should be interpreted as the great Marshall and the great Taney interpreted it? For more than 50 years in the formative period of our Nation the Supreme Court consistently held that the implied powers in the Constitution gave to the Congress the power to enact legislation on social, political, and economic questions which could not be controlled by the States, and which were necessary to maintain our national existence. During the War between the States, and for 20 years thereafter, the Supreme Court had no definite policy worth mentioning about the interpretation of the Constitution. But another period commenced about 1885, and since that date the Court, or at least a majority of it, has completely departed from the interpretation of the Constitution placed upon it by Chief Justice Marshall and the other great jurists of his day. The Court was attacked continuously for upholding laws of Congress. Now it is attacked for holding laws of Congress invalid.

As I see it, after going into the matter as carefully as I can, the President is asking for one simple thing, and that is that if the aged members of the Supreme Court do not retire, he be given authority to appoint additional members—not for the purpose of packing the Court but in order that important questions may be considered—so that the Court may finally determine whether Chief Justice Marshall was right in the interpretation of constitutional provisions, or whether some of the members of the Supreme Court at this time are correct in placing upon that instrument a diametrically opposite interpretation.

Let me ask this question in conclusion: Why not have one Justice of the Supreme Court; why bother to have 6, 9, 11, or 15? The answer is obvious. All would say that so great power should not be vested in one man, but that he should have associates so that all phases of questions coming before the Court should be considered. If the Constitution could be interpreted by rule of thumb, we would only need one; but we need a sufficient number of Justices on the bench to insure a fair consideration of every point of view of the great questions coming before the Court.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. WILLIAM E. BORAH

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. ARTHUR H. VANDENBERG, OF MICHIGAN, ON MARCH 2, 1937

Mr. BORAH. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address

delivered by the Senator from Michigan [Mr. VANDENBERG] over the radio last evening, March 2, on the proposal of the President to reorganize the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I am speaking tonight against the startling proposal to force the immediate appointment of six new members of the Supreme Court of the United States. No matter what its purpose, and no matter how nobly meditated, the effect would be to control the Court with judges reflecting the Presidential point of view. This, in effect, is equivalent to Presidential control of constitutional interpretations in a Court which must not be subordinated in any other branch of the Government if the essential checks and balances of the American system shall persist to guard our freedoms.

It is not an unconstitutional action within itself. But it would achieve by indirection a concentration of executive authority that is repugnant to the basic theory of American institutions. It is not enough to plead in extenuation that this sort of thing in infinitely lesser degree has been done a few times in earlier history under totally different and unrelated circumstances. That begs the question, because it would simply prove how dangerously a lesser precedent, if bad, may be used subsequently to support a larger invasion. One day by such process our indispensable checks and balances would disintegrate entirely. That day ends liberty.

Thus we confront a nonpartisan challenge which deserves the nonpartisan consideration of all citizenship. It has nothing to do with political parties. To play politics under such circumstance is to toy with treason. Distinguished and loyal members of the President's own party disagree with him in the present instance. It has nothing to do with true liberalism. Distinguished liberals, whose social objectives enthusiastically parallel the President's, dissent from the present scheme. The problem is solely one in the preservation of American fundamentals. Shall this continue to be a government of laws and not of men? Shall the expansion of a dangerous precedent threaten in its lengthened shadow the free spirit of our institution? Shall basic changes in the American system be made only by the people themselves?

I wish to discuss the subject on the broad basis of a text from the great Farewell Address of George Washington, the Father of his Country, whose birthday we recently celebrated. I know of no better way to acknowledge his memory than to cherish his wisdom when he said:

"If in the opinion of the people the distribution or modification of the constitutional power be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial benefit which the use can at any time yield."

In the light of this crystal-clear admonition, I am unable to believe that if Washington were here he would not reiterate his warning in respect to the proposition which now confronts his country.

First, let us briefly consider the disingenuous reasons that have been urged, on the surface of things, in behalf of the retirement of 6 out of the 9 sitting Justices of the Supreme Court; or, in the absence of their willingness to resign, the immediate increase of the Court to 15 through the addition of 6 more Justices to balance their alleged infirmity. If the reasons are not persuasive, then we shall be driven to the conclusion that the real purpose is to control the Court. Let us see.

It is said that overcrowded Federal dockets prove the need for additional judges. This may be true in some minor jurisdictions, although it may be noted even in this field that eight vacancies in existing judgeships have gone unfilled for the better part of a year. But in the major jurisdiction this administration's distinguished Solicitor General, officially reporting on the last full term of the Supreme Court, said that "every case argued or submitted at the term was disposed of before adjournment", and the administration's distinguished Attorney General declared that "there is a decrease in the total number of pending cases * * * and in each class of cases." The fact seems to be that the present Supreme Court has made a completely enviable record in the dispatch of its business and in the clearance of its calendar. It is wholly abreast of its work. Thus the argument of "the overcrowded docket" loses all authority when it collides with the facts in respect to the Supreme Court. The first reason for change becomes a mere excuse.

Then it is said that full justice is hampered by the dismissal of 87 percent of the appeals to the Supreme Court by private litigants without hearing—pursuant to an act of Congress seeking to short-circuit minor private litigation not mounting to the dignity of a Supreme Court appeal. Therefore, it is said, we need more judges and less short-circuiting. But again this administration's own Solicitor General emphatically defends as necessary and justifiable this exercise of wise discretion in refusing to review unwarranted appeals and even urges greater limitation upon such process. All weight of opinion falls heavily upon this side. So the second reason joins the first in the realm of fantasy.

But, it is said, eligible wisdom automatically ends at 70, contrary to the proverb that "at the root of every gray hair is a well of wisdom." It is said that "new facts become blurred through old glasses." Elder statesmen are not to be trusted in a changing world. At 70 utility is done. This is denied within the record of the Court itself. One example—Mr. Justice Holmes, retiring at 91, was hailed without dissenting voice as possessing greatest vision in his latest years. Another example—the oldest member of the Court today is one of its youngest in terms of industry and liberalism. Meanwhile the story of the world is rich with refutation. Literature, art, science, commerce, and government itself owe some of their greatest debts to patriarchs whose defiant maturity multiplies the proofs that the gulf stream of youth need not run cold in the arctic circle of the years. If you can imagine turning Benjamin Franklin, with his ripe eighties, out of the Constitutional Convention of 1787, you can imagine a convention which probably never would have written the Constitution at all. Our own Senate, at the moment, numbers among its greatest figures, whom the country could ill spare, those who long since took 70 at full stride. No; it is impossible to sustain the contemplated rule on such a score. Indeed, the proposal inherently confesses its own camouflage because, under its literal terms, all six of these proposed new Justices could be 69 and could serve until they are 79.

The candid analyst is driven to one inevitable conclusion which is now quite generally conceded. There is no reason why the issue should longer be disguised. The Supreme Court has not been interpreting the Constitution of the United States to the satisfaction of the President and what he and many others deeply believe to be the national necessity. If it had, the proposal never would have appeared. He wants a change of interpretation, even though the Court, including all of its so-called liberals, was unanimous in the most far-reaching of its proscribed opinions. The change of interpretation is not sought through a constitutional amendment which would permit the people of the United States to decide for themselves whether he is right or wrong. It is sought through a change in Supreme Court personnel.

Thus is the historic issue joined. It involves, in my view, the basic theory upon which the Government of the United States is built. It transcends politics and personalities. It calls for debate in the same spirit which produced the Constitution 150 years ago. Precisely the same values are involved. Precisely the same values are at stake.

All collateral suggestions for procedural reforms, proposed in this same connection, should be set aside for separate consideration. Some of them are axiomatic in their virtue. We all should want to facilitate constitutional appeals from lower courts. We all should want to lighten the cost of justice to the poor. We all should want to hasten the process of adjudication. But these things are wholly detached from the main issue of this "zero hour." They should not "blur our own glasses" through which we view the one paramount consideration. They are not involved in the plan or purpose to create six new Justices of the Supreme Court, simultaneously and summarily. That is utterly something else.

On the surface of things, the question innocently appears to be: Shall we retire superannuated Supreme Court Justices at 70? But in view of the manner proposed for their elimination, the real question is, Shall we retire the constitutional system at 150?

The lifeblood of the Constitution is its checks and balances against concentration of dynastic power in any one spot—its warrant that an independent judiciary, an independent Legislature, and an independent Executive each shall check the other. If the precedent be set that the Executive's grip on the Congress shall produce an equivalent grip on the Supreme Court, then the spirit of the Constitution languishes. This could produce a concentration of authority such as Europe calls by an ugly and unwelcome name; and we have no right to judge it short of its maximum authority, no matter how trusted the immediate administration may be and no matter how anxious many of us are for healthier and more equitable social progress.

You can never make a tyrant out of an independent Supreme Court which lacks a single power of affirmative enslavement, which is unable to initiate a single statute, which cannot even enforce its own decisions, and which is continuously answerable to Congress for its probity and virtue. But you can make any sort of a despot, suited solely to the appetite of a transient passion, out of either a Legislature or an Executive supreme above all things and above all men.

Madison and Hamilton said in the Federalist papers:

"An elective despotism was not the government we fought for, but one which should not only be founded on free principles but in which the powers of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limit without being effectually checked and restrained by the others."

This has been called the great American contribution to the science of government. It is the genius of the Constitution. It is the citadel of liberty under the law. It is the defense of minorities and individuals. It is the warrant of our democracy. Therefore, I repeat, it is not too much to say that any device which reaches for control of the Supreme Court—whether by the President or by Congress, and no matter how benevolently intended at the moment—is a device that can choke the life out of free American institutions. Hence, I also repeat, the question is less whether Justices should quit at 70; it is infinitely more whether the spirit of the Constitution shall quit at the end of a century and a half.

It would be ironical indeed if the same Congress which recently resolved to celebrate the priceless blessings of the Constitution's

one hundred and fiftieth birthday, through the agency of a highly honorable Commission headed by the distinguished President himself, should now authorize potential emasculation as an anniversary expression of its love and veneration.

It is impossible for the citizen to view this problem in accurate perspective except as he views it impersonally and objectively. This is not merely the decision of a moment. It is the precedent for generations to come. It is not enough that today's citizen may implicitly trust the present President. Twenty-eight million of them recently demonstrated this faith most conclusively. Who will his successors be? How do you know that you would trust them equally or at all? If one President shall be allowed to increase the Supreme Court by six in order to gain a sympathetic attitude toward his conception of the Constitution, why might not his less-scrupulous successor add 10 more in order, perhaps, to reverse the verdict? Where shall such a process end?

The present President himself has warned: "We are creating instrumentalities of power which, in wrong hands, would provide shackles for the people." There's your danger signal out of his own mouth. An independent Supreme Court was created by the founding fathers to protect citizens against any perversions of power, at anybody's hands, which could ever "shackle" free Americans.

So, I respectfully repeat, it is not enough for those who by the millions deeply believe in the present President to approve what can be an ominous process simply because it is in his control at the moment. Upon another day it will be in the control of someone else. It is but a step from manipulation to complete contempt.

Almost as though the prescient authors of the federalist papers were looking 150 years ahead, these greatest and most authentic contemporary interpreters of the Constitution said:

"Considerate men of every description ought to prize whatever will tend to beget or fortify that temper in the courts; as no man can be sure that he may not be tomorrow the victim of a spirit of injustice, by which he may be a gainer today."

Listen to Daniel Webster on this same score:

"It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions, real or pretended. * * * There are men in all ages who mean to exercise power usefully—but who mean to exercise it. They mean to govern well, but they mean to govern. They promise to be kind masters, but they mean to be masters."

Let me carry the impersonal example further. Let me give you a layman's conception of the need for unrelenting vigilance. For the sake of the argument, let us eliminate all consideration of the fact that the present President is the author of the pending proposal and put aside all thought of him. Let us project the problem into the realm of speculation without any reference to the present President. Let us suppose that the curse of Europe one day comes to America and that we have some other and different President who thirsts for realistic dictatorship. Let us, for example, suppose, pursuant to the usual formula of tyranny, he wants to hamper, if not to kill, our freedom to worship God as we see fit. Because of his great political authority he forces a rubber-stamp Congress to some adroit but malignant legislative act which sharply invades this precious religious freedom. Where do you turn for your protection? Why, of course, to the Constitution. But the Constitution is inarticulate. It can do nothing for you unless it has a voice. Where is its voice? Why, of course, the Supreme Court of the United States. And the Supreme Court, reading the Great Charter rather than the election returns, then says: "No; this violates the Constitution; it cannot be the law." That stops the assault. But the fictitious President is a grimly determined man. He intends to have his way. He knows he could not get a constitutional amendment. The States would decline to ratify. What to do! Ah, that precedent of 1937! So he counts noses on the Court; figures out that another dozen of new and malleable Justices will turn the trick; and—lo!—pretty soon the thing is done.

Unlikely? Yes. Impossible? No; if you once embark, however gingerly, upon the road that leads to usurpation. Free speech, free press, free elections, free labor, free men—every cherished human liberty can be at the mercy of such a system. When you tamper with the Supreme Court you tamper with the Constitution's safety valve. It is not enough to infer that it has occasionally been done in some degree before. It is not enough that today's particular maneuver to control the Court may address an objective which you may aggressively approve. Tomorrow's objective, under different auspices, may address a purpose you abhor. The consequences of such an innovation are as incalculable as time and as vital as the spark of life itself.

The Constitution wisely protects us against such speculative hazard. It declines to leave us at the mercy of such events. There is only one right way to alter it or to control its interpretations if one wishes change. That one right way is through amendments acceptable to its sovereigns, and its sovereigns are neither Presidents nor Congresses nor courts; its sovereigns are solely and exclusively the people of the United States. When they really want an amendment, they recently have demonstrated they can get it as quickly as 9 months.

The amendment method is the constructive, democratic method. The usurpation method is the destructive, autocratic method. The amendment proposed by Senator BORAH is constructive and logical. The amendment proposed by Senators WHEELER and BONE—if they exempt the Bill of Rights from its jurisdiction—is constructive and wins my sympathetic consideration. But in any such event the Supreme Court would remain the Supreme Court and the Constitution would remain the Constitution and America would remain America.

Men sitting as judges of the Court may err. Each one of us upon occasion thinks they do. There is nothing sacred about their judgments and nothing wrong about a forthright effort to obtain different judgments in the due process of the law. Some of the greatest and most patriotic of Americans have not hesitated publicly to dissent from their opinions, usually taking care, however, to yield themselves to the Court's authority. But all this is beside the point. There is something sacred, so far as American liberties are concerned, in the system of constitutional checks and balances of which an independent and untrammeled Supreme Court is an indispensable part. It is this liberty-saving system which the act now pending would invade and undermine. It might leave the surface of the structure intact. But, like a termite, it could gnaw the vitals to destruction.

The mere fact that a Supreme Court decision may be contemporaneously unpopular bears no relationship to its constitutional virtue. Those who are inclined most vehemently to complain at one moment usually live to see some other moment when they whole-heartedly applaud. Thus, the great South, which originally was chief critic of the Court's alleged invasion of State sovereignty, turned to the same Court in reconstruction days and gratefully gained protection from it against an improper exercise of this same Federal authority. Thus, too, when labor unions were shocked in 1908 because the Court found that a boycott violated the Sherman Act, they could remember when "big business" was equally shocked when the same Court found that railroad pools were illegal under the same act. As for the self-serving notion that the Court, by close decisions, is constantly checkmating Congress, let it be noted by the searcher after truth that only 77 laws out of 25,000 have been declared unconstitutional in 150 years and only 11 of these decisions had as many as 4 dissenting votes.

Taken as a whole, and regardless of occasional lapses in popular confidence, the record of the Supreme Court of the United States is an amazing triumph of virtue, wisdom, vision, and equity. It is a profound achievement in human institutions. It is universally recognized as the greatest judicial tribunal in the world. It has been the indispensable balance wheel of our democracy. When it speaks it does not speak for itself. It speaks for the Constitution and the Bill of Rights, and sometimes it speaks when other tongues are silent. It has no right to take its orders from any source except the Constitution; and the orders of the Constitution can be changed only by the people in their several States. Any other process, any effort to alter this formula except by direct popular authority in the manner which the Constitution itself prescribes, potentially jeopardizes the individual liberty and the civil rights of every man, woman, and child under the Stars and Stripes. No expediency, however benevolent its auspices, can justify such risks, particularly at a restless moment when human institutions all around the globe are in a state of dizzy flux and when democracy in our own beloved America is definitely on trial.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. M. M. LOGAN

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

ARTICLE BY HERBERT AGAR

Mr. LOGAN. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Mr. Herbert Agar, published in the Louisville Courier-Journal of March 1. The article relates to the President's proposal relative to the Supreme Court.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Louisville (Ky.) Courier-Journal of Mar. 1, 1937]

TIME AND TIDE

By Herbert Agar

THE SUPREME COURT CRISIS—A SUMMARY

In a recent column I wrote that the President's plan for reforming the judiciary "is neither radical, nor unprecedented, nor tricky, nor dictatorial, nor a threat to the Constitution." Today I wish to give some of the reasons for this flat statement.

The President's plan is not radical. In the first place, the method is not radical. It does not involve the introduction of

any new principle into our method of government; neither does it involve any sudden or startling shift in the use of an old principle. The proposals made by the President fall wholly within the limits of accepted constitutional procedure.

In the second place, the aim of the President's plan is not radical. It leaves our form of government untouched. It does not alter the balance between the judicial department and the other departments. It does not alter the power of the Court to act as a check.

But there is a difference between a check and a total obstruction. Of late years the Court has been the latter. If the obstruction were allowed to remain permanently in place, defeating the people's desire for New Deal policies throughout the whole of Mr. Roosevelt's 8 years, an explosion would follow.

The President has found the wisest and the most cautious way of diminishing the obstruction without altering a single feature of our Government.

The President's plan is not unprecedented. The number of the Justices of the Supreme Court has been altered many times before, and for many reasons. The number was changed from seven to nine in the 1830's, "in order", as Professor Corwin writes, "to water down the remnants of the old Marshall bench."

Lincoln created a tenth Federal circuit, with a tenth member of the Court, in order to diminish the danger of adverse decisions from the Court over which Roger Taney presided.

And Grant made two appointments for the deliberate purpose of securing the reversal of a Supreme Court decision. And he got exactly the reversal he wanted.

The President's plan is not tricky. I have dealt with this charge in a previous column and will merely repeat that the President was not trying to fool anybody. From the beginning it was perfectly obvious what he was trying to do and why. From the November night when the last election returns came in it has been perfectly obvious he would have to do something—obvious that the American people had demanded that the New Deal should prevail.

And there is nothing tricky about the method suggested by the President. The only trick to it is that it will work, which is precisely why the President's enemies are filled with such undignified rage.

The President's plan is not dictatorial. It is not a substitution of personal government for a government of laws.

The most personal, the most dictatorial, element that has ever existed in our Government is exemplified by the recent behavior of the Supreme Court. The majority of the Court has in fact read its own social and economic views into our Constitution. It has turned the Constitution into one of the most powerful weapons of reaction that our country has ever seen.

There is nothing in the Constitution that compelled these five men into this dangerous course—a statement which is amply proved by the fact that sometimes three, sometimes four, of their fellow Justices have read the Constitution in quite another fashion.

It is precisely such refusal to treat the Constitution as a living document, to recognize the popular will or the problems of today, which breeds desperation and dictatorship. By suggesting a plan for bringing the Constitution back into touch with life, the President has struck a noble blow for the preservation of our Government by laws.

The only basic difference between the Supreme Court which the President hopes to see and the Supreme Court existing at the moment is that the new Supreme Court will be in touch with the century in which it happens to be living. This is no threat against our form of government. It is merely a way of showing that our form of government deserves to endure.

The President's plan is not a threat to the Constitution. It is clear that any written Constitution must possess the power of growth and of subtle adjustment. Our Constitution does possess this power, if it is allowed to exercise it.

There are two ways in which our Constitution can grow—by amendment and by interpretation. The method of interpretation has been much the most common way in which we have altered our Constitution to meet changing needs. It is also much the safest way.

Sometimes a reinterpretation has followed on a clear expression of popular demand—which is what Mr. Dooley meant by saying that the Supreme Court follows the election returns. Sometimes a reinterpretation has come because the election of a new President and new Senators has led to the appointment of Justices with a new point of view. In the last few years, however, neither of these methods has worked.

The present Supreme Court does not appear to be aware of election returns. Neither does it seem subject to the Biblical span of life. If several of the Justices had resigned, or if they had moved to a better world, the present crisis would not have arisen.

But the preservation of the American form of government should not be left to chance. The lucky longevity of a group of judges must not clog up our entire Government machinery, preventing our Constitution from functioning as the subtle instrument it was intended to be.

The President's plan would free our Constitution from a deathlike rigidity, meanwhile preserving the advantages which may come from having some Justices of great age and experience.

The President's plan is one of the most statesmanlike of his acts, and will in the end prove one of the most popular.

The Supreme Court

EXTENSION OF REMARKS
OF
HON. CLYDE L. HERRING
OF IOWA
IN THE SENATE OF THE UNITED STATES

Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. PRENTISS M. BROWN, OF MICHIGAN, ON MARCH 2, 1937

Mr. HERRING. Mr. President, I ask unanimous consent to have inserted in the RECORD a radio address on the subject of The Supreme Court, delivered by the Senator from Michigan [Mr. BROWN] on March 2, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, the Supreme Court controversy is before the Congress and the American people. As a Senator from the State of Michigan, it will be my duty in the near future to aid in deciding the issue. The vote will be close. Many Senators have already taken a definite position and they seem to be fairly equally divided. Many have preceded me in this forum. I believe I am the first to speak from the group, roughly, about a third of the Senate, who have not committed themselves and whose minds are open on the question. This group will cast the deciding votes in this great contest.

When the issue was brought to the fore by the President's message of February 5, this year, I determined that I would thoroughly analyze it, get the full benefit of congressional, newspaper, and public discussion; keep an open mind on the subject, at least, until near the close of the great debate. I do not know what the purpose of congressional debate is if it is not to aid a Senator in coming to a decision that is best for the country. In the trial of a law suit we charge the members of a jury to wait until all evidence is in before making up their individual minds. The Senate is divided into three groups—advocates pro and con, and those who, like myself, seek all light possible on the right way to solve this problem for the best interests of the American people.

I am not without strong convictions on this subject. I agree with most of today's temperate criticism of the Court. I am frank to say I think the Court has, in many instances, exercised not a judicial but a veto power. The economic and political views, not the clear legal issues (I admit they are often intertwined) of the judges have too often, unconsciously, controlled them. Too many judges have been taken from the ranks of big business and have projected their conservatism in defense of property and privilege into the judge-made law of this country. I think the Court has tortured the fourteenth amendment, intended as a protection to the colored man, into a meaning never intended by its authors or the people that ratified it. This gives rise to most of the just criticism of the Court today. The Court's consistent stand against the general-welfare clause of the Constitution, as shown by its striking down of liberal legislation, as to child labor, minimum hours and wages, agricultural aid, and many other progressive measures, is largely based on contorted meaning read into the simple language of the fourteenth amendment and the commerce clause by reactionary legalistic minds.

With the general statement that the Supreme Court is the guardian of the liberties of the little fellow, I cannot agree. Unless the little fellow whose liberties have been violated has quite a few thousand dollars to pay the heavy expense of at least three Federal proceedings, including a trip to Washington, his liberties will not be preserved by the Supreme Court. The Court can in the very nature of things only hear those matters which well-financed litigants bring before them. It is true that now and then some powerful organization interested in one particular activity will take up a Scottsboro case; and that incidental relief is sometimes given by analogy to a determined cause, but the average citizen with a moderate income is without recourse to the Court because of the prohibitive cost.

Stripped of its immaterial incidentals, the President's view is that the great liberal reforms of his administration, conclusively approved at the polls last November, will be blocked by a bare majority of the Court unless a change is made. On the other side, it is vigorously contended that the Executive should not be permitted to change the complexion of the Court so that his will and that of Congress should be forthwith imposed on the Court, and a most dangerous precedent thereby established. The first deals with the substance of legislation; the latter with the form of government. None can deny the great importance of both views. The one is concerned with a prostrate agriculture, with women working long hours in industry, with men subjected to the

rather cruel "freedom of contract clause" of the Constitution, with a public distressed and workmen out of jobs because of the inability of government to function through some form of arbitration. The other is desirous of keeping the form of government and the protections and assurances of constitutional liberty to the citizen that have certainly aided in making this country great and prosperous over the century and a half of its existence.

The entire issue is complicated by the fact that the judges of a court are human, subject to human frailties and impulses, to environment and class prejudice. The Court is uncertain, divided within itself and does not speak with the authority of unity. No stronger words of condemnation of the majority of the Court have been uttered than are found in dissenting opinions by the minority of the Court. If the question of constitutionality could be definitely and conclusively determined by some instrument such as a yardstick, or if every enactment subjected to the test could be laid upon the Constitution in some physical manner and the eyes of all enabled to see whether it was contained within the basic law, we would have no issue today. But, of course, it is not so. The law is at best an inexact science. It is not mathematical. Lawyers and court so often disagree that there is much truth in the statement that the opinion of the Supreme Court is merely the last guess.

But with limited constitutional government, with rights reserved to the States and to the people, we must have a tribunal to determine whether or not the legislature or the Executive have transgressed those limitations. In other words, we must have a Supreme Court. It must be independent. It must be powerful. I only wish it could always be right. That is too much to expect; let us say we wish it could more often be right.

From the tenor of my remarks up to this point you may well say, "Mr. Brown, you are about as vigorous as anyone in your critical views of the Court and yet you are not ready to agree with the President. What do you propose?" That is a fair question.

I cannot bring my mind to agree that the Executive, under authority from the Congress, should be given the power to add six members to a nine-man Court with the obvious intent to change the views of the Court. I do not think it necessary. Certainly, if we recall the history of our country, we will find that major reform has often met with judicial challenge and has just as often overcome it. The Court placed its approval on a considerable extension of the rights of slaveholders by its opinion in the Dred Scott case. There is no such human slavery in America today. The Supreme Court blocked, by a 5-to-4 decision, a system of income taxes designed to more equitably tax our people (*Pollock* v. *Loan & Trust*, 157 U. S. 429). We have an income tax today. The Court stood in the way of humane national child-labor legislation by a 5-to-4 decision (*Hammer* v. *Dagenhart*, 247 U. S. 25. The dawn of the day when we may legislate nationally to protect our youth is near. Time forbids mention of others. Both public opinion and constitutional amendment operated to work these reforms. Public opinion can solve today's problem if given time.

Of all the proposals to settle the issue I like that of Senator NORRIS best. It imposes on the Court a rule of constitutional determination that the Court has always approved, but seldom followed. The rule is that a law passed by a legislative body shall not be held invalid unless its invalidity is beyond all reasonable question. It is based on the fact that a legislative body, as well as a court, has some conception of the constitutional limits placed on it. It is well expressed by a noted law writer as follows:

"Every presumption is in favor of the validity of an act of the legislature, and all doubts are resolved in support of the act * * *. The unconstitutionality must be clear or the act will be sustained" (Sutherland on Statutory Construction, sec. 82, Lewis, 2d ed.).

It is somewhat, not entirely, analagous to the rule in criminal cases that a jury must, to convict, unanimously agree that the defendant is guilty beyond reasonable doubt. Every intendment is resolved in favor of the validity of a statute.

When three or four out of a court of nine vigorously contend a law to be within the Constitution, surely the other five should not say that the invalidity is beyond question. The Court should have long ago adopted a rule of determination which would require a judge to say in substance, "My own view is that the law is not within the power of Congress, but several of my brothers on the bench find that it is within the power of Congress. Because of their opinion, which I respect, a reasonable doubt arises in my mind. I, therefore, am constrained by the rule of constitutional construction to hold the law valid."

I favor an amendment requiring that a law enacted by Congress and signed by the President shall be held to be valid if two of the Supreme Court judges affirmatively hold it to be within the power of Congress. I favor submitting it by the speedy convention system used in the prohibition repeal amendment. The twenty-first amendment was submitted by Congress February 20, 1933, and was ratified December 5, 1933, by the necessary States. It took 10 months.

The basis of the President's proposal, namely, that older men tend to look backward, that they have passed the time when with confidence they can cast adrift from old moorings and sail out into new conceptions is manifestly true. The fact that a thousand instances can be given of aged men accomplishing great things does not belie the general truth that youth is bold and venturesome, age timid and overcautious.

I want to support my President. He is the leader of my party and the leader of the Nation. I agree with his condemnation of the present situation, but I have not yet brought my mind to the conclusion that his solution is the right one. I confidently believe that out of the turmoil and strife in which we are now engaged a compromise solution will come.

Let us not forget that time, inexorable time, marches with the liberals today. A few aged men cannot long stay that march. Let us maintain the separation of our governmental powers. Let us refrain from tearing down the Court because we disagree with some of its members. Let us distinguish between the Court and the men who but for today, a brief today, are its members.

I refuse to view this issue as a supreme crisis in America. If the bill passes, we will have a Court seven of whose members were appointed by Republican Presidents, and eight of whom have been or will be appointed by Democratic Presidents, not an unfair division on the political basis of today. If it does not pass, public opinion and compromise will find a solution.

Our very natures lead us to violent and bitter debate, our American predilection to overstatement is again manifest.

Whether this bill is voted up or down, America will survive.

I have the idea that courts and constitutions, Presidents and parliaments do not make or unmake America. Our people, made up largely from bold, venturesome, and dissatisfied peoples of Europe, built a new nation here in a land blessed in a material way as no other land is so blessed. The solid, sound sense of our people, their mutual satisfaction with the larger life enjoyed here, and their century and a half of successful democracy—these are the stuff and sinew of America. It is not the form, it is the substance of our democracy that assures the success and the life of the Republic.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. EDWARD R. BURKE

OF NEBRASKA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. BENNETT CHAMP CLARK, OF MISSOURI, ON MARCH 1, 1937

Mr. BURKE. Mr. President, on Monday evening last an able and interesting address on the proposed reform of the Federal courts was delivered by the senior Senator from Missouri [Mr. CLARK]. I ask unanimous consent the address may be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen of the radio audience, the issues raised by the historic message of the President demanding of the Congress the complete revamping of our whole judicial system are among the most momentous in the Nation's history. Reduced to bare bones, the issue is this: Has the time come in our national life when the Congress, upon the demand of the Executive, shall attempt to subvert the judicial branch of the Government, packing the highest tribunal with reference to particular litigation and a particular situation and thereby to all intents and purposes destroying forever the national policy of adhering to a written constitution, with a well-defined system of checks and balances and definite limitations upon the various agencies of government? To my mind, a belief in the affirmative of this proposition is the only ground upon which so violent a proposition as the sack of the Supreme Court can be justified.

Let me say at the outset that I believe that the issues involved in this proposal are so weighty, their determination is of such vital consequence to the present and future well-being of this Republic and to the perpetuity of our institutions—the ultimate refuge of free government upon this earth—that the discussion should be conducted upon the highest possible plane. These issues transcend partisanship, sectionalism, personalities, the interests of any particular class or clique of our citizens or the political ambitions or, indeed, the political survival of any man or set of men in our national life. Vituperation, personal abuse, or personal appeals, the imputation of improper motives, can only serve to becloud the essential issues. On an issue of this magnitude to waste time in suggesting improper motives as to those of contrary convictions simply evidences an unwillingness or inability to think the question through and face the proposition on its merits.

The President, the Members of the Senate, and the Members of the House of Representatives, whose duty it will be to determine the matter are all sworn upon their solemn oaths. Twice in the United States Senate, five times in the United States Army, three times before in civil life, I have held up my right hand and taken this oath: "I do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic, that I will bear true faith and allegiance to

the same, that I take this obligation freely and without any mental reservation or purpose of evasion in me whatever, and that I will well and faithfully perform the duties of the office upon which I am about to enter, so help me God."

I concede to the President and to those who agree with him in the Congress the purity of motives and the devotion to duty which this solemn oath requires; I demand for myself and my colleagues who agree with me the same presumption that we are striving to our uttermost upon our oaths of office to accomplish the best that may be done for the safety and well-being of the Nation. I believe that it is not only the right but the duty of any citizen in the country to form an opinion upon this great question and to make it articulate in any way at his command. But I plead with my fellow citizens to see that the essential issues shall not be lost sight of in personalities or partisanship, in charges or countercharges, in coalitions of organized minorities, in government by prejudice and propaganda. That way lies destruction and chaos.

Any essential proposal from the President of the United States (any President) is entitled by reason of his great office to the most careful and deferential consideration by his fellow citizens and more particularly by the Members of Congress. This is especially true in the case of such a man as Franklin D. Roosevelt, who by reason of his own achievements and the overwhelming favor of the American people is today deservedly the undisputed leader of the American people. The just confidence of our people in this period of violence and rapine and dictatorship throughout the world has made him easily the foremost figure in the world today. But to freely concede the splendid purposes and high ideals of the President is by no means to agree as to either the necessity or the wisdom of his proposal to fundamentally change our whole governmental fabric to meet a temporary situation.

Of the integrity of his purposes and of his high ideals I have no doubt. But suggestions for changes of such vital and far-reaching importance should be carefully considered by the American people dispassionately and removed from the influence of the personality and charm of any man. Especially should this be true of the men and women who have equally with the President taken an oath to well and faithfully perform the duties of their office.

I have said and I believe that this question transcends all partisanship. But I cannot ignore the proposition, repeatedly urged by supporters of the plan for packing the Supreme Court that it is in pursuance of a mandate from the people, to wit, the sweeping popular and electoral majority returned for the President and the Democratic ticket in the November election. I deny any such proposition absolutely. No such mandate was received from the people for the all-sufficient reason that no such issue was submitted to the people.

By the favor of the Democrats of Missouri I was a delegate to the Philadelphia convention of 1936, which unanimously renominated President Roosevelt. I voted cheerfully and enthusiastically for the adoption of the Democratic platform when it was presented by Senator WAGNER as chairman of the platform committee, and I did so with the assurance that it met with the entire approval of the President and the intimation that the President had himself composed the most vital planks. I stood within 6 feet of Mr. John L. Lewis, who had supported Herbert Hoover in 1928, when he broadcast from the convention platform a paen of joy that a party had at last come forward with a declaration of devotion to a policy of economic and social reform even if amendment to the Constitution should be necessary. I applauded lustily at that memorable spectacle at Franklin Field when the President accepted his renomination in the eloquent and dramatic appeal in which he announced his acceptance and support of the whole of the platform, as, indeed, he should, since he had dictated its every jot and tittle.

We went to the country upon that platform. We joined issue with the Republicans and the Liberty Leaguers and all the forces of reaction, as well as the various dissenting forces of radicalism upon it. Upon the net results of the administration of President Roosevelt and upon the enunciation of principle in the platform we waged battle. In company with millions of my fellow countrymen, I thoroughly believed in that declaration of principle. I did not spare myself in that campaign. I was not myself a candidate, but I could not have worked harder if my own immediate political fortunes had been at stake. I was myself the official spokesman of my party at two conventions in my State. I made scores of speeches in various States, and in every speech, with the best intentions in the world, I drew attention to the particular pledge as to the means by which the Democratic program was to be effectuated. Here is the pledge:

"If these problems cannot be effectively solved by legislation within the Constitution, we shall seek such clarifying amendment as will assure to the legislatures of the several States and to the Congress of the Unted States, each within its proper jurisdiction, the power to enact those laws which the State and Federal Legislatures, within their respective spheres, shall find necessary in order adequately to regulate commerce, protect public health and safety, and safeguard economic security. Thus we propose to maintain the letter and spirit of the Constitution."

I carefully read every word that was uttered by the President in that campaign. By the kindness of the Democratic National Committee I was furnished with every bit of official literature put out from national headquarters, all of which I perused. I was sent the utterances of nearly every important official spokesman of the party. If any of them, from the President down, ever intimated such a measure as packing the Supreme Court, I never saw it. On the contrary, every spokesman of the party did precisely what I did—stood on the platform declaration and emphasized the difference in conditions in the Nation at the beginning of the Roosevelt administration and at its end. The charge that it was intended to pack the Supreme Court, advanced a few times by Republican or Liberty League orators, was either ignored or was indignantly repudiated by every Democratic spokesman who took the trouble to notice it.

The fact that a few days before the beginning of the present session of the Congress such eminent leaders as Senate Leader JOSEPH T. ROBINSON and Speaker WILLIAM B. BANKHEAD gave out formal statements declaring the necessity for constitutional amendments to effectuate the purposes of the administration is potent proof of the accuracy of my own observations as to our campaign pledges.

Therefore I say that the claim now that there is a mandate from the people for the packing of the Supreme Court is child's play. No such proposition was submitted to the American people in the last election, directly or indirectly. What the result would have been if it had been the issue in the campaign I will not now attempt to estimate. Certainly the whole complexion of the struggle would have been changed. On the issues submitted, what the American people expressed by their votes on November 3 was: (1) A sweeping approval of President Roosevelt and the net results of his administration, (2) a sweeping disapproval of the reactionary forces behind Governor Landon, and (3) a general approval of the Democratic platform.

Not by the farthest stretch of the imagination can it fairly be said that the American people expressed themselves in favor of changing our fundamental law by enlarging and packing the Supreme Court unless one holds to the doctrine, which the President himself would be the first to repudiate, that under our system a tremendous vote of confidence in a free country as a reward for a task nobly performed amounts to the equivalent of a ukase from the people "the king can do no wrong." Certainly on no other theory can it be conceived that the last election was a popular mandate for changing the Constitution by packing the Supreme Court. I know that millions who voted approval of our platform and for the reelection of our President had no such idea.

Stripped of excess verbiage and pretensions the issue is very simple, important as are its consequences and implications. In his message with his facile mastery of rhetoric and his charm of exposition, the President combines several subjects which had no real connection with each other. With the President's expressions as to the absolute necessity of insuring that the administration of justice shall be speedy and sure, I entirely agree as do nearly all of the people. I strongly favor the creation of all the additional judges which may be necessary to make certain that delays will be reduced to a minimum. I do not agree that there is any connection whatever between the age of the judges and the congestion in certain inferior Federal courts. The courts in which there is congestion unfortunately do not by any means coincide with the jurisdiction in which new judges would be appointed. Nor is age any test of liberalism of the judges. Some of the most reactionary in the United States are well below 60 and would not be reached by this measure, while some of the older judges are among the most liberal in their view of the law. But while the method proposed for the appointment of additional judges is neither the most logical nor the most scientific, it would add to the working personnel of the Federal judiciary available for duty where needed. I would gladly support such a measure and am sure it would encounter no serious opposition in Congress.

The proposal of the President for the appointment of a proctor to advise the Supreme Court in its advisory jurisdiction is a minor administrative matter to which there can be no serious objection.

The proposal to extend to Justices of the Supreme Court the privilege which has long been extended to other Federal judges of retiring at the age of 70 is of such obvious fairness that it has been adopted by both Houses of Congress by a substantially unanimous vote and is now in the hands of the President.

But these are the minor and really unconnected matters thrown into the proposal as make-weights. About them there need be no dispute. It has been conclusively demonstrated and admitted that there is no connection between any congestion in the lower courts and the packing of the Supreme Court.

Moreover, it has been conclusively proven out of the mouths of the Solicitor General and the Attorney General, as well as from the utterances of Prof. Felix Frankfurter, close adviser of the President and eminent commentator on legal matters, that the idea that age has impaired the vigor of the judges to the extent of interfering with the work of the Court is fallacy pure and simple. The Supreme Court is up with its docket, and it is nearly the only court in the Nation, Federal or State, which is. Matters properly coming before the Court may be speedily heard, and a decision may be had with a minimum of delay, usually at the same term of court. The refusal of the Court to take jurisdiction of cases under the extraordinary writ of certiorari is in pursuance of a policy deliberately imposed upon the Court by Congress, which determined that the time of the highest tribunal should not be occupied in reaffirming in private disputes principles of law often before announced but should be reserved for the proper exercise of its constitutional functions, for the coordination of decisions of inferior courts, and for the exercise of its supervisory functions over those courts.

That the age of the present Justices on the Court is not the real reason for the proposals but is in truth merely the basis for a temporary expedient for packing the Court for a definite purpose has now been nearly universally admitted even by the supporters of the measure. Mere age is not a test either of efficiency or

liberalism. Gladstone, who had in his youth been the "rising hope of the stern, unbending Tories", conducted his greatest fight as the leading Liberal in the world at the age of 80, and was the great Liberal Prime Minister of England at 89. The fires of liberalism burned as brightly in Jefferson at 80 as they had when he wrote the Declaration of Independence at 33.

Of the two greatest liberal jurists of modern times, Mr. Justice Holmes served with unimpaired vigor of mind until his ninetieth year and then voluntarily resigned, and Mr. Justice Brandeis, now 80, is still the brightest ornament of our judicial system. On the Court at the present time the oldest member is the outstanding liberal, while the youngest is perhaps the ablest spokesman for the conservative group.

With the complete explosion of the factual support set up for the proposed changes insofar as it applies to the Supreme Court, this basis of argument has been largely abandoned. The franker proponents of the change openly avow the purpose to stack the Supreme Court with regard to a particular situation and with respect to particular litigation now pending or soon to be pending before it and justify it on the ground that it is desirable that certain particular legislation be held constitutional, an argument closely akin in candor and logic to the plea of the defendant who justified himself for stealing a horse on the ground that he needed the horse.

As a matter of fact, an official White House statement tacitly abandoning the reasoning set forth in the President's message and the supporting letter of the Attorney General admitted that plans for changing judicial construction by enlargement of the Court were set on foot nearly 2 years ago as a direct result of the unanimous decision invalidating the N. R. A., in which Mr. Justice Brandeis concurred and in which the great liberal Justice Cardozo went distinctly further than his conservative colleagues.

This, then, presents the bald, naked proposition of the packing of the Supreme Court with regard to a particular situation and particular litigation. It presents in bold relief the question of whether we shall set the precedent of changing constitutional construction by violent means, which necessarily implies the end of an independent judiciary and the end of our constitutional system of checks and balances or whether we shall follow the system established by the fathers and acquiesced in until now of making changes in the fundamental law only by the processes set up by the Constitution itself by submission to the sovereign power—the people of the United States. In passing, it is only fair to say that any delay which has occurred with respect to the determination of the legislation of the last 4 years has not been due either to delay upon the part of the Court or of the adverse parties but by reason of the procedure of the Government itself. In one notable instance under the N. R. A., a case which had been selected by the Government as a perfect test case, was dismissed by the Government after it had reached the Supreme Court and immediately before it was set for trial and while I was in the act of introducing in the Senate a resolution calling upon the Attorney General to try the case and determine the question of the constitutionality of the act.

If the proposal to increase the Court were one of permanent public policy to be decided upon its merits and to put into effect gradually or at some day certain in the future I would have an entirely open mind upon the subject.

My objection is not so much to the increase in the size of the Supreme Court, although I deem so large an increase inadvisable. It is because it amounts essentially to abolishing the Supreme Court of the United States as it has existed since the foundation of the Republic and the setting up of a new tribunal in its stead with reference to a particular situation and particular litigation. The conclusion is inescapable that to increase the Court at one time by the addition of two-thirds of its present membership is to pack the Court for a specific purpose.

It would mean the end of an independent judiciary in this country as we have always known it. In my judgment it would be better to have no judicial branch of the Government at all than to have a pitiful shadow of one, subservient to either the Executive or the Congress or both of them combined.

Be it not forgotten that a precedent set by a good President of high ideals for good public purposes may be taken advantage of in some future time by a bad President or a mistaken President or one with ulterior motives. If the Court can now be increased to nearly double its present membership with respect to a particular situation some future reactionary President with a subservient Congress could again pack it for the subjugation of our rights.

But the question is asked, "Do you not trust the President?" (which, of course, also includes all future Presidents). "Do you not trust the Congress?" (which, of course, includes all future Congresses as well as the present).

I answer in the words of the immortal Jefferson, the great champion of our Bill of Rights:

"It would be a dangerous delusion if our confidence in the men of our choice should silence our fears for the safety of our rights. Confidence is everywhere the parent of despotism. Free government is founded on jealousy, not in confidence. It is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power. Our Constitution has accordingly fixed the limits to which, and no further our confidence will go. In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

We know both from the history of the world and from observation in our own country that extraordinary powers granted to or assumed by a good legislature or a good executive for beneficent purposes and beneficiently used by him may be seized by a bad legislature or a bad Executive and made an engine of tyranny.

We have frequently heard it said that it was the custom of the ancient Roman Republic in times of danger to appoint a dictator with absolute power as a measure of safety for the republic. I doubt not that there were times when this system worked well but one fateful day there came a bad dictator who did not turn back his extraordinary powers and the Roman Republic was no more.

We have seen in the very present in an American commonwealth constitutional changes sponsored by a governor of good intentions and not misused by him, seized by a man of towering ambition and used by him to destroy every vestige of a republican form of government and establish a dictatorship more complete than that of Mussolini or Hitler—only to be ended by assassination.

It is not my purpose now to discuss the question of whether the dictatorship of Huey Long was a benevolent one or not. But the fact is outstanding that a constitutional change enacted by his predecessor, Governor Parker, in effect authorizing the legislature to resolve itself into a constitutional convention and adopt constitutional changes without submission to the people, was the means by which Long achieved his dictatorship. Nor is it to be disputed that his empire did not become complete until he had brought the judicial as well as the legislative and executive branches of the State under his control. And then, one of the first things he did was to jam through legislation to effectually destoy the freedom of the press guaranteed by the Constitution. This incursion against the Constitution and our liberties was thwarted by the unanimous decision of "nine old men" sitting as the Supreme Court of the United States.

Our independent judiciary has always been the protection of the liberties of the individual and of minorities. Without the protection of the Constitution and the courts many of our most precious liberties would have been lost. The Supreme Court has been the guardian of the Bill of Rights.

In our own time we have seen an attempt made by the Department of Justice to convict the greatest liberal Senator in the country on a trumped-up charge in revenge for his work in driving from office a venal, corrupt Attorney General. He was triumphantly acquitted because the Court under the Bill of Rights refused to permit him to be framed before a picked court in an alien jurisdiction.

I am very far from believing that the Supreme Court is sacrosanct or that its decisions are necessarily above criticism. I have read the criticisms of Jefferson and Jackson upon both the personnel and the decisions of the Court. I have read the bitter attacks of Lincoln upon the Dred Scott decision and other policies of the Court. My first memories are of an era when the Court was generally criticized by liberals and by none more than by my father—for its action by a 5-to-4 decision declaring the income-tax provisions of the Wilson bill unconstitutional by reason of one Justice changing his mind overnight. But these matters have been corrected either by the march of time or by definite constitutional amendments.

I have myself disagreed with the Supreme Court upon the narrow construction shown in some of its decisions, notably the child-labor decisions and the District of Columbia and New York minimum-wage decisions. I have not forborne to criticize the Court for these decisions, or to vote for measures which I knew to be contrary to the letter of the decisions or to favor constitutional amendments for changing them. But that is an essentially different matter from wiping out constitutional safeguards by packing the Court.

It should never be forgotten that a very large percentage of the comparatively few cases in which the Supreme Court has declared acts of Congress or the acts of State legislatures unconstitutional was in pursuance of the Bill of Rights, the safeguard of our personal liberties. The Supreme Court has prevented illegal searches and seizure of private papers. It has prevented authorization of criminal prosecution after a man has been compelled to testify before a grand jury. It has prevented an effort of Congress to authorize retrial in a Federal court of facts already tried and settled in behalf of the plaintiff in a State court. It has prevented the taking of property for public use without just compensation. It has prevented imprisonment at hard labor without indictment. It has prevented violation of the constitutional provision requiring the defendant in a criminal trial to be confronted by the witnesses against him. It has forbidden a statute authorizing an appeal by the Government in cases where the accused has been once in jeopardy and been found not guilty by a jury. It has declared unconstitutional a statute which attempted to make a crime out of an act which was not a crime when the act was committed and to punish the man for such an act. These are acts of the Congress declared invalid by the Supreme Court which make us pause when the question is asked as to whether or not the Congress cannot be trusted to determine what is constitutional.

I recall that in my own State, indeed, in my native county, a priest, notable throughout that country for kindness and good works, was once put in jail for the crime of administering extreme unction to a dying parishioner without having taken a political test oath required by a despotic legislature in the dark days of

reconstruction following the Civil War. He was freed by the "old men" then on the Supreme Court on the ground that it was a violation of the Bill of Rights and the reign of terror in Missouri was thereby ended.

James Madison, the father of the Constitution, once wrote: "The people who are the authors of this blessing must also be its guardians. Their eyes must ever be ready to mark, their voice to pronounce, and their arms to repel or repair, aggressions on the authority of their Constitution."

The American people have ever been devoted to their Constitution. They know full well that wise men conceived it, that strong men have administered it, that brave men have fought for it, that heroes have died for it. It is my hope and fervent prayer that it will be long, long indeed before the people consent to break down the bridge upon which we have crossed the chasm by changing the fundamental spirit in which the Constitution was conceived and the principles upon which it was founded.

National Stream Control

EXTENSION OF REMARKS

OF

HON. KENNETH McKELLAR

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

LETTER FROM W. H. DICK, PRESIDENT OF THE MISSISSIPPI RIVER FLOOD CONTROL ASSOCIATION

Mr. McKELLAR. Mr. President, I have received a communication from the president of the Mississippi River Flood Control Association on the subject of National Stream Control, which I ask to have printed in the RECORD.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

National stream control should be divided into five principal subdivisions—flood control, irrigation, hydroelectric power production, navigation, and soil-erosion prevention.

In planning for national stream control every section of the United States must be dealt with, each water valley must be studied for problems peculiar to each valley; uplands must be studied for soil-erosion prevention and for the restoration of water tables which have been lowered by too much drainage.

A greater loss of life and property has resulted from droughts than by floods and it must be discovered how much of the drought area can be provided with adequate moisture by stream control.

Some rivers never having destructive floods, but being a source of drinking-water supply, and into which the sewage of cities and villages have an outlet, must be dealt with to insure sufficient stream flow to provide for carrying off the sewage so that the water in the river will be suitable for drinking purposes. Polluted streams have also caused more deaths than floods and this condition must be corrected insofar as is possible.

National stream control will, if properly put into effect, revolutionize the economic and social life of the Nation. No other country has ever undertaken a work so stupendous, so that the provisions of the bill for national stream control must be such as will insure the proper dealing with every part of the problem in every area. To bring this about every man who has studied the problem in whole or in part must have an opportunity to contribute his information to the committee in each House of the Congress having the legislation in charge.

The Members of the Congress do not have this complete information; the Army engineers do not have the complete information; no group has the complete information; all sources of information must be tapped by the congressional committees.

Some Members are interested principally in the control of floods, some in the production of hydroelectric power, and some in drought prevention and irrigation. It is possible to construct one project in a given area that will deal with each of these problems, as dams can be built that will provide hydroelectric power, prevention of floods, and impounding water for irrigation, but the construction would be different than were the dams to be used for one of these purposes only; so if we deal with only one of these subdivisions, the problems of that area are not solved.

While legislation framed on the theory of the adoption of project is not sound, there are certain areas which have been carefully studied by the Army engineers and on which reports have been made, notably the 161 reservoirs costing one and a half billion dollars, the construction of which can be started at once. These should be provided for in the bill, so that no delay may be occasioned in getting work under way while the complete plan is being formulated.

Of all the foregoing, the Mississippi River Flood Control Association invites your earnest consideration.

W. H. DICK, *President.*

Planned Peace

EXTENSION OF REMARKS

OF

HON. ARTHUR CAPPER

OF KANSAS

IN THE SENATE OF THE UNITED STATES

Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

ADDRESS BY DONALD W. STEWART BEFORE THE JUNIOR CHAMBER OF COMMERCE OF COFFEYVILLE, KANS., ON FEBRUARY 18, 1937

Mr. CAPPER. Mr. President, I ask unanimous consent to have printed in the Appendix to the RECORD a speech on Planned Peace delivered by Donald W. Stewart, of Independence, Kans., at a meeting of the Junior Chamber of Commerce at Coffeyville, Kans., on February 18, 1937. Mr. Stewart is an able young attorney, and is past commander of the Kansas Department of the American Legion. He saw service in both the French and the American Armies during the World War. I believe what he has to say is well worth the attention and careful consideration of the Senate and the country.

I send a copy of Mr. Stewart's speech to the desk and assure Senators that they will be repaid for the time it will take to read it. I ask to have it printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Peace, like good health, prosperity, and other desirable states, is not the result of idle wishing, nor does it come to us as a gift from a kind Providence. In these modern days it results only from careful, intelligent planning. It is wise, therefore, when we enjoy peace in a world intent on war that we plan for its continuance. In doing so we should profit from past experience.

In his ability to benefit from the experience of others, man is unique among all living beings. Man is the only one of God's creatures who is able to pass on from one generation to another his accumulated wisdom.

Let us devote that intelligent ability to a consideration of how, in 1937, we can avoid participation in the coming world war in Europe. That question, of course, presupposes that Europe is destined to experience another world war in the near future. This we cannot predict with absolute certainty. Certain causes, however, now apparent in Europe have in the past led to war. We may assume that history is likely to repeat. The fact that the fuels from which wars have come are piled high abroad has led virtually every observer to anticipate another. The fact that these fuels have been soaked with the oils of antagonism and ambition makes that seem more likely. The fact, too, that irresponsible leaders of belligerent peoples are waving a sword with one hand and brandishing a torch with the other seems conducive of conflict.

In truth, a world war rages in Europe now. True, it has thus far been confined to battlefields in Spain. On those fields, however, not only Spaniards contend. Arrayed in opposing armies we find the French, Italians, Russians, and Germans. There the rival forces of communism and fascism are fighting the preliminaries to the main event.

Assuming that there is to be another world war in Europe, the question remains as to how this Nation may best avoid being drawn into that conflict. That question presupposes that we want to avoid war and retain peace. That, I believe, is the will of virtually all of our people. Certainly it is the will of those of us who have experienced war.

There are a few people in this country who are so internationally minded as to feel that we must take a part in any war among nations. There are those who contend that we must line up on the side of right in any world war. Such people assume that in any such conflict one side must necessarily be right and the other wrong. They do not grant that both sides may be wrong and neither side deserving of our support and sacrifice. They talk feelingly of our duties, of our brothers overseas. They overlook our higher duty to our sons on this side of the water. They proclaim that we must do our part in saving civilization. I suggest that we here in America can best serve humanity and civilization in general by keeping in existence and at peace at least one part of the globe. Here we can preserve a nation of sane people, living under a democracy and enjoying the blessings of peace. If Europe wants to risk its civilization in periodical conflicts, we can scarce prevent them. We can and should refuse to join them in their madness.

How can we avoid participation in this coming war? To determine how best to keep out of the war of tomorrow, let us consider

how we became involved in the war of yesterday. In short, let us learn from experience. Let us turn back the calendar 20 years.

Twenty years ago last fall a World War was raging in Europe. It had been in progress several years, and little thought had been given to the possibility of our becoming involved. We were interested in the progress of that war, but only in an impersonal and remote way. It afforded interesting stories in our papers and dramatic news reels in our movies. Our traffic with warring nations had brought us prosperity of an unparalleled nature. We had no disposition to become involved. We reelected our President who had kept us out of war. The popular song of the day was that touching refrain, I Didn't Raise My Boy To Be a Soldier. How mistaken that mother was!

In a period of a few short months from the fall of 1916 to the spring of 1917 all this changed. From a Nation intent on peace we became one committed to war. Our people abandoned their normal peacetime pursuits to don the uniform and seize the sword. I would emphasize that this was a mental change coming from the people themselves. We wanted war—and we got it. Today we often hear the charge that our President, our Congress, or our leaders in general plunged us unwilling into conflict. How false that is. In truth the American people were demanding war. Our leaders didn't lead us into that conflict; they responded somewhat slowly to our demand. There were some few who then counseled peace, but they were a weak minority. Most of us were afire with the urge to combat. How and why did we get that way? Bear in mind that a people who once changed their viewpoint so rapidly and rushed from peace to war, may do so again. Let us therefore now, in our moments of rationalism, consider the causes of our entry into the World War of 20 years ago. Thus we may avoid a repetition of that experience. Thus we may avoid an experience that cost us untold billions of dollars, hundreds of thousands of lives, and heartaches and pains that still endure.

Slogans played their part in luring us into the last war. Beware of slogans in the next. As a people, we are peculiarly susceptible to the appeal of a good slogan. Two were given us. We entered the World War, you will recall, in response to two great battle crys. We fought "To save the world for democracy" and to "Win a war that will end wars." Technically, we won the conflict, but did we thereby accomplish either of our proclaimed aims?

The world, unfortunately, is not safe for democracy. It was never so unsafe for that institution. Democracy both here and abroad has ever since been on the decline. Today, other than in the English-speaking countries, it is nonexistent. Many question how long even we can retain it. The causes of the decline of democracy are all rooted in the World War and its after effects on civilization.

Surely we cannot again be induced to take arms to save a nonexistent democracy. The coming war seems likely to be a contest between the advocates of communism on the one hand and fascism on the other. Neither are friendly to democracy. The cause of democracy can perhaps best be advanced by their mutual extermination.

One can foresee now that we will be urged to join again under the slogan, "Save Europe from communism", or "Save Europe from fascism." Let's do neither. Let us instead save this country from both and let Europe have either. Experience has taught us that Europe will have, in the way of government, whatever she wants. We cannot impose our theories on them. We can avoid the imposition of her theories on us.

Experience has further taught us that we cannot end war in Europe by waging war in Europe. We tried that. There have been more wars in Europe in the 18 years that have followed the Treaty of Versailles than there were in the 18 years that preceded it. That treaty did not eliminate future wars. In fact, it sowed the seeds from which they have grown. Europe today is more warlike than it was in 1914. Militarism is not dead. The will to conquer still exists. Might still proclaims its supremacy over right.

With vivid memories, therefore, of the falsity of these slogans of 20 years ago, let us be on our guard against similar urges to combat in the future. Before again following the slogan makers to death and despair, let us analyze their offerings.

There was another cause that lead to our participation in the war of 20 years ago. It was fear—unfounded and false. We were induced to wage war with the central powers because we feared that if and when victorious, they would come to these shores with their conquering armies and destroy us. We reasoned that a vigorous offensive was the best defensive. We concluded that we had better fight them in 1917 with allies than in 1919 without allies. How shortsighted we were in this viewpoint. True, we procured allies abroad, but we gave up the best allies this Nation will ever have. I refer to the oceans that separate us from Europe. They became powerful obstacles to overcome. With all of our resources and abilities, and with the aid of our allies it took us 18 months to place a reasonable army in Europe. That army, until the end, relied upon implements of warfare it found there. We had all we could do to ship men and food. They used foreign ammunition—they flew foreign planes.

In the light of the difficulty we had in placing an army overseas, in spite of the help of the allied navies, and in spite of friendly ports in which to land, and friendly soil over which to march, how foolish it is to fear European invaders. The winner of the next world war is not likely to crave further combat after achieving victory abroad. If, however, they should be so foolish as to seek further foes, let them match their strength against ours on our own shores. Let the sea be our ally, and their foe. In short, if we must fight again, let it be here with our backs to our own wall and in defense of our own shores and homes. Let us keep prepared to defend ourselves and abandon foolish fears of any nation or group of nations.

Another cause of our fatal participation in the World War in Europe was our abandonment in practice of our proclaimed policy of strict neutrality. We ceased to be neutral in thought or in deed long before 1917. We loaned the warring nations of Europe money, and we sold them the necessary supplies to continue the conflict. Both actions were mistaken and each played its part in bringing us into war. Long before 1917 we Americans had a vital financial stake in Europe's mad struggle. We had loaned the allies enormous sums of money. We had advanced them supplies on credit. Gradually it dawned on us that the security of our investments and the safety of our accounts were all contingent on allied success. Literally, we bought our way into the war. We went to war in a measure, to collect what was owed us. We did not collect. We simply sent good money after bad. The indebtedness of Europe to this country increased. We can avoid a duplication of that experience by declining to finance another war in Europe. If our memories are dependable, and if we have the intelligence to profit by past mistakes, that must be our future course.

Obviously, if we do not loan warring nations the money with which to buy war supplies, they cannot buy them from us. This will decrease foreign trade. This time wheat won't soar to $3 a bushel. American factories won't be forced to run overtime. Men may even stand in bread lines in this country. Isn't that to be preferred, however, to men standing in battle lines in Europe? We must appreciate that we cannot, with profit or safety, act as the supply house for Europe's conflict. We must steel ourselves to forego the unholy profit that comes from dealing in blood traffic. We must treat war as a contagious disease. We must isolate those who have it and refrain from all intercourse with them. Thus, and only thus, can we curb the spread of the disease. Only in that manner can we act in good conscience. The reputable druggist will refuse to sell poison to one intent on using it on his neighbor. The reputable hardware dealer will not sell a gun to one intending to use it illegally.

Many people try, in their minds, to draw a distinction between the sale of munitions and the sale of raw materials. Practically no good distinction can be made. There is little difference between selling a warring nation the actual finished implements of warfare and selling the raw materials with which to make them, the gasoline with which to run them, or food to feed the operators of them.

Others advocate selling all things to all people on a cash-and-carry basis. They suggest we do a large business supplying the warring nations of the world, being careful to get our money in advance, and shifting to the purchaser the problem and risk of delivery. This method, while better than our methods of 20 years ago, neither answers the moral problem of profiting from the world's adversity and thus continuing the struggle, nor does it afford security. It would result in our supplying England and her allies, as she appears to be the only nation with sufficient cash resources to buy our goods and sufficient merchant marine and navy to carry them. Other nations would properly find means to retaliate, if only from the air, and retaliation would inevitably lead to war.

To avoid involvement in Europe's approaching struggle, we should now determine, and notify the world of our determination, not to sell any warring nation anything during the progress of the war. Have we the courage and the will power to say that and do that? That is the path of safety, and, happily, it coincides with the path of duty and decency.

After all, we have no duty to supply Europe. We owe Europe nothing, financially or morally. The debt is the other way. Twenty years ago we fancied ourselves under obligation to various nations. In that conflict the men of my generation paid whatever debt we owed the mother country. While we were at it, we paid our debt to Lafayette. The slate is clean. Let's keep it that way.

The preservation of peace requires further sacrifice of us than the sacrifice of war profits. It requires, in my judgment, the abandonment temporarily of two traditional policies. From time immemorial all nations have contended at all times for two rights. One of these has been the right of its people to proceed in safety anywhere and at any time under the protection of its flag. The armies and navies of world powers have been sent from time to time to various parts of the globe to protect citizens far from home. Thus, portions of our Navy were recently rushed to Spain to protect and evacuate Americans there either on business or pleasure. Some were returned home, others stayed. We should tell them and the whole world now, before harm befalls them, that they stay at their own risk. We should notify our people that we can and will protect them within our own borders, but we cannot and will not guarantee their safety at all times and places. This is just the course of a wise parent. We grant their right to go anywhere on peaceful pursuits. The cost of maintaining that right is greater, however, at times than the right is worth. Thus, my children have the right to play on the streets of this city at any time or place. When, due to a mad dog, a fire, or a race riot, that becomes hazardous, I call them home and shut the door. They still have the same rights they always had. I just forbid them to exercise it.

So it is with the freedom of the seas. We have always contended for the right of our ships to wend their way at any time over the waters of the earth. We have gone to war in defense of that right. As a practical matter, is its continued maintenance worth that

cost? Let us grant that to some nations it is a vital right. England could not long exist were her ships unable to carry supplies from her far-flung colonies to the homeland. We, however, do not need world commerce to live. We can live for and by ourselves. We have within our own borders all that is required to survive. When, therefore, the world is troubled by war, let us keep our ships at home. This to some may seem a counsel of cowardice. Isn't it rather a counsel of caution? Is the trade that we get in time of war, involving the crossing of waters that are mined and patroled by boats on the surface and underseas, worth the risk that is involved? Is the maintenance of that right to trade worth the thousands of lives that will be sacrificed to maintain it? I think not.

To sum up, then, I believe we can avoid future wars in Europe by isolating ourselves entirely from those involved in it. We must loan them no money for any purpose. We must sell them no goods for cash or credit. We must cease intercourse of every kind with them, and we must call our people and our ships home to safety. We must guard ourselves against mental involvement and steel ourselves against inspiring slogans. We may feel sorry for those involved, but not to the extent of becoming involved ourselves. We must recognize that we cannot impose our views on Europe, and seek only that Europe keep its views at home. We must at all times keep strong enough to be independent, under obligation to no nation, and unafraid of all of them put together.

These views I give you from the experience of the past. I advance them as coming from one who has participated in one European war. I give them now in this day of peace, when men can still reason and see clearly. In this I am endeavoring to render a service to our younger generation that no one rendered to mine. Twenty years ago men did not say these things. Few men thought them. We had not at that time had the benefit of experience. Further, men who may have had these ideas hesitated to express them, lest they be accused of lack of love of country or a personal unwillingness to undergo war. We need not fear the imputation of such motive. We have demonstrated our love of country and our willingness to submit to the ordeal of war. Hence, with the best grace and highest motives, we can counsel peace. Thus we continue to serve our country and its people.

When the history of this age is written the American veterans of the World War will be credited with several distinct services to their country. First, in point of time, was their service during the war. Further, however, they will be credited with returning quietly to civil life and interesting themselves in maintaining the Government for which they had fought. While war veterans in Italy, Spain, Russia, and Germany were overthrowing existing governments and setting up dictators, we preserved our Government.

Further, our veterans will be credited with having realized that the world was not rid of war. While others idealistically preached pacifism and disarmament, we recognized the necessity of maintaining an adequate system of national defense. Almost alone we fought for that safeguard. We were branded as militarists. We bore that brand, conscious always that war was furthest from our thoughts. We wanted to be strong enough to avoid war. Thanks to our program, we are in that position today. Our greatest opportunity for service to country is at hand. By our counsel we urge peace. With the help of all people we can have it. For 15 years we have fought, almost alone, for legislation to take the profit out of war. With the help of all people we can accomplish that, and thus remove one of its inevitable inducements.

Too many people seeking peace are impractical. Typical of that type are those who counsel antiwar pledges. By this I mean the pledge that many young people are induced to take, to the effect that they will never under any circumstances take up arms for this country. That is impractical for two reasons. In the first place it does not operate to keep some other nation from taking up arms against us, and on the contrary encourages them to do so; and in the second place it isn't in keeping with the theory of a democracy.

If there is one thing fundamental in our scheme of government, it is the right of the majority to rule. When we, as individuals, deny the majority the right to govern the Nation, determine its policies, and hence our part in them, we deny democracy itself. I may not favor a certain type of tax, but I must not in advance commit myself to a policy of resistance and nonpayment. After all, the majority may for good reasons determine to impose such a tax. I may and do feel that we should not take part in the next European war. I may change my mind about that in the future, or the majority of our people may decide that to be the proper course. In that event I must submerge my views and support theirs. Life in a democracy is a series of compromises and adjustments. All of us have our own way a part of the time—rare is he who has his own way all of the time.

Let us resolve, therefore, to remain at peace. If again we take up arms, let it be here in defense of our own land. Let us, in the furtherance of this resolve, be rational, be intelligent, and be reasonable. Let us plan for peace. Let us have peace.

In these days of peace, let us plan to avoid the mistakes that lead to war. The mistake that America made in the past wasn't a single mistake, nor was it made on a single day, April 6, 1917. In fact, it was a series of mistakes made, as I have indicated, in 1914, 1915, and 1916. You and I did not make these mistakes, but we paid for them. Let us profit by that experience. Let us not repeat those errors. Let us not require like payment in the blood of our children. Let us preserve for them the peace we enjoy and for which the men of my age fought. Thus we may keep belated and partial faith with those who died for us. Thus we may guard and keep faith with those who follow us.

Labor and Legislation

EXTENSION OF REMARKS

OF

HON. PAT McCARRAN

OF NEVADA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY GEORGE M. HARRISON, VICE PRESIDENT OF THE AMERICAN FEDERATION OF LABOR, ON FEBRUARY 13, 1937

Mr. McCARRAN. Mr. President, I ask unanimous consent to have printed in the RECORD an address on the subject of Labor and Legislation, delivered by Mr. George M. Harrison, vice president of the American Federation of Labor, over the facilities of the Columbia Broadcasting station in Washington on the afternoon of February 13, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Unemployment continues to be of great concern to railway labor. In spite of a substantial recovery in business, only approximately 165,000 railway workers have been returned to employment since the low point of business in early 1933. There are now a quarter million railway workers employed only part time and an equal number wholly without employment. It is quite doubtful that if we should again enjoy the 1929 level of business that we could give work to the unemployed of our industry. Technological advance in the railway industry has gone forward at a rapid pace since 1920, and this was intensified through the period of the business depression. Compared with 1920, our industry employs 900,000 less men today.

The introduction of large and powerful locomotives now makes it possible to haul freight trains of 150 cars, while 15 years ago 80 cars were considered a large train. Machinery has replaced hand work. Officers and departments have been consolidated. The employees are producing much more today than heretofore. The railways have not shared the gains in efficiency with the workers.

What has been taking place in the railroad industry is typical of American industry generally. Competent observers are agreed that we have made sufficient advance in the methods of carrying on American industry that the 8-hour day must be discarded for a shorter work period if we are to again furnish work opportunities for all our people who are willing and anxious to work. It presents a challenge to our industrial managers and raises doubts in the mind of the worker as to whether our capitalistic system can be so controlled as to preserve our democratic institutions. Men and women who are without jobs and no visible means of support cannot understand why in this great Nation of ours they should be denied the opportunity to earn a living by the only means available to them—that is to work.

Temporarily countless millions of our fellow citizens and their families are being maintained at the public expense. This cannot go on indefinitely. It is not the American way nor is it possible for the Government to continue to carry this burden. Our people ought to be given an opportunity to engage in the production of wealth and obtain for themselves an independent means of livelihood. Are we to admit that we cannot do something about this intolerable condition? Are we to tell these unemployed workers that they shall have no hope of again obtaining a job?

Appreciating the great importance of this problem, railway labor has concluded that the work hours must be reduced. They are, therefore, going to request Congress to enact legislation shortening the workday to 6 hours without reduction in compensation now paid for a day's work. To not maintain present earnings would be to pass around poverty and reduce the workers below the subsistence level. What we need is more purchasing power to sustain our industries; without it we cannot hope to sustain the present rate of industrial production. Unless the managers of American industries rapidly shorten the work period and return the unemployed to work, we shall again bring on economic stagnation.

Much propaganda has been distributed by the railway operators and owners in opposition to this socially desirable reform. Exorbitant and fantastic predictions of the cost of instituting the 6-hour day have and will be made by them. We know from past experience that every time the work hours were shortened the railways were more prosperous. We have every reason to believe that our past experience will be repeated if a 6-hour day is adopted. Not only do we need a shortening of the workday, but we need wages that will permit our people to buy the products produced by our industry.

Do you know that in the railroad industry today that approximately 110,000 men and women receive wages of 35 cents per hour or less and in some instances as low as 10 cents per hour? How can these people contribute to the consumption of the

goods of our industries? Can they maintain an American standard of living? They cannot even buy the bare necessities of life. Railway management propagandists will tell you that railway workers are highly paid; nothing could be further from the truth. Railway workers are engaged in generally hazardous occupations requiring great training and skill. They have spent their lives in the industry. They only ask the consideration that their contribution to the production of transportation warrants.

There is no question about the right of Congress to regulate the hours of transportation workers. They are engaged in interstate commerce. Over 20 years ago the Supreme Court sustained an 8-hour-day law. There is no reason why Congress should not act. If you believe that the work hours of railway employees should be shortened, won't you write to your Senators and Congressmen and tell them so? With your help and an aroused public opinion we can bring about this desired and essential reform.

I want to mention one more subject before I conclude this radio address. It is that the railway labor unions are deeply interested in union-label products. We feel that there is a reciprocal relation between railway workers and members of all other unions. We know that all labor unionists and their friends travel on railroads and ship over carriers that recognize the standard railway labor unions. Mr. Ornburn, the secretary of the Union Label Trades Department, is with us today, and I am going to ask Mr. Ornburn, In what measures before Congress is the Union Label Trades Department interested?

The Farley Dinner

EXTENSION OF REMARKS
OF
HON. ROYAL S. COPELAND
OF NEW YORK
IN THE SENATE OF THE UNITED STATES
Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

EDITORIAL FROM THE NYACK (N. Y.) JOURNAL-NEWS

Mr. COPELAND. Mr. President, I have observed in the Journal-News, published in my county in New York State, an interesting editorial entitled "The Farley Dinner." It is of especial interest to me because it relates to a Rockland County resident. I ask unanimous consent that it may be inserted in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Nyack (N. Y.) Journal-News of Feb. 18, 1937]

THE FARLEY DINNER

The President's eulogy of Postmaster General James A. Farley at the banquet tendered him by 1,700 Democrats in Washington was well deserved. And it must have provided a wonderful thrill to the Rockland County man, who, born in humble circumstances, without the advantages of education and the usual necessary things that cause men to skyrocket to the top, developed into an executive of such great ability and a political leader of such strength and resourcefulness as to win high tribute from the Chief Executive of the country.

The President has a warm feeling in his heart for "Jim" Farley and the occasion enabled him to pour out the sentiments of affection and admiration which he entertains for the field marshal of the Democratic Party.

No President of the United States has been served more loyally and more faithfully by a lieutenant than Mr. Roosevelt has been served by Mr. Farley.

As a matter of fact, it was "Jim" Farley who gave Mr. Roosevelt to the American people by his alert intelligence and unswerving loyalty, meanwhile inspiring the citizens of the country with his own faith and vigor and enthusiasm and confidence.

And so it was fitting for the President to hail Mr. Farley as a loyal friend and fine public servant and to say that history will record a great many interesting things about him. Best of all, the President said:

"Loyalty will be written there—that loyalty to friends which results in loyalty from friends.

"Honor and decency will be written there—the honor and decency which have done much to raise the standards of public service in our Nation.

"Good temper will be written there—the kind of good temper which is based on a sense of perspective, a sense of humor, and a sense of forgiveness. In all my years of association with 'Jim' Farley I have never once heard him utter one mean syllable about any human being."

Who would not cherish such words when uttered by the President of the United States?

The President's Proposal for Reform and Modernization of the Judiciary

EXTENSION OF REMARKS
OF
HON. LINDSAY C. WARREN
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 3, 1937

RADIO ADDRESS BY HON. FRANK HANCOCK, OF NORTH CAROLINA, ON MARCH 2, 1937

Mr. WARREN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered over the radio last night by my colleague from North Carolina, Mr. HANCOCK:

I want to talk to the American people tonight on what I think is the most important issue that has faced this country since the war. That is President Roosevelt's proposal for reforming and modernizing the Supreme Court. By that I mean his recommendation that if any Justice of the Supreme Court who has served 10 years and reached the age of 70 does not retire, an additional Justice must be appointed.

I want you tonight to try an experiment that I have used on myself since the President sent his message to Congress. I want you to think things. When I say that I want you to think things, I mean that I want you to start afresh and forget everything you have read, all the thoughts that you have heard expressed, and every high-sounding pronunciamento delivered by certain lawyers. Let's you and I—the American people—get down to earth and start thinking for ourselves about what we want this, our Nation, to become—thinking from scratch, as the men who fought the Revolution thought from scratch, as the founding fathers thought from scratch when they were writing the Constitution. What are the problems that you are facing and must face in the very near future, and how are you—we—going to find the solutions for these problems? And, further, what is the relation of the Supreme Court to these problems?

That is the experiment that I have just concluded trying on myself. A few days after the President had made his proposal I was somewhat confused. I had read and I had heard many arguments advanced by both sides about what this proposal would do to our country. There is no need of my repeating them here, for you, too, have heard them. This confusion in my mind became greater every time a prominent authority was added to one side or the other. I have heard a great deal of history, much of law, and too much of philosophy about this matter.

I knew that I must think this thing out for myself. And so I went home, back to my people in North Carolina, and talked to a number of them to find out what they were thinking. Many of my people are tobacco growers and cotton farmers. Every year they have a crop and every year they are going to lose money or make a little money on that crop. For years they have struggled to work out a decent living, but until the New Deal they were handicapped by unfair prices, by all the ills that farmers everywhere in America have suffered through no fault of their own, and by a system of marketing tobacco in which they had practically no voice. All they wanted was a fair chance to use their skill, and President Roosevelt and Congress have tried to give it to them. To meet the problem of unfair prices the A. A. A. was passed. To give the farmer a greater protection in the marketing of his tobacco Congress passed the Tobacco Inspection Act. To protect their savings in the banks the Federal Deposit Insurance Act was passed. There is no need for me to call the full roll. You know it.

Well, then, what happened? The A. A. A. was declared unconstitutional by the Supreme Court, 6 to 3. The Tobacco Inspection Act was enjoined by a single lower-court judge, who presumed to set aside an act of Congress and who waited for about 30 days after he had set it aside before he gave any reason for it.

After talking over the problem of the Supreme Court with my people, I have come back to Washington. My mind is clear now about what the issues are in this fight. I, myself, am for the President's plan because I believe in its merits. But more than that, I am eager for you to make the experiment I have made and let you, yourself, decide what are the issues and what you think should be the answer.

Since I have just been along this road, let me serve as guide, and on the first signpost pointing our way, I want you to read these words of the late William Howard Taft, who was both President and Chief Justice of the Supreme Court:

"The opportunity freely and publicly to criticize judicial action is of vastly more importance to the body politic than the immunity of courts and judges from unjust aspersion and attack * * *. In the case of judges having a life tenure, indeed, their very independence makes the right freely to comment on their decisions of greater importance, because it is the only practical and available instrument in the hands of a free people to keep such judges alive to the reasonable demands of those they serve."

I want you to remember these words of Chief Justice Taft, because I believe that what we must think of is not the Constitution, not the Supreme Court as an institution, but the members, the personnel of the Court, who are supposed to interpret the Constitution. It is not only that Chief Justice Hughes has said that "the Constitution is what the Justices say it is", but it is a lot more than that. And, as your self-appointed guide, I am going to tell you why.

The quarrel does not lie with the Constitution. Nor does it concern the Supreme Court as an institution. It concerns only the present judges on the Court. As I see it, the Nation faces a single vital question: What is to be done when some of these judges exceed their authority by elevating their own personal opinions concerning economic or social policies above the Constitution of the United States?

That is the heart of the matter. And you, the American people, will, I am sure, recognize that it is the heart of the matter despite the characteristic efforts of some of our lawyer friends to hide it under a mysterious smoke screen.

If the pastor of your church so conducts himself as to bring dishonor upon that church, you do not blame religion. If the President of the United States is unworthy of his high office, we condemn him, and not the Presidency as an institution. If a Congressman or a Senator proves himself out of harmony with what his people consider to be the needs of the day, we do not feel that Congress as an institution is at fault. In these cases the remedy is plain—we do and we have voted such Presidents and such Congressmen out of office.

But what can we do when a judge puts his own economic views above the fundamental needs of the present in defiance of the duties of his high office? Are we to blame the Supreme Court as an institution? If, because of the unhappy coincidence of time, such judges as these—who have been warned not only by Presidents, Congress, and the people, but also by their own brethren sitting on the same bench—if such judges happen to have a bare majority in a most crucial period of our history, must we do away with the Constitution and with the Supreme Court as an institution?

Or should we not rearrange the temporary personnel of the Supreme Court so that the Supreme Court as an institution will confine itself to interpreting the Constitution, which is the only duty it has? We should remember that the power of a law lies not in its making but in its interpretation.

I am perfectly satisfied with the Constitution as it is written and do not think that it must be changed to meet the needs of the times. I believe that the powers of the Supreme Court should not be curtailed. I believe in the function of judicial review, and I think that the judges should have the power to override acts of Congress when unconstitutional. That is why I am for the President's proposal. It is the mildest and the most conservative way of preserving the powers of the Supreme Court as an institution.

But what are we to do? The present personnel of the Supreme Court—and in all fairness I hasten to add that this criticism does not apply to all members of that Court—have, because of their economic views, consistently if unconsciously violated the Constitution. I want to explain carefully what I mean in just a moment.

But first I want you to reflect on the fact that that great system of checks and balances which the founding fathers set up in our Constitution has been scattered pell-mell by the members of the Court. Under the Constitution, the Executive is subjected to two checks—Congress has the power of the purse over him and the Court may declare his acts unconstitutional. Congress also is subjected to two checks—the President's power of veto and the Court's power to declare unconstitutional its legislation. This power to enlarge the Court was supposed to be and is their joint check on the judiciary. But under present practices the Supreme Court can nullify any and all acts of Congress. It is a dictatorship of the judiciary. The Court, according to the late James M. Beck, a lawyer for the Liberty League, is a "continuous constitutional convention." But the "constitution" which the Supreme Court writes is never ratified by you, the American people.

These judges hold office for life. Their official tenures are never voted on by the people, and consequently the real Constitution, under which we live, as distinguished from the Constitution which the founding fathers wrote for us, is one written by the arbitrary will of nine men holding office for life.

What, then, are we to do? Let me tell you for a few minutes about the fight that has been going on inside the Court itself. This problem did not arise overnight. Decades of history lie behind it. For 40 years a handful of judges—always consisting of a bare majority—have pushed the Supreme Court further and further out of balance with the Federal Government—where the Court does not belong, where the Constitution, which set up this system of checks and balances that every schoolboy knows by heart, never intended it to be and where it is not and cannot be competent to function.

There is a popular fallacy that this long quarrel between the members of the Supreme Court has been a quarrel between conservatives and liberals. It is time to lay that ghost. The real conflict is not a political one. It is a division between those Justices who have respected the constitutional limits upon the Court's authority and that bare majority which has insisted upon abandoning these limits and invading the sphere reserved by the Constitution to Congress. Let the judges speak for themselves!

Thirty-three years ago Mr. Justice Oliver Wendell Holmes, one of the greatest judges in the history of the Supreme Court, said:

"This case is decided upon an economic theory which a large part of the country does not entertain. If it were a question whether I agree with that theory, I should desire to study it further and long before making up my mind. But I do not conceive that to be my duty, because I strongly believe that my agreement or disagreement has nothing to do with the right of a majority to embody their opinions in law."

This case, the first in which the Court held that legislation helping labor was unconstitutional, was a 5-to-4 decision. Mr. Justice Harlan, one of the four dissenters, remarked:

"The responsibility, therefore, rests upon legislators, not upon the courts. No evils arising from such legislation could be more far-reaching than those that might come to our system of government if the judiciary, abandoning the sphere assigned to it by the fundamental law, should enter the domain of legislation and upon grounds merely of justice or reason or wisdom annul statutes that had received the sanction of the people's representatives."

There is no need of my reiterating to you the many other familiar examples of warnings by members of the Supreme Court that their brethren were exceeding their constitutional powers and were violating the Constitution. In times of stress and in periods of content there have always been such judges who have tried to serve as warning signals against the ill-considered actions of other members. Thirty-two years after Mr. Justice Holmes and Mr. Justice Harlan warned the majority, the same warning was uttered by Mr. Justice Stone in the case last year in which a small majority of the Court held the A. A. A. unconstitutional. He told the majority in his dissent that:

"While unconstitutional exercise of power by executive and legislative branches of the Government is subject to judicial restraint, the only check upon our own exercise of power is our own sense of self-restraint."

He further added, "So may judicial power be abused." Perhaps this conflict between the judges over their constitutional powers has never been made more clear than in a famous quotation of the late Justice Holmes. I take the liberty of letting him speak once more:

"Some of these laws embody convictions or prejudices which judges are likely to share. Some do not. But a constitution is not intended to embody a particular economic theory, whether of paternalism * * * or of laissez faire * * *. It is made for people of fundamentally different views, and the accident of our finding certain opinions natural and familiar, or novel, or even shocking, ought not to conclude our judgment upon the question of whether statutes embodying them conflict with the Constitution of the United States."

These warnings have been without avail. A handful of judges have persisted in substituting their own personal "economic predilections", as Mr. Justice Stone has described it, for the Constitution of the United States. And in so doing they have impaired the Supreme Court as an institution in the eyes of a large and representative cross section of our people.

It has been a settled principle from the beginning of the Supreme Court that an act of Congress is constitutional unless beyond all reasonable doubt the judges find it is unconstitutional. As Mr. Justice Sutherland, a present member of the Court, said in the opinion declaring the minimum-wage laws unconstitutional in 1923, "Every possible presumption is in favor of the validity of an act of Congress until overcome by rational doubt." Yet, in the Minimum Wage case the vote was 5 to 4. In the A. A. A. case, the vote was 6 to 3. I confess that I cannot see how it is possible to have no doubt whatsoever about unconstitutionality when five members think it is unconstitutional and four think it is not, or when six members think it is unconstitutional and three think it is not. For example, a man cannot be convicted of a crime unless found guilty beyond a reasonable doubt. If 1 of 12 jurors has a doubt as to his guilt he cannot vote to convict, and without his concurrence the defendant cannot be convicted. I ask, ought the law to lay down a more severe test of guilt in a criminal case than of unconstitutionality in the cases of a statute enacted by a majority in both the House and the Senate and approved by the President?

And so we have reached the end of our experiment. We have discovered that the issue is not the Constitution, is not even the Supreme Court as an institution. We have found that if these judges had listened to their own brother judges and had not substituted their own economic views for the views of Congress, this quarrel would not have arisen and this country would now be able to meet with adequate weapons the problems with which it is faced.

Do not let people confuse you that the Constitution is threatened. If I thought it were I would make every effort in my power to kill this bill. I am for it just because it does protect the Constitution—just because the President has adopted the mildest kind of reform which has been considered. His proposal does not involve any tinkering with the Constitution. It does not curb the Supreme Court's power in any respect. There is no suggestion for requiring unanimous decisions or two-thirds majorities. He suggests no restrictions upon the powers of the Supreme Court! it would continue to decide, as now, what constitutes "due process of law", interstate commerce, and the general welfare.

I am sure that many of you listening tonight are in complete agreement with me. I am sure that almost all of you would agree if it were not for certain fears which have been aroused

in you. I am, of course, speaking of the thoroughly American and Democratic fear which is running through the minds of many people and which can be phrased something like this: "We agree with the President; the Supreme Court is out of step with the economic and social needs of America today. But even if it is, another Harding or another Hoover may be elected in the future. What is sauce for the goose is sauce for the gander. Let us not create this dangerous precedent; instead, let us adopt the slow but sure process of constitutional amendment."

In the few minutes I have left I want to talk about this fear. I think there are several good answers to that argument. First of all, if such men are looking for a precedent they won't need President Roosevelt. Several of the founding fathers—the men who wrote the Constitution and therefore presumably knew what they meant when they wrote it—became Presidents of the United States. Several of them were in sharp conflict with the members of the Court, and what is more important, several of them by congressional authority changed the number of judges. Every one, of course, knows of the quarrel between Thomas Jefferson and Chief Justice Marshall. Jefferson spoke the words of prophecy when he said:

"It has long been my opinion, and I have never shrunk from its expression, that the germ of dissolution of our Federal Government is the judiciary, an irresponsible body working like gravity, by day and night, gaining a little tomorrow, and advancing its noiseless step like a thief over the field of jurisprudence, until all shall be usurped."

But even before Jefferson took office President Adams had reduced the number from six to five in the hope of preventing Jefferson from filling certain vacancies. This was the first change in its membership. Jefferson for political reasons increased the number again to six. When Jackson was in office Congress added two judges. While Lincoln was President Congress increased the number of Justices to 10. Lincoln expressed his feelings when he said:

"The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigations between parties in personal actions, the people will have ceased to be their own rulers. * * *"

During the term of President Johnson, Congress passed a bill providing for the reduction of the number of Justices to nine. By the death of one of them the Court was further reduced to eight. While Grant was President Congress again increased the number of judges to nine.

So, if a later President wants to be a dictator and wishes to change the personnel, he has plenty of respectable precedents already—precedents which go back to the founding fathers themselves—and therefore far more valuable to a would-be dictator than mere upstart precedents of the twentieth century.

Another answer to this fear of setting a bad precedent is that the appointment of judges must be confirmed by a two-thirds vote of the Senate. To pass a law changing the personnel of the Court requires a majority of votes of both Houses of Congress. These are two checks upon the action of any President. If, in the course of time, however, a conservative President is elected, a majority of the House of Representatives becomes conservative, and two-thirds of the Senate profess the same philosophy as a Harding or a Hoover, then, and only then, can the Court be changed. I humbly assert that if this should come to pass the will of the people would be clearly expressed and a change of the personnel of the Court would be thoroughly democratic, even though this change in philosophy by the people of the United States would be against my own views. In such a situation I could not help feeling that the Supreme Court was at least responsive to the will of the American people.

And now I want to say a few words about a constitutional amendment, for that is what this fight is really all about. If those persons who have espoused a constitutional amendment are sincere—and I believe many of them are—let them now come forward and suggest such an amendment. If it is possible to agree upon one and the specific language therein I will support it.

But I will support it only as a supplement—not a substitute—for the President's proposal. I say this for two reasons. First of all, what about some of those who profess to be sincere? I am rather interested in certain individuals and certain groups in this country who have always fought every kind of constructive social legislation, who have fought other amendments such as the child-labor amendment, but who suddenly in the course of 3 short weeks have become imbued with the spirit of knighthood and have banded together to fight for an amendment. How sincere is the United States Chamber of Commerce? How sincere is the National Association of Manufacturers? When did David Lawrence, Mark Sullivan—when did the conservative press of my own State of North Carolina become so convinced of the need for constitutional change so that social legislation will be upheld? The answer is simple. Their new way of thinking dates back to about February 5, 1937—the day when the President proposed his reform.

Do not be fooled by much of this talk, this barrage, this folderol about amendments. President Roosevelt is face to face once again with your enemy, the same individuals, the same pressure groups of the vested interests which you so thoroughly repudiated last November by the largest majority ever given to any President. The American Liberty League will likely come out for an amendment any minute now. Every day from now on you will find the Herbert Hoovers, the so-called "Jeffersonian Democrats", the Al Smiths, and the grass-roots convention boys "patriotically" advocating an amendment.

Why? Do they suddenly believe the Supreme Court is no longer attuned to the times? They have never said so before.

Their reasons are much simpler. They know and the President knows exactly what this fight is about. The difference is one of time. How soon can we have the laws which the people of this country by clear mandate have demanded? The people want laws to establish minimum wages and maximum hours, unemployment insurance and old-age pensions. The people want the farmer to be helped by crop-insurance legislation and control of surpluses.

We need laws helping the unemployed with relief and public works. A third of our population are badly housed. Our people want laws that will protect the independent merchant and small-business man in their right to survive and prosper. We have just witnessed a disastrous flood. There is no Member in the Senate or the House of Representatives who can be sure that flood-control legislation has any chance of being constitutional. In this unfortunate predicament shall we abide the processes of Nature or shall we go forward? To my thinking, we should not and cannot wait. The President's proposal can be passed by Congress and the same Congress can enact these laws that the people want this spring. And not one opponent of the President's proposal has ever dared to argue that it is unconstitutional.

Again I ask, what about a constitutional amendment? Even if both Houses of Congress could decide upon the specific language of an amendment during this time, the fight would have just begun. To pass a constitutional amendment the majority of both houses of the legislatures of 36 States must ratify it. Many of these legislatures which are now in session will have adjourned by the time Congress can have agreed upon the language of the amendment.

Are my fears groundless? I do not think so, and history is again with me. The proposed child-labor amendment has not yet been adopted after 13 years. From the time a bare majority of the Supreme Court declared income taxes unconstitutional, 22 years elapsed before the income-tax amendment was ratified. The Liberty Leaguers will give you instances of amendments which passed fairly speedily, such as the repeal of the prohibition amendment. Yet, I challenge them, and I hope that you will ask them to name any amendment proposing social legislation—which means one fought by the economic oligarchy of this country—which was passed in less than 10 years after the Court had declared the principle unconstitutional.

In our 48 States there are 95 legislative houses. The reactionaries need only to capture a bare majority of the upper or lower branches of 13 of these. Let me give you an example. In the State of New Hampshire, the State senate consists of only 24 men. Would it be a very difficult task for them to convince 13 of these that a certain constitutional amendment should not be ratified? Yet these 13 men can throw the entire State out of the column of ratifying States. Thirteen States with a population of less than 5,000,000 could block a constitutional amendment against the will of the other 125,000,000.

You can easily see that the way of an amendment is long and hard. The practical and important question is, when can we pass these laws? Is it to be this spring or is it to be 10 years from now? The farmers in my own State of North Carolina who must rely for a living upon tobacco and cotton have seen the A. A. A. swept away by the members of this Court over the vigorous dissent of three judges. Labor has seen minimum wages outlawed by a divided 5-to-4 vote. We have seen public-works projects halted for 3 years by the public utilities, and we have seen this Court send the case back for a new trial because of a technicality, with the statement that there is no "present exigency" demanding speedy decision. We have seen the members of this Court in a divided decision outlaw the New Deal's efforts to prevent the exploitation of our national resources. Are we not fully justified in believing that if we enact these other laws now they, too, will suffer the same fate by the bare majority of the members of the Supreme Court?

So here is the real issue: Are you, the American people, to meet your problems by having Congress pass the laws you want this spring or are you willing to wait perhaps 10 years, perhaps forever?

I close with the appropriate words of another great President, Woodrow Wilson, who said:

"The temper of the age is very nearly summed up in a feeling which we may put into words like these: 'There are certain things we must do. Our life as a nation must be rectified in certain all-important particulars. If there be no law for the change, it must be found or made. We will not be argued into impotency by lawyers * * *.'"

The President's Plan to Appoint Additional Judges of the Supreme Court

EXTENSION OF REMARKS

OF

HON. BERT LORD

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 1937

Mr. LORD. Mr. Speaker, to my mind there never has been laid before the Congress of the United States a more

pernicious proposal than that of the President to pack the Supreme Court with six additional Justices and to force the retirement of Court members who have reached the age of 70. To put into effect such a scheme would be like blasting with dynamite at the foundations of our republican form of government. I am not enough of a pessimist to believe that such a plan will receive the sanction of this body or of the Senate.

All of us respect frankness and open dealing. Few, if any, have much use for evasion, for the kind of tactics that the plain people of my district sometimes describe as "beating around the bush" and "going around Robin Hood's barn." My constituents like candor and straightforwardness. I think the constituents of other Congressmen like these qualities, too.

If President Roosevelt had come out directly and without hesitation for a constitutional amendment, we could at least have given him credit for telling what he wanted. But he did not do that. He presented this proposal to retire elderly judges because of their advanced age and to enlarge the Court because it was supposed to be back with its work. It is plain enough that his purpose was to get an opportunity to name on the high bench men in agreement with his policies—judges who would not declare his legislation unconstitutional. However, why did he not do the manly thing and tell the country that he did not want the Supreme Court interfering with his projects and that he desired an amendment to the Constitution prohibiting the Court from having any control over legislation? That would have been a candid statement of a proposal, instead of the evasive explanation he offered for packing the tribunal. I would have been absolutely and uncompromisingly opposed to any such idea, but I would have been fighting a scheme that was put before us out in the open, instead of one that was hidden under a mask.

It seems to me that the insincerity of the Executive proposal deserves as much condemnation as its dangerous features. If a man comes to you and threatens to assault you, you will naturally feel that he ought to be restrained, but you cannot accuse him of being a hypocrite. If he comes to you with honeyed words, saying he wants to be of assistance and giving a lot of excuses, while he is preparing the attack, it is quite a different matter. In that event he is not openly malicious in his intentions, he is secretly and cunningly so.

Even the Washington Daily News, a liberal—almost a radical—paper, that has supported President Roosevelt consistently, repudiates the Supreme Court plan that came from the White House. The other day in an editorial it said:

> The proposition that the end justifies the means is one of life's most alluring arguments—and one of the most treacherous.

In another editorial this same paper calls attention to Senator BURTON K. WHEELER's denunciation of Mr. Roosevelt's proposal and reminds us that Senator WHEELER is no conservative, but "a man whose liberalism stands unchallenged." This is a significant point. I am classed as a conservative, and I do not object to the classification. I believe this Nation needs conservative and prudent policies, not radical and extreme measures. It was to be expected that conservatives would oppose the Court scheme, but when liberals like Senator WHEELER, and liberal newspapers like the Washington Daily News, stand shoulder to shoulder with us conservatives there must be real reason for complaint against this startling and amazing plan.

Let me quote again from the News, which the other day said that it considered the proposal dangerous—

> Because of the concentration of power that is inherent in the plan; a power which, if seized by some future Executive employing this precedent, might be used to take over the works.

I am firmly convinced that we are facing a bold, yet cunning and half-concealed, attempt to set up by indirect methods a dictatorship. George Washington, the Father of his Country, in his Farewell Address, warned us of possible attempts to establish a despotism in the United States. He was familiar with the history of the Old World, and he foresaw that ambitious men might try to do in the New World the same things that had caused such bloodshed and suffering across the ocean. What George Washington said nearly a century and a half ago is very fitting advice in this grave crisis in 1937:

> Toward the preservation of your Government and the permanency of your present happy state, it is requisite, not only that you discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system; and thus to undermine what cannot be directly overthrown.

Regarding this possibility and danger, Washington went on to say in the same address:

> Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it. * * *
>
> It is important likewise that the habits of thinking in a free country should inspire caution in those entrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another.

Mr. Speaker, in my judgment, we are today called upon to meet an issue as grave as that at stake in the Civil War, and the thoughtful and prudent advice of the immortal Washington should be our guide.

National Defense

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 1937

RADIO ADDRESS BY THE HONORABLE HENRY C. LUCKEY, OF NEBRASKA, ON MARCH 2, 1937

Mr. LUDLOW. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered over the radio by the gentleman from Nebraska [Mr. LUCKEY]:

My friends, the present Congress has been asked to appropriate $980,763,000 for national defense. That sets a new record for military appropriations in times of peace. Each year we have been increasing our spending on armaments until we have reached the billion-dollar mark. The estimate for the coming year is over twice the amount we spent in 1934 for the same purposes, and more than the entire United States Budget of 1916. This ever-increasing expenditure of the taxpayers' money goes on and on, and yet we never reach what the big Army and big Navy supporters call "adequate national defense." The facts are that in all our national history we have never established a defense policy nor have we determined just what national defense we need.

In the 19 years since the World War this country has spent twenty-four and a half billions of dollars for national defense. That is more than twice as much as either France or Italy spent, 5 times as much as Japan, 10 times as much as Germany, and $2,000,000,000 more than was spent by Great Britain in the same period. These figures are based on official records. Today, after leading the armament-spending race for more than 19 years, our naval and military experts tell us that we still do not have an adequate national defense and that we must have a bigger Army and bigger Navy for national security.

When you and I think of national defense we think in terms of protection from foreign invaders. We think in actual terms of defense. Yet when we turn the pages of history we find that in not one single instance in the last 124 years have our armed forces

been used to repel an invader. Instead we find that we have been cast in the role of the constant aggressor. The forces we intended for national defense have been in practice the forces used to protect our so-called national interests and our so-called national honor.

Our neighbor to the south has heard the tramping feet of our armed forces both during times of peace and war. The Central American Republics have quartered the armed forces of this country upon their shores. The far islands of the Pacific have echoed to the thunder of our guns. Our soldiers have answered roll call in the lands of the setting sun. It was but a few years ago that the far-off fields of Flanders were stained red with the blood of American youth.

In none of those cases did we repel one single invader from our territory. Instead we gave our lives and substance—not in national defense—but in an unguided course of protecting our so-called national interests and our so-called national honor.

The founders of our country knew from bitter experience the horrors of a war waged on our own soil. To them national defense meant defending home and country. When they gave to Congress the right and duty of providing for the national defense they had no idea of an interpretation of national defense that would send our soldiers across the seas to protect the investments of a few individuals. They could not foresee national defense being interpreted as a policy whereby our soldiers, sailors, and marines would be used to collect bad debts owed to some of our citizens.

In the years since our Government was established we have grown rich in material things. Great wealth has come to us, and we have grown in world power. With that growth in power and riches, new concepts of our international position have been born. Our armed forces originally created for defense have been transformed into a machine for the enforcement of what we mistakenly have called national honor and national interest. Because a petty official of a far weaker but friendly state refused to salute our flag we sent over our marines and sailors. They seized the property of that friendly state, killed its citizens, and we brought home our dead. When the investments of a few of our citizens were endangered, and when some of our people could not collect the debts owed to them, we sent our armed forces into a friendly state to protect those interests and to collect those debts.

That was called a defense of national interests. When our Government was unable to collect money owed to it by powerful foreign states we made no attempt to use our armed debt collectors. Apparently no question of national interest was involved.

When our citizens invest money in far-off lands, where our laws have no jurisdiction, they do so in the belief that those investments will bring greater returns than they would if invested in this country. The prospect of greater profits equalizes the increased risks assumed by placing capital outside our jurisdiction. Is it then just that we should send our boys to give their lives in order that investors might profit when those who sacrifice their lives have no hope of sharing in those profits? Is it right that the taxpayer should assume the cost of protecting investments in which he or she has no interest, and which, if saved, will bring no return to the taxpayer? Should we play the role of the bully in coercing the weak when we make no more than a formal protest if the offender is rich and powerful?

To hold the manifold blessings of national security and peace we must take definite action. To my mind, there are four things which must be done:

1. We must clearly define our national policy.
2. We must establish a sound, workable, and mandatory neutrality policy.
3. We must take the profits out of war.
4. We must reorganize our Army and Navy under a unified command.

These four objectives must be reached to produce an effective peace structure. Each affects the other, and unless all are translated into law we have no effective barrier against war.

To accomplish the first objective I have reintroduced in Congress the resolution sponsored in the last Congress by myself and Senator Benson, now Governor of Minnesota. That resolution calls for the formulation and establishment of a definite national-defense policy based upon a careful study of our needs. Only with a fixed goal and a concrete knowledge of our military needs can we achieve adequate national defense without bankrupting the American public in this mad orgy of armament spending.

Neutrality and war-profits legislation will undoubtedly be enacted by this Congress. The weak and ineffective neutrality law of the present must be replaced by a permanent, mandatory act, if we are to avoid the pitfalls of foreign wars. The strict curtailment of war profits is practically assured. That leaves us one great gap in the completion of our peace and national-defense structure. It is the establishment of a unified command over our national-defense forces.

Several bills have been introduced to consolidate our Army and Navy into one department of national defense. Such a reorganization would be in line with the best military experience. The rivalries between our armed forces could be eliminated. Useless duplicating machinery would be thrown out. Efficiency and economy would replace the present prodigal waste of the taxpayers' money.

In discussing national defense we must distinguish between military defense and national defense. A large military machine does not necessarily mean a strong nation. To build a strong and invulnerable nation, the individual, the home, the school, the church must each contribute their best. The laws of God are immutable. The old injunction, "Righteousness exalteth a nation", is as true now as the day it was first proclaimed.

I thank you.

Foreclosure of Mortgages by Federal Land Bank

EXTENSION OF REMARKS

OF

HON. NEWT V. MILLS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 1937

CONCURRENT RESOLUTION ADOPTED BY THE LEGISLATURE OF THE STATE OF LOUISIANA

Mr. MILLS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following resolution adopted by the Legislature of the State of Louisiana:

Whereas the Federal land bank has persistently pursued a course in the foreclosure of mortgages against the citizens of this State adverse to the wishes of the President and the intent and purpose of the Congress; and

Whereas this practice has been most noticeable in parishes, localities, and neighborhoods where there are apparent possibilities of potential gas and oil development. This latter fact being so apparent as to cause universal criticism of the motions of this said Federal land bank; and

Whereas these unjust acts have not only been committed against old resident citizens, who together with their forebears have been for generations the backbone and sinew of this country, but against any representations of a new and fine citizenry who have moved into this State, invested their all in good faith, and yet have met with the same ruthless treatment; and

Whereas the purpose of our great President and the Congress of the United States in recommending and making appropriations to the said Federal land bank for the protection of these citizens in the security of their property rights and to aid them and tide them over these terrible years of depression, thereby giving them the help so badly needed to recoup from their misfortunes, and to enable them to become a substantial people who could and would contribute to their country's good. And most certainly not for the purpose of the said Federal land bank to make more money with; to create more high-salaried jobs; to create more moneyed potentates. But, instead, was for the stricken farmer and other sufferers who, due to no fault of their own, were engulfed by storms, droughts, excessive rainfall, innumerable pests—in short, by the cataclysms of nature—and who are rendered powerless to help themselves in their struggle for their very existence, let alone pay interest to said Federal land bank and taxes to the State government; and

Whereas we believe in the honesty and integrity of the American people as a whole; and believe their inability to pay interest to this said Federal land bank and taxes to the State is due to a combination of the above-named causes and not to dishonesty and a desire to defraud as evidenced by the fact that these same people or their forebears paid enormous sums and interest to English and Scotch loan companies in the eighties and nineties as the parish records in Louisiana will show; and

Whereas we believe that moneys appropriated by Congress should be for the benefit of the common people and not for corporate interests: Therefore be it

Resolved, That the Legislature of the State of Louisiana go on record as approving every work of this resolution; and that this legislature memoralize the Congress of the United States to immediately take proper steps to have this abuse of Federal funds corrected; and further be it

Resolved, That the Louisiana delegation in Congress use every means within their power to bring pressure upon the Congress to correct the evils as set forth in this resolution and to have all properties unjustly taken from their rightful owners restored to them; and, still further, be it

Resolved, That the Congress pass all necessary moratoriums and a mandatory act to govern said Federal Land Bank with proper restrictions as to use of Government funds and proper safeguards for the sovereign people; also, be it

Resolved, That a copy of this resolution be sent to the Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of the Senate and the Clerk of the House, and each member of the Louisiana delegation in the Congress of the United States.

Following is the argument of T. J. Coenen before house of representatives May 18, 1936:

No one knows better than I, that anyone loaning money is entitled to collection of same, with interest, and the purpose of this resolution is not to suggest that the amount of any mortgage be reduced but that it be extended until such a time that the mortgagor shall be able to catch up with his payments, and also to stop the Federal land bank from gambling in gas leases.

An individual loaning money will not foreclose on a farm as long as he thinks he will eventually get his principal and interest, even though it be delayed a little, so why should the land bank do what an individual would not do?

I want to call your attention very briefly to what the Federal land bank has been doing.

A few years ago they got in a bad financial position, and they made advances to the Government, that owing to the failure of the farmers to pay them they were in an embarrassing spot, and asked the Government to assist them, so that they in turn could carry the farmer a while longer.

The Government rendered them assistance by investing many millions in their capital stock, evidently thinking that the money would be used as stated; but what did the Federal land bank do with the money? They went to a certain town in Mississippi and bought about 100 automobiles, put a man in each of them and added many new employees in the office; for what purpose? To help the farmer? No! For no other purpose than to put all these new men in the field as collectors, and just as soon as all mortgagors could be visited, the foreclosing began, thus violating their word that they wanted to carry the farmer.

That in itself showed very bad taste, and the wrong spirit when they got relieved from their own financial embarrassment to take advantage of those who were then in the position the land bank itself had just gotten relief from.

That showed a spirit of oppression that should not be shown when we are all trying with all our might to keep our heads above water.

I do not own a farm, and I do not owe the Federal land bank a dime, but I have friends who have been thrown out of their homes, their crops seized, and their livestock sold, because they were just a little behind in their payments.

Now, in my own parish, we have the largest gas field in the world. Some of the farms mortgaged are adjacent to this gas field. Why is the land bank foreclosing on farms in Richland? Simply to get the mineral rights with which to gamble on.

I know of a case in which a farmer lived in the Boeuf spillway, in which the land bank refused to make loans after the spillway was proposed, stating that land would be valueless on account of the spillway.

However, a farmer owed them on his land there, the amount of the loan including all the interest, court costs, and 10-percent attorney's fees amounting to about $2,000. A cash offer was made when the property was sold at public auction by the sheriff on foreclosure which would have amounted to the full amount of the debt, considering that they did not expect to pay the attorney 10 percent, and which was only $60 less the amount including the attorney's fees.

Now, gentlemen, is there a man in this building owning a mortgage on a piece of property that he, himself, had declared to be valueless who would not be glad to get within $60 of his $2,000 mortgage; that would refuse to take the cash but would insist on taking the valueless land? Especially if he already had thousands of acres of lands on which he was losing money?

I say no. But what did the Federal land bank do?

They took the poor man's home away from him. Why? Because it had minerals under it—gas and possible oil.

After getting possession, what did they do? They offered it for sale immediately for $1,500 less the mineral rights.

That, gentlemen, is the reason for foreclosures in Richland.

What right has the land bank to gamble in minerals at the expense of the home owner who loses his all that a big institution could engage in gas leasing?

What is going to happen to these gas leases? It is my prediction that some day they will all be assembled and sold to a bunch of individuals who will get rich off them; then the land bank will go back to the Government and ask for more money with which to carry the farmer.

It is inconsistent that one branch of Government will take up a tenant farmer who has never tried to accumulate anything, build him a house, buy him a $185 mule, and new implements and another branch will the next day sell out at public auction for what it will bring, the home, mule, and implements of one who has deprived his family of the necessities of life to create a home, which he has to lose because he has gotten a little behind in his payments.

Gentlemen, the system is not right and I earnestly implore you that you will assist me in correcting these matters by voting in favor of this resolution. I thank you.

The resolution passed the house unanimously on May 18, 1936. It passed the senate by a vote of 34 to 0 on May 21, 1936.

The Supreme Court

EXTENSION OF REMARKS
OF
HON. ALBEN W. BARKLEY
OF KENTUCKY
IN THE SENATE OF THE UNITED STATES

Wednesday, March 3 (legislative day of Wednesday, Feb. 24), 1937

RADIO ADDRESS BY HON. ROBERT J. BULKLEY, OF OHIO, ON FEBRUARY 26, 1937

Mr. BARKLEY. Mr. President, I ask to have inserted in the RECORD a radio address on the subject of The Supreme Court delivered by the Senator from Ohio [Mr. BULKLEY] February 26, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The President's plan for the reorganization of the judiciary is but the revival of a plan suggested by Justice McReynolds some years ago when he was Attorney General of the United States. It will probably tend to relieve congestion in the courts and tend to provide among the judiciary a newer and fresher point of view.

The greatest objection urged against the plan is its application to the Supreme Court of the United States, where it would immediately authorize the appointment of six additional Justices. This was not a part of the McReynolds plan. It may well be doubted whether an increase in the membership of the Court would tend to expedite its work. It can hardly be doubted that such an addition would give to the Court a younger point of view. The desirability of compulsory retirement at some fixed age is generally accepted, as in the Army and Navy and other branches of the Government service and in railroading and industry. There are individuals who can continue to do excellent work up to the age of 80 or even 90 years, but these are the brilliant exceptions which do not disprove the rule.

But these considerations do not touch the point of greatest controversy over this proposal, which is that six additional Justices appointed by the present President and confirmed by the present Senate would certainly change the complexion of the Court by creating a liberal rather than a conservative majority. This is opposed on the one hand as an attempt to pack the Court, and on the other hand is commended as a means of unpacking the Court.

Whichever viewpoint we take there can be no doubt about the importance of the change which would be effected, that importance being due primarily to the power exercised by the Supreme Court to determine finally the validity or invalidity of acts of Congress.

Our Government consists of three branches—the legislative, executive, and judicial—equal and independent of each other, but subject to checks and balances. The Constitution provides that the Chief Executive may veto an act of Congress, and further provides how a vetoed act may become a law by a two-thirds majority of both Houses, notwithstanding the objection of the President.

The Constitution does not provide that the Supreme Court may veto or pass upon the validity of an act of Congress, and proposals made in the Constitutional Convention to write into the Constitution such an authority to the Supreme Court were definitely voted down. How, then, did the Supreme Court get the right to be the final arbiter of the validity of an act of Congress? It took it. It simply asserted it, and the assertion has been acquiesced in for more than a hundred years. It has been supposed that the courts have this power by necessary implication, because of the necessity of having some check against the Congress passing an act which it had no right to pass under the powers delegated to it by the Constitution. It is strongly urged in some quarters that this review by the courts is unnecessary, since the Congress, equally with the Supreme Court, is charged with the duty of conforming to and supporting the Constitution, and so is the Chief Executive, whose approval is necessary to legislative acts, except in the case of measures passed over his veto by majorities of two-thirds. Whether necessary or not, the prerogative of the Supreme Court to hold finally that an act of Congress is unconstitutional has been recognized, and it would probably take a constitutional amendment to change it now. And so the Supreme Court has a check upon acts of Congress, not by reason of any express provision of the Constitution but by its own assertion of that power. Does the exercise of this power by the Supreme Court destroy the independence of the equal and coordinate legislative branch of the Government? It does not so long as the power of the Court to nullify an act of Congress is exercised only where the unconstitutionality of the statute is clear beyond doubt. But the Constitution itself is not clear in all detail. It is a broad outline of a governmental plan to

be carried on and developed by each generation to meet the needs of changing times. It has been regarded as a living and growing instrument, flexible and adaptable to all conditions that may arise. Powers not expressly enumerated in the Constitution have been implied and exercised by the Congress as well as by the courts, an example being the right of Congress to control industrial and agricultural prices by means of a protective tariff, which has been sustained as incidental to the right of the Government to derive revenue by taxes on imports.

I have said that the independence of the legislative branch is not in any fair sense impaired by the judicial assertion of authority to declare congressional acts unconstitutional so long as such decisions are confined to congressional acts which plainly contravene the Constitution. For example, there could be no doubt that it would be unconstitutional for Congress to pass an act to establish a national religion, or prohibiting the free exercise of religion, or to impose any religious test for the holding of public office. But the Supreme Court, in its assumed guardianship of the Constitution, has not the slightest right to use this power in order to impose its own ideas of public policy. When the Supreme Court exercises the right to nullify an act of Congress because of the preconception of its members on questions of public policy, then, indeed, has our form of government been changed. How great may be the Court's power? Chief Justice Hughes has said, "We are under a Constitution, but the Constitution is what the Judges say it is."

Fortunately the Supreme Court has repeatedly disclaimed the intention to pass upon questions of policy, recognizing that the Congress is solely responsible for policy determination. The Court professes to declare unconstitutional only such acts of Congress as clearly conflict with the Constitution. But judges are human and their consciences must be to some extent influenced by their respective backgrounds and predilections. This difficulty is recognized within the Court itself. Take as an example the Hoosac Mills case, holding the A. A. A. unconstitutional. To come to the conclusion that this decision was based upon the majority's views of public policy, we do not need the support of any outside critic of the Court. We may decide for ourselves whether or not we agree with the criticism expressed by Justice Stone in his classic dissenting opinion, from which I quote:

"That the governmental power of the purse is a great one is not now for the first time announced. Every student of the history of government and economics is aware of its magnitude and of its existence in every civilized government. Both were well understood by the framers of the Constitution when they sanctioned the grant of the spending power to the Federal Government, and both were recognized by Hamilton and Story, whose views of the spending power as standing on a parity with the other powers specifically granted have hitherto been generally accepted.

"The suggestion that it must now be curtailed by judicial fiat because it may be abused by unwise use hardly rises to the dignity of argument. So may judicial power be abused. The power to tax is the power to destroy, but we do not, for that reason, doubt its existence, or hold that its efficacy is to be restricted by its incidental or collateral effects upon the States * * *.

"A tortured construction of the Constitution is not to be justified by recourse to extreme examples of reckless congressional spending which might occur if courts could not prevent expenditures which, even if they could be thought to effect any national purpose, would be possible only by action of a legislature lost to all sense of public responsibility. Such suppositions are addressed to the mind accustomed to believe that it is the business of courts to sit in judgment on the wisdom of legislative action. Courts are not the only agency of government that must be assumed to have capacity to govern. Congress and the courts both unhappily may falter or be mistaken in the performance of their constitutional duty. But interpretation of our great charter of government which proceeds on any assumption that the responsibility for the preservation of our institutions is the exclusive concern of any one of the three branches of government, or that it alone can save them from destruction is far more likely, in the long run, 'to obliterate the constituent members' of 'an indestructible union of indestructible States' than the frank recognition that language, even of a Constitution may mean what it says: that the power to tax and spend includes the power to relieve a Nation-wide economic maladjustment by conditional gifts of money."

I agree with Justice Stone's opinion, in which Justices Brandeis and Cardozo joined. Where then do we arrive? We have seen that the Constitution clearly sets forth the checks and balances between the legislative and executive departments, but is not so clear as between the legislative and judicial. The judicial branch has presumed and exercised the power to review the acts of the legislative not by authority of any words of the Constitution but by judicial implication. It has actually and effectively enlarged this presumption to include the right to protect the country against the possible unwisdom of Congress. Says Justice Stone, "So may judicial power be abused." In our Government of checks and balances is there no check or balance against this assumption of judicial supremacy?

The Chief Justice believes that the Constitution is what the Judges say it is. What, then, becomes of the theory that our three branches of government are independent and equal, when the judicial branch takes unto itself the power to review and to veto the work of the legislative?

Are those of us who resist complete judicial supremacy to be accused of trying to change our form of government? Rather, we are trying to restore our form of government. We are trying to check the Supreme Court in doing what it itself has held that it has no right to do.

Do we attack the independence of the judiciary? All of the judiciary, including Supreme Court Justices, have always been appointed by the President by and with the advice and consent of the Senate, and it has never heretofore been suggested that this method makes judges subservient to President or Senate. Their independence has been protected by the constitutional provisions that they shall hold office for life, and that their salaries shall not be reduced. No change in these safeguards to the independence of the judiciary has been suggested, nor would it be possible under the Constitution. It is well to remember these plain facts through all the welter of irresponsible accusations about an attack on the independence of the judiciary.

The number of members of the Supreme Court has been changed several times before. Those who feel that the precedent of enlarging the Court would lead immediately to further enlargement and loose dealing may take comfort in the fact that the previous precedents have had no such effect. There has been no change for nearly 70 years.

It should be frankly recognized that the enlargement of the Supreme Court is a serious step, and one that should not be taken without good reason, but those who justify the Supreme Court in assuming a power not granted by the Constitution and support the Court in using that power by way of legislative veto, and yet would deny to Congress the right to recheck the Court by the exercise of a power clearly and definitely within its constitutional rights, should stop talking about the independence and equality of the three branches of government, and frankly take the position which they are really supporting—that of unqualified judicial supremacy.

In the formative period of American constitutional law, the great Chief Justice, John Marshall, developed the doctrine of implied powers and put vitality into the strip of parchment on which the Nation was founded. He transformed the words of the Constitution into authority and made them spell national power. He found the organic law full of silences which he made articulate. He gave the Constitution resiliency and made it, what it is claimed to be, the supreme law of the land. Today, in this period of transition, when our people are emerging from a catastrophe in many ways as serious as then, it is vital that the Supreme Court must be in harmony with the times.

A constitution is not an idol to be worshipped; it is an instrument of government to be worked. If, in the words of John Marshall, it "is to endure for all ages to come, and consequently to be adopted to the various crises in human affairs"; if the Constitution is, as Woodrow Wilson once declared, "the vehicle of the Nation's life", it must be because the Supreme Court makes it so. Our present Supreme Court has nullified important acts of Congress because a majority of the judges, conscientiously differing with the economic and social theories underlying recent legislation, have insisted on an antagonistic approach to the problem of constitutional interpretation.

I reaffirm my faith in the Constitution of the United States as a living and growing instrument of government, adaptable to new times and new deeds. I reaffirm my faith in the President of the United States and in Franklin D. Roosevelt personally—not a dictator, but a great democratic leader at a time when the country has been crying for leadership. I reaffirm my faith in the Congress and in its responsibility and ability to protect the liberties of the people.

Protection of American Peace Through Neutrality

EXTENSION OF REMARKS

OF

HON. HERMAN P. KOPPLEMANN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 1937

STATEMENT OF HON. HERMAN P. KOPPLEMANN, OF CONNECTICUT, BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS, ON FEBRUARY 18, 1937

Mr. KOPPLEMANN. Mr. Speaker, under the leave given me to extend my remarks, I desire to submit my talk before the House Foreign Affairs Committee on February 18:

Mr. Chairman, I have introduced neutrality bill H. R. 1491. The purpose of this bill is to preserve the neutrality of the United States in armed conflicts occurring outside its territorial limits to which it is not a party and to define the obligations of citizens and nationals of the United States in respect to such conflicts.

My bill is a permanent neutrality bill and not merely an amendment to the existing temporary law. Basically, it is mandatory but it recognizes at certain points the impossibility of laying down a hard-and-fast program which would tie the hands of the Executive. It does lay down certain broad principles which, if accepted by this committee and by Congress, would serve to remove the major danger of our country becoming involved in a foreign war in which we have no stake.

Whether my bill is accepted by your honorable body or not, I do want the bill you do report to be the strongest possible measure.

Permanent neutrality presents basic problems if we are to give ourselves the protection desired by the law, and at the same time enable us to meet unforeseen situations as befits a leading nation. With the permission of this committee I should like to take a few minutes of your time in consideration of some of the major problems that I see involved in writing an adequate neutrality measure.

I should like also to point out certain fundamental differences between my bill and that offered by the chairman of this committee.

Our neutrality policy was revised because the American people wanted to avoid the danger of getting into an overseas war. The people of this country want to have war abolished. They want to be guarded against involvement in any war that does arise outside of our borders, and they do not want the power to make war taken from the hands of Congress, which represents more nearly the people. There is always a problem in drafting any legislation on a national issue as to whether the American people are going to be willing to pay the price in order to secure the desired result.

There has been a great deal of discussion regarding the merits and demerits of various types of neutrality legislation. I believe that our neutrality policy should be a permanent and mandatory policy. Such a policy is more likely to help prevent war than any other kind of neutrality policy.

Today we find a world in which one group of nations feel that they are in the "have not" class, economically and materially. They see in other nations peoples, and governments which they feel have too much. The nations who are in the "have not" category will either have to secure favorable concessions or they are going to inevitably take up arms to get what they want and need.

The nations which have these materials are then faced with the choice of conceding certain things or fighting a war to protect themselves. In a situation like this if the nations who "have" can count on the United States to supply them with materials with which to fight a war they will never feel very ready to make concessions. It is true that we may not always achieve peace by granting concession to the "have nots" but it is also true that threatening a war will not prevent them from getting it and will not prevent war. I feel that discretionary neutrality means that the United States will be ready, if not willing, to join the League of Nations in a policy of sanction against an aggressor nation. If the Congress of the United States adopts mandatory neutrality the United States will place itself on record of not profiting from war or supporting a war. Undoubtedly, such a stand would have a tremendous effect in the matter of the "have" nations giving concessions to the "have nots." This would be a great step forward in preventing war in the world.

If we are going to avoid war, we must avoid the dangers of financial and economic entanglement. We must not lend money or give credit to nations that are fighting. We must keep our ships and citizens from war zones, and we must not give governmental protection to those who are foolish enough to risk their lives and property in war trade. Our legislation must also prevent economic dislocation in our own country by stopping development of any wartime industrial boom in the manufacture of war materials.

Prior to our entrance into the World War, if we take the figures of the Morgan Banking Co., we sold $7,000,000,000 to the Allies. It was just this trade which caused Ambassador Page to send this telegram:

"There will be almost a cessation of trans-Atlantic trade. This will, of course, cause a panic in the United States. Perhaps our going to war is the only way in which our present prominent trade position can be maintained and a panic averted."

We finally went into war on the side of the Allies to protect this $7,000,000,000. Our participation in that war cost us $41,947,000,000 up to June 30, 1935, and the cost is still going up.

It is true that in a great world war the United States will suffer heavy financial loss. We have a choice of confining these losses to dollars and staying out of the war or, by going into the war, increasing our losses and adding to them the loss of thousands of American lives.

There are many people who desire discretionary legislation. They want to have the United States situated so that it can cooperate in sanctions policy of the League of Nations. Such people have claimed and are claiming that the Jeffersonian embargo policy proves that this country is not willing to sacrifice war trade for peace. However, I agree with others who point out that there is a wide difference in our present situation from that of Jefferson's time. I feel, with many other people, that such statements ignore two fundamental facts. They are:

1. The cost and effect of the war in 1812 is insignificant compared with the cost and effect of a war today.

2. The American public in 1812 did not have the knowledge that the American public in 1937 does regarding cost and effect of taking part in a major conflict.

There are many people arguing for discretionary legislation who claim that mandatory legislation caused other nations in peacetime to cut off trade with this country if they could not get supplies from us in wartime. Such claims speak very ill of the patriotism of American businessmen and of economic acumen of foreign merchants. If other countries adopted this policy, their merchants would have to give up a great many profits by buying and selling in dear markets or these governments would have to give heavy subsidies to carry on normal trade. These two things are unthinkable in the face of precarious economic situation of foreign countries and their tremendous expenditures for national defense which are threatening their financial security. President Roosevelt has stated that at least 90 percent of the business interests of the country have voluntarily accepted the advice of the State Department to avoid war trade which might endanger our peace. I call your attention also to the statement of Louis J. Taber, master of the National Grange, and to a resolution of powerful labor unions, which show that these two great farm and labor groups in the country are ready and willing to sacrifice temporary profits to escape war.

War-making power must reside in the hands of Congress. We have no right to impose on one man the responsibility of conducting our foreign affairs under a discretionary neutrality policy. This is a life-and-death matter to democratic government. It was recognized by the framers of the Constitution that the power to make war should reside in the hands of the people and it would not reside there if this responsibility were taken away from Congress and given to one man. For this reason I think mandatory neutrality, setting forth clearly in advance the policy for our country would enable us to keep the war-making power in the hands of Congress and the people.

I should now like to proceed to compare my bill with the McReynolds bill. They both provide for a mandatory embargo on the export of arms, ammunition, and implements of war. This provision is included in the present neutrality law. The prohibition extends to all nations which become involved in war. Certainly this point should be included in any neutrality bill, and it is my understanding that such is the desire of the committee. Both the McReynolds bill and my own extend this prohibition on shipment of arms to cover civil wars as well as international war.

Anyone who has devoted time to consideration of neutrality legislation knows that munitions are not the only commodity that can involve us in war. Just as important is the sale of other materials which may be used for war purposes. At this point there is a very fundamental difference between my bill and that of Mr. McREYNOLDS. House Joint Resolution 147 makes it unlawful to export more than a normal amount of war material after the President has issued a proclamation restricting the shipment of such articles to belligerents. My bill provides that upon the issuance of a proclamation prohibiting the shipment of arms, the President shall proclaim a list of materials of war and thereafter it shall be unlawful to export any such materials to or for the use of any belligerents. The point of difference is that the McReynolds bill allows a normal amount of trade. In other words, it allows Americans to ship war materials up to a certain amount. My bill bans the export of such articles entirely. And if I am to judge from the telegrams and letters I have received since this legislation became active, the American people want this prohibition.

If we are going to have an outright embargo on arms there seems to be no adequate reason why we should not have an outright embargo on articles and commodities which are just as important to the carrying on of war. If we are going to get into trouble shipping arms, we are going to get into trouble shipping other war materials, even though the shipment of such materials be restricted to peacetime levels. Any belligerent nation fighting for its very life will do all in its power to stop such trade, and by so doing will offer a dangerous opportunity to involve this country in a diplomatic conflict which may, in turn, very well lead to our involvement in a war. I, therefore, suggest that in place of section 4 of the McReynolds bill you substitute the provisions of section 3 of my bill.

The two bills have similar provisions with regard to financial transactions with belligerents. The McReynolds bill adds a very necessary provision to the present law in making it unlawful to solicit or receive any contributions for any belligerent. This provision does not appear in my bill but I am very happy to give it my approval.

I want to call your attention, however, to three or four words which are in section 14 of my bill, but which are not in section 5 of the McReynolds bill. If you will read lines 12 and 13, page 9, of my bill, you will notice the words "or the property of." These words are not included in the McReynolds bill, and are intended to guard against a very dangerous situation that now exists in our country—namely, the tremendous foreign capital investment—which, if turned into cash, could be used under the McReynolds bill to purchase large amounts of war supplies for belligerent use.

If we do not cover ourselves at this point we are opening the floodgates to the tremendous and dangerous wartime industrial boom in the United States. Such a boom would of necessity give employment to a large number of people and develop a profitable trade for certain industries. When the available cash held by foreigners in this country had dried up our factories would be left without their former market and our workers without their jobs. In the face of such an event it would be well nigh impos-

sible to resist the demand for the continuance of such trade. Continued trade of this nature would, I feel, based on our World War experiences, involve us eventually in another foreign war. We must avoid such a pitfall, and therefore I suggest that those words, "or the property of", lines 12 and 13, page 9, my bill, be included in the section on financial transactions in whatever bill is reported out of this committee.

The provisions which deal with the carrying trade of American vessels in wartime differ widely in the two bills. The McReynolds bill makes it unlawful for any American vessel to carry arms to or for use of belligerents. It gives the President an opportunity to exercise his discretion in prohibiting American vessels in carrying other war materials which would be allowed to be sold under the normal trade quota.

My bill contains an outright prohibition on the use of any American vessel in carrying any article or commodity to or for use of any belligerent. It also provides that American vessels must keep out of war zones.

This matter of keeping American vessels from engaging in the transportation of goods to belligerents is so important and contains so many threats to our neutrality, that I believe it should be unlawful for any American vessel to carry any article or commodity to or for the use of belligerents. The slight loss to American shipping which is involved in such a policy would not, in my judgment, be worth the risk of involving us in conflict with foreign nations when one of our ships gets sunk when engaged in such trade. I feel that the vast majority of American people endorse my views. We have plenty of wartime illustrations of this point. We must keep American shipping out of war zones and out of the belligerent carrying trade. If we don't, the chances are we will find ourselves right back where we were just before we entered the World War. I, therefore, suggest that you include the provisions of section 6 of my bill in the bill which you report and protect the American people against this danger.

I want to call your attention to section 7 of the McReynolds bill which deals with transactions with belligerents. The provisions of the McReynolds bill gives the President a wide grant of authority which I feel places too much of a burden on one man. Section 9 of the McReynolds bill provides that the President may, if he finds it desirable, proclaim that American nationals who engage in commercial transactions with belligerents, shall do so at their own risk. This point should not be left to the discretion of any one man. Those Americans who want to run the risk of selling goods to belligerents should know, before war breaks out, that any such trade is going to be at their own risk. Then they will have no comebacks. Also the President will be protected against all sorts of pressure which are bound to arise if he has discretion in the matter. Anyone with a profit at stake will demand he withhold an embargo. With mandatory embargo on trade with belligerents the American people will be protected on another front from becoming involved in war over some trader's profits.

Another point of major difference between the McReynolds bill and my bill is the question of the use of our ports and waters by belligerent shipping. If you will compare section 10 of my bill with section 12 of the McReynolds bill, you will notice that in my bill armed merchant ships, as well as submarines, can be barred from our ports or have special restrictions placed on their use of our ports. If submarines are going to be banned or restricted, I see no reason why armed merchant ships should not be treated likewise. An armed merchant ship is a naval weapon just as much as a submarine, and if a submarine is going to get us into trouble, an armed merchant ship will do the same thing. I, therefore, suggest that you include in the bill you report the right to restrict the use of our ports and waters to armed merchant ships as well as to submarines.

To take the most effective step in the matter of stopping trade with belligerents, I would suggest that you include section 13 of my bill, which provides that export quotas shall be placed on all articles or commodities whatsoever sold to belligerent countries. These quotas would apply to all articles or commodities not banned by proclamations on arms or war materials. I know that there are a great many people who feel that this is too drastic a step to take but I should like to call their attention and the attention of this committee to one fact as I conclude. There is only one way to keep out of war, and that is to make up our minds that we are willing to pay the price of keeping out. If we are not willing to do that, there is nothing in the world that will protect us.

I think the American people are willing to pay this price. It is our duty as Members of Congress, and your duty especially as members of this committee, to report a bill which will, insofar as legislation can, keep us out of war. The price of keeping out of war will always be less than the cost of fighting a war.

Gentlemen, if you will take my bill and add to it a provision, suggested by your chairman, prohibiting contributions for or in behalf of foreign belligerent nations, you will be giving your approval and support to a law which the American people will applaud.

If this committee is going to insure the American people against having to spend hundreds of millions of dollars annually in the future for war, this committee must report an adequate mandatory bill which covers the essential points I have discussed. Such a bill I know will receive the enthusiastic approval of every Member of Congress who really wants peace. It will also find this Congress going down in history as a peace Congress and the members of this committee as peace leaders. The responsibility now is yours.

Proposed Reconstruction of the United States Capitol

EXTENSION OF REMARKS

OF

HON. OTHA D. WEARIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 1937

STATEMENT OF LORIMER RICH, ARCHITECT, BEFORE THE SENATE COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS ON FEBRUARY 11, 1937

Mr. WEARIN. Mr. Speaker, during the Seventy-fourth Congress the House Committee on Public Buildings and Grounds, of which I was a member at that time, refused to report out a bill the purpose of which was said to be the extension of the east front of the United States Capitol, but the result of which would have been to completely rebuild the exterior of the central and most historic portion of the building with marble, altering the style of the columns, increasing their number, and otherwise changing the appearance and form of the structure for no known purpose except to correct an architectural defect which in no way impairs and which in one sense of the word adds uniqueness to the atmosphere of historic significance that surrounds the Capitol of the United States, the most photographed public building in America. We were aided in this by such outstanding American authorities in the field of architecture as Dr. L. D. Holland, of Washington and Philadelphia; Mr. Thomas H. Ellet, of New York; and Mr. Lorimer Rich, of New York and Washington.

That same measure is now before another legislative body at the present time, and the only added justification being advanced for it is the contention that more space is needed in the Capitol itself, in the face of the fact that the taxpayers were asked just prior to the Roosevelt administration for a half-billion-dollar Federal building program in the city of Washington, which included, among other things, an additional office building for the House of Representatives, an extension to the Senate Office Building, and another for the Congressional Library, all on Capitol Hill, which should emphasize the absurdity of the contention for more space which will involve an additional expenditure of four or five million dollars.

I have been strongly opposed to the measure from the beginning, and have exerted every effort to defeat it. In my judgment it is imperative that we save for posterity the structure that has witnessed more important historic events than any other single building in America, and, furthermore, that we save it in its present form, unaltered since its reconstruction following the fire set by the British when they burned the city during the War of 1812.

During the course of the recent hearings before a committee of another legislative body Mr. Lorimer Rich, a noted American architect, with a profound sense of respect for historic buildings that rises above personal ambition, made a statement with reference to the subject under consideration that covers the question so thoroughly I feel it should be made available to all Members and the public through insertion in the CONGRESSIONAL RECORD.

Mr. Chairman, my name is Lorimer Rich. I am a practicing architect in New York City, a graduate architect, a member of the American Institute of Architects, and representative of the New York Chapter of the American Institute of Architects for the institute committee on public works. I spent some time in the office of Charles A. Platt and 6 years in the office of McKim, Mead & White, and have been practicing independently in New York City for 7 years.

My work has been mostly of a monumental or public character. I am the architect of the Tomb of the Unknown Soldier and the memorial approaches to the amphitheater in the Arlington National Cemetery. I am the architect for the recently completed War Department Building on Governors Island, New York City, and I am also the architect for numerous Federal buildings—St. Albans, Vt.;

Great Barrington, Mass.; several post offices in New York, etc.; and I am at present a consulting architect for the Treasury Department in connection with the Federal building program.

I appear here today independently as a citizen interested in the Capitol Building and as an architect, hoping that you may consider me competent to render a professional opinion in regard to this proposed building.

I have examined and studied the Capitol many times, have followed these hearings, and am familiar with the proposals outlined which are now being advocated.

The proposals made in this bill are the most important and irrevocable architectural decisions which have come up before a committee of Congress, certainly in my lifetime. This project has been up for discussion more or less for the past 70 years, and for more intensive discussion since the Carrere & Hastings report in 1904. At no time has there been any definite progress, and I have found no definite agreement on just what should be done. The position of this front wall continuously changes from 12 to 32 to 40 feet, and once, in a suggestion made by Mr. Walter in 1874, to 180 feet. It is moved during these hearings. It behaves somewhat in the manner of a moving target. This is very disturbing to those who wish to know just what is proposed. However, a plan was presented in the hearings 2 years ago. This plan was called a modification of the Carrere & Hastings plan and was proposed by the Architect of the Capitol in 1935. The record states that Mr. Sullivan and Mr. Wyeth have assisted Mr. Lynn in this study. I therefore assumed that this, being the result of the combined abilities of the Messrs. Lynn, Wyeth, and Sullivan, represented about what we might expect as a final scheme. I shall therefore in general direct my remarks around this plan.

The advantages of this work are maintained to be:

First, to correct the overhang of the skirt of the dome.

Second, to give needed additional space in the building.

Third, to replace the sandstone with a more permanent material.

Fourth, to bring the central part in harmony with the wings.

As to the first part, the overhang of the dome. It does exist. It is wrong and a technical defect. If an architect were doing that work today, or if one architect had been in command of the whole project from its inception until its completion, it would not have happened. It occurs, of course, because of the very difficult and unusual problem that confronted Mr. Walter of designing a dome adequate for the whole composition, but still putting it on the existing foundation. He did a splendid job. The Capitol today, in spite of this minor defect, stands as one of the finest and most impressive buildings in the world. Some years ago the architectural journals conducted polls among the architects as to the 10 most beautiful buildings in America. This Capitol building practically always headed the list. I don't feel that it is a question of how many feet you should move the wall out. You should leave the wall where it is. You may remedy this one feature, but the cost in sentiment, history, and beauty is too great for the American people. By so doing you will do much violence to the whole composition of the Capitol.

The dome now is very impressive. It comes all the way down to the ground and this enhances the feeling of grandeur so noticeable when standing in front of the Capitol, that is, in the forecourt. This is a most happy accident. You propose to change the very finest part of the Capitol. You propose to rob this front of the feature which makes it one of the most thrilling and impressive architectural facades in the world. For every foot that you bring out the front walls and portico you substract a foot from the height of the dome, especially when viewed from the area in front of the east facade, and it is the views from here which have become such a familiar sight to the American people. It has a character and personality which is different from that of any other dome structure. Most domes are set back in the middle of buildings and consequently their great height and majesty cannot be enjoyed when you are near them. Let me emphasize here very strongly again that the fine views and the important views of this historic east front are practically always near views. If you project this front out, you will make this facade less interesting and deprive it of its unique and naive quality.

You have heard much of the Carrere & Hastings report. Do you realize that they recommended that the extension be kept to 12 feet 10 inches—to rectify the technical defect of the overhang of the dome—and that they advised strenuously against any further projection? Yet we have here under consideration today a proposal to make the projection 40 feet! I read from their report of 1904:

"We feel deeply the responsibility imposed upon us in reporting to your commission in regard to any changes to be made in the Capitol Building of the United States, a building so interesting from the artistic as well as from the historic point of view, and which, though it may have some architectural faults, is, nevertheless, one of the most monumental and beautiful edifices in this country.

"We strongly recommend that whatever alterations are decided upon should be substantially in harmony with this plan, scheme A—12 feet 10 inches—and that in no event should the central portion of the building be made to project any further eastward than shown thereon."

This is a very strong statement by one of the most important and competent architectural firms of that day or this. I call your attention to the fact that they definitely recommend that this wall be not moved over 12 feet 10 inches. They speak again in regard to this matter of projection and they prepared an alternate scheme B. In regard to that scheme they say this:

"We have prepared an alternate plan, scheme B—32 feet 6 inches—partly to illustrate our contention that the building should not be projected further eastward than absolutely necessary to give an apparent support to the dome."

They considered scheme B an argument for using scheme A, apparently. Their report continues:

"And, at the same time, to show what, in our judgment, is the least objectionable manner, if the architectural beauty and the simplicity of the east front are to be preserved, of obtaining additional space within the building while retaining to the greatest possible extent the present character of the east front."

Now, I call your attention to the fact that apparently Carrere & Hastings were very loath to touch this project at all. I ask you to make your own interpretation of their report when they use the words "the least possible objection." Their phraseology certainly indicates that in their minds there is an objection. And further when they speak of obtaining additional space within the building "while retaining to the greatest possible extent the present character of the east front." It has disturbed me as an architect and a citizen that, with this report in front of them, the people with this matter in charge came before the Senate committee and proposed a scheme for a projection of 40 feet. This scheme of a 40-foot projection is labeled "Modification of Carrere & Hastings' scheme B, proposed by Architect of the Capitol, January 22, 1935." I have naturally felt in studying these conclusions that they represented the reasoned opinions of the Architect of the Capiol and his professional advisers and also have felt that they were an indication of what their tendency would be in case they were empowered to do the work. Against that scheme Carrere & Hastings spoke very vigorously. I also call attention to the fact that in speaking against it they were speaking against a scheme with a projection of 30 feet 6 inches, and their argument against a scheme with a projection of 30 feet 6 inches, it seems to me, would be more potent against a scheme with a projection of 40 feet. In reference to the scheme for a projection of 30 feet 6 inches they say:

"We also believe that if this central building were carried far forward toward the east, the architectural effect of the entire east front would be injured, even when considered without regard to the dome. In a monumental scheme of this character three parts, or architectural motives, are much more simple, and a broader and better composition than five parts. The extreme projection of this central building would completely destroy the present composition of three units, with its breadth and simplicity, and would not only produce a division with five members—the center, the two wings, and the intervening spaces—but would make these members practically equal in size and architectural value. That such a composition already existing on the west front is, nevertheless, rather imposing is to be ascribed to the fact that the Capitol is always so greatly foreshortened by the perspective, due to the fall of the land on the west, a result which could not be expected on the east front where the foreground is level and the building can be seen in close proximity.

"Another important reason for not making this great projection is that it would destroy the courtlike effect of the east front where the two wings project beyond the simple and broad central building, one of the most picturesque and pleasing features of the Capitol wherever seen on the east, but especially when standing fairly close to the building and looking up at the dome."

This point about the simplicity of the east front being impaired if a 40-foot projection is used is very well indicated if you will study these pictures of the east and west fronts.

It has been maintained here that the exact distance cannot be ascertained until models are made. Models have been made. The Government paid in 1904, $1,814 for models, and paid Carrere & Hastings a fee of $5,000 for a report, a total of $8,423 was paid for that study, and now it is proposed that we disregard it. In other words, we quote Carrere & Hastings as a competent authority in order to justify us in proceeding with this work, and then we proceed to disregard the very fundamentals of their advice.

I have been unable to find the minutes of these hearings if any were held. I have discovered that the 1904 Commission did recommend that the extension be made and that it be 12 feet 10 inches. There must have been much discussion because the matter never came out of the committee to my knowledge, and some wise people must have stopped it. There must also have been serious discussion about building the walls and portico out at all, for I find that estimates were prepared for replacing the work in marble just as it is and in the original location. Estimates were also prepared for adding one column on each side of the portico and otherwise leaving it as it is now. All this indicates that there must have been serious opposition even to the Carrere & Hastings report.

To sum up my objections to extending the central wall out: Any extension will decrease the height and grandeur of the dome, and the effect of this minimizing of the height of the dome will be directly in relation to the amount that you move the wall out. Every foot that you extend the wall and portico will encroach into the court in front of the Capitol and will menace and, if carried out far enough, destroy the fine recessive courtlike feeling which is one of the most pleasing elements in this front of the Capitol. Also, an extension of the portico and wall on the east facade will result in a five-part composition instead of the present strong, simple, and effective three-part composition. I call your attention to the fact that these three objections are largely concurred in by Carrere & Hastings.

The second argument which has been advanced in favor of this proposal is that it will give more needed space. At the same time we hear it emphasized here in the Senate committee that additional space is incidental and that the main purpose of this bill is aesthetic. It has been called to my attention that the aesthetic has been stressed in the Senate and that the space argument has been stressed in the House. Perhaps this is because of the fact that the Senate seems to need very little room whereas

the House seems to need more room. I am not competent to judge as to whether more space is needed. I assume, however, that this is true. I am competent, I feel, to give an opinion on where the space, if necessary, might possibly be provided. President Fillmore, in 1851, in authorizing the present additions to the old Capitol took great pains to state that they should be constructed in such a manner as would change and alter the old historic part of the Capitol as little as possible. Thus the Senate and House wings were built with only corridors tapping on to the old building on each side. Now it seems to me that the logical thing to do is to find out carefully how much space is needed, then first to search the building carefully to see whether it could not be obtained somewhere in the present structure. For instance, it has been suggested that the offices of the Architect of the Capitol might be moved out, perhaps to one of the other buildings in his charge. It might be possible to get more space under the terraces. It certainly is possible to build additional wings to the north and south of the present wings and at their central point. These wings if kept to a reasonable projection would in no manner interfere with the present composition of the building. I have examined this point on the ground and I am convinced that wings could be easily constructed at these two points and not be visible from the front except as you directly approach the corner. It seems to me that these various suggestions for adding space to the building should be most thoroughly examined before any move is made toward altering the present front.

The matter of replacing the sandstone with marble and the statement that marble is a more durable material has been brought up here several times as a reason for this extension. It has also been stated that the cost of painting the present old building is an item. The old sandstone work is in some places in a bad state of repair. It has in the course of its 140 years spalled off in places and balusters and sections of cornices certainly do need to be replaced. It appears to me that it should be the function of the Architect of the Capitol to restore and replace any piece of stonework that is in bad condition. This should be done carefully whenever occasion demands and the detail should be a faithful copy of the existing work. This should be a comparatively easy matter inasmuch as the building is painted every 4 years and any patching done would not be visible. Only in that way can this building be kept in the proper condition. Testimony has been introduced here to the effect that it costs $28,000 to paint the old building and dome every 4 years anyway. That leaves 60 percent of $28,000 as the cost of painting the old Thornton-Latrobe-Bulfinch work. Thus it would cost us $4,200 a year to keep these old facades painted.

It is said that this change to marble will make the whole composition of the Capitol more harmonious. The Capitol is a harmonious building now. The white of the marble has become somewhat gray with age, and there is a pleasing blending of the two. After all, one realizes that the old part of the Capitol is an early Federal building and that it takes its place with its contemporaries, the White House and the Virginia State House as examples of painted stone work. Our country was founded in the latter part of the eighteenth century, and the American people expect and desire to see the architecture of its Capitol retain as much of the flavor of that time as possible. The historic intention of all building on the Capitol structure has been to keep it in harmony with the early work. Must we now at this late date decide that we must make the central part—the finest part—harmonize with the wings, which by general assent are the least inspiring part of the whole structure. I cannot believe that we will so far forget our old objectives in this present zeal to make over the central part of the Capitol. I have been conscious of no public demand for a narrow and technical harmony of material upon this facade. Rather I hear praise for the beautiful thing that it is. One thing more should be called to the attention of those in search of harmony. Mr. Donn brought it out in very able fashion. If you change the facade of the old part to marble, you tear it completely away from the dome. The dome is painted; it will always remain painted. The central part of the Capitol is now a unit, and the success and beauty of it is because it is apparently of the same material and color. If you have marble walls below and a painted dome above, you will have a very unharmonious central part, where today you have a beautiful one.

We have here one of the most satisfactory architectural compositions in the world. Now it is very difficult to do a fine building. Most of us architects work all our lives and never do a really fine thing. The most competent of architects do perhaps one or two masterpieces. Many factors are involved, the ability of the individual architect, the requirements of the client, the various limitations which an architect struggles with, and it is only once in a great while that we produce a building as fine and as completely satisfying as you now have in our Capitol. This is all the more remarkable when we consider the number of architects who have contributed to this result. Walter, from the time he left the Capitol project in 1865, continued to make schemes for its enlargement and extension. As I mentioned earlier, some one of his later schemes even extended 180 feet into the forecourt. Happily this was not carried out. When the Washington Monument was designed by Robert Mills, he put an arcade of columns around the bottom of it. The Washington Monument stands today as probably the most impressive memorial ever built. It would have been a mistake to add the colonnade which the architect desired. It is a saying in the architectural world that it takes two men to create a work of art: one to do the work and the other to kill him at the right time. It seems to me that this might apply to this proposed extension. It is disturbing to feel that this building which has come down to us after 140 years of effort and has survived into such a beautiful thing may possibly be again subjected to the wheel of artistic chance.

This east front of the Capitol stands practically as it was designed by Thornton and adopted by General Washington, President of the United States. It is historic. It represents the efforts of Thornton, Latrobe, and Bulfinch, three of our most distinguished architects. It reflects the critical judgment of Washington and Jefferson. It has met with the favor of the American people for 130 years. It is one of the milestones of American architecture, and it is the first architectural structure of this country as an independent Nation. The new facade barely recalls the characteristics of the present front. The number of columns of the proposed projecting portico shows an increase from 8 to 10, it is proposed to add new windows under the portico on both the main and second floor, the Carrere & Hastings elevations even show the columns of the portico fluted.

"The proposed added columns would necessitate the enlargement of the main pediment and new sculpture here. The loss of this quaint sculpture alone could not be compensated for. It is a question of preserving exactly what exists. We have a choice between the original and a reproduction. We must distinguish between the preservation of a monument of this importance and its reproduction. The reproduction is worth exactly as much as the cost of the labor and material that goes into it. The original is invaluable."

This proposed bill to rectify the technical fault, noticed and understood by few, would completely obliterate Thornton, Latrobe, and Bulfinch from their just due as Architects of the Capitol. It would sever a most pleasing link with the past. It would be most unpopular with the American people. The existing central portion of the Capitol as designed by our early Architects and approved by General Washington has a definite appeal because of its charming simplicity, pleasing proportions, and historic associations. It has stood for over 100 years as a valuable example of our early architecture. These changes would remove the last vestiges of the impressive and historic design of the Capitol bequeathed to the Nation by its founders. It should be cherished and allowed to remain undisturbed.

American Youth Act—Education for All Who Are Ambitious and Willing to Work

EXTENSION OF REMARKS

OF

HON. H. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 1937

THOUSANDS OF YOUNGSTERS POUND PAVEMENTS FOR JOBS—NO CHANCE

Mr. VOORHIS. Mr. Speaker, pounding the pavements in futile search of jobs are hundreds of thousands of young people who ought to be in school. They could be attending high schools or colleges if they had a few dollars a month.

But they are getting neither training nor education. They are inevitably forced to a point of view about life which is quite different from the one developed by the youth of past generations.

That is the reason that I have introduced the "National Youth Act", also introduced by Mr. COFFEE of Washington, and Mr. MAVERICK, of Texas. We are cooperating on this bill, and these gentlemen have authorized me to say that they agree with these remarks.

THERE SHOULD BE NO LIMITATION ON KNOWLEDGE

The United States Employment Service has found that young people under 25 years of age are just about twice as hard to place in jobs as men between 25 and 44, and 1½ times as hard to place as those over 45. The Connecticut State Employment Service, in its study conducted during 1935, found that over 20 percent of all young people 16 to 25 in that State had never had a job in their lives. To give more statistics would be tiresome, but the foregoing is illustrative of a serious, widespread national condition.

We know that the American Nation has been built on the solid foundation of the public-school system. We have, generally available, the best schools and universities in the world. And there should be no limitation on educational opportunity for American youth.

In America, tremendous jobs must be done. On a wide national scale, we must have slum clearance, reforestation, flood control, and conservation of natural resources.

TRADE LEARNING FOR WORK, AND BUILD THE NATION

Why not bring the youth of America in to do the job, and let them get training and an education in return? The young men and women of America are willing to work. They want to learn. The Youth Act attempts to provide for all this. It provides modest "Federal scholarships" to students who by merit acquire certain proficiency and who are willing to work.

It seeks to provide educational opportunity for all. Education should not be only for the children of the wealthy.

What a fine thing it would be if, instead of saying to our unemployed young people: "We don't need your work or your constructive efforts", we could work out a plan whereby we would say: "If no private employer needs you, then certainly your country needs you to do a thousand jobs that will make our country a better place in which to live."

The Youth Act provides for the development of work projects—useful, necessary projects of real value to our communities—on which our young people may have employment by fulfilling two conditions. These conditions are:

First. That they be registered with the United States Employment Service for a job in private industry.

Second. That they attend a part-time educational course at least 4 hours a week.

W. P. A. administrative personnel could be used on these work projects, so as to avoid any additional overhead expense.

VOCATIONAL GUIDANCE—LABOR—THE NATION'S WELFARE

Thus the act aims to keep our young people either in school or busy at work for the Nation's welfare, but it sets the standard that they must show themselves eager for education.

Finally the Youth Act provides a start in vocational training and guidance with the cooperation of organized labor and our public-school officials. The main job of the guidance counselors provided for will be to fit the young people into the kind of jobs for which they are best fitted.

NO CHARITY—NO HAND-OUT—A GRAVE NECESSITY

Think of it! Thirty or 40 percent of the unemployed are under 25. This problem must be met face to face. It will cost something to do so. Let us be careful and honest in determining how much, bearing in mind that if a considerable proportion of our unemployed are given work through appropriation under this act, less will be required in other appropriations. We must remember, however, that even a substantial sum of money might not be an unreasonable price to pay for so grave a necessity, in which the youth would be trained and educated, and the Nation would receive such widespread benefits.

And remember, the Youth Act asks no charity and no hand-out for youth.

Those who sponsor the bill do not claim it is perfect. We will welcome constructive suggestions and amendments. We know administrative problems will arise and will be probably very great.

We ask a fair hearing.

For we believe America must attack this problem of idle, schoolless youth in a forceful and determined way.

"Never Let Me Dare Forget the Bitter Ballads of the Slums * * * From Sleek Contentment Keep Me Free"

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1937

Mr. MAVERICK. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include a poem, entitled "A Prayer", written by Louis Untermeyer, a distinguished American poet.

PRAYER

By Louis Untermeyer

God, though this life is but a wraith,
Although we know not what we use,
Although we grope with little faith,
Give me the heart to fight—and lose.

Ever insurgent let me be,
Make me more daring than devout;
From sleek contentment keep me free,
And fill me with a buoyant doubt.

Open my eyes to visions girt
With beauty and with wonder lit—
But let me always see the dirt
And all that spawn and die in it.

Open my ears to music; let
Me thrill with spring's first flutes and drums—
But never let me dare forget
The bitter ballads of the slums.

From compromise and things half done,
Keep me, with stern and stubborn pride;
And when at last the fight is won,
God, keep me still unsatisfied.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Thursday, March 4, 1937

RADIO ADDRESS BY JUSTICE WILLIAM H. BLACK, ON FEBRUARY 28, 1937

Mr. ROBINSON. Mr. President, I ask unanimous consent that there be printed in the Appendix of the RECORD an address delivered by Justice William Harman Black, of the Supreme Court of the State of New York, on Sunday, February 28, 1937, over the radio. The address has to do with the proposal to reorganize the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I am honored to be on the same program with my distinguished friend, Senator GEORGE, from my native State of Georgia. That State twice challenged the usurpation of the Supreme Court, once with enough success to secure the eleventh amendment to the Constitution and once when it secured an "amicable" compromise decision by that high tribunal. Time forbids my citing authorities, but I will cheerfully furnish them upon request.

My listeners, there is nothing the matter with the Constitution except what the Supreme Court has done to it. Our present situation is not entirely because we have read a book which is to this era what Uncle Tom's Cabin was to the era before the War between the States, nor is it entirely because the President is trying to save the Constitution from further perversion. It is because the people have come to realize that the Supreme Court seeks, through further usurpation, to continue to override the will of the voters of the United States.

For the dismal failure of the Court to meet reasonable popular expectation, it has no one to blame except itself. After all its untrammeled years of sometimes Procrustean, sometimes elastic decisions, the Court is the only one of the three branches of our Government with which the people are dissatisfied. The reason they are dissatisfied is that the Court assumes more power than the voters, the Congress, and the President. The Court's legalistic successes only breed governmental failures, because it refuses to relieve distress, ameliorate conditions, or to always protect either vested or human rights.

To our profound regret, we find ourselves in a finish fight between nine unelected Supreme Court Justices on one side, and our elected President (whose acts are subject to reversal by two-thirds vote of Congress), and our Congress, and 27,000,000 of voters on the other side. With offices terminable only by Providence, with more assumed power than Mussolini and Hitler combined, the deciding vote of one Justice determines the destines of our Nation, whether the people like it or not.

Americans would love their highest Court, but its persistent and unwarranted usurpation makes affection impossible.

But this does not mean that Americans do not love their Constitution. These Americans would save our Constitution from the Court. The Constitution we love is the Constitution our fathers made and the Constitution that we made, not the Constitution that the Court has tried to make. When I say "the Court", I refer only in part to its present membership, some of

whom I have been associated with and for all of whom I entertain the respect that their high station entitles them to. I do refer to the Court that decided that the colored man, Dred Scott, was not entitled to his liberty, although he had lived in a free State. He applied for his freedom to the State of Missouri and won his case there, but the Supreme Court, in an opinion covering 234 pages, reversed the Missouri court, and even said that that court did not have any jurisdiction to try his case at all.

This decision was never reversed, and it plunged the Nation into a war between the States that required two constitutional amendments to wipe out. And I do refer to "the Court" that in 1895 set aside as unconstitutional the act of Congress known as the income-tax law and delayed it 18 years until a constitutional amendment could be adopted by the people. I refer to "the Court" that said the New York minimum-wage law for women was unconstitutional, and the Court that has declared unconstitutional the National Industrial Recovery Act and the Agricultural Adjustment Act. And I may say to the gentlemen who are now advocating amendments instead of the President's plan, that the Supreme Court set aside the national child-labor law in 1917, that after 7 years of agitation a national child-labor amendment was proposed, and that amendment now, 12 years later, is still being voted upon.

This is a fight between government by Congress and the President against government by the judiciary. The issue will not long remain in doubt, because if some unexpected calamity should defeat the President's plan, a constitutional convention will soon pass declaratory amendments that the Supreme Court cannot disregard, to cure the present intolerable supervision of our Government by the Supreme Court. There is no provision in the Constitution that the Supreme Court shall be the guardian of the people.

And here let me say to men who are disturbed about what may happen to property or "vested rights", suppose that in the course of time there should be a liberal majority on the Supreme Court, and suppose that its fashion of usurpation should continue, have you realized what would become of "conservative" laws if they could be set aside at the will of such a Court by the simple plan of calling them unconstitutional? Those who oppose the President's plan to enlarge the Court say that it would give the President and Congress too much power. But these same men seem to have no objection to giving supreme and final power to one deciding member of the Supreme Court.

Let us hark back to fundamentals. There is not a syllable in the Constitution that gives the Supreme Court the least shadow of an excuse to set aside acts of Congress. Not only that, but the cold record kept by Madison shows that the Constitutional Convention five times voted against giving the Court any such power. Even Alexander Hamilton opposed such a monstrous proposal. He believed that only the President should have such veto power, but the Convention refused to give the President that power unless it was modified by permitting Congress to pass laws over his veto by a two-thirds vote of both Houses. And this was the spirit of a convention that knew that George Washington would be the first President.

So the country ran along pretty well under the Constitution without authorizing the Supreme Court to run it. And in 1796, in the case of *Ware* v. *Hylton*, in the Supreme Court, the great John Marshall was attorney for the defendants. Mr. Marshall is quoted by the Supreme Court reporter as follows:

"The legislative authority of any country can only be restrained by its own municipal constitution. This is a principle that springs from the very nature of society, and the judicial authority can have no right to question the validity of a law unless such a jurisdiction is expressly given by the Constitution."

This was in 1796—6 years after the Court was organized. In 7 years more the man I have quoted had become Chief Justice of the Supreme Court. Then a man named Marbury had been appointed a justice of the peace, but his appointment papers, through the negligence of this same John Marshall (who at that time had been Secretary of State under John Adams), had not been delivered to the Senate for confirmation or rejection of Marbury. So Marbury tried to get a mandamus to compel the delivery of these papers to the Senate by James Madison, who was Secretary of State under Thomas Jefferson. Madison fought the mandamus. After considering the case 14 months, John Marshall, in a Janus-faced decision, denied Marbury the mandamus he sought because he said that the judiciary law under which Marbury asked for the mandamus was unconstitutional. But notwithstanding the denial of the mandamus by the Court, their decision went on to say what the law would have been if the judiciary law had been constitutional.

In this decision the Court for the first time claimed that it had the right to set aside acts of Congress. The storm that blew up over this astonishing decision kept the Court in its place for a long time.

Then, in the case of *Woodruff* v. *Parham*, in 1867, by dint of a strained and unnatural "construction", the Supreme Court actually nullified section 10 of article I of the Constitution itself

Again, in the prohibition cases, the Court passed upon the "validity", that is, the constitutionality, of the eighteenth amendment. The only power the Court had was to decide whether it had been legally proposed and lawfully ratified, because the Constitution itself says in article VI that once an amendment has been adopted it is part of the Constitution and is "the supreme law of the land." But the Court did pass on the whole prohibition amendment and decide that it was "valid", that is, constitutional. When the twenty-first amendment repealing prohibition was ratified, if the Supreme Court had continued to pass upon the validity of constitutional amendments, it may well have happened that it would have declared the repeal unconstitutional. Indeed, the Court may in like manner undertake to declare that any act of Congress or any constitutional amendment is unconstitutional.

The Supreme Court also, in the Child Labor Tax case, said in 1922 that that case "presented the question of the constitutional validity" of the Child Labor Act.

It is a very disconcerting reflection upon its growing grasp for power by this Court that it never seems to have occurred to any Justice to protest that it had no right to inquire into the constitutionality of any law that had been passed by the people in accordance with the Constitution.

It is truer now than ever before that the people do not want live questions settled by the dicta of dead courts.

A gentleman formerly connected with the United States Government, whose reputation for major prophecy is based upon his "around the corner" prediction service, has offered a slogan for the people. Let me suggest a slogan for the Court:

"Keep your arms around the Constitution—keep it raised high—but keep your hands off the duties that the Constitution has delegated to Congress and the President."

George Washington told those in charge of the Government to confine themselves within their respective spheres.

He added: "But let there be no usurpation, for though this in one instance may be the instrument of good, it is the customary weapon by which governments are destroyed."

Mathematics of Democracy—The Supreme Court

EXTENSION OF REMARKS

OF

HON. ROBERT M. LA FOLLETTE, JR.

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Thursday, March 4, 1937

BULLETIN OF THE NATIONAL POPULAR GOVERNMENT LEAGUE

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD a bulletin of the National Popular Government League, of which Judson King is director, issued on March 3, 1937, and entitled "The Mathematics of Democracy."

There being no objection, the bulletin was ordered to be printed in the RECORD, as follows:

[Bulletin No. 177, Mar. 3, 1937, National Popular Government League, Takoma Park Station, Washington, D. C. By Judson King, Director]

THE MATHEMATICS OF DEMOCRACY

Five men on the Supreme Bench can now block any law passed by a majority of the 531 Members of Congress by interpreting it as unconstitutional.

Thirty-three Senators can now block the submission of an amendment to the Constitution.

Representatives of 2,895,237 people, in the 13 smallest States, or less than 2.4 percent of the population of the United States (122,775,046) can block the adoption of an amendment if submitted.

The above figures represent the mathematical extreme of the mechanics of interpreting and amending our fundamental law. The 5-to-4 decision has been so common as to become a byword. While in practice the extremes in amending the Federal Constitution have not been and are not likely to be met, yet they illustrate the startling hurdles in the path of constitutional progress and explain two things:

First, President Roosevelt's desire to liberalize judicial impasse by a change in personnel in order to get necessary reforms under way now or within the next 4 years.

Second, the hesitancy of many progressives who desire to see the fundamental weakness of our constitutional system removed in order that we may have continuous, orderly, and effective changes made in our economic and industrial system and thus avoid revolution at a later day.

The one aims at freshening the personnel and reforming certain procedures of the Federal judiciary system—the Supreme Court is not alone affected. The other seeks to take from the Federal courts legislative functions which they have assumed without express constitutional warrant.

Since both these reforms are necessary, why not have both? Why not enact the President's plan, and then later let the progressive forces of the Nation press steadily forward for amendments which will make a fact of the theory of our Constitution, namely, the separation of the legislative and judicial functions as these are now separated from the Executive functions?

All this furore over the President's mild proposals—mild as is the New Deal itself, in view of stark reality—is worth while, for it brings home to the masses of the American people the fact that they have been living under an illusion in the pleasant belief that they or a majority of them are masters of America.

It will be worth while if it helps dispel another illusion—the sacredness of precedent—that Chinese philosophy which dooms millions to unhappiness, sickness, poverty, and death because they believe in their forefathers' dicta.

The past 7 years have startled the complacency of this Nation. It has heard what this generation never expected—the rumblings of revolution and the specter of collapse. Yet, within easy memory, clear-headed, courageous scholars and statesmen have warned and prophesied that the things which have happened would happen, and sought to avert them. It is the purpose of this bulletin to call attention to a few of these warnings in the hope that it will strengthen faith in the words and warnings of like scholars and statesmen of the present hour.

It has always been the habit of the masses of all nations to cheer the declarations of independence, the manifestoes, and Marseillaise songs, and then permit the conservatives to write the constitutions and fix the laws of property. Years later the people awake to find that they still have the declarations and the songs but the Tories have the goods.

Let us turn to the scholars to find the method by which this trick was turned in America:

BROOKS ADAMS, GREAT-GRANDSON OF PRESIDENT JOHN ADAMS AND BROTHER OF HENRY ADAMS

In 1913 Brooks Adams, a distinguished Boston lawyer and fearless scholar, born in 1848, who lived in the day of his death in 1927 at the famous family homestead at Quincy, Mass., wrote a remarkable book which cannot be overlooked by any student of the present situation. It was entitled "The Theory of Social Revolutions", published by the Macmillan Co., New York. Its general thesis was that no ruling class, whose economic privileges and political system have become destructive of the general welfare has been able to understand its position or the necessity for change and has always, just before the collapse, relied upon the judiciary to maintain its privileges and the status quo.

Mr. Adams gives several historical illustrations, especially noting the French Revolution, and then demonstrates that the tendency in the United States is no different from the others. His chapter heads are suggestive: The Collapse of Capitalistic Government, Limitations of the Judicial Function, American Courts as Legislative Chambers, and The Social Equilibrium and Political Courts. In swift pages he shows the results which have come from permitting courts to determine social policy and judges to make law. Of this practice in this country he says:

"It is precisely because they are, and are intended to be, arenas of political combat, that legislatures cannot be trustworthy courts, and it was because this fact was notorious that the founders of this Government tried to separate the legislative from the judicial function, and to make this separation the foundation of the new republic. They failed, as I conceive, not because they made their legislatures courts but because, under the system they devised, their courts have become legislatures. A disease, perhaps, the more insidious of the two."

THE NORTHERN CAPITALISTS

Continuing, he says, "The rise of a new governing class is always synonymous with a social revolution and a redistribution of property." He points out the cause of the downfall of the aristocracy which ruled in the Colonies before the Revolutionary War and of the slave power of the South, and notes: "The rise of a new dominant class at the North, whose power rested upon the development of steam in transportation and industry." Discussing this class, he says:

"And this leads to what is to me the most curious and interesting of our modern intellectual phenomena connected with the specialized mind—the attitude of the capitalist toward the law."

Illustrating, he says:

"If the capitalist has bought some sovereign function and wishes to abuse it for his own behoof, he regards the law which restrains him as a despotic invasion of his constitutional rights, because, with his specialized mind, he cannot grasp the relation of a sovereign function to the Nation as a whole. He, therefore, looks upon the evasion of a law, devised for public protection, but inimical to him, as innocent and even meritorious.

"If an election be lost and the legislature, which has been chosen by the majority, cannot be pacified by money, but passes some act which promises to be annoying, the first instinct of the capitalist is to retain counsel, not to advise him touching his duty under the law but to devise a method by which he may elude it, or, if he cannot elude it, by which he may have it annulled as unconstitutional by the courts. * * *

EFFECT ON LAWYERS

"This attitude of capital has had a profound effect upon shaping the American legal mind. The capitalist regards the constitutional form of government which exists in the United States as a convenient method of obtaining his own way against a majority, but the lawyer has learned to worship it as a fetish. Nor is this astonishing, for, were written constitutions suppressed, he would lose most of his importance and much of his income. Quite honestly, therefore, the American lawyer has come to believe that a sheet of paper, soiled with printer's ink, and interpreted by half a dozen elderly gentlemen snugly dozing in armchairs, has some inherent and marvelous virtue by which it can arrest the march of omnipotent Nature."

ADAMS' PROPHECY AND WARNING

"I find it difficult to believe that capital, with its specialized views of what constitutes its advantages, its duties, and its responsibilities, and stimulated by a bar molded to meet its prejudices and requirements, will ever voluntarily assent to the consolidation of the United States to the point at which the interference of the courts with legislation might be eliminated, because, as I have pointed out, capital finds the judicial veto useful as a means of at least temporarily evading the law, while the bar, taken as a whole, quite honestly believes that the universe will obey the judicial decree. No delusion could be profounder and none, perhaps, more dangerous. Courts, I need hardly say, cannot control nature, though by trying to do so they may, like the Parliament of Paris, create a friction which shall induce an appalling catastrophe."

Respecting the effect of judicial control upon an administration of government, Mr. Adams observes:

"A phalanx of Washingtons would be impotent to raise the administrative level of the United States materially so long as the courts remain censors of legislation, because the province of the censorial court is to dislocate any comprehensive body of legislation, whose effect would be to change the social status."

PROF. CHARLES A. BEARD, HISTORIAN AND POLITICAL SCIENTIST, AUTHOR OF AN ECONOMIC INTERPRETATION OF THE CONSTITUTION OF THE UNITED STATES, ETC.

In 1913 also appeared the most important book upon the Constitution since the publication of Madison's Journals in 1850, An Economic Interpretation of the Constitution of the United States, by Prof. Charles A. Beard. He not only made a searching analysis of the financial status and personal political beliefs of the framers of the Constitution, but his research led him to dig up Hamilton's refunding operations, the original records of which had lain untouched under inches of dust in the subcellars of the Treasury since Hamilton's day. While holding that the work of the fathers was necessary for their time, he unflinchingly points out in his conclusions that—

"The Constitution was essentially an economic document based upon the concept that the fundamental private rights of property are anterior to government and morally beyond the reach of popular majorities.

The machinery through which this concept was carried into action will now be taken up.

PROF. J. ALLEN SMITH AND THE SPIRIT OF AMERICAN GOVERNMENT

Prof. J. Allen Smith, political science professor in the University of Washington, had quite shocked the country in 1907 by publishing a book of the above title, in which he mathematically, so to say, demonstrated that the intent of the Constitution was not to establish majority rule but to enable the "propertied minority to rule the numerical majority." His view as to economic influence was the same as Beard's, and that the founders designed to accomplish by later "interpretations" what they dared not write into the document.

MINORITIES THAT COULD BLOCK RATIFICATION

Professor Smith analyzes the amending process and warns against its dangers. He quotes from Patrick Henry's speech in the Virginia convention on this point as follows:

One-twentieth in 1787

"A bare majority in four small States may hinder the adoption of amendments; still we may fairly and justly conclude that one-twentieth of the American people may prevent the removal of the most grievious inconveniences and depressions by refusing to accede to amendments * * *. Is this an easy mode of securing the public liberty?" (as had been claimed).

One forty-fourth in 1900

Professor Smith points out that: "Small as was this minority when the Constitution was adopted it is much smaller now than it was then. In 1900 one forty-fourth of the population, distributed so as to constitute a majority in the 12 smallest States could defeat any proposed amendment. As a matter of fact, it is impossible to secure amendments to the Constitution unless the sentiment in favor of change amounts almost to a revolution."

One forty-second in 1930

It will be interesting to find what the status is today. The 1930 census gives the population of the United States as 122,775,046. The populations of the 13 smallest States follow:

Arizona	435,573
Delaware	238,380
Idaho	445,032
Montana	537,606
Nevada	91,058
New Hampshire	465,293
Wyoming	225,565
New Mexico	423,317
North Dakota	680,845
Rhode Island	687,497
South Dakota	692,849
Utah	507,847
Vermont	359,611
Total	5,790,473
Majority	2,895,237

This 2,895,237 is one forty-second of the total population of 122,775,046, or less than 2.4 percent. To be sure, this is the reductio ad absurdum of the difficulty of keeping the Constitution abreast with modern life, but its significance cannot be challenged. No wonder President Roosevelt hesitates.

PROF. CHARLES G. HAINES—THE AMERICAN DOCTRINE OF JUDICIAL SUPREMACY

Returning to the courts, those who desire to know the history of the judicial veto should consult the above noted book, first published in 1914, with a revised edition in 1932. Dr. Haines is now professor of political science at the University of California, Los Angeles. Among other things, the lay reader will be amused to get the story of the 100-year war among judges over their right to declare laws unconstitutional.

A LIVE ISSUE BEFORE THE WORLD WAR

These democratic scholars were not writing as theorists; they were illuminating living issues. We need to be reminded that for 10 years prior to the World War the Federal courts were under severe criticism. The American Federation of Labor and other labor organizations were denouncing the outrageous use of the injunction in labor conflicts with employers. There was a list of "injunction judges." Striving to check monopoly, Congress had passed the Sherman Anti-Trust Act, forbidding combinations in restraint of trade. In 1910–11 the Supreme Court, in the Standard Oil and American Tobacco cases, interpreted this to mean "unreasonable" or "undue" restraint of trade, and thus, by judicial legislation, nullified the act. The Nation was outraged. President Theodore Roosevelt, while in office, had found the Federal courts in the way of all his efforts at social reform. These are but a few examples. Public opinion began to move. Politicians responded.

The old parties were cautious, but the Bull Moose Party in 1912 struck straight at fundamentals. It demanded the right of "judicial recall" whereby the people could overturn a reactionary court decision by direct vote. Also, they advocated "an easy and expeditious method of amending the Federal Constitution." The Socialist Party, always active in the field of judicial reform, urged the recall of judges, denial of their right to veto laws, and like measures.

INDEPENDENT PROGRESSIVES

Independents within the old parties took up the cudgels.

Senator Robert L. Owen, of Oklahoma, was outspoken against judicial usurpation, and also in 1913 introduced an amendment to the amending clause of the Constitution making it much easier of amendment. In 1917 he introduced Senate Joint Resolution 195, "forbidding Federal judges to declare any act of Congress unconstitutional and providing severe penalties therefor." It applied to inferior courts, and since 98 percent of cases come to the Supreme Court on appeal, the Senator held this simple act of Congress would remedy the difficulty. He made a strong speech on the subject. (Printed as S. Doc. 737, 64th Cong., 2d sess.) He said: "I have made this demand because Congress cannot otherwise protect the common people against predatory monopoly." In answering the claim that the safety of the Nation and protection of our liberties lay in the Supreme Court, he quoted the following remarkable sentence from Blackstone:

"When the main object of a statute is unreasonable the judges are not at liberty to reject it, for that were to set the judicial power above that of the legislature, which would be subversive of all government" (Commentaries, sec. 3, p. 85).

Senator Robert M. La Follette, Sr., of Wisconsin, Independent Republican, throughout his distinguished career, fought judicial usurpation and sought constructive reform. In his introduction to Mr. Gilbert E. Roe's book, Our Judicial Oligarchy, published in 1912, the Senator wrote:

"The judiciary has grown to be the most powerful institution in our Government. It, more than any other, may advance or retard human progress. Evidence abounds that, as constituted today, the courts pervert justice almost as often as they administer it. Precedent and procedure have combined to make one law for the rich and another for the poor. * * * Everywhere there is a growing public demand for a change that will bring the judiciary again into its proper sphere and into closer communion with the progressive ideals of this generation."

In 1924, Senator La Follette made judiciary reform one of the leading issues in his campaign for the Presidency.

THE WORLD WAR AND ITS AFTERMATH

The foregoing sketch will serve to give historical background and interpretation to the old-new problem we face today. The promising beginnings of reform made in the 1910 period were swept aside by the World War and its aftermath of reaction under the Harding-Coolidge-Hoover regime. The evils of a quarter century return to face us in aggravated form. It is trite to say we have no time to lose, not only that the physical needs of the people be met, but that faith in democracy itself be preserved.

CONCLUSION

Whatever procedure we may adopt in the application of needed remedies it must not be forgotten that while change in judicial procedure and personnel is absolutely necessary, it is not enough; that this reform plus abolition of the right of judges to veto or vitiate legislation is not enough. There must follow in due time a change in the amending clause of the Constitution which will make that instrument flexible—and a process set up which will abolish all two-thirds and three-fourths majorities and like jokers and permit the majority to rule. I therefore respectfully suggest to the members of this league that they be not befuddled by the barrage of words let loose upon us but to keep eyes on the main issues—and think of them inclusively.

We may with some pride recall that when our organization was founded in 1913, its first plank was what the late Herbert Quick named the "gateway amendment", providing a better method of amending the Constitution. The next was a measure to prevent judges performing legislative functions.

The State University in the Scheme of Education

EXTENSION OF REMARKS

OF

HON. MILLARD E. TYDINGS

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Thursday, March 4, 1937

ADDRESS BY L. D. COFFMAN, PRESIDENT, UNIVERSITY OF MINNESOTA, AT THE ONE HUNDRED AND THIRTIETH ANNIVERSARY BANQUET OF THE UNIVERSITY OF MARYLAND, FEBRUARY 11, 1937

Mr. TYDINGS. Mr. President, I ask unanimous consent that there be printed in the RECORD an address delivered on February 11, 1937, by Mr. L. D. Coffman, president of the University of Minnesota, at the one hundred and thirtieth anniversary banquet of the University of Maryland. The subject of the address was The Place of the State University in the National and State Scheme of Education. I commend it as well worth reading to anyone who is interested in that subject.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The inhabitants of Maryland have been interested in higher education for more than 130 years. The beginning of the university dates back to 1807, when a charter was granted to the College of Medicine of Maryland. The general assembly in 1812 gave the College of Medicine of Maryland power to "annex or constitute faculties of divinity, law, and arts and sciences" and to use the title of University of Maryland. The college of agriculture, first established as a private institution, recognized as a land-grant college in 1862, became an integral part of the university in 1914.

The detailed history of the establishment and growth of the University of Maryland is better known to those who have shared in its development than to those who have played no part in its life; but in a generalized form it is a story which does not apply to this university alone. It is an epic familiar to everyone conversant with the evolution of higher education in America. The State university idea is indigenous to this country. It was as inevitable that the pioneers should establish schools and colleges as that they should explore the New World, break the soil of virgin prairies, and erect a civilization new in the history of the world. Indeed, the very impulses that induced them to travel an uncharted sea and to found homes in an unknown land, were stimulated by the spirit of adventure and the consuming desire to be free. They did not come to these shores because of the pressure of population in the home country; they did not come because they were encouraged to do so by the colonial ambitions of the motherland; they came to conquer a new world, to worship as they pleased, to educate their children as they wished, to develop a civilization of their own.

Although higher education in this land originally was deeply embedded and fixed in a rigid tradition transplanted from Europe, it soon began to reflect the restless character of the new country. The forms of higher education in America in the seventeenth, eighteenth, and nineteenth centuries were, it is true, fashioned after historic models, but adventurous builders of the New World civilization were not content with the traditions of the past. They pushed forward toward something different without knowing how to obtain it. Their yearnings for something new and practical and their independence of thought and conduct stimulated discussion and controversy. Although necessity compelled them to effect a union in which they declared their political independence, they found it much more difficult to mold and readapt their churches and schools to meet the needs of a pioneer population. Commerce, trade, and the nurturing and protecting of the new union constantly absorbed their attention and energy, and yet almost without exception every great political leader of those early days laid heavy stress upon the importance of education as the paramount means of conserving and advancing democracy. Yet having said this, it must also be added that the steady progress which education has made for more than a century can be attributed to the aspirations of the masses, rather than to the political leadership of the country. The ever-present danger is that the expression of these mass aspirations will become distorted and seek outlet through ill-advised and badly conceived political action. There is evidence that this is occurring. Already there is much to suggest that we need to reaffirm the doctrines of Jefferson, of Adams, of Washington, and make greater use of our schools and

colleges in the consideration and solution of those important questions and problems that should be lifted out of the arena of politics.

But I must not be led astray by this line of thought. My immediate interest is concerned with the foundations of education in this country and with their evolution since pioneer times.

I find that almost from the very beginning the colleges were centers of violent scholastic struggles and of heated conflicts. There was a constant clash between the subjects borrowed from the past and the subjects representing the needs of the present and the future; and that clash, fortunately, has never entirely subsided. The early curriculum was built around ancient languages, vague dialetical theories, and religious dogmas. But naturally there were those who asked what these had to do with a new world and a new day. The practically minded men demanded opportunities for more vital education. In 1782, 21 years before the inhabitants of Maryland took the first step to found a university, Harrison Gray Otis, a distinguished son of Harvard, praying for freedom from academic customs, said, "May Father Time ameliorate his pace and hasten the desired period when I shall bid adieu to the sophisticated jargon of a superstitious synod of pensioned bigots." Stripped of its Harvard language, I can find this same sentiment expressed by the early critics of nearly every university in this country. As one moves west he finds by the middle of the last century that this criticism of the classical training gained greatly in volume and that many educational leaders leaned strongly to the position that education should be technological and practical. Out of this same educational doctrine came the Federal land-grant legislation. Every State university with whose history I am familiar was urged to adapt its offerings to the needs of the commonwealth. These needs were described, for the most part, as lying in the fields of agriculture, engineering, and State government.

Recall the very words of the Morrill Act: "* * * the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts * * * in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life." The entire history of higher education, I repeat, could be written in terms of "the push and pull" between the "classical" and the "practical."

While all universities of this country, both public and private, have been responsive to a developing and expanding society, the State universities have been especially susceptible to pressures in this direction. Deep as was their reverence for their ancestors, it was never so deep as to make them blind worshippers at the shrines of the past, and unaware of or insensitive to the ever-changing present. Ancestral affection colored their thought and tempered their speech, but signs were not wanting, even at the beginning, that changes were coming and that they were inevitable.

Thus it is not difficult to understand the emergence of a clash of interests—a clash that has given the impetus and provided the urge in the development of higher education in the United States, and a clash that I wish to analyze further in this address. The early schoolmasters believed in a learning that was concerned with fundamentals; they differed as to what constituted those fundamentals. They had little patience with the acquisition of overt skills or the mastery of techniques; indeed, these terms had not yet invaded their vocabularies. Men outside the colleges, on the other hand, wished better practice in medicine, law, theology, and they were especially insistent that the art of agriculture, finance, and statecraft be taught. Thus the dilemma which colleges must always face was brought to a focus in America. It has been the continuing dilemma. And how shall it be solved? Before answering that question we must explore for a few minutes certain other pertinent considerations of paramount importance to higher education.

It is a fact that the colleges of this country, although sensitive to changes in the world outside, have, for the most part, not fallen prey to the market place. Occasionally some thorough student of higher education, like Mr. Flexner, does uncover courses which make us smile, as, for example, courses in cosmetology, dude ranching, tap dancing, or crooning. I have often wondered what the shades of John Harvard, of Daniel Gilman, and of Eleazar Wheelock think about some of the courses we now offer in the name of higher education. Far be it from me to disturb their rest unnecessarily. Flagrant as some illustrations may be, it is, however, true that the universities of America have for the most part held steadfastly to the thought that they are primarily places of learning, not recreation centers, trade schools, or political forums. They have tried to learn everything they could without assuming the functions of the things they were studying or without becoming tainted with the faults of the things they were studying. The universities have realized that they exist in an expanding, changing world and that they must modify their offerings to correspond with the changing needs of society.

Sir James Irvine, or St. Andrews, states that it is his conviction that "the universities will continue to produce leaders of both thought and action if they make it their special aim to produce thinkers." He also declares that "a university is responsible for enlarging the boundaries of knowledge rather than for colonizing the territory it explores." In such a university as he envisages men would gather wisdom by understanding, and understanding would be acquired by studying the problems that appeal to the mind. Men would grow strong by working with ideas. Fundamentals rather than specialties would characterize the curriculum. Even in the professional fields Sir James would hold steadfastly to this principle. In medicine he would give more emphasis to the fundamental sciences and less to hospital and clinical practice than we do; in law more to history and jurisprudence and less to moot courts. It's a magnificent conception that must be kept in mind lest we dissipate our intellectual strength by chasing the lures and vagaries of the times.

Here in America we are not in great danger of overemphasizing the point of view which Sir James presents; rather, are we in danger of overemphasizing skills and techniques; of stressing the importance of the immediate and practical rather than the more fundamental needs of life; of trying to reorganize society without understanding it. Our disposition is to do something and then study it afterward. We are impatient for results. We demand action; we are scornful of knowledge, and critical of the expert, except when we face a personal crisis. The chief weakness of democracy is its unwillingness to base progress upon carefully conducted studies and carefully appraised theoretical considerations.

In our haste to get something done, we lay tribute upon every institution at our command, including the universities. That is one of the reasons we must keep on stating and restating what the purposes of universities are. They are places for study, reflection, the advancement of knowledge, not arenas for action, nor forums for the spread of propaganda. A few comparisons will make clear what I mean. A university, for example, studies government but it should not undertake to administer it. A university studies agriculture but it should not become responsible for the passage of agricultural legislation nor for its administration. A university studies the various acts of the New Deal and the philosophy back of them, but it should not assume a public sponsorship for any of them, nor should it become the proponent of any particular political philosophy. A university studies business but it should not engage in commerce. A university studies engineering but it should not build bridges. A university studies the markets, foreign exchange, the prices of stocks and bonds, and mortgages, but it should not operate a commercial investment house. A university studies the agencies of war and peace but it should not promote wars nor organize crusades for pacifism. A university must study any question that affects human welfare but it cannot carry a banner in any crusade except for the right to learn.

It is not easy to hold to this conception of the purpose of a university. It is especially difficult for State universities to do so, for, as I said at the outset, they developed out of the needs of the people and are at all times and at any particular moment the focus of a thousand impacts from individuals and groups who wish to utilize or control them for special purposes or special ends—some of which are in conformity with the purposes of an institution of higher education and some of which are not. A university clearly cannot stand still; to relax its study of the world, or to fail to give instruction related to that world, would mean stagnation and death. On the other hand, it must not become the supine agent of any individual, of any group, of any class, or of any organization. A university must have a will of its own. Neither the bondage of out-worn customs nor the specious arguments of extremists, whether they be in the name of business, of patriotism, of religion, of social theory, or of government, should ever be allowed to interfere with the legitimate functions of a university.

Let us now return more specifically to the problem that I posed at the beginning—the conflict between tradition and change. Nowhere is there an adequate account of the historical development of higher education in America. Nowhere is there as clear and comprehensive a statement of its evolution and of its faithfulness to its traditions and purposes as one would like to possess. Some day someone will write that history, and it will be a thrilling story. It will show how religious, industrial, social, and political forces, each in its own way, has tried to mold and adapt American education to serve its own ends; it will depict the struggles of the colleges and universities and their heroic efforts to retain their integrity as centers of learning, free from the molestations of dominant groups, and unyielding to the pressures that might have disrupted them.

One of the best synopses of the history of higher education in this country has been prepared by Prof. Edgar W. Knight, of the University of North Carolina. He divides the long development of the college in America into three periods: From its beginnings to 1860, from that date to the World War, and from the World War to the present time. He calls attention to the fact that the pioneer period was a period of growth, of expansion, and of building. It was a time when the restive spirit of the adventurer was abroad in the land. There were always new lands to explore, vast areas of uncut forests to possess, untilled prairies to cultivate, undiscovered ore in the hills for which to seek. The early part of this period gives us the stories of the huntsman, the trapper, and the covered wagon; the later years of the period, the stories of the giants who built railroads, tunneled mountains, bridged rivers, built cities, and founded great industries.

During this long period of growth and expansion and restless endeavor the college curricula changed slowly. Mathematics, rhetoric, logic, and moral philosophy, the nineteenth-century versions of the trivium and the quadrivium, yielded slowly and grudgingly to the demands of the times. These traditional subjects were supposed to possess rare universal cultural values. The high veneration in which they were held is illustrated by events associated with the founding of Alleghany College in 1817. The trustees placed in the cornerstone a chip of Plymouth Rock, some mortar from what was said to be the tomb of Virgil, and a piece of marble from Dido's temple. At the first commencement an

oration was delivered in Latin by the President, and another in Hebrew. These orations "proclaimed the intellectual kinship of the new community with the older centers of learning and showed Alleghany students spoke the cultural language of Harvard and Yale and therefore deserved support."

The second period in college development really begins when Eliot wrote his famous article on "Liberty in Education" in which he advocated a program of electives rather than a fixed curriculum. It is true that the classics had been on the defensive for many years and that new subjects had already appeared, but Eliot's address had the devastating effect of a bomb suddenly thrown into the academic arena.

It is impossible for me in a single address to explore the causes for the change of front from a fixed to an elective curriculum, from a program dominated by mathematics and moral philosophy and the classics to one dominated by subjects of a more practical nature. During the pioneering, nation-building period, religious ideals held sway in molding the educational program of this country. Harvard, for example, was established to train for the ministry; the charters of all the early universities, including the University of Maryland, made provision for faculties of divinity or for courses in religion. Many of the early preachers were men of great ability; they were powerful advocates of religion as a solvent for the ills of society. A close relation between the schools and the church was universally accepted as proper.

But by the time of Charles W. Eliot a nation had been formed, exploration had practically ceased, cities had been built, continental means of transportation provided, industries founded, international trade established, a civil war fought, and the slaves freed. It was clear to everyone that we were entering a new period during which the colleges and universities paid "less and less attention to the thunders of the pulpit."

Lists of trustees of colleges, instead of consisting chiefly of ministers and deacons concerned with the affairs of the church, now read like corporation or legal directories. Colleges were passing from ecclesiastical to lay control. Subjects dealing with natural science and with training for business and efficiency forced their way in and received an increasing amount of attention, while religion and the classics slipped into the background. A hostile critic declared that under the old system one learned a lot of useless knowledge, while under the new system one did not need to learn anything at all. Nevertheless the curriculum was expanded and enriched; more opportunities for choice were given students; even art, music, letters, and the social studies began to creep in through the back door.

The third period, in which we are now living, shows certain important trends which I shall list without discussing. It shows a swing back to some prescription in college offerings and a willingness to encourage experiments in educational offerings and procedures. We know now that the romantic promises of the elective system were never fully realized. We have become convinced that there are some relatively universal elements in the intellectual world which students should master. Then, too, we have discovered that human beings differ enormously one from another just as we have discovered that the social demands are highly variable. As a result of these discoveries we are now less interested in administrative forms, in fixed curricula, or in free electives than we are in adapting our programs to the abilities, the needs, and the aspirations of the students.

During the pioneer period the colleges were subject to religious pressures, during the middle period to the demands of business, and in the present period to social and political philosophies. In the early days the colleges emphasized religion and ethics; in the middle period they exalted science and business; now they are being prevailed upon to discuss and analyze capital, labor, money and credits, unemployment, relief, public works, and many other such subjects in the field of the social sciences.

Even this brief historical sketch suggests how completely the colleges of America have been influenced by the changing character of the times. It reinforces the earlier observation that they exist to serve the world that supports them. In one sense, a university is like the explorer of an undiscovered country. Explorers must have an objective. Stanley and Livingstone made fairly elaborate preparations for their trips into the heart of Africa. They learned what they could in advance; they equipped themselves with what they regarded as necessary; they engaged the best help possible for their long treks into the unknown land; they observed and recorded their experiences. They were urged on by the insatiable desire to know what lay across the river, over the mountains, and beyond the horizon. Each succeeding day was filled with new adventures; some pleasant, some difficult, but all contributing to the ultimate objective. So it is with a university; it is engaged in an eternal adventure in pioneering in the fields of understanding, of discovery, and of testing human knowledge. Like other explorers, it must remain fixed in its purposes and not deviate from them no matter how attractive any short cuts may seem to be. There are no short cuts to understanding and knowledge. Human social problems can be solved only through unceasing study; there is no other way. It is this fact that must underlie all the activities of higher education.

The founders of the American universities had deep-seated convictions with respect to the foregoing generalization. In Maryland they were solicitious that the university be kept free from political domination. Wherever you turn you find the pioneers alive to the importance of this matter.

The Governor of Iowa, in 1856, referred to the establishment of a university for his State in the following language: "In its peculiar features and general organization, I would recommend the general assembly to exercise a vigilant guardianship to the end that party politics and religious sectarianism be absolutely and totally excluded from its walls. There is such a natural tendency for the devotees of every particular theory and creed to stamp upon the minds of youth their own governing views and motives that no compromise with the evil can be tolerated. It is well that society is divided into parties and creeds, but in such an institution as our State university these conflicting elements which work good to the world at large outside, would, within, produce only discord and destruction."

William Watts Folwell, the first president of the University of Minnesota, uttered these profound words in his inaugural address: "I am content to urge that university education be essential to the well-being rather than to the being of the State."

More than 250 years have elapsed since the first State university was established, tens of thousands of students have attended it and its successors, and yet, strange as it may seem, we are still engaged in a battle for intellectual liberty. The principles of Folwell an dthe others have not had universal acceptance. When shall we learn that social good can be advanced only through the discovery and evaluation of the rational principles that apply to human affairs? When shall we learn that this advancement depends upon the maintenance of institutions, such as our universities, which are free to study and evaluate the world of which they are a part but from which they remain independent and toward which they are objective? When shall we also learn that this advancement of the social good requires a social environment in which human personality has a full opportunity for free growth and free expression?

America has the unique opportunity of answering these questions for civilization. The task is not easy; the responsibility is heavy. After a thousand years of liberal idealism in education, totalitarian States are suppressing and driving its spirit from the halls of learning. No totalitarian government can survive without controlling the form and spirit of the schools; no democratic government can survive which places strictures upon freedom of thought and freedom to teach the truth.

The objective of schools and universities in many European countries today is to turn out good Communists, or Fascists, or Nazis, as the case may be. The objective of schools and universities in this country is to turn out free-thinking, independent citizens who will form judgments on the basis of facts and carefully tested opinion. The dispassionate pursuit of knowledge is the best training for individuals who are to be citizens in a free country. If democracy is to be a way of life and a form of thought in this country, the universities must dwell in an atmosphere of liberty, free, to an encouraging degree, from the intellectual and political tyrannies found in some of the countries of continental Europe. The institutions of democracy are safe only where free discussion and unfettered judgment prevail. The preservation of this intellectual freedom is the great responsibility of our citizens. Education fails if it does not impress upon those who attend higher institutions of learning that the freedom they enjoy is to be used for the advancement of social welfare. As potential leaders they must be trained to undertake the drudgery of thought which is essential to the achievement of great human ends.

Students cannot acquire this attitude toward knowledge, nor can they develop an adequate comprehension of their place in society, unless there is a constant examination of the problems and the materials of education. One of the chief merits of education in this country is that it has not become fixed and inelastic. We are continuously evaluating its aims, improving its processes, and testing its results. In no other way can education move forward in consonance with the vital problems of the times. Constant reorientation of academic programs and standards in the light of contemporary conditions and issues is necessary if we are to equip students with the background of knowledge and thought they require as citizens of a free community. If we lose sight of this fundamental conception of democracy in our efforts to work social reform, democracy itself will disintegrate and disappear.

I do not mean to imply that the universities will concern themselves solely with history and contemporaneous events. They will undertake to plot social trends, to foresee critical developments, and to prepare the ground for a practical understanding of social needs. They will not be policy-forming institutions but they will try to comprehend the events and to explore conditions that policy-forming bodies will need.

Not long ago a most impressive cartoon appeared in an eastern paper. It was labeled "Modern Education at Bay."

The cartoon portrayed a four-headed dragon approaching a school building. The heads were labeled "Persecution", "Ignorance", "Bigotry", and "Intolerance." Between the dragon and the school building stood a man representing education; with sword upraised he was trying to repel the advance of this monster, which, nevertheless, pressed relentlessly on, hissing venom from each of its horrible heads.

Persecution, ignorance, bigotry, and intolerance may not be the only evil forces that would destroy modern education, but they are four of the worst. We are engaged in a never-ceasing battle to combat these forces—a battle which is renewed with each new generation. They will not be destroyed by exalting self-interest nor by group and mass pressures. The victory will be won when fair dealing, tolerance, and enlightened learning are universally accepted as ideals to be cherished and preserved. One of the most pertinent questions is whether the colleges and universities can provide themselves with armor necessary to protect themselves from these disintegrating evils, and whether they can at the same time

establish the thought that an educated man is one who knows how to keep his judgment in suspense until he knows the facts or has weighed the hypotheses.

Persecution, ignorance, bigotry, and intolerance are the weapons of barbarians. We can drive them into permanent retreat only if we dedicate ourselves to the task of keeping the lamps of learning aflame and undimmed. Greatest among us will be those idealists who can pass along to others their own unruffled faith and understanding, despite the whims and bitterness of cynics. Every university possesses a priestly hierarchy of scholars whose confidence in the possibilities of education and whose readiness to fight for it against mass attacks of prejudice, ignorance, and self-interest is unyielding. It is they who are the saviors of the true education; it is they who are the real guardians of learning and ability.

Prof. Gilbert Murray, of Oxford, upon the recent occasion of his seventieth birthday, characterized scholarship in these words: "A society without history cannot understand what it is doing, and history without scholarship cannot understand itself."

And thus my theme comes to an end. The founders of the early universities were profoundly right in impressing upon their own times and upon us as well the necessity for drawing from and preserving the traditions that have made us strong and great. Their critics, and those of today, are likewise right in their insistence that education must adapt the traditions of the past to the needs of the present. From the wise merging of tradition and change comes the orderly growth that will insure a stable civilization, in which education can flourish—to carry us forward to new levels of human welfare and accomplishment.

Practice and Procedure Before Federal Communications Commission

EXTENSION OF REMARKS

OF

HON. BURTON K. WHEELER

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Thursday, March 4, 1937

ADDRESS BY HAMPSON GARY, GENERAL COUNSEL, FEDERAL COMMUNICATIONS COMMISSION, BEFORE THE GEORGETOWN UNIVERSITY LAW ALUMNI CLUB, WASHINGTON, D. C., JANUARY 28, 1937

Mr. WHEELER. Mr. President, on January 28, Mr. Hampson Gary, general counsel of the Federal Communications Commission, delivered an address before the Georgetown University Law Alumni Club on Practice and Procedure Before the Federal Communications Commission. In his address Mr. Gary discusses practical problems of practice and procedure, and details the way in which the business of the Communications Commission is handled in a manner that is both informative and interesting. I feel sure that my colleagues who have occasion to contact various departments of the Commission will find this address exceedingly interesting and helpful, and I therefore ask unanimous consent that it be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. GARY. Mr. President, members of the Georgetown Law Alumni Club, fellow members of the bar, I appreciate the invitation to be the guest today of the Law Alumni Club of historic old Georgetown University, an institution whose standards of scholarship have held so firmly. You have asked me to tell you something of the "procedure peculiar to the laws under which the Federal Communications Commission functions." I am glad to comply. This is a subject with which I deal each day in my work, and is, let me say, one in which I feel that lawyer and layman alike must have more than ordinary interest, for the proper administration of our communications law is one of vast importance to the Nation.

In the year 1789, when George Washington became our first President, and your university was founded, one would have been far-sighted, indeed, to predict that we should have communications by wire or radio. But with the passing of the years this has come to pass, and we have witnessed a transformation in the social, educational, and economic life of our country, brought about through the inventions of the telegraph, the cable, the telephone, and the radio.

Step by step with the scientific development of these new methods of communication there has been built up gradually a code of regulatory law in order to make further advances possible and to safeguard for the people all public benefits to be derived. In 1934 the development of law in this field culminated in the passage of the act which created the Federal Communications Commission and vested in it the authority theretofore granted to several different agencies of the Government and also gave it additional authority, thereby centralizing in one body full responsibility for the regulation of all interstate and foreign communications, whether by wire, radio (including television), or cable, and giving the newly created administrative body a rare opportunity for public service.

It was my good fortune to be named by President Roosevelt a member of the Federal Communications Commission at its formation, and to be selected by my colleagues as chairman of the Broadcast Division, serving from June 1934 to January 1935, during which time my interest was challenged by the urgent need which existed for the promulgation of rules of practice and procedure before the Commission, inasmuch as considerable confusion was caused by the fact that the existing, and sometimes, conflicting rules of the Federal Radio Commission, the Interstate Commerce Commission, and the Postmaster General, were, by section 604 of the act, continued in effect until the Commission promulgated new rules to take their place.

One of my first official duties when I became general counsel of the Commission in July 1935 was to act as chairman of the committee to formulate and prepare adequate rules of practice and procedure. Our committee made an exhaustive study of the existing rules as well as those of other governmental agencies and submitted a complete draft of new rules which the Commission adopted on December 18, 1935. This publication is now available in looseleaf-pamphlet form from the Government Printing Office.

You will appreciate, of course, that my remarks today, being intended for those who have been licensed to practice law, are somewhat technical, but I hope will not prove too tedious for the luncheon hour. I shall follow the text you assigned me.

In keeping with the provisions of the Communications Act of 1934, the Commission by its order no. 1 organized itself into three Divisions as follows: Division no. 1, broadcast; division no. 2, telegraph; division no. 3, telephone. To the broadcast division was given jurisdiction over all matters relating to or connected with broadcasting which is defined by the act as "the dissemination of radio communications intended to be received by the public directly or by the intermediary of relay stations." The telegraph division was given jurisdiction over all matters relating to or connected with record communication by wire, radio, or cable and all forms and classes of fixed and mobile radiotelegraph service and amateur service. The telephone division was given jurisdiction over all matters relating to or connected with telephone communication (other than broadcasting) by wire, radio, or cable including all forms of fixed and mobile radiotelephone service except as otherwise specifically provided for.

The staffs of the engineering and law departments are also divided into these three groups with an assistant chief engineer and an assistant general counsel in charge of broadcast, telegraph and telephone regulation, respectively.

The Commission as a whole, of course, has jurisdiction over all matters not specifically allocated to a division, over all matters which fall within the jurisdiction of two or more divisions established by that order, and over the assignment of bands of frequencies to the various radio services, and over rehearings, whenever granted, in cases originally heard before one of the divisions.

In any case where a conflict arises as to the jurisdiction of any division or where jurisdiction over any matter or service is not allocated to a division, this order provides that the Commission shall determine whether the whole Commission or a division thereof shall have jurisdiction and, if a division, which division shall have jurisdiction.

The powers and duties of the Commission, generally speaking, relate to the licensing of radio stations on the one hand, whether broadcast (division I), radiotelegraph (division II), or radiotelephone (division III), and the regulation of common carriers in interstate commerce by wire, radio, or cable on the other. Thus the procedural problems concerning licensing under title III of the Communications Act of 1934 are the same whether relating to broadcast, radiotelegraph, or radiotelephone stations, while differing from those concerning the regulation of common carriers under title II of the act. Accordingly, this discussion will be so divided.

PROCEDURAL PROBLEMS RELATING TO LICENSING OF RADIO STATIONS UNDER TITLE III OF THE COMMUNICATIONS ACT OF 1934

There is, of course, no charge made for a radio station license, nor do the people in this country have to pay for using their receiving sets as in England, France, and certain other countries. No radio transmitting station, however, may be constructed and operated without a permit and license issued by the Commission.

Application forms for instruments of authority under title III of the Communications Act of 1934 (which relates to licensing of radio stations) are provided by the Commission, and two copies are required to be filed at the offices of the Commission in Washington. You may be interested to know that during the last fiscal year the Commission handled around 10,000 such applications. These included applications for construction permits for new stations and modifications of such permits, applications for licenses covering authorized construction, informal and special authority applications, applications for renewals, modifications, assignments of licenses, and for transfer of stock control of licensee corporations. An interesting example of such a case was the recent application of Mackay Radio & Telegraph Co. for modification of licenses for certain of its point-to-point radiotelegraph stations in the fixed public service so as to add Oslo, Norway, as a point of communication. Some of the questions involved were: The need for an additional direct radio circuit to Norway; the adequacy of existing radio and cable facilities between the United States and Norway; the possibility of providing a new or improved service, or

reduction in rates, or an increase in traffic; the effect of a grant of such application upon the revenues of competing telegraph carriers; and the question of whether the authorization was necessary for the continued operation of the applicant company or its associated companies comprising the international system. This application was denied by the telegraph division after hearing and is now pending decision of the Commission upon rehearing of same.

When an application for any such instrument of authority is received it is sent first to the license section of the Commission where it is examined for completeness of answers, proper signatures, verification, etc., then to the engineering department for review as to technical details of equipment and other engineering questions involved in the application, and then to the law department where a similar review is made concerning any legal questions. It is then ready to be presented to the appropriate division for action.

Applications may be amended or withdrawn without prejudice at any time up to the conclusion of a hearing thereon where other parties will not be aggrieved or adversely affected thereby, but if any such amendment requests a change in the frequency, power, hours of operation, equipment, location of the station (or points of communication or approximate location in case of stations other than broadcast), or such amendment or withdrawal would aggrieve or adversely affect any other party, no amendment to or withdrawal of any application without prejudice will be permitted, unless such amendment is filed, or such withdrawal is requested, not later than 30 days before a hearing.

Under the law the Commission may grant an application in whole or in part without a hearing if in its judgment the granting of such application will serve public interest, convenience, and necessity.

In the existing state of the radio art, and particularly with reference to the present allocation of broadcast stations in the United States, it is difficult to make any kind of a grant which will not in some manner or degree affect other licensees. For this reason the Commission promulgated rule 104.4, which provides that when any instrument of authorization is granted by the Commission without a hearing pursuant to section 309 (a) of the Communications Act of 1934, such grant shall remain conditional for a period of not less than 30 days from the date on which public announcement thereof is made, or from its effective date, if a later date is specified, during which time any person aggrieved, or whose interests may be adversely affected, may obtain a hearing by the filing of a protest.

If a valid protest is filed in accordance with this rule, the effective date of the Commission's action to which the protest is directed is postponed to the date of the Commission's decision after hearing, unless it appears that the authorization involved is necessary to the maintenance or continuance of an existing service, in which event the Commission may in its discretion authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

The protest should contain a statement of the protestant's interest in the matter, a terse yet complete statement of the facts which the protestant expects to prove upon the hearing, together with proof of service upon the applicant.

In the event a valid protest is filed, the application is set for hearing in the same manner in which other applications are heard, and the applicant and other interested parties notified. As in other cases the applicant continues to have the burden of proving that the granting of his application will serve public interest, convenience, and necessity, while the protestant must go forward with the burden of proving that the issues set forth in his protest are true.

If no valid protest is filed within the 30 days or if a valid protest is filed but is withdrawn by the protestant before hearing thereon, the action of the Commission in granting the application becomes absolute and final without further action.

If the Commission cannot determine from an examination of an application that the granting thereof will serve public interest, convenience, or necessity, it is provided under section 309 (a) of the Communications Act that the Commission shall designate the same for public hearing and give the applicant notice of the date and place of hearing and issues to be determined thereon. Notice of hearing on any such application is also given to any existing station or pending applicants whose interests may be affected by virtue of possible interference.

Thereupon, it becomes necessary under rule 104.6, if the applicant desires a hearing, for him to file within 15 days of the mailing of the notice by the secretary, a written appearance and statement of his desire to be heard. If a respondent wishes to participate in the hearing, he must file with the Commission an answer to any such appearance within 25 days of the mailing of the notice by the secretary.

At any time more than 10 days prior to the date of any hearing any party having a substantial interest in the subject matter of the hearing may petition to intervene. Such petitions must be subscribed and verified by the petitioner.

In case no appearance is filed by the applicant, the hearing is canceled, the applicant deemed in default, the application denied, and all parties thereto notified.

If the applicant files his appearance pursuant to the rule, a hearing is held (in accordance with the notice) before the Commission, a division, director, or examiner, as the case may be.

At hearings on applications for instruments of authorization which the Commission is empowered to make, the applicant opens and closes. In protest cases, the protestant opens and closes. Where the hearing is conducted on a consolidated record—that is, where two or more related applications are heard together—the Commission, division, or presiding officer designates the order of presentation. Interveners follow the party in whose behalf intervention is made, and in cases where the intervention is not in support of either original party, the Commission, division, or presiding officer designates at what stage interveners shall be heard.

If a hearing is held before less than a quorum of the Commission or a division thereof, the testimony duly transcribed is reported back to the Commission, together with a written report containing recommendations by the person or persons hearing the case and the facts upon which the recommendations are based. A copy of the report is then mailed to each party who has the right to file exceptions at any time within 15 days from the mailing of such report.

The rules governing the admission of evidence in the United States courts are applicable to formal hearings before the Commission, but where the Commission is of the opinion that in any case the ends of justice will be better served by relaxing these rules the Commission reserves the right to do so. This rule has been approved by the United States Court of Appeals of the District of Columbia in *Technical Radio Laboratory* v. *Federal Radio Commission* (59 App., D. C. 125) and in *Beebe* v. *Federal Radio Commission* (61 App., D. C. 273). Depositions may be used when authorized by the Commission, under rule 106.26.

In the event that an application is heard before an examiner or a director, the Commission or a division will hear oral argument upon petition of any party and sometimes permits the filing of briefs. If the testimony is taken before the Commission or a division, it may be followed by oral argument or the filing of briefs, or both, in the discretion of the Commission or the division, as the case may be.

After a decision, order, or requirement has been made by the Commission in any proceeding, any party thereto may, at any time, make application for rehearing of the same provided that in the case of a decision, order, or requirement made under title III of the act, the time within which such application for rehearing shall be made is expressly limited by section 405 of the Communications Act to 20 days after the effective date thereof, and such application may be made by any party or any person aggrieved or whose interests are adversely affected. Such a petition shall show (a) that new or additional material evidence has been discovered which the petitioner, after due diligence, could not have known at the time of the original hearing; or (b) that the Commission, in its decision, order, or requirement overlooked or did not consider some material question of law or matter of fact which, if considered, would have changed its decision, order, or requirement.

Some interesting examples of recent broadcast cases upon which hearings have been had are the so-called Brooklyn cases and those known as the 640-kilocycle cases. The Brooklyn cases involved 18 conflicting applications by existing licensees and applicants for new stations, all in the same geographical area. The 640-kilocycle cases involved 13 applications, affecting primarily the use of the frequency 640 kilocycles in a number of localities in the United States. This frequency is designated by rule 116 of the Commission for the use of "clear channel stations"; that is, on which no simultaneous nighttime operation is permitted. Among others, proposals were made by several of the applicants for simultaneous nighttime operation on 640 kilocycles, in violation of this rule. The hearing also involved the use of this frequency by competing applicants for new stations in Portland, Maine, and Pittsfield, Mass. Two appeals have been taken to the United States Court of Appeals for the District of Columbia from the Commission's decision insofar as it relates to the Portland application, and same are now pending in that court.

With regard to the taking of appeals from decisions of the Commission, it should be noted that section 402 of the act makes provision for appeals to be taken to the United States Court of Appeals for the District of Columbia in any of the following cases: (1) By any applicant for a construction permit for a radio station or for a radio-station license, or for renewal of an existing radio-station license, or for modification of an existing radio-station license, whose application is refused by the Commission, and (2) by any other person aggrieved or whose interests are adversely affected by any decision of the Commission granting or refusing any such application.

In connection with orders in other cases where the right of appeal is not granted, section 402 provides that the provisions of the District Court Jurisdiction Act (38 Stat. 219) relating to the enforcing or setting aside of orders of the Interstate Commerce Commission shall be applicable to suits to enforce, enjoin, set aside, annul, or suspend such orders of the Communications Commission.

One of the most important suits which has been brought in accordance with this section involved a test of the Commission's order prescribing a uniform system of accounts for telephone companies subject to the act. The American Telephone & Telegraph Co. and others brought suit in the United States District Court for the Southern District of New York to set aside the Commission's order. The district court overruled the plaintiffs' objections directed to the "original cost" rule; to a provision as to "just and reasonable" charges; and to a classification dividing plants in present use from those held for use thereafter and dismissed the bill as to the objections overruled (14 F. Supp. 121). Upon appeal to the Supreme Court of the United States the decree was affirmed (No. 74, October Term 1936, 81 L. Ed. 116).

BROADCAST STATIONS

Before proceeding to discuss the procedural problems relating to the regulation of common carriers under title II of the act, I would like to point out that broadcast stations as distinguished from point-to-point radiotelegraph and radiotelephone stations are expressly excepted from this type of regulation by section 3 (h) which provides that a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

A broadcast station, therefore, is not under a public-utility obligation to accept all program material offered but has the right, in the first instance, to choose its own programs, and the Commission cannot censor the programs nor regulate directly the rates charged for broadcasting.

There is one important exception, which I should mention, to the rule that a station may refuse to broadcast any program offered. You no doubt recall that during the last Presidential election there was considerable comment from the press and elsewhere regarding the use of radio facilities by candidates representing the Communist Party. Some stations wished to keep them off the air. In some places the city authorities refused to allow them to go near the radio station, and in one particular instance, where a candidate was speaking, a mob rushed into the studio and did physical damage to it. Following each of these instances the Commission was deluged with letters regarding the right of the Communist candidates to broadcast, some taking one side of the question and some the other.

Section 315 of the Communications Act provides that no obligation is imposed upon any station licensee to allow the use of its facilities by any candidate; but if a station permits one legally qualified candidate for public office to use its facilities, it must afford equal opportunities to all other such candidates for the same office, and the licensee is denied any power of censorship over the material broadcast under the provisions of that section.

Therefore, in cases where a station had permitted the candidates of other parties to broadcast it was required to allow the candidates of the Communist Party, if legally qualified, for the same office, equal privileges. In all cases where complaints were made to the Commission on the basis of equal opportunity being denied to legally qualified candidates by any station licensee, such complaints were given prompt attention to the end that the provisions of the law might be fully enforced. As to interference on the part of persons other than the station licensee, as for example, the police official, the Commission, of course, had no jurisdiction.

Each year the Commission receives hundreds of letters from radio listeners all over the United States, sometimes commending and sometimes complaining about the programs of the various broadcast stations. Some of them go so far as to request the Commission to take stations off the air or to prohibit the broadcast of certain programs.

As I said just now, the Commission has no power of censorship and cannot prohibit a station from broadcasting any program. Therefore there is no provision in the rules of the Commission for holding hearings on complaints which may be made against programs.

Broadcast stations are licensed, however, only for 6 months' periods and at the end of each such period must file applications for renewal of licenses. At that time the Commission gives careful consideration to the past operation of the station, including all complaints on file. If after appropriate investigation any outstanding matters are found to be serious enough to keep the Commission from reaching a determination that the continued operation of the station would serve public interest, convenience, and necessity, it sets the application for renewal of license for hearing, and at such hearing the matter is made an issue in the bill of particulars. After all evidence has been presented, the Commission determines therefrom whether or not the station's license should be renewed. Some very interesting cases have arisen in this connection.

So, also, the Commission has, of course, authority under section 312 (a) to revoke station licenses for certain specific causes set forth in that section, after full hearing is had upon due notice to the parties.

PROCEDURAL PROBLEMS

I will now discuss briefly procedural problems relating to the regulation of common carriers under title II of the Communications Act of 1934.

Title II of the Communications Act of 1934 contains the provisions relating to the regulation of common carriers. A common carrier is defined by section 3 (h) of the act to be any person engaged as a common carrier for hire in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy.

Common carriers covered by the Communications Act are of two kinds: (1) Those subject to all provisions of the act, and (2) connecting carriers which are subject only to the provisions of sections 201 to 205, inclusive. A connecting carrier is defined in section 2 (b) (2) of the act to be any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by or under direct or indirect common control with such carrier.

A carrier engaged in interstate or foreign communication is assumed to be subject to all provisions of the Communications Act until facts are disclosed which satisfy the Commission that it should be classified as a connecting carrier under the provisions of section 2 (b) (2) of the act.

The importance of classifying the telephone companies is apparent, since certain of them are subject to all provisions of the act relating to common carriers, involving the filing of tariffs, keeping of books in a particular manner, making annual and other reports, etc., not required of those determined to be connecting carriers.

In order to determine jurisdiction over wire telephone carriers, the Commission sent questionnaires to the carriers—in number, over 6,500—to be answered under oath. As each questionnaire was returned it was examined, and from the information given by the company and from other valid sources the carrier was classified and notified as to the extent of the Commission's jurisdiction over its operations.

In some instances it was necessary for the Commission to hold hearings to determine whether certain so-called independent telephone companies were not as a matter of fact controlled by the American Telephone & Telegraph Co. through one of its subsidiaries.

Not only is it necessary for the Commission to determine its jurisdiction over the particular company but also over the character of service rendered.

A telephone company may furnish exchange or local service as well as toll or long-distance service. The regulation of exchange service is reserved exclusively to the State commissions or other appropriate State authority. With respect to interstate or foreign toll service, jurisdiction is vested in the Federal Communications Commission.

Some of the telephone companies are located in cities which are at or near State boundaries. In such cases many local calls cross State lines and in reality are interstate calls. Bristol, Va.-Tenn., and Texarkana, Tex.-Ark., are examples. Because of the local nature of these calls, however, regulation of the same is, by the act, expressly denied to the Communications Commission in any case where such matter is subject to the regulation by a State commission or local governmental authority.

The Communications Act places a number of positive duties upon all carriers subject to its provisions. Interstate and foreign communication service must be furnished at just and reasonable rates and in accordance with tariffs filed with the Commission and open to public inspection. Unjust and unreasonable discrimination and preferences are forbidden. Where a carrier does anything prohibited or omits to do anything required to be done by the act it is made liable to persons injured thereby. For redress the party may either make complaint to the Commission or bring suit for recovery of damages in any district court of the United States of competent jurisdiction, but he may not pursue both remedies.

COMPLAINTS

At this point it may be interesting to outline briefly the procedure followed by the Commission in handling such complaints. Rule 105.1 of the Commission's Rules of Practice and Procedure provides that complaints may be either formal or informal.

A formal complaint must be so drawn as to advise the Commission and the defendant carrier fully wherein the provisions of the act, an order or a rule or regulation of the Commission, have been violated, the facts claimed to constitute such violation, and the relief sought. Upon receipt of such a complaint section 208 of the act requires that the Commission forward copies of same, together with a notice of filing, to the carrier and that the complainant be called upon to satisfy the complaint or answer the same in writing.

The provisions of the rules relating to a formal hearing, hereinbefore discussed, apply to the procedure in handling hearings in formal complaints. If, after hearing, the Commission determines that any party complainant is entitled to an award of damages, it is authorized to make an order directing the carrier to pay to the complainant the sum to which he is entitled

An interesting example of formal complaints was that filed against the American Telephone & Telegraph Co. by the Pensacola Broadcasting Co., operating station WCOA. Briefly stated, it was alleged that the contract between the Pensacola station and Columbia Broadcasting System required the station to pay Columbia the same amount for telephone circuits used in receiving broadcast programs as Columbia in turn paid the American Telephone & Telegraph Co. under a contract with it.

It was also claimed that the wire charges in the tariff filed with the Commission by the American Telephone & Telegraph Co. were unjust, unfair, and unreasonable, particularly as to the calculation of the mileage charged for. The tariff charge was $60 per circuit mile for the class of service in question. The circuit mileage for which petitioner paid was calculated from Mobile in a northeasterly direction to Flomaton, Ala., a distance of 48 miles, or a total of 109 miles. The air-line distance from Mobile to Pensacola is 67 miles. The petitioner claimed that the program service which it received from Columbia actually came from New York and other eastern points, and that the mileage charge of the 61 miles from Flomaton to Mobile was a "backhaul", for which it should not be charged and that the tariff should be corrected.

The complaint was set for hearing, but, before the hearing, complainant and the telephone company reached an agreement as to an adjustment, which reduced the back-haul charge from Flomaton to Mobile 50 percent, so that under the settlement station WCOA would pay for 75½ miles instead of 109 miles. Thereupon, the telephone company filed a tariff to this effect, and the petitioner withdrew its complaint. There are some eight or nine other broadcast stations with similar mileage situations which will benefit by the new tariff provision.

The Commission's rules do not prescribe a particular form for an informal complaint, other than that it must be in writing, sub-

scribed and verified by the complainant. Rule 105.3 provides that upon receipt of an informal complaint, the Commission will, if its nature warrants, take the matter up by correspondence with the carrier in an endeavor to bring about satisfaction. In the event a satisfactory arrangement is made, the complaint will be dismissed. If, on the other hand, the carrier refuses or is unable to satisfy the complaint, it must notify the Commission and the complainant will be duly informed. The complainant may then file a formal complaint or resubmit his informal complaint within 6 months, provided that it contains new material matter upon the same cause of action. Many cases which may have assumed major proportions have been disposed of and settled amicably by negotiation or informal conferences, subject to confirmation by the Commission.

In addition to formal and informal complaints the Commission receives many accusations against or objections to practices and rates of communications carriers in simple letter form, without verification. In the event it is determined the Commission has jurisdiction over the matter of which the party complains and the facts seem to justify it, the Commission in such cases usually writes the carrier enclosing a copy of the letter and informs the complainant of the steps taken. It frequently happens that by bringing the complaint to the attention of the carrier the matter is settled to the satisfaction of both the carrier and the company without further action on the part of the Commission.

INQUIRY BY COMMISSION ON ITS OWN MOTION

The Commission is not limited to action upon complaints, but has authority to institute inquiries on its own motion in any case, as well as to inquire into any matter concerning which complaint is authorized to be made, or concerning which any question may arise under any of the provisions of the Communications Act, or relating to the enforcement of such provisions. The Commission has the same powers to proceed with any inquiry instituted on its own motion as though it had been appealed to by complaint, including the power to make and enforce any order or orders in the case, or relating to the matter concerning which the inquiry is had, excepting orders for the payment of money. Several inquiries of outstanding importance, instituted on the Commission's own motion, were settled by means of discussions and informal conferences.

Informal conferences were conducted with officials of the American Telephone & Telegraph Co. and the Southern Bell (operating in the nine States of North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Alabama, Mississippi, Florida, and Louisiana), as a result of which that company agreed to file new tariffs, effective January 1, 1936, reducing its interstate rates for distances between 56 miles and 318 miles to the same level as the American Telephone & Telegraph Co. for similar distances. It was estimated that this reduction would amount to approximately $125,000 annually. Also, the Pacific Telephone & Telegraph Co. filed tariffs effective December 1, 1936, reducing interstate rates in an amount estimated at $290,000.

APPLICATIONS

In addition to placing positive duties upon carriers, the act also provides that certain things may not be done unless and until a certificate of convenience and necessity is obtained from the Commission. For example, no carrier (subject to certain exceptions named in section 214 of the act) may undertake the construction of, or acquire or operate a new line or an extension of any line until a certificate of public convenience and necessity has been obtained therefor. No person may hold the position of officer or director of more than one carrier subject to the Communications Act unless authorized to do so by the Commission after due showing that neither public nor private interests will be adversely affected thereby.

Telephone companies are allowed to consolidate their properties, to acquire the whole or any part of the property of other telephone companies or the control thereof (by purchase of securities or lease or in any other like manner), when such consolidated company would be subject to the Communications Act, provided the Commission finds, after public hearing, that the proposed consolidation, acquisition, or control will be of advantage to the persons to whom service is to be rendered and in the public interest and certifies to that effect, in which case, under the Commission's organic law (sec. 221 (a)), any act or acts of Congress making the proposed transaction unlawful shall not apply.

The procedure for handling applications for certificates of convenience and necessity is generally similar to that followed in the handling of applications filed under title III, which has already been discussed. Certain additional rules as to notice apply in these cases, however. Where applications are filed for certificates of convenience and necessity for the extension of lines, notice is given to the Governor and State commission having jurisdiction over the carrier, in the States in which the additional or extended line, or any part thereof, is proposed to be constructed or operated, with the request that they advise the Commission if they desire to be heard. Such other parties may be notified as the Commission deems proper. If any party so notified requests a hearing upon the application, the Commission will order a hearing and give notice to all parties of the time and place thereof.

Authority to furnish temporary or emergency service, or to supplement existing facilities, however, may be granted without notice or hearing. In the case of applications filed for the consolidation of telephone companies, the provisions for a public hearing are mandatory, and notice must be given to the Governor of each of the States in which the physical property affected or any part thereof, is situated, and to the State commission having jurisdiction over telephone companies. The Commission may also notify such other persons as it deems advisable.

Where a hearing is had in any case under either title II or title III, the Commission prepares a written opinion containing a statement of facts and grounds for decision. These decisions are published by the Government Printing Office under the title, "Federal Communications Commission Reports." Volume I, containing the decisions, reports, and orders of the Commission for the period July 1934 to July 1935, is available now and volume II will be published shortly.

Any party to a proceeding is permitted to appear and be heard in person or by attorney, and a partnership may appear and be represented by any member thereof. Attorneys at law admitted to practice before the highest court of any State or Territory, or any court of the United States, or the District of Columbia, may, upon proper application, be admitted to practice before the Commission. The register maintained by the Commission of attorneys who are admitted to practice before it shows participation from practically every State in the Union.

Recently more than 200 attorneys who practice before the Commission formed the Federal Communications Commission Bar Association, one of the expressed purposes of which is "to promote the proper administration of the Communications Act and related acts." Let me say, that the Commission welcomes the formation of this association and feels that in its field it can render valuable service.

I have endeavored to give you merely a general survey of the usual procedure employed in the handling of matters before the Commission under the Communications Act of 1934, and the Rules of Practice and Procedure promulgated by the Commission pursuant thereto. Necessarily, in this brief outline I have had to omit many of the details and some of the procedural steps which obtain, but which are incidental to the principal steps outlined. The body of procedure I have set forth, and much that I have not, may be found in the official pamphlet on Practice and Procedure before the Federal Communications Commission, of which I have already spoken.

Since the adoption of these rules the Commission has become aware of some inadequacies—that one or two rules appear to be working a hardship in some respects. It was, of course, to be anticipated that the rules would need some revision and amendment after there was a practical try-out of them. It is the earnest desire of the Commission to correct inequities, and it welcomes constructive suggestions from which it may evolve amendments to the rules to the end that its procedure will respond more nearly to the purposes of the act, and the needs of the administration thereunder; in a word, that they may render maximum usefulness.

The determination of the proper balance between public need and private ambition in the communications field presents a challenge to our honored profession. As science forges ahead and lays yet more wonders at our feet, may we keep pace in promoting and safeguarding these advances for the common good and make due contribution to the health, happiness, and welfare of all the people.

In closing, I need not dwell on the vital part that communications play in the advance of civilization; all of us appreciate this obvious truth. The telephone, telegraph, and radio have made all nations of the world our neighbors, helping us to learn how "the other half lives", and enabling us to understand better the problems and viewpoints of all peoples, a factor which I feel will prove more and more to be a mighty force in preserving the peace of the world.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. MILLARD E. TYDINGS

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Thursday, March 4, 1937

ARTICLE BY FRANKLYN WALTMAN

Mr. TYDINGS. Mr. President, I ask unanimous consent that there be printed in the RECORD an article by Mr. Franklyn Waltman published in the Washington Post of February 21, 1937, dealing with the question of the Supreme Court.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post of Feb. 21, 1937]

ROOSEVELT SUPREME COURT PROPOSAL BOLDEST IN UNITED STATES HISTORY—SIX CHANGES MADE TO DATE BY CONGRESS—NONE, HOWEVER, SEEN AS DELIBERATE ATTEMPT AT TAMPERING—THREE OBVIOUSLY RESULT OF CONGESTION AND NEW TERRITORIES—CONGESTION IN JUDICIARY NOW CLAIMED—"MIDNIGHT" JUDGES LAW DEFENDED AS MORE THAN "JOBBERY"—HISTORIANS DENY GRANT PACKED HIGH TRIBUNAL IN 1869

By Franklyn Waltman

Never before in the history of this country has so bold an attempt been made to influence the decisions of the Supreme Court

by increasing its size, or in any other manner, as that undertaken by President Roosevelt in his current proposal to permit him to name six new Justices of that high tribunal.

On six occasions Congress has changed the size of the Supreme Court since its creation in 1789. At least three of these changes clearly were made because of well-sustained congestion in the dockets of the courts and the need for additional circuits. Prompting the other changes were political rivalry and partisan spitefulness—and perhaps some antipathy toward the Court.

But none of these changes in the size of the Court was made deliberately for the purpose of influencing the nature of the decisions which the high tribunal would hand down—not even the change of 1869, which lead to charges that Ulysses S. Grant had packed the Court to get a favorable ruling on the *Legal Tender cases*.

Throughout the 148 years' history of the Supreme Court, Presidents have quarreled with that body—indeed, have fought bitterly with it, denouncing its decisions and on occasion openly defying the Court's mandate in particular and isolated cases. Thomas Jefferson and Andrew Jackson did—and so did Abraham Lincoln. But not one undertook to increase the size of the Court to bend it to his will in a particular case, much less in its general philosophy and exposition of the law.

PRESIDENT CITED PRECEDENTS

Thus, what President Roosevelt has proposed to Congress is without precedent, although Mr. Roosevelt undertook to cite precedents for his action. In his message to Congress the President declared that "in almost every decade since 1789 changes have been made by the Congress, whereby the numbers of judges and the duties of judges in Federal courts have been altered in one way or another."

"The Supreme Court was established with 6 members in 1789; it was reduced to 5 in 1801; it was increased to 7 in 1807; it was increased to 9 in 1837; it was increased to 10 in 1863; it was reduced to 7 in 1866; it was increased to 9 in 1869."

What has been said above constitutes conclusions found by an examination into the reasons why the changes cited by the President were made and the details of those changes will follow in greater detail. On its face the President's statement is correct—except that the membership of the Court between 1801 and 1807 remained at six members—and thus never was permanently five, except after one death and one resignation. Nor was the membership of the Court actually reduced to seven members between 1866 and 1869. In that period its membership was not less than eight.

What happened in these two instances was this: Congress in 1801 provided that the membership should be reduced to five when one of the living members should die or resign, but the law was repealed before this contingency took place, and again in 1866 Congress provided that the membership of the Court should be seven, after two of the then nine incumbents (one having previously died) should die or resign. But only one died before 1869 when the membership of the Court was restored to nine members.

NEEDED MORE CIRCUIT COURTS

Histories of the Supreme Court written by Charles Warren, Felix Frankfurter, and James M. Landis, and by Ernest Sutherland Bates indicate clearly that every increase made in the size of the tribunal from that in 1807 to and including 1869 came about as result of a need for more circuit courts to take care of the increased litigation of a rapidly growing Nation.

Mr. Warren, in the introduction to his able work, The Supreme Court in United States History, asserts that "to the proposal, advanced at various times of intense party passion, that the Court should be increased in number to overcome a temporary majority for or against some particular piece of legislation, the good sense of the American people has always given a decided disapproval; even mere partisan politicians see clearly that the employment of such an expedient is a weapon which may be equally used against them by their political opponents and may therefore prove disastrous in the long run."

Let it be said that Mr. Warren, an Assistant Attorney General in Woodrow Wilson's administration, wrote his history in 1922, and failed to anticipate what would happen 14 years later.

Professor Frankfurter and Mr. Landis, now the Chairman of the S. E. C., in their book, The Business of the Supreme Court, assert that "legislation concerning judicial organization throughout our history has been a very empiric response to very definite needs."

Increases in the size of the Supreme Court have on occasion coincided with political feelings against the tribunal on the part of the party in power and advantage has been taken by Presidents to name men to the Supreme Court whom they believed subscribed to the same political philosophy—as they did, just as Presidents do when they fill vacancies caused by death or resignation.

But there is no evidence to sustain the contention that any of the increases in the size of the Court were undertaken to determine in advance the decisions of that tribunal. All had behind them the necessity of either relieving congestion within the Supreme Court or adding to the circuits for the purpose of facilitating the work of the Federal judiciary.

SURVEYS SHOW LITTLE CONGESTION

Thus President Roosevelt, in citing the changes made in the size of the Supreme Court in the past, undertook to perfect the analogy of what he was proposing with what previously had been done by contending that court dockets throughout the Federal judiciary—including the Supreme Court—were seriously congested. He further intimated that the presence on the Federal bench of judges over 70 years of age was in large part responsible for this condition.

Surveys conducted by the writer and published in the Washington Post during the last 2 weeks have indicated that the Supreme Court is free of congestion—indeed, that it is disposing of cases as rapidly as counsel will permit; that some docket congestion exists in the Federal circuit court of appeals, but that it is not related to the age of judges, and that congestion of dockets exists in all or parts of 34 out of the 85 Federal district courts—and that in 10 of these the congestion is serious. But it also was shown that in these 34 district courts there are only 4 judges over 70 years of age and only 2 of that advanced age in the 10 districts where congestion is most serious.

Thus the President's justification for his proposal to name an additional judge for each incumbent on the Federal bench over 70 years of age—including six new Justices for the Supreme Court—has fallen to the ground and has been abandoned by him. He now urges his proposal on the ground that new blood must be infused into the Supreme Court in order that legislation which he intends to propose will not be invalidated as unconstitutional after its passage.

In being forced to shift his ground in this manner, President Roosevelt no longer is able to plead that there are precedents for what he proposes to do in regard to the Supreme Court, as a discussion of the precedents he cited will now demonstrate.

The Supreme Court's original membership of a Chief Justice and five Associate Justices was provided by the Judiciary Act of 1789, which also prescribed the duties and jurisdiction of the tribunal. It also provided for 3 circuit courts to be held twice a year, each composed of 2 Justices of the Supreme Court sitting in conjunction with 1 district court judge, and for 13 Federal district courts.

From the beginning the Supreme Court Justices protested against their circuit-riding duties. Frankfurter and Landis point out that "the whole system pivoted on circuit riding by the Justices", and that "this involved the very serious question of the capacity of the Justices effectively to discharge their duties both at Washington and on circuit; it no less seriously concerned the adaptability of such a system to the territorial expansion of the country—more circuits meant either more circuit riding for the Justices or more Justices for the circuit riding."

RANDOLPH DISAPPROVED OF CIRCUIT-RIDING DUTIES

The House of Representatives ordered an inquiry into this situation. Edmund Randolph, Washington's Attorney General, undertook the task and he disapproved of the circuit-riding duties. In 1793 Congress provided that only one Justice need attend each circuit—thus six Justices were available for three circuits. Yet "the condition of the country still left this reduced circuit riding an intolerable hardship", Frankfurter and Landis report, and John Adams in 1799 again brought the matter before Congress.

His recommendation resulted in the act of February 13, 1801, known as the Second Judiciary Act or the "midnight judges" bill. That partisan political considerations had much to do with the passage of this bill appears clearly established from the record, since the Federalists apparently wished to intrench themselves within the judiciary, after having lost the Presidency and Congress in the 1800 election of Thomas Jefferson and his Republicans. The latter regarded the Federal judiciary as part and parcel of the Federalist Party.

"MIDNIGHT JUDGES" LAW CALLED JOBBERY

Frankfurter and Landis assert that the "midnight judges" law "is apt to be treated too exclusively by historians merely as a piece of jobbery."

"Jobbery it was", they continue, "but by no means the design only of hungry politicians, or the effort of a party to entrench itself on the bench after the country had sent it into the wilderness. Behind the act lay the pressure of solid professional conceptions regarding a judicature appropriate for the new country, reinforced by defects unmistakably revealed in the workings of the initial system."

The "midnight judges" law eliminated entirely circuit riding by members of the Supreme Court and created 16 new circuit judges for the 6 circuits and an expansion of the Federal courts to the full limit of constitutional power. The law also provided that after the next death of a member of the Supreme Court, the membership of that body should not be more than five—a provision apparently designed to deprive Jefferson of making a Supreme Court appointment, as the 69-year-old Justice William Cushing was in ill health.

LAW SERVED FEDERALISTS AS WELL AS JUDICIARY

"No law could have been wiser and no law could have been passed with more ignoble motives", asserts Bates in his The Story of the Supreme Court. Frankfurter and Landis comment that "this measure combined thoughtful concern for the Federal judiciary with selfish concern for the Federalist Party."

The reason the law was obnoxious was because of the manner in which it was rushed to passage in the last days of the Adams administration by a "lame duck" Congress and the character of the appointments made. The law was passed by Congress 4 days before the election to the Presidency of Jefferson by the House of Representatives and 9 days after John Marshall had ascended the Supreme Bench as Chief Justice.

The date of the act was February 13, 1801. In the next 13 days Adams sent to the Senate nominations for the new judgeships chosen almost wholly from his party and many for political rea-

sons. By March 2 the Senate had confirmed the last name. The judges so appointed became known as the "midnight judges" because many of their commissions were filled out by Adams on the last day of his term of office.

This incident added to Jefferson's anger against the Federal judiciary and intensified the battle which soon was to develop between him and Chief Justice Marshall. The new administration, as was expected, on March 8, 1802, repealed the act of February 13, 1801, thus restoring the sixth place to the Supreme Court. Cushing, however, had not died—he lived until 1810—and consequently the Court's membership did not go below the original six.

What was unexpected was that the Supreme Court, composed almost solely of Federalists, under Marshall, upheld the constitutionality of the repeal act, which had the effect of restoring the circuit-riding system. Thus we come to the creation of another place on the Supreme Court in 1807.

But let Frankfurter and Landis tell the story:

"The backbone of the 1802 structure, however, was the reestablished circuit-riding system", they explain. "Circuit courts did not require the attendance of circuit Justices; but every new circuit required the creation of a new Justice. New circuits, in view of the westward push of population, were on the horizon. According to the rejected Federalist scheme of legislation, new circuit courts were to be taken care of by new circuit judges without necessarily changing the make-up of the Supreme Court.

"It was a flexible organization. The act of 1802, however rigidly tied the Supreme Court to the circuit system. More circuits again meant new Justices. This was bound to encounter opposition because there is no necessary correlation between the needed number of circuit courts of the country and the effective size of the Supreme Bench. Yet this is the system under which we operated until 1869.

NEW CIRCUIT COURT ESTABLISHED IN 1807

"The demand for a new circuit in the new West, insistent for some time, led in 1807 to the establishment of a new circuit composed of new territory, outside of the original 13 States. * * * But not until February 24, 1807, were the accumulated demands satisfied by the erection of a seventh circuit, comprising Kentucky, Tennessee, and Ohio. Automatically this called for the appointment of a sixth Associate Justice, who was required to reside in the seventh circuit. Thus begins the periodic increase in the membership of the Supreme Court as the territorial needs of the country for more circuit courts were met."

In the succeeding years the Supreme Court struggled along with its work as an appellate court and circuit riding, while many proposals were made in Congress to alleviate this situation. Some called for elimination of circuit riding, others for naming of circuit judges who would not be Members of the Supreme Court. In 1824 Monroe appealed to Congress without success to eliminate circuit riding.

Some Members of Congress believed it necessary for the Supreme Court Justices to get out of Washington and keep in contact with the country. One Member of Congress, asserting that the Judges of the Supreme Court enjoyed the Nation's confidence, demanded to know "would the Supreme Court have enjoyed the same good fortune if the Judges had been entirely secluded from public observation and had been confined in the discharge of their important duties to a room in this Capitol?"

MEMBERSHIP OF COURT RAISED TO 10

It seemed that the only solution was a further increase in the size of the Court, and on January 5, 1826, the House passed a bill creating 3 new circuits and 3 new Associate Justices of the Supreme Court—making the membership 10. In the Senate there was some objection to adding to the Supreme Court Levi Woodbury, a future Justice, among others, expressing fear that increasing numbers would decrease individual responsibility. The Senate, however, passed the bill after amending the measure to reorganize the circuits. The House refused to accept the change and the bill died in a deadlock.

After his election to the Presidency, Andrew Jackson, in four successive measures, urged action to provide circuit courts for the growing West. But it was not until March 3, 1887—the day before Jackson left the White House—that Congress finally acceded to his requests and divided the country into nine circuits and added two members to the Supreme Court.

Warren concludes that "the enlargement of the Court in numbers did not have the effect of adding to its efficiency", from a letter written at the end of the 1838 term by Justice Story.

NUMBERS DID NOT INCREASE EFFICIENCY

"You may ask how the Judges got along together?" Warren quotes Story as writing to a friend. "We made very slow progress, and did less in the same time than I ever knew. The addition to our number has most sensibly affected our facility as well as rapidity of doing business. 'Many men of many minds' require a great deal of discussion to compel them to come to definite results; and we found ourselves often involved in long and very tedious debates. I verily believe, if there were 12 Judges, we should do no business at all, or at least very little."

In 1841 the Senate debated and passed a proposal to increase the Court to 12 to meet the increasing pressure of work thrust on the Federal judiciary. But the House did not act on the measure. In 1842 the circuits were reorganized and in 1844 the Supreme Court Judges were relieved from attending "more than one term of the circuit court within any district of said circuit in any one year." A month was added to their term of court in Washington.

But Frankfurter and Landis report that the condition of the Supreme Court calendar made urgent more drastic relief. The number of cases pending in the Court grew steadily from 106 at the 1841 term to 173 at the 1845 term, even though the Court in the latter year disposed of 64 cases as compared with 42 in the earlier year. In 1849 the Court put a limit of 2 hours a side to argument of counsel.

In 1855 a tenth circuit was created, comprising California with a separate circuit judge. "The process of divorcing circuit courts from the Supreme Court had begun", comment Frankfurter and Landis. Meanwhile these two commentators on the work of the Court found a "tale" in the judicial statistics.

"The judicial statistics tell a deal of a tale", they assert. "In 1850, 253 cases were pending before the Supreme Court; in 1860, they had increased only to 310; within the next decade they more than doubled. The Court began its 1870 term with 636 cases on its docket. This number nearly doubled within 10 years. The October term of 1880 begins with 1,212; the number steadily mounts in the years following, reaching a total of 1,816 cases at the beginning of the October term, 1890."

CIVIL WAR DIVERTED ATTENTION FROM COURTS

But we are a little ahead of our story. The Civil War had turned the minds of the Congress, as well as of the country away from the judiciary problem. For quite a period Lincoln even failed to fill three vacancies on the Court, two resulting from death and a third from the resignation of a southern sympathizer—Campbell. One reason given for his delay was that he did not wish to give places which had been filled by southerners to the North.

With cases challenging the legality of the North's blockade of southern ports coming along, Lincoln, however, finally filled the three vacancies, and on March 3, 1863, Congress added Oregon to California as the tenth circuit and provided for an additional Justice on the Supreme Court. Three days later he named Stephen J. Field to the new post—on the same day that the Court in a 5-to-4 decision upheld the legality of the Federal Government's blockade.

It is not clear whether any connection existed between the prize cases and the creation of this tenth judgeship, but the latter was not needed. Although Lincoln's hold on the Court was by the closest margin, with important cases coming along, he had a majority, which was increased in December 1864 after the death of Chief Justice Roger Brooke Taney. Lincoln named his Secretary of the Treasury to be Chief Justice and in doing so, is quoted by Bates, as saying that one reason for the appointment is that "we wish for a Chief Justice who will sustain what has been done in regard to emancipation and the legal tenders. We cannot ask a man what he will do, and if we should, and he should answer us, we should despise him for it. Therefore we must take a man whose opinions are known." But the vacancy filled by Chase was created by death—not by legislative decree.

SEVERAL MEASURES DRAFTED IN 1865

Meanwhile Congress was still at work on the problem of relieving the Supreme Court of its work, and during 1865 several measures were drafted for creating a system of circuit courts of appeals, as intermediate tribunals between the district courts and the Supreme Court. In April 1866 the Senate finally passed the bill but the House declined to consider it. Meanwhile Andrew Johnson had succeeded the assassinated Lincoln and the bitterness between the new President and Congress had started.

Feeling in Congress also flamed toward the Court, which had declared unconstitutional the military tribunals of Lincoln in the Milligan case. It was feared the reconstruction legislation might be in jeopardy. Justice Catron, at the age of 79, died in 1865. In order to prevent the appointment by Johnson of a successor to Catron and also to scotch any other appointments he might have an opportunity to make to the Supreme Court, Congress declared that place vacant and provided that no vacancies on the tribunal should be filled until the number of Justices shall be reduced to seven—Frankfurter and Landis citing the act, give the number in their book as six.

When Grant succeeded Johnson in the Presidency "the forces of active opposition to judicial reorganization were dissipated and mounting arrears overcame legislative inertia", report Frankfurter and Landis. The earlier plan for intermediate tribunals was abandoned in favor of nine circuits and nine Supreme Court members, with a curtailment of circuit riding. In 1868 and 1869 proposals were made for increasing the Court, even up to 18, with 9 to sit in Washington and 9 for the circuits, with 3 members shifting each year.

Finally the plan for the establishment of nine circuit courts and a Supreme Court of nine Justices won favor. This plan did not entirely relieve the Supreme Court members from circuit duty but the measure was termed by Warren as "a long-desired and long-contested judicial reform." It was adopted April 10, 1869, and became effective the following December.

BILL CONTAINED PROVISION SIMILAR TO ROOSEVELT'S

The House originally had included in this bill a provision substantially similar to that proposed by President Roosevelt for the appointment of additional justices for incumbents over 70 years of age. This was inspired in part by the fact that Justice Grier, then 76 years old, was in a feeble condition, mentally as well as physically. In the fall of 1869 the other Justices of the court sent to Grier a suggestion that he should retire.

The Senate, however, refused to concur in the House proposal for appointment of additional judges and as a compromise it was provided that any Federal judge who wished to retire after reaching the age of 70 years and serving 10 years on the Federal bench could do so with pay.

When this bill, which at the time would have permitted Grant to make only one appointment to the Supreme Court—since the membership had not fallen below eight since the passage of the 1866 act—became effective in December 1869, the Supreme Court was engaged in deliberating on the *Legal Tender cases*. The first conference of the Court on the case resulted in a 4-to-4 decision. Grier suddenly shifted his position, after an inconsistency was pointed out to him, and the court ruled 5-to-3 adversely on the legal tender acts.

The incident above related regarding Grier happened on this occasion and he submitted his resignation on December 15, 1869, to take effect on February 1. Meanwhile Grant named his Attorney General, Ebenezer Hoar, to one of the Supreme Court vacancies but he was rejected by the Senate—before the legal-tender decision became known. To Justice Grier's place he named his Secretary of War, Edwin Stanton, but he died 4 days later.

Warren reports, citing evidence to this effect, that "very early in January (1870) the President had informed visitors that he had decided to appoint Judge Strong to the Grier vacancy." But Grant made no appointments that month.

GRANT CHARGED WITH PACKING COURT IN 1870

On February 7, 1870, as the Supreme Court was announcing its adverse decision in the *Legal Tender cases*, Grant sent to the Senate the names of Judge Strong and Joseph P. Bradley for the two vacancies on the Court. It was this coincidence, plus the subsequent events, which gave rise to charges that Grant had "packed" the Court to get a reversal of the legal-tender decision. Four days after the confirmation of Strong and Bradley, Attorney General Hoar moved for argument of two other *Legal Tender cases* and the earlier decision finally was reversed by a 5-to-4 vote on May 1, 1871, Strong and Bradley voting with the previous minority.

Warren, however, denies that Grant deliberately packed the Court and his contentions seem to have substance in them. He points out that Grant has stated he had no advance knowledge of the nature of the decision and that there were no leaks on the Court's decision. He adds that "since practically every State court (except Kentucky) and every prominent Republican lawyer held the view that the Legal Tender Act was constitutional, it would have been impossible for the President to find any State judge or any lawyer of his own party who differed from Strong and Bradley in the view which they later expressed on the Supreme bench."

Moreover, during the debate on the bill increasing the size of the Court—passed almost a year before the first legal-tender decision was given—no mention was made of "packing" the Court or that the increase was in anticipation of meeting an adverse decision of the Supreme Court. The evidence also shows that the reorganization of the judiciary undertaken in 1869 had been shaping up for 6 years—and for an even longer period.

Thus, contrary to the general popular impression, President Roosevelt cannot even invoke the increase in the Court made in 1869 under Grant as a precedent for what he is now attempting to do. His proposal, in view of the blasting of his contentions about court congestion, stands without precedent.

Victory Dinner

EXTENSION OF REMARKS

OF

HON. LEWIS L. BOYER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 5, 1937

ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. BOYER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following address delivered by the President of the United States:

On this 4th of March 1937 in millions of homes the thoughts of American families are reverting to the March 4 of another year. That day in 1933 represented the death of one era and the birth of another.

At that time we faced and met a grave national crisis. Now we face another crisis—of a different kind but fundamentally even more grave than that of 4 years ago.

Tonight I want to begin with you a discussion of that crisis.

I shall continue that discussion on Tuesday night in a Nation-wide broadcast and thereafter from time to time as may be necessary. For I propose to follow my custom of speaking frankly to the Nation concerning our common problems.

I speak at this Victory Dinner not only as the head of the Democratic Party but as the representative of all Americans who have faith in political and economic democracy.

Our victory was not sectional. It did not come from compromises and bargains. It was the voice of 27,000,000 voters from every part of the land.

The Democratic Party, once a minority party, is today the majority party by the greatest majority any party ever had.

PARTY WILL CONTINUE ON PRESENT COURSE

It will remain the majority party so long as it continues to justify the faith of millions who had almost lost faith, so long as it continues to make modern democracy work, so long, and no longer. We are celebrating the 1936 victory. That was not a financial victory. It was a victory whereby our party won further opportunity to lead in the solution of the pressing problems that perplex our generation. Whether we shall celebrate in 1938, 1940, and in 1944 as we celebrate tonight will deservedly depend upon whether the party continues on its course and solves those problems.

After election day in 1936, some of our supporters were uneasy lest we grasp the excuse of a false era of good feeling to evade our obligations. They were worried by the evil symptom that the propaganda and the epithets of last summer and fall had died down.

Today, however, those who placed their confidence in us are reassured. For the tumult and the shouting have broken forth anew—and from substantially the same elements of opposition. This new roar is the best evidence in the world that we have begun to keep our promises; that we have begun to move against conditions under which one-third of this Nation is still ill-nourished, ill-clad, and ill-housed.

We gave warning last November that we had only just begun to fight. Did some people really believe we did not mean it? Well, I meant it, and you meant it.

A few days ago a distinguished Member of the Congress came to see me to talk about national problems in general and about the problem of the judiciary in particular.

I said to him:

"John, I want to tell you something that is very personal to me—something that you have a right to hear from my own lips. I have a great ambition in life."

My friend pricked up his ears.

I went on: "I am by no means satisfied with having twice been elected President of the United States by very large majorities. I have an even greater ambition."

AMBITION IS TO TURN OVER NATION INTACT

By this time my friend was sitting on the edge of his chair.

I continued: "John, my ambition relates to January 20, 1941." I could feel just what horrid thoughts my friend was thinking. So, in order to relieve his anxiety, I went on to say: "My great ambition on January 20, 1941, is to turn over this desk and chair in the White House to my successor, whoever he may be, with the assurance that I am at the same time turning over to him as President a nation intact, a nation at peace, a nation prosperous, a nation clear in its knowledge of what powers it has to serve its own citizens, a nation that is in a position to use those powers to the full in order to move forward steadily to meet the modern needs of humanity—a nation which has thus proved that the democratic form and methods of national government can and will succeed.

"In these coming years I want to provide such assurance. I want to get the Nation as far along the road of progress as I can. I do not want to leave it to my successor in the condition in which Buchanan left it to Lincoln."

My friends, that ambition of mine for my successor can well be the serious ambition of every citizen who wants his United States to be handed down intact to his children and grandchildren.

I spoke in the dead earnestness of anxiety. I speak to you tonight in the same earnestness. For no one who sees as a whole today's picture of this Nation and the world can help but feel concern for the future.

To the President of the United States there come every day thousands of messages of appeal, of protest, of information and advice, messages from rich and poor, from businessman and farmer, from factory employee and relief worker, messages from every corner of our wide domain.

Those messages reflect the most striking feature of the life of this generation—the feature which men who live mentally in another generation can least understand—the ever-accelerating speed with which social forces now gather headway.

The issue of slavery, for example, took at least 40 years—two generations—of argument, discussion, and futile compromise before it came to a head in the tragic War between the States.

But economic freedom for the wage earner and the farmer and the small-business man will not wait, like emancipation, for 40 years. It will not wait for 4 years. It will not wait at all.

DICTATORSHIP FAIL; DEMOCRACY WILL NOT

After the World War there arose everywhere insistent demands upon government that human needs be met. The unthinking, or those who dwell in the past, have tried to block them. The wise who live in the present have recognized their innate justice and irresistible pressure—and have sought to guide them.

In some countries a royalist form of government failed to meet these demands—and fell. In other countries a parliamentary form of government failed to meet these demands—and fell. In still other countries governments have managed to hold on, but civil strife has flared or threats of upheaval persist.

Democracy in many lands has failed for the time being to meet human needs. People have become so fed up with futile debate and party bickerings over methods that they have been willing to surrender democratic processes and principles in order to get things done. They have forgotten the lessons of history that the ultimate failures of dictatorships cost humanity far more than any temporary failures of democracy.

In the United States, democracy has not yet failed and does not need to fail. And we propose not to let it fail!

Nevertheless, I cannot tell you with complete candor that in these past few years democracy in the United States has fully succeeded. Nor can I tell you under present circumstances just where American democracy is headed nor just what it is permitted to do in order to insure its continued success and survival. I can only hope.

For as yet there is no definite assurance that the three-horse team of the American system of government will pull together. If three well-matched horses are put to the task of plowing up a field where the going is heavy, and the team of three pull as one, the field will be plowed. If one horse lies down in the traces or plunges off in another direction, the field will not be plowed.

What you and I call the principles of the New Deal did not originate on the 4th of March 1933. We think of that date as their beginning, because it was not until then that the social demands they represented broke through the inertia of many years of failure to improve our political and economic processes.

What were those demands and needs? How far did we succeed in meeting them? What about them today?

Ever since the World War the farmers of America had been beating off ever-mounting disasters. This administration tried to help them effectively where no other administration had dared to take that risk.

The Agricultural Adjustment Act testified to our full faith and confidence that the very nature of our major crops makes them articles of commerce between the States.

The A. A. A. testified also to our full faith and confidence that the preservation of sound agriculture is essential to the general welfare; that the Congress of the United States had full constitutional authority to solve the national economic problems of the Nation's agriculture. By overwhelming votes the Congress thought so, too!

You know who assumed the power to veto, and did veto that program.

In the campaign of 1936, I said: "Of course, we will continue our efforts in behalf of the farmers of America. With their continued cooperation we will do all in our power to end the piling up of huge surpluses which spelled ruinous prices for their crops. We will persist in successful action for better land use, for reforestation, * * * for better marketing facilities for farm commodities, for a definite reduction of farm tenancy, for encouragement of farmer cooperatives, for crop insurance, and a stable food supply. For all these things we have only just begun to fight."

EFFORTS TO IMPROVE CONDITIONS "VETOED"

Neither individually nor as a party can we postpone and run from that fight on advice of defeatist lawyers. But I defy anyone to read the majority opinion invalidating the A. A. A. and tell us what we can do for agriculture in this session of the Congress with any reasonable certainty that what we do will not be nullified as unconstitutional.

The farmers were not the only people in distress in 1932. There were millions of workers in industry and in commerce who had lost their jobs, young people who had never been able to find their first job, and more millions whose jobs did not return them and their families enough to live on decently.

The Democratic administration and the Congress made a gallant, sincere effort to raise wages, to reduce hours, to abolish child labor, to eliminate unfair trade practices.

We tried to establish machinery to adjust the relations between the employer and employee.

And what happened?

You know who assumed the power to veto and did veto that program.

The Railroad Retirement Act, the National Recovery Act, and the Guffey Coal Act were successively outlawed as the child-labor statute had been outlawed 20 years before.

Soon thereafter the Nation was told by a judicial pronouncimento that, although the Federal Government had thus been rendered powerless to touch the problem of hours and wages, the States were equally helpless; and that it pleased the "personal economic predilections" of a majority of the Court that we live in a nation where there is no legal power anywhere to deal with its most difficult practical problems—a no man's land of final futility.

Furthermore, court injunctions have paralyzed the machinery which we created by the National Labor Relations Act to settle great disputes raging in the industrial field, and, indeed, to prevent them from ever arising. We hope that this act may yet escape final condemnation in the highest Court. But so far the attitude and language of the courts in relation to many other laws have made the legality of this act also uncertain and have encouraged corporations to defy rather than obey it.

In the campaign of 1936 you and I promised this to workingmen and women:

"Of course, we will continue to seek to improve working conditions for the workers of America—to reduce hours overlong, to increase wages that spell starvation, to end the labor of children, to wipe out sweatshops. * * * We will provide useful work for the needy unemployed. For all these things we have only just begun to fight."

And here again we cannot afford, either individually or as a party, to postpone or run from that fight on advice of defeatist lawyers.

But I defy anyone to read the opinions concerning A. A. A., the Railroad Retirement Act, the National Recovery Act, the Guffey Coal Act, and the New York minimum-wage law, and tell us exactly what, if anything, we can do for the industrial worker in this session of Congress with any reasonable certainty that what we do will not be nullified as unconstitutional.

During the course of the past 4 years the Nation has been overwhelmed by disasters of flood and drought.

Modern science knows how to protect our land and our people from the recurrence of such catastrophies and knows how to produce as a byproduct the blessings of cheaper electric power. With the Tennessee Valley Authority we made a beginning of that kind of protection on an intelligent regional basis. With only two of its nine projected dams completed, there was no flood damage in the valley of the Tennessee this winter.

COURTS' INJUNCTIONS PARALYZE OPERATIONS

But how can we confidently complete that Tennessee Valley project or extend the idea to the Ohio and other valleys while the lowest courts have not hesitated to paralyze the operations by sweeping injunctions?

The Ohio River and the Dust Bowl are not conversant with the habits of the interstate-commerce clause. But we shall never be safe in our lives, in our property, or in the heritage of our soil until we have somehow made the interstate-commerce clause conversant with the habits of the Ohio River and the Dust Bowl.

In the campaign of 1936 you and I and all who supported us did take cognizance of the Ohio River and the Dust Bowl. We said: "Of course, we will continue our efforts for drought and flood control * * * for these things we have only just begun to fight."

Here, too, we cannot afford, either individually or as a party, to postpone or run away from that fight on advice of defeatest lawyers. Let them try that advice on sweating men piling sandbags on the levees at Cairo.

But I defy anyone to read the opinions in the T. V. A. case, the Duke Power case, and the A. A. A. case and tell us exactly what we can do as a National Government in this session of Congress to control flood and drought and generate cheap power with any reasonable certainty that what we do will not be nullified as unconstitutional.

The language of the decisions already rendered and the widespread refusal to obey law incited by the attitude of the courts, create doubts and difficulties for almost everything else for which we have promised to fight—help for the crippled, for the blind, for the mothers—insurance for the unemployed—security for the aged—protection of the consumer against monopoly and speculation—protection of the investor—the wiping out of slums—cheaper electricity for the homes and on the farms of America. You and I owe it to ourselves individually, as a party, and as a nation to remove those doubts and difficulties.

In this fight, as the lawyers themselves say, time is of the essence. In three elections during the past 5 years great majorities have approved what we are trying to do. To me, and I am sure to you, those majorities mean that the people themselves realize the increasing urgency that we meet their needs now. Every delay creates risks of intervening events which make more and more difficult an intelligent, speedy, and democratic solution of our difficulties.

IT WILL TAKE COURAGE TO MEET THE PROBLEM

As Chief Executive and as the head of the Democratic Party, I am unwilling to take those risks—to the country and to the party—of postponing one moment beyond absolute necessity the time when we can free from legal doubt those policies which offer a progressive solution of our problems.

Floods and droughts and agricultural surpluses, strikes, and industrial confusion and disorder, cannot be handled forever on a catch-as-catch-can basis.

I have another ambition—not so great an ambition as that which I have for the country, but an ambition which as a lifelong Democrat I do not believe unworthy. It is an ambition for the Democratic Party.

The party and its associates have had the imagination to perceive essential unity below the surface of apparent diversity. We can therefore long remain a natural rallying point for the cooperative effort of all of those who truly believe in political and economic democracy.

It will take courage to let our minds be bold and find the ways to meet the needs of the Nation. But for our party, now as always, the counsel of courage is the counsel of wisdom.

If we do not have the courage to lead the American people where they want to go, someone else will.

Here is one-third of a nation ill-nourished, ill-clad, ill-housed—now.

Here are thousands upon thousands of farmers wondering whether next year's prices will meet their mortgage interest—now.

Here are thousands upon thousands of men and women laboring for long hours in factories for inadequate pay—now.

Here are thousands upon thousands of children who should be at school, working in mines and mills—now.

Here are strikes more far-reaching than we have ever known, costing millions of dollars—now.

Here are spring floods threatening to roll again down our river valleys—now.

Here is the Dust Bowl beginning to blow again—now.

If we would keep faith with those who had faith in us, if we would make democracy succeed, I say we must act—now.

Howard University, the Negro, and the Nation

EXTENSION OF REMARKS

OF

HON. CARL E. MAPES

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 5, 1937

ADDRESS BY HON. LOUIS C. CRAMTON, JUDGE OF THE FORTIETH JUDICIAL DISTRICT OF MICHIGAN, ON MARCH 2, 1937

Mr. MAPES. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by Hon. Louis C. Cramton, former Congressman from Michigan and now judge of the fortieth judicial circuit of Michigan, at the celebration of the seventieth anniversary of the founding of Howard University in Andrew Rankin Chapel at the university in Washington, D. C., Tuesday, March 2, 1937:

In his annual message to Congress, December 3, 1805, President Jefferson said:

"In a government bottomed on the will of all, the life and liberty of every individual citizen become interesting to all."

In that sentence the author of the Declaration of Independence, the preeminent leader of the cause of democracy, epitomized the justification for such a form of government. The founders of this Republic were students of history, and as they had studied they had found that on every page since history had first begun to be recorded this one lesson was written large, so that all may read; that in every age and everywhere whoever has controlled the government has controlled it primarily in his own interest; that, whether the government was controlled by an autocratic monarch or by a class, this has always been true. It was so when a Herod was able to and did bring sorrow and suffering into thousands of homes in his dominion because he thought he was thereby safeguarding his own rule. It was so when a class, a minority, ruled France. We have shuddered at the terrors of the French Revolution, but it was, as its orator Mirabeau said, "The sudden, impetuous revenge of the many."

Here was founded a democratic form of government, so that, each having a share in the Government, that Government should concern itself about the welfare of all.

Washington and Franklin gave great credit to the effect of the essays of Thomas Paine in leading and in shaping the thought of the Colonies during the Revolution. In that remarkable Common Sense, which he published in January 1776, and of which some 240,000 copies were speedily sold in the limited population of the Colonies, and which did so much to bring about a declaration of independence, he opens with his condemnation of all government, the best being but a necessary evil. He and the others who then fought for human liberty had come to distrust power in government, wherever lodged. They had found monarchs unjust and they had found parliaments oppressive.

In setting up a democracy to rule the former Colonies the founders of our Government resorted to popular rule, to the rule of the majority. There are today too many who conceive majority rule the great objective in our scheme of government, who regard the will of the majority as infallible and sacrosanct and to be fully effective as instantaneously as possible. But that was not the thought of the founders. With them rule by majority was not the end; it was but the means to the end. The great end sought was the protection of the rights of the individual.

The Declaration of Independence proclaimed that man has "certain inalienable rights, to life, liberty, and the pursuit of happiness."

The Constitution of the United States in its opening words declares: "We, the people of the United States, in order to promote the general welfare"—we have heard much about the general-welfare clause, but we have not heard so much about the words that follow—"and secure the blessings of liberty to ourselves and our posterity."

And, to meet the popular demand, there were written therein all those specific guaranties of individual rights, religious freedom, trial by a jury of peers before punishment for crime, that one's property shall not be taken except by due process of law, that not even the Government may take the property of the citizen except for public use and upon adequate compensation.

These individual rights this generation of Americans have inherited. We did not fight to win them, and their unchallenged existence we take as a matter of course. They are to us of but commonplace importance. And yet in much of the world today, and in lands that have known so-called civilization for many centuries, where universities have had continued existence for a thousand years or more, where human knowledge has gone far, and where human progress has been great, those inherent human rights are frequently denied. I think of one great people today whose property, whose liberty, whose life, whose worship of God, all exist only at the pleasure of the dictator.

But here those rights have been guaranteed in our fundamental law and are so universally enjoyed. For their preservation our Government exists.

THE GREAT ANOMALY—SLAVERY IN A FREE PEOPLE

But there was long a great anomaly—slavery in a free nation. And that anomaly led finally to the great Civil War, the War between the States.

I have been privileged to travel and to visit many capitals of nations. If one from another land were to ask me what he, with but a day to spend in our country, should, above all else, see in America I would without hesitation answer, "The Lincoln Memorial in Washington." Not otherwise could he so well gain a conception of the true genius of our institutions. The immortal Lincoln was a lonely, melancholy soul, but he was America, he embodied the traditions and the aspirations of America for real human liberty, for the rights of the individual. His life must have seemed to him ever one of frustration. Born in poverty, self-schooled, elected to Congress, and denied a second term, candidate for appointment as Commissioner of the General Land Office and denied; curiously unhappy in love affair and marriage with Mary Todd, defeated for the Senatorship, elected President, but only to find the Nation heading for the rocks of disunion, his leadership not recognized in his own Cabinet or accepted fully even in the North. How illuminating were the words in the Hackett letter shortly before the Gettysburg Address:

"These comments constitute a fair specimen of what has occurred to me through life. I have endured a great deal of ridicule without much malice, and have received a great deal of kindness not quite free from ridicule. I am used to it."

Whatever other great issues were involved in that Civil War, Lincoln's zeal for the destruction of human slavery is not to be questioned.

In that second inaugural, March 4, 1865, he said:

"Fondly do we hope—fervently do we pray—that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondman's 250 years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said 3,000 years ago, so still it must be said, 'The judgments of the Lord are true and righteous altogether.'"

And in his address 2 weeks later to an Indiana regiment:

"I have always thought that all men should be free; but if any should be slaves, it should be first those who desire it for themselves and, secondly, those who desire it for others. Whenever I hear anyone arguing for slavery I feel a strong impulse to see it tried on him personally."

Three weeks later came the surrender of the great Lee. Two days after that Lincoln made his last public address, taking up in his broad and patient way the problems of reconstruction. And April 14, 1865—3 days later—he was dead from the hand of the assassin.

That was America's supreme tragedy, its most awful, most disastrous tragedy. Twenty years of reconstruction woes followed—the tragic era it has well been called. And now, after 70 years, the tragedy is realized, it may be weighed, but not yet are its effects overcome.

The untimely death of Lincoln was tragedy for the Nation, it was tragic woe for the Negro. Lincoln sought realities, not subterfuges. He did not seek the appearance of human liberty, he sought the reality of liberty.

The Negro was just emerged from generations of slavery, of absolute dependence on another race, of responsibility denied, of development refused, of education made criminal.

April 14, 1865, the Negroes were a race of children, to take on the full responsibilities of maturity amid all the devastating bitterness of reconstruction. They were a race of slaves become free men, with all the responsibilities, which for generations had so rigorously been denied them, now thrust in full array upon them—the heavy responsibilities, moral, political, economic. The battle cry of freedom gave place to the peace curse of freedom—a freedom legal but not real.

And today contemplate the advance that race has made in little more than 70 years. It must be recognized as a marvel and as an earnest for the greater future of the race.

THE GENESIS OF HOWARD UNIVERSITY

It was November 20, 1866, in these early days of tragic Negro freedom that Howard University was conceived at a prayer meeting in the First Congregational Church in Washington. It was then declared by Gen. O. O. Howard:

"There is but one solution, and that is an education for these people which will be truly and genuinely Christian, so that they can be brought to the place where they will see the genius of our America and what it is to be."

January 23, 1867, S. 529 was introduced by Senator Henry Wilson, of Massachusetts, a great figure of the time and 5 years later to become Vice President of the United States.

February 6 it was reported from the Committee on the District of Columbia by Senator Morrill, 5 years before sponsor of the Morrill land grant for education, and on his motion that day passed the Senate.

March 1 it passed the House on motion of Ebon C. Ingersoll, of Peoria, Ill., the successor to Owen Lovejoy.

March 2, 1867, it was enrolled and signed by Andrew Johnson, President of the United States.

And thus two President Johnsons figure in the history of Howard, and of each I prophesy succeeding generations will have enlarged appreciation of their essential greatness.

And thus, 70 years ago, Howard University was born. Seven is the perfect number, and 70 should be 10 times such perfection. But now, of man it is intimated that uselessness begins at 70. But it must not be so of institutions.

Howard is now 70 years old, and I am reminded of a great community birthday party I attended a few years ago in Michigan, the occasion being a woman's one hundredth birthday. And when a friend expressed the hope the old lady might live another century she promptly responded, "And I don't know why I shouldn't. I am certainly starting the second century much stronger than I did the first one."

Howard today is a great university, with a brilliant president and an able administration, with a notable faculty of leaders in science and in thought, with 2,000 determined, trained, and advancing minds in its student body. The past is an inspiration for the future. Its usefulness is only begun.

THE BACKGROUND OF HOWARD

Think for a moment of the problems and the conditions of 70 years ago. Think of the rankling wounds of civil war, the devastated southland, the all-consuming bitterness of reconstruction that came so near to the unseating of a President, the enfranchised race of untrained and unprepared, the new economic structure to be built.

The statutes of the session of Congress ending March 3, 1867, give you much of the bolder outlines of the scene:

"To incorporate the Washington County Horse R. R. Co. in the District of Columbia."

"To punish illegal voting in the District of Columbia." That problem does not now exist.

"To authorize acceptance of residuary legacy of James Smithson."

"To admit Nebraska to the Union."

"To make appropriations to supply deficiencies", an art that still exists.

"To establish and protect national cemeteries."

"To grant lands for a military road from The Dalles to Fort Boise", all in the wild and unknown West.

"To relieve certain drafted men."

"To provide for a more efficient government of the rebel States."

"To regulate the terms of certain civil officers" as Congress sought to dominate the Executive.

"To establish a Department of Education", with a commissioner, a chief clerk, and a clerk, an army with two generals for one private.

"To relieve inhabitants of cities and towns on the public lands", relief not being now entirely a new Government undertaking.

"To establish a surveyor general in Montana, and land offices in Montana and Arizona."

"To establish ocean-mail steamship service between the United States and the Hawaiian Islands."

"To prohibit peonage in New Mexico."

"To establish certain post roads", early P. W. A. projects.

"To pay certain indebtedness and expenditures of the city of Washington", a precedent still much honored locally.

"To incorporate Howard University in the District of Columbia."

THE ACT OF MARCH 2, 1867

This provided "that there be established * * * a university for the education of youth in the liberal arts and sciences."

And in section 5—

"That the university shall consist of the following departments, and such others as the board of trustees may establish: First, normal; second, collegiate; third, theological; fourth, law; fifth, medicine; sixth, agriculture."

Truly the vision of the founders of Howard was a broad one and a courageous one.

And with rare foresight section 10 reads, "that said corporation shall not employ its funds in banking operations."

THE EDUCATIONAL SCENE IN 1867

It was only 30 years before that Michigan, in 1837, had, for the first time in America, provided for college education of any sort at public expense.

It was only 10 years before that Michigan, in 1857, in its constitution of that year, had provided the first agricultural college. And it was only that same 1857 that the Sheffield Scientific School of Applied Chemistry, opened in 1847, began its lectures in agricultural chemistry.

It was only 5 years before, in 1862, that the Morrill Land Grant Act, donating public lands for purposes of education, inaugurated for the Nation a revolutionary program of industrial education. That law stressed military education, but I take it that was only the 1862 method of getting around the Supreme Court. It was particularly directed to the encouragement of the agricultural and mechanic arts.

It was only 2 years before that the Massachusetts Institute of Technology, in 1865, inaugurated the first attempt to provide a collegiate course in mechanic arts, now more dignified as engineering, with various branches.

It was Dr. Eugene Davenport, dean of the College of Agriculture and vice president at Illinois University, who wrote:

"At time of passage of the Morrill Act what was then called science had not obtained a respectable foothold in the world of education which was brought up and trained in the atmosphere of the classics. And this was not unnatural, for as yet even chemistry, the foremost of all the sciences in its development, had hardly made a beginning."

* * * * * * * *

"Electricity had been harnessed to the telegraph wire but was deliberately adjudged at this time by one of our foremost scientists as entirely useless for anything further than telegraphy."

* * * * * * * *

"One of the first and most bitter issues raised by the Land Grant Act was the objective toward which the new system was to be directed."

* * * * * * * *

"It is impossible in these days to realize the full extent of the excitement aroused during the period of the discussion. We were about to educate the laboring people, after which manifestly they would no longer work. If civilization were to stand, there must be 'hewers of wood and drawers of water.' Unless the masses should be willing to labor, there could be no leisure class and, therefore, no culture; and it was assumed that people would not work with the hands if by any possibility labor could be avoided. At the best, farmers and artisans might be 'trained' but they could not be readily educated."

Such was the situation in the general field.

THE HOWARD CONCEPT OF 1867

But when it came to the Negro, in the North as well as in the South, it was gravely debated as to whether it was wise, or even possible, to educate the Negro.

And, notwithstanding all, Gen. O. O. Howard and Senators Wilson and Morrill, and Congressman Ingersoll and President Andy Johnson, and the Congress gave a charter and Federal recognition to this Negro university 70 years ago today. And then was launched the Negro on a program of broad and constructive education "in the liberal arts and sciences."

In his defense before the House Committee on Education and Labor of certain alleged expenditures of refugee funds for this institution General Howard said, about 1870:

"The preliminary meetings of the trustees of Howard University show beyond question that the original design was the education of freedmen and their descendants; and the classes in the several departments, from its beginning until now, show that that design has been carried into execution. The charter is not limited, but was intended to comprehend this object."

And in his autobiography he wrote:

"Almost from its inception I regarded that institution as of the first importance, as an object lesson—a complete exhibit in its organization and in its operation of the higher grade of school work. Here I tried to foster its life in the social as well as in the literary scale, recognizing as far as it could be done the manhood of the Negro scholar, teacher, and professor."

PRESIDENT HOWARD

General Howard was chosen president of the new institution April 5, 1869. He continued his freedmen work, held rank and performed his duties as a general in the Regular Army, and gave unceasing labor to the administration and development of the university. How arduous these labors were may be judged from his statement:

"I accepted the office with the express condition that its demands should not interfere with my military duties. After that I habitually performed every day the executive functions of the institution. I was ex officio chairman of the executive committee, chairman of the board of trustees, and of each separate faculty. The morning exercises at the chapel were opened by me when in Washington, and in some instances during the temporary absence of a professor I taught his classes. I also prepared and delivered to the students lectures on conduct, discipline, and other subjects. This office I held for 5 years and 4 months."

One hundred and fifty acres on this commanding elevation, quite outside the city, had been bought for a campus. Then lots were sold to raise the $150,000 the lands cost. General Howard bought one lot for $1,000 and thereon he spent $15,000 in building a house that was his home for some years. That house, as you know, still stands on these grounds, and I hope always will. I cannot imagine, if John Harvard had built a house and it were still standing on the Harvard grounds, that it would ever be removed.

In a time of unparalleled bitterness he plunged into the most controversial undertaking in that bitter controversy—the place of the Negro in the body politic and the body economic.

He suffered; he was traduced; he was reviled; at least twice he was formally investigated.

The 1870 House committee unanimously reported "that the commissioner has been a devoted, honest, and able public servant." "That his great trust has been performed wisely, disinterestedly, economically, and most successfully."

And later, after a searching Army inquiry, Gen. W. T. Sherman reported that Howard "did his whole duty and he deserves well of his country", and this report was formally approved by President Grant.

Gen. O. O. Howard was the founder and the inspiration and the leader in this pioneer venture in advanced Negro education and this day is his. The tremendous success of this university is his vindication and his monument.

THE DEVELOPMENT OF HOWARD

The act of March 2, 1867, provided for incorporation and for certain Federal contacts, but it did not provide any Federal responsibility or even authorize any Federal contributions.

General Howard was able to aid somewhat with Freedmen funds. It was not until several years after he ceased to be president that Howard University received its first direct Federal appropriation, March 3, 1879, $10,000. Annually thereafter, without a break for 58 years, these contributions have continued. Until 1925 they were never over $200,000 in any one year. In the past 10 years they have been materially increased.

The lack of legislative authority for such appropriations, resulting in annual points of order and parliamentary maneuvering, made impossible any certain or definite program for the development of the institution.

Finally a bill to correct this difficulty was drawn by me in consultation with the college authorities and introduced by me in the House. Later the same bill, introduced by Representative DAN REED of New York, as a member of the committee on education, became law and is now in effect.

In behalf of such a step we urged particularly that national appropriations were justified—

1. Because the Negro problem is essentially a national problem.

2. Because national funds have been long used for education for the Indian, because we took their lands from the Indians. But from the Negroes we took their bodies and brought those bodies to the United States, without consent of the Negroes, and to use those bodies to enrich others.

3. Because in the distribution of land-grant funds the Negro had not received his equitable share.

December 26, 1929, Julius Rosenwald, the great philanthropist, who believed so thoroughly in education for the Negro, who gave upward of $22,000,000 to that cause, and built over 5,000 schoolhouses for the race, wrote:

"For some years I have been interested in the work of Howard University. Under the leadership of its new president, Mordecai Johnson, it seems to me to have greater possibilities than ever before. The really distinguished work of the great biologist, E. E. Just, probably would not have been possible to a Negro anywhere else in America. And Howard's record in training physicians and other professional leaders of the race is one of which we may all be proud."

Gen. O. O. Howard dreamed and builded. Rosenwald, outstanding success in the business world and as a philanthropist, said the dream had come true.

A DEFINITE PROGRAM FOR HOWARD

With legislative authorization for Federal appropriations the hit-and-miss system went into the discard. The 10-year program came into being.

Dr. Johnson, in his generous introductory remarks today, has given me a large measure of credit for that program. He has been generous, as we all speak kindly of the dead, and I am politically dead, my Federal official existence ended. As a matter of fact, proud as I am to have had a part in the building and adoption of that plan, I must admit I was but a connecting link between private philanthropy, which has always done, and now is doing, so much for Howard, the Interior Department, so helpful always through the Bureau of Education, the committees of Congress, and the administration of the university. Only a connecting link, much better however than a "missing link."

And in this, as in all my official contacts with the institution while on the appropriating committee, I had the hearty cooperation of my committee associates, the late Charley Carter, of Indian blood; William Hastings, also of Indian blood, now retired from Congress; Frank Murphy, of Ohio, now out of Congress and ill in his Washington home; Burton French, of Idaho, now a professor in Miami University; and last, but not least, Edward T. Taylor, recently become chairman of the great Appropriations Committee of the House.

Howard was a university largely making bricks without straw, 2,000 students, but lacking in buildings, equipment, material, teaching staff, and salaries.

Under the 10-year plan there is to develop a first-class university for 4,000 students, with ample facilities.

Why such a university for the Negro?

1. It will afford a notable market for the best Negro brains.

2. It will constitute a field for the proving of the capacity of the ablest Negro brains.

3. It will give the best training today for the Negro youth.

4. And contribute materially to the intellectual leadership of the race.

When this matter was receiving the approval of Congress I said in the House, December 8, 1930, during the consideration of the appropriation bill, and I still adhere to the belief:

"It has seemed to me that no race will ever rise very high without leadership of their own. They may very well be aided by other races, but unless they develop leadership of their own they are not going to rise high."

And I say now frankly, and I hope not too bluntly, for you know the sincerity of my expression, any race will eventually be given in this world the recognition and the consideration it, by its intrinsic merits, deserves. Individuals may suffer discrimination and endure injustice and be denied the recognition their due, but a race, eventually, no. A race will, eventually, find and take its level.

Twelve million Negroes—they must eventually play a great part, for good or for ill, in the future of these United States. In determining the character of that influence, this great university will be an important factor.

And the 10-year plan is becoming a reality. The lands essential to the planned establishment have been acquired. Howard has a wonderful location on this high land, with Seventh Street, and the recreation lands on the west, and attractive McMillan Reservoir and the Soldiers Home Park to the east. The style of architecture adopted and already exemplified in the dormitory quadrangle and in the chemistry building insures dignity and beauty in the structures. The building program moves forward and the great library, the architectural center of the Howard, gladdens our hearts with its progress. In teaching and administrative staffs steady advance is made.

The general education board, the Rosenwald foundation, and other sources of vital philanthropic support; the alumni of the university, scattered though they are now throughout the Nation and the world; the administration of the university—all are cooperating with great effectiveness to make the plan an actuality.

And as I, a disembodied official spirit of another day, come back to these old familiar scenes, I am happy to find that the Government of the United States has so great and so effective an interest in the development of this great school for a race. The President of the United States and the Bureau of the Budget, the Secretary of the Interior and the Bureau of Education, and the Congress and its Appropriations Committee, all these are working together to accomplish great things for the future of Howard and the Negro race.

EDUCATION ESSENTIAL IN A FREE PEOPLE

And what is this idea, education?

Aristotle wrote that it is "an ornament in prosperity and a refuge in adversity", and we need both the ornament and the refuge.

Solomon said, "If the iron be blunt and he do not whet the edge, then he must put to more strength, but wisdom is profitable to direct."

Our Webster said: "Knowledge does not comprise all which is contained in the large term of 'education.' The feelings are to be disciplined, the passions are to be restrained; true and worthy motives are to be inspired; a profound religious feeling is to be instilled, and pure morality inculcated under all circumstances. All this is comprised in education."

So is education essential to the individual. But what of the Nation?

In the days of the Confederation was enacted the great ordinance of 1787 for the government of the Northwest Territory, from which Territory were carved a number of great States, including my own Michigan. Therein was slavery first proscribed by the American Union.

I still can see clearly the words from that ordinance that were lettered upon the arch of the Columbian organ in the old auditorium at the University of Michigan in my student days there: "Religion, morality, and knowledge being necessary to a good government and the happiness of mankind, schools and the means of education shall forever be encouraged." The notable development of educational facilities in the States formed from the Territory is proof that those words were taken seriously.

George Washington, in that undying Farewell Address which he issued to the people in September 1796, and which every citizen should read from time to time, declared:

"'Tis substantially true that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. * * * Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion it is essential that public opinion should be enlightened."

Very possibly his fears for popular rule may well have arisen from the then prevalence of illiteracy in the Colonies, including his own Virginia.

General Howard sought here to build for the Negro and for the Nation—to build through education.

Education is bringing out what is in a man, what is in a race. This university is an important safeguard for the future of America as it is for the welfare of today.

THE NEGRO AND AMERICA'S FUTURE

In my remarks today I have sought to address myself particularly to you young men and women of the student body, who are to play great parts in the tomorrow.

Many of you may have felt your color, your race, is a handicap; that you are handicapped by discriminations; most of you no doubt have felt your poverty a hard handicap, your lack of influence, and that you are on your own, a handicap; and I marvel that so many of you are enrolled here as students. I admire the courage and the determination that drives you on. And you may remember, the greater the handicaps, the hardships to be overcome, the greater the accomplishment in success, the greater the credit that is your due.

Carlyle said he did not like those who always had the word "impossible" in their mouths. You are showing the real American spirit that believes all things are possible.

Howard University will go on in a great work. And there is need in America for every great constructive influence in citizenship.

Kipling wrote in a measure of harshness of the spirit of America:

"The cynic devil in his blood
That bids him mock his hurrying soul,
That bids him flout the law he makes,
That bids him make the law he flouts,
Till, dazed by many doubts, he wakes
The drumming guns that have no doubts."

There is much to be done in the building of America. This is your America. America must serve you, as others. You, as others, must serve America. As one contemplates the wonderful progress of the Negro race in a brief 70 years since slavery, one can appreciate how great that service can be.

Democracy is not automatic. It is not necessarily permanent. We have seen how temporary has been its life in many a foreign land. Just as great power has in other times passed, so may the power of popular government here also pass. I walked once over the barren fields over the ridge from the Macedonian port, Cavalla, and studied the few crumbling remnants of walls that mark the site of ancient Philippi, once seat of the power of the world. "Eternal vigilance is the price of liberty."

Above all others the underprivileged, the weak, the poor, must have free institutions. From them only can they have hope of opportunity to rise. The strong may protect themselves or bargain with new powers that come into being. The weak find their destiny in effective guarantees of individual liberty. "Equal justice under the law", it has been phrased; government of laws rather than of men.

It is your leadership that may, in another day, play worth-while part in the preservation of our free institutions, our birthright of individual rights, for your posterity, for America.

When Lincoln, as a formality, was asked to say a few words at the dedication of the battlefield of Gettysburg he uttered such fundamental and vital truths that they are forever to ring in the ears of free Americans:

"But, in a larger sense, we cannot dedicate, we cannot consecrate, we cannot hallow this ground. * * * It is for us, the living, rather to be dedicated here to the unfinished work that they have thus far so nobly carried on. It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion; that we here highly resolve that the dead shall not have died in vain; that the Nation shall, under God, have a new birth of freedom; and that government of the people, by the people, and for the people shall not perish from the earth."

May Howard go on always to greater things, to play always a worthy part in the shaping of the destiny of America.

In Memory of Knute Rockne

EXTENSION OF REMARKS

OF

HON. JOHN W. McCORMACK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 5, 1937

ADDRESS BY HON. C. JASPER BELL, OF MISSOURI, ON MARCH 4, 1937

Mr. McCORMACK. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered last night by the gentleman from Missouri [Mr. BELL]:

Our Nation today should bow in solemn reverence to the memory of the late Knute Rockne, Norwegian immigrant who rose to heights of glory that commend his life as a glorious example to all of us who seek to follow the rules of sportsmanship and fair play in our daily lives.

Six years ago Knute Rockne died suddenly, unexpectedly, in an airplane crash near Bazaar, Kans., where today a very, very few of those who cherish his memory will gather at the Rockne Shrine there to honor him.

Rockne for many years shared the glories and honor of a Nation's respect and admiration, as did his good friend, the late Will Rogers, who ironically lost his life through a similar spectacular accident a few years later.

Born in Norway, migrating to the United States with his family while a child, Knute Rockne became a national figure, characterizing all that is good for the Nation in fair play, sportsmanship, and cleanliness of endeavor. A greater Christian influence never existed in our Nation.

In honor of his deeds and the idealism that he inspired over the Nation a President, an ex-President of the United States, the King of Norway, and several State legislatures then in session joined with the Nation in expressing their condolences and sorrow at the loss.

Of him Will Rogers said in his homely, sincere manner:

"We thought it would take a President or a great public man's death to make the whole Nation, regardless of age, race, or creed, shake their heads in real, sincere sorrow and say, 'Ain't it a shame he's gone?'"

In the bulletin which the prefect of religion addresses to Notre Dame students daily, Father O'Hara said:

"Knute Rockne had a wider influence in developing the ideals of fair play than any other man in his generation. He did it under the banner of the Mother of God. You may be sure that she took care of him in his hour of need."

The late President Calvin Coolidge said:

"Back of these achievements was a great man, an inspiring leader, and a profound teacher. His training was not confined to the physical side of athletics. He put intellectual and moral values into games. He taught men that true sport was something clean and elevating. Right living and right thinking went into his victories."

Many may think only of Knute Rockne as a football coach. He was more than that.

This many-sided, greatly gifted Norwegian could have made his same mark in other endeavors. Football happened to appeal to him because it absorbed so much of his boundless energy, and for the further reason that he could have a part in the molding of the lives of the young men he loved so dearly.

"Rock", as he was known to his friends, was successful as a professor of chemistry, an after-dinner speaker and nationally known lecturer, as the organizer of a successful insurance business, a motion-picture technician producing films of athletic events, and as an automobile sales manager for the General Motors Corporation.

Without being a fire-eater or a professional rabble-rouser, Rockne was naturally a builder of pep and energy and ambition in other men. He could make active again the most inert group of men. He scorned oratorical tricks and florid frenzies. He was a teacher who sought only to impart to others the knowledge that he had, thereby winning their confidences and their best endeavors in his behalf.

He often told one story that stirred him forever against rabble-rousing:

"When I was on the Notre Dame squad", he said, "we had a coach who tore a passion to tatters. Before a game he would rip off his collar, shake his fist in our faces, and shriek: 'Are you bums going to quit like a lot of yellow curs or are you going to fight?' After three or four doses of such blood and iron, a hard-boiled halfback turned to his varsity guard and said, 'What do you think of the old man's act today, Bill—not so hot, eh?'"

His teams were living sermons of the value of homespun fundamentals. His philosophies of life were American in their concepts. They fitted into the scheme of things.

With the expanding use of the radio and the increased ability of the press to record deeds of men, Rockne furnished something of stability for America's "modern youth", the product of the hectic, wild, social, and economic splurges after the World War.

The football gridirons of the Nation, where he won national acclaim as the teacher of sturdy, fine young men that fought to win battles for him, typified the reawakening of the youth of the land in sports, fair play, and clean endeavors. Yet the gridiron was only the stage from which it was possible for him to broadcast the Rockne ideals.

The traditional religious tolerance of our Nation was reflected in the student body of that great university at South Bend, and that same tolerance extended to the gridiron where Rockne, himself not a Catholic until 4 years before his death, enjoyed the confidence and finest cooperation and help of many non-Catholics. Notable among them were George Gipp, one of the greatest backs in Notre Dame history, who was the son of a Congregational minister. The Miller family—German Lutherans—furnished Notre Dame teams with five brothers.

Characterizing all of the true democratic ideals of our Nation, Rockne was a friend to everyone.

A small lad in South Bend, whose name Rockne never knew, cried when he heard of Rockne's death. To the entreaty of a friend that he stop crying he said, "I know; but wasn't he one great guy! Why, he used to speak even to me!"

To Ray Fornier, of Coral Gables, Fla., another boy of about 15, whom he had not known personally, Rockne had written:

"DEAR RAY: I have been away on the road for several months, hence the delay in answering your letter.

"I admire your pluck very much and wish I could be of some help to you in helping to build up a better physique and better team, but from what you write, you must be holding your own and better, and I hope you can inspire your playfellows to greater and more lasting efforts.

"Brains will always win over brawn and there is a lot of satisfaction in this for all of us.

"I sincerely hope everything is going along nicely with you.

"My warmest regards.

"KNUTE ROCKNE."

In this manner, with both young and old, he captured everybody's friendship, confidence, and admiration. He was an American who lived and practiced the ideals of our democracy.

The Nation has consolation in the fact that Rockne imparted so much of his dynamic personality to others that the Rockne ideals for sportsmanship and fair play will continue to be taught by those students who knew him well and by those who studied his methods.

Father Charles O'Donnell, Notre Dame's president, gave the only explanation possible for Knute Rockne's successes when he stated

that his character had triumphed over all obstacles. We are indebted to the memory of Knute Rockne because his fine character made his life a most useful one to the Nation.

Victory Day Address

EXTENSION OF REMARKS

OF

HON. ALFRED L. BULWINKLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 5, 1937

ADDRESS BY HON. ROBERT L. DOUGHTON, OF NORTH CAROLINA, ON MARCH 4, 1937

Mr. BULWINKLE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech delivered by my colleague from North Carolina [Mr. DOUGHTON] at a Victory Day dinner at Charlotte, N. C., last night:

I always feel that I am standing on hallowed ground when I am in Charlotte or Mecklenburg County.

It is particularly fitting that this victory celebration should be held here in the city of Charlotte. Steeped as it is in historical traditions, this city has had much to do with victories in the past.

Every school child knows that here in Mecklenburg County was made one of the first definite and official moves which paved the way for the greatest of all American victories. Here it was that the early inhabitants of this county met, drafted, and adopted the first real declaration of independence, which had much to do with the winning of our freedom and the building of the greatest nation of free people in all recorded history. The declaration of independence written here was the inspiration of the Declaration of Independence later signed in Philadelphia on July 4, 1776.

Here it was that the embattled patriots stung Lord Cornwallis with such stubborn, determined, and incessant resistance that he named the city "The Hornet's Nest."

We are here tonight to celebrate a great victory, or great victories, in the State and Nation, as well as in the Tenth Congressional District and Mecklenburg County, where I note that you gave a majority of more than 20,000 for the Democratic ticket in the last election, the largest given by any county in North Carolina. And upon this, your great contribution to the cause of good government, I congratulate you.

These overwhelming and smashing victories leave no doubt as to the will of the people with respect to the party they wish to entrust the affairs of their Government.

We are here as party adherents to celebrate a party triumph; but if our purposes go no deeper nor our ideals higher, we deserve no credit, for so do also the scribes and pharisees. In 1896, when Russell and his party took over the government of our great State they also probably held a victory celebration. Harding and his "Ohio gang" celebrated their coming into power, and Herbert Hoover and his following of reactionaries celebrated their grasping of the reigns of our Government. From these experiences we have learned that party victories may be and are sometimes defeats for the people and a calamity to the country.

A victory for an individual candidate does not necessarily carry with it a victory for those whom he is supposed to serve. Regrettably, too often, just the reverse is true. In too many cases the parties and leaders alone have been the beneficiaries of party triumphs, and the great mass of American people receive nothing but neglect and bad government.

Democratic landslides of 1932 and 1936 were more than party triumphs. They were real victories for the American people.

Early in the depression it became clear to a great number of our citizens that prosperity and economic security were matters that were directly affected by governmental policies, and by the attitude of the then existing administration.

We were confronted on every hand by concrete examples of the result of inaction and the inability of the Hoover administration to cope with the problems confronting it. Bank failures, closed factories, bread lines, soup kitchens, trade and commercial stagnation, and the general economic paralysis spread rapidly across the length and breadth of this Nation. The specters of want and hunger were abroad in the land. Savings were wiped out by the failure of financial institutions or the slump of values, and income dwindled to insignificance. We saw the ranks of the unemployed increase by leaps and bounds and more and more industries close their doors and their machinery became silent. Fifteen million laboring people who were anxious to work and willing to work were unable to find employment and earn a livelihood for themselves and families.

Agriculture had never been in a more deplorable condition. Farm products were selling for ruinous prices—in most cases far below the actual cost of production. The purchasing power of the farmers was so greatly reduced that they could no longer buy the products of industry. Industry, in turn, ceased to employ labor, and the industrial sections could no longer purchase the farmers' products. This vicious circle grew worse until the whole economic machine was at a virtual standstill. Our foreign trade was more than three-fourths lost. Hundreds of thousands of farmers were dispossessed of their homes and hundreds of thousands more were faced with the same fate unless help came from some source.

It was verily the zero hour in the history of our Nation. The people had lost confidence in their Government and its power and efficacy to serve them in the time of their distress and need. The Government under President Hoover did nothing to correct the causes of these calamities and very little to relieve the acute wants and suffering extending from the Atlantic to the Pacific and from the Lakes to the Gulf. Mr. Hoover expressed some pious hopes and some sentimental prophecies, but otherwise sat with folded hands, sometimes saying things were all right and at other times that prosperity was just around the corner.

The people, distressed at the existing state of affairs, turned to the Democratic Party in 1932 as their only basis for hope. The Democratic platform and the Democratic Presidential nominee put new life and new hope into the hearts of the despairing people.

The great victory of 1932 swept the Hoover administration out of office, placed the affairs of the Government in the hands of the party of Thomas Jefferson and Woodrow Wilson. On everyone's lips was the name Franklin D. Roosevelt, and many wondered if he could save us from the catastrophe upon the very brink of which our national existence was trembling.

I believe that none of us will grow too short of memory to recollect how the confidence of his reassuring voice and resolute action inspired the bewildered and frightened people, nor how he swiftly and surely moved in those dark days in early March 1933 to save our banks which had not already failed and our depositors who had not already been ruined; also, how he marshalled the governmental forces for the relief of the destitute and hungry, and how he set about systematically and determinedly to correct the evils and abuses, whose very roots were interlocked with the causes of the depression.

Blind fear was banished and an intelligent and courageous attitude became its substitute. Problems were courageously faced, and successful action took the place of inaction and failure.

By legislation and by prompt Executive efforts the banking situation was remedied. Banks were reopened and the depositors' confidence restored. Home and farm owners, faced with mortgage foreclosures, were given relief in the form of lower interest rates and extension of time in which to meet payments. The price of farm products was raised to a level which insured a reasonable profit to agriculture and restored the purchasing power of the farmer. Labor was aided by wage increases and hour regulations and greatly increased employment. The purchasing power of our farming sections once more becoming normal, the wheels of our factories began to turn.

Through greatly increased credit facilities, money came out of the storm cellars and was put to use again. The deadly cycle of decreased purchasing power and decreased production gradually came to a stop and began to reverse itself. Production, wages, the price of agricultural products, and national income have made gratifying and surprising improvement.

If a visitor from Mars had spent a week among us in January 1933 and could now return for another week, I am convinced he could not believe we were the same people or the same Nation. The business activity, the hustle of contented and prosperous citizens, the look of optimism and cheer, generated by a growing feeling of security and economic stability, the bustle of active industry, trade, and commerce, and the reassuring increases in income and values that now exist throughout the length and breadth of this Nation are in marked contrast to the tragic conditions that prevailed in 1932.

The victories of the Democratic Party in 1932 and 1934 were not only victories for the candidates of the Democratic Party but they were victories for the American people.

The dominating issue in 1936 was clear-cut and well understood. Briefly, it was: Should we return this Government to the old selfish order which, through its blindness, inefficiency, and disregard for the rights of the average citizen, and its subserviency to fortified privilege and inordinate greed which had brought down upon the entire country the most disastrous economic catastrophe with which our Nation has ever been afflicted; or would we go forward under the wise and courageous leadership of that greatest of all Americans, that pilot of proven worth, that leader whose acts and policies during the past 4 years have repaired to a great extent the damage wrought during the preceding 12 years of Republican misrule, that beloved humanitarian, Franklin D. Roosevelt?

On this issue on November 3, 1936, the American people spoke their sentiments. The results can leave no doubts as to the will of the people on this issue. Loud, clear, and definite was the voice of the electorate. Never has any administration received such a mandate, nor have we ever known a more conclusive vote of confidence.

Here we have a real victory. A victory for every individual whose interests were overlooked or disregarded during those 12 years of Republican misrule. A victory for agriculture and for industry, for the banker and the bank depositor. A victory for the farmer and home owner. A victory for the aged, the infirm, the destitute, the jobless. A victory for the workers in the mine, the factory, or in trade or commerce. A victory for the investor and the manufacturer, for the merchant, and for the consumer.

These are the things that bring to us here a real sense of celebration. They inspire and nurture a feeling that transcends

party lines and that leads us to the hilltops from whence we can view the greater good for the whole Nation without regard for party, class, or creed.

Before closing, I wish to pay a personal tribute to the one person above all others who has made this victory possible.

When historians look back upon the period through which we are now passing, through the clarifying atmosphere of time and understanding, we may be sure that the name of Franklin D. Roosevelt will take on greater and brighter luster until he stands among the immortal leaders of all times.

We Americans idolize our heroes. Washington, Jefferson, Franklin, Lincoln, and Wilson have emerged from the petty bickering, fault finding, and arrogant blindness that partially clouded them to their contemporaries, to stand serene in their honored places, secure in their proven worth. When the smoke and tumult of our present battles have cleared away, never doubt but that Franklin D. Roosevelt will stand with those heroes on a pedestal second to none of them.

Never have we had a more forceful leader. Never in our history have courage, intellect, power of decision, promptness, and forcefulness of action, and above all a great heart full of humanitarian qualities been more fortunately combined than in our great and beloved President—Franklin D. Roosevelt.

The Supreme Court Controversy

EXTENSION OF REMARKS

OF

HON. CLARENCE E. HANCOCK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 5, 1937

RADIO ADDRESS BY HON. CLARENCE E. HANCOCK, OF NEW YORK, ON FEBRUARY 28, 1937

Mr. HANCOCK of New York. Mr. Speaker, under leave to extend my remarks and so that my constituents on both sides of the Supreme Court controversy may know my position, I insert in the RECORD a copy of a speech I made in a radio broadcast on February 28, 1937, in a program in which I participated with Representative FRANCIS D. CULKIN, Representative W. STERLING COLE, and Senator ROYAL S. COPELAND:

Ladies and gentlemen of central New York, as the WFBL announcer has probably told you, this is CLARENCE HANCOCK speaking to you from the studio of station WJSV in Washington on the broadcast from station WFBL in Syracuse. If we were using television, as well as the marvelous contrivance which makes this broadcast possible, you would both see and hear that I am very much pleased to have such an opportunity.

Since February 5, when the President in effect demanded immediate authority from Congress to appoint six new Justices of the Supreme Court, I have received hundreds of letters of protest from indignant and outraged constituents. I welcome the privilege of telling you how I feel about the proposal.

If you now exercise one of the constitutional rights you still possess, to cut me off, please turn back to WFBL in a few minutes. Our friends and neighbors, Congressmen FRANCIS D. CULKIN and W. STERLING COLE, will follow me on this program, and it will be concluded by the distinguished senior Senator from New York, Dr. ROYAL S. COPELAND.

Thank Heaven, there is no party politics in this critical struggle to save the fundamental and essential principles through which poor and humble men and women have maintained the rights and liberties so common to us that we accept them as matters of course. They are the result not merely of the sacrifices of the Revolution but of the struggles of oppressed peoples for centuries. They are ours because the Constitution of the United States gave them to us, and an independent Supreme Court has preserved them for us through the hysteria, passion, and prejudice of wars and depressions.

The President's message contained several recommendations which are not sufficiently controversial to mention in this brief half hour. It was accompanied by a bill. During his first administration his messages were public but the actual legislation the President demanded, though written by the bright young "brain trusters", was dispatched privately to the administration leaders on the hill with instructions to rubber stamp it and send it back to the White House. He grows more audacious. So did Hitler and Mussolini.

The real purpose of the measure is contained in the first section, which provides that the President shall appoint an additional Justice of the Supreme Court whenever a Justice has reached the age of 70, has served 10 years, and fails to retire within 6 months thereafter, with the proviso that the membership shall not be increased beyond 15. Since six of the nine Justices are now 70 or more the bill is designed to empower the President to appoint that number of new Justices immediately, whether the sitting members retire or not.

The bill would create a Court of indeterminate size. It might consist of 9 members, or 15, or any number in between. To illustrate, if the bill should pass and three of the older Justices should leave the bench, the President would appoint their successors. He would also appoint three new men to sit beside the other three Justices over 70 years of age, who failed to retire. We would then have a Court of 12. And if none of the Justices should retire we could some day have a Court of 15 "old men."

If the power demanded by the President is given and exercised, the trail is blazed for some future President to create a subservient Supreme Court for his own purposes and there can be no security or permanency of American principles of government.

The specious and disingenuous arguments of the message deceived no informed person. There is no congestion in the Supreme Court. It is abreast of its docket. There is no delay; and if there were, a Court of 15 would not dispatch business more expeditiously than a Court of nine. If that is a valid argument, let us increase the membership of the House to a thousand.

The Supreme Court Justices are not senile old men. On the contrary, nine better legal minds cannot be found in the United States. If their average ages were 50, they would still be accused of being too old—or perhaps too young.

The excuses for the attempted coup d'état are weak and transparent. The reason for it is that the majority of the Court, and in some cases all of them, have made decisions involving New Deal measures which are not in accordance with the President's wishes. There can't be any reasonable doubt that if he has his way he will select judges whom he knows in advance will do his bidding. That's equivalent to jury fixing.

If the bill passes the Senate and reaches the House, which God forbid, I have an amendment in mind to change the name of the Supreme Court. Supreme means "highest in authority." Court means "a judicial body" and "judicial" means "impartial." Obviously Supreme Court would be a misnomer for the new body.

It seems to me it should be changed to the "Yes, Yes Bureau", or "Y. Y. B.", in the New Deal vernacular. I believe that "Y. Y. B." is one of the few combinations of letters not already in use.

This is something of a departure from modern practice. Most of the New Deal agencies have names ending in "A", meaning "authority" or "administration." This new agency will have no real authority, neither will it administer anything. At least, we can be frank about that.

Bureau is the proper name for it. A bureau is defined as "a chest of drawers"—we can throw that out—"a public department"—now we're getting somewhere—or "an organized staff of literary workers", which fits exactly. This new board must be literary and able to write fluently, plausibly, and ponderously while saying "Yes, yes" at the President's command. The double "yes" is used for emphasis.

When the "Y. Y. B." supplants the Supreme Court, the young experimenters, after getting the Presidential nod, will be entirely free to legislate first and get the facts later, to leap before they look, to pursue new or outworn policies in a spirit of vague hope and gay adventure, to lead us along "new and untrod paths" without the guideposts of experience, or to embark on uncharted seas without compass, anchor, or rudder—just to drift around with the shifting tides of passion and prejudice and the ever-changing winds of demagoguery.

Now, to be in deadly earnest again. The Constitution is the contract under which the people of 13 separate Colonies consented to be governed by a central government nearly 150 years ago. They knew then, and their descendants know now, that popular Executives often become tyrants, that legislative bodies become subservient to strong leaders and responsive to temporary waves of emotionalism. So, for the first time in the history of the world, they created an independent judicial body, who should serve for life unless impeached for cause. They made every effort to free them from influences, financial or political, which might swerve them from enforcement of the fundamental law. They knew the weaknesses of the popular hero of the moment, of their representatives in Congress, whose tenure of office depended on their favor, and of themselves, realizing that the stress of circumstances might temporarily cloud their eyes and corrupt their sound judgment.

Very early in our history the constitutionality of an act of Congress was an issue before the Supreme Court. One of the greatest of Americans, Chief Justice Marshall, held that "it was the very essence of judicial duty for the courts to say what the law is, and that in a particular case to which both the law and the Constitution apply the courts must regard the Constitution as superior to any act of the legislature and decide the case conformable to the Constitution, disregarding the law."

Is there any thinking person who will dispute the soundness of that doctrine? If the Constitution is not to prevail when an ordinance of a city, or an act of a legislature, or an act of Congress comes in conflict with it, why have a Constitution? Will you let the excitement of the hour be the supreme law of the land?

The Supreme Court does not act on moot questions. It only acts on definite states of facts. Its primary function has been to protect individuals and minorities.

Look through the United States Reports and you will find countless examples. The gentlemen from the South should know this. It was the Supreme Court which protected the constitutional rights of citizens of the Confederate States, so far as their authority permitted them to go, against the vengeance of a war-inflamed, northern-controlled Congress. A single example: A law was passed in 1865 that no lawyer could practice in the Federal courts unless he took an oath that he had been loyal to the Union Government during the years of the Civil War. The Supreme Court held it

unconstitutional because it violated the bill of attainder, ex-post-facto provision of the Constitution.

Catholics have been protected in their right to send their children to parochial schools, civilians against trial by military courts, colored men in their right to trial by impartial juries, labor unions in their right to peaceful picketing. There is scarcely a line in the Constitution that has not been interpreted by the Supreme Court to protect human rights. Since the birth of the Nation Congress has at one time or another enacted laws which violated every one of our constitutional guaranties of human liberty. It was only a free and independent Supreme Court which preserved them for us.

The President made no attack on the Supreme Court when he was a candidate for reelection. The millions who voted for him had no intimation that he was secretly plotting to rewrite the Constitution through a packed and controlled Supreme Court. On the contrary, he ran on a platform which contained a definite and solemn pledge that constitutional amendments would be submitted to the people if legislation could not be enacted to cure present-day evils within the confines of constitutional limitations.

It is not a difficult or lengthy proceeding to amend the Constitution when the people desire it. The last 11 amendments have been adopted in an average period of 15 months. The repeal of the eighteenth amendment took 9 months, the "lame duck" amendment less than 14 months. What is a year or two in the lifetime of a nation?

When the President read his shocking message to the White House correspondents on February 5, the newspaper accounts of that famous conference tell us he could not control his risibilities. He interrupted his reading frequently to laugh uproariously. But what was he laughing about? Was it the practical joke he intends to play on the Supreme Court—or on the American people?

National Defense—Neutrality and Universal Service Not War Preventives

EXTENSION OF REMARKS

OF

HON. FRANK J. G. DORSEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 5, 1937

ADDRESS OF HON. FRANK J. G. DORSEY, OF PENNSYLVANIA, BEFORE THE AMERICAN LEGION AUXILIARY, FRANKFORD POST 211, PHILADELPHIA, PA., FEBRUARY 24, 1937

Mr. DORSEY. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following address delivered by me before the national defense meeting of the American Legion Auxiliary, Frankford Post 211, Philadelphia, Pa., on February 24, 1937:

INTERNATIONAL DEPENDENCE

We are living in an ever-changing world. The last 20 years have been the most eventful in history. The striking changes in political and social conditions, while apparently revolutionary, are the result of evolutionary economic changes beginning almost a hundred years ago. The industrial revolution has completely upset the social equilibrium of nations as it existed prior to the invention and use of power-driven machinery for the production of the necessities of life. In a short span of years, as time is recorded, the leading nations of the world have changed from agrarian countries to highly industrialized states. This brought a change from agricultural independence to industrial dependence. Today, as a result, no nation is self-sustaining, not even America; although, with our great resources, we are in a better economic position than any other nation in the world. The industrial revolution brought with it international dependence—the reliance of each nation upon other sovereign states for the necessities of life that they themselves are unable to produce, either on the farm, in the mine, or the factory.

Another factor that has increased international dependence is the steady and consistent growth in population among the leading nations, affecting in particular European countries with limited territorial boundaries. It is estimated that the population of Europe in the year 1800 was 180,000,000; today it is approximately 450,000,000. When the population of any state grows beyond the point where it can be supported by its agriculture, it must look to other nations through world trade to support it. The struggle for existence becomes more acute and the life of a nation today depends upon its ability to secure from other countries that which it cannot produce itself. Stop the importation of foodstuffs into England and starvation will result. Cut off the importation of oil and fuel into Italy and its industries will be crippled leading to economic collapse, and even Germany with its resourcefulness would become impotent socially and economically if it could not secure certain foodstuffs and raw materials from other nations.

INTERFERENCE WITH COMMERCE LEADS TO WAR

A few hundred years ago the conquest of new territory was engendered through a desire for the wealth of such lands. Today territorial conquest and expansion is brought about through economic necessity, to take care of expanding populations and to secure the necessities of life vital to national existence. It is through world commerce that nations are struggling for self-preservation. They are pitted against each other in world trade, and in this competition are found the causes which perchance germinate war.

History produces the proof that interference with commerce and trade has been the cause of the most bitterly fought struggles. The plains of Macedonia have reeked with blood in the struggles of European nations to secure trade routes to the east. Germany, Austria, and Russia have looked with longing eyes upon the short cut through the Balkans which would enable them to compete with Great Britain, favored by its control of the channels of trade to the east through the Mediterranean and the Suez Canal.

In 1799 it was the retorsion of the French on neutral commerce, after being blocked by Great Britain, that caused our Nation in its infancy to quarrel with her and protect our right to freedom of the seas. It was Great Britain's interference with neutral commerce that caused us to war with her in 1812. It was the interference of Germany with neutral commerce and its methods of retorsion against the European allies that directly forced our entrance into the World War.

Yes, it is in world trade that the elements of war are ever found and will be until the nations of the world are able through trade agreements to get the things necessary for their self-preservation.

NEUTRALITY POLICY NOT WAR PREVENTIVE

There is considerable agitation today for a strong neutrality policy to preserve our peace in case of war among foreign powers. Let us not be deluded with the thought that this in itself will keep us out of war. Most certainly a well-considered permanent neutrality policy is necessary, and such legislation will undoubtedly be passed in this session of the Congress. But in itself it will not prevent war. It may delay it; it may forestall it, but we must realize that when nations are struggling for existence, when they retaliate in war for evils inflicted by another nation, when they see a more powerful nation on the seas secure the things which are necessary for them to survive through a war, when they realize that they themselves cannot get them because of blockades, then the rights of nations, even though expressed in glowing terms through a neutrality policy, become mere scraps of paper. Practical situations countermand the most laudable intentions.

So neutrality legislation as a warning to foreign nations that we intend to keep hands off their wars is an ideal and warranted policy, but Americans cannot afford to rely upon it solely as an assurance of peace.

ELIMINATION OF WAR PROFITEERING NO ASSURANCE OF PEACE

The American Legion and other veteran organizations today are supporting legislation to take the profits from war, the so-called universal service legislation. Many well-intentioned people seem to feel that this is the answer to keep us out of war. I am sure that you mothers, wives, and daughters of veterans, members of the Legion Auxiliary, and you veterans, are not being deluded with any such thoughts. If, as a veteran, I gage the sentiments of the ex-servicemen correctly, I know that their main object in supporting this legislation is to make sure that if war does come nobody in America will profit from it and everybody will be on an equal footing. Human life is the most precious thing in this world, and no sacrifice in war can be so great as that of life itself. Taking the profits from war is not a preventive of war. Like neutrality legislation, it is an asset in taking the incentive for war from those who in their indiscretion would lead us into it. Legislation of this sort sets down the rules of the game and warns the profiteer, be he banker, armament manufacturer, food producer, or shirker, that this service in time of war must be a patriotic sacrifice and not a profit-grabbing lark at the expense of those who are sent as cannon fodder in defense of the country.

It serves to warn aggressor nations that we have a plan and a program to set in motion in time of war. If the National Defense Act of 1920, with its plan for industrial mobilization, and the Universal Service Act had been on the statute books prior to 1917, it is doubtful if Germany would have been so audacious as to force this Nation into the World War.

ADEQUATE NATIONAL DEFENSE NECESSARY FOR PEACE

But while neutrality legislation and war-profits control might act as brakes on the participation of our country in foreign conflicts, in themselves they are not preventives of war. In these days of international dependence, with nations relying upon commerce and trade for self-preservation, America with its wealth of natural resources, industry, and agriculture, cannot afford to invite disaster to its civilization through a weak policy of defense. Let us hearken to Washington's advice in 1793: "If we desire to avoid insult, we must be able to repel it; if we desire peace, one of the most powerful instruments of our rising prosperity, it must be known that we are at all times prepared for war." We cannot, we must not, be blind to that which is going on in the world. Among foreign nations there are two schools of thought, fascism and communism. Naturally they seek to impose their will upon other nations. One encourages world revolution. In no uncertain terms we must warn such nations and all nationalities that we are ever ready to protect our democracy which has stood

the test of time. If we fail in this mission it will be because we have failed democracy and not because democracy has failed us.

The spirit of America is for peace. We hate war. Particularly is that true of you, my comrades, you War Mothers and members of the auxiliary, who have suffered through it. While you experienced the horrors of the last war, you cannot picture the carnage and destruction which would result from war today. The speed of aircraft, the mobilization of armies, the development in guns and gunnery, all make us shudder when we think of these death-dealing instruments from which no part of our population will be immune in the event of war.

The greatest insurance for peace is an adequate national defense. Let us warn aggressor nations that we are prepared to defend that peace. With warning to those at home who would profit from war, with admonitions to those nations abroad of our neutrality when they war among themselves, let us couple our common sense to national preparedness, guaranteeing our peace through power and determination to protect it.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. HENRY F. ASHURST

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Monday, March 8, 1937

RADIO ADDRESS BY HON. WILLIAM GIBBS McADOO, OF CALIFORNIA, MARCH 5, 1937

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the RECORD an address, entitled "The President is Right", relating to the proposed reorganization of the Federal judiciary, delivered by the distinguished junior Senator from California [Mr. McADOO] over the Columbia Broadcasting System on March 5, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, a good many things have happened since February 16, when I last spoke to you over the radio, concerning the President's proposal for judicial reform. The attack of his opponents has centered upon that part of the program which deals with the Supreme Court. We hear little, if any, condemnation of that part which proposes to increase the efficiency of and to eliminate the law's delays in the district courts and in the Federal courts of appeal of the United States. Everyone seems to believe in reforming the lower courts. We may, therefore, take it for granted that this part of the President's proposed measure will encounter little, if any, opposition. But if the lower courts are so organized that they can dispose of a greater volume of litigation, how can the Supreme Court take care of the increase unless it is enlarged?

It is obvious that the opposition has selected for attack the President's plan to enlarge the Supreme Court as the most vulnerable part of his program. This is done because for the last half century the people have been sedulously educated to view the Supreme Court as a sacred institution—above criticism and beyond question. This myth is not justified either by the position of the Court in our democratic system or by any proper conception of its essential relation to a democratic form of government.

As a citizen as well as a lawyer, I have profound respect for this great Court, but I do not worship it or consider it immune from criticism any more than I consider the President of the United States and the Members of Congress, or any other public officials, immune from criticism under our system of Government. Criticism, fair and unfair, is a healthful influence in a democracy. Its wholesome and unwholesome breezes must reach every nook and crevice of public life. To stop that would deprive the people of one of the greatest safeguards of liberty. That is the reason that the first amendment to the Constitution provided for freedom of religious worship, freedom of speech, and the right of peaceable assembly.

I do not mean to say that the Supreme Court's decisions should be wholly responsive to public opinion, but, considering the words of our great Chief Justice, Mr. Hughes, in his notable address at Elmira, N. Y., on May 3, 1907, during the course of which he said, "We are under a Constitution, but the Constitution is what the judges say it is", it is clear that the Supreme Court should not arbitrarily ignore the trends of progress and the fundamental economic and social changes which inevitably occur in the life of a great people. It is the duty of that Court, in its interpretations of the Constitution, since it has asserted the power to make it mean "what the judges say it is", to shape that instrument from time to time with some regard to the commands of the people.

At this point, we must not forget that the supreme power in a democracy is the people. They alone can remake or unmake the Constitution. That power does not reside in the Supreme Court.

The Supreme Court, as now constituted, has on it some members who seem to be in touch with the great currents of public opinion and whose interpretations of the Constitution reflect the articulate and inarticulate craving of the American people for those essential economic and social reforms which will give them a better life within the aegis of constitutional government. It is a fact, and we need not blink it, that one can foretell almost to a certainty how the Supreme Court will divide on any of the constitutional questions which may be submitted to it for adjudication. We, therefore, have the frequent spectacle of decisions by five members of the Court against the dissenting opinions of four. And usually this majority of the Court gives such a technical construction of the Constitution that the great ends which the people seek for their welfare and advancement are defeated. The effect is to confer upon a single Justice, who may hold the balance of power, the right to make the Constitution mean what he says it means. The insistent demand of 27,700,000 voters—a vast majority of the voting population of the United States, is thwarted, nullified, in effect, by a single Justice of the Supreme Court.

Is this a healthy situation in a democratic form of government? I do not concede that a member of the Supreme Court, or any single individual, has the infallible judgment or the right to determine, what the progress of a great people may be, or what shall be their ultimate destiny under our constitutional form of government. That would be judicial, not political, dictatorship.

The people of the United States, in the last Presidential election, sent to Washington an overwhelming majority in the Senate and in the House of Representatives, with a positive mandate to support President Roosevelt in the great measures which he has championed during the past 4 years. These were discussed fully with the people in the last campaign. One member of the Supreme Court, holding the balance of power between the two wings, can not only destroy this mandate, but can make it impossible for the will of the people to be executed.

In our scheme of government, let us consider for a moment whether the Supreme Court occupies a coordinate position with or a superior position to that of the legislative and executive branches of the Government. I turn to the Constitution of the United States:

Article I, section 1, vests all legislative powers in a Congress, to consist of a Senate and a House of Representatives.

Article II, section 1, vests the executive power in a President of the United States.

Article III, section 1, vests the judicial power in the Supreme and in such inferior courts as the Congress may from time to time ordain and establish.

It is interesting to note that these three branches of the Government are named in the order of their importance, in the Constitution itself.

The legislative branch comes first. Why? Because it makes the laws of the land, and its Representatives in Congress come fresh from the people every 2 years for the entire House of Representatives and for one-third of the Senate. Because they represent the people direct, they are responsible to, and should be responsive to, the popular will—the supreme power in our democracy.

The executive branch comes second, because the President is empowered to execute the laws enacted by the Congress.

The Supreme Court comes third. Unlike the Congress, it does not spring direct from the people. Its Justices are appointed for life by the President, and before they can take office, they must be confirmed by the Senate. The people have no voice in their selection. The power of the Supreme Court is limited. The Congress can, in large part, determine its jurisdiction and procedure. It has sole power to fix the salaries of the Justices, to provide for their retirement, and to make appropriations for the maintenance of the Court. Thus it cannot be said that the Supreme Court is, in the same sense as the Congress and the President are, a coordinate branch of the Government. The Supreme Court is merely the interpretative and juridical branch of the Government. Within that field it is supreme.

For many years a myth has been sedulously created that the Supreme Court is invested with a certain degree of sanctity which no citizen can question without being charged with a lack of reverence. So long as that myth persists we cannot view the Supreme Court in its proper perspective. We should dispel it, and we may do so without disrespect to that great tribunal.

Much has been said by the opposition about the power which the Court would have, if enlarged as suggested by the President, to make decisions which would undermine or destroy the Constitution and the hard-won liberties of the people—especially religious freedom. Let us examine that.

Amendment 1 to the Constitution provides that "the Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Amendment 3 provides: "No soldier shall, in time of peace be quartered in any house, without the consent of the owner."

I take these as examples of definite rights and guaranties capable of specific definition and enforcement. You will observe that it is the Congress which is forbidden to make any "law" which would violate these rights. Hence, if the Congress should pass a law abridging or annulling them, the Supreme Court, whatever its personnel might be, would, of course, declare such act unconstitutional.

Suppose the Congress should pass an act prohibiting religious worship in the churches of the United States. That would be a manifest violation of the Constitution and the Supreme Court

would at once invalidate it. Suppose the Congress should pass an act imposing censorship on the press. Again that would be an obvious violation of the Constitution and the Supreme Court would annul it. Suppose that the Congress should pass a law that a soldier in time of peace might be quartered in any house without the consent of the owner. It would be a clear violation of the Constitution and the Supreme Court would be obliged to invalidate it.

I mention these in contradistinction to provisions of the Constitution which are general in character, but which are inevitably the subject of judicial determination.

Section 8 of article I empowers the Congress to "provide for the * * * general welfare of the United States." This is a broad and indefinite term. Who can define it for all time? The Supreme Court has given various interpretations of the words "general welfare." In doing so it is presumed to have taken notice of the economic, social, and political conditions prevailing at the time of the decisions. What may have been good or sufficient for the public welfare 50 or 100 years ago would undoubtedly be unequal or unsuited to the conditions of this day and generation. Hence it is essential that the Supreme Court shall from time to time interpret these words, "the general welfare", in the light of new economic, social, and political developments.

Let us refer now to another power conferred by section 8 of article I. The Congress is empowered "to regulate commerce with foreign nations and among the several States." What is commerce? Who can define that accurately for all time? No finite mind can perform such a miracle. The character and demands of interstate and foreign commerce vary with the growth and development of the Nation. Any interpretation must have proper relation to the facts and to the economic problems of the time when the adjudication is made.

Let us refer to amendment 14, the so-called "due-process" amendment. What is "due process"? Who can define these highly controversial words accurately and for all time? In the construction of these two words the Constitution is susceptible to amendment by decision of the highest Court, vitally affecting the "public welfare" without the opportunity for approval by the Congress and the States, as the Constitution requires for its amendments.

Is it wrong, is it an invasion of liberty, is it a step in the direction of dictatorship for the President to recommend that the present membership of the Supreme Court, limited by an act of Congress passed 68 years ago, be increased to keep pace with the growth of the country? Is it wrong to expect the Supreme Court to take judicial notice of the verdict of an overwhelming majority of the people who voted 4 months ago for important economic and social reforms essential to the "general welfare" and to the future of America in its considerations of legislation which may be enacted to carry out the will of the people? I contend that it is not.

These additional judges will come fresh from the people, just as the Senate, the House of Representatives, and the President have come recently from the people, and they will have a chance to help make the Constitution "what the Supreme Court says it is."

I hold that the perpetuity of democracy rests upon the execution of the popular will, and that to permit its defeat by a "tortured construction of the Constitution" or by economic prejudices that take no account of the rights of humanity will bring us only to an evil day. I have taken the expression "tortured construction of the Constitution" from the notable dissenting opinion of that eminent jurist, Associate Justice Stone, in the case of *United States* v. *Butler et al.*, involving the constitutionality of the Agricultural Adjustment Act.

As the weeks have passed there is a clearly discernible tendency to make this a partisan question. In the Senate of the United States every Republican is opposed to the President's proposal. The only nonpartisan end of the Senate is the Democratic, where there is a nonpartisan division upon the merits of this question. In the House of Representatives the same condition prevails. The Republicans, with practical unanimity, oppose the President's recommendations, whereas the Democrats in the House are divided.

We may turn to the resolutions which are being passed in the legislatures of the various States. There you will find the same partisan alinements. Democratic legislatures are, as a rule, supporting the President's program, whereas Republican legislatures are opposing it. Thus party lines are being drawn upon a vital question affecting the welfare and the future of the American people, when it should be considered without regard to partisanship, passion, or intolerance.

The action of the various State legislatures emphasizes the futility of attempting to enact a constitutional amendment. Why should we resort to that when the Congress already has the unquestioned right to do what the President has recommended? A constitutional amendment would delay for years a result which can be accomplished promptly by constitutional legislation.

Like many other Senators, I am deluged with letters and telegrams from the people of my State both supporting and opposing the President's proposal. Analysis of a representative cross section of this mass of correspondence reveals that virtually all of the denunciations come from Republicans, many of whom profess to oppose the method, but are really against the purpose. It is unfortunate that a question of such profound importance should be made the subject of partisan warfare.

It is my firm conviction that to make the Supreme Court more representative of all classes of our people will enhance the respect of the people for it and will conduce to the wise development of that essential elasticity in our Constitution without which it would not have proved the shelter of our liberties for the past 148 years.

In his well-known letter of September 6, 1789, to James Madison, Thomas Jefferson said:

"No society can make a perpetual constitution or even a perpetual law. The earth belongs to the living; they may manage it and what proceeds from it as they please during their usufruct."

This generation has the right and the power to make such changes in the fundamental law or in the statutory law as it may deem necessary for the present state of society or for the future; but it cannot, of course, make a "perpetual constitution" or a "perpetual law." Subsequent Congresses and subsequent generations may change all that we do now; but that is no reason why we should not do now what the demands of the present point out clearly to us as the path of duty and manifest destiny.

Life means change, and laws and institutions must change with it. Wise and foreseeing statesmanship will seek to guide those great forces of humanity, which, however willing to submit to rational counsel and direction, will never consent to be submerged.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. BENNETT CHAMP CLARK

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Monday, March 8, 1937

RADIO ADDRESS BY HON. EDWARD R. BURKE, OF NEBRASKA, ON MARCH 6, 1937

Mr. CLARK. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD the very able and instructive address delivered over the radio by the junior Senator from Nebraska [Mr. BURKE] last Saturday night, regarding the President's proposal to reorganize the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I recall the warning of Hosea:

"For they have sown the wind, and they shall reap the whirlwind."

I am not an alarmist, but I am profoundly disturbed. The President of the United States leads a formidable attack upon a coordinate and independent department of our Government, the Federal judiciary. Reproaches are heaped upon the membership of the Supreme Court, because that Court has dared to exercise an independent judgment. A subordinate of the President, charged with the disbursement of billions of public funds for the relief of our needy citizens, tells them that a reactionary Supreme Court may prevent future payments.

They have sown the wind. They should not be surprised if now we reap the whirlwind. Following each fresh attack, an increasing number of our people, whose need is great and whose confidence in our chosen leadership is high, are responding:

"We can't have everything we want, and as quickly as we want it, because the courts stand in the way. The President says so. Hopkins says the same. Away with the courts! Out with the judges! We will leave it all to the President."

No one seeks to forestall legitimate criticism of the decisions of any court. That is our sacred right. But unless we are willing as a people to face the whirlwind, there must be an end to loose, misleading, exaggerated, and unfounded tirades against the Supreme Court as reactionary, a usurper of a power never granted to it, an obstacle in the path of progress toward national well-being. No greater disservice was ever done to the cause of democracy than may well result from the diligent and surpassingly cunning and deceptive program to discredit the Supreme Court in the minds of the people.

May I refresh your memory with this statement:

"That the judiciary is beyond comparison the weakest of the three departments of power; that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks; (because) from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its coordinate branches."

The Congress has before it today for consideration a proposal submitted by the President which seems on its face to have for its purpose this very thing—to overpower, awe, or influence the Supreme Court. That Court, in performing a duty which it has exercised for nearly 150 years, has ruled that certain acts of Congress and the President could not find justification under any of the powers granted to them by the people. Instead of going before the people with "clarifying amendments" to ascertain whether the people now desire to enlarge the powers heretofore granted to Congress

and the Executive, it is proposed to add six judges to the Court so that quick and favorable action may be secured on the desired legislation. If six of the nine present members of the Court can by this means be overpowered, awed, or influenced to resign, then the number of the judges will not be increased, but two-thirds of its membership will be newly appointed for a definite and understood objective. New and old judges alike will serve thereafter with the sword of Damocles in plain sight, with this warning ever present:

"Interpret the law as Congress and the Executive want to have it interpreted or tomorrow we will stretch or compress your number to make effective what we think is best for the people."

I believe it will be instructive if we examine three typical cases that will show how the Supreme Court functions as a wholly independent judiciary in preserving for the people the kind of government which they established for themselves under the Constitution.

A respected citizen of my own State of Nebraska was arrested, tried in the State district court, and convicted, under an information which charged that on May 25, 1920, while serving as an instructor in a parochial school he taught the subject of reading in the German language to a 10-year-old student. The Legislature of Nebraska the previous year had passed a law declaring it a misdemeanor, punishable by fine or imprisonment in the county jail, for any person in any private, denominational, parochial, or public school to teach any subject to a student in a language other than English. The Supreme Court of Nebraska affirmed the conviction. On appeal the Supreme Court of the United States declared the problem for determination to be whether the Nebraska statute infringed upon the liberty guaranteed to every citizen by the provision of the Federal Constitution, which reads:

"No State shall * * * deprive any person of life, liberty, or property, without due process of law."

The Court, in an opinion rendered by Mr. Justice McReynolds, set aside the conviction, holding the State law to be in conflict with the above provision of the Federal Constitution. I quote from the opinion of the learned Justice, against whom today the attack is centered to overpower, to awe, to influence him, or, failing that, to force him off the bench. This is what he said, in part, in granting freedom to the humble teacher of reading in the German language:

"The protection of the Constitution extends to all, to those who speak other languages as well as to those born with English on the tongue. Perhaps it would be highly advantageous if all had ready understanding of our ordinary speech, but this cannot be coerced by methods which conflict with the Constitution—a desirable end cannot be promoted by prohibited means."

Suppose the then President had announced that the majority of the Court was clearly out of harmony with the nationalistic spirit that hovered over the country at the conclusion of the Great War. Suppose the President had demanded that Congress increase the size of the Court by whatever number would have been sufficient to give a modern, up-to-the-minute construction of the Constitution that would have resulted in approval of that class of legislation. Would you good Americans, proud of your German ancestry, Polish, French, Bohemian, Scandinavian, or any of the races which have helped to make America great, would you have listened kindly to the suggestion that the general welfare required that "new blood be infused into the Court", in order to uphold a law that would send to the county jail any citizen who was guilty of the heinous crime of teaching reading in the German, or any other modern language? You would instantly have recognized that the Supreme Court was then, as it is now, and has ever been, and pray God ever will be, the sleepless and vigilant guardian of your liberties—of a free religion, a free press, of freedom of speech and assembly, and a host of other cherished rights. You would have cried out:

"Hands off the Supreme Court. It must not be made subservient to any man or group of men, neither to Presidents nor to Houses of Congress. We will sanction no tampering with the independence of the judiciary which is the sword and buckler by which our liberties are defended."

We pass to the second example of the functioning of the Supreme Court to which I invite your attention.

On December 10, 1931, William E. Humphrey was nominated by the then President and confirmed by the Senate to succeed himself as a member of the Federal Trade Commission for a term of 7 years expiring September 25, 1938. On July 25, 1933 (4 months after inauguration) President Roosevelt addressed a letter to Commissioner Humphrey demanding his resignation on the ground "that the aims and purposes of the administration with respect to the work of the Commission can be carried out most effectively with personnel of my own selection." The resignation was not forthcoming and under date of August 31, 1933, the demand was renewed in the following language:

"You will, I know, realize that I do not feel that your mind and my mind go along together on either the policies or the administering of the Federal Trade Commission, and, frankly, I think it is best for the people of this country that I should have a full confidence."

Mr. Humphrey refused to resign and thereupon received from the President a note, dated October 7, 1933, reading:

"Effective as of this date you are hereby removed from the office of Commissioner of the Federal Trade Commission."

In due time, the Supreme Court of the United States was called upon to determine whether the President in removing Humphrey, without any charge of inefficiency, neglect of duty, or malfeasance in office, had exceeded the authority vested in him. Mr. Justice Sutherland delivered the unanimous decision of the Court that the President had exceeded his power. The gist of the ruling was:

"The sound application of a principle that makes one master in his own house precludes him from imposing his control in the house of another who is master there."

Here we have a clear example of an Executive reaching out for more power than he had any right to exercise. We do not necessarily question the motive of the President. We only say that he had no right to do that which he did. Yet, except for the great Court that sits in solemn judgment on the acts of Presidents as well as of State legislatures, this wrong also would have been perpetrated. Only a fearless and independent Court, not subject to being overpowered, awed, or influenced by either the Executive or the Legislature, can protect the citizen against the exercise of power beyond that which the people through their Constitution have placed in the hands of the President.

One further example of the functioning of the Supreme Court: Congress enacted the National Industrial Recovery Act. It was done in haste, but the country faced a great emergency. I do not complain of Congress. In fact, I supported and voted for the act. The Supreme Court, again by a unanimous decision, declared that the Congress had exceeded the constitutional authority vested in it. Was that unanimous Court usurping a power which it was never intended to have, and which should now be stripped from it? I do not think so. Had "new facts become blurred through old glasses fitted, as it were, for the needs of another generation"? I have faith to believe that the great majority of Americans entertain no such idea. I am certain that the people themselves want the right to decide whether, and to what extent, additional powers shall be granted to any of these departments of Government. Until the people have decided that question, I know that they want Presidents and Congresses, executives, and lawmakers of every class to do the best they can with the powers they now hold.

That is all that there is to this dispute about the courts. Shall the judiciary continue to do its part by upholding the will of the people as expressed in the Constitution against encroachment from whatever quarter, no matter how powerful? If so, and surely it is so, the people must demand that the President be refused the right to name six additional Justices of the Supreme Court, merely because he is dissatisfied with decisions rendered and anticipated. We would still have a Court, but what a travesty to continue to call it a Supreme Court. Every judge upon such a Court would clearly realize that no longer could he be concerned solely with the exercise of judicial power. He would know that unless he gave heed to something other than the law of the case he might find tomorrow a new judge at his side appointed for the express purpose of rendering a certain kind of decision.

I do not believe that Americans who love their liberty will ever consent to such a proposal. There is no place under our conception of constitutional democracy for amending the Constitution without a vote of the people, nor for a new method of impeachment of Federal judges whose only offense has been that in the fearless and independent discharge of their duties they have found it necessary to hold within constitutional limitations State legislatures, the Federal Congress, yes, even the President of the United States.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. PRENTISS M. BROWN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Monday, March 8, 1937

LETTERS FROM CHASE S. OSBORN

Mr. BROWN of Michigan. Mr. President, it is not news when a prominent Democrat supports the President's program relating to the judiciary, but when a prominent Republican favors the plan it is news which I think is worthy of inclusion in the CONGRESSIONAL RECORD.

I ask unanimous consent that a letter from Hon. Chase S. Osborn, former Governor of Michigan, to me, and a letter to the President included therein, be printed in the CONGRESSIONAL RECORD, together with some other correspondence relating to the same subject.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

POULAN, GA., *March 2, 1937.*

The Honorable PRENTISS M. BROWN,
United States Senator, Washington, D. C.

DEAR PRENTISS: I do not know your position on the Supreme Court recommendation of President Roosevelt. Personally, I do not think it is dangerous to the Court or the Constitution. If you wish to support the President, you can find many reasons for doing so. The whole thing is interesting and debatable. I

would prefer to achieve the purpose in another way, but the President is entirely within his constitutional rights, in my opinion. Also, I am certain he is sincere and is simply trying to adjust the Government to the new social trends which inevitably are to bring about new laws for the regulation of economics and a real advance along lines of human justice.

You remember that Theodore Roosevelt advocated a recall of judicial decisions, including those of the Supreme Court, by plebiscite, under certain conditions. That was a far more drastic idea than Franklin Roosevelt's. The trouble is not so much with the Supreme Court as it is with our laws, too many of which have been coined by capital. Human legislation is much needed, whether it has to be effected through changes in the Supreme Court or the Constitution.

Best wishes.

Your friend, CHASE S. OSBORN.

Personally, I hope you can conscientiously support the President.—C. S. O.

MARCH 3, 1937.

The Honorable FRANKLIN DELANO ROOSEVELT,
President of the United States.

DEAR PRESIDENT ROOSEVELT: As you know, I am a Republican and expect to remain one. Also I count myself as your personal friend and admirer. Both the Republican and Democratic Parties are dragging. You are a party all to yourself.

Your Supreme Court suggestions have my approval. I have written as much to Senator PRENTISS M. BROWN, of Michigan, and have told him I hope he will support you. He is my friend personally and a splendid man in every way.

All of your work has had a high humanistic trend. The Supreme Court has not felt the modern urge for greater economic justice. As humans, all of us are bound to make mistakes, but they cannot be lasting or serious in effect if they have the high purpose of increased consideration for the masses. So many of the laws today presume that the strong will act as trustees for the weak. That is beautiful in theory but does not work in fact because of the selfishness of mankind. New humanistic laws cannot correct the situation if they are constantly declared unconstitutional.

The statement and belief on the part of many that sit-down strikers in any establishment are seizing property that does not belong to them is morally fallacious. It is now legally true, but ought not be. The striker has his life invested in the enterprise. Every time he has lifted his arm to work he has expended so many heartbeats. There are just so many heartbeats. He has invested his life to the extent he has expended heartbeats in his work, and you cannot fully pay for it in money. The stockholder who saved his money and put it in the company has an investment of much the same nature. His money may invest life and also a form of denial through saving, although his objective is often speculative and toward obtaining at least partially an unearned increment. The president of General Motors, Mr. Sloan, for instance, and Mr. Knudsen for another, unless they have actual money invested as stockholders, have not as much ownership in the corporation as the other stockholders and the strikers. They are simply trustees and managers and directors for the investors including the employees.

Judge Black and Judge Gadola, of Flint, could not recognize the foregoing situation and facts as the laws now stand. Consequently, in order to make the workingman treated fairly under the law, there must be new laws, but there can be no new laws, as previously stated, that will stand up if a Supreme Court alien to the Christian conception of human interests declares them unconstitutional. I consider that morally the employees have actually more right in the property than anyone else, except the State itself, which includes all. Consequently the State ought to have an instrument that could take possession of plants when disputes close them down.

Finally, there ought to be, as I wired you, an authority created for the purpose of final adjudication of all labor disputes. This supreme court of economic adjustment and arbitration should have power to seize plants and operate them for all parties concerned until there is harmony, after which time the plants may be returned to the original management, say, to Mr. Sloan and Mr. Knudsen et al.

Such a law might easily, under the present colorless Supreme Court, be declared unconstitutional, when really it is in strict accordance with the right and whatever is completely right, as judged by Christian interpretations, ought to be constitutional. I wish to repeat and emphasize that whatever is right is actually constitutional whether the Supreme Court agrees that it is or not.

All this comprehends that nobody must injure or ruin property by sabotage of any kind, whether by closing the plants or strikes or otherwise. The great injury is to the public and to the employees. One might even consider the wisdom of outlawing outside labor leaders who may be trouble makers and breeders. This could be done, without injustice to working men, if an adequate supreme court of labor existed before which all complaints could be brought and by which they could be settled. As it is now, labor has to fight every inch of its way and cannot fight forcefully without organization.

As I view it, all you seek to do in the matter of the Supreme Court of the United States is to create one that would naturally feel the urge for more widely distributed justice.

I am sure you will not object to my sending a copy of this letter to your Secretary of Labor, Miss Perkins, and to Senator PRENTISS M. BROWN.

Yours respectfully, CHASE S. OSBORN.

MARCH 5, 1937.

Mr. CHASE S. OSBORN,
Poulan, Worth County, Ga.:

Believe my views quite similar to yours. Am mailing copy of my radio address. I agree with the President's criticism, but wish he would use another remedy. Have I your permission to publish your letter to me and to the President in CONGRESSIONAL RECORD?

PRENTISS M. BROWN,
United States Senator.

POULAN, GA., *March 6, 1937.*

The Honorable PRENTISS M. BROWN,
United States Senator:

You have my permission to incorporate my letter to you and the one to the President in the CONGRESSIONAL RECORD. I know you are completely familiar with the attitude of President Jackson to John Marshall in the case of the Cherokee Indians versus the State of Georgia. The Supreme Court held with the Indians. President Jackson was for the State of Georgia, where there was almost a condition of armed rebellion against the Government on account of the Cherokee lands-evacuation dispute. I may not quote exactly, but Jackson said something like this: "Marshall has made a decision, now let him enforce it." The State of Georgia completely nullified the Supreme Court decision by force of arms. The attitude of President Roosevelt to the Supreme Court is gentleness itself compared with the Jackson episode and the events that followed.

CHASE S. OSBORN.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS
OF
HON. RUSH D. HOLT
OF WEST VIRGINIA
IN THE SENATE OF THE UNITED STATES
Monday, March 8, 1937

ARTICLE BY FRANKLYN WALTMAN

Mr. HOLT. Mr. President, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD an article appearing in the Washington Post, March 3, 1937, under the name of Franklyn Waltman, entitled "Court Warfare."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post of Mar. 3, 1937]

COURT WARFARE—ROOSEVELT LEADS PREDECESSORS IN NAMING JUDGES OVER 60—SIX APPOINTMENTS MADE TO FEDERAL CIRCUIT COURTS AND THREE TO UNITED STATES DISTRICT BENCH—"YOUNG BLOOD" PREACHING OUT OF LINE WITH PRACTICE

By Franklyn Waltman

Although President Roosevelt recently announced he voluntarily had imposed on himself a rule not to name to the Federal bench any person over 60 years old, an examination of the birth dates of his judicial nominees yesterday revealed he had made six such appointments to the Federal circuit courts of appeals and three to Federal district courts.

He also has named as United States district judges in the Territories and insular possessions three men who were over 60 years old when they were appointed.

The Senate failed, after a controversy involving other matters, to confirm one of the President's appointments of a person over 60 years old to the Federal circuit bench, and the nominee after a year withdrew his name.

Even if that appointment is not counted, President Roosevelt has named more men over 60 years old at the time of their appointment to the Federal district and circuit courts than anyone of his six predecessors—some of whom made many more judicial appointments than Mr. Roosevelt has had an opportunity to make.

Thus, of 13 appointments which Mr. Roosevelt has made to the circuit bench, 6 have been men over 60 years old. One was 70 years old at the time of his appointment—a promotion from a district court—and the judge in this instance retired because he suffered physical disabilities within 11 months after his nomination. Another judge—also promoted from the district bench—was 63 years old at the time of his appointment to the circuit and died less than 2 years later.

Three of the six sexagenarians had not served previously on the Federal bench.

Mr. Roosevelt has appointed 39 Federal district judges. Data as to six of these—recent appointments—were not available. Of the remaining 33, 3 were over 60 years old when they were appointed and 2 more had passed their fifty-ninth birthdays.

In his message to Congress proposing reorganization of the Federal judiciary, Mr. Roosevelt declared "modern complexities call also for a constant infusion of new blood in the courts, just as it is needed in the executive functions of the Government and in private business." He also said "a constant and systematic addi-

tion of younger blood will vitalize the courts and better equip them to recognize and apply the essential concepts of justice in the lights of the needs and facts of an ever-changing world."

There is nothing new about the idea of appointing men under 60 to the Federal bench. From the administration of Theodore Roosevelt, each President has sought to name younger men to the circuit and, especially, the district courts.

Of the President's six predecessors, four named circuit judges whose average age was less than those named by President Roosevelt, and three named district judges whose average age was less, it is shown by a tabulation of the ages of Federal judges when appointed, made by Federal Judge Merrill E. Otis, of the western district of Missouri.

Judge Otis made a tabulation of all the Federal judges named from the regime of the first Roosevelt to last summer. He then ascertained the ages of these judges when appointed from their biographical sketches in Who's Who in America. An independent check was made of those judges named during the last 4 years.

According to Judges Otis' findings, the number of judges over 60 years old at the time they were appointed to Federal circuit and district courts is as follows:

	Circuit	District
Theodore Roosevelt	2	5
W. H. Taft	3	0
Woodrow Wilson	1	0
W. G. Harding	3	1
Calvin Coolidge	5	2
Herbert Hoover	5	2

As has been said, President Roosevelt has named six circuit judges over 60 years old—one of whom failed of confirmation—and three district judges.

The total number of circuit and district judges named by Theodore Roosevelt was 56; Taft, 45; Wilson, 66; Harding, 45; Coolidge, 66; Hoover, 47; and to date, President Roosevelt, 52.

Average ages of circuit and district judges for the six administrations preceding the New Deal were found by Judge Otis to be as follows:

	Circuit	District
Theodore Roosevelt	52	52
Taft	56	48
Wilson	52	48
Harding	60	51
Coolidge	55	49
Hoover	59	51

The average age of the 13 circuit judges named by President Roosevelt—at the time of their appointment—was 57 years. The average age of the 53 district judges about whom data were available was 51 years.

Mr. Roosevelt's appointments to the circuit courts of persons over 60 years old, with their dates of birth and appointment and other explanatory data, are as follows:

Charles B. Farris, appointed to the eighth circuit January 14, 1935; born October 3, 1864; previously served as district judge from October 31, 1919, to February 6, 1935; retired December 1, 1935, pleading physical disability.

Frank H. Norcross, appointed to the ninth circuit January 8, 1934; born May 11, 1869; previously served since 1928 as district judge; question of appointment raised in Senate and Congress adjourned in 1934 without confirming him; withheld his name from Senate consideration in January 1935; is now district judge for Nevada.

Louis Fitzhenry, appointed to the seventh circuit June 10, 1933; born June 13, 1870; previously served as district judge from 1918 to 1933; died November 18, 1935; so far no successor has been named for him.

William Denman, appointed to the ninth circuit January 14, 1935; born November 7, 1872; not previously on Federal bench.

Francis Arthur Garrecht, appointed to ninth circuit May 4, 1933; born September 11, 1870; not previously on Federal bench.

Seth Thomas, appointed to eighth circuit December 2, 1935; born May 18, 1873; former solicitor of Agricultural Department.

In addition to these six judges who were over 60 years old when appointed, the President named Joseph A. Woodrough to the eighth circuit on April 12, 1933, when he was 59 years and 7 months old. He had been previously a district judge. All the remainder of his circuit bench appointees were in their fifties, except Judge Sam G. Bratton, of the tenth circuit, who was 44 years old, and Judge John Biggs, Jr., of the third circuit—appointed last month—who is 41 years old.

The district judges who were over 60 at the time of their appointment by President Roosevelt were as follows:

Albert Lee Stephens, southern California district; appointed August 24, 1935; born January 25, 1874, thus 61 years 7 months.

William H. Holly, northern Illinois district; appointed March 1, 1934; born September 19, 1869, thus 64 years 5 months.

Frank K. Myers, eastern South Carolina district; appointed June 14, 1934; born March 7, 1874, thus 60 years 3 months.

In addition to these three judges over 60 years old, the President named two who were over 59 when appointed. They were Harlan W. Rippey, western New York district, 59 years 9 months, and T. Whitfield Davidson, northern Texas district, 59 years 4 months.

President Roosevelt also named Richard Curd Pope Thomas, of Kentucky, as district judge for the Canal Zone on May 8, 1933, when he was 61 years old; Seba C. Huber as district judge for Hawaii, May 30, 1934, when he was 62 years old, and Edward M. Watson, also as district judge for Hawaii, July 18, 1935, when he was 60 years 7 months old. Robert A. Cooper, district judge for Puerto Rico, was 59 years 7 months old.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS
OF
HON. JOHN A. MARTIN
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 1937

RADIO ADDRESS BY HON. JOHN A. MARTIN, OF COLORADO, ON MARCH 6, 1937

Mr. MARTIN of Colorado. Mr. Speaker, under leave heretofore granted by the House, I submit for printing in the RECORD a radio address made by me over the National Broadcasting System at Washington on March 6, 1937:

Fellow citizens generally and friends in the West, in common with all other Members of Congress I have received a large volume of correspondence on the President's Supreme Court proposal. The letters against the plan have had one characteristic in common. They recognize no need for any change, either in the courts or the Constitution, no need for any legislation of a social or economic character. When I read these letters I wonder how long any administration or any Congress taking such a position would last. I wonder if the writers are not blind to the great forces, moving under great economic stress, making for change; forces which must be wisely and sympathetically led in ways of orderly expression, and which, denied and frustrated, may some day burst all bounds.

Fundamentally this is no new issue. At bottom it is only a new phase of an old issue. This issue has been called at various times by various names. It has given rise to such well-known terms as predatory wealth, special privilege, invisible government, economic royalty—all characterizing the same conditions and meaning the same thing.

The blame for this situation is not to be assessed against any one agency of government or of all the Government. It is not even to be assessed wholly against the great interests we seek to control and regulate and make responsive to the changing needs of the times. The Supreme Court has been characterized as property minded. I think the charge is true, but that state of the judicial mind is bottomed on a much larger concept. The people themselves have been property minded. This has been a property-minded country and Government and laws, and the administration and interpretation of laws have followed the bent of the national mind. No country ever saw such a development of material wealth or produced so much great fortunes or held out such opportunities to the boy at the plow to become a captain of industry or of finance. It was not only the setting for rugged individualism; it could have produced nothing else.

But contemporaneously with the growth of this system and the evils it has produced, there has been growing the perception in the minds of men of vision and of instinct for the commonweal that this Nation cannot endure, that the people cannot enjoy life, liberty, and the pursuit of happiness, under an uncontrolled economic system which places them at the mercy of vast aggregations of wealth, monopolizing every avenue of enterprise and operated exclusively for private profit, and attended with poverty on a scale making necessary almost capital levies on the profits of the system to sustain the millions which the system does not feed.

These conditions as they developed gave birth successively to the "square deal" of Theodore Roosevelt, to the "new freedom" of Woodrow Wilson, and the New Deal of Franklin D. Roosevelt. In principle and philosophy they are one and the same thing, the application of the same principles and philosophy to developing phases of the issue of the rule of wealth in America.

The President in his second inaugural address summarized more simply and comprehensively than I could hope to do the products in human and social values, or rather human and social losses, of our economic system. The picture has not been overdrawn It will stand unmatched as an indictment of the system which painted it. Said the President:

"Here is the challenge to our democracy: In this Nation I see millions of its citizens—a substantial part of its whole population—who at this very moment are denied the greater part of what the very lowest standards of today call the necessities of life.

"I see millions of families trying to live on incomes so meager that the pall of family disaster hangs over them day by day."

How ineffective the attempts of Government to ameliorate the hardships and inequities of the system, how static the movement of Government to keep pace with it is well illustrated by a speech delivered by Theodore Roosevelt before the General Assembly of Colorado at Denver away back in 1910, when that speech is read in the light of the existing conditions depicted by the President. I want to quote two paragraphs from that speech, as set out in a letter published by Theodore Roosevelt in the Law Times of April 1911, defending himself on the charge of attacking the Supreme Court. Before quoting them I want to say that if, in what I am about to read, the words "New York minimum wage law case" were to be substituted for "New York Bake Shop case" and the name Franklin D. Roosevelt to be substituted for Theodore Roosevelt, the rest of the speech could be made in 1937 as appropriate as in 1910. It would be unnecessary to change another word. Said Theodore Roosevelt:

"The courts occupy a position of importance in our Government such as they occupy in no other Government, because instead of dealing only with the rights of one man face to face with his fellowmen, as is the case with other governments, they here pass upon the fundamental governmental rights of the people as exercised through their legislative and executive officers. Unfortunately, the courts, instead of leading in the recognition of the new conditions, have lagged behind and, as each case has presented itself, have tended by a series of negative decisions to create a sphere in which neither Nation nor State has effective control, and where the great business interests that can call to their aid the ability of the greatest corporation lawyers escape all control whatsoever.

"In New York City, as in most large cities, the baking business is likely to be carried on under unhygienic conditions, conditions which tell against the welfare of the general public. The New York Legislature passed, and the New York Governor signed, a bill remedying these unhealthy conditions. The Governor and the legislature alone had the power to remedy the abuse. But the Supreme Court of the United States possessed, and unfortunately exercised, the negative power of not permitting the abuse to be remedied. By a 5-to-4 vote they declared the action of the State of New York unconstitutional, because, forsooth, men must not be deprived of their 'liberty' to work under unhealthy conditions. All who are acquainted with the effort to remedy industrial abuses know the type of mind which may be perfectly honest, but is absolutely fossilized"—

Let me interject that this is Theodore Roosevelt, former President of the United States, still speaking, not merely a New Deal Member of Congress—

"All who are acquainted with the effort to remedy industrial abuses know the type of mind which may be perfectly honest but is absolutely fossilized, which declines to allow us to work for the betterment of conditions among the wage earners on the ground that we must not interfere with the 'liberty' of a girl to work under conditions which jeopardize life and limb, or the 'liberty' of a man to work under conditions which ruin his health after a limited number of years.

"Such was the decision. The Court was, of course, absolutely powerless to make the remotest attempt to provide a remedy for the wrong which undoubtedly existed, and their refusal to permit action by the State did not confer any power upon the Nation to act. The decision was nominally against States' rights but really against popular rights."

So spoke Theodore Roosevelt, the founder of progressivism. And there is a significant present-day application in the letter from which I have quoted in his defense of himself against the charge that his speech was, quoting from the letter, "an attack on the Supreme Court, some of the critics going so far as to call it an attack upon the judiciary as a whole, an incitement to riot, and an appeal to the passions of the mob."

Doesn't that sound familiar? Is not the air being rent with such charges 18 out of 24 hours of the day? There was no such medium of communication as the radio in Theodore Roosevelt's day, but there was a medium of communication, and he mentions it in his letter. He said, and I quote:

"The gloom caused by the attack was naturally deepest in that section of the metropolitan press, which is owned and edited in the shadow of Wall Street, but many good and honest people were led into a feeling of uneasiness on the subject."

How fresh that statement is. As fresh as the morning paper. And the shadow of Wall Street falls as well on every main street to the remotest corner of the land, and many good and honest people are writing letters to Congress.

The State of New York passed a law to protect the health of men in the bake shops of New York, and in 1910 the Supreme Court of the United States, by a 5-to-4 decision, held it invalid as denying freedom of contract.

The State of New York passed a law to protect women from sweatshop wages and abuses, and in 1935 the Supreme Court of the United States, by a 5-to-4 decision, held it invalid as denying freedom of contract.

Thus, the same Court, by the same 5-to-4 decision, invalidated the same type of legislation of the same State, with an interval of 25 years. This would seem to raise some question as to whether the sit-down strike originated in Europe.

The rejoinder of the four dissenting Justices to the majority opinion in the minimum-wage law case decided in 1935 is a complete answer to every freedom-of-contract decision rendered by the Supreme Court invalidating laws, Federal and State, intended to establish social security and economic justice for the workers of the Nation. I quote:

"There is grim irony in speaking of the freedom of contract of those who, because of their economic necessities, give their services for less than is needful to keep body and soul together."

What bitter words falling from the lips of a Justice of the Supreme Court. You could arrange a symposium of quotations from the dissenting opinions in these cases and put them on the air without disclosing their origin and some people would want you tried for treason. The record in the minimum-wage law case shows that many women in New York State were paid such a low wage that they had in addition to be carried on Federal relief. Yet the State of New York and the Government of the United States are helpless to do anything about it. The law violated the freedom of contract of the sweatshop owners.

Now, here is something that should be news to laymen. These laws for social betterment and economic justice fall, they are held invalid, on the ground that they violate freedom of contract. No such words as "freedom of contract" appear in the Constitution. These words have been read by the Court into the "due process of law" clauses of the fifth and fourteenth amendments, just as the "rule of reason" was read into the Sherman antitrust law, permitting what Justice Harlan sarcastically termed "reasonable violations of the law", illustrating what the present distinguished Chief Justice meant when as Governor of New York he said the Constitution is what the judge says it is.

In the Bake Shop case Theodore Roosevelt quotes from the dissenting opinions of those eminent liberal jurists, John M. Harlan and Oliver Wendell Holmes, but the Harlans and the Holmeses seem always to be outnumbered, at least by one, by the Peckhams and Shiras's, the latter of whom changed his mind to make up the 5-to-4 decision against the first income-tax law and thus necessitating a constitutional amendment and delaying by 18 years the taxation of wealth according to ability to pay.

Now, before leaving the Theodore Roosevelt speech, I want to revert to a paragraph which has a direct bearing of the highest importance upon the impasse reached by the executive and legislative branches of the Federal Government as the result of the series of recent decisions invalidating acts of Congress which gave rise to the present widespread demand to reform the Court or to amend the Constitution, or both.

The paragraph relates to a thought which has been uppermost in my mind the past year touching the respective functions and responsibilities of the President and the Supreme Court. After discussing the Supreme Court decision invalidating the New York bake-shop law, Theodore Roosevelt said, "The Court was, of course, absolutely powerless to make the remotest attempt to provide a remedy for the wrong which undoubtedly existed."

Time and time again I have reflected upon the vastly differing situations and responsibilities of the Executive and the Court as expressed in the words of Theodore Roosevelt. When the Court hands down a decision invalidating an act of Congress intended to ameliorate the hardships of the lot of the workers, or any great group of the people, and better their social and economic condition—when the Court hands down the decision—its work is done.

It was pointed out in the majority opinion invalidating the Railroad Retirement Act, that that act, disguise it however Congress might, was concerned with social ends rather than interstate commerce, and Congress had no power to legislate for such purposes. But the President is and must be concerned with legislation for social ends. He is and must be concerned with the social and economic betterment of the people. That was the primary purpose for which the present Executive was elected and reelected.

Upon the President, with such support in the way of legislation as he may get from Congress, rests the great and primary responsibility of government at all times, and especially in these very difficult times. When an act of Congress is wiped off the statute books, the President can't adjourn. He must burn the midnight light to find a new way out. To whom are the people looking for leadership? Upon whose shoulders will rest the blame, the adverse verdict of history, if during this administration this country shall fail to make substantial progress toward the goals of social security and economic justice? Every listener must have the answer.

Now, let us take a look at another 5-to-4 decision, the Railroad Retirement Act, held invalid by the Supreme Court in 1935. That decision has been frequently in my thoughts. It shuts another door than the New York cases to social betterment. It is illustrative in a high degree of the situation of which Theodore Roosevelt complained, that the Court's sole contribution to the solution of the pressing human problems involved is only a negation. In the railroad retirement case the majority opinion lays the act on the operating table and dissects it, like a cadaver under the surgeon's knife, taking it all apart and leaving absolutely nothing out of which something may be built for the future. There is no day of resurrection for it. That decision sheds not a ray of light on the path of the future. It not only indicates no way out, it recognizes no need for a way out. The law does not fit into the Court's concept of the Constitution and that's the end of it.

That decision reminds me of the story of the old merchant who was going on the rocks and he went to a banker friend of long standing to see if he could get a loan. It happened that this banker had a glass eye and he was rather vain of the fact that it looked so natural that his friends could not distinguish it from the real one. After the old merchant had finished his story, the banker said to him suddenly, "John, I'll tell you what I'll do. If you can tell which is my glass eye, I'll make you the loan." The old merchant immediately pointed to his right eye and said, "That's the one!" "Why", exclaimed the banker in surprise, "how could you tell it?" "Well", said the old merchant, when I was

telling you my story, I thought I saw a faint gleam of sympathy in it."

There was no faint gleam of sympathy in the glass eye that wrote the decision against the Railroad Retirement Act. The opinion, after an analysis of the object of the legislation, which it held to be that of old-age security for superannuated railway employees, under the pretense of regulating interstate commerce, enumerated many other benefits which might be written into the law, if such an act could be sustained, and then said: "These matters obviously lie outside the orbit of congressional power."

The country does not have to rely upon my characterization of the decision in the Railroad Retirement case as wholly devoid of any hope for such legislation from such a Court, and that it closes all doors to future action. Right in the first paragraph of the most able dissenting opinion in that case, written by the Chief Justice is the following statement:

"The gravest aspect of the decision is that it does not rest simply upon a condemnation of particular features of the Railroad Retirement Act, but denies to Congress the power to pass any compulsory pension act for railroad employees."

"That is a conclusion of such serious and far-reaching importance that it overshadows all other questions raised by the act Indeed, it makes their discussion superfluous."

The irony of another sentence in the dissenting opinion is worthy of a place in any criticism of the majority opinion or of the Justices who wrote it. Says the minority opinion:

"The Government's power is conceived to be limited to a requirement that the railroads dismiss their superannuated employees, throwing them out helpless, without any reasonable provision for their protection."

That is exactly what that decision holds. It holds that for safety of railway transportation, the railway companies may discharge superannuated employees, but if the discharge is coupled with a compulsory pension, tainting it with the motive of social security, it is unconstitutional. Court stands adjourned.

Now, notwithstanding this decision, the last Congress passed a new Railroad Pension Act, with the pension in one bill and the tax in another, so as to get around the decision, if possible, and they are now pending in the Supreme Court. If, as is now reported, the railroad companies are getting together with their million-odd employees to accept and establish the provisions of the law and dismiss the pending cases, doing this in the face of the Court's virtual assurance that it will relieve them of the law, full credit should be given the railway management for such an enlightened and humane step.

I want now to glance at another decision again New Deal legislation—the 6-to-3 decision against the A. A. A. There are two lines in that decision which interest me and ought to interest 30,000,000 people on the farms more than all the rest of the decision. Speaking of the purpose of the act, the majority said:

"Its stated purpose is the control of agricultural production, a purely local activity, in an effort to raise the prices paid the farmer."

In other decisions the Court held that mining and manufacturing are purely local activities. But the sum of all these purely local activities make up the whole national commerce, which knows no more of State lines than the rivers that flow or the winds that blow. The Triple A pulled farming out of the hole, and when the act fell Congress passed the Soil Conservation Act, a stopgap measure, to keep it out until something further could be done. Congress is now considering what further it may do.

Another stopgap was the Walsh-Healey Act to take the place of N. R. A. codes in manufacturing. The act writes the labor provisions of N. R. A. codes, including the 40-hour week and minimum wages, into Government contracts for Government purchase of materials. Refusal of industry to bid on such contracts threatened the tie-up of naval construction, and the administration was considering the necessity of suspending the act. Then something happened. The Tuesday morning papers carried the headlines that the great steel industry had accepted the 40-hour week, the $5-per-day minimum wage, and the recognition of employee organizations in collective bargaining. It was about all I could do to keep from getting too enthusiastic. Let me stick to the regular line of this talk before I slop over.

I know that you may tire of listening to the citation of cases and quotations as to what the Court said, but some of the things it has said are enough to make the listener sit straight up in his chair, especially when you consider the connection in which these things were said. The Guffey Coal Act was made up of two main parts, one dealing with labor and the other with the marketing of coal. The Court held that the labor provisions were unconstitutional because labor is a local relation and that they were so bound up with the marketing provisions that the whole act must fall.

The Chief Justice, in a separate opinion, sustained the marketing provisions, pointing out that Congress had expressly separated the labor and marketing provisions and had declared that the one should stand even though the other fell. But the majority would have none of that. Congress had done no such thing. It must all fall. I want to quote a short paragraph from the majority opinion:

"To take from this Code the provisions as to wages and hours of labor is to destroy it altogether. Wages and the hours of labor are essential features of the plan, its very bone and sinew. There is no opportunity in such circumstances for the severance of the infected parts in the hope of saving the remainder."

The act, it will be noted, was so "infected" with the parts regarding labor that the whole body was diseased. "Therefore", said the Court, "the conclusion is unavoidable that the price-fixing provisions are so related to and dependent upon the labor provisions as to make it clearly probable that, the latter being held bad, the former would not have been passed. The falling of the latter therefore, carries it down with the former."

At this point in the decision you can fairly hear the Guffey Act hit bottom. Between the Guffey Act decision and the minimum-wage law decision, we have presented to us the mathematical result of adding two things together and getting exactly nothing. In the one case the State had no power, and in the other the Federal Government had no power. The President calls this legislative vacuum no man's land.

Bryan 40 years ago called it the "twilight zone", which, during the 40 years of progress since Bryan's day, has expanded until it has swallowed up both State and Federal jurisdictions. The President put the result in a nutshell when he said in his first message to this Congress: "The statutes have been outlawed. The problems have not. They are still with us."

I was one of a group which spent an hour recently with the President on his plan dealing with the Supreme Court. I wish his part in the discussion might have gone out to the country as it came from his lips. Even Presidents speak more freely off the record. He feels even more deeply than he indicated Thursday evening that a way out must be found and that the solution will not await the slow and uncertain process of a constitutional amendment. There is much basis for this viewpoint. The income-tax amendment was 18 years pending ratification. The child-labor amendment has now been out 13 years. All the forces of reaction would be marshaled against any attempt to enlarge the powers of Congress. Yet the President is not opposed to a constitutional amendment. He would favor it as a supplement, but not as a substitute. Already he has accomplished some good. Those who a few weeks ago were in favor of doing nothing are now at least pretending that they are in favor of submitting a constitutional amendment. There is that much to the good. The opposition should not draw too much comfort from the apparent division at this time in the ranks of the President's followers.

All of them favor either his plan or a far-reaching constitutional amendment. On the whole, we are moving up. Obviously the hour has struck for a change. The very multiplicity of proposals attest the need for it. When the final word is said, we shall not be where we began.

There is this to be said for the President's plan. It is constitutional. Nobody questions that. It is fortified by precedents. It changes or disturbs not a word of the Constitution. The new Judges must first be confirmed by the United States Senate. They cannot be disturbed by the President. They will possess absolute freedom of action under the Constitution as it now stands. It will enable the Government to function now, not at some indefinite future time.

There is this to be said for the President: He led this country out of the greatest depression in its history. He dispelled the horror of 1933. He did this with no impairment of constitutional rights. His every act was for the betterment of the common lot. The only question for the people to decide is whether they will continue to trust the tried leadership that has done so much for them and for the country. Whatever happens, his last race is run and his place in history is secure. You, you the unknown millions, it is your place at stake, not his. The issue is in your hands. Your voice was mighty in 1936. Raise it now in support of your great leader. Raise it, not merely for yourselves, but for your boys and girls, who will be among the unknown millions of tomorrow. He has not failed you yet; why should you fail him now?

We Have Two Duties To Do

EXTENSION OF REMARKS

OF

HON. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 5, 1937

Mr. VOORHIS. Mr. Speaker, consideration of this naval appropriations bill brings us face to face with very difficult problems. How large does America's Navy need to be, and what kind of ships should it contain if it is to provide an adequate defense for the United States? At what point will we exceed our true defensive needs and be actually building ships whose only use can be one of fighting in a war far across the Atlantic or the Pacific? What do we mean by "national defense?" Do we mean defending our homeland against invasion or do we mean defending the United States and the Canal Zone and Hawaii and Alaska? Do we include the Philippines, which want their independence and which military men have said could probably not be defended from this distance at a cost of less than $30,000,000,000 and 1,000,000 lives? Do we include in the term "defense" American commercial interests in China and elsewhere?

WHAT NATIONAL DEFENSE INCLUDES

And further have we meant what we said about neutrality, about wanting to keep out of other people's wars, about being willing, if necessary, to give up the freedom of the seas in order to preserve the freedom to live of American boys and men? Finally, how much do we, as Members of Congress, know about the true vital defense needs of our country? Have we accurate information as to how much good a battleship will be in defending America, how much good a submarine will be, and how much good an airplane will be? Have we thought about our twofold duty to the people who sent us here? First, a duty to provide a defense for our homeland which will keep her safe from invasion; and second, a duty to spend not one dime for aggression, not one dime more than is needed for true defense. Have we thought how important, from a standpoint of national defense, it is for us to provide constructive useful work for our unemployed; for us to conserve our soils, our waters, our forests, and our oils; and for us to render America safe now from the toils of the profiteer if war should ever come again? Adequate nourishment for our children now, challenging labor and education for our youth now, decent homes for our poor now—these are parts of national defense.

I should like to see our Nation renounce every vestige of imperialism or aggression; I should like to see us recall our marines from across the seas and keep our fleet at home. But in the end I shall vote for this naval appropriations bill, vote for it because I know defense for America is our duty, vote for it even though I fear it provides for spending more than we need to spend. For to me national defense means defense of our country itself, together with Panama, Hawaii, and Alaska, and aid, should need arise, to American republics. To me national defense does not now and never will mean voting to send Americans across the ocean to fight foreign wars.

CONGRESS NEEDS AND THE NATION DESERVES ACCURATE, IMPARTIAL FACTS ON DEFENSE NEEDS

The trouble is we have no accurate knowledge of America's real defense needs. A bill comes up and we vote for it and think we have done the best we could. But after all it is not a very good "best", and it will not be until we get down to cases. What we ought to do, and do before another year has passed, is to authorize and set up a special committee of the Congress to investigate fully and from every angle the vital and necessary defense needs of the United States. All sorts of testimony should be taken and then a careful report made. And all of it should be done with the idea in mind that we want to have our country safe against invasion, but we do not want an armament for aggression. Then we can develop a plan, then we can tell our constituents just why we voted every dollar we did vote. They have a right to know.

Absentee Voting

EXTENSION OF REMARKS

OF

HON. WILBURN CARTWRIGHT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 5, 1937

RADIO ADDRESS BY HON. WILBURN CARTWRIGHT, OF OKLAHOMA, ON MARCH 2, 1937

Mr. CARTWRIGHT. Mr. Speaker, under the leave to extend my remarks in the RECORD, I wish to submit a speech which I delivered on last Tuesday evening, March 2, before the Oklahoma League of Young Democrats here in Washington.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

My friends, I heartily appreciate the opportunity to appear before this gathering of Oklahomans for a few minutes to talk about

"A weapon that comes down as still
As snowflakes that fall upon the sod;
But executes a freeman's will
As lightning does the will of God;
And from its force, nor doors nor locks
Can shield you—'tis the ballot box."

I was a member of the Oklahoma Legislature when they passed the absentee voter's law which applies within the State. At that time I tried to have it apply also to Oklahomans outside the State. If that provision had prevailed, there would be no reason for this meeting. I have just been informed that such a bill has been introduced, but I do not know by whom or its provisions.

I am in favor of all absentee citizens of Oklahoma being permitted to vote. You ask me why? I'll answer that question by asking another. Why should anyone vote?

Government is a field in which every citizen should be active and busy, informed and efficient, for the greatest responsibility which God in his wisdom has given to his creatures is the responsibility of self-government. The duty a citizen owes himself, his family, and his country is the intelligent exercise of his right of franchise—his vote. The ballot which a free citizen casts is like the payment of a premium upon his insurance policy. If the premium is not paid, the policy lapses, and he and his family lose the protection for which he has labored and saved for years. The exercise of your right to vote constitutes the premium you pay to protect the most valuable insurance policy ever written—the laws of our land.

As the result of a little research here is what I found, particularly about absentee voting: In 1896 Vermont passed the first State law extending the absentee voting privilege to civilians. The law provided that a voter who presented a certificate showing that he was qualified to vote in his own town might vote for State-wide officers in any other town in the State. Kansas was the next State to follow the Vermont example with a law passed in 1901. The movement did not gain real momentum, however, until 1913, when five States passed laws on this subject. Since that time such laws have been passed by many States, and at the present time there is provision for some form of voting by absentees in every State except Connecticut, Indiana, and Kentucky. Connecticut has never granted the privilege of voting to any class of absentees, and the State of Indiana repealed its law at the 1927 session of the legislature. The Kentucky law of 1918 was declared unconstitutional by the supreme court of that State in 1921. The Pennsylvania civilian absentee voting law of 1923 was also declared unconstitutional by the State supreme court in 1925. In New Jersey the civilian absentee voting law was repealed in 1926. In four States—Maryland, New Jersey, Pennsylvania, and Rhode Island—the absentee voting privilege is restricted to those who are in the actual military service. The laws in the remaining 41 States vary in their major provisions as well as in detail.

On an average, nearly one-half of the voters of the United States fail to perform their civic duty as electors. The 12 States of the upper Mississippi Valley, known as the Middle West, make by all odds the best showing for any geographic section. The worst showing of any large State is made by Pennsylvania.

Part of the stay-at-home total should be charged to absentees. These include Federal and State officials and employees, Army and Navy men, students and traveling men, and citizens temporarily absent on business or travel. Most of the States have recently tried to overcome the loss of absentee votes by enacting absentee voting laws. But few of these laws are efficient in reaching the result desired, for the simple definite reason that the absentees are usually required to register in person in order to vote by mail. It may be as difficult for the absentees—for example, a citizen in Federal, civic, Army, and Navy service—to go to his home precinct to register, as to go there and vote. As a consequence, there is little question that at least 75 percent of the value of the absentee-voting laws is nullified by stringent registration laws. This loss appears to be unnecessary, and would seem to be easily remedied. When the absentee applies for a ballot to be sent to him 10 to 30 days before election by mail, he has to go before a notary and swear to all the requirements called for at registration, and this affidavit answers all the requirements of registration. Were the State absentee election laws amended and this preliminary affidavit recognized as a registration, the absentee loss would be heavily reduced.

The fact stands that the enormous stay-at-home vote of today is sufficient to change the results of the Presidential election in a vast majority of the States. The stay-at-home army of 30,000,000 can elect or defeat any candidate. If 10 percent of the stay-at-homes in "rock ribbed" States were colonized in "doubtful" States, they would decide any close national contest. Upon the ability and efficiency of National and State committees in mobilizing the stay-at-homes and absentees and converting them into active electors hangs many an election.

The stay-at-home and absentee vote has become in its immensity a national problem. It is a puzzle to all political parties. It is a subject which is everybody's business in general, and most vital and national in its consequences, but nobody's business in particular. Political parties and candidates do more or less to get out the stay-at-home vote. But there is a limit to their activities, namely, the enactment of increasingly stringent "corrupt-practices" acts limiting the expenditures involved in locating and transporting the "stay-at-homes" to the polls. It would seem that a Federal and State action of a more general character and a thoroughgoing national campaign is required to convert this dormant army into a live and patriotic citizenship.

Perhaps there is not very much that can be done from this end of the line other than agitate by way of petitions, etc., to the State legislature, which is now in session, to amend the law so all those temporarily staying or working in Washington may vote as the other States provide that their citizens may vote.

Of course, every State has a different form for absentee voters to fill out. They are all stated differently, according to the State legislature. Some have application blanks in duplicate; some are unofficial printed forms; some have a printed form approved by the State legislature, printed, and issued from the office of the secretary of state, which perhaps is about the best way.

I believe that you are the folks who can bring this thing to pass, and I congratulate you on your moving and active organization for that purpose. In conclusion—

"Long may a ballot pure proclaim
The Nation's righteous sovereign will,
Their highest thought and loftiest aim,
Their own high mission to fulfill.
Thus shall the ballot prove a guide
To point the way that should be trod,
And prove to them no less, beside,
The people's voice—the voice of God."

The Federal Judiciary

EXTENSION OF REMARKS
OF
HON. HERBERT S. BIGELOW
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, March 8, 1937

RADIO ADDRESS BY HON. ED. V. IZAC, OF CALIFORNIA, ON MARCH 5, 1937

Mr. BIGELOW. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered recently over the radio by the gentleman from California, Mr. IZAC:

My friends I feel the results of last November's election, destined to be a victory, not of one man nor of a group of men, but a victory for all the people—for an entire nation—may be nullified by the actions of those who are fighting our President in this time of gravest crisis: who are attempting to cheat the people of their birthright.

Steadily there has come to the people of this country the realization that all is not right in a world where old age is forgotten, where youth is denied its opportunities, and where maturity is deprived of its right to employment.

Even before 1932 it had dawned upon the people that there was an emergency demanding action by the Government. They looked around and found that business was stifled, labor was dormant, and misery and distress were rampant. But had they not a right to expect action by those entrusted with the direction of national affairs? And so they looked toward the Nation's Capital and waited—and waited for the help that did not come.

Almighty God has a way of encouraging His people when things look the darkest and when hope has all but vanished from the human breast. Another star was rising in the East and was soon to lead us out of the morass of inaction and despair.

I can read out of the results of last November's election but one conclusion: that the people are satisfied that under New Deal policies their rights have been protected and their liberties guaranteed. They are convinced that Franklin Roosevelt has kept the faith. They know he brought hope and opportunity to youth, confidence and work to business and labor, security and peace to the aged. And in so doing he has incurred the hatred of those who would despoil the people.

But let me ask, Were not all of his corrective measures directed toward the protection of the rights of the common people and thereby the continuance of representative government? Ah, yes, but just as the first step to consolidate these gains is proposed, the forces of reaction are marshaled against the champion of the people who had the vision and the courage to make these gains possible.

A babel of voices is beginning to be heard in which such words as "Constitution", "nullification", "usurpation" are used indiscriminately. I say to you, my friends, the usurpation had already taken place long before our era—the nullification has been made effective over a long period of years. Who is the usurper, I ask you, the man who courageously comes before the people, explains his aims and purposes, runs the gantlet of public opinion, and who by express vote of the people in a tremendous and unprecedented majority, receives the mandate to put those policies into effect? Or is the real usurper of powers not granted by the Constitution, mind you—isn't the real usurper the fifth in an oligarchy of nine, a majority of whom have been chosen from the ranks of corporation attorneys, given a job for life, and forever after exempted from the will of the people? Now which of these two is more likely to do the people's will—to give the people that kind of Government they desire?

They say checks when there is no check. They cry balance and there is no balance. They mouthe the words "sacred Constitution" when all the time they know the desecrators of that instrument have been more frequently found on the bench than in the White House.

They talk of dictators—and they profess fear—whereas we have a dictator today in the person of the fifth man of a 5-to-4 majority ordering and controlling the lives and destinies of 130 millions of people. No President of the United States ever had such a power as that; and no person on earth can convince me that the founding fathers ever gave or intended to give such a power as that to any judge or justice. But history is only repeating itself—the three greatest exponents of American democracy all had the same type of opposition in their endeavors in the cause of humanity.

Yes, they say Franklin Roosevelt disregards the Constitution. They said the same about Jefferson and Jackson. They say that Franklin Roosevelt is a dictator. Didn't they say the same about Jefferson and Jackson?

My friends, special privilege always implies to its enemies an intention toward the commission of some form of deviltry of which its own supporters are already guilty. They impute degraded motives because they themselves are guilty of having conceived and fostered these self-same motives, and their purpose in so doing is to deceive the people and to shield their own culpable practices and thus the more securely to entrench themselves in power.

So when they say the President is doing an unconstitutional thing, candor compels me to reply, "Yes; the Supreme Court surely is doing an unconstitutional thing." When they say the President usurps the powers of the judiciary, again I am forced to reply, "Yes; the judiciary is usurping the functions of the legislative and executive branches." When they say the President is nullifying the Constitution, I am again forced to reply, "Yes; it is true that the Supreme Court is nullifying the provisions of the Constitution and the express wish of the framers of that document."

Many say to me, "I believe in a system of checks and balances." My reply to them is, "So do I, and I believe the framers of the Constitution really wanted the Federal Government to operate under such a system. But it applies only to us in the Congress and to the Executive. It does not apply to the judiciary, without which application it ceases to be a system of checks and balances. If you really want such a system, you will join with us in any plan destined to bring this about."

O my friends, it's only a question of the point of view. Do you see these problems through the clear glasses of liberalism or through the opaque lenses of reaction?

Let us be fair and unbiased about this business of Government and not attempt to becloud the issue. As I view the President's plan, he feels that only by having on the bench some representatives of your and my generation can we have the proper conception and understanding and disposition of the problems arising in this generation—the generation of depression, of technological advance, of "human" rather than of "dollar" philosophy.

It is ridiculous to accuse the President of "packing" the Supreme Court. The Senate still has the right to pass on and reject appointees of his choice. And then there is the intervention of the human element on which no man can rely. I believe that the President in making this proposal, is simply showing his willingness to rest his case and the case of the people—yes; the very philosophy of the New Deal—on the decision of men representing age and youth rather than age alone; representing conservatism and liberalism rather than conservatism alone; representing property and humanity rather than property alone.

In a word, I believe he is willing to trust the solution of the problems of this day and age to the interpretation of just average Americans, but he is not willing to trust the solution of these problems to five reactionaries recruited from an age long since past and permit them to longer block the orderly processes of representative Government.

Contrast this wholesome and moderate and wholly constitutional attitude of the present occupant of the White House with the questionable tactics of some of his predecessors. Now, in the history of the Supreme Court the number of Judges has been changed six different times. Everyone admits that was constitutional. Permit me to ask if it is less constitutional to change the number in 1937 than it was 50 or 100 years ago. Furthermore, it may be timely to interject another thought at this point. Many historians contend that the only civil war this country has ever experienced was caused more by a Supreme Court decision than by the action of any occupant of the White House.

You elect the Congress every 2 years, your President every 4 years, and your Senate every 6. The result is an ever-changing concept of the ever-changing needs of the people. In fact, if these needs never changed, if Government were automatic, or if it failed in its true purpose, namely, caring for the people's welfare, or, still further, if we lived in a static world, all that we would need is a set of rules and a manager to enforce them. No Congress would be necessary, no Senate, no President. The very fact that this is a representative form of government presupposes its flexibility—enabling it to administer to the needs of the people in any situation and to be subject to the will of the people. If we could still read into the Constitution the thoughts of its framers, their intentions and their expectations, Congress could still legislate for the people's welfare.

The fault, I am inclined to believe, does not lie there. For this is one of the few "rights" expressly granted in the Constitution. And it is granted to whom? To the Supreme Court? Oh, no; to the Congress.

Long before the President sent his message on the judiciary, many of us in Congress had already discussed, exhaustively, the efforts that should be made and the plans that should be adopted to render more effective the will of the people. However, it seemed no matter which way we turned, we were always confronted with the likelihood that, regardless of the statute enacted, such statute would be declared unconstitutional by the Supreme Court if it deprived that body of any power whatsoever, even though this power were not expressly given to the Court by the Constitution, but only as a result of usurpation long since successfully practiced and consolidated. Many of us were impressed with the futility of our position in endeavoring to give to the people, our constituents, that kind of Government that they expressly seemed to demand.

As a last resort we considered a constitutional amendment, but could find the only need for such an amendment in the desirability of clarifying and reasserting the power of Congress which the Constitution already provides, contrary to the "opinions", if you please, held by unequal divisions in a group of nine, these being the "opinions" of a body not policy forming by any granted right, but a body permitting a question of law to degenerate into a question of whether my opinion is more right than yours.

My friends, make no mistake, the fruits of the people's victory are about to be snatched from our grasp unless we accept this way to fit the principles of democracy to the current needs of government.

Franklin Roosevelt, the greatest statesman this country has produced, after 4 years of wrestling with problems of government, finds himself still at issue with the forces of reaction and privilege. It is your duty and mine to give him our support. He has enlisted for the duration of the war. We can do no 'ess. The progressivism of the West, the culture of the East, both hang in the balance. Democracy, representative government, is at stake. Either you win government of the people for the benefit of all or you lose to government of a few for the benefit of themselves.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. M. M. LOGAN

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Monday, March 8, 1937

ARTICLE BY CHARLES S. COLLIER

Mr. LOGAN. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an article by Charles S. Collier, of George Washington University, published in yesterday's Washington Sunday Star, in relation to the proposal to reorganize the Federal judiciary. It is entitled "Three Trends Back Roosevelt Position."

There being no objection, the article was ordered to be published in the RECORD, as follows:

[From the Washington Star of Mar. 7, 1937]

THREE TRENDS BACK ROOSEVELT POSITION—FUNDAMENTAL CHANGES IN SOCIAL THOUGHT HAVE BEEN TRANSPIRING ALL OVER WORLD

By Charles S. Collier, George Washington University

The American public has accepted with enthusiasm the task of apportioning the blame for the emergence of the Supreme Court issue at this time.

But all schools of opinion seem to maintain that somebody is very much to blame. The typical citizen either condemns the President for willfully forcing the issue or else condemns the Supreme Court Justices for willfully maintaining a reactionary course in their recent decisions. Few are willing to examine the situation carefully enough to perceive that the clash which has caught the attention of the country was largely inevitable; that modern social policies do not readily harmonize with old and cherished legal traditions; and that the logic of the judicial position often leads judges into the political and legislative field, however much they may deny it.

The determination of the dividing boundary line between the field of politics and the field of law must always present an issue that can be settled only by the force of reciprocal pressure. Unless the judges, in anticipation of actual adverse pressure, will adhere to comprehensive principles of self-limitation and will voluntarily restrict their review of the activities of the political branches of the Government, under the guidance of common and practical statesmanship, along with inherited legal conception, there will necessarily develop a vigorous countermovement on the part of the political branches that may be characterized as an attack on the courts, or as self-defense against judicial attack, according to the view one may prefer.

POLITICS BEST STARTING POINT

The contemporary crisis can be best understood if we start from the political standpoint. President Roosevelt has advocated a great variety of legislative measures which have extended close to the limits of Federal legislative authority as historically understood, or else have exhibited features that may be called socialistic, that involve the curtailment of historically established property rights. The President and his supporters feel that the legislative policies in question are very urgent. They find it difficult to submit with complacency to the destructive activity of the courts in winnowing out legislation deemed by the conservative and legally trained mind to be violative of constitutional limitations. The judicial blockade on the basic Roosevelt policies has been so far reaching that he has finally felt impelled to attempt to break down the judicial barriers.

To understand and appreciate President Roosevelt's political position, it is necessary to recognize that the measures which are lumped together under the popular designation, "the New Deal", have not been hatched up out of overactive imaginations, and do not represent the arbitrary workings of a few individual minds. They are the outcome of fundamental social and economic tendencies which have been in operation all over the world, and not merely in the United States. These trends in public opinion were in operation before President Roosevelt took office. They appear to be permanent factors in the political scene which any statesman must recognize and deal with.

THE SOCIALIZING TENDENCY

The first of these fundamental trends in public opinion is what may be described as a general socializing tendency—that is, a strong trend toward increased social solidarity. The term "socializing" is preferable to "socialistic" in this connection because the actual course of public opinion in the United States on this subject is determined by practical considerations and by experience. It is the reverse of "doctrinaire" and has no historical affiliation or spiritual sympathy with the doctrinaire systems of Marxian socialism. It cannot be denied that the citizens of 1937 are vastly more inclined to rely upon governmental aid and governmental activities than were their ancestors of two generations, or even one generation, ago. It is noteworthy that the New Deal has made an especially strong appeal to young people of both sexes, and this indicates that the socializing trend is to be continued in public opinion in the future. Whatever may be the faults of the modern age, it is not, as compared with other historical periods, deficient in philanthropy, nor in constructive effort for the benefit of the less fortunate classes of society. There is today a widespread belief that good social engineering, guided by common sense, and a liberal and generous attitude on the part of those who control the distribution of wealth, would produce greatly increased opportunities for all. Men of today desire intensely the "abundant life" and seek to attain it through governmental aid and governmental support, rather than relying exclusively on individual effort. Those who refuse to recognize the reach and power of the socializing trend in contemporary thinking in the United States, as well as in many other countries, are simply lacking in realism, and reveal thereby that they prefer fancies to facts.

SECOND TREND MORE RECENT

The second powerful trend is of more recent origin, but yet bids fair to be a permanent part of the political thought of the Nation. It is due to the experience of the depression itself. It is the widespread distrust of the old money-making regime that has been favored in our political and social policy ever since the establishment of our national independence. We have had panics and depressions before, but never before has public opinion taken them so seriously, never before has it resolved that, if possible, depressions shall be avoided in the future, cost what it may. The main distinction between present-day opinion and that of earlier generations on this point is that people today have more faith in the efficacy of effort and believe that adequate social planning can at least minimize the effects of depressions and forestall by appropriate preventive measures their initial violence. But to accomplish this objective seems to call for governmental interference with the upswing of prosperity, and for checks on speculation and individual profit-making activities of many sorts. The mass of the people seem quite willing to pay this price. There is a powerful recalcitrant minority, but the main trend of contemporary thought is in favor of comprehensive measures, "socialistic" though they may be, and inimical to property rights though they may appear, as only thus can the recurrence of serious depressions with widespread unemployment, social maladjustment, and individual suffering be prevented.

NATURAL RESOURCES IN DANGER

The third trend in modern opinion is the output of the belief that our great natural resources are in danger of premature

exhaustion through wasteful practices which have become established under the regime of free individual effort. The deposits of coal, oil, natural gas, and minerals have been exploited with all too great success. There has been an excessive competition in production, leading to overproduction and the crudest forms of waste. We have today a guilty feeling that we have been acting like clumsy children in exhausting our unique fuel deposits in order to accomplish results that could have been attained without so much consumption of irreplaceable natural wealth. Similarly, the destruction of our forests and the depletion of the soil through the erosion of streams, large and small, is now felt to be an inexcusable waste of the cosmic placental organs that enable mankind to draw sustenance on this rocky and infertile globe. If the best of our topsoil is to be washed into the salt water, it seems clear that the men of America cannot be supported on their present level of living by the sustenance that can be grown on the sandy and barren areas that will remain.

This question of the conservation of our soil, our fuels, our forests, and our water supply strikes the modern-minded man as vastly more important than any constitutional or legal question whatsoever, and he is impatient with the legalities which have prevented very largely the inauguration of proper conservation measures up until the present time.

In a very broad way, we may say that the New Deal is an attempt to satisfy the demands of the three trends in public opinion that have just been sketched. The New Deal measures have a marked socializing tendency, aiming for example, at the maintenance of comfortable living on the farms, the protection of the great masses of laboring men, and the regulation of finance and industry to prevent speculative losses in the savings of the people, and to prevent industrial developments that for one reason or another seem socially undesirable.

INSURANCE SOUGHT

Then again, the New Deal attempts to find the means by which the recurrence of depressions can be avoided or minimized. It therefore seeks to provide insurance against unemployment, to limit speculative abuses, to stabilize prices by comprehensive policies calling for perpetual governmental interference with markets, and to increase the buying power of the masses through higher wages and increased mass production. Lastly, the New Deal has very broad, though somewhat shapeless, projects for the conservation of our natural resources. It may be fairly said that some of the most notable difficulties in connection with these plans are legalistic. They are caused by the baffling division of legislative power between the Nation and the States, and by the fact that permanent public administration of our natural resources will exhibit inevitably a "socialistic" and bureaucratic character.

All of the above classes of legislative measures trench upon individual liberty in the field of economic effort. It may be remarked parenthetically that they do not limit personal freedom in "the pursuit of happiness" in any significant way, except in the field of economic relations. But they limit the businessman in his familiar profit-making activities. They involve enormous costs which through taxation fall largely upon accumulated wealth, though the masses of the people also have to bear part of the burden. But the main thing to notice is that all three of the above trends are here to stay. They are deep and fundamental trends. They were not created by President Roosevelt. They are not confined in their operation to the United States. They have exhibited a tendency to grow and become more urgent in their demands upon governmental officials. They cannot be abolished or checked permanently by any number of judicial decisions. The position of the judges with relation to these trends is very much like that of King Canute in the too familiar story which describes him as attempting to sweep back the approach of the tides and the waves of the ocean.

TRENDS HELD ALL POWERFUL

The obvious conclusion which the practical politician, as distinguished from the legalist, draws from the situation above described is that these great trends in contemporary public opinion must prevail, more or less imperfectly, sooner or later, and it is thought by many that the sooner the newly perceived objectives are measurably achieved the more satisfactory will be the consequent political and social adjustment. Since the legalistic efforts to preserve the old system of social organization and of business activity in its entirety cannot be ultimately successful, it seems to the practical politician that the efforts of the courts to stay the advance of the socializing trend are sure to produce nothing but confusion, waste of energy, and bitterness. The obvious conclusion, from the viewpoint of the practical politician, is that the courts should retire or be retired from the field of political conflict, and should allow the socializing and nationalistic tendencies manifested in recent legislation to attain their objectives without judicial hindrance.

The fundamental problem which confronts the statesmen of the country at the present juncture is one of reconciling the views of the judges as to the constitutional traditions, with the imperative requirements of contemporary public policy, as formulated by the dominant politicians of the day. The possible ways in which this reconciliation might be effected will be discussed later.

Victory Day

EXTENSION OF REMARKS

OF

HON. CARL A. HATCH

OF NEW MEXICO

IN THE SENATE OF THE UNITED STATES

Monday, March 8, 1937

ADDRESS BY HON. DENNIS CHAVEZ, OF NEW MEXICO, AT THE VICTORY DAY DINNER AT STAUNTON, VA., ON MARCH 4, 1937

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by my colleague [Mr. CHAVEZ] on the occasion of the Victory Day Dinner at Staunton, Va., March 4, 1937. The address does not relate to reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Toastmaster, ladies, and gentlemen, it is usually expected of a visitor to any beautiful section of the country that he will, before passing on to the main subject of his address, pause to pay tribute to the gallantry of the male inhabitants, the beauty of the feminine residents, and, of course, the incomparable loveliness of the country in which he happens at the moment to find himself.

I hesitate, however, to follow this stereotyped pattern of approach in such a place as Staunton, for the greatest orators of our country have praised, since the foundation of this Nation, the beauty of Virginia's women; the greatest historians of our national story have written glowingly of the courage, culture, and public spirit of the Virginians; and insofar as Staunton itself is concerned, how may I hope to exceed by any phrases of my own those with which the greatest of our immortals, George Washington, praised this city.

He must indeed have experienced something of the hospitality with which I have been met when he wrote to Sir John Sinclair in 1736:

"The western part of Virginia, more especially above the Blue Mountains, in my opinion, will be considered, if not considered so already, as the guardian of America; for as much as it lies between the two extremes of heat and cold, partaking, in a degree of the advantages of both, without feeling much the inconveniences of either, and, with truth may it be said, is among the most fertile lands in America east of the Appalachian Mountains."

Of course it will not be forgotten that Elihu Burritt, of Massachusetts, a century later, could not forebear to break into ecstatic praise, as visitors to this part of Virginia have always done, even if they come from the rich beauties of New Mexico itself, over the gorgeous inspiration of the Blue Ridge Mountains and particularly the valley of the Shenandoah.

If, on this occasion, anything whatever may be added to fill the cup of praise which the citizens of this Nation have unceasingly offered in honor of your State, it is perhaps the contribution which this State has made to the continuance of those democratic forms of government which, it may almost be maintained, had their political origins in the persons of your statesmen.

The great Revolutionary figures of Patrick Henry, the Lees, and Washington himself have achieved immortal inspiration for those of us who today through the great political party whose victory we celebrate here tonight, have carried the torch that was fired by their patriotism.

We who are not of Virginia may on this occasion congratulate ourselves at least that we were with Virginia; and we may express the certain hope that as the great party whose principles we maintain grows in responsibility and prestige, it will ever remain, as it has ever been, a forum in which the voice of Democrary, which has not the voice of a single leadership, causes action to spring from the people through leadership.

In that sense, of course, what we celebrate tonight is really more than a victory of party; it is a victory of the people by and through the great party the leadership of which under Franklin D. Roosevelt has led us into a definite prosperity and into a determination that the gains of the people by their political victory shall not be diminished nor invalidated now or at any time in the future.

This, the victory we celebrate tonight, finds itself in an appropriate setting. For in the growth and progress of the democratic ideal there must be no lack of praise and gratefulness for the role that the southland played in the history of the Democratic Party. Those sterling statesmen of bygone days, the enunciators of the philosophic conceptions of government whose

basis rests on the immutable nature of man himself. Jefferson enunciated the doctrine of the superior importance of human rights over all others. It remained for the Democratic Party to adopt and maintain these principles throughout these hundreds of years, forming the foundation for the human, kind, and charitable administration whose wisdom and sincerity was so appreciated by the people that we are celebrating that acceptance and vote of confidence this night.

But once more, I must pause and pay tribute to Dixie. Had it not been for the loving hand, which, in spite of opposition and the bitterness of defeat after defeat, those ideals of Jefferson and Jackson would have long since perished. The southland in its wisdom nurtured the sapling; cultivated it until it grew into the mighty tree under whose shade the suffering humanity of America found peace.

I recall with pleasure and with no little pride that in 1932 a great political party held its convention. It presented to the people of these United States two great leaders. It was not the Liberal Party, it was not the Progressive Party, it was not the Farm-Labor Party, it was not the Republican Party, it was the Democratic Party that nominated the social-minded heir of Jefferson, Franklin D. Roosevelt.

And on that memorable election of 4 years past the American people rose up in mass and demanded that America restore her democracy. Quoting from the speech delivered by President Roosevelt in New York on October 31, 1936: "In 1932 the issue was the restoration of American democracy."

The bleeding, despairing heart of America reached out like the hand of a drowning man for the sole remaining plank of hope. Not men, not leaders, not thoughts of further waiting for the circumangular prosperity just around the corner; none of these offered solace. Recall the millions of browbeaten, oppressed workers, employed at wages barely sufficient to keep body and soul together; those millions of humanitarian Americans whose very souls revolted at the thought of American womanhood draining her life in a sweatshop, or the thought of little children denied the right to which they are entitled by the law of God merely because they must emaciate their bodies through the greed of heartless employers; remember the youth of our country, competent, qualified, prepared, but hopelessly lost with no other pursuit than the byways of the land. We saw the slow decay of the basic unit of our social system with farm and home going under the hammer; the great essential of our economy, the farmer, working and toiling and harvesting despair; industry and business saw its ledgers written in red.

Despair was the prevailing note of the day. But in the hearts of all these was instilled a conviction. The doctrine of Jefferson was right. Those suffering millions in 1932 united and threw out the see-nothing, hear-nothing, and do-nothing complacency of Republican doctrines.

Well placed was that confidence and trust. Under our great leader, with the assistance of a Democratic Congress, social legislation long due was successfully sponsored and made into law. The suffering masses of our Nation had at last found their true champion, the friend that understood these problems and fought to remedy them was the Democratic Party.

Again last June another convention was held; this time it was held in Philadelphia, where the immutable principles for which the party stands were first chartered. The party again presented its leadership to the American electorate. It said in substance: "We give you Roosevelt; we give you our party record." An alert electorate was asked, "Do you approve?" The answer came like the blast of the trumpets that leveled the walls of Jericho. That victory was glorious, not because it was won by the superior stratagem of our organization—and to this no little credit is due—but because the liberal principles of Jefferson, the friend of the common man, had won the stamp of approval of the American people.

We, the members of this great party, can take pride in the fact that the ideals which we alone have cherished for many years are now the common property of a Nation.

You, the younger members of the party, should not be backward in claiming a share of the glory of this occasion. Victory was also due to the unswerving vision and practical efforts of the Young Democrats of America. And, if further proof is asked for the eternal universality of our doctrine, what better evidence than the fact that, though age old, it finds ready reception by the youth of today.

We in Congress are often asked what is going to be done in this-and-that regard. My answer to this is—there is a Democrat in the White House. The Congress is overwhelmingly Democratic. We can then expect in the future the championship of human rights, of the under dog, of the common man. We shall seek an improvement in the working conditions of labor—reduction of hours; increase in wages; economic security; abolition of sweatshop and child labor.

There will be a continuation and extension of efforts in behalf of the farmer. There will be initiated a national program calling for the improvement of living conditions on the farm and in the home. Housing projects will be inaugurated, calling for the abolition of the great blot on our record, the slums of our cities. Steps may be expected toward sounder financing, conservation of our rapidly depleting water, soil, and mineral resources.

That is what it means to have democracy in the land. That is why so many of us faced with pride our constituents last fall bearing the label of Democrats.

This is why I do not care to be called a Liberal, a Progressive, or a New Dealer, or anything else. These objectives represent nothing more than the living representation of the Jeffersonian ideal.

I call your attention with pride to the fact that it has been the Democratic Party that since its inception preserved the practical manifestations of the philosophic conceptions of democracy as such. Last fall it was the "rubber-stamp" Congress that the American people were asked to defeat. However, it is the Democratic Members of both houses of Congress who are courageously voicing their convictions that it is unwise to add more judges to our Supreme Court. By paradox, strangely enough, through an expression of their opinions these Democratic Senators and Congressmen demonstrate to the world the utter absurdity and asinine ridiculousness of those unkind opponents of the President's proposal who shamelessly hurl against him the charge of dictator.

We as Democrats, irrespective of our stand on this issue, can pride ourselves that of all our statesmen who are attacking the proposal, none have doubted our great leader's sincerity. None fear abuse on his part should he be entrusted with the appointment, with the advice and consent of the Senate, of additional judges. They do not fear a Democrat in the White House. It is future abuse that they fear.

Returning once again to this banquet and its purpose, may I again remind you that our joy is enhanced by the knowledge that our party retains, as always, its obligation to preserve constitutional democracy, that it preserves and keeps alive the traditions and ideals of its founders, that it senses and assumes the responsibility of leading the way toward the social and economic betterment of the masses.

There is cause to rejoice, but there is also cause to progress, and as we joy tonight in the establishment of a broader basis of the people's rights, let us look forward with confidence, not merely hope, to the next great victory which we know must come through eternal vigilance to the organization of the Democratic Party in this and in all the 46—I beg pardon—48 States of the Union.

Woodrow Wilson on the Supreme Court

EXTENSION OF REMARKS

OF

HON. HAMILTON FISH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 1937

ARTICLE BY WOODROW WILSON

Mr. FISH. Mr. Speaker, under leave to extend my remarks I include an article by former President Woodrow Wilson on the Supreme Court, taken from his Constitutional Government in the United States and published in the New York Sun of March 6, 1937.

This article expresses the views of Mr. Wilson regarding the duties, powers, and the place in our Government of the Supreme Court, with particular reference to "the preservation of the liberty of the individual and for the preservation of the integrity of the powers of the Government." He further states that "The constitutional powers of the courts constitute the ultimate safeguard alike of individual privilege and of governmental prerogative. It is in this sense that our judiciary is the balance wheel of our entire system; it is meant to maintain that nice adjustment between individual rights and governmental powers which constitute political liberty."

The article is as follows:

Our courts are the balance wheel of our whole constitutional system; and ours is the only constitutional system so balanced and controlled. Other constitutional systems lack complete poise and certainty of operation because they lack the support and interpretation of authoritative, undisputable courts of law.

It is clear beyond all need of exposition that for the definite maintenance of constitutional understandings it is indispensable, alike for the preservation of the liberty of the individual and for the preservation of the integrity of the powers of the Government, that there should be some nonpolitical forum in which those understandings can be impartially debated and determined. That forum our courts supply. There the individual may assert his rights; there the Government must accept definition of its authority. There the individual may challenge the legality of governmental action and have it judged by the test of fundamental principles, and that test the Government must abide; there the Government can check the too aggressive self-assertion

of the individual and establish its power upon lines which all can comprehend and heed.

The constitutional powers of the courts constitute the ultimate safeguard alike of individual privilege and of governmental prerogative. It is in this sense that our judiciary is the balance wheel of our entire system; it is meant to maintain that nice adjustment between individual rights and governmental powers which constitutes political liberty.

NOT AS LAWYER THINKS BUT AS THE CITIZEN THINKS

I am not now thinking of the courts as the lawyer thinks of them, as places of technical definition, and business adjustment, where the rights of individuals as against one another are debated and determined; but as the citizen thinks of them, as his safeguard against a too arrogant and teasing use of power by the Government, an instrument of politics—of liberty.

Constitutional government exists in its completeness and full reality only when the individual, only when every individual, is regarded as a partner of the Government in the conduct of the Nation's life. The citizen is not individually represented in any assembly or in any regularly constituted part of the Government itself. He cannot, except in the most extraordinary cases and with the utmost difficulty, bring his individual private affairs to the attention of Congress or of his State legislature, to the attention of the President of the United States or of the executive officer of his State; he would find himself balked of relief if he did by the laws under which they act and exercise their clearly specified powers.

It is only in the courts that men are individuals in respect of their rights. Only in them can the individual citizen set up his private right and interest against the Government by an appeal to the fundamental understandings upon which the Government rests. In no other government but our own can he set them up even there against the government. He can everywhere set them up against other individuals who would invade his rights or who have imposed upon him, but not against the government. The government under every other constitutional system but our own is sovereign, unquestionable, to be restrained not by the courts but only by public opinion, only by the opinion of the Nation acting through the representative chamber. We alone have given our courts power to restrain the Government under which they themselves act and from which they themselves derive their authority.

And this is not merely because our constitutional understandings are explicitly set forth in written documents which the courts must regard as part of the body of law they are charged to maintain and interpret—the chief and fundamental part to which all other parts must give way; for a very important part of the constitutional understandings upon which the English Government rests is written in Magna Carta and in the great Bill of Rights, and yet the English courts have no authority to check the law-making organs of the government even though they override Magna Carta and the Bill of Rights in the statutes which they enact.

WHY WE DIFFER FROM ENGLAND

No doubt the definitions of Magna Carta and of the Bill of Rights lie at the foundation of all government and of all individual privilege in England, and if any statute of doubtful interpretation were brought before an English court which seemed in contravention of rights clearly stated in those documents, the court would interpret it in accordance with the terms of those revered instruments of liberty; but if a statute should in plain terms ignore the definitions and restrictions even of Magna Carta and the Bill of Rights, I understand that the court would be obliged to enforce it. Parliament is sovereign and can do what it pleases. Only the opinion of the nation can check or restrain it. Only repeal can set an obnoxious statute aside. No government is more entirely governed by opinion than the Government of England, but it is governed by the general opinion of the nation, not by the particular opinion of the courts.

That is not because the English courts have been less interested than our own to maintain individual rights and liberties or less liberal in their interpretation of individual privilege. No courts have been more liberal or more disposed to safeguard private privilege. The common law of England has, more than any other law, been a mirror of opinion and of social adjustment and has been made in its development to fit English life like a well-cut garment. Time out of mind English judges have liberalized and broadened it by reading into it good principle and enlightened opinion. There are some notable old cases in the English law reports in which the judges declare all principles of right reason and of humanity to be parts of the common law of England without precedent. But there is no fundamental law susceptible of interpretation by the courts which defines or limits the powers of Parliament. Magna Carta and the Bill of Rights define the rights of individuals as against the crown, but not as against Parliament, not as against those whom the nation has authorized to make its laws. Upon them no document which the courts can read or elucidate as law places any restraint. The courts must enforce whatever they enact. The powers of our law-making bodies are, on the contrary, very definitely defined and circumscribed in documents which are themselves part of the body of our law, and the decisions of the courts interpreting those documents set those law-making bodies their limits.

A VERY PLAIN INFERENCE OF THE COURT'S POWERS

To us this power of the courts seems natural, not only but of the essence of the whole system; but it is in fact extraordinary and has been looked upon by not a few of our foreign critics with unaffected amazement. And they have been the more amazed because they did not find this extraordinary power conferred upon our courts in any part or sentence of our fundamental law. "The judicial power of the United States", so run the quiet sentences of the Constitution, "shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish" and "shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority." It is only an inference drawn by the courts themselves that "the laws of the United States and treaties made under their authority" shall be tested by the Constitution and disallowed if they lie outside the field of power it has granted Congress and the President—a very plain inference, no doubt, but only an inference; an inference made upon analogy, drawn out of historical circumstances and out of a definite theory as to the origin of our Government.

There was never any sovereign government in America. The governments of the Colonies were operated under charters granted by the English Crown and could legally exercise no powers which those charters did not confer. If they exceeded those powers, the King could annul their acts, and the King's courts could declare their charters forfeited. The same principle and practice still obtain with regard to the powers of the chartered English colonies. The Constitution of Canada is "the British North America Act", an act of Parliament, federating the several Provinces, giving each its legislature and its separate field of law and setting over all the Governor and Parliament of the Dominion. Anything done either by the Government of the Provinces or by the Government of the Dominion in excess or contravention of the terms of the British North America Act is null and void and can be so treated by the courts of the Dominion itself, though an appeal lies in all cases of such consequence to the Judicial Committee of the Privy Council in England, a court of the sovereign power.

The sovereign power now set over us is the people. When the authority of the crown lapsed by revolution, they assumed it. For colonial charters they substituted their State constitutions, to which they presently added the Constitution of the United States. Their sovereign grant of power can no more be exceeded than can the grants of the sovereign King of the older day or the sovereign Parliament of our own time. Statutes must conform to the Constitution and are null and void if they do not. Our constitutions are comparable, say Professor Dicey and Mr. Bryce, to the charters of great corporations, our statutes to their bylaws, our treaties to their contracts. No bylaw or contract made by them will be upheld by any court if in contravention or excess of their charter powers. Any English-speaking lawyer would have reasoned the matter out as we have reasoned it out.

Nonetheless, plain inference though it be, this power of our courts renders our constitutional system unique. No other constitutional system has this balance and means of energy—this means of energy for the individual citizen. The individual citizen among us can apply the checks of law to the Government upon his own initiative, and they will respond to his touch as readily as to the touch of the greatest political officer of the system. More readily, indeed, for the courts will not hear abstract questions. Some concrete and tangible interest, involving the right of some particular individual or corporation, must be implicated, and implicated in some form which makes a legal inquiry and remedy both necessary and possible under the ordinary rules of suit and procedure. They will not take the question up otherwise, and an individual citizen is a more natural and usual party to such an inquiry than an officer of the Government. An officer of the Government cannot be a party to a suit in his official capacity except as he represents some claim or defense of the Government itself.

INSTRUMENTS FOR PROTECTION OF THE INDIVIDUAL CITIZEN

The rights of the individual touch the subject matter of the law at a thousand points, and he may in mere controversy with his neighbor call in question rights which his neighbor professes to exercise under the authority of acts of Congress. No officer of the Government need be or can be a party to such a suit; the Court is adjudicating private rights and will not hesitate to set an act of Congress aside if it invade those rights in contravention or in excess of the powers granted Congress in the Constitution.

Only by slow and searching labor have the courts been able to keep our singularly complex system at its right poise and adjustment. It has required a long line of cases to thread its intricacies and afford the individual a complete administration of its safeguards. It is a system of many counterpoises and prescriptions. First, there are the restrictions placed upon our Government in respect to the powers they can use upon the individual. Congress can exercise no powers except those explicitly or by plain implication conferred upon it by the Constitution. And there are certain things which it is explicitly forbidden to do. The privilege of a writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion public safety may require it.

"No bill of attainder or ex post facto law shall be passed." The powers not granted to Congress remain with the States, but certain powers are denied the States by their own constitutions, some by the Constitution of the United States. "No State shall enter into any treaty, alliance, or federation; grant laws of marque or reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law or law impairing the obligation of contracts, or

grant any title of nobility", is the language of section X of the first article of the Constitution. And added to the restrictions placed upon State and Federal Governments by the Constitution of the United States are the still more complex and numerous limitations imposed upon the States by their own constitutions. All these, from whatever constitution drawn, the courts must interpret and enforce. In respect of all of them the courts are instruments for the protection of the individual.

Besides these definitions and restrictions, which partake of the nature of a Bill of Rights, our constitutions apportion power between the States and the Federal Government, and that apportionment the courts must assist to make definite and secure. They apportion powers also to the several parts of our State and Federal Governments, the Executive, the legislature, and the courts themselves, and this apportionment also the courts must define and maintain.

It is thus that they are the balance wheel of the whole system, taking the strain from every direction and seeking to maintain what any unchecked exercise of power might destroy. They are at once instruments of the individual against the Government, of the Government against the individual, of the several members of our political union against one another, and of the several parts of government in their legal synthesis and adjustment. No wonder De Tocqueville marveled at the "variety of information and excellence of discretion" expected of the American citizen by the constitutional system under which he lives. All these things he may sooner or later find himself obliged to call upon the courts to adjudicate and keep at their right balance for his sake, that the terms of his partnership with the Government may be strictly and righteously observed.

NOT WARD OF GOVERNMENT BUT HIS OWN GUARDIAN

It throws upon him a great responsibility and expects of him a constant and watchful independence. There is no one to look out for his rights but himself. He is not a ward of the Government, but his own guardian. The law is not automatic; he must himself put it into operation, and he must show good cause why the courts should exert the great powers vested in them. They will not allow the validity of any statute or treaty or of any act of the Government to be called lightly in question or drawn unnecessarily under discussion. He must show that, in order to determine definite, concrete rights of his own which are in dispute between himself and his opponent in litigation, it is necessary that the courts should answer the question he raises as to the validity of what the Government has done or attempted; not drawing them on to an abstract thesis but bringing them face to face with an actual question of law.

If it lies in his direct way to do that, it makes no difference in what court he raises the question. It need not be the Supreme Court of the United States or the highest court of the State in which he brings suit. Any court can adjudicate the question of the constitutionality of the acts of the Government if it has jurisdiction over the general subject matter of the case in which the question be raised. The dignity of the question does not alter the jurisdiction. Of course, constitutional questions of capital importance are very likely to be carried sooner or later to the Supreme Court by processes of appeal, but they may originate in any court of any grade and belong not to the extraordinary but to the ordinary processes of adjudication. It may fall in the way of any court in the ordinary administration of justice to compare bylaws with charters, statutes with constitutions, the subordinate parts of the law with the ultimate and fundamental parts, the acts of the Government with their legal norms and standards.

The same jurisdiction would no doubt spring up in England were the rules of the British Constitution to be reduced to writing and put upon the footing of Magna Carta, were the authority of Parliament to be limited and defined by charter as the authority of the crown has time out of mind been. For English legal practice is the same as American. American practice was derived from it.

In England, as in America, the individual citizen is bidden take care of himself, not only against his neighbor but also, if he can, against the Government. In England, as in America, an officer of the law ceases to be an officer of the law when he acts in excess of his authority. He may be fined or imprisoned or executed as any other man would be if he oversteps the limits of his warrant and authority and do things which he has no right to do. He has no authority but that which is legal and for which he can show rightful warrant.

But it is not so in any other country. In every other country an officer of the government is an officer whatever he may do and cannot be haled before the ordinary courts. He will be restrained from doing illegal things but only by his superiors, to whom injured persons must complain, or by special administrative tribunals provided for the purpose, before which the individual may cite him. No superior officer, no administrative court, will handle a complaint against him as an ordinary court would handle a suit or indictment. The offense charged will be looked at from the point of view of administrative officers as a public indiscretion rather than as a private wrong; great latitude will be allowed an officer of the law if he profess to act in the public interest and cannot be shown to have acted in malice. The atmosphere of the inquiry is the atmosphere of authority, and the discipline applied will be the discipline of a corps, not the judgment of an ordinary court against a breaker of the law. Citizens are subjects, not partners, of the Government. It is against the whole spirit of our policy, on the contrary, that we should be running to the Government with complaints. Our practice is built upon individual rights, and the individual is freely given the means to take care of himself in courts which are his own no less than they are the Government's. The courts are meant to be the people's forum, open to all who wish the law determined.

The Constitution and the Supreme Court

EXTENSION OF REMARKS
OF
HON. PAUL J. KVALE
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 1937

RADIO ADDRESS BY HARRY L. HOPKINS, ADMINISTRATOR OF THE WORKS PROGRESS ADMINISTRATION, MARCH 1, 1937

Mr. KVALE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by Harry L. Hopkins, Administrator of the Works Progress Administration, over a Nation-wide hook-up of the National Broadcasting Co., from Washington, D. C., on Monday, March 1:

I have come on the air tonight to ask the people of America to look, in a common-sense way, at the President's proposal concerning the Supreme Court.

Perhaps you wonder why I see fit to speak on this question. I am not a lawyer. But I am the man who directs the spending of more public money than anybody else in the Federal Government. Because the Works Progress Administration is charged with the primary responsibility of helping those people who are suffering because of the great economic changes which have come about in this country, I probably hear more about the misery and the heartaches of the American people than anybody else. My business is to try to find jobs for the unemployed—the kind of jobs that will jerk good citizens back from the brink of despair, sharpen their skill, boost their spirits, and set them on the road back to self-reliance again.

My agency, along with a dozen others, is trying in every conceivable way to find the road back to private jobs for millions of good Americans willing and able to work. It's a tremendous and complicated task. It needs all the brains and understanding and open-minded helpfulness that the country can muster.

It is a plain fact at the present time that unless the complexion of the Supreme Court can be changed, two or three elderly judges living in cloistered seclusion and thinking in terms of a bygone day, can block nearly all the efforts of a popularly elected President and a popularly elected Congress to correct these ills.

I choose to talk on this question because I don't like to keep coming to the President and the Congress asking for another large sum of money. I'd like to see every man and woman who possibly can be given the maximum chance for a private job. The Congress of the people will continue to pass the kind of laws that provide such opportunities. It has done so repeatedly. But a few judges of the Supreme Court have decided that such laws shall not be put into operation, and from their decision there is no appeal.

I am in this argument because I feel that the well-being and the hope of millions of people that my agency is trying to help is definitely at stake. Indeed, the question is vital to every one of us, because the Court's decisions affect our lives in a thousand ways, and it is a simple question which we can think through for ourselves without delegating the decision to lawyers. I suspect that a great many people feel a good deal like I do about some lawyers. Many of them are experts in confusion. They have a professional trick of taking the simplest problem and making it complicated by their whereases and long Latin words. The result is that people often get bewildered and feel that only lawyers can find the answer.

Today the average man knows what the country needs. So do Congress and the President. Congress has passed laws providing for unemployment relief, drought relief, minimum wages, aid to the farmers, old-age pensions, and other necessities. At the election last November, the great majority approved those laws. But a bare majority of the nine judges on the Supreme Court have said all those laws were no good and could not be enforced—because the Constitution made them bad. Now, there is not a line in the Constitution that declares them bad; five or six of the nine judges of the Supreme Court merely say that the Constitution makes them bad. That's what causes those laws to be thrown overboard. The margin of differing opinion within the Court is often very slight. If two or three of the nine judges had voted the other way, then the decisions would have been five to four or six to three in favor of those laws; they would have been held constitutional, and we could have had what we want and need. So two or three judges made those decisions which deprived us of laws we must have, if our lives are to be endurable.

Let's get down to brass tacks. Chief Justice Hughes said once that the Constitution is what the judges say it is. Within the last few years this has meant that the Constitution is what two or three men say it is. And Mr. Justice Stone told us last year that those gentlemen, in so saying, were following their own personal prejudices. What does that mean? That 130,000,000 people are being governed by the personal prejudices of two or three men.

Is that democracy? Isn't it just plain nonsense to say that democracy is endangered because the President wants to put a stop to the killing of popular laws by two or three judges?

Yet there are those who say that, when the President proposes that Congress should do something to neutralize the power of those few judges, he is starting on the road to dictatorship. One ounce of horse sense in your thinking will dispose of that absurd statement. Think of all the dictators in history—past or present. What's the first thing they try to do? To curb and stifle the legislature—the parliament or congress elected by the people. It is the essence of dictatorship to oppose parliaments and congresses. For those popularly elected bodies are the chief instruments of democracy; dictatorship and a popularly elected congress are at opposite poles.

But the President, in his proposal, is not trying to throttle Congress. Instead, he seeks to strengthen democracy by restoring to Congress the powers of which it has been increasingly deprived these last few years by a majority of the Supreme Court. He is striving, in that way, to keep the Court from thwarting the desires of the great majority of our people. The Court (or rather two or three particular men) have been saying to Congress, "You can't do this", or "you can't do that." They have been like a traffic policeman who knows only how to stop traffic, who has lost his green light and always puts up a red one.

It is the present majority of the Supreme Court who have been exercising dictatorship—a negative one, perhaps, but a dictatorship none the less. The President is trying to diminish the rigors of that negative dictatorship. There is nothing of the dictator in that.

A leading lawyer, the president of the American Bar Association, said the other day that the Supreme Court has always protected the common man, and that that is its function. How can anybody make such a claim? The Court plainly has been upsetting laws passed for the benefit of the common man. I know that the Supreme Court last year, when it killed the A. A. A., struck a direct blow at what millions of ordinary farmers wanted, and that it said the Constitution would prevent the Federal Government from doing all those other things which in a period of crisis it must necessarily do. Naturally, I was particularly interested because, according to Mr. Justice Stone, who disagreed, the views of the majority of the Court meant that work relief and practically every other intelligent kind of relief for the unemployed which the Federal Government has used since 1933 would be held unconstitutional. Mr. Justice Stone said that, according to the majority, the Federal Government can give away money on the theory that it is helping the general welfare, but it can't do a single thing to see that the money is actually used for the general welfare. Even the lawyers admit that if Mr. Justice Stone is right (and he was good enough to be President Coolidge's Attorney General), then most of the United States Government's activities in connection with drought relief, work relief, and all the other things that my part of the Federal Government has been engaged in, may some day soon be stricken down by the Court. And I know, from the thousands of tragic letters that come to us every day, what this means to the country.

The Supreme Court has already killed off minimum wages and collective bargaining; and its opinions threaten all intelligent efforts to prevent the washing of the soil into the ocean (that soil from which we get our food) and the most effective methods of stopping our terrible floods.

In other words, because a slight majority of nine men have been too far removed from the shock of the depression and from current needs to understand what life is like for the ordinary man in these United States today, they are bent on paralyzing our Government and preventing the overwhelming majority of American people from getting what they imperatively need and have demanded at the polls.

So the lawyers and the Republicans and the Liberty League are worried about dictatorship! I have been working 4 years among the misery caused by their kind of democracy. Do you remember what their New York Herald Tribune said on the morning after the November election? It didn't say: "The people have spoken, more forcefully than they ever spoke before." It said: "We still have the Constitution and the Supreme Court." They are not interested in democracy. They are afraid of it. When I was a boy I used to hear it said that the cure for the ills of democracy was more democracy. That is what President Roosevelt thinks. That's why he wants to let the people, through Congress, exercise their constitutional rights.

Now, about this question of age. Of course, there are some men old in years, but who never really grow old, who remain sensitive to changing needs, who, although cut off from active participation in life, have imagination enough and intelligence enough to sense and comprehend what is going on in the outside world. But such old men are exceptions. Many big corporations know this and require retirement of their own men at 70.

That idea about old judges did not originate with the President. In New York and other States, judges have to retire when they reach 70. Former Chief Justice Taft plainly said that they should. Mr. Justice McReynolds, now on the Supreme Court, made the same proposal when he was Attorney General—only he restricted the proposal, for some strange reason, to lower-court judges. Chief Justice Hughes feels the same way, except that he says that the retiring age should be 75 instead of 70. But he grants the wisdom of the plan.

It's hard for me to forget that not a single one of the nine Judges, now the Supreme Court, has gone on that Bench since the banks closed in 1933. These Justices do not know what the common man has been experiencing in the last 4 years unless they are of a mind to find out. They have to guess at what others know. And the guessing of elderly men about the experience of other men is not likely to be very accurate. Old age has its virtues, but sensitivity to new impressions is not ordinarily one of them. Old men tend usually to restrict their interests, to live in accordance with ideas built up in their younger days, and to try to make other men conform to those out-of-date ideas.

In times of ease and prosperity, to be ruled negatively by backward-looking men is not too serious; for in such happy days we do not need to rely too much on government. But everyone knows today (even the Liberty League admits it now and then) that in the period which began with the closing of the banks in March 1933 there has developed an absolute necessity for increased activity on the part of the Federal Government. Our country would have gone to pieces, and would go to pieces now, in the absence of such governmental activities. We must have more, not less, of that kind of government—government acting positively; government providing for the needy and the distressed; government trying to prevent wasteful labor conflicts; government helping the farmers to help themselves; government providing for old age, fixing minimum wages. Backward-looking men, dreaming of happier days when such activities were not urgently required, are unaware of the desperate need for that kind of government. When those men were part of the real world, there was perhaps some sense in the idea that the best government is the least active government. But today a weak government, not a vital part of our daily affairs, would lead to disaster.

We must have a Court that is resilient, that is in close touch with contemporary America, that shares the hopes and fears of the rest of the country, that is not afraid of democracy. If the majority of the Court is not revitalized, if it continues to abuse its powers, if it obstinately paralyzes the Federal Government, then our democracy may, one of these days, become unable to meet our serious economic problems.

And a weak Government in a crisis invites dictatorship. So you see again that it is the President who is fighting to strengthen democracy and in that way to avoid dictatorship.

Lawyers tell us that the Constitution provides for the Court to act as a check on Congress and the President. But who is to check the Court? Here again the Constitution provides a check, the very check which the President proposes; the power of Congress to increase the number of judges, and the power of the President and the Senate to name the new judges.

That is nothing new. Even the lawyers dare not say it is unconstitutional. And it is as democratic as the Congress which must pass the bill before it becomes law, or the Senate which must approve any new judge submitted by the President.

Lawyers ask us why we don't amend the Constitution. In the first place, amendments take too long. We have been waiting 13 years for the child labor amendment, and we're still waiting. The election of last November was a declaration by the people that they want social legislation. They want it now, and they need it now.

But above all, we do not seek to amend the Constitution because we can do everything the President proposes without an amendment, yet with entire legality. Those who don't like the President's plan are the ones who ought to be seeking an amendment—an amendment to deprive Congress of its present constitutional power to increase the number of judges.

Lawyers say that the President and the Senate would pick men who share their general views. If by this they mean men who in the opinion of the President and the Senate are conscious of the necessities of American life today, of course. That is what Presidents and Senates have always done. Presidents Adams, Lincoln, Wilson, and Coolidge named to the Court members of their Cabinets. President Grant and Theodore Roosevelt appointed judges whose opinions on public questions they agreed with. President Hoover named Hughes who had been a fellow Cabinet officer and who had helped elect him President. These judges were honest. They were not puppets of the President. Far from it. Justice Stone was President Coolidge's Attorney General and later Coolidge appointed him to the Court, yet he has voted in favor of as much New Deal legislation as any other member of the Court.

There is no reason to think that Justices appointed by President Roosevelt would be less honest or more subservient. Don't forget, they are appointed for life, and once they take their seats on the Supreme Court bench they are answerable to no one. They would have no reason to be subservient. But presumably they would, as younger men, more wisely interpret the Constitution so as to avoid a violent disruption of American life.

So the question comes down to this: Must our vital current needs be denied by a few men who in my judgment refuse to resign because they disagree with the ideas of an administration twice endorsed by the people? Must lives and fortunes of millions of Americans depend on the very life span of those justices? Surely that is a kind of tragic gambling in which we should not and need not indulge.

No; those who oppose this plan are not afraid for democracy. They are afraid of democracy.

The Roosevelt Agricultural Program, With Regard to the Budget and Its Effect on Michigan

EXTENSION OF REMARKS
OF
HON. FRANK E. HOOK
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Monday, March 8, 1937

Mr. HOOK. Mr. Speaker, the agricultural program of the Roosevelt administration is a major factor responsible for the resurgence of national prosperity during the last 4 years. The agricultural-adjustment program has been the spear head of the attack against the causes of agricultural depression. The expense to the Government of agricultural adjustment and other phases of the agricultural program has been repaid many times over to the people of America in the increase in farmer purchasing power and the resulting advancement in business.

High peaks of prosperity are being reached by many industries that sell to farmers. The steel industry achieved its third highest year of production in 1936; the automobile industry exceeded records for numbers of cars manufactured; retail businesses and mail-order houses, serving the country as a whole, exceeded in 1936 all records of sales in many lines; public parks, summer and winter resorts and amusement enterprises reported the greatest number of visitors and the largest business ever known. The gross income to farmers is double what it was in 1932.

If full cooperation is given to the Roosevelt program addressed toward increased national prosperity, and those who work on the land and in the factories are given proportionate shares in the increased wealth they help to create, there will be no widespread strikes or other internal disturbances that can threaten the advancement of national prosperity.

With the continuance of our march toward increased prosperity assured, there need be no fear in regard to balancing a Federal Budget that includes justified expenditure for an agricultural program that serves all the people. As prosperity increases, greatly increased Treasury returns can be expected. A prosperous America need entertain no fear of not being able to pay the cost of governmental expenditures necessary in achieving prosperity. An America in depression, as we learned in 1932, would find difficulty in paying for the necessary routine of ordinary government. The expenditures of the new Federal program can be expected to give further prosperity to the Nation, a prosperity which in itself is the assurance of ability to pay the cost.

The national agricultural program is addressed toward serving the interests of all citizens of the United States. The program includes conservation of our soil resources; the adjustment of farming systems in line with sound farm practices and with market demand for agricultural products, both domestic and export; the control of floods and droughts; the use of the less productive agricultural soils and marginal land for forestry, wildlife, and recreational purposes; the storage of adequate reserves of farm products and crop insurance; reduction in farm tenancy; and the encouragement of the democratic cooperation of farmers and other interests in working toward increased prosperity through the payment of fair prices for farm products.

I have hopes that the general program will include a project that will clear up the highly productive cut-over land in upper Michigan and Wisconsin and place into cultivation that land that was denuded of its forests in the wild scramble for profits by the lumber barons and take a destitute people off of relief and place them on real farms so that they will be able to make a decent living for themselves and their families.

The State of Michigan, owing to the overshadowing influence of its great automobile, furniture, lumber, and iron interests, is not generally regarded in the public mind as one of the leading agricultural States of the Union. Nevertheless, in the production and a great diversity of farm products including dairy products and poultry, beans, sugar beets, potatoes, fruits, drug plants, vegetables, canned products, seed of field and garden crops, Michigan ranks among the leading States. All of these interests are benefited directly as a result of the agricultural, financial, and industrial policies of the Federal Government instituted in 1933. The agricultural-adjustment program gave a tremendous stimulus to the growing of alfalfa and other soil-conserving crops in Michigan. Michigan is now the first State in acreage of alfalfa and in the production of alfalfa seed. All of her agricultural products are meeting a strong demand from a public with greatly increased purchasing power. The automobile industry, the furniture industry, the mining industry of Michigan, and other manufacturing industries, gained from 1933 on, as a result of the increased purchasing power of farmers throughout the Nation and employees out of work in 1932 returned by the thousands to work in expanding industrial plants. Michigan, prostrate in 1932, has been revived and strengthened more than any other State agriculturally, industrially, and financially by the Roosevelt program.

From an agricultural standpoint, with the continuation of the agricultural-adjustment program, greater income should result than was secured by Michigan farmers during the high peak of 1936. The program of sound land use is creating in Michigan great State and Federal forest areas for timber, wildlife, and recreational uses, and is changing vast areas of marginal lands into assets of great value to the State and Nation. The great tourist industry of Michigan increased 20 percent last year, breaking all previous records.

If the outlay of necessary governmental expenditures is not curtailed, and provided the President's Supreme Court program is passed by Congress, the New Deal in all of its features will be put to work effectively for the people, unhampered by shackles forged by an outmoded and outvoted Tory regime, and the Nation will enjoy an unprecedented prosperity. Let us hope that this benign prosperity, within the grasp of the people of America, will not be permitted to linger forever on the far horizon but will be brought now to all of the people.

Why Load the Dice?

EXTENSION OF REMARKS
OF
HON. U. S. GUYER
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Monday, March 8, 1937

RADIO ADDRESS BY HON. U. S. GUYER, OF KANSAS, ON MARCH 5, 1937

Mr. GUYER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which was delivered by me over the radio on March 5:

Ladies and gentlemen, on Friday, February 5, the Senate and House of Representatives were stunned by an unexpected Presidential message requesting authority from the Congress to appoint six additional Justices of the United States Supreme Court. That was the astounding gist of the message—all else was camouflage.

That message has awakened one of the most animated and significant debates which has agitated the public mind in half a century. Again the Supreme Court of the United States, its freedom, integrity, and independence, is the subject of vituperous discussion and angry contention. Once more it is assailed as the head of a coordinate department of government by a ruthless ambition which would dominate not only a subservient Congress but also reduce this august tribunal to abject servility at the chariot wheels of Executive power.

But in this bitter contention, that serene and majestic Court in its dignity and sense of the eternal fitness of things takes no part. Its long and honorable record of superlative and disinterested service to our country speaks for it. It has at its command no army, no navy, not even a constable to enforce its decrees. It employs no promoter of propaganda, no army of hired press

agents to circularize the Nation, no largess of the peoples money to dole out to purchase the public favor, no bureau of defamation to answer the assaults of demagogues who seek the shelter of this immunity. Its only defense is the devotion and constant fidelity of the people whose liberties it protects and preserves.

When this storm of vindictive passion has spent its force and this tempest of rage has abated, the Supreme Court of the United States will remain what it has been for more than a century—the most majestic judicial body on earth, beloved by a grateful people as the shelter and sanctuary of their liberties.

Those who defend this audacious demand of the Chief Executive pretend to be what they term "liberal" and "progressive", yet I can think of nothing more reactionary than this effort to revert to a former age when arbitrary masters corrupted the judiciaries of their realms by dominating the courts either by the fear of punishment or the hope of reward; when, in their era of absolutism and "divine right", the ruthless regimes of old packed their courts with puppets who echoed their master's will in decision and decree. I repeat, the whole proceeding is violently reactionary in every sense; reactionary in the almost insolent demand for the immediate passage of a bill which no committee of either the Senate or the House had ever seen until it was read on the floors of the Senate and the House, and reactionary in the extreme "star chamber" secrecy in which it was conceived in the haunts of the "brain trust" and its birth outside the legislative fold.

This question, involving the integrity and independence of the Supreme Court of the United States, transcends all political cleavage and partisan lines, and rises above all personalities and petty political considerations. In this discussion there is no personal bitterness or animosity against our most affable and urbane President, however much hostility we may feel toward his baneful attitude relative to the Supreme Court. In fact, in this respect we have a most happy situation, for there are more Democratic Senators against the President's proposal than Republicans, due, of course, to the vast Democratic majority in the Senate. In the House the bitterest oppcsition comes from the Democratic side. I congratulate the country upon this wholesome political alinement through which patriotism and democracy will win over blind partisanism under the lash of patronage. And this state of democratic opinion obtains in spite of the President's impassioned appeal to partisan spirit and party loyalty which vividly demonstrates that there are hosts of patriotic Democrats in and out of Congress who place principle above party and the welfare and destiny of their country beyond mere party considerations.

In nature, two forces dominate and govern all motion; one centripetal, the other centrifugal. Under the magic of these two forces the planets of our solar system and all the vastness of the Almighty's universe are held in absolute balance and revolve in faultless harmony. So perfect is the action of these forces that we may predict for years in advance the exact instant when there will be an eclipse of the sun or the moon. All this depends upon the balance of these two forces and upon the laws that govern their operation. Should these two forces be suspended for an instant, or meddled with by some sidereal braintruster, the whole universe would be hurled into a hell of confusion and chaos.

In government there are two corresponding forces which act in quite the same fashion. One is centripetal, the other centrifugal. One pulls toward the center and the other pulls away from it. One tends toward order, the other toward chaos; one toward organization, the other toward disintegration; one toward despotism, and the other toward anarchy. Our fathers wrote the Constitution in an effort to control these two forces in the government of this Republic so that the force pulling toward the center, toward centralization of power, would not be too strong for the liberties of the people, yet strong enough to maintain orderly government, and the miracle is that their work was so perfect that it has stood the test of 150 years and has been found adequate for every situation that arose with surprisingly few amendments.

The foundation upon which those wise men hoped to balance these opposing forces, the forces of despotism and anarchy, was the division of their government into three separate, coordinate and independent departments, executive, legislative, and judicial, organized under certain checks and balances to restrain each other in order that all might function in harmony within the organic law, the Constitution. The President was given a powerful lever in legislation yet leaving the Congress independent. He may veto a law passed by both branches of the national legislature. However that is not absolute, for the Congress may and often does pass such vetoed law over his veto by a two-thirds vote of both Senate and House of Representatives.

While the British King may in theory have such power he is well aware that he would not dare to exercise it. The President also has potent judicial powers. He nominates all the judges of our Federal courts. Likewise, the Congress may exercise some executive powers, linked with judicial powers. Before any man may be a Federal judge he must be confirmed by a majority vote of the United States Senate. And after a person has been confirmed as judge the Congress may impeach him, deprive him of his office, and even deny him citizenship. The judge in the discharge of his duty may find it necessary to restrain the Executive, as when the President undertook to remove William E. Humphrey from the Federal Trade Commission for the insufficient reason that the minds of the President and the Commissioner did not "go along together." The Congress may by impeachment expell the President from office. Or the Supreme Court may in deciding the rights of parties to a suit at bar find it absolutely necessary to declare that Congress exercised a power not warranted in or by the Constitution. It is very plain to a fair-minded individual that this balance is inevitable if we are to have a government of checks and balances under a written constitution for a government of the people. The religious observation of the spirit and the letter of the Constitution in this respect is vastly important if we are to have a government of the people.

In the past half century there has been a vast increase in the authority assumed by the Federal Government which has resulted in a huge Federal bureaucracy and Federal encroachment upon the prerogatives of the States. In the past 4 years the executive department has practically usurped the legislative functions of the Congress. Bills written somewhere in the cloistured realm of the brain trust have been put on passage which no committee of either the Senate or the House ever saw, and in a few instances were never seen by even the Government Printer. That is, the executive department has usurped and exercised, as never before, the powers and prerogatives of the legislative department.

Someone writing the other day asked me what the men who wrote the Constitution knew about the problems of today, as if the fundamental and eternal principles of human liberty changed like the pattern of men's clothing or the style of the ladies' skirts.

That group of titanic statesmen who framed our Constitution, judged by what they wrought, was the greatest assembly of constructive statesmen that ever surrounded the council tables of any nation at any time, and they lived in a century that produced more profound statesmen than any other age in all history. They had to fight for liberty and they knew its cost. They knew, too, what in all ages had plundered the people of their liberties and how designing demagogues had ever grasped for power to shackle the arms of liberty. So, upon the precious parchment of the Constitution, they wrote the rules of the game of government so that no person or department or combination of departments could rifle the temple of liberty so long as posterity observed the letter and spirit of that Constitution and as long as there remained an independent, incorruptible Court to hold the sword of justice. Human wisdom could go no further.

Montesquieu, one of the greatest of political philosophers, whom Madison called "the monitor of liberty", stated a great truth in these words: "There can be no liberty where the legislative and the executive powers are united in the same person or body of magistrates, because apprehension may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner." That has been accepted as a political axiom for 150 years. If there can be no liberty when the legislative and the executive powers are united in the same person, what, I ask in Heaven's name, will we have when all three—legislative, executive, and judicial—are united in the same person?

The whole tendency in our Government for the past half century has been toward centralization of power, particularly in the executive department, and you have only to call to witness the vast bureaucracy of the Federal Government at the present time.

In England the trend has been in the opposite direction. The emphasis for the last century has been on the Commons, the direct representatives of the people of England. For 150 years the power of the British monarchy has diminished until the King is little more than a magnificent figurehead, and the monarchy is merely a useful symbol of the power of the people of England. The King holds a scepter, but it is quite powerless in itself, so much so that a young independent-minded monarch of fine constructive ideas, no doubt satiated with his impotent prerogatives, tossed away an empire for the kiss of a Baltimore belle. Do not too hastily condemn Edward until you have weighed the compensation in the scales with the renunciation. In comparison the President of the United States when he only exercises the powers granted him in the Constitution is more powerful than any living monarch at this time.

How did these great men who formed our Government and wrote our Constitution seek to balance these two opposing forces in our scheme of government? How avoid too much centralization of power in any single branch of government, yet avoid a fatal weakness which would mean dissolution? In 1858 Lincoln stated the problem with characteristic lucidity in these words: "It has long been a grave problem whether any government not too strong for the liberties of the people can be strong enough to maintain itself in a great emergency." That was exactly the problem which that group of devoted patriots had to solve at old Independence Hall in 1787. How did they solve that problem?

Almost any schoolboy can answer that question even if some supposedly sane men seem to have forgotten it. They devised a plan which divided their Government into three separate, coordinate, and independent departments and fixed the limits of their authority and the scope of the functions of each, and after that they wrote: "Thus far and no farther shalt thou go." They wrote down in plain English just what the Executive could do, what the legislative department might and could do, and in a general manner the functions of the judicial department. These were the rules of this game of government we were to observe and cherish and with just enough aberrations to prove the rule we have been happy and prosperous under the rules laid down by our fathers in the Constitution.

Now we are asked by legislative maneuver and stratagem to fix the umpire. Someone attempted to steal a base and the old umpire called him out. Now, all one of the managers of one of the teams of this Government game needs is an umpire who will call the players safe on all the stolen bases and right in the middle of the game the home team demands the privilege of hand-picking an umpire for the last four innings; a fresh young one who knows exactly what the big boss wants, to take the

place of the old umpire who has played the game himself, knows all the rules, an old-fashioned umpire who imagines that his decisions should be governed by the rules adopted by the big league. Who wants to play in such a game with the umpire fixed?

We ought to be as square in this game of government as the world of sports which respects fair play and would scorn any such imputation as a fixed umpire. Yet that is exactly what Congress has been requested, yes, demanded to do, give the President the power to "fix" the Supreme Court so that its decisions will conform to his will. And permit me here to remark that I give the President full credit for the best intentions in the world. But we all know what is paved with good intentions. Members of Congress who approve the President's plan to pack the Supreme Court are very frank in stating that what they want is a Supreme Court that will approve every act passed by Congress. The President merely exercises more restraint and finesse.

I repeat what I have said on several occasions, that if Calvin Coolidge or Herbert Hoover had submitted such a proposal in such a manner to Congress, the same men who are now defending the President's plan to pack the Supreme Court and tamper generally with the personnel of the Federal courts, would now be denouncing it from the housetops as constructive treason, high crimes, and misdemeanors, and many of them would be clamoring for their impeachment.

Members of Congress and some others complain that the Supreme Court vetoes and annuls the laws of Congress. The Supreme Court has no power to veto. Only the President possesses that arbitrary prerogative. It sometimes becomes necessary for the Supreme Court in a case before it to decide upon the validity of a statute, either of a State or one passed by Congress, in order to determine the rights of parties litigant. Individuals are guaranteed certain rights and privileges in the Constitution and in order to do justice and equity between the parties the Court must decide upon the validity and constitutionality of the law involved in the litigation. The Constitution states those rights but it is the province of the courts to protect and defend those rights even against a State or the Congress which may have taken action not provided for in the Constitution. If a law is invalid and repugnant to the Constitution it cannot be vetoed. If it is invalid it never was a law. It was void ab initio.

But many Congressmen declare that the Supreme Court has no power, either express or implied, to declare an act of Congress void even in order to pass upon the rights of litigants at bar. They contend that Congress should be the judge of the validity and constitutionality of its own laws. That would, of course, be the end of the Constitution for even the "rubber stamp" Congress would have more respect for itself than to pass an act and then declare it illegal and unconstitutional. Just like putting a man on the jury to try his own case or making a criminal his own prosecutor.

Then they contend that when a Congress is elected it has a "mandate" to pass certain laws supposed to have been approved by the election. That may be true as long as the laws are in accord with the Constitution, but there is no mandate of the people that supersedes the Constitution for that is the crystallization of the will of the people until it has been changed by an amendment by the act of all the people. With the same logic it is contended that at the election in November, President Roosevelt was given a mandate to carry out his New Deal program without being too particular about the constitutionality of the laws enacted, among which is the act to pack the Supreme Court. But he surely did not receive any mandate to pack the Supreme Court.

When those who opposed his election daily charged that he would do this very thing, like a lamb before the slaughter he was dumb and he opened not his mouth, but those who spoke for him in his unusual reticence in the campaign angrily denied any such intention on the part of their perfectly frank chieftain. The very able and amiable chairman of the Senate Judiciary Committee, now the sponsor of the bill to increase the membership of the Supreme Court, in reply to a challenge in the very inception of the campaign of 1936, declared, "Among the unjust criticisms which have been uttered, or printed, rather, about President Roosevelt was that he intended at some time—nobody knows when or where—to increase by some legerdemain—nobody knows when or where—the membership of the Supreme Court of the United States, so that his policies might be sustained. A more ridiculous, absurd, and unjust criticism of the President was never made. * * * No person whose opinion is respected has favored attempting such a reckless foray and folly."

This was no irresponsible cross-road orator speaking, but the chairman before whose great committee of the Senate such a bill would come, and before it this bill did come. It may be said in defense and extenuation of the genial chairman that he knew nothing of the President's message to Congress until it burst upon the floor of the Senate.

No; there was no such mandate from the people in 1936 or any other time for such a "reckless foray and folly", but there necessarily was a mandate against it in the light of the statement of the chairman of the Senate Judiciary Committee; for it is folly to imagine that as acute a politician as the President did not know and permit to go unchallenged this statement of one who must be the leader of such a "reckless foray and folly" in the Senate. If there was any mandate, it was against any such madness as the President's request for congressional authority to pack the Supreme Court of the United States in order to write the decisions of that Court.

Is it any wonder that the chairman of the Senate Judiciary Committee termed it a "reckless folly", for it must be a bold audacity, indeed, which would presume to usurp the prerogatives of such a Court or move to meddle with the decisions of such a tribunal by packing its personnel with political "yes men"? It must, too, require a colossal egotism that would demand that the Congress of the United States bow to such a transparent subterfuge to transform this exalted Court into an instrument of political intrigue contrary to every ideal which fashioned the Supreme Court of the United States into a free, independent, and incorruptible bulwark of the Constitution under whose panoply the sacred rights of the individual are protected and enshrined.

Let us examine for a moment this so-called veto power of our Supreme Court. It is really the Chief Executive who possesses drastic veto power. He may, if Congress is in session, set forth his reasons for his veto. If Congress has adjourned before the expiration of the time permitted for his veto, his veto, if exercised, becomes, of course, absolute for that session of Congress. In the past 50 years the Presidents have vetoed over 700 acts passed by the Congress. President Roosevelt is the champion, with 221 to his credit; Hoover, 35; Coolidge, 49; Harrison, 41. The Supreme Court in all the history of the country has declared only 77 laws unconstitutional which were passed by the Congress, and with the exception of about 15 or 16, they were minor matters of no national importance or constitutional significance. The Supreme Court has considered the acts of Congress in a broad and liberal sense, bending as much as possible to public opinion and always giving the presumption of validity to every statute. To such a degree of seeming compliance with enlightened public opinion and popular sentiment has the Court gone that it led a great humorist to put on the lips of "Mr. Dooley" the witticism, "The Shuprame Coort follows the eliction returns."

Should the bill attached to the President's message ever become a law it would render the Supreme Court, like Congress, a subservient adjunct to Executive power, and the dream of Jefferson's ideal government consisting of three separate, coordinate, and independent departments would disappear among the things that have been.

Viscount James Bryce in his American Commonwealth predicted just such a situation as that which confronts us today when he said that sometime a conscienceless Congress and President would attempt to enact unconstitutional laws in defiance of the Supreme Court and that President and Congress would attempt to increase the membership of the Court as provided in the Constitution and that nothing but one thing would prevent it. That one obstacle was the people. He was right. Then let the voice of the people from every nook and corner of the land reach their representatives in the Senate and the House in thunder tones of fiery protest.

For 4 years now, the Congress at the demand of the Executive, has abdicated its legislative prerogatives until it deserves the stigma of "rubber stamp" which public opinion has fastened upon it. This abject servility of the Congress has not tended to dull the executive appetite for power, which is evidenced by this imperious demand for power to practically write the decisions of the Supreme Court and shape its destiny for years to come by packing it with young partisan appointments, who, joined to a subservient Congress, would confer the power to absolutely control and rule the economic life of the Nation. Such a prospect might well lead some lean and hungry Cassius to inquire:

> "Now, in the names of all the gods at once,
> Upon what meat doth this our Caesar feed,
> That he is grown so great?"

The hunger for power is a glutton. Its thirst is insatiate. Given an inch it seeks a foot. Given a foot is asks a yard. Given a yard it demands a mile. No we do not expect to see our genial President an arbitrary dictator; yet to an unbelievable degree he is already a dictator, and, if armed with this law to increase the membership of the Supreme Court of the United States which he still insists upon, he will possess powers of dictatorship which no sane man a decade ago would have ever dreamed any President of the United States would ever covet, much less possess.

To an already submissive rubber-stamp Congress, a rubber-stamp Supreme Court is proposed. Instead of a government consisting of three separate, coordinate, and independent departments we are to have a government dominated by the ruthless will of one department alone. Let us not forget Washington's wise and pious advice: "Let there be no change by usurpation." Not that our smiling, affable President will ever be "the man on horseback", but if we continue this un-American, undemocratic concentration of power in the executive department, this pace of unbalanced powers of government, how long will it be until some modern Louis XIV will announce as he rises to power, as did Louis when he ascended the throne of the Bourbons: "L'état c'est moi" (I am the state)? How long will it be until some up-to-date Hohenzollern, like William II, who declared that in his acts as sovereign he acknowledged responsibility only to his conscience and his God, will strut his stuff on the shattered ruins of American democracy.

Not that there is any immediate danger of such a contingency, but we are daily setting precedents that justify such fears for the future.

> "Vice is a monster of so frightful mien
> As to be hated needs but to be seen.
> Yet seen too oft, familiar with her face,
> We first endure, then pity, then embrace."

When the black-shirted Mussolini assumed supreme command in Rome he did it upon a platform more liberal and democratic than

Jefferson ever advocated, yet today Il Duce wields a scepter more absolute and despotic than any Caesar ever swayed. Alexander Hamilton, in the Federalist, declared: "Of those men who have overturned the liberties of republics, the greatest number begun their careers by paying obsequious court to the people, commencing demagogues and ending tyrants." Eternal vigilance is still the price of liberty.

The Constitution and Economic Security

EXTENSION OF REMARKS
OF
HON. JOHN W. FLANNAGAN, JR.
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Monday, March 8, 1937

RADIO ADDRESS BY HON. JOHN W. FLANNAGAN, JR., OF PENNSYLVANIA, ON MARCH 6, 1937

Mr. FLANNAGAN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following address delivered by me over the Columbia broadcasting station Saturday night, March 6:

Tonight I want to talk to the farmers, those who labor, the small-business man, and the aged and infirm, about the President's plan to reorganize the Federal judiciary.

These are the classes, above all others, who are vitally interested in the proposal. To them it means the difference between economic security on the one hand and poverty and want on the other. The President is literally battling for the existence of these classes and it is up to them, regardless of party, to rally to his banner and uphold his hand. Economic security, my friends, means just as much, and is just as dear, to a member of one party as it is to a member of the other.

Mr. Farmer, ask yourself this question: "What is going to be my fate if the majority opinion in the Butler case, holding the Agricultural Adjustment Act unconstitutional, remains the law of the land?" There is but one answer: "My economic security, to say the least, has been put in jeopardy."

Mr. Laboring Man, ask yourself this question: "What is going to be my fate if the Congress is told that it has no right, under the Constitution, to pass legislation guaranteeing the right to bargain collectively, setting a minimum wage, regulating hours of work, and abolishing the sweat shop and child labor?" There is but one answer: "My economic security, to say the least, has been put in jeopardy."

Mr. Small Business Man, ask yourself this question: "What is going to be my fate if the Congress is told that it has no right, under the Constitution, to pass legislation prohibiting unfair trade practices, curbing the chain stores and giant combinations, and regulating destructive and vicious competition?" There is but one answer: "My economic security, to say the least, has been put in jeopardy."

Let the aged and infirm ask themselves this question: "What is going to be our fate if the Congress is told that it has no right, under the Constitution, to provide benefit payments to the aged, and assist the blind, the cripple, and the afflicted"? There is but one answer: "Our economic security, to say the least, has been put in jeopardy."

All these things, my friends, are involved in this fight, and because they are involved it becomes one of the most serious conflicts the people of this country ever faced.

Ever remember that political and religious freedom are but mockeries without economic freedom. We had to purchase our political and religious freedom at a great price—the blood of our illustrious ancestors. May God forbid that we should be required to pay the same price for our economic freedom. But, no matter what the price, economic freedom is coming because our democracy has developed to the point where an awakened national conscience demands it. While its coming may be retarded by the Supreme Court, remember you cannot destroy the national conscience by judicial fiat. This was attempted by a divided Court in the Dred Scott case. You know the result. The people overruled a Supreme Court decision by force of arms. With this experience of the past, like a red light flashing its warning, shall we again permit four or five judges, who are out of joint with our social and economic growth, to again embroil us in trouble?

The only way to meet a serious crisis is to face the facts and deal with the situation promptly and in a practical and sensible manner.

Now, let me say to those in this country who feel secure in their own right, who have very little idea of the economic insecurity of millions here in America, to think twice before they call me an alarmist, or as one who would array one class against another. I am not an alarmist. I am not trying to array one class against another. I am only giving you a picture of the situation as it exists, hoping that all classes when they realize just how serious the situation is, will come to the conclusion that the President is not only right in his proposal, but is doing the only sensible thing under the circumstances, and will rally to his support.

Reflect just for a moment on the seriousness of the situation in this country back in 1932 and the first 2 months of 1933. What would have happened if we had continued on the 1932 road? What would have happened if the President, beginning on March 4, 1933, had not detoured us to a smoother and more secure national highway? The question is, Are we going to permit four or five men to put us back on the 1932 highway? All sensible men and women know where it will lead. The answer is, "No", a thousand times no.

Now, do not answer me by telling me that the members of the Supreme Court are honorable men and their intentions are good. We all know that that is true. I am not making any charges against the integrity of the judges. I would be among the first to resent any charge or insinuation that they are not—every one of them—honorable men and men with the best of intentions.

But, let us look at the matter in a common-sense way. For instance, from a practical standpoint, it is immaterial, when a man is killed, whether the murderer had good or bad intentions in committing the act. The result is the same. The man is dead.

And so, from a practical standpoint, it is immaterial with the farmers, laborers, small businessmen, and the aged and infirm, what intentions the Judges entertain—good or bad—when declaring acts of Congress designed to bring to them economic security unconstitutional, the result is the same.

Let me illustrate: To say that the six Supreme Court Judges who declared the A. A. A. unconstitutional were honest and conscientious in their decision does not mean a thing in the world to the farmers. If their action in destroying this wholesome piece of legislation is going to result in over-production, and consequently in lowering the price level of farm products to a point below the cost of production, with foreclosure and misery following in its train, the good or bad intention of the Judges in arriving at the decision is immaterial. The farmers are simply economically and financially dead. The mere fact that the Judges were motivated by good intentions will not save their farms, nor will it clothe, feed, and educate their children.

Now, answer this question: What is the sense in the Congress working day in and day out on farm legislation, labor legislation, legislation to protect the small businessman, and social security legislation—legislation that has thrice been approved by the ballots of the people—knowing that a majority of the Judges on the Supreme Court are out of joint with the economic and social thought of the times, and will, because of their personal social and economic predilections, declare the legislation unconstitutional?

What, may I ask, is the sensible thing to do under the circumstances? Why, isn't it to first remove the cause that makes the social and economic legislation impossible and thus prepare the way for the realization of the needed legislation? That, my friends, is all the President is trying to do. And, remember, he is going about it in a constitutional way.

I have such faith in the wisdom of the American people that I believe the President goes forth to battle, not only with their blessings resting upon him, but with their active support and cooperation back of him.

Now, one of the best evidences of the fact that we are right is the reappearance of the yellow slips in our daily mail, all telling us in the same wording that we are fixing to destroy the Constitution. I had not received one of these messengers of dire prophecy since the hectic days back in 1935, when the same crowd that is now after Mr. Roosevelt was causing our mail to be flooded with messages equally as frightening, telling us what was going to happen if we passed the bill regulating the power companies.

Well, in spite of these yellow messengers predicting destruction, we went ahead and regulated the power companies, and in doing so not only rendered a great service to the power interests, but forced them to recognize the rights of millions of men and women in this country who, without the regulations, were helpless to protect themselves.

Now, listen! In spite of the yellow messengers predicting destruction that we are now receiving daily, we have the green light from the people to go ahead, and we are going, and we are not going to stop until we place a check upon the Supreme Court that will cause it to recognize in its opinions that the Constitution we all love and revere is not a dead piece of parchment but a living instrument that is broad enough and flexible enough to cover legislation correcting our present social and economic ills.

And let me make a prediction. When it is all over and the battle has been won, and the needed legislation covering our social and economic ills has been enacted and stamped by the Supreme Court with constitutional approval, the writers of these yellow slips we are today receiving will be just as ashamed of having written them as the former writers of the yellow slips of 1935, protesting against the regulation of the power companies, are that they ever became the innocent tools of the Tories and Bourbons.

Let our motto be: Forward under Roosevelt to greater economic security for the masses in America.

I thank you.

Neutrality Legislation

EXTENSION OF REMARKS

OF

HON. JAMES A. SHANLEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1937

Mr. SHANLEY. Mr. Speaker and my colleagues, the embargo on submarines within the authority of the President of the United States is now law and there have been few complaints against this addition to the domestic handling of neutrality. The popular extension to cover armed merchantmen has been growing daily with most of the technical authorities seeing no reason for its exclusion in the existent neutrality acts of the Seventy-fourth Congress.

It will form an important phase of the debate in the House on the neutrality bill, and because its history is so worthwhile I may be pardoned, Mr. Speaker and my colleagues, for inserting the strongest views on this subject. It is to the writers on international law and diplomatic relations that one seeks the most cogent authorities. For it is they who have studied this subject day in and day out. Obviously, too, it is in the World War especially that one must obtain the most recent precedents.

From earliest times we have had armed merchantmen, for the very prevalence of piracy and the use of privateers made arming seem necessary for safety. It was the British Parliament in 1825 that made slave trading piracy, and even smuggling caused international complications. In our younger days the remote sections of the globe held dangers for ships of commerce that could only be warded off by protective armament. But essentially it was "defensive armor." In 1797, for example, we find President Adams saying that he entertained no doubt—

> of the policy and propriety of permitting our vessels to employ means of defense while engaged in a lawful foreign commerce. It remains for Congress to prescribe such regulations as will enable our seafaring citizens to defend themselves against violations of the law of nations, and at the same time restrain them from committing acts of hostility against the powers at war.

An act of June 25, 1798, provided that an American merchant vessel—

> May oppose and defend itself against any search, restraint, depredation, or seizure which shall be attempted upon such vessel.

Later legislation provided that—

> The commander and crew of any merchant vessel of the United States, owned wholly, or in part, by a citizen thereof, may oppose and defend against any aggression, search, restraint, depredation, or seizure, which shall be attempted upon such vessel, or upon any other vessel so owned, by the commander or crew of any armed vessel whatsoever, not being a public armed vessel of some nation in amity with the United States and may subdue and capture.

During the French imbroglio in the administration of President Adams our ships preyed upon French commerce, and during the difficulties with Tripoli there was real need for armament on commercial ships, but as the years went by and improvements in navigation increased the old sea raiders passed out of the picture. With the exception of war periods the subject was a negligible one. In the old days private commissioned vessels operating under a letter of marque and reprisal occupied a glamorous and picturesque era in our sea history. It could not be otherwise as necessity compelled us to rely upon a small Navy with privateersmen as auxiliaries to destroy commerce and prey upon ships that stood athwart our path. In our infant days these ships and men served our country and pulled us out of many a tight spot. They developed an unusual proficiency and daring in their work and America will always remember them.

The practice, in general, developed abuses. Warfare in the guise of private persons manning private ships documented in the service of their sovereign with these letters of marque and reprisal soon ran into excursions for private plunder and profit and the old chivalric motives were forgotten. With the close of the eighteenth century nations sought its elimination by treaties and domestic laws, yet we find letters of marque offered to foreigners in Mexico in 1845 and by the Confederates in 1861–65. These were not accepted, however, as such action had then come to be regarded as piracy by many states. Faulty discipline on shipboard, gross excesses in the way of sea scourges, played havoc with neutral commerce and resulted in the Declaration of Paris, 1856, whereby privateering was abolished. The declaration was agreed to by the leading nations of the world except Spain, Mexico, Venezuela, China, and the United States. But in the Spanish-American War both belligerents observed its generally accepted principles.

After the declaration of Paris, 1856, the United States was particularly careful to explain that the laws did not forbid arming "solely for the purpose of defense and self-protection." There was, however, such concern lest vessels should be armed in the United States and subsequently engage in filibustering expeditions, and armed vessels were required to give bonds to double their value in order to discourage such activities, showing that arming was not regarded as essential to safety of the vessel. The attitude of other States had been somewhat similar in regard to arming.

Before the war Mr. Churchill stated that England wanted armed merchantmen because she was carrying the predominant bulk of the world trade in her bottoms. They would, of course, be armed for defensive purposes. In the First Lord of the Admiralty's opinion, they would be valueless for attack; the more so since their guns would be mounted on the stern, and thus attack on a pursuer is but defensive tactics.

The naval instructions of 1917 provide, in accordance with the terms of The Hague Convention, that belligerents' ships of war may not revictual in neutral ports or roadsteads except to complete their normal peace supply. It has been the policy of the United States when a neutral to permit a belligerent vessel of war to take only such provisions "as may be requisite for the subsistence of her crew."

Coastal States have been unwilling that a belligerent should be cut off from all access to neutral ports. To prescribe the nature and extent of a permissible sojourn there has grown up a practice of conceding an asylum which in effect paradoxically permits a neutral port to offer solid advantages to a belligerent public ship.

In the establishment of rules the attempt has been made to provide that a belligerent vessel of war should not, in consequence of sojourn, either by means of the duration thereof or through the benefits procured in the course of it, gain in strength or efficiency beyond what is necessary to enable the vessel to reach its nearest home port. The question constantly presents itself, however, whether at the present time the kind and amount of privileges available within a neutral port do not, in spite of their obvious purpose and limitation, serve in fact to cause the beneficiary to be a stronger antagonist than when it sought asylum.

> It would be unjust for a neutral to cause a belligerent vessel of war to put to sea when short of provisions. Nevertheless, when a neutral port furnishes even what the territorial sovereign regards as a reasonable supply, the personnel of the ship thereby attains fresh power for resistance as well as for navigation. In any reconsideration of the existing law, the question therefore may present itself—not whether a neutral should be obliged to deny asylum to a belligerent vessel of war with a starving crew, but, rather, whether the existing neutral right to permit the taking on of requisite provisions would be supplanted by a neutral obligation to intern the ship and its occupants.

According to the Naval Instructions Governing Maritime Warfare of June 30, 1917, belligerent vessels can take only such fuel "and ship supplies" as are, in the opinion of the neutral authorities, sufficient to enable the vessels to reach the nearest port of their own country. It is declared, however, in accordance with the Hague Convention, that such vessels may fill up their bunkers (properly so-called) when in neutral countries which have adopted that method of determining the amount of fuel to be supplied, and to renew

their fighting strength by the restoration of guns or of armor plate.

The Naval Instructions Governing Maritime Warfare of 1917 reproduce the provisions of the Hague Convention of 1907, which declare that in neutral ports and roadsteads belligerent ships of war can carry out such repairs only as are absolutely necessary to render them seaworthy, and cannot add in any manner whatsoever to their fighting force. The authorities of the neutral power are, moreover, allowed to decide what repairs are to be made; and these must be carried out with the least possible delay.

In applying these principles while a neutral in the course of the World War, the United States declared that it did not comport with "a strict neutrality or a fair interpretation of the Hague conventions" to allow a belligerent vessel of war, which at the outbreak of war found itself "in a more or less broken down condition, and on the point of undergoing general repairs, but still able to keep the sea", to complete unlimited repairs in an American port. The German gunboat *Geier*, which in such a condition, put into the port of Honolulu in October 1914, was allowed 3 weeks in which to make repairs and depart, or yield to internment. The commander chose the latter alternative."

The German cruiser *Kronprinz Wilhelm*, which entered the port of Norfolk in April 1915, was allowed 6 working days within which to make repairs, together with an additional 24 hours for departure. The repairs were not, however, to cover damage to the port bow sustained as an incident to the service in which the vessel had been engaged. The ship was interned.

It should be observed the Hague Convention make no distinction or limitation with reference to the causes of damage. A neutral state is thus regarded as free from an obligation to prevent the making of repairs necessitated by the conduct of the opposing belligerent, provided they merely serve to effect seaworthiness. In a strict sense, any repairs productive of seaworthiness, irrespective of the cause of damage, necessarily increase the fighting force of the recipient if it is otherwise capable of engaging in hostilities. To render for example an armed submarine fit to keep the sea, or to reach its nearest home port, may suffice also to enable the vessel to resume the offensive with the full measure of its strength.

In brief, the existing rules draw a line of distinction, which, at the present time, appears to be insufficient to prevent a neutral port offering permitted and requisite repairs from becoming in fact a base of operations. The question presents itself, therefore, whether in any reconsideration of existing regulations and of the practice growing out of them, maritime states should endeavor to cut down the privileges of repair, and proportionally lessen the opportunity for neutral territory so to augment the fighting power of belligerent ships.

The naval instructions of June 30, 1917, announce that the normal period of sojourn shall be limited to 24 hours. Like the Hague convention, however, the exceptions or opportunities for extension are so numerous and important as to minimize the significance of such a time limit. Thus the rule is not applicable first if the neutral, by special provision in its legislation, ordinances, or treaties, permits a longer period; secondly, in case of the delay occasioned by damage to the ship or stress of weather (departure being demanded, however, "as soon as the cause of the delay is at end"); thirdly, in the event of the presence simultaneously of vessels of war of opposing belligerents; and fourthly, if, in accordance with the law of the neutral, the ship is not furnished with "victuals and ship supplies and necessary repairs" within 24 hours after arrival. In such event a reasonable extension is allowed. The scope of these exceptions emphasizes first, the latitude enjoyed by the neutral in establishing a normal limit of sojourn and of modifying its application; and secondly, the fact that in reality the actual test of a permissible sojourn is, within certain implied limits, made dependent upon the time required by the vessel of war to procure the particular form of aid desired.

Prof. Edward Borchard, of Yale Law School, a thoroughgoing realist of the first water, has always favored the exclusion of armed merchantmen. His thoughts are expressed in the following paragraph:

> Perhaps this view of the legal relations involved induced the author to relegate to a footnote the important note of January 18, 1916, in which Secretary Lansing proposed that submarines should be required to adhere to the customary methods of visit and search, in which under prevailing conditions, he said, could be explained only on the ground of a purpose to render such vessels superior in force to submarines and to prevent warning and search by them. Any armament, he added, had the character of "offensive armament." This was the high-water mark of the American legal position. The author accepts, without criticism, the subsequent memorandum of March 25, 1916, in which the Department of State completely reversed itself, as a correct statement of the law. Such a view will not, I believe, long be entertained. The potentiality of the use of armament is the correct test of the right to attack at sight the vessel carrying it, and while the Germans were clearly wrong in contending that a merchant vessel had no privilege to carry armament, the conclusion that thereby the armed vessel forfeited its immunity from attack at sight is believed to be inescapable.

Professor Garner, in his book International Law and the World War, speaks of armed merchantmen in this fashion:

> The Dutch Government appears to have been the only neutral government which refused to admit defensively armed merchantmen of belligerent nationality to its ports on a footing of equality with ordinary unarmed vessels. By article 4 of the declaration of neutrality issued by the Government of the Netherlands such vessels were assimilated to the status of warships and were admitted to Dutch ports only under the conditions to which the latter class of vessels were subject (exception being made on account of distress or bad weather). The armed British merchantman *Melita* was therefore not allowed to enter the Hook of Holland until it had jettisoned its armament. The British Government protested against the action of the Government of the Netherlands as being contrary to long-established usage, which sanctioned the right of merchant vessels to arm themselves for defense, and it called attention to the fact that Spain, the United States, and the principal South American republics recognized the legality of the practice and were admitting ships so armed to their ports on the same footing as ordinary merchant vessels. In its correspondence with the British Government the Dutch Government admitted that under the law of nations merchant vessels had a right to arm themselves for defense, but it did not follow from this right that neutrals were bound to admit such vessels to their ports on the same terms as unarmed trading vessels were admitted. Moreover, having announced its policy in the declaration of neutrality issued at the beginning of the war, it could not be altered during the course of the war at the demand of one of the belligerents without violating the principles of neutrality.

Under normal circumstances, however, it is believed that a belligerent should refrain from arming its merchantmen as a means of defending them from lawful capture by legitimate processes, and against an enemy not failing to respect the rights of unarmed private ships. The merchantman when equipped with a gun of great destructive force and long range becomes itself a weapon of offense. The master is encouraged to engage any public vessel of the enemy of inferior defensive strength, and of whatsoever type, which comes within range, and that irrespective of whether the latter initiates hostilities. As the merchantman by reason of its armament may be deemed by the enemy to be justly subjected to attack without warning, the master may fairly regard himself as on the defensive whenever his ship is pursued by an enemy vessel of war or even sighted by one. Thus the armed merchantman, although its chief mission be the transportation of passengers and freight, becomes necessarily a participant in the conflict. Lacking a formal commission from its government it fails to satisfy the conditions imposed upon a ship converted into a naval auxiliary.

It is believed, therefore, that the equipment of a belligerent merchant marine for hostile service, even though designed to be defensive rather than offensive, serves on principle to deprive the armed vessels of the right to claim immunity from attack without warning. It may be doubted whether the wise and humane effort to obtain hereafter general recognition by maritime states of the solid equities of unoffending belligerent vessels, and thus also to safeguard the lives and property of neutral occupants, will be strengthened by declarations assertive of immunities for armed ships. The proposal of Secretary Lansing, of January 18, 1916, is believed to indicate the correct theory and therefore the true

basis of the rule to which states generally would be invited to adhere.

It must be clear, however, that the lawlessness of a belligerent in attacking unarmed enemy merchantmen at sight may force its adversary to arm its merchant marine as the only effective means of preserving it from destruction. Thus the United States, when at war with Germany in 1917, found itself without an alternative.

Our Naval War College, in a brochure entitled "International Law Situations With Solutions and Notes", has this to say on this subject:

Regulation of entrance of vessels of war: Neutrals have maintained the right to regulate the entrance and sojourn of vessels of war. The regulations have sometimes been drawn up before the war and sometimes proclaimed after the war. Objections have been raised to regulations proclaimed after the war, but these have not been sustained because a neutral has the right to take action for preserving its neutrality.

Vessels assimilated to vessels of war: The treatment of vessels assimilated to vessels of war has varied in many ways and in different states.

Many states put restrictions upon the entrance of vessels which might from their equipment participate in the war either directly by engaging in hostilities or indirectly by supporting the belligerents as auxiliaries. Certain states permitting entrance of armed merchant vessels restricted such armament to defensive armament, but found difficulty in making the distinction between such vessels as were intended for purposes of war and those which were not so intended. So many controversies arose on this matter that the safe course seemed to be to treat armed vessels as vessels of war.

No more interesting and courageous presentation of the militant insistence of a neutral upon its rights has ever been given than that of the Netherlands. The Dutch proclamation of neutrality had prohibited entrance within Dutch jurisdiction of "warships of a belligerent and vessels of a belligerent assimilated to warships." That little nation told the "mistress of the seas" on April 7, 1915, "As far as Dutch territory in Europe is concerned, this rule admits of no exception, except in case of damage or by reason of stress in weather."

Great Britain, apparently flabbergasted, told the British Legation under the hand of Sir Edward Grey, that they should—

Lose no time in explaining to the Netherlands Government that British armed merchant vessels are armed solely for purposes of defense. * * * There can be no right on the part of a neutral government to require them to put to sea to land their guns.

The memorandum of the British State Department is filled with instances of permission to arm for defense, quoting John Marshall and writers of weight in Italy, France, and Belgium.

Netherlands writes back admitting all these things, but says through its mouthpiece:

I have read these documents with much interest. However, there seems to me to be no connection between the above-mentioned rule and the question whether the admission into neutral ports of a certain category of vessels of a belligerent nationality is or is not compatible with the observance of strict neutrality. This latter question lies within the province of the law of neutrality.

Emphatically and voluminously, the British attempted to break down the right of neutral Holland to say what ships of a belligerent should come into its harbors, but Holland remained adamant. All the pressure in the world did not move her to change her views. The energetic, courageous attitude, best expounded by her brilliant adviser Professor Strychen, is unique in history. A small nation, wrapping herself in her own genuine interest and isolating herself from a world conflict, dares and succeeds in that dare in enforcing her will upon the mightiest armada in history.

The events of that day have become the most priceless treasure in the diplomatic armory of Holland. They rival in the affections of the people of the Netherlands that other day when, she alone among the nations, became the vantage ground from which, in the darkest hours of oppression in European history, through the same courageous Holland, those victims of that oppression obtained the ear of mankind.

Prof. George Grafton Wilson onetime teacher in Harvard University and recognized world authority, sums up his treatise on armed merchantmen in this manner:

Many of the problems involved in the use of armed merchantmen still remain unsolved. It would seem that the ultimate and logical conclusion will be that vessels of war, whether surface or undersea vessels, must conform to the laws of war, and merchant vessels must remain merchant vessels and conduct themselves accordingly.

The preponderant consideration and argument used by the Allies during their arguments with us were based on their maintenance that their armored vessels were only for defense, yet in practice these ships took the offense whenever they had an opportunity.

Prof. Charles Seymour, of Yale University, in Woodrow Wilson and the War, remarks:

British merchant vessels, following long-established custom, had for some months been armed for purposes of defense.

But the proof of orders in allied ships to sink submarines on sight is a complete refutation of armament for defense only. We cannot deny this and retain a dispassionate view of the evidence.

Prof. Charles Warren, in the article that was titled "Safeguards to Neutrality" in Foreign Affairs, January 1936, summarized his study of the armed merchantmen in these words:

The whole situation, however, clearly proved that the old doctrine of armed merchantmen was unsuited to modern condition. It put a grievous burden on neutrals in making a decision as to whether a vessel's armament in its ports was of offensive or defensive—a decision which, later appearing to be incorrect, might subject the neutral to heavy damages.

Virtually we make the decision at our risk, and however bona fide our action we would be held to account. He continued:

And what was more important—the existence of the doctrine and its acceptance by neutrals directly encouraged the German system of submarine attack without warning.

It is to be noted that the Netherlands throughout the war maintained the right to exclude from its ports armed merchantmen. This is the policy which clearly the United States should now adopt.

Prof. Phillips Bradley, of Amherst College, in his book Can We Stay Out of War? says:

There seems to be no substantial reason why submarines should not enter our ports or territorial water while armed merchant vessels are allowed to. The prohibition of both would prove a more effective implementation of our neutrality policy.

C. Hartley Grattan, author of Why We Fought, is just as vehemently against their admission after his analysis of the World War evidence. It is this author who has just written Preface to Chaos: War in the Making.

Walter Mills in Road to War points out the difficulties of the World War in this respect and shows the unfairness of our admission of armed merchantmen. To the argument that you cannot change international law during neutrality he pointed out that the allies had no compunction about "search and seizure" punctilios as understood by international law but even took American ships into allied harbors for search instead of using the high seas.

The German attitude was reflected in the statement of Dr. George Schram, counselor of the German Imperial Navy Department:

Self-defense is defined as a defense against any unlawful encroachment upon a legal right. It is doubtful in particular cases in what the criterion of forcible resistance consists, especially whether preparations—e. g., equipment of the vessel with suitable armament—would entail the legal consequences of resistance.

This question must be answered in the negative. Preparations or the mere attempt to escape do not constitute in themselves a forcible defense; they do not encroach upon the legal rights of the belligerent.

EXCERPTS FROM POLICY OF THE UNITED STATES TOWARD MARITIME COMMERCE IN WAR—CARLTON SAVAGE, PAGE 68 ON PARAGRAPH, AMERICAN PROPOSAL OF JANUARY 18, 1916

The Department of State had declared in 1914 that a merchant vessel of belligerent nationality might carry an armament and ammunition for the sole purpose of defense without acquiring the character of a ship of war. Secretary Lansing stated on September 12, 1915, that at the time the declaration was made the use of the submarine as a commerce destroyer was unknown. He believed that under the changed conditions a new declaration was required because an armament which previously was clearly defensive might now be employed for offensive operations "against so small and unarmored a craft as a submarine." As merchant vessels were actually attacking submarines he considered it difficult to demand that a submarine should give warning and so expose itself to the heavy guns carried by some of the British

passenger vessels. The Secretary believed the declaration made in 1914 should be amended by asserting that in view of the successful employment of submarines as commerce destroyers and the possibility of offensive operations against them by armed merchant vessels, the United States would treat as a ship of war any armed merchant vessels of belligerent nationality which entered an American port. * * *

Secretary Lansing stated that before 1915, belligerent operations against enemy commerce on the high seas had been conducted with cruisers carrying heavy armaments. Under these conditions international law appeared to him to permit a merchant vessel to carry an armament for defensive purposes without losing its character as a private commercial vessel. This limited armament could not be used effectively in offense against enemy naval vessels, but it could defend the merchantman against the inferior armament of piratical ships and privateers. The use of the submarine, he stated, had changed these relations. As compared with a cruiser, a submarine was "almost defenseless in point of construction." As privateers and piratical ships were no longer to be reckoned with, he believed merchantmen were armed only that they might be made superior in force to submarines and might prevent warning and visit and search by the latter. Any armament on a merchant vessel, therefore, "would seem to have the character of an offensive armament." In order to bring submarine warfare within the general rules of international law and the principles of humanity without destroying its efficiency in the destruction of commerce, Secretary Lansing proposed that the Entente Governments make the following declaration upon the condition that their enemies should make a like declaration: (1) Submarines should adhere strictly to the rules of international law in stopping and searching merchant vessels, determining their belligerent nationality, and removing crews and passengers to places of safety before sinking the vessels as prizes of war; and (2) merchant vessels of belligerent nationality should be prevented from carrying armament * * *.

Ambassador Page in Great Britain reported, on January 25, that the proposal of the United States was considered by Sir Edward Grey as in favor of Germany and against the Allies. The Ambassador expressed the opinion that if defensively armed British merchantmen could not enter ports of the United States, this change might "precipitate a cutting off of American orders." Secretary Lansing thereupon informed the President that, although the proposal would apparently be unacceptable to the Allies, he did not think it necessary to "act immediately upon such refusal." * * *

Germany declared, on February 8, 1916, that armed enemy merchant vessels no longer had any right to be considered as peaceable commercial vessels and that German naval forces would receive orders to treat them as belligerents. * * *

The Secretary explained that the United States admitted the legal right of merchant vessels to arm for the sole purpose of defense but felt that there should be a change in the existing rules of international law permitting them to arm. Nevertheless, the United States did not feel that during the war it could change the established rule without the assent of the contending belligerents. The proposal of January 18 to the Entente Powers, he stated, had been made in the interest of obtaining "for humanity's sake" assent to the removal of all armament from merchant ships. He hoped they would accept the proposal, but until they did there was no intention to submit it to the Central Powers. If the proposal was not accepted, the United States would "rely upon the present established rule of international law that merchant ships are entitled to armament for defensive purposes only. * * *

The Entente Powers notified the United States on March 23 that they could not accede to the American proposal regarding armed merchantmen and submarines. Secretary Lansing then prepared a memorandum dated March 25 to show the consistency of the statements in the letter of January 18 with the accepted rules for arming merchant vessels. This memorandum was made public late in April.

It is submitted that the inclusion of armed merchantmen is as necessary as that of submarines with the exceptions and provisions for asylum as indicated herein.

The Lawyer and the Community

EXTENSION OF REMARKS

OF

HON. WILLIAM GIBBS McADOO

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 9 (legislative day of Monday, Mar. 8), 1937

ADDRESS BY PRESIDENT WOODROW WILSON IN 1910

Mr. McADOO. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a notable address, entitled "The Lawyer and the Community", delivered before the American Bar Association at Chattanooga, Tenn., in 1910 by that great statesman, President Woodrow Wilson.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The whole history of society has been the history of a struggle for law, for the definite establishment and continuance of such relationships as seemed to those who had the choice to be best suited to the support of their own influence and to the maintenance of the community over which they presided. Law is simply that part of the established thought and habit which has been accorded general acceptance and which is backed and sanctioned by the force and authority of the regularly constituted government of the body politic. The whole history of liberty, that history which so quickens our pulses as we look back upon it and which so sustains our confidence in the power of righteousness and of all the handsomer, nobler impulses of humanity has been a struggle for the recognition of rights not only but for the embodiment of rights in law, in courts and magistrates and assemblies. Such must always be the form of every high endeavor made in the interest of men and of the ideals of political life.

We do not fight to establish theses. We do not pour our blood out to vindicate a philosophy of politics. There are two great empires of human feeling, the realm of religion, and the realm of political aspiration. In the one realm we work spiritually, our liberty is of the thought; in the other we work structurally, our liberty abides in institutions, is real only when it is tangible, a thing that can be put into operation—not in our own souls merely but in the world of action outside of us as well. A right in the field of politics is a power to command the action of others in our own behoof; and that is also a right in law. Religions are mighty forces of belief, and the church, when it has its genuine and entire liberty, lies outside the state; but political liberty lives and moves and has its being in the structure and practice of society. The two fields are not, indeed, sharply separated; religious freedom must be safeguarded by institutional arrangements; but religious freedom is the right to be ungoverned, political freedom the right to be governed justly and with equity as between man and man. We fight for law as well as for faith because we fight not only for the right to think but also for the right to be and to do what we will within the limits of a just and equal order.

I remind you of these things at the beginning of my discourse, because I wish to say a good deal about our present struggle for law. The old order changeth—changeth under our very eyes not quietly and equably but swiftly and with the noise and heat and tumult of reconstruction. The forces of society contend openly with one another, avow their antagonisms, marshal and discipline their hosts, and are keen to win, not very willing to accommodate their differences and come to a common understanding which will be for the common advantage.

I suppose that all struggle for law has been conscious; that very little of it has been blind or merely instinctive. It is the fashion, too, to say, as if with a superior knowledge of affairs and of human weakness, that every age has been an age of transition, and that no age is more full of change than another; but in very few ages of the world has the struggle for change been so widespread, so deliberate, or upon so great a scale as this which we are taking part in. The transition we are witnessing is no equable transition of growth and normal alteration; no silent, unconscious unfolding of one age into another, its natural heir and successor. Society is looking itself over, in our day, from top to bottom, is making fresh and critical analysis of its very elements; is questioning its oldest practices as freely as its newest, scrutinizing every arrangement and motive of its life, and stands ready to attempt nothing less than a radical reconstruction, which only frank and honest counsels and the forces of generous cooperation can hold back from becoming a revolution. We are in a temper to reconstruct economic society as we were once in a temper to reconstruct political society, and political society may itself undergo a radical modification in the process. I doubt if any age was ever more conscious of its task or more unanimously desirous of radical and extended changes in its economic and political practice.

I do not speak of these things in apprehension, because all is open and aboveboard. This is not a day in which great forces rally in secret. The whole stupendous program is planned and canvassed in the open, and we have learned the rules of the game of change. Good temper, the wisdom that comes of sober counsel, the energy of thoughtful and unselfish men, the habit of cooperation and of compromise which has been bred in us by long years of free government, in which reason rather than passion has been made to prevail by the sheer virtue of candid and universal debate, will enable us to win through still another great age without revolution. I speak in plain terms of the real character of what is now patent to every man merely in order to fix your thought upon the fact that this thing that is going on about us is not a mere warfare of opinion. It has an object, a definite and concrete object, and that object is law, the alteration of institutions upon an extended plan of change.

We are lawyers. This is the field of our knowledge. We are servants of society, officers of the courts of justice. Our duty is a much larger thing than the mere advice of private clients. In every deliberate struggle for law we ought to be the guides, not too critical and unwilling, not too tenacious of the familiar technicalities in which we have been schooled, not too much in love with precedents and the easy maxim which have saved us the trouble of thinking, but ready to give expert and disinterested

advice to those who purpose progress and the readjustment of the frontiers of justice.

You cannot but have marked the recent changes in the relation of lawyers to affairs in this county; and, if you feel as I do about the great profession to which we belong, you cannot but have been made uneasy by the change. Lawyers constructed the fabric of our State governments and of the Government of the United States, and throughout the earlier periods of our national development presided over all the larger processes of politics. Our political conscience as a nation was embedded in our written fundamental law. Every question of public policy seemed sooner or later to become a question of law, upon which trained lawyers must be consulted. In all our legislative halls debate thundered in the phrases of the written enactments under which our legislators and our governors exercised authority. Public life was a lawyer's forum. Laymen lent their invaluable counsel, but lawyers guided and lawyers framed the law.

I am not speaking of the dependence of our political movement upon the judgments of courts. That has not been altered and cannot be. So long as we have written constitutions, courts must interpret them for us and must be the final tribunals of interpretation. I am speaking of the prominence and ascendancy of lawyers in the practical political processes which precede the judgments of the courts. Until the Civil War came and the more debatable portions of our fundamental law were cut away by the sword, the very platforms of parties centered upon questions of legal interpretation, and lawyers were our guiding statesmen. I suppose a more intensely legal polity never existed.

So long as passion was excluded, it was a tonic way of life. Statesmanship necessitated precise thinking. Every policy that was proposed had to be explicitly grounded upon precedent. At every step there was a reexamination of the fundamental principles which were alleged to justify or sustain it. Thought of the long history of English constitutional practice and of the avowed purpose with which government had been set up in America constituted the atmosphere in which everything was done. Every ancient, every recent contest for liberty threw its light forward upon the debates of Congress and of State legislatures. The newest State shared with the oldest the long tradition, and all alike were thoughtful of what had been designed and hoped for by the men whose sacrifices had given life to our freedom. No doubt it stiffened the action of government. No doubt there was a formality and a scrupulous regard for the letter in the conduct of legislation better suited to a young country just finding itself and face to face only with large problems of simple and obvious character than to an older country, whose life has grown complex and confused, and whose questions of exigency square with no plain precedents of constitutional practice. Lawyers will construct for you a very definite polity, and construct it to admiration; they have not often shown themselves equally fitted to liberalize it or facilitate the processes of change. But the leadership of lawyers at least meant a repeated reexamination of principle and precedent, and was very instructive even when it was least enlightened. It prevented fluidity. A reason had to be given for every step taken, a reason which would commend itself to the courts after it had commended itself to statesmen. The statesman and the lawyer were clients and consorts, and the legal conscience of the people was constantly refreshed and strengthened. These are great influences. They make for character and for the solidity of institutions.

But they are gone. You have only to recall the many extraordinary interpretations of the interstate commerce clause of the Constitution upon which serious debate has been wasted in Congress in recent years to be convinced of it. Our lawyers themselves are not carefully trained as they used to be in the principles of our constitutional law. It does not stand in the foreground of their study or practice, but in the background, very vague and general, a thing to be resorted to only upon rare occasions. Our legislatures now listen to debates upon constitutional questions, with ill-concealed impatience, as tedious and academic. The Nation has grown keen after certain practical objects and will not willingly brook the impediments set up by constitutions. The temper of the age is very nearly summed up in a feeling which you may put into words like these: "There are certain things we must do. Our life as a nation must be rectified in certain all-important particulars. If there be no law for the change, it must be found or made. We will not be argued into impotency by lawyers. We are not interested in the structure of our governments so much as in the exigencies of our life."

There are many reasons why this change of temper and of point of view has occurred. I will venture to mention one or two of the more obvious. It is not by chance that statesmanship has grown bigger than the bounds of mere legal precedent.

In the first place, the debates and constitutional struggles of the first 70 years of our political history settled most of the fundamental questions of our constitutional law. Solid lines of decided cases carry the definite outlines of the structure and make clear the methods of its action. We seemed after the Civil War to be released from the demands of formal definition. The life of the Nation, running upon normal lines, has grown infinitely varied. It does not center now upon questions of governmental structure or of the distribution of governmental powers. It centers upon economic questions, questions of the very structure and operation of society itself, of which government is only the instrument. Our development has run so fast and so far along the lines sketched in the earlier days of constitutional definition, has so crossed and interlaced those lines, has piled upon them such novel structures of trust and combination, has elaborated within them a life so manifold, so full of forces which transcend the boundaries of the country itself and fill the eyes of the world that a new nation seems to have been created which the old formulas do not fit or afford a vital interpretation of. The confusion has clearly come about without intention. We have been engaged in enterprises which the law as we formerly looked at it was clearly not meant to prevent or embarrass. We pushed them forward, therefore, without thinking of the effect they might have upon older conceptions of our legal processes. They seemed to spring out of the normal and necessary uses of the great continent whose riches we have been exploiting. We did not think of the legal consequences one way or the other, and therefore did not need or seek the advice of constitutional lawyers.

Constitutional lawyers have fallen into the background. We have relegated them to the Supreme Court, without asking ourselves where we are to find them when vacancies occur in that great tribunal. A new type of lawyer has been created; and that new type has come to be the prevailing type. Lawyers have been sucked into the maelstrom of the new business system of the country. That system is highly technical and highly specialized. It is divided into distinct sections and provinces, each with particular legal problems of its own. Lawyers, therefore, everywhere that business has thickened and had a large development, have become experts in some special technical field. They do not practice law. They do not handle the general, miscellaneous interests of society. They are not general counselors of right and obligation. They do not bear the relation to the business of their neighborhoods that the family doctor bears to the health of the community in which he lives. They do not concern themselves with the universal aspects of society. The family doctor is himself giving place to a score of specialists; and so is also what one might call the family solicitor. Lawyers are specialists, like all other men around them. The general, broad, universal field of law grows dim and yet more dim to their apprehension as they spend year after year in minute examination and analysis of a particular part of it; not a small part, it may be, perhaps the part which the courts are for the time most concerned with, but a part which has undergone a high degree of development, which is very technical and many-sided, and which requires the study and practice of years for its mastery; and yet a province apart, whose conquest necessarily absorbs them and necessarily separates them from the dwindling body of general practitioners who used to be our statesmen.

And so society has lost something, or is losing it—something which it is very serious to lose in an age of law, when society depends more than ever before upon the lawgiver and the courts for its structural steel, the harmony and coordination of its parts, its convenience, its permanency, and its facility. In gaining new functions, in being drawn into modern business instead of standing outside of it, in becoming identified with particular interests instead of holding aloof and impartially advising all interests, the lawyer has lost his old function, is looked askance at in politics, must disavow special engagements if he would have his counsel heeded in matters of common concern. Society has suffered a corresponding loss—at least American society has. It has lost its one-time feeling for law as the basis of its peace, its progress, its prosperity. Lawyers are not now regarded as the mediators of progress. Society was always ready to be prejudiced against them; now it finds its prejudice confirmed.

Meanwhile, look what legal questions are to be settled, how stupendous they are, how far reaching, and how impossible it will be to settle them without the advice of learned and experienced lawyers. The country must find lawyers of the right sort and of the old spirit to advise it, or it must stumble through a very chaos of blind experiment. It never needed lawyers who are also statesmen more than it needs them now—needs them in its courts, in its legislatures, in its seats of executive authority—lawyers who can think in the terms of society itself, mediate between interests, accommodate right to right, establish equity, and bring the peace that will come with genuine and hearty cooperation, and will come in no other way.

The specialization of business and the extraordinary development of corporate organization and administration have led to consequences well worth the lawyer's consideration. Everyone else is considering them, and considering them with deep concern. We have witnessed in modern business the submergence of the individual within the organization, and yet the increase to an extraordinary degree of the power of the individual—of the individual who happens to control the organization. Most men are individuals no longer so far as their business, its activities, or its moralities is concerned. They are not units, but fractions; with their individuality and independence of choice in matters of business they have lost also their individual choice within the field of morals. They must do what they are told to do, or lose their connection with modern affairs. They are not at liberty to ask whether what they are told to do is right or wrong. They cannot get at the men who ordered it—have no access to them. They have no voice of counsel or of protest. They are mere cogs in a machine which has men for its parts. And yet there are men here and there with whom the whole choice lies. There are men who control the machine as a whole and the men who compose it. There are men who use it with an imperial freedom of design, whose power and whose individuality overtop whole communities. There is more individual power than ever, but those who exercise it are few and formidable, and the mass of men are mere pawns in the game.

The present task of the law is nothing less than to rehabilitate the individual—not to make the subordinate independent of the

superior, not to turn corporations into debating societies, not to disintegrate what we have been at such pains to piece together in the organization of modern industrial enterprise, but to undo enough of what we have done in the development of our law of corporations to give the law direct access again to the individual—to every individual in all his functions.

Corporations do not do wrong. Individuals do wrong—the individuals who direct and use them for selfish and illegitimate purposes to the injury of society and the serious curtailment of private rights. Guilt, as has been very truly said, is always personal. You cannot punish corporations. Fines fall upon the wrong persons; more heavily upon the innocent than upon the guilty; as much upon those who knew nothing whatever of the transactions for which the fine is imposed as upon those who originated and carried them through—upon the stockholders and the customers rather than upon the men who direct the policy of the business. If you dissolve the offending corporation, you throw great undertakings out of gear. You merely drive what you are seeking to check into other forms or temporarily disorganize some important business altogether to the infinite loss of thousands of entirely innocent persons and to the great inconvenience of society as a whole. Law can never accomplish its objects in that way. It can never bring peace or command respect by such futilities.

I regard the corporation as indispensable to modern business enterprise. I am not jealous of its size or might, if you will but abandon at the right points the fatuous, antiquated, and quite unnecessary fiction which treats it as a legal person; if you will but cease to deal with it by means of your law as if it were a single individual, not only but also—what every child may perceive it is not—a responsible individual. Such fictions and analogies were innocent and convenient enough so long as corporations were comparatively small and only one of many quite as important instrumentalities used in business—only a minor item in the economic order of society. But it is another matter now. They span society, and the responsibilities involved in their complex organization and action must be analyzed by the law as the responsibilities of society itself, in all its other aspects, have been.

The corporations now overshadow partnerships altogether. Still more do they overshadow all individuals engaged in business on their own capital and separate responsibility. It is an arrangement by which hundreds of thousands of men who would in days gone by have set up in business for themselves, put their money into a single huge accumulation, and place the entire direction of its employment in the hands of men they have never seen, with whom they never confer. These men, these quiet autocratic managers, are thereby made, as it were, multiple individuals. In them are concentrated the resources, the choices, the opportunities, in brief, the power of thousands. They could never of themselves, of their own effort and sagacity, have accumulated the vast capital they employ, and employ as if it were their own; and yet they have not the full legal responsibilities of those who supplied them with it. Because they have the power of thousands they have not the responsibility common to those whose power they use. It is an extraordinary anomaly.

A modern corporation is an economic society, a little economic state—and not always little, even as compared with States. Many modern corporations wield revenues and command resources which no ancient state possessed, and which some modern bodies politic show no approach to in their budgets. The economic power of society itself is concentrated in them for the conduct of this, that, or the other sort of business. The functions of business are differentiated and divided amongst them, but the power for each function is massed. In some instances even the functions are not separated. Railroad companies have been known to buy coal mines. Manufacturing combinations have been observed to develop a score of subsidiary industries, to spread a network of organization over related enterprises, and sometimes even over enterprises whose relation to their main undertakings it is difficult for the lay mind to perceive. Society, in short, has discovered a new way of massing its resources and its power of enterprise, is building up bodies economic outside its bodies politic which may, if we do not find the means to prevent them, the means of disclosing the responsibilities of the men who compose them, dominate bodies politic themselves.

And these huge industrial organizations we continue to treat as legal persons, as individuals, which we must not think of as consisting of persons, within which we despair of enabling the law to pick out anybody in particular to put either its restraint or its command upon. It is childish, it is futile, it is ridiculous. One thinks of the old Confederation, which we had to abandon because it tried to govern States and could not command individuals. As well treat society itself as a unit; insist that it impose a fine upon itself for every wrong done, no matter how notorious it may be who did it; suggest that it embarrass all its processes of action and even break itself up into its constituent parts and begin all over again when the persons whom it has trusted prove depraved or selfish. It is not even interesting to continue such an experiment.

Society cannot afford to have individuals wield the power of thousands without personal responsibility. It cannot afford to let its strongest men be the only men who are inaccessible to the law. Modern democratic society, in particular, cannot afford to constitute its economic undertakings upon the monarchical or aristocratic principle and adopt the fiction that the kings and great men thus set up can do no wrong which will make them personally amenable to the law which restrains smaller men; that their kingdoms, not themselves, must suffer for their blindness, their follies, and their transgressions of right.

It does not redeem the situation that these kings and chiefs of industry are not chosen upon the hereditary principle (sometimes, alas! they are) but are men who have risen by their own capacity, sometimes from utter obscurity, with the freedom of self-assertion which should characterize a free society. Their power is nonetheless arbitrary and irresponsible when obtained. That a peasant may become king does not render the kingdom democratic.

I would not have you think that I am speaking with a feeling of hostility toward the men who have in our day given the Nation its extraordinary material power and prosperity by an exercise of genius such as in days gone by was used, in each great age, to build empires and alter the boundaries of states. I am drawing no indictment; no indictment that I could draw would be just. No indictment that has been drawn has been just, but only exaggerated and disquieting. The time for hostilities has gone by. The time for accommodations, for common understandings, for a surcease of economic warfare and the inauguration of the peace that will come only by common sacrifices and concessions, has come. I am simply trying to analyze the existing constitution of business in blunt words of truth, without animus or passion of any kind, and with a single, clear purpose.

That purpose is to recall you to the service of the Nation as a whole, from which you have been drifting away; to remind you that, no matter what the exactions of modern legal business, no matter what or how great the necessity for specialization in your practice of the law, you are not the servants of special interests, the mere expert counselors of this, that, or the other group of businessmen; but guardians of the general peace, the guides of those who seek to realize by some best accommodation the rights of men. With that purpose in view, I am asking you to look again at the corporation.

It is indispensable convenience; but is it a necessary burden? Modern business is no doubt best conducted upon a great scale, for which the resources of a single individual are manifestly insufficient. Money and men must be massed in order to do the things that must be done for the support and facilitation of modern life. Whether energy or economy be your standard, it is plain enough that we cannot go back to the old competitive system under which individuals were the competitors. Wide organization and cooperation have made the modern world possible and must maintain it. They have developed genius as well as wealth. The nations are richer in capacity and in gifts comparable to the higher gifts of statesmanship because of them and the opportunities they have afforded exceptional men. But we have done things in pursuit of them, and have nursed notions regarding them, which are no necessary part of what we seek. We can have corporations, can retain them in unimpaired efficiency, without depriving law of its ancient searching efficacy, its inexorable mandate that men, not societies, must suffer for wrongs done. The major promise of all law is moral responsibility, the moral responsibility of individuals for their acts and conspiracies, and no other foundation can any man lay upon which a stable fabric of equitable justice can be reared.

I call your attention to the fact, therefore, that it is perfectly possible to have corporations and serve all the necessities and conveniences of modern society by means of the great combinations of wealth and energy which we have found to be so excellent, and yet dispense with a large part of the quite outworn and now in many respects deeply demoralizing fiction that a corporation is an indivisible person. Of course, we must continue to regard it as an artificial person so far as is necessary to enable it to hold such property as may be proper for the execution of its charter purposes, to sue and be sued, and to conduct its business through officers who speak for it as a whole, and whose signatures and orders are, under its bylaws and resolutions, binding upon it. It must act and live as a person, and must be capable of enjoying, what individuals cannot enjoy, a certain perpetuity of power and authority, though individual men within it come and go, live, die, resign, or are translated. But there its unity should stop.

In respect of the responsibility which the law imposes in order to protect society itself, in order to protect men and communities against wrongs which are not breaches of contract but offenses against the public interest, the common welfare, it is imperative that we should regard corporations as merely groups of individuals, from which it may, perhaps, be harder to pick out particular persons for punishment than it is to pick them out of the general body of unassociated men, but from which it is, nevertheless, possible to pick them out—possibly not only but absolutely necessary if business is ever again to be moralized. Corporations must continue to be used as a convenience in the transaction of business, but they must cease to be used as a covert for wrongdoers.

The managers of corporations themselves always know the men who originated the acts charged against them as done in contravention of the law; is there no means by which their names may be disclosed to the officers of justice? Every act, every policy in the conduct of the affairs of a corporation originates with some particular officer, committee, or board. The officer, the committee, the board which orders an act or originates a policy contrary to the law of the land or intended to neutralize or contravene it is an insurgent against society; the man or men who originate any such act or policy should be punished, and they alone. It is not necessary that the corporation should be broken up. It is not fair that the stockholders should be mulcted in damages. If there are damages to be paid, they should be paid out of the private means of the

persons who are really guilty. An analysis of the guilt is perfectly feasible. It is the duty of lawyers, of all lawyers, to assist the makers of law and the reformers of abuses by pointing out the best and most effective way to make it.

It seems to me absurd, for example (let me say by way of parentheses), to extend the law of libel to corporations, to suffer one publishing corporation to sue another for defamation. Somebody in particular has uttered the libel, somebody in particular has been libeled. Character cannot be incorporated; writing cannot be corporately done. Are lawyers so incapable of ascertaining the facts that they cannot find out who it is that did the thing or who it is that has been injured in his reputation?

I know that the matter is not as simple as it sounds. I know that some corporations are in fact controlled from the outside, not from the inside; that it often happens that some man or some small group of men who are not even in its directorate dictate its policy, its individual acts, its attitude toward law and society, and that the men who act within it are little better than automata. But are they really beyond discovery? On the contrary, is it not generally matter of common knowledge who they are? Would it take extraordinary acumen and intelligence to devise laws which would reach them also? What we are after, of course, is to obtain laws which will prevent the use of corporations to the public hurt and disadvantage. We know that the man who shoots his enemy was not in the gun, that he simply used it, and that no part of the mechanism of the gun itself is criminally liable. We can generally discover who used the gun and how he used it, whatever his cunning and secrecy. We can also find out who uses the corporations against the public interest; and we can punish him, or them, if we will, whether they belong to the actual nominal organization of the corporation or not. Our processes of evidence may have to be considerably altered, but we can alter them; our formal conception of parties in interest may have to be extended, but it is easy to extend it; our make-believe that we can see nobody in the transaction but those who are avowed and formal members of the organization may have to be discarded, but that ought to be a relief to our consciences. We have allowed ourselves to be ridiculously limited and embarrassed by the theory that a corporation is an indivisible person not only, but that nobody outside of it, no matter how intimate his use and control, may be brought into the suit by any genteel lawyer bred in the orthodox schools of law. A corporation is merely a convenient instrument of business and we may regulate its use as we please, and those who use it. Here is merely an artificial, a fictitious person, whom God did not make or endow, which we ourselves have made with our own hands and can alter as we will. I see no law of nature in our way, but only some laws of evidence and of corporate theory which we have outgrown.

You will say that in many instances it is not fair to pick out for punishment the particular officer who ordered a thing done, because he really had no freedom in the matter; that he is himself under orders, exercises no individual liberty of choice, is a dummy manipulated from without. I reply that society should permit no man to carry out orders which are against law and public policy, and that, if you will but put one or two conspicuous dummies in the penitentiary, there will be no more dummies for hire. You can stop the traffic in dummies, and then, when the idea has taken root in the corporate mind that dummies will be confiscated, pardon the one or two innocent men who may happen to have got into jail. There will not be many and the custom of the trade will change!

There are other corporate matters worthy of your attention, but they do not intimately concern my present theme. I think you must admit, for example, that the position of the minority stockholder is, in most of our States, extremely unsatisfactory. I do not wonder that he sometimes doubts whether corporate stocks are property at all or not. He does not seem to enjoy any of the substantial rights of property in connection with them. He is merely contributing money for the conduct of a business which other men run as they please. If he does not approve of what they do, there seems nothing for it but to sell the stock (though their acts may have depreciated its value immensely). He cannot even inquire or protest without being told to mind his own business—the very thing he was innocently trying to do! There are many things which are not satisfactory about this putting the money of many men into one pile for the use of a board of directors, and to my mind it is clearly your task as counsellors of society to make them satisfactory. It is the duty of our profession to see to it that no man's powers exceed or lie outside of his legal and personal responsibilities—that the corporation be made a mere convenience of business and not a means of irresponsible mastery, its interior and all men within it as accessible to the law as its exterior and the scattered individuals who have no corporate ambush from which to work their will.

I have used the corporation merely as an illustration. It stands in the foreground of all modern economic questions, so far as the United States are concerned. It is society's present means of effective life in the field of industry. Society must get complete control of its instrument or fail. But I have used it only as an illustration of a great theme, a theme greater than any single illustration could compass—namely, the responsibility of the lawyer to the community he professes to serve.

You are not a mere body of expert business advisers in the field of civil law, or a mere body of expert advocates for those who get entangled in the meshes of the criminal law. You are servants of the public, of the State itself. You are under bonds to serve the general interest, the integrity and enlightenment of law itself, in the advice you give individuals. It is your duty also to advise those who make the laws—to advise them in the general interest, with a view to the amelioration of every undesirable condition that the law can reach, the removal of every obstacle to progress and fair dealing that the law can remove, the lightening of every burden the law can lift and the righting of every wrong the law can rectify. The services of the lawyer are indispensable, not only in the application of the accepted processes of the law, the interpretation of existing rules in the daily operations of life and business. His services are indispensable also in keeping and in making the law clear with regard to responsibility, to organization, to liability, and, above all, to the relation of private rights to the public interest.

The structure of modern society is a structure of law, rather than of custom. The lawyer's advice is more than ever necessary to the State therefore. Communities as well as individuals stand in constant need of his guidance. This used to be commonplace doctrine amongst us; why does it now need to be preached again? Is it mere accident that the relation of the legal profession to affairs has changed? Is it merely because the greater constitutional questions seemed for a time to be settled and legal debates give place to industrial enterprise, a great age of material following a great age of political development? Has it been merely a change of circumstances, or has it been a change of attitude and spirit as well on the part of the profession itself? Has not the lawyer allowed himself to become part of the industrial development, has he not been sucked into the channels of business, has he not changed his connections and become part of the mercantile structure rather than part of the general social structure of our Commonwealths, as he used to be? Has he not turned away from his former interests and duties and become narrowed to a technical function?

Whatever may be the cause, it is evident that he now regards himself as the counsel of individuals exclusively and not of communities. He may plead the new organization of politics, which seems to exclude all counsel except that of party success and personal control; he may argue that public questions have changed, have drifted away from his field, and that his advice is no longer asked, but whatever his explanation or excuse the fact is the same. He does not play the part he used to play; he does not show the spirit in affairs he used to show. He does not do what he ought to do.

For there never was a time, in fact, when his advice, his disinterested and earnest advice, was more needed than it is now in the exigent processes of reform, in the busy processes of legislation through which we are passing, with so singular a mixture of hope and apprehension. I hear a great many lawyers join the cry of the businessmen, that it is time legislators left business alone, allowed it to recover from the confusion and distraction of regulative statutes, altered tariffs, and supervising commissions, find its natural methods again, and go forward upon a way of prosperity which will not be beset by fear and uncertainty. But the cry is futile, the impatience which gives rise to it is selfish and ignorant. Nothing is settled or can be let alone when it is known to be wrong until it is set right. We have settled nothing in our recent reform legislation. That is the reason it is so unsatisfactory, and why some prudent and thoughtful men grow tired of it. But that is only another reason for seeking out and finding what will be the happy and successful way of setting our economic interests in order. There has been no satisfactory settlement, but there must be one. Public opinion is wider awake about these matters than it has been within the memory of any man living, and it is not going to turn away from time until satisfactory reforms of the law are found. There will be no peace until a happy and honorable basis of peace has been hit upon. Lawyers may come into the settlement or stay out of it, as they please, but a settlement there must be. For one, I hope that they will not stay out. I fear that it would be disastrous for them to do so—disastrous to them and to society. I covet for them their old and honorable leadership in public counsel.

Just because they have so buried themselves in modern business, just because they have been so intimate a part of it, they know better than anyone else knows what legal adjustments have and have not been made—know the practices that circumvent the law, even the existing law, and the provisions of statute and court procedure that might put a stop to them or square them with what the interests of the whole community demand, theirs is the special responsibility to advise remedies. Theirs has been the part of intimate counsel in all that has been going on. The country holds them largely responsible for it. It distrusts every "corporation lawyer." It supposes him in league with persons whom it has learned to dread, to whom it ascribes a degree of selfishness which in effect makes them public enemies, whatever their motives or their private character may be. And the lawyer—what does he do? He stands stoutly on the defensive. He advises his client how he may make shift, no matter how the law runs. He declares that business would go very well and every man get his due if only legisitators would keep their hands off. He keeps his expert advice for private persons and criticizes those who struggle without his countenance or assistance along the difficult road of reform. It is not a promising situation.

Our reforms must be legal reforms. It is a pity they should go forward without the aid of those who have studied the law in its habit as it lives, those who know what is practicable and what is not, those who know, or should know, if anybody does, the history of liberty.

The history of liberty is a history of law. Men are not free when they have merely conceived what their rights should be. They are not set free by philosophies of right. Their theories of the rights of man may even lead them astray, may make them break their hearts in pursuit of hopes they can never realize, objects they can

never grasp, ideals that will forever elude them. Nothing is more practical than the actual body of liberty. It consists of definitions based upon experience, or, rather, of practices that are of the very essence of experience. A right is worth fighting for only when it can be put into operation. It can be put into operation only when its scope and limitation can be accurately defined in terms of legal procedure; and even then it may amount to nothing if the legal procedure be difficult, costly, or complicated. Liberty of speech is defined in the law of slander and of libel, and becomes mere license against which there is no protection if the law of slander or of libel be difficult or costly or uncertain to apply. Liberty of the person is defined only when the law has carefully enumerated the circumstances in which it may be violated, the circumstances in which arrests and imprisonments and army drafts and all the other limitations upon which society may insist for its protection or convenience will be lawful. Its reality, its solidarity consists in the definiteness of the exceptions, in the practicality of the actual arrangements.

And it is part of its definiteness and reality that liberty is always personal, never aggregate; always a thing inhering in individuals taken singly, never in groups or corporations or communities. The indivisible unit of society is the individual. He is also the indigestible unit. He cannot be merged or put into combination without being lost to liberty, because lost to independence. Make of him a fraction instead of an integer, and you have broken his spirit, cut off the sources of his life. That is why I plead so earnestly for the individualization of responsibility within the corporation; for the establishment of the principle by law that a man has no more right to do a wrong as a member of a corporation than as an individual. Establish that principle, cut away the undergrowth of law that has sprung up so rankly about the corporation and made of it an ambush and covert, and it will give every man the right to say "no" again, to refuse to do wrong, no matter who orders him to do it. It will make a man of him. It is in his interest no less than in the interest of society which must see to it that wrongdoing is put a stop to.

We are upon the eve, gentlemen, of a great reconstruction. It calls for creative statesmanship as no age has done since that great age in which we set up the Government under which we live, that Government which was the admiration of the world until it suffered wrongs to grow up under it which have made many of our own compatriots question the freedom of our institutions and preach revolution against them. I do not fear revolution. I do not fear it even if it comes. I have unshaken faith in the power of America to keep its self-possession. If revolution comes, it will come in peaceful guise, as it came when we put aside the crude government of the Confederation and created the great Federal state which governed individuals, not corporations, and which has been these 130 years our vehicle of progress. And it need not come. I do not believe for a moment that it will come. Some radical changes we must make in our law and practice. Some reconstructions we must push forward which a new age and new circumstances impose upon us. But we can do it all in calm and sober fashion, like statesmen and patriots. Let us do it also like lawyers. Let us lend a hand to make the structure symmetrical, well proportioned, solid, perfect. Let no future generation have cause to accuse us of having stood aloof, indifferent, half hostile, or of having impeded the realization of right. Let us make sure that liberty shall never repudiate us as its friends and guides. We are the servants of society, the bond servants of justice.

Time, America, and Roosevelt March On

EXTENSION OF REMARKS

OF

HON. KEY PITTMAN

OF NEVADA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 9 (legislative day of Monday, Mar. 8), 1937

ADDRESS BY HON. JOSEPH B. KEENAN, THE ASSISTANT TO THE ATTORNEY GENERAL, AT THE VICTORY DINNER HELD UNDER THE AUSPICES OF THE DEMOCRATIC NATIONAL COMMITTEE, AT NEW ORLEANS, LA., MARCH 4, 1937

Mr. PITTMAN. Mr. President, I ask unanimous consent to have published in the Appendix of the RECORD an address delivered by Hon. Joseph B. Keenan, Assistant to the Attorney General, upon the occasion of the Victory Dinner at New Orleans, La., on March 4, 1937. The address is entitled "Time, America, and Roosevelt March On."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

We are gathered to celebrate a magnificent national victory. Last November, after a spirited contest, the people of this country in 46 out of 48 States emphatically registered their approval of and voiced their thanks to one of the greatest Presidents in the history of America. And Louisiana, which never yet has forsaken the cause of Democracy, once more took its place in the front line.

So it is fitting and proper to celebrate this victory here in the romanic city of New Orleans, the great southern metropolis where the heart of democracy is strong and where the good nature and charm of its people have endeared them to so many millions of their fellow Americans.

Last November's victory was more than a party triumph, for it had real patriotic significance. If the forces of reaction had triumphed, I fear we would again be reverting to the unhappy days of minority control. My friends, the day of tryanny of the few has definitely passed, for we Americans want none of it and will have none of it. Europe may seethe in the welter of international hatreds, crushing out democracies and fostering communism in one part and fascism in another, but here the American people are adamant in their determination to make secure personal freedom and the protection of private property.

In spite of this overwhelming victory, it seems that a serious menace still threatens our country, for reactionary groups continue to struggle to inflict their rule, attempting to control through reactionary governmental institutions.

Be not deceived. These forces are seeking to annul laws enacted in an orderly fashion by the duly elected representatives of the people. Remember, our executive and legislative branches of the Government are chosen by direct vote of the people at short and stated intervals. However, these groups refer to the President of the United States as a dictator and to Members of the Congress of the United States as "rubber stamps." It is about time that we advert to the facts and recall to mind that before any law can be enacted it must be passed by a majority of the House of Representatives, the entire personnel of which is chosen every 2 years, and then approved by a majority of the United States Senate, one-third of which body is likewise chosen by a direct vote of the people every 2 years. Bills proposed for passage must pass the scrutiny of the Senate and House committees before reaching the floor of the Congress for consideration. These committees not infrequently conduct hearings where the pertinent facts are assembled and considered before any action is taken. Thus you will realize that the enactment of a law in our country is anything but a haphazard affair. Every Senator and Representative has full opportunity to discuss any law proposed, and his remarks are often widely publicized. These are certainly not star-chamber methods. These are the steps taken by representatives of a free people providing for their government. Anyone who ignores this operation of government, ignores the most vital of democratic functions, for in a democracy as a rule the people speak through their legislative bodies. When the Congress of the United States speaks in passing a law it records the expressed will and desire of the people of this country in legal and orderly fashion. You are all familiar with the veto power of our Chief Executive.

Now, when these three independent branches of the lawmaking machinery so speak in agreement, as they must do if a law is to be enacted, the voice of the people is being recorded clearly, and anyone who fails to recognize this as the voice of the people flirts with disaster in this or any other democratic nation. So when laws pass with overwhelming support in both House and Senate and have the approval of the President, if the same then cannot be made effective for any reason the machinery of the Government is out of order, for the will of the people becomes inoperative, and unless the will of the people prevails the pillars of democracy fall.

Be assured that this is true; you cannot continuously defeat the will of the people (granted that you are assured that it is the will of the people) without automatically setting up a dictatorship. Because any person or body ruling without consulting with or in defiance of the popular and expressed will of the people thereby assumes the role of dictator. And speaking of a dictator, have you ever heard a person called dictator because he struggled to maintain the authority of the legislative branch of government? Quite the contrary. Whether you advert to the Fascist governments of Europe or the communistic, in either instance you will find that these dictators have completely abolished the legislative branch of their governments. In place of such branch of government a small group of men constitute themselves as the sole authority and evidently intend to continue as such as long as they live or, as one might say, during good behavior. Can you picture Franklin Roosevelt in his present battle to prevent the nullification of laws enacted in an orderly way by the Congress of the United States, which is elected by the people, assuming such power? Would not this newly created autocrat be somewhat out of role in his struggle for laws for the benefit of all classes of people in this country?

Much is being said in criticism of a plan contained in a special message of the President to Congress concerning reorganization of the Federal courts. The President's proposal provides that whenever a judge reaches the age of 70 years he may retire upon full pay if he has served in such capacity for 10 years. For every judge who reaches the age of 70 and who elects to still serve in his capacity, the Court may be enlarged to provide an additional judge. However, the Supreme Court may never exceed 15 in number.

Now, instead of descending to personal vilification and fault-finding, let us examine the facts. For the last 60 years the Supreme Court consisted of nine members. Five times before its size has been changed by acts of Congress from 5 to 7, from 7 to 9, from 9 to 10, then back to 7 and up to 9 again. These changes took place pursuant to laws passed by the Congress and approved by the President of the United States in full accord with the Constitution, and without the legality thereof being challenged. Now it is suggested that the number should be increased to 15 from the 9 provided some 60 years ago. This would constitute an increase of two-thirds of the then existing number. The population of the

United States has increased in the last 60 years more than three times; the business of the country more than five times. In 1869 the Congress believed that a country with a population of 38,000,000 needed only nine judges on the Supreme Court. If Congress today believes that the country would better be served by a Supreme Court of 15 men to serve a nation of 130,000,000, who can justly assume that the Congress must be in error in this conclusion?

In addition, I think we all can agree that the tempo of life has increased in the last 60 years, travel has become more speedy, life more complex, and human machinery undoubtedly wears out a little more rapidly than in the days of our great-grandparents. In making this observation I have no intention of offending my grandmother. So if Congress concludes that there should be an infusion of new blood into the Supreme Court, who can complain of its judgment? Who dares to say that this is not a legislative problem for the Congress to solve, not alone in accord with but specifically as directed by the Constitution of the United States? In the message from the President, which likewise was delivered in accordance with the mandate of the Constitution, we find him using the following language. I quote from the message delivered February 5, 1937:

"I have recently called the attention of the Congress to the clear need for a comprehensive program to reorganize the administrative machinery of the executive branch of our Government."

You will recall that that is true. The same was presented January 6, 1937, the day after Congress convened. I resume the quotation:

"I now make a similar recommendation to the Congress in regard to the judicial branch of the Government"—I ask you to listen with great care to the following words, continuing quotation—"in order that it also may function in accord with modern necessities."

"The Constitution provides that the President 'shall from time to time give to the Congress information on the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient.'"

These are the very words of the Constitution. They not alone permit the President of the United States to do so; but they demand, direct, and require that he do so because the word used is "shall." I continue to quote from the President's message:

"No one else is given a similar mandate. It is therefore the duty of the President to advise the Congress in regard to the judiciary whenever he deems such information or recommendation necessary.

"I address you for the further reason that the Constitution vests in the Congress direct responsibility in the creation of courts and judicial offices and in the formulation of rules of practice and procedure. It is, therefore, one of the definite duties of the Congress constantly to maintain the effective functioning of the Federal judiciary."

Here you have the whole story, and instead of the President violating the Constitution by packing the Court, you will find that he is doing no such thing. To the contrary, an examination of the Constitution and of the President's message shows that he is carrying out the express mandate and obligation of the Chief Executive as set forth in the Constitution. And does he himself seek to make this a law? Not at all. He merely, as directed by the Constitution and in the performance of his duties, brings the facts to the attention of the Congress. Why to the Congress? Because the Constitution provides that it is the duty of the Congress to provide legislation for the appointment of Justices of the Supreme Court and other judicial officers and regulate and formulate certain rules of practice and procedure. For what purpose did the framers of the Constitution vest this power in Congress? Now, if it were intended that Congress should not have this power and make no change, then the Constitution itself would have provided that the Supreme Court consist of nine members, no more and no less. Then an amendment to the Constitution undoubtedly would have been required to increase or decrease the number. But recourse to that simple instrument, consisting of less than 3,500 words, shows no such limitation. Quite to the contrary its authors realized that some leeway and latitude must be left to the people's representatives to meet changing times and conditions in business, in travel, and in life itself.

As a consequence they undoubtedly knew that circumstances and emergencies would arise which forbade inaction for a period of time sufficient to procure a constitutional amendment without incurring the risk of an overwhelming catastrophe ensuing in the interval. Of course, these people of three or four generations ago realized that it would be impossible for them to designate the exact number of judges necessary or advisable to conduct the business of the Supreme Court of our time or for all time. Since apparently the Constitution was intended to serve as the basic pattern for the government of our country forever, how could less than 5,000,000 inhabitants of a country of 150 years ago legislate with finality for the needs of a people of 130,000,000?

I submit to you that it never was the intention of the founding fathers that the American people should be ruled by dead hands stretching across the gap of a century and a half.

Do you hear any of these suggestions brought to you by those who today talk of the President "packing" the Court?

Can the President himself bring about this change? It would seem so if one would believe the barrage of hysterical propaganda spread from one end of this country to the other.

Now, the Constitution of the United States did not provide for the number of judges for the Supreme Court, nor did it provide for the maximum age of any such Justices, so that, as far as the Constitution was concerned, a judge might remain on the bench during good behavior.

Of course, it was not expected that he would remain upon the bench after his body and mind had lost the requisite vigor to amply insure the safe and efficient performance of his duties. But this by no means indicates that every judge, whenever appointed, should serve until he was called to the bosom of his Maker. Distinguished as they are, the names of the nine Justices who now grace the Supreme Court were not found on any silver plates or engraved in any stones on the side of mountains. If the Constitution is held to be ordained by the people, the Justices of the Supreme Court are selected by human agencies and, history tells us, by individuals who are subject to the same human frailties as you and I. In practically all of the States of the Union outside of New England judges are elected directly by the people. In New York, New Hampshire, Connecticut, and several other States they are required to retire when they reach the age of 70. In Massachusetts alone are judges selected for life.

In the light of the foregoing let us get rid of this highly misleading, prejudicial propaganda that the President's act is unconstitutional, that the President is packing the Court. Let me tell you further why he is not and cannot pack this or any other court. First, this law must be enacted, as is every other law, by the action of the House of Representatives and the Senate in a constitutional manner. Other than signing an act after it passes, the only part the President has in enacting a law is to call the facts justifying such law to the attention of the lawmaking body. The same applies equally to laws relating to the judiciary. This, you see, he does because the Constitution tells him he must. Second, judges are not selected alone by the President of the United States.

In accordance with the Constitution, and, of course, the practice that must be followed in each case, the President merely nominates, but his nominees become judges only if the Senate of the United States, an elective body of 96 Members, register their approval by confirmation. Do you think and does anyone contend, especially where new positions are created in a highly controversial period, that the nominees of any President of the United States would be rubber stamped into office? You know full well to the contrary.

If and when this bill becomes a law, by the action of Congress acting in full accord with the provisions of the Constitution, the President then will submit the names of his nominees for any vacancies existing. These names will be submitted to a Judiciary Committee consisting of United States Senators of both of the major parties, Democratic and Republican. Any protests as to such names may be submitted to the committee; hearings may be had, as they have been had in the past, by witnesses sworn to tell the truth, whose testimony becomes a matter of record. Then the nominees in due time are voted upon by the members of the Judiciary Committee, and if their names are favorably reported, they are submitted to the entire Senate, which may discuss the persons so nominated either in executive or open session. There each and every Senator has full opportunity to record his views as to the fitness or lack of fitness of any nominee so suggested. Finally, as in every other matter, the matter of selection or rejection of the particular individual is submitted to the entire Senate and the majority decide whether or not the nominee becomes a judge.

It is only after nomination by the President and confirmation by the Senate that the President appoints the individual. There have been instances where the judicial nominees of the President have failed of confirmation. When we are told of the nefarious practice of "packing" the Court are these facts brought to our attention by the foes of the President's plan? Why do you suppose they are omitted? Surely no Member of the United States Senate could have a high regard for his colleagues and refer to this procedure as one of "packing" the Court.

But it may be said that it is dangerous to permit President Roosevelt or any other President to name as many as six to the Supreme Court. George Washington appointed 12 members of the Supreme Court. Andrew Jackson appointed five—and Andrew Jackson was a pretty positive individual. Abraham Lincoln appointed five in a single term—and Lincoln does not occupy the place in history of a dictator. Ulysses S. Grant appointed four judges, two of them in accordance with the law similar to that under consideration. It is somewhat amusing, perhaps, to those who fear the power of the act of a dictator to note that William Howard Taft, who named six Justices to the Supreme Court, served one term, and when he sought reelection at the hands of the people, received 8 electoral votes out of 531. Franklin Roosevelt, who has already completed his first term, has not had the privilege of naming a single Justice, and yet, when he submitted himself and his policies and actions—and I think you will agree with me the full light of publicity being thrown thereon—to the people of the country for repudiation or approval, every one of the 531 votes, excepting 8, were recorded in his favor!

It is interesting to note that only three Presidents have failed to name a Justice of the Supreme Court: William Henry Harrison, who lived approximately 30 days after he became President; Andrew Johnson, who presided during the storms of the reconstruction period wherein the number of the Supreme Court was reduced to seven; and Zachary Taylor, who lived approximately 1 year and 4 months after he qualified for office. There has been no President other than Franklin Roosevelt, entering on a second term, who did not have the opportunity of appointing at least one member to the Supreme Court.

No one ever accused the President of the United States of "packing" the Court when the function was exercised by Republican Presidents of supplementing the circuit- and district-court judges

whom they found to be incapacitated; and, indeed, when it is shouted from the housetops that Franklin D. Roosevelt will "pack" the Court if permitted to name judges to vacancies on the Supreme Court—permitted lawfully and in accordance with the Constitution—can you have any fear in view of the facts of history? Can you not trust the honesty, the integrity, and the good judgment and fairness of Franklin Roosevelt after observing him in action for 4 years? Would you not permit him to appoint some Federal court judges? Warren Harding, in the short space of 2 years, appointed four and Herbert Hoover appointed three. What is alarming at the possibility of the appointees of Harding and Hoover having a nominee of Franklin Roosevelt confirmed by the Senate sitting beside them?

The criticism of the President's message and the bill prepared by the Department of Justice is now moving into a tempo somewhat reminiscent of the harangue directed by certain of the press, the Republican National Committee, the Liberty League, and other fundamentalists, self-styled conservators and such public-spirited institutions as the Union League Club.

The American Bar Association is now ready to coordinate with its propaganda and register its protests. It will do this under the leadership of the present presiding officer of that organization who campaigned against the reelection of President Roosevelt when the occasion presented in the guise of defending the Constitution at various bar association meetings.

When the Republicans had control of the Nation and all the departments were under the domination of President Harding, a committee of the self-same American Bar Association, of which Henry W. Taft, brother of President Taft, was a ranking member, presented a report which was adopted providing for the reform of the Federal courts. This was called the Committee on Jurisprudence and Law Reform, and, for many of the same reasons now urged by President Roosevelt, advocated enlarging the Supreme Court from 9 to 12 members. Now, that liberal forces are in control of the Government, undoubtedly the American Bar Association will register its protests against any similar movement.

Already Mr. Hoover has spoken, harking back to the days of 1928, "packing" chickens into the pot, "packing" cars into garages, to the days of 1932, growing grass in public streets, and, moving on to 1936, warning the people of this country of the Roosevelt menace. Now, under the guidance of Herbert Hoover, we proceed from grass in the public streets, the rubber dollar, to Herbert Hoover reverting back to type with the cry, "Hands off the Supreme Court." This "hands off" doctrine is a favorite one of Herbert Hoover. It was "hands off" the big banker, "hands off" the panic, "hands off" the homes under foreclosure, "hands off" the farms rapidly being taken over by mortgage holders, "hands off" the bread lines, "hands off" the starving soldiers (but not "hands off" the bonus marchers), "hands off" the jobless millions, "hands off" child labor. Indeed, he might have supplemented his slogan and told the full truth. Instead of "packing" courts, these influences would "pack" the sweatshops with children, "pack" the warehouses with 6-cent cotton, "pack" the market with 10-cent tobacco and 20-cent corn, "pack" the granaries with 30-cent wheat, "pack" the jails with prohibition violators, "pack" the poorhouses with the aged, "pack" the coffers of the greedy with the profits of the sweatshop.

Today the people throughout the Nation join in victory dinners to thank God for Franklin Roosevelt, who rejects the admonition of the gospel of despair preached by Mr. Hoover and his policy of "hands off", but who, with eyes uplifted, with confidence in the future, extends the helping hand of the good neighbor to the distressed, the exploited, and the weak. Franklin Roosevelt cannot keep his hands off when he sees people suffering—he is not built that way. Not only his helping hand goes out to them but his generous heart and soul. His love for his fellow men, his sincerity, courage, and brilliant achievements have saved the heart of America from breaking.

Who are they then who dare to raise their voices with their continued admonition of "Hands off"? They have received and will again receive the same answer from the people of this country—a cry of thanksgiving for the inspiring leadership of the last 4 years. For millions have said in effect to the President: Proceed along the pathway you have chosen—we will follow! Protect the children from the sweatshops; the farmer from economic ruin; the people from exploitation at the hands of predatory and selfish interests; and business, large and small, from cutthroat and destructive competition.

To those who analyze without passion or prejudice the results of last November's election the fact is apparent that the people of this country recognized in the Roosevelt program their real defense against the onslaught of communism, the threat of fascism, and the advent of the plague of all other types of hateful isms which today find fertile breeding grounds in the welter of discord created and kept alive by the reactionary policies of Europe.

That this power of leadership is productive of real results should be a cause for universal rejoicing. Who regrets the liberal attitude of General Motors Corporation when 10 days ago it raised the wages of its employees millions of dollars a year; and the progressive change in the policy of the United States Steel Corporation in recognizing for the first time in 50 years the right of collective bargaining, resulting also in an increase in wages amounting to many millions of dollars annually? These great events always require powerful leadership, but they provoke bitter and prolonged controversy at the time. When they result in accomplished facts, they bring praise upon their originators and sponsors.

What more appropriate occasion could present itself in addressing a gathering of Louisianans than to recall that another great President, Thomas Jefferson, who has now been adopted by the Republican Party, had also a mighty problem to face. He saw an opportunity to acquire almost a million square miles of land for $15,000,000 in a peaceful manner from a friendly country. He knew that the acquisition of that land was vital to the protection and natural growth and expension of the Nation. He believed, so he stated, that the Constitution gave him no power to acquire this land from France without a constitutional amendment. He also was aware that by the time a constitutional amendment was passed the property would probably have long since passed from the control of France and its acquisition by a foreign power might bring about a war. He felt that failure to acquire it by peaceful means would produce neighbors that would lead to continuous strife, so he acquired the land and worried about the constitutional aspect afterward. If he had delayed action, it is entirely possible that this very soil upon which we stand tonight, in this great State of Louisiana, might very well fly the flag of a foreign nation. Today you read of the cogitations and the discussions about this dictatorial act of Jefferson. The shrewd colonists of that time, however, realized that Jefferson had acted quickly and with rare, good common sense.

However, our President seeks and plans to move only through constitutional channels. He has already stated that he believes the Constitution, if reasonably interpreted in the light of existing facts, facing the future instead of attempting to accompany the dodo bird in its exhibition of backward flying, can be reasonably interpreted to meet present conditions. Yet every time an effort has been made to project this country forward in the march of time and progress, faint-hearted souls or Tories have met such proposals with the cry of unconstitutionality or dictatorship, and, unfortunately, it has fallen to the lot of the Supreme Court to decide with the powerful few against the great masses of the people in most instances.

The Dred Scott decision, many people believe and historians tell us, was the greatest single influence in precipitating the War between the States. In this case the Supreme Court held a law to be unconstitutional which had remained undisturbed 30 years on the statute books and which had been repealed 2 years before the Court had to go out of its way to hand down its unfortunate interpretation. In this great issue the action of the Supreme Court constituted a blow at freedom and brought violence and disaster upon the country. Surely this was an impediment in the march of time and progress for which we paid heavily in blood and treasure, in bitterness and tears.

Later came the Legal Tender cases. After the Civil War, business was expanded and the Nation needed paper money, yet the Supreme Court by the vote of one man held that law to be unconstitutional. Another stumbling block in the march of time and progress.

When the income-tax law first came up for decision—a just law when fairly and properly administered—in a 5-to-4 decision the Supreme Court held the act creating it unconstitutional. Another blow for the mighty, throwing the burden of taxation on the many and the poor. It took 50 years to enact this law and 16 years to amend the Constitution to include it.

With respect to child labor, again the Supreme Court delivered a sledge-hammer blow at those pleading for the emancipation of children from the factory and the mill, also by a 5-to-4 decision. Although 13 years have passed since the amendment was adopted by both Houses of Congress correcting this evil, yet eight citadels of greed and misunderstanding must still be taken until the thirty-sixth State is won and victory finally achieved. Already the Supreme Court (see *Dillon* v. *Gloss*, 256 U. S.) has indicated grave doubt if the amendment be held valid even with 34 States ratifying it, because it is contended too long a time has elapsed between the period of the passage of the act proposing the amendment and ratification.

When the District of Columbia attempted to provide a minimum-wage law for women, another anvil blow was delivered by the Supreme Court.

And recently, when the State of New York decided to legislate only for those within its own border and fix minimum wages and maximum hours of labor for women, still another blow was struck against progress and enlightenment and by a 5-to-4 decision.

The remedy is plain. We need a closer attunement between the personnel of the Court and those who are unselfishly striving to bring about a better and a brighter day for the great masses of the people. The Supreme Court, composed of nine members, the same number designated to take care of the problems of 38,000,000 of people, is now required to pass upon the manifold and complex problems of a nation of 130,000,000. Last year it heard only 103 cases, although petitioned in 803 instances to hear the complaints of litigants. Would the critics of the President's plan suggest that he and the Congress wait and continue to wait and wait until the law of nature takes its toll and the jam so occurring is loosened by that greater power which no man can control which some day claims all of us? In other words, how long must Franklin Roosevelt and the American people be required to fiddle while the Nation's problems threaten to consume it with their unquenched fire?

Whose battle is it that the President is waging? Is it a battle to carry out some sinister personal selfish desire prompted by ulterior motives? Or is he attempting to make America a better land for all of us, to provide for an abundance of necessities in a country bountifully blessed by nature and providence? Because a 5-to-4 decision of a court consigns hundreds of thousands of pasty-faced, undernourished, dull-eyed children from the ages of 8 to 15 to the thraldom of the factory, the mill, and the mine in this so-called enlightened age, can one blame him for desiring to modernize and renovate the system that makes such unwholesome and inhumane conditions possible?

But those fattening on the huge profits received in exchange for the health of these children, for their fullness of cheek and brightness of eye, for the prematurely old, bent, and broken women who stand long hours behind counters for a starvation wage—it is these exploiters who have attempted to use the Constitution, and, unfortunately, both the Constitution and the Supreme Court, to maintain and continue such a condition of affairs. Can you blame the President or the people if they do not want to wait years to effect a change or until the obstructionists who block the path of progress are moved to relent? Mark you—they never will!

But time, America, and Roosevelt march on, and those who follow must keep step. You and I know the answer. The great majority of the people of America have their faces turned resolute and confident toward the future. For they have faith in a great leader who has borne the battle brunt and achieved the victory. Where he leads, they will follow—and so will you and so will I—for under him we can truthfully and prayerfully say:

America, America,
God shed His grace on thee,
And crown thy good with brotherhood
From sea to shining sea.
Oh beautiful for patriots' dream
That sees beyond the years
Thine alabaster cities gleam,
Undimmed by human tears.

The Court, the People, and the President

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Tuesday, March 9 (legislative day of Monday, Mar. 8), 1937

EDITORIAL FROM THE ATLANTA (GA.) JOURNAL OF MARCH 7, 1937

Mr. ROBINSON. Mr. President, I ask leave to have inserted in the RECORD an editorial published in the Atlanta (Ga.) Journal on March 7, 1937, entitled "The Court, the People, and the President."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Atlanta (Ga.) Journal of Mar. 7, 1937]

THE COURT, THE PEOPLE, AND THE PRESIDENT

Since President Roosevelt submitted to the Congress, a month ago, a plan to reorganize the Federal judiciary there has been what Hamlet called "much throwing about of brains." The far-flung discussion has been sometimes learned, and sometimes not; often vehement, occasionally bitter, and, now and then (thank heaven!) a little laughable. All in all, it has shown that the President touched the minds of many people, the nerves of not a few vested interests, and the vitals of a national need. The true nature of this need and of the plan offered for its relief has been ignored, or else misapprehended, by some whose voices boom loudest in the debate. Cries have been heard that the President is bent upon destroying the Constitution, usurping the powers of the Supreme Court, and making himself a dictator. Without pausing to answer the ghost seers according to their folly, let us look at what President Roosevelt really has proposed and his reasons therefor.

I

In his message of February 5, on the Nation's need of speedier and surer justice, he recommended "legislation providing for the appointment of additional judges in all Federal courts, without exception, where there are incumbent judges of retirement age (70 years) who do not choose to retire or to resign. If an elder judge is not in fact incapacitated, only good can come from the presence of an additional judge in the crowded state of the dockets; if the capacity of an elder judge is in fact impaired, the appointment of an additional judge is indispensable." There is no suggestion here of compulsory retirement. "Indeed", said the President, "those who have reached the retirement age, but desire to continue their judicial work would be able to do so under less physical and mental strain and would be able to play a useful part in relieving the growing congestion in the business of the courts. Among them are men of eminence and great ability whose services the Government would be loath to lose."

THE LAW'S DELAY

The growing congestion to which the President refers is denied by no one, and is not unnatural. In the 24 years since the Federal district courts were organized on their present basis the average load of cases borne by each judge has increased 50 percent. Today more than 50,000 cases press upon the dockets; they crowd in faster than they can be disposed of. In one of the district courts there were pending on February 1, 1937, 1,593 private civil cases, a third of which number were 6 years old, and nearly one-fifth of which were 10 years old. Granting that this is an extreme instance, the fact remains that much of the civil litigation in the Federal courts—as much as 7 percent, according to some estimates—is clogged in the law's delays. Is not the President, then, well warranted in affirming:

"The personnel of the Federal judiciary is insufficient to meet the business before them. A growing body of our citizens complain of the complexities, the delays, and the expense of litigation in United States courts * * *. Delay in any court results in injustice. It makes lawsuits a luxury available only to the few who can afford them or who have property interests to protect which are sufficiently large to pay the cost. Poorer litigants are compelled to abandon valuable rights or to accept inadequate or unjust settlements, because of sheer inability to finance or to await the end of litigation."

It may be asked, What has all this to do with the Supreme Court? Does not the Supreme Court keep abreast of its work? Well, during the last fiscal year the Supreme Court, acting under its discretionary power, refused to consider nearly 700 of 803 petitions for review which came before it. "Many of the refusals," the President concedes, "were doubtless warranted. But can it be said that full justice is achieved when a court is forced by sheer necessity of keeping up with its business to decline, without even an explanation, to hear 87 percent of the cases presented to it by private litigants?" Moreover, a speeding-up of the district courts will put more work on the appellate courts and hence on the Supreme Court itself.

FAIR AND LOGICAL PLAN

The President's plan therefore is rightly concerned with the Federal judiciary as a whole. No adequate or equitable plan could do otherwise. If congestion is a bad thing for the lower courts, can it be a good thing for the highest? If it is reasonable and fair to permit a judge in the lower courts to retire on full pay upon reaching the age of 70, or else appoint an additional judge to share and lighten his labor, can it be unreasonable or unfair to apply the same rule to Supreme Court Judges? Does the mere circumstance that a judge sits on a certain bench and wears a particular robe stay for him the tread of time? Does it have anything to do with his mental vigor, with his philosophy of life and government, with his conception of social needs and human rights? Yet the President is censured because he proposes that all the judges be treated alike under a logical and generous plan to expedite justice and to serve crucial needs of the American people.

II

If his plan did not include the Supreme Court Judges, some of its present critics, we fancy, would hail it as a masterpiece. But any alteration in the personnel of the Supreme Court, except by the hand of Providence, strikes them as sacrilege; and they would be none too sure of the wisdom of Providence itself, if a reactionary judge were called to his final reward while a liberal President sat in the White House. Nine Justices there are, say these devotees of the mystical number, and nine there ever shall be—"come cut or long tail." An odd contention this in the light of American history. Since the Supreme Court was established in 1789, with six Justices, Congress has changed the number repeatedly. In 1801 it was reduced to five, and 6 years later was increased to seven. So it stood for three decades, and then was increased to nine. In 1863 it was increased to 10, and in 1866 was reduced to 7. Three years later it was increased again to nine, the present number. During the 68 eventful years since the size of the Supreme Court last was altered, our country's population has more than trebled, business and litigation have multiplied immensely, economic and social conditions have changed profoundly. With them have changed the problems confronting the National Government, the nature of the questions which the Supreme Court is called upon to decide, and the needs of the millions of people whom its decisions vitally concern. Yet, as the President's more rampant critics would have it, our Republic's highest tribunal must remain as it was 68 years ago; must stand like a monument to changelessness, frowning on the wants and aspirations of a growing world.

THE CRUX OF THE ISSUE

Here we find the crux of the issue. Shall the Court do its part in making the law a quickening spirit rather than a deadening letter? Shall it help to make democracy work and make justice real? That is President Roosevelt's aim. The Journal does not say that all who oppose his plan are reactionaries. Some of them are radicals, impatient of his temperate ideas; some are liberals, frightened at their own shadow; some are Democrats who have caught Republican measles; some are sincerely convinced that the plan is ill-advised. But, make no mistake, the spearhead and bulk of the opposition are the same forces that have fought every forward step and constructive reform in American Government; the same who were defeated at the polls in 46 States last November; the same who always distrust democracy. The President's proposed reorganization of the Federal judiciary would have appealed to them as conservative and opportune if a Harding or a Coolidge or a Hoover had sponsored it. Then they would have seen the need for more expeditious justice and have praised the moderation of a plan that would accomplish so desirable a purpose without amending the Constitution. They were undisturbed when President Harding appointed four Justices of the Supreme Court within 2 years, and when President Taft appointed five. But the mere possibility of President Roosevelt's appointing six freezes their blood and makes their each particular hair to stand on end "like

quills upon the fretful porcupine." Aye, there's the rub. It would never do to let a liberal President have a hand in making a liberal Court!

No President, whatever his party or program, can appoint any judge except "by and with the advice and consent of the Senate." The President can only nominate; the Senate alone can confirm. So it ever has been, and would be under the reorganization plan. If the Supreme Court Justices who have passed the age of 70 should resign, President Roosevelt would nominate their six successors, and the total number of Justices would still be nine. If they all choose to remain, he would nominate an additional Justice for each of the six, just as he would do in the lower courts, and the total number would be 15—the maximum allowed. But the President, be it repeated, could only nominate. The Senate could reject any or all of the names he submitted. To suppose that a servile or dangerous or incompetent man could pass the intensive investigation to which the Senate subjects every such nominee would be to assume that the Senate itself is utterly irresponsible. Moreover, a judicial nominee, when finally confirmed by the Senate and appointed by the President, is free to follow his own reason and conscience. The President could not, if he would, dictate the decisions of a judge who is removable only through impeachment charges, which must be brought by the House of Representatives and tried by the Senate, where where a two-thirds majority is required to convict. The insinuation, therefore, that the judicial reform bill is a plot to make the President a dictator and to pack the Supreme Court with "rubber stamp" judges is, as the Journal has said before, too absurd for an informed man to believe and too contemptible for a high-minded man to make.

In his appointment of judges, President Roosevelt, we may be sure, will follow his unsullied sense of duty to the Constitution and to the people of the United States. Certain sorts of men there are whom he would never nominate: the sort so drilled in the service of special interests that they cannot see the claims of the common weal; the sort so buried in the dust of the past that they cannot feel the growth and challenge of the present; the sort so intent upon tithing the mint and anise of legal technicalities that they omit "the weightier matters of the law—judgment, mercy, and faith." But neither the Constitution, nor the Court, nor the country would lose one whit by such exclusions. Rather they would gain beyond measure in real security, in power for good, in freedom and in progress.

III

THE DANGER TODAY

Our country's danger today is not a liberal court, but a court that ties the hands of government in the midst of imperative needs and against the mandate of the people themselves as given in three successive elections. Even so flaming a critic of the President's plan as Walter Lippmann concedes that "the American constitutional system is in certain important respects seriously out of joint." In a recent article in The Journal Mr. Lippmann went on to say: "Ever since 1912, when I first began to realize what the Supreme Court was doing to the social legislation of the States, it has seemed to me that something was wrong. This feeling became very much stronger as I followed the dissenting opinions of Holmes and Brandeis. It became stronger still at the time of the gold-clause decisions when it seemed to me that the Supreme Court came perilously near to repealing the power of Congress to regulate the value of money, and just avoided, by what I thought was rather unsatisfactory reasoning, landing the country in a desperately dangerous situation.

"Then when the majority of the Court upset the A. A. A. on grounds that could be taken to mean that the National Government was without power to safeguard the food supply of the Nation or effectively to conserve its soil and natural resources, it seemed to me that trouble was ahead." Trouble is ahead, indeed, unless something is done, and done promptly, to prevent the unenlightened, although honest, legalism of five out of nine men from jeopardizing the welfare of more than a hundred million.

CHECKS AND BALANCES

Our Government was designed as one of checks and balances—and was so designed not to set the legislative, the executive, and the judicial functions at warring odds against one another, but to enable them to work together for the Nation's good. Surely it was never intended that the Supreme Court should be so ponderous a check as to break down the balance and nullify the rest of the system. Are we not precariously close to that very predicament now? Mr. Justice Stone, in his dissenting opinion on the A. A. A. case, declared: "While unconstitutional exercise of power by the executive and legislative branches of the Government is subject to judicial restraint, the only check upon our own exercise of power is our own sense of self-restraint." Every 2 years the Congress must come to an accounting with the people. Every 4 years the President lays aside his power and is judged by the people. But the members of the Supreme Court, appointed for life, are answerable for their decisions neither to the people, nor to the President, nor to Congress. The Journal does not argue that this system is wrong; but we do say that when the Court is not checked by "its own sense of self-restraint" and is not guided by a reasonable view of the Constitution, then the Government's balance is destroyed, and our democracy is in peril.

If today there be any usurpation of power or any shadow of dictatorship, it is, obviously, not in the legislative branch of the Government and not in the executive. For 4 years now the Congress and the President have cooperated freely and valiantly to overcome the gravest of depressions, to insure work for the unemployed, bread for the starving, hope for the despairing; to make firm the foundations of banking and business and industry; to give agriculture a fighting chance against odds which overwhelmed it, and labor the bill of rights for which it long strove in vain; to stop the waste and develop the wealth of the Nation's natural resources; to give security and freedom to its human lives—in short, to make democracy work. In this great task the President and the Congress have gone far and done well; and how loyally have they been supported by the American people! But the task is unfinished. Many of its problems are still crucial. Wherefore, says the President: "The judicial branch of the Government is also asked to do its part in making democracy successful. We do not ask the courts to call nonexistent powers into being, but we have a right to expect that conceded powers or those legitimately implied shall be made effective instruments for the common good. The processes of our democracy must not be imperiled by the denial of essential powers of free government."

IV

HE BATTLES FOR US

President Roosevelt bent upon destroying the Constitution? Why, he is not so much as proposing to amend it. So well is the judicial reform bill within the legal bounds of our historic institutions, that even those whose minds take their everlasting rest in the letter of the law concede its constitutionality.

President Roosevelt bent upon usurping power? He is only trying to go forward with a purpose and a plan which the people have ratified at the polls three times and each time overwhelmingly.

President Roosevelt bent upon making himself a dictator? He has proved that the only honor he covets is to be the faithful servant of us all.

It is for us, the people of America, that he battles now. Let us not fail him. Let us not fail in the democracy and the humanity on whose way he leads. It is the noble way, revealed in a noble and ancient prophecy: "If thou draw out thy soul to the hungry, and satisfy the afflicted soul, then shall thy light rise in obscurity and thy darkness become as the noonday. And they that shall be of thee shall build the old waste places; they shall raise up the foundations of many generations; and thou shalt be called the repairer of the breach, the restorer of paths to dwell in."

Postmaster General James A. Farley

EXTENSION OF REMARKS

OF

HON. PAT HARRISON

OF MISSISSIPPI

IN THE SENATE OF THE UNITED STATES

Tuesday, March 9 (legislative day of Monday, Mar. 8), 1937

EDITORIAL FROM THE JACKSON (MISS.) DAILY CLARION-LEDGER OF FEBRUARY 18, 1937

Mr. HARRISON. Mr. President, the Daily Clarion-Ledger, one of the leading newspapers in Mississippi, has an editorial in its issue of Thursday, February 18, 1937, relative to my good friend, Jim Farley, which I should like to have incorporated in the Appendix of the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Jackson (Miss.) Daily Clarion-Ledger of Feb. 18, 1937]

FARLEY'S EXECUTIVE GENIUS ALSO MADE A GREAT POST-OFFICE RECORD

Seventeen hundred citizens and officials, ranging in position from President Roosevelt on down, seventeen hundred friends and admirers, paid tribute to James A. Farley in Washington Monday night at a dinner in his honor.

Each paid $10 for the privilege, the money going to pay party debts, but this wasn't the fact that made this testimonial unusually impressive, even unique.

The things that made this testimonial so impressive were the sincerity of the tributes showered upon James A. Farley, the scope of the work for which he was praised, the variety of his national services as cited by these speakers, the number of his achievements thus recorded.

This testimonial dinner, as President Roosevelt himself noted, was more than a political gathering, more than a party victory celebration. It was an occasion seized upon by national leaders to honor a man for national services.

James A. Farley was honored as a Democratic leader, an administration pillar, a brilliant organizer, a political strategist, and prophet. But James A. Farley also was honored and given well-earned praise as a competent national executive, as a man who has rendered national service, increasing postal efficiency while reducing postal costs, as an honest Postmaster General who has set a record equaled by few, if any, of his official predecessors.

"Big Jim" Farley is probably without an American peer as a political organizer and strategist. He proved that during the recent campaign, with party leaders from President Roosevelt on down bearing witness to it.

Jim Farley, as chairman of the Democratic National Committee, earned much of the credit for the victory at the polls, contributed much to that victory, labored ably and indefatigably to win it. This was noted at this banquet and full praise given.

Jim Farley, as President Roosevelt's right-hand man during the first administration, by his ability, his brains, his political sagacity, his loyalty, and his personality helped win many of the major fights of that first administration, many of the major New Deal victories.

Democratic leaders praised him for this service, too, at that unique testimonial dinner.

But James A. Farley, Postmaster General James A. Farley, did not neglect his official duties during those trying years even under pressure of these additional duties. He applied to that office and that Department the same genius for organization, the same executive ability, the same conscientious labor that he devoted to these other tasks and national services.

The Nation knows the results, although all persons connected with the Postal Service in great and small capacities know them the best.

Graft was reduced. Waste was reduced. Deadwood was removed. Inefficiency was penalized. The Air Mail Service was expanded, made more efficient, and made cheaper. The handling of other classes of mail was also made more efficient. And while accomplishing these improvements, Postmaster General Farley was able to report that the huge departmental deficit of past years was practically wiped out.

That was national service transcending party claims and party recognition. And this record is why this testimonial banquet honored James A. Farley not only in his capacity as national chairman and party leader but also as an honest and efficient Postmaster General whose services have aided the whole Nation.

Adequate National Defense

EXTENSION OF REMARKS

OF

HON. ALFRED N. PHILLIPS, JR.

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 1937

Mr. PHILLIPS. Mr. Speaker, under the leave to extend my remarks in the RECORD, and so that my constituents will know my position in the matter, and without any question, I add the following to my remarks made on the floor of the House, Friday, March 5, at the time when there was offered an amendment to the naval appropriations bill, this amendment requesting the President of the United States to call an international conference for the limitation of naval armaments.

I thoroughly agree with the proposition that it would be very helpful to the world, as well as to ourselves, if it were possible to persuade the nations of the world to agree to the limitation of naval armament. Actually, however, I feel certain this is impossible.

Great sums of money being spent destructively, as it were, for the purchase of ever-swelling armaments could be applied to constructive purposes. For example, these millions of dollars might be applied toward the destruction of unsuitable dwellings for people and for the substitution of proper housing conditions for the people of the United States. Part of these funds, for example, also might be applied to constructive public health activities, such as research to the end that we might find a cure for cancer and for tuberculosis.

We would be able to reduce our national expenditures and thus aid us in balancing our Budget if we were not forced to spend thousands of dollars on naval and other forms of armament. Taxation might possibly be reduced were we in a position to forget the necessity of arming ourselves defensively. We might also allocate some of these funds to education so that our young people who could not afford to obtain a higher education might thereby have an opportunity to do so. The recreational facilities for our people might be improved were these funds available for such use. And no doubt other manifold constructive humanitarian uses could be found for the millions of dollars which not only the United States of America, but also the other countries of the world are pouring daily into a mad race to rearm—to prepare in short, for the possible destruction of civilization itself.

I repeat, that if we could persuade the other nations of the world to sit down with us in a naval armament limitation conference, out of which would come satisfactory pledges to the end that the naval armament race would cease and that the funds being employed to build up such armaments would be devoted to the constructive and humanitarian uses of a world at peace, this would be a very happy solution of the present international armament race problem.

I used the words "satisfactory pledges" advisedly. Unhappily, I fear, in fact, I am quite convinced, that it is impossible today to obtain such "satisfactory" pledges. I say this because in my opinion it has been amply proven that the international given word of most of the nations of the earth is no good. Almost on every hand we have noted instances of the breaking of treaties and the repudiation, in effect, of solemn pledges for peace, formerly announced to the world with great sanctimoniousness. We are well aware, too, that pledges internationally made have been broken to us. Today in arriving at their national budgets, many nations of the world who owe us money completely overlook this fact. Therefore, thus word has been broken to us also.

Accordingly, I feel convinced that it would avail us nothing to endeavor to get the nations of the world together to agree upon the limitation of naval armament. I can even see how we might persuade some of the nations of the world to meet together in such a conference. I can even believe that certain nations of the world might be glad to see us enter such a conference. I feel that they would rejoice in our so doing because they know that the United States of America has a reputation for keeping its word in international relations and would therefore be under a disadvantage in international agreements. We would be under such a disadvantage because of the fact that I fear they would deliberately take advantage of the United States of America by breaking international covenants made with us, leaving the United States of America adhering to the terms of them.

Unfortunately and unhappily, the major lessons of history teach us that countries not in a position to defend themselves become the prey of those having efficient war-making establishments. It is unthinkable for Americans to contemplate a situation obtaining whereby our country might be enslaved by militarists who became prepared for aggression, and perpetrated it upon us while we lay supinely and idly by and allowed this to happen. Certainly none of us wants to be enslaved, or have our children or our children's children enslaved by foreign conquerors who would ruthlessly wreak their will upon us or them!

We do not want war! We will not fight an offensive war! If it is forced upon us to preserve our homes and our liberties, we must fight a defensive war. Let us hope it never comes. However, if such a defensive war does come, let us hope that it is fought on the land of the military aggressor, not on the fair plains and hills and valleys of the territorial limits of the United States of America.

Therefore, I believe that we should build and maintain an adequate Navy so that notice will be served on the word-breaking and unfaithful and predatory nations of the world that we have indeed a Navy adequate for national defense. Let us show them a Navy adequate enough, if war is forced upon us, that that war, not of our choosing, will be fought defensively by a strong aggression, elsewhere than on our own continental soil. Thus our cities will not be ruined, our country not be despoiled, and our women and children will not be murdered. Let us indeed have an adequate Navy and for the same reasons an adequate Military Establishment—a strong and well equipped Army with sufficient provision for Organized Reserves in time of defensive war. Let us prepare our own defense, then go our own way in peace, disregarding the rattling of sabers in a mad and war-unbalanced world.

Federal, State, and Local Responsibility for Education

EXTENSION OF REMARKS

OF

HON. PAT HARRISON

OF MISSISSIPPI

IN THE SENATE OF THE UNITED STATES

Tuesday, March 9 (legislative day of Monday, Mar. 8), 1937

RADIO ADDRESS BY HON. JOSH LEE, OF OKLAHOMA, ON MARCH 8, 1937

Mr. HARRISON. Mr. President, I ask unanimous consent to have printed in the RECORD an address broadcast last evening over the radio by the junior Senator from Oklahoma [Mr. LEE] on the subject of Federal, State, and Local Responsibility for Education, and the Harrison-Black-Fletcher bill.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ours is a government of the people. Therefore, the boys and girls of today will be the men and women who run the Government a few years in the future. Education is the twin sister to democratic government.

AMERICAN TRADITIONS TAUGHT

When new immigrants came to America to find new homes, many of them could neither read nor write. Many could not speak English, but their children were sent to our schools and there they learned the history of America. There they learned of the Declaration of Independence. They learned the story of the Liberty Bell. They learned of Concord and Lexington. They learned the story of Betsy Ross and the American flag. Then, in the evening by the warm glow of the fireside, these stories of American history passed from child to parent, and thus did the immigrants become Americanized; therefore the Federal Government is deeply interested in the education of young Americans.

The first responsibility for educating children falls upon the parents, but most parents are ambitious for their children to have every opportunity. Therefore it is scarcely necessary to urge the parents of America to make every effort to educate their children.

Then, again, certain responsibility rests upon the children themselves to want an education; to be willing to work for an education. At the present time, due to the national youth movement, there are 380,365 boys and girls in the United States who are working their way through educational institutions.

May I say to you young people of America, if you want an education you can have it if you are willing to work for it. If you are not, it wouldn't do you much good anyway. You can lead a fool to the trough of knowledge, but you can't make him drink.

Some of our greatest men had to fight for their education. Abe Lincoln was so poor that he did not have pencils and paper; he did not have a slate or a slate pencil, but he figured out his problems on the back of a wooden shovel with charcoal and he blazed his way over the mountain to the White House and figured out the Nation's problems on the White House stationery.

Young people of America, sometimes it seems discouraging; sometimes it seems your road is rough when you are trying to get an education, but remember, it is the roughness of the grindstone that sharpens the ax. It is the storm that hardens the fiber of the oak. It is not the holiday but the workday that makes muscle.

If you don't have as good clothes to wear as the other boys and girls, don't be discouraged. It's not what's on a man, but what's in him that counts. Many a white vest has nothing inside of it but an unpaid laundry bill.

Sometimes it seems that the going is pretty rough when you have to struggle for an education, but the very struggle itself is part of your training; therefore, the responsibility of receiving an education is partly upon the youth of America.

Great is that nation whose sons and daughters dream great dreams, invincible is that nation when they make those dreams come true.

Then next, the responsibility for educating the youth falls upon the local community. Every community in America is responsible for the education of its own boys and girls to the full extent of its financial ability, and may I say the local communities have discharged this obligation in a most patriotic manner.

There are many instances where communities have almost bankrupt themselves trying to educate their boys and girls. During the depression, when people could no longer pay ad-valorem taxes upon which the schools were dependent, the communities continued to issue school warrants obligating the property of that community in order to educate their children. There are many stories of the heroical efforts of the local communities to discharge their patriotic duty in this regard.

But there is such a difference between the financial resources of different communities that the education of the children has been looked upon by some of the most progressive States as not a duty for the communities alone but as a duty to be shared by the States.

Therefore the responsibility for the education of young America falls upon the States, and a number of States have what is called an equalization fund, which is made up by taxation. This fund is used to equalize educational opportunities throughout the State. It is used to help educate children in the poorer communities. This is a great step forward in education, and the States can, and are, equalizing educational opportunities within their boundaries, but they are helpless so far as equalizing the educational opportunities as between the States is concerned. Therefore the Federal Government must assume its share of the obligation of educating the youth of the Nation.

A child in a poor community has a right to educational opportunities as well as a child in a wealthier community. They both live in the same Nation and under the same flag. Sometimes only a State line separates them, sometimes only a township line. But the public schools, supported as they are now entirely by local and State taxes, are as different in the opportunities that they afford as the communities themselves are unequal in financial resources.

UNDER LOCAL CONTROL

Under the Federal program that I have in mind every State and community would carry its fair share of the burden of education, in proportion to its financial ability, and the Federal Government would contribute only a fractional part of the cost of education in even the poorest communities. Therefore the control of education would still rest with the local communities, where it rightly belongs.

There is before Congress at the present time a bill known as the Harrison-Black-Fletcher bill, providing for the appropriation of $100,000,000 the first year and then graduated until it reaches a maximum of $300,000,000 for the purpose of equalizing educational opportunities throughout the Nation.

The financial ability of the States in proportion to the population of school children is so different and varied that only the Federal Government can equalize the educatio al opportunities of the several States.

A model tax system has been worked out for State taxation. This system was intended to raise money for all the needs of the State, such as roads, running the State and local governments, running the schools; in fact, the entire expense of the State.

Six of the States are so limited in financial resources that if they depended upon this model tax system—that is, if their taxes were no steeper than the tax recommended by this model system—the yield would be so small that if they took all of it, that is, the entire amount produced for all purposes, and used it for schools alone, there would not be enough to give those States a school system equal to the average school system of the Nation.

The result is that these six States are taxing themselves much heavier than the model tax system, on the one hand, and have a school system much under average of the Nation on the other hand. I give these facts because some people believe that the burden of education should be borne entirely by the States and local communities, and therefore I want to show that the States and local communities are already taxing themselves to the limit and yet are unable to provide even average educational facilities for their children. There are many people who will support Federal aid for education when they are convinced that the States and local communities are unable to provide necessary educational opportunities.

CHILD RATIO TO WEALTH

Then again the number of children per family must be considered in the relation to the wealth of the different States. In almost direct ratio, the wealthier the State the fewer the children per family and the poorer the State the more children per family. For instance, the per-capita wealth per child of school age in the poorest State is $3,000, whereas in the wealthiest State it is $23,000. In other words, if you will pardon me for using the informal language of the day, we seldom find the kids and the cash in the same community. The more kids, the less cash; the more cash, the fewer kids. Therefore it is necessary for the Federal Government to raise the money where the money is and spend the money where the children are. Otherwise the children will grow up and move to wealthier communities either to become useful citizens or gangsters, according to their training and background.

Modern inventions have so increased the mobility of population that one person in every three resides in a different State from the one in which he was born. Therefore it is important to the wealthier States that the children of the less wealthy States receive educational opportunities.

It is sometimes argued that the Federal Government has no right to collect taxes in one State and spend them in another, but we have been doing that in building highways, canals, harbors, and many other national enterprises. To limit Federal expenditures to the source of taxation is not only out of date but impossible, in that no one can trace a tax to its source. Taxes are collected from manufacturers in the East, but at least a part of those taxes are passed on to the consumers of the West. Simply because the taxes are paid in to the Government by the corporations of a certain State, it does not mean that the people of that State have paid those taxes. Therefore, to try to return taxes to

their source is like trying to unscramble the eggs. It cannot be done.

Quite often the Federal Government taxes wealth at the most convenient point. That is, wheat produced in the plains country creates wealth in industrial communities. Oil pumped from the oil fields of Texas and California creates wealth in the money markets of the East. Cotton produced in the South produces wealth for the cotton mills of the East.

But the Government quite often taxes the wealth not at the source of production but at the point of processing. The oil companies that draw their wealth from Kansas, Oklahoma, Texas, Louisiana, and California may be operating under the charter of Delaware and pay taxes in the State of Delaware, but the wealth comes from these other States.

Therefore, it is fallacious to overlook this flow of wealth in considering the resources of the Nation.

WEALTH CONCENTRATION A PROBLEM

The concentration of wealth in the United States presents a grave problem. This problem can be met by taxation and expenditure. The Federal Government is the logical agency to collect money over the whole Nation and distribute it. The object of such distribution should not be controlled by an effort to return the tax to its source but by an effort to promote the general welfare. Whenever a problem affects the welfare of the Nation as a whole, as education does, no matter how localized that problem is, the patriotic policy is to declare it a national problem and attack it as such. We should tax the Nation's wealth wherever we find it to help educate the children of the Nation wherever we find them.

The Harrison-Black-Fletcher bill providing Federal aid for equalizing educational opportunities is now before the Senate Committee on Education and Labor, of which I am a member. In my opinion, now is the time to pass this legislation. I feel that with the proper encouragement we can at this session of Congress pass this measure.

This would by no means be a new policy on the part of the Federal Government. The Federal Government has aided education by the passage of a vocational training law. The Federal Government helped education in the several States through the W. P. A. The Federal Government, through the R. F. C., loaned the city of Chicago money to pay its teachers and reopen its schools. The Federal Government, through the National Youth Movement, is at the present time helping young people to secure an education. The Federal Government has aided education through land grants to colleges and universities.

Therefore this proposed legislation would not be departing from our national policy.

Our Congress is being asked this year to vote over a billion dollars for national defense, but, in my opinion, America's greatest danger will not come from the outside but from the inside. I believe that if we could spend one-tenth of the amount of Federal funds for education of the youth of America, it would constitute a greater national defense than the passage of this huge appropriation for armies and navies.

Dictatorships rely upon the ignorance of the people for their strength. Communism depends upon the ability of a few leaders to keep their people in ignorance; but democracy depends upon the intelligence of the voters. Our form of government places the final residue of power in the hands of the people. With power goes responsibility. With responsibility there should go sufficient enlightenment to know how to use that power.

Education leads to peace and democracy. Ignorance leads to chaos and tyranny. Napoleon conquered Europe with bivouac and drum beat. Let us overrun America with the sound of the school bell.

Our people stood the strain of this depression because they were enlightened. Therefore it is fundamental that our Government maintain its existence by maintaining a sound educational system.

No opportunity is more important than the opportunity for a decent education. No Federal obligation is more vital than that of self-preservation. It is not only the right but the duty of our Government to perpetuate its existence, and the proper education of our children is essential to that end.

I thank you.

How a Bill Passes Congress

EXTENSION OF REMARKS

OF

HON. JOHN W. McCORMACK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 1937

AN ADDRESS BY HON. SAM RAYBURN, OF TEXAS, BEFORE THE HARVARD LAW SCHOOL ON FEBRUARY 27, 1937

Mr. McCORMACK. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following address delivered by the gentleman from Texas [Mr. RAYBURN] before the Harvard Law School on February 27, 1937:

Harvard law school and I are not strangers. I have known and worked with your new dean, Jim Landis, and many others of your graduates. I have admired the thoroughness with which they have been trained in the law.

Many of them, however, after an experience in the processes of legislation, have urged me to accept this invitation to come here and speak about one process of lawmaking of which they say you learn very little in law school—even in this law school. That is the process of making statutes.

Of course, in any law school a student has to start first with reading cases—judges' opinions. Most of the training that can be given in a law school consists of piecing those opinions together until the student gets a fairly round sense of what we call the common law.

But in these days, Government has to try to keep the complicated economic and social affairs of the Nation in order simply because no one else seems to be able to do it. That means more and more legislation—to change old law that hasn't worked and to make new law that we hope will work. An ever greater proportion of the law with which you will have to deal when you get out of law school, therefore, will be statute law. And the process with which you will have to work in the interests of your clients will probably be the legislative process just as much as the judicial process. That is why I think Harvard law school is going to be particularly fortunate in having a new dean trained in administrative experience with the Securities Commission statutes, the most complicated group of statutes that have ever been on the statute books of any nation.

I once heard a very well-trained lawer complain bitterly about the precariousness of a lawyer's knowledge of the law these days. He said: "I've spent 20 years learning what the law is. I know every decision from Maine to the Hawaiian Islands. And then Congress comes along and in 2 months passes a statute that puts out of date everything I've learned. It isn't fair."

I know that most lawyers, like most courts, think of statutes as unfortunate intrusions upon the symmetrical beauty of judge-made common law. But however they feel about it, that intrusion is certain to get more and more important as the years go on simply because judge-made law has proved too accidental and too slow in the making to keep in balance the tremendous and ever-accelerating forces of the modern world.

You hear a lot of political talk about hastily drafted laws, and rubber-stamp Congresses. You hear about Congressmen spending all their time getting jobs instead of thinking about the problems of the Nation. If that is all you hear about the legislative process, you may justifiably wonder whether that process of making law is as intelligent and takes as many things into consideration as a judge sitting alone in his study patching the precedents together.

Today I hope to give you not only some information but some comfort about the legislative process. I am going to try to do more than to tell you how the Federal Congress is organized, how its committee system functions, and how it goes to work to turn the raw material of the first draft of a bill into a finished statute that can be sent to the President for his signature. As I show you the operations of the legislative machine, I hope also to give you a feeling of the amount of consideration and argument and sweat and blood that goes into an important statute and make you feel badly about the amount of work a Congress which tries to do its job has to get through.

I have chosen the subject, "How a Bill Passes Congress." Parliamentary law as practiced in the Congress has been a growth founded on Jefferson's Manual. In the more than 140 years that Congress has been meeting, developments have come and additional procedure has been adopted from time to time. I think I could be of more service to you if I took a specific bill and followed it through both the House and the Senate until it reaches the President's desk and his signature.

The Public Utility Holding Company Act of 1935 will be taken as a typical example. It is thought by many that bills are simply written out—in many instances rather hurriedly—introduced into the bodies of Congress, reported by committees after scant consideration, and passed through both Houses with little or no consideration. This is an entirely mistaken idea. Let's see what was done before a bill on the above subject was even introduced.

Mr. RAYBURN, chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives, introduced a resolution which passed the House on January 19, 1932, providing "that for the purpose of obtaining information necessary as a basis for legislation that the Committee on Interstate and Foreign Commerce, as a whole or by subcommittee, is authorized to investigate (1) the ownership and control, direct or indirect (through stock ownership or control or otherwise), of stock, securities, or capital interests in any public-utility corporation engaged otherwise than as a common carrier by railroad in the transportation of persons, or the transportation, transmission, or sale of property, energy, or intelligence, in interstate or foreign commerce, by holding companies, investment trusts, individuals, partnerships, corporations, associations, and trusts, and (2) the organization, financing, development, management, operation, and control of such holding companies, investment trusts, partnerships, corporations, associations, and trusts, with a view to determining the effect of such ownership and control on interstate and foreign commerce, and, to the extent necessary to determine the effect of such ownership and control, to make like investigation of public-utility corporations so engaged. The committee shall report to

the House the results of its investigation, including such recommendations for legislation as it deems advisable. For such purposes the committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places in the District of Columbia or elsewhere, whether or not the House is sitting, has recessed, or has adjourned; to hold such hearings, to employ such experts, and such clerical, stenographic, and other assistants; to require the attendance of such witnesses and the production of such books, papers, and documents; to take such testimony, to have such printing and binding done, and to make such expenditures as it deems necessary."

Pursuant to the authority given in the aforesaid resolution, the committee authorized the chairman to appoint special counsel to inquire into the control and ownership of public utilities. Dr. Walter M. W. Splawn, former railroad commissioner of Texas, former president of the University of Texas, a man of high character and great ability, was selected as special counsel to have charge of the investigation under the chairman. Dr. Splawn went into the investigation immediately with a staff of experts and investigated every phase of the holding company in the utility field and filed a report with the chairman of the committee, which report totaled 8,927 pages. It took more than 2 years to make this investigation, the report being filed in the House on February 20, 1934. The information contained in this report was valuable beyond measure to the committee that was to use it as a basis for legislation. For nearly a year following not only Dr. Splawn but other experts were called in to discuss the type and to work on the details of a bill seeking to cure the evils that had become evident in the field of public-utility holding companies. Discussions were had with the President of the United States. Questions of the power of Congress to deal with the subject were discussed with the Attorney General of the United States and his staff. All this was ground work in clearing the way for the introduction and consideration of a bill that would not only cure evils but that would also stand the test of constitutionality.

Nearly a year later, on February 6, 1935, Mr. RAYBURN introduced the bill H. R. 5423, entitled "A bill to provide for control in the public interest of public-utility holding companies using the mails and the facilities of interstate commerce, to regulate the transmission and sale of electric energy and natural gas in interstate and foreign commerce, and for other purposes", by dropping it into the "hopper." This bill was then referred by the Speaker, under rule XXII, to the Committee on Interstate and Foreign Commerce, the committee having jurisdiction under rule XI of the subject matter in the bill. The bill was then sent to the bill clerk of the House, who gave it its number and then sent it to the Government Printing Office for printing. On the following day the printed bill was delivered to the Committee on Interstate and Foreign Commerce for its consideration.

In the House, committee hearings began at 10 a. m., Tuesday, February 19, 1935. Hearings closed in the House at 4:30 p. m., Monday, April 15, 1935, nearly 2 months later. Forty-five witnesses were heard—11 proponents of the bill and 34 opponents of the bill. Thirty-four communications were inserted in the record. The total time consumed by witnesses was 115 hours and 5 minutes—49 hours and 55 minutes by proponents of the bill and 65 hours and 10 minutes by opponents. After the hearings were closed a subcommittee was appointed by the chairman, which went through the bill thoroughly and reported its findings to the full committee, and after consideration by the full committee the bill was reported to the House on June 24, 1935. In other words, after the hearings closed, on April 15, 1935, the committee considered the bill, reading every section and every line, over a period of 71 days. Remember that this means that preparatory to reporting the bill to the House nearly 2½ years of intensive study and work had been put on the subject.

About the same time, Senator WHEELER, chairman of the Interstate and Foreign Commerce Committee of the Senate, introduced a companion bill, S. 2796, which was referred to the Senate Committee on Interstate Commerce. After consideration by that committee on May 14, 1935, the bill was reported to the Senate without amendment. On May 28, 1935, Senator WHEELER moved that the Senate proceed to the consideration of the bill, which motion was agreed to on May 29. The Senate debated the bill from May 29 until June 7 when amendments were offered. From June 7 until June 11, 57 amendments were offered to the bill of which 54 were adopted and 3 rejected. The bill then passed the Senate on June 11. It will be noted here that in the Senate there is no limitation on debate nor does the Senate have a rule restricting the right of offering of amendments such as the House has in its rule on germaneness.

On June 12 a message was received from the Senate announcing that the Senate had passed S. 2796. The Speaker on June 13, under rule XXIV, referred the bill to the Committee on Interstate and Foreign Commerce of the House which had been considering the bill introduced on February 6 by Mr. RAYBURN. The committee reported the Senate bill back to the House on June 24 with an amendment striking out all after the enacting clause of the Senate bill and substituting therefor the language of the bill which had been considered by the House committee during the preceding months. The bill and the report were then referred by the Speaker to the Calendar of the Committee of the Whole House on the state of the Union as provided for in rule XXIII. The reported bill being an unprivileged one as distinguished from those privileged under clause 45, rule XI, was not reported from the floor but was dropped in the "hopper."

Under the rules of the House there are four practical methods by which a bill can be brought up in the House for consideration. These are: First, by having the bill placed upon what is known as the Consent Calendar; second, by being called up by the committee reporting the bill on a Calendar Wednesday; third, by a special rule from the Committee on Rules giving a privileged status to the bill; fourth, by a motion to suspend the rules and consider the bill.

It may be well here to explain somewhat briefly the various methods the House uses in considering bills. The Consent Calendar rule was first adopted in March 1909, and was designed for the purpose of relieving the Speaker of the numerous requests which theretofore had been made of him for consideration by unanimous consent of bills of minor importance. It must be remembered in this connection that under the rule providing for a special order of business in the House it was rather unusual for the House to reach that point in the order of business where a motion could be made for the consideration of a bill which had been favorably reported to the House by one of its standing committees. Certain bills, such as bills affecting the revenue and the general appropriation bills, were given a highly privileged status insofar as consideration was concerned by rule XI and rule XVI of the House. Inasmuch as these bills consumed much of the time of the House, opportunity was not afforded for the consideration of bills of lesser importance. This caused a practice to grow up in the House whereby Members having bills of minor importance importuned the Speaker to recognize them for unanimous-consent requests for the immediate consideration of bills in which they were particularly interested.

This demand upon the Speaker had by 1909 become so great that a rule was finally adopted in the House to relieve him of this burden. That rule was the Consent Calendar rule. In brief it provided that there should be a new calendar of the House on which bills could be placed by any Member by merely filing with the Clerk a request that the bill should be placed on that calendar. On the first and third Mondays of a month the rule provided that the Speaker should direct the Clerk to call the bills in their numerical order upon that calendar. The Speaker then would inquire if there was objection to the consideration of a bill. If an objection was forthcoming from any Member, consideration was prevented. If, however, there were no objections the bill was considered. It is apparent that important bills were rarely considered under this rule for the opportunity for prolonged debate was not possible under this procedure.

In order that the House might consider public bills that could not be brought before the House for consideration under the Consent Calendar rule another rule was adopted in 1909 which is known as the Calendar Wednesday rule. This rule in brief provided that on Wednesdays of each week the Speaker should direct the Clerk to call the committees in the order in which they appear in rule X. A committee called on a Wednesday could then call up for consideration as a matter of right any bill appearing upon either the House or Union Calendar. Bills on the Union Calendar were considered in the Committee of the Whole House on the state of the Union, and debate upon such bills was limited to 2 hours to be equally divided and controlled between those favoring and those opposing the legislation. The reasons for the adoption of this rule were very much the same as the ones which impelled the adoption of the Consent Calendar rule.

The third method of getting a bill up for consideration in the House was by way of a "special rule" reported out by the Committee on Rules. Under clause 45 of rule XI the Committee on Rules may report at any time for consideration resolutions providing a special order for the consideration of bills. These resolutions usually provide that upon the adoption of the same it shall be in order to move that the House proceed to the consideration of a specified bill and provided for a limitation of debate and in general the details of the consideration of the bill.

The fourth method of bringing legislation before the House is under a motion to "suspend the rules." This motion may only be made on the first and third Mondays of a month or during the last 6 days of a session, and can only be made if the Speaker recognizes the motion. In other words, the Speaker has entire discretion as to whether he will recognize any Member on the days provided by the rule for motions to suspend the rules. This motion usually takes the form as follows: "I move to suspend the rules and pass the bill H. R. ——." Under rule XXVII, the rule applicable to this motion, there may be debate not exceeding 40 minutes, one-half of such time to be given to those in favor of the motion and one-half to those in opposition to such motion. Amendments are not in order to the bill proposed to be passed under such a motion to suspend the rules.

It was apparent that the bill S. 2796 could not be considered upon the Consent Calendar for objections to such an important bill would immediately be forthcoming, and consideration under the Calendar Wednesday rule was impracticable because the Committee on Interstate and Foreign Commerce would not in the near future have a call. A motion to suspend the rules requires for its adoption a two-thirds vote of the Members voting and inasmuch as there was considerable opposition to the bill this method of proceeding would be ineffectual. It remained therefor necessary to request the Committee on Rules to grant a special rule making in order the consideration of S. 2796.

The Committee on Rules which in reality is the policy committee of the House reported a special rule, House Resolution 276,

providing for the consideration of S. 2796 by making in order a motion to go into the Committee of the Whole House on the state of the Union for the consideration of the bill, limiting general debate thereon to 8 hours to be equally divided between those favoring and those opposing the measure, directing that the bill be read under the 5-minute rule for amendment and upon the completion of the reading for amendment directing the Chairman of the Committee of the Whole to report the bill back to the House with such amendments as may have been adopted in the Committee of the Whole and that upon the receipt in the House of the report of the Chairman of the Committee of the Whole the previous question should be considered as ordered upon the bill and all amendments thereto to final passage. This special rule was adopted by the House on June 26, 1935, and on June 27 Mr. RAYBURN, chairman of the Committee on Interstate and Foreign Commerce, moved, pursuant to the provisions of House Resolution 276 theretofore agreed to, that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 2796. That motion was agreed to and the Committee of the Whole proceeded to debate the bill for 8 hours as provided in the special rule. At the conclusion of the general debate the bill was read by sections under the 5-minute rule for amendment. In all 21 amendments were offered in the Committee of the Whole to the bill, of which 13 were adopted and 7 were rejected.

It might be well here to comment briefly upon the Committee of the Whole. The Committee of the Whole House on the state of the Union is really the workshop of the House. The rules of the House provide that all bills raising revenue, appropriating money, or authorizing money to be appropriated out of the Treasury must first be considered in the Committee of the Whole House on the state of the Union. The rules of the House, which govern proceedings in the Committee of the Whole, permit greater latitude in debate and more minute scrutiny by the Members of the various provisions contained in the bill. After general debate on a bill in the Committee of the Whole the rules of the House provide that a bill shall be read by sections for amendment. This means that the Clerk reads a section of a bill and then any Member may propose any germane amendment to such a section. Thus it is apparent that Members have greater opportunity of detecting obnoxious provisions or latent errors that might have escaped the standing committee that reported the measure. On each amendment proposed in the Committee of the Whole, the Member offering the amendment is permitted 5 minutes in which to explain his proposal, then any Member securing recognition from the Chair has 5 minutes in which to oppose the amendment, whereupon if no further amendments are offered to the pending amendment the question is put upon agreeing to the amendment. In this manner the Committee of the Whole proceeds through a bill, and when it has finally concluded its consideration, the bill is reported to the House with a recommendation as to its disposal. Ordinarily, such a recommendation is that the amendments agreed to in the Committee of the Whole be adopted by the House and that the bill as amended do pass.

Thus it was with S. 2796, and when the Committee of the Whole finally concluded its consideration of the matter, it was reported to the House with one amendment which was a substitute for the entire bill, the House by a roll-call vote agreed to the amendment adopted in the Committee of the Whole. The next question was on the third reading of the Senate bill, which was agreed to. Thereupon a member of the minority party in the House moved that the bill be recommitted to the Committee on Interstate and Foreign Commerce with instructions to that committee to report the bill back to the House forthwith with an amendment striking out section 11 of the bill. This motion was, on a roll-call vote, defeated. The question on the passage of the bill then being put, the bill was passed—yeas 323, nays 81. The bill with the amendment adopted by the House was then messaged to the Senate with the request that the Senate concur in the amendment adopted to the bill by the House. On June 12 the Senate, however, disagreed to the amendment of the House and requested a conference with the House on the disagreeing votes of the two Houses on the bill. On the same day the House insisted upon its amendment and agreed to the conference. The bill remained with the conference committee until August 23, 1935, when a report was filed in the House recommending that the two Houses agree to a compromise provision. During the course of the conference, on July 31, 1935, Mr. HUDDLESTON, who had been appointed as one of the conferees on the part of the House, submitted to the House what purported to be a conference report. This report was signed by three of the managers on the part of the House but by none of the Senate conferees.

A point of order was raised against the report on the ground that to be a proper report, it should be signed by a majority of the conferees of the House as well as a majority of the conferees of the Senate. The point of order was sustained. On August 22, 1935, Mr. RAYBURN, who had been appointed chairman of the House conferees, stated to the House that the conferees of the two Houses had reached an impasse and thereupon offered a privileged resolution instructing the conferees on the part of the House to agree to a certain compromise which he included in his motion. This resolution was agreed to by the House and on the following day the conference report was filed in the two Houses. On August 24 the House and Senate both agreed to the conference report. The bill was then enrolled upon parchment as provided for in statutes, was signed by the Speaker and Vice President and became a law on August 26, 1935, when the President affixed his signature to the enrolled bill.

Economic Slavery

EXTENSION OF REMARKS
OF
HON. ED. V. IZAC
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 9, 1937

ADDRESS DELIVERED BY HON. WILLIAM P. CONNERY, JR., OF MASSACHUSETTS, AT THE VICTORY DINNER HELD AT PORTLAND, MAINE, ON MARCH 4, 1937

Mr. IZAC. Mr. Speaker, under permission to extend my remarks in the RECORD I include the following address delivered by the Honorable WILLIAM P. CONNERY, JR., at the Victory Day banquet at Portland, Maine, March 4, 1937.

"Man's inhumanity to man makes countless thousands mourn." With somewhere between ten and twelve million people unemployed in the United States today, we might well look to the applicability of the foregoing quotation as to its effect upon our social system. Great philosophers have united upon the proposition that where the whole is generally wrong and particular parts are right, that the whole must be condemned as wrong. On the other hand where the whole is generally right, and particular parts of it are wrong, then the whole cannot be condemned as being wrong. In this general proposition we may consider capital as viewed by Pope Leo XIII in his famous encyclical on labor written some 42 years ago, and the communistic idea of capital. I pick the encyclical of Leo XIII because, as chairman of the Committee on Labor of the House of Representatives, that encyclical has been practically the bible which I follow in formulating legislation on labor matters for all of the American people.

I use that encyclical as my yardstick primarily because this document was written from a moral standpoint of view in the interests of both the working people of the world, and also for the benefit of what we call the capitalist class. In other words, Leo XIII had no ax to grind. He was not seeking public office; he was not seeking diplomatically to further his own personal ends. He was striving mightily for peace in the world between capital and labor. His exposition of capital was that in itself it is inherently good—meaning that if, for example, three men possessing $20,000 a piece, pooling the $60,000, decide to start a brush and broom factory and employ workers to manufacture these articles, that there is nothing ethically wrong in such a procedure. Looking at the other end of this partnership, he expounds plainly and clearly the doctrine of the dignity of labor.

This dignity is just as much present in the Negro workingman who may be cleaning out muck in a sewer, as it is in the person of a professor of mathematics discussing logarithms or the higher phases of trigonometry or mechanics. So here we have the picture of man using legitimate capital for the purpose of hiring men to manufacture products, the sale of which will bring profits to the owners and wages to the workers.

Let us pass for a moment now to the communistic idea of capital. The Communist holds that the capitalistic system is inherently wrong and that the state should be supreme and portion out entirely for the benefit of the state, whatever profits might come, either from the sale of goods or the wages earned by the workers. The Communist feels that every man, woman, and child is the property of the state and the family is only an incident in the communistic set-up. I am frank to say that I hold that the family is the foundation of society—the family comes first, the state second. The duty of the father and mother is to regulate their family, with little or no interference on the part of the state.

So here we have the distance between the poles as to opposite systems of government. Now to return to our men with the $60,000 and their employees; I have said that there is nothing inherently wrong in that general capitalistic proposition, if, and what a big "if" that is in our day and generation, if those employees are receiving wages which are commensurate with decent standards of living, proper food, proper clothing, proper opportunity to educate their children, and all of the benefits which are supposed to accrue to human beings as the result of the great inventions of and before our time.

A great philosopher over 1,000 years ago said in substance that each one in his lifetime deals with four subjects of arithmetic vital to his life—addition, subtraction, multiplication, and division. The very rich, however, he said, concentrate on only two of these subjects, addition and multiplication. They seek only to add to their money and worldly possessions, and multiply this money and these possessions. It never occurs to them that they have a duty to subtract what is superfluous of their wealth, and

divide this superfluity with their less fortunate brethren. A very clear definition, to my mind, of "I am my brother's keeper."

The situation as I see it today is that in general the capitalistic system is right, but its part are woefully wrong. The gravest menace and danger to our Nation today is the accumulation of wealth in the hands of a few. This accumulation could only come about by the exploitation of the great mass of workers of the American people. Long hours, under terrible working conditions that menace life and health; child labor, indescribable filthy homes to live in in the slums of our big cities; no opportunity for recreation and no places in which to recreate. The multimillionaire sailing the seas in his palatial yacht, the miner deep down in the bowels of the earth far from God's sunlight going home to his family at the end of the day with a mere pittance with which to feed and clothe them, marble palaces with 50 rooms for 2 or 3 persons to live in, 2 rooms in the tenements for 9 to live in. You say this is exaggerated. How about the man whom I met last week, the father of five children, who has been working for 25 years for a large chain grocery system, and was informed after his long years of faithful service that his pay had been cut and that from now on he will be expected to work still longer hours and support his family on the munificent sum of $13 a week?

How about the little children driven into factories and mills, where in one instance it was testified on the floor of the House of Representatives that a boy went into the mills at the age of 9 and received 5 cents a day for his wages? How about the men working before the hot fires in the steel industry, sweat pouring off them, grimy, disheveled, and spent at the end of the day, denied the right of organization; denied the right to call their souls their own; and every word picked up by snoopers and spies, paid by these big corporations to report back every utterance to the boss so that they might discharge any man who had enough red blood in his body to demand his right of decent wages and decent hours as an American citizen?

How about the women bending over their needlework in the sweatshops; how about women working in the mills under the speed-up and stretch-out system; how about women in the mills doing heavy work suitable only for men—women, the future mothers of the Nation called upon to do work for which they are constitutionally unfit and which destroys the delicacy and charm intended for women by nature? These are not theories, these are facts, brought out in hearings before my own Committee on Labor during the past 6 years since I have been chairman of that committee, and more recently by an investigation now taking place in the United States Senate.

How about monopoly in the air, where three big broadcasting companies owned by the Power Trusts control 40 of the 50 clear channels licensed by the Federal Communications Commission? Is that Americanism? The greatest avenue of propaganda ever known, reaching into the homes in every hamlet, village, town, and city of the 48 States of the Union; operated by a few individuals who reserve the right to permit or deny any American to speak on the radio, and then if they do allow him to speak they blue-pencil beforehand any remarks or any references which they think might be harmful and displeasing to the big corporate interests.

How about our banking system? Two or three big banks in New York City, owned and controlled by a few financial barons, reach out their tentacles like an octopus and draw into their embrace all the subsidiary banks whether in large cities or small towns and thereby control the credit system which is the lifeblood of industry and the farm. These are a few, and there are many others, of the evils which beset and torture the American man and woman who have grown up in the firm belief that life, liberty, and the pursuit of happiness, set out by Jefferson in the Declaration of Independence, are not mere words to be mouthed at the school exhibition on commencement day, but are living verities to be enforced under the bill of rights and the entire Constitution of the United States.

We rail at the Communist, we shout aloud to the heavens that we must drive from our shores those who would seek to overturn our democratic institutions. We almost shriek in anguish at the thought of alien propaganda and yet we sit quietly by and permit international bankers to dictate the financial policy of the Nation. Our fertile American soil, drenched with the blood of American patriots in all of our wars, should produce only the flowers of patriotism—a love of country and allegiance to our democratic form of Government. But some of these flowers are being choked and strangled by the weeds of communism and atheism. These weeds can be uprooted easily and cast aside to be burned with the cockle as described in the Scripture.

How? you say. Well, when a man has three square meals a day, has a good wife and fine children, is getting a decent wage, is able to put aside a little in the bank for a rainy day, can go to the movies occasionally, can buy an automobile—and if that man's wife can have an electric iron to do her ironing, an electric refrigerator to store the food, an oil burner, an electric washing machine, and a few other comforts, that after all should be destined to fall to the lot of not a few but every American, all of these, of course, without paying a tribute of 300 percent to the power companies and exorbitant rates for gas and electricity. Given only a few of these things, that man and woman will be in no mood to listen patiently to any "red" or even "pink" who suggests overthrowing the United States Government.

Money is power, and this power reaches into every nook and corner of the country. Combinations are formed which drive the small-business man out of existence. The greed of these frenzied finance manipulators is not satisfied until they have cut wages to the bone and made the farmer sell his products for less than the cost of production.

Two weeks ago we celebrated the anniversary of the birthday of Abraham Lincoln, one of our greatest presidents. Lincoln freed the slaves. The exception proving the rule in the Southland, the ordinary plantation owner at least saw to it that his slaves were fed, had a place to sleep, clothing to wear, and received medical attention from his own family physician. Today, we have an economic slavery in the country and it is not confined to the Negro. It includes both black and white and these economic slaves are worse off by far than were the slaves of the South.

The Simon Legree of Uncle Tom's Cabin has been multiplied into thousands of gunmen, brass-knuckle experts, gun toters, and blackjackers, who receive fine wages from the owners of big corporations to come into a strike area and by intimidation, assaults, and even murder, smash the morale of hungry men and women, who in their God-given right to strike still believe that the Constitution of the United States was written for them as well as for these money-mad tyrants and their merciless minions of terrorism. When I say "God-given right to strike", I do not mean sit-down strikes, which to my mind, are unethical, illegal, and immoral, because in such a strike the workers are invading the property rights of their fellowmen, and these property rights are just as sacred as is the right to strike. But there is light, there is hope, there are still red-blooded Americans who have courage and who have ideals. Men of the courage and ideals of your own Maine One Hundred and Third Infantry, with whom I had the honor to serve in the Yankee Division on the fields of France. These men know that no permanent peace can come in our country until capital receives only its fair share of profits and the worker his just deserts in wages and conditions of work.

The greatest of these men of courage and foresight now occupies the most exalted position within the gift of the American people. In 1865 Abraham Lincoln freed the black slaves of the South—in 1937 Franklin Delano Roosevelt is fighting valiantly to free, and is going to free, the white and black economic slaves of the entire United States of America.

We are gathered here tonight to celebrate the victory of this great President in his reelection to the Presidency. He has 4 years ahead of him in which to continue his great work, so ably and courageously begun during his first term. The people have show by his tremendous majority that they have full and complete confidence in his honesty, integrity, and his will to succeed in bringing the American people out of the depression. In a recent interview with him he made known to me confidentially his ideas on labor.

Without breaking his confidence, I can say to you I know that he intends during his administration to try to bring about industrial peace by a fair and square deal for both employer and employee. He envisions plainly that there can be no real prosperity in the country unless the worker is able to buy the products of the farm and the farmer is able, by obtaining a fair price for his crop, to buy the products manufactured by the worker. The prosperity of farmer and worker is interdependent.

It is a distinct privilege for me, from the neighboring State of Massachusetts, to come from Washington here to Portland to pay my humble tribute, not only to the President of the United States, but to all of the people who comprise the Democratic Party in this grand old Pine Tree State. Maine, of course, is no alien spot to me. I have spent many, many happy summers here at my brother's camp on Great East Lake near Sanford and in the neighboring State of New Hampshire. I feel that I know and understand the people of Maine, who are the descendants in many instances of the old New England pioneers who possessed characters as rugged and fine as the rocks on your famous seacoast. Men and women who, while on the surface are apparently most reserved, underneath possess the warmest of hearts, and when once they take you to their hearts you are there forever. I was particularly happy to come here to speak to you tonight because I feel that the Democratic Party in Maine and Vermont has had to carry the battle for democracy under the most adverse circumstances, and your wonderful vote in Maine, regardless of the fact that the electoral vote did not go to President Roosevelt, showed that the Democrats of Maine possess to the highest degree one of the greatest of attributes, known as intestinal fortitude. Coming from the old Bay State of Massachusetts, I greet you.

I thank you for the reception which you have tendered to me, and when I return to Washington I will return with renewed courage to carry on under the leadership of President Roosevelt, the ever-continuing battle for shorter hours, increased wages, the abolition of child labor, the right of labor to organize, the right of labor to bargain collectively through representatives of their own choosing, the right of the farmer to own his land and make a decent living from his crop, the right of capital to its fair share of profits, the right of a man to be protected in his private property, the right of youth to be educated and obtain a job, the right of a man over the age of 40 to be employed and receive the benefits of unemployemnt insurance, the right of the aged to receive ample old-age pensions.

A New Deal for America—a more abundant life for America—a place in the sun for Americans, so that some day in the very near future we may hope to banish from the list of axioms—"Man's inhumanity to man makes countless thousands mourn."

Extending Authority of P. W. A. Beyond June 30, 1937

EXTENSION OF REMARKS

OF

HON. ALFRED F. BEITER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 1937

Mr. BEITER. Mr. Speaker, unless steps are taken to extend the authority of the P. W. A. for 2 years from June 30, 1937, what has probably been the greatest single factor in putting the country back to work will be allowed to die on its feet when its usefulness and efficiency are at their peak.

In making an appeal for the support of a bill to extend P. W. A. authority, I am speaking to those of you who feel that a government's moral responsibility for the welfare of its people transcends all considerations of economy and budget balancing.

In the United States there are still better than 6,000,000 workers that even a reviving industry has been unable to absorb. City, State, and private relief agencies are taxed to capacity. Without drastic, and for the most part impossible, extensions of their budgets and facilities it is physically impossible for them to assume the responsibility for anything like such numbers.

Granting for a moment, however, that such expansion were possible, the burden of expense would fall on you, the American taxpayer, just as directly as it does when the outlay is made by the Federal Government.

Doubtless, the ardent budgeteer will tell you that it is less expensive to allow local agencies to provide relief. If you weigh the relative advantages solely in terms of figures in an annual financial report he may be right. But if you think in terms of people rather than of dollars you will find the figures less convincing.

Admittedly, it costs less in dollars and cents to provide a man and his family with food and a roof than it does to provide him with a job and a living wage. But in 6 months or a year of such expenditure nothing has been accomplished except to keep him alive, to make him just a little more dependent than he was when the necessity arose.

This constitutes no reflection on local relief agencies. They have done a magnificent and much-needed job in administering immediate relief. But they are not equipped to provide more. They were not, and are not now, in a position to provide jobs, to stimulate business to the point of making it possible to reemploy the millions of workless.

More than emergency relief was needed to lift this country out of the economic doldrums of the early thirties. Only the Federal Government was in a position to draft the necessary facilities for providing that something "more." Numerous plans were considered and discarded. Eventually it was agreed that the one plan which promised dollar-for-dollar value for expenditure was a plan for a program of public works financed by Government funds.

There are those who may question the realization of that promise of dollar-for-dollar value. A review of what has been accomplished in 3 years of P. W. A. should be a convincing answer.

When P. W. A. came into being it was hoped that it would accomplish three things: First, provide work and a living wage for as many as possible of those millions wanting work who were thrown out of employment by the depression; second, provide funds for subsidizing construction of public works in communities whose finances were too depleted to undertake the full burden of expense of much needed building at a time when such building could be done most cheaply and efficiently; and third, provide, indirectly, a much needed stimulus to activity and reemployment in those industries which had suffered most through the depression lethargy in the building trades * * * manufacturers of construction materials such as bricks, tile, lumber, steel and machinery, and companies occupied in the transportation of these products.

It is only necessary to examine the actual accomplishments of the P. W. A. in the past 3 years to decide whether or not it has succeeded in its threefold purpose.

First of all, I should like to point out, for the benefit of those who are uninformed or misinformed as to the actual workings of the P. W. A., exactly what part the Federal Government has played in its activities.

Through the P. W. A. the Government has not taken over the prerogatives of private industry and turned itself into a Federal construction firm. Contracts for P. W. A. projects are let out to private firms on a basis of open bids which are submitted to and considered by P. W. A. representatives. The contracts are awarded to firms submitting the lowest bids consistent with quality, style, and economy.

The Federal Government provides only up to 45 percent of the actual cost of any project which it approves and subsidizes. The other 55 percent and upward is guaranteed by the municipality or community directly benefiting from the project.

In addition to the financial aid, the community profits by the advice of experienced engineers, construction experts, and legal advisers who cut down the possibilities of waste, graft, and expensive litigation which so frequently make the construction of strictly local public works an excessive drain on the finances of the community.

The individual laborers on P. W. A. projects benefit by constant Government inspection which insures the limiting of the working week, the safeguarding of health of workers, the weeding out of unfair practices as the "kickback" and the erroneous classification of labor, both devices through which dishonest contractors seek to evade payment of just wages to workers.

As a result of criteria established by P. W. A., the highest standards now govern public construction in the United States.

Architects and building engineers have marked the Nation-wide improvement under P. W. A. The citizens of the country gave it the stamp of their approval when they cast 10,000,000 votes in some 2,600 local elections endorsing projects.

The P. W. A. itself is proud of its work. A P. W. A. sign is raised the moment ground is broken on a construction site where P. W. A. money is financing the work. No project is ever disguised or left unmarked.

But these are only a general outline of the workings of P. W. A. Let us go on to the particular things which the P. W. A. has accomplished in its 3 years.

As a direct result of P. W. A. activities as many as 694,000 men have been employed on P. W. A. projects at one time; 694,000 men taken off relief rolls and put to work! That in itself is an accomplishment which is full justification for the P. W. A.

In addition, the P. W. A. program has provided for the construction of 4,000 educational buildings and for the repair and rehabilitation of 1,000 additional structures. Thirty thousand classrooms have been added and new accommodations for more than a million pupils provided.

Does that constitute unwarranted extravagance?

P. W. A. has contributed to the construction of some 1,500 water-supply projects, projects designed to insure the health of small communities by doing away with inadequate, dangerous, and obsolete sources of water supply and providing modern facilities for tapping reliable sources and building new pumping stations, chlorination and filtration plants. Again, in the interest of public health, P. W. A. has been responsible for almost 900 new or improved sewerage systems.

Through P. W. A. the capacity of American hospitals has been increased by 40,000 beds.

Community halls, gymnasiums, parks, playgrounds, bathing beaches, swimming pools, tennis courts, and other recreational facilities have been provided in communities where such facilities are of primary importance in the improvement of health and social adjustment of children and adolescents handicapped by poverty and environment.

Fifty huge housing developments in 35 cities have been inaugurated by P. W. A. funds to aid in slum clearance and provide model homes for 25,000 families at rentals within their incomes.

Do these constitute unwarranted extravagance?

There have been contributions for power dams and for the improvement of service from public utilities. There have been contributions to advance transport facilities through the erection of bridges, tunnels for vehicles, new roads, and for the improvement of city streets.

Are these, too, unwarranted extravagance?

In addition to these completely tangible fulfillments of the objectives of the P. W. A. program, there is adequate proof that the third objective, too, has been realized. On all Federal and non-Federal projects better than two and one-half billion dollars have been spent for materials. It is estimated that 60 percent of the cost of materials is paid out in wages. In production, fabrication, and transportation of these materials, it is estimated that approximately 36,000,000 man-months of direct labor have been provided.

In the face of all this, are there still those who can be taken in by the argument that direct relief is cheaper? Against these figures what have we to show for millions spent in direct relief since 1932?

What practical businessman does not get more satisfaction out of paying a hundred dollars in wages to a man who does a hundred dollars' worth of work for him than he would out of giving the same man $25 out of charity?

The P. W. A. needs no further justification of its past accomplishments. The question now is whether it can be discontinued without serious loss to the Government, to industry, to communities which have benefited and will benefit by its activities, and to hundreds of thousands of men to whom it has meant a job, independence, and freedom from the stigma and the inertia of direct relief.

In the opinion of businessmen and of economists it cannot be discontinued in June without such loss. Projects now under construction are 90 percent completed. Is the money already invested to be written off as a loss for want of funds necessary to carry on?

Is economic recovery to be threatened again by the slump that is bound to result in the brick, tile, lumber, and steel industries?

Are a million men to be thrown back on the relief rolls? And they will be forced on relief because unemployment figures are proof that, despite the improvement in industry, recovery has not as yet been sufficient to absorb them.

And, finally, can the Government be permitted to disregard its moral obligation to municipalities which have been invited to submit projects and which have been encouraged to go to the expense of drafting plans and holding special referendums for the inauguration of such projects on the understanding that Federal help would be available in carrying them out?

The practical and fair-minded answer seems obvious. Congress must act to extend the authority of the P. W. A. for an additional 2-year period and must provide an appropriation to take care of projects already approved, for which no funds are now available. It is sound common sense and sound economy to continue a good thing. It is very poor economy to sacrifice a considerable initial investment, to scrap a valuable structure at the height of its value and efficiency in order to save the comparatively small continuing outlay necessary for its upkeep.

And that is exactly what we shall be doing if we allow the authority of the P. W. A. to expire in June.

Reorganizing the Federal Judiciary

EXTENSION OF REMARKS
OF
HON. JOHN E. RANKIN
OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 10, 1937

ADDRESS BY THE PRESIDENT OF THE UNITED STATES ON MARCH 9, 1937

Mr. RANKIN. Mr. Speaker, last night President Roosevelt spoke to the people of the Nation on his proposal to reorganize the Federal judiciary.

His address was couched in language that every intelligent human being could understand, and was delivered in a tone that carried sincerity with every word. It will go down in history as one of the greatest documents of its kind ever delivered by a President of the United States.

It was a complete answer to the arguments of those static statesmen who resist all change, even when a change is proposed that would correct evil practices or conditions from which people have long suffered.

It was a complete answer to those cries of "dictator" with which special interests are attempting to frighten the American people or to stampede Members of Congress into joining the opposition.

It was a reassuring message to that great multitude of honest individuals who have been misled by these propagandists into believing that the President's proposal was inspired by sinister motives, or that its adoption would be detrimental to the common welfare.

Under the permission granted me to extend my remarks in the RECORD I insert the address made by the President last night, which reads as follows:

Last Thursday I described in detail certain economic problems which everyone admits now face the Nation. For the many messages which have come to me after that speech, and which it is physically impossible to answer individually, I take this means of saying "thank you."

Tonight, sitting at my desk in the White House, I make my first radio report to the people in my second term of office.

I am reminded of that evening in March, 4 years ago, when I made my first radio report to you. We were then in the midst of the great banking crisis.

Soon after, with the authority of the Congress, we asked the Nation to turn over all of its privately held gold, dollar for dollar, to the Government of the United States.

Today's recovery proves how right that policy was.

But when, almost 2 years later, it came before the Supreme Court its constitutionality was upheld only by a five-to-four vote. The change of one vote would have thrown all the affairs of this great Nation back into hopeless chaos. In effect, four Justices ruled that the right under a private contract to exact a pound of flesh was more sacred than the main objectives of the Constitution to establish an enduring Nation.

In 1933 you and I knew that we must never let our economic system get completely out of joint again—that we could not afford to take the risk of another great depression.

We also became convinced that the only way to avoid a repetition of those dark days was to have a government with power to prevent and to cure the abuses and the inequalities which had thrown that system out of joint.

We then began a program of remedying those abuses and inequalities—to give balance and stability to our economic system—to make it bombproof against the causes of 1929.

Today we are only part way through that program—and recovery is speeding up to a point where the dangers of 1929 are again becoming possible, not this week or month perhaps, but within a year or two.

National laws are needed to complete that program. Individual or local or State effort alone cannot protect us in 1937 any better than 10 years ago.

It will take time—and plenty of time—to work out our remedies administratively even after legislation is passed. To complete our program of protection in time, therefore, we cannot delay one moment in making certain that our National Government has power to carry through.

Four years ago action did not come until the eleventh hour. It was almost too late.

If we learned anything from the depression we will not allow ourselves to run around in new circles of futile discussion and debate, always postponing the day of decision.

The American people have learned from the depression. For in the last three national elections an overwhelming majority of them voted a mandate that the Congress and the President begin the task of providing that protection—not after long years of debate, but now.

The courts, however, have cast doubts on the ability of the elected Congress to protect us against catastrophe by meeting squarely our modern social and economic conditions.

We are at a crisis in our ability to proceed with that protection. It is a quiet crisis. There are no lines of depositors outside closed banks. But to the far-sighted it is far-reaching in its possibilities of injury to America.

I want to talk with you very simply about the need for present action in this crisis—the need to meet the unanswered challenge of one-third of a nation ill-nourished, ill-clad, ill-housed.

Last Thursday I described the American form of government as a three-horse team provided by the Constitution to the American people so that their field might be plowed. The three horses are, of course, the three branches of government—the Congress, the executive, and the courts. Two of the horses are pulling in unison today; the third is not. Those who have intimated that the President of the United States is trying to drive that team overlook the simple fact that the President, as Chief Executive, is himself one of the three horses.

It is the American people themselves who are in the driver's seat.

It is the American people themselves who want the furrow plowed.

It is the American people themselves who expect the third horse to pull in unison with the other two.

I hope that you have reread the Constitution of the United States. Like the Bible, it ought to be read again and again.

It is an easy document to understand when you remember that it was called into being because the Articles of Confederation, under which the Original Thirteen States tried to operate after the Revolution showed the need of a national government with power enough to handle national problems. In its preamble the Constitution states that it was intended to form a more perfect Union and promote the general welfare; and the powers given to the Congress to carry out those purposes can be best described by saying that they were all the powers needed to meet each and every problem which then had a national character and which could not be met by merely local action.

But the framers went further. Having in mind that in succeeding generations many other problems then undreamed of would become national problems, they gave to the Congress the ample broad powers "to levy taxes * * * and provide for the common defense and general welfare of the United States."

That, my friends, is what I honestly believe to have been the clear and underlying purpose of the patriots who wrote a Federal Constitution to create a National Government with national power, intended as they said, "to form a more perfect union * * * for ourselves and our posterity."

For nearly 20 years there was no conflict between the Congress and the Court. Then, in 1803, Congress passed a statute which the Court said violated an express provision of the Constitution. The Court claimed the power to declare it unconstitutional and did so declare it. But a little later the Court itself admitted that it was an extraordinary power to exercise and through Mr. Justice Washington laid down this limitation upon it: "It is but a decent respect due to the wisdom, the integrity, and the patriotism of the legislative body, by which any law is passed, to presume in favor of its validity until its violation of the Constitution is proved beyond all reasonable doubt."

But since the rise of the modern movement for social and economic progress through legislation, the Court has more and more often and more and more boldly asserted a power to veto laws passed by the Congress and State legislatures in complete disregard of this original limitation.

In the last 4 years the sound rule of giving statutes the benefit of all reasonable doubt has been cast aside. The Court has been acting not as a judicial body, but as a policy-making body.

When the Congress has sought to stabilize national agriculture, to improve the conditions of labor, to safeguard business against unfair competition, to protect our national resources, and in many other ways, to serve our clearly national needs, the majority of the Court has been assuming the power to pass on the wisdom of these acts of the Congress—and to approve or disapprove the public policy written into these laws.

That is not only my accusation. It is the accusation of most distinguished Justices of the present Supreme Court. I have not the time to quote to you all the language used by dissenting Justices in many of these cases. But in the case holding the Railroad Retirement Act unconstitutional, for instance, Chief Justice Hughes said in a dissenting opinion that the majority opinion was "a departure from sound principles", and placed "an unwarranted limitation upon the commerce clause." And three other Justices agreed with him.

In the case holding the A. A. A. unconstitutional, Justice Stone said of the majority opinion that it was a "tortured construction of the Constitution." And two other Justices agreed with him.

In the case holding the New York Minimum Wage Law unconstitutional, Justice Stone said that the majority were actually reading into the Constitution their own "personal economic predilections", and that if the legislative power is not left free to choose the methods of solving the problems of poverty, subsistence, and health of large numbers in the community, then "government is to be rendered impotent." And two other Justices agreed with him.

In the face of these dissenting opinions, there is no basis for the claim made by some members of the Court that something in the Constitution has compelled them regretfully to thwart the will of the people.

In the face of such dissenting opinions, it is perfectly clear that as Chief Justice Hughes has said: "We are under a Constitution, but the Constitution is what the judges say it is."

The Court in addition to the proper use of its judicial functions has improperly set itself up as a third House of the Congress—a superlegislature, as one of the Justices has called it—reading into the Constitution words and implications which are not there, and which were never intended to be there.

We have, therefore, reached the point as a nation where we must take action to save the Constitution from the Court and the Court from itself. We must find a way to take an appeal from the Supreme Court to the Constitution itself. We want a Supreme Court which will do justice under the Constitution—not over it. In our courts we want a government of laws and not of men.

I want—as all Americans want—an independent judiciary as proposed by the framers of the Constitution. That means a Supreme Court that will enforce the Constitution as written—that will refuse to amend the Constitution by the arbitrary exercise of judicial power—amendment by judicial say-so. It does not mean a judiciary so independent that it can deny the existence of facts universally recognized.

How, then, could we proceed to perform the mandate given us? It was said in last year's Democratic platform, "If these problems cannot be effectively solved within the Constitution, we shall seek such clarifying amendment as will assure the power to enact those laws, adequately to regulate commerce, protect public health and safety, and safeguard economic security." In other words, we said we would seek an amendment only if every other possible means by legislation were to fail.

When I commenced to review the situation with the problem squarely before me, I came by a process of elimination to the conclusion that short of amendments the only method which was clearly constitutional, and would at the same time carry out other much-needed reforms, was to infuse new blood into all our courts. We must have men worthy and equipped to carry out impartial justice. But at the same time we must have judges who will bring to the courts a present-day sense of the Constitution—judges who will retain in the courts the judicial functions of a court and reject the legislative powers which the courts have today assumed.

In 45 out of the 48 States of the Union, judges are chosen not for life but for a period of years. In many States judges must retire at the age of 70. Congress has provided financial security by offering life pensions at full pay for Federal judges on all courts who are willing to retire at 70. In the case of Supreme Court Justices, that pension is $20,000 a year. But all Federal judges, once appointed, can, if they choose, hold office for life no matter how old they may get to be.

What is my proposal? It is simply this: Whenever a judge or justice of any Federal court has reached the age of 70 and does not avail himself of the opportunity to retire on a pension, a new member shall be appointed by the President then in office, with the approval, as required by the Constitution, of the Senate of the United States.

That plan has two chief purposes: By bringing into the judicial system a steady and continuing stream of new and younger blood, I hope, first, to make the administration of all Federal justice speedier and therefore less costly; secondly, to bring to the decision of social and economic problems younger men who have had personal experience and contact with modern facts and circumstances under which average men have to live and work. This plan will save our National Constitution from hardening of the judicial arteries.

The number of judges to be appointed would depend wholly on the decision of present judges now over 70 or those who would subsequently reach the age of 70.

If, for instance, any one of the six Justices of the Supreme Court now over the age of 70 should retire as provided under the plan, no additional place would be created. Consequently, although there never can be more than 15, there may be only 14, or 13, or 12, and there may be only 9.

There is nothing novel or radical about this idea. It seeks to maintain the Federal bench in full vigor. It has been discussed and approved by many persons of high authority ever since a similar proposal passed the House of Representatives in 1869.

Why was the age fixed at 70? Because the laws of many States, the practice of the civil service, the regulations of the Army and Navy, and the rules of many of our universities and of almost every great private business enterprise commonly fix the retirement age at 70 years or less.

The statute would apply to all the courts in the Federal system. There is general approval so far as the lower Federal courts are concerned. The plan has met opposition only so far as the Supreme Court of the United States itself is concerned. If such a plan is good for the lower courts, it certainly ought to be equally good for the highest court, from which there is no appeal.

Those opposing this plan have sought to arouse prejudice and fear by crying that I am seeking to "pack" the Supreme Court and that a baneful precedent will be established.

What do they mean by the words "packing the Court"?

Let me answer this question with a bluntness that will end all honest misunderstanding of my purposes.

If by that phrase "packing the Court" it is charged that I wish to place on the bench spineless puppets who would disregard the law and would decide specific cases as I wished them to be decided, I make this answer: That no President fit for his office would appoint, and no Senate of honorable men fit for their office would confirm, that kind of appointees to the Supreme Court.

But if by that phrase the charge is made that I would appoint and the Senate would confirm Justices worthy to sit beside present members of the Court who understand those modern conditions; that I will appoint Justices who will not undertake to override the judgment of the Congress on legislative policy; that I will appoint Justices who will act as Justices and not as legislators—if the appointment of such Justices can be called "packing the courts"—then I say that I, and with me the vast majority of the American people, favor doing just that thing—now.

Is it a dangerous precedent for the Congress to change the number of the Justices? The Congress has always had, and will have, that power. The number of Justices has been changed several times before—in the administrations of John Adams and Thomas Jefferson, both signers of the Declaration of Independence, Andrew Jackson, Abraham Lincoln, and Ulysses S. Grant.

I suggest only the addition of Justices to the bench in accordance with a clearly defined principle relating to a clearly defined age limit. Fundamentally, if in the future America cannot trust the Congress it elects to refrain from abuse of our constitutional usages, democracy will have failed far beyond the importance to it of any kind of precedent concerning the judiciary.

We think it so much in the public interest to maintain a vigorous judiciary that we encourage the retirement of elderly judges by offering them a life pension at full salary. Why then should we leave the fulfillment of this public policy to chance or make it dependent upon the desire or prejudice of any individual Justice?

It is the clear intention of our public policy to provide for a constant flow of new and younger blood into the judiciary. Normally, every President appoints a large number of district and circuit judges and a few members of the Supreme Court. Until my first term practically every President of the United States had appointed at least one member of the Supreme Court. President Taft appointed five members and named a Chief Justice; President Wilson three; President Harding four, including a Chief Justice; President Coolidge one; President Hoover three, including a Chief Justice.

Such a succession of appointments should have provided a court well balanced as to age. But chance and the disinclination of individuals to leave the Supreme Bench have now given us a Court in which five Justices will be over 75 years of age before next June and one over 70. Thus a sound public policy has been defeated.

I now propose that we establish by law an assurance against any such ill-balanced Court in the future. I propose that hereafter, when a judge reaches the age of 70, a new and younger judge shall be added to the Court automatically. In this way I propose to enforce a sound public policy by law instead of leaving the composition of our Federal courts, including the highest, to be determined by chance or the personal decision of individuals.

If such a law as I propose is regarded as establishing a new precedent, is it not a most desirable precedent?

Like all lawyers, like all Americans, I regret the necessity of this controversy. But the welfare of the United States, and indeed of the Constitution itself, is what we all must think about first. Our difficulty with the Court today rises not from the Court as an institution but from human beings within it. But we cannot yield our constitutional destiny to the personal judgment of a few men who, being fearful of the future, would deny us the necessary means of dealing with the present.

This plan of mine is no attack on the Court; it seeks to restore the Court to its rightful and historic place in our system of constitutional government and to have it resume its high task of building anew on the Constitution "a system of living law."

I have thus explained to you the reasons that lie behind our efforts to secure results by legislation within the Constitution. I hope that thereby the difficult process of constitutional amendment may be rendered unnecessary. But let us examine that process.

There are many types of amendment proposed. Each one is radically different from the other. There is no substantial group within the Congress or outside it who are agreed on any single amendment.

It would take months or years to get substantial agreement upon the type and language of an amendment. It would take months and years thereafter to get a two-thirds majority in favor of that amendment in both Houses of the Congress.

Then would come the long course of ratification by three-fourths of the States. No amendment which any powerful economic interests or the leaders of any powerful political party have had reason to oppose has ever been ratified within anything like a reasonable time. And 13 States which contain only 5 percent of the voting population can block ratification even though the 35 States with 95 percent of the population are in favor of it.

A very large percentage of newspaper publishers, chambers of commerce, bar associations, manufacturers' associations, who are trying to give the impression that they really do want a constitutional amendment, would be the first to exclaim as soon as an amendment was proposed: "Oh! I was for an amendment all right, but this amendment that you have proposed is not the kind of an amendment that I was thinking about. I am, therefore, going to spend my time, my efforts, and my money to block that amendment, although I would be awfully glad to help get some other kind of amendment ratified."

Two groups oppose my plan on the ground that they favor a constitutional amendment. The first includes those who fundamentally object to social and economic legislation along modern lines. This is the same group who during the campaign last fall tried to block the mandate of the people.

Now they are making a last stand. And the strategy of that last stand is to suggest the time-consuming process of amendment in order to kill off by delay the legislation demanded by the mandate.

To them I say: I do not think you will be able long to fool the American people as to your purposes.

The other group is composed of those who honestly believe the amendment process is the best and who would be willing to support a reasonable amendment if they could agree on one.

To them I say: We cannot rely on an amendment as the immediate or only answer to our present difficulties. When the time comes for action, you will find that many of those who pretend to support you will sabotage any constructive amendment which is proposed. Look at these strange bedfellows of yours. When before have you found them really at your side in your fights for progress?

And remember one thing more. Even if an amendment were passed, and even if in the years to come it were to be ratified, its meaning would depend upon the kind of Justices who would be sitting on the Supreme Court bench. An amendment like the rest of the Constitution is what the Justices say it is rather than what its framers or you might hope it is.

This proposal of mine will not infringe in the slightest upon the civil or religious liberties so dear to every American.

My record as Governor and as President proves my devotion to those liberties. You who knew me can have no fear that I would tolerate the destruction by any branch of government of any part of our heritage of freedom.

The present attempt by those opposed to progress to play upon the fears of danger to personal liberty brings again to mind that crude and cruel strategy tried by the same opposition to frighten the workers of America in a pay-envelope propaganda against the social security law. The workers were not fooled by that propaganda then. The people of America will not be fooled by such propaganda now.

I am in favor of action through legislation—

First, because I believe that it can be passed at this session of the Congress.

Second, because it will provide a reinvigorated, liberal-minded judiciary necessary to furnish quicker and cheaper justice from bottom to top.

Third, because it will provide a series of Federal courts willing to enforce the Constitution as written, and unwilling to assert legislative powers by writing into it their own political and economic policies.

During the past half century the balance of power between the three great branches of the Federal Government has been tipped out of balance by the courts in direct contradiction of the high purposes of the framers of the Constitution. It is my purpose to restore that balance. You who know me will accept my solemn assurance that in a world in which democracy is under attack I seek to make American democracy succeed.

In the Spirit of Fair Play

EXTENSION OF REMARKS

OF

HON. LOUIS C. RABAUT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

Mr. RABAUT. Mr. Speaker, in the spirit of fair play, I have today introduced a bill to correct a situation which has resulted in discrimination against certain cities and counties which borrowed for relief purposes from the Reconstruction Finance Corporation under title I of the Emergency Relief and Construction Act of 1932. This bill is designed to release such cities and counties from the obligation to repay these loans, which loans were made for the same purposes that similar loans were made to States, and which latter loans, in effect, have been canceled in excess of the sum of two hundred and eighty millions. The city of Detroit is vitally interested; and from my interest in this matter last year I know that other political subdivisions of Government which will be affected by the passage of this bill are also most keenly interested. As I said in the beginning, this bill is introduced solely in the spirit of fair play, as is indicated in the title of the bill, which is as follows:

To extend to political subdivisions of States the same treatment accorded to States which borrowed for relief purposes under the

Emergency Relief and Construction Act of 1932 by eliminating discrimination in the case of certain loans made to cities and counties under that act, and for other purposes.

STATEMENT OF FACTS REGARDING R. F. C. LOANS TO CITIES AND COUNTIES UNDER THE EMERGENCY RELIEF AND CONSTRUCTION ACT OF 1932

The Emergency Relief and Construction Act of 1932—Public, No. 302, Seventy-second Congress, approved July 21, 1932—authorized the Reconstruction Finance Corporation, first, to make $300,000,000 available for loans to States and cities for the relief of destitution; and second, to make loans or contracts up to $1,500,000,000 to finance self-liquidating public-works projects in States and municipalities.

This act represented the first participation, on the part of the Federal Government, in the relief and unemployment picture—first, by making loans to States, counties, and cities for direct relief purposes, and second, by providing the funds, on a loan basis, to stimulate employment through a public-works program.

Two alternative procedures for obtaining relief loans were provided for in the act itself. On the one hand, a State might secure a Federal advance by having the governor make an application in which he showed the need for relief funds and the State's lack of resources. These loans were to be repaid out of future road grants to the State.

According to section 1 (b) of the act, repayment would be accomplished in such cases—

By making annual deductions beginning with the fiscal year 1935 from regular apportionments made from future Federal authorizations in aid of the States and Territories for the construction of highways and rural post roads, of an amount equal to one-fifth of the share which such State or Territory would be entitled to receive under such apportionment, * * * or an amount equal to one-fifth of the amounts so paid to the Governor of such State or Territory pursuant to this section, whichever is the lesser, until the sum of such deductions equals the total amounts paid under this section and all accrued interest thereon.

On the other hand, loans might be made direct to cities and counties, through the Governor, if secured by evidences of indebtedness on the part of the political subdivisions. Repayment in such cases would be subject to interest at the rate of 3 percent per year, and according to such terms as the Corporation and the municipality or county might agree upon.

Any portion of the amount approved by the Corporation for payment to the Governor of a State or Territory shall, at his request, and with the approval of the Corporation, be paid to any municipality or political subdivision of such State or Territory if (1) the Governor makes as to such municipality or political subdivision a like certificate as provided in subsection (c) as to the State or Territory, and (2) such municipality or political subdivision enters into an agreement with the Corporation for the repayment to the Corporation of the amount so paid, with interest at the rate of 3 percent per annum, at such times, and upon such other terms and conditions, as may be agreed upon between the Corporation and such municipality or political subdivision. The amount paid to any municipality or political subdivision under this subsection shall not be included in any amounts reimbursable to the Corporation under subsection (b) of this section. (Subsection (c), sec. 1, title I, Public, No. 302, 72d Cong.)

The sums lent to cities and counties were to be a direct obligation of the cities and counties and not payable by deductions from State highway grants as were the loans to States, although both loans were for the same purpose, namely, relief.

When the new administration took office on March 4, 1933, almost every State in the Union had been an applicant for relief loans for itself or for its counties or cities, and the $300,000,000 fund was practically exhausted. By the "close of business" as provided under title I, which took place May 29, 1933, 42 States and 2 Territories—Hawaii and Puerto Rico—had been recipients of relief loans from the Corporation. Approximately $3,500,000 had been lent to cities in the States of Michigan, North Dakota, and Ohio, and sixteen millions to counties in the States of Illinois, New York, North Dakota, Ohio, and Washington, making a total of nearly twenty millions advanced to local governments.

Some of these loans have already been liquidated by the R. F. C. In some cases the R. F. C. has sold the city obligations to private buyers while a few of the smaller loans have been repaid in part at least.

Now, the important aspect of these relief loans from the R. F. C. $300,000,000 fund is that in effect the loans made to the States have been canceled by an act of Congress which wiped out the provision of the original act which set up the method of repayment by the States. On the other hand, the loans made to cities and counties under the same act and for the same purpose remain binding obligations upon these local governments which were forced to borrow to meet critical relief needs. Section 14 of Public 393, Seventy-third Congress, wiped out advances to the States, thereby converting such advances to the States into straight grants. This section provided that—

No deductions shall hereafter be made on account of prior advances and/or loans to the States for the construction of roads under the requirements of the Federal Highway Act or on account of amounts paid under the provisions of title I of the Emergency Relief and Construction Act of 1932 for furnishing relief and work relief to needy and distressed people.

This means that the Government has canceled probably two hundred and eighty millions advanced to the States, but is requiring three and one-half millions advanced to the cities to be repaid, as well as the sixteen millions advanced to the counties. It is realized that nineteen and one-half millions is not a tremendous sum, but to the particular cities and counties concerned the sums involved are important when these communities are continuing to face a tremendous relief burden.

No reason has yet been advanced for the above discrimination in favor of the States. Why States should be permitted to have their loans canceled while the borrowing cities and counties must repay the loans made seems on the face of it a policy so unjust as to warrant immediate congressional action.

The question is: On what basis does the Federal Government convert $280,000,000 of loans to States into outright grants and yet at the same time hold 32 local political subdivisions of these same States to the obligation to repay approximately nineteen and one-half millions?

The cities and counties are not desirous of evading any responsibility to the Federal Government. But they do object to being discriminated against. They must be treated on the same basis as the State governments.

R. F. C. loans to cities and counties for relief made under authority of the Emergency Relief and Construction Act of 1932 (sec. 1, subsec. (e), of title I), which obligations this bill seeks to cancel

CITIES

Michigan:	
Detroit	$1,800,000
Flint	296,000
Muskegon Heights	20,000
Ohio:	
Alliance	31,500
Canton	150,000
Cuyahoga Falls	18,000
Cleveland	760,000
Dayton	322,000
Niles	19,816
Warren	57,000
North Dakota: Minot	10,000

COUNTIES

Illinois: Cook	12,252,000
Ohio:	
Cuyahoga	470,000
Lorain	131,245
Mahoning	326,440
Montgomery	482,000
Stark	334,900
Summit	240,500
Trumbull	177,500
Washington:	
Grays Harbor	105,000
Kings	675,000
Pierce	190,000
Snohomish	105,000
New York: Nassau	200,000
North Dakota:	
Bowman	10,000
Burke	4,500
Burleigh	6,160
Divide	8,100
Mercer	7,700
Mountrail	4,000
Ward	7,120
Williams	40,000 13,100

Under title I of the Emergency Relief and Construction Act of 1932, the following States borrowed funds from the R. F. C. for relief purposes:

Alabama	$4,211,688
Arizona	1,448,269
Arkansas	4,833,967
California	10,081,631
Colorado	3,832,990
Florida	3,886,512
Georgia	1,745,692
Idaho	1,026,566
Illinois	43,191,721
Indiana	5,179,931
Iowa	2,151,430
Kansas	2,592,934
Kentucky	6,728,987
Louisiana	8,200,127
Maine	252,695
Maryland	176,320
Michigan	19,692,199
Minnesota	2,531,787
Mississippi	4,058,919
Missouri	4,616,789
Montana	2,368,285
Nevada	262,632
New Hampshire	1,366,603
New Jersey	2,009,291
New Mexico	387,903
New York	26,400,000
North Carolina	5,950,000
North Dakota	492,088
Ohio	15,721,304
Oklahoma	4,570,597
Oregon	2,798,290
Pennsylvania	34,229,875
Rhode Island	1,123,590
South Carolina	4,575,270
South Dakota	1,803,945
Tennessee	3,375,352
Texas	7,952,291
Utah	2,923,439
Virginia	4,902,430
Washington	5,977,430
West Virginia	9,655,218
Wisconsin	12,395,362

Under the act of 1932 the loans to States were to be repaid out of future Federal highway grants to such States. However, under section 14 of Public, No. 393, Seventy-third Congress, the above loans to States in effect have been wiped out and converted into straight grants. The total thus canceled amounts to approximately two hundred and eighty millions.

The fact that the loans to cities and counties under the same act and for the same purpose were not released as were the State loans was due, in my opinion, entirely to inadvertent and unintentional oversight, because the repayment of the local government loans was not tied in with highway grants as were the State loans.

In view of the above facts, the cities and counties acting in the emergency to furnish relief and work relief to the needy and distressed should not be discriminated against, but should be entitled to the same consideration as has been accorded to the States, which is the sole object and purpose of this bill.

Secretary Ickes Speaks to Rod and Gun Editors' Association—Subject: Conservation, Floods, Dust Bowl, Game—Change the Name of "Interior" to "Conservation"

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

SPEECH OF HON. HAROLD L. ICKES, SECRETARY OF THE INTERIOR, BEFORE ROD AND GUN EDITORS' ASSOCIATION, NEW YORK CITY, TUESDAY, FEBRUARY 23, 1937

Mr. MAVERICK. Mr. Speaker, under unanimous consent, I include herein report of speech delivered by Hon. Harold L. Ickes, Secretary of the Interior, on the subject of Conservation, which was made before the New York Rod and Gun Editors' Association in the Commodore Hotel, New York City, at 10:30 p. m., Tuesday, February 23, 1937, and was also broadcast over the National Broadcasting Co. network.

The speech is as follows:

SECRETARY ICKES READS LETTER OF GREETINGS FROM PRESIDENT

I come before you tonight as the bearer of a message from the President of the United States. Here it is:

FEBRUARY 15, 1937.

To the Members of the New York Rod and Gun Editors' Association:

It is a pleasure to present to the New York Rod and Gun Editors' Association and its assembled guests, who have dedicated themselves to the cause of conservation, my official greetings and personal wishes for success in their undertaking. I appreciate the compliment you pay me in selecting me to receive your first annual conservation award, and I am glad to accept your invitation to send this message of greeting.

Long ago I pledged myself to a policy of conservation which would guard against the ravaging of our forests, the waste of our good earth and water supplies, and the squandering of irreplaceable oil and mineral deposits. I also pledged myself to a sister policy of preserving our wildlife and protecting our streams.

PRESIDENT SAYS RESOURCES NOT INEXHAUSTIBLE

For our own self-protection, we must all dedicate ourselves to the cause of true conservation. Much progress has been made during the past 4 years, but the full significance of conservation as related to our national welfare is not yet clear to all of our people. I believe, however, that more and more of our citizens are coming to appreciate that the natural resources of America, while vast, are neither limitless nor inexhaustible. I also am encouraged to believe that today there is a better understanding of the problems that are faced by the Government in this respect than at any previous time in our history.

I gratefully acknowledge and accept your aid in this enterprise.

Sincerely yours,

FRANKLIN D. ROOSEVELT.

[Applause.]

In presenting this award to President Roosevelt you, in effect, declare that, in your opinion, he is the outstanding conservationist in the country. And you are right! President Roosevelt not only has believed in conservation, he has striven for it. He has practiced it on his own extensive farm lands in this State. As a member of the New York State Senate, he was one of the leaders in the fight for conservation legislation. As Assistant Secretary of the Navy, he helped to protect and preserve the naval oil reserves. He made conservation a major policy when he was Governor of this State, and during his administration he did more for it than had all of his predecessors combined.

It should be understood that the President is not a conservationist in any narrow sense. His conception of this national policy is that it embraces all lands and waters, minerals, flora, and fauna—in fact, all of our priceless heritage of natural resources which made our past possible, supports us in the present and upon which our future fate rests.

He took with him to Washington his belief in the principle of conservation. More importantly still, he took with him that quality of tenacity which so distinguishes him and which refuses to relax until he has accomplished what he has set out to do. As a result, more has been done during the 4 years of the present administration to preserve and rebuild the natural resources of America than has been done in any comparable time in our history. [Applause.] The truth is that more has been done under this administration in this regard than during all preceding administrations. [Applause.]

Vast additions have been made to the areas of the national forests. New reclamation districts have been organized and additional water provided for others already in existence. Under the Taylor grazing law and its amendment, both of them signed by President Roosevelt, 110,173,400 acres of the public domain that are useful chiefly for grazing have been set up into grazing districts under Federal regulation and control.

SOIL CONSERVATION SERVICE SET UP UNDER ROOSEVELT

Under President Roosevelt the Soil Conservation Service was set up. This Service, by actual demonstration, is making it clear to the farmers of America that their own economic welfare, as well as the happiness and well-being of their children, depends upon their using their lands so that they will not be washed or blown away.

Large sums of money have been spent on flood-prevention projects, and our terrible experience during recent weeks in the Ohio and Mississippi Valleys demonstrated the wisdom of this expenditure and also proved that this undertaking is not yet complete. Under petroleum regulation acts at least a beginning has been made toward stopping the reckless overproduction and consequent waste of oil and natural gas, which are exhaustible and irreplaceable resources upon which not only the prosperity but the very life of the Nation depends.

BOULDER—T. V. A.—GREAT PROJECTS UNDER ROOSEVELT

As a byproduct of the work that this administration has undertaken to do for the control of floods and in aid of navigation, great

water-power projects, such as Boulder Dam, the Tennessee Valley undertaking, and the Bonneville and Grand Coulee enterprises on the Columbia River, have been completed or are being developed, the energy from which will be made available to the people at low cost.

We have made great strides in reforestation and afforestation.

WILDLIFE—STREAM POLLUTION—FACTORS CONSIDERED

Realizing the important place of wildlife not only in our domestic economy but as related to the health and general welfare of the people, wildlife and bird refuges have been set up under this administration to an extent hardly ever imagined formerly.

A notable start has been made toward solving the almost insoluble problem of stream pollution.

Submarginal lands from which farmers have struggled in vain to make a decent living are being purchased by the Government and taken out of agricultural use.

Additional areas have been added to old national parks and new national parks and wilderness areas have been brought into the system, thus assuring the salvation of these lands from the despoilers and the preserving of them for all time for the citizens of the future.

CIVILIAN CONSERVATION CORPS MIGHTY ACHIEVEMENT

And to implement his conservation policies in an effective and therefore unthought-of way, President Roosevelt conceived the brilliant idea of setting up C. C. C. camps so that hundreds of thousands of the youth of the land who otherwise would not be employed might have the chance of building up their own bodies while grafting new skin to cover the scars and burns from which our land has suffered at the hands of man and the forces of nature.

This rough outline of actual achievements is ample proof of the assertion that this administration has done more to advance the cause of conservation than all preceding administrations put together. It also justifies, if justification be needed, your recognition of the President as the preeminent conservationist of his time.

Where others have torn down, Franklin D. Roosevelt has built up; where others have closed their eyes to reckless and oftentimes illegal exploitation, he has been alert in the public interest; where others have done lip service to the principle of conserving our national wealth while expressing regret that nothing could be done about it, President Roosevelt has not only found a way—he has insisted that it be taken. Having already won the right to be ranked as the greatest conservationist in American history, President Roosevelt will continue to give ample proof not only of his theoretical interest in this policy of government but of his ability to give practical effect to it. Already since the beginning of his second term he has begun to unfold dreams that startle the imagination of the most ardent conservationist, and when his blueprints and plans are all ready, in characteristic fashion, he will begin to make them come true.

A couple of months ago the President of your Rod and Gun Editors' Association, Mr. George Greenfield, told us in Washington that sincere conservationists believed it to be essential that a major department of Government be charged affirmatively with the duty of conserving our natural resources. Since that time President Roosevelt has registered his views on this important policy through a message that he sent a short time ago to the Congress, in which he asked for powers to reorganize and make more efficient the executive branch of the Government.

CHANGE INTERIOR TO DEPARTMENT OF CONSERVATION

In that message he proposed that the name of the Department of the Interior be changed to that of Department of Conservation. [Applause.] That the wise and well-considered plan outlined by the President should receive the approbation and active support of all intelligent citizens, no one can doubt who has made even a cursory study of the administrative branch of the Goveernment as it now exists, with its overlappings, its inconsistencies, its inefficiencies and its sheer wastefulness in time and effort, as well as in money.

As Secretary of the Department of the Interior, and as one profoundly interested in all phases of the conservation of our natural resources, the proposal of the President to change the name of the Department over which I have the honor to preside is of especial interest to me. I hope that this change will become effective, because it has within it the possibilities of a great advancement all along the line for conservation.

FUTURE GENERATIONS WILL BE ASTONISHED AT DELAY

I predict that a few years hence we will look back and regard with amazement the failure of our country for so long a time to realize the tremendous and constantly accelerated rate at which our natural resources were being exploited. Future generations will be even more at a loss to understand why we delayed so long in setting up an effective instrumentality with which intelligently to check that exploitation.

Long ago we established particular departments to deal with special phases of government—the Department of State to conduct our foreign affairs; that of the Treasury for fiscal purposes; those of War and Navy to keep us ready to defend ourselves from foreign foes; the Department of Agriculture to concern itself with the problems of the farmer.

There have been other establishments and agencies for other specific purposes, but there has been no department of conservation in these United States, although to protect the good earth and all that pertains thereto is one of the primary duties of government. The most advanced foreign nations have such departments and, in 17 States departments of conservation have been created for the purpose of preventing reckless exploitation of natural resources and of preserving what is left of the patrimony of the people.

I do not pretend to say, as a matter of fact, I do not know, what bureaus and agencies may be transferred to the proposed new Department of Conservation or what bureaus or agencies may be taken away from the Department of the Interior if the President is given the power to reorganize the executive branch of the Government that he has suggested. But I do know that the mere creation of a Department of Conservation will be a challenge to the ruthless exploiters of our natural resources and will establish a rallying point for those who truly believe in conservation.

Through our rear view mirror we can now see that the Department of the Interior was set up in 1849 as the exploiting Department of a Government which in those days appeared to have unlimited natural resources. However, in natural course, it became the repository of many of the conservation interests of the people. There were hundreds of millions of acres of public domain, including dense forests rich in potential timber supplies and great lush plains; gushing rivers capable of being dammed to irrigate arid lands and to supply cheap power; mines and oil pools—for all of which the mouth of the exploiter watered and the disposition of which into private hands the Department was expected to make as rapidly as possible in accordance with the policy declared by Congress.

PRIVATE EXPLOITERS SHOULD BE STOPPED

The period of delivering up our heritage to private exploiters has passed. The fact is that we have permitted too deep a dipping into our natural resources for the good of the Nation. Years ago it was time to call a halt to this open-handed generosity, or even to go into reverse with respect to it.

There can be no doubt today that the prudent use of what remains of our natural resources, and this to me means true conservation of those resources, as against continued reckless exploitation, should become the fixed policy of Government.

How better can this be done than by making the agency of the Government that now administers the majority of our natural resources responsible for the conservation of what is left of those resources?

CONSERVATION ACTIVITIES SHOULD BE ORDERLY

There are two ways of helping the cause of conservation, and they go hand in hand. One of them is to put a definite stop to the reckless exploitation of what remains to us of those natural resources, and the other is to set up conservation affirmatively as one of the great objectives of the people through their Government. Both of these objects can be attained by making the Department of the Interior fully what it now in large part actually is, namely a department of conservation.

The mere change of the name of the Department would be declaratory of the intention of the United States Government henceforth to go forward aggressively with a policy of conservation of our natural resources. It stands to reason that until we consciously and deliberately, with our eyes on the future, make some such affirmative declaration the wicked waste of those resources will continue. Not only should there be such a declaration of purpose; there should also be an orderly and logical arrangement of conservation activities.

If I were one of those interested in the continued exploitation of our comparatively few remaining riches of mine and forest and stream and public domain, I would resist with all my might any proposed mandate by Congress that conservation should be made a principal function of government under the charge of a responsible Cabinet officer. I would be completely satisfied with the irresponsible policy of division and spoliation that has prevailed in the past. I would want activities relating to conservation to remain scattered in mutually jealous and hostile hands. I would encourage the misunderstandings, the envies, the overlappings, and the wasteful expenditures of public funds that have grown up in the past and which were the inheritance of this administration. We conservationists have been like a posse comitatus, following each other with fitful lanterns while the thief that we were sent out to apprehend slips away with the loot.

Conservation means the prudent use by the present generation of what is left of our natural resources, while preserving all that may be possible for the benefit of the descendants who are to follow us. It means also the correcting of the ills of our land, so far as they may be corrected, ills that we ourselves have inflicted or permitted to be inflicted upon that land.

OHIO AND MISSISSIPPI—AMERICAN GIANTS OF DEATH

We must realize the close relationship between the problem of the farmer on the banks of the Ohio or the Mississippi Rivers whose land is periodically flooded, with the result that his rich topsoil is rapidly being carried down into the Gulf of Mexico; the problem of the stockman of the West whose diminished flocks are hard put to it year after year to support themselves on a wasted range that only a comparatively few years ago produced ample forage; the problem of the husbandman in the Dust Bowl whose topsoil is spared the fate of being washed away by raging floods only to be blown away by the mighty winds that prevail in that

area; the problem of the lumberman whose transcontinental pursuit of our vanishing timber resources has already brought him stark against the shore line of the Pacific Ocean; the problem of the owner of rich soil that can support him and his family in generous comfort if only he can get water from irrigation dams for it; the problem of the farmer whose land is not exposed either to abnormal flood or abnormal drought conditions, but who watches his water table vanishing under him; the problem of the outdoor man who finds the wilderness areas in which he loves to tramp and camp becoming more restricted year by year; and the problem of those who delight to go forth with rod or gun to track down the elusive game or to lure the wary trout with cunningly contrived bait.

The particular problems that I have enumerated and others like them are only variations of one common problem.

We cannot destroy our forests, pollute our streams, destroy the natural ground cover of our once great plains, send raging floods down river courses, and expose the denuded soil to the devastation of drying winds and at the same time hope to preserve any considerable portion of our land for reasonable outdoor rest and recreation and sane national economy.

OFTEN DESTROY BIRD AND ANIMAL LIFE

Bird and animal life, except rare species and then only in small numbers, cannot live under desert conditions. Animals and birds require food and water and that natural coverage which furnishes a means of protection from enemies, especially during the mating season.

Forest fires have so altered the living conditions of many of our animals and birds that they either have tended to become extinct or have had to seek new habitats further removed from the ruthless hand of destroying man.

Fish must have water to live in, and that water must be relatively unpolluted. They cannot spend their summers on mud flats with any degree of success; neither can they survive, much less flourish, in a stream that is the open sanitary sewer that so many of the rivers of the United States have become. Nature lovers and sportsmen have good reason to be seriously alarmed at the maltreatment inflicted upon "the good earth" and the rapid disappearance of our wildlife.

Hunting and fishing are normal instincts that have survived thousands of years. They are most interesting and attractive sports. They entice men out of doors, away from their offices and daily routine. They both demand and give good physical condition. They possess restorative qualities, both physical and spiritual. It may well be said that the benefits of hunting and fishing to the man of today do not consist so much in the bagging of the game as in the attendant circumstances—the healthful surroundings, the comradeship, the renewed contact with nature. So it comes about that the preservation of all except a very few forms of our wildlife is one of the important phases of the conservation of our natural resources.

If what I have said is true, then we city dwellers, when presented with the problem of conservation, should not shrug our shoulders and question: "Am I my brother's keeper?" So far as conservation is concerned, every one of us is his brother's keeper. Not only the farmer, the stockman, the lumberman, and all others who have to earn their living directly from Nature itself are vitally concerned in the preservation and prudent use of our natural resources, but the city dweller who depends upon the farmer and the stockman for his food and clothing, and upon the lumberman, the quarryman, the miner, and the oil-well worker for his shelter and the warmth that is necessary to make that shelter habitable, as well as the camper and the sportsman, either of the rod or of the gun, are vitally concerned in this dry and abstract subject of conservation.

CONSERVATION SHOULD BE COMMON OBJECTIVE

If we are alive to our own interests and care anything about our own normal and legitimate pleasures, we will make the conservation of our natural resources a common objective. I hope that this purpose was in your minds when you organized this association. As one who has been an active soldier in the cause of conservation all his adult life, I am delighted that such an organization as yours should have come into being, because I know what mighty blows you can strike for conservation. Do I indulge in hyperbole when I say that this is the most pressing and vital domestic problem confronting our people today? Do I exaggerate when I declare that conservation has been the most important problem that we have had to face, and that it will continue to be of transcendent concern to the human race so long as we have to depend upon this earth for our food, our clothing, our shelter, and our pleasures?

GOD SPEED THE DAY FOR A NEW AMERICA!

The enemies of conservation cry out in pretended fear that the President—the man chosen for your conservation award tonight—is trying to make over America.

If the preservation of our natural resources, the wise development of our waters, the prudent use of our land and its generous gifts, and a relentless fight against the waste of our limited mineral wealth is "Trying to make over America" then it is true that we have begun to make a new America.

And if the conservation of our physical and human resources upon which depend the future happiness and the greatness of our people means a new America, as some of us venture to hope, then I, for one, say "God speed the day!" [Applause.]

Dedication of the Federal Building at Gadsden, Ala.

EXTENSION OF REMARKS

OF

HON. JOE STARNES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

ADDRESS BY HON. JAMES A. FARLEY, POSTMASTER GENERAL OF THE UNITED STATES, AT THE FORMAL DEDICATION OF THE FEDERAL BUILDING AT GADSDEN, ALA., MARCH 8, 1937

Mr. STARNES. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the address by Hon. James A. Farley, Postmaster General, on March 8, 1937, as follows:

It has always been a pleasure for me to visit the South, and I was particularly honored to receive an invitation to join with you in the ceremonies incident to the dedication of this enlarged and remodeled Gadsden Federal building.

As I crossed the State border on this visit to Alabama, I recalled the 200 years of your State's historical background and the long list of distinguished leaders who have gone forth from Alabama to play a major role in the destinies of this great Nation.

True to the traditions of this State, Alabama is ably represented in both branches of the present Congress. Two of the foremost Members of the United States Senate are your Alabama Senators, the Honorable HUGO L. BLACK and the Honorable JOHN H. BANKHEAD, while the Speaker of the House of Representatives is also an Alabaman. I refer to my good friend WILLIAM B. BANKHEAD, holder of what well may be considered one of the three highest offices in the land. Speaker BANKHEAD has for years been an outstanding figure in the Congress. The Fifth Alabama District, in which Gadsden is located, is represented by another of my Alabama friends, Congressman JOE STARNES, of Guntersville.

Since becoming Postmaster General I have had occasion to confer several times on matters affecting the Post Office Department with Senator BLACK and Senator BANKHEAD, and I have received the highest degree of cooperation from both, as well as from the members of the Alabama delegation in the House.

It was through the efforts of a Senate investigating committee, headed by Senator BLACK, that evils and waste existing in the administration of ocean- and air-mail subsidies were brought to light. The revelations of these evils by Senator BLACK's committee resulted in legislation which has thrown new safeguards around these subsidies. This new legislation was not only designed to eliminate waste and abuses prevalent in the old system of administering air- and ocean-mail contracts but to provide greater benefits from these subsidies.

The Air Mail Service of the United States has undergone a complete reconstruction and today we have a system embracing more than 29,000 route miles over which airplanes annually fly more than 40,000,000 miles. Three years ago there were but 25,000 route miles in the system. The air lines are now equipped with the latest and speediest planes and the entire system is thoroughly coordinated. Air mail now moves from coast to coast in about 16 hours. This new and greatly improved and expanded service is being provided at an annual cost of $7,000,000 less than was expended in 1932 for the limited and inadequate service operated in those days.

The old order, under which financial exploiters and stock manipulators controlled air-mail contracts, has been ended, and the days when three holding companies could control 92 percent of all air-mail contracts are also passed. Contracts are now let by real competitive bidding and changes in pay rates can only be made by the Interstate Commerce Commission.

Ocean-mail contracts, through which subsidies for American shipping were provided, and which resulted in an annual expenditure of many millions of dollars without any appreciable improvement in the American merchant marine, have also ended, and in future the Government will provide direct subsidies sufficient to cover the differential in the cost of constructing and operating American ships as compared with the cost of construction and operation of foreign ships, and the Post Office Department, instead of being required to pay out vast sums under the subterfuge of transporting ocean mails will, in the future, pay only a reasonable poundage rate for mails transported on ships.

These wholesome reforms have been brought about largely through the efforts of Senator BLACK, whom I have come to admire greatly for his integrity and ability.

These dedication exercises mark another forward step in the development of the mail facilities of this thriving industrial city situated here in the foothills of the Lookout Mountains. The enlarged and remodeled building which we are dedicating here today is the home of an establishment owned and managed by

the people, an establishment in which they place their most sacred and personal confidence and an establishment which facilitates the transmission of their business, their correspondence, their papers, and their merchandise. It is also an institution that safeguards the people's earnings and transmits their money wherever desired.

Our earliest records at the Post Office Department in Washington show that William B. Walker, the first postmaster of this community, was appointed on January 28, 1833, the date on which the local post office was established under the name of Double Springs, St. Clair County, and it was not until July 11, 1846, that the name of the office was changed to Gadsden.

Gadsden's present postmaster, Oscar W. Freeman, was appointed on June 18, 1934, and I need not inform you of the fine public service that he and his staff of assistant postmaster, 9 clerks, 12 city carriers, and 3 rural free delivery carriers are performing for the residents of this community.

The enterprising and progressive spirit of the people of Gadsden is best evidenced by the fact that this city is the fourth ranking industrial center in the entire southeastern section of the United States.

The industrial and commercial growth of Gadsden has been reflected in the continued rise in postal receipts which has been recorded at the local post office. In 1910 postal receipts in Gadsden amounted to only $22,549 while in 1930 they had risen to $69,501 and for the fiscal year 1936 they rose still higher to $72,682.

This building, which we are dedicating today, is primarily for postal purposes. There is no operation of the Government that so completely carries out and serves the needs of the American people as does the Postal Service.

That such an organization should be alert to meet the increasing requirements of the people is obvious. It should fulfill its purposes in the economic and social development of the Nation. The present administration of the Post Office Department has exerted every effort to accomplish this end, and, I believe, it has been successful.

The results that have been attained are due largely to the splendid cooperation, loyal assistance, and diligent effort of every postal employee in the United States, for which I am most grateful. I shall never forget the fine spirit of cooperation which has been shown me during my two terms as Postmaster General by that fine body of men and women who comprise the United States Postal Service.

The progress and growth of the postal service in Gadsden is similar to the progress and growth of the service in other communities throughout the United States.

In the early days of the post, as it was then known, the functions of the post office were merely to receive, transport, and deliver letters and newspapers. Postage rates were then higher than rates prevailing today; the rate for a single letter was 6 cents for a zone distance of 30 miles, while today it is only 3 cents for more than 100 times that distance in many directions.

At the outset the carrying of the mails was somewhat slow. It was first transported by men on foot and horseback. Then followed the stagecoach and covered wagons, including the historical prairie schooner, the overland mail, and the pony express.

In the far Northwest, dog sleds and reindeer were employed, and the former are still in use in Alaska. As steamboats came into use, or any kind of new vehicle or device designed to speed the mail made its appearance, they were utilized.

The advent of the railroad brought about greater speed in the transportation of the mails. The introduction of the railway post office and a special catching device used for collecting mail from stations while the train was in motion, resulted in a great acceleration in the delivery of the mails at that time. Streamlined trains have reduced the transit time between important cities and some coast-to-coast mails have been advanced 24 hours.

Now we have transportation of the mails throughout the year by airplanes and at a speed that is the last word in rapid service. In the early days mail from New York to San Francisco was 30 days in transit, but now when weather conditions are favorable, less than a day is required.

In the short span of 148 years the United States Postal Service has grown from a department consisting of a Postmaster General and nine clerks to a Nation-wide organization of almost a quarter of a million persons. We have approximately 45,000 post offices and our revenues collected for the most part in pennies amount to over half a billion dollars annually. It is the largest business organization in the world and we are earnestly endeavoring to conduct its affairs in a thoroughly businesslike manner.

Speed has been our watchword in mail handling, and advantage has been taken of every improvement. The Post Office Department is one of the very best customers of transportation companies. Last year we paid $165,000,000 for such service, which was about 23 percent of all our expenditures. This, however, was approximately $26,000,000 less than we paid in 1931.

Our international air-mail service has been greatly expanded and improved. Last year we dispatched 26 percent and received 22 percent more foreign mail than the previous year. It now requires but 10 hours to send letters to Colombia, South America, from Miami by way of Cuba and Jamaica, and but 24 hours to the Canal Zone.

The domestic air-mail system, reconstructed by this administration, has been in operation sufficiently long to prove its worth. It has met the needs of postal patrons. This is reflected in the great increases in the amount of mail on all routes. Last fiscal year 15,377,000 pounds were carried, or approximately 5,000,000 pounds more than were carried the year before and 9,000,000 pounds more than were carried in 1933.

Our sea post in trans-Atlantic and trans-Pacific service enables us, through the clerks who are continuously engaged at sea, to advance the delivery of foreign mails approximately 24 hours.

The postal money-order system continues to increase in usefulness and satisfaction to its patrons. For years the greater number of money orders were issued in rural sections and in small towns. Now we find 64 percent of them are issued at first- and second-class post offices.

The Post Office Department, in addition to handling the work for which it was constituted, also assists other branches of the Government. It can do this because its offices reach out to serve every person in the country. For example, the adjusted-service bonds for veterans were delivered and paid by postal employees. The preliminary work in contacting employers and employees for the purposes of the Social Security Act was handled through post offices. There were sold for the Treasury Department up to June 30 of last year over $371,000,000 of United States savings bonds.

It is necessary in a vast country such as ours to extend Postal Service to some sparsely settled sections where there is no possibility of securing revenues commensurate with the service supplied. It must be remembered, however, that all such services tend to enhance the material and spiritual wealth of the Nation.

It is doubtful if the post office at Gadsden was a paying institution when William B. Walker was made postmaster. It is probable that he and some of his successors carried on without any profit comparable with the work they did.

Your early postmasters were doubtless the representative men of their day. With crude equipment and limited quarters they paved the way for what we have today—commodious offices and every device that will aid in providing the best possible mail service.

For the achievements in improving the Postal Service which I have just recounted this country will owe a debt of gratitude to President Roosevelt for many years to come. Without his flaming zeal and stern insistence upon the highest possible standards, the reforms brought about in the last 4 years would have been impossible. The same is true of every enterprise in which the Federal Government has engaged.

From the bleak day of March 4, 1933, on which President Roosevelt first took office the health chart of American business and Government has shown a steady trend upward. He has revitalized old institutions and abandoned antiquated and outmoded methods. He has made the American people conscious again of their ability to surmount every obstacle that lies in their path. He has relighted the passion for justice and right in the hearts of his fellow Americans and rededicated the service of Government to the protection of the weak, the humble, poor, and the underprivileged.

And as President Roosevelt told us, in his own language, for all those things he has only just begun to fight. Let us keep up the good fight under President Roosevelt's wise leadership, and the final outcome will be one of the greatest victories in the annals of this Nation.

Presidential Electors' Dinner

EXTENSION OF REMARKS

OF

HON. JAMES P. McGRANERY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

ADDRESS BY HON. MICHAEL FRANCIS DOYLE AT THE PRESIDENTIAL ELECTORS' DINNER JANUARY 19, 1937

Mr. McGRANERY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following remarks of Hon. Michael Francis Doyle at the dinner of the Presidential electors at the Mayflower, January 19, 1937:

Presidential electors, ladies and gentlemen, I will now call this gathering to order and shall ask that invocation be made by the Right Reverend James E. Freeman, D. D., bishop of Washington. Immediately after the invocation we would kindly ask that you remain standing for 1 minute to do honor to the memory of Louis McHenry Howe, who originally aided the first gathering of the Presidential electors; of the Honorable William H. Woodin, Secretary of the Treasury, and the Honorable George H. Dern, Secretary of War in President Roosevelt's first Cabinet, all of whom were with us at the first meeting of the electors 4 years ago, and who have since passed away to their eternal reward.

It is a great privilege indeed to preside over such an occasion as this. Never possibly before has such a distinguished group met together even in Washington. The management of the hotel has

just informed us that in number it is the largest dinner ever held here. This is simply another tribute to the great leader whom we meet to honor. Tomorrow he begins his second term of office as President of the United States. We are indeed privileged to do this honor this evening to the great personality, to the lovable character, to the outstanding leadership of Franklin D. Roosevelt.

In another respect it is a unique occasion. It is the second time in the history of the United States that the Presidential electors have met together as one body. The only other such occasion was at the first inauguration of President Roosevelt, when the Presidential electors at that time met together for the first time.

Under the articles of the Constitution of the United States, the electors of each State are chosen by the voters of the respective States. They meet on the same day in the various capitals of the States. There they cast their ballots for President and Vice President. These ballots are then sealed and sent to Washington. At a joint meeting of the Senate and House of Representatives they are opened and counted and the official announcement made of the total number of votes cast and the election of President and Vice President formally declared. The election of 1932 showed an overwhelming response of the people in favor of the candidates of the Democratic Party—Roosevelt and Garner—who had carried all the States of the Union with the exception of six. It was such an extraordinary victory that I thought it would be a desirable idea to have all the Presidential electors participate in the inauguration. To a few of the close friends of President Roosevelt who guided his preliminary campaign for delegates prior to the Chicago convention, and where he was nominated, the suggestion was submitted. It was warmly received. Louis McHenry Howe, who has since passed away, and to whom this gathering did homage tonight; Josephus Daniels, who was Secretary of the Navy in the administration of Woodrow Wilson; and James A. Farley, who conducted the preliminary campaign, approved the detailed plans. It was the beginning of the New Deal.

It was the first time in history that the Presidential electors met. Nearly 400 of them assembled together at dinner on March 3, 1933, the evening preceding the inauguration, at the Willard Hotel. The members of the new Cabinet met there for the first time and for the first time as such sat down together. The following day the electors were officially recognized in the inaugural proceedings at the Capitol and took their places with the Members of the Congress on the grandstand assigned to them. The electors, at a meeting which they held in the Capitol, nominated a committee to arrange for future inaugurations. They were good enough to elect me as chairman of that committee, and it is for that reason I have been asked to preside over this occasion this evening. The committee arranged that the President would receive the electors in the White House immediately after the inaugural parade as the first reception of his administration. These same plans will be carried out tomorrow.

The office of Presidential elector was intended by the framers of the Constitution to be a position of honor and trust. It was planned that the electors should deliberate among themselves in making their choice for these great offices. The growth of democracy in our country has been such that today the electors accept the expression of the voters themselves in the choice of candidates and simply cast their votes as the majority express themselves in the various States. All this has been done without changing the Constitution. The power of the people has grown up within its four corners. Any limitation of these powers by any agency formed by the Constitution was never contemplated by the founders. All power is reserved to the people and no agency can limit or destroy that power.

I therefore congratulate you, Presidential electors of the United States, upon your action in officially recognizing the choice of the people of your States and in reelecting to their high offices Franklin D. Roosevelt as President and John N. Garner as Vice President of the United States.

At the joint session of the Congress the roll of the States and the votes cast were made by the officials of these bodies. We will now have the calling of the roll of the States as made before Congress and the announcement of the votes made in the presence of all the Presidential electors. This will be done by Col. Edward A. Halsey, Secretary of the United States Senate, and representing that body, and Patrick J. Haltigan, reading clerk of the House of Representatives. Owing to the illness of Mr. Haltigan this evening, his place will be taken by Emery L. Frazier, legislative clerk, United States Senate.

Battleships for the Needy One-third

EXTENSION OF REMARKS

OF

HON. JOHN M. HOUSTON

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

Mr. HOUSTON. Mr. Speaker, during the discussion in the House a few days ago regarding the naval appropriations for 1938 I voted to recommit the bill in the hope that its five hundred and twenty-six millions might be reduced at least to four hundred millions by the elimination of the two battleships, the n[illegible]or which as a part of national defense has not been definitely established.

From the argument advanced by proponents of the bill, it seemed to me that these replacements were desired in order to maintain a Naval Establishment merely for the purpose of keeping up with somebody. The reiterated challenge of the gentleman from Nebraska [Mr. LUCKEY] as to against whom are we arming was never answered. Now, I am in favor of the Navy of our country being adequate to our needs, and, at the same time, of our country consulting several factors in shaping our Budget: First, the needs of our great country, which are over all and stand over all; and, second, having considered that, then for us to consider the needs of the country in connection with the demands upon the Public Treasury, the people of our country furnishing the moneys that go into our Public Treasury; and I am opposed, under any guise, to building ships merely to keep up with someone else.

Because Great Britain may propose to have a certain number of ships, we do not necessarily need to have ships to match them, nor is this generally urged other than by those who would like to build merely because Great Britain may build. There are a great many factors that must be considered—the natural wealth of our country, the fact that we are compact, the fact that Canada adjoins the United States, and others that must be taken into account in connection with such a program. If the people of the United States and Great Britain will quit pretending to think that they are building against each other, when any thoughtful man in either country knows it is false, we shall go a long way toward peace.

Mr. Speaker, I submit there can be no justification for the expenditure of $120,000,000 for such fighting craft, the life of which will be only 20 or 30 years, provided they are not targets for a bomber costing $100,000. In my humble conception of the administration of governmental affairs, the greatest and highest service is the bringing of happiness and contentment to the people. I know that with a third of the population of this country in distress, with nearly half of the States of the Union embraced in the great drought area, and others in the flood area, where the people are either hungry and naked or underfed and half clothed, there can be neither happiness nor contentment. If this situation can be relieved, it should be done promptly. This is an obligation and a responsibility to those having the power to change this situation from one of hunger and desolation to at least a state of assurance that the people will not be neglected. Speaking for myself, I would rather vote all the money that is necessary to feed and clothe these people, the unfortunate people of my country, until they can earn an honest living, than to vote for all of the battleships this country will ever need.

When considering these enormous expenditures for armament, we should begin to think about the people who toil, who furnish the money, and, as guardians of those people's rights, it seems to me that the Congress of the United States ought to refuse to permit such expenditures from public funds which have been wrung from millions of hard-working men, people who have suffered and deprived themselves of many of the necessities of life in order to pay the taxes that will contribute the money to pay for battleships for which no justification can be found.

The will to peace is necessary now, and the United States, because of its power and prestige and its superior financial strength, should take the lead in every movement for the reduction of military armaments. If the United States were a weak nation; if it were beset by enemies; if its territory was an invitation to invasion from hostile enemies, then a different situation would be presented. Our geographical position is different from that of France or Germany or Poland or Great Britain or Japan. France has been invaded by powerful foes, and her people, with or without reason, are not free from fear of further invasions.

I do not believe that our country should disarm. Upon the contrary, I believe that we should have an up-to-date,

modern, and scientific Navy; but, in my opinion, there are too many militarists in the United States—too many who are interested in military and naval propaganda. I am inclined to believe that the manufacturers of munitions and ordnance and of all weapons and paraphernalia of war are not silent in these days but welcome large appropriations in order that they may have contracts for the manufacture of war material. And there are those who, when a little cloud appears on the horizon, though it may be upon the other side of the globe, insist that our country is in danger, that the foe is at our door, and that hundreds of millions of dollars must be quickly expended in military preparations.

Because of the strategic position of the United States, its immunity from attack, its prestige and power in the world, it should carry high the banner for world peace and reduction in armaments. A powerful nation should take the lead in every movement for world peace, for international cooperation, and for the establishment of just and humane policies to guide the nations in their international relations.

This world ought not to be condemned forever to tread the bloody paths of war. With our philosophy and science and religious and spiritual concepts, there should be developed a force and power adequate to overcome the sinister forces which have wrought such sorrow and devastation in the world.

I regret the efforts made by some to secure enormous appropriations greatly in excess of the needs of our country for military preparations. The economic situation calls for economy in Federal Government. Almost daily measures are passed carrying enormous appropriations, regardless of the condition of the Treasury or the promises for economies that have been made. There is much concern among thoughtful persons as to the result of extravagant expenditures. It is apparent that we may not continue these stupendous appropriations without reactions of a most unfavorable character. In my opinion, the expenses since the World War have been entirely too large. In 1914 the appropriations for the Navy were $144,000,000. During the war, of course, the appropriations for the Military Establishment were materially increased, but after the war there should have been a return to peacetime military expenditures; but they have steadily mounted until now the naval appropriation is set at $526,000,000 and the total for the Army and Navy around a billion dollars.

Strident cries are heard for what is called a "big navy", and larger appropriations are asked for the protection of our country, although no one believes the United States is menaced by any danger from invasion. It is true that the pay of those in our Navy is greater than that of any other navy, but an examination of the appropriation bills for any number of years will demonstrate that a very large part of the naval appropriations are for purposes other than the payment of men in the service. There are thousands of civilian employees in the Navy, a number greatly in excess of any legitimate need. Millions of dollars are expended in maintaining unnecessary yards and docks and stations and naval bases. The overhead of the Navy Department consumes a very large percentage of the total appropriation.

A further example of how far we have departed from our expressed intentions as to foreign policies is the maintenance of 1,600 United States marines in China—troops placed there after the Boxer Rebellion in 1901, and still there, serving no definite purpose. I wish to go on record as having favored the amendment offered whereby no money would be available for the payment of officers and troops in China after January 1, 1938, and also the amendment providing that "no part of the funds appropriated in this act shall be used for further improvements in naval stations in the Philippine Islands or Philippine waters." For more than 30 years we have spent millions of dollars each year of our taxpayers' money for military and naval activities in the Philippine Islands and China with no appreciable results, and certainly a continuance of such a policy is not only useless but inexcusable.

I regret that we have manifested in the naval appropriations bill, and in other naval and military bills which have been brought before Congress during the past few years, a militaristic spirit quite inconsistent with our professions and incompatible with the ambitions and aims and desires of the American people.

Mr. Speaker, I know that no motion to amend the bill, to modify it, to reduce the items of appropriation would meet with approval in this body, and that may be said with respect to about every appropriation bill reported; but I do wish to emphasize the fact that we should economize, and economize more, and still further economize. We should endeavor to bring our expenditures within our income, and at the same time use the powerful influence of this Nation to promote the cause of international peace and good will.

Program for Highway Development

EXTENSION OF REMARKS

OF

HON. FRANCIS E. WALTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

ARTICLE FROM THE PHILADELPHIA RECORD OF MARCH 7, 1937

Mr. WALTER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following program for highway development by my colleague from Pennsylvania, Hon. IRA WALTON DREW.

[From the Philadelphia Record of Mar. 7, 1937]

NATIONAL CHAIN OF SUPER-HIGHWAYS PROPOSED BY CONGRESSMAN DREW—DUAL ROAD SYSTEM DESIGNED TO SOLVE TRAFFIC PROBLEMS—GREATER SPEED COMBINED WITH SAFETY POSSIBLE ON TOLL LINKS

By George Burns

A national system of super-highways that would—
Solve the traffic problems of the congested East;
Provide employment for 100,000 men on the first link alone;
Promote national defense;
Aid in providing real low-cost housing;
Make trailer vacations safe and pleasant; and
Bring safety and speed to the highway at no expense to the public.

That is the plan of Congressman IRA W. DREW, Philadelphia Democrat.

His proposal would provide a system of roads like the all-weather express highway from Carlisle to Pittsburgh, proposed by Governor Earle.

It has the backing of the Governor, Senator JOSEPH F. GUFFEY, and Secretary of Revenue John B. Kelly, Democratic co-leader of Philadelphia.

Congressman DREW has already introduced a resolution calling for appointment of a committee to study and coordinate State and municipal plans for express highways. The resolution, introduced February 24, is now in committee.

FRUIT OF 10 YEARS' WORK

The idea is the fruit of 10 years' work by Congressman DREW. Preliminary studies have been carried on under his direction for the last 2 years.

The roads would be twentieth century turnpikes—dual, 4-lane highways, on which toll would be charged.

They would be engineered like a railroad, built on their own right-of-way, without regard to location of present road.

There would be no highway intersections, no grade crossings, no sharp curves, no heavy grades.

They would not pass through any large cities, but would connect with spurs.

Two lanes would accommodate slow-moving trucks and busses, while faster traffic would use the two others. Danger of head-on collisions would be eliminated by a parkway in the middle.

Unlimited speed would probably be permitted in the two fast lanes since there would be no cross traffic.

First link would be a Boston-Washington superhighway, Congressman DREW explains.

Tentative routes for 1,300 miles east of Pittsburgh have been laid out, chosen according to demands of traffic and topography. At present they are only approximate. No surveying has been done.

WOULD COST $75,000,000

The Boston-Washington highway would cost about $75,000,000 and provide work for 100,000 men.

The 1,300-mile system would cost somewhere between $300,000,000 and $350,000,000 and give employment to about 500,000 men, Congressman DREW believes. As the need developed, the superhighways would be extended beyond Pittsburgh.

The Boston-Washington highway would bypass Hartford, Waterbury, New York City, north Jersey cities, Philadelphia, and Baltimore. It would cross the Hudson on the existing Bear Mountain Bridge.

The superroad would cross the Delaware near Lumberville, above New Hope, on a new bridge. Another new bridge would be required over the Schuylkill near Valley Forge. The Susquehanna would be crossed at Conowingo by use of the roadway on top of the dam.

SPUR TO PHILADELPHIA

The road would connect with Philadelphia by a spur running from the vicinity of West Chester.

Time required to build this Boston-Washington highway would depend on the time needed to construct the two large bridges, or about 2 years, Dr. DREW estimates.

The second step would be a trunk route from New York to Pittsburgh. It would start just north of New Brunswick, N. J., and connect with the Boston-Washington route south of Somerville, N. J. It would leave this route near Doylestown and run west, skirting Reading and Harrisburg.

From Carlisle west the route would embrace the all-weather highway proposed by Governor Earle. This highway would utilize the right-of-way of the never completed South Penn Railroad started in the eighties.

COST FIFTY TO SIXTY-FIVE MILLIONS

Governor Earle has estimated this stretch, from Carlisle to Pittsburgh, would cost between $50,000,000 and $65,000,000.

The superhighway would pass south of Pittsburgh, crossing the Ohio below East Liverpool, Ohio. From there the highway could be extended to Ohio cities and westward as traffic demanded.

Other routes contemplated include a seashore route through New Jersey that would continue west near Wilmington, to provide a secondary route to Pittsburgh. Another highway would run south from the New York-Pittsburgh route east of Bedford and extend to Washington.

Aims of the superhighways:

Traffic: Safety would be promoted by taking trucks and busses off other roads and forcing them to use the toll highways. States and municipalities would be saved the expense of providing roads for heavy through traffic. Traffic would be speeded up enormously by elimination of traffic bottle necks.

National defense: There is no system of roads capable of transporting an army quickly from one part of the country to another in case of a defensive war, Dr. DREW points out. Building of the superhighways would constitute a new line of defense.

Employment: Most of the thousands put to work would be from the low-wage group. This would take thousands off relief rolls and save the taxpayers money.

Housing: Low-cost housing that is really low cost is impossible in large cities because of the value of land, Dr. DREW points out. But if sites for housing projects are selected where land is cheap, there are not sufficient transportation facilities. The superhighways, however, would make it possible to provide low-cost housing in places where land is cheap, with the highways furnishing quick transportation to industrial centers.

Vacations: Auto trailers would be able to visit vacation spots cheaply and quickly without blocking other traffic. The routes chosen are through some of the most beautiful natural scenery in the East.

Help to railroads: For the first time truck and bus lines competing with railroads would be forced to pay their own way by the toll roads.

FINANCING AND CONTROL

Authority: A Federal toll-road authority would have control of the roads under Congressman DREW'S plan. It would have powers like those of the Interstate Commerce Commission over the railroads.

Thus it would be able to order interstate busses and trucks to use the low-wage group.

There is ample power in the Constitution for Congress to create such an authority under the interstate commerce and post roads clauses, Congressman DREW believes.

Money: The superhighways would be built by private capital, not at public expense. The tolls would pay carrying charges on the money borrowed and provide for amortization over a period of about 30 years. After that the roads would revert to the States or the Federal Government and would become free roads * * * in the way toll bridges are often financed.

Private capital stands ready to finance the first link, the Boston-Washington route, Congressman DREW says.

The new dual highways would bring the road system in step with development of the automotive industry, Dr. DREW says. Truck and bus owners would be glad to pay the toll for the saving in gasoline and wear on their vehicles, as well as for the increased speed. In addition, the highways would be kept free of snow like railroads and be practically all-weather roads.

HOW THEY WOULD WORK

Tickets, please: Entrances to the dual highways would be only at tollgates. Tickets would be sold like railroad tickets—good for a certain trip. The ticket would be surrendered when the motorist left the highway at another toll gate. If he changed his mind and decided to drive farther, he would pay an additional amount upon leaving.

Sample: Toll from Boston to Washington would be about $2.50, Congressman DREW predicts.

Construction: The roads would be laid out like a new railroad, regardless of what might be in the way. The right of eminent domain derived from the Federal toll authority would make this possible.

Hearings: Details of financing and operation would be worked out at hearings to be held when the congressional committee is appointed, Congressman DREW says. The committee will conduct a public investigation, at which officials of States affected, planning-board representatives, and highway experts will testify.

Needs: Many trunk routes in the eastern section of the country are now reaching capacity, Congressman DREW points out. With returning prosperity roads will become increasingly crowded and dangerous.

Hobby: Congressman DREW, an osteopathic physician in private life, was interested in superhighways long before he went to Congress. It began as a hobby with him in 1927, and he has been interested ever since.

Four Years of Roosevelt

EXTENSION OF REMARKS

OF

HON. WILLIAM P. CONNERY, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

ADDRESS BY HON. ED. V. IZAC, OF CALIFORNIA, ON MARCH 4, 1937

Mr. CONNERY. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following address delivered at Lawrence, Mass., at the Democratic victory dinner, March 4, 1937, by Hon. ED. V. IZAC, Democrat, of California:

My friends, some 2 weeks ago when your kind invitation to be with you this evening first came to me I was delighted to know that at least I would return to Massachusetts—a State to which certain fond associations of my earlier life had often beckoned me. But after considering it a while I became hesitant for fear that perhaps I, representing the far West, might hardly be the type to interest you of what in my part of the world is known as the effete East. And you know they say that east is east and west is west and that ne'er the twain shall meet. And here am I from 3,500 miles away come to celebrate with you a victory we enjoy in common.

I have the honor to represent in Congress the extreme southwestern district of the United States, the Twentieth, of California. Now, first you must let me tell you about my State. The rapid growth of California during the past few years may be best realized when I tell you that prior to 1930 and by the census of 1920 we were entitled to 11 Representatives in Congress from California, and since then as a result of the 1930 census the number has been increased to 20, and I am the twentieth.

We had been the happy recipients of an ever-increasing throng of pioneer spirits, willing, even eager, to leave their homes in other parts of the States and come to California to establish new homes in new surroundings; and I want you to know that your State has contributed its own great share to this upbuilding of the Golden West. Now, just as each section of our land has contributed a portion of its very essence to the making of our State, so has it made its contribution to a political philosophy unique even in these changing times; we call it progressivism.

You may think of your metropolis as the melting pot of Massachusetts; you may consider New York the melting pot of the world's peoples—but California, and especially southern California, may be truly considered the melting pot of the 48 States of the American Union. There, new ideas have been blended with the old. New explorations in the realm of human values have been made. And steadily there has come over my people the realization that all is not right in a world where old age is forgotten, where youth is denied its opportunities, and where maturity is deprived of its right to employment.

And so, perhaps, more assiduously than those in other sections of our land, our people turned to the task of solving the problems of a new age. Many were the panaceas advanced—numerous the plans studied—myriad the proposals made.

It finally dawned upon the people that here was an emergency demanding action by the Government. They looked around and found that business was stifled, labor was dormant, and misery and distress were rampant. But had they not a right to expect action by those entrusted with the direction of national affairs? And so they looked toward the Nation's Capitol and waited—and waited for the help that never came.

Almighty God has a way of encouraging His people when things look the darkest and when hope has all but vanished from the human breast. Another star was rising in the East and was soon to lead us out of the morass of inaction and despair.

On a certain December day of 1932, I stood at one of the busiest intersections in my city of San Diego and watched an angry

throng milling in the streets as notices on the closed doors of our banks warned the people of a crisis that had descended upon us. I listened to the threats and imprecations. Oh, they said, it couldn't happen here. But I feared for America that day. And you know, and I know, that the only saving power that calmed men's souls in those days was the comforting thought of that champion of the forgotten man who was soon to take the helm of government.

Prior to November 1932 there was practically no Democratic Party in California—only 300,000 names were affixed to the roster of the party. In my own district there were three Republicans to every Democrat. But in the elections of that year the people, ignoring party labels, subscribed to that new philosophy embodying the responsibility of Government to care for the needs of the governed.

Tonight, my friends, we celebrate the conclusion of exactly 4 years of the practical application of that philosophy of government. Let us see whether or not the great Republican State of California believes that its choice of 4 years ago was a happy one. I have told you of the 300,000 who alone composed the Democratic Party prior to 1932. In 1936, and with but a slight increase in population during the preceding 4 years, California's Democratic registration reached the unprecedented total of 1,880,000; and in the election of last November California gave to our President the second greatest majority of all the States of the Union. That majority amounted to 930,000. New York, his home State, the only State to beat this record, gave him a majority of only 7,000 more.

Now, don't you agree with me that we have a most enlightened population out there near the setting sun? But, seriously, my friends, let us consider the reasons for this vote of confidence—you and I, Massachusetts and California, both had our part in the victory and both are entitled to a just pride as we appraise the verdict. I can read out of the results but one conclusion—that the people are satisfied that under New Deal policies their rights have been protected and their liberties guaranteed. They are convinced that Franklin Roosevelt has kept the faith.

They know he brought hope and opportunity to youth, confidence and work to business and labor, security and peace to the aged. And in so doing he has incurred the hatred of those who would despoil the people. For he has had to make wealth pay its fair share of the cost of government; he has had to curb the holding companies and give the people gas and electricity at a price they can afford to pay; he has had to control the stock exchanges and protect the people against the sale of worthless stocks and bonds; he has had to save farms and homes and provide means whereby Americans can buy the necessities of life without mortgaging their very souls to the money lenders.

During the past 4 years in such measures as the Civilian Conservation Corps legislation, the Federal Emergency Relief Acts, the P. W. A., and the W. P. A., opportunity was afforded the masses for gainful employment in projects of permanent value to the individual communities and to the Nation. Under various bank-reform measures the bankers were saved from destruction and the small deposits of the public were guaranteed. In housing legislation millions of homes were saved to their owners, and other millions were able to obtain for the first time in their lives shelter under a roof of their own. The forces of nature were harnessed and made to produce for the common weal.

For the first time in history a permanent neutrality policy was placed in effect. And last but not least, it remained for this administration to inaugurate a plan of social security, the very conception of which had been delayed, and the necessity for which had been absolutely ignored during 150 years of the life of this Nation.

Are not all of these directed toward the protection of the rights of the common people, and thereby the continuance of representative government? Ah, yes! but just as the first step to consolidate these gains is proposed the forces of reaction are marshaled against them and against the champion of the people who had the vision and the courage to make these gains possible.

My friends, we celebrate here tonight a victory, but that victory is not yet fully won. The results of last November's election, destined to be a victory not of one man nor of a group of men but a victory for all the people, may be nullified by the actions of those who would cheat the people of their birthright.

A babel of voices is beginning to be heard in which such words as "Constitution", "nullification", "usurpation" are used indiscriminately. I say to you the usurpation had already taken place long before our era—the nullification has been made effective over a long period of years. Who is the usurper, I ask you, the man who courageously comes before the people, explains his aims and purposes, runs the gantlet of public opinion, and who by express vote of the people in a tremendous and unprecedented majority, receives a mandate to put those policies into effect? Or is the real usurper of powers not granted by the Constitution, mind you—isn't the real usurper the fifth in an oligarchy of nine, a majority of whom have been chosen from the ranks of corporation attorneys, given a job for life, and forever after exempted from the will of the people? Now, which of these two is more likely to do the people's will—to give the people that kind of Government they desire?

They say checks when there is no check. They cry balance, and there is no balance. They mouth the words "sacred Constitution" when all the time they know the desecrators of that instrument have been more frequently found on the bench than in the White House.

They talk of dictators—and they profess fear of such an occurrence in the future on the part of the Chief Executive—whereas we have a dictator today in the person of the fifth man of a 5-to-4 majority ordering and controlling the lives and destinies of 130,000,000 people. No President of the United States ever had such a power as that and no person on earth can convince me that the founding fathers ever gave or intended to give such a power as that to any judge or justice.

But history is only repeating itself. The three greatest exponents of democracy all had the same type of opposition in their endeavors in the cause of humanity. Let's go back to the days of Jefferson and Jackson. Here are a few comments from the pen of Walker Stone, based on excerpts from Bowers' new book, Jefferson in Power, published by Houghton-Mifflin. And I want you to trace the analogy here; you will recognize it as applying, even though 130 years span the intervening history. Just substitute "Roosevelt" where I read "Jefferson" and "Republicans" where I say "Federalists."

"Incredible as it seems that the Federalists could have hoped for the defeat of Jefferson, it must be borne in mind that they had no contacts with the average man and that they were inebriated in their vituperation. * * *

"Four years had convinced the timid of the stupidity of the Federalist warnings that a Jefferson triumph would mean anarchy. Law and order prevailed everywhere. No longer could the people be persuaded that a Jeffersonian regime would destroy the Nation's credit in the marts of the world, for never had the bankers of London and Amsterdam felt more secure in their loans. In all the towns, including Boston, could be heard the hammers of the carpenters. * * *

"It was not that Jefferson had compromised with his principles or failed to do what formerly he had promised, but that he had confounded his enemies by showing that their warnings were without warrant and facts.

* * * * * * * *

"The Federalists found themselves hard put for arguments. They had the clergy as before; they had the greater portion of the press; and they had no scruples. Jefferson was the tool of France, they cried; the administration wore a red cap, they thought. The judiciary had been ruined because the midnight judges had been deprived of their jobs provided by a grateful party at the public cost. The administration was tyrannical, for had it not deprived many Federalist of jobs, * * * and what a dreadful man was Jefferson! Had he not invited Tom Paine to the White House? Was he not an anti-Christ? * * * and Louisiana (referring to the purchase of the territory), what an outrageous act, unconstitutional, cowardly, and oh, how costly! Fifteen millions for that waste land! Ridiculous! Why, divided among the States in proportion to their congressional representation, what did it mean to New England? Four dollars a head for every man, woman, and child in Massachusetts; $30 for every family in Connecticut! And on the interest alone New Hampshire would pay $87 a day. Ruin; it meant ruin. * * *

"So ran the course of the campaign, in the midst of a prospering people, and none but the politicians were impressed. The rank and file of the Federalists surged all too clearly toward the new regime. * * *

* * * * * * * *

"The result was stunning to the opposition; it was a landslide. Jefferson had been vindicated by a majority surpassing the fondest hopes of his warmest friends. * * * Trying to make Rufus King (defeated Federalist Vice Presidential nominee) understand the new order, John Quincy Adams (Federalist) wrote the verdict: 'The power of the administration rests upon the support of a much stronger majority of people than the former administrations ever possessed. * * * Whatever the merits or the demerits of the former administrations may have been, there never was a system of measures more completely and irrevocably abandoned and rejected by the popular voice.'

And then he added: "It (meaning the pre-Jeffersonian old deal) cannot and never will be revived * * * and to attempt the restoration would be as absurd as to undertake the resurrection of a carcass 7 years in its grave."

And as for Jackson—why, my friends, you good people of Massachusetts so hated him that you named after him the ugliest object you could well imagine—the Boston square-toed boot. His opponents warned that if he ever reached the Presidency, Senators would have to legislate with pistols and dirks. His election was an affront to the better class. Hitherto appeal had been made to the aristocracy of intellect and culture, and two-thirds the newspapers were against him, four-fifths the clergy, seven-eighths the bankers, and practically all the manufacturers. They pictured Jackson as a raving maniac; as a Don Quixote tilting at the pillars of the splendid bank building in Philadelphia; as a burglar attempting to force the bank doors open with a battering ram; as a monarch on his throne receiving a crown from Van Buren and a scepter from the devil.

They heaped upon his head the most outrageous calumny. He was a usurper, they said (where have we heard that word before?), an adulterer, a gambler, a drunkard, and a murderer. This latter epithet, however, was too much for our friends a little to the north of where we sit tonight. The New Hampshire Patriot, a newspaper of that day, satirically replied to the charge of "murderer"—"Pshaw! Why don't you tell the whole truth? On the 8th of January 1815, he murdered in the coldest kind of blood 1,500 British soldiers for merely trying to get into New Orleans in search of booty and beauty."

Yes; they say Franklin Roosevelt disregards the Constitution. That is what they said about Jefferson:

"That you (Jefferson) and those who are intimately connected with you in your political career have long disposed to bring into discredit those barriers (the Constitution) and to render distinct the demarcation of power between those most efficient departments of the Government * * * and that those who support those barriers have been assailed * * * by the most odious designations and charges [by you]."

And this is what they said about Jackson:

"Jackson has shaken the Government to its foundation, violated the Constitution * * * he (Jackson) has put forth a new and by far the boldest and most unconstitutional pretension in behalf of Executive power that ever was avowed or countenanced by any statesman in this country. * * * It shows the overwhelming anxiety with which he is intent on the assertion of Executive prerogatives and the enlargement of his own powers, and how prone he is to confound the abuses of Executive influence over the legislative department."

Yet they say Franklin Roosevelt is a dictator.

And this is what they said about Jefferson:

"Is this the spirit by which the champions of liberty and republicanism are actuated? A Lord Paramount, of whom the judges of the United States are to be reputed to hold their offices! The Government of one lenient tyrant!"

And this is what they said about Jackson:

"But no reflecting or sober-minded man can fail to perceive for an instant the widespread ruin which would ensue to the whole country if this war upon its industrious pursuits and its established policy and institutions shall continue to be prosecuted in the destructive and fanatical spirit which the President encourages * * * till the Government has been warped into practical monarchy. * * * Because by trampling upon the Constitution * * * the sacred legacy of our fathers * * * the palladium of our rights * * * the charter of our liberties, he is as independent of control as the autocrat of all the Russias or any other absolute tyrant."

My friends, special privilege always implies to its enemies an intention toward the commission of some form of deviltry of which its own supporters are already guilty. They impute degraded motives because they themselves are guilty of having conceived and fostered these selfsame motives; and their purpose in so doing is to deceive the people and to shield their own culpable practices and thus the more securely to entrench themselves in power.

So when they say President Roosevelt is doing an unconstitutional thing candor compels me to reply, "Yes; the Supreme Court surely is doing an unconstitutional thing." When they say "The President usurps the power of the judiciary", again I am forced to reply, "Yes; the judiciary is usurping the functions of the legislative and executive branches." When they say, "The President is nullifying the Constitution", I am again forced to reply, "Yes; it is true that the Supreme Court is nullifying the provisions of the Constitution and the express wish of the framers of that document."

I am lately receiving great numbers of multigraphed letters (an organized drive it is, in fact) which state as follows: "I am strongly opposed to any changes in the Supreme Court of the United States. I believe that increasing the number of Justices will tend to slow up decisions and will radically change the system of checks and balances under which the Federal Government now operates."

There again truth and justice force me to reply, "Yes; the system of checks and balances under which the Federal Government now operates applies only to Congress and the President—and not to the judiciary, without which application this ceases to be a government of checks and balances—so if you really believe in a system of checks and balances, as we all admit the sponsors of the Constitution did, then you most assuredly will be in favor of any change destined to accomplish that result; and the second half of your letter gives the lie to the first half."

O my friends, it's only a question of the point of view. Do you see these problems through the clear glasses of liberalism or through the opaque spectacles of reaction?

Let's be fair about this business of Government and not attempt to becloud the issue. As I view the President's plan, he feels that only by having on the bench some representatives of your and my generation can we have the proper conception and understanding and disposition of the problems arising in this generation—the generation of depression, of technological advance, of "human" rather than of "dollar" philosophy.

It is ridiculous to accuse the President of "packing" the Supreme Court with people on whom he plans to depend for acceptance of his own political philosophy, as our enemies would have us believe. The Senate still has the right to pass on and reject appointees of his choice. And then there is the intervention of the human element on which no man can rely. I believe that the President in making this proposal is simply showing his willingness to rest his case and the case of the people—yes; the very philosophy of the New Deal—on the decision of men representing age and youth rather than age alone; representing conservatism and liberalism rather than conservatism alone; representing property and humanity rather than property alone.

In a word, he is willing to trust the solution of the problems of this day and age to the interpretation of just an average group of Americans rather than to permit five reactionaries recruited from an age long since past to longer block the orderly processes of constitutional and representative Government, functioning in the interests of the governed.

Contrast this wholesome and moderate and wholly constitutional attitude of the present occupant of the White House with the questionable tactics of John Adams and U. S. Grant. The former's last moments in office were occupied with the signing of papers appointing to the bench Judges who, they expected, would nullify the policies of his successor, Jefferson.

While Grant, in order to get a reversal of just one particular decision, actually did have the number of Judges increased and did obtain a reversal of that decision. Now, in the history of the Supreme Court the number of Judges has been changed six different times. Everyone admits that was constitutional. Permit me to ask if it is less constitutional to change the number in 1937 than it was 50 or 100 years ago?

Furthermore, it may be timely to interject another thought at this point: Most historians contend that the only civil war this country has ever experienced was caused more by a Supreme Court decision than by the action of any occupant of the White House.

You elect the Congress every 2 years, your President every 4 years, and your Senate every 6. The result is an ever-changing concept of the ever-changing needs of the people. In fact, if these needs never changed, if Government were automatic, or if it failed in its true purpose, namely, caring for the people's welfare, or still further, if we lived in a static world, all that we would need is a set of rules and a manager to enforce them. No Congress would be necessary, no Senate, no President. The very fact that this is a representative form of government presupposes its flexibility—enabling it to administer to the needs of the people in any situation and to be subject to the will of the people. If we could still read into the Constitution the thoughts of its framers, their intentions and their expectations, Congress could still legislate for the people's welfare. The fault, I am inclined to believe, does not lie there. For this is one of the few "rights" expressly granted in the Constitution. And it is granted to whom? To the Congress.

Therefore, the only need for an amendment lies in the desirability of clarifying and reasserting that right in the face of contrary "opinions", if you please, held by unequal divisions in a group of nine. It is not even a question of law, but only one of whether my opinion is more right than yours.

My friends, do you longer question that there is need for vigilance, for education, for action? The fruits of our victory are about to be snatched from our grasp. The progress of a nation is about to be retarded. Make no mistake; the people's fight for release from the oppression of economic slavery is to be won or lost by the developments of the next few months. I beg you to continue your enthusiastic support of true Democratic principles. Do more. Rally the support of the people to the application of those principles to the current needs of government.

There stands in the White House today the same embodiment of courage and the same crusading spirit as of yore.

Franklin Roosevelt, the greatest statesman this country has produced, after 4 years of wrestling with problems of government finds himself still at issue with the forces of reaction and privilege. It is your duty and mine to give him the support of a virile Democratic organization. Educate and build that the forgotten masses may be brought to the realization that he and we are fighting their fight and that the gravity of the situation transcends mere dogmatic theory.

Our President enlisted for the duration of the war. We can do no less. The progressivism of the West, the culture of the East hang in the balance. Democracy, representative government is at stake. Either you win government of the people for the benefit of all or you lose to government of a few for the benefit of themselves.

People of Massachusetts, I ask you to make your choice. I don't fear your answer.

Child-Labor Conditions in South Carolina

EXTENSION OF REMARKS

OF

HON. JOHN C. TAYLOR

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

ARTICLE FROM THE GREENVILLE (S. C.) OBSERVER

Mr. TAYLOR of South Carolina. Mr. Speaker, under leave to extend my remarks in the RECORD, I desire to include a report made by the New York State Economic Council on child-labor conditions in South Carolina. This report was submitted to the council by Miss Sara H. Birchall, a field representative of the council, after a 2-week trip through all sections of South Carolina, and was printed last week in the Observer, a weekly paper published at Greenville, S. C.

[From the Greenville (S. C.) Observer]

CONTROL OF CHILD LABOR UNNECESSARY IN SOUTH CAROLINA—CONTROL OF YOUTH AMENDMENT STANDS OUT STARKLY AS A FEDERAL SEIZURE OF POWER—SAYS COUNCIL

Marvin K. Hart, president, New York State Economic Council, has made public a report by the council's special field representative, Miss Sara H. Birchall, of a 2 weeks' intensive trip in South Carolina investigating alleged child labor. Miss Birchall was instructed to report whatever she found. She was sent directly to the Governor of South Carolina, who turned her over to the State Labor Commissioner, John W. Nates. The commissioner designated the secretary of his department, Miss Utha Gray Smith, to accompany her on her trips. Together, Miss Birchall and Miss Smith traveled 2,000 miles by motor, visiting every section of South Carolina.

"The extravagant assertions of the National Child Labor Committee and other organizations", said Mr. Hart, "are the basis for the endorsement by many civic organizations of the pending control of youth amendment. In the last annual report of the National Child Labor Committee South Carolina was designated as one of the worst States in the country. That's why we selected that State for study. Miss Birchall's investigation proves the gross exaggeration, indeed the utter groundlessness, of the assertions that have been made. Incidentally, as confirmation of this report, we find on page 559 of the World Almanac for 1937, in its brief article on the State of South Carolina, the cryptic statement that 'Child labor has been practically abolished.'"

"Miss Birchall's report shows conclusively that all claim in favor of the ratification of the control of youth amendment because of child labor, falls to the ground. It leaves the amendment standing out starkly as a Federal seizure of power."

Miss Birchall's report in full is as follows:

"I come directly from a 2,000-mile motor trip through South Carolina in search of child labor. There is practically none.

"I drove through the northwestern part of the State to observe the conditions in the textile industry, through the southeastern to observe the lumber and woodworking industry, through the south central to observe the candlewick bedspread industry.

"I interviewed Gov. Olin Johnston; 15 State officials in the departments of labor, agriculture, education, child welfare, and prisons; 20 mill officials and numerous mill operatives; postmasters; ex-mayors; professors; social-service case workers; Red Cross executives; labor organizers; editors of newspapers; and ordinary citizens, white and colored, in all walks of life.

"I went through 14 mills exhaustively, checked up on 28, sat outside mill gates with my camera, when shifts were changing, ready to photograph any child workers, checked up on the asbestos, fertilizer, bagging, and tobacco plants in Charleston.

"I saw a total of nine isolated cases of children at work * * * two bootblacks, three newsboys, one paper carrier, three farm children at work in the fields * * * and possibly two underage boys in a mill.

"No law exists without violations. I judge that South Carolina's child-labor laws are less frequently violated than its laws against, say, burglary.

"In my investigation I had the full cooperation of the South Carolina Department of Labor. Commissioner John W. Nates put his facilities at my disposal. Secretary of the labor department, Miss Utha Gray Smith, accompanied me on my trips, and her labor department credentials enabled me to see any plant I wished to investigate.

"From the end of N. R. A. to the present time the department of labor has issued 49 working permits for children from 14 to 16 years of age (none younger). Only 23 working permits are now active.

"On account of recent accusations the department of labor has made especial attempts to locate any child-labor violations and has found only one case of a child being overworked.

"An amendment to the South Carolina child-labor law has been drafted by Commissioner Nates and is now under consideration in the legislature. This extends the department's general jurisdiction, raises the legal age of employment to an unqualified 16 years, and gives the department control over the labor of minors under 18 years.

Specifically: accusations have been made in the National Child Labor Committee's annual report for the year ending September 30, 1936, that "children are still streaming to work in factory, mill, store, and field" and that official reports on employment certificates show that "child labor made a rapid comeback as soon as the provisions of the industrial codes were rendered invalid."

These accusations are unfounded and do not square with the facts in South Carolina to the smallest degree.

In textile plants, very few children under 18 are accepted for economic reasons. Automatic machinery has long since replaced old-fashioned child labor, as competition is so keen mills cannot afford to make "seconds." Working permits must be kept on file for all children between 14–16. All 23 current active working permits are for textile millwork. Four labor department inspectors making 757 inspections in 1936 reported no child-labor law violations whatever.

I saw excellent working conditions in the mills I visited, with one exception; no children under age at work; only two boys who might perhaps be under 16 years.

Accusations have also been made that children were misused in the lumber and woodworking industries, and in berry-box and crate making, and in turpentine camps.

"I interviewed lumber mill owners, lumber truck drivers, men at work in lumber mills and logging operations, W. P. A. survey makers, labor organizers, and ordinary citizens. None had ever seen a child at work in a lumber mill or logging camp, and expressed the opinion that all jobs in such places required such great physical strength that it would be folly to employ a child. Adult powerful Negroes do the work.

"The berry box and crate making industry was investigated by the Department of Labor last season. No children were found at work. The industry is very small, local, and seasonal in operation.

"The Department of Agriculture states that practically no turpentine camps exist in the State. The pine forests are mostly cut out, and there is very little left of the whole lumber industry.

"Accusations have also been made that children were 'sweated' in homes making candlewick bedspreads.

"Investigating this in Sumter, I found that candlewick spreads are made partly by machine in a few small factories, partly by hand as a spare time home industry by housewives. Children help occasionally. The factory discourages the work of children, as they are apt to cut the goods and make 'seconds.' No 'sweating' was apparent.

"Let me quote from a letter signed by Mr. John W. Nates, commissioner of labor for the State of South Carolina, dated February 16, 1937, and addressed to Mr. Merwin K. Hart, president of the New York State Economic Council:

" 'The department of labor has been happy to cooperate with your field representative, Miss Sara H. Birchall, in every possible way to discover any instances of child labor in the State of South Carolina.

" 'We feel that the child-labor situation in the mills and factories is well under control. Only 28 working certificates have been issued by the department of labor, after the most critical scrutiny of the application. No violations have been discovered by our inspectors to date. Work formerly done by children in the mills is now altogether done by improved mill machinery, and it is not considered sound economics to employ children. * * *

" 'Legislation is now up before the house to extend the jurisdiction of the department of labor over all children employed in gainful occupations of every kind; to forbid all children under age of 16 to work in school time; to enable the department to control working conditions of all minors under the age of 18 employed; and to forbid the employment of minors under 18 in any hazardous occupations.

" '(Signed) JOHN W. NATES,
'Commissioner.'

"I interviewed people who neither owned plants nor held State positions and who were in close touch with child-labor conditions.

"Miss Miriam Query, case worker, public welfare, in Spartanburg, said she had never heard of child labor in the mills since she was old enough to know what child labor was. Had been in social welfare service in the mill sector 5 years.

"Dr. H. G. Brainard, professor at South Carolina's Military Academy, said that in the 7 years he had been in the Carolinas he has never seen children working except on the farms and occasionally around stores. He has always had a feeling that there must be some child labor somewhere, but he has never been able to find it.

"Mrs. Adams, matron of the Thornwell Orphan Asylum at Clinton, said she had worked with unfortunate children 17 years, and has known of no cases of child labor in the mills in recent years.

"Mr. Dixon Davis, postmaster at Greenville, said he handled all social-security certificates, and only one card gave the applicant's age as 16. He has not seen any under-age children in the mills for years.

"Mr. Thomas P. Stoney, ex-mayor of Charleston, prominent attorney, said when campaigning a few years ago he took occasion to fulminate against child labor, at the suggestion of some of his advisers. He was asked by Mr. W. W. Jacobs, secretary of the Cotton Manufacturers' Association, to give specific instances of child labor. Mr. Stoney's advisers were unable to furnish him with any, and after that, Mr. Stoney said, he left the child-labor issue severely alone. Does not think there are any but isolated individual cases of children working in the whole State.

"Mr. E. R. Jenkins, volunteer labor organizer of the American Federation of Labor in Charleston, said that he does not think there has been much child labor in South Carolina for 10 years. He has never heard of children working in lumber camps, though he knows conditions in the camps well. Urged to suggest where I might possibly see children at work, he suggested two possible places. I checked them up. No children were working in either.

"I have already quoted a letter of South Carolina's commissioner of labor, Mr. Nates.

"Commissioner of Agriculture J. Roy Jones and Deputy Commissioner Sprott said they did not believe that any amount of child labor existed in the State. In 1934 Commissioner Jones had occasion to issue a statement to the press, saying:

" 'Charges that child labor increased in South Carolina from the year 1920 to 1930 are absolutely false. I do not know where the National Child Labor Committee secured the figures quoted in its bulletin, but if all the other statistics they set forth are as inaccurate as those regarding South Carolina's child labor their bulletins are not to be relied upon.'

"Mr. Hope, State superintendent of schools, and Mr. P. G. Sherer, director of rehabilitation, said that they visited the schools of the State constantly, from one end to the other, and assured me that there is very little child labor. The school year is 7 months. Attendance is compulsory to age 14. A bill is now before the South Carolina State Legislature for more strict enforcement and entirely free textbooks.

"Mrs. Cathcart, supervisor of the Children's Bureau of South Carolina, said indignantly: 'It's all a big story. My four case workers go over the State, covering every back road and country hamlet. They would know if there was any abuse of children in lumber or turpentine camps. There hasn't been a single report of it.'

"I interviewed newspaper editors in both North and South Carolina.

"Mr. George Koester, editor and publisher of the Observer, Greenville, said that the age of criminals in Greenville was lowering alarmingly. Formerly it was about 35, now it is dangerously near 21. Formerly there were more Negroes than whites; now there are more whites than Negroes. Formerly convictions were mainly for crimes of violence; now there are many for joy riding, window breaking, and drunkenness. Mr. Koester blamed some of this condition on the fact that even before N. R. A. the majority of the mills had refused on the ground of efficiency to employ children under 18. The parents work in the mill and the teen-age youngsters who do not want to go to school run wild in the streets and get into mischief.

"Mr. F. O. Emerson, editor of the Charleston Post, said 'Nobody here talks about child labor as a local nuisance. There isn't any smoke, so I doubt if there is any fire. None of the union representatives have ever complained about child-labor violations.'"

"Mr. Jonathan Daniels, son of Mr. Josephus Daniels, Ambassador to Mexico and editor of the Raleigh News and Observer, also was unable to direct us to any place where I might possibly observe child labor. He knew of one violation, but understood that the judge thought the girl was big for her age. He did not think there was much child labor in either of the Carolinas but suggested that I look in Alabama. He was strong for the child-labor amendment, not because Carolina needed it but because 'States like New York, where there was lots of child labor, would benefit from it greatly.'

"To the best of my knowledge and belief, there is today no appreciable amount of child labor in the State of South Carolina.

"If the South Carolina statements are samples of the accuracy of the National Child Labor Committee, then I seriously doubt that there is any appreciable amount anywhere in the United States.

"I went South not knowing my own position on the control of youth amendment. I have returned convinced that as a child-labor measure it is wholly unnecessary."

Neither the President Nor the Court Is Infallible

EXTENSION OF REMARKS

OF

HON. WILLIAM LEMKE

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 1937

Mr. LEMKE. Mr. Speaker, I am talking to you today, not as a Republican, not as a Democrat, nor as any other kind of a partisan. I prefer to talk to you, not as a Member of Congress but rather as a citizen of this Nation, as one more interested in our people than in Presidents or courts—more concerned with the future of our Nation—with the 130,000,000 of our men, women, and children than with the nine old men composing the Supreme Court, or the one young man in the White House, who, as Commander in Chief, has control of the Army and Navy to enforce his edicts if he once can abolish the Congress and the courts.

NATION ON FIRE

There is danger ahead—this Nation is on fire; it is thoroughly aroused. The people have been ruthlessly awakened from their lethargy—from sleeping at the switch. They have suddenly become aware that their form of government is being gradually transformed from a democracy to a despotism—to a one-man government. They have suddenly become aware of the fact that the executive branch of our Government has already devoured and partly digested the legislative branch, and now, in its eagerness and hunger for power, is ready to devour the judicial branch—the last obstacle between democracy and despotism.

The proposition that confronts Congress and this country at this time is the so-called packing of the Supreme Court. This question must not be approached as a partisan question. It must be approached with a full understanding of all the facts and of what it may mean to our future. At present the legislative functions of our Government have been largely usurped by the Executive. This usurpation started with Theodore Roosevelt, until at present Congress is largely a "rubber stamp", and is generally whipped into line by the Executive on all important legislation.

Before we pass judgment upon the momentous question, whether we should amend the Constitution by packing the Supreme Court, we must first get our facts straight. Our final judgment must be based upon a matured opinion. It must be based upon facts and not upon erroneous statements nor on false and malicious propaganda.

Let us look where we are going before we leap. Our President, with his splendid personality, has become drunk with momentary victory and power—he has gone on a rampage. He is determined to wrest from the people the right to amend their Constitution. He has made up his mind to do the amending himself by overlording the Supreme Court. We are with the President when he is right, but we refuse to go with him on this wild spree of insubordination to the Constitution.

PAY ROLLERS AND TAX EATERS

This struggle must not be minimized. We must take nothing for granted. We must check every statement made by Federal appointees and salaried lobbyists who are under the control of the President. These officials—pay rollers and tax eaters—consisting of over 1,000,000 scattered throughout the Nation, together with politicians looking for political preferment, will attempt to deceive the people. They have a habit to "hop and skip over the truth and perch upon assertion and call it truth."

If officials of the executive department, together with the pay rollers, can be let loose in hordes upon Members of Congress, with threats of withdrawal of patronage, relief, and work projects, then our form of government has ceased to exist. Even obnoxious as they may be, the paid lobbyists are not nearly as dangerous to our form of government as the official lobbyists of the various executive departments of our Government. The average Member can still resent a paid lobbyist, and expose him, but when it comes to exposing a public official of his own party, then a Member will generally hesitate, because he has reason to feel that the dice are loaded and the cards are stacked against him.

KEEP THE RECORDS STRAIGHT

So let us keep the records straight. It has been stated many times on the floors of Congress and elsewhere, by those who talk too freely and verify too little, that the Supreme Court is behind with its work. The insinuation is that the judges are too old. This false information has been spread by Federal appointees and salaried lobbyists who know it to be false. The gullible swallow it hook, sinker, and all, and parrotlike, repeat it throughout the Nation—but as Mr. Moley, the President's friend, is alleged to have said, "It just isn't true." The Supreme Court record shows that during the last 50 years it disposed of more cases as the average age of its Justices increased. From 1890 to 1899 the average age of the Justices was 63 years, and they decided 468 cases a year. From 1933 to 1936 the average age of the Justices was 68.6 years, and they decided 983 cases a year. The fact is the Supreme Court has kept up with its work. The charge, by insinuation, that it has not, is false and does not square with the facts.

We know that the judges of the Supreme Court are not endowed with divine wisdom. We also know that the President possesses no such wisdom. We know that our judges and Presidents are just human. They are not only both capable of making mistakes—both have made mistakes. The President is making a very bad mistake when he attempts to unite our trinity—the executive, the legislative, and the judicial branches of our Government—all in one: Franklin Delano Roosevelt.

AMERICAN PEOPLE WILL NOT SURRENDER

The American people will not surrender their control over the Constitution and their sole right to amend it to any President. They know that rights once surrendered to the Executive are seldom, if ever, recovered without a struggle. They know that all through history the struggle has always been with the Executive and not with the judiciary.

We know that during the last 50 years the judges of the Supreme Court have been more liberal and more progressive and at least as wise as, if not wiser, than our Presidents. We know that our Presidents, almost without an exception,

after the election have trampled upon their party's platform pledges and promises. Do we wish to have them do the same with our Constitution? Our answer is "No."

Let us keep the records straight. We know that the Presidents have defeated the will of the people a good many times more in the last 50 years than the Supreme Court has. It was a President that vetoed the McNary-Haugen bill, and not the Supreme Court. It was a President who vetoed the Patman bonus bill three or four times, and not the Supreme Court. It was a President, through his control over Congress, that defeated the Frazier-Lemke refinance bill, and not the Supreme Court. It was a President, through his control of Congress, that defeated the 30-hour-a-week and the going-wage amendments to the public-works bill, and not the Supreme Court. It was a President, through his control over Congress, that prevented a vote on the Townsend bill, and that is persecuting Dr. Townsend in order to destroy his movement.

CONTROL CONGRESS

It was the President, through his control of Congress, who caused the number of signatures to discharge a committee and bring a bill up on the floor of the House for disposition on its merits, to be increased from 145 to 218—thus preventing meritorious legislation that did not have his O. K. from coming up on the floor. It was the President that vetoed the feed and seed loan bill last spring with the result that many farmers in the drought-stricken area got their seed too late to be of any great value.

It was the Federal Farm Credit Administration that foreclosed on 26,000 farms in 2 years, and not the Supreme Court. It was the administration's Home Owners' Loan Corporation that foreclosed on 61,000 homes in cities and towns in 1 year, in 1936, and not the Supreme Court.

PRESIDENT DEFEATED

It was the President who defeated the Norris-Simpson amendment to the agriculture bill. This amendment would have given to the farmers cost of production plus a reasonable profit. It was defeated by the Secretary of Agriculture appearing before the conference committee of the House and the Senate and insisting that it be eliminated.

If the administration had kept its platform pledge on this issue and had permitted the Norris-Simpson amendment to become a law, it would not then have been necessary for the Supreme Court to have held the A. A. A. unconstitutional. The Norris-Simpson amendment was constitutional and it would have given agriculture real relief in place of so-called parity.

LET US GET THE FACTS

Before we condemn let us get the facts. The Supreme Court has held 77 acts of Congress unconstitutional in 148 years. In 10 of these cases it did not hold the acts unconstitutional, but held that the Executive attempted to enforce valid laws in an unconstitutional manner. This leaves only 67 acts that the Supreme Court has held unconstitutional since the founding of this Nation. Most of these 67 were of minor importance. In 32 of these cases the decisions were unanimous, 10 were with 1 dissenting vote, 14 with 2 dissenting votes, 10 with 3 dissenting votes, and 11 with 4 dissenting votes. No honest man will question the correctness of the decision in all of these cases with the exception of 10 or 15. The correctness of the decision in these 10 or 15 cases is debatable. We feel some are clearly erroneous.

Now, let us see about our Presidents. Since 1889, beginning with President Harrison, 10 of our Presidents vetoed 722 acts of Congress; 22 of these vetoes were overridden by Congress, leaving 700 acts defeated by the Presidents in 48 years, as compared with 67 acts of Congress defeated by the Supreme Court in 148 years. Our present President has the record for vetoing bills. He vetoed 221, as against 35 by Hoover, 49 by Coolidge, and 41 by Harrison. Some of the legislation vetoed by these Presidents was just as important and effected just as many lives as any decision of the Supreme Court. Most of the acts were of minor importance as were also most of the acts held unconstitutional by the Supreme Court.

Since 1789 our Presidents have vetoed 985 out of 58,383 acts of Congress, as against 67 acts or parts of acts held unconstitutional by the Supreme Court. Since 1789 the Supreme Court construed and passed upon some 40,000 acts of Congress. In over 4,580 of these cases the constitutionality of Federal laws was directly challenged.

PRESIDENT COMPLAINS

The President complains of the fact that the Supreme Court has held more acts of Congress unconstitutional in recent years, but there have also been more acts passed recently. If the President had searched a little further he would have found that the Presidents also vetoed more acts in recent years. If he had gone a little further in his search, he would have found that Washington in 8 years vetoed only 2 acts of Congress as against his own 221 in 4 years. If the President had searched a little further, he would have discovered that Jefferson, the father of real democracy, did not veto a single bill; that Monroe vetoed one, and Jackson four. He would have discovered that Lincoln, our greatest President, vetoed only one, and that because of a clerical error in the bill.

The power of the executive, the judicial, and the legislative branches of our Government are all derived from that same Constitution, and each of these three coordinate branches of our Government must respect the power of the other under the Constitution. The sovereign people who made it alone have authority to alter or unmake it.

OUR CONSTITUTION IS A MASTERPIECE

Our Constitution is a masterpiece of fundamental legislation. It was framed by our Revolutionary forefathers—the pioneers of America—able, intelligent, honorable men, who had no intention to legislate for all the future of the Nation. They put nothing into that instrument that hampers and prevents progress. They made it elastic. They realized that nothing was permanent, that the Nation would grow, therefore they limited the Constitution to general principles of government. They had no intention of putting hobble skirts on Congress and hindering progress.

Their wisdom in limiting the Constitution to fundamental principles of government is clearly shown when we realize that they lived in a different age; that they never talked on a telephone; never saw a steamboat; never rode in a train or in an automobile; never thought of an airplane; and never listened to a radio, nor ever dreamed of such things. Their wisdom was shown when they made the Constitution elastic—a Constitution that had within it the possibilities of the future development and growth of the Nation and its people. The Constitution was made for the people and not the people for the Constitution.

It took Rome 300 years to die. Our Government has been dying for 20 years—since our entry into the World War. All that has been done during the last 20 years is the concentration of more power in the hands of the Federal Government—more power to be abused, misused, and misdirected by the bureaucrats in charge of the various departments.

Democracy and despotism are at grips everywhere. Throughout the world there is an encroachment upon the rights of the people. Power and authority always reaches out for more power and more authority. This Nation is no exception. In this crisis we must not permit ourselves to be cowed into submission. We must face these issues unafraid and then our Government will again become a true Democracy.

To the 30,000,000 people who live on our farms—to you 130,000,000 everywhere—to you patriotic liberty-loving citizens I say there is danger ahead. The administration is still bent upon the centralization of all power here in Washington—upon the establishment of a feudal system with the bureaucrats as lords and barons here in the departments in Washington—the vassals in the cities and towns—with the farmers and the laboring people as the feudal serfs throughout the Nation.

DANGER AHEAD

There is danger ahead, but I am confident that the American people know that a democratic form of government, although defective, is the best form of Government that can possibly be devised for our own best interest. They will not surrender it to either the President or the Court.

"Massachusetts" Proposed as Name for Battleship

EXTENSION OF REMARKS

OF

HON. ARTHUR D. HEALEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

LETTER FROM HON. JOHN W. McCORMACK, OF MASSACHUSETTS, TO THE SECRETARY OF THE NAVY

Mr. HEALEY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letter written by my colleague, Mr. McCORMACK, to the Secretary of the Navy.

MARCH 8, 1937.

Hon. CLAUDE A. SWANSON,

The Secretary of the Navy, Washington, D. C.

MY DEAR SECRETARY SWANSON: I note through the press of recent issue that the names of two battleships authorized to be constructed have been selected. I respectfully call to your attention the fact that no naval vessel at present is named in honor of the Commonwealth of Massachusetts. It is unnecessary for me to point out to you the great contributions made by the Commonwealth of Massachusetts and its people to the progress of our country; also the important part, second to none, that the Commonwealth and its people of all generations have played in the successes of the United States Navy. It is fitting and proper that a naval vessel should be named in honor of the Commonwealth of Massachusetts. I understand that it is a policy of the Department to name battleships in honor of a State. I submit to you for your consideration the naming of the next battleship authorized to be constructed "Massachusetts", and I urge that favorable action be taken when the time arrives to name a new battleship. I realize that nothing can be done at the present time, therefore the reason for future consideration. The following is the historical data on the ships that have been named in honor of the Commonwealth of Massachusetts:

The first vessel named *Massachusetts* was a screw steamer of 765 tons, carrying four guns, built at Boston, Mass., in 1845, for the Army and transferred to the Navy in 1849; served on coast of California during Mexican War; attached to Pacific Squadron 1849; was in Puget Sound 1856–57 for suppression of hostile Indians; converted into a store ship at Navy Yard, Mare Island, in 1862; name changed to *Farralones* and served during Civil War; sold at San Francisco, Calif., 1867.

The second vessel named *Massachusetts* was a supply ship of 1,155 tons, carrying five guns, purchased at Boston, Mass., May 3, 1861; served during Civil War; sold October 1, 1867.

The third vessel named *Massachusetts* was an ironclad monitor of 2,117 tons, carrying four guns, built at Navy Yard, Portsmouth, N. H., 1863–66, and originally known as the *Passaconaway;* broken up 1884.

The fourth vessel named *Massachusetts* was a coast battleship (no. 2) of 10,288 tons displacement, authorized by the act of Congress dated June 30, 1890; named for State of Massachusetts; built by the Wm. Cramp & Sons Ship & Engine Building Co., Philadelphia, Pa.; keel laid June 5, 1891; launched June 19, 1893; commissioned June 10, 1896; one of Admiral Sampson's squadron during Spanish-American War; under command of Capt. Francis J. Higginson; took part in bombardment of Santiago, May 31, 1898, June 6, 1898, and other engagements, but was not at Battle of Santiago July 3, due to absence while coaling; name changed to coast battleship *No. 2*, March 29, 1919; stricken from Navy list November 22, 1920; used as target by War Department.

Very truly yours,

JOHN W. McCORMACK.

Statement of 41 Members of the House on Unemployment and What Must Be Done About It

EXTENSION OF REMARKS

OF

HON. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 1937

GOVERNMENT WORKS PROGRAM NECESSARY AND UNAVOIDABLE—WORK FOR ALL; SHOULD BE USEFUL, PRODUCTIVE, CONSERVE NATURAL RESOURCES

Mr. VOORHIS. Mr. Speaker, I have the honor to submit the following statement on behalf of 41 Members of Congress.

Continuance of a Government work program as one measure of attacking unemployment is necessary and unavoidable. That program must, therefore, be put on a stable, economically sound basis before this Congress adjourns.

America today needs to have many kinds of work done which private industry cannot do. Examples are slum clearance and housing for the lowest-income group, soil and water conservation, reforestation, flood and drought control, prevention of stream pollution, power development, safety work, and many others.

USEFUL AND NECESSARY JOBS FOR ALL

Due to conditions never before faced in human history, millions of our people are still unemployed. Unless fundamental corrective measures are taken, there will be millions unemployed for years to come. Either they will be thrown back on private or local charity, which cannot possibly care for them, or they will be given a Government dole, or they will be put to work by the Government at useful and necessary jobs. Only the last of these alternatives offers hope for our Nation's future.

It must be a principle of American Government that every citizen who is able and willing to work shall have work. If private industry cannot give jobs to all our people, then jobs for our unemployed can and must be provided on Government works projects.

PRINCIPLES OF GOVERNMENT WORK

The program of Government work should be set up according to the following principles:

First. Work for all who are able and willing to work and cannot find private employment.

Second. The work to be as useful, productive, and efficient as any work anywhere.

Third. People to be hired for Government works not because they are "on relief" but because they need a job and are able to do it efficiently.

Fourth. Facts about the amount of unemployment and the opportunities for employment in private industry to be collected; and the Government work program to be enlarged when private industry lays people off and to be cut down when private industry hires them back.

Fifth. No waste; no made work; but every project to be planned so it will create a dollar's worth of wealth and permanent social value for every dollar spent. This requires that there must be enough money appropriated to allow a reasonable expenditure for materials and equipment, as well as for wages.

Sixth. Government work to be planned so it will enable the people it employs to develop and maintain the kinds of skill and ability which are most likely to be in demand in private industry.

Seventh. Government projects to be definitely planned to stimulate all industry and open new opportunities for Americans. Conserving soils and developing new fertile lands will do this. Low cost housing will do it. Cheaper power will do it. So will other projects.

Eighth. The recreation, theater, educational and fine arts projects to be continued and improved with a view to developing the hidden creative talents of all groups of citizens in America and giving the benefits of these talents to all society.

Ninth. The program must be a Federal program, since unemployment is a national problem and most of our needed public works are of interstate character. It will have to be largely financed with Federal funds, with local sponsors' contributions based on their ability to make such contributions.

Tenth. By and large, the program should not be financed by borrowing but by equitable taxation on the basis of ability to pay and benefits received.

PURCHASING POWER; MORALE; NATURAL RESOURCES; PROSPERITY

Such a program will accomplish four great and desirable results:

First. It will give America a better distribution of purchasing power.

Second. It will rebuild and maintain the morale of our people.

Third. It will save our natural resources for our own generation and for generations to come.

Fourth. It will keep our business prosperous by maintaining its market.

Mr. Speaker, the above statement and outline of principles is concurred in by the following colleagues:

Robert G. Allen, of Pennsylvania.
Maury Maverick, of Texas.
Warren G. Magnuson, of Washington.
Matthew A. Dunn, of Pennsylvania.
John Luecke, of Michigan.
Frank W. Fries, of Illinois.
W. D. McFarlane, of Texas.
Knute Hill, of Washington.
Walter M. Pierce, of Oregon.
Ed. V. Izac, of California.
Jerry J. O'Connell, of Montana.
John M. Coffee, of Washington.
John R. Murdock, of Arizona.
Clyde L. Garrett, of Texas.
Charles J. Colden, of California.
Ira Walton Drew, of Pennsylvania.
Caroline O'Day, of New York.
Charles R. Eckert, of Pennsylvania.
Edward L. O'Neill, of New Jersey.
Guy J. Swope, of Pennsylvania.
Leon Sacks, of Pennsylvania.
Dewey W. Johnson, of Minnesota.
John T. Bernard, of Minnesota.
Harry L. Haines, of Pennsylvania.
Edward C. Eicher, of Iowa.
Charles H. Leavy, of Washington.
Alfred N. Phillips, Jr., of Connecticut.
John A. Martin, of Colorado.
James P. McGranery, of Pennsylvania.
Peter J. DeMuth, of Pennsylvania.
Henry Ellenbogen, of Pennsylvania.
William J. Fitzgerald, of Connecticut.
Frank J. G. Dorsey, of Pennsylvania.
Michael J. Bradley, of Pennsylvania.
Gardner R. Withrow, of Wisconsin.
Harry Sauthoff, of Wisconsin.
Gerald J. Boileau, of Wisconsin.
Henry G. Teigan, of Minnesota.
James F. O'Connor, of Montana.
Michael J. Stack, of Pennsylvania.
Fred H. Hildebrandt, South Dakota.
H. Jerry Voorhis, of California.

The Courts and the Power Question

EXTENSION OF REMARKS

OF

HON. WALTER M. PIERCE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 1937

ADDRESS BY HON. JOHN E. RANKIN, OF MISSISSIPPI, BEFORE THE NATIONAL CONFERENCE OF THE LAWYERS' GUILD IN WASHINGTON, D. C., ON FEBRUARY 20, 1937

Mr. PIERCE. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following address by the gentleman from Mississippi [Mr. RANKIN] before the National Conference of the Lawyers' Guild, in Washington, D. C., on Saturday, February 20, 1937:

Mr. Chairman, ladies and gentlemen, I first wish to thank my distinguished friend, Hon. Frank P. Walsh, for his complimentary introduction, and to say to you that I am here largely because of my friendship for him and my gratitude for the great work he has been doing for the people of this country, in his efforts to bring electric lights and power to the people of the Nation at the lowest possible rates, or at rates based upon the cost of production and distribution.

I feel that I should apologize for my physical condition, I have been suffering from a severe cold for the last few days which has prevented me from making due preparation. But I am reminded of the story of the American soldier on the western front who, during the heat of a great battle, looked out across No Man's land and saw the face of a valued and cherished friend beckoning him for help. He rushed out across No man's land, and as he stooped down over his fallen comrade, he heard him say, "Take me back with you, my leg is shot off." He threw his friend upon his shoulder and started on his way back. Before he could reach the trench, however, a stray shell hit the wounded man on the head and severed it from his body. When he reached his own line an excited officer rushed up to him and asked him what he meant by risking his life in such a manner to bring back a dead man with his head shot off. He said, "His head shot off?" He threw the body down and looked at it a minute and said, "Why the darn fool told me it was his leg." [Laughter.]

I was afraid to plead my disability at this time, and was a little shy about even mentioning it, for fear that you might say after you heard my feeble remarks that it was not a physical disability that impaired my qualifications. [Laughter.]

I am glad you are organizing a lawyers' guild. I am glad for a great many reasons. I believe you will come nearer registering the heartbeat of the American people than does that somewhat antiquated institution known as the American Bar Association, which is now dominated, largely, by attorneys for special interests.

Someone said the other day that there had never been a time in the history of America when the lawyers' influence on public opinion was at as low an ebb as it is today. I was sorry indeed to hear that statement. Being a lawyer myself, of course, I should like to see that profession occupy at all times the high position in the public esteem to which it is justly entitled. I asked this man what the trouble was, and he said: "The trouble is that so many of our ablest lawyers have sold their birthright for a mess of pottage—are using their power and their influence to break down our institutions for the benefit of selfish interests instead of helping to build them up."

I am glad to see so many young lawyers in the audience. I trust this movement will awaken in them that interest in public life which actuated the great men of the past and help to redeem the profession and restore it to the exalted position occupied by it in former days.

Shakespeare once said that—

> "Lowliness is young ambition's ladder,
> Whereto the climber-upward turns his face;
> But when he once attains the upmost round,
> He then unto the ladder turns his back,
> Looks in the clouds, scorning the base degrees
> By which he did ascend."

He was describing Newton D. Baker, John W. Davis, Al Smith, Bainbridge Colby, and a great many other men of that character today who are capitalizing the prominence given them by the confidence of an indulgent constituency, and using it to help the strong oppress the weak. [Applause.]

No wonder the American people do not have the confidence in the legal profession today they had when it was led by such men as Thomas Jefferson and Patrick Henry.

When the radio announcer today says, "At this time, ladies and gentlemen of the radio audience, we have a rare treat for you. I now take pleasure in introducing to you, the Honorable Mr. So and So, the president, or the ex-president, of the American Bar Association"; whenever he says that, as a rule, "Old Man People", the average citizen, immediately switches the dial over to "Amos 'n' Andy." [Laughter.]

In other words, the average American citizen has reached the point in this day of radio broadcasting when he knows the voice of a propagandist for special interests as soon as he hears it, and doesn't care to listen to it a second time.

We are now in a great controversy over the proposition to reorganize our judicial system. To hear some people talk, you would think that this movement was nothing more than an attack on the Supreme Court of the United States. That is not true. It is a movement to bring the Federal judiciary up to date and make it responsive to the Constitution of the United States, as it applies to the problems of this great and complex forward-marching civilization in which we live.

I was taught a great reverence for the Court. I still entertain that reverence. But I do not believe that you make a god out of a man by appointing him to a judgeship, or any other office. I have often said, and I repeat it here, that you do not make a man any better by placing him in a political office, judicial or otherwise. Invariably they grow worse instead of getting better, and the tendency in that direction seems to me to be greater when men are placed in public office for life and are responsible only to their own consciences.

Judges are human beings; they are not infallible. They often make mistakes, sometimes by a divided court. The trouble is that under the application of the doctrine of stare decisis, a decision of the court of last resort, even though by a 5-to-4 decision, becomes the law of the land. The country may be shocked, and the lawyers may criticize but they can't change it. They "first endure, then pity, then embrace", and then sanctify. It becomes a "precedent and many an error by the same example will rush into the State." The next decision may go a little further, by a divided court. Then it also becomes a precedent. Thus they gradually extend the principle, or extend decisions beyond the principle, involved until they get so far out they remind me of the Englishman shingling his house in the fog. He said the fog was so thick that before he realized it he had shingled out on it 25 or 30 feet. [Laughter.] Thus under the doctrine of stare decisis, adding one bad decision to another, the courts have invariably

shingled out on the judicial fog so far that they now have considerable difficulty in finding the original rafters of the Constitution. [Laughter.]

For the last 50 years Federal judges seem to have taken it for granted that it was their duty to expand their own powers under the due process clause of the fourteenth amendment so as to enable them to legislate judicially for the benefits of special interests, and to contract the welfare clause of the Constitution so as to restrict the powers of Congress to legislate for the benefit of the masses of mankind.

Mr. WALSH told you of my great interest in the power question, one of the greatest issues with which we will have to deal during your day and mine. Since the decisions of the Federal courts are involved in handling this great question, I shall discuss them along together.

We have in our navigable streams a wealth of hydroelectric power surpassing any other national resource in all the world, outside of the soil from which we live. I take the position that this power is public property, national wealth, belongs to all the American people, and should be used for the benefit of all. We are attempting to build dams on these streams to generate power and then construct transmission lines to transmit it to where it can be sold to the ultimate consumers. The Power Trust is enjoining every movement we make, using the Federal courts to paralyze these great developments under the pretense that such activities on the part of the Government violate the Constitution of the United States; and Newton D. Baker, with his pleasant smile and melodious voice, has succeeded in inducing some Federal judges to issue such injunctions.

Every time I hear Newton Baker speak, I think of the words of the greatest genius of our race, who said:

> "In law, what plea, so tainted and corrupt,
> But being season'd with a gracious voice
> Obscures the show of evil."

How I wish someone would tell me how and when it became unconstitutional to develop and distribute hydroelectric energy, when its use for light and power purposes was discovered 80 years after the Constitution was written and after the average judge now on the Supreme Court had graduated from high school, if not from college. [Laughter.]

Such a contention is simply ridiculous. The Supreme Court of the United States under Chief Justice Marshall decided that the Government had the right to improve navigation on these streams, and it has been held by that august tribunal that we also had the right to do whatever is necessary to control their floods. The Supreme Court of the United States in the Ashwander case held that the electricity generated by falling water at Muscle Shoals became the property of the United States; that being the property of the United States, we had the right to sell it; and having the right to sell it, we had the right to do whatever was necessary to convey it to a market.

In the face of that decision, the Power Trust, through its attorney, Hon. Newton D. Baker, is now trying to paralyze the operation of the Tennessee Valley Authority by injunctions in the Federal courts.

The T. V. A. has been in operation now for 3 years, doing exactly what the Supreme Court of the United States in the Ashwander case said that it has the right to do. The Power Trust recently went into the Federal court in the State of Georgia and attempted to get an injunction to stop the sale of T. V. A. power to the farmers of that State. Judge Sibley of the circuit court of appeals was sitting as the judge designate. He denied the injunction, pointing out the fact that the questions involved had been settled by the Supreme Court in the Ashwander case. The complainant went the next day, and in conjunction with others, brought the same suit in another State and filed a printed petition of 146 pages, which they evidently had prepared before Judge Sibley's decision was rendered. The case was finally shifted to the Federal court in Tennessee, and Judge John J. Gore issued the temporary injunction tying up the Tennessee Valley Authority or paralizing its operations for the time being. They then went back to the Federal court of Georgia and tried to enforce the Gore decision, but were hauled before Judge Underwood, the presiding Federal judge in that district, who denied their injunction and excoriated them for thus trifling with the courts.

Now if you people think I am hard on Judge Gore for his abuse of judicial prerogatives, you should read Judge Underwood's decision and see what he thinks about it. [Laughter.]

The other day the Aluminum Co. of America sent its lawyer to Judge Gore and induced him to amend his decree so as to permit the Tennessee Valley Authority to sell power to the Aluminum Co. of America and its subsidiaries, but left the cold, dead, paralyzing hand of his former injunction on the throats of the farmers, householders, and other consumers affected.

Are you surprised then that people are losing confidence in the courts? Are you surprised that the people of this country are backing the President in his demand for a reorganization of the Federal judiciary? "All the perfumes of Arabia" would not sweeten this decision so as to make it palatable to the most ignorant individual on the streets, much less to intelligent lawyers who are not already hired to approve it.

John Marshall would turn over in his grave if he could wake up and observe the abuses of judicial powers and prerogatives that have grown up in this country within the last 50 years. Under the common law, one corporation could not hold stock in another corporation. Human experience for a thousand years had shown that it would be detrimental to the public interest for corporations to thus become interwoven. In 1889 powerful corporate interests persuaded the Legislature of New Jersey to abrogate that law. That was the beginning of the gigantic holding companies that are today sprawling over the country and attempting to dominate every phase of our public life. They have induced Congress to pass laws permitting them to transfer to the Federal courts all cases involving more than $3,000 where there is a diversity of citizenship. Corporations of every kind, and especially the ones doing a questionable business, in your State and in mine, have taken out their charters in other States in order to create a diversity of citizenship so as to escape the jurisdiction of State courts, with the result that the Federal court is looked upon today as the tribunal of the rich and powerful, if not the refuge of the exploiter and the racketeer.

I want to restore the jurisdiction of the State courts, and have introduced a measure to prevent the transfer of these cases to the Federal court merely on the ground of a diversity of citizenship or a Federal question involved.

I am trying to get legislation passed that would force an immediate appeal to the Supreme Court of the United States in all cases involving the constitutionality of an act of Congress, and giving those cases the right-of-way on the docket.

I am in favor of making those litigants who seek injunctions give bonds in sufficient amounts to take care of all damage and expenses, including attorneys' fees, and making those cases appealable directly to the Supreme Court.

I have also prepared a resolution proposing to amend the Constitution of the United States so as to limit the tenure of Federal judges to a term of years to be prescribed by the Congress itself. This will not only put a stop to selfish interests using the Federal courts for improper purposes, but it will help to bring some Federal judges back to earth and make them realize that they are not hedged about by any atmosphere of divine infallibility.

Now, let's get back to the power question. If any of you people are laboring under the delusion that consumers can get justice from private power companies, you need to disabuse your minds. There is only one way in which the American people can secure electricity at reasonable rates, and that is through some form of governmental generation, transmission, and distribution of electric energy.

I want the Government to build and own in perpetuity the dams on these navigable streams and to build and own in perpetuity the main transmission lines. I want every municipality to own its own distribution system, so that it may purchase this power wholesale from the Government or its agent and then distribute it to the ultimate consumers at the yardstick rates, or rates fixed by the Government itself.

We are living in an electric age. Electricity is our greatest crop; it brought more money last year by about $500,000,000 than the entire wheat and cotton crop both would have brought at any time during the year if it had all been sold at the market price. The electricity sold in this country last year cost the ultimate consumers $2,059,136,000, according to the Edison Electric Institute Bulletin. Our wheat and cotton crop combined, if all of it had been sold on the market at any time last year, would not have brought more than $1,500,000,000.

Electricity is now a necessity of life; no home should be without it. There is enough of it in our navigable streams alone to supply every home and every commercial establishment in America, and probably have enough left to meet our industrial demands.

Remember that it is the one commodity now on the market that cannot be polluted or corrupted. They may corrupt the people who produce or distribute it, but there is only one quality of electricity. It cannot be adulterated. It is 100-percent pure. It cannot be debased; it cannot be watered. But, unfortunately, the ones who control it often water their stock. [Laughter.]

Its unit of measurement is the kilowatt-hour, just as the unit of measurement of wheat is the bushel, or that of cotton is the pound. Everyone should become familiar with the kilowatt-hour and should learn to read, and should practice reading, his own meter. The trouble is we have let the other fellow read the meter too long now. School children should be taught to read the electric meter before they are taught to read Greek or French. It is more important to them. [Applause.]

What I am trying to do is to get the Government to build these dams on our navigable streams and their tributaries, build the necessary transmission lines, and to own those dams and those lines in perpetuity. Then I would have them sell this power wholesale to States, counties, municipalities, or cooperative associations, with the provision written into the contract that it is to be resold to the ultimate consumers at the yardstick rates.

You are probably familiar with my efforts in connection with the creation of the Tennessee Valley Authority, which we are attempting to have operated for the benefit of the people of this country and not for the Power Trust. It has more than justified its existence for the reason that by the promulgation of its yardstick for the measurement of electric energy it has brought about a reduction of light and power rates in every State in the Union.

As you have already been told, my home is at Tupelo, Miss., which is about 100 miles from Muscle Shoals. Our city has been purchasing its power wholesale from the T. V. A. since February 7, 1934, and retailing it to the ultimate consumers at the T. V. A. yardstick rates.

I note from the press that Mr. Wendell L. Wilkie, president of the Commonwealth & Southern, who seems to be one of the chief spokesmen for the power trust, and whose misleading propaganda throughout our section of the country has won for him the sobriquet of "Windy Wilkie", tells the American people that every

time a citizen of Tupelo switches on an electric light the rest of the American people help to pay the bill.

Now let's see about that. The Commonwealth & Southern made a contract with the Hoover administration to buy power at Muscle Shoals for 5 years; that contract has just expired. If I can have my way, it will never be renewed. The record shows that last year the Commonwealth & Southern paid on an average of 1.56 mills per kilowatt-hour for the power it secured at Muscle Shoals under that contract. Before the T. V. A. was created, they were selling this power throughout that area at a maximum of 10 cents a kilowatt-hour—a spread of about 5,000 percent. Now, when the city of Tupelo purchases this power at an average of 4.47 mills per kilowatt-hour, or about three times what the Commonwealth & Southern has been paying for it, and sells it for a maximum of 3 cents, or less than one-third of what the Commonwealth & Southern formerly charged for this same power, Mr. Wilkie says that whenever a citizen of Tupelo turns the switch the American people have to pay the bill.

I have just showed you who paid the bill when the Commonwealth & Southern turned the switch—the ultimate consumer paid it then just as they are paying it in Tupelo now, the difference being that in those days they not only paid the bill but paid the Commonwealth & Southern a rake-off of anywhere from three to five times what their electricity should have cost.

Let me give you a comparison of the rates charged the ultimate consumers by the T. V. A. at the present time with the rates formerly charged in that area by the Commonwealth & Southern for this same power which they were purchasing from the same source, Muscle Shoals, for less than one-third of what the city of Tupelo is now paying for it.

	Former power company rates	Tennessee Valley Authority rates
First 30 kilowatt-hours	$3.00	$0.90
Next 170 kilowatt-hours	13.60	3.60
Next 300 kilowatt-hours	21.00	2.40
Next 350 kilowatt-hours	21.00	1.40
Next 150 kilowatt-hours	7.50	.60
1,000 kilowatt-hours	66.10	8.90

Thus it will be seen that 1,000 kilowatt-hours a month, which costs a consumer $8.90 under the T. V. A. yardstick rates, would have cost him $66.10 under the old Power Trust rates, and that the cost in every bracket of this table runs from 3 to 10 times as much under the old rates as it does under the T. V. A. yardstick rates.

Compare this table with the rates you are paying in your own homes and I am sure you will forever be an enthusiastic supporter of the T. V. A.

The city of Tupelo, which has a population of less than 10,000, has a little more than 1,400 domestic consumers of electric energy. Three years ago these domestic consumers were using on an average of 42 kilowatt-hours a month. In January 1937, under the T. V. A. rates, these same domestic consumers were using an average of 178 kilowatt-hours a month. If they paid the same rates charged by the Commonwealth & Southern 3 years ago and used this average of 178 kilowatt-hours a month the year round the cost would have been $198,000 a year more than it would under the T. V. A. rates.

Think of it! The domestic consumers alone in a town of less than 10,000 people paying an overcharge of $198,000 a year for electric lights and power if compelled to pay the same rates charged by the Commonwealth & Southern in that area 3 years ago for this same power which they were purchasing for less than one-third of what the city of Tupelo is now paying.

Cheap electricity means increased consumption and increased use of electrical appliances. Three years ago there were 158 electric refrigerators in the city of Tupelo; today there are 989. Three years ago there were 15 electric ranges; today there are 296, or almost 20 times as many as there were 3 years ago. The use of other electrical appliances, such as vacuum cleaners, irons, washing machines, and even heating appliances, has grown by leaps and bounds.

What we are doing for the people of Tupelo and other towns and communities throughout that area we are trying to do for all the people throughout these United States. This public power group in the House, of which I am chairman, is bending its energies to make electricity available to every human being in America at rates based upon the cost of production, transmission, and distribution, which means at the T. V. A. yardstick rates.

I told you awhile ago that the American people paid $2,059,000,000 for electricity last year. I have made the statement time and time again, that the electric consumers in this country were overcharged more than a billion dollars annually. I am prepared to prove that statement. Ontario, Canada, has the greatest public power system on this continent. They generate their own power and sell it to the ultimate consumers at cost. Last year we consumed 88,000,000,000 kilowatt-hours of electricity in this country, for which, as I said, we paid $2,059,000,000. Under the Ontario rates it would have cost $445,000,000, or $1,614,136,000 less than what we paid for it. Thus it will be seen that, according to the Ontario rates, the American people were overcharged $1,614,136,000 for electric lights and power during the year 1936.

But the power interests tell you that the Ontario Power Commission pays no taxes. That is true; but let's see what difference that makes. A thorough investigation in the State of Washington showed that taxes paid by power companies for all purposes amounted to a little less than 1 mill per kilowatt-hour. So the taxes for this 88,000,000,000 kilowatt-hours would have amounted to something like $88,000,000 a year. Take this $88,000,000 from the $1,614,136,000 overcharge, and you will see that the American people were still overcharged $1,525,253,000 during the year 1936, according to the Ontario rates, even after allowing for taxes.

Let's take another illustration: The city of Tacoma, Wash., has the outstanding public power system in the United States. They have $23,000,000 invested, and have paid their indebtedness down to about $7,000,000. Although Tacoma is a city of less than 120,000 people, and their public power system has this tremendous investment of $23,000,000, they still have the cheapest power rates in the United States, and their power system pays taxes ranging from $145,000 to $160,000 a year.

Under the Tacoma rates, this 88,000,000,000 kilowatt-hours of electricity would have cost $489,950,000, or $1,569,000,000 less than the $2,059,000,000 we actually paid for it.

Thus it will be seen that according to the Tacoma rates, the American people were overcharged $1,569,000,000 for electric lights and power during the year 1936.

And the sad thing about it is that about half of our people get no electricity at all, and the high rates paid by the rest of them prevent them from using enough to really enjoy it, or to employ the appliances necessary to relieve the drudgery of the average home or to facilitate the operation of the average business enterprise.

What I want to do is to electrify every home, and especially every farm home in America at the T. V. A. yardstick rates, and to reduce those rates as the years go by. I want to lift from the shoulders of the merchants and the other small businessmen these enormous burdens of overcharges and to make it possible for our small industries to live.

This is the greatest question with which we are now confronted, and I want to appeal to you young men to put your shoulders to the wheel and help us in this battle to save for the American people this great wealth of hydroelectric power, and to give to the electric consumers of this Nation, and especially to the householders, an asset the value of which cannot be estimated—one that will enrich every home and last throughout generations yet to come—a treasure that moths and rust will not corrupt nor thieves break through and steal. [Prolonged applause, entire audience rising.]

Extension of Title I of the Federal Housing Act

EXTENSION OF REMARKS

OF

HON. J. W. ROBINSON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

Mr. ROBINSON of Utah. Mr. Speaker, during the first 2 years of the present administration many measures were passed under stress of emergency and were established to run only for a limited term. So practical and sound have some of these measures proved themselves, however, that it appears to be unwise to let them lapse when there seems to be very definite contributions that they can yet make to the welfare of the Nation. Title I of the National Housing Act, as signed by the President June 24, 1934, and as subsequently extended, will expire on April 1 of this year unless some action is taken by this body to extend its terms.

To determine whether or not the policy established under title I is sound, we need no longer depend upon conjecture. We need only examine the results of 2½ years of operation. I believe that an unbiased investigation of what has been accomplished under this act will commend its continuation to the Members of Congress.

One of the principal problems facing our Government in its efforts to stimulate recovery has been to encourage the expansion of private credit. The volume of business transactions depends to a very large extent directly upon the credit policies adopted by the banking institutions of this country. It is impossible for the wage earner, without the aid of credit, to purchase more than the necessities of life. He has not sufficient capital available for home building or modernization, or for other purposes of similar nature; without credit he cannot make purchases, and without purchases industry suffers. The problem which must be solved is the problem of enabling our banks and other finance companies to offer credit to the consumer at a rate of interest which the consumer can afford to pay.

The insurance of modernization loans, under title I, has effectively met this problem. Being insured against loss on loans which conform to specifications laid down by the Federal Housing Administration, banking companies have offered credit for home modernization to the home owner at a rate of interest which is within the ability of the wage earner to pay. To February 20, 1937, the F. H. A., under title I, had insured modernization loans amounting to $521,577,953.25. It is estimated by Stewart McDonald, Federal Housing Administrator, that these insured loans have generated modernization work in excess of $2,000,000,000. The effect which this tremendous volume of business has had upon American industry is evidenced by the demands of the building industry that this program be extended. A demand for their products has been created which has lifted the building industry and building trades from a point of almost nonactivity 4 years ago to the thriving conditions in which we see it today.

And what has this cost the Government? On the more than half a billion dollars of insured loans, the amount of claims paid less recovered on these claims, amounted to only $4,406,305, a loss of only slightly more than eight-tenths of 1 percent. This recorded loss, small as it is, however, does not represent the true picture, for the majority of this amount will undoubtedly be recovered. Surely the practicability of the plan cannot be challenged on the point of cost. This small volume of loss bespeaks a sound policy and an efficient management. An expenditure by the Government of such a small amount to bring such benefits to one of our major industries cannot rightly be called an expenditure at all. It is rather an investment, an investment which has already paid dividends far in excess of the amount invested.

The benefits of this far-reaching legislation have not been confined to the building industry and the building trades alone. As much as it has contributed to the welfare of these, the group which has profited most by the operation of title I has been the home owners. Investment in a home represents the majority of the savings of 48 percent of our American families. For a century and a half, the economic philosophy of our country has been based upon industry and thrift; thrift not in the sense of hoarding money, but thrift as represented by the prudent investment of earnings. Wishing to be self-reliant, intending to be able to provide for themselves in old age, American workers have endeavored to plan for the future. Wages have been budgeted to allow something to be set aside each month as a guaranty against future dependency. No better place could be found to invest these savings than in a home. Ownership of a home offered security that few other investments could give.

The value of a home, however, is quickly diminished by depreciation, unless repairs are made. Each year brings demands for small expenditures to mend the results of constant usage. In ordinary times, these expenditures can well be met, but during a period of curtailed wages, such as we witnessed from 1930 to 1934, the family budget can allow nothing for repairs on the home. The owner, helplessly, sees his investment diminish in value to a point where even after his wage is more adequate, to repair the accumulated depreciation of a number of years, demands such a large expenditure that without credit he is helpless to protect his investment. An investigation made in 1934 revealed that in some cities as high as 69 percent of the homes were badly in need of repair.

Title I of the National Housing Act was designed to help remedy this alarming condition, and there can be little doubt but that its operation has materially contributed to the solution of the problem of protecting the value of American homes. The home owner seeing an opportunity to make the needed repairs on his home has eagerly accepted the liberal credit terms made available. Of the total loans insured 74 percent were on residential properties and 76 percent were for amounts under $400. These figures need little explanation. If the loans were being used to purchase elaborate and costly luxuries, the individual loans would be for a much greater amount. The principal recipients of title I insured loans have been the owners of moderate-priced homes who have been greatly in need of credit at a reasonable rate of interest to make necessary repairs, to prevent the savings of years of labor represented by his home from being worn away by depreciation.

Though the amount accomplished under title I has been great, the problem which it is designed to meet is still present. The number of individual loans insured to date is close to one and one-half million dollars, but numerous homes are still in want of repair. Those which have been repaired through Government insured loans are but a small part of the number which in the 1934 survey were disclosed to be in a bad condition. If title I is not extended, the owners of these homes, if they are to make the necessary changes, must rely on such credit terms as finance companies are willing to offer, without the support of Government insurance. This situation would, of course, be desirable if this credit were extended on terms which would enable the wage earner to take advantage of them. However, there is little reason for believing that this would be the case. The rates of interest which prevail on unsecured loans at present for purposes which are not within the scope of title I are almost prohibitive. The classified advertising section of every newspaper contains offers of personal loans which conceal usurious rates of interest behind such terms as "handling charges." Even the more reliable lending institutions are unable without the aid of Government insurance to offer terms which are at all comparable to those now available under the National Housing Act.

Unless some action is taken by this body before April 1, the provisions of title I will lapse. I believe that the success of this act in the past 2½ years in aiding the building industry and the home owner, and the definite need for a liberal credit policy for home modernization in the future commend its continuation.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. TOM CONNALLY
OF TEXAS
IN THE SENATE OF THE UNITED STATES
Thursday, March 11, 1937

ADDRESS BY HON. TOM CONNALLY, OF TEXAS, TO A JOINT SESSION OF THE TEXAS LEGISLATURE

Mr. CONNALLY. Mr. President, on the 2d day of March last past I was invited to deliver an address before the joint session of the Texas Legislature. In response to the invitation I complied with the request, and the remarks then made were stenographically recorded by a court reporter. I ask unanimous consent to have printed in the RECORD my remarks as then made and so reported.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Governor ALLRED. Mr. President of the Senate, Mr. Speaker of the House, members of the joint session, and my fellow Texans, I have just returned from Old Washington on the Brazos, where I drank once more from the fountains of Texas inspiration.

It is a real joy to me, indeed, and an honor and a privilege to present to you the speaker of the evening. After all, he needs no introduction to an audience of Texas people. After his university days he distinguished himself as prosecuting attorney in Falls County; later as a member of this legislature; later over some 10 or 12 years in his service as a Congressman that distinctly branded him as one of the outstanding Members of the National Congress.

In 1928 the people of Texas called him to higher service in the United States Senate.

It is my privilege and my pleasure, my friends, to present to you at this time your junior United States Senator and mine, your friend and mine, the Honorable TOM CONNALLY. [Applause.]

SENATOR FROM TEXAS

Mr. CONNALLY. Governor Allred, President of the Senate, Speaker of the House, Senator Holbrook, General Keeling, and fellow citizens, allow me to express my grateful appreciation to your distinguished Governor for his generous words of presentation to this fine and splendid audience; and to the two bodies of the legislature may I give utterance to my deepest thanks for your courtesy in

inviting me in the midst of a busy session and in the midst of intricate and perplexing problems and to spare me a portion of your time and to allow me the honor of addressing you in joint session.

I trust that tonight the memories of 40 years that have been recalled by General Keeling may serve in some way to inspire me to endeavor to express to you my thoughts upon some of the public issues now prominently before the American people. I treasure the friendship of General Keeling and others, extending back to that time when we were schoolboys here in the University of Texas, and from that 2d day of March celebration in 1897 I gained some of the incentive to study the history of my own State and what March the 2d signified in the history of this mighty Commonwealth of ours.

And I drew some inspiration while still in the university in its law classes to undertake to look back upon the history of our great United States and to study some of the great fundamental things that lay at the very root of our great political system.

TEXANS PROUD OF TEXAS

And so Texas is indeed fortunate; she is the inheritor of all that began in 1776, when the colonists dared to fling into the face of a king that splendid Declaration upon which later the structure of our Constitution and fundamental law was established. In addition to that, Texans on the 2d day of March of every year have cause to be proud that they can look back to their own day of independence yonder at Washington on the Brazos, where a band of hardy pioneers, with 600 years of Anglo-Saxon struggle for liberty and for self-government coursing in their veins, gave utterance to another great declaration of political independence—a political charter, a charter of liberty that was later embodied in their own constitution.

And so, my friends, tonight under the inspiration and the compelling force of these happy memories, and in the indulgence which you have shown me tonight in inviting me to address you as your public servant, I trust that I shall not trespass upon propriety if I embrace this opportunity to discuss perhaps the most prominent, the most pressing public issue now before the people at this particular moment, and that is the question of the President's proposal relating to a reorganization of the Supreme Court of the United States.

On the 9th day of February I gave to the press the following statement:

SPEAKS OWN SENTIMENTS

"I am opposed to an increase in the members of the Supreme Court to 15 in the method and under the circumstances proposed. In the matter of inferior Federal courts, I am of the opinion that reform can be accomplished in expediting business and in the representation of a government in cases involving the Constitution, and in that respect I am in favor of appropriate action."

I now reiterate and confirm that statement. [Applause.] Let me say, my countrymen, that tonight I speak for no one save myself. The sentiments which I shall utter are my own, and I essay not to dictate nor to suggest to any other Senator or to any other citizen a denial of his or their right to follow the direction of their own conscience.

FRIEND OF PRESIDENT

At the very outset of these remarks let me say this—let me make it clear that I am a devoted personal friend of the President of the United States, Franklin D. Roosevelt. That friendship has not been interrupted, and I trust that it may never be interrupted; and, my fellow citizens, tonight if this were a matter purely of personal friendship, I should be standing beside the President of the United States.

I have long been his political friend. In 1932 at the Chicago convention, as some of you may remember, I was the chairman of the Texas delegation. In that convention at a critical stage when the votes of Texas and California alone were required and necessary for the nomination of Mr. Roosevelt as the Democratic candidate for President, I exerted my poor abilities and my humble influence to turn a sufficient number of the Texas delegation to support his nomination. The delegates voted for Mr. Roosevelt and California voted for him, and he was thus made the nominee of the Democratic Party. In that campaign of 1932 I campaigned in many States of this Union with an enthusiasm and with an interest that have never stirred me so much in any other Presidential campaign within my recollection.

SUPPORTED CONSTRUCTIVE MEASURES

During the past 4 years in the United States Senate I have, with one or two exceptions, supported earnestly and enthusiastically the economic and social measures advocated by the President, which in their entirety have gone to make up that splendid constructive program which earned and deserved and received the overwhelming approval of the people of the United States in the election of 1936. I did not vote for the N. R. A. it is true. I do not think anybody now wants the N. R. A.

1936 CAMPAIGN

In 1936 I was again chairman of the Texas delegation at Philadelphia, and I seconded the nomination of President Roosevelt for renomination, and in the campaign of 1936 I campaigned in 10 States of this Union, carrying as best I could his cause and his name and his flag to the American people. So tonight the fact that I disagree with him on this issue is no indication, it is no evidence of personal disloyalty to him or political disloyalty when a party question is involved; and if tonight this were a matter of personal friendship, if it were a matter of partisan politics alone, I should be standing under the President's banner.

BEYOND PARTISAN POLITICS

But my countrymen, this question as I view it—and I am speaking for myself alone—is so fundamental that it transcends personal friendship. [Applause.] It is so vital and reaches down so far into the very structure and the very form of this Government and into the great traditions upon which it rests that it is deeper than partisan politics. [Applause.] It is not a partisan issue. We find in Washington Senators of different political creeds standing side by side with relation to these issues. For instance, we had a distinguished Republican from another State to stand on this platform a few nights ago and advocate the proposal, whereas in Washington we have many Democrats and some Republicans on the other side of that question. So I regard it as not a partisan political question.

My fellow citizens, I have been grateful to the people of Texas for the great honor and trust which they have reposed in me as their junior Senator. But, my friends, let me remind you that even after you had elected me and commissioned me I could not cast a vote in the Senate, I could not lift my voice in the Senate until first I held up my hand and upon all that was holy and sacred took a solemn oath to uphold, protect, and defend the Constitution of the United States. [Applause.] That was the only oath required, that was the only obligation demanded, that was the only duty commanded, and in that oath, my fellow citizens, I assumed no obligation—I assumed no obligation to support any plan of any platform of a political party when it violates my superior obligation to support the Constitution of the United States. [Prolonged applause and cheers.]

BILL OF RIGHTS

These matters are so vital, they touch so intimately the constitutional guaranties in the American Bill of Rights and in the vast stretch of our Constitution that I must in such a situation follow my conceptions of my own duty and my own obligations to you, to the people who have trusted me and to the Constitution which I have sworn to uphold. [Applause.] However personally painful, however politically inexpedient it may be to disagree with the views of the President, I have no alternative except to follow my own conception of duty to the people who placed in me this high trust and the lofty obligation that I owe to my country to preserve the Constitution as I found it, until it is changed by the people themselves in the manner provided by the Constitution. [Applause.]

HISTORY OF CONSTITUTION

My countrymen, after the Revolutionary War was triumphant and after the Colonies had staggered through 8 years of chaos and confusion under the Confederacy, they met at Philadelphia to draft a constitution for the new Republic. The men who sat in that convention were learned in the law, they were learned in human nature, they were learned in the sacrifices and struggles of the long, bitter, bloody, heart-breaking years of the Revolution. So they were also learned in the history of Anglo-Saxon traditions; they had studied in the courts and in the universities of England; they knew the struggles for free government since the Greeks met on their hills in the old Amphictyonic League and other institutions of ancient Greece.

CONSTITUTIONAL GOVERNMENT

So when they came to make this constitution they were fresh from their experiences in the Colonies; they still felt the whip of the royal lash in the laws and in the sacrifices which had been laid upon their backs as subjects of a foreign king. So they set about to set up a government—a government of the people—not of kings, not of rulers, not of parliaments, but a government of the people. And in establishing that government they set up three branches of it.

First, they said the Congress shall represent the lawmaking department, elected by the people; they provided an executive to execute the law; and then they established a supreme court, and that is the only court mentioned in the Constitution—I mean the only court that is created by the Constitution. It created a Supreme Court of the United States and then left it to Congress to establish such other inferior courts as the Congress may decide.

My friends, it provided that each of these branches within its own proper sphere would be supreme. It provided that all of the lawmaking powers should be in the Congress; it provided that all of the judicial powers—and it is here in the Constitution—all of the judicial powers shall be in the courts.

JUDICIAL POWER

The judicial articles read:

"SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office."

They then provided certain checks and balances. While each department of the Government is supreme within its own sphere and within its own function, the three branches go to make up the whole of the Government, and then they provide for certain checks and balances, one against the other. In other words, the President appoints the judges. They can only be appointed when confirmed by the Senate, a check of the Senate against the Executive and a check of the Executive against the courts. It provides that the President may veto a bill, thus checking the Congress, but by a two-thirds vote that legislation may be passed over the veto.

CHECK ON COURTS

It provides, on the other hand, that the courts can be checked by reason of the fact that they put in the hands of Congress the power to impeach; if a judge is corrupt, if he is dishonest, if he is not diligent in the discharge of his duties he may be removed by impeachment. It also provides, ladies and gentlemen, a number of checks and balances all through the Constitution.

But when it came to the particular jurisdiction and boundary of each department, then the judiciary was to be independent of the Congress and of the Executive, and the Executive was to be independent of the Congress and of the courts, and the Congress within the lawmaking power was to be independent of each of the other branches.

BALANCE OF POWER

Now, my friends, that great balance of power has existed in the Constitution of the United States for a hundred and fifty years—a hundred and fifty years of glorious American history. Let me say to you that the Supreme Court of the United States when created by the Constitution was unique in the history of the world. There is no other court like it on this revolving globe of ours. It has attracted the admiration and respect of all civilized nations. It has performed and will continue to perform lofty public service in holding in check the Congress within its boundaries, the executive within its boundary, and the States within their proper sphere of jurisdiction, and the Federal Government within its proper functions.

Let me say to you tonight that in a dual system of government such as we possess, a government of States and then another government operating over the same territory, operating directly upon the same citizenship, a Federal Government without a Supreme Court to tell the Federal Government where its boundary line stops, and without saying to the States your jurisdiction is here, and nowhere else, can you conceive of the confusion and vexation that would necessarily ensue?

State legislatures and State authorities believing that they had the right to do certain things would do them. The National Government might think it had the right to do them and would undertake to do them and there would be clashes of authority between these two systems of ours unheard of in civilized lands. European countries do not have a dual system such as that. That is one of the reasons why the makers of the Constitution foresaw that with a dual system it was absolutely essential to have a Supreme Court to tell the Congress where to stop, to tell the Executive where to stop, to tell the States where to stop, to tell the Federal Government itself where to stop.

POWER WITH LIMITATIONS

Then more than that—more than that, this Government is a government of limited powers. My friends, whenever you take from the individual certain rights and turn those rights over to the control of the Government, you are subtracting from the sum of human liberty.

So when the makers of our Constitution came to make the fundamental law, they said there are certain rights that inhere in every citizen which are above the reach of the law; they are so sacred that neither the Congress nor the courts, nor the Executive nor the States, nor the Federal Government itself, shall invade those rights. And Congress said if these rights that we are giving to the citizens here in the Constitution, if they are to be secured to the citizen, he must have a forum, he must have a court somewhere to say when those rights are violated and when they are secure.

Therefore, they set up the Supreme Court of the United States, a Court to which any citizen may appeal, however humble he may be, however obscure he may be, however poor he may be—all that is required is that he possess a right; and if that right is violated by the Congress or the President or the courts or a State, he may lay his cause on the Supreme Court's desk and secure vindication and security of that right against the Government itself. [Applause.]

DRAFTERS OF CONSTITUTION

Now, my friends, George Washington, the Father of his Country, was President of the Constitutional Convention that wrote this Constitution. What did George Washington think of the courts when he was President of the United States and appointed members of the Supreme Court? He said that he considered the judicial system the chief pillar upon which our National Government must rest. [Applause.] George Washington, though he be dead, his sacred dust speaks up from the tomb; he had been through the Revolution; he had suffered the tyranny of a British King; he sat in the Constitutional Convention; he helped write this document that set up the Supreme Court; and he testifies that he regards it as the chief pillar of our liberties.

James Madison, great Democrat from Virginia, had more to do with the actual drafting of the Constitution than any other member of that Convention. What does Mr. Madison think of the Supreme Court and the Constitution? In 1832, long after he had been Secretary of State and 8 years President of the United States, in retirement yonder at his home near Orange, Va., no longer entertaining political ambitions, leading the life of a country squire, from his retirement, with the rich reflections and recollections of a half century under the Constitution, in speaking of the power of the courts to override acts of Congress, Mr. Madison said:

"Without a supremacy in the exposition and execution of them (speaking of the laws) would be as much a mockery as a scabbard in the hands of a soldier without a sword in it. I have never been able to see that, without such a view of the subject, the Constitution itself could be the supreme law of the land, or that the uniformity of the Federal authority through the parties to it could be preserved, or that without this uniformity anarchy and disunion could be prevented."

These are inspired words, they come down like echoes from the hall in which the Constitution was drafted.

IMPARTIAL TRIBUNAL

Now, ladies and gentlemen, when the makers of the Constitution set up the Supreme Court they set it up and their conception of it was a great impartial tribunal, an independent Court owing nothing to the President, because he cannot remove them, owing nothing to Congress because it cannot reduce their salaries, with their tenure for life sufficient to maintain them without any hope of reward which may actuate them to rule in favor of the rich and the powerful, without any fear of reprisals or punishment, because they could only be removed for misconduct; as independent as any body which could be constructed.

Let me say tonight in speaking to you, my friends, that of all the considerations that enter into this question, the one that is most prominent in my mind, the one that looms above the hills of the horizon like a mighty mountain, is the question of the independence of the Court. [Applause.] The ages of the Judges are secondary. They are mere individuals; they will pass away by death or retirement in the course of time. The amount of their salaries is not of importance. But when you strike at the independence of a court, you are striking at the very foundations of the court. [Applause.]

COURT MUST BE INDEPENDENT

Why, my fellow citizens, a court, whether it is a justice of the peace court or a county court or a district court or the Supreme Court of the United States, a court that is not independent is not a court. [Applause.] It is not a court; it is merely an administrative bureau.

They concede this Court, with its lofty function, has power to pass upon constitutional questions and great issues that affect the citizenship of the United States, but there are some who say that under the Constitution there is nothing in the instrument that gives the Court the right to declare an act of Congress unconstitutional. Now, let's see what the Constitution says. The Constitution says:

"The judicial power of the United States shall be vested in one Supreme Court." What does that mean? Why, it means that all of the judicial power relating to the Supreme Court is vested in that body. And what is that power? Under the common law that power touches every law, whether it is a constitution or whether it is a statute. Now, let's see what this Constitution says:

"The judicial power shall extend to all cases in law and equity arising under this Constitution." Why, my countrymen, there is language so plain that a tyro may understand it. Any case which can reach the Supreme Court in either law or equity that arises under this Constitution shall be tried by that Court. How is the Court to determine whether a law arises under this Constitution or without it, unless it has the power to construe that Constitution and to construe that statute and to say whether that statute conforms to the Constitution or is contrary to it. Under this Constitution the laws of the United States and treaties made or which shall be made under their authority—whatever treaties are made must be made under the authority of the Constitution. How could the Court pass upon a treaty unless it determined whether that treaty is made under the authority of the Constitution?

CONSTITUTION SUPREME LAW

Now, let's see what else. "This Constitution"—this is part of article VI—"This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

Under that article it says the Constitution of the United States—this great old document—is the supreme law of the land; and the laws of the United States which shall be made in pursuance thereof shall be the supreme law of the land also. In other words, if an act of Congress is made in pursuance of the Constitution, it is legal; if it is not made in pursuance of the Constitution, it is not legal.

And how can the Court decide whether a law is in pursuance of the Constitution or not, unless it has the power to say "No" as as well as the power to say "yes." Inevitably, the Court must decide when any law comes before it as to whether it is made in pursuance of the Constitution.

The Constitution is the supreme law of the land. How can it be kept supreme—how can it be supreme if Congress may pass a law contrary to the Constitution, and not have it declared unconstitutional?

STATUTE MUST MEASURE UP

Why, my friends, suppose my friend, Walter Woodul, has a suit in the Supreme Court; he makes the claim that his right is derived under the Constitution. Walter Keeling is the other party to the suit; he claims his right under a statute made by Congress. The Court must decide between these two litigants, one claiming under the Constitution and the other under a statute, and that statute and the Constitution conflict, but the Constitution says that the Constitution is the supreme law of the land. How can the Court decide that case except to rule in favor of Walter Woodul,

because his right is secured by the Constitution, while Walter Keeling's is only secured by statute?

My friends and fellow citizens, when John Marshall made similar statements to that in the great case of Marbury against Madison in 1803, he made a statement of an argument that every great lawyer has understood, and which was accepted by the people of the United States practically without question for nearly 135 years.

CONGRESS MUST NOT ERR

Now, my friends, it may be observed here also that in the Constitutional Convention, when the Constitution was being debated, it was pointed out by participants in the debate that the Court which was being created would have the power, and it should be its duty to declare acts of Congress unconstitutional when they transgressed the Constitution.

In addition to that, before the Revolution—I mean, after the Revolution but before the Constitution—during the days of the Articles of Confederation, every State had adopted its own constitution and its own laws, and in a number of the States, State courts had theretofore, before the Convention met, declared States acts of its legislature unconstitutional, as being in violation of the State constitution.

That theory was generally accepted in the Colonies, and it was accepted in the Constitutional Convention, that when it gave all of the judicial power to the Supreme Court it gave the same power that was possessed by State supreme courts in the then States of the Confederation.

Why, my friends, even under the Colonies—even under the Colonies the colonists denounced laws of King George as being in violation of their charters, and therefore unconstitutional, and they ignored many of them and refused to obey them because of their theory that they were unconstitutional because violative of their charter.

DOCTRINE IS NOT NEW

So this is no new doctrine. It has inhered in the body of the common law as claimed in the Colonies, it is in the Constitution itself, and it has the veneration of a century and a quarter of custom and practice in these United States. So when you hear these people say that the Supreme Court has no authority to declare an act of Congress unconstitutional, well, that is chasing a butterfly; that is chasing a will-o'-the-wisp; it is a power and a right established fundamentally in the law of this Nation, and recognized by every branch of the Government. So tonight I say to you that the proposal which is being urged, according to my mind, would undermine the independence of the Supreme Court.

PURPOSE BEHIND PROPOSAL

It is said that its purpose is to get rid of all Judges over 70 years of age, but, my friends, it doesn't do that. Every Judge who desires to remain remains on the Court, but additional Judges are appointed to the number of 6, until the total number becomes 15. So it is not for the purpose of getting rid of the old Judges—they may retire now. We just passed in the Congress a retirement law permitting Supreme Court Justices who have served 10 years and are 70 years of age to retire on full pay. That should have been the law all the time, but it wasn't. This situation might have been prevented had that been the law. But the old Judges do not or cannot be forced off by this act. So that is not the purpose.

Some of those who favor the proposal boldly declare that the real purpose is to put on six new Judges with preconceived opinions, with preconceived views, with preconceived conceptions about certain questions that are now pending before the Court or have recently been pending before the Court, and that the plan and purpose is to put those Judges on for the purpose of changing the complexion of the Court and reversing in the middle of the game while the players are on the field the courses of these decisions, and reversing the policies of the Supreme Court. [Applause.]

If that be the purpose—and that is what many of the proponents boldly declare—if that be the purpose, then that purpose would absolutely undermine and would destroy the independence of the Court. [Applause.]

BOOMERANG HITS BACK

Let me say to you tonight that if that should be done, that precedent will rise up to face us in all of the long years of the future. Let some reactionary administration obtain power, and it would immediately say: "The Democrats stacked the Court, and now we have as much right to restack as they have had, and we will thereby add enough Judges so that we will have a responsive Court, a Court that will do the bidding of this reactionary administration, and with the instrumentality of that Court we will overthrow and repeal by judicial enactment all of the liberal laws placed on the statute books by this administration in the 4 years that have already gone."

Do you want to establish that sort of a precedent? We may not be in power forever. The likelihood—in the history of American politics at stated periods the parties change, and whenever the other crowd gets into power they not only undo what is now proposed to be done, but they probably will perpetrate a more galling and a more obnoxious measure upon the people of that day and that generation.

Let me say to you, my friends, that this proposal, if adopted, is a mere expedient. It does not go down to the roots; it does not go down to the fundamentals. If this old Constitution of ours needs amending, let's amend it in the way that the Constitution says it should be amended. [Applause and cheers.]

The Constitution provides that it may be amended whenever an amendment is submitted by two-thirds of the two Houses to the States, either in convention or to the legislature of the States. About 3 years ago we passed upon a constitutional amendment of these United States. The people voted upon it; it didn't take a year to wipe out of existence the eighteenth amendment by a vote of the people themselves, and there is now no doubt at all as to whether that amendment is a part of the Constitution or not. It requires no Supreme Court to decide it.

PROPOSAL MERE EXPEDIENT

Let me say to you that this proposal is a mere expedient. It might result in a reversal of these decisions, and then another Court with added members could reverse them again, and we will have gotten nowhere. But if we submit a constitutional amendment so plain and so clear and so exact, as there can be no misunderstanding, no Supreme Court on earth can then fail to come to a clear decision as to the power of the Federal Government and as to the power of the States.

When I took the oath to support the Constitution, I took an oath to support all of it; I took an oath to support that part of it which says if you want to amend the Constitution, this is the way to do it [applause], and having sworn [applause]—and having sworn and promised that I will amend it in the legal, constitutional way, I am not willing to amend it in subterfuge or indirection or around the corner. I want to amend it out in the open before all of the people, in the white light of the public forum where all the world can see what we are doing and how we are doing it. And then when I do, I want a Supreme Court independent, owing no hope of reward, feeling no fear or threat from Congress, not under the control of the President, not under the control of the Congress, not under the control of anybody except their conscience and their integrity and their learning. [Applause.]

COURT INDEPENDENCE ASSURED

The independence of the Court is more important than any other aspect of this matter. And so when the Constitution makers came to make the Constitution, they took care to see that the Court was independent. They prevented the President from removing them. Congress cannot remove except on impeachment through charges. It provided that their pay could not be diminished by Congress; it provided that their tenure should be for life, in an endeavor to remove every temptation, in an endeavor to make them able to withstand pressure from whatever quarter it emanated.

They established this lofty great tribunal with the high impress of the Nation, in which these stupendous issues and these mighty questions might be litigated—for them, for the people. This Constitution belongs to you. Who made it? Why, my friends, the people made the Constitution. They made it when they ratified it, they made it when they fashioned it by their delegates at Philadelphia; they made it when they ratified it and confirmed it in their State conventions.

POWER BELONGS TO PEOPLE

Let me say here tonight that the power which the Supreme Court wields does not belong to the Court; it belongs to the people who put the power there in the Court through the Constitution. The power that the Congress wields does not belong to the Congress; it belongs to the people, because the people, when they adopted the Constitution, said, "We delegate to the Congress the power to make laws." The power which the President exercises does not belong to the President; it belongs to the people of the United States, who in their Constitution said in effect, "We will part with this power; we will delegate it to the President to be exerted—for whom?—not for himself, but for us."

And so, my friends, tonight the Supreme Court of the United States is the creature of the people. It is their instrument; it is their servant, and the power that it exerts is the sovereign and the majestic power of a mighty people.

Now, let us see—let us see; they derive every ounce of their jurisdiction from the power of the people in the Constitution.

I cannot vote and I shall not vote to impair or destroy the independence of that great Court that has in its keeping the rights of every citizen in this hall [applause] and the protection of those rights [applause]—and the protection of those rights against the Government itself.

Why, you haven't any rights if you cannot assert them against the Government. [Applause.] If the Congress can take away your rights, you have no rights; if the President can take them away, you have no rights; if the judges can take them away, you have no rights. And so here in this old Constitution of ours there are 41 prohibitions against the Government, 41 things which the Government cannot do to the citizens. How is the citizen going to secure the protection of those rights against the Government itself, unless he can go in yonder to an unbiased, to an impartial, to an unafraid, to a courageous, to a wise, to a patriotic, to an independent court that owes its seat and its tenure to nobody? [Applause.]

COURT IS GREAT AGENCY

My friends, the personality—the personality of the members of the Supreme Court is of little consequence. These old men that they speak of at most can only be here a short time; either by death or retirement they will pass away; but the Court—the Court is an institution; the Court must not be destroyed; it must survive; it must continue as a great agency of government for the maintenance of the rights of the people. [Applause.]

My fellow citizens, the independence of the Court is of far more importance to the guaranties in the Bill of Rights, to the constitutional powers of the States, to the proper boundaries of State and Federal authorities, too important to keep in check the Congress

and the Executive and the inferior courts, to destroy or to weaken or to impair its independence.

CONSTITUTION BASIC LAW

Ladies and gentlemen, America gave to the world its conception of a written constitution; the American Constitution is significant in the history of the world. It is a written constitution. In Europe, England has no written constitution. Most of the so-called constitutions of Europe are on a level with legislative enactments; they are not real constitutions in any sense; they may be altered or changed or repealed by parliament or congress at its will; but here in America the founders said, in effect:

"We want to put down in writing in a great solemn document the powers of government and the rights of the citizen which the Government cannot trespass upon", and so they put it down in writing.

My friends, with a written constitution how can those rights ever be maintained unless somewhere there is an authority to pass upon the acts of the Congress and the acts of the President, and to see whether those acts violate the rights guaranteed to the citizen. Suppose the Congress does something which the Constitution says it shan't do. If there is no court to stop it, why it goes on, and you have to obey. Suppose the President should do something—any President should do something that he had no right under the Constitution to do? Unless there is a court to redress your rights, what can you do?

FUNDAMENTALLY PLAIN

Why, my friends, it is absolutely elemental—it is so fundamental, it is so plain to everyone who knows anything of the history of the United States and its political and governmental institutions that it is remarkable that anyone should question the necessity—the imperative necessity—of a great Supreme Court to pass upon these vital questions.

A written Constitution cannot be maintained without an independent and a fearless Court. If the Court is under the influence of the Executive he might say that "This law that was passed, or this Executive act which I have done, must be upheld by you", then it would be upheld, whether it was in accordance with the Constitution or it was not. Do you want that kind of a system? Do you want to forsake the traditions and the history and the glorious record of America under our great constitutional system of 150 years and embrace the doctrine that the citizen and his rights shall be subject to the unbridled control of the Congress and of the Executive? I do not think you do. [Applause.]

DICTATORIAL GOVERNMENTS

Ladies and gentlemen, let me remind you. I spoke of European situations. In Germany tonight the citizens of Germany have no Supreme Court such as we have here to which the citizen may appeal for his life or his liberty. The Government of Germany is the absolute master of the lives and liberties of the people of that land. And you know the melancholy stories and the melancholy cries that come out from Germany. In Russia there is no Supreme Court such as ours to which the citizen can appeal for protection from the Government itself, and the result is that the citizen and his property and his liberty and his life are absolutely subject to the dictates of whoever is running the Government of Russia for the moment. You heard echoing across the Atlantic the rattle of musketry only a few weeks ago when scores of Russian citizens were lined up against a wall and shot by the military in a court-martial trial.

My friends, Italy has no supreme court to which the citizen may appeal like we may here against the force of the Government, and the result is that the Italian Parliament and the Italian ruler—the Premier—are the absolute autocrats of the lives and liberty and property of the people of Italy.

Do we want such a constitution here in America? The government is master; whatever it decrees is the law, regardless of constitution, because it has none except a statutory constitution.

I want to revert just a little bit now to say to you that here in America, that the Supreme Court is the only tribunal on earth that may say to the Government itself, "Thus far, and no further, may you go against your citizens."

A distinguished Englishman, the great historian, Buckle, once said of the American Declaration of Independence—listen at these words: "In 1776 the Americans laid before Europe that noble declaration, which ought to be hung up in the nursery of every king and emblazoned on the porch of every royal palace."

He was talking about the Declaration of American Independence. You know what that Declaration contains. Among the great list of charges which it lays at the feet of King George it says—in that Declaration one of the causes of the revolution against King George it says: "He has made judges dependent upon his will alone for the tenure of their office and the amount and payment for their salaries."

When Thomas Jefferson penned that great Declaration he remembered that King George held the judges in his hand, and said who might serve, and how long they should serve, and claimed the right to fix their salaries, and one of the things against which the American Colonists rebelled was a judiciary controlled by the King. And so, when they established this Government, the Americans, remembering the judiciary that was subservient to the British Government, King, and Parliament, set up this Court and made it independent and made it secure. They placed it so high that the hand of Congress could not reach it; they placed it in a position where the Executive could not sway it and could not influence it, leaving to them and their conscience and their duty and their patriotism to meet the great issues of that time.

DESTRUCTION MEANS DANGER

Now, shall we change that magnificent conception? Shall we in a moment of exasperation, because of a few decisions that do not suit us, destroy a great instrument that has been the glory of American jurisprudence and the glory of American life—an institution for 150 years? Shall we, in a moment of petulance, do that which in the years to come, yonder to your children, perhaps to your children's children, way down the road of this Republic, may rise up to damn and condemn us? I don't think we want to do that. [Applause.]

Just a little and I am done. Let me give you a little more history; let me give you a little more constitutional history, with which I am sure most of you are familiar, a history as it affects the liberty of the individual and the power of the Court to protect its citizens.

One of the greatest decisions in the history of America is the Milligan case. Milligan was a citizen of Indiana. During the War between the States he was a southern sympathizer, and he gave utterance to his sympathies. President Lincoln ordered him arrested by the military authorities. He ordered him hauled before a military court convened by the commanding general of the Department of Indiana. Milligan was tried by that Federal military court. He was sentenced to death. Finally, in 1866, or 1865, perhaps it was, his attorney sued out a writ of habeas corpus. It finally reached the Supreme Court of the United States. That Court held that he had not had the right of a trial by jury, one of the most sacred possessions of the Anglo-Saxon race. The Constitution says that a citizen shall have the right of trial by jury in Federal courts.

SUPREME COURT RULING

When that case reached the Supreme Court, Judge David Davis, a Republican, but a great and an honest man, rendered the decision in that case. It held that since Federal courts in Indiana were open during the entire time and were expected to have business transacted within them, that Milligan was entitled to be tried in a civil court and was entitled to a jury trial. It held that the trial before the military tribunal was void; that the action of the Executive was unconstitutional.

Here we have a brave, courageous Republican Court—Republicans, all of them—rising up and saying: "Mr. President, powerful as you may be, President of the great Republic, Commander in Chief of the Army and Navy, you are not powerful enough to order a private citizen, no matter how humble he may be, no matter how odious his conduct might have been, no matter how much passion and prejudice, Mr. President, you cannot command that that citizen be denied his right under the Constitution—a jury trial in a civil court, and be tried by a military tribunal." [Applause.]

BULWARK OF LIBERTY

Let me read you just a little of what Judge Davis said in that decision. It reads like a bugle call in the cause of liberty. Here is what he said—Judge Davis, in the course of the opinion of the Court, said: "The Constitution of the United States"—hear me now—"The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the whim of man than that any of its provisions can be suspended during any of the great exigencies of government."

There is a great Court unafraid of the President, unafraid of a Congress, unafraid of the powers of both of them, saying to the President and to a fanatical Congress, stirred by passion and hatred of the South, saying to both of them: "You have violated the Constitution. It is true that the man at bar has odium all over him, and he is humble; but he has a right, and that right is given to him by the Constitution of the United States, to be tried by a civil jury in a civil court." And Mr. Milligan's life was saved because the Court was brave enough to uphold the Constitution of the United States against both the President and Congress [Applause.] Thank God for such a Court; may we always have such a Court. [Applause.]

TO ERR IS HUMAN

Let me say here now that I don't pretend that I always agree with the Supreme Court. I don't. I think the Supreme Court has made mistakes. Do you know anybody that has not? I think Congress makes mistakes. I know many Presidents of the United States have made mistakes. My friends, of course, it makes mistakes; but because it makes mistakes is no reason for destroying it or impairing its opportunity to cure those mistakes and to administer its functions according to the law and its consciences and the Constitution.

Where is there any instrument in the world which is man-made which is not full of faults? We have no other people out of which to make judges except human beings. There is nobody else except human beings, and courts made up of human beings, just as Congress is made up of human beings, and legislatures, and Governors, and Presidents, and everybody else, are subject to making mistakes; and if those mistakes are honest mistakes, they may be corrected; if they are corrupt mistakes, the courts are open for their punishment, and Congress is open for their impeachment.

CIVIL RIGHTS BILL

Now, a little more history. Many of you don't remember personally, but you remember the history of that dark and dismal

period after the War between the States—that cruel period that we refer to as the days of Reconstruction. Let me remind you that the South had been disfranchised; its Members had been expelled from Congress. Its fair fields had been ravaged by war; its slaves had been freed. The courageous soldier that had carried the banners of the Confederacy had been required to take test oaths, denied the right to hold office, denied the right to vote; and the South was stricken with suffering; and a rabid majority in the United States Congress, led by that southern hatred, enacted the most oppressive and the most rigorous laws which all the deviltries of passion and prejudice could devise for the regulation of the South. One of those laws was called the civil rights bill. What did that law provide? It provided that anybody in the South who denied to colored people the same facilities in hotels and in boarding houses, and in theaters, and trains, or in any other public assembly, should be subject to a penal offense, and either to a heavy fine or to imprisonment in the penitentiary. If you refused to place yourself upon social equality with the colored people of that time and that period, you became a felon and a lawbreaker.

Of course, the law was unconstitutional, but Congress passed it. It was signed by the President, who said it was legal. Here we had the Executive and Congress approving this law. What happened?

Finally, they were able to get the case into the Supreme Court of the United States, and what did that Court do, though it was a Republican Court? It held that that act was unconstitutional and void; it held that that act invaded the rights of the States in controlling their own internal affairs and in regulating their police power.

COURT IS ATTACKED

Why, my friends, what did they do in Congress? They immediately in Congress demanded to destroy the Supreme Court because it had upheld the Constitution in favor of the South. There arose a demand that there be taken away from the Court the power to hold acts unconstitutional. And if President Grant had had his way the South would have had to live under all of that agony and suffering which no pen and no tongue can depict; and if the Congress of the United States had had its way, in spite of the Constitution, and in spite of the Supreme Court, the South would have had to live on terms of social equality with their recently enfranchised slaves, and to drag their women and daughters down to a life of infamy and degradation. But, thank God, we had a Supreme Court that said fearlessly: "Mr. Government, Mr. Congress, and Mr. President, you cannot invade the rights of the southern people; you cannot invade the rights of her private citizens; thus far can you go, and no farther." [Applause.]

CONTROL OF ELECTIONS

That is only one of a whole series of laws. They passed another law in Congress at that period providing for Federal control of elections within the States, and making it a Federal offense for State officers to do certain things. They wanted to control the election machinery of the South. Congress passed it and the President approved it; and the Supreme Court of the United States—again a Republican Court, but an honest Court, a fearless Court—rose up and said, "You can't do it, Mr. President; you can't do it, Mr. Congress; these people have rights that are put down here in the Constitution of the United States."

There were other cases—the test oath cases. Congress passed a law that every southern soldier must take a test oath before he could again be a citizen. That test oath required that he forswear his service in the Confederacy. He must either commit perjury or be denied citizenship; and the Supreme Court of the United States rose up and declared that act of Congress unconstitutional; yet, if Grant had had his way, and if the American Congress had had its way, the South would have had to live under this terrible and obnoxious law.

THE TRUE LIBERAL

Now, ladies and gentlemen, I hear much talk by so-called liberals. Everybody talks about being a liberal. Why, my friends, how any liberal would want to destroy the constitutional guaranties and the security of the Supreme Court I cannot understand. The Constitution of the United States when it was adopted was looked upon as political liberalism, the like of which had never been seen in the history of the world. Real liberalism means progress under law, and under the Constitution real liberalism means security to individuals of their rights against the power of government. But these so-called liberals want to confer more power on the Federal Government. That means more power over the individual and the lessening of his liberties and of his rights. I am a liberal. I claim to be a liberal. I have always since I have been in Congress voted for those measures which were regarded as liberal. But I am a liberal under the Constitution: I am a liberal under my oath to live under American institutions until we change them as American institutions require.

I want to ask these so-called liberals, suppose President Harding had requested the power to appoint six Federal judges on the Supreme Court. What would they have said? I say they would have denounced it from one end of this Republic to the other.

Suppose Mr. Hoover, Mr. Liberal, had demanded the right to add six new justices to the Supreme Court for the purpose of changing its complexion, what would you have said, Mr. Liberal? You would have denounced it, and have abused Mr. Hoover for proposing it.

Let me say to you tonight that if this thing is adopted, it will be a precedent which will be applied in the future to not only undo acts of Congress, but to heap added mistakes upon our heads.

COURT PROTECTS LABOR

I see in the press that some prominent members of organized labor are in favor of this plan. Let me say I am in favor of the man who toils—a legislative record of about 24 years, beginning here in this Chamber in 1901, reveals that during my entire career I have voted for those measures which secure for labor its fundamental rights—those humane measures which sought to secure to the man who toils a fair income and favorable working conditions, and the right to be heard in collective bargaining. Let me warn labor tonight, be not deceived; do not fear but what this sort of a precedent may rise up in the years to bring about your undoing.

What is the laboring man? Why, my friends, whenever you turn over to the Government the entire control of industry and labor, you turn over the control of the laborer himself. Tonight, in Italy, the man who labors takes a job at what the Government says he must get; he takes the job and works as many hours as the Government says he must work, and if he does not like the hours, and if he does not like the pay, he works anyhow—he works anyhow. Why? Because, in Italy, that laborer does not have these constitutional guaranties; because, in Italy, there is no supreme court that can say to the Government, "You cannot do this to this citizen—to this laboring man", because in Italy the Government is supreme, without a constitution but with a supreme head. Let me warn the laboring man that to increase the power of government over him is going to decrease his liberty of action in the years to come. Let me suggest to the laboring man; who, in America, is there anyone more than the laboring man who needs the protection of his rights in the courts?

Frequently the laboring man has nothing but rights; that is all he has. The rich and the powerful require no protection. They may secure by their power of wealth and influence protection without the aid of the courts. Only about 15 percent of our people are people of substance, or of wealth, or of means. Eighty-five percent of our people are practically without means; they have no wealth; all that they possess are these guaranties of individual rights; that is all they have to take to the courthouse, and if you take those away, or if you take away a great court in which those rights can be preserved and maintained, you are robbing the petitioner of all that he has. So, Mr. Laboring Man, and Mr. Liberal, ponder these things.

TRIAL BY JURY

Now, what is the need of the laboring man? One of the needs of the laboring man, and every man, is the right of trial by jury. This Constitution says here that he is entitled to a trial by jury. Why, if Congress should pass a law denying a trial by jury where can the citizen go except to the court to get it? But you will say nobody will deny the right of trial by jury. The Federal Government in the District of Columbia, and in several other cases, has denied the right to trial by jury. And only the Supreme Court secured the right to the petitioners in those cases. President Lincoln, in the Milligan case, did deny the right of a trial by jury, and but for the Supreme Court a citizen would have been hung without a jury trial.

Ladies and gentlemen, the Constitution says that it guarantees freedom from unreasonable search and seizure; but suppose Congress passed a law providing for unreasonable search and seizure, what redress have you except in the courts, and, if need be, in the Supreme Court of the United States?

The Bill of Rights says that no person shall be held to answer for a capital, or other infamous crime, except on an indictment by a grand jury. But suppose Congress or the President orders a citizen arrested and tried without an indictment, how can he get redress except in the courts, and, if need be, in the Supreme Court of the United States?

The Constitution provides that a person shall not be subject to being put twice in jeopardy; but suppose Congress provides by law that he can, how can he secure that right except in a court of law under the Constitution to secure the right which the Constitution gives him?

COURT PROVIDES SAFETY

It is provided that no citizen shall be compelled to be a witness against himself; but suppose Congress passes a law, or the President, through his military or judicial officers, undertakes to make him be a witness against himself, where can he get redress except in a court?

It is provided that a person shall be confronted with the witnesses against him; but suppose Congress passes a law that he does not have to be confronted by the witnesses against him, where can he get redress except in the law and in the courts under the Constitution which gives him that right?

The Constitution says that the nature of the accusation against him shall be made known to him. But suppose they do as they did in England 300 years ago, drag him into a star chamber, a secret court where he has no right to know the charges against him, where can he get redress except in the Supreme Court?

The Bill of Rights provides that excessive bail shall not be required, nor cruel or unusual punishment inflicted; but suppose Congress or the President changes that rule, where can the citizen

go except to the Supreme Court of the United States? Where will the laboring man go; where will the liberal go, when he has nothing to take to court except these rights that his Government and the Constitution of his Government give to him?

I will remind the press here tonight that the Constitution guarantees freedom of the press; but suppose Congress, or suppose the President, through his military officers, should undertake to limit the freedom of the press or to suppress the press, where can the press go except to the court, and if need be, to the Supreme Court, to secure its constitutional guaranty?

CONSTITUTION GIVES FREEDOM

I would remind you that the Constitution gives us the freedom of speech, the freedom to utter our thoughts, so long as we do not trespass upon the rights of another; but suppose an arbitrary Congress or Executive should limit the right of free speech, where could the citizen go to secure the assertion and maintenance of that right except to the highest court in these United States?

My fellow citizens, all of these rights—many of them which I have not mentioned here tonight but with which you are familiar—every one of them depends upon the Constitution of the United States. If any be violated by Congress, or, it may be, violated by the President, or if they be transgressed by military or other officers of the United States, the citizen has no tribunal to which to give appeal except to the honorable and impartial, and courageous, and independent, and patriotic Supreme Court of the United States. Praise God, that we shall always have that kind of a court. [Applause.]

DENOUNCES TRAVESTY ON JUSTICE

Let me say to the laboring man here tonight, and to these so-called Liberals, that a few weeks ago I sat in the Supreme Court room at Washington when they were handing down decisions. They read a decision in a case from the State of Oregon. The defendant in Oregon was charged with violating a State law called a law against syndicalism. He had been tried in Oregon and sentenced to 8 years in the penitentiary. What were the facts in that case? The facts were that he had attended a political meeting, a so-called radical political meeting; he had made no speech; he had said nothing to incite the people to violence or the breaking of the law; but they found his name on a list of membership of the organization under whose auspices the meeting was held; and on that kind of proof he was condemned to spend 8 years in the penitentiary under that law of Oregon. But what did the Supreme Court decide? I didn't know the case was on the docket, but I was glad to be able to sit there and listen to that opinion. It held that that citizen, humble though he might be, poor though he might be, had not had due process of law under the Oregon statute. It held that his trial without more proof than had been adduced was a travesty upon justice. It held that he had not been given due process of law—and he was liberated.

But, Mr. Liberal and Mr. Laboring Man, remember what might become possible in this Republic if there should ever be in power this same kind of forces that passed that kind of statute and undertook to enforce such a statute. A man who had committed no crime, who had uttered no unpatriotic statements, was condemned to languish 8 years in prison, and he was saved alone by the Supreme Court of the United States. [Applause.]

RESTRAINTS ON CONGRESS

Now, my friends, one other thing, and then I am done. The first article of the American Bill of Rights provides as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." During the days of the Colonies there were State religions in a number of those Colonies. In Massachusetts and in New England the people were hanging witches and sending them to their death. They were imprisoning poor, innocent persons on charges of witchcraft, taking from them their lives and their liberties; and so when our forefathers, from an experience with an established church and from the punishment of so-called witches, came to write this Constitution, they provided that in America every man and every woman should have the right to choose their own officers who should rule over them; that they should have the right to choose their own God, and they should have the right to select their own religion; nowhere should Congress ever by law pass any act affecting the establishment of a church or of religion.

That is one of the most sacred possessions of the Anglo-Saxon race and of the American people. Let me tell the people of America tonight there is no single creed, there is no single denomination in America that is not within itself a minority. Suppose—and you know what is happening in Europe; you know what is happening to religion in Russia; you know what is happening to religion in Germany; you know what is happening to religion in many parts of the earth—suppose a wild, rabid majority some day in Congress should see fit to pass a law giving some particular preference to this creed or that religion, what do you think could ever be accomplished to save your rights of freedom of worship and religion except to appeal yonder to the Supreme Court of the United States to make good your rights? [Applause.]

My friends, for myself, as an individual and as a public servant, I stand for the absolute right of every man and every woman to worship God according to his own fashion. I want him, whether he worships and temples his faith beneath the arched roof of a great cathedral or before the humble altar of the poor, to regard that as a right so tender and so sacred that the hand of no government, the hand of no executive, the hand of no congress shall or ought ever to be permitted to profane or to pollute it. [Applause.] My friends, the Constitution and the Court are all that stand between you and religious servitude, or the denial to you of religious liberty.

PEOPLE SHOULD DECIDE

In conclusion to you, my friends, let me say to you tonight that this question, according to my view, ought to be dealt with directly, and not indirectly. It ought to be submitted to the people of the United States. The great people of America possess an authority higher than the Constitution itself; the people, after all, are the residuary of every power of sovereignty. They have the right to unmake this Constitution. They had the right to make it; they did make it; they set forth its provisions; they assigned to the Court its function, and to Congress its, and to the President his function. Then they said we will reserve from all of you a vast domain of private, personal rights; those we save to the citizens; the Government cannot touch them; neither Congress, nor the courts, nor the President can touch them; and then, we reserve to the people certain governmental rights that the Government does not possess, and the States do not possess, and that are reserved to the people.

Then the people said we reserve unto ourselves the right to change this Constitution. No Congress has a right to change it. They said no President has a right to change it; no court has a right to change it. Only the people of these United States have the right to change that Constitution. [Applause.]

So, my countrymen, tonight, if the Congress does not possess sufficient or adequate power to deal with the problem with which we are confronted, let an amendment to the Constitution clearly and exactly outlining that proposed additional authority be submitted to the people of the United States themselves to be voted on at the ballot box.

PLATFORM DEMAND

Now, what did our platform say about that last fall? You remember the platform of 1936 yonder at Philadelphia. Many of you were there. I was there as one of your delegates. In that platform here is what we said: "If the social and economic program of the party cannot be solved by legislation within the Constitution, we will seek such power by clarifying amendments as will assure the legislatures of the several States and the Congress, each within its own jurisdiction, the power to enact those laws."

When we went before the people last November we told them in this platform, and we told them from the stump; I told them; other speakers told, that we were in favor of the social and economic measures of Mr. Roosevelt in the main; we were in favor of this great forward-looking, liberal program, and if we could not accomplish it under the Constitution as the Constitution now is, we would propose in Congress an amendment to the Constitution giving us the necessary and the adequate power. That is what we said to the American people last November, last August, last September, and last October, up to the November election, that is what we went before the country on.

STANDS SQUARELY ON PLATFORM

Ladies and gentlemen, I stand on that platform tonight, just as I stood on it before the election in November. [Applause.] Let these questions be submitted to the American people, where they may go to the ballot box, the humble citizen, and the powerful citizen, the citizen of poor finances, and the man of great wealth, the weak and the rich, and the humble and the great, all on an equality, where every man's ballot counts the same, and let the American people say whether or not they want this Constitution amended and Congress given the additional power which it may need to carry out this program.

Those tonight are my sentiments. I have a sublime faith in the people. If I did not trust the people, I would despair of democracy. If the people could not have been trusted, this Constitution would never have been fashioned. The people under it for 150 years have solved their difficulties and have risen to an eminence in the world, industrially, commercially, agriculturally, on the field of battle, and in times of peace, and have woven a history and a destiny unrivaled in all the ages that have passed over the earth; and tonight, if I could not go back to the American people and trust them to do the right thing I would despair for the future of my country. Let this matter be submitted to the people, and I shall cheerfully abide by their decision.

In conclusion, let me say, my friends, that, as to the Supreme Court, the conception of that Court in the Constitution, and the conception of it for 150 years has been that of a lofty, impartial, independent tribunal; not terrified by threats; not bought; and not prejudiced by money; a Court that acts without the hope of reward, and without the fear of reprisal; a Court which has for its only guidepost its own wisdom, its own integrity, its own convictions of duty to the Constitution and the law; a Court, my friends, that can hear neither the loud, coarse howls of the mob, nor yet the silent and commanding voice of a master; a Court, my friends, established by the people in their Constitution; a lofty, impartial tribunal. Before that kind of a tribunal I am willing to be tried; a tribunal to which I as a citizen, and you as a citizen, however humble, however weak, however obscure, may appeal and may ask the protection of the Court in those inalienable, unprejudiced, and unbought rights of an American citizen. I shall not vote to destroy either the independence or the integrity of such a Court. I thank you. [Prolonged applause.]

Nonpartisan Social Security League

EXTENSION OF REMARKS

OF

HON. JAMES J. DAVIS

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, March 11, 1937

STATEMENTS BY THE NON-PARTISAN SOCIAL SECURITY COMMISSION

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the RECORD two statements made by the Nonpartisan Social Security Commission, one under date of February 19, 1937, and one under date of March 8, 1937.

The Commission is studying the Social Security Act for the purpose of making suggestions for the strengthening of the organic statute, and is composed of Dr. Richard A. Lester, economist, Princeton University; Dr. Herman Feldman, professor of industrial relations at Amos Tuck School of Administration and Finance, Dartmouth College; William J. Graham, vice president, Equitable Life Assurance Society; Henry I. Harriman, Boston, Mass.; Samuel Reyburn, chairman, Retail Merchants' Committee for the Study of Unemployment Legislation; James J. Davis, United States Senator, Pittsburgh, Pa.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF THE COMMISSION

The Nonpartisan Social Security Commission, which was brought into existence by the Hearst newspapers, will attempt as a group of citizens who believe in social security to appraise the progress thus far made in Federal and State legislation in this field. Over a 3-months' period it will consider broad questions of public policy, examine reports, and hear invited witnesses who are qualified to deal with phases of the subject. The objective will be to make constructive recommendations for improvement of the legislation.

The need for revision is widely recognized among those friendly to social security. President Roosevelt in his message to Congress on January 6, 1937, said: "Another national problem is the development of our social security system, the broadening of the services it renders, and practical improvement in its operation. In many nations where such laws are in effect, success in meeting the expectations of the community has come through frequent amendment of the original statute."

Contemplating the need for revision, Congress itself, in section 702 of the Social Security Act, specifically directed the Social Security Board to study and make recommendations "as to the most effective methods of providing economic security through social insurance." In this same spirit, Gov. John G. Winant, who has just retired as Chairman of the Social Security Board, said, in his address at Silver Bay, N. Y., on August 19 last: "No one contends that the act is perfect as it stands. No legislation can be perfect from the moment of its inception. Changes will be made, and it is reasonable to assume that the Board itself will wish to recommend changes. But our purpose will always be to improve the act and increase the security for which it has already laid the foundation."

At the outset, the Commission feels that definite progress has already been made toward making social security a reality. The American people have been committed to a broad and humane effort better to meet the hazards of a fluctuating and highly dynamic economic society. Underlying the complex legislation relating to retirement benefits is the conviction that it is proper to take each year something of the output of goods and services by active workers and divert it to the needs of retired workers who have reached the age of 65 in consideration of the fact that in due course those contributing will themselves retire and likewise be provided for.

In considering the expense involved, it should be recognized that the burden was in the main already existent. What has been done is to devise a more humane and more systematic method for meeting and allocating the cost. In accounting terms, funds are being set up out of contributions in the form of taxes on employers and employees to allow for the inevitable depreciation and obsolescence of human beings engaged in productive effort. Heretofore similar funds have been created to take care of the wearing out and outmoding of inanimate factors in production—machinery and factory equipment.

Failure to include in the cost of production reserves against the ultimate unavailability of the individual worker constituted a mistake in social bookkeeping, which it is the intention of the social-security legislation to correct. A study of productive efficiency in this country through the decades shows a steady increase in output per worker. It has been computed that 43 men in 1933 were producing the volume of goods that required 100 men in 1899. Out of such further improvement in technical efficiency and out of the improved morale which may result from the operation of the Social Security Act, it would be desirable to meet the true economic cost of the benefits contemplated. Unless there is such further improvement in efficiency and productivity, then payments to retired and unemployed workers may result in a decline in the living standards of active workers. The cost of social security should constitute a first lien against the gains which will come from further elimination of economic waste.

This expectation that the country's persistent improvement in productivity may be able to absorb the cost of social insurance presupposes intelligent cooperation, among business management, employees, and government, to encourage the further development of efficiency through introduction of the fruits of science and invention.

Otherwise, the new burdens, in a static situation, would entail the mere transfer of part of present income from the workers to those who are too old to work and would constitute brakes on the American effort endlessly to raise popular living standards.

Since in the nature of things the cost of social security will be partly shifted to consumers of goods and services, it becomes equally desirable as an ultimate goal to aim to include all types of workers in the benefits contemplated. The commission recognizes the administrative difficulties involved in broadening the coverage but desires to emphasize that equity demands that the feasibility of bringing in the exempt classes should be closely examined. The commission will study this question, with the hope of making concrete recommendations.

The commission will also give attention to the question of reserves as provided in the law and to the growing movement to put the old-age benefit plan more nearly on a pay-as-you-go basis.

Insofar as unemployment benefits are concerned, the commission thinks it desirable that the public should understand that the provisions in this respect constitute no cure-all for unemployment but rather only palliatives. It is important to strive for economic security for workers primarily through employment rather than through unemployment benefits. The larger economic problem revolves around achieving a better balance in the internal economy.

Pending progress in achieving greater economic stability, unemployment benefits are socially useful in better spreading the cost of unemployment. The benefits provided, however, in the nature of things can give coverage only for a limited period of time, and in the case of those now unemployed only if they later become absorbed in gainful employment long enough to become eligible. In terms of the national economy, viewed as a whole, the scheme involves diverting part of the production of the gainfully employed to those who have been forced out of work. Partial, instead of full, employment of those subject to gainful employment falls short of the ideal economic situation, and formulation of unemployment benefits, though necessary and desirable, should not be permitted to slacken more fundamental efforts to find the basis for a healthy functioning of our processes of production and distribution.

In conclusion, we feel it important for the public to understand that the old-age and unemployment benefits contemplated, with whatever adjustments may be desirable, will still provide little more than minimum wages intended to obviate destitution for those withdrawn from the productive process. Accordingly, many ambitious persons, desiring a better standard of living, will undertake to supplement through private savings and insurances the benefits provided under the law. In addition, employers should be encouraged, wherever practicable, to increase social security old-age benefits with voluntary pensions.

The successful working of the social security project will depend on competent administration. Simplification and standardization are desirable to the end that the largest possible portion of the funds raised be used to provide benefits to those covered by the terms of the legislation. This involves administration of the Federal and State acts by persons selected and promoted in accordance with the merit principle under civil service.

The Commission will confine its initial statement to these broad principles. At succeeding meetings the Commission will consider various questions incidental to social security and will wherever feasible formulate conclusions and recommendations. These will be made known, not only to the Hearst newspapers, which brought this project into existence, but also to the press generally and to the public.

I. REDUCTION OF THE ACTUARIAL RESERVE

The Commission believes that the cause of social security will be strengthened by amending the sections of the social-security law dealing with reserves against old-age benefits. In providing for large actuarial reserves the act needlessly borrows a principle from voluntary private insurance. The Government plan provides for the automatic inclusion in the insured group of young workers, and therefore can be safely financed without accumulating so large a fund as now provided.

No single phase of the legislation has caused more apprehension to the friends of the law than the proposed building up of an excessive governmental fund. Approach to the pay-as-you-go

principle would enable the Government to deal more generously with those nearing the retirement age. At the same time, during the early years, taxes on employers and employees could be held at a substantially lower level than contemplated.

Furthermore, these proposed changes in the financial basis for old age benefits would involve a minimum of adjustment within the economic system, conforming more nearly to the realities. For pension payments to the aged would, in the nature of things, tend to constitute a charge on the current year's output of goods and services. Young and active workers, through the tax system, would consent to a deduction from their own production for the benefit of the aged, with the understanding that when they, too, reach the age of 65, they will be similarly provided for.

Accordingly, instead of the proposed reserve which may reach $30,000,000,000 in 1960 and a contemplated maximum of $47,000,000,000 by 1980, the Commission suggests a minimum contingency reserve no larger in amount than needed to assure carrying out of the plan even in years of depression when tax receipts might be expected to be subnormal. Authorities consulted by the commission have suggested that $5,000,000,000 would probably be adequate as a contingency reserve for the next 25 years.

Sweden, after 24 years of experience with a national pension system and a comprehensive survey of the problem, completely abandoned the full-reserve principle at the beginning of the current year. These recommendations of the commission are not only consonant with the Swedish experience but also with the trend in other principal nations carrying out social-insurance projects.

The Commission perceives hazards in the accumulation of a reserve of thirty, forty, or fifty billion dollars to be invested, as provided in the act, in Federal debt or federally guaranteed bonds in a manner that will yield at least 3 percent. Such a provision would tend to make an increase in the Federal debt mandatory and, to that extent, preclude the hope of a substantial net reduction of the national debt in periods of national prosperity.

The original argument used in behalf of the large fund was that interest-bearing Federal debt would in the later years provide 40 percent of the annual cost of old-age benefits. But provision of the interest would constitute a charge against taxpayers. Instead of this, if needed, such contributions could be taken directly out of general taxation.

Such a gigantic fund would be a constant temptation to reckless spenders in public office, and might be used in later years to keep a political party in power. Unless the Government spent the accumulated funds in such a way that the national income would be increased, the reserve would fail to perform an economic function.

A reserve as large as contemplated in the present provisions of the act tends to make the terms of social insurance rigid and inflexible, so that adjustments cannot readily be made to changes in the price level, the standard of living of the people, or the rate of industrial progress. It contemplates a static economic society, and seeks to foreclose the right of the people periodically to review the plan in the light of economic and social change. Such rigidity is unrealistic, and political experience at home and abroad demonstrates that the lawmaking body in future years would object to having its hands tied.

The contemplated large reserve is to be accumulated by levying higher taxes and paying smaller benefits during the next few decades than would be necessary if such a reserve were not provided for. Accumulation of a large reserve could be obviated either by postponing the tax increases scheduled to begin in 1940, or by augmenting the benefit payments to those now of advanced age so that each year most of the income from the current payroll taxes would be disbursed as benefits to retired workers who have reached the age of 65.

The Commission favors a combination of these two methods.

After sufficient experience, Congress can better decide how to offset the increasing annual disbursements without the present contemplated contribution of interest. If demands are to be made on the general taxpayer for contributions, such a change would be looked upon with more favor, if coverage is extended to exempted groups as rapidly as is administratively feasible.

II. INCREASE OF THE BENEFITS DURING IMMEDIATE FUTURE

The Congress has already recognized that workers already old and nearing the retirement age will not have time to contribute in taxes the full cost of their benefits. Thus, the principle has been adopted that others shall in taxes contribute to those now in the older groups. The Commission feels that this is a proper social policy and in the circumstances thinks that such special situations might well be cared for out of general taxation, rather than exclusively out of pay-roll taxes. In any circumstances, it recognizes a hardship in postponing benefits until 1942. Likewise, it considers the benefits provided by the present act in the early years as insufficient. Average benefits in the early years should be raised to a basis more nearly comparable to that provided in the act for those who would retire at 65, 25 or 30 years hence. This sensible change will lessen the danger during the next two decades that might come to the act because benefits are low or not fairly comparable to benefits provided by noncontributory old-age assistance.

Such revisions would put social security on a stronger foundation and in turn relieve general taxation of the burden which otherwise would come through increased noncontributory old-age assistance. Whatever basic benefits it is found economically feasible to adopt on a broad national scale, it will be to the interest of employers as well as workers to consider voluntary pension plans, financed by employers and workers, as a supplement to the national project. The Commission recommends that employers and workers, through business management, labor unions, and other interested organizations should give their prompt and serious attention to this problem.

The general taxpayer has a real stake in the social-security program, since, as the President's Committee on Economic Security computed in 1935, the successful operation of the old-age benefits program by 1980 should hold down public expenditures for old-age relief to less than 40 percent of the amount they would have reached by that date had the present contributory program not been established. A properly conceived social insurance plan does not necessarily create new burdens on society but provides for a fairer and more systematic handling of old obligations.

III. PROTECTION OF PENSION FUNDS AND RESERVES

The Commission recommends that a definite accounting procedure be adopted by the Federal Government to earmark receipts intended for old-age benefits which exceed disbursements in any fiscal year. If pay-roll taxes exceed benefits and are used to meet expenses of the Federal Government or to retire outstanding debt, such sums should be set up definitely and clearly as liabilities in the financial statements of the Federal Government. There should be developed bookkeeping methods so that the people might visualize the mounting costs of old-age benefit payments assumed by the Federal Government.

The Constitution and the Courts

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, March 11, 1937

ADDRESS OF HON. JAMES A. FARLEY AT MEMORIAL HALL, UNIVERSITY OF NORTH CAROLINA, CHAPEL HILL, N. C., UNDER AUSPICES OF THE CAROLINA POLITICAL UNION, A STUDENT NONPARTISAN ORGANIZATION, ON MARCH 9, 1937

Mr. REYNOLDS. Mr. President, on Tuesday last at Memorial Hall, University of North Carolina, Chapel Hill, N. C., the distinguished and able Postmaster General, Hon. James A. Farley, delivered an interesting and timely address devoted largely to a discussion of the President's proposal regarding the judiciary and the Supreme Court. The address is well worth perusal, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Party politics in this great country of ours is a fairly complex matter. The question is constantly arising as to where politics ends and patriotism begins. The answer is, of course, that while loyalty to the party is essential, the welfare of the Nation is preeminent. However, that situation arises only when the two cannot be reconciled.

It will be observed that whenever a prominent party man, for any reason, wishes to abandon one or more of the policies of his party, he immediately proclaims that while he is still true to the party, his higher duty impels him to vote the other way. We had some conspicuous examples of this in the campaign last fall. I do not think—and the 11,000,000 majority attained by the Democratic candidate confirms that view—that pure patriotism was the compelling reason in these cases in determining how these gentlemen chose as between President Roosevelt and Governor Landon.

There is another element in the question that deserves some attention. How far is a citizen justified in striking out on a path of his own, diverging from the course determined by those who are directing the party policies?

I think that the Democrats of this country pretty well answered that question also in the election. Though two eminent men to whom the party had given the highest honor in its gift came out against the President, the latter was given the largest majority in the party's history when the votes were cast. So I think we can take it for granted that Mr. Plain Citizen may be depended on to make up his own mind in such a matter as the judicial reorganization, which is the subject of controversy just now. I have no doubt in the world that if the matter could be put to popular vote, the President would be sustained and those people of his own party who oppose his plan would find themselves as lonesome as did the others who cast their lot with the Liberty League last November.

Apparently the opponents of the plan desire to make it appear incredibly intricate. It is only intricate because of the strained interpretation they insist on giving it.

It seems to me that the incident of the reorganization plan comes directly into the class of those matters on which party

loyalty should be the guiding principle. Here is no matter of new national policy. Those who are most vehement in their objections to the Congress changing the law in regard to the number of Justices who comprise the Court all admit and agree on the necessity of some remedy for present conditions. Repeatedly Congress has enacted legislation for economic betterment. This has been in accordance with the program that saved this country after the crisis that came with the advent of President Roosevelt to the White House. For 4 years the Nation functioned successfully under his program. During this time several of the vital elements in the process of regeneration were destroyed by the high Court's decisions—usually the decision was by a divided Court. Not infrequently the vote of a single Justice has killed the effort of Congress and the Chief Executive. Under the present administration, and because of the President's policies, the country has steadily regained prosperity. Last year the whole Nation had the opportunity of registering its view of the merit and righteousness of those policies. The result was the hugest endorsement received by an administration since the earliest days of the Republic.

It seems to me indisputable that the progress would have been more rapid and the recovery more complete had there happened to be a liberal instead of a reactionary majority in the Supreme Court. In other words, if there had been one additional Justice whose viewpoint was that of Chief Justice Hughes, not to mention Justices Brandeis, Stone, and Cardozo, we would be further along the road to total recovery than we are today. Incidentally, it seems probable, had that condition obtained that the present controversy would never have reached the present acute stage.

Obviously, sooner or later, the Congress would have had to take up the question of a retiring age for Supreme Court Justices. It is perfectly true that among the members of the Court are some elderly men who have preserved their clarity of thought and receptiveness to new ideas and hospitality to changing conditions. Fortunately or unfortunately, there exists no power under the Constitution for anybody to pick and choose among them—to weed out those whose predilections or prejudices have put them out of step, and retain those others whose mental processes are not frozen by their years.

Nearly all the justices of State courts are subject to retirement at a certain age. In practically all businesses there exists the principle of an age limit for executives. But the Supreme Court is appointed for life; its members, each for himself judges when his years of usefulness are over, when he is no longer capable of giving perfect service. There has recently been enacted a law under which every Supreme Court Justice who has reached the retirement age is at liberty to leave the bench on full salary for the remainder of his life. But it is optional with him whether he avails himself of this privilege. He can remain an active member of the Supreme Court wth undiminished authority if he lives to be a hundred years old if he so elects.

However, the fundamental issue involved in this controversy transcends the question of the age of the members of the Supreme Court. After all, this is a matter of relativity.

Some men are stand-patters at the age of 35 and live the remainder of their lives entirely in the past, while other men seem to never grow old and march in perfect harmony with the ideals and aspirations of a changing age. Your own distinguished BOB DOUGHTON will never grow old.

We recognize, however, in every business occupation and profession the necessity of refreshing from time to time the full maturity of old age with the vigor and strength that comes from the transfusion and stimulation of younger blood.

I doubt if any thinking person believes this to be a proper system, but, as the Constitution provides a life tenure, it must remain as it is until or unless it is altered by the slow, tedious, and uncertain process of constitutional amendment.

There are pending, or proposed, laws of immense importance to the progress of complete recovery, and what is perhaps of greater consequence is the necessity of putting a period to the recurrent clashes between employers and labor that are constantly interrupting our national economy and, incidentally, enabling us to correct the unemployment situation with its attendant obligations of billion-dollar expenditures for national relief.

Nobody knows, though many fear, what will happen to these measures when they reach the Supreme Court. A constitutional amendment, 5 or 10 years hence, would not take care of these enactments. The President's plan is based on precedent perhaps as sacred as the Supreme Court's title to declare laws invalid. The latter, though there is no word in the Constitution granting this authority, is hallowed and buttressed by more than a century of tacit acceptance.

One great trouble about such controversies as have arisen out of the President's proposal to modernize the Supreme Court, as part of the general project to clear the Federal tribunals of the log jam of pending legislation and do away with the terrific delay of justice, is that we too often become intemperate in our arguments. A stranger to our habit of violent expression, hearing for the first time the declamations of those opposed to the program, might suppose that Franklin Roosevelt was really aiming at absolutism; that he purposed smashing American traditions, destroying our system of government, wrecking the Constitution, and making himself supreme and permanent dictator of our country.

I suppose it might be urged that some of the administration's supporters are equally at fault for attributing unworthy personal or political motives to those who are attacking the reorganization plan. Perhaps there is a measure of truth in this, but it seems to me that we have the best of that argument. Almost without exception, those who are most fiery in their opposition have in the past complained most earnestly against the condition the President proposes to remedy. Indeed, Attorney General McReynolds under the Wilson administration directly recommended the enactment of a law providing for additional justices at least of the lower Federal courts, in the event of those who had reached the statutory age failing to retire.

Back in 1913, Attorney General McReynolds, then aged 50, discussing the refusal of some judges to avail themselves of the retirement privilege, said: "Some have remained upon the bench long beyond the time when they were capable of adequately discharging their duties, and the administration of justice has suffered."

And now Justice McReynolds, of the Supreme Court, is 74 years old.

For that matter, Chief Justice Hughes, when he was being solicited to run for the Republican Presidential nomination, which finally went to Mr. Hoover, explained that he was 65, too old, he considered, for a Presidential candidate. That was nearly 10 years ago. The interview recording this interesting view was published in the New York Times of May 21, 1927.

I was referring, however, not to the Justices themselves but to the senatorial leaders of the opposition to the plan. None of them suggests that Congress is going outside its constitutional function by adding to the membership of the Court. There are many precedents to this course, but they object to the purpose of the addition. They call it "packing the Court."

The inference is that President Roosevelt is contemplating a wicked thing—the naming of Justices who are friendly to his own views. It is interesting in this connection to turn back to the pages of another incident of senatorial activity. I refer to the debate on the appointment of Charles Evans Hughes by President Hoover to be Chief Justice. Senator BORAH at that time declared that the Supreme Court becomes "the economic dictator of the United States." He likewise said he opposed Mr. Hughes' appointment because "I do not want to strengthen the viewpoint of the majority" (of the Court).

My young friend Senator CARTER GLASS and my old friends Senator WHEELER and Senator CONNALLY, now recorded as among the opponents of the President's plan, expressed similar views on that occasion. TOM CONNALLY accused the prospective Chief Justice of having "already written his verdict" in cases involving great corporations. BURT WHEELER called on all Democrats to oppose putting on the bench "a man whose economic views are those of the great combinations and trusts", and CARTER GLASS recited that the Supreme Court "has gone far afield from its original function and has constituted itself a court in economics and in the determination of social questions rather than in the interpretation of statutes passed with reference to the Constitution itself."

Chief Justice Hughes did not come up to the wicked eminence attributed to him, but the Senators are still of the same opinion as to the evils of the Court as now constituted. But a question naturally arises: There may be a difference in principle between trying to keep a jurist off the Court because of his supposed individual views and a President's appointing jurists who think along his own lines. If the difference exists, it is a pretty fine distinction.

All of these Senators agree with the President that the majority of the Supreme Court have not kept pace with the times, but are wedded to opinions of a bygone day. It is not a question of definite law that is involved in the decisions that have given rise to the present situation but a matter of individual viewpoint.

For example, there was the decision declaring the Agricultural Adjustment Act unconstitutional. Justices Stone, Cardozo, and Brandeis upheld the act. Six other Judges declared Congress had gone beyond its powers. In other cases involving social or economic legislation the Court has divided 5 to 4, which means that the vote of a single Judge has nullified the law enacted by Congress and signed by the President. Is anybody going to contend that these decisions rest on any bald, determinable, legal definition? Isn't it obvious that where the most eminent jurists cannot agree on an interpretation, the decision is made because of the individual sentiment for, or prejudice against, a particular policy? I mean no aspersion or criticism by this. Undoubtedly each Justice voices his sincere view.

It merely happens that five of our nine Supreme Justices have a different philosophy from the other four; a philosophy that is not in accord with the majority sentiment that is supposed to govern the policies of the United States. Perhaps this is a heritage, at least of some of them, from their days as practicing attorneys. Then they had the great combinations of capital as their best clients. It is not remarkable that a lawyer who has devoted most of his life to protecting such interests carries his habits of logic into his later years. His task has been to construe the law as his clients would have it construed. In any close point it is natural for him to give the benefit of the doubt to the conservative side. This, and the natural revulsion of most people of advanced years against innovations, is sufficient to explain the nature of recent decisions that have disappointed forward-looking citizens. They are more inclined to seek an excuse for continuing things as they are than to look for a reason to justify a departure, however slight.

What I have in mind was said by Justice Stone in his dissenting opinion in the A. A. A. case. He expressed the view that such a construction as the majority had made "is far more likely in the long run to destroy our Union than the frank recognition that language even of a constitution may mean what it says."

I have gone rather far afield from my discussion of where party loyalty should begin and end. What I have been trying to say is that in my opinion certain members of my party have taken the wrong angle in combatting the legislation suggested by the President. They agree with his diagnosis of the evil of the existing situation in the Supreme Court but fight against the method he offers to cure the evil. I have not heard from any of them an adequate alternative to his constitutional proposal. Congress has frequently varied the number of Supreme Justices. The Court has consisted of 5 members at times and 10 at others. It has been increased or diminished ordinarily because Congress was dissatisfied with the Court's attitude and wanted men of another mode of thought on the bench.

Because of certain fears they have expressed, they suggest instead of the President's solution of the difficulty a constitutional amendment. We have been trying for 13 years to overcome the Supreme Court's decision on the Child Labor Act with a constitutional amendment and haven't yet got within hailing distance of the requisite confirmation by three-quarters of the States.

Quite apart from the element of long delay, the amendment process is subject to several important objections. First comes the difficulty of framing an amendment that would reach the trouble. There have been scores suggested, ranging from the thought that the Court should not be permitted to knock out any law except by a 7-to-2 vote—the exact number varies in different proposals—to granting authority to Congress to overrule a decision by a two-thirds vote. Agreeing on an amendment is the first hurdle. Then comes the thought that an amendment once imbedded in the Constitution is there for all purposes. The "due process of law" clause reenacted in the fourteenth amendment to take care of the rights of the freed slaves was never expected to be invoked in such matters as labor legislation or farm legislation, for those problems had not arisen in 1866. An amendment that proves impractical or inadequate can only be changed by the elaborate processes of another amendment.

The authority which is being asked for the President to nominate additional judges—in the event that those over age chose to remain on the bench—on the contrary, can be altered or revoked by a simple act of Congress. This, I think, answers one expressed fear—that some President might abuse his power. As a matter of fact, any such abuse of power would have to have the connivance of the United States Senate. That body, by a simple majority vote, can veto any or every appointment.

So it seems to me that members of my party who refuse to go along with the President in his effort to continue the policies that have been so overwhelmingly endorsed in every election since his advent to the White House are straining at a gnat. I say this without questioning the sincerity of their position.

As to the Republican Party, they are merely seeking the repeal of the 1936 election. They lost before the voters; now, they are trying to win in Congress. The judicial reorganization bill is a Democratic measure; consequently it is opposed by all of the old-line G. O. P. leaders. If they are able to defeat this measure, they will have made a start in their campaign to break down the prestige of Franklin D. Roosevelt. In so doing they see a hope of lifting their own outfit out of the disorganization and dismay under which it now labors.

They are not going to succeed. The country is behind the President as firmly as it was last November, and I am inclined to feel sorry for those of my friends who have so misread popular sentiment as to place themselves in the position of aiding a Republican effort to climb back to power.

Your own great State testified 4 months ago to its confidence in President Roosevelt. That confidence was not only in his sincerity, patriotism, and ability, but in the efficiency of the methods and policies that have brought our country out of a hideous depression and put us back on the highway to prosperity.

I would suggest to you that you go out and talk to your own neighbors and learn from them how much attention they are paying to the charge that Mr. Roosevelt is trying to make a dictator out of himself.

Let them tell you if they believe that the President, for whom they voted so enthusiastically, is endeavoring for some undisclosed reason, to destroy our system of government.

I am quite sure, on the contrary, you will find that your farmers, industrial workers, and citizens generally are quite aware of what is going on, and that they are perfectly satisfied that the President never in his life had any other thought than to make our Nation safe and do his absolute best for all the people.

They know that he has patiently sought a way out of the blockade that has resulted from the present economic complexion of a majority of the Supreme Court. They agree he has found an absolutely constitutional method of insuring that liberal laws will have a chance of impartial consideration by that tribunal. And that is all he seeks. The judges he appoints—if they are confirmed by the Senate—will be lawyers of known ability and standing—anything but the wild-eyed theorists pictured by those who are fighting reorganization. Indeed, could anything be more absurd than the thought that any unfit man could successfully run the gantlet of the Senate? Moreover, they are bound to be men of such intellectual and ethical quality as to make it supremely ridiculous to think that they could be dictated to in their interpretation of the law—by the President or by anybody else.

"Packing the Court" may seem like an attractive slogan to influence the unthinking. But it would mean, in the sense recent orators have given it, packing the United States Senate as well, and one packing would be as impossible as the other.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. JOSEPH T. ROBINSON
OF ARKANSAS
IN THE SENATE OF THE UNITED STATES
Thursday, March 11, 1937

ADDRESS OF HON. ROBERT M. LA FOLLETTE, JR., OF WISCONSIN, AT THE CONVENTION OF LABOR'S NONPARTISAN LEAUGE, MARCH 8, 1937, WASHINGTON, D. C.

Mr. ROBINSON. Mr. President, I ask unanimous consent to have published in the Appendix of the RECORD an address delivered by the senior Senator from Wisconsin [Mr. LA FOLLETTE] at the Convention of Labor's Nonpartisan League, March 8, 1937, at the New Willard Hotel, Washington, D. C., on the subject of the proposed reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

President Berry, representatives of Labor's Nonpartisan League from every State in the Union, and my friends, I consider it a great privilege to have the opportunity to be with you here today and to discuss with you an issue which is now being joined in this country in the most important struggle in the history of this Nation since the Civil War. The Senate Judiciary Committee opens hearings this week on President Roosevelt's program of judicial reform. Congress must decide whether this proposal shall be passed and judicial usurpation curbed so that the will of the people may become the law of our land.

In this coming legislative struggle the strength of popular democratic government in America will once more be pitted against the organized forces of reaction.

The same groups that fought President Roosevelt so bitterly last fall in their vain attempt to regain their former control over the Federal Government and strengthen their economic power over the people are fighting him on this issue of court reorganization. They were repudiated by an overwhelming majority of the people last November, but they have not surrendered. They seek to frustrate the popular will by raising false issues designed to rally support behind the majority of the Supreme Court, dominated by the out-worn economic beliefs of a generation that is dead and gone. [Applause.] This majority by a tortured construction of the Constitution has impaired the legislative power of Congress.

Already a great hue and cry has been raised throughout the Nation protesting that the Supreme Court of the United States is a sacred institution, above criticism, and beyond constructive reform. The lawyers who live off their Liberty League clients have come flying to the defense of their meal tickets, and their bar associations have been working overtime in organizing the attack upon the President's program. The newspapers have taken up the cry of "dictator" again, and the entire anti-New Deal propaganda machine is running night and day at full speed.

In this hubbub it is important that the will of the great silent masses of our citizens be not overlooked. When it comes to noise, the reactionaries can put on as good a demonstration as anyone, but the will of the American people is not expressed in noise or in propaganda. The Republicans found that out last November, and I do not think that there are many Members of Congress who are fooled by the clamor raised by minority groups on this question of judicial usurpation. Yet it is important that the common people of the Nation make sure that their voice is heard, and to that end I feel that groups such as yours can provide opportunity for the rank and file to express their sentiments on this fundamental issue.

Labor's Nonpartisan League has already rendered distinguished service in emphasizing the increasing importance of sound political action in the workers' struggle for social justice. I sincerely hope that it will lend its active influence and leadership on this occasion in pointing out in concise terms just where the great mass of working men and women, whom it represents in part, stand in respect to President Roosevelt's program for judicial reform.

Organized labor has made substantial progress in this country by means of political action, but every inch of the way is stubbornly challenged by the social philosophy of a day when strong social control of our economic system was thought by many to be unnecessary. In the past the frontier offered an avenue of escape for the oppressed and unfortunate; the economic opportunities of an expanding nation with an abundance of natural resources were so great that they were in a very real sense available to almost everyone. There seemed, to many, in that day to be enough wealth for everyone to use, steal, or exploit as he pleased without doing serious injury to his neighbors. Society was tolerant of property rights when everyone could enjoy them to some

extent equally. But that day, my friends, is passed. The frontier is gone. When a man steals or exploits property rights today he is sinning not only against nature and the principles of Christianity but against his neighbor as well. This Nation is no longer a loose-jointed, overgrown agricultural community made up of more or less self-sufficient, independent units. America of this day is a complex interdependent society in which the production and distribution of wealth is a very complex business.

The vast majority of the people today realize this, and they know that a great deal of social control is necessary to keep the mechanisms of production and distribution functioning and thus to prevent the complete collapse of our economic system.

President Roosevelt during the past 4 years courageously launched the Federal Government upon a program designed to stimulate the forces of economic recovery and to restore harmony to an economic system which had been allowed to run itself into the ditch under the do-nothing administrations that preceded him. [Applause.] On three separate and distinct occasions the American people have solemnly expressed their approval of the President's general program at the ballot box. They know that government is the only instrumentality which can bring order out of the chaos produced by the laissez-faire doctrine of economics; they know that the Federal Government is the only agency which can solve the pressing problems of our day and generation.

But although the people who sense the problems that face them today realize this, the councils of the older generation, schooled in the thought of a bygone day, do not. I know that there are some men past the age of 70 who are mentally still young and vigorous, but they are the exception and not the rule. When a man passes the age of 70, the chances are that he has lost the sympathetic understanding of the present time and the vital appreciation of its problems that is absolutely essential in the equipment of a judge.

When a majority of the highest Court in this land, one of the three coordinate branches of the Federal Government, stubbornly cling to an outmoded philosophy which the people of the country have emphatically repudiated it is a threat to a functioning democracy. These Judges are the "lame ducks" of our courts today. [Applause and cheers.] Their social philosophy has been repudiated by a new generation, but they hang onto their jobs by virtue of a life tenure in office provided by the Constitution and a long life. [Laughter.] Six of the Justices of the United States Supreme Court today are over 70 years of age and five of them are very near or over 75. Not one of them is under the age of 60. Yet the active work and struggle in this Nation, as in the world today, is carried on by men and women between the ages of 20 and 60. Society generally recognizes the merit of retirement in old age. Many universities require their teachers to retire at 60, 65, or 70. Most corporations retire their executives in their sixties and retire their workers without pensions between 40 and 50. [Applause.] So far in this discussion I have heard little objection raised to the application of President Roosevelt's judicial reform to the lower courts. Why not apply it to the Supreme Court?

The answer is that there are some people who fear that to do so will change the temper of the Supreme Court's opinions, and I am here to state that I, for one, hope that it will do so. [Applause.] I am convinced that the overwhelming majority of the American people share that same hope. We want a court that is in touch with the problems of this present generation, a court that will recognize that the Constitution is a living instrument, a court that will stop using the Constitution as a means of preventing the legislative and executive branches of the Federal Government from enacting legislation which a majority of the Court is opposed to, not for constitutional reasons but for economic and political reasons which they individually hold. [Applause.]

There is no need for me to recite to you what has happened to some of the most important labor legislation written into law by Congress and the States in the last several years. You know the stand the Supreme Court took on the National Industrial Recovery Act and its governmental controls over hours, wages, and conditions of labor. You know what happened to the Guffey Coal Act, the Railroad Retirement Act, the New York State minimum-wage law. Who can tell but what the same fate awaits the National Labor Relations Act, which offers the support and cooperation of the Federal Government to workers who want to avail themselves of the inalienable right to independent organization and collective bargaining? What will the Court do, I ask, with the Social Security Act once it gets a crack at it?

But organized labor is not the only great group of American citizens that has a stake in securing greater understanding and appreciation of present-day problems in the Supreme Court. Read for yourselves the majority and minority opinions of the present Court on the problems which mean food, clothing, shelter, and happiness to the average man, and then I challenge you to try to figure out what action the Federal Government can take within the limits of those decisions to solve these great problems.

The American people are not fundamentally interested in theories; they are interested in results. The collapse of the democratic governments in other countries should serve as a solemn warning to those who really believe in that form of government. These governments were discarded because for one reason or another they were impotent. If a majority of the Court is permitted indefinitely to throttle the legislative branch of the Government, and thus block all effective means of meeting the grave economic problems of today, I say it can happen here. [Applause.] Conscientious and intelligent statesmanship demands that we find ways and means to make our form of government work, so that it can solve the problems of minimum wages, collective bargaining, social security, crop insurance, soil erosion, unemployment relief, housing, flood prevention, conservation of our natural resources, and a more equitable distribution of our annual wealth as it is produced from year to year in this country. [Applause.] As long as a majority of the Supreme Court stands athwart the will of the people and obstructs the working of democratic government, it is inviting the break-down of our economic system and the ultimate destruction of our form of government by revolutionary changes.

The stalling of our Government on dead center by judicial fiat in recent years is not a defect in the Constitution itself; it is a defect in the Supreme Court. [Applause.] We do not need to amend the Constitution. It did not enact any particular economic system. Justice Holmes was once impelled to remark sarcastically that the fourteenth amendment did not enact Mr. Spencer's "social statics." I might add, neither did the Constitution. The Constitution is a flexible document prepared by men with great vision, who prophetically foresaw the need for allowing each generation the right to solve its own specific social and economic problems. Edmund Randolph, who wrote the first and the basic draft of the document, explained in the opening statement of his manuscript that it was his purpose "to insert essential principles only lest the operations of government should be clogged by rendering those provisions permanent and unalterable which ought to be accommodated to times and events."

The need today is not to amend the Constitution but rather to amend the Supreme Court. [Applause.] The Court is both out of touch with the problems of twentieth-century America and out of harmony with the Constitution itself. In its exercise of the judicial veto it has taken unto itself powers which it was never intended to have by the founders of our constitutional government.

Article I of the Constitution specifically provides that "all legislative powers herein granted shall be vested in the Congress of the United States." The men who framed that document never dreamed that legislative measures of Congress would be undone by judicial veto. Proposals to give the Supreme Court even a limited veto over legislation were overwhelmingly rejected by the Constitutional Convention on four separate occasions.

There is considerable conflict, I grant, among historians and jurists as to whether the power asserted by Chief Justice Marshall in the case of Marbury against Madison of refusing to enforce the acts of Congress because of declared unconstitutionality was not itself an act of judicial usurpation. However, it is sufficient to say that the storm of protest that arose in this country against that doctrine was so overwhelming that never again in his lifetime did John Marshall dare to apply it. In fact, he even suggested that Congress be given the power to overrule the decisions of the Supreme Court.

Thomas Jefferson spoke plainly when he said: "It has long been my opinion, and I have never shrunk from its expression, that the germ of dissolution of our Federal Government is in the judiciary—the irresponsible body working like gravity, by day and by night, gaining a little today and gaining a little tomorrow, and advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped."

Speaking at Madison Square Garden as an independent candidate for President in 1924 upon this great issue of judicial usurpation, my father had this to say in part: "Even when we have gone through the difficult and expensive process of amending the Constitution in a particular respect, as in the case of the income tax, the amendment finally adopted, as in that case, may be interpreted by a majority of the Court entirely opposite to the intention of Congress.

"Other civilized countries adopt as a mere matter of legislative routine these remedial and corrective laws, but we can enact such laws only after many years of delay incident to securing a constitutional amendment with all the expense and labor involved, and very often five men on the Supreme Court bench succeed in defeating such legislation forever."

I quote further: "Now, it is obvious that a remedy for this condition must be found. No government can long survive if, through the medium of a king, a court, or any other sovereign power, the will of the people represented in the lawmaking branch of their government can be arbitrarily and finally defeated." [Applause.]

His words, I submit to you, uttered nearly 13 years ago, are as true today as when they fell from his lips. Economic events and decisions of the Court only serve to reinforce the overwhelming evidence proving every line of my father's statement to have been based on the truth.

When the Court again asserted its alleged power to declare the acts of Congress unconstitutional, it was in the Dred Scott case, 50 years after Marbury against Madison. It took 4½ years of civil war to settle the issue which the Dred-Scott decision threw into the faces of the American people. Later when the Court tried to assert this doctrine of judicial veto in the *Legal Tender cases*, President Grant appointed two new Justices to the Court and the decision was reversed.

The idea of an unchecked veto power in the hands of the Supreme Court has been accepted only over the last few decades. It has been built up by corporation lawyers who have tried to secure from the Court protection for their special interests and their clients which they could not secure from the people of this country. [Applause.] It has been indoctrinated into our schools and forced into our thinking with the same deliberate direction as the propaganda of the public utilities. If Congress

continues to yield to this false doctrine it will have betrayed the people into the hands of a judicial oligarchy governing for property rather than for humanity. [Applause.]

I was brought up to believe in a government of laws and not of men, and all of us here today respect the Constitution under which our democratic government has been established. But when the validity of our laws is subject to the whim and caprice of five out of nine fallible old men who feel they are responsible to no one but themselves, and when a majority of the Court is accused by Justice Stone, joined by other minority members of that body equally devoted to the Constitution, of adopting "a tortured construction of the Constitution" for the sake of reading into it their own "personal economic predilection", the judicial veto becomes a government of men and not one of law. [Applause.]

Take the case of minimum-wage legislation, for example. Prior to the decision of Adkins against Children's Hospital by the Supreme Court in 1923 the State courts had on 37 occasions passed on the constitutionality of minimum wages for women, and in 34 of those cases the laws were held to be constitutional. Minimum-wage legislation has been before the Supreme Court three times. Thirteen Justices of the Supreme Court have at one time or another recorded their opinions of it. Seven of them have expressed the opinion that it is constitutional; six have said it is not. Yet it has always been declared unconstitutional simply because each particular combination on the Court at the time the various opinions were rendered gave the opponents of the legislation a majority. Congress wanted it; the people wanted it; 7 out of 13 Justices wanted it. But six did not. So we didn't get it.

Congress is as much a guardian of the Constitution as the Court. If in its own judgment Congress decides that it should have powers which it does not have under the Constitution, it must seek those powers through amendment of the instrument. But if it has certain powers under the Constitution, in justice to the people whom Congress represents, Congress should never allow those powers to be surrendered to the judiciary or anybody else. [Applause.] Congress cannot disturb a decision of the Supreme Court in a particular case, but Congress is not bound to submit to interpretations of the Constitution which deny to Congress the constitutional rights which it was definitely and specifically given in the Constitution.

You read the dissenting opinion of Justice Stone in the A. A. A. case, and if you distill out of that legal, dignified language its true meaning I insist that it is only subject to the interpretation that he charges the Court majority in that case with having amended the Constiution itself by its decision in taking powers away from Congress concerning taxation.

President Roosevelt has proposed a way, a practical, a constitutional, and a workable way, in which Congress can secure from the Supreme Court a more sympathetic understanding of present-day problems and a greater appreciation of the purposes behind its legislation. It is a method entirely within the Constitution and definitely in keeping with the aims and spirit of true democratic government. There is a lot of talk about the danger of packing the Court, but let's not be misled by that red herring. Let us be frank about this matter. The vested interests for years have been putting their corporation lawyers on the bench of the Supreme Court of the United States. [Applause.] Under our form of government the will of the majority of the people, not the special interests, should prevail. If a majority of the people want a modern interpretation of the Constitution as a living instrument, they should have it.

This is not such a revolutionary proposal as some of the Liberty League leaguers' propaganda would lead you to believe. The late Chief Justice Taft suggested compulsory retirement of Judges at the age of 70. Chief Justice Hughes in 1928 suggested compulsory retirement of Judges at the age of 75. The President's proposal does not even go that far; it does not provide for compulsory retirement; it makes no attempt to disturb the Judge's right to life tenure, and constitutes absolutely no threat upon his independence after he is appointed and confirmed by the Senate of the United States and enters upon his service for the tenure of his life. If he does not retire, the President would have the power to appoint a successor at any time after he reaches retirement age. I submit that there is nothing unreasonable in that proposal and that it is supported by the age-long experience of society.

I say that if this proposition that President Roosevelt is suggesting had been proposed by Harding or Coolidge or Hoover, the same reactionaries who are now so violently protesting would applaud it as constructive statesmanship. But these reactionaries in this critical situation claim now that President Roosevelt has an evil purpose in mind; they impugn his motives on this question, just as they have done during his entire term of office as President of the United States whenever he sought to use the powers of Government for the interests and the good of the people of the United States as a whole.

These critics deliberately forget to mention that even if none of the present Justices resign, President Roosevelt would only appoint 6 out of 15 Justices on the Supreme Court. They would still be a minority of the Court. I contend that those who say these appointments would make the Court servile to the President's personal wishes are casting unfair reflections upon the integrity and independence of Justices Brandeis, Stone, and Cardozo [Applause.]

Another thing I think we can well keep in mind, and that is that whereas under his proposal President Roosevelt would appoint only two-fifths of the Court, assuming that none retired, Washington, Jackson, Lincoln, and Taft all named majorities of the Supreme Court while they held office. President Harding, in 2½ years, Cleveland, Harrison, and Grant named four Judges each, a larger proportion of the Court than President Roosevelt could appoint under the pending plan.

Those who wail that the President is proposing the execution of the independent judiciary likewise forget to mention that every Justice appointed to the Court by the President under his proposal, or by any other President, will have the same security and independence of tenure that a Judge has now.

The proposed reform upon the historical evidence is long overdue. It is unfortunate that it was not carried through many years ago before the present critical situation arose, but the acuteness of the present situation is all the stronger reason for immediate action. [Applause.]

This is not a struggle between the President and the Court; it is a struggle between the representatives of the people, responsible to them, and a small group of Justices who have lost touch with the problems of the people, are not responsible to them for the tenure of their office, and have not the grace to step aside and let the present generation govern itself. [Applause.]

Those who are opposing the President's proposal rise to sanctimonious heights and point shame upon any attack directed against the Supreme Court. The men who wrote the Constitution never intended the Supreme Court to rule this Nation. When the Court substitutes its own will for the will of the people, when it takes upon itself the right to prescribe what in its opinion is good for the people rather than let the people decide for themselves, when it seeks to supplant the prevailing economic theory with its own smug theory of days gone by, when it decrees that the people do not have power to solve the problems of the Nation, then this country is not governed by a democracy but instead ruled by the blind prejudices of a judicial oligarchy. [Applause.]

The question is simply whether a handful of judges ought to be allowed to exceed their lawful constitutional authority by paying more attention to their own personal economic and social beliefs than to the Constitution itself. The issue is between special vested interests dodging behind an economic theory of days gone by, on the one hand, and the will of the people to govern themselves, on the other. When a judge sets himself squarely athwart the people's path to progress, it is time for the true defenders of democracy to take action.

Do not be fooled by the crocodile tears shed by these reactionary defenders of a backward Court in the name of civil liberties. I am as concerned about civil and religious liberties of our people as any man living in the United States today. [Applause.] I know what it costs to fight for lost causes. My father fought many of them and I know what it cost him. I have fought for some myself that were bitterly and passionately unpopular. No kind of legal guaranty is more than a scrap of paper in the chaos produced by the break-down of an economic system. Our civil liberties in this country will be preserved as long as the people are satisfied with a democratic system of government which allows, permits, and fosters civil liberties, but no longer. No court, and particularly a Court which the people may rightly blame for their inability to solve their economic and social problems, can ever have the prestige and the strength necessary in time of chaos to protect human rights and civil liberties. All history proves, and particularly all recent history, that revolutionary changes are produced not by bad men but by bad social conditions and the impotence and inability of government to correct them. [Applause.]

Those who hold our civil liberties genuinely dear should rally to the support of the President's proposal and thus preserve the fundamental principle of Democratic self-government.

I am convinced of the wisdom and propriety of the President's proposals for judicial reform. He has pointed the only way in which the popular will may be translated into effective legislation in the next 4 years.

There are a number of men in Congress who propose to settle this issue of judicial usurpation by constitutional amendment. Some of them, in my opinion, are sincere but misguided liberals whose intentions are worthy. I would favor for the long future an amendment which would give the Congress power to override the decisions of the Supreme Court if it declares an act of Congress unconstitutional. This would provide a more certain mechanism of restraining judicial power. But an amendment to the Constitution is too slow to be considered as an alternative to the President's program in the light of the pressing and fundamental issues which must be solved in the near future if democracy is to be saved in this Nation. [Applause.] We can and should consider it in addition to the President's suggestions, but in saying that I have no illusions about the amendment route. I venture the prediction here and now that the amendment proposed by Senator WHEELER and others could not muster 30 votes in the United States Senate today, let alone the two-thirds necessary to pass it.

Furthermore, in all good spirit I should like to point out that Senator WHEELER ran for Vice President in 1924 upon a platform which pledged such an amendment to the people of the United States as being submitted to them, and, by the way, then it didn't have this two-thirds vote requirement which, to my mind, makes it not worth the paper that it is written on. Show me a time when you have had a two-thirds vote of the Senate or the

House, in the first place, to pass legislation about which there was great social and economic controversy. It would be impossible to reenact such legislation by two-thirds majority after it has been held unconstitutional by the Court.

But the point I wish to make is that Senator WHEELER never introduced any such amendment until the President's proposal had been advanced, although nearly 13 years now have elapsed since the 1924 campaign. If that was the only way to deal with this problem, a lot of valuable time has passed and a lot of water has run under the bridge.

The real support behind the movement for a constitutional amendment as the way of settling this issue is coming from the reactionaries who were licked to a frazzle at the polls last November. They know only too well that constitutional amendment is a long and slow process. These reactionaries know, even if some of our liberal friends do not, that 13 States are sufficient to beat any such effort. These reactionaries know, even if some of our liberal friends do not, that by concentrating on the 13 smallest States in the Union the reactionaries can block the will of the entire Nation with the votes of only 10 percent of the people of the United States. If that is democracy, I will pause long enough to let anybody get up here and prove it. These reactionaries know, even if some of our liberal friends do not, why the child-labor amendment is still wandering in the constitutional wilderness of ratification after 13 long and weary years in which we have permitted unconscionable employers to sweat dollars out of the labor and to break the lives of minor children in the United States. [Applause.]

The people have plenty of power within the Constitution as it stands today to solve their immediate problems. There is no need of amending it for that purpose, and you don't have to rely on my unsupported statement. I refer you to the minority opinions of Holmes, Brandeis, Stone, and Cardozo. You will find there the forthright opinions of some of the ablest and greatest legal minds ever to sit upon our Supreme Court, stating that the Constitution can and does provide Congress and the people with all the necessary powers to "establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty" for the American people.

We need only to amend the Supreme Court's interpretation of the Constitution. I think we can be reasonably sure that the Court will do that if we can only put younger men upon it who are in touch with modern social problems and encourage the retirement of the judicial "lame ducks" whose thinking belongs to another generation and has been repudiated three separate times at the polls by the voters of the United States.

I am confident that if this question were to be put to the American people tomorrow in a general plebiscite, their answer would be an overwhelming endorsement of the President's proposal. [Applause.] For, after all, the fundamental question is: Who shall rule this Nation, the people or a majority of the Supreme Court of the United States? To my mind, there can be only one answer to that question. The Nation was established by the people and it is theirs to govern as their welfare may require. The Court is simply an institution set up under the Constitution to do a specific job. When it fails to do that job as the people want it done, when it hinders and blocks rather than helps the solution of social problems, it is the people's right and privilege to change it. [Applause.]

In closing, may I say that I believe that our task at the present time is to make sure that the voice of the masses of the people on the farms, in the factories, in the shops, and in the small businesses of this country is not lost in the tumult raised by the well-financed propaganda of organized minorities. Special interests are protesting to Congress against President Roosevelt's plan for judicial reorganization. They come with the hands of Esau but the voice of Jacob. They claim to represent the sentiment of the people, but be not deceived. We must not confuse noise and activity with numbers. The special interests are both very noisy and exceedingly active at this time, but the people have the numbers and the people want to retain control of their own Government.

In this historic struggle President Roosevelt is fighting the battle of the great and overwhelming rank and file of the people of the United States, and with their help we will win this fight and restore control of government to the people of the United States. [Applause.]

The Federal System

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Thursday, March 11, 1937

EDITORIAL FROM THE NEW YORK TIMES OF MARCH 11, 1937

Mr. COPELAND. Mr. President, I ask unanimous consent to have printed in the Appendix the leading editorial of today's New York Times, entitled "The Federal System."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times of Mar. 11, 1937]

THE FEDERAL SYSTEM

It is becoming more and more clear, as the President's argument proceeds, that his real quarrel is not with the Supreme Court but with the Federal system. To be sure, the dominant theme of his radio address on Tuesday evening was an argument that the Court "has been acting not as a judicial body but as a policy-making body"; that it has "improperly" set itself up "as a third house of Congress", a "superlegislature", and that the time has come to put an end to this usurpation. But it is necessary to ask what policies the Court has actually made, and what legislation it has enacted.

Of the hundreds of laws adopted by the Roosevelt administration, the present Court has thus far declared eight laws, or parts of laws, to be unconstitutional. One of these was a farm moratorium act which was never on the administration's own program, but which was forced on it through a filibuster staged by Huey Long. Another was a brief section of law dealing with building and loan association charters. Another was a measure which the President said was "crudely drawn", and which was signed by him only after "a difficult decision", providing for the payment of railway pensions. Another was a measure, known as the Municipal Bankruptcy Act, of which practically no use was ever made. And another was a "hot oil" law for the petroleum industry, which deals with a situation which is no longer present. These five laws were of comparatively little consequence in the broad program of the administration. The real issue has been raised by the fate of the three other acts which the Court held to be invalid—namely, N. R. A., "little N. R. A." (the Guffey Act for the soft-coal industry), and A. A. A.

In the first case by a unanimous vote and in the other cases by a majority of 2 to 1, the Court has declared these acts to be unconstitutional. In so doing it has taken a position not in accord with Mr. Roosevelt's present views. But it has expressed the traditional doctrine that under a Federal system such as ours there are sound reasons for regarding as inconsistent with the Constitution, in its present form, any centralization of power in Washington so vast that it would enable the Government to regulate wages and conditions of work in every industry and to control the planting of crops on every farm.

No one has more eloquently expressed this traditional doctrine of limited Federal powers, or more cogently given reasons for it, than Mr. Roosevelt himself, speaking only a few years ago. He called attention then to the vast "differences in climate, soil conditions, habits, and modes of living in States separated by thousands of miles" in a country as large as the United States. He said that because of these differences "it was clear to the framers of our Constitution that the greatest possible liberty of self-government must be given to each State", and that any departure from this principle "would inevitably result at some future time in a dissolution of the Union itself." He said that "the doctrine of regulation and legislation by 'master minds', in whose judgment and will all people may gladly and quickly acquiesce, has been too glaringly apparent at Washington." He included regulation of business and of agriculture in a list of essentially local matters in which "Washington must not be encouraged to interfere." And he said of the desire of the States to handle these matters for themselves, in their own way:

"The preservation of this home rule by the States is not a cry of jealous Commonwealths seeking their own aggrandizement at the expense of their sister States. It is a fundamental necessity if we are to remain a truly united country. * * * There are already, I am sorry to say, danger signals flying."

This is the traditional doctrine of Federalism, stated by Mr. Roosevelt in 1930, but now described by him as an instance of "policy making" and of judicial usurpation when it is restated by the Supreme Court of the United States. This is the Federal system which the President would now like to alter by the process of changing the personnel of the Supreme Court because he believes that it can be done more rapidly and with less opposition in this way than in any other.

No doubt there is a good deal of force in his contention at this point. For while experience has shown that it does not usually take long to adopt a constitutional amendment when the American people are really agreed upon the necessity of some basic change—7 of the last 11 amendments were ratified in less than a single year—it is true that the American people are not now agreed upon the necessity of any change so sweeping that it would alter the Federal system. There would be opposition on the part of millions of farmers to any constitutional amendment which dared specifically to authorize the Government to reestablish N. R. A. There would be opposition on the part of millions of urban consumers to any amendment which would reestablish A. A. A. But is this a valid argument for seeking to accomplish by indirection what it would be difficult to do directly? Does not the President make a convincing argument against his own plan when he expresses his doubts as to whether he can obtain the powers he desires in any other way?

His advocacy of his present proposal puts him in a strange position. It requires him to propose a method of approach not mentioned in the Democratic platform. It requires him to insert, post facto, a parenthetical clause in that platform, in order to justify his present action. It requires him to summon the Democratic Party to forget its traditional loyalty to States' rights and to waive its traditional opposition to a vast centralization of au-

thority. It requires him to ask the American people to "trust Congress", in case his present plan is adopted and the Supreme Court becomes an institution which "will not undertake to override the judgment of Congress" in interpreting the Constitution. But he himself gave an impressive warning, only a year ago, of what might be the consequence of a sudden shift of authority in Congress. He said then that his administration had built up new instruments of power which were wholesome and proper in his own hands. "But in the hands of political puppets of an economic autocracy such power would provide shackles for the liberties of the people."

We come again to the question of what emergency requires the President to act in haste; why it is necessary for his administration to obtain new powers in addition to the abundant powers it already has, without referring this proposal to the people?

The President did not repeat, in his address on Tuesday evening, his suggestion that the Supreme Court is blocking effective flood control and the prevention of erosion in the Dust Bowl. He did not ask for additional powers in order to enable the Government to overcome depression and to achieve recovery. Instead, he spoke of recovery as definitely here, and actually proceeding at such a pace that unless his administration has power to act, and does act in time, there may be a recurrence of the catastrophe of 1929.

Unquestionably the inflationary possibilities inherent in a sudden expansion of bank deposits by some $15,000,000,000 during the past 4 years has created a major problem. It is a problem which the Federal Reserve Board has already taken steps to solve. It is a problem which will require the exercise of other powers by the Government—powers the legality of which has not been questioned by the Supreme Court. But it is not a problem whose solution is likely to be aided by the reestablishment of N. R. A. and A. A. A. For the very essence of the problem is how to maintain a large and expanding volume of production which will keep prices from rising rapidly despite the inflation of purchasing power that has taken place. And the worst possible way in which to attempt to solve that problem would be to restore the monopolistic controls and the artificial limitations of production inherent in the philosophies of A. A. A. and N. I. R. A.

Supreme Court—Of Men, or Law?—Democratic Government Stripped of Power to Govern

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1937

ADDRESS OF HON. JAMES M. LANDIS, CHAIRMAN, SECURITIES AND EXCHANGE COMMISSION, BEFORE THE FOURTH ANNUAL WOMAN CONGRESS, CHICAGO, MARCH 10, 1937

Mr. MAVERICK. Mr. Speaker, one of the ablest speeches recently delivered on the controversy concerning the reform of the judiciary was made last night by the Honorable James M. Landis, Chairman of the Securities and Exchange Commission, before the Fourth Annual Woman Congress and under the sponsorship of the Chicago Tribune. It was held in Chicago, Wednesday, March 10, 1937.

In the printed copy of his speech, full authority was given for all statements. I have taken the liberty, therefore, where references were made to mark the place, and the authorities can be found below the speech.

The remarks of Mr. Landis were as follows:

JUDICIAL REFORM DEMANDS CLEAR THINKING

The issue presented to the Nation by the President in his message on judicial reform demands clear thinking. Its significance is such that, whatever our positions may eventually be, we dare not rest them on catch words or mere phrases. We should know upon what we base our conclusions. We must know why we think as we do.

To begin with, we must ask ourselves first what the problem really is. Only after we have answered that can we then say what, if anything, should be done.

ISSUE NOT NOVEL—COURT NOT ABOVE CRITICISM

Realistic analysis of the problem is seriously clouded by two factors.

The first is the assumption that the issue is a novel one in American life.

The second factor that clouds the issue is the curious belief that seems to have grown up that the Supreme Court of the United States is somehow above criticism and immune to attack.

Both these assumptions are false.

DRED SCOTT DECISION—LINCOLN REFUSED TO OBEY

Conflict between the President and the Congress on the one hand and the Supreme Court on the other is intrinsic to American life. To realize how true this is, one need only remember that Lincoln was elected to the Presidency largely because of his refusal to accede to the decision of the Supreme Court in the Dred Scott case.

The very theory of the three branches of our Government possessing coordinate powers implies that between those three branches there will frequently exist differences of opinion.

Nor is Franklin Roosevelt the first President to take open issue with the Court. Jefferson, Jackson, Lincoln, and Theodore Roosevelt did not hesitate to express themselves with directness and vigor.

ESSENCE OF DEMOCRACY: BE BOLD TO THINK

Among lawyers criticism of the actions of the Court, entirely apart from the constitutional issues involved, is the grist of table gossip, of speeches, of argument. In the law schools criticism and disagreement has been the very life of the law. And so, I repeat that in approaching our problem we must first realize that criticism of the Court is not new to our American tradition. In fact, it is the essence of the democratic process to be bold to think, and free to talk about all the branches of government. It is in this spirit that we must move to our problem.

The real issue that we face today is not a new one. It is the old issue of the degree to which this Nation shall be a government of laws or of men. Its roots go back to the Constitutional Convention of 1787.

REVISION OF LAWS BY COURT REJECTED TWICE BY CONSTITUTIONAL CONVENTION

It was in 1787 that that convention gave birth to the Supreme Court. There, James Wilson, a delegate from Pennsylvania, twice proposed that the Supreme Court, together with the President, should have the power to revise laws passed by the Congress. He argued that this would afford protection against laws that, to use his words, "may be unjust, may be unwise, may be dangerous, may be destructive, and yet may not be so unconstitutional as to justify the judges in refusing to give them effect." (See below, I, Madison.)

This proposition would have made of the Supreme Court a supreme legislature. It would have given the members of the Court power to exercise their personal discretion with respect to the wisdom and justice of laws passed by Congress. The Convention twice rejected James Wilson's proposition and insisted that only judicial and not legislative power should be vested in the Supreme Court of the United States. (See below, II.)

SUPREME COURT ARROGATES POWER IN 1905

More than a hundred years later, in 1905, as though James Wilson himself had inspired it, the Supreme Court arrogated to itself the immense, superlegislative power that the Constitutional Convention had so deliberately denied it.

In that year the Supreme Court had before it a law of the State of New York forbidding more than 10 hours a day for workmen in bakeries. By a 5–4 decision it held the law unconstitutional. (See below, III.)

Those first years of the twentieth century saw us as a Nation struggling to cope with the new problems of industrialization. Those were the days of the beginning of concern with workmen's compensation, with safety appliance acts, with discrimination against unions, with child labor, with long working hours, and low wages. This new society for industry and agriculture alike was insisting that its rights, its privileges, and its liberties needed reenforcement against the new pressures of a changing civilization.

IF COURT THINKS LAW INAPPROPRIATE, WILL OF PEOPLE IS DEFEATED

It was in that bakery case that the Court took new powers to itself. The principle it laid down there came as a shock to the minority of its members (see below, IV), to constitutional lawyers, and to students of government. It takes no legal knowledge to understand that principle. It is simply this: If a law, says the Court, seems to us "fair, reasonable, and appropriate" (see below, V)—and I am using the words of the Court—it is constitutional; but if it seems to us "unreasonable, unnecessary, and arbitrary"—and I am still using the words of the Court—despite the will of the people and the action of the legislature, we will hold it to be unconstitutional.

The adoption of that principle made of the Court—made of five members of the Court—a supreme legislature with power to approve or disapprove the desires of the Nation.

POWER NOT GIVEN BY CONGRESS, CONSTITUTION, OR PEOPLE

It should be pointed out that this power was not given to the Court by the Congress, or by the people, but in fact was twice denied it by the Convention, which framed the Constitution. It was a power which the Court appropriated for itself and which has since repeatedly been used and stealthily expanded in subsequent decisions until it now threatens to paralyze legislative action and popular will.

In the bakery case the dissenting judges pointedly told the majority that such a principle would permit the individual men who at any time might be a majority of the Court to write their own economic predilections and prejudices into the Constitution of the United States. (See below, VI.)

History has proven that the dissenting judges were right. That is exactly what the Court has done. Let me give you a few of the cases—all but one before 1933—in which Congress or the

States have been overruled by the Supreme Court through the use of the very power denied the Court by the Constitutional Convention.

SUPREME COURT STRIKES DOWN STATE LAWS PROTECTING HUMANITY

I have already mentioned the bakery case in 1905, in which, by a 5-to-4 vote, the Court vetoed the attempt of the New York Legislature to restrict bakery employment to a 10-hour day. (See below, VII.)

In 1915, by a 6-3 vote, the Court vetoed the attempt of the Kansas Legislature to protect employees from discharge because of union affiliations. (See below, VIII.)

In 1918, by a 5-4 vote, the Court vetoed the efforts of Congress to regulate child labor. (See below, IX.)

In 1922, by a 5-4 vote, the Court vetoed the efforts of the Arizona Legislature to restrain the issuance of injunctions against peaceful picketing. (See below, X.)

In 1922, by a 5-3 vote, and again in 1925, 1927, and in 1936, by a 5-4 vote, the Court vetoed the efforts of first the Congress, then the Arizona Legislature, then the Arkansas Legislature, then the New York Legislature to require industry to pay its women employees a living wage. (See below, XI.)

VETOES ONLY POSSIBLE THROUGH ARROGATION OF POWER

All but one of these cases, and there are many more of the same type (see below, XII), occurred prior to 1933.

These vetoes were possible only because the Court had arrogated to itself the power denied it by the Constitutional Convention of 1787.

And these vetoes, made possible through a balance usually of only one judge, set the Court athwart this century's great thrust for social progress.

DEMOCRATIC GOVERNMENT STRIPPED OF POWER TO GOVERN

These vetoes still stand. They cover the action not only of those States, those Congresses, but all States and all Congresses.

They strip organized democratic government of the power to achieve objectives of long standing. In 1933, when a vision of new national aims was born, we hoped that some recognition of these aims would be entertained by the Court. Instead, as the world knows, the Court has encroached even further upon the desires of a Nation and of its States.

This, then, is the fundamental problem which we face today—whether or not we shall permit the Court to continue in its role of a self-constituted superlegislature in disregard of the Constitution and in disregard of the function of a judiciary in our national life.

Our problem today is whether the Court shall be a court of law holding itself to the interpretation of law, or whether it shall be a court of men judging the legislative wisdom or unwisdom of their countrymen.

COURT OF MEN OR COURT OF LAW?

A court which is a court of men by this very fact spreads uncertainty throughout the whole body of law. The fact that the Court assumes to pass upon the reasonableness or unreasonableness of legislation—a test that, as the Chief Justice himself has recognized, can frequently be the same as the wisdom or unwisdom of the legislation (see below, XIII)—makes constitutional law more a matter of guesswork than of science.

The plain truth, known to many lawyers but to few laymen, is that the modern constitutional lawyer is obliged to study not only the law but also the individual prejudices and predilections of the members of the Court.

This makes as uncertain as human nature itself the validity of the mass of social legislation whose necessity and desirability has now on three occasions been definitely attested to by the overwhelming votes of the Nation. This uncertainty throws doubt upon laws already passed or now in contemplation, irrespective of careful and conscientious draftsmanship, dealing with such matters as old-age pensions, social security, collective bargaining, control of crop surpluses, crop insurance, soil conservation, coordinated river basin control, Government aid for better housing—to catalog only a few of the measures that bespeak the aims of our generation.

MAJORITY SUPREME COURT DISREGARD CONSTITUTIONAL LIMITATIONS

Once more let me state our problem. It arises out of the disregard of constitutional limitations by a majority of the members of the Supreme Court who insist upon writing their own individual economic prejudices and predilections into the fabric of constitutional law. (See below, XIV.) It means that the constitutionality of past, present, and future legislation dealing with social and economic progress and with the power of the Nation as a nation, to cope with its national problems, is subject not to the wisdom of an electorate, not to the wisdom of a Congress, not to the wisdom of an elected President, but must also run the gamut of a judgment based not on law but upon purely economic and social considerations by a majority of the Supreme Court.

It means today an attitude toward constitutional law which incites to litigation, incites to defiance of government, and too frequently leads to the paralysis of a program before it even has a chance of initiation.

This is our problem, and it seems to me that there are four attitudes which can be taken toward it. The first is to do nothing. That way would be sponsored by those who are against the program for economic and social progress that has now been building for more than a quarter of a century. These men, who not only have a basic distrust of democratic government but hate the very march of modern industrial and agrarian humanitarianism, will, of course, oppose it.

THE FADED BANNERS OF FALSE PHRASES

But they will be too wise to oppose it on those grounds.

Instead, they will hide themselves as they have hid before behind epithets and phrases, such as "regimentation", "socialization", "individualism", "un-Americanism", "dictatorship", or the like. Under faded banners such as these will they try to lead the electorate. These men, of course, will say "do nothing", and from their point of view they are right in saying "do nothing." To them the President can make no appeal. But others must be on their guard not to swell their legions.

"DO NOTHINGISM" REPUDIATED 4 YEARS AGO

A second attitude is again to do nothing—a course urged by men who recognize the existence of the problem and are sincerely grieved by it. Their hope is that time itself will cure the problem. New men on our courts, with new ideas, who have lived actively through the adversity of the last few years, known and seen at first-hand its tragedies, and are alive to the possibilities of a better ordering of our national life, these new men, they hope, will take the places of the old. And their ideas, they hope, will restore the Court and the Federal judiciary to the function which its founders intended it to assume. To them, perhaps one can say that a nation, now almost desperate in its needs and desires, will not, as it did not in 1932, continue to wait patiently for a prosperity that was assumed somehow to be just around the corner.

"Do nothingism" was repudiated 4 years ago.

It has been repudiated with increasing intensity twice since then.

AMENDMENTS OF ALL KINDS—RELIEF ILLUSORY

The third course of action that is possible is the suggestion of action by way of constitutional amendment. No particular amendment has as yet, so far as I know, received the support of more than a handful of men in or out of the Congress. Various types have been suggested. Among them is the device, suggested by the Senator from Montana, still lacking in details, which would permit the Congress by a two-thirds vote to override particular decisions of the Supreme Court holding acts of Congress invalid.

This proposition has many weaknesses. The most obvious of these is that it would offer no solution to the problems of the various States whose legislative programs have been so often upset by the Court. Such an amendment does not make it possible for States to pass minimum-wage acts, for States to provide for social security, for States to encourage collective bargaining. The relief it offers is illusory.

But, more than this, such an amendment would give the Congress the right to override the specific guaranties of the Constitution. The Senator from Montana has recognized this by already suggesting that the Bill of Rights should be omitted from its application. But there are other specific guarantees in the Constitution equally vital, equally dear to the liberties of the citizen. Are these to be so cavalierly overridden? In other words, such an amendment would completely and finally obliterate the constitutional amendment machinery and give the Congress the arbitrary power to make all amendments without regard to the Constitution itself, without any reference to the States.

The Senator from Montana publicly said that the Democratic platform last year called for amendment of the Constitution—that it called for curing the problems created by unconstitutional judicial interpretation by clarifying amendment. He has not quoted the platform correctly. What the platform said was that if every other means within the Constitution failed, then the administration would seek a clarifying amendment. The President is trying the other means today—within the Constitution.

AFTER 20 YEARS WE STILL HAVE CHILD LABOR

But the objections that I see to attacking this problem through constitutional amendment strike far deeper than this. First there is the time lag of constitutional amendment. Years of agitation preceded the passage and ratification of such amendments as those granting woman suffrage, granting the power to the National Government to lay an income tax, proscribing the manufacture, sale, and transportation of intoxicating liquors and, in turn, the amendment that repealed that.

Twenty years have now elapsed since the Supreme Court first denied the National Government the power to deal with child labor. Despite the fact that the Congress on three separate occasions by overwhelming majorities endorsed the principle of child-labor regulation, 13 years have now passed and the requisite number of States is still lacking.

Shall we say to the woman worker in industry, to the farmer, to the consumer, to the employee—wait these many more years before we can restore to you the liberties and the rights to the pursuit of your happiness of which the Court has deprived you.

WAR—MANY PROBLEMS TO BE MET

But for other reasons also, the dictates of wise statesmanship urge attack upon this problem otherwise than through constitutional amendment. It is not difficult to see ahead that serious problems confront the Nation in the next few years.

There is the threat of war abroad; there is the threat to industrial peace at home.

There are all the manifold and difficult problems of harnessing this new recovery so that it will not destroy us, of fashioning it to be our servant and not our master.

These problems must in the next few years engage the attention and energy of the Nation. One might well ask whether it is wise statesmanship to divert our concern from these impending and mighty concrete issues, in order to plunge the Nation over a period of at least 4 years, into the throes of a bitter and heated constitutional debate. One might well ask whether it is wise statesmanship to prolong for another 4 or 6, or 8 years, the partisan bickerings, the charges and countercharges of last June to November.

It is the essence of the survival of democratic government that it must be able to handle its problems expeditiously and definitively.

And democratic government, we all agree, must survive.

WE DARE NOT REPEAT THE MISTAKE OF BUCHANAN

Wise statesmanship, it seems to me, suggests termination of the issue after a reasonable period of time for debate upon the problem and a conclusion after that time either to find a solution or to decide that there shall be no solution.

We dare not repeat the mistake of Buchanan—to let the Nation, as he did after the Dred Scott decision, falter and fumble too long for its destiny.

We must, if we can, find a way to do otherwise.

PRESIDENT SUGGESTS REMOVAL OF STRAIT JACKET ON NATIONAL LIFE

The President suggests the way to do otherwise. His proposal recognizes that the issue is not one of the Constitution, but an issue of men whose interpretations of that document make it a strait jacket upon our national life.

The proposal cannot be attacked upon the ground that it is not within the powers conferred on the Congress and the President by the Constitution. It cannot be attacked upon the ground that it breaks faith with the Democratic platform. It is, however, attacked upon the ground that the proposal seeks to subvert the independence of the judiciary. That attack is equally false.

What the proposal seeks to do is to restore the originally intended balance between the legislative, the executive, and the judiciary—the balance that has been subtly and increasingly upset within the last 35 years as a majority of the Court assumed more and more the right to pass upon the wisdom of legislation. (See below, XV.)

The Constitution specifically gave the President and the Congress the means to restore that balance, a means which in no way makes judges subservient to their will or to the will of any individual, but a means to recreate a Court conscious of its function and of its part in our national life. The fathers of the Constitution granted this means; with their great foresight they envisaged that there might be a need for its exercise. That need is now here.

I

Madison's Journal of the Constitutional Convention (Hunt's ed., vol. 2, p. 17).

II

The final vote on the proposal was Massachusetts, Delaware, North Carolina, and South Carolina voting "no"; Connecticut, Maryland, and Virginia voting "aye"; Pennsylvania and Georgia divided; and New Jersey recorded as "not present."

Among the arguments that carried the day against the proposal were the following: "Mr. Ghorum did not see the advantage of employing the judges in this way. As judges they are not presumed to possess any peculiar knowledge of the mere policy of public measures" (ibid. p. 18).

"Mr. L. Martin considered the association of the judges with the Executive as a dangerous innovation, as well as one which could not produce the particular advantage expected from it. A knowledge of mankind and of legislative affairs cannot be presumed to belong in a higher degree to the judges than to the legislature. And as to the constitutionality of laws, that point will come before the judges in their proper official character. In this character they have a negative on the laws. Join them with the Executive in the revision and they will have a double negative.

"It is necessary that the Supreme Judiciary should have the confidence of the people. This will soon be lost if they are employed in the task of remonstrating against popular measures of the legislature" (ibid. p. 21).

III

Lochner v. *New York* (198 U. S. 45).

IV

Mr. Justice Harlan, who was joined by Justices White and Day, in dissenting, took occasion to repeat the Court's own earlier words in *Atkin* v. *Kansas* (191 U. S. 207, 223): "The responsibility therefor rests upon legislators, not upon the courts. No evils arising from such legislation could be more far-reaching than those that might come to our system of government if the judiciary, abandoning the sphere assigned to it by the fundamental law, should enter the domain of legislation, and upon grounds merely of justice or reason or wisdom annul statutes that had received the sanction of the people's representatives."

V

Lochner v. *New York* (198 U. S. 56).

VI

See Mr. Justice Holmes dissenting in *Lochner* v. *New York* (198 U. S. 75): "This case is decided upon an economic theory which a large part of the country does not entertain. If it were a question whether I agreed with that theory, I should desire to study it further and long before making up my mind. But I do not conceive that to be my duty, because I strongly believe that my agreement or disagreement has nothing to do with the right of a majority to embody their opinions in law."

VII

In 1917, in *Bunting* v. *Oregon* (243 U. S. 426), the Court, by a 5–3 vote, held constitutional an Oregon statute establishing a general 10-hour day. The majority never mentioned the earlier case of *Lochner* v. *New York*, but the bar generally believed that this was a political move to overrule that unfortunate decision. But in the first minimum-wage case Mr. Justice Sutherland resurrected *Lochner* v. *New York* to hold that act unconstitutional. Of this conduct Chief Justice Taft said, "I have always supposed that the Lochner case was thus overruled sub silentio" (*Adkins* v. *Children's Hospital*, 261 U. S. 564); and Mr. Justice Holmes added that he "had supposed * * * that *Lochner* v. *New York* would be allowed a deserved repose" (ibid., 570).

VIII

Coppage v. *Kansas* (236 U. S. 1). Nine years earlier, in *Adair* v. *United States* (208 U. S. 161), the Court, by a 6–2 vote, vetoed an act of Congress of a similar character applicable to carriers engaged in interstate commerce and their employees.

IX

Hammer v. *Dagenhart* (247 U. S. 251). A subsequent effort by Congress to prohibit child labor through the use of the taxing power was held unconstitutional in 1922 in the *Child Labor Tax Case* (259 U. S. 20).

X

Truax v. *Corrigan* (257 U. S. 312).

XI

Adkins v. *Children's Hospital* (261 U. S. 525); *Murphy* v. *Sardell* (269 U. S. 530); *Donham* v. *West-Nelson Mfg. Co.* (273 U. S. 657); *Morehead* v. *N. Y. ex rel. Tipaldo* (298 U. S. 587).

XII

See e. g. *Tyson* v. *Banton* (273 U. S. 418), holding unconstitutional by a 5–4 vote a New York statute aimed at controlling ticket scalpers by limiting the resale profit on theater tickets to 50 cents a ticket); *Weaver* v. *Palmer Bros. Co.* (270 U. S. 402), holding unconstitutional by a 6–3 vote a Pennsylvania statute seeking to protect the public from unsanitary conditions in the bedding industry; *Jay Burns Baking Co.* v. *Bryan* (264 U. S. 504), holding unconstitutional by a 7–2 vote a Nebraska statute which sought to prevent deception in the sale of bread by requiring standard weights for loaves of bread; *Adams* v. *Tanner* (244 U. S. 590), holding unconstitutional by a 5–4 vote a Washington statute forbidding private employment agencies from charging placement fees of employees; *Ribnik* v. *McBride* (277 U. S. 350), holding unconstitutional by a 6–3 vote a New Jersey statute prohibiting employment agencies from charging more than reasonable fees for their services.

XIII

"When the Court is dealing with the question whether a legislative act is arbitrary, and transcends the limits of reason which are deemed to be embraced in the fundamental conception of due process of law or of equal protection of the laws, it may be difficult to draw the line between what is regarded as wholly unreasonable and what is deemed to be unwise. It is doubtless true that men holding strong convictions as to the unwisdom of legislation may easily pass to the position that it is wholly unreasonable." (Hughes, the Supreme Court of the United States, p. 37.)

XIV

If this statement be regarded as severe, compare the following: Chief Justice Taft, criticizing the action of the majority in holding invalid the minimum-wage law, said: "But it is not the function of this Court to hold congressional acts invalid simply because they are passed to carry out economic views which the Court believes to be unwise or unsound" (261 U. S. 562). Mr. Justice Holmes said of the majority in the Lochner case: "This case is decided upon an economic theory which a large part of the country does not entertain" (198 U. S. 75). Mr. Justice Brandeis, in the Nebraska Bread case, characterized the decision of the majority as "an exercise of the powers of a superlegislature—not the performance of the constitutional function of judicial review" (264 U. S. 517).

XV

Compare the statement of Mr. Justice Stone in the Agricultural Adjustment case: "Courts are not the only agency of government that must be assumed to have capacity to govern. Congress and the courts both, unhappily, may falter or be mistaken in the performance of their constitutional duty.

"But interpretation of our great charter of government which proceeds on any assumption that the responsibility for the preservation of our institutions is the exclusive concern of any one of the three branches of government, or that it alone can save them from destruction is far more likely, in the long run, 'to obliterate the constituent members' of 'an indestructible union of indestructible States' than the frank recognition that language, even of a constitution, may mean what it says: that the power to tax and spend includes the power to relieve a Nation-wide economic maladjustment by conditional gifts of money."

Tribute to the Late Senator Couzens

EXTENSION OF REMARKS

OF

HON. ARTHUR H. VANDENBERG

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Thursday, March 11, 1937

AN ADDRESS BY WILLIAM J. NORTON, EXECUTIVE VICE PRESIDENT OF THE CHILDREN'S FUND OF MICHIGAN

Mr. VANDENBERG. Mr. President, Mr. William J. Norton, executive vice president of the Children's Fund of Michigan, which is the great philanthropy established by the late Senator COUZENS, delivered a very interesting address relating to Senator COUZENS and this great enterprise at a memorial service at Traverse City, Mich., on November 1, 1936. I ask that the address be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Here in Traverse City this afternoon central Michigan honors the memory of one of humanity's great benefactors. JAMES COUZENS has crossed the western horizon and gone to that mysterious realm from which the flesh never returns. He is dead, but he lives. He lives in the hearts of us who grieve for him here, and in the hearts of countless multitudes up and down the far reaches of the Nation. Humanity places upon the silent brow one of its wreaths of sanctified memory, which it reserves for only those great souls who burst the fetters of selfishness and free themselves and their possessions for sacrificial living.

This man was a rugged and dauntless fighter. He was no mollycoddle. He was a warrior's captain. Like a high-stepping war horse his nostrils distended with the smoke of battle, and his ears stood erect to the sound of combat. But he fought always on the side of justice and human rights. His sword was never drawn in the cause of special privilege or of exploitation, or of selfishness. Mistakes of the mind no doubt he made in some of the causes he espoused, for he was intensely human, but mistakes of ethical purpose, never. He steadfastly refused to compromise with his own convictions of right and wrong, no matter what the cost might be in lost friends, or the adulation of the multitude, or in the pomp and panoply of place and power.

His conscience held the most finely etched ethical pattern as a guide for his own conduct that I have ever seen in any man of wealth or dominance. Simple honesty, complete integrity, a sense of great responsibility, cold-blooded objective justice, perfect faith in the democratic ideal, and a love for gentle charity, were all burned clearly and distinctly into that ethical pattern that acted as his sole governor in all of his public relations. When one or another of these motives bade him to action he responded at once with all his might, and it mattered not whether he captained a throng, or charged a regiment single handed, or walked alone a solitary figure into fearsome places. Those ethical mandates were the only masters he acknowledged, and he would do their bidding though the sky reeled above him, and the earth rocked under his feet.

JAMES COUZENS made a success upon a surprising number of theaters of action. While still a young man he achieved an enviable place as a noted captain of industry and with it a magnificent fortune. I have heard it said that he was lucky. That is true. He entered a line of business that grew to giant stature in a few short years, and he joined a group of men, some of whom had ideas, skill, vision, and courage to lead this business through a romantic development. But this same group of men was also lucky when young COUZENS threw his lot with them and accepted a place at their council table.

He brought with him a set of talents of inestimable value. He knew already the elements of good business practice. He possessed an unusual fund of common sense and a fine intelligence. He was an indefatigable worker. His was the personality of the born leader. And, like his comrades, he, too, had imagination and much more than a normal man's share of courage. Luck gave him a big opportunity, to be sure, but he mastered that opportunity in short order and in an impressive way.

That ethical conscience whose perfect play at a later stage of his career made men of similar bent his ardent followers and those of opposite mind his bitter enemies, found action even in these formative years. As the industry prospered his was the voice that suggested higher wages, that protested industry's natural tendency toward brutality, and called for comfortable and sanitary working conditions. His was a hand that covertly reached into a growing largess and came forth with gifts to aid those in need.

From his association with the automobile industry he came into a perfect understanding not only of the mechanics of big business but also of the motives both good and mean that dominate the princes who wield the scepters of power in the empire of practical economics. It was an enlightening experience of immense value in his future career of service to the people, and I have no doubt that enlightenment garnered on such fields of action helped mightily in turning to granite that later determination to be a supercaptain of the common good.

He left industry when just past 40, and passed into the financial world, where he assisted in the management and created and had the major responsibility for management of several large banking institutions. Again he succeeded, and again he learned. He learned about the intricacies of money and finance and about the purposes and motives of those who play the leading roles on the labyrinthian stages of this theater of action.

The series of managements and business creations palled upon him. Each meant more money and greater prestige as a businessman. But he was already more than a businessman, and money was not his boss. There was that ethical conscience with its finely etched pattern, and it was riding him harder than ever now. It did not have room to exercise properly in the field of business. His eyes took in the crying need for leadership and aggressive talents in public life. That ethical pattern was pulling and pulling him inevitably into the public service. He would take any opportunity where a man might be useful.

An opening came in the shape of an offer of the police commissionership of Detroit. The offer when made was not untarnished.

A political situation had to be saved for other men. It could be saved only by the appointment of a man widely known for ability, clean living, integrity, and honesty. JAMES COUZENS accepted, but first he rubbed the tarnish off the offer in characteristic manner. He took the place upon the absolute condition that he should have perfect freedom to manage the department exactly as he saw fit. A revolution in police work took place and the fame of that department spread throughout the land. He had succeeded again. Any stranger who witnessed the magnificent tribute paid by the Detroit police at the funeral of their departed former commissioner must have realized that these simple men were honoring no ordinary commander.

He moved on and seated himself in the mayorality chair at a crucial time. An old controversy between the city and the street-railway company that had plagued the voters for 20 years was settled in a few short months of dynamic action, and settled in the interests of the citizens. Unemployment was rife. He opened the purse strings of the city, started a giant much-needed program of public works, provided jobs, and fed the hungry. City departments felt the stir of great action, responded, and became alertly efficient. Detroit zoomed into the select and proud group of well-governed American cities. Success again in a field where few businessmen ever succeed. He had superlative business sense and business capacity, but he had acquired also an uncanny sense to diagnose the mysterious drift of public thinking, to step out in front of it, to guide it, and mold it toward what he conceived to be the public betterment.

The national stage calls him and he takes a seat in the United States Senate. Can this efficient, positive, two-fisted manager succeed in a house of oratory? He doesn't try to become an orator, but goes back into the committee rooms, where the vital decisions are hammered out that affect the national well-being, and throws his virile vigor into the work of understanding problems and shaping or stopping legislation. With him in those committee rooms is all that knowledge of the intricacies of industry, finance, transportation, and local government. With him is the wisdom about human motives, sharpened and disillusioned by a myriad of dealings with men of high and low degree. With him is that uncanny sense of how the public thinks upon various issues. And with him is that finely etched ethical conscience that acts and reacts now with the rapidity of instinct.

This ex-police commissioner who had learned the knack of controlling physical lawlessness threw himself with abandonment into the labors of establishing workable rules that would put under control the mental and ethical lawlessness all too prevalent in the very fields where he had gained his early successes.

He served the people of America well, served them as they have seldom been served from a Senate chair. I have no doubt that his untimely death was due in part to the insistence of that iron will that the poor, enfeebled, pain-racked body go beyond its normal strength in the daily discharge of his Senate duties.

JAMES COUZENS succeeded in another field penetrated all too infrequently by men of great wealth. He was a philanthropist of first magnitude. It was because of this phase of his career that I was permitted intimate glimpses of the amazingly fine soul and heart that he cloaked from the world behind an austere personality. Princely sums were given to numerous charitable and benevolent enterprises, and he watched over their expenditures with much the same solicitude that a father might use in watching the fortunes of a beloved child. Once they were given they were no longer his. He regarded them as public trusts to be administered strictly in the interests of the beneficiaries. Let the administrator beware who violated by a single jot the ethical rules that should govern the handling of public trusts.

The money that most men come to possess in the end turns about and possesses them. Its golden talons encircle them and take a vise-like grip upon their thinking. Thenceforth their thinking and their actions are not free thoughts or actions, but are dominated by the seeming necessity to have and to hold that wealth. Not so JAMES COUZENS. He was ever the master of his large fortune. His ethical and spiritual personality held a

whip hand above his money. Thus it was that the sensitive ears of his soul were attuned to the sounds of suffering, to the pleas of fathers who sought freedom from oppression, to the weeping of mothers who were desperate and knew not where to turn, and most of all to the whimpers of little children whose bodies were racked with pain. Thus it was that he responded with stupendous gifts of money, and something of himself thrown into every sizeable gift. That fine intelligence analyzed the purposes for which the bounty might be used. That wealth of practical experience assayed the amount of genuine good that might be expected to flow from the project. That generous impulse tore away the strictures from niggardly service. That knowledge of management insisted upon competent supervision. And that tenderness which he hid so carefully under a brusque exterior insisted upon courtesy, kindliness, and devotion to the human beings whom his benevolences helped.

Charitable agencies, hospitals, medical clinics, mental hygiene centers, nurses residences, homes for workingmen, economic, social and medical research, and more than others, the millions of children in his home State of Michigan were the beneficiaries of his giving.

He loved little children, and his tender solicitude sought out various ways to better their lot. Great gifts were made in Detroit and Farmington for the treatment and cure of sick and crippled children. Other gifts of lesser magnitude were made too. Then 7 years ago came the magnificent trust known as the children's fund of Michigan to be devoted in its entirety to promote the "health, welfare, and happiness and development of the children of the State of Michigan, primarily, and elsewhere in the world." The story of the work of this fund is not news here. You are familiar with the far-flung network of doctors, dentists, nurses, mental hygienists, and laboratory workers who bring aid and comfort to half a million children each year. You know the story of how Michigan, a laggard among the States in its local public-health service, has leaped in a few short years into a leading rank. You may see with your own eyes if you choose at the Central Michigan Children's Clinic on the grounds of this institution the reviving tenderness and ministry bestowed upon the sick little folks of central Michigan. And as you watch the bandaging of little limbs and the mopping of fevered little brows remember well that there unseen in the shadowy background is the pulsing soul of a very great man who made the service possible, and that soul is pulling, pulling for the recovery of every little person.

So the saga ends. A man came among us. Rugged, persistent, determined, fearless, kindly, he trod the tortuous heights to greatness, bearing in his right hand the blue-white torch of justice, and in his left the warm gentle flame of charity. He worked for a time in our behalf, giving something of his substance and much of his precious life to us and our children. He has gone again. We are the better for his having been here. We are safer. We are healthier. And we have a fuller life. May he rest in peace. I think a noble spirit has already emerged from that silent tomb to brood over and protect the little children of Michigan—forever.

The Results and Significance of the Buenos Aires Conference

EXTENSION OF REMARKS

OF

HON. KENNETH McKELLAR

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Thursday, March 11, 1937

ADDRESS BY HON. CORDELL HULL, SECRETARY OF STATE, TO THE COUNCIL ON FOREIGN RELATIONS, RITZ-CARLTON HOTEL, NEW YORK CITY, ON FEBRUARY 25, 1937

Mr. McKELLAR. Mr. President, on Thursday evening, February 25, 1937, at the Ritz-Carlton Hotel, New York City, the Secretary of State, Hon. Cordell Hull, delivered an address on the results and significance of the Buenos Aires Conference. It is a very able address and concerns matters in which we are all interested. I ask unanimous consent to have the address published in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is with unusual satisfaction that I avail myself of this opportunity to review briefly the results and the significance of the Buenos Aires meeting. I welcome the opportunity especially, because to those who, like myself, were privileged to take an active part in the work of the conference, the experience remains a vivid and inspiring memory.

The work of the Inter-American Conference for the Maintenance of Peace touched the very heart of the tangled complex of problems which today plague the responsible statesmen of the world and upon the solution of which depends so greatly the future welfare of the nations. The 21 American republics have forged among themselves new ties of friendship and peace. More than that, they have, in my opinion, made a genuine contribution not only to the safeguarding of peace but to the strengthening of democracy and of international order as well. While dealing with regional problems, the conference pointed straight at the frightful deterioration of many essential international relationships everywhere and vigorously proclaimed a basic program for their restoration.

I

The Buenos Aires meeting was one of a succession of inter-American conferences which have been for nearly 50 years a factor of ever-growing importance in the international life of the Western Hemisphere. There were, however, two features of outstanding importance which distinguished it from its predecessors and invested it with the character of a truly extraordinary occasion. The first of these was the subject-matter of the conference itself, its all-embracing concentration upon the problem of safeguarding the maintenance of peace. The second was the dismal world setting in which the representatives of the American republics assembled for their arduous and momentous labors.

The problem of peace was never absent from the thoughts of those statesmen who had in the past gathered together in major inter-American conferences. Step by step foundations were laid for the organization of pacific relations.

A feeling of mutual trust, an attitude of the good neighbor, for some years have been steadily growing among the American republics. I well recall how completely and how gratifying that accumulated feeling permeated the atmosphere of the Seventh International Conference of American States, held at Montevideo in 1933. More than any other factor, it was responsible for the constructive achievements which made that meeting a memorable occasion in the annals of American history.

But even there, opportunity was still lacking for a comprehensive effort to build a complete structure of enduring peace in the Western Hemisphere. It was primarily to launch this vast undertaking that the convocation of the Buenos Aires Conference was proposed by President Roosevelt in his letter, addressed on January 30, 1936, to the chiefs of state of the other 20 American republics.

President Roosevelt's proposal met with prompt, unanimous, and enthusiastic response. The character of the response and the readiness and vigor with which the American republics engaged in the preparation of the proposed conference made it abundantly clear that the time was ripe for the effort which was in contemplation.

All of us had watched with increasing apprehension the swelling of the angry stream of recent events in world affairs. The tendency almost everywhere was steadily in the direction of international anarchy. Religion and morals, constituting the entire foundation of normal and worth while international relations and of civilized intercourse itself, were breached, and often flouted, with impunity. International or domestic strife was in progress in some parts of the world and in undisguised preparation in others. The construction of armaments was proceeding on a scale unparalleled in history, and more and more nations were being drawn into the suicidal race—notwithstanding that the late World War and the recent world panic had not been liquidated.

The regime of international law was honored more in the breach than in the observance. Unilateral departure from treaties—or, to put it more bluntly, the policy of breaking a given word—endangered the whole structure of international agreements.

Combined with this, economic policies were being evolved by various governments, supposedly for their individual advantage, devised to restrict and confine trade and to burden commerce with almost medieval restrictions and discriminations. The resulting destruction and artificial diversion of trade were creating among nations animosities and resentment and were provoking economic aggression and retaliation. They were causing within nations acute economic distress, with declining standards of living and deepening dissatisfaction.

All these conditions and tendencies were breeding widespread unrest, were undermining governmental structures, and impairing political stability. They were disrupting democratic institutions and by correspondingly encouraging and strengthening autocratic rule were hopelessly handicapping the forces of peace and international order.

All of us knew only too well the destruction and misery which the onrushing stream of all these discordant elements was leaving in its wake. All of us realized only too acutely the even more fearsome consequences that would emerge if the stream were to overflow and widespread military conflict were to engulf our entire civilization.

It was with a clear visualization constantly before them of these unprecedented difficulties and critical conditions that the responsible statesmen of the American republics went to the Buenos Aires conference.

II

From the very first interchange of views among the delegates it became manifest that all the American republics are determined in their desire that peace prevail among them, as well as between each of them and the rest of the world. There was no mistaking the concerted will of the 21 nations for an effective renunciation of war as a means of policy and action and for the enthronement of peaceful means as the sole instrument for the adjustment of differences. As the work of the conference progressed, this solidarity

of purpose and unity of determination became more and more crystallized.

The whole conference was not one in which rival governments sought exclusive national advantages or purposes. Instead, throughout, a similarity of thinking and of outlook demonstrated itself and made our meetings a truly joint effort for a mutually desired purpose. The conference drew from all present a willing contribution toward a general result which corresponded to the underlying purpose of all.

This was the real condition that made possible a successful conference. This was the fact which explains why the major agreements were brought before the conference as drafts supported and presented unanimously by the participating governments. What was sought and attained was not a diplomatic victory by any of the nations represented, but full understanding, friendly cooperation, and long-range planning.

Three main premises were accepted by all. The first was that the American hemisphere has a distinct and peculiar contribution to make, because no nation in it is driven by any compulsion or professes any right to threaten the peace of its neighbors. The second was that the only safety for all nations is loyal acceptance of a rule of law under which the integrity of every country, large or small, will be assured. The third was that renunciation of war and other similar declarations must be implemented by a method of action which can set into operation almost instantaneously the cooperative effort of the hemisphere in the direction of pacific settlements.

With this in mind, various proposals for implementation were advanced. But they swiftly merged into a single dominant idea: Any threat to the maintenance of peace on this continent must lead to an immediate consultation between all of our governments with a view to seeking common policies and taking common measures which may end a conflict in progress, or prevent a conflict not yet begun.

It was out of these considerations that emerged the major treaties and agreements negotiated at the conference. These instruments provide a complete consultative system. They are designed thus to bring into active cooperation all 21 governments whenever the peace of the hemisphere is menaced either from within or without, or whenever a sufficiently grave situation arises elsewhere in the world which may create a threat to the peace of the Western World.

III

Of the numerous accords reached at Buenos Aires there were three which, if universally ratified, will constitute an effective organization for the maintenance of peaceful and cordial relationships between the American republics. These were:

First. The convention to coordinate, extend, and assure the fulfillment of the existing treaties between the American states. In this agreement the American governments reaffirm the obligations they had previously accepted in five international pacts and accords (among which are the Kellogg-Briand Pact and the Treaty of Nonaggression and Conciliation signed in Rio de Janeiro in 1933). These comprise the obligation of the nations to settle, by pacific means, controversies of international character that may arise between them.

The nations furthermore agree to consult and cooperate to make available effective means of pacific settlement. They further pledge themselves that, while such consultation is in progress, the parties in dispute for a period of at least 6 months will not have recourse to hostilities or any military action whatever. And those American nations which may be involved in a controversy likewise obligate themselves to report to the other American governments the methods of pacific settlement which they select, as well as the progress made in the adjustment of their dispute.

Lastly, the agreement provides that in the event that, despite these pledges and arrangements, war should occur between any American republics, the other American republics will attempt through consultation to adopt, in their character as neutrals, a common and solidary attitude in order to discourage or prevent the spread or prolongation of hostilities.

2. The Convention for the Maintenance, Preservation, and Reestablishment of Peace: This agreement is based on the conviction expressed in its text, "that every war or threat of war affects directly or indirectly all civilized peoples and endangers the great principles of liberty and justice which constitute the American ideal and the standard of American international policy." In its five brief articles the various American governments pledge themselves to consult with each other in three different types of circumstances which might threaten their peace. First, in the event that the peace of the American republics is menaced; second, in the event of war between American states; and third, in the event of an international war outside America which might menace the peace of the American republics.

I have faith in the usefulness of this prospective process of consultation. I believe that if and when crises of the kind envisaged should arise, the peoples of the American continent will demand of their governments that they find in consultation the means of avoiding or ending conflict.

In adhering to this agreement, the American republics accept and demonstrate a joint concern for the peace of the American republics. This concern was also recognized and set forth in the declaration of principles of inter-American solidarity and cooperation adopted at the conference, which declares "that every act susceptible of disturbing the peace of America affects each and every one of them, and justifies the initiation of the procedure of consultation * * *." In this promise of concerted obligation small states will find assurance. The Government of the United States welcomes this action as completely in line with the historic concern which it has always had for the independence and territorial integrity of this hemisphere.

3. The additional protocol relative to nonintervention: This agreement reaffirms the convention signed at Montevideo in 1933, which embodies the fundamental principle that "no state has the right to intervene in the internal or external affairs of others." In the continued reaffirmation of this principle and continued pledge of its observance, the American republics see a guaranty of full equality and complete freedom to manage their own affairs.

What a boon to humanity it would be if other groups of nations were, at this crucial stage in world affairs, to give their plighted faith to a similar undertaking, if they were in a spirit of peace, unity, and moral consecration to reassert and revitalize the law of nations, international morality and treaty obligations, and to pledge solemn observance of the doctrine of the equality, the sovereignty, the territorial integrity, and the liberty of all nations.

IV

In addition to the three accords just described the conference adopted a number of significant and far-reaching agreements and resolutions calculated to increase the flow of trade, to stimulate cultural interchange, and to improve the methods of communication.

There was general and emphatic agreement that all countries must work toward a system of freer economic interchange, so that the standards of living in the various countries may be gradually raised and the commercial necessities of each country adequately recognized, and that thereby the economic compulsions toward war and domestic strife may be removed. There was equally emphatic agreement that rising economic prosperity, resulting from growing and mutually beneficial international trade, is an essential condition for freedom and for the preservation and strengthening of Democratic institutions, and that such institutions constitute a most effective peace insurance.

The conference unanimously affirmed the necessity and desirability of lessening the present excessive obstacles to international trade and of conducting trade relations on principles which assure equality of treatment. It asserted the necessity of shaping governmental policy to the end that trade will not be diverted into artificial channels created by narrow and forced political arrangement, but will flow along lines of economic benefit. It recognized that trade should not be disrupted and handicapped by the discriminatory effects of various systems of control, clearing, and compensation devices. The conference recommended that these declarations of economic policy be followed by quick and vigorous action on the part of the American republics. This liberal commercial policy should be the central point in the economic program of every nation.

By means of still other agreements and resolutions the conference perfected plans and arrangements for increasing the educational and cultural interchange between the American countries. These look toward a growing exchange of students and teachers between our various countries and a greater cooperation in scientific work. They aim to assure a steady, fuller, and better-proportioned movement of current news in this hemisphere and a proper utilization of the facilities of the radio to spread a continuous picture of life throughout the continent. They are designed to promote deeper mutual understanding and to provide a broader basis for friendly relations founded upon a growing knowledge of, and respect for, each other's views and aspirations.

V

These were the immediate results of the conference. They represent far more than a mere beginning. The agreements and arrangements negotiated at Buenos Aires are interconnected segments of a structure of permanent peace in the process of creation.

In a world in which cynics scoff at all efforts to banish war the 21 American republics have bodily declared their determination to keep alive the spirit of peace. They have affirmed their trust in each other and their faith in the sacredness of treaty obligations. At Buenos Aires there was no cynical dismissal of the idea that a nation's pledged word is a valid obligation. There was a determination among these nations that their relations with each other should be conducted on the basis of friendly cooperation, of law and justice, and not by the rule of force.

At Buenos Aires the American nations, speaking through their governments, demonstrated their conviction that the maintenance of peace requires the reestablishment of profound respect for international law and a sincere concern for the higher principles of international relationship. It is my firm belief that the agreements, resolutions, and recommendations formulated and adopted at Buenos Aires represent an important step in the direction of the reestablishment and revitalization of international law.

This profession of faith in the desirability and possibility of a world organized for peace and advancing civilization, rather than for war and degrading savagery, is applicable not only to our hemisphere but to all other parts of the world. In other regions external conditions may be different from those which prevail on the American continent. The agreements and arrangements adopted by the American Republics may not, in all their detail, meet the requirements of the other continents. But the principles underlying the instruments of peace forged at the Buenos Aires Conference are universal in their application. They, within themselves, constitute an appealing invitation to all nations to accept them without delay.

The right of each country to manage its own affairs free from outside interference; the principle of sovereignty and of equality of States, irrespective of size and strength; sincere respect for law and the pledged word as the foundation of an international order; friendly and cooperative effort to promote enduring peace, mutually advantageous economic intercourse based upon the rule of equal treatment, and mutually broadening and uplifting cultural relationships—all these are indispensable if the governments of the world are to fulfill the sacred trust involved in the task of planning and providing for the safety and welfare of their peoples.

The future of our entire civilization is bound up with the acceptance by all governments of these fundamental tenets of constructive statesmanship. The longer important nations delay their adoption, the graver will be the jeopardy into which all worthwhile international relationships will be plunged, and with them the welfare, the happiness, and the civilized existence of all nations. A government which substitutes for these principles policies based upon extremes of national pride, ambition, aggrandizement, and ever-increasing armaments, renders the greatest possible disservice not only to the world at large but to its own people as well.

VI

The issue which confronted the American republics at the conference, the issue which confronts today every nation of the earth, is clear. In the portentous future which lies immediately ahead, will the nations move further in the direction of increasing distrust and suspicion, of destructive commercial policy, of growing economic antagonism, of unprecedented races in armaments, of the worst extremes of militarism, and thus inevitably plunge many parts of the world either into a military catastrophe or a crushing economic collapse? Or will the nations, as at Buenos Aires, embrace a program of understanding and trust, of friendly and peaceful relations, of fair dealing and cooperative effort for the restoration of conditions of economic well-being?

So far as the Western Hemisphere is concerned, the answer has thus been given. Our own country is prepared to do its full part to bring it about that, on the basis of the arrangements reached at Buenos Aires, the nations of this continent will order their lives upon a sane balance of national freedom and practical international cooperation. We are confident that our sister republics will act likewise.

If we succeed, this will remain a healthy and hopeful hemisphere. And its 21 nations, with their quarter of a billion inhabitants, freed by their common action from the dread and scourge of war, should be able to encourage and, to the extent consistent with their traditional policies, cooperate with other nations to surmount their difficulties by similar methods.

There is every reason to believe that friends of peace all over the world, hitherto laboring under the utmost discouragement, have taken increased hope from what was said and done at Buenos Aires. It is not too much to say that the acts and utterances of the conference are at once a challenge to the statesmanship of the world and a heartening symbol to the peoples of all nations.

I cannot believe that it is beyond the power of the statesmen of today to check and reverse the drift toward international anarchy, in the direction of which some parts of the world find themselves moving. The work of the recent conference proves, in my judgment, that no part of the world needs to reconcile itself fatalistically to the inevitability of war. Upon the same basic principles that were implemented at Buenos Aires, the entire world can—and, I hope with all my heart, will—build a structure of enduring peace.

Pollution of Rivers and Streams

EXTENSION OF REMARKS

OF

HON. FRANCIS T. MALONEY

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Thursday, March 11, 1937

ARTICLES BY HON. AUGUSTINE LONERGAN, OF CONNECTICUT

Mr. MALONEY. Mr. President, I ask permission to have printed in the RECORD an article entitled "Fish Menaced by Pollution of Rivers", written by my colleague the senior Senator from Connecticut [Mr. LONERGAN], published in the Washington Times of February 20, 1937. It is the second of three articles relative to the need of an antipollution law. The first article of the series was printed in the Appendix to the RECORD at page 268.

I also ask permission to have printed in the RECORD the third article of the same series, entitled "The Remedy for Water Pollution", likewise written by my colleague, which was prepared for release by the International News Service.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times of Feb. 20, 1937]

FISH MENACED BY POLLUTION OF RIVERS

By Senator AUGUSTINE LONERGAN

The protection of public health of the Nation deserves first consideration in undertaking to eliminate pollution of our waterways, but of great importance also is the annual destruction of fish and game birds and wildlife from these causes.

Ducks by the thousands, their wings soaked with oil on polluted waters so that they are helpless to fly, are found annually by the Biological Survey of the Department of Agriculture. Most of them die by starvation, being unable to get around except by swimming. After several weeks of effort to find food they succumb.

FISH ALSO VICTIMS

Fish in untold millions are destroyed annually by pollution. Anyone who has waded in a filthy stream, whose stench and odors reveal the presence of pollution, and who has found lying on the banks the remains of countless numbers of dead fish, is awakened to the pity of this crime against nature. For it is common knowledge that with all the progress made against pollution in the interest of public health, little attention has been given to conservation of wildlife. Like the American Indian, the game fish and the game bird are gradually passing into oblivion.

WILDLIFE SUFFERS

Wildlife is a victim because it depends so much upon water for its existence. In most cases birds and fish are beyond the aid of city filtration plants established in the interest of public health. Like many individuals, they must depend upon the natural waterways for their water or food, or both.

Conservation organizations throughout the Nation have taken the lead in demanding immediate action to curb pollution, and in some respects are more fully acquainted with the problem than those who approach it from the health standpoint alone.

Water pollution, like cancer, works quietly and secretly and often escapes notice until some emergency reveals its hidden dangers. It has so entrenched itself in America that only by concerted national action can it be prevented and eliminated. As Dr. Theobold Smith, eminent authority on public health, said not so long ago:

"The American people must destroy water pollution or it will destroy us."

REMEDY FOR WATER POLLUTION

(Third and final article on water-pollution control in the United States by AUGUSTINE LONERGAN, United States Senator from Connecticut)

The remedy for water pollution in the United States is Federal control.

Running water is no respecter of State boundaries. Pollution control, like flood control, must be on a national basis.

States have made valiant efforts through their health authorities and water commissions to eliminate pollution and have made much progress. But often when they are reasonably successful in cleaning up their own streams they discover that neighboring States are dumping their refuse into their waters. Industrialists and others soon begin complaining that it does no good for them to abate pollution when their neighbors refuse to do so, and assert that if laws are adopted in their State which will impose extra costs and bother to them in preventing pollution, it will place them at a disadvantage with industries in neighboring States. They openly hint that State-wide pollution-control laws will drive industries out of the State into others.

The result has been a patchwork of control methods, devices, and efforts lacking uniformity and having neither rhyme nor reason. Waterways, despite the progress of civilization, continue to be little more than open sewers.

Compacts have been attempted between some of the States to solve the problems referred to, but thus far they have had but limited effect and need further tests.

The real need at present is for a Federal directing authority to classify the watershed areas along the navigable waters of the United States, establish sanitary district boards in such area, and then provide for their cooperation with State agencies already established. The district boards should be provided with experts who will help local officials solve their problems as to the source of pollution and proper treatment therefor. Such work by experts might actually require 3 or 4 years in some areas before definite progress is noted, since there are many causes of pollution and it is difficult to find and apply proper remedies.

The district boards should also have power to recommend loans and grants to States, municipalities, and industries along a watershed stream once it is determined what the remedial method should be. These loans and grants should be made under plans somewhat similar to the present Public Works Administration loans and grants.

Thus all possible polluters would first be shown the way to prevent and abate pollution by expert methods and would then be offered Federal financial assistance. In many cases the

byproducts of pollution-control systems have proved profitable to industries, and they are glad to have experts determine the method to be applied.

But even with such broad cooperative effort there probably would be a small minority of interests who would refuse to abate pollution. Some do not want to be bothered. Some regard waterways as natural God-given sewers for industries, and that it is more important to the community for their plants to exist without the nuisance of installing pollution-control equipment, even when financed by Government or State assistance. For this recalcitrant minority some enforcement provision must be made, else the cooperative effort of all other neighbors may come to naught.

My bill (S. 13) now pending in the Senate, contains all the features previously described, including the enforcement provisions, which, however, would not be applied except in the case of defiant violators who refuse all cooperation. It would enable the sanitary district boards to go into a court of equity and obtain a restraining order against any polluter.

A similar policy of enforcement has been necessary in other Federal laws to effect cooperation and compliance. No effort at pollution control will ever be successful without it; and despite the progress that might be made by cooperation, compacts, and financial loans and grants, that progress will be nullified by the few who do not want to be bothered with compliance. All of these proposals must be embodied in one measure which includes enforcement provisions also. Congress cannot be expected to appropriate large sums of money for loans and grants unless there is some assurance that value will be received. Cooperation without enforcement has failed in the States and in the Nation. Like flood control, it will be necessary to plan and enforce pollution control on a national basis. Compacts will be helpful, and my bill provides for their recognition in watershed areas where they now or hereafter may exist, and they would function in lieu of a Federal sanitary district board, providing compact authorities also administered the Federal provisions of the law.

With public support, a pollution-control law will be adopted in this Congress. My bill (S. 13) has been heard extensively by a Senate committee and was favorably reported in the last Congress. I expect it to be favorably reported again soon. United endorsement has come from conservation organizations, various health organizations, and individuals, as well as many industrialists, who now understand the purposes of the bill to be cooperative and not drastic.

A national pollution-control program should go arm in arm with a national flood-control program.

Whisky and Politics

EXTENSION OF REMARKS

OF

HON. ARTHUR CAPPER

OF KANSAS

IN THE SENATE OF THE UNITED STATES

Thursday, March 11, 1937

EDITORIAL BY DAVID LAWRENCE

Mr. CAPPER. Mr. President, an editorial by Mr. David Lawrence, published in the United States News of March 8, 1937, entitled "Whisky and Politics" raises some pertinent questions respecting the liquor problem in the United States. While we may not agree with all his conclusions, yet Mr. Lawrence raises questions which must be seriously considered in connection with the problem of the promotion of temperance in our country. I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was printed in the RECORD, as follows:

[From the United States News of Mar. 8, 1937]

WHISKY AND POLITICS

By David Lawrence

Whisky and politics should never be mixed.

Memories may be short but it should not be forgotten that a mixture of politics and the liquor trade produced the conditions that forced the adoption of an extreme measure—the eighteenth amendment.

It was the development of vicious practices through an illicit trade—the profits used by bootlegger and gangster to corrupt local police—which opened the eyes of the American people and brought about the repeal of the eighteenth amendment.

But when the twenty-first amendment was put into the Constitution, it was never intended to license the evils of the pre-prohibition era or to destroy temperance. The voters were assured by both party platforms in 1932 that the return of the saloon was taboo.

The business of manufacturing alcoholic beverages is legitimate. The men in it are for the most part as high-minded and as public-spirited as any other group of businessmen. So long as a large number of people believe in the drinking of alcoholic beverages, it is proper that there should be a legitimate source of supply. It is the abuse and not the proper use which should engage our attention.

POLITICS AND REGULATORY LEGISLATION

The widespread use of alcoholic beverages has always involved a moral question—one that directly affects the very essence of community life. For centuries, the obligation of society to control or regulate the sale of liquor by ordinance or statute has been recognized.

Regulation of the liquor traffic is partly a Federal function and partly the job of the States and local communities. Unhappily the liquor interests have been persuaded to believe that in dealing with governmental bodies, it is necessary to employ a man prominent in the political life of the Nation. It probably is assumed that politicians must be hired to deal with politicians.

The man selected—W. Forbes Morgan—is generally regarded as an estimable person. He is to get $100,000 a year salary and this sum is assured him for 5 years in his contract with the various distilling companies which individually affixed their signatures to the guarantee.

In addition to this Mr. Morgan is to have a big staff. Rumors have it that he will take over some of the employees who have been an integral part of the Democratic national headquarters in New York. The total expense for this adventure in public relations, it is calculated, may cost the liquor industry per annum at least twice as much as Mr. Morgan's salary.

Now on the face of it what does such a project mean? It is known that the same position was first offered to two different members of the President's Cabinet. This would indicate that the liquor people felt it incumbent upon themselves to get a man who knows the ropes of present-day politics, a man who was persona grata to the national administration, and a man who knows the political situation in the various States where liquor-control legislation of one kind or another is bound to crop up in the next 5 years.

BAD EXAMPLE FOR SMALLER POLITICIANS

Why should it be necessary to conduct the public relations of the liquor interests on any such scale?

The answer probably will be given that in dealing with legislatures and political organizations it is necessary to have someone who can talk the language of the political world.

To have picked a man, however, from the Democratic high command, the very individual who has just finished raising funds for the Presidential campaign, is to give the public the impression that we are back to the days of political pull, bought and paid for through the hiring of political personalities who can be expected to persuade legislatures and governmental bodies generally to refrain from passing legislation hostile to the increased consumption of alcoholic beverages.

Such an impression may not at all be justified by Mr. Morgan's actual approach to his new job. For instance, he has announced that he will sever all connections with the Democratic National Committee on March 15 and from this the public is asked to believe that he will henceforth sever all relations with active politics.

But what effect does such a selection have upon the people who conscientiously disbelieve in the liquor traffic, not a few of whom have been and still are Republicans? Did the liquor interests assume that the Democratic Party would be in power forever and that an alliance between Democratic politicians and the liquor companies would be sufficient to squelch hostile legislation? If so, the liquor people will some day find themselves sadly mistaken.

The example furnished by the hiring of the treasurer of the Democratic National Committee to act for the liquor interests will not be lost on the local politicians. If the liquor industry, it will be said, has so much money to spend on the hiring of men at the top, the parasites in the local legislative situations will not hesitate to come forward to get what they might regard as their just share.

It is down the line in the local communities where the damage is done. The use of liquor money to corrupt police systems became a national scandal when the bootlegger was in power, but it was a scandal long before when money was freely used to prevent dry legislation in the States prior to the prohibition era.

What the Distilled Spirits Institute has just done will be the best ammunition the Anti-Saloon League and dry organizations could possibly have been given. It will be interpreted by them as meaning that the liquor people are interested only in profits and not in proper regulation of the use of alcoholic beverages.

ACTION PUTS THE INDUSTRY ON DEFENSIVE

This writer has always defended the right of the liquor industry to sell its wares to those who know how to handle liquor in moderation, and in the right of the Government to collect revenues from the sale instead of seeing the tax moneys flow into the pockets of bootleggers and persons in the underworld.

When prohibition was repealed it was assumed by a large number of disinterested citizens that the men engaged in the liquor business would never be so short-sighted as to do over again the

things that deprived them of their lawful market for so many years.

The action of the liquor companies in hiring an outstanding politician at a fanciful salary to conduct "public relations" puts the liquor industry clearly on the defensive. From now on the attitude of the liquor distillers toward control legislation will be scrutinized with much more penetrating interest than ever. The question will be asked again and again whether the liquor industry can control itself, which means whether it can forego extensive profits and be content to earn a fair return on its investment or whether it must ignore social conditions and insist upon the maximum profit irrespective of social consequences.

ABUSES BRING ADDED NEED FOR CONTROL

The liquor problem was by no means settled when the twenty-first amendment was put into the Constitution. The frightful increase in the number of automobile accidents due to drunkenness on the part of drivers or the influence of moderate quantities of alcohol upon drivers of automobiles is too tragic a story to repeat here.

The official figures from the various States show what a terrible part liquor is playing in maiming and killing tens of thousands of men, women, and children every year.

Thus, for example, in Massachusetts last year out of 817 traffic fatalities, 160—or 19 percent—were directly traceable to use of intoxicating liquor, while liquor figured as a cause in injuries suffered by more than 1,200 persons involved in Massachusetts traffic accidents. In the neighboring State of New York the number of licenses revoked for operating automobiles while intoxicated has tripled since repeal, increasing from 1,157 in 1933 to 3,209 in 1936.

The need for control of the method and manner of selling whisky beverages was never more vital than it is today just as it is imperative that a Nation-wide campaign be begun for the education of the youth of the country on the ill effects of excessive use of alcohol.

Everything, of course, in relation to individual behavior is relative and involves degree and proportion. But liquor control of some kind is no longer debatable. The several States wanted to recover the power to deal with this question, and they now have it. At a time when the trend toward centralized control is so pronounced with respect to the regulation of all business and industry—when, indeed, the Federal Government is reaching out for more drastic laws governing the sale of pure foods and drugs—it would not be surprising to see the twenty-first amendment used as the authority for a revival of a modified Volstead Act.

With a Supreme Court doing the bidding of future Chief Executives, assuming that the precedent is established under the Roosevelt administration, it would be a comparatively simple matter to enact Federal legislation regulating the sale of intoxicating beverages and thus indirectly affect their use.

Should a revived N. R. A. be set up, it would be simple also to grant power to the code authority taking over the liquor trade to regulate retail distribution. But, apart from this, the twenty-first amendment gives the Federal Government the right to regulate at the source of manufacture the consignment of liquor to other States. The amendment was adopted in order to enable the Federal Government to assist the States by seeing to it that no liquors were shipped into their respective territories in violation of State laws. How can the Federal Government be sure it may some day be argued in the Supreme Court that liquor is going to be sold to proper persons for whom the States intended it unless the traffic is carefully regulated by a Federal inspection service affecting every phase of distribution?

MORAL ISSUES NOT IGNORED BY THE VOTERS

Another important development which ought not to be lost sight of since the eighteenth amendment was repealed is that a substantial element in the Roosevelt administration, including the President himself, believes in a new definition of interstate commerce. Much of the crusade begun by the President against the Supreme Court is to obtain a wider definition of the commerce clause of the Federal Constitution than has been applied heretofore.

Under such a definition, considering already that the products of child labor and prison-made labor are being excluded from interstate commerce, it would take just an act of Congress, based on this new definition of interstate commerce and on the twenty-first amendment plus State powers to bring back absolute prohibition overnight in a large part of the United States. No revival of the eighteenth amendment itself would be necessary.

Maybe the liquor interests had this in mind when they selected a man prominent in political life to represent them in their relations with the public. But they failed to note that minorities sometimes become majorities and that the surest way to bring back absolute prohibition is for the liquor interests to put their faith in politicians as against the opinion of the voters as to what should be the proper moral standards for a nation.

The American people sought to repeal the bootlegger and gangster, but not to repeal morality. The instinct for morality is as strong as it ever was, dimmed though the vision of justice through political government may be at the moment.

WISE POLICY TO ENCOURAGE MODERATION

In the long run, the people of the United States will move toward the adoption of the Swedish system of liquor control, a system that licenses the individual in his use of intoxicants just as we today license and control the driver of a motorcar.

The American people will not turn the clock back. They will go forward. And the liquor industry would do well to be content with less profits and a stabilized liquor traffic plus a campaign for temperance sincerely espoused as an evidence that the liquor manufacturers care as much for the youth of the Nation and the misguided citizenry who abuse the right to buy intoxicants as they do for the dollars and cents of their balance sheets.

If the profit motive should some day be found to be the biggest obstacle toward the use of alcoholic beverages with moderation, the American people will not hesitate to attack such a profit motive.

The liquor industry has been challenged to adopt a constructive policy toward liquor control. Mr. Morgan's future activities will demonstrate whether his appointment was dictated by considerations of politics or by the need of an industry affected with the public interest to conduct itself with the public interest really uppermost in its mind.

Flood Relief

EXTENSION OF REMARKS
OF
HON. EUGENE B. CROWE
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, February 11, 1937

Mr. CROWE. Mr. Speaker, I have introduced in the House a joint resolution asking for the sum of $50,000,000 for direct grants to people in distress, who have suffered great loss during the recent catastrophe of floodwaters along the Ohio River and its tributaries. This joint resolution has also been introduced in the Senate by the junior Senator from Indiana [Mr. MINTON].

The draft of the bill is as follows:

Resolved, etc., That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available, the sum of $50,000,000, to be granted for the purpose of relieving suffering of, or damage to, persons or property, by reason of the floods recently occurring in the year 1937. The President is authorized to allocate said sum to the Governors of the various States affected by said flood in proportion to the number of families in said State or States affected by the flood.

Many precedents have been set for such grant, both in this country and also in many other parts of the world. Following are a few of them. Outright grants were made first in the year 1812 and have continued at very frequent intervals up to the present time.

RELIEF OF SUFFERERS, ETC.

(List in RECORD, Mar. 1, 1923, p. 5053, vol. 64, pt. 5)

December 22, 1921: $20,000,000 from the funds of the United States Grain Corporation for the relief of the distressed and starving people of Russia (Public Act 117, 67th Cong.).

January 20, 1922: $4,000,000 of medical supplies from the surplus supplies of the War Department and other departments of the Government to aid and assist the distressed people of Russia (Public Act 129, 67th Cong.).

March 28, 1924: Medical supplies for earthquake sufferers in Japan (Public Act 152, 68th Cong.).

February 24, 1925: $6,017,069.03 of supplies from the current and reserve stock for the use of the Army for the relief of sufferers from the earthquake in Japan.

March 4, 1925: $10,546.56 of quartermaster supplies for the relief of sufferers from fire at New Bern, N. C. (Public, 622, 68th Cong.).

March 4, 1925: $4,582.33 of quartermaster stores for the relief of sufferers from cyclone in northwestern Mississippi (Public Act 623, 68th Cong.).

One hundred million dollars, relief of Europe (Public Act 274, 65th Cong.).

Relief granted by Congress to sufferers on account of fires, floods, earthquakes, etc.

	Amount	Date	Statutes at Large
Venezuela, earthquake in	$50,000.00	May 8, 1812	Vol. 2, p. 730.
New Madrid, Missouri Territory, authority to select a like amount of public land, etc.	----------	Feb. 17, 1815	Vol. 3, p. 211.
New York City, sufferers from fire to be relieved from paying certain duties.	----------	Mar. 19, 1836	Vol. 5, p. 6.
Florida, rations to be given sufferers from Indian depredations in.	(1)	Feb. 1, 1836	Vol. 5, p. 131.
Portsmouth, N. H., sufferers from fire to be relieved from paying duties on merchandise.	----------	Feb. 19, 1803	Vol. 6, p. 49.

[1] Indefinite.

Relief granted by Congress to sufferers on account of fires, floods, earthquakes, etc.—Continued

	Amount	Date	Statutes at Large
Norfolk, Va., sufferers from fire given extension of time within which to pay certain duties.		Mar. 19, 1804	Vol. 6, p. 53.
Alexandria, Va., for relief of sufferers from fire.	$20,000.00	Jan. 24, 1827	Vol. 6, p. 356.
Ireland, authority to use U. S. S. *Macedonian* for transportation of supplies to sufferers in Ireland.		Mar. 3, 1847	Vol. 9, p. 207.
Minnesota, relief of persons damaged by Indian depredations in.	200,000.00	Feb. 16, 1863	Vol. 12, p. 652.
District of Columbia Arsenal, relief of sufferers from explosion in cartridge factory.	2,000.00	July 4, 1864	Vol. 13, p. 416.
Portland, Maine, relief of sufferers from fire, certain articles admitted free of duty.		July 4, 1866	Vol. 14, p. 304.
District of Columbia Arsenal, relief of sufferers from explosion.	2,800.00	Mar. 17, 1866	Vol. 14, p. 351.
Portland, Maine, relief granted in payment of taxes of citizens who suffered from fire at.		July 27, 1866	Vol. 14, p. 369.
Southern States:			
Authority given to use public vessels in transportation of supplies to.		Feb. 22, 1867	Vol. 14, p. 567.
Authority given to charter vessels for the transportation of supplies.		Mar. 29, 1867	Vol. 15, p. 24.
South, Secretary of War authorized to issue supplies of food to sufferers in.		Mar. 30, 1867	Vol. 15, p. 28.
Southern States, purchase of seeds for distribution.	50,000.00	....do....	Do.
South, authority given to Secretary of War to distribute certain food supplies.		Jan. 31, 1868	Vol. 15, p. 246.
France and Germany, authority given to use naval vessels for the transportation of supplies to the destitute and suffering peoples of.		Feb. 10, 1871	Vol. 16, p. 506.
Chicago, Ill.:			
Relief of sufferers from fire at.	(1)	Apr. 5, 1872	Vol. 16, p. 31.
Relief of postmaster at, on account of loss due to fire.	(1)	Mar. 12, 1872	Vol. 16, p. 646.
Mississippi River flood sufferers, President authorized to issue supplies of food and clothing to.	(1)	Apr. 23, 1874	Vol. 18, p. 34.
Sufferers from ravages of grasshoppers, purchase of seeds for.	30,000.00	Jan. 25, 1875	Vol. 18, p. 303.
Mississippi flood sufferers, relief of.	190,000.00	May 13, 1874	Vol. 18, p. 45.
Sufferers from ravages of grasshoppers, purchase of seeds for.	150,000.00	Feb. 10, 1875	Vol. 18, p. 314.
Yellow fever, refrigerating ships for disinfection of vessels and canoes on account of.	200,000.00	Apr. 18, 1879	Vol. 1, p. 21.
Colored immigrants, articles for relief of, to be admitted free.		Mar. 5, 1880	Vol. 21, p. 66.
Ireland, Secretary of Navy authorized to use naval vessels for transportation of supplies to.		Feb. 25, 1880	Vol. 21, p. 303.
Macon, Miss., Secretary of War authorized to send 4,000 rations to cyclone sufferers.		May 4, 1880	Vol. 21, p. 306.
Mississippi River flood sufferers:			
Purchase of seeds for	20,000.00	Apr. 11, 1882	Vol. 22, p. 44.
Relief of destitute	100,000.00	Feb. 25, 1882	Vol. 22, p. 378.
Secretary of War authorized to use—			
Hospital tents for		Mar. 10, 1882	Do.
Government vessels for transportation and distribution of rations.		Mar. 11, 1882	Do.
Furnishing food to	150,000.00	Mar. 21, 1882	Vol. 22, p. 379.
Purchase and distribution of subsistence stores to.	100,000.00	Apr. 1, 1882	Do.
Ohio River flood sufferers:			
Purchase and distribution of subsistence stores, clothing, etc., to.	300,000.00	Feb. 12, 1884	Vol. 23, p. 267.
Relief	200,000.00	Feb. 15, 1884	Vol. 23, p. 268.
Mississippi River flood sufferers, authority to use unexpended balance of $125,000 of above appropriation to furnish rations to.		Mar. 27, 1884	Vol. 23, p. 269.
Yellow fever and cholera, prevention of.	200,000.00	Sept. 26, 1888	Vol. 25, p. 630.
Yellow fever, eradication of	100,000.00	Oct. 12, 1888	Vol. 25, p. 631.
Japanese crew, recognition of kind of treatment of.	5,000.00	May 24, 1888	Vol. 25, p. 623.
Arkansas, Mississippi, and Louisiana, purchase of tents for flood sufferers.	25,000.00	Mar. 31, 1890	Vol. 26, p. 33.

[1] Indefinite.

Relief granted by Congress to sufferers on account of fires, floods, earthquakes, etc.—Continued

	Amount	Date	Statutes at Large
Mississippi River flood sufferers:			
Authority to hire boats from appropriation for improvement of Mississippi River to rescue.		Apr. 3, 1890	Vol. 26, p. 670.
Relief of	$150,000.00	Apr. 21, 1890	Vol. 26, p. 671.
Oklahoma, certain unexpended balances made available for the relief of citizens of, made destitute by drought.		Sept. 1, 1890	Vol. 26, p. 679.
Potomac River, removal of ice gorge.	5,000.00	Feb. 15, 1895	Vol. 28, p. 909.
Ford Theater disaster:			
Payment to heirs of legal representatives of persons killed in.	125,000.00	Mar. 2, 1895	Vol. 28, p. 932.
Payment to employees on account of.	131,550.00	June 6, 1896	Vol. 29, p. 273.
India:			
Authority to transport supplies to poor of.		Feb. 19, 1897	Vol. 29, p. 701.
Use of vessels authorized to aid suffering of poor.		June 1, 1897	Vol. 30, p. 219.
Mississippi River flood sufferers, relief of.	200,000.00	Apr. 7, 1897	Do.
Cuba, relief of United States citizens in.	50,000.00	May 24, 1897	Vol. 30, p. 220.
Maine, U. S. S., payment to sufferers on account of destruction of.		Mar. 30, 1898	Vol. 30, p. 346.
District of Columbia, prevention of spread of contagious diseases.	50,000.00	Feb. 28, 1899	Vol. 30, p. 1390.
San Francisco, Calif.:			
Relief of sufferers from earthquake.	1,000,000.00	Apr. 19, 1906	Vol. 34, p. 827.
Do.	1,800,000.00	Apr. 24, 1906	Vol. 34, p. 828.
Jamaica, relief of sufferers from earthquake and fire.	(2)	June 18, 1906	Vol. 34, p. 850.
Alabama, Arkansas, Georgia, Louisiana, Mississippi, Tennessee, and Texas, relief of cyclone sufferers.	250,000.00	May 11, 1908	Vol. 35, p. 572.
Italy, relief of citizens of	800,000.00	Jan. 5, 1909	Vol. 35, p. 584.
Ohio River, removal of ice gorges.	10,000.00	Jan. 19, 1910	Vol. 36, p. 873.
Costa Rica, sufferers from earthquake.	(3)	May 13, 1910	Vol. 36, p. 367.
Imperial Valley, Calif., protection of lands and property from Colorado River.	1,000,000.00	June 25, 1910	Vol. 36, p. 883.
China, relief of famine sufferers	50,000.00	Feb. 10, 1911	Vol. 36, p. 919.
Mississippi Valley, relief of flood sufferers in.	1,239,179.00	May 9, 1912	Vol. 37, p. 633.
Mississippi River, between Head of Passes and Cape Girardeau, maintaining and protecting levees against floods.	350,000.00	Apr. 3, 1912	Vol. 37, p. 78.
Mississippi River and tributaries:			
Maintaining and protecting levees against impending floods.	300,000.00	Apr. 16, 1912	Vol. 37, p. 85.
Authority to use $1,500,000 for repair, improvement, and strengthening levees against floods.		Apr. 30, 1912	Vol. 37, p. 633.
Middle West flood sufferers, reimbursement to Life Saving Service appropriation for aid to.	5,000.00	Oct. 22, 1913	Vol. 38, p. 211.
Mississippi and Ohio Valleys, Pench Tree, Alabama, and Nebraska relief of sufferers from floods, tornadoes, and conflagrations, reimbursement of War Department appropriations.	654,448.49	....do....	Vol. 38, p. 215.
Action of the President in extending aid from various appropriations ratified.		....do....	Vol. 38, p. 216.
Mississippi Valley flood sufferers, 1913:			
Credit in account of certain river and harbor appropriations for expenditures.	34,192.35	....do....	Do.
Medical supplies, action of the President in issuing ratified.	8,239.40	....do....	Do.
Flood sufferers in Ohio and Indiana and on the Ohio and Mississippi Rivers, reimbursement to certain naval appropriations for relief.	130,940.38	Oct. 22, 1913	Vol. 38, p. 215.
Salem, Mass., relief to sufferers from fire at (expended, $47,140.10).	200,000.00	Aug. 1, 1914	Vol. 38, p. 681.
Paris, Tex., relief to sufferers from fire at.	(4)	Apr. 11, 1916	Vol. 39, p. 59.
North Carolina, South Carolina, Georgia, Alabama, Tennessee, Florida, and Mississippi flood sufferers, supply of seeds to be furnished, and Army supplies by Quartermaster and Medical Departments of the Army.	540,000.00	Aug. 3, 1916	Vol. 39, p. 434.

[2] Clothing, food, etc., from naval stores.
[3] Tents, blankets, etc., by Army, Navy, and Panama Canal.
[4] Tents, cots, etc., and supplies to be furnished by War Department.

Relief granted by Congress to sufferers on account of fires, floods, earthquakes, etc.—Continued

	Amount	Date	Statutes at Large
West Virginia, relief of flood sufferers (provisions of resolution, appropriation just above extended to West Virginia).	$540,000.00	Aug. 24, 1916	Vol. 39, p. 534.

Distress for 1,000 miles along the Ohio River is almost indescribable. The loss of property both urban and rural is generally estimated at $500,000,000. This request that I have made of an outright grant for $50,000,000 would probably replace 10 percent of this loss. Ten percent plus what the Red Cross can do together with the $20,000,000 to be loaned by the Disaster Loan Corporation would probably in a way replace and reestablish those who cannot otherwise reestablish themselves.

In my opinion the people that this $50,000,000 of outright grants would reestablish would otherwise be on society. Accordingly, the business thing to do is to reestablish these people. The human thing to do is to reestablish them. May I not urge the membership of the House to support this resolution?

Coal Industry Is an Important One to the Industrial Life of the United States

EXTENSION OF REMARKS
OF
HON. JENNINGS RANDOLPH
OF WEST VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 11, 1937

Mr. RANDOLPH. Mr. Speaker, the favorable action taken today on H. R. 4985, a bill to regulate interstate commerce in bituminous coal, is most gratifying to all of us who have attempted to breathe new life into an industry which has played such an important part in the industrial life of the Nation over a long period of years.

I trust that the Senate will speedily join the House in passage of the measure with its accompanying Presidential approval, for I am hopeful that a strike in the bituminous industry can be averted. The wage contract now in effect between miners and operators expires April 1.

In this connection I desire at this point to insert certain information on this point, together with a table:

WEST VIRGINIA MINERS IN 1935 AVERAGED 192 DAYS OF WORK

Bituminous-coal miners have asked a guarantee of 200 days' work a year. The United States Bureau of Mines report for 1935, the last available, shows but 2 of the 32 States, including Alaska, averaged that high. These were Alaska, employing 95 men who worked 249 days, and Wyoming, 3,966 men who worked 217 days.

Other States with the value of the 1935 output, number of employees, average days, and output per man follows:

State	Tonnage output	Value	Employees	Tons per—	
				Day	Man
Alabama	8,504,510	$18,251,000	18,906	161	2.70
Illinois	44,525,469	69,516,000	43,748	171	5.97
Kentucky	40,760,000	65,956,000	52,339	182	4.28
Maryland	1,678,059	3,265,000	2,962	179	3.17
Ohio	21,153,151	35,111,000	29,524	162	4.44
Pennsylvania	91,404,670	172,170,000	124,109	180	4.10
Virginia	9,667,018	17,123,000	13,043	189	3.92
West Virginia	99,179,061	169,164,000	109,315	192	4.74

Those of us who represent districts in the bituminous coal region desire the very best wages possible be paid the miner and also a price paid the operator that he may show a profit on the sale of coal.

Bituminous coal constitutes 47.1 percent of the Nation's energy for fuel, which is a gain of some 2 percent during the last year. Railroads consume approximately 25 percent of the coal which is mined, the electric utilities use about 8 percent, while byproducts such as coke plants take another 13 percent, general manufacturers take 20 percent, while domestic users consume 20 percent, with the remaining 14 percent being used in a miscellaneous manner. Steel has been the backbone of the consumption of bituminous coal.

Certainly the passage of this measure is a forward step in an honest attempt to aid an industry which has had more than its share of problems peculiar to the nature of the business. Our favorable action today will most surely help in the solution of a distressing situation.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS
OF
HON. HENRY G. TEIGAN
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 11, 1937

RADIO ADDRESS BY HON. HENRY G. TEIGAN, OF MINNESOTA, ON MARCH 10, 1937

Mr. TEIGAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address, which I delivered over the radio on March 10:

The most important issue before Congress and before the American people at the present time is that of reforming the Supreme Court and the Federal judiciary in general. All present issues fade into comparative insignificance. Until this problem has been solved, there can be little object in Congress proceeding to legislate in behalf of the farmers, workers, and the common people of the Nation.

The question involved is, Are the three branches of the Federal Government to function as originally provided for in the Constitution or are we as a nation to continue to tolerate the autocratic power of the judiciary which for more than a century has arrogated to itself the power to veto acts of the executive and the legislative branches?

No one with an elementary knowledge of the situation will deny the fact that the Supreme Court and the inferior Federal courts occupy today a position far more powerful in our governmental structure than was intended by the framers of the Constitution and by the people who ratified it.

This power had its inception in the case of Marbury against Madison, decided by the Supreme Court in 1803. In this rather unimportant case the Court ruled that an act conferring original jurisdiction upon the Court to issue writs of mandamus was null and void as being in direct conflict with the Constitution.

Following this case no further attempt was made by the Supreme Court to nullify acts of Congress until 1857, when the Court, in the so-called Dred Scott case, annulled an act of Congress generally known as the Missouri Compromise. This case involved directly the issue of slavery and the Court held that a slave could not enjoy any rights as a citizen, that he was merely the property of his master, and that Congress had no power to prohibit slavery in the Territories.

This reactionary decision handed down by the Court was in no small measure responsible for the Civil War.

Following the Civil War the Court again assumed power to nullify acts of Congress. In the case of *Hepburn* v. *Griswold* the Court decided that Treasury notes issued during the Civil War for the purpose of financing the Government's activities at that time could not under the Constitution be a legal tender in payment of debts contracted prior to the enactment of the law. By "packing" the Court, President Grant succeeded in reversing the decision within a few months, and the act was finally sustained.

Other important cases in which the Court has nullified acts of Congress are the Income Tax case in 1895 and the more recent cases decided during the present administration, such as the A. A. A., N. R. A., Guffey Coal Act, and the Railroad Retirement Act.

In view of the fact that there are many persons who still believe the courts are clothed with power to nullify acts of Congress on the ground that they have been enacted in violation of the Constitution, it is entirely proper to note here that the courts have not always contended that they possessed such power.

John Marshall, prior to his appointment to the bench, advanced a strong argument against this contention in a case before the Supreme Court. He said:

"The legislative authority of any country can only be restrained by its own municipal constitution; this is a principle that springs from the very nature of society, and the judicial authority can have no right to question the validity of a law unless such jurisdiction is expressly given by the Constitution."

In the case of *Cooper* v. *Telfair*, decided February 13, 1800, Justice Chase expressed doubt as to the Court possessing any power to nullify an act of Congress. He said:

"* * * Although it is alleged that all acts of the legislature in direct opposition to the prohibitions of the Constitution would be void, yet it still remains a question where the power resides to declare it void."

This attitude of a conservative Justice should suffice to prove that there is no warrant in the Constitution for the exercise of this unusual power by the Supreme Court. The only conclusion we can draw, then, is that this power has been usurped by the Court without authority from the people or from the Constitution. In view of the fact that neither the Constitution nor Congress by statute has given authority to the courts to nullify Federal law, it is proper to consider what can be done to restore the lost power to Congress to legislate freely in behalf of the people.

Several plans have been offered to achieve this end. The most important one for the present is that offered by President Roosevelt in his recent message to Congress. The President's plan is to add an additional Justice to the Court for each one of those now on the bench who have reached the age of 70. Inasmuch as there are six members of the Court now beyond that age, the present plan, if carried into effect, means the addition of six new judges.

Our greatest legal authorities in America are all but united for the President's proposal. I desire to quote the concluding paragraph of a recent letter of Prof. Roscoe T. Steffen, of the Yale Law School, to the New York Times. Professor Steffen says:

"Life tenure was granted to the judiciary on the assumption that it would perform a strictly judicial function. When it departs from that course and trespasses on the rights of the legislature, the mildest and most conservative check possible is to authorize the President, by and with the advice and consent of the Senate, to appoint other judges to sit with those ancient ones who still persist in the horse-and-buggy legislative ideas of a bygone generation. The suggestion is not only wholly constitutional but it again restores the checks and balances between the three departments as conceived by the founders of our Government. Legislative power in our Government derives from the people; we have no place for a legislative oligarchy responsive only to the distant past. The proposal is a brilliant piece of statesmanship, not for today alone but for the long future as well."

The members of the Supreme Court are just ordinary human beings. They are of no higher character than the Members of Congress or other public officials. Their economic leanings are frequently made manifest in their opinions on the bench.

When so swayed in the interests of organized wealth, they do irreparable harm to the public interest. Many of the decisions nullifying statutes reveal this economic bias on the part of the judges.

In the income-tax case of 1895 this was clearly shown. The majority opinion attacked the law as being an "assault upon capital" and that it was only a beginning, but would serve as a "stepping stone to others, larger and more sweeping, till our political contests will become a war of the poor against the rich."

The case, as many others, was decided by a vote of 5 to 4. Four of the Justices dissented, holding that the law was constitutional.

The majority opinion was bitterly attacked by the dissenting Justices, who charged the majority with having yielded to the "monied class." Justice Brown held:

"The decision involves nothing less than a surrender of the taxing power to the moneyed class. * * * Even the specter of socialism is conjured up to frighten Congress from levying taxes upon the people in proportion to their ability to pay them. It is certainly a strange commentary upon the Constitution of the United States and upon the democratic government that Congress has no power to lay a tax which is one of the main sources of revenue of nearly every civilized state. * * * While I have no doubt that Congress will find some means of surmounting the present crisis, my fear is that in some moment of national peril this decision will rise up to frustrate its will and paralyze its arm. I hope it may not prove the first step toward the submergence of the liberties of the people in a sordid despotism of wealth."

It took Congress and the people nearly 20 years to remedy the damage done by this reactionary decision of the Court. Thus it is obvious what harm can be done by having capitalist-minded judges on the Federal bench.

Again in the so-called Child Labor case the Court struck down an act of Congress by a vote of 5 to 4. This act excluded from interstate commerce the products of child labor. Justice Oliver Wendell Holmes was among the four dissenters, and he severely criticized the opinion of the majority in the case. That decision made necessary the submission of a constitutional amendment by Congress in 1924, which up to the present time, 13 years later, has not yet been approved by a sufficient number of State legislatures to make the amendment effective. In this connection it might be worth noting that those who talk about a constitutional amendment as being the proper procedure are either forgetful of the history of the child-labor amendment or are engaged in a propaganda of deception in order to defeat the President's plan.

The argument has been advanced that our Presidents have vetoed more acts of Congress than our courts have nullified. The President, however, has such authority under the Constitution. There can be no argument on that point. But aside from this fact, Presidential vetoes have not involved the same difficulties inasmuch as in the vast majority of such cases the measures vetoed have been of small consequence. A Presidential veto does not preclude the enactment of similar legislation at a future session. Moreover, Congress has on numerous occasions seen fit to pass bills over the veto of a President. But there can be no such good luck for the common folk when they lose a battle in the Supreme Court. Then all is lost unless the Court can be made to reverse its previous decision as a result of changes in its personnel.

The comparison of Presidential vetoes with the Supreme Court's annulment of acts of Congress is without merit and is in effect fraudulent if not dishonest.

You farmers, workers, and businessmen are vitally interested in the issue involved. To you farmers of the country this question is a paramount one. You have striven for years to secure legislation in your behalf. Back in 1924 you brought before Congress a measure commonly known as the McNary-Haugen bill. At the outset you found the national lawmaking body unwilling to comply with your wishes, but, as you built up support for your cause, Congress yielded.

After you won your battle in Congress, your efforts were thwarted by the veto of a reactionary President who defeated your efforts and those of a Congress elected to carry into effect this, your measure. But you kept up the fight and in 1932 you retired President Hoover, whose hostility to your measure was so evident that no serious attempt was made to enact your bill into law during his term of office. But as you had won in your fight to secure a friendly Congress, so you won in electing a President who was a friend of your cause.

President Roosevelt not only has given approval to measures in your interest, but has aided you in putting them through Congress. One of these measures was the so-called Agricultural Adjustment Act. Then, when the battle seemed completely won, an unfriendly Supreme Court stepped in and nullified the work of Congress and the President.

Are you going to continue the fight which you so nobly began to make your measure a reality? If so, you must give aid to the President and the Progressives in Congress to make reform of the Federal judiciary possible.

And you workers of the land have fared no better than have your fellow workers on the farm. The destruction of the Guffey Coal Act, the Frazier-Lemke Farm Bankruptcy Act, the Railroad Retirement Act, and various other laws enacted by Congress and approved by the President, should make you as appreciative of the situation as are the farmers. I am sure that you are equally interested.

In addressing you today I am not doing so as a member of the President's political party. I am not a member of either of the two old political parties. I represent the Farmer-Labor Party of Minnesota, and my views in reference to this matter reflect those of the Farmer-Labor-Progressive group in Congress. A few days ago our group conferred in reference to the President's plan and decided to support it. I want to quote briefly from the statement issued by our group:

"The practical way to meet this great problem is to accept the recommendations which have been made by the President of the United States and thereby enlarge the membership of the Supreme Court by providing for additional and younger men to serve with those now on the Court, in the hope that the Constitution will then be interpreted in such a way as to meet the needs of the modern world. This would not do violence to the Constitution, but it would do justice to the people whom the Constitution was intended to protect. The new appointees would take the same oath to defend and protect the Constitution; they would be men of unquestioned patriotism and devotion to duty. But they would be younger, more vigorous, and not so conservative as many of the men now on the Court.

"We endorse the President's proposal and urge liberals to united action."

Farmers, workers, and businessmen, your hope lies in the President's plan. It must not fail! It rests in no small measure with you to make it succeed.

Big business, which alone has profited by the courts' voiding of our Federal laws, is carrying on a vicious campaign against the bill embodying the President's plan. Congressmen are literally flooded with subtle propaganda to prevent passage of the bill. The cry of a possible Fascist dictatorship is raised against the plan. But all Fascist groups are definitely lined up against it. Don't be deceived. This is your fight, and a victory now will make legislation possible for the benefit of wealth producers as well as for all the people of the Nation who today are being plundered by organized wealth.

The Bituminous Coal Stabilization Problem

EXTENSION OF REMARKS

OF

HON. J. BUELL SNYDER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1937

Mr. SNYDER of Pennsylvania. Mr. Speaker, it is indeed a consolation to me to see the House pass the bituminous coal

stabilization bill with practically no opposition. Two years ago when the Guffey-Snyder coal stabilization bill was brought before this House, we had heated discussions for weeks. The Ways and Means Committee conducted extensive hearings. The battle lines were drawn tightly, and finally on August 19, 1935, the bill passed the House, later the Senate, and was signed by the President. That bill was put into operation and was found workable. It not only satisfied 99 percent of the laborers and coal miners, but more than 85 percent of the coal tonnage operators were satisfied with it. Everybody was happy. Everybody was contented—and then comes along the Supreme Court and declares the act unconstitutional, May 19, 1936.

Another bill was immediately drawn up, dovetailing into the Supreme Court's decision, and was introduced in the House by my worthy colleague who so ably piloted the original bill through—Mr. FRED M. VINSON. However, filibustering stopped the bill in the Senate.

Again this year, Mr. FRED M. VINSON presented the bill with some further adjustments tending toward dovetailing into the decision of the Supreme Court as handed down in the case of the original Guffey-Snyder Act, and it is now believed that the present bill that just passed the House, will stand the test when it comes to constitutional interpretation. It is honestly hoped by one-half million coal miners and at least 90 percent of the coal tonnage operators, that the bill will stand the test so as to stabilize this industry that means so much to stabilizing prosperity throughout the Nation.

The present Guffey-Vinson bill differs from the original Guffey-Snyder bill in the following respects:

First. The labor provisions and statements of purpose which the Supreme Court found objectionable have been eliminated. Collective bargaining as in the original Guffey-Snyder bill is retained in this bill.

Second. The regulatory provisions of the bill are most clearly confined in their operation to interstate commerce in coal.

Third. In lieu of a tax of 15 percent with a draw-back of 90 percent of that tax, there are substituted two taxes: (a) A tax of one-half of 1 percent on the sale of or other disposal of bituminous coal by every producer; (b) a tax of 19½ percent is imposed on the sale or disposal of coal, to which the code would apply, when the producer thereof is not a code member.

Fourth. Minimum prices, instead of being fixed by the district boards subject to change by the Commission, are, under the bill, to be proposed by such boards, but the power to fix the prices is lodged in the Commission.

Fifth. The provisions relating to the power of the consumers' counsel have been strengthened particularly with respect to the initiation of proceedings by him, and the bill requires him to report directly to Congress.

Guffey-Vinson Coal Bill

EXTENSION OF REMARKS

OF

HON. CHARLES A. WOLVERTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1937

On the bill (H. R. 4985) to regulate interstate commerce in bituminous coal, and for other purposes

Mr. WOLVERTON. Mr. Speaker, the act under consideration seeks to utilize the general constitutional power of Congress to regulate interstate commerce so as to provide stability to the bituminous-coal industry.

Congress in 1935 enacted the Guffey Coal Act with the same general purpose in view as the present act. The Guffey Act, however, was declared unconstitutional by the Supreme Court in a 5-to-4 decision. The opinion of the Court setting aside the act was based upon its finding that the portion of the act relating to labor was unconstitutional and that in consequence all other portions of the act were rendered useless. Justice Sutherland, in delivering the majority opinion, said:

Thus the primary contemplation of the act is stabilization of the industry through the regulation of labor and the regulation of prices, for since both were adopted we must conclude that both were thought essential. The regulations of labor on the one hand and prices on the other furnish mutual aid and support, and their associated force—not one or the other but both combined—was deemed by Congress to be necessary to achieve the end sought. The statutory mandate for a code upheld by two legs at once suggests the improbability that Congress would have assented to a code supported by only one. * * * Thus wages, hours of labor, and working conditions * * * and prices * * * are so woven together as to render the probability plain enough that uniform prices, in the opinion of Congress, could not be fairly fixed or effectively regulated without also regulating these elements of labor which enter so largely into the cost of production.

* * * * * * *

The conclusion is unavoidable that the price-fixing provisions of the code are so related to and dependent upon the labor provisions as conditions, considerations, or compensations, as to make it clearly probable that the former being held bad the latter would not have been passed. The fall of the former therefore carries down with it the latter.

This view was not concurred in by Chief Justice Hughes, nor Justices Cardozo, Brandeis, and Stone.

Chief Justice Hughes, in his dissenting opinion, said:

Whether the policy of fixing prices of commodities sold in interstate commerce is a sound policy is not for our consideration. The question of that policy and of its particular applications is for Congress.

* * * * * * *

Upon what ground, then, can it be said that this plan for the regulation of transactions in interstate commerce in coal is beyond the constitutional power of Congress? The Court reaches that conclusion in the view that the invalidity of the labor provisions requires us to condemn the act in its entirety. I am unable to concur in that opinion. I think that the express provisions of the act preclude such a finding of inseparability.

In this view the act and the code for which it provides may be sustained in relation to the provisions for marketing in interstate commerce; and the decisions of the courts below, so far as they accomplish that result, should be affirmed.

Justice Cardozo, speaking for himself and Justices Brandeis and Stone, said:

(a) Part II of the statute sets up a valid system of price fixing as applied to transactions in interstate commerce and to those in intrastate commerce where interstate commerce is directly or intimately affected. The prevailing opinion holds nothing to the contrary.

(b) Part II, with its system of price fixing, is separable from part III, which contains the provisions as to labor considered and condemned in the opinion of the Court.

(c) Part II being valid, the complainants are under a duty to come in under the code and are subject to a penalty if they persist in a refusal.

* * * * * * *

First. I am satisfied that the act is within the power of the Central Government insofar as it provides for minimum and maximum prices upon sales of bituminous coal in the transactions of interstate commerce and in those of intrastate commerce where interstate commerce is directly or intimately affected.

The condition of the soft-coal industry is such that the welfare of both producer and worker are seriously affected and demand relief. The bill now under consideration seeks to give relief and provide a remedy within the limitations and restrictions of the Supreme Court decision that declared the labor portion of the previous bill unconstitutional. On the theory that the Supreme Court has not in explicit language declared other provisions of the act unconstitutional, this bill has been drawn to incorporate all such.

The conditions existing in this industry which seriously endanger the industry itself and the health and well-being of the workers, their families and dependents, is forcibly and truly set forth by Justice Cardozo in his opinion in the case of *Carter* v. *Carter Coal Co.* (298 U. S. 238), wherein he states:

All this may be said, and with equal, if not greater, force, of the conditions and practices in the bituminous-coal industry, not only at the enactment of this statute in August 1935 but for many years before. Overproduction was at a point where free competition had been degraded into anarchy. Prices had been cut so low that profit had become impossible for all except a lucky handful. Wages came down along with prices and with profits. There were strikes, at times Nation-wide in extent, at other times spreading over broad areas and many mines, with the

accompaniment of violence and bloodshed and misery and bitter feeling. The sordid tale is unfolded in many a document and treatise. During the 23 years between 1913 and 1935 there were 19 investigations or hearings by Congress or by specially created commissions with reference to conditions in the coal mines. The hope of betterment was faint unless the industry could be subjected to the compulsion of code. In the weeks immediately preceding the passage of this act the country was threatened once more with a strike of ominous proportions. The plight of the industry was not merely a menace to owners and to mine workers; it was and had long been a menace to the public, deeply concerned in a steady and uniform supply of a fuel so vital to the national economy.

Congress was not condemned to inaction in the face of price wars and wage wars so pregnant with disaster. Commerce had been choked and burdened; its normal flow had been diverted from one State to another; there had been bankruptcy and waste and ruin alike for capital and for labor. The liberty protected by the fifth amendment does not include the right to persist in this anarchic riot. "When industry is grievously hurt, when producing concerns fail, when unemployment mounts and communities dependent upon profitable production are prostrated, the wells of commerce go dry" (*Appalachian Coals, Inc.*, v. *United States*, 288 U. S. 344, 372).

There should be no doubt in any thoughful mind that the demoralized and unsettled price structure in this industry, existing over a period of many years, is largely responsible for the low wages and poor working conditions in the industry. Living conditions, as a consequence, in some localities, have reached such a low state as to be not only a refutation of our boasted civilization, but has produced a condition that approaches national disgrace.

I am strongly of the opinion that the stabilization of prices, which this bill seeks to effect, will go a long way in making possible a fair price to the producer, and this will in turn stabilize and improve working conditions of the miners by providing a living wage. This viewpoint is likewise the basis upon which the United Mine Workers of America have appealed for support of this bill, notwithstanding it does not include the labor provisions of the former bill declared unconstitutional by the Supreme Court. The underlying theory of this bill is that stabilization of the price structure will provide stabilization of the wage scale. This would undoubtedly have the effect of providing the means whereby a living wage can be paid to mine workers. All the workers and 90 percent of the producers favor the passage of this bill. With such a unity of interest and care having been exercised to protect the interest of the consumer, this bill should have the unanimous support of this House.

Therefore, because of the necessity that now exists to remedy intolerable conditions that prevail in the soft-coal industry, adversely affecting the producer and the life, happiness, and welfare of those who labor in it; and having confidence that the remedy provided in this bill is within the power of Congress to enact, and recognizes the constitutional limitations laid down by the Supreme Court in its consideration of previous legislation, I shall vote in favor of the enactment of this bill and trust that it may have the support of the membership of the House.

Supreme Court Controversy

EXTENSION OF REMARKS

OF

HON. CHARLES D. MILLARD

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

RADIO ADDRESS BY HON. CHARLES D. MILLARD, OF NEW YORK, MARCH 5, 1937

Mr. MILLARD. Mr. Speaker, under leave to extend my remarks in the RECORD, I include a radio address I made over station WOL on March 5, 1937, as follows:

I want to thank the sponsors of this program for giving me this opportunity to speak in opposition to the President's proposal to add to the membership of the Supreme Court, for in working for its defeat I am inspired as is a crusader carrying the torch of a great cause. This question of a change in our form of government is perhaps the most important which has ever faced the American people. If enacted, the result would be to automatically destroy one of the three coordinate branches of the Government, for the new Justices appointed to the bench would undoubtedly be known to share the Rooseveltian theories, thus making it possible for the President to control the Court. Such a control would remove one of the vital checks and balances established by the founders of the American system under which we have enjoyed a greater measure of liberty, happiness, and prosperity than has ever before come to any other people.

The Supreme Court, which is the creation of American genius and statesmanship, must be independent if the freedom of speech, the press, and assembly guaranteed by the Constitution are to continue.

The President's spokesmen blandly tell us that the future New Deal contains legislation which will be held invalid under the Constitution unless six new Judges favorable to the proposals shall be appointed and thus the Court is changed to validate the legislation which will give the Congress more power. Let us see what that will accomplish. We know that the Congress is subservient to the Executive. It follows, therefore, that to add to the powers of the Congress indirectly increases the authority laid in the hands of the President.

What I and my colleagues must determine, therefore, when we vote on this proposal is whether it is the right thing to do to add six Justices to the Supreme Court in order to assure interpretation of the Constitution other than that held by the present Court and thereby to set a precedent by authorizing the changing of the make-up of the Court so as to dictate its judgments upon the constitutionality of legislative acts.

This would mean a change in the Constitution by the Congress alone with the consent of the Executive, but the Constitution was made by the people; it is their instrument. They do not make the laws, but they provided that the Constitution could only be changed by amendment submitted to them and to the State legislatures. What the President proposes, therefore, is manifestly wrong. It is the tearing down of the Court and the appointment of six new Supreme Court Judges in other than the ordained process of amendment by the people. Representatives in Congress and Senators, as well as the President, have sworn to uphold the Constitution. All that the Court has done to incur the displeasure of the President is to say of some New Deal laws that the Congress is not given the power to enact those laws. Because there is no such power vested in the Congress by the Constitution and the Supreme Court has so stated, we are asked to alter the historic and accepted interpretation of the people's law so as to enlarge the powers of the Congress. There is a right way to do almost anything, and if the President wants to increase the Supreme Court, the right way to make his proposal is to submit an amendment to the Constitution to the people.

Suppose the President should be given authority to add the six Judges to the Court. What is to hinder his successor, or any Chief Executive for that matter who follows him, from again adding to the Court so as to wield it to his own design? It is not only of today, therefore, that we must think, but of tomorrow and the days and years to follow. Such a procedure could be used to take away any right given the people under the Constitution. We would have then a political court instead of a court of justice, a Court subservient to the Congress or to the Executive, or to both, giving no heed to the people or to their constitutional rights. These rights are secure from political changes only so long as the Constitution and the Supreme Court stand, for together these two take the essential rights of every man out of politics.

And keep this in mind, too, once we have acceded to the packing of the Court the die is cast and our action cannot be undone. As matters now stand we have an independent Court to preserve our rights, but one false step and we imperil our freedom, our right of ownership, our right to exercise our franchise, our right to a trial by jury, and our right to freedom of worship. Only an independent Court can make these rights secure.

In his Farewell Address, written 150 years ago, George Washington anticipated every pitfall, every danger that would beset us in succeeding years. The warning set forth in that speech against attempt of usurpation might have been written immediately following that day early in February when the President sent to the Congress his message asking for the power to control the Supreme Court of the United States. By its submission President Roosevelt has brought this Nation face to face with the necessity for the gravest decision that has faced it in its history. As we study the particulars we cannot escape the conclusion that the essence of his plan is to change our constitutional Government, not by the constitutional method of an amendment submitted to the people for their deliberate consideration, for their approval or disapproval, but by the use of subterfuge, by the very menace Washington warned against when he said "Beware amendment by usurpation."

In his first message of this session the President sent to the Congress his oft-repeated threat to thrash the judiciary. I challenge his right to do this. There is no authority vested in the Chief Executive whereby he can revise the Constitution because of his clearly indicated impatience with the restraint placed upon him. In my opinion this is a cunningly camouflaged plan of radical theorists to wipe out the written Constitution and to place the Nation at the mercy of an Executive power which has already demonstrated its ability to make a rubber stamp of the heretofore independent Congress.

It is not because I am a Republican that I oppose this proposed radical change in the distribution of power provided in the Constitution. The question transcends party politics. It is far too important to be passed over with party denunciation, too serious to be considered in a spirit of prejudice. In no sense is this a political struggle, and it should not be approached with any thought of party lines in mind. It should be met as an ill-considered demand of one branch of the Government for the cooperation of another to clip the wings of the third branch so as to create a supreme control in the Executive. In other words, it is an attempt to bend a hitherto independent Federal judiciary to the will of the Executive through the backing of a subservient Congress. Make no mistake; its approval would mean a readjustment of the checks and balances provided in the Constitution, for it is sadly out of line with the Constitution's segregation of official powers—perhaps the destruction of our form of government as conceived by its founders—a short cut to dictatorship. The issue to be decided, then, is whether the delicate balance of powers, the fundamental law governing Presidents, Congresses, the States, and the courts themselves, is to continue or be relegated to the limbo of outgrown and discarded things. I think it is not.

We know that the administration has been utterly dissatisfied with decisions of the Supreme Court which have invalidated legislation making extraordinary changes in the fundamental rights of citizens and States. Given authority, then, the President, impatient of opposition, will promptly pack the Court with partisans—New Deal lawyers who will not declare any of his pet measures invalid, however bad. The proposed change would place on the Supreme Bench men whose opinions are already known to the Chief Executive. These men, with the present sympathetic minority, would give a majority on the Supreme Court and thus uphold any legislation sponsored by the New Deal's "brain trust" and passed by the Congress. Here lies the frontal attack on the rigidity of the Supreme Court. Here is the challenge to the American system of government. Here is the subordination of the Court to the personal power of the Executive—the reconditioning of the judiciary.

The President has repeatedly inferred and his spokesmen have flatly stated that the Supreme Court, by its anti-New Deal decisions, has stood as an impassable barrier across the path of orderly social progress; but is this true? The answer, of course, can be found by examining the invalidated laws.

Here are the eight New Deal laws which the Court has declared unconstitutional:

1. A law for the converting of building and loan associations to Federal charters. By itself, certainly, this seems hardly fundamental enough to suggest revamping the Court because it was invalidated.

2. A law respecting farm-mortgage moratorium. This law was not suggested by the President, and it ran the gantlet to passage by the grace of Huey Long. This can hardly be the one that has stung the President to his drastic step.

3. A law respecting the payment of railway pensions. When the President signed this act he indicated that he had difficulty in deciding to sign it, and admitted that it had been loosely and crudely drawn. Is this the law whose loss has made the President feel that the Court must be disciplined?

4. A law respecting municipal bankruptcy. Since next to no use had been made of this law before it was declared unconstitutional, it can hardly be a major factor in Rooseveltian resentment of the Court.

5. A law known as the "Hot Oil" Act. The situation this act was designed to meet no longer exists. Disaster did not follow its invalidation. It can hardly be at the bottom of this business of Court baiting.

6. A law known as the National Industrial Recovery Act, the late famous N. I. R. A. This surely cannot be defensibly made the ground for remaking the Court for the purpose of liberalizing it in view of the fact that the three famous liberal Justices joined with their six colleagues in a unanimous decision invalidating it. And, further, it is virtually certain that Congress would have repealed or drastically rewritten this law if the Court had not invalidated it. It cannot be said that in this case the Court defeated the popular will expressed through Congress. And, anyway, did not recovery promptly stride a new and swifter pace once this law was out of the way?

7. A law known as the Agricultural Adjustment Act, the late famous A. A. A. Admittedly, not even Henry Wallace would reenact just this if he had plenary power. The surpluses it was designed, in part, to prevent are not now present or immediately threatening. Must we rush so fundamental a matter as the subjection of the Court to the President because this law was invalidated?

8. A law known as the Guffey Coal Act. It may well be that conditions in the bituminous-coal industry cry aloud for many of the provisions of this act, even if the N. R. A. sort of wholesale application of these principles to the whole business of the Nation is unwise. But do we have to shift the whole basis of the Government in order to get at this one problem?

As we look this list over it is difficult to resist the conclusion that the argument that the Court has destroyed progress by its anti-New Deal decisions is pretty shaky, and that we are witnessing another national leader determined to rule or know the reason why.

What the President is demanding is the full measure of obedience from the judiciary accorded him by the legislative branch. He is asking for a show-down between the other branches of the Government and hostile judiciary, but has the Congress any right to pledge that obedience for the judiciary? Is there any authority under our constitutional form of government whereby the Congress can place in the hands of the President the control of all three branches? Would not the merging of all three under one head be the beginning of a dictatorship?

Throughout the recent campaign the President gave no notice of any plan to enlarge the Court or to change its powers. He deliberately avoided the issue. By no stretch of the imagination can November's approval of the New Deal party be read as a mandate to change the complexion of the Supreme Court and make its Judges subservient. On the contrary, not yet forgotten is the promise of the Democratic platform made last summer that if the aims of the New Deal could not be accomplished within the Constitution, an amendment would be proposed. In failing to intimate in anyway during the campaign that he planned to revolutionize the system under which the Supreme Court operates, Mr. Roosevelt is guilty of a lack of frankness with the people and the Congress which does him no credit. We have every reason to believe that this move has been contemplated since the nullification of the N. R. A. In fact, the President has admitted this. He also admitted the plain motive of the Supreme Court proposal is to secure the approval of the New Deal legislative program, pending and future. A little different light would be cast on this proposal if last summer and fall, at the time when he was seeking a mandate from the people the President had confronted the electorate squarely with his proposal so as to give them an opportunity to answer him at the polls. He failed to do this, however.

What the President suggests is tantamount to telling the Congress and the public that the Judges of our highest tribunal who have reached the age of 70 are incompetent. We know he does not really mean that; he cannot. What he does mean—but fails to say—is that they have not embraced the policy of New Dealism; that they have outlawed basic laws of the New Deal, and, since he is hampered by the Constitution from involuntarily removing the old blood which is hostile to New Deal acts, he proposes to appoint to the Court six new Judges who will reflect the New Deal interpretation of the power of Congress under the Constitution and thus clear the way for the resurrection of the principles of the N. R. A., the A. A. A., and other proposals giving authority for Federal jurisdiction over social and economic problems of national scope held unconstitutional by the Supreme Court.

For my part I do not believe that the Congress will lack the fortitude to refuse to accede to the President's demand for any such added authority as he now seeks so that he may revise the Constitution to make it mean what he and his advisers wish it to mean, to radically change the distribution of power provided in the Constitution, and to appoint to our highest Court men whose opinions are already known, men who, with the present sympathetic minority, will construe the welfare and commerce clauses as giving authority for Federal jurisdiction over social and economic problems of national scope.

And, finally, this was said while the adoption of our Constitution was under discussion: "There is no liberty if the power of judging be not separated from the legislative and executive powers." Today this principle is attacked and in danger, although its vital truth is as self-evident now as then. Life tenure was assured to Judges because the founders of this Government knew that to preserve government under law independence of the judiciary is indispensable.

Constitutional Government in America

EXTENSION OF REMARKS

OF

HON. FRANCIS H. CASE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1937

RADIO ADDRESS BY GOV. FRANKLIN D. ROOSEVELT, OF NEW YORK, ON MARCH 2, 1930

Mr. CASE of South Dakota. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following radio address by Gov. Franklin Delano Roosevelt, March 2, 1930, over Nation-wide NBC hook-up.

This is the famous States' rights speech in which Governor Roosevelt warned the people against the concentration of power in Washington in the hands of "master minds" controlling the Federal Government, creating an "oligarchy masquerading as democracy."

The address is as follows:

I have been asked to talk about the respective powers of the National and the State Governments to rule and regulate, where one begins and the other ends. By some curious twist of the public mind, under the terms "home rule" or "States' rights", this

problem has been considered by many to apply, primarily, to the prohibition issue.

THE RIGHTS OF THE STATES

As a matter of fact and law, the governing rights of the States are all of those which have not been surrendered to the National Government by the Constitution or its amendments. Wisely or unwisely, people know that under the eighteenth amendment Congress has been given the right to legislate on this particular subject, but this is not the case in the matter of a great number of other vital problems of government, such as the conduct of public utilities, of banks, of insurance, of business, of agriculture, of education, of social welfare, and of a dozen other important features. In these Washington must not be encouraged to interfere.

The proper relations between the Government of the United States and the governments of the separate States thereof depend entirely, in their legal aspects, on what powers have been voluntarily ceded to the Central Government by the States themselves. What these powers of government are is contained in our Federal Constitution, either by direct language, by judicial interpretation thereof during many years, or by implication so plain as to have been recognized by the people generally.

DIFFERENCES BETWEEN NATIONS

The United States Constitution has proven itself the most marvelously elastic compilation of rules of government ever written. Drawn up at a time when the population of this country was practically confined to a fringe along our Atlantic coast, combining into one nation for the first time scattered and feeble States, newly released from the autocratic control of the English Government, its preparation involved innumerable compromises between the different Commonwealths.

Fortunately for the stability of our Nation it was already apparent that the vastness of our territory presented geographical and climatic differences which gave to the States wide differences in the nature of their industry, their agriculture, and their commerce. Already the New England States had turned toward shipping and manufacturing, while the South was devoting itself almost exclusively to the easier agriculture which a milder climate permitted.

Thus, already it was clear to the framers of our Constitution that the greatest possible liberty of self-government must be given to each State, and that any national administration attempting to make all laws for the whole Nation, such as was wholly practical in Great Britain, would inevitably result at some future time in a dissolution of the Union itself.

THE RIGHTS OF MINORITIES

The preservation of this "home rule" by the States is not a cry of jealous Commonwealths seeking their own aggrandizement at the expense of sister States. It is a fundamental necessity if we are to remain a truly united country.

The whole success of our democracy has not been that it is a democracy wherein the will of a bare majority of the total inhabitants is imposed upon the minority, but because it has been a democracy where through a division of government into units called States the rights and interests of the minority have been respected and have been given a voice in the control of our affairs.

This is the principle on which the little State of Rhode Island is given just as large a voice in our national Senate as the great State of New York.

The moment a mere numerical superiority by either States or voters in this country proceeds to ignore the needs and desires of the minority, and, for their own selfish purposes or advancement, hamper or oppress that minority or debar them in any way from equal privileges and equal rights—that moment will mark the failure of our constitutional system.

For this reason a proper understanding of the fundamental powers of the States is very necessary and important. There are already, I am sorry to say, danger signals flying. A lack of study and knowledge of the matter of the sovereign power of the people through State government has led us to drift insensibly toward that dangerous disregard of minority needs which marks the beginning of autocracy. Let us not forget that there can be an autocracy of special classes or commercial interests which is utterly incompatible with a real democracy whose boasted motto is "of the people, by the people, and for the people."

Already the more thinly populated agricultural districts of the West are bitterly complaining that rich and powerful industrial interests of the East have shaped the course of government to selfish advantage.

"HOME RULE" IS AN IMPORTANT THING

The doctrine of regulation and legislation by "master minds", in whose judgment and will all the people may gladly and quietly acquiesce, has been too glaringly apparent at Washington during these last 10 years. Were it possible to find "master minds" so unselfish, so willing to decide unhesitatingly against their own personal interests or private prejudices; men almost godlike in their ability to hold the scales of justice with an even hand, such a government might be to the interest of the country, but there are none such on our political horizon, and we cannot expect a complete reversal of all the teachings of history.

Now, to bring about government by oligarchy masquerading as democracy it is fundamentally essential that practically all authority and control be centralized in our National Government. The individual sovereignty of our States must first be destroyed, except in mere minor matters of legislation. We are safe from the danger of any such departure from the principles on which this country was founded just so long as the individual home rule of the States is scrupulously preserved and fought for whenever they seem in danger.

Thus it will be seen that this "home rule" is a most important thing, a most vital thing, if we are to continue along the course on which we have so far progressed with such unprecedented success.

Let us see, then, what the rights of the different States, as distinguished from the rights of the National Government, are: The Constitution says that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people", and article IX, which precedes this, reads: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

WHAT POWERS ARE DELEGATED?

Now, what are the powers delegated to the United States by the Constitution?

First of all, the National Government is entrusted with the duty of protecting any or all States from the danger of invasion or conquest by foreign powers by sea or land, and in return the States surrender the right to engage in any private wars of their own. This involves, of course, the creation of the Army and the Navy and the right to enroll citizens of any State in time of need.

Next is given the treaty-making power and the sole right of all intercourse with foreign states, the issuing of money and its protection from counterfeiting. The regulation of weights and measures so as to be uniform, the entire control and regulation of commerce with foreign nations and among the several States, the protection of patents and copyrights, the erection of minor Federal tribunals throughout the country, and the establishment of post offices are specifically enumerated.

The power to collect taxes, duties, and imposts, to pay the debts for the common defense and general welfare of the country is also given to the United States Congress as the lawmaking body of the Nation.

It is interesting to note that under the power to create post offices the Constitution specifically provides for the building of post roads as a Federal enterprise, thus early recognizing that good roads were of benefit to intercommunication between the several States and that districts too poor to afford to construct them at their own expense were entitled to some measure of Federal assistance. It is on this same principle that New York and other States are aiding rural counties or constructing entirely at State expense improved through thoroughfares suited to modern traffic.

The Constitution also contains guaranties of religious freedom, of equality before the law of all citizens, of protection from confiscation of property and from other possible acts of injustice to the individual citizen; and Congress is empowered to pass laws enforcing these guaranties of the Constitution, which is declared to be the supreme law of the land.

On such a small foundation have we erected the whole enormous fabric of Federal Government, which costs us now $3,500,000,000 every year; and if we do not halt this steady process of building commissions and regulatory bodies and special legislation, like huge inverted pyramids over every one of the simple constitutional provisions, we shall soon be spending many billions of dollars more.

A few additional powers have been granted to the Federal Government by subsequent amendments. Slavery has been prohibited, all citizens, including women, given the franchise; the right to levy taxes on income, as well as the famous eighteenth amendment regarding intoxicating liquors, practically cover these later changes.

A NEW LAND OF PROMISE

So much for what may be called the legal side of National versus State sovereignty. But what are the underlying principles on which this Government is founded? First and foremost, the new thought that every citizen was entitled to live his own life in his own way so long as his conduct did not injure any of his fellow men. This was to be a new "land of promise" where a man could worship God in the way he saw fit, where he could rise by industry, thrift, and intelligence to the highest places in the Commonwealth, secure from tyranny, secure from injustice, a free agent, the maker or the destroyer of his own destiny.

But the minute a man or any collection of men sought to achieve power or wealth by crowding others off the path of progress, by using their strength, individually or collectively, to force the weak to the wall—that moment the whole power of government, backed, as is every edict of the Government, by the entire Army and Navy of the United States, was pledged to make progress through tyranny or oppression impossible.

On this sure foundation of the protection of the weak against the strong, stone by stone, our entire edifice of government has been erected. As the individual is protected from possible oppression by his neighbors, so the smallest political unit, the town is, in theory at least, allowed to manage its own affairs, secure from undue interference by the larger unit of the county which, in turn, is protected from mischievous meddling by the State.

This is what we call the doctrine of home rule, and the whole spirit and intent of the Constitution is to carry this great prin-

ciple into the relations between the National Government and the government of the States.

OUR PROPER COURSE

Let us remember that from the very beginning differences in climate, soil, conditions, habits, and modes of living in States separated by thousands of miles rendered it necessary to give the fullest individual latitude to the individual States. Remembering that the mining States of the Rockies, the fertile savannas of the South, the prairies of the West, and the rocky soil of the New England States created many problems, introduced many factors in each locality, which have no existence in others, it is obvious that almost every new or old problem of government must be solved, if it is to be solved to the satisfaction of the people of the whole country, by each State in its own way.

There are many glaring examples of where exclusive Federal control is manifestly against the scheme and intent of our Constitution.

It is, to me, unfortunate that under a clause in our Constitution, itself primarily intended for an entirely different purpose, our Federal courts have been made a refuge by those who seek to evade the mandates of the State judiciary.

I think if we understand what I have tried to make clear tonight as to the fundamental principles on which our Government is built, and what the underlying idea of the relations between individuals and States and States and the National Government should be, we can all of us reason for ourselves what should be the proper course in regard to Federal legislation on any of the questions of the day.

The Judiciary and Constitutional Interpretations

EXTENSION OF REMARKS

OF

HON. JOHN M. COFFEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1937

ARTICLE BY WILLIAM V. COWAN, OF KIRKLAND, WASH.

Mr. COFFEE of Washington. Mr. Speaker, under leave to extend my remarks, I include herewith a scholarly treatise on the subject of the judiciary, with particular reference to the provisions in the Constitution, written by William V. Cowan, a prominent attorney of Kirkland, Wash. Mr. Cowan is a liberal lawyer, unhidebound by traditions. He was secretary to the tax-investigating commission established by Senator HIRAM JOHNSON when the Senator was Governor of California. Mr. Cowan was a distinguished newspaperman before becoming a lawyer. He was a roommate, as well as a classmate, of the gentleman from Indiana [Mr. PETTENGILL] at Yale University. Mr. Cowan has held many distinguished public offices, among which was assistant district attorney of Sacramento County, Calif. I believe that the article is a distinct and erudite contribution to the discussion on the vital problem of the Federal courts with relation to their proper place in the life of America.

REACTION MUST BE UNHORSED

With the whole world violently discussing, each in its own way, the rights of persons and the rights of things, with the doctrine of "rugged individualism" carried in at least three nations to its logical conclusion, with industrial dukes and money lords assuming an international front, claiming royal rights superior even to governments, is it at all surprising that we in America are in the same heated tumult? If it be a mere skirmish now, we may be certain that the real battle is not far off. With millions barely out of want, with greater millions apprehensive lest in the future they, too, be without either food or a place to lay their heads, we cannot escape the inevitable hour by masking our eyes, by laissez faire, by high-sounding phrases, or, Coue-like, by shouting that it isn't or shouldn't be so. The crisis is here. Had we a helpless Buchanan at the helm, woe to us indeed! In an age when money-changing has become a cult and our courts, like praetorian guards, protect the desecrators of the temple, we should be forgiven if rough-hewn words fall from our pens. It is well then that we glance back over the trail of our Constitution and ascertain where the judicial compass has led us.

While our Nation was in its swaddling clothes, Edmund Randolph prophesied that soon or late we would have a "judiciary aristocracy." Said Senator Giles, of Virginia, in 1801, when discussing the judiciary act of that year:

"We are so enamored with the salutary and practical independence of the English judiciary system that, in imposing its principle into our Constitution, we have stamped it with the proverbial folly of the Medes and Persians."

And in the same debate Senator Stone, of North Carolina, said: "Never can I subscribe to the opinion that judges have the power to declare a law null and void. Never can I believe the judiciary paramount to both branches of Congress. If it is, I have yet to learn of it. There is then an end to legislation. A knave or a fool can make void your best and most wholesome laws."

He contended that, if the Court believed a law unconstitutional, it was not bound to execute it but had no power to declare it null and void. "That power rests alone with Congress", he added.

JOHN MARSHALL OPINES

But the fight had been begun even before that. As all students of constitutional history know, James Madison had unsuccessfully tried four times to ingraft into the Constitution this proposition and had each time been badly beaten. Yet John Marshall, an avowed disciple of Hamilton, knowing all this, knowing, too, that there was no power above the Supreme Court to "balance" his acts, after Washington's death, deliberately filched it from the ashcan of the Constitutional Convention. And it was Marshall who infused into private and public contracts such sanctity that, for example, cities cannot break long-term leases which crooked officials gave bribing lessors to valuable waterfronts.

Beveridge made a hero of him, yet even that idolizing biographer said:

"Marshall's economic and political views, formed as a young man, had been strengthened by every event that had since occurred until, in his sixty-fifth year, those early ideas had become convictions so deep as to pervade his very being. The sacredness of contract, the stability of institutions, and, above all, nationalism in government, were, to John Marshall, articles of a creed as holy as any that ever inspired a religious enthusiast."

Whether his decisions were good or bad, where is the flaunted and exalted impartiality, the independence from partisanship, which the Toryistic orators of our day would have us believe dominated his mind? Paraphrase that paragraph and it will fit the five judges who have consistently blocked New Deal legislation. No wonder the property interests of America have made a veritable fetish of John Marshall's name. Nor is it astonishing that the pronouncements of Marshall, with their constant and pious repetition in the decades that followed, are now frequently believed to have had an immaculate conception. It is time that we wipe the dust from truth and get a clearer vision. There are such things as national sins, and we know that the sins of youth do not sometimes bring bodily pain until years afterward.

THE CONSTITUTION WAS CONTEMPORARILY ATTACKED

There are those, too, who would have us believe that our Constitution, like the decalog, was a revealed instrument, adopted by an inspired people, instead of the usual logrolling, political wire-pulling, and vote-purchasing methods. To glance back at the origins is, then, not out of place. It hurts no man now and then to be reminded how severe were the laboring pains of his mother.

When the matter of adoption of the Constitution was before the Virginia Legislature, Patrick Henry, perhaps the greatest advocate of human liberty in America, shouted: "I look on that paper as the most fatal plan that could possible be conceived to enslave a free people."

Said Thomas Wait in Massachusetts: "The vast continent of America cannot long be subjected to a democracy if consolidated into one government—you might as well attempt to rule hell by prayer." Another speaker in the same convention opposed the adoption because "under such a diabolical institution a Papist or an infidel was as eligible to public office as a Christian." It was later admitted that votes in the Massachusetts convention were purchased with New York money in order to secure adoption (vol. I, Beveridge's Marshall, p. 354). Much more could be written on this topic.

REACTIONARIES EVER CHANT "THOU SHALL NOT!"

In the face of such history how can we be overly impressed by the blind veneration of such men as Lippman and Hoover? Nor should we be alarmed when these same winsome gentlemen shriek "Wolf! Wolf!" in their editorials and speeches, and cry out that our liberties are at stake. One need but read Sydney Smith's Fallacies of Anti-Reformers to appreciate the sad drollery of these speakers of reaction who, in effect, say: "If you attack us, if you attack great wealth, you attack your own liberties."

CONDITIONS ALTER WITH TIME'S PASSAGE

Since the days of those adopting conventions America has extended herself to the Philippines and to the northern lights, stage coaches have changed into China clippers, flails have passed to combined harvesters, spinning wheels to massive factories, tallow candles to electric arcs, yet in America, trudging along with the same old notions of law and ancient English precedents, we find ourselves still fighting that same old battle—the question whether the Constitution should be interpreted in the terms of property rights or in the terms of human rights. Slumbering more or less quietly in the seven decades since the Emancipation Proclamation, we are awakening more and more to the realization that there is some truth in the rumored statement of the English capitalist who is said to have told the New York money changers of '63 not to worry about financial losses in the freedom of slaves for he would show them how to manage money so as to enslave all the people in America, both white and black. One need only to read Other Peoples' Money (Brandeis) and similar books to realize how sharp and farsighted those disciples of English avarice have been.

And when avarice in the name of business—and even in the name of patriotism—becomes a rival of the Government in power and extent, when it threatens to become an international overlord, it is high time indeed that we take our bearings and refuse longer to be lulled by the dulcet voices and gracious oratory of the Tory-minded.

"Eternal vigilance is the price of liberty", said one patriot. "Tyranny, like hell, is not easily conquered", said another. Those valiant men who suffered at Valley Forge shook off the tyranny of kings; the tyranny of money-lords, a more cunning enemy, is still hanging over us like the proverbial sword of Damocles.

CONSERVATISM IS ARROGANT

And that danger is all the more subtle when we realize that in these years since Patrick Henry, there have grown up in America such dominating souls as Baer, who believe that the resources of the earth are the trusteeship of a favored few; who have preached this doctrine among their pliable followers, have endeavored to implant it into the minds of our school children, and have, as we know, infused it into the sancta of our courts. All the more alarming is it then when we recall those words of a statesman of 30 years ago:

"The interests have retreated into our courts. Beaten in the legislatures, councils, and executive offices, they are going to make their last stand behind the judiciary."

No wonder the anti-reformers worship the name of Alexander Hamilton, who, in the Constitutional Convention, advocated life tenures, not only for the judiciary, but also for Senators and even the President!

IDOLATRY OF AGE-OLD PRECEDENTS IS BEING PUNCTURED

And so the fight goes on. Always, it seems, we must have war between the worshipers of the golden calf and those who love their fellow men. Today we find a humanitarian President beset by cries from millions of men—millions of unemployed, millions of underfed, millions of farmers, millions of little children, all caught in greed's merciless pincers, all crying out for help. Yet he stands helpless as long as those Tory interests are intrenched in our judiciary. No honest and informed patriot will deny that those interests are not so intrenched—even though he believes that they have slipped in so subtly that even the Court itself is not aware of their existence. Who cannot divine long beforehand the immediate reaction of certain judges who have been schooled under corporate influence until they are blind to all else? Who but can predict their stand if even a mere wisp of law can be found to aid them? What lawyer but knows that in nearly every case that now reaches the higher courts, at least some small precedent can be found to sustain any decision the court may decide to make?

What lawyer of intelligence and experience but knows, down deep in his secret soul, that the flaunted infallibility of justice is too often merely resounding words? What man but knows that if the right of private ownership of utilities were abolished, there would not now be the farflung discussions or extensive propaganda against the President's proposal? What student of history but knows that our founding fathers never dreamed that in a century and a half property rights would become so extensive in America that they would challenge every interference by the Government; that our courts would hold it constitutional for the Government generously to subsidize shipping and prodigally to donate immense grants to railroads, but would hold it unconstitutional if it attempted to subsidize starving farmers, sufficent to keep them from the poorhouse?

And this leads to the conclusion that it is time that we make a distinction between civil liberty directed to social well-being, for which our forefathers fought at Yorktown, and liberty of property for which they did not fight. And it should be needless to add that such civil liberty does not include the piratical rugged individualism of which we have heard so much of late.

UNFOUNDED LOGIC IS NOT ARGUMENT, NOR IS ITS REITERATION TRUTH

Why is it that the opposition deals in so many half truths? To prevent the courts from dominating our legislative bodies is dangerous to liberty, they cry. Yet they know that only in the United States is the judiciary allowed to veto legislation and nullify it. They know that there is not one word in the Constitution giving such a right.

They know that the judiciary in England, upon which our own was patterned, has no such power. They know that behind every act of a President or Congress there are the people to balance every inept step, providing we do not permit them to starve until they run wild like sansculottes.

WHO AND WHAT CONTROL THE FEDERAL COURTS NOW?

What poor man ever gets his case into the United States Supreme Court, unless he is backed by some big corporation? Who is it that tries to instill into the minds of our citizens the same pious awe of courts which they have in solemn cathedrals? Outside of our Army and Navy, our judges are the only officials who wear a uniform. Who is it that applauds the wearing of this last relic of royalty, this aping of English judges, these robes of the ancient high priests? Who is it that cheers each new precedent that whittles down the power of the majority of the people? Who is it that sits silent when corporations pack the courts, as C. P. Connolly proved away back in 1912, and yet raises the howl of a disappointed wolf when the President proposes to add enough disinterested men to make justice more sympathetic to the common weal? Who is it that has sown seeds of that strange philosophy that we need a reactionary judiciary in order to save the people from their greatest enemy—themselves? What shadows lurk behind the sweet oratory of so many college presidents, deans of law schools, corporation lawyers, and others who, if at all fair to their secret souls, know the truth of the above, yet repeat those words dear to privilege: "Retain the independence of the judiciary", while the specter of greed, using the lash of hunger, enslaves millions in industrial chains and thrusts the hands of children into the cogwheels of profit?

TORIES FEAR THE RISE OF PUBLIC POWER SENTIMENT

That is not mere rhetoric. Every honest man knows how lamentably true it is. Then why all these old-time platitudes? Why this vicious attack upon the President who is fighting the same old fight that every liberal president has fought since Jefferson's inaugural? Why is it that each of those presidents, each in his day, has been outrageously condemned and maligned by Tories—Lincoln perhaps worst of all? Back in the shadows, what is the big issue, who are the Iagoes who tiptoe back and forth behind the scenes today? On whose toes is Franklin D. Roosevelt treading? What big interest knows that the Supreme Court is the only shield, or at least the last shield, upon which it can rely to defeat the administration's power program?

Of all things that insure comfort and the blessings of liberty to our citizens electricity and electric power stands uppermost. Ten years ago a New York engineer estimated that it would require 900 slaves for each inhabitant of the United States in order to replace electricity. It would doubtlessly take a thousand such slaves today. Twenty-five years hence it will probably take many times more. Electricity is fast becoming as important to our daily comfort as water and air. Here then is the tremendous issue of the moment! It is needless to point out how deeply entrenched are the private power interests. The Supreme Court is their last refuge. To shackle the people indefinitely all they need are the five old men who have already vetoed so much legislation! No wonder a virile President puts on his war paint!

And what if the President assigns his reasons to "old age"? What is old age? The above excerpt from Beveridge indicates that John Marshall was old at 65. Yet in his day there were no electric-power interests, no coal barons, no railroads, no oil interests, no international bankers in America. God save us now if there had been.

WHAT IS "OLD AGE"?

But what is "old age"? Is it years or senility? In disinterested patriotism, Holmes was young at 90; Brandeis at 81; yet in that respect there have been judges that were senile at 50. In love of humanity and faith in democracy, there are many lawyers today who are decrepit at 35. Schooled under the tutelage of patrician minds, corporate influence, and dusty precedents, too many of them are already in their dotage. Sad it is that so many college men of today, immersed in the psychology of the rich and of would-be royalty, mesmerized by avarice, are, even in their early forties, rheumatic with the senility of self-interest. How they sneer at those who would do public service at a pittance.

It is therefore true that senility cannot be measured by years, yet that is the only general measurement we have. It is a poor yardstick, but it seems the only one until science can devise a better. There is yet no scientific method of measuring senility of temperament, senility of vision, of disinterested patriotism, or of love of fellow men—or even senility of the open mind. Strange indeed is it that the opposition rush to names like Holmes and Brandeis as examples of what judges should be—two men who have ever shut their chamber doors to self-interest and private greed and have retained open minds as well as mental vigor. Today the tories are praising these two men as never before, even though they used every possible scheme to keep Brandeis off the bench. Then, why do they condemn the President so loudly because he wants to put more such men on the bench? Would Roosevelt ask for this power if we had a bench full of men like Justice Holmes? If our lower Federal courts had men of the same caliber?

We have known many county judges who were scrupulously careful not to sit on any case in which directly or indirectly they had ever enjoyed the slightest interest. The history of our Federal bench does not always reach that high standard.

Said Thomas Paine in The Crisis:

"To argue with a man who has renounced the use and authority of reason, and whose philosophy consists in holding humanity in contempt, is like administering medicine to the dead or endeavoring to convert an atheist by Scripture.

"Wisdom is not the purchase of a day.

"It is folly to argue against determined hardness; eloquence may strike the ear, and the language of sorrow draw forth the tear of compassion, but nothing can reach the heart that is steeled with prejudice."

"UNSTRANGLE" THE CONSTITUTION

The basic philosophy of our Constitution is to secure the blessings of liberty, not to property, but to the people and their posterity. Lulled in the lap of domestic tranquillity, busy cutting paths through forest and wilderness, tilling the virgin soil, busy with making a living after fighting for freedom, our fathers of the early nineteenth century napped while John Marshall and others began quietly to erect precedent after precedent until now those precedents almost hide the sacred vessel in the holy of holies—all placed one upon the other in the name of the Constitution. And now, even men who should know better, assume that those pronouncements are part of the Constitution. Too long—too long in America have we been making commercialism a counterpart of

patriotism. It is high time that we return to first principles; that we begin to interpret the Constitution in terms of human rights and comfort. That is all the President asks. That is all millions of men and women and children request.

Documents for Depository Libraries—The Need for Certain Amendment to the Laws Relating to the Distribution of Documents to Depository Libraries

EXTENSION OF REMARKS
OF
HON. ROSS A. COLLINS
OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 11, 1937

Mr. COLLINS. Mr. Speaker, from the vigorous discussion about United States public documents at the annual conferences of the American Library Association during the past 4 years, it is apparent that there are some obvious defects in the laws at present governing the distribution to depository libraries.

Under a proviso first effective in 1922, no part of the appropriation of the office of the Superintendent of Documents may be used to supply any documents not requested by the depositories. About 100 out of 500 depositories exercise the right to request all publications available for distribution. Even these hundred libraries situated in all parts of the United States are not entitled to receive certain classes of documents, which, in the public interest, should be more readily accessible.

First of all, public bills and resolutions are not available for depository distribution. In view of the increasing interest in current legislation, it would seem highly desirable that a number of files of these bills should be maintained elsewhere than in Washington, D. C., and be more accessible to the people of the various regions. At present there is almost no way of checking up references to the text of bills in the volumes of the CONGRESSIONAL RECORD except by writing to Washington and finding that in many instances copies of the bills are no longer available. And it is a tedious process to secure photostat copies from one of the files in Washington.

Even more important than the bills are the committee hearings which likewise are not available for depository distribution. To understand the sections of many enactments, it is necessary to have the text of the hearings. Indeed, the hearings are often filled with economic and technical information not readily available in any other printed source.

From time to time legislative matters of general interest are handled in private bills and in simple and concurrent resolutions. Reports from the committees on these private bills and on simple and concurrent resolutions are likewise not available for depository distribution. Our attention should be called to the fact that reports on such matters of general interest as those on the *Morro Castle* and *Mohawk* investigations (S. Rept. 776, 74th Cong., 1st sess.), on the activities and operations of the Federal Farm Board (S. Rept. 1456, 74th Cong., 1st sess.), and on the investigation of Nazi and other propaganda (H. Rept. 153, 74th Cong., 1st sess.) are classified as private reports not furnished to the Superintendent of Documents for distribution to even those depository libraries requesting all documents.

Further, it seems odd that there be a limitation of three copies on the Senate and House Journals to be furnished to the depositories in any one State. The Journals should be as freely available for selection as the CONGRESSIONAL RECORD.

From time to time there seems to be an increasing number of rather important documents and maps printed or otherwise reproduced elsewhere than at the Government Printing Office. Despite the fact that all these are now being listed regularly in the Monthly Catalog of Public Documents, there is absolutely no provision of the law requiring that the various classes of such material shall likewise be made available for the selection by depository libraries.

It is to the public interest to have all classes of these documents mentioned made available for selection by depository libraries, and a bill is being introduced to remedy the situation.

The Constitution and the Supreme Court

EXTENSION OF REMARKS
OF
HON. HAROLD KNUTSON
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 11, 1937

ARTICLE BY HON. JOHN S. McGROARTY, OF CALIFORNIA

Mr. KNUTSON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following statement by the gentleman from California [Mr. McGROARTY] appearing in the Los Angeles (Calif.) Times of March 7, 1937:

[From the Los Angeles (Calif.) Times of Mar. 7, 1937]

McGROARTY WARNS AGAINST SCRAPPING CONSTITUTION—REAL ISSUE IN COURT PLAN MADE PLAIN

By JOHN S. McGROARTY

WASHINGTON, March 6.—In common with all Members of Congress of the United States I am in receipt of literally hundreds of letters and telegrams inquiring as to my stand as a Member of Congress on the proposal of the President of the United States to add six new members of his own selection to the personnel of the Supreme Court and thus to make over the complexion and long-standing status of the judiciary branch of the Government.

With my limited office force it has been impossible to reply to each correspondent personally. I am therefore taking advantage of my position as a member of the Times staff to make this general reply.

OPPOSED TO PLAN

In case that no reader of the Times wishes to pursue this statement further, let me say at the outset that I am emphatically and unalterably opposed to the President's proposal. But if anyone should be sufficiently interested to learn the reasons for my stand I herewith give them as briefly as it is possible for me to do.

Let me say at the outset that I consider it of no importance what the President's motives may be in making a proposal which has roused the country to a state of concern not paralleled perhaps since the secession of the Confederate States from the Union.

QUESTION MADE PLAIN

It is not a question of any man's personal motive or conviction, but, on the contrary, a question solely of the preservation of our American system of government as set up under the Constitution and by which the business of government has been operated for the last century and a half.

It is a question as to whether the executive department of the Government shall invade both the legislative and judiciary branches of the Government and thus scrap the Constitution. That's all it is, and nothing else.

UNSWERVING IN STAND

It is of no importance that President Roosevelt has been charged as being the victim of a grotesquely exaggerated ego, that he is impatient and intolerant of opposition, or that he sincerely believes he can by his own single and individual ideas restore prosperity and bring about what he himself calls "the abundant life."

The attacks on the President, and his attacks, however veiled, on the Supreme Court and upon all citizens who disagree with him, have had and will have no weight with me in the decision to oppose his proposal with at least my own one vote in Congress.

WASHINGTON'S WARNING

If it were that I stand in need of guidance from sources of unquestioned wisdom among my great countrymen of past generations, all I would need to do is to take to heart and mind the statement of the first President. Washington said that "the spirit of encroachment tends to consolidate the powers of all the departments (of the Government) in one, and thus to create, whatever the form of government, a real despotism."

A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position.

WAY FOR CORRECTION

The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories,

and constituting each the guardian of the public weal against invasion by the others, has been evinced by experiments ancient and modern; some of them in our own country and under our own eyes. To preserve them must be as necessary as to institute them.

If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designated.

MENACE TO FREEDOM

Washington also said—as though he were speaking at this present hour of crisis—"let there be no change by usurpation, for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."

All this from him who carved our Nation with his unconquerable sword and who afterward held the Nation together by his wisdom and because of the trust of his countrymen in his integrity. Save for Washington there would never have been a United States of America. I gladly accept him for my own guidance.

TOO MUCH POWER

Then if I should desire to be guided by an opinion of a colleague sitting with me in the Congress now, I would weigh carefully the statement by the honorable SAMUEL B. PETTENGILL, Democrat, of Indiana, who, speaking on the President's proposal in a public address, said "it is too much power for a good man to ask, and too much for a bad man to have."

Consider the powers already granted President Roosevelt by the Congresses functioning since the time he was first inaugurated. No such powers have ever been granted to any President preceding him, nor are any such powers exercised by any king or potentate, ruler, or dictator in any other nation in the world.

STAGGERING DEBT

These powers so freely and improvidently granted Mr. Roosevelt by Congress appear to have resulted mostly in the creation of a national debt in excess of any by which the country has ever been burdened before. A national debt that is constantly increasing.

And while no one can deny, or cares to deny, that much of the debt was created to relieve human distress and misery and to stop further progress of an unprecedented economic depression, the fact remains that the debt is growing ever greater and greater. A debt that some day somebody must pay, even though it shall become necessary to tax the roof over the head of the poorest citizen of the land.

TWO COURSES OPEN

My own convictions as a life-long student of the history of our country, and most particularly now in the realization of my responsibility as a Member of the Congress of the United States, are the things that lead me to oppose the proposal to remake the Supreme Court. We must either keep each department of the Government as set forth in the Constitution separate and apart, the one from the other, or scrap the Constitution altogether.

Let me be permitted to say in conclusion that I have no fear that the proposal will ever be brought to realization. My opinion from close observation is that it will never be adopted. The people of our country are not yet of the mind to abandon a system of government which was bought at the price of bloody footprints in the snows of Valley Forge. If any department of the Government is to be reformed and made over, it will be done as Washington advised, namely, by an amendment to the Constitution submitted to the people for approval.

Democracy's Last Stand

EXTENSION OF REMARKS

OF

HON. JOSEPH GRAY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1937

EXCERPTS FROM ADDRESS OF HON. JOSEPH GRAY, OF PENNSYLVANIA, BEFORE THE CAMBRIA COUNTY (PA.) POMOMA GRANGE, FRIDAY, MARCH 5, 1937

Mr. GRAY of Pennsylvania. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following excerpts from an address delivered by me before Pomona Grange, Cambria County, Pa., Friday, March 5, 1937:

This great and fundamental question must be considered in the light of history, because we are dealing with an historic document. The men and women who colonized America came here not for security but for civil and religious liberty. They endured hardships, the blasts of winters, hostile savages, and the ravages of famine and epidemic. They wanted above all else to get away from the domination of kings, rulers, and masters, from arbitrary government.

* * * * * * *

In the Declaration of Independence of July 4, 1776, one of the reasons set forth for revolting from England was that the king had "obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers. He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries." One of the very foundations of the American system of government was an independent judiciary; judges who were not to be responsible to anybody or anything but the Constitution itself.

* * * * * * *

In the world today there is a struggle to the death between democracy and despotism. If we look at Europe, we see that democratic forms are being subverted by those men who rode into power on plans to free the people, and once the powers of government were in their hands the people were subjected to binding shackles from which they cannot extricate themselves. Thomas Jefferson once said that every man should consider "government" as his enemy. It is the very nature of government to encroach gradually but more and more on the rights of the individual.

* * * * * * *

If we are to have a fascist state, or a communistic proletarian dictatorship, or any other form of one-man supremacy, the question should be decided in a straightforward, open, constitutional manner. If we are to scrap the Constitution, if it is outmoded, out of date, worthless, or standing in the way of progress, then let us change it or junk it directly, knowing exactly what we are about, and not by indirection and circumvention.

* * * * * * *

All the liberties, all the rights of humans, of persons, and of property that we have are bound up in our fundamental law and dependent upon a judiciary wholly and entirely free from domination, influence, or control from any source except the supreme law itself. Strike at the judiciary and the individual is in danger from almost every source.

* * * * * * *

No one contends that judges are above criticism. No one contends that judicial decisions and the men who made them are infallible. No one, we may suppose, thinks we should worship either the Constitution or the Supreme Court, or the Court's opinion. American citizens, by virtue of constitutional guarantees, have a perfect right to express an opinion on those things. Criticism is one thing. Destruction is something else again. But an official who takes an oath of office to protect and defend the Constitution against all enemies, foreign and domestic, to bear true faith and allegiance to the same, without mental reservation or purpose of evasion, is bound to try to prevent its destruction.

* * * * * * *

Let me give you two quotations, one by a very modern author and one by an ancient writer.

In his message to Congress last year, President Roosevelt said: "Within democratic nations the chief concern of the people is to prevent the continuation or the rise of autocratic institutions that beget slavery at home and aggression abroad."

Quoting further:

"In 34 months we have built up new instruments of public power. In the hands of a people's government this power is wholesome and proper. But in the hands of political puppets of an economic autocracy such power would provide shackles for the liberties of the people. Give them their way and they will take the course of every autocracy of the past—power for themselves, enslavement for the people."

We can enlarge that wording and it will still be true. That in government autocratic powers are exercised by politicians of one kind or another. That any autocracy—economic, political, or what not—takes to itself power and enslaves the people.

* * * * * * * *

Here is the other quotation:

Julius Caesar had designs on the established Government of Rome. A writer of his life said this:

"Caesar won no less upon the affections of the people by the affability of his manners and address * * * the open house he kept * * * the entertainments he gave, and the general splendor of his manner of life contributed little by little to create and increase his political influence. His enemies slighted the growth of it at first, * * * whilst in the meantime it was growing up and flourishing among the common people. When his power was at last established and not to be overthrown, and now tended to the altering of the whole constitution, they were aware too late that there is no beginning so mean which continued application will not make considerable and that, despising a danger at first, will make it irresistible."

* * * * * * *

What have some of our greatest Presidents thought of this kind of procedure. Let me quote from Woodrow Wilson, twice President of the United States, a great leader, author of a history of the American people, a great Democrat. In his book entitled "Government Under the Constitution", discussing this very proposition, he utters the following condemnation:

"It is within the undoubted constitutional power of Congress, for example, to overwhelm the opposition of the Supreme Court upon any question by increasing the number of Justices and refusing to confirm any appointments to the new places which do not promise to change the opinion of the Court. Once at least it was believed that a plan of this sort had been carried deliberately into effect. But we do not think of such a violation of

the spirit of the Constitution as possible, simply because we share and contribute to that public opinion which makes such outrages upon constitutional morality impossible by standing ready to curse them."

• • • • • • •

If we go about in the orderly way to change the Constitution we shall be true Americans. If we do as the Democratic platform of 1936 proposes we shall be true Democrats in principle and in party. If written and carefully worded platform pledges on which a candidate seeks office are to be scrapped for a newer post-campaign policy utterly at variance with the platform, the character of American politics has certainly not been elevated.

The people of the United States should take heed that neither pique nor overweening ambition, nor stretch for worldly power or glory, separate them from the most priceless possession inherited from their fathers.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. WILLIAM H. DIETERICH
OF ILLINOIS
IN THE SENATE OF THE UNITED STATES
Friday, March 12, 1937

STATEMENT OF ASSISTANT ATTORNEY GENERAL JACKSON BEFORE THE SENATE COMMITTEE ON THE JUDICIARY

Mr. DIETERICH. Mr. President, I ask unanimous consent to have printed in the RECORD the statement made yesterday by Robert H. Jackson, Assistant Attorney General of the United States, before the Committee on the Judiciary.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

I. A RESPONSIBILITY FOR THE PROPER FUNCTIONING OF THE SUPREME COURT HAS BEEN PLACED BY THE CONSTITUTION UPON CONGRESS

When a situation exists in the Supreme Court which the President feels he cannot continue to ignore it is to the Congress that he may properly bring the problem.

The responsibility upon Congress for seeing that the American people have a workable, harmonious, and cooperative judicial system is so usually overlooked by those engaged in building up the tradition of judicial supremacy that the burden of constitutional responsibility on Congress deserves examination.

A sentiment has developed that sole responsibility for the functioning of the Supreme Court as an institution is upon the Justices, and that their independence requires that a majority of them be let alone to shape the institution as they will. In short, it is urged that the Court belongs exclusively to the Justices and that the President and the Congress must keep hands off.

The fact is that the Supreme Court cannot function without the periodic aid of the Congress and that Congress, by its inactivity, may be assuming responsibilities for the Supreme Court's acts as great as any responsibility it may assume by exerting its power.

The Constitution leaves with Congress and the Executive the whole responsibility for the personnel of the Court. The Senate must share responsibility for the selection of the Justices and is the sole judge of their "good behavior." The Court is without means to house itself or to obtain its clerks, secretaries, and marshals unless the House of Representatives takes the responsibility of initiating appropriations for the purpose. The House of Representatives is the only accuser to which the Justices must answer. Moreover, the Court is powerless to make its decisions effective unless Congress or the Executive provides for carrying out its judgments and decrees.

Moreover, the jurisdiction of the Court, except as to cases affecting foreign representatives and states, is left to Congress to decide.

This power to reduce the Supreme Court to a mere phantom court was not an accident. Our forbears knew the story of judicial abuse and tyranny as well as the story of legislative and executive abuses. These checks and balances were therefore embodied in the Constitution to enable Congress to check judicial abuses and usurpations if the same should occur. If there are abuses in the Court, with which I will deal later, their continuance can only be due to default in the exercise of checks and balances placed in the hands of Congress and the Executive.

The power of Congress to exercise checks against the overreaching of the Court is so generally overlooked or minimized that the alternatives that faced the Constitution writers deserve examination in detail.

1. The Constitution might have made the Supreme Court the sole custodian of judicial power. It did not. The judicial power is vested in the Supreme Court "and in such inferior courts as the Congress may from time to time ordain and establish."

2. The Constitution might have determined, or left to the Supreme Court to fix, its own jurisdiction. It did not. It has only a limited original jurisdiction, and except in cases affecting ambassadors, ministers, and consuls, and those in which a State shall be a party, the Supreme Court has appellate jurisdiction only "with such exceptions and under such regulations as the Congress shall make."

3. The Constitution might have fixed the size of the Supreme Court or left the Court to determine its own size, but the Constitution deliberately left the number of Justices to be fixed from time to time by Congress.

4. The Constitution might have named the original members of the Court or might have given the Court power to fill its own vacancies. It did not. The Constitution placed the continuing power of appointment in the President and in the Senate.

5. The Constitution left the amount of compensation of the Justices entirely to Congress, with no restriction except in the provision that whatever compensation Congress may once give them shall not be diminished during their continuance in office.

6. The Constitution could have provided some source of revenue for the Court, its Justices, Marshal, Clerk, and appointees. But it leaves it entirely to appropriations to be initiated in the House of Representatives.

7. The Constitution could have authorized the Court itself to appoint the personnel necessary to execute and enforce Court decrees. But it did not. For the enforcement of the Court's decrees, the Congress and the executive branch of the Government must be relied upon.

8. The Constitution could have given to the Court the power to judge the conduct of its own members. The power to judge the qualifications and to discipline its own members was given to each House of Congress. But the Supreme Court was entrusted with no such power to either accuse or judge its members. Impeachment can be only by the House and trial by the Senate.

When the Congress, as the supreme legislative and policy-making body of the United States, was granted such conclusive powers over jurisdiction and enforcement of decrees of the Court, and over appointment and behavior of its personnel, it is idle to contend as many of the advocates of judicial supremacy do, that it was ever intended that the Supreme Court should become a super-government. From these powers it is apparent that Congress by failure to exert its checks and balances, assumes responsibility for the functioning of the Court. It is clear that Congress has the power to see that the personnel of the judicial system is adequate, both with respect to number and to neutrality of attitude. It is a responsibility of Congress to see that the Court is an instrumentality in the maintenance of a just and constitutional government and that it does not become an instrumentality for the defeat of constitutional government. The duty of cooperation is not cast upon Congress and the Executive alone.

Congress throughout our history has made sparing use of its checks and balances against the Court. It made one abortive attempt to use impeachment as a check. It once withdrew jurisdiction of the Court to hear and determine a case that had already been submitted, and its power to do so was recognized. Three times the device of constitutional amendment has been used to correct the Court. Six times we have effected changes in the size of the Court, with resulting changes in the Court's attitudes.

I will briefly recount our experience in changing the size of the Court and our experience with amendments to overcome its decisions.

II. EXPERIENCE WITH ALTERATIONS OF THE SIZE OF THE COURT

Legislation creating or abolishing vacancies in the Court is authorized by the Constitution and validated by historical practice as a method of bringing the elective and nonelective branches of the Government back into a proper coordination.

Its frequent use has avoided amendments which would make the Constitution a document of patches and details. It does not change the constitutional powers of the courts, or the distribution of powers between the legislative and judicial branches. It does not eliminate any check or balance of the constitutional system.

Changing the size of the Court has never deprived it of independence or prestige. It was obvious at the founding of the Government that the Court would not always remain of the same size, and that changes in its size would be made, as they have been made, at those times when its decisions caused dissatisfaction. It is just as constitutional to add members to keep the Court up with the country as it is to add members to keep the Court up with its business. The power of the Congress to avert constitutional stagnation is as great as its power to prevent congested dockets. And whatever other motives have influenced the changes that have been made in the composition of the Court, the dominant one has always been to keep the divergence between the Court and the elective branches from becoming so wide as to threaten the stability of the Government.

There have been six instances.

A reduction of the Court from six to five was effected by what is known as the "midnight judges" law rushed through Congress by President Adams just before Jefferson took office. Justice Cushing was not expected to live, and it was thought by this device to prevent Mr. Jefferson from appointing a successor.

The number was restored to six in 1802, and raised to seven in 1807, which enabled Jefferson to appoint new Justices. Charles Warren has collected (Supreme Court in United States History, vol. 1, pp. 210–212) the comments of the press on Mr. Jefferson's move; which read like this morning's paper. I quote characteristic comment. One paper said, "By this vote the Constitution has received a wound it cannot long survive." Another stated that a "mortal blow had been struck at the independence of the judiciary." One said, "The judicial system has received its

death warrant"; another termed it "The death warrant of the Constitution", and an editor announced the "Alarming destruction of the great charter of our national existence." James A. Bayard wrote, "The independence of the judicial power is prostrated. A Judge, instead of holding his office for life, will hold it during the good pleasure of the dominant party. The Judges will of course become partisans, and the shadow of justice alone will remain in our courts."

Supporters of President Jefferson in Congress were subjected to attack as "highly drilled" "mutes" who "stand ready to pass it without debate." In spite of the predictions of President Jefferson's enemies, the judiciary did not lose its prestige, but on the contrary it gained, and it did not lose its independence, but on the contrary became more aggressive.

The Jacksonian revolution was signalized by the addition of two new Judges in 1837. There was an increase in judicial business, but Congress had refused successive demands of prior Presidents for an increase.

In 1863 the Court was enlarged to 10, in part, to assure that Mr. Lincoln's war policy would not be injured by judicial attacks. The vacancy was filled by the appointment of Justice Field, who was recognized as "a strong Union man." That Lincoln had a purpose to strengthen his position with the judiciary may be inferred from his confiding to Congressman Boutwell as to the appointment of Chief Justice Chase that "We wish for a Chief Justice who will sustain what has been done in regard to emancipation and the legal tender."

Since the preparation of this statement I have been told that the correspondence between Theodore Roosevelt and Henry Cabot Lodge shows that before appointment of Oliver Wendell Holmes to the Supreme Court he was invited to spend a week end at the White House. After that, President Roosevelt wrote to the effect that he was satisfied with the economic and social views of Mr. Justice Holmes.

The Court was reduced in 1866 from 10 to 8 to prevent the vacancies from being filled by President Johnson with appointments which it was feared might be unfavorable to the "reconstruction" policy.

In 1869, under President Grant, the Court was again enlarged to nine. The Court then stood at eight with one vacancy, and the validity of the Legal Tender Act had been argued. As the Court was reading the decision holding the Legal Tender Act by which the War between the States had been financed to be unconstitutional, Grant sent to the Senate the names of two Justices. Promptly after the confirmation of the new Justice the Court reversed its former decision and restored to Congress power over the finances of the Union, which again in 1935 came perilously near being denied.

President Grant took pains to appoint Justices who, honorably but frankly, favored his policy.

In all the foregoing cases there was a real danger that the nonresponsive, nonelective branch of the Government might impose its unsympathetic predilections on the country to nullify the policy of the elective branches. When immediate and effective action has been necessary, the method which the President now proposes has been used throughout our constitutional history.

III. EXPERIENCE WITH AMENDMENTS TO CORRECT COURT DECISIONS

The amendment method to correct the Court has been used three times. The eleventh amendment was adopted to correct the Court on suits against the States; the thirteenth, fourteenth, and fifteenth amendments to eradicate the philosophy of the Dred Scott decision and effectuate the policy of reconstruction; and the sixteenth to alter the result produced by the Court's ruling on income taxes.

I am not urging that amendment method shall not now be tried. But I do point out certain problems which draftsmen and advocates of amendment will need to consider.

Experience has shown that it is difficult to amend a constitution to make it say what it already says. That was attempted first in the eleventh amendment. The Court held, in *Chisholm* v. *Georgia* (2 Dallas, 419), that the Supreme Court had jurisdiction of a suit against Georgia by a citizen of another State. An amendment was then adopted saying that the judicial power shall not be construed to extend to a suit against a State by citizens of another State. Ninety years later, a smart lawyer brought a suit in the Supreme Court against a State on behalf of one of its own citizens, pointing out that the eleventh amendment was so drawn as to apply only to suits brought by citizens of a different State or a foreign country. And in *Hans* v. *Louisiana* (134 U. S. 1), the Supreme Court decided that the Constitution as it was originally written, in spite of its prior decision to the contrary, did not authorize a suit against a State by any private citizen without its consent. It thus appeared first that no amendment was needed and second that it was defective.

The fourteenth amendment was also a clarifying amendment intended to uproot the constitutional errors involved in the Dred Scott decision. There is no doubt that the Congress which submitted and the States which ratified language, which said, "Nor shall any State deprive any person of life, liberty, or property, without due process of law", thought they were protecting the civil rights to a fair trial and hearing. The Supreme Court extended the amendment to protect corporations, although its language only includes persons, and it then extended it from a guaranty of procedural fairness to prevent the State from enacting almost any kind of economic legislation. Thus the fourteenth amendment, far from clarifying the great constitutional principle of human rights, has brought forth a crop of new difficulties, and the amendment in the interest of freedom has brought forth new kinds of oppression.

The income-tax amendment was also intended to clarify the Constitution. An income tax had been levied and sustained during the Civil War. But in 1895, after one Justice made a somewhat mystifying shift in his vote, the Supreme Court by 5 to 4 held the income tax to be constitutional to tax wages and salaries, but unconstitutional to tax income from invested capital in the form of rent, interest, and income from real or personal property.

This inequality we attempted to correct by the sixteenth amendment, which provided, "Congress shall have the power to levy and collect taxes on incomes, from whatever source derived, * * *." Despite its broad language, the courts now refused to apply it to their own salaries, or to income from State and municipal bonds, or to salaries from State and municipal sources, or to stock dividends.

Even if this amendment were permitted to mean what it says, it gave us no more, after a delay of 18 years, than could have been obtained if a single Justice had stood by his original vote in the Pollock case.

Our constitutional history abundantly demonstrates that it is impossible to foresee or predict the interpretation or effect which may be given to any language used in an amendment. The difficulty of enacting an amendment to overcome a single decision of the Court such as the Dred Scott decision or the income-tax decision becomes more difficult when the problem is not to meet a single concrete decision but to meet a state of mind or mental attitude which pervades the whole course of recent judicial decisions. It may be possible by more words to clarify words, but it is not possible by words to change a state of mind hostile to the exertion of governmental powers. To offset the effect of the judicial attitude reflected in recent decisions, it would be necessary to amend not only the commerce clause and the due-process clause but the equal-protection clause, the privilege and immunities clause, the tenth amendment, the bankruptcy power, and the taxing and spending power. Each one of these clauses has during the past 2 years been so unwarrantably construed as to call forth indignant dissents from the liberal minority of the Court.

Judges who resort to a tortured construction of the Constitution may torture an amendment. You cannot amend a state of mind and mental attitude of hostility to exercise of governmental power and of indifference to the demands which democracy, attempting to survive industrialism, makes upon its Government.

IV. JUDICIAL POWER OVER FEDERAL LEGISLATION IS EXPANDING RAPIDLY AND ASSUMING THE NATURE OF A VETO

The outstanding development in recent constitutional history is the growing frequency with which the Supreme Court refuses to enforce acts of the Congress on the ground that such acts are beyond the constitutional powers of the Congress.

While we see no limits upon the power to nullify acts of the Congress, we can see that, as each instance becomes a precedent for more, self-restraints are proving no restraints, and the power is in constant process of extension.

In the 71 years from the adoption of the Constitution to the War between the States the Supreme Court so nullified only two acts of Congress. One of these two nullifications was the Dred Scott case, which precipitated that war.

In the 72 years from the beginning of that war down to the close of the October 1932 term, the Supreme Court refused to recognize the power of Congress in approximately 60 cases, and it is significant that one-third of these occurred during the decade before the New Deal, when the country as a whole was supposed to be content with a period of normalcy. Enumerated by decades, the number of laws of the United States nullified by the Supreme Court runs as follows:

1790–1800	0
1800–10	1
1810–20	0
1820–30	0
1830–40	0
1840–50	0
1850–60	1
1860–70	4
1870–80	9
1880–90	5
1890–1900	5
1900–10	9
1910–20	7
1920–30	19

But in just the last 3 years, from the October 1933 term on, the Court has refused to recognize the power of Congress in 12 cases; and 5 of these 12 decisions have occurred during a single year, i. e., the October 1935 term, 4 of the 5 by a sharply divided Court.

The outstanding constitutional development of the Roosevelt administration has been the increasing tendency of the Supreme Court to judge legislation according to the majority view of the wisdom of the legislation. The early policy of judging constitutionality without weighing the wisdom of the act has departed, and the attitude that has come to prevail is that stated by Mr. Justice McReynolds (*Nebbia* v. *New York*, 291 U. S. 502, at 556):

"But plainly, I think, this Court must have regard to the wisdom of the enactment. At least we must inquire concerning its purpose and decide whether the means proposed have reasonable relation to something within legislative power—whether the end is legitimate and the means appropriate."

Each success in thwarting congressional power, or each effort that comes so near success as to lack but a vote or two, stimulates competing lawyers and aggrieved interests to new attack.

Nearly every newly organized institution of the Government rests under a legal cloud. This is true of the Securities and Exchange Commission, the Social Security Board, the Public Works Administration, the Tennessee Valley Authority, and the Labor Relations Board.

The acts of Congress involving the hopes and fears of a great proportion of the American people are likewise clouded in legal doubt. Old-age benefits, old-age assistance, unemployment compensation, the Securities Act, the relief acts, the Labor Relations Act, the Public Utility Holding Company Act, the Tennessee Valley Acts, as well as many taxing acts, are involved in litigation, and there is no definite assurance what their fate will be. The whole program overwhelmingly approved by the people in 1932, 1934, and 1936 is in danger of being lost in a maze of constitutional metaphors.

For a century and a half it was settled doctrine that an act of the Congress was a law to be obeyed until set aside by the Supreme Court; that even in that Court it was presumed to be constitutional, and a heavy burden rested on one who would prove it otherwise.

The Public Utility Holding Company Act was to take effect December 1, 1935. Although the Supreme Court had not acted, and lower courts were in conflict, practically the entire industry advised by eminent constitutionalists, refused obedience unless and until the Supreme Court should have declared the law constitutional.

No more threatening development in law enforcement has occurred than the sight of the Government defined by the whole utility holding company industry, obliged to abdicate enforcement until a Supreme Court decision could be had. If this attitude shall spread, then a a subtle change has come about that transforms completely the function of the Supreme Court in our Government.

Such an attitude reverses a century of legal opinion. It throws the burden on Congress of getting a favorable decision before its laws can be enforced. Within the last few weeks the Supreme Court in a 5-to-4 decision has held that even if a State statute is valid on its face, those State officials charged with its administration must affirmatively sustain the burden of proving that it has been constitutionally administered (*Great Northern* v. *State of Washington*, Feb. 1, 1937). This attitude, if applied to Federal legislation, will hold up law enforcement and, in effect, require Court approval, as well as Presidential approval, for acts of Congress with this important difference: The veto of the Executive can be overriden if a sufficient vote in the Congress favor it, the veto of the Court has the finality of fate.

That the conflict between the Court and the elective branches of the Government is entering a new phase is apparent from the extensive assertion of the right to disregard acts of Congress which is subtly transferring the process of judicial review into a veto power over legislation.

I am confident that the Supreme Court has no wish to take unto itself a veto power. It has heretofore condemned the theory that "parties have an appeal from the legislature to the courts" (*Chicago* v. *Wellman*, 143 U. S. 343). But powerful interests, by carrying all causes lost in Congress to the Supreme Court, and by resisting lawful authority, meanwhile, are forcing that consequence upon the Court with its effective, if unconscious, consent.

V. THE FEDERAL JUDICIAL POWER IS ALSO IMPAIRING STATES' RIGHTS

It is often assumed that the powers which the Court denies to the Federal Government fall to the State governments, and that the Supreme Court is therefore a protector of the States.

Few decisions of the Supreme Court can be cited in which any State of the Union has been able to obtain any protection of its own constitutional rights upon its own demand from that Court. Instead, States have met with little success attempting to assert their own rights before the Court.

The two outstanding cases in which a State asked the Supreme Court to stop invasions of their rights arose, not against this administration, but against Secretary Mellon, the defendant in both cases.

The State of Massachusetts in 1922 sued Mellon. The Court's opinion describes the plea of the State:

"The State of Massachusetts, in its own behalf, in effect, complains that the act in question invades the local concerns of the State, and is a usurpation of power, viz: power of local self-government reserved to the States."

The Court answered that plea by holding:

"The State of Massachusetts presents no justiciable controversy either in its own behalf or as the representative of its citizens."

And the Court dismissed the plea of Massachusetts for want of jurisdiction without considering the merits of the constitutional questions.

A little later, in 1926, the State of Florida asked to enjoin Mellon to enjoin enforcement of a law which Florida said, according to the Court's opinion:

"Constitute an invasion of the sovereign rights of the State and a direct effort on the part of Congress to coerce the State."

The Court, however, refused to allow Florida even to bring its suit, because it said the threatened acts would not constitute "a direct injury" to the State, and that the State could not sue to prevent injury to it through its citizens.

The decisions are *Massachusetts* v. *Mellon* (262 U. S. 447) and *Florida* v. *Mellon* (273 U. S. 12). Their effect is that the States will not be heard in Supreme Court to assert against the Federal Government, its own rights, or the collective rights of its citizens based on the Federal Constitution.

In the Carter Coal case seven States appeared and joined with the Federal Government in support of the Guffey Coal Act—no State appeared against it. Nevertheless, the Court struck down the Guffey law on the plea by the owners of the Carter Coal Co. that the law invaded States' rights. The Court spoke of the danger of the States being "despoiled of their powers" and being reduced to "little more than geographic subdivisions of the national domain." This enthusiasm for States' rights, when urged by the Carter Coal Co. owners, is in contrast with the refusal of the Court to hear such plea when urged by the State itself. When the State makes the plea it is told that it presents a political question. When the owners of the Carter Coal Co. make the plea it is transmitted into a judicial question.

The same thing happened in *U. S.* v. *Butler* (297 U. S. 1), in which the farm-relief program was struck down as coercing the States, although Mr. Justice Stone points out that no such contention was made by the taxpayer, and hence could not have been answered by the Government. Here, again, no State complained that its rights were being injured by aid to the farmers. The packers, processors, and manufacturers were the beneficiaries of any rights the States may have had.

It was not Congress, nor the Executive, but it was the Supreme Court which denied the rights of any of the States of the Union to make any law whatever dealing with minimum wages, and it was in that case that the Chief Justice said:

"And I can find nothing in the Federal Constitution which denies to the State the power to protect women from being exploited by overreaching employers through the refusal of a fair wage as defined in the New York statute and ascertained in a reasonable manner by competent authority" (*Morehead* v. *Tipaldo*, 298 U. S. 587).

He said further:

"We have not yet arrived at a time when we are at liberty to override the judgment of a State to decide that women are not the special subject of exploitation because they are women and, as such, are not in a relative defenseless position."

The majority, however, not only overrode the State but overrode the Chief Justice of the Court and three of its ablest members. Instead of saying the time has not yet arrived, the Chief Justice might properly have said, "The time has just this minute arrived."

State legislation inaugurating conservative reforms has, with increasing frequency, been set aside by a majority of the Supreme Court ever since 1920, even though these State reforms did not encroach upon the powers of the Federal Government, but simply failed, in the opinion of a majority of the Court, to come within the vague contours of the fourteenth amendment. In vain did Mr. Justice Brandeis in 1924 protest that the Court was assuming the "exercise of the powers of a superlegislature—not the constitutional function of the judicial review" (*Jay Burns Baking Co.* v. *Bryan*, 264 U. S. 504, 534). And by 1930 Justice Holmes was driven to exclaim: "I have not yet adequately expressed the more than anxiety that I feel at the ever-increasing scope given to the fourteenth amendment in cutting down what I believe to be the constitutional rights of the States. As the decisions now stand, I see hardly any limit but the sky to the invalidating of those rights if they happen to strike a majority of this Court as for any reason undesirable. I cannot believe that the amendment was intended to give us carte blanche to embody our economic or moral beliefs in its prohibitions" (*Baldwin* v. *Missouri*, 281 U. S. 586).

Experiments by the States with laws to settle industrial disputes, minimum-wage acts, and acts to regulate public-utility and other business enterprises were frequently stopped by the Federal courts. Had they been allowed to proceed, demands for the exercise of Federal power later would have been less imperative.

On the other hand, the Congress came to the aid of States' rights by enacting a law that forbids Federal judges to set aside an act of the State legislature, except after hearing by a three-judge court. This is greater protection to State legislation than Congress has enacted for its own laws, which are still freely nullified by a single judge. When Congress was obliged to intervene to protect the State from aggressions of Federal judges it can, with little grace, be contended that the judiciary are the defenders of the States.

The Supreme Court has even denied the Congress the right to make enactments in aid of States' rights. The States, of course, cannot set up machinery to provide for the adjustment of municipal indebtedness because the States have no jurisdiction over the claims of nonresidents. Yet, the Supreme Court, dividing 5 to 4, recently held in *Cameron* v. *Ashton County* (298 U. S. 513) that Congress could not provide, even with the express consent of the State, a procedure by which municipalities could avail themselves of bankruptcy privileges. It thus seems that States' rights cannot be exercised by the States themselves; the States apparently are not of age and are to be regarded as sort of wards of the Court, which determines in its own wisdom what is for their good.

The tenth amendment, as to power reserved to the States, has not been used to assure the power of the States. It has been used to cut down the power of the Federal Government. Then, when those same powers are asserted by the States, the "due-process clause" is used to cut down the State power. The States have no rights which the courts have been bound to respect. The States' rights argument is heard sympathetically only when pleaded by

private interests in support of laissez faire economics to create a "no man's land" beyond the reach of both Federal and State power. The States' rights have become private privileges.

Is it any wonder that Justice Holmes said the sky is the limit?

VI. THE COURT IS NOW IMPAIRED IN ITS FUNCTIONING AND PRESTIGE BY A SERIOUS DIVISION—ONLY THE ADDITION OF NEW MEMBERS CAN RESTORE IT TO ITS PROPER FUNCTIONING

The present controversy over the Court reflects a controversy within the Court. Neither the Congress nor the President has sought the present dissension. Neither the Congress nor the Executive has in any manner sought to interfere with the judicial function, and neither has failed to obey any decision of the Court.

A majority of the Justices have made it apparent that the great objectives of this administration and this Congress offend their deep convictions and that the methods of this day violate their conceptions of good government. Prediction of "impending moral chaos", grief over the fear that "the Constitution is gone", characterization of the Securities and Exchange Commission as a "star chamber", accusation that the Congress and the Executive have coerced farmers, taken freedom of contract away from working women, and despoiled the States indicate an implacable, although unquestionably sincere, opposition to the use of national power to accomplish the policies so overwhelmingly endorsed by the voters.

This frank hostility of these Justices has been openly counted on by interested groups to defeat much important legislation.

On the other hand, a minority of the Justices, whose patriotism and competence no one questions, have made it apparent that they feel that justice to their own records with posterity requires them to protest publicly and sharply against the overriding decisions of the majority. Included among those who have seen fit to protect their place in judicial history by recorded protests are Chief Justice Hughes, Justices Holmes, Brandeis, Stone, and Cardozo.

Under this stress and contention an inability to reach a decision developed in the case of the New York Unemployment Compensation Act, and the Court split 4 to 4, one Justice being absent from illness. This left a cloud upon the Social Security program of many States and is a possible threat to the Federal Social Security Act. Petition for rehearing has long awaited decision. The Washington Minimum Wage Act was argued some 3 months ago, and while I can only guess at the cause of the delay, the difficulties apparent in this case lead to the suspicion that the Court is badly divided.

When the decision of crucial constitutional issues may turn on the death or illness of a single Justice, it would seem that our constitutional progress is governed by a blind fate instead of by human reason. For a Justice of the Court to know that even a temporary indisposition may turn the course of his Nation's history must add to the ordinary anxieties about health. Nobody, no matter where his sympathies lie, or what his views of constitutional doctrine may be, can view this situation with composure.

Even Government victories by 5–4 decisions are unsatisfactory. A state of the law which depends upon the continuance of a single life or upon the assumption that no Justice will change his mind is not a satisfactory basis on which the Government may enter into new fields for the exercise of its power.

Government defeats which keep the Government out of the exercise of power for an indeterminate time which may be reversed after a single death, or resignation, or change of mind, is not a stable basis upon which any administration, or any Congress, can permanently renounce power.

Amendments, however worthy and well drawn, are of uncertain value while the judicial house is so stubbornly divided against itself.

The following table shows the persistent and dramatic split among the Justices:

Federal statutes	
Hot Oil (sec. 9c, N. I. R. A.)	void—8–1
Gold Clauses	valid—5–4
Railroad Pensions	void—5–4
Farm Mortgages	void—9–0
N. R. A.	void—9–0
A. A. A.	void—6–3
T. V. A.	valid—8–1
Guffey Act	void—6–3
Municipal Bankruptcy	void—5–4
Silver Tax	valid—9–0
Second Gold Clause case	valid—5–4
State statutes	
Mortgage Moratorium	valid—5–4
Milk Price Act	valid—5–4
Minimum Wage	void—5–4
Washington Utility Regulation Fund case	void—5–4
New York Unemployment Compensation	no decision—4–4

As long ago as 1922, Mr. Chief Justice Taft protested the Court's first minimum-wage decision because, as he said, "it is not the function of this Court to hold congressional acts invalid simply because they are passed to carry out economic views which this Court believes to be unwise and unsound" (*Adkins* v. *Children's Hospital*, 261 U. S. 525, 564). But the passion with which economic views have been thrust into legal decision have been intensified by the depression.

In 1935 a bare majority of the Court made a decision in the Railway Pension case that seemed to strip the Federal Government of all power to deal with pensions for interstate-railway employees. Mr. Justice Hughes, speaking for himself and Justices Brandeis, Stone, and Cardozo, uttered a protest that those who respect his sincerity and judgment know proceeded only from great provocation and deep sense of responsibility. He said:

"* * * The majority finally raise a barrier against all legislative action of this nature by declaring that the subject matter itself lies beyond the reach of the congressional authority to regulate interstate commerce * * *. I think that the conclusion thus reached *is a departure from sound principles and places an unwarranted limitation upon the commerce clause of the Constitution.*" [Italics supplied.] (*Railroad Retirement Board* v. *Alton*, 295 U. S. 330, at 375.)

When a small majority of the Court invalidated the Agricultural Adjustment Act last year, Mr. Justice Stone, who was President Coolidge's Attorney General, felt impelled to remind the Court that while legislative power may be unwisely used, "so may judicial power be abused", and that "a tortured construction of the Constitution is not to be justified", and that "courts are not the only agency of government that must be assumed to have capacity to govern" (*United States* v. *Butler*, 297 U. S. 1, at 87).

The climax was reached in the recent decision that a "State is without power by any form of legislation to prohibit, change, or nullify contracts between employers and adult women workers as to the amount of wages to be paid" (*Morehead* v. *New York ex rel. Tipaldo*, 298 U. S. 587, 611). In vain did the minority protest that "it is difficult to imagine any grounds other than our own personal economic predilections for saying that the contract of employment is any less an appropriate subject of legislation than are scores of others in dealing with which this Court has held legislatures may curtail individual freedom in the public interest" (298 U. S., at 633).

Only 10 days after the Court had tossed aside the New York Minimum Wage Act on the ground that the State was "without power by any form of legislation" to establish minimum wages for women the Republican Party pledged itself to support such legislation and avowed its belief that such legislation could be enacted "within the Constitution as it now stands." This was exactly what the Court said could not be done.

It thus becomes evident that there is a serious lag between public opinion and the decisions of the Court. A majority of the Justices have too frequently failed to recognize, as Justice Holmes so aptly stated, "what seemed to them to be first principles are believed by half of their fellow men to be wrong."

Nothing in history would justify a belief that the Court's opinion as to legislative policy is more likely to be right than that of the legislative body.

In his lectures upon the Supreme Court (p. 95) delivered in 1928, Mr. Chief Justice Hughes stated that "few of these cases (holding acts of Congress invalid) have been of great importance in shaping the course of the Nation." While emphasizing that "the existence of the function of the Supreme Court is a constant monition to Congress" (p. 95), he added, "it must be conceded, however, that up to the present time far more important to the development of the country than the decisions holding acts of Congress to be invalid, have been those in which the authority of Congress has been sustained and adequate national power to meet the necessities of a growing country has been found to exist within constitutional limitations" (ib. 96).

Decisions that have provoked the greatest controversy between the Congress and the Court, such as the Dred Scott decision, the *Legal Tender cases*, or the Income Tax cases, have been those involving matters of policy and of statesmanship, as to which the members of the Court entertained a difference of opinion among themselves, and in which there is no reason to expect judges to excel over legislators. Few, if any, such decisions have settled the issues which they attempted to foreclose. And sooner or later after an unpredictable lag, every such decision has been reversed, by war, by amendment, or by subsequent decisions of the Court itself.

It is true that the decisions already made constitute precedents which, under the legalistic doctrine of stare decisis, if it is to be rigorously applied, would fetter the discretion and cramp the reason of all future Justices. A working majority of the Court could shake the fetters of precedents and, within the present language of the Constitution, remove most of the causes of the long-standing conflict with the elective branches of the Government.

The Supreme Court has never waited for a constitutional amendment when its majority wanted to overcome the effect of its past decisions. It has qualified and even expressly overruled important decisions in constitutional issues (*Burnet* v. *Coronado Oil & Gas Co.*, 285 U. S. 393, 406–410). As Mr. Chief Justice Taney had occasion to remark in *The Passenger cases* (7 How. 283, 483): "After such opinions, judicially delivered, I had supposed that question to be settled, so far as any question upon the construction of the Constitution ought to be regarded as closely by the decision of this Court. I do not, however, object to the revision of it, and am quite willing that it be regarded hereafter as the law of this Court, that its opinion upon the construction of the Constitution is always open to discussion when it is supposed to have been founded in error, and that its judicial authority should hereafter depend altogether on the force of its reasoning by which it is supported."

It is true that the precedents of the past hang like a shroud about the Court. But the degree of devotion to precedent in lieu of reason is in that Court's discretion, even by its own precedents. A minority of the Court has expressed a will to freedom. Justice Brandeis has said, "The rule of stare decisis, though one tending to consistency and uniformity of decision, is not decisive. Whether it shall be followed or departed from is a question en-

tirely within the discretion of the Court which is again called on to consider a question once decided" (*Burnet* v. *Coronado Oil & Gas Co.*, 285 U. S. 393 at 405–409).

Justices Stone and Cardozo agreed that "The doctrine of stare decisis, however appropriate and even necessary at times, has only a limited application in the field of constitutional law" (*St. Joseph Stock Yards Co.* v. *United States*, 298 U. S. 38).

Conflict between Congress and the courts is in large part due to the refusal of the courts to permit Congress to have any share in defining the present-day application of such indefinite terms as "general welfare", "due process", "commerce among the several States", and the things which directly affect it. The Court majority insists on a rigid, permanent, and legalistic definition. All that is needed is the same attitude of mind on economic questions that the Court had on the liquor question. When it came to defining "intoxicating liquor" as used in the eighteenth amendment the Court was ready to leave it to Congress. There is no reason why similar deference should not be paid to congressional definitions of other constitutional terms.

If this split were decisively resolved by the addition of new members, the Court could proceed to mark out a less ambitious course for itself and bring about greater harmony within the Government.

The industrialization of society and the movement toward city dwelling, foreign political and economic dislocations, together with depression and distress, have generated an unrest which has put the whole complicated Federal System under severe strain. The ability of a federated form of government to withstand these pressures is greatly impaired by any dissension between branches that were intended to be cooperating and coordinate.

The Supreme Court's power over legislation is not defined or bounded, or even mentioned in the Constitution, but was left to lurk in inference. As Mr. Justice Stone has well said, "The only check upon our own exercise of power is our own sense of self-restraint" (*United States* v. *Butler*, 297 U. S. 1 at 79). Chief Justice Hughes, when Governor of New York, put in a single sentence our whole constitutional law, when he said, "We are under a Constitution, but the Constitution is what the judges say it is."

I have attempted to review dispassionately some of the failures of judicial self-restraint by which the Constitution "as the judges say it is" has departed from the Constitution which Woodrow Wilson said, "is not a mere lawyer's document; it is a vehicle of life, and its spirit is always the spirit of the age."

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ERNEST LUNDEEN

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Friday, March 12, 1937

STATEMENT BY JOHN P. DEVANEY BEFORE THE SENATE COMMITTEE ON THE JUDICIARY

Mr. LUNDEEN. Mr. President, I ask unanimous consent to have printed in the RECORD the statement made today before the Committee on the Judiciary by the able and distinguished former chief justice of the State of Minnesota, Hon. John P. Devaney, on the position of the legal profession toward the proposal of the President to reorganize the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE POSITION OF THE LEGAL PROFESSION

The National Lawyers' Guild is the first national bar association to go on record as being unequivocally for the President's proposal. I am appearing before you today on its behalf as its president.

(1) THE POSITION OF THE NATIONAL LAWYERS' GUILD

Three weeks ago the guild held its first formal organization meeting in Washington. Nearly 500 delegates from 38 States attended. The most important matter which came before the meeting was the action to be taken by the guild upon the President's proposal for the reorganization of the judiciary. After 3 days of discussion and debate, the following resolution on the President's proposal was adopted and adopted almost unanimously:

"Resolution on the President's proposal

"Whereas (1) the President of the United States has proposed that the number of Justices of the Supreme Court be increased by the number of incumbents who have reached the age of 70 years and have not retired after having served 10 years; and

"(2) We believe that the majority of the members of that Court has fallen behind the needs of the times, has blocked progress, and is now out of harmony with the urgent social and economic demands of the people: Now, therefore, be it

"*Resolved*, That we heartily endorse the President's proposal and urge its immediate passage by Congress as the only immediately available method to make possible progressive legislation now imperatively needed."

In yesterday's record of these hearings I think I saw an intimation that the lawyers of America were generally opposed to the President's proposal. I doubt whether that would prove to be true if the sentiment of the average lawyer who serves the average client could be made as articulate as the sentiment of the leaders of the bar who serve the big clients.

Of course, many bar associations, including the American Bar Association, have taken a position against this bill in the last few weeks. But of the 175,000 lawyers of the country, less than one-half are members of organized bar groups of any kind. Less than 30,000 are members of the American Bar Association, which until the formation of the National Lawyers' Guild was the only nationally organized group of lawyers which assumed to speak for the profession.

Furthermore, I feel fairly sure that the majority of members of many local bar associations have gone on record against the President's proposal on a most cursory examination of the merits of the proposal. I have heard of cases where the text of the proposal was not even available to the local association when the association took action, and when it was almost certain that most of the members had had no time to give prior study to the proposal.

I am a member of the American Bar Association. I recognize that it has done and is doing valuable work in many fields. But it has naturally come under the leadership of the most successful members of the profession whose professional duties have brought them into contact with the most successful and powerful classes of the country. It is not unnatural that those leaders should come to share the viewpoints and even, shall we say, prejudices of their clients, rather than the viewpoint of the great mass of lawyers within and without the association. The leadership of the American Bar Association rests with prominent and successful lawyers with powerful clients; the mass of American lawyers are ordinary lawyers with ordinary clients.

When the leadership of the American Bar Association first committed the association against the child-labor amendment it became evident to me that there was imperative need for an organization of lawyers to make articulate the viewpoint of the average American lawyer, who loyally and to the best of his ability serves the legal needs of the ordinary American citizen.

I have, therefore, been happy to have had a part in the formation of the National Lawyers' Guild, which hopes to speak for the rank-and-file attorney and for the interests of the ordinary citizen he serves. In doing this we believe we are performing a service for all lawyers. For if American lawyers are to retain their traditional position in the community and to regain the confidence of the people I am convinced that they must demonstrate to the community that their profession does not stand as an obstacle in the way of every conservative social and economic reform.

I really believe, and I think every thoughtful lawyer agrees with me, that the integrity and continuity of our legal system depends upon public respect for our courts and lawyers, and that at this time that respect is at a very low ebb. In recent years there has been an alarming growth of nonconfidence in law and in the administration of the law. In the mind of the average man the legal profession has failed to make democracy work in the courthouse. And if democratic government should fail in this country, the lawyer who was given the primary place in all its branches, legislative, executive, and judicial, will not be able to escape responsibility.

If any group in the country stands in real danger of being taken to the whipping post, it is the lawyers, and if the lawyer and his courts are taken to the whipping post a long pent-up resentment against them insures that they won't be let off as easily as was even the banker during the depression. I want, therefore, to approach the subject of the President's proposal from the standpoint that the fundamental interests of lawyers in the continuity of our legal traditions and the fundamental interest of the public in the ability of government to give the public what it expects of government, are one and the same. I should also like to approach the subject from the viewpoint that any group of lawyers taking a public stand on the President's proposal, takes that stand in a professional capacity toward the public, trying honestly to advise the public as to most suitable legal ways and means to accomplish what the public wants done, rather than raising legal arguments to prevent the public accomplishing what the public wants done.

Furthermore, I believe that we shall come out of the present controversy with more respect for the courts in the end if we encourage the frankest and most open criticism of them now.

Over the last 40 years certain leaders in the legal profession and certain interests whom those leaders protected, through the courts, against the wishes and needs of the public, have built up a dangerous myth about courts in general and the Supreme Court in particular. Ever since popular election of Senators removed the protection which an ultraconservative character of the Senate gave to certain classes in the community, the Supreme Court has been carefully built up as a subject of unquestioning veneration. It is a creditable aspect of human nature that it wants some object of veneration, and veneration to no small degree thrives on mystery and mysticism.

But a majority of the Court in the last 4 years has been exploiting the mystery which so largely enveloped the Court. There has been a deliberate effort not to let the country understand what the real function of the Supreme Court is, and how, for a long stretch of years the Supreme Court has been exercising that function. The people have been taught to believe that when the

Supreme Court speaks it is not the Justices who speak but the Constitution, whereas, of course, in most of our vital constitutional cases it is the individual Justices who speak and not the Constitution. It is this carefully circulated idea of the impersonality of the Court which is at the basis of our present difficulties with it.

If we help the people understand that the courts are human institutions, operated by human beings, the people will be willing to make human allowances for their human failures. If we frankly recognize them as the heart of our political system when they exercise judicial review of laws to which the average citizen looks more and more for the solution of his economic difficulties, we shall find less public disappointment in them as mathematically precise institutions. The danger of building a legal system upon a myth of an impersonal infallibility is that when the myth crumbles in disillusion the whole legal system may be irreparably injured.

Justice Brewer, one of the most conservative Justices in the history of the Supreme Court, stated a most salutary rule of public attitude toward the Court when he said:

"It is a mistake to suppose that the Supreme Court is either honored or helped by being spoken of as beyond criticism. On the contrary, the life and character of its Justices should be the objects of constant watchfulness by all and its judgment subject to the freest criticism. The time is past in the history of the world when any living man or body of men can be set on a pedestal and decorated with a halo. True, many criticisms may be, like their authors, devoid of good taste, but better all sorts of criticism than no criticism at all. The moving waters are full of life and health; only in the still waters is stagnation and death."

(2) THE PRESIDENT'S PROPOSAL IS THE ONLY REMEDY IMMEDIATELY AVAILABLE

You will note that our guild has heartily endorsed the President's proposal as the only immediately available method to make possible progressive legislation now imperatively needed. Without regard to the desirability or undesirability of an amendment to the Constitution, we are convinced that the satisfaction of present needs should not be imperiled by distant hopes.

The President's proposal recognizes that the present crisis is a judicial, not a constitutional, crisis and treats it accordingly. Our problem arises out of the fact that a majority of the human beings who presently make up the Supreme Court have in recent years refused to recognize legislative power clearly entitled to recognition under the Constitution as it now stands. That would seem to call for the exercise of the powers given the Congress, under the Constitution, to change the Court—not the exercise of that much more cumbersome and far-reaching powers given to the people to change the terms of the Constitution.

It is submitted that the burden of proof lies heavily on those who would adopt a remedy more far reaching than is needed to meet the immediate problem.

The constitutional powers which government already has need not be denied simply because additional powers, however necessary or desirable, are not available without amendment. The American people look to the Congress to exercise the legislative rights given them under the Constitution; and do not expect the Congress silently to acquiesce, so far as the future is concerned, in erroneous interpretations placed upon the Constitution by a majority of the Supreme Court. As President Lincoln pointed out in his first inaugural address—in a democracy "the policy of the government upon vital questions affecting the whole people" ought not "to be irrevocably fixed by decisions of the Supreme Court the instant they are made in ordinary litigation between parties in personal actions."

It is of course possible to limit the power of the Court by amendment, but candor certainly compels us to confess that those who would by amendment directly limit the power of the Court to declare State or Federal legislative acts unconstitutional or indirectly limit the power of the Court by giving enlarged powers to the Congress or by removing limitations upon State powers, are divided as to what form and character the amendment should take.

Even if agreement could be reached by the Congress upon one or more amendments, the requisite approval by the States would take several years and might be blocked indefinitely by entrenched economic interests.

The child-labor amendment, proposed by a Republican Congress 13 years ago and since sponsored by a Democratic President, has not yet received the necessary ratification. Amendments to enlarge the powers of Congress for social legislation must overcome the opposition of the same economic interests as those which have fought and are still fighting the child-labor amendment. The experience of the child-labor amendment, therefore—not that of the prohibition amendment or the "lame duck" amendment—is the best indication of the kind and length of opposition to be expected for new proposals with far-reaching economic effects.

It required 4 years to adopt the income-tax amendment, after its adoption by the Congress, but years of agitated argument preceded action by the Congress. Direct election of Senators took only 1 year after its passage by the Congress, but it took more than a decade of agitation to get it through the Congress and much of the reform had been accomplished before that by indirect action on the part of the States.

As a spokesman of the rank-and-file lawyers of the country and as a former judge, I want to take my stand with the President and ask you to accept his proposal to preserve, as he has said, "the Constitution from the Court and the Court from itself." I don't want to see our country running the risks of our people losing respect for the law and the Constitution because of the growing and not unjustified belief that, as interpreted by the highest Court, they are obstructing the solution of our most urgent social and economic problems.

In every section of the country there are acute problems pressing for solution. In the Middle West, where I live, the solution of the agricultural problems cannot be indefinitely delayed. Our people recognize the difficulties of finding the right solution, and they will readily forgive mistakes, but they will not tolerate inaction.

President Hoover vetoed the McNary-Haugen bill on grounds of unconstitutionality. The Supreme Court, by what many of us deemed "a tortured construction of the Constitution", vetoed the A. A. A. The Soil Conservation Act may well suffer a like fate.

Real prosperity, despite booming stock markets, has scarcely begun to return in my section of the country, and the people will never feel secure as long as any agricultural program is beset with the gravest constitutional doubt. And in light of the A. A. A. decision, neither you nor I can assure them that an agricultural program, whether it be that which was promised by President Roosevelt or Mr. Landon, would be constitutional. A small minority of not over 5 percent of our population can block any amendment, and I do not believe that the farmers or other important elements of our population are going to be content to let a small minority of the people deny to them that kind of legislation which they are deeply convinced is within the power of Congress under the wisely flexible Constitution which our founding fathers established.

(3) PRESIDENT'S PROPOSAL ACCORDS WITH SOUND CONSTITUTIONAL TRADITION

The President's proposal is admittedly constitutional. Those who object to it as "lawless legality" are saying that, in this generation, unlike earlier generations, the Congress is not competent to determine, as the Constitution provides it shall determine, the number of the Justices who shall sit upon the Supreme Court. Or they are saying that President Roosevelt, reelected by the greatest vote of public confidence bestowed upon any President since Washington, is not to be trusted to fill with the consent of the Senate such positions on the Supreme Court as the Congress may create. To those who claim that there is a law higher than the Constitution, my reply is that the only higher law I know is the right of a majority to have their way in a democracy.

The Constitution carefully guarded against the possibility of any Senator or Representative accepting an office created by the Congress during the term for which he was elected. But the Constitution did not provide that the President should be disqualified to fill with the consent of the Senate any position created upon the Supreme Court during his term of office. No custom or precedent for any such limitation upon the powers of the President can be found.

The question of enlarging the Court is not a constitutional question but a practical question. Those who, like the leaders of the American Bar Association, believe that the present Court is performing its constitutional duties efficiently and ably, will and should oppose any change. But those who believe, as I am convinced that the ordinary lawyer and the ordinary lawyer's client believe, that the majority of the Court have permitted, however unwittingly, their personal predilections or political preferences to color their constitutional judgments, should favor a change.

The question should be decided on its merits. It cannot be evaded on the ground that a dangerous precedent would be created. For every lawyer knows—and the public should know—that the political and economic views of the Justices have always been considered in the filling of vacancies or in the creation of new judicial positions.

History certainly will never regard as a break with constitutional tradition the frank and conservative proposals of the President to rejuvenate the Court and to protect the judiciary from losing the confidence of the people. There is nothing in the President's proposals which will impair the independence of the new Justices or silence the voices of the old Justices. The first requirement of an independent judiciary is that the judges shall be capable of making impartial judgments. Judges who cannot rise above their own prejudices are not free judges. A court which must pass upon the validity of important legislative enactments must not be suspected of having its judgment determined by its own economic prepossession.

It cannot be said that the founding fathers did not contemplate that a President elected for two terms should ever appoint a majority of the Supreme Court. The founding fathers were not unaware of life's expectancy. Washington named the whole Court in his day; Jackson named a majority of the Justices, so did Lincoln, so did Taft. President Wilson named three; President Harding, four; President Coolidge, one; President Hoover, three; and President Franklin D. Roosevelt, none. Even if not a single one of the present Justices resigned, the President's proposals do not give him the power to name more than 6 out of the 15 Justices. The new Justices will be only a minority if no resignations are forthcoming. The old members of the Court will control the new members by 9 to 6.

There are many critics who oppose the President's proposal not because they believe that the new Justices will be faithless to their oaths and decide as they are told, but because they fear that the new Justices will be sufficiently independent to interpret the Constitution as it is written rather than to torture it to their own desires. These critics fear that the new Justices will be as unbiased and as independent as the present liberal minority on

the Court. As Mr. Frederick H. Stinchfield, president of the American Bar Association, one of my good friends and one of the severest critics of the President's proposal, has recently stated: "Heretofore three of the present nine (Justices) have often been sympathetic toward almost every law which Congress has passed. The 6 added will make 9, a majority of the 15."

So it is quite clear that what such critics really fear is that the President will appoint men of the type, character, and ability of Justices Brandeis, Stone, and Cardozo, rather than men who share the economic views of the leaders of the American Bar Association, and who could be counted upon to vote with the present conservative majority of the Court. When Mr. Harding was President, and Mr. Daugherty, Attorney General, a committee of the American Bar Association recommended the enlargement of the Court to 12. The leaders of the American Bar Association were willing to trust Mr. Harding to appoint three new Justices at a time when it was known that the Court tended to have a liberal majority, the Court a little over 2 years earlier having been equally divided on the validity of minimum-wage legislation with Justice Brandeis not voting because of his participation in the case in the State court.

The National Lawyers' Guild, for which I speak, entertains quite different views from the present leaders of the American Bar Association as to what constitutes an independent judiciary.

(4) PROPOSAL TO REQUIRE MORE THAN A MAJORITY VOTE OF THE COURT TO DECLARE AN ACT UNCONSTITUTIONAL IS IMPRACTICABLE

I have given as a reason why I favor the President's proposal my belief that a satisfactory amendment cannot be agreed upon nor pressed to ratification in the States within a time short enough to give the American people the immediate powers of government which I think they need. I do not say that in criticism of those who believe that the Constitution should be amended. I think that any pressure to hurry an amendment would be most unwise, for the reason that even the simplest amendment raises far-reaching questions which need the most patient exploration and consideration before it is made part of the fundamental law. By way of illustration of the problems involved, may I discuss for just a moment probably the simplest form of amendment now being considered—the amendment which would forbid the Supreme Court to declare an act of Congress unconstitutional by less than a given vote, say, by 6 to 3 or by 7 to 2.

On its face an amendment providing that a statute could be declared unconstitutional only by a two-thirds vote would inadequately protect the kind of legislation the public demanded in its mandate of November 3. The vote on the A. A. A. was 6 to 3—what Justice Stone called "the tortured construction of the Constitution" adopted in that case would still stand irrespective of such an amendment. And if the A. A. A. could be declared invalid under "a tortured construction of the Constitution", so could any other statute.

Furthermore, any such amendment would have to provide for the concurrence of at least seven judges to declare an act unconstitutional. That would put completely within the control of a minority of three judges the power of preventing the Court from declaring an act unconstitutional—that is the power of life and death over the civil and religious liberties we have so traditionally prized. To place this power into the hands of a minority of the Court cannot be fitted into any rational system of judicial review.

The problem is much more subtle than it seems to be on the surface because of the way in which constitutional questions arise for adjudication under our system of judicial review.

In the first place, they do not come up to a court as abstract issues on which the court simply passes a verdict of "constitutional" or "unconstitutional." Constitutional issues arise only in connection with the disposition of an actual litigation and are inextricably entangled with questions of jurisdiction, statutory construction, substantive law, and intricate facts. Any attempt to segregate the constitutional issues would be a complicated process and might encourage the further break-down of the traditional self-restraining limitations which the Court has in times past placed upon its power to review legislative acts. For if a court is obliged to isolate the issue of constitutionality from all other issues, it will be more rather than less likely to confuse the wisdom of legislation with its constitutionality.

In the second place, invasions of civil and religious liberties are often unintended by the legislature and depend for their detection upon the interest and the watchfulness of the court. The real value of judicial review resides, not primarily in the protection it affords the individual against the deliberate action of the legislature, but the protection it affords against the unforeseen and unexpected impingement of a statute upon the rights of the individual in particular cases. Constitutional issues may arise in a manner not at all anticipated by the Congress in the enactment of the law in question. Many of the constitutional issues involved in the prohibition laws, in the espionage and other acts, could never have been clearly foreseen by the legislators who voted for those measures.

Under the proposed amendment, three obtuse Justices, not anxious to be aware of the invasion of the rights of the individual in such cases, would hold the balance of power. And there is danger of such obtuseness if the present Court remains unchanged. For the zeal which the present majority has shown for the excessive protection of the propertied interests of a small class has not equally been shown in the defense of the personal liberties of humble men. When cases involving civil rights and religious liberty arise I cannot believe that the American people will ever accept the verdict of a minority of the Justices.

There is an apparently easy answer to this criticism, i. e., to exclude the Bill of Rights from such an amendment. But it is not an easy answer. If you try to exclude the Bill of Rights, you will find that you have traveled in a complete circle. Because if the Bill of Rights is excluded, you lose the advantage claimed for the amendment in protecting social legislation from a reactionary court. For in most of the cases where the courts have assumed to act as a superlegislature, the courts have claimed that they were protecting the fundamental rights guaranteed in the Bill of Rights. The fifth amendment and the fourteenth amendment, for instance, are part of the Bill of Rights—and the fifth and fourteenth amendments are the chief instruments by which the reactionary majority has struck down social legislation.

I do not believe it will be suggested seriously that acts of State legislatures alleged to violate the Federal Constitution should be allowed to stand if a majority of the Supreme Court believed those State laws unconstitutional but a minority of three judges remained unconvinced. Indeed, in case of conflict between a Federal and a State law, such a rule might result in both laws being adjudged constitutional, and instead of being resolved, the conflict would be accentuated. Certainly the American people would not agree that, if a majority of the Supreme Court found that the civil or religious rights of an individual guaranteed by the Federal Constitution had been violated by the action of a State, those rights should be forfeited by a vote of a bare minority of the Court. And yet, if the proposed amendment is not applied to cases arising under the fourteenth amendment, we will find that the Supreme Court as presently constituted will continue to strike down any social and economic legislation of the States which for any reason strikes the majority as undesirable.

I do not say that these difficulties could not be worked through. I do not say that a form of amendment might not eventually be evolved that would obtain all the advantages of a 7-to-2 vote for statutes which the public interest required should be declared constitutional, and would retain none of the disadvantages of a 7-to-2 vote when applied to statutes which the public interest required should be declared unconstitutional.

But I do say that the possibilities of trouble and of unforeseen difficulties are sufficiently real to make us hesitate to change our fundamental law, i. e., the Constitution itself, in haste, when a simpler statutory remedy is immediately available to permit us to continue along paths we already know. I am not sure enough that the way of progress in constitutional law lies along the road of experimentation with divided votes. All statesmanship is a balance of risks taken against benefits assured. In the case of this proposed amendment I see the risks more clearly than I see the benefits.

Furthermore, as one who has been a judge I am not sure that such an amendment would work as a human proposition even if it could be worked out as a logical proposition. To give the balance of power on a court to a conspicuous minority runs against the grain of all the traditions of our judiciary. I feel sure that more than one judge in a close case would leave a minority with whom he agreed intellectually, to vote regretfully with the majority for the very purpose of not allowing a minority of three to override the judgment of a majority of six. I feel quite sure, for instance, that under an amendment requiring a 7-to-2 vote, one member of a minority of three would often sacrifice his intellectual conviction to his sense of loyalty to the united front of his Court and vote with the majority rather than subject the Court to the criticism of declaring a law constitutional or unconstitutional by three votes. The logical reform of the amendment would succumb to the sense of loyalty to the majority of the Court.

This is not a far-fetched consideration. Several States by constitutional amendment require a given number of votes by their highest courts to declare laws unconstitutional under the State constitutions. Ohio is one of those States. In *Board of Education* v. *Columbus* (113 Ohio State, 295) the opinion says frankly in regard to an earlier case, *Morton* v. *State* (105 Ohio State, 366), in which six judges concurred as to the unconstitutionality of a statute "This was a plain concession on the part of two judges in order to avoid a situation created by the amendment of section 2 of article IV."

CONCLUSION

One more consideration favors the President's proposal. It is a practical not a legal consideration, but most weighty for those who sincerely wish to protect that public respect for the courts and for our legal system so essential to the functioning of our democracy.

Under the statutory proposal of the President, the present controversy over the courts will be finished and done with as soon as the statute is passed and the new justices confirmed. There will be no long-drawn fight beyond the period of this Congress.

But unless an amendment could be rushed through the States within a similar period—something which no one can assure—the struggle in the State legislatures or conventions will stretch on for at least 1 year, and if the President's political judgment is correct, for many years. The amendment may become the issue of congressional elections, of national elections.

However interesting that may be to those who wish to see an issue fought out to the bitter end, it will not be good for the courts. Our courts, our legal traditions cannot help but be injured, perhaps irreparably, by becoming a political issue over a long period of years.

From every point of view, therefore, the President's proposal is by far the most conservative remedy available to meet the needs of the public at the present time with the least disturbance to the continuity of our legal traditions and to the preservation of constitutional democracy. It keeps the Constitution intact. It keeps the powers of our courts intact. It keeps the legal profession administering the law along the lines it has known.

If there were necessity for radical change, we might feel justified in making that change. But where there is no necessity for radical change—where the remedy for a human difficulty which has appeared many times before in our history is just as available as ever to meet that difficulty—there is no need for our taking an uncertain leap in the dark.

The Constitution and the Court

EXTENSION OF REMARKS

OF

HON. J. WILLIAM DITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 12, 1937

ADDRESS BY HON. J. WILLIAM DITTER, OF PENNSYLVANIA, BEFORE THE LAFAYETTE COLLEGE ALUMNI OF PHILADELPHIA

Mr. DITTER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following address delivered by me before the Lafayette College Alumni Association in Philadelphia recently:

Mr. President, Dr. Lewis, and men of Lafayette, permit me to thank you for the opportunity to address you tonight. Lafayette College has established an enviable reputation. Upon your shoulders as the sons of Lafayette rests the obligation to hold high the torch which has been handed to you. May the "light of truth, the way of honor, and the will to serve men" be your continuing ambition.

Appreciating the proprieties of the occasion, but convinced of the seriousness of a recent proposal made by the President of the United States, I venture to address you tonight on a subject which commands the attention of the country. In so doing I depend upon your confidence in me that neither partisanship nor political passion prompts me in presenting to you tonight the subject "The Constitution and the Court."

A proposal has been made by the President for the enactment of legislation which strikes at the foundations of our system of government. Thoughtful men and women look upon the proposal as an effort by the Executive to control the Court. Fear is expressed that the independence of the judiciary is threatened, and that a grave constitutional crisis has resulted. A just appraisal of the purposes and a reasonable prophecy of the results cannot be made without a consideration of certain relevant and material facts associated with the plan.

Monday, May 27, 1935, can be looked upon as an important day in the history of American constitutional government. For almost two years the business and industrial life of the country had been regulated by codes, promulgated under the National Industrial Recovery Act. Prosecutions had been instituted in courts throughout the land for alleged violations of codes, in many instances against humble citizens conducting their businesses in a manner satisfactory both to their employees and customers, but contrary to the rules laid down by code makers. Unfortunately the Government had seen fit to delay the perfection of an appeal to test the constitutionality of the act, with the result that growing dissatisfaction with the arbitrary actions of code authorities developed in many lines of industrial activity and a widespread business uncertainty continued, which materially decreased the normal acceleration of economic recovery. The country was eager to have the question of industrial codification settled, and all eyes were turned to the Supreme Court when announcement was made that a decision was about to be rendered in a case selected by the Government as best suited for its purposes under the act around which so much controversy had arisen.

The action of the Court that day is well known. The unanimity of the Justices surprised many. The result stunned the administration. Not a divided Court but the whole Court declared that, notwithstanding the motives which prompted the enactment of the legislation, "it is enough to say that the recuperative efforts of the Federal Government must be made in a manner consistent with the authority granted by the Constitution." The delegation and exercise of unwarranted powers by the Executive, so aptly described by Justice Cordoza as "unconfined and vagrant", had been weighed in the constitutional balance and found wanting. The Constitution had been reaffirmed as the fundamental law of the land.

Proponents and supporters of the act were demoralized. The existence of a colossal enforcement agency and a vociferous propaganda machine intensified the discomfiture of those who had insisted upon industrial codification. Impetuous, caustic comment, critical of the Court, indicated the disappointment and resentment of the President, which in turn was followed by the demands by men in Congress that the power of the Court to pass on the constitutionality of legislative enactments should be abrogated. Eventually the storm seemed to subside, leaving, as it was supposed, the Court's position as the interpreter of the Constitution undisturbed save only as a few demagogues continued their efforts to destroy public confidence in the judiciary.

In the spring of 1936 both major political parties held their conventions and by the late summer the country was in the throes of an intensive political campaign. Both parties sought issues. Both parties sought popular favor. Both parties were eager to command the attention and secure the support of the voters. The whole gamut of controversial questions from international war debts to old-age pension plans was run by the crusading spellbinders of both parties. No mention was made, however, of any contemplated changes in the Supreme Court. The successful candidate, then seeking reelection, took an active part in the campaign, making a number of speeches in his own behalf without referring to the need for any drastic changes in our judicial machinery and without making any observations as to the age, the aptitude, or the ability of any of the Justices. Dexterously evasive in debate, but magnetically attractive in personality, the President won his reelection with his purposes as to the Court well guarded from the critical focus of public opinion. Issues fairly presented and honestly debated may result in decisions at the bar of public opinion, but mandates by an intelligent people can hardly be implied where an atmosphere of avoidance and concealment prevails. Under the circumstances it is difficult to accept the claim that a mandate has been given to the President on this subject.

In his message to the new Congress on January 6, 1937, the President issued what was then thought to be a challenge to the Court when he said "The vital need is not an alteration of our fundamental law, but an increasingly enlightened view with reference to it." This statement, coming as it did immediately after a direct reference to the "outlawing" as he termed it of the N R. A., indicated the persistency of the President's objection to the power of the Court to curtail the "unconfined and vagrant powers" delegated to him by the Congress. After directing attention with unusual emphasis to the constitutional provision conferring legislative powers on the Congress, his attitude toward the Court was evident when he said, "It is not to be assumed that there will be prolonged failure to bring the legislative and judicial action into closer harmony." Nor can the significance of the phrase "means must be found" be disregarded lightly, as the President referred to the adaptation of "judicial interpretation to present national needs." These words rang through the Chamber of the House of Representatives as an imperative command. The "unconfined and vagrant powers" seemed to be reasserting themselves. The "unconfined and vagrant powers" seemed to be rebelling against confinement and restraint. "Means must be found", chilled the hearts of many Members who welcomed capable leadership but who shrank with foreboding before the assault of peremptory and mandatory dictation to the Court.

A month later the President's real purpose was disclosed in his message to the Congress. Instead of the submission to the people of a constitutional amendment, the President proposed the enactment of legislation which would result in either the forced retirement of certain Justices of the Supreme Court or an increase in its membership by the addition of six new Justices. While the proposal was originally disguised as a means of facilitating and expediting the business of the Court by the elimination of Justices over 70 years of age, subsequent discussion has removed the mask, and it is now admitted that its real purpose is the appointment of Justices who will be in harmony with the legislative policies of the administration heretofore declared unconstitutional by the Court.

The proposal shocked the country. It embarrassed Democratic chieftans. It startled independent national leaders. Stripped of its veneer, as it applied to the Supreme Court, it proposed a means to insure a Court which would "bring the legislative and judicial action into closer harmony", as the President had requested. The Court was to become another Executive agency. The surrender of its independence of thought and freedom of judgment was demanded. The "unconfined and vagrant powers" were reasserting themselves again.

Opposition to the proposal was evident immediately. Antagonism was expressed openly by leaders of both major political parties, many of whom had approved theretofore the President's policies and who had been warm in their praise of his purposes. The press of the country was aroused. With few exceptions editorial writers expressed alarm. Words and phrases such as "disingenuousness", "sedulously concealed", "jocose contempt", "shabby trick" were used by writers of repute to characterize the President's purposes and the methods he pursued, while one of his closest friends and advisers was forced to admit that the program "comes perilously near to a proposal to abandon constitutional government."

On the other hand, the President was not without defenders. True, some men found it difficult to reconcile their support with their previous declarations, but the President's personal popularity proved a more persuasive force to many than analysis and deduction, with the result that this grave issue affecting the future course of the Nation has taken on an emotional strain. This, in my judgment, is the most dangerous attendant circumstance. It shows an attitude on the part of the people to be guided by their hearts rather than by their heads.

It shows a marked difference between the spirit of the people when the Republic was founded and the spirit which prevails today. Independence of thought and a self-reliant courageous-

ness prompted critical analysis of proposals and a defense of our colonial ancestors against encroachment on their personal rights. Today we witness the sway of sentiment and the complacency of contentment as potent influences on the public mind. If this becomes the prevailing spirit, it can only mean the decadence of the real soul life of the Nation.

The President's proposal presents a clear-cut issue to the American people. Fifty years ago James Bryce, in The American Commonwealth, prophetically and accurately presented the case with which we are now confronted:

"Suppose a Congress and President, bent on doing something which the Supreme Court deems contrary to the Constitution. They pass a statute. A case arises under it. The Court, on the hearing of the case, unanimously declares the statute to be null, as being beyond the powers of Congress. Congress forthwith passes and the President signs another statute more than doubling the number of Justices. The President appoints to the new justiceship men who are pledged to hold the former statute constitutional. The Senate confirms his appointments. Another case raising the validity of the disputed statute is brought up to the Court. The new Justices outvote the old ones; the statute is held valid; the security provided for the protection of the Constitution is gone like a morning mist.

"What prevents such assaults on the fundamental law—assaults which, however immoral in substance, would be perfectly legal in form? Not the mechanism of government, for all its checks have been evaded. Not the conscience of the legislature and the President, for heated combatants seldom shrink from justifying the means by the end. Nothing but fear of the people, whose broad good sense and attachment to the great principles of the Constitution may generally be relied on to condemn such a perversion of its forms. Yet if excitement has risen high over the country, a majority of the people may acquiesce, and then it matters little whether what is really a revolution be accomplished by openly violating or by merely distorting the forms of law. To the people we come sooner or later; it is upon their wisdom and self-restraint that the stability of the most cunningly devised scheme of government will in the last resort depend." This prophecy has been brought home to us today by the President's proposal. Except for the number of Justices proposed to be added to the Court, the example is exact. The "wisdom and self-restraint" of the people have been challenged by the President. By his proposal, the President casts a doubt upon "the broad good sense" of the people, and their "attachment to the great principles of the Constitution", and whether they can "be relied on to condemn such perversions of the form" of the Constitution.

To the people this issue is brought. The people must choose between Executive privilege and judicial integrity. We are called upon to decide whether our confidence is to be placed in an independent judiciary or an ingratiating Executive. Shall we have a government of laws or a government of men? Shall the Court continue as an independent institution or shall it become an approving agency of the will of the President? On the one hand is an independent judiciary, as far removed as humanly possible from the temptations of influence, persuasion, or intimidation, while on the other hand is a Court created for the purpose of answering to the Executive demand that "means must be found" to adapt judicial interpretation so as to bring "legislative and judicial action into closer harmony", and to permit the President to exercise "unconfined and vagrant powers." It seems to me that a conflict has arisen between the lovers of freedom and the advocates of power, between constitutional defenders and constitutional detractors, between a government of limited powers and a government of unrestrained privileges.

The gravity of the present situation should prompt us to approach the subject thoughtfully, to consider the purposes of the founders of the Republic when they set up our present form of government, and to determine dispassionately the value to be placed on the experiences of the past.

The framers of the Constitution were engaged in a serious undertaking. Their purposes were definitely set forth in the preamble of the instrument itself. Six worthy objectives were included, each of which was deemed essential and one of which was so highly prized that they aspired to hand it down as an inheritance to their posterity. They hoped to bequeath to their children and their children's children the blessings of liberty, to them a priceless possession.

They were founding a government which they hoped would be both popular and stable. In this task they were confronted with the problem which all men in all ages have faced as they have sought the establishment of rules for the conduct of society—human nature. Here was a factor to be dealt with which was constant and unchanging. The aspirations, the ambitions, the emotions, the passions, the frailties of men were the same then as they always had been and as they are today.

They sought to deal with this intensely human problem by restraining themselves and also restraining the Government to which they delegated only a limited degree of power. They declared their faith in certain principles and adopted certain theories of government which the experience of men had proved effective. To these they added the collective contributions of the convention for the creation of the fundamental law of the land. They did not pass statutes. They affirmed their confidence in certain principles and truths and established the human agencies which they believed could best insure the continuity of these principles and truths when confronted with the problems of human nature and the changing conditions of human experience.

These agencies were to be built into a form of government. These agencies were to be vehicles for self-government. These agencies were to restrain their power of government. The largest degree of freedom was to be assured to the individual, but the dangers of anarchy and despotism were to be avoided. They believed that the Republic must not only be sufficiently strong to avoid the weaknesses of a confederation but sufficiently safe to prevent the establishment of an autocracy.

The delegates to the Constitutional Convention determined that the will of the people should be supreme, but in this determination they were conscious again of the factor of human nature. They realized that impulse at times was mistaken for volition, that passing passions at times swayed people, that personal magnetisms at times influenced opinions, that public benefactions at all times were persuasive factors. They insisted upon procedures which might invite the criticism of delay but which would prevent the disasters of hasty conclusions. To guard against the impulses, the passions, the magnetisms, the benefactions, these human nature factors, the founders of the Republic imposed limitations not only on the Government which they created but imposed limitations on themselves.

The form which they adopted provided for the establishment of three branches of government, separate and yet coordinate. The worth of the system as the most effective instrument for the government of self-reliant liberty-loving freemen has been proved.

For our present purposes we need not examine exhaustively into the legislative and executive branches provided for by the framers of the Constitution. Suffice it to say that they were eager to guard particularly against Executive domination. They had but lately experienced the evils of an autocratic king. They had just emerged from a venture of faith in which they had hazarded life, liberty, and property in defiance of the Crown. The overweening ambitions of rulers to them meant destruction of free institutions, and they intended to guard against such destruction.

The President is ambitious. His alleged ambition is social betterment. But freedom must be on its guard always against ambitious rulers, however good their intentions may be for "unconfined and vagrant powers" always seek new fields to conquer. The ambition of the President for these "unconfined and vagrant powers" should prompt us to heed the warning given by Daniel Webster nearly a century ago, but which is applicable as well in our own day.

"It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions, real or pretended. * * * There are men in all ages who mean to exercise power usefully—but who mean to exercise it. They mean to govern well—but they mean to govern; they promise to be kind masters, but they mean to be masters."

While the crisis brought on by the President's proposal affects to some extent the executive and the legislative branches of our Government, it affects primarily the judiciary and its independence. An independent judiciary has been taken for granted by our people. It has never been supposed that the day would arrive when dictation or control by an Executive would be suggested. The independence of the court has become such a commonplace to us that except for the history student few ever give thought to the days when judges were but puppets and pawns of a sovereign. Many of us overlook the fact that the courts have been used in the past by English kings to punish their enemies, to suppress the assertion of rights, and to visit upon their subjects tyrannical oppression.

The struggle for the independence of the judiciary, and its ultimate establishment in the battle for freedom waged by the English-speaking people, is noteworthy. An independent Court had not become a commonplace to the framers of the Constitution. They determined that the laurels of a well-earned but dearly paid for victory were not to be lost in the system of government which they were establishing. They provided for a Supreme Court which would be entirely removed from any influences tending to affect its judgments and decisions. The thought of the Court appointed to approve an Executive's course of conduct or to interpret the Constitution according to an Executive's will was as abhorrent to them as the possibility of the reestablishment of the throne. It simply did not come within the range of their conception of freedom. And neither time nor conditions have made any changes here. The history of the past and their own experience convinced them that an independent Court was the surest safeguard of human rights, the sturdiest barrier against oppression and the safest channel for the dispensation of justice, and they meant to preserve it. That independence is just as essential today, for a controlled Court like a controlled man means the presence of a master and the existence of a servant. Neither exemplify freedom—both characterize subserviency.

After weeks of debate and deliberation the delegates finished their task and gave to the American people a Constitution which has commanded the admiration of the world. Under the Constitution we have prospered and grown, our domains have been extended, our national resources have been developed, our wealth has been multiplied, our people have been blessed with amazing opportunities, peace and contentment have been our ever-increasing portion, and life, liberty, and the pursuit of happiness have been vouchsafed to us.

Time has amply proved the wisdom of the system established by the founders. They formed a government of limited powers with a written constitution specifically prescribing the limitations which they imposed. They realized that under such a system authority must be lodged in some branch of the Government to enforce the limitations thus established and the natural repository of such authority was in the Federal judiciary which they created. The exercise of like powers by the State courts enforcing State constitutions was familiar to the delegates. In fact, during the days of the Convention the attention of the delegates was directed to

several cases in the State courts in which the personal rights of the citizens were protected by the exercise of judicial authority. At a very early day in the history of the Republic the responsibility for constitutional interpretation was accepted by the Supeme Court as the "very essence of judicial duty" according to the words of the Chief Justice. Since that day the Court has continued to exercise the authority by which the rights of the citizens have been safeguarded from legislative abuses and executive ambitions.

The President now proposes to change the system. Instead of the decisions of the Court there is to be substituted the opinions of men approving the President's program. Instead of squaring legislative enactments with constitutional requirements, we are asked to adapt constitutional interpretations to Executive desires. Instead of the orderly procedure of a government of limited powers, we are to have the confused processes of a government of assumed privileges. Instead of a fearless court, sworn to an interpretation of a written constitution, we are to substitute a subservient bench, sworn to accept the Executive's dictation. The Court is asked to exchange its independence for its existence. Has the time come when our courts must accept dictation and when justice must blush in shame with the pollution of party prejudice and political passion?

If the independence of the Court is surrendered then "the distinction between a government with limited and unlimited powers is abolished", and the Constitution instead of being a "superior paramount law unchangeable by ordinary means" is reduced to the "level of legislative acts alterable when the legislature pleases to alter it." The proposal amounts to a constitutional amendment by the enactment of legislation. One dare hardly contemplate the lengths to which such a policy can go. The Court might remain a hollow mockery, its form continuing, its substance having been destroyed by Executive domination.

We are at the cross roads. A choice must be made. Can constitutional government, as we have known it, continue without an independent judiciary? Should the President exercise "unconfined and vagrant powers" irrespective of constitutional limitation? Shall we abandon a government of limited powers and substitute for it an all-powerful state? Shall our destiny depend upon the policies of an individual or shall we place our trust in the institutions which have withstood the tests of the years?

Such are the problems as I see them. As leaders in the professional and business life of the Nation your influence is potent. May you realize your power and be sensible of your duty. May the hallowed memory of the service of that patriot of freedom whose name you bear be your inspiration for an abiding faith in the Constitution as the charter of our liberties and in the Court as the citadel of our freedom.

Shall Our Navy Defend the Philippines?

EXTENSION OF REMARKS

OF

HON. CLARE E. HOFFMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1937

RADIO ADDRESS OF HON. FRED L. CRAWFORD, OF MICHIGAN

Mr. HOFFMAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include an address delivered over the radio recently by my colleague, the gentleman from Michigan [Mr. CRAWFORD].

The address is as follows:

Shall our Navy defend the Philippines is a question which should be of great interest to our people. This because of many important developments now taking form. Let me mention only a few major ones.

The Pacific mandate to Japan under the World War peace treaty.

Japan's pressure of population, aggressiveness in seeking raw material and territory for her people, recent withdrawal from the League of Nations, and cancelation of the Treaty for the Limitation of Naval Armament.

Japan's promotion of the Asiatic Monroe Doctrine, and her recent treaty with Germany. Her most recent demand that all undeveloped areas of the earth be opened to her excess millions.

Enactment of the Tydings-McDuffie Philippine Independence Act by the Congress.

The current visit of the President of the Philippine Commonwealth to the United States; and his demand for a revision of the economic provisions of the act.

The Commonwealth President's claim that the Independence Act is an absurdity; although enacted through pressure exerted by him.

The dependence of Philippine independence on stabilized economic conditions in the islands.

May I ask, Is it the policy of our State Department to have our Navy protect the Philippine Islands? Just what do we expect our fleets to do?

It is also pertinent to ask—Can the Navy of the United States defend the Philippines? Can we defend them if they be attacked by a single world power or by a combination of world powers? By a nearby foe or by one whose base of supplies is as far from the Philippines, as is our base.

May I submit another fundamental question—Do the Filipino people desire protection by the United States Navy? Let us have this question answered by the President of the Philippine Commonwealth, Mr. Manuel Quezon.

On April 4, 1935, in direct answer to a question which I propounded to him before the Insular Affairs Committee of the House, Mr. Quezon said:

"I was opposed to the acceptance of the original Hawes-Hare Act concerning the Philippine Islands. I fought it and succeeded in getting the legislature to defeat it, because I did not think it was fair. * * * I succeeded in getting the Congress to eliminate one of our main objections to the act, which objection referred to the right of the United States to maintain military and naval reservations in the Islands after the establishment of independence. * * * I could not conceive of a country being independent while another country maintained a military and naval establishment within its borders."

Accepting the statements of Mr. Quezon, we come to the conclusion the United States must choose one of two courses: Either withdraw our offer of independence to the Filipinos, or take the necessary steps to remove from the islands the naval and military forces which we have maintained there for more than one-third of a century.

Our Navy and our Merchant Marine are not now in a position to defend the Philippine Islands against an attack by a world power. We have not been in such a position since 1914. Let us look at the cold facts.

February 1922 the Treaty for the Limitation of Naval Armament was signed at Washington by the representatives of the British Empire, France, Italy, Japan, and the United States. Article 19 of that treaty, specifically denied the United States the right to establish new fortifications and a naval base, or to increase the then existing naval facilities in or about Philippine waters. The treaty did not deny Japan the right to proceed with the further fortification of her territories, which are, geographically speaking, so very close to the Philippines.

Furthermore, December 1934, the Japanese Ambassador at Washington, pursuant to instructions from his Government, handed to our Secretary of State a communication giving us notice of Japan's intention to terminate the Treaty for the Limitation of Naval Armament. Accordingly, since 1922 Japan has marched rapidly along on a program of naval construction and fortification, placing her in a strategic position.

But this is not all:

The Empire of Japan has an area smaller than the State of Texas and with a population of 100,000,000, or more than 16 times that of Texas, and is increasing at the rate of 1,000,000 souls annually. It is only a matter of time until the population of Japan will exceed that of the United States.

The spirit of Japan, with her dynamic energy, has for years been flowing northwestward and southward from Japan, sweeping all before it. This pent-up race moves in ways mysterious and not comprehended by the propaganda-driven people of the United States with their blessed inheritance of vast acres and natural resources, and who recently have resorted to Government largess.

Japan's 4,000-year-old culture and the tremendous pressure of her population, her unexcelled energy and ability to organize and coordinate, has given her an understanding of the American mind, philosophy, and territory such as we ourselves do not possess. Centuries ago, Japan learned the fundamental truth that "to know your opponent is to be able to handle him." Japan knows the United States.

Japan's recent industrialization, her aggressiveness, and her success in commanding world markets against all foes, has given her people spiritual encouragement.

This has intensified her national spirit and increased the confidence of her people in their ability to accomplish great undertakings. Japan is not a dying race. She is not static. She is dynamic.

From the standpoint of formal diplomatic intercourse with foreign states, Japan is only 80 years of age. It was our own Commander Perry who opened the ports of Japan to world commerce and contacts, through signing Japan's first treaty of amity and commerce with a foreign power. In this respect Japan is a young nation.

It cannot be said of Japan that wealth has there accumulated and that her men decay. She is powerful in trade, in war, in population, in creating world respect and attention. She charts her course, then goes after what she wants—and gets it. Japan has in recent years learned so well what it means, when sitting around the family table of nations, to be prepared, to have a definite policy worked out in advance of showing her cards, to press her demands to conclusion, and to be able to fight with great naval and military machinery.

The Japanese Empire—the Land of the Rising Sun—almost touches the Philippine Islands. To the north, to the east, and to the south of the Philippines, we find the Japanese, their aggressiveness, their ingenuity, their influence, and their entrenchment. Japan's fortifications come within a stone's throw of the Philippines. Indeed, Japan is growing within the islands.

On the other hand, the geographical relationship of the islands to the United States, as the crow flies, is 6,200 miles west of San Francisco Bay and about 10,000 miles from our Atlantic seaboard.

We are so far away from the islands it would be utterly impossible for us, single-handed, to protect the islands against great world powers like Japan and Germany or Russia or Great Britain.

What the people of the United States desire and what we believe does not in the least alter the geography of the earth. It does not necessarily change the quantum blood of races. Scientific advances in solving the problems of distance can be applied to other countries as well as to ours. China, Japan, and the islands are on one side of the earth and the United States is far around toward the other side.

Navies are cumbersome physical factors. We have to divide our Navy in such a manner as to offer some semblance of defense to our Atlantic, Gulf, and Pacific coast lines. Two thousand, one hundred miles off the coast of California we have a first line of defense in Pacific Hawaii. But in the supplies of war, the Hawaiian Islands are very deficient. They must be supplied from our mainland. And there is our Alaskan Territory, rich in undeveloped timber, minerals, and fertile soil; a tremendous prize for a country like Japan deficient in such resources.

The 1922 Naval Armament Treaty restricted the United States to 15 battleships. Since then we have made no preparations for the defense of the islands. On the other hand, the present administration has made very definite legislative plans to grant complete independence to the Filipinos, so they may proceed on their way as a member of the family of nations and as an independent republic.

There can, of course, be no defense unless there is an attack. This brings up the question, what world power is likely to force a defense of the islands? It must be remembered the islands are the key to a great Pacific empire and to the Far East; to China, with a population of more than 450,000,000, a backward nation. Some day, she may awaken and comprehend her tremendous strength. Perhaps Japan is now awakening China. In the face of current historical development wherein Japan is assuming such staggering influence in the Far East and over Chinese affairs, in Manchuria and in the mandated islands of the Pacific, (to say nothing about certain parts of Australia and the Dutch Indies)—can we assume that any nation other than Japan will force a defense?

The Philippine Islands are the treasure chest of the Far East. Indeed, they are vast untouched warehouses, filled with most precious materials for the conduct of war as well as peace. The islands are a great expanse of territory blessed with riches in the form of oil, gold, iron, copper, lead, coal, and timber; fertile acres the like of which our own United States can no longer boast.

They are excelled in richness by no other open territory on the face of the earth. With a population of less than 15 million, they present today an opportunity for the pent-up energy of the Japanese race. The islands can accommodate one-half of the present population of the Empire of Japan.

Is Japan overlooking this treasure house? Not at all. If you will journey to the port of Dah-Vow, located at the southeastern tip of the Philippine Islands, there, under the American flag, you will find the "new Japan" in all its glory. Beginning at the Equator and moving northward, Japan is now quietly but very successfully and efficiently conquering the Philippine Islands, and making thousands of new homes in the "new Japan" for the overcrowded population of the Empire of the Rising Sun.

Shall our Navy defend the Philippines? My answer tonight is "No." Not now, nor at some future date. To prepare for such a defense would precipitate a war in the Far East that would be appalling. Present facts indicate it is too late to make such preparations. We must now grant independence to the Filipinos. Then, let us recall from Philippine waters our military and naval forces. If it be the policy of our people to do so, let us proceed to invite the other great world powers to sit down around the table and execute a joint agreement, acknowledging and guaranteeing the independence and neutrality of the islands; but all with the strict understanding that the cost of defense of the islands in blood and money, shall be assumed, borne, and paid for by the contracting parties acting in unison. Any other course will call for and mean that the people of the United States will have to pour billions of dollars and rivers of blood into the great boiling pot—the Far East.

Horace Mann Centennial Stamp

EXTENSION OF REMARKS

OF

HON. JOHN W. McCORMACK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 12, 1937

LETTER FROM HON. JOHN W. McCORMACK, OF MASSACHUSETTS, TO THE POSTMASTER GENERAL

Mr. McCORMACK. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letter written by me to the Postmaster General:

Hon. JAMES A. FARLEY,

Postmaster General, Washington, D. C.

DEAR GENERAL FARLEY: One of the most constructive contributions to the progress of our country has been the public-school system permitting of general educational opportunities to all. A free public-school system is one of the essentials to the success of democratic processes of government. Our public-school system has played a powerful part in the progress of our country. The first department of education to be established in the United States was established in the Commonwealth of Massachusetts in 1837. At that time great opposition existed to its establishment, and for years thereafter certain powerful forces made every effort possible to abolish it. Its success in Massachusetts prompted other States to establish similar departments. Its success was due to the untiring effort of the late Horace Mann, who was the first secretary of the Department of Education of Massachusetts, who later engaged in his great educational work in the State of Ohio and who has long since been recognized as the greatest force in American history for free public-school education and one of the outstanding figures of the world history.

It is only fitting that this great event, connected so directly with the life of Horace Mann, be properly and fittingly remembered. The Federal Government should join in a fitting remembrance of this great event in American history, and of the great contributions made by this great man. I understand that it is proposed that a Horace Mann centennial stamp be issued by the Federal Government. The issuance of such a stamp has the active interest and support of the National Educational Association, and of the various State and local associations, and the various State departments of education (so I am informed). The issuance of this stamp—a Horace Mann centennial stamp—would also be of great interest to the President and faculties of all colleges, and to schools of all grades, and their employees, numbering about 1,000,000 persons, together with the 30,000,000 students of colleges and pupils of all schools. In other words, it seems to me that few special stamps have had as much justification and as many persons throughout the country enthusiastically supporting the issuance of the same.

I respectfully urge that you authorize the issuance of such a stamp.

Respectfully yours,

JOHN W. McCORMACK.

Effect of Operation of the 1936 Revenue Act on the Construction Industry

EXTENSION OF REMARKS

OF

HON. ALFRED F. BEITER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 12, 1937

Mr. BEITER. Mr. Speaker, during the present week most firms are busily engaged in filling out their income-tax returns to meet the March 15 dead line. For many this will be the first full introduction of the provisions of the Revenue Act of 1936, and it can be anticipated that many of these firms will learn of its terms to their great consternation. Firms that heretofore have plowed back into their business a large percentage of their profits to strengthen and stabilize such business, and have continued to do so during the year 1936, and since the passage of the Revenue Act of 1936, will find in many cases a large percentage of such expenditures are not deductible and are subject to the high undistributed profit taxes.

Many a firm has invested in a new building or has purchased a new piece of equipment, furnishing employment to great numbers, and will now have to mortgage the structure or the equipment to pay the tax. Likewise, many others who had intended to make improvements and had set aside sums for this purpose will find that these funds will have to go for taxes rather than for improvements.

The full terms of the Revenue Act of 1936 have now been experienced and a great deal of information will now be available as to how these new taxes are affecting individual firms in their plans. In the past the Internal Revenue Bureau has been swamped with inquiries such as, "We are setting aside a sinking fund in order to accumulate enough money to build our own plant—is this fund subject to the undistributed-profits tax?" and "We authorized improvements to our office which are expected to cost $9,000—can we obtain credit against profits in reporting the tax on 1936 profits?"

The expenditures for improvements and similar capital investments not being established as allowable deductions, quite obviously credits cannot be taken.

I have introduced a bill which is designed to remedy this situation and is known as H. R. 4594, to amend the Revenue Act of 1936. It is the hope of many industries that the Ways and Means Committee, to which this bill has been referred, will shortly schedule hearings on this legislation.

The heavy goods industries are supporting the measure, and I include herein a copy of a resolution adopted by the Associated General Contractors of America at their recent convention in San Antonio, Tex., urging the enactment of my bill and endorsing the provisions of same.

Whereas the durable goods industries have lagged in the process of recovery due to failure of private investment for expansion and replacement; and

Whereas the Revenue Act of 1936 fails to make provision for deductions for expenditures for improvements in computing net income and thereby making such funds subject to a heavy undistributed profits tax, thereby creating a deterrent to the recovery of the durable goods industries with a resultant loss of possibilities for reemployment and contributing to the continuance of the unemployment problem: Therefore be it

Resolved by the Associated General Contractors of America, Inc., in convention assembled at San Antonio, Tex., February 15–18, 1937, That it be urged that Congress promptly amend the Revenue Act of 1936 to permit the deduction of amounts equal to the sum of the amounts paid out during the taxable year for the construction or improvement of real property and for the purchase and the installation of equipment and machinery and for the expansion or replacement of plant or other productive facilities or in payment of debts or portions of debts, including interest and carrying charges, as the same may accrue within the taxable year for the construction or improvement of real property and for the purchase and installation of equipment and machinery and for the expansion or replacement of plant or other productive facilities to the extent that no deduction or allowance is or has been made for such amounts in computing net income subject to the undistributed profits tax; and, be it further

Resolved, That H. R. 4594 and other proposals of similar intent and purpose are hereby endorsed.

It is a known fact, Mr. Speaker, that the Government encourages construction and, in fact, has allocated huge sums of money to help in the construction of many worth-while building projects of the P. W. A., W. P. A., the Post Office Department, and other governmental agencies. In spite of this desire on the part of the Government to help the construction industry and provide employment for many in the durable goods industries, the undistributed profits tax remains to discourage new construction by placing a limitation on new buildings as deductible items in the Revenue Act of 1936. I believe this law to be holding industry back in the recovery procession and definitely a factor in withholding work opportunities through regular business channels.

Dedication of the Post Office Building at Reidsville, N. C.

EXTENSION OF REMARKS

OF

HON. FRANK HANCOCK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1937

ADDRESS BY HON. JAMES A. FARLEY, POSTMASTER GENERAL, AT REIDSVILLE, N. C., ON MARCH 9, 1937

Mr. HANCOCK of North Carolina. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered by the Honorable James A. Farley, Postmaster General of the United States, on Tuesday, March 9, 1937, at the exercises dedicating the new post-office building at Reidsville, N. C.:

I always anticipate with pleasure a visit to North Carolina, and I am indeed grateful for the invitation which I received to join with you in the dedication of your beautiful new Federal building.

During the past two decades your State has in many ways led the Nation in matters of progress. This is particularly true with respect to expanding industries, the building of fine highways, and the erection of modern schools throughout the entire Commonwealth.

Business enterprise, a healthful climate, and fertile soil have made Reidsville and the surrounding countryside an area of happiness and wealth. As I arrived in Reidsville it was easy for me to understand why Irvin Cobb has described this community as "the beautiful little dimple in the pink cheek of the Piedmont."

The very mention of Reidsville, N. C., is synonymous with fine tobaccos, for the fame of Reidsville tobacco is known throughout the Nation.

I was particularly interested in Reidsville when I learned that David Settle Reid, one of your first citizens, was also the first Democratic Governor of North Carolina. As Governor of this State and later as United States Senator and Ambassador to Great Britain, he served his country well, and it is only proper that his name be preserved in the community where he was born and where he launched his outstanding career.

In scanning back over the pages of Reidsville's early history I also discovered that when the Reidsville post office was first established the same David S. Reid was appointed the first postmaster.

David Reid's long tenure of splendid public service should serve as an example and an inspiration for every young man and woman in Reidsville.

It is only fitting at this time that we pay tribute to those of the present generation who with dignity, ability, and a high sense of honor are serving North Carolina in the Congress of the United States. North Carolina has been ably represented in Washington for many years. I need not refer by name to your outstanding statesmen of the past, but I would like to mention in this connection your two present Senators who represent this State in the upper branch of Congress—my good friends, Senator JOSIAH W. BAILEY and Senator ROBERT R. REYNOLDS.

I will not undertake to list all of your Congressmen who are standing firmly behind the administration of President Roosevelt. I want, however, to make specific reference to Representative FRANK W. HANCOCK, who represents this district, and also to the splendid work of the chairman of the House Ways and Means Committee, ROBERT L. DOUGHTON.

It may be said without exaggeration that the part played by the Senators and Representatives from North Carolina was a factor of vital importance in ensuring the success of the program inaugurated by President Roosevelt during his first administration. We are now enjoying the first fruits of that program. Prosperity is gaining every day. From a nation caught in the bog of despair and doubt, we have been transformed into a nation of contented citizens looking forward eagerly to brighter days to come.

But although we are already feeling the warmth of better times, President Roosevelt himself has warned us that we must not relax, we must not give up the struggle, we must not abandon the course upon which we have set out. The last election was a mandate from 27,000,000 Americans to continue the job of undoing old wrongs and eliminating abuses in our economic and social system. President Roosevelt has given his solemn word that he will not falter—that he will not turn back. As loyal supporters in the great army of democracy, it is our duty to follow him and to support him in every legitimate manner.

In passing, let me add a word of assurance to those millions of fine people who have supported President Roosevelt so loyally. I want you to recall the fact that he has never betrayed a confidence or failed to keep his word. He has pursued always the path of honor. I want to make it emphatic that he will continue to do so always. You may be assured that any measure or policy proposed by President Roosevelt is put forth with the definite idea of strengthening democratic institutions in this country.

The Federal building which we are dedicating here today will be a lasting monument to the progressive spirit of the citizens of Reidsville. You will have reason to point to it with pride, for it will rank with other representative Federal buildings throughout the country as a structure of character and dignity. The immediate purpose of this building is, of course, one of postal utility, but we cannot overlook the fact that this structure symbolizes a personal contact with the Federal Government at Washington.

The progress and growth of the postal service here in Reidsville is similar to the development of the service in other American communities. Our records at the Post Office Department in Washington show that since the establishment of the Reidsville post office on October 24, 1829, Reidsville has had 20 postmasters, including your present able and efficient postmaster, my good friend, William S. Somers. Postmaster Somers was appointed acting postmaster on October 31, 1933, and he received his regular commission on June 12 of the following year. It is a fine public service that he and his staff of assistant postmaster, 7 clerks, 2 city carriers, and 5 rural carriers are performing for the residents of this community.

Speaking of postmasters, I trust that Postmaster John E. Patterson, of the neighboring town of Leaksville, is well on the road to recovery following his recent illness.

The progressiveness of the residents of Reidsville is attested by the steady increase in postal receipts which has been recorded at the local post office during the last quarter century. In 1910 the postal receipts here in Reidsville amounted to only $14,833, while the receipts for the fiscal year 1936 amounted to $31,214, or an increase of more than 100 percent. Few post offices in this State, or, in fact anywhere in the country, can boast a sharper increase in postal receipts during the past 25 years.

These figures reflect in a most accurate manner the increased prosperity which has come to this thriving section of North Carolina in recent years.

This new Reidsville Federal building is one of hundreds of buildings that are being constructed under the present administration's post-office building program. This particular project was authorized under the act of June 19, 1934, at which time $206,500 was allotted for the building alone, the site having been previously acquired under the congressional act of July 21, 1932.

The architect, the consulting engineers, and the contractors deserve the compliments of all on the successful completion of this building. I want to take this opportunity of conveying my congratulations to them and also to the craftsmen, mechanics, laborers, and all others who assisted in the erection of this splendid edifice.

The present administration's post-office building program has resulted in putting to work thousands of men in all sections of the country, thereby contributing greatly to the improvement of unemployment conditions. The program has, likewise, proved a stimulus to the building and allied trades through the purchase of building materials and supplies of all kinds for these new buildings. Many thousands of jobs have been created indirectly in the heavy industries through the carrying out of this building program, which has, at the same time, been advantageous from a Government standpoint, resulting in increased efficiency through the provision of improved facilities.

Postal receipts reflect more accurately than any other barometer current economic and business trends and for that reason I am pleased to report that the postal receipts in North Carolina for the calendar year recently ended amounted to $7,442,395, a figure which represents an increase of approximately 5 percent over the calendar year 1935.

Among the many improvements that have been made in the Postal Service during the last 4 years is the installation of a new accounting system which has made it possible for postmasters' monthly accounts to be received at the Department in Washington 3 weeks after the close of any given 30-day period. Previously 3 or 4 months were required. As a result, it is now possible to know promptly the trends of postal receipts and the manner in which each postmaster is conducting his office. One does not have to be connected with the Postal Service in order to realize the value of such a method of accounting as contrasted to the old system.

Under the present administration of the Post Office Department, all of our transportation services have been surveyed and to a large extent reorganized. Included in these transportation services are railway mail, ocean mail, domestic air mail, foreign air mail, rural mail, and star routes.

The domestic air-mail system has been entirely reconstructed and is the most efficient air-mail service in the world. More miles are flown daily on regular schedules and more cities and States are served than at any time since the domestic air-mail system was established. The schedules are faster, the equipment the latest and best, and the annual cost for this vastly improved service is several million dollars less than the cost of the service in 1932.

Our foreign air-mail system has been revised and rearranged, providing better equipment, faster schedules, and reduced costs. It was only recently that new, high-speed schedules were put into effect, reducing the flying time by many hours, and in some instances, more than a day on some of our South American air-mail routes.

Within the past year we have instituted a trans-Pacific air-mail service between the United States and the Far East, and a similar service across the Atlantic Ocean to Europe will probably be inaugurated during the present year. Our foreign air-mail system, like our domestic Air Mail Service, is the finest and most extensive in the world. These foreign routes encircle and serve the countries of South and Central America. They also embrace routes to Cuba, to Mexico, and to Canada. Modern air-mail service has been provided among the islands of the Hawaiian group, and improvements have been made in the Alaskan air-mail service.

During the calendar year 1936 the Post Office Department undertook and completed, with a minimum of delay and confusion, two of the most difficult and complicated tasks ever to confront any business organization, private or public. In June the Department, within a few weeks, completed the delivery, certification and payment of approximately $1,000,000,000 in veterans' bonus bonds to more than 2,000,000 veterans throughout the country. The efficient and expeditious manner in which this undertaking was completed earned the widespread commendation of the American public, and the fulfillment of this splendid service to the veterans of the Nation will reflect everlasting credit on the Postal Service.

In November of 1936 the Post Office Department rendered another outstanding nonpostal service to the Nation when it assisted the Social Security Board in obtaining information from every employer in the United States, in addition to handling the assignment of Social Security account numbers to employees as required by the provisions of the Social Security Act.

The success that has been attained in providing a better mail service at less cost to the taxpayers of the Nation has been due in a large degree to the loyal, diligent, and cooperative efforts of every postal employee in the Service. At this time I want to extend my most sincere gratitude to every man and woman in the Postal Service for the assistance and support which they have so willingly accorded me during my two terms as Postmaster General, and for which I shall be forever grateful.

Federal Education Aid to Underprivileged Children

EXTENSION OF REMARKS

OF

HON. J. HAMILTON LEWIS

OF ILLINOIS

IN THE SENATE OF THE UNITED STATES

Friday, March 12, 1937

RADIO ADDRESS BY HON. CLAUDE PEPPER, OF FLORIDA, ON MARCH 11, 1937

Mr. LEWIS. Mr. President, I tender a copy of an address delivered by the Senator from Florida [Mr. PEPPER] upon a very important question concerning Federal education aid to underprivileged children, and ask that it be incorporated in the Appendix of the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Almost 2,000 years ago a star appeared in the East over a newborn babe lying in swaddling clothes in a manger. Throughout the heavens rang the hosannas of joy and peace among men. A third of a century later this baby, then the great Teacher, one day took in His arms a little child and told all men for all time that inasmuch as they should do good unto one of these they should have done it also unto Him.

In the passing centuries the social conscience has become more and more sensitive of this obligation of which the Master reminded us so long ago. We do not any longer in the American community permit little children, orphaned by untoward fortune, to be derelicts of society. We do not allow them to go homeless in most American communities. There are educational facilities available to the normal child which, although yet inadequate to a startling degree in many parts of our Nation, are yet worthy of much commendation. And, too, the Federal Government, through the humane agency of the Social Security Act, has in the last year or two begun to make provision for medical aid for crippled children and for the general social care of children who suffer from some physical infirmity. There was recently introduced in the Senate the Harrison-Black bill, upon which hearings have been had before the Education and Labor Committee of the Senate, providing for an annual appropriation of $100,000,000 by the Federal Government in aid of the public education in the several States, with $50,000,000 annual increase in that appropriation until it reaches a total of $300,000,000 annually, to be distributed among the several States upon a basis of population between the ages of 5 and 20 years, which bill I apprehend will receive a favorable report from the Education and Labor Committee, and, I hope, passage by the Senate and House.

These efforts of the Federal Government are in recognition of the policy of this administration that the Federal Government is no longer going to shirk its just share of the social responsibility for the care and the nurture of the citizenry of tomorrow. But even the beneficent provisions of the Social Security Act, helpful as they are, do not reach another class of children, who, more than any other, should be the object of our especial concern. These are the one and a half million underprivileged children; that is to say, those who have some physical or mental handicap, making them abnormal or subnormal children; those who have defects of sight, hearing, or speech, deformity of limb, wasted muscles, tubercular-infected lungs, diseased or underdeveloped organs, and the like. What are we doing in America for these children? If they were adults and were physically handicapped, or young people of employable age and had such defects, the Federal Government would go to their assistance in cooperation with the several States under the provisions of the Vocational Rehabilitation Act, or through the aid for the blind which the Social Security Act affords. If they were adults, or even young people of employable age and were so handicapped the Federal Government would also contribute to their educational equipment through the terms of the Vocational Rehabilitation Act, or through college training which is provided in certain institutions for the deaf, or through certain reading and printing services for the blind, rendered by the Library of Congress and the American Printing House for the Blind, but since they are neither adults, nor young people of employable age, there is no Federal aid whatsoever being given for their educational equipment, training, and care.

Accordingly, it was to meet this need that I was privileged to introduce in the Senate on February 19, Senate bill 1634, sponsored by the International Society for Crippled Children, in substance to extend to handicapped children the same kind of Federal aid which is being extended to young people of employable age, or adults, who have physical handicaps making them abnormal or subnormal American citizens.

The purpose of the bill is carried in the caption—"To provide for the education of all types of physically handicapped children; to make an appropriation of money therefor, and to regulate its expenditure." The total appropriation provided for by the bill is

the sum of $11,530,000. Of this sum each State would receive $40,000 as an outright grant. This assures each State a certain sum regardless of whether the State might be in position to take advantage of the other appropriations made possible by the bill, if they can be matched with State money. By the terms of the proposed law, this sum of $40,000 "shall be used to establish, extend, and improve services for the educating of physically handicapped children (as the bill provided), especially in rural areas."

The bill further provides for a Federal appropriation of $9,000,000, to be distributed among the several States, on the basis of the ratio of the number of inhabitants in each State between the ages of 5 and 20 years to the total number of inhabitants in the same age range in the United States. For example, adding the grant made outright to the several States to the share which each of the States would receive of the $9,000,000, the State of Florida, for instance, would receive approximately $145,300; Iowa over $200,000, and a large State like Pennsylvania, about $750,000. In order to avail itself of this appropriation, or any part thereof, it will be necessary for the several States to match the Federal appropriation with funds of their own, which would thus make an expenditure by the direct stimulus of this bill of $20,000,000 in the several States by both the State and the Federal contribution.

This money, by the clear provisions of the bill, shall be used in paying the cost of services for the education of physically handicapped children, over and above the cost of educating physically normal children in the public schools in the State and subdivisions thereof, and for the training of teachers of such children. An appropriation is also made from the bill to the United States Department of Education for the purpose of making studies, investigations, and reports toward the accomplishment of the purposes of the act.

We have been careful in the provisions of this bill to preserve the same independence of the several States in determining what the educational program of the States shall be, as is preserved in the Harrison-Black bill, which provides Federal aid to the several States in the education of normal children in the public schools; that is to say, the department of education or public instruction of the several States not of the Federal Government is the agency which affords the plan by which the funds are expended. While the law provides that in order to avail themselves of the Federal funds the several States shall match the Federal funds and shall cooperate with the Federal Government and particularly shall provide for an equitable distribution of the funds between rural and urban areas and among the various types of physically handicapped children, yet we have not in any manner attempted to impair what none of us would impair in the slightest; that is, the independence of the several States in determining what plan and program of public education shall obtain in their borders. It will never be with my consent that the Federal Government shall usurp the prerogative of the several States to say how public education shall be carried on within the several States, but it shall ever be my purpose to see to it that the inequalities in the distribution of wealth in the United States with respect to the distribution of children of school age shall be offset, as far as possible, by Federal aid to the several States in the conduct of public education.

In hearings recently conducted by the Committee on Education and Labor of the Senate, of which it is my privilege to be a member, it was forcibly brought to the attention of the committee that all of us in this Nation, in fact, contribute to the wealth that is accumulated in the great commercial centers of New York, or Chicago, or the great manufacturing area of Michigan, as is well illustrated by the fact that when you in California, or I in Florida, buy an automobile manufactured in the environs of Detroit, our several States are directly contributing to the accumulation of the wealth that flows by trade channels into such great industrial reservoirs.

Children, as we all know, do not happen to be born according to any particular idea of geography. It is only a chance in the economic growth of the Nation that may give to the children of even a small subschool district in the United States the proportion which each child should enjoy of the total American wealth. The Federal Government, therefore, is just awakening to its responsibility to the children of the Nation to see to it that these inequalities in the distribution of wealth shall not handicap the citizen of tomorrow in the care, the nuture, and the training and equipment which by its absence or presence shall in all probability determine whether that child as a citizen of tomorrow shall be a burden upon or a benefit to the Nation.

It is obvious, therefore, that this bill reaches a field heretofore untouched by the aid of the Federal hand. The normal life of a child is in the home, the bosom of the family, however poor that family may be, where the caress of a mother's love and the care of a father's hand can guide it and direct it. We do not want, therefore, to make it necessary for a handicapped child to leave the home and go to an institution somewhere—into the hands of strangers—in order that it may get an education; we don't want to take that child away from association with normal children, if that can be avoided, because our purpose is to fit the child to take its place among normal men and women and to live as near the life of a normal person as may possibly be; and yet it costs a great deal more to educate a child with defects of hearing, or of sight, or of speech, in the public school; it takes a great deal more equipment for an abnormal child whose limbs are deformed or whose undernourished body is wasted and needs particular care than for a normal child in the public school; it takes a different kind of teacher for children so handicapped. It may be that the ordinary bus that carries the normal children to school is not equipped to carry the crippled child who must go in its wheel chair, or in some instance it may be, especially in rural areas, that the teacher shall have to go to the child and teach the child in its own home.

The several States are burdened, we think sometimes almost to their limit, in providing adequate equipment and instruction for the education of normal children, much less are they able to assume this burden of caring for the underprivileged child, or bearing the additional expense which is necessary to educate the handicapped child over that necessary for the training of a normal child.

So what this bill does is simply to let at least half of that burden rest upon the Federal Government; that is to say, that all the people of the United States, through the agency of their Federal Government, bear half of the extra cost required in the education of physically handicapped children. It may be that later it will be necessary that the Federal Government shall bear even a larger share. We can work this out by experience toward the right conclusion.

My friends, I believe that not only the happiness but the permanent stability of this Nation lies in the proper education of our children. We cannot afford the expense to society of not educating our children, of letting the lengthening shadows of the past fall before their eyes, of acquainting them with the complicated, complex, throbbing, pulsing life to which they are born, of lifting their eyes to a vision of the future that they may envisage something of the responsibilities which fast-running maturity is soon to lay upon their shoulders. Instead, therefore, of the handicapped child being a part of the load which we have to carry in the progress of our civilization, let's strengthen the limb and the eye and the ear; let's quicken the speech; let's nourish the body; let's train the fingers and so touch the heart of that child that he or she may not only take his or her place among the men and women of their time, but they may, under the impulse of some divine inspiration perhaps march even to the forefront of the Nation's columns of their fellow men as we tramp toward the glorious destiny of a noble people.

The President Has Failed to Drive the Money Changers Out of Control of the People's Money—No Other Remedy Will Save This Nation

EXTENSION OF REMARKS

OF

HON. USHER L. BURDICK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 12, 1937

Mr. BURDICK. Mr. Speaker, if the President wanted these various relief measures for the farm and the home owner in cities reported out of the committees, it would be done. Why does he not do it? Today the following bills are stuck in the committees and the only way to get them out on the floor for discussion, even, is to get a majority of the House to sign a petition. The bills are:

Petition no. 3. Frazier-Lemke refinance bill (no. 213).

Petition no. 4. Home owners' refinance bill (no. 214).

Petition no. 2. Cost of production bill (no. 1612).

Petition no. 6. Moratorium on foreclosure on all homes (H. J. Res. 88).

House bill 3297. The Monetary-Labor Stabilization Act of 1937.

All of these above-named bills are locked up in the committee room.

The President has the power to demand this legislation, but he will not take action. If his heart is bleeding for the poor farmer and the unfortunate town home owner, he could easily bring relief to the suffering by saying one word, "yes." Surely the Supreme Court is not responsible for the failure of the President to act in this matter.

Again let me say that until we rearrange our financial system, there is no use blaming each other. The President has no right whatever to blame the Supreme Court; we have no right to blame either the President or the Supreme Court—all we have to do is to act on the question of Government credit and money.

There can be no doubt of the constitutionality of the right of Congress to issue money and regulate the value thereof. The Constitution, in express language, gives Congress this right. This provision of the Constitution has never been repealed or amended. The Supreme Court in 150 years has never had the question before it. But Congress is not exer-

cising this power. In 1863 Congress, by an act, attempted to give this power to the private banking interests of the country by the National Bank Act, giving the banks the power that Congress had under the Constitution. It is a well-settled principle which all understand, that Congress cannot amend the Constitution. That can be done by only one body, and that body is the people of the United States. It necessarily follows, therefore, that the right which private banks have exercised in issuing money since 1863 is unconstitutional.

We completed the job in 1913 when Congress passed the Federal Reserve Act, giving to a private banking institution the power which belonged to Congress, namely, the power to issue money and regulate the value thereof. This act is also unconstitutional, because the people never voted to give the private banking interests the power to issue money and regulate the value thereof.

Today, with $6,000,000,000 in circulation, the private banking group has issued over four billions of it. This, in short, means that these institutions are using the Government's credit for nothing and in turn charge the Government interest on all its bonds. This huge interest charge of over one and one-quarter billion dollars annually is coming to be an unbearable burden to the American people. This scheme of issuing tax-free interest-bearing bonds should be stopped immediately and the bonds called in and paid in currency issued by this Government under the power which the Constitution gives Congress. If the Government's name is good on $36,000,000,000 of bonds, where is the man who can say that the Government's name on currency certificates would not be equally as good?

If this practice was stopped at once, this waste of over a billion dollars annually would be stopped, and besides if the private banking interests of the country were denied free access to the Government's endless credit, free of charge, the interest burden on the private debt of the Nation would also be lowered. At the present moment the annual interest on the public and private debt of the United States is $15,000,000,000, and more than the income of both the farmer and laborer annually for the past 5 years.

We have no money standard—we have tried gold, and today have $12,000,000,000 worth of gold hidden away in the mountains of Kentucky as a basis for our money. What is the use of digging gold out of the ground if the Government in turn buries it back in the ground. This gold is not money, for it does not circulate as money—no one dares to possess it. As money it does not exist. It exists as a commodity and about the most useless commodity out of a total of over 700 commodities; it cannot be eaten, it cannot be used for building material or mechanical construction because of its limited amount. Ornamentation is its principal value.

We have issued our currency on the theory that it is backed by gold. Suppose some night all the $12,000,000,000 in gold bars in the mountains of Kentucky were stolen and lost forever to the Government. Would anyone say that the circulating currency would be worthless? It would be as good as ever, because the Government's name is behind it, and every last article of wealth in the Nation is behind it. It is outright stupidity to attempt to make the base of our money issue a commodity that is almost entirely useless.

If we were to use as our base for the issuance of currency something of actual and everlasting value, and without which we could not live one day, we would use the labor-hour as the basis of the issuance of currency. Fix the value of a labor-hour and the value of a dollar would be fixed forever. Every commodity would be valued in terms of a dollar fixed on a certain amount of labor. Every other commodity would have the same relative value, as its value would be determined by the value of labor in a dollar. On through all of the commodities which have become necessities of life, the same ratio would extend—all measured in terms of labor.

We suggest labor as the unit of measure of a dollar because every man and woman in the United States has the right to work. If private industry cannot supply the positions, and it cannot, then it becomes the duty of the Government to furnish labor to anyone who wants to work. This is a new duty of Government that must be recognized, for unless we do so recognize it, there will be more out of employment a year from now than there are now. About 12,000,000 is the correct number of those out of employment. New inventions are displacing workers and these men will be thrown out of employment. They must have employment—they must be given work—and this Government must stand ready to offer work. We might just as well settle one thing now and that is that the Government must furnish work for all who are out of work and want to work. If we can all agree on that, we have the problem half solved.

How will workers be paid? They will be paid in new labor-hour currency and there will be enough currency issued to adequately take care of the needs of the people. If we issue the currency, how will it be retired? There will be two kinds of currency issued. One for emergency employment, until private industry can assume the burden, and another kind based upon permanent wealth-producing improvements. The first kind of currency will be retired through taxation, the second through the income from the produced wealth, such as rent from buildings and benefits coming from irrigation, forestation, and the sale of hydroelectric power.

The first method of retirement by taxation we are doing right now in an expensive and ineffective way. The W. P. A. and P. W. A. and Emergency and C. C. C. projects are paid by taxation, but there is no well-developed plan of coordinated action in devising this work. It is helter-skelter, skip-and-jump, catch-as-catch-can. We must first develop Nation-wide, constructive, and worth-while work and work that is available to those who need work.

If the tax to carry on this undertaking is high in some brackets, it can only be said that we are at this late date redistributing the wealth that has piled up in a few hands during the years. This wealth never would have piled up if labor had received its fair share of the undertaking. If those who have taken too much from labor now have to bear the burden of paying the expense of Government work, it is only applying the rule of "the deed returns to the doer." Anyone who maintains that we are not going to put through a program to share the wealth in this Nation does not understand our economic sickness. As long as millions are out of work and hungry, the share-the-wealth movement will continue and, knowing that more annually will be displaced by improved machinery, we ought to recognize the situation now and prepare for it.

What has the President done to rearrange our monetary system? What has he done to put a stop to the issuance of bonds? What has he done to develop a sound basis for the issuance of money? What has he done to take away from the private banking interests of the country the assumed power to issue money and regulate the value thereof? Absolutely nothing. He has tried to patch up the private banking system and make deposits secure in small amounts, but he has not attempted to change the system. The private banking interests of America still operate with free Government credit, while the people are struggling to pay the toll in annual interest plundered from them by this private banking oligarchy.

Is the Supreme Court responsible for the President's failure to drive the money changers out of the Government's storehouse of credit? Is the Supreme Court responsible for the failure of the President to recommend a sound base for the issuance of money? Is the Supreme Court responsible for the failure of business because there is a shortage of money when we could have all the money the Nation needs for nothing?

I will make this simple statement now: If the Congress does permit the President to name six new judges of the Supreme Court who are known to be favorable to the New Deal, and assuming that these judges will sustain these views just as the House of Representatives does today, and suppose the program becomes a law; and the President does not change the monetary system in this country, and does not drive the money changers out and assume control of the Government's credit to be used for all the people and not for a few, it will not make a particle of difference whether

the Supreme Court is favorable or not. This country will continue on down the line of depression until there is nothing left of it. The time has now come when the people cannot carry this interest burden, sucked out of their blood by a money-hungry oligarchy. The people now cannot pay their debts. The value of all our property in the United States, if it could be sold, would only pay 65 percent of the debts we owe. Is not that enough evidence? Can you sustain this Government with a dozen favorable Supreme Courts as long as you do not strike at the actual undermining influences at work in the destruction of the Government and the people in it?

Whenever I have thought the President right in the advocacy of measures, I have supported him. I have supported him when a majority of the Democrats in the House desired to bolt, and some of them did. I want to support him now, but I cannot do it when it is clearly established that the New Deal will not accomplish the restoration of prosperity and happiness in this country. The program of forced scarcity in agricultural production while millions are hungry, is not right; the program of foreclosure of farm and city homes by an institution that the President absolutely controls is wrong. The program of a niggardly dole for the aged of this country and putting them all actually under the pauper's line is not right; and the President's opposition to a just refinance system for farm and city homes has caused unnecessary suffering; and his failure to interfere with the money barons in their unconstitutional use and control of the Government's free credit for their own profit, is wrong and the President never can make any of these matters right, by blaming someone else. The Supreme Court has made mistakes in the past and they will make more, but the President has a chance now to correct his mistakes, but it cannot be done by making the Supreme Court the goat before the American people.

The President has the power now to enact legislation, through Congress, that will relieve the people who are in distress; he can change the monetary system of this country, which is the one principal cause of our economic break-down. The House of Representatives goes always as the President goes. He can pass or stop any legislation in it. Would the President actually do the things that seem necessary to be done if he did name a Court that would say "yes" just as quickly as the House of Representatives says it today? No; he would not. It is not because he wants to continue our economic break-down, but it is because his remedy is wrong. Suppose future history would demonstrate that the New Deal, in many particulars, which I have called attention to, was wrong; would it not make it a greater wrong to deny an independent Court the right to pass upon it?

We should remember in this critical era of our country's progress what Sir William Temple said:

> The plant may be improved by seasons and rains, but the root must be in the ground.

If the President is right in his conclusions, that after men become 70 years of age they are apt to be incapacitated and should be replaced, let us start with the Cabinet and clean that out; take the United States Senate and clean that out; start with the House of Representatives and start to clean that out—and the show will stop. The President knows and everyone else knows that the most able statesmen and jurists in America are 70 years or older. No; that is not the real reason why the President wants to appoint new judges. The real reason is that he does not think the present judges are so enthused over the New Deal that they will say "yes" to everything. He wants judges who will be apt to say "me, too', to everything he suggests. Those apt judges can be found, and an apt Senate will confirm the apt judges. That is the real reason and this 70-year business is blind trail.

We might as well announce the real reason, because, as Lincoln said, "We can fool some of the people all of the time, and all of the people some of the time, but we cannot fool all of the people all of the time."

In his radio speech delivered at the White House, March 9, 1937, the President admitted that we were headed right back to where we were in 1932, unless he could name six more judges of the Supreme Court. Let me agree with the first part of this statement. We are headed right back to where we were in 1932—yes; worse off than we were in 1932. The President is right; we will head right back there whether we give the President the power he wants over the Supreme Court, or whether we do not. We are headed there unless the President will use the credit of this Nation for all the people instead of allowing a limited and select few to use it free of charge, while the rest of us pay 51 cents of every dollar spent in interest and taxes.

If the debt structure of three hundred billion is to stand, the Nation and everyone in it is bankrupt; we cannot pay it and why allow the agony to proceed any further? Why do we not stop it? The President can do it. He can at least permit his Congress to pass the law taking the control of our money away from private bankers. The President and everyone in America knows that that law would be constitutional because the power over the Nation's money was left with Congress and the Constitution so states.

If we do not take this action, the Government will last just as long as it takes to eat up the property those have who are not yet bankrupt. No one else can pay the taxes—the poor cannot, and the rich must as long as their property lasts. When that day comes, it will take more than a Supreme Court to revive this Nation. Then all debts will be repudiated and the people will write a new Constitution.

If we can find no leader who will drive the money changers out, the people, in their desperation arising from foreclosed homes, no work, and no hope, will disavow all approval of this Government and start up an experiment of their own.

We have made speeches enough about the poor people, and we have given statistics enough as to the number poorly clothed, poorly fed, and poorly housed. The people know that. Action and not speeches is what is demanded of us. Will we take action when it is not yet too late? First things come first. Let the farmers sow their crops. Strip off the red tape and furnish them feed, seed, and farm power and permit them to help themselves. The President can do that in 24 hours if he is so inclined. Offer work to everyone who wants to work, plan important public improvements accordingly; issue money to pay the wages—no bonds, no interest. Acknowledge that it is the duty of this Government to furnish work to every citizen who wants work. Retire this emergency work currency with taxes or an orderly redistribution of the wealth of the Nation. Retire the currency issued for wealth-producing improvements by the income from the undertaking. Call in the banker's money, replace it with labor money; call in the interest-bearing bonds, pay them in labor money. Take control of our own business of handling the Government money; discharge the private bankers as our agents. Reappraise all property, and in proportion to the decline in values as of the date of mortgages, reduce the debt accordingly. Refinance the debt in wealth-producing labor currency, making no interest charge. Our homes on the farms and in the cities will then be saved; business will revive, and this great Republic, the hope of the civilized world, will be perpetuated as a blessing to free men. Delay means the ruin of millions and the loss of the greatest experiment in free government ever known to the human race. Under H. R. 3297 this whole program is made possible.

The President of the United States has an ample field in which to exercise the power which Congress has already conferred upon him without giving him the Supreme Court as boot in the bargain. It is barely possible that the President is not infallible; it is barely possible that he will change his views on other matters as he did on the farm problem, when he condemned forced scarcity and now practices it. It is also barely possible that I may be mistaken in my views—such a thing is possible, but as a Member of Congress, I have not yet given up the right to think, and being absolutely independent in my political stand, I intend to express my views as a part of my duty as a Member of Congress. I have only one thing to protect and that is my own integrity and honor in the service of a great Government which was born and maintained in the blood of our fathers.

Proposed Changes In Our Judicial System

EXTENSION OF REMARKS

OF

HON. JOHN E. RANKIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 12, 1937

EXCERPTS FROM STATEMENT OF HON. ROBERT H. JACKSON, ASSISTANT ATTORNEY GENERAL OF THE UNITED STATES, BEFORE THE SENATE JUDICIARY COMMITTEE ON THURSDAY, MARCH 11, 1937

Mr. RANKIN. Mr. Speaker, on yesterday, the Honorable Robert H. Jackson, Assistant Attorney General of the United States, spoke before the Judiciary Committee of the Senate on the question of reorganizing the Federal Judiciary.

In my opinion, his statement was about the most logical and most enlightening discussion we have had of this great question.

Under the permission granted me to extend my remarks in the RECORD, I am inserting below excerpts from that statement which I hope every Member of the House will take time to read.

The excerpts from Mr. Jackson's statement read as follows:

When a situation exists in the Supreme Court which the President feels he cannot continue to ignore, it is to the Congress that he may properly bring the problem.

The responsibility upon Congress for seeing that the American people have a workable, harmonious, and cooperative judicial system is so usually overlooked by those engaged in building up the tradition of judicial supremacy that the burden of constitutional responsibility on Congress deserves examination.

A sentiment has developed that sole responsibility for the functioning of the Supreme Court as an institution is upon the Justices, and that their independence requires that a majority of them be let alone to shape the institution as they will. In short, it is urged that the Court belongs exclusively to the Justices and that the President and the Congress must keep hands off.

The fact is that the Supreme Court cannot function without the periodic aid of the Congress and that Congress, by its inactivity, may be assuming responsibilities for the Supreme Court's acts as great as any responsibility it may assume by exerting its power.

WHERE RESPONSIBILITY LIES

The Constitution leaves with Congress and the Executive the whole responsibility for the personnel of the Court. The Senate must share responsibility for the selection of the Justices and is the sole judge of their "good behavior." The Court is without means to house itself, or to obtain its clerks, secretaries, and marshals unless the House of Representatives takes the responsibility of initiating appropriations for the purpose. The House of Representatives is the only accuser to which the Justices must answer. Moreover, the Court is powerless to make its decisions effective unless Congress or the Executive provides for carrying out its judgments and decrees.

Moreover, the jurisdiction of the Court, except as to cases affecting foreign representatives and States, is left to Congress to decide.

This power to reduce the Supreme Court to a mere phantom court was not an accident. Our forebears knew the story of judicial abuse and tyrrany as well as the story of legislative and executive abuses. These checks and balances were therefore embodied in the Constitution to enable Congress to check judicial abuses and usurpations, if the same should occur. If there are abuses in the Court, with which I will deal later, their continuance can only be due to default in the exercise of checks and balances placed in the hands of Congress and the Executive.

CONGRESS EXERCISES CHECKS

The power of Congress to exercise checks against the overreaching of the Court is so generally overlooked or minimized that the alternatives that faced the Constitution writers deserve examination in detail.

1. The Constitution might have made the Supreme Court the sole custodian of judicial power. It did not. The judicial power is vested in the Supreme Court "and in such inferior courts as the Congress may from time to time ordain and establish."

2. The Constitution might have determined, or left to the Supreme Court to fix, its own jurisdiction. It did not. It has only a limited original jurisdiction and except in cases affecting ambassadors, ministers, and consuls and those in which a State shall be a party, the Supreme Court has appellate jurisdiction only "with such exceptions and under such regulations as the Congress shall make."

3. The Constitution might have fixed the size of the Supreme Court or left the Court to determine its own size, but the Constitution deliberately left the number of Justices to be fixed from time to time by Congress.

4. The Constitution might have named the original members of the Court or might have given the Court power to fill its own vacancies. It did not. The Constitution placed the continuing power of appointment in the President and in the Senate.

CONGRESS DECIDES PAY

5. The Constitution left the amount of compensation of the Justices entirely to Congress, with no restriction except in the provision that whatever compensation Congress may once give them shall not be diminished during their continuance in office.

6. The Constitution could have provided some source of revenue for the Court, its Justices, Marshal, Clerk, and appointees. But it leaves it entirely to appropriations to be initiated in the House of Representatives.

7. The Constitution could have authorized the Court itself to appoint the personnel necessary to execute and enforce Court decrees. But it did not. For the enforcement of the Court's decrees, the Congress and the executive branch of the Government must be relied upon.

8. The Constitution could have given to the Court the power to judge the conduct of its own members. The power to judge the qualifications and to discipline its own members was given to each House of Congress. But the Supreme Court was entrusted with no such power to either accuse or judge its members. Impeachment can be only by the House and trial by the Senate. * * * It is clear that Congress has the power to see that the personnel of the judicial system is adequate, both with respect to number and to neutrality of attitude. It is a responsibility of Congress to see that the Court is an instrumentality in the maintenance of a just and constitutional government, and that it does not become an instrumentality for the defeat of constitutional government. The duty of cooperation is not cast upon Congress and the Executive alone.

POWER SELDOM USED

Congress, throughout our history, has made sparing use of its checks and balances against the Court. It made one abortive attempt to use impeachment as a check. It once withdrew jurisdiction of the Court to hear and determine a case that had already been submitted, and its power to do so was recognized. Three times the device of constitutional amendment has been used to correct the Court. Six times we have effected changes in the size of the Court, with resulting changes in the Court's attitudes. * * *

Legislation creating or abolishing vacancies in the Court is authorized by the Constitution and validated by historical practice as a method of bringing the elective and nonelective branches of the Government back into a proper coordination.

Its frequent use has avoided amendments which would make the Constitution a document of patches and details. It does not change the constitutional powers of the Congress, or the distribution of powers between the legislative and judicial branches. It does not eliminate any check or balance of the constitutional system.

Changing the size of the Court has never deprived it of independence or prestige. It was obvious at the founding of the Government that the Court would not always remain of the same size, and that changes in its size would be made, as they have been made, at those times when its decisions caused dissatisfaction. It is just as constitutional to add members to keep the Court up with the country as it is to add members to keep the Court up with its business. The power of the Congress to avert constitutional stagnation is as great as its power to prevent congested dockets.

And whatever other motives have influenced the changes that have been made in the composition of the Court, the dominant one has always been to keep the divergence between the Court and the elective branches from becoming so wide as to threaten the stability of the Government.

METHOD USED THRICE

The amendment method to correct the Court has been used three times: the eleventh amendment was adopted to correct the Court on suits against the States; the thirteenth, fourteenth, and fifteenth amendments to eradicate the philosophy of the Dred Scott decision and effectuate the policy of reconstruction; and the sixteenth, to alter the result produced by the Court's ruling on income taxes.

I am not urging that amendment method shall not now be tried. But I do point out certain problems which draftsmen and advocates of amendment will need to consider. * * *

The outstanding development in recent constitutional history is the growing frequency with which the Supreme Court refuses to enforce acts of the Congress on the ground that such acts are beyond the constitutional powers of the Congress.

While we see no limits upon the power to nullify acts of the Congress, we can see that, as each instance becomes a precedent for more, self-restraints are proving no restraints, and the power is in constant process of extension.

In the 71 years from the adoption of the Constitution to the War between the States the Supreme Court so nullified only two acts of Congress. One of these two nullifications was the Dred Scott case, which precipitated the war.

In the 72 years from the beginning of that war down to the close of the October (1932) term, the Supreme Court refused to recognize the power of Congress in approximately 60 cases, and it

is significant that one-third of these occurred during the decade before the New Deal, when the country as a whole was supposed to be content with a period of normalcy. * * *

TWELVE CASES CITED

But in just the last 3 years, from the October 1933 term on, the Court has refused to recognize the power of Congress in 12 cases. And 5 of these 12 decisions have occurred during a single year; i. e., the October 1935 term, 4 of the 5 by a sharply divided Court.

The outstanding constitutional development of the Roosevelt administration has been the increasing tendency of the Supreme Court to judge legislation according to the majority view of the wisdom of the legislation. * * *

Each success in thwarting congressional power, or each effort that comes so near success as to lack but a vote or two, stimulates competing lawyers and aggrieved interests to new attack.

Nearly every newly organized institution of the Government rests under a legal cloud. This is true of the Securities and Exchange Commission, the Social Security Board, the Public Works Administration, the Tennessee Valley Authority, and the Labor Relations Board.

The acts of Congress involving the hopes and fears of a great proportion of the American people are likewise clouded in legal doubt. Old-age benefits, old-age assistance, unemployment compensation, the Securities Act, the relief acts, the Labor Relations Act, the Public Utility Holding Company Act, the Tennessee Valley acts—as well as many taxing acts—are involved in litigation, and there is no definite assurance what their fate will be. The whole program, overwhelmingly approved by the people in 1932, 1934, and 1936, is in danger of being lost in a maze of constitutional metaphors.

STATE PROTECTION ASSUMED

It is often assumed that the powers which the Court denies to the Federal Government fall to the State governments and that the Supreme Court is therefore a protector of the States.

Few decisions of the Supreme Court can be cited in which any State of the Union has been able to obtain any protection of its own constitutional rights, upon its own demand from that Court. Instead, States have met little success attempting to assert their own rights before the Court.

The two outstanding cases in which a State asked the Supreme Court to stop invasions of their rights arose, not against this administration, but against Secretary Mellon, the defendant in both cases. * * *

The decisions are *Massachusetts* v. *Mellon* (262 U. S. 447) and *Florida* v. *Mellon* (273 U. S. 12). Their effect is that the States will not be heard in Supreme Court to assert against the Federal Government, its own rights, or the collective rights of its citizens based on the Federal Constitution.

COAL CASE IS EXAMPLE

In the Carter coal case seven States appeared and joined with the Federal Government in support of the Guffey Coal Act—no State appeared against it. Nevertheless, the Court struck down the Guffey law on the plea by the owners of the Carter Coal Co. that the law invaded States' rights. The Court spoke of the danger of the States being "despoiled of their power" and being reduced to "little more than geographic subdivisions of the national domain." This enthusiasm for States' rights when urged by the Carter Coal Co. owners is in contrast with the refusal of the Court to hear such plea when urged by the State itself. When the State makes the plea, it is told that it presents a political question. When the owners of the Carter Coal Co. make the plea, it is transmitted into a judicial question.

The same thing happened in *U. S.* v. *Butler* (297 U. S. 1), in which the farm-relief program was struck down as coercing the States, although Mr. Justice Stone points out that no such contention was made by the taxpayer and hence could not have been answered by the Government. Here again no State complained that its rights were being injured by aid to the farmers. The packers, processors, and manufacturers were the beneficiaries of any rights the States may have had.

* * * * * * *

State legislation inaugurating conservative reforms has with increasing frequency been set aside by a majority of the Supreme Court ever since 1920, even though these State reforms did not encroach upon the powers of the Federal Government but simply failed, in the opinion of a majority of the Court, to come within the vague contours of the fourteenth amendment. * * *

Experiments by the States with laws to settle industrial disputes, minimum-wage acts, and acts to regulate public-utility and other business enterprises were frequently stopped by the Federal courts. Had they been allowed to proceed, demands for the exercise of Federal power later would have been less imperative. * * *

RIGHT DENIED CONGRESS

The Supreme Court has even denied the Congress the right to make enactments in aid of States' rights. * * *

The tenth amendment, as to power reserved to the States, has not been used to assure the power of the States. It has been used to cut down the power of the Federal Government. Then, when those same powers are asserted by the States, the "due-process clause" is used to cut down the State power. The States have no rights which the courts have been bound to respect. The States' rights argument is heard sympathetically only when pleaded by private interests in support of laissez-faire economics to create a "no man's land" beyond the reach of both Federal and State power. The States' rights have become private privileges.

Is it any wonder that Justice Holmes said the sky is the limit?

The present controversy over the Court reflects a controversy within the Court. Neither the Congress nor the Executive has sought the present dissension. Neither the Congress nor the Executive has in any manner sought to interfere with the judicial function, and neither has failed to obey any decision of the Court.

A majority of the Justices have made it apparent that the great objectives of this administration and this Congress offend their deep convictions and that the methods of this day violate their conceptions of good government.

* * * * * * *

HOSTILITY IS FRANK

This frank hostility of these Justices has been openly counted on by interested groups to defeat much important legislation.

On the other hand a minority of the Justices, whose patriotism and competence no one questions, have made it apparent that they feel that justice to their own records with posterity requires them to protest publicly and sharply against the overriding decisions of the majority. Included among those who have seen fit to protect their place in judicial history by recorded protests are Chief Justice Hughes, Justices Holmes, Brandeis, Stone, and Cardozo.

When the decision of crucial constitutional issues may turn on the death or illness of a single Justice, it would seem that our constitutional progress is governed by a blind fate instead of by human reason. For a Justice of the Court to know that even a temporary indisposition may turn the course of his Nation's history must add to the ordinary anxieties about health. Nobody, no matter where his sympathies lie or what his views of constitutional doctrine may be, can view this situation with composure.

Even Government victories by 5-to-4 decisions are unsatisfactory. A state of the law which depends upon the continuance of a single life or upon the assumption that no Justice will change his mind is not a satisfactory basis on which the Government may enter into new fields for the exercise of its power.

INTERPRETATION IS KEY

Conflict between Congress and the courts is in large part due to the refusal of the courts to permit Congress to have any share in defining the present-day application of such indefinite terms as "general welfare", "due process", "commerce among the several States", and the things which directly affect it. The Court majority insists on a rigid, permanent, and legalistic definition. All that is needed is the same attitude of mind on economic questions that the Court had on the liquor question. When it came to defining "intoxicating liquor", as used in the eighteenth amendment, the Court was ready to leave it to Congress. There is no reason why similar deference should not be paid to congressional definitions of other constitutional terms.

If this split were decisively resolved by the addition of new members, the Court could proceed to mark out a less ambitious course for itself and bring about greater harmony within the Government.

The industrialization of society and the movement toward city dwelling, foreign political and economic dislocations, together with depression and distress, have generated an unrest which has put the whole complicated Federal system under severe strain. The ability of a federated form of government to withstand these pressures is greatly impaired by any dissension between branches that were intended to be cooperative and coordinate.

The Supreme Court's power over legislation is not defined or bounded, or even mentioned in the Constitution, but was left to lurk in inference. As Mr. Justice Stone has well said, "The only check upon our own exercise of power is our own sense of self-restraint."

Senator Ashurst

EXTENSION OF REMARKS

OF

HON. FREDERICK VAN NUYS

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Monday, March 15, 1937

ARTICLES FROM BUFFALO EVENING NEWS AND THE WASHINGTON HERALD

Mr. VAN NUYS. Mr. President, in the last few days two very laudatory and well-deserved articles have appeared, one in the Washington Herald and the other in the Buffalo Evening News, concerning the activities and accomplishments of the senior Senator from Arizona [Mr. ASHURST], chairman of the Senate Judiciary Committee. I ask that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Buffalo Evening News of Mar. 9, 1937]

By James L. Wright

WASHINGTON, March 9.—When the Senate Judiciary Committee tomorrow begins hearings on the President's plan of reorganizing the United States Supreme Court there will be seated at the head of the committee table Senator HENRY FOUNTAIN ASHURST, of Arizona, who says, "I am a fountain, not a cistern", and does spout colorful phrases.

As the chairman of the Senate Judiciary Committee, it has fallen to the lot of Senator ASHURST to handle the administration's plan for reforming the highest tribunal in the land by legislative enactment instead of by constitutional amendment, although he was advocating the latter course only 2 days before the President sprung his surprise on the country and the Senator.

QUICK TO CHANGE MIND

With the agility of a tumbler, Senator ASHURST did a back flip-flop and proclaimed to the world that "I never let what I said yesterday bind me today; no Senator can change his mind quicker than I", so he is ready now to carry high the banner of the administration in the fight to empower the President to appoint six additional United States Supreme Court Justices if all those now on the bench elect to remain.

That the hearings on the pending bill will be the most interesting that have been held at the Capitol in years, because of the high stakes involved, is taken as a foregone conclusion, and that Senator ASHURST as the presiding officer will make them lively with characteristic expressions and neatly coined phrases is an absolute certainty.

ADEPT COINER OF PHRASES

Senator ASHURST is one of the most unique characters on Capitol Hill. He has been called "word wrangler." In his early days on the plains of the great Southwest he was a cowboy, so it has been said of him that he got to the Senate by "throwing the bull" and has remained there by continuing to do it. While it is true that the Arizonian does rope many a maverick phrase and brand it as his own, he is adept at coining graphic sentences.

"I keep my mouth closed when I put my ear to the ground, otherwise what goes in one orifice goes out the other", said this politician philosophically a few years ago; but now the Arizonian, with disarming frankness, admits that what he said then is not exactly true today.

HAS "ITCH" FOR TALKING

"My faults are obvious", he said recently. "There can be no doubt that I have my full share of them. I suffer from cacoethes loquendi—a mania or itch for talking—and from vanity, if you please, and from morbidity and as is obvious to everyone who knows me, from an inborn, inveterate flair for histrionics. But there never has been superadded to these faults of mine the withering and embalming vice of consistency."

Even the Senator's attire is free from the "vice of consistency." This ex-cowpuncher, who still sticks to the wide-brimmed hat of the southwestern plains, wears a cutaway coat more often that any other Member of the Senate with the exception of the pink-whiskered Senator JAMES HAMILTON LEWIS, of Illinois. Dangling from a black silk cord, thrown around his collar, are horn-rimmed pince-nez.

ENVIED BY LEWIS

So in gorgeous speech, ornate apparel, and elaborate manners the ex-cowboy from Arizona arouses the enmity of the ex-dock walloper from Seattle, the pink-whiskered J. Ham, now United States Senator from Illinois. Here are some of Senator ASHURST'S epigrammatic expressions culled from his speeches during the years:

"Those who object to long sentences are usually the criminal classes."

"I prefer a man who is hard-boiled to one who is half-baked."

"Science has made a whispering gallery of the skies."

"God is much kinder than most people suppose him to be."

"In sowing wild oats, avoid mixing rye therein."

HITCH STARS TO WATER WAGON

"The moving-picture artists should 'hitch their wagon to a star' and the producers should 'hitch their stars to a water wagon.' "

"At some time in our lives we all walk in that wide penumbra between the sunlight of sanity, and the shadows of distraction."

"If you play a lone hand you soon exhaust your chips."

"To the youth of today, luxuries are necessities."

"The highbrow never forgets your syntactical errors."

"Humor thrusts home the truth when logic and eloquence fail."

"Publicity is the small stone in the sling of free governments which always slays the Philistines of error."

"When editors form a conspiracy of silence against a politician, he should join it."

"The public man who accepts gifts dissolves the pearl of his independence in the vinegar of obligation."

PUBLIC MEN AND HOT WATER

"Public men who are always in hot water soon get hard boiled."

"Neither the bird of beautiful plumage nor the chattering magpie, nor yet the turtle dove, but the eagle is the American emblem."

"To protect human liberty and the fruits of honesty and self-denial are the chief functions of the Government."

"A single-track mind is not dangerous if it will back up when there is a bridge burned out ahead."

"One well-meaning but narrow-minded zealot may become a greater peril to the public good than all the hosts of error."

"Those who seek fame do not know what it is, and those who know what it is, will never seek it."

"If Eve had given Adam 'apple sauce' instead of a sour apple, we all might have been in the Garden of Eden today."

"Politics makes strange bedfellows, because they like the same 'bunk.' "

And finally:

"A speech is entertaining only when serenely detached from all information."

But it must not be assumed that HENRY FOUNTAIN ASHURST is just a windbag. Quite the contrary, he has a quick mind, and behind his ornamental facade it can be seen that he has a keen understanding of mass psychology. He believes it is political wisdom to be with President Roosevelt on his Court fight, especially in view of the fact that he as chairman of the Senate Judiciary Committee will be charged with the handling of the administration bill.

[From the Washington Herald of Mar. 13, 1937]

WASHINGTON DAILY MERRY-GO-ROUND

By Drew Pearson and Robert S. Allen

(EDITOR'S NOTE: The famous Brass Ring, good for one free ride on the Washington Merry-Go-Round, this week is presented to Senator HENRY FOUNTAIN ASHURST, of Arizona, in charge of Roosevelt's judiciary fight in the Senate.)

Out of the tension and turbulence of the Senate Supreme Court hearings emerges one central figure, unflustered, unhurried, and unabashed that at heart he has no enthusiasm for the Roosevelt judiciary plan.

He is HENRY FOUNTAIN ASHURST, first Senator from Arizona, chief puncturer of senatorial stuffed shirts, chairman of the Judiciary Committee, and a man whose philosophy of public office he has expressed like this:

"In the Senate you are on roller skates. You go partly where you like to go and partly where the skates take you."

The Ashurst skates are now taking him out to do battle for the President on the field of judicial reform, and Henry Fountain is fighting just as hard as if he had initiated the battle himself.

This is not a new game to the Senator from Arizona. In an emergency he can always turn on the fire and feeling. During the floor fight on Boulder Dam, ASHURST was in the vanguard of the attack, waged a furious filibuster against the bill. Privately, he did not care a snap of his fingers about Boulder Dam. But his State was against it. So he got as lathered up as the spotted pinto he used to ride over the deserts of Arizona.

He even hinted that dark and mysterious violence might be wreaked upon those who favored Boulder Dam.

On another occasion, South Carolina's eccentric Cole Blease was denouncing Woodrow Wilson. Democratic Senators writhed at the attack, but none cared to tangle with the vitriolic Cole. Suddenly ASHURST got the floor, remarked:

"I want to observe for the benefit of the Senator from South Carolina that when Prometeus was bound to a rock, it was a buzzard that ate his liver, not an eagle."

ASHURST has served continuously in the Senate for 25 years. Only Senator BORAH and Senator "COTTON ED" SMITH, of South Carolina, outrank him.

Born in Nevada in 1874, he migrated with his parents by covered wagon to Arizona, where they staked out a small ranch near the town of Williams. There young ASHURST rode range, later went to school in California and the University of Michigan.

ASHURST says that in those pioneer days the only requirement for admission to the bar was to be able to "stand up to it and drink it straight." So while still a youth and without formal legal training, he became a lawyer.

When Arizona became a State in 1912, ASHURST was a member of the Territorial legislature. He entered a large field of candidates for the Senate, got the second largest number of votes, came to the Capital as junior Senator.

While he is not a headline figure, no one in Washington outranks ASHURST in charm, wit, and candor.

He is one of the most lovable, amusing, and outspoken men in public life. There is no atom of the stuffed shirt about him throughout his 6 foot 2 of muscular anatomy. He takes nothing seriously—last and least of all himself.

"No Senator can change his mind quicker than I", he laughs.

He was elected as a "dry" but voted for 3.2-percent beer, posed for news photographers quaffing a big tankard of suds.

In his campaign of 1934 he plumped for the Townsend plan.

Perhaps his most bizarre performance was on the bonus. The four votes he cast on the question, two were for the bonus and two against.

"At least", he remarks, disarmingly, "I was 50-percent right."

Only a few weeks ago ASHURST was busy denouncing suggestions to pack the Court. Instead, he urged a constitutional amendment giving Congress freedom to enact economic and social-welfare measures.

Today he is for the President's proposal. When this was announced he received a wire, saying, "Glad to see that for once you are on the side of the people."

To which ASHURST telegraphed: "My heart is always with the people, even if sometimes my vote is not."

As chairman of the Judiciary Committee ASHURST will be floor manager of the President's Court measure when it reaches the floor of the Senate. And he will wage a shrewd and able fight, for he is an excellent parliamentarian strategist.

While he will fight hard and cleverly, ASHURST won't get overwrought. He's not built that way. He never lets anything disturb him—not even his mail, which gives most Senators acute indigestion.

Asked by one worried colleague in 1935 as to how he was answering mail on three burning issues—the holding company bill, the bonus, and the Townsend plan—ASHURST replied:

"I have no trouble. I keep three boxes on my desk. One is marked 'Townsend', one 'Bonus', and the third 'Utility.' When I get letters on these subjects, I read them and then put them in the appropriate box."

"But how do you answer them?"

ASHURST replied, "I just leave them in the boxes."

Only one thing does the ineffable Arizonian take seriously—if it can be characterized as such. That is his prepared speeches.

Over these he works with loving care and great pains—and a system. First he writes the speech for thought only. Then he goes over it with a thesaurus in hand, replacing staid adjectives and expression with spectacular words and passages of wondrous hue. The finished product is something to marvel at.

But even in his most purple passages ASHURST is never the "stuffed shirt." Witness the following explanation of why he somersaulted on the Supreme Court:

"There can be no doubt that I have my full share of faults. I suffer from cacoethes loquendi, a mania or itch for talking, and from vanity, if you please, and morbidity, and, as is obvious to everyone who knows me, an inborn and inveterate flair for histrionics. But there has never been superadded to these vices of mine any withering and embalming vice of consistency."

Vinson-Guffey Coal Bill

"God intends no man to live in this world without working; but it seems to me no less evident that He intends every man to be happy in his work."—RUSKIN.

EXTENSION OF REMARKS

OF

HON. DAVID J. LEWIS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1937

On the bill (H. R. 4985) to regulate interstate commerce in bituminous coal, etc.

Mr. LEWIS of Maryland. Mr. Speaker, ladies, and gentlemen, there are three propositions which I think so vital in our consideration of this bill that I should bring them to your attention.

The first proposition is this: The familiar principle of competition breaks down and does not operate conservatively in the bituminous coal-mining industry. Instead, competition in the coal-mining business operates destructively. This has been the experience not only in the United States, in Germany, the experience in Great Britain, but also in other countries. By this I mean that such are the peculiarities of production and distribution of soft coal that if there be a shortage of 2 percent in the market at any time, prices immediately go skyward. "The furnaces must be fired tomorrow." On the other hand, if there be a lack of demand as compared with the supply, then prices strike bankruptcy levels. It is the latter extreme that has mostly operated in the soft-coal industry of the United States as in these other countries.

MINING EFFICIENCY

From 1926 on, until the advent of the N. R. A., probably no industry, outside of agriculture, had ever known such an unmerited destiny of ill-pay and misfortune as the soft-coal mining industry of the United States. Was this because it was unworthy? Mr. Speaker, few industries here or elsewhere are quite so worthy. Do you know that on the basis of efficiency comparisons the soft-coal miner of this country produces four times as much coal per man per day as does his brother collier in the older parts of the world? When fairly employed here he produces about 1,000 tons per year. The European record is 250 tons per man per year. You find the same phenomenon in American farming, in the production of corn, wheat, and cotton. This fact of superefficiency has brought down upon such producers not the high rewards to which labor is entitled but a collapse of market prices that have spelled bankruptcy for all.

EXAMPLES IN OTHER COUNTRIES

Now, the second proposition is that other countries have also found that the principle of competition worked destructively and not conservatively. Great Britain and Germany are the leading examples. I cannot enter into a detailed discussion of the legislation adopted in those countries, although I visited them with a view to becoming as intimate with them as possible. Let me give you the reason for this great personal interest. So far as I can trace the Lewis family in this country and in Wales, they have been colliers; and having spent my own early life as a collier and representing a mining district in this Chamber, I felt, as you may well understand, under a particular urge and responsibility with regard to just and wise legislation in this matter.

Now, in Germany they found that the Government had to intervene and they long ago cartelized the coal-mining industry there to the limit. In Great Britain, in 1930, the Government found itself compelled to take this step, and while not going as far or proceeding in a socialistic manner toward their objective as the Germans, they, too, have cartelized it.

What happened? Well, in Great Britain a large number of coal operators opposed. The British Government had to use the "big stick" on them. Yes; just as Woodrow Wilson in 1913 used the "big stick" on the bankers of the United States in order to organize the Federal Reserve System. Wilson invited them, pressed them, to "Come in and help us build the Federal Reserve to safeguard the banks of the United States." "Oh, we do not like your ideas; leave us alone", many of them answered. "All right," replied the immortal Woodrow Wilson, "we know that you understand this subject better than we do. Come and help us if you will; but with your help or without your help, wisely or less wisely, we are going to save the banking system of the United States." And he did, despite great antagonism in the family of financiers.

That was the course the British Government had to take with some coal operators. Is saved the British coal industry. Through the years 1931 to date, while other commodity prices were continually falling, the coal prices of Great Britain were maintained and the industry stabilized.

IS IT CONSTITUTIONAL?

Mr. Speaker, no objection has been uttered here with so much frequency as the objection that this legislation is without constitutional precedent and support. This objection is directed particularly to a feature of the bill which is absolutely essential to its effectiveness against recalcitrant operators, and recalcitrants, of course, you will find wherever new treatments become necessary.

The bill, to make its provisions effective, provides for a tax of 19½ percent on the soft-coal producers, and at the same time it provides for a rebate or draw-back of 90 percent of that tax to the operators who come in under the bill and cooperate with its great purposes. It is not payable to the recalcitrants of course, antagonists who will tolerate no higher will than their own, not even that of the Government when exerted for the protection of the whole people.

Without precedent, they say. They are in error. The draw-back enjoys the very oldest precedent. It is a precedent established in the first protective tariff act, passed in 1789.

Ladies and gentlemen, a draw-back of 99 percent, not 90 percent, is provided in every tariff act to be paid by the Treasury to manufacturers and producers in this country in the form of a rebate on any tariffs which they may have paid on goods entering into their manufactured products which they may later export into foreign countries.

This tariff draw-back is more than a precedent, it is an absolute parallel. It is more than a precedent. It is an institution established by the First Congress of the United States in 1789. It is an institution recommended by Hamilton and approved by the great Father of His Country, which remains in operation even to this very day. During the 145

years of its operation hundreds of millions of dollars of draw-back taxes have been rebated to beneficiaries of the protective tariff policy.

THE GENERAL-WELFARE CLAUSE

Mr. Speaker, the general-welfare clause of the Constitution is the foundation of this. In the name of all that is reasonable, how are tariff laws in the United States justified if by arguments based on the general-welfare clause? Every tariff act from Hamilton on has been passed, forsooth, to provide for the general welfare of the United States by discouraging the unequal competion with producers of other lands. It is thought to be good national policy to encourage our producers to export their products to foreign lands.

Let me say that as a result of that general welware policy asserted through protective tariffs, the whole manufacturing life of this Nation now rests upon an artificial basis. It rests upon the tariff protection granted, and if on this day when the miners of America ask for like protection under the welfare clause, it is denied, and by tariff advocates, then I say they are insidiously attacking the whole structure of their protective system. They are putting under challenge not only its wisdom but its constitutionality. Those of you whose people have been benefited by aid of this sort in respect to cotton and of tobacco and other products, those of you who represent districts depending upon protection to manufacturers generally consider well before you utter a veto on this day on this great soft-coal mining industry of the United States.

Mr. Speaker, this general-welfare clause is so apposite and vital to the bill before us and other legislative problems and has been so little studied that I feel justified in discussing it at some length. It is my view that this clause was intended to vest a legislative power in the Congress to deal with economic subjects, when national in their causation or effects, whether the clause be regarded as a power in itself or as a proper objective of another power, to wit, the power of taxation.

I shall discuss the Constitution, as a statesman's document. It is not a private or courthouse document amenable to merely litigant or lawyer rules of construction. I do not think the right of a nation to legislate should be determinable solely in a forum of self-seeking litigants upon the arguments of their interested advocates. It was as a statesman's document that it entered the Convention, that it was discussed and developed in the Convention. It was as a statesman's document that it emerged from the Convention, designed to empower statesmen and lawmakers, in the words of Washington, to legislate for "our prosperity, felicity, safety, perhaps our national existence."

Can it be that in the face of our exigencies the fathers in forming the Constitution have left us helpless by denial of all authority to act? Could there be a gap in the legislative power, legislative impotency to act in the interstate community, a situation in which neither the State nor the Nation can act to protect us? Had the fathers wantonly left such a vacuum in our institutions? I have no thought that the makers of the Constitution intended such a gap in the American legislative power; but am convinced that in assigning to the States their share, and to the Nation its share, they intended the sum total of their legislative powers should be equal to the country's needs; should equal the sum total formerly possessed by the Colonial legislature plus the Parliament.

What I fear is something that happened once when our highest Court—and I am referring to the Dred Scott decision—declared that there was no power under the flag of the United States that could deal with the slavery question. We know what happened. That decision put a sword in every man's hand. Are our lawmakers today entirely sure that we are not facing problems as serious and threatening in character? If we do not have this national-welfare power to meet disemployment subjects; if, where the State is incompetent to act, Congress, too, is made incompetent to act by a destructive interpretation of this welfare clause, then may we be the subjects of a vacuum in the American lawmaking power charged with similar disaster.

America Must Stay Out of War

EXTENSION OF REMARKS

OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1937

Mr. RANDOLPH. Mr. Speaker, we may be at odds on the proper legislation to keep the United States out of future war, but Americans are agreed that we must attack the problem. Our Republic must remain at peace.

In a general way the following expressed views indicate my position on proposed neutrality legislation of a permanent nature which is before the present session of Congress, being now debated in the House of Representatives.

In the words of the Democratic platform, we certainly must have sincere legislation which will keep this Nation from being "drawn by political commitments, international banking, or private trading into any war which may develop anywhere."

In the next few days we shall have an opportunity to vote on this important subject. I am sympathetic toward the following points:

First. The good-neighbor policy of the President should be vigorously and faithfully applied to the end that our Nation will consistently refuse to interfere or intervene in the internal affairs of any other nation for any reason whatsoever. This is a paramount aim.

Second. Adequate neutrality legislation, including the following points, should be immediately enacted into law:

(a) A mandatory embargo on the export of war materials directly or indirectly to all belligerent nations and to all parties engaged in civil war.

(b) A mandatory embargo on loans and credits to all belligerents.

(c) An embargo on the export of war materials, the sale of which endangers the neutrality of the United States, the list of materials to be included in this embargo to be designated by the President, but the embargo being applied equally to all parties.

(d) A cash-and-carry trade policy with all belligerents.

(e) Travel of American nationals in war zones or on belligerent vessels to be prohibited, and American vessels to keep out of war zones.

I believe the foregoing steps should be written into law as soon as possible. Perhaps later certain more far-reaching legislation will be necessary, namely:

First. A general embargo on the export of privately manufactured munitions to all foreign nations, in time of peace as well as in time of war.

Second. Nationalization of essential parts of the munitions industry. In the last few days we see France taking action toward this end.

Third. Real legislation taking the profits out of war.

Decision of State Courts Involving Power of Judges to Set Aside Acts of Legislature After Revolution Until Constitutional Convention

EXTENSION OF REMARKS

OF

HON. ROBERT L. RAMSAY

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1937

Mr. RAMSAY. Mr. Speaker, some who support the claim of the right of the Supreme Court to set aside acts of Congress, admit that no such power is authorized by the Constitution of the United States; and that such power was

not recognized by the common law at the time of the Constitutional Convention.

However, they assert boldly—but I believe incorrectly—that the courts of the States, during the interim after the Revolutionary War and the signing of the Constitution, had asserted and exercised such power, with the consent of the people.

The only cases I have been able to run down that might throw any light on the subject are as follows:

In Government by Judiciary, Louis B. Boudin tells of a Rhode Island case; the following being an abridgement of his account.

In Rhode Island in 1786, in the case of Trevett against Weeden, John Weeden, a butcher, who refused to accept the paper money of John Trevett for the current price of meat, was made a defendant in a suit to collect a fine provided for in the act of the legislature. The judges held that the court had no jurisdiction and dismissed the case.

The defendant in his answer raised various questions, among them the following:

> For that the court is not authorized or empowered by said act to impanel a jury to try the facts charged in the information, and so the same is unconstitutional and void.

For their decision, the judges were haled before the legislature to answer for their conduct. The judges pointed to the record, which they said did not contain any statement that they declared the act void. We quote:

> Here it was observed that the legislature had assumed a fact in their summons to the judges, which was not justified or warranted by the records. The plea of the defendant as a matter of mere surplusage, mentions the act of the general assembly as "unconstitutional and so void", but the judgment of the court simply is, "that the information is not cognizable before them." Hence it appears that the plea hath been mistaken for the judgment. (Thayer's Cases on Constitutional Law, vol. I, p. 76.)

While the judges were not removed they were not reappointed, and disappeared from the bench. Whether the judges had exercised the power to declare the act unconstitutional or not, as they pleaded to the legislature, it is clear that if they had declared the act void and such was the recognized power of the court, the legislature would not have dared to hale them before its bar as if they were criminals. Had an insane legislature brought the judges before it, certainly the judges would not have denied their faith, but frankly and fearlessly would they have asserted their belief that the act was unconstitutional and that so they had judged and declared.

In North Carolina in 1787 the case of Bayard against Singleton arose and was known at the time as the Newbern case. When the decision in this case became known it was denounced vehemently. With other States, North Carolina had passed an act confiscating estates of Tories, or loyalists, as war legislation. Confiscated estates were turned over to commissioners, who were empowered to sell them. After the treaty of peace with Great Britain, suit was brought in the Newbern case for recovery of estates confiscated under the act. Under a law passed to protect those deriving title from sale by the commissioners, such a defendant should file an affidavit that he held by grant from confiscation commissioners. Upon filing the complaint of plaintiff, seeking to recover estates so confiscated, should be dismissed on motion without hearing or trial. This latter statute was involved in the case.

The action first came up in May 1786. Attorney for defendant moved for dismissal without a trial. The court heard arguments but made no decision. In May 1787 a defendant renewed his motion to dismiss. The court tried to persuade the parties to consent to a jury trial, without effect. The court then overruled the motions for dismissal. The case was tried, and the defendant got the verdict. At the most, this case did not involve a general law but a special law affecting a special class of suitors and was but a law concerning judicial procedure. Under a constitution providing for separate powers, an independent judiciary may decide what they will or will not take cognizance of, even according to many who object to courts holding the power to declare a general law void; but to consider whether it was generally accepted as a recognized use of power, let us examine a letter to James Iredell from Richard Dobbs Spaight, delegate from North Carolina. Spaight said:

> I do not pretend to vindicate the law which has been the subject of controversy; it is immaterial what law they have declared void; it is their usurpation of their authority to do it that I complain of, as I do positively deny that they have any such power. * * * It would have been absurd, and contrary to the practice of all the world, had the Constitution vested such power in them, as would have operated as an absolute negative on the proceedings of the legislature, which no judiciary ought ever to possess, and the state, instead of being governed by the representatives in general assembly, would be subject to the will of three individuals who united in their own persons the legislative and judiciary powers, which no monarch in Europe enjoys, and which would be more despotic than the Roman decemvirate, and equally insufferable.

James Iredell was leading counsel in the case and later became Associate Justice of the United States Supreme Court. Spaight wrote the above letter while attending the Constitutional Convention at Philadelphia. Is there any doubt that he knew Blackstone and the world history?

Major Pierce wrote concerning Spaight:

> Richard Dobbs Spaight, North Carolina, is a worthy man of some abilities and fortune. Without possessing a genius to render him brilliant, he is able to discharge any public trust that his country may repose in him. He is about 31 years of age (Form. of U. S., p. 106).

A case, Rutgers against Waddington, arose in New York in 1784 revolving around confiscation laws applying to estates of Tories. Alexander Hamilton was one of the attorneys. The Court gave the law in question a strained meaning to avoid a conflict between the law and the peace treaty with Great Britain. This caused a great outcry against the Court. Indignation meetings were held and heated resolutions were passed therein and also by the house of assembly. In these resolutions it was said that the Court had refused to enforce a law of the State or had declared it null and void.

In this case the Court said:

> The supremacy of the legislature need not be called into question; if they think fit positively to enact a law, there is no power which can control them. When the main object of such a law is closely expressed, and the intention is manifest, the judges are not at liberty, although it appears to them to be unreasonable to reject it; for this were to set the judicial above the legislative, which would be subversive of all government.
>
> But when a law is expressed in general words, and some collateral matter, which happens to arise from these general words is unreasonable, there the judges are in decency to conclude that the consequences were not foreseen by the legislature; and therefore they are at liberty to expound the statute by equity, and only quod hoc to disregard it.
>
> When the judicial makes these distinctions, they do not control the legislature; they endeavor to give their intention its proper effect (Coxe, Op. Cit., p. 230).

This is an adoption of the very language of Blackstone, and under a written constitution. It decides that all courts must be bound by all statutes of the legislature, and no court could declare a statute unconstitutional and void.

These are the only cases found after careful research which appear to discuss anything like the constitutional question involving the alleged right of a court to declare an act of the legislature null and void. Any such judicial power was bitterly contested by lawyers and laity.

In the case of Commonwealth against Cotton, we find Edmund Randolph using the same general objection to courts asserting any such power.

We discover that Blackstone and the English system of law are adopted as controlling. We find the constitutional theories of Blackstone accepted, and the people alert and vigilant to retain them, to enforce them even by haling the judges before the legislature to make answer. It was but a century from the period when James II was driven from his throne for having his judges assert the doctrine of judicial power.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. SHERMAN MINTON
OF INDIANA
IN THE SENATE OF THE UNITED STATES
Monday, March 15, 1937

EDITORIAL FROM MONTGOMERY (ALA.) JOURNAL AND TIMES

Mr. MINTON. Mr. President, a very timely editorial entitled "A Dangerous Precedent" was published on Saturday, March 13, 1937, in the Montgomery (Ala.) Journal and Times. I ask unanimous consent that it may be printed in the Appendix of the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A DANGEROUS PRECEDENT

The recent activity of Admiral Richmond P. Hobson and his associates of the Constitutional Democracy Association, Inc., has raised the question of whether this organization cannot be termed a "military and naval junta", created with the avowed purpose of defying Congress and the Commander in Chief of the Army and Navy.

Attention was called a day or two ago in these columns to the new organization of which Admiral Hobson is president, and subsequent communications sent through the mails emphasize the impropriety with which it is proceeding in its opposition to the Supreme Court reform suggestions made to Congress by the President. A circular letter signed by Hobson and bearing the names of numerous military and naval officers contains this startling language: "We have planned the strongest fight, fighting first in the two Judiciary Committees of the House and Senate, fighting next on the floor of both Houses. In the Senate we plan, if necessary, even to invoke a determined filibuster against the bill. If the measure should be enacted, we plan to fight the confirmation of every name nominated by the President. Then, if necessary, we propose to fight every measure introduced in Congress which we believe unconstitutional at this time."

When the American Constitution was framed, the founders took particular pains to insure against future military dictation. Soldiers were to have a right to their opinion like any other citizen, but they were restrained from becoming a permanent political force through the definite provision in the Constitution authorizing the Congress "to raise and support armies, but no appropriation of money to that use shall be for a longer term than 2 years." The Army's pay is thus always subject to the will of Congress.

This new Constitutional Democracy Association looks dangerously like an organized military intervention into the business of Congress and the President. Evidencing its military character, here is a list of the board of directors of this body which proposes to do all in its power to thwart the will of a President and Congress: Richmond P. Hobson, chairman; Capt. Lawrence S. Adams; Col. Frederick H. Allen, Admiral Reginald R. Belknap, Col. Franklin Q. Brown, Gen. John J. Byrne, Lt. Comdr. Henry M. Carr, Admiral George H. Rock, Capt. Arthur LaRoe, Gen. John F. O'Ryan, Admiral Yates Stirling, Maj. J. G. Phelps Stokes.

It will mark a precarious precedent if Congress should fail to take disapproving notice of this movement so palpably military in character, and at the same time so palpably significant of military interference into purely civil matters.

Let the Court of Last Resort, the People, Amend the Supreme Court by Constitutional Amendment

EXTENSION OF REMARKS
OF
HON. MARTIN L. SWEENEY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, March 15, 1937

RADIO ADDRESS BY HON. MARTIN L. SWEENEY, OF OHIO, ON MARCH 12, 1937

Mr. SWEENEY. Mr. Speaker, under leave to extend my remarks in the RECORD, I include a radio address I made over the Columbia Broadcasting System March 12, 1937, on the subject of the Supreme Court of the United States.

Ladies and gentlemen of the radio audience, I welcome this opportunity to speak to you as fellow citizens of the Republic, and as a Member of the Congress of the United States to express my opposition to the President's proposal to increase the membership of the Supreme Court.

The President, in his speech of March 4 and in his "fireside chat" of March 10, supporting his proposal likened the three branches of our Government to a three-horse team—the Congress, the Executive, and the courts. He said:

"Two of the horses are pulling in unison today; the third is not."

Continuing, the President said:

"Those who have intimated that the President of the United States is trying to drive that team overlook the simple fact that the President, as Chief Executive, is himself one of the three horses."

I like the simile of the three-horse team coined by the President. We are a Government of checks and balances; each horse pulling in his own harness; each has his own load, his own responsibility. Does one horse attempt to drive the other horses? Let me say, on my responsibility as a Member of Congress, yes. The Executive has encroached upon the prerogatives of the people's branch of the Government—the Congress of the United States. In recent years the Congress has become a rubber-stamp assembly, subservient to the executive branch of the Government.

There is no Member of Congress today who will seriously deny that a major measure, designed to improve the social and economic life of our people, cannot be considered in the people's branch of the Government unless approved by the Executive. Call it party responsibility or anything you care. The fact remains that one of the horses in the tandem mentioned by the President assumes to pull the load properly belonging to the lawmaking body.

Large groups of our citizens, irrespective of party affiliation, are interested in seeing that Congress enact laws that will provide an annual living wage for the workers; the cost of production plus a profit for the farmers; the restoration to Congress of its constitutional power to coin money and regulate the value thereof; to provide adequate old-age security, and similar measures designed to promote the general welfare of our people. These groups are foreclosed the right of consideration through their duly elected representatives of this class of legislation. Only such major measures as are recommended by the Chief Executive, and in many cases drafted by outside agents, secure a preferential status for consideration.

Granting the sincerity of the President's proposal to reform the Supreme Court by adding to its personnel, let us be unafraid to condemn his method. In his March 4 speech the President said:

"I defy anyone to read the opinions concerning A. A. A., the Railroad Retirement Act, the National Recovery Act, the Guffey Coal Act, and the New York minimum-wage law, and tell us exactly what, if anything, we can do for the industrial worker in this session of Congress with any reasonable certainty that what we will do will not be nullified as unconstitutional."

I voted for the N. R. A., and I gloried in the fact that this act contained a magna carta for labor, the right of labor to bargain collectively through representatives of its own choosing. As a friend of labor by every test I shared with the President disappointment when the Supreme Court by an unanimous opinion in the Schechter case in May 1935 invalidated the N. I. R. A. Let me remind you that almost 2 years have passed since that decision was handed down, and the administration has done nothing to meet the inhibitions of the Supreme Court by passing new legislation for the fixing of commodity prices, and insuring the right of collective bargaining to the industrial workers of the Nation. In many of the basic industries by negotiation following sit-down strikes workers have secured the right of collective bargaining primarily through their own efforts and not by any protection of law or Government.

I voted for the A. A. A., and I shared with the President disappointment when the Supreme Court invalidated that act, declaring agriculture to be a matter of State concern and implying that the loaf of bread that comes to my table in Ohio, although having its inception in the first instance, before being processed, in the wheat fields of Nebraska or Dakota, is not a subject matter embraced within the commerce clause of the Constitution of the United States.

I admit the tendency at times of the Supreme Court to constitute itself a policy-forming body deciding economic rather than legal questions. How then will the President's proposal remedy the situation? Granting that the Congress gives him the power to enlarge the personnel of the courts, and assuming he will select individuals to act as Justices who are in accord with his social and economic philosophy, and assuming, further, that the Congress at the request of the President reenact the N. R. A. and the A. A. A., bringing these measures once more before the Supreme Court for interpretation, there is no question in my mind but that the new controlled court will overturn the doctrine of stare decisis and declare the acts valid.

This result would mean only a temporary victory for the laborer and the farmer. The successor of President Roosevelt may be a reactionary of the worst type. He may be able to control a Congress who will bend to his every wish. A further packing of the court by such an Executive undoubtedly would result in the overturning again of the doctrine of stare decisis, and the invalidating

of the legislation to which I refer. This will only tend to bring chaos and instability in the judicial branch of the Government.

Let the people, who are the court of last resort, remedy this situation by the adoption of a proper constitutional amendment, or several amendments, if that be necessary. Twenty-one times since the adoption of our Federal Constitution have the people of the sovereign States amended the organic law of the Nation. The machinery to amend our Constitution is at the disposal of Congress and the Executive. The argument is advanced by the proponents of the present proposal that a constitutional amendment would take years to receive the necessary ratification of the required 36 States; that the reactionary forces throughout the Nation represented by selfish interests would impede consideration of the amendment in the various States. It is not fair to charge all who oppose the President's plan as reactionary. The issue rises above party and should not be made a party issue.

Let it be remembered that it was the present Chief Executive who during his first term of office condemned sumptuary legislation brought about by the adoption of the eighteenth amendment to the Constitution. In less than 1 year, thanks to his courage and his appeal to the sovereign States, the people adopted the twenty-first amendment to the Constitution, thereby repealing the eighteenth amendment and destroying national prohibition, a law that the late Arthur Brisbane and other distinguished citizens predicted would remain in force for the next 100 years. The President's advocacy of the twentieth amendment to the Constitution, abolishing the "lame duck" session of Congress, resulted in the ratification of that amendment in less than a period of 1 year.

Mr. President, now that you are at the height of your popularity, evidenced by the tremendous vote accorded you in the national election of 1936, when the majority of citizens in the 46 States out of 48 in this Union registered a vote of confidence in your efforts to bring about permanent social and economic improvement, I make bold to ask what is wrong in bringing this problem to the court of the last resort, the American people, and urging a constitutional amendment that will insure permanency of the legislation you desire rather than the temporary relief you may possibly secure through the proposal now under consideration by the Congress.

You have stated, Mr. President, that—

"This proposal of mine will not infringe in the slightest upon the civil or religious liberties so dear to every American."

I believe you, Mr. President, when you make that statement. Your record as Governor of New York and as President of the United States is a guaranty in that direction; but what of a successor with a controlled Congress who may be bent on destroying the civil and religious liberties of our people? There is nothing to prevent him from packing his court with additional justices who agree with his philosophy unless the people by constitutional amendment limit the number of Justices of the Supreme Court. He could impair, if not destroy, many of the civil and religious liberties won by our people at a cost of blood and sacrifice.

There are great groups of our citizens, Mr. President, Catholics, Protestants, and Jews, who believe in religious training as part of the curriculum of their children's education, and who maintain at their own expense parochial or private schools. It is not impossible that some future packed Supreme Court controlled by an intolerable, reactionary President could overturn the doctrine of stare decisis laid down in the Oregon School case, and abolish parochial or private schools in the various States of the Union. Could not some future President and a packed Supreme Court destroy the right of a free press, the right of assemblage, the right of religious worship, and sacred inalienable rights found only in a democracy.

Let the court of the last resort, the people, by constitutional amendment limit the size of the Supreme Court, fix the retiring age at 70 or 75 years. Let them decide, if they so care, that a two-thirds vote of the Court be necessary to declare an act of Congress unconstitutional, and let them decide, if as the President said we need younger blood to interpret our laws, that the tenure of office for judges in the Federal courts be limited to 10 years in lieu of life appointment under the present plan.

The President of the United States, however sincere he may be, is not infallible. America, in my humble opinion, is not disposed to approve the custom of enlarging the Supreme Court simply because that Court failed to measure up to the standard of interpretation of laws pleasing to the Executive.

In 1935 the President urged the Senate of the United States to pass a resolution providing for our entry into the World Court. Our people as a whole, much as they loved and respected our President, registered a historical protest on that occasion. And by their protest prevented the attempt to endanger our national sovereignty by membership in the World Court, which is the back door to the so-called League of Nations. A renewal of that spirit of protest on the part of the people of this country will prevent the adoption of the President's proposal now being discussed in the National Legislature. No greater crisis since the days of Abraham Lincoln has confronted the people of this Republic. The issue was not before the electorate prior to the 1936 election, and it cannot be said, due to the tremendous vote accorded the President, that he has a mandate to enact such serious reform as implied in his proposal affecting the Supreme Court.

The Democratic platform of 1936 pledged:

"If these problems cannot be effectively solved by legislation within the Constitution, we shall seek such clarifying amendments as will assure to the legislatures of the several States and to the Congress of the United States, each within its proper jurisdiction, the power to enact those laws which the State and Federal Legislatures, within their respective spheres, shall find necessary, in order adequately to regulate commerce, protect public health and safety, and safeguard economic security. Thus we propose to maintain the letter and spirit of the Constitution."

Those who attempt to make this a party issue should read and reread this plank in the party's national platform. If, as has been suspected, every conceivable device including that of withholding or granting of patronage to Members of Congress will be utilized in an effort to make possible the proposal to reform the Supreme Court, and if the efforts of the administration meet with success, then, in my humble opinion, we will have advanced materially along the road to dictatorship. And a future generation will survey the ruins of a once proud democracy. This will not happen if you, the people, register your protest now.

St. Lawrence Seaway Under-Cover Negotiations

EXTENSION OF REMARKS

OF

HON. ALFRED F. BEITER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1937

Mr. BEITER. Mr. Speaker, if there were not so many other major things before the Congress to be interested in, we would find plenty of excitement in the revival of the St. Lawrence Treaty with Canada, which is expected to result from the recent visit here of Prime Minister William L. Mackenzie King with President Roosevelt.

The St. Lawrence Waterway and power treaty has been a subject of under-cover negotiations between the United States and Canada for the last several months.

President Roosevelt some months ago appointed Basil Manley, member of the Federal Power Commission, to make an independent study of the St. Lawrence situation, but Mr. Manley has consistently refused to make public what he has been doing.

It is believed, however, that the investigation into the power contracts of the Niagara Falls Power Co. by the Federal Power Commission, called for March 17, has a definite connection with the St. Lawrence question.

If reason rules the action of the Senate on the St. Lawrence seaway treaty, the proposal to commit the United States to undertake with Canada the canalization of the northern boundary stream for deep-sea ships will again be rejected.

Of course, Mr. Speaker, I realize that both friends and foes of the plan are guilty of straying from the path of sanity in their arguments. Friends of the scheme are arguing it should be adopted by the Senate because the "House of Morgan is behind the opposition to the plan."

Foes have visioned the British Navy steaming around the Great Lakes, its guns pointed at cities on the American side of the border. These are only samples of the illogical arguments which are being used by both sides to win votes for or against the seaway.

The real story is, Shall we provide, at the expense of the farmers and industrial producers of the United States, an outlet for the vast cargoes of a foreign country, competing with our own transportation agencies to the prejudice of our own ports like Portland, Boston, New York, Philadelphia, Norfolk, and Baltimore?

Shall we, unfairly to the United States, divert the waterways of Lake Michigan by a treaty, or shall we lessen our jurisdiction over Lake Michigan, which has heretofore been wholly within United States area; or otherwise by treaty dispossess ourselves of national rights heretofore belonging to American ports and American taxpayers?

The St. Lawrence is held in high favor in the West. But many thinking Americans feel that if the money of the Nation is actually to be expended in canal building it should be spent wholly within the borders of our country.

As a matter of fact, the author of the treaty gave little hope to American labor in writing the document. For example, I can never get over that terrible article III, providing that the work constructed in Canadian territory shall

be executed by Canadian engineers and Canadian labor and with Canadian material, out of funds which the United States hereby undertakes to furnish.

If this waterway is an employment project, it is for Canadian unemployed and not for American unemployed. I can hear the cry of a distressed man in any language, but in this time of American suffering our common interest dictates that we must first care for our own, especially when our need is greater than that found in our neighboring country.

To spend $200,000,000 for Canadian employment is far more generous than we can afford to be in these times. I pray we may never disregard their needs when we are able to assist. But certainly we must not deprive those of our own household of the bread of life.

There is no hope, as I see it, that the digging of a canal to the sea will help the American farmer to dispose of his wheat. There is one advantage, however, although it must be shared with the Canadian wheat exporter. I refer to the possibility of loading a ship at the lake head and sending it directly to Liverpool.

This will save the "fobbing" charges—elevator service, storage, brokerage, insurance, and so forth—at Buffalo and New York, or in Montreal, as the case may be. Perhaps a few cents a bushel might be saved in this way. This amount, added to the saving by water transportation over all rail or part rail to New York, might amount in normal times to 4 or 5 cents a bushel. But I seriously doubt it, because of my conviction that the St. Lawrence Canal would be so essentially a one-way route that the present rates could not be materially reduced.

Largely the St. Lawrence seaway has been sold to the Middle West in terms of agricultural advantage, principally with respect to wheat. But American wheat export now is only a trickle compared with what it was when the project first was advanced. More than that, the Secretary of Agriculture calls for a reduction in wheat acreage by at least 15 percent and for rationalization of production and consumption of farm products generally upon a national basis.

In the present state of affairs, with so many issues of vital domestic concern claiming attention, it would be unfortunate, indeed, if the session were to be thrown into disorder by the St. Lawrence Treaty, regarding which sectional lines are closely drawn. Proponents of the seaway would have it made part of the recovery program, but it really does not belong there—not when one considers that the country has transport services that are starving for business. One cannot look ahead far enough to see when there will be any considerable volume of business for the proposed international waterway. To construct it now would be to create a white elephant, one of greater proportions even than Muscle Shoals. The project can wait indefinitely and no interest in the United States will suffer as a consequence.

Buffalo has steadfastly opposed the St. Lawrence seaway project as unnecessary and as economically unsound. If the treaty were to be constructed, the sponsors of the enterprise would seek to develop commerce on the St. Lawrence route at whatever cost—even by subsidies to ship operators. In that case, commerce through the port of Buffalo would diminish to slender proportions, all the industries on the water front would slacken pace, and thousands of workers here would be made idle. The western division of the Barge Canal system, of course, would be practically abandoned.

Logically there is no connection whatever between Niagara power and St. Lawrence navigation. Such a linking of them, as Mr. Frank P. Walsh and his associates of the Power Authority proposes, is designed to placate certain Senators who have been opposed to a Niagara treaty for preservation of the scenic beauty of the falls because of a provision to permit a larger diversion of water for electrical development by private interests. As has been pointed out, further Niagara power development can wait for a time; the project for preservation of the scenic beauty of the cataracts should not wait because the forces of Nature are doing great damage there. The two undertakings should be dissociated, and remedial works should be constructed at once in the Niagara.

With respect to the several parts of Mr. Walsh's program, no political considerations should be allowed to intrude. The only consideration should be the welfare of western New York—indeed, the welfare of the whole State of New York. The entire New York State delegation in Congress should stand together in an effort to prevent ratification of the St. Lawrence seaway plan for preservation of the scenic spectacle at Niagara Falls.

Until such time as every American citizen able and willing to work is employed at a fair wage, not one cent of United States moneys should be spent on or for any project outside the limits of the United States of America.

The proposed St. Lawrence seaway canal legislation is unnecessary, uneconomical, unsound, and un-American. Common sense and caution demand its defeat. If, as intimated in the public press, political coercion and withholding of much needed welfare funds are being used to influence representatives of the people, such action is at any time indefensible and in a national emergency despicable.

The Policy and the Program for Flood Control

EXTENSION OF REMARKS

OF

HON. WILL M. WHITTINGTON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1937

ADDRESS OF HON. WILL M. WHITTINGTON, OF MISSISSIPPI, AT ST. LOUIS, MO., ON MARCH 12, 1937

Mr. WHITTINGTON. Mr. Speaker, under the leave granted me to extend my remarks in the RECORD, I include the following address, which I delivered on Friday, March 12, 1937, at the Flood Control Conference of the Mississippi Valley Association in St. Louis, Mo., to wit:

Nineteen hundred and thirty-seven must hereafter be included among the years of great floods. Some 400 lives were sacrificed, more than 800,000 were made homeless, and damages to property aggregating $550,000,000 resulted. The losses must ultimately be absorbed by the country.

The record Ohio flood from Point Pleasant, W. Va., to Cairo, Ill., and the record Mississippi flood from Cairo to the mouth of the Arkansas River have challenged the attention of the country and have crystallized public sentiment for national flood control.

NATIONAL FLOOD CONTROL ACT

On June 22, 1936, Congress, for the first time, adopted a policy of national flood control and authorized the construction of some 270 flood-control projects located in 31 States and affecting nearly every State in the Union, at an estimated cost of $300,000,000. Destructive floods constitute a menace to national welfare. Flood control on navigable rivers or their tributaries was declared a proper activity of the Federal Government.

The policy provided that all Federal investigations and improvements of rivers and other waterways for flood-control and allied purposes should be prosecuted by the War Department under the supervision of the Chief of Engineers and that all investigations of watersheds and measures for stream flow, run-off and water-flow retardation, and soil-erosion prevention on watersheds should be under the jurisdiction of, and prosecuted under the direction of, the Secretary of Agriculture. In addition to the authorization of $300,000,000 for flood-control work, $5,000,000 was authorized for examinations and surveys for flood control by the Chief of Engineers, and $5,000,000 was authorized for surveys for reforestation and soil conservation, under the direction of the Secretary of Agriculture.

The act contemplated a 6-year program; it was not approved by the President until after Congress adjourned, and hence no part of the $300,000,000 authorized for flood-control works was appropriated; nevertheless, the President, out of funds for the relief of unemployment, promptly and properly made available some $2,000,000 for the formulation of plans on authorized priority projects covering especially plans for reservoirs along the tributaries of the Ohio River and for flood-control works in Pennsylvania, New York, and in the New England States, embracing the areas that were the chief sufferers from the 1935–36 floods. In addition, some $10,000,000 was allocated by the President for flood-control improvements authorized by the National Flood

Control Act, or recommended and approved by the Chief of Engineers.

If all of the projects provided for in the act of 1936 had been completed, the flood of 1937 in the Ohio Valley would not have been prevented but the losses and the damages would have been reduced. It was understood that the reservoirs along the tributaries of the Allegheny and Monongahela Rivers would not have prevented the 1936 flood at Pittsburgh, but the completion of the reservoirs would have materially reduced the heights of that flood; it was the last 6 feet that made the flood so destructive. It was well understood at the time the act was passed, and it is understood now, that reservoirs in the Pittsburgh region must be supplemented by local walls or other works for the protection of the city of Pittsburgh, and its industrial area—the greatest in all of the world.

Flood-control works are prudently and wisely planned to provide for protection with factors of safety against previous record floods. It would be unsound to build streets in municipalities or highways in the country to protect against the cloudbursts that occur once in a century. It would be equally unsound to construct flood-control works where the benefits do not justify or on account of cloudbursts that may come but once in three or four generations. The walls at Portsmouth, Ohio, and the local improvements at Cincinnati afforded protection against the previous high floods along the Ohio River.

Public improvements are generally constructed on the theory that record floods may occur again. This is the case with highways, railways, and waterways.

When the act was passed it was well understood that reservoirs along the tributaries of the Ohio River authorized in the act would have to be supplemented by additional reservoirs and by walls and levees to protect the towns and cities of the Ohio Valley.

The flood of 1937 exceeded all previous gages by some 10 feet both at Cincinnati and at Louisville. It was caused by continuous and excessive rains in the lower valley and below the location of dams and reservoirs on the tributaries.

All of the works authorized by the act of 1936 are necessary in the enlarged program that must be adopted to prevent a recurrence of the 1936–37 floods in the Ohio Valley.

MISSISSIPPI FLOOD CONTROL ACT

The Mississippi Flood Control Act of May 15, 1928, was amended on June 15, 1936, to provide for the expansion, enlargement, and completion of the adopted project. Provision was made for the substitution of the Eudora diversion for the Boeuf diversion; two floodways were authorized in the Atchafalaya Basin; provision was made for reservoirs and other improvements near the alluvial valleys along the Yazoo and St. Francis Rivers.

Under the Flood Control Act of May 15, 1928, Congress, for the first time, adopted a program for flood control along the lower Mississippi River. The formulation and execution of the project were placed under the supervision of the Chief of Engineers. The Mississippi flood-control project was planned, and for the past 10 years the flood-control project along the lower Mississippi River has been executed by the Chief of Engineers.

The levee system had not failed; it was inadequate. It was necessary that levees be supplemented by diversions and floodways. Under the Mississippi River Commission there had been no directing head; there had been no single authority with the final determination.

The one outstanding fact and the one encouraging accomplishment in connection with the great flood of 1937 is that for the first time in history a major flood has been carried between the levees, without crevasses, from Cairo to the Gulf of Mexico. The flood-control works along the lower Mississippi River are not only the most stupendous but they are now the most successful in this or any other country.

LOCAL CONTRIBUTIONS

The local interests in the lower Mississippi Valley prior to 1927, as reported by the Chief of Engineers, had expended in levees and other protective works approximately $292,000,000.

The Mississippi River is the great drainage canal of the Nation, and the act of 1928 declared that the problem of flood control was national.

The local interests at the time of the great flood of 1927 had issued millions of dollars in bonds, many of which are still outstanding, to provide for protecting the lower valley. Under the terms of the act of 1928 the local interests were required to furnish rights-of-way for the building of levees. Improvements had been made and levees were set back further from the river. The annual cost to the taxpayers since the act of 1928 to provide rights-of-way and retire bonds has required substantially the same amount of taxes annually to date previously required for construction and maintenance.

It is loosely asserted that billions of dollars have been expended by the Federal Government in the construction of levees along the Mississippi River, and heretofore it has been proclaimed from the housetops that the levees have failed. The fact is that in all of the 150 years of its history the Federal Government has expended for flood-control works along the lower Mississippi River, including the expenditures under the act of 1928, approximately $292,000,000. In addition it has expended substantially $100,000,000 to improve navigation.

During the same period the Federal Government has expended for navigation along the Ohio, the Allegheny, and the Monongahela Rivers substantially $240,000,000, while the Government has expended for navigation along the Cumberland, the Tennessee, the Muskingum, the Kentucky, and other tributaries of the Ohio River approximately $80,000,000. Along the Illinois, the upper Mississippi, and the Missouri Rivers the Federal Government has expended, including obligations incurred, approximately $200,000,000 to promote navigation. I have favored all of these great internal improvements.

All of the interior sections of the country have been given consideration. Rivers and harbors along the Lakes, Gulf, and oceans have been wisely improved. Federal expenditures have been widely distributed.

The principle of local contribution and maintenance obtains in the Flood Control Acts of 1936. The local interests are still required to provide for rights-of-way for levees; they are also required to provide for lands, damages, and flowage rights for the reservoirs authorized in both of the said acts of 1936.

FALLACIES

There are many fallacies respecting the causes and the remedies for floods. The causes are well known. Unprecedented rainfall is usually the cause of floods. Floods are not of greater frequency or of longer duration than formerly, but because of the improvements of the country the damages are greater. Great floods in the same areas are of rare occurrence. Some are caused from heavy snows; some are caused by cloudbursts; but generally, as I have said, continuous and excessive rains cause floods.

Careful studies show that deforestation with soil erosion is not more frequent in the United States and Europe than formerly. It is clearly shown that flood heights have not been augmented.

La Salle found the Mississippi River out of its banks in 1684. The Mississippi River gage at St. Louis in the great floods of 1785 and 1844 had higher readings than during any subsequent flood. The soil was then virgin and the forests were primeval.

As has been the case in all previous floods, there are all kinds of superficial theories, lopsided plans, and fallacious remedies to solve flood problems. There are those who maintain that soil conservation and reforestation will prevent floods; others assert that reservoirs along the tributaries and headwaters are the only remedy. Unfortunately, many who advocate reservoirs for local flood control make the mistake of asserting that the policy of levees has failed. In their eagerness for local protection they would destroy protection in the lower Mississippi Valley, for in all countries levees along alluvial rivers have been constructed.

The reservoirs on the Miami River in the Ohio Basin contribute to reducing the Cairo gage one-fifth of an inch. In the 1937 flood the reservoirs along the Tennessee River reduced the flood at Cairo about an inch. Arthur E. Morgan, Chairman of the Tennessee Valley Authority, made the following statement in connection with the great Mississippi flood of 1927:

"The excessive rains which cause any single flood seldom extend over more than 20 percent of the whole drainage area of the Mississippi River. * * * Flood control of the lower Mississippi by means of reservoirs on the headwaters of the stream is a delusion."

Reservoirs along the tributaries are needed, but reservoirs to protect the valleys are the reservoirs that are closest to the valleys. This is particularly true in Arkansas and Mississippi. In 1937 the rains occurred below the reservoir sites in the Ohio Valley; they occurred below the reservoir sites along the White and Arkansas Rivers in the lower Mississippi Valley. The reservoirs would have reduced, but they could not have prevented, the great flood of 1937. Moreover, reservoirs have been constructed along many rivers and in many States of the Union. A few have been constructed for flood control; they have been successful. Some have been constructed for power, some for water storage, some for reclamation; but it is only those reservoirs that have been constructed primarily for preventing or reducing floods that have contributed to flood control.

There must be adequate planning. It must be admitted that along many rivers homes have been built that should have been constructed on higher ground. In the flood of 1936, when the Ohio was not unusually high, in Cincinnati two recent subdivisions were apparently completely submerged, while it is stated by no less an authority than Arthur E. Morgan that in less than a quarter of a mile there was a farm where the fields were dry. Municipal authorities, like agricultural authorities, must plan more wisely. City building, like agricultural cultivation, has been unwise. Bad planning in the city as well as faulty farming in the country have contributed to the damages of both homes and lands.

Cities and States have a place in the picture. Every city must do its own planning. States must not be dependent upon the Federal Government. The cultivation of marginal lands is unprofitable and improvements over river beds are dangerous.

Again, there must be a pure and adequate water supply. Cities have done their planning in the past; so have the States; they will continue to plan for the progress and for the welfare of their people.

The Bureau of Soil Conservation was established some 3 years ago; the dust bowls have been aided; man's inhumanity to the soil is being corrected; millions of dollars have been expended by the administration under the leadership of Franklin D. Roosevelt to conserve the soils, as well as the waters of the country; conservation is being practiced upon public and upon private lands. Twenty-five million dollars was appropriated for the current year to promote soil conservation and to prevent soil erosion. If more adequate planning to conserve soils is needed, the machinery in existence should be utilized and expanded, for many related problems are involved in the building up of soils. These problems can best be handled under the direction of the Secretary of Agriculture.

Reforestation has been promoted by the present administration under the leadership of Franklin D. Roosevelt. Millions of dollars have been expended in the purchase of cut-over lands. The growth of timber is being encouraged on private lands; forests and reforestation are being practiced in all parts of the country to conserve the trees and lands. If I were called upon to name the greatest enemy to the forests of the Nation, I would put fires above floods. Fire protection is being encouraged and reforestation is being stimulated The work is under the supervision of an adequate department. If additional planning is needed that department can be expanded.

Some so-called scientists, some alleged geologists, some unsound conservationists have actually suggested that man retire from the valleys and retreat to the hills. They actually advocate that the fertile valleys, where industry and agriculture abound, be returned to the jungles and to the beasts; they loosely assert that floods cannot be controlled and that valleys, so beautiful, useful, and productive, should be surrendered to the animals and returned to the Indians and to the buffaloes. They advocate a defeatist program. In urging an abandonment of the valleys they are leading a retreat in our civilization. Apparently they would be glad to see nature defeat civilization.

The farmer depends upon rain and upon the seasons, but he does not abandon his farm because of a cloudburst or cyclone. He plows and cultivates again; he knows that he cannot control the elements, but he also knows that the valuable farms in all ages and in all civilizations have been along the rivers; he knows that mankind, through the centuries, notwithstanding the tides and the hurricanes, has dwelt in cities along the gulfs and oceans.

Humanity has advanced very largely by utilizing and conquering the forces of nature. The great industrial areas along the Ohio and along the Allegheny and Monongahela Rivers are unsurpassed in all the world. The tonnage along the Monongahela River in 1936 was 25,354,000 short tons, while the tonnage that passed through the Panama Canal was 30,645,000 short tons. These areas have contributed to making our Nation great and powerful. Billions and billions of dollars are invested.

There is no more fertile or productive area in all of the world than the alluvial valley of the lower Mississippi River. For my part I oppose retreat; I oppose the abject surrender of progress and advancement to the rule and reign of the beasts of the forest and of the jungle.

I know of no single remedy for flood control. I advocate no panacea. Soil erosion should be prevented; soil conservation should be practiced; waters should be stored; forests should be preserved; reforestation should be practiced; grasses should be grown; trees should be planted; cities should be planned and water power should be generated.

In the program for conservation there is widespread public sentiment that the time has come for the country to initiate and prosecute the building of reservoirs for flood control, especially along the tributaries of navigable rivers.

I believe in stream regulation and retardation. I believe in reforestation and soil-conservation practices; I believe in reservoirs. I know that reservoirs for flood control are those nearest to the valleys, but I also know that the great floods in the great valleys are usually caused by rains and on streams that cover only a part of those valleys. In the Ohio and in the Mississippi Valleys the great flood of 1937 and previous great floods have been caused by rains and on streams over approximately 25 percent of the area of the basins themselves at a time when soils were saturated and the tributary streams were swollen.

FEDERAL INTEREST

Floods know no State boundaries; neither floods nor streams respect States' rights. Floods are not concerned with the capacity to pay of the citizen drowned, nor are they concerned with the ability to pay of the citizen whose property is destroyed.

Floods, especially along the larger rivers, are the destructive enemies of both life and property. Many rivers traverse two or more States. The Federal interest arises from general improvements, especially in interstate streams. States and local interests are unable to provide works made necessary by improvements in other States.

The best way to promote sound flood control is to advocate only worthy and sound projects. There must be no "pork barrel." The requirement of local maintenance will serve to eliminate projects that are unsound and the further requirement that the benefits must exceed or equal the costs will protect the Treasury of the United States.

AUTHORITIES

Notwithstanding the fact that we have just embarked upon a national policy, after a victory for which we have fought for many years—a policy of flood control and conservation under executive departments responsible to the President and to the Congress—it is now proposed to scrap the policies and the program adopted in 1936 and substitute therefor flood-control authorities. It is proposed to divide the country into seven areas and to create seven regional corporations with three directors each to provide for the improvement of navigation, the control of floods, and the development of national resources. The directors are authorized to select and to build projects through the Corps of Engineers and to acquire and use the services and facilities, as well as personnel, of any other governmental establishment or instrumentality, with the approval of the President.

The rules of the civil service would not apply; a lump-sum appropriation is provided; no order of priority is stipulated but the several corporations are authorized to acquire land and to build reservoirs at Federal expense.

The advocates of authorities are frank to say that their real aim is the initiation and construction of reservoirs at Federal expense; other advocates confess that they are advocating such agencies because the projects in which they are interested may not be approved. The hope is that the authorities will be more generous.

The Tennessee Valley Authority is cited by the advocates of authorities. I have supported the Tennessee Valley Authority, but this authority constitutes a great social experiment; its reservoirs are primarily for the development of power. The authority was intended to provide a yardstick for the costs of hydroelectric power.

It is said that there was no great flood in 1937 along the Tennessee River. The building of the Norris Dam along the Clinch River and the construction of the Joe Wheeler Dam are given as the cause of the prevention of such flood. It might as well be said there was no great flood along the Arkansas River; there are no reservoirs there. The two cases would be analagous. It is a question of rainfall. The rains in the upper Tennessee Valley were well distributed and, while unusual, the aggregate for the month of January in the headwaters of the Tennessee River was 13 inches, while in the lower stretches of the Tennessee River there were 23 inches of rainfall. Here again the rains fell below the dams.

I concede to the Tennessee Valley Authority all of the accomplishments that it deserves, but I repeat that the reservoirs along the Tennessee Valley are primarily for power. A flood-control reservoir is most useful when it is empty. A power reservoir is most useful when it is full. The Norris Dam is located along the Clinch River, a tributary that empties into the Tennessee River below Knoxville. It was being filled during the month of January. It did help, but the aggregate of the help was about an inch in reducing the Ohio flood at Cairo. If a reservoir is full, as it must be for power, when the floods come, of what service is it in a flood?

The Norris and Joe Wheeler Dams have been constructed since 1927. The river gages tell the story of flood control along the Tennessee River. At Knoxville in 1927 the gage was 19; in 1937 the gage was 19. There is no dam or reservoir above Knoxville.

At Chattanooga in 1927 the gage was 33 feet. In 1937 it was 32.9. The Norris Dam is above Chattanooga.

At Johnsonville, where the rains were excessive, some 90 miles from where the Tennessee empties into the Ohio at Paducah, in both 1927 and 1937 the gage was 41 feet. Comparisons are always odious; it is especially true when they are not apt or correct.

There was no flood along the headwaters of the Tennessee River because the rains were well distributed and were not more than half the rains that obtained along the lower stretches of the river in the Ohio Valley.

The floods at Cincinnati and Louisville were caused by continuous and excessive rains; instead of being distributed, it rained for days. There was a 15-inch rainfall at Louisville, 12 inches at Evansville, and 12 inches at Cincinnati.

The Tennessee Valley Authority is promoting reforestation, but the reforestation accomplished is not comparable to the work that is being done by the Bureau of Soil Conservation.

Reforestation is being practiced, but it is not to be compared with the work that is being done by the Forest Service.

While the Tennessee River is navigable, navigation in fact is almost unknown on the river; flood control is incidental.

There has been a reduction in the costs of power to the consumer, but all of the credit does not go to the Tennessee Valley Authority. I believe that congressional legislation for the control and regulation of power utilities and the disclosures of the investigations by the Congress of the United States have had much to do with the reduction of power costs to the consumer.

There are three directors in the Tennessee Valley Authority. We hear much about the differences among the directors. Boards, commissions, and authorities generally are failures in administration; they are useful for investigation and for counsel, but as executive agencies they are inefficient.

If there are to be additional boards for planning, for soil conservation, and for reforestation, it does not follow that there should be an additional authority for the execution of flood-control projects now, heretofore, or hereafter adopted by Congress.

On the other hand, there are serious objections against scrapping the Flood Control Acts of 1936 and against the establishment of authorities for the solution of the problems arising out of the flood of 1937:

First. The proposed corporations are independent agencies; they are not under the supervision of established Federal departments. The President has no time properly to supervise a board passing on projects in all parts of the country. All requests for public funds should be submitted to the same agency. Cabinet members have to submit their requests to the Director of the Budget; they can see their own department, while the Director of the Budget considers their department in connection with other departments of the Government.

Second. The selection and approval of flood-control projects would rest with the corporations rather than with Congress. Every flood-control project authorized has been approved by the chosen representatives of the people. The President of the United States, in the expenditure of relief funds, has been restricted to flood-control and river and harbor projects either approved by Congress or recommended by the Chief of Engineers. Congress, and not authorities, represents the people. Congress has abdicated long enough. It is time for definite appropriations for definite purposes.

Public appropriations should be safeguarded. The representatives of the people should have accurate information and accurate

knowledge before definite projects are approved. Advocates of authorities frankly admit in many cases that they advocate these authorities because the projects which they promote cannot stand the scrutiny of either Congress or thorough investigation. We have had enough of lump-sum appropriations; we have had enough of projects without previous congressional authority.

Third. Control over navigation is vested in the authorities. The rivers and harbors of the United States from the beginning have been improved by the Corps of Engineers. Why change? They know every harbor and every river in the United States. Uniform regulations relating to bridge clearances, navigable structures, and navigation generally obtain. With seven authorities there might be seven regulations. Trade would be hindered and commerce hampered.

Again, some of the major ocean ports are located on navigable rivers. I refer to Philadelphia, New Orleans, Houston, Tex., and Portland, Oreg. If navigation at these ports is placed under authorities there would certainly be different regulations from ports like Boston, New York, Charleston, and San Francisco.

Fourth. Under existing law, the Secretary of Agriculture and the Secretary of War submit their studies and surveys for soil conservation, reforestation, and flood control to the Congress of the United States. Under the authorities, these departments would be subjected to the control of an independent agency.

Fifth. A divided authority is often worse than no authority at all. We continually hear of the differences that exist between the directors of the Tennessee Valley Authority. We do not want the unfortunate situation multiplied 3 by 7 times in flood control and conservation work.

Sixth. The Corps of Engineers would be subject to the authority. The bills, while loosely drawn in many particulars, and while the matter of levees is not mentioned in the authority bills, do recognize that the Corps of Engineers are the best equipped and most efficient flood-control experts in the country; but the Corps of Engineers is a component part of the War Department; it would be removed from the supervision of that Department. The Corps of Engineers should not be subject to any other executive agency, much less an independent agency. It should certainly not be subject to the supervision of seven independent agencies. It is imperative for the efficiency of the Corps of Engineers, internal improvements, and for the national defense of the country that the Corps of Engineers remain under the supervision of the War Department, and of the War Department alone, under the direction of the Secretary of War and the President of the United States, the Commander in Chief of the Army. In all plans for the reorganization of the Government it should be understood once and for all that flood control and river and harbor work shall remain under the supervision of the Chief of Engineers and that the Corps of Engineers shall remain under the supervision of the War Department, and the War Department alone.

Seventh. There is a difference between planting trees and cultivating fields and the construction of levees and the building of dams. Major functions cannot well be grouped; every man will be interested in his particular activity. There is no conflict between public works and national defense. The engineers can best be utilized in public works in time of peace, and to be prepared for war they should always be under the supervision of the Secretary of War.

PLANNING

The advocates of authorities concede that the works must be constructed by other agencies; they insist that the Corps of Engineers be utilized in the construction of flood-control and navigation works; they are authorized to use the Forest and Soil Conservation personnel in such works. What function remains for the authorities? When driven to the wall, the advocates assert that the authorities should be planning authorities. We have had planning boards and planning authorities these past 4 years. The Mississippi Valley Committee and the National Resources Board have planned; they have explored the history and the progress of flood control in this and other countries. When all has been said and done, all boards and all commissions have not recommended the construction of any project that has not previously been studied and approved by the Corps of Engineers. Moreover, if the authorities are to be planning agencies, what plans will be adopted? Which plan will be decided upon? Which director's conclusions will control? How much of the $500,000,000 authorized in the authority legislation will be turned over to each of the boards? What will become of the projects provided for in the National Flood Control Act? Will they be retained? When will they be constructed?

Congress has not been derelict in planning. In the River and Harbor Act of January 21, 1927, and in section 10 of the Flood Control Act of May 15, 1928, provision was made for the most extensive waterways studies ever undertaken. These investigations were made in accordance with House Document 308, Sixty-ninth Congress, first session. They are generally referred to as 308 documents. Some 220 rivers and their tributaries have been investigated. The Federal Government has expended more than $12,000,000 in studies and reports. Substantially all of the surveys have been reported to Congress. The information contained in the reports is of incalculable value to the country.

Planning has been done. Plans are available. The boards and commissions that have studied the plans have adopted them. Too many agencies, however, result in inefficiency. The danger with planning is that too much of it is theory. It is now time for action; it is time for building. Those who planned are best qualified to build.

If Congress is considering legislation to provide for more liberal appropriations for conservation works, the Department of Agriculture and the War Department have accurate information which can be submitted for the consideration of congressional committees for the establishment of definite programs and projects throughout the United States. The stamp of Congress would thus be upon the projects. The program would be fixed in scope; it would not be subject to the many uncertainties resulting from an indefinite program where a large lump sum is placed at the disposal of independent agencies authorized to select projects at will.

There is no conflict between the Department of Agriculture and the Department of War. There is no conflict between conservation and flood-control improvements. The Corps of Engineers have built the reservoirs along the Muskingum and the greatest of all reservoirs at Fort Peck along the Missouri River. There is no conflict between the Forest Service, the Conservation Service, and the Corps of Engineers; both conservation and flood-control works are being done. It is not proposed to abolish either the Forest Service or the Soil Conservation Service. Why duplicate?

While Congress has provided in the Bureaus of Forestry and Soil Conservation liberally for surveys, and while these agencies are integrated and coordinated under the direction of the Secretary of Agriculture, the work has just begun. Why should it be abandoned? Why should the personnel and instrumentalities of these bureaus be hindered by being transferred to another agency?

CONSTITUTIONALITY

Some thoughtless advocates of authorities allege there is doubt about the constitutionality of legislation for flood control. Congress has power to improve waterways for navigation and for interstate commerce. More than a century ago the Supreme Court decided that Congress has full power and authority over navigable streams. The term has been held to include any river which may be made navigable. The Supreme Court has never invalidated a flood-control act. Cases involving flood-control measures along the Mississippi River have been before the Supreme Court numbers of times only to be approved. The Boulder Dam project has been upheld by the Supreme Court as constitutional. All authorities who know believe that Congress is authorized to provide for flood control along the Ohio and the Mississippi Rivers and along other navigable rivers and their tributaries. There is no occasion for further discussion of constitutional authority. Congress has declared that flood control is a national problem and that the problem should be solved at the expense of the Nation. There is no occasion for delay and certainly there is no reason for doubt respecting the legality of flood-control legislation.

DIFFICULTIES AND LIBERALIZATION

But we are face to face with difficulties in the execution of the program. It is apparent that many of the reservoirs authorized in the Flood Control Acts of 1936 will not be constructed. This is especially true where the reservoirs are located along navigable streams and where the interests of two or more States are involved.

Flood control is a continuing problem; it should never be static. The enormous expenditures of relief funds and the voluntary donations of more than $20,000,000 dollars through the American Red Cross in 1937 prove conclusively that there is a national and Federal interest in major floods. It shows definitely that the losses must ultimately be borne by all of the people. The soil conservation and reforestation works are not sufficient to provide for the storage of waters; for flood control, reservoirs are needed; the country is reservoir-minded. It is, therefore, evident that the time has now arrived for a liberalization of the existing rule for Federal contribution to the construction of reservoirs. It is evident that plans must be made to provide for protection for the cities and communities of the Ohio Valley. Portsmouth and Cincinnati, New Albany and Evansville, Paducah and Louisville must be protected; there should be increased protection for the Cairo area; further projects must be authorized.

POLICY

Why adopt a new policy before the adopted policy has really been tried? What we need is not another policy but the execution and expansion of the policy for which we have contended through the years and under a supervision that has been tested by the greatest of all floods.

The Corps of Engineers is without a peer in the realm of flood control. Assignments in the Corps are much sought after by the graduates of West Point. The honor men of the class are given the privilege of assignment in the Corps of Engineers. Postgraduate work is done in the leading universities of the United States and other countries. The Corps maintains an exceptionally well-equipped engineering school; the members of the Corps are well grounded; they are trained in the science of flood control.

There is adequate planning of flood-control works. The district engineer is on the ground; he is available to the public; he has an efficient staff; the best civil engineering talent of the country is at his command.

Then there is a division engineer; he has in his division a number of districts. All projects are examined by him; they have the benefit of his wider training, his more varied experience, and his more extended observation.

The report of the district engineer and the reviewing report of the division engineer are then submitted to the Board of Engineers for Rivers and Harbors, composed of the most capable engineers in the Corps. They are familiar not only with the projects of the district, not only with the problems of the division, but with the

projects and problems of the Nation. The Board carefully reviews all reports and examines all plans and projects.

The program is finally submitted to the Chief of Engineers. He is the executive with final determination; he is trained in planning and in execution. It is not a question of the size of the organization, but it is a question of the efficiency of the organization.

The Corps of Engineers has been tested by experience; it has been improved with the growth and expansion of the country; it is adequate; it is honest; sound engineering obtains; economics are given their rightful place; the country and the people are given consideration; the taxpayers are kept in mind.

Whatever may be said of other agencies, the Corps of Engineers has an enviable record; there has been no taint or hint of fraud or corruption in all of the hundreds of millions of dollars expended under the supervision of the Chief of Engineers.

Our country has increased in population and in territory. George Washington was President and there were but 3,000,000 inhabitants. Franklin D. Roosevelt is President and today with a widely extended area our population is 130,000,000. Who would advocate three Presidents? A single executive obtains in all governments and in all efficient organizations.

The greatest satisfaction that comes to those engaged in the service of their country is duty well performed and responsibility well discharged. I recall the opposition to the plan of the Chief of Engineers following the great flood of 1927. If the achievement of one great planning and executing flood-control executive stands out above another, it is that the Mississippi Flood Control Act of 1928, championed by the late and lamented Gen. Edgar Jadwin, while not perfect, is fundamentally sound and justified. With all of the friends of flood control, I gladly pay tribute to the name and to the memory of Maj. Gen. Edgar Jadwin, Chief of Engineers, in charge of the formulation and execution of the plans of flood control from Cairo to the Gulf of Mexico at the time of the initiation of the greatest flood-control project ever adopted by any government in the human history.

I like to think of Gen. H. B. Ferguson, President of the Mississippi River Commission, not only as a capable executive and accomplished engineer, but I regard him as the greatest philosopher among the engineers of my acquaintance. He thinks; he is willing to try; he delights in experiments. He has utilized the best equipped flood-control laboratory in existence today—the Inland Waterway Station, established at Vicksburg, Miss., under the Flood Control Act of 1928—in the execution of the Mississippi flood-control project; he is responsible for a complete reversal among great engineers respecting the theory and practice of cut-offs and diversions. In the great flood of 1937 the fame of Gen. H. B. Ferguson looms large as the great benefactor of the lower Mississippi Valley.

It takes not only adequate plans but efficient supervision and firm execution to succeed. The Chief of Engineers has advanced through the various branches of the engineering service. He has grown up with the progress of flood control in the lower Mississippi Valley. The Chief of Engineers was equal to the task of 1937; he announced that no expenditure would be spared to protect the lower valley, and, in common with all of the people of the Nation, the people of the Mississippi Valley owe a debt of gratitude to Gen. Edward M. Markham, Chief of Engineers, for his successful flood-control campaign that resulted in the greatest flood that ever came out of the Ohio being safely carried from Cairo to the Gulf of Mexico.

PROGRAM

The administration now in power is responsible for the first national flood-control program ever adopted. Both the administration and the country have been most generous in the 1937 flood; the American Red Cross has been responsive; more assistance has been rendered by the Government and by governmental agencies than in any previous flood in history. The immediate problem was rescue; rehabilitation followed.

The friends of flood control in Congress have not been idle. I have already indicated the program for 1937; the remedy is apparent. As soon as it was evident that the flood would pass to the Gulf between the levees, the Flood Control Committee of the House of Representatives adopted a resolution, as authorized by law, calling upon the Chief of Engineers to review previous reports for reservoirs and other flood-control works along the Ohio and Mississippi Valleys in the light of the flood of 1937 and to submit projects to prevent a recurrence of the damages resulting, and to provide for protection to the cities and communities of the Ohio Valley. He was requested to submit recommendations for additional projects to prevent a recurrence of the 1937 and previous record floods, with his recommendations for modifications of the existing acts of 1936 made necessary in the light of the 1937 flood. Data are being collected, plans are being made, and hearings will be promptly conducted as soon as the report has been submitted by the Chief of Engineers.

The stage at Cairo was greater than any previous flood; the gages from Cairo to the mouth of the Arkansas River were the highest ever recorded. The cut-offs in the Greenville bends resulted in reduced gages between the mouth of the Arkansas River and Vicksburg, but the gage at Natchez, below the cut-offs, was higher than any previous stage.

The New Madrid floodway saved Cairo; the Bonnet Carre floodway protected the city of New Orleans.

There was no flood in the upper Mississippi, along the Missouri, or along the Arkansas River. If the flood out of the Ohio had been accompanied by floods above Cairo from the Mississippi or by a flood along the Arkansas, another picture would have been presented between Arkansas City and New Orleans. If reservoirs had been constructed along the White and Arkansas Rivers, there would have been no material reduction in flood heights along the Mississippi River in 1937. With or without reservoirs, if there had been a major flood along the Arkansas River in 1937, the Boeuf or Eudora floodway would have been utilized.

The wisdom of the Chief of Engineers in his repeated statements that the Boeuf or Eudora floodway is essential has been vindicated. His repeated recommendations that reservoirs along the Arkansas and the White should be constructed and regarded only as additional factors of safety have been justified. The adopted project is fundamentally sound.

The gage between Arkansas City and Vicksburg was substantially the gage of 1929. The great flood in that section of the river may be in the near future.

In the light of the flood of 1937, the security of the lower Mississippi Valley depends upon the prompt completion of the Eudora floodway, which has been substituted for the Boeuf floodway, and the immediate construction of the Morganza floodway and the Morgan City floodway.

Previous conclusions are confirmed; definite provision must be made for the diversion of at least a million cubic feet at or below the mouth of the Arkansas River.

The levees between Cairo and the mouth of the Arkansas River had as much water as they could stand; the freeboard was scarcely sufficient; there might have been more water in the upper Mississippi, in the Missouri, and in the Arkansas Rivers. It is reasonable to plan for a larger flood from the upper Mississippi, and plans must be made for Missouri and Arkansas floods.

Existing levee heights between Cairo and the mouth of the Arkansas River should be increased; existing grades south of the mouth of the Arkansas River should be corrected as a result of the cut-offs; the outlet at Morgan City should be immediately begun; the reservoirs along the St. Francis and Yazoo Rivers, close to the alluvial valley, should be speedily constructed; the Eudora and the Atchafalaya floodways, inseparably linked, should be promptly completed. I recall the opposition of citizens to flooding the New Madrid floodway. I am reminded that the Bonne Carre spillway was operated satisfactorily and without opposition. I believe that the public interest would be promoted by the Government acquiring the lands in fee for both the Eudora and Atchafalaya floodways. I further believe, in the light of the experiences in the New Madrid floodway in 1937, that there should be an automatic diversion, with the human element eliminated in both the Eudora and Morganza floodways.

The Eudora and Morganza floodways, under the act of 1936, are similar. If there is to be a bank-full diversion at Morganza, a comparable diversion should be made at Eudora. The smallest area of lands in both Arkansas and Louisiana would thus be taken for the diversions.

All engineers agree that the most effective reservoirs for flood control along the lower Mississippi River can be constructed near the alluvial valley along the Arkansas and the White Rivers. It may be impracticable to construct all of the proposed reservoirs, but additional reservoirs along these rivers should be provided. The program should be extended to provide for reasonable flood-control reservoirs along the Arkansas and the White Rivers.

Moreover, it is evident that there should be additional reservoirs, not only along the Arkansas and White Rivers, not only along the Ohio and its tributaries, but along other tributaries of the Mississippi River. The program is to make the Food Control Acts of 1936 responsive to avert new dangers developed by the flood of 1937.

There is a crystallized public sentiment for the utilization of reservoirs in the control of floods. Local interests have heretofore constructed levees without Federal aid and have heretofore furnished rights-of-way for the construction of levees with Federal aid, but on account of the inherent problems, especially along navigable streams and their tributaries, reservoirs have not been generally constructed as flood-control works. There is a demand that reservoirs, where effective for flood control, especially along the tributaries of navigable rivers, or in areas now contributing to flood-control protection along the Mississippi River, should be constructed at Federal expense.

Since the great flood of 1927 I have advocated flood control at national expense along the Mississippi River and its principal tributaries. Some areas are able to contribute, others are not. The expenditures of the Government will be promoted by construction at Federal expense. A chain is no stronger than its weakest link. If one district or one area is unable to contribute it means that the expenditures for the protection of other areas are endangered.

The proposed authorities contemplate the construction of reservoirs at Federal expense. The immediate program should embrace and capitalize this, the best feature of the flood-control authorities.

I call upon the friends of flood control to unite and to cooperate. I call upon the local interests to do their part. The people and the property protected must have a share in the protection; public expenditures must be protected; only sound projects should be promoted. I advocate a complete assumption by the Federal Government of the costs of reservoir construction along navigable rivers and along the tributaries of navigable rivers, especially those that affect two or more States and in areas where property is now contributing to flood protection that they do not receive.

There must be local works, including levees and river walls, to protect cities like Cincinnati, Evansville, Louisville, and Paducah. Reservoirs on the tributaries of the Ohio will not give these cities the protection they need, nor will they give protection

to other municipalities and communities in the Ohio Valley. The flood of 1937 covered but 25 percent of the lower Ohio Valley; the flood was below the proposed reservoirs.

It is difficult to say how much money will be authorized for expenditure for flood protection. I, therefore, urge that priority be given, by local protection, to the areas that were the greatest sufferers in the floods of 1937 and previous floods and that these be supplemented by reservoirs. Moreover, I urge that reservoirs, valuable for flood control and close to the alluvial valley, have prior consideration.

I believe that the best way to promote cooperation is to provide in the program of 1937 for a liberalization of the Federal contribution to reservoir construction, and the complete assumption of the costs of reservoirs by the Government. There may be instances where reservoirs should be constructed for both power and flood control, but these reservoirs will be exceedingly expensive; there must be the demand for power. In such cases provision can be made for flood control with expansion for power in the future. If the Department of the Interior can dispose of power at Boulder Dam, surely the War Department can dispose of power that can be generated in reservoirs as an incident to protection from floods.

The Director of the Budget, prior to the flood of 1937, recommended for the next fiscal year for expenditure under the two flood-control acts of 1936 approximately $52,500,000. There is need for emergency work. The recommendations of the Budget for both the lower Mississippi River and for the National Flood Control Act should be doubled.

The flood damages of the past 35 years must not occur again; ten million or more have been made homeless: ten thousand or more have died, property losses aggregating from one and a half to two billion dollars have occurred; additional losses from soil erosion and soil wastage aggregate billions more.

Public works obtain in all progressive countries. I know of no more beneficial improvements than those for flood control. Man cannot control the elements but he can utilize them; floods cannot be prevented but they can be controlled.

The sun is the great engine, pumping waters from the Gulf of Mexico, and these waters are deposited by the winds as rain or snow in the valleys or along the tributaries of the Mississippi River. The waters in rills and creeks, in little streams and big streams, in little rivers and big rivers, from the Alleghenies to the Rockies, find their way into the Mississippi River, the Father of Waters, and thence to the Gulf of Mexico, whence they came. The cycle never ends; if it fails, men die; if it functions, men live. People, land, and water must dwell together. Men must conquer and not yield to the forces of nature.

The United States is the world's most modern and the world's wealthiest nation. Natural resources have been developed to serve the needs of man; the lightning has been chained; the tides have been harnessed; the mountains have been tunneled; the Atlantic and Pacific Oceans have been joined. The hour has now struck for national control of floods. Homes must no longer be wrecked, factories must no longer be destroyed, farms must no longer be wasted, and cities must no longer be devastated.

The program was started by the Mississippi Flood Control Act of 1928; it was established under the supervision of the Chief of Engineers by the acts of 1936. It should not only be enlarged and extended in the light of the flood of 1937 but it should be amended to provide for the construction of reservoirs at Federal expense and to eliminate local contribution for projects that are not practicable of execution with the local contribution required by the acts of 1936.

The program can best be accomplished by increasing the appropriations for flood control along the Mississippi River to $40,000,000 and by increasing the appropriations for flood control in the National Flood Control Act to $60,000,000 for the next fiscal year by making the appropriations immediately available and by the enlargement and expansion of the flood-control acts of 1936 to provide for projects to control the 1937 and previous record floods in all parts of the Republic.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ROBERT G. ALLEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1937

Mr. ALLEN of Pennsylvania. Mr. Speaker, honest and intelligent criticism has long been one of the bulwarks of our Republic, but rabble rousing has never served a worthy purpose. The libelous charge of dictatorship has been made off and on during the past 4 years by these same rabble rousers. It is made again in connection with the President's Supreme Court proposal. I am confident that if the American people are presented with the true facts of the matter in a clear manner, they will reach the correct conclusion, as they did in November. That conclusion will be that while the President's proposal does not go far enough, it is not an attempt to acquire dictatorial powers for himself, but, on the contrary, it is aimed to free the American people from judicial despotism or the dictatorship of the Supreme Court.

THE SUPREME COURT, AMEN

For a long time the Supreme Court has hidden behind a mythical cloak of pseudo sanctity. Its legal jargon and cryptic language has enhanced this illusion, and made it difficult for the laymen to comprehend what was actually taking place behind those marble walls. The myth of sanctity has often been used, and is now being used, by the enemies of democracy to deliberately confuse the issue and throw a false light on the President's proposal.

In his message sent to Congress on December 3, 1906, referring to criticism of judicial decisions, President Theodore Roosevelt said: "The instinct of the American people as a whole is sound in this matter. They will not subscribe to the doctrine that any public servant is to be above all criticism. If the best citizens, those most competent to express their judgment in such matters, and above all those belonging to the great and honorable profession of the bar, so profoundly influential in American life, take the position that there shall be no criticism of a judge under any circumstances, their view will not be accepted by the American people as a whole."

THE LEWINSON IDEA

The foregoing quotation appears in a book entitled "Limiting Judicial Review", by Joseph L. Lewinson, of the California Bar. The issue referred to by Mr. Lewinson is whether or not Congress should limit the Court's power to declare acts of Congress unconstitutional and otherwise curb the Court's jurisdiction. In this book Mr. Lewinson shows, by an abundance of authority, that Congress has the power to do this under the second paragraph of section 2, article III of the Constitution, which reads as follows:

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

Mr. Lewinson's proposals include:

It is accordingly suggested that the agenda on judicial review should include the following topics:

1. Preservation of judicial review of State laws impinging upon Federal relations.
2. Revision of judicial review under the fourteenth amendment, so that it will not extend to social legislation or legislation delegating authority to executive agencies to amplify statutes by regulations.
3. Limitation of judicial review of all national laws, by providing that if an act of Congress is declared unconstitutional, its reenactment shall be final, the decision to the contrary notwithstanding.

* * * * * * *

This state of the authorities justifies including on the legislative calendar proposals as follows:

1. To make the Government a party in all cases involving the constitutionality of acts of Congress, and to strip a single district judge of jurisdiction to declare any act of Congress unconstitutional.
2. To transfer the review of facts in constitutional cases from the Supreme Court to a newly constituted administrative court, and make the findings of the latter conclusive.
3. To provide that no act of Congress can be declared unconstitutional by the Supreme Court under its appellate jurisdiction, except with the concurrence of at least seven members of the Court.

I do not intend at this time to sponsor Mr. Lewinson's proposals. I merely want to review parts of his book because it throws a great deal of light on the President's proposal and points out many of the flagrant abuses of the judicial power which the President is trying to remedy.

IN THIS CORNER WE HAVE JOHN MARSHALL

Mr. Lewinson shows how the Court, without authority from the Constitution, took upon itself the power to declare acts of Congress unconstitutional. At first, the Court used this self-imposed power only in cases where the terms of the law in question were literally at variance with the words of the Constitution. Soon this limited scope was abandoned and the Court began to curtail the legislative power of Congress by reading into the Constitution the opinions of the Justices. The danger latent in these constructive limi-

tations—having their "source * * * in some impalpable essence, the spirit of the Constitution or the philosophy of government favored by the fathers"—is clearly indicated by the Court's own words, showing that they can be imposed as easily upon the people's power to amend the Constitution as on the power of the Congress to pass laws.

MARSHALL WINS FIRST ROUND

It was in Marbury against Madison, decided in 1803, that Chief Justice Marshall gave the Court the power to declare acts of Congress unconstitutional. Mr. Lewinson states:

Briefly, Marshall's argument ran as follows: The Constitution is the supreme law of the land; the judges are sworn to observe it; when a statute comes before a court for enforcement, if, upon a comparison of the two writings, the statute is found to conflict with "the Constitution", the judges cannot consistently with their oaths give effect to the statute.

In this case the act which was before the Court conferred original jurisdiction in mandate on the Supreme Court. This statute was obviously in conflict with section 2 of article III of the Constitution, which conferred original jurisdiction upon the Supreme Court only in "cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party." The Constitution was therefore expressly contrary to the act.

Marshall established the rule that an act was unconstitutional when its terms were literally at variance with the words of the Constitution. Had the Court applied this test in all cases, no one would ever have complained. Many good people today are under the misapprehension that that is as far as the Court goes. Unfortunately, however, that is not the case.

To illustrate how the Court reads into the Constitution its own opinions, Mr. Lewinson cites the 5-to-4 decision invalidating the first child-labor law, which prohibited shipping in interstate commerce goods produced by child labor. Section 8 of article I of the Constitution authorizes Congress "to regulate commerce * * * among the several States." Moreover, the Court had previously held that Congress could close the channels of interstate commerce to lotteries, obscene literature, diseased cattle or persons, and impure foods or drugs.

POLITICS RAISES ITS UGLY HEAD

Mr. Lewinson observes:

Again, it is one thing to disregard a national law obviously in conflict with the plain language of the Constitution (e. g., a law prohibiting the free exercise of religion), another to overturn congressional legislation challenged as subversive of Federal relations (e. g., Civil Rights Acts), and quite another to impose a judicial veto on an act of Congress because it is regarded by the courts as "against common right or reason" (e. g., District of Columbia minimum-wage law). The first involves questions which are only quasi-political. And the last clearly involves questions which are altogether political.

A great deal of consideration has been given to the question of curing the abuses of judicial review. Justice Clark advocated that the Supreme Court meet the situation by a self-imposed rule requiring the concurrence of seven judges to upset national legislation. Senator BORAH introduced a bill in the Senate in 1923 providing that no act of Congress should be declared unconstitutional by the Supreme Court under its appellate jurisdiction except with the concurrence of "at least seven members of the Court." Marshall suggested that if an act were repassed by Congress after an adverse decision the act should stand.

HAMILTON NO SISSY

The President proposes to give the Justices over 70 years of age additional assistance by appointing new and younger men. Compare this, if you please, to Hamilton's views that the abuse of judicial review should be cared for by impeachment!

The first chapter of Mr. Lewinson's book reveals some amazing information regarding the abuses of our present system of judicial review.

It is an exposé of the dictatorial powers exercised by the Supreme Court.

For this reason, and because it contains a clear and concise review of the recent New Deal decision, I shall close my remarks with an excerpt from this chapter. I recommend to your especial consideration the dangers latent in the use of constructive limitations in reviewing amendments adopted by the people.

"So the judiciary is actually, after a war of 23 months' duration, to decide whether the Government has the legal capacity to exert these war powers," wrote Richard Henry Dana, after his brilliant argument in the Prize cases. "Contemplate, my dear sir," he continued in his letter to Charles Francis Adams, "the possibility of the Supreme Court deciding that this blockade is illegal."

When the decision came down, with the favorable votes of the three new judges appointed by Lincoln, the Government was able to muster but a bare majority in favor of the constitutionality of the blockade.

When 2 years ago the Supreme Court by a vote of 5 to 4 only partially upheld the Government in the Gold Clause cases, and then struck down, in rapid succession, the Railroad Retirement Act, N. R. A., the Farmers' Moratorium Act, A. A. A., the Guffey Coal Act, the Municipal Bankruptcy Act, and the New York minimum-wage law, many thoughtful persons, lawyers and laymen alike, were troubled with misgivings similar to those which oppressed Dana in the spring of 1863.

THIS IS A NICE STORY

The New York minimum-wage case, while less significant than the other cases, more clearly brings home the nature of the judicial process.

Most of the Federal statutes set aside were based on highly controversial economic theories. Indeed, much of the New Deal legislation has been in the maelstrom of partisan politics. On the other hand, there is almost as little difference of opinion about the policy of the Lindbergh kidnaping law. The New York law had been on the books for over a decade. There are similar laws in most industrial States and foreign countries. The theories back of the legislation have been widely accepted for a generation. Yet the Supreme Court held the New York law unconstitutional by a vote of 5 to 4.

The decision was made on the authority of the precedent in the District of Columbia minimum-wage case, decided 13 years earlier by a bare majority.

The sequence of events that brought about that precedent shows the effect of the accident of personnel. Had Justice Clarke not chosen to resign upon reaching the age of 65 (which in turn chanced to be 6 months before the decision in the District of Columbia case), Justice Sutherland would not have been a member of the Court at the time; and Justice Clarke would undoubtedly have voted in favor of the law, as he had voted in favor of a similar Oregon law a short time before.

At the time the District of Columbia case was decided, 35 State and Federal Supreme Court judges (including Justice Clarke) had voted "yes" on the minimum-wage issue, and only 10 had voted "no." But 5 of the negative 10 chanced to be on the Supreme Court at one time.

So, it appears that the judges can, and sometimes do, substitute their personal opinions on social policy for the determination of State legislatures.

* * * * * * *

The other recent cases show how national legislation may be subordinated to judicial philosophy.

Of them the most ominous is the A. A. A. decision.

Congress is expressly empowered by the Constitution to levy taxes to provide for the "general welfare of the United States." But the tenth amendment provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." In the A. A. A. case the majority conceded that "the power of Congress to authorize expenditure of public moneys for public purposes is not limited by the direct grants of legislative power found in the Constitution," (e. g., to regulate commerce, to declare war, to build post offices and post roads). The majority, nevertheless, reasoned (powers not granted are prohibited): None to regulate agriculture is given, and, therefore, legislation by Congress for that purpose is forbidden." By this reasoning a power expressly delegated to Congress has been limited by "some invisible radiation from the general terms of the tenth amendment"; and the word "expressly" has been added to the tenth amendment. The tenth amendment must now be read: "The powers not expressly delegated to the United States, etc." And the express powers of Congress must be regarded as limited by the powers reserved to the States. Hence the majority concluded that the spending power of Congress cannot be used to promote the general welfare in instances where the States have power to legislate on the subject.

The States were, of course, powerless as a matter of fact to deal with the issues raised by the collapse of farm prices; and by the A. A. A. decision Congress was rendered powerless as a matter of law. So there was no power anywhere to deal with the distress of a farm population of 30,000,000.

* * * * * * *

THE REIGN OF TERROR

The terrors latent in a practice which permits judges to make legislation subordinate to their social philosophy are brought out even more plainly when the practice is considered in connection with the provisions of the Constitution relative to its own amendment.

In arguing to the Supreme Court that the prohibition amendment was unconstitutional, Elihu Root urged that "any amendment which impairs or tends directly to destroy the right and power of the several States and of local self-government should be held void as in conflict with the intent and spirit of implied

limitations of the Federal Constitution adopted by the people of the United States." More than 30 years earlier Judge Cooley, in an essay on the subject, had insisted that there were certain inherent limitations on the power to amend the Constitution. Constitutional amendments, to quote him, "cannot be revolutionary; they must be harmonious with the body of the instrument." And these views have found judicial sanction. Indeed, more than one State supreme court has held that there are limits on the power of the people to amend their State constitutions. And in the National Prohibition cases, while the Supreme Court did not adopt Mr. Root's argument, it did undertake to determine whether the eighteenth amendment was "within the power to amend reserved by article V of the Constitution."

If "implied limitations", depending alone on the "intent and spirit * * * of the Federal Constitution", as determined by the judges, are to be read into the amending power, will not the Supreme Court, besides being supreme over State legislatures and Congress, be above the people themselves?

Secretary Ickes Addresses the Second Victory Dinner at Raleigh, N. C.—A "Correct the Record" Dinner—Subject: "Tidings of Victory"—Straightens the Record, Exposes Lugubrious Efforts to Bury Party at "Wingless Victory" Dinner—Cites Record of the President

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1937

SPEECH OF HON. HAROLD L. ICKES, SECRETARY OF THE INTERIOR AND PUBLIC WORKS ADMINISTRATOR, BEFORE THE SECOND VICTORY DINNER IN RALEIGH, N. C., FRIDAY, MARCH 12, 1937

Mr. MAVERICK. Mr. Speaker, under unanimous consent, I include herein report of speech delivered by Hon. Harold L. Ickes, Secretary of the Interior and Public Works Administrator, which was delivered before the Second Victory Dinner at Raleigh, N. C. This was the largest dinner ever conducted in the capital city of North Carolina, and had an unparalleled attendance. The Secretary's speech, which was delivered Friday, March 12, was broadcast over a network of the National Broadcasting Co.

The speech is as follows:

TIDINGS OF VICTORY

I am happy to be present at this post-prandial feast. I understand that a week ago you held a wingless victory dinner here in Raleigh. Those who attended on that occasion soon discovered that instead of taking part in a celebration they were participating in a wake. Cassandra, at her best, never lamented so lugubriously. There were many who, coming to rejoice, remained to mourn.

I have carefully read the doleful remarks made by the gentleman from Maryland who spoke to you. He gave no title to his address. In a friendly spirit, although I may be a little tardy, I will suggest one to him. Here it is: "I come not to praise the Democratic Party but to bury it"; or he could have called it "Sad Tidings." [Laughter.]

Usually, as the saying goes, a dinner progresses from soup to nuts. The intellectual pabulum fed you on that occasion, if I may judge from the manuscript of the speech, was one soup course after another. Mark Antony, in pronouncing his famous funeral oration over the body of dead Caesar could not possibly have enjoyed the occasion so much as did the gentleman from Maryland when he produced a dictator out of his hat, like a magician's rabbit; slew him; held an autopsy over the body; and then presided at the obsequies. It was less like a paean celebrating the greatest political victory in American history than the wail of a banshee.

A FLOOD OF TEARS FOR VICTORY

The voice was the voice of the gentleman from Maryland, but the words were those of the Liberty League. The speech of the gentleman from Maryland, in celebration of a great victory, was so unique that it is a pity that all who came to hear did not remain until the bitter end. He was so happy over the success of his party and its candidates last November that, oratorically, he burst into a flood of tears. So much did he exult that, under the leadership of President Roosevelt, the Democratic Party had at last become the majority party in our country that his voice became more sepulchral the deeper he delved into his theme. He was so immersed in gloom that he even forgot to mention whose victory was being celebrated.

As a joyous herald of an unexampled victory, the gentleman from Maryland was like the officer of a battalion engaged in a general and victorious advance who, suddenly spurring his horse toward the rear, cries in a loud voice: "Save yourselves who can", while relieving himself of his arms, his accouterments, and even his uniform as he seeks safety from an enemy that is already in full retreat. When interviewed the other day on the subject of his rear guard action here, the gentleman from Maryland was quoted as saying: "I had rather be right than pleasant." The trouble with the gentleman is that he was neither right nor pleasant. [Laughter.]

PLEDGES FAITH IN PRESIDENT ROOSEVELT

Well, tonight we are not going to put on mourning for the victory of last November; we don't propose to give aid and comfort to the enemy; it is our purpose to pledge anew our faith in and our affection for the outstanding leader of men of his time in all the world, a great Democrat, who in his love of and concern for the people is not outranked even by those other great Democrats in American story—Jefferson, Jackson, and Wilson.

I give you tonight what you had a right to expect that your speaker a week ago would give you—Franklin D. Roosevelt, President of the United States. [Prolonged applause.]

Although the gentleman from Maryland last week had nothing to say on the subject on which he had been invited to address you, he had much to say about dictators. You were warned that a dictator would catch you if you didn't watch out.

OH, LOUIS! VOT IS DIS! ROOSIA, ITALEE, CHERMANY!

To support his point, he told you that "regulations" under Louis XIV were the same as present-day "codes." He recited the thousands of people who had been executed or imprisoned or sent to the galleys under the grand Louis. Then, shudderingly, he ranged about Russia and Italy and Germany and Turkey. He introduced himself to the Hapsburgs and hobnobbed with the Romanoffs, all the while invoking the Diety to preserve America.

To make his case as strong as he could, he visited the Roman Empire of the fourth century, took a look at the Pyramids of Egypt, and had a good shudder over the doings of the Byzantine rulers.

I submit that this is not a very imposing array of facts upon which to ask the conviction of our President on the charge that he is trying to set himself up as a dictator. But the speaker did prove that the "saving of his country from a dictatorship" is the last resort of a mimic statesman.

VICTORY UNCELEBRATED—A REMARKABLE FEAT

But aside from the sweat and strain which were all too apparent in the effort of the gentleman from Maryland to prove the existence of an actual or aspiring dictator in America, we must all admit that it required a good deal of ingenuity for any speaker to celebrate such an historic victory as was President Roosevelt's last November without even mentioning the name of that brilliant leader.

It was like talking of Valley Forge or Yorktown without even a whisper of the name Washington.

It was like playing Hamlet with the ghost taking the part of the melancholy prince.

The defeatist speech that some of you listened to last week was so bespattered with innuendoes and dark hints about dictatorships, regimentation, subversion, socialism, communism, and fascism that it is fitting that the issue that was raised should be squarely met. I had thought that the ignis fatuus of a dictatorship in America so long as this administration was in power had been buried deep under the ground on November 3 last along with the Liberty League, which was the sire of that absurdity. The fact that the charge has been revived, even if only for a political purpose, proves, after all, that ghosts do walk. [Laughter.]

Whatever may be said about the merits of the President's plan to reform the Federal judicial system, no man can be heard to say that he either has seized or desires to seize dictatorial power. [Applause.] To suppose for a minute that such a statement would receive credence in an intelligent mind argues a lack of intelligence on the part of him who would make such an assertion. What the President, as a true democratic leader, is seeking is the vindication of the legislative powers of the Congress under the Constitution and the limitation of the powers of the Court to its judicial functions as contemplated by the Constitution so that we may know how and in what manner those economic and social reforms which the people have clearly demonstrated that they want and intend to have may be attained. [Applause.]

NOTHING UNCONSTITUTIONAL IN FOLLOWING CONSTITUTION

Some of those who are opposed to unpacking the Supreme Court are doubtless sincere in their opposition. To others I cannot even accord credit for sincerity.

Not even the gentleman from Maryland has attempted to argue that it is unconstitutional to change the number of Supreme Court Justices. And I suspect that in this undoubted and unquestioned constitutionality lies the real reason for the hysterical opposition to the proposal of the President.

What is un-American in following well-established precedents?

What is subversive of our institutions in moving within the narrowest possible limits of the Constitution itself? Many of them will not avow it, but the undoubted truth is that those who so bitterly and intemperately oppose a sane and strictly constitutional proposal of the President want to maintain the present status quo.

OPPONENTS FEAR FREEDOM FOR PEOPLE (?)

Certain people oppose the President's proposal not because they fear that the new Justices will be spineless puppets but because they fear that they will be sufficiently free of prejudice against

the Congress and the American people so as not to read into the Constitution their own personal economic views.

They fear that the new Justices will be as independent and as free from prejudice as are Justices Brandeis, Stone, and Cardozo. They want to hold the Court packed, as it is, in favor of their own political and economic philosophy which the American people have thrice repudiated. They attack not the new Justices, who will be only a minority of the Court, but the fair-mindedness, the integrity, and the patriotism of the present liberal members of the Court.

I call as my witness Frederick H. Stinchfield, president of the American Bar Association, a member of the Liberty League, and a vehement opponent of the President's proposal. In a recent speech he said: "Heretofore three of the present nine (Justices) have often been sympathetic to almost every law which Congress has passed. The 6 added will make 9 a majority of the 15."

So, my friends, you see that the real fear of the President's opponents is not that the Court will cease to be independent, but that the Court will cease to be packed with nominees of the old order. [Applause.]

I cannot understand the position of those who say that the Congress should not exercise its admitted constitutional power to increase the size of the Court. A power which may properly be exercised to enable the Court to keep up with its calendar may also properly be exercised to enable the Court to keep abreast of the needs of the time.

I cannot understand why a constitutional amendment should be necessary to make it possible for the Congress to enact social and economic legislation which is not now forbidden by the Constitution but is obstructed only by the laissez-faire economics of the Justices.

AN AMENDMENT A LONG, LONG TRAIL A'WINDING

You can guess for yourselves how many months it would take for the Congress to agree upon a constitutional amendment to submit to the States. Some of those who now pretend to be for an amendment would cunningly and stubbornly refuse to compromise their views. Should the test come, many a man who now struts the boards as a defender of our institutions would be found to be a tricky, pettifogging lawyer.

But even assuming that the Congress, within a reasonable time, could agree upon an amendment, how long would it take the States to ratify that amendment? Do not forget that the simple and easily understandable child-labor amendment has now been knocking in vain at the doors of the State legislatures for 13 years.

WOULD A LEGISLATIVE CURB BE EFFECTIVE?

It has also been proposed that the usurped power of the Supreme Court to pass upon the constitutionality of acts of the Congress might be curbed by legislative enactment; the Congress might pass a law forbidding the Supreme Court to declare a law unconstitutional except by a two-thirds or a three-fourths vote. But who can doubt that such a law would itself be declared unconstitutional?

Men who possess power do not readily divest themselves of it; rather, they seek to augment it. Would the Supreme Court hesitate very long, especially as at present constituted, to declare that the Congress has no power under the Constitution to curb its usurped power?

THE PEOPLE ARE NOT DECEIVED

It is a curious circumstance that there are people who protest that they want constitutional reform who at the same time insist on taking the longest and hardest road to reach it. If at long last we should adopt a constitutional amendment, how many more years would it take for the Supreme Court to tell the people what they meant by it when they adopted it? In view of the fact that it is not entirely clear even now, after 72 years, what the Supreme Court thinks that the people thought when they adopted the thirteenth and fourteenth amendments, we would undoubtedly have to wait for another generation or two before we would be set on the course that the people charted for themselves when they first elected President Roosevelt in 1932.

So-called statesmen may evade, they may resort to subterfuge, they may offer a shadow for the substance, they may talk speciously of liberty and political rights and of freedom, they may cunningly contrive to balk the people in their efforts to improve their economic and social status, but the people themselves are not being deceived.

They know who is their true champion.

They are able to separate the dross of mere lip service to democracy from the gold of a will to make democracy a living, vital instrumentality for the improvement of their own well-being. [Applause.]

THE PRESIDENT KNOWS THE PEOPLE'S WANTS

The people elected President Roosevelt in 1932, sustained his policies in 1934, and triumphantly reelected him in 1936 because they knew that he realized their wants and understood their aspirations; that his heart beat in tune with theirs. He promised them a New Deal, and in overwhelming numbers they took him at his word. It is all very well to talk about the sacrifices that our fathers made to give us the political freedom that we now enjoy.

We glory in the sufferings gladly undergone, the lives willingly offered up by those who went before us in order that we might have the blessings of political liberty. But we may well inquire, as doubtless our ancestors asked in their day, "of what does liberty consist?"

Our forefathers were denied the right to vote. They were expected to submit meekly to the feudal overlord, the despotic king under whom they lived as serfs. The making and the carrying out of the laws was something about which they had nothing to say. It was perfectly natural that they should conclude that political liberty was the supreme good, the sum of all liberties. So they fought, suffered, and strove in order to win political liberty for themselves and for us. We hold that political freedom as trustees from our forefathers, and we must pass it on to those who are to follow us, not only undiminished, but strengthened.

RIGHT TO AN EFFECTIVE VOTE IMPORTANT

I would be the last to underestimate the value of political liberty. It is the instrumentality which, if rightly used, is the core of liberty of every sort. Upon our political liberty, jealously guarded, we must build our well-being as a people. It is the foundation for social security, industrial democracy, and economic well-being. But political liberty of itself will never satisfy the aspirations of the human heart. The people must have economic as well as political liberty.

The right freely to vote is indeed a precious right and one that we should not surrender or permit ever to be taken from us. But what avails the right to vote if we cannot use it to cure social ills and to correct economic maladjustments?

I suspect that during the tragic years that followed the depression, from which, under the wise and capable leadership of President Roosevelt, we are now rapidly emerging, there was many a man in the United States who would seriously have considered giving up his right to vote if he could have had in exchange economic security for himself and his family. He might have the right to vote for the mayor of his city, for the Governor of his State or for the President of the United States. He might also have the right to be hungry, to go without shelter, to see his wife and children lack the necessities or the decencies of life.

EVASIVE WORDS NO SUBSTITUTE FOR LIBERTY

The people want economic security; an opportunity to work for wages that will sustain themselves and their families in decency and comfort. They want schooling for their children, an assurance against present want and dependence upon charity when sickness or old age overtakes them. They want a reasonable amount of leisure. They want to let live, but they also want themselves to live. In short, they want the New Deal and no amount of evasion or double-tongued references to Louix XIV and Egyptian and Byzantine dictators will meet the situation. [Applause.]

They are confident of their own ability to protect their political liberties by their ballots. They are not interested in apologies by defeatist lawyers. They are not impressed by scarecrows breasting placards warning that they may be surrendering their political birthright for a mess of economic security. They believe that they are able to recognize a dictator when one exists. They see no present or attempted legislative or executive dictatorship but they are wondering whether perhaps there is not in the Supreme Court as now constituted a judicial dictatorship.

GOVERNMENT MUST HEED ITS PEOPLE

In reelecting President Roosevelt last year the people made the Democratic Party for the first time since the Civil War the undoubted majority party of the whole country. They did this in the expectation and belief that President Roosevelt, with the aid and support of his party, would give them that New Deal for which they had voted. They made the Democratic Party, under the leadership of Franklin D. Roosevelt, the trustee of their hopes and aspirations for a better social and economic order.

But the Democratic Party is only a trustee.

It will either be faithful to its trust and give the people what it promised them or, as President Roosevelt well said at the Victory Day dinner in Washington, the people will find other agents—seek a different instrumentality.

The President and the Congress have striven hard to give the people that improved social and economic order to which they are entitled and which we must have if our institutions are to survive. But the courts have denied to the people their just due, their legitimate and constitutional demands. [Applause.]

TIME TO BREAK COURT-IMPOSED SHACKLES

The people want the New Deal and they want it now, not 20 or 25 years from now—maybe. In proposing to overcome the obstacle that alone stands between the people and their legitimate aspirations, the President is not only keeping faith with the people, he is acting just as Jefferson would have acted, or as Jackson.

Both of these great popular leaders had just cause to chafe under the political gyves that were fastened upon them by the Supreme Court. They complained in their day, just as Abraham Lincoln, Theodore Roosevelt, and Woodrow Wilson did later, and as Franklin D. Roosevelt now does, of the arbitrary exercise of judicial power.

ABUSE CREEPS IN WHEN RESTRAINT FADES OUT

The Government of the United States today does not consist of three coequal branches. The Supreme Court is supreme not only in the judicial but in the legislative and the executive fields as well. There are legal restraints upon the power of the Congress and upon the power of the President, but to date there is no restraint upon the power of the judiciary. As Mr. Justice Stone well said in his decision in the A. A. A. case:

"While unconstitutional exercise of power by the executive and legislative branches of the Government is subject to judicial restraint, the only check upon our own exercise of power is our own sense of self-restraint."

JUSTICE STONE'S VIEW

Mr. Justice Stone might have added that, in addition to the restraint exercised by the courts upon the executive and the legislative branches of the Government, these two possess effective

restraints with respect to each other, while the people have an effective check through the ballot box. He might also have said what undoubtedly he meant, namely, that while the Supreme Court has the power of self-restraint, it does not always use that power.

Mr. Justice Stone continued: "For the removal of unwise laws from the statute books appeal lies not to the courts but to the ballot and to the processes of democratic government." [Applause.]

PRESIDENT RELIES ON THE CONSTITUTION

President Roosevelt is appealing to the processes of democratic government. While at present there is no restraint from the outside upon our judicial branch nor apparently little, if any, self-restraint exercised by the Supreme Court itself, the adoption of the President's suggestion would give us a badly needed restraint.

Is it too violent an assumption that the founding fathers knew what they were doing when they left it to the Congress to increase or to diminish the number of members of the Supreme Court?

Are we outraging our institutions by proposing to exercise a power that the makers of the Constitution undoubtedly conferred in the expectation and belief that it would be used when needed?

GOVERNMENT BY INJUNCTION, OR HOW TO GET AROUND A LAW

The presumption used to be that a law was constitutional after it had passed the Congress and had been signed by the President. Now there is a presumption of unconstitutionality, with the result that if a man does not fancy a new law he does not even pretend to obey it. Instead, on his way to lunch, he drops in on his lawyer and orders an injunction to be used as a strait jacket for the executive branch of the Government.

This is today the land of easy injunctions. There has never been anything like it in history.

We are being governed not affirmatively but negatively. The greatest business in the world is expected to function smoothly and efficiently under conditions that would break any private business in a week. I am only one of the officials in Washington trying, under the President, to carry out the duties imposed upon me by legislative act and yet a total of 120 suits of injunctions have been filed against me during the past 4 years to prevent me from obeying the laws that I took a solemn oath to obey.

You people here in the South know how the private utilities, by injunctions, have held up the T. V. A. and other power developments.

DANGERS OF A STAR-CHAMBER GOVERNMENT

The danger of a dictatorship in this country does not lie in the smooth and efficient working of our democracy, with not only the executive and the legislative but the judicial branch as well cooperating harmoniously in the common good and for the public welfare; rather it lies in the failure of our institutions to function efficiently.

A democracy cannot hope to work without creaking at every joint if we have what in effect is a third legislative chamber, whose word is not only final as to legislation but as to executive acts as well, whose thinking is in terms of a bygone generation and which imposes unreasonable restraints that I, for one, refuse to believe the founders of the Republic ever intended that it should have the power to impose.

"DICTATORITIS" AN OLD SYMPTOM

The gentleman from Maryland may miscall the President a dictator, but he knows and so do we that a dictator would not meekly ask for legislation that everyone admits lies within the narrowest possible confines of the Constitution; on the contrary, he would override judicial fiat no less readily than he would legislative determination. The cry "dictator" is not heard for the first time in this country.

Nor is it the first time that it has been raised to befog an issue or to serve a selfish purpose. At the beginning it was hurled at Washington. Jefferson was accused of overriding the courts and attempting to undermine our institutions. Jackson actually defied the Supreme Court and the anathemas that were disgorged at him were more outrageous even than those which you heard here last week in connection with President Roosevelt.

LINCOLN TOOK IT, TOO

In his turn Lincoln was excoriated as a dictator; Theodore Roosevelt was accused of undermining the judiciary and of bending the Congress to his will; Wilson was charged with being arbitrary and dictatorial, an intellectual autocrat out of touch with the people and his times. If any proof were needed that there is in the White House today a man of the people, a genuine believer in democracy, that proof would be found in the intemperate language that is daily being indulged in by those who, themselves lacking sympathy with democratic processes, yell in stentorian voices: "Dictator! Dictator!"

It is all very well for the Supreme Court, by a free use of its usurped power, to make decisions contrary to the public interest. The learned Justices who flout the will of the people and set themselves up as a supergovernment, do not have to pay the ultimate cost. That is always borne by those who are least able to pay—the people.

A DEMOCRACY THAT WORKS IS NECESSARY

If we would avoid in the future an even greater tragedy than any of the past, if we would safeguard ourselves against the seizing of absolute power by a dictator, as has happened in other countries, then we must prove that our democratic institutions can really be made to work efficiently, promptly, and humanely in the interest of the people. And that we cannot do so as long as a small group of men, obstinately keeping their eyes fixed on a dim and far-away past, without any restraint, exercise the power to deny to the people their right to improve their social and economic status.

SHALL 9 MEN GOVERN 128,000,000?

Surely the odd man out of the 9 members of the Supreme Court ought not to be permitted, arbitrarily and irrevocably, to decide the destinies of 128,000,000 human beings; to determine whether they shall have that equal opportunity under the law of which we like to talk on the Fourth of July; to say whether they may take measures for their own economic security or to improve their social status—the odd man out of 9, frequently representing an out-moded social and political philosophy, opposing with his stubborn will the equally valid legal opinions of 4 of his associates, the Congress, and the President of the United States, as well as the overwhelming mass will of the citizens of the United States as expressed freely at the polls.

A MONUMENTAL ISSUE CONFRONTS THE NATION

The greatest domestic issue with which this country has had to deal since the War between the States confronts us. For the first time in many a long year we must resolve a fundamental question.

We of this generation are not being called upon to decide whether our leader in the White House is or is not to become a dictator. We know that, contrary to what the gentleman from Maryland and others would have us believe, this man, kindred in spirit with his great democratic predecessors, would not be a dictator even if he could.

Let us listen again to the great words spoken by President Roosevelt at the Victory Day dinner in Washington last week:

"My great ambition on January 20, 1941, is to turn over this desk and chair in the White House to my successor, whoever he may be, with the assurance that I am at the same time turning over to him, as President, a Nation intact, a Nation at peace, a Nation prosperous, a Nation clear in its knowledge of what powers it has to serve its own citizens, a Nation that is in a position to use those powers to the full in order to move forward steadily to meet the modern needs of humanity—a Nation which has thus proved that the democratic form and methods of national government can and will succeed." [Applause.]

SELF-INTEREST TO BE HUNTED OUT

There may be those who, out of malice or envy or to serve some ulterior purpose or personal political ambition, may impugn the President's motives, may cast doubts upon his sincerity, may, either by direct charge or by sneering innuendo, try to make him appear to be a dictator. Let no one impute wrong or unworthy motives to him who has been chosen by the people as their leader unless he has searched within the innermost recesses of his own heart to make sure that nothing lies there that may not be exposed to the clearest light of day.

TWENTY-SEVEN MILLION AMERICANS CAN'T BE WRONG

For my part, I believe that the President spoke as truthfully as he did frankly in the words that I have just quoted. I believe that no President in our history has been more devoted to the interest of the common man, the average American. I believe that in his devoted patriotism he is conscientiously seeking to achieve the greatest good of the greatest number of our people. I believe that the Supreme Court has seized and now holds power that it was never intended that it should exercise, and the exercise of which is not only not for the good of the people but is detrimental to their best interests and constitutes an intolerable retardment of their progress toward a better social and economic era. I believe that this usurpation of power constitutes a greater issue and one more pregnant with dire possibilities for both the present and the future than any that has confronted us as a people since the Civil War. I believe that on this issue the President is right. Believing as I do, I take my stand under the banner of the President. Twenty-seven million strong, we won a great victory under his leadership last November, and with him in command we will go forward to greater accomplishments in the battles that lie just ahead. [Prolonged applause.]

Sanitary Convention Between the United States and Argentina

EXTENSION OF REMARKS

OF

HON. WILLIAM P. COLE, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1937

LETTER FROM HON. WILLIAM P. COLE, JR., OF MARYLAND, TO THE SECRETARY OF STATE, AND THE REPLY THERETO

Mr. COLE of Maryland. Mr. Speaker, the probable effect of the Sanitary Convention between the United States and

Argentina, signed May 24, 1935, is of concern to the farmers, especially the livestock industry, in my State, and I assume the rest of the country. Letter from the Secretary to the Honorable KEY PITTMAN, chairman of the Foreign Relations Committee of the Senate, and the text of the convention are found in a Government Printing Office publication, no. 1779, and a memorandum as to the probable economic effect of the ratification of the convention under the importation into the United States of Argentine beef and mutton, released by the Department of Agriculture on February 17, 1936.

On February 25, 1937, I addressed a letter to the Honorable Cordell Hull, Secretary of State, on the subject. I ask unanimous consent to revise and extend my remarks in the Appendix of the RECORD by inserting my letter to the Secretary of State under date of February 25, 1937, and the reply thereto addressed to me by the Secretary of State under date of March 10, 1937.

The letters are as follows:

Hon. CORDELL HULL,
Department of State, Washington, D. C.

DEAR MR. SECRETARY: Many protests are coming to me from farmers in my State with reference to the possibility of a proposed agreement with the Argentine Government pertaining to livestock and dairy products. Their position is that because the Argentine Government has not established adequate sanitary conditions to prevent the spreading of foot-and-mouth disease, which is quite prevalent with the cattle of that section, it would subject our livestock here to an irreparable injury.

The purpose of this letter is to bring the matter definitely to your attention.

Very sincerely yours,

WILLIAM P. COLE, Jr.

MARCH 10, 1937.

The Honorable WILLIAM P. COLE, Jr.,
House of Representatives.

MY DEAR MR. COLE: I have received your letter of February 25, 1937, in which you bring to my attention that you are in receipt of protests from farmers in your State "with reference to the possibility of a proposed agreement with the Argentine Government pertaining to livestock and dairy products."

Possibly your correspondents refer to the Sanitary Convention with Argentine signed May 24, 1935, concerning which much misinformation has been circulated, although the Department of Agriculture has approved the convention and indicated clearly that it involves neither loss of sanitary or tariff protection for American livestock producers.

The effect of the convention with Argentine, a copy of which is enclosed, would be to restore insofar as concerns that country the admittedly effective Department of Agriculture quarantine measures of 1927 (Bureau of Animal Industry Order No. 298), which authorized the prohibition of imported meats from any part of the world, whether from a country or a region or area of a country, but which permitted imports from uninfected areas.

The convention, in addition to providing for useful cooperation in sanitary matters between the two Governments, will modify to scientifically justified limits the absolute sanitary embargo against Argentine fresh meats imposed by section 306 (a) of the Smoot-Hawley Act, which required an absolute embargo against every part of a country in which foot-and-mouth disease exists or which has been exposed to infection, even though well-defined areas of the country were known never to have been infected with or exposed to the foot-and-mouth or any other objectionable disease. That provision of the Smoot-Hawley Tariff Act was supported by certain interests with the idea of accomplishing the total exclusion of Argentine fresh meat under the guise of sanitary protection. This absolute embargo was never submitted to the Department of Agriculture for its opinion and was enacted without adequate consideration of the damage it would inevitably cause to our relations and splendid trade with Argentina and the dangerous precedent it would give other countries to impose excessive sanitary restrictions on our own great export trade in plant and animal products.

The purpose of this convention, in brief, is to restore embargoes to their legitimate functions and tariffs to their legitimate functions; and either can be used in fullest measure by our Government within their respective functions. This policy contemplates that absolute sanitary embargoes would be imposed by our Government against any plant or animal diseases wherever they exist, but not in respect of well-defined areas or states where they do not exist.

The underlying principle of this convention is one of fair dealing and friendship with other countries.

With regard to the convention, the Department of Agriculture has stated that there is understood to be "nothing in the convention which will materially affect import regulations of the Department aside from those based upon section 306 (a) of the Tariff Act of 1930, relating to fresh and frozen meats, and that in respect to these ratification of the convention would merely remove from the prohibition of that section such meats originating in the remote region known as Patagonia, which at present is considered to be free from dangerous diseases of livestock."

The modification of the absolute embargo does not extend to live animals. Imports of live animals from Argentina and certain other countries will continue to be prohibited as heretofore.

This Government has no intention of entering into any similar convention with any other country. The situation in Patagonia, according to officials of the Bureau of Animal Industry of the Department of Agriculture, is unique as regards freedom from foot-and-mouth disease and isolation and protection from infected areas. These officials state that they know of no other region in any other country where foot-and-mouth disease now exists which is sufficiently free from the possibility of infection with foot-and-mouth disease to warrant the modification of the existing embargo on its animal products.

Existing tariffs on imports of animal products are not touched by the convention. I enclose copies of a study completed by the Department of Agriculture in February 1936, in which you will note that the practical effects of the ratification of the proposed Sanitary Convention would be negligible.

As the matter stands, Australia, New Zealand, and other countries which have been declared free of foot-and-mouth disease are permitted to sell in this market, if they can do so over our tariff. The only economic result of this convention would be that Argentine Patagonian sheep raisers—there is no beef produced for export in that region—would have the opportunity of sharing with other countries, such as Canada and New Zealand, in whatever market exists for foreign lamb and mutton in the United States under present tariff and price conditions. However, with the great increase in the number of sheep in this country and with the present high tariffs, which are not in any way touched by this convention, our market for foreign lamb and mutton is insignificant almost to the point of nonexistence. In 1935 our total imports of these meats were valued at only $5,752.

The question has been raised, Why is Argentina interested in the convention if its ratification will bring no practical benefits to her? Argentina has a very practical interest in obtaining modification of our present rigid embargo, for it offers an excuse and model for other nations to impose barriers to Argentine animal products on the grounds of sanitary precaution, when the real purpose is protection.

It would remove what Argentina considers to be deliberate discrimination against her in that the United States admits mutton and lamb from countries, such as Canada, Australia, and New Zealand, but under section 306 (a) refuses such imports from Argentina, although our competent sanitary authorities state that in the remote regions of Argentine Patagonia there has never been any history of foot-and-mouth disease, and that this territory is amply protected from exposure to the disease by deserts, mountains, and the sea.

Of course, what Argentina would like would be a complete lifting of our present embargo on importation of Argentine fresh meats, but informed opinion there realizes that we are right in maintaining proper restrictions to prevent the introduction of foot-and-mouth disease, and would be satisfied to have removed from our present embargo merely that part which is admittedly unnecessary from a scientific viewpoint.

In addition to the ill will and trade retaliation in Argentina caused by section 306 (a), there is, as previously mentioned, the fact of the dangerous precedent that our excessive embargo gave other countries to use against our agricultural exports.

As instances where this Government has had to exert itself to prevent our agricultural export trade from being embargoed because of local appearances of contagion may be cited the foot-and-mouth disease outbreak in California and in Texas in 1924, the outbreak of the same disease in California in 1929 and 1932, and the Mediterranean fruit-fly pest in Florida in 1929. Although the 1924 outbreak was confined to California and Texas, the New Zealand Government placed an embargo on grains, hay, stock, plants, and fruits and vegetables from the nonexposed States of Oregon and Washington and noninfected regions of California. Great Britain embargoed for a period animals, hay, stock, and alfalfa meal from the whole of the United States on the occasion of foot-and-mouth disease outbreaks in 1929 and 1932, although these outbreaks were confined to California alone. New Zealand in 1929 considered prohibiting completely American trade in citrus fruits with her because of the Mediterranean fruit-fly pest in Florida fruit areas.

This Government exerted itself to persuade these countries that these outbreaks were local and rigidly controlled, and accordingly that embargoes should not be maintained against the whole of the United States. In the case of New Zealand it was more than 2 years before the 1924 embargo was completely lifted. There are other instances of excessive sanitary restrictions which this Government is in a poor position logically to oppose in view of its recognizedly excessive embargo against Argentina.

I have gone into the question at some length, because while it is without significance as regards this country's imports from Argentina, the convention is of importance to our foreign relations and to the agricultural and general export trade of this country.

As you know, this Government, together with an increasing number of others, is committed to a program of restoring the normal volume of international trade to promote both economic well-being and conditions of peace. To achieve that goal, this and other governments must correct obvious injustices, unnecessary from anybody's standpoint, in their relations with other nations which breed the irritation and ill will which constitute a foundation for international conflict.

Sincerely yours,

CORDELL HULL.

The Vinson-Guffey Coal Bill

EXTENSION OF REMARKS

OF

HON. HAROLD K. CLAYPOOL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1937

Mr. CLAYPOOL. Mr. Speaker, it is with great pleasure that I speak in favor of the passage of H. R. 4985, a bill to regulate the coal industry of the country. The coal industry in the district of southern Ohio has, except for a short period in 1933 and during 1934, been in a terrible condition. This great industry in the State of Ohio and of my congressional district, where thousands of employees and their families are dependent upon the coal-mining industry, was, prior to the code regulations, beginning in 1933 and ending in 1935, in a chaotic condition, and since that regulation period is again encountering the same chaotic conditions that previously existed. Millions of dollars have been invested in the coal-mining industry in my great State, a large part of which is invested in southern Ohio and my congressional district. I believe the coal industry of the country should be permitted to prosper as other industries of the country prosper, and that the coal miners and their families dependent upon that industry are entitled to a standard of living at least equal to the standard of living of those employed in other industries throughout the country. This they have not had, and unless the price of coal is regulated so that the cutthroat competition will be eliminated it is my firm belief that the coal industry will continue in that same chaotic condition now existing while other industries of the country are prospering.

I believe that the people of this country are fair-minded and willing to pay a price for coal that will result in an improved standard of living for the miners and their families throughout the country. I have carefully gone over the report of the Ways and Means Committee on this bill and am thoroughly convinced that if this bill is enacted into law the coal industry of our great country, the State of Ohio, and my congressional district will be greatly benefited.

During the past 2 years there have been several large mines permanently abandoned in southern Ohio, throwing hundreds of miners out of employment, which, I am advised, would not have happened had the coal industry been properly regulated, and I am, therefore, thoroughly in accord with the Vinson bill in order to prohibit as much as possible such occurrences in the future.

The bill provides for the appointment of a Bituminous Coal Commission located in Washington, together with district boards covering 23 coal districts throughout the country. These district boards propose prices to the coal commission for coal produced within their districts, which the commission can put into effect after they are properly coordinated as to kinds, qualities, and sizes with coals of other districts. If these prices are not fair, the bill provides the manner in which producers may have a hearing before the Bituminous Coal Commission, which is comprised of two experienced coal miners and two experienced coal producers, together with three independent members. The bill also provides for a consumers' counsel who can make complaints to the commission on the part of the consumers if in his judgment the prices are not fair and equitable. The bill sets up, in my opinion, very complete methods for arriving at fair and equitable prices for coal throughout the United States, and while it may be that the price of coal will be slightly increased by reason of this bill, I believe the consumers of coal will be willing to pay a small increase in order to give the miners and their families the proper standard of living and the producers a fair interest on their investment.

The bill sets up standards of fair trade practice to govern the industry's dealings with the consumers; the bill provides that the commission shall study and investigate economic operations of mines, the safe operation of mines for the purpose of minimizing working hazards, the rehabilitation of mine workers displaced from employment, the relief of mine workers partially employed, the probable marketing at lower costs for the benefit of consumers, and the question of controlled production—all of which is necessary for the health and comfort of the miners and their families and the coal industry generally, which has been such a sick industry over such a long period of time.

There are thousands of patriotic, loyal American citizens throughout the great State of Ohio, as well as throughout my congressional district, who sincerely feel that if this legislation is not enacted into law that they will face the same starvation wages and working conditions that they had to face prior to the operation of the Bituminous Coal Code, and I hope this bill will pass this House without delay.

Retirement of Members of Police and Fire Departments

EXTENSION OF REMARKS

OF

HON. VIRGINIA E. JENCKES

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1937

Mrs. JENCKES of Indiana. Mr. Speaker and Members of the House of Representatives, I am introducing a bill to amend the pension law which deals with the police and fire departments, the United States Park Police, and the White House Police, all of the District of Columbia, to permit the members of those organizations to retire at their own option after they have served 25 years.

The present law permits retirement only after an individual has served 25 years and is 55 years of age and is permanently incapacitated to perform duty—conditioned upon the discretion of the Commissioners of the District—or after becoming 60 years of age the individual may retire, provided the Commissioners so decree.

A survey has been made which will show that in 15 or more of the largest police and fire departments of the United States the members of those departments may retire on their own request, after having served from 10 to 25 years, at an average of one-half of the salary they received at the time of their retirement.

I am of the opinion that the requirements of this law are such that they should be liberalized, due to the fact that in order to qualify under the provisions of the present law an individual must overcome or meet four conditions subsequent: (1) He must have served 25 years; (2) he must be 55 years of age; (3) he must be permanently incapacitated to perform duty; and (4) he must have the consent of the Commissioners in order to retire.

In sponsoring this amendment I believe that we will alleviate and grant relief from what may be termed a hard bargain by adding a new paragraph in order that these men may enjoy some of the benefits of this life before they become cripples or join the ranks of the living dead.

Another fact to be taken into consideration is that the great majority of the members of these departments are ex-service

men who served from 3 to 10 years or more in the United States Army, Navy, or Marine Corps before, during, and after the World War. Were they employees of the United States Government they would be accorded time and credit for such service. The amendment does not ask credit for military service; it is mentioned only as a matter of information and may be of value when the bill is brought up for consideration.

There are no other police or fire departments in the United States that are called upon to perform the various and sundry duties imposed upon these departments of the Nation's Capital. Inasmuch as it is a known fact that the majority of large cities throughout the Nation grant their public servants such a privilege, is it not our duty also to remember the well-being of our public servants with equal and like consideration?

In advocating this amendment, I wish to impress upon you that the passage of this bill will not entail the expenditure of one penny of public funds—it is to remedy a condition and to bring into accord the practices and customs granted to the leading and up-to-date police and fire departments of the Nation.

This amendment will stimulate interest in these departments and will develop the esprit de corps, which will give incentive to the industrious, arouse the indolent, and make for better and more efficient departments and give the public the benefit and services of healthy, vigorous young men—not worn out by wear and tear on their physical conditions due to the stress and strain of incessant hazardous conditions and undertakings which accompany and are a part of the duties that belong only to the members of these departments and services.

I am looking to the future, my colleagues, and thinking of the social well-being and security that we must prepare for the old and young alike—therefore, let us build our bridges for the future—in the spirit of the following lines:

An old man, going a lone highway,
Came, at the evening, cold and gray,
To a chasm, vast and deep and wide,
Through which was flowing a sullen tide.
The old man crossed in the twilight dim;
The sullen stream had no fears for him;
But he turned, when safe on the other side,
And built a bridge to span the tide.
"Old man", said a fellow pilgrim, near,
"You are wasting strength with building here;
Your journey will end with the ending day;
You never again must pass this way;
You have crossed the chasm, deep and wide,
Why build you the bridge at the eventide?"

The builder lifted his old gray head:
"Good friend, in the path I have come", he said,
"There followeth after me today
A youth, whose feet must pass this way.
This chasm, that has been naught to me,
To that fair-haired youth may a pitfall be.
He, too, must cross in the twilight dim;
Good friend, I am building the bridge for him."

These men are our soldiers of peace and guardians of our worldly possessions. Their courageous conduct is ever being displayed before our very eyes. Their courage, sympathy, and stamina is visible in sudden emergencies and catastrophes. They are the first to extend aid and comfort whenever widespread misery and suffering descends upon our people. They are the shock troops of the people, always ready to strike at the vital point with all energy and courage. There is proof of all this—when only a few weeks ago the American Red Cross called for volunteers to proceed to the flooded districts of the Ohio Valley, the quota was oversubscribed within a few short hours.

The least we can do for these men who protect our persons and property against eavesdroppers, intruders, and trespassers—the forces of nature and the enemies of society—is to permit them, while they are physically able, to enjoy the benefits which they are morally and legally entitled to receive and for which they contribute monthly from their meager salaries in order that those benefits will be assured.

Shut not your eyes, that you cannot see;
Close not your ears, that you may not hear;
This is for the least of these.

Federal Taxation

EXTENSION OF REMARKS
OF
HON. FRED A. HARTLEY, JR.
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1937

RADIO ADDRESS BY HON. FRED A. HARTLEY, JR., OF NEW JERSEY, ON MARCH 15, 1937

Mr. HARTLEY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address, which I delivered yesterday over the radio:

This talk concerns your pocketbook. It is my purpose to present certain facts about the biggest bill you have to pay. That is your tax bill.

I can visualize those of my listeners who pay no income tax or real-estate tax saying, "Oh, let's tune in another program; this talk is of no interest to us."

On the contrary, I hope to prove that when we talk about taxpayers, no one is excepted. You pay more for taxes than you do for food or for rent, and twice as much as you spend for clothing. Yes; that is true, whether you pay an income tax or not. The earnings of 3 full months of your year's work or about 25 cents on every dollar you earn is what you pay to be governed.

There was a time when most of our revenues for government was raised by the direct income tax, which our people understood, because they could see it and feel it. But today our taxes are sugar-coated and hidden in various business transactions, leaving most of us unconscious of the assessment. The trend in taxation has been based, apparently, on the theory that "where ignorance is bliss, 'tis folly to be wise." Taxation has become the art of so picking the goose as to secure the greatest amount of feathers with the least amount of squawking.

During the years I have served in Congress I have seen several sales-tax bills defeated on the ground that such a tax would be unfair to the masses in the lower income brackets. And yet today we have such a tax on almost everything we buy, necessities as well as luxuries, the only difference being that it is a hidden tax and hardly one in a thousand realizes he has paid it.

Let us take a look at some of these taxes. You get out of bed in the morning from between sheets taxed at 4 cents a pound. You go into the bathroom and turn on the electric light taxed at 3 percent of your bill. You brush your teeth with a dentifrice taxed at 5 percent. The soap you use had a 5-percent tax on it.

Then you dress. On your hosiery, shirt, shoes, and clothes you paid a tax of approximately 20 percent. For example, there are 63 taxes on a suit of clothes, so that on a $35 suit there is a tax of $6.86.

You sit down to eat and once again the tax collector is an uninvited guest. There are 58 taxes on bread, 38 taxes on meat, 32 taxes on canned food, 45 taxes on sugar, one and a half cents on a quart of milk, or a tax assessment of over 20 percent of the cost of all the food you eat. Your silverware, linens, dishes, and other household appliances each have the mark of the invisible tax collector. This sort of hidden taxation extends to almost every activity of your normal daily life.

You drive your car to work, and I'm wondering if as a car owner you realize you are taxed 345 times. Yes; there are 27 taxes on the purchase of a car, 117 taxes on its upkeep, and 201 taxes on the oil and gas you use. The tax on gas is greater than its wholesale cost.

There are 146 taxes on drugs and medicines amounting to one-third of their cost. Your insurance premium is taxed at from 15 to 20 percent. If you hunt or fish your gun and your rod bear a 10-percent tax. Nor is your wife immune from such taxes. Her cosmetics, perfumes, furs, and jewels—if she is fortunate enough to possess them—are all taxed at 10 percent.

When you get home at night and sit down to a friendly rubber of contract, you have paid a 10-cent tax on the cards you use. Other examples and the manner in which the tax is passed on to you could be related ad infinitum.

These taxes, which every one of us is paying, may be startling. But they will fade into insignificance as compared with inevitable future taxes unless we give our attention to the solution of this perplexing problem.

We have had some fancy Federal bookkeeping and borrowing, but that has merely delayed the day of reckoning. Incidentally, although the Federal Government collected nearly $4,000,000,000 in taxes in 1936, this represented less than one-half of its expenditures. Simple arithmetic will show that this cannot go on without disaster. The Federal Government cannot go on indefinitely spending twice its income with any greater degree of safety than any private family.

The spending spree that we are on at the moment will only leave us with the headache of the morning after.

There may be those who are blissfully content to believe that the increase in income-tax revenue, due to improved business

conditions, will take care of this situation without the necessity of new taxes or curtailment of expenses. However, any student of Federal finances knows that this idea is in error.

Our Budget is still unbalanced. The Government is spending more money this year than it did last, not only on emergency agencies but in the regular departments, and the national debt has reached an all-time record of approximately $35,000,000,000. Since we, the people, have to pay this, it means a debt of $1,400 for every family in the United States.

The solution of this problem depends upon the curtailment of expenses or the raising of additional revenue, or both. And when the Government decides it needs more money it will turn to its one source of revenue, and that is your pocketbook.

Many of our people have been unconcerned about the demands upon the Federal Government because of the notion that the expense involved would later be defrayed by a further extension of the "soak the rich" program.

My friends, this is one of the popular fallacies of the day. As a matter of fact, there is no substantial source of funds remaining in the really high income brackets. If the administration confiscated the entire income of those earning over $1,000,000 a year, it would run the Government less than 1 week. To further emphasize this point, I will come down the income ladder considerably. If they confiscated the entire income of all those who earn over $5,000, it would run the Government less than 7 months.

When I point out that 89 percent of the entire national income is paid to those who earn $5,000 per year and less, you can readily understand that, if and when bigger and better taxes are needed, those in the lower brackets will pay them. Therefore, the job of creating tax consciousness among this group of our people, in my opinion, is one of the greatest needs of the day.

I do not want these statements of mine misunderstood. I am not attempting to criticize indirectly any particular phase of Government spending, nor do I wish to create unnecessary alarm, but I cannot emphasize too strongly that we must either curtail our spending or levy additional taxes. The prolonged evasion of this question is a most serious threat to our national security.

You may rightfully ask, "How can tax consciousness be aroused"? It is true that the average citizen has not the time to give intensive study to these questions. In answer I offer this suggestion: Why not label or stamp each and every article sold in such a manner as to acquaint the purchaser with the full amount of tax he has paid in making that purchase? For an example: On the price tag of that $35 suit of clothes I previously used as an illustration there would be clearly marked $6.86 in taxes. The price tag on a $5 pair of shoes would inform the buyer that 98 cents of the price represents the 44 different taxes on that particular necessity.

In other words, I am proposing to bring the question of taxes out in the open where our people may see and understand how much they pay on every article purchased, just as they do when they buy a gallon of gasoline. Just as you know that you paid 10 cents for the gas and 5 cents in taxes, so I want you to know that when you buy an overcoat for $25, $4.90 of that represented taxes.

Some may be skeptical of the practicability of such a program. Yet the figures are available to every businessman; and as to the effect upon the consumer, the noblest taxpayer of them all, let me recite the result of a similar experiment in New Jersey. A year or so ago our legislature passed a 2-percent sales tax, the proceeds of which were to be used for the worthy cause of relief. In passing, let me remind you that this 2-percent tax was far below the average hidden tax to which I am directing your attention. Mr. Consumer made a purchase amounting to $1. He placed a dollar bill on the counter and started to leave. The clerk reminded him of the 2-cent sales tax due. This was repeated every time he made a purchase. On the way home he started to add up the amount taken from him each week, and you may rest assured his thoughts quickly turned to the State's spending policy. Why? Simply because he could see and understand the tax he had to pay. As a result there developed a greater degree of tax consciousness and a corresponding degree of curtailment of State government expenses in New Jersey greater than at any time in all its history.

I see no reason why the same result would not be attained nationally if our people learn and understood the effect of Federal spending upon their own pocketbooks.

I sincerely believe that when our people realize that "he who dances must pay the fiddler", they will be much more concerned about alleged Federal philanthropy.

In presenting this subject tonight I have tried to avoid criticizing any particular spending project of the administration because such criticism would have been beside the point at issue.

Some of these projects I have agreed with and voted for, with others I have disagreed and so voted.

I have tried to the limit of my ability to present this issue fairly and honestly because I sincerely believe that economy and efficiency in government will be attained only when all of us have become tax conscious.

To sum it up, I have tried to make it clear that you get nothing for nothing, and that anything your Government does for you you pay for, and with interest.

The American Sugar Bowl

EXTENSION OF REMARKS

OF

HON. EDWIN C. JOHNSON

OF COLORADO

IN THE SENATE OF THE UNITED STATES

Wednesday, March 17, 1937

RADIO ADDRESS BY HON. ALVA B. ADAMS, OF COLORADO, ON MARCH 15, 1937

Mr. JOHNEON of Colorado. Mr. President, I ask unanimous consent to have printed in the RECORD a radio speech on proposed sugar legislation delivered by the senior Senator from Colorado [Mr. ADAMS] on Monday, March 15, 1937.

There being no objection, the speech was ordered to be printed in the Appendix, as follows:

The World War for me and many others gave a military funeral to any lingering free-trade ideas. We concluded from the experiences of the war and of the years which followed that if our Nation was wise it would make every effort to become as nearly as possible economically independent and would develop its resources and its industries so as to be in the least possible degree dependent for essentials of its national life and the welfare and comfort of the citizens upon other nations.

Many of us who like two, or even three, lumps of sugar in our coffee will recall how, during war days, we were restricted to one lump, and many other limitations imposed because of the national necessity for economical use of our sugar supply. The retail price of sugar in the United States for many years before the World War had averaged below 6 cents per pound, but housewives will recall the narrow limits placed on sugar purchases, and even more vividly paying 25 and 30 cents per pound.

Sugar is on every table. It is one of the essentials of modern life. It is imperative that we insure to the American people an adequate and dependable supply of this great necessity under all circumstances and at a fair and reasonable price. Of course, the safest and most desirable source of supply would be sugar produced in the continental United States. It would seem the part of wisdom that we not only protect but encourage American sugar production. At the present time the United States produces less than a third of the sugar it consumes.

Sugar cannot be produced as cheaply in the United States as in tropical islands where cheap labor abounds. If there were neither tariffs nor limitations upon the importation of sugar into the United States, our sugar industry would be destroyed. There is practically no limit to the sugar that fertile tropical islands like Cuba and the Philippines could produce.

Over 200,000 people are directly engaged in the sugar industry in the United States. When the families of these workers are included, not less than 1,000,000 of our population are dependent upon our sugar industry. Over 1,000,000 acres of land are devoted to sugar-beet and sugar-cane production. In addition to the army of workers directly engaged in the fields and factories producing the sugar there is a still larger army engaged in producing and supplying the many articles and services which are essential to the varied operations of the sugar industry. As an illustration, on an average, each acre of sugar beets contributes $35 to the income of the railroads of the country.

The sugar industry consumes vast quantities of iron and steel, copper, coal, limestone, oil, cotton, and other products of American farms and factories. It builds and maintains great refineries with complicated and expensive machinery. It furnishes tremendous tonnage to the railroads.

It pays annually a vast sum in taxes to the Federal, State, and local governments.

The byproducts of the industry contribute greatly to the livestock industry.

In Colorado, my home State, wherever you find a sugar factory, you find a prosperous town, with churches, up-to-date schools, and all those things which tend to produce good citizenship.

Every acre devoted to the cultivation of sugar beets is an acre withdrawn from the production of some one or more of the great competitive crops, the surpluses of which have been such a serious problem to the Nation.

Few, if any, crops require as much labor the the sugar beet.

The sugar industry's contribution to meet our unemployment problem takes a large burden from our taxpayers. Its provision of a secure, though not yet adequate, supply of one of the necessities of life in a time of war is of tremendous importance to the country.

The people of the United States can if they wish secure cheaper sugar by allowing unlimited and untaxed importations of tropical sugars. By so doing they would save in the daily sugar bill of the average citizen slightly more than one-half a cent per day, or about $2 per year, but by so doing they would do inestimable harm to the American people. In addition to the destruction of the great industry itself they would injure many millions of other American citizens—farmers, manufacturers, businessmen, workmen on farms, factories, and railroads.

Many of the articles which are now produced or manufactured in the United States can be produced more cheaply in Asia or Europe where wages are lower and living conditions inferior.

If we admit these foreign products without tariff or other restrictions, we would have available many things at costs lower than we now pay, but we would not have the money to buy them as we would find our mills and factories closed, our workmen unemployed, business demoralized, the farmer in despair. This would inevitably bring lowered wages and living conditions in order to enable our country to compete. This is, of course, an unthinkable condition to tolerate, let alone invite.

The increased cost to consumers resulting from our established policy of protecting and encouraging American manufacturers and producers is far greater in almost all lines than in the case of sugar. The increased cost of our clothes alone costs each person in the United States many times the small amount which the protection of the American sugar industry will cost him. It has been estimated that the total increase in cost to consumers by our policy of protecting our industries is over $5,000,000,000 annually, but the cost of discontinuing this policy would be many times that amount in dollars besides the irreparable and inevitable damage to the American people from lowered living standards.

With the purpose of preserving this great industry, with its great economic and social advantages, from destruction by imported sugars and insuring the American people the benefit of a supply of sugar produced in America by farmers who are to be assured a fair price for their product, a bill has been recently introduced in the Senate by Senator O'MAHONEY, of Wyoming, and myself, and in the House of Representatives by Congressman MARVIN JONES, of Texas.

This bill largely drafted by the sugar section of the Agriculture Department is in accord with the message of President Roosevelt delivered to Congress on February 23, 1937. The bill does not go as far in encouraging the development of the American sugar industry as I would like or as those engaged in that industry would wish, but it is the result of the meeting and compromise of conflicting opinions and interests and is a decided advance in the promotion of the welfare of this industry over any preceding measure.

Sugar is the only one of our principal agricultural crops of which no surplus is produced and the American demand for which must be largely supplemented by importation. The sugar problem is also complicated by the situation in our insular possessions and in Cuba.

It is impossible, therefore, to treat the American sugar industry in the same manner as other agricultural crops.

By sending to Congress a message devoted exclusively to sugar legislation the President gives recognition to this fact.

This bill is therefore drawn as a single independent and complete legislative unit, not a confusing series of amendments to existing or preexisting acts. It is, further, permanent and not temporary or emergency legislation.

Prior to 1934 the only efforts to protect the American sugar industry had been by tariffs. These efforts had proved futile. The highest tariff in the history of the industry enacted in 1930 was followed by the lowest price of sugar and the smallest return to the grower. The increased tariff by reducing imports of Cuban sugar led to enormous and extremely profitable increases in the sugar production of the Philippine Islands, Hawaii, and Puerto Rico, where sugar is produced under tropical conditions with cheap labor and came into the United States without the payment of any tariff. The Philippine production not only grew from 131,000 tons in 1921 to about 1,500,000 tons in 1933, but was capable of indefinite increase. The importation from the Philippine Islands of tax-free sugar increased in a 10-year period from 198,000 long tons in 1923, to 1,030,000 long tons in 1933. The American sugar industry was in imminent peril of destruction. The combined effect of the tariff and the increased tax-free importations from our insular possessions also brought financial disaster to Cuba.

The American trade with Cuba was disappearing, and the distressed condition of the people of that island threatened insurrection and rebellion which could readily spread to other lands and involve our country. This was not a condition affecting only sugar-producing areas; it threatened to a substantial degree the entire United States.

Experience having demonstrated that the American sugar industry could not survive with a tariff as its only defense against the invasion of off-shore sugars, those interested in preserving the American sugar industry endeavored to find some better and more effective way to establish limitations on the amount of incoming sugar. The summer of 1933 was spent in conferences which finally evolved the stabilization agreement fixing quotas on sugar production and importation. This agreement never became effective because the Secretary of Agriculture, without whose signature the agreement did not become binding, refused to sign it.

These threatened dangers were, however, averted by two measures passed by Congress. The first, the Philippine independence bill, which placed a limit on the importation of Philippine sugar of 972,000 tons, an amount less than had been imported in the year of greatest imports, yet large enough to provide liberally for sugar culture in the islands.

The other measure was the Jones-Costigan amendment to the Agricultural Adjustment Act, which fixed quotas on both imported and domestic sugars and provided by a processing tax for payments to growers. This measure was very successful in its operation, but the decision of the Supreme Court invalidating processing taxes led to its abandonment except as to its quota provisions.

The present bill seeks to secure in an improved and in a constitutional form the principal objectives of that act. The pending bill provides that the Secretary of Agriculture shall each year estimate the amount of sugar to be consumed in continental United States. Of this total estimated amount a quota is fixed by the bill of 1,550,000 tons for American-produced beet sugar and 360,000 tons of American-produced cane sugar. The remainder of the estimated consumption is divided among the various offshore sugar-producing areas. To Cuba, 1,948,000 tons; to Hawaii, 989,726 tons; to Puerto Rico, 842,611 tons; to the Philippine Islands, the amount fixed by the Independence Act.

These quotas are figured on a basic estimate fixed in the bill of 6,452,000 tons. If upon revision of the estimate by the Secretary of Agriculture the consumption is found to exceed that amount, the excess is to be apportioned among the various sugar-producing areas, however, giving to the United States 30 percent—a slightly larger percent than its proportionate share of the basic quota. If necessary to equitable and successful administration of the act, the quotas of particular areas may be allotted among producing districts or even among individual growers. Many details are incorporated to meet various contingencies which cannot now be considered.

The bill also provides for the levy of an excise tax of three-quarters of a cent per pound upon all sugar produced in or imported into the United States.

The money raised by this tax will go into the Treasury of the United States. The tax of three-quarters of a cent will produce approximately $100,000,000. Of this tax the sugar producers of the United States will pay 24 percent, while the proportion of the principal offshore areas will be as follows: Cuba 30 percent; Puerto Rico 11.5 percent; Philippine Islands 15 percent; Hawaii 15.3 percent.

Under the Tariff Act of 1930 the sugar tariff on Cuban sugar was 2 cents per pound. This was reduced by the Jones-Costigan Act by one-half cent per pound to offset the processing tax of the same amount. The Reciprocal Trade Agreement reduced the Cuban sugar tariff an additional six-tenths of a cent, leaving the tariff nine-tenths of a cent per pound. When the processing tax was declared invalid, the tariff which had been reduced because of it, was not restored. This has resulted in a practical donation of $20,000,000 per year to Cuba. Therefore, the pending bill, if adopted, will but restore in effect that cut in the tariff, and add an additional tax of one-quarter of a cent per pound.

With a view to securing reasonable payments to the grower, preventing child labor in sugar fields and oppressive wages and hours for workers, preventing excessive profits to refiners, and unfair or extortionate prices to consumers, the bill provides for conditional benefit payments to sugar beet and cane growers.

The method by which these payments are to be used to accomplish these desirable ends is as follows:

The bill authorizes the Secretary of Agriculture to make a payment of 70 cents to the grower for each unit of 100 pounds of sugar produced. These payments may, however, only be made to the grower if he has complied with the following conditions:

1. He must not have permitted a child under 14 to work at all or a child between 14 and 16 to work more than 8 hours per day.

2. His employees must have been paid not less than such minimum wages and have worked not more than maximum hours to be fixed as fair and reasonable by the Secretary of Agriculture. In fixing such wages and hours the Secretary of Agriculture is directed to take into consideration the standards heretofore fixed by him and the differences in conditions among the various producing areas.

3. He must not have exceeded his quota.

4. He must comply with such regulations as may be fixed by the Secretary of Agriculture to preserve the fertility of the soil and prevent soil erosion.

These benefit payments are so substantial that no grower can afford to fail to meet the conditions and thereby lose them.

The bill, therefore, will definitely eliminate child labor and oppressive labor and wage conditions in the beet fields.

Under the Jones-Costigan Act certain large producers received what seemed excessive benefit payments. The present bill provides for a graduated scale of reductions in payments to producers of sugar in excess of 250 tons.

The bill contains a specific direction to the Secretary of Agriculture to protect the small and new producer as far as possible.

These benefit payments are only made to growers in the United States and in its possession so no payments will be made to growers in Cuba or the Philippine Islands.

The conditional payments will only amount to about one-half of the sum produced by the excise tax. The American sugar industry will, however, receive in benefit payments not less than the full amount paid by it in excise taxes. Therefore, the bill will provide net revenue for the United States Treasury of about $50,000,000.

It has been suggested that the excise tax would result in increasing the cost of sugar to the consumers. The experts and economists who have studied the situation insist that this will not be the case. They point out that the one-half cent processing tax under the former act did not result in an increase in consumer prices and that no different result will follow a three-fourths-of-a-cent tax. They contend that sugar prices are controlled by the supply and demand and that with the fixed-quota system there will be no appreciable change in either supply or demand with the tax at three-quarters of a cent per pound. However, to guard against such a situation, the bill contains a provision which authorizes the Secretary of Agriculture to adjust quotas in order to prevent prices "in excess of those reasonably necessary to maintain the domestic sugar industry and to make the producing of sugar beets and sugar cane as profitable on the average as the production of the principal other agricultural crops." Therefore, if there should be an excessive increase in the price of sugar to consumers, the Secretary of Agriculture could increase the quota of incoming sugar to such an amount as might be necessary to restore fair prices.

Some have erroneous ideas as to the cost of sugar to the consumer and as to profits realized by growers and refiners.

Sugar is the cheapest food that comes upon our tables in terms of food value. There is less spread between the price the consumer pays for sugar and its cost of production than in the case of any other food product.

With the benefit payments under the Jones-Costigan Act the farmer received on an average about $6.75 for a ton of beets, or slightly more than one-third of a cent per pound. No other vegetable, fruit, or farm crop can be purchased at such a low price. This is known to every housewife, to every purchaser of farm products at wholesale or retail. Moreover, sugar beets can only be successfully raised on fine land with adequate water and careful cultivation. Their cultivation and harvesting require much labor. Purchasers currently pay double as much for hay, which is grown with little labor or cultivation, as is paid for sugar beets. The average sugar beet contains 15 percent of sugar, so the refiner processes a ton of beets to secure 300 pounds of sugar. The sugar refinery is a complicated and expensive plant. The beet-sugar refinery can only operate for about 3 months in the year. Unlike many products of factories and mills, the sugar, when it leaves the refinery, is ready for the table.

A ton of wheat today costs $45; from this ton about 1,400 pounds of flour is produced, which today will sell at retail for about $70, or nearly five times the price of the sugar produced from a ton of sugar beets, and the flour must again be processed in the kitchen before used for food.

The consumer also knows that while there has been a marked increase in the price of most food products the price of sugar has remained practically constant. The increase in the price of sugar following the imposition of the processing tax under the Jones-Costigan Act was only one-tenth of a cent per pound.

It should be kept in mind that every dollar paid for sugar produced in America stays in America, while a comparatively small portion of the dollar sent to Cuba or the Philippine Islands for imported sugar returns to us.

It is believed that this bill, if enacted into law, will produce a well-balanced and prosperous condition in the American sugar industry. While there will be restrictions on the production of sugar in continental United States, which some of us oppose as a matter of principle, these restrictions will not to any considerable degree restrict production below past production figures.

The beet grower will be protected against excessive importation of sugar by the quotas on offshore sugar so that the disastrous condition of 1932–33 cannot be repeated. In addition he will receive benefit payments which in addition to payments from processors will give him a fair price for his beets.

Cuba, which has been rescued from financial disaster by the quota system and the reductions in tariff, will not be a threat to peace as in 1932–33, and by reason of its prosperity will be a good customer of the United States to the advantage of agricultural and manufacturing sections of the United States not directly interested in sugar production.

Puerto Rico, the Philippine Islands, and Hawaii, while complaining of their quotas, have in fact been fairly treated and their sugar industry will continue as it now is, prosperous.

The United States Treasury will receive increased revenues of about $50,000,000. Increased income taxes will also come from individuals and industries who have prospered directly and indirectly. The unemployment relief load will also be lessened.

The consumer of sugar will not have his sugar bill materially increased and will share in the contributions which a prosperous agricultural industry will make to the Nation as a whole.

The heart of the Nation will be lightened to know that no American sugar is the product of child labor or oppressive wage and labor conditions.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Wednesday, March 17, 1937

ADDRESS BY HON. DAVID I. WALSH, OF MASSACHUSETTS, AT CARNEGIE HALL, NEW YORK, ON MARCH 12, 1937

Mr. COPELAND. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by our colleague the senior Senator from Massachusetts [Mr. WALSH] in New York on Friday evening last, on the pending proposal regarding the Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Our country is facing a momentous issue vitally affecting our national welfare. With such an issue all will agree that it is the duty of a public servant to give it the most earnest consideration and determine for himself the right position to take for the welfare of his country. The easiest way and usually the most comfortable way is to accept the views of the party leader, but that would not be his own decision unless he honestly agreed with his party leader. If he disagrees, it is clearly his duty to express his reasons to his fellow countrymen.

After deliberate reflection, my first but restrained judgment on this question is fully confirmed. The time has now arrived for me to make my position known. That sharp differences of opinion will follow is only natural. But all this is in the very nature of public service.

The question we are discussing tonight involves the integrity of the Constitution and the independence of the judicial branch of the Government, particularly of the United States Supreme Court.

If there is one fundamental principle more than any other underlying our Constitution, it is that one providing for the separation of the three branches of the Government, each with separate and distinct powers. The legislative branch is the law-making arm of the Government. The executive is the administrative arm. The Supreme Court is the judicial arm and is given the power to determine whether or not an act of Congress or an act of the President or any act of a State is in accord with, or contrary to, any provision of the Constitution. This power was lodged in the Supreme Court, just as other powers were vested in the Congress or in the Executive.

The only tribunal authorized to lay a legislative or an executive act side by side with the Constitution for final comparison is the Supreme Court and it alone may determine whether the act conforms to or is in violation of any provision in the Constitution. It is the sole and only tribunal to determine exactly what rights the individual possesses free from abridgment by any agency of the Government. It is also the tribunal to determine the limits of the powers that the people of the several States have refused to transfer from their local government to the Federal Government. To deny this power to the Supreme Court is to contend that the Congress itself or the Executive, or both, have the right to say what powers each may exercise. To assert that Congress, or the Executive, or both, are the sole judges in constitutional matters would scrap the Constitution and nullify its provisions.

This definite separation of the three branches of government did not find its way into the Constitution by accident. The founders knew what they wanted, and the Constitution they adopted expressed their philosophy of government and their moral concept of the inalienable rights of mankind. They were mindful of the tyranny and oppression experienced by the peoples of the world under monarchial, parliamentary, and other forms of government. They were determined above all else that tyranny and dictatorship should not exist in the free government they instituted. They realized that even the form of government they set up might end disastrously, but they were determined that every known governmenal safeguard, which experience through the ages had found, should be provided to preserve the fundamental and inalienable rights of the people and prevent temporarily elected officials, whether impelled by good motives or otherwise, from destroying these rights.

Wisely did they provide a judicial review by men, sitting as a court, to protect the people and the several States from a despotic central government. There is not a human device of which one can conceive that they did not invoke to make the judicial branch the last refuge of the people's liberties. They wrote into the Constitution the most explicit and definite provisions, which were to protect their liberties against governmental usurpation; whether from a jury moved by passion and prejudice; an overofficious sheriff; a despotic tax collector; a mayor of the smallest or largest

city in the land; a State legislature or Governor; even a State court or a district Federal court; a Government bureaucrat; or, even the Congress or the President.

Consider the methods devised to prevent any attempt to dominate or dictate to the Judges; life tenure, fixed salary, and removal from political bias and participation in political contests. Consider also the provisions for the protection of the public; a close scrutiny by the Senate of the abilities and personal integrity of each Justice before he could assume his exalted office, a solemn oath before God to support and defend the Constitution and protect the people's rights under it. Furthermore, by law and by custom the Justices are protected as far as it is humanly possible from all influence in performing their official acts. They are removed from public clamor and the selfish, greedy, and lobbying influences which invariably surround other branches of our Government. Indeed, there were good reasons for these explicit constitutional provisions, for did they not allege, as one of their grievances against King George III, in the Declaration of Independence, "He has made judges dependent upon his will alone?"

All these demonstrate a determination to create a judiciary independent of both Congress and the President, but without a particle of power to make laws or administer them. Its only power is to apply the constitutional yardstick to determine whether or not the constitutional limits have been exceeded or violated by an official of any local, State, or the Federal Government.

My fellow citizens, the Supreme Court of the United States is not infallible. It is a human institution. Congress is not infallible. A President or a Governor is not infallible. The founders of the Republic sought by every known human means to make the Supreme Court (quoting from the constitution of the Commonwealth of Massachusetts) "as fair, impartial, and independent as the lot of humanity would admit." The quoted words epitomize our forefathers' conception of an independent judiciary. Into the keeping of such a tribunal the fathers entrusted the Constitution. It was to be and is the last stand for the peaceful preservation of the rights of the minority against the temporary autocracy of a legislative majority.

Is it any wonder, therefore, that from one end of the land to the other there is a state of fear, of apprehension, of bewilderment, of real grief as a result of the proposal to impair, if not indeed to destroy, the judicial independence of the Supreme Court? I venture to say that at no time since the Civil War has our country been so stirred and fear and apprehension so manifest.

What is the character and nature of the proposal which has aroused this fear and brought to this platform tonight Members of the United States Senate from different sections of the Nation, not only as Democrats but as Americans? It is to change the personnel of the Supreme Court by giving a President authority to appoint members whose views are satisfactory to him, through an increase in its membership, or by forcing Justices over 70 years of age to retire.

This proposal is objectionable on many grounds.

If approved, it is calculated to destroy the Supreme Court as the separate and independent judicial branch of the Government in which the final judicial power was vested by the Constitution.

If approved, it will prevent the States from protecting the rights preserved to them in the Constitution, for is not the intent of the present proposal to reorganize the Supreme Court, to the end that the Court may not raise constitutional objections to transfer of powers from the State to the Federal Government?

If approved, the liberties of the individual citizen and his inalienable rights and remedies—guaranteed to him by the Constitution—are at the mercy of Congress and the Executive, for of what avail are constitutional guarantees if the courts are subservient to a President and agreeable to upholding acts of Congress he sanctions? A dominated court is a pretended court, and such a court would give Congress and the Executive free rein to do as they see fit.

If approved, the consequence is a transfer of the functions and powers of the courts to the Congress and the Executive. This is equivalent to changing our form of government without a constitutional amendment.

But we are told that none of these things will happen because the power which we are asked to lodge in the Executive with respect to judicial appointments will be wisely exercised and will not be abused. But let us examine this power, and remember that it has its application not only to our President today but to all future Presidents, thereby establishing a pernicious precedent.

We discover that the power which it is proposed to lodge in the President does not make the appointment of additional judges compulsory. The bill now before the Congress does not require any President to enlarge the membership of the Supreme Court to 15. It may result in a Court of 9 or 10 or 13 or any number—not less than 9 nor more than 15.

What does this mean? It means that if a majority of the Court agrees with the Executive, he need do nothing. He need appoint no additional Judges. But if a majority of the Court decides contrary to his views of the Constitution, then he may proceed to the appointment of additional Judges. In brief, it is proposed to give to the Executive power to control future decisions of the Court, not only by the immediate appointment of additional Judges who agree with his political philosophies but to leave with him the power hereafter to enlarge or maintain the then membership of the Court according to the exigencies of the moment.

The membership of the court, if some of its proponents are correct, is to be based upon a sliding scale, depending on whether or not the official minds of the Justices as to the meaning of the Constitution meet the mind of a President.

Do you believe that this power once granted to an Executive will be surrendered by any future President willingly? Do you realize how difficult it would be to obtain a repeal by Congress of such a statute, once it is on the statute books? To repeal it, in the face of Executive opposition, would require a two-thirds vote of both House and Senate. This means that once enacted into law, it will have almost the force and effect of a constitutional amendment without being submitted to the people.

If the real purpose of the proponents of this proposal is to replace Justices over 70 years of age and to infuse new and younger blood into the Courts, why is it suggested that the authority to make such appointments be discretionary and variable rather than mandatory?

Let us now inquire into the motives which actuated this surprising proposal. One motive, it is conceded, is to obtain a majority of the Supreme Court who can be counted upon to sanction legislation of a character heretofore held invalid. Indeed it is openly avowed that the objective is to obtain Judges who will uphold acts of Congress, recommended by the Executive, which it is claimed must be passed now. Mark you, no complaint is made of the decisions of the Supreme Court upholding recent legislation. The only complaint with the Court is its action upon recent legislation held invalid. The complaint is that a majority of the oath-bound Justices of the Supreme Court held that the Constitution did not grant to the Federal Government the power to legislate in the form and manner set forth in these particular statutes. In one case because the people in a particular State did not give their own legislature constitutional authority to legislate upon a particular subject. In another case because the terms of the legislation were in contradiction to the constitutional provision requiring the levying of taxes "uniformly" and not upon special groups for the benefit of other groups. In still another case because the Federal Government was exercising prerogatives expressly reserved to the several States.

In all these cases, the Supreme Court considered the question of power only. It did not undertake in any case, for it could not constitutionally do so, to pass upon the wisdom or expediency of the legislation, or the merits or demerits of any social or economic policy. The Court merely held that the Congress or a State legislature should obtain the consent of their respective citizens in order to do what was sought to be done.

Never in its long history has the Supreme Court decreed that the people did not have the right to make whatever laws they chose by constitutional methods. It has always stated that the Congress possessed limited power—that all powers not granted to Congress were and are still reserved to the several States or to the people. The Supreme Court has never declared that the people could not grant to Congress the powers recently sought to be exercised by that body. It has merely ruled that the people of the several States have not done so under the Constitution as it now stands.

What are the arguments advanced in favor of this astonishing proposal? It is contended that the Supreme Court should not be permitted to thwart the will of the people as expressed by their Representatives in Congress and their President; that the control of the Government should not be confined to nine men or a majority of them to hold within their power the well-being of the country as a whole. The fallacy of this contention is that the Supreme Court is not a legislative body. The Supreme Court does not make laws. It exercises a purely negative function. In declaring a law in violation of the Constitution it is not thwarting the will of the people. The will of the people is expressed in the Constitution. When the people choose a President and Members of Congress, they put express confidence in them—a confidence that Congress and the Executive will only act within the provisions of the Constitution.

If the Congress enacts legislation approved by the President, which is in excess of their constitutional powers it expresses the will of the Congress and the President only. It follows, that if the Constitution is to be respected and the rights of the people as defined and preserved in the Constitution are to be respected by the Executive and the representatives of the people, only the powers guaranteed in the Constitution can be exercised by them. The Supreme Court was instituted and exists to check and restrain Congress and the Executive from passing laws in excess of their powers. This function has been exercised for 150 years.

They further contend that to change the Constitution by formal amendment, so as to enlarge the powers and authority of the central Government, would be slow and cumbersome. Nor, they add, is it certain that the requisite approval of the States could be obtained. Therefore, it is argued, we may arrive at the same destination with facility and with speed, by the simple expedient of changing the membership of the Supreme Court.

If this, my fellow Americans, is not government by expediency, by men rather than by law, what is it? I submit there can be no justification for such ruthless sabotage of the people's rights—such a thinly disguised attempt to suspend the Constitution.

It is alleged that those who oppose this proposal are opposed to progress; opposed to human rights. I yield to no man in my desire to promote the national welfare; in my devotion to human rights; social betterment and social security; to the suppression of

economic piracy and the enhancement of economic opportunity. I have supported measures designed to effectuate these commendable objectives, but when the Court has decreed an act of Congress unconstitutional, I am prepared to accept the verdict of the Court and submit to the people the question of whether we shall amend the Constitution to obtain these objectives.

It is asserted that those who are opposed to reorganization of the Supreme Court are clinging to outworn prejudices. What prejudices? Is belief in a free and independent judiciary a prejudice, now out of date? Is belief in States' rights a prejudice to be sneered at? Is belief in a government of law, rather than a government of men, to be scorned? Is belief in strict adherence to the form of government prescribed by the Constitution, and insistence that, if it is to be altered, the Constitution itself be changed by appropriate amendments, simply a relic of the past, and a prejudice which ought not to be cast aside?

It is charged that those who are opposed to the reorganization of the Supreme Court are animated by fear, and, it is asked, "Fear of what?" I say it is the same fear that prompted our forefathers to insist, as a condition of ratification that the Bill of Rights be written into the Constitution and not subjected to the vagaries of a legislative body.

It was fear of the loss of their expressly reserved rights that dictated the inclusion in the Constitution of these words: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people". and again, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

It was fear that led them to provide that no Executive could levy taxes, and the levying of taxes, they stipulated, should be the function only of the Congress, and further, that the initiation of taxes should be reserved solely to the lower House of the Congress.

Yes; the Constitution is full of fears; full of prohibitions against autocratic power; full of checks and balances.

Fear of what? Fear of a tyrannical majority in Congress. Fear of an arbitrary Executive. Fear of coerced judges.

It is the same fear, the deep-seated fear of the fathers, that prompts us tonight to protest the removal of the "Thou shalt not" provisions of the Constitution by means of controlling the judiciary.

During the period of my public life I have witnessed several sudden and successful attempts by legislative enactment to break down the inalienable rights of individual citizens.

One was the enactment, during the war hysteria, of a law in one of the sovereign States making it a crime to teach a child the German language, even though it was the language of the child's father and mother. Under this law a teacher in a German-Lutheran school was indicted and convicted and the conviction sustained by the highest court of the State. The United States Supreme Court, sworn to uphold the Constitution, struck down that law and released from jeopardy an American citizen whose only offense was that he was a victim of war hysteria.

Another was an outburst during the Ku Klux Klan hysteria. A State legislature and the Governor approved a law, supported by an initiative vote of the people, denying a parent the right to send his child to a religious school of his choosing. An independent judiciary, the United States Supreme Court, struck down that law and proclaimed that it is an inalienable right under the Constitution for a parent to bring up his children and educate them as he may choose.

The third was an outburst of racial prejudice. When three lowly Negro boys who, by a State court, were denied the right of a fair jury trial, the United States Supreme Court on two occasions had the courage to order a new and legal trial, to which the humblest and poorest individual is entitled under the Constitution.

Were it not for the independent judiciary that has blessed us since the birth of our Nation these tyrannical interferences with the liberties of the individual would have prevailed and they would have been multiplied. Who may say when some new hysteria may overtake us? Who may say when some majority of the moment may attempt to oppress a minority? Who dares to predict that a future Congress in a time of hysteria may not yield to the prejudice or passion of the hour?

When that day comes what avail to us our Constitution and our Bill of Rights if our courts shall then be subservient to the Government, as are the courts today in Russia, Mexico, and Germany—mere agencies of the Government, never dreaming of doing anything the present Government does not desire.

Without an independent judiciary I hesitate to even think of denials to minorities of constitutional guaranties if some of the doctrines preached by un-American groups in this country today should be suddenly enacted into law.

My fellow citizens, in the face of so much present argument and debate, of political and personal feeling, let us not lose sight of the fundamental question—the question of the integrity of our courts.

The question is not whether the number of Justices on the Supreme Court should be 9, or 12, or 15. Bear in mind, whether you have 9 or 29 judges, each judge, on his oath, must pass on every question. You cannot parcel out the duty to make final decisions of the Court to little groups any more than you can parcel out the duty to make final decisions of the Senate from the whole Senate to little groups of the Senate.

The question is not whether Justices when they reach the age of 70 ought to retire and turn over their places to younger men.

The question is not whether we agree or disagree with the decisions of the Court and its interpretation of the language of the Constitution.

The question is not whether we believe or disbelieve in the purposes sought to be effectuated by enactments of Congress which the Supreme Court has declared, or may hereafter declare, to be beyond the power of Congress under the Constitution or contrary to the prohibitions contained in the Constitution.

The question is not whether we favor or oppose enlarging the power and authority of the Federal Government.

The question is very simple and very direct, but of transcendent importance and consequence. This question is, Shall we overturn the present Supreme Court, get rid of six of the nine Justices by retirement, if that can be engineered, and, if that fails, nullify their judgment by enlarging the Court, but in either case giving to an Executive the opportunity and authority to appoint en bloc six new judges for the avowed purpose of converting the Court into a compliant adjunct of Congress and the Executive?

It will be a tragic day, my fellow countrymen, if that day ever comes, when the Supreme Court is subservient to any Chief Executive, to the Congress, or to any other individual, class, or group, whether official or unofficial. Whatever their imperfections, the Supreme Court of the United States has been for 150 years our political refuge and strength. It has been the last citadel for the protection of our priceless liberties.

Let me conclude by repeating to you the words uttered by Daniel Webster 104 years ago. He said then, and I say to you tonight:

"I shall exert every faculty I possess in aiding to prevent the Constitution from being nullified, destroyed, or impaired; and even though I should see it fall, I will still, with a voice feeble, perhaps, but earnest as ever issued from human lips, and with fidelity and zeal which nothing shall extinguish, call on the people to come to its rescue."

Tribute to Postmaster General Farley

EXTENSION OF REMARKS

OF

HON. ALBEN W. BARKLEY

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Wednesday, March 17, 1937

EDITORIAL FROM THE MIDDLESBORO (KY.) DAILY NEWS

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Farley Tribute", published in the Middlesboro (Ky.) Daily News of February 16, 1937. The editorial relates to the work and character of James A. Farley, Postmaster General.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Middlesboro (Ky.) Daily News of Feb. 16, 1937]

FARLEY TRIBUTE

Postmaster General James A. Farley received worthy encomiums last night at a testimonial dinner given him by Democratic Party leaders in Washington, where President Roosevelt was the chief speaker. The dinner was given the chairman of the Democratic National Committee because he is soon to retire from the Cabinet.

In a roll call of all the States, Democratic dignitaries were introduced. It sounded like a national convention. Even Maine and Vermont were recognized, amid hoots, and there was considerable play upon these two lone States who remained Republican in the last election.

Considering the success with which Mr. Farley has led the Democratic Party during the last two national campaigns, we would say that the praise given to him was modest and reserved. Certainly it was most deserved. For no other party chieftain in history has wrought so faithfully and so successfully in bringing victory to his party.

President Roosevelt gave a personal tribute which truly came from the heart. The President owes much to the loyalty and generalship of this friend and long-time associate. It was fitting that he should make the principal address at this testimonial banquet.

The highest tribute paid to Mr. Farley was that in all of his political career he had never said a mean thing about a political enemy or opponent. That may well be believed, despite the usual heated political exchanges which take place between party spokesmen in a campaign. Genial and kind, Mr. Farley always maintains a dignified poise and, despite what his political opponents may say with reference to his acts and views, it can never be said that he is not honorable and loyal. To know Farley intimately is to like him; he is a good sport, a kind gentleman, and a courageous general. Few men in America have had so distinguished a political career, devoted to the enhancement of other men's ambitions, and dedicated to the success of party government. Political friend and foe alike are glad to join in this national tribute to a great political leader.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. RUSH D. HOLT
OF WEST VIRGINIA
IN THE SENATE OF THE UNITED STATES
Wednesday, March 17, 1937

RADIO ADDRESS BY RAYMOND MOLEY, EDITOR OF NEWS WEEK, ON MARCH 7, 1937

Mr. HOLT. Mr. President, I ask unanimous consent to have printed in the RECORD a speech delivered over the Columbia Broadcasting system on March 7, 1937, by Raymond Moley, editor of News Week, relative to the Supreme Court issue.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I am glad that Judge Pecora, in his learned discussion of this subject, has not resorted to the favorite argument of some advocates of the President's Court plan. Some of the arguments emanating from Washington would have you believe that those who oppose this particular plan are, in reality, the irreconcilable enemies of all progress, that those who are against this particular proposal rejoice in the exploitation of labor, the undernourishment of children, the flooding of river valleys, dust storms, locust plagues, disease, devastation, and death. I am one of a great majority of those who oppose this plan who deplore all of these things and who think that all of them, except death, can be prevented or mitigated by enlightened and resolute social and governmental action. To believe otherwise would truly be to believe in defeatism. And I, for one, am neither a defeatist nor a lawyer.

I think that these problems of social, economic, and governmental engineering can be mastered. I think that the Federal Government should be given sufficient power to deal with such of these problems as can be solved only by Federal action. I am, and have always been, a nationalist, a believer in enlarging the power of the Federal Government to occupy that "no man's land" of which Theodore Roosevelt spoke, between State and Federal authority. To seek these ends I would favor most a straight amendment to the interstate-commerce and due-process clauses. But I would not see danger in the Wheeler amendment. I would also favor the Borah amendment. But I am for amendment, not usurpation by Congress.

We must, in approaching this subject, keep our feet on the ground of reality and our heads out of the clouds of emotion and misrepresentation. I should welcome the opportunity to speak to the man of whom we heard last week, to the man who, in the sweat of his brow, piles sandbags on the levee at Cairo. And if I spoke to him I would say that there is no evidence whatsoever that the Supreme Court has ever placed obstacles in the way of flood control. I would tell him, too, that there is no evidence whatsoever that the Supreme Court stands or has stood in the way of the efforts of the Federal Government to provide work for the unemployed, to protect home owners and farm owners from foreclosure, to guarantee the safety of bank deposits, to expand credit or restrict it, to aid local governments in slum clearance, to protect the small investor on the stock exchange, to adjust the value and nature of the currency or to do any one of many other things in the interest of the little fellow. I would ask him to remember that no one, including the Court, doubts the constitutionality of a large part of the New Deal. I would say that the real point at issue between the President and Congress on the one side, and the Court on the other, is the authority of the Federal Government to enact the N. I. R. A., the Triple A, and two or three additional measures kindred in nature.

Now, let me make myself perfectly clear. I believe that the Court has been unduly conservative in some instances. I believe that in others, notably the N. R. A. decision, the Court has simply said that the time has come to stop straining this or that clause of the Constitution by reading new meanings into it and to ask the American people, point-blank, whether or not they wish to amend the Constitution so that the National Government can regulate their economic life.

But that fact was clear enough 2 years ago, and no one more insistently and persistently said so than I did. Two years ago I published a statement in which I said among other things: "The advantages of the general purposes of the N. I. R. A. are altogether too great to admit of doubt as to the ultimate need for their adoption into the governmental scheme of this country. * * * But if the American people want fair-trade practices, collective bargaining, minimum-wage and maximum-hour standards and an orderly agriculture, Congress and the American people ought to protect their efforts to attain these ends through an amendment to the Constitution. * * * Provision should be made for the preparation of a constitutional amendment and for its initiation by Congress in its next session. Let the election of 1936 be a great and solemn referendum on this question * * *."

I then proceeded (and we are back again in 1915) to discuss this question with many men high in the Democratic party in Washington. I begged them to formulate their demands in words and to present them to the people. Only one or two joined me in a public insistence upon this demand. That was 2 years ago—2 years which were left to slip away. And now we are told that we have not the time to wait for an amendment. Apparently the Democratic Party then—when there still remained the vestiges of a profound and immediate economic crisis—was not ready to insist upon a delegation to the Federal Government of power to deal adequately with industrial and agricultural problems. Apparently the Democratic leaders did not feel then—when we were still struggling with a national emergency—that it was imperative to act and to act at once to protect the objectives of the New Deal. Apparently the Democratic Party did not feel then that there was any hurry about devising mechanisms to further the great social values which were at stake.

Oh, no, indeed. The issue was dropped. Was there not an election in the offing? True, the platform subsequently presented to and adopted by the convention at Philadelphia pledged itself to advocate amendment "if necessary." But no word of amendment was said during the campaign. No word of crisis or emergency leaked out. We were vouchsafed only the assurance that the country was out of the red or coming out of the red; that workmen had money in their pockets again; that farmers were rising from their poverty; in short, that the crisis had passed. Apparently, in the face of this year's crop of "crises", last year's romance of recovery doesn't have a chance.

I did not believe 2 years ago, and I do not believe now, that permament prosperity can come to this country until we deal with our fundamental economic problems. But we should have enough faith in democracy to submit our belief to the methods tested by experience. We should have enough faith in democracy to trust the people to make decisions of so fundamental a character. And it seems to me that the charge of defeatism, hysteria, reaction, and cowardice comes with poor grace from those who were afraid to submit a constitutional amendment to the people 2 years ago, and who did not take the public into their confidence in the year 1936—the one year when the people were permitted a voice in government. That is not democracy; it is not even the pretense of democracy. That is the suspension of democracy.

We are told in extenuation that the Court has been packed in the past. If those who rely on this argument will read their history they will find that the outstanding instance of Court packing, a device to which even Jefferson in his anger at the Court did not resort, was the work of the reconstruction Congress that followed the War between the States. That Congress, as history sees it now, was the most discredited, the most vicious Congress that this country has ever seen. It was, as every student of history knows, a rump Congress, representative not of the whole country but of those States that had prevailed in the bloody war they had just passed through. It sought to dominate the Executive, and, when he did not yield, it brought about his impeachment. It, too, sought to "unpack" the Court; it reduced its size to prevent President Johnson from appointing judges.

Then, with Johnson out of the way, it "unpacked" it again by giving Grant two more judges. Thus it sought to bend the Court to its will. I am sure that no one who respects, as I do, the high personnel of this present Congress, can conceivably justify this proposal by comparing its method with that of the wretched reconstruction Congress which followed the War between the States.

We are invited by Democratic advocates of the Court-packing proposal to look at the long delay in the child-labor amendment as evidence of the difficulty of getting a constitutional amendment. But I should like to remind those gentlemen that in the drafting of their platform in Philadelphia last summer, either by deliberation or by oversight, the party failed to put itself squarely behind that child-labor amendment. And there has been in evidence no great compelling effort to bring about its passage in the States in which the Democratic Party possesses plenary power. And while I am on the subject, permit me to join with Judge Pecora in an earnest appeal to the voters of New York to express in every way possible to the legislature now considering this amendment and voting on it Monday night or Tuesday, their approval of it, and to exert every legitimate influence toward its passage.

We are told that the problems of the farmer and the wage earner and the business man will not wait, that by 1941, we must be well on the road to their final solution. But let us not lose our sense of proportion in the face of talk about immediate and desperate crises. All of the problems that beset human life are not going to be solved by this generation or by this administration or by this Congress, wise as I think they have been in the past 4 years. I believe in the purposes of this New Deal. But I am not for this New Deal alone. I am for future New Deals as well, unhampered by the dead hand of the past, even if that past be the resplendent past of the administration of Franklin D. Roosevelt. I am not just against the dead hand represented by the majority of this Court; I am against all dead hands through which the past seeks to control the future.

Our New Deal will be an Old Deal sometime. All of us who believe in the reforms of the past 4 years and who, like Judge Pecora

and I, had some part in bringing about those reforms, will become old. Even the rubber-stamp court that the President now wants to appoint will become old and, as the President says, will wear glasses fitted to the needs of another generation. I do not want Presidents then—as now—to feel free to remake that Court again and again and again—as Presidents will if we set this bad example now. Nor do I want to fasten our present reforms upon future generations. I want a sound method followed—now—which will be workable then—so that reforms that our children and our children's children want can be attained through orderly means. I do not want this generation to teach future generations to sacrifice means to ends.

That is why the method of change is so important. Needs and purposes change; methods, when tested, should remain. Our forefathers left us a method in the Constitution by which the changing needs of all generations in the future might find orderly expression. We will have to answer to our conscience and to future generations if we abandon that American method, which, despite minor flaws, has proved to be the truest and best avenue to the achievement of desirable ends. That method, the American method, is to tell the public in an orderly fashion precisely what is necessary in the way of economic and social change, to seek to convince the people of its wisdom, and then to ask approval of the change. That method will be the shortest way to achieve the high purposes which Mr. Roosevelt has so courageously made his own. Such ends can be achieved within the grand mosaic of the American constitutional tradition.

But to seek to achieve them through the destruction of the American tradition is to open the way to the death of the ideals that gave them birth.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. WALTER F. GEORGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 17, 1937

RADIO ADDRESS BY HON. ROYAL S. COPELAND, OF NEW YORK, ON MARCH 12, 1937

Mr. GEORGE. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by the senior Senator from New York [Mr. COPELAND] at Carnegie Hall, New York City, on March 12, 1937. The address is entitled "Court Reorganization and American Minorities" and has relation to the President's proposal to increase the membership of the Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Tonight I shall give most briefly a few reasons for my own unhappiness over the proposed Court reorganization. Two great Senators, Mr. WALSH and Mr. BURKE, men of high standing at the bar, will explain at length the legal aspects of the question. My theme will be the menace to American minorities if Mr. Roosevelt's recommendation is followed. As one of the hosts to my beloved associates, my remarks will serve merely as an introduction to their full presentation of the dangers of what is being attempted.

In what contrast America stands with relation to the rest of the world! We are free, free in all matters relating to education and civil rights. In our free America, with the Supreme Court independent of political dictation, we worship God according to the faith of our fathers. We work for our daily bread without fear of racial discrimination.

What about the rest of the world?

We see Catholics attacked, their churches destroyed, their priests and nuns massacred, their property confiscated. All this occurred in a country where once that great church symbolized the state religion. Whatever constitutional guarantees Catholics possessed in Spain have disappeared like a morning mist.

Last summer I visited Palestine to study the war against the Jews. They are in that country by right of a mandate provided for by the Allied Powers at the end of the World War. When that mandate was formulated it became in reality the constitution of the Jewish national establishment. It was so recognized by a treaty between the United States and Great Britain.

The Jews in the Holy Land and Zionists throughout the world are in fear and trembling lest the sitting British High Commission attempt to set aside the promises solemnly pledged in that pact. They are alarmed lest immigration to Palestine and land sales to the Jews may be terminated in violation of the solemn terms of the mandate, by an act of usurpation on the part of the mandatory.

I need not argue with any Jew as to the significance of unlawful and unconstitutional modification of the Palestinian constitution. Surely it is not necessary to remind loyal Americans of Jewish blood that a violation of the American Constitution by indirection and usurpation is of the same essence.

The rights of all racial groups and religions, all minorities, in America, are not asserted in the Congress, or our States, or our legislatures. They are asserted in the Constitution and enforced by the courts of justice.

If for no other reason, these courts must always be independent of the Congress and the President, and beyond the reach of all political influences. The Supreme Court, surely, must be independent of parties and of elections and of factions. The Constitution and the Court guarantee every man's individual rights, regardless of his politics, regardless of his religion, and regardless of his race.

The necessity for the independence of the Court explains why many of us are so earnestly striving to prevent an action which tends to destroy that independence. We just must resist everything that tends to assert the power of Congress and President over the Court; we must guard and preserve it at all cost to ourselves.

There are some who say that the Supreme Court looks after the rights of the rich, but disregards the poor. This is far from the truth.

It was just a few months ago that several humble negro boys without money and without homes, and with very few friends, were convicted of a capital crime in the State of Alabama. All the power of that great State was against them. They were sentenced to death.

But they learned about the Constitution of the United States. They filed a petition with the Supreme Court; and with the Constitution wrapped about them, they appeared there by counsel. They had no influence. They were just poor human beings who asserted that they were entitled to the protection of the Constitution of our country. They could not even read that instrument and it had never been read to them, but the Court read the instrument and the Court said in effect to the State of Alabama, "You have not given these poor Negro boys a fair trial. You are about to take their lives without due process of law. You shall try this case again, and you must try it fairly. This is our order: There will be no execution of these boys until they shall have been fairly tried." What the Constitution and the Court meant to those poor Negro boys in Alabama it means to every man and woman now in our land, and to every child to be born, so long as the Court and the Constitution are what they are.

Very recently a man of foreign birth was accused in a Western State of Communistic activity. You and I do not believe in communism; indeed, we may hate it. This man was a Communist, and because of this he was tried in that State and sentenced under its law to a long term in prison.

Perhaps this man did not believe in the Constitution. Perhaps he despised the Constitution and wanted a new form of government. But when he found himself ordered to be imprisoned by one of our great States, he drew the Constitution round about himself and appeared before the Supreme Court.

The Court reviewed his trial and in effect said, "Yes; you may be a Communist and you may be poor and you may be friendless, 99 percent of the public sentiment in America may be against you, a great State has tried you and condemned you and sentenced you to imprisonment at hard labor. But our Constitution says you had a right to meet in a public assembly, that you are entitled to freedom of speech. In these respects you had the right of every American. You have been unjustly convicted."

What the Supreme Court and the Constitution did in these cases may for other reasons be required to be done for any one of us, at any time. But we know for a certainty that so long as the Constitution exists, and the Court is independent, these rights are safe for every one of us.

The difference between our country and all other countries, is this: Here, there are limitations upon the powers that be, and there is a Court to see that these limitations are respected. Thank God there is a public sentiment to uphold the Court when it does these things. There can never be a dictator in America while we have a Constitution and an independent Court.

Someone may ask, "How is all this related to the bill now pending in the Congress to authorize the appointment of six additional justices?"

The answer is simple: Everybody knows this scheme is for the purpose of nullifying recent decisions of the Supreme Court. But if it succeeds it will make the Supreme Court a political institution, not a court of justice. If one Congress can do what is proposed, another Congress can add six more justices and for the same purpose, that is to change the interpretation of the Constitution.

What protection would there be for anybody or anything in America if this sort of thing should go on? And if we start it, it will certainly go on. We should no longer have an independent court of justice, but we should have a court governed by politics. The question in all future elections would be, not economic, but what the newly elected Congress and President are going to do with the rights of the people. One group would fight for one set of rights and a second group for another, and as surely as fate some man would come along and fight for supreme power. He would wish to control Congress and the Court and to control the Presidency. If he wished to take away any right, he could take it away by adding to or subtracting from

the membership of the Court. This would destroy the judicial branch of the Government; it would destroy the intent of the Constitution; and, of course, it would put in jeopardy the personal, religious, educational, social, property, and political rights of every man, woman, and child in America.

All persons of humane thought are at this time disturbed over the anxiety and perplexity of those who labor in factory or on farms. To those interested in social reform and to the many who wonder why much-desired laws are not immediately possible—to all these I say the case is not hopeless by any manner of means. The fathers of the Republic anticipated that with the passing of time fundamental changes might be required; they provided a means of making them.

There is but one way to settle this question; if a change is truly desired, it must be accomplished by constitutional amendment. The sure way to enjoy the benefits, if they be benefits, of any popular laws that have been determined to be unconstitutional, is to ask the American people to pass judgment upon them. With the adoption of suitable amendments, it makes no difference what may be the personnel of the present Court or the personnel of future Courts—the will of the people, as expressed in the amended Constitution, will be carried out to the letter.

There is much loose talk about the President's "mandate." Whatever may be said by "official spokesmen" of the Government, the American people gave no mandate to alter the Constitution by usurpation. But the degree of that popular enthusiasm and endorsement, so widely heralded, should be sufficient to guarantee immediate action if properly directed.

If there is true faith in those who gave the great majority of last fall, the proponents of the President's plan should ask the people and trust the people to follow him in approving the amendments. Success should not be a matter of more than a few months. If there is real need for the discarded laws, they may be provided by constitutional procedure.

But in the name of a country that has prospered through a century and a half, let us not rush into something that might ruin it overnight. If the pending plan to dominate the Court prevailed, it would shake the very foundations of our Government. I appeal to every lover of the flag, and of the great land over which it waves, not to travel the broad way that leads to destruction.

Delaware's Progress in Recent Years

EXTENSION OF REMARKS
OF
HON. WILLIAM F. ALLEN
OF DELAWARE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 17, 1937

Mr. ALLEN of Delaware. Mr. Speaker, the remarkable recovery by the State of Delaware from the depression that swept this country a few years ago is attracting Nation-wide attention.

On January 11, 1937, our great President, Franklin D. Roosevelt, wrote to the president of one of our leading newspaper companies in the city of Wilmington, Del., the News-Journal Co., encouraging the publication of an issue of one of his newspapers to be entitled "Delaware Tomorrow." I quote below the letter from President Roosevelt to the president of the News-Journal Co., Mr. Theodore G. Joslin:

JANUARY 11, 1937.

Mr. THEODORE G. JOSLIN,
President, the News-Journal Co., Wilmington, Del.

MY DEAR MR. JOSLIN: I am glad to learn that in recognition of continued prosperity a special edition of the News-Journal papers will be issued entitled "Delaware Tomorrow." It is particularly gratifying to know that present conditions foreshadow an increasingly active future. All this is reassuring, because it means, in the long run, regular employment for an increasing number of workers, and thereby a greater measure of happiness and security for all the people.

Very sincerely yours,

FRANKLIN D. ROOSEVELT.

I wish it were possible for each of my colleagues to read a copy of the issue of Mr. Joslin's paper, Delaware Tomorrow, which was published on February 27, 1937. It shows conclusively and beyond doubt that Delaware is among the first States in the Union in the fight toward industrial recovery.

Rapid strides in the past few years have been made by the entire State in all directions. Building construction is experiencing a real and substantial boom, and during the last 2 years at least 1,000 retail establishments have been founded in the State.

The manufactured products of Delaware are sold the world round, and manufacturing concerns whose names are known to the far corners of the earth are operating full time within our borders. Many of these concerns are now enlarging their plants and rapidly increasing their personnel.

While Delaware may be the second smallest State in the Union, it ranked sixth among the 48 States during 1935 in the value of crops produced per square mile. From information I have received, I am convinced that 1936 will place it higher in this list. The soil and climate of Delaware are both particularly well suited for diversified farming, which has resulted in the establishment of many canning factories, with more being built. Canned products of our State go to the best markets and the present demand for them cannot be met.

The good roads of Delaware are noted throughout the entire country. Its dual highway system is a great factor in the upbuilding of the State, and at this time Delaware can justly boast of a $40,000,000 highway system. Other means of transportation in Delaware are equally satisfactory. The Pennsylvania Railroad, the Baltimore & Ohio, and the Reading Railroad combined serve every portion of the State. The city of Wilmington, of which all Delawareans are justly proud, has 300 miles of track, with 155 private sidings. Steamships and ferries ply the Delaware Bay and River, bringing passengers and freight to Wilmington.

Progress in education is noted through the State in recent years. As a matter of fact, Delaware, as recently as 14 years ago, ranked thirty-second in the list of States regarding public schools, but today it ranks among the first 10.

From a recreational standpoint Delaware has much to offer. Its wonderful fishing, boating, bathing, and other sports are the pride also of all Delawareans. Rehoboth Beach, among others, is only 3 hours via automobile from Washington. It is a well-known and outstanding resort, and I sincerely hope during the summer many of my colleagues here will have an opportunity to visit Rehoboth Beach. No finer surf bathing or fishing can be found on the Atlantic seaboard.

All in all, and in every way, Delaware is marching forward; its future is very bright, the depression is over, and striking progress that is attracting the attention of the Nation is shown through the entire State.

Flood Control—A National Problem

EXTENSION OF REMARKS
OF
HON. WILL M. WHITTINGTON
OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 17, 1937

ADDRESS OF HON. ORVILLE ZIMMERMAN, OF MISSOURI, IN ST. LOUIS, MO., ON MARCH 12, 1937

Mr. WHITTINGTON. Mr. Speaker, under the leave granted me to extend my remarks in the RECORD, I include the following address delivered by Hon. ORVILLE ZIMMERMAN, a member of the Flood Control Committee of the House of Representatives, on Friday, March 12, 1937, at the Flood Control Conference of the Mississippi Valley Association in St. Louis, Mo., to wit:

President Weaver, honored guests, members of the Mississippi Valley Association, ladies and gentlemen, I deeply appreciate the honor of being invited to speak on this occasion, and I am indeed gratified to note that so many representatives from the Mississippi Valley States have accepted the invitation of the water resources committee of this association to meet in historic old St. Louis to consider and discuss the ever-increasing Nation-wide problem of flood control, or, as some prefer to say, flood prevention.

At this point in my discussion I hope that I may be pardoned a brief digression to say that for nearly 20 years the officers and members of the Mississippi Valley Association have labored unceasingly and zealously, in season and out of season, to stimulate and promote the commercial, industrial, and economic well-being of the people of this great valley; that much of our growth, progress, and development throughout these years may be attributed directly or indirectly to the activities and program of this voluntary organization.

And now back to flood control—or, if you prefer, to flood prevention. The "superflood" of 1937, long looked for and predicted, has come and gone, leaving in its wake a loss of human life that is appalling; a destruction and loss of property that time only can estimate and appraise; a million or more erstwhile happy and prosperous people rendered homeless and faced with abject poverty and utter ruin, to say nothing of untold misery and human suffering; millions of tons of our rich topsoil washed from our land and carried to the sea and lost forever, not only to us but to generations yet unborn; levees, dikes, and other flood-control works, built and constructed at great cost to States, municipalities, and local agencies, damaged, swept away, and rendered utterly ineffective for future use; and last, but not least, widespread spoliation of river and stream banks and filled-up stream beds which will in the future accentuate our flood hazards.

Grim as we may paint the picture of the recent disaster, suffice it to say that it cannot be overdrawn, and it is devoutly to be hoped that we will not soon forget the warning given and the lesson taught in recent weeks.

In the past we have been prone to forget the harrowing effects of flood disasters such as we have recently experienced and submissively bow to what many thought to be just another scourging visitation upon mankind about which nothing could be done. I have heard, and so have you, people of ordinary intelligence present the argument that it was futile for man to try to overcome or subvert the forces of nature, and, therefore, that it was a waste of time and money to try to prevent or control ever-recurring floods resulting from water, from rain, and melting snow and ice on our watersheds. Unfortunately, this philosophy or belief has been a dominant if not a controlling factor in our attitude toward this all-important problem. I do not share or subscribe to this or any philosophy which will inevitably engender in a people a spirit of submissive fatalism or leave them submerged in the depths of hopeless defeatism.

Speaking personally, I live in one of the worst flood-stricken areas in the whole valley. For 25 years our fertile acres have been submerged at least 3 out of every 5 years by overflows from the St. Francis and Black Rivers and by occasional outbreaks from the Mississippi. But for a dogged, tenacious, fighting spirit of our people, we would have given up the fight long ago and would have sought homes elsewhere. After exhausting our resources for flood protection we appealed to Congress and the Federal Government for help, but until recently our petitions fell upon deaf ears.

Two years ago when I came to Congress and was assigned to membership on the Flood Control Committee of the House the President and leaders in both Houses of Congress seldom referred to flood control as a national problem which should have immediate consideration. I well remember that in the closing days of the first session of the Seventy-fourth Congress our committee reported out the so-called omnibus flood-control bill, which, for the first time, sought to deal with this problem on a national scale. When this bill came up for passage it was greeted not only by Members of Congress and the metropolitan press with the cry of "pork barrel" and "extravagance", but it was actually brought to its death under a barrage of ridicule and derision inflicted without mercy.

Behold what changes time hath wrought! The scene changes. Today the President, the Congress, our metropolitan papers, and groups of citizens from all sections of the country are demanding that consideration of the flood problem be no longer delayed and that some definite program be undertaken at once.

If any good can ever come from a great calamity or disaster, then I would say that our recent floods in the Mississippi Valley and the flood of 1936 in the New England States have been productive of at least one good result, viz, to arouse in the American people a high resolve and determination to solve the flood problem in the Mississippi Valley and throughout the Nation and to save our country and its people from future devastation and ruin. At last we have decided to do the job, and I have no doubt but that we will do it in a genuine, thorough American way.

During my tenure of service on the Flood Control Committee of the House I have given the subject of flood control my earnest thought and study. During this time I have had the opportunity of listening to able discussion of the problem of our Army engineers, by civil engineers, and experts in civil life, and, as a consequence, I have arrived at a few definite conclusions on the subject which I should like to leave with you for your consideration.

Before we can arrive at a rational solution of the problem of flood control or flood prevention we must, I think, come to know something of the basic causes of floods and their repeated recurrence in recent years.

From both study and observation I have reached the conclusion that our present dilemma has been brought about largely by man's prodigal use of our farm lands, by his ruthless destruction of our forests, and by his unrestrained plowing and grazing in our grass sections. The results of these mistakes through the years are all about us, and most of us have lived long enough to see the transformation actually come to pass—the utter destruction of nature's greatest retarding forces upon water from rain and melting snow and ice coming from the watersheds of our streams.

In discussing this situation ex-Governor Pinchot, of Pennsylvania, an authority on conservation, in a recent article in the Washington Post, had this to say: "Before we began to ravage our natural resources, even in flood time, the streams were fairly clear. The soil was protected and kept porous and absorbent by the forests and the prairie sod. To all intents and purposes there was no bare ground at all, and so the enormous mass of soil and sand now carried by our rivers in flood remained where nature put it. Since then we have cut and burned and cleared and plowed so unwisely that we have laid our soil open to the little fingers of the rain, which for years have been picking up and carrying away the richness of our land."

It is estimated that the rain washes into our rivers and that our rivers carry into the sea a billion tons of our soil every year, 8 tons for every person in our Nation; and, further, that it requires 10,000 years to produce a foot of soil through the ordinary processes of nature.

A few days ago Secretary Wallace gave out the statement that in the last hundred years 50,000,000 acres of once fertile land have been ruined as productive soil; that another 50,000,000 acres have been seriously damaged; that another 100,000,000 acres in cultivation have been impaired by erosion, and that we have another 100,000,000 acres on which erosion has begun. These are startling facts, and we all know that unless some effective corrective program is placed in immediate operation the fate of America may soon be that of many portions of old China—lost and destroyed forever.

We also know that the yearly increase in the rapid, unrestrained run-off of rain water and water from melting snow and ice from our unprotected watersheds will increase our flood hazard proportionately both as to frequency and as to destructibility.

At this point I think it well to call your attention to a new species of disaster which has come upon us in recent years, a twin brother of the flood, known as the dust storm. Only a few years ago, within your memory and mine, dust storms were unheard of. But in a few years after the soil scrapers left their worn-out farms in the valley and began to break and destroy the native sod in our Western States, the rain and sun and wind began the work of destruction which has resulted in producing these so-called destructive freaks of nature. The same conditions which cause and produce a flood will cause and produce a dust storm, and the same program which will control one will abate the other.

I also maintain that the same conditions which produce a flood and a dust storm will also lower the water table in the earth, as we have witnessed with great alarm in recent years, and increase the severity of drought cycles through which we have been recently passing.

I have called your attention to these facts because the water problem is Nation-wide in its scope and affects the well-l ing of our people from many angles. Water is life, and, when controlled, is man's best friend; uncontrolled it becomes man's worst enemy. There are many who believe, and I share in that belief, that we have already embarked upon the greatest flood-prevention program that we have ever undertaken, viz, our soil- and water-conservation programs and our program of reforestation.

All political parties, all sections of the country, rural and urban, all business, social, and civic groups agree that these conservation programs should become and remain a permanent, fixed, national policy. It is, therefore, important that we rally to the support of these programs, because without them our Nation cannot long preserve its topsoil, cannot raise and hold to an adequate height the water level in the earth, cannot banish the dust storm from our plains, and cannot have and enjoy adequate flood control or prevention. But we realize that we cannot long wait for these future benefits and protection. It will take years for the program to become effective. We must act now. We must not fiddle while Rome burns. We must immediately embark upon a comprehensive, coordinated program of flood prevention, Nation-wide in its scope, the acknowledged responsibility of the Federal Government, which will not only avert and minimize the flood hazards on our rivers and streams, such as we have only recently experienced but which will effectively supplement, through the years to come, our conservation programs now being put into operation. This is the gigantic task before us, and "time is of the essence" of the undertaking.

Not so very long ago flood protection was not regarded as a national problem but rather one primarily for local agencies and communities, and that Federal aid on flood projects was to be extended only on condition that local agencies and interests contribute their full share toward the improvement. I hardly think it necessary to discuss at this time the results of such a policy except to say that it has in many instances resulted in costly delays, in the reckless waste of money, and in a practice and policy of haphazard, piecemeal construction wholly uncoordinated with any contiguous plan of flood protection. At last we—and by we I mean the President, Members of Congress from most States, our Army engineers, and engineers and experts in civil life—have come to the realization that flood prevention in the Mississippi Valley and elsewhere throughout the country is a national problem, Nation-wide in its scope, and the primary obligation and responsibility of the Federal Government; that since floodwaters are seldom localized, transcend all State lines and are essentially interstate in character, the local communities and agencies should in the main be relieved of the burden and responsibility of both construction and maintenance.

However, before embarking upon the suggested program, or any program, I think it highly important that we take inventory of our situation at the end of the worst flood in the history of the valley. It is a notable achievement—a high compliment to the skill and efficiency of our corps of Army engineers—that this superflood was safely passed by the lower Mississippi without any serious loss of life or property. It was the first real test of our splendid levees and spillways erected and constructed under the Flood Control Act of 1928 and the first real demonstration of the benefits flowing from the program of bend cutting and channel straightening carried on by the Army engineers in recent years. Time has fully indicated the wisdom of this program, and these improvements have already yielded a return of 100 percent of their cost in the saving of human life and property. And when our Army engineers complete the program authorized by the Overton bill, passed by Congress last year, then I confidently believe that the flood problem on the lower Mississippi will be solved for many years to come; and the same prediction, I think, may also be made for the areas affected by the St. Francis and Yazoo Rivers, also provided for in the Overton bill.

The gigantic task confronting us in the valley at this time is the unsolved problem of protecting the main stems of the principal rivers which flow into the Mississippi from high-flood crests such as we have just experienced on the Ohio, and the further problem of so handling and controlling the water coming from the watersheds and channels of tributary streams flowing into these main streams, such as the Ohio on the east, the Missouri, Arkansas, White, and Red Rivers on the west, and the Mississippi north of Cairo, so as not only to protect life and property on the tributaries of the main streams but the main streams and lower Mississippi as well.

In the limited time at my disposal I should like to leave for your consideration some of the things which I think should be done as a first line of defense against these floodwaters. In the first place, I urge the continuation of our levee-building program on the stems of our main streams and their tributaries where necessary. I do not agree with those who believe that levees have become obsolete as flood-control agencies. On the contrary, I believe that levees are a fundamental factor in any comprehensive plan of flood control and that we should build more levees and build them higher, wider, and stronger.

As I have said before, it will take years for our programs of soil and water conservation and reforestation to become effective as flood-prevention agencies. In the meantime, now, if you please, we must rely upon other factors of control to not only do what we confidently believe these agencies will accomplish in the future, but to supplement our levees, spillways, and other agencies of protection. It is my belief, a belief based upon study and observation, that we must enter upon a program of reservoir construction and dam building on our tributary streams, and even on the stems of some of our principal streams, to impound, regulate, and hold in check the rapidly increasing run-off of water from our unprotected watersheds.

For example, the construction of the 26 reservoirs, which have been approved by the Army engineers, on the Arkansas and White Rivers would have reduced the flood stage at Arkansas City on the Mississippi approximately 4 feet during the flood of 1927; and the construction of these reservoirs, supplemented with an adequate system of levees on the main stems of these streams where needed, would effectively protect the people in this valley and on principal tributaries from future flood disasters. The same may be said for the St. Francis River in Missouri and Arkansas and the Yazoo Rivers in the State of Mississippi and other streams which I do not have time to discuss.

In certain sections of our country we find that the greatest need of their people is water—water for irrigation and recreational purposes; water for the preservation of life and health of their people and the adequate support of their livestock. Reservoirs and dams constructed in such areas to impound and control floodwaters on their streams could and should be used to make these destructive waters available for domestic uses and purposes and, under certain conditions, to serve a twofold purpose.

For example, some of the most destructive floods on the Arkansas River have their origin in the far West and in States which suffer from the lack of an adequate water supply. These States need the water and the people living on the main stem of this stream and lower down in the Mississippi Valley proper need protection from these uncontrolled floodwaters which now periodically pour down upon them. The same situation exists with reference to the Missouri and other streams which flow through and affect the arid sections of the valley. In my judgment, any flood-control program on streams flowing through such areas should take cognizance of these dual benefits.

In recent years there has been a growing tendency to get rid of our rain and surface water as quickly and completely as possible; in fact, to get it entirely out of the country. All of our efforts at drainage, carried on by private owners of land and by public agencies, such as road districts, highway commissions, and drainage districts have been to get the water to a flowing stream, into a river and then on to the sea. A large part of the water falling or coming from a watershed should or could be impounded on lands unfit for agricultural or grazing purposes and used for local purposes. In recent years many sections of our country have experienced the severest droughts in our country's history. There can be no doubt but that our policy of speedily getting rid of our surface and rain water—getting it out of the country—has contributed much to the severity of these drought cycles through which we have been passing; and it is equally true that the presence of lakes, ponds, and flowing streams in a country have a marked effect upon the precipitation and rainfall in such areas and tend to greatly mollify the severity of droughts.

If we are to intelligently deal with our water problem, control our floodwaters, and make them available to bless and benefit humankind then we must reverse our policy of land utilization. Instead of draining every lake, swamp, and depression for agricultural purposes, without regard to their economic value, as we have in the past, we must restore them to their primitive state and uses, even resorting to artificial construction, for storage and holding basins for rains and surface water and floodwaters coming from the main stems of our streams at flood stage, the very thing that happened on the Ohio recently and saved Cairo from destruction and the lower valley from inundation. The Mingo Swamp in southeast Missouri furnishes a notable example of what has or may be done.

A few years ago some drainage enthusiasts conceived the idea of draining this swamp, comprising about 50,000 acres, for agricultural purposes. In the past this swamp had served as a natural catch and holding basin for overflow waters from the St. Francis River and for rain and surface waters from the foothills of the Ozarks. In a few years after the drainage project was completed, it was discovered that the land had little or no value for agricultural purposes, and in due time the project was abandoned. The net results of this illy considered venture was heavy loss to purchasers of bonds, the rapid flow of these waters into the river channel, and increased flood damage below.

We find another very interesting situation on the Mississippi River at what is known as Grays Point. We have the support of high engineering authority for the statement that a dam across the river at this point high enough to impound flood crests on this stream would insure the lower valley protection from inundation from this source of floodwater.

If we are to seriously undertake the job I have been talking about, then the expenditure of the necessary funds to construct such dams and acquire the necessary lands, much of them worthless for any other purpose, for adequate reservoirs to hold back these waters, must no longer be regarded as an unsurmountable obstacle.

In conclusion, permit me to say to you and to the country that this problem can be solved; that in the solution of this problem we have at our disposal the services of the best-trained, best-equipped engineering organization in the world—our Corps of Army Engineers. They are patriotic, they are qualified by both training and experience, have behind them a wonderful record of achievement, and to them, and to them alone, should be entrusted the important task of executing the final plans which will soon be placed in their hands by the Congress of our Nation.

Pass Senate Joint Resolution 55—And It Will Cost the Taxpayers More Than $15,000,000

EXTENSION OF REMARKS

OF

HON. JOHN J. COCHRAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 12, 1937

Mr. COCHRAN. Mr. Speaker, I have asked for the privilege of extending my remarks for the purpose of calling attention to the Members of the House to Senate Joint Resolution 55, which provides for amending the act of July 3, 1926, entitled "An act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and render judgment in claims which the Crow Tribe of Indians may have against the United States, and for other purposes" (44 Stat. L. 807).

As the older Members of the House are aware, the Committee on Expenditures in the Executive Departments held a hearing on March 8, 1935, at which an assistant to the Attorney General testified that the Congress had referred to the Court of Claims 114 resolutions which authorized the Court to hear claims filed by various Indian tribes and that the total amount involved in the claims up to that time was over $3,000,000,000. Following the hearing, the facts were placed before the Committee on Appropriations and that committee inserted a paragraph in the deficiency bill which extended to the Government the right to offset the claims by showing gratuities and advances that have been made by the Government to the various Indian tribes. As a result of that amendment the Government has been able to

protect the taxpayers in the suits pending before the Court of Claims.

In the last session of Congress, with the help of other members of the Expenditures and Appropriations Committees, practically all of the bills which sought to take away the power granted to the Government to charge off the gratuities and advances were defeated.

Most of the bills have been reintroduced in the House or the Senate, and the Senate has already passed, without any discussion, a number of the bills.

Senate Joint Resolution 55 passed the Senate on February 11, 1937, and if anyone will refer to page 1143 of the CONGRESSIONAL RECORD he will see that this resolution passed without one question being asked or any explanation being made. I have read the report, and I want to call attention to the Members of the House to this report. I want you to know what you are going to be asked to vote for in the event Senate Joint Resolution 55 is called up.

On last Wednesday, when the Indian Affairs Committee had the call, I asked the chairman of the committee if he proposed to bring up this resolution, and he advised me that he did. He then requested me to inform him if I intended to oppose the resolution, and I said I would do all I could to defeat it. The committee then changed its mind and did not call the resolution up, but it is liable to be called up some day, and for that reason I want the Members to know just what this resolution means.

First let me say these Indians have had their day in court. In a letter to the Acting Director of the Budget, the Acting Attorney General said:

> Pursuant to the grant of jurisdiction contained in the act of July 3, 1926, suit was brought in the Court of Claims by the Crow Tribe to recover additional compensation for certain lands theretofore ceded to the United States. The court held that "both from a factual and jurisdictional standpoint, there can be no recovery on this claim." The court found that the plaintiff was not entitled to recover on the merits, and further that it had no jurisdiction of the claim.
>
> In view of the foregoing circumstances, it would seem futile to enact legislation granting jurisdiction to the Court of Claims to determine the claim, and I consequently do not concur in the favorable report which the Secretary of the Interior proposes to make relative to the bill.

In support of this recommendation the Acting Attorney General invites attention to the opinion of the court, reading in part, as follows:

> The evidence does not disclose that the Indians were misled or that any fraud was committed upon them. As a matter of fact, no fraud is alleged, only a general charge that the Indians, through the actions of the officials of the Government in not promulgating the Treaty of Fort Laramie as having been duly ratified by the Indians upon the amendment made by the Senate, were not acquainted with their rights under the treaty of 1851. However, during all of this period, the Indians were receiving from the Government the amounts stated in the treaty; so far as the Congress was concerned, the terms of the treaty were carried out fully. During all these years the Crow Nation lived on the reservation so set apart under the treaty, although a small band known as the River Crows, wandered from the reservation and lived on the Milk River in the territory of the upper Missouri River. This band of Crows lived most of the time off the reservation in the territory of the Blackfeet and Piegans and other tribes on the upper Missouri River, but returned to the reservation from time to time. We can find nothing in the evidence to show that the Crow Indians were at any time misled as to the nature of their holdings under the treaty of 1851, but on the contrary, the evidence shows that they considered the reservation, so set apart in this treaty, as their lands and in all of their dealings with the Government, which resulted in the treaty of 1868, those speaking for the Crow Nation referred to it as their lands.
>
> However, under the jurisdictional act, this court is confined to claims arising under the growing out of the 1851 treaty and the treaty of 1868; both of these treaties set out the consideration to be paid by the Government. Under the Constitution, all treaties made under the authority of the United States are the supreme law of the land, and the question of the amount of the consideration and what entered into the negotiations are not for this court to determine. Both are political and not judicial matters.
>
> It has been held repeatedly that the court cannot go behind a treaty, and that a treaty remains the supreme law of the land and that no court, either a court of law or of equity, can declare a treaty to have been procured by duress and fraud and therefore inoperative. The rights of the parties must be considered and the legal and equitable rights determined under the terms of the treaty. We can find nothing in the evidence to justify the finding that any advanage was taken of the Indians so far as the consideration was concerned, or justify the conclusion that Congress intended by the jurisdictional act to submit to this court the question of its fair dealings with these Indians.
>
> * * * * * * *
>
> Both from a factual and jurisdictional standpoint, there can be recovery on this claim.

If this resolution is to receive favorable consideration, the following amendments, proposed by the Department of Justice, are suggested for consideration:

Strike out the words "irrespective of any treaty stipulation entered into under such mistake of fact."

In support of this proposal it is stated:

> Pretermitting any discussion of the question of the power of Congress to direct the Court of Claims to disregard the law of the land in deciding cases, this phrase undoubtedly creates a liability. There can be none in its absence. This assumed liability can very easily result in a judgment against the United States of $15,000,000 or more.

Here you have a statement from the Attorney General of the United States, who will be required to defend this claim against the Government, stating that if this resolution passes it will mean a judgment of not less than $15,000,000, which the taxpayers of the country will be required to pay.

This is only one of a number of Indian bills that provide for the changing of jurisdictional acts already passed that will come before the Congress at this session. It is impossible to estimate the final cost to the taxpayers if they pass.

The amount involved in this case is so large that I feel the Members of the House will welcome this information.

The Supreme Court and the Constitution

EXTENSION OF REMARKS

OF

HON. ROY O. WOODRUFF

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1937

RADIO ADDRESS BY HON. USHER L. BURDICK, OF NORTH DAKOTA, ON MARCH 17, 1937

Mr. WOODRUFF. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include an address by Representative USHER L. BURDICK, Republican, of North Dakota, over the Columbia Broadcasting system, Wednesday, March 17. His topic was "The President and the Supreme Court." Representative BURDICK spoke during the Current Questions Before the House series, which is a weekly feature of the Columbia network. He spoke through the facilities of WJSV, Columbia's station for the Nation's Capital, as follows:

> Citizens of the Republic, the President has raised the issue as to whether this Congress should give him the power to appoint six additional judges, thus inducting into the Court enough new members from the New Deal ranks to sustain any act which the Congress may see fit to pass.
>
> As a justification for this authority, the President says in so many words, that the present Supreme Court has blocked many of the New Deal measures and is apt to block more of them when they come before the Court for interpretation. The whole basis of the change is, therefore, the attitude of the Supreme Court in not passing favorably upon all acts which the New Deal has passed and the probability that the Court will not pass favorably upon all acts which are contemplated during the present Congress.
>
> The gist of the whole controversy is that the President has a New Deal scheme which he desires to enact into law and have it sustained, not because it is constitutional but because it is a part of the New Deal, which the President says is a good thing for the people. The President is determined to put this program through regardless of consequences. Before going into the question of the right of the President to demand this power, when it is no part of his official duty under the Constitution, let us see what there is to this New Deal that makes it a plan of government that no one, even a Member of Congress, has the right to dispute and on which the President has assumed himself to be infallible. This assumption has been demonstrated by the President in many speeches and messages since his election, although during the campaign he gave no notice of his intention to

push his program through in spite of the Supreme Court and its interpretation.

One of the complaints made by the President is that the Supreme Court held the A. A. A. unconstitutional. Let us see what this program was. In substance it was nothing but a dole to the farmers and did not even come close to the cost-of-production program advocated by all farmers. The A. A. A. did not help the small farmer and the renter. The payments went to the big operator. While the small farmers in North Dakota were receiving, on the average—renters and all—$72 in benefits, Campbell, the big operator of Indian lands in Montana, received $80,000. The small farmers and the renter in the South didn't get payments in sufficient amounts to keep themselves off W. P. A. work, while the big landowners received payments running close to the million-dollar mark. No small farmer ever paid off his mortgage with an A. A. A. check. He used it, if the Government didn't take it away from him in paying interest and payments on Government loans, to live and keep off relief.

Besides this, the whole agricultural program of the President is based upon forced scarcity in a land where millions are hungry. The philosophy is wrong, and no amount of speeches which the President can so excellently deliver will make this philosophy right. It is morally wrong and violates every caution given in the great Book of Books. It seems advisable here to say that a great many people seem to have totally forgotten the Bible and its teachings. We are fast assuming, as Russia has already assumed, that the Bible means nothing and we cannot be bothered with it in our new ways of government. That seems to be the trouble with the whole world.

Here is what the Bible says about planting and sowing crops (I Cor. iv: 6–7): "I have planted, but God gave the increase. So then neither is he that planteth anything, neither he that watereth; but God that giveth the increase."

Common sense, based upon a recorded history of mankind for the last 4,000 years, dictates that in a land where we have hungry people, who want something to eat, we should not deliberately force farmers to sign a contract which, under penalty, prevents production. That is exactly what the Government attempted to do in the A. A. A. contracts. More than that, the contract itself took away from every farmer who signed it, his constitutional right to appeal. The Secretary of Agriculture became the supreme court beyond which no farmer could go. He signed his constitutional rights of appeal away. The farmers were forced into these contracts under duress. If he did not sign, then the Secretary of Agriculture withheld all of his so-called benefit payments. Under these contracts, the average farmer did not get more than a dole and at the same time, the Secretary of Agriculture, with his countless thousands of agents, actually controlled the farmers in their daily conduct. Wallace handed out the checks—if a farmer was dissatisfied with the rulings of Wallace, he had no appeal because he had signed that away. Hence, thousands of farmers registered complaints, but had to swallow the pills made by Wallace. These thousands, under Wallace, through these contracts, carried on the program of enforced scarcity. This Department deliberately and intentionally put on a program to keep the farmers from raising food products; if they overstepped, the products were burned or otherwise destroyed, and the farmer who was guilty of overproduction was denied the "Wallace benefits", from which there was no appeal.

The Supreme Court held this act unconstitutional, and it was and still is. This Government has no right to go into the separate States and compel farmers to enter into contracts, all of which are both ethically and morally wrong, and based upon a theory of scarcity that can never be justified under any circumstances.

I do not know who sold this program of scarcity to the President. When he was campaigning for the Presidency during his first campaign, in referring to a suggested plan of scarcity, he said, in his speech at Topeka, Kans.:

"When the futility of maintaining the prices of wheat and cotton through so-called stabilization became apparent, the President's Farm Board, of which the Secretary of Agriculture was a member, invented the cruel joke of advising the farmers to allow 20 percent of their wheat lands to lie idle, to plow up every third row of cotton, and to shoot every tenth dairy cow. Surely they knew that this advice would not, indeed, could not be taken. It was probably offered as the foundation of an alibi. They wanted to say to the farmers, 'Why, you didn't do as we told you to. Now go blame yourselves'."

Although the President says he sympathizes with the poor farmers and poor people in general, he has actually practiced Hoover's cruel joke quoted above. Was Mr. Roosevelt right when he made that speech, or is President Roosevelt right now when he has, as President, actually practiced in the Department of Agriculture what he so sarcastically condemned in his speech at Topeka?

Who changed President Roosevelt's views, or does he have any views on the subject? Is he following the advice of someone else on the farm question?

In his Topeka campaign speech, Mr. Roosevelt said (with reference to Mr. Hoover, then President):

"Let me tell you that the President's acceptance speech, with its artful excuses and empty promises, will bear careful reading by the farmers of the Nation in light of the promises made in 1928."

I now rise to suggest that President Roosevelt's speeches made on the farm problem, with the many promises held out, will also bear careful reading by the farmers of the Nation in view of what the President said when he was a candidate speaking at Topeka, Kans., September 14, 1932.

May I further timidly suggest, in my weak way, that the recent speeches of the President on the subject of the Supreme Court, with all the assumptions therein contained, will bear careful reading, in view of the fact that it is not the Supreme Court, but the President himself who is responsible for the failure of a farm program that will save the farm and city homes of the Nation.

At that time the President was in the possession of the ability to think straight, but since that day he has taken a course directly opposed to what he so well said at that time.

The President, even now, refers to the terrible plight the farmers are in and seeks to bolster his argument with the fact that farmers are poor and in distress. That is true, and I do not yield to the President or anyone else in my desire to help the farmers out of their troubles. I have done my best, in my limited way, to help them, but I did not have the power. The President has. Why does not he use his power to help them, if indeed, he understands their condition? He has controlled the House of Representatives absolutely since I have been a Member. No bill which he opposes has become a law. You say he vetoed the bonus; yes, he did, and he made it perfectly plain to the leaders in Congress that he would still survive if the bill was passed over his veto. If the President had told his leaders that no bonus bill could be passed, that would have defeated the measure.

We are all agreed, I think, that the President dictates what this House does. If that is true, and Democratic leaders will admit it, why didn't the President recommend the Frazier-Lemke refinance bill and save thousands of farm homes? He refused to support the bill and gave positive directions to his House leaders that he wanted the bill defeated. Had the President favored the bill, or had he taken no action against it, the act would be in operation today. At this very moment there is no Government agency that will finance the present farm indebtedness, and, further than this, the Federal land banks, directly under the President, are starting a program of wholesale foreclosures on farms. Is that helping the farmers for whom the President's heart bleeds? Is the Supreme Court responsible for the defeat of the refinance bill? Is the Supreme Court responsible for the President's attitude toward this bill?

The present Congress passed an appropriation of $50,000,000 for seed and feed, but it refused to enact the rules and regulations to go with the law. The Congress left that to the Farm Credit Administration. I protested on the floor of the House at this action. I predicted that the Farm Credit Administration would make rules and regulations which the average farmer could not meet. That prediction has come true. Thousands of farmers cannot get feed and seed under this act because they cannot comply with the rules and regulations of the Farm Credit Administration. The President knows it. The facts have been presented to him. If his heart really bleeds for the down-trodden farmer, why doesn't he brush aside the rules and regulations made by his own Bureau and get this relief out to the farmer? Instead of doing that, he wants to brush the Supreme Court aside. He has the power to help the farmers now—why does he want any more power? Surely the Supreme Court is not responsible for this situation in regard to feed and seed.

It seems that the President, instead of confessing his own sins, wants to find others guilty for a less offense.

The Home Owners' Loan Corporation is directly under the control of the President. No one disputes that. If this is true, why is the Government agency sweeping along with wholesale foreclosures of city homes? If the President's heart bleeds for the poor city people, why, in God's name, doesn't he use his power, which he already has, and put a stop to it? Is the Supreme Court responsible for the President's failure to use the power he already has?

The President knows a farmer will eventually go under, even if out of debt now, if he sells his products for less than the cost of production. Why doesn't he favor a plan that will give the farmer that cost of production? Two of his Democratic followers, those who will follow him, right or wrong, have bills before this Congress and have had for 2 years, that will do the job on the cost of production. The President opposes these bills, because, he says, it is not in accordance with the New Deal scheme of Secretary Wallace, who is going to feed the people by preventing the farmers from raising so much food. Is the Supreme Court responsible for the failure of the President to support the cost of production for farmers? Will the President give the farmers cost of production if he can make a wholesale appointment of judges?

There are millions of aged people in this country, millions who have built the country up from the forests and prairies of a great empire, who are now in distress. The depression has taken their property—they are old—they are your fathers and mine; they are your mothers and mine. They have asked the Government, through the petitions signed by millions, to give them some adequate security. These aged people presented a recovery plan, which, if adopted, would not only provide for them, but would bring about recovery for all. This program was known as the Townsend Recovery Plan. If the President's heart bleeds for the aged, as he says it does, why doesn't he use the power he already has to enact this program into law. He absolutely opposes this plan and puts forth his own, which is now the law of the land. The aged are paid, when paid at all, a miserable dole, and they have to get right down and beg to even get the dole.

No one who wants to be honest with himself can advocate that the present society security is any security at all. The aged people would fare just as well on the general dole as they do under the President's security program. What excuse can the President give these millions of aged people for his absolute refusal to favor an adequate social security program for them? Is the Supreme Court responsible for his attitude against these millions who have petitioned Congress for adequate social security?

There is no program of reform mentioned in this speech for which there is not a bill now pending before the Congress of the United States, and especially does H. R. 3297, introduced by myself, offer a complete solution. The charge cannot, therefore, be sustained that no constructive substitute is offered for the wrongs of which we complain. The responsibility for the passage of these acts is now up to the President.

Every one of these acts can be passed and every one is constitutional. No changes in the Supreme Court are necessary in this program. No new taxes need be raised. If we added to the Court or abolished it entirely that in itself could not solve this great problem of government. The President has it within his power now to bring this program into being. Failing to do it will never be excused by the people when they know all the facts. My fervent hope is that the President will act, and do it now, and bring everlasting credit to the administration, and relief to the millions in distress.

New Republic Surveys the Big City Press—They Take a Beating in National Election—Will They Take Another?

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1937

THE HAPSBURG PRESS—WILL THEY EVER LEARN?

Mr. MAVERICK. Mr. Speaker, after the Presidential election I concluded, as I presume every other American did, that the press had gotten the worst beating it had ever received in American history. In an article in the New Republic dated November 25, 1936, entitled "The Next 4 Years in Congress", I said:

> The press, having reached the lowest level of degradation in national history, was thoroughly repudiated; history may record that it will never regain its prestige, that its political functions will pass to the radio. To stupid, barefaced lies, gross intimidation, and the pay-envelope fraud the people gave one long razzberry. Even the lords Du Pont, who set about to purify all America, got knocked on their ears in their own barony by their own retainers. Verily, the people used the "American system" to show what they thought, and in an American way.

ARE YOU FOR OR AGAINST PROTECTIVE LEGISLATION?

Now, the New Republic has printed a special section, dated March 17, 1937, which is the best analysis of the press that I have seen. It is entitled "The Press and the Public", and has been prepared by the editors after research which has continued since the election. I shall quote portions of it. I think it is important because the same wild assertions are being made against the President of the United States and against those who are favoring a reform of the judiciary.

Those who oppose minimum wages, maximum hours, collective bargaining, and who are not interested in a fair standard of living for the people are evading the real economic issues and attempting to scare the American public on the Supreme Court issue. In truth, they have scared some good people.

SOME LIBERALS AND STRANGE BEDFELLOWS

In truth, also, some good people who are usually classified as liberals are against the plan. But as the President said the other night to the liberals:

> When the time comes for action you will find that many of those who pretend to support you will sabotage any constructive amendment which is proposed. Look at these strange bedfellows of yours. When before have you found them really at your side in your fight for progress?

ELECTION DAY, 1936—JUDGMENT DAY FOR AMERICAN PRESS

In this special section by the New Republic they say in the foreword, as follows:

FOREWORD

More than the Presidential aspirations of Alfred M. Landon were washed away by the floodtide of votes that carried Franklin D. Roosevelt to a second term in the White House. Amid the debris that lay scattered across 48 States on the morning of November 5 were the microphone of Father Coughlin, the silk hats of the Liberty League, the high stiff collar of Dr. Townsend, and like the accumulation of wreckage left by the recession of every flood, "the power of the press."

"Do you realize what happened to you on election day?" editorialized the Christian Century in an open letter to publishers. "Do you know that thousands, probably millions, of the ballots which American citizens thrust into the boxes carried not only a vote for Mr. Roosevelt, but an equally discernible vote against you? Election day, 1936, was judgment day for America's daily press."

The New Republic has compiled a table of actual results—or better, lack of results—of the Landon press, or the subsidized press which is opposed to the President. It is as follows:

PRESS VS. PUBLIC

A comparative table of circulation and votes in the 15 largest cities of the United States

NEW YORK CITY (INCLUDING BROOKLYN)

Pro-Roosevelt circulation, 2,586,124; Democratic vote, 2,041,347.
Pro-Landon circulation, 2,296,050; Republican vote, 665,951.

CHICAGO

Pro-Roosevelt circulation, 228,386; Democratic vote, 1,253,164.
Pro-Landon circulation, 1,975,691; Republican vote, 701,206.

PHILADELPHIA

Pro-Roosevelt circulation, 221,927; Democratic vote, 539,757.
Pro-Landon circulation, 1,114,609; Republican vote, 329,881.

DETROIT

Pro-Roosevelt circulation (none); Democratic vote, 404,055.
Pro-Landon circulation, 814,724; Republican vote, 190,732.

LOS ANGELES

Pro-Roosevelt circulation, 74,252; Democratic vote, 757,351.
Pro-Landon circulation, 727,515; Republican vote, 357,401.

CLEVELAND

Pro-Roosevelt circulation, 394,049; Democratic vote, 311,117.
Pro-Landon circulation, 111,615; Republican vote, 128,947.

ST. LOUIS

Pro-Roosevelt circulation (none); Democratic vote, 260,063.
Pro-Landon circulation, 568,083; Republican vote, 127,887.

BALTIMORE

Pro-Roosevelt circulation (none); Independent, 280,994; Democratic vote, 210,668.
Pro-Landon circulation, 200,344; Republican vote, 97,667.

BOSTON

Pro-Roosevelt circulation, 358,412; Democratic vote, 223,732.
Pro-Landon circulation, 1,158,352; Republican vote, 96,418.

PITTSBURGH

Pro-Roosevelt circulation, 167,526; Democratic vote, 366,593.
Pro-Landon circulation, 354,035; Republican vote, 176,224.

SAN FRANCISCO

Pro-Roosevelt circulation, 94,117; Democratic vote, 196,197.
Pro-Landon circulation, 388,057; Republican vote, 65,436.

MILWAUKEE

Pro-Roosevelt circulation, 219,670; Democratic vote, 221,512.
Pro-Landon circulation, 205,663; Republican vote, 54,311.

BUFFALO

Pro-Roosevelt circulation, 91,052; Democratic vote, 183,555.
Pro-Landon circulation, 323,355; Republican vote, 152,312.

WASHINGTON, D. C.

Pro-Roosevelt circulation, 74,609; pro-Landon circulation, 443,441.

MINNEAPOLIS

Pro-Roosevelt circulation, none; independent circulation, 80,741; Democratic vote, 144,289.
Pro-Landon circulation, 255,164; Republican vote, 81,206.

TOTALS

Pro-Roosevelt circulation, 4,510,124, or 29.2 percent; Democratic vote, 7,113,400, or 69 percent.
Pro-Landon circulation, 10,936,698, or 70.8 percent; Republican vote, 3,226,079, or 31 percent.

REPUBLIC EXPOSES DIARIAL (DAILY, MY FRIENDS) PRESS

The section of the New Republic has some unconscious humor in it. It is divided into six subdivisions:

First. Press vs. Public. (Showing the public cannot be fooled any more.)

Second. The Press and its Owners. (Indicating economic bias, reflecting in news.)

Third. Behaviorism. (Wherein the conduct of six leading newspapers is given a diagnosis.)

Fourth. Columns Right. (Our reactionary columnists dissected for their lack of influence.)

Fifth. The Unknown Quantity. (Radio: Republicans did more talking, spent $430,000; Democrats less talking, spent $225,800. I wonder. It must have been the quality of the speaking.)

Sixth. Conclusions. They say:

The preponderance of newspaper circulation on the side of Governor Landon did little or nothing to turn the tide of public favor for Roosevelt.

The part concerning "Behaviorism" is devoted, it says, to "the conduct of six American newspapers in the campaign," and quotes editorials and headlines from the Chicago Daily Tribune, the Los Angeles Times, and New York American, Detroit News, the Baltimore Sun, and St. Louis Post-Dispatch. Here are some samples:

CHICAGO DAILY TRIBUNE

In an editorial, If We Want a Cheka, the paper got hot as follows:

Another senatorial investigation is under way under the congenial direction of Senator LA FOLLETTE, one of the group addicted to this form of self-advertisement. Its ostensible purpose is to discover violations of civil rights in labor disputes. * * * The real purpose ought to be obvious. * * * The senatorial investigation is campaign politics and a fraud. * * * It is another New Deal importation of European methods employed by dictatorships, both Fascist and Communist. * * * If we want a cheka in America we can and will have one by reelecting Franklin D. Roosevelt and a Congress he can dominate.

AH, BUT 63 DAYS TO SAVE THY COUNTRY!

Then throughout the campaign from day to day, only changing the number of days, it used the following:

Only 63 days remain to save your country—what are you going to do about it?

Then the headlines got hysterical and wildly vicious with such as "The ugly head is beginning to show itself"; and then other headlines, very likely libelous enough to collect damages if anyone cared to file suit, such as "Tugwell, Plotter No. 1."

Here is another:

WARN FARMERS OF THEIR FUTURE UNDER DICTATOR

How the Lenin-Tugwell plan will work

Do you know why the Roosevelt administration doesn't care how much foreign wheat, corn, pork, beef, etc., is imported? Because the Roosevelt socialist thinks internationally—against capitalism. The American Socialist considers the American businessman and landowning farmer his enemy and considers the foreign peasant his friend. * * * Part 7 of Tugwell's book on "Our Economic Society and Its Problems" is entitled "Raising the Levels of Living by International Cooperation." What does he mean? Just what I said. * * *

Read this headline:

Mr. Roosevelt refuses, then seeks "red" aid.

There were others worse, but it will take too much space to include them all. But the Los Angeles Times has some good ones:

State peace officers disclose "red" peril.
Warning given on liberalism; Ford official points to peril.

FORD COMES OUT FOR LANDON—ROOSEVELT GETS ELECTED

Then, in order to assure the poor, dumb common people—as they seem to think the people were—the paper said on October 15:

As important and effective an individual endorsement as any candidate will receive during this campaign is the wholehearted declaration of Henry Ford for Governor Landon. It will be politically effective largely because it is not political. Mr. Ford concerns himself but little with partisan controversies. As one of the country's largest manufacturers and employers of labor, he views the presidency from the standpoint of sound business, successful industry and, even more, as it may affect the man who works.

In the New York American of October 29, 1936, here are just a few more headlines:

Block Warns Nation of Peril to Liberties.
President Roosevelt Dodges Governor Landon's Challenge.
Roosevelt Assailed as "Reactionary."
Revolutionary Masquerade in United States Assailed.
America's First Communist Town—Tugwell Abolishes Private Property.

Mr. Speaker, I do not say the press is without influence nor am I taking them on single-handed for a battle. In other words, I do not believe that by one insertion in the RECORD, or by a thousand speeches by myself, that any man could destroy the influence of the American press which they undoubtedly have. However, the election showed that now the press must be right before they can win. That is, at least in major contests and in serious times. They have misled the people before and have won, and, of course, the press has led the people right, also.

HYSTERICAL CHANGES BEING MADE

In the election the newspapers suffered a terrific set-back from which I thought they would at least learn something. Generally speaking, the proposals of the President concerning the judiciary are being widely misrepresented throughout the press of the Nation.

This is no personal complaint against the newspapers. The New York Herald Tribune, which is Republican to the limit, has always given me a square deal. So have the Hearst papers, especially in my own city. It is just general comment about most of them.

But the most hysterical charges are being made which the people will laugh at in years to come. Quoting them would simply take all day and would be impossible for space. But all of these charges of "dictator", "destruction of the Constitution", "communism", "fascism", and every other kind of ism are being made all over again. Many of the charges are stupid.

CULTURED, WELL-BORN, AND EDUCATED SOMETIMES IGNORANT

And this brings me also to an observation: I have, in the last 2 or 3 years, met some of our great leaders and thinkers who have great economic power. But in conversation with them I find that most of them have no understanding of the hopes and aspirations of the American people, and do not understand the people that work in their own shops and businesses.

It is a strange thing that so many of the men who are well educated, graduates of our best colleges; men who are ordinarily considered cultured, who have traveled in Europe, who belong to the best families, and who are supposed to have the best minds, know so little of their own country.

In the Supreme Court fight it seems that the newspapers would give more news of both sides. But they are already slashing their headlines into a furious berserker rage, and their editorial columns are extravagantly phrased.

I predict the people will tire of this thunder.

Mr. Speaker, I am for the reform of the judiciary. I am for the President's bill. I am in favor of the high Court having some respect for the will of the people of America, as we who are Congressmen and Senators and the President must have. Every branch of Government has to be independent of each other, but no branch of the Government should be entirely above and free of the people. Let the press be fair.

St. Patrick's Day Address of the Postmaster General

EXTENSION OF REMARKS

OF

HON. JOSEPH A. GAVAGAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1937

ADDRESS BY HON. JAMES A. FARLEY AT THE DINNER OF THE FRIENDLY SONS OF ST. PATRICK, IN NEW YORK CITY, ON MARCH 17, 1937

Mr. GAVAGAN. Mr. Speaker, under the leave to extend my remarks in the RECORD I include an address delivered

yesterday by Postmaster General James A. Farley at the dinner of the Friendly Sons of St. Patrick, in New York City, as follows:

Gentlemen, we men and women of Irish blood owe a deep debt of gratitude to our fellow Americans. It is natural and fitting for us to celebrate the feast of St. Patrick with feasting and rejoicing. It is likewise a source of gratification to us that in recent years so many of our fellow Americans of other racial extractions have joined us in paying tribute to the saint and scholar who first brought the pure light of Christianity to the little green island across the sea.

There is abundant evidence of this almost universal observance of St. Patrick's Day. On every side we see the shamrock and the green conspicuously displayed. Over the radio and at public entertainments we hear the songs and ballads of old Ireland played for us with spirit and fervor. Truly, it has been said, that the observance of St. Patrick's Day has become an American custom.

We people of Irish blood should be proud of this gracious tribute from our friendly neighbors and anxious that they should continue always to hold us in such high esteem. Perhaps this growing recognition of our patron saint is the finest evidence available that America appreciates the heroic qualities of the humble immigrants who came here from Erin during the last century and a half.

Before responding directly to the toast of the evening I should like to talk a bit about Ireland itself. I had the good fortune to visit there last fall. It was a hurried journey, prompted by that tug at the heartstrings which everyone of Celtic blood must feel at some time toward the land from which his forbears came.

The visit was an experience never to be forgotten. Ireland is a land poor in material wealth but rich in people. It was a delight to travel from Dublin to Cork, from Kerry to Killarney, and to be greeted at every turn by kindly folks, who made their welcome genuine by witty speech and subtle compliments.

Ireland is a compact country in every sense of the word. It is hardly a stone's throw from one historic monument to another. The great moments of Irish history seem close at hand, even though they may have occurred centuries ago. There is nothing quite so modern and quite so ancient as the Book of Kells, that classic of scholarship, learning, and beauty, which bears eloquent testimony to the culture and civilization of early Ireland. It is a national treasure hardly surpassed in grandeur by any nation or any race.

The people of Ireland are conscious of their traditions and of the wrongs which they have suffered in the past. They cling today to their ideals and aspirations just as strongly as they ever did, and with that characteristic, Irish optimism which never dies. They seem to feel that their vision of a greater, united, and more prosperous nation is closer at hand than it ever was. God grant that it may be so.

Of course, I kissed the Blarney Stone. What man of Irish blood would dare visit the Emerald Isle and neglect to do so? There is an old and venerated tradition to the effect that the person who kisses the Blarney Stone will be successful ever after in whatever he undertakes. I have no personal testimony to offer on that score. But this much I can say, that any man who climbs up the winding stairs of Blarney Castle on a raw November day, and then hangs himself head downward over the edge to kiss a cold, wet stone, 80 feet above ground—I say that such a man deserves to be successful in whatever he undertakes after that. To that extent, at least, the tradition is true.

Because we have a deep and abiding affection for Ireland, we people of Irish blood are none the less loyal to this glorious land of the United States to which we owe our full allegiance. In fact, it is my conviction that because we have this fondness for the land from which our fathers came, our love for America has been made richer and fuller thereby. The great dream of a free country possessed by a liberty-loving people, free from tyrants or despots, was dreamed for centuries by the inhabitants of the little island across the water; their descendants came to this country and found that dream to be a reality.

For this reason we know that America has always been a natural home for the men of Irish blood. More than any other spot on earth, they have found here the opportunities to develop their talents, to use their energies free from interference, to take an active, vigorous part in civic and political affairs, and to provide an adequate competence for themselves and their children. It has in truth been the land of promise for the burdened people of our race.

Conscious of that truth, it is indeed a happy fact that there never has been the slightest question of the loyalty and devotion of the Irish-Americans to the principles and institutions of this country. They have stood the test in peace and war, in fair weather and foul, when they were prosperous and when they were not. They have never been tainted in the slightest degree with the fatal malady of divided allegiance. They have been citizens of the United States, quick to exercise the rights and privileges of that proud distinction, and just as quick to fulfill the duties and obligations which it brings.

These are times of great uneasiness in world affairs. Old values, old institutions, and old forms of government have been disappearing under the pressure of strong forces which are diametrically opposed to many of the things which we cherish most in life. The Old World, or a good part of it at least, seems to be rejecting in disdainful fashion the concepts of free governments and free institutions in which we were taught to believe with all the intensity of our hearts and minds. Europe apparently has turned its back on democracy. It is the age of dictators, of personal government, of rule by force instead of reason. The ominous meaning of these changes is brought home to us daily in newspaper dispatches from abroad. There is no occasion for me to dwell or expand on the potential dangers which they embrace.

But we are all a bit anxious, a bit apprehensive, a bit fearful of what these changes may mean in the life of America. That efforts are being made to set loose the same forces in this country there can be no doubt. The evidences are on every side. It is admitted openly and freely. Under our form of government, those people who advocate one or another brand of radicalism are permitted to go their way unmolested so long as they stop short of open treason to the Nation at large. I thank God for the fact that men and women of Irish blood are conspicuous mainly by their absence from these subversive movements.

I have been asked to respond to a toast to the United States of America. With that in mind, it is my purpose to consider briefly whether we are seriously menaced by this importation, or perhaps I should say invasion, of foreign concepts in politics and government. We have just passed through seven of the most stressful years in our national history. We have had want and misery and privation—the conditions which breed disloyalty and revolt—on an unprecedented scale. Agitators have been active as never before, working furiously to capitalize on this discontent of the unfortunate.

Have they been successful? Have they succeeded in the slightest degree in undermining the sturdy foundations on which the United States was constructed? My answer is, most emphatically, no. And I am confident that these subversive forces never will impair the great structure of American government if we adhere rigidly to the high ideals on which it was founded.

What saved America during the crisis through which we have just passed? Was it speech making and solemn warnings that our institutions were endangered? Mere words very seldom save anything. The thing that saved America was the fact that with the characteristic common sense of the American people we forgot fine-spun theories; we stopped quibbling and procrastinating; we gave up legal hairsplitting to devote ourselves to the first and primary duty of promoting the health and happiness of the great mass of honest, God-fearing, hard-working men and women.

We faced the grim reality that the farmers, the wage earners, and the owners of small homes, were in trouble. To use a trite expression, we proceeded on the principle that those classes constitute the backbone of the Nation. We recognized the obvious fact that without their strong and devoted allegiance, the traditional institutions of which we are so proud would have crumbled to dust before our very eyes. These men are held true to our institutions by the deepest convictions of their nature. But a poor man can't feed his wife and hungry children with words and promises, no matter how plausible they may sound. He needs bread. And to the everlasting glory of the common sense of the American people, the needy and unfortunate were given bread and given an opportunity to provide the ordinary comforts and decencies for their families. Once that was accomplished, any threat to American institutions—if such a threat ever existed—dissipated itself in the clear and healthy air of reawakened Americanism.

Gentlemen, I think there is a never to be forgotten lesson in what happened in this country in the last few years. Let me state that lesson in the shortest and simplest language. It is this: The United States of America grew to greatness as the land of promise for the poor, the downtrodden, and the politically oppressed. It was the one place on the entire globe where poor men and women, regardless of background, regardless of wealth, regardless of social position, regardless of race and creed, could be assured the blessings of a decent livelihood and the fruits of their own labor provided they earned those fruits by honest work.

It was this magnificent principle of human relations that brought our own forefathers to this country—this desire to escape oppression and to become their own masters in a new land.

A few years ago this great principle was threatened by the ravages of economic depression and by complacent inaction on the part of men in high places. Millions of men and women suddenly found themselves unable to perform the prime necessity of life—that is to provide food and shelter for their loved ones. The Nation, and I use that phrase in every sense that it implies, came to the rescue of our fellow Americans in their day of need. By prompt action the American people, through their Government, smothered any seeds of revolt that may have been germinating in the minds of disconnected citizens.

The great lesson for us to remember is that the way to preserve democracy is to make democracy work. We must be ever on our guard to make certain that the rights of the humblest citizens are adequately protected by the law. If the great mass of people are given assurance that their basic rights will be secured, that they will be protected against exploitation and injustice, then we have no fear for the future of America. If we throw the mantle of legal protection around those folks who need it most, then it would be as impossible for alien ideas to uproot this Government as it would be for a summer breeze to overturn the Washington Monument. The bulwark of democracy is the unswerving loyalty of the great mass of citizens. If ever we think that democracy is in peril, let us not blame foreign ideas or foreign agitators, because the fault will lie with ourselves.

About the only things that are deathless in this world are principles. The Friendly Sons of St. Patrick was founded more

than a century and a half ago by men who believed in charity and in the brotherhood of man. The founders have long since passed away but the organization continues. You people here are keeping alive the warm fire of charity lit by those sturdy patriots of Revolutionary days because you believe in the same principles which they cherished. The world itself has changed, but fundamental relationships of men remain unchanged.

In the same spirit let us not be afraid of the principle of democracy. When rightfully applied, it never hurt any people and it never will. I hope none of my hearers will get the mistaken impression that this plea of mine for the preservation and growth of fundamental American ideals is tinged with partisanship. It is not. There is no mistaken notion on my part that the maintenance of justice through the instrument of majority rule is dependent upon the good will of any one political party, upon any one agency of government, or upon any single individual. The issue cuts far deeper than that.

Fundamentally it gets back to the basic idea that those of us in the United States who are blessed with wealth or with adequate comforts must never cease concerning ourselves with the troubles and needs of less fortunate people. If we do become blind to the rights and to the needs of great masses of our fellow citizens, then no individual and no agency of government can preserve us from the results of our own folly.

I am by nature an optimist. A few moments ago it was a privilege to remind you that our blood brothers across the Atlantic are just as confident as they ever were that their great dreams for Ireland are soon to be realized. It takes more than a few centuries of ill-luck, misfortune, and adversity to quench the optimism of a true Irishman. Let us apply some of this inexhaustible store of optimism to our own great country on this side of the Atlantic.

There is nothing fundamentally wrong with the United States of America. This virile country of ours is growing stronger and sturdier every day. We have problems to solve, it is true. But we will solve them without doing violence to the basic institutions of America and without stirring up passions and bitterness that will not down.

It is a characteristic of the Irish race to line up on the side of the underdog, to embrace the cause of those who are fighting an uphill fight for the preservation of the things which they cherish most. The battlefields of the world are marked with the graves of Irishmen who fell fighting to win freedom and liberty for the men and women of other races. A fair percentage of the men who helped found the Friendly Sons of St. Patrick were soldiers of valor and courage in our own struggle for independence and liberty.

There is one worthy cause for the winning of which I hope all men of Irish blood will remain firmly united. It is the never-ending battle to win for their fellow men the God-given rights of life, liberty, and the pursuit of happiness and the priceless blessings of democracy. We owe that duty to America. We owe that duty to the world. As Irishmen, we must not falter. As Americans, we will not falter.

Book Reviews Criticized—Here Is Another One—All Hail Our Congressional Record, Only Journal Absolutely Free!

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 1937

SAY WHAT YOU PLEASE IN THE CONGRESSIONAL RECORD

Mr. MAVERICK. Mr. Speaker, this is another book review. Some newspapers, some people, do not seem to like the idea of book reviews in the CONGRESSIONAL RECORD. But, it is our privilege to use the words of description that seem to us most appropriate.

Undoubtedly, if I should call this an oration, or speech, and take 5 or 10 pages of the CONGRESSIONAL RECORD, it would meet with the approval of everyone, because no one would read it. Hence, if I choose to call what I put in the RECORD "a book review", that is my constitutional right, and not even a unanimous decision of the Supreme Court can take it away from me. At least the Court has permitted us to continue the function of printing the RECORD up to this time.

GAIL BORDEN SPILLS MILK ON MY BOOK REVIEW

One of my critics is Hon. Gail Borden. He says in his column Gail Borden's Round Up in the Chicago Times of February 28 the following:

The jolly old CONGRESSIONAL RECORD has at last stooped to folly in its most verbose form. Book reviews have commenced; and strange as it seems, Mr. Hix, on page 245, in the appendix, appears the intriguing head, Report: The Future of the Great Plains. Forty cents. Government Printing Office. Book Review. There follow more than three columns of masterly literary criticism by Hon. MAURY MAVERICK, of Texas, who offers his subhead, The Great Long Roll of the Drums of Death.

Mr. MAVERICK concludes his masterpiece of review like one of the old masters in that craft, with: "Inexpensive, well printed, and written in readable English, such books are necessary to the city and country families of today as were McGuffey's Readers in the old days. Buy the book. It costs less than one movie."

Thank you, Mr. Borden. When our boy, Maury, Jr., got sick, we put him on Gail Borden's Eagle Brand Milk. Now he is 2 inches taller than I am, and only 16.

CONGRESSIONAL RECORD ONLY FREE-SPEECH PAPER IN WORLD

The CONGRESSIONAL RECORD is the only single newspaper, periodical, or other book in the entire world in which there is absolute liberty of speech. Anyone who reads the CONGRESSIONAL RECORD will admit there certainly is no limit on liberties.

You can damn the President of the United States or you can praise him. In one fell swoop you can demand the heads of Hitler, Stalin, Mussolini, and President Cardenas, of Mexico.

You can swear that the Nation has come to an end, and that the Constitution is gone—and though the Nation is in good shape and the Constitution operating, you can say it. You can froth at the mouth about Communists and/or Fascists, or, on the other hand, you can praise them, either or both.

YOU CAN EVEN CRITICIZE THE SUPREME COURT

Mr. Speaker, this is a valuable prerogative, even if it is abused, even though people are bored, for in the long run, many valuable truths are told. Indeed, though the CONGRESSIONAL RECORD may be somewhat expensive, it is as nothing to what it really means to the people. It is the journal of a free country.

BOOK REVIEW STARTS—SOMETHING NEW ABOUT PATRICK HENRY

So, Mr. Speaker, I insist upon my right of calling this a book review. The book I review concerns my favorite subject—prevention of soil erosion. It is entitled "Early Erosion—Control Practices in Virginia", by A. R. Hall, who has a title and belongs to a division of the Soil Conservation Service which it takes nine words to say. It is really a pamphlet and is known as Miscellaneous Publication No. 256, United States Department of Agriculture, 10 cents.

But, lo and behold, it quotes Patrick Henry:

Since the achievement of our independence, he is the greatest patriot who stops the most gullies.

Now, everyone thought I was going to quote "Give me liberty or give me death." For the truth is that our ancestors are always given credit for some bombastic or heroic statement, and their sensible statements are suppressed. Henry said other things which are important about the Constitution, but they are not relevant to the subject matter.

The writer shows where William Byrd, in 1685, described a storm that carried away the tobacco hills "with all of the manured land"; and Roger Atkinson wrote as follows in 1771:

Worst of all is the loss of land—in many places on the low grounds the soil is entirely gone—all the fences, together with the tob'o that was planted thereon * * * Mr. Walter King, of Bristol, has lost in soil only at least 9,000 pounds.

GEORGE WASHINGTON WRITES A SALES-PROMOTION LETTER

Hall, who wrote the pamphlet, quotes George Washington, not about "usurpation" nor the things that have been twisted and distorted by the reactionaries, but concerning Mount Vernon, as follows:

The soil of the tract * * * is a good loam, more inclined, however, to clay than sand. From use and, I might add, abuse it has become more and more consolidated and, of course, heavier to work. * * * A husbandman's wish would not lay the farms more level than they are; and yet some of the fields, but in no great degree, are washed with gullies, from which all of them have not as yet been recovered.

It is interesting to note that this attracted English tenants to the land. It was one of the first sales-promotion letters ever written in America.

As a result Richard Parkinson, an Englishman, came over to this country. But Parkinson, disappointed, said:

* * * the whole of the soil (moved), for an acre together, when a heavy rain fell, from the current in some places cutting gullies and carrying part of the manure away; and the soil seemed to press in or slip after it.

Hall discretely omits Parkinson's concluding remark that—

Upon the whole, America appears to me to be a most proper place for the use to which it was first appropriated, namely, the reception of convicts.

EROSION CONTROL NEED, COUNTRY-WIDE ATTACK

But the real point of Hall's paper is this—the Virginia planters encountered erosion as soon as they began to plow the land. They tried to get the Government to help the farmers; Jefferson tried to establish a department of agriculture at the University of Virginia. They could not get help in either way so they set about to tackle the problem themselves, and a good job they did of it, too. Before the Civil War almost all of the methods for controlling erosion now in use were known and practiced in Virginia.

But the facts are, erosion was so great it could not be effectively prevented by individuals. It needed a country-wide attack like that of the Soil Conservation Service. But the results of the early experiments are as valuable today as they were in 1800 and should be used by all who would try to stop erosion. Virginia had a head start on the other States, but in all parts of the country there have been good, practical farmers who have fought erosion on their own fields and have written about it in the farm papers. A wealth of such information is still available to those who will take the time and effort to ferret it out.

HACHURES! HACHURES! WILL THE GENTLEMAN EXPLAIN?

My only criticism is that below the map of Virginia which is included, these words appear: "All counties mentioned in the text are indicated by hachure." What in the Lord's name is "hachure"? I note on the map of Virginia that some are not marked at all and are in white, and others are crossed with lines.

Now I must go to the dictionary and find out what "hachure" means. Why did not they say that the counties mentioned in the pamphlet were in either "blank" or "crossed lines", whichever it is?

Whoever used that word "hachure" should be given 39 intellectual lashes at the Brain Trust whipping post.

For anyone interested in the history of Virginia, or in preventing the State from washing away, it is very good. The new lights on history ought to be interesting to any American. You can get it for a dime (Jefferson originated the word, first called *dix-me*, then *disme*, then dime) by writing the Superintendent of Documents, Washington, D. C.

Bill H. R. 5326, the Sugar Bill, Discriminates Against the American Citizens Who Reside in Puerto Rico and Hawaii

---

EXTENSION OF REMARKS

OF

HON. JAMES J. LANZETTA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1937

STATEMENT OF HON. JAMES J. LANZETTA, OF NEW YORK, BEFORE THE SUBCOMMITTEE ON AGRICULTURE ON MARCH 17, 1937

Mr. LANZETTA. Mr. Speaker, under the leave to extend my remarks in the RECORD I include a statement I made yesterday before the subcommittee which has under consideration bill H. R. 5326, the sugar bill, as follows:

Mr. Chairman and members of the committee, I am here today to plead the cause of Puerto Rico.

Without going over the historical and political background which dates back to our war with Spain in 1898, I need only remind you that the people of Puerto Rico are citizens of the United States, and that as such they have discharged every obligation which American citizenship imposes upon every American.

Since Puerto Rico is an integral part of the United States, and since its people are American citizens, isn't it fair and reasonable to assume that they should be accorded the same treatment and consideration as every other part of the United States?

Unfortunately, in the past several years we have found a growing tendency on the part of the Congress of the United States to overlook this very important fact, and in some of the proposed legislation Puerto Rico has been unwittingly discriminated against.

In the bill under present consideration, Puerto Rico has been placed in the same category as a foreign country. There is no more justification for this classification than there is for the discriminations which we find in the proposed legislation.

Under section 203, subdivision (c), of bill H. R. 5326—the sugar bill—we find that Puerto Rico will not be considered nor allowed to participate in the making up of any deficiency from any continental producing area, and that all such deficiencies will be allotted to other continental areas only.

If Puerto Rico is an integral part of the United States, why should she not be considered like every other continental area in the making up of such deficiencies? What justification can there be for such discrimination?

Under section 202, subdivision (d), of the bill, Puerto Rico is limited as to the amount of direct-consumption sugar she may produce. This discrimination is far more reaching because it also had a tendency to stifle the industrial expansion of the island.

There can be no question but that a similar restriction on any continental area would not be tolerated under any circumstances. Therefore, if we dare not impose such a restriction on American citizens who live within the territorial confines of the United States, how can we in fairness and in justice to the American citizens of Puerto Rico deprive them of the right to industrialize the products of their own soil?

The people of Puerto Rico are at the present time making every effort to rehabilitate themselves. A restriction on the amount of direct-consumption sugar which they may bring into continental United States is not only a discrimination against American citizens in Puerto Rico but it also tends to retard their progress of rehabilitation. It is to our interest to foist and stimulate the industries of the island instead of stifling and retarding them.

For the benefit of this committee I wish to point out the fact that Puerto Rico today is the sixth largest buyer in the world of American goods. In the last 8 years Puerto Rico has advanced as a buyer from nineteenth to sixth place, and for the past 6 years she has consistently outpurchased the Philippine Islands and Cuba.

In 1931 Puerto Rico was the tenth largest world customer for American goods, and in that year she bought American products having a total value of $60,637,000.

In 1932, when we were at the height of the depression, Puerto Rico took ninth place as the world's largest buyer of American goods, and in that year purchased American products amounting to $48,780,000.

In the years 1933 and 1934 Puerto Rico maintained her position as the ninth largest buyer of American goods and purchased American products having a total value of $51,697,000 and $59,477,000, respectively. In 1935 Puerto Rico advanced her position as a buyer of American products and became the eighth largest buyer, spending in that year the sum of $70,053,000 for American goods.

In 1936 Puerto Rico became the sixth largest buyer of American products and in that year acquired American goods having a total value of $86,352,000.

Furthermore, this committee should note that Puerto Rico is the best market for American-made shoes, having held this position since the year 1927; that she is the best purchaser of rice produced in the United States, consuming one-half of all the rice which we ship; that she ranks second as a purchaser of our food products; that she purchases from the United States a wide variety of products, including leather, metals, and textile products; and that she is also a large buyer of fertilizer, lumber, cement, and other building materials.

It is also important to note that during the depression years, while the volume of merchandise exported by the United States to foreign countries declined 57 percent below the 1928–29 level, that shipments to Puerto Rico dropped only 12 percent, and that in 1936, while the volume of exports to foreign countries was 44 percent below the 1928–29 level, that the Puerto Rican purchases of American products were 9 percent more than they were during the years 1928–29.

Besides, every pound of American products purchased by Puerto Rico, together with whatever Puerto Rico sells to continental United States, is carried and transported to and from Puerto Rico to the mainland in American ships.

With these figures in mind, which show a steady increase in the purchases made by Puerto Rico, there can be no doubt but that Puerto Rico will some day in the very near future become one of the largest, if not the largest, purchaser of American products.

Today we are bending every effort to increase our foreign trade. In trying to accomplish this we are giving every reasonable inducement to foreign countries in order to get their business. Inasmuch as we are going out of our way to attract foreign buyers who at best cannot be considered as permanent customers, it would be well for us to bear in mind that in Puerto Rico we have American citizens who will always be our customers.

The restriction on the amount of direct-consumption sugar that Puerto Rico may import into continental United States has no place in H. R. 5326. This bill is purely and simply an agricultural bill,

while the question of direct-consumption sugar is an industrial one. I have been given to understand that the Department of Agriculture is in full accord with the view that the question of direct-consumption sugar should not be included in this bill, which is purely agricultural in its purpose.

While on this point, I wish to read part of a memorandum prepared by the Chief of the Bureau of Insular Affairs for the late Secretary of War, Mr. Dern, in connection with the Jones-Costigan bill, which was enacted into law in 1934 (see CONGRESSIONAL RECORD, 73d Cong., 2d sess., p. 7362):

"APRIL 12, 1934.

"The provision relative to direct-consumption sugar is discriminatory against the insular areas as regards the privileges of refining sugar. Such action cannot be justified on any grounds whatever when applied to Puerto Rico and Hawaii. The inhabitants of these islands are citizens of the United States. It has been regarded as a fundamental principle that the right of the people thereof to trade with the mainland shall be free and unrestricted and that they shall enjoy the same rights and liberties in the development of their industries as though they were on the mainland. This policy was stated in the first organic act of Puerto Rico, approved April 12, 1900, and is the policy upon which our trade with Puerto Rico has been developed. The following table indicates the maximum shipments of direct-consumption sugar from the various offshore areas supplying this market. While some further expansion may be expected in Puerto Rico, such expansion will necessarily be relatively small. Whatever such expansion may be, it is of great importance to the island; that is, opportunities to develop industries connected with the island's basic products shall not be curtailed. The density of the population in this small area makes it desirable that every opportunity shall be afforded the people to establish industries that will create employment."

Without taking up any more of the time of this committee by going into the other discriminations which are present in this bill, and which have been or will be discussed by other speakers, I wish to conclude by repeating and reiterating in the most forceful manner which I may be capable of that Puerto Rico is an integral part of the United States, that its citizens are American citizens, and that, like the American citizens who reside in Hawaii, the American citizens of Puerto Rico also seek at the hands of Congress the same consideration and the same treatment that every other American citizen enjoys or may be accorded.

On Neutrality

EXTENSION OF REMARKS

OF

HON. LAWRENCE E. IMHOFF

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1937

Mr. IMHOFF. Mr. Speaker, perhaps there never was a time in the history of our great country in which there has been such an urgent need for legislation that will assist our country in maintaining peace and preventing war.

Our committee has put forth every effort to present to the House a resolution that will accomplish that end so far as any neutrality measure can accomplish such an end.

I am heartily in favor of this resolution as being the best that could possibly be worked out of the chaos of conflicting evidence and opinion that was presented before the committee.

Conditions in the world today are very similar to those existing at the beginning of the World War. At that time economic stress produced by growth of population with the resultant need of raw materials, together with social hatreds, threw almost the entire world into the greatest war of history. Most of those nations had seen war coming and had been making preparation for same. Each had been in a race of armaments, amassing war materials against the day of their need. There could be but one result of such a condition, when each nation was armed to the teeth and was jealous of the economic advantages of every other nation. That result was the World War.

The interests of our country were absolutely foreign to any of the jealousies and economic questions that were paramount to the European nations. Yet, in spite of this fact, through a combination of circumstances and an ocean of propaganda, we finally became involved in the maelstrom of the World War. Today we are facing another situation fraught with perhaps even greater danger.

The World War settled nothing. In Europe the economic stress is compelling nations to make even greater efforts to expand and secure trade advantages. National jealousies and racial hatreds are still powerful motivating impulses that control the intercourse between nations.

We are looking upon the greatest race of armaments in the history of the world. Each nation is trying to outdo the other in building armies and navies. Human ingenuity has surpassed itself in the invention of instruments of destruction and death. Sooner or later the dogs of war will be unleashed and once again the world will be engulfed in war, and we have been warned that in case of another world war that civilization will be destroyed.

All evidence points to war in Europe within the near future. When and if it does come, are we to be drawn into that war and made the goat, as we were in 1917? It is the object of this neutrality measure to prevent that very thing happening.

I am in favor of any neutrality bill that will keep the people of the United States out of war. I know that the people of the United States from the Atlantic to the Pacific and from Mexico to the Canadian boundary are opposed now and for all time to war. Our people may differ in politics, religion, and in the best ways to settle our economic problems, but in one thing they are united, and that is they are wholeheartedly against any sort of entanglement that would have any tendency to lead our country into another foreign war.

The World War taught our people some lessons that they are going to remember for generations to come. It is easy to start a war; it is easy to be lead into a war started by someone else. The world, after 23 years, is debating who started the last war. There was an investigation during the last session of Congress as to how we got into it. The fact that the question, "Who started the World War?" and the further question, "How did we get into it?" can hardly be satisfactorily answered only goes to show how careful we should be in any neutrality measure. The fact remains that we got into the World War whether we know how we got into it or not. At any rate, we paid the price. In the way of preparation it cost us $25,000,000,000; we loaned over $12,000,000,000 to the Allies, and it is quite likely that we will never collect another dollar of it; we sent 2,000,000 men across 3,000 miles of water to take part in that great struggle. Today 75,000 of those boys are sleeping over there, some of them on the plains of Picardy, some in the valley of the Marne, and some in Flanders Field.

We told ourselves that this was a war to end war. We told our boys that when autocracy was crushed for all time no other boys in the years to come would ever be called upon to engage in a foreign war. We promised the mothers, the wives, and the sweethearts of those boys that never again would mothers, wives, and sweethearts be asked to sacrifice their loved ones to the god of war. We believe that by our aid the tide was turned and victory was won; but, after all, what did we get out of it? Nothing! What did it settle? Nothing! What did any war ever settle? In war no one, no country, ever wins. Both sides lose.

In the World War our country made such sacrifices that it will not recover in the next hundred years. One-half of all the wealth of the world was blown and blasted away. If all the men who were killed in the World War were to march past you 10 abreast, it would take 45 days of continuous marching, day and night, for them to march past you. Other untold millions were maimed and disfigured, their minds wrecked or destroyed; many others, on account of their wounds, handicapped in their employment; all of them disillusioned as to the efficacy and the profits of war. And then to think that out of all this cataclysm of carnage and destruction that nothing was won and nothing was settled. Is it any wonder that the people of this country have determined that absolutely under no provocation will we ever again engage in another European war? And I say to you that no Congress for generations to come will dare to presume to vote the people of this country into another foreign war.

I am told that the United States Government is now, after 125 years, paying pensions to dependents of soldiers of the War of 1812; we are also paying pensions to dependents of veterans of the Mexican War; the United States Government is now paying pensions to hundreds of thousands of dependents of soldiers of the Civil War; and this Government for the next 150 years will be paying pensions to dependents of World War veterans; so that in the end our participation in the World War will cost the taxpayers of this country over $100,000,000,000. When will we learn that war does not pay, that war has no profits, that war never settles anything? When will we learn that the welfare and happiness of the great mass of people of our country depend not upon war but upon peace?

War is as old as the human race. It has been the heritage of our generation to learn without question the price that a people has to pay for war. We see today a world that is war weary and in economic ruin, and I warn you that civilization cannot stand another world war. The thinking people of the whole world are groping about trying to find an answer, a way out to economic happiness, and a guarantee for perpetual peace.

Today, because we are outside the maelstrom of European bickering we are the leaders of the thought of the world. We must not fail in our task. It is ours to lead the rest of the world to an understanding of lasting peace. Otherwise the lessons of the World War must be learned over again and its loss and sacrifice will have been in vain.

Our Neutrality Policy

EXTENSION OF REMARKS

OF

HON. CHARLES A. WOLVERTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1937

On Senate Joint Resolution 51, the Neutrality Act of 1937

Mr. WOLVERTON. Mr. Speaker, the American people do not want war. Nor do our people desire any policy to be adopted with respect to our international affairs that would have any possibility of creating entanglements that might lead to war. To avoid war and remain at peace is the supreme desire of America.

Already, at the present session, Congress has given evidence of its intention to make effective this desire of the American people. I refer to the law, enacted by unanimous support of Republicans and Democrats, that prohibits the shipment of arms, ammunition, and implements of war to any one of the factions in Spain now engaged in civil strife.

This action by Congress is based upon the recognized possibility that entanglements of a most serious nature, affecting the welfare and peace of our Nation can easily arise by the shipment of war material.

It is a step in the right direction. While it is only a short step, yet it is a very important one. It reverses a long-established policy that permitted all such shipments so long as we remained a neutral nation in the particular conflict. It is a wise step when we consider the unfortunate result that followed the adoption of a contrary policy by our Nation preceding our entrance into the World War.

In 1914 there was no more desire upon our part to become engaged in European conflict than there is today to become part of the Spanish conflict, or what it may lead to. Nothing could more clearly indicate our national desire to remain at peace and avoid the World War, even as late as 1916, than the successful campaign of Woodrow Wilson for reelection upon a platform expressed by the slogan, "He kept us out of war."

Notwithstanding the sincere desire to remain at peace and the effort that was made by President Wilson to avoid the war and its consequences, we were at last drawn into that awful maelstrom of strife. The result in lives lost, wounded, gassed, and maimed men, and financial burdens resulting therefrom are known to all.

What carried us into that conflict against our will? Whether it was the only cause I do not know, but I am certain it was a contributing cause when we as a nation interpreted our duty as a neutral to permit the shipment of arms, ammunition, and other implements of war to the nations then engaged in that war.

It was the shipment of war materials to the nations at war that created the issue that our right to the freedom of the seas had been violated and that eventually led us into the war. Had there been in effect at that time a neutrality policy similar to that adopted by Congress at this session, I firmly believe that the chances of our entrance into the World War would have been greatly diminished, if not altogether avoided.

While it is gratifying to realize that this important step has already been taken, yet we must realize also that it is only a short step. There are many other factors and conditions that must be effectively dealt with in adopting a permanent neutrality policy to be applied to war conditions arising at a future time if our Nation is to have a neutrality policy that will guard and protect us against war.

It is my opinion that our neutrality policy should provide that immediately upon the outbreak of war between two or more foreign countries, or between factions within any country, the President, upon determining such war to exist, shall by proclamation prohibit, first, the exportation from this country of arms, ammunition, and implements of war, as well as any material to be utilized in prosecuting war, to any nation or faction at war; second, the traveling of our citizens on ships of any belligerent, except at their own risk; third, the right of American vessels to enter danger or war zones, except at their own risk; and fourth, the lending of money or extension of credit by the United States Government or any individual or firm of citizens of the United States to a belligerent government or its citizens.

While this enumeration of prohibitions in its brevity does not cover all the features and possible circumstances as to which provision must be made if we are to have an effective neutrality policy, yet it is sufficient to indicate the wide scope that such legislation must take if anything worth while is to be done.

Furthermore, I am strongly of the opinion that the legislation to be adopted by this House should provide a policy that is mandatory in character. I believe that the surest, safest, and best way to keep our Nation out of future foreign wars is for us now, in time of peace, to draw up a set of rules, regulations, and prohibitions that will automatically apply as soon as war breaks out between foreign nations. To leave any considerable discretion to be exercised in the application of the principles of such neutrality policy or the degree to which it shall be applied or the nation to whom it should be applied is to create possible misunderstandings that lead to war.

When war between other nations exists it becomes increasingly difficult, as it continues, for this or any other neutral nation to remain neutral. Therefore we should declare ourselves well in advance by fixing definitely the acts that are prohibited in our dealings with nations at war. To do so is to put every nation on notice, while we are still friendly, that they cannot expect this Nation to participate in their wars, nor provide any aid, and then, when and if war does come, it cannot be charged that our enforcement of such prohibitions, as have been theretofore fixed, is based upon any other consideration than a desire upon our part to promote peace and avoid war.

I am willing to admit that the maintenance and enforcement of a strict mandatory neutrality policy, such as I have outlined, may cost us something in dollars and cents if estimated merely in loss of trade during the war. But such loss of trade and money is inconsequential compared to the loss of life, suffering, and the economic and financial loss that comes from war.

Our Nation has been the leader in every movement to promote peace and good will among the nations of the world. The adoption of a neutrality policy founded upon a desire to remain aloof from war, and a willingness to refuse the profits of war, is additional and convincing evidence of the peaceful inclination of our Nation and a proper recognition of the spirit and purpose of our people to promote peace.

I realize that no policy we may adopt, whether it be mandatory or discretionary in character, can be an absolute guarantee against our entrance into war, but I am hopeful that the legislation we will adopt, with good intent and honesty of purpose, will fulfill our highest expectations and in no sense fall short of worth-while achievements in sparing our Nation and its people from the ravages of war.

I favor the adoption of the strongest possible policy to insure our complete national neutrality in time of war whenever and wherever it may hereafter exist. By the adoption of such a policy we promote and make more certain the safety, security, and continued peace of America.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JAMES E. MURRAY

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Friday, March 19, 1937

STATEMENT OF DEAN THOMAS F. KONOP ON THE PROPOSAL TO REORGANIZE THE FEDERAL JUDICIARY BEFORE THE COMMITTEE ON THE JUDICIARY OF THE SENATE OF THE UNITED STATES

Mr. MURRAY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement made yesterday before the Committee on the Judiciary of the Senate by Dean Thomas F. Konop, of the Law School of the University of Notre Dame, relating to the proposed reorganization of the Federal judiciary.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. Chairman and gentlemen of the committee, there has been so much discussion of the President's proposal that nearly every possible phase of the question has been presented and very little can be added to the discussions.

What is the problem and how did it arise? Was it suddenly thrust upon us by the President's proposal? I think the problem is a moral one, basic and fundamental, and involves more than a mere change in the number of Justices of the Supreme Court. Gentlemen, behind this simple proposition is a basic problem—a problem that must be solved at present if American institutions, American industry, and American Government are to survive.

Fundamentally the problem is a moral one. It involves questions of right and wrong. It involves justice and a square deal to men, women, and children who, after all, make up the country, its institutions, and its Government. It is hard to give a specific definition to this problem. In Christianity it is defined in its precept, "Love thy neighbor as thyself", and the ever-present query, "Am I my brother's keeper?"

Let me quote to you from a letter of the Great Emancipator, Abraham Lincoln, to Mr. Jesse Harper: "Yes; we may all congratulate ourselves that this cruel war is nearing to a close. It has cost a vast amount of treasure and blood. The best blood of the flower of American youth has been freely offered upon our country's altar that the Nation might live. It has been, indeed, a trying hour for the Republic, but I see in the near future a crisis approaching that unnerves me and causes me to tremble for the safety of my country. As a result of the war, corporations have been enthroned and an era of corruption in high places will follow, and the money power of the country will endeavor to prolong its reign by working upon the prejudices of the people until all the wealth is aggregated in a few hands and the Republic is destroyed. I feel at this moment more anxiety for the safety of my country than ever before, even in the midst of war. God grant that my suspicions may prove groundless."

Is this prophecy of Lincoln to come true? One of the main causes of our present economic trouble has been a soulless and a conscienceless person created by law and called the corporation. It has been the use and abuse of this device in business and manufacture that has been responsible for piling capital upon capital, factory building upon factory building, and plunging the American people into a maelstrom of overcapitalization and overproduction which culminated in a collapse in 1929. This soulless entity, instead of being a servant of the people for their good and their material prosperity, has become a monster of their destruction.

When the United States Supreme Court held that corporations were "persons" within the provisions of the fourteenth amendment it practically destroyed all powers of the States to regulate and control the corporations, the very "persons" that the States created. This was the beginning of the oppression of the people by organized and soulless corporate greed.

Now, why the controversy about courts. Within the past few years trial as well as appellate courts have declared unconstitutional several acts of Congress. These laws were enacted during a serious economic depression. When these acts were passed large masses of our people were in desperate circumstances. They were losing all hope. Local governments were unable to help them. It was then that the Federal Government stepped in to save the American people. Laws were enacted by Congress, and are being enacted now, to save our financial, economic, and industrial structure, and to promote the welfare of the people, and to provide against a recurrence of similar catastrophes.

Then came the decisions of the Supreme Court striking social and beneficial laws from the statute books. By these decisions the Court, in effect, told the American people that because of the Constitution their Representatives could not pass these laws. That was quite a jolt to the people of America. They had been taught that the Constitution was the charter of a great democracy. They had been taught that it was a charter of their liberties; they had been taught to love it, fight for it, and if need be die for it. And during the depression, when the people needed the Constitution to save them and to save their democracy the Supreme Court decides that because of previous decisions, under the rule of stare decisis, nothing can be done.

Ought we to be surprised that there is some discontent among our people? That there are sit-down strikes and disorders, that there is disrespect for law and order, and that a crime wave still persists? Ought we to be alarmed that Communists are finding here and there in America a fertile field for the preaching of their destructive doctrines?

As now construed by the Supreme Court, the people look upon the Constitution as a bar to help them in times of distress and as a barrier to progress and social justice. Reasonably and liberally construed, the Constitution will adapt itself to our progress. It can and must be so construed if we are to save ourselves and the Supreme Court.

The Declaration of Independence and the preamble to the Constitution together constitute the spirit of the Constitution. The Constitution is the plan. It provides the form of government. Its letter tells us how the governmental processes are to be carried out by the three branches. The people, speaking through the Congress, the President, and the Supreme Court, make up the Government. The Constitution provides the form, but it also breathes the spirit of the God-given rights of man as defined in the Declaration of Independence and general welfare as defined in the preamble. In the case of *Gulf Coast and Sante Fe Railroad Co.* v. *Ellis* (165 U. S. 150, p. 160) the Supreme Court of the United States said: "The latter (meaning Federal Constitution) is but the body and the letter of which the former (meaning the Declaration of Independence) is the thought and the spirit, and it is always safe to read the letter of the Constitution in the spirit of the Declaration of Independence."

Today's construction of the Constitution by some Justices indicates that they forget the real spirit of the Constitution and observe its substance and "spirit" by emphasis on mere "form."

Let me cite a few decisions which are hard to reconcile in the spirit: The Court says neither Congress nor legislatures can through their commissions fix rates for public utilities that would deny a reasonable return (about 7 percent) to the stockholders. That is all right, because it protects and guarantees profits. But the Court also says that neither Congress nor the legislatures can pass laws to fix minimum wages.

Again, the Supreme Court, in effect, says: "You can't levy an income tax." Later it said, "Yes; you can levy an income tax on salaries, dividends, and money income, but under the income-tax amendment, which took 20 years of agitation to adopt, you can't levy an income tax on stock dividends."

Again, the Court says, in effect: "You can by law take property from one railroad company that hath and give it to a railroad company that hath not. But you can't by law levy a processing tax on the processors and provide for its distribution to farmers."

I suppose from now on teachers of constitutional law will be trying to reconcile *Farmer* v. *Dagenhart* (the child-labor case) with *Kentucky Whip & Collar Co.* v. *Illinois Central R. Co.* case, which sustained the constitutionality of the Ashurst-Summers Act. Other cases could be cited.

The cry is that the President is usurping the power of the Supreme Court; that he is a dictator and an autocrat; that he wants to destroy our liberties, our free speech and press, freedom of religion, trial by jury, etc. A few minutes ago I quoted Lincoln: "The money power of the country will endeavor to prolong its reign by working on the prejudices of the people until the wealth is segregated in a few hands and the Republic is destroyed."

Who is usurping? It is the Supreme Court that is usurping the power of Congress and the President. It is the Supreme Court

that has been destroying laws providing for a better life, more liberty and equality, social justice, and the pursuit of happiness of 130,000,000 people.

Who is the dictator? One man, not elected by the people, but appointed for life. The fifth Justice of the Supreme Court is the dictator.

What about 5-to-4 decisions of the Supreme Court of the United States? What about the power of one man, the fifth Justice, to thwart the will of the people as expressed through their representatives? May there not be dictatorship in that?

Gentleman, is there no such thing as leadership in our American political life? When a President submits his record of 4 years to his people and they approve it by the greatest majority on record, he is not the people's dictator. He is their leader, to carry out their mandate. Finance, industry, labor—all have their leaders. May not the people of America have one?

The American people have been patient in enduring injustices under our industrial system. The amendment process is too slow to give relief. The people do not envy nor hate the rich. They believe in individual rights, individual liberty, and individual ownership. It is not individualism that the people object to, but they do object to an overorganized and syndicated capital that cries individual initiative and refuses to give them a square deal.

The American wants a job in private industry. He wants wages that will keep up his home and give him an American standard of living. If our capitalistic industrial system does not give these to him, then someone else must and will. Let us settle the basic problem now. The problem will not be settled until it is settled right.

Now, as to the method. Let us not quarrel about method. While Lord North, Pitt, Burke, and Chatham were debating method in London, Thomas Jefferson was writing the Declaration of Independence in Virginia.

Seventy years of quarreling over methods of dealing with the slavery question plunged us into a Civil War.

What is the President's proposal? As a Judge or Justice 70 years of age or over cannot be compelled to retire, the President recommends to the Congress legislation for the appointment of an additional Judge or Justice when a Judge or Justice who has reached the age of 70 and does not retire. Under the present situation this would increase the number of Justices on the Supreme Court to 15.

Under the Constitution, the President has the power to make recommendation and the Congress has always exercised the power to increase, or to decrease for that matter, the number of Justices. None of the checks and balances are impaired. The President appoints—the Senate confirms—and the appointment is for life.

Unless the President's attempt to get into the Supreme Court an interpretation and construction of the Constitution in the "substance and spirit" as I have pointed out, then the American people, outraged at the inability of Congress and the President to protect them and their resources, will, by amendment, sweep the Supreme Court out of the constitutional picture. We will then have an amendment which will deny the power of the Supreme Court to sit in judgment upon congressional legislation and probably State legislation as well. This kind of an amendment would tend to destroy the Bill of Rights.

I think the President's proposal is a safety-valve to save the Supreme Court and its jurisdiction. I favor the President's proposal because it is simple, expeditious, and constitutional, and it will permit Congress and the President to carry out the people's mandate.

Erin's Offering

EXTENSION OF REMARKS

OF

HON. FRANCIS T. MALONEY

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Friday, March 19, 1937

SPEECH OF HON. TOM CONNALLY, OF TEXAS, AT ANNUAL DINNER OF THE FRIENDLY SONS OF ST. PATRICK, AT WASHINGTON, MARCH 17, 1937

Mr. MALONEY. Mr. President, I ask unanimous consent to have printed in the RECORD the very interesting address delivered by the junior Senator from Texas [Mr. CONNALLY] on the occasion of the annual dinner of the Friendly Sons of St. Patrick, held at Washington, D. C., on March 17, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Tonight loyal descendants of Ireland have assembled to pay their tribute to that little island, washed by the waves of a great sea and warmed by the currents of the Gulf which have made it a land of perpetual verdure and whose warm-hearted, genius-touched people have made it a center from which have radiated to all parts of the world culture and learning, poetry and oratory, statecraft and politics, victories of peace and triumphs of martial glory.

Irish kings were on the throne while Alexander was campaigning and conquering in the East. They ruled when Plantagenet conquerors ascended the throne of England. In the fifth, sixth, and seventh centuries, and until the twelfth century, Irish schools and universities drew students from England and the Continent. Ireland was never conquered by the Roman Empire and after its fall Ireland in the west became the heir of Greek culture and learning. Because of its geographical isolation it remained a reservoir of free thought and free principles which had never fallen under the sway of Rome nor been subdued by the theories of feudalism. It remained a land in which government ascended from the people upward and not from the Crown downward. Its sons diffused that ancient learning and the classics throughout Europe. From Ireland great travelers throughout the Middle Ages contacted and inspired the people of many lands and brought to glorious fruition the learning and letters and culture of the classical schools. It is claimed that an Irish monk by the name of Brendan, who sailed from Kerry, discovered America in 585, nine centuries before Columbus landed in the West Indies.

Columbanus, in the sixth century, was arguing with the Bishops of Burgundy and the Popes of Rome. Under his leadership in various parts of Europe there went out from educational centers wave after wave and impulse after impulse of intellectual energy which enriched and ennobled and kept alive the torch of intellect amidst the gloom of the Middle Ages.

When Charlemagne welded into an empire the principalities and dukedoms and kingdoms that were struggling in their contests for supremacy, he became the patron of Irish scholars and monks. They thronged to his court and generated a revival of learning in the West. Philosophers and astronomers delighted and instructed, not alone the emperor but the centers of learning and scholarship. Irish explorers visited distant parts of the earth. Iceland and Egypt looked upon the white sails of their ships.

Throughout the Middle Ages Irish culture and Irish learning and Irish genius touched and awakened to life the thirst for learning and advancement of culture throughout the British Isles and the Continent of Europe.

Americans know how profoundly the contributions of the Irish race have affected the foundations of America and the development of American life, government, and culture. "The sorrows of Ireland", the tragic struggle of her people in resisting conquest and invasion, the bitter contest for liberty, and the proscriptions and punishments of her people caused the migration of many of her finest sons to the American Colonies. Irishmen served in the Continental Congress and aided in drafting the Declaration of Independence. They aided in forming the Constitution. Robert Morris was the financier of the American Revolution. General Richard Montgomery dyed red the snows of Quebec with his life's blood. Irish footsteps left crimson stains upon the soil of New Jersey and Valley Forge. From Bunker Hill to Yorktown, where Washington triumphed over royal armies and, pulling down the standard of a King, lifted high the banner of liberty, Irishmen struggled and fought. It has been said that one-half of the Continental Army of the American Revolution was composed of Irishmen. John Barry, the father of the American Navy, was of Irish blood.

Gen. "Mad" Anthony Wayne, with his Irish troops, was a dashing and gallant figure in the struggles of the American Revolution.

Since the adoption of the Constitution and the Union, Irishmen have distinguished themselves in America at the bar, in government, in oratory and letters. They have made rich and lasting contributions to every avenue of American life. Today men and women of Irish blood in America are serving and achieving to the advancement of American ideals, and are glorifying the finest traditions of American life and Irish genius.

Ireland has made her great contribution to the public life of other nations, both in Europe and in the western world. Ireland gave to France a marshal of her armies and a President of the Republic, McMahon. Her soldiers fought under the banners of Frederick the Great and in the army of Maria Theresa. She gave a prime minister to Spain. O'Higgins is the national hero of Chile. He led in the heroic struggle of that land for independence from Spain. There, also, the name McKenna is venerated. O'Connell sleeps beside Bolivar in Venezuela, while O'Leary's memory lives among the great in Colombia. Obregon, which is the Mexican for O'Brien, sat in the President's chair in Mexico. Edmund Burke, O'Connell, and other great Irishmen have enriched and adorned the public life of the British Empire.

Andrew Jackson, the hero of New Orleans, and a great President of the United States, was the son of an Irish immigrant.

Mr. Justice Pierce Butler, Associate Justice of the United States Supreme Court, who graces this board tonight by his presence, like Andrew Jackson, is the son of an Irish immigrant.

In the War between the States Phil Kearney and Phil Sheridan fought on the side of the Union. In the South the blood of Ireland flowed in the veins of Stonewall Jackson.

Three million Irish are buried on the battlefields of foreign lands. Five hundred thousand fell in France during the World War.

America has not been alone the stage on which Irish immigrants have played a large and honorable part in modern times. I am

indebted to Ripley's Believe It Or Not for a striking account of an interesting chapter. In the time of Queen Victoria, in the year 1848, nine young Irish rebels were tried and convicted in Her Majesty's courts of insurrection and treason and sentenced to death. The young Queen's heart was touched to pity in acting upon the sentences. She was moved to commute the sentences upon condition that they should leave Ireland forever. The Prime Minister urged that they be sent to Australia, a British colony, where they would not participate in politics and where colonists were needed. Twenty-six years later Prime Minister Disraeli, in conferring with the Queen, reported that—

"Sir Charles Duffy is the same Charles Duffy banished from Ireland with eight others 26 years ago. He is now Prime Minister of Australia. Thomas Francis Meagher, another, is now Governor of the State of Montana. Terence McManus and Patrick Donahue are brigadier generals in the United States Army. Richard O'Gorman went to Newfoundland and is now Governor General. Morris Lyons is attorney general of Australia and Michael Ireland will shortly succeed him in that office. John Mitchell is doing well in New York and is influential in Tammany Hall—he was the grandfather of John Purroy Mitchell, for 8 years mayor of the city of New York. The ninth rebel is Thomas D'Arcy McGee, member of Parliament from Montreal, Minister of Agriculture, and President of the Council of the Dominion of Canada."

In such fashion have Ireland and the Irish race been interwoven into the fabric of free government and liberty in distant parts of the earth. Unable until within the present generation to attain liberty for its own land, Irish soldiers and generals have fought for it wherever the banner of freedom has been lifted. Irish scholars and lawyers and leaders, scattered throughout the earth by the pressure of conquest and invasion and proscription at home, have enriched and glorified the culture and the public life of the nations of the earth.

The Irish have a peculiar genius for politics and government. In America and in the British colonies they have risen to eminence and distinction. It is as if Ireland's own struggle through the ages for liberty and self-government has generated within her people and stored up within their nature such an undying and unquenchable thirst for liberty and freedom that, when it reaches the free spaces and the free air that permit of its expansion and development, it flowers and fructifies into leadership and high achievement.

Irish humor and good nature have warmed the blood and blessed the life of every people with which they have mingled. Irish poetry has stirred the most profound depths of the human heart and yet lifted it to the most sublime heights. Irish oratory has moved man to high endeavor, yea, to pour out their blood for causes which they loved. Irish learning and culture have brightened and softened barbaric peoples and advanced civilization.

Tonight, as the descendants of Ireland, as men of Irish blood, we may look back upon the story of Ireland, upon its history, upon its heroic struggles, upon its traditions with affection and veneration. We may look into the unnumbered years of the future with a fervent hope that the great qualities of the Irish race may hereafter continue to enlighten, to bless, and to advance the cause of human liberty, free government, and culture in all of the centuries to come.

The legions of Rome conquered Greece and enslaved the bodies of her people. They could not subdue Greek intelligence and Greek spirit. Though in chains, Greek slaves captured and dominated the Roman mind and enthroned Greek culture and learning and literature and made them regnant throughout a mighty empire.

In the past and in modern times Ireland succeeded to the Greek tradition. Though conquered in her aspirations for political independence, she could not be subdued in the throbbings of her mighty spirit or in the realm of her lofty intellect.

We may claim a royal heritage, not because every Irishman is descended from an Irish king but because Ireland, disenfranchised at home, from her emerald throne has sent her royal mandates and her messengers of statecraft, religion, oratory, letters, and culture to every corner of the civilized globe, and has mastered the minds and enchanted the imaginations of men of every race.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. TOM CONNALLY

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Friday, March 19, 1937

RADIO ADDRESS OF HON. BURTON K. WHEELER, OF MONTANA, MARCH 10, 1937

Mr. CONNALLY. Mr. President, I ask unanimous consent to have published in the RECORD an address delivered over the radio by the senior Senator from Montana [Mr. WHEELER] on the evening of March 10, 1937, at the Chicago Forum, Chicago, Ill. The address has reference to the proposal to reorganize the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, I agree with my friend Landis that the Court has decided many cases contrary to his wishes and contrary to my views. I am one of those who has almost universally agreed with the minority views of the Court. Assuming anything Mr. Landis said, there is a wrong way and a right way to correct those evils. The wrong way is to pack the Court—the right way is to amend the Constitution.

The President of the United States, speaking at the victory dinner on March 4, made the startling statement that in his opinion a great national crisis exists—a crisis even more grave than that which confronted this country 4 years ago. The President implied that he could not insure the continuance of democratic institutions for 4 more years unless he was given the power to increase immediately the membership of the Supreme Court of the United States by adding six new Justices and make it subservient to his will.

Crisis, power, haste, and hate, was the text from which the President preached.

We may contrast President Roosevelt's demand for haste to pack the Supreme Court in this crisis with the caution with which another President of the United States approached a real crisis in this country. Abraham Lincoln, in his first inaugural address, 76 years ago, on taking office when the country was faced with dissolution, said:

"My countrymen, one and all, think calmly and well upon this whole subject. Nothing valuable can be lost by taking time. If there be an object to hurry any of you in hot haste to a step which you would never take deliberately, that object will be frustrated by taking time; but no good object can be frustrated by it. * * * Intelligence, patriotism, Christianity, and a firm reliance on Him who has never yet forsaken this favored land, are still competent to adjust in the best way all our present difficulty."

It is in the spirit of this counsel, without hate or haste, that I address this great gathering here tonight.

As you know, the President of the United States sent a message to the Congress on February 5, 1937, in which he proposed to reorganize the judiciary of the United States. Attached to this message was a bill which contained the startling proposal to add six new members to the Supreme Court of the United States. The administration then assigned as reasons for this legislation that the Court was not properly considering many of the cases which were presented to it for review; that it was behind in its work; and that the age of the Justices impaired their effectiveness and it was further implied that their age caused them to be out of step with the liberal thought of the times.

It has been since demonstrated beyond question that the age of the Justices had nothing to do with the question of liberalism or reaction; that the Court was not inefficient but current in its work. Furthermore, the Solicitor General has approved of its practice of disposing of cases presented to it for review.

The President, realizing the fallacy of these arguments, made a dramatic appeal based upon what he contends to be a crisis fundamentally even more grave than that of 4 years ago.

The picture of poverty, sweatshops, unemployment, long hours, back-breaking work, child labor, ill health, inadequate housing, poor crops, drought, floods, the "dust bowl", agricultural surpluses, strikes, industrial confusion, disorders, one-third of the population of the United States ill-housed, ill-clad, ill-nourished, was graphically painted to the American people at the $100 a plate victory dinner in the Mayflower Hotel, not by the enemies of the administration, but by the President of the United States himself.

And all this, it is implied, was because of the Supreme Court, and because six men are over 70 years of age. We are led to believe that this Court was the instrument which had stricken down all of the legislation which the Democratic Party had enacted during the last 4 years and which it might enact to relieve the situation in the future.

As I saw that dark picture unfold, I wondered what the President meant when I sat with him but 4 short months ago on the platform from which he spoke in Denver and heard him declare that the Government had "sought and found practical answers to the problems of industry, agriculture, and mining." And I am wondering now what he meant when he claimed for the Democratic Party the great gains achieved in reemployment, and later in the campaign here in Chicago, when he gave an account of the past 4 years, and rejoiced in the fact that "busy factories were singing the song of industry; markets were humming with bustling movement, and ships and trains were running full." Everywhere he went, the President said he found a quickening tempo, the people meeting problems with new life and new hope.

Speaking at Hartford he reported that industrial pay rolls had nearly doubled since the spring of 1933. At Worcester, he declared that in his swing around the country he had found a Nation more greatly prosperous, more definitely on the highway to complete recovery than at any time in the past 7 years. I traveled with him on his special train from Washington, D. C., to Denver, Colo., and back to Chicago, at his request. I was not one of the defeatist lawyers then. I was against packing the Court

then as I am now. Then there was no picture of chaos, destitution, and despair placed before the country. The theme song everywhere was "Happy days are here again."

What is it that took place between October of last year and February of this year when the President made his startling proposal to pack the Supreme Court? Between October and February, his own departments in Washington have been boasting that industrial production advanced to new 7-year high levels; that commodity prices have continued to advance; that pay rolls were larger, and the national income was higher. The Agricultural Department has boasted that farm prices have finally achieved the goal of parity between agriculture and industry for the first time in 11 years. And when some Members of Congress tried to secure increased amounts for the W. P. A., the administration blocked such efforts, lowered the amount, and pointed to a reduction in relief rolls in doing so. Did someone misinform the President and Congress then?

That the administration sincerely believes that this is a crisis calling for precipitate and unthinking action on such a proposal cannot be maintained upon the record which the administration itself has made in the campaign and in the past months. Nor can it be maintained with candor and good faith that the present powers of the Congress and the President, under the Constitution as it is interpreted by the present members of the Supreme Court, are inadequate to continue to relieve those in need, to continue a farm program or a flood-control, irrigation and reclamation program, or to protect the consumer against monopoly.

As for caring for the needs of the unemployed, as for caring for the needs of the mothers, the drought-stricken farmers, or the flood victims, bad as the President pictures the Supreme Court, it has neither vetoed nor obstructed laws to carry out these purposes. And the suggestion which the administration makes that relief may be denied by the Supreme Court is one which not even so-called defeatist lawyers will entertain. More has been spent for the needs of the unemployed and the drought-stricken farmer than has ever been spent in the history of any other nation in the world, and justly so. I was one of those who insisted long before the administration came into power that the National Government come to the rescue of the unemployed.

As for flood control and the conservation of waters for irrigation and reclamation and our drought-stricken areas, it is not necessary that the interstate-commerce clause of the Constitution be made conversant with the habits of the Ohio River or the Dust Bowl by packing the Court as suggested by the President.

The Congress of the United States has always assumed, and the ccurts have always upheld, the power of Congress over navigable streams and their tributaries. It is under this power that the great Boulder Dam was built, and Congress has appropriated millions of dollars to deepen the channel of the Mississippi River for navigation and flood control. To infer that the Supreme Court may have been responsible for the appalling disasters on the Ohio is to present a ridiculous picture. If there be human responsibility for the recent disasters from floods, it lies with this and preceding administrations for failing to fully exercise the power which they already possess.

To force the Congress to action now, I feel our great President is unduly belittling the accomplishments of his own administration during the past 4 years.

It ill befits this administration to say that there is doubtful power to protect the consumer against monopoly.

Memories of his N. R. A., dictated in large measure by the United States Chamber of Commerce, for the express purpose of permitting industry to get out from under the provisions of the Sherman antitrust law and the Clayton Act, are too recent to be forgotten. Housewives and farmers can testify as to what protection they got from monopolistic prices under that act. Well can you thousands of small-business men through the country remember what it was to be at the mercy of the economic royalist who not only drafted the codes but enforced them in their own self-interest. And many of you, I am sure, are not unmindful of the favoritism, the petty graft, and the corruption that was rampant in the activities of the code authorities.

The Court unanimously declared the N. R. A. to be unconstitutional—not because Congress lacked the power to regulate monopoly, but because the Court found that Congress had no right to delegate its legislative powers to private individuals to be exercised for their own selfish purposes. Few are the people in the United States who would disagree with the Supreme Court decision in that case.

As to the power of Congress to cope with the farm problem, it should be recalled that it was a former President of the United States that vetoed the McNary-Haugen bill. Both the theory and the practice under the A. A. A. of curtailing the production of food products and killing little pigs when one-third of the Nation was "ill-clad, ill-housed, and ill-nourished" as the President says, is not entirely free from criticism or improvement. That the present prices of farm products have come about largely because of the drought, no one can deny.

Let us be clear about it. I am not criticizing most of the legislation proposed by the President of the United States during the last 4 years. I supported most of it and led the fight for the holding-company bill.

When the President came into office he faced a very difficult problem. It was necessary to enact emergency legislation. Congress enacted it without much, if any, consideration. Nor do I desire in any way to minimize the problems which confront us at the present time. I am in complete accord with the President in his desire to secure economic freedom for the wage earner, small-business man, and the farmer of this country. Those objectives have a reality to me which only a lifetime of hardship, struggle, and service can give. I was for them in 1920 and in 1924 at the sacrifice of party loyalty, and, if necessary, I will do it again. Real liberals charter a course that may take them outside party lines. I will be fighting for democracy with a small "d" when many of the office-holding liberals of today will desert the New Deal ship for fat jobs with economic royalists in the caves of Wall Street.

I am sure that the real liberals as distinguished from the office-holding liberals and the real farmers as distinguished from the office-holding farmers and the real laborers as distinguished from the office-holding laborers do not want to see these objectives frittered away in the heat of passion.

You and I, with a sense of individual responsibility, must face these problems of unemployment, child labor, regulation of industrial disputes, wages and hours in industry, cheaper electricity, and agricultural readjustment. If this country is to survive we must solve these problems on a permanent basis.

I submit that the President's proposal leads us nowhere. It is neither a panacea of reform nor can it be justified as a temporary expedient. It postpones, delays, and renders their democratic solution more precarious. And those who sincerely believe in the objectives for which the President professes belief, and who seize upon his proposal as a method for the achievement of all those ends, are being forced into a sham battle in which there can be no victory for liberal principles.

I ask those people, What assurance can the laborer or the farmer have that his problem will be solved? Six new members appointed to the Court are still members of a court which, as the President says, now has the ultimate control over the economic and political destinies of this country. They are still Judges unrestricted in the exercise of their discretion as to whether or not Congress has the power to meet the needs of the people.

This proposal does not curb the usurpation of power over the political and economic life of this country. There could still be 7 to 8 decisions. Let us face the facts clearly and resolve the issue now.

What kind of Judges could they be if they promised the President in advance that they would do his will? They may be sworn to support, maintain, and defend the Constitution, but if they are to carry out the President's wishes, or what seemed to be the needs of the time, they must owe to him an obligation superior to their oath.

In an analogy one must go back to the demand of James I upon Lord Chief Justice Coke that he decide cases in accordance with the King's dictates and for answer to Coke's historic words, "The King ought not to be under a man, but he ought to be under God and the law."

I was the first Member of the United States Senate to come out openly and espouse the nomination of Mr. Roosevelt for the presidency in 1932. I traveled thousands of miles over this country, speaking in his behalf in the presidential primaries. I was a delegate to the Chicago convention and was one of his ardent supporters, and I spoke in many States after his nomination.

I supported him because I thought the liberal cause at that time could be best served by his election. Other liberals, such as Johnson of California, Norris, of Nebraska, and the late Senator Cutting, of New Mexico, and many others, Democrats, Republicans, and Farmer-Laborites alike, supported him in the election of 1932, and many of them supported him in his last campaign. He had nothing we wanted; nothing we would take. Most of us supported him, not because we thought that "happy days were here again", not because we wanted something, but because we didn't want to turn the Government back to the reactionary elements controlling the Republican Party at that time, and we are not going to do it now. Now, when many of these same liberals, who agree with his aims, disagree to his packing of the Court because we believe it is fundamentally unsound, undemocratic, and reactionary in principle, the President says, "The tumult and the shouting have broken forth anew—and from substantially the same elements of opposition."

The same elements of opposition! JOHNSON of California, NORRIS, of Nebraska, NYE and FRAZIER, of North Dakota, BORAH, of Idaho, VAN NUYS, of Indiana, WALSH, of Massachusetts, CLARK, of Missouri, DONAHEY, of Ohio, and that vast host of southern Democrats who have supported the President whole-heartedly. We are classed as "the same elements of opposition" as opposed him in the last campaign. The people of this country will not believe, as the President suggests, that these men are insincere in their desire to improve social and economic conditions in this country. The people will believe, in my opinion, that the President has made a false start and taken a most dangerous method of righting the wrongs that may exist. They will question that the end justifies such means. Can these men be dismissed as "defeatist lawyers"? And what of the equally sincere and courageous group in the House who have been compelled to voice their dissent? They were loyal and splendid Democrats in the President's eyes 5 weeks ago. Are they unworthy of confidence now?

And let us take a look at the press of the country. The most liberal group of papers in the whole length and breadth of the land is the Scripps-Howard chain. They have been the great bulwark of the President's support. Even against their own judgment in specific instances they have followed his leadership. But now they refuse to go on this present course. Can they be classified as "creatures of entrenched greed"? The New York

Times has been an accepted Presidential spokesman on more occasions than one. Is it to be condemned because it parts company with him on this issue now?

And what of such liberal journals as the Cleveland Plain-Dealer, the Baltimore Sun, the St. Louis Post-Dispatch, and the Omaha World-Herald. Now let us turn to the South. The Times-Dispatch and the News-Leader of Richmond, the Charlotte Observer, the Columbia State, the Charleston News and Courier, the Atlanta Constitution, the Miami Herald, the Birmingham Age-Herald, the Montgomery Advertiser, the Little Rock Gazette, the New Orleans Picayune, the Dallas News—these and a horde of other Democratic papers south of the Mason and Dixon's line are fighting for the preservation of the American system of government, even though they are compelled to oppose a Democratic President.

The point of disagreement in this controversy is not between those who want social and economic reform and those who do not want it. It is on the method of getting reform and whether that reform will be sham or of a real and permanent character. People who are genuinely concerned about a true, democratic form of Government object to a change which will make all three branches of the Government subservient to one man. I opposed that in the Harding, Coolidge, and Hoover administrations and I am opposed to it now.

Let us examine what it is that the President says we cannot take time to do now

Senator BONE of Washington and I have introduced a constitutional amendment providing that in the event the Supreme Court declares a law of Congress unconstitutional, that after an election intervening, the Congress may repass that legislation and it will become law notwithstanding the Court's decision—in other words, we desire to give the people of this country a chance to have the final say, through their elected representatives, as to what legislation they, in their wisdom, desire. There can be no more democratic way than this. The people, not the President, not the courts, should have the final say in matters which vitally affect their economic welfare.

The Constitution, I repeat, belongs, not to the President, not to the Congress, not to the Court, but to the people. You and only you shall say when and how it shall be amended.

Other Senators and Representatives have introduced proposals to amend the Constitution for the purpose of giving to the Federal Government increased power to meet the needs of the times, and the President's only answer to these suggestions has been that it will take too long.

I think I know the House of Representatives well enough and I know that I speak for the Senate, Democrats and Republicans alike, when I say to you that we will give the President the votes to submit a constitutional amendment to the people of this country, and we will do it now, if he will say the word. Every Senator will submerge his individual views on particular amendments and adopt any reasonable proposal the President will submit. We will not permit the Court to be packed. If the President wants real reform—not sham reform—we will give it to him now And I challenge the administration to submit to the Congress any reasonable constitutional amendment. We have no pride of authorship. We will take any reasonable amendment the administration will submit. Nor need there be delay in ratification of such an amendment by the people.

Under article 5 of the Constitution, Congress may provide for the calling of conventions. It may specify the time in which those conventions must be called. It may provide the manner in which the delegates to those conventions may be elected. The elections may be conducted by Federal election officers under congressional regulations. It may use so much of the State election machinery as may be desirable. If the people of a State favor the amendment, they will elect delegates pledged to vote for it. If they oppose it, they will elect delegates pledged to vote against it. Each convention will, therefore, contain only delegates for or against ratification, and the work of the convention will be perfunctory. Thus it is not a question of years; but if the administration so desires, it can be a question of months.

This is the issue upon which liberals and progressives differ with the President of the United States—a doubtful expedient or real reform.

The very platform adopted by the Democratic convention in Philadelphia and dictated by the President of the United States recognized this fact; and at no time or place in the campaign was any statement made by any responsible Democrat that new Justices would be added to the Supreme Court with a view of modifying the Constitution of the United States.

You people, when discussing the Constitution of the United States and the Supreme Court, should remember that there was written into that great document which belongs to you, certain specific grants of individual rights—religious freedom, trial by a jury of peers, free speech, free press, and free assembly. You people inherited these individual rights from your forefathers. Unlike them you did not have to spill your blood to win them. And their unchallenged existence you today take as a matter of course. They are to us of commonplace importance, and yet, in much of the world, and in lands that have known so-called civilization for many centuries, where universities have had continued existence for hundreds of years, where human knowledge has gone far and human progress has been great, these inherent human rights are being denied. I think of one great people today whose property, whose liberty, whose life, and whose word of God all exist only in the pleasure of one who sits in the driver's seat and makes the three subservient branches of the Government bow to his will. And he does it in the name of modern democracy.

Create now a political court to echo the ideas of the Executive and you have created a weapon. A weapon which, in the hands of another President in times of war or other hysteria, could well be an instrument of destruction. A weapon that can cut down those guaranties of liberty written into your great document by the blood of your forefathers and that can extinguish your right of liberty, of speech, of thought, of action, and of religion. A weapon whose use is only dictated by the conscience of the wielder.

I say that the women of America will never stand for it, now or in the future. The farmers of America will not stand for it, now or in the future. The great rank and file of the workers of America will never stand for it, now or in the future. And the Congress of the United States of America will never stand for it, now or in the future.

We always have time to do right—we always have time to protect the rights and liberties of the people. We have time now to make a real and lasting reform in a constitutional way.

In closing, let me quote from one of the greatest living Americans, Mr. Justice Brandeis, who said, "Experience should teach us to be most on guard to protect our liberty when purposes of government are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded persons. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding."

The President's Court Proposal—Majority Decisions Not Infallible

EXTENSION OF REMARKS

OF

HON. FRANK HANCOCK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 19, 1937

ARTICLE BY COL. FRANK P. HOBGOOD

Mr. HANCOCK of North Carolina. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following article prepared by Col. Frank P. Hobgood on the Infallibility of Majority Court Decisions:

There are many, especially among laymen, who confuse criticism of decisions of the Supreme Court with criticism of the Constitution or read into such criticism a desire to set at naught that great charter of our liberties. They seem to think that, despite a division of the Judges by which five hold one opinion and four another, the result reached by the majority is infallible. They have the notion that what the majority say must be right. That the Judges themselves do not agree with this view of the infallibility of the majority and sometimes so express themselves in no uncertain tones is shown by what follows:

In *United States* v. *Berwind-White Coal Mining Co.* (274 U. S. 564; 71 L. ed. 1204), decided in 1927, an Interstate Commerce Commission rule apportioning freight cars equally among bituminous mines in times of car shortage and prohibiting carriers from placing for loading at any mine more than its ratable share, including private cars, was held valid. Mr. Justice McReynolds, alone dissenting, characterized the rule as foolish.

In *O'Gorman & Young* v. *Hartford Fire Insurance Co.*, a case decided in 1931 and reported in 282 U. S. 251; 75 L. ed. 324, in which the division of the Judges was the now-familiar 5 to 4, the majority, consisting of the Chief Justice and Associate Justices Holmes, Brandeis, Stone, and Roberts, held valid a New Jersey statute restricting the commissions of insurance agents. Associate Justices Van Devanter, McReynolds, Sutherland, and Butler dissented and Judge McReynolds is reported to have exclaimed immediately after Judge Brandeis had delivered the majority opinion: "No rational person could uphold such a law."

Judge Holmes' caustic comment in one case that some of his brethren were shutting their eyes to "the obvious" has become a classic; and in the same category is the present Chief Justice's declaration years before he was placed at the head of the Court that "the Constitution is what the Judges say it is."

Digest, if you please, the food for thought in this by Mr. Justice Stone in *United States* v. *Butler* (297 U. S. 1; 80 L. ed. 477), the A. A. A. case:

"While unconstitutional exercise of power by the executive and legislative branches of the Government is subject to judicial restraint, the only check upon our own exercise of power is our own sense of self-restraint."

In this pronouncement you will find the opinion of one member of the Court that the majority lacked the proper "sense of self-restraint."

After the decision of the majority upholding the Government's contention in the Gold Clause case, *Norman* v. *B. & O. Railroad Co.* (294 U. S. 240; 79 L. ed. 885), Mr. Justice McReynolds exclaimed: "The Constitution as we have known it is gone", thus

denouncing the majority of five, the Chief Justice and Associate Justices Brandeis, Stone, Roberts, and Cardozo, as destroyers of the Constitution. In other cases in which he agreed with them he held less unfavorable opinion of the Chief Justice and Associate Justice Roberts.

Observe the irony in the following: In *United States* v. *Curtiss-Wright Export Corporation*, decided December 21, 1936, eight of the Judges united in sustaining the validity under the Constitution of the joint resolution of the Congress and the Presidential proclamation relating to the embargo upon the shipment of arms and munitions of war to the South American Republics warring in Chaco. It was urged in this case, as in the N. R. A. case, that the joint resolution constituted an unlawful delegation of the legislative function to the Executive; but eight members of the Court—Judge McReynolds, to keep his record clear, dissenting—united in resolving against this contention and holding that there was no unconstitutional delegation of power to the President. In the opinion written by Mr. Justice Sutherland note the implied censure of the Judge who differed with him, though in practically all other instances in recent history agreeing with him, and of his associates who have been of different mind from him in many cases:

"And while this Court may not and should not hesitate to declare acts of Congress, however many times repeated, to be unconstitutional if beyond all rational doubt it finds them to be so * * *"

This was but a reiteration of what the same Judge had said in *Adkins* v. *Children's Hospital*, decided in 1923 and reported in 261 U. S. 525; 67 L. ed. 785, where he declared that "every possible presumption is in favor of the validity of an act of Congress until overcome beyond rational doubt."

The point is in the phrase "beyond all rational doubt." How is it possible to resolve against the constitutionality of an act of Congress when five members think it is unconstitutional and four think it is not, if the test so laid down is the true test? Mr. Justice Sutherland is here saying immediately to Mr. Justice McReynolds, who thought the joint resolution of Congress unconsitutional, and to the other Judges who had disagreed with him from time to time upon questions of constitutionality that, where they have had doubts in which he did not share, their doubts were not rational.

There is, I think, general concurrence on the part of bench and bar that no act of Congress should be declared violative of the Constitution unless found to be so beyond a rational doubt. "Rational doubt", as used here, is the equivalent of "reasonable doubt" as used in the administration of the criminal law. At the risk of restating the elementary, may I remind you that under United States and North Carolina procedure a person cannot be convicted of a crime unless found guilty "beyond a reasonable doubt." Not all of the jurors need have a reasonable doubt. If 1 of 12 entertain a reasonable doubt, he may not vote to convict the defendant; and without his concurrence no verdict may be rendered. This rule of law is held to be one of the palladia of our liberty. One may well ask, Ought the law to lay down a severer test of guilt in a criminal case than of constitutionality in the case of a statute enacted by majorities in both the House of Representatives and the Senate and approved by the President?

The layman who thinks that the Supreme Court is infallible is the victim of a stark delusion. He does not pause to reflect that the law is an inexact science and that no court can render a decision and write under it "Q. E. D." Some laymen seem to think that Mr. Justice Roberts' formula of laying the Constitution and the challenged act of Congress side by side and determining whether the latter agrees with the former is as simple as it sounds. The Judges have many times said of themselves and of their associates that their views of what the law is are influenced by their views, based on social, economic, and other considerations, even temperament or environment, of what the law ought or ought not to be. The Constitution is not a multiplication table by which every "sum" may be "worked." If you multiply two by two, you will always and unvaryingly get four. Mathematics is an exact science. If the chemist treats the metal sodium with hydrochloric acid, he will never fail to produce common table salt and hydrogen. Chemistry is an exact science. If a physician is called to the bedside of a patient whose only symptoms are chills and break-bone fever, he cannot, skillful, learned, and experienced though he be, say which of many maladies he has—scarlet fever, malarial fever, typhoid, smallpox, septicemia, diphtheria, influenza, or one of many other acute infections. If because of the patient's history he suspects malaria, he administers the specific for malaria—quinine. If the fever does not yield to the quinine, he eliminates malaria and looks elsewhere until by exclusion and the process of trial and error he is able to determine what the infection is.

Medicine is an inexact science. And so is law; and in the enactment, administration, and interpretation of the law the process of trial and error plays quite as important a role and is as inescapable as in medicine. If you present to a mathematician a problem in mathematics or to a chemist a reaction in chemistry, you can be assured of a correct solution; but neither physician nor judge, be he a Mayo or a Hughes, can with certitude answer the question which you propound. If the Constitution declared that the number of the Judges of the Supreme Court should not exceed 9 and the Congress should raise the number to 15, you would have a rare instance in which it would be simple to lay the Constitution and the act side by side and declare with finality that the latter violates the former. In such a case you would have mathematics operating as an applied science upon law. But such cases do not arise. The legislative, even if as unintelligent as some Liberty Leaguers think it, knows its mathematics—certain, the addition, subtraction, and multiplication tables.

No; the problems of the judiciary are quite different. They are more apt to be concerned with whether certain activities or functions are interstate or intrastate; whether a certain exaction, let us say, is a "direct" or an "indirect" burden on interstate commerce; or, to get away from questions that happen now to be to the fore, with whether two States may levy inheritance or, as the Supreme Court denominates them, succession taxes upon the intangibles belonging to the estate of a dead man.

The fallability of the Supreme Court is self-proven in this matter of the taxation of intangibles. *Blackstone* v. *Miller* was decided in 1903 and is reported in 188 U. S. 189; 47 L. ed. 439. In an opinion by Judge Holmes in which all of the Court concurred except Chief Justice White it was held that a State may tax the transfer under the will of a nonresident of debts due the decedent by its citizens—that is, if a man resident in Virginia holds at the time of his death the note of a resident of North Carolina, the latter State may levy a tax upon the transfer of that debt to the person to whom it passes under his will. The decision went further and held that there was no constitutional inhibition against the taxation of the transfer of the note both by Virginia and North Carolina. Judge Holmes took notice of the hardship incident to the ruling, but stated clearly that hardship was no reason for doubting the constitutionality of this species of double taxation. This decision stood for 27 years. Under its sanction I am told that there were instances in which the total of the taxes levied upon estates exceeded the value of the estates. Many millions were collected under its authority. In 1930, however, the question was presented again to the Supreme Court in the now famous case of *Farmer's Loan and Trust Company* v. *Minnesota*, which is reported in 280 U. S. 204; 74 L. ed. 371. The Court was then composed of Chief Justice Hughes and Associate Justices Holmes, Stone, Roberts, Brandeis, McReynolds, Van Devanter, Butler, and Sutherland. The opinion was written by Mr. Justice McReynolds, Associate Justices Holmes and Brandeis dissenting. Judge McReynolds in the opinion says: "*Blackstone* v. *Miller* no longer can be regarded as a correct exposition of existing law; and to prevent misunderstanding it is definitely overruled." Under this and subsequent decisions no longer can two States tax the transfer of the same intangibles.

It did not take so long for the Court to reverse itself in the celebrated Legal Tender case. In February of 1870 the Court, in an opinion delivered by Chief Justice Chase and concurred in by Associate Justices Nelson, Clifford, and Field, Judges Miller, Swayne, and Davis dissenting, held against the validity of the Civil War legislation making paper currency or greenbacks legal tender. Fifteen months later the Court reversed itself and held the legislation valid and the greenbacks good as legal tender. Between the two decisions President Grant, under Congressional authorization, had appointed two additional members of the Court and it was these two, who, joining with the three who had dissented in 1870, changed the dissenting minority into a controlling majority.

I do not know the exact number of its decisions which the Court during its existence has expressly and impliedly overruled; but the aggregate is large and of itself utterly disproves the fantastic notion of the infallibility of the Court.

No one can view with satisfaction the record of the Supreme Court in the last two or three years in connection with questions as to the constitutionality of acts of the Congress. If the rule of rational doubt so clearly and often laid down had been followed, one must wonder how the Court could have divided as it divided in the cases next noted.

In *Norman* v. *B. & O. Railroad Co.*, the Gold Clause case, decided February 18, 1935, the Chief Justice and Associate Justices Brandeis, Stone, Roberts, and Cardozo united in holding that the Congress has the power to invalidate the provisions of private contracts calling for the payment of gold coin; while Associate Justices Van Devanter, McReynolds, Sutherland, and Butler dissented in an opinion written by Mr. Justice McReynolds—a 5-to-4 decision.

In *Railroad Retirement Board* v. *Alton Railroad Co.*, the Railroad Compulsory Pension case, decided May 6, 1935, Associate Justices Roberts, Van Devanter, McReynolds, and Butler constituted the majority which declared the legislation invalid because violating the constitutional requirement of due process, while the Chief Justice and Associate Justices Brandeis, Stone, and Cardozo dissented—another 5-to-4 decision.

Followed then the Schechter case, decided May 27, 1935, in which, for a rarity, the Court was unanimous in declaring the N. R. A. invalid because an unconstitutional attempt to delegate legislative power or function to the Executive and because the transactions complained of were in intrastate commerce.

In *United States* v. *Butler*, decided January 6, 1936, a majority composed of the Chief Justice and Associate Justices Van Devanter, McReynolds, Butler, and Roberts, held the A. A. A. unconstitutional, while Justices Brandeis, Stone, and Cardozo dissented—a 6-to-3 decision.

Then came *Ashwander* v. *Tennessee Valley Authority*, decided February 17, 1936, the T. V. A. case, in which all of the Judges except Judge McReynolds united in affirming the decree of the Fifth Circuit Court of Appeals reversing an order of a district court which enjoined the performance by the T. V. A. of a

contract with the Alabama Power Co., although Judges Brandeis, Stone, and Cardozo dissented upon a point of procedure. Here was an 8-to-1 decision.

In *Jones* v. *Securities and Exchange Commission*, decided April 6, 1936, the Chief Justice and Justices Van Devanter, McReynolds, and Butler joined with Justice Sutherland in denying the power of the Commission to compel one who had filed a registration statement to submit to its examination. Justice Cardozo dissented and was joined by Justices Brandeis and Stone. Here you have another 6-to-3 decision.

In *Carter* v. *Carter Coal Co.*, decided May 18, 1936, Justices Van Devanter, McReynolds, Butler, and Roberts joined with Justice Sutherland in an opinion declaring the Guffey Coal Act unconstitutional, the Chief Justice writing a separate opinion, arriving at the same result, while Justices Brandeis and Stone joined Justice Cardozo in dissent. Yet another 6-to-3 decision.

In the Municipal Bankruptcy case, decided May 25, 1936, there was another 5-to-4 decision, Justices Van Devanter, McReynolds, Sutherland, Butler, and Roberts uniting to declare the Municipal Bankruptcy Act of Congress invalid, while the Chief Justice and Justices Brandeis and Stone joined Justice Cardozo in a dissenting opinion. Yet another 5-to-4 decision.

In *Morehead* v. *New York*, decided June 1, 1936, a majority composed of Justices Van Devanter, McReynolds, Sutherland, Butler, and Roberts pronounced a statute of the State of New York prescribing minimum wages for women violative of the due-process clause of the Constitution, while the Chief Justice and Justices Brandeis, Stone, and Cardozo thought it valid—another 5-to-4 decision.

In *United States* v. *Curtiss-Wright Export Corporation*, decided December 21, 1936, all of the judges except Judge McReynolds united in sustaining the validity under the Constitution of the joint resolution of the Congress and the Presidential proclamation relating to the embargo upon the shipment of arms and munitions of war to the South American Republics at war in Chaco.

The foregoing is not an exhaustive catalog of cases in which the Court has divided in recent years upon questions of the constitutionality of acts of the Congress; but enough are included to prove the absence of anything approaching unity or unanimity. In four of the most important cases the division was 5 to 4 and in three the division was 6 to 3.

I leave it to the reader to determine for himself whether from the observations which I have made and the history of the cases which I have sketched the record showing a sharp division in the Court upon questions of far-reaching effect and influence upon our national life presents a satisfactory condition of affairs. Is it not manifest that, if the Court had in all of these cases save one applied its own rule of rational doubt, the legislation under review would have been pronounced constitutional?

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. DAVID I. WALSH

OF MASSACHUSETTS

IN THE SENATE OF THE UNITED STATES

Friday, March 19, 1937

ADDRESS OF HON. EDWARD R. BURKE AT CARNEGIE HALL, NEW YORK, MARCH 12, 1937, ON THE SUBJECT OF THE SUPREME COURT

Mr. WALSH. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a speech recently delivered by the junior Senator from Nebraska [Mr. BURKE] on the proposed reorganization of the Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In his eloquent acceptance speech at Franklin Field in June, President Roosevelt declared, "This generation of Americans has a rendezvous with destiny."

Some may have considered that statement at the time merely a fine rhetorical touch. Every thinking man and woman in America today should realize that at this very moment we do have our rendezvous with destiny. It is no exaggeration to say that constitutional democracy in America has a rendezvous with death. Democracy is face to face with death—death to all semblance of sovereignty in the States; death to the separation of governmental power into three departments, each master in its own house and scrupulously refraining from interference in the house of another; death to the principle of limitations upon governmental power which the people thought they had made immutable, and unchangeable except by their own action, by solemnly placing them in a written Constitution; death to an independent judiciary.

I charge that the President's proposal for the so-called purpose of reforming the Federal judiciary strikes a vital blow at all four of those concepts which liberty-loving Americans have considered fundamental.

1. States' rights will become a slogan of an age that is gone.

2. Division of powers into three departments will be an empty term, for a powerful President, be he good or bad, will have the means at hand to shackle the other departments.

3. Limitations on governmental powers will be stricken, so that all powers heretofore reserved to the States or retained in the people themselves will be held by Congress subject to domination by an all-powerful Executive.

4. A judiciary independent and fearless will, after a century and a half of struggle and distinguished service, bow before its "master."

Before considering what this proposal means it may be of interest to note the method by which it was projected. Without warning, the President suddenly—I may say, impulsively—thrust it upon Congress and the country. When I say "impulsively", I use that term advisedly. Did the President take counsel with his trusted leaders in the Senate and House before he committed himself to legislation affecting the Federal judiciary that has deeply shocked the Nation? Not at all. He took them into his confidence no more than he did the American people prior to the election. The leaders in both branches of Congress declared at the opening of the session that in accordance with the platform pledge upon which the campaign had been fought and won they would urge consideration of such clarifying amendments to the Constitution as would give the people the right to decide whether they want to surrender to the Federal Government additional powers which some may consider necessary in order that we may deal in a national way with problems affecting agriculture, industry, and labor.

Through some process of his own the President decided, instead, to demand that Congress ignore the right of the people to pass judgment on the question. He elected to insist upon a short cut to some goal that he sees in the far distance. He was not deterred by the thought that this proposal of his would require a challenge to the integrity and the independence of the entire Federal judiciary. It did not disturb him that it would necessitate an imputation of senility and incompetence, or worse, to learned and righteous Judges who have devoted their lives to the great task of interpreting and defending the provisions which the people wrote into their Magna Carta.

Now that all the camouflage has been stripped away, now that the President's plan stands naked before us, the people are in a position to pass sober judgment upon it. It is essentially simple. Since the Supreme Court found it necessary to declare in a number of cases that Congress and the President had attempted to exercise powers beyond those which the people had given to them, why not add enough Judges to the Court to make certain that a different result would hereafter be obtained? The President says, in effect, that he would summarily remove five or six of the Judges if he could and "infuse new blood" into the Court to get from it the kind of action he wants. But the fathers of the Constitution provided against that by expressly giving to the members of the Court life tenure. So this very simple and ingenious plan is devised. If enough Judges cannot be "influenced, awed, or coerced" to voluntarily leave the Court, then appoint a new Judge to sit alongside the present member and nullify his action.

It is, of course, absurd to think that this new Court of 15 members could act any more expeditiously than the present time-honored Court of 9. In fact, it seems reasonably certain that increasing the members of the Court would rather tend to slow up its action, since the Court sits as one body. The record completely refutes any claim, as first urged by way of justification, that there is congestion in the Supreme Court. Twenty years ago the Court was disposing of an average of something less than 600 cases per year. During the past 3 years the average has reached almost 1,000 per year. I quote from the Annual Report of the Attorney General of the United States, filed with Congress last December (evidently before he knew what the President had in mind):

"The work of the (Supreme) Court is current, and cases are heard as soon after the records have been printed as briefs can be prepared. Prompt hearings and decisions were had in all cases of large public interest."

That report shows that during the past year, although a greater number of cases were docketed, a greater number were also disposed of, and a smaller number carried over than in any year since 1925, with one exception.

What is wrong with the Supreme Court, then, in the minds of the President and those who share his views? Only this: The Court has dared to exercise an independent judgment that has led it to invalidate a number of acts of the President and of Congress.

A few months after his inauguration the President demanded the resignation of a member of the Federal Trade Commission on the ground that this member's mind did not go along with the mind of the President. When that officer, guilty of the serious offense of not agreeing in all matters with the President, insisted that he had been nominated by the President and confirmed by the Senate for a definite term and refused to resign, the President summarily removed him.

Nine Justices of the Supreme Court declared that the President had usurped a power he did not possess. This is the same President who now tells the country that the Supreme Court has usurped the power to override acts of Congress. Was the President in this action trying to do justice under the Constitution or over it?

Congress passed the National Industrial Recovery Act in the effort to meet a great emergency. It became the unpleasant task of the Supreme Court to point out that Congress cannot delegate its authority to legislate, neither to the Executive nor to private code makers. Again all nine Justices of the Supreme Court held that Congress and the President overreached the powers vested in them by the people under the Constitution and that an act which placed "virtually unfettered" discretion in the President was void. The President had something to say about the "horse-and-buggy age." He was trying to do justice, but was it under the Constitution or over it?

World War veterans will be interested in the decision of the Supreme Court in the case of *Lynch* v. *United States*. On March 20, 1933, upon the urgent request of the President, Congress enacted a well-known measure which provided, among other things, that—

"* * * all laws granting or pertaining to yearly renewable term insurance are hereby repealed."

A number of Federal district courts, governed by this act passed by Congress and signed by the President, dismissed actions brought after March 20, 1933, to recover under outstanding policies of term insurance. The Supreme Court, in reversing these cases, in a unanimous decision, declared this section of the act invalid, saying:

"Policies of war-risk insurance, though not made for gain, are legal obligations possessing the same legal incidents as other contracts of the United States. They create vested rights, protected by the fifth amendment; and while, under the principle of immunity of a sovereign from suit without its consent, the United States may withdraw the remedy from an obligation, the repeal in the act of March 20 was intended to take away the right, and is invalid, under the due-process clause, to affect existing contracts."

This was the first enacted New Deal measure invalidated in part by the Supreme Court. It did not require any "infusion of new blood" into the Court to do plain justice to war veterans. Again I ask, when Congress at the behest of the President undertook to take away vested rights of veterans of the Great War in their insurance contracts, were they acting under the Constitution or over it?

Then there is the famous A. A. A. decision. In the effort to restore parity prices to agriculture, Congress enacted a measure to curtail production in order to prevent the accumulation of burdensome surpluses. Two-thirds of the members of the Supreme Court reached the conclusion that the act invades the reserved powers of the States; that it was in name only a voluntary curtailment that was provided, and was in actual fact compulsory and coercive, and that Congress has no authority to tax one group of our citizens in order to extend benefits to another group.

In the gold-clause case the Court was clearly of the almost unanimous opinion that the act of Congress constituted a repudiation violating the express provisions of the Constitution, but a bare majority of the Court held there could be no relief, because only nominal damages were involved.

Again, we have the "hot oil" decision invalidating the act of Congress which attempted to authorize the President to draft and enforce regulations, under heavy penalty, on the oil industry without in any respect defining a legislative policy even by implication. Eight Justices of the Supreme Court declared this was contrary to the express provisions of the fundamental law. Were the President and Congress in this case acting under the Constitution or over it?

Congress on June 16, 1933, passed an act reducing the retired pay of Federal judges by 15 percent. The Court, all nine Justices concurring, declared this act invalid, since the Constitution provides for life tenure of judges and expressly prohibits Congress from diminishing the emoluments of office during the term of appointment.

Congress passed an act providing for the conversion of any member of the Federal home-loan bank into a Federal savings and loan association upon vote of 51 percent of the stock. The Supreme Court, again by a unanimous decision, declared this attempt to regulate State-chartered associations invalid as an infringement of State sovereignty under the tenth amendment.

Congress authorized municipalities or other political subdivisions of States to readjust their indebtedness by bankruptcy proceedings in Federal court. The Supreme Court divided 5 to 4 in declaring that the bankruptcy power of Congress must be considered, like the power of taxation, or limited by the doctrine of noninterference with State sovereignty, and thus this act violated that doctrine.

In another 5-to-4 decision the Supreme Court invalidated the Railroad Retirement Act, which set up a pension for present and past employees of railroads under a pooling arrangement that proposed to treat all railroads as a single employer, with solvent railroads furnishing the money to meet the demands of the system upon insolvent carriers. This act has a most worthy purpose, and it can be accomplished. Only the most stubborn hater of courts could claim that an honest and upright judge, trying to interpret the act in the light of constitutional limitations, must of necessity hold "that efficiency depends upon morale, and morale, in turn, upon assurance of security for the workers' old age", and that this amounted to a regulation of interstate commerce within the meaning of the Constitution. I wish that the majority of the Court could have found it possible to uphold the act, but I honor the integrity and ability of the Judges who were not able to reach that conclusion. I have no doubt that every member of the Court went to the full limit in trying to do so.

The Frazier-Lemke Act was a serious effort to afford relief to debt-burdened farmers. In a unanimous opinion delivered by Mr. Justice Brandeis the Court declared that this act resulted in the taking away of substantive rights in specific property acquired prior to the act. Let me pay this tribute to my colleague, Senator FRAZIER, and my former colleague, Representative LEMKE. In spite of their holy zeal to do everything possible to benefit distressed farmers, and notwithstanding their disappointment at the invalidation of this act that bears their names, you will find them both today in the forefront of the champions of an independent judiciary, fighting with every ounce of their strength against this infamous proposal of the President to strike down the Court.

In the Rice Mills case the Court again, by unanimous decision, directed the issuance of an injunction to restrain the collection of the so-called processing tax on the ground that it lacked the quality of a true tax and was merely a means for effectuating the regulation of agricultural production, a matter not within the powers of Congress.

The Guffey Coal Act decision, by a Court divided 5 to 4, held that the tax imposed therein was not a tax but a penalty, and that the provision of the act relating to minimum wages, wage agreements, collective bargaining, etc., related to production and not to commerce, and that the enactment was therefore beyond the powers of Congress. This was the act, you will recall, the passage of which was urged by the President, regardless of any reasonable doubts as to its constitutionality. If the President's plans for diluting and devaluing the courts were put into operation, such a plea would never need be made again. The Constitution would no longer be an obstacle.

It is solely because of these decisions that the Supreme Court is being attacked today. It is my deliberate judgment that the President and the Congress, which were responsible for so many acts which the Court found it necessary to invalidate, should be on the defensive. Their guilt is accentuated a thousandfold when they attempt to shift the blame upon the one agency that steadfastly resisted having the country swept away in the undertow that meant the wreck of constitutional government.

Our fathers feared the tyranny of unchecked sovereigns. No less did they dread and determine to guard against the lust for power of unrestricted legislatures. They wanted governments so restricted that all could realize that there are many things that affect the life of the citizens that no government can properly do, or ought ever to be permitted to try to do.

If you believe with us that these liberties of ours are worth preserving, you will enlist today in the great army that is battling to preserve the Constitution and its glorious defender and interpreter, the Supreme Court of the United States.

Pollution of the Potomac River

EXTENSION OF REMARKS

OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 19, 1937

ADDRESS BY HON. JENNINGS RANDOLPH, OF WEST VIRGINIA, DELIVERED BEFORE THE POTOMAC VALLEY JOINT CONFERENCE ON RIVER POLLUTION, MARCH 19, 1937, AT WASHINGTON, D. C.

Mr. RANDOLPH. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include my address to the Potomac Valley Joint Conference on River Pollution, at Washington, D. C., March 19, 1937, as follows:

I sincerely appreciate the opportunity of speaking this morning to those in attendance at the Potomac Valley Joint Conference on River Pollution. Chairman John A. Remon and his associates who have called this meeting are to be commended for their efforts in bringing together citizens from West Virginia, Maryland, Virginia, Pennsylvania, and the District of Columbia to discuss the problems of pollution in the Potomac River and to formulate plans to create in the Potomac River Basin a national laboratory for pollution control.

In the past few years there has been a decided awakening by the American public to the magnitude of the water-pollution problems in the United States and the realization that remedial measures must be taken. This developing consciousness is evident in the interest taken in the last Congress in stream-pollution legislation and the renewed interest in this present Congress in such legislation.

Why is stream pollution of national importance?

First, because of the possible detrimental effect upon the public health; second, because of the effect upon wildlife, particularly aquatic life; third, it harms the recreational uses of water; fourth, industry and agriculture suffer great financial damage.

A stream is no respecter of State boundary lines, hence effective control must be considered on the basis of drainage basins

rather than by State boundaries. How, then, can we proceed with a control program which may involve several States?

Such a program must consider these five different angles: (1) Political, (2) legal, (3) administrative, (4) engineering, (5) financial.

We have no precedent upon which to base such a plan, and it must, therefore, be developed by the trial-and-error method. Such a method should first be applied to a not-too-large demonstration drainage basin, which would permit flexibility in adjustment as the plan is developed. Any basin selected should include the many problems that would appear in a Nation-wide program.

There are many relatively small drainage basins that might qualify as demonstration units. But are there any of these basins which qualify as well as the Potomac Basin?

I think not.

1. The Potomac Basin has an area of approximately 14,000 square miles and a population of one and a half million people, which is not too large an area for demonstration purposes.

2. The basin occupies parts of four States, the health departments of which already have voluntarily interstate agreements relative to pollution matters.

3. The stream serves as a source of water supply for many communities, including the District of Columbia and the surrounding areas.

4. There are a number of domestic sewage treatment problems, small in size but with the same characteristics as in the larger problems.

5. A greater variety of industries having wastes are located in this basin than in any other basin of comparable size. These wastes include acid mine drainage, wastes from paper mills, tanneries, textile works, dye works, canneries, and dairies. These industries have for many years been cooperating with the State health departments and are making progress in reducing this detrimental type of pollution.

There are stretches of this stream which during low-water periods are grossly polluted by domestic sewage and industrial wastes; in other words, the river smells bad.

The lower section of this river is a tidal estuary in which are located shellfish areas.

In the study of any stream, no matter for what purpose, long-time records of rainfall, run-off, and stream flow are essential. These are available for the Potomac River Basin.

In the drainage area of the Potomac Basin is located the seat of the Federal Government, which makes available the facilities of the various governmental agencies interested to a greater or lesser extent in the problem of water pollution.

What other stream area can offer the advantages which the Potomac does for the development of a satisfactory plan for water-pollution control?

Such a plan must develop administrative procedures involving interstate compacts; methods of financing, including the problem of allocation of costs between Federal, State, local, and private interests; methods of cooperation with industry; and the studies incident to the preparation of plans for remedial measures.

The country-wide interest in the necessity for cleaner streams, the probability of Federal legislation and in the not distant future in connection with the stream-pollution problem makes it essential that a demonstration area be selected as a laboratory, if you will, in which may be worked out and developed plans of administration and procedure which may be followed on a Nation-wide scale when occasion requires.

To my mind, the Potomac drainage basin should be the demonstration area.

The late Dr. Theobald Smith, president of the Rockefeller Institute for Medical Research, whose scientific discoveries have aided in curbing epidemics of typhoid fever, cholera, malaria, and yellow fever, has issued a challenge of self-protection to all of us in his timely admonition—"The American people must destroy pollution or pollution will destroy us."

National Museum of Art

EXTENSION OF REMARKS

OF

HON. ALLEN T. TREADWAY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 19, 1937

Mr. TREADWAY. Mr. Speaker, under permission to extend my remarks, I beg to state that as a member of the Committee on the Library I am extremely gratified that the two branches of Congress are in harmony in accordance with the action taken by the House of Representatives this morning in accepting the minor committee amendments adopted by the Senate. As the President's signature will undoubtedly be promptly forthcoming, there is practically nothing to delay starting the construction of the new National Museum of Art.

I want to compliment the gentleman from Illinois, Mr. KELLER, the chairman of the committee, on the very exhaustive and complete hearing which he conducted on the measure and the excellent report that was prepared under his direction, giving the Members an opportunity to have full details of the testimony before them. It was fortunate that all interests, both of the donor and the officials of the Government and District were in such complete accord.

This gift to the American people is beyond the power of words to describe in its importance. It will make the Capital City the center of art of the country, as the building and the collection will rank with the collections of the world. The donor deserves and I trust at the proper time will receive the thanks of the American people for his generosity and interest in giving them an opportunity to see this outstanding collection of works of the masters. It is to be expected that the building will be constructed as rapidly as details and the importance of the project will warrant so that, as the architect informed the committee, we will probably have the benefit of the completed building adorned with these great masterpieces within a period of 2 years. Let us hope that nothing will delay the prompt effectiveness of one of the greatest donations ever made by a private citizen.

The Relief Problem

EXTENSION OF REMARKS

OF

HON. JOHN TABER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 19, 1937

RADIO ADDRESS BY HON. JOHN TABER, OF NEW YORK, ON MARCH 18, 1937

Mr. TABER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech which I delivered yesterday over the radio:

Where people are unable to care for themselves there is an obligation on the part of the State to provide for them. Throughout all history this has been recognized and throughout every community there has been built up through the years a group of people whose duty it is to administer this problem. They know the people in their locality; they know their needs and they know the deserving cases. No definite rule can be laid down in Washington for the administration of relief throughout the country and the welfare laws of the States rightly vest a very considerable discretion in the local administrative officers. Relief must not be given or withheld for political reasons.

Sometimes we strike a situation where localities are unable to meet their situation. Most of the time they are able to meet it. At the present time there are almost no situations in this country where the local people cannot take care of them.

In the first 9 months of 1936 the direct relief total expenditures are given us by Mr. Hopkins as $340,000,000. In that period an average of approximately 1,800,000 families were on relief, or an average of approximately 6,000,000 persons.

In 1935, with an average of 4,500,000 cases and 16,000,000 people on relief, the cost for direct relief ran approximately $1,827,000,000. The cost per family in 1936, when the locality and the States were looking after it, even under Federal rules, ran at the rate of $255 per year. The cost per family with direct Federal control of relief in 1935 was $406, and the prices were higher in 1936 with local handling than they were in 1935. It does not mean that the people were not as well taken care of in 1936 as they were in 1935 but that local authorities, with local responsibility, met their obligations better than Federal authorities operating from a long distance.

The ideal which we should strive for in America is to have as few people on relief as possible, at the same time meeting our obligations. We should not attempt to build up and develop a large personnel of people whose only desire is to get a lot of money out of the Federal Treasury, with the idea of continuing large Federal taxes, which in turn prevent the development of industry and the employment of our people. We are working against the interests of relief clients when we promote extravagance in this sort of thing.

It might be said, and said frankly, that those who have crowded themselves onto the Federal pay roll and who are anxious to develop and keep the operation of relief under Federal control are

the representatives of entrenched greed—jobholders who are anxious to perpetuate their grip on the throats of the taxpayers of America.

In the interest of efficiency and of proper administration, our administration of relief should be local and not national. If the time arises when there must be some reasonable contribution on the part of the Federal Government because of the insolvency of the local authorities, then we should take care of that situation; but we should strive to put our people to work at legitimate work and keep them from being a burden to the Government. With continued interference from an incompetent Federal bureaucracy, that is impossible.

The total expenditures of the Federal Government for so-called relief since March 4, 1933, run approximately $11,500,000,000. Of this, only about one-quarter, or $3,083,000,000, has been spent for direct relief by the Federal Government. It undoubtedly has been matched by at least $1,000,000,000 of State funds, and that is about the only part of the $12,000,000,000 that went into actually helping the situation. The rest was spent on projects which provided, as a general rule, with the exception of the W. P. A., very little employment. All of these things have caused the Federal Government and the Federal Treasury to run behind, so that our deficits have increased almost year by year, until last year the deficit was $4,763,000,000.

If we permit a group of people to fasten their tenacles on the throats of the taxpayers and set up a permanent relief establishment, we are going to place a burden upon the taxpayers of this country that it will be impossible for them to bear, and on top of that we are going to completely demoralize the people of America. Only when people are taught that they should strive their best to meet their responsibilities and be self-supporting and self-sustaining can we build up the morale of the American people—build it back to where it was in the days when people were proud that they worked and made their own living.

The more we place our relief problem in the hands of a centralized government, the more we teach the people to avoid that responsibility and to become charges on the public, and the more we increase the cost of operation, without producing a single advantage for the people who receive the relief.

If we establish a Federal system of relief and place it over our local relief authorities, we are substituting for the local knowledge of cases and experience in handling them the incompetence of a professional bureaucrat in Washington whose only idea is to build up his bureau. We are destroying local responsibility to local citizens which the local officers must observe or lose their positions and substituting for it the complete irresponsibility which the control of any activity in Washington always has produced.

Let us take no backward or reactionary step in the handling of relief.

We have learned by sad experience that local control of relief is best. Let us keep it.

Monetary and Credit System

EXTENSION OF REMARKS
OF
HON. WRIGHT PATMAN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 17, 1937

Mr. PATMAN. Mr. Speaker, I am inserting herewith a letter I have received from the Honorable Jeff Busby, a former Member of Congress and a former member of the Banking and Currency Committee of the House. His views were given in response to my request, and since they are so timely, I have asked and received permission to insert the letter containing them.

WASHINGTON, *March 13, 1937.*

Hon. WRIGHT PATMAN,
House of Representatives, Washington, D. C.

DEAR WRIGHT: I have your letter asking me what I think will be the effect in the near future of our monetary and credit policy. I appreciate your inquiry and in order to answer it, it will be necessary to refer to facts which form the foundation for what I am going to say.

During the several years that I served as a member on the Banking and Currency Committee of the House I had every opportunity of first-hand information and an intimate study of our monetary and credit system and their workings. Of course, I have in mind such of this information as I have acquired in making these present observations.

At this time there are approximately 15,000 banks. The capital set-up of all these banks—that is, the stock, surplus, and undivided profits of all of them together is about $7,000,000,000. This is what the banking interests of the country own in the banking set-up. Any loss or depreciation in operating the banks must be charged against this $7,000,000,000 capital set-up. These 15,000 banks owe their depositors over $50,000,000,000. While the owners of the banks have only a $7,000,000,000 interest in them, they now own $20,000,000,000 of Government direct and guaranteed obligations. These bear an average of 2⅞ percent interest. The assets of the banks of this country have been collected very heavily in the larger centers.

As appears from the table of information you inserted at page 1567 of the CONGRESSIONAL RECORD on February 24, 109 banks hold more than 50 percent of the assets of all the banks. In other words, these 109 banks have more assets than the remaining 14,900 banks. This 109 banks hold 67 percent or approximately $14,000,000,000 of Government, direct and guaranteed, securities at an average interest rate of 2.2 percent. That interest rate is decidedly below what anyone expects the level of interest to be on commercial obligations when business revives and ceases to rely on Government finances. When the Government discontinues the policy of issuing bonds and obligations sufficient to take up the surplus credit that accumulates from time to time, it is inevitable that the smaller banks, and to some extent the larger ones, will seek commercial loans. The accumulating bank credit, based very largely on the increasing Government financing which has given a revival to business, has, up to the present time, been absorbed largely in two ways:

(1) By the sale of more Government bonds which are exchanged for accumulated bank credit; and

(2) By the increasing of reserve requirements by the Federal Reserve Board.

The last process has very effectively frozen the excess funds of many smaller banks which might have been used to help business. There could be no object of safety in unduly increasing reserve requirements as has been done recently. The only object in this move by the Federal Reserve Board was to take out of the reach of business accumulated bank reserves which would have gone to stimulate business loans. The sale of Government bonds and other securities, and the increasing of reserve requirements have not been effective in keeping down a continuous increase of excess reserves as is shown on page 184 of the March number of the Federal Reserve Bulletin. Inflation will as certainly come through the printing of Government bonds (and we have no adequate financial machinery to control it) as it would through the printing of currency. Inflation brought on through the printing of bonds is the worst type because the banking structure is weighted down and sunk with bondholdings at a low rate of interest, and can do nothing about it when prices begin to rise and flush times and high rates of interest set in, as they inevitably will.

The 109 banks above mentioned and other large banks will begin to unload their low-interest bearing Government holdings when higher rate commercial paper becomes plentiful. The big banks will try for a time to ease their Government bonds off to the smaller banks and to private investors. The competition in an effort to do this will finally break the market, and Government securities will, within a few months from now, sink below par—and probably much below. Of course, the "stabilization fund" of $2,000,000,000 can absorb the depreciation for a time, but ultimately it will prove insufficient for the job, and our bonds and currency will both go down together in buying power. This may seem like a bold statement, but the big banks of the country can't afford to aid business revival at this time while they are such heavy holders of low-interest bearing Government bonds, thereby bringing them into competition with high-interest bearing commercial paper. Only yesterday the first slight stampede was experienced in the bond market in United States Government securities when liquidation in the heaviest trading in 10 years, totaling $23,450,000, forced Government issues down from $1.27 to $8.20 per thousand face value. This is only the beginning.

What I am saying to you a few of us, outside of the big banks, know and understand. All the people are entitled to know the situation, especially the little banks, that without exception are left the bag to hold for the big banks when reverses come. Remember the bad investments, the South American bonds, and other bad stocks and bonds that were almost forced upon the small banks before the beginning of the present panic, all of which brought thousands of the small banks to grief.

With sincere regards, I am,
Your friend,

JEFF BUSBY.

Money and Finance Controlled by the Forces of Economic Law

EXTENSION OF REMARKS
OF
HON. COMPTON I. WHITE
OF IDAHO
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 18, 1937

REPORT OF THE MONETARY COMMISSION OF 1876

Mr. WHITE of Idaho: Mr. Speaker, as many of our national leaders in and out of Congress have frankly admitted they do not understand the money question, and realizing

the paramount importance of our monetary system to our general welfare, and that practically all other national issues are subordinate to and related to the money question, finding an exhaustive and analytical treatise on money and finance contained in the speech of Senator Jones (CONGRESSIONAL RECORD, vol. 25, part 3), made on the floor of the Senate in 1893, which I have endeavored to have reprinted for distribution.

While this Congress has appropriated millions and millions of dollars for Government binding and printing, and I personally have witnessed truck loads of our Government publications still unwrapped carted away as waste paper, I have been unable to have this valuable and informative document reprinted by the House or Senate.

Under the permission to extend my remarks, I insert excerpts from the speech of Senator Jones in the hope that it may enlighten some of our leaders who profess ignorance on the important subject of money.

MONEY OPERATES UPON INDUSTRY THROUGH THE MEDIUM OF PRICES

In the report of the Monetary Commission of 1876, of which I had the honor to be chairman, I discussed the effects of a scarcity as contradistinguished from a sufficiency of money, and with the permission of the Senate I will make a few quotations from that report. The statements fit the situation today with the same exactness that they fitted it then:

"Whenever gold and silver prices have become adjusted to a given stock of those metals, an increase of that stock, other things remaining unchanged, will cause a rise and a decrease will cause a fall in prices. But under such conditions other things never do remain unchanged. There are powerful causes, moral and material, which invariably operate, when money is increasing in volume, to moderate the rise in prices and to intensify their fall when it is decreasing. Hence the fall in prices caused by a decreasing volume of money would be much greater in degree than would the rise caused by a proportionately increasing volume.

"Whenever it becomes apparent that prices are rising and money falling in value in consequence of an increase of its volume, the greatest activity takes place in exchanges and productive enterprises. Everyone becomes anxious to share in the advantages of rising markets. The inducement to hoard money is taken away, and consequently the disposition to hoard it ceases. Its circulation becomes exceedingly active, and for the very plain reason that there could be no motive for holding or hoarding money when it is falling in value, while there would be the strongest possible motive for exchanging it for property, or for the labor which creates property, when prices are rising. Under these circumstances labor comes into great demand and at remunerative wages. This results in not only increased production, but increased consumption. The wants and expenditures of laborers increase with their earnings. Large enterprises, safe and unsafe, are at such times inaugurated by eager adventurers, and as frequently as otherwise upon insufficient capital.

"If, however, the volume of money should increase in undue proportion to the new demands for it so as to cause a continuous and persistent rise in prices, it would encourage gambling in prices instead of encouraging production, and would end in the destruction of that industry which it at first stimulated. Such would be the haste to convert money into property that the price of all forms of property would advance more rapidly than the wages of labor. The laborer, excited by the apparent increase in the value of everything, would soon become discontented with the slow accumulations of his increased wages. Using his surplus earnings as a basis of credit, which is readily extended upon small margins when prices are rising, he would leave the field of productive industry for the illusory but more inviting field of speculative venture.

"It may, however, be possible that when industry has been dwarfed, commerce paralyzed, and the spirit of enterprise crushed out by long-continued shrinkage in the volume of money and falling prices, the stimulus of rising prices would be a necessary temporary treatment."

That is what is needed now, a stimulus to prices—in other words, more money and not less. Does anyone suppose that money would remain hoarded one day in this country if it were known to the people who are hoarding it that more money were going to be put in circulation, and that, therefore, by a gentle rise of prices, business all over the country would experience the utmost activity? Would not the hoarded money leave its hiding places on account of the return to be realized from its use in productive enterprises—in enterprises that would call from idleness to labor every man who may be out of employment—and what greater boon could be conferred on a country than that all its people should be at work?

THE FALLING OFF IN THE QUANTITY OF MONEY A POTENT FACTOR IN PRODUCING THE COLLAPSE KNOWN AS THE DARK AGES

"At the Christian era the metallic money of the Roman Empire amounted to $1,800,000,000. By the end of the fifteenth century it had shrunk to less than $200,000,000. During this period a most extraordinary and baleful change took place in the condition of the world. Population dwindled, and commerce, arts, wealth, and freedom disappeared. The people were reduced by poverty and misery to the most degraded conditions of serfdom and slavery. The disintegration of society was almost complete. The conditions of life were so hard that individual selfishness was the only thing consistent with the instinct of self-preservation. All public spirit, all generous emotions, all the noble aspirations of man shriveled and disappeared as the volume of money shrunk and as prices fell.

"History records no such disastrous transition as that from the Roman Empire to the Dark Ages. Various explanations have been given of this entire breaking down of the framework of society, but it was certainly coincident with a shrinkage in the volume of money, which was also without historical parallel. The crumbling of institutions kept even pace and step with the shrinkage in the stock of money and the falling of prices. All other attendant circumstances than these last have occurred in other historical periods unaccompanied and unfollowed by any such mighty disasters. It is a suggestive coincidence that the first glimmer of light only came with the invention of bills of exchange and paper substitutes through which the scanty stock of the precious metals was increased in efficiency.

"But not less than the energizing influence of Potosi and all the argosies of treasure from the New World were needed to arouse the Old World from its comatose sleep, to quicken the torpid limbs of industry, and to plume the leaden wings of commerce. It needed the heroic treatment of rising prices to enable society to reunite its shattered links, to shake off the shackles of feudalism, to relight and uplift the almost extinguished torch of civilization. That the disasters of the Dark Ages were caused by decreasing money and falling prices, and that the recovery therefrom and the comparative prosperity which followed the discovery of America were due to an increasing supply of the precious metals and rising prices, will not seem surprising or unreasonable when the noble functions of money are considered. Money is the great instrument of industry, the protoplasm of civilization, and as essential to its existence as oxygen is to animal life. Without money, civilization could not have had a beginning; with a diminishing supply it must languish and unless relieved finally perish.

SOCIAL AND POLITICAL DISCONTENT DISPELLED BY CALIFORNIA DISCOVERIES

"Symptoms of disasters similar to those which befell society during the Dark Ages were observable on every hand during the first half of this century. In 1809 the revolutionary troubles between Spain and her American colonies broke out. These troubles resulted in a great diminution in the production of the precious metals, which was quickly indicated by a fall in general prices. As already stated, it is estimated that the purchasing power of the precious metals increased between 1809 and 1848 fully 145 percent, or, in other words, that the general range of prices was 60 percent lower in 1848 than it was in 1809. During this period there was no general demonetization of either metal and no important fluctuations in the relative value of the metals, and the supply was sufficient to keep their stock good against losses by accident and abrasion. But it was insufficient to keep the stock up to the proper correspondence with the increasing demand of advancing populations.

"The world has rarely passed through a more gloomy period than this one. Again do we find falling prices and misery and destitution inseparable companions. The poverty and distress of the industrial masses were intense and universal, and, since the discovery of the mines in America, without a parallel. In England the sufferings of the people found expression in demands upon Parliament for relief, in bread riots, and in immense Chartist demonstrations. The military arm of the nation had to be strengthened to prevent the all-pervading discontent from ripening into open revolt. On the Continent the fires of revolution smoldered everywhere and blazed out at many points, threatening the overthrow of states and the subversion of social institutions.

"Whenever and wherever the mutterings of discontent were hushed by the fear of increased standing armies the foundations of society were honeycombed by powerful secret political associations. The cause at work to produce this state of things was so subtle, and its advance so silent, that the masses were entirely ignorant of its nature. They had come to regard money as an institution fixed and immovable in value, and when the price of property and the wages of labor fell they charged the fault not to the money, but to the property and the employer. They were taught that the mischief was the result of overproduction. Never having observed that overproduction was complained of only when the money stock was decreasing, their prejudices were aroused against labor-saving machinery. They were angered at capital because it either declined altogether to embark in industrial enterprises or would only embark in them upon the condition of employing labor at the most scanty remuneration. They forgot that falling prices compelled capital to avoid such enterprises on any other condition and for the most part to avoid them entirely. They did not comprehend that money, in shrinking volume, was the prolific parent of enforced idleness and poverty, and that falling prices divorced money, capital, and labor, but they nonetheless felt the paralyzing pressure of the shrinking metallic shroud that was closing around industry.

"The increased yield of the Russian gold fields in 1846 gave some relief and served as parachute to the fall in prices which might otherwise have resulted in a great catastrophe. But the enormous metallic supplies of California and Australia were all needed to give substantial and adequate relief. Great as these supplies were their influence in raising prices was moderated and soon entirely arrested by the increasing populations and commerce which followed them. In the 25 years between 1850 and 1876 the

money stock of the world was more than doubled, and yet at no time during this period was the general level of prices raised more than 18 percent above the general level in 1848. A comparison of this effect of an increasing volume of money after 1848 with the effect of a decreasing volume between 1809 and 1848 strikingly illustrates how largely different in degree is the influence upon prices of an increasing or decreasing volume of money. The decrease of the yield of the mines since about 1865, while population and commerce have been advancing, has already produced unmistakable symptoms of the same general distrust, nonemployment of labor, and political and social disquiet, which have characterized all former periods of shrinking money.

HAPPY EFFECTS OF STEADINESS OF COMMERCIAL PRICES

"It is in a volume of money keeping even pace with advancing population and commerce, and in the resulting steadiness of prices, that the wholesome nutriment of a healthy vitality is to be found. The highest moral, intellectual, and material development of nations is promoted by the use of money unchanging in its value. That kind of money, instead of being the oppressor, is one of the great instrumentalities of commerce and industry. It is as profitless as idle machinery when it is idle; differing from all other useful agencies, it cannot benefit its owner except when he parts with it. It is only under steady prices that the production of wealth can reach its permanent maximum, and that its equitable distribution is possible.

"Steadiness in prices insures labor to all and exacts labor from all. It gives security to credit and stability and prosperity to business. It encourages large enterprises, requiring time for their development, and crowns with success well matured and carefully executed plans. It discourages purely speculative ventures, and especially those based upon disaster. It encourages actual transactions, rather than gambling on future prices. It metes out justice to both debtor and creditor and secures credit to those who deserve it. It prevents capital from oppressing labor and labor from oppressing capital, and secures to each its just share of the fruits of industry and enterprise. It secures a reasonable interest for its use to the lenders of money, and a just share in the profits of production to the borrower. It keeps up the distinction between a mortgage and a deed. It insures a moderate competence to the many rather than colossal fortunes to the few at the expense of the many.

"If it be admitted that the volume of money should increase pari passu with either wealth, commerce, or population, the least measure of increase would be that based on population, as in commercial countries both wealth and exchanges are multiplied more rapidly than population. The narrower measure of increase would probably be the more accurate one, as the thing to be measured and which it is important should have an unvarying value is human effort, and as that can neither be increased nor diminished except through an increase or diminution of the population it would seem that the volume of money should only vary with population.

"As steadiness in prices, which depends on steadiness in the relation between money and all other things, is essential to prosperity, it follows that in any change in money systems, the volume of the new money—that is to say, the number of units of the new money issued—should, if possible, be neither greater nor less than the number of units in circulation at the time of the change. A strict observance of this rule, whatever be the material of money, will prevent any general rise or fall in prices.

"The quantity of metallic money, or of paper money constantly convertible into metallic money, which can be maintained in the circulation of any particular country cannot be controlled arbitrarily. It cannot be greater than such an amount as may be requisite to maintain the prices of such country at a substantial parity with the prices of all other countries using the same kind of money. Any change from this amount must be temporary, and will be soon automatically corrected by the course of exchange."

No country, Mr. President, can keep more than its distributive share of what may be called international money. You might issue bonds until doomsday, and even if you got with them hundreds of millions of gold for your Treasury, yet if you do not lock up that gold and keep it under guard it would not remain. The vacuum created in the money volume abroad would lead to a fall of prices abroad, while the increase of the money volume here by the inflow of the gold would create a rise here, and the moment you unlocked your Treasury it would flow out again. It would be as futile to keep gold under such circumstances as to attempt to pump water out of the harbor of Liverpool into the harbor of New York and expect to maintain two separate levels of the ocean by the operation. It would be utterly impossible. If you have the gold standard you must content yourself with the gold range of prices and must be prepared to see the condition of the working and producing masses of this country brought down to the level of the like masses of Great Britain and Germany.

"The volume of inconvertible paper money, on the contrary, is local to and subject to the control of the country issuing it, and should be regulated solely with reference to existing prices, and consequently should be neither increased nor diminished, except in correspondence with changes in population and commerce.

"The proposition often made that the quantity of money in this country should amount now to as much per capita as it did at some anterior period, or to as much per capita as in England or France, rests on no philosophical basis whatever. Irrespective of time contracts, it is of no consequence what the volume of money may be, provided it be subdivided into such number of units, or fractions of units, as would meet physical requirements, while the equity of such contract can be met only by maintaining the relation between money and other things undisturbed."

RATES OF INTEREST ALWAYS LOW WHEN MONEY VOLUME IS SHRINKING

"Equally fanciful and erroneous is the proposition that the rates of interest depend upon the volume of money. The rates for the use of loanable capital depend upon entirely different factors, such as the current rates of business profits, productiveness of the soil, the security of property, the stability of government, pressure of taxation, and the fiscal policies of governments, such as the maintenance of public debts, which necessarily increase the rate of interest. In truth increasing the amount of money tends indirectly to increase the rate of interest by stimulating business activity, while decreasing the amount of money reduces the rate of interest by checking enterprises and thereby curtailing the demand for loans. This is signally illustrated by the present condition of things in every part of the commercial world. The rate of interest should be, and under a correct money system would be, merely an expression of the rate of profit which could be made through the use of borrowed capital."

Under a proper monetary system, investments in productive enterprises would be as profitable now as at any time heretofore. This country is not half built up, and money should find increased use, and at least undiminished profit, in enterprises that employ labor. Surely in a country like this, whose development has hardly more than begun, it must be considered extraordinary that interest on first-class securities is so low. In new countries interest is always higher than in old. Interest will on the average represent what men can make by the use of money, else there would be no reward for the enterprise or energy which induces men to borrow and invest in industrial enterprises. Indeed, it is probable that interest rates represent rather more than, on the average, can be realized from the use of money in business, as the hopes of those who have the activity of temperament and the disposition to invest in industrial enterprises are usually sufficient to lead them to expect too much.

The rates of interest are not fixed by individual borrowers or by individual lenders but by the general consensus of experience among men as to the amount of profit which can be made by the use of money. This profit is limited and controlled by the prices of the commodities in whose manufacture the capitalist engages. When money is shrinking in quantity and its value—that is, its purchasing power—increasing, the fall of prices—which under the gold standard knows no end—renders impossible the rate of profit on which men of enterprise had calculated when they entered into business.

The fact that rates of interest are constantly growing less is a sign that the borrower cannot afford to pay higher rates. We know that the lender would take no low rate if he could get a higher; no one will for a moment suspect that the money lender would lend his money at less than he can exact from the borrower. But he must be contented with what he can get. If he does not take that rate, his money will lie idle altogether. When men of enterprise find no profit in industrial undertakings—when they discover that the persistent fall of prices renders impossible a reasonable degree of profit, they either decline to borrow, in which case they reduce expenses by discharging a portion of their workmen, or, if they borrow and utilize the money in their business, the lender must take such interest as they can afford to pay.

Whatever may be thought of the causes for a fall of prices, it must be conceded that if money is diminishing in quantity in comparison with the demand for it, the prices of commodities cannot avoid falling. It is also impossible to escape the conclusion that a persistent and protracted fall of prices, from whatever cause, must result in making the rates of profit for the use of money in industrial enterprises less and less. And if profits recede, nothing is more certain than that interest also must recede. Hence men who have means and do not wish to risk them in business on a constantly falling market invest them in gilt-edged securities—securities that are sure to make no default in the payment of interest. This is a necessary concomitant of a gold standard, by reason of which—business tending more and more to lack of profit—men are relegated to idleness.

St. Patrick's Day Address

EXTENSION OF REMARKS

OF

HON. AUGUSTINE LONERGAN

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Friday, March 19, 1937

SPEECH BY HON. JOSEPH F. GUFFEY, OF PENNSYLVANIA, BEFORE THE CLOVER LEAF CLUB OF BOSTON, ST. PATRICK'S DAY DINNER ON SATURDAY EVENING, MARCH 13, 1937

Mr. LONERGAN. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by

the junior Senator from Pennsylvania [Mr. GUFFEY] before the Clover Leaf Club, of Boston, on the occasion of their St. Patrick's Day dinner on the evening of March 13, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is difficult to say anything new in a St. Patrick's Day speech. The praise and love for Ireland have yearly been reiterated wherever the sons of Erin have gathered together. As long as that little green island—smaller than the State of Maine, but how much more it has meant to the world—lies in the midst of that sapphire sea, her sons will continue to gather and do homage to the heroes of the past and to consecrate themselves as torchbearers of the future.

Speakers coming to Massachusetts are naturally accustomed to dwell on the coming of the Pilgrim Fathers. While I am the last person to attempt to take away any just praise from these courageous men and the even more courageous Pilgrim Mothers, I would like to ask "Where would Massachusetts be today if it weren't for the Irish?"

The Pilgrims, dour-faced, unsympathetic, thrifty souls, were consistent and upright. If their ideas of a harsh religion and a suppressed life, imbued in and inflicted upon them in foreign lands, had continued in this great commonwealth, Massachusetts today would have been no better than Maine or Vermont, which still live in darkness.

Think what the Irish brought to Massachusetts—war-heartedness, sympathy, laughter, and love for humanity which has brought light and help throughout the years of their activity.

For generations Ireland was held in bondage, and no race ever suffered more for freedom than the Irish. In all that time they never lacked a sense of humor and they never failed to extend the helping hand to other stricken nations. During a bad season in our own great rich country in the eighties that poverty-stricken isle of Erin gathered together a sum of money and food and sent it over to us.

No people can be permanently subdued who can feel for others in that way. America always has been touched deeply by the plight of Ireland, and I am confident that had it not been for the helping hand we held out in so many ways the Irish Free State might not exist today. I look forward to the time when Ireland will have no small division cut off in the north, but will be united under one flag.

There is a beautiful legend which tells us that God took all the broken pieces of the world into his mighty hand. He fashioned England to give the world solidity; he added France to give the world a rainbow hue; he added Italy to give the world art, music, and literature; and then he rested content when he gave to the world adventurous Spain. But the legend says that St. Patrick, turning to God, said: "Master, Thy work is incomplete—now give us, good God, a country with the heart of a child and the smile of a god", and thus Ireland was born, and so the whole world ever since has been sprinkled with Irish geniuses, Irish statesmen, Irish song, and Irish eloquence.

The history of America would be a sorry thing if it had not been for Irishmen. In 1776 Edmund Burke, that Irishman of lasting fame and eloquence, stood up in the English Parliament and fought for American rights—Irish signatures are found in the Declaration of Independence; Irish generals and soldiers, half starved and half naked, trod those snow-covered hills of Valley Forge; Irish statesmen helped write the Constitution of the United States and fashioned it so that it might be an ever-living thing in touch with human aspirations and human progress. All down the history of our country Irishmen have sat in the Halls of Congress, the Senate, and on the bench, widening the view of their present and looking toward an enlarged future.

There never has been a great American President who did not have some Irish blood in his veins—Washington, Jefferson, Jackson, Lincoln, and Woodrow Wilson could all boast of Irish ancestors.

Today it is the Irish in Franklin D. Roosevelt that gives him his humor, his sympathy for the weak and oppressed, his desire to help the unfortunate, his deep religious feeling, and his courage to attack the impossible and overcome it. These are all Irish traits and we can well say "It is the Irish that beat the depression."

It is nothing new for Irishmen to thrive on adversity. When driven from their own country they made for themselves great names in all parts of the world. They were found in the armies of Frederick the Great, of Germany; of Marie Theresa, of Austria; the exiled Lord Clare became a marshal in France; another exiled Irishman became minister of Spain; Peter the Great of Russia, when revolution threatened his country, was saved by an Irishman, Gen. Patrick Gordon.

Irishmen have been scattered about the world like golden nuggets, bringing unexpected wealth in times of stress and sorrow. Even in China, on the banks of the "river of a thousand names," you will find a pagoda erected in honor of Patrick McCarthy, an Irish hero from Dublin who helped save an Emperor of China generations ago.

There is plenty of evidence to show that the man who first discovered America was an Irish monk by the name of Brendan. It is recorded in the archives of Ireland that he sailed from Kerry with 60 men in the year 585 and landed here 900 years before Columbus. He landed on the shore of Newfoundland, which as New-found-land, meant the "land of promise."

Do you not recall what happened to the nine ringleaders who were captured and brought to trial in Tipperary and sentenced to death? Subsequently, clemency intervened and they were ordered exiled. The result was that General Thomas Meagher became Governor of Montana; Sir Charles Duffy became Prime Minister of Australia; Terrence McManus and Patrick Donoghue came to America and became brigadier generals in the United States Army; Richard O'Gorman emigrated to Newfoundland and became governor general. Morris Lyons became attorney general of Australia. John Mitchell did well in New York and as a leader became influential in Tammany Hall. The ninth rebel, Thomas D'Arcy McGee, became a member of Parliament from Montreal, minister of agriculture, and president of the council in the cabinet of the Dominion of Canada.

Besides the brave Irishmen of our own North America, South America, settled by the Spaniards, boasts her Irish heroes—McKenna and O'Higgins are names sacred in Chile; O'Connell lies side by side with Bolivar in Venezuela; O'Leary was a hero in Colombia; in Habana the Cubans have named their streets after Irishmen like O'Reilly, and at least one President of Mexico was an Irishman—Obregon was the Spanish way of spelling O'Brien. The greatest president France ever had was an Irishman, Patrick McMahon.

There is one quality of greatness in the Irishman which makes him a conquering force in the world. That is his audacity. Someone has described this as the "recklessness of courage." How necessary it is for our country in these trying days to give expression to the audacity of the Irish, that characteristic which must be our chief possession if we are to win a victory against poverty and misery.

In my opinion, this day calls for a type of leadership which, to quote Woodrow Wilson, "Will erase from its vocabulary the word prudent." "Prudence" never blazed its way through a tractless waste to discover a new civilization.

To me, prudence is wisdom that has fallen asleep, that awaits with arms outstretched for that which audacity challenges and accomplishes. Prudence never discovered an empire nor solved a pressing problem. Speaking of prudence, Robert Louis Stevenson said, "Prudence is a fungus growth in the human heart which atrophies every generous impulse."

Prudence has always shrieked anathemas at the dreamers of dreams and characterized their efforts for human betterment as futile and unscientific. Had these dreamers listened to the advisers of prudence, the galley slaves, the chains and the gibbets that held men enthralled in the past would still be with us.

Had Columbus followed the prudent counsels of his day and taken the advice of the stand-pat conservative scientists who said the world was flat, this hemisphere would have lived for generations more in the loneliness of isolation.

Certainly prudence is not an Irish trait; prudence oft speaks of great movements as futile or unscientific. Prudence lives within a shell and sees little light.

Prudent people advised the cavaliers of Virginia against venturing out to a new land; prudent people told the Pilgrims and the Puritans to stay on the other side; prudent people told our own William Penn, of Pennsylvania, he should not try to found a "holy experiment"; prudent people told the members of our first Continental Congress that it would be unwise to gainsay the wishes and laws of an autocratic kingdom.

Oh, yes; the prudent people advised Jefferson not to make the declaration of independence so strong; prudent people told Washington not to cross the Delaware; prudent people told Abraham Lincoln not to free the slaves. Where would we be today if prudence had ruled our country in the last few years? During these recent years prudent people have been telling Franklin Roosevelt to wait, to consult, and so forth. How is he to bring about the great reforms for agriculture, labor, and industry unless he forgets occasionally that the word "prudence" is not in the Irish vocabulary, that courage and hope and love for humanity outrank prudent thoughts and actions.

Instead of using prudence our great leader in Washington is using a profound knowledge of the past, realizing the dangers of the present, and is being audacious. He realizes that we cannot afford to endanger the welfare of our people and permit property to reign over humanity. Hence, he is going forward in the Irish way, if you please, by taking hold of things quickly but firmly, by shaking reactionaries out of their indifference and lethargy, by proving to the stand-pats that change does not mean destruction. These policies will make permanent our American democracy.

Five Sectors of the Peace Movement

EXTENSION OF REMARKS

OF

HON. JAMES P. POPE

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Monday, March 22 (legislative day of Friday, Mar. 19), 1937

ADDRESS OF DR. HARRY EMERSON FOSDICK ON PEACE, NEW YORK CITY, JANUARY 10, 1937

Mr. POPE. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD an address by

Dr. Harry Emerson Fosdick made in New York on January 10, 1937, on the subject Five Sectors of the Peace Movement. Dr. Fosdick, as is known to Senate, approaches this subject with a sanity, a devotion, and a comprehension that make his utterances of great value to the people of the country.

On behalf of the National Peace Conference, comprising 33 great national organizations, and of the Emergency Peace Campaign, of which Dr. Fosdick is chairman, I make this request, and I desire to join with Dr. Fosdick in his appeal for unity and cooperation by all groups for peace.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

FIVE SECTORS OF THE PEACE MOVEMENT

The peace movement in America is sadly broken up into sects and denominations, each emphasizing a specialty and tempted to regard the others as heretical. If we could make the peace movement more peaceable we would have a better chance to achieve peace in the world. Consider, then, the five sectors where peace is being sought, as we try to do justice to the indispensable value of each while still we face the recurring refrain, this by itself alone is not enough.

In the first place, it is of high importance to the peace movement emotionally to hate war and to educate the people to hate war, but hating war by itself alone is not enough. To be sure, the present widespread, deep-seated indignation against war, as compared with the glorification of war on which some of us were reared, is one of the most hopeful signs of our time. Out of the last conflict there came, as never before in history, a stream of journalistic reports, personal diaries, novels, and dramas, stripping the glory from war and leaving it in all its stark-naked and brutal imbecility. The consequent nauseated disgust with war is a great asset for the peace movement, and we do well to make the most of it. War itself always has depended on mass emotion. It will take mass emotion to end it.

Prof. Harold Laski, of England, lectured in this country some months ago. He is not only a professor in the University of London but is also a member of an English borough council. He says that constant inquiries come from the people to the councils about the next war and especially about gas masks—are there gas masks enough, and, in particular, are there gas masks for little children 3 years old and under? Professor Laski says that up to date they have had to answer that really efficient gas masks for children under 3 years of age have not yet been perfected but that the scientists are now concentrating on them and hope to have some soon. That kind of thing is of the very essence of modern war. We do well to hate it.

Or consider that of the 66,000,000 men in the armies of all the nations during the great conflict only about 5 percent were volunteers, the other 95 percent being conscripts. Walk around that fact. Any large-scale modern war involves practically universal conscription of men, of women, of youth, of property, of labor, of conscience, of everything.

Some of you, I doubt not, are old-fashioned people. You may not even like the word "pacifism." You were not brought up on pacifism, but you were brought up on democracy, and you believe in keeping all of that we have and getting more if possible. It is part of being old-fashioned in these days, that over against the dictatorship of the proletariat or of the Hitlers and Mussolinis we do verily believe in democracy and liberty. To such old-fashioned people this fact should be of importance: Every large-scale modern war means universal conscription, and that means universal regimentation, and that means a totalitarian state, and that means dictatorship, and that means the end of democracy. The greatest single enemy of democracy today is neither communism nor fascism but war.

Read the Nye committee report on War Department bills relating to industrial mobilization in wartime and see how the Government plan involves the conscription of all young men, control of all labor, the molding of public opinion with very possible censorship of the press. Do not blame the Government. That kind of thing is involved in every large-scale modern war.

If, then, we still have loyalty left to the finest traditions of our American heritage, we had better hate war. But emotionally hating war is not enough.

In the second place, personal pacifism, the individual refusal to participate in war, is, I think, of first-rate significance, but it is not enough. Personal pacifism is my own position so that you will not suspect me of minimizing its importance, but by itself alone it is not enough. Granted that pacifism does two things. First, it sits in judgment on war. It says, "This whole war business is so hideous in its processes and disastrous in its results that we will take any punishment society may mete out rather than participate in it. We may not be able to stop war in our generation but one thing we can do, bear our incorrigible witness against it as irremediably, everlastingly wrong. And to die saying that, we think, is better than to have condoned, excused, or shared again this hideous evil.

Human history has often been profoundly influenced by such moral judgments passed by multiplying numbers of individuals upon public wrongs. For myself, at any rate, I faced a dilemma which I could not escape—on the one side the spirit and teaching of Jesus, on the other side war. Those two things cannot be reconciled. A man may choose one or the other but he cannot intelligently choose both. So it has seemed to me, and so it seems still, and I am sure that the multiplication of people who see that and say that and will stand by that is important for peace.

Not only does personal pacifism thus sit in judgment on war, it is also a practical device for hindering war. To be sure, there is another practical device for hindering war which I should like to see tried; namely, an ironclad law that if any administration should fail to keep us out of war the first persons to be killed would be 10 Senators chosen by lot, 10 Representatives, and half the members of the Cabinet. When you think of the millions of boys who would be hideously done to death in that war or so wretchedly shot to pieces that it would be far better had they been done to death, why should such a law seem extravagant? If we had that law and it could be enforced, would we have another war? I submit, we would not. Senators and Representatives would not deliberately vote themselves killed. And always, in this country at least, there is another way out beside war if we want it earnestly enough and start soon enough fulfilling the conditions for peace.

Since my fantastic suggestion is impractical, I fall back upon another. Let millions of our citizens openly declare themselves unwilling to be used as cannon fodder or to allow their sons to be used as cannon fodder. Any administration facing such an incorrigible attitude on the part of its people will at least hesitate about entering war. The multiplication of individuals dead set against participation in war erects a barrier between the Nation and the fatal plunge into catastrophe. Obviously, the more pacifism spreads the easier it is going to be to keep America out of war.

At this point, of course, many people raise the question of self-defense. "Would you not defend your nation if attacked?" they say. You would your home. If the forces of law and order broke down and ruffians invaded your household, you would protect your family; would you not defend your nation? How can you say you will not share in war when it might be a war of self-defense?

To which I answer: "In the last war all nations said they were defending themselves. Germany and Austria, France and Russia, England and Italy, the United States and Japan—we all said we were acting in self-defense. Moreover, we were. No modern nation exists merely within its geographical boundaries. Every great nation is scattered over all the earth in the persons of its citizens, in its markets and investments, in the sources of the raw materials on which its industry depends, so that any nation anywhere, fighting any war, calls it self-defense and always will."

We know, therefore, that when we are asked if we would not join in a war of self-defense we are being asked if we would not participate in any war that comes along. No nation will henceforth fight any war it does not call defensive. We should like, therefore, to question our questioners. What do you mean by a defensive war—spilling the blood of American boys to defend an economic interest in Asia or a market in Europe? That is what our next defensive war will be like.

To be sure, one test of defensive war might get us somewhere: An agreement of the nations that they never will cross their national boundaries with a military force—that they may stand on their national boundaries and protect them, but that they never will cross them with a military force; and to prove their sincerity they will disarm themselves of all aggressive weapons. Let them keep defensive weapons but disarm themselves of offensive weapons—all mobile artillery, all tanks, all military airplanes, all wide-ranging cruisers. Are the nations doing that? They are not. Do the nations mean anything like that? They do not. When the nations talk about "defensive war", does that phrase have any significance easily distinguishable from "aggressive war"? It does not. The two phrases mean in practice the same thing. In case of an unprovoked military invasion of the United States we would defend our homes. But walk around that phrase, "unprovoked military invasion of the United States." I challenge anyone in the wildest flights of his imagination to make of that anything except an utter incredibility. No; some of us are sure that we are through with war. But by itself personal pacifism is not enough.

In the third place, measures of national neutrality, though not enough by themselves, are profoundly important. One of the most encouraging things we have had in this country in a long time is the desire of our people to keep out of the next war. How to keep out of the next war—it is enheartening to see the almost universal interest of Americans in that problem. We may well be concerned with it. Certainly we were unmercifully sold out in the last war. No matter to what motive you ascribe America's entrance into the conflict, we were unmercifully gypped.

If you say we went into the World War for economic reasons, to guarantee the credit of the Allies, with whom we had immense outstanding debts, we certainly were gypped on that point. If you say we went into the war for idealistic reasons in a war to end war and make the world safe for democracy, we were gypped on that point, for that war sowed dragons' teeth for wars yet to come and made the world more unsafe for democracy than it had been in centuries. And if you say that we went into the last war for political reasons, to end the menace of Germany, we were gypped on that point. For what nation in Europe today peculiarly

disturbs our hopes of peace? Germany under Hitler. But I thought it was Germany we lately fought a great war against. It was. I thought we conquered Germany. We did. I thought we did to Germany what modern war knows how to do to a beaten enemy and then followed it with one of the most oppressive, not to say outrageous, peace treaties in all history. We did. And now, a few years afterward, Germany, armed to the teeth again, is on the march. That is just how efficient war is. It cannot do even this first, simple, obvious thing it is supposed to do—really conquer a powerful modern nation. Do you say that Hitler makes war? I say war made Hitler.

Americans, therefore, are anxious to keep out of the next war, mainly because we were so mercilessly cheated and duped in the last one. That is a natural and a valuable reaction, although by itself it is not enough. Personally I should like to see the present session of Congress pass a stringent neutrality measure. It should forbid the shipment to belligerents of all implements and munitions of war; it should forbid all loans and credits; it should modify the old doctrine of the freedom of the seas; and forbid our nationals to sail in war areas; it should forbid the shipment to belligerents, or to neutrals for transshipment to belligerents, of all war necessities whatever. It might give to the President some permissive authority to cooperate with other nations against an obvious aggressor, but, with whatever qualifications, Congress ought to pass a strong neutrality measure. Nevertheless, I have small hope that such a law, even if passed, will hold its ground against the terrific pressure of a long-drawn-out war.

If another war breaks, all the markets of the nations will be crying for our goods. Will we resist? Just around the corner now that war seems to be waiting, in which by every argument and appeal we can lay our minds to we will have to cry to the American people, "Stay out of this war!" Perhaps we can if it doesn't last too long. But when one thinks of the tremendous pressures that will play upon us—the desire for profits, the ganging up of the munition makers and salesmen, the natural desires of millions of cotton planters, wheat growers, coal, oil, and steel producers to sell their goods—one sees that neutrality, even at its best, is an emergency measure to be fought for in a crisis like the present as our only hope, but, after all, only a kind of cyclone cellar in a hurricane, an anchor thrown to windward as a last resource in a stormy sea, but not enough, not by a long sea-mile enough. Friends, if ultimately we are going to keep America out of war, we must keep the world out of war.

In the fourth place, economic reconstruction is of basic importance for peace, although alone it is not enough. Any way one looks at the war question one runs into economics. There are, for example, four powerful nations on earth today which, I think, sincerely desire peace—Great Britain, France, Russia, and the United States. Yet, after all, it is no great credit to them that they want peace, for having already access to and control over plenty of the raw materials of the earth to guarantee their national existence, why should they want war? There are, however, at least three other nations that at the cost of desperate public sacrifice are preparing for war, preaching it, glorifying it, dragooning and conscripting even their little children for it—Italy, Germany, and Japan. They are doing that not because they are another kind of human being from ourselves, but because none of those nations has access to or control over enough of the raw materials of this planet to sustain national existence. They honestly think that they face a choice between war and penury and in that dilemma they propose war.

Any way one looks at the war question one finds economics in the foreground. We cannot have economic war with tariffs and monetary policies and still expect peace. We cannot have predatory economic imperialism, such as the western world practiced on Africa for a long and terrible century, and of which Ethiopia was only the latest episode, and still expect peace. We cannot have an economic order overwhelmingly motived by the acquisitive desire for profits, first for individuals, second for corporate aggregates of individuals, third for nations backing up their corporate aggregates of individuals, and still expect peace. Those who say that the economic preconditions of peace are fundamental are right. Peace will cost profound economic reconstruction.

Yet, even so, I am sure that economic reform is not enough. So powerful is nationalism, so prodigious its hold on man's thoughts and loyalties, that even if the dream of the Socialists should come true we still could have a nationalistic socialism in America, a nationalistic socialism in Britain, a nationalistic socialism in Italy, Germany, Russia, and our nationalistic prejudices, conflicting interests, and antagonisms could still hurl us into war. The road to peace is long and rough, and as for America's staying out of war, surely in the end it is a fallacious hope unless we can banish war from the world.

So we come to the fifth sector of the peace movement, the consummation to which all other endeavors must tend and in which alone they can find sure fulfillment—international collective security.

For we know how to get peace. We have already achieved peace. Within nations, where constituent states and provinces have surrendered to a central authority their right to use violence against one another, we have already achieved peace. That is the secret of the American Union. Once Vermont, New Hampshire, and New York nearly went to war. Once there was a great war between the North and the South. Now, however, we are confident that a true Union exists, in which the constituent States have surrendered to a central authority not all their sovereignty but one item in it, the right to use violence one against another.

So, too, England and Scotland no longer make war upon each other as once they did. So Prussia and Bavaria no longer make war upon each other as once they did. And, while Italy makes war upon Ethiopia, within Italy Tuscany and Lombardy no longer plunge into bloody slaughter as once they did. And the nub and secret are here: constituent states have surrendered to central authority a single item of their sovereignty.

Within the United States we have every major economic cause of war. The manufacturers of New England and the Carolinas, the industrialists of the East and the farmers of the West face the same kind of economic antagonisms that today in the Pacific set Britain and Japan against each other. But within our American Union these major economic causes of war will not produce war. And the reason is that the various sections of this country have surrendered to a central administration one item of their sovereignty, the right to use violence one against the other. Moreover, as the years pass and experience deepens, the Supreme Court, the major agency for relieving our tensions, does not wane but waxes in popular esteem, and never yet in our history has the National Government had to use violence to enforce a decision of the Supreme Court against a State.

The world can have peace whenever the world wants it enough to fulfill this condition. The major precondition of war, that makes it almost inevitable, is sixty-odd national states refusing to surrender to a central court and administration this one item of their sovereignty.

If, now, you say it looks on that basis like a long haul to peace, I say it looks so to me. There is no short cut to peace. There is no swift, slick scheme that will bring peace. I expect to die, my eyes looking on a world, however much improved, still in danger of war. So I say to my children, "You stand for peace and tell your children to stand for peace." For some day—it may be sooner than we think—the consummation will come, concerning which our children's children will think us imbecile because we did not achieve it—a central court, a central administration, controlling whatever force is necessary for international government in the form of international police, and the different nationalities will have surrendered not all their sovereignty, but this one useless and disastrous item in it, their right to the exercise of violence.

In the meantime, I beg of you, work on all these five fronts. Let us stop being bigots in the peace movement. Let us cease excommunicating one another. All these five sectors are indispensable in the work for peace. Find the place where you can make your best contribution. For it surely is hypocrisy to call Christ "Lord, Lord", and not take our stand against this accursed thing, this antichrist.

Federal Aid for Public Schools

EXTENSION OF REMARKS

OF

HON. PAT HARRISON

OF MISSISSIPPI

IN THE SENATE OF THE UNITED STATES

Monday, March 22 (legislative day of Friday, Mar. 19), 1937

RADIO ADDRESS OF HON. HUGO L. BLACK, OF ALABAMA, MARCH 17, 1937

Mr. HARRISON. Mr. President, I ask unanimous consent to have published in the RECORD an address delivered over the radio by the senior Senator from Alabama [Mr. BLACK] on the evening of March 17, 1937, in the city of Washington. The address has reference to a bill to provide for financial assistance by the Federal Government to the States for the improvement of their public schools. This bill was introduced by myself and Mr. BLACK and was unanimously reported favorably to the Senate by the Committee on Education and Labor on March 19, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen of the radio audience, today the Senate Committee on Education and Labor considered the bill introduced by Senator HARRISON and myself authorizing an appropriation of $100,000,000 to aid the States in providing public education for the children of this Nation. I hope that tomorrow the committee

will report it favorably to the Senate. The bill provides for future annual appropriations, increasing until a maximum of $300,000,000 is reached. This bill does not seek to control the educational systems of the several States in any manner.

At the very beginning of the history of this Nation President Washington said:

"In a country like this * * * if there cannot be money found for education, there is something amiss with the ruling power."

Later, in 1830, a group of working people met in Philadelphia and unanimously resolved that—

"There can be no real liberty without a wide diffusion of real intelligence, * * * and until means of equal instruction shall be equally secured to all, liberty is but an unmeaning word and equally an empty shadow."

Although these words were spoken more than a century ago, recent hearings before the Senate Committee on Education and Labor have clearly revealed that sufficient money has not been "found for education", and that "means of equal instruction" have not yet been "equally secured to all" American children.

When our Nation drafted its young men into war service it was disclosed to an astonished American public that 25 percent of those first called were not even able to write a letter back home. More than 40 percent of all those who have recently been on rural Federal relief have had less than a fourth-grade education.

In 1935 more than 42,000 schools, accommodating one-eighth of the children of this Nation, were forced to close their doors because there were no funds available to pay the teachers. To open these schools it was actually necessary to place school teachers on the relief rolls and pay them relief wages. Our committee has learned that there are now at least a dozen States in which schools have already closed, or they are about to close for lack of funds. A billion dollars increased school indebtedness since 1930 makes further borrowing impossible.

Lack of opportunity for education is not limited to the children in the poorer States. Two weeks ago the president of the State teachers association of the great industrial State of Pennsylvania testified before our committee in the following language:

"A party came to my home the other day and begged for some help because his boy was traveling to school, walking 9 miles. He thumbed his way at times when he could, but was eager for an education, and very few advantages are being provided to transport him to the school.

"Question. What type of school was he going to?

"Answer. High school.

"Question. In Pennsylvania?

"Answer. Yes, sir.

"Question. In Westmoreland County?

"Answer. Yes, sir. After they come to a certain age there is no transportation furnished.

"Question. The closest high school was 9 miles away?

"Answer. Yes, sir."

Now, what is true here is also a sample of what is true in many districts, not only in Westmoreland but throughout Pennsylvania.

This witness also told the committee that if a severance tax had originally been placed upon the coal removed from the mines of this county sufficient funds would be available "to supply all of the educational requirements of that particular territory without asking the State for any money at all. But it has gone. It has moved out of the State. I am aware of some of the places that it has gone, and I am aware that in those particular territories the mills and factories are assessed for school purposes, but we are impoverished and can no longer get the money."

A witness from Michigan testified that the chances are even in Michigan that a child living in the rural communities will never go to high school at all, for the simple reason that there are no high schools for all the children to attend. One-half of the rural children, therefore, in that State do not go to high schools, and under present circumstances will not have the opportunity of attending high schools. In many of the poorer States educational opportunities are most deplorable.

There are nearly two and three-fourths million children of school age in the United States without any public-school facilities whatever. There are another two and three-fourths million who either go to school in temporary quarters, often insanitary and unsafe school buildings, or who attend school part time only because of inadequate school buildings. More than 1,000,000 children attend schools that are in session less than 6 months in the year.

In one State a survey showed that the children of more than 1,500 communities are wholly without school buildings and go to school in abandoned tenant houses, barns, and churches.

Inequality of educational opportunity is aggravated by the inequality of income going to different groups in various sections of the Nation. In no place is this inequality of opportunity more clearly demonstrated than in the rural communities.

The farmers have 31 percent of the children of the Nation 5 to 17 years old, but these farmers receive only 9 percent of the national income.

The Northeastern States have only about 30 percent of the Nation's children but receive about 43 percent of the national income.

On the other hand, the Southeastern States have about 25 percent of the Nation's children but receive only 10 percent of the national income.

The farmers of the Southeastern States have 13 percent of the Nation's children, but these farmers receive only 2.2 percent of the national income.

The people in the poorer States and in the farming communities are required to pay a far greater percentage of their income to give their children the meager educational advantages to which entirely too many of them are limited, than the people in cities and wealthier States are required to pay. In the poorer States children from 5 to 20 years of age almost equal the number of adults from 21 to 65, while in the richer States, the adults outnumber the children almost 3 to 2. The farmers of the Nation have 70 percent more children to rear and educate than do their city neighbors.

The successful operation of our Government depends upon an educated citizenry. This does not mean that some should be educated and some should be left in ignorance and illiteracy. More than a hundred years ago one of our American statesmen said:

"On the diffusion of education among the people rests the preservation and perpetuation of our free institutions."

With our improved methods of transportation and our active trade and commerce, a very large percentage of all children spend most of their adult life in other States and localities. More than one and one-third million people born and reared in other States now live in New York. More than 57 percent of the total population of the State of California were born in other States. More than 30,000,000 native-born Americans now live in States other than those in which they were born. More than 6,000,000 farmers' sons and daughters moved from their farm homes to the cities between 1920 and 1930. Citizens of every State, therefore, have a direct interest in providing educational opportunities for their future citizens who will come to them from other States. The great cities of New York, Detroit, Cleveland, and many others have constant additions to their citizenry from the poorer sections of the Nation, where poverty has denied needed educational advantages.

The final decision as to the type of government this Nation has depends upon the knowledge and training of its people. We not only need an honest exercise of the ballot, but we need an intelligent ballot. Thomas Jefferson said that—

"If a nation expects to be ignorant and free in a state of civilization, it expects what never was and never will be. * * * There is no safe deposit for the functions of government but with the people themselves; nor can they be safe with them without information."

He advocated a universal system for the elimination of ignorance for all who are mentally capable of obtaining it from the kindergarten all the way through the university. We are yet far from Jefferson's goal. I believe there is no chance to attain this high educational ideal unless we recognize the fact that there must be a greater equality of educational opportunity for all of our people. The State superintendent of schools for the State of Wisconsin, testifying before our committee in favor of this bill, said:

"Wealth, no matter where it is located, should be taxed for the education of the people no matter where they are located."

Until this sentiment becomes the law of this land, people may express patriotic hopes about an educated citizenship; but they will be vain hopes.

The mere fact that wealth is located and taxed in one particular place is no indication that all that wealth was produced at that particular point. Every part of the toil and labor that obtains the money for purchasing an automobile from the great city of Detroit goes to increase the taxable wealth of that city. Why should we not tax some of the profits from the sale of automobiles, so as to provide educational advantages and opportunities to people living where the automobiles are purchased? And why should not the same principle apply in order for a State to hold some of the profits to educate its own children, which profits actually come from mines, factories, and industries in that State but owned by residents of other States?

As an illustration of the necessity for and justice of Federal taxation to aid the States, evidence was given to our committee that only one-tenth of 1 percent of the profit-paying stock of the power companies operating in Texas was actually owned by the citizens of that State. Evidence showed it to be owned by holding companies with residence chiefly in the States of Delaware, Pennsylvania, and New York. The State of Texas, however, cannot tax profits of these holding companies, although the evidence showed that in many instances the annual profit on investment was as high as 51 percent. A Federal tax can aid in sending back some of this wealth to help educate the children in Texas and in the States where the wealth was actually produced. This can best be done by giving Federal aid to public education.

It is time for those who actually believe in universal education throughout this Nation, to realize that we will not have it until we have Federal assistance for all our public schools. Our financial and economic system drains some communities of their wealth and removes it beyond their power of taxation. There is no longer reason for us to depend upon the old theory that the poor shall educate the poor. It produces grossly unfair educational opportunities. This great Nation of ours needs an educated citizenry. It is my sincere and earnest hope that we shall be able to pass this bill for Federal aid to education, which will assure every boy and girl in this Nation a chance to receive public-school training at least 8 months in each year. American children are entitled to this chance. Education is the hope of our Nation. Federal assistance alone can meet the widespread educational needs of our American youth.

Harvard Club of Boston "Sits Down"—Landis Speaks. They "Sit Up", and Take Notice

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1937

ADDRESS BY JAMES M. LANDIS, CHAIRMAN, SECURITIES AND EXCHANGE COMMISSION, BEFORE THE HARVARD CLUB OF BOSTON, BOSTON, MASS., MARCH 17, 1937

Mr. MAVERICK. Mr. Speaker, by unanimous consent, I include herein an address by Hon. James M. Landis, delivered before the Harvard Club of Boston, in Boston, March 17, 1937. The newspapers say in their headlines that he has been widely criticized concerning his remarks on the sit-down strikes.

I see nothing in it approving the sit-down strike, but he does discuss the possible changing of legal concepts of law. But here is the speech:

PIERCE THE BRILLIANCE OF CONTINUING DAWNS

On an occasion such as this I always envy the gifts of a former colleague of mine. Versed to an extraordinary degree in continental history, his answers to modern problems always found suggestive roots in the dim past. Indeed, it was sometimes said of him that you were fortunate if he only began his answer with events in the time of Diocletian and didn't insist that for the solution of a matter of seemingly everyday academic policy some search back beyond the empire was essential. And yet it was amazing to see him grasp some galvanic current moving from the past and with that distant spark illumine a modern problem.

In the field of education such a technique is or should be commonplace. As one grasps for shadow better to view sunlight, so your presidents stand in the shadow of an ever-lengthening past. To its depth and its quality, at Harvard three centuries already can testify.

But that attitude is not a prerogative of presidents alone. It is the privilege of all those who care about education, for there, perhaps, more than anywhere one has to try and pierce the brilliance of continuing dawns.

Some hesitation naturally attended my acceptance of the invitation to speak before this gathering. Closeness to political life and absence for some years now from the academic scene made me doubt just what I could contribute to this occasion. On the other hand, I was anxious to come. I was anxious to get, if I could, some better sense of what Harvard men were thinking and where the drive of their objectives lay. I thought that in return for that I might, perhaps, essay some contribution from the firing line where law is being made, in terms of the relationship of that process to Harvard's traditions.

That the law school has the richest shadows in all American legal education is, of course, accepted everywhere. Its use of them as vantage points rather than as retreats is emblematic of its traditions. But let me touch for the moment upon some of those that seem to me central, so that we can properly set the background of our thinking.

First, we may mention the insistence upon technical competence. Just as those who would make music a profession submit to the stern discipline of daily drill and finger exercises, the student of the law needs to master, and master effectively, the methods of handling the materials ready to his hands. It is the insistence upon competence in the method of inquiry upon realism in the articulation of premises, upon relevancy in reasoning from them, that strikes the entering student of the law school with emphasis.

Indeed, where in the first excitement of the search for knowledge he hopes to find answers to the many problems of the law, he finds at first no answers, instead analysis of methods for searching for them. It is drill, to be true, sometimes dogged, determined drill, and yet the type of ground-school training without which no flight can be safe. This tradition, of course, we dare not sacrifice; nor, on the other hand, dare we prolong it so long that the very urge to fly leaves before the opportunity arises.

LOYALTY TO THE IDEA OF TRUTH

A second tradition that perhaps should be integral to the very idea of education, and yet so often is missing, is the insistence upon the centrifugal forces of instruction. From an administrative standpoint, to search for men with varying minds, varying outlooks, is imperative. As illustrative one can recall the contribution made by the combination of James and Royce in the early days of the philosophy department at Harvard, a contribution duplicated elsewhere and especially characteristic of the law school.

The bond of a faculty can never be loyalty to particular truths, but the deeper one of loyalty to the idea of truth. Such a bond made of the law school a hub from which the spokes ran out to far horizons.

Under the shelter of such an idea men of diverse legal creeds, diverse social outlook, could gather and, by their example, make of the profession of the law an avenue for the attainment of varied ideals.

THE ANVIL OF DEBATE—THE EAGERNESS TO PIONEER

A third tradition of the law school, indeed, the tradition that even before the days of Langdell brought it preeminence in its field, was that of not only a willingness but an eagerness to pioneer—an attitude that embraced not only the instructional method but also went to critiques of the substance of law. To see how true this is, one need only think of Langdell's conception that the best method of forging ideas was not through didactic pedagogy but upon the anvil of debate. His realization that no uniform architectonic qualities could dominate structures that each man had to build for himself led him away from the effort to impress formulated conceptions of the law upon his students, and to the effort to encourage them to select and build, stone by stone, their own structures.

This contribution, commonly known as the case system of instruction, was, perhaps, the most effective force in the revitalization of legal training in the nineteenth century.

Or, again, one need only turn to Ames to realize how the ethical content of the law was enriched by his efforts to search for principles of action and decision, not fashioned for the occasion, but finding their verities in the deep crucible of the past. To him history was never inert knowledge but the source of ideas from which to understand the present.

Or James Bradley Thayer, who gave constitutional and other forms of public law the recognition that its major decisions rested so much upon considerations of wise statesmanship.

Or Pound, who envisaged that the major problem of twentieth-century American law was the need for its adaptation to a modern industrialist society, and with that vision flung his challenge to the lawyers that such an adaptation could be made effectively only by the absorption into the law of the content of the other social sciences.

The picture of these men is one not of persons tending a formal garden, rearranging it here and there to suit a passing taste, but rather one of daring on the frontiers of knowledge.

These three aspects of the Harvard tradition fit into a harmonious triptych. The emphasis on technical competence protects us against newness for the sake of newness, instilling as it does the discipline that one must know the present progress of an art before one essays its further advance. The emphasis upon centrifugal forces means absence of molds of opinion, the freedom of choosing one's own way of living, and the joy of finding that the law can be its avenue. The tradition to pioneer means more than the glory of exploration. It means the insistence upon refreshing the law through continual reference to the needs of a nation.

NEEDS VARY FROM DECADE TO DECADE

The needs of the Nation today with respect to law may seem to us endless, complex, and novel. There can be no doubt of their great number or of their complexity. But I do not believe that with reference to the springs of their origin they present anything essentially new. From decade to decade our needs with respect to law have varied, but they have varied only in form or in the intensity of demand. They can all be related to the continuing existence of two fundamental desires.

The first is the constant clamor of a changing society for the recognition through law of new rights, new claims, new liberties.

The second is a demand for the fashioning of new machinery to give old rights their intended effects—a demand that arises because the complexities of such a society tend to dull the effectiveness of the old machinery to realize the old rights.

CHANGING IDEAS OF LAW CONCERNING LABOR

Examples of the first desire—for the creation of new rights and new liberties—are to be seen most frequently under conditions of national economic stress, or under conditions where a slow shift of power in society from one group to another occurs. The recognition of this need comes about sometimes dramatically through legislative action, at other times imperceptibly in the course of litigations that offer opportunities for judicial lawmaking.

The history of our law is replete with illustrations of the creation of new rights. In the employer and employee relationship, the right of employees to quit work together for the simple end of improving the conditions of labor found recognition only in the early nineteenth century.

Indeed, the right to strike and through such economic pressure to force collective bargaining found no recognition in this country until the turn of this century, and even today in many States it is still of doubtful standing.

But the insistence upon collective bargaining refuses to stand still. It is pushing itself now from a claim to use economic pressure toward the accomplishment of this end, to an insistence that the law itself shall impose a duty upon the employer to endeavor conscientiously to arrange a collective-labor contract with his employees when a majority of them so desire.

LOCK-OUTS—CONCEPT OF PROPERTY

In the same field we have witnessed for some years the effort of employees to bring about recognition of their claim to be free to persuade others to refrain from taking their places who by such

action would diminish the effectiveness of their own economic pressure.

In recent months we have seen the advancement of a new claim to take measures that will effectively prevent all production until grievances are satisfied—action that in its economic effects is the counterpart of the lock-out, but because of the absence of any relationship such as the lock-out possesses to property, finds itself with doubtful traditional legal justification.

The eventual outcome of such a claim will depend in part upon the emphasis that law will give to the concept of property and its inviolability in its industrial and corporate setting to economic pressure of this type, and in part, perhaps, on the capacity of our law to devise new concepts and mechanisms to meet the needs out of which this type of economic pressure has been born.

CLAIMS TO NEW FREEDOMS

Elsewhere in the industrial field other claims are being advanced, such as the claim that society must exact as a condition precedent to the existence of an enterprise a duty upon its part to pay its employees a living wage. In the consumer field, claims to new freedoms are similarly being asserted—the claim for more truthful presentation of the product that is offered, whether that product be a cosmetic or a security.

In the field of corporate organization the stockholder is clamoring for protection against complexity in the corporate structure, against the divorce of ownership from control, against the uneconomic combination of business units into a far-flung enterprise.

In the field of merchandising, complaints not unlike those that shippers made some 60 years ago against carriers are coming to the fore—discrimination in price—without relationship to quantity or quality, and the presence of a host of unfair trade practices that can so readily conceal themselves amid the complexities of modern methods of distribution.

In the field of agricultural and mineral production, producers themselves inveigh against the wasteful use of limited natural resources by competitors.

The desire for new machinery to make more effective the protection of old rights arises out of depreciation and obsolescence in the established mechanisms of the common law. The normal processes of litigation prove themselves, for different reasons, to be ineffective in bringing about the practical recognition of recognized rights. They fail either because of the cost that attends the process, because of the delay that it involves, or because of the inability of men not expert in highly specialized fields to apply accepted principles to new situations. But the instinct for a living law refuses to accept frustration. It simply seeks other forms for its realization. Chief among them today is the administrative process which is only a different form for the assertion of law. It behooves us to recognize the extent to which rights formerly the exclusive concern of courts now seek their realization largely through administrative tribunals. Practically all the relationships of the individual with carriers and with utilities are under the immediate guardianship of such tribunals. In numerous fields, such as banking, insurance, immigration, stockyards, commodity and security exchanges—to mention only a few—protection of individual rights, mediately or immediately, is in the hands of such tribunals. The economy of this process, its capacity within itself fairly to dispose of controversies, its ability to do so with dispatch and without insistence upon some of the technicalities that the ordinary law demands, the relationship of court review to administrative action, are all the concern of the present-day lawyer.

Administrative law in this sense finds only sparse recognition today at the bar or in the schools. In court and out of court, it remains something of a stranger regarded suspiciously because of its intrusion upon traditional patterns. Yet fundamentally it is the outstanding response of our generation to the demand for a modern machinery to protect our old liberties.

In the field of legislation, articulation of legal principles grows apace. Principles of law, formerly left to enunciation through cases, are finding their way with rapidity into statutes. The content of the law contained in statute books could once be conveniently ignored. Today, legislation, instead of being a sporadic characteristic of law, tends often to be the substructure from which the major portion of rights and obligations derive. It calls for independent study not only of its content but of the processes that bring it into being.

These, then, are briefly some of the vital needs of the Nation, needs which will inevitably determine the pathway of the law. And the life of any school will rest upon its capacity to divine that pathway. The challenge that it must be able to meet lies upon the frontiers of today's knowledge, the frontiers of social and economic change where the patterns of the legal order still are confused and where the role of law itself is still in doubt.

But such a challenge is ready-made for the traditions of Harvard. These traditions to me spell lawyers conscious of their role not as craftsmen but as mediators of human affairs, eager to understand the new claims, anxious to weigh their merit in the light of the cross claims to which the new claims give rise, and fearful not of change but of the want of understanding. So, also, the traditions spell a school in the forefront of fashioning and refashioning the substance and the machinery of law to effectuate the aims of today's and tomorrow's society. To seek safety by retreat to the shadows of a past has not been our history. Instead, our strength has lain in the inculcation of discipline, in the variety of outlook, in the boldness to pioneer.

Flood Control

EXTENSION OF REMARKS
OF
HON. WILL M. WHITTINGTON
OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES
Friday, March 19, 1937

ADDRESS OF MAJ. GEN. E. M. MARKHAM, CHIEF OF ENGINEERS, UNITED STATES ARMY, ST. LOUIS, MO., MARCH 12, 1937

Mr. WHITTINGTON. Mr. Speaker, under the leave granted me to extend my remarks in the RECORD, I include the following address on Flood Control delivered by Maj. Gen. E. M. Markham, Chief of Engineers, United States Army, March 12, 1937, at the flood control conference of the Mississippi Valley Association in St. Louis, Mo., to wit:

Mr. President, ladies, and gentlemen, I am very glad, indeed, to have the opportunity to appear before the Mississippi Valley Association, particularly as I was unavoidably prevented from attending the annual meeting of the association held here in St. Louis last November.

Since that date we have experienced a record flood in the Ohio Valley, which exacted a tremendous toll in damages to property located in the valley. We have also witnessed the successful passage of that record flood through the lower Mississippi Valley to the Gulf without damage as a result of the flood-control measures undertaken by the Federal Government since the flood of 1927.

The United States has expended approximately $275,000,000 in carrying out the flood-control works on the lower valley, authorized as a result of the 1927 flood, and this total expenditure has without doubt, in this flood, prevented damages which would have aggregated a much greater sum.

The Ohio River flood, with its disruption of communications and business, has made us flood-minded for the moment. Nevertheless, it is well to bear in mind that public sentiment and demand for flood-control measures to be undertaken as a responsibility of the Federal Government has been slow in growth. Perhaps a brief résumé of past flood-control legislation might not be amiss at this point.

From the earliest time the residents of the lower Mississippi River Valley have been keenly interested in flood control. La Salle, in 1684, found the Mississippi River out of its banks. Bienville chose a site for New Orleans because it was above water at the time he found it. The first levee was constructed for the protection of New Orleans in 1717. In the early days of our country each property owner built his own levee with his own resources. Later levee districts were formed to provide for a more coordinated effort in levee protection.

In 1820 Congress appropriated $5,000 for an investigation of the Ohio and Mississippi Rivers, which was undertaken by two young officers of the Corps of Engineers. During the forties, the records of Congress indicate that many debates were held with reference to the participation of the Federal Government in flood control for improvements on the Mississippi River. It is of interest to note that Henry Clay, Abraham Lincoln, Thomas H. Benton, and John C. Calhoun participated in these debates and in 1847 attended conventions advocating flood control by the Federal Government.

In 1850 Congress appropriated $50,000 for a flood-control investigation of the Mississippi River. However, the Civil War interrupted and prevented any improvements in the valley. Immediately after the war a remarkable series of great floods occurred in 1862, 1865, 1867, 1874, and 1882. Hundreds of miles of mainline levees failed. In spite of the havoc wrought with the levees, the people of the Delta, with characteristic courage, began to repair and rebuild.

In 1874 a commission was authorized by Congress to investigate and report a permanent plan for the reclamation of the Delta country. This commission, headed by Gen. K. G. Warren, gave many reasons why the United States should assume responsibility for flood control in the Mississippi River Valley. As a result of this commission's report, the Mississippi River Commission was established in 1879.

In 1881 Congress appropriated $1,000,000 for the improvement of the Mississippi River. In 1882 it provided $4,000,000, and since that date annual appropriations have been continuous.

In 1917 an authorization of $45,000,000 was enacted for the Mississippi River, with the proviso that not more than $10,000,000 would be expended during any one fiscal year. However, while these sums were sufficient to permit a gradual strengthening of levee heights and cross sections, they did not permit the development of a considered plan for the protection of the lower valley against floods of record. The record flood of 1927 exacted such tremendous damage throughout the entire valley as to attract the attention and sympathy of the United States at large, and as a

result the entire country was in favor of the Government taking over the job of flood control in the alluvial valley of the Mississippi River. A considered plan, estimated to cost $325,000,000, known as the Jadwin plan, was presented to Congress, and adopted on May 15, 1928. The authorization was to be expended during a period of 10 years to provide reasonable protection for the valley against major floods.

Subsequently, in the Flood Control Act of 1936, the authorization was extended to provide for the construction of the Eudora, Morganza, and West Atchafalaya outlets to greatly augment the degree of protection afforded by the Jadwin plan. The modified plan will protect the valley against any major flood yet experienced, although the recent volume of flow received from the Ohio River would make it now appear that additional measures should be provided to insure an adequate factor of safety.

The only other major flood control authorized by Congress prior to 1936 was a cooperative program with the State of California on the Sacramento River. However, during the last quarter of a century the damages from floods have greatly increased in severity with the growth and industrial development of our valleys. There has resulted an increased public interest in the provision of remedial measures and a realization that the problem is national in scope.

In 1935 a flood-control bill authorizing the construction of a large number of flood-control projects throughout the United States was passed by the House of Representatives. This bill provided for lands, easements, and rights-of-way to be acquired by the Federal Government. It was reported to the Senate but failed of passage. In the next session of Congress the bill passed by the House at the previous session was considered by the Committee on Commerce of the United States Senate and reported to the Senate after extended hearings. The bill as reported by the Committee on Commerce included many of the projects in the original House bill, although a large number of projects were eliminated. It also provided for the lands, rights-of-way, and easements to be furnished free of cost to the United States. The bill was passed by the Senate, accepted in conference, and subsequently adopted by the House in its modified form. It was approved by the President, to become the omnibus flood-control bill of June 22, 1936. It is well to note that this bill established for the first time a policy for the Federal Government to participate in the construction of flood-control works where found economically justified or for the protection of lives and property. It marked a forward step in the interests of conservation and flood control of far-reaching consequence. The bill was made possible as a result of the wisdom of Congress in authorizing the War Department to undertake a comprehensive survey of the major streams of the United States in the interests of flood control, navigation, irrigation, and the development of hydroelectric power. This authorization, granted in 1927, has enabled detailed investigations to be made of practically every major stream in the United States. These investigations, costing approximately $12,000,000, have developed the essential projects necessary for a comprehensive flood-control program.

There have been many discussions in the past few months on the relative advantages which result from various methods of flood control. I believe that in this connection it is essential to distinguish between the major floods which cause so much disorder and loss of life and property, and the minor annual floods which are expected to cause but little damage. The major floods which usually result from abnormal conditions, such as occur with extraordinary heavy rainfall during a period in which melting snow and ice have contributed heavily to extreme discharges with the ground frozen except for a few top inches, so that a very high degree of run-off is obtained, or very unusual conditions of temperature such as the mild weather prevailing in the Ohio River basin prior to the recent flood, can be controlled only by major remedial measures. These measures include the construction of impounding or detention reservoirs, the construction of dikes or levees, the provision of floodways and channel enlargement and rectification. The solution must be determined by a comparison of the cost of protection with the benefits which can be derived therefrom. Reservoir control for the reduction of floods in the Delta of the Mississippi River to provide reasonable protection would require an expenditure of several billion dollars and would take many years to complete. Even when completed, it would be almost impossible to operate a tributary stream reservoir system to prevent floods in the lower river, and a system of levee protection would still be essential.

The large impoundments hold a special public interest and frequently are represented as a most effective means for combining several possible benefits in a proposed development. It is a beautiful picture to visualize the major streams of the country controlled by reservoir systems which combine sufficient storage not only to care for domestic water supply, irrigation, and the development of hydroelectric power, but also have available sufficient space to impound floodwaters. Unfortunately, a combination of these purposes in a single reservoir or in a unified system is normally infeasible. There is an economic limit to the size of any selected reservoir to be determined by the water available for storage, foundation conditions, and the costs of the rights-of-way included in the reservoir area. The reduction in taxable acreage must also be considered. Reservoir capacity for flood control must be fully available for use at all times, which requires the emptying of the reservoirs as rapidly as possible after the subsidence of each flood. Storage of this type may have little value for hydroelectric and conservation purposes. However, it is the intent of the War Department in constructing authorized flood-control reservoirs to provide for a small amount of pondage in each reservoir to be available throughout the year for conservation and recreational purposes.

I have before me in Washington the reports of our several field officers on the additional remedial measures which should be undertaken to care for a flood equal in severity to that recently experienced on the Ohio River. The present flood-control works in the lower Mississippi River were designed to protect that valley against a flood of about 2,200,000 cubic feet per second made up on an assumed outflow from the Ohio River of 1,400,000 cubic feet per second, equal to the flood of 1913, which, prior to this year, was the maximum flood of record, and an assumed outflow from the Mississippi River of about 800,000 cubic feet per second, approximately the same as occurred during the great flood of 1927. The outflow from the Ohio River in the February 1937 flood is estimated at approximately 2,000,000 cubic feet per second. This definitely indicates that the assumed outflow for the superflood must be increased by approximately 600,000 cubic feet per second, and that any further remedial measures must be designed with this end in view.

The surveys completed by this Department in the Ohio River Basin permit consideration to be given to 88 reservoirs, 29 of which are now under construction or have been authorized for construction. This reservoir system, if in effect during the recent flood, would have reduced the stage at Pittsburgh by 10 feet, and the stage at Evansville by 2 feet, with corresponding reductions at intermediate points. The system would have reduced the outflow of the Ohio River at Cairo by approximately 200,000 cubic feet per second. It is thus clear that reasonable protection for the Ohio River Valley must include not only a comprehensive reservoir program for the reduction of flood stages, but also the provision of flood walls to provide for full protection for the more densely settled areas of population. The full plan will probably require an extension of present authorizations in the Ohio River Valley in the neighborhood of $600,000. In addition to the protective measures for the Ohio River Basin, consideration is also being given to the advisability of constructing reservoirs in the Missouri River Basin to reduce the flood discharges from the upper Mississippi River, and in the Arkansas and White River Basins, to prevent the discharge from these streams cresting at their junction with the Mississippi River to jeopardize remedial measures provided for the lower river.

I hope to have completed my study of the field reports sometime during the next week so that my own report may be submitted to the chairman of the Flood Control Committee of the House of Representatives. I may assure you that it is being expedited in every way practicable so that factual information may be available for the consideration of Congress at the earliest possible date.

We now have in our approved Budget estimate the sum of $30,000,000 for application to the flood-control bill of 1936, which provided a total authorization of $315,000,000. We received sufficient funds from the emergency-relief appropriation to proceed with the field investigations necessary to permit the prompt start of work on the projects authorized in that bill. These investigations have been completed and the engineering requirements have been met, so that work can be started very promptly on all of the projects in that bill.

To sum up, we have developed plans for the projects now authorized; we have the factual information to submit to Congress covering any additional projects that now appear necessary. Subject to fulfillment of the conditions of local cooperation as established in the Flood Control Act of 1936 or as may be modified by the present Congress, we are ready to go forward as rapidly as funds are made available. There need be no delay.

The Mississippi Valley Association is a public organization representing many thousands of our citizens located in the Mississippi River Basin vitally interested in the improvements undertaken or to be undertaken by the Federal Government in that basin. It has every reason to be proud of its accomplishments to date. The Corps of Engineers has been responsible for the engineering execution and development of this work in the past. Our task has always been facilitated by the cooperation and enthusiastic support which we have received from you.

I am indeed happy to have had the opportunity to be with you today and to express once more our appreciation of your unfailing support.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. RUSH D. HOLT

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, March 22 (legislative day of Friday, Mar. 19), 1937

RADIO ADDRESS BY HON. RUSH D. HOLT, OF WEST VIRGINIA, MARCH 16, 1937

Mr. HOLT. Mr. President, I ask unanimous consent to have printed in the RECORD an address on the proposal to

reorganize the Federal judiciary delivered by me over the radio on March 16, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

President Roosevelt, in his message to Congress on the reorganization of the Federal judiciary on February 5, 1937, said that more Judges are needed on the Supreme Court because of crowded dockets, also because of the physical and mental infirmities of the Judges who are past 70 years of age. A little over a month later, in his fireside chat of March 9, 1937, the President, by implication, retreated from this position and disclosed the real reason for his proposal. This retreat was occasioned by a terrific bombardment from all sides, which definitely proved that the President's original contentions are fallacious. He now makes the plain assertion that his proposals for the reorganization of the Supreme Court are necessary because that body must be made to goose-step with the President.

Before discussing President Roosevelt's present position on the reorganization of the Supreme Court, I would like to discuss his original position which was presented in his message to Congress of a little more than a month ago. We know his past position, we think we know his present position, but what his position will be tomorrow no one can say. My remarks, therefore, must be limited to the position he took in his message of February 6 and his present position as expressed in his speech of March 9.

Let me repeat the President's statement in his message of February 5, when he said that the reorganization of the judiciary was necessary because of overcrowded Federal dockets. This charge is amply refuted by the President's own Attorney General, who in his last annual report said: "The work of the Supreme Court is current, and cases are heard as soon after the records have been printed as briefs can be prepared. Prompt hearings and decisions were had in all cases of large public interest." Thus, the President's Attorney General refutes the charge that additional Judges are needed because of crowded dockets.

The President also charged in his message to Congress of February 5 that the Federal judiciary is burdened with aged and infirm Justices who are unable to satisfactorily perform their duties. In speaking of this matter, he said that Justices over 70 looked at new facts through old and blurred glasses. Let us examine this charge in the light of the President's own record. When we examine the record, as shown by a survey made by an outstanding student on this problem, we find that more judges who have passed the age of 60 have been appointed by President Roosevelt than by any other President since the turn of the century. The facts are that President Taft appointed three judges over 60; Wilson, one; Harding, four; Coolidge and Hoover, seven each. Now, let us look at Roosevelt's record. He has appointed nine judges over the age of 60, which amounts to more than Taft, Wilson, and Harding combined. In addition, he has named two other judges who, at the time of their appointments, were past 59. One of the Federal judges, appointed by President Roosevelt, is Judge Morison, who was over 70 years of age when the Senate received his appointment. Thus it is apparent that President Roosevelt, in the appointment of Federal judges, has not practiced what he now advocates. It was President Roosevelt who says that he now is beset by "aged and infirm" Justices who led the parade of recent Presidents in the appointment of old judges. President Roosevelt, in his fireside chat, advocated the reading and rereading of the Constitution and the Bible. I have followed his advice and have found in the Bible these words:

"By their fruits ye shall know them."

In addition to the appointment of a larger number of old judges than any other President since the turn of the century, President Roosevelt has named a larger number of old men to positions in the Cabinet and on various Government boards and commissions. There is now before the Senate the nomination of Admiral Wiley as a member of the Maritime Commission, a very important board which deals with problems of the shipping industry. Who is Admiral Wiley and why do I mention him? He is a retired naval officer appointed by President Roosevelt. He is past 70 years of age. Again may I repeat the Biblical quotation, "By their fruits ye shall know them."

So much for the President's charges about crowded court dockets and his charge that Justices over 70 are not able to perform the duties of their offices. Now, let us examine the position which he now takes; namely, that the Justices of the United States Supreme Court should agree with the Executive in their economic views. In this connection the President has repeatedly tried to justify his position on the grounds that the people in the election of last November gave him a mandate to carry out his policies regardless of their constitutionality as determined by the courts. His position on this matter is that which has been taken by every Executive who seeks to usurp power. Not only was the reorganization of the United States Supreme Court not an issue in the last election, but whenever any questions about it were raised by opposition speakers, supporters of the administration repeatedly denied any intention to interfere with the Court. How can the President contend that his overwhelming reelection gave him a mandate to force the Supreme Court to adopt his own views of the interpretation of the Constitution? Certainly the people were not told of such a thought.

The President's whole argument for the reorganization of the United States Supreme Court is based on one reason—one word—one thought—that is power. He desires power, power, and more power.

In his fireside chat he likened the three departments of our Federal Government to a three-horse team. (Incidentally, a real three-horse team is commonly used only in Russia, from which is derived the word "troika.") The President says that the legislative horse is working in unison with the Presidential horse, but that the Supreme Court horse is not. Working in unison means doing it in the Roosevelt way. Congress has given him every—I desire to emphasize that—every power he has requested. The failure of the Supreme Court to uphold these grants has caused President Roosevelt to become provoked at the Jurists.

In his drive for the gain of power it will be worth while to look at the developments.

Soon after his first inauguration President Roosevelt addressed a letter to Mr. William Humphreys, of the Federal Trade Commission, suggesting his resignation. It will be recalled that the Federal Trade Commissioners are appointed for 7 years and are not under the dictates of the Executive. Yet President Roosevelt wanted him removed. Again in August the President requested the resignation. Again this was refused. Finally, on October 7, 1933, the President removed him from office, not because of any offense, except one, and that was stated in Roosevelt's own letter. The offense was that he did not see eye to eye with the President on policies. The case was carried to the Supreme Court, and on May 28, 1935, the Court, by unanimous, not just by the so-called conservative membership, but unanimously decided that the President had overstepped his rights. From then on the President became interested in the membership of the Court. Never before, according to statements of the President himself, had he thought the Court had blurred glasses.

The very same day as the Humphreys' decision, the Supreme Court handed down the Schechter case outlawing the N. R. A. Justice Cardozo, who I am sure the President would not call a reactionary and who is under the 70-year age limit, stated in his opinion that the N. R. A. was "delegation running riot." I need not review the organization and set-up of the N. R. A. except to say that it gave to minor bureaucrats and code authorities rights to punish anybody anywhere for not obeying rules, regulations, and orders promulgated by them. This also added much power to the President himself. The decision was not 5 to 4, or 6 to 3, but 9 to 0 where those with good glasses saw alike with those with blurred glasses. "Delegation running riot." A prophetic phrase, not from a conservative on the Bench, but one that has upheld many New Deal measures not upheld by other members of the Court.

So again, the President became peeved. May I say that he became mad and issued his famous "horse and buggy" statement. Why? Because he had been deprived of power that was not his.

Yet, he has intimated that if he can add six more members to the Supreme Bench, he can put life into the dead eagle and make it fly once more with the squawking of Gen. Hugh "Crackdown" Johnson and others who are supporting the Court plan.

May I refer to a letter written by President Roosevelt on July 5, 1935, to Congressman HILL, concerning legislation before the House of Representatives? He said:

"I hope that your committee will not permit doubt as to constitutionality, however reasonable, to block the suggested legislation."

Now, get that—"do not permit doubt as to constitutionality, however reasonable, block the passage of the legislation." Then when the Court outlaws the act as beyond the Constitution, he says that the Court is wrong, that it has economic predilections.

The President says now that the way to cure the impasse is to add six more Justices. Let me refer to the President's own words in his book Looking Forward, pages 195 and 196. He says:

"In the face of this congestion the remedy commonly proposed is to add new judges of new courts, but it will readily be seen that if the problem is what I have stated it to be, such a so-called remedy merely aggravates the complaint. There are, of course, legitimate demands for additional judicial manpower in the sections where the population has grown rapidly. But it is easy to see that to apply this remedy in all cases is to add to the ravages of the disease, to contribute to the confusion, and, what is profoundly important at this time, to burden still further an already seriously embarrassed taxpayer."

I again say these are not the words of one opposing the President's plan but of the President himself. May I refresh your memory with the quotation that it will add "to the ravages of the disease, contribute to the confusion", and add to the taxpayers' burden?

The President has retreated from his position of crowded dockets. His own record proves that he does not support the conclusion that aged men are unfit to perform their duties.

It is a known fact that the President desires to have a Supreme Court that will see the constitutionality of laws not according to the Constitution, but according to the President's own viewpoint. His irritation at the Court began when he was deprived of power. It became aggravated as he was again prohibited from encroachment beyond his constitutional rights. I appeal to all the citizens of the United States to manifest their interest in this plan that would destroy an independent judiciary. Make your desires known. Exercise your guaranteed constitutional right of petition. The forces of the pay rollers, those people who are being paid as your governmental servants, and those who have selfish interests in the advancement of the proposal are working steadily to bring pressure upon Congress. You, too, must get busy. The Federal administration with its powerful force, patronage, and prestige is working day in and day out to drive Congressmen and Senators

into line behind the proposal. The Postmaster General has let it be known that punishment to the independent and reward to the follower will follow the vote on this proposal. In other words, it will not be decided upon calm and considerate judgment of the legislative branch of the Government, but by power, the same sort of power that the President has used to drive through his other "must" bills. Power used by the President to acquire more power. Therefore, if you are interested in a constitutional government and if you believe in the American way of amending the Constitution instead of changing it by Executive packing of the Court, I appeal to all of you to let your wishes be known. You must be on the watch. Eternal vigilance is the price of liberty.

Philippine Independence Immediately—What Was the Purpose of the Recent Celebration of the Philippine Commonwealth?

EXTENSION OF REMARKS

OF

HON. KARL STEFAN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1937

Mr. STEFAN. Mr. Speaker, today the Honorable Paul V. McNutt, the new High Commissioner to the Philippine Islands is leaving the Nation's Capital for Manila, P. I., to assume his official duties. I wish to join other Members in wishing him godspeed.

I take the floor today, Mr. Speaker, to briefly discuss Philippine independence because of my great interest in this matter, and because I was one of those Members who, a year ago, went to the Philippine Islands to take an official part in helping to celebrate what we were told many times was the "birth of a new republic."

I have felt that I should again make some mention of these matters because of the great importance which should be attached to recent statements made by His Excellency Manuel Quezon, President of the Philippine Commonwealth, to the effect that he is anxious for shortening of the "trial period" or "commonwealth period." The Philippine President and his party have been in the United States many days. They have been given a warm welcome by American citizens and many newspaper articles have been printed about their visit and regarding reasons for their visit here at this time.

We have read with a great deal of interest, Mr. Speaker, the statements in the New York Times indicating that the Philippine President was here for the purpose of shortening the commonwealth government period. And we have read with a great deal of interest in the same newspaper an alleged denial of the Philippine President that he had given an interview to that effect. Today we read the joint statement of the Philippine President and an official of the State Department, indicating that the New York Times correspondent had not overstated the facts and that a conference will soon be held with the shortening of the commonwealth period as the main objective.

I plan in the near future to take the floor and talk at some length on the Philippine question, but to keep the record straight, I wish Members to know that the idea of immediate Philippine independence came to Washington from the islands fully a week ahead of the issuance of the joint statement made by President Quezon and Assistant Secretary of State Sayre. It came in the form of resolutions from the veterans of the Philippine Insurrection. This resolution, however, was given no publicity but was followed a week later by the first official word from the Philippine President that he is here for "earlier independence."

Mr. Speaker, I have taken this floor frequently to discuss economy and efficiency in Government expenditures. I have urged the combining of the Army and Navy under one head for the purpose of efficiency, economy, and peace. I have frequently urged that we carry out the promise we made to the Philippine people regarding complete independence. I have urged many times, and I urge now, that we bring back our armed forces from the Philippine Islands for the purpose of saving millions of dollars annually which we are spending out there for an idle army. I have always felt that as long as we are in favor of real independence for the Filipinos we should not keep an armed force in the islands, because I feel by so doing we are menacing any possible real independence for those people.

My interest has also been centered on a real Yankee trade proposition with any country which ships to us a competitive farm product. I am deeply interested in keeping the excise tax on coconut oil. A tax which I believe is saving millions of dollars for the American producer of fats and oils and at the same time gives the Philippine people a fair trading program. In my great interest to preserve the American market for the American farmer I hope that Members of this House will study more the proposed agreements or treaties with the government of the Philippine Islands. It is my belief that some economic program will soon be worked out for the islands by our State Department and that we may soon get some Philippine legislation in this House.

When that comes to us I urge Members to see to it that no trade agreements or treaty between the United States and the government of the Philippine Islands shall permit the entry into the United States from the islands in any 12-month period of any merchandise in an amount in excess of the quantitative limitations with respect to such merchandise in force and effect at the time of the passage of any trade legislation. Also I feel that in passing any such legislation no trade agreement should be made until such trade or treaty is ratified by the Senate of the United States.

Mr. Speaker, by leave given me I submit the resolution of the veterans of the Philippine Insurrection and also the joint statement by Mr. Sayre and President Quezon:

ASOCIACION DE LOS VETERANOS DE LA REVOLUCION,
DIRECTORIO CENTRAL,
Manila.

Resolution approved by the Veterans of the Revolution in their annual assembly held in Manila, Philippine Islands, on the 7th of February 1937

Whereas the Association of the Veterans of the Revolution was organized (by those who fought against the sovereignty of Spain and against the armed forces of the United States for the liberty and independence of the Philippine Islands) for the purpose of pursuing, within the ways of peace, the achievement of their ideal;

Whereas the act of the Congress of the United States known as Tydings-McDuffie Act, passed on the 24th of March, 1934, provides that the independence of the Philippine Islands shall be proclaimed after the expiration of 10 years from the date of the inauguration of the Commonwealth government;

Whereas the Filipino people have accepted the independence act because assurance of modifications of its objectionable clauses were given;

Whereas the President of the United States, in his message to Congress, recommending the approval of the measure, stated that any inequalities or imperfections of the bill could be later adjusted or corrected;

Whereas Senator JOSEPH T. ROBINSON, of Arkansas, declared in Manila in November 1935, that he was willing to support a petition from the Filipino people to shorten the transition period;

Whereas Senator W. H. KING, of Utah, has made a similar statement recently;

Whereas many of the members of the congressional party who came to attend the inauguration of the Commonwealth government of the Philippines in November 1935 declared, when they returned to the United States, that they were convinced of the necessity of any early withdrawal of the American sovereignty from the islands;

Whereas the Hare-Hawes-Cutting Act was passed by Congress, even after having been vetoed by the President of the United States, at a time when the Chief Executive belonged to the Republican Party, the Senate majority Republican, and Democratic the House majority.

Whereas at present the legislative and executive branches of the Federal Government of the United States are under the control of the Democratic Party, which in all its political platforms has invariably advocated for the early grant of independence to the Philippine Islands;

Whereas prominent leaders of the Republican Party are convinced that the United States should not continue in the Philippines with responsibility without authority, and are therefore willing that Congress grant the islands their immediate independence;

Whereas the geographical situation of the Philippine Islands is considered the weakest point in the defensive scheme of the United States in case of war;

Whereas it is true that the Filipino people acknowledge the highly meritorious and disinterested work of the United States,

under whose direction the inhabitants of the islands have achieved great material and intellectual progress and have enjoyed a large measure of freedom it is, nevertheless, true that notwithstanding the acceptance of the Tydings-McDuffie Act they are anxious to obtain their immediate, absolute, and complete independence.

Therefore the delegates of all the departments of the Association of Veterans of the Revolution, assembled in their annual reunion under the presidency of Gen. Emilio Aguinaldo, unanimously resolve:

1. To request, as it is hereby respectfully requested, the honorable President of the United States, the Congress, and the people of that great Republic to pass a law granting the Philippine Islands its complete independence during the administration of the honorable President Franklin D. Roosevelt, providing also that the trade relations between the United States and the Philippines shall be embodied in a treaty to be negotiated between the United States and the Philippines.

2. To request, as they do now request, the honorable President of the United States to kindly initiate negotiations with such powers as he may deem necessary for the neutralization of the Philippines once independent as provided in the Independence Act and, should such negotiations fail to achieve their purpose, the assembly of veterans makes the solemn declaration that the Filipino people are ready to shoulder the responsibilities of an absolute and complete independence without further imposing upon the United States the burden of protecting its territorial integrity or the necessity of establishing naval bases to prevent the invasion of the islands by any power.

3. To send a copy of this resolution to the President and the Congress of the United States, to the President of the Commonwealth of the Philippines, the chairman of the Philippine delegation to the trade conference to be held in the United States, the Resident Commissioner of the Philippines in the United States, and to any other authority or entity in the United States as the president of this assembly may deem necessary.

Adopted unanimously in the city of Manila, Philippine Islands, on the 7th of February 1937, the thirty-ninth year of the proclamation of Philippine independence in Kawit, Cavite.

Certified by—

E. AGUINALDO, *President.*
ANTONIO MONTENEGRO, *Secretary.*

JOINT STATEMENT OF PRESIDENT QUEZON AND MR. SAYRE, CHAIRMAN OF THE INTERDEPARTMENTAL COMMITTEE ON PHILIPPINE AFFAIRS

DEPARTMENT OF STATE,
March 18, 1937.

Arrangements are being made for the appointment shortly of a joint preparatory committee of American and Philippine experts. The committee is to study trade relations between the United States and the Philippines and to recommend a program for the adjustment of Philippine national economy. This announcement followed conferences between President Quezon of the Philippine Commonwealth and the Interdepartmental Committee on Philippine Affairs, which is acting on behalf of President Roosevelt in the preliminary discussions. Assistant Secretary of State Francis B. Sayre is chairman of this committee.

Inasmuch as the Independence Act provides that complete political independence of the Philippines shall become effective on July 4, 1946, and inasmuch as President Quezon has suggested that the date of independence might be advanced to 1938 or 1939, it was agreed that the joint committee of experts would be expected in making its recommendations to consider the bearing which an advancement in the date of independence would have on facilitating or retarding the execution of a program of economic adjustment in the Philippines. It was further agreed that preferential trade relations between the United States and the Philippines are to be terminated at the earliest practicable date consistent with affording the Philippines a reasonable opportunity to adjust their national economy. Thereafter, it is contemplated that trade relations between the two countries will be regulated in accordance with a reciprocal-trade agreement on a nonpreferential basis.

Do You Want Political Courts?

EXTENSION OF REMARKS
OF
HON. SAMUEL B. PETTENGILL
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Monday, March 22, 1937

RADIO ADDRESS OF HON. SAMUEL B. PETTENGILL, OF INDIANA, MARCH 20, 1937

Mr. PETTENGILL. Mr. Speaker, under leave to extend my remarks I include a radio speech on the pending proposal to reorganize the Supreme Court. It is as follows:

The way we accept the rulings of the umpire is more important than the rules of the game. The latter can be changed by agreement at any time. But if the side with the most fans in the bleachers can overrule the umpire, the game can go on either not at all or only with bitterness and constant strife.

So it is with the Constitution and the courts. We have changed the rules of the game 21 times in an average period of only 14 months. I have voted for two of those changes, both of which were ratified in less than a year.

I have no doubt that any further reasonable amendment would be quickly agreed to by Congress and ratified by the people. I know the willingness of my colleagues to agree to any reasonable proposal either to outlaw the unfortunate 5-to-4 decisions or to place an age or service limit on the tenure of Federal judges.

The present unfortunate controversy could be quickly settled by the patriotic and level-headed men on both sides, the one recognizing the need for certain changes in our judicial system and the other recognizing that those changes should be made only as the rules themselves prescribe.

All necessary reform can be accomplished without delay and without doing violence to two great principles, the one that constitutional change should be submitted directly to the people and the second that we must maintain the Supreme Court and all other courts free from political pressure.

I say "all other courts" because after you have caused the Supreme Court to reverse its decisions, what bar of conscience or public opinion will then stand anywhere in America against anyone intimidating any court on any question? Already the Governor of Idaho has said that he would "pack" the supreme court of that State, if he could. Is this to be the fate of the State supreme courts and lower courts generally? Are they to be dictated to by Governors, legislatures, and party bosses? Where is this contagion of contempt for courts to end? Can you destroy confidence in courts without also destroying confidence in all public officials, and Government itself?

An independent judiciary is so vital that it ought not to be sacrificed for any supposed immediate advantage. Why is it so vital? The answer is that you have no rights unless you can assert them against government itself. Otherwise they are nothing but favors to be enjoyed or withdrawn at the will of changing majorities.

Where can you assert your rights against the will of Government? Only in courts presided over by judges protected from political pressure. Where there are no such courts there are no such rights. The preservation of that kind of courts is a matter of profound importance to racial, religious, social, and political minorities. Probably each of us belongs to one of these minorities. The majority can get their rights without the aid of Government because the majority is the Government. But if between the minority and the Government there is no one to say "no", debtors are at the mercy of creditors, or the reverse; labor is at the mercy of capital, or the reverse, depending on who at the moment is in control of the Government, and racial and religious and political minorities are the helpless victims of intolerance. For this reason we ought to think long and carefully before accepting the view that judges shall be appointed "who will not undertake to override the judgment of Congress on legislative policy."

Just what does this mean and how far is it to go?

In March 1933 Congress passed a bill which the President signed, repealing laws pertaining to war-risk insurance policies of veterans of the World War. That was the judgment of Congress on a legislative policy. But where did it leave the ex-service man? It left him "holding the bag." It meant that he could not sue the Government on his policy. That meant that his policy was worthless and the veteran or his wife and children had lost their rights. Their rights had been confiscated.

But the United States Supreme Court held that the insurance policy was a vested right protected by the due process clause of the Constitution and that Congress had no power to take away that right. The decision holding this act of Congress unconstitutional was by a unanimous Court, the opinion being written by the greatest liberal of them all, Justice Louis D. Brandeis, then aged 78 years. But neither he nor any other member of the Court was too old to protect the ex-service men of this Nation from legislative confiscation.

This case alone shows how false is the charge, now going the rounds, that the Court exists only to protect the vested rights of the rich and the strong. In this case the Court refused to be the third horse of a three-horse team which would otherwise have confiscated the property of World War veterans.

World War veterans are not likely to agree that the Supreme Court should not have the power it used in that case. In fact, long before this controversy started the American Legion in three national conventions adopted resolutions on this subject. I quote excerpts from these resolutions:

"Whereas certain men * * * are agitating legislation which would deprive the Supreme Court of the United States of authority bestowed upon it by the Constitution and would grant to Congress the final voice in passing judgment upon the legality of its own acts: Be it

"*Resolved*, That we condemn any movement that has for its object an attack upon the one Supreme Court of our country * * * or supplanting our cherished doctrine of justice for all with an appeal to the spirit of the mob, and threatening destruction of the rights of a minority under the heels of a temporary, ruthless majority."

You may be interested in other cases where the Supreme Court proved to be the final protection against the tyranny of legislative majorities.

A few years ago the State of Oregon passed a law requiring all children between 8 and 16 years of age to attend only the public schools. The effect of this was to close all private and parochial schools and to deprive all fathers and mothers of the right to send their children to schools where they might receive religious instruction. The act applied only to children 16 or under. But if this was a valid legislative policy with respect to 16 or under it would have been equally valid with respect to 16 or over. If valid, therefore, such legislation in Oregon or any and all other States or the National Congress could close every denominational school or college in the country, whether Protestant, Jew, or Catholic, including such institutions as Notre Dame University, in my Congressional District.

This case of Pierce against the Society of Sisters of Jesus and Mary was therefore of the greatest importance and was defended not only by the schools directly concerned, but by the American Jewish Committee, the Seventh-day Adventists, and the Protestant Episcopal Church of the United States.

The Supreme Court, speaking through Justice McReynolds, held unanimously that the act was invalid and in words of simple eloquence said that "the child is not the creature of the State." Because it was a free Court and not a political Court it overrode the people of Oregon on a legislative policy which conflicted with the supreme law of the land. Because it did so it guaranteed that every father and mother in America, now or in the future, who may wish to send their boys and girls to schools or colleges where they will receive religious as well as secular education, may do so if they choose. Among the denominations which conduct private or parochial elementary and high schools in the United States are the Baptist, Congregationalist, Episcopal, Quakers, Latter-Day Saints, Methodist, Presbyterian, Lutheran, Catholic, Seventh-day Adventists, and others.

If in any other State or in the National Capital there should some day be those who held similar views of legislative policy as those in Oregon, and if the Supreme Court of the United States might be controlled in its decision by creating additional Judges who would overrule the case of Pierce against Society of Sisters, what would the rights of religious minorities then amount to? They would be gone with the wind.

It is plain that if you can by certain methods get different interpretations of the interstate-commerce or general-welfare clauses of the Constitution, you can by the same methods get different interpretations of any other clauses of the Constitution, including the Bill of Rights. Do you want to sanction a move that would be a precedent for doing that very thing?

This is why the sincere well wishers of the President are very much concerned with the possibilities contained in the pending proposal. The method, we think, is bad and the precedent is fraught with immeasurable danger, however desirable certain objectives may be. These objectives can and should be secured by other means. We ought not to take short cuts with either the fundamental rights of the citizen or the independence of our courts. When we destroy or impair the freedom of our judges to decide our cases we destroy or impair our own rights as citizens. For this reason men who have given their lives to liberalism in government, like Senator WHEELER and Rev. John Haynes Holmes, view the pending proposal as reactionary in the extreme. It is the bridge upon which a Fascist government could cross to power.

People say "it can't happen here." But it has happened here, and it is happening here. Only the other day I read that there is a bill now pending in the Missouri Legislature to prevent certain Jewish physicians from practicing medicine in that State. Many similar statutes have been proposed and no doubt more will be proposed. They also may be considered matters of legislative policy, but as long and only as long as we have free courts under the Constitution no such discrimination will be practiced in America as is now practiced in European countries where the courts are part of the three-horse team of a political government. Racial minorities are especially concerned in maintaining the absolute independence of the courts from the pressure of political majorities.

A few years ago in a time of war hysteria the States of Ohio, Iowa, and Nebraska passed laws forbidding the teaching of any foreign language in any school, public or private. In each case teachers were convicted and sentenced and in each case their convictions were upheld by the supreme courts of each of these States. Why they did so I do not know. Possibly their decisions were influenced, in part at least, by the same political pressures which caused the legislatures and Governors of those States to approve those laws. But above those courts there was the Supreme Court of the United States, composed of men not responsible to Governor or legislature or political majorities at elections held or to be held.

It was a free court and not a political court. It reversed the judgments of conviction in each case on the ground that the statute was in conflict with the Constitution, which forbids either legislature or executive depriving "any person of life, liberty, or property without due process of law." The liberty to teach or to learn a foreign language is a liberty which cannot be taken away by either State or National legislative bodies as long as our courts are free.

This decision is of profound importance to teachers, parents, children, and, more indirectly, newspaper publishers, representing every racial minority in America, whether German, Polish, Hungarian, Italian, Belgian, Syrian, Jewish, Russian, Bohemian, French, Spanish, or any other group. It applies to all alike and protects all alike.

Do you want this constitutional protection to be sure to continue now, 4 years from now, 8 years from now; or do you want to take the chance that the majority will look after the interests of the minority?

Let us consider another case decided by those "nine old men" only a year ago. It involves a great principle of the Bill of Rights, the freedom of the press and the freedom of the citizen to have a free press to read. At a time when Huey Long was the one-horse team in Louisiana, having a rubber stamp legislature and a rubber stamp court, he had just one opponent left worthy of his steel—the larger newspapers of Louisiana. So to bring them to heel or to drive them out of business as critics of the way he was conducting the government, a statute was passed placing a prohibitive tax on the advertising revenues of papers having a weekly circulation of 20,000 copies or more. The little newspapers had already been frightened into silence.

It was useless, of course, for these newspapers to appeal to the State courts of Louisiana. They were under political domination. The only refuge the papers had was the Supreme Court of the United States, not responsible to Mr. Long, whether he was Governor, Senator, or President. The act was unanimously held unconstitutional. Mr. Justice Sutherland, who wrote the opinion, recalled the long struggle of generations to "establish and preserve the right of the people to full information in respect to the doings or misdoings of their government" and concluded that "to allow the press to be fettered is to fetter ourselves." This is one of the great liberal opinions of all time.

It will not do to say "it can't happen here." It did happen here in Louisiana. Louisiana had a dictatorship under the shell of democracy. It could happen, and may happen, in any other State capitol. It could happen in the Capitol of the Nation. Millions of people have confidence in President Roosevelt. But they have no confidence in his successor, whoever he may be, less than 4 years from now. And if it did happen here in Washington a few years from now, how many millions who now see no danger in the pending proposal might then regret it bitterly—and too late.

A power once used by a well-intentioned man to remake the Supreme Court would surely be seized upon by an evil-minded successor, and we then are headed back to the dark jungle of absolutism in government. This is more power than a good man should want or a bad man should have.

There are 12,000,000 Negroes in America. What is their interest in maintaining the Supreme Court free from political pressure? Not long ago three illiterate Negroes in a Southern State were convicted of killing their white employer. The only evidence against them was the tortured confessions wrung from their lips by methods which recalled the Dark Ages. Nevertheless, they were convicted and sentenced to die by a jury whose verdict was approved by the judge, and affirmed by the highest court in that State. They faced the last long mile.

But between them and the gallows there was one detour left—the Supreme Court of the United States, composed of nine men not responsible to anybody but their conscience and their oath to preserve this Constitution and with it the constitutional rights of every American, white or black, rich or poor, Protestant or Catholic, Gentile or Jew.

It was a free court and because it was free, and only because it was free, it held unanimously within the past year that the Constitution protected these three helpless, illiterate Negro boys who could not even read the Constitution.

The Court said that "the torture chamber and the wrack cannot be substituted for the witness stand" here in America. Those words were pronounced by one of these "nine old men"—Hon. Charles Evans Hughes. When he said them he not only gave a new trial to these three men, but gave added safety and protection to the 12,000,000 men and women of their race and to all other men who might be the victims of mob rule or the third degree. I am sure they are going to think a long time before joining in any effort that will or might subject the Supreme Court of the United States to political pressure.

It is popular nowadays to say this Court always decides against labor. I do not agree with all decisions of the Court, such as the New York minimum-wage case, and the railroad-pension case. But before condemning our Judges let us in turn give them a fair trial. That is what we ask of them and what they have a right to ask of us.

Let us look at the labor record of this great Court. It is easy to forget the favorable decisions, easy to remember the unfavorable cases. We never forget the "fish that got away." But we must recall the whole record, or we judge the Court without the evidence.

Labor lost the railroad-pension case, but won the Adamson railroad 8-hour case; and, in passing, let me say that the railroad-pension case is no longer important, because of an agreement made this week between the railroads and the brotherhoods. Labor lost the child-labor case, but won the vitally important Kansas compulsory arbitration case which gave the State the power to fix maximum as well as minimum wages—something labor has always fought, and may have to fight again.

For every case unfavorable to labor there have been many unfavorable to capital. This can be proven from the record. About 100 cases have gone to the Supreme Court involving State and Federal legislation in which labor was vitally interested. The record proves that 80 out of these 100 cases have been decided favorably to labor as against the bitter opposition of capital which cried "confiscation of property" at the top of its voice. Eighty out of one hundred is a fair batting record in any league.

What are a few of these 80 cases? Every case affecting hours of work and conditions of labor for women. Every case involving employers' liability laws. Every case abrogating the fellow-servant doctrine. Every case involving workmen's compensation laws. Labor has won every single one of these cases in the United States Supreme Court against the resistance of the capitalist. Let us continue: Illinois, child-labor law; Oregon, 10-hour day in factories; Utah, 8-hour day in mines; Kansas, 8-hour day in public works; Arkansas, full train crew; Indiana, railroad safety appliance; New York, semimonthly wage payment in cash; Virginia, labor forbidding payment of wages in merchandise; Tennessee, forbidding workers being compelled to buy at company stores; Missouri, requiring service letters to be given workers when leaving employment; California and Washington, protecting citizen workers from alien labor competition from Japan and China; New York, rent-control and housing laws, all mechanics' lien laws giving the worker a lien on the thing his labor creates so that he will be sure of payment; laws giving labor claims preference in bankruptcy or receivership; and countless other laws dealing with dangerous machinery, unsanitary working conditions, etc., all costing capital real money and labor nothing.

Congressional legislation asked by labor and fought by capital held valid by the Supreme Court include the Second Federal Employers' Liability Act; the La Follette Seaman's Act; the Railroad Safety Appliance Act; the District of Columbia Rent Control Act; the Packers and Stockyards Act; the Clayton Act, regulating injunctions and providing for jury trial in contempt cases. All of these have been sustained by the Supreme Court.

In the light of this record how unfair it is to say, as is so often said, that "in every instance" the courts have annulled acts to safeguard the rights of labor.

The Supreme Court has specifically upheld the right to strike; the right to be protected against the blacklist and boycott of employers; the right to organize unions and bargain collectively. Of the 20 cases lost out of the 100, at least half, or 10, turned on the wording of the statute and could be cured by more careful draftsmanship.

As against the cases lost by labor in the Supreme Court, consider the cases lost by capital—the chain-store cases, the Northern Securities case, Tobacco Trust, Standard Oil Trust, Trans-Missouri Freight Association, Packers' Trust, Reading Railroad Coal Trust, Retail Lumber Trust, Linseed Oil Trust, the cancelation of the Teapot Dome lease, and many others holding illegal giant combinations of capital. In all these cases Wall Street interests condemned the Court in bitter terms.

Eighty cases out of one hundred decided in favor of labor against capital. That is the record. Anyone may read it. Volume and page can be given.

Perhaps by changing the Court and so changing the Constitution it may or may not be wise to transfer from the States to Congress complete power to deal with all labor conditions throughout this vast country, whether farm labor or city labor, and from the biggest city to the smallest town. I express no personal opinion on that at this time. I call attention to three points only: First, where are the rights of labor today in every country in the world where a central government runs the whole show? Second, this was not the view of old Sam Gompers. In one of the last speeches he ever made he said, "If I were in a minority of one in this convention, I would want to cast my vote so that the men of labor shall not willingly enslave themselves to government authority in their industrial struggle for freedom." Third, labor has won important cases, such as the United Leather Workers' case, only because the Supreme Court held that Congress does not have the power to deal with labor conditions in the States which do not directly affect interstate commerce.

If Congress under the general-welfare clause is to have unlimited power to legislate on all matters affecting labor, the leather workers would have lost this case and not have won it. Suppose Congress decides, and it will be for Congress to decide, that the general welfare would be served by abolishing the right to strike, as in Italy and Germany today, or by compulsory arbitration, or, in order to prevent inflation, by fixing maximum as well as minimum wages, as is now done in Europe. It was matters such as these that Sam Gompers had in mind when he warned his friends of the evil as well as the good in "submitting their fate industrially to the Government."

In conclusion, let us "stop, look, and listen." Let us not rush to sudden action. Let us talk this question over with good temper and an honest desire to see the other fellow's point of view.

The real issue is not whether certain decisions were right, but whether the Court, and all courts, shall be free to act rightly.

Under a written Constitution changed only by the people themselves, and interpreted by independent judges, we have come a long way here in America and have built a great country, the greatest in the world today and in all the history of the past. Great problems still confront us. We all want to solve them. Will we be more sure of their lasting solution by the time-tried and tolerant methods our fathers used or shall we in heat and anger use methods which in other lands have regimented childhood, conscripted labor, both in the city and on the farm, forbidden free speech, abolished the ballot of free government, and destroyed religion?

What Is Money—"No Institution of Civilization Is of Greater Importance Than Money"

EXTENSION OF REMARKS

OF

HON. COMPTON I. WHITE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1937

QUOTATION FROM THE FAMOUS SPEECH OF SENATOR JONES, OF NEVADA

Mr. WHITE of Idaho. Mr. Speaker and Members of the House, so much confusion seems to exist in the public mind concerning money and the present monetary system of our Government that I deem it worth while to present some of the fundamental principles of money and finance for the consideration of those who state that they "do not understand money and do not believe that anyone else does." To these publicists and statesmen I recommend they turn to the able presentation of the money subject on the floor of the United States Senate by that eminent authority on money, Senator John Paul Jones, of Nevada, from which the following is taken:

Essentially money is not a material thing but a function, which function vitalizes and gives value to the piece of material which serves as the bearer of the function.

MONEY—DERIVATION AND SIGNIFICANCE OF THE WORD

But while money is a function rather than a material, yet it is correct enough by a species of metonymy to designate by the name "money" the material on which is impressed the symbol of the supreme authority of the Nation, by right of which alone any object may exercise the money function. For, as we say that a man has a clear head when we mean that his judgment is good, or that he is a brilliant man when we mean that he has a superior mind, so the name "money" may with propriety attach to the thing upon which the money function is impressed.

The word has a peculiar derivation—one that should invite reflection. It comes to us from the Latin word which signifies a warning. The coining operations of the Romans were long carried on in a temple dedicated to Juno, under the appellation of Juno Moneta, because on the occasion of an important battle the goddess had given to the Romans a warning or admonition, by taking advantage of which they were successful. Thus the origin of the word has a significance far beyond that which the Romans intended—a significance which has continued to the present time and will continue while man inhabits the planet. This warning, correctly interpreted, signifies that no institution of civilization is of greater importance than money. To a free people especially it signifies that none should be more sedulously studied, none so carefully regulated, none so vigilantly guarded, if they would preserve not alone their prosperity but their liberties.

Money being useless to man in a condition of isolation, and therefore entirely a societary instrumentality, it must be the creation of society (that is to say, insofar of governments) and cannot be that of an individual, except as he may derive power from the supreme authority—the authority which represents the people in their collective capacity.

Money may be composed of anything capable of division and identification—division in order that the pieces may be convenient for handling, and identification that all men may know these pieces to be duly authorized units of money.

So long as those pieces are capable of complete identification and can, regardless of the credit of the persons using them, be passed and received from hand to hand in the community, in final payment for commodities and services and in full legal discharge and liquidation of debts, they constitute money, without reference to the material of which the pieces may be composed. This is the teaching of history and the unavoidable deduction from the reasoning of the leading economists—a deduction from which there is no more escape than from the principles of human reason.

But while, abstractly considered, the material is of no importance, yet from the point of view of the habits and customs of a people the material is of much importance, provided there be enough of it to maintain the general range of prices of commodities at a steady level. A people's habits and customs are not to be ignored with reference to the material of the money which they shall use any more than with reference to anything else which has been hallowed by time. A material that has been in use among a people from time immemorial can more readily be

continued in use than can a new material find acceptance. But inasmuch as it is not for its own sake that money is needed, but in order to effect exchanges and maintain the equities of time contracts, if there be not enough of such material to maintain the general range of prices at a steady level, there should be no hesitation in adding to it a sufficient quantity of some other fitting material to accomplish that purpose.

THE VALUE OF MONEY SHOULD BE UNCHANGING

While, in discussing the question of money, some of the minor authorities have exhibited much confusion of thought, the great authorities—the dominating minds—give us a body of principles which compel the mind in search of truth to accept the principle that whatever society decrees to be money is money. As Prof. Francis A. Walker says: "Whatever does the work of money is money—whatever performs the money work is the money thing."

The value of the unit of money, so far as human wisdom and prescience can provide, should be unchanging. The expression "value of money" does not mean the commodity value of the material, but the money value of the unit. Money is valuable, not for the power of being transformed into one thing, or, as is said, of being "redeemed" in one thing, but the infinitely greater power—the power which the alchemists sought, and which Aladdin foreshadowed—the matchless and magical power of commanding, as by the wave of the enchanter's wand, the transformation and transmutation of all things into one another at will. This is the power which constitutes money the greatest instrumentality of an advancing civilization. In comparison with this all-embracing power how insignificant the power which commends the material thing on which money function may be placed to the admiration of savages for the trivial purpose of decoration—whether the decoration be as with the more civilized people for the wrist and the neck or, as among less civilized, for the ankle and the nose. Money has value for the reason described by the prophet—because it "answereth all things."

Money not being essentially a material thing, but an office or purpose served by a material thing, its value does not, as I have stated, depend on the cost of production, or the cost of reproduction, of the material which may be selected to bear the evidence of monetary authority.

HOW VALUE OF MONEY IS DETERMINED

The sole constituents of its value are supply and demand; that is to say, the supply of money and the demand for money.

In a system of civilization such as ours, based upon a division of labor by which men no longer make complete articles, but only parts of articles, no man can by his own efforts supply directly anything but the merest fraction of his own wants. He can only secure the satisfaction of all his wants by exercising his skill in his own vocation, and by disposing for money of the articles or parts of articles which he has made, demanding, through money, such other articles as he needs. Inasmuch, then, as it is through money that men seek the satisfaction of their wants, it is on money that the first demand for all things presses.

In modern civilization none but mendicants make demand directly for coats, hats, shoes, or other things. When men want hats, shoes, or clothes they do not offer to exchange labor directly with the hatter, the shoemaker, or the clothier. Each offers his labor to employers of his own trade, and with the resultant money makes an effective demand upon the hatter, shoemaker, or clothier. All objects that are useful to man and desired by him are thus obtained by means of money. Hence the demand for money is equivalent to the demand for all other things, and must always be infinitely greater than the demand for any one thing. As to any other article or object, the demand is merely for one article or class of articles; as to money the demand is a demand not for one article but for all articles.

The competition for money therefore is not only incessant but instant, urgent, importunate, and universal. So long as men have needs it will be ceaseless and unremitting. Each worker gives his services not for goods to be obtained from the maker of such goods, but for money to be obtained from his own employer. Each employer, in turn, parts with the goods made by the workman, not directly for other goods but for money. Thus all men are engaged, each in his own vocation, in unceasing competition with every other man, for units of money—each hatter in competition with every other hatter, each shoemaker with every other shoemaker—and so the process continues through the long round and procession of occupations.

The competition for money is therefore equal to the competition for all other things combined. The demand for it is equal to the sum of the demand for all other things.

As to the supply of money upon which that demand is made, it does not consist of any special kind of money or material of money. The demand is for any or all kinds or materials that may be in use as legal tender and which may be decreed by society to be money. The supply of money in a country, therefore, is not the supply of a particular kind but the total supply of all kinds—the number of monetary units either at the time in actual circulation or susceptible of being at any moment placed in circulation.

Here we have an equation in which, on one side, stands a total demand for money and on the other a total supply of money. The force of demand operating upon supply determines the value of money. The important feature of this value is not the total value of all the money in a country, but simply the value of the unit. As already stated, money has not a value distinct and apart from purchasing power.

Yet there is no fallacy so universally accepted and adhered to in the popular mind as that the value of money means the cost of production of the material of money. It especially suits the purpose of the champions of the gold standard that the masses of the people shall be led to believe that the value of money depends on the value for commodity uses of the piece of material on which the money stamp is placed, because inasmuch as gold has now free access to all the European mints, and there is no charge for coinage, the mint price will naturally be and remain, invariably, the commodity price, while the portion of silver that has no access to the mint may, for commodity purposes, be of less value or price, stated in terms of gold, than the ratio established by law for such portion of that metal as may be made into money.

One of the metals being potentially money as soon as smelted from the ore or dug from the sand, while a portion of the other is left uncrowned and devoid of the money function, no comparison can be instituted between the uncrowned portion of one and the crowned portion (which is the entire portion) of the other. It must be observed that all the silver that in any country of the world is in full use as money of final payment—such portion as has been crowned (as all gold has been crowned)—has the full power and value of gold money at the relation established by law. No man can show any difference between them in their power to purchase commodities or property. What sense, then, is there in these statements about a 60-cent dollar? If the men in high station, selected by the people for their supposed fitness for the places to which they were chosen, would give to a subject of the importance of this one-half the time they devote to matters of trifling consequence, they would not mislead the people who have reposed confidence in them.

NO VALUE IN MONEY EXCEPT PURCHASING POWER

Anyone who will note what the economists say as to the meaning of the term "value of money" will have no difficulty in arriving at a clear comprehension of it. John Stuart Mill says:

"The value of money is, to appearance, an expression as precise, as free from possibility of misunderstanding as any in science. The value of a thing is what it will exchange for; the value of money is what money will exchange for—the purchasing power of money. If prices are low, money will buy much of other things, and is of high value; if prices are high, it will buy little of other things, and is of low value. The value of money is inversely as general prices, falling as they rise, and rising as they fall." (Political Economy, book III, ch. 8.)

This statement of the great economist can hardly be misunderstood. He applies the term "value of money" wholly to the relation which money bears to commodities, not to the cost of production of the material of which money is composed. After saying that "the value of money is what money will exchange for", he adds that the value of money is "inversely as general prices—falling as they rise and rising as they fall"—showing that he regards the value of money as wholly a question of its purchasing power.

On the same subject Prof. F. A. Walker says:

"When we speak of the value of either gold or silver we mean the power it has to purchase other commodities, including the one element of money besides itself." (Money, p. 230).

And again Professor Walker says:

"Economists have been wont to make this distinction between value and price: Value is purchasing power—power in exchange; price is the power to purchase money—it is the money value of commodities. Money itself, then, while it has value (the value of a given amount of money being measured by the quantity of commodities it will purchase) has not price." (Money, p. 229.)

Professor Sidgwich emphasizes the signification of the term by stating that in economic discussion there is no method of avoiding confusion except by always and everywhere insisting that the only correct interpretation of the term "value of money" is—

"The purchasing power of money, or its exchange value measured in commodities other than money."

Professor Fawcett, once a Cabinet Minister of Great Britain and a distinguished professor of political economy in the University of Cambridge, is equally emphatic as to the meaning of the term "value" when applied to money. He says:

"When, therefore, in political economy the precious metals or the value of money is spoken of, the purchasing power of money is referred to; or, in other words, the power of money to obtain other commodities in exchange for it."

He continues:

"It must, therefore, be distinctly borne in mind that although men of business consider the value of money to be represented by the rate of interest, yet the signification which is here"—

That is, in political economy—

"attached to the money, is such as to describe the value of money to be great when prices are low, and to be small when prices are high." (Political Economy, p. 364.)

So that Professor Fawcett sees no value in money except through prices; that is, in its command over commodities. But it is useless to multiply authorities. All that are worth quoting are to the same effect.

Inasmuch, then, as the term "value of money" signifies simply purchasing power, the total value of all the money in a country would, at any given amount, be the same, whatever the number of units into which it might be divided. If a country has $1,000,000,000 in circulation, the total value of that entire sum would

be as great as if the number of dollars were at that time two thousand millions. The only difference would be that the unit—the dollar—would in the first instance have twice as much purchasing power as in the second.

The money unit being the unit by which human effort or sacrifice is measured, the consideration with respect to it that outweighs all other considerations is that of stability of value. Inasmuch as the societary condition is indispensable to the civilization and progress of man, and money the dominating institution by which aggregation and association are possible, without which progress would be unattainable, if there be one object that, more than another, demands the attention and thoughtful consideration of mankind, it is to maintain unchanging through time the value of the monetary unit.

MONEY THE ONLY THING IN THE WORLD FOR WHICH THERE IS NO SUBSTITUTE

Money differs from all other things in the fact that there is no substitute or alternative for it, and in the nature of things never can be. In the utilization of all other things that tend to the comfort or convenience of man advantage is taken of a law of substitution. If a thing which has been in general use becomes for any reason very scarce, and as a consequence very dear, a proportion of the people abandon its use and adopt something which serves the same purpose. Thus if, owing to the prevalence of distemper which carries off considerable cattle, beef rises in price far beyond its ordinary limit, large numbers of the population will abandon its use and substitute for it mutton or some other form of animal food.

If a certain brand of flour becomes much dearer, then ordinary people substitute for it another brand; or if, owing to a failure of the wheat crop all flour becomes much dearer, great numbers of the people will wholly relinquish its use for the time being. So, if one description of wood, say oak, becomes scarce and dear, another wood, as ash or maple, is utilized instead. This serves as the defense of the great mass of mankind against the selfishness and cupidity of a few who would without hesitation establish a corner in any single article of universal demand if they believed that, no matter how high its value rose, the people would be compelled to obtain it.

If a man be regarded as a public enemy who merely corners wheat what would be thought of those who combine to corner all articles of food without discrimination? But when men corner money that is precisely what they do. When they deprive the world, or, which is enough for our purpose, when they deprive their own countrymen of a sufficiency of money they are cornering not only wheat, but every other article of food as well as every article of clothing. Notwithstanding the fact that gold is growing more valuable every day, they have so used their power that the people are deprived of a full and free resort to a substitute. Well aware that owing to the very nature of money, owing to the transcendent importance of the function which money performs, there can be no substitute for it, and knowing that the less there is of money in proportion to the demand the more valuable will become the debts of which they are the owners, they deliberately deprive mankind by law of the immemorial right to supplement the deficiencies in the supply of one metal by a resort to the supply of the other.

Mr. President, no matter how high the value of money may rise the people must have it. Hence, when it becomes insufficient for the demand—the monetary obligations of the people being imperative—the products of labor must be sold for less money than before. The value of the unit might increase to such an extent that the price of a bushel of wheat might fall to one-tenth or one-hundredth part of its present figure, yet would the demand for money be as exigent as ever. Instead of finding a substitute for it, as could be done in the case of anything else that became scarce and dear, people would be compelled to attach to fractional parts of the dollar the value which now they attach to the dollar itself.

For everything, then, except money, there is some substitute to which, in case of necessity—in case of a corner—men may resort. For money, there is none. The fact of its scarcity and dearness will not only not lessen the urgency of the need for it, but will increase that urgency and need. Inasmuch as nothing else will pay debt or keep the sheriff flag from the window, legal-tender money must be obtained at any sacrifice. This is clearly recognized by Professor Sidgwick, who says:

"It appears, then, that coin forms an exception to the general rule that the scarcity of any commodity extends the demand for its substitute." (Political Economy, p. 252.)

Mr. HIGGINS. Will the Senator yield for a question?

Mr. JONES of Nevada. Certainly.

Mr. HIGGINS. I do not know whether the Senator confines his proposition to coin, as Professor Sidgwick put it, or to money generally, but is not paper a substitute for gold or other coin?

Mr. JONES of Nevada. I have already stated that anything which is full legal tender is money.

Mr. HIGGINS. Then the proposition of the Senator is that gold cannot be increased; but he ignores the fact that the volume of money can be increased outside of gold by the issue of paper, money of account, and other such devices.

Mr. JONES of Nevada. My proposition is precisely what I stated it to be—that there is no substitute for money. Generally when people refer to "money of account" they mean money of no account. They refer to money that is not legal tender. They refer to devices that will enable a man to get into debt, but when trouble comes will not enable him to get out. Nothing is or can be money in the full or in the proper sense that needs to be redeemable in anything else before it can pay a debt. Money is not money if it be confined to redemption in one thing; it must be redeemable in all things. The very essence of money is redeemability in all things that are for sale and all services that are for hire. That is the character of money to which I refer.

Mr. HIGGINS. I suppose the Senator means what is known as fiat money.

Mr. JONES of Nevada. All money, whether of gold, silver, or paper, is "fiat." Money is created by law, and derives its value from limitation of quantity. Gold money is as much "fiat" money as is paper money, for the reason that for any other use than the money use there is conceded to be 60 years' supply of gold on hand, which, were gold demonetized, would be available in the market for all the purposes to which gold is adapted in the various arts and manufactures. In other words, gold money is "fiat" money because it has not "intrinsic value." Owing to the fears of the money-lending classes that legislators would issue too much paper money, they have preferred that mankind should adhere to the automatic system—the system of relying upon the mines for the material of money.

The creditor classes are now, however, departing from that system. They are determined to have a system of money in which the unit shall from year to year acquire greater and greater control over property, including the products of labor. Hence, in order to restrict to a minimum the quantity of money and increase to a maximum the value of the money which they have already reduced to possession, one of the metals that from immemorial time had been used as money is denied the right of access to the mints and the other metal established as the only metal of unrestricted coinage. In other words, while it had long been their contention that the world should always rely on the mines for the material of money, they now announce their determination that the world must be content with such fragment of the automatic system as is certain to work an advantage for the creditors.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JAMES F. BYRNES

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 23, 1937

STATEMENT BY HON. HOMER CUMMINGS, ATTORNEY GENERAL OF THE UNITED STATES, AT A HEARING OF THE SENATE COMMITTEE ON THE JUDICIARY MARCH 10, 1937

Mr. BYRNES. Mr. President, I ask unanimous consent to have printed in the RECORD the statement made by Hon. Homer Cummings, Attorney General of the United States, before the Judiciary Committee on March 10 instant.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. Chairman and members of the Committee on the Judiciary, the question of judicial reform is not a new one. Eminent judges, lawyers, statesmen, and publicists over periods of many years have complained of the defects of our judicial system and have sought to find remedies. Surely all thoughtful citizens desire constantly to improve our institutions, to adapt them to our needs as time advances, and to secure the best Government that intelligence and wisdom can provide. What we differ about, if we differ at all, is the means of accomplishing the purposes we hold in common. That our judicial processes and the administration of justice are in need of improvement is hardly open to debate.

I

The President's plan rests upon four pillars, based upon the following propositions:

(A) The impossible situation created by the reckless use of injunctions in restraining the operation of Federal laws.

(B) The presence on the Federal bench of aged or infirm judges.

(C) The crowded condition of the Federal dockets, the delays in the lower courts, and the heavy burden imposed upon the Supreme Court.

(D) The need of an effective system for the infusion of new blood into the judiciary.

All of these matters are inter-related, interwoven, and interdependent. Moreover, they are part of the general problem of improving our democratic processes.

A

Government by injunction

The President, in his message of February 5, called the attention of the Congress to the fact that the processes of government are "brought to a complete stop from time to time by injunctions issued almost automatically" and continued in effect while counsel maneuver, debate, and appeal.

This situation arises in part from the uncertain state of our constitutional law. In part the condition is due to the failure of judges to exercise care, discrimination, and self-restraint in the use of this drastic remedy. As an immediate step the President has recommended that the Congress provide that, first, no court shall pass upon the constitutionality of an act of Congress without notice to the Attorney General and an opportunity for the United States to present evidence and to be heard; and, second, where the trial courts pass upon such questions there shall be a direct appeal to the Supreme Court, and that such cases shall take precedence over all other matters pending in the Court. I am aware of no serious objections to these obviously necessary reforms.

B

Aged or infirm judges

Since the Civil War attention has been turned from time to time to the problem of the aged or infirm judge.

In 1869 the House of Representatives passed a measure requiring the appointment of an additional judge to any court where a judge of retirement age declined to leave the bench. It failed in the Senate. This is the same remedy proposed by President Roosevelt today.

With the opening of the twentieth century similar proposals were again agitated. President Taft, a former Federal judge, felt keenly on the subject and frequently expressed himself with vigor. He felt that the absence of a compulsory retirement system for judges was "a defect" in our institutions, and he believed that "it is better that we lose the services of the exceptions who are good judges after they are 70 and avoid the presence on the bench of men who are not able to keep up with the work or to perform it satisfactorily."

Not long afterward Attorney General (now Mr. Justice) McReynolds returned to the earlier proposals, and in his annual report for 1913 recommended that "when any judge of a Federal court below the Supreme Court fails to avail himself of the privilege of retiring now granted by law * * * the President be required, with the advice and consent of the Senate, to appoint another judge, who shall preside over the affairs of the court and have precedence over the older one." Attorney General Gregory repeated the suggestion in 1914, 1915, and 1916. These recommendations embodied the principle now urged by President Roosevelt, except that they did not apply to the Supreme Court.

In 1928 Charles Evans Hughes, now Chief Justice of the United States, agreed "that the importance in the Supreme Court of avoiding the risk of having judges who are unable properly to do their work and yet insist on remaining on the bench is too great to permit chances to be taken." He seemed to favor 75 rather than 70 as the proper retirement age. In England 72 is favored. In our universities a lower age than 70 is the general rule. In this country 70 seems to be the most favored retirement age for civil servants and for judges.

No one thinks judges are not human or that threescore years and ten do not work upon them like upon other men. The verdict of experience is nearly unanimous that some sort of action should be mandatory when judges reach a certain, definitely fixed, age. Obligatory retirement might be provided by constitutional amendment. The President, however, has chosen a less drastic course in asking that additional judges be appointed to supplement the work of those of retirement age.

C

The crowded condition of the Federal dockets, the delays in the lower courts, and the heavy burden imposed upon the Supreme Court

In his last annual message, in December 1908, President Theodore Roosevelt complained of "the long delays * * * in the administration of justice * * * which operate with peculiar severity against persons of small means and favor only the criminals whom it is most desirable to punish." Four years later the district court system was reorganized and in that year, exclusive of bankruptcy proceedings, an average of 276 cases were filed for each district judge. In 1936 an average of 484 such cases were filed, an increase of more than 75 percent. More than 50,000 cases, exclusive of bankruptcy proceedings, now overhang the Federal dockets. The new cases filed about equal the number of those disposed of, so that we make no serious impression on the backlog of undigested cases.

The last report of the judicial conference shows delays in securing trials in civil cases after joinder of issue in 34 out of the 85 judicial districts. Actually the 34 congested districts handle a great majority of the civil litigation in the district courts. Thus the total number of private civil cases pending in all of the 85 districts on June 30, 1936, was 31,294, of which 22,239 were pending in the 34 congested districts. In other words, the trial of more than two-thirds of the private civil litigation in United States district courts is stalled by clogged dockets.

This, however, is not the complete story of the law's delays. The statistics of the judicial conference have reference only to the interim between joinder of issue and the time a trial may be had if all goes well. Further time is lost in bringing cases to issue, due to delays in securing rulings on preliminary matters such as demurrers and motions. Another source of trouble is the undue lapse of time that frequently intervenes between the final submission of a case to the court and the date when the decision is actually rendered.

By way of illustration, permit me to refer to the situation in the eastern district of Pennsylvania. The number of private civil cases there pending on January 31, 1937, was 1,593. Of this number 1,277 had been on the docket more than a year, 1,007 more than 2 years, 860 more than 3 years, 732 more than 4 years, 629 more than 5 years, 531 more than 6 years, 420 more than 7 years, 361 more than 8 years, 307 more than 9 years, and 264 more than 10 years.

But the mere measurement of delay is not all. Each of us knows from experience that many people submit to wrongs rather than resort to the courts or must accept unjust or improvident settlements.

We not only need more judges but we also need a flexible system. Some suggestion has been made that judges over 70 are not necessarily confined to congested areas. But all new judges should constitute a mobile force, available for service in any part of the country under the direction of the Chief Justice. Congestion cannot be foreseen. It is a varying factor. It is self-evident that judges should be available for pressure areas.

Our laws already provide, under certain limitations, for the special assignment of judges to congested areas. This system is sadly in need of renovation. It is haphazard and unbusinesslike. There should be one responsible public official who works at nothing else. Hence the suggestion of a proctor, operating under the control of the Chief Justice and the Supreme Court.

Most informed people recognize the propriety and force of these suggestions as applied to the lower courts, but question has been raised as to the matter of additional judges for the Supreme Court. During a great part of our history—particularly since the Civil War—the business of the Supreme Court has been sadly in arrears. In 1891 the Circuit Courts of Appeals were created to relieve the Supreme Court. Nevertheless, President Taft, in 1910, spoke of its "slough of despond." Upon becoming Chief Justice he lost little time in attacking the problem. The Congress responded in 1925 with a measure giving the Supreme Court discretion, in most cases, to determine whether it would hear particular causes.

This was done to aid the Court by limiting the number of cases it would be called upon to hear upon the merits. There were objections from men like Senator Thomas J. Walsh, of Montana, who felt it vested in the Court "too much discretionary power", but the sheer necessity for some relief and the active support of the judges drove the bill to passage. Chief Justice Taft wrote, "There is no other way by which the docket in our Court can be reduced so we can manage it."

By limiting the number of cases heard, the Court has been able to keep abreast of its self-determined docket. By thus inverting, as it were, the usual situation, the Court hears and decides not what is presented but only what it can handle. Of course, under such circumstances the actual "docket" becomes only that number of cases which the Court can consider and desires to hear. Nevertheless there are those who, with something of a flourish, reassert the undisputed fact that the Supreme Court is up with its docket, apparently unmindful that, under the existing practice, there is no reason why it should be otherwise.

That the consideration of applications for certiorari places a heavy burden upon the Supreme Court is evidenced by the words of the Chief Justice himself in an address delivered before the American Law Institute in May 1934. After explaining the operation of the system he continued as follows:

"Thus all the Justices pass upon all the applications for certiorari. During vacation the papers on these applications follow us wherever we are, at home or abroad. Having approximately 300 of them to deal with during the summer, you can see that during the period when the Court is not in session there is a large amount of judicial work to be done."

The question is not whether the Court is up with the docket but by what means it keeps up with the docket, and whether the burden that it must sustain is too great to warrant the careful consideration to which these petitions are entitled and whether assistance, by the appointment of additional judges, is indicated.

Let us look at the actual operation of this system during the 1935 term. The Judges during that year were called upon to decide appeals and original proceedings in which the briefs totaled 15,862 pages and the records 35,833 pages, or 51,695 pages in all. In addition, there were 869 petitions for writs of certiorari. These involved 53,868 pages of briefs and 290,364 pages of record, a total of 344,232 pages.

After all, there are only 365 days in a year. Let us make the extravagant assumption that the average Justice worked 10 hours each day, including Sundays and holidays, and took no vacation—or 3,650 hours in all. Approximately 296 hours were spent on the bench hearing cases, and about 108 hours were spent in formal conferences, leaving 3,246 hours for other judicial tasks. Briefs and records in all classes of cases totaled 396,690 pages (including briefs on rehearings amounting to 763 pages). If all of the time available were devoted to the mere examination of briefs and records, each Justice, in 3,246 working hours, must have undertaken to study and understand an enormous mass of material, the mere reading of which would have to proceed at the rate of 122 pages an hour, or 1,220 pages in a 10-hour day.

But, in addition, the Justices wrote 170 opinions—majority, dissenting, and concurring. Moreover, the Official Reports, comprising three large volumes, disclose 159 additional short memoranda and per-curiam opinions.

However we may look at it, it is a stupendous task. If there were more justices, there would be more men for the exacting work of writing opinions, together with the painstaking labor over briefs and records which such writing requires. The Court might properly divide into groups for the consideration of applications for the review of cases. The number of applications, with accompanying briefs and records, which each Judge would be expected to examine might thus be reduced by half or two-thirds. For

this preliminary work five Judges, considering half as many applications, could do more thorough work than nine Judges each responsible for the whole number.

Indeed, it might be desirable if only a quorum of two-thirds of the Court sat to hear cases not involving important constitutional questions, leaving the others free to write opinions or to examine applications for review. A similar system prevails in some of the States, and was suggested for the Supreme Court by the committee on jurisprudence and law reform of the American Bar Association in 1921. The committee recommended that the Court be increased to 11, that 6 constitute a quorum, and that a concurrence of 5 be necessary to render a decision. It was felt that this "would enable the Court to be in session almost continuously, and thus to dispose of a much greater amount of business without impairing the uniformity of decision."

D

New blood for the judiciary

"Life tenure of judges", as the President stated in his recent message, "was designed to place the courts beyond temptations or influences which might impair their judgments; it was not intended to create a static judiciary."

Former President Taft, in 1913, felt that "in a majority of cases when men come to be 70 they have lost vigor, their minds are not as active, their senses not as acute, and their willingness to undertake great labor is not so great as in younger men, and as we ought to have in judges who are to perform the enormous task which falls to the lot of Supreme Court Justices."

There undoubtedly are, in the words of President Theodore Roosevelt, "some members of the judicial body who have lagged behind in their understanding of these great and vital changes in the body politic, whose minds have never been opened to the new applications of the old principles made necessary by the new conditions."

The need of new blood in the body politic, in business, in industry, in government, in the judiciary is at least as great as in the living organisms of nature. Why does this obvious fact bother some of our citizens? Perhaps because, amid a changing world, we like to imagine that we are unchanging. There is also the notion that the "law" is as fixed and as absolute as the multiplication table.

On the contrary, the Constitution was not intended to be a code of law but was meant to be a general framework within which each generation might work out its problems in orderly fashion. In the words of the great Chief Justice Marshall, the Constitution was "intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs." Justice Story likewise pointed out long ago that "the Constitution inevitably deals in general language. * * * Hence its powers are expressed in general terms leaving to the legislature, from time to time, to adopt its own means to effectuate legitimate objects, and to mold and model the exercise of its power, as its own wisdom and the public interests should require."

James M. Beck put it another way when he said, "The Supreme Court is not only a court of justice but in a qualified sense a continuous constitutional convention. It continues the work of the Convention of 1787 by adopting through interpretation the great charter of Government, and thus its duties become political, in the highest sense of that word, as well as judicial." He then proceeds to discuss, in his book on the Constitution, the origins of what he terms "this extraordinary politico-juridical tribunal."

Many people have been misled into believing that the Constitution is at fault. We are facing not a constitutional but a judicial crisis. Such crises have occurred before and have been resolved in various ways. Let us briefly examine some of them.

Nowhere does the Constitution state that the Supreme Court shall have power to declare acts of Congress void. At first the Justices doubted it. A good portion of the country doubted it. It was not until 1803, in the case of *Marbury* v. *Madison*, that the Supreme Court held that it possessed such power.

The power was not exercised again for more than half a century. Then Chief Justice Taney wrote the opinion for a divided Court in the Dred Scott case. Despite strong approval from the bar and the press, this case was one of the important factors leading to the Civil War. Abraham Lincoln assured his followers that an attempt would be made to have the decision overruled. The crisis thus precipitated the country is not likely to forget.

Not long afterward, and despite this disastrous experience, the Court, in the famous case of *Hepburn* v. *Griswold*, held invalid the Legal Tender Act by a vote of 4 to 3. Had that decision been permitted to stand it would have completely upset the financial operations of the Government. There were two vacancies on the Court, which President Grant filled, on the day the opinion was handed down, with men whom he knew to be in sympathy with the statute. Another case was brought and the first decision was overruled by a vote of 5 to 4. The judicial crisis was cured by a process which, in some quarters, was described as "packing the Court."

Twenty-five years later one judge changed his vote in the income-tax case (*Pollock* v. *Farmers Loan & Trust Co.*), and the income tax was invalidated. The resulting situation was repaired by a constitutional amendment adopted 18 years later.

These events led Mr. Hughes to use the vivid observation that "in three notable instances the Court has suffered severely from self-inflicted wounds."

In the present century we find 5-to-4 or 6-to-3 decisions determining national policy in nearly every important field of legislation. The Constitution does not prescribe the abolition of sweatshops, or the elimination of the products of child labor from interstate commerce, or the use of the taxing power for the benefit of agriculture. The Constitution says not a word on these subjects, but on each of them the deciding vote of one or two Judges has nullified the will of Congress, has overruled the approval of the President, has disregarded the powerful arguments of other Justices of the Court, and has run counter to the sentiment of the country.

On the question of split decisions on constitutional questions so profound a student of our Constitution as Albert J. Beveridge, wrote as follows:

"When five able and learned Justices think one way, and four equally able and learned Justices, all on the same Bench, think the other way and express their dissent in powerful argument, sometimes with warm feeling, is it not obvious that the law in question is not such a plain infraction of the Constitution as to be unconstitutional 'beyond all question?'"

Beveridge rejected efforts to alter the course of the Court by constitutional amendment. His plan was to secure better Judges who would sparingly exercise of their power. He urged the Court itself to impose a self-denying ordinance so that at least a two-thirds vote would be necessary to void an act of Congress. Speaking of the need of Justices with a fresh outlook, he said:

"The character of members of the Supreme Court is vital to the permanence of American institutions—not their moral character alone, but also their intellectual stature, their vision, their outlook on life, their knowledge of history, their familiarity with present conditions and developing tendencies, their sympathetic understanding of human nature and its reactions."

He insisted that they must be more statesmen than lawyers; that a judge "must have the contemporary mind; it must not be pickled in precedents."

Yet, judicial history continues to repeat itself. In February 1935 financial chaos was avoided by the margin of only 1 vote in a 5-to-4 decision. It is difficult—indeed, impossible—to reconcile the 5-to-4 decision in the private contract *Gold Clause cases*, or in any other cases involving constitutional questions, with the settled and well-known rule of law that legislative enactments should be recognized and enforced by the courts unless plainly and palpably in violation of the Constitution.

The Supreme Court has frequently enunciated that doctrine. In the case of Williams against Mayor the Court said: "Within the field where men of reason may reasonably differ, the legislature must have its way." In the *Legal Tender cases* the Court said:

"A decent respect for a coordinate branch of the Government demands that the judiciary should presume, until the contrary is clearly shown, that there has been no transgression of power by Congress. * * * An act of the legislature is not to be declared void unless the violation of the Constitution is so manifest as to leave no room for reasonable doubt * * *."

Let us consider the *Minimum Wage cases*. The Supreme Court invalidated such statutes in 1936 and 1923 and divided evenly on the issue in 1917. As a result neither the Federal Government nor the States may deal with the problem of sweatshops. Yet over that period an actual majority of the Judges of the Supreme Court declared such legislation constitutional. This curious result is due to the fact that the controlling and conservative group has remained on the Bench longer than the liberals, who have come and gone. The number of the latter is greater in the aggregate, for over this period there were 10 of them, whereas there were only 7 who believed such laws invalid.

Every time the Supreme Court renders a split decision voiding a statute on a constitutional question it flies in the face of its own rule, and encroaches upon the powers of the Congress.

II

The President's plan deals with the impossible situation growing out of the reckless use of injunctions. It deals with the presence on the Federal bench of aged or infirm judges. It deals with the crowded condition of the Federal dockets, the delays in the lower courts, and the heavy burden imposed upon the Supreme Court. It supplies an effective and systematic means for the infusion of new blood into the judiciary so that we may have an up-to-date administration of the law, and forward-looking decisions upon social and economic questions. It is direct, coherent, and well-considered. The more it is studied, the more freely and fairly it is debated, the more clearly will its merits appear.

The Federal judicial system is sound at heart and will stand every kind of inquiry and discussion, but those who mistakenly seek to preserve its faults and strive to perpetuate them, are playing with fire—dangerously. Let us not forget that the law is the servant and not the master of human need.

The proposed increase in the number of judges is not for the purpose of enslaving the judiciary; not for the purpose of making it an adjunct of the Executive. The purpose is to rejuvenate the judicial machinery, to speed justice, and to give to the courts men of fresh outlook who will refrain from infringing upon the powers of the Congress.

There are some who, admitting the reason, necessity, and logic of the President's proposal, are nevertheless beset by a sort of nameless fear that it will constitute a dangerous precedent.

In the course of our history the size of the Supreme Court has been changed six times by both increasing and reducing its membership. The power to make these changes is confided by the Constitution to the President and the Congress. The exercise of a constitutional power for a wholesome purpose furnishes a sound, not a dangerous, precedent. The fact that we may abstain from

using a power admittedly ours is by no means a guaranty that that same power will not be used by others hereafter. It is a strange doctrine that we must refrain from doing a good and necessary thing for fear that many years from now someone may use the same authority to do an evil thing. Let us study our own problems and solve them in the light of our own needs.

After all, the appointment of judges is not an unlimited power. Once appointed they are not subject to either the Congress or the Executive. Moreover, in their appointment the Senate must concur. To say that the power of appointment will be abused involves three unwarranted assumptions—that the Chief Executive is not to be trusted; that the Senate can be misled; and that the appointee will be "a spineless puppet." None of these assumptions is tenable. No one man can "pack" the Supreme Court. That would require the concurrence of the President, 49 Senators, and the appointee himself—51 eminent men in all—a preposterous suggestion.

There is another group of persons who, in the present posture of world affairs, profess to see in this program the seeds of dictatorship. In view of the temperate nature of the President's proposal, this is a strange assertion. It must not be forgotten that when Jefferson refused to obey a subpena issued by Chief Justice Marshall he was charged with being a tyrant; when Jackson derided an opinion of the Supreme Court and told Marshall to enforce his own decree, he was denounced as the apostle of anarchy; when Lincoln ignored the demand of Chief Justice Taney that the privilege of habeas corpus be restored, he was charged with assuming absolute power. No one of these Presidents was a dictator. Indeed, it is curious to note that all the great Presidents who have sought to do the most for the people have been charged with the assumption of dictatorial powers and with cherishing evil ambitions and unconstitutional purposes.

The ways of actual dictators and the manner in which they come into power make it clearly evident that the courts alone cannot resist their advance. Dictatorships grow out of ill-adjusted economic conditions, out of distress, out of fear, out of injustices; and when these forces are set in motion and dictatorships come into power, all laws, all precedents, all courts, all restraining influences are swept away.

Such assertions of fear are remindful of the mournful prognostications which have been made from time to time during the course of American history. When Jefferson was about to become President, John Marshall lamented that the tide of "real Americanism is on the ebb." Just a century ago Justice Story, when his brethren of the Supreme Court did not agree with him in the Charles River Bridge case, complained that "the old constitutional doctrines are fast fading", and Daniel Webster wrote that Story "thinks the Supreme Court is gone, and I think so, too, and almost everything else is gone or seems rapidly going." We hear the same sort of comment today. When the *Gold Clause cases* were decided 2 years ago, four of the justices announced that "the impending legal and moral chaos is appalling." To them the Constitution was gone.

Finally, it is suggested that the matter be left to a constitutional amendment. To this there are definite answers. First: No amendment is required, because the proposal is clearly constitutional. What is really sought by some is a referendum, not to the whole people but to part of the people of only 13 States. Second: The phraseology of any proposed amendment would be the subject of endless debate and, once submitted, might suffer the fate of the child-labor amendment, which has been pending for 13 years. Third: Any amendment must, if adopted, be construed and applied by the same judges who have brought us to our present pass. In the words of Thomas Jefferson, "The attempt to make the law plainer by amendment is only throwing out new amendments for sophistry." All that is required is an enlightened interpretation of the Constitution.

Of course, there are those who are not impressed by the need of these reforms. There are others, and I dare say a vast majority, who recognize these needs and hope to meet them. I submit that the President's plan is the most effective remedy that has been suggested. It aims at the restoration of the full legislative power so that the Congress may perform its constitutional function. What we desire to avoid is "a tortured construction of the Constitution." Our governmental machinery has gotten out of balance, and that balance must be restored before it can effectively function.

The Farmer and His Court

EXTENSION OF REMARKS

OF

HON. TOM CONNALLY

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Tuesday, March 23, 1937

RADIO ADDRESS BY HON. EDWARD R. BURKE, OF NEBRASKA, ON THE NATIONAL GRANGE PROGRAM, MARCH 20, 1937

Mr. CONNALLY. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address on the subject of the Reorganization of the Federal Judiciary, delivered by the junior Senator from Nebraska [Mr. BURKE] on March 20, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I speak today primarily to the farmers of America. No other group of citizens has a greater stake in preserving a balanced government, with each department master in its own house and scrupulously refraining from interference in the house of another. None can be more justly proud than our farmers of a record that shines on the living page of history in constant support of the fundamentals of democracy.

You, who live upon the farms of America, or are directly dependent upon agriculture, have good reason to be grateful to the administration of President Roosevelt. In the Democratic platform of 1932 we find this pledge:

"We favor the restoration of agriculture, the Nation's basic industry; better financing of farm mortgages through recognized farm-bank agencies at low rates of interest on an amortization plan, giving preference to credits for the redemption of farms and homes sold under foreclosure. Extension and development of the farm-cooperative movement, and effective control of crop surpluses so that our farmers may have the full benefit of the domestic market. The enactment of every constitutional measure that will aid the farmers to receive for their basic farm commodities prices in excess of cost."

How well that pledge has been kept is now a matter of imperishable record. The Farm Credit Administration, with its four pillars, land bank, intermediate credit bank, production credit, and cooperative credit agencies, has stretched out the hand of credit on reasonable terms to every farmer in America. There has been no difficulty in keeping within the Constitution as the party pledged itself to do.

In the matter of parity prices for farm products most substantial progress has been made. Foreign markets to some extent have been opened, commodity loans have enabled the farmer to hold his crop to take advantage of the highest price obtainable, and control of production, influenced undoubtedly by widespread drought, has prevented the accumulation of crop surpluses. Perhaps this latter achievement should be whispered only, if it be true that one-third of the Nation is underfed.

All know that the first measures enacted for crop control, as well as the later cotton, tobacco, and potato production control acts, did not come within the party pledge to keep within the Constitution. A substitute control measure, with generous benefit payments, under the guise of soil conservation, has not, and undoubtedly will not be, challenged in the courts. A great number of other measures for the benefit of farmers have been placed on the statute books, and no question as to their constitutionality has been raised.

So I say the American farmer has reason to praise a President and an administration that have moved forward on a broad plane with the constant objective of better times for those who produce wealth out of the soil. It is now contended that a proper sense of gratitude and loyalty should induce the American farmer to give his support to the President in his misnamed "judiciary reform" proposal, even if the farmer must shut his eyes and hold his nose in doing so. I deny that any such obligation rests upon the farmers of our Nation. In this case, as always, the proposition that is made should be examined on its merits; voted up, if it is right; voted down, if it is wrong.

I prefer the noble sentiment expressed by the elder Senator La Follette in another time of great national stress, in discussing the principle that should guide a conscientious legislator. Mark well his words:

"Mr. President, I had supposed until recently that it was the duty of Senators and Representatives in Congress to vote and act according to their convictions. Quite another doctrine has recently been promulgated, and that is the doctrine of 'standing back of the President' without inquiring whether the President is right or wrong. For myself, I have never subscribed to that doctrine, and never shall. I shall support the President in the measures he proposes when I believe them to be right. I shall oppose measures proposed by the President when I believe them to be wrong."

In the light of this guiding principle may we state the President's proposal and briefly show how bad it is. The bare statement of the proposition is sufficient to condemn it to everlasting perdition. It is this: Shall the President be authorized to nominate six additional Justices to the Supreme Court to sit beside six members of that honorable body who have ripened in wisdom and have passed the age of 70 years?

The sorry excuse first offered that these Judges were too old to do the work of the Court, with resultant congestion, was quickly blown into thin air. All that remains of it is the natural suspicion that always follows a lack of frankness.

It is now freely admitted, in general, that the purpose of this new and startling suggestion, the like of which no man ever before dared breathe in this country, is to infuse enough new blood into the Court to make sure, or at least reasonably sure, that the Court will never again dare to act as an independent tribunal of justice in any case before it in which the majority of the moment may be interested. Oh, I know it is said that there will be no strings upon these nominees, and that it is hoped they will do the job they are supposed to do by reason only of the fact that they have come fresh from the people, and not because of any promise exacted. Certainly no one expects that any President of the United States

would now, or ever, ask or receive of any nominee a definite commitment. Who is so foolish as to think anything of that kind would be necessary? These six men would know that they were nominated because the President is dissatisfied with certain decisions of the Supreme Court in reference to the interpretation of constitutional limitations on the powers of Congress.

If any one of them felt that his mind did not go along with the mind of the President in these matters, he would, of course, decline the nomination. He would not need to be asked to promise anything. But his mind would be probed very deeply.

I know it is said that the nominations, when made, must be confirmed by the Senate. Certainly. But a Senate that would pass such a bill to begin with, would be a poor refuge for the maintenance of the principle of a wholly independent judiciary.

A learned professor of government states the matter in these words:

"The scheme to 'pack' the Court has a certain childlike simplicity. If we have Judges whom we regard as bad, let us add to the Court enough good Judges to outvote the bad ones and all will be well. Those who urge that we 'pack' the Supreme Court should bear in mind that packing may well be a two-edged sword. If we 'pack' the Court with liberals, there is nothing to prevent reprisal by the conservatives when they come into power, and the process may go on until all sound traditions of judicial independence are undermined. If these men are really the kind whose judicial work will be directly governed by their political and economic affiliations, who will, in short, live up to the implied understanding which led to their appointment, they would appear to be unfit for judicial service. Nothing but calamity can be expected from a definitely biased court."

My friends, my farmer friends, does not that sound like good "horse sense"? Is it not far better to proceed in the regular American method? Great accomplishments have been wrought to the everlasting glory of this administration within the bounds of the Constitution. A vast reservoir of untapped power, to use the words of the present Solicitor General, still remains and can be used by carefully drafted legislation to carry into effect a well-considered program.

"I shall support the President in the measures he proposes when I believe them to be right."

This proposal, I know, strikes at the very heart of our independent judiciary. It is wrong. It ought never to have been proposed. It should be withdrawn and wrapped in the cloak of oblivion. If the farmers of America will make their voice heard now, in one thunderous demand of "hands off our Supreme Court", we can once more move forward under the Constitution to better days. Now is the time for action.

Labor Relations

EXTENSION OF REMARKS

OF

HON. JAMES P. POPE

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Tuesday, March 23, 1937

ADDRESS OF HON. ELBERT D. THOMAS, OF UTAH, AT NATIONAL RADIO FORUM, MARCH 22, 1937

Mr. POPE. Mr. President, I ask unanimous consent to have printed in the RECORD a very thoughtful address delivered by the junior Senator from Utah [Mr. THOMAS] at the National Radio Forum on the evening of March 22, 1937. The subject of the address is Labor Relations.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In all labor relations there are three primary interests which must be kept constantly in mind: First, the interest of the employer; second, the interest of the laborer; and third, the interest of the public. Probably the public interest is of greatest importance, because it will embrace the interests of the laborer and the employer as well as of all the people.

In the United States, whenever any ill or any good that must be accomplished by governmental action is to be corrected or furthered, it is necessary to review at least in thought our governmental scheme. American government, both that of the State and that of the Nation, differs from practically all other governments of the world in one great particular. Most governments have in them somewhere an ability to do whatever the government wishes to do. Therefore, in the thoughts of all the people in those governments the governmental interest is of paramount importance. The American governments are definitely governments of limited powers. That holds for either the State or the Nation. There are many things which no government in the United States can do. Those things which government cannot do and which are reserved to the people may be termed, politically speaking, what we in America call liberty. This liberty is of primary importance, and thus we see that the persons who live within the jurisdiction of the Government of the United States or of a particular State are under the American theory, the entities of paramount interest, and not the governments themselves.

Now, since government is limited in its powers, the thoughtless generalization that all things may be cured by a law is, of course, just a thoughtless generalization. It has no validity in fact.

In the preservation of that which we call liberty we have assumed that that liberty is best maintained by keeping our governmental functions separate and our governmental powers distributed between the State and the Nation. Thus, government in the United States seems to be constantly against itself. When it functions properly, instead of there being a contest between the branches and the powers of government we have cooperation between them, and through cooperation the men, women, and children in America have gained their greatest blessings. Our outstanding examples of cooperation for the good of the people between the State and the Nation are probably the cooperation between the State and the Nation in regard to education and the cooperation between the State and the Nation in regard to roads. Both of these major activities have at some time in our history, much as we realize their necessity today, been deemed by many as unconstitutional activities. I mention this fact to illustrate my point that through cooperation great gains have come and those gains might have been lost had the efforts of the particular group to restrain the cooperative action by an emphasis of its probable unconstitutionality been sustained.

Thus, I think, we may generalize to this extent: That when all parties of interest to a given governmental problem work in accordance with the fundamental spirit of democracy, that fundamental spirit being built upon self-restraint, self-control, and fair play, we in America have gone forward. But when the particular group has attempted to interpret its rights as being of paramount interest, and the rights of the public and the rights of the opposing group of merely secondary interest, and Government supports the one group, then we have had trouble and sometimes governmental and industrial chaos and disorder.

In labor relations we can see that our same generalizations hold true. The employer who insists absolutely upon his rights and who assumes that those rights are separate from and distinct from the rights of the employee and the rights of the public, brings strife, discontent, distrust, and sometimes disorder. When the public acts through its agencies in an arbitrary manner and supports one faction against the others it too brings distrust and disorder. And when the employee assumes that his individual interest is of primary importance and he insists upon his rights to the extent that they conflict with the rights of others, then again we have disorder.

As there is a mutual interdependence between employer, employee, and the public, cooperation among the three is essential, and when it does not exist there is strife, loss, and disorder. If the loss were sustained by just one group, if the strife affected but one, or if the disorder were localized and affected only the noncooperative group, we might quickly pass judgment and punish the wrongdoer, but the problem is a greater one than a conflict between right and wrong. It is a clash generally between two rights. That is what makes war in an international sense and what causes strikes in an industrial sense. The parties to a strike and to a war never attain the objectives for which they are contending. They merely attain the privilege to sit around the table and talk about those objectives. Therefore, if we can bring about the round-table discussion before the war or before the strike, the strife, the suffering, and the loss in each case might be avoided.

Man is a social creature, and all of man's activities are social in their nature. We all know this fact when we are thoughful. You cannot even punish a murderer without punishing the most innocent of all persons, the murderer's mother. Thus the insistence upon rights and the insistence upon absolute justice sometimes wreak havoc upon those in whom we are the most interested. Employers are more temperate in their firing habits, and employees are more temperate in their threats to strike, to walk out, or sit down when they remember their social nature and when each thinks of dependent women and children.

How then can we correct these ills in our industrial and labor life? Government, by allowing one group to stay a cooperative action, definitely seems to be standing in the way. But on analysis it is not Government because Government itself very seldom initiates action in labor and industrial disputes. It is the groups who must be held responsible. To what extent should the public assume the responsibility to see that these groups at least behave themselves and play within bounds? That is our problem. First and foremost above all other things the public should insist that all phases of labor and industrial spying shall be done away with. The spy in society has always been treated with contempt. In wartimes he is shot almost without ceremony. In peacetimes if he is discovered he becomes a pariah in society, and the reason for this is a very simple one. Social intercourse and social relations must be founded on trust. The mere thought of the presence of a spy destroys trust. Through use of spies the employer becomes dependent upon information which he cannot trust, upon men whose very business is unreliable and uncertain, thus ultimately destroying the employer's ability to think straight.

The employee realizing that he is constantly watched becomes a victim of fear, which destroys his efficiency, his happiness, and

interferes with his ability to get rest during his resting hours. In each case the element of fear enters and both employer and employee live in an atmosphere of unreality because they live in the presence of imaginary fears. Thus, the spying system must be destroyed for the good of the spy, for the good of those who use him, and for the good of the men against whom he is used. The spying system makes for trouble instead of curing it. It breaks down peace efforts between the parties to a conflict because the spy business thrives on disorder and distrust. It prevents the efforts of third parties who aid in solving differences, even though the third parties be public servants and representatives of the Government, by preventing open and free discussion by implanting in the hearts and minds of all suspicion even of those they deem their best friends.

The mutual relationship among employer, employee, and the public must be brought home to all concerned. The happy medium between the cynic's question "Am I my brother's keeper?" and the effect of a probable answer and assertion "This is mine and I can do with it as I want" must in some way be reached. These questions have been solved in many places. Therefore, they can be solved in all. They have been solved to the advantage of all concerned better in some phases of our industrial life than they have in others. In general, in those great industries where Federal regulation has been permitted we find labor better disciplining itself, better organized and doing more for its individual member than in those industries which are dependent upon State law. And we find also the owner and the employer more free from the fear of strikes and labor discontent, and on friendlier relations for the solution of troubles than in those industries dependent only upon State law.

Labor in some way must become more responsible for its group action than it is today. This could be brought about by giving labor organizations the opportunity for becoming legal entities and in this way let them be responsible for their acts and, indirectly, for the acts of their members. It must never be forgotten that labor organizations are voluntary organizations. They must never have forced upon them a legal entity strong enough to destroy the complete freedom of their members. Moral and not legal responsibility should be the aim. Simple registration will attain this, for by that act responsibility is implied, or, better still, it may be brought about by the open recognition on the part of an employer of a laboring group as having all of the qualifications of a legal entity and using the force of public opinion upon the group to such an extent that it will assume its whole responsibility. The disciplining of the individual laborer both as to standards of workmanship and social and economic behavior on the one hand and his attitude toward his employer and toward his neighbor on the other must become self-enforced. By that I mean that the employer should be relieved of these disciplinary measures. This can be done only by placing that responsibility on the laboring group. Public opinion will do the rest if it is understood by all that the responsibility is there. It is a tremendous asset to an employer of a great number of laboring men to know that his grievance against the inefficiency or the misbehavior of a given man can be satisfied by going to that man's associates and fellow workmen and the leaders of his group to bring about the discipline. In the wake of group responsibility and self-discipline will, of course, come that necessary institution to labor peace anywhere—just and proper representation for bargaining, for advising, for disciplining, and for settling grievances which can be expressed through some medium recognized as the collective will.

Personnel departments and men engaged in personnel work where great numbers of men are employed must reorient their entire aims and their activities. Too often personnel offices have been established and personnel officers have been installed to handle the least important of all personnel work: that of hiring and firing, or to enforce a single theory of labor activity. Industry generally has feared labor group action but in its own activities it has gravitated toward group action itself. Thus that which it has thought good for itself it has feared in others. That has produced during periods of strife a united front for one side and guerilla action for the other. As the average man's sympathy is generally with the under dog, industry therefore has unconsciously alienated the sympathy of the public excepting that part of the public which is controlled by force editorials. The public in general, though, already understands such control and discounts it. Thus industry alone is responsible for not allowing the weight of public opinion to gravitate to it. This is a tremendous disadvantage which industry by its own change of attitude can remove. These personnel men should be well schooled in labor relations and human understanding. The labor problems of the world should be their study and not the job as it faces them in their own plant.

Judging from the history of man and from those institutions which have been from time to time set up to take care of the average man, woman, and child, the average man's wants are very few and quite easily satisfied. He wants security for himself in his home and in his job. He wants relief from anxiety about the morrow when he thinks in terms of his wife's and his children's welfare. He wants a chance for his children to be educated on an equality with his neighbors' and given a decent and a happy childhood. He wants a secure old age.

If he can get some leisure, some right to come and go, to see, to study, to own, and some simple happiness out of following a hobby, either by himself or with his neighbors, the average man is very well satisfied. And the greatest of the great, no matter how they become honored and envied by other men, and no matter how rich they become, very seldom get out of life any more than that. In the attainment of these simple objectives surely the problem is not unsolvable, because on all sides of us we see it attained by some few, and when we analyze how that attainment has come we discover that it comes primarily because man is made secure in his job, and that will hold as long as our capitalistic system holds, for all good is dependent upon the right to work, the ability to work, and the continuing of our working possibilities. If I am to be measured by my labor, the ultimate success in measuring me depends upon my continuing to labor.

There is probably not a thoughtful man in America who will disagree with these simple conclusions. Why then cannot these same thoughtful men work toward the solution of them? Shall we turn to Australia and adopt in America some modified form of their labor or industrial court? Shall we turn to England and take from them some ideas in regard to labor organizations' responsibilities? Shall we turn to New Zealand and adopt their system of compulsory conciliation and arbitration? Shall we turn to the Far East and bring about the organization of trade and labor guilds and group activity as has been practiced there for centuries? Shall we turn to the Scandinavian countries and learn lessons of labor peace from them? Shall we turn to Russia, to Germany, and to Italy and adopt some forced or coercive form of governmental labor and industrial control? Better than any of these would be for us to develop in America a branch of American industrial and labor law administered not in a spirit of legal prohibition or mandate, not in a spirit of political right and wrong, but in a spirit of mutual helpfulness based upon the theory that industrial law and labor law can never be absolute, but always relative, as to rights.

Without condemning or condoning, let us illustrate our point of the great complexities of labor disputes by pointing to what is now a popular labor medium of attaining a desired end—the sit-down strike, as it is called. This medium is very old. Society has known some aspects of its use in many parts of the world for hundreds of years. The Chinese butchers, for example, would protest against a tax by using the sit-down method. Here it is an aspect of the boycott. English kings with numerous and hungry retinue used to humble haughty nobles by calling on them and receiving royal entertainment by sitting down in the noble's castle until the noble's resources had been exhausted through entertainment. In the story of Odysseus, Penelope's suitors did something like that. Gandhi's nonassertion, nonresistance tactics are related to the theory behind the sit-down strike. Japanese shoguns controlled feudal lords by making them, against their will, guests at their castles during troublesome times. It is in essence Lao Tzu Taoist's theory of the attainment of action by nonaction. He expressed it by the saying, "Do nothing and everything will be done." As one who has seen the force, power, and the results, and sometimes the consequences of these mediums in the Orient for attaining class or group objectives, I cannot refrain from saying that American industry is now playing with something they know little about. This holds not only for industry and for the general public but also for labor. The nonaction methods are so strong in their final aspects that labor itself could easily destroy its very objectives. The medium may prove itself to be a boomerang. Again I will not condemn or condone, for industry and labor must learn their own lessons. If they do not, industry may discover a new weapon with which it cannot cope.

If such ideas spread among sympathetic groups and the general public the result cannot be foretold. If the general public accepts the non-action theory and uses the simple process of ignoring, that is, carrying a boycott to its ultimate end, a group or a firm with which it feels it has a grievance, that group or firm can be destroyed. That would be a public sit-down. Nonassertion is an invitation to the grossest use of self-assertion, vigilantes, and direct action. Only those who understand it should use it. From the legal aspect of such a strike the law of trespass surely demands respect, and yet we all know that no striker is a willful trespasser in that word's ordinary sense, and few employers would want him treated as such because in ordinary times they are the best of friends. Thus, industrial and labor law must reflect mutual responsibility and not individual responsibility and must become wholly relative in its restraints and commandments.

We can take some outstanding definitions of what constitute fair labor practice and fair industrial practice and write those definitions into law and set up institutions representing the public to administer the Government's activities in accordance with these definitions and in a spirit of mutual interest. Great steps have already been taken toward this end if we can be sure that that which has already been done can have the support of all branches of our Government and our people.

What, then, might be done to better our conditions? On industry's side it must be recognized that an attempt to control public opinion has failed. When daily papers fail to print news items of general passing interest and the weekly and monthly magazines or the paper from a neighboring place sent by a friend drifts into a community the people soon learn of the control and treat such papers with contempt.

The spying activities in all their hideous aspects have failed. They must be abandoned or industry will never be trusted.

Agencies organized for group action which produce united fronts or preponderant group control against the little fellow must be given up or their money-controlled activities tempered on the basis of mutuality.

Personnel officers must be reformed. The ganging-up tactics of all kinds by using the press, public officials, and police officers, or phony organizations to enforce law and order must be abandoned. In other words, our great industrialists must face their labor problems themselves and not leave their solution to hired detective agencies or second-rate organizations controlled and directed by ill-trained brains. One directing officer of one of these labor-busting, coercing, public-opinion-controlling, and spy-employing organizations testified under oath that he had never talked with a laboring man in his twenty-five-odd years of experience, yet he was respected by great industrialists as a directing force in labor relations.

The laboring group must be permitted to be responsible. They must prove their responsibility by proving their ability to discipline their own members. They must dignify their position by assuming openly that responsibility. Their spokesmen should be well trained and their demands should be based upon public interest as well as the welfare of the laborers. With the industrialists the laborer must contribute toward the establishment and development of industrial and labor law in America as a distinct branch from the ordinary political law. Labor must put down the labor racketeer and cure the abuses of the kick-back. These things can be done only by assuming the above-mentioned responsibility, thus driving the illegitimate groups out of existence.

What can government do? First, it can lay down broad definitions of what shall constitute fair and unfair labor and industrial practices. It can define by law a labor union, lodge, or craft group, thus outlawing the racketeer and the dishonest labor leader. It can then bring into existence institutions—call them courts or boards—for the enforcement of fair labor and industrial practices and relations, thus furnishing the third party with the public interest necessary for the settlement of troubles. These third parties might have constant access in an advisory capacity to our major industries. They should be available to both labor and industry on call. Under our present constitutional scheme these institutions should be set up for use in those industries which can be federally controlled, with the provision that States may pass similar definitions and may, therefore, cooperate with the Federal agencies in the enforcement of those definitions. Thus the constitutional chasm which divides interstate and intrastate commerce can be bridged by cooperative action by both the State and the Nation.

This will develop rather slowly, but in its slow development will come a certainty which will bring peace and confidence. Then, whenever a strike, a lock-out, a sit-down, or a walk-out threatens, no action shall be taken either on the part of industry or of labor until 2 weeks' notice has been given after conferences around the table where representatives of labor and industry and the public were present and formal demands have been made and refused. Thus, we can bring to industrial strife a cooling-off period which naturally leads to that give-and-take compromise which is always reached after the strife has been completed, and public opinion also has a chance to bring its influence to bear. These conferences may result in investigations or advisory conclusions, or they may fail in stopping the strike and the strife, but at least each side and the public itself will know exactly what labor is fighting for and what industry is contending against. But strikes, like war, are outmoded. For this great Nation to assume that it cannot solve its labor and industrial problems is to admit a failure our history will deny. The key to the solution is trust, confidence, and mutuality.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 23, 1937

ADDRESS BY HON. JAMES H. WOLFE, ASSOCIATE JUSTICE OF THE SUPREME COURT OF UTAH, MARCH 7, 1937

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered on March 7, 1937, by Hon. James H. Wolfe, associate justice of the Supreme Court of Utah. The address relates to the proposal to enlarge the Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I begin with a few gentle admonitions. The first is not to get worked up over this question of Federal judicial reform. Take it in its stride. Let us debate it in good humor, as we are doing tonight, and then abide the result in equanimity.

Even our Constitution—nay, our very economic and social civilization—viewed in the perspective of history are relatively temporary. You may be as sure of that as you are of anything in life. Every society thinks itself eternal and most governing classes that they will rule always. But in the social organism power shifts from old to new groups.

And here is an important point: In modern civilization the recurring changes in environment, accelerated by science and invention, greatly speed up this rise and decay of social energies, so that it becomes necessary to develop administrative minds capable of governing a society of continually increasing complexity in shorter periods of time. In past centuries power shifted slowly from one group to another. Today the shift is rapid.

My second admonition is, Do not think the Constitution is divinely inspired. The Constitution showed, in great part, a series of compromises between the New England merchant and shipowner and the southern planter after prolonged haggling in the Constitutional Convention. And it was terribly maligned at the time of its adoption. "The Constitution", stated a Philadelphia periodical of that day, "is a spurious brat. The evil genius of darkness presided at its birth and it came forth in a veil of mystery." Patrick Henry called its scheme of checks and balances "rope dancing, chain rattling, and ridiculous contrivances." These were characteristic of the expressions all over the Colonies. If the Constitution is divine, its author got a tremendous irreligious drubbing. The harm in considering it a second Ten Commandments lies in the fact that with this psychology it is almost impossible to change it when it may be required to change it to save our form of society. It seems to me the President had this in mind when he chose to take the course of liberalizing the Court rather than risk the peril and delay which concentrated wealth and influence could cause by playing on this sort of credulity. A constitution considered sacrosanct becomes very difficult to amend speedily enough to prevent disaster. Remember that it takes favorable action by either both branches of 36 legislatures or 36 conventions to pass an amendment. Five percent of the population may block it.

Also I ask that you do not make the mistake of thinking the President's proposal unconstitutional. Congress has the power to increase the number of judges. In fact, if I had the time I could make a very respectable showing that this very power given to Congress was to permit that body to change the number of judges where it became necessary to curb the power of the Court arbitrarily used. In the past, of course, the size of the Court has been increased and diminished. Perhaps the opponents of the President's proposal should seek an amendment limiting the number of Justices to nine. The constitutionality of the recommendations is not in question.

But it is said it infringes on the spirit of the Constitution. It is an attempt, say some, by the President to become a dictator. He now controls Congress, they say, and he wants to control the Court. I think this hardly worthy of an answer. Can any of you really picture Franklin D. Roosevelt as a dictator? If so, I think it results from an uncritical imagination. Moreover, dictatorship is very improbable where people retain the right freely to speak and freely to vote and where by tradition no man can serve as President more than 8 years.

However, it is asserted, if his proposal carries, that he will tell his appointees how to decide a case. It is true that the President may be expected to appoint men whom he thinks sympathetic with his ideas of social and economic adjustment. But in this respect many Presidents have been able to control the Court. Grant did it by appointing two judges and thus brought about a reversal of a former holding that the Legal Tender Acts were unconstitutional.

Every conservative President who has a vacancy to fill will ordinarily appoint judges who reflect the conservative, philosophical viewpoint. Harding appointed Butler, Sutherland, and Sanford. Taft appointed Van Devanter, Wilson appointed McReynolds, perhaps the most reactionary Judge on the Bench. To his mind not a single New Deal measure out of 14 coming before the Court was constitutional. Congress and the President, himself a lawyer, could hardly have guessed wrong all these times. Coolidge appointed Stone and Hoover appointed Cardozo, both able and liberal Judges. What has been said also serves to illustrate the fact that no President can control the mind of a Judge with independence of character. Coolidge thought Stone conservative. Wilson thought McReynolds was liberal. They were both wrong. The best that can be done is to appoint men whose antecedents reveal them to be of broad social vision, fearless, and able, and hope that they not be disappointing.

I think the real reason there is so much opposition to the President from certain groups is that they do not want this President to appoint new Judges at this time. They are not so fearful about the method or the nature of the reform, but they don't want this barrier to New Deal legislation removed. That is their main concern. The cry of dictatorship is a smoke screen.

Neither should you be influenced by the talk about precedents. Remember that the President is recommending not court but congressional action. Congress is the mouthpiece of the sovereign will. It is not governed, like the courts, by precedent. Not precedent, but powers, limit its action. It does in any emergency or at any time what the situation seems to demand. Moreover, if one is bound to look to precedent in Congress, we have it. Twenty-five years before Lincoln's time the Court was increased from seven to nine to "water down", as Professor Corwin states it, "the remnant of the old Marshall bench." And as I said before, Grant, a Republican President, appointed two members, one to fill the place of the senile Justice Grier, who resigned, and another to fill

a vacancy caused by an act of Congress enlarging the Court by one member.

While we are speaking of precedents, a few words from Professor Powell, of the Harvard Law School, will give you some idea of how the Supreme Court treats precedent. He said in 1932:

"Nine men in Washington have a pretty arbitrary power to annul any statute or ordinance or administrative order that is properly brought before them. The power is an arbitrary power, even though it may not be arbitrarily exercised. It is arbitrary in the sense that in the last analysis it is exercised as five or more of the nine men think best.

"The Supreme Court can hardly be said to be controlled by the Constitution, because so seldom does the Constitution clearly dictate a decision. It is not controlled by its own precedents, for it feels free to overrule them. It feels even more free to make distinctions that no sensible person would think of making except to avoid confession that a precedent is being disregarded."

Having sounded my warnings and having, I hope, cleared the ground of arresting prejudices, I take up the affirmative part of my case. The President has based his recommendations on the ground of advanced age of six Justices. This was, to my mind, only out of deference to the feelings of the members of the Court. Things are not done in that way. The ground he mentioned did have validity. As we grow older we usually do it so imperceptibly that we fail to discern that we are slipping. Moreover, even if we retain our intellectual vigor, our social viewpoint may remain static. Our thoughts are based not on current economic or social conditions but on those dead and gone. Judge Grier, when he signed the majority opinion in *Hepburn* v. *Griswold*, was incompetent, and was finally asked by all the other Judges to resign. Chief Justice Field was so senile and mentally inept that his associates requested his resignation, but without avail. He stayed until his death, a mentally tottering and tragic figure. So there is some basis for the ground of age named by the President, but I am frank in stating that I do not think that was the real or important ground. And the President's talk the other night bears this out.

I will admit that the recommendation respecting the Supreme Court was startling. And I will further admit that intrinsically considered without taking into consideration the larger aspects of the currents of American life and the actual conditions as we find them, there are potent arguments against it. But under the present circumstances I justify the President's recommendations chiefly on one ground, and that is high necessity.

You heard John T. Flynn in this hall very recently tell you that our present prosperity was one stimulated by Government spending and the inevitable necessity to replace worn-out equipment. This public spending to the extent now going on cannot continue indefinitely, and replacements will after a time subside. Economists believe there is real danger in the fairly near future of our going into a boom with its inevitable reaction—a depression. We still have millions of unemployed workers. We are in a crisis, but we don't realize it because we're living on borrowed money. Can we afford to retain four judges whom we have reasonable cause to believe will nullify all legislation which may be necessary to save our democracy and our economic system? Let me put to you one test:

Imagine the country back to where it was when the N. R. A. and A. A. A. were first passed—that is, in the summer of 1933. Remember what hope and renewed activity these measures brought. How everyone was heartened by them. Imagine the Supreme Court at that time declaring these laws unconstitutional. Would the country have hesitated a moment to speedily replace these Judges in the manner now suggested by the President?

Now let us pause a moment to see the basic reason why it is necessary to keep on the bench Judges abreast of the times. It is because the Court has become a political as well as a judicial body, using the term "political" in its deeper sense. It has become a sort of third parliamentary body without democratic control.

The will of sovereignty should be expressed by its legislative body. This is the institution in which the views of different groups of a nation converge. Here conflicting social ideas and philosophies should find their battleground, and the laws passed be the resultant expression of these different views. The courts, on the other hand, should be tribunals of judgment governed in their decisions, under our system of common law, by certain guiding precedents and by the statute law. But under the American system the highest courts have been placed in the position where in the last analysis they must determine whether a law is or is not constitutional. And as Professor Powell states, seldom does the Constitution clearly dictate a decision. The question of the constitutionality of many State and Federal acts depends on what sort of interpretation is given to the "due process" clause of the fifth and fourteenth amendments, or what content is put into the interstate commerce or other of the more general clauses of the Federal Constitution. But what one judge as compared to another will think is not due process will, as Professor Ritter states, depend largely upon his political views, his earlier training, and legal connections—whether he represented railroads, other large corporations, power companies, or more humble clients—and his breadth of social view, fundamental social philosophy, etc.

As a matter of historical information the placing of the Supreme Court at the focus of conflicting social theories was brought about rather innocently by Marshall in the case of *Marbury* v. *Madison*, decided in 1803. I wish I had time to give you the main details. It must suffice to say that in this famous case Marshall laid down the principle that the judiciary, one of the three branches of our Government, had the authority to say whether the acts of the other two branches—Congress and the executive—were constitutional. This is what is called the doctrine of judicial supremacy. It was a power not granted by the Constitution. It was assumed by the courts. It does not exist in England or in any other country that I know of, which has a constitutional government. The result was that the Court was lowered into the political field. Instead of expressing the judgment of sovereignty it was also made in questions profoundly affecting the Nation, to express indirectly the will of sovereignty. And let me say at this point that since 1789, when our Constitution was adopted, every western people has readjusted its institutions at least once along democratic lines, yet not one, after mature studies of our Constitution, has adopted this principle of judicial supremacy.

The Court being thus placed in a position where it has authority to prevent fruition of social reforms, it results that those groups holding the power of sovereignty and those striving for it find it necessary to have a Supreme Court sympathetic to their social philosophy. And thus it happens that a declining social power is sometimes able to stem the tide of a rising energy. Andrew Jackson saw that slavery was doomed. But he wanted to preserve the institution as long as possible. So he placed Roger Taney on the bench. In the Dred Scott case Taney held the Missouri compromise unconstitutional. This decision accelerated the decline of the ruling caste and hastened the shifting of the social equilibrium.

We have somewhat the same phenomena present today. There is a shift today in the social equilibrium. It is passing from the ultracapitalist class. But the Supreme Court, as presently constituted, has placed itself athwart the stream of American life by declaring laws which represent the will of this rising power unconstitutional.

These decisions will, of course, be swept aside as they necessarily must be, perhaps to save our democracy. I give you a concrete picture. The contest between labor and capital is going on apace. The former is becoming more powerful and leadership more concentrated. It represents part of a bigger movement of the economically disadvantaged classes to obtain a larger share of the material satisfactions of life. They will be content with nothing less. Even spiritual solace of "pie in the sky" no longer works. This means that if the capitalist and industrialist remain resistive, there will be more intense, more bitter, and wider spread industrial warfare. Lines between conservatives and radicals will tighten and ultimately the propertied classes will, in order to save their powers, take over the state in some sort of fascistic regime and democracy will be ended in this country. A civil war may not be an unlooked for consequence in such case.

How are we going to prevent it?

One hope of preventing industrial warfare is to provide adequate Federal machinery for arbitration and conciliation as was attempted by the Guffey Act—declared unconstitutional—and the Wagner Labor Relations Act, now before the Supreme Court. But if the latter is declared unconstitutional by the Supreme Court as has been the Guffey Act, we must either submit to this increasing paralysis of industry with its consequent peril of fascism, or make a change in the Court. And let me say at this juncture that it is not so much the number of acts which the Supreme Court declares unconstitutional but the kind. One Dred Scott case is about all we can stand in the history of our Nation. Fifty acts declared unconstitutional may have little effect, while one may be disastrous.

It is said that an amendment allowing Congress to pass a law retiring Judges at a certain age would have been more in keeping with American methods. But as the President indicated, time is of the essence. Does anyone suppose the ruling economic caste would not fight this in every legislative convention with all its money and power? If we would have to wait as long as we have for the child-labor amendment, we may be at each other's throats before it would pass. And under the President's recommendations a Judge whose mental energies have not declined does not need to retire. None of the other plans will effectuate so speedily the need of relief. Some of these are that we amend the Constitution so as to permit a two-third vote of Congress to override a decision of unconstitutionality. But liberalizing the Court in the present instance need not prevent the submission of either an amendment to permit Congress to override by a two-thirds vote, a decision of the Court, nor one designed to permit Congress to exercise powers which the Court now says it does not possess.

To sum up:

In Marbury against Madison the Court drew to itself the power to nullify acts of Congress. This immediately changed the Court from a wholly judicial body to one partly political. It gave the Court a power which was beyond democratic control. During the last 4 years, mostly by narrow margins, the Court, I think, has used this power arbitrarily, and from the present Court in a presently existing crisis we cannot expect aught but nullification of legislation needed to cope with present conditions. Events will not abide the slow process of an amendment even if we could agree on one—and there is no substantial agreement on what would be adequate. Consequently necessity dictates that we use the constitutional power to change the complexion of the Court by placing on it men whose views are more in keeping with the times. This it is necessary to do—perhaps to save our very democracy. Therein lives the justification for the President's proposal.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. SHERMAN MINTON
OF INDIANA
IN THE SENATE OF THE UNITED STATES
Tuesday, March 23, 1937

STATEMENT OF JUDGE FERDINAND PECORA BEFORE THE JUDICIARY COMMITTEE OF THE UNITED STATES SENATE MARCH 20, 1937

Mr. MINTON. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD the statement made by Mr. Justice Ferdinand Pecora, of New York, before the Judiciary Committee of the Senate.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Despite the reverence and even awe with which many people still regard our courts, there is no blinking the fact that the courts and the legal profession do not command the public respect and confidence that they used to. This gives me as a judge and as a lawyer deep concern. I believe that the lawyers and the courts have vitally important public functions to perform. I want to restore the faith of the people in lawyers as public servants and in the courts as tribunals of justice. But I am painfully conscious that that faith can never be—and I hope never will be—restored on the basis of the myth that the courts and their counselors can do no wrong.

The myth that the courts can do no wrong is not only absurdly false, but is dangerous to the integrity of the judicial system. Those who would deify the courts, and make the judges feel that they are somehow superhuman, purer and wiser than other men, do the judiciary a grave disservice. The idea that it is contrary to a sort of eleventh commandment to criticize the courts has tended to make the judges less sensitive to merited as well as unmerited criticism. It has accentuated a feeling upon the part of some judges that all criticism directed toward them is in bad taste and evidences a want of sportsmanship. To that feeling upon the part of some judges must in no small measure be attributed the constitutional stagnation which threatens to bring into disrepute the whole judicial system.

As one who is privileged to wear the judicial robe, let me assure you that there is no magic in the robe. It does not invest its wearer with qualities he did not possess before the robe was draped about his shoulders. It does not endow him with an intellectuality or a spirituality not his previously. It does not transform his personality. It does not enable him to step out of that personality and assume a new one. If he lacked humanity before he donned the robe, his understanding is not leavened with that virtue by it.

It was the late David J. Brewer, a great Associate Justice of the Supreme Court, who once reminded us:

"It is a mistake to suppose that the Supreme Court is either honored or helped by being spoken of as beyond criticism. On the contrary, the life and character of its Justices should be the objects of constant watchfulness by all, and its judgment subject to the freest criticism. The time is past in the history of the world when any living man or body of men can be set on a pedestal and decorated with a halo. True, many criticsms may be, like their authors, devoid of good taste, but better all sorts of criticism than no criticism at all. The moving waters are full of life and health; only in the still waters is stagnation and death."

It was one of the most distinguished jurists now gracing the bench of the Supreme Court—Mr. Justice Stone—who testified only last June, in his dissenting opinion in the New York Minimum Wage Law case, that the decision announced by the majority in that case was grounded upon their "personal economic predilections."

In that case, by a 5-to-4 decision, the Court held the legislatures of our States to lack the constitutional power to enact minimum wage laws. One of the Justices in that majority of five, Mr. Justice Sutherland, was in 1917 the president of the American Bar Association. In an address delivered by him in September of that year, he said:

"In the old days it was the liberty of person, the liberty of speech, the freedom of religious worship, which were principally threatened. Today it is the liberty to order the detail of one's daily life for one-self—the liberty to do honest and profitable business—the liberty to seek honest and remunerative investment that are in peril. In my own mind I feel sure that there never has been a time when the business of the country occupied a higher moral plane; never a time when the voluntary code which governs the conduct of the banker, the manufacturer, the merchant, the railway manager, has been finer in tone or more faithfully observed than it is today; and yet never before have the business activities of the people been so beset and bedeviled with vexatious statutes, prying commissions and governmental intermeddling of all sorts. * * * In my judgment an extraordinarily large proportion of the statutes which have been passed from time to time in our various legislative bodies might be repealed without the slightest detriment to the general welfare."

I am happy to see on this Judiciary Committee of the Senate a number of distinguished gentlemen who, in 1933 and 1934, were members of the Senate Banking and Currency Committee. That committee, upon the direction of the Senate, became an investigating commission which challenged the divinity that doth hedge a banker by irreverent inquiry into their customs and practices. As one who was permitted to play a modest part in that inquiry, I respectfully suggest that those Senators acquaint their colleagues with the contrast between the evidence there brought to light concerning the moral plane of the conduct of our bankers and Mr. Justice Sutherland's conception of it.

And I would invite reflection, by way of comparison with Mr. Justice Sutherland's views, upon the utterance of Mr. Justice Stone, in 1934, that "when the history of the financial era which has just drawn to a close comes to be written, most of its mistakes and its major faults will be ascribed to the failure to observe the fiduciary principle, the precept as old as Holy Writ, that 'a man cannot serve two masters'."

I call attention to these sentiments of Mr. Justice Sutherland with all due respect for his learning and character. Indeed, this respect is enhanced, if anything, by the sheer frankness of the avowal of his philosophy in 1917. I entertain not the slightest doubt that he cherishes that philosophy with a deep conviction of its soundness. But I also entertain not the slightest doubt that that same philosophy fundamentally contributed to his ruling in the Adkins case in 1922, denying to Congress a constitutional power to enact minimum wage legislation for women, and his similar ruling in the Tipaldo case in 1936 denying a similar power to State legislatures.

This leads to the strong probability because of the close division of the Court in the Adkins and Tipaldo cases, that had the personal predilections of Mr. Justice Sutherland, for instance, been other than those acknowledged by him in 1917, the Court would have construed the Constitution differently in those two vitally important cases; and the validity of the social legislation there involved would have been upheld. Thus do we have added appreciation of what Mr. Chief Justice Hughes meant when he said—back in 1907—"We are under a Constitution, but the Constitution is what the Judges say it is."

Courts are not infallible nor exempt from the processes of change and new experience. Time after time, they have themselves recognized their errors, and reversed their own holdings. In at least a score of cases involving the interpretation of the Federal Constitution, the Supreme Court has squarely overruled its own prior decisions or qualified decisions until they were overruled in effect. The most important of these reversals are listed in Mr. Justice Brandeis' opinion in a recent case, *Burnet* v. *Coronado Oil & Gas Co.* (285 U. S. 393, 406–410). One need only mention the Legal Tender cases, the Income Tax case, and the widely divergent approaches in the Lochner and Bunting cases as famous instances. Here is explicit and striking recognition, by the Court itself, both of the fallibility of Judges and of the necessity for constitutional interpretation which will reflect the ever-shifting and developing needs of society.

The issue here is in no sense a narrow or partisan one. Not only the Democratic Party but the Republican Party as well, officially recognizes that the attitude stubbornly persisted in by the dominant majority of the Supreme Court has been, in at least one conspicuous and crucial instance, not only unwise in policy, but also opposed to the true interpretation of the Constitution. Ten days after the Supreme Court had last June in the Tipaldo case held the States without power to enact minimum wage legislation for women, the Republican National Convention adopted the following plank in its platform:

"We pledge ourselves to * * * support the adoption of State laws and interstate compacts, to abolish sweatshops and child labor, and to protect women and children with respect to maximum hours, minimum wages and working conditions. We believe that this can be done within the Constitution as it now stands." Certainly there was no suggestion then made that this pronouncement of Republican policy constituted a disrespect for the Supreme Court or a violation of the fundamental principles of American liberty. Yet the present proposal seeks no more, in essence, than the practical implementing of precisely this attitude.

But the economic predilections of the Justices have not only bedeviled constitutional law; they have paralyzed administrative agencies in their efforts to protect the public.

In the utility field the Court's theory of valuation, which virtually every reputable economist agrees is absurd, has made of State regulation a costly farce.

In *Jones* v. *Securities and Exchange Commission* (298 U. S. 1), the Supreme Court stretched out its hand to cast its paralyzing spell upon the newly established Securities and Exchange Commission. That Commission in its first year had already acquired a national reputation for its prudence and its caution. Yet in that case the Commission was unmercifully excoriated by Mr. Justice Sutherland, speaking for a majority of the Court, and was charged with proceeding arbitrarily in the manner of a star chamber, although three of the ablest Justices on the Court found expressly that the Commission's procedure was not only fair but

absolutely necessary to protect innocent investors from bankers who have not yet lost their cunning.

The case really involved a question of statutory construction, and even if the Commission's interpretation of the statute was not, as a minority of the Justices believed, the correct one, there was not the slightest occasion for a violent attack by the majority upon a commission which in good faith and with ability was attempting to perform its statutory duties.

The plain hostility shown by the Court to administrative action is a frank encouragement to indolent and slothful bureaucracy and an unwarranted threat to effective and alert administration. The Supreme Court may yet have to be the responsibility for depriving investors of the protection they have been led to expect, and there is no assurance that when the day of reckoning comes the investor will not again have to pay.

I have followed the criticisms of the President's judicial proposal with great interest. I am struck by the fact that few, if any, of the critics of the proposal have sought to justify the constitutional interpretations of the majority of the Supreme Court which have been assailed by the distinguished minority of the Court as "tortured constructions" representing nothing more than the "personal economic predilections" of the majority. On the contrary, so bitter an opponent of the President's proposal as Mr. Walter Lippmann, as lately as March 2 last, referred to "a line of decisions (of the Supreme Court) going back 30 or 40 years which can most justly be criticized as judicial usurpation."

Yet these critics counsel the people of our great democracy slavishly to abide for an indefinite period by decisions of the Supreme Court which plainly deprive them of their constitutional rights. These critics counsel servile acquiescence in the denial of the constitutional rights of the Congress and of the State legislatures until a constitutional amendment can be agreed upon and ratified, which, assuming it does not suffer judicial emasculation, may induce the Court to interpret the Constitution to mean what it plainly says. Such critics tell us in effect that when the Supreme Court denies to the people their constitutional rights, such rights cannot be regained without the consent of three-fourths of the States, and possibly of more than 95 percent of the people.

Learned experts have already explained to this committee that there is nothing in the latter or spirit or custom of the Constitution that should deter the Congress from infusing new blood and energy into the Court in order to avoid a condition of constitutional stagnation. I shall not attempt to add to their sound learning and prudent counsel.

I should like, however, to speak upon the question of a supposed peril to civil rights and religious freedom, which has been injected into this controversy.

There has been an effort to make the average American fear that the President's proposal, although admittedly not so intended, will tend to be an entering wedge to break down the great constitutional guaranties of personal liberty and religious freedom.

If there were any real basis for this fear, it could not lightly be disregarded. There are few of us who would not be willing to sacrifice much in the way of worldly goods and material comforts to secure and retain the blessings of liberty for ourselves and our posterity. But if we want to preserve the substance as well as the form of these great constitutional guaranties, we must exercise our minds as well as hearts to make sure that in preserving the forms of freedom we do not lose the substance of liberty.

The Bill of Rights and the fourteenth amendment were incorporated in the Federal Constitution to preserve human rights. But it is the stubborn arithmetical and undeniable fact that in the hands of the courts these great and fundamental guaranties of human liberty have served more frequently and more importantly to obstruct the enforcement of social and economic legislation intended to preserve the substantive freedom of the average man and woman, than they have served to protect the substantive freedom of human individuals from oppressive legislative, executive, or judicial action.

The President's proposals do not even touch the power that the Supreme Court now has to protect individual liberty and freedom of conscience. That power remains and should remain undisturbed and unimpaired.

Nor can it reasonably be feared that the newly appointed Judges will be less jealous than the present members of the Court to uphold that high jurisdiction. On the contrary, it is precisely through the appointment of Judges holding the legal philosophy of the present minority of the Court—and this is the avowed purpose and intent of the projected reform—that the preservation of civil and religious liberties can best be fostered. For it is these Judges—Brandeis, Stone, Cardozo, and Holmes—who have always led in the fight for human freedom, just as they have led in the fight for legislative freedom to deal with social and economic problems.

And it is precisely the conservative majority who have refused to grant legislative freedom to create economic liberty for the people who have in the past been responsible for many decisions bitterly attacked by liberals as destructive of personal rights. A fair and open-minded examination of the cases demonstrates beyond any reasonable doubt that so far as our civil rights and liberties are concerned Justices who are alive to the social and economic needs of the present generation are more likely to defend those rights and liberties from new and subtle forms of encroachment than Justices who have lost touch with the aspirations of their fellow men.

But nothing could be more dangerous to the continued maintenance of personal freedom in this country than the beguiling doctrine that 5, or 9, or 15 men upon the Supreme Court can or will preserve our rights as free individuals if we permit our legislatures to come under the control of men who are bent upon the destruction rather than the vindication of those sacred rights.

In other lands democratic institutions have withered under the control of men indifferent to the principles of civil liberty and religious freedom. In other lands democratic government has abdicated to dictatorship, not because men no longer wished to be free but because democratic governments became impotent to deal with economic problems. Necessitous men are not and cannot be free men in relation to their fellows and to their government. Courts may possibly protect the individual when passion and feeling momentarily run high, but if the continued frustration of free government by the courts causes the people definitely to lose faith in democracy and in liberty, the courts will be powerless to restore that faith by judicial process. Those who value personal freedom and religious liberty should never forget, as Justice Holmes has reminded us, that "the legislatures are ultimate guardians of the liberties and welfare of the people in quite as great degree as the courts."

Intolerance and the all-pervading suspicion of one's fellows, both of which so gravely menace individual liberty, are not the concomitants of effective action by democratic government; they are the warnings of the failure of democratic government to function. Such warnings, if too long unheeded, may sound democracy's fall.

Individual liberty is not secure in a disordered society, no matter what legal guarantees it may have on paper. Individual liberty cannot be secured by denying to democratic legislatures the essential powers of free government. Dictatorship seeks to curtail and not to enlarge the powers of democratically elected legislatures.

We may have admired, when the depression was at its depth, the courage of the judge in the farm belt who, in the face of the threatening pitchforks of enraged farmers, could not be swerved from his duty to render foreclosure decrees in accordance with the terms of the mortgage bond and the letter of the law. But however much we may admire the judicial independence of that brave judge, it was not he who restored respect for law and order in the farm belt. It was effective action by an effective Government which restored respect for law and faith in democratic government. Without the "unconstitutional" A. A. A. effecting a reduction in farm surpluses, without prudent moratorium laws and without banking and financial legislation effecting a reduction in interest rates, constitutional judicial heroism in the farm belt might have been only judicial martyrdom.

Labor unrest causes national concern. Labor demands increased recognition from the law. Past decisions of the Supreme Court have long denied the right of both Federal and State Governments to prevent discrimination against union labor. Indifference to labor's demands may lead labor in self-defense to follow the example of law defiance so skillfully practiced by the economically powerful. When a Liberty League lawyer advises his client to disregard acts of Congress, it is not to be wondered at that overzealous advocates counsel strikers to disregard court orders.

Never forget that sit-down strikes in defiance of law originated in the lofty seats of high finance before the technique was merely copied by working men and women.

I have told you before of the illusory character of the protection which the Securities and Exchange Commission can give the investor today because of the effect upon its administrative procedures of Mr. Justice Sutherland's intemperate and unnecessary language in the Jones case. But do I need to tell any Senator that 3 years ago much of the protection originally written into the Securities Act was quietly amended out of the language of the act by the Congress itself as a concession to the first great sit-down strike? That was the sit-down strike of the investment bankers in New York who, while they warned the country how much it needed their services to reestablish the capital-goods market, at the same time refused to make those services available unless the Congress took the teeth out of the Securities Act of 1933.

There was no secret about that sit-down strike. It was open and avowed—and that strike went on until they got away with it!

Then there was a second great sit-down strike by high finance in defiance of law—the sit-down strike of the utility holding companies against the Public Utility Holding Company Act, a refusal even to register with the Securities and Exchange Commission, aided and abetted by the elite of the New York financial bar, in the name of the Constitution. That strike is still going on!

And the third great sit-down strike has been against the Wagner Act—the legislation which the Congress of the United States passed to prevent the problem of strikes from ever arising. That strike is still going on!

But can you expect the working man and woman to be religiously reverent of the letter of the law when the mighty and the powerful, who want the rest of the community to consider them models act this way toward the law? When a Liberty League lawyer advises his client to ignore laws until that lawyer has had a chance to go to the last possible court in the hope of getting the law declared unconstitutional, is it to be wondered that overzealous advocates counsel strikers to disregard court orders?

What is desperately important for realistic statesmanship today is a realization that there are no more secrets in this country about observance of law or about the operations of courts. If one group is allowed to break the law or take advantage of the courts, it is the fact, whatever the justification or lack of it, that every group will go and do likewise.

Courts which nullify laws for the protection of labor which the community regards as fair will forfeit labor's respect for law. The courts, however independent and impartial in enforcing the law in any particular case, may prove ineffective in subjecting the relationship of capital and labor to peaceful adjustment, so long as the State and Federal legislatures are denied the right to deal with industrial problems in light of present-day industrial conditions.

If the courts lose the confidence of an increasingly large part of the community and civil strife ensues, the courts, rightly or wrongly, will be slender reeds upon which to rely for the protection of civil and religious liberties. Every student of history knows how little a Supreme Court—discredited by the Dred Scott decision and blamed by the country for its troubles—was able to do to protect civil rights during the War between the States.

The ultimate safeguards of civil and religious liberty are the community's regard for civil and religious liberty—and the acuteness of the community's feelings for generosity and fairness. Communities harassed by war, domestic strife or economic distress do not usually show the greatest solicitude for individual differences. Hungry men are apt to be intolerant of everything save food for themselves and for their families. When misfortune and unrest stalk through the land, tolerance and a fine regard for individual rights are not usually to be found. Freedom, political or religious, never has and never will flourish in a country which has lost faith in that freedom.

There are those who warn us to protect the courts from the legislators in the name of human liberty. It is at least equally important to protect human liberty from the courts as guaranteed by the Constitution—and to protect the courts from themselves. If we continue to acquiesce in "tortured" constructions of the Constitution which deny to our democracy the essential powers of free government, the courts will ultimately prove unable, howsoever willing, to protect human liberty from the dangers and oppressions of dictatorship. The courts are human institutions—as human as those who sit upon their benches—and no human institution insensitive and unresponsive to the needs and aspirations of a free people can command their willing respect.

In truth President Roosevelt's proposals are calculated to preserve the courts and not to destroy them. Those who would preserve the courts will not wisely adopt a "hands off" policy when the courts are accused by their own distinguished members of adopting "tortured" construction of the Constitution and of reading into the Constitution their "own personal economic predilections."

The futility arising from the existing situation is a responsibility of the Congress. That responsibility cannot be evaded by playing upon the cherished loyalties of the people to the Constitution and the courts. The truth is that the improvement of the personnel of the Court by the infusion of new blood and new vision is calculated to justify and not destroy those loyalties.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS
OF
HON. HIRAM W. JOHNSON
OF CALIFORNIA
IN THE SENATE OF THE UNITED STATES
Tuesday, March 23, 1937

MEMORIAL OF SAN FRANCISCO LAWYERS

Mr. JOHNSON of California. Mr. President, I ask permission to have printed in the RECORD, without the signatures thereto attached, a memorial to the Congress of the United States by various lawyers of San Francisco protesting against the proposal to reorganize the Federal judiciary.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

To the Congress of the United States:

The undersigned, lawyers of San Francisco, by virtue of their profession familiar with the principles of government, but of different political faiths, of different economic and social views, of different religious creeds, and united in this petition only by a common love of country, respectfully represent:

You have been urged by the President to enact a law whereby he shall be empowered to appoint an additional judge for every judge of a court of the United States who is over the age of 70 years. The general policy of retiring a judge who has reached that age does not give us concern. But the proposal is much more than that. It must be viewed in the light of the circumstances under which it is made, and, so viewed, it is a propoeal that the President be given the power presently to appoint six additional members of the Supreme Court of the United States so that the trend of the decisions of that Court may be changed. We are not concerned with the right or wrong of those decisions, nor do we represent any common view concerning them in that respect. But there is no charge, and there can be none within reason, that the decisions were not honestly made and do not reflect the sincere opinions of the judges who made them. This being the case, to appoint now six additional judges in order that decisions of a different character may be made, would be to destroy the Supreme Court of this country as a tribunal whose decisions are made according to the right and wrong of the matter as its Judges see it and make it a tribunal declaring the views and enforcing the mandates of the executive power. Right there lies the difference between free government and dictatorship, between a government of freemen, subservient only to the law, and a government of subjects, subservient to an overruling power.

We do not suggest that the President desires either himself to become a dictator or to pave the way for a dictator after him. But we do suggest that in his desire to accomplish what he believes is necessary in the way of social reform he sees only the immediate accomplishment of what he has in mind and fails to see that in the end what he proposes will destroy what he desires—that social reform walks hand in hand with free government, not with dictatorship.

He overlooks that doing now what he proposes for motives of public good will open the way to its being done by another after him for greed of power. He overlooks that it is upon a Supreme Court, independent of the executive power, that the constitutional guarantees which make us a free people depend; the guarantees of free speech, of a free press, of freedom of worship, of freedom to enjoy the rights of property allowed us by law, of freedom of person except when convicted of crime according to law. These are the things which mark a free people. They are guaranteed to us by the Constitution, but unless those guarantees are enforced by a free and independent Court they are but words. They are guarantees found in the constitution of nearly every so-called republic in the Western Hemisphere, but in how many of them, other than in our own, do such simple and fundamental things as free speech, freedom of religious worship, and freedom from arbitrary arrest and confinement actually exist? They do exist here, except for occasional infractions, and they have existed throughout our history as a nation; and that they do exist and have existed is, first and foremost, because we have had a Supreme Court, independent of both the executive and the legislative power, to enforce them.

We are so accustomed to these rights that we accept them as if given to us by Nature, like the air we breathe. We forget that we have them only as the result of ages of struggle for human liberty; that even today they exist in but few countries of the world; that even in this country, time and again, there have been attempts to destroy the freedom of speech and of the press, attempts to impose discriminatory and oppressive regulations upon one section of the country or upon one race or upon the adherents of a particular religious faith, attempts to jail individuals otherwise than upon conviction of crime after a fair trial. Always against such attempts the Supreme Court of the United States has stood as upholding the fundamental liberties guaranteed by the Constitution as the final refuge against oppression.

The way is open without destroying our form of government to accomplish everything in the way of political, social, and economic betterment the people may desire. If the present powers of the Federal Government under the Constitution are too limited, the Constitution can be amended, and, as our history shows, amended with reasonable dispatch. Proceeding by amendment with the changes which time inevitably requires, the deficiencies are removed and the good preserved; but if the independence either of the legislative, the executive, or the judicial branch of the Government is destroyed, the very essence of our Government also is destroyed.

We respectfully represent to you that, like your own independence and that of the executive department, the independence of the courts, and, more particularly, the Supreme Court of the United States, is vital to our form of government and to the welfare of our people; and that the proposal now made to appoint additional members to that Court in order to alter its decisions is in its essence an attack upon its independence and upon the independence of all the courts, and, therefore, upon the very framework and character of our Government.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS
OF
HON. M. M. LOGAN
OF KENTUCKY
IN THE SENATE OF THE UNITED STATES
Tuesday, March 23, 1937

ADDRESS BY CHARLTON B. THOMPSON BEFORE THE COMMITTEE ON THE JUDICIARY OF THE SENATE

Mr. LOGAN. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address de-

livered on March 11, 1937, by Hon. Charlton B. Thompson, of Covington, Ky., a very distinguished and outstanding lawyer, on the proposal for judicial reform.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

By the President's message the judiciary has at last been yanked out of its seclusion and brought in the public view where it belongs. The developments of the last 4 years have made this inevitable. For during that period the Supreme Court has not merely slaughtered a great part of the New Deal measures; it has so narrowed the construction of two major clauses in the Constitution that the Federal Government is threatened with paralysis.

This course was overwhelmingly repudiated at the polls in 1936. No other interpretation can be placed upon the emphatic endorsement of President Roosevelt and the Congress. It is idle to argue that the Court was not directly involved in the election. If the people were in favor of the Roosevelt policies, by the same token they were opposed to the action of the Court which sought to block them.

The President starts on his second term faced with the prospect of the same judicial hostility which he encountered in his first. Fortified by his overwhelming popular endorsement, this virile leader of a great nation was not likely to sit by idle and allow his constructive reforms to be nullified without a fight.

He chose the right time to strike. If an effort is ever to be made to curb the Court, now is the moment to make it. Other Presidents have run foul of the judicial veto and none of them has liked it. Their struggles against it have been futile. Theodore Roosevelt swung his big stick on the Court in vain. But no other President has ever occupied the position which Franklin Roosevelt occupies today. His position is due not only to his popularity but to a combination of circumstances. The majority rulings striking down some of the New Deal measures have been torn to pieces by powerful minority opinions which have greatly fortified the case against the Court. The policies of the President have been enormously successful. He is fighting for their survival and the majority of the Supreme Court is apparently determined to destroy them.

It is therefore surprising that the message on judicial reform fell so like a bombshell on the country. That some move would be made was inevitable. It was forecast in the inaugural. It was only a question of its form.

There is a strong sentiment throughout the Nation in favor of some change either by amending the Constitution to enlarge the powers of Congress or by restraining the courts in overriding legislation. The President has devised his plan with the utmost skill. It is better than any of the other plans because it preserves all the benefits of our present system and gives more promise of remedying its evils. In fact, it does not change our system at all. The form of the proposal is mild. It in no way strikes at judicial power. There is no question of its constitutionality. Congress has clear power to increase the number of judges in all the Federal courts, and has frequently exercised it. The proposal to increase the number of inferior Federal judges has caused no opposition. The whole debate rages around the proposal to modernize the Supreme Court by appointing a new Justice for each Justice who fails to retire at the age of 70, and thus increase the membership from 9 to a possible 15.

The curious argument is made against the proposal that it is untimely. It is said to have the appearance of trying to pack the Court for a particular purpose. But it is chiefly because of the present emergency that the proposal can be justified at all. And it is because of the present emergency and present conditions that it has any chance to carry.

The President is charged with seeking to pack the Court or to purge the Court. The friendly New York Nation says with evident approval that he is trying to dynamite the reactionary Justices into retirement. But by whatever term the proposal is to be labeled the issue should be clarified. It will not do to assume that the majority of the Court regularly decides cases according to the Constitution and that the President is proposing a scheme whereby he will be able to get decisions contrary to the Constitution. Nothing could be farther from the truth. The President, with impressive supporters, including some of the Justices of the Supreme Court itself, believes that the Court has been violating the Constitution. He and his supporters believe that many acts of Congress have been cast into the discard not because they were unconstitutional but because they conflicted with the political, social, and economic views of a majority of the Justices. The President is not seeking to destroy the Constitution. He is seeking to uphold it and to make it a living force. He believes on good grounds that the Constitution is correctly expounded in the dissenting opinion of Mr. Justice Stone in the Triple A case and not in the majority opinion of Mr. Justice Roberts, which nullified the Agricultural Adjustment Act.

TWO CLAUSES OF THE CONSTITUTION

A large part of the activities of the Federal Government are based on two clauses in article I section 8 of the Constitution. The first clause grants to Congress power to levy taxes to pay the debts and provide for the common defense and general welfare of the United States. The other grants it power to regulate interstate and foreign commerce. It is around these two clauses that the storm has been raging.

These clauses create the foundation for most of the activities of the National Government in the social and economic field. Without them the Government could not function at all. With these two powers unduly restricted by hostile construction it becomes ever more helpless in face of the growing need for national legislation.

These powers have been sharply restricted in recent years. It is clear that in many cases the Supreme Court has wiped out the broader constructions of its earlier decisions. The decision by a 6–3 majority in the A. A. A. case is the most flagrant. It emasculates the general welfare clause by holding that a tax cannot be levied for any purpose unless the object comes within some other definite grant of power in the Constitution. It held that control over agriculture was not granted to Congress, but that agriculture was a local matter under State control, and that the processing tax by which a fund was to be created to pay farmers for the voluntary substitution of soil conserving crops for injurious surplus crops was unconstitutional.

According to this decision many of the activities of the Agricultural Department are invalid. For they invade the powers of the States. As pointed out in the dissenting opinion of Mr. Justice Stone, the decision brings about the absurd result that the Government may give seeds to farmers, but may not condition the gift on their being planted. For even if the appropriation is valid the condition is unconstitutional, because seed planting is within State control. By the same token any appropriation for flood sufferers would be invalid if coupled with a condition that it should be used to prevent the spread of disease or to rebuild or restore damaged homes, because these are matters within the reserved powers of the States. There is no previous decision of the Supreme Court even approaching the Triple A decision in its artificial restrictions on the general-welfare clause. To apply it generally would be to knock out most of the grants in State aid and would render the National Government powerless to act in any emergency.

A similar fate has befallen the interstate-commerce clause. The Court has traveled back to the Sugar Trust case of the early nineties. There it was held that the antitrust law could not operate on a trust controlling the sugar industry, because the control was over manufacture, and manufacture was not commerce (*U. S. v. Knight Co.*, 156 U. S. 1).

But not long after the Supreme Court woke up to the fact that modern conditions required a broader view of the interstate-commerce clause. It upheld acts of Congress applying to livestock dealers, to meat packers, and to the buying and selling of grain on boards of trade. Strictly speaking, all these subjects were local, but they were local incidents to a great interstate movement, and hence subject to congressional regulation. Though done in one place the transactions were held to be a part of the stream of interstate commerce.

The most striking apparent invasions of State power are the cases upholding the right of the Interstate Commerce Commission to regulate railroad rates within a State. This was allowed in 1914 as to domestic rates unfavorably affecting interstate rates. The Court held that wherever the interstate and intrastate transactions of carriers are so related that the control of the one involves the control of the other, it is Congress and not the State that is entitled to prescribe the final dominant rule. Otherwise Congress would be denied the exercise of its constitutional authority and the State and not the Nation would be supreme within the national field (*Shreveport case*, 234 U. S. 342).

This case was followed in 1922 by a decision upholding the provision of the Transportation Act of 1920 granting even more radical powers to the Interstate Commerce Commission. It was given power to raise domestic rates, so that local transportation should pay its just share of the income of the national railroad system. In upholding the act the Court said that "commerce is a unit and does not regard State lines", and that Congress could not exercise complete control over interstate commerce without incidental regulation of State commerce (*R. R. Commission* v. *Chicago, etc., R. R. Co.*, 257 U. S. 563).

Now, these cases furnish a supreme example of the evolutionary process through which the interstate commerce clause has gone. Such power was probably never dreamed of by the framers of the Constitution. Nor could they have been upheld even under the broad nationalistic doctrine of Chief Justice Marshall. In his time there was no occasion for their exercise. But there is occasion now, and the Court met it. For the interstate commerce clause was designed to meet not only the necessities of 1787 but all future necessities as they arose. And if future necessities require the exercise of the power in a way that invades the reserved powers of the States, the reserved power must yield, because article VI of the Constitution provides that the Constitution and the laws of the United States made in pursuance thereof shall be the supreme law of the land, anything in the Constitution or laws of any State to the contrary notwithstanding.

Now, why was there no outcry against this flagrant invasion of State powers? Why was not the tenth amendment invoked by the champions of States' rights? For this amendment, recently pulled out of cold storage, distinctly declares that all powers not delegated to the United States are reserved to the States. Control of local commerce was one of these powers. Yet the State power over local railroad rates fell, without a murmur, when it encountered the exercise of the dormant power of Congress to regulate interstate commerce in a truly national way.

The cases just cited show how easy it is to differ on the constitutionality of new measures. The powers exercised involved no mathematical question. The question was whether the acts of Congress, in invading a State power, were justified by the grant of control over interstate commerce. Its solution required statesmanship and vision as well as a knowledge of law. It was solved

on the national side and without a constitutional amendment. Having so solved it, the Court might reasonably be expected to stick by its decision and not overrule itself when similar powers are exercised by Congress in a much greater crisis.

The insistence on a constitutional amendment to justify the expansion of the commerce clause to meet new conditions is utterly impracticable. It would be difficult to adopt them fast enough to keep up with the changing views of the judges. This fact is well illustrated by three decisions on a point not now in controversy. It was held in 1851 that when Congress did not regulate a given phase of interstate commerce it thereby decided that it should be free from any regulation at all (*Cooley* v. *Port Wardens*, 12 How. 299). Then in 1875 it was held that a State could regulate the freight on goods carried into the State and on goods carried out of it. The Court said that until Congress legislated on the subject the States could legislate on it so far as they were affected, even if the legislation affected those without the State (*Pieck* v. *Ry. Co.*, 94 U. S. 164). It would be difficult to imagine a more complete about face. The Pieck decision was ludicrous. It laid the ground for all the commercial evils which the Constitution sought to remedy. It was actually in conflict with *Gibbons* v. *Ogden*, the great case decided by Chief Justice Marshall in 1824.

But even then there was no constitutional amendment. The situation was cleared up by a later decision and by an act of Congress. In 1886 the Supreme Court completely wiped out the Pieck case and held that even in the absence of congressional legislation a State could not regulate that part of an interstate carriage which took place within its own borders. The power was denied in spite of the fact that Illinois was trying merely to prevent gross discrimination in freight rates from points in the State to points without (*Wabash Ry. Co.* v. *Ill.*, 118 U. S. 557). This decision left the railroads without any regulation at all, and caused the passage of the Interstate Commerce Act of 1887.

So after laying down the law soundly in 1851 the Supreme Court changed its mind in 1875. The commerce clause had certainly not shrunk of its own accord in the meantime, except under the doctrine that the Constitution means what the Judges say it means. Then, 11 years later, the Judges said it meant something else again. The decision of 1886 has met the test of time and is still the law. So far as the purpose of the commerce clause was concerned it always had been the law. There was no occasion for an amendment to the Constitution, except the temporary aberration of the Court in 1875. To attempt to correct by amendment the improvident decision of 1875, as if it were part and parcel of the Constitution itself, would have been ridiculous. The remedy was to get the Court to regain its balance, and this it finally did.

The same inconsistency was shown in the two *Child Labor cases*. The first act sought to prohibit the shipment in interstate commerce of goods made by child labor. The second levied a heavy tax on the profits made from child labor. Both acts were nullified by the Supreme Court, the first by a 5-to-4 decision, upon the grounds that the interstate-commerce regulation and the tax were but cloaks to hide the real purpose of Congress, which was to destroy child labor, a subject matter under State control (*Hammer case*, 247 U. S. 251; *Bailey case*, 259 U. S. 200).

Both decisions were in conflict with earlier decisions on the same point. By prohibitive taxation Congress had prevented the issuance of notes by State banks; had so taxed colored oleomargarine as to prevent its manufacture; had prohibited the sending of lottery tickets from one State to another, for the purpose of destroying lotteries; and had enacted the antinarcotic law under the taxing power for the evident purpose of breaking up the traffic in drugs. All these were matters under the police powers of the States, but Congress was acting under definite grants of power and the Court, in all these cases, refused to go into the motives behind the legislation, and upheld it. In the *Child Labor cases* there was no invasion of States rights. As pointed out by Mr. Justice Holmes in his dissenting opinion in the first child-labor case, when the States sought to ship their products across the State line they were no longer within their rights.

A remedy for these decisions was sought through a constitutional amendment giving Congress power to regulate the child labor directly. The first act was passed in 1916. The proposed amendment is still knocking at the doors of the State legislatures for ratification. It has the support of an overwhelming majority of the people, but 13 States which may have a minute portion of the total population can forever block it. The amendment seeks merely to correct a judicial vagary. The decisions denied to Congress powers which had frequently been upheld by the same Court. The necessity for this endless effort to remedy a mistaken 5–4 decision seems absurd. It is not an amendment that is needed, but judges who regard the destruction of child labor, a national evil, as legitimate a subject for congressional legislation as the suppression of colored oleomargarine.

INCONSISTENT DECISIONS

There are two wholly inconsistent lines of decisions on the bearing of local matters on interstate commerce. The Supreme Court applies an elastic test. If Congress legislates on matters of a local nature, and the Court thinks they affect interstate commerce directly, the legislation is upheld. If it thinks the relation with interstate commerce is remote or indirect the legislation is nullified. By this convenient test a decision either way can be justified by ample precedent.

The New Deal legislation has been classified to be on the wrong side of the line. The N. R. A. was struck down in the Schechter case because the chickens involved had reached New York and were no longer in interstate commerce. Yet about a year earlier the Court had applied the Antitrust Act against the same industry in the same city, for acts that had all been done after the interstate shipments had terminated. The Court in this case held squarely that it was not necessary to decide when interstate commerce ends and State commerce begins, because "the control of the handling, the sales, and the prices at the place of origin before the interstate journey begins, or in the State of destination where the interstate movement ends may operate directly to restrain and monopolize interstate commerce" (*Local, 167* v. *U. S.*, 291 U. S. 293).

In the *Coronado case* (268 U. S. 295), striking coal miners were restrained under the antitrust law because their acts, though committed in one State only, were held to restrain the supply of coal entering in interstate commerce. Interstate commerce was therefore affected in a direct way. But in the Guffey Coal case the other rule was applied. The Guffey Coal Act was held unconstitutional in a 5-to-4 decision on the grounds that the National Government had no power to regulate the coal industry, even though most of the coal mined was shipped out of the State.

It is difficult to escape the conclusion that the Justices who have struck down one progressive measure after another have been influenced by their views on the wisdom of the legislation. If there were no contrary decisions on the same exercise of national power, the case would not be so clear. But when the interstate commerce clause and the taxing clause are held to authorize legislation which destroys other enterprises primarily under State control, it is a little difficult to understand why they cannot be used to curb child labor.

The same difficulty occurs in an attempt to follow the fine-spun distinctions sought to be drawn between the effects of local transactions on interstate commerce in different kinds of cases. With evident relish a Justice will crack down on a labor organization for acts done wholly within a State and hold that they restrain interstate commerce and thus violate the Antitrust Acts. When confronted with an act of Congress which operates in the same field with the object of regulating commerce in a national way to meet national needs, the same justice will discover that the bearing on interstate commerce of the local matters regulated is too remote. What sort of amendment will remedy this situation? If the power is there, it is there for one purpose as well as for another. It would be difficult to frame an amendment to control the social and economic predilections of the Justices. What we need is not a constitutional amendment creating a power already held to exist but a rejuvenation of the Supreme Court.

It is pointed out by those who want to leave the Supreme Court undisturbed that of all the laws passed by Congress in a century and a half only about 75 have been declared unconstitutional. But this statement is misleading. It is not the number of laws nullified but their importance which counts. The nullification of the Missouri Compromise in the Dred Scott case did more harm than the nullification of a hundred statutes picked at random would have done. The power to annul acts of Congress is fraught with grave danger to the Nation. A signal example of this danger is the decision on the income-tax law in 1895. Shortly after this decision John G. Carlisle pointed out the predicament in which it left the country. The ordinary sources of revenue had been pretty thoroughly tapped. The only source of substantial new revenue was income taxes. It was pointed out that with this source denied by the Court, a great war or other crisis would find the Government financially helpless. This situation was brought about by a 5-to-4 decision overruling a former decision of the Supreme Court. It resulted from an overnight change of opinion by one Justice who had been favorable to the law after lengthy arguments by able lawyers on both sides.

Almost by a miracle this situation was remedied by a constitutional amendment ratified shortly before the World War. Congress then promptly enacted an income-tax law. Our part in the war was largely financed and our credit was upheld by the enormous revenues raised by income taxes. It took 18 years to remedy the situation created by the Supreme Court. If the sixteenth amendment had not been adopted, we should have been financially paralyzed in the war through a 5–4 decision.

The exercise of national power has increased enormously in recent years to keep pace with social and economic needs. In the same proportion the exercise of the veto power by the Court has proceeded with ever-increasing velocity. The Constitution has been construed as if it were an obstacle to progress, and not a means of attaining national ends. Instead of allowing the Constitution to expand to meet modern needs, the Supreme Court has actually contracted it. Under the interstate commerce clause the Court has back-tracked on its own trail 30 years, and under the general welfare clause it has curtailed national power in a way never dreamed of before.

The later New Deal acts have still to run the gantlet. According to the logic of its recent decisions, the Supreme Court may well cast out the Wagner Labor Relations Act, the Soil Conservation Act, and the Social Security Act. Thus the Constitution will have been encased within a strait jacket. Neither the economic nor the social welfare can be adequately promoted by legislation, nor can the national resources be conserved. In a great crisis Congress will have been denied the power to enact legislation similar to the legislation found necessary by every great nation in the world to meet the present crisis and work their way out of the depression.

STATES' RIGHTS

In numerous cases outlawing acts of Congress, the Court has held that Congress was invading the domain reserved to the States. Yet nothing is more certain than that legislation like the N. R. A. and the Triple A if enacted by a State legislature would be held void under the fourteenth amendment to the Federal Constitution.

On May 18, 1936, the Court, in a 5-to-4 decision, held the Guffey Coal Act unconstitutional on the grounds that the National Government had no power to regulate the coal industry, or provide for minimum wages or collective bargaining of miners, even though a large part of the coal mined was shipped in interstate commerce. It held that the act invaded the province of the States. Just 2 weeks later, on June 1, 1936, the Court, in another 5-to-4 decision, knocked out the minimum-wage law for women and children enacted by the Legislature of New York.

The truth is that the solicitude shown by the Supreme Court for States' rights in decisions nullifying acts of Congress is a grim joke. The exaltation of the tenth amendment is purely fictitious. It is done for negative purposes only. The tenth amendment has no real significance. Even without this amendment the powers not granted expressly or by implication to the Federal Government would have been reserved to the States. Chief Justice Marshall noticed this section only to show how little it meant (*McCulloch* v. *Maryland*) and regularly construed the national powers as if the amendment did not exist.

Under the fourteenth amendment as construed by the Supreme Court the original powers of the States have been enormously curtailed. This amendment was ratified in 1868. The language under which the Court has wrought this change covers scarcely three written lines. It says: "Nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction equal protection of the laws." In the Slaughterhouse case, the first to arise under the amendment, the Court intimated strongly that the provisions were intended solely to prevent discrimination against the Negro race. The State law regulating slaughterhouses was upheld. In 1876 the Court upheld a State act regulating grain elevators. But a few years later the possibilities of the amendment were realized, and under it a long line of decisions has deprived the States of power to legislate comprehensively on any social, economic, or labor matters.

The most pernicious device for blocking State legislation on these subjects is the ruling that freedom of contract is protected by the amendment. Under this ruling the States can do but little for labor. They cannot enforce collective bargaining. The hours of labor for women and children can be regulated under the police power, but the hours for men can be limited only in harmful employments. Neither Congress nor a State legislature can even protect the right of a worker to belong to a labor union (*Adair case*, 208 U. S. 161; *Coppage case*, 236 U. S. 1). And neither the National Government, by reason of the fifth amendment, not a State by virtue of the fourteenth amendment, is permitted to enforce minimum-wage laws for men, women, or children. It is held that there is no relation between wages and health or morals and that hence minimum-wage legislation is not a valid exercise of the police power. All laws to insure fair wages for workers of any class have been nullified upon the peculiar theory that they interfered with the liberty of the worker to make a free contract with his employer to labor for as long hours and for as low wages as he liked.

It appears, therefore, that under the narrow construction of the general-welfare clause Congress is powerless to legislate comprehensively in the economic, social, or labor field; and that under the fourteenth amendment the States are even more helpless. A vacuum has been created in our dual governmental powers, an important area in which neither the Nation nor the States may enter. Laissez-faire has been enthroned by judicial fiat.

THE OTHER SIDE OF THE PICTURE

But there is another side to the picture. If the Supreme Court has shown but little vision, in social and economic questions, its record in the matter of civil liberty is impressive. It has enforced the Bill of Rights in a broad and statesmanlike spirit. It has steadfastly blocked flank attacks on its provisions. This is the chief reason why its powers should not be curtailed.

Every legislative body is subject to occasional brainstorms. To gain its ends in times of hysteria it will violate all constitutional safeguards. This fact is fully shown by the parliamentary history of England. To a lesser degree it has been shown in our own congressional history. And one reason why our record has not been worse is that the Supreme Court has stood as a bulwark in the way of invasions of the Bill of Rights, and thus had a restraining influence on Congress.

The need of such a restraint was illustrated early in our Federal history by the Alien and Sedition Acts which clearly violated the first amendment which guarantees freedom of speech and of the press. It has been illustrated on numerous occasions since. A recent example is the National Prohibition Act which contained a flagrant violation of the fifth amendment which had to be remedied by three decisions of the Supreme Court.

In matters of personal liberty even the fourteenth amendment has been turned to good use. The amendments constituting the Bill of Rights were designed as limitations on the National Government only. But in construing the due-process clause of the fourteenth amendment the Court has in effect attached many of these restrictions to State governments. Thus it has held that under the fourteenth amendment a State cannot impair the freedom of the press. Governments in smaller areas are inclined towards provincialism and intolerance. The decisions of the Supreme Court in curbing these tendencies in cases involving personal liberty are as wholesome as its course in curbing the acts of Congress in the same field.

Why this difference between the liberal attitude of the Supreme Court on the Bill of Rights and its reactionary attitude on social and economic legislation? The answer is that the Bill of Rights is a rigid thing. It is static. It need go through no evolutionary process. It grew largely from our experience with England before the Revolution, and its spirit was ingrained in our early Judges. Its enforcement requires little imagination, but merely a sound knowledge of constitutional law and constitutional history. This knowledge most of the Justices have had. The right of free speech and free press, the right of trial by jury, immunity from unreasonable search, are the same now as they were a hundred years ago.

They will be the same a hundred years hence. A broad, liberal construction of these provisions in the interest of the citizens having been adopted long ago, no special vision is required to follow the early decisions. But social and economic questions are different. To understand these questions in relation to the Constitution requires knowledge of more than law. It requires vision. It requires ability to see that the great grants of power in the Constitution are not rigid like the limitations in the Bill of Rights but are elastic and must expand to meet changing conditions.

That some remedy is needed to correct the intolerable situation created by the Supreme Court in economic and social legislation is conceded by the severest critics of the President's plan. They propose various amendments to the Constitution. But the Constitution needs no amendments. It needs only a liberal construction on the principles laid down by Chief Justice Marshall more than a century ago. It needs a consistent interpretation. It needs the same broad construction in matters affecting the common man that has been given it to help the trunk railroads. To try to remedy the social and economic prejudices of the Court with flocks of amendments covering specific decisions would impart to the Constitution what Chief Justice Marshall described in McCulloch against Maryland as the "prolixity of a legal code."

The proposal to allow Congress by a two-thirds majority to reenact a law nullified by the Court would endanger personal liberty. In a time of hysteria, the very time when a judicial curb is needed, Congress would submit to no restraint which it had power to overcome. When President Wilson vetoed the National Prohibition Act, both Houses of Congress by two-thirds majorities reenacted the law on the same day it was vetoed. Under the conditions then existing, if Congress had the power, the same course would have been followed if the act had been declared void by the Supreme Court because of its unconstitutional provision.

The plan of the President gives every promise of remedying existing evils. It does not endanger the benefits of our present system. There is no reason to fear that the addition of younger Justices to the Supreme Court would endanger the Bill of Rights. Rather it should make it more secure. The Court would have the same powers as before. These powers will not be impaired by increasing the number of the Justices. There is nothing sacred in the number 9. That number was established in 1869, when the population was less than 40,000,000. The population is now nearly 130,000,000. The struggle for liberty has shifted from the political field to the social and economic field. We do not suffer from oppression by the Government. But we do suffer from the prejudices of reactionary Judges, who search the Constitution for implied restrictions to deny to Congress the power adequately to promote the general welfare.

Trade-Agreements Program

EXTENSION OF REMARKS

OF

HON. ROBERT F. WAGNER

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Tuesday, March 23, 1937

ADDRESS BY L. R. EDMINSTER, CHIEF ECONOMIC ANALYST, TRADE AGREEMENTS DIVISION, DEPARTMENT OF STATE, MARCH 13, 1937

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD an able and interesting address on the subject of the Trade Agreements Program in Retrospect and Prospect, delivered by Mr. Lynn Ramsay Edminster, chief economic analyst, Trade Agreements Division, Department of State, on March 13, 1937, at the Hotel Astor, New York City.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE TRADE-AGREEMENTS PROGRAM IN RETROSPECT AND PROSPECT

The recent extension by Congress of the Trade Agreements Act for another 3 years makes this an appropriate time for briefly taking stock of what has thus far been accomplished and of the possibilities which lie ahead, particularly as they relate to the vital issue of world peace. In the short time at my disposal I can only touch upon a few salient points, but I shall be glad to elaborate upon them further in connection with the round-table discussion of trade agreements which is to follow immediately after this general session.

The grant of authority to the Executive to go forward for another 3 years with the negotiation of trade agreements with foreign countries for the mutual reduction of barriers to trade establishes another significant landmark not only in our tariff history but in the entire conduct of our international relations. After 3 years of experience with the trade-agreement method, this renewed grant of powers again recognizes the international implications of our tariff policy by placing the seal of congressional approval upon a thoroughgoing system of tariff bargaining within well-defined limits of authority laid down by Congress. That, certainly, is a landmark in tariff history. At the same time it continues the emphasis which the original enactment gave to the economic approach as the road to peaceful relations among nations. Surely that is a landmark in the conduct of our international relations.

When the act was first passed, nearly 3 years ago, our foreign trade, in common with that of other countries, had declined to a mere fraction of what it had formerly been. Economic life both at home and abroad was prostrate. Millions of people throughout the world were in idleness and want. The decline in international trade had been a major factor both in causing and in aggravating and prolonging the economic depression. World-wide economic dislocation was leading rapidly toward a general break-down in both the internal life and the external relations of nations. In the United States the grim hand of economic disaster had reached into every phase of our national life. This was the situation in which we found ourselves after a post-war decade of rising trade barriers, climaxed in our own country by the passage in 1930 of the Hawley-Smoot Act, and abroad by a host of new trade restrictions, partly in retaliation against the Hawley-Smoot Act, such as the world had never before witnessed.

It was to meet this crisis in our foreign trade and to head us back gradually in the right direction that the Trade Agreements Act was passed. The act seeks to safeguard and expand our export trade in two ways: First, by obtaining positive reductions in tariffs and other barriers to our exports in foreign countries; and second, by eliminating and preventing discriminations against our exports in the import trade of other countries, thus assuring equality of treatment of American products. To these ends the Executive is empowered: (1) To grant reductions in our tariff duties by not to exceed 50 percent of the existing rate; and (2) to withhold from any foreign country found to be discriminating against our trade the benefits of any concessions granted to any country with which a trade agreement has been concluded. These are the twin leverages by which the act seeks to obtain better and more assured access to foreign markets for our exports.

Considering the tremendous difficulties that have had to be faced, great progress has been made. Trade agreements have been concluded with 16 countries, the two latest—with Costa Rica and El Salvador—not yet having gone into effect. The list, in order of signature, includes: Cuba, Brazil, Belgium, Haiti, Sweden, Colombia, Canada, Honduras, the Netherlands, Switzerland, Nicaragua, Guatemala, France, Finland, Costa Rica, El Salvador. Our trade with these countries accounted in 1934 for 38 percent of our total foreign trade. In 1929 we had a $3,600,000,000 trade with them. In 1934, when the Trade Agreements Act was passed, this figure had shrunk to a mere $1,400,000,000. In 1936, due to a number of causes, of which trade agreements were but one, it was up again to $1,900,000,000, an increase of $500,000,000 over 1934.

Time does not permit a discussion of the nature and extent of the concessions obtained. Anyone who desires may find abundant evidence on this point by examining the recent testimony before the Ways and Means Committee and the Senate Finance Committee on the resolution to renew the act, particularly that of Assistant Secretary of State Sayre.

The list of concessions obtained for products of our farms and factories is, however, highly impressive. In the agricultural field alone we have obtained tariff reductions or other mitigations of trade barriers on farm products accounting for nearly a third of our 1929 exports of agricultural products to these 16 trade-agreement countries. And we have secured pledges of continuation of favorable trade treatment affecting nearly another third of our farm exports to these countries. Similar benefits have been obtained for manufactured products.

It is on the import, and not the export, side that chief controversy arises. Nobody opposes the concessions obtained on behalf of our exports. But to reduce the tariff on any commodity produced in the United States, that is another matter. If it were possible to obtain valuable concessions for our exports without granting any duty reductions on anything even remotely competitive with domestic production, everybody would be happy. Indeed, there are some who, giving lip service to the idea of reciprocity, actually urge such a formula as the basis for the trade negotiations. They forget that most of the strictly noncompetitive articles, such as rubber and coffee, are already on the free list, and that merely binding them there does nothing to increase our imports and thus to increase the capacity of foreign countries to buy our exports. Manifestly, procedure upon such a basis would largely sterilize the program from the outset. A correct appraisal would, I think, designate the whole proposition as, in the main, a tactical maneuver by opponents of the program to take the real heart out of it and leave nothing but the shell.

Such maneuvers reached a climax during the election campaign of last year, but were reechoed during the debate on renewal of the act. Since they were not successful, they might perhaps now be regarded as skeletons which should be left in the family closet, safe from the public view, and promptly forgotten. If I were sure that they had definitely reached the skeleton stage, certainly I would be the last to rattle their bones. But I have been living with the tariff question for a long time, and experience leads me to suspect that they are far from being skeletons; that they still have plenty of live flesh on them and will in due course be very much in evidence again. It is perhaps just as well, therefore, to describe them briefly for purposes of future reference and identification.

Opposition to the program has been of two sorts: frontal and flank. Frontal opposition has centered largely in efforts to make the country believe that little has been accomplished in behalf of exports whereas, on the other hand, our own tariff gates are being opened to a "flood" of imports that threatens to engulf the entire country in a sea of foreign merchandise, drain it dry of its gold reserves, and leave millions of workers in industry and agriculture languishing in idleness and despair. It seeks to foster the idea that the program is not only wrong in conception but that its administration is in the hands of well-meaning but reckless and incompetent fanatics who are constantly being outtraded or outbargained by the other country.

Typical of this kind of opposition is the great volume of literature released to the public, in the form of pamphlets, press releases, speeches, et cetera, containing isolated and fragmentary trade figures upon which misleading and twisted interpretations are placed in an effort to arouse popular apprehension and alarm. A recent instance is in connection with the decline in our export balance in 1936. It was, of course, too much to expect that the decline in our so-called, but discalled, favorable trade balance upon $235,000,000 in 1935 to $34,000,000 in 1936 would not be seized upon as evidence of an alarming state of affairs, definitely aided and abetted by the trade-agreements program; and you may be sure that those who expected this to happen were not disappointed.

Yet what are the facts? Examine the report of the Ways and Means Committee on the resolution to renew the act and you will find the answer. For the report shows: (1) That our export balance fluctuates widely from year to year in response to special influences (in 1934 it was $478,000,000 and in 1933, $225,000,000); (2) that the sharp decline in 1936 was due largely to the relatively greater economic recovery in the United States than in other countries which resulted in large increases in imports of raw materials and other products and tended to foster greater increases in imports than in exports; (3) that there is no evidence that trade agreements played any part whatever in the decline in the export balance; and (4) that the creditor position of the United States today implies a smaller commodity export balance than that of recent years, if not an actual import balance, so that in any case there is no proper occasion for alarm over such figures.

On this last point I want to quote from the committee's statement:

"There is no reason to assume that a so-called favorable balance of trade is a good thing for every country and under all conditions. It may or it may not be. Commodity trade is only a part of the total of economic transactions with other countries; other items which enter into the balance sheet (i. e., the balance of international payments or accounts), such as tourist trade, immigrant remittances, shipping earnings, insurance, etc., must also be considered.

"The creditor position of the United States today definitely calls for a larger importation of goods and services (excluding interest and dividends) than of exports of goods and services, except as earnings on investments may be reinvested abroad (which only postpones payment of interest and dividends), or as adjustment may be made through continued piling up of stocks of gold in the United States. This does not mean that we should have an unfavorable balance of commodity trade alone; but, under present conditions, it does definitely imply a smaller commodity export balance than in the past, unless we want to resume foreign lending on a vast scale.

"What the committee desires to stress as of paramount importance is the fact that trade in both directions has expanded greatly in 1936—in fact, by more than a half billion dollars. Our net creditor position and our desire to maintain and expand our export trade, render desirable and necessary a growing volume of imports, provided only that they do not disrupt and dislocate domestic industries but rather contribute to a rising prosperity in which all branches of our economic life may share. The caution with which the trade-agreements program has been administered in this latter regard; the higher levels of prices and prosperity in the very industries in which duties have been reduced, as well as in others; and the nature of the increased imports as indicated by the

foregoing analysis, all attest to the fact that the adjustments that have been taking place are fundamentally in the economic interest of the country as a whole."

So far as I know that is the first time that such a statement on this matter ever found its way into a major committee report to either House of Congress. The old-time notion that a large so-called favorable trade balance is, under any and all conditions, in the national interest dies with great reluctance; but at last there are indications that it is taking on a jaundiced hue.

A variant of this same general line of attack is the effort to make it appear, from specific trade figures with individual countries, that trade agreements do little to assist exports but much to assist imports. Figures are cited, for example, showing that our exports to some countries with which trade agreements have not been made have increased faster than with some other countries with which trade agreements have been made. Or that imports have increased faster from some countries with which trade agreements are in effect than from others with which they are not in effect. These and similar devices are employed to confuse the general public concerning the real facts. They were used during the election campaign; they found their way into the recent hearings on renewal of the act, and they will doubtless continue to be employed.

Nobody should be "taken in" by them. They do not, and they cannot, explain away the essential fact that the mutual reduction of trade barriers in these agreements definitely opens the way to increased trade in both directions. Naturally there are other and powerful factors influencing the course of trade—recovery at home and abroad, droughts, economic dislocation in particular countries, political instability, etc.—and these may at any given time completely obscure the effects of the tariff concessions on the trade with a particular country. Nevertheless, the widening area of reduction in trade barriers must inevitably exert a steadily increasing pull toward increased trade. So much should be clear simply as a matter of reasoning. It is significant, moreover, that in 1936 our exports to countries with which trade agreements were in force during all or part of the year were 15 percent greater than in 1935, whereas to other countries they increased by only 4.2 percent. Not only that, but the trade figures definitely show that, as a rule, exports to trade-agreement countries of products on which we obtained concessions increased by distinctly greater percentages than exports to these same countries of products on which no concessions were obtained.

So much for the frontal attacks. Next, as to the flank. These have assumed a variety of forms, but with the common objective of hampering or nullifying the effectiveness of the act. They can perhaps be best illustrated by the various amendments offered during the course of the recent debate on the resolution to renew the act.

One of these amendments would have required that every trade agreement be submitted to the Senate for ratification. Yet, our historical experience with this method shows that of 23 treaties submitted to the Senate only 6 were ratified, only 3 actually went into effect, and these 3 were with countries with which we had especially close geographic or political ties.

Another amendment would have required that each agreement be submitted to Congress and not go into effect within 30 calendar days unless Congress meanwhile approved by majority vote (non-approval if the agreement was submitted during the last 30 days of a session, requiring a new start of the calendar-day count from the beginning of the next session). Practically, this would have meant that the mere failure of Congress to act would have limited the time during which any agreement could go into effect to the period lying between 30 calendar days after the beginning and 30 calendar days before the end of a particular session. Always there would be from 30 days to the greater part of a year to stir up political pressure to get the agreement revised or withdrawn, irrespective of its true merits, of the care with which it was drawn, and of the difficulties involved in renegotiating it. Along the same line, but milder, was an amendment which would have required that each agreement be published 30 days before being proclaimed. Both these proposals ignored the fact that every opportunity is given interested parties to submit testimony orally or in writing concerning any phase of a contemplated trade agreement and that, in all probability, no important facts could be brought to light after the negotiation of the agreement that were not already available to the negotiators during the negotiations.

Another amendment would have provided that no agreement limit in any way the power of Congress over internal taxes. Yet a failure on the part of our negotiators to include some form of limitation along this line would mean that, by the mere expedient of imposing excise taxes on products of which there is very little or no domestic production (or, if domestically produced, of imposing higher excise taxes on the imported products than on domestic production, in direct violation of the principle of national treatment), either country could virtually nullify the effect of tariff concessions granted on such items. Tariff concessions might thus be rendered meaningless.

Another amendment would have compelled abandonment of the unconditional most-favored-nation principle or the principle of equality of treatment. Yet this principle is the very cornerstone of a liberal commercial policy, contributing alike to international comity and to our own practical interests.

Another amendment would have prevented the reduction of any American tariff duty below the amount necessary to equalize the cost of production here and abroad. Yet another, for which there was powerful support, would have confined the application of this cost formula to agricultural and horticultural products. With reference to the use of this formula, the following paragraph from the Ways and Means Committee report is pertinent:

"The most immediate and vital objection to the use of this formula in connection with trade agreements is the fact that it would so delay and hamstring the conduct of the negotiations as to make the act virtually a dead letter. Experience in the administration of section 336 of the Tariff Act of 1930 (and the corresponding provision of the act of 1922) has conclusively shown that the investigations required to make such findings cannot be completed short of months, sometimes a year. In view of the many investigations that would have to be conducted simultaneously if every proposed change of duty in an agreement were to be predicated upon such an inquiry, it is obvious not only that the resources of the Government would be swamped but that any possibility of concluding an agreement would be indefinitely delayed."

The committee then went on to point out that the formula itself has repeatedly been subjected to severe criticism by outstanding tariff authorities, and that, quite apart from serious objections to it in principle, the formula is wholly incapable of scientific administration.

It needs no further explaining to show that each of these amendments would have seriously hampered the execution of the program and that some of them would have virtually nullified it.

Turning now to the situation as it stands at the moment, what do we find? Although trade agreements have been concluded with 16 countries, three-fifths of our foreign trade is still outside the range of the program. This segment includes not only the United Kingdom, our greatest agricultural export market, but the entire British Empire except Canada; it includes Germany, second only to the United Kingdom as an agricultural customer; it includes Italy; and it includes many other countries of lesser, but in the aggregate important, trade significance. The obstacles to negotiation with some of these countries are formidable. Clearing agreements, preferential tariff and quota commitments, and other obstacles make extremely difficult, in some cases, the task of finding acceptable bases for negotiation. Yet the difficulties are no greater than the need for going forward with the program as rapidly as circumstances will permit.

Nor are all of the factors adverse. On the contrary, there are some definitely favorable trends, some indications that a break-up in the log jam that has stifled trade may at last be slowly getting under way. In general, there seems to be less of a tendency than during the past few years for particular countries to talk about the desirability of restoring international trade while in fact taking concrete steps in the opposite direction, and more of a tendency to make the deed fit the word. The tripartite monetary agreement between the United Kingdom, France, and the United States was an enormous forward step. Economic revival is tending to facilitate, and in some cases definitely to encourage, a lowering of barriers. The efforts now being made by Netherlands and Sweden to revive the Oslo convention and thus to lead the way in Europe toward general reduction of trade barriers are a hopeful sign. The resolution of the recent Inter-American Conference at Buenos Aires looking to a reduction of trade barriers is noteworthy. The meeting of the committee on raw materials at Geneva seems likely to eventuate, among other things, in renewed emphasis on the importance of restoring international trade as a main avenue to solution of the raw-materials problem.

Of interest also is a most noteworthy appeal for closer international economic cooperation in the interests of world peace recently addressed to the British Prime Minister by a long and impressive list of signers, which includes many of the most distinguished British thinkers and writers in this field.

Finally, a word on the relation of all this to peace. Fortunately, it is not yet too late for an occasional voice to cry out in the wilderness that another great war is not inevitable—indeed, is totally unnecessary. But if the danger of war is to be minimized, there must be economic security and well-being for all nations. Such security cannot exist until nations are willing to substitute a regime of cooperation in matters of common economic interest for present shortsightedness and extreme nationalist policies. The trade-agreements program represents a major contribution of this country to the policy of closer economic cooperation in the interest of all. As such it is a definite contribution to the cause of world peace as well as to the material interests of our own country. On this matter allow me to quote certain passages from a letter by Secretary Hull to the chairman of the Senate Finance Committee urging extension of the Trade Agreements Act. Referring to the possibility of military conflict, the Secretary said:

"If such a conflict should break out, we shall, of course, do everything humanly possible to make certain that we shall not be involved in war. But even if we escape the doom of actual hostilities, we cannot avoid being hurt by the profound economic upheaval which must inevitably accompany a widespread military conflict anywhere in the world. There is only one sure way for us to be spared the damage wrought by war and that is for war not to occur.

"There is no more dangerous cause of war than economic distress, and no more potent factor in creating such distress than stagnation and paralysis in the field of international commerce. In the years which lie immediately ahead, an adequate revival of international trade will be the most powerful single force for easing political tensions and averting the danger of war * * *."

In closing, may I therefore express the hope that the members of this group, and workers for the cause of peace generally, will

continue to give their wholehearted support to the trade-agreements program. There should be no let-down in the vigor and alertness of such support simply because the Trade Agreements Act has now been renewed. The task of getting ahead with the program is sufficiently difficult under the best of auspices. It needs the full and continuous cooperation of groups such as yours to assure that the public shall be correctly informed concerning each phase of the program. Upon such cooperation I am sure we can always count.

The Neutrality Act of 1937

EXTENSION OF REMARKS
OF
HON. EDWARD W. CREAL
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 23, 1937

Mr. CREAL. Mr. Speaker, we are all hoping that this bill is a step in the right direction to prevent America from being drawn into another war. It prohibits the sale or transportation of arms to any country engaged in war. It restricts travel of Americans on belligerent ships. It gives to the President authority to make further restrictions on commodities other than arms and war implements if, in his judgment, such further restrictions would help preserve neutrality. It prevents loans to a foreign government engaged in war and prevents solicitation in America for loans. It provides for licensing of manufacturers of arms and ammunition.

The bill may not contain everything that should be in it; very few bills do have such perfection. All must agree that it is filled with good intentions and has many things commendable in it. It can do no harm and can do a great amount of good by avoiding mistakes of the past, and for these reasons deserves the support of all Americans who want peace and hate war. If this bill had been on the statute books, the World War may have been averted so far as our participation went.

The passage of this law is another of the many tributes paid to the life efforts of W. J. Bryan. The ideas in this bill are what he advocated when Secretary of State under Woodrow Wilson. When he saw his advice was not needed and saw war coming he bowed out of the Cabinet to wash his hands and keep them from becoming spattered with blood soon to be spilled.

Pride and vanity are as often a curse as a benefit. There are those who remind us that we are making a " 'bout face" reversal of the time-honored claim to freedom of the seas. There are times and places in the lives of both individuals and nations when waiver of some right is the better policy.

All men have the right to travel the public road any time of day or as often as they please. But suppose two hostile neighbors were barricaded in their homes on the opposite sides of the road shooting it out with each other and some free American was on the road. Would he waive some of his indisputable rights of free travel and decide that discretion is the better part of valor, or would he bluster on through? When neighbor nations are unfortunately engaged in a life and death struggle for their very existence, as they see it, and the open seas become dangerous for neutral travelers, we can well afford for safety first to use the same common sense that the individual would use in the illustration given.

America must stay out of the next European conflagration, which is as sure to come as night follows day. When? No one knows when the lighted match will fall into one of the exposed kegs of powder. Perhaps before the adjournment of this Congress, perhaps in 2 years, 5 or 10 years, any old time, any minute. And when it does it will be as swift, vicious, vigorous, cruel, destructive, and devastating as the gas explosion this week which wrecked the Texas school building and buried beneath its ruins 500 innocent children.

Towns, cities, and lives of millions of innocent women and children will be destroyed in 3 days. The new inventions of destruction are so far developed that the World War activities would look like a child's game of tin soldiers compared with action in the next war.

Well has it been said by informed writers that greater dread is justified concerning the next war than in any war in all the recorded history of man. It would be the final test of mind and matter as to whether civilization should survive or be wiped out overnight. The day is not far off when the Government must look to taking over permanently the making of munitions of war.

Senatorial investigations have shown that the powerful millions invested in arms and ammunitions which reap quick and huge profits from war are the greatest danger within our Nation. War flames are fanned, if not actually promoted, that they may pile up mountain-high profits at the direct cost of the blood of our children. The munition industry of Germany has done more to implant the warlike spirit in Germany than all other causes combined. None knows this better than the peace-loving element of the German people. I am of the opinion that if all the governments had at all times in the past owned their arms and ammunition factories, and private ownership forbidden, that some wars would have been averted. Blood-money profit is the devil's agency—the profit inducement must be removed.

There is another class of blood-money artists, and that is the international bankers' investors. Conditions often arise that cause them to use powerful propaganda to push a government into war to save their foreign investments. Such conditions existed when American capitalists had heavy investments in Mexico during the long, destructive Mexican revolution, when Villa was the front-page item.

Investments of outside governments in Spain is largely the cause of desire of other nations to control the trend of war.

America has in this bill faced about from a traditional policy of claiming the right of freedom of the seas to a policy of withdrawing protection to its citizens under acute conditions. No traveler or his merchandise has the right to risk the peace of America to protect his individual property under such circumstances. When the war is over this Government will present claims to the offending nation for payment of damages done to any American citizen, whether a resident of the war zone or a traveler of the high seas, and such presentations have always been amicably adjusted in past history.

Claiming freedom of the seas caused us the War of 1812 and the World War.

Another prevention of war is ample preparation. We will never be attacked by any nation if the offender knows we are prepared to make successful resistance.

Would Italy have attacked Ethiopia if that country had been prepared with modern war equipment and a sufficient force of well-trained men? Never. Why did they not attack Russia, Canada, or Australia instead of rich but helpless Ethiopia? Maintenance of a modernly equipped army and navy is costly, it is true. So is fire insurance costly, but many people pay fire insurance all their lives and never have a fire, because they cannot afford the great risk without it. Neither could we afford to be unprepared for the same reason.

Aside from the sad scenes of brutal, cruel, inhuman war and its scars before us afterward, there are other reasons for its prevention greater than the surrendering of the right to travel the high seas by a few risky, daring Americans when war is on between others.

America today has enough of the maimed, gassed, and broken bodies, victims of the World War, before us. There are enough vacant plates at the dining table, enough pictures on the wall of "Sonny", the pride of the home, who never came back. Enough of misfits, upset and wrecked careers of young men cut off from school, never to resume their work after returning. And in appreciation of our own generous aid the nations we aided today still repudiate their debts to us while making ready for another war. I want the mothers and fathers in my district to rest secure in the thought that their vote in the matter, which is cast through

me, will be cast on this occasion and every other occasion that arises against war now and hereafter.

Another idea I would leave with those who have property, the taxpayers, who have no sons to send to war. Our cost of the World War is estimated at $100,000,000,000. What could we do with that much devoted to civic improvement? At $10,000 per mile, it would build 10,000,000 miles of fine roads. The total value of property listed in 20 certain States would not equal this amount. It is 50 times the value of all the lands and buildings of universities, colleges, and professional schools in America. It is 25 times the total value of all the school buildings in America of every description. The total value of all church property in America is a fraction less than four and a half billion. It is 25 times the value of all church property. It takes 85 cents of every tax dollar reaching the Federal Treasury to pay for past wars and present defense plans. The remaining 15 cents out of every tax dollar goes to run all other branches of the Government.

The proportion of each tax dollar for past wars and present preparedness in European countries is still greater than in America.

If the world could forget war for 25 years, and no country would spend money for preparation for it during that time, the people would think the millennium had come.

Every needed road could be built at once, every school, or church building, every needed hospital be completed at once. Every necessary charity in all the land could be fully met. All this with the same money now collected and used for past wars and preparation for future wars. It would solve immediately the whole question of unemployment.

The churches, the schools, the press, all clamor for peace and are of great value in helping to mold opinion against war. Yet right at this hour the greatest effort and the greatest expenditures ever before made in peacetime are now being made by most of the world.

Legislation to prevent war is fine and enacted in the right spirit, but something else will have to happen in the minds of the war dogs of Europe before war is no more. There will have to be a divine intervention to change the hearts of those who rule in war-torn countries. They will have to be born again to the idea that "might is not right" even though it prevails by brutal strength.

This is the work of the church, the school, the press, and lawmakers. A long, slow, tedious route, but we hope not a hopeless task, and some day that it will bear fruit. We are thankful that we have in the White House at this time a President grimly determined to preserve neutrality. We are thankful that we have a membership in Congress bent on avoiding mistakes made in the past; no firebrands, nor fire-eaters among them, but with a grim and fixed determination to keep America out of trouble at all costs.

When that European explosion, now in preparation, does come and they have leveled cities, buried their millions, and moved back civilization for centuries, we want to stand conspicuously out away from its path to make our Nation and its preservation a brilliant model to show the remnants left their wicked folly in their own destruction. We are just now nearing the finish of winding up the business of the Civil War, of 75 years ago. The World War has been over nearly 20 years and nearly half the correspondence of the office of each Member of Congress is devoted to trying to help some poor fellow who was a victim of that war.

When brilliant uniforms, martial music, and handsome guns thrill the young bloods who crave adventure, they must be impressed with that other view of the same brilliant array returning with thinned ranks and young faces grown old in a few months. Patriotism for defense, never for aggression.

The wounded General Wolfe at the Battle of Quebec, when he approached the hour of death, realized that all that glitters is not gold, and he repeated the words of the poet:

> The boast of heraldry; the pomp of power,
> And all that beauty and all that wealth e'er gave
> Await alike the inevitable hour
> The paths of glory lead but to the grave.

Man's years are short enough at most. There are enough rivers of tears, disease, accidents, and hospital scenes, and cemetery planting from natural and unavoidable causes without increasing them with something that could be avoided.

Upstream Flood Control—San Dimas Experimental Forest

EXTENSION OF REMARKS

OF

HON. H. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1937

Mr. VOORHIS. Mr. Speaker, the San Dimas Experimental Forest is an area of 17,000 acres in southern California. This area is set aside for research purposes from the Angeles National Forest because the conditions of cover, topography, and soil are typical of the San Gabriel Mountain area.

The purpose of this experimental area is to study the relationship between forest vegetation and water to determine accurately the facts as to the influence of chaparral cover on streamflow, particularly the effect upon flood flows and upon low-water flows. Other features of this work are to determine the consumptive use of water by native vegetation and the value of this vegetative cover in preventing erosion.

The work had its inception because of the seriousness of the flood and erosion situation resulting from disastrous forest fires and because of the preciousness of water for irrigation and domestic use. As time has passed these flood and erosion problems have become more and more serious and water has become increasingly valuable as lands have been developed and population increased. Furthermore, the decline in the water table in the agricultural valleys has emphasized the importance of water and has created an increased recognition of the need for facts on which the management of forest cover for watershed purposes can be based.

Studies of watershed management and the behavior of streams was begun in southern California as early as 1911, but these studies were incidental, and yielded only fragmentary information. In 1915 and 1916 the studies were intensified by the establishment of a series of gaging stations installed by the United States Geological Survey in cooperation with the Forest Service and other interested agencies. This work was interrupted in 1918 by the war and was not resumed until 1927. The work was further intensified in 1931, when Congress provided funds for studying the problem more intensively. It was not until 1933, however, that the work really got under way with emergency funds.

The San Dimas area includes all of the drainage of the San Dimas and the Big Dalton Creeks. These watersheds have a typical chaparral cover and a considerable portion of this cover has not been burned over for a long period. Portions of it, however, were burned over by the San Gabriel fire in 1926. The area ranges in elevation from a few hundred feet to almost 6,000 feet at the summit of Sunset Peak. The area is very readily accessible to Los Angeles and a group of smaller cities and towns east of the main Los Angeles Valley.

The soils of the area are largely typical of the soils of southern California, being derived from granite, which is common not only on the San Gabriel Mountains, but also to the San Bernardino and other discontinous mountain chains in the southern portion of the State. The area has been badly faulted by earthquakes, but airplane photographs of the experiment forest show it to be relatively freer of faults which might interfere with a watershed study than most drainages in the southern California basin.

The general plan of work is to observe a series of small watersheds and to measure the rainfall and run-off under carefully controlled conditions. The plan is to use the larger streams with their big dams erected by Los Angeles County as the major controls. Gaging stations are installed to break the area down into thousand-acre watersheds. Some of these in turn are broken down into smaller units of 100 to 500 acres with several series of small drainages of from 30 to 100 acres where conditions can be very carefully controlled. A series of plots of various sizes have been installed at different elevations on different slopes and with different types of cover throughout the entire area. These in turn have been supplemented by observations on a series of tanks or lysimeters in which the absorptive capacity of the soil and the use of water by vegetation are being closely observed.

The area has been developed through the use of various emergency employment-relief programs. Thus large crews of C. W. A. workers were early employed to do various types of construction work such as building roads, trails, firebreaks, and clearing dam sites. Following the C. W. A., it was possible to help in the relief of unemployment through programs of the F. E. R. A., S. E. R. A., and E. R. A. The C. C. C. has aided materially in construction work and other activities. In addition to the Federal programs, the State, county, and municipalities were aided, and Los Angeles County provided a prison camp for an extended period.

A considerable amount of equipment has been installed. This includes a series of gaging stations with their major controls, debris dams to catch and hold most of the silt and eroded material, and other similar works. The series of rain gages were installed together with some meteorological stations at which intensive records of climate are taken.

The estimated annual cost of operating the San Dimas project, taking into account all the factors which should be so considered, is $100,000. This would provide for carrying on such studies as the consumptive use of water, the relationship between precipitation and run-off, the relationship between water storage in the soil and underground water, the run-off from small areas, and similar investigations. These studies would be in addition to the operation and maintenance of the physical plant, which it is estimated would cost nearly half of the estimated $100,000. Funds available for this work are as follows:

Appropriation or source of funds	Estimated, fiscal year 1937	Estimated, fiscal year 1938
"Forest influences"	$22,110	$22,110
Budget recommendation	0	15,000
Emergency funds [1]	38,500	10,000
Total	60,610	47,110

[1] This sum includes only the funds available for research and operation of the physical plant, and does not include W. P. A. project funds for various construction activities not part of the current research.

It is noted from the above that the 1938 Budget provides for an increase of $15,000 in the item "Forest influences" for work in the San Dimas area. This Budget increase, however, still leaves the project short by over $50,000 and makes its continuance dependent upon the uncertain possibility of obtaining W. P. A. or some other so-called emergency funds.

Because the San Dimas project is so fundamental to the development of a proper realization of forest and water relationships, it is being given every consideration by the Forest Service. Although the study is limited to southern California and the results will be directly applicable, the principles established and the methods being developed will have far-reaching significance. Already the results from this program have borne fruit. Thus, for example, methods of road-erosion control have been worked out for mountainous areas. With the help of the southern California section of the Society of Civil Engineers, methods of measuring debris-laden waters have been developed. New equipment has been devised of wide application; for example, an electric-hook gage has been developed which is far superior to the old type, and methods of synchronized recording of stream flow have been developed. The project has been hailed by engineers, foresters, geologists, and hydrologists as one of the most comprehensive and worth-while studies undertaken in this country.

The San Dimas Experimental Forest represents the greatest outdoor laboratory in the world. Not only for southern California but also for the entire Nation the results of its work are basically important, since it is dealing in scientific fashion with the problem of upstream flood control, upon the solution of which the very lives and property of millions of our people depend.

Chairman Eccles' Monetary Policy

EXTENSION OF REMARKS

OF

HON. CHARLES G. BINDERUP

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 19, 1937

LETTER FROM HON. ROBERT L. OWEN, FORMER SENATOR FROM OKLAHOMA

Mr. BINDERUP. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following letter from Hon. Robert L. Owen, of Oklahoma:

CHAIRMAN ECCLES' MONETARY POLICY

On March 16, 1937, Chairman Eccles stated his monetary policy as favoring easy money until all available workers are restored to private industry and not only our present production is increased to that of 1929 but to a reasonable potential maximum.

He calls attention to the rise in the commodity index due to factors outside of the money supply, to wit, the artificial raise in prices by monopolistic practices, both of capital and labor, and that the remedy is not the cutting down of production by contracting credit, raising the interest rate, shortening hours, and raising wages, but to lower prices by increasing production through credit expansion, low interest rates, complete employment of the people, and maximum production. These principles are sound. They are based on the mathematics of common sense. They will promote our social and economic prosperity and give the people abundance in the land of plenty.

Chairman Eccles points out that even when the bank reserves are increased to twice what they were formerly there still will be an abundant amount of bank reserves for the expansion of loans to private industry and the creation of billions of dollars of demand bank deposits based on private debts, and in addition the banks would still have power to increase their reserves in the Reserve banks by borrowing from the Reserve banks and thereby further be qualified to expand the money supply by additional loans to private industry. Moreover, Chairman Eccles points out that in addition to these facilities the Federal Reserve banks themselves can increase the supply of money by buying Government bonds. He might have added also the Federal Reserve banks could further expand the money supply by buying other sound bankable assets.

When a member bank buys a Government bond or State, county, or city bond, or other sound bonds, the member bank pays for such bonds with demand bank deposits, bank credit subject to check, the checks payable on demand on legal-tender currency, but usually the check is paid by a transfer of credit payable on demand.

Every informed legislator should well understand this, and should equally well understand when the Federal Reserve banks buy bonds they pay for the bonds with a demand bank deposit subject to check and the checks payable in legal-tender money if desired.

At present both the Reserve banks and the member banks and the nonmember banks are privately owned and these agencies create all of our check money through loans on which interest is paid. The Government pays about 3 percent and citizens pay from 3 to 6 percent plus, according to their rating and necessity.

The cost of living is increased to the extent of the interest paid, and the higher the interest rates, the higher the cost of living.

The Supreme Court, in the *Legal Tender cases* (79 U. S. 457, 544), etc., found that the Constitution vested in Congress the exclusive power to coin and create money and regulate the value thereof. Congress, in the Banking Act of 1935, has given great power to the Reserve Board, to raise and lower interest and discount rates to expand the money supply by buying Government bonds through the Reserve banks and to contract the money supply by selling bonds through the Reserve banks, etc. But Congress

has failed to declare the monetary policy of the United States and has transferred the power of life and death over industry, employment, and production to executive officials who are now charged with the implied duty of regulating the value of money, with no legislative instruction from the Congress in whom such power is exclusively vested.

Chairman Eccles well emphasizes the supreme importance of the Government of the United States using its powers to prevent future depression.

Chairman Eccles states which his monetary policy is: Until full employment and full production is obtained, it is easy credit money and low interest rates. He knows the danger of contraction; he knows the importance of expansion until maximum employment and production are achieved. He says the banks can create the money required by loans to industry and that the banks are equipped to do so. He claims the United States could do so in the same way through the Reserve banks.

He does not explain why the Federal Reserve Board, having the power to create additional money by buying bonds, does not exercise its power. He says there is plenty of money available; that in demand bank deposits and currency there are $2,000,000,000 more now than in 1929.

If that is true why do we have over 10,000,000 people now unemployed?

We may fairly assume Governor Eccles reflects the views of the Federal Reserve Board, and the Chairman's statement, therefore, is of great importance, and the facts stated and the policy declared deserves and should command critical and conscientious examination.

The Governor states that easy credit is needed to achieve maximum employment. Easy credit means an adequate supply of money for the exchange of the products and services of the people with each other.

He says there is an abundance, that we have two billions more now than we had in 1929. It is a fact we have one billion more currency and one billion more of demand bank deposits, but in 1929 the demand bank deposits and the time deposits quickly convertible into demand deposits were kept separate, and ten billions of these time deposits were in effect demand deposits and actually converted into demand deposits. At present the twenty-five billions of demand deposits contain probably six billions as what would have then been classified as time deposits in 1929. A time deposit immediately convertible into a demand deposit is the equivalent of hoarded money not circulating but money held for future investment, and such money is not available as working capital in employing the unemployed.

Instead of twenty-five billions in effective circulating demand deposits we have less than nineteen billions. (See Federal Reserve Bulletin, September 1936, p. 696, Distribution of Large Deposits.)

In 1929, however, we had 1,800,000 unemployed, and from 1929 to 1937 we have gained in population about 1,200,000 adults per annum, and therefore need working capital to provide for 9,600,000 additional workers. During 1937 we have over 10,000,000 unemployed now, including those on relief work. We have one-third of the Nation underfed, clothed, and sheltered, with many millions on public relief. It should take about ten billions of additional working capital to employ the unemployed.

The banks have only increased the money supply of the country, since the depth of the depression began, to the extent of their loans to the Government by the purchase of United States bonds. The loans to private industry June 30, 1929, were forty-one and six-tenths billions; in January 1936 were twenty and two-tenths billions.

The money supply by the liquidation of these loans was reduced by $20,000,000,000. The banks have not made it good, and the United States has not made it good. The United States has the power to do so; it has the mechanism in the Reserve banks. It has the exclusive duty to do so under the Constitution of the United States as construed by the Supreme Court of the United States. Why is it not done?

Because the Congress has failed to perform the constitutional duty of creating a supply of money adequate to exchange the maximum products and services of the people. Congress has the exclusive power and duty "To coin (and create) money and regulate the value thereof." Congress can only regulate the value by regulating the volume.

The monetary policy of the United States has been turned over to the executive department with no legislative mandate whatever. The national monetary policy of the United States at present is a matter of personal discretion of the Federal Reserve Board, the Federal Reserve banks, and the member banks (privately owned).

The monetary policy of the United States does not represent the views of the Congress in which by the Constitution such monetary policy is exclusively vested. What is the matter with the leaders in the Senate and House of Representatives? What is the matter with the leaders in Congress that they ignore their constitutional duty to declare the monetary policy of the United States in regulating the value of money, in stabilizing the debt paying purchasing power of money, in achieving maximum production, maximum employment, and permanent prosperity?

It is not the business of Chairman Eccles to instruct Congress; it is the business of Congress to instruct Chairman Eccles. The country has reason to be thankful to Chairman Eccles for the statement he has made. While he has not advocated congressional action and while he approves the existing order, what he says clearly demonstrates the grave importance of a national monetary policy by the Congress which shall direct the Executive in carrying out the declared will of Congress.

Chairman Eccles' opinion that the employment of the unemployed requires an expansion is justified not only by reason but by the statistical evidence.

First. Our national production is approximately three times our money supply. (See p. 16, Stabilized Dollars—Permanent Prosperity.) Our present production is only three-fourths of what it was in 1929. We need, therefore, one-third more money than we have.

Second. The index of our physical production in 1929 was 119, considering our increase in population, in manufacturing and distribution facilities; it should be about 20 percent more than 1929, or an index of 143. It was 105 in 1936 (p. 63, ibid.).

Third. Normally the all-commodity index rises and falls with the money supply, but so does the index of factory employment and factory wages, so that our statistics prove that both employment and wages rise as the money supply and the all-commodity index rises (p. 8, ibid.).

Both reason and experience prove that employment and production rise with the money supply. Then why does the administration hesitate to use the powers granted to it to end this depression now by taking over the Reserve banks and buy bonds to the extent needed to supply the working capital required for the employment of the unemployed?

Stabilizing American Agriculture

EXTENSION OF REMARKS

OF

HON. JOHN M. HOUSTON

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1937

Mr. HOUSTON. Mr. Speaker, thousands of American farmers as they begin to plow and plant this spring are wondering what the weather holds in store for them in 1937. And thousands of consumers of farm products, likewise, are anxiously hoping that we do not have a repetition of the disastrous droughts of 1934 and 1936.

They remember, all too well, that when nature decides to spoil the farmer's crops it works hardship on both the tiller of the soil and the city dweller who depends upon him for food and fiber. Both farmers and consumers also remember what happened in 1931, 1932, and 1933. They know that extremely large supplies of farm products also bring hardship and suffering to those who produce and those who consume.

As never before the people of the United States are looking to their Government to shield them against the severe economic consequences which follow extremely small and extremely large crops.

During the past 4 years it has been proved that a government which is willing to take aggressive action in time of economic distress can bring about beneficial results. It is often said that nothing can be done about the weather. That is true. But it is not true that nothing can be done to ease the shock of severe weather disasters. During the droughts of 1934 and 1936 it was proved that quick and decisive action by the Federal Government could prevent much of the hardship attendant upon crop failures.

Thanks to the corn-loan program instituted in the fall of 1933, many millions of bushels of corn were held over until the fall of 1934, when they were sorely needed. Thousands of head of cattle and sheep which otherwise would either have been killed and wasted on the farm or sacrificed on a glutted, distressed market for little more than enough to pay the freight, were bought by the Government and removed from regular market channels. In both 1934 and 1936 the programs of the Agricultural Adjustment Administration which encouraged the planting of legume and other forage crops in place of corn, wheat, and cotton, increased the feed supply over what would have been available if no programs had been in operation. Such forage crops were much less severely damaged by the drought than were corn and wheat.

While these measures were effective and far superior to letting nature take its course without any governmental effort to soften its blows, nevertheless, much still remains to be done to give farmers and consumers adequate protection against natural calamities. The fundamental, long-time Agricultural Conservation Program should by all means be continued. This program encourages a shift toward crops such as grasses and legumes which produce some nutrients even with very meager rainfall. It encourages terracing, strip-cropping, damming up gullies, plowing and listing to prevent wind erosion, and other measures which are effective in preventing erosion. This program also encourages planting of soil-building crops and other measures which will maintain the fertility of the soil and prevent its depletion.

In addition to this fundamental soil-conservation program, the Government needs adequate powers to: (1) Put into effect a program of crop insurance, (2) establish and maintain an ever-normal granary, and (3) regulate farm production when adequate supplies have been built up in the ever-normal granary.

This three-point program deals with the maintenance of the purchasing power of farmers, with the provision of adequate reserve supplies of foods and feeds to protect the consumer against shortages and excessively high prices, and with the prevention of the accumulation of huge surpluses which bring severely low prices to farmers. All three phases of this program are important if these objectives are to be achieved.

The over-all objective of crop insurance, an ever-normal granary, and production control is to give stability to agriculture and security to the people who engage in it. Frequent severe droughts in recent years have brought intense suffering to farm families and have bankrupted many small businesses and financial institutions. These years of severe drought followed years of surplus farm production which also brought failure, bankruptcy, and suffering. It is to the advantage of city people as well as farm people to iron out some of these excessive fluctuations in farm supplies and prices. Farmers are poor customers for city-produced goods and services both when the prices they receive are extremely low and when their production is extremely low.

CROP INSURANCE

One of the most important steps needed to bring about stability in farming is to institute a program of crop insurance. Businessmen can insure against fire, flood, or other unpredictable disasters. But the farmer cannot insure against the vagaries of the weather.

The subject of crop insurance is not new. Hail insurance, a type of specific risk crop insurance, is written extensively in this and other countries. A small experiment with "all risk" crop insurance was tried as early as 1899. About 20 years ago crop insurance received wide public attention in the United States. In 1917 three companies attempted to write "all risk" crop insurance on small grains in the spring wheat area but met with failure. A much larger experiment covering more area and more crops was made in 1920 but it fell afoul of one of the worst price declines in the history of the country and came out the loser. In subsequent years various companies continued to write a limited amount of insurance, most of which was on fruit and truck crops. In all of these cases one of the most serious handicaps was the lack of adequate data and a satisfactory actuarial basis upon which to base insurance rates.

The Agricultural Adjustment Administration has gathered a vast amount of data regarding acreage, production, and yields on individual farms throughout the country. Data on individual farms of wheat producers cover the 6-year period 1930–35. These data have made possible for the first time a detailed study of crop losses and necessary premium rates. Such data are a first essential of a sound crop-insurance program.

It has been proposed by the President that a crop-insurance plan be put into operation on the wheat crop beginning with the crop to be harvested in 1938. Under the plan proposed by the President, the amount of insurance per acre on any farm would be determined by the average yield on that farm. The farmer would be insured a yield up to some predetermined percentage of his average yield. In case of crop failure, he would be indemnified for the difference between what he actually produced and the amount of the insurance. Both premiums and indemnities would be paid in wheat or cash equivalent of wheat. This plan for insurance "in kind" eliminates insuring against price hazards, one of the leading causes for failure of crop insurance in the past. Several private companies which attempted crop insurance tried to insure price as well as yield per acre. As a result, they failed when prices dropped.

The premium rate for insurance would be based on two factors—loss experience on the individual farm insured and the loss experience of the county or area. These two factors would be given equal weight, as a rule, but exceptions might be made where injustices arise because of the short period for which data are available. The adjustment of the individual farm's premium rate by the county or regional average is necessary because the experience of a past 6 years on one farm may not be representative of local risks for a future period. In the studies of crop losses conducted in the Bureau of Agricultural Economics, it has been discovered that in some counties, or sometimes on individual farms, accidents like hail, insect infestations, or floods, that occur perhaps once or twice in a generation, have resulted in higher average losses per acre for the 6 years 1930–35 than would appear to be justified if a longer base period were used. Thus the local committee should be given discretion within limits to handle such cases, the same as the county allotment committees under the Agricultural Adjustment programs were allowed to make adjustments within certain limits.

Under a plan of this kind the losses of incompetent and shiftless farmers would not be transferred to the more competent and industrious farmer. Nor would farmers on good land be required to pay the losses of farmers on poor land. Wheat areas of high and regular production would not have to pay the losses of wheat areas of low and uncertain production. The plan proposed would not encourage expansion in wheat production in areas where risks are great.

Crop insurance should not be for a full 100 percent of the average yield, since such a policy would result in a substantial moral hazard. The temptation to use poor seed or a small quantity of seed, or in some other way neglect to follow good farming practices would be strong under a full 100-percent coverage. It is believed that coverage up to 75 percent of the average yield would in most cases require the farmer to carry a sufficient part of the crop risk to eliminate this hazard.

Prices would not be insured under this plan, but, incidentally, such a crop-insurance plan would have a desirable stabilizing effect on prices which would be beneficial to farmers and consumers alike. Premiums flowing into the insurance reserves would be relatively constant from year to year. Indemnity payments out of the reserves would vary from year to year with the amount of crop losses. As a result the reserves would be built up in years of good crops and reduced in years of poor crops. This would tend to level out the fluctuations in the supply of wheat going into the market and should tend to reduce fluctuations in price. Since the reserves would be definitely held for the purpose of indemnities in poor crop years, they would not be a potential supply at all times on the market. The accumulation and release of reserves would be automatically regulated by the crop-insurance requirements. Since this device would tend to reduce fluctuations in prices, it would tend to stabilize farm income and benefit wheat producers as a whole.

It is likely, however, that substantial fluctuations in market supplies and prices would still occur because of large and small annual production. But farmers who take insurance should benefit anyway. They would be setting aside mutually owned reserves in years of surplus production, ordinarily years when prices are low, to be sold in years of short crops, ordinarily years of better prices.

It should be clear that such a plan of crop insurance is not a "Farm Board" purchase plan of price stabilization. The influence toward greater stability of supply and price under the proposed insurance plan is incidental to the plan itself and not a primary objective. Under this plan no governmental agency would be in the market, buying or selling the commodity for price-control purposes. This was the central feature of the Farm Board operations. Under the proposed program the crop-insurance agency would buy commodities only at a rate and to a total amount that would equal the payment of premiums in cash by farmers. These purchases would be made at the prevailing market price and not at an attempted pegged price. The insurance agency would not even control the sale of the wheat acquired as premium payments. The sale would take place at the independent choice of the individual farmer upon settlement of his losses. The farmer who in a year of loss might be entitled to receive 500 bushels of grain to cover his losses would be at liberty to order the sale of that amount after his loss adjustment.

Crop insurance of this kind is not feasible for any private agency. Only the Government has the financial resources to conduct such a program of crop insurance. It is recommended in the plan submitted by the President that the Government bear the cost of administration. This is justified on the basis that the Government has in the past been forced to spend large sums of money in areas stricken by crop failures. Since 1921 Federal seed and feed loans have been granted in 11 different years. In all, 36 of the 48 States have made some use of Federal seed loans in at least 5 out of the 11 years when such loans were made available. In more recent years the Federal Emergency Relief Administration, the Works Progress Administration, and the Resettlement Administration have also contributed to Federal relief for crop disaster. A crop-insurance program would make unnecessary a large part of these expenditures. The Government could therefore profitably afford to pay the cost of administering a crop-insurance program.

The benefit to the consumer and the people at large also justify public contribution. The consumer as well as the farmer would be benefited by more stable prices which such a system would bring about. In addition, more stable farm income is unquestionably of significance to the public at large. Crop insurance would undoubtedly be of real value to banks, insurance companies, and other institutions extending farm credit.

It is highly important in any program of crop insurance that it be closely integrated with other programs of the Department of Agriculture. Participation in adjustment and soil-conservation programs or the following of equivalent farm practices should be required for eligibility to participate in crop insurance. It is sound practice for any insurance organization to refuse insurance to those who do not take reasonable precautions against unavoidable hazards.

It would be unwise to embark on any crop-insurance program too heavily at the start. It would be better to limit such a program to one crop at first, because in spite of the considerable amount of research that has been conducted, crop insurance would still be an experiment. Wheat seems to be the best crop with which to start. Wheat is not only one of the major crops from the standpoint of farm income, but it is also highly important to consumers. Also wheat has been one of the crops hardest hit by the drought in recent years.

THE EVER-NORMAL GRANARY

It is apparent that a crop-insurance program such as that recommended by the President would have desirable ever-normal granary features. But unless large numbers of producers of each of the important farm commodities participated in crop insurance it is evident that it would be only a partial answer to the problem.

The agricultural conservation program now in effect also helps to the attainment of the goal of an ever-normal granary. It is especially a stabilizing influence upon livestock production. The increase in soil-conserving crops, such as legumes, other hay crops, and pastures, not only tends to maintain and conserve the fertility of the soil and prevent soil erosion, but it also provides a more adequate supply of pasture and forage for livestock consumption in dry years. An acre of alfalfa or clover or grass is much better insurance against the ravages of drought than an acre of corn.

Farmers who had comparatively large acreages of pasture and forage crops in 1936 were in a much better position to stand the drought than those who had planted large acreages of corn. The corn limit under the 1937 agricultural conservation program is sufficient with normal growing conditions to provide enough corn to take care of all animal and human needs and provide a carry-over of from 350,000,000 to 400,000,000 bushels, three or four times the normal carry-over. If another severe drought should strike the Middle West this year, the corn limit would insure a sufficient acreage of hay and forage to provide a better balanced feed situation and minimize the necessity for drastic liquidation of livestock.

The agricultural conservation program provides an elasticity in the production of grains and forage crops, which adds greatly to the stability of livestock production. Many poultrymen and dairymen feel that the A. A. A. programs are harmful to their interests. However, they profit most when the supply and price of feed are stabilized. When feed grain prices are extremely low, many Middle Western farmers go into poultry and dairy production extensively, thus competing with the eastern commercial producers of dairy and poultry products. Violent swings in feed-grain prices from one year to the next are as harmful to those who buy them as to those who grow them.

But though soil conservation programs do have a stabilizing effect on grain production and prices, they do not go far enough. Soil conservation can carry stabilization only to a certain point—it can only level out the very roughest of the variations in supplies. Another step is needed to make the ever-normal granary function properly.

Commodity loans, like those made on corn, offer a practical approach that can be put into effect whenever crops are large enough to make possible the accumulation of reserve supplies. Congress should make provisions for commodity loans that can be made when and as needed.

At present supplies of most foods and feeds are not excessive and in some cases reserves are hardly adequate to meet national needs. Therefore, our immediate concern should be to build up supplies, to produce abundantly up to the point that good conservation practice permits. If consumers are going to give their consent to farm programs assuring farmers fair and stable income, then farmers must assure consumers that supplies of food and fiber will be adequate at all times. At the same time, if consumers expect farmers to produce enough to keep the granaries full, then they must be willing to help safeguard farmers from disastrous consequences when the granary overflows.

Commodity loans have already proved themselves as workable machinery for putting into effect the ever-normal granary. In the fall of 1933 corn supplies were extremely large and prices were extremely low. The Federal Government stepped in and made loans to farmers on corn stored on farms. Thus, instead of selling this bumper crop of corn at sacrifice prices or feeding it to hogs which were not needed on the market, farmers were enabled to hold this corn on their farms. In 1934 came the most severe drought in history. Corn production was very low. Prices of corn rose to high levels. So farmers paid off their loans and had corn on hand at a time when they needed it. The corn loan made possible a balancing of the harvests of 1933 and 1934.

Such commodity loans have the double effect of keeping the surplus portion of the crop in storage for future use and of preventing the price to the producer from falling below a certain point.

Commodity loans would build up the granary and provide for adequate supplies. But if a bumper crop should be harvested one season, or if there should be a succession of

favorable crop years, or if demand should decline sharply, supplies might pile up and overflow the granaries. Under these circumstances, it would be unwise to keep on making loans and piling up bigger and bigger supplies. After supplies have been built up to a point sufficient to protect the consumer, then the farmer should have the power to cut down his production so as to maintain supplies at a normal level in the granary.

This could be accomplished by offering producers conditional payments in addition to their regular conservation payments under the agricultural conservation program. In other words, we should go a step further than the agricultural conservation program and pay the farmer for building up the fertility of his soil for use in succeeding years when supplies might be below normal.

A combination of commodity loans, the agricultural conservation program, and conditional payments for building up the fertility of the soil would prove adequate in most years to maintain an ever-normal granary. However, it is possible that even with these safeguards a succession of favorable years might make even this combination of programs inadequate to keep supplies from piling up.

POSITIVE PRODUCTION CONTROL

As the last step to maintain an ever-normal granary and prevent such disastrous price declines as occurred from 1929 to 1933, the Government should have the power of direct production control. This power should never be thrown into operation until after the ever-normal granary was full and running over and after the conditional payments for soil improvement had failed to stabilize production sufficiently to escape the danger of low prices.

If farmers do not have this power to directly control their production through the centralizing power of the Government, any ever-normal granary plan is doomed to failure. The attempt of the Federal Farm Board to stabilize farm supplies and prices failed principally because the Board lacked this power to control production. The removal of farm products from the market tends to raise farm prices and encourage production. Without the power to limit production after supplies have been adequately built up in the granary, the granary would soon be running over and prices would be heading downward.

Some experience with direct production control has been obtained through the Kerr-Smith Tobacco Act and the Bankhead Cotton Act. Both of these acts employed the taxing principle.

Many critics of the present administration's agricultural program have accused farmers of using production control to create a scarcity, thereby injuring consumers. Most of these critics are industrial leaders who practiced scarcity as agriculture has never practiced it and as agriculture never will practice it.

During the recent depression many manufacturers cut production in half or even more and threw millions of laborers out of work. Here was scarcity, practiced with a vengeance. Which is worse, to curtail farm production slightly in line with the loss of foreign demand or to throw so many men out of work that millions are on the bread lines in all our large cities? There has been no scarcity of food in this country, even in spite of two of the most severe droughts in history. The industrial chieftain is quick to place upon the farmer the moral obligation to feed the Nation, but he sees no obligation on his own part to bear his share of the burden.

All farmers propose to do is to use, in sensible fashion, Government power to make adjustments to meet changing weather, changing foreign demands, and the need for soil conservation. Farmers have no wish to practice scarcity economics. They would be only too willing to produce to the limit if the market were there to absorb it.

Dietitians estimate the total per-capita food consumption in this country would be increased 10 percent over the 1920 to 1929 level if everyone in this country could be given an adequate diet. If only major diet deficiencies were corrected, an increase of 5 percent in food consumption would occur. Here is a real goal for the Nation to strive for. It cannot be attained by unlimited farm production and low farm prices. That was proved in 1932. Production of farm products was extremely large and prices were at rock-bottom lows. But more people starved that year than any year since when farm supplies have been lower.

But this goal of increased consumption can be reached by raising the incomes of the poor people in this country. And that means the incomes of many farmers as well as city people. All farmers do not produce food. In fact, very few farmers today produce all their own food. Most of them are commercial farmers, producing one or two specialties, which are sold on the market for cash.

It has been estimated that at present price levels an income of $150 per month is needed to provide an adequate diet for a family of four. By expanding industrial production, increasing employment and pay rolls let us work toward a goal of $150 a month for every family in the Nation.

No one wants to practice scarcity—abundance is the goal of all. And the only way to achieve abundance is to achieve stability in our economic system. A big step toward stability is the ever-normal granary with accompanying production control, which would enable farmers to avoid the drastic declines in prices caused by extreme variations in production. By giving a measure of stability to agriculture, manufacturing, mining, transportation, and all other forms of activity would be helped toward the goal of stabilization. When farmers' prices drop to disastrous levels, causing farm bankruptcies and mortgage foreclosures, farmers cannot buy city-produced goods and services, and everybody suffers.

A recent national conference of farm leaders, called by the Secretary of Agriculture, Henry A. Wallace, adopted recommendations for providing crop insurance, an ever-normal granary, and production control to make the ever-normal granary plan effective. I heartily endorse their recommendations and hope that legislation can be enacted in this session of Congress to carry them out.

FARMER CONTROL COMMITTEES

One of the most valuable results which came out of the agricultural adjustment programs of recent years was the development of a technique for administration of such programs. The county and township producer committees which administered the A. A. A. programs were more successful than even their strongest proponents had expected them to be. Farmers showed that they could work together to advantage to achieve mutually desired results.

The expense of administering the various programs was remarkably low and there was a minimum of cheating and fraud under the contracts. If the Administration had been highly centralized in Washington, enforcement of the provisions of the contracts would have been impossible. Local farmer committees solved many problems of administration in their own way that would never have been solved under a highly centralized organization.

It seems a part of wisdom, therefore, to continue to handle future farm programs with this same type of local organization.

NEED FOR ACTION

Mr. Speaker, as we look ahead into the next crop season and as we note the improvements in farm prices and farm incomes that have been made in recent years, we may be inclined to minimize the importance of the steps I have outlined for stabilizing agriculture. But farmers have had good times before, and they have always been followed by hard times. This program for stabilizing agriculture is one that cannot wait if we are to prevent serious collapses in the future such as we have had in the past. As the old saying goes, an ounce of prevention is worth a pound of cure.

We have learned through the programs of the Roosevelt administration that something can be done by Government action to make less severe the repercussions of economic collapse or natural disaster. This is no time to rest on our oars. This is the time to chart a clear course for the future.

Abraham Lincoln and the Constitution

EXTENSION OF REMARKS

OF

HON. RALPH O. BREWSTER

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, February 22, 1937

ADDRESS OF HON. RALPH O. BREWSTER, OF MAINE, BEFORE LINCOLN CLUB OF WASHINGTON COUNTY, AT PERRY, MAINE, FEBRUARY 12, 1937

Mr. BREWSTER. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following address I made at Perry, Maine, on February 12, 1937:

The purpose of the Constitution was the protection of minorities. No Constitution was necessary to assist a popular majority in carrying out their decisions. The simple provision of a legislative body as in other countries would have been adequate to accomplish this purpose with an Executive to carry out the directions of the Congress.

Anglo-Saxon government has slowly and painfully evolved from the days of Magna Carta in 1215, when some rights of freemen and particularly some degree of financial control over the national budget were wrested by the barons from a reluctant King at Runnymede. All this experience in England and America has demonstrated the necessity of the protection of a minority from the temporary majority which may exist at any time.

This thought was dominant in the minds of those men who wrote the Constitution of the United States—justly characterized by Gladstone as "the most amazing document ever struck off at one time by the mind and purpose of man."

They proposed to safeguard most carefully the rights of the individual against the state. The very intimate concern of the new nation for these rights was demonstrated in the refusal to ratify the instrument until the 10 articles of the Bill of Rights were agreed upon to be immediately added as amendments guaranteeing each citizen against exploitation by an otherwise all powerful central government.

The Constitution thus became the contract not merely between the 3,000,000 Americans who associated themselves under its provisions at that time, but of all the millions of Americans who have since lived under its beneficent protection.

No passing impatience with the delays incident to the orderly process of amendment must be permitted to blind ourselves to the consequences of changing the Constitution by construction at the whim of a transitory majority.

The necessity of amendment of the Constitution to meet the changing conditions of a new economic day was recognized by the founding fathers, and the Constitution has already been amended 21 times.

In my first inaugural address as Governor of Maine in 1925 I urged very earnestly the ratification of the child-labor amendment to the Constitution of the United States and I believe it is evident that further amendment is now required to meet adequately some of the problems of this new day.

There seems little reason to doubt that ratification of this amendment would have long since been accomplished if the convention system of ratification had been adopted by the Congress. This amounts to an immediate popular referendum and brought the adoption of the last amendment within 10 months of its submission.

Apparently some are not willing, however, to wait upon this process of orderly amendment but desire to accomplish what they may sincerely believe to be the greatest good of the greatest number through the exercise of the majority control which they enjoy in the Congress of the United States.

That way is plainly marked to the executive tyrannies that are now disgracing the major nations of Europe. The power which may be exercised by an executive over the Congress has already been demonstrated. If now a compliant Court may be secured by congressional enlargement and Executive appointment then the Constitution of the United States becomes in very truth a thing of straw.

Curiously enough the act which for the first time accompanied the Presidential message guaranteed a recurrence of the crisis within a decade since it provided that the newly constituted Supreme Court should remain permanently at 15 members—assuming no vacancies before the act should take effect. Thus, unless the new Judges are ready to resign at seventy, we might within a short time have fifteen old men in place of the nine that in the case of N. R. A. unanimously obstructed the Presidential purpose.

If there should then be a new President equally tenacious of the appearance of omniscience it might be necessary to appoint sixteen new members of the Court to present a more youthful or more useful point of view. And so ad infinitum.

Some of those elements in our population which most vociferously support the Presidential purpose may then be hoist with their own petard.

The Supreme Court of the United States is the last haven on earth for racial and religious minorities. There the Scottsboro boys found refuge. There the Oregon syndicalist found release from an 8-year prison term. Even a Communist in America may enjoy freedom of speech under the shelter of the Supreme Court.

To pack the Supreme Court with six Justices to alter its views of the Constitution will furnish ample precedent for future administrations by the same process to abolish the Bill of Rights.

Racial and economic minorities in the United States will ponder well before they abandon the protection of the Constitution of the United States. They may well live to rue the day when they have established the precedent by which a temporary majority may move to wreak its will.

Every individual right guaranteed by the Constitution of the United States is protected only by the sanctity of the Supreme Court.

The first amendment to the Constitution of the United States submitted with the nine other amendments composing the Bill of Rights by the First Congress of the United States provides as follows:

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the Government for a redress of grievances."

People may well ponder the implications of this simple language and all it represents to racial and religious minorities and to the most precious liberties of freemen before they abolish its significance by sanctioning the creation of a tribunal that shall interpret this language in accordance with the desires of an Executive who may at some future time be drunk with power.

The Bill of Rights successively guarantees the right to keep and bear arms; restricts the quartering of troops; protects the people against unreasonable searches and seizures; protects the rights of persons charged with crimes and rights to private property; protects the right of trial by jury and against excessive bail or cruel and unusual punishments; and then finally provides that "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people" and also provides that "the powers not delegated to the United States by the Constitution or prohibited by it to the States are reserved to the States, respectively, or to the people."

Leaders of the Democratic Party in other days entertained somewhat different ideas regarding the Constitution of the United States.

"*Resolved*, That the Democratic Party will abide by the decisions of the Supreme Court of the United States on the questions of constitutional law."

This quotation from a Democratic platform of our "horse and buggy" past might now seem pertinent in view of the contention that no patriot has ever thought that the Constitution or the Supreme Court should in any way limit the actions of the Congress or the President.

Even as recently as last June, after 4 years of now alleged frustration, the Democratic Party in convention assembled at Philadelphia promised the people of the United States in seeking their suffrage that—

"We have sought and will continue to seek to meet these problems through legislation within the Constitution.

"If these problems cannot be effectively solved by legislation within the Constitution, we shall seek such clarifying amendment as will assure to the legislatures of the several States and to the Congress of the United States, each within its proper jurisdiction, the power to enact those laws which the State and Federal legislatures, within their respective spheres, shall find necessary, in order adequately to regulate commerce, protect public health and safety and safeguard economic security. Thus we propose to maintain the letter and spirit of the Constitution."

There is here no suggestion of the easy solution of our difficulties through appointing additional Justices of the Supreme Court. Nor was there during the last campaign any suggestion that recovery was not here or within the easy reach of measures that could be constitutionally achieved.

Abraham Lincoln vigorously attacked the Dred Scott decision by the Supreme Court of the United States but never proposed the packing of the Supreme Court to remedy what he believed to be the ill effects of this decision.

Arguments can always be made as to whether or not certain powers are lodged in the Congress by the Constitution. But if Executive fiat is to be substituted for judicial interpretation and orderly amendment then America will be well on the way to the shirt-sleeve autocracies that now rule so large a part of Europe.

From the standpoint of real Americans it matters little whether the shirt be red, black, or brown. The results for free America are the same.

No limit can be placed to the extent to which the most precious rights and liberties of American citizens may be destroyed by future Presidents—less public spirited, perhaps, and well meaning—on the basis of the unprecedented action that is here proposed. Perhaps unwittingly the cornerstone is laid for the erection of the same temple of tyranny that now disgraces formerly great nations overseas as racial and religious minorities are ground relentlessly to the dust.

Since when did it become social or governmental heresy to adhere to the orderly process of constitutional amendment which

has been sufficient for a century and a half? That was sound Democratic doctrine as recently as last June. America moves rapidly if it has now become reaction.

The packing of the Supreme Court will precipitate an inevitable struggle for supreme executive power before which the rights of minorities will inexorably disappear. Let us all on this anniversary of Abraham Lincoln highly resolve that the good sense of Americans everywhere without regard to party will prevent the precipitation of this strife. There is not wanting in Washington ample evidence that Americans are taking serious thought and pondering the implication of this proposal in the future of our land.

The Land-Use Adjustment Program of the Resettlement Administration

EXTENSION OF REMARKS
OF
HON. WILLIAM F. ALLEN
OF DELAWARE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 23, 1937

Mr. ALLEN of Delaware. Mr. Speaker, I have been so impressed by the good that has resulted to the State of Delaware and to the Nation as a whole from the land-use adjustment program of the Resettlement Administration that I feel it my duty to speak a word of praise in behalf of that program and also to express the hope that means will be provided for continuing it.

During a period when unemployment was widespread in our State the Delaware projects under this program made possible a living for as many as 700 of our citizens. In addition to providing employment for these citizens, it will result in the creation of a large recreational area, the development of a wildlife habitat, and much beneficial work in connection with the building of forests, as well as reforestation. It will also reduce fire hazards on approximately 272 acres of land, provide 15 miles of truck trails, and the building of 3 administration buildings. A recreational project on the ocean front will also be completed which will provide entertainment and pleasure for many of our citizens of low income, not only in the State of Delaware but from nearby States as well.

I know of no emergency program where such beneficial results have been obtained as those obtained through the land-use adjustment program at such low cost to the Government.

The funds involved have been more than small in comparison to the good that has resulted.

Similar programs are being carried out in practically every State of the Union. I understand that at the peak of work under this program at least 55,000 citizens were employed, the Government has acquired title to and has improved thousands of acres that were a complete loss, and in many cases will lease these improved areas to the respective States for the use and enjoyment of their citizens. It has included the development of water supplies in areas where these were needed; it has improved many of our forests and has planted many more. In many cases arrangements are being made to lease recreational areas to boys' and girls' clubs and this will undoubtedly prove a blessing to them.

The principal idea back of this program, as you know, was to go into areas where our citizens were occupying land under conditions that would result only in ruin to the land as well as to those occupying it. Under the plan that was developed many of those occupying such land have been established on land where they can rehabilitate themselves.

No detail has been left undone that would bring about maximum results under this program and in the report of the President's committee the hope is expressed that a way will be found to continue and enlarge it. I want to add my sincere and heartfelt hope to that of the committee and urge the support of all Members of any tenancy legislation that may come before this body under which this program can be continued.

Problems of Federal Taxation

EXTENSION OF REMARKS
OF
HON. GERALD P. NYE
OF NORTH DAKOTA
IN THE SENATE OF THE UNITED STATES
Wednesday, March 24, 1937

ADDRESS OF HON. ROBERT M. LA FOLLETTE, JR., OF WISCONSIN, BEFORE THE OPEN MEETING, FEDERAL TAX COMMITTEE, AMERICAN BAR ASSOCIATION, MARCH 20, 1937

Mr. NYE. Mr. President, on April 28, 1935, the senior Senator from Wisconsin [Mr. LA FOLLETTE] delivered a radio address on the subject Broadening the Tax Base, which I had inserted in the CONGRESSIONAL RECORD of May 16, 1935. Much has transpired since that time in the matter of taxation, and on a recent evening, March 20, in a national broadcast, the Senator from Wisconsin delivered another address on the subject over the air. I ask that his address may be incorporated in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I sincerely appreciate this opportunity to discuss with you briefly some of the problems of Federal taxation. We need to discuss taxes more often. It has long been my belief that the American people have given altogether too little thought and attention to the formulation of a sound, coherent, and adequate policy of governmental taxation and fiscal administration.

Whether we like it or not, we as citizens must pay the bills for the Government under which we live and through which we benefit. We must face the question intelligently and work out its complex problems dispassionately, otherwise we shall be the victims as taxpayers of an unjust, haphazard, revenue system designed to raise the money and fool the people all at the same time.

We can correct this situation if we can get the facts before the people. I firmly believe that groups such as yours can render a very notable service to the people of this country by lending their efforts to the stimulation of public discussion on tax questions.

The expenditures of the Federal Government over the past decade have been steadily increasing from year to year. In 1927 they amounted to approximately three and a quarter billion dollars. Last year our Federal Budget almost hit the $9,000,000,000 mark. Some of these increases have been due to emergency expenditures to combat the problems of human relief and economic deflation, but it is significant to note that, except for the temporary set-backs suffered in the fiscal years of 1933 and 1934, the general expense of our normal governmental program, excluding debt retirement, interest, and emergency expenses, has consistently been increasing. Last year it amounted to approximately $5,000,000,000, 56 percent of the entire Budget.

Much of this increasing expense of government has been financed by borrowed money. Since the World War we have not taxed heavily enough. Had we retained the income- and inheritance-tax rates enacted by the revenue bill of 1921, the Federal Government could have paid off every nickel of the public debt in addition to meeting the current operating expenses of the Government, but we didn't do it. And since the precipitation of the economic crisis in 1929 annual deficits have been a regular occurrence.

Sooner or later we must face the problem of taxing sufficiently to lessen the use of the Government's credit. I am firmly convinced that we ought to undertake that job right now. The question arises, then, as to where we can get the money.

I have always contended that the Federal Government should pursue a thoroughgoing program of graduated taxation strictly in accordance with the taxpayer's ability to pay. Such a program has never really been tried in this country. We have had income taxes, but the system of income taxation has not had a broad enough base to realize its full revenue potentialities or to achieve the stability that is essential in a sound tax program.

In 1929 the revenue from individual income tax in this country was $1,000,000,000. In 1932, with rates two and a half times higher, the revenue from this source was only $329,000,000. Great Britain experiences no such drastic fluctuations of revenue, for in England the tax system is more broadly based.

From the standpoint of raising revenue the important brackets that must be made to carry their fair share of the tax burden are those below $50,000 annual taxable income. Over 92 percent of the taxable individual net income in the entire Nation falls in these classes. Yet during the fiscal year of 1936 only 48 percent of the Federal income-tax revenue came from these brackets.

In the first session of the last Congress I introduced two amendments designed to broaden the base of our Federal income-tax system. The first would have imposed surtaxes ranging from

4 percent on a taxable net income in excess of $3,000 to 75 percent on taxable incomes in excess of $5,000,000. On incomes between $44,000 and $50,000 it proposed a surtax of 36 percent, and the surtax rates on other brackets of income were graduated accordingly. The effect of this amendment would be to stiffen the surtax rates all along the line, and particularly on those incomes ranging roughly from $10,000 to $50,000, where so much of the individual taxable income of this country is to be found.

It was estimated at the time that this plan would raise about $175,000,000 additional revenue annually. Now, with a general rise in gross national income, it would be reasonable to assume that this estimate might be increased.

My other amendment provided for the reduction of personal exemptions from $1,000 to $800 for single persons and from $2,500 to $2,000 for married persons. Flat exemptions such as we have in our Federal tax law work against the principle of taxation according to ability to pay. In effect, they always apply to the top rate to which an income is subject and effect greater savings for the people with high incomes than they do for the people with low incomes. Of the $40,000,000 which this plan would raise, according to estimates made at the time, only $7,000,000 would come from the 1,400,000 new income-tax payers. The other $33,000,000 would come from people in the existing tax brackets.

Together these two amendments were capable of raising about $215,000,000 additional income annually, according to reliable estimates made at the time they were before the Senate for consideration.

I think the time has come for the Federal Government to adopt a sensible income-tax program with a base broad enough to supply all the revenue needed and a foundation firm enough to provide a steady, dependable source of revenue.

If that is done, the way will be clear for the repeal of all of these inelastic nuisance taxes which work such a hardship on the men and women of low incomes. In spite of a 28-percent increase in income-tax revenues during the fiscal year 1936, these miscellaneous sales and excise taxes constituted about 60 percent of our Federal internal revenue.

These taxes are not in accord with the principle of taxation upon the basis of the taxpayer's ability to pay, and they are a dangerous element in our fiscal policy.

I am confident that the majority of the American people will accept a broad and comprehensive tax system which is frankly based upon the individual's ability to carry a tax burden if we can only relieve the people of moderate income from the unfair burden of these inelastic taxes prevailing today.

It will be necessary to raise taxes. This talk of cutting Government costs will never accomplish any significant progress. It is certainly true that there are instances of wasteful expenditure in our Federal Budget, and they should be corrected. But substantially the role of government in modern society is of necessity becoming more and more important, and it will require more effort, more attention, and more money from the Federal Government as time goes on.

There was a day when the economic opportunity of the western frontier absorbed all the surplus capital the people of this country could scrape together. The expansion of private enterprise and the investment of private capital were the driving forces behind the expansion of our economic activity and the increase of our national income.

Today the situation is different. The sound expansion of private enterprise must wait for a substantial improvement of the economic standing of the masses of our people and the substantial increase of their purchasing power.

The real frontier of expanding economic activity today lies in the field of public improvements. There is a vast untold quantity of work to be done in this field, and it must be done if we are to preserve for ourselves and posterity the heritage which we have as American citizens.

Every year we are losing $400,000,000 worth of precious topsoil through erosion. Floods ravage our great river basins, causing tremendous damage to property and inflicting hardship and death upon our people. Millions of Americans are poorly housed. Untold numbers are undernourished. Our schools are not nearly adequate to the task of universal public education. Highways and rivers can be improved to serve transportation. Our people are without adequate recreational facilities. We need to plant new forests, establish wildlife preserves, develop a more efficient program of land utilization.

All of these tasks, and more, remain to be done. Private capital will not go into this field of capital investment. This is a new frontier which the Government can develop and thus restore the measure of equality of economic opportunity once afforded by an expanding physical frontier of settlement.

In conclusion, let me call your attention to the fact that taxes are more than devices for raising governmental revenues. They are also instruments of social control. A wise tax policy will not only furnish money for the Government but also may be instrumental in maintaining the delicate balance necessary for the preservation of our national economy. An ill-advised program of taxation may provide temporary revenues, but in our modern economic society it may bring on disaster.

At present we are in an economic phase which is showing ominous signs of developing into the same kind of artificial boom we had 10 years ago. Corporate profits are on the upswing. Wages, though increasing, are not keeping pace with profits. There is grave danger that a boom psychology may develop in the near future. If mass purchasing power cannot keep pace with increased production, we will face another collapse similar to the crash of 1929.

The steel idustry offers a good example of what is taking place at the present time. It has recently granted wage increases estimated to total about $125,000,000 for the coming year. But at the same time it is announcing price increases on steel which will more than cover this increase in wages.

It is important that we find ways and means to direct this expanding income into constructive channels. If we do not, it will find its way into unsound investment, and the Nation will be in the same disastrous cycle that blew up in 1929. A sound policy of income taxation can prevent the excesses that lead to such a catastrophe, but we must act quickly.

We have approximately 10,000,000 unemployed men and women who are looking to the Government for aid. And there is a vast program of public improvement and conservation which needs to be undertaken. By a thoroughgoing program of income taxation the dangerous surplus incomes which are now accumulating in the form of private capital can be turned to finance this work.

Instead of looking forward to the curtailment of governmental activity, we ought to look forward to its expansion as a fundamental social adjustment in a changing economic society. Our Government can and must serve as the stabilizer in our national economy. But before it can perform that function over any long period of time, we must adopt a rational tax policy which will provide regular channels for the steady circulation of a balanced national income.

The President's Court Proposal

EXTENSION OF REMARKS

OF

HON. KENNETH McKELLAR

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Wednesday, March 24, 1937

ADDRESS BY JUDGE HAL H. HAYNES

Mr. McKELLAR. Mr. President, I have before me a printed address by Judge Hal H. Haynes, of Tennessee, on the President's proposal as to the courts. Judge Haynes is one of the most distinguished Republican jurists of our State. I ask unanimous consent to have the address printed in the Appendix of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Bristol Herald Courier, Bristol, Va.-Tenn., Mar. 21, 1937]

LAWYERS, JUDGES, AND WRITTEN CONSTITUTION

By Hal H. Haynes

There is no substantial reason for alarm on account of the President's plan to increase the number of members of the Supreme Court. The idea is not new, either as a proposition or an accomplished fact. It has been done and undone, or attempted and wrangled over, at practically every outstanding period of our history. And probably in no instance has it been undertaken with greater reason and justification and less round for criticism on account of partisan politics than now.

As far back as the administration of Thomas Jefferson politicians raged over the question; and the first Congress after Jefferson became President, at his behest, accomplished such a change, although Jefferson had been made President only by breaking a tie with Aaron Burr. He had no mandate from the electorate overwhelmingly approving the policies sought to be enforced, such as Mr. Roosevelt bears. A Jefferson-controlled Congress went to the length of abolishing two terms of the Supreme Court to make it unable to function in order to gain time and enable Jefferson to change its political complexion in that bitter fight against Federalists and the second Adams. Yet under the strain of a struggle so deplorable as that the country did not go to the dogs.

When the Constitution was written and a Supreme Court created, the Court was not understood to be invested with the power to become the arbiter of government to the extent that it could set aside an act of Congress and defeat the will of the people, however emphatically expressed. That was an open question until Chief Justice John Marshall so laid down the law; not exactly the law of the Constitution, which says nothing on the subject, but the law by construction, and liberal construction at that.

Judge Marshall, in the light of our effort at self-government as it appeared in his day, scarcely realized that the Court, in wielding a power so delicate and important as against a coordinate branch of the Government, might some day hamstring it by a reactionary, strict construction of the same written Constitution.

If he had applied the rule of strict construction himself, there would have been no power to declare an act of Congress unconstitutional. Manifestly, however, Judge Marshall was right. But had he said, "I find nothing in the Constitution authorizing this Court to set aside an act of Congress as unconstitutional", the present controversy would never have arisen; and we would have substantially an unwritten Constitution, such as England has. This would be so, because Congress could enact any law it might see fit to enact, no matter how it violated the Constitution. Thus liberal construction may be said to have saved the Constitution.

And the test of the question now is, since the Supreme Court has by a liberal constitutional construction become clothed with the power to declare a law unconstitutional, shall the Court by a mere reversal of that rule of construction, applying instead a reactionary, strict construction, interpret the Constitution so as to make Congress practically impotent to carry out the will of the people?

The situation presented illustrates, perhaps, the objection of greatest force to a written constitution; the only answer to which is, if it be liberally construed, a written constitution is probably better. But sound reason and experience prove that, while the slow and difficult method of amendment ordinarily may answer, in great emergencies arising out of the vicissitudes and changes wrought by time in the evolution of human government, particularly as affected by the surprises of scientific research, it becomes impracticable to resort to an amendment to overcome the many difficulties to which a policy of strict construction gives birth; difficulties which may as well be speedily and safely avoided, by a reasonably liberal construction of the Constitution.

It is conceded that the majority of the Supreme Court conscientiously apply the rule of strict constitutional construction, from which our troubles have arisen. But conclusions of the Court's more liberal minority demonstrate how these same difficulties, without the need of amendment, may be obviated by equally conscientious and able liberal constitutional construction applied to acts of Congress which undoubtedly reflect the overwhelming voice and will of the people; solving in reasonable time in response to appealing cries of suffering humanity to be saved from ruin and even death, the problems of government arising from such a crisis as the great depression, in situations as unforeseen by the great men who framed the Constitution, as the end of time is now impossible for us to foresee. For this reason the builders of our Constitution were bound to deal with the unforeseeable future only in general terms, which cry aloud for a liberal construction to give them any meaning and force at all, instead of turning to them the deaf ear of strict construction, however harmful and inconsiderate of human rights as against property rights the result may be.

And here is an explanation of the crux of the situation: It grows out of the trend and training of legal minds. It is not strange that the majority of lawyers seem to lean to the side of the five strict constructionists of the Supreme Court, when their trend of mind and training have been precisely along the same lines. This is how it happens that a majority of the Court are in their mental processes conservative and strict constructionists.

The doctrines of the New Deal, as well as liberal statutes leading up to them, were unknown to the common law. It is only comparatively recently that they have found expression in statutory enactments. The ban against human slavery, freedom from imprisonment for debt, and all our wage and homestead-exemption statutes are signboards pointing out and marking the beginning and progress of the principle of the priority of human rights. It is within the memory of persons now living when the well-to-do considered taxation of their property for public schools to educate the masses a violation of their property rights. The idea that benefits accruing to the whole body of the people from such taxation and the consequent elevation of the masses justified such levies was then but feebly rooted as a sound policy essential to good government.

The "forgotten man" the President is trying to help was not merely forgotten in the period of misery and suffering just passed, which in the light of the great depression seems pictured in bold relief, almost painted in the skies. But, as the old books prove, that lonesome individual was practically unknown to the great men, such as Blackstone and other law writers, exponents of the common law, who recorded the accepted and fundamental principles governing and defining the rights and actions of men.

Yet it is those principles for the most part in which the majority members of the Supreme Court—in fact, all lawyers—have been specially trained, and which they have been taught to exalt as the foundation of great learning and prestige in the profession of law. No student of human nature but realizes the effect of training and principles instilled into the student mind. And especially does this apply to great principles and legal lore learned or absorbed by young men as law students from great teachers, who, now having passed, are revered as sainted examples and exponents of the fundamental principles of their profession.

In view of this, it may be repeated that it is no surprise that lawyers and judges for the most part are conservative and not naturally or by training inclined to exalt human rights. To only a minority of them does it seem right to break away from the old idea that property rights are what the law mainly deals with and protects, and that as to human rights (except laws for the prevention of crime) the individual is left to work out his own destiny; construing the phrase "all men are born equal" as having no reference to an equal chance, once the start is made in the race of life.

A thing needed, therefore, is some new law books to be written and taught in the light of the new doctrine that it is a part of the duty of modern, civilized government to reasonably encourage and help those who cannot help themselves, resting soundly as it does upon the principle that such aid is not only just but necessary and best for the ultimate good of all, including those who, whether through fortunate inheritance of property or greater talent and ability, or by other chance of fortuitous circumstances are able to help.

Assuming, as nearly everybody does, that the views of the majority members of the Supreme Court must be modified, that the great difficulties encountered because of their interpretation of the Constitution should in some way be removed by constitutional amendment or otherwise the problem would be more easily and safely solved by the President's plan than by any other suggested. It is so, because of the great delay and agitation incident to amendments of the Constitution and complications which might arise if Congress could be given a kind of constitutional veto over decisions of the Supreme Court, and also because an effort now to overcome by amendment each difficulty arising from strict construction would seem to be a kind of blanket approval of the impractical doctrine of a strict construction of a written constitution, which would continue to harass and handicap the Government in dealing with future contingencies and emergencies certain to arise.

The President's plan would not necessarily settle the question of a strict or liberal construction, but it would nearly make liberal construction a fixed policy, applicable at least where it should most manifestly be applied in passing upon the constitutionality of the mandates of the people, made articulate by acts of their Representatives in Congress. And with more frequent changes of members of the Court assured, together with the hold which the doctrine of priority of human rights is sure to acquire in the course of a few years, it is unlikely that such a situation as now exists would again arise.

The program of the President seems more practicable, less liable to surprise and unforeseen complications, and in its final results less harmful or open to reasonable criticism than any remedy proposed. Passing the question of delay incident to enactment of amendments which might in emergencies be almost equivalent to defeat, and the chance of possible defeat itself by a small minority thwarting the overwhelming will of the electorate, an amendment giving to Congress the veto power, if enacted, is not free from objection.

One objection appears from the divergent views of its advocates as regards the time and effect to be given to such congressional veto. Its advocates are sensible of the unwisdom of lodging in Congress power in effect to veto a holding by the Supreme Court unless first passed upon by the electorate. Most of them concede that only the next Congress should exercise that power. But how anomalous and unsatisfactory in the meantime would be the situation of those interested, or who might become interested, in the law in question? If acted upon, it would be but a gamble; and much dissatisfaction and harm would come from such uncertainty.

The plan for Congress to enact a law requiring the concurrence of not less than two-thirds of the members of the Court to annul an act of Congress would have to run the gantlet of the Supreme Court's constitutional test; and such a law would seem to be of doubtful constitutionality. There is also the objection to it that it might be too direct and easily repealed or amended or extended; having greater appearance of making the Supreme Court subservient to the will of Congress. Certainly it is more subject to this objection than the President's plan, and the constitutionality of his plan is not to be doubted.

Therefore, after all said is considered, the President's plan seems wisest and less objectionable than any proposed on account of its greater merits pointed out. Yet in addition it would remove an injustice not expected to be remedied by any proposed amendment, nor by any other plan suggested, in that it would expedite litigation and vouchsafe to everyone, rich and poor alike, a hearing, such as the Constitution contemplates, before the Supreme Court, in any case appealable to that Court of last resort, which, mainly on the ground that no public question is involved, is now denied every year to hundreds of good citizens who petition the Court for the writ of certiorari.

The views expressed are considered sound, notwithstanding the discouraging effect upon sympathetic but impartial liberal minds, resulting from extreme and unwise demands of those whom the President is struggling to protect, such as "sit-down strikers" and the absurd Townsend plan. If continued, unrestrained by a broader consideration for the ultimate good of all, selfish human nature, from which none seems exempt, may seriously handicap and embarrass the President in his already difficult struggle to bring about a lawful, peaceable, and practical remedy for the wrongs suffered by labor and by millions of other people who, from causes beyond their control, have been outbested in the race of life.

And if failure may attend the President's remarkable fight for the principle of priority of human rights, as a result of extremely selfish and unreasonable demands by either side, he must be blind indeed who does not realize the risk we incur of the terrors, havoc, and destruction which might be wrought by possible revolution and war in our own country between the extremes of fascism and communism, with its resultant chaos, possibly marking the close of a cycle of civilization.

The great question of today, therefore, is, Can we lead the nations of the earth as our Government has done in the experiment of self-government, in finding a workable and balanced control, by orderly and lawful governmental means, of the extremes of selfish human nature, to be founded upon fair, practical, just, and enduring concessions on the part of all. If we may, it must result from moderation, liberal breadth of vision, and some sacrifice on the part of all.

Shall It Be Life or Death for the American Merchant Marine?

EXTENSION OF REMARKS

OF

HON. DAVID I. WALSH

OF MASSACHUSETTS

IN THE SENATE OF THE UNITED STATES

Wednesday, March 24, 1937

ADDRESS OF HON. ROYAL S. COPELAND, OF NEW YORK, BEFORE THE BOSTON CHAMBER OF COMMERCE, MARCH 12, 1937

Mr. WALSH. Mr. President, I ask unanimous consent to have printed in the RECORD an interesting and illuminating address by the senior Senator from New York [Mr. COPELAND] before the Boston Chamber of Commerce on the subject, Shall it Be Life or Death for the American Merchant Marine?

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is a pleasure to address the Boston Chamber of Commerce on the subject of the American merchant marine, because here we have a common interest. In a notable manner you have sought to be helpful in all matters relating to transportation. For years you and I have been working side by side in an endeavor to make possible an adequate American merchant marine, to make it an accomplished dream.

The very name of Boston brings to mind the fine American ships of early colonial days; the glorious clipper ships of the middle 1800's. It reminds us of the "China trade", with cargoes of silk and tea to Boston; and trade with the romantic countries of the Caribbean.

It is easy to understand the continued interest of Boston in maritime affairs. Here we have one of the finest natural harbors of the world with a water frontage in excess of 40 miles. Within a 50-mile radius of Boston is a population greater than that of any other similar area in the United States, except, of course, New York. Boston is the center of the largest shoe and textile manufacturing community of the world; it is the greatest fish market of the world; and the greatest wool and leather market of the United States. It holds high place among the United States customs districts in imports and exports, and is one of the richest communities per capita in America.

Although Boston's interest in American merchant marine affairs is heartening to those of us who strive for its welfare, the apparent indifference of many of our people is alarming. No other nation of the world has so extensive a mainland coast in so high a state of development as has the United States. We are unrivaled in ports of great natural advantages and of strategic distribution for the accommodation of water-borne commerce. The general coast line on the Atlantic is 1,888 miles long, the Gulf coast 1,629, and the Pacific coast 1,366, a total of 4,883 statute miles. The actual length of tidal shore line, including off-shore islands, is four times as great. On the continental coast line of the United States there are some 50 seaports. Of these, 15 or 20 are primary ports, with controlling depth of water to 40 feet, and heavy concentration of railroad service. In addition, there are seven principal industrial cities on the shores of the Great Lakes, with only minor connection with sea-borne commerce, but of great importance in the economic scheme.

Our domestic water-borne traffic, including all traffic within the meaning of our coastal laws, averages in normal times twice the volume of our foreign water-borne traffic. But of this foreign or overseas traffic, only about a third is carried in American vessels. Here, then, is the direction in which normal expansion of an American merchant marine will take place.

The American merchant-marine problem is very different now from the problem of the last century. In the days of wooden ships we were able to build fine vessels as cheaply as our competitors, and there was no considerable difference in the cost of their operation as compared with similar foreign costs. In the early days our only substantial handicap was the policy of competitor nations discriminating in favor of their own ships, mostly through lower customs duties and tonnage taxes. Discriminating policies became effective in the Mediterranean as early as 1227 and in England in 1381, where they reached their height in 1650. The theory was that raising obstacles and the destruction of a competitor's trade was the best means of extending one's own. To meet this long-established advantage of our competitors the United States passed similar laws in 1789. But because of treaty provisions, these became ineffective toward the middle of the last century.

The decline of our foreign-trade merchant marine during the last century is attributable to several factors, among them the period of internal development; "winning the West" provided a better and more secure outlet for our capital and manpower than always hazardous shipping. This period of internal development began when the steel ship was still an experiment, when the American steel industry did not exist, and when the transition from wooden sailing vessels was on the way.

With the steel ship and world industrialization came the concentration of cargo in larger ports and great terminals, the requirement of a large amount of capital for investment in ships, and finally the development of liner services on regular schedules, while tramp shipping naturally lost in importance. Increased speed of vessels, influenced by naval auxiliary and ocean mail requirements, also became an important factor. This had an appreciable effect on the subsidy policies of maritime nations.

Excess tonnage since the World War has been a great economic handicap to international shipping. This was due not to lack of cargo to carry but to too great a supply of vessel tonnage to carry it. During the period of 1914–30 the world ocean-going, power-driven fleet increased almost 50 percent, while world trade increased only 10 percent. Upon saturation of the coastal and foreign tonnage markets, the freight market fell to a point where employment was unprofitable.

So by 1935, with the doom of ocean-mail contract aid written large in public opinion for all who could see it, the American merchant marine problem resolved itself into the necessity for overcoming the higher cost of building and operating ships in America. This greater cost is due largely to our higher standard of living and our laws, the liberal subsidies and aids extended by foreign governments to their shipping, the reduction of excess tonnage, and the modernization of our merchant marine to keep pace with developments of our competitors, who, though debtor nations, could always find money for shipping. The alternative to meeting these problems was either direct Government ownership or the merchant marine passing from the seas.

It is not easy to induce Congress to appropriate money to aid an American merchant marine. For many years repeated endeavors have been made; great men, such as Frye, Hanna, Greene, Gallinger, and Jones, made mighty attempts and, unfortunately, usually met with failure. The foes of subsidy, the advocates of Government ownership, and those indignant at the loose administration of the 1928 ocean-mail contracts made our task seem hopeless. The odds were definitely against any subsidy legislation at all. But after 25 or 30 redrafts we were able to secure the passage of the Merchant Marine Act of 1936. I say to you with all frankness that this act must succeed. Our future as a maritime nation is in the balance; our national defense demands that we succeed.

It grieves me to say, as I must in candor, that in my opinion the prospects for the sort of an American merchant marine we need are at lower ebb than they have been since the period preceding the World War. At that time a scant dozen American ships were engaged in foreign trade. Although our foreign trade provides employment for over 14,000,000 persons and an adequate American merchant marine is vital to this trade, the apparent indifference of our people as to its fate is truly alarming. Even our Government seems little concerned. "More important matters" constantly take precedence, and, in many cases, even our shipping laws are not enforced.

The present situation is one of chaos. In the last session of Congress much merchant-marine legislation of major importance was passed. But, so far, this legislation has not been given a trial, or even a chance to see what can be done under it.

It was not until March 9 that the President submitted to the Senate for confirmation, the names of five permanent members of the Maritime Commission. Over 8 months have elapsed since the passage of the Merchant Marine Act, 1936, and here at last we have the names of the Commission. The first glimmer of hope I have had for a long time came when I read the name of Joseph P. Kennedy, presented as Chairman of the Commission.

There is no doubt whatever that the gentlemen who made up the temporary Commission which carried on under a recess appointment, sincerely did their best to carry out the functions to which they had been called. But, likewise, there can be no doubt that the belief that their tenure was temporary, created an almost impossible handicap, both to them and to the industry as a whole. It is natural that they hesitated to adopt permanent policies, or to undertake a really permanent organization to carry them into effect, when they must have realized that others would probably have the duty of eventuating these policies. The 8 or 9 lost months have placed us just that much further behind our competitors.

For years no new ships have been built, or even started, for our overseas trade, and yet all informed persons know that our merchant marine is largely obsolescent. New ships built by foreign competitors are fast taking away the business which rightly belongs to the operators of American ships.

The recent strike on the west coast has run into losses amounting literally to hundreds of millions of dollars. Some of the shipping companies affected are in severe financial straits, and the business of many citizens ashore, persons and corporations depending on shipping for transportation, are close to ruin. All this has resulted from a disastrous conflict, which, so far as I can

see, has accomplished practically nothing of a constructive nature. The agreements between ship operators and the seamen which resulted from the strike have already been violated. Although those agreements call for a continuance of work pending arbitration, minor strikes in violation of them have already occurred. Much of the business lost by shipping concerns and producers will not be regained for years.

Perhaps you don't like to hear me say these things. But I know full well the citizens of Boston never hesitated to face issues, whether of tea or of traffic.

In Congress itself there are wide differences of opinion regarding the question of ship subsidy. In the opinion of some, the Ship Subsidy Act is far too restrictive and does much not to establish but actually to destroy the parity of cost in construction and operation contemplated. Restrictions intended to correct evils of the past are so broad in some respects as to prohibit perfectly legitimate enterprise.

Others appear to feel that the act represents the height of liberality on the Government's part. By placing the shipowner on terms somewhere near approaching equality with his foreign competitor, it makes this group believe we have been most generous.

The shipowners are in little more accord with each other than they were in the days when the subsidy bills were furiously debated and fought over with blood and tears. I state my own convictions in saying this.

The seamen are divided into factions which battle each other bitterly. In consequence, the ship operator is often placed in a position where agreement with one faction results in trouble and delay caused by the other faction.

The shipowners and seamen have not yet learned the lesson which has been so beneficial to the railroads and railroad labor. The latter, formerly antagonistic groups, appear to have learned that their destinies are inseparable. They have come to realize that the future of each is dependent on the good will and patronage of the public. What injures one injures both, as well as all others concerned. But in the maritime industry, operators and labor are still at each other's throats. So far as I can see, constant strife and difference of opinion can result only in the complete destruction of the industry and its business passing into foreign hands.

In the New York Times of last Sunday, March 7, I saw two items bearing on this discussion. One article stated that on March 1, American shipyards were building vessels of 282,186 gross tons. This, the item stated, had reference to the construction of 225 vessels.

At first reading this would seem to be a pretty good record, but let us examine further: "The most important tonnage under construction consists of oil tankers, the report shows. The largest ships are two tankers of 11,400 tons each * * * another tanker of 9,800 tons * * * Several tankers of 7,100 tons or more are under way. Only 10 wooden vessels aggregating 3,020 tons are under construction. Most of these are fishing vessels."

Oil is in demand in peace and war; it is not astonishing that tankers are needed. But America's record for the building of merchant ships is not very encouraging when we learn that a third of the tonnage under construction is for the benefit of a single industry. Likewise, it is not stimulating to American business to learn that by loans from the R. F. C. or other agencies of the Treasury, there is to be marked increase in tonnage in another field pretty well crowded now. That is, I assume it is crowded if I may judge by the appeals recently made to my Committee on Commerce for financial aid to the fishing industry, money to be advanced for the relief funds.

Contrast this report covering American shipbuilding with the conditions in England. Here is the dispatch to which I referred. It comes from London:

"The return of world prosperity and the consequent increase in trade and travel have brought boom times to Britain's shipbuilding industry. Hordes of workers have returned to the yards, and shipbuilding shares have skyrocketed. Hundreds of vessels are now taking shape on the cradles along the Clyde, the Tyne, and elsewhere, and soon loyal Britons hope to have even greater reason for their proud song Britannia Rules the Waves.

"Aside from the largest amount of warship construction since the war, there are at present 1,000,000 tons of merchant ships being built, and the combined activity brings the industry back to its highest peak since that time. In 1929, when the present figure was equaled, almost a third of the tonnage was intended for foreign delivery, but now practically every ship will fly the British flag.

"During the depression shipowners found it unprofitable to operate any but the most modern and the most economical vessels. As a result, hundreds of obsolete ships were withdrawn from service. The *Mauretania*, *Majestic*, and *Olympia*, to name a few which suffered the sad fate of an outmoded ship, are now nothing but memories.

"In their place the superliner *Queen Mary* reigns supreme over the Atlantic trade. At the end of this year a sister ship, now known merely as the *552*, will slide down the ways from the same berth which cradled the *Queen Mary*.

"In addition to the *552*, a further effort will be made to capture the lion's share of the Atlantic passenger market with lesser and slower cabin ships intended to supplement the service of their faster sisters. One of these vessels, of about 27,000 tons gross, is now being built for the Cunard White Star Line, and plans are under way for the construction of others.

"In addition to these larger ships, hundreds of smaller vessels are being constructed."

America is not building one single passenger ship. So far as I can discern, there is no immediate prospect of any such construction.

The only encouragement I have had for some time lies in the fact that an application was made to my committee for a copy of our pending rules of ship construction. After the *Morro Castle* disaster we organized two technical committees, one on personnel and the other on construction of ships with passenger and crew safety as the end in view. Under Admiral Rock and Captain Joyce we have worked out regulations for the building of safe ships.

One of the architects of the new British ship, sister to the *Queen Mary*, wrote me, saying he had learned of our work, which he believed would provide for the safest ships ever built. He begged for an advance copy of our report.

Well, it's something to be able to tell the world how to construct ships. But I wish we might ourselves be building some such vessels for our own American merchant marine.

There is another and a sinister influence at work to destroy what is left of our merchant marine. I am not one to cry "Communist" whenever there is an honest difference of opinion over economic questions. Neither do I believe the present chaotic condition of the industry is due entirely to the machinations of our foreign competitors, many of whom look upon our overseas trade as properly theirs. I do not accuse the present representatives of the various seamen factions as being in the employ of Moscow. But I do know that so much subversive propaganda has been issued to seamen by communistic and un-American organizations that the whole issue is beclouded. In the files of my committee are publications of such organizations, aimed not alone at the continuous discharge books, the "Copeland fink books", but also advocating strikes, and instructing their disciples how to carry on disruptive acts in violation of agreements made by their leaders.

This record book had been advocated by organized seamen since 1923; every convention held by the International Seamen's Union since that date has ratified the action of their leaders in demanding it. They have desired—and I believe a vast majority still desire—the Government to issue the book, provided there are no entries which can be used for blacklisting purposes. They recognize the many advantages which the honest seaman derives from such a book. It is in the interest of safety at sea. Surely it is in the public's interest. In spite of the fact that the law has never been given a chance to show the many benefits to crew and passenger, the leaders of certain insurgent groups threaten a strike against the United States Government next May 1, with a public burning of the books.

These things are discouraging to those of us in Congress who felt, after the passage of major shipping and seamen's legislation, that a new era had dawned for the merchant marine of the United States. Differences of opinion in Congress had at last been composed. We were happy in the thought that our efforts would surely result in giving the seamen fair wages and American working conditions; that as the result of the sum total of our shipping legislation there would come into existence a splendid modern merchant fleet.

By nature I am an optimist. I would not have you believe for a moment that I think this country is on the way to ruin. There are too many New Englanders, too many of New England stock, and too many Americans of New England spirit to permit obstacles to deter us from our course. There are still millions who have the spirit of Boston schoolboys at the beginning of the Revolution. Thank God for this!

I have laid before you some of the ills that threaten the very life of the American merchant marine. Now, I shall attempt to prescribe a course of treatment which, in my opinion, will result in much benefit to the patient and perhaps his cure.

The permanent Maritime Commission should be vested, through additional legislation, with complete responsibility for the welfare and development of shipping. Many of the powers now exercised, often in a conflicting manner, by other governmental departments, should be transferred to the Commission. Both because the validity of certain parts of the National Labor Relations Act are in question and because the principles of the Railway Labor Act have proved effective in dealing with railway labor troubles, specific maritime labor legislation along these lines should be considered. Whatever the legal fate of the National Labor Relations Act, there is no doubt in my mind that labor legislation applied to the maritime industry would be valid, not only because of the public interest involved but also because of our constitutional right to regulate commerce with foreign nations and among the several States. Any labor law should, of course, provide for collective bargaining, but the time has come to give consideration to the principle of collective responsibility. Collective bargaining without collective responsibility means little after all.

The Maritime Commission should proceed to formulate and lay down definite shipping policies. Adjustment of the ocean-mail contracts should proceed as soon as possible, so that arrangements can be made for replacement of our obsolete vessels. Without ships there can be no merchant marine. There can be no construction without financial aid from some source. The first essential to maritime progress is that the United States must have a sound, definite, and permanent policy of assistance to the merchant marine.

Our governmental attitude toward our own overseas shipping has been belatedly to follow what other nations have done and are now doing. We do not act until forced to recognize that aid is vitally necessary, and then only when the alternative is the eventual disappearance of the American flag from the seven seas.

One national policy of mail subventions was early abandoned because of violent criticism, and during the sectional quarrels in Congress preceding the Civil War the mail subventions were withdrawn and the lines could not survive. The effort was given up in the very crisis of the struggle with subsidized rivals, even though success was in sight. We recently backed away from our last mail-contract policy because it was followed by widespread criticism. In my opinion, failure, if there really was failure, was due not primarily to defects in the law itself but to the way that law was administered.

By the passage of the Merchant Marine Act of 1936 we have shifted from our previous policies of indirect subsidy and come out definitely for direct subsidies to our ships in foreign trade. The reasons for direct equalizing subsidies are easily understood and are not properly subject to criticism by fair-minded persons.

I have real hope of the future if the latest policy we have adopted is pursued vigorously and given a chance to bear fruit. The assurance to our shipping and investing public that we really mean it this time is essential to success. Operators have been fooled so frequently that it is no wonder they look askance upon present promises. A good commercial body like yours, by endorsement of the policy, can do much to create a public sentiment, which is greatly needed to create enthusiasm in shipping circles.

Some of the policies of the past were never given opportunity to demonstrate their worth, or lack of worth, because of the frequent changes in the administration of those policies. The old Shipping Board was notorious for its constantly changing personnel. The Merchant Fleet Corporation at one time possessed the record of having changed its president on an average of once every 6 months. It should be evident that public confidence was impossible under such conditions.

The act gives the Maritime Commissioners certain promotional as well as administrative duties and, for the time being at least, regulatory duties also. This combination of duties and functions will be most difficult to administer, and the gentlemen appointed to the task will require great tact and energy in carrying them into effect. It must be realized that everything they do cannot possibly please everyone; whatever course they determine upon after mature deliberation and consideration of all the facts, it is my feeling the Commissioners should receive full support from the public. At least they should be given an even chance to solve the important national problems entrusted to their care.

Another step that is absolutely essential to accomplish the development of a successful merchant marine is cooperation. Cooperation must be manifested by American shippers in their patronage of American flagships. Cooperation must be established between the Government and the shipowners. The Government must do its part by living up to the policy adopted. The shipowners must cooperate with the Government in building a merchant marine second to none. It must observe the spirit as well as the letter of the law. The shipbuilders must cooperate with the Government in making it possible, so far as it lies within their power, for our ships to be built at reasonable cost.

It is realized that any elaborate program of construction might have the effect of skyrocketing the cost of building ships. I understand, of course, that much of this fluctuation in cost is beyond the shipyard's control. But so far as is humanly possible it must be kept within reason. It has been estimated that an annual replacement program amounting to 433,000 tons in our foreign trade fleet alone will be necessary for the prompt modernization of that fleet. This should be our aim, but there is no hope of its realization unless there is all along the line the closest cooperation in the solution of the many problems which must be solved if our fleet is to be modernized at reasonable cost.

Of primary importance in the field of cooperation is that between labor and the shipowner. The new act gives the Maritime Commission certain powers as regards wages and working conditions on subsidized ships. In granting this power to the Maritime Commission, the Congress has followed what many believe to be a world-wide trend. Systems of working conditions, wages, manning scales, etc., are in force in other maritime countries, and in some countries they are a part of the subsidy system. We have made them such in our act.

These factors are becoming recognized in the costs of operation of ships, and in some countries have become measurable in terms of public expenditure required to meet them. This power must be exercised fairly and impartially, always bearing in mind the intent of Congress. That intent was and is that our merchant marine shall develop on the basis of the American standard of living, and that the Maritime Commission represents that policy.

Both shipowners and labor must assume the responsibility of building up a merchant marine for our national needs. To realize that the best interests of both lie, not in working at cross purposes but in a prosperous, expanding industry made possible by mutual loyalty and mutual understanding.

The last ingredient of my prescription is education of the public in American merchant marine matters. To this end your organization has done its part in the past, and I am sure will continue in future to do its full share. Every citizen should be informed as to why a merchant marine is essential, why subsidy is necessary. He must learn that disparity in costs and subsidies granted by foreign governments must be equalized, since transportation is really a commodity and one that must be sold in an international market.

Criticisms and misinformation readily attach even to the most well-intentioned projects. Surely shipping has been particularly unfortunate in this regard. Our lesson with the 1928 act should impress upon us that the well-informed must correct those who are uninformed or, worse yet, misinformed. Otherwise anything we try to do to build a merchant marine will be unsuccessful.

Organizations such as yours can perform a great service in seeing that the facts are honestly and properly presented to the public. With the cooperation of all others concerned in the maritime field, as well as that of the traveling and shipping public, and with the confidence and support of the American people as a whole, there is no doubt that the American merchant marine can be made second to none. This is sure to be to the everlasting benefit of every man, woman, and child in the United States.

You might be the owners of the finest department store in the world, but unless you had adequate and highly efficient delivery service you could not compete with stores that had. Apply the same conditions to our national life and the paramount reason for a merchant marine becomes evident.

We have more cotton, wheat, fruit, pork products, automobiles, shoes, cotton cloth, talking machines—every kind and variety of manufactured articles—than we can consume. If we are to continue as a great agricultural and manufacturing nation we must find bigger and better markets for our goods or else reduce our output and throw countless thousands out of work.

At the present time we sell abroad about 10 percent of our surpluses. We ought to sell at least 50 percent, but we shall never be able to help the farmer and manufacturer dispose of his goods until we can carry abroad in American ships all those articles for which there is increasing demand in Europe, Asia, and the islands of the seven seas.

If we rely on foreign ships for our commerce, what happens when war comes? Foreign ships are immediately called home to carry troops and munitions of war to and from the scene of conflict. Then agricultural and manufactured goods lie rotting on our wharves for lack of ships to carry them. We must not forget the lesson we learned with so much sorrow during and immediately after the World War.

Our growing Navy cannot be fully effective without swift, dependable auxiliary ships. Forty percent of a navy's strength lies in the ability to keep the fighting ships adequately supplied with their necessities. These include oil, food supplies, ammunition, and the thousand and one other articles needed for repair services in order that the fighting line may be maintained constantly at the highest possible degree of efficiency.

Then, too, let us not forget that 85 percent of the value of a completed ship has been paid to labor. Fifteen percent for raw materials and 85 percent paid to the American workingman, whose trained hands forged the steel, wrought the wood, and with brawn and trained intelligence made possible that highly complicated thing, a ship, and all it means to national prestige, American honor, reputation, and commerce.

If we are to keep alive the merchant marine and if we are to bring increasing prosperity to America, our course is clear. The life of our shipping and much of our future prosperity are linked together in the matter under discussion. Let us not fail.

Death of Admiral Richmond Pearson Hobson

EXTENSION OF REMARKS
OF
HON. PETE JARMAN
OF ALABAMA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 17, 1937

Mr. JARMAN. Mr. Speaker and gentlemen of the House, your attention has already been very beautifully called to the bereavement suffered by all America, and particularly by those of us whose honor it is to represent Alabama districts in this House, in the sudden passing yesterday of Admiral Richmond Pearson Hobson, an outstanding citizen of Alabama, of America, of the world.

Our distinguished Speaker, of whom all Alabamians are proud, indeed, has informed you that he represents a number of counties represented at one time in this House by Admiral Hobson, and called your attention to the fact that the admiral defeated his father for Congress and was in turn defeated by him. There was a redistricting of Alabama between the two races to which he refers. Just before this redistricting Admiral Hobson, Captain Hobson then, relinquished his seat in the House as a Representative of the district I now have the honor to represent, and ran for the Senate. Two years later he was defeated by the Speaker in the new district, which, as he told you, included several counties of Captain Hobson's old district.

While it was not my pleasure to have been intimately associated with the distinguished gentleman who has passed

on, we were both born in the beautiful little town of Greensboro, Ala., in which his ancestral home is still one of the show places, and both attended the old Southern University there, although he must have done so only very briefly, because, as I recall, he graduated from Annapolis at the tender age of 19. Furthermore, my first recollection of politics reverts to the race to which the Speaker referred between Captain Hobson and his esteemed father. I might add, gentlemen of the House, that the races between him and the Bankheads were real ones in which the fur flew, no quarter being asked or given, and that it is gratifying indeed to their common friends to observe the fine spirit of friendship which has existed between the Bankheads and Admiral Hobson during these latter years.

Nine years after his graduation, when he was still a young lieutenant of 28, he insistently volunteered to perform the perilous task of commanding what was thought to be a suicide detachment in its unusual mission to bottle up the Spanish fleet by sinking the old collier *Merrimac* in the entrance to the harbor of Santiago de Cuba. My memory of him as a comparatively young man enables my mind's eye to visualize a tall, erect, handsome, obviously fearless figure as he briskly steps out on the deck of the old *Merrimac*, assumes command and orders full steam ahead. I can see him standing there in the dim, gray mist of the dawn as the *Merrimac* shoots forward, as straight as a bullet, as determined as its heroic commander, on its last run to the point in the harbor where it had been decided to sink her.

I can almost hear the screeching of the Spanish shells as they whizzed by his head and splashed in the water around him and his heroic little group of six volunteers and one stowaway, who was not known to be along until after they had set sail. I can see the *Merrimac* as it dashes along, with its nose pointed directly toward the neck of the harbor, in a veritable barrage of Spanish shells. I can see it as it, probably to the surprise of all concerned, reaches its destination, and I can see the expression of disappointment on the young lieutenant's face when he learns that the rudder has been shot away and that he, therefore, cannot swing it at right angles and sink it directly across the channel, as was intended. While he realized that this loss of the rudder would prevent the complete success of his mission, he naturally desire to sink it anyway, with the hope that it would at least partially block the harbor, and I can see him as he personally pressed the button that would fire the ship's explosives, simultaneously giving the command, "Abandon ship." I can see the *Merrimac* as it almost immediately goes down and can visualize young Hobson and his seven associates hanging tenaciously to a raft, which had floated from her deck, until picked up by the Spanish patrol which had come out to investigate.

As illustrative of the appreciation of the courage of this Alabama hero by the enemy, that afternoon Admiral Cervera, who commanded the Spanish Fleet, sent his chief of staff to Admiral Sampson, commanding the American Fleet, to inform him that the eight volunteers were safe and to heartily congratulate him on their courage and valor. I do not recall at the moment any other instance in history when this occurred, and I feel quite confident that such an occurrence was, to say the least, very rare, indeed.

As the news of this brave accomplishment spread throughout America the heretofore unknown Lieutenant Hobson became a national hero overnight. You can well understand the pride which welled up in the breast of all Alabamians, and particularly those of my immediate section, who claimed him as their very own.

Needless to say, his exchange for other prisoners, which occurred several weeks later, and his triumphant return to America, surpassed only twice since, I think, when conquering American soldiers returned from France after the World War and when Lindbergh returned from his flight to Paris, were watched with peculiar interest and great pride by the people of my district. They were equally appreciative of the highly merited promotion which came to him as a result of his heroism.

It is not difficult to understand that his popularity, entirely merited as it was, caused the normal routine of naval duty to be rather difficult of performance in the midst of a horde of hero worshipers. Consequently he was, at his own request, I think, transferred to a distant and isolated post of duty.

Five years later he was retired from the Navy with the rank of captain because of defective eyesight, to enter politics, or for both reasons. At any rate, he first unsuccessfully opposed the Speaker's father, who then represented my district in this House. Then 2 years later he did so successfully and ably represented our district here for 8 years, retiring, as heretofore mentioned, to run for the Senate.

During these campaigns and in the Congress he had been an indefatiguable crusader for peace and preparedness, having particularly urged a Navy second to none, and an equally hard fighter against liquor, invariably referred to by him as "the great destroyer." The first constitutional amendment to enforce national prohibition was introduced here by him.

The field was naturally not very fertile in our rural district in Alabama for the efforts of a crusader such as Captain Hobson. Consequently, he moved first to California and then to New York, continuing always his magnificent fight for preparedness and against liquor, as well as narcotics, against which he commenced a Nation-wide fight by the organization of a national antinarcotic league some years ago.

If the heroism of any soldier or sailor of America ever deserved the Congressional Medal of Honor, as that of so many of them—many of whom never received it—did, this intrepid act of his in 1898 did so to a marked degree. Consequently, it is surprising indeed that this body did not indulge in this recognition of his courage "above and beyond the call of duty and with entire disregard for his personal safety" until 1933, when it was pinned on him in a very impressive ceremony at the White House by our present great President. While I referred to this delay as surprising, it might be well to amend that reference by the suggestion that it would have been so had the admiral not entered politics. In other words, I am firmly convinced that had he remained in the Navy, or devoted his energies to the full play of his great ability as an author and orator, instead of entering politics, in which selfish criticism frequently prevents or unjustly offsets the recognition to which one is entitled, he would have been awarded this highest and most honorable recognition that can come to an American soldier or sailor many, many years ago.

Then, as if to repay him in a way for this long delay in the recognition to which he was entitled, the Congress by a special act very properly returned him to active duty and immediately retired him as a rear admiral in 1935. Consequently the outstanding hero of the Spanish-American War only began to reap the full fruits of his valor, insofar as his Government was concerned, 2 years ago. He had already done so all along life's pathway since 1898 at the hands of his friends, associates, and all others with whom he came in contact.

I would call your attention to the fact that while he returned to my district, his native land, in the role of a conquering hero who would have long been admired, respected and loved for this accomplishment alone, his association with our people, as their Congressman and otherwise, caused them to love and admire him for himself as well as because of his heroism. His charming personality, great oratorical ability, fine intellect, and dauntless courage, in politics as well as in war, soon endeared him to our people, and there is many a sad heart and head bowed very low in the Sixth District of Alabama today.

I am so glad to learn that he will sleep in the one place in America where such a hero should sleep. All that is mortal of him will be laid to rest tomorrow across the Potomac in the hallowed ground of that awe-inspiring national shrine, mid the crosses row on row, and when taps shall sound over his grave on that beautiful hillside there will permeate the entire being of all those who shall have gathered to pay him tribute the very sincere and enthusiastic feeling "there lies among his comrades a gentleman, a scholar, a statesman, a patriot, a sailor and hero of the old South."

An Amendment to the Constitution

EXTENSION OF REMARKS
OF
HON. ALFRED L. BULWINKLE
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 24, 1937

Mr. BULWINKLE. Mr. Speaker, today I am introducing a proposed amendment to the Constitution in regard to the judiciary. This amendment proposes:

First. To fix the membership of the Supreme Court to consist of one Chief Justice and eight Associate Justices, and to provide that six of the Justices shall constitute a quorum of the Court.

Second. To provide for the retirement of judges of the Supreme Court and inferior courts after they have arrived at the age of 72.

Third. To provide annual retirement pay for the judges of the Supreme Court and inferior courts after their retirement from office. In such retirement pay to be three-fourths of their pay.

Fourth. To provide that no act of Congress or of any State legislature shall be declared repugnant to the Constitution—unconstitutional—unless concurred in by six of the Judges.

Fifth. To provide that this amendment shall be declared inoperative unless approved within 3 years after its submission.

The joint resolution is as follows:

Joint resolution to amend the Constitution to fix the membership of the Supreme Court, to provide for the retirement of judges of the Supreme and inferior courts, and to prescribe the vote by which the Supreme Court may hold a law unconstitutional

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States:

"ARTICLE —

"SECTION 1. The Supreme Court shall consist of nine Judges, one of whom shall be appointed as Chief Justice, and eight of whom shall be appointed as Associate Justices, to be appointed by the President, with the advice and consent of the Senate. A quorum of the Court shall consist of six.

"SEC. 2. The judges, both of the Supreme and inferior courts, shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office; and shall hold office during good behavior, but not after attaining the age of 72 years. When the term of office of any judge or any such court terminates by reason of his attaining the age of 72 years, if such judge has held a commission or commissions as a judge of any court of the United States for at least 10 consecutive years he shall receive, in equal monthly installments, annual retirement pay equal to three-fourths of his annual pay at the time of such termination of his term of office. Such retirement pay shall not be diminished during his life.

"SEC. 3. Section 2 of this article shall not be construed to require the reappointment of any judge of the Supreme Court or of any inferior court in office at the time of its ratification, but the term of office of any judge of any such court in office at the time of such ratification who is 72 years of age or over at such time shall terminate upon such ratification. Such judge shall, if qualified under section 2 as to length of service as a judge, receive retirement pay equal to three-fourths of his annual pay at the time of such ratification. Any person who is a retired judge of any such court at the time of such ratification shall not hold or be deemed to hold office as a judge thereof for any purpose after such ratification, or thereafter receive any salary as a retired judge, but he shall, if qualified under section 2 as to length of service as a judge, receive, in lieu of such salary, retirement pay equal to three-fourths of his annual pay at the time of his retirement. Retirement pay provided for by this section shall not be diminished during the life of the recipient.

"SEC. 4. No provision of any law of the United States or of a State shall be declared by the Supreme Court to be repugnant to the Constitution of the United States unless six or more Judges of such Court concur in finding such repugnancy to exist. If any court of the United States or of a State decides in any case that a provision of a law of the United States or of a State is repugnant to the Constitution, the Supreme Court, in the exercise of its appellate jurisdiction, shall assume such provision to be free from such repugnancy unless six or more Judges of such Court concur in finding such repugnancy to exist.

"SEC. 5. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within 3 years from the date of the submission hereof to the States by the Congress."

"It Is the Right of the Nation to Know All the Facts As to Causes, Responsibility, and Remedies—If a Crisis Exists, This Nation Will Meet It Courageously and Successfully"

EXTENSION OF REMARKS
OF
HON. ROY O. WOODRUFF
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 24, 1937

Mr. WOODRUFF. Mr. Speaker, "the crisis even more grave than that of 4 years ago", which President Roosevelt darkly warned in his Victory Dinner speech and again in his "fireside chat" speech early this month, is facing the country, still remains unclarified by any explanation of the President. Urging in these two speeches that the crisis is so grave and so imminent that "we cannot lose a moment more than is absolutely necessary" in passing the President's proposal to grant him power to pack the Supreme Court in order that he may secure such interpretations of the Constitution as he desires, Mr. Roosevelt continues to press his demand not only for complete personal dominion over the Federal judiciary but, through his reorganization plan, for complete personal dominion over all the independent quasi-judicial agencies created by the Congress to carry out its policies.

Under this plan the Federal Trade Commission, the Interstate Commerce Commission—indeed every agency which now exercises regulatory control over the financial, industrial, commercial, and agricultural activities of the Nation—would fall completely into the personal control of the President.

Despite his dark hints of this dire, impending disaster, Mr. Roosevelt, having turned loose the waves of fear and the imps of imagination to ravage with devastating result the public thinking and the public confidence, continues to refuse to enlighten the Nation as to what the impending crisis is.

Immediately following my demand on the floor of the House of Representatives on March 15 that the country be told frankly what danger threatens, it is true that Marriner Eccles, head of the Federal Reserve Board, warned of inflation through rising prices and, in the same breath, admitted the failure of the Roosevelt managed-currency policy to meet the danger of uncontrolled inflation; Secretary of Commerce Roper, in a more guarded and ambiguous statement, warned of inflation, but did not give causes for it, did not place responsibility, nor did he suggest a remedy; Secretary of Agriculture Wallace warned of inflation dangers, but in generalities.

If this "crisis even more grave than that of 4 years ago", which Mr. Roosevelt is using as the basis for his unprecedented demands for personal control of the entire Government and of all the activities of the Nation, is anything more than an alarmist program to stampede the Nation into supine and fear-motivated submission to the President's plan for personal domination, then Mr. Roosevelt owes it to his country to clarify the causes, to place the responsibility, and to candidly propose his remedy for such imminent and vital danger to the welfare of the Republic.

If inflation is "the crisis", the President has taken the one course most dangerous in the situation—that of hinting at the dangers and then leaving public imagination to feed on, to brood over, and to build up the unseen and unknown dangers.

America has never failed to meet any crisis when the people knew what the crisis was. America has never failed to rise and fight successfully any danger when the Nation knew what the danger was. The only thing an individual and a nation cannot successfully fight is undefined fear.

If inflation is the President's "crisis", the President must know that the essence of inflation is runaway prices; the essence of runaway prices is fear; the essence of fear is panic; and panic breeds and grows in unbridled imagination fed by vague threats.

If rising prices constitute the "crisis", Mr. Roosevelt himself has for 4 years, by every device at his command, sought to force prices up to the 1926 level, and those prices this week were still 13 percent below that level.

If strikes and wage increases are the cause of rising prices, then Mr. Roosevelt should say frankly that he is against wage increases at this time and wants to hold prices down at the expense of labor.

No greater disservice has been done this Nation since Mr. Roosevelt has occupied the White House than he has done in thus loosing the undefined fears of an impending crisis upon the thinking of this country, and then leaving every individual, every official, responsible or irresponsible, free to feed the imagination and the wondering fears of the country with all sorts of speculations as to the terrible things that can happen and will happen to us—if Mr. Roosevelt is not immediately given powers exceeding those granted to any other American Chief Executive, even in the emergency of actual armed conflict.

The people should not become too alarmed, but they should rise in a united demand that Mr. Roosevelt tell the country in detail what the crisis is, who caused it, how they caused it, and what he proposes to do to stop it, how he intends to wield the powers he seeks—if he gets them—to save the country from this threatened menace.

Nothing short of such a course of candor on the part of the Chief Executive will constitute an honest effort by Mr. Roosevelt to avert any danger which may threaten.

It is the right of the Nation to know all the facts as to causes, responsibility, and remedies. If a crisis exists, this Nation will meet it and meet it courageously and successfully.

Until the President takes this course, it is a reasonable conclusion that an attempt is being made to frighten the people into a surrender of their Government into the hands of the President.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. SHERMAN MINTON

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Thursday, March 25, 1937

ADDRESS BY HON. HUGO L. BLACK, OF ALABAMA, AT NEW YORK CITY, ON MARCH 24, 1937

Mr. MINTON. Mr. President, last evening in New York City the senior Senator from Alabama [Mr. BLACK] delivered a very able address on the proposal now pending before the Congress concerning the Supreme Court and other courts. I ask unanimous consent that the Senator's address be inserted in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Chairman, ladies, and gentlemen, since the President of the United States some weeks ago sent a message to Congress recommending a reorganization of the judiciary system, prophets of disaster have filled the pages of the press of the Nation with doleful and melancholy predictions. Words—millions of words—have carried counsels of despair to American citizens. Organizations backed by invisible forces have sprung up over night to join in the wild clamor of fear and fright. A people who love their country and its fundamental charter of liberty have been told that it is a time to fly to the rescue of this country from its enemies. We are in the seething midst of another campaign of fear.

Let us consider for a moment what precipitated this latest exhibition of such periodical fear campaigns.

The Constitution under which we live in America imposes upon the President the duty of recommending legislation to Congress from time to time. The President, in obedience to this constitutional mandate, made a recommendation to Congress.

The Constitution under which we live imposes upon Congress the responsibility for the organization of a system of courts, for determining their jurisdiction, and fixing the number of judges in all of the courts of the Nation. The President recommended to Congress that it take action under the powers expressly and unequivocally imposed upon the Congress by the Constitution. Seven times in the history of this Nation, beginning with the administration of George Washington, the Congress has passed laws in obedience to this express constitutional mandate. The framers of the Constitution did not tell the Congress when, how, nor why Congress should legislate on this subject. The Founding Fathers imposed this duty upon Congress, with the power to change the courts when the Congress believes such change to be necessary in the public interest.

In this very hall, a few weeks ago, the people were told that if Congress should exercise this power, given to Congress by the wise men who framed our Constitution, "it would shake the very foundations of our government", and would be "the way that leads to destruction."

You were further told that if Congress exercised this undoubted power given to it by the framers of the Constitution it would be a "ruthless sabotage of the peoples' rights" and "a thinly disguised attempt to suspend the Constitution." You were further told that if the bill should pass, and Judges should be appointed by President Roosevelt and confirmed by the United States Senate, as the Constitution provides, this would make the Court "subservient to a President", and would "give Congress and the Executive free rein to do as they see fit."

Other modern prophets of despair have reminded us that "we find the institutions of democracy crumbling in all parts of the world, let it not happen here." They have reminded us that despots in Europe usurped power. They have said that "this is to surrender courts and Constitution to the Congress and the President." They have said "this is to destroy the Court." They have tried to frighten you by saying that it would bring on a "one-man government." They reminded us that "it took Rome 300 years to die." "Our Government (they say) has been dying for 15 years." They have asked you if you wished to submit the rights of the people "to the unbridled control of the Congress and of the Executive." They have talked about sowing the wind and reaping the whirlwind. And in one paroxysm of eloquence, the people were actually told that "the Court might remain a hollow mockery, its form continuing, its substance having been destroyed by executive domination."

Not a one of these prophecies is new. They are not even novel. They have been called into use literally hundreds of times since our Government was established. As a matter of fact, they were used by those who opposed the adoption of our present Constitution. We still remember that the Liberty Leaguers used them in the campaign of 1936. Those who opposed an income tax, even including the Judge who wrote the opinion of the Supreme Court, striking down the income-tax law by a 5-to-4 opinion, anticipated that the imposition of an income tax was the beginning of the end of our Government. Another opponent of the income tax said that "God grant that the proposed amendment, if adopted, shall not lead to another civil war." More than 130 years ago a Judge of the Supreme Court of the United States prophesied that giving the right to vote to the people of Maryland would change our Government into a "mobocracy."

In every single proposal that has been made for an improvement in human society and a destruction of special privilege and greed, those who oppose have shrieked and shouted against changes, which they claimed would undermine our Government, destroy our traditions, and wipe out human liberty. Recalling now some of these dirges of modern prophets of disaster, I wish to quote you the same type of predictions made in the years 1802 and 1834. While you will note that all of the adjectives, verbs, and nouns are not arranged in the exact order as those of 1937, you will discover that they are all present.

The debates from which I shall quote occurred in the House and Senate of the United States in 1802 while Thomas Jefferson was President. The controversy was over a bill concerning our judicial system. Mr. Jefferson had recommended the repeal of a judicial bill passed under President Adams. The repeal of this bill resulted in changing a number of judges, both in the Supreme Court and in the lower courts. The Federalist Party in Congress took the position that such a recommendation was unlawful, unconstitutional, dangerous, destructive, and intended to make the judges subservient to Jefferson and the Congress, and to concentrate all power in Jefferson's hands. They prophesied that the passage of the bill meant the destruction of the Constitution and the death of our Republic. They insisted that a judge once appointed must draw his salary for life, and one who reads the debates is led to the conclusion that the Federalists wanted Federalist judges in power for life and if they could not succeed in this effort, they at least wanted their Federalist judges to draw their salaries for life. Now, let us see what some of these gentlemen engaged in the debates said at that time. Remember these statements were not made in 1937 about President Roosevelt and

his proposal. They were made in 1802 about President Jefferson and his proposal.

Recalling that a few weeks ago an eminent Member of Congress said that if the President's bill should pass, "The Court might remain a hollow mockery", let me now read you the statement made by a distinguished Federalist Member of Congress in 1802. This is what he said:

"Instead of an august and venerable tribunal, seated above the storms and oscillations of factions, prepared to rescue innocence from the fangs of the oppressor, * * * it will be the mimicry and mockery of justice. Upon our observance of this easy condition hang the hope and the happiness of the New World. The day we transgress we fall from our high and happy state. Touch not, then, the forbidden tree; the taste may perhaps be sweet, but the sin is mortal, and from that moment our paradise is lost."

Have you heard that recently?

You will also recall one of the eminent opponents of the President's proposal has reminded us in the last few weeks "that the institutions of democracy are crumbling in all parts of the world" and that we must not let it "happen here."

Now, let me read to you a statement by another eminent and distinguished Federalist, made in 1802 when President Jefferson recommended the repeal of a law, which repeal would enable him to appoint an additional judge of the Supreme Court. Let us also remember that these Federalists were very much of the opinion that the only way to preserve the Constitution was to keep their particular Federalist judges on the pay roll. Here is the statement made in 1802:

"Violent times have happened in other countries; there may be such times here, and if our criminal tribunals are then filled by the miserable minions of power, who can answer for the consequences? Who can say that blood will not flow down our streets in torrents? I see gentlemen on the other side of the House are smiling (he was referring to the Jeffersonians smiling); but I beg them to recollect that such things may be brought home to ourselves; that I am not putting an extreme case; what has happened may happen."

Recalling also that an able opponent of President Roosevelt's proposal recently reminded us about the wind and the whirlwind, it is interesting to note that a speaker in 1802 then proceeded as follows:

"And if we sew the wind, we shall reap the whirlwind. * * * Is there then not someone who will step out from among them, to save this tottering branch of our Government from falling? Rest assured, it is dear to our fellow citizens. Ask them and every high-minded American will answer at once, 'Save us from the injustice, the oppression, and the miseries of dependent tribunals by preserving to us forever the entire independence of our national judges.'"

This gentleman in 1802 in his patriotic fervor looked into the crystal glass of prophecy and foresaw the destruction of our Republic if Mr. Jefferson's bill should pass. Mr. Jefferson's bill did pass. Mr. Jefferson not only appointed that additional judge but appointed other judges under a law subsequently enacted. One hundred and thirty-five years have passed away, and, although we have had other admonitions from time to time that our Government was about to fall, we now again 135 years after this statement, millions and millions of spoken and printed words are sent forth to try to frighten the people into the belief that our judiciary is about to be destroyed and that a whirlwind is "just around the corner." History has a strange way of repeating itself.

Few 1937 speeches against the President's proposal and few of the millions of pamphlets and pieces of literature against it are today complete without a vivid and blood-curdling statement about present-day conditions in Europe. There is nothing new about this, however. In 1802 a Federalist Congressman looked about him and shivered with horror as he contemplated the passage of President Jefferson's bill. This Federalist foresaw and foretold that America would surely follow the falling governments of Europe. President Jefferson's bill passed, and America had Democratic judges instead of Federalist judges. Listen to the eloquent expression of his fears, expressed 135 years ago. Here they are:

"Mr. Chairman, I see, or think I see, in this attempt, that spirit of innovation, which has prostrated before it a great part of the Old World, including every institution which the wisdom and experience of ages had reared up for the benefit of man. A spirit which has rode in the whirlwind and directed the storm, to the destruction of the fairest portion of Europe; which has swept before it every vestige of law, religion, morality, and rational government; which has brought 20,000,000 of people at the feet of one man, and compelled them to seek refuge from their complicated miseries in the calm of despotism."

These words spoken in 1802 have a strangely familiar sound in 1937. This Federalist Congressman from North Carolina, however, was not satisfied, and he continued as follows about this bill that would provide additional Democratic judges and deprive Federalist judges of their salaries. Here's what he said at this time:

"The wound you are about to give it will be mortal; it may languish out an existence for a few years, but it will surely die. Better at once to bury it with all our hopes."

Congress, by a big vote, inflicted what this Federalist Congressman said would be a mortal wound in 1802. The Government did not die. The Constitution was not destroyed. Under the immortal Jefferson and the judges appointed by him the Constitution was given new life and was made more responsive to the will of the people.

The next quotation I shall read was not spoken in 1937, but in this same debate of 1802. A Federalist from Connecticut, speaking on the side of keeping Federalist judges on the bench, uttered the following melancholy predictions:

"Sir, I apprehend the repeal of this law will involve in it the total destruction of our Constitution. It is supported by three independent pillars—legislative, executive, and judiciary—and if any rude hand should pluck either of them away, the beautiful fabric must crumble into ruins. I apprehend the repeal of this act will be the handwriting on the wall, stamping mene tekel upon all we hold dear and valuable in our Constitution."

Many Federalists in 1802 wanted judges appointed by Federalists and were opposed to judges appointed by the Jeffersonian party. Here is what another one of these gentlemen said 135 years ago:

"On the other hand should the resolution be carried * * * your judges would hold their offices at the will of the legislature, and be there mere creatures, subservient to all their whims, caprices, and party spirits, would cease to be a check or barrier between them and the people, in cases of unconstitutional acts and abuse of power."

These quotations clearly indicate that the Federalist Members of Congress were of the opinion that the only way to save the Constitution and the Government was to have Federalist judges who believed in the Federalist philosophy. It is true that the people of the United States had by an overwhelming vote repudiated the Federalist Party and the Federalist philosophy. But the Federalists still had the Court. Each of their speakers became more and more frenzied and hysterical, with reference to the danger to the Republic. If President Jefferson's bill should pass, Federalist judges could no longer run America. Listen now to the words of a great Federalist from the State of Delaware. See how he played upon the doleful cords of disaster. He talked about Europe, liberty, wives and children, and neighbors, civil strife and Presidential power. You have doubtless heard this same speech with the words slightly transposed many times during the past few weeks. Listen to the Federalist Congressman from Delaware not in 1937 about President Roosevelt, but in 1802, about President Jefferson. Here is the way he buried the hopes of America, if by any chance Federalist judges should not continue to exercise supreme control over the Nation. This is his language:

"There are many, very many, who believe if you strike this blow you inflict a mortal wound on the Constitution. There are many now willing to spill their blood to defend that Constitution. Are gentlemen disposed to risk the consequences? Sir, I mean no threats; I have no expectation of appalling the stout hearts of my adversaries; but if gentlemen are regardless of themselves, let them consider their wives and children, their neighbors, and their friends. Will they risk civil discension, will they hazard the welfare, will they jeopardize the peace of the country to save a paltry sum of money—less than $30,000?

"The spirit of party will be inflamed to madness; and the moment is not far off when this fair country is to be desolated by civil war. * * *

"Do not say that you render the judges dependent only on the people. You make them dependent on your President. This is his measure. [Have you heard this in 1937?]

"The legislature will be the instrument of his ambition, and he will have the courts as the instrument of his vengeance. He uses the legislature to remove the judges that he may appoint creatures of his own. In effect, the powers of the Government will be concentrated in the hands of one man, who will dare to act with more boldness, because he will be sheltered from responsibility.

"We are standing on the brink of that revolutionary torrent which deluged in blood one of the fairest countries of Europe.

"I should have thanked my God for the great power to resist a measure so destructive to the peace and happiness of the country. My feeble efforts can avail nothing. But it was my duty to make them. The meditated blow is mortal, and from the moment it is struck we may bid a final adieu to the Constitution."

In spite of what the Federalist Congressman from Delaware said, the meditated mortal blow was struck, and for 135 years the Government has been going forward. It is true that the political posterity of this Federalist Congressman from Delaware have repeatedly predicted disaster on each occasion when the people saw fit to bring about an adjustment of their mechanics of government in the great onward march of industrial and social progress but America has marched on.

The Federalist Party distrusted the people. Jefferson trusted the people. There are those who are telling you now that the people of America must be protected from themselves, and that their deliberate and oft-repeated desire to eradicate social and economic injustice will result in a destruction of our Government. Let us read now what one of their political Federalist forebears said in 1802 in opposing Mr. Jefferson's bill. Here is what the distinguished Federalist Senator from New York said, not in 1937 but in 1802, about Mr. Jefferson's judiciary bill. It has a strangely familiar sound:

"Why are we here? To save the people from their most dangerous enemy; to save them from themselves. * * * We are now about to violate the Constitution. Once touch it with unhallowed hands; sacrifice but one of its provisions and we are gone. * * * Can you violate it? If you can, you may throw the Constitution into the flames—it is gone—it is dead. * * * Cast not away this only anchor of our safety. * * * I stand in the presence of Almighty God and of the world, and I declare to you that if you lose this charter, never, no, never, will you get

another. We are now, perhaps, arrived at the parting point. Here, even here, we stand on the brink of fate. Pause, pause—for Heaven's sake, pause."

In spite of this flaming and eloquent warning of certain and sure disaster, delivered in such way as to gladden the heart of every Federalist and of every 1802 Liberty Leaguer, Congress did not pause, but passed the bill. The Constitution was not thrown into the flames. It still rests in archives in Washington, as it was originally written. The Government grew. The judges were changed. Liberty moves forward to higher ground. It was proven that the fate and destiny of the great American people is not dependent upon having those of Federalistic economic philosophy presiding in the Supreme Court of the United States.

Those in 1802 who opposed Mr. Jefferson's judiciary bill as being unconstitutional insisted upon delay. They insisted that the change should come by an amendment to the Constitution, if at all. They beg to wait until the people should again speak, although their voice had been heard in thunder tones as they repudiated the philosophy of Federalism and adopted the magnificent liberalism of Thomas Jefferson. Listen to this supreme effort of a Federalist Congressman made in 1802. See how he and his friends claim for themselves a monopoly on all love for the Constitution and the Government, and how he asserted that if this bill should pass, and the temple should fall, the Federalist patriarchs would grab porticos of the temple and be crushed to death like Samson. Here is his eloquent language, not in 1937 about the Roosevelt bill, but in 1802 about Jefferson's bill:

"If you will not reject this measure, postpone it for a year; the people want no change of our Constitution; give them but time, and my life on it they will say 'no.'

"Gentlemen say the Constitution will live. Sir, it may last our time, but it will drag out a miserable existence after receiving this wound; it will be mortal; inflict it and you doom it to ruin; like the best and most lovely part of God's creation, violate and you destroy it.

"If the friends of the Constitution are subdued by numbers, the ministerial phalanx, in bursting into the temple will, I hope, find them all at their posts; they will be in the portico, the vestibule, and around the altars, grasping, grappling the Constitution of their country with holds of death, and with nollumus mutari in their lips."

Shortly after this eloquent appeal to save the Constitution by defeating Jefferson's bill, and keeping Federalists in control of the judiciary, Congress passed the measure. The followers of Jefferson declared in their replies to the Federalists' argument that Congress had the right to "increase or diminish the duties of the judges; give or take away jurisdiction; fix the times of holding courts, etc." They further insisted that Congress could "postpone the sessions of the Court for 8 or 10 years, and establish others, to whom they could transfer all the powers of the existing Court." They vigorously denied that the judges should have or did have under the Constitution "censorial and controlling powers over the other departments", and voted for the bill, as they said, in order to show that the Constitution did not submit "the entire sovereignty of the Nation to judiciary control."

Because threats were made that the Supreme Court would declare this action of Congress unconstitutional, a law was passed postponing the term of the Supreme Court for more than a year. It is interesting to us that this fight occurred and the bill passed during the administration of that great President whose hand penned the immortal Declaration of Independence and whose spoken and written words were always found on the side of human liberty and human justice.

Now let us move up to the year 1834. Andrew Jackson was President. Elected by the overwhelming suffrage of his fellow Americans for a second term, he was accused of despotism, destruction of the Constitution, and coercion of the courts. The Chief Justice of the Supreme Court of the United States was a Federalist. He had hoped that Jackson might be defeated for his second term and had expressed his intention of resigning from the position of Chief Justice if his hope of Jackson's defeat should be realized. Let us now quote from a speech of one of those who sought to defeat Jackson. Note how it follows the stereotyped form of 1802 and 1937. Note the charge of one-man power, the charge of judicial conflict, the melancholy predictions of the Government's overthrow, the charge of Jackson jeopardizing free speech, free press, and free religion; the reference to Europe and the Goths from Rome and the final prediction of the death of the Republic. Listen now to these remarks. They were not made in 1937. These remarks were made in 1834 about President Jackson:

"We are in the midst of a revolution, hitherto bloodless, but rapidly tending toward a total change of the pure Republican character of the Government, and to the concentration of all power in the hands of one man. The powers of Congress are paralyzed, except when exerted, in conformity with his will.

* * * * * * *

"The judiciary has not been exempt from the prevailing rage for innovation. Decisions of the tribunals, deliberately pronounced, have been contemptuously disregarded.

* * * * * * *

"* * * if the progress of innovation continues, there will be scarcely a vestige remaining of the Government and its policy, as they existed prior to the 3d of March 1829. In a term of 8 years, a little more than equal to that which was required to establish our liberties, the Government will have been transformed into an elective monarchy—the worst of all forms of government.

* * * * * * *

"Such is a melancholy but faithful picture of the present condition of our public affairs. Many of our best citizens entertain serious apprehensions that our Union and our institutions are destined to a speedy overthrow.

* * * * * * *

"If the clause of the Constitution is to be expounded, as is contended for, it amounts to a complete absorption of all the powers of government in the person of the Executive. * * *

"The will of the President will be the whole of it.

* * * * * * *

"We could then, sir, have reviewed the laws, and seen whether Congress or the President had properly any power over this matter; or whether the article of the Constitution which forbids that the press shall be touched, and declares that religion shall be sacred from all the powers of legislation, applied in the case or not. This the President has undertaken to do of himself, without the shadow of authority, either in the Constitution or the laws.

* * * * * * *

"For more than 15 years, Mr. President, I have been struggling to avoid the present state of things. * * * With what sincerity and truth—with what earnestness and devotion to civil liberty, I have struggled, the Searcher of all human hearts best knows. With what fortune, the bleeding Constitution of my country now fatally attests. * * *

"And if a bountiful Providence would allow an unworthy sinner to approach the throne of grace, I would beseech him as the greatest favor he could grant to me here below, to spare me until I live to behold the people rising in their majesty, with a peaceful and constitutional exercise of their power, to expel the Goths from Rome.

* * * * * * *

"To uphold the Union against the danger of the concentration and consolidation of all power in the hands of the Executive; and to sustain the liberties of the people of this country against the imminent perils to which they now stand exposed.

* * * * * * *

"The eyes and the hopes of the American people are anxiously turned to Congress. They feel that they have been deceived and insulted, their confidence abused, their interests betrayed, and their liberties in danger. They see a rapid and alarming concentration of all power in one man's hands. They see that by the exercise of the positive authority of the Executive, and his negative power exerted over Congress, the will of one man alone prevails and governs the Republic. The President, and not Congress, is addressed for legislative action.

"We behold the usual incidents of approaching tyranny.

* * * * * * *

"The premonitory systems of despotism are upon us; and if Congress do not apply an instantaneous and effective remedy, the fatal collapse will soon come on and we shall die—ignobly die! Base, mean, and abject slaves—the scorn and contempt of mankind—unpitied, unwept, unmourned!"

Antinew dealers in 1937 have appropriated the Federalists' 1802 arguments used by Federalists against Jefferson's judicial-reform bill. Those who oppose progress and judiciary reform in 1937 go back to the same old stale arguments of those who fought progress and judicial reform in 1802.

I have given you quotations from the campaigns of fear waged in 1802 and 1834. You are familiar with the 1937 campaign of fear against President Roosevelt's program. You are familiar with the fact that there are now seven members of the Supreme Court appointed by Republican Presidents and two appointed by Democratic Presidents. You are familiar with the sharp, economic differences that exist between the different Justices in the Supreme Court of the United States. For the last 50 years Judges of the Supreme Court have been calling attention to the fact that the Court was stepping beyond the judicial sphere and was deliberately usurping legislative functions. Repeated warnings have been given by the Judges of the Court themselves. An illustration of this warning by Supreme Court Judges is the following language of an eminent Justice written about 20 years ago:

"When the American people come to the conclusion that the judiciary of this land is usurping to itself the functions of the legislative department of government, and by judicial construction is declaring what is the public policy of the United States, we will find trouble. Ninety millions of people—all sorts of people with all sorts of beliefs—are not going to submit to the usurpation by the judiciary of the functions of other departments of the government and the power on its part to declare what is the public policy of the United States."

Mr. Madison, in writing in favor of the adoption of the Constitution of the United States, said that the executive, legislative, and judicial branches of government were each granted such powers "as to give to each a constitutional control over the other." Mr. Hamilton, arguing in favor of the Constitution, said that the departments had been so arranged so "that its several parts may, by their mutual relations, be the means of keeping each other in their proper places", and so that the "several offices may be a check on the other." He further said that "in republican government, the legislative authority necessarily predominates."

A bare majority of the members of the Supreme Court of the United States have been for a number of years assuming the right on their part to determine the reasonableness of State and Federal laws. The Constitution never gave that majority any such power. The Constitution of the United States never gave to the majority of the Judges of the Supreme Court power to declare that the sovereign State of New York, with its millions of people,

could not pass laws to abolish the sweatshop by providing a minimum wage or by prohibiting unduly long hours of work in industry. This majority of the Supreme Court have whittled away the rights of the people of the various States to pass legislation adjusting and improving the social and industrial relationships of their people until the people of the States today find themselves helpless. This majority philosophy has gone to such an extent that one of the able Judges of the Supreme Court has himself declared that the Court is setting itself up as a "super legislature." This majority of the Supreme Court has been sitting as a continuous constitutional convention amending your Constitution and the Constitution of the people of this Nation without submitting these amendments to them for their approval. This majority, stubbornly clinging to the repudiated, economic, social, and political philosophy of the discredited, reactionary Republican regime, which the people of 46 States rejected, insists upon writing provisions into the Constitution that the Founding Fathers never dreamed could exist. This majority philosophy has usurped and taken over the rights of the people of the States to legislate in their own behalf and the rights of the people of the United States to legislate within the sphere of Federal activity. The Democratic platform promised certain definite and distinct legislation. It promised to give justice to the farmers of this Nation. It promised to give justice to the workers of this Nation. It promised to outlaw sweatshops in the factories and starvation prices on the farm. It promised to develop the streams of this Nation, to prevent floods, and to utilize the power of resources for the benefit of the people.

It is unfair and unjust to the wise men who fought for American independence and liberty to charge that they wrote or approved a Constitution that took from the people of a sovereign state or a sovereign nation, the right to protect men, women, and children from devastating and destroying sweatshops and deprived the people of this Nation of the right to protect more than 30,000,000 of farmers dependent upon agriculture from the miserable and degrading effects of grinding poverty. I conceive it to be not only the right of Congress under the Constitution, but the imperative duty of Congress, to protect the people of this Nation from usurpation of the people's power by a bare majority of a Court clinging to a thoroughly repudiated social and economic philosophy. Additional Judges of the Supreme Court will be appointed as the Constitution provides and in exactly the same manner that every Judge who now sits on the Court was appointed. They will be confirmed by the Senate, as the Constitution provides, and in exactly the same manner as those Judges were confirmed who now sit on the Supreme Court. New Judges will have their positions for life free from Executive or legislative control. The people of this Nation cannot be deceived into believing that their Republic and their Government is safer for them where seven of the Judges were appointed by Presidents Taft, Harding, Coolidge, and Hoover, than it would be if some of the Judges should be appointed by the present Democratic administration. This is especially true when we recall that President Taft, in arguing in favor of the election of Mr. Harding over Mr. Cox in 1920, made the following statement:

"Four of our incumbent Justices are beyond the retiring age of 70, and the next President will probably be called upon to appoint their successors. There is no greater domestic issue in this election than the maintenance of the Supreme Court as the bulwark to enforce the guaranty that no man shall be deprived of his property without due process of law. Who can be better trusted to do this—Mr. Cox, the party successor of Mr. Wilson, or Mr. Harding, the standard bearer of the Republican Party?"

After Mr. Harding was elected these vacancies did occur, and the appointments were made. The Harding philosophy now controls the Supreme Court of the United States. The people, however, have adopted the progressive policy of President Roosevelt. That great philosophy is that there is no greater domestic issue than the protection of human beings as human beings. Our Constitution and our Government can best be preserved for the people by an interpretation of this Constitution as a document which puts human beings in the place of first importance. I believe the American people today place human rights above property rights.

The Voteless District of Columbia

EXTENSION OF REMARKS

OF

HON. ARTHUR CAPPER

OF KANSAS

IN THE SENATE OF THE UNITED STATES

Thursday, March 25, 1937

ADDRESS BY HON. ROYAL S. COPELAND, OF NEW YORK, BEFORE THE COLUMBIA HISTORICAL SOCIETY, ON APRIL 17, 1935

Mr. CAPPER. Mr. President, I have a copy of the address delivered by the Senator from New York [Mr. COPELAND] before the Columbia Historical Society at the Mayflower Hotel in the city of Washington on April 17, 1935. The address has never been published, though it contains much valuable information pertinent to pending matters concerning the District of Columbia and its government, as well as the relations of the District to the Federal Government. The valuable material developed by the Senator from New York in his research should be made readily available to the Congress, and for that reason I ask that the address be published in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

There is wide ignorance on the part of many of the American people, perhaps the majority, that the citizens of an American city are denied the right to vote. They have no part in the election of a President; they have no part in the deliberations of the Congress. In an area occupied by a half million of our countrymen, an overwhelming majority of whom were born in the United States, the inhabitants have no part or parcel in governing their city. They must take what a grudging Congress decides shall be spent at their doors to pave and light the streets; to give health, fire, and police protection; and to maintain all other municipal activities; but they have no voice in determining these matters. Their only participation in local affairs is to pay their taxes, and the tax rate even is fixed for them by men and women representing every other part of our beloved country.

During the many years I have been in the United States Senate there has seldom been a session without the introduction of a bill to increase the autonomy of the District of Columbia. There is now pending a proposal for an amendment to the Constitution empowering Congress to grant to the residents of the District voting representation in the Senate and House of Representatives, and the right to vote for the President and Vice President. This proposal was favorably reported by the Senate Committee on the District of Columbia in 1922 (67th Cong., 2d sess., Rept. No. 507), and was reaffirmed at a comparatively recent date. It was introduced in the present Congress by Senator CAPPER and referred to the Committee on the Judiciary.

This proposed amendment to the Constitution differs only slightly from one drafted and advocated by a District resident away back in the year 1801. There has always been an eagerness to establish a more satisfactory relationship to the General Government. Indeed, in every hearing before a committee of the Congress where a matter involving the District is under discussion, there are frequent references to the "voteless District."

From time to time historians and casual writers have recited the story of why the District was organized as it is. It may not be amiss if I undertake to present the facts and perhaps to argue their significance. The situation is so anomalous that it becomes necessary at least once in each generation to repeat the historical events which created the voteless state of the inhabitants of the District.

Before going to the heart of what I have in mind, let me sketch briefly the shifting events which resulted in the final abiding place of the seat of government. It is not surprising that the Constitutional Convention determined that there should be a permanent location for the Government. This was to be expected as a result of past experiences.

It is interesting to note how transient was the location of the Congress and how brief a period it remained in each of the several places where it met. The first Continental Congress convened in Philadelphia on September 5, 1774. It had a more or less permanent home there until 1783. But during these 9 years military operations with their menace to the peace of the Congress necessitated holding sessions elsewhere. For example, on December 12, 1776, Congress adjourned to meet in Baltimore on the 20th of December. Its location there was quite brief, adjourning on February 27, 1777, to meet in Philadelphia in March.

It did assemble there, but the British Army was again threatening, and on September 14 Congress resolved to meet at Lancaster should it be impossible to convene in Philadelphia. The documents and records were transferred to the former city and, because of General Washington's notice of impending danger in Philadelphia, it met in Lancaster on September 27. But on that same day it was decided to go to York, where it assembled on September 30, 1777, remaining there until June 27, 1778.

On notification from the commander in chief that the British Army had evacuated Philadelphia, it was resolved to meet again in that city on the 2d of July 1778. True to its traditions, a quorum was difficult to assemble, and the session did not begin until July 7. With a sigh of relief it settled down, and for 5 years following this date the Continental Congress held its sessions in Philadelphia. The record shows that this was the seat of government until June 21, 1783.

It was natural for rivalries to be aroused and for States besides Pennsylvania to show an eagerness to adopt the Congress. New York and Maryland were the first to take action to this end. The Legislature of New York, for example, offered the town of Kingston as the seat of government. Maryland was willing to cede the city of Annapolis as the place for a permanent residence. The bidding was so warm that the Congress set side the first Monday in October of 1783 to take under consideration any offers that might be made for a stable location.

Then occurred the appearance in Philadelphia of mutinous troops and the transfer of government to Princeton, where it met on the 30th of June 1783. On October 6 debate started on where Congress should make its permanent home. On October 10, 1783, the Congress decided to adjourn from Princeton, and various motions as to its next location were made and defeated. One after another the roll of States was called and one by one each proffered location was rejected as a proper place for the capital. Among the cities receiving votes were Trenton, Philadelphia, Annapolis, and Williamsburg.

On October 17, 1783, Mr. Gary suggested that two seats of government should be established—Congress to alternate between points on the Delaware and Potomac Rivers. But while this resolution in modified form was passed, the action was not considered to be a conclusive and final settlement of the question. That rarely is the case in Congress. As Thomas Jefferson said, this action was merely "leaving the whole matter open for discussion some future day."

Jefferson himself was eager to have the Congress go to Georgetown. He drafted a form of resolution under the terms of which Maryland and Virginia should unite in erecting buildings on the Potomac for the accommodation of Congress. This proposal was approved by Monroe, who presented on April 14, 1784, a formal congressional resolution to carry it into effect. But this was defeated; and likewise, on April 26, 1784, another resolution that Congress should erect buildings on both the Potomac and Delaware Rivers. On December 20, 1784, the Congress again resolved that it would be inexpedient to erect public buildings in more than one place. A further effort was made to have Annapolis selected; but this, too, failed, although the Congress settled down there after leaving Princeton in 1783 and until it returned to Trenton on October 30, 1784. The debate on the location of Congress was stretched out over about as long a period as our modern experiences with the World Court.

The day before Christmas, 1784, the Congress adjourned to meet in New York on the 11th of January following. I can quite understand why the Christmas season would call attention to the festivities and joys of the present-day metropolis. As a matter of fact, Congress continued its meetings there, the last of its New York sessions ending in August 1790. The matter of a permanent home for the Government was not given further public consideration until it was debated in the Constitutional Convention of 1787.

In the discussion after the 1783 experiences, which I shall mention directly, there was universal conviction that the new Government should be located in a place over which Congress should exercise adequate control for its own protection. The exact location of the seat of Government was left to the new Congress to decide. The southern members continued to agitate the idea of a location on the Potomac. The eastern members were equally insistent that the location should be in the north. Finally, as the result of a bargain between Alexander Hamilton and Thomas Jefferson, the present location was selected.

The area comprising the original District of Columbia was chosen as the seat of Government under authority and direction of acts of Congress, approved July 16, 1790, and amended March 3, 1791. Under the terms of this decision, Congress was to return to Philadelphia in December 1790 to remain there until the first Monday in December 1800, when it was expected the new and permanent capital would be ready.

To carry out the wishes of the Congress, on January 22, 1791, President George Washington appointed Thomas Johnson, of Frederick, Md.; Daniel Carroll, of Rock Creek, and Dr. David Stuart, of Fairfax, Va., as commissioners. They were to survey the District preparatory to making it the permanent seat of the Government.

It is interesting to note that the Columbia Historical Society has many times considered questions involving the District and its local government. In the records of the society will be found many interesting discussions along these lines. I have read one statement designated as "Inquiries into the necessity or expediency of assuming exclusive legislation over the District of Columbia." Apparently this was a communication submitted to the Members of the Congress, prepared, as the records of the society show, by "a private citizen of the District." But for the fact that the private citizen in question produced his document in 1801, one might suspect, as I shall say again, that it had been inspired by this society or one of the active civic organizations of today.

We must go to the Constitution of the United States to locate the foundations for any authoritative consideration of the rights and privileges of the inhabitants of the District. Careful reading of that great instrument, and study of its provisions, make reasonably clear the reasons why each of its parts was approved. While some of its background may be obscure, yet I think I state the fact in saying that it is well understood in this day and generation why most of the sections and clauses of the Constitution were adopted.

It is rather remarkable language that was employed in relation to the seat of government. Let me recall it to your attention. Section 8 of the Constitution outlines the powers of the Congress. As the seventeenth of such powers we find the following:

"To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding 10 miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

There can be no doubt that the language of this provision clothes the Congress with the power to exercise "exclusive legislation in all cases whatsoever, over the seat of the Government" and to exercise like authority over all other places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, etc." No one can question, certainly, that in a fort, an arsenal, or a dockyard, there is and must be supreme authority on the part of the Government to control the property and to enforce to the very limit any proper regulations regarding its use and the actions of its inmates.

There is, however, a marked difference between forts and magazines, on the one hand, and, on the other, the "district" mentioned in the Constitution. In the former, the Government has purchased the land itself and has had the sovereignty ceded to it by the State in which it is located. In the latter case, the States of Maryland and Virginia ceded to the central Government the only thing those States possessed in connection with the area in question; that was the State sovereignty. The land was in private ownership and so remained.

By agreement between President Washington and the owners of that part of the ceded territory selected as the site of the Federal city, there was a liberal donation of land for streets, avenues, and alleys, and also one-half of the city lots. There was an outright gift by the owners to the Government of the United States. In the plan of the city, the land reserved as sites for the public buildings was paid for by the Government at the rate of $66.66 per acre. Such payment to the landowners amounted to a total of $36,099 and was made from the sale of some of the lots which had been donated by the owners. Up to 1835 the Government had realized from the sale of these lots which came as a gift, a total of $741,024.45.

Madison's statement in the Federalist and numerous court decisions indicate to those inclined to this view that there was in the minds of the founders a marked difference between the control to be exercised over a great metropolis beyond the confines of official activity, on the one hand, and on the other, restricted areas exclusively owned and used by the Government. In the language of the report of the Senate Committee on the District of Columbia, before-mentioned, "manifestly the purpose of this provision of the Constitution is to insure absolute unity of legislative power at the seat of government."

An early discussion of this question was that by Augustus Brevoort Woodward, a friend of Thomas Jefferson, and later a commissioner of the Territory of Michigan. He published in 1801 and 1802 in the city of Alexandria and in Washington a series of interesting papers entitled "Considerations on the Government of the Territory of Columbia." On the particular matter we are considering, he had this to say:

"A fort or arsenal, from the very character of those who are assembled within it, and from the nature and object of the institution itself, can be expected to be governed only in one way; and that is by providing for it a competent executive and judicial authority. It can never be expected to possess a distinct representative participation in the Federal councils. It can never be expected to possess a subordinate representative legislation for the regulation of its interior police. From the necessity of the case, and from no other cause, the few citizens of the United States who might choose to live exclusively in such place must lose their right of suffrage, and must trust to the generosity of their countrymen at large, both to be protected from tyranny, and have their interests provided for.

"But far different is the situation of a respectable national metropolis. This from its nature is susceptible of a population of one or two million souls. This body of people is as much entitled to political freedom, as much entitled to the enjoyment of the rights of citizenship, as any other part of the people of the United States. There can exist no necessity for their disfranchisement; no necessity for them to repose on the mere generosity of their countrymen to be protected from tyranny; to mere spontaneous attention for the regulation of their interests. They are entitled to a domestic government, free and energetic; a government founded on principles of republican representation; capable of regulating all their concerns, without waiting the leisure of a body who are not only ignorant of their local affairs and liable to eternal deception, but whose attention is totally engrossed by other objects.

"If both these rights are not accorded to it, if it is not admitted to its just weight in the Federal administration, and if an energetic domestic government is not allowed it—then the metropolis of this Nation will be considered as nothing different from a fort or arsenal."

Again quoting from the Senate committee report:

"NATIONAL REPRESENTATION AND EXCLUSIVE NATIONAL CONTROL

"What was excluded was that dual sovereignty which by reason of the Federal character of our Government necessarily prevailed everywhere else. As stated by Madison in the Federalist, complete authority at the seat of the Government was designed to eliminate the "dependence of the members of the General Government on the State comprehending the seat of government for protection in the exercise of their duty." (Federalist, XLII.)

At that time friends of the new Constitution feared and believed that the balance between the Federal and State Governments was "much more likely to be disturbed by the preponderancy of the last than of the first scale" (Federalist, XLIV). Hence they provided that the supremacy of Congress in the Fed-

eral district should be absolute and exclusive of all State action whatsoever.

There sovereignty was to be single and plenary—not divided as elsewhere between two powers—one Federal and the other State. In other words: The object of this clause was to give Congress "the combined powers of a general and of a State government in all cases where legislation is possible" (*Stoutenburgh* v. *Hennick*, 129 U. S. 141, 147; *Capital Tr. Co.* v. *Hof*, 174 U. S. 1, 5; *Kendall* v. *United States*, 12 Pet. 524, 619).

It is evident that the great Chief Justice John Marshall did not regard the District of Columbia as merely a "Government reservation" to be controlled in the same manner as a fort, arsenal, or dockyard. As long ago as 1804 he held, with manifest reluctance, that, under the provision giving Federal courts jurisdiction over controversies between citizens of different States, the citizens of the District could not be considered the citizens of a "State", in the limited sense in which that term was used in the Constitution. But he freely conceded that "Columbia is a distinct, political society; and is, therefore, a State according to the definitions of writers on general law" (*Hepburn* v. *Ellzey*, 2 Cr. 445, 452).

You will recall that Woodward, in his discussion, appears to believe, or at least to indicate, that the political status of the residents of the District was a matter overlooked or omitted. This oversight, if such it be, was not the only one of the kind. On reading the acts of cession and ratifying acts by the Legislatures of the States of Maryland and Virginia, one must wonder why there was not included some protecting clause covering the political rights of the inhabitants. These acts carried provisos "that nothing herein contained shall be so construed to vest in the United States any right of property in the soil, as to effect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States."

In ceding the Northwest Territory to the United States, the State of Virginia definitely specified "that the States so formed shall be distinct republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other States."

The Czar of Russia, in ceding Alaska to the United States, took good care of his subjects living in that territory with this proviso:

"The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within 3 years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion."

The cession of California by Mexico contained somewhat similar protection of the political rights of the inhabitants of that area. And the Spanish sovereign was equally watchful for the inhabitants of Florida when that great territory was ceded.

When the first consul of the French Republic ceded the extensive domain of the Louisiana Purchase he saw to it that the political rights of the people were guaranteed by this particular provision:

"ART. 3. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all rights, advantages, and immunities of citizens of the United States; and in the meantime they shall be maintained and protected in the free enjoyment of their liberty, property, and religion which they profess."

These citations show very clearly that Maryland and Virginia, unless there were other considerations which do not appear in the acts, were not as watchful over the rights of the inhabitants of the area ceded for the seat of government as were foreign powers in making their cessions. When District leaders are tempted to berate the framers of the Constitution for their sin of omission, possibly they might with equal propriety administer the same medicine to the State of Maryland. Virginia, I assume, can be given absolution because her portion of the "seat of government" was returned to her in order that the inhabitants thereof would not be "voteless" citizens.

There must have been some compelling reason for the setting up of the peculiar provision for Federal control over the seat of government. I should hesitate to go into a thing quite so elementary as this except for the fact that one must understand all the circumstances attending the formulation of this arbitrary and stringent provision, in order to justify the interpretation that literal constructionists place upon this article of the Constitution. History gives us abundant reasons for this deliberate act of the Constitutional Convention and of the Congress, which formulated and presented the Constitution to the States.

The people of the District have had recent demonstrations of the desires of certain groups to convey personally to the Congress just how they feel about legislation or about its acts. Older ones here will recall the march of Coxey's army in 1892 or 1893, as I recall it. This was a "petition in boots." Men from every part of the country formed companies and regiments and marched upon Washington. I can recall my own experience as a young Michigan doctor in observing the maneuvers of a whole division of this army which was on the way from the Northwest. I recall the songs they used to sing while encamped in a park opposite my home. One of them went something like this:

"The gold bugs may think we are crazy and in this just for fun,
But they'll find they're mistaken when the Coxeyites reach Washington."

As a matter of fact, they did reach Washington, and General Coxey addressed his "army" from the steps of the Capitol.

Two or three years ago the "bonus army" encamped in Washington. The veterans demanded that they be permitted to appear in person before the Congress and express their desires regarding pending legislation. There was much excitement and a great deal of criticism passed upon those in authority when the army was driven out of Washington and the huts and tents of the marchers burned to the ground.

While these demonstrations have happened in our time, there was a much less formidable but apparently far more impressive demonstration toward the end of the Revolution. After the surrender of Cornwallis and Washington's return to West Point, during what might be called the "armistice", the soldiers were without pay, and the Congress seemed impotent so far as raising funds was concerned. Perhaps it was in other ways, too!

It will be recalled, as I have recited, that in the early history of our country Congress was a perambulating body. At the time of the particular circumstance I am about to relate it was meeting in Philadelphia.

There was a great deal of dissatisfaction over the failure to provide pay for the soldiers. The fighting was over, and the men wished to return to farm and shop. Urgent protests had been unavailing. Losing all patience, it was determined to visit the Congress and demand justice. There marched down from Lancaster, Pa., several hundred men, determined to present their grievance directly and in person to the Congress.

I can well understand how glad those forefathers of today's Senators might have been had they been in an insulated place like the present Senate Chamber. Here the Senators are cut off, not alone from sunlight and fresh air, but by the construction of the building they are safely removed from the visits of unwelcome strangers.

It was not so in Philadelphia in 1783. The ragged troops were able to reach the building, and while they did not actually force themselves into the presence of the Congress, they were lined up just outside the windows. They appeared ready to enforce their demands upon a somewhat frightened and certainly much disturbed Congress.

In this group there were really not many of these ragged, unpaid Continental soldiers. It is true they carried muskets, but it is not definitely established that they were loaded. They lined up in front of the State House, threw some pebbles at the windows, and undoubtedly heckled Members of the Congress when they came from the building. These soldiers were the forerunners of the "pickets" of the present day and were really only exercising a form of petition. They were asking payment of the miserable pittance which was long past due.

This raised the question of how a government could possibly enforce its wishes. In this case, of course, it could be only by the use of the Army and the Navy. The Navy was far removed from Philadelphia. The Army was under arms, and a portion of it, at least, apparently ready to enforce its own views upon the Congress, reversing the accepted order of things.

With no other means of relief, the Congress appealed to the State and city officials, asking for protection. The President and Supreme Executive Council of Pennsylvania said it was useless to call out the militia because, unless there was some overt act, the militia would be unwilling to fire upon their fellow citizens. The latter were engaged in what might be regarded by the militia as a proper and laudable demand to have their wages paid.

You can imagine there was an indignant Congress. A committee was appointed to wait upon the officials, with instructions, if the negotiations failed, to make provision to remove the meeting place of Congress from Philadelphia to Trenton or to Princeton. I suppose these Congressmen had heard of "Jersey justice", whatever that is, and felt that there would be a greater degree of safety in New Jersey than in the State of Pennsylvania. In the latter State, certainly, there was an official unwillingness to deal with the mob which had "grossly insulted" the Congress and to support "the dignity of the Federal Government", to use the language of the resolution.

The committee failed to get any satisfaction from the officials of the State. The Congress therefore removed to Princeton to continue deliberations in an atmosphere safe from the appeals and protests of an unpaid Army.

It isn't difficult to believe that this experience was not soon forgotten by the men who participated in it. Many of those who sat in the Constitutional Convention had been Members of the Congress which failed to receive the protection to which it believed it was entitled.

It was only human nature for them to take the position that there should be established a seat of government absolutely under the control and domination of the Congress. When the Capital was located in such a place, there would be unfailing means of protection for the legislative body, and for the executive and judicial branches as well. There would be no further possibility of "insult" or interference with normal functions.

I think I may say in all truth that this was the compelling reason why the founders decided that the seat of government should be a place under the control of that Government. It was clearly their desire and intent that the General Government should be able to protect itself at its headquarters without dependence upon any other authority and not to be embarrassed by any conflict of authority.

Just to what extent such Federal control must go to accomplish this object is a debatable question. The residents of the

District of Columbia are our fellow Americans, and, as Jefferson stated it in the Declaration of Independence, are endowed with certain "inalienable rights." These rights our ancestors fought for and would never surrender. Generations then unborn were to come along and they, too, were endowed with these same inalienable rights which their ancestors could not surrender in advance.

There is no question that the residents of the District feel the humiliation and handicap of their voteless and unrepresented condition. It is, indeed, an anomalous situation that in the heart of this great Republic the permanent residents of the District have no part in their local government or in the councils of their Nation.

Undoubtedly the sentiments expressed by the citizens of Alexandria City and County in their petition of 1846 for retrocession echo the feelings of the people of the District today. Here is the way the Alexandrians felt about a similar condition, as expressed in resolutions adopted by a citizens' mass meeting:

"That our citizens for a long series of years have been placed in a state of political degradation and virtually beyond the pale of the Constitution in having withheld from them the passage of needful and wholesome laws and in being denied the rights and privileges enjoyed by our fellow citizens of the Republic."

They further resolved:

"That we cherish the highest hopes, and have the utmost confidence, that the Congress of the United States will break the political shackles which have so long bound us and again elevate us to the rights and privileges of granting retrocession with relief."

Woodward, whom I have already quoted briefly, was the author and advocate of the proposal to amend the Constitution in terms very similar to the proposal of the Capper amendment. He supported his proposition with extensive and logical argument. His approach to the subject and his discussion of it are such that you would imagine him writing today instead of 134 years ago. As you read these yellowed pages, with their quaint, old-fashioned typography, the clearly apparent antiquity of the document is the only evidence to refute the suspicion that Theodore W. Noyes wrote them for circulation in the Congress of today.

I wish to give you the benefit of the arguments formulated by this great man who figured so prominently in the early history of my native State of Michigan. Here follow some extracts from one of his papers:

Woodward No. VII: Considerations on the government of the Territory of Columbia:

WASHINGTON 1801

"There can be no satisfactory reason urged why its inhabitants should be denied a participation in the blessings of self-government enjoyed by all around them. There exists no solid argument why this particular part of the community should be made a standing reproach of a deviation from republican principles, of their efficacy on the hearts of those who profess to regard them of their inapplicability to all cases in the government of men. Those, therefore, who are inclined to adhere to the letter of the Constitution as it now stands, who wish to proceed as far as the Constitution now proceeds, and wish to stop where the Constitution now stops, who, in short, would deny forever to the inhabitants of this Territory, however numerous and however respectable, a representative principle. They would erect here the standard of despotism, and from this place as a center would wish to extend its sway to the remotest parts of the empire. The consequences of the adoption of this policy and of calmly permitting the precedent to take place in our Government are too serious to bear full contemplation.

"When the Convention of 1787 comprehended this provision in their Constitution, we must admit the propriety and correctness of the general opinion which they entertained, but it is at the same time obvious that though the general principle may have been correct and proper the Convention have not been equally happy in the particular length to which they have thought proper to extend their arrangements. They have provided for the exclusion of the State jurisdictions, but they have declined any consideration of the subsequent relation of the severed parts to the rest of their fellow citizens. The novelty of the measure and the great uncertainty which then prevailed, whether the government they proposed would ever pass into actual operation, may serve as an apology for their not entering more into detail; if that term is pardonable toward a body which deserves so much respect and gratitude of America. There can, however, be no apology for us of the present day, who have seen this Government prosperous and happy for 13 years, who have seen the seat of its permanent administration selected with so much care and located with so much judgment, and now behold its actual adventure to the place of its destination. If we refuse to turn attention to it at this very period and to make deliberate, effectual, and constitutional provision both for its participation in the general councils and for its domestic government.

"Whichever alternative we adopt with regard to the views of the Convention, the path of duty, to us of the present day, and in the position which we occupy, is equally clear. If the Convention were conscious some further constitutional provisions were necessary, but did not dare at that era, to investigate the subject too minutely; if, contented to see the general adoption devolved the measure, they of the talk of pursuing it in detail to those from whom the emergency might require it, it becomes our duty to complete what they left unfinished, and to supply those deficiencies which they suffered to remain. If on the contrary the Convention regarded the subject as complete, if they contemplated a right in any State to cede its territory, and along with it, as of no greater consequence, the inalienable and indestructible privileges of its citizens; if, in short, they intended this territory of 10 miles square to be the seat of a real despotism, then no respect which we may entertain for them, and for their measures generally, ought to prevent us from immediately correcting their error.

"I take it, therefore, to be a proposition clearly demonstrated that no measures on the Government of the Territory of Columbia can be wise in principle, successful in operation, satisfactory to the public mind, lasting in practice, and honorable to the characters who propose them, which are not predicated on the complete recognition of the civil and political privileges of its inhabitants. A constitutional provision ought to be made for their representation in the Senate and House of Representatives of the United States, and for their participation in the election of the President and Vice President of the United States. If any doubt should exist, whether, under the present words of the Constitution, Congress is at liberty to erect a local government, under their superintendence, modeled on the existing State governments, it will be proper to obviate such doubt by a declaratory clause expressly recognizing and requiring the institution of a subordinate government."

By some it is held that this is not a city like other American cities, that it was intended to be a place of residence for the Federal Government, was not to be given over to commerce and other business. This view appears to be entirely contrary to the conception of George Washington. He looked into the future when Washington might become a great world metropolis. In his letters he gave the opinion that while it might not become as large as London or Paris, it would attain the size and importance of other great European cities.

The site of the city was selected, among other reasons, because of its commercial possibilities, at the head of navigation of a great river and with a fine harbor. It was considered a key location for the transfer of commodities to and from the Western country, over routes with which Washington was familiar through various expeditions made through that section. Canals were planned to handle commerce, some of which was to pass through a new metropolis.

The founders, some of them surely, thought of a capital city in terms of an official and commercial center, as many another capital of the world was and is. They did, however, take particular care that there should be no dual sovereignty over the seat of government, because that would hinder and embarrass the central government in the exercise of its functions, particularly in times of emergency. They did not forget their Philadelphia experience.

When the seat of government was established in its permanent location there were two self-governing municipalities within the territory—Alexandria, chartered by Virginia, and Georgetown, chartered by Maryland. The Federal Government rechartered both of these cities and in 1802 incorporated the city of Washington. Alexandria went back to the State of Virginia in 1846 with the other land ceded by that State.

The other two municipalities continued to operate as self-governing municipalities, each with mayor and council, for 70 years, and until there was effected a consolidation of all of the local jurisdictions under the so-called Territorial government. During the period of those 70 years the franchise was several times extended and broadened.

Under the Territorial form of government the citizens were only permitted to vote for the members of the house of delegates, which was the lower house of the legislature, and for a voteless Delegate in the House of Representatives. The Governor, the council (upper house of legislature), and the board of public works (a sort of supergovernment) were nominated by the President and confirmed by the Senate.

A temporary commission government was substituted for the territorial form in 1874, and with modifications was made the permanent form in 1878. There has been no voting by District residents since the establishment of the commission government, in marked contrast to the 70-year period when the District had not been voteless in local affairs and had enjoyed liberal participation in the affairs of the community. Residents have never had a vote in national elections, nor have they been represented in Congress, except during the brief period they were permitted to elect a voteless Delegate to the House of Representatives. As to the extent to which Congress may delegate its power of legislation over the District to the District Commissioners or any other body which Congress may see fit to set up, there is the greatest divergence of opinion. There is a rather general belief that it is both necessary and desirable that Congress retain more or less control over the seat of government. As I understand it, this view meets general approval among the local citizens.

There is a broad sentiment prevailing and which I believe is steadily growing that the permanent residents of this great American community are deserving and should be granted a participation in the councils of the Nation, as contended a century and a quarter ago by Augustus Brevoort Woodward. Representation in both Houses of Congress and the right to participate in the Presidential elections would be merely to accord these our fellow Americans the enjoyment of what we may call their "natural rights." They are as vitally interested in all national legislation and the carrying out of national and international policies as are the citizens of the States.

Their recognition as Americans and citizens in the accepted sense could not possibly disturb the existing control of the Nation over its Capital. It would give these isolated Americans at the Capital the same fractional participation in the bodies which control the Capital as the citizens of the several States now possess.

As I view it, this reform, proper and right as it seems, can only be had through an amendment to the Constitution of the United States empowering the Congress to grant these rights to the people of the District. As I have said, there is pending before Congress a Senate joint resolution proposing such constitutional amendment. This amendment is at present sponsored by my friend Senator CAPPER and, as I have already told you, has been favorably reported by the Senate District Committee.

This proposal does no more than to increase the powers of Congress, enabling it to enfranchise District residents in national matters and to give voting representation in Congress. It makes no modification whatever in the form of local government as now established, nor in the relations existing between the Government of the United States and the District of Columbia.

From my long and close contact with the people of the District, I am thoroughly convinced, and it is quite unnecessary to say it, that they are sufficiently civilized, educated, substantial, and patriotic to take their place through elected representatives in the councils of the Nation. I am likewise fully convinced the District should have a fuller participation in all measures having to do with appropriations for the District and a larger part in their local affairs.

There can be no possible objection to subjecting to study and careful consideration the plan for passing a constitutional amendment giving Congress the power to give these Americans representation in the National Government. It is not clear to me, however, just how far Congress can go in extending to citizens of the District some part in the control of their local affairs; yet I am thoroughly convinced that Congress would welcome relief from some of the labors incident to legislating for the District.

In this society there have been discussions of the historical facts involved in the various vicissitudes of the District and the various methods of government. I have mentioned that for 70 years the election of a mayor and councilmen was accomplished. In the long run, however, the District has been under the exclusive control of Congress. Greatly to the disgust of many taxpayers and inhabitants of the community, the Congress has kept an iron hand upon the operation of affairs within the District of Columbia.

I have ventured tonight to discuss this question in connection with the historical background of the prevailing practices. If time permitted, I should like to read the comments of James Madison and others who participated in the events that led up to and in the conclusions reached by the Constitutional Convention. I should like also to tell what has been said by many of the Presidents regarding the form of government of the District and the rights of its citizens.

There can be no doubt the problems involved in the operation of the District government are different from those relating to the government of any other city or any other State. There is historical foundation for the situation, but we are living in the twentieth century, and yet are controlled by a decision reached in the eighteenth century.

It is for the people of the United States to decide whether any change is to be had, or whether it is wise to have any change in the conduct of public affairs in the District of Columbia. Woodward in his day, when the Government was just 13 years old, while inclined to excuse the founders for their omission, could find no excuse for the people of that day failing to rectify this defect in the political status of the District. I feel that he would be far more out of patience with us who live today if we likewise fail.

Opinion of the Supreme Court

EXTENSION OF REMARKS

OF

HON. JOSEPH GRAY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1937

OPINION IN THE CASE OF MARBURY v. MADISON

Mr. GRAY of Pennsylvania. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include that part of the opinion of the Supreme Court of the United States in the famous case of William Marbury against James Madison, Secretary of State, February 1803, relating to the constitutionality of acts of Congress, as follows:

OPINION OF THE COURT

With respect to the officer to whom it would be directed, the intimate political relation subsisting between the President of the United States and the heads of departments necessarily renders any legal investigation of the acts of one of those high officials peculiarly irksome, as well as delicate, and excites some hesitation with respect to the propriety of entering into such investigation. Impressions are often received without much reflection or examination, and it is not wonderful that in such a case as this the assertion, by an individual, of his legal claims in a court of justice, to which claims it is the duty of that court to attend, should at first view be considered by some as an attempt to intrude into the Cabinet and to intermeddle with the prerogatives of the Executive.

It is scarcely necessary for the Court to disclaim all pretensions to such a jurisdiction. An extravagance, so absurd and excessive, could not have been entertained for a moment. The province of the Court is solely to decide on the rights of individuals, not to inquire how the Executive, or executive officers, perform duties in which they have a discretion. Questions, in their nature political, or which are, by the Constitution and laws, submitted to the Executive, can never be made in this Court.

But if this be not such a question, if, so far from being an intrusion into the secrets of the Cabinet, it respects a paper, which, according to law, is upon record, and to a copy of which the law gives a right, on the payment of 10 cents, if it be no intermeddling with a subject over which the Executive can be considered as having exercised any control; what is there in the exalted station of the officer which shall bar a citizen from asserting, in a court of justice, his legal rights, or shall forbid a court to listen to the claim; or to issue a mandamus, directing the performance of a duty, not depending on Executive direction but on particular acts of Congress and the general principles of law?

If one of the heads of departments commits any illegal act, under color of his office, by which an individual sustains an injury, it cannot be pretended that his office alone exempts him from being sued in the ordinary mode of proceeding, and being compelled to obey the judgment of the law. How then can his office exempt him from this particular mode of deciding on the legality of his conduct, if the case be such case as would, were any other individual the party complained of, authorize the process?

It is not by the office of the person to whom the writ is directed, but the nature of the thing to be done that the propriety or impropriety of issuing a mandamus is to be determined. Where the head of a department acts in a case in which Executive discretion is to be exercised—in which he is the mere organ of Executive will—it is again repeated, that any application to a court to control, in any respect, his conduct, would be rejected without hesitation.

But where he is directed by law to do a certain act affecting the absolute rights of individuals, in the performance of which he is not placed under the particular direction of the President, and the performance of which the President cannot lawfully forbid, and therefore is never presumed to have forbidden; as for example, to record a commission or a patent for land, which has received all the legal solemnities; or to give a copy of such record; in such cases it is not perceived on what ground the courts of the country are further excused from the duty of giving judgment, that right be done to an injured individual, than if the same service were to be performed by a person not the head of a department.

This opinion seems not now, for the first time, to be taken up in this country.

It must be well recollected that in 1792 an act passed directing the Secretary of War to place on the pension list such disabled officers and soldiers as should be reported to him by the circuit courts, which act, so far as the duty was imposed on the courts, was deemed unconstitutional; but some of the judges, thinking that the law might be executed by them in the character of commissioners, proceeded to act and to report in that character.

This law being deemed unconstitutional at the circuits, was repealed, and a different system was established; but the question whether those persons, who had been reported by the judges, as commissioners, were entitled, in consequence of that report, to be placed on the pension list, was a legal question, properly determinable in the courts, although the act of placing such persons on the list was to be performed by the head of a department.

That this question might be properly settled, Congress passed an act in February 1793 making it the duty of the Secretary of War, in conjunction with the Attorney General, to take such measures as might be necessary to obtain an adjudication of the Supreme Court of the United States on the validity of any such rights claimed under the act aforesaid.

After the passage of this act, a mandamus was moved for, to be directed to the Secretary of War, commanding him to place on the pension list a person stating himself to be on the report of the judges.

There is, therefore, much reason to believe that this mode of trying the legal right of the complainant was deemed by the head of a department and by the highest law officer of the United States the most proper which could be selected for the purpose.

When the subject was brought before the court the decision was not that a mandamus would not lie to the head of a department, directing him to perform an act, enjoined by law, in the

performance of which an individual had a vested interest, but that a mandamus ought not to issue in that case—the decision necessarily to be made if the report of the commissioners did not confer on the applicant a legal right.

The judgment in that case is understood to have decided the merits of all claims of that description; and the persons, on the report of the commissioners, found it necessary to pursue the mode prescribed by the law subsequent to that which had been deemed unconstitutional in order to place themselves on the pension list.

The doctrine, therefore, now advanced is by no means a novel one.

It is true that the mandamus now moved for is not for the performance of an act expressly enjoined by statute.

It is to deliver a commission, on which subject the acts of Congress are silent. This difference is not considered as affecting the case. It has already been stated that the applicant has, to that commission, a vested legal right, of which the Executive cannot deprive him. He has been appointed to an office from which he is not removable at the will of the Executive; and, being so appointed, he has a right to the commission which the secretary has received from the President for his use. The act of Congress does not indeed order the Secretary of State to send it to him, but it is placed in his hands for the person entitled to it, and cannot be more lawfully withheld by him than by any other person.

It was at first doubted whether the action of detinue was not a specific legal remedy for the commission which has been withheld from Mr. Marbury; in which case a mandamus would be improper. But this doubt has yielded to the consideration that the judgment in detinue is for the thing itself or its value. The value of a public office not to be sold is incapable of being ascertained; and the applicant has a right to the office itself or to nothing. He will obtain the office by obtaining the commission or a copy of it from the record.

This, then, is a plain case for a mandamus, either to deliver the commission or a copy of it from the record, and it only remains to be inquired.

Whether it can issue from this court.

The act to establish the judicial courts of the United States authorizes the Supreme Court "to issue writs of mandamus in cases warranted by the principles and usages of law to any courts appointed or persons holding office under the authority of the United States."

The Secretary of State, being a person holding an office under the authority of the United States, is precisely within the letter of the description, and if this Court is not authorized to issue a writ of mandamus to such an officer, it must be because the law is unconstitutional and therefore absolutely incapable of conferring the authority and assigning the duties which its words purport to confer and assign.

The Constitution vests the whole judicial power of the United States in one Supreme Court, and such inferior courts as Congress shall, from time to time, ordain and establish. This power is expressly extended to all cases arising under the laws of the United States, and consequently in some form may be exercised over the present case, because the right claimed is given by a law of the United States.

In the distribution of this power it is declared that "the Supreme Court shall have original jurisdiction in all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party. In all other cases the Supreme Court shall have appellate jurisdiction."

It has been insisted at the bar that as the original grant of jurisdiction to the supreme and inferior courts is general and the clause assigning original jurisdiction to the Supreme Court contains no negative or restrictive words the power remains to the legislature to assign original jurisdiction to that Court in other cases than those specified in the article which has been recited, provided those cases belong to the judicial power of the United States.

If it had been intended to leave it in the discretion of the Legislature to apportion the judicial power between the Supreme and inferior courts according to the will of that body, it would certainly have been useless to have proceeded further than to have defined the judicial power and the tribunals in which it should be vested. The subsequent part of the section is mere surplusage, is entirely without meaning, if such is to be the construction. If Congress remains at liberty to give this Court appellate jurisdiction, where the Constitution has declared their jurisdiction shall be original, and original jurisdiction where the Constitution has declared it shall be appellate, the distribution of jurisdiction made in the Constitution is form without substance.

Affirmative words are often, in their operation, negative of other objects than those affirmed, and in this case a negative or exclusive sense must be given to them or they have no operation at all.

It cannot be presumed that any clause in the Constitution is intended to be without effect; and therefore such a construction is inadmissible, unless the words require it.

If the solicitude of the Convention respecting our peace with foreign powers induced a provision that the Supreme Court should take original jurisdiction in cases which might be supposed to affect them, yet the clause would have proceeded no further than to provide for such cases if no further restriction on the powers of Congress had been intended. That they should have appellate jurisdiction in all other cases, with such exception as Congress might make, is no restriction, unless the words be deemed exclusive of original jurisdiction.

When an instrument organizing fundamentally a judicial system divides it into one supreme and so many inferior courts as the legislature may ordain and establish, then enumerates its powers, and proceeds so far to distribute them as to define the jurisdiction of the Supreme Court by declaring the cases in which it shall take original jurisdiction, and that in others it shall take appellate jurisdiction, the plain import of the words seem to be that in one class of cases its jurisdiction is original and not appellate; in the other it is appellate and not original. If any other construction would render the clause inoperative, that is an additional reason for rejecting such other construction and for adhering to their obvious meaning.

To enable this court, then, to issue a mandamus, it must be shown to be an exercise of appellate jurisdiction or to be necessary to enable them to exercise appellate jurisdiction.

It has been stated at the bar that the appellate jurisdiction may be exercised in a variety of forms, and that if it be the will of the legislature that a mandamus should be used for that purpose, that will must be obeyed. This is true; yet the jurisdiction must be appellate, not original.

It is the essential criterion of appellate jurisdiction that it revises and corrects the proceedings in a cause already instituted and does not create that cause. Although, therefore, a mandamus may be directed to courts, yet to issue such a writ to an officer for the delivery of a paper is in effect the same as to sustain an original action for that paper, and therefore seems not to belong to appellate, but to original jurisdiction. Neither is it necessary in such a case as this to enable the court to exercise its appellate jurisdiction.

The authority, therefore, given to the Supreme Court, by the act establishing the judicial courts of the United States, to issue writs of mandamus to public officers, appears not to be warranted by the Constitution; and it becomes necessary to inquire whether a jurisdiction, so conferred, can be exercised.

The question whether an act repugnant to the Constitution can become the law of the land is a question deeply interesting to the United States, but, happily, not of an intricacy proportioned to its interest. It seems only necessary to recognize certain principles, supposed to have been long and well established, to decide it.

That the people have an original right to establish, for their future government, such principles as, in their opinion, shall most conduce to their own happiness is the basis on which the whole American fabric has been erected. The exercise of this original right is a very great exertion—nor can it, nor ought it to be, frequently repeated. The principles, therefore, so established are deemed fundamental. And as the authority from which they proceed is supreme, and can seldom act, they are designed to be permanent.

This original and supreme will organizes the Government and assigns to different departments their respective powers. It may either stop here or establish certain limits not to be transcended by those departments.

The Government of the United States is of the latter description. The powers of the legislature are defined, and limited, and that those limits may not be mistaken or forgotten the Constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may at any time be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished if those limits do not confine the persons on whom they are imposed and if acts prohibited and acts allowed are of equal obligation. It is a proposition too plain to be contested that the Constitution controls any legislative act repugnant to it, or that the legislature may alter the Constitution by an ordinary act.

Between these alternatives there is no middle ground. The constitution is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and like other acts, is alterable when the legislature shall please to alter it.

If the former part of the alternative be true, then a legislative act contrary to the Constitution is not law; if the latter part be true, then written constitutions are absurd attempts, on the part of the people, to limit a power, in its own nature illimitable.

Certainly all those who have formed written constitutions contemplate them as forming the fundamental and paramount law of the Nation, and consequently the theory of every such Government must be that an act of the legislature repugnant to the Constitution is void.

This theory is essentially attached to a written constitution and is consequently to be considered, by this court, as one of the fundamental principles of our society. It is not therefore to be lost sight of in the future consideration of this subject.

If an act of the legislature, repugnant to the Constitution, is void, does it, notwithstanding its invalidity, bind the courts, and oblige them to give it effect? Or, in other words, though it be not law, does it constitute a rule as operative as if it was a law? This would be to overthrow in fact what was established in theory, and would seem, at first view, an absurdity too gross to be insisted on. It shall, however, receive a more attentive consideration.

It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases must of necessity expound and interpret that rule. If two laws conflict with each other the courts must decide on the operation of each.

So if a law be in opposition to the Constitution, if both the law and the Constitution apply to a particular case, so that the Court must either decide that case conformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the Court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

If then the courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply.

Those then who controvert the principle that the Constitution is to be considered, in court, as a paramount law, are reduced to the necessity of maintaining that courts must close their eyes on the Constitution and see only the law.

This doctrine would subvert the very foundations of all written constitutions. It would declare that an act which, according to the principles and theory of our Government, is entirely void is yet, in practice, completely obligatory. It would declare that if the legislature shall do what is expressly forbidden, such act, notwithstanding the express prohibition, is in reality effectual. It would be giving to the legislature a practical and real omnipotence with the same breath which professes to restrict their powers within narrow limits. It is prescribing limits and declaring that those limits may be passed at pleasure.

That it thus reduces to nothing what we have deemed the greatest improvement on political institutions—a written constitution—would of itself be sufficient, in America, where written constitutions have been viewed with so much reverence, for rejecting the construction. But the peculiar expressions of the Constitution of the United States furnish additional arguments in favor of its rejection.

The judicial power of the United States is extended to all cases arising under the Constitution.

Could it be the intention of those who gave this power to say that in using it the Constitution should not be looked into? That a case arising under the Constitution should be decided without examining the instrument under which it arises?

This is too extravagant to be maintained.

In some cases, then, the Constitution must be looked into by the judges. And if they can open it at all, what part of it are they forbidden to read, or to obey?

There are many other parts of the Constitution which serve to illustrate this subject.

It is declared that "no tax or duty shall be laid on articles exported from any State." Suppose a duty on the export of cotton, of tobacco, or of flour; and a suit instituted to recover it. Ought judgment to be rendered in such a case? Ought the judges to close their eyes on the Constitution and only see the law?

The Constitution declares that "no bill of attainder or ex-post-facto law shall be passed."

If, however, such a bill should be passed and a person should be prosecuted under it, must the Court condemn to death those victims whom the Constitution endeavors to preserve?

"No person", says the Constitution, "shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

Here the language of the Contitution is addressed especially to the courts. It prescribes, directly for them, a rule of evidence not to be departed from. If the legislature should change that rule, and declare one witness or a confession out of court sufficient for conviction, must the constitutional principles yield to the legislative act?

From these and many other selections which might be made it is apparent that the framers of the Constitution contemplated that instrument as a rule for the government of courts as well as of the legislature.

Why otherwise does it direct the judges to take an oath to support it? This oath certainly applies, in an especial manner, to their conduct in their official character. How immoral to impose it on them, if they were to be used as the instruments, and the knowing instruments, for violating what they swear to support.

The oath of office, too, imposed by the legislature, is completely demonstrative of the legislative opinion on this subject. It is in these word, "I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as ——— according to the best of my abilities and understanding, agreeably to the Constitution, and laws of the United States."

Why does a judge swear to discharge his duties agreeably to the Constitution of the United States, if that Constitution forms no rule for his government? If it is closed upon him, and cannot be inspected by him?

If such be the real state of things, this is worse than solemn mockery. To prescribe, or to take this oath, becomes equally a crime.

It is also not entirely unworthy of observation, that in declaring what shall be the supreme law of the land, the Constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution, have that rank.

Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the Constitution is void; and that courts, as well as other departments, are bound by that instrument.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOHN M. HOUSTON

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1937

ADDRESS OF THE HONORABLE GEORGE J. BENSON, JUDGE OF THE THIRTEENTH JUDICIAL DISTRICT OF KANSAS, AT THE VICTORY DINNER HELD IN EL DORADO, KANS., MARCH 4, 1937, ON THE PROPOSAL FOR JUDICIAL REFORM

Mr. HOUSTON. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the address of Judge George J. Benson, of Kansas, as follows:

Just now we are hearing a great deal about the Supreme Court. When people begin to talk about a man or a woman it is most always because of something they have done, and the talk about the Supreme Court is directly traceable to the Court itself. First, let me say that I am not going to belittle the Court! I shall say nothing mean about it. I respect the Court and all its members, but that will not prevent me from discussing in a temperate manner the proposals of our President for a change in the Court and its procedure. Here let me pause to say that I hope to see the time when the people of this country will be as temperate in their language toward our Presidents and Congress as they have been of the Supreme Court. A campaign has just closed that reached the lowest depths in political appeal. From midsummer to November you could turn your dials at most any time and hear the President of the United States called a "liar", a "Communist", a "red", a "dictator", a "czar", a "Socialist", a "hypocrite", that he was "seeking to destroy our Government", that he was "destroying our Constitution", that he had "violated his oath of office", and that he was encouraging "class hatred." These are only a few of the sickening and slanderous epithets hurled at the most kindly, able, honest, and courageous humanitarian that ever occupied the White House.

Again I hope to see the time when Congress will not be continuously held up as an object of scorn and contempt and its Members pictured as incompetent nitwits. Every Member of Congress is there because a majority of the people of his State or district selected him, and with but few exceptions they are honest and competent.

A few days ago the President sent to Congress a request for the passage of certain laws relating to the United States Supreme Court and certain changes in procedure. Then the tirade that was stilled on November 3 broke loose again. Every kind of a name, every kind of an insinuation, and every kind of a misrepresentation were hurled at the President. We had heard so much talk about the three coordinate branches of our Government and that each were of equal importance and equal dignity that we had been led to believe that any opposition might be expressed in temperate language, and that the Executive would be treated with as much dignity and consideration as they professed to have for the judiciary. But again we were mistaken; we had expected too much. Practically the same group that had cussed and damned the President again took up their work.

In the first place, the President's plan does not require an amendment to the Constitution. Specific authority is found in the Constitution for the thing that the President has asked. The opposition was sorely disappointed. They had hoped that he would ask for a change in the Constitution, and then they could renew the charge that he was seeking to destroy it by amendment. Although they do not have the nerve to charge that his proposal is unconstitutional, they want to submit something to the people. To use a provision of the Constitution that has been a part of it since its original adoption, they feel, would be hasty, and that Congress should move with caution. Everyone admits that something should be done. They did not think about it before, but since the President mentioned it they are now running around with their pockets full of proposed constitutional amendments, when no amendment is needed for this purpose. The opposition to the President's proposals can be divided into three classes. Those who are opposed to any change in anything at any time.

Those who think the proposal does not go far enough, and those who are opposed to a Democratic President naming any new Federal judges. The opposition point to certain progressive Members of Congress who are opposed to the plan. It is true that some of them are opposed, but they do not tell you that these progressives are seeking to go much further than the President. They hope to obtain the adoption of an amendment that will deprive the Supreme Court of the right to hold an act of Congress unconstitutional, unless the vote be as much as 7 to 2. The Roosevelt plan will permit the aged Justices to remain on the Court as long as they care to do so, but some of the progressives desire an

amendment to the Constitution that will compel them to resign at 70 or 75.

I have forgotten the average length of time that it has required to procure the adoption of a constitutional amendment after Congress has formally submitted it to the States for adoption, but the time has ranged from about 2 years on up. The child-labor amendment was submitted to the States for ratification about 13 years ago, but has not yet been adopted. I believe that from the time the amendment giving women the right to vote was first proposed in Congress until it was finally adopted as a part of the Constitution was exactly 50 years, and when finally adopted was adopted word for word as first proposed. The difficulty of obtaining an amendment is obvious when you consider that it takes two-thirds of both Houses of Congress to submit an amendment, and then it must be ratified by three-fourths of the States. Thirteen States could block any amendment, and when you take into account all the devious ways of delay and postponement of action by a small organized opposition in any State, you can realize that our grandchildren might see the adoption of some of these proposed amendments, but they would hardly come in our lifetime. But no constitutional question is involved. No amendment is required, so why not proceed with the work at hand?

I think the most vicious criticism I ever heard of the Supreme Court was made a few days ago by one of these paid commentators, who claimed to be its friend. He was attempting to belittle the President's program, but his shallow thinking led him to suggest that the Supreme Court followed the election returns. He was bitter in his criticism of the President, and said that the President acted too hastily in submitting his Court proposals; that he should have permitted the Supreme Court to consider and digest the election returns; that if the Court had been given time it doubtless would have tempered and harmonized its future decisions in accordance with the election returns of last November. I resent any such charge. I resent the charge that any court looks to the election returns to find the law. This commentator would have us believe that something that was unconstitutional before election would be constitutional after election, after the Justices had time to consider and digest the election returns.

The answer to many of the questions presented to the Supreme Court cannot be found in the letter of the Constitution or previous decisions. They involve intricate and hair-splitting differences in theories of government and economics. Everyone knows that the environment of youth, of early manhood, education, training, and associates all have their influence in making the mature man. A man coming up through one environment will logically look upon legal questions from one point of view, while a man reared in another environment may have an entirely different view.

If the question was submitted to a vote I believe that an overwhelming majority of the people would oppose the appointment of Federal judges for life. I cannot make up my mind because I can think of no better way. The argument is that any man given a lifetime job with scarcely no power of removal will become arrogant, despotic, and will abuse any power placed in his hands. But shall we elect Judges of the United States Supreme Court by ballot? If so, then they must be candidates on a political ticket and will owe their election to a political organization. Shall we appoint them for a limited term and then require that they be reconfirmed by the Senate or by Congress? If a Judge knows that on a certain date in the near future he must be reconfirmed by a Senate of the opposite political faith, will that fact influence his decisions?

For many years the Supreme Court has been passing upon the constitutionality of the acts of Congress, and holding a goodly number of them unconstitutional. Did you know that many good lawyers hold that that power cannot be found in the Constitution even as one of the implied powers of the Supreme Court? Do you know that the framers of the Constitution had before them three or four times the specific question of whether they would write into the Constitution a provision that the Supreme Court might determine the constitutionality of an act of Congress, and that each time they voted it down? Do you know that it was years and years after the adoption of the Constitution before the Supreme Court held an act of Congress unconstitutional, and then when it made that decision the country was divided in a terrific uproar of protest?

But let us give a few moments to a consideration of the proposals made by the President.

One proposal is that when the constitutionality of a Federal law was called into question in a Federal court that the Attorney General be notified and given an opportunity to be heard. Could anything be more reasonable? Congress passes a law and two private litigants get into a controversy in a United States district court. One of them claims the law is unconstitutional. Why should not the Attorney General be permitted to intervene on behalf of Congress to defend the law of the land? The litigants themselves may be only incidentally interested in the validity or nonvalidity of the law. Its constitutionality may be only half way presented unless the Federal Government be permitted to present evidence and be heard in the case. Nothing startling about such a procedure. Nothing revolutionary. Nothing that would justify anyone in calling the President a dictator or a Communist.

Another proposal is that a question on the constitutionality of a Federal law should be appealed direct from the lower court to the Supreme Court and that the Supreme Court should hear the appeal at once. What is wrong with that? It has not been unusual for one United States district court to hold a law invalid while in an adjoining district another judge held the same law to be valid. The rights of litigants, or even the rights of the Government in such circumstances, would be different in one district from what they are in another. A certain law may be in force in one district and not in force in another. This condition may exist for years until someone takes a case to the Supreme Court. I believe that no one can find anything about this proposal that would cause any loss of sleep. Just a plain, common-sense principle applied in a common-sense way.

The President makes another proposal to the effect that someone be selected to assist the Chief Justice in relieving congestion in the Federal courts. Surely there is nothing very revolutionary about that! The person selected will keep himself posted as to the number of cases pending in each of the Federal courts, and the Supreme Court shall assign judges to those districts or circuits where they need help to dispose of pending cases. Judges who are not busy would be assigned to those districts where they had more work than they could handle.

I believe that everyone feels that these suggestions are good. But no one thought anything about them, or did anything, until the President made the suggestions.

But the President made one suggestion that does not meet with the approval of everyone. That is the suggestion concerning the retirement of Justices who have reached the age of 70 years. Before considering this let us digress for a moment. If we listen to the opposition we might think that Franklin Roosevelt was the only President who ever disagreed with the Supreme Court. But the records show that five other Presidents have had outright clashes with it. Thomas Jefferson, Andrew Jackson, Martin Van Buren, Abraham Lincoln, and Theodore Roosevelt, all had their troubles with the Court. There were other Presidents, including Grant, who did not openly clash with the Court but who did show they were displeased with some of its decisions.

The records contain many statements of Jefferson, Jackson, and Lincoln relating to the Court. These men, even while President, spoke their minds. The language they used was so intemperate that I quote from only one of the milder statements of Lincoln. In referring to one of its decisions he said: "The Supreme Court has got the doctrine of popular sovereignty down as thin as homeopathic soup that was made by boiling the shadow of a pigeon that had starved to death."

We have nine members of the Supreme Court, appointed for life or good behavior, and each draws a salary of $20,000 per year. When the President made his proposals he also urged that a Justice who had reached the age of 70 years and who had served 10 years should be permitted to retire on full pay for the remainder of his life. Since then Congress has passed a law of that kind so that if a Justice has not been able to save a competence out of his $20,000 per year, he need not continue in office but may retire and be assured that his salary will continue.

Justices are nominated by the President but must be confirmed by the Senate. We have heard a great deal about our Government being composed of three coordinate branches—executive, legislative, and judiciary. They tell us that our form of government has a system of checks and balances whereby each department may check the other departments, and that we thereby obtain a balance so that no one department may dominate another. The acts of Congress may be checked by the veto power of the President, or by the power of the Supreme Court, to hold the acts unconstitutional. The acts of the President may be checked by the power of the Congress to overrule his veto, by their power to refuse to confirm his nominations, and by the power of the Supreme Court to hold his acts unconstitutional. But where is the check on the power of the Supreme Court? One hundred and twenty million people may earnestly desire the passage of a certain law, both Houses of Congress may pass it, the President may sign it, but five men on the Supreme Court may hold it to be unconstitutional and there is no check or appeal.

Chief Justice Hughes at one time said, "The Constitution is what the judges say it is." And every lawyer knows that is true.

In a recent decision one of the Justices said, in substance, that there was no check on the Supreme Court, only such restraint as their conscience might impose. You will note that the Justices speak more harshly of themselves than I do.

The suggestion made by the President was that when a Justice reached the age of 70 years and failed to retire in 6 months thereafter, a Justice should be appointed, but at no time should the number of Justices exceed 15. I realize that this directly challenges the ability of men over 70 to stand up under the strain and the grind of court work, and do as good work as some younger man. Let us look at the age of those now on the Supreme Court. One is 80, one is 77, three are 74, one is 70, one is 66, one is 64, and one is 61. The President's proposal would not require a single one of these men to retire. They may continue their services just as in the past. Six out of the nine are over 70. If they should elect to retire, then six others would be appointed, and the total number on the Court would remain at nine as it is now. The Republicans charge that this is an effort on the part of the President to pack the Court, and the Democrats reply that this is merely an effort to unpack the Court. They charge that the President is seeking to control the judiciary. He would have to nominate the men to fill these places, but every nomination would have to be approved by the Senate, and when once approved there is no power in the world, except impeachment and death, that could remove them. President Hoover appointed three of the present members of the Court. Is there anyone who will say that he packed the Court? They would have you believe that anyone that the President would appoint would be a rubber stamp and would decide cases as they might think the President would like them to be decided. If such a ridiculous thing should happen

the nine men on the Court are not there by appointment of the President, they would owe him no favors, and they could outvote the six the President might appoint.

Now, I am not one who thinks that because a man has reached the age of 70 years that he is through. We have had many shining examples to the contrary. Men have served on the bench until they were passed 80 and did valuable work. But we all know that those men are the exception, and not the rule. It is a comparatively easy matter to go into any community and pick out a few men who are 70, 75, or 80 and who have retained their physical and mental faculties with only slight impairment. It is easy enough to point to them now, but Judges of the Supreme Court are usually selected when they are from 50 to 60 years. Would you feel that you could select a man at 50 or even 60 and have any reasonable assurance that he would retain his physical and mental faculties at 75 or 80? If you were selecting a man to manage an important business for you, would you hire him when he was 50 or 60 and agree that he might run your business as long as he lived? The Army requires its men to retire at 64. If you are over 40 or 45 you cannot now obtain new employment in the labor market. Many of the large companies retire their executives when they reach a certain age. I recently noted that the University of Kansas was this year retiring seven of its professors. Because a few men out of many may retain their faculties beyond 70 years is no assurance that every man who is appointed to the Supreme Court will retain all his faculties as long as he may live.

Again, the temptation in Washington to remain on the Supreme Court must be great. Washington, the Capital of the Nation, the seat of Government. A position on the greatest tribunal in the world. A position that carries respect. The greatest honor that can come to a lawyer. A welcome guest in any home and at any function. Dinners, parties, balls, meetings with the rulers of the world. If they retire, they and their families give up all this. Is there danger that they will stay too long?

In conclusion let me say that there is no reason for all this beating of tom-toms, this great agitation and tumult. The Government at Washington still lives, and will live, even though the "economic royalistis" have lost control of the executive and legislative branches. Where is the Liberty League and all that group? Where are the Du Ponts, the Mellons, the Hoovers, the Vandenbergs, and the Al Smiths? You know where they are. They were so completely discredited last fall that their open opposition to any cause would be a boost. They know this, but do not think they are not behind this fight. But they must fight under an alias. They must create new Liberty Leagues. They are now actively attempting to organize the lawyers under the name of "Friends of the Supreme Court." Who is paying the bills for all this propaganda? Only a few months ago the mails, the newspapers, and even the air was filled with this kind of inspired propaganda. We were threatened that if their candidate was not elected it would mean the destruction of the American way of life, the Constitution would be destroyed, and we would have a dictator. Those who were then so afraid that our Constitution would be destroyed are now clamoring for amendments. Those dire predictions have not come true, and they will not come true. A few months ago the Kansas sunflowers were in full bloom, but they could not survive the chill air of November.

In the 4-year term of President Hoover it fell to his lot to select three men for the Supreme Court. President Roosevelt has not had the opportunity to select anyone. There have been no deaths and no resignations. But whether his recommendations be adopted or not, in all probability there will be vacancies within the next 4 years. The people are satisfied to let President Roosevelt make any selections that may be necessary, whether the number be one or six. If this Nation, through some form of referendum, were called upon to designate someone to make these selections for the Supreme Court, they would give that job to President Roosevelt, by an overwhelming majority, with full confidence that when the packing or the unpacking had been completed the Court would be a free, vigorous, and progressive arm of the Government.

Of course, we need not hold a referendum. If you want to know what the people don't think, get the Literary Digest to take another poll.

One word more. The weatherman predicts many storms that do not occur. Most all predictions of political disasters do not prove true. Campaigns sometime bring on a fever that produces a temporary light-headedness. Let's make our criticism constructive. Let temperate language be the rule and not the exception. And at all times remember that the Government at Washington still lives and the old United States of America will continue to go forward long after you and I are gone.

Federal Reserve Banks

EXTENSION OF REMARKS

OF

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1937

Mr. PATMAN. Mr. Speaker, it is my belief that in order to promote the general welfare of the people the Federal Reserve banks should be taken over by the Government and operated and controlled by the Government. A few large banks using the credit of our Nation have entirely too much power and influence over the economic affairs of this Nation.

It is my opinion that the banking policies that have been destructive to the smaller banks of the country and will likely destroy many more of them in the near future if the policy is not changed, have been caused by the influence of representatives of a few large banks.

LARGE BANKS OR SMALL BANKS

It is my opinion, further, that there has grown up a conflict of interest between the smaller banks of the country and the few large banks. The larger banks have received an advantage because they have been recognized as the spokesmen for all banks.

SEVENTY-FIVE BANKS HAVE ASSETS OF 14,925 OTHER BANKS

About 75 of the largest banks in this Nation own more than 50 percent of the assets of the 15,000 banks that are now open and doing business.

TWENTY BANKS HAVE MORE THAN ONE-FOURTH THE LOANS AND INVESTMENTS OF ALL BANKS

The Twentieth Century Fund has recently completed a study on Big Business—Its Growth and Its Place. On page 8 of the first volume, which was published only a few weeks ago, it is stated:

During the present century the trend up to 1920 has shown a diffusion of banking resources, and thereafter a concentration. Bank failures and mergers were the factors most responsible for the increasing concentration in the latter period. The devolpment of branch, group, and chain banking also contributed.

As in the case of other groups of corporations, the few largest banks have a disproportionate economic importance. In 1934 national banks with capital stock of $5,000,000 and over were only 0.7 percent of all national banks in number, but they owned 47.2 percent of all national-bank assets and carried 47.8 percent of all deposits in national banks. In 1925 the giant national banks were only 0.3 percent of the total number of this class of banks, owned only 27.5 percent of total national-bank assets, and carried only 27.7 percent of national-bank deposits. A study of the proportion of total loans and investments of all banks held by the country's 20 largest banking institutions shows that about 15 percent was held by the 20 leaders in 1900 and about 27 percent in 1931.

The above is startling information. It will be noticed that 27 percent of the loans and investments of the 15,000 banks are held by 20 of these 15,000 banks.

ALMOST 40-PERCENT BANK RESOURCES IN NEW YORK CITY

The 149 banks in New York City had resources aggregating $20,000,000,000 on December 31, 1936. Resources of all banks in the entire Nation aggregated approximately $53,000,000,000. These 149 banks in New York City had deposits of $17,000,000,000, as compared with deposits of $45,000,000,000 for all the banks in the Nation.

FEW MEN CONTROL FEW BANKS THAT CONTROL NATION

In the CONGRESSIONAL RECORD of February 24, 1937, will be found a speech I made on the floor of the House relative to our banking laws. It commences at page 1921 of the unbound volumes and at page 1925 will be found the names and locations of 109 banks in the United States that own 56 percent of the assets of the 15,000 banks and own approximately $10,000,000,000 in Government bonds, and represent 50 percent of the capital stock of the 15,000 banks, and hold 55 percent of the total deposits of the 15,000 banks. Necessarily these banks are located in a few cities and are controlled by a few men. By reason of their control over these large banking houses and their interlocking directorates with the largest manufacturing, business, transportation, and utility concerns throughout the Nation, a greater part of our economic activities in this Nation are controlled by these few men who control these banking houses. It is not the money that they have that has so much weight; it is the influence and power that they have by reason of the money that counts so much.

FIVE HUNDRED AND NINETY-FOUR CORPORATIONS OWN ONE-HALF NATION'S CORPORATE WEALTH

At page 54 of the Twentieth Century Fund Publication the following statement appears:

Less than 600 firms own over half of corporate wealth.

Statistics of Income for 1933 reveals a striking concentration of corporate wealth in the hands of a small number of very large

corporations; and, conversely, a very large proportion of the total number of corporations with a minute share of the total wealth. The 594 largest corporations (each reporting total assets of $50,000,000 and over and with an average of $240,000,000) out of a total of 388,564, or 0.15 percent, owned 53.2 percent of the total assets of all active reporting corporations submitting balance sheets. If only nonfinancial corporations are considered, 375 out of 287,575, or 0.13 percent, owned 56.2 percent of total assets.

The 109 banks which I have referred to very likely control a large number of the 594 largest corporations that in reality control over half the corporate wealth of the Nation.

TWELVE FEDERAL RESERVE BANKS

There are 12 Federal Reserve banks. Each bank represents a certain area of the United States. They are located at Boston, New York, Philadelphia, Cleveland, Richmond, Atlanta, Chicago, St. Louis, Minneapolis, Kansas City, Dallas, and San Francisco. There are about 7,000 banks that are members of the Federal Reserve System. These 7,000 banks, practically all of them national banks, purchased stock in the Federal Reserve banks equal to 3 percent of their capital and surplus. This stock amounts to about $140,000,000. Member banks receive 6 percent in dividends on this stock each year. It is cumulative, so if it is not earned one year it can be taken out of the surplus funds of the banks. That is the only investment that has been made by the 7,000 member banks in the 12 Federal Reserve banks. No individual owns a penny of stock in these banks; neither does the Government of the United States own a penny of stock in the 12 Federal Reserve banks. The Federal Reserve Banking System is a supercorporation that is owned entirely by the 7,000 member banks. These Federal Reserve banks are exempt from all taxes on their transactions. They pay no taxes whatsoever except the amount they pay to the States in which they are located on the small amount of real estate which they own.

When the 7,000 member banks desire money they can deposit United States Government bonds or eligible paper with Federal Reserve banks and receive Federal Reserve notes in return therefor. Federal Reserve notes are money, often referred to as greenbacks. These Federal Reserve notes represent practically all of the money we have outstanding in general circulation except silver certificates and coin.

GOVERNMENT PRINTS THE MONEY

Federal Reserve notes are printed at the Bureau of Engraving and Printing in Washington. In the large safe in this Bureau may be found at this time hundreds of millions of dollars worth of this paper made ready for immediate circulation if and when demanded by Federal Reserve banks.

BLANKET MORTGAGE

Each Federal Reserve note is a blanket mortgage on all of the property and all the incomes of all the people in this Nation. Although a Federal Reserve note is small in size, it is just as effective as a mortgage as if it were two pages long, signed by the President of the United States and attested by a notary public.

This blanket mortgage, which is a Federal Reserve note, has on one side the following language:

The United States of America will pay to the bearer on demand $20.

Or whatever the amount is. On this same side is found the signature of the Secretary of the Treasury and the signature of the Treasurer of the United States. This language represents a promise on the part of our Government to redeem this note whether it is for $5, $20, or $10,000, and regardless of whether the amount is one billion or fifty billion dollars. On the other side of the Federal Reserve note is a picture of the White House and the words "United States of America, White House, $20" (or the amount of the note).

It is not an obligation of the Federal Reserve bank issuing the note. It is an obligation of the Government. The Government credit is issued. It merely contains language which makes it a blanket mortgage upon all the property and wealth of all the people of this Nation.

MONEY 27 CENTS PER $1,000 FOR BANKS

One would think ordinarily that Uncle Sam should receive at least fair compensation from the banks using the Government's credit. However, when these notes are printed and delivered to the Federal Reserve banks, a system wholly owned by private corporations, the Federal Government does not receive one penny for the issuance of this money. It only receives the actual cost of printing, which is about 27 cents per $1,000 in Federal Reserve notes.

SO-CALLED PERFECTING AMENDMENTS

When the Federal Reserve Act became law, December 23, 1913, it contained a provision that when this money was issued by the Government to the Federal Reserve banks that the Government should receive an interest rate to be fixed by the Federal Reserve Board. At the same time the law contained a provision that all the earnings of these banks above the 6-percent dividends paid on the stock should go into the United States Treasury. The Federal Reserve Board fixed a zero rate of interest, using the argument that the surplus earnings of the stock went into the Treasury anyway, so there was no reason why such an interest rate should be charged and collected for the use of the Government's credit. In recent years so-called perfecting amendments have been made to this law, which have been in the direction of giving the Federal Reserve Banking System more power and authority over the issuance of the Government's credit free and taking away from the Government more privileges and benefits. In 1933 the Federal Reserve Act was amended so that the Government will not hereafter receive any of the earnings of the Federal Reserve banks. Of course, it is contended that if the banks should be dissolved or go out of business, the excess would go to the Government. There is no danger of these banks being dissolved; it is not possible for them to become insolvent—using the Government's credit free—and they have perpetual charters granted many years before the expiration of their first charter. At first their existence was limited to 20 years. Years before the 20 years expired, a perfecting amendment made their charters perpetual.

GOVERNMENT CREDIT USED FREE

The fact remains that the Federal Reserve Banking System, wholly owned by private corporations, is using the Government's credit free of charge. Such a system should be owned by the Government of the United States, and when the Government's credit is extended to banks, fair compensation should be paid for its use.

IF GOVERNMENT OWNED FEDERAL RESERVE BANKS

If the Federal Reserve Banking System is owned by the Government, it can then serve all the 15,000 banks, and not just 7,000 member banks. If the Government owned the Federal Reserve banks, and such banks should purchase United States Government bonds, the Government will cease to pay interest on such bonds so purchased. As it is now, the Federal Reserve banks purchase Government bonds with Government credit and continue to charge and collect interest from the Government on such bonds. It does not exactly make sense to me, but those who profit by the system are very much opposed to a change.

TAKE GRIP OF MONOPOLY FROM THROATS OF PEOPLE

If we desire to take the grip of monopoly from the throats of the American people, the first step should be for the Government to take over, own, and operate the 12 Federal Reserve banks.

PROTECT SMALL BANKS

A bank serves a very useful purpose in each community. We cannot successfully do business without them. We desire to encourage the right kind of banks and not discourage them. The smaller banks of the country should be protected from the larger ones, and the people generally protected against the system that has such great control over the economic affairs of our Nation.

The Government should be taken out of private business as rapidly as it is possible to do so, and private corporations, such as banks, should be taken out of the Government's business.

WORLD'S GREATEST RACKET

If the Government takes over the Federal Reserve banks by paying the member banks $140,000,000, which they have invested, it will not be an inflationary move, but will be

a move in the direction of greater protection against inflation. It is my belief that the world's greatest racket is the use and abuse of the United States Government's credit by a few large banking institutions. The Government's credit should not be farmed out to a few large private banks. If something is not done, a large percentage of the 14,000 smaller banks will be crushed within a few years and the communities served by them will be served by a branch bank with direct control from Wall Street. We should protect these small banks by taking over the Federal Reserve System and using it for their use as well as the use of the large banks.

Old Age Security

EXTENSION OF REMARKS
OF
HON. WILL ROGERS
OF OKLAHOMA
IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1937

RADIO ADDRESS BY HON. WILL ROGERS, OF OKLAHOMA, ON MARCH 20, 1937, AND A RESOLUTION FROM THE HOUSE OF REPRESENTATIVES OF OKLAHOMA

Mr. ROGERS of Oklahoma. Mr. Speaker, under leave granted to me to extend my remarks and to submit a memorial resolution from the House of Representatives of the State of Oklahoma concerning H. R. 2257, introduced by me, I now submit for the RECORD a recent radio address which I made on the subject and a copy of the resolution, as follows:

Friends of the radio world, 2 weeks ago tonight I addressed you on the subject of our common welfare. I urged your consideration and active support in the matter of Nation-wide, federally financed old-age pensions, as embodied in my bill, H. R. 2257, now pending in the Congress of the United States. Several other speakers have appeared on this Saturday night program since its inception in early January. Last Saturday night you heard the voice of brilliant, dynamic Senator JOSH LEE, of Oklahoma. You heard him advocate "a more liberal old-age pension in order to make adequate provisions for the men and women who have contributed their part to the wealth of the Nation." You heard him speak in favor of the main principle of my measure for Nation-wide, uniform payment of old-age pensions.

I come to you again tonight pleading further consideration and urging further action for our common welfare. I sincerely believe that the solution to the problem confronting our aged people will redound to the common good. Undoubtedly the establishment of a system of Federal pensions, without any State participation, is the solution to the present inadequate social-security program. It is reasonable to believe that Federal old-age pensions are even more than that. It is entirely proper to consider that such a system may also be the solution to other haphazard relief problems.

The present social-security program is not meeting the problem it was intended to solve. You have only to ask your neighbor for confirmation of this statement. Only 40 States have seen fit to be included in its meager benefits. The social-security program is now in general disfavor. On the one hand, we have the taxpayer expressing his open opposition. On the other, we have dissatisfaction on the part of those who are its immediate beneficiaries. The great majority of our aged citizens have received no assistance at all. The social-security program is now benefiting only 165 old people out of every 1,000 who are eligible to receive pensions. Thus only 16 percent of our aged citizens are receiving the assistance hoped for by Congress when the social-security bill became a law. Many of this number are receiving very little aid. In my native Oklahoma, the average is above that for the Nation. In Oklahoma, 408 aged persons out of every 1,000 are receiving meager benefits. This is approximately 40 percent. This 40 percent is receiving an average of only $14 per month. We have the situation in my State where the social-security program is reaching less than 50 percent of the people for whom it was designed. And these old people are receiving less than one-half the amount of pension it was intended they should be paid. In many States the situation is more deplorable. In Mississippi the old people are receiving an average pension of only $4 per month.

I am sure that none of my colleagues in the Congress of the United States will deny that our legislative body has failed to solve the humane principle of security in old age. None will deny that it was intended the old people should receive a pension of $30 per month. In view of the facts concerning the operation of the present program, we are faced with failure in both cases. The fault, everyone agrees, is with State participation. The various States either are unable or not inclined to match the $15 available from the Federal Government. In most cases the States are not financially able to meet the problem. In several the State legislatures hesitate to extend a benign hand to the aged because of the fear of being charged with heaping exorbitant taxes upon their constituents.

This situation provokes these questions: Whose responsibility is it? Is the question of old-age security a problem of the States? Is it the problem of the Federal Government? Or is it the problem of both the States and the Federal Government? If it is the problem of the States, then we are faced with the fact that to date the States have been unable to provide even a meager one-half of the pension obligation. If it is properly a matter for both the Federal Government and the States, we are then confronted by the present failure of the Social Security Act. We have left, then, only one premise—that old-age pensions should be paid by the Federal Government. That is the basic principle of my bill, H. R. 2257.

In times of war we do not mobilize for the defense of an individual State. We do not take up arms in the capacity of a New Yorker, a Texan, nor a Californian. We march with consecrated hearts and with livid patriotism as Americans for the defense and protection of America. We sacrifice blood and brawn and resource not for the individual State but for the development and preservation of the democratic ideals of a single nation. War is one kind of emergency.

The aged people of today are those who, like in war, gave their blood, their brawn, and their every resource for the development of our great country. They did not contribute to the welfare and improvement of the State alone. They contributed to the progress of the whole Nation. Now, in their declining years, in the evening of their lives, they are entitled to the consideration of the Federal Government. Especially is this true in the present emergency, because the States have failed to meet the program outlined in the Social Security Act.

In times of great economic stress we look, as we did in March 1933, to the power of the Federal Government for broad, comprehensive measures. Uniformity in meeting the problems of the depression could not be had by depending upon the several States for relief. We could, however, with confidence and assurance, look to the Federal Government to treat each and every citizen alike. We could rely upon the Federal Government to provide equal opportunities to all of those in need. We could be sure that the regulations for administration would be the same in Maine as in California; the same in Minnesota as in Florida; the same opportunities would exist throughout the Nation. That is generally the policy when the protecting arm of the Federal Government is wrapped around its citizens. The opposite is true when the States are left to their individual initiative.

To those of you listening to me tonight, I say that you know what truth I speak when I remark that you only have to ask your neighbor to learn that no two old people are treated alike, except those who are receiving no pension at all, under the present pension system. Even within States there is discrimination. Do you think it is fair for the aged people of California to receive $31 per month while the aged pensioners of Mississippi receive only $4 per month? The pensioners of California are certainly not to be begrudged their present pension of $31 per month, but the pittance of $4 per month in Mississippi is to be deplored. Why should we not enact a measure like mine, which will pay uniform pensions? Why should we condone a variance of pension payments within a single State? Do we agree that it is just to pension a person in one county more than we do in another? Do we believe that it is right to pay one neighbor more than another? If you agree to these questions, then you are for the present system. Do you feel that 16 percent of our old people over 65 years of age should be pensioned at these haphazard rates while the other 82 percent are discarded? You cannot agree to this condition unless you favor the present discrimination of the social-security system.

You may be agreeing with me and wondering at the same time if there is anything you can do. In answer, I say that there is much you can do to assist us. You can write to me or to your district Congressman for a copy of my old-age-pension bill. When it is received show it to your friends. In writing request a copy of the Will Rogers old-age-pension bill. Do not hesitate to ask your Congressman to support the principle involved in the bill.

You might also follow the example set by Oklahoma where the State house of representatives passed a resolution memorializing Congress to adopt the Will Rogers pension measure. Do not hesitate to write to your State legislators urging them to memorialize Congress for the passage of the Rogers old-age-pension program. Out in Oklahoma, 20 members of the State house of representatives joined in introducing and passing a memorial resolution. Among this group of 20 were the Honorable Leon Phillips, former Speaker of the Oklahoma House of Representatives; Hon. Carl Dees, McCurtain County; and the Honorable Charles Flanagan, Cotton County.

We have a good cause. If our cause were not righteous then it would be well to warn us against advertising our program. Our plan of Federal old-age pensions, on a uniform basis, could not withstand the white light of general public advertising and publicity if it were unsound and unreasonable. In an effort to convey a little humor as well as pathos in my talk with you this

evening, I want to quote a simple little verse that came to me in the mail today. It expresses in a humorous vein a maxim of the value of advertising a good cause. Here is the verse:

"A lion met a tiger
As he drank beside a pool.
Said the tiger, 'Tell me why you're
Always roaring like a fool.'

"Said the lion, 'That's not foolish',
With a twinkle in his eyes—
'They call me king of all the beasts—
It pays to advertise.'

"A rabbit heard them talking
And he ran home like a streak.
He thought he'd try the lion's plan,
But his roar was just a squeak.

"A fox came to investigate;
He had dinner in the woods.
Moral: Never advertise
Unless you've got the goods."

This simple rhyme conveys a lesson to us which is, advertise only when you have the goods. We know we have a sane, just, equitable, and workable program. We will continue to advertise the WILL ROGERS pension plan until our aged citizens are compensated for the contribution they have made to the building and preservation of "the land of the free and the home of the brave", our own great America. It is necessary, yea it is imperative, that you, my friends, give us your support and cooperation in our fight to enact the WILL ROGERS pension plan. Let us now dedicate ourselves to the proposition that all our aged citizens are entitled to uniform pensions, let us now redouble our efforts to make America not only the land of opportunity, but the land of social security.

House Resolution 24

Resolution memorializing Congress to consider and pass at an early date a resolution by Congressman WILL ROGERS, providing that the Federal Government take over in its entirety the payment of old-age pensions and relieving the several States of any participation in the same

Whereas it has become a Nation-wide program to pay aged dependent persons an old-age pension; and

Whereas under the present Federal law it is mandatory that the several States participate on a 50-50 basis and provides, by legislative enactment of the several States, plans to cooperate with the Federal Government; and

Whereas this necessitates the expenditure of large sums unnecessarily; and

Whereas it calls for the delay, disappointment, and misunderstanding between State authorities and Federal authorities; and

Whereas under the present provisions it operates a handicap against persons who may choose to move from State to State; and

Whereas red-tape delay, misunderstanding, and expense may be eliminated by the handling of all old-age pensions by a single agency; and

Whereas the citizens of the United States as a whole should be entitled to and receive old-age assistance without so many unnecessary delays and so much red tape: Now, therefore, be it

Resolved by the House of Representatives of the State of Oklahoma of the Sixteenth Legislature, That the Congress of the United States is hereby memorialized, urged, and requested to early consider and enact into law the resolution introduced by Congressman WILL ROGERS of Oklahoma, to provide for the handling and payment of all old-age pensions by the Federal Government, exclusively; and that the several States be relieved and released from any participation whatsoever in classification and payment of old-age pensions.

Adopted by the house of representatives the 1st day of March 1937.

J. T. DANIEL,
Speaker of the House of Representatives.

H. R. 4951, To Amend the Merchant Marine Act of 1936

EXTENSION OF REMARKS
OF
HON. JAMES A. O'LEARY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, February 24, 1937

Mr. O'LEARY. Mr. Speaker, I introduced H. R. 4951, now under consideration, and did so by virtue of the fact that I was firmly convinced that the Maritime Commission could not possibly have had time enough since its appointment to thoroughly digest and formulate a definite determination under section 704 of the Merchant Marine Act of 1936.

The Merchant Marine Act of 1936 provides, under section 201, that the Commission shall be composed of five persons to be appointed by the President, but that vacancies shall not impair the power of the Commission to execute its functions so long as there shall be three members in office. This normally contemplates vacancies in a permanent Commission through death or resignation. The present Commission is not yet confirmed, and rumors persist of pending resignations.

In my opinion it was clearly the intent and purpose of Congress, when it limited the time under section 704 of the act within which the general policies of the Commission are to be definitely fixed and all the Commission's vessels turned over to private owners or operators, that the permanent Commission of five members would be appointed immediately after the approval of the act, so that the members of the Commission would have practically a full year within which to determine the varied and important problems which Congress placed upon them. The intricacy of the problems require at least a full year for investigations, hearings, and deliberations.

On the contrary, no confirmed Commission has yet been appointed, although only 5 months yet remain under the terms of the act in which so many momentous decisions must be made.

The year contemplated by Congress has been further curtailed by reason of the recent decision of the Comptroller General holding that the operators of the Government-owned ships shall be entitled to receive no compensation for any voyage which terminates after the conclusion of the year, June 30, 1937.

As round voyages of the Government-owned merchant vessels now operated by managing agents range from 6 weeks to 5 months in length, the apparent 5 months has thus been actually reduced to a few weeks by this unanticipated decision of the Comptroller General. Hence, if H. R. 4951 or some other bill giving the same relief is not enacted, these problems must be decided hastily—if they are decided at all—by a temporary or unconfirmed Commission contrary to the plain spirit of the act and the intent of Congress.

The intent of Congress is stated generally in the last sentence of section 101:

It is hereby declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine.

Under section 210 it is stated:

It shall be the duty of the Commission to make a survey of the American merchant marine so that soon as practical the following objectives may be accomplished: First, to provide shipping service on all routes essential for maintaining the flow of foreign commerce; second, the ownership and the operation of such a merchant fleet by citizens of United States.

This obviously contemplates a deliberate consideration and final determination of the trade routes. This requires an intimate knowledge of the general merchant shipping industry to be gained from a carefully planned and well-organized investigation that may be expected to assure the permanency of a merchant marine as far as human foresight may do so.

In furtherance of this preliminary survey, it is provided in section 211 that—

The Commission is directed to investigate the ocean services, routes and lines from ports in the United States which are, or may be, determined by the Commission to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States, and in reaching its determination the Commission shall consider and give due weight to any other facts and conditions that a prudent business man would consider when dealing with his own business; the type, size, speed, and other requirements of vessels, * * * with a view of fur-

nishing adequate, regular, certain, and permanent service; the relative cost of marine insurance, maintenance, repairs, wages, and subsistence of officers and crews and all other items of expense; the extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine; the possibilities of promoting the carrying of American foreign trade in American vessels.

This indicates only superficially the extent and the depth of investigation which must be made under the direction of Congress before any permanent decision may be reached as to the general policies of the Commission on the future of the American merchant marine. A billion-dollar industry would run a minimum risk of disruption if that intent of Congress is carried out to the letter.

Before a ship operator would be justified in bidding for Government merchant vessels or complete operating lines, either under bare-boat charter or by outright purchase, he should be assured of a permanent and definite policy on the part of the Government. A bidder who bids before these essential elements are crystallized is clearly inexperienced, or is a speculator at ultimate Government expense. When his calculations are upset by a later declaration of policy by the Commission he is forced to turn the ships back to the Government again, and the distressful experience that the old Shipping Board went through in the early 1920's will be repeated, with consequent unfavorable reaction by the shipping public.

One of these elements is the labor situation. This is expressly treated by section 301 of the act, under which—

The Commission is authorized and directed to investigate the employment and wage conditions in ocean-going shipping, and, after making such investigation and after appropriate hearings, to incorporate in the contracts minimum manning scales and minimum wage scales and reasonable working conditions for all officers and crews employed on all types of vessels receiving an operating-differential subsidy.

The contracts referred to are the contracts for which requests for bids are now being issued by the Commission. But the Commission has not had sufficient time and has not reached any permanent determination of these important questions. The act continues under the same section (301):

No change shall be made therein by the Commission except upon formal complaint.

Obviously, Congress intended that these fundamental questions should have the full and deliberate consideration of a complete permanent Commission that must assume the responsibility for results, and that, after these questions had been so determined, the operators and charterers of ships might look upon the determination as being of a permanent character upon which they would be justified in placing reliance in bidding for the lines.

Bids for the lines may be requested under sections 704, 705, and 706 of the Merchant Marine Act of 1936. Before a bidder is in a position to prepare an intelligent bid, and before a responsible bidder can be expected to bid, he must know with reasonable accuracy the exact conditions he must meet in the operation of the ships for which he is asked to bid.

In addition to this, perhaps the most important element is that of the operating-differential subsidy for which the act provides. This feature of the act is by far the most important factor in attracting bidders for private operation of the lines.

In the Merchant Marine Act of 1920 is provided in section 7 thereof a statement of the general purposes and policy of the Government, viz:

The Board (U. S. Shipping Board) is authorized to sell and, if a satisfactory sale cannot be made, to charter such of the vessels referred to under section 4 of this act or otherwise acquired by the Board, as will meet these requirements to responsible persons who are citizens of the United States who agree to establish and maintain such lines upon such terms of payment and other conditions as the Board may deem just and necessary to secure and maintain the service desired.

That act was passed nearly 17 years ago, but in spite of all efforts made by the then United States Shipping Board and its successors, the Government has never been able to make a satisfactory permanent arrangement by which its vessels have been chartered for private operation. The operating differential subsidy now provided in the present act seems to provide the essential lacking in the prior merchant marine acts to induce independent operators to acquire Government vessels under charter.

It is therefore apparent that unless the terms, conditions, and amounts of the aid to be provided by these operating-differential subsidies are definitely established before bids are submitted, the advantage of the present act will be totally lost and the Government will find itself in the position it has found itself for the past 17 years in its unsuccessful attempt to negotiate satisfactory charters for private operation of its lines.

Sections 601, 602, 603, 604, and 605 deal specifically with the matter of an operating-differential subsidy for independent owners of vessels, but section 708 provides:

The Commission may, if in its discretion financial aid is deemed necessary, enter into a contract with any charterer of its vessels for payment to such charterer of an operating-differential subsidy upon the same terms and conditions and subject to the same limitations and restrictions as are elsewhere provided in this act with respect to payments of such subsidies to operators of privately owned vessels.

The Commission is now fully informed that there is an operating loss suffered by the Government on all the services. This deficit reflects the absence of a mail subsidy in each case. To interest any responsible bidders for these services, the operating-differential subsidy provided for by the act must be greater than the actual operating loss sustained by the Government on these lines, respectively.

Therefore, the bases and the amounts of these operating-differential subsidies are essential to an intelligent bid or to the obtaining of any responsible bids at all commensurate with the importance of the service and the Government's investment in its establishment.

Before these subsidies may be ascertained, the directions of Congress in determining them must be obeyed. Congress demands a full and complete investigation and hearings at which all parties interested may be heard.

Section 602 of the act provides:

No contract for an operating-differential subsidy shall be made by the Commission for the operation of a vessel or vessels to meet foreign competition except direct foreign-flag competition, until and unless the Commission, after a full and complete investigation and hearing, shall determine that an operating subsidy is necessary to meet competition of foreign-flag ships.

This complete investigation is based upon the determination by the Commission of a large number of facts.

The excess of the fair and reasonable cost of insurance, maintenance, repairs not compensated by insurance, wages, and subsistence of officers and crews and any other items of expense which the Commission shall find and determine that the applicant is at a substantial disadvantage in competition with vessels of the foreign country.

Under section 603 the amount of such subsidy shall be determined and payable on the basis of a final accounting made after the end of each year or other period fixed in the contract. But the Commission may provide in the contract for anticipatory payments which it may deem proper prior to the end of the year, but such payment shall not exceed 75 percent of the estimated amount accrued on account of the subsidy. (Sec. 603–c.)

This provision raises a serious obstacle to the obtaining of bids which cannot be removed under the terms of the act without some determination by the Commission, either by a fixed measure or some minimum limit or other tentative but definite basis for the fixing of an operating-differential subsidy based upon the past performances of the lines during the years they had been operated by the Government.

From a practical viewpoint the lines under consideration have been operated under the direct supervision and control of the Government and it is to be assumed that the managing agents, have under such supervision, obtained the

best results under the conditions of world trade they had to meet.

Accordingly, the Commission cannot be in the dark as to the practical difficulties of making these lines pay without a Government subsidy. The present request for bids is apparently an attempt to carry out the letter of the act in respect to the present Government-owned ships and in the light of the ruling of the Comptroller General, but the Commission is handicapped in carrying out the intent and spirit of the act for the best public interest simply because of lack of time, resulting from the wording of section 704 of the act.

That the Commission is convinced of the gravity of this unanticipated situation thrust upon it, is apparent from the fact that in its request for bids it proposes charters for 1 year only, which option is given to them under section 711 of the act. This section, however, permits the granting of charters up to 3 years in length; hence it is logical to assume that if the Commission felt it had now reached a definite determination upon a general policy for a permanent American merchant marine, it would not charter its ships on a basis of 1-year charters—so obviously temporary—but would charter them for full 3-year terms, especially in view of the fact that the ships in question are approximately 18 years old and would be considered obsolete at the end of the 3-year period.

It is therefore apparent that the Commission itself recognizes that the time allowed since its appointment is inadequate to reach the deliberate determination that the act contemplates and is therefore giving itself an extra year—through short-term charters—to make the necessary investigations.

The same remedy will be made available to the Commission without any danger to the goodwill and smooth operation of the line now in effect by the passage of H. R. 4951.

Among the many disadvantages of a charter for only 1 year is the fact that under the charter the Commission requires the charterer to maintain the ship in class throughout the year, and to drydock her at least once in 8 months.

This provision would not be onerous if the charterer were assured that he will continue to operate the vessels for a longer period of time, during which unusally heavy voyage expenses experienced in 1 year might be averaged or distributed over a longer period, but, if allocated to 1 year's operation, would make the operation hazardous and prohibitively expensive. This is an eventuality which must be taken into consideration by any prudent bidder. Heavy voyage repairs should be considered somewhat as a capital investment and provision for treatment accordingly would be made by every responsible bidder.

The plan for short 1-year charters carries with it grave dangers to the very existence of these lines:

There is no assurance that the present operators of the lines will be the successful bidders for the lines they have been operating, respectively, for many years.

It is impossible for a new operator in the short space of 1 year to continue the smooth and successful operation of a line with which he is not entirely familiar.

The goodwill built up by the present operators of these lines may easily be destroyed during the 1-year charter through the inept management and lack of experience in the particular trade of a new operator.

The organization and experience of the present operators will not be available to a successful bidder unless the new bidder can also take over the operating agent's organization in toto, of which there can be no assurance.

A new charterer cannot properly establish himself within a year in any particular trade with resultant loss of business and decrease in the value of the line.

If the successful bidder is already operating a line, there would arise the question of whether or not monopolies should be created. Certainly the spirit of the act condemns this result.

Unless the new bidder performs a miracle in retaining the goodwill, establishing a smooth-working organization with facilities at least equal to those now offered; becomes intimately acquainted with the particular trade (all of which depends upon his guess as to whether he will be the operator of the line beyond the period of his charter) the value of the line must be decreased by an indeterminate amount, both as to the commerce it carries and the value of the line and its selling price, if the Commission attempts to sell at the end of the charter period.

The intent of the Government for the past 20 years and the object of its enormous investment in developing these trade routes and the operating personnel, both on the vessels and in the operating management, has been to establish an American merchant marine commensurate with the volume of American foreign trade, and the necessities of possible impairment of the results of the great effort expended to obtain the present results.

Another difficulty that cannot be overemphasized, and which requires careful consideration before the lines should even be offered for charter, is the question of competition between Government-subsidized lines in those trade routes which are definitely established and the mail contracts which are placed under the act.

No good can be expected from any hasty step, while serious harm and disadvantages will surely result from the disturbance of the present operation of the lines and the uncertainty that will result and continue throughout the period of the year, during which these proposed charters would be in effect.

Great damage has occurred in the past because of the uncertainty and vacillation of the various successive boards which have repeated their predecessors' mistakes, but have not determined the definite policy which is now contemplated in the new act, although the previous merchant marine acts and of the Shipping Act of 1916 had placed this duty upon the old Shipping Board.

The passage of H. R. 4951 would eliminate this uncertainty until a permanent Commission is appointed and will have had a reasonable time within which to fix a definite policy, after having given all parties interested full opportunity to present all the facts, and during which period the Commission itself may make a complete investigation and study of the whole broad subject, and collect data for its own information in reaching the conclusions for which the country and Congress have been waiting for so many years.

The proposed action requires an election of one of three courses. If any bids are received and accepted, there are only three possible results:

A new, inexperienced operator will attempt to operate the lines for a year; or

The lines may be captured by another operator, and thus eliminate one or more established American shipping companies, all leading to the creation of a private American shipping monopoly, or

The present operators will continue to operate the lines.

The first eventuality would result in a break-down of the lines through the inexperienced, although well-intentioned, efforts of a new operator, because the time of the charter is too short.

The second eventuality is directly contrary to public policy and the spirit and purpose of all the Merchant Marine Acts since 1916.

The third eventuality can be made certain by the extension of time provided in H. R. 4951.

The expedient of a 1-year charter, leading to any disruption of the present services and their management, before the full future program for the American Merchant Marine has been definitely developed and promulgated, can only result in a loss of goodwill and confidence upon the part of the American shipping public, and a serious loss of revenue to these lines, by the possibility, in my opinion, that the management of existing companies if unsuccessful in their bids will continue to operate under a foreign flag until such times as the Maritime Commission fully promulgates the policies of the operating differentials in connection therewith.

Junk and Jokers in Electric Rates

EXTENSION OF REMARKS

OF

HON. HOMER T. BONE

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Monday, March 29, 1937

RADIO ADDRESS BY HON. FRANK R. McNINCH, CHAIRMAN OF THE FEDERAL POWER COMMISSION, ON MARCH 24, 1937

Mr. BONE. Mr. President, last Wednesday night I listened to a most able and informing address by Hon. Frank R. McNinch, Chairman of the Federal Power Commission, made over a Nation-wide hook-up of the Columbia Broadcasting system, on the subject of Junk and Jokers in Electric Rates. The cold facts presented summarize the main reasons why our attempts at regulating the rates of power companies have proved ineffective. I desire to call the attention of the Senate to one thing only, among other important matters. It is shown that while the Power Trust asserts itself to be a $13,000,000,000 industry, it is probable, if it were possible to ascertain the facts, that the actual value of the properties in use are not worth over $6,500,000,000, or half the amount claimed.

Coming from a conservative, even-tempered, and well-informed public official, the statement challenges our attention and adds to our knowledge. The Congress and the country are to be congratulated that under the courageous and able leadership of Chairman McNinch the Federal Power Act of 1920 is being administered in the interest of the people of the Nation. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

If there are tricks in all trades, the power industry knows as many tricks as any other legitimate industry. In rate making it is most ingenious in concealing from consumers much they are paying for. Tonight I shall reveal some "junk" and "jokers" which lie hidden in the dark recesses of the electric-rate domain.

Rate junk is just plain junk, property once useful, but long since fit only for the junk heap. Jokers may be judge made, clothed in the dignity and sanctity of law, or born of the resourceful brains of power-company accountants and managers.

A few of the junk items on which rates are often based are:

First, obsolete and inefficient generating and other equipment, unfit for use, not used, but kept in the plant account under the disguise of "necessary reserve equipment." No one knows what a rational needed reserve should be. But whatever it is, it should be efficient, dependable. You can't rely on junk in emergencies. Then there is equipment which, although patched up and kept in operation, is so worn out that it adds greatly to the cost of production. It should be scrapped and replaced by modern, efficient equipment.

IS IT $13,000,000,000 OR $6,500,000,000?

No one knows the percentage of utility property actually used and useful; no one knows how much is junk.

An expert advises me that while the electric utility fixed capital is reported as being about $13,000,000,000, he is of the opinion, after personal observation of the condition of utility properties in various parts of the country, that its real value is about six and one-half billion dollars. Available data on plant factors and utilization factors throw light on this question. For instance, one large electric system has a plant factor of about 22 percent, meaning that on the average only 22 percent of its generating facilities are in use, but the consumers have to pay rates on all of this equipment. This system has a utilization factor of about 56 percent, meaning there is a reserve capacity of 44 percent at the time of peak load. This would appear to be ample reserve, yet this company is reported as buying new capacity equipment. Why this new equipment unless a portion of the present equipment is ready to be junked? Similar conditions prevail in many other systems to greater or lesser degree.

Before we can have an abundant supply of electricity at low rates many power companies must remove much junk from their rate bases. The removal of these enormous watery tumors from inflated rate bases would be major operations, but the health of the power industry requires the surgeon's knife and consumers demand that these tumors be cut out.

MANIPULATING "VALUATION"

Accounting jokers are many and grievous, but I have time to point out only a few. One, known of all men, is the simple book write-up of plant values. Another is the sale of plants by one affiliated company to another, at a large profit to the seller, establishing a new high value for the purchaser. Consumers pay returns on these manipulated values; also, the purchaser often issues more securities against the property. In such a scheme the parent company is sometimes completely reimbursed for the original cost of the property. Its equity in a particular subsidiary may cost it nothing. The total of write-ups runs into many hundreds of millions of dollars.

A practice used to inflate values is to charge the full cost of acquiring property to the plant account and then, when part of the property is retired, only a part of such cost, or even none, is charged off on the books. Thus consumers are paying on the cost of property actually retired. This is an illustration of the company's eating its cake and having it, too.

A grave abuse is that of charging overheads, such as officers' salaries and general administrative expenses, to the operating expense account. Then in a subsequent rate case such items are brought forward and claimed as additions to plant. The Commonwealth Edison Co., in a recent rate case before the Illinois Commerce Commission, claimed that some $40,000,000 should be added to the book costs of its plant to reflect overheads previously charged to expense. The commission rightly disallowed this claim.

PROFITS ON PUBLIC GIFTS

One of the boldest jokers in the valuation of plants is "going-concern value." This is in addititon to the value of the physical property. It is a vague, ethereal, strange element written into almost every valuation by utility experts. Utilities also unblushingly claim the right to earn a return on rights and easements in the public streets and highways, for which they paid nothing. Not content with getting these valuable rights without cost, they ask that consumers pay rates on what the public gave the utilities.

Utilities often blow hot and cold with reference to depreciation. Valuing the property on which consumers will pay returns, they argue that the property has hardly depreciated at all. But, when establishing rates, they claim this property is depreciating rapidly and that consumers should pay for this depreciation.

One of the rankest jokers is paying excessive profits to affiliated companies for construction of plants, or for management and services. This has been a favorite means of milking the operating companies. And the consumers pay for the milking.

A big joker in valuation of water-power plants is inclusion of so-called water-power rights and excessive prices paid to promoters, often affiliated, for dam sites or other property; also the inclusion of water-power rights and land held for undeveloped power projects, even though these may never be developed. Sometimes these sites are squatted on to prevent others from developing projects.

Many strange items are claimed as operating expenses. Recently the press stated a small utility had contributed heavily to an expensive present for the president of its holding company. This was, of course, charged to operating expense. The consumers paid the bill. Lobbying expenses and lawyers' fees are almost invariably charged to operating expenses. Thus, consumers are forced to pay the lobbyists to lobby and the lawyers to litigate against the consumers. What a travesty!

GOOD-WILL ADVERTISING?

Have you noticed that when there is agitation for rate reduction the local press carries large, expensive utility advertisements about one subject or another but not about rates? Is this good-will advertising? Whatever it is, consumers pay the bill.

An insidious joker is participation by utility officers in luncheon clubs, chambers of commerce, boards of trade, civic associations, country clubs. Often the company buys the memberships, but the consumer pays the bill.

LEGAL JOKERS

Now, let us consider some legal jokers. These appear to mean one thing but are held to mean another, or are so elusive and confusing that nobody knows what they do mean. Nowhere in the domain of the law is there such inconsistency, such chaos, as in the regulation of public-utility rates. What should be a simple procedure has been transformed by the courts into a problem so complex as to defy administrative solution.

The Supreme Court says that rate making is a legislative process. The Congress and State legislatures, being unable directly to regulate rates, delegated this function to expert regulatory bodies, which, to use the language of Justice Brandeis, "have been appointed by law and informed by experience." But what happens to the decisions of trained public-utility bodies when brought before the courts? They are, in effect, stripped of their expert character by judges who, except in rare instances, are without training or experience in rate regulation.

THE COURTS AND REGULATION

Social and economic considerations of vital moment in our complex civilization may have entered into these commission decisions. But these considerations are submerged by the court under heavy legalism foreign to the social and economic realities of the present age. Even when a commission has followed the formula laid down by the court the court exercises legislative powers the Constitution never conferred upon it by insisting upon weighing the evidence before the commission. This is a function which, in my opinion, clearly belongs to the commission and not to the court.

In the noted case of *Smyth* v. *Ames*, and in subsequent cases, the court laid down formulas for rate making which are at war

with realities. They are so elaborate, inconsistent, impracticable as to render the whole process of rate regulation well-nigh hopeless, unbearably expensive, and so time-consuming as to result in practically a defeat of regulation.

It is held that utilities are entitled to earn a reasonable return on the fair value of their property, used and useful, in public service. The court has indicated that some factors to be given consideration are the original cost of construction of the plant, the cost to reproduce it new less accrued depreciation, the going-concern value, the cost of attracting money to the business, the amount and market value of stock and bonds outstanding, and the degree of risk inherent in the business. If anyone knows what that means they know more than even the utility lawyers know. This is a formula comprising fact and conjecture, of expert and judicial opinion, of theory, hypothesis, assumption, guess.

"DUE PROCESS" VERSUS EXPERT KNOWLEDGE

But if a commission, in the interest of time and economy, adopts any method other than that dogmatically laid down by the highest Court, the majority of the Court refuses to examine the record to determine whether the rate fixed meets the test of fairness to the public and the company; and, however fair the results might be, the commission is told that the rate fixed is unconstitutional and will deprive the company of its property without due process of law.

Last year the California Public Service Commission fixed rates which were calculated to bring a fair return upon the actual money prudently invested in the company's property. It ordered rate reductions amounting to $1,744,801. A three-judge statutory Federal court, following the Supreme Court formula, declared the order a denial of due process and unconstitutional because, as it said, "rates fixed in that manner are illegal and void." Eight days after the court's decision the company voluntarily reduced its rates by an amount even larger than that required by the commission's order. What a commentary by the company on the utter absurdity of the legalistic doctrine which the highest Court has imposed upon the courts and regulatory bodies.

CRITICISMS BY JUSTICES STONE AND BRANDEIS

The most caustic criticisms of this Court doctrine are not by the so-called radicals but by great Justices of the Supreme Court.

In the *Baltimore Telephone case* (295 U. S. 662), Justice Stone said: "In assuming the task of determining judicially the present fair replacement value of the vast properties of public utilities, courts have been projected into the most speculative undertaking imposed upon them in the entire history of English jurisprudence. * * * When we arrive at a theoretical value based upon such uncertain and fugitive data, we gain, at best, only an illusory certainty."

Last year in the *St. Joseph Stock Yard case* (298 U. S. 39), Justice Brandeis, in an opinion concurred in by Justices Stone and Cardozo, marshaled the facts and law in a sweeping review of the futilities to which the majority opinions had led. He recited the tortuous history of the Chicago Telephone Rate case before the Commission and the several courts. It was begun September 1921. The Illinois Commerce Commission made its order to reduce rates in August 1923. This order was not sustained by the Supreme Court until April 1934, 12½ years after the investigation was begun.

Justice Brandeis also recited the involved court history of the New York Telephone Rate case. It was begun in 1919, but the company's appeal was not dismissed by the Supreme Court until 1934, 14 years after this case was begun. In this case 450 witnesses were examined, the evidence aggregated over 26,000 pages, and there were also 1,043 elaborate exhibits introduced, 1 comprising 22 volumes. Thus does a member of the Court condemn the interminable and costly process of rate making under the rule laid down by the Supreme Court.

Through strained judicial interpretation "due process" has become the favorite shelter of those who seek to destroy laws looking toward regulation of public utilities and creation of social restraints against the arbitrary and ruthless exercise of economic power.

With such bonds of inconsistency and absurdity which the highest Court has welded upon regulatory bodies, is it any wonder that the consuming millions are demanding a recall of legalism and the establishment of realism in utility law? Is it any wonder that many people, discouraged by the unreasonable rates of many power companies and the indifferent silence of the Court to their pleas for relief, are turning to public ownership?

THE FUTURE BELONGS TO THE PEOPLE

We have seen power companies banded together to paralyze the administrative arm of the law through wholesale injunctions and other obstructive litigation. They have become overbold, it seems to me.

I do not know what the Supreme Court's answer may be to these suits or what it may say about the yardstick program, or whether it may hold that profits are sanctified by the Constitution and that agencies of the Government may not compete with private enterprise. But I do know that, while the public is long-suffering, the future belongs to the people, not to the utility captains, not to the courts. The genius of the American public will find an orderly remedy for these ills. If the power industry continues to flout public opinion and sows the wind, it may reap the whirlwind. If it spends money and energy in digging pitfalls for its Government, it may fall into the pit of its own digging.

The American people have caught a vision of a new and finer realm of social and economic justice. Those who stand in its path will be brushed aside. If any are unwilling to bow to the expressed will of the people and insist on standing erect in their pride and folly, may I remind them it was written long ago that "Pride goeth before destruction and a haughty spirit before a fall."

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. RUSH D. HOLT

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, March 29, 1937

ARTICLE FROM THE WHEELING (W. VA.) INTELLIGENCER

Mr. HOLT. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing in the Wheeling Intelligencer and associated papers in West Virginia, dealing with the proposal to reorganize the judicial branch of the country.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wheeling Intelligencer and associated papers in West Virginia]

PROCTOR FEATURE OF COURT PLAN COMPLETELY IGNORED—IDEA BORROWED FROM ENGLAND'S "KING'S PROCTOR", A CROWN-COURTS LIAISON—OPPONENTS TO COURT PLAN SEE IN THIS FEATURE AN ADVANTAGE TO WHITE HOUSE

By Charles Brooks Smith

WASHINGTON, March 24.—The administration's bill to reorganize the judicial branch of the Government creates a new official to be called a proctor. It has been completely ignored in the heated controversy over the larger aspect of the proposal, namely, authorization of the President to enlarge the Supreme Court from 9 to 15 members in given circumstances. Still, it appears that the proctor provision is a highly important part of the central power to secure a firmer grip on the highest tribunal, according to some opinion.

The idea is borrowed from Great Britain's judicial system. Over there they have a proctor. He is officially called the "King's Proctor" and seems to be a liaison between the crown and the courts. He has, by title, been prominent in the press cables during the past few days in connection with news stories of the Simpson divorce. And strangely enough, this caused some interest to be taken in certain quarters in the proctor provision in President Roosevelt's bill now being considered by the Senate committee on the judiciary at public hearings.

"PRESIDENT'S PROCTOR"

A Senator who is prominent and active in opposing the bill, in "off the record" conversation recently, referred to the proposed new official as "the President's proctor."

Section 3 (a) covers the case: "The Supreme Court shall have power to appoint a proctor. It shall be his duty (1) to obtain and, if deemed by the Court to be desirable, to publish information as to the volume, character, and status of litigation in the district courts and circuit courts of appeals, and such other information as the Supreme Court may from time to time require by order, and it shall be the duty of any judge, clerk, or marshal of any court of the United States promptly to furnish such information as may be required by the proctor; (2) to investigate the need of assigning district and circuit judges to other courts and to make recommendations thereon to the Chief Justice; (3) to recommend, with the approval of the Chief Justice, to any court of the United States methods for expediting cases pending on its dockets; and (4) to perform such other duties consistent with his office as the Court shall direct." Salary, $10,000. Liberal expenses allowed for office staff, equipment, etc.

SUPPORTERS DON'T FIND FAULT

It goes without saying that supporters of the thorough reorganization plan pending have no fault to find with the proctor part of the bill, nor any other part of it. They are for the thing entire, without a quibble or a suspicion of the figurative "nigger in the wood pile." For this perfervid enthusiasm, an efficiently organized and ordered political partisanism is given the credit.

For the more interesting critical phases we must needs turn to the opposite side. It was discussed today with this correspondent by a man competent in every respect to comment. He summed up his analysis with—

COULD HANDLE COURTS

"The Government agencies, namely, the Attorney General, proctor, and an easy-going Chief Justice could so handle the courts that no case in which the Government is interested could ever fall into the hands of any judge except one hand picked for the trial of a particular case."

Which, according to the arguments of the opponents of the bill, would be precisely as President Roosevelt ordered.

"This feature of the bill", said our informant, "with respect to the Supreme Court and the minor courts, I have never seen commented on. To me it carries possibilities of grave import. I refer to the provision for the creation of the office of proctor.

"If I know my way around a courthouse (he ought to; he has spent years 'round courthouses) I can clearly visualize a situation where a good, practical man in the office of proctor, working with either a hand-picked Chief Justice or one who is inclined to follow the advice of a chosen subordinate, could completely dominate the Federal judiciary and its decisions.

WOULD AID PRESIDENT

"He could pick the man to sit in practically every case of importance to the Federal Government by simply exercising his jurisdiction, which as I interpret the bill would give him authority to delegate judges to districts where the docket might be alleged to be overcrowded and the resident judges overworked.

"Working in harmony with such an Attorney General as we now have, the proctor could shift judges ad libitum and no one could question his authority, and probably few would suspect what was going on. It would, however, be a quite logical development under the system of political control of the judiciary which is proposed. If this system is to prevail it would be to its great advantage to have a go-between between the White House and the Supreme Court."

St. Patrick's Day Address

EXTENSION OF REMARKS

OF

HON. AUGUSTINE LONERGAN

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Monday, March 29, 1937

ADDRESS BY HON. BRIEN McMAHON, ASSISTANT ATTORNEY GENERAL OF THE UNITED STATES, AT THE NINTH ANNUAL BANQUET OF THE SOCIETY OF THE FRIENDLY SONS OF ST. PATRICK, WEDNESDAY, MARCH 17, 1937

Mr. LONERGAN. Mr. President, I ask unanimous consent to have inserted in the RECORD a copy of an address delivered by Assistant Attorney General Brien McMahon at the dinner of the Friendly Sons of St. Patrick, held at the Mayflower Hotel in Washington, D. C., on the evening of March 17 last.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

We have learned to refer to March 17 as St. Patrick's Day. In those communities in which Irishmen dwell, we of Irish descent have become accustomed to congregate and to listen to men extol the virtues of our patron saint.

Tonight I have dedicated myself to a more difficult task. I say difficult advisedly, because I do not wish to limit my message solely to a description of St. Patrick's life and ministry. I should enjoy telling the story again. It is glorious and interesting—yes; even thrilling and inspiring. Yet, if I read the character of our humble saint correctly, I would do him no honor, even if I were capable of a most praiseworthy description of his work. But, I am convinced, that if St. Patrick were to speak to me now, he would say: "Do not glorify me as an individual, but rather apply to the ills of mankind those eternal and universal principles which permeated my life on earth."

On this anniversary of our patron saint I shall try to speak as he would have me speak.

We all know that St. Patrick lived about fifteen hundred years ago in the Ireland which was not far removed from the dark, malignant superstitions of paganism. The mystical traditions of the Druids yet lay heavily over men's minds. Even for the most gifted missionary, it was no easy task to teach the Nazarene's creed of love to this race of fighting men. Patrick accepted the challenge. Patrick succeeded. He induced the Kings of Ireland and their people to accept the kingdom of Christ on earth. He caused them to foreswear their pagan gods. And these kings learned to bow in humble adoration and tribute before the crib of Bethlehem.

History records no brighter page than that on which is unfolded the history of Patrick's great mission to Ireland. He solved the problem of her spiritual destiny. Teacher and organizer, his work was so effective that 15 centuries later the sons of St. Patrick are still faithful to his teachings and to the God whose authority he so gratefully acknowledged.

I agree with the observation of the late Mr. Justice Holmes: "A page of history is worth a volume of logic" (*New York Trust Co.* v. *Eisner*, 256 N. Y. 345, 349).

You can therefore understand my attitude toward some of our modern engineers and scientists who profess to have little patience with men possessing the homely virtues of St. Patrick. These technologists and materialists dare to call him impractical.

I will concede to Caesar that which is Caesar's. It is true that they have revolutionized industrial methods. It is true that they have stepped up production to an almost unbelievable speed. It is true that they have even caused the performance of their machines to appear as miracles. "What consideration do these materialists give to the Miracle of Miracles—to the King of Kings?" Their arrogant denial of a page of history written by St. Patrick caused poverty to become widespread, although our country groaned under a surplus of everything material.

There exists another group to whom I wish to refer. These are the self-anointed saviors who negate the God of St. Patrick and who seek to solve the ills of society by the application of pagan and materialistic principles.

One of these groups believes that governments must become economic empires controlled by science; that its citizens must be regimented like machines; that the scientific beliefs of the day must be the supreme law; and that only technologists are capable of ruling. God forbid that we live to see in our country the achievement of any such Fascist utopia.

The other group visualizes a total absence of rule, of law, and of organized government. Accepting the truism that the best government is that which governs least, they preach a doctrine of individual liberty and communistic collectivism, where each shall labor for the whole and none shall be ruled or restrained. "God save our country from such chaos."

I reiterate that each of these fantastic schemes is founded upon a crass materialism which not only ignores spiritual values but denies as superstitious any moral accountability to a Supreme Being.

Picture in your mind's eye the personalities projected on the world stage by fascism and communism. Is there one who possesses the simple, common, homely attributes of St. Patrick?

Truly enough, Ireland in the fifth century sorely needed a St. Patrick. In our troubled world today have we lesser need for men with his saintly attributes? Men who will apply themselves to the problem with candor and honesty? Men who will seek to solve our social ills by an application of common sense, purified through the filter of a devout faith in God?

St. Patrick knew the hearts of men, their vanities, their follies, and their weaknesses. He knew that no man, notwithstanding his pride, courage, and achievements, has ever been able to look beyond the grave.

He knew that not only life but also governments and civilizations which are based on material things alone cannot endure. He knew that these, too, must vanish like mist at the rising of the sun. St. Patrick taught the divinity of the Nazarene and instilled an awareness of eternal life into the consciousness of the Gaelic mind. It is for us to imitate our patron saint, otherwise our celebrations are a sham. We must approach our social ills with his faith and we must seek a solution by attempting to apply his insights and his common sense.

It has been said that man cannot live by bread alone. We know this is true. We know, too, that man's selfishness has created mankind's greatest ills. More poetically, "man's inhumanity to man makes countless thousands mourn." One manner in which man's inhumanity to man has made countless thousands mourn is man's preachment of hate, fear, and desperation—more particularly during social crises.

The spokesmen of so-called patriotic societies demand that repressive measures be taken against the antisocial movements in our land. What repressive measures do they wish? Suppression of public meetings and newspapers, denial of the use of the mails. Indiscriminate arrest. All of these clamoring spell out the application of unreasoning prejudice. The logical end of such clamorings is the cry for facism, the cry for complete subjugation of the adherents of these antisocial movements. For this reason I submit that such so-called religious and political personalities—granted that they speak in good faith—are nevertheless false prophets and mad messiahs. They have manifested no capacity to appreciate the insight of St. Patrick, who, I am sure, under similar conditions, would have asked, "Why have these antisocial movements arisen?" I feel certain that he would have answered this question by saying, "Because there are maladjusted individuals in a maladjusted society created by selfish madmen posing as servants of society."

Preaching fear, preaching hatred, and preaching force are convenient escape techniques for those who are not courageous enough to face the facts or to delve into the causes which have created such social furor. In these crises we need patient men, humble men. We need men who will seek a solution of our social ills, men who will continue to love mankind. Such was the powerful and successful technique of our patron saint. Such lessons we glean from the readings of the glorious history which he has written. Modern false prophets, with their hopelessly inflated ego, have dulled their sensibilities. They can no longer understand the problems of the less fortunate.

I invoke the words of another Patrick, who, speaking before the Virginia Assembly, said:

"I have but one lamp by which my feet are guided, and that is the lamp of experience. I know of no way of judging the future but by the past."

Let us take those words to heart. History teaches us that repressive measures have never successfully stamped out doctrines and creeds, however disturbing.

The Romans by repressive measures sought to crush Christianity. Into the flames martyrs were thrown. The arenas ran with their blood. It was all in vain. The development and spread of Christianity flourished notwithstanding the efforts to suppress it.

In Ireland for more than 300 years our ancestors were compelled to suffer every known refinement of oppression, designed to discourage and destroy their aspirations for liberty and independence. With what result? The oppressors failed. Hatred and force are not and never were solvents of social ills; but love and understanding, as manifested by the life's work of our patron saint, can and will solve the problems of our day.

Oppression stimulates. It does not destroy. Force is a natural concomitant of materialistic philosophies. I will concede that force may crush the body, but such destruction merely frees the rebellious spirit and permits infection of other bodies which might otherwise remain immune.

Let me illustrate. The States of California and Washington have passed repressive measures against communism and anarchistic organizations. The result has been to add impetus to their growth.

Fascistic and communistic doctrines not only destroy the concept of liberty but they also tend to nullify the lessons which St. Patrick implanted in our hearts. Nevertheless, historical perspective compels us to counsel the avoidance of repression and persecution.

We know that diseases, whether social or physical, can never be cured by forceful suppression of symptoms. On the contrary, the only effective cure is the application of remedial measures to the causes responsible for the disease.

Unemployment, inadequate wages, intolerable working conditions, enforced poverty, and suffering are some of the stimuli which have caused men to respond with their fascistic and communistic philosophies. These are fertilizer for otherwise barren fields of fascism and communism. I say, destroy these deplorable conditions, and with the destruction undemocratic isms will die naturally and speedily.

How may we destroy these unhappy conditions? Certainly not by wishful thinking. It requires work, study; more work, more study, more understanding. If the learned, the cultured, the trained servants of society and the followers of St. Patrick, do not undertake the task of eradicating these enumerated disgraces, then the ignorant and the maladjusted will seek to solve their ills by their dangerous wishful thinking, which has already created fascistic and communistic regimes.

We are familiar with the life of St. Patrick. We profess the Christianity which he taught. Therefore, we must do all in our power to prevent that form of government which will turn back the progress of our civilization more than 2,000 years.

I trust that we will not ignore the lessons history teaches us.

America's leaders and her people must dedicate themselves anew to the understanding of the causes which brought about our social ills. Our people will not tolerate that type of superficial patriotism which preaches such anti-American doctrines as persecution and oppression.

If we ignore the eradication of our social evils—if indolence, selfishness, greed for money and power should induce us to discount their existence—then we must be prepared for the more drastic remedies of unscrupulous agitators and prepare ourselves and our posterity to endure the surgery of fascism and communism.

I plead, then, for the rugged honesty, the simple faith, the common sense of St. Patrick. By courageous and unselfish application of his teachings you and I will help to relegate fascism and communism to that fantastic company of hysterical experiments which the mind and temper of America have rejected as incompatible with American institutions.

Social Security

EXTENSION OF REMARKS

OF

HON. JAMES J. DAVIS

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, March 29, 1937

STATEMENT BY THE NONPARTISAN SOCIAL SECURITY COMMISSION

Mr. DAVIS. Mr. President, I ask unanimous consent to have inserted in the RECORD a statement with reference to social security by the Nonpartisan Social Security Commission, sponsored by the Hearst newspapers. On March 11 of this year, in a statement printed on page 496 of the Appendix to the CONGRESSIONAL RECORD, I referred to the purpose of this commission.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE COMMISSION ON COVERAGE

The Nonpartisan Social Security Commission, sponsored by the Hearst newspapers, authorizes the subjoined statement:

The commission suggests revision of the Social Security Act to correct the anomalous situation under which during the early years average payments under the old-age assistance or relief sections of the act will exceed payments made under the contributory old-age benefits sections. It believes that it is especially necessary to adjust this inequity during the critical introductory years. This comparison also suggests the advisability of initiating old-age-benefit payments before 1942, to those who have reached the age of 65, thus cutting down the interim applications for relief under the old-age-assistance sections of the act.

It would still be possible to accumulate a substantial contingency reserve by 1945 if present pay-roll taxes amounting to 2 percent were continued instead of being stepped up in 1940, as now provided, and if old-age benefit payments were started in 1940 instead of 1942, and were raised to a basis more nearly comparable with the schedule 25 or 30 years hence.

At the beginning of this year State old-age relief grants throughout the country averaged about $19 a month per recipient. In five States the average was more than $25 a month, and some Commonwealths are beginning to realize what a strain old-age relief on such a scale places upon their budgets. Of course, the payments under the Federal contributory old-age benefits program and the State grants under old-age relief are not on a par, since relief is subject to fluctuation and to proof of need. Despite this difference the commission believes that the Federal contributory old-age benefits program should not be put in an unfavorable light by comparison with noncontributory State old-age-relief programs, which, under the present act, are financed up to 50 percent (not exceeding $15 per recipient) by the Federal Government. A realistic relationship should be maintained between the monthly payments under these two programs. This is the more necessary during the next decade in order that in its introductory period, the Federal contributory program should not be judged adversely.

With a proper relationship between these two programs, old-age relief costs should contract commensurately as the coverage of the Federal contributory old-age benefits program increases. The total burden to the people of the country need not be increased, because additional benefit payments under the contributory program would lessen the need for old-age assistance in the future. Although the administrative difficulties of bringing in large groups now excluded, such as agricultural workers and domestic servants, might prevent including such groups in the near future, desirable as such a change would be, the commission thinks that some groups, such as maritime workers on vessels registered in this country and employees of national banks, could promptly be brought under the terms of the act. Recognizing that constitutional considerations exclude State and local governmental employees, the commission suggests that those States which have not already provided pensions for their employees make arrangements to do so. Many organizations and institutions, now excluded from the provisions of the Social Security Act at their own request, which may after more deliberate judgment desire to come under the provisions of the act, should be afforded an opportunity to be included.

More general extension of coverage under the old-age benefit provisions tends to reduce, but does not eliminate, the need for consideration of the problem of workers who switch from a covered to an uncovered occupation.

While recommending more adequate benefits for those retiring in the next decade or two, the commission emphasizes that the principle of relating the benefits received to previous payments and contributions should be maintained as an incentive to good employment records. Also tying the benefit payments to contributions takes them out of the realm of doles and keeps the factor of cost clearly before the public mind. The exception in favor of those now approaching the retirement age is justified by the fact that these older people were not afforded an opportunity to make contributions in their earlier years.

Our Airways Should Be the Best Equipped With Safety Aids of Any in the World

EXTENSION OF REMARKS

OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1937

Mr. RANDOLPH. Mr. Speaker, by authority of the Air Commerce Act of 1926, the Secretary of Commerce has designated and established throughout the United States a system of civil airways. In recent days I have talked with Members of this House about the navigation aids which have been established on these routes and the need for additional aids at this time.

From 1927, the year in which construction and maintenance of Federal civil airways was originated, until 1932, appropriations by the Congress for the Department of Commerce were sufficient to keep and they did keep our national system of civil airways sufficiently well equipped so that the airways were ahead of the art of flying.

Within the last 5 years construction and maintenance along the civil airways has not kept pace with improvements in the art of flying. "Gaps" exist along the airways in practically all sections of the United States. In fact, the necessity of filling these "gaps" would require some degree of Bureau of Air Commerce and/or Weather Bureau construction in each of the 48 States, in each of the Territories, and along our far-flung boundaries. In addition, construction of air-navigation facilities will some day need to be originated to aid our overseas and foreign air commerce in its valient competition with heavly subsidized air lines operating under foreign flags.

The Department of Commerce has, for some years, failed to receive appropriations adequate to keep our Federal airways abreast of the times. Every Congressman will undoubtedly be interested in knowing what gaps exist within his State. It is to this point, as well as to the necessity of Federal airways, that I wish to invite the attention of each Member for I feel that adequate action on this subject by the present Congress is imperative. My judgment is warranted, I feel, as a result of the special study made by a subcommittee of the Committee on Commerce of the Senate in relation to safety in air. The full report has been published as Senate Report No. 185 of the present Congress.

A master list of the gaps in our airways, arranged by States and Territories and showing both Department of Commerce and Weather Bureau aids to air navigation which are today lacking, appears on pages 1433 to 1444, inclusive, of part 3 of the hearings before the subcommittee of the Committee on Commerce of the United States Senate, published during the last few days. For the convenience of every Senator and Congressman in passing upon legislation now before this Congress, I ask each Member to get this list as a ready reference for use during future consideration.

Construction of "roads or channels in the air" in time of peace is as necessary both for peace and for war as is construction of navigable waterways and surface roadways.

Annually this country spends many millions of dollars upon a military air force. Without adequate roads or channels in the air it is possible that in time of emergency, if weather conditions be adverse, this air force may be grounded in the wrong place, thus depriving our Nation of reliance upon that arm of the national defense upon which our faith must be placed at the very outset of any future war.

In a modern nation civil airways are as essential for peace and for war as are waterways and roadways.

To entirely complete and equip all present existing civil airways throughout the United States would, if properly handled, require an appropriation smaller than our Federal Government spends every 10 days upon our Nation's roadways.

Knowing that each Member will undoubtedly be interested in the airway gaps that exist within his particular State, as well as throughout the United States at large, I am inviting specific attention of each of you to the published list on this subject for the reason that it covers such air navigational facilities as are believed to be desirable for the protection of human life, United States mail, and property through safety and efficiency in flight. The list provides a ready source of reference.

H. R. 5779 contains a contemplated appropriation that would foresee a cash expenditure during the fiscal year 1938 for aids to air navigation to an extent of about 25 percent of that amount which is now needed for safety and efficiency along Federal airways.

I would invite your attention particularly to pages 17 to 23 of the report of the Senate committee investigating safety in air (S. Rept. No. 185, 75th Cong., 1st sess.), for, in my opinion, this report sets forth with foresight the exact predicament in which this Nation now finds itself with reference to our airways both for civil and national defense.

Should the present Congress provide for 1938 for only approximately 20 percent of our existing national needs, then the other 75 percent of the country's needs will be left unguarded as to safety and efficiency of aircraft operations. I am sure you will agree with the words of the Senate committee, wherein it is stated on page 22 of the report:

> Human life is just as precious in one section of America as in another. Since it is practically impossible to predict where the next accident will occur * * * it is urged and recommended that an appropriation be granted during this present Congress to cover in full the construction and maintenance of all the necessary aids to air navigation. While the sum may appear large, its size fades into insignificance when we realize that the grand total represents approximately but a week's expenditure of our Bureau of Public Roads for surface highways.

The American public has been led to feel that accidents in scheduled air-line operation were more numerous in 1936 than in former years. Such is not the case. The number or quantity of accidents in 1936 did not increase over the situation heretofore existing. However, the number of fatalities among passengers on scheduled air lines did increase in 1936, due to more passenger fatalities occurring per accident.

In the future, as airplanes become larger, should serious accidents again occur, the number of fatalities per accident will be even greater. Hence the importance of each and every individual to air navigation is multiplied manyfold over that which formerly existed. America must lead the way by making these airways the safest in the world.

Industry's 10 Commandments

EXTENSION OF REMARKS

OF

HON. JAMES L. QUINN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1937

ARTICLE FROM ZION'S HERALD

Mr. QUINN. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include 10 commandments from Zion's Herald, organ of American Methodism.

The strife today between labor and industry, especially exemplified by the prevalence of the sit-down strikes, spread throughout the length and breadth of this land, have brought many attempts by economists, legislators, laborites, industrialists, and what-nots into public eyes with their varied solutions for the current problems. Some of these suggestions have been biased in the extreme, others have attempted to give an impartial answer to the burning question; none, however, have been so keenly accurate as Zion's Herald, liberal organ of American Methodism, who have brought forward as their solution to the problem a decalogue for industry that will prevent further dissension between those who labor and those who employ. The Herald's tenets are as follows:

[From Zion's Herald]

1. Thou shalt not exploit women and children.
2. Thou shalt not deny the laborer's right to more than a living wage.
3. Thou shalt not make a machine out of him.
4. Thou shalt not impair his health and steal his prospects in life by forcing upon him long hours and unhealthy working conditions.
5. Thou shalt not spy upon him or bear false witness against him.
6. Thou shalt not suddenly throw him out of work through the shut-down or lock-out, and then wash thy hands of all responsibility for him. Neither shall thou be unmindful of the helplessness of his old age
7. Thou shalt not decide critical issues in industry solely from the angle of money making.

8. Thou shalt not employ high-priced legal talent to find a way to beat the law whilst thou holdest up thy hands in holy terror over the sit-down strike.

9. Thou shalt cease looking at labor from the master-slave point of view and begin to regard industry as a stewardship for the common good.

10. Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy strength, and with all thy mind; and thy neighbor as thyself.

The Local Bank and Federal Reserve System

EXTENSION OF REMARKS

OF

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1937

Mr. PATMAN. Mr. Speaker, President Franklin D. Roosevelt made the following statement about the local banks:

We must by law maintain the principle that banks are a definite benefit to the individual community. That is why a concentration of all banking resources and all banking control in one spot or in a few hands is contrary to sound public policy. We want strong and stable banks, and, at the same time, each community must be enabled to keep control of its money within its own borders.

I agree with everything that President Roosevelt said in this statement. Local banks are indispensable, but it is my hope that they will remain local banks under local control. Recent disclosures indicate that 75 banks in the United States own assets equal to all the assets owned by the other 14,925 banks in the Nation. These large banks control many small ones and many large corporations. It has also been disclosed that 594 large corporations represent one-half of the corporate wealth of the entire Nation. A few men controlling a few banks that control a few large corporations have tremendous power and influence over the economic life and activities of all the people. It is my belief that we should encourage local banks and local business and carry out the views of our great President, who says "each community must be enabled to keep control of its money within its own borders."

USE OF GOVERNMENT'S CREDIT FREE

The Federal Reserve bank statement for the 12 banks issued March 24, 1937, discloses that the 7,000 member banks have paid in capital to the 12 Federal Reserve banks amounting to $132,236,000. That represents the entire investment of the 7,000 member banks of this country in the 12 Federal Reserve banks. They have been receiving a 6-percent dividend on this stock every year. If it is not earned any one year, it is paid out of surplus. On this small capitalization these banks do a business aggregating two hundred and three hundred billion dollars a year. On this capitalization of $132,000,000 these 12 Federal Reserve banks pay salaries and expenses aggregating about $30,000,000 a year; some of these salaries, as high as $40,000 and $50,000 each.

Obviously, these 12 Federal Reserve banks cannot successfully operate and do the enormous business that they are doing without the use of the Government's credit. This credit is extended to them without charge.

IDIOTIC SYSTEM

No corporation or system that is owned solely by private corporations should have the money issuing privilege of our Government. These 12 Federal Reserve banks have that privilege. It should be taken away from them and restored to a governmental agency. It is idiotic for the Government to permit Government bonds to be purchased by the use of the Government's credit and then continue to pay interest on these bonds after they are so purchased. It is like furnishing a neighbor a certain amount of money to pay a mortgage on your home and after the mortgage is paid the neighbor has it transferred to himself, and you continue to pay interest on the mortgage after it is paid by the neighbor to whom you furnished the money for its liquidation.

LOST AND DESTROYED MONEY

Until the few large banks obtained so much control over the monetary affairs of our Government, all the money that was issued was issued by the Government. It consisted of paper money and coins. When that was true and a bill was lost or destroyed, the Government profited that much. The Government has profited several hundred million dollars that way. Now, however, most of the money that is outstanding is Federal Reserve notes, and if one of these notes is lost or destroyed, the Federal Reserve bank issuing it will profit to the extent of the amount of the note instead of the Government, as heretofore.

I recall in days gone by when many of the larger concerns, especially the sawmill companies of the South, would use scrip or paper due bills, sometimes called commissary checks, instead of money. It was generally conceded that about 10 percent of this scrip would be lost each year, and the concern issuing it would profit to that extent. This scrip was good at the company's store or commissary, and sometimes was recognized in stores in nearby towns and villages, depending upon the ability of the company to redeem it. I am sure that 10 percent of the money that is issued by the Government is not lost each year, but I am equally sure that a large amount of it is lost, and this loss should inure to the benefit of the Government of the United States instead of to a system owned by private banks since it is issued by the Government and guaranteed by the Government.

RESERVE REQUIREMENTS

Until last summer a bank could lend $12 for every dollar of reserve that it owned. If a customer of a bank should deposit a thousand dollars, the bank could extend loans aggregating $12,000 based upon this $1,000 of reserves. Congress passed a law which permitted the reserve requirements to be increased 100 percent. Acting under that law, the Board of Governors of the Federal Reserve banks issued an order last July to the effect that thereafter a bank could loan only $8 to every one that it had in reserve. Only recently the Board of Governors of the Federal Reserve banks took the final step by increasing the reserve requirements the full 100 percent, which means that hereafter a member bank of the Federal Reserve Banking System can lend only $6 for one.

It is well known that very few people who are customers of banks demand actual money. Most of the business, about 90 to 95 percent, is done by checks. Experience has shown that a bank is safe as long as it has $1 in its vault to support $12 in deposits. Instead of the reserve requirements being used now for the purpose of protecting the depositors, they are used to prevent the banks from unduly extending or inflating credit by making loans. That is the object of the recent change in reserve requirements, and not caused by reason of a desire on the part of the Board to protect the depositors as they do not need this protection.

The Federal Reserve Act requires these member banks to carry their reserves in Federal Reserve banks.

Examining the statement of the 12 Federal Reserve banks of March 27, 1937, it will be discovered that they claim to have deposits of about $7,000,000,000. Practically all of this is deposits from member banks; it is their reserve account. If the Federal Reserve banks are privileged to use this reserve account of the member banks they are really destroying the object of creating a reserve. That reserve account is there to protect the depositors, not to be used by Federal Reserve banks. It is supposed to be cash available when needed. Under the old system a bank would carry this reserve in its own vault or with its correspondent bank. Some State laws require a certain percentage of the reserve to be carried in a bank's own vault—in the case of State banks. The Federal Reserve Act requires this reserve to be carried in a Federal Reserve bank instead of the bank's own vault. In determining the assets of Federal reserve banks, this money should be impounded or set aside; it should be earmarked as a reserve to protect the deposits in member banks, and should not be pointed to as an asset of these Federal Reserve banks.

GOVERNMENT SHOULD OWN FEDERAL RESERVE BANKS

The 12 Federal Reserve banks should be taken over by the Government and operated in the interest of all the people, banks, industry, agriculture, and commerce. No private corporation or corporation owned by private corporations should have the right to issue money.

OTHER INFORMATION

In the CONGRESSIONAL RECORD for February 24, 1937, commencing at page 1564 will be found a discussion of this subject and a table disclosing the names and locations of the 109 largest banks. My extension of remarks appearing in the Appendix to the CONGRESSIONAL RECORD commencing at page 647 also deals with this subject.

Power and Politics

EXTENSION OF REMARKS

OF

HON. W. D. McFARLANE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1937

ADDRESS BY HON. W. D. McFARLANE, OF TEXAS, TO THE LEAGUE OF INDUSTRIAL DEMOCRACY ON FEBRUARY 26, 1937

Mr. McFARLANE. Mr. Speaker, under permission given me I desire to extend my remarks in the RECORD and insert a copy of the speech I delivered at the conference on The Social Control of Power, sponsored by the League of Industrial Democracy, Friday evening, February 26, at a banquet at the National Press Club, Washington, D. C., which is as follows:

I appreciate the opportunity of meeting with you this evening and of being given the privilege of discussing this important subject.

Right now the most important topic of discussion before the American people is the President's recommendations regarding the Supreme Court. I believe the Supreme Court issue can be more easily understood by studying the decisions of the Court and the effect they have had upon the economic progress of our country.

With this in mind, let me refer to the progress we have made in recent years and the regulation and control of the power interests.

THE LOBBIES IN TEXAS

In discussing this question I hope you will pardon me for relating my personal experiences, but I believe this, after all, is the best authority.

I received my first baptism of fire 15 years ago when, as a member of the State Legislature of Texas, I actively supported legislation to regulate the Power Trust. It did not take me long to realize what a tremendous task we had before us in trying to enact legislation to regulate and properly control the utilities. It was in this battle that I first noticed how their lobby and its different kinds of propaganda really began to function. I found they had the best personal-relations men obtainable, some of whom were ex-members of the legislature, and all of whom knew the likes and dislikes—the complete habits and background of each member of the legislature better than any member even knew himself.

HOW LOBBIES FUNCTION

I found they had regular meetings at which they thoroughly discussed, through careful check, each member's attitude and what progress they were making in their battle to defeat this legislation. They knew the strength and weakness of each member of the house and senate. They knew the kind and character of entertainment that would best appeal to him—whether it was wine, woman, or song. Through their local representatives they knew intimately his business and church connections, his entire political background, his friends as well as his enemies. They were liberal in their entertainment, were always anxious to buy your meals, take you to picture shows, or give other kind of entertainment that they thought was acceptable.

It does not take a Member long, who watches the personal and political record made by his colleagues, to fairly well size up the situation as to whether the Member is what we call a conservative or progressive in his legislative way of thinking, and after a few weeks of such service the Member pretty well knows the situation.

I became greatly interested and wondered why we had so many apparently good men with progressive ideas on other subjects, who were bitterly opposed to regulation of the utilities. My investigations soon gave me satisfactory answers.

I found in our State legislature what I have later found exists in most of our State legislatures, as well as in the National Congress, a well-organized lobby, sent there to protect their interests. I found the railroads, the different utilities, the oil companies, the book companies, and other business interests were working hand in hand to protect their every interest. I found that these different groups would contribute to the campaign expenses of any and all legislative candidates who would let them whom they felt might be elected, so that they won, regardless of who was elected. Then, when these different lobby groups met at the beginning of the legislative session, they would check the different members and would cooperate with each other in the information and influence they had on the different members, and in this way they were able to exert their strongest influence in helping each other to defeat the legislation in which they were interested.

I found these different lobby groups, especially the Power Trust, spending large sums of money in advertising their monopoly through the press. Recent Federal Trade Commission hearings report that from $25,000,000 to $30,000,000 annually was thus being spent in advertising with the press at the time of their hearings. While the newspapers take this money for Power Trust advertising, which seems to completely control most of them on the power issue, they have managed to lobby through Congress their franking privilege, which saves them many millions of dollars annually in delivering their papers free in their home county, and this free service is given on the theory of the educational value of the newspapers, and we find most of the papers controlled by the Power Trust will carry only the Power Trust side of this issue, and the same is true of the other great issues; therefore, this free franking privilege, it seems, should be denied these papers, it being propaganda instead of educational. I found we had university professors and others to appear before our committees and their lobby organizations would write strong letters opposing the passage of regulatory legislation. I soon found that they knew more different ways of exerting pressure through my friends and otherwise than I had ever dreamed of. I received telephone calls, telegrams, letters, and petitions galore urging defeat of the legislation.

THE PROPAGANDA OF THE POWER TRUST

Little did I realize how far-reaching their campaign of propaganda had gone until after I had had the opportunity of studying the report of the Federal Trade Commission, comprising some 100 volumes, made as a result of the passage of Senate Resolution No. 83 of the Seventieth Congress.

After 4 years' service in the lower house in Texas, I was elected to the State senate, and it was in this campaign for the senate that I had another opportunity to view the different kinds of power the Power Trust can exert in political campaigns.

My opponent in this campaign was a member of the State senate, and his record of service was very favorable to the special interests. It was an expensive campaign, the Power Trust and their friends exerted every possible influence to elect him; however, through the loyalty of my friends we won. It was then that I first felt the power of injunction. Suit was filed and my name enjoined from being placed on the general-election ballot. However, after considerable expense the Supreme Court decided in my favor.

My election to the senate gave me another 4 years' service of trying to enact progressive legislation to regulate the power industry, etc., but without success. The Power Trust has never yet lost a battle in our State on this issue. Texas is one of the five States in the Nation that has no adequate regulatory commission to regulate our utility rates. Through their many and varied lobbying activities they have so far been able to block the enactment of any regulatory legislation that is worthwhile to our people, and I find today that the Power Trust in Texas seems to be well entrenched there as elsewhere and thoroughly capable of defeating any kind of regulatory legislation.

PROMISES AND PERFORMANCE

Candidates for Governor and other State officials in Texas for years have run on platforms of regulating the utilities, enforcement of our antitrust laws, and reducing taxes, etc., and the Power Trust lobby, in conjunction with others, seem to go right on defeating this program, and shifting more all the while their tax burden on to the poor.

I have been inspired during my service in Congress by the kind and character of leadership we have had in the White House in our great President, Franklin D. Roosevelt. His record on power is well known and needs no explanation. We are all familiar with the courageous fight he has made to set up yardsticks, Nation-wide, and to otherwise adquately regulate, if possible, the power industry. We have lived to see the construction of T. V. A., Boulder Dam, and now other great power projects on the West coast, such as Grand Coulee Dam, Bonneville Dam, and others too numerous to mention. We know how cheaply electricity may be generated and distributed, and the people of America will not, and should not, be satisfied with anything less than the T. V. A. yardstick rates made effective Nation-wide.

Our fight with the Power Trust is not won; in fact, as I see it today we are at the cross road. While T. V. A. and other Government yardsticks have been tremendously successful in demonstrating how cheaply electric current may be produced—for less than one-half cent per kilowatt—the chairman of the board, Dr. Morgan, wants to compromise with the Power Trust, and urges acceptance of the Power Trust's latest baby—their power-pooling arrangement whereby Government power lines, etc., would be combined with private lines—thus destroying any chance to adequately show how cheaply power is being produced and distributed to the consumers under Government yardstick plants. We must fight to stop any such further power-pooling arrangements. I have offered legislation, H. R. 4203, which through constitutional taxation would establish the T. V. A. yardstick rates Nation-wide. So if the Power Trust is really in earnest in pooling their interests,

they should help enact this legislation. I urge your help in securing approval of this legislation through the House Ways and Means Committee.

Rural electrification has not made the progress it should. Many farm communities, crying for electricity, have not yet been served and cannot receive the benefit of electricity under the present set-up.

P. W. A. POWER PROGRAM SABOTAGED

Practically the entire Public Works Administration program has been sabotaged by the Power Trust through injunction.

The city council at Wichita Falls, Tex., the largest city in my district, in 1933 unanimously requested me, after being elected on that issue, to assist them to secure a P. W. A. loan and grant with which to construct a municipal light plant for their city. Two elections were held, after the most bitter kind of a fight, in which some of the people were allowed to vote on whether or not the city would accept $1,260,000 loan and a grant of $490,000 with which to build a municipal light plant. All of the tricks known to the Power Trust were brought into play to defeat this election. Both daily papers there were openly charged with being owners of large blocks of Power Trust stock and they never denied this charge. These newspapers did everything possible through their news items and editorial columns to defeat the election. A so-called Citizens Taxpayers Committee was organized by the Power Trust, the same as they organize everywhere in such fights, and several hundred paid workers were employed to walk the streets and ring the home door bells to oppose this election. The Electric Bond & Share Co.'s national advertisers were brought in to direct the advertising campaign. The Power Trust employees and all of their so-called stockholders quit their work and made a house-to-house canvass of the city to defeat this election.

It was known that the Power Trust had sold more of their preferred stock in this city than any other city its size in Texas, and of course each noteholder felt it a personal interest and got out and worked to defeat the election. Many speeches were broadcast over the radio and daily ads and news items were carried in the papers there misrepresenting the facts to the people. Hundreds of the unemployed were unable to buy poll taxes in order to vote and the Power Trust again came in with their injunction and enjoined the city to stop the transfer of funds from the water department so that employment could be given people, sufficient with which to buy poll taxes, so they could vote. Several hundred Negroes were hauled by the Power Trust to vote, and thousands of misrepresentations were made by the workers of the Power Trust to defeat the election, and this they did by 267 votes.

I have spoken on the power question on the floor of Congress several times and have put complete information into the RECORD showing just how the Power Trust defeated these two municipal light-plant elections at Wichita Falls.

POWER THROUGH INJUNCTION

The fight made at Wichita Falls is typical of similar fights made throughout the Nation to give the people lower light rates, and practically in each and every instance the people's rights have been blocked by the Power Trust through injunction.

I hold in my hand a letter from Col. Horatio B. Hackett, Assistant Administrator of the Federal Emergency Administration of Public Works, dated February 16, 1937, which gives a complete summary of the outcome of all municipal light plant projects attempted to be constructed under this Administration.

I requested this information last week after the Power Trust, in my district, Texas Electric Service Co., a subsidiary of Electric Bond & Share Co., had enjoined the loan and grant for Electra, Tex., for $221,818 for the construction of a municipal light plant. This same Power Trust last year, after the citizens had voted more than 7 to 1 to build a municipal light plant, enjoined the city from building the plant on the grounds that the city was not financially able to do so. They now enjoin the city from constructing their light plant on the grounds that they have set forth in their many injunction suits, Nation-wide, that it interferes with their private monopoly.

I will read you this letter of Col. Hackett, which gives you the status of the different municipal light plant projects for the Nation:

FEDERAL EMERGENCY ADMINISTRATION OF PUBLIC WORKS,
Washington, D. C., February 16, 1937.

Hon. W. D. MCFARLANE,
Member of Congress.

MY DEAR MR. MCFARLANE: In response to your telephonic request of Mr. Clark Foreman regarding the status of the allotment to Electra, Tex., our docket Texas 2004–P–D, I can inform you that any payment of funds for this project has been restrained by order of the District Court of the District of Columbia. This order was issued February 12. A copy is attached herewith for your attention.

In response to your further question, this order of the court brings up to $27,491,863 the amount of money which is held in suspense by court injunction against P. W. A. Altogether 53 projects are in this category, with 4 in addition on which injunctions have been modified to allow a limited amount of work to proceed. It is estimated that these injunctions are preventing 20,847 people from being employed on the projects and approximately 80,000 more from being employed in the production and transportation of the various materials which would be necessary for the construction.

A good many additional projects have been enjoined, but, because of the expense and delay of the litigation, or for other reasons, the applicants have withdrawn their applications and the allotments have been rescinded. Injunctions have been granted in other cases even before an allotment has been made.

Based on an actual study of six completed P. W. A. power projects made by the Bureau of Labor Statistics, more than four men were employed indirectly on these projects for every one employed on the site. These projects were steam or diesel plants, whereas some of the enjoined allotments are for hydro plants and for the hydro plants the ratio would not be so high. However, the general ratio for all P. W. A. has been found by the Bureau of Labor Statistics to be 2.5 employed off the site for every 1 employed on the site.

It was hoped that litigation on these projects would have been settled by a Supreme Court decision in the *Duke Power Co.* v. *Greenwood County case.* This case was heard by the Supreme Court last fall, but no decision was made on the merits, as the Supreme Court found that the lower courts had made certain procedural errors, and therefore this case, which had already been in the courts for nearly 3 years, was returned to the district court of South Carolina for retrial.

In all four of the cases of this nature that have been decided by the circuit courts of appeal the decision has been in favor of the Government. Every effort is being made to get another case before the Supreme Court this term, but at present there is little prospect of achieving this, as the nearest cases are two which were heard before the Court of Appeals of the District of Columbia on February 15. Judging by the delays which have faced this type of litigation in the past, that will not allow time for this case to get to the Supreme Court this term, and therefore there is probably no likelihood of getting a decision on them before next Christmas, even if further procedural technicalities are not discovered in those cases.

In this connection I think I should add that the procedural errors which caused the Supreme Court to remand the Greenwood County case were not due to any fault of the Government attorneys and they were not points raised by either side in the litigation. All the evidence either side had desired to introduce was before the Supreme Court at that time, but the Court sent the case back, saying that there was "no exigency", although the consequent delay means, as above noted, that thousands of persons will remain unemployed. Needless to say, the P. W. A. will continue to push this litigation with all speed, as we are very desirous of having the question determined one way or the other so that the money which Congress has appropriated may serve the purpose for which Congress appropriated it.

Sincerely yours,

HORATIO B. HACKETT,
Assistant Administrator.

Thus we find that the Power Trust, through injunction against P. W. A., has tied up $27,491,863 in money for municipal light plant construction and has deprived 100,847 people from being employed. We had hoped that the Supreme Court would at least render a decision in the *Duke Power Co.* v. *Greenwood County case,* advising us the status of the future of P. W. A. and all power projects thereunder, but, although the case was fully developed and had been pending for nearly 3 years, the Court refused to pass on the merits of the case and sent it back for retrial, saying "no exigency", and now it seems we must wait another 3 years, if these nine old men are allowed to continue to construe the law and thus in truth and in fact enact our laws of Congress, for the power to construe is the power to make our laws; and what is true of power legislation is also true of minimum wages, maximum hours, child labor, of legislation for increasing the consumer-purchasing power, for the farmer, laborer, social security for the aged, for the crippled, the blind, etc.; in fact, the entire program of this administration and all legislation enacted under this administration hangs in the balance.

The Power Trust and their political manipulators are yet to be conquered.

The Sit-Down Strike

EXTENSION OF REMARKS
OF
HON. MARTIN DIES
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Monday, March 29, 1937

STATEMENT BY WILLIAM GREEN, PRESIDENT OF THE AMERICAN FEDERATION OF LABOR

Mr. DIES. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following statement of William Green, president of the American Federation of Labor, and also sections 5299 and 5300 of the Revised Stat-

utes, which, in my opinion, makes it mandatory for the President to stop sit-down strikes:

William Green, president of the American Federation of Labor, telegraphed the following statement to headquarters to be given to the press:

"The sit-down strike has never been approved or supported by the American Federation of Labor because there is involved in its application grave implications detrimental to labor's interests. It must be disavowed by the thinking men and women of labor.

"First, public opinion will not support sit-down strikes. That means labor loses public support when any part of it engages in sit-down strikes. Without such support organized labor cannot win strikes or establish and maintain itself as a vital force in the economic and industrial life of the Nation. Labor cannot afford to lose the support of public opinion.

"Second, temporary advantages gained through sit-down strikes will inevitably lead to permanent injury. The public generally will not long tolerate the illegal seizure of property. If persisted in, it will, through State and Federal lawmaking bodies, force the enactment of legislation providing for compulsory arbitration, the incorporation of unions, and other repressive forms of legislation which will deprive organized labor of freedom of association and liberty of action within the limitations of both moral and statutory law. Such action would be a severe blow to labor. Labor should refrain from engaging in sit-down strikes and maintain its freedom of action and association rather than experiment with it and as a result be subjected to oppressive legal regulation and compulsory arbitration. Labor, therefore, runs the risk of losing more than can be gained by engaging in sit-down strikes. It must be free to strike against injustice and oppression and for higher wages and better living standards. It must be permitted to picket when strikes occur. It may be greatly restricted and perhaps denied the exercise of these elemental rights if it persists in engaging in sit-down strikes.

"I therefore publicly warn labor against this illegal procedure. Both personally and officially, I disavow the sit-down strike as a part of the economic and organization policy of the American Federation of Labor."

[From the Revised Statutes of the United States, 2d ed., 1878]

SEC. 5299. Whenever insurrection, domestic violence, unlawful combinations, or conspiracies in any State so obstructs or hinders the execution of the laws thereof, and of the United States, as to deprive any portion or class of the people of such State of any of the rights, privileges, or immunities, or protection, named in the Constitution and secured by the laws for the protection of such rights, privileges, or immunities, and the constituted authorities of such State are unable to protect, or, from any cause, fail in or refuse protection of the people in such rights, such facts shall be deemed a denial by such State of the equal protection of the laws to which they are entitled under the Constitution of the United States; and in all such cases, or whenever any such insurrection, violence, unlawful combination, or conspiracy opposes or obstructs the laws of the United States, or the due execution thereof, or impedes or obstructs the due course of justice under the same, it shall be lawful for the President, and it shall be his duty, to take such measures, by the employment of the militia or the land and naval forces of the United States, or of either, or by other means, as he may deem necessary, for the suppression of such insurrection, domestic violence, or combinations.

SEC. 5300. Whenever, in the judgment of the President, it becomes necessary to use the military forces under this title, the President shall forthwith, by proclamation, command the insurgents to disperse and retire peaceably to their respective abodes within a limited time.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. HARRY FLOOD BYRD

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 30 (legislative day of Monday, Mar. 29), 1937

RADIO ADDRESS BY HON. CARTER GLASS, OF VIRGINIA, ON MARCH 29, 1937

Mr. BYRD. Mr. President, I ask unanimous consent to have published in the RECORD the notable address on the proposal to reorganize the Federal judiciary, delivered last evening over the radio by my colleague the senior Senator from Virginia [Mr. GLASS].

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The speaker this evening is CARTER GLASS, senior Senator of Virginia in the Congress of the United States. Never in my career until now have I ventured to debate before the public a measure pending in the Senate and awaiting decision there; but the proponents of the problem to which I shall address myself tonight have seemed fearful of a deliberate consideration of the proposal to pack the Supreme Court of the United States; they have defiantly avowed their purpose to take the discussion into every forum, with the unconcealed intention of bringing pressure to bear on Members of Congress to submit obediently to the frightful suggestion which has come to them from the White House. The challenge has been accepted by those who oppose the repugnant scheme to disrupt representative government in the Nation; and the battle is on to the end.

Confessedly I am speaking tonight from the depths of a soul filled with bitterness against a proposition which appears to me utterly destitute of moral sensibility and without parallel since the foundation of the Republic. However, I am not speaking my own mind alone; the character and intelligence of the Nation are aroused and I am reflecting as best I can the indignant protests of thousands upon thousands of individual citizens whose telegrams and letters to me as a single Senator are on the desk before me as an inspiration against any faltering in this time of extreme peril to that charter of our liberties which Gladstone pronounced "the most wonderful work ever struck off at a given time by the brain and purpose of man."

There has been some talk about "organized propaganda" against this unabashed proposition to pack the Supreme Court for a specified purpose! Propaganda was first organized in behalf of the scheme right here in Washington and has proceeded with unabated fury from the White House fireside to nearly every rostrum in the country.

Political janizaries, paid by the Federal Treasury to perform services here and charged with no official responsibility for determining questions affecting the Nation's judiciary, are parading the States in a desperate effort to influence the public against the Supreme Court of the United States. One of these visionary incendiaries spoke recently in a Southern State and exceeded all bounds of rational criticism in his vituperation of the eminent men who have served with great distinction on the Supreme Bench. He is said to have been applauded by the audience of his partisans, which caused me to wonder if they could have known the type of person to whose unrestrained abuse of the Supreme Court and the great jurists who constitute its membership they approvingly listened. Did they know that he recently reproached the South for providing separate public schools for the races; that he urged repeal of every statute and ordinance of segregation; that he practically committed the administration at Washingtn to a new force bill for the South, declaring that not since Lincoln's day has it better been realized than now the necessity of laws to strictly enforce the three post-Civil War amendments to the Constitution which kept the South in agony for years and retarded its progress for well-nigh half a century? This infuriated propagandist for degrading the Supreme Court practically proposes another tragic era of reconstruction for the South. Should men of his mind have part in picking the six proposed judicial sycophants very likely they would be glad to see reversed those decisions of the Court that saved the civilization of the South and in spite of the menace of passionate partisans, with their violent threats to "reorganize" the Court, prohibited the seizure and confiscation, without pay, of the estates of private citizens. It was the Supreme Court of the United States that validated the suffrage laws of the South which saved the section from anarchy and ruin in a period the unspeakable outrages of which nearly all the Nation recalls with shame.

This, however, is merely an incidental aspect of the case, reflecting my intense personal resentment and sharply revealing the sectional animosity of some of the fierce defamers of the Supreme Court. Infinitely graver questions are presented. This entire Nation is aroused over the many definite proposals to reverse the deliberate judgments of an independent Court and to substitute for them the previously pledged opinions of judicial subalterns. With men of this undisguised radical type campaigning the country, and freely applying their wretched opprobriums to the Supreme Court, these who resist the shocking movement are impertinently reproached with "organizing propaganda." I challenge any proponent of this packing contrivance to examine the thousands upon thousands of personal letters and telegrams sent to me and find in them anything but individual indignation at the proposal to make an Executive puppet of our supreme judicial tribunal. For myself, I think we should right now have "organized propaganda" in the sense that the men and women of America who value the liberties they have enjoyed for 150 years should, with unexampled spontaneity, exercise their constitutional right of petition, and with all the earnestness of their souls protest to Congress against this attempt to replace representative government with an autocracy.

Aside from these observations, let us consider the glaring proposal of the White House to pack the Supreme Court immediately with the President's own legal adherents for a specified purpose, and to enable him during his present term, even should there be not another, to entirely reconstitute the Court with persons entertaining his extraordinary views of government. The Attorney General in inaugurating "organized propaganda" in behalf of the project undertook to identify the names of Washington, Jefferson, and other eminent Americans with expedients akin to the unprecedented proposal of the President. Already I have publicly pronounced the assertion an indefensible libel on the fame of these great men, and was glad to note that the Attorney General omitted in his statement before the Senate Judiciary Committee to repeat the aspersion. The White House proposal is without precedent in the history of American jurisprudence. Its consequences portend

evils beyond the anxiety of any person concerned for a decent administration of justice in this country. There is a precedent, dating back to the infamous Star Chamber processes of Great Britain, to which I shall presently refer.

George Washington, of course, was compelled to nominate a full Supreme Court at the very beginning of our national life, but no reputable person charged then or has ever believed since that Washington "packed" the Court with men pledged to any certain line of conduct beyond faithful compliance with the required oath to uphold the Constitution in the sight of God, uninfluenced by the machinations of politicians or the self-interests of any group of men intent on draining the Federal Treasury. The men he selected for Chief Justice and associates were not only persons of eminence in the profession of the law, but in character literally incapable of going on the bench to submit obediently to Executive decrees.

I here and now challenge the proponents of this startling scheme to pack the Supreme Court for the avowed purpose of validating acts of Congress already decided to be unconstitutional to produce one word written or spoken by Thomas Jefferson in advocacy of such a thing. If there ever was a public man who, aside from an unimpeachable character, could have been suspected of a desire to do such a frightful thing, it was Thomas Jefferson. He hated John Marshall, Chief Justice of the Court, who was his kinsman, and Marshall hated Jefferson. The latter bitterly condemned Marshall's opinions. Recently emerged from under the tyranny of a mad King, Jeffersonians of the period dreaded the transformation of this Republic into a monarchy. They suspected Marshall of a desire, if not the purpose, to do this "step by step, insidiously", through judicial interpretations. They knew Alexander Hamilton, who was Marshall's powerful political associate, could well wish it to be done. Jefferson was incensed at the obiter dicta in Marshall's famous opinion in the case of Marbury against Madison and other notable causes. Perpetually afterward he bitterly censured this and other opinions of Marshall. However, for 6 years after the delivery of Marshall's celebrated federalistic opinion, concurred in by the Court, Thomas Jefferson was President of the United States, with full opportunity to propose reorganization of the Supreme Court to compel obedience to his views; but, with overwhelmingly supporting Congresses, he never then or at any time in all his life would have done such an abominable thing.

Aside from his clear discernment of the vital importance of the checks and balances incorporated in the Constitution and his conception of judicial propriety, Jefferson would never have suggested such a thing for the reason subsequently stated with characteristic clarity and force by Woodrow Wilson when he said:

"It is within the undoubted constitutional power of Congress to overwhelm the opposition of the Supreme Court on any question by increasing the number of Justices and refusing to confirm any appointments to the new places which do not promise to change the opinion of the Court. But we do not think such a violation of the spirit of the Constitution is possible, simply because we share and contribute to that public opinion which makes such outrages upon constitutional morality impossible by standing ready to curse them."

"Standing ready to curse them!" That vividly describes the attitude of thinking men and women everywhere in America today toward this hateful attempt to drive eminent jurists from the bench in order to crowd into the Court a lot of judicial marionettes to speak the ventriloquisms of the White House. What Woodrow Wilson pungently described as an expedient to "overwhelm the Supreme Court" by "an outrage upon constitutional morality" is, in my view, the exact thing now proposed; and it requires little astuteness to predict with confidence that the prophecy of Wilson would come true and the curses of the American people, in the end, would be visited upon those responsible for this device to deprave the Supreme Court and to make a political plaything of the Constitution of the United States.

In like tenor with views entertained and frequently expressed by Woodrow Wilson were the profound convictions of another illustrious Democrat of the modern era. A practical student of government, a lover of his country, preeminent for courage and common sense, Grover Cleveland had a reverential regard for the Constitution and the courts. Nothing on the earth could have induced this stern patriot to lay impious hands upon either or to say or do anything designed to inflame uninstructed public opinion against them. Just prior to his second election to the Presidency, Cleveland made a notable address at a centennial celebration of the Supreme Court, reciting the sacrifices of the American people to be free and admonishing his hearers that the writers of the Constitution knew from bitter experience how readily instrumentalities of government were prone to trespass upon the liberties of the governed.

Cleveland pointed out that, nevertheless, the founders of the Republic "calmly and deliberately established as a function of their Government a check upon unauthorized freedom and a restraint upon dangerous liberty." Said he, "the attachment and allegiance of the founders to the sovereignty of their States were warm and unfaltering; but that did not prevent them from contributing a fraction of that sovereignty to the creation of a Court which should guard and protect their new Nation, and save and perpetuate a Government which should, in all time to come, bless an independent people. Let us be glad in the possession of this rich heritage of American citizenship, and gratefully appreciate the wisdom and patriotism of those who gave to us the Supreme Court of the United States."

Telegram after telegram, letter after letter, sent me by the thousands, have said, "God bless the Supreme Court." But who wants God to bless a packed Supreme Court? Who wants to invoke divine blessing on a Court not constituted to put "a check upon unauthorized freedom and restraint upon dangerous liberty", but reorganized to validate acts of Congress in contravention of the Constitution as now interpreted and to expound the Constitution in subservient obedience to the whims or obsessions or misguided judgment of a President of the United States? Woodrow Wilson said such a Court and those responsible for it would receive the curses of the American people. Grover Cleveland said the Supreme Court was created for no such sinister purpose. Our God still being in the heavens, it is my belief He would regard as unhallowed any invocation of His blessing on a Court like that. We would better abolish the Supreme Court and, by the required process, do away outright with the Constitution if they are to be made the playthings of politicians.

What did Cleveland mean by checks and balances against "unauthorized freedom and dangerous liberty?" He was uttering a monition against legislative or Executive invasion of the rights of the States, reserved to them under the Constitution, and to be "guarded and protected" by the Supreme Court. He meant what a Governor of a great State, afterward President of the United States, meant when 7 years ago he made a vehement plea for respecting State rights and unsparingly denounced government by "commissions and regulatory bodies and special legislation." The Governor warned that:

"To bring about government by oligarchy—masquerading as democracy—it is fundamentally essential that all authority and control be centralized in our National Government. We are safe from the danger of any such departure from the principles on which this country was founded just so long as the individual home rule of the States is scrupulously preserved and fought for whenever they seem in danger."

This was Franklin D. Roosevelt in March 1930. When before, may I venture to ask, in the history of the country has this Nation more nearly approached the situation thus deplored? With Federal regulatory bodies in every community of the States and Federal bureaus in Washington bursting the bounds of marble palaces and overflowing into business houses and private homes, and with the States required supinely to submit their legislative statutes to the approval of bureaucratic boards here before they can get back a pittance of the prodigious sums picked from the pockets of their people in the form of taxes, State rights, as well as the security and independence of private enterprise, are fast disappearing.

With private property seized at will; the courts openly reviled; rebellion rampant against good order and peace of communities; with governments pleading with mobocracy instead of mastering it, we seem to have reached that period of peril which Governor Roosevelt visioned 7 years ago. This, with other dangerous evils, contrived or connived at, by governments, is the real crisis which faces the Nation and cannot be cured by degrading the Supreme Court of the United States.

What does this Court-packing scheme signify if it does not reflect the fury of its proponents against the Supreme Court of the United States for certain of its recent decisions asserting the rights of the States and individuals and private business under the law and prohibiting the proposed invasion of these by ill-digested congressional legislation, largely devised by inexperienced and incompetent academicians? That is precisely what it is all about. Had the judicial decisions sanctioned these rankly unconstitutional measures, who believes there would have been this unrestrained abuse of the Court and this unprecedented attempt to flank the Constitution by putting on the bench six judicial wet-nurses to suckle the substance out of the opinions of jurists whose spirit of independence keeps pace with their profound knowledge of the law.

That the purpose of the Court project has accurately been stated by me is no longer in serious question. The President in his message to Congress implicitly conceded the proposition when he said if given legislative sanction for this irregular scheme there would be no necessity of appealing to the people to so amend their Constitution as to authorize the things for which the Supreme Court had said there is now no authority, as well, perhaps, as unmentioned schemes of "unfettered" delegation of legislative power. That can mean nothing else than that it was then the Executive determination to select six new judges who would validate acts of Congress already pronounced unconstitutional and contemplated acts of a similar kind. Every speech made since, whether at the fireside or elsewhere, has confirmed this interpretation of the President's message to Congress. If that, in plain terms, isn't "packing the Supreme Court" for well-defined purposes, I confess my inability to supply a better definition.

Moreover, the advocates of the scheme themselves reveal this purpose—some of them warily enough to have produced merriment in the committee room, while others have bluntly, and with evident lack of shame, said outright that this is the ghastly object of the proceeding. Still others specify some of the voided acts they propose to revive and render valid by the votes of the six new Justices whom the country is assured will be selected for their "bias". One of these acts, which lost American farmers their export markets and necessitated the importation of foreign foodstuffs to feed our own people, was nullified by two-thirds of the Supreme Court; but by adding to the minority the six "biased" votes to be packed onto the Court, this decision may be overridden.

Another of the acts, voided by a unanimous vote of the Supreme Court and proposed to be revived for reversal, would severely test the persuasive powers and great legal attainments of the six "biased" Justices, since it is difficult for six votes to subvert nine, no matter what the disparity of ages. All nine Supreme Court Justices threw out the so-called N. R. A. as an "unfettered" delegation of power, as it was an amazing thrust of Federal jurisdiction into every conceivable private business of the country.

Among its other vices it actually suspended for a period the laws of the Nation against the depredations of monopoly and confided to Executive discretion, under a hateful species of coercion, involving fines and imprisonment, the fate of every business interest in the United States. Its administration was confided to a man, long a respected friend of mine, of unsurpassed accomplishments, with no selfish interest whatsoever to subserve; but in circumstances he was as ruthless and harsh as human nature ever gets. The act and its administration created a reign of terror in the country; and everybody except the large industries, which profited by the enforced failure of the smaller, hailed the decision of the Court with satisfaction.

We are told this is to be revived, along with the Guffey coal bill of somewhat a like nature, also declared unconstitutional by the Supreme Court; and I am wondering if we are to witness the same sort of organized propaganda in their behalf as distinguished one oracle of the N. R. A., now prominently mentioned as one of the "biased" wet nurses of the Supreme Bench. In his first speech this man impudently denounced every American citizen as a "slacker" who should not volunteer obedience to the N. R. A. He urged the women of the country to pin white feathers on every person who would not willingly cooperate with enforcement; thus he would have put a badge of disgrace on all men and women who would not submit to the atrocious exactions of an act of Congress which all nine Judges of the Supreme Court, young and old alike, pronounced unconstitutional. The effrontery of this attempt to terrorize the people was in no degree abated by the fact that this valiant propagandist, now conspicuously pictured as one of the probable selections for the Supreme Court Bench, sat in a swivel chair during the whole period of the World War, never hearing a percussion cap pop or sensing the smell of gunpowder or getting near enough to a training camp to learn the difference between "order, arms" and "forward, march." With Jacobins of this type constituting the wet-nurse section of the Supreme Court, what an era of peace and contentment could the American people confidently anticipate with the revival of the N. R. A. and kindred vagaries of the brain-truster variety!

What other and how many peculiar schemes of government are to be presented for submissive legislative action in confident expectation that they will meet with the favor of the "biased" half dozen who are to adorn the bench is left to our imagination because not exactly specified in the proclaimed program. We are simply given to understand that the President has a "mandate from the people" to so reconstitute the Supreme Court as to have it sanction whatever the White House proposes to an agreeing Congress, particularly if it involves no "check upon unauthorized freedom", to quote Grover Cleveland again, or "restraint on dangerous liberty."

But we know there has been no such mandate from the people to rape the Supreme Court or to tamper with the Constitution. The Constitution belongs to the people. It was written by great representatives of the people, chosen for the purpose, and was ratified by the people as the Supreme Charter of their Government, to be respected and maintained with the help of God. With the consent and by mandate of the people their Constitution provides how it may be amended to meet the requirements of the ages. It has always been so, and no administration in the history of the Republic has attempted to flank the Constitution by a legislative short-cut so vividly denounced by Woodrow Wilson as "an outrage upon constitutional morality."

The people were not asked for any such mandate. They were kept in ignorance of any such purpose. They were told that the liberal aims of the President could very likely be achieved within the limitations of the Constitution; and if not, we would suggest to the people amendments that would authorize such certain things to be done. When once it was intimated by political adversaries that the Supreme Court might be tampered with, the insinuation was branded as a splenetic libel. No word in the platform of the prevailing party could be interpreted into advocacy of any such abnormity as that now in issue. Quite the contrary, every platform declaration on the subject gave promise of the customary constitutional procedure. But somebody badly advising the President was evidently afraid of the people. The Attorney General apparently feared to "ask a mandate from the people" for his wretched scheme, defended so weakly in reason as to invite expressions of contempt. Convicted by his own official reports of inaccurate assertions about congestion of the Supreme Court calendar, and now flatly contradicted on this and other points by the Chief Justice and associates, there is nothing left of his bitter assault on the Court more notable than the brutal contention that six eminent members "get out" and give place to six others of a compliant type, in the selection of whom the Department of Justice would probably have a cunning hand. Of course, the proposal being discussed will not contribute to the efficiency of the Court. It will do in this case particularly what Thomas Jefferson pungently deplored when he declared "the multiplication of judges only enables the weak to outvote the wise." The fact is their proposed bill will cure none of the alleged evils which offend their ideas of judicial reform.

Why should we not proceed, as in honor we are bound to do, by first contriving legislation for social and economic security, painstakingly drafted by competent lawyers with a clear conception of the constitutional prohibitions against invading the rights of business and individuals by a species of confiscation and by utter indifference for reserved powers of the States? Why should we not quit legislating by pious preambles and conform our enactments to the requirements of the Constitution and thus put upon notice the cabal of amateur experimenters that we will have no more of their trash? Let us have no more bills for "unfettered" delegation of authority, so obviously unconstitutional as to have prompted the President to make an unhappy appeal for disregarding all "reasonable doubts." Let us meet the issue confidently but with a determination to promote the general welfare of the Nation and not merely to surrender control of the Government to special groups.

If it then be found that we were mistaken in the expressed belief that the Constitution is ample to our purposes, let us do what we promised to do and appeal to the people to amend their supreme law. Let the impatient proponents of the pending scheme turn to the advice of George Washington in his famous Farewell Address, in which he admonished against disregarding "reciprocal checks in the exercise of political power", saying: "If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way in which the Constitution designates. But let there be no change by usurpation; for, though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed."

Let those who would confide to the President complete control over the Supreme Court by sanction of an obedient Congress reread the farewell address of Andrew Jackson in which he cautioned the country against the jeopardy to their liberties of a consolidated Government and the evil consequences of "permitting temporary circumstances, or the hope of better promoting the public welfare, to influence, in any degree, our decisions upon the extent of the authority of the General Government. Let us abide by the Constitution as it is written", he urged, "or amend it in the constitutional mode if it be found defective."

And in this connection it might be well for the proponents of this court-packing scheme, who started their campaign by taking the name of Thomas Jefferson in vain, to remember that Jefferson's bitterness against the Supreme Court was provoked by the very thing they now advocate. Jefferson condemned the Court for its failure to void the unbridled actions of Congress in invading the rights of the States, whereas the Court packers are incensed against the Court for restraining the unconstitutional actions of Congress in disregarding individual and community rights. Their position is in sharp antagonism to that of Jefferson, who never dreamed of packing the Supreme Court to compel obedience to his views. Evidently Jefferson thought, as Woodrow Wilson afterward proclaimed, that such a thing involved "constitutional immorality."

I venture to beg the public not to be diverted from the real issue involved in this controversy. Contesting the Court's constitutional authority to void acts of Congress is idle surplusage. The Court has exercised this implied power for 130 years. It has been regarded as an indispensable power in government under a written Constitution. There must be a supreme tribunal to which every citizen, high or humble, rich or poor, may appeal for the vindication of his rights and the preservation of life, liberty, and property. Long before the Supreme Court was established this principle was presented by Chancellor Wythe, Jefferson's law teacher, with respect to acts of Parliament and decrees of the crown. It is a waste of time to discuss now this and other moot questions not touched in the remotest sense by the pending proposition. Under the bill sent up to Congress, prepared by God knows whom, the six substitute Justices would exercise the established power to rule finally on the acts of Congress; and the dangerous circumstance faces the Nation that we know pretty well in advance what their rulings would be. The question of majority or other numerical decisions is not comprehended in the White House proposal, nor the right of Congress to review and reverse the Court's decisions.

The predominant question is whether the practice of a century under an independent judiciary is to be abruptly terminated by authorizing the President to seize the Court by the process of packing in order to compel agreement with the Executive views. Should this be done without "a mandate from the people"? Should the people be ignored and, without asking their consent in the usual way, submit helplessly to having their Constitution tortured into meanings which have been declared in contravention of the fundamental law? If Andrew Jackson was right in asserting that "Eternal vigilance by the people is the price of liberty", God knows that never before since the establishment of the Republic could the people better be warned to preserve their priceless heritage. The talk about "party loyalty" being involved in the opposition to this extraordinary scheme is a familiar species of coercion. It is sheer poppycock. No political party since the establishment of the Government ever dared make an issue of packing the Supreme Court. But a single one of the Presidents of the United States was ever accused of doing such a thing, and the mere suspicion, however ill founded in truth, has proved a taint upon his reputation which his memorable military achievements have not been able entirely to wipe away. Moreover, his alleged offense was inconsequential in contrast with that which now threatens the Nation. As Warren says in his history of the Supreme Court: "To the proposal advanced at various times of intense party passion, that the Court be increased in number to overcome a temporary

majority for or against some particular piece of legislation, the good sense of the American people has always given a decided disapproval." And as James Bryce, in his American Commonwealth, says, whenever such a thing should occur "the security provided for the protection of the Constitution is gone like a morning mist." Thomas Jefferson in a single sentence comprised the unalterable detestation of honest men for the packing of the Court when he said "It is better to toss up cross and pile in a cause than to refer to a judge whose mind is warped by any motive whatever in that particular case." Later he wrote: "An officer who selects judges for principles which necessarily lead to condemnation, might as well take his culprits to the scaffold without the mockery of trial." This Jefferson said of packed juries. How infinitely worse would be a packed Supreme Court, albeit in one case the penalty is imprisonment and in the other the universal abhorrence of mankind.

I have said this proposal to pack the Supreme Court is without precedence in American jurisprudence and that we must go back for a corresponding scheme to the infamous processes of the British Star Chamber. Macaulay gives us the incident. When the King wanted a servile court to sanction his purposes contrary to decisions rendered, he summoned the Chief Justice to the palace and told him peremptorily that he would be dismissed unless he changed his opinions. "Sire", said the courageous Chief Justice, "my position is of little concern to me, since I have not many years to live; but my convictions are of vital importance, and I am humiliated to find that Your Majesty could think me capable of altering my mind merely to retain my place." The Chief Justice then bravely admonished his kingly master: "Your Majesty may find 12 judges of your mind, but hardly 12 honest lawyers." Needless to say the Chief Justice was dismissed, just as the offending members of the Supreme Court have been rudely told to "begone" if they do not relish the proposed mortification of being supplied with six judicial wet-nurses; and well might any one or all of these eminent jurists, in imitation of that fearless Englishman, say to the appointing power: "You may find six judges of your mind, but not six constitutional lawyers." Should the iniquitous scheme go through, the intelligence and character of the Nation will be interested to know what lawyer of notable attainments or independent spirit would be willing to go on the Supreme Court bench in such circumstances or could regard such an appointment as an honor. Doubtless there are practitioners eager for such recognition; but are they men whom the Nation would prefer or who could feel comfortable in association with those now constituting the Court? I am but an unlearned layman, untrained in the ethics of the legal profession; nevertheless, I cannot escape the conclusion that any man of approved sensibility who should accept such a distinction would experience trouble in outliving the mistake. Moreover, I have a distinct premonition that the people of America would not confidently trust to the supreme decision of such a Court the life, liberty, and pursuit of happiness guaranteed by the Constitution.

I am far from intimating that the President of the United States is incapable of selecting suitable men for the Supreme Court. I am simply accepting his own word and that of his spokesmen to the effect that he wants men "biased" in behalf of his legislative and administrative projects, who may be counted on to reverse the Supreme Court decisions already rendered and give such other decisions of policy as may be desired. This is not my view alone; it is the conclusion of millions of alarmed citizens throughout the Nation.

The assumption of the proponents of this scheme to tamper with the Court and the Constitution that only they are the President's real friends, has no justification in fact. He is not a friend of the President who would subject him to the biting indictment which Rudyard Kipling applied to a famous autocrat who answered a petition from his people with the imperious assertion that, "This is my country. These are my laws. Those who do not like to obey my laws can leave my country." Wrote Kipling:

> "He shall break his judges if they cross his word;
> He shall rule above the law, calling on the Lord.
> Strangers of his counsel, hirelings of his pay,
> These shall deal out justice; sell, deny, delay.
> We shall take our station, dirt beneath his feet,
> While his hired captains jeer us in the street."

Rather is he the real friend of the President who will commend to his serious attention the ringing words of Thomas Jefferson when he proclaimed himself "against writing letters to judiciary officers", because he "thought them independent of the Executive, not subject to its coercion and therefore not obliged to attend to its admonitions."

In conclusion, my friends, let me press upon you the solemn warning of a world-renowned student of representative government, John Stuart Mill, when he said:

"A people may prefer a free government; but if from indolence, or carelessness, or cowardice, or want of public spirit, they are unequal to the exertions necessary for preserving it; if they will not fight for it when directly attacked; if they can be deluded by the artifices used to cheat them out of it; if by momentary discouragement, or temporary panic or a fit of enthusiasm for an individual, they can be induced to lay their liberties at the feet of even a great man, or trust him with powers which enable him to subvert their institutions—in all these cases they are more or less unfit for liberty."

Abraham Lincoln at Gettysburg thought the Civil War was a test of whether a "government of the people, by the people, for the people" should perish from the face of the earth. Just as profoundly are some of us convinced that no threat to representative democracy since the foundation of the Republic has exceeded in its evil portents this attempt to pack the Supreme Court of the United States and thus destroy the purity and indepedence of this tribunal of last resort.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. BURTON K. WHEELER

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 30 (legislative day of Monday, Mar. 29), 1937

EDITORIAL FROM THE ST. LOUIS POST-DISPATCH

Mr. WHEELER. Mr. President, I ask unanimous consent to have inserted in the RECORD an editorial from the St. Louis Post-Dispatch of Wednesday, March 24, 1937, entitled "The Hour and the Men."

I should also like at this time to call the attention of the Senate to part of an issue of the St. Louis Post-Dispatch entitled "The Constitution, the Supreme Court, and President Roosevelt." It contains both the pros and the cons with reference to the arguments advanced on both sides.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch of Mar. 24, 1937]

THE HOUR AND THE MAN

We propose that President Roosevelt and Chief Justice Hughes debate the great issue now before the country before a vote is taken on it by the Senate.

We propose a joint debate before the Senate itself and with radio transmission throughout the country.

We suggest that President Roosevelt, whose startling proposal to enlarge the Supreme Court has raised the issue, speak first and state exactly what he conceives the question of public policy to be; that Chief Justice Hughes in his answer include a statement of his view of the real issue; that President Roosevelt have time for rebuttal and Chief Justice Hughes the same time for surrebuttal.

The whole country agrees with the objectives sought by the administration, the advancement of the general welfare, and particularly improvement in wages and social conditions of working people generally.

But the country, we believe, is profoundly disturbed by the President's proposal and widely divided in first hasty opinion as to its wisdom.

What the people need to enable them to form a sound judgment is authoritative information. The controversy now raging must be confusing rather than clarifying to the public mind on the fundamental issue and its many ramifications.

Certainly the country has never been more fortunate at a similar critical juncture in the presence of two public men equipped to lay the facts of a controversial matter before the public from both points of view.

Not the least in need of authoritative information, learned exposition, and logical argument are the 21 or more Senators who have not yet been able to make up their minds as to where they stand.

These men, by their votes, will finally decide the question. What could be more helpful to them in their dilemma than the joint debate?

We submit that, after the discussion we propose, every mind in the country that is capable of forming an opinion would be made up.

Will someone enter an objection on the score of dignity? The objection, in our opinion, is overruled by the sheer majesty of the place, the issue, and the personnel.

All parties to the controversy, though miles apart in their detailed views, agree that it is a democracy under which we live. That being true, this being a government of the people, and the present question touching vitally, as it does, the very structure of that Government, let the people have the benefit of the most authoritative presentation of the case, which case public opinion must, in the end, decide.

Involving, as this question does, the relative powers, duties, and responsibilities of the three coordinate branches of government, it is no exaggeration to say that it is the duty of the responsible heads and members of those branches to enable the country to have a clear understanding of what is at stake before action looking to the radical revision of those relative powers shall be taken.

It would be especially fitting for the Senate, in view of the inability of a considerable proportion of its Members to form a judgment, to invite the President and Chief Justice Hughes to consider giving the Senate, and through the Senate the country, the benefit of their views. Employing the form we are suggesting, a joint debate, these views will be distilled to the very essence and

will enable the people to make up their minds without a shadow of a doubt as to what they are deciding and why they are deciding the way they do.

Un-American Activities

EXTENSION OF REMARKS
OF
HON. THOMAS H. CULLEN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 30, 1937

RADIO ADDRESS BY HON. SAMUEL DICKSTEIN, OF NEW YORK, ON MARCH 29, 1937

Mr. CULLEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following radio address by Hon. SAMUEL DICKSTEIN, delivered on Monday, March 29, 1937, at 9:45 p. m. over WEAF.

For many months now it was my duty as a Member of Congress to address myself to the public and to the Rules Committee of the House of Representatives on a resolution introduced by me known as House Resolution 88, which resolution seeks to investigate all un-American and subversive activities from within or from without.

This country has for many years past been infested by foreign agents well supplied with money and subsidized from abroad who are preaching nazi-ism, fascism, and communism, and who seek to impose an alien ideology upon our American people.

I showed repeatedly this alien menace and gave a very detailed story to Congress as to how well organized propaganda from foreign sources is seeking to overwhelm the American democracy. I showed how printed propaganda is being disseminated in this country; how foreign agents go about among our people preaching disloyalty to the Government and are undermining the democracy upon which our country was founded.

On this question no racial or religious issue is involved, and it makes no difference whether one is a Catholic, Protestant, Mohammedan, Jew, or follows no religion. It is purely an attempt to protect the American people from foreign intervention and to protect the American home directed by propaganda from foreign sources. I know this menace and I know this propaganda, not only because for years past it was a part of my official activity, but because I receive evidence almost daily of the fact that this menace continues unabated, and nothing is being done to prevent it. It is because of this continuous flow of propaganda and spy system which has been definitely established, and the unchecked manner in which it is spreading, that I made it my duty to advocate the proposed legislation on the floor of the House and in the Committee on Rules.

Patriotic organizations have repeatedly endorsed my proposed resolution, and all Americans who think that this country requires a vigorous defense of its institutions have supported me right along. I wish to mention the Veterans of Foreign Wars, the American Legion, the Spanish-American War Veterans, and a number of State legislatures and other such organizations. The public is with me, I am sure. A vigorous and energetic investigation will expose to our people all these groups which follow an alien ideology and seek to impose upon our people a form of government contrary to the spirit of America, and contrary to its democratic traditions.

A well-conducted investigation under the proposed resolution will expose all these nefarious groups and throw the searchlight on all subversive groups, so that we may probably clean house and rid this country of a menace that is being spread with the aid of foreign money and foreign countries. The situation calls for drastic remedies, not because the menace is new but because this menace is continuing. Any legislation which might have been proposed by a prior committee will have to be revised in the light of new exposures. When we see that men drill in foreign uniforms and take an oath of allegiance to a foreign ruler, and who continue to advocate fascism and other "isms" directed against our democracy, are we to sit back and say, "It can't happen here"? With the world now being torn to pieces between fascism and communism, what is there that our American democracy can do to protect itself in either direction? Or are we to wait until the enemies of our form of government become so powerful that they will make it impossible even for the Congress of the United States to stem this menace?

Not only is this foreign propaganda directed against our American institutions but it is also particularly venomous against our people and members of the Cabinet.

I have before me a great number of newspapers published abroad and sent to this country through the mails or smuggled in surreptitiously, which does not stop at any amount of scurrilous and obscene slander directed against the head of this Government and the members of his Cabinet. In addition to this, prominent American citizens are vilified on the pages of these so-called newspapers, magazines, as well as pamphlets of all kinds which are being sent to this country from abroad.

The object of all this printed propaganda can be only to stir up trouble and dissatisfaction among our people, and to array one group of our people against the other.

We are not interested in how foreign countries choose to direct their own affairs at home. If they like the form of government under which they live, that is their own privilege. If they like to be curtailed in their right of free speech, free press, and free public assembly, they are welcome to it. We do not wish to dictate to any nation how to govern itself, but if a foreign nation takes steps to cause dissatisfaction in the ranks of our own citizens, and seeks to undermine the foundations of our own Government, then it is up to us, Members of the American Congress, to take the proper steps to put an end to this menace.

I showed on the floor of the House how German authorities distribute questionnaires, calling upon thousands of Americans to enlist for the German war service. You see, the attitude taken by the rulers of Germany is "once a German, always a German", and it matters not that the person to whom the draft questionnaire is sent is an American citizen, whether native-born or naturalized. The rulers of that country believe in the philosophy of "blood and soil", and any person who may be of German blood, even though far removed from Germany, is, nevertheless, an object of the solicitude of the German ruler and his henchmen.

Secret meetings are held at all times at which our Government is contrasted to the government of that country, in which our President is being ridiculed and our Congress maligned.

Every ship that comes to these shores carries a crop of agitators who promptly desert the ship and mingle with our people to engage in their subversive activities. Not only is propaganda distributed in the form of books and pamphlets but also by the living voice of hundreds of agitators who travel up and down this country inciting to revolt and preaching sedition.

Evidence at hand proves that thousands of letters come into this country through the medium of the mails preaching the same doctrine of un-Americanism and the destruction of our cherished democratic institutions.

One of these foreign agitators boasts that he has an army of 200,000 men in uniform who will take his orders and go wherever he directs them at any time. Shall we permit such an army to become a power within and fight against our very Government?

I, as a member of the Congress of the United States, consider it my duty to open the eyes of the public to this continuous flow of propaganda. What do you want me to do? Shall I sit supinely back and watch the undermining of the very foundations of this country without lifting a finger? Shall I permit this unchecked and unbridled abuse of our right of free speech to destroy the very vitals of our Government?

In one of my previous remarks before the House of Representatives I said that no democracy had a right to commit suicide. Shall I let our democracy take the perilous road which was the undoing of European democracy and let ourselves be engulfed in this propaganda of hatred and this destruction of American ideals?

I am asking your verdict, my fellow citizens, because voices have been raised which seek to minimize this ever-recurring menace. I am asking your aid and assistance because without the help of the American people and the support of the masses, we shall be powerless to do anything about it.

Fellow Americans, I have shown you this menace; I have given you the facts; I have warned you of the dangers. The remedy is entirely in your own hands. If you believe that our Constitution is worth preserving, that our form of government is yet the best ever devised by man; if you do not wish to become the cat's-paw of a foreign ideology or foreign way of living, write to your Congressman and ask him to support my resolution.

Leathernecks

EXTENSION OF REMARKS
OF
HON. JOHN M. HOUSTON
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 30, 1937

Mr. HOUSTON. Mr. Speaker, it is my desire to say a few words relative to the well-known and much-admired esprit de corps that has existed in the United States Marine Corps since its conception nearly 160 years ago—November 10, 1775, to be exact.

I have throughout my life cherished a great admiration for that wonderfully organized body, the story of whose exploits is known and respected by every American schoolboy. I believe, moreover, that I can speak from a rather personal viewpoint, since I had the privilege of serving as a member for nearly 2 years, or from June 1917 to May 1919.

The Marine Corps is so constituted, and the war plans so depend upon it, that the corps becomes the first force to be thrown into combat. The marines must be ready to proceed within 24 hours to seize, secure, and hold advance naval bases

in any part of the world. So explicit is our faith and confidence in the ability of the Marine Corps to handle any emergency that may confront it, that the very moment we are told it is on the job our anxiety immediately vanishes.

There is, indeed, no branch of Government service that more amply merits the admiration and support of the Nation than this splendid arm of the Nation's military force. And yet, properly speaking, there is very little that is romance in the story of the corps. Rather is its history a chapter after chapter of hard work which has won only the reward that comes from the realization of a hard job well done. In the century and more of the corps history there have been, it is true, citations from admirals and generals respecting the value of the marines in time of war and in time of peace, but to most members of the corps all fulsome citations can be forgotten in their pride and determination to make the Marine Corps increasingly valuable as a dependable arm of the naval service in the national defense.

The Marine Corps is, moreover, the most mobile branch of the service. Under the law the President may call upon it, without consulting Congress, to protect our nationals in foreign parts; and the landing of marines, unlike the landing of troops, is not an act of war. The marines are our international police force; and in times of peace they perform the functions of police in maintaining order and protecting life and property. In the present unsettled state of the world and the ever-increasing appropriations of certain great world powers in the strengthening of their armed forces, the maintenance of this outstanding organization, our military service at full strength and at the highest pitch of efficiency is, most assuredly, to our well-being and peace of mind. Further continuance of the paring-down policy, let me say, would be regarded by all who know the facts as a lack of farsightedness.

Then, too, the Marine Corps is, Mr. Speaker, the only branch of the service that has been in combat since the World War. In fact, the corps has faced a hostile enemy for a total of 103 years out of the 160 years of its national existence. In comparison with its responsibilities and its world-wide field of action, the corps, Mr. Speaker, is singularly small. In March 1935 it numbered 17,215 officers and men. It has, unfortunately, I believe, been steadily reduced in recent years. The Navy, to be sure, has also suffered some cuts, but those applied to the Marine Corps are, proportionately, four times as great.

As a necessary adjunct the Navy has a need for the marines in times of war as well as in times of peace. In war they carry on all the peacetime duties, which are much increased, and at the same time provide the Navy with mobile forces to accompany the fleets to secure and defend bases and auxiliary shore operations essential to the success of the naval campaign. Let us pause to examine this feature of the marine's work. They performed this mission in every one of the six major wars in which our country has been engaged except the World War. In this last war the naval campaign was such that the marines were not required to secure bases, those being already at our service through the previous successful naval campaigns of Great Britain, Italy, France, and our other allies. But the marines, nevertheless, were ready in the event they were called upon for this duty. What happened shows not only the efficiency of the marines as a fighting unit but their value as a safe investment to the Nation's welfare. Two brigades of them were sent to serve as Army troops by President Wilson. The record of their achievements in France is history. Frenchmen, and particularly French officers, are convinced that the mere handful of 6,000 marines who repulsed Ludendorff in his great drive of March 21, 1918, was one of the greatest factors which went toward the saving of Paris.

The mayors of Meaux and neighboring towns and villages on the Marne, in a letter to the commanding officer of the American force in that district, said:

> The civilian population will never forget that, beginning in the month of June, when their homes were threatened by the invader, the division victoriously stepped forth and succeeded in saving them from the impending danger. The mayors who were eyewitnesses of the generous and efficacious deeds of the American Army in stopping the enemy advance send this heartfelt expression of their admiration and gratitude.

I am sure it will be agreed that a body of soldiers that can win such a tribute from the people whose country they defended, certainly, Mr. Speaker, they deserve all the applause and all the glory their own Nation may bestow.

Again, a captured report of Lieutenant von Bey, a German intelligence officer, after the Battle of Belleau Woods, has this to say of the marines:

> The Second American Division may be classified as a very good division, perhaps even as assault troops. The various attacks of both regiments on Belleau Wood were carried out with dash and recklessness. The moral effect of our firearms did not materially check the advance of the infantry. The nerves of the Americans are still unshaken.
>
> The individual soldiers are very good. They are healthy, vigorous, and physically well-developed men of ages ranging from 18 to 28, who at present lack only necessary training to make them redoubtable opponents. The troops are fresh and full of straightforward confidence. A remark of one of the prisoners is indicative of their spirit: "We kill or get killed."

A statistician, testing the truth of that last phrase in the light of the reports of the killed and wounded in France, showed that the casualties among the marines in France to July 14 were about 11 percent; for the Army as a whole less than 1 percent. Among the marines, for each man killed 1.85 were wounded; in the remainder of the Army, 3.27.

In recognition of the brilliant achievement the French Government ordered the name of the wood changed to Bois de la Brigade de Marine, as a result of the many instances of conspicuous gallantry during the war the marines won many mentions and decorations.

It would be, in fact, somewhat difficult to relate in a few brief minutes, the many times the marines served as Army troops when the Army needed them and the Navy could spare them. At the Battle of Princeton in 1777, at the Battle of Bladensburg, and at the Battle of New Orleans in the War of 1812; in the wars against the Indians in 1836 and 1837, when Brig. Gen. Archibald Henderson, of the marines, commanded the fighting bridgade of the Army of the South composed of marines, Regular Army troops, and friendly Indians; in the Mexican War under Gen. Winfield Scott; under Col. Robert E. Lee when John Brown was captured; at the first Battle of Bull Run when the marines ran as fast as their Army brethren; in the army of Cuban pacification, 1906–09; at the siege and capture of Tientsin and Pekin, 1900; at Veracruz in 1914; and, as has been mentioned, during the World War when they won eternal glory for their country and themselves, both with the Army and the Navy on shore, afloat, and in the air.

To me it is interesting to know that as a result of the marines being accorded the honor of first entering the Castle of Chapultepec during the war with Mexico in 1846–48, and raising our starry banner over that ancient stronghold of the Aztecs, the colors of the corps should afterward be inscribed with the motto: "From Tripoli to the Halls of the Montezumas."

Later, with the turn of the century and the emergence of the United States as a world power, the marines began to play an important part in the carrying out of the Nation's foreign policies. When revolutions flared up in the Caribbean countries, the marines were sent many times to restore order or to guard American lives and property. The landing of the marines in Panama, Santo Domingo, Haiti, Nicaragua, or at Veracruz was all part of the foreign policy then adopted by the United States. Whatever, Mr. Speaker and my colleagues, may be the individual's position on American intervention in the affairs of other states, one must credit to the marines much praise for their successful efforts toward the betterment of the people.

Another and equally interesting aspect of the many and diversified accomplishments of marine aviators should be mentioned. Nowhere is the menace of malaria greater than it is in Nicaragua. Indeed, some doctors have given Nicaragua the unenviable distinction of being at the head of the list of malarial countries. Malaria, as is generally known, disappears when the mosquitoes which cause it have been eliminated. In the Panama Canal Zone, for example, the

Army Medical Corps, with the United States Government behind it, has given an almost unique example of malarial control through the construction of drainage pipes and canals.

This system could not, however, be adopted in Nicaragua. The area of the country is too great to be completely covered with pipes and drains. Moreover, there were no funds available for the purpose. Yet every day the American garrison on the edge of Lake Managua was being reduced by malaria. Something had to be done, and as marines are good improvisors, it was finally suggested that some fine road dust be mixed with paris green, and that this compound be scattered from an airplane flying up and down the swampy edges of the lake. The experiment was successful, and the number of malaria cases was speedily reduced.

In addition to such services and to their participation in actual battle, the marines are kept busy garrisoning our outposts; relieving the sufferings caused by earthquakes, fires, and other disasters here and abroad; fighting pirates, protecting seal fisheries, and attending to numerous other duties.

Indeed, Mr. Speaker, these leathernecks of ours are a race apart. They have dedicated their lives for every variety of hardship for what from a remunerative standpoint amounts to about a dollar a day. Why? The dollar a day is surely no answer. Their real pay is the chance they get to be on hand as has been said wherever there is trouble—that and their pride in the traditions of the service to which they belong and have dedicated themselves. Small wonder, therefore, that the marines feel entitled to sing:

If the Army and the Navy
Ever look on heaven's scenes,
They will find the streets are guarded
By United States marines.

So in conclusion, Mr. Speaker, the least that we, the representatives of the people, can do for this splendid body is to maintain it on a decent footing, so that it may carry on in the future as it has in the past, and add new luster to the glories they have won.

The Poultry and Egg Industry

EXTENSION OF REMARKS

OF

HON. WILLIAM F. ALLEN

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1937

Mr. ALLEN of Delaware. Mr. Speaker and gentlemen of the House, under leave to extend my remarks in the RECORD I am including a speech recently delivered by our colleague, Hon. ELMER H. WENE, of New Jersey, over the Columbia Broadcasting System, dealing generally with the poultry industry in the United States, and urging the creation of a Poultry Division in the Department of Agriculture, together with my own remarks on this most important subject.

The address of Representative WENE is as follows:

I shall again direct my remarks to the good people of rural America in particular because the message I bring concerns their welfare.

The farmer's wife can tell you how necessary to everyday living are chickens and eggs. Very often it is she who takes care of the farm flock and this flock goes a long way toward feeding her family—yes, and clothing it, too—for eggs and chicken money rightly belong to her.

No doubt some of my listeners do not see how this subject of poultry can be of interest to them. Just pause for a moment and consider. Consider meals with no luscious roast chicken, no crisp golden fried chicken, and no spring broilers. Consider menus without eggs in any form, or any of the dainties that depend upon eggs for their goodness. For these reasons if none other we all should be interested in the poultry industry and any measures that can be taken to encourage this industry by making it more profitable.

Most farm people are interested in this great branch of our national agricultural business. The cock's crow is heard at crack of dawn over 5,800,000 farms in the United States, which number comprises 85.6 percent of all farms. More farmers in America have a hand in the production of these important cash crops than in any other. American poultry producers are annually producing about 26,000,000,000 eggs a year. The national poultry income is greater than the combined income from all grains, including corn, wheat, oats, barley, and rye.

Statistics show that over 10 percent of the food consumed today is poultry meat and eggs in some form. Because I feel strongly that poultry should be given a very important place among farm commodities, I introduced in the House recently two bills in an attempt to urge the proper recognition of this product.

One of the bills I have introduced in Congress is the placing of an excise tax on dried, frozen, and whole eggs imported into this country. Poultrymen have been demanding protection of the American egg market for several years against the heavy and increasing imports of eggs in various forms. An average of 1,000,000 eggs a day are now being brought into the United States from outside sources, especially China. Over 3,000,000 American hens are thus being deprived of the job of laying domestic eggs.

The second bill I have recently introduced in Washington is one calling for the establishment of a poultry bureau in the Department of Agriculture. Many poultry organizations over the country have already expressed their desire for the creation of such a bureau within the Government to coordinate and facilitate the work done in the Department of Agriculture for the particular benefit of the poultry industry.

The present set-up in the Department of Agriculture is a complicated one, insofar as poultry interests are concerned. At present poultry investigational work is carried on there by the Bureau of Chemistry and Soils, the Bureau of Agricultural Economics, the Bureau of Agricultural Engineering, the Bureau of Animal Industry, the Bureau of Home Economics, the Bureau of Entomology, the Food and Drug Administration, the Extension Service of the Agricultural Adjustment Administration. Even though a poultry bureau were established, considerable of the investigational work would undoubtedly have to continue to be accomplished by these various functional agencies. However, the creation of a special poultry bureau would greatly facilitate the coordination of the work under a single responsible head.

The poultry industry has come of age. It is much better organized than at any previous time in its past, and from all indications the great majority of the millions comprising its membership desire more recognition in Washington than they have received heretofore. The present administration has been more friendly toward agricultural interests than most of those that have preceded it. This fact helps engender additional hope that the measures herein described may be enacted into laws.

The International Baby Chick Association and the Northeastern Poultry Producers' Council, both strong and active organizations, are demanding a bureau to which they can go with their particular problems. Many other poultry organizations have taken a similar stand. The American Farm Bureau Federation also favors the establishment of such a bureau.

Chester H. Gray, Washington representative of the American Farm Bureau Federation, writing in the February issue of the publication known as the Nation's Agriculture, states as follows:

"Furthermore, the poultry farmer, if for no reason other than the size of his business, should be recognized in the Department of Agriculture by having a poultry bureau set up in the Department."

I suppose only a small portion of my audience knows that the past few months have been pretty hard going for the poultry raiser, and for that matter, the going is still hard. The fact is that the income from this industry has fallen considerably below normal, owing to high cost of feed, as compared with the price of eggs and poultry meat. Production costs are likely to continue high this spring and coming summer, or until the time comes to house the pullets next fall. But I firmly believe that when the laying pullets are finally housed, a much more satisfactory balance will have been brought about between the production costs and the returns on poultry products.

There is a bright side to every cloud, and a reasonably high price for feed has also a favorable reaction. A great many farmers who raise grain in large quantities, are naturally taking advantage of the increased feed prices. They are selling corn and wheat instead of holding it to feed their chickens. Consequently, these farmers are brooding few if any chicks this year. As you can plainly deduct, there is only one reaction to this. Fewer birds grown mean a reduced supply of eggs and chickens and the natural result is a more profitable return for all poultry products.

Our Government has been quietly and efficiently helping also to establish a proper balance between feed prices and poultry products. For a very worthy cause, relief, the Government has purchased, since January, millions of eggs—a large percentage of which would have gone into storage. This reduction in the supply of storage eggs accomplishes the same result, a greater demand and more profitable returns for fresh eggs.

Industry leaders are now beginning to make plans to cooperatively increase consumption of eggs and poultry through an extensive campaign to more thoroughly acquaint consumers with the economy and value of eggs as food. There are not enough dependable sources of good eggs as food. There are not enough dependable sources of good eggs for the housewives of America. They still question the freshness of most of the eggs they purchase, they rightfully question egg quality because egg quality has certainly been questionable.

One of the most outstanding and commendable programs undertaken by the farm groups today, is the 4–H club work for boys and girls interested in the production and marketing of poultry and other farm products, quality of product being stressed in particular. I am very much interested in this work and wish to

congratulate the teachers and leaders in charge of their accomplishments in this field. Certainly, these earnest workers deserve every consideration and help possible. The future of all agricultural industries rests largely on the boys and girls.

It has been my experience, and I may say I grew up on a general farm, that it is just as important to replace the pullet flock each year as it is to seed a new crop of corn, wheat, or any other farm commodity. Idle poultry houses and equipment are surely just as unprofitable as acres of farm lands in disuse. The poultry industry as well as the farming industry, including the tilling of the soil, must go on.

Several encouraging, well-authorized reports worthy of consideration have come recently to my attention. Permit me to quote:

"The United States Department of Agriculture reports that the average size of the farm laying flocks is below the 1928–32 average for this time of year. The fact is important. It controls supply. A corresponding reduction in supplies of red meat invariably raise the level of prices for poultry products."

With these facts before us it seems wise for the poultry raiser to proceed as usual and to put out his customary brood of chicks as all indications are surely very encouraging for a more profitable season ahead.

I happen to be one of about 12,000 hatcherymen in this country. My establishment in Vineland, N. J., annually hatches several million chicks. I am relating this fact that you may know that I am familiar with many of the problems facing the industry. I have a sincere desire to help in solving some of them, as I intend to fight and possibly do some crowing for the poultry industry in Washington.

In closing let me remind you that if you are interested in the passage of the excise-tax bill and the poultry bureau bill, known in the House of Representatives as H. R. 4861 and 4862, respectively, write your own Congressman, in care of the House Office Building, Washington, D. C., or you may write to me if you like. Write your letters this month before the bills come up for a hearing. If you wish copies of either or both of these bills ask for them and they will be mailed to you.

I am mailing thousands of letters this week to farmers and poultrymen throughout the entire country, seeking their support and the support of their poultry organizations, providing their organizations have not already expressed their views. Let us all do something toward getting greater recognition for our industry.

I thank you.

Since the introduction by our colleague from New Jersey of the two bills referred to in the foregoing, I have received many communications from broiler and egg producers in the State of Delaware urging the passage of same.

The interest aroused by these bills is not surprising as Sussex County, Del., is the largest broiler producing county in the so-called Del-Mar-Va area. The broiler-producing industry is one of major importance to our citizens throughout the entire State of Delaware. It has shown a remarkable and steady growth in the State since 1909. Statistics furnished by the United States Department of Agriculture confirming this statement show that there were 1,401,000 chickens raised in Delaware during 1909, whereas, in 1934, there were 6,174,000 raised. Sussex County alone produced 5,375,000 chickens during 1934.

Very effective work has been done by the United States Department of Agriculture so far as the orderly marketing of this product is concerned. There is much yet to be done, however, and I am fully convinced that the enactment into law of the two bills introduced by Representative WENE, H. R. 4861 and H. R. 4862, will materially aid this industry which means so much to the citizens of my State as well as to the country generally.

Judicial Reform—Shall Government Function or Fail?

EXTENSION OF REMARKS

OF

HON. SAM RAYBURN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1937

RADIO ADDRESS BY HON. BIBB GRAVES, GOVERNOR OF ALABAMA, ON MARCH 27, 1937

Mr. RAYBURN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address broadcast by Gov. Bibb Graves, of Alabama, on March 27, 1937:

Americans, I am glad to join with some of my fellow Governors in a plea for efficient functioning governments in the States and in the Nation.

The crux of our President's plan for judicial reform is, "Shall Government function or fail?"

Last November we, the people of the United States, went over the top in the greatest drive ever made to insure domestic tranquillity, to promote the general welfare, and secure the blessing of liberty to ourselves and posterity.

The gains made then must be secured and consolidated now or they will be lost.

Those who believe that the rights of persons come ahead of the rights of things fear this loss through divisions among the friends of human welfare. On the other side are all of those who put the rights of things ahead of the rights of persons. These hope for a total loss of all those gains and with some apparent reason hope to accomplish their end and nullify the thrice-repeated mandate of the people of the United States by disrupting our "All-American team" by egging each member of the team to abandon all team play and carry the ball himself.

They don't miss a trick of their trade. They even insult our intelligence by trying to don the livery of State's rights. Let me tell them that the Christ forewarned us of the hypocrisy of wolves in sheep's clothing.

These same wolves have successfully defeated the greatest efforts of the States to exercise their sovereign rights to protect the womanhood, the motherhood, the childhood, and the human rights of citizens to have something to live on and something to live for whenever any of these efforts jeopardize the so-called vested interest in things.

These wolves would have me believe that I can protect the rights of the sovereign State that has made me its Governor by joining with them in ceding away any part of the sovereignty we still have.

These wolves would defeat, not effect governmental efficiency. They would give us nihilism.

Let me warn these who were so lately in sackcloth, and who have been revived by the New Deal too quickly for their own good, that when Samson pulled the temple down the great giant himself was first to go.

Let me say that there is not enough patriotism in America left over after the last debacle to carry this generation through another such spree.

These wolves really believe in the good old rule and simple plan that: "He should take who has the power and he should keep who can." That doctrine is as pleasing to them today as it was to the original Robin Hood, but they are not so knightly as was the great brigand. He never preyed upon the weak in his "no man's land" between the highlanders and the lowlanders.

In our country there is an ever-growing, unpoliced "no man's land" where neither State nor Nation is permitted to function. When a State enacts a law to right a wrong within its borders, if perchance this law remotely affects something across the State line then it is void because of interstate inhibition. If the Nation enacts a law to right a wrong, if perchance this law affects something in a State then it is void because it invades the right of the State.

This tweedledum and tweedledee between interstate and intrastate is bringing nihilism. A State cannot shoot a wolf in "no man's land" if that wolf is in range of a national gun. Neither can the Nation shoot that or any other wolf in "no man's land" if within the range of a State gun. All Government guns are silenced and the Robin Hoods are undisturbed.

There is nothing big that is not both interstate and intrastate, and as to governmental regulations it is "king's excuse" to all big things in this "no man's land." This nonuser of the powers of government is destroying government. The Master, in the parable of the talents, put the greatest earthly curse upon the nonuser.

It is worthy of note that the wisest thing in the recent statement of our Chief Justice is, "In protracted litigation the advantage is with those who command the long purse."

May we not ask how many of those so effective in silencing all Government guns were trained in the school where this wisdom is thoroughly imbued?

Since this great Justice, great man, great American, and no mean politician, has again entered the political arena in which he has shone so brightly so long, believing that he has enough sportsmanship to "take it on the chin", I say to him and to his that it ill becomes any of them to mention politics in connection with the Great Bench.

He was twice elected Governor of New York, which place he resigned to be Justice on the Supreme Court, and while on that highest Court was nominated for President by his party, a political coup unique in the annals of time, and now he is Chief Justice.

This cry of politics from that side recalls the old fable in the blue-back spelling book, the illustrated question, "Whose ox is gored?".

He said that the Constitution is what the judges say it is. If this be true then our Supreme Court has become all supreme and no court.

It was fundamental law, not economic predilection of Constitution-making judges, the people of the United States ordained as our Constitution.

This illuminating statement of the Chief Justice showing such remarkable dispatch of business makes one wonder why the delay in the important cases concerning people compared with the dispatch in so many cases concerning things.

Five years ago in Chicago the American people, under Democratic leadership, assumed to discharge "the continuous responsibility of government for human welfare." Last year in Philadelphia this same people, in the Democratic platform, pledged our Nation that it would "keep on keeping on", and pledged specifically that "we will continue to seek to meet these problems through legislation within the Constitution." The President's plan is within the Constitution and is in this platform.

Technical hairsplitters that strain at gnats will find no alibis for deserting the tram in either the letter or the spirit of the platform.

In a nutshell, the issue now is, "Shall government, both in States and in Nation, 'keep on keeping on' discharging their responsibilities for human welfare", or "shall we let the Neros get us 'fiddling around while Rome burns'."

We are not surprised when a lion of Idaho roars that in cases like the railroad cases this Court becomes the economic dictator in the United States, yet, true to form, in the pinch, stays put in the Republican pen. But it sorely hurts the hearts of millions of us who love and revere him to see a Wheeler lined against the human side. O, Senator, put up the stopgap, if you please, to save disaster now, then in time build a bulwark as you will. I really pray that God will give it to you to see our pressing need and that you may yet answer our Macedonian cry "Help us", and help us now.

Lincoln said in his first inaugural: "* * * The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court the instant they are made in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal."

You know the people of America did not cease to be their own rulers and did not resign their Government into the hands of that eminent tribunal, but at what cost.

Let me beg the doubting Thomases to put their fingers in these nail holes of the past and not chance a crucifixion as hand-washing Pontius Pilates. Have the courage to do the duty of the hour and do it now. Have faith in that people that made you, even as they had faith to entrust their welfare and domestic tranquillity and the liberty of themselves and their offspring to you.

We plead that Congress do its duty, and do it now.

It is the now supreme duty of Congress to save the Court from itself and thus save the Constitution and American Government. Those who made, ordained, and established these knew there were no Brobdingnagians save to Lilliputians. They entrusted government to human agencies in which they believed. They established a coequal trinity of legislative, executive, and judicial departments, imparting to each the power to check and balance the others. They excluded absolutism everywhere.

Under the Constitution the Court has acquired the power to keep the other departments within the Constitution by control over their acts. The Constitution itself specifically gives to those other departments the power to keep the Court within the Constitution by control over the personnel of its actors. These checks and balances must be used, or under God's law will be taken away. Nonuser is accursed. With these unlimited powers of checks and balances there is coupled the supreme duty to use these powers.

I repeat that the supreme duty of Congress is to save the Court from itself; that thus only can the American Constitution and Government be surely saved.

Age of Supreme Court Justices

EXTENSION OF REMARKS

OF

HON. ALFRED N. PHILLIPS, JR.

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1937

LETTER FROM THE HONORABLE ALFRED N. PHILLIPS, JR., OF CONNECTICUT, TO A NEWSPAPER EDITOR

Mr. PHILLIPS. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following letter on the Supreme Court controversy sent by me to the editor of a newspaper in my district. In this letter there is discussion of the age aspect of the Justices of the Supreme Court.

MARCH 24, 1937.

Mr. HOWARD PALMER,
Editor, the Greenwich Press,
Greenwich, Conn.

DEAR HOWARD: Because of our past discussion in connection with the Supreme Court controversy, I attach herewith copy of a letter addressed by my father, A. N. Phillips, M. D., of Glenbrook, Conn., to the Gannett Newspapers, Rochester, N. Y., office of the president, Frank E. Gannett, March 5, 1937.

You will note that my father had been requested by Mr. Gannett to aid in opposing the President of the United States on his Court reorganization proposals, and he declines. One reason I send this letter to you, with the hope that it may receive publication in the columns of your newspaper, is that my father has been a respected neighbor of yours, and citizen of Darien for so many years, and his views, therefore, may be of interest to your fellow citizens.

Another reason is because being almost 81 years old, Dr. Phillips is in a better position than most of the rest of us to discuss the President's Court reorganization proposals from the standpoint of proper retirement age for Supreme Court Judges. My father has lived into and past the proposed retirement age limit—which age few of us have reached or will reach. Thus he can speak from a different and more authoritative standpoint on this matter than most of his fellow citizens. Also his years give him a perspective on men and events which the rest of us, younger people, cannot possess. As you know, he is a native-born New Englander, and a lifelong citizen of Darien. He is a retired manufacturer who has achieved a considerable personal success. He is an enlightened gentleman, progressive, with a "conservative background", and behind him is a record of four generations of service to his fellow citizens, your neighbors.

Therefore, I append herewith Dr. Phillips' letter, as follows:

"THE PRINCESS HOTEL,
"Hamilton, Bermuda, March 5, 1937.

"The GANNETT NEWSPAPERS,
"Rochester, N. Y.

"(Office of the President, Frank E. Gannett.)

"MY DEAR SIR: I beg to acknowledge the receipt of your favor of February 18, directed to my home in Glenbrook, Conn., and forwarded with other mail to my temporary residence here.

"In your communication you begin by calling my attention to the following quotation: 'There is no liberty if the power of judging be not separated from the legislative and executive powers.' You further state: 'This was said while the adoption of our Constitution was under discussion.' Then you continue: 'Today this principle is attacked and in danger, although its vital truth is as self-evident now as then.' Granting the self-evidence of the quotation as quoted, who is endangering the principle of the judiciary, or attacking it? Manifestly, you think the President is. Frankly, I do not agree with you and, further, I explicitly deny it.

"You further state (I quote your words): 'Life tenure was assured to Judges of the Supreme Court because the founders of this Government knew that to preserve government under law independence of the judiciary is indispensable.'

"May I call your attention to the exact wording of the Constitution and not your interpretation of it? 'The judges both of the Supreme and inferior courts shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.' Now, the term 'life tenure', as you put it, does not occur, but the office is predicated on 'good behavior', which is an entirely different thing. If, therefore, a judge of the Supreme or the inferior Federal courts had been guilty of some crime previously to his elevation to a justiceship, or developed a criminal tendency thereafter, his removal would automatically be prompt. If he had a 'life tenure', as you state, his removal would be difficult. Doubtless you will state the criminality of a Federal judge is unthinkable. Perhaps so, but there have been wicked Popes, vile cardinals and bishops, crooked bank presidents, and evil public administrators. However, I am simply taking exception to your assertion of the term 'life tenure' as a part of the phraseology of the Constitution, which in fact does not occur.

"Your letter further states: 'The fight to protect our Supreme Court from subordination to the Executive can be won.' I deny explicitly that the Executive, meaning, of course, the President, is attempting or has attempted the subordination of the Supreme Court in any manner whatsoever. What the President suggests is the limiting of the tenure of office by the judiciary to 70 years, and then their retirement on full pay, or the adding of a number of younger and more active Justices to stimulate the handing down of speedier and more comprehensive decisions and to facilitate the Court procedure. Quite a different thing from subordination. Every clear-thinking man knows there are more vitally momentous questions for decision which are rising in the complex structure of our present-day civilization, which never could or did arise in the "horse and buggy" days of our forefathers. And such decisions require the keen intellect and active mentality of men who are not on the border line of senescence, or old age.

"We retire our Army men, our Navy men, when they reach the age limit of 70. Great Britain and other nations do the same, and, while now and then there undoubtedly exist exceptional cases where age has not yet diminished the mental and physical activities and capacities, yet in the majority of instances it is a wise and intelligent provision. Why not, then, the judges of our

Federal courts? What says the inspired writer? 'The days of our age are threescore years and ten.' 'And if by reason of strength they be more, yet is their fullness labor and sorrow.' What does that mean? It means that the slowly receding activities of one's body cells and tissues become apparent at 70. Or, in other words, the senescence which began at about 65 reaches its culmination at 70, and shortly thereafter, bereft of this physical and mental recuperation inherent upon younger years, man dies. And if by reason of strength he lives a few years longer, 'yet is their fullness labor and sorrow.' Labor is the required effort to do what he formerly could accomplish spontaneously, either with his brain or his muscles, or both, and constant sorrow at the restrictions imposed on his former abilities.

"'Nonsense', you will perhaps observe, 'modern medical science and hygiene have so added to the longevity and physical activities of man that men not only live longer but have a longer lease of mental activity than in former years.' Do they? Listen to what Dr. Alexis Carrel, world-famous surgeon and biologist, winner of the 1912 Nobel prize for his success in suturing blood vessels and transplanting organs, member of the Rockefeller Institute, says on this subject. I quote from his recent book, Man, the Unknown, pages 177 and 178: 'The greatest desire for man is for eternal youth. From Merlin down to Cagliostro, Brown-Sequard and Voronoff, charlatans and scientists have pursued the same dream and suffered the same defeat. Not one has discovered the supreme secret. Meanwhile our need of it is becoming more and more urgent. Scientific civilization has destroyed the world of the soul. But the world of matter is widely opened to man. He must keep intact the vigor of his body and of his intelligence. Only the strength of youth gives him the power to satisfy his physiological appetites and conquer the outer world. But we have not succeeded in increasing the duration of our existence. A man of 45 has no more chance of dying at the age of 80 than in the last century.' And listen to Dr. Carrel further: 'The failure of hygiene and medicine is a strange fact. In spite of the progress achieved in heating, ventilation, and lighting of houses, of dietary hygiene, bathrooms, and sports, of periodical medical examinations, and increasing numbers of medical specialists, not one day even has been added to the span of human life.'

"Now, if this be so, and who can gainsay it, then the scriptural admonition 'the days of our life are threescore years and ten' holds, and the Justices of the Supreme Court are near not only senescence but eternity as well. And is it strange, therefore, that the President recognizing the limitations of age, should wisely seek the mental stimulus of a younger judicial body? And does the attempt to put younger and more active intelligence in our Supreme and inferior Federal courts indicate an attempt at Executive subordination or a concealed dictatorship? Why not state facts as they really are, without the venomous implication of destruction of judicial authority by ulterior and hidden motives?

"I stood recently before the tomb of George and Martha Washington at Mount Vernon, and, as I gazed in solemn veneration at the marble casket which enclosed all that remains of that great patriot and our First President, I thought of how his great heart was wearied and embittered by wicked innuendoes, caustic reflections, false accusations, and evil implications of his motives, until in the bitterness of his wearied spirit he wrote of how he wished he had never accepted the Presidency, and that he were dead. And that letter with his signature attached is still extant among the collection of his other letters.

"Residing within a mile of my home was an elderly neighbor, now dead, who told me that as a young man he had seen during the Presidential campaign of Abraham Lincoln a placard on the walls of a building in the city of New York which recited in huge letters like a circus poster, 'If you want murder, if you want bloodshed, if you want rebellion and the dismembership of the Nation, vote for Abraham Lincoln.'

"And now you, and others like you, are ready to impute every mean and contemptible intention to every act of the man who as your President and mine (thank God) was instrumental in lifting this great Nation out of the slough of despond and the quagmire of despair, from the worst financial cataclysm this country has ever experienced, who has set our faltering feet on the sure rock of prosperity, and who is seeking a 'new heaven and a new earth wherein dwelleth righteousness.'

"You have asked me for a contribution. You have it in this letter, although it will not be legal tender at your bank. You have asked me to circulate a petition to others whom you hope to enlist with you in a Nation-wide campaign against the President and his policies. I did with your petition what the Irishman said he did with a false bill which he received, 'tore it in four halves and threw it in the wastebasket.'

"Lastly, you ask me to write you my suggestions. I have but one, and it is this: That you have printed across the face of each one of the Gannett newspapers, in type not less than one-half inch in height and correspondingly broad in proportion, the admonition carved in the base of the statue of Abraham Lincoln in the Union Square Park of New York City, 'with charity towards all, with malice towards none', and that you, your editors, and typographical assistants try by the grace of God to live up to it.

"I remain,

"Very truly yours,

"A. N. PHILLIPS, M. D."

I trust that many of the President's traducers may be influenced by my father's statesmanlike letter to Mr. Gannett to change their point of view and support the President on his Supreme Court reorganization proposals.

Very sincerely,

ALFRED N. PHILLIPS, Jr.

The Doctrine of Contraband

EXTENSION OF REMARKS

OF

HON. JAMES A. SHANLEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1937

Mr. SHANLEY. Mr. Speaker and my colleagues, I am naturally interested in every effort that is being exerted to recodify international law. Particularly is that concern directed toward what seems to be the backlog of all neutrality, the doctrine of contraband. I have introduced a bill which will naturally be referred to the Committee on Foreign Affairs dealing with a suggested conference on this subject of recodification of international law and a disarmament conference.

No study of the doctrine of contraband is searching and exhaustive unless it throws the utmost light and study upon our treaty of 1785 with Prussia. Our diplomatic giants, Franklin, Jefferson, and Adams signed it and it evidences the forceful thought of those three heroic figures for it gives to international history the freest privileges and possibilities in the matter of maritime commerce that our country or any nation has ever seen. One article actually says that in case of a war involving only Prussia or us the vessels of the neutral party were to be permitted "to navigate freely to and from ports and on the coasts of the belligerent parties", the furthest advanced of the doctrine that "free ships makes free goods." Even in the matter of contraband they could not be confiscated but the captor could purchase such apprehended merchandise by paying the owner its full value. But we have not read all, for another article actually says that in a war between Prussia and us the ordinary commerce of their nationals should not be molested and that privateers should not be commissioned to interrupt such commerce.

Franklin paid no lip service to his ideals. When he, Jefferson, and Adams had the opportunity to act they did and the result is this treaty. You must travel down to the World War to obtain a more militant statement or protection for the rights of neutrals. Only Holland herself, in that Great War provides a counterpart. For those of us who believe that the time has come for neutral nations to declare that belligerents must take their hands off legitimate commerce this treaty seems like a beacon light in the path of peace-provoking actions.

Prof. Charles Seymour, one of the most scholarly of authorities dealing with the genesis of the World War and its lessons for America has said:

> We can sacrifice certain commercial rights in the hope of avoiding trouble, but experience shows that one sacrifice leads to another, and ultimately we shall reach a point beyond which further concession is impossible. No nation of importance in all history has escaped its problems by refusing to face them (American Neutrality, p. 178).

If we are going to sit by and watch the "bullies" of the seas steal every right we possess, it will not be long before those nations, encouraged by our weakness, will develop other rapacities. I have said before that our failure to fight against the extension of the Allied lists of contraband was the outstanding negation of duty in the whole war. With our prestige and power, yes, with all belligerents hanging upon our very breaths for fear that they might anger us, we forsook the grandest of opportunities in our annuals to militantly set out the stand of this Nation and give to dozens of neutrals the hope of centuries.

Instead we suffered the flimsiest of excuses from England, speaking for the Allies, to extend the list of contraband, and we virtually saw a world-wide belligerent protectorate blanketing all neutral trade. Our bold, courageous treaty with Prussia stood as a mockery. Franklin, champion of a confederacy of neutral powers, and Jefferson equally sold on the same idea, both must have found their hopes dashed in our World War surrender. Wordsworth once said:

> Earth is sick
> And Heaven is weary of the hollow words
> That states and kingdoms utter when they talk
> Of truth and justice.

We had turned our minds and our land into an ammunition wagon all during the World War instead of using a rifle to fire off other people's ammunition and lead neutrals to a new and oft promised "freedom of the seas." Never did the succinct phrase of Carlyle come truer than then. It was he who said, "Diplomacy is clouds; beating of your enemies is land and sea." While we remained aloft in the theoretical clouds of diplomacy, the Allies kept their feet and sent up enough material for us to float along in the airy spaces.

Of course, we could not stop shipping arms, ammunition, and implements of war to the Allies. Ambassador von Bernstorff realized that and accepted the fall of the cards. About international law violations, however, we could have militantly upheld our rights and not surrendered so supinely. Military espousal of one's rights as a neutral and a diplomatic insistence are two of the forgotten duties of a neutral. You cannot laugh at the progress of 300 years in international law and throw it aside, because it does not seem to prevent wars. Our short but illuminating experience with the loftiest rhapsody in the League of Nations, the Wilsonian hopes for the golden fleece of peace, must teach us that there is no short cut. It is a slow, up-hill fight, and we must be content with smaller advances.

In general we have gone on record whenever possible in favor of a restricted list of contrabands as "arms, munitions, military supplies." Of course, when food is destined for military forces we have held it contraband also.

The famous "Treaty Plan of 1776" limited contraband to arms, munitions, war supplies, and horses and our list was the same after the armed neutrality proposal of Russia. Twice we acted forthright in contraband; once in 1780 when Adams suggested the outright elimination of the entire doctrine and, secondly when the commissioners of peace to Great Britain proposed that contraband should not be confiscated but purchased. We have seen that Prussia accepted this provision though, of course, the English would not. Repeatedly our representatives have tried to obtain the elimination of contraband but to no avail.

There were no lists published in the War of 1812 or the Mexican War with no executive list on contraband in the Civil War set-up until 1865. Paradoxically the delegates to the Hague Conference of 1907 voted against the British proposal to eliminate contraband. Our delegates had instructions to limit the doctrine as much as possible, but later they obtained instructions to act with the British at the London Conference. We followed the same policy at London in 1909.

I have inserted at the end of this speech the great contraband efforts of this country in the past with others that may prove helpful. They include actual instances of codified contraband lists. Necessarily I have attempted to confine this review to the high lights and have thus taken my extracts from some of the leading beacon lights in the great subject.

Any attempt to follow the subtle interwoven threads that together form the history of contraband might be interesting for an antiquarian but of little interest to us. In a world where the struggle within each country was of the uppermost importance it was only natural that progress should be slow and prompted often by the most selfish motives. Yet in the very clashes of selfishness common ground often presented opportunities for lasting changes that have resulted in world-wide benefit. Accommodation and conciliation were the virtues that often caused helpful compromises when all other efforts failed. The inexhaustible arsenal of precedents is replete with such instances.

In this field, as in other exalted efforts, it may well be proper to repeat the famous paragraph—

> The pursuit of a remote and ideal object which captivates the imagination by its splendor and the reason by its simplicity, evokes an energy which would not be inspired by a rational possible end, limited by many antagonistic claims, and confined to what is reasonable, practicable, and just. One excess or exaggeration is the corrective of the other and error promotes truth, where the masses are concerned, by counterbalancing a contrary error.

I would like to take extracts from the report of the British delegates on the naval conference at London, the soundest pre-war effort to place a real backlog of contraband into international agreements. I quote especially one paragraph as being an excellent need for a bill I have before the Committee on Foreign Affairs seeking the recodification of international law.

> The view in favor of accepting the list as it stands finally prevailed, it being agreed on all hands that the establishment of a strictly defined and generally recognized list, even if slightly defective, would be infinitely preferable to the continuance of the uncertainty which had resulted from the conflicting claims and practice of different nations in this regard hitherto.

BEACON LIGHTS IN THE HISTORY OF CONTRABAND

Grotius 1625: Grotius makes three classes of contraband, the first only being in point:

First. Those which have their sole use in war, such as arms (contraband).

Second. Those which have no use in war, as articles of luxury.

Third. Those which use both in war and out of war, as money, provisions, ships, and those things appertaining to ships.

EARLY EXAMPLES OF TREATY CONTENTS

In the treaty of commerce between France and England in 1667, corn, barley, other grain, and everything tending to the nourishment of life are said not to be contraband.

In the treaty of commerce between Charles II, King of England, and the States of Holland in 1668 the liberty of trade is granted to all goods which are not called contraband; and no goods are there so-called but arms and things which serve for the use of war; those serving for sustenance and the support of life being excluded in terms.

By the Treaty of Utretcht in 1713 between England and Spain, wheat, rye, barley, other grain, and generally whatsoever belongs to the sustaining and nourishing of life are excepted from contraband.

In the treaty of commerce and navigation between England and Russia in 1766 only military stores are contraband. In 1782, Denmark, as well as Russia, concurs in the same ideas. And the last expression of the sense of Great Britain in the year 1786 in the treaty with France was that wheat, barley, and any other kind of corn were not to be reckoned contraband. For many years more than a century has Great Britain been in the habit of allowing in her commercial treaties a free scope, even in the seasons of war, to the means of human subsistence. The period between the year 1668 and 1786 was a witness to changes in manners, in learning, and in politics.

1871 ITALIAN TREATY

Article XV of the treaty between the United States and Italy (commerce and navigation, signed at Florence Feb. 26, 1871) says:

> The liberty of navigation and commerce secured to neutrals by the stipulations of this treaty shall extend to all kinds of merchandise excepting those only which are distinguished by the name of contraband of war. And in order to remove all causes of doubt and misunderstanding upon this subject, the contracting parties express, agree, and declare that the following articles and no others shall be considered as comprehended under this denomination:
>
> 1. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, fusees, rifles, carbines, pistols, pikes, swords, sabers, lances, spears, halberts, bombs, grenades, powder, matches, balls, and all other

things belonging to and expressly manufactured for the use of these arms.

2. Infantry belts, implements of war, and defensive weapons, clothes cut or made up in a military form and for a military use.

3. Cavalry belts, war saddles, and holsters.

4. And generally all kinds of arms and instruments of iron, steel, brass, and copper or of any other materials, manufactured, prepared, and formed expressly to make war by sea or land.

1909

The Declaration of London says: Contraband of war:

ART. 22. The following articles may, without notice, be treated as contraband of war, under the name of absolute contraband:

(1) Arms of all kinds, including arms for sporting purposes and their distinctive component parts.

(2) Projectiles, charges, and cartridges of all kinds and their distinctive component parts.

(3) Powder and explosives specially prepared for use in war.

(4) Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.

(5) Clothing and equipment of a distinctively military character.

(6) All kinds of harness of a distinctively military character.

(7) Saddle, draught, and pack animals suitable for use in war.

(8) Articles of camp equipment and their distinctive component parts.

(9) Armor plates.

(10) Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war.

(11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.

ART. 23. Articles exclusively used for war may be added to the list of absolute contraband by a declaration, which must be notified.

Such notification must be addressed to the Governments of other powers, or to their representatives accredited to the power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral powers.

ART. 24. The following articles, susceptible of use in war as well as for purposes of peace, may, without notice, be treated as contraband of war, under the name of conditional contraband:

(1) Foodstuffs.

(2) Forage and grain, suitable for feeding animals.

(3) Clothing fabrics for clothing, and boots and shoes, suitable for use in war.

(4) Gold and silver in coin or bullion; paper money.

(5) Vehicles of all kinds available for use in war and their component parts.

(7) Railway material, both fixed and rolling stock, and material for telegraphs, wireless telegraphs, and telephones.

(8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.

(9) Fuel; lubricants.

(10) Powder and explosives not specially prepared for use in war.

(11) Barbed wire and implements for fixing and cutting the same.

(12) Horseshoes and shoeing materials.

(13) Harness and saddlery.

(14) Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

ART. 25. Articles susceptible of use in war as well as for purposes of peace, other than those enumerated in articles 22 and 24, may be added to the list of conditional contraband by a declaration, which must be notified in the manner provided for in the second paragraph of article 23.

ART. 26. If a power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in articles 22 and 24, such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of article 23.

ART. 27. Articles which are not susceptible of use in war may not be declared contraband of war.

ARTICLE 28. The following may not be declared contraband of war:

(1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.

(2) Oil seeds and nuts; copra.

(3) Rubber, resins, gums, and lacs; hops.

(4) Raw hides and horns, bones and ivory.

(5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.

(6) Metallic ores.

(7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.

(8) Chinaware and glass.

(9) Paper and paper-making materials.

(10) Soap, paint, and colors, including articles exclusively used in their manufacture and varnish.

(11) Bleaching powder, soda ash, caustic soda, saltcake, ammonia, sulphate of ammonia, and sulphate of ammonia and sulphate of copper.

(12) Agricultural, mining, textile, and printing machinery.

(13) Precious and semiprecious stones, pearls and mother-of-pearl, and coral.

(14) Clocks and watches, other than chronometers.

(15) Fashion and fancy goods.

(16) Feathers of all kinds, hairs, and bristles.

(17) Articles of household furniture and decoration; office furniture and requisites.

ART. 29. Likewise the following may not be treated as contraband of war:

1. Articles serving exclusively to aid the sick and wounded. They can, however, in case of urgent military necessity and subject to the payment of compensation, be requisitioned if their destination is that specified in article 30.

2. Articles intended for the use of the vessel in which they are found, as well as those intended for the use of her crew and passengers during the voyage.

ART. 30. Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transshipment or a subsequent transport by land.

ART. 31. Proof of the destination specified in article 30 is complete in the following cases:

1. When the goods are documented for discharge in an enemy port or for delivery to the armed forces of the enemy.

2. When the vessel is to call at enemy ports only or when she is to touch at an enemy port or meet the armed forces of the enemy before reaching the neutral port for which the goods in question are documented.

ART. 32. Where a vessel is carrying absolute contraband, her papers are conclusive proof as to the voyage on which she is engaged, unless she is found clearly out of the course indicated by her papers and unable to give adequate reasons to justify such deviation.

ART. 33. Conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a government department of the enemy states, unless in this latter case the circumstances show that the goods cannot, in fact, be used for the purposes of the war in progress. This latter exception does not apply to a consignment coming under article 24 (4).

ART. 34. The destination referred to in article 33 is presumed to exist if the goods are consigned to enemy authorities, or to a contractor established in the enemy country who, as a matter of common knowledge, supplies articles of this kind to the enemy. A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy. No such presumption, however, arises in the case of a merchant vessel bound for one of these places if it is sought to prove that she herself is contraband.

In cases where the above presumptions do not arise, the destination is presumed to be innocent.

The presumptions set up by this article may be rebutted.

ART. 35. Conditional contraband is not liable to capture, except when found on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged in an intervening neutral port.

The ship's papers are conclusive proof, both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

1935

Under the authority of the joint resolution of the Seventy-fourth Congress, the President on September 25, 1935, declared and proclaimed that the articles of war listed below shall be considered "arms, ammunition, and implements of war" for the purposes of section 2 of the statute of 1935:

Category I: (1) Rifles and carbines using ammunition in excess of caliber .26.5 and their barrels.

(2) Machine guns, automatic rifles, and machine pistols of all calibers, and their barrels.

(3) Guns howitzers and mortars of all calibers, their mountings and barrels.

(4) Ammunition for the arms enumerated under (1) and (2) above, i. e., high-power steel-jacketed ammunition in excess of caliber .26.5; filled and unfilled projectiles and propellants with a web thickness of 0.015 inch or greater for the projectiles of the arms enumerated under (3) above.

(5) Grenades, bombs, torpedoes, and mines, filled or unfilled, and apparatus for their use or discharge.

(6) Tanks, military armored vehicles, and armored trains.

Category II: Vessels of war of all kinds, including aircraft carriers and submarines.

Category III: (1) Aircraft assembled or dismantled, both heavier and lighter than air, which are designed, adapted, and intended for aerial combat by the use of machine guns or of artillery or for the carrying and dropping of bombs, or which are equipped with, or which by reason of design or construction are prepared for, any of the appliances referred to in paragraph (2) below.

(2) Aerial gun mounts and frames, bomb racks, torpedo carriers, and bomb or torpedo-release mechanisms.

Category IV: Revolvers and automatic pistols of a weight in excess of 1 pound 6 ounces (630) grams, using ammunition in excess of caliber .26.5, and ammunition therefor.

Category V: (1) Aircraft assembled or dismantled, both heavier and lighter than air, other than those included in category III.

(2) Propellers or air screws, fuselages, hulls, tail units, and undercarriage units.

(3) Aircraft engines.
Category VI: Livens projectors and flame throwers.
(2) Mustard gas, lewisite, ethyldichlorarsine, and methyldichlorarsine.

Reorganization of the Judiciary

EXTENSION OF REMARKS
OF
HON. JOHN M. COFFEE
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 31, 1937

BRIEF BY DR. JOHN ALBERT VIEG

Mr. COFFEE of Washington. Mr. Speaker, under leave to extend my remarks in the RECORD, I include a forceful disquisition on the subject of the President's judiciary proposal, written by request, by Dr. John A. Vieg, research assistant to Dr. Charles E. Merriam, head of the department of political science of the University of Chicago and a member of the National Resources Committee. I consider Dr. Vieg's contribution to be most apt and timely and worthy of the attention of the Congress. I believe the logic of his statements to be persuasive and unassailable.

The success of any government is a function of its ability to make prompt adjustments to new conditions. The National Government of the United States faces today a complex situation calling urgently for action and is fortunately headed by leaders sensitive to the need. This leadership is, however, faced with the proposition that its best efforts to promote the general welfare of the people may be thwarted and frustrated by an interpretation of the supreme law of the land which, unlike the interpretation of Mr. Chief Justice Marshall, fails to ground itself on the idea: "Let us never forget that it is a constitution we are expounding." In other words efforts made in good faith by the Congress and the Executive—all of whom have taken an oath to support the Constitution quite as solemn as that taken by the members of the Supreme Court—are in danger of being nullified through a judicial veto failing to recognize that the central purpose of the Constitution is to help the people to help themselves in the solution of their problems through the instrumentalities of Government.

In the present situation, as the President so correctly said on March 4, "time is of the essence." Americans want what they want when they want it; as for the problems and issues they had in mind when in unprecedented numbers they crowded the polls 4 short months ago, they want the solutions now. They cannot wait and the administration dare not wait. What it has done in these circumstances is to propose within the four walls of the Constitution a perfectly proper and legal way of breaking the impasse—a way that will permit the American ship of state to proceed forward on its way, that will incidentally have a salutary effect on the other or lower Federal courts, and that does not shut the door in any way to a formal amendment if, later, that should be found needful.

Far from being repugnant to the American way of solving problems, the bill now before the Congress is deep in the American tradition. As one of our most profound students of government said some years ago, when the tension level of politics was lower than it is at present:

"The United States Constitution was revoluntionary, experimental, and adventurous in nature. Many very fundamental changes in the basic features of our Government have occurred under it. A constitution is in a sense a state of mind, and can be changed by changing our mind. Constitutional guarantees of person and property are slender and inadequate protection against the public will. The present danger in America is not that of lack of stability, but of mobility." (Charles E. Merriam, "The Written Constitution and the Unwritten Attitude", New York, 1931, pp. 2-3.)

To one examining the present proposal from a detached point of view one fact stands out so plainly that even he who runs may read: The Roosevelt administration is trying to bring to the solution of the country's vital problems some of that same inventiveness, originality, and high resolution not to rest until the job is done which the founders of this Nation brought to the solution of their problems a hundred and fifty years ago—and which, in the constitutional fathers, the opposition purports to admire.

A total view of the present situation brings out the fact that written organic acts are never more than a part of the complete constitution of any country. Nor is it even certain that they comprise the more important part. Just as the iceberg has three-fourths of its bulk below the surface of the water, the written words of any constitution simply constitute that portion of the whole which is visible above the surface. Below the surface there is "A general understanding as to ways of doing things political", or, in the words of Hamilton, "the general genius of the Government", on which in the last analysis our free institutions are based.

When, therefore, both the written document and the unwritten attitude are taken into consideration it is plain that the plan of the President does contemplate some change in our Constitution. But it is beside the point for the opposition to insist that the proper procedure is to fight for an amendment. There are, after all, four different ways of altering the American Constitution, and every one of them is open, honorable, and in good historical repute. Our Constitution has been amended many times by each method, and it is clearly within the province of the people and of their representatives to employ whichever one they find most appropriate to the task at hand. These methods are: (1) Usage, (2) statutory elaboration, (3) judicial interpretation, and (4) formal amendment.

The great statesmen of both parties have all championed, at one time or another in our history, just such adjustments as the one now before the public. Jefferson, Jackson, Lincoln, and Theodore Roosevelt—all of them knew what it was to fight for the general welfare in the face of charges that they were usurping power or violating sacred trusts. But they persevered, as the present Chief Executive is persevering, and the cause of the general public was advanced. And the heavens, instead of falling, seemed brighter than ever after they had done their work.

The argument that the administration is morally precluded from demanding the passage of this bill now because it failed to disclose the scheme during the campaign is palpably absurd. The Democratic Party was given a sweeping triumph at the polls after the Republican press had done its best to persuade the electorate that, if returned to office, Mr. Roosevelt would resort to just such devices as the one Congress is now considering and after the candidate himself had made it plain as day before all the people that if reelected he would do his best to show them that for all the things for which the New Deal stood he had "just begun to fight."

Each generation takes the heritage of its forefathers and makes a new constitution of its own. This is not only the plain reading of the history of America; it is beyond all doubt the secret of our success in making this one of the happiest lands on earth. Once again a new generation of our people faces the question of whether it will think for itself and hammer out a needed adaptation of its machinery of government. Everything in the epic of America points toward our making the adjustment. Let us hope we can keep in 1937 the pace that was struck a century and a half ago.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. RUSH D. HOLT
OF WEST VIRGINIA
IN THE SENATE OF THE UNITED STATES
Wednesday, March 31 (legislative day of Monday, Mar. 29), 1937

ADDRESS BY HON. RUSH D. HOLT, OF WEST VIRGINIA, AT THE UNIVERSITY OF NORTH CAROLINA, ON MARCH 23, 1937

Mr. HOLT. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD my reply to Mr. Farley relative to the proposed reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

On February 5 the President astonished the American people with a suddenly proposed plan to reorganize the courts of the United States. In that message to the Congress he did not disclose his purpose, but since then he and those advocating reorganization of the Court have disclosed the purpose to be the bringing about of an interpretation of the Constitution by the Supreme Court that would validate acts like the Agricultural Adjustment Act, the National Recovery Act, and other legislation that the Court has declared unconstitutional. The reaction of the American people must have been as amazing to the President as it was gratifying to most Americans, who had the assurance of the Democratic platform that any change in the meaning of the constitutional processes would be sought to be brought about by an amendment duly submitted to the people themselves. The President's proposal was universally received as one affecting the very life of the Constitution, the place of the Court in the life of the Republic, and the structure of the Republic itself. For fully 3 weeks the discussion was kept upon a nonpartisan basis. This was most gratifying. There were many eminent Democrats, including

your own Senator BAILEY, who opposed the proposition. Many Democratic Senators oppose it; many Democratic Members of the House of Representatives oppose it. For a little while it appeared that this great issue would be discussed upon its merits, but all this has been changed.

On the occasion of the Victory Dinner celebrating the Democratic victory in the election of last November, instead of celebrating that victory, the President of the United States himself cracked the party whip and made a strenuous appeal to the Democratic Party. This was the more astonishing for the reason that it was well known that in the 4 years since he was elected President Mr. Roosevelt had mentioned the Democratic Party three times. He had attended a former Victory Dinner and made a speech without calling the name of his party. He had attended the dinner in honor of Chairman Farley and made a speech without mentioning the Democratic Party, but he seized the occasion of the latest Victory Dinner to set forward his ambition to reorganize the Court on the basis of a partisan appeal.

Since that time the Honorable James A. Farley, Postmaster General, chairman of the National Democratic Executive Committee, chairman of the State Democratic executive committee of the State of New York, a very shrewd and successful politician, came to this university and in this hall and on this rostrum followed up the President's victory-dinner speech on the Court and undertook to crack the party whip in the State of North Carolina.

If this great issue has been brought down to the basis of partisan politics, history will record, and you will recognize, that it was brought down to this basis by the President of the United States and his political manager, National Chairman James A. Farley.

This question should be restored to its proper place. It is not a party question. It was not considered a party question by the press or the people of America. During the last campaign neither President Roosevelt nor any of his advisers made the judicial change a political issue—and, frankly, no issue at all.

Therefore I wonder if the President and his political manager, Mr. Farley, can bring this down to the partisan basis. I am speaking to you as young men. I do not know to what party you belong. Some may be Republicans, some Democrats, some Socialists, and some independents. I hope that you will discuss this issue, not only here but hereafter, free from party bias or party attachment in order that you may discuss it upon merits as one of the greatest questions that ever reached down into the character of the Government of the United States.

This is a free country. The President had a right as an individual to make this a party question. Mr. Farley had a right to come here and speak in his capacity as national chairman and crack the party whip in North Carolina. I have a right to protest against it. Let us as young people make them realize that this question cannot be brought down to a partisan basis and make it a subject of party organization and party pressure. If the Democratic Party in its convention at Philadelphia had proposed reorganization of the Supreme Court for the purpose of changing the interpretation of our victorious result, we might accept the verdict as a party verdict, but this was not attempted, and it is too late now to speak of the mandate when the matter was not discussed. When the opposition tried to charge that the Court would be tampered with, members of the Democratic campaign staff were quick to deny such a move.

Senator ASHURST, sponsor of the bill in the Senate, had said before the election: "And among the unjust criticisms which have been uttered, or printed rather, about President Roosevelt, was that he intended at some time—nobody knows when or where—to increase by some legerdemain—nobody knows when or where—the membership of the Supreme Court of the United States so that his policies might be sustained. A more ridiculous, absurd, and unjust criticism of a President was never made. No person whose opinion is respected has favored attempting such a reckless theory and policy."

The President and Mr. Farley, by cracking the party whip on this subject, are not appealing to the wisdom of the proposal but to the force that they desire to posses to push it through. If we are to be guided by a party platform, we must understand that this act of the President was not contemplated publicly in the last campaign.

Since Mr. Farley spoke here, the report has gone abroad throughout the land that recognition and patronage will be taken from Members of the House and Senate of the Congress simply because they dare to differ with the President and Mr. Farley on this great question.

There are conscientious Senators for the bill. There are many conscientious Senators against the bill. Why should an attempt be made to force a change in the conscientious Senators who are against the bill through the medium of patronage and power? To many Senators patronage means much.

I was elected as a Democrat to the United States Senate. Perhaps I was not wise in the ways of politicians. I ventured to criticize the administration of the W. P. A. I called attention to the facts of waste and extravagance and to the use of W. P. A. money for political and patronage purposes which should have gone to hungry people. What they deem to be punishment was the result.

There never has been, and never should be, enough patronage to sway an honest Member of either branch of Congress from his duty and from right as he sees it. We have now reached the time when men must make the sacrifices of patronage. It is well worth making now.

Mr. Farley is not the only Federal official who is starting the fires back home under those who disagree with the President's proposal. Mr. Harry L. Hopkins, famed for his wisecracks and his failure to administer the relief, took the air with a "go" signal for all the minor relief officials in the United States. With his past record as a basis no one can doubt that Mr. Hopkins will use the relief funds where they will be most advantageous politically to the Court proposal. This is nothing more than another fire-burning situation back home. Relief workers were made to understand that the Supreme Court would stand in the way of relief. Mr. Hopkins knew, or at least should have known, that the Supreme Court decisions did not affect the expenditure of relief money. The failure to meet relief needs of hungry and naked in many instances came because the money had been spent to take care of political henchmen of those who had lost their independence in this politicalized control of public officials.

We have placed billions and billions of dollars in the hands of President Roosevelt. We have given Mr. Farley all the implements of the powers of patronage and of public expenditure. Patronage is a great temptation to men in official life today. Senators can and have built up great political machines with the aid of Mr. Farley and the approval of the President, but those who stand as I do, stripped of the favor of the great, must depend upon the honesty of men and women like yourselves. We have nothing to promise you; nothing to give you. All that we can hope to do is to do our duty and serve our country. I cannot be unmindful of the great machine of officeholders, almost as numerous as the plague of grasshoppers in Egypt. Our appeal is to men and women like you to resist the temptation of power and patronage and study these things for the welfare of all the people. It is a fine thing for the American people to think about their Government and their Constitution, but let us do so with a view to the welfare of our country and divorce it from party consideration.

Now, let us look at the plan itself. The President in his first message simply informed the Congress that certain judges were aged and infirm and needed assistance, and that the dockets of the courts were crowded because of these men. He was not candid as to his purpose when he made that statement. Now he has retreated from that position and made it clear that he wants the power to appoint a Court that will validate certain legislation. The record had shown that the dockets were not crowded. His own Attorney General's report disputes the President's argument.

President Roosevelt had appointed more old judges than any other President since the turn of the century. The President has appointed more judges over the age of 60 than had Taft, Wilson, and Harding combined, according to a compilation by a student of the proposal. Taft appointed three; Wilson, one; Harding, four; and Coolidge and Hoover, seven. President Roosevelt named nine over the age of 60 and two others at the time of their appointments were past 59. He has even named a man to the Federal bench who is over 70 years of age when appointed. The President's own record disputes his own argument.

It may also be well worthwhile to see what Mr. Farley said when he spoke at Chapel Hill. He said, "However, the fundamental issue involved in this controversy transcends the question of the age of the members of the Supreme Court. After all, this is a matter of relativity." And then he added, "Some men are stand-patters at the age of 35." How does that stack up with the statement of old and blurred glasses that his chief, as he calls him, spoke about?

Therefore, the case against the President's argument comes from the President's own witness and from the President's own record. The President first made the Supreme Court plan a legal issue and based his reasons for changing the Supreme Court on crowded dockets, slowing up of judicial process and appealed to the legal side of the case. His contentions were proven to be wrong. Then he and his supporters tried to make it an issue of liberalism, charging that the opponents were those who were lined up with the Liberty League and economic royalists. That did not stand the test of fact because many of the greatest liberals in America today fought the proposal. In the Senate a great majority of those with liberal records were opposed. At last he has tried to make it a partisan issue but he will find that his position is not verified by the history of the Democratic Party and its ideals.

The President himself when speaking of judicial process, said in his book, Looking Forward, pages 195 and 196, "In the face of this congestion, the remedy commonly proposed is to add new judges of new courts, but it will readily be seen that if the problem is what I have stated it to be, such a so-called remedy merely aggravates the complaint. There are, of course, legitimate demands for additional judicial man-power in the sections where the population has grown rapidly. But it is easy to see that to apply this remedy in all cases is to add to the ravages of the disease, to contribute to the confusion, and what is profoundly important at this time, to burden still further an already seriously embarrassed taxpayer."

May 28, 1935, was an eventful day in American history. The Supreme Court handed down two decisions, which decisions in my opinion are part of the cause of the present proposal of the President of the United States. It is worth while to look behind the scenes and in the past as to the reasons for the proposal. What were those decisions? Look at the Humphreys case. This was handed down by the Supreme Court prohibiting the President from removing a man who was selected for a definite term in the Federal Trade Commission because he, Humphreys, had not seen eye to eye with the President on policies. This decision

was unanimous by the Court—it was not decided by a conservative membership but by every individual on the Court. It was a limitation to the President's power which he resented. The very same day as this decision the Supreme Court handed down the Schecter case, outlawed the N. R. A. Justice Cardozo, one of the most liberal men on the Court, stated that in his opinion, the N. R. A. was "delegation running riot." Why should the power which rests in the hands of public officials be delegated to minor bureaucrats and code authorities who are not responsible to the people? The President himself stated that the N. R. A. went too far. Even before the N. R. A. was outlawed by the Supreme Court it had been outlawed by public opinion in this country. May I recall to you the public reaction to the penalizing of a little pants presser up in New Jersey who pressed a pair of pants a few cents cheaper than his competitor and faced the consequences of Federal penalties.

The President wants to revive the N. R. A. or some other similar organization. Shall we give him the power to interpret the law to be constitutional? The President defied anyone to read the opinion on the N. R. A. and tell him what could be done for the workers. He read the opinion in May 1935, and as a lawyer and as the President of the United States, if he realized that the opinion would prohibit dealing with the industrial workers, why didn't he tell them sometime before or in the election of 1936? The President also lets it be known that he would like to have an agricultural policy similar to the A. A. A. This has been outlawed by the Supreme Court.

The President of the United States said in his victory-day dinner, "I defy anyone to read the majority opinion invalidating the A. A. A. and tell us what we can do for agriculture in this session of the Congress with any reasonable degree of certainty that what we will do will not be nullified as unconstitutional."

President Roosevelt read the A. A. A. decision months before the 1936 campaign. He is a lawyer and if in his opinion he felt that nothing could be done, as he stated in the victory-day dinner, why didn't he tell the American farmer that in his Omaha, Nebr., speech? Why didn't he tell the farmers that he had to change the Supreme Court to meet the proposals that he intended to suggest to Congress? Some desire regulation of all agriculture. They want to tell the farmers in North Carolina and other States what they must do. A farmer may wake up some morning, if they are successful in this plan, and find that he is not allowed to plant on one hillside and has to plant on another. He may find himself surrounded with agents and advisers. He will be told where to build a ditch or to open a drain, and how much cotton and tobacco to plant, and many things that we have not even thought of yet. If he does not do it and does not obey the regulations, he will be guilty of a misdemeanor and fined, with a possibility of a jail sentence.

Shall we destroy the rights of the individual and centralize them in Washington? Shall we do this by interpretative process of the Constitution? Yet the farmers are being told by Federal officials who are going throughout the different States of the Union that unless the President is successful in his change in the Supreme Court that nothing can be done for agriculture. The farmers of America are confronted with the subsidized bribe of the Federal group in order to try to get the tillers of the soil behind the proposal. That sounds a little harsh and a little blunt, but may I say that I am using the words of President Roosevelt when he said that certain Federal aid was "a form of bribery to States to take projects which have caught the fancy of some bureau officials at Washington." No; that statement was not made by President Roosevelt. It was made by Governor Roosevelt in 1930.

The President also attacked the Supreme Court decision on the Guffey coal case. It will be recalled that in a letter to Representative Samuel Hill, of Washington, sent to him in July 1935, President Roosevelt said: "I hope that your committee will not permit doubt as to constitutionality, however reasonable, to block the suggested legislation."

That the President doubted the constitutionality of it is a certainty, or he would not have written the above-quoted letter; yet, when the Court declared it invalid, it was a fault of the Supreme Court, he intimates, because of economic predilections of the Court.

I do not subscribe to the theory that the Supreme Court can do no wrong. Neither do I subscribe to the theory that the President can do no wrong. Both have made mistakes. There has been a saying that I have known since I was a child, "Two wrongs cannot make a right."

The President in his radio address made it appear that the country is in great danger; that we are facing another crisis. When did this crisis develop? It must have developed since the campaign, because at Pittsburgh he spoke of "rising national prosperity."

At St. Paul he spoke of the great benefits to America's industry and to America's agriculture, and at Omaha the farmers were told about the excellent condition of the country. At Denver he spoke of the "revival of industry, of farming, and of transportation." He also said that "private employment is picking up."

In his speech at Wichita he said, "From the state of collapse in 1932, agriculture has not only been brought back to life but has received encouragement of Government which enables it to face the future with confidence." That is what he told the farmers in Kansas. Going back to Chicago on the same trip he said, "Today those factories sing the song of industry, markets hum with bustling movements, banks are secure, ships and trains are running full, and, with Chicago, the whole Nation that had not been cheerful for years is full of cheer once more."

And here is what he told different business groups.

"The deposits at the bank are safer today than they have ever been in our history."

He said to the investor, "Your stocks and bonds are up to 5- and 6-year high levels."

He said to the merchants, "Your markets have a precious lifeblood purchasing power. Your customers on the farms have better incomes and smaller debts. Your customers in the city have more jobs, sure jobs, better jobs. Didn't your Government have something to do with that?"

He said to the farmers, "We have raised the income of the customers of business who lived on the farm."

To the businessman, he said, "Sit back and enjoy the company of your ledgers. They are in the black."

And, in closing that speech in Chicago, he said, "We have come through a hard struggle to preserve democracy in America. Where other nations in other parts of the world have lost that fight, we have won."

The Department of Agriculture announces that farm prices have finally achieved the goal of parity between agriculture and industry for the first time in 11 years.

All of these things remind me of another statement of the President in which he said at Wichita, "They have tried to spread the gospel of fear not only in the factories, which is an old shopworn trick, but this year they are even trying to bring fear into the homes and firesides of America."

Who is now spreading fear to the fireside in chats on the Court?

The President has said, in effect, let me change the Supreme Court and happiness will be once again with you all. Our faults lie at the door of five men who have economic predilections.

Mr. Farley, in his speech, spoke about the great mandate given the President to make this change. Is the Constitution an instrument that may be changed at will by the lone devise of adding to the Court sufficient men who are willing to say that its meaning is what the President says it is? If the Constitution is to be changed with every administration without the process of amendment, then we do not have a Constitution such as we have possessed in this country for nearly 150 years. Shall we place the Constitution on a basis to mean that if you vote for one candidate for the Presidency, the Constitution means one thing, and if you vote for another, the Constitution means something else? What has come of the stability of your Government? Once the Constitution is destroyed the American Government is destroyed.

Shall the Constitution be determined by election results? Shall it be first a Harding interpretation, then a Hoover interpretation, then a Roosevelt interpretation, then an unknown interpretation?

Years ago there was a comic character known as Mr. Dooley created by the humorist, Mr. Dunne. In discussing the Philippine question with a friend, Mr. Hennessey, Mr. Dooley desired to know what the constitutional status of the Philippines would be after the election. Whether the Constitution would follow the flag. Mr. Dooley said, "I do not know whether the Constitution follows the flag or not, but I will tell you that the Supreme Court will follow the election returns." Are we to make this a reality instead of a humorous story?

It is useless to bother you with a discussion of the processes of amendment. I realize that those supporting the bill say that an amendment takes too long and point to the child-labor amendment. They do not point out that this is an exception and not the rule. It may interest you to know that the last three amendments added to our Constitution took but an average of 11 months and 18 days between the time of submission and time of ratification. The last amendment took but 9 months and 13 days.

They do not point out that we have another process of amending the Constitution than by submission to the legislative branches of Government. They do not advise you of the fact that the Congress can submit this proposal to conventions in the different States immediately. If the mandate is so overwhelming as they claim it to be, and if we who are fighting it are as Mr. Farley says, "As lonesome as those who cast their lot with the Liberty League", then why fear the constitutional process of submitting it to the people?

His argument means but one thing, and that is: The death of the constitutional process of amendment and substituting therefor constitutional amendment by a packed-court interpretation.

The election returns mean one thing to one group and another thing to another group. Each would have the so-called mandate according to their own viewpoint. Should the Constitution be interpreted à la John Lewis, or à la Somebody else, or just exactly what does it mean? Shall we place the American Constitution upon such a basis? Shall such an interpretation be a political football to involve our civil liberies, the right of free speech, free press, free assemblage, and the right to worship God as our conscience dictates? If the American people want a change in the Constitution, the Constitution itself sets out the way.

Once a precedent has been established and the power set up, who knows who will be Roosevelt's successor? Would you want to turn over the same amount of power to Mr. John Lewis? George Washington said many years ago: "Precedents are dangerous things. Let the reins of Government, then, be braced and held with a steady hand, and every violation of the Constitution be reprehended. If defective, let it be amended; but not suffered to be trampled upon whilst it has an existence."

This is just that sort of precedent.

Mr. Farley spoke about the Supreme Court decisions of one man, or 5-to-4 decisions. There is nothing in the President's plan that would prevent the same 1-man decisions in a 15-man Court; 8 to 7 is just as likely as 5 to 4; and if we have a 14-man Court, which is a possibility under the plan, the decision would be 7 to 7. The American system is based upon majority rule. Both the House of Representatives and Senate defeat a bill if one more person votes against it than votes for it. To those who desire two-thirds decisions to invalidate an act by the Supreme Court, there is nothing in the President's plan to achieve that purpose.

I receive many letters—and I have no complaint about letters, may I say. To the administration it seems that letters for them are from patriots and letters against them from propagandists. I cannot refrain from saying that in my opinion more propaganda is being paid for today by the Federal Government through its officeholders than has been known in the history of America. It comes of poor grace of the administration to talk about propaganda. As I started to say, I have many letters from people telling me to do what the President wants done, regardless of what it may be. In other words, their theory is when President Roosevelt says "must" the Congress "must." The legislative and executive departments of the Government have been under the control of the present Chief Executive. Shall we do the same thing with the Supreme Court? Your reply is that Mr. Roosevelt is a good man. He has done so much for the country. You say he means well. The Germans dislike having Hitler criticized. The same condition exists in Italy.

America was never established to be a one-man government. The trouble with a one-man government is that it degenerates because the one man ceases to be a good man or his successor is not the same as the first. You say Mr. Roosevelt does not wish to be a dictator. Even though he says he does not want to be a dictator, if we give him all this power, he will be a dictator.

You will recall the Biblical parable of talents. It is a law of life. If you are given power and do not use it, somebody else gets the power.

We, as young men, are going to live a long while in the future. This action does not involve America just today. It involves America for years to come. We want a free representative government. We want a constitution on which we can rely. We want to have a right to change the Constitution to meet present-day needs, but we want to change it in the American way, by process of amendment, not by short cuts through interpretative process.

Therefore I cannot agree with Mr. Farley when he says:

"It seems to me that the incident of the reorganization plan comes directly into the class of those matters on which party loyalty should be the guiding principle. Here is no matter of new national policy."

Now, understand, according to Mr. Farley, that the changing of the entire structure of the judiciary of the United States should be done on party loyalty and is not a matter of new national policy. Instead of my country first to Mr. Farley, it is "my party first", and further still, "my part of my party first."

In closing, I state that I disagree with Mr. Farley and Mr. Roosevelt on this proposal, and cite Mr. Farley's own remarks that "the welfare of the Nation is preeminent."

Old-Age Assistance

EXTENSION OF REMARKS

OF

HON. SAM C. MASSINGALE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1937

RADIO ADDRESS BY HON. SAM C. MASSINGALE, OF OKLAHOMA, ON MARCH 27, 1937

Mr. MASSINGALE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I delivered over the radio on March 27:

Ladies and gentlemen, this allotment of time on the air is the gratuity of Dr. Pope, known throughout the country as a friend of the movement to secure an adequate pension for our old people. I am sure that all listeners are agreed that Dr. Pope is sincere in his motives to accomplish a satisfactory and adequate pension law. I will state that the doctor has had introduced in Congress a bill providing for $30 per month, independent of any State participation. The doctor believes that this may be the maximum amount that Congress would appropriate for this purpose. He is in full agreement with all friends of our destitute old that the assistance now received by them under the present law is inadequate.

In the passage of the bill providing for general welfare by establishing a system of old-age benefits in the Seventy-fourth Congress, a movement was inaugurated for the first time in America in response to the great demands of the people for benefits of some kind to our old and destitute.

While that bill was being considered, I discussed it on the floor of the House and voted to substitute what was known as the McGroarty plan for the present social-security law, because I believed that the Social Security Act would not yield an adequate amount of money to properly and decently care for our old. In my speech on this bill I made the statement that the title of the bill was likely to deceive many people of the country, because from reading the title anyone would favor it, as it took into consideration the entire gamut of human life, giving solicitude for new-born babies, medical care for mothers in maternity, assistance to crippled children, abolition of poorhouses, relief to the aged that would enable them to live on a decent plane for the remainder of their lives. The blandishments in the title of the bill and the report the committee made on it were charmingly fascinating. It was the real content and actual operation of the bill that I feared would bring disappointment to our people. I found on my return home that the things which I feared in regard to disappointment existed. However, it was the initial step made by this great Government to put into operation a law that humanity demands that each nation do, and that is to make provision for aid and assistance to the old.

I objected to the provision of the bill that required State participation before the Government would pay to our old people a maximum sum of $15 provided for in the bill. The practical operation of the bill is this:

If the State of Oklahoma advises the Federal Government that it will pay to the needy old $15 per month, then the Federal Government will advance to the State $7.50 of this $15 for each month, and the Federal Government will continue to contribute monthly one-half the amount that the State of Oklahoma will pay until the payment by the Federal Government shall reach $15 per month for each eligible old person. In voting for the McGroarty substitute I knew that the economists figured that by the terms of that bill the old people would be enabled to get from $35 to $50 per month without reference to State participation, and I preferred that $35 to $50 per month rather than to depend on State participation and uncertainty as to the amount of money each old person would receive.

It is true that the McGroarty bill was called the modified Townsend bill. I do not think it should prejudice any person against extending to our old people the assistance that they deserve simply because Dr. Townsend may have suggested the idea, or that he may have been in the forefront in contending for this assistance. The pension idea has been promoted very largely through the influence of Dr. Townsend. And whether he was sincere or not is a matter wholly beside the issue of the Government's doing the proper thing toward the old people. While Dr. Townsend may have dipped too heavily in painting his rainbow of hope to our miserable old people, his mistake, if any, was on the side of humanity, and he drew following him a multitude, not only of old people but of other kindly disposed people in America.

It was stated that in 1936 there were 70,000,000 of our people in poverty and despair, and that in excess of 10,000,000 old people were suffering for the bare comforts of life, when as all of us know, plenty abounded, but there was nothing to eat and no garment to wear. Youth was absolutely shut out of the picture. Approximately 8,000,000 boys and girls between the ages of 19 and 26 were unemployed, and the list of unemployed in this country, with all the billions expended, is still conservatively estimated to be 10,000,000.

It was not surprising that people were dissatisfied with this condition, and, having been deprived of their homes by foreclosures, millions of people were looking for somebody to suggest a remedy by which they might avoid spending the remainder of their days at a poorhouse with spaces in potter's fields for their graves. Faced with such conditions, the people were naturally ready for any kind of proposal that could be enacted by Congress, and the people are now ready and anxious for Congress to either amend the Social Security Act or to pass a law that will be adequate to take care of our destitute old people.

I believe it is common knowledge that the dire distress that has held a grip on the people of America in the last 7 years has been due almost entirely to bad economics. I mean by that, that Congress has failed to enact such laws as will enable the people to find employment and to make disposition of the products of industry among all people in a fair and equitable way. Someone has said, "A State can be laid low just as effectively by wrong ideas as by an invading army; and there is no agency of destruction known to chemists that is half as formidable as the TNT of bad economics."

Bad economics prevailed, and prevails now, and it is folly to think in our modern trend that there is any hope for the aged people to ever improve their condition. It is a gloomy thought for a respectable old man or woman who has reached the peak of usefulness in life to look down the road ahead of him with only a vision of the poorhouse for a short sojourn and, a little later, to be carried to the potter's field. Old people cannot get jobs; 8,000,000 young people cannot get them. And it is imperative that the Government of the United States see to it that some kind of adequate provision be made for their care.

There are before Congress now some 15 to 20 bills—some aimed at amendment to the social-security law; one, known as the General Welfare Act, embodies the Townsend old-age-pension plan as originally introduced in Congress; another embodies most of the features of the original Townsend plan, but limits the amount that any person could ever receive to $100. Other bills make provision for some $30 and up per month.

Those who are sincerely in favor of adequate assistance for our old people have gotten together and agreed upon a steering com-

mittee of Members of Congress whose duty it is to see if there cannot be formed a bill that would meet the demands of those interested in old-age pensions, behind which all the friends of pensions to the old can aline themselves in an endeavor to push it to passage. To my mind, this is the most sensible move that has been taken by friends of old-age assistance. With the ranks scattered as they now are in the various factions, it would be impossible to pass any kind of law for the relief of our old people. There is general agreement on this thought.

There is quite a difference between $30 per month and $200 per month, and this steering committee ought to determine just what, in its judgment, should be the amount that old people should be paid and to provide the means of obtaining the money that would be the least objectionable to the people. If no more than $30 can be obtained, then I would recommend that all friends of pensions get behind the $30 movement. Personally I should like to see every man and woman in America who is in need receive around $50 per month as a minimum, for I do not believe a person can live in comfort on less than this amount.

In the various bills that have been introduced, provisions have been made for levying a tax by which the money can be raised to provide for the assistance. Most of the bills make provisions for levying taxes on every kind of transaction that takes place in the country, some of 2 percent and some of 1½ percent. Personally I prefer that the method of taxation be by increasing the taxes on incomes, inheritances, gifts, and the like, for it is manifest that no class of people is better able to pay than those who have incomes on which taxes are already levied, or those who receive large gifts or inheritances. Some have proposed what they term "a tax on manufactured articles", levying the tax as the manufactured product is sent out for sale or distribution over the country. There surely can be developed an agreement on some plan that may combine the various thoughts along this line so that it may commend itself to the majority of people interested and furnish the basis of an aggressive campaign for the enactment of an adequate law for the protection of the old.

I, like other Members of Congress who are favorable to an adequate old-age pension, want to be able to line up behind some bill that can be passed. What I want and earnestly hope for is the enactment of a law that will furnish money sufficient for our old people so that they will not want for the necessities of life in their declining years. I want them to live in comfort and feel at the same time that they are getting this money from the Government of the United States not as a matter of charity but as an annuity or assistance to which they are due because of the contributions they have in their lifetimes made to the Government of the United States.

Progress in the Air

EXTENSION OF REMARKS

OF

HON. EDWARD A. KENNEY

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1937

ADDRESS BY HON. HARLLEE BRANCH, SECOND ASSISTANT POSTMASTER GENERAL, AT THE DINNER OF THE NATIONAL AERONAUTIC ASSOCIATION ON MARCH 30, 1937

Mr. KENNEY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address made last evening by the Honorable Harllee Branch, Second Assistant Postmaster General:

It is with much pleasure that I join the guests of the National Aeronautic Association in celebrating the remarkable progress and achievements of the American Airlines, one of our major air transport companies. This company was one of the pioneers in American aviation, and from the beginning it has been abreast of aviation development.

It was just 10 years ago—April 1, 1927—that American Airlines, then known as the Colonial Air Transport Co., flew its first passenger, Mrs. Gardiner Fiske, of Boston, who was to have been a guest at this dinner tonight, but who is prevented by illness from being in attendance.

In February of this year the American Airlines transported its millionth passenger, Mr. Theodore Baker, also of Boston. By a coincidence, Mr. Baker's flight covered the identical route—from Boston to New York—flown by Mrs. Fiske 10 years ago.

At the time Mrs. Fiske made her flight, the routes of the American Airlines covered only 1,188 route-miles. Today 6,746 route-miles are embraced in this company's system. It serves 57 cities, and its lines run from coast to coast and from Mexico to Canada.

During 1927 the company transported 4,016 passengers, the greater part of which were sightseers on short flights.

This company has made a record of which it and Americans generally may well be proud.

In 1927, the year when American Airlines flew its first passenger, all of the then existing air transport companies flew a total of 12,597 passengers. In 1936 they transported 1,020,931 passengers. The companies operating in 1927 flew only 3,922,000 miles on routes in the United States, while 63,777,000 miles were flown in 1936. These cold figures tell a significant and eloquent story.

The figures of passenger revenues in 1927 are not available, but in 1932 passenger revenues amounted to $4,900,000, as compared with $17,413,000 in 1936.

Ten years ago there were 7,256 route-miles in our domestic air-mail system, and 400 miles in our foreign air-mail system. Today there are 29,589 route-miles in our domestic system, and our foreign system embraces 26,514 route-miles, making a total of 56,103 miles.

The United States is crisscrossed by east-and-west and north-and-south air-mail lines, and our foreign air-mail lines provide service from the United States to Canada, to Mexico, to Cuba, to the West Indies, across the Pacific to the Orient, and we will soon have trans-Atlantic service to Europe.

Daily we receive letters from users of the air mail who commend the efficiency of our air-mail services. A few days ago we received such a letter from one of the officials of the American Institute of Public Opinion, which, as you know, conducts national polls for newspapers on matters of great public interest. Recently the institute had occasion to take a rush poll on a very important issue, and, after a careful study of air-mail schedules, it was decided to utilize the special-delivery air-mail service as far west as Santa Fe, N. Mex. The institute received a 100-percent return on all air-mailed material, both ways, within 4½ days.

The volume of air mail has increased from 473,000 pounds in 1927 to 15,378,000 in 1936, and during the first 6 months of the fiscal year 1937 the increase has been at the rate of 32 percent over the same period in 1936.

I predict that during the next 10 years as great or even greater progress will be made.

In closing, I extend my congratulations to American Airlines upon what it has done and is doing in the field of aviation, and I also bear testimony to the splendid progress which has been made by the aviation industry of this country.

Congress, the Court, and the Constitution

EXTENSION OF REMARKS

OF

HON. WILLIAM GIBBS McADOO

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 1 (legislative day of Monday, Mar. 29), 1937

RADIO ADDRESS BY HON. JOSEPH T. ROBINSON, OF ARKANSAS, ON MARCH 30, 1937

Mr. McADOO. Mr. President, the distinguished and able senior Senator from Arkansas [Mr. ROBINSON] delivered a notable address on The Congress, the Court, and the Constitution, over a Nation-wide broadcast on March 30. I ask unanimous consent to insert it in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

No other legislation coming before the Congress during recent years has caused so much discussion as that proposed by the President for the reorganization of the judiciary.

All features of the plan have been accepted or acquiesced in quite generally save that which relates to increasing the number of Justices of the Supreme Court.

In the hearings before the Judiciary Committee and in the Senate the debates have related in numerous instances to questions which are not actually involved and which, therefore, may be considered in large part as irrelevant.

Those who maintain that increase in the membership of the Court from 9 to not more than 15 by the appointment of additional Justices in every case where one refuses to avail himself of retirement means the packing of the Court, the indirect amendment of the Federal Constitution, and the establishment of dictatorship are compelled to rely on imagination rather than facts and reasonable arguments.

It is the primary purpose of these remarks to expose and eliminate, if possible, some of the irrelevancies that have been injected into the debates.

The answers to two questions: First, has the Congress the power to enact the legislation; and, second, if the power exists should it be exercised, will tend to simplification of the issue and to correctness of conclusion.

HAS CONGRESS THE POWER TO INCREASE THE NUMBER OF SUPREME COURT JUSTICES?

Much has been said and written about amending the Constitution, but no one has expressly asserted that it is necessary to do so in order to authorize increase in the number of Justices composing the Supreme Court. It is almost universally admitted

that such increase would violate neither the letter nor the spirit of the fundamental law. Lawyers, judges, news writers, editors, and others recognize that no change in the Constitution is required in order to carry the plan into execution.

Insofar as the plan affects the Supreme Court, it would accomplish two things, namely, authorize the voluntary retirement of Judges at the age of 70 and permit the appointment of additional Justices in instances where those who are eligible to retire fail to avail themselves of the privilege.

There has never been a time since the Constitution was established when it was seriously suggested that the Congress did not have authority to prescribe the number of Judges that shall compose the Court. Repeatedly during the present debate instances have been cited when the membership has been increased, and other occasions have been recalled when the number has been decreased. In no case of either increase or decrease by act of Congress has any serious question been raised as to the power of Congress to pass the legislation. The number of Justices was not fixed by the framers of the Constitution. They could have done so, but they deliberately decided to leave the number open to be fixed from time to time by statute.

There is nothing sacred in the number 9 any more than there is in the number 15.

The proposed change in the number of Judges is within the power of Congress, according to all authorities and precedents. Such changes constitute a part of the check-and-balance system provided in the fundamental law, along with the power of impeachment, the right to make provision for voluntary retirement, and to legislate regarding various features of organization and appeal.

If it be true that there exists no doubt as to the power of Congress to fix and change at will the number of Justices, why do we hear so much about the necessity for amending the Constitution in order to accomplish that end? Why do self-constituted champions of the Court declare that for Congress to use a power which it has frequently employed, and which it has possessed since the beginning of the Government, is to undermine the integrity and independence of the judiciary and to destroy that balance of authority which constitutes such an important feature of our National Government?

Always, heretofore, when changes in the number of Judges have been proposed, those opposed to the change have resorted to similar methods of opposition. They have declared that to increase or to decrease the number of Justices is in some mysterious way violative of constitutional stability. In every case that changes have been made, good, in the long run, has resulted, and no substantial harm has come to any institution, privilege, or right that rests on constitutional guaranty. It is illogical to charge that the Constitution undeniably gives to Congress the power to determine from time to time the number of the Justices but that the exercise of the power attacks the Constitution which recognizes such authority in the lawmaking branch of the Government.

Is it not, therefore, manifest that only questions of policy are involved?

If the President's plan contemplated enlarging or detracting from the power of the Supreme Court as fixed in the Constitution, an amendment to that instrument would be in order. The proposed legislation does not touch the power of the Court. It in no way, either expressly or impliedly, reduces or restricts the authority granted by the Constitution to our supreme judicial tribunal.

Therefore statements, wherever made to the effect that a movement is in progress, led by the Chief Executive, to undermine and destroy the Supreme Court are made in ignorance or misrepresentation. If the bill under consideration should be enacted, the Court can do the same things, if the Justices are of the mind, as at present. No one can deny that the power of the Court remains unaltered by a change in its personnel.

The great majority of the arguments advanced by the opposition to the suggested legislation rests on the expressed or implied assertion that to enact the bill will be to diminish the authority of the Court or to impair its independence. Neither the authority nor the independence of the Court is involved unless you believe that the present Justices constituting the Court have a vested right to have their opinions perpetuated.

Inasmuch as the provision relating to retirement age is voluntary, no question arises from that as to the power of the Congress.

The right of a Federal judge to continue in his office during good behavior permits no argument. That he may retire when authorized by law has never been questioned. Whether it would be better to fix the age at 70 or 75 merely involves a question of policy and has not been treated as of primary importance by those who are opposing the President's plan.

No amendment to the Constitution is necessary to give effect to the pending legislation. It is in conformity to the fundamental law of our country. Therefore arguments and appeals to support the Constitution have no logical application to the issue involved.

One does not refuse to support the Constitution when he favors legislation permitting the Justices to retire and authorizing the President to make additional appointments where Justices fail to retire.

Both Senator BORAH and Senator GLASS expressed in the Senate in February 1930 their desire for a personnel on the Supreme Court that would reflect their economic views—a personnel that would not strengthen the viewpoint of the majority. In other words, they recognized that the appointment of Justices properly may be with regard by the appointing power for changing the economic policies underlying the decisions of the Court.

SENATOR BORAH

When the nomination of Mr. Chief Justice Hughes was before the Senate it appears from the CONGRESSIONAL RECORD of February 11, 1930 (vol. 72, pt. 4, pp. 3449, 3450), that the Senator from Idaho condemned the decision of the Supreme Court in the Baltimore Railways case as confiscatory, and declared "I do not want to strengthen the viewpoint of the majority." He further said: "Under the fourteenth amendment the Supreme Court of the United States as to most questions of a nature similar to the one which the Court passed upon in the railway case becomes really the economic dictator of the United States * * *."

No criticism made by any public authority since the adoption of the Constitution was more emphatic than the statement by the Senator from Idaho in the speech above referred to when he said: "I ask this question: When during the last 16 years has corporate wealth had a contest with the public when these vast interests claimed advantages which the public rejected, that Mr. Hughes has not appeared for organized wealth and against the public? * * * I am of the opinion that he (Mr. Hughes) feels that practically no restraint ought to be placed upon the vast corporate interests of the United States."

When asked by Senator Dill, during the same debate, whether it would be possible, without resort to amendment of the Constitution, to prevent the Supreme Court from carrying out "the objectionable valuation system" (pertaining to railways), the Senator from Idaho said:

"I do not know of any means by which the situation could be controlled except by constitutional amendment; and the same power that can place those Judges upon the Bench would prevent the passage of a constitutional amendment."

While the nomination of John J. Parker to be Associate Justice of the Supreme Court was before the Senate, the following colloquy was recorded (CONGRESSIONAL RECORD, vol. 72, pt. 8, p. 8353, May 5, 1930):

"Mr. WATERMAN. But when the Supreme Court has trenched itself about as it has by its declarations in connection with contracts and by the fifth amendment and has said that it is beyond the power of legislation to change it, what can be done about it but to amend the Constitution?

"Mr. BORAH. Amend the Court.

"* * * There have been a number of objections made to nominees for the Supreme Court, but objections have never been made in our history, so far as I know, on the ground that the nominee was a man lacking in character or lacking in integrity. The objections have always been raised because of views he entertained with reference to some public question."

The Senator then referred to the attack made by Webster, Clay, Calhoun, and Ewing on confirmation of Chief Justice Taney.

In the CONGRESSIONAL RECORD of April 29, 1930, volume 72, part 8, page 7932, the following is found:

"Mr. BORAH. They (the Supreme Court) pass upon what we do. Therefore it is exceedingly important that we pass upon them before they decide upon all of these matters. I say this in all sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Bench something of their views on these questions."

Another impressive statement by the Senator from Idaho when resisting the confirmation of the nomination of Mr. Parker appears in the same volume under date of April 21, 1930. Having spoken of the "yellow dog" contracts and injunctions against labor unions, Senator BORAH declared:

"But over, above, and beyond these interests, transcending them in importance, is the interest of the public, of the State, and of the National Government. Can there be anything of more concern to the State, to the Government, to the public generally, than that which is calculated to undermine, destroy, or build up, to render fit or unfit for citizenship, men and women who toil? * * *

"The entire controversy, as far as the law is concerned, seems to hinge upon an isolated principle extracted from the common law. To apply the principle of common law, the barren, naked principle of common law which sprang up three and four hundred years ago under conditions in a business world which have passed away, and to refuse to consider the conditions in the business and labor world as they are today, is to deny working men and women the right or the benefit of advance and progress."

Under date of April 29, 1930 (vol. 72, pt. 9, p. 7939), is found the following:

"Mr. BORAH. Upon some judicial tribunals it is enough, perhaps, that there be men of integrity and of great learning in the law, but upon this tribunal something more is needed, something more is called for; here the widest and broadest and deepest questions of governmental policies are involved.

"And, finally, we must weigh his conceptions of human rights, for we all know that the law takes on something of the heart and soul as well as the intellect of those who construe it. * * *

"The political atmosphere in these days is almost feverish with fright over the break-down, as it is called, the failure of representative government. It would seem to some that we have approached the time when we doubt the efficiency and wisdom of free institutions. We hear here in our own country the suggestion of something different. The fault is not in the Government;

the fault is not in the form of our institutions; the fault, if any may arise, will be in the failure to find men with the intelligence to appreciate the obligations imposed and the courage to execute the powers of government."

If men of admitted intelligence and integrity nominated for service on the Supreme Court deserved rejection by the Senate because of their views on economic problems, according to the Senator from Idaho, why is it subversive in his opinion for the Congress to use its undisputed power under the Constitution to increase the membership of the Court so as to permit the appointment of Justices entertaining more liberal views regarding the public welfare than those who feel "that practically no restraint ought to be placed upon the vast corporate interests of the United States"?

If it is a proper remedy, as the Senator from Idaho said, to "amend the Court", so as not to "strengthen the viewpoint of the majority", why is it not of equal importance to strengthen the viewpoint of the minority when to do so will build up and "render fit for citizenship men and women who toil"?

Congress has just as much right, for wholesome economic purposes, to increase the Court as the Senate has to reject the nomination for membership on the Supreme Court bench with the same motive. Now, however, in this contest, the Senator from Idaho and the Senator from Virginia have abandoned their proposal in 1930 to "amend the Court", and propose to correct erroneous decisions which they regard as violative of sound principles by amending the Constitution.

SENATOR GLASS

It is a matter of profound regret that the able Senator from Virginia [Mr. GLASS] has become so alarmed and emotional over this issue that he can find in his heart nothing but contempt and bitterness for those who dare question the sanctity and infallability of the Supreme Court. Listening to his radio address last evening one could but feel that his argument was submerged and destroyed in the unreasonable bitterness of his expressions.

The Chief Executive has based the reorganization program on the premise that the social and economic needs of the present can be adequately dealt with by reasonable interpretation of the Constitution. His contention finds support in the action of the Court itself when yesterday an act of Congress passed years ago and held unconstitutional in 1922, was revived by the process of express reversal of the Adkins case relating to minimum wages for women and children employed in the District of Columbia.

What purpose was served by the Senator's use of such words as "frightful", "shocking", "brutal", "infamous", and "outrageous" in describing the mild program for reform of the Federal judiciary? Well, he certainly exhausted his vocabulary of epithets.

"Political janizaries", "judicial marionettes", "Executive puppets", "amateur experimenters", "visionary incendiaries", "judicial sycophants", "constitutional immorality", "sheer poppycock", and "judicial wet nurses."

On the very day that Senator GLASS was denouncing the program in such vitriolic and extravagant language, the Supreme Court itself proved that the President is right by completely reversing its stand on the subject of minimum-wage legislation. The Supreme Court merely changed its interpretation and in that way the long and tortuous task of amending the Constitution was avoided. In view of this action by the Court, how can the Senator from Virginia justify his unrestrained attack upon the President's proposal? Why should he feel so incensed when the Court itself acknowledges that by its assumption of the right to determine policies, which are exclusively within the province of the legislative branch, it erroneously struck down an act intended to safeguard the health and morals of women and children workers?

The Senator from Virginia also was driven to error by his own wrath when he dared anyone to prove that Thomas Jefferson would ever have endorsed such a plan as that now pending.

Senator GLASS apparently forgot that during the Presidency of Mr. Jefferson the number of Supreme Court Justices was increased, an event which brought down upon his head all the scorn of a vindictive Federalist press. The outcry of the press was strikingly similar to that which greets President Roosevelt's proposal. In his testimony Assistant Attorney General Jackson quoted a few of these press comments on Jefferson's Court proposal. One paper called it the "death warrant of the Constitution." Another declared that "a mortal blow has been struck at the independence of the judiciary."

At this point it seems appropriate to remark that, while "earnestness is the path of immortality", vindictiveness and denunciation are indicative of weakness in argument.

There is further documentary evidence showing what Mr. Jefferson thought of the Supreme Bench. Historians tell us that time and again he was outraged at the manner in which the judiciary usurped legislative power to thwart the will of the people. In 1810, when Associate Justice Cushing, of the Supreme Court, died, Mr. Jefferson said in a letter to Caesar Rodney:

"The death of Cushing is opportune, as it gives an opening for at length getting a Republican majority on the Supreme Bench."

In another letter to Albert Gallatin, Mr. Jefferson declared:

"At length we have a chance of getting a Republican majority in the Supreme judiciary. For 10 years has that branch braved the spirit and will of the Nation, after the Nation had manifested its will by a complete reform in every branch depending on them. I am sure its importance to the Nation will be felt and the occasion employed to complete the great operation they have been so long executing by the appointment of a decided Republican * * *."

From the congressional edition, volume 1, page 81, Jefferson's Autobiography, is taken the following very pointed statement:

"I repeat that I do not charge the judges with willful and ill-intentioned error; but honest error must be arrested where its toleration leads to public ruin. As for the safety of society, we commit honest maniacs to Bedlam; so judges should be withdrawn from the bench whose erroneous biases are leading us to dissolution. It may indeed injure them in fame or in fortune, but it saves the Republic, which is the first and supreme law."

Most of us are familiar with the repeal of the Midnight Judges Act, which occurred under Jefferson's administration and at his insistence. The repeal went into effect April 23, 1802, and expressly abolished the June term of the Court, directing that the Court should meet only once a year thereafter. The effect of that provision was to prevent the Court from functioning entirely for 14 months, thereby depriving it of the chance to pass on the validity of acts of Congress.

What would Senator GLASS say now if President Roosevelt should propose to do what Mr. Jefferson did—abolish the Court for over a year?

The truth is that the remedy suggested by President Roosevelt, whereby new blood would be infused into the Court, is the mildest plan for dealing with the present situation that has been suggested. Regrettably, Senator GLASS in his radio address added nothing to the argument as to what is the best plan of meeting the patent needs of the country. He simply denounced.

If he can become so enraged in denouncing the reorganization plan, what does he think of the amendment of the Senator from Montana authorizing Congress to pass finally on constitutional questions involved in legislation? What has he to say of the amendment requiring a 7-to-2 majority in the Court to invalidate a statute? These and many others of the more than 30 constitutional amendments introduced in the two Houses of Congress during the present session do detract materially from the power of the Court. Some of them would practically take away the right of judicial review as to constitutionality of legislation.

The brilliant Senator from Virginia [Mr. GLASS] in 1930 took a position on the subject similar to that occupied by the Senator from Idaho.

In the CONGRESSIONAL RECORD of February 13, 1930 (vol. 72, pt. 4, p. 3553), the Senator from Virginia inserted with approval an editorial from the Baltimore Sun of that date, as follows:

"To legions of good American citizens, trained upon the standard copybooks dealing with the Government of the United States, the attack in the Senate upon the confirmation of Charles Evans Hughes as Chief Justice of the United States Supreme Court must be totally incomprehensible. Here is a man, hailed by his most relentless opponents as one of the greatest lawyers the country has ever produced, being faced with a fierce attack upon his suitability as the head of the highest legal tribunal in the land. And the opposition contains the most diverse elements ranging all the way from Senator CARTER GLASS, of Virginia, a stanch Democratic conservative, to the progressive wing of the Republican Party.

"How does this weird thing come about? How does it happen that there can be any doubt by honest men that a very great lawyer is fitted to head the greatest American legal tribunal? It comes about primarily because the United States Supreme Court has ceased to be merely a legal tribunal and has taken unto itself the deciding of great economic issues that are related in no certain way with the law.

"To illustrate, when public-utility regulation, which has played an extensive part in the debate over the Hughes confirmation, was first undertaken in this country the United States Supreme Court kept hands off. It said that the fixing of public-utility rates was a legislative matter. Then, it reversed its position and held that public-utility rates must yield a fair return upon a fair valuation of the property devoted to the public service, to avoid conflict with those provisions of the Federal Constitution that decree that there shall be no taking of private property without due process of law.

"Once this step was taken over the opposition of a minority of the Justices, who held that they were not equipped to decide the issues involved, the United States Supreme Court ceased to deal with any fixed principles of law in that field and became a body of economists. What is there in the Constitution, for example, that gives any guidance as to whether 5, 6, or 8 percent is a fair return on public-utility property? Absolutely nothing. And what is there that sheds any light on the question of whether utilities should be valued for rate-making purposes at what they originally cost, or what it would cost to reproduce them at current prices? There is not a shadow of a clue. The issues involved must be settled by the application of highly controversial economic theories.

"Since in this, among numerous instances, the United States Supreme Court has departed from anything related to a fixed body of law except by the most tenuous thread and has become a body engaged in the practice of economics, it becomes highly relevant to know just what kind of economic theories the members of that Court hold. If there be any doubt of that it can be dispelled by studying the career of Justice Pierce Butler, of that body. For years as a railroad attorney he argued before the Interstate Commerce Commission for certain methods of railroad valuation. They

were most highly controversial methods, on which the ablest lawyers were completely disagreed. Then he was elevated to the United States Supreme Court. Since then he has been making exactly the same arguments in public-utility cases, but now he is able to give them the force of his opinion as a member of the highest Court in the land.

"There are those who argue that the practice of the law is by its nature such that its devotees are merely expert pleaders, to make the best possible case for the side by which they are retained and that they are so subtly geared that when elevated to the Bench their past partisanship fades entirely out of their memory. That may be true, so far as the law is concerned, but the United States Supreme Court, by its own will, has moved its activities into the larger orbit of determining social and economic policies and then imparting to them the force of law. It has, in other words, brought itself to the place where legal competence is only one—and perhaps not the most important—test of fitness for service on that Court. This accounts for the strange phenomenon taking place in the Senate, where the fitness of an admittedly great lawyer for what the copybooks say is the greatest legal post in the Nation is being debated, and rightly, as an economic and social issue."

Now quoting from the same RECORD:

"Mr. GLASS. If I may say just one word for the benefit of Senators who may not have heard the editorial read: It sets forth the view in which many of us concur, that the Supreme Court in recent years has gone far afield from its original function and has constituted itself a Court in economics and in the determination of social questions rather than in the interpretation of statutes passed with reference to the Constitution itself."

What the Senator from Virginia [Mr. GLASS] and the Senator from Idaho [Mr. BORAH] said in 1930 is, in substance, exactly what President Roosevelt says now.

It is true that the issue does not arise in exactly the same form that it took when their arguments were delivered. It is also true that there is no difference, insofar as the Constitution is concerned, in the power of the Senate to reject a nomination and the power of the Congress to increase the membership of the Court. Why should Senators—why should anyone—become long faced and sorrowful when it is proposed to check the Supreme Court in its steady and persistent assumption of authority to decide questions of policy by hair-splitting distinctions conceived in the minds of Justices whose training and experience prompt them to regard as law conclusions which are actually the outgrowth of "personal predilections"?

Why should the Baltimore Sun throw its great influence against the confirmation of Mr. Justice Hughes on the ground that his experience as a lawyer and the trend of his thought due to that experience more than offset his outstanding legalistic qualifications and unquestioned integrity as a citizen, and oppose the exercise by the Congress of its power to increase the membership of the Court in order to offset the influences of those Justices in whose opinions there has been made apparent a determination to override the lawmaking authority in determining public policies?

PACKING THE COURT

The charge is frequently heard that the increase in the membership of the Supreme Court constitutes a "packing of the Court." What is meant by this charge, and what are the facts fairly applicable to it?

Naturally one who participates in the appointing power, whether as President or as United States Senator, performs his function with the background and economic views of the appointee in mind. Always, when contests as to the confirmation of nominees to serve on the Court arise in the Senate the issue as to whether the nominee shall be confirmed revolves around the views and opinions of the nominee, although, of course, his ability and standing in his profession are recognized as factors of very great importance. To illustrate, when the name of the present Chief Justice, Mr. Hughes, was sent to the Senate for confirmation and final appointment, some of the ablest Senators opposed his confirmation, not on the ground that Mr. Hughes was in any degree lacking in legal learning, general intelligence, or integrity. The sole ground upon which his appointment was resisted was that his professional career was so closely associated with large interests that he would be disposed subconsciously to take the position as Chief Justice assumed by him while serving his clients before the courts.

All who are familiar with the debates which occurred when the nomination of Mr. Hughes was before the Senate will recall that such outstanding Senators as BORAH, GLASS, and WHEELER, in fact, everyone who expressed opposition, grounded their arguments on the personal predilections of the great lawyer—predilections assumed to be the natural outgrowth of his professional experience and service.

Presidents have never named, and Senators have always been slow to confirm, judges whose viewpoints respecting constitutional questions are notably at variance with their own. Indeed, it would be difficult for anyone charged with responsibility for an appointment to justify the selection of one to preside over or serve in a court whose views as to the fundamental rights of citizens and the division of powers are known to be in conflict with the conscientious and the carefully formed conclusions and opinions of the appointing authority.

This principle has been observed from the beginning. It was in the mind of President Grant when the constitutionality of the *Legal Tender cases* was at issue. It controlled the action of President Lincoln when the Dred Scott decision, which precipitated the Civil War, was in mind. It was responded to by President Wilson when he sent to the Senate the names of liberal-minded lawyers to serve on our highest tribunal. It motivated Presidents Taft and Harding when they carefully selected conservative lawyers, some of whom had earned distinction by representing in the courts great corporate and financial interests.

If the nomination and confirmation of Justices generally regarded as liberals may be criticized on the one hand, what shall be said of the policy pursued by other Presidents and Senators who exercised their powers of appointment to secure service on the Bench of individuals known and regarded as conservative and reactionary, when judged by their private and public records relating to our Constitution and laws? The late Mr. William Howard Taft, former President and later Chief Justice, threw into the balances his commanding influence with the express and deliberate purpose of thwarting the appointments of progressives and of securing the selection of Justices notably conservative and reactionary.

In the interim between his term as President and his service as Chief Justice, during the campaign of 1920 when Mr. Cox and Mr. Harding were the respective nominees of their parties for the Presidency, Mr. Taft urged the election of Mr. Harding on the ground that Mr. Harding's election would "get rid of Wilsonism and all that follows in its train in respect of our domestic matters." He wrote in a letter to a friend as follows:

"However, it is a guess as to the future, and any man's guess may be as good as another, but I must see clearly and definitely the gain for the League of Nations plan before I sacrifice my intense desire to get rid of Wilsonism and all that follows in its train in respect to our domestic matters. Take, for instance, the four places likely to be filled by Wilson's successor on the Supreme Court. Think of the danger of another Brandeis and Clark. The power and the usefulness of that Court would be broken down under such appointments if the majority of the Court were to be made up of them."

This letter was dated August 6, 1920. The desire "to get rid of Wilsonism" had no reference to the League of Nations. Mr. Taft, like Mr. Wilson, favored participation by the United States in the League. Indeed, he headed an organization to enforce peace among nations by military and naval power.

Manifestly, that which was objectionable to him in "Wilsonism" consisted in the liberal domestic policies which President Wilson suggested and supported. Justices on the Supreme Court, if liberal minded like Brandeis and Clark, "would break down the usefulness of that Court" in the opinion of Mr. Taft, if those who agreed with them should come into the majority.

In the sense of those who criticize the President's plan as "packing the Court", Mr. Taft made the accomplishment of a purpose to pack the Court the primary object in urging the election of President Harding.

As to whether his motive was consummated you may judge for yourselves. President Harding was elected and nominated Justices Sutherland and Butler as Associate Justices and Mr. Taft as Chief Justice.

Who will dispute that it would be just as much a packing of the Court to use the appointing power to maintain the dominance of ultraconservatives in control of the Court as to exercise the same authority to liberalize the decisions of that great tribunal?

Who insists that by clothing him in the judicial ermine a miracle is performed and that a nominee to serve on the Supreme Bench is by that process divested of his biases, prejudices, and his mature opinions concerning economic questions?

Consider the case of Mr. Justice McReynolds.

SPORTSMANSHIP

He was quoted as saying in a recent public address that it is not good sportsmanship for one who has had a fair trial to criticize a decision of the Supreme Court. One wonders if the Justice has forgotten that in February of 1935, when the Supreme Court delivered the famous gold-clause decision, he, from the Bench, struck in rage at his fellow members on the Bench, at the President, and Congress, declaring that the decision had destroyed the Constitution; that "a debased currency is nothing new." He said: "Nero undertook to exercise that power. Six centuries ago in France it was regarded as a prerogative of the sovereign. * * * It seems impossible to overestimate what has been done here today. The Constitution is gone. * * * The people's fundamental rights have been preempted by Congress. Some day the truth will be seen."

One wonders if the Justice thinks that good "sportsmanship" consists in refraining from criticism of opinions when he is with the majority and indulging in abuse toward the majority when he takes the view of the minority. Just what is good "sportsmanship", Mr. Justice? Nowhere in the Supreme Court decisions, nowhere in legal literature does a judge stand more emphatically condemned by his own test as a poor "sportsman."

Available time is about exhausted. Stripped of fallacy and contradictions, the arguments against increasing the membership of the Supreme Court with a view to causing recognition and observance by the majority of the restraints imposed by the Constitution on the authority of the Judges are inconsistent with precedent and with the fundamental law which never authorized any judicial body to exercise control over public policies.

Disaster at New London, Tex.

EXTENSION OF REMARKS

OF

HON. MORGAN G. SANDERS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 1937

TELEGRAM FROM HON. HENRY A. WALLACE, SECRETARY OF AGRICULTURE, TO THE GOVERNOR OF TEXAS

Mr. SANDERS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following telegram relating to the recent disaster at New London, Tex.:

MARCH 29, 1937.

Hon. JAMES V. ALLRED,
Governor of Texas, Austin, Tex.:

Following is submitted for your consideration preliminary report of Dr. David J. Price, principal engineer in charge of Chemical Engineering Division, Bureau of Chemistry and Soils, on investigation made in compliance with your request of the explosion in consolidated school at New London. Dr. Price concludes that during a period of falling barometer the explosion was due to the ignition of an accumulation of gas in open area under first floor of building by flash from electrical equipment in operation of sanding machine located at west side of manual training shop at north end of building. Price recommends the following precautionary measures for prevention of similar occurrences: Requirements for use of effective malodorants for detection of escaping combustible gas due to leaking equipment or other causes. Attention should be given by competent engineers to determination of practical application of combustible-gas indicators. Gas-detecting appliances are successfully operating in a number of industries, and engineers should give further attention to adaptation of alarm or other warning systems to schoolhouses and other public buildings. Provision should be made for supervision and inspection of public buildings and installation of all heating and lighting devices. All electrical equipment and appliances should be installed in accordance with requirements of national electrical code. Provision should be made for proper construction of buildings to eliminate dead storage spaces under rooms. Adequate ventilation should be provided for any necessary spaces under buildings. Adequate ventilation should be provided for schoolrooms using gas-heating appliances. Department of Agriculture is very glad to have been of service to you in determining the cause of this explosion, which has created Nation-wide concern, and we hope our recommendations will be helpful to you in working out plans for prevention of occurrences of this character. Dr. Price has detailed report in course of preparation; copy will be forwarded as soon as completed.

HENRY A. WALLACE, *Secretary.*

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSH LEE

OF OKLAHOMA

IN THE SENATE OF THE UNITED STATES

Thursday, April 1 (legislative day of Monday, Mar. 29), 1937

ARTICLE BY PROF. JOHN ALLEY, OF THE UNIVERSITY OF OKLAHOMA

Mr. LEE. Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Oklahoma News of Sunday, March 21, 1937, written by John Alley, head of the department of government of the University of Oklahoma, regarding the President's proposal to reorganize the Federal judiciary.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Oklahoma News of Mar. 21, 1937]

O. U. PROFESSOR SHOWS REPUBLICANS SET RECORD FOR DANGEROUS PRECEDENTS IN COURT JUGGLING

(By John Alley, head of department of government, University of Oklahoma)

Those who are opposing President Roosevelt's proposal that the Supreme Court be rejuvenated by the addition of a group of younger members, insist that whatever change is made by way of relieving the present deadlock shall be done through constitutional amendment.

In the present controversy both sides seem to agree that something should be done. The question at issue, then, is how shall we do this something. One group says it must de done by changing the law; the other, that it must be done by changing the Constitution. Each group would have us believe that if the plan proposed by its opponents is followed, the very life of the Nation is threatened.

All of which reminds me of the dialogue between "Mister Hinnessey and Mister Dooley" back in the Taft-Bryan campaign of 1908. After listening to Mr. Hinnessey's dissertation on the relative merits of the two candidates, Mr. Dooley asked:

"Well, will the counthry be safe with aythir oof thim?" and Mr. Dooley replied, "Yis, the coonthry will be safe with aythir oof thim, or with both oof thim, or with naythir oof them!"

Those of us who refuse to become unduly alarmed over what we are told is the present crisis in the Nation's affairs, are disposed to believe that the country will be safe with either of these proposed methods, or with both of them, or with neither of them.

However, the writer firmly believes that something will be done. Just what that something will be is at the present writing very definitely "in the lap of the gods."

When Roosevelt's proposal broke upon the country like a bolt from the blue, the immediate reaction of the opponents was that the proposed action by Congress would establish a "dangerous precedent." During these stirring days we have heard a lot about precedents. The ease with which precedents in American government and politics are cited in order to sustain a particular point of view is nothing short of marvelous.

It so happens that the fathers of our Constitution left the road wide open for Congress to pile precedent upon precedent in the matter of the particular number of members which should constitute our Supreme Court. And Congress has availed itself of this power on numerous occasions. If another exercise of this congressional power means that our constitutional system will be wrecked, it is just too bad. For, in fact, our "system" has been wrecked and wrecked and wrecked. During the first century of our present constitutional era the path of national progress has been literally strewn with this wreckage.

The morning after Roosevelt's bombshell burst at Washington the national press carried an interview by Herbert Hoover, "the sage of Palo Alto." Since this first tirade by the former Republican President a strange and ominous silence has settled around the Palo Alto mansion. Possibly some informed Republican adviser to the ex-President suggested that, in view of the record of his party in this matter, "silence was golden."

The facts are that the Republican Party established an all-time speed record in congressional juggling of Supreme Court membership during the first decade of its control. This record follows:

The act of Congress of March 3, 1863, increased the membership of the Court from 9 to 10.

The act of Congress of July 23, 1866, reduced the membership from 10 to 7.

The act of Congress of April 10, 1869, raised the membership from 7 to 9.

Three changes in 6 years are not so bad! So, as the lawyer would say, the Republican Party "is estopped" from mentioning dangerous precedents.

While these three changes were crowded into 6 brief years, they were distributed through the administrations of three Presidents—Lincoln, Johnson, and Grant. The circumstances which moved the Republican Congresses to establish three dangerous precedents in Supreme Court packing or unpacking are full of interest.

Lincoln had bitterly attacked the Democratic Supreme Court, led by Chief Justice Taney, for its action in the Dred Scott case, 1857. His Congress in 1863 had no illusions about the sanctity of this august Court. The Civil War was raging, and, of course, the status of Negroes as prospective citizens of the United States, the real issue in the Dred Scott decision, would be taken care of in due time. In other words, the question of Negro citizenship was not the inspiration for the act of Congress which raised the Court's membership to the all-time high of 10. Some may contend with apparently good reasons that this was not a packing job at all. One American writer puts the matter this way:

"Since there were diverse reasons for making the appointment (Stephen J. Field, of California, was named by Lincoln as the Supreme Court's tenth member), it may be argued that this was not a bona-fide instance of packing the Court for the sake of a point of view, but the fact remains that one of the reasons grew out of doubts as to the loyalty of the older members."

The act of 1866, which reduced the membership from 10 to 7, was just another incident in the bitter fight between President Johnson and his recalcitrant Congress of reconstruction days. This Congress decided that it did not want any Johnson appointments whatever.

The third instance appears to be an excellent illustration of congressional manipulation to forestall or overcome judicial interpretations of the Constitution, hostile to the public policy which Congress favored. The issue at stake was the constitutionality of "greenback" legal-tender currency. On the same day that President Grant sent to the Senate the names of two additional Justices, February 7, 1870, the Supreme Court handed down the decision in *Hepburn v. Griswold*, declaring the Legal Tender Acts unconstitutional. Forty-six days later Attorney General Hoar filed a motion with the rejuvenated Supreme Court, bringing before it other cases in which the constitutionality of the Legal

Tender Acts was involved. On May 1, 1871, the Court handed down the decision in the case of *Knox* v. *Lee*, reversing the holding in the previous case, *Hepburn* v. *Griswold*, and sustaining the constitutionality of the legal-tender issues.

For the vociferous defenders of the sanctity and untouchableness of the Supreme Court as the defender of our democracy against the tyranny of vicious and untrustworthy legislators, an interesting precedent in the form of judicial comment is offered. These are the words of Chief Justice Black, of the Pennsylvania Supreme Court, in 1853:

"The great powers given to the legislature are liable to be abused. But this is inseparable from the nature of human institutions. The wisdom of man has never conceived of a government with power sufficient to answer its legitimate ends, and at the same time incapable of mischief. No political system can be made so perfect that its rulers will always hold it to the true course. In the very best a great deal must be trusted to the discretion of those who administer it. In ours the people have given large powers to the legislature and rely for the faithful execution of them on the wisdom and honesty of that department and on the direct accountability of the members to their constituents. There is no shadow of reason for supposing that the mere abuse of power was meant to be corrected by the judiciary.

"There is nothing more easy than to imagine a thousand tyrannical things which the legislature may do if its members forget all their duties, disregard utterly the obligations they owe their constituents, and recklessly determine to trample upon right and justice. But to take away the power from the legislature because they may abuse it and give to the judges the right of controlling it would not be advancing a single step, since the judges can be imagined to be as corrupt and as wicked as legislators * * * what is worse still, the judges are almost entirely irresponsible * * * while the members of the legislature, who would do the imaginary things referred to 'would be scourged into retirement by their indignant masters.'".

A recent editorial in one of our State papers, which is carrying on a campaign of villification against the Roosevelt proposal, lamented the "lack of respect for legal process" apparent in America. The editorial concluded that "the American people will pay dearly for their folly if they permit the complete destruction of confidence in the judiciary. And it is just as impossible to retain respect for the decisions of a packed Court as it is to retain confidence in the verdict of a packed jury."

It is a rather far cry from the point of criticizing a high court on its action affecting public policy, to the "complete destruction of confidence in the judiciary." As against this editorial warning regarding the danger of public criticism of the judiciary, I offer the comments of the distinguished Justice Brewer, of the United States Supreme Court, in 1898:

"It is a mistake to suppose that the Supreme Court is either honored or helped by being spoken of as beyond criticism. On the contrary, the life and character of its Justices should be the object of constant watchfulness by all, and its judgments subject to the freest criticism. The time is past in the history of the world when any living man or body of men can be set on a pedestal and decorated with a halo. True, many criticisms may be, like their authors, devoid of taste, yet better all sorts of criticism than no criticism at all. The moving waters are full of life; only in the stagnant waters is stagnation and death."

It is depressing to see an editorial writer of a well-established journal of large circulation resort to the methods of the demagogue by drawing the analogy between the proposed revamping of the membership of a high tribunal for purposes of public policy, and the vicious practice of jury packing, in order to defeat justice affecting human rights. The shaping of public policy in a democracy is a political question, controlled by ballots. When the Supreme Court issues a decree overturning a policy enacted by the elected representatives of the people in Congress it is performing a legislative act. If the legislative functions of our Government are not, and cannot be made, responsive to the public will, it is idle for our people to lull themselves to sleep under the influence of the pleasant hallucination that they are living in a democracy.

Idaho's Phosphates

EXTENSION OF REMARKS

OF

HON. JAMES P. POPE

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Thursday, April 1 (legislative day of Monday, Mar. 29), 1937

ADDRESS BY H. P. TAYLOR, ENGINEER, IDAHO STATE PLANNING BOARD, BEFORE THE PACIFIC NORTHWEST CONFERENCE OF THE FARM CHEMURGIC COUNCIL ON MARCH 23, 1937

Mr. POPE. Mr. President, I ask unanimous consent to have inserted in the RECORD an address delivered by Mr. H. P. Taylor, engineer of the Idaho State Planning Board, delivered before the Pacific Northwest Conference of the Farm Chemurgic Council at the Davenport Hotel, Spokane, Wash., on March 23, 1937. The subject of Mr. Taylor's address is Idaho's Phosphates.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I am not going to try to outline the geology of the phosphate deposits of Idaho. I do not believe such a thing necessary for this consideration. That they were laid down in southeastern Idaho and in immense quantity is evidenced by their revealed presence through the forces and contortions of Nature's building operations since the time of their deposition. The deposits are there. They have been examined and investigated by the United States Geological Survey and an estimate placed on the quantity by Mansfield in United States Geological Survey Professional Paper No. 152.

We are not vitally concerned with how these phosphate beds got there. We are vitally concerned with the fact that they are there and in such quantity, because, if the analysis of living organisms is correct—and it is—Idaho holds the key to the future of our Nation. An absurd statement, some may say. It is not absurd in the face of what is taking place and has taken place.

Your own organization has its purpose—"to advance the industrial use of American farm products through applied science." What does this mean if not increased production, since you are accomplishing your purpose and are laboring to take land productivity into industry?

We all know there is a very definite limit to the amount of farm products that can be used to feed, clothe, and shelter the people of our Nation. We also know that this outlet does not give sufficient market for farm products to make agriculture secure, hence the reason for the great work the Farm Chemurgic Council has set itself to do.

Land production must be cared for. Land must be allowed to produce, must be made to produce, in order that the social-economic structure of our country may survive. Land is our greatest natural and national resource, and we have squandered its prodigality and put a premium on its destruction. We have mined its fertility and ravished the provisions of nature for its preservation and productivity and its forces have finally turned on us and are demanding that we repair in part the damage we have wrought, if we expect to continue to use her beneficence.

The halo of the picture is gone. We are down to a solid business proposition. It is this: Land must produce a certain minimum standard in order to stand up to the ordinary business requirements for capital investment, labor, and profit. It is a manufacturing plant. It was once a plant with all the raw materials present with which to turn out the finished article. Today the picture is different. Most of the raw materials have been ruthlessly depleted. It is now necessary to put into our manufacturing plant the raw materials we expect to be converted into the finished product.

In our western country we must carry water to our land. In the eastern country nature cares for this item through rainfall. East and West the land demands that the element, phosphorus, be returned to it that it may produce effectively and efficiently. Man has consistently removed this element from the soil through his cropping methods until today he can no longer draw upon his depository. His credit is gone. He must return phosphorus to the soil, and no way has been devised and no way will be devised except by taking it from the place where nature has stored it in large quantity, condition it, and place it where it is available to plant life.

The Tennessee Valley Authority Report, June 1936, page 39, captions a subheading, "Phosphorus: Element of Life"; then continues: "Of the plant-food elements in the soil, phosphorus is crucially important, as is shown by the fact that 16 percent of dry bone consists of it. Neither human nor animal life can continue with full vitality if phosphorus is deficient in food and feeds, nor could they continue at all if it were utterly lacking."

The National Resources Committee in its progress report, June 15, 1936, pages 14–15, says: "Phosphate rock, for example, is the source of an element of soil fertility on which the maintenance of life depends. Animals in a state of nature return their borrowed phosphorus to the soil. But we send our sewage to the sea and bones to the churchyard; the phosphate leaves the farm and never comes back. America cannot afford to waste nor to export its precious phosphate rock."

The T. V. A. says, "Phosphorus: Element of Life"; the National Resources Committee says, "Phosphate rock is the source of an element of soil fertility on which the maintenance of life depends." The T. V. A. further says, "Neither human nor animal life can continue with full vitality if phosphorus is deficient in food and feeds."

Human life cannot continue with full vitality if food is deficient in phosphorus. How does phosphorus get into human food, both animal and vegetable? You know and I know that it is done through the plant's getting it from the soil. If the soil is phosphorus deficient, what is a sane deduction? The answer is that neither you nor I can "continue with full vitality", which, in turn, means that the public health is menaced by this condition. It is not going to be long before our people awaken to this need and demand that food production be from land supplied with phosphate, and it is not going to be long before our farmers awaken to the fact that their acres will not produce with profit without supplying them with the vital element phosphorus, which makes for profitable production.

To repeat, when our people and our farmers awaken to the inescapable requirement for phosphorus in our soils both for economic production and because it is a vital constituent to our health and well-being there will be such an increased consumption of phosphate as will make our Nation conscious of the fact that Idaho's phosphate deposits are a priceless heritage to be fostered and protected to the utmost.

Please remember that the mined phosphate rock is irreplaceable and nonreproducable; that while the quantity is great, it is limited, and at the same time the requirements for its use are increasing each year as this precious material leaves the millions of acres of productive land never to return but always to be replaced from nature's stored deposits.

The T. V. A. report above mentioned states: "At present mining operations are practically confined to Florida and Tennessee, which produce about 3,000,000 tons of phosphate rock a year, or about one-third of the world's supply. By far the greater part of our known phosphate deposits, however, are situated in a region north of the Great Salt Lake, in the States of Utah, Wyoming, Montana, and Idaho. It has been estimated that as much as 95 percent of our phosphate rock may be located here, beyond the reach of the great majority of American farmers under present systems of production.

"Of our annual output of phosphate rock, about 1,000,000 tons are exported. Yet it has been conservatively estimated that if the needs of the land were reasonably met the United States alone would consume annually 10 times the phosphate now used in a year.

In the meantime all authorities agree that the prosperity and the stability of our agriculture, and, in fact, of our civilization, must depend upon conserving the supply. Many students of the subject have urged restrictions upon the export of an element which is so necessary and so irreplaceable. Certainly our domestic uses must be multiplied several times over.

During the past year research at plant no. 2 has developed what appears to be a satisfactory phosphate fertilizer with about 65 percent of available plant food, and this material will soon be ready for large-scale demonstration. With such a material it is apparent that the cost of bags, freight, and many other charges will be reduced greatly, and it is hoped that the processes being developed at Muscle Shoals will lead to economies of manufacture.

"Initial large-scale demonstrations on farms under actual operating conditions have been carried out mainly in the Tennessee Valley. At the beginning of the last fiscal year there were 1,000 such farms with a total area of 160,000 acres; at the end of the year there were 14,000 farms with a total area of 2,250,000 acres.

"The demonstrations now being carried on in the Tennessee Valley and elsewhere show that the farmer is looking for a way of escape from his present predicament, that he is ready to adapt himself to new methods when they have been successfully tested, and that he is eager to help in establishing a more stable and permanent agriculture.

"The Authority regards the development of a concentrated phosphate plant food, which can be made accessible in abundance on the land, together with its effective use in a permanent system of agriculture, as one of the greatest contributions it can make toward the security and stability of the Nation. On phosphorus depend our cotton, grain, corn, meat supply, vegetables, fruits, and milk products. On phosphorus depend our leather, our textiles, our fibers, and the prosperity of communities far removed from the Tennessee Valley. The problem is in no sense sectional. The cotton of the South and the wheat, corn, hogs, and cattle of the Middle West are parts of an interwoven economy upon which rests the whole fabric of our civilization."

The T. V. A. experiments have been so successful that I don't hesitate to say that the highly concentrated product, 65 percent available plant food, produced by the electric-furnace method has made it certain that the Idaho phosphate deposits can be economically worked because of our power and other incidental advantages.

Idaho has a high-grade phosphate rock reserve, in State, Nation, and private ownership, amounting to approximately 6,000,000,000 tons, which means 75 percent to 80 percent of our Nation's known deposits and about 50 percent of those of the world.

Assuming the T. V. A. statement to be correct, the lands of the United States alone would require for reasonably meeting their needs 20,000,000 tons of phosphate, which means that approximately 40,000,000 tons of phosphate rock per year would be consumed. This figure is not unreasonable when it is remembered that, in addition to our agricultural acreage, our grazing area is probably phosphate deficient, and our forest areas also, and that the phosphate needs of the land will have to be met as surely as the sun rises, because there is no "if" as to whether or not we shall have a stable agriculture—we will have it or perish off the face of the earth.

It is in the cards for the generation just beginning to articulate to see all the phosphate deposits except those in Idaho exhausted, or so far exhausted of high-grade rock that they will be unable to compete with Idaho in the markets of this country. There will be no question of supplying foreign markets, because the United States will soon recognize the necessity for our phosphate rock for our agriculture and prevent exportation.

Western agriculture today should be consuming at least 6,000,000 tons of processed rock which should be furnished by the western deposits. This would require 50 such electric four-furnace plants as T. V. A. has outlined as economic units, and for which it has given cost figures.

Idaho is making an intensive study, through her planning board and the assistance of W. P. A., as well as provision by the recent session of the Idaho Legislature, to determine the most feasible procedure to follow in bringing about early industrialization of her phosphate deposits. Present knowledge and recent mechanical improvements and findings, as well as chemical and physical discoveries, together with the inevitable increase in the use of phosphate taken in conjunction with the State's supply and its associated economic affiliations, will overcome our transportation handicap and make these deposits the basis for large and profitable enterprise.

If you will glance at the title page of your program you notice the objective thereon, "To advance the industrial uses of crops of the Pacific Northwest's farms and forests through applied science." Your objective is in line with the solution of our basic problem, that of agriculture, but crops must be produced at a profit to the farmer and the practice of forcing new acres into production in order to reap profit through quantity production seems to have its limits. I therefore put this suggestion before you: Why not produce more with the same acreage, or the present quantity with less acreage, or a lesser quantity through a much less in proportion acreage? This may be accomplished through the use of phosphates on lands now under cultivation. I venture to guess that with the use of phosphate fertilizer the present quantity production in our Nation can be maintained with a greatly reduced acreage and with profit to the farmer in time saving, labor saving, investment saving, waste saving, and so forth, with incidental soil conservation and thereby hit the comeback trail for agriculture.

The old traditional doctrine "that a man may do as he will with what he owns" is a hard nut to crack, and especially so when it comes to land ownership. However, the National Government holds in its grasp, through its ownership of phosphate reserves in Idaho, the future control of farm production should it deem such control necessary, because all producing land in this and every other country is destined for the scrap heap unless phosphate is used to maintain its economic productivity.

The report of the Great Plains Committee carries this statement: "The basic purposes of economic life do not change. The desire for security, stability, a rising standard of living, increased leisure, self-expression, and creative work remain fairly constant."

The key to the answer to this basic requirement in our social-economic structure for agriculture and, therefore, for the Nation, is in our phosphate deposits, and in the last analysis in the Idaho deposits because it will not be long before these beds are the only ones in existence.

Life and economic processes are contingent on many things, but one thing is certain and inescapable—that phosphorus is basic and that Idaho phosphates are one of the greatest, if not the greatest national asset this country possesses.

The Answer to Many Questions About Congress and Its Operation

EXTENSION OF REMARKS

OF

HON. ARTHUR P. LAMNECK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 1937

Mr. LAMNECK. Mr. Speaker, the present administration has aroused more interest and stimulated more thought and discussion than has ever been evidenced before, as to the powers and workings of our Congress. During the past few years, government has actually reached out, touched, and changed our actual living. The former passive attitude of remote farmer, indifferent storekeeper, and unaware factory worker has been replaced by alive concern in matters of government. More and more queries reach us as to the structure, function, and powers of Congress, as time goes on. Visiting guests in our galleries no longer are content to merely look on. They want to know all the "whys" and "wherefores." There is an actual need for brief, concise information on these matters to be made publicly available to the interested laity.

With this in mind, I have compiled the following data in the form of questions and answers with the purpose that it answer this need, and at the same time bring about a closer understanding between our friends "back home" and their representatives. The CONGRESSIONAL RECORD will be accessible not only to our constituents from Ohio, but to all the widely scattered readers of our great land.

What is Congress?

Congress is the legislative body of the United States Government. The functions of the National Government are divided into three parts—executive, judicial, and legislative. States have their State legislatures. Cities have their city

councils. The Nation has its Congress. Its existence, authority, and limitations are provided by the Constitution; article I, section 1, of which reads:

> All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

How long have we had a Congress?

About 148 years. The first Congress dated from March 4, 1789, to March 3, 1791. The First Congress did not convene, however, until April 6, 1789, because a quorum of Members did not show up until that date. Travel was not as easy and swift then as it is in these days.

What is the length of a Congress?

A Congress is elected for 2 years. It is officially in existence at noon on the 3d day of January pursuant to the twentieth amendment to the Constitution. Members of the House of Representatives are all elected every 2 years for a term of 2 years. Members of the Senate are elected for a term of 6 years, one-third of that body elected every 2 years.

What is a Congressman?

Strictly speaking, a Member of either the Senate or of the House of Representatives is a Congressman. However, in general practice we speak of a Member of the Senate as Senator and of a Member of the House as a Congressman, although the official title of the latter is Representative in Congress.

How many Members?

There are 96 United States Senators, 2 from each of the 48 States in the Union. There are 435 Members of the House of Representatives, each State being entitled to the number its population justifies. The number of Members of the House should be apportioned to the different States after each decennial census. There was a reapportionment after the Seventy-first Congress which was based on the 1930 census, at which time some States lost a Member or two and other States gained a Member or two because of the shifting population. Ohio gained two Members. We have 22 Members representing defined congressional districts and 2 Representatives at large.

What qualifications are required for membership?

The Constitution provides that a Member of the House of Representatives must have attained the age of 25, have been a citizen of the United States for 7 years, and be an inhabitant of the State in which he is elected. In practice he is usually a resident of the district which he represents, but that is not a constitutional requirement. A United States Senator must have attained the age of 30 years, have been a citizen of the United States for 9 years, and be an inhabitant of that State in which he shall be chosen.

What oath do Members take?

The oath of office taken by the Members of the House is administered by the Speaker and by the Vice President to the Senators. It reads:

> I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me, God.

The Constitution provides that the President of the United States, Senators, and Representatives, members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support the Constitution.

When does Congress meet?

That question is often asked, although for more than a hundred years Congress, as provided in article I, section 4, of the Constitution, has always met on the first Monday in December every year until 1934, when it met on the 3d day of January because of the ratification of the twentieth amendment. This is the first change in the date of the meeting of regular sessions since 1820. The ratification of this amendment to the Constitution shortened the terms of President Franklin D. Roosevelt and Vice President John N. Garner and all Senators and Representatives. Had this amendment not been ratified, their terms would not expire until March 4, whereas the terms of the President and Vice President end at noon on the 20th day of January and the terms of the Senators and Representatives at noon on the 3d day of January.

What about extra sessions?

The President may call the Congress to meet in extraordinary session at any time he thinks the interests of the country justify it. When he does call an extra session the Congress may transact any business it desires and stay in session as long as it wants to. There have been only about 24 extra sessions in the 148 years since the Constitution was adopted. Five of these have occurred in the past 12 years. The Senate may be called in extra session without the House to consider treaties, try impeachments, and confirm appointments, all of which are considered exclusively by the Senate. The Senate nearly always met in extra session after a new President had been inaugurated prior to the twentieth amendment to confirm his Cabinet and other appointments. These special sessions of the Senate usually lasted only a few days. Now, however, the President takes office after the new Congress has started, January 20.

Members do die in office, and occasionally one resigns, usually to take what he considers to be a better office. When a Senator dies or resigns the Governor of his State may appoint his successor to serve only until an election is held, providing his State legislature has given him the authority. If a Representative dies or resigns, his place cannot be filled by appointment. The Governor of his State may call a special election to fill the place if he wants to; or, as is done in most cases, the place may be left vacant until the next general election.

What are the duties of a Member?

They are many and manifold. He should study legislation and attend the meetings of his House. He should listen to a good deal of the debates, but not all of them by any means. Many Members are kept in committee meetings many hours of many days of every session. The average Member develops a large office business. This is particularly true of western Members. Their constituency is far away from Washington, so many problems are referred to the Congressman for assistance. The Members get a vast amount of mail. This requires much study, dictation of replies, and often visits to different executive departments downtown. The departments are far away and often far apart. Many ex-service men bring their problems to their Congressman, and he is always glad to help them out when and wherever he can, although he has not the power always to do as much as he would like.

A Member will get a thousand letters, or maybe several thousand letters, in a session from citizens advocating or opposing proposed legislation. Usually a Congressman answers every letter, though he cannot tell everybody what he thinks about every bill that has been introduced. He must await development through committee hearings and give thought to those measures that are being brought forward by favorable committee action.

Most pension claims for soldiers and their widows go through the Congressman. Many post offices, land office, and immigration cases are referred to him.

He likes it. The ambitious Congressman brags about his large office business and his heavy work. He seeks business and craves harder committee assignments until he gets upon the Appropriations Committee, where the appetite for work of the most ambitious will be fully satisfied. Many Members find it necessary to work nights and holidays.

What are the important committees?

There are several. The two most important are probably Appropriations and Ways and Means. All bills that appropriate revenue for the support of the Government must be considered by and reported out by the Appropriations Committee of the House. This committee consists of 39 members, 28 Democrats and 11 Republicans. It reports out several bills that carry appropriations for a little over $4,000,000,000 each year. The Ways and Means Committee has to consider and report out all bills that have in any way to do with the revenue and such measures as purport to raise revenue and the bonded debt of the United States. This committee consists of 25 members, 18 Democrats and 7 Re-

publicans. All revenue bills must originate in the House of Representatives and come out of the Ways and Means Committee.

There are about 44 standing committees, 4 joint standing committees, and several select committees appointed for specific purposes. The 10 principal committees are called exclusive committees in that a majority member of any one of these committees cannot serve on any other.

How do committees work?

They meet regularly or on call. They consider the bills that have been referred to them. They sometimes hold long hearings on important bills when those interested either for or against may come in and tell the committee what they think of the bills in question. Some hearings last several days and some several weeks. The committee then considers the bill and may report it out with or without amendments or may decide not to report it out. Sometimes the committee takes up several bills of a similar character, considers all phases of the question, and writes a new bill and reports that out.

Who selects members for committee assignments?

Democrats are nominated to committees by the Democratic members of the Committee on Ways and Means. As a rule, once on an important committee a member stays there as long as he is in Congress. If a vacancy occurs among the Democrats on an important committee, a member from another committee is nominated for the place by the Democratic members of the Committee on Ways and Means if he desires it, and if he has the seniority and influence to get it. New Members get the places left available. The Republican committee on committees performs this function for the Republican Members. All selections must be confirmed by election in the House.

Who appoints the chairmen of committees?

They are elected by the House. The Democratic members of the Committee on Ways and Means nominate the chairmen when the Democratic Party is in power, and, as a rule, the member of the majority party who has served longest on any committee is selected as chairman. Here seniority plays an important part. The chairmen, of course, all come from the majority party, and the majority of the members of all committees are of the dominant party—at this time Democratic.

What is the Committee on Rules?

This is one of the most important committees, as it controls the destiny of more proposed legislation than any other. Bills from the Ways and Means and Appropriations have the right-of-way, so to speak, as privileged business, and can most always be brought up for consideration. Other committees have only a few calendar days in any session. Many bills are reported out of legislative committees which cannot be brought up for consideration. The Rules Committee can report a rule for consideration of a bill any day. It can bring in a rule for the consideration of any bill that has been reported out of any committee at any time. In the last days of a session special rules for the consideration of specified bills are much in demand. The Rules Committee has much power, certainly has the power of selection, but it must be fair and discriminating, selecting what the majority of Congress seems to want most, as the rule it brings in must be adopted by the House?

What is the steering committee?

This is a committee not much heard of nor mentioned in the newspapers. And I dare say that hardly two dozen Members of the House can tell the names of all of the members on the steering committee. This is a little party adjunct to help promote legislation the majority is interested in, and help to iron out a program of procedure, especially in the closing days of a session. It is composed of 15 of the older Democratic Members. In addition, the majority leader acts as chairman. When important matters are up for consideration the Speaker and the chairman of the Rules Committee sit in. This committee really has much influence in helping to shape up the legislative program.

What are conferences and conferees?

The House passes a bill, for instance. It goes to the Senate and may be much amended over there, as are appropriations and tariff bills usually. The House will not accept the amendments. So the bill is sent to conference. The House appoints conferees and the Senate appoints conferees. These gentlemen meet and hold a conference and discuss the points in disagreement. The conferees of the Senate give up some items and the conferees of the House agree to some. Finally they got together on a bill somewhere between the position taken by each House. Sometimes the conferees do not give up easily; sometimes the conference drags on for days or weeks, and they have run for months, although after 20 days it is in order in the House to move to instruct the House conferees or discharge them and appoint new ones. Usually they get together, and usually the conference report is adopted by both Houses.

How are bills introduced?

A Member writes up his bill and drops it in the basket on the Clerk's desk. It is then referred to the appropriate committee. Many bills lay in committee undisturbed and are never heard of again. In some cases they have served their purpose without further action. They have advertised the Member and the project. Many bills are introduced that have not the slightest chance of serious consideration or passage.

Stages of a bill of the House:

First. Introduction: By a Member by dropping in the basket on the Clerk's table informally. A Member sometimes introduces a petition only, leaving to the committee the drawing of a bill, such a petition referred to a committee having jurisdiction of the subject giving authority to report a bill. Sometimes communications addressed to the House from the executive departments or from other sources are referred to committees by the Speaker and give authority for the committees to originate bills. Messages from the President also are referred by the Speaker of the House and give jurisdiction to the committees receiving them to originate bills.

Second. Reference to a standing or select committee: Public bills are referred under direction of the Speaker; private bills are endorsed with the names of the committees to which they go under the rule by the Members introducing them. Senate bills are referred under direction of the Speaker. A bill is numbered and printed when referred.

Third. Reported from the committee: Committees having leave to report at any time make their reports from the floor; other committees make their reports by dropping them in basket on the Clerk's table informally. The bill and the report are printed when reported.

Fourth. Placed on the calendar: Occasionally a privileged bill is considered when reported; but usually it is placed with the unprivileged bills on the calendar, where it belongs under the rule by direction of the Speaker.

Fifth. Consideration in the Committee of the Whole: Public bills which do not raise revenue or make or authorize appropriations of money or property do not go through this stage. All other bills are considered in the Committee of the Whole. The stages of consideration in the Committee of the Whole are: General debate; reading for amendment under the 5-minute rule; rise and report; reporting of to the House.

Sixth. Reading a second time in the House: Bills not requiring consideration in the Committee of the Whole are read a second time in full, after which they are open to debate and amendment in any part. Bills considered in the Committee of the Whole are read a second time in full in that Committee, and when reported out, with or without amendments, are not read in full again, but are subject to further debate or amendment in the House unless the previous question is ordered at once.

Seventh. Engrossment and third reading: The question on House bills is taken on ordering the engrossment and third reading at one vote. If decided in the affirmative, the reading a third time usually takes place at once, by title. But any Member may demand the reading in full of the engrossed copy, in which case the bill is laid aside until it

can be engrossed. Senate bills come up to the House in engrossed form and the question is put on third reading alone. When the question on engrossment and third reading of a House bill or third reading of a Senate bill is decided in the negative the bill is lost as much as if defeated on the final passage. The question on engrossment and third reading is not made from the floor, but is put by the Speaker as a matter of course.

Eighth. Passage: The question on the passage of a bill is put by the Speaker as a matter of course, without awaiting a motion from the floor.

Ninth. Transmission to the Senate by message.

Tenth. Consideration by the Senate: In the Senate House bills are usually referred to committees for consideration and report, after which they have their several readings, with opportunities for debate and amendment. The same procedure takes place in the House as to bills sent from the Senate.

Eleventh. Return of, from the Senate without amendments: If the Senate passes a House bill without amendment, it returns to the House, where it is at once enrolled on parchment for signature. A bill thus passed without amendment goes into possession of the Clerk and is not laid before the House prior to enrollment. If the Senate rejects a House bill, the House is informed. Similar procedure occurs when the House passes a Senate bill without amendment.

Twelfth. Return of, from the Senate with amendments: House bills returned with Senate amendments go to the Speaker's table. If any Senate amendment requires consideration in Committee of the Whole, the bill is referred by the Speaker informally to the standing committee having jurisdiction, and when that committee reports the bill with recommendations it is referred to the Committee of the Whole House on the state of the Union, to be there considered and reported to the House itself. When no Senate amendment requires consideration in Committee of the Whole, the bills come before the House directly from the Speaker's table.

Thirteenth. Consideration of Senate amendments by the House: When a bill with Senate amendments comes before the House, the House takes up each amendment by itself and may vote to agree to it, agree to it with an amendment, or disagree to it. If it disagrees, it may ask for a conference with the Senate or may send notice of its disagreement, leaving it to the Senate to recede or insist and ask for the conference.

Fourteenth. Settlement of differences by conference: When disagreements are referred to conference, the managers embody their settlement in a report, which is acted on by each House as a whole. When this report is agreed to, the bill is finally passed and is at once enrolled for signature.

Fifteenth. Enrollment on parchment: The House in which a bill originates enrolls it.

Sixteenth. Examination by the Committee on Enrolled Bills: While the Committee on Enrolled Bills is described as a joint committee, each branch acts independently. The chairman of each branch affixes to the bills examined a certificate that the bill has been found truly enrolled.

Seventeenth. Signing by the Speaker and President of the Senate: The enrolled bill is first laid before the House of Representatives and signed by the Speaker, whether it be a House or Senate bill, after which it is transmitted to the Senate and signed by the President of that body.

Eighteenth. Transmittal to the President of the United States: The chairman of the Committee on Enrolled Bills for each House carries the bills from his House to the President. In the House of Representatives a report of the bills taken to the President each day is made to the House and entered on its Journal.

Nineteenth. Approval by the President: If the President approve, he does so with his signature.

Twentieth. Disapproval by the President: When the President disapproves a bill, he returns it to the House in which it originated with a message stating that he disapproves and giving his reasons therefor.

Twenty-first. Action on, when returned disapproved: The House to which a disapproved bill is returned has the message read and spread on its Journal. It may then consider at once the question of passing the bill, notwithstanding the President's objections, or may postpone to a day certain, or refer to a committee for examination. The vote on passing the bill notwithstanding the President's objections must be carried by two-thirds. If the bill fails to pass in the House to which it is returned, it remains there; but if it passes it is sent to the other House for action.

Twenty-second. Filing with the Secretary of State: When approved by the President a bill is deposited in the office of the Secretary of State; and when the two Houses have passed a bill, notwithstanding the President's objections, the presiding officer of the House which acts on it last transmits it to the Secretary of State.

Are many bills introduced?

Yes; too many. In the Seventy-fourth Congress 14,292 bills and resolutions were introduced in the House and 5,428 in the Senate.

In this Congress so far—the Seventy-fifth—the bills and resolutions introduced total approximately 6,425 in the House and 2,215 in the Senate. The Sixty-fifth Congress holds the record for number of bills, 33,015 being introduced.

How many bills pass?

Not as many as you would probably think, considering the number introduced and the length of the session.

What is a veto?

As has been said, after a bill has passed the House and Senate it must be signed by the President to become a law. If the President does not think the measure good public policy, he may refuse to sign it. He writes a veto message and sends it with the bill back to the body from which it came.

Are many bills vetoed?

Not as many as you might think. In 8 years President Wilson vetoed 33 bills, President Harding vetoed 5, President Coolidge vetoed 20, President Hoover vetoed 20, and President Roosevelt 221.

How does Congress override a veto?

When a bill comes back to the House in which it originated with a veto message it is voted upon again as to whether it shall be passed over the President's veto. If two-thirds of the Members voting, a quorum being present, in both House and Senate vote to pass the bill over the veto, the bill then becomes a law, and is filed with the Secretary of State.

Are bills often passed over President's veto?

No; not very often. Most bills that are vetoed by Presidents are not of great concern to the general public. President Grover Cleveland made a reputation for vetoing more bills than any other President, but the bills were mostly private pension bills. Bills passed over Presidential vetoes are usually of interest to a great many people all over the United States, and consequently brought prominently to the attention of many Members. For instance:

In President Wilson's administration the three bills passed over his veto were:

First. Repeal of the daylight-saving law.

Second. The Volstead Act.

Third. To cease enlistments in the Army.

None were passed over President Harding's veto.

The four bills passed over President Coolidge's veto were:

First. The so-called "bonus" or adjusted-compensation bill.

Second. The emergency officers' retirement bill.

Third. The bill to provide a differential in pay for night work in the Postal Service.

Fourth. Granting allowances to fourth-class postmasters for light, rent, fuel, and equipment.

President Hoover had three bills passed over his veto:

First. Spanish-American War pension increase.

Second. Philippine independence.

Third. Increase of the loan basis of adjusted-service certificates.

What is "unanimous consent"?

Many little actions are done in and taken by the House by unanimous consent. The Member asks for unanimous consent to do this or that—to correct the RECORD, to speak for 5 minutes or more out of order, to insert remarks in the RECORD, to change an amendment he has offered, to have a letter read. If there is no objection on the part of any Member, then consent is granted. Frequently a gentleman says, "I object", and that settles that.

The leader of the majority makes many unanimous-consent requests, and usually they are granted. He may ask consent to meet at a certain hour, to adjourn over for a day or two, to hold a night session, to have so many hours for debate on a bill, to take up specified matters on certain days out of order, to set days for the Private and Consent Calendars. The granting of the request saves the passing of motions or the making of rules.

Many bills are passed by unanimous consent. All bills of a private character go on the Private Calendar. And another character of bills go on the Consent Calendar. On days when the Private Calendar is called the Clerk reads the title of the bill; the Speaker then asks, "Is there objection?" If no objection is made, the bill is read and passed very quickly, usually. Should objection be made by two or more Members to the consideration of any bill or resolution so called, it shall be recommitted to the committee which reported the bill or resolution, and no reservation of objection shall be entertained by the Speaker. The theory is that if no one cares to object to a bill, certainly many would not vote against it; so, it ought to be passed.

Another calendar of the House on which bills may be passed by unanimous consent is the Consent Calendar. When bills on the Consent Calendar are called, one objection prevents consideration. The bill remains on the calendar, however, until the next time it is called, when three objections are necessary to defeat it.

Both party organizations have several Members who make it their business to study all bills on the Consent Calendar, as well as the Private Calendar, and be ready to object or insist on what they think to be the proper amendments before consent is granted for the bill to be considered.

Were it not for these two calendars, the House would be consistently deluged with requests for consideration of these bills of a private or purely local matter. One can readily see the advantage of having calendars of this nature to be called on specified days, thus leaving the House on other days for business of greater importance.

In considering the Consent Calendar, often a Member will rise and say, "Reserving the right to object", and ask questions about the bill. This gives the author of the bill an opportunity to explain or defend it, and sometimes quite a little debate is stirred up even on consent days. After a while someone may demand the "Regular order!" The Speaker says, "Regular order is demanded." Whereupon the gentleman who started the debate by "reserving the right to object" must immediately make his objection or withdraw it. He may be just as apt to do one as the other, and on his decision rests the destiny of some anxious Member's important bill—for all bills are important to their hopeful authors. On consent days Members with bills on the calendar are most patient, polite, and persuasive in their ways toward the gentlemen who sit at the table and whose business it is to inquire into the merits of bills coming up.

How are votes taken?

Four different ways. Usually the Speaker puts the question in this form: "As many as are in favor (of the motion) say 'Aye'," and then, "As many as are opposed say 'No.'"

In most instances the vote taken thus is decisive to satisfy. But if the Speaker is in doubt, or if it sounds close, any Member may ask for a division. In this case the Speaker asks those in favor to stand up and be counted. Then those opposed to the proposition to stand up and be counted. The Speaker does the counting and announces the result. But if he is still in doubt, or if a demand is made by one-fifth of a quorum—that is, 20 in the Committee of the Whole or 44 in the House—tellers are ordered. The Speaker appoints one gentleman on each side of the question to make the count. The two tellers take their place at the head of the center aisle. All Members favoring the proposition walk through between the tellers and are counted. Then those opposed walk through and are counted. This vote settles most questions.

But a roll call may be demanded by any Member on any question in the House, and if supported by one-fifth of those present it is ordered. This privilege is guaranteed by the Constitution. The Clerk reads the names of the whole membership, and as his or her name is called the Member answers "aye" or "no." The names of those not voting the first time are read a second time, so that all Members in corridors, cloakrooms, committee rooms, or offices, who have been notified of a roll call by signal bells may come in and vote.

Roll calls are ordered sometimes to get a full vote on a measure, because of a lack of a quorum, sometimes because Members want to be on record on a measure, and sometimes to put the other side on record against the measure for imaginary political advantage. The roll calls are published in the CONGRESSIONAL RECORD and are sometimes quoted to a Member's advantage or disadvantage, as the case may be.

Many bills of lesser importance and some of greater importance are passed without a roll call. This can be done if a quorum is present when the vote is taken and as many as one-fifth of those present do not demand a roll call. This is done often to save time.

What is a quorum?

Everybody who ever attended a literary society knows that it requires a quorum to do business. In the House of Representatives a quorum is a majority of the membership. When there are no vacancies in the membership a quorum is 218. There are usually a few vacancies—Members who have died or have resigned and their places yet unfilled. So an actual quorum is usually a little under that figure. Much business is transacted without a quorum. But no business of any character, except to adjourn, can be transacted without a quorum present if any Member raises the point of order. All any Member has to do to get a full House is to arise, address the Speaker, and make the point of order that "no quorum is present." The Speaker says, "The Chair will count." If he fails to count a majority present, a Member usually moves a call of the House. This motion being adopted, the doors are closed, the bells are rung in the corridors and House Office Building, and the roll is called. This usually produces a quorum, and business proceeds.

When the House is in Committee of the Whole a hundred Members make a quorum. This has been set by rule.

Is legislation much influenced by oratory?

Not much. People back home may picture the House as a forum for debate upon the merits of the many bills they read about.

It is in a way, but most of the debate is as potent as a sham battle. Very few bills that are brought up in the House for action under general or special rules are defeated. I think more than 95 percent of bills thus brought up are passed, despite the forensic display of oratory that may be directed against them, and usually is by the minority or the opposition. Hardly 1 amendment in 40 offered to bills on the floor is adopted unless offered or accepted by the committee reporting the bill up for consideration.

Legislation enacted by any Congress is largely that originating with or sponsored by the majority party. Important measures brought up have had thorough scrutiny and a favorable report by a well-organized committee. They have probably had strong backing from the country. Some have had the approval of the steering committee and some have been reported out by the Rules Committee. Such measures are on the program for passage and long debates and much oratory cannot defeat them. On the other hand, bills that are not slated for passage do not often get up for action in the House.

Committee responsibility is great and committee action influential. On most amendments and on most bills a majority of the Members vote most of the time with the committee—and it is difficult to break into that influence, even with fine oratory.

What are the duties of the Speaker?

He presides over the House, appoints the Chairman to preside over the Committee of the Whole, appoints all special or select committees, appoints conference committees, has the power of recognition of Members, makes many important rulings and decisions in the House. The Speaker may vote but usually does not except in case of tie. He may appoint a Speaker pro tempore, but not for more than 3 days at a time without the consent of the House.

What is a party leader?

There is a majority leader and a minority leader. In talk on the floor we do not refer to Democrats and Republicans usually. It is more dignified, it seems, to refer to the majority and the minority. The majority leader now is a Democrat and the minority leader a Republican. The majority leader has the more influence, of course, since he has the majority of the membership back of him.

The leader is all the title implies. He leads in party debate, brings forward party program and policies. His advocacy of or opposition to proposed legislation indicates the party preference. The majority leader has much control over what comes up, and when, of the legislative program from week to week. When he makes a motion it is nearly always carried. He usually makes the motion to adjourn, and it always carries. If someone else, not authorized to do so, makes a motion to adjourn, it is nearly always defeated.

What are the Chaplain's duties?

Both the Senate and the House has a chaplain, who offers prayer at the opening of each daily session, usually at 12 o'clock noon. Both are eloquent and Godly men. The prayers are printed in the CONGRESSIONAL RECORD with the proceedings each day. The prayers offered by the House Chaplain during the Sixty-eighth and Sixty-ninth Congresses have been gathered together and printed in book form. This book of the Chaplain's prayers can be purchased for 25 cents per copy by addressing the Superintendent of Documents, Government Printing Office, Washington, D. C.

What are the duties of the whip?

The whip looks after all legislation and endeavors to have all present when important measures are to be voted upon. When the vote is apt to be close he checks up, finds out who is out of the city, and advises absentees by wire of the important measure coming up.

What is printed that best tells of the Congress?

The Constitution of the United States is the best thing printed dealing with the Congress. It provides the authority for Congress, specifies its duties, powers, privileges, and much of the procedure in both Houses of Congress. The Constitution is not very long, is easily obtainable in any city or town, and should be read occasionally by every citizen. It will surprise you how much information it contains.

How old is the Constitution?

It was adopted by the Federal Constitutional Convention in 1787, ratified by the several States, and the new Government provided for by it became fully operative with the inauguration of George Washington as President of the United States on April 30, 1789.

How can the Constitution be amended?

A proposal to amend the Constitution must be passed by the Congress by a two-thirds vote of both House and Senate. The proposed amendment then goes to the legislatures of the several States through the Secretary of State, and must be ratified by three-fourths of them—at the present time by 36 of the 48 States.

Have many constitutional amendments been adopted?

No; not very many—only 21 in 147 years—and this question brings out some interesting figures and dates. The first 10 amendments to the Constitution were proposed by the First Congress in 1789 and were practically agreed to before the adoption of the Constitution. The eleventh and twelfth amendments were proposed in 1794 and 1803.

Since 1804, when the twelfth amendment was ratified, over a period of 131 years only nine amendments have been adopted to the Constitution, and one was repealed.

The thirteenth, fourteenth, and fifteenth amendments relate to abolition of slavery, rights of citizenship, and the franchise, coming after the Civil War, and were proposed and ratified between 1865 and 1870.

Since the Civil War period only seven amendments have been ratified, as follows:

Sixteenth amendment: Provides power for Congress to levy a tax on incomes. Was ratified in 1913.

Seventeenth amendment: Provides that United States Senators shall be elected by popular vote. Previous to its adoption, Senators had been chosen by State legislatures. Proposed in 1912 and ratified in 1913.

Eighteenth amendment: Provides for prohibition. Proposed 1917 and ratified in 1919. Subsequently ratified by all States in the Union except two.

Nineteenth amendment: Provides the right of suffrage of women. Proposed 1919 and ratified by 1920.

Twentieth amendment: Changes the commencement of terms of President, Vice President, Senators, and Representatives.

Twenty-first amendment: Repealed the eighteenth amendment.

Are amendments sometimes proposed but rejected by the States?

Yes; that has occurred several times. Amendments were proposed in 1789 (two), 1810, 1861, and 1924 that were not ratified by the States. All of these except the last one are out of date and of no use now and time has shown the wisdom of their rejection. The one submitted to the States in 1924 was known as the child-labor amendment and reads in part:

> The Congress shall have power to limit, regulate, and prohibit the labor of persons under 18 years of age.

A number of States have ratified this amendment.

Who pays for speeches Members mail out?

The Senator or Congressman pays for the speeches he sends out. They are printed usually at the Government Printing Office and are charged for at cost price. A Member will often send out another Member's speech on some subject he thinks will be of interest to his constituents.

In the fiscal year 1934 Members paid the Public Printer $38,867.17 for speeches, in 1935 the sum of $39,447.80, and in 1936, $62,745.48 was paid out.

Preservation of the Scenic Beauty of Niagara Falls

EXTENSION OF REMARKS

OF

HON. JAMES M. MEAD

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 1937

Mr. MEAD. Mr. Speaker, no cataract in the United States, and few in the world, possesses the power and grandeur of Niagara Falls. Its magnificent display has attracted the attention of the entire world and each year it is the mecca of millions from everywhere, who come to gaze at its majestic spectacle. With the development of electrical power it was only natural that the tremendous potentialities of the Falls should be harnessed and utilized to serve industrial and human needs. Because the Falls is situated on the border of the United States and the Dominion of Canada, its beauty and utility are shared by both countries. Each diversion of water for electrical power has been made as a result of agreements between the two countries. One such agreement is pending now and this agreement deals not only with the question of power but also with the serious question of preserving the scenic beauty and splendor of the Falls. Nationals of both countries are vitally concerned with the preservation of the original symmetry of this wonder of the world and we cannot afford to delay in taking steps to accomplish this necessary conservation activity.

Except for the distant and inaccessible Zambesi Falls in Africa, no other cataract approaches Niagara in power and

majesty. The thundering surge of this great volume of water, the roar of its descent, the rainbow-marked column of ascending spray form a spectacle which, since its discovery by Father Hennepin in 1681, has excited the awe and admiration of the world. No place in this country is so well known to the people of every foreign country. No great natural feature is visited by so many as Niagara Falls. The number of its visitors ranges from 1,000,000 to 2,000,000 annually. The millions of dollars spent each year by sightseers in their visits to the Falls are surely a sign of our aesthetic salvation. In this way Niagara Falls is a great national asset. But its inestimable value to the spiritual and artistic life of the Nation is far greater and cannot be measured in dollars and cents. The impairment of this great work of Nature for the sake of developing further water power, or for any other purpose, would be a vandalism to which the people will never submit.

It has been shown that the scenic beauty of Niagara Falls has been damaged both by the recessions at the apex of the Horseshoe Falls and by the diversion of its water for power and for other purposes. The great cataract is said to be committing suicide, and if present conditions prevail the falls may wear themselves out, and the day may come when it shall no longer command recognition as one of the seven wonders of the world. Recession at the apex of the Horseshoe Falls, the crumbling of table rock in several places is steadily continuing; at the same time that this natural decay is going on, further water diversions for power are demanded as being of value to Canada and the United States. The destruction or serious impairment of the beauty of this famous cataract for power-development purposes will not be tolerated by the people of the United States and would provoke the expostulations of the whole civilized world. What we need is a high pitch of public opinion demanding prompt measures to check the destructive forces of Nature now busily at work wrecking the very spectacle she provided.

The people should appreciate that they are the real owners of Niagara Falls, and that it is their obligation, as well as their privilege, to see that this scenic wonder is preserved for posterity undiminished in glory.

The fact that it is possible to transmute its beauty into certain hundreds of thousands of horsepower for industrial enrichment, even though certain human comforts are provided thereby, is really of secondary importance compared with the Falls themselves. The beauty of the Falls, now gravely jeopardized, may be destroyed unless the people promptly claim their own. It is now commonly observed that the Niagara spectacle is diminishing in beauty, and we cannot afford to permit any material considerations to filibuster against measures intended to restore and retain its original features.

The danger to the beauty of the Falls from diversion of water for power and from the incessant battle of the elements against the natural contour of the cataract seems first to have been brought forcibly to public atention in 1894, when a committee of the constitutional convention, appointed to investigate the subject, condemned the abstraction of water from Niagara Falls. The public then began to suspect that the legislature had been too lenient with its gifts of franchises to power companies. By 1905 a national campaign through the press was under way, seeking to preserve the beauty of the Falls.

President Theodore Roosevelt took an active interest in the matter; Governor Odell of New York took a stand against any immediate expansion by the power interests; exhaustive hearings were held by the Rivers and Harbors Committee in Congress; and in 1906 Congress passed the Burton bill aimed to check further invasion of the power companies until the question of the preservation of the beauty of the falls was investigated. Meanwhile, efforts were constantly being made to foster treaty negotiations and to develop Canadian sentiment favorable to the Niagara's preservation. Today a treaty is pending which includes the power subject and beauty preservation. This treaty has been approved by Canada but has failed of ratification by the United States Senate because of the clause bearing on power development. Because the question of preservation of the Falls is a paramount and separate subject there is no good reason why the two subjects should be linked together. Let us forget the power question for the present, since it does seem to be a stumbling-block in this connection, and let us quickly negotiate for the immediate preservation of the great cataract.

In arguing for the preservation of the scenic beauty of the Falls we do not mean that a reasonable diversion of the tremendous power there should not be utilized for human and industrial needs. However, we insist that the grandeur of the Falls be not vitiated in any effort to obtain power development.

Of course, water power also has its imaginative appeal. It represents in a most thrilling way the triumph of man over natural conditions. The very name "Niagara" has become symbolic in representing the great forces of nature. Although a part of this awe-inspiring force has been harnessed to the service of man, yet it shall remain one of nature's most irresistible and unconquerable manifestations of energy. The record of the genius and the persistence of the pioneers who developed the great electrical power installations at Niagara is an interesting chapter in the annals of science and engineering. What benefits might result from a further development of this natural resource, no one can tell; but there is no reason to expect the future to be less productive than the past, for science advances by using the gains of today as the basis for progress tomorrow. While we owe it to ourselves and to posterity to develop this magic power to the utmost limits, we must not commit the sacrilege of desecrating this great temple of nature.

The conservation of Niagara Falls is a matter of public morals. Someone said:

> Every industrial enterprise of wide scope has as its foundation a moral problem; it cannot be simply the producer of great wealth, regardless of the rights of others and of the higher claim of community life; nor can it ignore the claims of spiritual excellence and of the higher life which seeks something beyond the minted ideal. This claim of the higher life, the demands of the finer emotions, the love for the beautiful in nature, express themselves in part in the Government protection of natural wonders from defacement and destruction; in organizations created to keep alive this sentiment and extend the aegis of the state over natural glories which belong to mankind rather than to men. No wise man confesses himself devoid of such emotions. The violation of this moral principle in present practice offends the best sentiments of the race.

The world is filled with examples of natural wonders raped and laid barren by the ambition, avarice, and the shortsightedness of man. We must not permit this to happen to the beautiful Niagara. Personal or corporate claims should give way to the broadly founded rights of the national life and general welfare. Under whatever political control this majestic demonstration of Nature's power may be, this control must be looked upon as a trust rather than the possession of a merchantable commodity or a commercial asset. No Government has the moral right to permit the vandalizing of such a natural phenomena but it does have the moral obligation to protect its identity for posterity from ravages by either man or nature.

Those who plead for immediate action for the preservation of the Falls are not necessarily insensible to the fame of having at Niagara "The power center of the world", nor are they blind to the fascination of magnificently executed power development. However, they find a glory and a greater magnificence in the sight of what nature has done here. One may quite readily compute the value to civilization of power developments, but who can compute the value of Niagara's splendor? Of what enormous potentiality is the exhilaration to higher ideals and deeds, of food for the imagination, of respect for God's handiwork, on the part of those who behold and wonder at its stupendous beauty and who thrill at the breath-taking panorama of its thundering green waters? This natural inspiration surpasses any mechanical triumph mankind might ever accomplish.

Any citizen of the United States or Canada may justly take pride in the great industrial development which has

been built up about Niagara, but the saddening thought is that much of that development has been at the cost of its beauty and magnificence of the cataract. Nowhere else has Nature afforded to mankind such a tremendous resource of power immediately available to him and challenging the utmost of his genius. If any defense can be made for the confiscation of this natural resource for industrial purposes, it is its wealth-producing possibilities and the contributions to human comfort which result from that development. We might contend that Nature created this tremendous fall of water to stimulate human initiative, to contribute to industrial progress, and to benefit humanity. But in controlling and utilizing the material advantages offered, we must not lose sight of the spiritual and cultural value intrinsic in this unique manifestation of Nature.

It is high time to protect the falls from further ravages of Nature and at the same time to repair some damage already wrought by the hand of man. The process of natural decay tends to destroy all waterfalls. The problem reduces itself to this: What can be done to repair existing damage to the beauty of the Falls and can more power be developed without doing further harm?

The amount of water flowing through the Niagara River depends primarily upon the elevation of Lake Erie at Buffalo; the higher the lake the greater the flow in the river. The effect of diversions of water from the river is very nearly the same as the effect of a low level of Lake Erie, except that only the portion of the river between the point where the water is taken out and the point where it is returned is affected. The international agreement now pending would permit the installation of compensating works to keep the lake at seven-tenths of a foot higher at low levels. According to our National Resources Committee in its report last December, $700,000 would be required to accomplish this, a relatively small investment in view of its acknowledged importance. The National Resources Committee likewise recommended against further diversions of water for power above the Falls until the efficiency of these compensating works shall have been tested in practice. We may eventually have more power and a secured beauty as well.

In addition to the compensating works, the committee recommends the investment of $875,000 for the construction of weirs above the Falls. The purpose of these weirs shall be to equalize the flow of water over the American and Canadian Falls. At present it is estimated that nine-tenths of the water flows over the Canadian Falls. If the rock level above the Canadian Falls continues to crumble and lower, the time is not far distant when the entire flow may go over the Horseshoe Falls.

An arousal of public interest in the impending fate of the world's most glorious waterfall is required at this time. It is desirable that we completely divorce the power issue and concentrate our prompt efforts upon measures intended to protect and preserve the beauty of the Falls. Let us not rob future generations of the opportunity to view the great Niagara just as we and generations in the past have enjoyed it.

Roosevelt, Liberalism, and the Courts

EXTENSION OF REMARKS

OF

HON. JOSH LEE

OF OKLAHOMA

IN THE SENATE OF THE UNITED STATES

Friday, April 2 (legislative day of Monday, Mar. 29), 1937

ADDRESS BY CHIEF JUSTICE RILEY, OF OKLAHOMA

Mr. LEE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the chief justice of the Supreme Court of Oklahoma at the Democratic victory dinner in Denver, Colo., on March 4, 1937. The subject of the address was "Roosevelt, Liberalism, and the Courts."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Chairman, ladies and gentlemen of Colorado, heretofore, governmentally and industrially, like Topsy, We grew up. Hereafter, governmentally and industrially, as the modern man, the true product of civilization, marching upright and onward, with only essential regulation to constitute "liberty under law", we may truly say we are "on our way." That is our rendezvous with destiny.

Quoting Mr. Roosevelt:

"Under the Constitution's broad powers, we can and intend to march forward, believing, as the overwhelming majority of Americans believe, that it (the Constitution) is intended to meet the amazing, physical, economic, and social requirements that confront us in this generation."

So it is plain that Mr. Roosevelt follows the Constitution, but advocates now a liberal construction for the general welfare of our people and to facilitate necessary functions of government. With him as with us it is a rule of law. Under leeway left wide, and under precedent five or more times established, we seek to liberalize decision and if need be to liberalize personnel of Court to achieve it.

The statement of White, uttered in the famous debates of the First Congress, adopted to the philosophy of Aristotle, has been deemed a truism. This is a "government of laws and not of men." It should be so, but unfortunately the human equation enters; it is human to err. Perfection is divine. The thought that we may confine government to laws and make them independent of men, or find men of perfection to administer laws, is not only absurd, it is a thought highly derogatory of the attributes of Deity.

I am a realist; I would seek statesmen to make, to interpret, to administer law, for, like Penn, I know from experience and study:

"Governments, like clocks, go from the motion that men give them, and as governments are made and moved by men, so by men they are ruined, too.

"Therefore, governments rather depend upon men than men upon governments."

Likewise, constitutions are made for men. They are the frames of government. They are not logical entities, but they are fashioned as the result of compromise.

The critic finds the Constitution where he looks for it. Whether what he finds is the truth or a mare's-nest is another question.

However, it appears that by strict interpretation the Supreme Court, in thwarting in part the will of the people, as expressed by and through their foremost statesman and the Congress, have uncovered a mare's-nest.

The legalistic formula, this a priori reasoning, this occult power more subtle than human mind can fathom, but reverting to an economy of stand-pattism and to an economy of the past, has slowed down the will of a people. It has prevented consummation of an armistice, peace, and prosperity in this economic revolution.

The problems of agriculture, they say, present a State problem—a matter for local government. The powers of a general government cannot go thus far.

The commerce clause of the Federal Constitution, under the interpretations, is predominately restrictive so that economic policies designed to secure the general welfare must by divided votes of judges be declared void—child welfare, minimum hours and wage laws, like Federal income-tax efforts by legislative and Executive sanction, must fail.

I am constrained, as an humble State judge, to say that unless wise counsel prevails, upon the bench and in the legislative forum, when occurs the gradual shifting of power from the judicial department of Government, the great temple of justice, that white-marbled edifice, over the front of which is inscribed the words "Justice under law" may be transformed into a sepulcher or tomb wherein will lie the ashes of the proper functions of a court known only to America.

What is this function? It is the right and duty to declare laws on rare occasions unconstitutional. This right was not usurped, it was discovered and developed. The law constitutes the judge's "yardstick", and when constructing the yardstick in each case as is requisite and necessary so as to provide a rule with which to measure your rights as litigants, it is found by courts that a statute or "by law" is without the sanction or prohibited by fundamental law, of course, mere statutes should by a court be outlawed.

John Marshall did not discover that process. It had been followed a hundred times in colonial government.

The Federal Constitution (art. 6) defining the law of the land and denoting a supreme law, at least presupposing inferior statutes, the definition reverts to paramount beginnings, such as "This Constitution and laws of the United States which shall be made in pursuance thereof." Most assuredly a statute found not to be in pursuance of constitutional authority is to be deemed void.

The dicta of Coke (1613), uttered more than a hundred years before Marshall was born, in Dr. Bonham's case (8 Coke, 113), developed the thought of judicial veto of legislation.

The fact is John Marshall, as disclosed by his biographer, Beveridge, simply wrote into the decision of *Marbury* v. *Madison*

the political doctrines enunciated by the Federalists in their convention. This party policy occurred and was stated at the close of the century, and just prior to the appointment of the midnight judges and Marshall's elevation to the bench.

It is almost proverbial that the Supreme Court grants no rehearings. They evolve and oscillate upon a political philosophy. Once to sustain emergency power in the rent cases (256 U. S. 1730), now to deny it with the phrase that emergency does not create power. Once to sustain the Oregon minimum-hour laws (208 U. S. 412), later to deny such provisions of law when applied in New York (198 U. S. 426). Once to extend itself under the commerce clause, sustaining Federal law prescribing safety devices, hours of service, employers' liability and even bookkeeping (224 U. S. 194), but now to deny and defeat an economic policy enacted into law. Manufacturing, they say, irrespective of its breadth or size, like agriculture, is a State problem.

Long ago Justice Story said:

"A government which, in its own organization, provides no means for change but assumes to be fixed and unalterable must after a while become wholly unsuited to the circumstances of the nation; and it will either degenerate into a despotism or, by the pressure of its inequalities, bring on revolution."

The constitutional-amendment method should not be and is not the sole recourse or method to achieve a corrective influence in government required to meet rapidly changed conditions brought about by an economic revolution. There are other processes. One of them is liberal constructions of court. Another is the statutory process. Constitutional amendment has not been the rule under which the Court during these "dark ages" has been packed with economic theories.

The result in this country would not have been different had the Constitution provided that the Supreme Court be vested with power for use in its discretion to ultimately determine the political, social, and economic policies of the country—State and Federal. It was not so intended.

Possibly such a system is desirable to those who would preserve the status quo; but if so, such a system would be inaugurated in a straightforward manner by an amendment to the Constitution, for this would substitute government by law for government by legal fiction, evolved by men whose concepts of economics may have been in part crystallized and fixed in the "gay nineties."

I am afraid of cold logic and juristic reasoning.

In France not so long ago learned men shook learned heads when adjudicating the patriotic acts of a simple country girl, the Maid of Orleans, Joan of Arc. They said, "We will have to burn her at the stake—it is the law."

In this country, in Salem, scholarly jurists, the best minds, ordered the gentle Rebecca Burns to gallow's hill in a charge of witchcraft—it was the law.

The lowly Nazarene was more or less duly tried by the Sanhedrin, and the law took its course. It was juristic reasoning based on precedent—the law of the land.

In resort to this mode of thinking—this means of governing—there should be deference to checks and balances and amongst them there might be found a consideration of the rights of others and minority views. Likewise, in government, courts should stress consideration of the acts of other departments of government. If this is liberalism, like equity, it is the spirit and soul of law; it is a requisite of justice and a necessity for peaceful government.

In short, I agree with the late liberalist, Justice Holmes, when he registered a protest against the judicial veto of the New York bakers' 10-hour law. He protested that such a veto as then exercised by the Court was based "upon an economic theory which a large part of the country does not entertain." The judges' agreement or disagreement with an economic policy, he said, "has nothing to do with the right of a majority to embody their opinion in law. "The fourteenth amendment," he said, "does not enact Mr. Herbert Spencer's Social Statics." He warned: "A constitution is not intended to embody a particular economic theory whether of paternalism and the organized relation of the citizen to the State, or of laissez faire. It is made for people of fundamentally differing views. * * * The accident of our finding certain opinions natural and familiar or novel and even shocking ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States."

As a vast majority of citizens view it, a peaceful revolution, brought about at the ballot box, has been thwarted in part by the most conservative department of Government, the judiciary, of which I am a small part. Being a small part, I say a judge is no sacred cow, to which the benighted or enlightened citizenship must bow down and worship. Nor are courts golden calves, and so infallible in decision. Courts are entitled to respect and observance of court decrees. But as surely as the right is set forth in the Declaration of Independence, citizens through their instrumentalities, servants, agents, and employees, have the right to alter or amend forms, to change agencies, increase or diminish numbers or duties, and where it is found government is not responsive to the needs of man, such change will occur.

As applied to economic policies, duly enacted and sustainable under a liberal interpretation, the court has no more right to exercise the judicial veto than it had to attempt to settle the question of slavery by the Dred Scott decision.

Judges as such are entitled to no more consideration than their individual characters deserve. As an individual and officeholder, in civil life and Army, I can truthfully say that about everything has been done to me that can be done to any man. * * * But throughout all of this I have never been afraid of the settled judgment of the people.

Thus, being the youngest Justice ever elected within our Commonwealth and the eldest in years of service, I am justified in saying by the lamp of experience a judge is no sacred cow.

Now, passing from the doleful past to the ray of hope of the future and controversial subjects, may I inquire what of the Federal judicial proposal? I'm for it—all of it, and you have your right.

The Wheeler amendment allowing Congress by a two-thirds vote to nullify a decision of court will give us a parliamentary government, and we are not fitted for it. We denounced it in the War of the Revolution. It gives a continual constitutional convention. By war America divorced itself from the European parliamentary theory of government.

The Norris proposal for a two-thirds vote of the judges has much merit. This is the Nebraska, the Dakota, and the Ohio plan.

The two-thirds requirement has precedent. It may be achieved by a simple act of Congress, and according to the unanimous Court decisions in kindred matters it would be constitutional. So said Ellsworth, Marshall, White, and Chase. (Sec. 2, art. 3, Federal Constitution.)

Under the Federal Constitution the Congress is empowered to make both "exceptions" to and "regulations" of the appellate jurisdiction of the Supreme Court.

The Court, in 1882 (*Duncan* v. *The Francis Wright*, 105 U. S. 381), said:

"Authority to limit the jurisdiction necessarily carries with it authority to limit the use of jurisdiction."

Thus seven votes may be required by act of Congress when the judges exercise the judicial veto of legislation.

The President's proposal deals generously with the judges. It gives much retired pay. Should not the elder jurists and statesmen devote some of their time, after attainment of the biblical span of life, toward helping and educating the younger jurists?

Under the President's proposal the Government is made a party to suits involving governmental matters. Such is the law in my State.

By the proposal an adequate number in personnel is provided. Now, the average citizen knows that with 160 opinions promulgated by the Supreme Court last year—according to West Publishing Co.—whereas in the previous year my State court produced, such as they were, nearly nine times as many, this condition wouldn't allow a humble private citizen much chance to present his rights to the Supreme Court of the United States.

It is said that the Court will be packed, but it will not.

No judge who thinks the Constitution is gone, who resents the encroachments of youth and new ideas, with all his honest soul and body will long remain upon the bench abhoring such conditions with the infirmities of age pertaining to mind and body, and in view of an alternate appointed and confirmed.

My conclusion is that the facilities for expedition of business of courts, State and Federal, are archaic.

Judges have aroused themselves to meet these conditions. Courts should make use of their powers—expressed, inherent, and implied—in the administration of justice.

The power of judicial review of legislation was not usurped; it was discovered. It should be continued. But the courts should refrain from the exercise of judicial vetoes upon economic policies duly enacted into law.

The safety of the State, the highest law, is dependent upon the proper functioning of three great departments of government, and while ours is a government of laws, in final analysis all government is dependent upon men. Moreover, a delay of justice is a denial pro tanto. Consequently it is thought the Federal judicial proposal of the President is a stride forward.

At the close of the Civil War, Lincoln, the great Emancipator, wanted a Supreme Court that would uphold the concept of liberty for which men had given their lives upon the field of battle. Lincoln said so. He used these words: "We want a Chief Justice who will uphold what we have done with reference to the War Act, the Emancipation Act, and the Legal Tender Act."

Is it any wonder that this man of the people, Roosevelt, the deliverer from economic slavery, would have a court modernized to the extent that Holmes and Brandeis have been modern in their thought? Is it any wonder that the people would want a court that will indulge a new freedom gained from an economic war?

And now to conclude, may we differentiate between statesmen and politicians.

The politician hastens to agree with the majority. He insists that their prejudice is patriotism—their ignorance wisdom. Not that he loves them, but because he loves himself. He is in fact a demagogue.

The statesman, a reformer, points out the mistakes of the multitude, attacks the prejudices of his countrymen, laughs at their follies, denounces their cruelties, enlightens and enlarges their minds. He educates their conscience. Not because of selfishness (love of self) but because he loves his country and wishes to make it great and free. With him defeat is but a spur to greater effort. The statesman refuses to stop. He cannot be bribed by the promise of success or the fear of failure. He walks the highway of right and in disaster stands erect. He is the only victor.

The Relief Problem

EXTENSION OF REMARKS
OF
HON. THOMAS R. AMLIE
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Friday, April 2, 1937

LETTER FROM HON. THOMAS R. AMLIE, OF WISCONSIN

Mr. AMLIE. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following letter written by me:

APRIL 2, 1937.

Hon. HENRY A. GUNDERSEN,
President of the Senate,
Hon. PAUL R. ALFONSI,
Speaker of the Assembly,
State Capitol, Madison, Wis.

GENTLEMEN: This will acknowledge receipt of Joint Resolution 18–S, recently adopted by the Senate and Assembly of Wisconsin, requesting the Congress of the United States to investigate certain statements made by myself and by a member of the staff of the Wisconsin Relief Administration.

Since I received this communication I have attempted to secure time on the floor of the House of Representatives to go into this matter, but the press of the regular legislative program has made it impossible for me to secure the time required. For that reason I am taking this opportunity to reply to Joint Resolution 18–S.

I have placed much of the following material in the CONGRESSIONAL RECORD during the past few years, both in speeches made on the floor and in extensions of remarks, but I believe that it deserves repetition. I shall, first of all, include material of a general nature, which I am sure will be conclusive.

A DIRECT CORRELATION BETWEEN SICKNESS AND INCOME

In a speech given last year I referred to a study made by the United States Health Institute, working in conjunction with the Milbank Fund, based upon a personal investigation of 2,560 average families in Pittsburgh, Detroit, and Birmingham. In that speech I said:

"Sickness among those whose incomes have dropped sharply since 1929 is 60 percent higher than for those whose incomes have remained approximately the same. The rate of disabling sickness among individuals from families of the unemployed was 39 percent higher than that of the group having full-time wage earners and 25 percent higher than that of the group containing part-time workers."

I should like to call your attention to the fact that the 2,560 families studied were average families, and that in no case were rich families or slum families included. This study was a scientific effort to determine as accurately as possible what happened in an average family when its income was sharply reduced. I believe, further, that a sampling of 2,560 average families in three communities like Pittsburgh, Detroit, and Birmingham would give an accurate picture of what could be expected anywhere in the United States.

RELATION BETWEEN INCOME AND DEATH RATES

The Public Health Federation of Cincinnati, under the direction of Drs. Bleecker Marquette and Floyd Allen, has made a study of 7,220 deaths in the city of Cincinnati during the years 1929, 1930, and 1931. The city of Cincinnati has a population of approximately 450,000 people. In order to conduct this study, the investigators divided the population into four income groups, of approximately 100,000 persons each. The death rate from various diseases in these income groups is revealing.

TABLE I.—*Tuberculosis mortality rates per 100,000 of population*

Economic group	White	Negro
I (lowest)	94.4	499.6
II (medium low)	60.6	240.3
III (medium)	52.1	133.6
IV (highest)	41.1	

It will be noted from this table that the death rate from tuberculosis is twice as high with the poor people in Cincinnati as with the well-to-do. In the case of Negroes, the tuberculosis rate is three and one-half times as great among the poor as among those who are reasonably well off.

In the case of influenza, we find the death rate as follows:

TABLE II.—*Influenza mortality rates, per 100,000 of population*

Economic group	White	Negro
I (lowest)	33.4	42
II (medium low)	24.3	21
III (medium)	27.5	20.5
IV (highest)	20.3	

The figures for deaths from epidemic meningitis follow:

TABLE III.—*Epidemic meningitis deaths, as percentage of total reported cases occurring in 4 economic groups*

Economic group	White	Negro
I (lowest)	43	69
II (medium low)	23	27
III (medium)	18	4
IV (highest)	16	

The pneumonia death rates follow:

TABLE IV.—*Average death rates from pneumonia per 100,000 for lowest and highest economic 100,000's of population*

Group	White	Negro
Lowest economic 100,000	150	320
Highest economic 100,000	72	129

For infants, these death rates were even more striking.

TABLE V.—*Average pneumonia death rates for children under 1 year of age per 1,000 live births*

Group	White	Negro
Lowest economic 100,000	15	30
Highest economic 100,000	4	17

Death certificates will, of course, give pneumonia as the cause of death in all these cases. It would be nearer the truth, however, if the cause of death for the lowest economic 100,000 were given as malnutrition, for these figures indicate that three out of four need not have died could their parents have provided them with a higher standard of living.

TABLE VI.—*White deaths under age 1 per 1,000 white live births*

Group I (lowest)	84
Group II (medium low)	66
Group III (medium)	43
Group IV (highest)	32
Combined	58

It is significant that the rate of 84 for the lowest economic group indicates that the death rate in this group is 45 percent above the combined rate, while that of 32 for the highest economic group is 45 percent below the combined rate. To put these figures in another way, it might be said that 1 infant death occurred for every 12 children in the lowest economic group, and 1 for every 31 children in the highest group. A child in the lowest group stood just two and one-half times the chance of dying as a child from the highest group.

The findings of this study may be summarized thus: The death rate for people in the lowest income group compares as follows with that for people in the highest:

For enteritis, under age 5, the rate was five times as high;

For tuberculosis, all ages, the rate was three times as high;

For pneumonia, all ages, the rate was two and one-half times as high;

For influenza, all ages, the rate was twice as high; and

For appendicitis, all ages, the rate was one and one-half times as high.

Anyone sufficiently curious about this study may secure a copy by writing to the Public Health Federation, 312 West Ninth Street, Cincinnati, Ohio, sending a check for $1.17 to cover cost of publication and mailing.

In his book Why Keep Them Alive, Paul de Kruif refers to the death rate among Negroes in Cincinnati. In the lowest-income group, Negroes die at the rate of 565 per 100,000. In the highest-income groups the rate is only 61.7 per 100,000. In other words, eight times as many Negroes die among the slum dwellers as among those able to afford a better standard of living. It is commonly assumed that Negroes are especially predisposed to death from tuberculosis. The Cincinnati study would indicate that that

is not true. The death rate of 61.7 per 100,000 for Negroes living in modest but fairly comfortable circumstances is comparable to the general death rate for the entire United States registration area. It is close to the low average rate for well-to-do white people in Cincinnati. Low living standards, and nothing else, is responsible for the high death rate for Negroes in the Cincinnati slums.

I wish at this point to pay my respects to the public-spirited citizens of Cincinnati who have made this study possible. I do not know who they are, nor do I know anything of the city government of Cincinnati; but I regard this study as more significant than any study attempted by any group since the depression began. The report itself is the highest possible tribute to the people whose efforts and support have made it possible.

CONDITION OF SCHOOL CHILDREN IN NEW YORK AND PENNSYLVANIA

Occasional statements by responsible people, shocking in their frank recognition of an intolerable situation, appear in the press. About 9 months ago Governor Earle, of Pennsylvania, stated that recent examinations of school children disclosed that "in some Pennsylvania counties malnutrition and the ailments resulting from inadequate diet run as high as 90 percent. No county shows less than 45 percent. Of 274,000 school children examined in Philadelphia, one of the richest cities in the world, 179,000 were suffering from rickets, retarded development, physical weakness, and lowered vitality. Of 59,000 children examined in Pittsburgh, the bailiwick of the Mellons, 45,000 were victims of malnutrition and difficulties traceable to slow starvation."

About a year and a half ago Dr. Adela J. Smith, director of health education in New York, stated in a report to the board of New York City that—

"Lack of sufficient food has wasted the bodies and sapped the mental vigor of more than 100,000 school children here until they can no longer keep up with their better-fed classmates in school work. The condition is particularly great in Manhattan, where nearly one child in every four is malnourished. So weakened are these boys and girls by lack of food that they cannot profit from attendance in regular classes. In fact, thousands of them find going to school too great a physical strain and have become ill. In the elementary schools alone there are now about 125,000 seriously undernourished youngsters."

These statements regarding New York and Pennsylvania might lead to the conclusion that these two States are woefully backward in taking care of their destitute and unemployed. Relatively, this is not true. In comparison with most States, relief standards in both Pennsylvania and New York are high. The worst pictures of malnutrition and starvation that I know of come, not from the most backward States, but from those States where the responsible authorities have had the courage and the administrative decency to examine their own legislative households and to publish their findings to the world. The reason Governor Earle can make such a statement is because in Pennsylvania the State department of education has made a physical examination of the school children of that State. I am told that this is one of the few States that have done so. Undoubtedly, therefore, it is one of the most advanced of the States. In a great many States, no relief is provided, either by the States or by the local communities. There are no organizations to report the conditions existing among the underprivileged part of the population. I should like to express this as my conclusion: Whenever the responsible officials of any States have the courage and honesty to report unpleasant facts, it is because the people of those States have enough civic pride to be willing to face the facts, bad as they may be.

During the past few years, investigations of social conditions have been carried far enough to warrant the conclusion that if a fair sample is taken of representative areas, the final result will not vary greatly from a complete investigation of the whole field. That is to say, if a sharp reduction in the income of 2,560 average families in three representative cities is accompanied by a 60-percent increase in the sickness rate, then undoubtedly if a study were made of the families in Wisconsin whose incomes have dropped sharply during the past 5 or 6 years, it would be found that the sickness rate had also increased about 60 percent. If the death rate of people in the lowest economic group is from one and one-half to five times as high as it is for people in the highest economic group in Cincinnati, then we would be justified in believing that the same relationship would hold true in Wisconsin. Bearing in mind that relief is relatively well administered in Pennsylvania, it would probably be fair to infer that the picture of malnutrition given us by Governor Earle would probably not vary greatly from what would be disclosed in Wisconsin if the State legislature were willing to set up the machinery to make a thorough health survey.

The general implications of these various studies are accepted by responsible men in the field of public health, as is indicated by a speech made before the American Medical Association at Atlantic City, in June 1935, by Dr. Walter R. Campbell, of the department of medicine, University of Toronto. He said:

"Twenty-five million of the unemployed in Canada and the United States are in danger of becoming unemployable by eating a relief diet too high in carbohydrates and too low in proteins for reasons of economy. Much emphasis has been placed on the economy of starch calories as opposed to fat calories, which are relatively expensive. Unemployment diets are tending to run high in carbohydrates. * * * The apparently inevitable degradation from unemployed to unemployable should not be accelerated by a falsely economical provision of foodstuffs."

The average human being is not built like "the one-hoss shay." As a result of malnutrition, he does not break down in all parts at the same time. He becomes weakened, and then the weakest organ succumbs to some infection or disease. The name of the particular infection or disease—enteritis, tuberculosis, pneumonia, etc.—is usually given as the cause of death. I still maintain, however, that the average man is thoroughly justified in classifying deaths of this kind as due to starvation. In commonly accepted parlance his usage is correct.

THE SUBMERGED 25,000,000

A few days ago a study of unemployment and increasing productivity was released by the Works Progress Administration. This study contains some of the most significant material on the nature of our social and economic problems that has ever been printed.

The study seeks to show the proportion of the available man-years in this country since 1920 that has not been utilized. For instance, in 1920, 6 percent of the available supply of labor in that year was not utilized. In 1921 this figure rose to 25 percent, and declined in 1922 to 22 percent. From then until 1929 it averaged 12 percent. By 1931 it had risen to 31 percent, in 1932 to 45 percent, and in 1933 to 47 percent, decreasing to 42 percent in 1934 and 41 percent in 1935.

It is particularly significant that while we have very nearly attained the production levels of 1929, we still have almost 10,000,000 unemployed people in this country. Because of improved technology of production, we could now exceed the production levels attained in 1929 and still have 8,000,000 people unemployed. Barring a brief period of employment in the event of another World War, it is reasonable to suppose that most of the people who are now unemployed will never again be reabsorbed into private industry. These people are permanently unemployed. They are outside the scope of the economic system in which the rest of us live.

It is always a serious matter when a large group of people have no function within the framework of the prevailing economic system. Inevitably, they will be liquidated. They are facing the same inexorable process of extermination that confronted the horse between 1918 and 1930. In 1918 there were 22,000,000 horses in the United States; by 1930, as a result of the development of the tractor and automobile, that number had declined to 14,000,000—a decline of 8,000,000 in 12 years. This was because farmers found it no longer profitable to breed horses. Surplus horses were either shot or sold to fox farms.

It is true that we do not shoot our unemployed, or feed them to foxes; but, as the Cincinnati study shows, these people, because of their lowered resistance, due to malnutrition, have a death rate from certain diseases ranging from one and one-half to five times as high as their more fortunate neighbors who have a place within the economic system.

Perhaps I should not have used the word "starvation." People who are interested in obscuring the issue have taken exception to the term. "Liquidation" might have been a more accurate word. Still, I am sure that the 20 percent of our people who are outside the scope of our economic system, and are in the process of elimination do not misunderstand the word "starvation."

RELIEF IN WISCONSIN

It is not my intention to go into particular instances in the First District. I will say, however, that during the past few years I have protested at considerable length to the relief authorities about glaring inadequacies in the administration of relief that have come to my attention. Going into these case histories would only cause the unfortunate people involved further misery. General figures regarding the administration of relief in Wisconsin appear to me to be much more conclusive.

Last October the average relief expenditure per case in Wisconsin was slightly in excess of $22 a month. This figure, however, is high because the average relief expenditure for Milwaukee County of $26.10 served to raise the average for the rest of the State. In Pepin County last October the average relief per case was $13.77. In Jackson County it was $14.71. The average expenditure in these two counties, therefore was $14.04. With an average-sized family of 4.5 persons, this would mean $3.12 per month per individual. It is reasonable to suppose that these families had to pay something for rent. Certainly they were compelled to buy some fuel, clothing, and other necessities of life. But assuming, what is not true, that all these things were given to them, and they were able to spend the total sum for food, they would have been compelled to subsist on approximately 3 cents per meal per individual.

It does not seem to me that the members of the Wisconsin Legislature need to investigate particular instances to determine whether my charges are true. It seems to me it would be much simpler and more to the point if they would proceed to investigate to determine whether it is possible for an average-sized family in Wisconsin to buy food, clothing, and shelter for $14.04 per month.

Very sincerely yours,

THOMAS R. AMLIE.

Semicentennial of the Interstate Commerce Commission

EXTENSION OF REMARKS

OF

HON. WILLIAM P. COLE, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 1937

ADDRESS BY HON. SAM RAYBURN, OF TEXAS, AT THE SEMICENTENNIAL EXERCISES OF THE INTERSTATE COMMERCE COMMISSION ON APRIL 1, 1937

Mr. COLE of Maryland. Mr. Speaker, on the occasion of the semicentennial exercises of the Interstate Commerce Commission held last evening, April 1, our colleague, the distinguished majority floor leader, Mr. RAYBURN, of Texas, who prior to his service as floor leader was a member of the Interstate and Foreign Commerce Committee of the House for many years, and during the three preceding Congresses was chairman, delivered the following address:

Before the twenty-sixth anniversary of the Commission I took oath of office as a Member of Congress and was assigned to the Committee on Interstate and Foreign Commerce. For 24 successive years I worked as a member of that committee. The Interstate Commerce Commission had become well established by the time I made my first contacts with it. My service in Congress has been contemporaneous with the period in which the Interstate Commerce Commission has exercised the large powers given it by law. Commissioner Meyer is the only one of the present commissioners who was a member of the Commission when I entered Congress. Clements, Prouty, Clark, McChord, Hall, Daniels, and Harlan were associates in those days of the young commissioner fresh from his professorship in the University of Wisconsin and from service on the commission of that State. I think that, with the exception of Professor Daniels and Judge McChord, all of these I have mentioned are dead. They were the men who with two or three others developed the Interstate Commerce Commission into the outstanding regulatory tribunal of the world.

In 1912, when I was elected to Congress, the railway net of the country had been developed about as it is today. The problem of maintaining and improving service on nearly a quarter million miles of railroads at rates which would be reasonable and at the same time nondiscriminatory as between persons and localities was the greatest problem in the regulation by government of a private industry which has confronted government in all times. The Interstate Commerce Commission was the instrumentality relied upon by the Congress and which was found workable, dependable, and reasonably satisfactory by successive Congresses and Presidents.

Since I have been a Member of Congress this Commission has had added to its duties the work of making evaluation of the railroads, the supervision of various railway services, the enforcement of far-reaching safety regulations, the working out of a plan for consolidation of railroads, the supervision of the issue of railway stocks and bonds, the recapture of excess earnings, the determination of compensation by the Federal Government provided in the act returning the carriers to the owners after the period of Federal control, the Nation-wide rate investigations under the Hoch-Smith resolutions, the regulation of waterways, the regulation of railroad holding companies, the regulation of motor carriers, the determination of certain rights of subsidized airways, and a number of most important investigations and inquiries. That is to say, during the past 25 years Congress at every session has given attention to one or more proposals to amend the Interstate Commerce Act. The work of the Committee on Interstate and Foreign Commerce in the House, with which I am personally familiar, has for the most part been toward perfecting the Interstate Commerce Act in the light of experience. In this continuous and sustained effort the Congress has had as its efficient and dependable agency this Commission. When facts were needed this Commission was called upon to furnish them. Hundreds of bills have been introduced to amend the act, and on practically every one of these we have sought and have had the advice of this Commission. The members of the legislative committee of this Commission have worked almost continuously with the congressional committees. Through them the congressional committees have kept in constant touch with the Commission and through them have utilized the Commission's resources for gathering information and for analyses.

Through amendments to the act and through resolutions, the Congress has constantly guided the Commission, defined its duties, and directed how it should expend its energies. The Commission has always been responsive to the congressional will. In determining policy Congress has had the benefit of advice and counsel of commissioners, individually and collectively, and has had at its call the staff of experts developed by the Commission. In the light of information so obtained and of the counsel devoted to the public interest, the Congress has been aided in determining its policies. After those policies have been expressed in statute or resolution, the Commission has carried them out, always conforming to the directions and standards laid down in the statute. When, after experience, some policy has been found to be impractical or obsolete, the Commission in its annual report has been faithful to call our attention to the facts, and the Congress again and again has passed measures responsive to such recommendations. Sometimes a bureau head will complain to a subcommittee that the appropriation for his bureau has been diverted from its normal purpose to some special inquiry which Congress has ordered. Such complaints are sometimes couched in language, from which one would infer that Congress had required the Commission to go in pursuit of some special inquiry, rather than some other inquiry which had become somewhat routine and standardized. But the Commissioners themselves and the Commission in its reports have always taken the larger view that the Congress, in response to the needs of the hour and the pressure of public opinion, must decide what inquiries shall be made and to what particular task the Commission at the moment shall address itself.

For an organization to have acquitted itself so credibly and to have acquired the prestige of a half century of successful performance, it is remarkable that the Commission has not thought of itself as an end to be served nor has it assumed that it, instead of the Congress, should determine the policies. The Commission has made its reports and its recommendations and has awaited the pleasure of the Congress.

VALUATION

In the very year I became a member of the Committee on Interstate and Foreign Commerce the valuation amendment was added to the Interstate Commerce Act. May I at this point make some comments based upon my observation of the Commission in the administration of this provision.

As soon as the States began to regulate the rates and fares of railroads the companies undertook to defend their charges by reference to the value of their properties. John H. Reagan, the first chairman of the Railroad Commission of Texas, said to the legislature of that State that in fairness to all concerned there should be an impartial evaluation of the railroad properties devoted to transportation. Texas was the first State to make an evaluation of railroads. Soon other States made similar attempts at valuation.

As it became increasingly apparent that railroad transportation was largely in interstate commerce, the agitation for an impartial appraisal of railroad properties by the Federal Government became Nation-wide.

In the depth of the depression of the 1890's, there came to the Supreme Court from the State of Nebraska the famous case of Smythe against Ames. No less a personage than William Jennings Bryan appeared in behalf of the public as counsel. The Supreme Court in that case handed down its so-called definition of "fair value." The application of that rule made some sort of assessment of appraisal of the railroad properties absolutely necessary.

The Interstate Commerce Commission in its report to Congress from year to year called attention to the importance of this problem. Many Members of both Houses of Congress manifested their interest in the question by preparing bills providing for such appraisals. Governor La Follette, of Wisconsin, became interested in the problem, and after he became a United States Senator he assumed the leadership for such legislation.

The Valuation Act became effective in 1913. The proponents of the act believed that a careful appraisal of the railroad properties would disclose that the capital structures of the railroad companies were out of line and in many instances unduly inflated. During the debates on the valuation bill, Senator La Follette and others expressed the belief that an impartial study would disclose that not more than ten or twelve billion dollars of capital had been committed to the railway industry. It is interesting to observe how nearly right they were.

As of the original valuation dates (average date June 30, 1916) the Commission found the value of the total owned property of the railroads for rate-making purposes to be $16,234,983,540, excluding working capital. The present value of the total owned lands and rights was found to be $2,734,935,586. Excluding land and rights, therefore, the value of the railroad properties as of the average date of valuation was approximately $13,500,000,000. Using various methods of projecting back the 1916 values, it appears that the total valuations of railroad property did not exceed $15,250,000,000 as of June 30, 1913, and were not in excess of $13,300,000,000 as of June 30, 1910, including land and rights.

Without land and rights, which, as stated above, had a present value of about $2,700,000,000 as of the date of valuation, it seems likely that the railroad investment, excluding land and rights, was less than $13,000,000,000 in 1913 and less than $11,000,000,000 in 1910.

While the Interstate Commerce Commission has never made a final valuation of all the properties in the aggregate, the information gathered by the Commission and published in its reports and available in its records discloses that at present prices possibly as much as $19,000,000,000 of capital is today committed to railway enterprises. When we consider the depreciation of the capital which was in existence in 1913 and additions to that capital which have been made since that date in the way of extensions, betterments, and improvements, and when we further consider the

rise in the general level of prices, it is clear that the estimates made by Members of Congress in the debates supporting a valuation bill were not so far wrong.

Under the rule of rate making written into the act of 1920, the Commission was called upon to develop a rate structure which would permit the railroads, if possible, to earn a fair return upon a fair value. The Commission tentatively fixed this fair value at about $19,000,000,000 and the fair return at 5¾ percent. This meant that the railroads in the aggregate might charge for their services enough to earn on their capital something more than $1,000,000,000 per annum. The average net railway operating income reported by the railroads during the period 1913 to 1935, inclusive, is $774,114,000. This sum, capitalized at 5 percent, is $15,482,280,000.

Under the decision of the Supreme Court in the O'Fallon case, the Commission has in effect been forbidden to do what Congress had in mind in the valuation act, that is, to find how much capital is really employed by the railroads. The effect of the O'Fallon opinion is to require the Commission to inflate this appraisal by using at the time the appraisal was made the factor which would give the highest total valuation. When Congress wrote the rule of rate making in 1920 and sought to relate a fair return to a fair value, they had in mind by fair value a reasonable and correct estimate of the amount of the capital used in the railroad business. They did not have in mind a fictitious figure distorted by using whatever factor would at the time inflate it to the most exaggerated possible concept. This opinion in the O'Fallon case had the unfortunate result of striking down in a moment the effort through an entire generation to work out a rule which would protect the investors on the one hand and the users of railway service on the other.

Congress then fell back on the experience which had been accumulated through 40 years of railway regulation. A new rule of rate making was written in title II of the so-called Emergency Transportation Act of 1933. In prescribing rates the Commission is required to consider the movement of the traffic under such rates, the need of the country for an adequate transportation system, and the needs of the carriers for revenue. It was recognized that with these considerations in view, the earnings of the carriers frequently could be increased by reducing rates so that traffic would move in increasing volume. The Commission is also required to consider the need for an adequate system. At one time this meant the need for railroads alone. Now that pipe lines, waterways, airways, and motor vehicles on the highways have taken over certain types of traffic, the Commission must recognize this rule that such traffic, already being cared for economically, may not be forced through a legislative fiat to another agency. In considering the movement of traffic, the Commission from time to time will discover that industries have relocated their plants so that their transportation requirements have become very different from what they were formerly. These changes mean that certain railway mileage may have become obsolete or may be touched with obsolescence. Where this is the case, such mileage has ceased in whole or in part to be necessary to an adequate transportation system, and the burden of its maintenance may not lawfully be charged against the railroads in the aggregate and may not be reflected in the rate structure theoretically designed to yield a fair return upon all railroads.

Some will reason that the Commission must first, by formal finding, grant a certificate of public convenience and necessity for abandonment before obsolete or near obsolete railway mileage may be disregarded as no longer necessary to an adequate transportation system. That is true so far as mere abandonment of service is concerned. But it is not necessarily true so far as the new rule of rate making goes. It must be borne in mind that the new rule of rate making was enacted subsequent to section 5, providing for consolidating weaker lines with the stronger, and subsequent to the opinion in the O'Fallon case, which had the effect of throwing into the discard for all practical purposes the rule of fair value as it was conceived by Congress in 1920. The new rule of rate making requires the Commission to look at the facts of today, to consider the movement of traffic and why it moves as it does, to consider the relations of the railroads to the other agencies of transportation, to determine what part of these roads is indispensable to public service, what part has become obsolete, and what part is in the twilight zone of undetermined usefulness for the future. In considering the revenue needs of the carriers the Commission is not required to assume that all charges and expenses are necessary. It is possible that the bonds of some railroad properties should be converted into some class of stock. The interest carried by some bond issues, particularly for issues running for a long period of time, perhaps might be converted into dividends under some plan fair to the bondholders. Many contracts of the railroads through outside interests playing upon the boards of directors may be improvident. In a rate case the Commission does not have to wait for nor even to assume the necessity for such adjustments. Such adjustments will inevitably follow to the extent necessary as incidental to fair and reasonable rates. The Commission now has enough information as to the amount of capital actually being used by the necessary railway mileage and is sufficiently experienced in ascertaining rates of return for such capital as to enable it to approximate revenues necessary to keep the capital intact without having to concern itself too much in any particular rate case with the merits or demerits of various contracts and charges.

CONTROL OF TRANSPORTATION COMPANIES THROUGH STOCK OWNERSHIP OR OTHERWISE

Many a railroad, motor vehicle, water, and air line is owned or controlled through stock ownership, leases, or some form of interrelationship by corporations which themselves are not operating companies. For those who want to achieve bigness or monopoly, or some ideal, whether it be from the point of view of the financier, the management anxious to entrench itself, or the Socialist, this device, controlled through stock ownership or some form of intercorporate contract, is so convenient that any reference to it arouses widespread opposition. Those who find it easy to make money through intercorporate manipulations, those who find it practical to hold on to their positions or power by means of such relationships, those who are driving to some goal of monopoly, the great army of dependents upon these groups make up such a combination of financial, managerial, legal, and professorial talent as to cause wonder at the temerity of anyone who would challenge practices so powerfully defended. Yet the nonoperating companies which control the operating companies claim they are not engaged in commerce and are therefore beyond the jurisdiction of the regulatory authorities. They contend that the acts drawn to protect operating companis in their competition with each other, to protect the investors in such companies, the employees of the companies, and the public dependent upon their services cannot be made to apply to corporations which are merely in the position of stockholders or which maintain some contractual relationship with the public utilities companies. On such a theory the real control and power in determining the policies and practices of the public utilities companies lies in nonoperating companies, and it is contended beyond the reach of legislation. Under any such theory, regulation must either fail or only partially succeed.

It is inconceivable that a republic of intelligent citizens would yield to the doctrine that the States and municipalities, on the one hand, have no control over the operating and utility companies insofar as their activities are in interstate commerce, and that, on the other hand, the Federal Government has no power to regulate because those who need the regulation and who make the policies take refuge in nonoperating holding companies. These companies all come into the courts claiming to be protected by the Bill of Rights as though they were natural persons. Yet they insist upon exploiting natural persons, and when their spoliation is challenged they again come into court and say: "We are a corporation over which the Legislature cannot exercise its power in regulating interstate commerce." These public utilities are universal necessities. For that reason money can be made out of operating them. The profit, moreover, is sufficient to draw to them all the talent that is necessary to develop both the quality and the economy of the service. These are entitled to enough profits to reward them for their endeavors. The public wants an arrangement which will call to these public utilities the capital necessary to serve the communities and a labor and managerial ability necessary to the most economic use of the capital. The public is willing for the wage earners to have as high a wage as the industry will bear, for the managers to have profits which are reasonable. But the public is not willing to be exploited and overcharged and underserved. The public is not willing even to suspect that it is being exploited and underserved. In order to prevent such exploitation, or the suspicion of it, it is necessary to free public-service corporations from outside domination and control, just as it was necessary through the commodities clause to take the railroads out of manufacturing and marketing in competition with other shippers.

AN IMPROVING STANDARD OF LIVING

Since the dawn of history nothing has contributed so much to the general comfort and well-being of the people as the universal availability of public-utility services. The highway, the railroad, the airport, the pipe line, the steamboat, the telephone, the radio, the incandescent light, gas, and electricity for household uses, we take as a matter of course along with clean air, pure water, and bright sunshine. The charges for these public-utility services in the aggregate constitute a relatively large figure in the budget of every household. A problem of progress is to improve these services, and to lessen their costs. This problem would be solved by keeping the capital intact, by rewarding the capital with regular and uninterrupted returns, by increasing wages and decreasing the price to the consumer. Every business which has gone forward has accomplished all of these things. When a business begins to fail in any one particular, it is either touched with obsolescence or it is being exploited by someone.

We have now about 130,000,000 people. Our national income at the present price level is about $65,000,000,000 per annum; that is about $500 per individual. No intelligent social worker can figure out a budget for a decent living which will include for the members of the family less than $1,000 for each individual. Yet, at present prices, we would have to produce $130,000,000,000 worth of goods and services per year instead of $65,000,000,000 in order to meet this minimum requirement of $1,000 per person. A mere statement of these figures indicates how far we yet have to go in increasing our production. A mere increase in money income would do no good. We could double the price level and double our national income measured in money from $65,000,000,000 without producing an additional kilowatt-hour of electricity, a cubic foot

of gas, a ton of coal, a loaf of bread, a pound of meat, or a yard of cloth. It does no good to a family with an income of $1,500 a year to increase that income to $3,000 if, after the increase, the $3,000 purchases the same amount that was formerly purchased with the $1,500.

Again, the mere increase in the quantity of specific goods is not sufficient. We might, through a concentrated effort, produce 130,000,000 automobiles in 1 year, but that would obviously be a lopsided economy. In increasing our production we want to be careful that the increase be in those things which the people most require. That is, production must be well balanced.

Now, much of this balancing of production depends upon the quality of demands for goods. If some people do not want bathtubs, it is pretty hard to force bathtubs upon them, and it does not do the manufacturer of plumbing supplies much good to make bathtubs for people who will not buy them. The problem, therefore, of increasing production is to increase demand for goods. That demand, in the first place, has to come from a desire in a human being. The desires of people depend upon their traditional background, their training, and their environment. If all people want bathtubs, then all people will try to get bathtubs. If all people desire good houses, then all people will begin to struggle to obtain good houses. The strength of the desire one has, has much to do with the sustained effort that one will put forth to gratify that desire. If one has a desire for an automobile which is strong enough, then that person, assuming intelligence and health, will work persistently toward the acquisition of a car. If, on the other hand, a whole family be satisfied to live in a shack on a meager and unbalanced diet, with no furnishings, and the cast-off clothes of other people, it is pretty difficult to get that particular family to go out to work at something long enough to become a factor in the market for goods. Our greatest peril is to assume that the population now ineffective in the market cannot be brought to be self-reliant and consistent and productive workers. There will always be a minority of defective, diseased, and casuals, who will be more or less dependent upon others.

But this majority can, through intelligent social activity, be reduced. We dare not assume that only the people who have now achieved the requirements for a good standard of living are the only ones who are capable of such achievement. We dare not assume that those who now have a good standard of living will not want a better standard of living. We dare not organize ourselves into monopolistic groups which will hold our productivity down to about $60,000,000,000 a year and divide it out according to the present minimum requirements of the members of these groups. There must be flexibility, particularly for free interchange of goods and services, to the end that such goods and services may be multiplied in response to the industry and effort of the people, and to the further end that such an increase of goods and services shall be so interchanged as to bring these productive workers a corresponding improvement in the material satisfaction which go to make up their real income.

In a well-balanced economy the demand for goods is equal to the supply of goods. That is, the desire for particular goods must be supported by possession of something which can be given in exchange for the goods wanted. In other words, purchasing power consists of goods and services. Oranges may be in California, onions in Texas, and potatoes in Maine. The Maine farmer wants onions and the Texas farmer wants potatoes. Both of them want oranges and the California fruit grower wants potatoes and onions.

Unless the oranges can be transported from California to Texas and Maine, the California fruit grower cannot be said to be in the market demanding either onions or potatoes from the Gulf and Atlantic States. From the point of view of the fruit grower, assuming dependable transportation and other facilities for exchange, he becomes a demand for a part of the supply for Texas onions and Maine potatoes to the extent that they in turn want his oranges. The raising of our standard of living and the development of our prosperity have gone hand in hand with marvelous progress which has been made in transportation. In my opinion, the railroad business today is more sound financially than at any time in its history. The other agencies of transportation, insofar as they are developed, within the limits in which they have comparative advantage, they too will prosper side by side with the railroads, and as all prosper together, the entire country will prosper along with them.

I deeply appreciate the privilege and the honor of participating in these exercises. For 50 years the Interstate Commerce Commission has impartially and successfully dealt with most difficult problems. Its record is an inspiration to those who believe in the practicability of democratic government. The high standard it has maintained will guide the other Federal commissions which have been established because of the success of the Interstate Commerce Commission. This Commission has truly been independent in that it has not been subject to political pressure and at the same time it has been responsible in that it reports regularly to the Congress and its members are appointed by the President, with the advice and consent of the Senate. I do not believe that anything is contemplated which would interfere with this independence of the Interstate Commerce Commission. The fine body of practitioners who serve the Commission and who are so well represented here tonight, those financially interested in our transportation companies and particularly those who use our transportation agencies as shippers and passengers, I am sure, are well-nigh unanimous in their approval of the arrangements the fiftieth anniversary of the beginning of which we are honored to celebrate.

The President and the Judiciary

EXTENSION OF REMARKS

OF

HON. J. HARDIN PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1937

ADDRESS BY HON. HERBERT S. PHILLIPS BEFORE THE LAKELAND (FLA.) VICTORY DINNER ON MARCH 4, 1937

Mr. PETERSON of Florida. Mr. Speaker, under the leave granted March 31, 1937, to extend my remarks in the RECORD, I include the following address by Hon. Herbert S. Phillips, United States district attorney for the southern district of Florida, Tampa, Fla.:

I am very happy, indeed, and feel highly honored to be given the privilege of addressing you. This dinner and hundreds of others are being held tonight to celebrate the victory of democracy achieved under the matchless leadership of our President, who was so ably assisted by that unexcelled organizer, Jim Farley. In my opinion, no President has ever given himself more sincerely and wholeheartedly to the cause of democracy and achieved more for the welfare of the great body of the American people than has Franklin D. Roosevelt. At 10:30 he will go on the air and give the American people another one of his great "fireside" talks.

You recall that in the campaign he said that he had enlisted for the duration of the war, and I dare say that tonight he will make it plain that a Democratic victory is only a victory when the principles of democracy are made effective and secure. He will tell us, I am sure, in effect, that "eternal vigilance" is not only the price of liberty but should ever be the slogan of a progressive, dynamic democracy.

Since, in my opinion, his plan with respect to the judiciary is another step in furtherance of the welfare of the people of this Nation, I have decided to present to you my views with respect to the same.

When I read his message on the judiciary I said, "The President has started something now", and all who had the same thought were right.

Bar associations, clubs, societies, organizations of every kind, as well as individuals, have expressed their views by resolutions and communications addressed to the President, the Attorney General, Senators, and Congressmen. Radio addresses for and against the plan are being made every day and night.

Without stopping long enough to give the plan consideration many have denounced the plan as a deliberate effort on the part of the President to "pack" the Supreme Court with six Justices, who will be rubber stamps or puppets for him. Many of those who oppose the plan are prophesying that constitutional government in this Republic will be destroyed; that the fundamental rights of mankind, enunciated in the Declaration and guaranteed by our Constitution, will be lost; that the President is trying to establish himself as a dictator; and that if the President's plan to increase the membership of the Supreme Court from 9 to 15 in the manner recommended is enacted into law by Congress, a precedent will be set that will prove to be most dangerous to our Government and destructive of the independence of the Federal judiciary.

I hold no brief for the President. He needs no defense at my hands. Those far abler than I have defended, and will continue to defend, his position. However, since the question is generally regarded as one of such tremendous importance and of such momentous consequences to our Government and the welfare of the people, I decided, when invited to address you this evening, that the question would be a most appropriate one to discuss before you.

In discussing the question I shall call your attention to certain matters which I think should be carefully considered and weighed in a fair, impartial, and nonpartisan manner in arriving at a final conclusion.

Those who are protesting most loudly against the President's recommendation would lead us to believe that the number of Justices of the Supreme Court has never before been increased, their decisions never before questioned, and that no President was ever before charged with "packing" the Court. How does history answer this? When Andrew Jackson appointed Taney Chief Justice it was charged that he was appointed because he agreed with Jackson in his determination to remove the public deposits from the United States Bank.

Daniel Webster in a public speech, after Taney was appointed Chief Justice, denounced him as the "pliant instrument of the President, ready to do his bidding."

Taney had advised Jackson, in 1832, to veto the bill renewing the charter of the United States Bank, and he aided in preparing the veto message, and was the only member of the Cabinet who favored the veto. Taney was Attorney General under Jackson. He was transferred to the Treasury Department by Jackson for the express purpose of removing the Government deposits. The Senate refused to confirm his appointment. During Jackson's administration, the personnel of the Supreme Court was entirely changed. Five of the seven judges in 1837 were his appointees. The majority of them were Southerners, educated under democratic influence. No one doubts the democracy of Andrew Jackson. No one doubts his loyalty to his country. No one doubts his love for the masses of the people and his contribution to democracy—but he "packed" the Supreme Court; the Dred Scott decision was rendered; this Government survived; Jackson did not become a dictator; communism was not established; democracy was preserved, and the principles enunciated in the Declaration and repeated in the Preamble to the Constitution were reaffirmed.

When the Dred Scott case was decided, there was an outburst of disapproval and denunciation from excited and relentless partisans. Political leaders denounced the Court and the Chief Justice.

It was then for the first time in the history of our Government that a political party, in its platform, declared, "That if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal."

When Marshall rendered his famous decision in the case of Marbury against Madison and thereby determined that the Constitution of the United States must be considered in all courts as the supreme law of the land. Thomas Jefferson, with much sarcasm, referred to it as an "obiter dissertation."

Many others joined Jefferson in his criticism of Marshall's decision. Some writers contend that Jefferson's criticism was not unfounded, because the great Chief Justice, having reached the conclusion that the Supreme Court had no power to issue a writ of mandamus to the Secretary of State, since it was an exercise of jurisdiction not warranted by the Constitution, should not have entered upon the discussion of other questions not necessary to be decided.

For the lack of time, I will not tell you in detail how Jefferson refused to obey a summons of the Court in the trial of Aaron Burr, how Jackson defied the Court in enforcing its decisions, how Lincoln disregarded a writ of habeas corpus, and how Theodore Roosevelt advocated the recall of judicial decisions in his campaign speeches; but I call your attention to the fact that Franklin D. Roosevelt has not defied any decision of the Supreme Court since he has been President. His plan does not force the retirement of a single judge, deprive anyone of judicial review, or change in any respect the power of the Court to declare legislative acts unconstitutional. All it does is to provide for the enlargement of the Court if a judge who reaches 70 fails to retire.

Let us now consider whether there is any real danger in the President's plan. If his plan is put into effect by an act of Congress, the Supreme Court will never be composed of more than nine—if the members retire within 6 months after reaching the retirement age. But if the Supreme Court should be composed of 15 members, would that endanger our Constitution and take from us our liberties?

I contend that the ultraconservatives have nothing to fear from increasing the Court from 9 to 15, because the larger the Court the longer it may take to arrive at a conclusion on the part of the majority, and private monopoly and special privilege always like the Court's delays.

Some contend that it will set a precedent full of danger for the future. When it comes to the plan setting a dangerous precedent, I call your attention to the fact that the Supreme Court has established precedents in some cases which are more dangerous to a democratic form of government than the President's plan could ever be.

In 1911 the Court, in the Standard Oil and American Tobacco cases, laid down what has since been called the "rule of reason." The Court had repeatedly upheld the Sherman Anti-Trust Act. The act provided that every combination in restraint of trade was illegal. A majority of the Court, as then constituted, said that Congress meant to use the word "undue" before the word "restraint", and that the act should read: "That every combination in 'undue' restraint of trade was illegal." When a majority of the Supreme Court wrote the little word "undue" in the act, they did what Mr. Justice Harlan, in his dissenting opinion, said Congress alone had the power to do.

A majority of the Supreme Court for many years have created and sanctified special privilege and private monopoly so many times by their decisions that the man on the street is saying today that the only dictatorship in this Republic is a dictatorship of the Supreme Court.

Yes; I concede that precedents are dangerous, but I also remind you that a precedent in favor of the minority and against the rights of the majority is never dangerous in the eyes of the minority. A precedent is only dangerous in the eyes of the minority when they see or fear that special interests and private monopoly cannot thrive under it.

Democracy is a government by a majority; autocracy or plutocracy is a government by a minority. Granting that the President's plan may be setting a precedent, it is a precedent that will not endanger democracy.

I realize that some of the present members of the Court may feel that the President is trying to force them to retire, and for that reason may not retire, but when the shock is over, those who are opposing the plan will see that their fears were unfounded, and when resentment has subsided, my prediction is that members of the Court will retire within 6 months after they reach the retirement age, especially since the President has just signed an act of Congress providing for their retirement when they reach 70 on the full pay of $20,000 per year. No doubt there will be exceptions, but my prophecy is that there will not be many. If merely increasing the number would destroy our Constitution and our liberties, such a dire calamity would have happened when it was increased to its present number.

But some say that the viciousness of the President's proposal lies in the fact that he seeks to make a wholesale appointment by appointing six members all at once. The only way this can come about is for six members of the Court over the retirement age to refuse to retire. But suppose they do not retire, and the President appoints six additional members, thereby increasing the Court to 15. What harm can that do? That would simply add six new members to the Court, representing, you might say, new blood and progressive ideas, in accord with present-day conditions and the necessities of the people, economically and socially. The six members over the retirement age would still be there. Their influence would be felt, and their counsel have its weight.

Many of those who cry out most loudly against the plan simply fear that the President will select those who entertain views similar to his. But every President who has appointed a member of the Supreme Court has done this, and the Government still stands and democracy still marches on. I cannot believe that any fair-minded person thinks for one moment that the President would recommend to the Senate the appointment of anyone for a position on our highest judicial tribunal who does not possess the highest integrity, character, and ability as a citizen and as an attorney. The Senate would not confirm any other kind. To contend otherwise is to impute the basest of motives to the President and Attorney General, who recommends to the President, and imply that Senators have no regard for their oaths and are nothing more than rubber stamps for the President.

The objections raised by those who oppose the plan will not stand up before reason, precedent, and the history of the past. When you dissect and examine the plan you find that it is nothing more than history relating to our judiciary repeating itself in principle. After giving careful consideration to the question, I am convinced that before the dangers and calamities predicted by those who oppose the plan could come to pass the President and his appointees and the Senate would have to enter into a conspiracy to commit treason of the basest type, and no one believes that such a conspiracy would ever be contemplated, much less accomplished.

All who oppose the plan admit that some action should be taken with respect to the Federal courts, but they say the President is not going at it in the right way. At first blush I thought that perhaps he would have been more tactful and adroit had he waited until Congress has passed the Supreme Court Retirement Act, which he has just signed, and then waited for those over the retirement age to resign, thereby avoiding the possibility of causing any member of the Supreme Court to continue on the bench because of his resentment to what he might consider an effort to force him to retire. But I have concluded that the President would not have strengthened his position by postponing his recommendation.

Ever since I have been a member of the bar I have heard lawyers of the highest ability and standing insist that all judges should be subject to forced retirement at an advanced age, and that they should be retired on fair and reasonable compensation for the rest of their lives. But when the President recommends to Congress a plan to carry out and make effective the recommendation of such men as William Howard Taft and Chief Justice Hughes and bar associations throughout the country, he is charged with threatening the safety of this Government and endangering the liberties of the people. Why is it that those who have heretofore recommended such a plan should be praised and the President charged with seeking to establish a communistic form of government and himself as a dictator, because he has recommended the enactment of a law that will put the plan into operation?

I am opposed to amending the Constitution, as some contend should be done, because we have a Constitution which, in the language of Chief Justice Marshall, "is an instrument of government full of life and power, intended to endure for ages to come, and therefore to be adapted to the various needs of human affairs."

Furthermore, when you begin amending a constitution, you soon have a patchwork, as demonstrated by our State constitution. Of course, if any of the inalienable rights enumerated in the Declaration cannot be secured for the people under our present Constitution, then an amendment should be submitted to the people for ratification; but it is my opinion that the general-welfare and commerce clauses of the Constitution are broad enough to comprehend the welfare of all the people and elastic enough to authorize the upholding of acts of Congress having for their object the welfare of the people without amending the Constitution. Precedent shows that the Supreme Court many times has considered the Constitution elastic enough for other purposes, especially when they laid down what is called the "rule of reason."

The issue raised by the President's plan strikes far deeper than any age limit. The real question at issue is the preservation of democracy—that is, "a government of the people, for the people, and by the people"—and our Constitution in its present form.

In the end you will find that those who favor a broad and liberal construction of the general welfare and commerce clauses of the Constitution looking to the welfare of all the people will be lined up on one side and those who favor a narrow and constricted construction of these clauses will be lined up on the other side.

I have always felt that the highest purpose of the Supreme Court is to see to it that no citizen, however humble, poor, or wealthy he may be, shall be deprived by an act of Congress or the statutes of a State legislature, of any fundamental human right enunciated in our Declaration and secured by our Constitution.

But I have never felt that the Court has the right, by a unanimous opinion, much less by a bare majority, to read into an act of Congress, language or words they think Congress should have used. In my opinion, an act of Congress should be construed as written and not as the Court thinks it should have been written, ever keeping in mind the effect of the act upon fundamental human rights.

I have always contended and still contend that it is most fortunate for the stability of this Government that the people act through their representatives, that all Federal judges are appointed by a President, who is elected indirectly by the people, and confirmed by a Senate elected directly by the people, and that representatives of the people can be replaced if the people desire to do so.

It has been said "that the Supreme Court is the 'conscience' of the people, who, to restrain themselves from hasty and ill-advised actions, have placed their representatives under the restrictions of paramount law; that the Constitution is the 'tone' of the people in their best moments and that it is a guaranty of the minority against the vehement and excited impulses of the majority." The trouble is that too often we lose sight of the fact that the vehemence, excitement, and demands of a minority may be just as dangerous as the vehemence, excitement, and impulses of a majority.

Some speakers are characterizing the Constitution as the "living soul of democracy." On the contrary, I contend that it is democracy that is the living soul of the Constitution. And when I say democracy, I do not mean the Democratic Party; I mean those great living, vital principles of human rights set forth in the great charter of English liberties and our Declaration.

I would remind all those who compare the Constitution with the Ten Commandments that when they sought to entrap Christ by charging Him with desecrating the Sabbath, He replied that the Sabbath was made for man and not man for the Sabbath. I remind all who would enter the religious realm for precedent and illustration that religious beliefs and doctrines have continually advanced from the ancient doctrines of witchcraft, a burning hell, and the monstrous doctrine of the lost souls of infants to those doctrines that are more and more in accord with the life and teachings of the lowly Nazarene. To those who compare the Constitution with the Ark of the Covenant, and at the same time advocate amending it, I say, "O consistency, thou art a jewel."

Judge Francis M. Finch, onetime president of the New York State Bar Association, in an address before said association in 1900, said:

"I have long been of the conviction that the law never leads civilization, but always follows in its wake; that its purpose and its object is to regulate and control the relations to the State; but those relations must first come, must first be established before there is anything for the law to regulate. Progress goes on; new inventions are made; new relations between man occur, and it is the office and the purpose of the law to march behind them, to regulate and order and systematize them, and produce, if need be, justice out of injustice.

And so the President by his recommendation is seeking to have the law, through the judiciary, keep step with an advancing, progressive civilization. In doing this he, instead of trying to establish a dictatorship or communism, is seeking to make it impossible for the germs of a dictatorship and communism to take root in American soil.

To all who are advocating amending our Constitution with respect to the judiciary, I say beware. If the people start amending the Constitution, they may provide for the recall of judges or judicial decisions.

Address Before the Joint Session of the Texas Legislature

EXTENSION OF REMARKS

OF

HON. SAM RAYBURN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 1937

ADDRESS BY HON. JAMES A. FARLEY TO THE TEXAS LEGISLATURE ON MARCH 24, 1937

Mr. RAYBURN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of Chairman James A. Farley, of the Democratic National Committee, before the joint session of the Texas Legislature at Austin, Tex., March 24, 1937:

Mr. President and members of the Texas Legislature, 4 years ago I had the distinguished honor and pleasure of addressing a Texas audience. Then I spoke about the new administration that had already taken the initial steps that were to lead us out of the great depression. It had fearlessly tackled what was perhaps the heaviest task that a President and a Congress had ever shouldered in the history of the United States. It was an unparalleled situation in which that administration found itself when it undertook the great responsibility. It seemed as though every beam in our national structure was shaking. We had shored up some of them, notably the banks. The restoration of confidence in the stability of our institutions of deposit at least insured us that the roof would not fall while the President was inaugurating measures calculated not only to get business going again, but to devise jobs for millions of unemployed, to keep people from actual starvation for the time being. It was really a rescue job that was the first consideration. I might compare it to one of the great flood situations that we have experienced since, for while the first consideration was to house and feed refugees from the deluge of depression, it had to be followed immediately with projects to head off future floods, to build dams and levees that would prevent a recurrence of the disaster. And that is what President Roosevelt has been doing with the aid and patriotism of a forward-looking and conscientious Congress ever since. I want to say right here that in this stupendous task none have helped more enthusiastically and generously than the delegations from this State.

Your great citizen, John Nance Garner, has been a pillar of strength. On his wisdom and experience I know the President has leaned heavily. It used to be said that the Vice Presidency was simply a fifth wheel in an administration. This definition was probably justified as applied to many Vice Presidents, but Jack Garner found plenty to do. He concerned himself actively with the legislation over which he presided. Because of the confidence reposed in him not only by the Senate but by the House of Representatives, whose Speakership he had held from the time that ours became a majority party, he was a vital force in the Government. Before he became Speaker he was the leader of the minority in the House of Representatives. And when I say leader I do not speak in terms of conventionality.

He was a leader, with a capital L. And never in my experience has a difficult job been better performed than in the case of the man from Uvalde. He passed through many storms of partisan bitterness. He was the bulwark of the minority through years of majority domination, and he was always on the job. And he came through that period, I believe, without a single enemy on either side of the House. His foes honored him as a square shooter, an honest and resourceful fighter, and his own side appreciated to the utmost his leadership. In the higher post to which the election of 1932 brought him, his loyalty to the President, his fairness and courtesy to the Senators on both sides of the Chamber, his hard common sense, and his vast experience have enhanced his popularity, for there is nobody at the Capitol who is more highly regarded than my friend, and your neighbor, John Nance Garner.

I miss one legislative figure who helped me to know Texas 4 years ago. The Nation misses him more, for a more faithful public servant did not exist than Congressman Buchanan—"Buck" to you and to me. In the long line of Texas names on the Nation's honor roll of public servants none shines with greater brilliance than his. Nobody has ever calculated the billions of dollars he saved this country as chairman of the Appropriations Committee. I know that there is a popular impression that Government expenditures are wild and reckless and extravagant. People who entertain that opinion did not know Congressman Buchanan. He scrutinized every item with as much care and with as much conscience as the auditor of any great business house. His record is studded with items rejected through his influence because the cost of measures suggested did not meet his opinion of their value to the country. He insisted that for every dollar Uncle Sam spent Uncle Sam should get his dollar's worth. For 24 years he performed splendid service for his country in Congress. The example he set for those who follow him as head of the committee which, more than any other, is responsible for the safeguarding of the national expenditure will be an eternal monument to the friend who has passed on.

Loyalty was the guiding principle of his life—loyalty to his job, loyalty to his friends, loyalty to his party. Our political opponents talk about a "rubber-stamp Congress" whenever a Democratic Congress and a Democratic President are in accord on legislative necessities. When you see that slighting phrase, think of your Buchanan. He was no man's man. He was captain of his soul, and nobody every fought more valiantly for what he deemed right than he, regardless of any other consideration. But when a policy had been determined on by the administration which had been entrusted with the welfare of his country, he made no captious effort to balk that policy.

Apply the principle to your own State. Suppose that Gov. James V. Allred, a good Democrat, true man, and an executive who has demonstrated his competency to deal with the issues with which Texas is concerned, recommended to you certain legislation that had to do with the welfare of all your people. Assume that this was a policy in which a majority of you concurred. I mean by that that you agreed with him as to his objective, but that some

of you thought that some other process—perhaps an amendment to the State's constitution—was a better way of handling it. Suppose further that the Governor presented that the delay involved in having an amendment adopted would cripple his efforts to remedy an immediate problem. I cannot but believe that you members of the Texas Legislature would feel that party loyalty compelled you to go along with the Governor rather than insist on each of you going his own way and thus hampering the accomplishment of the reform that all of you agreed was necessary.

I want to assure you that in suggesting this comparison I am not aspersing the motives or the sincerity of any of the members of our party in Congress in opposing the President's Court plan; but where it is merely a matter of method to arrive at a result, that all of these gentlemen have pronounced desirable in the past, I think they are making a grave error and are lending aid and comfort to the enemy by their present course.

Since I was in Texas before we have come a long way in the direction of prosperity. Here, as elsewhere, the despair and apprehension that was rampant 4 years ago has given place to confidence and hope, business is good, your industries are flourishing, your banks are again solvent and sound. What brought about the change except the plan and program which President Roosevelt began on the very day of his advent to the White House in 1933? Through his credit agencies, your corporations and your monetary institutions are functioning in a high degree. Your farmers have been translated from people either in, or on the verge of, bankruptcy, into a purchasing, solid element in our industrial structure. Stocks and bonds—those indexes to our economic condition—are up. Those things have happened because the do-nothing policy of his predecessor was succeeded by the do-something-at-once policy of the President. We would be very much further along that road to prosperity if, unfortunately, the Supreme Court of the United States had not decided, in its wisdom, that such things as the Agricultural Adjustment Administration transcended in some mysterious manner the powers of Congress and therein violated the Constitution. It is too bad that that law did not meet with the approval of a majority of the Supreme Court. However, I do not think that any cotton raiser or cattleman, who, under its provisions and the activities of the Government's loaning agencies, got a breathing space that enabled him to get upon his feet again, feels at all ashamed of the means and method that saved him. We may agree now that the N. R. A. was not a perfect remedy for the demoralized condition in which business found itself a few years ago, but under its provisions the wheels of industry did start up, and before the Supreme Court acted there were many benefits to the whole country, even allowing for such errors and mistakes as could hardly have been avoided under the haste of the economic emergency.

Last November our Nation was called upon to express its sentiment on the administration of President Roosevelt. It ratified the acts of that administration by the largest vote ever accorded a candidate for the Presidency. It returned a Senate and a House of Representatives with an unparalleled majority of those candidates whose campaigns had been based on their support of the President and of the policies that had rescued the Nation from the depths of industrial and commercial disaster. That certainly cannot be construed honestly as anything but a mandate for instantaneous action toward his great objective—the permanent contentment of the United States.

But, his objectors say, he had no mandate to change the economic views or the personnel or the number of the Justices of the Supreme Court.

He was told by 27,000,000 people to fulfill his program; to finish a job only half done. They did not, they could not, tell him how he is to do this. And he, after canvassing every process, found that in order to carry out the program, it was necessary to get over the barrier of an inflexible, reactionary point of view entertained by five of the nine eminent jurists on the High Court. It had been demonstrated that this majority was bound to render what you people down here might call longhorn decisions. Nobody contends that the immovable five are better lawyers or more sincere interpreters of the law than the minority four, which includes the Chief Justice. It is simply that these jurists look on a number of most important questions from different angles. In the past practically every time the Supreme Court was found to be out of sympathy with the spirit of the country the condition has been rectified by changing the number of the Justices. So the personnel of the Court has ranged from as low as 5 to as high as 10. President Roosevelt proceeded under a perfectly constitutional process to suggest that whenever a Justice had attained the age of 70 years and did not care to avail himself of the privilege to retire on full pay, an additional Judge be appointed. That is all there is to it. The dice of destiny have so fallen that we have a reactionary majority with the final say on the destinies of a progressive Nation. To assume that the President is seeking to have on the bench men subservient to him is to asperse not only his integrity and that of such Justices as he may name, but the integrity of the United States Senate. For it is the Senate that makes the Judges, whom the President only recommends. Each and every appointee must be confirmed by a majority of the United States Senate.

As things are now, a Supreme Court Justice may continue to function until he is a century old, if he lives that long, for the Constitution provides a life tenure for the Supreme judiciary. To alter that would require an amendment to the Constitution. Twenty years ago a Supreme Court, similarly constituted, rendered invalid a national law as to child labor. For 13 years the child-labor amendment has been before the States, and still lacks the three-quarters majority of the States, without which no amendment can become part of the Constitution.

Now, as I have said, the job of restoring our country to permanent prosperity is only half done. There is still a multitude of unemployed. There are still millions of our people on the relief rolls—a condition intolerable and out of character for a prosperous nation. There are constantly recurring clashes between capital and labor, with no constitutional power for the Federal Government to control these things or to compel an equitable determination of the differences. Before Congress, and in some cases already before the Court, are pending bills calculated to correct these conditions. The President doesn't know, Congress doesn't know, and has no means of finding out for an indefinite period whether these laws are constitutional or otherwise. Both of these branches of the Government have a reasonable fear that in the reactionary temper of a majority of the Court some of these measure may be held to be unconstitutional, perhaps after they have been in operation for a period of years.

The Court does not act automatically on the laws passed by Congress. They remain in effect until somebody complains that he suffers injury under them and enters suit. Then the case has to travel the long tedious road through the lower courts until it reaches the high Justices.

Hence the necessity for prompt action to bring about a Court that would not construe every doubt against forward-looking legislation.

And this is what those opposed to the measure—a group that naturally embraces the stand-pat Republican Members of the Senate, the Liberty Leaguers outside, and every agency that opposed and combated the President's reelection—this is what they call "packing the Court." It should be kept in mind that, though the President may recommend a man for the Supreme Justiceship and the Senate may confirm that man, neither the Senate nor the President has the slightest control of him once he has taken his seat. When the President's program is enacted into law, the Judges he appoints will sit until they are 70 at least, and for life, if no amendment comes along in the meantime, utterly untrammeled and proof against interference from any source. It goes without saying that the new appointees will be men of eminence in the legal profession or in judicial experience, and men of the highest character and quality, for you may be sure after the fight that is now being waged in the Senate nobody will be confirmed who does not comply with these standards.

The Nation is behind the President in his effort. I am quite sure that if Congress could vote on the proposition tomorrow, it would pass the legislation. In the Senate committee hearings so far, the deans of the law schools of our greatest universities have testified to the validity, the constitutionality, and the expediency of this plan of removing the big rock in the road that blocks the completion of the process of making this a more prosperous and more contented country.

Justice John H. Clarke, the only living ex-member of the United States Supreme Court, has pronounced the President's proposal sound and constitutional. All that delays it is the stubborn opposition of a minority, which is only formidable because of the rules of the Senate, which permit unlimited debate, except under a cloture, which one-third of the Senate has the power to prevent. My own belief is that before this session of Congress is far advanced, the sentiment of the country will make itself so manifest that the obstructionists will recognize the futility of their effort and permit the orderly enactment of the law.

I am sure that the great State of Texas, which has been in the forefront of progress since away back yonder when General Houston and General Austin debated the processes under which the Republic of Texas was founded, and when Texas came into the Union as a State, will be conspicuous in this manifestation of confidence in our great President and insistent that he shall be free to carry out the declared purpose of handing this country over to his successor 4 years from now a united and contented Nation.

Some Issues Now Before Congress

EXTENSION OF REMARKS

OF

HON. JOHN R. MURDOCK

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 1937

RADIO ADDRESS BY HON. JOHN R. MURDOCK OF ARIZONA ON MARCH 31, 1937

Mr. MURDOCK of Arizona. Mr. Speaker, under leave granted to extend my remarks in the RECORD I include an address I made over the Columbia network last Wednesday

afternoon during the weekly series of A Review of Current Questions Before Congress, as follows:

Radio listeners, I feel a great deal of pleasure in speaking today for the first time over a Nation-wide hook-up. I do earnestly hope that the new and latest Columbia station, KOY, in Phoenix, Ariz., is connected at this moment. I have often used the "Radio Voice of Arizona" in speaking to Arizonians, and hope now that through that station I may have a larger Arizona group as a part of this great national audience. When I sent a telegram a few days ago congratulating the Columbia system and KOY's management on this, their latest radio development, I had no notion that I would be so soon invited to greet you from the Nation's Capital.

It pleases me greatly that some of my boys have played so prominent a part in radio work in the Southwest. A wish for myself is that I may do relatively half as well in my new role and legislative capacity in the Congress of the United States. I have been invited today to leave the House of Representatives for a few minutes to appear before this microphone and discuss some of the things of great interest before Congress at this moment. Perhaps it is because I am a new man that everything now before us seems tremendously important.

As an ex-schoolman, I am naturally concerned about certain educational matters. I want to remind you that this is the one hundred and fiftieth anniversary of the writing of the Constitution of the United States. Congress has created a Sesquicentennial Commission to celebrate, on a Nation-wide scale, that important piece of statesmanship begun in the year 1787. I am making it a point to get all of the material of historic and civic value which I can furnish to the school teachers and civic leaders of Arizona. I do hope that other Congressmen are doing the same for their constituents.

Some days ago, in talking with SOL BLOOM, my distinguished colleague from New York, I was told that he had a few copies of the famous Stuart portrait of George Washington, which had been prepared to be distributed in the great Nation-wide Washington celebration of 1932. I ask him for 200 copies, and he sent me 125. We sent these Washington portraits to one-teacher schools in Arizona.

Perhaps one of the best education features of the Sesquicentennial Commission's work is a little book by Congressman SOL BLOOM, entitled "The Story of the Constitution." It would be worth while for every teacher, minister of the Gospel, lawyer, or civic leader in each community to obtain a copy. In these stirring days when remedial moves are on foot to remodel our Government and make it more up to date, we often hear it suggested that we must pay heed to the ideas of the founders. Every student of Constitutional government knows that much error is found in public print and in political discussions now as to what the Constitution is, and just exactly what it provides for. As an educator, I feel that the present is an unusually important time to revert to the thoughts of the fathers to study the Constitution as they framed it and intended it to be. Only thus can we be able to distinguish how much of their wisdom is applicable to our situation today, and to what extent our own public actions should be guided thereby. Incidentally, I may add for the benefit of my friends in Arizona that I have given more thought and study to the Constitution of the United States since coming to Washington 3 months ago than I have ever previously given to such study in the same length of time.

Another matter at this moment before the House of Representatives is a measure to commit the United States Government to a greater share in education. A bill to appropriate a vast sum of money out of the Federal Treasury to be prorated among the States on the basis of school population was reported favorably by a Senate committee several days ago. The House Committee on Education is now having hearings on this most important education bill. Yesterday I appeared before the House committee and made a statement. This is part of what I said before that committee:

"One of the great objectives of our planning is to equalize educational opportunity for all our children. In my own State of Arizona, there exists marked extremes of wealth and poverty among the 14 counties and also even greater extremes between school districts within a given county. We have sought in Arizona to remedy that, or at least to mitigate it, by having a part of the total of each school's support derived from a county fund and still another part derived from a State contribution. For almost 20 years this State equalization fund, or 'State aid' for schools in Arizona, has amounted to $25 per pupil annually taken from the State treasury. By a county fund distributed among the various school districts, the per-capita cost per child is equalized among the pupils of that county, and by the State per-capita distribution the revenue per child is equalized to that same extent. In Arizona we feel that the same logic which justifies taxing a man of wealth who may have no children to support schools for children whose parents have little wealth, can with equal logic be applied to taxing the richer counties where the wealth exists to support schools in poorer counties where the children are. Educational leaders, and statesmen as well, have regarded this idea as sound public policy.

"We feel more and more that conditions now justify the application of the principle to the Nation as a whole. So fundamentally important today is the adequate schooling of our citizenry that it is a matter of great concern to the Government of the United States of America to see to it that no section is neglected. Certainly, we have educational 'high grounds' and 'low grounds' in this country. Any State's position on the scale of educational efficiency depends very largely upon how much money is furnished there for schools. Arizona doesn't head the list of States in this respect but is very well up toward the top. Show me a State that doesn't have any support of schools from the State treasury and I'll show you one with a spotted educational system and a low average of efficiency. The other day I was talking with a school superintendent of a large city system 'a thousand miles from Arizona', and he gasped in astonishment when I told him that Arizona furnishes $25 per capita annually out of the State treasury for our elementary and secondary schools. Said he, 'Shades of Horace Mann! What could we not do in my State with so liberal a provision!'

"I have had a personal acquaintance with thousands of teachers during the past third of a century. My hope for humanity has been encouraged; my vision of the future of this country has been brightened by this contact with the classroom teachers of our land. On the whole, they exhibit a fervor and zeal as commendable as that of religious missionaries. These teachers are missionaries of enlightenment. The poet has said:

'Ill fares the land,
To hastening ills a prey,
Where wealth accumulates
And men decay.'

He might as truthfully have said:

'Ill fares the land,
To hastening ills a prey,
Where youth, discouraged,
Sees no brighter day.'

"Having been reared in the Middle West, lived and taught in the far West and in the East, I can say that I have traveled from east to west and from west to east in search of further light in education. My comparisons of schools in the different parts of this country reveal some bright spots where a generous public has built beautiful temples of learning and where the teaching within such splendid buildings is comparable with the material surroundings. On the other extreme, I have seen many children of our Republic housed in buildings unfit to be used for registered livestock, herded by inadequately trained, poorly paid teachers, all to the detriment of the Commonwealth. What a range of difference this country exhibits between the poorest and the best. Some of the poorest are within hitchhiking distance of the National Capital and also our marts of trade. Let us be reminded that in this much-moving, fast-moving age there is no physical or social insulation—if universal education for the masses is neglected—between the dregs of society and our most sacred American institutions."

A special committee of the House has been charged with the work of reorganization in the executive department. This is a task so herculean that it staggers one to think of the immensity of it. Almost anybody can see that economy and business-like administration in the administrative end of the Government demands fixing responsibility, eliminating duplication of efforts, and the prevention of clashes and the pulling at cross-purposes. The evils to be remedied are apparent, but the remedy is not so simple. Because so large a part of my State of Arizona belongs to and is under the control of the National Government on account of our large Indian reservations, vast national forests, numerous national parks and monuments, and millions of acres of public domain, I would certainly like to see a simplification of such administration in Arizona. Thousands of my constituents are governed from Washington, and many of them are uncertain what the regulations are, for they come under the regulation of several different Government agencies.

Without a doubt there is as great a need for reform and modernization in the judicial branch of our Government as in the executive branch. It is unfortunate that the President's proposal concerning the number of Justices on the Supreme Bench has drawn such a fire of criticism as to blind the country generally to the other needed reforms in the judicial branch. Time will not permit me to go into the much mooted phases of the President's proposal. While there are some features of his suggestion about increasing the personnel of the Supreme Court which I do not think so well of, and while I should have preferred something else instead, I feel sure many earnest souls are unduly alarmed about the dangers which they see, or think they see, in the President's proposition. I think, too, that much of the opposition is propaganda, a smoke screen, on the part of a powerful few who are profiting by the status quo and want no change in the courts at all.

The fathers believed in an independent judiciary, and for that reason sought to make the judges as free from human control as it was humanly possible. But, of course, there is such a thing as too great an independency which might result in the Nation's harm. It is a question of degree. In the Declaration of Independence, Jefferson charged that the King of England had "made judges dependent upon his will alone for the tenure of their office and the amount and payment of their salaries." This tended to make puppet judges. Our fathers established the opposite rule, giving our judges a long-time tenure, and aiming to give them adequate and certain compensation which would guarantee their security, and thus independence. Perhaps it was unfortunate that our judges were given a "life tenure", or what has been construed to mean that. Many thinking people throughout the entire history have questioned the wisdom of giving Federal judges a lifetime tenure. Perhaps one reform would be a change in that respect,

but, of course, it ought not, in fairness, to be made to apply to incumbents now on the Supreme Court bench.

We have long been taught in our college classes that a Federal judge might voluntarily leave the bench after 10 years of service and have his salary guaranteed for life, but such was not actually the case. Not until last February 10 did Judge SUMNER, chairman of the House Judiciary Committee, get a bill through the House of Representatives assuring a Justice of the Supreme Court that he might retire and not have his salary reduced or taken away from him. This provision had applied to Federal judges of lower courts for many years but not to Supreme Court Justices until last month, when a law was passed by both Houses and signed by the President. The great problem now before us is to restore the balance in the National Government by making the three departments again equal, as was originally planned, each having a check upon the others, to the end that American liberty might be secure and the will of the American people find expression in law and be carried into effect.

While I might have preferred a different type of thing to affect the needed changes in the court system, I, for one, am not willing to thwart, or attempt to thwart, needed changes merely because something else appears to me to be a better way to do it. In fact, I think more than one thing should be done with reference to our Supreme Court. It is not a question of the President's "packing the Court", but of Congress "unpacking it." Even if the President's program should be adopted unchanged, in my judgment, some other things would be needed to follow it.

Two suggestions are being widely discussed around Washington now—one that a two-thirds vote of the Supreme Court membership ought to be required to hold an act of Congress unconstitutional; another that Congress should be empowered to override a judicial veto by a two-thirds vote in both Houses. This latter suggestion means that the Supreme Court would be deprived of the final power to say that a national law was unconstitutional. I do not favor this last proposal, for I believe thoroughly in the American plan established by the founders, giving us a tripartite division of three equal and coordinate branches of government. I want to stick by this American constitutional plan of the three equal departments, each having checks upon the other two. That scheme was designed to safeguard our liberties, and that's the chief reason why we should retain it.

And now, radio friends, you will judge from what I have been saying that my interest lies mainly with the youth of the country. In the recent neutrality measures before us I did what I could to shape neutrality legislation with a view of keeping us out of war, and in doing so was thinking mostly of my young friends. But, for that matter, all that we are doing toward the herculean tasks of reorganization, whether it be in the administrative department or in the judicial department of the National Government, is done with a view to adapting this Government to the needs of a new day that it may serve the generation now coming upon the stage of action as well as our Government has served the present and preceding generations.

Safeguarding Our Neutrality

EXTENSION OF REMARKS
OF
HON. FINLY H. GRAY
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1937

Mr. GRAY of Indiana. Mr. Speaker, I am extending my remarks to add to what I have already said on the subject of neutrality and peace and to make my position plain in opposition to the sale of war supplies as a means or source of profit and gain in peacetime as well as during war.

Providing the terms and conditions of neutrality in advance of a war we are to meet, not knowing what conditions may exist, nor what emergencies may arise among the nation of a war-ruled world, is more a temporary expedient and for trial than a permanent legislative program.

But I hope this bill will mark the beginning of a long-belated course and policy, entered upon, as a means by our Nation to maintain neutrality and peace in our international relations.

This is a great forward movement away from the dangers and pitfalls of war, away from the sale of arms and ammunition to belligerents in conflict of war, away from making loans and extending credit to finance belligerent nations at war, and from the shipment of arms and ammunition in American vessels during war.

It is a long, advance step away from America taking passage in belligerent ships during war, from so-called freedom of the seas, to claim the right to trade with belligerent nations locked in the throes of the life and death struggle, and from sailing through the war zone in quest of trade with nations at war; away from false national pride and military dignity, always provoking or leading to war.

If the provisions embodied in this legislation had been in force during the World War there would have been less cause or grounds for this Nation becoming involved in the conflict and America might have been saved from the crushing war debts and the appalling loss of life.

But we must go further than this bill in safeguarding the neutrality of this Nation before we shall avoid all the dangers of war, before we shall absolve our country from the responsibility of participation in the life and death struggles of other nations in settlement of their disputes.

For the purpose of going still further and keeping the way open for more adequate and complete provisions safeguarding our neutrality and peace, I made a reservation in voting out this bill under which to support amendments on the floor.

There are two schools of neutrality, active and seeking to shape legislation. One is for mandatory neutrality, fixing the terms and conditions of our relations in advance of a war to come without knowing between what nations or the disputes over which contending.

Mandatory legislation is on the theory that to leave the conditions of neutrality open to be fixed, changed, and determined after a conflict comes between nations will make our course of actions, whatever taken, subject to the charge of favoring one belligerent, or as an unfriendly act toward another, a cause for retaliation and leading to war.

Another school of neutrality legislation is demanding discretionary neutrality, leaving the terms and conditions of our relations to be shifted or adjusted after war comes. This is to conform to international policy, and to preserve and maintain neutrality which will least interfere with our foreign trade.

But the one or greater reason why the shipment of arms or ammunition, why trade and supplies to belligerent nations, why making loans and extending credits to belligerents are approved on a declaration that a state of war exists, is the demand of the people to safeguard their interest in foreign trade.

As every great reform in government or society calls for some sacrifice by the people, so it is with neutrality legislation. Neutrality calls for the sacrifice of profits and gains in foreign trade, a sacrifice not only of the traffic in arms and ammunition for war, but in many peacetime articles during war.

The people of this country must choose between neutrality and trade. They cannot choose and claim both. They must sacrifice one to claim the other. If they choose trade, they must sacrifice neutrality. If they claim neutrality, they must sacrifice trade. They must choose one or between the profits of trade and the costs and horrors of war.

While the people of the country are strenuously demanding neutrality in aid of peace, they are still measuring and weighing up the profits and gains of foreign trade and the traffic in arms and ammunition with security against the horrors of war.

Many men are willing to sacrifice the business, profits, and trade of others for neutrality and security against war, but few men have yet been found who are willing to sacrifice their own business interests upon the altar of neutrality and peace.

When we point to the horrors, atrocities, suffering, and anguish of foreign wars which our trade and traffic in arms are adding to the flames of the conflict, we are told, as if in complete defense, that to provide an embargo on trade, arms, ammunition, and implements of war would bring a panic and great economic loss to the people.

We are still moving in the spirit of selfish greed and a war-ruled world. We are still manufacturing, selling, and transporting arms and ammunition of war to all the nations to be used against our peaceful neighbors or possibly against our own people, all for the profits and gains of foreign trade.

We will never reach the goal of neutrality until we are willing to make the sacrifice of profits from foreign trade and the war traffic of arms, ammunitions, and war supplies to be used as a means of death and destruction whenever war comes between the nations, in time of peace as well as in war.

But neither the pending House nor Senate bills barring or restricting the sale or shipment of arms, ammunition, and the implements of war will bar, restrict, or interfere with their sale during peace. And our manufacturers of arms and ammunition are left free to supply the nations in advance in their mad race in preparation for war.

There has been no school of neutrality protesting the policy and course of dealing in the traffic of arms and ammunition and the manufacture and sale of war supplies during peace as well as during war.

While this great civilized Nation is declaring for neutrality and peace and for the abolition of war, American industries and American manufacturers of arms, ammunition, and instruments of war are running full time and capacity, and our ships are loading from every wharf for every foreign port of entry in the world, freighted with implements of death and destruction.

While this great Christian Nation is condemning war as a relic of the barbarous past, American bullets are tearing the flesh, American sabers are piercing the hearts, American gas is burning the lungs, American tanks are crushing the bodies of helpless, conscripted foreign soldiers on many battlefields of the world.

While we are assuming to stand aloof from war and counseling neutrality and peace, American planes are flying in the air carrying deadly explosives and poisonous gas, bombarding defenseless cities and towns, and crushing out the lives of helpless women and children, all for American profit and gain.

While we are declaring for peace during war, we are making for war during peace. We are manufacturing, selling and transporting, and supplying a war-mad world with arms, ammunitions, and instruments of war until humanity stands overawed, aghast, and civilization is wavering in the balance.

It remains today a damning charge against America and our Nation's industries and financial leaders, that taking advantage of the great European war for profits and gains from the traffic in arms and ammunitions, America was transformed from a debtor to a creditor nation and became the world's financial dictator of the world even before our entry into the war.

While we are declaring a policy for neutrality and world peace, we are failing to employ our greater powers for peace, powers greater than our economic powers, greater than our naval or military powers, the moral force of our example before the nations of the world.

Our forefathers, throwing off the yoke of ancient despotic rule, set up and established a new form of government and demonstrated to the world the ability of men to govern themselves.

Yielding to the moral force of our example, standing out before the peoples and nations of the earth, monarchies gave way to republics, kingdoms to free institutions and harsh despotic rule to constitutional and more humane form of government.

The irresistible force and power, evolving from our standards of human rights, moving in the minds and hearts of men, led all Central and South America to renounce their kings and establish Republics like our own, led France and Switzerland to enthrone more complete, free institutions, and liberalized every government in Europe for the greater recognition of the rights of men.

We led the nations by the moral force of our example where we could not have driven them or where we could not have coerced them, with all the armies and all the navies we could have recruited and mobilized in a thousand years.

And as we led the nations in self-government and free institutions by the moral force of our example, we can lead them to neutrality and peace and to the planes of a higher and more exalted civilization.

Christ was crucified upon the cross, and speaking in the language of human affairs, that was a victory for physical force, but temporary and for the present moment, for the time being.

But the moral force of the example of His pure and blameless life moved on, gathering strength, and multiplied power as time endured.

And sweeping into an irresistible tide with the cycle of years, overcoming armies and navies, subduing whole nations and races of men, and finally reaching out to the utmost parts of the earth and conquering and overcoming the whole civilized world.

And every church spire we see pointing heavenward, and every church bell we hear ringing out on the clear Sabbath morning, is declaring the supremacy of moral force over physical force and the material world.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. PETER G. GERRY

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Monday, April 5 (legislative day of Monday, Mar. 29), 1937

ADDRESS BY HON. EDWARD R. BURKE, OF NEBRASKA, AT OLD SOUTH MEETING HOUSE, IN BOSTON, MASS., ON APRIL 4, 1937

Mr. GERRY. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD the speech delivered last night in Boston by the junior Senator from Nebraska [Mr. BURKE] relative to the proposed reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

One hundred and sixty years ago a king, hated and distrusted, was indicted by a freedom-loving people through the pen of the immortal Jefferson in these words:

"He has made judges dependent on his will alone."

Today the descendants of those freemen are rising to challenge a President, beloved and honored, because of a heart-gripping fear that he is attempting to make judges dependent on his will alone.

I welcome this opportunity to add my voice to that challenge in historic Old South Meeting House. My heart beats faster as I recall the sentiment, with the expression of which you are all familiar, that it was on this hallowed ground that—

"Men of Boston proved themselves brave, independent freemen, worthy to win and transmit public liberty under law. Here Adams, Otis, and Warren—independent, courageous freemen—raised issues which were to concern the liberty and happiness of millions yet unborn."

I speak to you today, freemen of Boston, humbly, yet from the depths of my soul, in an effort to carry forward, however falteringly, that noble tradition.

What is this misguided proposal of our beloved President which we challenge on the ground that by it he is attempting to make judges dependent on his will alone? Some who support the President assert that the opposition is dealing in superlatives. They deny that there is in this matter any danger to that independent judiciary, which we cherish as one of the most fundamental safeguards of our liberties. They see, or profess to see, therein no threat to the Constitution, no breaking down of the principle of division of governmental powers into three departments, each supreme in its own house, and scrupulously refraining from interference in the house of another. They loudly decry the contention that the President's plan in reference to the Supreme Court amounts to an indirect and unauthorized amendment of the Constitution without submission to the people, as provided in that instrument itself.

May we now examine the proposed bill, and the circumstances leading up to its presentation. If the facts do not fully substantiate every charge that has been made, then I will have nothing more to say. Certain fundamentals we must keep in mind. The first, upon which there will be universal agreement, is that the ultimate repository of all power is the people. For the common good, some powers, not all, the people have surrendered to governing bodies. Since we have a federation of sovereign States, a part of the surrendered power will be found to have been lodged by the people in the central government and another portion in

the State governments. Much remains in the people, because there are many fields of action in which the people have not up to this time been willing that any of their governing servants should have the right to walk. Call this a "no man's land" if you choose. I prefer to speak of it as holy ground, not a no man's land but the peoples' land, a consecrated plane upon which free men may bring into play all the forces of individual initiative without asking the consent of any overlord or being subjected to the surveillance of any bureaucrat, however benevolent in purpose. In this sphere, in this people's land we claim the right to determine for ourselves to what trade, business, or profession we shall devote our energies in the effort to earn a livelihood for ourselves and those dependent upon us. On this sacred ground, exempt from the touch of power of either the National or State governments, we worship God according to the dictates of our own conscience. We send our children to schools of our own selection. We speak, and write, and assemble with our fellows without let or hindrance from any government so long as we do not unduly infringe upon the equal rights of our neighbors. Multitudinous and dear as life itself are the powers which you and I have not surrendered to any government, but have retained for ourselves. These have to do with functions which no government can properly perform for us, or ought ever to be permitted to try to perform.

It is the natural order, that when a government has been established to provide for our common defense and to insure to us a State in which the blessings of justice, tranquillity, and liberty shall prevail there is ever the constant danger that the Legislature, ordained to enact the necessary laws, and the Executive, empowered to enforce the same, shall be continually reaching out for more power. So our forefathers in their wisdom did two things. They provided a written Constitution in which they set forth as explicitly as language will permit the powers granted and the powers denied to each of the two departments mentioned. But this by itself would not be sufficient. There must be some means of declaring the meaning of the language used. Therefore, the judicial power was vested in one Supreme Court and the necessary inferior courts.

Their own experience, and their intimate knowledge of the history of other peoples, caused the founders of our Government to realize the imperative necessity that the judiciary, so established, should be independent of the other departments. If the judges were subject to being overawed, influenced, or coerced, either by the Legislature or the Executive, then there could be no assurance that the limited exercise of power granted to them would be respected. That the judges might be free to exercise their independent judgment, they are appointed for life on good behavior, and the compensation for their service cannot be reduced during their tenure of office.

The Constitution, it is true, does not fix the number of Judges to constitute the one Supreme Court therein established. The exact number required to efficiently and promptly perform the requisite duties of a Supreme Court in a country certain to grow and expand with the passing years could not readily be determined in advance. Power was left by implication with the Congress to increase the size of the Court whenever the volume and complexity of the duties imposed fairly required a larger Court. No power was given or intended to add Judges to the Court to accomplish any other purpose. The mere suggestion that additional Judges might at any time be placed on the Court in order to secure decisions of a certain kind, however desirable such decisions might be, would give the lie direct to all professions of a purpose to have an independent Court. To propose such additions for any purpose other than upon a clear showing that the performance of the duties imposed upon the Court requires more Judges is to propose not the legitimate exercise of a power but an abuse of power, a perversion of power.

What, then, is this plan which the President, without warning, thrust upon Congress? Stated in simple language that all may understand, it is this: Because the President disapproves of certain decisions rendered by the Court, which for 70 years has consisted of one Chief Justice and eight Associates, he suggests, nay, demands, that Congress authorize him to add six Judges to the Court. It is true that he did not at first predicate his startling proposal upon the premise that he wanted a Court which would find some way to sanction the powers which he desires to exercise. But the record belies any other purpose, and it is now generally admitted that such is the fact.

This conclusion is inescapable if we consider for a moment what has happened in the past 4 years. The President removed Commissioner Humphrey from the Federal Trade Commission, an independent body, established by Congress and vested with extensive powers. Was the removal based upon any charge of incompetence or malfeasance in office? Not at all. The President frankly stated in writing the reason for his action. It was this: "Because your mind does not go along with my mind." The Supreme Court unanimously declared the action of the President illegal.

Congress, in haste and upon the urgent insistence of the President, enacted the National Industrial Recovery Act. In placing his signature upon the measure the President declared that, in his judgment, history would record it as the most important law ever enacted by an American Congress. The Supreme Court, all nine Justices concurring, declared the act invalid, chiefly on the ground that it delegated practically unfettered discretion to the Executive. Therefore the President caustically referred to the Court as applying the outworn rules of a horse-and-buggy age.

In the effort to restore parity prices to agriculture, Congress enacted the Triple A. By a two-thirds vote the Supreme Court held that the act invaded the reserved powers of the States, that in name only did it provide for a voluntary reduction of production, but was in fact compulsory and coercive; and that Congress has no authority to tax one group of our citizens in order to extend benefits to another group.

Congress enacted the Guffey coal bill in the effort to aid the very sick bituminous-coal industry. It was a matter of common report in Washington that the Attorney General flatly refused to express an opinion as to its constitutionality. In any event, we know that the President stated in writing to the chairman of the subcommittee of the Ways and Means Committee of the House the hope that the bill would be passed "regardless of any doubts, however reasonable", that might be entertained by any Member of Congress as to its constitutionality. The Supreme Court, dividing 5 to 4, held that the tax imposed therein was in reality not a tax but a penalty, and that the inseparable provisions of the act relating to minimum wages, wage agreements, and collective bargaining had to do with production and not with commerce, and that the enactment was therefore beyond the powers of Congress.

There came before the Court the New York minimum-wage law. This was not an act of Congress but of the Legislature of the State of New York, and had been declared invalid by the highest court in that State. It must be said in fairness that the ruling there was based in part upon the decision of the Supreme Court some 14 years ago, which invalidated an act of Congress establishing minimum wages for women in the District of Columbia. The Supreme Court upheld the New York appellate court, but that is now a matter happily removed from further controversy. The Court did also invalidate, by a unanimous decision, the provisions of the Economy Act which attempted to repeal all laws granting or pertaining to yearly renewable term insurance of veterans, because the act took away vested rights of veterans in existing contracts. In the "hot oil" decision eight Justices concurred in invalidating an act of Congress which authorized the President to draft and enforce regulations, under heavy penalty, on the oil industry, without in any respect defining a legislative policy even by implication. The Municipal Bankruptcy Act interfered with State sovereignty. The Railroad Retirement Act was loosely drawn and could not be justified under any theory as a proper regulation of interstate commerce. The Frazier-Lemke Farm Bankruptcy Act took away substantive rights in specific property acquired prior to its passage. Finally, in the Rice Mills case a unanimous Court enjoined the collection of the processing tax on the ground that it lacked the quality of a true tax and was merely a means for effectuating the regulation of agricultural production, a matter not within the power of Congress under the Constitution as it stands.

However, it was only the four decisions, N. R. A., A. A. A., Guffey coal bill, and minimum-wage which loosed the torrent of abuse upon the Supreme Court. The President, in his annual message to Congress, upbraided the Court for failure to cooperate with the executive and legislative departments. He later used the analogy of a three-horse team and directly charged that one horse, the Supreme Court, would not listen to the driver's commands, nor even respond to the whip, but insisted on lying down in the furrow. (He did not refer to the sixth sense so happily possessed by some members of the equine family, which has saved the lives of countless human beings by causing a horse to stop on the brink of a precipice and refuse to take one step farther to certain death for horse and rider alike—even if the rider were so blind and foolish as to sink the spur deep in the horse's side.)

The fact that Congress could easily reach the desired objective in most cases by a more careful drafting of legislation as evidenced by the new farm-bankruptcy measure, the new railroad-retirement law, the new bituminous-coal bill, and the substitute farm enactment, lessened in no degree the fury of the attack upon the Court for daring to act independently in enforcing constitutional limitations.

All of the decisions of the Supreme Court to which reference has been made were handed down, with a single exception, prior to the meeting of the Democratic national convention in the closing days of the month of June 1936. I call your attention to the language of the platform there adopted. After reciting some of the pressing national problems, the following pledge was solemnly made to the electorate:

"We have sought and will continue to seek to meet these problems through legislation within the Constitution. If these problems cannot be effectively solved by legislation within the Constitution, we shall seek such clarifying amendment as will assure to the legislatures of the several States and to the Congress of the United States, each within its proper jurisdiction, the power to enact those laws which the State and Federal legislatures, within their respective spheres, shall find necessary, in order adequately to regulate commerce, protect public health and safety, and safeguard economic security. Thus we propose to maintain the letter and spirit of the Constitution."

Upon that pledge the campaign was fought and won. Search the platform from alpha to omega, examine the speeches of the party nominees and every accredited administration orator, and you will find no slightest hint that before the incoming Congress would be 30 days of age the administration would abandon the pledge to lay before the people, if necessary, a clarifying

amendment, and would dare to sponsor a measure to add enough new members to the Supreme Court to secure a different construction of the Constitution.

There are other circumstances deserving of mention. The Speaker of the House ranks next to the President in power and in authority to speak for the majority party. In January 1933 Speaker Byrns declared:

"I do not believe in enlarging the Supreme Court to get a verdict. That may be talked about, but it will never get anywhere. If you ever start that sort of business, you start a precedent that will be very harmful. I do not think the country would stand for that. I know I would not.

"I know of nothing which would be more detrimental to our form of government than for our legislative body to endeavor to influence decisions on constitutional questions by a threat of that kind."

To like effect the distinguished chairman of the Senate Judiciary Committee. On the floor of the Senate he ridiculed and denounced the suggestion that any proposal of that kind was then, or would ever be given the slightest consideration.

Again, the Secretary of Agriculture in this administration speaks with the voice of authority. In the early months of 1936 there was published a volume entitled "Storm Over the Constitution." It contained a laudatory introduction by Henry Wallace, indicating his entire approval of the contents. Examine the book and you will find therein the positive declaration that, whereas a liberal majority on the Supreme Court is greatly to be desired, it must be brought about by some other means than by adding members to the Court, for to do that would make of the Court a "political chameleon", changing color with every change of administration. I could continue and show that every responsible leader, either positively stated at one time or another that it was an insult to the intelligence of the American citizen to even hint that this administration would ever think of adding members to the Supreme Court, or by omitting all mention of this subject and proposing something else, gave the same impression. For example, at the opening of the session both Senate Majority Leader ROBINSON and Speaker BANKHEAD announced that the program of Congress would be to determine what constitutional amendments might be necessary. Not a single word from either of these responsible leaders to indicate what was brewing in the witches' caldron. The plain fact is that they were as ignorant about it as were you and I.

Comes now, at last, the 5th of February 1937. The crier announces a message from the President of the United States. The Clerk reads. Astonishment spreads over the Senate Chamber. Consternation follows. No one who has been spared the terror of feeling the shock of a major earthquake could quite understand or describe how the solid foundations seemed suddenly in that moment to shake and tremble. The Clerk reads on:

"Modern complexities call also for a constant infusion of new blood in the courts, just as it is needed in executive functions of the Government and in private business. Little by little new facts become blurred through old glasses fitted, as it were, for the needs of another generation; older men, assuming that the scene is the same as it was in the past, cease to explore or inquire into the present or the future. A constant and systematic addition of younger blood will vitalize the courts and better equip them to recognize and apply the essential concepts of justice in the light of the needs and the facts of an ever-changing world. I therefore earnestly recommend that the necessity of an increase in the number of judges be supplied by legislation providing for the appointment of additional judges in all Federal courts, without exception, where there are incumbent judges of retirement age who do not choose to retire or resign. If, on the other hand, any judge eligible for retirement should feel that his Court would suffer because of an increase in its membership, he may retire or resign under already existing provisions of law if he wishes so to do."

There was attached to this message the proposed draft of a bill which Congress was expected to promptly enact. At this point I venture the assertion that in the entire history of our country there has never been presented to Congress a more ill-considered, unwise, and destructive proposal than that above described. It strikes at the very fundamentals of constitutional democracy. If enacted into law, it would be a long step in the direction of the complete supremacy of the Executive. We would have left a court, it is true, but to continue to call it a "supreme" court would be a hollow mockery. Once there is recognized the right of a President who is not pleased with the decisions of a court to drive through Congress a measure to add enough members to that court to secure approval of the kind of legislation that he wants, and the whole idea of an independent judiciary vanishes "like a morning mist." Were this bill to become law and six Judges added to the Court to sit beside the present Judges who have passed the age of 70 years and 6 months, and who are not willing to be coerced into resigning from the bench, every Judge, new and old, would thereafter realize that what had been done once could be done again, and would be done if decisions did not meet with Executive approval.

All of the idle talk about a congested docket has been blown into thin air. Never since the Court was set up 147 years ago has it been more completely abreast of its work, more efficiently attending to the problems that come before it. The records of the Court, as well as the annual reports of the Attorney General and the Solicitor General, prove this to be true beyond question by anyone who respects facts. Liberal and conservative members of the Court alike, Justice Brandeis as well as Chief Justice Hughes, assert that to increase the number of Judges would tend to lessen the efficiency of the Court rather than to increase it.

It was further suggested in justification that some of the honored Judges are old men, as if there were a stigma attached to age. Common experience demonstrates that the world owes a debt of gratitude to its old men, who, in the ripened and seasoned wisdom of age, have rendered their best service to humanity. Gladstone was a virile prime minister at 83, Clemenceau the most powerful statesman in Europe at 79. Victor Hugo, Titian, Goethe, and countless others enriched our literature and art when long past threescore years and ten. Justice Holmes led all the jurists of the world when approaching 90, and today Justice Brandeis at 80, the most outstanding liberal thinker of our age, must bear in silence the insult that only youth can be trusted to interpret and apply the spirit of the times. To make matters worse, this taunt comes from a President who rushed post-haste to my own State of Nebraska only last October, on the eve of election, to acclaim my renowned colleague, Senator NORRIS, approaching 76, as a major prophet, whose reelection and continued service in the United States Senate he declared to be a matter of vital importance to the entire Nation.

Another argument, based on sentiment, is very strenuously urged in support of this most un-American and undemocratic proposal. Emphasizing the fact, which is freely granted, that the President heroically led the Nation out of the depths of an appalling depression, that day by day he inspired and reinvigorated our people with a new hope and confidence to such an extent that he won an overwhelming reelection and commands almost universal respect today, it is seriously urged that a decent sense of gratitude and loyalty should cause us now to follow his bidding without question and without fear. Never was there preached a more insidious and dangerous doctrine than that. I prefer the noble sentiment expressed on the floor of the Senate by the elder La Follette in these words:

"Mr. President, I had supposed until recently that it was the duty of Senators and Representatives in Congress to vote and act according to their convictions. Quite another doctrine has recently been promulgated, and that is the doctrine of 'standing back of the President' without inquiring whether the President is right or wrong. For myself I have never subscribed to that doctrine and never shall. I shall support the President in the measures he proposes when I believe them to be right. I shall oppose measures proposed by the President when I believe them to be wrong."

This proposal of the President I know to be wrong because it strikes at the very heart of our independent judiciary. The attack upon the courts, led by the President, has already done incalculable damage to the cause of constitutional democracy, which cannot be made to function without respect and reverence for an independent and fearless judiciary. That there is a widespread and growing disregard and disrespect for law and order none will deny. It evidences itself in the illegal sit-down strike and in many other ways. That this condition is due in no small measure to the unrestrained attacks upon our courts and the judicial process will, I believe, be the verdict of history.

The final argument upon which chief reliance is placed to sustain the President's proposal to bend the Supreme Court to his own will is that the country faces a crisis, that this crisis has been brought on by the interference of the Supreme Court in the exercise of power by Congress and the President, and that the only way to remedy the matter quickly is to remove the Supreme Court as an obstacle. Limitations on power are written into the Constitution by the people. But it takes time to go before the people and ask them to remove the limitations by approving amendments. Moreover, there is always the danger that the people might not want to give their approval. Anyway, we have just come from a great victory at the polls. Why bother to go back to the people and ask them to remove the limitations, when we have at hand this made-to-order weapon of adding enough members to the Court so that it will construe the Constitution in an up-to-the-minute manner that will not hamper Congress or the President in any respect whatsoever? The warning of James Bryce is overlooked. He pointed out long ago that the failure to fix the number of judges that should constitute the Supreme Court is the one crack in our constitutional armor through which there may enter some day the sharp blade that will cause the proud structure of our democracy to receive its fatal thrust.

But what is this crisis? There are some serious problems facing the country. The question is, Are they due to lack of power in Congress and the President, and is that want of power caused by an unjustifiably narrow construction by the Supreme Court of the limitations on Congress and the President, which the people wrote into their Constitution?

We should be specific. Unemployment is the gravest problem of all. Congress has given the President a blank check for all the billions for which he ever asked, and left him free, in accordance with his expressed desire, to provide relief and work relief in any manner that he might see fit. P. W. A., W. P. A., and all of the other agencies have spread across the country into every village and hamlet, and on the whole have done a very creditable job of taking care of the unemployed. Has any decision of the Supreme Court hampered the President in the expenditure of these truly enormous sums in administering to the unemployed and the needy? Not one.

Home owners and farm owners were in distress. Mortgage foreclosures were the order of the day. The Home Owners' Loan Corporation was established. The Farm Credit Administration was strengthened. The helping hand of the Government was extended to every needy owner of a home or farm in all this broad land of ours. It constitutes a record of which any administration might well be proud. Has the Supreme Court searched out and applied

any lack of power in Congress and the President to do these things? Not one.

Banks were failing. Depositors were in a panic. Fear was everywhere. The banking laws were revised. The Federal Deposit Insurance Corporation was set in motion. All of the resources of the Nation were pledged as security for your bank deposits and mine. Confidence was restored. Never again need the country stand in fear of bank failures and the terror of heartbreaking losses to depositors. Has the Supreme Court interfered in the slightest degree with this statesmanlike handling of a vital problem? All the world knows the answer.

Fraudulent issuance of securities and defects in the management of stock exchanges caused great losses to unwary investors. Only the most carping critic would dare to claim that the Supreme Court has been a stumbling block.

Drought and floods have brought their usual devastation. I live in a drought area, and of my own knowledge I can testify that drought sufferers have received such attention and succor from the Federal Government as was never before witnessed. In the matter of flood control, Congress has appropriated hundreds of millions of dollars to establish the most extensive program of control the world has ever seen. Has the Supreme Court blocked or hindered or frustrated this relief and this program? Not in the slightest.

I could go on and demonstrate that in practically every field Congress and the President have been, and are now, exercising almost unlimited power to solve problems that have any national aspect whatever. Sometimes Congress acts hastily and ill-advisedly, and must retrace its steps and do a better job. Moreover, as the present Solicitor General so well stated, there is at hand a "vast reservoir of unused power" ready to be tapped, if Congress and the President will set themselves to the task of proceeding in a proper, sane, and reasonable manner. If there are any powers which the framers of the Constitution clearly did not intend to vest in the Federal Government, and the exercise of which seems now to be necessary due to changed conditions, then let the people speak through the orderly process of amendment.

There is no crisis due to lack of power in the President and Congress. I recall the words of William Pitt:

"Necessity is the plea for every infringement of human freedom. It is the argument of tyrants. It is the creed of slaves."

Democracies have failed the world over because the people were deceived by the plausible plea of one manufactured crisis following hot on the heels of another, until freemen found their liberties stripped from them and gone forever. I denounce the President's plan to subordinate the Supreme Court to his will, based as it is on the specious and wholly untenable position that we face a crisis created by the Court. I denounce it as the most flagrant example in American history of an effort to deprive the people of their constitutional rights. It constitutes a radical departure from American traditions. The camouflage with which the original proposal was shrouded has been dissipated, leaving nothing but the unsavory odor that always remains when there has been an entire lack of frankness. The suggestion that the Supreme Court has been a stumbling block in the path of the President and Congress in their effort to solve national problems has been examined and found to be without merit. If there is to be a new and undreamed of concentration of authority at Washington in order that the lives of 130,000,000 people may be regulated without check or restraint of any kind, then let the people pass on the question as to whether they now desire in effect to abandon their Constitution, abolish their independent judiciary, and vest authority unlimited and unchecked in the President and his Congress.

May I leave with you the words of Woodrow Wilson:

"It is within the undoubted constitutional power of Congress, for example, to overwhelm the opposition of the Supreme Court upon any question by increasing the number of Justices and refusing to confirm any appointments to the new places which do not promise to change the opinion of the Court. Once, at least, it was believed that a plan of this sort had been carried deliberately into effect. But we do not think such a violation of the spirit of the Constitution is possible, simply because we share and contribute to that public opinion which makes such outrages upon constitutional morality impossible by standing ready to curse them."

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. H. STYLES BRIDGES
OF NEW HAMPSHIRE
IN THE SENATE OF THE UNITED STATES
Monday, April 5 (legislative day of Monday, Mar. 29), 1937

ARTICLE BY ROBERT QUILLEN

Mr. BRIDGES. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Robert Quillen and published in the Dallas Morning News of March 26, 1937. The article is of particular interest inasmuch as we are at the present time engaged in a controversy relative to the Supreme Court.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Dallas Morning News of Mar. 26, 1937]

THE SAD FABLE OF A BASEBALL GAME THAT ENDED BASEBALL

By Robert Quillen

The home team was playing the last crucial game of the season. The stands were packed with frenzied, yelling, sweating fans. Above the unceasing din of partisan enthusiasm rose the shrill cries of vendors: "Ice-cold drinks, cigars, cigarettes, and candy." The sun blazed from a cloudless sky.

A man stood in the batter's box with a bat on his shoulder. On the ground at his feet was a flat square mat variously known as the home base, the rubber, and the plate. The batter waited.

Facing him from the pitcher's box was the town's idol—a pitcher who had broken all records and seemed unbeatable; a hero unspoiled by fame and undaunted in the pinches.

The pitcher tied himself in a graceful knot, uncoiled like a steel spring, and a white flash exploded in the catcher's mit.

"Ball one", said the umpire.

The pitcher's eyes hardened. He had heard that verdict nine times in succession and he was tired of it. Grimly he wound up again, and again the white streak flashed.

"Ball two", said the umpire.

Once more the pitcher tried.

"Ball three", the umpire said.

It was too much. The pitcher held the ball and turned to face the bleachers, holding up his hand for silence.

"There's no sense in going on with this", he cried. "Judging by the decisions already made against me, I see no reason to believe that any future pitch of mine will be called a strike. We can't hope to win this game until we get a new umpire."

"You ain't puttin' 'em over the plate", yelled an opposition fan.

"I don't claim to be doing that", said the pitcher. "I only say that I can't win this game without strikes and this umpire calls it a ball if it isn't over. He is living in the past and judging by rules that were made a century ago. I demand a new umpire."

"Why not change the rules instead of the ump?" demanded the fan.

"There isn't time for that", said the pitcher. "This is an emergency. And, anyway, the fans might not approve the change. Give me a young umpire who will call it a strike when I say it is."

So a new ump came in and the game was won, but it killed baseball. Each pitcher appointed an umpire who suited him and the fans seemed to lose faith in their decisions.

Soil Conservation

EXTENSION OF REMARKS
OF
HON. GERALD P. NYE
OF NORTH DAKOTA
IN THE SENATE OF THE UNITED STATES
Monday, April 5 (legislative day of Monday, Mar. 29), 1937

ARTICLE BY MORRIS L. COOKE IN NEW YORK TIMES MAGAZINE

Mr. NYE. Mr. President, "A Challenge to Save" is the title of an article appearing in the New York Times Magazine of March 21, 1937. The article was written by Morris L. Cooke, until recently head of the Rural Electrification Administration. It is so interesting and so timely that I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times Magazine of Mar. 21, 1937]

A CHALLENGE TO SAVE

By Morris L. Cooke

For more than a century no organized hostile force has landed on the shores of the United States or crossed its land boundaries. Yet we have been invaded—dramatically, in disasters which were splashed across the front pages of our newspapers; insidiously, in a kind of guerrilla warfare which startles us when we add up its total, Nation-wide effects.

Nature herself has rebelled. Twice within the past 3 years she has struck hard in the form of drought, ravaging the Great Plains, even throwing her shock troops far east of the Mississippi River. Several times, culminating in this year's inundations along the Ohio and lower Mississippi, she has attacked with floods. In each case the loss we have sustained has been largely the result of our own mistakes.

At first there may not seem to be a connection between floods in New England, New York, and the Ohio and Mississippi Valleys and drought along the eastern slope of the Rocky Mountains. But there is a connection. While the Mississippi flood crest, fed by the muddy waters of the Ohio, was still above New Orleans the dust was swirling and blowing eastward from northern Texas, Oklahoma, Colorado, and western Kansas. In the one instance our richest soil was being washed toward the sea, in the other instance it was being blown away; in each case it was being lost forever.

These are the theatrical extremes of a process of deterioration which, if it is not arrested, may, in one generation, seriously impair the living standards of the American people and in a few more generations reduce us to the level of China or India. Literally, our country is in danger. Only by a Nation-wide mobilization, a popular front in which there will be no politics, can we be sure of saving it. This realization is behind the President's plan for regional agencies which will unite our efforts, from coast to coast and from Canada to Mexico, to save our soil and to turn our streams into power that will work for us instead of against us.

We shall have salvaged something out of the tragedies of flood and drought if they make us conscious of the full magnitude of our problem. But we must not be misled into thinking that nature is destructive only when she sweeps away cities or buries whole countrysides in dust. The destruction that goes on quietly between floods and droughts is probably 20 times as costly as that which takes place during great disasters.

The basis of our prosperity—indeed, of our very life as a Nation—is fertile soil. Every time a single grain of topsoil is washed or blown away we lose something which cannot be replaced. It takes about 400 years to lay down an inch of new soil on land which is not being disturbed by man. We cannot wait that long. If we lose 4 inches of topsoil in 60 years, as has happened on the Illinois prairies, we shall not get it back in any time that we can reasonably plan for. The only practicable planning that we can do is to make that soil stay put—and that rule applies to the Texas Panhandle or to the mountains of North Carolina as well as it does to Illinois.

People ask, Isn't water always wearing down the land? Wasn't the Mississippi carrying away fertile soil before the white man came? Isn't part of the Mississippi Valley made of wind-borne dust, laid down a geologic age ago? Certainly these things happen in a state of nature. Most of the land between Cape Girardeau, in Missouri, and the mouths of the Mississippi was put there by the river. The dust deposits of the Missouri Valley were partly washed, partly blown, to where they lie. Such things are part of the machinery of the constantly changing earth.

It is not their occurrence that concerns us—it is the rate at which they occur, the tempo of the tune to which we try to make Nature dance. Nature, left to herself, does not arrive at a state of rest. She lays down soil. She washes soil away. But we know that throughout the greater part of the Mississippi Valley, before the white man arrived, soil was accumulating faster than it was being washed out. Grasses, shrubs, trees, each choosing the site best suited to them, grew and decayed, and in decay enriched the land.

The tempo of the moving water was slow. Nearly everywhere the soil was bound together by the roots of growing things. The water soaked in, trickled down to the streams, traveled at a different speed according to the nature of the growth and the terrain. It did not arrive in the main river, from all sources, almost simultaneously. Floods did take place. The channel of the Mississippi below Cairo will not carry as much water as will the channel above that point. When the upstream channel was full the down-river channel was more than full and had to spill over. But I doubt that there was ever a prehistoric flood on the Mississippi comparable with that of 1927 or on the Ohio comparable with that of the present year.

The inquiries made by the Great Plains committee indicated that contrary to some recent statements there were probably no great prehistoric dust storms in that region. There, too, was a natural coverage of different grasses adapted to semiarid conditions, and on hillsides and along the borders of streams there were trees and shrubs. Undoubtedly the grass was scorched by prolonged droughts, and shorter grasses had an advantage over long ones, but not until the plow came were wide areas exposed and the sod uprooted and turned to dust.

Sand and dust do not hold water. The existence of dusty areas quickened the run-off of such rain and snow as fall in the semiarid region. The fringes of those areas grew dryer and started to spread. From an airplane sufficiently high up the surface of the Great Plains might have seemed afflicted with some terrible skin disease; if the view had been carried farther east, this aspect would have given way in many places to the countless tiny wrinkles of extreme old age.

What have we done to our country? I do not wish to recite again the statistics of destruction and desolation. Erosion probably costs us $400,000,000 a year, has probably cost more than $10,000,000,000 since the settlement of the Middle West. Perhaps a billion tons of soil go every year where we cannot ever again get at them. But neither in terms of money nor in terms of soil can we express the whole truth. It is not primarily land or money that is at stake—it is the future prosperity of the United States.

In industry we have some leeway for making mistakes, so long as we do not waste a limited supply of raw materials. The productivity of industrial workers and machines is constantly increasing. There has been a similar, though not as great increase in the productivity of labor applied to agriculture. We can get more out of land with less work than was possible a generation ago—much more than two generations ago. But in the long run we cannot take more out of the land than is put into it. No amount of labor, no amount of ingenuity, will prevent a diminishing return if the fertility goes down the river or up in the air or into crops which exhaust the soil.

Now, this is precisely what is happening today, in spite of heroic but sporadic efforts to arrest it. I do not for a moment disparage what has been done. We have had prophets of conservation, like Prof. Nathaniel S. Shaler, Arthur J. Mason, Gifford Pinchot. The late Theodore Roosevelt was deeply concerned with the subject when he was President. The Forest Service and other Federal and State agencies have done yeoman work. Since 1933 these efforts have been speeded up. The Forest Service under F. A. Silcox, the Soil Conservation Service under H. H. Bennett, the T. V. A., the C. C. C., and the National Resources Board have labored heroically and to good purpose.

Last year Congress passed the Omnibus Flood Control Act, which for the first time contemplated the improvement and control of entire streams, with the Corps of Army Engineers responsible, as before, for downstream flood control and the Department of Agriculture dealing with the manifold and intricate problems of upstream engineering. Now we have the possibility of a system of regional control, in which public agencies, private organizations, and individuals will be asked to cooperate.

The piecemeal attack on conservation has failed. Conservation as a hobby for the few, conservation as a job for devoted Federal bureaus to which Congress gave grudgingly of its funds, conservation as a field for manipulators of the pork barrel has not removed the danger which faced us. Our great national farm is literally running downhill. It is worth less than it was ten, twenty, thirty, or a hundred years ago. This is what we must understand. This is what we must read into floods and dust storms, into gullied hillsides, into the sight of fields that once were rich brown or black and now are gray.

What we have so far accomplished is not enough. It is what we have still to do that will count. We must get our program going within the next few years if we are to avoid heavier losses than we have yet sustained.

I have on my desk as I write a photograph of a farm in the Alabama Piedmont which from the air looks as gullied and wrinkled as an apple that has hung all winter on the tree. I happen to know that all the topsoil has been washed off that land. Nothing is left but an unabsorptive clay subsoil. That land will never be a farm again, except in name, between now and kingdom come. It could have been saved.

I have another photograph, taken somewhere in the Great Plains during a dust storm. Three bent-over human figures are hurrying for shelter toward a half-buried shack. The sand is blowing and drifting like dry snow. I don't know what sort of soil is underneath the sand. I do know that the sand would not be there if some soil somewhere else had not been overplowed, overgrazed, or deprived by man's efforts of its natural supply of water.

In the Future of the Great Plains (the report of the Great Plains Committee) we reproduced some photographs taken by the Hayden expedition in Wyoming in 1870. The pictures showed a luxuriant growth of good grazing grass. The characteristic growth of those same sites today is sagebrush. When I was a small boy I used to be well acquainted with the main road from Gettysburg to Harrisburg, in Pennsylvania. It was not then a good road. During winter and spring it lay ankle,deep, even knee-deep, in mud and water. I remember sitting on a fence, the muddy road on one side, soggy meadow lands on the other, and a feeling in the air of the slow trickling of countless tiny rivulets.

The same road today is of cement, which is an improvement. It has well-maintained ditches on each side, which carry water quickly, not only from the road but from neighboring fields and hurry it into the streams. I do not regard the swiftness with which that water goes downhill as an improvement. Similar drainage systems, I know, did their part in swelling the Ohio flood to disastrous heights. Between floods, quietly, they take away the soil.

I don't want the old road back. But I would like to get back the little waters, ponds, swampy places, long grass, and trees that used to make the tempo of the moving water less rapid.

I have no boyhood memories of the Great Plains, but I can imagine, almost as vividly as though I had been there, the rich grass through which the wagons of the Hayden expedition passed in 1870; the streams that were not yet muddied. There, too, the flow of water has been quickened by mistaken methods of grazing and cropping, with the result that much of the scanty rainfall is wasted.

The "conquest of the great American desert" has proved to be an illusion. Much of our pioneering all the way across and up and down the continent has rested on mistaken principles. In the semiarid West we have tried to use the agricultural methods that worked fairly well in the moist East. Furthermore, we have used in the East, where the rain tends to fall in hard downpours, the methods that worked well in northern Europe, where the total rainfall is about the same but is distributed through more rainy days and in gentler showers.

We suggested in The Future of the Great Plains some radical changes in the uses of land and water in that region. I believe

there must be almost as sweeping changes in the East. We must realize the power of falling water and use it, not abuse it. I know an engineer who likes to put on his raincoat and go out into a beating storm in order that he may study the power of rain at its point of origin. Raindrops coming from a considerable height and sometimes aided by the wind have a real pounding quality. We have got to guard our soil against that pounding. And once the water is in or on the ground, we must keep it from working up too much momentum as it makes its way to the sea. We must squeeze the power out of it when we need it; not let it run wild.

What are we going to do about it? I would like to give one practical illustration. The Soil Conservation Service has been studying run-off in a tract of seven hundred and-odd acres, selected as typical. A simple fact has been established. We know that water runs off a plowed cornfield faster than it does off sod. So we find that if we plant corn in the upper part of our basin and sod in the lower part the water from the cornfield gets into the stream at about the same time as the water from the sod. After a heavy rain the result is a flood. But if we plant corn in the lower section and leave the upper in grass the water from the cornfield has run off before the water from the pastures arrives, and there is no flood.

This is an example of the timing similar to that which takes place in the course of mass production in any modern factory. By this and other devices we can bring the water to the point where we want it at almost the time we want it. I think this is the gist of conservation, for in process of getting water under control we get the soil under control, too.

We must start at the heads of streams, at the tiniest of sources, and think as well as work our way downstream. Our problem in the semiarid regions may be to hold back all precipitation that cannot be immediately used, so that we can use it during the dry season. In the moist areas we hold it back to lower the flood crests and to stop the washing of the soil, releasing it gradually after the flood danger is past.

In either case we achieve several purposes: We prevent destructive floods. We prevent the silting up of storage dams on the main rivers and principal tributaries, such as those now in existence or under construction on the Tennessee, the Colorado, the Missouri, and the Columbia Rivers. We retain fertility. We make water available for navigation and for sanitation.

Finally—and I believe that this will be the element which ties the whole national program together—we develop power. We can afford to generate power as a byproduct of flood control, erosion control, navigation, low-water control, and sanitation where we could not afford to develop it as a principal objective.

The single-purpose dam is obsolete. So is any dam or any river that does not fit like a key in a lock into the whole plan for controlling that river. So is any system of control on a tributary that does not interlock with the system for the entire drainage basin, or any system for a drainage basin that is not harmonized with a national land-and-water plan. This national system will be both a producer and a consumer of water power—power on the farm, in the home, in factories, for pumping.

This new power, whether publicly or privately developed, need not come into competition with existing power facilities. All of it can be used by new customers or by old customers who have learned new uses. All of it will be needed. I hope that in many sections of the country we shall explore carefully the possibilities of water power in headwater streams before we add to our fuel-burning power plants. I hope to see water power cheaply produced, cheaply carried, and cheaply sold, adding to the comfort of rural life in the United States and lessening its labor.

People often say to me: "What you propose is all very well, but we would need a dictator to do the job." The truth is exactly the opposite. This is a job that could not possibly be done by a dictator. We cannot force conservation upon the American people. The job will be done by the willing cooperation of the people on the land, together with the cooperation of people in towns and cities who have been made to see that their welfare is tied up with that of the country people, or it will not be done at all.

The Federal Government can make plans, bring different agencies together, work out ways of doing things, conduct demonstrations. State governments can carry the job a little further. Interstate agreements will prove helpful when, as is almost always the case, an important drainage basin involves parts of several States. But these will not get far unless what is proposed and what is being done appeal to the man at the grass roots. He may have to be educated. We found that on the Great Plains he was willing and anxious to learn, but I should hate to tackle the job of compelling him to do anything in which he did not thoroughly believe.

As I think back over my own contacts with people in the field, on the land, in nearly every part of the United States, I am hopeful of the future. We have committed crimes against the land. In some sections of the country poverty-stricken land has produced poverty-stricken people, with resultant increases in tenancy and share cropping, tax delinquencies, and the decay of churches, schools, and public services.

But I believe that we are beginning to turn the corner. I look to youth to carry on the work we older people have tried to set going. I think we can offer them here, in a bloodless battle, William James' moral equivalent for war.

Preparedness for Peace

EXTENSION OF REMARKS

OF

HON. HOMER T. BONE

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Monday, April 5 (legislative day of Monday, Mar. 29), 1937

ARTICLE BY HON. GERALD P. NYE, OF NORTH DAKOTA

Mr. BONE. Mr. President, I ask to have printed in the Appendix of the RECORD an article by Senator NYE entitled "Preparedness for Peace", which is published in the Christian Science Monitor of March 10, 1937.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor of Mar. 10, 1937]

PREPAREDNESS FOR PEACE

(By GERALD P. NYE, United States Senator from North Dakota)

Twenty years after the United States entered the World War! * * * Two decades have gone by since those day when a President of the United States stood before Congress and asked for a declaration of war. The Nation responded nobly. America was to make the world safe for democracy, and safe for peace in the future.

What better lessons the 20 years have brought us! Lessons that we seem not to have mastered. The two decades may rightly be called the post-war period, and it is now drawing to a close. It has been little more than a prolonged armistice. What next?

An American philosopher, William James, called for "a moral equivalent for war." He knew that there is a fervor in people that seeks expression. He knew that young men will always fight if their elders tell them they are fighting for justice and right. He saw that when the use of force starts, the use of intelligence stops, with the result that war settles nothing. He, therefore, sought for a substitute for war some means whereby that urge of men and women to give of themselves for their less fortunate fellows and for the great causes of truth and justice might find expression in something other than the trenches and shambles to which they are usually led.

In recent years we have seen some stirrings of that deep desire to devote life to the public good which would have pleased that philosopher who was searching for a moral equivalent for war. Yet, as a nation, we have not found it, nor have other nations found it. So we stand today exposed to the whirlwind of fears, suspicions, and increases of armaments.

The great need today is a constructive, positive, aggressive program of peace building. I propose substituting the slogan, "Prepare for peace" in place of the well-known "Prepare for war." I urge a program that can be clearly understood, enlisting the interests and activities of the influential and the obscure, something which citizens of all ages and ranks can sink their teeth into.

Many will say: "Prepare for peace? That is just a foolish, empty, meaningless cry in a world where few trust their neighbors. It is impractical. War is inevitable. Look at the prejudices, hatreds, suspicions, and warlike attitude of nations today!"

Yes; the task is big. But what a challenge! During the last few years I have been thinking much about preparedness for peace. I have allowed myself to wonder if the American people really wanted peace. I have tried to find if there is among them a will to prepare for peace.

I am convinced that such a will exists. It runs, like a strong current of popular opinion, deeply below the surface of troubled events today. But it is there. I, for one, am determined to see if such a current can be turned, with all its sweep and power, into the stream of our active national life.

We have but to study the world situation to realize how greatly needed is such a course of action. War threats in Europe, war drums beating in Asia, the thunder of gathering international storms, tell the story. We see the diplomatic maneuvering and secret jockeying that in the past have resulted in war. Agreements to limit armaments have expired, and a race for war preparations is on. Bigger ships! Heavier guns! More men! More airplanes! Poison gas and chemicals!

History has offered no spectacle more appalling than the threat that the youths of today are simply waiting their turn to die.

Our boys who were born the year the Great European War started are now 23. Those born during the year we joined our forces with the allied nations in 1917 are now 20. Young men; facing the future, hopeful of a chance to make a living, to build homes, and

rear families in peace. Have we—and have they—learned anything?

Can another holocaust be averted? Can another world war, which would make the last one seem like a skirmish, be avoided? I answer:

"Yes. Provided there is swift, sure, intelligent action. Provided we turn our attention now to a vigorous preparation for peace. Provided we use a fraction of the thought, planning, energy, and money we spend preparing for war in rebuilding friendly international relations. Provided we strengthen every possible factor in opposition to those forces that would involve us in another nation's quarrels."

Our first task is to recognize clearly those forces that are drawing the nations relentlessly toward war. We do but waste our efforts if we do not see plainly our problems. I dare to enumerate what are the outstanding causes of the present war preparations, which must be recognized and dealt with before a program of peace building can be effective:

There is the desire on the part of some nations for expansion—outlets for their crowded populations, for raw materials, for colonies.

Commercial rivalries—the fight for supremacy in trade and commerce.

The selfish nationalistic spirit finding its expression in secret diplomacies, treaties, and intrigues—those breeders of fear and suspicion that always have led to war.

The desire of dictatorial leaders of some nations to spread their political doctrines over the world. And their desire to cover up their own failures, blunderings, and weaknesses by causing their peoples to concentrate energies and efforts upon a common cause of war against others.

The repeated failures of disarmament conferences, building in minds throughout the world the suspicion that "some other nation" is responsible and must be dealt with by war.

The building of huge armaments, the unrestricted advancement of war preparations themselves, all over the world.

These things, I maintain, are barriers across the highway to world amity. We need a straightforward, continuous program of peace preparation to deal with them, to overcome their disastrous effects.

I feel that we of America have made a start in pointing the way toward peace. We have recently seen, through the investigation of the munitions industry, how tremendous an influence toward war this industry, with all its many ramifications, can be. We have seen how greed for profit on the part of makers of war materials, and by financiers back of them, played a prominent part in our participation in the war that was raging 20 years ago, and we know that these are among the same forces that must be combated to prevent our being dragged into any future war.

Facts now in the official records clearly reveal that men actually appeal to prejudice, resort to bribery, and use other despicable practices to arouse fears and hates of neighbor nations to the point where larger and larger preparations for war will be demanded. Undeniably, it is shown how makers of war supplies arm nations against each other with the same instruments of warfare, and how the makers of munitions in our own land are helping to arm the very nations against whom the same makers are warning us to be prepared.

An awakened public opinion is demanding that never again shall we allow our country to be plunged into war by greed for gain by those who provide the munitions and supplies of war. We must next move either to nationalize the making of war implements or to control their production so that they can never again be used to disrupt our relations with other nations.

We have learned that we cannot take part in other peoples' wars commercially without becoming involved in the actual fighting. Therefore we have embarked upon a new neutrality policy, as an important step in preparedness for peace. In August 1935 a Neutrality Act was passed, which makes mandatory upon the President the declaring of embargoes upon the shipment of arms, munitions, and implements of war to either belligerent nation in the event of war, and to warn American citizens that they cannot travel on vessels of the warring nations except at their own risk.

The act was renewed at the last session of Congress, and in the present session, with overwhelming popular approval back of it, will be renewed and strengthened. It had its initial test in the embargoes placed upon shipments of war materials in the Italo-Ethiopian dispute, and came through with flying colors. Extended to include civil strife, it more recently has prevented aid to belligerents in war-torn Spain.

In our neutrality laws we are writing a new international policy. We are giving up some of our cherished "rights" to shipping, modifying our "freedom of the seas" doctrine, and withdrawing the protection of the American flag to citizens whose actions might lead to our becoming involved in hostilities. But from all over the Nation comes this response:

"Let us do it, if it will aid the cause of peace. It is worth the price!"

Our next step in peace preparedness should be a renewal of our leadership in disarmament. Are all our efforts of the past on this score to be lost?

The United States has chosen to join the scramble of big military preparations. Our expenditures for war preparedness this year will run well over $1,000,000,000. Other nations are doing likewise. Yet we wonder why international hatreds are kept alive and only overt acts are needed to touch off the powder kegs. I remain a believer in a national defense capable of repulsing the attack of any possible enemy of my country. But I offer as an example of the effect this frantic rivalry for military power must produce upon the nations the words of a friend who wrote:

"I have a neighbor with whom I wish to be a friend. He also wants to be a friend of mine, and we both agree that we must get along peacefully together. In order to show him my good intentions I built a high, barbed-wire fence, with steel pickets, between his house and mine. He, in turn, to convince me of his friendship, put a ferocious dog in his back yard. I then put bullet-proof glass in the window on his side and started wearing pistols in my belt. The other day I saw him moving supplies of poison gas and hand grenades into his house. Now I have a machine gun mounted in the front yard, and for the life of me I can't understand why we don't get along any better."

We need a conference to discuss disarmament, which will contain delegates genuinely interested in the cause of peace. Such conferences in the past have been made up of representatives whose interests are the same as those of the munitions plants which would lose business by disarmament, even in a small degree, and by delegates in gold braid, admirals and generals trained in the business of war and armament, not in peace and disarmament.

We need now to make real our avowed pledge to settle all international difficulties by peaceful means. We announced that intention, with 61 other nations, when in 1928 we signed the Briand-Kellogg treaty. The most effective way to do that would be to halt our huge preparations for war and confine them in the future to an adequate defense. We should assure other countries, by our plans for defensive warfare only, that they need not consider building defenses against us. Does one need an unusual imagination to realize what the result would be if nations actually confined themselves to preparation for defense against attack?

Another step in our preparedness for peace must be made in helping solve the economic problems of the world. A nation not able to give all its citizens an adequate living is a constant potential victim of war.

No people can be happy when they feel themselves starved economically and commercially. Leaders of nations in need of better economic opportunities and organization too often feed their people with dreams instead of food, with delusions of persecution, and with appeals to patriotism. Fear, armaments, and mistrust are the inevitable result.

We of America need to offer every possible assistance in securing economic justice for all nations in commerce, in conditions of labor, in standards of living. We need to help educate our neighbors to the fact that this solution is more sound and practical than the "expansion" theory. No colonies, no amount of raw materials, no territory for the settlement of crowded people can be worth the cost of another war. Every economic problem known to man today can better be solved by peaceful negotiation and friendly cooperation than by bombastic imperialism.

Still another step must be taken in our program of peace building. We must develop an active, lively public interest in the cause of world amity. We must shape public opinion so as to demand a constant searchlight to be turned upon both our preparation for war and our efforts for peace. The people need but to know the truth, and the truth will make them free to act in the right way.

God give us the courage to face the facts and to follow the dictates of our experience; to follow a high and noble resolve not to force our children and our children's children to witness and to take part in the destruction of our social, economic, and moral life which another major war would bring the world!

Alaska—A Heritage for Americans

EXTENSION OF REMARKS

OF

HON. LEWIS B. SCHWELLENBACH

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Monday, April 5 (legislative day of Monday, Mar. 29), 1937

EDITORIAL FROM SEATTLE (WASH.) POST-INTELLIGENCER

Mr. SCHWELLENBACH. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an editorial entitled "Alaska—A Heritage for Americans", published in the Seattle (Wash.) Post-Intelligencer.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Seattle (Wash.) Post-Intelligencer]

ALASKA—A HERITAGE FOR AMERICANS

This month marks the seventieth anniversary of the purchase of Alaska from Russia. The treaty was signed on March 30, 1867. Next to the Louisiana Purchase by Jefferson, it was the wisest territorial expansion this country has ever achieved.

Yet it was such a controversial issue at the time that opponents of the administration dubbed the northern territory "Seward's Folly", in derision of Secretary of State William H. Seward, who was primarily responsible for the purchase.

Seattle has erected a statue of Seward in Volunteer Park. It is a fitting tribute in view of what Alaska has meant to this city and this region.

But there is a broader view that must be taken. If Alaska had not been purchased by Seward, we might today have Soviet Russia right at our back door, its territory colonized with high-pressure Communist propagandists.

It is interesting to conjecture what other changes our national development might have seen if Alaska had remained Russian. How would our fiscal and monetary policies have been affected if Alaskan gold had been transported across Bering Sea to the West, instead of remaining within the New World? How would our national economy have been affected if the riches of Alaska's fisheries and peltries had been drained into Asia?

Or if Alaska had remained Russian, would it have been claimed long ago as a prize of war by Japan? In either event we would have faced the problem of Asia in America.

The United States Government gave $7,200,000 for 568,400 square miles of seacoast, woodland, and mountain ranges with a wealth of natural resources that today is still largely untapped.

That is, however, only the physical side of Seward's wise—we might say providential—action.

What we really got in buying Alaska from Russia was the complete territorial integrity of America, the reasonable guaranty that Asia would remain in Asia for some centuries to come.

Both because of the material progress that we of the Pacific Northwest have gained from Alaska and because of what the purchase of Alaska has meant in the broader field of our national welfare, Seattle should observe the anniversary marked by March 30.

Civilian Conservation Corps

EXTENSION OF REMARKS

OF

HON. DAVID I. WALSH

OF MASSACHUSETTS

IN THE SENATE OF THE UNITED STATES

Monday, April 5 (legislative day of Monday, Mar. 29), 1937

ARTICLE IN THE NEW YORK TIMES

Mr. WALSH. Mr. President, in view of the President's message, and the fact that this is the fourth birthday of the Civilian Conservation Corps, I ask that an article published in the New York Times of today, pointing out the activities and the usefulness of the C. C. C., be published in the Appendix of the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times of Apr. 5, 1937]

2,002 CAMPS OF C. C. C. HAIL ITS BIRTHDAY—350,000 ENROLLEES TO CELEBRATE TODAY FOURTH ANNIVERSARY OF ITS FOUNDING—2,000,000 HAVE HAD WORK—THEY HAVE SENT $360,000,000 HOME TO NEEDY DEPENDENTS OVER 4-YEAR PERIOD

WASHINGTON, April 4.—In 2,002 Civilian Conservation camps throughout the United States proper and on American possessions, 350,000 healthy and weather-beaten young men and war veterans tomorrow will climax a 3-day "open house" celebration in honor of the fourth birthday of the C. C. C.

Some officials hoped tonight that President Roosevelt would visit a few of the nearby camps tomorrow. Robert Fechner, director of C. C. C., will motor to Maryland or Virginia to take part in brief ceremonies. He expects to spend several hours visiting several camps situated close to Washington, where the young men are engaged in soil conservation and reforestation work.

An analysis of reports of the departments concerned with the operation of the C. C. C. under the direction of Mr. Fechner—the War, Interior, Agriculture, and Labor Departments—as well as the Veterans' Administration, show about 2,000,000 men, enrollees and nonenrolled, have received employment since President Roosevelt established the C. C. C. by Executive order on April 5, 1933.

During this time the report of Mr. Fechner to President Roosevelt stated $700,000,000 has been paid out for foodstuffs, wearing apparel, work equipment, and other supplies.

MORE THAN $360,000,000 SENT TO PARENTS

In addition Mr. Fechner reported that enrollees have sent home to needy dependents an aggregate of more than $360,000,000. This money represents a compulsory allocation, for the theory of the C. C. C. is not only to improve the health and morale of the young men who are selected for service, but, equally as important, to provide money for dependent parents.

Attached to the report which Mr. Fechner submitted to President Roosevelt were summaries of the other reports which he had received from the War, Interior, Agriculture, and Labor Departments, and from Gen. Frank T. Hines, head of the Veterans' Administration.

The Labor Department selects the young civilians for enrollment and the Veterans' Administration the war veterans; the War Department feeds, clothes, and conducts the camps, while the other two departments plan and supervise the work.

In his report today Mr. Fechner did not detail the advantages obtained by the C. C. C. personnel through its program, which he said in a former report was "an investment in manhood", but elaborated more on the work in which the young men and war veterans are engaged.

VAST CONSERVATION WORK CITED

"The C. C. C. has vitalized public interest in the needs of conservation and advanced a constructive program of great present and future value to the Nation", he said.

"The man power and funds of the C. C. C. have permitted tremendous expansion of protection, improvement, and development programs in National and State parks, in National, State, and private forests, and upon private lands."

"The workers," he said, "expended 3,800,000 man-days fighting forest fires, and conducted campaigns against insects and destructive diseases, such as white-pine blister rust, over 15,000,000 acres; built 87,000 miles of truck trails, minor roads, highways, and park roads; constructed more than 45,000 miles of telephone lines, and erected more than 3,000 fire lookout and observation towers."

Among other listed accomplishments were the planting of more than 1,000,000,000 trees, most of them on waste lands, the improving of timberlands on 2,700,000 acres of forest lands, the development of thousands of public campgrounds, and the extension of erosion-control programs.

FIFTY THOUSAND TAUGHT TO READ

Puny youngsters from the city slums have not only been hardened to health, but courage and initiative have been instilled, while illiterates have been taught to read and write, and other boys have been privileged to continue higher educational studies, the report said.

More than 50,000 of the young men have been taught to read and write, the report stated; more than 400,000 have taken high-school subjects; while 50,000 others have pursued college courses in conjunction with the building up of healthy bodies.

"The most dramatic accomplishment of the C. C. C., to selecting agents and to the parents of the enrollees, is undoubtedly the contrast between the uncertain, inexperienced youths who leave their homes to begin work in the C. C. C. camps and the physically sturdy, self-reliant young men who return after 6 months or more in camp, equipped with a background of work, experience, and personal advancement", Secretary Perkins wrote to Mr. Fechner.

Secretary Woodring, expressing the approval of the War Department, said:

"The results so far achieved in the field of citizenship have been notable. More than one and one-half million men and boys have been improved physically, mentally, and in character.

"They have learned to live together harmoniously and to work in cooperation with others. They have formed habits of neatness, orderliness, and thoroughness. In a word, they have become better and more useful citizens."

Floyd Bennett Field, Brooklyn, N. Y.: Its Availability As An Air-Mail Port and the Feasibility of Pneumatic Tube Service

EXTENSION OF REMARKS

OF

HON. EUGENE J. KEOGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1937

Mr. KEOGH. Mr. Speaker, and ladies and gentlemen of the House, with the recent destruction of the huge chimney adjacent to Floyd Bennett Field, Brooklyn, N. Y., and the consequent removal of the last remaining objection to its use as an air-mail terminal, I should like to direct the attention of the House to my bill, H. R. 6. This bill continues the splendid efforts made by my two predecessors, the late Hon. Stephen A. Rudd and David J. O'Connell, to

provide for the construction and use of underground pneumatic tube service for the speedy handling of mail between this field and the Brooklyn post offices.

The favorable features of Floyd Bennett Field as an air-mail terminal have been recalled to the House on many occasions. Its size, its location, and proximity to the business and residential sections of New York City, its facilities wholeheartedly planned, developed by civic-minded administrations in the borough of Brooklyn and city of New York, bid fair to set it apart as one of the leading airports in the country and the world. This field merits an A-1 rating from the Department of Commerce.

Its adaptability for use as an air-mail terminal would be complete with the favorable action by the Congress of the bill to authorize the construction and use of underground pneumatic-tube service. The pneumatic-tube service has been developed and used with such tremendous success that it is definitely past the pioneering stage.

1. HISTORY OF UNDERGROUND PNEUMATIC-TUBE SERVICE

The Honorable John Wanamaker, famous American merchant, was responsible for the introduction of underground pneumatic mail tubes into the United States post-office system. In 1889 Mr. Wanamaker, then Postmaster General of the United States, advocated the creation of a new office in the Post Office Department, that of a general secretary whose duties should be to improve the handling and transmission of mail matter. Mr. Wanamaker urged that the attention of the proposed secretary be devoted to expedition of the mails in cities and towns by pneumatic tubes. Congressional action was slow; but in 1891, in his annual report, Mr. Wanamaker stated:

> I desire again to draw the attention of Congress most earnestly to the problem of mail transmission in cities by pneumatic tubes. I believe more than ever in the efficiency of the tubular post, both as a tremendous business convenience in large cities and as a self-supporting and perhaps profitable investment; and in this year I have had collected and beg to lay before you in an appendix to this report facts about the tubular systems of Europe.

Mr. Wanamaker's persistence met with success. In 1892, $10,000 was appropriated to the Post Office for experimentation with pneumatic tubes, and in this year the first tube line was built in Philadelphia between the post office and the East Chestnut Street station. It was a success, according to Mr. Wanamaker, who stated in his annual report:

> It has been successfully used and paid for since March 1, 1894.

On October ", 1897, the installation of the pneumatic tubes in the general post office in New York City was celebrated with Chauncey M. Depew as master of ceremonies.

2. DESCRIPTION OF EXISTING PNEUMATIC-TUBE SYSTEM IN MANHATTAN AND BROOKLYN

The pneumatic mail-tube system of New York and Brooklyn has been graphically described by Mr. Albert Firman, former postmaster of Brooklyn, in an article in the Texaco Star, published by the Texas Petroleum Co. Mr. Firman called the pneumatic-tube system the most interesting of all mediums employed to transport the mail in New York and Brooklyn, stating that their usefulness is being enhanced daily.

Mr. Firman pointed out that there is now in operation 26.4588 miles of double pneumatic-tube line, a line for each direction, in Manhattan and Brooklyn. This tube line, he says, begins in the Brooklyn general post office, where it has one of its main depots, crosses the Brooklyn Bridge, connects with the city hall post office in Manhattan, and runs uptown to the general post office at Thirty-second Street and Eighth Avenue, from which point it continues uptown to One Hundred and Twenty-fifth Street, encircling Manhattan on both its west and east sides, with depots at the Grand Central post-office station and various subpostal stations en route. Mr. Firman also states in this article that this line carries approximately 6,000,000 letters a day, as based on the records of the New York Mail & Newspaper Transportation Co., or about 85 percent of all New York's daily letter mail.

Quoting Mr. Firman directly, he says:

> In order to transmit letters by tube, they are placed in what are technically known as "carriers." These have as much relation to the tubes as a cartridge has to a gun. The carriers are about 8 inches in diameter, slightly smaller than the tubes themselves, and are a little over 2 feet long. Each carries from 500 to 700 letters. They are made of steel and brass, bound with reinforcing bands and composition gaskets, the latter to prevent the passage of air around the carrier from stern to bow. Each carrier has an ingeniously designed lid, which automatically prevents the insertion of the carrier into the tube until the mail is safely locked in and ready to be sent on its way.
>
> To dispatch a tube carrier, it is placed in a special cradle device and rocked into position so that it lines up with the pipe line.
>
> To operate the device, a carrier is placed in one of the two sections and rocked into position so that it lines up with the pipe line. The air valves automatically open, and the carrier goes off at a speed of 30 miles an hour. When the section of the tube bearing the carrier is rocked into position it throws out of line the second section of tube on the quadrant, permitting the insertion of another carrier. In this manner carriers can be dispatched with great rapidity, using the quadrant cylinders alternately. The device resembles the cartridge chamber of a revolver, except that a quadrant instead of a complete circle is used.
>
> A carrier can be dispatched about every 16 seconds, and notwithstanding the speed of transmission and the weight of carriers and their loads, the air pressure is so nicely controlled by bypasses and the like that a carrier falls out on the so-called apron of the catch table with no more jar or noise than would be made by a slap on the table with the open hand.
>
> The rocker mechanism can be set for control or automatic operation, and in either case the frequency of dispatch is subject to regulation. Operating at capacity, a veritable ribbon of mail is kept passing through the pipes. To lubricate the system, special carriers are sent through the tubes occasionally containing oil instead of letters. By suitable means the oil is permitted to leak out slowly from the carrier all along the line.
>
> Aside from the work of inserting the carriers and taking them from the apron at the point of delivery, the whole system, when once in operation, is automatic. The pressure pumps are operated electrically and feed the air tanks, or pressure tanks, as they are technically known. As pressure in these falls below a certain point, the pumps begin to operate and continue to do so until the required pressure is again attained. The system is so perfect, from a mechanical standpoint, that it is practically free from interruptions of any kind. More than 6,000,000 letters and small parcels have been transported by the tubes in a single day.
>
> The pneumatic tubes have always been useful, but their usefulness is being daily enhanced as the congestion in our streets grows worse and worse. Of course, it is essential that our post offices and post-office stations be located in our busiest centers. That is where they are needed most. The congestion of our streets, therefore, is at its worst just where, from the postal standpoint, freedom of movement between our units is of greatest importance. The pneumatic tubes are the answer.

3. UNDERGROUND PNEUMATIC MAIL TUBE AN ECONOMICAL METHOD OF TRANSMITTING MAIL—COMPARISON WITH TRUCK COSTS

A break-down of transportation costs shows the pneumatic mail tube is an economical method of transmitting mail. Based on the cost to the New York post office, the cost of transporting a pneumatic carrier containing 600 letters for a distance of 1 mile is $0.00371. At a weight of 10 pounds for the contents of a carrier the cost is $0.74 per ton for mail delivered right inside the post office or shot from inside one post office to the interior of a post-office substation. The same ratio would apply for mail carried between an airport and post office. Moreover, the service would be continuous and it never would be necessary to wait until a large amount of mail is brought in as in the case of a truck.

In the Townsend report of 1923, viz, the report of Post Office Inspectors H. McQuillan and C. E. Crowell to the inspector in charge at New York (on p. 85, pt. 2, vol. 1, Joint Commission on Postal Service) it is stated that it cost the post office to replace the tube service, which was temporarily discontinued on June 30, 1918, and was resumed later, the sum of $582,844, as follows:

For 96 additional motor vehicles	$285,000
For 121 additional chauffeurs	157,300
For gasoline, grease, oil, etc	110,688
For depreciation	28,800
For departmental overhead	1,056
A total of	582,844

To replace the tube service, which cost the post office a rental of $472,244.70 per year.

Referring further to the report of Inspectors McQuillan and Crowell to the inspector in charge, dated February 15, 1919, and April 6, 1919, it was ascertained that the records of the New York post office showing delayed and failed trips of vehicles carrying letter mail were not completed beyond November 30, 1918, but that during October there was a total of 3,920 trips containing at least 39,200 pouches, and during November 5,109 trips, containing at least 51,190 pouches, materially delayed or failed.

The Post Office now pays the New York Mail & Newspaper Transportation Co. a total rental of $19,500 a year for each of the 26.4588 miles of double-tube line operated by this company for the post office in Manhattan and Brooklyn.

The rental for each mile of the pneumatic mail-tube line proposed in my bill would be approximately the same if the Government should authorize the construction of the line and sign a lease for its operation with the New York Mail & Newspaper Transportation Co. Under these conditions, the company would construct the tube line at its own expense.

As the late Postmaster General John Wanamaker pointed out years ago, the Post Office is primarily concerned in expediting the mail, since wagons had to wait for a full load of mail or else, as very often, leave with a very small load. For this reason he recommended the use of underground pneumatic mail tubes instead of wagons, as the tubes would afford a continuous service.

The same argument still holds true, of course, in the case of auto trucks, which are very much more expensive to operate than wagons.

The gain in time of pneumatic tubes over trucks is tremendous. The argument has sometimes been advanced that while the tube is the most efficient in handling mail of a limited volume, the truck would be more efficient in handling several tons of mail at a time, since even though delayed it would deliver the last of its mail before the underground pneumatic tube.

That this argument is fallacious needs little comment. Since the tube is more efficient, more economical, and faster than the truck, it is only necessary to increase the tube service—run double tubes, if necessary—to effect still greater economies.

New York City's postal system, doing a business of eighty millions annually in the transport of mail, will find its business still further increased by the use of pneumatic mail tubes and their extension to its airports. This also holds true of the other great American cities which, as Mr. Wanamaker pointed out, will find their business increased by the increase of their mail facilities.

4. PNEUMATIC TUBES FOR AIRPORTS

The idea of expediting air mail from airports to adjoining city post offices by pneumatic mail tubes was first publicly announced by the Honorable John Henry Bartlett, former First Assistant Postmaster General of the United States. In an address delivered before the national convention of postmasters at Niagara Falls, N. Y., September 15, 1927, Mr. Bartlett said, in part, as reported by the Associated Press:

> In this process of assembling the fresh supply of mail from the public for dispatch we have in two cities, and only two—New York and Boston—what is known as tube service. In New York we have about 27 miles, connecting 25 postal stations with the general post office, as well as the Brooklyn general post office and the two big railroad systems. In Boston we have two short lines reaching from the post office to each of the two railroad systems. Tube service is a proven utility of conveyance for mail between properly selected points in selected cities where traffic congestion is retarding and disconnecting the mail and where the necessity for underground service to relieve traffic congestion is constantly pressing. Tube service makes more accurate train connections and keeps the flow of mail steady and even for the men to work. They are employed successfully in England and France, especially in their special delivery system.
>
> With the fine effort that is being made to eliminate time and space between distant points by air flights, to be consistent, some effort would seem to be justified to eliminate long delays within the city itself. Tubes appear to be the only agency in sight looking toward such progress—not tubes to be installed promiscuously without regard but scientifically placed where mathematical and financial computation proves their usefulness.

The Honorable W. Irving Glover, Second Assistant Postmaster General, said at the convention:

> It is inconsistent that air-mail pilots should risk life and limb in an effort to annihilate time and space in order to deliver the air mail on time, only to have it delayed in reaching the post office in the city from the airport at which it is delivered. Gentlemen, we shall see the day when this condition is remedied. I advocate the use of the underground pneumatic tubes to speed air mail between airports and city post offices. This medium of transmission is not untried. Even today in New York City 6,000,000 letters are handled daily by the post office through the underground pneumatic-tube system, which carries the mail between the main post office and its substations between the Battery and One Hundred and Twenty-fifth Street.

In an article in the Washington (D. C.) Star of August 18, 1929, Mr. Glover pursued further the idea of pneumatic tubes used in conjunction with air mail. He said:

> There are five large cities where the pneumatic-mail-tube system would be particularly advantageous in saving much of the time now lost in transporting air mail from their respective outlying air-mail ports to their respective general post offices. These cities are New York, Boston, Chicago, Cincinnati, and Los Angeles, three of which, New York, Chicago, and Boston, now employ the pneumatic tubes for their regular mail.
>
> The air-mail clerk must come soon—

Mr. Glover said—

> We are ready to put mail clerks into the air on the long routes, just as they are on trains, as soon as the air-mail contractors provide planes large enough and suitable for this purpose. There must be a compartment large enough for the clerk to sort the mail into the tube carriers in flight.

In commenting upon Mr. Grover's prediction issued in 1927, it may be pointed out that a mail plane can fly between New York and Philadelphia in much less time than the air mail can be transferred between the airports and post offices of these respective cities. The need of this service is, of course, much greater now than then.

Within the last decade bills for the establishment of pneumatic mail-tube service between air-mail ports and certain cities and even for all contract air-mail ports and their adjoining city post offices throughout the country have been brought before Congress. Partly because of general lack of education on the subject and partly because air mail at the time was not nearly as important or as promising as at present, no action was taken in regard to these bills. Briefly, they include successive bills for the Floyd Bennett tube line, introduced in 1929 by the Honorable David J. O'Connell, and subsequent bills introduced by the Honorable Emanuel Celler and the Honorable Stephen J. Rudd, Representatives from Brooklyn; a bill for the establishment of a pneumatic tube line for the 7-mile distance between the St. Paul post office to the St. Paul Airport and for the 2 miles between the Minneapolis Airport and post office, introduced in 1930 by Congressman Maas; a similar measure to connect the Boston post office by pneumatic tube with the Boston Municipal Airport, introduced by Congressman Douglas; and, finally, a pneumatic tube bill of national importance, introduced into the Senate in April 1929 by Senator George H. Moses, of New Hampshire. This bill authorized the construction of pneumatic-tube lines and the main post-office station of each principal city in the United States recognized as the terminus of an air-mail contract route.

5. NEW YORK CITY'S GREAT MUNICIPAL AIRPORT, FLOYD BENNETT FIELD

New York City's municipal airport is known as Floyd Bennett Field, named in honor of the distinguished aviator who accompanied Commander Byrd to the North Pole and later died of pneumonia contracted while on a flight to aid the German trans-Atlantic flyers stranded on Greenly Island.

Floyd Bennett Field is famous throughout the world for the many transcontinental and trans-Atlantic flights which have been launched from its runways, the longest concrete runways in the world permitting heavily loaded planes to get away in safety. First-page stories of these flights have sped over the wire and radio to every important newspaper in the land and across the seas the name, Floyd Bennett Field, is known to millions.

Built at the request of the Government

During the administration of former Mayor James J. Walker, of New York City, former Secretary McCracken, of the Bureau of Aviation of the United States Department of Commerce, appeared before the Board of Estimate of New York City and pleaded that the city of New York build a municipal airport which would be an airfield worthy of the largest city of the Nation. The construction of a great municipal airport by the city of New York, Mr. McCracken stated, would substantially advance the cause of aviation in the United States and thereby increase America's resources in aviation in the event of a national emergency. Moreover, he pointed out, New York City itself would require a large municipal airport to meet the increase of air passenger and mail travel into and out of New York. The example of New York City, Mr. McCracken stated, would have a strong influence upon other cities upon which the Government was urging similar action.

At that time the inspiration of Colonel Lindbergh's heroic flight had inspired in the minds of all a new conception of the future of aviation. In compliance with the Government's request, the city of New York promised to build the field. The budget of 1929 carried an appropriation of $2,500,000 for the mighty project which was to require more than $4,500,000 of the taxpayers' funds before its final completion. The construction of the airport was under the jurisdiction of the Department of Docks of New York City. Fourteen million cubic acres of sand were dredged in to raise the submerged and partially submerged land in Jamaica Bay to a height of 16 feet above mean low tide level. Upon this small sahara one and one-half million square yards of subsoil were imposed. This part of the work, the filling and grading of the site, was covered by a special appropriation of $600,000, followed closely by another appropriation of $588,000.

Floyd Bennett Field within city limits of New York

The location of the great air terminal is within the city limits of New York and it combines the three requisites for any air terminal—accessibility, freedom from obstructions, and an adjacent unoccupied area for future expansion. An additional 472 acres has already been partly created north of the field. The airport is situated about 11.6 miles from the New York City Hall, or 10 miles from Borough Hall, Brooklyn, and near the end of Flatbush Avenue. It is reached by a Flatbush Avenue car, transferring, within a mile and one-half of the field, to an Avenue U car, which runs to within almost one-half a mile of the field.

Extra long runways for take-off

The dimensions of the field are 5,700 feet, east and west, the longest distance, and about 3,500 feet, north and south. There are two main runways of concrete, each 100 feet wide. One of these, 3,110 feet long, runs from southwest to northeast. These runways are for take-off purposes only and are constructed in accordance with highway specifications. They permit the largest and most heavily loaded planes to rise and with room to spare, exceeding the length for class A runways, as prescribed by the Department of Commerce, which must not be less than 2,500 feet, with unobstructed approaches. And, as for landing facilities, planes may land in any direction on the grass field, which is an all-way field.

The field is provided with 18 hangars of steel and brick, 120 by 140 feet, and over 30 feet in height. These are able to accommodate 100 or more planes.

The administration building is one of the most spacious and handsome possessed by any airport in the world, and faces the concrete escarpment on which passengers can alight from or ascend into planes. The field is provided with meteorological equipment, radio, lighting, and other accessories to secure safety in aerial navigation to the airport and in landing or in taking off from it.

Parking space for thousands of cars is available.

Seaplane base for future trans-Atlantic planes

An important phase of Floyd Bennett Field is the immense seaplane base area located in the Jamaica Bay Channel. It is absolutely without obstructions of any character and offers a very ample and safe area for the largest seaplanes such as will be employed in trans-Atlantic schedules. Such an air line, we have the assurance of so noted an aviator as Capt. Edward Rickenbacher, will become an actuality within a very few years, and it is now some time since the Pan-American Airways established commercial schedules across the still vaster Pacific. Reports current at the present writing indicate that the probable route of flight across the Atlantic will include stops at Bermuda and the Azores. The most practicable terminal on this side of the Atlantic will, of course, be New York City, just as it is the principal port for steamship service across the Atlantic. Floyd Bennett Field offers the most adequate, safest, and best-equipped landing for great seaplanes. Free of obstructions such as would be encountered in landing in New York Harbor, where passing ships must constitute a constant menace to seaplanes whether they had just landed upon the water, when they would require to progress for a considerable distance before they could be brought to a stop, or whether they were taking off and would require a long, clear field in the crowded harbor to acquire momentum to lift them into the air. These objections to New York Harbor and its connecting tributaries as well as Long Island Sound would apply to planes either after having risen from the water or when descending to the surface as the presence of ships would be highly dangerous.

Fog, too, is another obstacle to be considered. Floyd Bennett Field offers greater immunity from this climatic condition than can be found generally in most other areas adjacent to New York. Planes destined for Newark airport, for example, have landed in safety at Floyd Bennett Field when prevailing fog made landing at Newark airport highly hazardous.

Floyd Bennett Field is outside of the area of the soot arising from New York and its sister cities, which combines with the fog to make navigation of the air particularly dangerous.

Unobstructed angles or approach from any direction

Floyd Bennett Field lies along the extension of Flatbush Avenue, a broad boulevard, which runs across the tidal flats to Barren Island and on to Rockaway.

From the general post office at Borough Hall, the route to Floyd Bennett Field runs through a thickly populated section of Brooklyn, which is the largest of the boroughs of New York City, having a population exceeding 2,700,000. The populated area extends to within a little more than 1 mile of Floyd Bennett Field. Yet the field itself can be reached from all points of the compass without encountering obstructions of any sort to aviation.

With unobstructed angles of approach over Jamaica Bay and the tidelands; that is, over water and tidelands, from every quarter except the west, and with land low and without obstruction from the west, Floyd Bennett Field has been termed by experts an ideal airport from the point of safety. It satisfies all requirements in other respects of accessibility and equipment. A vast expanse of partially submerged land threaded with estuaries adjoins open areas of Jamaica Bay and its channels. This admirable location permits the future expansion of Floyd Bennett Field to its contemplated final development of 814 acres, the most extensive area within the city limits possessing equal facilities.

The present area of Floyd Bennett Field, New York City's municipal airport, is 387 acres, approximately that of Croyden Field, London, and Le Bourget Field, Paris, each of which is about 400 acres in extent.

Bills to provide pneumatic-tube service to Floyd Bennett Field

In order that the great city of New York with its more than 7,000,000 inhabitants might receive the full value of Floyd Bennett Field and also that the city might obtain the most expeditious delivery and despatch of air mail, the late Congressman D. J. O'Connell, of Brooklyn, introduced a bill into Congress while Floyd Bennett Field was still under construction, authorizing the Postmaster General of the United States to construct and operate, or authorize the construction and operation of an underground pneumatic-tube mail service between the general post office at Borough Hall, Brooklyn, and Floyd Bennett Field and the

five intermediate post-office substations between the airport and the Brooklyn general post office.

The object of this bill was not only to give greater New York faster air-mail service, since the new tube service would connect at Borough Hall with the existing service in Manhattan, but also to provide improved postal service for more than 1,500,000 persons within the area to be reached by the extension of the tube. Like the Honorable John Wanamaker who had striven valiantly to bring the underground pneumatic-tube service into the Post Office Department, Mr. O'Connell made a rousing address in Congress in behalf of his bill, and extolled the advantages of Floyd Bennett Field, the forthcoming air gateway to the city of New York.

Commercial organizations of Brooklyn warmly endorsed Mr. O'Connell's effort and even the aviation committee of the great Merchants' Association of New York came out heartily for the movement. Hundreds of leading businessmen of Brooklyn, and all of the Brooklyn newspapers zealously supported the bill.

Mr. O'Connell's pioneering effort was not lost. The movement which he fostered was advocated by many pioneers of aviation, by great engineers and architects and city planners.

As it had taken former Postmaster General John Wanamaker 8 years to see the underground pneumatic-tube service introduced, it is not surprising that the innovation was not put into effect before Mr. O'Connell's untimely death. His efforts were admirably continued by the late Hon. Stephen A. Rudd, and it is a high honor for me to continue the work of these two distinguished Members.

6. BRIEF HISTORY OF MOVEMENT TO GET AIR-MAIL PORT DESIGNATION FOR FLOYD BENNETT FIELD

Ever since Floyd Bennett Field was constructed it has been patent to those interested in its future that air-mail port designation must be secured from the United States Postmaster General if it is to thrive. Air lines holding air-mail contracts have not been able to employ Floyd Bennett Field, even though officials of the most prominent air lines have frequently expressed their desire to do so—the Transcontinental & Western Airways negotiated for the use of the field in 1936 with Mayor LaGuardia pending possible air-mail port designation, as reported by several of the large New York daily newspapers—because their contracts with the United States Post Office makes them use only official air-mail ports. All air lines bearing air mail have consequently employed Newark Airport, to the utter exclusion of Floyd Bennett Field.

Every one of the 97 civic associations of Brooklyn have officially given their support to the drive to get air-mail port designation for Floyd Bennett Field. Led chiefly by the Flatbush Chamber of Commerce, the Brooklyn Chamber of Commerce, and the Brooklyn Real Estate Board, many meetings have been held to urge Federal action, and much support has been given the move by Brooklyn and New York newspapers within the past 7 years.

The most important high light in this drive came in August 1935, when Assistant Postmaster General Harllee Branch heard in Washington a delegation appointed by Mayor LaGuardia to urge mail port designation. The committee included two dozen very prominent New York and Brooklyn businessmen, and was headed by Mr. Grover Whalen.

Briefly, Mr. Branch declined their request and gave two reasons for so doing. The first was that it would cost the post office between $35,000 and $40,000 to build a sub-post-office station at Floyd Bennett Field. The second reason was that Floyd Bennett Field lacked adequate train facilities so that air mail might be dispatched expeditiously in the event that bad weather prevented flying. Newark Airport, he stated, has these facilities. The delegation went to Washington a second time in November 1935 and had a hearing before Postmaster General Farley, who promised to consider the matter. These reasons no longer obtain.

There is, therefore, awaiting utilization the finest airport in the country, and this Congress could well serve the country and the people of metropolitan New York by favorably acting upon this bill.

The Legality of Sit-Down Strikes

EXTENSION OF REMARKS

OF

HON. USHER L. BURDICK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 5, 1937

Mr. BURDICK. Mr. Speaker, no question involving the relationship between employers and employees can be settled in this country, purely on questions of law. If we were to attempt to settle these matters on the cold letter of the law, such decisions would not have the support of public opinion. There is, however, ample jurisdiction in our system of jurisprudence to handle these cases until there are further provisions made by law, on principles of equity, with which every court in this land is duly clothed.

In the very beginning of our jurisprudence, following the Norman conquest of England, there arose two systems of courts. One a court of law, and the other a court of equity, or the King's court, as it was then called. These two distinct branches of jurisprudence operated at the same time, and each branch had its own judges. The reason for the creation of this dual and separately distinct system of justice arose from the fact that when the Normans entered England and took up their residence there they were in a strange land; they were tried in English courts of law; the juries were English and the preponderance of the witnesses, in most cases, was English. Hence, the Norman usually got the worst of it in such a court. The King, however, was a Norman, and the Norman followers, being defeated in the English courts of law, appealed to the King for protection. At first he personally heard the complaints and personally adjusted the wrongs. As time went on this work increased and the King appointed a body of men to hear these complaints. Those first appointed were not lawyers at all, but ministers of the Gospel, who claimed no particular scholarship in the law, but whose experience in life qualified them to do justice. This body was, therefore, the first court of equity in England. Later learned judges replaced the clergy, and for over 700 years in England these two systems of jurisprudence operated side by side, the one appealing for its authority to the hard and fast rules of law, the other appealing to the higher principle of what was right and just between men. During these centuries there grew up in this court of equity certain principles not contained in statutes, but contained in the history of a just court.

PRINCIPLES OF EQUITY

Some of these principles established by actual experience in the conduct of human affairs were:

First. No wrong will be suffered for which there is no remedy.

Second. Those who seek the protection of equity must do equity.

Third. Those who come invoking the power of equity must come before the court with clean hands.

Fourth. Equity regards that as being done which ought to have been done.

For centuries, therefore, these two courts functioned within the same jurisdiction, the one administering the law and the other relieving from the too severe results of the law. In 1875 the court of equity or chancery as such was abolished in England, and the one court given the power not only of a law court but an equity court as well. The same judge sat on the bench, with power to administer equity as well as law.

In this country we copied the plan of the courts of England, and we likewise had a distinct court known as the court of chancery, which existed independent of a court of law. The court of chancery in the State of New York is an example of this independent jurisdiction, which continued as a separate court until 1848. We also abolished the distinction between courts of law and courts of equity and merged both

jurisdictions into one in every State except New Jersey, Delaware, Alabama, Arkansas, Mississippi, and Tennessee. We did not, however, and never will abolish the equity courts and the principles that grew into an unwritten code through the centuries. Today, with the exceptions noted, every State district court, every State supreme court, and the appellate courts, including the Supreme Court of the United States, is clothed with the powers of a court of chancery just as thoroughly and completely as were the separate chancery courts when they existed as separate institutions. While we, in this country, and in England, abolished the court of chancery as such, we never in the slightest degree attempted to limit the power of any of our major courts to pass upon equity and chancery matters brought before it. There are no major courts in this country, therefore, which cannot dispense equitable relief when the equitable powers of the court have been properly invoked.

EQUITY AS APPLIED TO LABOR DISPUTES

Applying these principles, therefore, to the matter of labor disputes we can understand better the position of labor; the relationship between the employer and the employee. When we look at the strict legal aspect of the rights of the employer and the employee we are apt to say, in a given case, that the law is definite, fixed, and certain, and that there is nothing more to the controversy. We all too often assert that our strictly legal rights, defined by what the law says, must be maintained and enforced if the Government means anything. There is a fallacy in this argument—fallacy because we quite forget that in the settlement of any controversy the rights of all must be protected and that includes the rights of society as well as the court litigants. We quite forget that the old chancery or equity courts are still operating and that "Equity will not suffer a wrong to continue for which there is no remedy"; that even though the law does support my view, yet I must come before the court "with clean hands", if I ask the court to lend me its protection; "if I desire justice, I must be willing to do justice."

From this statement so far it will be observed that there is a power higher than written law—that is, the power of right and the weakness of wrong.

In a labor dispute between employer and employees there at once arises to the mind of the employer the protecting provisions in the law which insure him the right to conduct his own business, unmolested and in a way that best suits him, as long as he does not violate some other law. He has the right under the law to hire and fire anyone who works for him, with or without cause; and he has the right to refuse to employ men who belong to certain organizations—that is, the cold letter of the law gives them that right.

Men in his employ do not approve of working conditions, hours of labor, or the wage received, or the spying system employed by the employer to find out whether his employee is loyal to the employer; or there may be other conditions existing that make the position untenable. The men strike and refuse to work longer until these conditions are corrected. They parade in front of the factory and display placards saying the employer is unfair to labor or organized labor, and by this means they attempt to create public opinion in their favor. The men do not only strike, but they picket the plants in which they worked. It is now recognized by the courts that this persuasive or economic power invoked by the workers in labor disputes is the only means the workers have of attaining to the objects of their efforts in labor disputes. Workers have no capital investment, they have nothing to say how long the job will last. Their job is their only interest; they are bare handed and depend upon that job, not only for the existence of themselves and their own families, but the existence of families of whole communities in which they labor and spend their earnings.

INJUNCTIONS MAY BE REFUSED

In such a dispute and when men refuse to work and strike, the whole public is concerned. The question becomes bigger than just what are the cold legal rights of the employer, and the cold legal rights of the employee. In such an emergency, and it is nothing short of an emergency, and many times a calamity, we look beyond the cold letter of the law—we look to equity—we look to see what is just between man and man, no matter what the law may say.

The law says those who are interfered with in their right to the full enjoyment of their property may secure from the court an injunction to restrain the person or persons interfering with that right of property enjoyment. The employer goes to court and secures an injunction to restrain the discontented laborers from interfering with the employer's right. The law says he shall have this protection.

The question, therefore, is, Shall the injunction be issued merely because the cold letter of the law says so? My answer is no, not at all. The question is a matter which affects the public, and if I were sitting as judge, I would want to know, among other things, some of the following facts:

Has there arisen a labor dispute between the parties in which the right of the laborer to his job, the right to work under safe and humane conditions, the right of the laborer to protect his family and the community, is at stake and pending in the controversy?

Has the laborer any other means which he can employ to bring about conditions that are just and reasonable?

What has the employee at stake? What has the employer at stake? Has the laborer all he has in the world at stake—everything that protects his life and his family's welfare? Has the employer as much at stake, though his plant may be worth millions?

If I were judge, and were convinced of the justice of the laborer's cause, I would refuse the injunction on the ground of its being against public policy and that the laborer has rights that were far more important in the balance of human relations than the right of the employer to proceed with his business and free himself from any further consideration for the man who refused to work for him because of this labor dispute.

Courts quite generally recognize the right of the employees to strike and use all lawful means to create public opinion in their favor and against the concern for which they have refused to work any longer.

SIT-DOWN STRIKES

Recently a new form of economic force has been employed by organized labor, namely, to stop work and sit down in the factory where they did work and wait there until the conditions of which they complained were adjusted. Have they this right under the law? If I were judge, I would say, when petitions for an injunction to restrain the workers from "sitting down in the factory" and thus preventing the owner from using it, keep in mind that there are two distinct jurisdictions of justice—one administered under the cold letter of the law and the other administered through the power of equity—or a higher law that says there shall be no wrongs suffered for which there is not a remedy. I would make the same inquiry in a "sit-down" injunctional proceeding that I would in any other proceeding. I would want to know answers to the same questions; is there a labor dispute; what about the justice of the demands of labor; what has the laborer at stake; have they any other way of enforcing peacefully their demands? Have they anything besides their jobs? Have they families to support and educate? Do they contribute through their earnings to the economic well-being of the community? What can they do if they do not have jobs? Have they and their families and the community more at stake than the mere dollars which the employer could make if he were free to go ahead into his factory and rid himself of these laborers?

When I had been satisfied that the situation presented an emergency case that was bigger than the cold letter of the law and affected the whole public well-being, I would refuse to issue the injunction. I can see no more reason why the cold letter of the law should be followed in a sit-down strike

than any other kind of strike, providing all of the emergency elements and humane principles are involved. I would invoke the higher, unwritten law—the law of equity, the law of chancery, the law of justice, between man and man.

ERRONEOUS VIEW OF LABOR'S RIGHTS

I listened to an argument in the Supreme Court of the United States April 1, 1937, where a dispute between organized labor and the rights of an individual contractor was involved. The counsel for the employer made this statement at the conclusion of his argument, "Laborers have the right to organize; the organization has certain rights; but whatever those rights are, they end when the rights of an individual begin." This attorney expressed the time-worn principle of the rights of the individual as protected under the cold letter of the law. It never occurred to him that something of more importance in this labor dispute was involved—namely, the rights of the laborer to live, work at his trade, raise and educate his family, contribute to the well-being of the community, and that the absolute loss of his job would be a calamity to the worker, his dependents, and the community, which owes him at least the right to live.

This lawyer should have said, "An individual has the right to the free exercise of his powers, ability, training, and experience, and he may follow his own plan of action within the law until the free exercise of those rights interfere with the public good, public morals, and the general welfare of the community and State. The unrestrained rights of the individual, though complying with the cold letter of the law, end when the public interest begins."

THE DUTY OF CONGRESS

There is not enough law to be found now in the statute books to settle the controversy between the employers and employees, and any court attempting to settle these questions on what law there is will, in nearly every case, make the situation worse. The solution of this difficult question is one of the questions remaining for this Congress to adjust. Measures are before Congress which would eliminate these costly disputes, and it remains for us, and not the courts, to understand the cause of these disputes and provide the remedy. In my judgment, the enactment of H. R. 3297 would put an end to these labor disputes, strikes, picketing, sit-down strikes, and injunctions against employees. Nothing short of a complete economic readjustment, recognizing the supreme value and place of labor in our economic and monetary system, will ever bring peace in the labor world. In the meantime the courts can refuse to make the matter worse by applying the principles of equitable jurisdiction with which they are now amply clothed.

The Purpose, Ideals, and Accomplishments of the Civilian Conservation Corps

EXTENSION OF REMARKS

OF

HON. WALL DOXEY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 5, 1937

ADDRESS BY HON. WALL DOXEY, OF MISSISSIPPI, AT HEADQUARTERS CAMP P–74, 5435 CIVILIAN CONSERVATION CORPS COMPANY OF CRIGLERSVILLE, VA., ON APRIL 4, 1937

Mr. DOXEY. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include an address I delivered at Headquarters Camp P–74, Criglersville, Va., on April 4, as follows:

Captain Lamar, ladies, and gentlemen, we have assembled here at this beautiful C. C. C. camp amidst these historic and inspiring surroundings to celebrate the fourth anniversary of the Civilian Conservation Corps. It is indeed significant that near here, high up in the George Washington National Forest of Virginia, was established 4 years ago Camp Roosevelt, the first C. C. C. camp in this great country of ours.

Visualize, if you can, the marvelous progress and development that have taken place since then as a result of this most valuable and worth-while program.

These camps have accomplished more than even those of us who from the very beginning whole-heartedly supported and worked for this program ever thought they would accomplish.

This "brain child" of our great President, Franklin D. Roosevelt, has grown and waxed strong into sturdy and useful manhood.

Relatively speaking, from a few camps that were first established in April 1933, on Government-owned lands in a few States, today we have camps in every State in this Union engaging in projects, both on Government and private lands, of lasting and definite practical value to all the people of this entire country.

In general terms, the C. C. C. camps have greatly improved and protected our natural resources, provided money for the needy and deserving families of those enrolled from both city and rural homes, and, above all, have saved the young manhood of this country from idleness and some of them no doubt from careers of crime.

You cannot estimate in dollars and cents the educational value and the improved mental, moral, and physical development of the men enrolled in these camps. The training received in these camps has made life more worth living and has prepared the young men to be better citizens. I maintain and keenly feel that this Government investment is one that has and will more and more as time goes on be repaid many, many fold.

Well do I remember that eventful day—March 21, 1933—when President Roosevelt sent his message to Congress recommending the creation of the Civilian Conservation Corps. I have a very vivid recollection of the arguments advanced by both those favoring and those opposing the program. I have always been a strong advocate and defender of the C. C. C. program.

Congress passed the law and the act was signed by the President on March 31, 1933. The life of the original act was 2 years, ending March 31, 1935. Congress authorized the continuation of this work for an additional 2-year period. Executive orders have been since issued defining the plan and organization for the Civilian Conservation Corps. Mr. Robert Fechner has been the efficient director of the C. C. C. program, and he and those assisting him have administered the act most satisfactorily.

President Roosevelt as well as the whole Nation know this program has been a success. The work of the C. C. C. camps stands out as one of the brightest spots among the many lasting and worth-while activities of this administration.

We all know it takes money to continue them. To maintain the existing camps at their present strength will cost between $350,000,000 and $400,000,000 a year. At the present time there are about 350,000 enrollees in about 2,000 camps.

What the status will be after July 1 of this year no one knows. That depends upon what laws Congress enacts in the meantime. So far no legislation has been definitely fashioned or considered by Congress. The first day of this session of Congress, January 5, 1937, I introduced a bill (H. R. 1500) to make the Civilian Conservation Corps a permanent agency of this Government. This bill was referred to the House Committee on Labor. However, so far this session that committee has taken no action on this proposition. I sincerely hope the committee will soon either shape a committee bill or favorably report my bill or some other bill so Congress can definitely determine what the future C. C. C. program will be. Results are what we want.

The President has recently sent to Congress a message in this regard. I have personally talked with him about the program, and those of us who have been active in this matter know the President favors an enrollment around 300,000, the enrollees to be taken from the relief rolls and the program to be made permanent. The details along this general line are now being considered and I trust will soon take definite and positive shape in the form of a permanent law.

I full well realize what we are up against in this connection—"getting the money." However, I and a great many other Members of Congress are willing to economize and cut the appropriations on some other programs in order to obtain the necessary funds to carry on this C. C. C. program. I feel reasonably confident that Congress will soon continue this C. C. C. program and make it permanent, even though the number of camps and enrollees will be reduced from their present number.

My congressional district has been fortunate in having its share of C. C. C. camps. There are located at my home town of Holly Springs, Miss., two veterans' camps. I know the value of these camps. I have visited and sought first-hand information in regard to the camps in various other districts and States and I have yet to find a community that has had a C. C. C. camp that wanted to give it up. That speaks well not only for the type of work they are doing and for those in charge of the camps but it is a deserving compliment to the boys and men who make up the camp.

It is a source of pride and a privilege to be a member of a C. C. C. camp. The enrollees realize and appreciate the significance and part these camps are playing in the national life of our country. This is evidenced in many, many ways. This training fits them for better jobs and more useful citizenship. In every disaster of this Nation the work and in many instances the

heroism of the C. C. C. boys stand out as a beacon light for others to follow. We are all familiar with the work and service of these camps, all of which is greatly appreciated. Almost without exception the general personnel of the camps have identified themselves with the better and more worth-while activities of the section of the country they serve and contribute materially to the general welfare of the community in which they are located.

I will not here attempt to detail the many, many benefits derived from the work of the C. C. C. camps. Suffice it to say that there are over 150 major types of work carried on by these various camps. The outstanding features may be grouped as forest culture, forest protection, erosion control, flood control, irrigation and drainage, transportation improvements, structure improvements, range development, wildlife preservation, landscape and recreation, and many other miscellaneous activities.

These various activities have been very efficiently administered by the Department of Labor, the Department of War, the Department of Agriculture, the Department of the Interior, and the Veterans' Administration, each doing a great job with its particular phase of work in the C. C. C. program to restore and conserve our natural resources through an orderly program of useful work and to provide employment that is worth while to those deserving it.

The contributions of this C. C. C. program to our economic recovery have been substantial and far-reaching, and the wholesome and beneficial opportunities afforded those taking this training cannot be estimated in dollars and cents.

The rehabilitation and constructive conservation aspects of this program merit and deserve for it a permanent place in the machinery of our National Government and the wholehearted support of all of us.

Captain Lamar, members of the staff, and distinguished guests, on behalf of myself and family and my friends who have accompanied me from Washington, I desire to thank you all for this most enjoyable occasion. It has, indeed, been very gratifying to me to relive with you, Captain Lamar, some of the days when you were the commanding officer of "Camp Wall Doxey", located in my congressional district near Potts Camp, Miss. You and your delightful family won a place in the hearts of our good people and I feel that the people of this community are to be congratulated in having you as the commanding officer of this fine camp.

I want you all to know that the splendid manner in which these camps have been handled makes it easy for those of us in Congress who are particularly interested in this most worthwhile program to exert our best efforts toward a continuation of same.

I have in the past done everything I could for the C. C. C. program, and I assure you I shall in the future, both as an individual and as a Member of Congress, do all I can to make the C. C. C. a permanent agency of our Government.

Again I thank you.

An Analysis of a Few Supreme Court Decisions

EXTENSION OF REMARKS

OF

HON. W. D. McFARLANE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 5, 1937

RADIO ADDRESS BY HON. W. D. McFARLANE, OF TEXAS, ON APRIL 2, 1937

Mr. McFARLANE. Mr. Speaker, under leave to extend my remarks in the RECORD, I include a radio address I made over the National Broadcasting Co. network Friday night, April 2, 1937, as follows:

I greatly appreciate the courtesy of the National Broadcasting Co. in allotting me this time to speak on the President's judicial reform program now pending before Congress. Because of the very limited time I have, I will be able to cover only a few of the issues involved in this controversy, which I consider the greatest issue confronting the Nation during the period of our lifetime.

I spoke February 18 favoring the President's Court proposal and therein set forth some of the reasons why I believe this legislation should be enacted now. I shall be glad to furnish a copy of this speech to anyone desiring a copy. In my speech in Congress I set forth some of the Supreme Court's decisions showing how the Supreme Court in chipping away parts of the Constitution and through their lawmaking decisions have deprived the Treasury and people in revenue and through their utility-rate decisions—of more than $10,000,000,000.

Let me read you this short list of cases and the amounts of money involved:

Decision	Issue	Loss in revenue
Collector v. *Day*	Taxability of State, county, and municipal employees.	$165,000,000
Pollock case	Power to tax income	1,800,000,000
Eisner v. *McComber*	Stock dividends	1,060,000,000
National Life Ins. Co	Reduction allowance for reserve by tax-exempt interest.	97,500,000
Railroad Retirement Act	Constitutionality of act	100,000,000
Neiner v. *Donnan*	Gift in contemplation of death	5,000,000
Nichols v. *Coolidge*	do	10,000,000
Blodgett v. *Holden*	Gift tax	3,500,000
Guffey Coal Act	Constitutionality of act	1,000,000
Agricultural Adjustment Act	do	1,017,000,000
May v. *Heiner*	Creation of trusts	25,000,000
Power Rate cases 6-year loss		6,000,000,000
Total		10,290,000,000

A complete showing of all cases, including a study of all excessive utility rates permitted under the Supreme Court decisions, it is believed on good authority, would more than double this amount.

Let me now refer to a few of the many other laws through which the Supreme Court's lawmaking decisions have favored the rich at the expense of the poor.

FEDERAL ESTATE TAX

Take first the Federal estate tax. The Supreme Court has provided an avenue for escape from the Federal estate tax by allowing the men of wealth to make gifts prior to death without being subjected to tax. Mr. John Wanamaker, a Philadelphia millionaire at the age of 84, transferred practically all of his estate to his son, and the Supreme Court held it was not done "in expectation of death" (*Commissioner* v. ——— *ex.*, 283 U. S. 835).

In the following cases it is shown how the Supreme Court has successfully emasculated the antitrust laws and the Interstate Commerce Commission, while at the same time refusing to sustain legislation for the working class. Let me refer to some of these cases.

ANTITRUST LAWS INVALIDATED

The year of 1895 was a banner year for those of wealth who appealed to the Supreme Court. In addition to saving the wealthier people of the country, several billions by invalidating the income tax, the Supreme Court also upheld the efforts of the trusts to sink their monopolistic fangs into the industry and commerce of the country. In order to prevent small industries from being crushed by the giants of monopoly, Congress, in 1890, passed the Sherman antitrust law to protect trade and commerce against unlawful restraints and monopolies. The first real legal test on this act came before the Supreme Court in 1895 and involved the sugar interests (*United States* v. *E. C. Knight Co.*, 156 U. S. 1). For all practical purposes the Supreme Court admitted that a monopoly exists.

According to the findings of the Court, the American Sugar Refining Co. had acquired the stock of four Philadelphia refineries, and by this act had, to use the words of the Court itself, "acquired nearly complete control of the manufacture of refined sugar within the United States." Notwithstanding this fact, the Court made a unique decision that the acts of the parties "bore no direct relation to commerce between the States or with foreign nations." By making the absurd holding that such a combination had no direct relation to commerce, the Supreme Court successfully clipped the power of Congress to outlaw monopolies, and, based on the Tariff Commission reports and other information available, the consumers of sugar are paying many millions of dollars to the sugar monopoly in excess of what other nations are paying for sugar. Later, in 1904, when Theodore Roosevelt attempted to "bust" the monopolistic trusts of the country, the Supreme Court came to the rescue of certain large corporations and saved them from the penalties of the antitrust laws and assured all corporations of such magnitude and power that they had nothing to fear, that only their corporations were liable, and that, of course, corporations cannot be sent to jail.

CLAYTON ACT VOIDED

After the Supreme Court emasculated the Sherman Antitrust Act, Congress passed new legislation in 1914 in what was known as the Clayton Antitrust Act, and at the same time created the Federal Trade Commission. However, Congress was soon to discover that it could not keep pace with the destructive decisions of the Supreme Court. The Clayton Act soon followed the Sherman Act into the Supreme Court's wastebasket. The first decision involved the Carnegie Steel Co., and the Supreme Court overruled the decision of the Federal Trade Commission and supported the Carnegie Steel Co. (*Federal Trade Commission* v. *Warren, Jones & Cratz*, 253 U. S. 421).

Later it again struck at the Clayton Act in the case of the Curtis Publishing Co. (*Federal Trade Commission* v. *Curtis Publishing Co.* 262 U. S. 568), though it was alleged the contracts

of that company were admittedly producing monopolistic practices in violation of the Clayton Act. This was followed by the decision of the Court holding that the Federal Trade Commission had no power to prevent fraudulent or deceptive advertising (283 U. S. 643).

Under the leadership of the present Chief Justice, the Court has continued to nullify the efforts of the Federal Trade Commission and the Sherman Act. In a decision favoring the Standard Oil Co., the Court held that cross-licensing of patents and pooling of royalties were not in violation of the legislation against monopolies (*Standard Oil Co.* v. *United States*, 283 U. S. 163).

INTERSTATE COMMERCE COMMISSION NULLIFIED

In 1896 the Supreme Court began its attack upon the Interstate Commerce Commission, which had been established in 1887 to give the people a fair break on railroad rates. By this action the Court restored to the railroad a right to practically fix rates, thus outlawing years of efforts by the people of the country to obtain fairer and more just railroad rates. From that day to this the Interstate Commerce Commission has never exercised the protective powers which it was intended they should have in order to protect the people from being plundered by the large corporations (*Maximum Freight Rate case*, 167 U. S. 479).

RAILROAD RATES ALL TRAFFIC WILL BEAR

In determining the rates to be charged by the railroads the Supreme Court has required that consideration be given to reproduction costs and not to the amount of capital invested in the enterprise. In other words, though the owners of a railroad may have only $10,000,000 invested in it, if it would today cost $20,000,000 to build the railroad, the $20,000,000 figure (and not the $10,000,000) is considered in fixing the rates. However, this rule which was laid down in 1925 in the O'Fallon case (*St. Louis & O'Fallon R. R. Co.* v. *United States*, 279 U. S. 461), when values were increasing, does not work both ways. A decrease in value does not serve to decrease the rates, so the people learned when the Court refused to allow a reduction in public-utility rates by reason of the decrease in values due to the depression (*West* v. *Chesapeake & Potomac Tel. Co.*, 295 U. S. 662). And a still further scuttling of the Interstate Commerce Commission was recently made by the Supreme Court when it failed to protect the bondholders by nullifying an order of the Commission designed to prevent excessive reorganization fees in the Chicago, Milwaukee, St. Paul & Pacific Railroad reorganization. This decision was the Supreme Court's gift to the lawyers and the others who thrive upon the fat fees allowed them in reorganizing corporations which are in financial difficulties, such persons being the only ones who derive any profit out of the reorganization (*U. S.* v. *Chicago, Milwaukee & St. Paul R. R.*, 283 U. S. 840).

HOURS AND WAGES LEGISLATION NULLIFIED

The Supreme Court's decision in the case of *Schechter Poultry Corporation* v. *United States* (295 U. S. 495), in which the Court held that the N. R. A. Act was an improper delegation of power by Congress and an unlawful attempt to regulate intrastate commerce, was a death knell to legislation by the Congress to regulate hours and wages. However, on Monday of this week the Supreme Court reversed the *Atkins* v. *Children's Hospital* (261 U. S. 525) and *Moorehead* v. *New York* minimum-wage laws for the District of Columbia and the State of New York in the State of Washington minimum-wage law for women and held this law valid by a 5-to-4 decision, Justice Roberts, former chief counsel for the Pennsylvania Railroad Co., having reversed himself and changed from the minority to the majority from his holding in the New York case. The only apparent difference between the statutes and the statement of facts in the New York and Washington cases was that the Supreme Court of Washington held their law valid, while the Supreme Court of New York, under a similar statement of facts, held their law invalid. Nothing yet has been decided by the Supreme Court indicating what the next case will be on hours and wage legislation affecting the rights and working conditions for men.

Our forefathers never intended, in writing the Constitution, that any man or nine men appointed for life should be allowed to control the destinies of our Nation in any such manner.

STATES' RIGHTS

The Federal Government is not the only body which has suffered at the hands of the Supreme Court. The States have also had their rights curtailed. The doctrine of States' rights as today applied to by the Supreme Court is a peculiar doctrine. If the problem is one which cannot as a practical proposition be handled by the States, then it is one which, in the opinion of the Court, should be handled by them. If the problem is one on which the States can make a fair degree of progress, then the Supreme Court declares the State act invalid. All this simply means that the men of wealth and power continue to exploit the people and the resources of our country because the Supreme Court successfully stops any effective measures enacted against it.

For example, the State of Wisconsin, which has an inheritance-tax law, attempted to prevent evasions of such tax on account of gifts made to defeat the tax, only to have the Supreme Court in 1925 declare such provision invalid (*Schlesinger* v. *State*, 270 U. S. 230). Pennsylvania had a corporation-tax law which was declared invalid after it had been in effect for 40 years (*Quaker City Cab Co.* v. *Pennsylvania*, 277 U. S. 389). A Massachusetts tax upon inheritances was held unconstitutional (*Coolidge* v. *Long*, 282 U. S. 589). The State of Vermont enacted an income-tax law, and it was declared invalid (*Colgate* v. *Harvey*, 296 U. S. 404). Why? Did the Court sing its song of States' rights? No; quite the reverse, for it said, "We are members of a single great community consisting of all the States united and not of distinct communities consisting of the States severally."

The Supreme Court's attack on States' rights is a broad one, reaching all kinds of legislation by the States. Here is an incomplete list of State laws (other than tax laws and acts of State agencies) which have been invalidated by the Supreme Court:

An Arizona law against the use of injunctions in labor cases (*Truax* v. *Corigan*, 257 U. S. 312).

The industrial court established in Kansas (*Wolff Packing Co.* v. *Industrial Court*, 262 U. S. 522).

A Nebraska uniform bread weight law (*Burns Packing Co.* v. *Bryan*, 264 U. S. 504).

A New Jersey law designed to prevent extortionate fees being charged by employment agencies (*Rebnik* v. *McBride*, 277 U. S. 350).

The Illinois State Public Utilities Commission was not allowed to compel lower rates by the Bell Telephone Co., and similar protection was given the New York Telephone Co. with respect to orders of the New York Commission (*Smith* v. *Ill. Bell Tel. Co.*, 282 U. S. 133).

The California Railroad Commission and also the city of Los Angeles were prevented from establishing a 5-cent fare in Los Angeles (*R. R. Commission of California* v. *Los Angeles Ry. Co.*, 280 U. S. 145).

An Oklahoma law regulating competition in the ice business was declared invalid (*New State Ice Co.* v. *Liebmann*, 285 U. S. 262).

FREEDOM OF SPEECH

A good deal has been said to the effect that the Supreme Court is necessary for the protection of our fundamental rights, such as freedom of the press and freedom of speech. The truth of the matter is that the courts are the ones which without limitation may throttle the press and the people in expressing their opinions. If a State imposes a tax upon newspapers, the court invalidates the tax on the alleged ground that it violates the freedom of the press. If a State passes an act to prevent a newspaper from publishing "malicious, scandalous, and defamatory" matter, the act is declared invalid by the Supreme Court. In other words, a newspaper can do just about anything it wants to do by way of malicious and defamatory publication, but if it points a gentle finger at the courts, that is an entirely different proposition, for the courts have taken unto themselves the power of supervising the press. If anyone has any question on this point, let him look at the decision of the Supreme Court in *Toledo Newspaper Co.* v. *United States* (247 U. S. 402). In that case the Toledo News-Bee very vigorously expressed its opinion with respect to a suit brought by the creditors of a street railway to restrain the enforcement of a city ordinance with respect to the fares to be charged. For such expression the newspaper and its editor were held for contempt of court.

TRIAL BY JURY

The significance of a contempt proceeding is that the party has no right to a jury trial, so the courts have held. In other words, the judge who holds a person for contempt of court is also the one who decides the case without giving the accused a jury trial. Following this procedure in the Toledo case, the judge found the editor guilty of contempt of court despite the fact that it was not shown or found that any of the publications complained of was brought into the courtroom or court building or read by the judge. This star-chamber procedure by which the court throttles the press was sustained by the United States Supreme Court, and yet today there are persons who think that the Supreme Court is a protector of the freedom of the press.

The President's recommendation reads: "That no additional judge shall be appointed hereunder if the judge who is of retirement age dies, resigns, or retires prior to the nomination of such additional judge." Thus we believe when this bill becomes a law those eligible will retire and the Court will not be increased.

The Court records show that for the past 7 years the six Judges eligible for retirement on full pay of $20,000 per year have averaged writing opinions of only 16 cases per year to earn their $20,000 annual salaries. That 87 percent, or seven out of eight cases presented to the Court last year, were denied without written opinions.

PRECEDENT

The Court has been changed in number six times. None seriously question the constitutionality of the President's recommendation nor that it is in keeping with the Democratic platform, which provides:

"We have sought, and will continue to seek, to meet these problems through legislation within the Constitution."

AT THE CROSSROADS

It is recognized that we are at the crossroads. Our legislative program has been sabotaged and nullified thus far by the Court, seven of whom were appointed by Republicans, five of whom were repudiated by their own people at the polls before appointment, and most of whom represent an economic policy that has been repudiated at the polls the last three elections.

LAW-MAKING POWERS

The Constitution, article I, sections 7 and 8, clearly define the law-making authority and powers of Congress. Article III, sections 1 and 2, and article VI, and eleventh amendment, clearly define the powers of the Supreme Court.

I ask each of you to carefully read these provisions of the Constitution, and you will be of the opinion that Congress under the Constitution is delegated with the law-making power and the Supreme Court with only the power to construe, not the power to make the laws under which the people must live.

Four times in the Constitutional Convention—June 4, 1787, June 6, 1787, July 21, 1787, and August 15, 1787—Alexander Hamilton and James Madison tried to write specific provisions into the Constitution to give the Supreme Court the right to nullify acts of Congress, and four times these provisions were defeated. Yet the Supreme Court has usurped the power of nullifying acts of Congress.

The issue now pending is shall we have a government by judges or a government by duly elected representatives of the people. The rights of the masses of the people hang in the balance.

Procedure Under Frazier-Lemke Moratorium

EXTENSION OF REMARKS
OF
HON. WILLIAM LEMKE
OF NORTH DAKOTA
IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 1937

Mr. LEMKE. Mr. Speaker, upon the request of many Members of this House and upon the request of thousands of farmers who are about to lose their homes by mortgage foreclosure, I shall explain briefly how a farmer must proceed to take advantage of the Frazier-Lemke farm moratorium, which act has just been held constitutional by the Supreme Court of the United States.

But first of all, Senator FRAZIER and I, on behalf of the distressed farmers who will now be able to save their homes wish to thank the chairman [Mr. ASHURST] and the members of the Judiciary Committee of the Senate, and the chairman [Mr. SUMNERS] and members of the Judiciary Committee of the House, for their wholehearted and sympathetic cooperation. On behalf of these farmers we especially wish to thank Senator MCCARRAN, of Nevada, chairman of the Judiciary subcommittee of the Senate, for his splendid assistance and suggestions, and Senator BORAH for his able explanations of the bill on the floor of the Senate.

This act, which has just been held constitutional by the Supreme Court of the United States, amends subsections (g), (k), (n), (p), and (s) of section 75 of the Bankruptcy Act. Any farmer who is insolvent or who is unable to meet his debts as they become due can take advantage of section 75 by filing a petition with the clerk of court of the United States district court of his district, or he may leave the petition with the conciliation commissioner of his county, if one has been appointed, praying for relief under section 75 of this act as amended. When the farmer does this, he immediately subjects all of his property, wherever located, for all the purposes of this section, to the exclusive jurisdiction of the court, including all his real and personal property, or any equity or right in any such property of whatsoever nature.

Such farmer must state in his petition that he is insolvent or unable to meet his debts as they mature, and that he desires to effect a composition or extension of time to pay his debts. He must file a proposal for composition and extension of time, together with a schedule of all of his property and all of his debts. If a majority of the creditors refuse to agree to the proposed composition or extension of time, then the farmer can amend his petition under subsection (s) of the act, asking to be adjudged a bankrupt.

May I suggest that a farmer ought to be careful and not submit any proposal for composition or extension of time that he knows or has reason to believe he cannot live up to? This act is intended to get the farmer out of debt and keep him out of debt. He must not be too optimistic of his ability to pay but should reason it out carefully and make only such proposal for composition and extension of time, the terms of which he knows he can meet. Otherwise he is just postponing the evil day.

Such farmer may at the same time, or at the time of the first hearing, petition the court that all of his property, wherever located, whether pledged, encumbered, or unencumbered, be appraised, and that his unencumbered exemptions and unencumbered interest or equity in his exemptions, as prescribed by State law, be set aside to him, and that he be allowed to retain possession, under the supervision and control of the court, of any part or parcel or all of the remainder of his property, including his encumbered exemptions.

The referee, under the jurisdiction of the court, must designate and appoint appraisers as provided for in the Bankruptcy Act. Such appraisers must appraise all of the property of the debtor, wherever located, at its then reasonable and fair market value.

Under section 75 of the Bankruptcy Act it is the duty of every United States district judge to appoint a conciliation commissioner for every county or counties having an agricultural population of 500 or more farmers. If any such county has less than 500, the judge must join it to some other county. The judge has no discretion in appointing these conciliation commissioners. The act is mandatory. But if no conciliation commissioner has been appointed, the farmer need not wait until one has been appointed. He can file his petition directly with the clerk of the United States district court, as I have stated above.

The farmer is required to complete a schedule of all of his property similar to that in a bankruptcy proceeding. In fact, he should do this at the very start when he makes his proposal for composition or extension of time. He should make enough copies of his schedule so that he can change from conciliation to a petition in bankruptcy under subsection (s) of section 75 without having to go through the trouble or expense of making out new papers in case he cannot reach an agreement for composition and extension of time with his creditors.

While the act contemplates that the Conciliation Commissioners shall assist the farmer in making out these papers, my advice is that the distressed farmers in every county get together and organize and employ a competent attorney to attend to these matters for them. A farmer can no more act as his own lawyer than he can act as his own physician. If proper steps are taken, the farmers will now be able to protect their homes, their lands, and personal property, and get their indebtedness readjusted to the present value of their property and pay for same on or before the end of 3 years.

After the farmer's exemptions and his equity in exemptions have been set aside to him in accordance with the State laws, and after he has complied with the provisions of the Frazier-Lemke moratorium, then the United States district court must stay all judicial or official proceedings in any State or Federal court, or under the direction of any official, against the debtor or any of his property, for a period of 3 years. During such 3 years the debtor will be permitted to retain possession of all or any part of his property in addition to his exemptions under the control of the court, provided he pays a reasonable rental semiannually for that part of the property of which he retains possession.

The first payment of such rental must be made within 1 year of the day of the order staying proceedings. The amount and kind of such rental must be the usual customary rental in the community where the property is located, based upon the rental value, net income, and earning capacity of the property. Such rental shall be paid into court, to be used, first, for payment of taxes and upkeep of the property, and the remainder to be distributed among the creditors. The court, in its discretion, may order sold any exempt perishable property of the debtor or any unexempt property not reasonably necessary for farming operations, to be applied under the provisions of the act.

At the end of 3 years or prior thereto the debtor may pay into court the amount of the appraisal of the property of which he retains possession, including the amount of encumbrances on his exemptions up to the amount of the appraisal less the amount paid on principal. Upon request of any secured or unsecured creditor, or upon the request of the debtor, the court must order a reappraisal to establish the then present value of the debtor's property, provided, however, that the creditors may request in writing that the value be established by sale at public auction. From such sale the farmer will have 90 days in which to redeem.

If, however, the debtor at any time fails to comply with the provisions of this act or with any orders of the court made pursuant thereto, or commits waste, or is unable to refinance himself within 3 years the court may order the appointment of a trustee and order the property sold. In other words, this gives the farmer 3 years in which to refinance himself. Let us hope that Congress will have sufficient intelligence to pass the Frazier-Lemke refinance bill and settle the farm indebtedness once and for all.

This act applies to all public and private debts. It makes no difference whether such property is mortgaged or whether such debts are secured or unsecured. It makes no difference whether these debts are due to the Federal land bank, to the Government of the United States, or to any other corporation or person. Congress felt that the Government should at least be as fair and decent in dealing with the farmers of this Nation as private corporations and individuals.

The term "farmer", as defined by this act, includes not only an individual who is primarily bona fide personally engaged in producing products of the soil but also any individual who is primarily bona fide personally engaged in dairy farming, the production of poultry or livestock, or the production of poultry products or livestock products in their unmanufactured state, or the principal part of whose income is derived from any one or more of the foregoing operations, and includes the personal representative of a deceased farmer; and a farmer shall be deemed a resident of any county in which such operations occur.

This act also applies in all cases where, at the time of filing the petition, the period of redemption has not or had not expired or where the right, under a deed of trust, has not or had not become absolute, or where the sale has not or had not been confirmed, or where deed had not been delivered. The words "period of redemption" are defined as meaning, any State moratorium, whether established by legislative enactment or executive proclamation, or where the period of redemption has been extended by judicial decree.

This act also applies to all existing cases pending in any Federal court under this act, as well as to future cases; and to all cases that have been dismissed by any conciliation commissioner, referee, or court, because of the Supreme Court's former decision holding subsection (s) unconstitutional. The act provides that all these cases shall be promptly reinstated without additional filing fees or charges.

In all cases where a United States district court erroneously held the new Frazier-Lemke Act unconstitutional, the farmer should make prompt application to be reinstated or start a new petition. The decision of that court has been reversed by the Supreme Court of the United States. Again, in all cases where deed has been issued or title passed the farmer still has a fighting chance. The lower court having been reversed and title having passed under an erroneous decision, holding an act unconstitutional when as a matter of fact it was constitutional, it should entitle the farmer to be reinstated in the same position he was in when his petition was wrongfully dismissed.

May I suggest to the farmers that this act will save about 200,000 farm homes and 200,000 farm families from eviction? But you must not simply rest and be satisfied with a 3-year moratorium. You must start in today to save and accumulate and start anew, so that you will be ready to refinance your indebtedness in accordance with the provisions of this act at the end of 3 years, if not sooner. You owe this to yourself and to your family. Otherwise you will be in the same position at the end of 3 years that you are now in.

The farmers of every community, who are indebted, ought to get together and discuss and study their problems and take advantage of this law without hesitation or fear. This law is your law. Congress expects you to protect and save your home, but neither Congress nor anyone else can help people who do not help themselves. Let us all cooperate and put agriculture on its feet again.

May I here warn the farmer not to accept every proposition made him by his creditors? They should be willing to scale down his debts to the reasonable value of his property at the present time and give him sufficient time, with a low enough rate of interest, so that he will be able to meet the payments as they become due. The farmer is the best judge of his ability to pay. If his creditors are unreasonable, he does not have to accept their proposition but can change his petition from conciliation into a petition of bankruptcy.

Again, may I suggest to the farmers that this applies to your unsecured debts as well as those secured by personal or real-estate mortgages, and that your exemptions will first be set aside, subject, however, to existing liens up to the appraised value?

May I also suggest to the creditors that if they are fair and reasonable that most cases can be adjusted outside of court? No creditor or set of creditors has a right to destroy society; has a right to destroy agriculture, the basic industry of this Nation. No hard-boiled, soulless corporation will now be allowed to demand the last pound of flesh, to destroy the goose that lays the golden egg.

This is a conservation act. Nobody will lose anything, it conserves property and values. The creditors will get the present value of the property; that is all they can now get or that they are entitled to. In fact, they will get more under this amendment than they ever would get by wrecking another million farm homes. The agricultural wealth of this Nation can and will now be preserved in the hands of those who created it—the farmers. This act will give new courage, hope, and aspirations to distressed agriculture.

This amendment marks a new epoch. From now on the debtor is going to be considered as well as the creditor. The Bankruptcy Act is going to become an act of conservation and not an act of wreckage. It will undoubtedly in future Congresses be extended to include all debtors, business concerns as well as farmers; all will be recognized as going concerns. Property and wealth will be conserved in the hands of those who created it, not destroyed. Society as a whole will protect itself against unreasonable creditor individuals and corporations. Hope and aspiration will again return to our people as a whole.

In conclusion, permit me to suggest that in order for a farmer to get the benefits of this act he must file his petition with the conciliation commissioner, or with the clerk of the United States district court, if no commissioner has been appointed in his county, and start the machinery going. The farmer who sits idly by until he has lost his property will not be helped by this amendment. In fact, such individuals cannot be saved. No farmer should sit idly by and wait until his property has been sold. When they start foreclosing, he should start a petition under the Frazier-Lemke moratorium.

Delay is dangerous. Prompt action is necessary in many cases or title will pass. Ask your Congressman for a copy of section 75 of the Bankruptcy Act, including subsection (s), the Frazier-Lemke moratorium. Pay no attention to the street-corner advisor and get a lawyer who knows the law and who is sympathetic and you will have no trouble.

The farmers ought to work through their farm organizations and local attorneys. Members of Congress receive

thousands of requests to act in individual cases for farmers, but this obviously is impossible, much as they would like to. Their time is occupied here at the Nation's Capital. Their first duty is here. Farmers must learn how to cooperate and work together. They will find that in 90 cases out of a hundred their creditors will be reasonable and will cooperate and the other 10 percent the court will take care of.

The Securities and Exchange Commission and Its Work

EXTENSION OF REMARKS

OF

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 6, 1937

ADDRESS OF J. D. ROSS, COMMISSIONER, SECURITIES AND EXCHANGE COMMISSION, BEFORE THE NEW WALL STREET SYMPOSIUM, NEW SCHOOL FOR SOCIAL RESEARCH, NEW YORK CITY, ON MARCH 31, 1937

Mr. PATMAN. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following address of J. D. Ross, Commissioner, Securities and Exchange Commission, before the New Wall Street Symposium, New School for Social Research, New York City, on March 31, 1937:

The Securities and Exchange Commission should have been instituted years ago. It is one of the crowning glories of Mr. Roosevelt's administration.

Its need is self-evident if we review the events of the last decade. The keynote of the universe is change—eternal change in everything physical. From an election to a star, nothing physical is stable. This instability has changed the whole face of the financial world.

Invention follows invention and discovery follows discovery with amazing rapidity. Each new discovery brings others, like the growth of a tree where twigs grow to branches. The tree of discovery is never ending. It reaches up toward infinity. It grows faster than man can adjust himself to the changing conditions it brings. It grows faster than man will be able to adjust his conditions.

Therefore from year to year there will be increasing millions in the world for whom there is no employment and many millions for whom there is only scant employment.

This condition showed itself at the beginning of the recent depression. It has been growing worse for years. In the early days of our oldest citizens the population was smaller. Most of the work was done by hand. So prices were good and labor was plentiful. Investments were comparatively local and secure.

The railways came and opened up the West. The steamships came and carried our commerce to peoples less advanced in manufacture and production. The automobile and the airplane came, the telegraph and telephone became universal, and the radio brought quick facilities for national advertising and propaganda, both good and bad, and the commercial world shrunk in time and space. What took months to accomplish before now took only hours or minutes. Other nations equipped themselves to manufacture and produce at home. Mass production on the plains made the small farm less profitable. Chain stores replaced the corner grocery and dry-goods store. Great transactions could be accomplished in short time. Teamwork in research took the place of the long-haired inventor, and the old world turned to incessant change. Men of crooked tendencies issued worthless securities, millions on millions.

There is no such thing as normal times. The financial world swings like a pendulum continually from prosperity to depression, from optimism to despair. It does not linger on the normal or average line, but, like the pendulum, its greatest velocity is when crossing that line. The impossible structures of false prosperity collapse of their own weight.

The prosperity we are now entering will offset the depression we have just passed. It will go further, for over the years the wealth of America is growing and there will be a yearly increase.

So in 5 or 6 years some people will be watching for this great wave of prosperity to begin to curl over the top and start downward, but the mass will be looking upward but not forward. Our memories are short.

While good works went forward and discovery increased at a rate far beyond what the world had ever known, the powers of evil were also at work and with deadly effect, all the way from carelessness, due to optimism, down to criminal robbery of the masses on a scale that staggers the imagination. Banks broke. Tremendous amounts of worthless securities impoverished our people, and in millions of cases their life earnings were swept away. The hold-up artist with the mask and gun paled into insignificance in comparison with this wholesale robbery.

The Government in the emergency loaned huge sums to prevent a total collapse. The P. W. A. was instituted to give employment on large projects and the W. P. A. to feed the unemployed and prevent starvation. Banks were made more stable.

The Securities and Exchange Commission was instituted to prevent the unloading of dishonest and worthless stocks and bonds on an unsuspecting public, and in so doing to lessen the severity of future depressions.

In past years as individual small businesses were swallowed up by larger ones and men turned to employment with the fewer great surviving concerns they invested their life earnings to a great degree in these great institutions and to a large degree in oil and mine stocks and bonds. Billions of dollars were invested in foreign securities. The interest on these stocks and bonds was expected to prevent poverty in old age. It seemed to be the one way remaining to have a part ownership in the business of the country.

The function of the Securities and Exchange Commission is therefore to protect the bondholder and the stockholder. It is the policeman of America's financial securities in stocks and bonds.

Under the law the issuer is required to give an honest disclosure in his prospectus of the full facts and conditions back of the issue of bonds or stocks in order that the investing public may buy with its eyes open. Under the law the Commission is not empowered to pass on the value or desirability of a bond or stock issue. That is for the buyer to decide.

Securities issued and sold wholly within a State, and that do not use the mails, do not come under the Commission, but are handled under the laws of that State.

The Commission is given control of trading on all stock exchanges. It is also given control of the issues of bonds of foreign nations.

In 1935 it was given the control of utility holding companies, which include the great electric power and gas concerns of the Nation. This bill is still in litigation. It differs from the previous bills in that it allows the Commission to find whether the assets of the company issuing securities have a proper relation to the securities outstanding.

A rough approximation of the securities involved as compiled by the Research Division of the S. E. C., is of considerable interest. The number of companies with securities listed on the New York Stock Exchange as at December 31, 1935, was 1,298, of which 1,127 were domestic and 171 foreign issuers.

The total number of common shares listed on the New York Stock Exchange as at the end of 1936 was 1,260,000,000 shares, with an approximate market value of $52,600,000,000. The number of preferred shares listed was 100,000,000, with an aggregate market value of $7,300,000,000. Thus, there was a total of 1,360,000,000 shares, with an approximate market value of $59,900,000,000.

The total value of trading in stocks on all registered securities exchanges during 1936 amounted to 961,000,000 shares, with a trading value of $23,622,000,000. Of this total the New York Stock Exchange accounted for 702,000,000 shares, with a trading value of $20,387,000,000, or 86 percent of the total value of stock traded on all registered securities exchanges. The total value of trading in bonds during 1936 amounted to $3,662,000,000, of which $2,937,000,000, or 80 percent was on the New York Stock Exchange. Taking the trading in stocks and bonds together, all exchanges in 1936 traded $27,284,000,000 worth of securities, of which $23,323,000,000, or 85 percent, was on the New York Stock Exchange.

At the end of 1935 there were approximately 450 management investment companies within the purview of the investment trust study. These companies had total assets of about $2,000,000,000. Complete data for 1936 are not yet available, but it may be estimated that total assets had increased to approximately $2,500,000,000. In addition, there were over 100 fixed and semi-fixed investment trusts with total assets of around $200,000,000.

The value of foreign bonds held in the United States has been estimated by the United States Department of Commerce at $4,800,000,000 (par value) at the end of 1935, reduced by the end of 1936 to probably around $4,400,000,000 to $4,500,000,000.

From the effective date of the Securities Act of 1933 to December 31, 1936, foreign government bonds, with total estimated gross proceeds of $235,981,000, have been effectively registered with the Commission. This represents 2.7 percent of all effective registrations during the period.

During the same period $136,668,000 of securities of mining companies and $58,135,000 of securities of oil-producing companies (not including companies whose chief activities are in the oil transportation or refining or distribution) have been registered, representing 1.6 and 0.7 percent, respectively, of total registrations.

The number of stop orders, refusal orders, and withdrawals from the effective date of the Securities Act of 1933 to December 31, 1936, are shown in the following table:

	Number of statements	Amount	Aggregate amount of filings
			Percent
Stop orders	77	$43,935,000	0.4
Refusal orders	1	333,000	.0
Consent refusal orders	51	48,918,000	.5
Withdrawals	345	393,221,000	3.9
Total	474	486,407,000	4.8

Much interest is centering around the litigation on the Public Utility Holding Company Act. The final decision of this from the Supreme Court is expected in the near future. Section 11 of the so-called death sentence is the clause that really causes the fight of the utility companies.

No one will deny that a good man needs no police supervision, but he does need the policeman to guard against violence that might come upon him from others. The man whose thoughts and actions are wrong is the one that the policeman must watch. So it is coming about that while the Securities and Exchange Commission is instituted to protect the bondholder and the stockholder, it is also protecting the man who is willing to put out bonds and stocks that have a real value back of them. It helps such a man by exposing the man who has little or nothing back of the securities he offers for sale. The Nation wants to see the man with proper principles succeed. If the prospectus of his securities contains statements telling the complete truth, it will give his securities a prestige that they never had before. So it is that in many quarters those who originally opposed the S. E. C. are now pleased with its results and realize that it is a help and not a hindrance to any legitimate business. This will prove equally true in the case of utility companies, including the big concerns in the electric and gas business.

Section 11 goes much further than the previous securities and exchange bills in that it allows the S. E. C. to determine the value of a security by studying the financial condition of the concern. To determine the value of a concern requires more or less a valuation of its properties. It seems very probable, therefore, that the investor will expect more from the S. E. C. in the case of utility company offerings and will take it for granted that there is the proper value back of each security. In other words, it will put a considerably greater load on the Commission than it now has in requiring an honest disclosure of all facts as specified by the previous laws.

When holding companies first came into existence they were organized to take over several subsidiaries in which there were different programs of construction and operation in order that the holding company might give an over-all service that would be available for each subsidiary. The trouble began when this was turned into a "racket." A small investment in a holding company got control of values hundreds of times as great. The pyramiding was carried on until the structure fell of its own weight at the beginning of the depression. It is evident that in addition to the loss of the public, amounting to millions on millions of dollars, there was in many cases a real loss to the subsidiary which was milked for the profits of the holding company. It is reasonable to expect that many of these will think of the S. E. C. as one who will help them to be able to do a proper business. Wrongdoing of a group is always brought about by a few, and it is these few that will be gotten rid of. Many of the concerns have already taken steps themselves to clean up. In spite of the fact that litigation is pending, 82 of the holding companies have registered with the Commission. They are mostly relatively small concerns, but some of the recent registrations are from those of considerable size.

The work of the Securities and Exchange Commission is entirely that of protecting the investor. It has nothing to do with the question of rates for electricity or gas in any way. There is one place, however, where the securities of electric and gas concerns would be much greater for the investor, much better for the consumer, and much better for the utility itself when panic comes. The utility should keep its real value more nearly equal to its outstanding securities. This has been a matter largely under State regulation, but the depreciation allowances annually given to these utilities have not been applied for the purpose intended. In the meantime structures and machinery have become obsolete or rotted to the earth. If the utility company would use a reasonable depreciation allowance to pay off part of its securities outstanding, it would be better for itself and for the consumer and particularly for the investor. There would be r dollar value for every dollar in the security. This seems to be the meaning of section 11 of the Public Utility Holding Company Act.

With the savings of the masses made secure in our banks, especially with the insurance brought about by the social-security law, it remains to put the securities of the Nation on a more honest level and free from the false statements that bait an innocent buyer. Then, when we go again from optimism to despair in the next depression, that depression will have been deprived of its severity. Everyone should work to this end.

Necessity for a Federal Antilynching Law

EXTENSION OF REMARKS

OF

HON. ARTHUR W. MITCHELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 6, 1937

RADIO ADDRESS BY HON. ARTHUR W. MITCHELL, OF ILLINOIS, ON APRIL 5, 1937

Mr. MITCHELL of Illinois. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address recently delivered by me:

Ladies and gentlemen of the radio audience, I am to address you for a brief moment on the subject The Necessity of the Passage of a Federal Anti-Lynching Law. The time allotted me today is so short it will not be possible for me to do more than merely introduce the subject and state a few facts.

Lynching is a form of lawlessness peculiar to the United States and has been practiced at some time during the past 40 years in every State of the Union except the six New England States. More than 5,000 men and women have been lynched since 1882. Almost a third of this number were white men. This is a great national evil that has brought disgrace to what we call American civilization and justice. I think it is fair to assume that out of these more than 5,000 cases of lynching there has been less than 3 percent of convictions, which means that of these murderers and mobbists practically all of them have gone without punishment, and that in the Nation today there are walking around in freedom perhaps thousands of persons who have committed murder in its most vicious form and have never been called upon to answer to the laws of the country.

While lynching knows no section of the country, the largest number of victims during the past 40 years have been in perhaps 12 or 13 States. I wish to give you these statistics showing the number of persons lynched from 1882 to 1930, by States and by races, dealing only with States where more than 100 persons were lynched during that period of time:

Lynchings, by States, 1882–1930

State	Whites	Negroes	Total
Alabama	46	296	342
Arkansas	64	230	294
Florida	25	241	266
Georgia	34	474	508
Kentucky	62	151	213
Louisiana	60	328	388
Mississippi	45	500	545
Missouri	53	63	116
Oklahoma	116	44	160
South Carolina	5	154	159
Tennessee	44	196	240
Texas	143	349	492
Virginia	16	88	104
Total	513	3,314	3,827

Many of these States have passed legislation directed against this evil. Virginia particularly passed an antilynching law in 1928, and there has been no lynching in that State since the passage of this measure, although some of the blackest crimes of the country have been committed in that State; but the officers and the communities have not indulged in this crime and have let the law take its course, and who can say that the State of Virginia has suffered any loss by reason of the fact that it, by its own hands, has wiped out this form of lawlessness—at least for the present?

Many Governors of Southern States have declared themselves unalterably opposed to the crime of lynching and have been outspoken in their denunciation of mobs. Prominent among these will be found the names of former Governor O'Neill, of Alabama; Governor Graves, the present Governor of Alabama; John Pollard, former Governor of Virginia; O. Max Gardner, former Governor of North Carolina; John G. Richards, former Governor of South Carolina; L. G. Hardman, former Governor of Georgia; Flem D. Sampson, former Governor of Kentucky; Dan Moody, former Governor of Texas; the late Senator Huey P. Long, former Governor of Louisiana. It is interesting to note the statement made by Governor Long, which I here quote: "I have been Governor of this State for 2 years, and not one, white or black, has been lynched during that time. The policy of my administration has been to compel an observance of the law on both sides. That is, there be no pardon except the authority of the State; that is, that the State administers all 'revenge' of the law after due

process. I recently refused to be bludgeoned into setting an early date for a hanging to avoid a lynching, taking the stand that the customary delays would apply to all and that the State would not be pushed by a threat of violence. There was no lynching."

Organizations of white women in the following States have declared against mob violence and in favor of the passage of an antilynching law: Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. I have reason to believe that practically all of the opposition to the passage of a law in the Seventy-fifth Congress will come from Members of Congress who believe that this is a matter for the States, and any Federal law on this subject will be unconstitutional, and therefore are unwilling to commit themselves to a Federal law directed against it. They say lynching is murder and should be dealt with as such. Lynching is different from the crime of murder in this respect: In murder one or more individuals take life, generally for some personal reason. In lynching a mob sets itself up in place of the State and acts in place of the processes of law to mete out death as a punishment to a person accused of a crime. The mob sets itself up as judge, jury, and executioner. In murder the accused merely violates the law of the State. In lynching, the mob arrogates to itself the powers of the State and the functions of the Government. It is therefore not only against the act of killing that the Federal Government should exercise its powers but also the act of the mob in arrogating to itself the functions of the State and substituting its actions for the due processes of law.

If the other States in which lynchings have been committed exercised the same vigilance in the enforcement of law that Virginia has exercised during the past 10 years, there would probably be no excuse for urging the passage of this bill at this time; but inasmuch as these States have neglected to do it as a matter of protection of human life and a protection of the Government itself, it is the duty of the Federal Government to enact this law which I claim is thoroughly constitutional, as the fourteenth amendment provides in part, I quote: "Nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law." Under the equal-protection clause it is perfectly clear to me that the Federal Government has the right to step in where these States have failed to protect human life and make good this constitutional guaranty.

At this time no piece of legislation before the Congress is more important to the protection of the lives, safety, and welfare of the citizens than an antilynching bill. So great is the national concern as regards lynching that the President has felt called upon to denounce this "vile form of collective murder" and to berate its apologists. Thus a number of years ago, following the lynching of two youths at San Jose, Calif., when the Nation was shocked and indignant over the endorsement by the then Governor of that State of mob ruthlessness, President Roosevelt denounced lynching as "collective murder" and declared: "We do not excuse those in high or low places who condone lynch law."

One of the pledges I made when I was elected to the Congress was that I would use all of the influence and power I could command to see that either the Seventy-fourth or Seventy-fifth Congress pass an antilynching bill. I introduced such a bill immediately after I was sworn in as Congressman. This bill did not pass during the Seventy-fourth Congress—not even a hearing was held. Last Thursday, after a hearing, the Judiciary Committee favorably reported my antilynching bill, H. R. 2251.

This bill will be enacted into law this week provided the Rules Committee will give a rule, which thus far we have failed to get. The Gavagan bill, which has been placed on the calendar through 218 Members of the House signing a discharge petition, will come up later next week, should 2251 not pass or should it not be called up. I believe that I have the best bill among the 59 which have been introduced in the House this session of Congress. I should like to see my bill become law, but as I have said repeatedly and as I said to an officer of the National Association for the Advancement of Colored People March 20:

"I expect to vote for whatever antilynching bill we are able to get before the House. Naturally, I am more interested in the passing of my own bill than in any other bill; but the authorship of the bill means little to me as compared with the importance of the legislation itself."

Charles Hayden

EXTENSION OF REMARKS

OF

HON. EDWARD A. KENNEY

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 6, 1937

Mr. KENNEY. Mr. Speaker, the time comes occasionally when Members of Congress may well pause to consider the good that men do. Engaged, as we are, in endeavoring to solve great problems affecting the general welfare, our thoughts go out to the aged, the adult, and the youth of the country.

Perhaps in the crisis through which we have passed youth has suffered the most severely. The President and Congress by law have provided some measure of alleviation, but to a limited extent.

More than ever before youth should be the object of our solicitude. All over the world, the enthusiasm of youth, the restlessness of the parent reflected in the young, the flaming desire of boys and girls to spring to the relief of their depressed families, all have brought about a new condition, a fresh problem. Our youth eagerly, anxiously, seek new opportunity. Despite temporary limitations, our youth will find their goal, if we but preserve to them the things rightfully theirs—if we are their friends.

Our youth need friends. They have found a friend and benefactor in the late Charles Hayden.

In establishing the Charles Hayden Foundation for their benefit Mr. Hayden provided in his last will that his residue estate of approximately $50,000,000 should be administered and disposed of so that the greatest good would result to the greatest number, pointing out that it had long been his cherished aim and purpose to establish a foundation, the income from which, and if need be the principal, should be applied in the education of young boys and young men, especially in the advancement of their moral, mental, and physical well-being.

He was, he said, firmly convinced that the future of this Nation and of the world depends in no small part on the young men of the United States, and that if they receive proper training in boyhood and youth through education, mental recreation, wholesome educational entertainment, and coordinated physical training, and what is more, if in addition they be fostered and encouraged in the manner of right and proper living and the principles thereof properly inculcated in them, to the end that they may be kept from evil environments and guarded against baneful influences, there will be reared a nobler race of men who will make better and more enlightened citizens to the ultimate benefit of mankind.

Knowing Charles Hayden as I did, the sentiments so expressed portray the fine, lovable, and ardent spirit of a leader of men who fully recognized the importance of forever keeping open the high road of opportunity.

Thus did he preface the bequest in his last will for the establishment of a foundation bearing his name, to aid needy boys and young men, to assist in charitable and public education, to found college scholarships, to build and equip clubs and gymnasia and recreation centers, and assist colleges, schools, and hospitals, all for youth.

It must be realized by all of us how timely his gift appears on the horizon of youth. His philanthropic and humanitarian act is of real importance, reducing, as it will, the cost of providing for our youth, preventing juvenile crime through improved living conditions, conserving the heritages of youth.

His surviving partners, Arthur J. Ronaghan, Edgar A. Doubleday, and Erle V. Daveler, as executors and trustees of his estate, can be depended upon initially to carry out faithfully the purposes of the late senior member of their firm.

Not only will the youth of the Nation know Charles Hayden as the embodiment of many virtues that distinguished him who so well provided for their betterment but they will come to learn and appreciate the value of those things that make for the opportunity which permitted him to become a leader in the finance and affairs of America, as indeed he was.

Of New England stock, he believed in doing and daring, and staked all on his youth. He came from an old Boston family and received his education at the Massachusetts Institute of Technology. At the age of 21 he undertook to form his own business and advanced rapidly.

He had applied himself particularly in economics and mining engineering and foresaw the future of copper in the electrical field. So it was that he concentrated upon the

development of the country's copper mines. With such resources as he could command he formed the firm of Hayden, Stone & Co., and early in his career became a member of the Boston and New York Stock Exchanges, the New York Cotton Exchange, and the Chicago Board of Trade. The electrical business began to thrive and copper stocks rose rapidly. Largely through Mr. Hayden's mining knowledge and financial wisdom, his firm prospered, its interests expanded, and eventually the advice and service of his firm were sought by the leading corporations of the country.

Charles Hayden stood like a mountain peak in the busy marts of the financial and business world. Practically every concern with which he was associated boasted of a national reputation and a name which was familiar in the business and financial world. He grew steadily in importance, keeping abreast of the Nation in its rapid strides in a remarkable development.

But Charles Hayden never became steeled against the world or its people. On the contrary, he became noted for his many benefactions and philanthropies, notably the Hayden Planetarium in New York. Throughout he was mindful that the fame and power which he achieved came to him through the opportunity afforded him in his youth, and now by his last will he has done much toward preserving that selfsame opportunity to the boys and young men of the future.

Our youth, our Nation, both benefiting, will cherish the memory of Charles Hayden.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ALBERT G. RUTHERFORD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 6, 1937

Mr. RUTHERFORD. Mr. Speaker and Members of the House, ever since the President put forward his surprising proposal to "pack" the Supreme Court I have received numerous letters from my constituents opposing such a proposition, and I received one a short time ago which I believe will be of interest to the Members of the House, in that it shows just what effect this holding of the members of the Supreme Court up to abuse and ridicule is having upon some of the people of this country. It is a condition to be deplored by every patriotic citizen and well-wisher of our country. This is the letter:

HON. ALBERT G. RUTHERFORD,
House of Representatives, Washington, D. C.

DEAR SIR: As you wish and need the reactions, sentiments, etc., of citizens generally, and from our section in particular, on the now famous (or infamous) Supreme Court conflict precipitated by President Roosevelt, may I report an impressive incident which I witnessed with dismay?

Two or three weeks ago my husband and myself attended a matinee in one of the moving-picture houses in Port Jervis, just over the border from Pike County, as you know, and which is patronized by "our people", as we have no theater in the county.

Well, among the pictures and scenes of current events, one of our noble body of representative men—that of the present Supreme Court Justices—was flashed upon the screen. Immediately there was a hiss here, another there, which was picked up by what seemed a majority of the audience, with hoots and boos added to show the disrespect, distrust, and contempt.

It just made one boil with righteous indignation to hear such "trash" dare to profane such a high-grade group—an almost holy one as we have become to feel, and they, ever mindful of their exalted position of honor, to hold sacred this trust, as such.

Well, back to the show: Next, a flash showing Senator Vandenberg making a verbal statement as to why he was opposed to "packing proposal." He too was met with hisses and boos. Following him, if I recall correctly, a Congressman from Tennessee to tell why he was for it. Instantly the audience gave cheers and applause. They did not hear (nor care to) what the man was saying; simply one could see his mouth move, the noise drowned out the speech. This is to show how unthinking the mob is.

But the great shock and significant horror of this seemingly trivial occurrence was that the members of our esteemed Supreme Court should be treated as if they were not only enemies of the people but that they were abused and held in contempt like lowly gangsters.

Perhaps this will give you an angle which has not been presented—but, I fear, one that is to be reckoned with. See how court rulings are increasingly disregarded by the various so-called sit-downers.

My dear Congressman, what are we heading for? Yours is a great responsibility and, if only a wee voice, you must be heard and let the others, while they have any vision or sanity left, make a chorus of protest.

With sincere respect and esteem, I am

Yours truly,

_____.

Mr. Speaker, as I said before, such outbreaks are to be deplored. However, what can we expect from the masses when they are urged on by the President and his satellites in all parts of the country? Ever since the day that the Supreme Court, by a unanimous decision, declared the President's pet scheme, the N. R. A., unconstitutional he and his "copycats" have delighted in sneering at the members of the Supreme Court and in holding them up to ridicule and scorn. Surely he must have known, if he knew anything, that what he and his fawning dependents were doing could not but cause disrespect, not only for the Supreme Court but for all courts. But what cares he that the people are losing their respect and old regard for the courts and the law in general. He seems ready and willing to break down the bulwark of our liberties if he can gain his point. We see the effects of his sneering attitude toward the courts in the present sit-down strike situation. The decrees of the courts have been flaunted and laughed at and totally disregarded. Mob rule and anarchy have taken the place of law and order. Yet, though called upon by the most prominent members of his own party to make some declaration as to his position and ideas in the matter, he has remained silent, thus giving tacit approval to the use of unlawful methods on the part of the strikers. John D. Miller, Esq., a lawyer of ability and a man prominent in farm matters of the country, and a resident of my district, testifying before the Senate Judiciary Committee the other day, well said, "Distrust of courts breeds disrespect for laws. Disrespect for laws breeds violence." We have not yet seen the end of the effect of these months of ridicule and abuse upon courts and judges. The dark clouds of mob rule and anarchy appear on the horizon; and if the situation is not sternly dealt with now, the country will pay a staggering price in a few months for the failure to do so. The President seems to be sowing the wind at present, but just as surely he will reap a whirlwind in the future. Chickens always come home to roost. He cannot have the fun of seeing the judges writhe and wiggle now and expect not to pay dearly for it in the future.

Let power and justice, side by side,
Bring civil peace and civil pride.
Still may the ancient order bide
Of law and liberty.

Founding of the Grand Army of the Republic

EXTENSION OF REMARKS

OF

HON. HUGH M. RIGNEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 6, 1937

Mr. RIGNEY. Mr. Speaker, under leave to extend my remarks in the RECORD I call attention of the Congress to the fact that this is an important anniversary in our Nation's history, the founding of the Grand Army of the Republic.

This took place on April 6, 1866, exactly 71 years ago today, in Decatur, Macon County, Ill., which is in my congressional district.

Its founder was Gen. Benjamin F. Stephenson, of Illinois, who later was chosen its first commander in chief.

Post No. 1, of Decatur, received the first charter issued by the new organization, and this original charter now reposes in the vaults of the Millikin National Bank, of that city, as do the minutes of the first meeting. Of the 12 charter members, all have answered the last roll call except Comrade Chris. Riebsame, of Bloomington, Ill.

In recognition and honor of this first Grand Army post and its distinguished founder, Dr. Stephenson, two handsome monuments have been erected, one in Central Park in Decatur and one at the intersection of Seventh Street and Pennsylvania Avenue in Washington.

Due to the fact that the ranks of this once vast Grand Army of the Republic are being rapidly depleted by the sweep of time, I think it altogether fitting and proper that we pause today to pay tribute to these men who, by their patriotism, valor, and sacrifice, made possible the preservation of this beloved Nation of ours.

Reasons for Repealing the Surplus-Profits Tax

EXTENSION OF REMARKS

OF

HON. ALFRED L. BULWINKLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 6, 1937

EXCERPTS FROM ADDRESSES BY HON. JESSE H. JONES, CHAIRMAN OF THE RECONSTRUCTION FINANCE CORPORATION, AND OTHERS

Mr. BULWINKLE. Mr. Speaker, I have introduced in the House a bill, which has been referred to the Ways and Means Committee, which has for its purpose the repealing of the tax on undivided profits as enacted in the Revenue Act of 1936. To be perfectly frank, I have slight hope that this provision of the law will be repealed at this session of Congress. It is no idle gesture on my part in introducing this bill; while I realize that it will not bring about a repeal of that section of the act, yet I think that it might bring to the attention of the Treasury Department, of the Ways and Means Committee, and of the membership of this House the necessity for at least amending the act.

My reasons for asking for the repeal, or, at least, the amendment, of this section of the Revenue Act of 1936 are that I feel that it is a dangerous provision of the law. To my mind this provision of the law has the tendency to produce poor economic management in those corporations which are well off financially; and for those other corporations that are not so well off financially, and that have had a slow recovery from the depression, it affects them very seriously. From my own knowledge of what is happening in North Carolina, I shall call to your attention as illustrations three classes of corporations which were hard hit during the depression:

The first is corporation A which has a large deficit; and, if the directors should declare a dividend, they, the directors, are individually responsible to the creditors of the corporation under the North Carolina law. And, yet, if the dividend is not declared and paid, and if the corporation happens to have made a profit for the year, they will have to pay the tax, which is nothing more or less than penalizing the corporations, because the directors acted in accordance with the law.

The second example, corporation B, has outstanding preferred stock, and under the preferred-stock agreement a sinking fund must be set aside before dividends on the common stock can be paid. The working capital of this corporation does not permit the setting aside of the sinking fund; and dividends are, therefore, prohibited. Under the Revenue Act of 1936, the corporation will be required to pay the surtax on the undistributed earnings, which payment places a penalty upon the corporation, because its management acted in good faith with the holders of the preferred stock.

The third example is the case of corporation C, which is in receivership, and, therefore, naturally cannot pay any dividends to the stockholders. There is a question, we assume, as to whether or not the corporation is insolvent. If it is decided that although the corporation is in the hands of a receiver, it is not yet insolvent, then the corporation would have to pay the undistributed profits tax; which brings us to the point of the absurdity in this situation, because it cannot make any distribution of its profits to the stockholders on account of being in the receivership; and it is likewise penalized.

But there is nothing that I can say that would equal or carry with it the meaning of the necessity for at least amending this provision of the revenue act as that which was said by various Government officials whom I now quote.

The first is that of the Honorable Jesse H. Jones, Chairman of the Reconstruction Finance Corporation, in a campaign speech in behalf of President Roosevelt and his administration, delivered over the radio on October 13, 1936:

> I sincerely hope Congress will review and modify in some respects the 1936 Revenue Act when it meets in January. * * * Especially I would like to see an amendment to this act that would encourage expenditures for modernization of all character; for replacement of plant, machinery, and equipment; for rebuilding; and one that would make some further provision for institutions laboring under debt. I have every confidence that the President will be entirely willing to have Congress review this measure, especially if it can be shown that there are inequities, or that any provision in the act retards capital expenditures.
>
> There is a wide difference in opinion as to the principle of taxing undistributed net income. At all events it is not a new idea. It has been discussed and considered for many years. Several legislative attempts have been made to force distribution of unreasonably large corporate surpluses, but up to the present act these attempts have failed.
>
> Certainly, if business enterprises are permitted to accumulate reasonable reserves to carry them through periods of depression or slack business, and provisions are made that will enable those in debt to pay only normal taxes until they get out of debt, and there is a modification that will encourage and permit capital expenditures, the principle of taxing undistributed corporate net income is entitled to a fair trial. Profits should not be allowed to accumulate for the purpose of avoiding or deferring payment of taxes, or of extending the operations of a corporation beyond reasonable and proper limits. Furthermore, we might well consider the danger of monopoly in running too much to size and in getting the right fielder too far from the home base. In any event, we pay income taxes only on net profits.

And also another such radio speech was made by Mr. Jones on the night of November 23, in which he said:

> The extra dividends that are now being paid by some corporations may be misconstrued in determining the sound value of a stock. It should be understood that failure by a corporation to declare dividends equal to its taxable net income would require the corporation to pay a graduated surtax on such of its net taxable earnings for the year as are not distributed in dividends. If a corporation distributes all its taxable net income, it will naturally have an irregular dividend rate, because its earnings will vary from year to year.
>
> This new tax is not a tax on existing surplus but a tax on the undistributed net income of a corporation, after depreciations and deductible losses, dating from January 1, 1936.

The second quotation that I wish to call to your attention is that of Mr. Joseph P. Kennedy, former Chairman of the Securities and Exchange Commission, and now nominated by the President for Chairman of the Maritime Commission. In the year 1936 he wrote a book entitled "I'm For Roosevelt", and on page 76 of the book he had this to say about the "new and unexpected theory of taxation" which was contained in the Revenue Act of 1936:

> Finally, I believe the statute, even as presently enacted with a multitude of concessions to special circumstances deserving exemptive treatment, is premised upon a fallacious economic principle. As I view it, the underlying postulate of this statute is that net income is the equivalent of disbursable income, and that it is fair to tax disbursable income and to compel its disbursement by a heavy tax on the income not so disbursed. Space does not permit my detailing the numerous instances where prudent management would require that a sharp distinction be drawn

between net income and that properly the subject of dividend declaration.

The adverse efforts of the new act are, of course, a matter of prognosis. But it appears to me that the revenue act may result unfavorably to two types of corporations. First, consider the company which has been hard hit by the depression and has been slow in recovery, and is now struggling to its feet. The compulsory change in the distribution policy of such a corporation which the introduction of the surtax on undivided profits is bound to bring about is likely to leave the company in an impaired condition from the viewpoint of financial stability. Secondly, the company, which is well off financially, is now given a premium not to save. Its dividend policy will be of a hit or miss variety, depending on the fortunes of the year, and should another depression overtake us it may find many such companies unprepared for a severe financial storm.

My third quotation follows:

Under date of November 1, 1936, the Interstate Commerce Commission submitted its fiftieth annual report to the Senate and the House of Representatives, and on pages 18 and 19 of the report it is found that the Commission recommended to the Congress that the Revenue Act of 1936, imposing a surtax on undistributed profits, should have the consideration of Congress as affecting steam railroads. The Commission said:

Recently our attention has been called to certain provisions of the Revenue Act of 1936, namely, those imposing a surtax on undistributed profits, and to the effect that these provisions will have upon sinking funds and additions-and-betterments funds to be set up out of income * * *.

The Revenue Act exempts from the surtax amounts paid out or reserved for retiring funded debt, or withheld from stockholders, under written contracts of a certain kind executed prior to May 1, 1936. The exemptions do not apply in such cases if the contract was entered into subsequent to April 30, 1936. This means that the amounts used or irrevocably set aside under contracts entered into after the date last mentioned will be subject to the surtax and that companies that do not so use their income or set up such funds but distribute all their net income will not be subject to the tax. This also means that those companies which have weak financial structures and should use their income to improve their property, retire funded debt, and build up a liquid surplus against a day of future trouble will, if they undertake to do so, be subject to a penalty, whereas railroad companies with strong financial structures, and able to finance their requirements through the issue of stock, may distribute all their income and thus escape the surtax.

It is our view that railroads with weak financial structures and those just emerging from receivership or reorganization proceedings under section 77 of the Bankruptcy Act should be encouraged to use their earnings to the extent authorized or approved by us to build up and improve their property, retire their funded debt, and create corporate surpluses in amounts sufficient to meet their emergency needs, support their borrowing powers, and afford insurance against obsolescence. We suggest that the situation of the steam railroads under the Revenue Act of 1936 should have the further consideration of the Congress.

Department of Social Welfare Should Be Established—Government Works Should Be Permanent—Balance Budget by Taxation

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 6, 1937

Mr. MAVERICK. Mr. Speaker, under unanimous consent to revise and extend my remarks, I include a statement by my colleagues, EDWARD C. EICHER, of Iowa; ROBERT G. ALLEN, of Pennsylvania; JOHN M. COFFEE, of Washington; H. JERRY VOORHIS, of California; FRED H. HILDEBRANDT, of South Dakota; FRANK W. FRIES, of Illinois; and myself. For some time a group has met discussing the problems contained in the statement.

We have acted as a central steering committee and have attempted to coordinate the general views of the group. We submit this to the public, believing that the views represent more than a hundred Members of the House of Representatives.

The statement, for full reading and criticism by all Members of the House of Representatives, is as follows:

EVERY WILLING WORKER IN AMERICA HAS A RIGHT TO A JOB AND OPPORTUNITY TO SUPPORT HIS FAMILY BY CONSTRUCTIVE LABOR

The President has stated that America's great economic need today is for stimulation of industries producing consumer goods.

Our outstanding economic problem is how to provide a constant and expanding market at home for the products of our farms and factories.

Millions of able-bodied, willing, and efficient workers remain unemployed and will, so far as anyone can see, be unemployed for some time to come. Barring Government action, they will be without purchasing power.

CRYING NEED FOR PUBLIC WORKS, FLOOD CONTROL, CONSERVATION

There is crying need for public works in flood control, conservation of natural resources, low-cost housing, park and playground construction, and reforestation; and there is just as great, if somewhat less evident, need for community recreation programs, adult education, and the development of the cultural life of all our people.

This work cannot be carried on by private industry, since there is no profit in it.

State and local resources and revenues are being drawn upon for ever-increasing contributions to the social-security program and for direct relief.

LET US PREVENT ANOTHER COLLAPSE

Another 1929 collapse can only be prevented if the buying power of the masses is maintained as production and profits increase.

The only answer is a stable, well-planned, efficiently conducted Federal program of public works employing the unemployed.

W. P. A. has done an excellent job under severe handicaps.

But we can and must improve on W. P. A. as we move out of the emergency and attempt to stabilize economic conditions on a new and higher level.

Although there are probably 10,000,000 unemployed, competent experts estimate that the employment of 3,000,000 persons on a Government works program in the year 1937–38 will spread enough buying power to make possible continued economic advance and to meet the needs of the people.

It will cost approximately $800 a year of Federal funds to employ a man and buy materials for him to work with.

ESTABLISH DEPARTMENT OF SOCIAL WELFARE

The time has come to face facts and make specific proposals. In the light of the above, we therefore suggest—

(1) That a Department of Social Welfare be established.

(2) That this department organize, plan, and conduct the Government works program to provide work for the unemployed and to do necessary public work.

(3) That the secretary of said department submit annually to the Congress estimates of the number of persons to be employed in the works program in order to meet the individual needs of the unemployed and the general economic needs of the Nation, together with a tentative program of work projects and the approximate cost of employing these people on these projects.

(4) That Congress appropriate money for such a Government works program as it would do for any other regular expenditure of the Government, and that the item of the Government works program appear annually in the Budget.

LOW-COST HOUSING AN IMPORTANT ITEM

(5) That in the act setting up the Department of Social Welfare sufficient latitude in the choice of work projects be given, so that, in addition to flood control, conservation, and similar work, the construction of low-cost houses can be included and the wasting of public money on useless or made-work projects may be avoided.

(6) That persons employed on the public-works program be hired solely on the basis of their need for a job and ability to do it efficiently; and that they be permitted to take private employment at any time that it becomes available without losing their right to return to their Government job when the private job is through; that Government employment be expanded when private industry lays men off and contracted when it takes them back again.

(7) That for the year 1937–38 sufficient funds be made available for the Government works program to employ 3,000,000 persons at $800 for the year. This will require $2,400,000,000.

TAX—ABILITY TO PAY, BENEFITS RECEIVED

(8) That additional taxes be levied on the basis of ability to pay and benefits received, so that the Budget may be balanced even with this increase over the Budget estimate of the President for this purpose.

This will revise the policy of the 1920's, when taxes were drastically cut, the gap between profits and accumulated surplus on the one hand and mass buying power on the other hand allowed to widen and the seeds of depression sown.

The expenditure of this money is absolutely essential if production is to continue to increase. And continuous, well-balanced

increase in production offers, of course, the only hope of getting unemployed people back into private industry.

It is economically and morally impossible to solve our problems if we leave out of account the welfare and consuming power of one-sixth of our population.

(Signed) EDW. C. EICHER, Iowa.
ROBT. G. ALLEN, Pennsylvania.
JOHN M. COFFEE, Washington.
JERRY VOORHIS, California.
FRED H. HILDEBRANDT, South Dakota.
FRANK W. FRIES, Illinois.
MAURY MAVERICK, Texas.

Enlargement of the Supreme Court

EXTENSION OF REMARKS
OF
HON. J. WILL TAYLOR
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 6, 1937

STATEMENT BY HON. J. WILL TAYLOR OF TENNESSEE

Mr. TAYLOR of Tennessee. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix of the RECORD by inserting a statement made by me on the method of the enlargement of the Supreme Court, published in the United States News in its issue of April 5 last, as follows:

I am inflexibly opposed to the President's present plan for enlarging the Supreme Court. This plan is obviously dictated by political considerations. It is aimed at political objective. It is manifestly designed to swamp the Court into subjection to legislative and Executive will. It is within the letter of the Constitution, but a gross violation of its spirit. It would inevitably and immediately subject this high tribunal to suspicion, and seriously impair the judicial authority of the Court in the minds of the people. It would sweep away our strongest bulwark against lawlessness and disorder.

I, nevertheless, do not favor a fixation of the size of the Court by constitutional amendment. The fact that Congress might abuse a power is no compelling reason for depriving Congress of that power. In times to come there might be a valid reason, based on judicial business, for desiring to have a smaller Court—or perhaps a larger Court. It is dangerous, in my opinion, to fill the Constitution with ironclad rules in matters in which flexibility might reasonably be needed.

We should be chary, I think, of amending our fundamental law in order to meet every passing apparent or so-called emergency.

I therefore, in sum, oppose the present proposal for changing the size of the Court, but shall equally oppose any proposal for freezing the size of the Court throughout our whole national future.

The South Looks Ahead

EXTENSION OF REMARKS
OF
HON. RICHARD B. RUSSELL, JR.
OF GEORGIA
IN THE SENATE OF THE UNITED STATES
Wednesday, April 7, 1937

ADDRESS BY HON. ROBERT R. REYNOLDS, OF NORTH CAROLINA, BEFORE THE SOUTHERN TRAFFIC SAFETY CONFERENCE IN ATLANTA, GA., APRIL 5

Mr. RUSSELL. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address entitled "The South Looks Ahead", delivered by the Senator from North Carolina [Mr. REYNOLDS] before the Southern Traffic Safety Conference in Atlanta, Ga., on April 5, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I am deeply grateful for the opportunity to be with you here tonight, at the climax of an all-day session at which most of you present have participated in discussions of ways and means for improving traffic safety conditions in the Southern States. If any subject could be given the brief talk that I shall make to you, it could well be "The South Looks Ahead." I say this because highways and highway transportation have become a deep-rooted part of the South, and when you consider the problems they present and plan for the future, you are truly looking ahead. And in meeting here in Atlanta, you give evidence that you are looking ahead for the South.

As you know, I am a Southerner. My entire life has been spent in the South. We hear much today of the old and the new South and the progress it has made. In outward appearance and material aspects, it has undergone changes; but underlying it all, its profound respect for government and its lofty ideals of citizenship, are those of the same old South.

Some of us sometimes look with pride to the conditions in the old South. They were unique. Perhaps there were elements of weakness in the economic structure, but they were admirable weaknesses. In the past, the South was a land of leisure and its people devoted much time to the study of literature, to art and to statesmanship. Today, in addition to all of this, there is work on the farm and in the factory and our people are receiving new rewards for their industry.

In speaking to you tonight, I shall do so in the dual capacity as a Member of the United States Senate and as a vice president of the organization that has made it possible for you to be together here tonight—the American Automobile Association. The part that the American Automobile Association, and the hundreds of motor clubs which are component parts of the organization, have played in the development of roads and highway transportation is sometimes not fully appreciated. But it is proud history to those of us who knew of its activities in the days when the motor vehicle was a crude contraption, and roads were only wide spaces between trees where horse-drawn vehicles had passed. We should not accept a great national institution of service as commonplace, because we are prone to accept our modern roads and our modern cars as commonplace.

At the outset, roads were built by townships and counties. Probably the first financial aid given to the counties by a State was in New Jersey in 1891. By 1903, 11 States were giving aid and 10 years later, in 1913, 42 States were aiding counties. But even then highways were being built around centers of population and not so much to connect those centers at any considerable distance from each other. The need for interstate roads was just beginning to be felt. Because of this need there arose a strong public demand that the United States Government should contribute financially toward road building as it had done a hundred years before. This demand took definite form in 1916 in the passage by Congress of the first Federal-aid bill providing for financial aid to the States to build roads, to be administered by the United States Bureau of Public Roads. When this bill was passed, all but three States were giving aid to counties and these three did so the following year.

However, it was not until the Federal-aid Act was amended and extended in 1919, resulting later in the Federal Highway Act of 1921, that we began to have a pattern for a national interstate system of roads with State highway departments cooperating with the Federal Bureau in giving the country a system of highways that is without a parallel on the face of the globe.

We must not forget the part that motor clubs have played in making these roads possible. They were the guiding hands that sent delegates to national conferences dedicated to getting America out of the mud. In fact, as many of you present will remember, the early-day motor club actually organized road-building groups and leaders in their respective communities, were not above filling a mud hole while their wives stood on the sidelines providing lunch and cheering them on. That was the spirit of the motor club, a civic spirit we should not forget in the hustle and bustle of our new economic conditions.

In speaking of these early days there is no more fitting thing that I could say here tonight than to pay a brief tribute to the late Clark Howell, an outstanding citizen, an outstanding publisher, and an outstanding gentleman, who for many years contributed to the material and civic progress of this great city of Atlanta. But in paying tribute to Clark Howell, I do so for another reason. I do so because of the fact that a quarter of a century ago, he had visions of what the automobile would mean to the new South and he was ever in the vanguard of the good roads movement. I am glad to know that his able son, Clark Howell, Jr., is today actively interested in the Atlanta Motor Club and has the same keen appreciation for civic development that was so long evidenced by his father. And I must not forget that I am in the home city of another great citizen of the South—my beloved friend, the late John S. Cohen, who also contributed to the new South in great measure.

Somehow the impression seems to prevail in some sections of the country that the South is without good roads today. What are the facts? Crossing and crisscrossing the 11 States invited to send representatives to this conference are more than 115,000 miles of surfaced State highways. There are thousands more miles of improved county roads. But the State highways, of course, are linked with the interstate system and bear the greater volume of traffic. Over these southern highways move each day some 3,725,000 vehicles registered in the names of citizens and many thousands more vehicles owned by residents of the East, the North, and the West. Summer and winter they find new travel thrills and new travel adventure in the southland. In other words, we have here in the South about 13 percent of the country's motor vehicles

and nearly 25 percent of the total mileage of surfaced State highways. To put it another way, there are an average of 70 vehicles to every mile of surfaced State highway for the country as a whole, but in the 11 States invited to be represented here there are only 30 motor vehicles to every mile of surfaced State highway. Certainly we can tell the world that we have roads—good roads.

But I am forced to admit—and with some degree of shame—that these great Southern States have not been as active as many other States in assuring maximum safety for those who use our roads. Several States have failed to enact sound laws to require that new operators show their ability to drive a car. Others have driver license laws, but they fall short of the mark when it comes to effectiveness.

Only 4 of the 11 States have a safety responsibility law, which is an effective weapon for removing from the highways for all times those who have proven themselves too reckless and too irresponsible to be allowed to drive. Only 3 of the 11 States have uniform rules of the road, with the result that State lines have become a symbol of confusion when it comes to the movement of traffic. Only 5 of the 11 States have State highway patrols, and in some of these the number of men is inadequate. To my mind there is no greater contribution that can be made to the cause of highway safety than to have ever present on our roads courteous and well-trained men whose very presence gives a sense of security to those who abide by the laws and puts fear into the hearts of those who would flout the law.

The accident situation in the South today is nothing short of tragic. It is particularly so because the South has always been noted for its deep, abiding interest in the safety of its citizens. The right of every man, woman, and child to receive maximum protection from the State has always been recognized. And it is most difficult for me, as one who has spent his life in the South, to understand why our legislators have failed to give highway users the degree of protection to which they are entitled.

What has been the result? In 1936 more than 7,200 men, women, and children in the South had their lives snuffed out in highway crashes and tangles. There were 250,000 injured more or less seriously. Is this not an emergency condition? When some sudden disaster comes to our people the whole country rises quickly to respond with relief. And how can we reconcile that open-hearted spirit with the manner in which we ignore disasters every day and every hour on our highways?

The one hopeful thing is the fact that our people are becoming more conscious of these conditions than ever before. Evidence of it is found in the flood of bills pending in Congress and designed to reduce, if not eliminate, the staggering toll of deaths and injuries along the highways of the country. Some of these proposals seem practical and others are impractical. But the very fact that they have been advanced in Congress indicates that the States have failed to do a job that is of vital concern to the public welfare. I am happy to say that my native State of North Carolina is not in that category. The effectiveness of sound safety legislation is not better proven than by the fact that North Carolina was one of three Southern States to reduce its toll of motor deaths in 1936 as compared with 1935. But the number of highway deaths is still too high.

Perhaps the most significant of the many bills pending in Congress are those introduced by Senator TRUMAN, of Missouri, and Senator RUSSELL, of Georgia. The Truman bill would prohibit the movement in interstate commerce of all vehicles registered in States that do not have a driver license law with mandatory examination. The obvious purpose of this measure is to encourage States to limit the use of the highways to those drivers who have demonstrated their ability to safely handle a car. It is also an indication of what we may expect in the future in the way of congressional action if the safety problem is not solved. The bill introduced by Senator RUSSELL would provide for Federal funds to be appropriated to the States for the support of State highway patrols. Whether these two measures will be given serious consideration during the present hectic session I cannot say. But I will say that the present killing of 38,000 people each year on the highways and the injuring of a million more must not be allowed to continue so long as there are means of controlling this national emergency.

There are some things that the Federal Government has already done. Underway in some 40 States are highway planning surveys, which will undoubtedly go far in giving us information we need in planning roads for the future. Equally as important, the Federal Government has a broad program for constructive research; building safety into highways that are interstate in character by reason of connection at State lines, and the elimination and protection of rail highway grade crossings—a program that is properly Federal in scope.

However, I might here sound the solemn warning that highway transportation has been developed because of the free movement it has offered to millions. As a result our country has attained a mobility never before known to man. Control of these vehicles, beyond that of commercial operators which are essentially interstate in character, properly belongs with the States. There are certain constructive things that the Federal Government can and should do. Some of them are being done. But any undue Federal restrictions on free movement, whether it be attempts to control speed through governors on automobiles, as has been suggested, or something else, will retard the development of a great industry and minimize the benefits we have gained from our new mobility. I believe that in this statement I reflect the attitude of many of my congressional colleagues.

Nevertheless, we have many precedents in other fields of Government action where individuals and States did not solve problems that could have been solved, necessitating Federal action for the common good. I have high hopes that this will not come in connection with highway use. And I particularly address this reminder to legislators in those States which have continually failed to enact sound safety legislation.

Legislative activity and other safety programs are, of course, being stimulated by the high degree of interest in safety shown by the manufacturers of automobiles. It is a tribute to their public spirit that they have always been concerned with the safe use of their products. One evidence of this is continued improvement in the mechanical features of cars to assure maximum safety and ease in operation. Another is the coordinated effort to ban advertising of high speeds which has the tendency to encourage fast driving. The automotive industry is also helping materially by the support being given to groups directly concerned with safety. As a result, organizations with a total membership of nearly 40,000,000—patriotic and service groups—have been enabled to give more effective safety advice and to mobilize the public for intelligent action.

Up to this point I have dealt briefly with what is being done about the situation through sound legislation and the development of public interest in the problem. Equally as significant gains are being made in another field. It is the field of educating youngsters and grown-ups in self-protection when driving and walking, and in educating and training new drivers and those who will drive in the future.

At the moment the Federal Government is spending millions of dollars each year to assist the States in providing vocational education to fit young men and women for the practical art of earning a living. What could be more fitting than to have such institutions train students to drive and thereby help assure that they will live?

No better evidence of the widespread growth and effectiveness of the safety education programs in our schools can be found than the fact that the President of the United States paused in his official duties some months ago to extend greetings to several thousand school safety patrolmen gathered on the White House lawn. They were present from many States.

I checked just the other day and found that 250,000 boys and girls are enrolled in the patrols sponsored by school and police authorities in cooperation with the American Automobile Association. These trained youngsters daily safeguard 7,000,000 schoolmates in some 3,000 cities and towns. This activity has repeatedly been approved by the United States Bureau of Education as an important phase of school work, and it is additional evidence that something is being done about bringing to our people a greater degree of safety.

As safety education in the grade schools has been expanded, there has come a comparatively new field of educational activity. It is driver education and training, now making remarkable strides.

One of the tragic angles of the situation today is that while a mass attack on the problem is under way and corrective measures are proposed we lack definite information on the extent of the "plague", if I may call it that. No better evidence of this can be found than statements in the press within the last few days. For example, one group concerned with highway safety tells us that 38,500 persons were fatally injured during 1936. Another group, which has an official status to the extent that it is financed by Federal funds, say that the number of motor deaths last year was 35,695. This difference of 2,800 offers concrete evidence of the need for unimpeachable and official statistics.

The seriousness of the problem should neither be overestimated nor underestimated. We should have the facts.

Certainly we should realize that with safer use of the streets and highways as our goal we should begin with a definite knowledge of just how many people are killed and injured annually, and how, when, and where. The logical place for the gathering of such data is an agency of the Federal Government, with the cooperation of States and cities. It would seem that the Bureau of the Census, with its long experience in gathering vital statistics, is the proper agency, and it is partially doing the job now. I firmly believe that the Congress will provide the additional authority and funds necessary.

It is my understanding that several measures with such an objective are now being considered, and I shall be glad to support these or take the initiative in advancing such a proposal. The Government now is performing many less important functions in endeavoring to aid the States in solving problems that are not near so pressing as reducing the effects of the "highway plague."

What about the future? Shall we continue to spend large sums for game conservation and forest protection—both worthy causes—and say that human life cannot be safeguarded on highways because the cost is too great? Shall we try to curb the sale of firearms and narcotics and then let anyone drive an automobile in certain areas without regard for their ability or physical qualifications? Shall we inspect the quality of meats and let any character of assembled junk be driven on the highways? Shall we view our experience with the accident problem during the last decade and continue to let proved irresponsible persons use our roads? These questions must be answered.

As I have previously said, I am strongly opposed to any Federal regulation that will have the effect of discouraging car use and retarding the development of motor transportation. The accident

problem is one that should be solved by the States and municipalities. However, there seems to be no question that unless some of the States which have lagged in meeting the problem take more aggressive action, there will develop a strong sentiment in favor of the Federal Government stepping in.

The primary purpose of this conference today is to set the wheels in motion for the South to plan its safety program and its safety activities for the future. As I have told you, our people far and near are becoming more safety conscious. The time may come when those planning vacation trips may investigate their proposed destination to see to what extent safeguards will be thrown around the use of the highways. Therefore the time is ripe for the South to act. We may expect many millions of new people to come annually to our parks and playgrounds. We may expect many millions of dollars in new revenue—revenue that will accrue to our citizens without depleting our mines, denuding our forests, or undermining our soil.

Several States have already laid plans for vast advertising expenditures to attract new people to the South. Can that advertising promise them safe highway conditions? Can we assure these people that our resident drivers know how to handle a car? Can we promise them that giant busses will not disregard the speed laws? And can we offer evidence that well-trained officers will be on duty along our highways? We should be able to assure these things, because they will be just as important to highway travel tomorrow as our scenic attractions and our historic traditions are today.

What organizations are best equipped to mobilize public sentiment in support of much-needed safety legislation, of much-needed road improvements, and of much-needed education and training of drivers? I will attempt to answer that question. I say the motor clubs, which have throughout the whole motor era been a bulwark of protection for those who drive. It was the motor clubs and their national organization that demonstrated to the world that the automobiles of the early nineties offered a feasible means of transportation. It was the motor clubs and their national organization, as I have said, that led the fight which gave us the roads we have today. Therefore, I say that the motor club is the proper agency to again show its strength and leadership.

It has been my pleasure to travel extensively by automobile. My travels have been abroad and through every State in this country. And it has been my experience that the States with the most active motor clubs have the most active safety programs, the best-planned roads, and the fairest taxation of car owners. But your motor club, your spokesman, and your agency of service can be only as strong as we individuals make it.

On every hand are signs that the South is truly looking ahead. It should also look ahead in safety and to use the adjective made famous by our honored President, we must look ahead now.

Sit-down Strikes and Unfair Industrial Practices

EXTENSION OF REMARKS

OF

HON. LYNN J. FRAZIER

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Wednesday, April 7, 1937

ARTICLE BY LEON GREEN, DEAN OF NORTHWESTERN LAW SCHOOL

Mr. FRAZIER. Mr. President, the dean of Northwestern Law School, Mr. Leon Green, has written an article relative to sit-down strikes which appeals to me as a very clear presentation of the subject. I ask unanimous consent to have it published in the Appendix of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Republic for Mar. 24, 1937]

THE CASE FOR THE SIT-DOWN STRIKE

The sit-down strike presents a new problem for Government and industrialists. The first reaction was that the sit-down strikers were mere trespassers against whom the equitable remedy of injunction was available. But this quick analysis seems to have been far too simple. As is frequently the case, what seems at first to be a simple situation upon further examination turns out to be one so compactly complex that its difficulties become apparent only after the closest study. Some conservative lawyers have, therefore, been slow, and doubtless will continue to be slow, in concluding the argument against the employees on the surface analysis which was at first brought forward.

The respective interests of employer and employee in their relations with each other have full recognition under the common law, statutes, and constitutions of Anglo-American jurisdictions. Within the past century everything affecting their relations has changed completely. The personal master has become an industrial corporation, a conglomerate of thousands of stockholders, bondholders, directors, corporate officials, managers, superintendents, and assistants of all sorts. The personal servant has become a labor union, itself a conglomerate of persons and organization almost as far-flung and equally as difficult to visualize as the corporation. The simple handcraft has become the highly coordinated mechanized mass-production processes of industry.

The industrial relation resulting from these changes differs as greatly from the simple relation of master and hired hand as does the modern industrial corporation from the personal master, the labor union from the personal servant, or industrial mechanization from simple handcraft. It is the result of a long, tedious, costly, evolutionary process. And the sit-down strike is but the latest step in the struggle between a large mass of employers operating under an institution known as an industrial corporation and an equally large or larger mass of employees operating or attempting to operate under a somewhat similar institution known as a labor union to work out their respective rights, duties, and privileges in industrial enterprise—enterprise resulting from the joint efforts of what we oversimplify as capital and labor.

The industrial enterprise is not made up merely of land, brick, mortar, and machinery on the one hand and personal services of many individuals on the other. These two great interests of property and personality are both essential to the enterprise, but each alone is meaningless to the industrial world. It is their joinder that creates the third great interest, the industrial relation upon which industry is based. It is their joinder that brings into existence this something distinct from the parental forbears as a child is distinct from its parents, or a corporation from its stockholders, a partnership from its members; about which cluster rights, duties, liabilities, and immunities not yet clearly articulated in terms of legal theory except as they are recognized as relations equal in dignity and value to those of property or personality.

That this something which has been in the process of development for a century or more has an existence all its own, as much so as the family or the corporation, both of which in like manner are made up of an indefinite number of similar relational interests, is all too clear. And that it—as the family and corporation have come to be by a process of evolution in human affairs—is a usable, workable, recognizable concept, requires no demonstration further than common observation and experience.

The industrial relation in its initial or formative state is the result of a contractual nexus between the two parental organisms of industry—those who supply its property capital on the one hand and those who supply its service capital on the other. But, as in the case of family, corporate, partnerships, carrier, and all other important relations, the slender tie of the initial contract is overgrown by a network of tissue, nerves, and tendons, as it were, which gives the relation its significance. The respective rights, duties, privileges, and immunities of the parties to the industrial relation are too numerous to recite here, but they are well known.

Both participating groups have contributed heavily to the joint enterprise of industry. The contributions of those who make up the corporate organization on the one hand are visualized in plant, machinery, raw materials, and the like. They can be seen, recorded, and valued in dollars. We call them property. On the other side are hundreds of personalities who have spent years training their hands and senses to specialized skills; who have set up habitations conveniently located to their work; who have become obligated to families and for the facilities necessary for maintaining them; who have ordered their lives and developed disciplines; all to the end that the properties essential to industry may be operated for the profit of the owner group and for their own livelihoods. Their outlays are not so visible, nor so easily measured in dollars, but in gross they may equal or even exceed the contributions of the other group. Both groups are joint adventurers, as it were, in industrial enterprise. Both have and necessarily must have a voice in the matters of common concern. Both must have protection adequate to their interests as against the world at large, as well as against the undue demands of each other.

Disputes have frequently arisen between employers and employees. Normally they have arisen on complaint of employees. In order to give weight to their demands, concert of effort was the first step. This resulted ultimately in the recognition of the union organization. Then came the strike, the closed shop, the union card, the sympathetic strike, followed by picketing, bombing, boycotts, and collective bargaining. These in turn were met in various ways, the lockout, strikebreakers, criminal prosecutions, injunctions, "yellow dog" contracts, company unions, espionage, and the like. An effective measure on one side has always called for a counter measure on the other. Like the less complex carrier-passenger relation, the relation between insurer and insured, the oil and gas lessor and lessee, and every other such relation, the industrial relation has been built slowly but certainly upon the reactions of the parties, the public generally, and Government to practices which have been employed by the one party and the other.

From such a background has come the sit-down strike. It is a refinement that could only result from years of struggle and bitter

experience. Having found the walkout ineffective, and picketing, boycotts, sympathetic strikes, and other measures severely restricted by law, unions have used the sit-down strike to avoid the difficulties of them all, to be more effective. Instead of employees severing their relations and thereby automatically placing themselves outside as dissatisfied former employees, they now insist on maintaining their relations while they negotiate about their complaints. Once they sever the relations they become strangers to the enterprise and trespassers if they remain upon the employer's premises, but as employees they stay at their posts ready to work upon condition that the employer shall negotiate with them. Thus they retain their interest in and relation to the common enterprise.

Moreover, they deny the employer the power to discharge them and thereby sever the relations they have with the industry. They insist that by negotiation some basis be reached upon which work of the enterprise may be continued. The right to fire is an incident of the simplest form of contract, that of employment at the will of both parties; it has no place in a relation which is based upon infinitely more than mere contract. A wife cannot fire her husband, a parent his child, a corporate stockholder other stockholders, one partner another member of the firm, an insurer the insured, a carrier its passengers, with impunity. Neither can an employer fire his employees en masse. These other relations are at best only analogous, but they give point. All institutions built upon relational interests of the groups concerned must submit to the obligations which have grown up around the particular relation, and if it is to be destroyed it must be done subject to such obligations.

The right to fire is a right to end the relation. Clear enough in the simplest forms of relations, it does not obtain between a group employer on the one hand as against group employees on the other. An industrial corporation cannot fire an industrial union. Industry has grown beyond that stage. To protect himself against incompetence, dishonesty, or malicious damage, it is the employer's right to fire the individual employee who refuses to respect his obligations. But used as a means of weakening an organization of employees, or as a means of refusing to negotiate with them about their common enterprise, the right to fire has no place. In the one instance it is used in defense of his interests; in the other it becomes a means to destroy the strength of the employee group and to escape the obligation to negotiate the industrial difference. It is thus that employees may peacefully sit and wait until their complaints are ironed out through negotiations between their representatives and the representatives of the corporate group of owners. They do not operate or do injury to the owner's property. They make no adverse claim of possession to the premises they occupy. They merely occupy them because they are an incident to the industry in which they have an interest. If more were needed, they could well claim a license coupled with an interest in the premises devoted to the enterprise. But they sit to negotiate some affair pertinent to their relation to industry.

And this is their right. If so, it is equally their right to protect themselves against attack.

Whither does this right lead? What are its implications? What are its limitations?

Strangely enough, though government has provided means for protecting every other important relation, it has not provided any means to settle the disputes of industrial employer and employee. They are not justiciable matters; the courts afford no remedy to either party. Political and economic, broad and irreducible to legal theory, the courts have left such disputes alone.

Is this then to be an empty right? Does government offer no protection to these interests when assailed by the parties themselves? Is this right a dead end?

Not by a long shot! True it is that government offers nothing affirmatively for the protection of employees' relational interests against the refusal of an employer to negotiate their differences, but neither does government offer an employer affirmative relief or protection, in absence of violence or fraud on the part of employees directed against his interests. Employer and employee hold their fates as to their common relations in their own hands. In that fact is found the significance of the sit-down strike. It gives employees a means of forcing negotiation, and such a means without the severance of the relations, without violence or other unlawful conduct.

But suppose negotiation results in failure, what then? Here is the gap that government has not filled and the one it must fill before we go very much farther. No one else can fill the gap. But until it has done so, there is nothing a court can do to adjudicate the issues between industrial employers and industrial employees, and it will therefore not intervene in behalf of either party. It will not rob employees of the advantage which falls to them as an incident of their relation. Their presence in the industrial plant so long as they refrain from fraud or violence does not violate their obligations as employees; they are not trespassers; they are still employees with all their relations intact. Nor should a court seek an excuse to take jurisdiction of such a situation on some incidental point and thereby prejudice the main dispute when it has no power to settle it directly. The courts have no part to play in such matters in absence of violence or fraud; they should leave the parties where they are; they have no means of their own to work fair settlements, and they should await the action of government through some agency better equipped to deal with such problems.

A court of equity will not act in absence of the invasion of a clear legal right. Even then injunction is a matter of sound discretion. It only became available in labor disputes where violence or its threat or some form of fraud against person or property was said to be involved. When neither is present, injunction has no part to play in labor disputes. In the peaceful sit-down strike the only claim as the basis for injunctive relief is the occupation of the industrial plant. But that is only an incident to the industrial relation which the industrial employee enjoys in the employer's property devoted to the enterprise. As long as it is occupied in good faith awaiting the adjustment of differences growing out of the industrial relation, occupation of the plant is not merely a privilege but the employee's right.

And thus it is that the sit-down strike may be the last step in the long, costly, brutal, and in many respects unintelligent struggle through which the industrial enterprise with its congeries of relations has evolved. Such is the history of most human institutions. But this struggle should now be over. Having won their recognition as joint adventurers in industry, the industrial relation having assumed so large a place in our social organism, employees should now be willing to submit their complaints, when negotiations have failed, to a duly organized, safeguarded, and intelligent Government agency so constituted as to have the confidence of employers, employees, and the public at large. The implications of such a method of settling disputes cannot be developed here. Both groups would doubtless be equally fearful of such a suggestion, and they will not accept it until they are certain that they are meeting on an equal basis before a public that is wholeheartedly devoted to fair play between them. It is enough to say that such an arrangement would necessitate responsible leadership of the highest type on the part of both groups, and that each group, along with the public, would have everything to gain and nothing to lose. The attitude of English capital, English labor, English public, and English Government at home and in the commonwealths has definitely pointed the way here.

This in brief is the case for the sit-down strike. It rests upon four fundamental propositions:

1. Employees have an interest in the industrial relation distinct from any property interest or interest of personality. Such interest is a valuable one of the same dignity as that of property and is given the recognition and protection of the courts as property.

2. Disputes between employers and employees with respect to industrial relations involve economic and political questions outside the jurisdictions of the courts; the problems involved are of such great difficulty administratively that courts will not undertake to adjudicate them but will leave them to other agencies of government and to the parties themselves in absence of such agencies.

3. Courts will not prejudice the issues between industrial employers and employees by assuming jurisdiction of issues incidental to the main dispute in absence of physical violence or fraud directed against the persons or property of the parties.

4. Occupation in good faith and peacefully of a plant devoted to industry by employees awaiting the adjustment of differences growing out of the industrial relation is but an incident of the industrial relation and in no sense unlawful.

LEON GREEN.

Minimum-Wage Decisions

EXTENSION OF REMARKS
OF
HON. ALBEN W. BARKLEY
OF KENTUCKY
IN THE SENATE OF THE UNITED STATES
Wednesday, April 7, 1937

LETTER OF EDWARD F. PRICHARD, JR.

Mr. BARKLEY. Mr. President, a very bright young man from Kentucky is a student at the Harvard Law School. His name is Edward F. Prichard, Jr. He has written a very intelligent letter to the Boston Herald with reference to the decision by the Supreme Court of last Monday on the minimum-wage case.

I ask unanimous consent to have the letter printed in the RECORD.

Without objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Boston Herald of Apr. 2, 1937]

JUSTICE ROBERTS' CHANGE HAS NOT BEEN EXPLAINED

To the EDITOR OF THE HERALD:

Two items appear on the editorial page of your issue for March 31 that, in my opinion, call for comment: One is your editorial on the Adkins case; the other is a letter from F. W. Denio.

The substance of both these items was that Chief Justice Hughes, speaking for the majority in the Washington Minimum Wage case, was accurate in the distinction he attempted to draw between that case and the Tipaldo case, decided last June. The distinction was this: In the Tipaldo, or New York, case, it was not open for the Court to reconsider the Adkins case, whereas in the Washington case it was open. What the Chief Justice actually said was that this question was not "deemed" to be open in the Tipaldo case. That was apparently based on the statement of Mr. Justice Butler in the Tipaldo case, where he said (at 298 U. S. 604): "No application has been made for reconsideration of the constitutional question there involved." Are these statements and inferences true? What are the facts?

1. Attorney General Bennett, of New York, filed a petition for certiorari in the Tipaldo case on March 16, 1936. At page 9 he said: "The circumstances prevailing under which the New York law was enacted call for a reconsideration of the Adkins case in the light of the New York act and the conditions aimed to be remedied thereby." That is plain enough language.

2. Paul H. Windels, corporation counsel for the city of New York, filed a brief in support of Mr. Bennett's petition. He said on page 4: "We ask this court to grant a writ of certiorari herein in order that the doctrine of Adkins against Children's Hospital * * * may be inquired into afresh. * * *"

3. This argument was noted by those opposing the New York law. On page 22 of Tipaldo's brief, his lawyers said, "The suggestion that there has been a change in conditions to warrant a departure now from the Adkins case is fanciful." This is reiterated on page 53 of the same brief.

4. Mr. Justice Butler and the Chief Justice could not have overlooked the dissenting opinion of Mr. Justice Stone. He says, on the last page, "In addition the petition assigns * * * that the circumstances under which the New York law was enacted call for a reconsideration of the Adkins case * * *. Unless we are now to construe and apply the fourteenth amendment without regard to our decisions since the Adkins case, we could not rightly avoid its reconsideration even if it were not asked."

5. As Mr. Justice Stone pointed out, there is no rule of law which either requires or permits the Court to declare a law unconstitutional where counsel defending the statute have made the mistake of arguing that an earlier case was distinguishable instead of arguing that it was wrong.

6. The Court, on October 12, 1936, denied a rehearing in the Tipaldo case, despite the fact that counsel again requested a reconsideration of the Adkins case.

7. In the Tipaldo case itself, Mr. Justice Butler, despite his statement that the Adkins case was not open to reconsideration, devoted the entire latter half of his opinion to reaffirmation of its "principles."

8. In the Washington case, Mr. Justice Sutherland in writing for the dissenters treated the Tipaldo case, as well as the Adkins case, as an answer to the majority. Mr. Justice Butler joined in this opinion.

What are we to make of this evidence? The only possible conclusion seems to me that, despite what Mr. Justice Butler and Chief Justice Hughes have said, the Adkins case was open for reconsideration in the Tipaldo case.

But why was it necessary for these things to be said? That is the crucial question.

First, as to Mr. Justice Butler. The Adkins case was universally unpopular. Everyone knew that, if decided the same way, the Tipaldo case would be even more so. The best way to excuse an unpopular decision is to make it appear inevitable. If the Adkins case was not reopened, the Court could say, "We had to do it under the Adkins case, and the Adkins case wasn't open." Thus the myth of mechanical law, proceeding from case to case, logically, could be preserved, for a time.

Second, as to Chief Justice Hughes. It would be difficult to explain why the Court was upholding a statute which only 5 months before was plainly unconstitutional. The composition of the Court had almost completely changed since 1923. It would be much easier if it could appear that what the Court was overruling was a 15-year-old decision. Hence this effort to make it seem as if the Court were not sanctioning what a majority of its members thought only 5 months ago a violation of fundamental law.

What did induce such a change of front? No new economic facts have come to light in those 5 short months. No new precedents have been revealed. What did happen? Two things. The President made his proposal and Mr. Justice Roberts changed his mind.

Between these two circumstances, roughly corresponding in time, some suspicious people might find a relation. Oversensitive and hypercritical persons might think that the Court had become frightened, and that the Chief Justice and Mr. Justice Roberts decided something had to be done to stave off impending legislation.

The country has no explanation of this amazing shift on the part of Mr. Justice Roberts. Surely he could have taken the country into his confidence with a concurring opinion, as other Justices have done when they changed their minds. Meanwhile we must be content to have the atmosphere filled with a suspicious lack of candor on the part of some members of the Court.

EDWARD F. PRICHARD, Jr.

CAMBRIDGE.

T. V. A. for Columbia Basin

EXTENSION OF REMARKS
OF
HON. JAMES P. POPE
OF IDAHO
IN THE SENATE OF THE UNITED STATES

Wednesday, April 7, 1937

ARTICLE BY RICHARD L. NEUBERGER ON THE SUBJECT OF T. V. A. FOR COLUMBIA BASIN

Mr. POPE. Mr. President, I ask unanimous consent to have printed in the RECORD an article on the subject of T. V. A. for the Columbia Basin, written by Richard L. Neuberger.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

T. V. A. FOR THE COLUMBIA BASIN?—CURRENT CONTROVERSY OVER TENNESSEE VALLEY AUTHORITY RAGES IN THE NATIONAL CAPITAL—ARGUMENTS FAVORING AND OPPOSING SUCH AUTHORITY GIVEN IN THIS ARTICLE

By Richard L. Neuberger

(Mr. Neuberger has recently written an article for Harper's Magazine on the Columbia River Basin, which was adjudged by the National Council of Librarians as 1 of the 10 outstanding magazine articles published during the month of February.)

"Under the rates charged by the Commonwealth & Southern Utility Co.", says Congressman JOHN E. RANKIN, of Mississippi, "1,000 kilowatt-hours of electricity cost $66.10. Now, under the rates of the Tennessee Valley Authority, the same amount of power costs $8.90."

"The support of the T. V. A.", declares bulletin no. 127 of the American Liberty League, "comes from those who would abandon our institutions in favor of some form of collectivism. In the interest of the preservation of the American system of government, the trend should be checked. The movement toward socialization of the electric-power industry is an attack upon the American system of government."

TENNESSEE BASIN BUTTERFLY SHAPE

These conflicting statements summarize briefly the controversy raging around the boldest experiment of the New Deal—the Tennessee Valley Authority. Individuals as far apart economically as Norman Thomas and the editors of Judge have called the T. V. A. the most significant Government undertaking in the last decade. Whether you think it will save America, or whether you think it is the prelude to anarchy, the T. V. A. is important. Its success or failure may affect the course of American economic life.

The Tennessee River joins the Clinch near Knoxville, rolls southward into Alabama and Mississippi, swings northward into Tennessee again, and joins the foaming Kentucky at Paducah. The basin of the Tennessee is shaped like a butterfly, and in this basin the Federal Government has launched an undertaking which President Roosevelt calls "progress" and Newton D. Baker terms "socialism."

TWO FACTIONS' ARGUMENTS TOLD

The butterfly-contoured shed of the Tennessee River is almost a continent removed from the far larger basin of the Columbia, but whether the T. V. A. proves to be "progress" or "socialism" will have a profound bearing on the development of the great river in the far West. Already cries for a Columbia Basin Authority echo through the halls of Congress. A formidable bloc is demanding such an innovation.

Will there be a C. B. A.? Representative MAURY MAVERICK, of Texas, whom the President recently commissioned to introduce the Supreme Court bill, says "Yes." Representative JAMES W. MOTT, of Oregon, says "No."

Opinion has split into two widely separated segments. The group opposing a C. B. A. generally makes these contentions and points:

"Private power rates in the Pacific Northwest are reasonable and fair. The utility companies are substantial taxpayers. There is no need in embarking upon a program of wholesale socialization of a vast industry. Bonneville energy should not be tied in with that from Grand Coulee but should be kept separate to utilize its locational advantages. Rates from the Government dams should be graduated instead of being spread over the whole area. In this way, and in this way only, can all the Bonneville power really be used efficiently. A low-rate district directly adjacent to the dam would enable new industries and factories to consume much of the energy at profit to the entire area. The T. V. A. is regimentation on a vast scale, and should not be applied to the independent and forthright citizens of the Pacific Northwest."

The advocates of the C. B. A. advance directly antithetical arguments:

"The private companies are gouging the consumers of the Northwest. Under T. V. A. rates the aggregate electric bill for the State of Oregon could be sliced in half. Bonneville and Grand Coulee should be under one administration, just as the Federal Forestry Services in Oregon and Washington are under one bureau. The power rates should be the same for the whole area and not cheaper in the direct vicinity of the dams. The purpose of Bonneville and Grand Coulee is to provide cheaper electricity for the farms and homes of the Pacific Northwest, not to offer plums to eastern manufacturers and industrialists. The T. V. A. may be regimentation, but it is interesting to note that the people of that region seem to like it; they voted 20 or 30 to 1 for the New Deal at the last election."

The problem of whether there will be a Columbia Basin Authority is not a future issue. It is here right now. Senator POPE, of Idaho, and Representative HILL of Washington have introduced a bill to provide for such a program. Several weeks ago President Roosevelt submitted, approvingly, a set of Bonneville recommendations which Representative SMITH of Washington and others say is the opening wedge for a set-up similar to the T. V. A. Numerous eastern newspapers expressed the same view.

The Tennessee Valley Authority centers around two present dams and five dams projected for the future. The main dam is the giant barrier at Muscle Shoals, for 10 years a political issue in the Halls of Congress. The other present dam is Norris Dam, on the Clinch River, started as soon as Mr. Roosevelt took office, and named for the senior Senator from Nebraska. The T. V. A. is listed as an administration to generate electricity, improve navigation, provide for national defense, prevent soil erosion, and institute flood control.

HOPE FOR SIMILAR SET-UP

T. V. A. proponents hope to see a similar set-up centered about Bonneville and Grand Coulee Dams. Although the T. V. A. has been far more in the national eye than the projects on the Columbia River, the western undertakings are ultimately more important. Grand Coulee is the greatest power site ever developed. Eventually it will produce more electricity than all seven T. V. A. dams combined. Bonneville's full capacity of 432,000 kilowatts will be approximately the same as that of the T. V. A. principal unit at Muscle Shoals.

Few public issues, the Supreme Court question excepted, have aroused such partisan and passionate defenses and denunciations as the T. V. A. Senator NORRIS calls it "A victorious ending of a 12 years' struggle on behalf of the common people against the combined forces of monopoly and human greed." But Wendell L. Wilkie, president of the Commonwealth & Southern, states that by autocratic and tyrannical governmental powers the T. V. A. has set up a vast bureaucracy in the South, a bureaucracy without consideration for the liberties and rights of the people.

OPPOSITION TAKES VARIOUS FORMS

Opposition to connecting Bonneville with Grand Coulee takes various forms. Representative FRANCIS D. CULKIN, of New York, says Bonneville is a practical project. But of Grand Coulee he adds: "Grand Coulee is a vast area of gloomy tablelands interspersed with deep gullies. The project has been condemned by the National Grange and other agricultural groups. In the region of Grand Coulee there is no one to sell the power to except coyotes and jack rabbits. Grand Coulee is that colossal imposition upon the American people."

Tying in Bonneville with Grand Coulee is believed to be the first step in the direction of a Columbia Basin Authority. In the recommendations sent to Congress by the President this statement appears:

"In recommending an administrative program for Bonneville the committee has not lost sight of the fact that there must ultimately be a tie-in of other Federal projects in the Columbia River Basin * * *. These two major projects in the Columbia River Basin (Bonneville and Grand Coulee) should be considered together."

At present there is considerable agitation in favor of having the War Department continue to operate the dam at Bonneville, turning over the electricity to the administrator at the switchboard. There also is some opposition expressed—such as by Representative MOTT, of Oregon—to letting Secretary of the Interior Ickes name the Bonneville administrator. Mr. Ickes is sympathetic to the T. V. A. and its ramifications, and the belief has been expressed that he might influence the Columbia Basin in such a direction.

PROJECTS UNDER SEPARATE BUREAUS

Now Bonneville and Grand Coulee are under distinct and separate bureaus. The former, recorded as a navigation enterprise, is being built by the Army engineers. The latter, its principal purpose irrigation, is under the supervision of the Bureau of Reclamation. A Columbia Basin authority would put both dams in charge of the same administration, as are the various projects in the T. V. A.

Large groups in both Oregon and Washington feel that State distribution of the power from Bonneville and Grand Coulee is the answer to the question. These advocates backed the grange power bills, which were defeated in the two States at the last election. They have expressed general sympathy with the T. V. A. program, but have intimated that Bonneville might lose a rate advantage if dovetailed with Grand Coulee.

There is a large segment of opinion that feels there should be a power pool between the Government and private companies. This view has been expressed by the Portland Chamber of Commerce, which believes that the construction of transmission lines by the Government should be held to a minimum. It also has been voiced by Claude McColloch, State chairman of the Democratic Party, in these words:

"Bonneville should not be administered in a spirit destructive to existing utilities, which are large taxpayers to city, county, and State. * * * Use of existing privately owned transmission facilities can no doubt be worked out on terms favorable and fair to both Bonneville and existing utilities."

POWER POOL OPPOSED

Senator NORRIS, Benjamin Cohen, and other advisers to the President are opposed to this policy. They say there should be no power pool, and that if private companies cannot meet Government competition that is their hard luck. This group is generally in favor of the T. V. A. principles and program.

So the possibility of a Columbia Basin authority pends in the Halls of Congress. Senator POPE and Representative HILL are determined to push their bill, and have been encouraged by Mr. Roosevelt's recommendation that eventually Bonneville and Grand Coulee should be linked in one set-up.

Advocates of a low rate for Portland appear to be opposed to a C. B. A. They contend that throwing in with Grand Coulee on a postage-stamp rate basis (the same for the entire region) would deprive Portland of natural locational advantages. In answer, the C. B. A. proponents say that Bonneville is being built by the entire Nation, not Portland. They claim that the farms and homes of the Northwest can only be benefited if the rate load is distributed evenly over the whole area.

The lower house of the Oregon Legislature, by the margin of 31 to 28, voted a few weeks ago against any form of power pool with the private companies. This was considered a boost in the direction of a public authority for the Columbia Basin. But the memorial died in the senate, so the question ended in a stalemate.

Whether the Columbia will be administered by a governmental authority parallel to the T. V. A. will probably be decided to some degree 3,000 miles away in Dixie.

AGAINST THE C. B. A.

(Statement prepared by F. H. Young, of the Oregon Business & Investors, Inc., summarizing the opposition to a Columbia Basin Authority patterned after the T. V. A.)

Proponents of a Columbia Valley authority are simply playing into the hands of Portland's rival communities that would like to see the Bonneville project shackled to other developments less advantageously situated.

Los Angeles, for example, would like to see Bonneville in the hands of a visionary, expensive "authority" that had a lot of different irons in the fire and a lot of diverse political interests to serve.

Why? Because Bonneville power will be cheaper than the vast quantities of power Los Angeles is committed to take from Boulder Dam. It will be cheaper; that is, unless Bonneville's natural advantages are wiped out by tieing it up with higher-cost projects and putting it under the control of an organization that is not single-mindedly devoting itself to the challenging problem of putting Bonneville to work productively.

SEATTLE GROUPS FAVOR AUTHORITY

Seattle would like to see Bonneville subordinated to a broad "authority" program. Right now the Seattle municipal electric system has a great surplus of generating capacity. Only a few months ago Seattle City Light brought in two new generating units at its superambitious Skagit River development. These two new generators have a capacity of 120,000 kilowatts—nearly half as much again as can be generated by the initial power units at Bonneville.

How is Seattle to attract new industries if Bonneville offers cheaper power at tidewater? How is Seattle going to pay out on its huge investment on the Skagit River if it can't even dispose of its present surplus, to say nothing of the additional surplus that will be created by a continuing construction program? These are questions that are causing Seattle boosters to lose some sleep.

J. D. Ross, head of Seattle City Light, has publicly urged that Bonneville and Grand Coulee be interconnected by a transmission line running east of the mountains. But he doesn't want a transmission line bringing Coulee power across the Cascades direct to Seattle. If Seattle City Light is to be connected with Bonneville and Grand Coulee, he maintains, let it be by the longest way around—through Portland.

WOULD GIVE SEATTLE COMFORTABLE SEAT

The practical effect of such a circuitous interconnection, of course, would be to give Seattle City Light a comfortable seat in its own particular corner, free to sell power as cheaply as it can be produced, while Bonneville struggled along as best it could under an artificially established rate.

To attract new industries to Bonneville is going to be a man-sized job, even with the lowest possible rate for power. It is a job that calls for unity of purpose and concentrated effort on the immediate task at hand. Otherwise Portland will see its dream of new pay rolls, new markets, and new population fly out of the window.

IN FAVOR OF C. B. A.

(Statement prepared from various advocacies of a Columbia Basin Authority voiced by Senator J. P. POPE, of Idaho; and Congressmen KNUTE HILL, of Washington; MAURY MAVERICK, of Texas; and JOHN E. RANKIN, of Mississippi.)

Under T. V. A. rates the annual electric bill of the people of Oregon would be cut from $13,833,329 to $6,904,329. Under T. V. A. rates the annual electric bill of the people of Washington would be cut from $24,615,571 to $12,427,571.

The Pacific Northwest has potentially more than one-fifth of the water power of the United States. It is important that this be generated, transmitted, and distributed by a powerful central agency, so as to prevent the continuation of present discriminatory and monopolistic practices of private companies.

T. V. A. BROUGHT CHEAPER RATES

No great benefits will accrue to the Northwest as a whole if power is not made available under a system of uniform rates designed to distribute the benefits of these public projects throughout the transmission area. This can be done only under the guidance of a central agency not limited to the confines of any particular State.

The T. V. A. has brought cheaper electrical rates, better farming conservation and living conditions to the inhabitants of seven Southern States. There is an essential necessity for a similar set-up in the Columbia River Basin. The people of Oregon and Washington and Idaho should have electric rates as low as anywhere in the Nation.

The T. V. A. has increased the consumption of electricity by reducing rates 40 or 50 percent, and even more. Strangely enough, the profits of private utilities, which have been forced to meet the new low rates, have been increased. The results of the T. V. A. experiment indicate that the process of putting public service into public-service corporation has benefited consumer and utility alike.

FEDERAL GOVERNMENT GIVES "FAIR DEAL"

The only agency capable of giving all the people a fair deal is the Federal Government. The Pacific Northwest both needs and merits a Columbia Basin Authority. The C. B. A. bill will contain four salient points: The cheap and plentiful delivery of power to the residents of the Northwest at a fraction of the present-day cost; the reclamation of 1,200,000 desert acres by the Coulee Dam; the development of incidental cheap water transportation into the interior of Oregon and Washington, and which will reduce the cost of transportation of our fruits, vegetables, and small grains; and last, but not least, the insurance of complete flood control.

Addresses at Dedication of the New Post Office and Federal Buildings at Waco and San Antonio, Tex., and Before the Joint Session of the Texas Legislature at Austin, Tex.

EXTENSION OF REMARKS

OF

HON. MORRIS SHEPPARD

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Wednesday, April 7, 1937

ADDRESSES BY POSTMASTER GENERAL FARLEY IN TEXAS

Mr. SHEPPARD. Mr. President, while in Texas recently the Postmaster General, Hon. James A. Farley delivered a number of very interesting and instructive addresses. I ask that these addresses may be printed in the RECORD.

There being no objection, the addresses were ordered to be printed in the RECORD, as follows:

ADDRESS OF THE HONORABLE JAMES A. FARLEY, POSTMASTER GENERAL, AT THE DEDICATION OF THE NEW POST OFFICE AND FEDERAL BUILDING, WACO, TEX., TUESDAY, MARCH 23, 1937

I always anticipate a visit to Texas with great pleasure. I was particularly honored to receive an invitation to be with the people of Waco in the dedication of this splendid new Federal building.

While it was only recently I discovered that the name Texas is derived from an Indian word meaning "friendly", it was, however, long ago I learned that Texans are a friendly and hospitable people.

No section of America has been the scene of more historical adventure, none more blessed with fertility of soil and great natural resources, and none more richly endowed with the priceless heritage of notable citizens.

It is not necessary for me to recall the names of those great Texans who have gone before. The sovereign State of Texas which they founded and developed on free and independent principles, and which has come to take its place among the foremost States of the Union, speaks for them in undying terms of loyalty, courage, and patriotism.

The names of two great Texans will always be remembered in the Postal Service. One of the most eminent of my predecessors was Albert Sidney Burleson, statesmen, administrator, and patriot, who served as Postmaster General in the Wilson administration. His forefathers were among the men who founded not only the American Republic, but also the Republic of Texas. His public career, which included service in the Halls of Congress, was an honor to Texas and to the Nation. It gives me pleasure to pay tribute to him on this occasion.

The postmaster general of the Confederacy, John H. Reagan, was also a Texan, and he performed a splendid service in the South under most difficult circumstances. His devotion to duty enabled him to surmount the obstacles with which he was confronted during those trying days.

Texas has been ably represented in the Congress of the United States for many years, but I doubt if this State was ever better represented at Washington than it is today. In addition to your splendid congressional delegation, Texas has the distinction of holding the second highest office in the land. I take this opportunity of paying honor to the man whom the Nation and whom you know as the Vice President of the United States, but whom I prefer to call "My friend, Jack Garner."

Your senior Senator, MORRIS SHEPPARD, aside from being a distinguished legislator, has the honor of being the dean of the Congress, having served continuously for 35 years in the House and the Senate. Senator TOM CONNALLY, likewise, has done much to uphold the traditions of Texas in both the lower and the upper branches of Congress.

The importance and ability of the Texas delegation in the House of Representatives is best evidenced by the many important chairmanships of House committees which are held by this State.

Another close Texas friend of mine is Congressman SAM RAYBURN, majority leader of the House, for whom I have the highest esteem and who is doing a splendid job at Washington for Texas and the Nation. Other outstanding and nationally known Members of the House from this State are HATTON W. SUMNERS, chairman of the Judiciary Committee; MARVIN JONES, chairman of the Committee on Agriculture; FRITZ LANHAM, chairman of the Committee on Public Buildings and Grounds, and JOSEPH MANSFIELD, chairman of the Committee on Rivers and Harbors. James P. Buchanan, who died recently, was chairman of the House Appropriations Committee. In his death we lost one of the statesmen of this Nation. He was a fine public servant, and his name will always be remembered as one of our great leaders.

The district in which Waco is located is, as you know, well represented by another of my Texas friends, Congressman WILLIAM POAGE, of this city, at whose invitation I have come here today.

One of the most important positions in the executive branch of the Federal Government is also held by a Texan. I refer to my good Texas friend, Jesse Jones, of the neighboring city of Houston. His able and efficient management has made the Reconstruction Finance Corporation a vital factor in the recovery program of the Roosevelt administration.

In my own Department Karl Crowley, of Fort Worth, has made an outstanding record as Solicitor and chief legal officer for the entire Postal Service. His wise counsel and courageous decisions on matters coming before him have earned for him the commendation of all with whom he has come in contact. I admire him for his loyalty, integrity, and ability. Karl, a strong supporter of President Roosevelt and his administration, is not only a close personal friend, but he is one of the most valued members of my official staff.

This fine new Federal building which we are dedicating today is the official headquarters in Waco of the Federal Government and was erected during this administration at a cost of over $400,000. This building is for the use of all the people. It is a monument to our democratic form of government, which for more than 150 years has been dedicated to the welfare of all the people.

This building, with its simple beauty and dignity, is equipped to provide you with more efficient mail service.

The post office was established here on July 27, 1850, as Waco Village, Milam County. The name of the county was later changed to McLennan County, and on October 11, 1866, the official name of the office was changed to Waco.

Our records at Washington show that S. P. Ross, one of your pioneers, was the first postmaster to serve this community. Since his time Waco has had 25 postmasters, including your present able and congenial postmaster, my good friend James M. Pittillo, who received his appointment on April 4 of last year. I need not inform you of the fine service that he and his staff of assistant postmaster, 47 clerks, 2 laborers, 44 city, and 7 rural-delivery carriers are performing for the residents of Waco.

In this connection I want to say that in the administration of the affairs of the Post Office Department I have received the earnest and loyal cooperation of all the men and women employed in the Postal Service. Regardless of what life holds in store for me, I shall always look back with appreciation on the cooperation and support which I have received from the postal employees here and everywhere since I have been Postmaster General.

The architect, the consulting engineers, and the contractors deserve the compliments of all on the successful completion of this splendid edifice. I want to congratulate them, the craftsmen, the

laborers, and all others who assisted in the erection of this building.

The growth of Waco is best evidenced by the steady increase in postal receipts during the last quarter century. Our records at Washington show that the Waco post-office receipts for 1910 amounted to $115,922. For the calendar year 1936, receipts at the local post office totaled $366,046. This represents an increase of approximately 4 percent over the previous year, when the Waco postal receipts amounted to $354,931.

The postal revenues are an accurate and sensitive index of the condition of business and of the population generally. During the last fiscal year the postal revenues throughout the country increased more than $35,000,000 over the previous year. The pleasing thing about this is that the increase came in greater proportion from the towns and rural communities than it did from the larger cities. This is a direct reflection of the aid and encouragement which the Government is giving to restore agriculture, and the postal revenues indicate that prosperity is coming back to agriculture.

Many improvements have been made in the postal service during the last 4 years. Under the present administration of the Post Office Department, all of our transportation and city delivery service has been surveyed and to a large extent reorganized. Included in this service are city delivery, railway mail, ocean mail, domestic air mail, foreign air mail, rural mail, and star routes.

Our mail transportation service forms a network covering the entire country. Railroads, pneumatic tubes and subways, dogteams and airplanes, motor trucks, ferry boats and steamships, are all employed in this work. Men go on foot and on horseback to inaccessible places to provide the American people, wherever they may be, with an efficient mail service.

Probably no transportation method ever established has increased in usefulness like the air mail. In a few short years we have seen the airplane develop from an experiment to a necessity. It is but 34 years since the Wright brothers first flew a plane on a flight of 120 feet. We now have a large number of planes flying thousands of miles daily, which are capable of speed of more than 200 miles an hour.

During the last 3 years our domestic air-mail system has been entirely reconstructed and is the most efficient air-mail service in the world. More miles are flown daily on regular schedules and more cities and States are served than at any time since the domestic air-mail system was established. The schedules are faster, the equipment the latest and best, and the cost for this vastly improved service is $7,000,000 less a year than the cost of the service in 1932, when it was operated under the previous administration.

Our domestic air-mail service was inaugurated in May 1918, only 19 years ago. At that time the system consisted of 218 miles of air transport, from New York to Washington, and it required 3 hours and 23 minutes to make the trip. The same trip is now made in 80 minutes. Our domestic air-mail system today comprises 29,000 route-miles, and we give service to 47 of the 48 States of the Union. The forty-eighth, Delaware, is served from conveniently located airports.

Our foreign air-mail system has been revised and rearranged. New high-speed schedules have been put into effect, reducing the flying time by many hours, and more than a day on the long Central and South American routes. These have been of particular benefit to Texas, for Brownsville is one of the principal gateways to the Latin-American countries.

We have instituted a trans-Pacific air-mail service between the United States and the Far East, and it is our expectation that within the near future we will have a similar air-mail service across the Atlantic to Europe. Our foreign air-mail system is the finest and most extensive in the world. Our air-mail routes serve the countries of South and Central America, Cuba, Mexico, the West Indies, and Canada. Modern air-mail service has been provided among the islands of the Hawaiian group, and improvements have been made in the Alaskan air-mail service.

During the calendar year 1936 the Post Office Department undertook and completed without delay and confusion two of the most difficult and complicated tasks ever to confront any business organization, private or public. In June the Department, within a few weeks, completed the delivery, certification, and payment of approximately $1,000,000,000 in veterans' bonus bonds to more than 2,000,000 veterans throughout the country. The efficient fulfillment of this splendid service to the veterans of the Nation will reflect everlasting credit on the Postal Service.

Last November the Department rendered another outstanding nonpostal service to the Nation when it assisted the Social Security Board in obtaining certain information from every employer and employee in the United States.

For the achievements in improving the Postal Service which I have just outlined, the country owes a debt of gratitude to President Roosevelt. If it had not been for his stern insistence on the highest possible standards in the conduct of the Government, the many wholesome reforms which have been brought about in the last 4 years would not have been possible. This is true of every enterprise in which the Federal Government has engaged during that time, including regular departments and the emergency agencies.

The business of the United States has shown a steady upward trend since that bleak day of March 4, 1933, when President Roosevelt first took over the reins of the Federal Government.

With those firm qualities which are characteristic of every great leader, he has made the American people conscious once again of their ability to surmount every obstacle that lies in their path. President Roosevelt has rededicated the service of government to the protection of the weak, the humble, the poor, and the undernourished.

As he has told us in his own words, for all these things he has just begun to fight. It is for us to keep up that fight under his wise and able leadership, and in so doing we will contribute our share in making this period of our Nation's history one of the greatest in the annals of the Republic.

ADDRESS OF HON. JAMES A. FARLEY, POSTMASTER GENERAL OF THE UNITED STATES, AT THE DEDICATION OF THE NEW POST OFFICE AND FEDERAL BUILDING, SAN ANTONIO, TEX., WEDNESDAY, MARCH 24, 1937

It is needless to say that I am delighted to be with you today. It is always a great pleasure for me to visit Texas, and as for San Antonio, the hospitality extended by the citizens of this city cannot help but make the stranger within your gates feel the warmth of the welcome so graciously extended. No community in the Nation is more truly representative of the spirit of America than this historic city, steeped in glorious tradition.

It is not necessary for any visitor to San Antonio to dwell upon the history-making events that have occurred here. Monuments mark hallowed spots where the destiny of this State and, in fact, the whole Southwest hung in the balance. The greatness of the United States today attests to the valor of those of your forebears who shed their blood that our national destiny might be achieved.

One hundred and one years ago this month Texas gained her independence, but in the course of achieving this liberty there was fought within the very shadows of the building which we are dedicating today one of the most amazing and courageous battles in all history. I refer, of course, to the fall of the Alamo, where 180 valiant and liberty-loving Texans acquired immortal fame through their courageous but unsuccessful struggle against the attack of several thousand Mexicans. Every school child well knows the story of the "Battle of the Alamo" and of the heroism of that small body of men who so gloriously played a losing part in the unfolding of that great drama of Texas' fight for independence.

San Antonio is a splendid modern city, although historically it goes back to an Indian village. The first recorded history of this city was the christening of the village of San Antonio de Padua in 1691.

Today San Antonio ranks as one of the chief gateways to Mexico, and is a center for farming, ranching, truck gardening, and fruit growing, in addition to being the base city for one of the Nation's greatest military aviation districts.

While here for the purpose of dedicating your new Federal building, it is only fitting that I should recall that this project was, in a large measure, brought about by the efforts of my good friend, Congressman MAURY MAVERICK, who represents you at Washington, and whose forefathers played a prominent role in the early history of this city and State.

At this time also I desire to pay a well-deserved tribute to the architects, the contractors, and the workmen who were employed in the construction of this beautiful structure.

It gives me pleasure as Postmaster General to know that my loyal coworkers here in the San Antonio post office will find within these walls the means of rendering to the people of this city the most efficient service possible in the handling of the mails. Our staff here will be able to work with greater speed, economy, and comfort because of the improved facilities provided.

In speaking of our postal workers I am happy to commend them for their loyalty and devotion to duty. The quarter of a million postal employees throughout the country form an army which makes possible a Nation-wide network of communication which is precise in its execution and unrivaled for dependability. It reaches into millions of American homes and American offices. It utilizes every means of conveyance, and it operates with a precision that is almost uncanny.

This building we are dedicating today, with its simple beauty, its dignity, and its modern facilities, is quite different from the first building used here for the distribution of the mail.

On May 22, 1846, the San Antonio post office was established with James L. Trueheart your first postmaster. Since that time San Antonio has been served by 17 postmasters. Your present postmaster, Daniel J. Quill, was appointed June 13, 1934, and under his supervision San Antonio has continued to receive prompt and efficient service. His staff consists of an assistant postmaster, 168 clerks, 157 city and 9 rural carriers. I congratulate each of them on his excellent record.

This new building is one of hundreds of buildings that are being constructed throughout the country under the present administration's post-office building program. This particular project was consummated at a cost of more than $2,000,000, but its value to the people of this city cannot be judged in dollars and cents.

Postal receipts reflect more accurately than any other index the current economic, business, and agricultural trends. For that reason I am pleased to report that postal receipts for the State of Texas during the calendar year 1936 amounted to $20,973,000, as compared with receipts of $19,497,000 for the previous year. This represents an increase of approximately 8 percent. It represents the upturn in business, trade, and agriculture that has taken place in this State from the Panhandle to the Gulf. Here in San Antonio the postal receipts for 1936 totaled $1,338,000, as against receipts of $1,215,000 in 1935, an increase of more than 10 percent.

Throughout the entire country postal receipts for the last fiscal year showed an increase of more than $35,000,000 over the previous fiscal year, a further evidence of the return of better times throughout the Nation.

In the early days of the post, as it was then known, the functions of the post office were merely to receive, transport, and deliver letters and newspapers. The mail was transported by men on foot and horseback. Then followed the stagecoach and covered wagons, including the historical prairie schooner, the overland mail, and the pony express.

In the far Northwest dog sleds and reindeer were employed. The former are still in use in Alaska. When the steamboat or any new conveyance or device designed to speed the mail was developed, it was immediately employed.

Back in the early fifties there was a weekly mail service between this city and Austin by means of two-horse coaches. At that time the mail left San Antonio at 6 o'clock on Tuesday morning and arrived at Austin the following Thursday evening. In 1857 it was announced that mail from San Antonio arrived at San Diego, Calif., in 26½ days, which was proclaimed "the fastest time on record."

This mail was carried in coaches drawn by six mules the entire length of the trip with the exception of 100 miles of desert in Colorado, across which it was carried by riders on mules. The only communication between San Antonio and Laredo as late as 1866 was four trips per month by mail rider. Letters to Galveston required 9 days in 1869 and in 1867 the mails to El Paso had to be discontinued because of Indian raids.

The advent of the railroad added greater speed to the transportation of the mail. The introduction of the railway post office and a special catching device used for collecting mail from the station while the train was in motion resulted in a new acceleration in the movement of the mail. Today streamline trains have reduced the transit time between important cities and coast-to-coast mail in some cases as much as 24 hours.

Now we have transportation of the mails throughout the year by airplane and at a speed that is nothing short of marvelous. In the early days mail from New York to San Francisco was 30 days in transit; now we can do it in less than a day.

In the short span of 148 years the United States Postal Service has grown from a Department consisting of a Postmaster General and nine clerks to a Nation-wide organization of almost a quarter of a million. We have approximately 45,000 post offices, and our revenue collected for the most part in pennies amounts to over half a billion dollars annually. It is the largest business organization in the world, and we are earnestly endeavoring to conduct its affairs in a thoroughly businesslike manner.

Among the many improvements that have been made in the Postal Service under this administration was the installation of a new accounting system, which has made it possible for postmasters' monthly accounts to be received at the Department 3 weeks after the close of any given 30-day period. This formerly took from 3 to 4 months.

Several times during this administration I have called conferences with post-office inspectors from all sections of the country for the purpose of promoting more efficient service to the public. These conferences have resulted in numerous improvements in supplying additional deliveries, expediting schedules and the rerouting of the mails.

A new 48-hour dead-letter service has been put into effect whereby dead letters are now on their way back to the sender within 48 hours of their being received in a dead-letter branch. Under the former system the average time consumed to make such disposition of a dead letter was 7 days. The installation of this new service reduced the cost of operating the Dead Letter Division from $138,000 to $38,000 during the first year of its operation.

In addition to rendering improved service to patrons of the post office, the Department has, within the past 3 years, conducted a vigorous and widespread campaign to protect the public from the numerous fraudulent enterprises carried on through the mails. This has resulted in annual savings of millions of dollars to the American people. The Postal Inspection Service has also waged a vigorous and successful drive on the senders of obscene literature.

The finest air-mail system in the history of the service, embracing as it does 29,000 route and 40,000,000 annual scheduled miles of flying, was set up in 1934. Under the old system which was in operation prior to that time there were but 25,000 route and 35,000,000 annual scheduled miles. At present 215 cities throughout the country have direct air-mail service, as compared with 167 cities under the former system. Before the reconstruction of the air-mail system in 1934 the States of Maine, New Hampshire, Vermont, and West Virginia had no air-mail service whatever. Today these States are traversed by routes which form an integral part of the system which serves the Nation.

The cost to the Post Office Department of this new and greatly improved air-mail system for the fiscal year which ended June 30, 1936, was $12,000,000. In 1933, the fiscal year prior to the establishment of the present system under the previous administration, the cost of the air mail for a limited service was $19,400,000.

Twenty-six thousand route miles are at present embraced in our foreign air-mail system. Over these routes the mail planes fly about 4,000,000 miles annually.

The most recent and certainly one of the most significant developments in the history of mail transportation was the inauguration of the trans-Pacific air-mail service in November of 1935. On that occasion the first scheduled plane on the Post Office Department's 8,700-mile air-mail route between San Francisco and the Orient took off from Alameda, Calif.

The establishment of this great transoceanic service across the broad expanse of the Pacific by way of Honolulu, Midway, Wake, Guam, and the Philippine Islands has reduced the time consumed in transporting mail from the United States to the Far East from 18 to 5½ days.

We anticipate that regular scheduled trans-Atlantic air-mail service between the United States and Europe will be in operation before the end of the present calendar year.

Our foreign air-mail service extends into Canada and most of the Latin-American countries, the West Indies, Hawaii, and Alaska.

All records for the volume of mail transported by air, passengers carried, passenger-miles flown, and pounds of air express carried were broken last year, and present indications are that new records will be made this year. Passenger revenues of the air-mail companies for the calendar year 1936 amounted to more than $15,000,000 as compared with passenger revenues for 1934 of about $8,600,000, or an increase of 83 percent.

The ocean mail service has likewise been improved and savings have been effected in this service which amount to more than $2,000,000 a year. The Rural Free Delivery Service has been operated during this administration at a cost of several million dollars a year less than heretofore.

The growth in the sales of stamps to stamp collectors has brought a new source of revenue to the Department. This has been due in no small measure to the attractive commemorative stamps which have been issued in the last 4 years. Stamp sales through the Philatelic Agency, which is maintained at Department headquarters in Washington, rose from $300,000 in 1933 to $1,846,253 in 1936. The latest reports from the Philatelic Agency indicate that there will be a further increase in revenue from this source for the present fiscal year.

From the facts which I have related it is obvious that the Post Office Department is keeping abreast of the times. We have the largest branch of the Federal Government under our direction, and our work brings us in contact more than any other department with the entire population.

Since I have been Postmaster General I have made it my business to visit our offices, large and small, in every State and to obtain at first hand information as to the needs and progress of our Service. Furthermore, I have had the opportunity to meet the people face to face and to learn from them actual facts regarding social and economic conditions. I feel it is very helpful to me as a member of the Cabinet to take back to Washington a knowledge of what is going on throughout the country.

In conclusion, I wish to thank your good postmaster and all postal employees here for the fine work they are doing in connection with the delivery of the mail. The postal employees here and everywhere have cooperated with me to the fullest extent since I have been Postmaster General, and long after I have left the Department I shall always remember the loyal and splendid support which all postal employees have extended to me.

I thank the citizens of San Antonio for the very fine reception they have given me today, and wherever I go I shall always remember and speak of your beautiful city and your fine hospitality.

ADDRESS OF CHAIRMAN JAMES A. FARLEY OF THE DEMOCRATIC NATIONAL COMMITTEE BEFORE THE JOINT SESSION OF THE TEXAS LEGISLATURE, AT AUSTIN, TEX., WEDNESDAY, MARCH 24, 1937

Mr. President and members of the Texas Legislature, 4 years ago I had the distinguished honor and pleasure of addressing a Texas audience. Then I spoke about the new administration that had already taken the initial steps that were to lead us out of the great depression. It had fearlessly tackled what was perhaps the heaviest task that a President and a Congress had ever shouldered in the history of the United States. It is an unparalleled situation in which that administration found itself when it undertook the great responsibility. It seemed as though every beam in our national structure was shaking. We had shored up some of them, notably the banks. The restoration of confidence in the stability of our institutions of deposit at least insured us that the roof would not fall while the President was inaugurating measures calculated not only to get business going again, but to devise jobs for millions of unemployed, to keep people from actual starvation for the time being. It was really a rescue job that was the first consideration. I might compare it to one of the great flood situations that we have experienced since, for while the first consideration was to house and feed refugees from the deluge of depression, it had to be followed immediately with projects to head off future floods, to build dams and levees that would prevent a recurrence of the disaster. And that is what President Roosevelt has been doing with the aid and patriotism of a forward-looking and conscientious Congress ever since. I want to say right here that in this stupendous task none have helped more enthusiastically and generously than the delegations from this State.

Your great citizen, John Nance Garner, has been a pillar of strength. On his wisdom and experience I know the President has leaned heavily. It used to be said that the Vice Presidency was simply a fifth wheel in an administration. This definition was probably justified as applied to many Vice Presidents, but Jack Garner found plenty to do. He concerned himself actively with the legislation over which he presided. Because of the con-

fidence reposed in him, not only by the Senate but by the House of Representatives, whose speakership he had held from the time that ours became a majority party, he was a vital force in the Government. Before he became Speaker, he was the leader of the minority in the House of Representatives. And when I say leader, I do not speak in terms of conventionality. He was a leader, with a capital L. And never in my experience has a difficult job been better performed than in the case of the man from Uvalde. He passed through many storms of partisan bitterness. He was the bulwark of the minority through years of majority domination, and he was always on the job. And he came through that period, I believe, without a single enemy on either side of the House. His foes honored him as a square shooter, an honest and resourceful fighter, and his own side appreciated to the utmost his leadership. In the higher post to which the election of 1932 brought him, his loyalty to the President, his fairness and courtesy to the Senators on both sides of the Chamber, his hard common sense, and his vast experience have enhanced his popularity, for there is nobody at the Capitol who is more highly regarded than my friend, and your neighbor, John Nance Garner.

I miss one legislative figure who helped me to know Texas 4 years ago. The Nation misses him more, for a more faithful public servant did not exist than Congressman Buchanan—"Buck" to you and to me. In the long line of Texas names on the Nation's honor roll of public servants none shines with greater brilliance than his. Nobody has ever calculated the billions of dollars he saved this country as chairman of the Appropriations Committee. I know that there is a popular impression that Government expenditures are wild and reckless and extravagant. People who entertain that opinion did not know Congressman Buchanan. He scrutinized every item with as much care and with as much conscience as the auditor of any great business house. His record is studded with items rejected through his influence because the cost of measures suggested did not meet his opinion of their value to the country. He insisted that for every dollar Uncle Sam spent Uncle Sam should get his dollar's worth. For 24 years he performed spendid service for his country in Congress. The example he set for those who follow him as head of the committee which, more than any other is responsible for the safeguarding of the national expenditure will be an eternal monument to the friend who has passed on.

Loyalty was the guiding principle of his life—loyalty to his job, loyalty to his friends, loyalty to his party! Our political opponents talk about a "rubber-stamp Congress", whenever a Democratic Congress and a Democratic President are in accord on legislative necessities. When you see that slighting phrase, think of your Buchanan. He was no man's man. He was captain of his soul, and nobody ever fought more valiantly for what he deemed right than he, regardless of any other consideration. But when a policy had been determined on by the administration which had been entrusted with the welfare of his country, he made no captious effort to balk that policy.

Apply the principle to your own State. Suppose that Gov. James V. Allred, a good Democrat, true man, and an executive who has demonstrated his competency to deal with the issues with which Texas is concerned, recommended to you certain legislation that had to do with the welfare of all your people. Assume that this was a policy in which a majority of you concurred. I mean by that that you agreed with him as to his objective, but that some of you thought that some other process—perhaps an amendment to the State's constitution, was a better way of handling it. Suppose further that the Governor presented that the delay involved in having an amendment adopted would cripple his efforts to remedy an immediate problem. I cannot but believe that you members of the Texas Legislature would feel that party loyalty compelled you to go along with the Governor rather than insist on each of you going his own way and thus hampering the accomplishment of the reform that all of you agreed was necessary.

I want to assure you that in suggesting this comparison, I am not aspersing the motives or the sincerity of any of the members of our party in Congress in opposing the President's Court plan, but where it is merely a matter of method to arrive at a result, that all of those gentlemen have pronounced desirable in the past, I think they are making a grave error and are lending aid and comfort to the enemy by their present course.

Since I was in Texas before we have come a long way in the direction of prosperity. Here, as elsewhere, the despair and apprehension that was rampant 4 years ago has given place to confidence and hope; business is good, your industries are flourishing, your banks are again solvent and sound. What brought about the change except the plan and program which President Roosevelt began on the very day of his advent to the White House in 1933? Through his credit agencies your corporations and your monetary institutions are functioning in a high degree. Your farmers have been translated from people either in or on the verge of bankruptcy, into a purchasing, solid element in our industrial structure. Stocks and bonds—those indexes to our economic condition—are up. These things have happened because the do-nothing policy of his predecessor was succeeded by the do-something-at-once policy of the President. We would be very much farther along that road to prosperity if, unfortunately, the Supreme Court of the United States had not decided, in its wisdom, that such things as the Agricultural Adjustment Administration transcended in some mysterious manner the powers of Congress, and therein violated the Constitution. It is too bad that that law did not meet with the approval of a majority of the Supreme Court. However, I do not think that any cotton raiser or cattleman who, under its provisions and the activities of the Government's loaning agencies, got a breathing space that enabled him to get upon his feet again, feels at all ashamed of the means and method that saved him. We may agree now that the N. R. A. was not a perfect remedy for the demoralized condition in which business found itself a few years ago, but under its provisions the wheels of industry did start up, and before the Supreme Court acted there were many benefits to the whole country, even allowing for such errors and mistakes as could hardly have been avoided under the haste of the economic emergency.

Last November our Nation was called upon to express its sentiment on the administration of President Roosevelt. It ratified the acts of that administration by the largest vote ever accorded a candidate for the Presidency. It returned a Senate and a House of Representatives with an unparalleled majority of those candidates whose campaigns had been based on their support of the President and of the policies that had rescued the Nation from the depths of industrial and commercial disaster. That certainly cannot be construed honestly as anything but a mandate for instantaneous action toward his great objective—the permanent contentment of the United States.

But, his objectors say, he had no mandate to change the economic views or the personnel or the number of the Justices of the Supreme Court.

He was told by 27,000,000 people to fulfill his program; to finish a job only half done. They did not, they could not, tell him how he is to do this. And he, after canvassing every process, found that in order to carry out the program it was necessary to get over the barrier of an inflexible, reactionary point of view entertained by five of the nine eminent jurists on the high Court. It had been demonstrated that this majority was bound to render what you people down here might call longhorn decisions. Nobody contends that the immovable five are better lawyers or more sincere interpreters of the law than the minority four, which includes the Chief Justice. It is simply that these jurists look on a number of most important questions from different angles. In the past practically every time the Supreme Court was found to be out of sympathy with the spirit of the country, the condition has been rectified by changing the number of the Justices. So the personnel of the Court has ranged from as low as 5 to as high as 10.

President Roosevelt proceeded under a perfectly constitutional process to suggest that whenever a Justice had attained the age of 70 years and did not care to avail himself of the privilege to retire on full pay, an additional judge be appointed. That is all there is to it. The dice of destiny have so fallen that we have a reactionary majority with the final say on the destinies of a progressive Nation. To assume that the President is seeking to have on the bench men subservient to him is to asperse not only his integrity and that of such Justices as he may name but the integrity of the United States Senate. For it is the Senate that makes the judges, whom the President only recommends. Each and every appointee must be confirmed by a majority of the United States Senate.

As things are now, a Supreme Court Justice may continue to function until he is a century old, if he lives that long, for the Constitution provides a life tenure for the Supreme judiciary. To alter that would require an amendment to the Constitution. Twenty years ago a Supreme Court, similarly constituted, rendered invalid a national law as to child labor. For 13 years the child-labor amendment has been before the States and still lacks the three-quarters majority of the States, without which no amendment can become part of the Constitution.

Now, as I have said, the job of restoring our country to permanent prosperity is only half done. There is still a multitude of unemployed. There are still millions of our people on the relief rolls—a condition intolerable and out of character for a prosperous Nation. There are constantly recurring clashes between capital and labor, with no constitutional power for the Federal Government to control these things or to compel an equitable determination of the differences. Before Congress, and in some cases already before the Court, are pending bills calculated to correct these conditions.

The President does not know, Congress does not know, and has no means of finding out for an indefinite period whether these laws are constitutional or otherwise. Both of these branches of the Government have a reasonable fear that in the reactionary temper of a majority of the Court, some of these measures may be held to be unconstitutional, perhaps after they have been in operation for a period of years.

The Court does not act automatically on the laws passed by Congress. They remain in effect until somebody complains that he suffers injury under them and enters suit. Then the case has to travel the long, tedious road through the lower courts until it reaches the high justices.

Hence the necessity for prompt action to bring about a Court that would not construe every doubt against forward-looking legislation.

And this is what those opposed to the measure—a group that naturally embraces the stand-pat Republican Members of the Senate, the Liberty Leaguers outside, and every agency that opposed and combatted the President's reelection—this is what they call "packing the Court." It should be kept in mind that, though the President may recommend a man for the Supreme Justiceship and the Senate may confirm that man, neither the

Senate nor the President has the slightest control of him once he has taken his seat. When the President's program is enacted into law, the judges he appoints will sit until they are 70 at least, and for life, if no amendment comes along in the meantime, utterly untrammelled and proof against interference from any source. It goes without saying that the new appointees will be men of eminence in the legal profession or in judicial experience, and men of the highest character and quality, for you may be sure after the fight that is now being waged in the Senate, nobody will be confirmed who does not comply with these standards.

The Nation is behind the President in his effort. I am quite sure that if Congress could vote on the proposition tomorrow it would pass the legislation. In the Senate committee hearings so far, the deans of the law schools of our greatest universities have testified to the validity, the constitutionality, and the expediency of this plan of removing the big rock in the road that blocks the completion of the process of making this a more prosperous and more contented country.

Justice John H. Clarke, the only living ex-member of the United States Supreme Court, has pronounced the President's proposal sound and constitutional. All that delays it is the stubborn opposition of a minority, which is only formidable because of the rules of the Senate, which permit unlimited debate, except under a cloture, which one-third of the Senate has the power to prevent. My own belief is that before this session of Congress is far advanced the sentiment of the country will make itself so manifest that the obstructionists will recognize the futility of their effort and permit the orderly enactment of the law.

I am sure that the great State of Texas, which has been in the forefront of progress since away back yonder when General Houston and General Austin debated the processes under which the Republic of Texas was founded, and then Texas came into the Union as a State, will be conspicuous in this manifestation of confidence in our great President and insistent that he shall be free to carry out the declared purpose of handing this country over to his successor 4 years from now a united and contented Nation.

Naturalization and Citizenship

EXTENSION OF REMARKS

OF

HON. J. HAMILTON LEWIS

OF ILLINOIS

IN THE SENATE OF THE UNITED STATES

Wednesday, April 7, 1937

ADDRESS OF HON. ELBERT D. THOMAS, OF UTAH, AT THE ANNUAL DINNER OF THE NATIONAL COUNCIL ON NATURALIZATION AND CITIZENSHIP, APRIL 2, 1937, NEW YORK CITY, N. Y.

Mr. LEWIS. Mr. President, I tender a copy of an address delivered by the junior Senator from Utah [Mr. THOMAS] at the Hotel Astor in New York City on April 2, 1937, before the National Council on Naturalization and Citizenship, and request that it be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TAMPERING WITH A BIRTHRIGHT

If during these remarks and after they are concluded any of you ask yourselves the question, "Why is this speaker on this program?" do not think that you have an original idea, because I have been asking that question myself ever since I accepted the invitation. I am not a lawyer and I know nothing about international law as such. In these things I am merely a poor sentimentalist who has seen much suffering in the world and much, too, that seems unnecessary.

Governments are harsh. Customs are binding. Law made for protection sometimes turns to enslave. Religion instead of being a great bond of the spirit turns out to be a bond of steel. Man in his struggle with his surroundings generally ends where Rousseau found him, born free but everywhere in chains.

Whenever man has made a break with the past, the past, in some way or another, nevertheless survives him and rises up to continue to smite him. Tsin Shih Wangti burned books hated only because of their hated doctrines merely to find those very doctrines more deeply burned into men's hearts. Moses led the children of Israel out of the bondage of idolatry only to see them, when he turned his back on them to converse with the Lord, worshipping the golden calf. The chain of what later became caste broke the great Buddha's democracy almost before the Enlightened One had arrived into his Nirvana. Jay in his *Chisholm v. Georgia* decision tried to sow a new order of law only to reap a constitutional amendment. The American Revolution produced a rigid Constitution on which to rest the very foundations of our Government built not on fact but on what Mr. Blackstone and Mr. Montesquieu thought they saw. And in this great land of ours which was to be a land of law that we, the people, might be freed from the caprice of men, we find that law sometimes weighs us down and hurts us more than did any man in his caprice dare to do.

I repeat, I am a sentimentalist, and to prove it more conclusively here are the facts: I am a victim of thought growing out of experience with the following doctrine. Confucius one time was asked if laws should not be written. "No," he said; "do not write the law, because if you do, courts will cease to be courts of justice and will become courts of litigation. Soon it will not be the culprit who is tried, but it will be the law that is on trial."

The importance of that point in a discussion like this is that law is made for persons, and persons are not made for the law. It is the person which should be of primary importance in all nationality questions. It is, of course, a State's right to protect itself. Inherently, though, States have so much to their advantage on the simple rule that the whole is greater than any of its parts that every State, especially a democratic one, can stand to lose but very little in being generous in its nationality questions. An immigration law may properly be very harsh—harsh in dealing with the mass, but its administration as it affects the individual should be one of greatest consideration. We may decide that in the future no more blue-eyed, fair-haired persons may come into this country, but that law should not be made to affect the blue-eyed, fair-haired ones here or those who might accidentally be born here. There are certain individual and personal relationships that should be respected. The rule of reason plus the general public good should be the first considerations.

Since we have mentioned ancient China, it is there that we find the first attention paid to what may be deemed those elements of modern democratic treatment of nationality based upon a standard more capable of change than that based upon blood. The early Chinese assumed that there always was China and there always were Chinese, but never did he accept the gross nationality notion of, once a Chinese always a Chinese. "It is advisable", said the sage, "to treat in a barbarous way those feudal lords who perform barbarous rites and ceremonies, and to treat in a Chinese way those barbarians who have become Chinese." The test of nationality in ancient China was that the person be Chinese. That in its final analysis is our American test today when it comes to receiving a foreigner into citizenship. This is one of the factors which enters into the essence of democracy.

In running over the history of my own State I came across something which shows that probably I have inherited some of the attitude of my forebears. On February 4, 1852, the Utah Territorial Legislature enacted the following into law when it passed its judiciary act:

"The judges of the district and probate courts shall be conservators of the peace in their respective districts and counties throughout the Territory, and it is their duty to use all diligence and influence in their power to prevent litigation."

In my reading of Aristotle I find the following: A person without a nationality is "either a beast or a god; he is no part of the state." Then he continues: "He who by nature and not by mere accident is without a state, is either above humanity, or below it; he is the 'tribeless, lawless, heartless one', whom Homer denounces—the outcast who is a lover of war; he may be compared to a bird which flies alone."

Dr. James Brown Scott, whom I am sure with Aristotle appreciates the worthwhileness of a nationality system, says: "There is no topic of present interest, involving as it does the status of men, women, and children of various countries, and even of birth in the same country, as that of nationality. It bristles with difficulties."

Dr. Scott's statement about the difficulties of nationality is brought home to those of us who have been teachers by the utter despair which our students have when we deal with citizenship and the conflicts growing out of citizenship when we consider international relations. The old student boner written and discussed by a bright student because his professor had mixed him up so, went like this: "A citizen of the United States is a man whose father was an Irish section hand and whose mother was a German chambermaid, and who was born in St. Louis, Mo. He now lives in Valparaiso, Chile, and works for a Franco-British corporation with headquarters in Mexico City." This is rather complex, but not half as complex as the problem of nationality has become as a result of the conflict in laws and as a result of man's changing habits in regard to residence and occupation, not to mention the great factors growing out of changes in actual nationality status as a result of war and political upheaval.

On the one hand we have a condition of absolute statelessness and on the other dual or multiple nationality. In either case, a life of conflict with law, and uncertainty and worry, is the result. To avoid either condition should be the aim of thoughtful government. Between these two, of course, is the average man or woman of all lands who lives and dies where he or she is born, but who in nearly every land is conscious of some friend or relative caught in the uncertainties of our changing world.

I myself have learned to appreciate nationality not only from the reading of the scripture, where I am sure we learned that Paul found his Roman citizenship to his advantage, but from the experiences of my own parents. They came to America for a purpose. When they renounced their citizenship of Great Britain

and became naturalized Americans they did it primarily in order that their children might be born Americans, for they conceived of this land as not only the land of promise but also the haven for a new life, especially for those who were born here. As a boy when chastized by either of my parents for running away from school, for example, I was always told that I was making a mistake in that I failed to realize how grateful I should be for the blessings of free schools, and in my school days I had free schools. That day is already past, for I pay now half again as much for one quarter's tuition for my daughter at the same university from which I was graduated as my parents paid for 4 years' tuition for me. I went through college at the total cost of $40 for the full 4 years. After graduation I was sent out to see the world, as my father advised, so that I might learn to appreciate the blessings of my homeland; not that I might become like the Pharisees of old, who thanked God that they were not like other people, but that I might be everlastingly grateful for my American citizenship and for my home.

Probably I have been improperly trained, but I at least reflect my training and I cannot forget my old Latin and Greek teacher's admonitions when we were reading Cicero's orations against Cataline: "Here was Cataline blessed from birth with every advantage under the sun, both as to country and talents, but he deliberately chose to turn against his country and to use his talents for evil purposes." Since those teachings I have changed my mind a bit about the relative merits of Cicero and Cataline, but I have never been able to forget that here was I, born with every advantage under the sun, I having been born in America.

It is bad enough in life when one purposely makes himself unsocial or stateless, but it is sad indeed when a Government does this to him. Hearne, in his story The Case of O'Dai San, shows us better probably than in any other way the utter lonesomeness of one cut off from his own.

The last time I told of the following case it was at a meeting in Philadelphia of those interested in the studies of political and social science. Our harsh immigration laws were up for discussion. There was present a member of our Labor Department. It was some years ago and I think ere now both he and his attitude have left our Government. But I was told that the following case was mere "sob-sister stuff", but I did not believe it, because for Uncle Sam to become a baby snatcher was carrying the point a little too far. This was the case. A Japanese mother who had already given birth to four American citizens and who had lived in this country for some time, returned to Japan to visit with her parents and failed to register the fact before she left our shores that she was a prospective mother. Her baby was born in Japan and when she started to return home with her child she was stopped at the gangplank and told that her baby could not come into this country. What did this poor woman do? She took her baby back to her parents and returned to her other children and her husband, and when friends tried to see if something could not be done in this case, realizing that no one expected the law to operate quite that way, she was told that if her doctor would just make a statement that he knew that she was going to have a baby that that would be enough to satisfy the authorities. But she replied, "The doctor can't make such a statement because I did not go to him and I wouldn't have him tell a lie." The mother knew that she was a member of a group that was closely watched and that her loyalty to her group meant that she should do nothing to reflect upon that group.

Either thoughtlessly, or with design looking so far into the future that government is attempting to do that which men have not been able to do, our laws in regard to nationality cut deep when they strike the individual. There is an old Chinese who has lived alone in this country for 52 years, who never married, and who has gone through the troubles of the anti-Chinese days of the nineties, yet lived it all down, to become a real favorite in his neighborhood. He now is compelled to be deported.

The thoughtless sometimes suggest that our major race problem can be settled in America by sending the Negroes back to their homeland in Africa. Would not an American Negro be at home in Africa—an American Negro whose culture, whose language, whose life, whose ideals, whose religion, and whose very thoughts are all American? Probably in the history of mankind never have we had a better illustration of a complete break with the cultural past than was brought about as a result of the slave trade and the transportation of the forefathers of the present American Negro to our country. To assume that they have a home in Africa after the changes that have taken place to them here is to imagine that you and I overnight could find ourselves at home with an Eskimo or with a Fiji Islander, enjoying his culture, his ideas, and his food. We need thought in considering these problems, and we need above all things to remember that society owes something to the individual.

In this world of conflict, conflict not only of nationality but conflict also in law changing boundaries and in revolutions, America offers one sure foundation in both her Constitution and in her law as it is interpreted by our highest court in the *Wong Kim Ark case*. It is the great fundamentals in law that count.

Was it not Napoleon who said, in giving advice concerning his great code, that the code writers might change all things but they should not change the relationship between father and son, because by this filial piety more than anything else he would be able to govern? Thus, if we have one or two great fundamentals life becomes more certain. It is because of this fact that I have protested, and I protest now, against what I consider a tampering with a birthright.

To weaken in the slightest the theory of citizenship based upon the place of birth is a step backward. Facts of citizenship have become so complex, especially since the changing boundaries and conditions of the World War and the internal governments incident to the war, that this complexity has resulted in gross individual and mass injustices. The American theory of citizenship based upon place of birth, made definite and certain since the Wong Kim Ark case, is one sure foundation upon which to build. If we in America destroy this sure and certain foundation by executive action, by departmental ruling, by legal interpretation, or by treaty agreement, we shall take away a right which for more than a century, and especially since the decision in the Wong Kim Ark case, has been cherished by persons born in the United States. Likewise, we shall destroy a haven of promised justice sought for their offspring by those who could not obtain a fullness of peace and liberty themselves but who aimed to give those blessings to their children. Legislation to protect these great fundamental rights has been proposed and it should receive the support of all.

The theory of Wong Kim Ark I remember personally so well. I told you the story of my parents' dream of their children's welfare in this land of ours. But since the Dred Scott and the Slaughterhouse decisions there was not certainty about nationality, but with Wong Kim Ark came that certainty, a relief that was satisfying to the souls of those who were believers in this thing that we call democracy in America. I know of no more certain foundation on which to build true democratic principles. There is in nationality because of place of birth a break with the past. There is a conflict with the blood idea, a conflict deep-seated in western nations, and so deep-seated among the tribes of the Near East that we have the illustration of President Grant when he went around the world having his veins opened and an actual exchange of blood so that he might be accepted into some tribe. Man cannot be free with bonds of that type, and the democratic principle cannot function under them. Take, for example, the thousand long years of the Chow period in China. The teachers, the classicists, and the theorists then condemned heredity as a reason for rule. They accepted the worth of man at his place of birth as a natural fact; but in spite of the condemnation the hereditary principle worked, and democracy was impossible outside the small units of society.

Related to this principle of nationality as a result of place of birth when conceived as a fundamental aspect of democracy, the true rule of expatriation should follow some positive act on the part of the individual himself who changes his nationality, and should not be controlled by the acts of another.

The two principles enunciated by Francis of Vitoria as early as 1557 accepted the theory that persons born within the territory of a State should acquire the nationality of that State at birth and retain such nationality until some other is acquired, and also that individuals having a nationality should have the right to divest themselves of the nationality of allegiance and acquire another through the process of naturalization in a foreign country. And I now add the third principle, namely, that no person should be bound in these changes against his will or by the acts of a third party. That means when minor children become naturalized elsewhere as a result of the acts of their parents, if they are native-born Americans they should have the right to overcome that foreign naturalization when they are of age; and further that a woman losing her nationality through marriage if she is a native-born American should not lose that citizenship by a negative act on the part of another, but only by a positive act on the part of herself. It is the essence of democracy that man act for himself and make decisions for himself. It is the opposite of democracy when one has his status changed by acts of others without reference to his own will or wish.

This question, you see, is, after all, larger than a mere American question. It is not for me to point out places in the world where the blood idea is returning so strongly in the imaginations and the acts of men that history is being made over to fit the purpose of a given group. I leave you with the thought that if America has a fundamental outlook which has bearing upon dignifying the individual and giving him rights in a perturbed world of clashing conflict probably we have a simple key out for certain souls and certain persons who find themselves lost in the present-day world of uncertainties. Let us not slip back. Democracy to us should be so choice, and so important a thing that every element which goes to make up the whole of the scheme should be guarded at all hazards. To assume that a treaty or an Executive order can upset the fundamental law of the Constitution and the highest court is to break down that greatest of all strengths for individual rights which has been the primary purpose of the American Government.

I stand again in condemnation of all those theories of the past which cling to the old hereditary notions of the power and strength of blood. That which I have seen of American institutions when compared with others I have found good. I have felt that this nationality which came to me as a result of birth was good for me and for my children. In the surge of the blast of patriotism that broke forth at the opening of the Spanish-American War in April 1898, my father in his store bought thousands of little flag stickers and on every package that was wrapped a little American flag was placed. As a boy in the store I put one of those little American flags in the lid of a fine big gold watch my father had just given me. And many years later I found myself with my wife and a young baby in a foreign city, surrounded by a mob of thousands of people worked into hate

and moved to disorder over some antiforeign zeal. I had concern for our immediate welfare. The last thing most people would do under such circumstances would be to take out a gold watch and show it to such a mob. But that was the first thing I thought of doing. I took out my watch, I opened the lid, knowing that the gold would attract the eye of everyone. It did. But it was not only the gold watch that they saw; it was also the American flag. You cannot tell me there is not worth in that nationality. I know.

Thus I end as I began, a sentimentalist, but if I had not been a sentimentalist probably I would not be here to tell this tale. If American nationality is of worth to me I assume it may be of just as great worth to others born in this country. Let us make this worth universally sought after and individually secure to all those who wish to keep it by ceasing to tamper with a birthright.

Additional Transcontinental Air Mail Facilities Into the San Francisco Bay Area

EXTENSION OF REMARKS

OF

HON. RICHARD J. WELCH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

Mr. WELCH. Mr. Speaker, I seek this opportunity to particularly call to the attention of the Members of the House of Representatives, California State Senate Joint Resolution No. 17. This resolution memorializes the President and the Congress to grant permission for an additional transcontinental air-mail service to enter San Francisco and the San Francisco Bay area. There are two fundamental reasons of national importance why such permission should be granted immediately.

The first of these reasons is purely economic. With a population of almost 2,000,000 people, the San Francisco Bay area at the present time has only one transcontinental air-mail service entering the area. This section is increasing in population at perhaps a greater rate than any other section of the country. The needs of the community and the commercial contacts it makes with every other section of the country require more adequate service. Unfortunately, the general provisions of the Air Mail Act of 1934 will not permit another air-mail route to enter an area in which it might compete with an already existing service. As a result of this provision permission has been denied the establishment of a cut-off route between Albuquerque, N. Mex., and San Francisco. The establishment of this service will give air-mail facilities to and from sections of the country by a direct route not now existing, thus increasing efficiency without competing with the existing service. The increasing commercial advantages to be had will be of great value to that area and the communities in other parts of the United States thus served.

A second reason for the establishment of the service is of far greater importance, however, and should command the interest and support of every Member of Congress. The San Francisco Bay area is the most strategic point on the entire Pacific coast for national defense. This has been recognized by both the War and Navy Departments, for more than a dozen military and naval establishments for national defense have been established in this area with millions of dollars appropriated by Congress. To increase the number of air routes into this area, with trained and experienced aviators daily covering the routes, increases this national security.

While the accomplishments of both the Army and the Navy in the field of aviation are highly complimentary and in accord with the traditions of these branches of our Government, it is perhaps a fact that the greatest strides and advancements in the technical, as well as the practical, phases of aviation have been accomplished by our commercial airlines. The very fact that they are maintaining regular and accurate schedules over definite routes is an indication of this. They have spent millions of dollars in experimental and technical problems connected with aviation, and they will undoubtedly continue to do so. Thus it will be readily understood why a small appropriation permitting the establishment of such an air route will bring a return to our people of far greater magnitude.

Aside from the economic advantages the national defenses of our Nation requires that the entire country be crisscrossed with air routes so that we will at all times have trained aviators acquainted with the weather conditions to be encountered in every possible section of the country. With only one transcontinental air route entering the San Francisco Bay area, it is not receiving the attention that its strategic importance for defense of the Pacific coast demands. The necessary legislation to accomplish this should be enacted immediately. The military advantages of an adequately trained aviation personnel, whether trained by the military forces of the country or by private aviation companies, cannot be overemphasized. The majority of these commercial pilots are already members of the Army or Navy Reserve forces, and in time of military necessity the Nation would require the services of the remainder of them. The greater our peacetime commercial aviation, the stronger our national defense will be in time of emergency.

Commercial aviation is to our Army what the American merchant marine is to our Navy. It is a secondary line of defense and a principal line of communication. Its development along every possible avenue should be encouraged. But when the economic factors of peacetime commerce are also to be benefited, we have a twofold reason which makes it imperative that there should be no legislative hindrance. On the other hand, there should be enacted whatever legislation is necessary to encourage it. Both of these purposes will be served if Congress immediately enacts the proper legislation and appropriates the small sum of money necessary to permit the establishment of this air-mail route from Albuquerque, N. Mex., to San Francisco.

Senate joint resolution relative to memorializing the President and Congress of the United States to permit the Transcontinental & Western Air Lines, Inc., to enter San Francisco

Whereas the Transcontinental & Western Air Lines, Inc., applied for permission to institute and maintain passenger and express schedules between Albuquerque, N. Mex., and San Francisco, Calif.; and

Whereas, by a decision on February 8, 1937, this application was denied by the Interstate Commerce Commission; and

Whereas the decision states that the Interstate Commerce Commission under the Air Mail Act of 1934 cannot authorize an air-mail carrier to institute off-line passenger and express service which would in any way compete with similar service available upon another air-mail route, and that the proposed San Francisco-Albuquerque service would be competitive with similar service on air-mail routes of other carriers; and

Whereas the Air Mail Act of 1934 as so construed denies to the San Francisco Bay region logical and proper expansion of the air routes connecting it with other areas and cities of the United States, while at the same time these provisions permit such service to other Pacific coast cities; and

Whereas, as a result of this decision, the Air Mail Act of 1934 permits the San Francisco Bay region service by only one air line, namely, the United Air Lines; and

Whereas the United Air Lines maintains only one transcontinental route, which is practically a straight line from San Francisco and Oakland to New York via Salt Lake City, Cheyenne, and Chicago, causing any passenger who wishes to reach a city off this straight line to be routed either southerly via Los Angeles or northerly via Seattle, or to make a connection at some point along the eastern route with another air line, all of which alternatives necessitate broken schedules and loss of time; and

Whereas it appears that the present law denies to the San Francisco Bay region the right of direct mail, express, and passenger service to Kansas City and other cities of the South Central West; and

Whereas the establishment of such a direct service would be of great value both to the San Francisco Bay area and to these cities in providing a faster interchange of commerce and mail between nationally important centers; and

Whereas in direct contrast to the situation in the San Francisco Bay region the city of Los Angeles is served by six air lines, of which three are directly competitive on parallel routes terminating eventually in New York; and

Whereas there are only 3 transcontinental schedules daily in and out of San Francisco and Oakland on their one air line, as against 12 transcontinental schedules daily in and out of Los Angeles; and

Whereas, in the dissenting opinion of four of the Commissioners in the above-mentioned decision by the Interstate Commerce Commission, there is excellent expression of the discriminatory phases of the Air Mail Act: Now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully urges and memorializes the President and the Congress of the United States to take such steps as are proper to have the law amended to permit logical and nondiscriminatory expansion of air-mail, passenger, express, and freight service to and from the city of San Francisco and the city of Oakland, major seaports of the United States; and be it further

Resolved, That certified copies of this resolution be forwarded by the Secretary of the Senate of the State of California to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives of the United States, the members of the Interstate Commerce Commission, and to all the Senators and Representatives from California in the United States Congress.

Antilynching

EXTENSION OF REMARKS
OF
HON. ALFRED F. BEITER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

Mr. BEITER. Mr. Speaker, supporters of the emasculated Mitchell antilynching bill are trying to defeat the Gavagan antilynching bill, H. R. 1507, which I and other Representatives brought before the House through our signing the Gavagan discharge petition. This trickery is revealed for what it is—obstruction of the most irresponsible variety.

The Gavagan measure to hold counties responsible financially for mob murder has widespread popular support both in the North and South.

Only the false sentiment of local pride and a misconception of State rights have prevented passage of a Federal antilynching law for years.

Obstructionist tactics by southern Senators killed the Dyer antilynching bill some 13 years ago, after it had passed the House overwhelmingly. If the Gavagan measure is lynched again in a similar manner, the people will know who did it and why.

A large majority in Congress wants to enact a Federal antilynching law. A large majority of the citizens of the country favor such a law. This has been so for many years. Then why isn't there a law? Since this is a democracy in which we, as Members, are elected by popular majorities and in which we ourselves act by majority rule, how can the proponents of the Mitchell bill throw out the Gavagan bill and prevent majority rule?

It seems that ours is a democracy in textbooks and Fourth of July orations, but not in the House. Here periodically it is possible to rule by minority dictatorship. However, the method is more frequently employed in the Senate, where the minority merely decrees that there shall be no vote at all. This is achieved under the Senate rule of unlimited debate by which the minority talks a measure to death. It forces the majority to turn to other legislation acceptable to the minority dictators.

I venture to raise this question for your consideration. Is it wise for the opponents of the Gavagan bill to kick democracy in the face quite so publicly at this particular time?

Granting that opponents of a real antilynching have gotten away with it for many years, has there not been a recent change in the public temper which makes this sort of thing somewhat dangerous? Would it not be wiser from the opponents' point of view to give the Negro lynch victim the nominal protection of Federal law and then nullify the law as they nullify the Negro's constitutional right to vote?

I am interested in this question because I understand that certain Members of this House are very fearful of the spread of radicalism, especially among Negroes. The radicals are said to be telling the Negroes and the poor white sharecroppers and mill hands in certain sections of the country that democracy is a fake, that there is no such thing as representative government in this country, that democracy is only a camouflage for dictatorship by their enemies. Are not those radical agitators just mean enough to prove this point in the minds of ignorant Negroes and whites by citing the dictatorship of those few opponents of antilynching legislation in both ends of the Capitol who are thwarting the mass democratic will of the American people and of the majority of this Congress?

Admitting, from the point of view of the opponents of the Gavagan measure, that Negroes must continue to be robbed of constitutional rights, could not they find a safer method? After all, the Negroes are one-tenth of the national population, and in many places they are a majority. With all this talk of radicalism and some of the oppressed actually demanding their rights, perhaps it would be safer for the country to hold out hope of democracy to them to discourage more violent weapons.

Lincoln, a man of mediocre caliber, is remembered as one of our greatest Presidents because his signature adorned the document freeing millions from slavery. But the sequels to slavery—segregation, discrimination, and lynching, are rampant, not only in the former slave-holding States, but are increasingly evident in the North and West.

If this Congress desires to maintain the respect of America's citizens for democracy and redeem this country's ill name on four continents by stamping out lynching—it will reject the emasculated Mitchell bill and will accept the Gavagan bill.

The only way to impress respect for human rights is through general respect for law and for legal institutions constituted to uphold it.

In this Gavagan antilynching bill is the logical answer to the problem of organized sectional barbarianism.

Mr. Speaker, I desire at this point to make a comparative analysis of the Mitchell antilynching bill, H. R. 2251, and the Gavagan antilynching bill, H. R. 1507.

MITCHELL BILL	GAVAGAN BILL
Mob: (No definition.)	"Mob or riotous assemblage": Three or more persons acting in concert, without authority of law, to kill or injure any person in the custody of any peace officer. (Sec. 1.)
Denial of equal protection: If an officer of State or governmental subdivision thereof, without lawful justification or excuse, suffers or permits prisoner to be taken from custody and injured or put to death, or to be unlawfully injured or put to death while in custody. (Sec. 1a.)	Denial of due process and equal protection: If a State or governmental subdivision thereof fails, neglects, or refuses to provide and maintain protection to the life or person of any individual within its jurisdiction against a mob or riotous assemblage, whether by way of preventing or punishing the acts thereof. (Sec. 2.)
Prima-facie case: Proof that prisoner unlawfully killed or injured prima-facie evidence that officer suffered or permitted prisoner to be taken from custody and injured or put to death, or to be unlawfully injured or put to death while in custody. (Secs. 1b and 2b—deleted by Judiciary Committee.)	Prima-facie case: (No provision.)
Felony: Fine not exceeding $5,000 or imprisonment not exceeding 5 years, or both, if officer without lawful justification or excuse, suffers or permits prisoner to be taken from custody and injured or put to death, or to be unlawfully injured or put to death while in custody. (Sec. 2.)	Felony: Fine not exceeding $5,000 or imprisonment not exceeding 5 years, or both, if officer fails, neglects, or refuses to make all diligent efforts to protect prisoner from being injured or put to death by mob or riotous assemblage; or
(No provision.)	if officer charged with duty of apprehending or keeping in custody, or prosecuting any member of mob fails, neglects, or refuses to make all diligent efforts to perform his duty in apprehending, keeping in custody, or prosecuting to final judgment under the State law all mob members. (Sec. 3a.)
Felony: Imprisonment not less than 2 years nor more than 10, if officer having prisoner in custody or control, conspires with any person to	Felony: Imprisonment not less than 5 years nor more than 25, if officer having prisoner in custody or control conspires with any person to injure or

MITCHELL BILL—continued	GAVAGAN BILL—continued
injure or put such prisoner to death, or to suffer such prisoner to be taken from custody to be injured or put to death. All conspirators guilty. (Sec. 3.)	put such prisoner to death without authority of law, or to suffer such prisoner to be taken or obtained from custody or control to be injured or put to death by mob or riotous assemblage. All conspirators guilty. (Sec. 3b.)
(No provision.)	Prosecution of mob members in United States district court of judicial district wherein victim injured or put to death, in accordance with laws of State where injury inflicted or homicide committed: *Provided* (1), State officers charged with duty of apprehending, prosecuting, and punishing mob members have failed, neglected, or refused to do so; or (2) jurors obtainable in State court having jurisdiction are so strongly opposed to such punishment that probability that guilty parties will not be punished in such State court.
	Failure for more than 30 days after commission of offense to apprehend or indict, or failure diligently to prosecute, prima facie evidence of the failure, neglect, or refusal above. (Sec. 4.)
Liability against governmental subdivision: Not less than $2,000 nor more than $10,000 to injured victim or legal representatives, against subdivision whose officer suffered prisoner to be taken from custody and unlawfully injured or put to death, or unlawfully injured or put to death while in custody(?): *Provided*, If victim taken from officer of State who is not officer of any governmental subdivision thereof, the county or governmental subdivision wherein victim injured or put to death liable as aforesaid;	Liability against county in which victim seriously injured or put to death, not less than $2,000 nor more than $10,000 as liquidated damages, to injured victim or legal representatives;
suit in United States district court of judicial district wherein victim injured or put to death;	suit in United States district court of judicial district wherein victim injured or put to death;
(No provision.)	suit brought and prosecuted by United States attorney for such district;
(No provision.)	judgment enforced, if not paid, by United States district court levying execution on any property of county, or mandamus or other appropriate process; any officer of county or other person who disobeys or fails to comply with any lawful order of the court in the premises, liable for contempt and other penalty provided by law therefor;
(No provision.)	proceeds of judgment exempt from claims of creditors of deceased;
(No provision.)	proceeds distributed according to laws on intestacy of State wherein death occurred. (Sec. 5.)
no abatement of action for injury if victim subsequently dies. (Sec. 4.)	
(No provision.)	Joint and several county liability as above provided, where victim transported by mob or riotous assemblage from one county to another, on county wherein victim seized and county wherein victim put to death.
	United States district judge of the United States district court wherein prosecution or suit under this act instituted may order prosecution or suit tried in any place in such district as he may designate by order. (Sec. 6.)
Severability clause, in case any provision held invalid. (Sec. 5.)	Severability clause, in case any provision held invalid. (Sec. 7.)

I am in receipt of telegrams from the Buffalo National Association for Advancement of Colored People and the Young Women's Christian Association of Buffalo in which both organizations urge me to exert every effort to defeat the Mitchell antilynching bill and to give my full support to the passage of the Gavagan bill.

Let us therefore follow the lead of those who favor a real antilynching bill. Let us once and for all time do away with this horrible lynching by passing the Gavagan bill and not the emasculated Mitchell measure.

The Fourth Anniversary of the C. C. C.

EXTENSION OF REMARKS

OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

RADIO ADDRESS BY HON. JENNINGS RANDOLPH, OF WEST VIRGINIA, ON APRIL 7, 1937

Mr. RANDOLPH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I delivered from the Capitol today over the Columbia Broadcasting system:

We have just observed the fourth birthday of the Civilian Conservation Corps. In the short space of 4 years this new venture in relief and reforestation has become such an important part of the life of the American people that within a short time Congress will take steps to make it permanent.

The Civilian Conservation Corps was launched by President Roosevelt for the purpose of solving two major problems created by widespread unemployment and past neglect as well as unwise use of our natural resources.

When President Roosevelt assumed office in the spring of 1933 unemployment among young men had reached alarming proportions. Hundreds of thousands of young men had reached working age filled with the characteristic energy, ambition, and idealism of youth, only to find themselves unwanted in the business and professional world. More than half of these youths lived in the congested areas of our cities. Many belonged to families where the chief breadwinner had been thrown out of work by the depression and forced to depend upon public charity for the means of subsistence. As the early years of the depression had passed after 1929 and no work opportunities were forthcoming, many young men became discouraged. Some became resentful and hostile; others could not withstand the temptation to petty crime. Thousands no longer willing to remain a burden to needy families took to the road in search of work or as an escape from discouraging and unpromising local conditions.

Losing confidence in themselves over inability to find work and beaten down at an age when they should normally be getting a start in life, these young people represented a problem of the first magnitude. There was danger that many of them would become so embittered and discouraged that they would never be able to find a place for themselves in the workaday world. A very real possibility existed that a large section of the Nation's youth would carry forward a spirit of frustration and futility into the years when they would normally take over the task of conducting the affairs of the Nation.

Bad as youth's predicament was, it had a counterpart in the condition of our natural resources. Failure of past generations to safeguard the needs of the future had resulted in depleted forest, soil, and water resources. Our widespread forest wealth since the discovery of America had seemed well-nigh inexhaustible. This idea of an inexhaustible wealth of forest supplies resulted in enormous wastage of these resources. Evidence of that wastefulness was apparent everywhere. Destructive forest fires raced over millions of acres of timbered land each year. Tree-attacking insects and diseases caused damages equalling if not exceeding those caused by forest fires. Watersheds serving hundreds of thousands of people who had been denuded, thus precipitating soil wastage and floods. Through neglect, hundreds of millions of acres of valuable agricultural lands were being depleted through loss of topsoils. Government officials estimated a minimum of three billion tons of soil material was annually washed out of fields and pastures, causing the farmers a loss of not less than $400,000,000 annually.

Before the President had completed his first day in the White House, he had roughly blocked out in pencil the skeleton of an organization which would unite under one leadership the resources of four of our great governmental departments—War, Labor, Agriculture, and Interior—in a courageous enterprise for the

conservation not only of our youth but of our long-neglected natural resources. On March 21, President Roosevelt laid before Congress his proposal for the employment of large numbers of unemployed young men in our forests and parks on useful conservation projects.

"I propose," the President said, "to create a Civilian Conservation Corps to be used in simple work, not interfering with normal employment, and confining itself to forestry, the prevention of soil erosion, flood control, and similar projects. The overwhelming majority of unemployed Americans now walking the streets and receiving public or private relief, would infinitely prefer to work. We can take a vast army of these unemployed out of unhealthful surroundings. It is not a panacea for all the unemployment but it is an essential step in this emergency."

A bill incorporating the ideas suggested by the President was passed by Congress on March 31, 1933. Acting promptly upon the authority vested in him by this act, the President issued an Executive order on April 5, 1933, which appointed a Director of Emergency Conservation Work, provided that an advisory council of four should be established, consisting of a representative of the Secretary of War, the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Labor.

Almost before the ink was dry on this Executive order, the cooperating departments were paving the way for the prompt mobilization of the Nation's youth into a new peacetime army of conservation. The Labor Department began the selection of young men. The War Department radioed its corps area commanders in all sections of the country to make ready to execute successfully the most difficult peacetime task ever assigned to the War Department. This Department of the Government was charged with receiving, enrolling, conditioning, feeding, and clothing the men, and with the establishment and operation of the camps. The Department of Agriculture and the Department of the Interior began preparations for putting the young C. C. C. men to work on useful projects.

On April 7, 1933, the first men were enrolled by the War Department. On April 17, just 12 days after the C. C. C. was launched, the first work camp was established on a rain-swept plateau in the George Washington National Forest near Luray, Va. By early July, a corps of 275,000 formerly idle youths and 25,000 war veterans had been enrolled, equipped, and put to work. The Civilian Conservation Corps was in actual operation.

For the first time in the history of the country, a constructive step had been taken to solve the youth problem. And by the same stroke, the President had launched the Nation on a sound conservation program, which, to date, has substantially reduced annual losses caused by forest fires and the depredations of tree-attacking insects and diseases.

At the outset of the Civilian Conservation Corps, eligibility requirements were established, limiting enrollments to those unemployed, single men between the ages of 18 and 25, whose families were in need of public assistance. Later the age limits were changed to include the years 17 and 28, and only those boys whose families were on relief rolls were permitted to be selected. All enrollees agree to send approximately $25 of their $30-a-month cash allowance to their dependents.

At first the men were housed in tents, 200 men being assigned to each camp. Within a few months after the corps was initiated, permanent wooden barracks were supplied all camps.

After work hours and while the boys are within the camp boundaries they are under the supervision of Army Reserve officers. Reserve-officer personnel is employed because it comprises the only cohesive group of men in the Nation, outside of the Regular Army, who are experienced leaders of men in camp life. The fact that Reserve officers of the Army are utilized in the C. C. C. has no military significance whatsoever. They have no military duties to perform and in practical effect become civilians in our employ while on this duty.

During working hours the C. C. C. enrollees are under the direction of trained supervisors and technicians employed by the technical agencies of the Department of the Interior and the Department of Agriculture which have charge of planning and carrying forward the work programs. The C. C. C. men work 40 hours a week, on the basis of 8 hours a day for 5 days.

Food served in the camps is wholesome and nourishing. The physical condition of the enrollees is carefully supervised by a competent physician at each camp. Serious illnesses are cared for in well-equipped hospitals.

The moral life of the young men is not neglected. Through the services of Army Reserve chaplains assigned to the camps, and with the cooperation of the local clergy, Catholic, Protestant, and Jewish services are regularly held each week.

Examination of the record written by the C. C. C. in our forests and fields as well as in employment statistics discloses that the idea of combining unemployment relief and conservation has been a signal success.

The record of experience has shown in recent months that the C. C. C. has been more attractive to young men of 17, 18, 19, and 20 than to any other age groups. The records of the Department of Labor, which has charge of the selection of the young men for enrollment, show that 75 percent of all C. C. C. enrollees who have entered the corps in recent months have been within these age brackets.

This indicates that today C. C. C. officials are getting the men into the corps before they have become discouraged and chronically embittered through inability to find employment. The C. C. C. is bridging the gap between school and college and a permanent job in private industry for hundreds of thousands of young men. It has demonstrated that it can give hundreds of thousands of jobs each year to idle young men for an indefinite period.

One of the most noteworthy contributions has come in the reduction of juvenile delinquency and crime. Discussing this point recently, Director Fechner said:

"The problem of crime prevention is as broad as the whole field of social betterment. It concerns all individuals and groups of society, involving as it does a systematic and continuous attack on all fronts of biologic and social pathology; and we may safely term as crime preventative any type of activity which aids the individual in making a more satisfactory adjustment to society. There is no cure-all, no panacea for crime, but the further we go in our study of crime in America the more startlingly clear becomes our understanding of the fact that youth is the key to the situation. And so it is time to direct our energies to programs which have as their themes the training of youth in social rather than antisocial paths.

"The program of the C. C. C. deals with many of the conditions which criminologists have recognized as symptomatic of, or as conducive to juvenile delinquency. Enrollment in the C. C. C. provides the unemployed youth with at least some measure of the economic security so necessary to proper social adjustment and offers him training along lines which may make it possible for him to earn a living after he leaves the camp. At the present time we are informed that boys 19 years of age provide the greatest crop of criminality. Life in a camp removes the youth at this most susceptible of ages from slum areas and crowded home conditions that are known breeders of delinquency. In place of the street corner loafing and gang activities into which he might so easily have drifted, the C. C. C. camp offers him well planned and properly supervised recreation. In the camp he is given excellent physical care as well as educational opportunities for building a well rounded personality. From this healthy, outdoor life of work and play with those of his own age, the boy will more than likely gain a new respect for the principles of democracy. The discipline of camp life often brings with it physical poise and mental alertness in meeting situations as they arise."

Ralph J. Kelley, chaplain at Ionia State Prison, Michigan, makes this explanation of the influence of the C. C. C. on prison populations:

"By taking the unemployed youth off the streets, away from the drug-store counters and poolrooms, by giving them useful work, the Civilian Conservation Corps has saved an unknown number of lives from ruin and incidentally thousands of dollars in prison expense."

Judge J. M. Braude, of the Chicago Boys' Court, was quoted in the newspapers of October 2, 1936, as believing that the C. C. C. is largely responsible for the 50-percent reduction in Chicago's crime record during the last 4 years. "In my opinion, 90 percent of the juvenile delinquency is due to unemployment," he said. "I believe that if more businessmen would provide more jobs for boys we would prevent much of the crime we still have."

"We may say, then, that insofar as the C. C. C. is successful in turning unemployed and discouraged youths into happy, useful citizens it is helping to prevent crime."

In a recent speech, Director Fechner paid tribute to the fine spirit that has been demonstrated by the enrollees. "One of the most gratifying things about this work has been the fine spirit shown by young men offered an opportunity to enroll," he said. "When this program was proposed, many predicted that young men had been idle so long that they no longer desired a job. Others ventured the opinion that the formerly idle and untrained youths would prove unsuitable for the work. The promptness with which hundreds of thousands of young men responded to the opportunity to enroll was the most effective answer that could possibly be made to these criticisms. Young men were not only anxious to become self-supporting but they were proud of the fact that by enrolling in the C. C. C. camps they could render material support to their needy dependents. In literally hundreds of thousands of cases enrollees through the use of their earnings were enabled to remove their dependent families from relief rolls.

"When the great majority of enrollees reported at work camps, they plainly showed the effect of the industrial depression. Undernourished, inadequately clothed, without proper medical attention, many young men came to the camps discouraged and resentful. The plain but wholesome food, the regular hours of work, recreation, and rest coupled with the realization that they were being given an opportunity to rehabilitate themselves and above all an appreciation of the fact that their Government was vitally concerned in their welfare and determined to do everything in its power to aid them, quickly restored the morale of enrollees, and replaced bitterness with the normal optimism of youth.

"Men who came to the camps discouraged have left with heads up, shoulders back, ready to do a real job in the life ahead. The average C. C. C. 'graduate' on leaving the camps is alert, eager to succeed, healthy in body, improved in mind, and better equipped than ever before to become a success in life."

Education has been an important part of each camp program. There is an educational adviser—a graduate teacher—in every camp. More than $1,000,000 have been spent directly on educational activities and in addition those in charge of the camps and

work projects have devoted a large part of their time to educational work for the boys in the C. C. C. The boys receive instruction and training on the job; they are taught academic subjects in the camps, and every effort is made to help the boys continue their education where they left off, either in grammar school or high school. More than 50,000 illiterates have been taught to read and write.

As a member of the Labor Committee of the House of Representatives, it was my pleasure and responsibility to speak in behalf of the creation of the Civilian Conservation Corps. During the debate on the floor I joined those who believed that the investment made in the C. C. C. would be a wise one. Since then I have visited many camps in my own State, and have seen the fine work being accomplished. Today I am firmly of the opinion that real dividends have been paid. I shall enthusiastically support the permanent establishment of this worth-while program.

We Are on Our Way

EXTENSION OF REMARKS

OF

HON. CLARE E. HOFFMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

ADDRESS OF HON. CLARE E. HOFFMAN, OF MICHIGAN, AT BENTON HARBOR, MICH., ON APRIL 2, 1937

Mr. HOFFMAN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include a speech which I delivered at Benton Harbor, Mich., on April 2, 1937, as follows:

We are on our way to financial disaster; to the destruction of that Government which has given us our opportunities, enabled us to acquire and hold our homes, which has preserved our liberty.

From the time when Joseph interpreted Pharaoh's dream and told him of the coming of the 7 fat years, to be followed by the 7 lean years, down to the present moment the people of the world, the nations of the earth, have experienced periods of prosperity followed by times of depression. While men strive for advantage over their fellows—while envy, greed, and selfishness influence us, there will continue in this world, as in the days of old, some who have little, some who have much—days of plenty, days of famine.

Until the teachings of our Savior are followed by all mankind, there will be injustices, tyranny, oppression; and no Hitler, Mussolini, or President, by artificially controlling the sowing and harvesting of crops, by destroying food, limiting the production of the materials which go into clothing, will set aside the laws of supply and demand.

The lessons of history, the experiences of the past, demonstrate that nature's laws must be obeyed—that man's weaknesses must be given consideration.

Shutting his eyes to these self-evident facts, the President, in 1932, told us, and our people believed, that the periodical depression, which was then upon us, was due to the preceding administration and that he held the key which would unlock the gates which admitted all to the land of plenty, where neither suffering nor hardship could be found.

The President and his supporters, ignoring the existence of like conditions the world over, implanted in the minds of our people the belief that bankers, businessmen, and manufacturers had brought the period of depression to this country, created in their hearts a hatred for those who transact business and operate factories, give employment, meet the pay rolls, and taught the doctrine that the average man was being misused, abused, and deprived of his lawful rights and of his share of the world's wealth, exploited, oppressed, that men of property, no matter how acquired, were without kindliness, charity, or consideration for their fellowmen.

By means of this campaign of slander and misrepresentation, deceit and fraudulent statements, the President attained his office.

He continued to preach the doctrine of fear. Statement after statement was made that revolution would follow a refusal to follow his leadership and a supine and intimidated Congress ceased to think, followed blindly his leadership, appropriated undreamed of sums to be spent, without restriction, in accordance with his desires, gave to him arbitrary power to determine what men should sow, what men should plant, gave him authority to destroy food. It delegated to him the authority to make rules, issue orders which had the force of law.

HE HAD HIS WAY—HE WORKED HIS WILL

For 4 years the President, with unlimited funds at his disposal and with arbitrary authority over our lives and our destiny, worked his will, had his way, and after the expenditure of all these vast sums of the application of all his rules and regulations, he came before us again on the 20th of January 1937, and told us that one-third of our people were ill-nourished, ill-clothed, and ill-housed.

A more sweeping, conclusive indictment of the unsoundness of his methods of government could not be made by his bitterest enemy.

The words from his own mouth demonstrated that his words were but as the sounding brass and the tinkling cymbal. He "primed the pump" by taking money from one group of taxpayers to give to another, and the only practical result was the recording of purchased political support and the creating of a false prosperity. He berated businessmen. He excoriated the owners and operators of factories. He stigmatized all those engaged in either business or industry as economic royalists, apostles of greed, oppressors of the worker. He attempted to tax their enterprises so as to destroy them. He harrassed and annoyed them by his "cracking down" process administered by the vociferous, offensive, loud-swearing General Johnson.

When nature and the laws of supply and demand again asserted themselves and our country was on the highway toward prosperity, the dangerous effect of the application of his artificial and harmful remedies became apparent. Many warnings of the ultimate ill effect of the wasteful spending and the delegation of authority had been voiced by patriotic Americans the country over. All were disregarded.

Within the past few months these warnings have again been reiterated, this time from the members of the President's own official family. Recently Secretary of the Treasury Morgenthau, Eccles, of the Reserve Board, Wallace, of the Department of Agriculture, Roper, of the Department of Commerce, all have warned us of the dangers of inflation, of the bursting of the bubble of false prosperity.

Like a Napoleon, greedy for power, willing to sacrifice the liberties of his people to gratify his ambition, supreme because of his own egotism, intolerant of criticism, insistent like a restless, spoiled, self-willed child on having his own way, he rejects all counsel, is impatient of all restraints.

In 1933, by his threats of what would come if Congress opposed his will, he forced it to relinquish its power to legislate, to appropriate money for specific purposes, and to give to young men, who had never proven their ability, who were without practical experience, the power to draft legislation, which a spineless Congress enacted without reading and without proper consideration as to its constitutionality.

The same Congress gave him the keys to the Public Treasury, authorizing him to spend not only all that was therein to anticipate the revenues of the coming years, but to place a mortgage upon the backs of the children, even unto the third and fourth generation.

Under his guidance we have, according to his statement and the statement of his followers, passed from the depths of a depression, which brought disaster, to the dizzy, dangerous heights of a false prosperity, which we are now told by the members of his official family will end in national bankruptcy.

His quack remedies have taken us from a chill to the heights of a life-destroying fever.

He artificially raised the prices because they were too low. Now he tells us they are too high and will bring disaster.

Like a gnawing malignant cancer, which never ceases in its destructive influence, his policies, his agents are steadily undermining our Government, will ultimately destroy and take from us our liberty.

From the crisis confronting us in 1932, 1933, and 1934, created by want and suffering, he had brought us, according to his statements, into a land of plenty, "a land flowing with milk and honey" as the Scripture hath it.

Just a few months later, by a few magic words, he returned us to that deplorable state of depression just mentioned where one-third of our people were ill-nourished, ill-clothed, and ill-housed.

But the hunger for power drives on, and now we have confronting us again another crisis, another threat of revolution, this time growing out of excessive prosperity. To save us from this new and greater danger, he finds it necessary to demand that we turn over to him the judicial power of our Government, the one remaining safeguard of democracy, the only department of our Government which stands between him and a dictatorship.

Hence the attack upon the Supreme Court.

Through the veto power the President has invalidated, has rendered noneffective hundreds of acts of Congress. The veto power is given him by the Constitution. Congress has never sought to deprive him of that power. When the Supreme Court, under authority granted by the same instrument, declares invalid acts of Congress, the President complains—a most inconsistent and arbitrary attitude.

REASON FOR UNCONSTITUTIONAL LAWS

Nor should it be forgotten that much of this legislation was passed because of his attitude that Congress should not even consider its constitutionality. Congress was told to enact the laws he desired regardless of their constitutionality, throw them into the hopper, and let the Supreme Court sort the good from the bad. When the Court did that which it was its duty to do, he questions the mental competency of its members, as well as their integrity.

He assumes that the all honest, the all virtue, the all knowledge rests in him and him alone.

POLITICAL SUPPORT OF LABOR PURCHASED

Our President bought the political support of labor by creating a belief that, if reelected, he would join with labor, force business to the wall and compel it to accede to labor's demands, just or unjust.

Relying upon his tirades against business, political, ambitious labor leaders contributed more than $600,000 to his campaign fund and induced millions of their followers to support him at the polls. With their aid he was reelected and the day following the one when he stood on the Capitol steps and took an oath to preserve, protect, and defend the Constitution of the United States he was called upon by John L. Lewis to repay the political debt which he owed to the United Mine Workers and the C. I. O. Consider the manner in which that debt has been repaid and the consequences to the Nation.

This demand of Lewis is understandable when we recall that boasting statement of the President after his reelection when he referred to business and said: "They have met their match. Now they will meet their master." He carried out that boast when his woman Perkins and his man Murphy, by a governed third-degree process, forced General Motors to a conference and held their officials there until they agreed to labor's demands.

The same procedure he is now applying to Chrysler Motor Co., but, doubtless to his surprise and to the amazement of Lewis, Murphy, Perkins, and Communists, they have uncovered a man of patriotism and courage.

THE PRESIDENT PREPARES THE FIELD

The President was wise enough to know that no attack upon the Supreme Court could be successful, unless abnormal conditions were created, unless the people could be frightened with threats of another revolution. These conditions, that fear, this threat, John L. Lewis and the C. I. O. were ready to furnish. They were prepared to set the stage, put on the play which would deal with the welfare of hundreds of thousands of people, inaugurate armed rebellion, bring us to the verge of civil war.

Not long ago Governor Murphy of Michigan told us:

"There is a general picture of high wages, good condition, security, and recognition which is one of the best in the country.

"Wages here are the highest of any place in the country or the world."

Those words were true not only when uttered; they were true when the sit-down strike at Flint was instigated.

MICHIGAN LEADS RECOVERY

Notwithstanding the fact that Michigan was leading the way to full recovery, that the motor industry was foremost in the battle front, that General Motors, Chrysler, and Ford had all throughout the depression drawn millions from their reserves to give men employment, to keep the wheels of industry turning, had done more than any other industry, or group of men, to aid the President in his recovery plans, he turned upon them, joined with Lewis, inaugurated a campaign calculated to wreck their business and to bring bloodshed to the State of Michigan.

What has our President done—what does he desire? For months, yes for years, by his teachings he has fanned the flames of envy, of discontent, of hatred of one group for another.

From the beginning of his campaign for President down to the present moment, he has sought to array the employee against the employer; he has aligned the producer against the consumer; he has endeavored to create in the mind of the borrower a hatred for the lender. He has so successfully preached the doctrine of discontent that an increasingly large number of our people have become convinced that they are misused and abused, that the world owes them a living.

Whatever may have been his intention, the direct, inevitable result of his teaching is that we have an ever increasing number who not only believe, but are now demanding, that they live at the expense of others, that they enjoy the fruit when they have neither planted nor harvested.

Well might it be said, they sow not, neither do they spin, and yet they live and some at least enjoy benefits unattainable by the worker, by the thrifty.

Everyone knows that this cannot indefinitely continue, that the group of those who live, without producing, at the expense of the worker, the producer, cannot ever continue to grow larger, that in the end such a policy brings disaster to all.

So much for what the President has done. What does he desire to do? As he himself has said, men are to be judged, not by what they say, but by what they do. Judged by this standard, his every act points toward the conclusion that he desires to reign supreme in this land of democracy.

His present attack upon the Supreme Court, if successful, will remove from his path the last legal barrier toward the accomplishment of that purpose.

THE CHARACTER OF SOME C. I. O. LEADERS

To his aid he has called Lewis and the C. I. O. and men who throughout their lives have been known as Communists, men who desire the overthrow of our Government. He has the native support of Lewis, and Lewis has drawn about him lieutenants and organizers, some of whom in 1930 he characterized as "fakers, repudiated leaders, traitors to the union, opportunists, and purveyors of every falsehood, slander, and deception."

It was Lewis' C. I. O. which has furnished the sinews of war for the strike instigated at Flint. They caused hundreds of armed men to invade the State, to defy the civil authorities, to kidnap factories, to oust honest taxpaying Michigan citizens from their jobs, and to hold those kidnaped factories for ransom.

Murphy, who had been brought back by the President from the Philippine Islands and an $18,000-a-year job to become Governor of Michigan at a $5,000-a-year salary, was the Governor of the State when the outraged citizens of Flint and the workers who were driven from their means of livelihood would have ousted these armed invaders. This man Murphy called out the National Guard of the State and interposed a ring of steel between these violators of the law, these kidnapers of property, these takers of jobs, and those who would by lawful means repossess their property, their tools, and their working places.

Murphy refused to permit the sheriff of Genesee County to execute the laws of the State. He violated his oath of office. He was a traitor to the State. Murphy was not acting for himself alone. He was acting for the President of the United States.

Monday night, March 29, at Pontiac, he is quoted as saying that the President "often calls morning, noon, and night to express his interest and great concern and to give his advice", with reference to the strike situation.

Madam Perkins, the President's Secretary of Labor, the personal friend of his wife, attempted to justify the sit-down strike.

Nor are the President, Lewis, and these Communists alone in their approval of the sit-down strike. March 30, in Congress, two Members of that body, and prior to that date one other, rose on the floor of the House and argued that it was lawful for one group of men to take possession and hold factories and to oust another group of workers from their jobs.

THE COST OF THE SIT-DOWN STRIKES

For 40 long days, at a cost of over a million dollars in wages alone, these armed violators of the law at Flint, Mich., held possession of the factories and deprived these workers of their jobs.

The direct loss in wages in the Chrysler strike at Detroit has already reached a total of $10,000,000, with a loss to retail merchants of Detroit and vicinity of $6,000,000, and to the wholesalers of $7,750,000.

This under the protection of Murphy, who was acting with the knowledge and under the advice, he now says, of the President of the United States.

On the 20th day of January 1937 the President, in the presence of more than 50,000 people who stood in a cold, driving rain to see and hear him, with uplifted hand took that solemn oath to preserve, protect, and defend the Constitution of the United States and hardly a day has passed since that time but that he has failed to meet its provisions.

The President's friend and his political leader in the Senate, JOE ROBINSON, tells us, in substance, that, because of the attitude of the Supreme Court the President is powerless. Such a statement he well knows is untrue.

THE PRESIDENT'S DUTY

There is upon the statute books, section 5299, a provision which not only gives the President authority, but makes it his duty, to call upon the militia, if necessary the land and naval forces of the Nation to protect the citizens in his constitutional rights. That provision is this:

"Whenever insurrection, domestic violence, unlawful combinations or conspiracies in any State, so obstructs or hinders the execution of the laws thereof and of the United States as to deprive any portion or class of the people of such State of any of the rights, privileges, or immunities, or protection named in the Constitution and secured by the laws for the protection of such rights, privilege or immunities and the constituted authorities of such State are unable to protect, or from any cause fail in, or refuse, protection of the people in such rights, such facts shall be deemed a denial by such State of the equal protection of the laws to which they are entitled under the Constitution of the United States, and in all such cases * * * it shall be lawful for the President, and it shall be his duty, to take such measures by the employment of the militia or the land and naval forces of the United States * * * or of either or by other means as he may deem necessary for the suppression of such insurrection, domestic violence or combinations."

Day by day goes by; since the 30th day of December it has been the duty of the President, down to the present moment, to act. Each setting sun marks another day of his failure to uphold the law of the land, to fulfill the provisions of the oath he gave.

Having subjected the Congress to his will, having taken from it the legislative power, having, by virtue of his office, the executive power, now, to secure the judicial power, the President openly and boldly attacks the Supreme Court.

By blandishments, soft words, promises of political advancement and favor, the President seduced the Congress. With the power thus gained, he raped the Constitution, and he would lend the appearance of legality to his procedure by obtaining, through a packed Court, judicial decisions approving his methods and accomplishments.

To aid him in that effort, Lewis and Murphy cooperate. Lewis leads the strikers, not for an increase in wages, not for shorter working hours, not for better working conditions, but with a demand that industry recognize him as the sole bargaining agency for all labor. Here is the demand of a dictator, of a tyrant. His sole demand is that labor and employer acknowledge him as supreme, give him the opportunity to sell labor to General Motors, and to all other employers for that matter, as other men sell coal, iron, rubber, and other commodities.

WHAT THE C. I. O. WILL DO TO THE WORKER

Whether the worker realizes it or not, he will, when Lewis' plans are completed, have neither collective bargaining nor bargaining of any kind and Lewis and Lewis' henchmen, instead of the employer, will determine the price he shall receive for his work and, more important yet, whether or not he shall be employed at all.

The President aids in this procedure by failing to perform his duty, by remaining silent. Murphy assists by interposing the armed forces of the State between the workers and their jobs and in aid of Lewis and his law violators.

When at first the officials of General Motors, no doubt amazed, astounded, and shocked by this procedure which robbed them of their property, resisted the demands of the C. I. O., they were commanded by the President to meet in conference and Murphy, his henchman, held them in continuous conference until, realizing that business disaster faced them if they did not meet with Lewis, they yielded, and, that they might have the privilege of continuing in business, of giving jobs and meeting a pay roll, surrendered their unorganized workers to the domination of the C. I. O.

Murphy tells us he refused to act because he desired to avoid bloodshed. He tells us that those who want—

"Workers shot out of the factories to end sit-down strikes once and for all will have to ask another man to be Governor of the State."

My reply to that is this: If the Governor of our State will permit armed men, who have no authority in law, equity, or morals, to take possession of the property of honest, taxpaying citizens, to deprive Godfearing workers of their jobs, then we need another Governor, and that without delay.

One difficulty is that the Governor has no honest intent of enforcing the law, that his sympathies are all with the strikers. He will not even protect the workers who wish to continue at their benches.

Now we learn that, to preserve order and to protect the strikers themselves from their communistic bedfellows, Lewis intends to send in his "flying squadron" of "strong-arm men" from the United Mine Workers. What becomes of the Governor's desire to avoid bloodshed? Law is to be enforced—not by the officers of Michigan—but by a gang of armed invaders brought in by Lewis. Stated differently, Lewis, not Murphy, will enforce, not the law of Michigan, but the will of Lewis.

He used the tax money collected from the unorganized workers, from business, from industry, to support those who refuse to work, who prevent others from working. He says one thing; he does another.

No great moral issue is settled until it is settled right—in accord with justice and principle.

The futility of Murphy's policy at Flint is demonstrated by the calling of the many strikes since that time, the last of which is now on, the Chrysler in Detroit and Chevrolet in Flint.

The papers of April 2 tell us of a new strike outbreak in the Chevrolet plant at Flint, where the Governor recently was credited with having settled the strike question.

Since that so-called settlement, since the agreement of the strikers that they would not strike again while negotiations were pending, they have called and put in operation six different strikes in the very plants where they agreed to continue their work.

The Governor is vocally in favor of the enforcement of the law, but he will not go far enough to tell the strikers unequivocally that they must return possession of the kidnaped factories to the owners. His position is that, if a stranger comes to your home, takes possession, sits down, bars you and your family, you must not call a policeman to eject him for fear that blood might be shed.

The Governor said: "I am not condoning confiscation of property." Unfortunately, that is just exactly what he has done. No other possible interpretation can be put upon his words and acts, for he has repeatedly said that he would not use force to prevent confiscation.

When the Governor said, "It should not be forgotten that personal liberty will be of little value if the authority and the integrity of the courts are not preserved and property rights protected", he stated a principle which experience has demonstrated must govern the actions of all. If the Governor honestly and sincerely believed this statement to be true, why was it that he did not at Flint, when these strikes began, in unequivocal language inform the sit-downers that the law would be enforced? Out of the factories they would have gone, and that without bloodshed.

That this is true has been demonstrated by the course of the Chrysler strike, where, after public sentiment had smoked out the President, who, still desiring not to offend Lewis, utters no public word, but gives secret instructions to Murphy, the strikers, on demand, moved out.

There is a political campaign on in Michigan to curry favor with labor. To retain its vote the Governor of our State violates his oath of office, and he definitely unequivocally puts himself in the ranks standing shoulder to shoulder with those who defy our courts, violate our laws, and deprive our citizens of the protection guaranteed to them under the Constitution of State and Nation.

If a kidnaper steals your child, the Governor, if he be logical, would say, "You must not assault the place where the child is confined for fear you might shed blood." The Governor regards a personal right as superior to a property right, provided the man who asserts the right is a member of the C. I. O. He failed at Flint to enforce the right of those who wanted to work, to labor at their jobs. Nine men with a personal right to work were deprived of that right by the action of the Governor, because one man, a member of the C. I. O., did not want to work. The Governor may use words, but his actions prove that he is on the side of the law violators, of the kidnapers of jobs, and he should be recalled.

The Governor well knows that in this State it is a felony to injure real estate. He well knows that the real estate of General Motors was injured. He well knows that many of these sit-down strikers were guilty of a felony, that they could, and should, be convicted and sent to prison for a violation of the statutes of our State. He knows that, by condoning these violations of the law, by upholding these strikers in their attitude, he but invites trouble, invites bloodshed, the very thing which he says he wishes to avoid.

Certain it is that honest, law-abiding citizens will not forever tolerate an invasion of their rights, of their property, without retaliating in like manner.

The President and Madam Perkins prate incessantly of human rights as distinguished from personal rights, but their insincerity was demonstrated in this Flint situation where a minority of the workers deprived an overwhelming majority of their personal right to work, of their right to earn the wages to feed and clothe their families and to furnish them with homes.

Who is this woman Perkins?

Let me quote JOHN MCCORMACK, the Democratic Representative from Massachusetts. Last week in the House he said:

"This is a matter involving the welfare of our country. I take the floor reluctantly, hesitatingly, after waiting for 4 years for some evidence that would warrant me in forming an opinion of confidence in the Secretary."

Murphy was thanked by the President because it was said he ended the strikes in Flint. I am wondering whether the President today is aware of the fact that 120,000 workers in the motor industry are still unemployed and that we have today a strike in the Chevrolet plant at Flint.

Today in Michigan, Chrysler's factory remains closed, because Walter P. Chrysler, and God grant that there were more men like him, has refused to bow the head and bend the knee to the dictator Lewis, whose motives are political, who is seeking to establish himself as the dictator of labor and to obtain for the Communist Party control of our Government.

A COMMUNISTIC MOVEMENT

It was in 1924 that Lewis' United Mine Workers put forth a publication, now known as Senate Document 14, Sixty-eighth Congress, first session, in which, speaking of some of these men with whom Lewis has now associated himself, it was said:

"They desired the overthrow and destruction of this Government with the establishment of an absolute and arbitrary dictatorship and the elimination of all forms of popular voice in governmental affairs."

Let me quote further:

"Seizure of the American Federation of Labor, with the ouster of its officials, and through such seizures gaining control of all its affiliated units and trade unions.

"Conversion of all craft trade unions into single units of workers within an industry known as 'industrial unions', with coordination under a super-soviet union, owing allegiance to, and accepting the mandates of the Communist International and its subsidiary, the Red Trade Union International, at Moscow."

On the Communist honor roll, 1937, the first name is that of Stalin, the fourth is that of John L. Lewis, and the sixth is that of Homer Martin, who recently, addressing more than 50,000 people in the city of Detroit, said:

"The Supreme Court of the United States is the greatest threat to democracy in the United States, outside of fascism."

Truly politics make strange bedfellows. Here we find joined together for the same purpose, working toward the same end, approving of each other's methods, the aristocratic Franklin Delano Roosevelt, born, as it is said, with the proverbial silver spoon in his mouth, a man who inherited his wealth, the close friend of the Astors and other millionaires, denouncing men of wealth, his campaign managers abusing and berating the Du Ponts, who contributed so many hundreds of thousands of dollars toward his first election and one of whom his son will marry on the 30th day of June. We find a son-in-law in the employ of Hearst. With him we find Miss Perkins, the wife of someone, though God alone knows what her true name may be, and no man has yet published the place of her birth. She it is who for months has openly, with the knowledge of the President, violated her duty by refusing to put her sanction on the warrants of deportation issued against aliens.

In the same bed we find Lewis, who collects fabulous sums from the workers, contributes generously to the President's campaign fund, demands in return the President's support in the kidnaping of property and the stealing of jobs and who gets that support through the President's man, Murphy, who says one thing and does another. The picture is not a pleasant one. The purpose is treasonable.

The President intends to overthrow our form of Government. He intends to do it by seizing the judicial power, placing upon the Supreme Court men who will do his bidding and thus give him an appearance of legality to his unconstitutional procedure. To attain this end he is willing to play with fire. He is willing that Lewis

shall create a situation, shall follow methods which, if persisted in, will, beyond question, lead to bloodshed, to civil strife.

These men should remember that passage where it is written, "For they have sown the wind, and they shall reap the whirlwind."

WE WILL MAINTAIN OUR LIBERTY

Murphy, Lewis, Perkins, and the President, if they persist, will learn to their sorrow, and to the sorrow of hundreds of thousands of those who follow them in their attempt to disrupt our Government, that there are in this country of ours other hundreds of thousands, yes millions, of men and of women who are willing to suffer, to sacrifice and, if need be, to fight to the end that the Government of ours shall not perish from the earth.

Twenty Years After

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

RADIO ADDRESS OF HON. WILLIAM A. ASHBROOK, OF OHIO, ON APRIL 6, 1937

Mr. LUDLOW. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following interesting and illuminating address delivered over the radio last night by the gentleman from Ohio, Representative WILLIAM A. ASHBROOK:

Ladies and gentlemen, it is indeed highly proper and appropriate that on this twentieth anniversary of the declaration of war with the Imperial Government of Germany that some reference be made to that event, which, in my opinion, overshadows all others in the history of our great Nation, and also reference to the subject of peace.

I presume the invitation came to me to speak over the air at this time because of my well-known sympathies for peace and disapproval of this Nation entering the World War. May I express my thanks and appreciation for the honor of the invitation to discuss briefly a question far greater than an increased judiciary (which I regard as second in importance during my congressional experience which dates back 30 years) that other great question is peace—peace which means the safety, the security of our Nation, and the welfare and happiness of every American citizen.

It is interesting to note that there are in Congress today only 28 Members of the Sixty-fifth Congress and 12 Members of the Senate, which includes Members of the Senate who were Members of the House on April 6, 1917; all of the others, both for and against, who were then Members of Congress have passed to their reward or private life. Three hundred and seventy-three Representatives and eighty-two Senators voted for war and fifty Members of the House and six Senators voted against a declaration of war. Of the Members of that memorable Congress of 20 years ago there is just one Representative, KNUTSON, and two Senators, NORRIS and LUNDEEN, in Congress today who voted against the declaration of war.

I am well within the bounds of truth when I say that it is my belief had the Members of the War Congress voted their own convictions and not been swayed and influenced by an excited and misguided but honest people, due to the propaganda of the munitions makers and those actuated by selfish greed, that great blunder of 20 years ago would not have been made.

How vividly and well do I recall the thrilling and hectic days, the restless days, the sleepless nights, preceding April 6, 1917, that momentous day, and the days that followed. It yet remains in memory a horrid nightmare. The excitement of that period had never been or has never since been equaled.

Due to the propaganda which magnified the atrocities and indignities of the Germans upon the Belgians, which I learned first hand from a visit with a congressional party to Belgium shortly after the armistice, and the growing fear of German invasion of our shores, our people were in frenzied fear. To not share their distorted views 100 percent was well-nigh treason. No greater evidence of courage can be found in our history than the brave few who stood steadfast by their honest convictions and voted against a declaration of war.

Let me not be misunderstood. I offer no defense of the German monarch who, due to his imperialistic ambition for world power and conquest, well-nigh impoverished the world and sacrificed the lives of hundreds of thousands of his own people and who was very justly condemned to the woodpile to serve his remaining dishonored days. But, may I say in passing that we today have no better citizens, no more industrious, home-loving or more patriotic citizens than those of German extraction who came to our shores that they might have liberty and freedom. If the sympathies of some during that awful conflict were with their native land what else could be expected when their loved ones, through compulsion and not choice, were in German trenches. Let us apply the same yardstick we would ask for ourselves.

May I here make this confession in review of my public life with the hope that by so doing I will be able to feel less humiliation that I yielded to public pressure and cast aside my own convictions? I early let it be known when war clouds were hovering near that I was opposed to the United States entering the World War unless there was actual invasion. This brought such pressure, such threats and intimidation as I had never known, from a large majority of my constituents, and the same doubtless applies to all other Members of that Congress. Threats and entreaties from all walks of life, the press, the pulpit, the politician, the people demanding that America must enter the World War, a war to end war—that the world's democracy and peace be preserved. What a mirage and myth.

We entered the World War. Woodrow Wilson sacrificed his life because of it and his desire for a League of Nations. Today our reward for our sacrifices is largely the enmity of most of our allies, dishonored loans of twelve billions, our own stupendous war debt which will take a century to wipe out, the loss of tens of thousands of the flower of the then young manhood and many, many more thousands of veterans disabled and diseased for life, heartaches not yet healed, untold sacrifices of 95 percent of our citizens—and all because a selfish few desired to become millionaires or multiply their millions.

Appreciating that my continued reminiscent remarks will clinch my eligibility to membership in the "Nine Old Men Club", I beg to make one more reminiscent reference. Well do I recall that brave and courageous member from Texas, Jeff McLemore, and the McLemore resolution—a warning to all American citizens to keep off the high seas while the war was on except at their own risk and peril. Poor McLemore was hooted down and sacrificed his life and political career because he advocated a policy which today under similar conditions would unquestionably be approved. This change of sentiment, in my opinion, should largely be credited to the unselfish activity of the National Council for the Prevention of War. There is no dispute but what you have the right to pass along the streets of your home city or any other city while a riot is on and the people are crazed, but I believe you will agree with me that you would be a fool if you did.

There is little doubt but what the American people, except the selfish few who envision profit, hate war. They are lovers of peace and desire peace. Secretary of State Hull truly said, "We must destroy war or war will destroy us." But how can war be prevented is a question that should be of chief concern when today Europe is a tinder box—another war delayed only because of the condition of their exchequer. Whether it should be 9 or 15 is a minor matter compared to a peace solution. One primary preventative would be to prohibit the unloading of European securities in our land and the making of foreign loans. Our World War experience, still fresh in our minds, should be sufficient determent; but, lest we forget, the stoutest legislative enactment possible should be made to that end. Another preventative would be the absolute refusal of passports to our citizens in time of war to enter danger zones except at their own peril and without redress, embargoes on trade with other nations, and the shipment of arms and munitions.

But there are three greater preventatives, all of which I most heartily favor. First and foremost is an amendment to our Constitution making it impossible to declare war except on actual invasion without a referendum vote of all legally qualified American citizens. The proposal of Congressman LUDLOW of Indiana seems to meet this requirement and has my endorsement. Second, removing the profits of war by our Government taking from private control and operation the manufacture of all munitions of war and, third, the conscription of wealth above a nominal sum for every citizen. Put these three proposals into effect, put these teeth into law and the possibility of our again entering a world war will be remote. In the language of President Roosevelt—do it now. When the war clouds hover close over our heads these stringent preventatives should have our solemn and serious consideration. It is too late to put a lock on the stable door when the horse is stolen.

In my opinion an amendment to our Constitution to require a referendum vote by the people before war is declared would near solve future entrance of America in war, world war at least. Let the fathers and the mothers of our fair land say by their deliberate ballots whether or not they have sons they wish to offer on foreign field on the altar of sacrifice. Let the people say by their ballot whether they desire another depression, and depression is sure to follow in the wake of war, with its tax burdens loaded on their backs for generations to come. Let those who see the accumulation of their millions say by their ballot that they want war. Let the people rule. We have a majority form of Government. Let us apply it in a practical way. If we do this I am sure, under the same conditions that led us into war 20 years ago today, less than 5 percent of the people would make affirmative vote.

The recent passage of the Neutrality Act was a gesture in the right direction. It proclaims to the world that America strongly favors peace, but under strained conditions I fear means little more than a friendly buffer. Our great President, and no one believes more wholeheartedly in his sincerity than I do, fervently favors peace. But so did Lincoln and so did McKinley. They

both hesitated and honestly and sincerely desired to avoid war. And was not Woodrow Wilson reelected President because "he kept us out of war", but did he not, with admitted high altruistic purpose, soon after his second inauguration yield to what seemed to be a near unanimous demand upon the part of our people, recommend to Congress on that fateful day in our history, 20 years ago today, that war be declared. It well nigh broke his great heart—the consequences cost his life.

When we find it necessary to conscript the flower of youth why should we not also conscript wealth. I would prefer to have every dollar I possess conscripted for the defense of our greatest of all nations than to have conscripted the little finger of either of my three fine sons to engage in another world war. Is gold above human life? I think not.

The favored few in high places in Washington do not know it all. Let the people who sent us here say whether or not they want war. The people can be trusted. If they say we do, then let us not only take the profits out of war, but conscript our wealth as well as our youth. Let all make like sacrifice to preserve the liberties for which our Revolutionary fathers gave their blood, that America with all its treasured institutions and sacred history be preserved for America.

I thank you.

Additional Circuit Judges for Ninth Judicial Circuit

EXTENSION OF REMARKS

OF

HON. JOHN H. TOLAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

Mr. TOLAN. Mr. Speaker, the ninth judicial circuit includes the States of California, Oregon, Washington, Arizona, Nevada, Idaho, and Montana. This is almost a third of the territory of the continental United States. It also must hear appeals from Alaska, Hawaii, and the United States Court in China.

This bill passed today by the House simply authorizes the appointment of two additional circuit judges to assist the five judges who presently handle litigation from this extensive territory. Last year the ninth circuit disposed of double the number of cases which were disposed of in 1917, and this figure, as shown in the table which I desire to place in the RECORD at this time, does not reveal the complexity and wide diversity of litigation which comes before the court due to its geographical range.

Cases in the Circuit Court of Appeals for the Ninth Circuit, fiscal years 1917–36

Fiscal year	Pending beginning of year	Filed	Terminated	Pending close of year
1917	152	193	197	148
1918	148	156	223	81
1919	81	188	157	112
1920	112	158	171	99
1921	99	194	172	121
1922	121	179	215	85
1923	85	162	173	74
1924	74	225	231	68
1925	68	354	286	136
1926	136	267	283	120
1927	120	306	299	127
1928	127	329	326	130
1929	130	338	318	150
1930	150	307	358	99
1931	99	327	322	104
1932	104	378	323	159
1933	159	322	321	160
1934	160	338	278	220
1935	220	363	326	257
1936	257	353	404	206

The variety of industries includes lumbering, mining, oil, agriculture, admiralty jurisdiction resulting from a long coast line, with shipping and commercial fisheries of great volume. Litigation of great importance is also brought to the court by the large number of States which have varied backgrounds of law.

The table I have introduced does not take into consideration the number of three-judge cases arising in the districts of the circuit. The figures on case filings and terminations tell but a part of the story of the court's condition.

For instance, they do not show the number of cases compromised and dismissed without hearing or dismissed or decided at hearing. They do not show the principal time-consuming item, namely, the cases heard, studied, and decided with opinion.

For the last fiscal year, 1936, the Federal Reporter showed, exclusive of concurrences, dissents, and opinions by district judges and retired circuit judges:

Ninth circuit—opinions	246
4 judges, all year, 1 judge, three-fourths year—opinion per judge	52.6
Opinions participated in by each judge of 3-judge group	157.8
All circuits other than ninth—35 circuit judges—opinions, 1,318 per judge	35.6
Opinions participated in by each 3-judge group	106.8

The ninth circuit is thus seen called on to dispose of 47.7 percent more such cases than the average of all the other circuits. This is due to the extraordinary diversity of terrain with its corresponding diversity of litigation.

The above excludes three-judge district court cases often in distant courts with several days of trial.

Deducting the time for the three-judge cases and other court duties and allowing only 21 days a year for sickness or vacation and working all day Saturday, and excluding only Sundays and holidays, the 246 opinion cases were heard, studied, decided, and opinions written in little over 12 hours' time.

This assumes the old factory 8-hour day, including Saturday.

On the same computation the 37 other circuit judges had more than 18 hours for each such case.

No doubt a strong argument could be made that the other circuit courts are understaffed for a Supreme Court function as to 98 percent of Federal litigants. However, that may be, in our circuit, different from all the others in diversity of litigation and distances to travel, it is submitted that there could be no question that we need the additional judges.

The Supreme Court of the United States process of adjudication has been described by the present Chief Justice as one where each of the nine Justices studies the records, brief, and argument. At a conference, presided over by the Chief Justice, he reads a summary he has prepared of the instant case, and then moves around the eight Justices and secures the opinion of each one. The conferences proceed till decision is reached; then a Justice is selected to write the opinion of the Court. That is a prodigious work, but that is the way it is done by the United States Supreme Court and, I am sure you will agree, Mr. Chairman, the way it should be done in every supreme court, including our circuit courts.

The way in which the ninth-circuit judges have met these mounting arrearages, and the way they have reduced pending cases in 1936, was by instituting the practice of assigning a case to a particular judge before hearing. After the hearing, but before conference, he prepared a complete and final opinion for the court—that is, before he knew what the court was going to decide.

Judge William Denman, one of the justices of the ninth circuit from San Francisco, states in his testimony before the Senate Judiciary Committee:

> I wrote and distributed 65 such opinions in my first fiscal year. It was twice too many. They are labored and long, because there was no time properly to condense them. I take no pride in them; I pray they are right, for in 90 percent of them we never had a conference. The opinion came back O. K.'d by the other judges, with whom the cases had not been discussed. That has been the practice of the court for 6 or 7 years.
>
> Senator HATCH. Am I to understand these opinions are written before the hearing?
>
> Judge DENMAN. No; after the hearing, but before we knew how the court was going to decide the cases. Every lawyer knows what that means. As I have said, in these 65 opinions that I wrote, in 90 percent of them we had no conference at all. Some involve constitutional questions. This practice is practically a denial of the kind of justice a Supreme Court of our character should give. I also desire to say that, unless we get some relief, it is the only way

by which a litigant will be able to receive in what for him is a Supreme Court's decision in many of our cases.

Our senior defended this practice in a general statement. Speaking of your circuit, Senator HATCH, the tenth, he said:

"In the tenth circuit it is the custom for each circuit judge to prepare a memorandum, or tentative opinion, in each case before consultation with reference to that case. After discussion the work is assigned to one of the judges to write and his memorandum becomes the basis of the opinion of the court which, having been arrived at by consultation, does not require much additional consideration by the other two members of the court."

That is practically the same as the procedure in the Supreme Court of the United States.

Now, continuing, said our senior, referring to our court:

"This plan would at least cut the volume of output in half."

If we conducted our court as the Supreme Court is conducting, and as your court is conducted, Senator Hatch, it certainly would cut the output very largely.

Senator HATCH. It does give a better and fuller consideration of each case by the entire court, does it not?

Judge DENMAN. It is the only way to do it. Each litigant has the right of appeal to the Supreme tribunal, and expects that the combined knowledge of the affairs of the world of the various judges will be addressed to the facts of his case. You know, when you sit down for a conference, you often come out from it with a different view from that you had when you went in. The litigant should have the benefit of that wide knowledge we are supposed to have. They should have our combined and considered knowledge of the law. The law today in America is buried in some 300,000 or 400,000 cases. It is a very intricate thing. The purpose of appeal is to obtain the benefit of prepared and matured consideration of all the judges constituting the tribunal.

We cannot handle the enormous number and diversity of questions of our peculiar and extraordinary circuit with the present number of judges, on the plan followed by the Supreme Court or by your court, Senator HATCH.

Mr. Speaker, I want to call your attention to the fact that the county of Los Angeles with a population of approximately 2,000,000 people is denied a session of the Ninth Circuit Court of Appeals. These citizens of the southern part of the State of California and citizens of Arizona are entitled to a session of the court. Under the present condition the court is so crowded with work that they are compelled to sit only in San Francisco where they have their chambers, leaving but once a year to go to Seattle and Portland for about 10 days, covering both places. Thirty-seven percent of the entire business of the circuit comes from the southern district of California and Arizona. If there were a sufficient number of circuit judges, the three members could be assigned to Los Angeles, alternating, and taking care of that great amount of business, and three judges in San Francisco, and in the north with the senior judge sitting less frequently than the rest, watching the two groups to see that there was no conflict of opinion.

Mr. Speaker, at this point I should like to include the recommendation of the California State Bar Association for relief in the ninth circuit. The California Bar Association is one of those bars in which every lawyer is a member. Last year they passed this resolution:

Whereas the statement presented on behalf of the judges of the United States Circuit Court of Appeals for the Ninth Circuit concerning the congestion of litigation in that court, a copy of which follows this resolution, has been referred to a committee appointed by the board of governors, which committee has reported the condition of said court, its arrearage of cases and the volume of present and prospective litigation and that relief is required; and

It appearing to the board of governors that there is urgent necessity that such relief be given that court, if it is to function for the citizens litigating therein in the manner to which they are entitled in what is the supreme court for 96 percent of the Federal litigation of the circuit, and if the members of that court are not to be so overburdened as to impair their efficiency: Now, therefore, be it

Resolved, That the board of governors of the State bar of California recommend to Congress that urgent need exists for legislation to relieve the present and growing congestion in the Circuit Court of Appeals for the Ninth Circuit; and be it further

Resolved, That a copy of this resolution, together with the appended statement on behalf of the judges, with its figures prepared by Paul P. O'Brien, Esq., clerk of the court, be sent to the President of the United States, the Chief Justice of the Supreme Court, the Attorney General of the United States, and the Judiciary Committees of the United States Senate and House of Representatives.

When the certiorari scheme was devised to relieve the burden of private litigation upon the Supreme Court in 1925, and whereby the Supreme Court considers only cases from the circuit courts which are deemed important, the Supreme Court reduced its volume of business to a point where it could be properly and expeditiously handled. So far as the ordinary human being coming to the Federal courts for relief is concerned the act of 1925 made the circuit court of appeals the supreme court in 98 percent of Federal litigation.

Mr. Speaker, the ninth circuit is seeking the only relief available, and that is, more judges. It has the largest number of district courts of any of the 10 circuits. Its appeals come from 27 Federal judges and the Hawaii Supreme Court. So it has practically double the average number of trial judges of the other nine circuits, and 33⅓ percent more than the circuit next in number of districts.

Mr. Speaker, the ninth circuit has had the highest rate of population increase, and the litigation increased from an average of 187 cases per year in 5 years to 388 cases. I request that the House give favorable consideration to Senate Bill 1550, and relieve the congestion of our courts and bring proper and expeditious relief to the citizens of the Pacific region.

Democrats Join Republicans in Killing Antilynching Bill, Which Might Prove Disastrous

EXTENSION OF REMARKS

OF

HON. ARTHUR W. MITCHELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

Mr. MITCHELL of Illinois. Mr. Speaker and Members of the House, I wish to point out that the Republican Members of this House very recently held a caucus and bound themselves to vote solidly against my antilynching bill, H. R. 2251. It has been reliably reported to me that this was their method of seeking revenge on me personally for the blistering attack I made upon the Republican Party on the floor of this House on June 1, 1936, during the second session of the Seventy-fourth Congress. It has been estimated that that speech cost the Republican Party nearly two million Negro votes—more than enough to turn the tide of election in many Northern and Border States. That speech blasted the hopes of the Republican Party of capturing the last election and riding to victory on a wave of Negro votes. They have never forgiven me for this, and so today, nearly a year later, in their resentment they bound themselves irrevocably to defeat my bill, H. R. 2251, and they did it with the aid of many Democrats.

I have no apologies to make for the speech I delivered on June 1, and I have no apologies to make for the fight I have made to pass my antilynching bill. I wonder, however, if the Democratic Congressmen—those who alined themselves with the Republicans in this case—realize that in aiding the Republicans they are injuring themselves. This House can be ruled by Democrats only so long as the Democrats are in the majority. When the Republicans take credit for killing my bill, when they go before the Negro voters in the Northern and Border States and say they voted against my bill because they wanted to get a much stronger bill enacted into law, then the Democrats will realize that the Republicans are taking this credit in this manner in an effort to win votes and to capture a majority of the seats in this House, organize it, and take it away from the Democrats. And the tragic part of it all will be, if they succeed, that we sat idly by and let them use us as tools to effect their purpose in this regard. Have the Democrats not yet learned to "beware of the Greeks bearing gifts"?

It is to be noted also that the Democrats from Southern States, with only two or three exceptions, voted solidly against my bill. In this they were joined by many Northern and Border State Democrats—voting not to consider my bill but to lay it aside.

In my judgment, the Gavagan bill is unconstitutional. I believe that my bill, H. R. 2251, is constitutional and is the best bill out of the 59 or more that have been introduced this session of Congress. This situation places the Republicans in an even more strategic position than otherwise. They, the Republicans, can say to the Negro voters in the next election: "We killed H. R. 2251 because we wanted to get you a strong bill." They will omit to mention, of course, that outstanding legal authorities are almost unanimous in believing that the Gavagan bill is unconstitutional. Bear in mind also that it is quite unlikely that a Supreme Court test of the constitutionality of this legislation will have been secured by the time of the next election. Thus, it seems that from this fracas the Republicans will be the only real winners—and they will be winners because they cunningly contrived to use Northern and Border State Democrats who did not realize they were being so used.

For my part, I believe now as I have always believed, namely, that some legislation to make lynching a crime against the Federal Government should be enacted. As I have also said many times before, I am firmly of the opinion that my bill is the best bill on the subject; and I believe, moreover, that convictions could be obtained and money-judgments awarded under my bill. I do not believe this would be true under the Gavagan bill unless it is amended in many important respects. Nevertheless, I think a poorly drawn bill on this subject—even the Gavagan bill—is better than no bill at all. Since my bill will not be considered again, I shall work wholeheartedly and unreservedly for the Gavagan bill. I have said this before; I repeat it now.

In conclusion, I should like to remind this House that no more vicious and false propaganda has ever been directed against a bill in Congress than has been perpetrated against H. R. 2251. All manner of false, vicious, and unwarranted statements and releases were sent out by the National Association for the Advancement of Colored People. These documents have all been characteristic of the secretary of that organization. I greatly fear that by this false propaganda and this idiotic maneuvering they have severely hurt the cause of antilynching rather than helped it. I wish I could believe otherwise but I cannot.

My final word on this subject is this: I sincerely hope that some kind of antilynching bill will be passed by this House without further ado.

World-Wide Armaments, American Neutrality Laws, and Peace

EXTENSION OF REMARKS

OF

HON. HENRY ELLENBOGEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 1937

RADIO ADDRESS OF HON. HENRY ELLENBOGEN, OF PENNSYLVANIA, ON MARCH 28, 1937

Mr. ELLENBOGEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the address I delivered over station WJAS on Sunday, March 28, as follows:

Ladies and gentlemen, at this season of the year we should pause and contemplate conditions in the world and in our own country as they affect peace. The armistice which ended the World War was concluded in 1918. Nineteen years have since elapsed. Have we made progress toward peace in these 19 years? Have we stood still or have we gone backward? These are the questions which we want to examine today.

Let us first look at the old world.

THE REARMAMENT RACE IN EUROPE

We find that expenditures for arms, bombs, military planes, warships, and for other weapons of death and destruction have greatly increased in Europe, particularly in the last few years.

In 1936 France was spending 19 billion francs for military expenditures as against 9 billion francs in 1913. In 1913 Great Britain was expending $386,000,000 a year on its military establishment, less than 10 percent of its budget. In 1936 this had increased to $847,000,000, or nearly 20 percent of its budget; and in 1937 we find her embarking on a 5-year program of military preparations involving an expenditure of the stupendous sum of seven and a half billion dollars. It is likely that an even greater sum will actually be expended.

In 1931 Germany was spending 247,000,000 marks on her military establishments; in 1936 she was spending at least 12 times as much, and this year she is spending even far greater sums. The same is true of Italy, of Russia, of the Far East, and of the Near East.

PEACEFUL PURSUITS ARE NEGLECTED AND WAR IS BEING GLORIFIED

Forgotten are the days when Europe was building homes for her peoples; gone are the days when she was thinking and planning for a happier life for the common man. Instead, today, Europe is using her inventive genius, her great talents, and her keenest minds to design new weapons of death, to invent more powerful poison gases, and to devise new ways to kill and destroy.

Old jealousies and feuds are awakened. The various peoples of Europe are being told that they must obtain new territories, the wealth, and the goods of other nations, that they must expand, must conquer and enslave other nations.

The spirit of science and of progress has given way to the spirit of war. Orators and high government officials in Europe publicly exhort women to devote their lives to the task of bearing more children so that the state may have more soldiers. The youth is being trained in military pursuits. It is taught that war offers the greatest of all opportunities for men to achieve glory and greatness.

Democracies, which govern for the benefit of the people, have given way in some countries to dictatorships, whose purpose is to organize their countries into efficient war machines. The modes of thought of entire nations are being changed, and new doctrines are being spread solely for the purpose of making the people ready to accept wars and more efficient in the conduct of wars.

The spirit of peace has given way to the spirit of war. The soul of Athens has yielded to the tradition of Sparta. There is only one possible end—another war.

EUROPE STANDS ON THE BRINK OF WAR

History fails to record one single instance where increased war preparations and the inculcation of a spirit of war did not result in warfare. Europe today stands on the brink of war. Whether the fuze will be lit in Spain or whether the explosion will occur elsewhere on the continent of Europe—that is of smaller importance to us than the realization of the fact that war will break out in Europe unless a halt is called to present armament preparations; unless the minds of the peoples of Europe are turned toward the pursuits of peace instead of the glorification of war.

It would seem that no country, no statesman, and no responsible leader of a nation, remembering the death, the misery, the destruction, and the tragedies of the World War, would want to bring his own nation again to the edge of another war.

And yet Europe is preparing for war. A look at the last war, the World War, will tell us what that means. The World War showed us what war costs in human lives, in young and vigorous men killed, maimed, or wounded for life. The blind, the tubercular, the crippled—they are all eloquent evidence of the effect of war.

THE COSTS OF THE WORLD WAR

In the last war 126,000 Americans were killed and 234,000 were wounded. That war—which involved no gain or profit to us—cost the people of the United States $55,318,158,000. Counting all nations engaged in the last war there were 8,513,315 men killed, and 21,219,452 wounded. The nations at war spent $186,000,000,000 for the direct cost of military operations alone. But that is not all.

This does not include the millions who stayed at home and whose lives were blighted when their loved ones were killed or maimed. It does not include the sorrow of the millions of mothers for their sons who had gone beyond. It does not include the tragedy of the millions of orphans of the war. It does not include the tragedy of the millions of people whose lives had ended, or had lost purpose and become warped because of the war.

The costs that I have enumerated do not include the disorganized economic life which followed the World War in all of Europe, in America, and, indeed, in the whole world. The necessity to manufacture more and more arms, munitions, and other implements of war had swallowed up the factories that produced the needs of everyday life. When the war ended we found thousands of plant facilities no longer needed, but their presence a danger and a threat to the profitable operations of normal productive facilities. We found millions of men and women dislodged from their ordinary pursuits, their skill lost, and their habits of work gone. Thus we see that to the cost of the war must be added the loss of billions of dollars suffered by an industrial and social structure disorganized and dislocated by the war.

It would seem that no responsible statesman would want to bring his country to the edge of another catastrophe; and yet the mad race toward another war in Europe goes on.

But in this country our thoughts are directed to peace. We are not jealous to any other nation's possession. We do not want any other country's colonies. We do not want to make progress at

the point of a gun. The price is too great. We are content that our progress should come from peaceful endeavors. Nor are we going to let the propaganda of munition makers lead us into war. The time is gone forever, I sincerely believe, when we will permit a few merchants of death to fatten their bank accounts from munitions and armaments while we plunge into a deadly war to make those profits possible.

The Munitions Investigation Committee of the United States Senate has made some startling disclosures of how a few munitions and armament makers and their financial overlords schemed and plotted to hurl us into a war 3,000 miles away—how each life lost on the battlefield merely meant to these men a few more shells sold at exorbitant profits.

THE UNITED STATES SHOULD STAY OUT OF FOREIGN WARS

The United States has no economic interests in Europe, in Asia, nor in the Far East which are sufficiently large and important to us to justify resort to war. We should keep out of foreign entanglements.

The broad Atlantic Ocean separates the United States of America from Europe, and the still wider and mightier Pacific separates us from Japan and China. But we are unwilling to trust to the oceans alone to preserve our neutrality.

At the beginning of the last war we sold billions of dollars' worth of armaments to England, France, and the other allied nations. At first our bankers extended credits, but later these private credits were replaced by credits of our Government directly to foreign governments at war. Then America was told that the termination of credits to the Allies and the consequent stoppage of the huge war orders would cause a severe depression in America and create great suffering among our own people. This situation, undoubtedly, had much to do with bringing the United States into the World War in 1917.

WE ARE PREPARING FOR NEUTRALITY IN FUTURE WARS

It seems that we in the United States have learned from the last war. Now, in peace, we are preparing, not like Europe for war, but for neutrality. The Senate of the United States recently passed the Pittman neutrality bill, and the House of Representatives, by a vote of 372 to 12, has just voted for the Neutrality Act of 1937—the McReynolds bill.

Under this bill it becomes unlawful to ship armaments and implements of war from any place in the United States to any nation at war. All other goods may be purchased here by foreign nations at war, but they must be paid for in cash and shipped in foreign vessels. In that way it is hoped to reduce the points of friction and to lessen the economic incentive for entry by the United States into European wars.

The Neutrality Act of 1937 is a step in the right direction. It is not perfect, but no perfect statute for neutrality can be written in advance of war, because no one can foresee the exact conditions which will arise in the future.

The Senate and the House of Representatives of the United States are now engaged in a conference to reconcile their differences and agree upon a satisfactory bill for neutrality. They will do so in a few weeks and each House of the Congress—the Senate as well as the House of Representatives—will then pass the neutrality bill in its final form and it will become the law of our land. This law will be a great help to keep us out of foreign wars and entanglements, but it alone is not sufficient.

Only an informed public opinion and strong popular demand to stay out of foreign conflicts will really keep us out of war.

Today let us dedicate our souls, our minds, and our future endeavors to peace on earth and good will toward all men. Let us solemnly resolve to work for the betterment of the lot of all men, to improve the living conditions of our people, and to assure to the American people the blessings of peace, real democracy, and liberty for all our citizens—the humble as well as the mighty.

The Interstate Commerce Act and the Interstate Commerce Commission From the Standpoint of the House Committee on Interstate and Foreign Commerce

EXTENSION OF REMARKS

OF

HON. WILLIAM P. COLE, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

ADDRESS BY HON. CLARENCE F. LEA, OF CALIFORNIA, CHAIRMAN OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, ON THE OCCASION OF THE FIFTIETH ANNIVERSARY OF THE ESTABLISHMENT OF THE INTERSTATE COMMERCE COMMISSION

Mr. COLE of Maryland. Mr. Speaker, my colleague and chairman of the Interstate and Foreign Commerce Committee of the House, the distinguished gentleman from California [Mr. LEA], on April 1, last, delivered a highly interesting address at the Semi-Centennial Exercises of the Interstate Commerce Commission. The research displayed by Chairman LEA on a topic of profound interest will be read, I am sure, with much interest. I ask unanimous consent to extend my remarks by inserting in the Appendix of the RECORD the speech to which I have referred, as follows:

Mr. Chairman, on December 14, 1795, the House of Representatives created a new standing Committee on Commerce and Manufactures. That committee was the original predecessor of the present House Committee on Interstate and Foreign Commerce. This committee was 91 years old when the Interstate Commerce Commission was created.

With some changes in name, this committee has a direct line of succession to that committee which has always had jurisdiction under the interstate-commerce clause of the Constitution.

Tonight that committee, with a succession of over 141 years in the House, greets its legislative child, the Interstate Commerce Commission, on its fiftieth anniversary. We salute you with pride, respect, and commendation of the services you have given our country.

It detracts nothing from our relation to the Commission that we share parentage with the Interstate Commerce Committee of the Senate. Every child must have two parents.

With few exceptions, if any, the relations between the House Interstate and Foreign Commerce Committee and the Commission have been friendly and cooperative throughout the 50 years since 1887. The Commission was created as an agency of Congress. It has been an independent Commission. That, in my opinion, largely accounts for its successful career and the confidence it enjoys in the opinion of the American people.

During the later years the Commission has been charged with a responsibility of recommending legislation to Congress. Its recommendations to the House are assigned to our committee. The members of the Commission have an expert knowledge of transportation problems. They have a more secure and, on the average, a longer tenure of office than Members of the House. We constantly resort to their advice and information. We have profited much from that source of information. Much legislation has gone through Congress largely influenced by the advice of this Commission.

We have not always agreed with the Commission. Sometimes we have not followed their advice. Where we have disagreed it has been a disagreement without loss of respect.

Sometimes Congress creates an agency whose heads within a few months seem to think they are greater than their creator.

This Commission is one agency of Congress, at least, that has never been charged with any attempt to dominate Congress.

COMMERCE; REASON FOR CONSTITUTION

Two main reasons led to the adoption of our Constitution. One was to give the American people that unity that was necessary to resist foreign aggression, the other was to promote harmony in conducting the commerce between the States. Each reason developed out of the unhappy conditions under the articles of confederation. In many instances the States were treating each other's commerce as if it were the unfriendly and undesirable commerce of a foreign nation. Burdens and handicaps were placed upon commerce between States with resulting retaliatory legislation prescribed as the remedy.

A wood-wheel, ox-drawn wagon bringing firewood from Connecticut to keep old New York warm could not pass over the New York boundary line until it had paid its toll at the customhouse. A tariff was charged by New York on products entering New Jersey. About the only thing New York had that New Jersey could tax was a lighthouse at Sandy Hook, so New Jersey levied a tax on that.

The irritations, the agitations, and sectional hatreds such conditions developed created a compelling demand for the new Federal Government. The regulation of commerce by the Federal Government was the remedy designed to terminate these retaliations, handicaps, and irritations growing out of this conflict in interstate commerce. That situation resulted in placing the interstate-commerce clause in the Constitution. In a few words, Congress was given authority to regulate commerce with foreign nations and among the several States.

The Original Thirteen States reluctantly yielded to the Federal Government the powers to the extent conferred by this provision. This plan in effect made the Federal Government the protector of commerce between the States. It made possible a free commerce between the States. It made the Federal Government an umpire to protect the commerce of each State against the burdensome or destructive action of every other State.

The original object of the commerce clause, standing out like a mountain peak, was to promote commerce by making it free. That is still the legitimate end of regulation.

The restrictions and burdens that may be imposed upon commerce by regulations are justified only because they help to make commerce free. We deliberately seek liberty within the restraints of law rather than license without restraint.

AGE OF REGULATION

The reluctance of the Original Thirteen States to yield part of their former authority to the Federal Government was manifested for many years after the Constitution was adopted. There was

more or less constant and insistent demand that the Federal Government, in extending legislative and executive authority over commerce matters, was infringing upon the rights of the States. It was with resistance to this criticism that the Federal Government, for many decades after the Constitution was adopted, made its slow way in assuming authority over interstate commerce. Few acts by Congress regulated interstate commerce prior to the establishment of this Commission. Someone reviewing the history of the exercise of power under the interstate-commerce clause states that it was not until this Commission was created that the "sleeping giant of Federal regulation" was awakened. The statement perhaps is not overdrawn. It would be erroneous, however, to conclude that act awakened the consciousness of the need of regulation; a more compelling reason for the recognition of the need of regulation grew out of the economic changes coming with the decades following the establishment of our Government.

The Constitution was written when there were no powerboats, no railroads, no modern highways, no motor conveyances on the highways, no telegraphs, no telephones, no radios, no electricity, and no pipe lines.

America was an agricultural country. The farm was an economic unit of production, manufacture, and consumption. It had little, if any, dependence on the markets of other States. There was no mass production.

The modern corporate system of doing business was then practically unknown. The financing of corporations through the widespread sale of their securities on market exchanges was not part of our economic life.

LEGAL LIMITATIONS

These economic developments did not change the Constitution or the commerce clause, but they constantly widened its application and brought into sharper conflict the original division of State and Federal powers as established by the Constitution. It was transportation with its lines running across State boundaries, serving the needs of this newly developed economic world, that first obviously emphasized new interstate relations.

The establishment of the Interstate Commerce Commission did not immediately or harmoniously solve these complicated problems. Through years of patient toil your Commission has sought the solution of some features of this complicated adjustment that has been going on in the economic and legal phases of commerce.

The Commission has necessarily had to follow fundamental landmarks of the Constitution and as defined by the courts. This Nation, this Commission have tried to work out the problems of transportation in harmony with those restrictions, on one hand, and with a constant importunity of conflicting economic interests, on the other.

The problems of how far the Federal Government is permitted to go under the Constitution, and how far it should go as a national policy, have not been easy of determination. The exercise of regulatory powers of the Federal Government has advanced with constant doubts as to their legal justification and controversy as to their political advisability.

The Constitution clearly reserved many powers to the States. Specific restrictions were placed on Congress and the Executive. Federal regulation has always recognized there were definite limits beyond which even economic conditions could not carry it without violating those positive limitations on the exercise of Federal power.

It is said in over 60 years preceding the Civil War only about 20 cases involving the interstate-commerce clause reached the Supreme Court. Within the next 30 years 150 cases reached the Supreme Court. Thus this Commission was created in a period of conflict and readjustments.

Congress showed a sensitiveness to this situation when a joint report of the two Houses was presented before the enactment of the Interstate Commerce Act. A provision in a conference report between the two Houses stated:

"*Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid."

In other words, in establishing the regulatory power of the Federal Government, Congress attempted to give assurance that it would not transgress on the reserved rights of the States.

The Supreme Court, at practically the same time this Commission was established, speaking through Justice Lamar, in 1888, touched upon the boundary line separating Federal and State power. The Court said:

"If it held that the term commerce includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the States, with power to regulate, not only manufacture, but also agriculture, horticulture, stock-raising, domestic fisheries, mining—in short, every branch of human endeavor. For is there one of them that does not contemplate more or less clearly an interstate or foreign market? Does not the wheat grower in the Northwest, and the cotton grower in the South plant, cultivate, and harvest his crop with an eye on the price at Liverpool, New York, and Chicago? The powers being vested in Congress, and denied to the States, it would follow as an inevitable result that the duty would devolve on Congress to regulate all those delicate, multiform, and vital interests—interests which in their nature are and must be, local in all details of their successful management. It is not necessary to enlarge on, but only to suggest, the impracticability of such a scheme, when we regard the multitudinous affairs involved, and the almost infinite variety of their minute details."

Six years later Chief Justice Fuller, speaking for the Court, said:

"It is vital that the independence of the commercial power and of the police power, and the delimitations between them, however sometimes perplexed, should be always recognized and observed; for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of Government, and acknowledged evils, however grave and urgent they may appear to be, had better be borne than the risk be run in the effort to suppress them, of more serious consequences by resort to expedients of even doubtful constitutionality."

It will be observed that Chief Justice Fuller spoke in defense of the general policy of the Constitution in limiting Federal powers.

REGULATION OUTSIDE OF TRANSPORTATION

In the meantime, Federal regulation, far reaching in importance, has developed outside of the field of transportation. The search of the specific border line of Federal and State powers still continues.

It is a noteworthy fact that for practically 100 years after the establishment of the Constitution the most assertive cry was against the transgression of State rights. Now, for a few decades, the most insistent demand has been for the broadening of Federal powers at the expense of State rights. This change of criticism reflects that greater economic dependence and interrelation of modern economic conditions which now confront the Nation.

Happily, perhaps, the future of our country is behind a veil. If the demand to expand the interstate-commerce clause to include the successive steps of commerce all the way from production to consumption is to be gratified and we are to adhere to the orderly processes of the Constitution, its amendment for this purpose will be required. Modern conditions give a more direct relation to these successive steps than was formerly the case. If only an economic problem were involved, we might reach the conclusion that all these successive steps directly affect interstate commerce and are within the regulatory power. If we adhere to the law, however, we find such an interpretation offends against the powers specifically reserved to the States and the definite limitations placed upon the Congress. Thus we are confronted with a question as to a great policy of Government as one of the current problems of the land.

This is not merely a question of economics. It involves the political philosophy of a dual form of government, the question as to whether centralized control, or a modified form of central control, has become of greater advantage than the old division of governmental powers. With the world at this hour affording so many unfortunate examples of governmental debauch America may well forget the current hour and prayerfully seek that solution which gives greatest promise of stability and endurance of popular government.

THE COMMERCE ACT

Congress in making the Commerce Act of 1887 a law acted in response to a widespread insistent popular agitation. The Civil War was followed by a marvelous period of railroad construction; then followed a period of adjustment, agitation, and criticism of the management of these companies that completely dominated transportation in the areas they entered.

It is said about 10 measures were introduced in the House in 1886 proposing some form of the exercise of the power under the interstate-commerce clause. When a bill looking to this end was reported to the House the committee stated that "the subject matter had been so fully and elaborately discussed for several years past" that it was not then necessary to enter into any elaborate explanation.

The Commerce Act of 1887 was not only an expression of popular demand, but it also reflected the enlarging sphere of commerce between the States. Four years later the Rules Committee of the House proposed to change the name of the Committee on Commerce to the Committee on Interstate and Foreign Commerce. The chairman of the Rules Committee stated that the change was proposed "out of deference to the growing importance of the legislative questions that arise here concerning interstate commerce."

THE INTERSTATE COMMERCE COMMISSION

It was the good fortune of the Commission to have as its first chairman Judge Thomas M. Cooley, who was not only a great lawyer but a wise statesman. His work and leadership commanded a respect and set a standard for the Commission that has extended its influence over the full half century of its work. He was chairman of the Commission at a time when its jurisdiction was comparatively limited, when it was looked upon as an experimental institution and when it yet had to win its way to public confidence.

Outside of the Civil Service Commission, the Interstate Commerce Commission is now the oldest independent regulatory agency of the Federal Government. It has dealt with the most controversial problems of the Government. It has acted as an independent agency of Congress. Its duties have been quasi-judicial, intimate, and consistent in its contacts with the practical problems of transportation. The problems of the carrier, the shipper, and the consuming public have always been upon its shoulders.

It has met those responsibilities with an ability that has given it a prestige equaled by few, if any, other organizations of our Government.

ADMINISTRATIVE AGENCIES

Since 1887, and particularly in the last 20 years, many new administrative agencies of the Federal Government have been established. A vast Federal personnel is employed in these agencies. Directly or indirectly they reach into the life of every citizen of this Republic. Many of these agencies have power to make regulations and rules governing the activities of the American people. They hold hearings, make findings and administrative orders. As a general thing, the findings of these agencies, if supported by evidence, are binding upon the courts.

These numerous agencies, to a degree heretofore unknown in our Government, come in contact with and invite the approval or disapproval of the people of the Nation. By needless, unwise, or arbitrary action these agencies can direct the discontent of government, the outcry of America's millions, to the National Government, away from the localities where this discontent was once directed and sought its remedies.

To assure the citizen of this Republic fair treatment and honest consideration and protect him against needless, arbitrary, or improvident action by the Federal Government becomes a responsibility of great consequence to the future welfare of the country.

Looking at government from the long-range viewpoint, its success and its stability must rest mainly in the confidence and veneration of its people, in the faith that theirs is a friendly Government, that their rights will have considerate attention, and that they are secure in the hands of the Federal Government. The actions of officers or employees of these various agencies may seem of minor consequence but, in the aggregate, their ability, intelligent and considerate execution of their duties are of vast purport to their country.

We have a discontent of government, both just and unjust. The more we multiply our activities the further we reach into the field of discontent. A growing dissatisfacton with these agencies, a growing discontent of millions directed here against the Federal Government, may create an instability and weakness that have heretofore been strangers to our Nation.

Fortunately there is another side to the picture. It is illustrated by the language of a letter written me by a very humble naturalized citizen of our country. In appreciation of an experience of her own she wrote: "The poor and unfortunate take heart when those high in the Government are considerate of their needs."

Many of us here tonight are servants of this Government. You or I may be limited in our opportunities but each of us can work with a consciousness that to some extent at least we can contribute to the usefulness of this Government, to its stability, and to its endurance.

Army Day Address of the Secretary of War

EXTENSION OF REMARKS

OF

HON. SCOTT W. LUCAS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1937

ADDRESS BY HON. HARRY H. WOODRING, SECRETARY OF WAR, ON APRIL 6, 1937

Mr. LUCAS. Mr. Speaker, April 6 marked the tenth annual celebration of Army Day. The President of the United States, Governors and mayors of the various States and cities, as well as patriotic organizations of importance, cooperated in bringing to the attention of the American people the necessity of a program of adequate national defense.

The patriotic people of this Nation are indebted to the Military Order of the World War for its initiative in supporting a measure before the Congress of the United States which brought about the recognition of April 6 of each year as Army Day. The resolution passed by the House and the Senate gives Army Day permanent national recognition.

It is advisable to state for the record that the membership of the Military Order of the World War is composed of men who served as officers in the deadly conflict of '17 and '18. The preamble of its constitution contains all the high ideals and the patriotic fervor of free, thoughtful, and independent Americans. For the benefit of those who do not thoroughly appreciate and understand the high purposes of this group of veterans, I now quote that preamble:

To cherish the memories and associations of the World War waged for humanity; to inculcate and stimulate love of our country and the flag; to ever maintain law and order, and to defend the honor, integrity, and supremacy of our National Government and the Constitution of the United States; to foster fraternal relations between all branches of the military and naval services; to promote the cultivation of military and naval science and the adoption of a consistent and suitable military and naval policy for the United States; to acquire and preserve records of individual services; to encourage and assist in the holding of commemorations and the establishment of memorials of the World War; and to transmit all of these ideals to posterity, we unite to establish the Military Order of the World War.

My colleagues, it was under the auspices of this faithful group of patriots, serving in peace as well as in war, that such a successful Army Day celebration was held in the Capital of the Nation and other cities throughout the country.

The parade down Pennsylvania Avenue will long be remembered. The banquet at the Mayflower Hotel in the evening will not soon be forgotten, as those who were present mingled with many high-ranking men of the Army and the Navy.

We were all privileged to listen to a most splendid and statesmanlike address on our national defense by the Honorable Harry H. Woodring, Secretary of War. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the address of the Secretary of War:

A score of years have passed since April 6, 1917, the date of our entrance into the World War. To those of us who served in the great conflict that fateful day seems but yesterday. It comes as a shock to us to realize that nearly half the people of our country either have no recollection or only a dim remembrance of our participation in the greatest war of all history.

A new generation has come to manhood in these recent years. The experiences of the World War generation are becoming historical reminiscences rather than living facts. As time passes, the circumstances under which we entered the war, the problems that were faced, and the confusion and difficulties resulting from a lack of adequate military and industrial preparation for war are apt to be forgotten.

Twenty-three years ago, when the Great War began in Europe, none would have predicted our participation. The hostilities were remote from our shores. As the war continued, some of our far-sighted statesmen became concerned over the possibility of our being drawn into the conflict. A survey disclosed that we lacked the military and naval strength necessary for our defense in a struggle such as was then shaking all Europe. Efforts to remedy this situation were begun in 1916, but before they had proceeded far we were in the war.

It is the judgment of many that had our Nation had adequate defenses we could have exacted respect for our desire to remain neutral and at peace. Whether or not adequate preparation would have spared us the horrors of the Great War, everyone will concede that had we been better equipped for the struggle victory would have been attained in a much shorter time and with a tremendous saving in blood and treasure.

One of the first difficulties we encountered in April 1917 arose from our lack of knowledge of our military requirements for the war. There was no clear conception of the probable extent of our participation. Some felt that the extension of credit facilities to the associated powers would be all that would be required to insure an early and a victorious conclusion of the conflict. Soon, however, it became apparent that if we were to win all of our military strength and most of our industrial resources must be utilized. The experiences of those early months of our participation in the war point clearly to the difficulties that will ever confront our country in a major emergency if we fail to take reasonable precautionary measures in normal times.

By a tremendous effort the patriotic people of America, acting with singular unanimity, won the victory. The Nation was mobilized for war. Four million men enrolled in the great Army that was assembled. Industry was organized to produce rapidly the supplies so essential to the success of our military effort. But before this was accomplished many months had passed—months in which the issue of the Great War hung in the balance. Fortunately, the delay was not fatal, though the losses mounted daily. Today—with protection through geographical isolation a thing of the past—does anyone believe that in a future crisis security will be assured while we take time to prepare?

The developments of the World War and of the two decades that followed have taught us much. We have learned first of all that geographical isolation does not guarantee immunity from war. We have realized with something of a shock that with speed of communication and transportation this planet has become much smaller and that a quarrel in any section of the globe is a potential source of danger to all. Distances have become negligible.

The World War brought home to us the knowledge that success in war depends not alone on the courage and strength of clashing troops on fields of battle, but also on the utilization and productivity of farm and factory. The high degree of specialization, the technical skill and training, and the complexity of organization involved in the use of modern implements of warfare were amply demonstrated by the great struggle. Likewise, the war gave us tangible evidence of the horrors, the suffering, and the waste of

modern conflict. It instilled in every veteran a deep-seated hatred of war and caused him firmly to resolve to do his part to keep his country at peace.

The events of the war and the experiences of other nations following the conflict have confirmed our belief that one way to further peace is to be strong enough to resist aggression. Immediately after the war the actual and potential strength of our national defense was such as to insure our security. Millions of veterans had completed their training in the best of military schools—the field of battle. Our warehouses were filled to overflowing with military stores of every description—weapons, equipment, vehicles, clothing. With the inexorable march of time the veterans of the World War have now become largely unavailable for active field service in a future conflict. Consumption, deterioration, and obsolescence have all but exhausted our war stocks of supplies. Should we again be called upon to defend our country we must look to a new generation for soldiers and to industry for new war supplies.

For reasons of economy we have not kept up our defenses. As our war experiences retreated more and more into the past we began to forget our hard-learned lessons. With the press of other governmental obligations we began to neglect our security. Other countries modernized and increased their armaments while we lagged behind.

Four years ago initial steps were taken to remedy this situation. These were important as marking the turning point away from a depletion of our national defense and toward a strengthening of our security. Improvements were made in organization. Modest additions were made in our enlisted strength. We began to move in the direction of modernization of weapons and equipment. Motors replaced draft animals. New tanks were developed and standardized. Field artillery and antiaircraft guns have been much improved. Marked advances have been made in our military airplanes. We have many fewer planes in our Army than other leading countries, but in quality those we have are second to none. Through competition in aircraft procurement during the past 3 years our source of supply has been doubled. In truth, there is yet much to be done in the process of building a modern army, but it is important that we have made a start, that the period of deterioration and retrogression is definitely ended.

The United States is participating in no mad armament race. We are not moving with feverish haste toward the creation of a gigantic armed force. On the contrary, we are only taking tardy action toward remedying some of the more glaring weaknesses in our national defenses. We plan no huge standing army. If we reach all of our present defense objectives we will still have an Army far smaller than that of any nation of comparable importance. All we aim to do is to take deliberate measures to provide the country with the minimum defense establishment consistent with reasonable security. Ordinary prudence demands no less. Our Army undoubtedly will remain about seventeenth in size, but we should make it first in relative efficiency.

While improving military organization and equipment we have not neglected industrial preparedness. Our plans for the mobilization of our vast resources in time of national peril are under constant scrutiny and revision. If we should suddenly become involved in a major war it would not be necessary to waste precious weeks and months in trying to obtain the essentials needed for our military effort. We now know what items we will need and where to obtain them. Delays and confusion will be tremendously reduced.

We think of our Army as an insurance against war, and we are right. Its primary duty is the protection of our country against attack from any foe. But its duties are not confined to national defense. It serves the Nation in the exigencies of peace, as well as in the travails of war. From the very beginning our Army has been closely identified with the progress of the Nation. Army officers were among our early explorers, blazing trails across forest and plain to the great West. The Army surveyed and built early highways and canals, and projected the routes of our transcontinental railroads. The settlement of the great empire of the West was made possible by the protection afforded by frontier Army posts that dotted the wilderness. Our foreign and domestic commerce owes much to the Army engineers, who for a century have been improving and maintaining our harbors and navigable rivers.

Army doctors have long been pioneers in the prevention and control of disease. They have led the fight against contagion and have made notable contributions to the advancement of medical science. In recent years Army aviators have been among the most intrepid conquerors of the air. They were among the first to span the oceans and girdle the earth.

During the dark days of the depression the Army rendered outstanding service in furthering the recovery measures initiated by the President. Army officers served as executives in several of the emergency relief agencies and furnished the trained leadership and administrative genius which did so much to make the Civilian Conservation Corps such a signal success. Reserve officers in active command of C. C. C. companies have not only performed official duties of the highest importance with marked efficiency but they have served as guides, counselors, and friends to hundreds of thousands of young men who were victims of cruel economic conditions. Their service will have a marked influence for good throughout the Nation.

Our history discloses that we become involved in war about once in a generation, but we suffer national calamities much oftener. In each disaster the country has found the Army a great relief agency ready at a moment's notice to save life and to relieve distress. Earthquake, fire, hurricane, and flood have in recent years taken a heavy toll of lives and property in America, but the loss would have been greater were it not for the prompt action of the United States Army. In the presence of a major calamity the Army acts swiftly. Red tape is cut. Restrictive regulations are disregarded. The troops speed to the rescue. Lives are saved. Order is restored. The quiet efficiency of trained soldiers triumphs over fear and distress.

Within the last few weeks the people of the Ohio and Mississippi Valleys had good reason to render thanks for the aid of our fine Army. An unprecedented and unseasonable rainfall in a limited area unleashed a raging torrent that spread death and destruction throughout a populous and prosperous region and threatened to extend its ravages over another area of vast extent.

While the Nation was appalled at the devastation so suddenly wrought by this disastrous flood the Army, the Navy, and the Coast Guard joined other Government and private relief agencies in speeding to the rescue of individuals and communities engulfed or threatened by this mighty foe. The President acted promptly on the request of local authorities, mobilizing all appropriate Government agencies, including the armed services, to meet the stupendous assault of Nature.

The first duty was to save lives. So many thrilling rescues were made as to make them almost commonplace. Families were taken from upper stories and from roofs of buildings that were about to be engulfed. Whole communities were evacuated. Many thousands were moved by boat along streets that had been transformed into lakes and rivers. Army engineers and Coast Guardsmen utilized every type of river craft in rescue work. Army aviators guided boatmen to marooned and imperiled victims. Army trucks sped ahead of the flood, taking families, livestock, and movable belongings from the path of the waters.

The next problem was to provide shelter, food and clothing for hundreds of thousands made homeless by the flood. Here the organization and training of the Army proved of incalculable value. Camps were quickly established. Tents were pitched and stoves installed. Cots and blankets were provided. Field kitchens were established and food and clothing were dispensed. Emergency hospitals were opened and Army doctors relieved the sick and immunized the well against the contagion that so often follows a disaster of this nature. Army aviators dropped food and medicines to communities so isolated as to be otherwise inaccessible. Army warehouses were opened and supplies were rushed by rail, truck, boat, and airplane to affected areas.

In the relief work of the Ohio Valley all elements of the Army cooperated with such Federal agencies as the Works Progress Administration, the Navy, and the Coast Guard, and with local authorities and with representatives of that great humanitarian organization, the American Red Cross. As soon as it was apparent that the flood would cover large sections of such metropolitan cities as Cincinnati and Louisville it was realized that every possible assistance must be rendered to local authorities. Regular troops were sent to Louisville, Frankfort, and Paducah. National Guard soldiers were on duty at all points in the devastated and threatened areas. Reserve officers, with scarcely an exception, volunteered for duty and worked day and night to relieve distress. C. C. C. companies under Reserve officers were moved into every section of the flooded areas, where they rescued thousands, distributed supplies, and rehabilitated communities. R. O. T. C. cadets proved tireless workers in aiding the afflicted.

The effect of this military aid to the communities was instantaneous. Order replaced chaos. Panic was averted. The victims were promptly nourished, clothed, and sheltered. Considering the nature and extent of the property damage, the loss of life from drowning, exposure, or disease, was amazingly small. The great disaster demonstrated again that in perils of peace as well as in the scourge of war the Nation may confidently rely on its armed defenders.

Calamities of war, like devastating attacks of Nature, often come suddenly. For neither are we ever quite ready. However, it is gratifying to know that we have on guard an ever-vigilant Army ready to answer any call, be it to repel the arrogance of an aggressor or to succor a community in distress. There are no more earnest advocates of peace than our armed defenders. Their lives are dedicated to their country's service. Their energy is devoted to maintaining their Nation secure against aggression and to preserving a lasting peace with all the world.

Tonight the Army is highly honored by patriotic citizens of every section of the land. The Military Order of the World War has rendered the Army a fine tribute by sponsoring this observance of Army Day. The Congress has officially recognized the service of our soldiers in peace and war by designating today as Army Day. The President of the United States—the Commander in Chief of the Army—has by Executive order approved this celebration. For all of these generous tributes the Army is deeply grateful. But today, Army Day—especially this Army Day—let our Nation be reminded that a strong defense is the best negotiator for peace. A strong Army and Navy, without being called into action, are the strongest cards America has as she earnestly promotes peace for the world and goodwill among all men.

The Life of Horace Mann

EXTENSION OF REMARKS

OF

HON. JOHN W. McCORMACK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

Mr. McCORMACK. Mr. Speaker, the American system of free universal education has contributed greatly to the rapid growth and development of our Nation.

In 1776 the American Colonists fought for and secured for themselves and their posterity a democratic form of government which released them from the evils of despotism and tyranny. Twenty years later there was born on a farm in Franklin, Mass., one who was destined to lay the foundations for an educational democracy which would provide an opportunity for all to understand and appreciate the purposes and ideals of this new Government.

While our victory in the Revolutionary War gave us our freedom, it was the establishment of the public-school system in America which has enabled us to enjoy this freedom.

This year, 1937, we celebrate the centennial of the two events which marked the beginning of a brilliant era in the science of education—the establishment of the Massachusetts Board of Education and the appointment of Horace Mann as secretary of the board.

On April 20, 1837, the Massachusetts Legislature authorized the establishment of the first State board of education in America. A few months later Horace Mann, who as president of the Massachusetts Senate had ably assisted in securing the enactment of the bill creating this board, was appointed its first secretary.

The appointment of Horace Mann furnished this newly established board with the services of one who believed in and supported all the great humanitarian reforms of his time.

The boyhood experiences of Horace Mann had given him a sympathetic understanding of the plight of those people who through no fault of their own lacked the opportunity to better themselves. When he was but 13 years old his father died, placing upon him at this tender age the responsibilities of self-support and independent action. The hardships of his youth and his efforts to improve and educate himself contributed greatly to the formation of an excellent character. By intensive study Mann prepared himself to enter Brown University as a sophomore in 1816. Graduating with honors, he studied law and was admitted to the Massachusetts bar in 1823. After practicing law for 4 years, Mann became interested in politics. In 1827 he was elected to the Massachusetts House of Representatives, and was later elected State senator. His service in the State legislature in Massachusetts was continually directed to the cause of the weak and afflicted. As a legislator he had advocated and procured the establishment of a State hospital for the care of the insane, the first of its kind in America. He was especially interested and active in securing the passage of the bill which created the board of education. The first act of this newly established board was the selection of Horace Mann as its secretary.

After careful consideration he accepted the position, and thereupon resolved to devote his entire time to the cause of free public education.

Sacrificing a brilliant and remunerative career in law and politics, he undertook his assignment with a fervor and determination best described in his own words:

> The path of usefulness is opened before me; God grant me an annihilation of self, a mind of wisdom, a heart of benevolence.

The spirit of the people and the financial condition of the State did not augur well for the success of Horace Mann and the new board of education. The Revolutionary War and the War of 1812 had left the people impoverished. Heavily in debt and laden with taxation, they were reluctant to assume any new burdens. Public schools were scarce and inadequate, equipment antique, methods of teaching obsolete, and a noticeable percentage of the teachers unprepared and untrained. Only the children of the rich, who could afford to attend private schools, were able to secure anything like a proper education. There was no common leadership nor unified system. In fact, the value of education was not generally appreciated.

In the face of these difficulties which confronted him, Horace Mann did not become discouraged. He courageously met the challenge and mapped out a vigorous campaign to arouse and crystallize public opinion in support of a free public-school system.

He realized the necessity for an enlightened citizenry. If the new form of government were to continue and prosper, it must have trained leadership. Equal opportunities for all men to exercise their mental and physical capacities and develop their best abilities were essential to bring forth and develop such leadership. The well-being of the Nation depended on the welfare and progress of all its citizens, assisting and being assisted in the development and proper enjoyment of their mental faculties and harmoniously striving for the general good. The happiness of the people and the success of the Government could be achieved only through a system which afforded all the opportunity for an education.

Adopting as his motto the fundamental principle of democratic government—equality of opportunity—Mann began his campaign for the establishment of free public schools.

Horace Mann understood the value of public opinion. If he were to be successful in securing the appropriations necessary for carrying out his program, he realized that he must win the support of the people. Soon after his appointment he undertook to deliver a series of lectures which brought him to every corner of the State. Everywhere he traveled he preached his doctrine of reform and improvement, bewailing the existing abuses and inequalities. He explained to the people the need for a system of education which would give all classes of persons an equal opportunity to prepare themselves for their positions in society and enable them to render useful and valuable aid to the State and Nation.

His persuasive arguments for educational reform supplementing the constructive criticisms contained in the reports which he submitted to the board finally brought the people to a realization of their responsibilities as parents to properly provide for the education of their children.

These efforts of Horace Mann awakened in the people a new interest in the schools, which led the way to a great common school revival in Massachusetts. In less than 2 years after taking over his duties, the first public normal school in America was founded in Lexington, Mass. Here men and women were thoroughly trained in the approved standards of instruction for their important duties as teachers. They were taught the more modern methods of teaching. A unified system of teaching was thus established and the pupils had the advantage of studying under a system of education worked out by the best minds of the day.

Due to the indefatigable efforts of this man, schools and libraries began to spring up everywhere; people became culture conscious. The ideals of Horace Mann were gradually incorporated into a State system of education. His influence was the dominant factor in a successful administration of the Massachusetts Board of Education and insured its perpetuity.

All through his life Horace Mann had suffered the handicap of insecure health. Advised time and again to give up his strenuous duties, he finally suffered a break-down which necessitated a halt in his activities. Complete relaxation was necessary, and he sailed for Europe on May 1, 1843. His great devotion for the cause of education influenced him while abroad to study the ideals and methods of education in Europe. He brought back new ideas for education in America—ideas applicable to our conditions.

In 1849 he resigned from his office to take up the fight in Congress for the abolition of slavery. During his 12 years

as secretary of the Massachusetts Board of Education he had established and developed the common-school system, provided normal schools for the training and development of men and women to teach, and had finally welded together a scattered and unorganized group of rural schools into a well supervised State system. George H. Martin, in his Evolution of the Massachusetts Public School System, states that under the leadership of Horace Mann—

> Statistics show the appropriations for public schools had doubled; that more than $2,000,000 had been spent in providing better schoolhouses; that the wages of men as teachers had increased 62 percent, of women 51 percent; 1 month had been added to the average length of the schools; the ratio of private-school expenditures to those of the public schools had diminished from 75 percent to 36 percent; supervision of school committees became more general and constant; three normal schools had been established and had sent out several hundred teachers who were making themselves felt in all parts of the State.

The results accomplished by this pioneer in the field of education is seen on all sides. Today free public schools are situated in every community in America. Modern sanitary buildings, fully equipped to provide the mental and physical advancement of our youth, have been erected. Books, literature, and information of every kind and description essential to the development of the mind are readily available in libraries conveniently located. Our children are properly guided in their studies by well-trained men and women who are constantly striving to improve their minds and increase their efficiency. School committees have been set up in many towns and cities. Every State in the Union has followed the leadership of Massachusetts in the establishment of a central State authority for the supervision and direction of its public schools.

Mann spent the closing years of his life as president of Antioch College, which had been established as a nonsectarian, coeducational, and character-building institution. This was a new experiment in education. Mann cherished this opportunity to test the practicability of this pioneer movement. His success in this field of college education has been seldom acclaimed only because of his greater success in public-school education.

We can learn a great lesson from the life and works of Horace Mann. It would be well for us to adopt his philosophy, which was disclosed in the final words of his farewell address to his beloved pupils a few days before his death:

> Be ashamed to die until you have won some victory for humanity.

During his life he had won a glorious victory for humanity. His battle was a bitter struggle against the evils of ignorance and selfishness. His chief weapons were his voice and pen sending forth inspired words of advice, encouragement, and constructive criticism, fired by his love and devotion for the cause of education. The fruits of his great work and his success in establishing on a permanent basis our system of free public-school education will inure to the benefit of mankind forever.

Investigation of Sit-Down Strikes

EXTENSION OF REMARKS

OF

HON. EARL C. MICHENER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1937

Mr. MICHENER. Mr. Speaker, pursuant to the permission given to me by the House during this afternoon's session, I am extending my remarks on House Resolution 162, commonly known as the Dies resolution. Together with dozens of other Members of the House, I should like to have had an opportunity to express my views on this most important resolution before a vote was taken by the House. The majority leadership, however, so maneuvered that it was impossible for the House to have more than 1 hour's debate on this resolution before a vote. Then, under the rule, no amendments were permitted. In other words, the general understanding was that the House would be permitted to vote for or against the Dies resolution. I regret that politics was injected into this matter. The issue is simple and should have been decided upon its merits.

I say that political pressure was brought to bear, because among other things the distinguished chairman of the Committee on Accounts, the very able and effective gentleman from North Carolina, Mr. WARREN, advised us early in the afternoon that, in his judgment, the Republican Members of Congress would vote for this resolution for the purpose of "embarrassing the administration." This thought was later amplified by that other distinguished Democratic leader, the gentleman from Ohio, Mr. HARLAN, the effect of whose speech was to make it plain that administration Democrats were expected to vote against this resolution. If that were not enough to convince one, let us take the announcement made on the floor of the House by that distinguished majority leader and chairman of the Democratic delegation in Congress from Michigan, Mr. SADOWSKI, who announced that the Democratic delegation from Michigan was unanimously opposed to the passage of the Dies resolution. They evidently do not want the facts explored.

With the above background the later proceedings are most enlightening. At the expiration of the 1 hour's debate, the gentleman from Georgia [Mr. COX], member of the Rules Committee in charge of the resolution, moved the previous question. The effect of this motion is to close debate, cut off all amendments, and bring the resolution to an immediate vote on its merits. Those who favored going on record for or against the resolution voted "aye", while those who were opposed to the resolution, or at least who did not want to vote one way or the other, voted "no." The majority leaders voted "no", as did a large majority of the Members. This left the resolution open to amendment. The gentleman from North Carolina [Mr. WARREN] had already announced that if the previous question were defeated he would offer a substitute. The gentleman from New York [Mr. MEAD] had also announced that if the previous question were defeated he would offer an amendment to the resolution placing the investigation in charge of the standing Labor Committee of the House, headed by the gentleman from Massachusetts [Mr. CONNERY]. What really happened, however, after the previous question was defeated, was that the gentleman from North Carolina [Mr. WARREN] moved to lay the resolution on the table, the result of which was to dispose of the resolution definitely and without placing any Member of Congress on record for or against sit-down strikes.

I have been in Congress a long time. I have served under several Speakers, as well as under several Presidents. I am somewhat familiar with the rules; but I want to take off my hat to the ingenuity, the artfulness, and the finesse of the present leadership in the House when it comes to avoiding a vote or taking any action that might "embarrass the administration."

After I learned that favorable action on this resolution might "embarrass the administration", I gave special consideration to just what the resolution contemplated, because in the resolution must be found the cause of this threatened embarrassment, and it is well that I here state just what the resolution provides.

It authorized the Speaker of the House to appoint a special committee to be composed of seven Members, not more than five of whom may be from the same political party. Be it remembered that there are in Congress today members of the Democratic Party, the Republican Party, the Farmer-Labor Party, the Progressive Party, and two Members who claim to be Non-Partisan League members, elected on the Republican ticket. This committee is set up, as stated in the resolution—

> For the purpose of conducting an investigation of facts regarding (1) the cause or causes producing such sit-down strikes; (2) the truth as to actual conduct of all parties to such strike, including the management and those acting under the management, as well as those who take part in the strike; (3) upon whose advice and instigation such as sit-down strikes were called and

carried on; (4) the true condition in the affected industries in reference to wages, hours of work, and other conditions under which the employees are compelled to work; (5) the charges that the management of such affected industries have employed agents to perpetrate violence upon their employees; (6) the efforts made by the local and State authorities to prevent such sit-down strikes; (7) and all other charges which have been made or will be made by the representatives of labor, on the one hand, and the management of industry, on the other, so that a full, complete, and impartial finding of facts may be had; (8) and all other questions in relation thereto that would assist Congress in the immediate enactment of necessary remedial legislation.

It will be observed that the committee is charged with ascertaining and reporting to the House information regarding eight specific propositions. To which one of these propositions does the administration object? What is the information sought that the opponents of this resolution would deny to the Congress and to the country? What possible motives can there be on the part of those who would keep from the Congress and the people of the country the facts that this investigation would elicit? At the risk of repetition, but for the sake of clarity, let us analyze just a little. Who can object to the Congress making an honest effort to determine the cause or causes producing sit-down strikes? Who is afraid that the truth about the actual conduct of all parties to such strikes, including the management as well as those who take part, will embarrass anybody? What objection is there to knowing upon whose advice and instigation sit-down strikes are called and carried on? Surely the country, as well as the Congress, is interested in knowing the true conditions in the affected industries in reference to wages, hours, and other conditions under which the employees are compelled to work. If the management of such industries has employed agents to perpetrate violence upon their employees, should not the Congress and the country have this information? What about having the Congress and the people of the country know exactly the efforts made by the local and State authorities to prevent such sit-down strikes? Possibly this is where the shoe pinches. Maybe I am justified in surmising this investigation might embarrass some of the national as well as the local and State authorities, who have up to this time not even gone so far as to lend the weight of their voices to the side of law and order, and who have for some reason best known to themselves refused or neglected to take a definite position as to the legality, the advisability, or the harmfulness of the sit-down strike.

I do not know that those who oppose the passage of this resolution do so for this reason. I do know, however, that the majority of the liberty-loving, law-abiding American people are today demanding that those in authority speak up and have the courage to see to it that anarchy does not reign in our midst, and that court orders are not trampled under foot. It seems to me that a condition such as has obtained in Michigan within the last few weeks should not be tolerated, where "sit-downers" take possession of another's property, picket the courthouse when the lawful owner seeks the assistance of the court, and, last but not least, dare the public officials to attempt to serve the writs issued by the court, and go so far as to placard the property they unlawfully hold with such signs as "Bring on your Army and Navy" and "We will never surrender to any court order."

Again, can there be the slightest reason why the Congress should not provide this forum where all the charges surrounding the controversy on the part of the management, on the one side, and the part of labor, on the other side, could be fairly and authentically presented? The concluding provision of this resolution would give this committee full authority to obtain all necessary factual information on which to base remedial legislation.

I think as a general thing my position on investigations by the Congress is pretty well known. In 9 times out of 10, these investigations spend money, get nowhere, and are turned into sort of personal aggrandizement agencies, functioning in behalf of the investigators. The selection of this committee would be entirely in the hands of the Speaker of the House, and I am sure that we could trust his good judgment and well-known fairness to see to it that this would not be a "packed" committee. There is no use, however, in discussing the matter further. The powers that be have chloroformed the resolution and, if I do not misjudge, about tomorrow, some innocuous, harmless gesture will be made by the House as a substitute for this resolution. Nobody will be embarrassed. None of the authorities will be placed on the spot and the policy of reciprocal trade agreements, to which Mr. John L. Lewis so brazenly referred, will not be disturbed.

The people of my State have been sorely vexed during the last few weeks by these sit-down strikes. Mr. Lewis, the head of the C. I. O., undoubtedly cast about for a testing ground in this new strike technique. It is fair to presume that so astute and experienced a labor leader took into consideration who the Governors were in the several States, and I am stating nothing new when I assert that he selected a State with a friendly Governor. Governor Murphy, of Michigan, was strongly supported in the last election by and is the friend of this group of sit-down strikers in Michigan. They have confidence in him and have, up to this time at least, not opposed any of the Governor's mandates. It is true we have had no bloodshed in connection with these strikes in Michigan, but I do not believe that there has been any occasion for bloodshed. Had the Governor stated squarely and firmly that the General Motors sit-down strike would not be tolerated in Michigan, the men would have left the plants as soon as the declaration was made. On the other hand, the fact that the Governor called out the State troops, sent them to Flint for the express purpose of seeing that the men were permitted to remain in the plants without molestation until they had forced some concessions from General Motors, and the fact that the State troops did protect the men in their unlawful occupation until the Governor announced that a tentative agreement had been reached, is proof of what I have just stated. If that proof is not conclusive enough, the fact that the Chrysler sit-down strikers did vacate the plant, even though the Chrysler Co. refused to negotiate until they did, when the Governor asked them to do so, should satisfy anyone that a firm stand, or even a polite request, from the Governor in the beginning would have avoided this Nation-wide epidemic of sit-down strikes.

Some of our friends say that we must not criticize, and I do not want to be unjust. I am thoroughly convinced, however, that if we have bloodshed in connection with sit-down strikes in Michigan, it will be because of the way the public officials handled those sit-down strikes in the beginning. No one attempts to say that these strikes are legal. On the other hand, everybody concedes that they are illegal. The American Federation of Labor has been no party to these strikes, and has uniformly condemned the method. Force and violence of this character have and will do irreparable injury to constructive, forward-looking organized labor.

The Congress has passed a law against transporting in interstate commerce strikebreakers, and the corollary of that legislation will eventually be a law against sit-down strike makers of the gangster, convict class, a number of whom, as stated by the press, have been identified with the recent Michigan strikes. There was a time when the gunman, the ex-convict, and the gangster found a job in the employment of strikebreaking agencies. This is today prevented by law, and this undesirable group of our citizens would appear now to be working on the other end of the racket.

I believe in organized labor. I believe in collective bargaining, and I am sure that the time is not far distant when legislation will be enacted recognizing to the fullest extent the rights of labor and industry to enter into contractual relations, beneficial to each, and necessary for the well-being of all of our people. That legislation will give powers and privileges to both industry and labor, and it will, and should, provide for the responsibility which must always accompany power and privilege. Our people are going to be satisfied with nothing less. While social security and industrial stability are essential, if the idealism of our form of government is to be realized, there can be no special privilege granted to either industry or labor. Each is entitled to the benefit of the law, and each must obey the law.

Leave Michigan Matters to Michigan

EXTENSION OF REMARKS

OF

HON. LOUIS C. RABAUT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1937

Mr. RABAUT. Mr. Speaker, the permission to extend my remarks was requested because of the fact that no opportunity was given me today, even upon insistent request, to voice my opinion on the floor of the House concerning House Resolution 162.

The Governor of the State of Michigan, the Honorable Frank Murphy, has the matter of the sit-down strike pretty well in hand. This fact has been favorably attested to by the press of the Nation editorially, regardless of the political complexion of the publications. Moreover, the State Senate of Michigan has declared the sit-down strike as illegal. As with Michigan, so with other States. This sit-down condition is a problem of State jurisdiction. House Resolution 162 calls for a Federal investigation, coupled with a huge expenditure of money, and under the customary procedure of the House would be set up under the control of a committee requested in the resolution, headed by the gentleman from Texas [Mr. DIES].

The great Chrysler sit-down strike was in my district. It was settled peacefully, without bloodshed, by Michiganders and others concerned, in Michigan. There is an able representation in this House from Michigan to look after Michigan's problems, and they need no resolution introduced by the gentleman from Texas.

Detroit is the city of automotive fame. It has been referred to as the "dynamic." It has attracted the geniuses of the mechanical and engineering world to its door. It brings to the riding public of the Nation—yea, of the world—the pleasure and convenience of modern transportation. Its success has been colossal. Its system and products are emulated and copied by the manufacturers of the globe. Naturally, such a city with a labor problem at its door becomes an attraction for publicists, magazine writers, those seeking the spotlight, and the like. And so it was with our distinguished colleague from Texas.

May I remind the gentleman that the automotive industry uses 500,000 bales of cotton a year, which should be something of significance to the State of Texas. Also, that we use 13,000,000 yards of upholstering cloth; 35,000,000 pounds of hair and padding. The owners of the product step into the gasoline and oil business to the tune of 460,000,000 gallons of oil and 15,300,000,000 gallons of gasoline, all of which should be conclusive proof to the gentleman of Texas that he should leave Michigan's affairs to Michigan and be content with those things which we are doing, which are most beneficial to his constituency.

Yes; there are the news hounds of the world, and no matter where they have been they have had one ear in Michigan. But if they will recall a line from the pen of the editor of the Detroit Free Press, my friend, Mr. Malcolm W. Bingay, they will rightly remember the conclusion of his answer to the critics of Detroit, the dynamic:

> If every city in the Republic was as safe and sound in its Americanism as is Detroit, this would be a fine country. Quit hiding under the beds and don't believe the wild yarns about us. Detroit led us out of the depression and we will continue to lead the parade back to prosperity.

The passage of the resolution, Mr. Speaker, would have proved a useless expenditure of the taxpayer's money.

Organization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. C. ARTHUR ANDERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1937

STATEMENT BY REV. LINUS LILLY, PROFESSOR OF CONSTITUTIONAL LAW AT ST. LOUIS UNIVERSITY

Mr. ANDERSON of Missouri. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following statement of Rev. Linus Lilly, professor of constitutional law at St. Louis University:

One of the major objectives of our Federal Constitution, as expressed in the preamble, is to secure the blessings of liberty to ourselves and to our posterity. The framers of the Constitution knew human liberty as a treasure purchased at a great price. Nearly half the number of the small group had done actual fighting in the war of revolution. Dire experience was their teacher and they learned their lesson well. They had not only made a close personal acquaintance with the sacrifices and sufferings of war but knew well the history of mankind upon earth as little more than humanity's prolonged struggle to be free.

They knew that empires had risen upon the ruins of republics, that despotisms had brandished the sword of conquest over prostrate forms of freedom, that enthusiastic multitudes had been cajoled into shouting away their cherished liberties, relying upon vain promises with hopes more vain, actually believing, indeed, that their rights were being protected, extended, and augmented. Desiring to make the blessings of liberty secure to themselves and their posterity they chose as a means to that end a written constitution. They planned to establish a government of limited powers, allowing to executive and legislative departments only that authority which was expressly delegated or reasonably implied. In order that grants of power and limitations upon governmental authority might be neither mistaken nor forgotten they were to be reduced to writing. To put limits upon the authority of governmental agencies is the principal and distinctive purpose of a written constitution. The founders of our Republic desired that we should be governed by laws, not men, and, therefore, wisely provided that those who would make and enforce laws, should keep within the scope of powers conferred by the Constitution; powers not granted, being reserved to the States and to the people. Whether limitations upon authority are exceeded, whether powers not granted are exercised, whether reserved rights are invaded or violated are questions which must be determined by judicial decision. Hence, realizing the necessity of an independent judiciary under our plan of government, the framers of our Constitution designed that judges of the Federal courts, after appointment and confirmation, should be absolutely, entirely, and perpetually free from executive or legislative control or influence.

It is idle, therefore, to say in support of any court-packing scheme that it is constitutional in the sense that it does not violate the prescriptions of any clause in the Constitution. This alone, if true, would neither make it expedient nor prevent it from being dangerous. Such a plan indeed might not violate anything that the Constitution says and yet be directly hostile to what the Constitution is. The Constitution wisely distributes the powers of government into three departments, and therefore any plan that would center the control of all departments in one man or body of men is plainly contrary to what the Constitution is. The Constitution is the supreme law of the land and recognizes the force of law in such acts of Congress as are made in pursuance of its provisions. Hence a plan that would give to acts of Congress the force of law, whether made in pursuance of the Constitution or not, is directly contrary to what the Constitution is. The Constitution contemplates courts that are entirely, absolutely, and perpetually independent of executive influence in the exercise of judicial functions and therefore a plan that would subject them to annoyance and harassing pressure for resignation precisely because their opinions do not please the Executive is directly contrary to what the Constitution is. The Constitution is a charter for a government of limited powers and therefore a plan that would remove limits or allow them to be flagrantly disregarded is contrary to what the Constitution is. The Constitution expressly limits the exercise of both legislative and executive authority, placing the power of determining whether or not limits have been transcended in a tribunal entirely removed, in the exercise of its

functions, from executive or legislative control or influence. A plan, therefore, that would give to either legislative or executive officials a controlling influence in passing upon their own acts and determining whether or not their own limitations of authority have been transcended is contrary to what the Constitution is.

Those who have proven with exhaustive arguments that Congress has the power to determine the number of Supreme Court judges have but wasted time expounding the obvious. It is not obvious, however, that the entire plan, including Executive influence over judicial tenure of office, is constitutional. Eight of the leading men in the Constitutional Convention, among them Benjamin Franklin, Roger Sherman, and James Wilson, were also signers of the Declaration of Independence. They must have had before them the words of the Declaration in the vigorous and ringing indictment of George III: "He has made judges dependent upon his will alone for their tenure of office and the amount and payment of their salaries." With the obvious purpose of correcting this abuse of authority, they said in the Constitution: "The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office." To prevent the Executive from influencing in any way the tenure of office of any judge, they were to hold office during good behavior. In order that he might not prevent the payment of their salaries, it was provided that they should be paid at stated times. In order that the judges might not depend upon the Executive for the amount of their salaries, it was provided that their salaries should not be diminished during their continuance in office. It will be observed that the removal of judges from Executive influence in regard to tenure of office is entire, not partial; absolute, not conditional; perpetual, not temporary. Under the proposed Court-packing plan judges who agree with the Executive, upon reaching the age of 70, could remain on the bench, and by so doing enable the Executive to duplicate their voting strength and his own by appointing another Court member. Those, however, who do not agree with the views of the Executive would be obliged to resign or see their voting strength canceled by the appointment of a judge whose opinions are in harmony with Executive will and purpose. Very obviously this is giving the Executive an influence over the Court which the Constitution plainly purposes to avoid. It is directly hostile to the spirit which giveth life, regardless of its relation to the dead letter. Spiritus est qui vivificat, caro non prodest quidquam.

There can be no real weight or value in the argument sometimes advanced in favor of the Court packing plan that the present Chief Executive does not desire to be a dictator. Even though the Archangel Gabriel were President of the United States, it would still be true that his successor might not be an angel. If we were to rest our security for the preservation of liberty upon the good will of an individual, taking chances on like good will continuing with his successors there would be but little meaning or purpose left to our constitutional guaranties and limitations. To depend upon the integrity, patriotism, and right intention of individuals and hope for such liberties as they may choose in their charity to allow us, is to be governed by men and not by laws.

The men who framed our Constitution designed to make us more secure against abuses of authority. Under their plan of government when experience shows the need of powers not granted to officials by the Constitution new concessions should be asked of the people by way of proposed constitutional amendment. Limitations of authority reduced to writing and interpreted by an independent tribunal were intended to be our means of protection and secure to us the blessings of liberty. To trust any individual or body of individuals, however worthy of confidence they may be, for the maintenance of our constitutional government and the perpetuity of our democratic institutions, is to place our hope of securing the blessings of liberty to ourselves and our posterity elsewhere than where the framers of our Constitution have placed it.

An independent judiciary is essential to the successful operation of a written constitution. It is the judiciary that makes the Constitution a living voice rather than a dead letter. This is practically what Chief Justice Hughes meant when he said the Constitution means what the Supreme Court says it means. Unfortunately the words of the Chief Justice have been woefully wrenched from their true meaning to give the impression that constitutionality is but a matter of judicial caprice. It is true, as the Chief Justice said, that we live under a constitution, but it is also true that the Constitution must be interpreted and applied.

The Constitution is intended to protect and safeguard the rights and liberties of individuals, but it does not operate automatically. It does not protect after the manner of a stone wall, an iron fence, an asbestos jacket, or an envelope of cellophane. Violations of constitutional right originate generally with those who believe they are acting within their authority, and even with those who are entitled to obedience until their assumption of power is disapproved by judicial decision. Thus a right however sacred and however plainly assured in the Constitution might remain a dead letter until proclaimed by a living voice or, in other words, until the Constitution means in a particular case what the Supreme Court says it means.

In 1923 a citizen of Nebraska, employed as a teacher in a Lutheran parochial school was tried and convicted by a State court, his offense being "the direct and intentional teaching of the German language as a distinct subject to a child who had not passed the eighth grade." The State supreme court confirmed the judgment of the trial court subjecting the teacher to both fine and imprisonment. The Supreme Court of the United States reversed the decision of the State court and held the Nebraska law unconstitutional as an unwarranted interference with the rights of parents to instruct their children and employ others to give them the instruction, even in a foreign language, deemed proper by the parents. The teacher was not subject to fine and imprisonment but was allowed to continue his useful and honorable occupation because the Constitution meant in his case what the Supreme Court said it meant.

In 1922 the State of Oregon passed a law requiring parents and guardians to send children between the ages of 8 and 16 "to a public school for the period of time a public school shall be held during the current year." Failure to comply with the law was made punishable as a misdemeanor. Public officials formally announced their purpose of enforcing the law. Catholic Sisters were in danger of seeing their schools closed, their property made valueless, and the work to which they had dedicated their lives permanently discontinued. The Supreme Court of the United States declared the compulsory school law unconstitutional as a violation of the fourteenth amendment, and the Sisters were allowed to continue their laudable work of teaching little children because the Constitution meant to them what the Supreme Court said it meant.

In 1830 George Corn Tassel, a Cherokee Indian, was tried, convicted, and sentenced to death in Georgia State court. As a member of the Cherokee Tribe, living in the Cherokee Reservation the Indian was entitled by solemn treaty with the United States to be tried in a court of his domicile, and the Georgia court was manifestly without jurisdiction over him. A writ of error from the Supreme Court of the United States to the trial court was flagrantly disregarded. State officials contemptuously spurned the Supreme Court order, and 2 days after the writ was issued Corn Tassel was illegally put to death. Both the Indians and the people of Georgia were subject to the Constitution, but Corn Tassel was condemned by a court that had not jurisdiction to try him, and put to death by officials who had no authority to inflict punishment upon him, because the Constitution did not mean in his case what the Supreme Court said it meant.

In October 1864 Lambdin P. Milligan, a resident of Indiana, was arrested by order of the military official in command of the military district of Indiana. Military tribunals had been established and the suspension of the writ of habeas corpus authorized by an act of Congress of March 3, 1863. The validity of this act was challenged on the ground that the privilege of the writ could be suspended only when invasion or rebellion should require it. The people of the United States were then living under a Constitution with the same clauses bearing upon the situation that we have in the Constitution now. Officials, including the President of the United States, accepted the act of Congress at its face value. Lambdin P. Milligan was tried by military commission, found guilty, and sentenced to death. The date of his execution was fixed for May 19, 1865. On May 10, already within the lengthening shadows of death, Milligan appealed to the United States circuit court in Indiana for a writ of habeas corpus. Because of disagreement of the circuit court judges, the case was sent on certification of questions to the Supreme Court of the United States. The Supreme Court held that military courts could be established only when the ordinary civil courts were closed and that the privilege of the writ of habeas corpus could be suspended only when the rebellion or invasion was actual in the specific locality where suspension was petitioned. The life of Lambdin P. Milligan was spared because the Constitution to him meant what the Supreme Court said it meant.

Attempts have been made to bolster the proposed Court reorganization plan with the assertion that former administrations have employed similar means to promote or effectuate Executive policy. The statement will not bear analysis. Investigation will show conclusively that the plan allows the Executive an influence over the Court that is not only without parallel but without semblance of precedent in the history of our Government. No addition to the number of Supreme Court judges has ever been made by or on behalf of any President with a view to increasing his influence in regard to litigation or legislation pending or prospective. Additions to the personnel of the Court have been made invariably with reference to the territorial development of the country and the formation of new States. When the Court was first organized in immediate pursuance to the Judiciary Act of 1789, the Original Thirteen States were divided into three circuits, eastern, middle, and southern. Two Supreme Court Justices and a district judge constituted a circuit court for each circuit. It was hoped in this way to bring the judges into immediate contact with the people and afford the average citizen opportunity for actual and immediate acquaintance both with the Federal judicial system and with the primary functions of constitutional Government.

In 1807 one member was added to the Court and a new circuit formed of three States recently admited to the Union, which, on account of distant location, could not be conveniently included in any existing circuit. These States were Kentucky, Tennessee, and Ohio. Before making the appointment, Thomas Jefferson, who was President of the United States, requested each Senator and Representative from the three States to express a first and second choice. Upon learning that each Senator and each Representative named as either first or second choice Thomas Todd, chief justice of the highest court in Kentucky, the President appointed Justice Todd. Had Mr. Jefferson been seeking favorable

judgment on prospective legislation, his partisans would probably have tried to secure the addition of more than one judge, and he would certainly not have left the selection of the new Justice to the congressional delegations from the new circuit.

Thirty years after the first addition was made to the Court other new States were formed into two additional circuits, requiring the appointment of two new Supreme judges. The States were Louisiana, Alabama, Mississippi, Indiana, Illinois, and Missouri. On account of slavery controversies repeated attempts to provide circuit-court organization for these States had failed. The appointment of two new judges brought the number to nine, the maximum number in the Inter-Colonial Court provided for in the Articles of Confederation. Andrew Jackson was the President who appointed the new judges, increasing the Court personnel by two members. Was this addition made to increase his influence with respect to litigation or legislation pending or prospective? The conclusive answer is the historical fact that he made the appointments on March 3, 1837, the day before his successor, Martin Van Buren, was inaugurated President of the United States.

When Abraham Lincoln became President March 4, 1861, he found a vacancy on the Supreme Bench due to the fact that the Senate had refused to confirm a nomination made by his predecessor to fill a vacancy caused by death. Just 1 month after Inauguration Day another vacancy was caused by the death of Mr. Justice McLean. A few more weeks brought the firing on Fort Sumter, the secession of Southern States, and with the resignation of Mr. Justice Campbell, of Alabama, another vacancy in the Supreme Court. Thus it happened that the Court met in December of that year with a membership of only six Justices. Mr. Lincoln did not fill the vacancies because he thought the war would soon be over and he would be able to give the South its proportionate representation. Early in 1862 he was prevailed upon to appoint a successor to Mr. McLean, an Ohio man, who represented a circuit in northern territory, but still declined to appoint judges to represent the southern circuits. Six months more of civil strife made it evident that a long and bitter struggle was to be fought out. Only then did President Lincoln consent to a reorganization of circuits which would leave out the Southern States but which left the number of judges nine, as it was when Van Buren was inaugurated in 1837. An act of Congress of July 15, 1862, organized the new circuits and appointments were made to fill the old vacancies. The only addition to the Court made while Abraham Lincoln was President was by act of Congress of March 3, 1863. This addition was made to provide for a new circuit in the Far West, including the States of California and Oregon. Mr. Lincoln, a Republican, appointed as the Justice to represent the new circuit Mr. Stephen J. Field, a Democrat, who at the time was Chief Justice of the Supreme Court of California and whose appointment was urgently and unanimously requested by the California delegation in Congress. Much has been said about the appointment of Chief Justice Chase. It should be remembered, in the first place, that in appointing Mr. Chase President Lincoln was filling a vacancy caused by the death of Chief Justice Taney.

Presidents have as a rule filled vacancies by appointing men of their own party, and whose views may be expected to be in harmony with their own. Stress has been put upon the fact that Mr. Lincoln expressed the hope that Mr. Chase as Chief Justice would uphold his views in regard to the legal-tender problem and that this was a reason for the appointment. Although this was nothing more than any President might do in filling a vacancy, it has been proclaimed with the sound of loud timbrels by those who have apparently forgotten that while mentioning this reason for the appointment Mr. Lincoln gave as the first and controlling reason the fact that Mr. Chase occupied the largest place in the public mind in connection with the office. Neither do protagonists of the Court-packing plan, when in quest of precedents, advert to the fact that long before the death of Chief Justice Taney Mr. Lincoln expressed himself as follows: "Chase is about one and a half times bigger than any other man I ever knew. There is not one man in the Union who would make as good a Chief Justice as Chase, and if I have the opportunity, I will make him Chief Justice of the United States." If a digression may be kindly permitted, the fact may be here noted that Mr. Lincoln conditioned an appointment he desired to make with "if I have the opportunity." Apparently, therefore, it is a long call, with a heavy strain on logical sequence, to cite him as providing an example and precedent for the precipitate creation of six new opportunities.

It has often been alleged that President Grant packed the Supreme Court in order to bring about a reversal of *Hepburn* v. *Griswold*, the first important case in the legal-tender series. This is another politico historical fabrication with just enough foundation in alloyed truth to meet the needs of those who can make conviction out of suspicion, fact out of fiction, and concrete reality out of tenuous myth. When General Grant was inaugurated, March 4, 1869, the actual number of Supreme Court Justices was 8, though the legal number had been reduced from 10 to 7 by act of Congress, July 23, 1866. This reduction had been made through bitterness and spite to prevent Andrew Johnson from making an appointment. Soon after President Johnson was succeeded by General Grant an act of Congress, April 10, 1869, was passed raising the number of Justices to nine. This change, enabling the President to make one appointment, was the only addition to the Court made while Grant was President. Was its purpose to help the President obtain a reversal of *Hepburn* v. *Griswold*? The fact is that the act of Congress making the addition was passed nearly 10 months before *Hepburn* v. *Griswold* was decided.

Mr. Grant appointed his Attorney General, Mr. Ebenezer Hoar, of Massachusetts, to the position on the Supreme Bench authorized by act of April 10, 1869, but the Senate rejected the appointment. Before the Senate acted on the appointment of Mr. Hoar, the resignation of Mr. Justice Grier made another vacancy. The President appointed to fill this vacancy Mr. Edwin M. Stanton, who died 4 days after the appointment was made. Thus it happened that Mr. Grant made two appointments to the Supreme Court simultaneously, but he sent the two names—Strong, of Pennsylvania, and Bradley, of New Jersey—to the Senate on Monday, February 7, 1870, the very day that Chief Justice Chase read the opinion of the Court in *Hepburn* v. *Griswold*. It may be that President Grant, along with multitudes of his contemporaries, hoped for the reversal of *Hepburn* v. *Griswold*, just as we may now see in the overruling legal-tender decision a 5-to-4 verdict affording good reason for just pride and sincere gratitude. The charge that he stacked the Court to bring about this result may be finally commended to the desultory attention of the superlatively credulous, who can believe, in the fullness of their simplicity, that an addition to the Court was made in the month of April to reverse a decision that was to be rendered in February of the following year.

Every argument that has been offered in support of the Court-packing plan can be easily analyzed into airy nothingness. It was foisted upon the country with meaningless simulation, offered as an ineffective remedy for a nonexistent evil. Stripped of every semblance of worthy motive, it stands before the bar of public opinion without precedent, without reason, and without merit. It can serve no other purpose than that of encroaching upon judicial independence, making the courts, in some measure at least, subservient to Executive domination. It enables the Executive to confront the Justices at the threshold of retirement with the option of duplicating the voting strength of those who agree with him and canceling that of those who oppose him. Thus it gives the Executive an influence over judicial function which it is the plain purpose of the Constitution to prevent. In this sense and to this extent it is in open repugnance to the spirit of our Constitution and directly hostile to the primal objectives of our republican government. It is a long step toward the one-man control which the people of this country have ever held thrice odious. It should therefore be met with cordial condemnation and every means of lawful resistance by the thoughtful, alert citizens of the United States who would preserve democracy as a living reality and keep our Constitution what our fathers designed it should be—a means of securing the blessings of liberty to ourselves and our posterity.

Sit-Down Strikes and Intrastate Question

EXTENSION OF REMARKS

OF

HON. ALBERT J. ENGEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1937

Mr. ENGEL. Mr. Speaker, the House has under consideration House Resolution 162, known as the Dies resolution, to investigate the so-called sit-down strike. The purpose of this resolution undoubtedly is to pass legislation with regard to the question involved. I am opposed to this resolution for the reason that I am not convinced that Congress has jurisdiction under the Constitution to pass legislation with regard to the sit-down strike.

The Seventy-fourth Congress passed the Wagner Labor Disputes Act. At that time I voted against the bill, and stated in effect that while I believed that labor should have the right of collective bargaining by representatives of their own choosing, I was convinced that the act was unconstitutional. I stated further that I based my opinion on the decision of the Supreme Court of the United States when that Court decided that "manufacturing was as much a question of intrastate commerce as the mining of coal", and that no question of interstate commerce was involved in the manufacturing of goods. Labor leaders, including Mr. John L. Lewis, I believe, have since that time conceded that the Wagner Labor Disputes Act will be held unconstitutional by the Supreme Court.

I have repeatedly expressed myself as being opposed to the sit-down strike, and that that problem is under the exclusive jurisdiction of the State government. I am assuming, of course, that the mails have not been interfered with and that the State is able to handle the situation. Should I vote for this resolution I would be taking the position that a man who stands up and works in a factory comes under the intrastate commerce clause of the Constitution, while that same man sitting down in the same factory and refusing to work

would immediately come under the interstate commerce clause. A position as inconsistent as that cannot, in my judgment, be maintained. Unless the Supreme Court should reverse itself—which it sometimes does—and hold the Wagner law constitutional, or unless I am convinced that Congress has authority to legislate on this question under some clause other than the interstate commerce clause, I shall have to vote against this and similar legislation.

May I repeat a statement that I have frequently made, that the only ultimate solution of the labor question, including the authority of Congress to fix the maximum hours and minimum wages, must lie in the amendment of the Constitution in language so plain and clear that no judge—conservative or liberal—can deny that that right is there? May I repeat that the right of Congress to pass labor legislation should not depend on the interpretation of the Constitution by any judge—liberal or conservative—nor upon the number of judges upon the Supreme Bench, but upon language in the Constitution itself so clear and so concise that everyone must concede that that right to legislate is there?

American Peace Policy

EXTENSION OF REMARKS

OF

HON. JAMES P. POPE

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Friday, April 9, 1937

ADDRESS DELIVERED BY HON. ELBERT D. THOMAS, OF UTAH, AT THE SEMIANNUAL MEETING OF THE ACADEMY OF POLITICAL SCIENCE, NEW YORK CITY, N. Y.

Mr. POPE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address on the subject of the American peace policy, delivered by the junior Senator from Utah [Mr. THOMAS] at the semiannual meeting of the Academy of Political Science, Wednesday evening, April 7, 1937, at the Hotel Astor, New York City.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE AMERICAN PEACE POLICY NEED NOT BE DEFINITE

War is simple; peace is complex. War has but one objective; peace has many. He who thinks that there is a single road to peace must end in disappointment. The way to peace may be in the world but the paths are still hard to follow. Thus, if ever peace comes it must come from planning, and must be built upon organization which reflects that planning.

Perhaps an international golden rule is, or could be, the broad highway to world peace. Perhaps we do not need to follow many little paths. All we need to do is to have all nations assure all other nations that no nation will ask another to do that which it, itself, would not do.

Our problem is age old. History tells us that nations always have lived on other nations. From the first, governments and peoples have rarely questioned the right to live on other nations. The prepositions "on" and "with" are disarming little words, but for our purpose tonight they represent a space as great as the distance from a peaceful planet to Mars.

Nations today are faced with a grave decision. It is a difficult decision for each nation, thinking alone, to make. It would be an easy decision to make in concert. Nations soon must decide whether it is agreeable all around that one nation live on another nation or whether all nations shall live with all other nations.

I said years of habit are against us. This is an awful thing to contemplate. Universally it has been applied, until of late it seems to have been part of my thinking and yours. Isolated, and, in a less degree, quite common examples of its application have continued to this very moment. Is there, then, no hope?

I think that we may say in perfect confidence that not all nations are willing to feast off the toil and sweat of the peoples of other lands, and therein is a little gain along a tiny path which leads to the road to peace.

Self-control and self-restraint are terms so Utopian that it is almost impractical to consider them. Even the theories of national self-control and self-restraint are far from universally accepted. An accident and it is gone, but if nations are learning to live with one another, though the paths to peace are many, this is a gain, and there is hope in the world for peace.

Never have we had anything like universal law. There is today no tribunal whose jurisdiction is world-wide. While there is a structural approach to such a judicial body its judgments are not enforceable against a state unless accepted by that state. There are those who, for this reason, scoff at the very idea of the international court of justice, and point to its limitations and shortcomings, but locally in our own courts there is some sense of uneasiness when one has been given a trial and found wanting and had the eyes of all who know him turned toward him knowing he has a judgment against him, even though it is a suspended sentence. World opinion is like that, especially if it is a just opinion.

Men in high places are sensitive of public opinion. A recent skirmish between an important city official in America and a soldier-statesman abroad leaves no doubt of this. Of course we are all sensible to public opinion. I am afraid some of you would smile if I tried to say that everyone always stands in saintly awe of the obiter dicta of a high tribunal, but a judgment is a judgment, and it does not fail to impress. Our own judgments do not necessarily have the United States Army behind them. I am sure the Commander in Chief of the United States Army has not been in accord with them. But the rendering of acts of Congress unconstitutional has had a greater force behind it than the United States Army. The force of public opinion, which, though divided as to the correctness of the court's judgments, cries out today for one of three things, namely, amendment, increase of judges, or popular acceptance of the judgments, but never for nullification, for negation, for rejection. Who, under these facts of comparison, can say that we do not in truth have a court of comparatively world-wide jurisdiction?

There exists today a society of nations. This society does not include all nations. At most it can only discuss and recommend. The residents of its membership are not citizens of this society of nations, for this society does not have any citizens and does not confer citizenship. It cannot legislate, it cannot enforce. If it is a unity, it is simply because its parts function out of a sense of an ideal of national behavior, and not from any actual or even implied force. But indeed it is a unity and as such its existence is a path to peace and its progress is measurable.

In the past when men gave perfunctory service to a more or less unified rule, the titles of potentates demanded an unquestioned obedience wherever the royal name could be thundered. Was there unity? Of course not. Today all States stand theoretically equal to all others and we have a nearer approach to unity than ever before. It is paradoxical that whenever universal authority was declared the world had no united will, and today when it is disclaimed by all, we really have an approach to unity. In this we have a solution to better world relations.

As I view things today, the greatest problem facing the world in international relations is the same problem that is facing us in our national problems. It is the problem of democracy. Without the solution of democracy's status both at home and abroad, we may achieve here a unity, and we may in an international sense achieve the same sort of unity which the world has always known if we and the world tend away from democracy. That is, unity may be achieved through a holy alliance method in defense of hereditary government, or we may have such a unity as we saw immediately arise at the outbreak of the French Revolution when that revolution turned antiaristocratic. Thus mere unity would not solve the world's problems internationally as any American would like to see them solved.

The isolationist idea in America has become stronger whenever we have been able to point our finger at the rest of the world and say that they are not like us, therefore that we should not join with them. Moreover, it would be contrary to American ideals and American theory to attempt to thrust our governmental notions or political theory on the rest of the world. This we cannot do, because democracy does not respond to force. It responds only to persuasion, and the American ideal can be attained only as a result of well-reasoned action. The attainment of unity isn't the problem for there always has been an unconscious unity in the world. It is extremely interesting to block out a given century in past history, then study different parts of the world during that century and see how world-wide the problems, the ideas, the attitudes, and the expressions of widely separated peoples have been. This I have done in a rather formal way, as some of you know, in regard to the twenty-third and twenty-fourth centuries before Christ, the sixth century before Christ, and the first century in the year of our Lord, and I am convinced that my little thesis holds even for 1937. I shall explain. In the last month or two I have taken part with a number of other men in a series of talks dealing with international relations. After I had finished one of my talks the gentleman who followed me brought me for my consideration his next talk, and after reading it over I told him that I was more interested in what I might do with one of his paragraphs than with his whole talk, although his address was a very splendid one. He was dealing with the problems of a certain foreign country, and in handling this subject he had written a paragraph of description concerning the economic and political conditions in that land. I showed him what I meant by the attractiveness of his paragraph in a consideration of my little thesis. He could not see my point, so I illustrated it. I took his paragraph which was written, let us say, about Japan. I struck out the word "Japan" and I substituted the word "Germany", and together we discovered that that which he

had said held just as well for the second country as for the first. We next changed the name of the country to Russia, then to Italy, to China, and to England in turn, and then I said, "Let us see if the impossible of impossibles can be true. Let us change it to the United States." Even I did not expect that the paragraph would come out so well, and my friend was astonished beyond words. Therefore, I think I am right in saying that the problem which faces the world today is our problem: Can democracy be made to function?

I know of no land today which has not a real fiscal, monetary, and debt problem. I know of no land today which is not concerned with the armament problem. I know of no land today wherein constitutional change is not being agitated. I know of no land today which is not either in the process of solving, or attempting to solve, or which has just lately solved labor and industrial ills.

If the individual parts of the world are all struggling with political, economic, and social problems, and if the solution of those problems in one place will help in solving them in others, and if the problems of the world are practically the same, is it not obvious that world-wide cooperation in the solution is the only way out? One becomes almost puerile in his outlook for even suggesting it, but still the problem is with us, and it is with us, I think, primarily because the establishment of the American Government and the bursting forth of the ideals of the fathers was in and of itself a part of a world movement and without our being conscious of the fact we, assuming ourselves leaders in a movement, were merely going along with other nations.

The most artificial of all our barriers today are our State and National lines. The most ardent patriot, the most valiant States' righter, the most conservative of lawyers in this America, the world's most glorious paradise for lawyers, has never gone so far as to suggest that thought, for example, is a matter of strictly local concern. Is there nothing common in the various fascisti movements? Is there nothing common in the various Socialist movements? Is there nothing common in the various democratic movements? Is there nothing common in the various world-organization movements? Is there nothing common in the Pan American, the Pan Russian, the Pan Italian, and the Pan Asiatic movements? Is there not a common aim underlying 50 or 60 international organizations? Does it hurt our sense of national pride when a great judge of our Supreme Court, for example, calls attention to English law or to a decision of the International Court of Justice? Is religion a matter of a single place, or can we to the satisfaction of nearly everyone's idea of worship today offer our prayers wherever we are? Who among your friends has not traveled in foreign lands or studied foreign languages?

I have overdone this line of thought, but there is reason in what I have done, because I would dislike to be marked down as a Polyanna in my philosophical outlook because if I belong consistently with any school of philosophy at all I am personally an out-and-out pessimist, so much so, in fact, that my friends have described me as an optimist in my pessimism in that I always hold out the idea that no matter how bad conditions are they will surely be worse tomorrow. Yet in spite of that pessimism, and in spite of my outlook, there are so many fine things happening in the world today, we are getting so close to the solution of many problems, that instead of constantly feeling that the world is slipping back and getting nowhere I read the opposite in nearly every movement. Youth is freer than it has ever been. More persons have a chance at the elements of an education than ever before. There is more going and coming than the world has ever known and there is less restraint upon those who go and come than we have known before. Knowledge, ideas, sanitary and hygiene notions are far in advance of where they ever were before, and the thoughts of the average man and the standard of the average life when measured in a world-wide scale are much ahead of those of any previous time. If man's ability to destroy himself is one of the glories which come with the notion of individual freedom, the ability to destroy is greater than it ever has been. The restraint of law rests lighter on the individuals and lighter on nations than it ever did before. This, of course, seems to be an ill, and among many peoples the lack of respect for law is carried to the point where it results in self-destruction and a break-down of faith. Yet even this, in the light of world-wide cultural and political history, is good because the law of custom and the law of the State and the law of the family, and the law of the church have been in the past the great bonds that have held men back, and I say all this without condemning any one of these institutions, because it is in the abuse of law, it is in the pressure of custom, and it is in the dulling effect of cultural habits that man has been held back. The individual today in his rights, in his personality, and in his ability to project himself stands far above the individual in the days gone by. These are things for which we should be ever grateful.

The best condition of all today is that we know what ails us, whereas heretofore we have not known. There is universal recognition of our ills. It is only in their solution that we find the difference of opinion. Thus again we emphasize unity and also disunion. My theme, then, is that we become united in the solution of our ills as we have become united in the recognition of their existence.

Today, possibly because Einstein suggests it, more likely because it is so and Einstein enthusiasts merely observe it, our ideas of government are as relative as anything else. Sovereignty is becoming widely accepted as a relative proposition, and national individualism has been curbed and has curbed itself in the same manner that a little community seeks and gets policing. Insistence upon the hard rights of sovereignty is everywhere relaxed. The personification of England's Gibraltar has been seen to wink her once solemn and forbidding eye, in order to keep the peace. Again, Italy's 40,000 rushing sternly to the help of another have stopped leisurely to light a cigarette, and to smoke it, too, and if they have crossed the border have not done so en masse or with bugles blowing. Stalin has found it possible to look upon a new day and endure it, though Trotsky yet lives. The German Kaiser continues to chop wood, though the common people of many lands in 1919 were shouting for his head, and might have had it if they had stayed angry.

American battleships, like the wills of some of our bluffing neighbors, do not longer seek to go to protect an American dollar wherever it may be invested. How good that we all have lost face, though blushing furiously, we have rushed to the mirror. How astonished each of us is to find how much more true character there is in his face after some of it is lost.

Yes; we must continue to break down absolutes, if good will is to rule. It is an affront to civilized thinking that we justify an assault on a man simply because he is Anglo-Saxon, or Teutonic, or Nordic, or what not, according to our national mood of the moment. Men and women come and go more today. When in each other's lands they have less sleeve for laughing; with better preliminary education they have more background for comprehension, they understand what they see and hear more perfectly than of yore, they have better manners abroad, and consciously or unconsciously they adjust themselves and give a better report when they come home. Men and women, whether they travel or not today, like their neighbors better. Progress in this direction, insignificant as it may seem, is a path to peace.

Let us consider our closest neighbor, Canada. The heads of our Government and hers have hopped so many times across the little hedge we call a boundary, that the process almost has ceased to be news. Our President has no more difficulty in feeling at home and at ease and even at complete rest in Canada than he has in the White House, at Hyde Park, or at Warm Springs. We have had visits from those chosen by Canada's electors and those designated for Canada by the parent nation of us both. A few days ago we of the Senate bowed pleasantly to the Crown's representative, the Governor General of Canada, on the floor of the United States Senate, a history-making incident, to be sure.

Ask yourselves if you believe in absolutes, whether Canada is American or English. Where is our absolutism? Is Canada Pan American material? Always we have saved a chair for her in the Pan American Union. She is free to sit in it if she chooses. She is as thoroughly American as we, whether she sits in her place or not. She is as thoroughly English as a daughter can be if she occupies it for centuries. Must it matter to anyone that she be friendly to us and at the same time loyal to a mother who wisely recognizes that she is a grown-up? Must we always be typing everyone and everything and every government and in an attempt to pin a label make an absolute in our minds in error of something or someone that is not desirous of being sorted out and classified, grouped, and typed? Must it matter that Canada be American to us—for truly by the statute of Westminster she is a nation in a commonwealth of nations—and English to England—for just as truly she is part and parcel of the Crown? Do we care that she is a republic or a dependency, monarchy, or democracy, and is both, and is neither, and is none of these, and is all of these? Canada, under English statute, is perfectly free, if she chooses, to take her place in Pan America. Where are our absolutes and why must we look for them? The status of a foreign country is something like the status of a bill in Congress. If we want to know the latter, we must ask the bill clerk today. Yesterday's answer may not serve. And it is a forward march on one of the true wider paths to peace that absolutes are slipping.

It is within my short lifetime and within my adult memory that war was accepted as a necessary part of the life of nations. I have even heard it said that it was good for business. A few young patriots would go away to a limited area known as the theater of operations and on this little stage with few shifts of scenery a great sporting drama would be enacted. Nations in hot blood had quickly resented national insults and that had led to war. Those who had most greatly resented the insult stayed the farthest possible geographical distance from its vindication.

The conflict might be short or it might be long, but at least the last two American wars menaced the lives and security of a relatively small number of people, in an area pleasantly detached from this whole continent and in the War between the States many parts of the North were scarcely conscious of it. But today's war forces the soldier to learn to charge something for his services. He seems to have lost his reverence for women and children, and he seems indifferent to staying within the theater of operations. Moreover, a prisoner is not to be kept, but killed, and the population of a captured community, far from being harbored or driven to the outskirts at most, is to be decimated. The old sporting elements that believe in giving a bird a chance to take wing have disappeared from modern war. In their places are dull, soulless creatures whose idea of the romance of war is no more elevated than the attitude of the nocturnal plunderer whose sportsmanship embraces the dynamiting of fish.

Now, my fellow Americans, here is a pretty picture for even your most intensely nationalistic countrymen to contemplate. Here at

last is a war which no one can win; the fun, the flash, and the glamor go when our own very houses are in the theater of war, when our own children are not only accidental but deliberate targets. May I call you a militarist, and you a pacifist, as you insisted each other be called a decade ago? Of course not. You do not want to be labeled, and your old absolutism is gone. You and you want to be salemen of the idea that war does not pay anyone. You want to make it clear to those that hold your country's destiny in their hands, your Congress in part for example, that every purpose for which modern nations might contend, can be accomplished better by some other medium or instrument. Universal recognition of these horrors, if it has come, is more than a few strides on the path to peace.

It is true that the growth of institutions has developed the ability to destroy. It is equally true that it is difficult, and a real military challenge to any nation, to keep scientifically abreast with defenses of another's tremendous capacity to destroy. It is shocking that today armies do not fight armies, but whole countries fight whole countries. It is readily seen that in the event of future wars individuals will lose every whit of freedom that they ever possessed and private property every form of security ever enjoyed, and these unusual deprivations will be made by both the alien country and the country which exacts so great a toll of allegiance.

Wherein, you ask, do we gather any enthusiasm for war under these facts? I think, however, that saving the projection of a war-made ruler, some criminally insane zealot in a position of power, we may assume that no one in power is likely to pick on anyone his size, internationally speaking. We have no encouragement, or little, in the hope that a big fellow will not "choose" a little fellow, and the danger is that in so doing he may touch off something bigger. But the great minds today are in not more than a "penny ante" mood, and have only "chicken feed" ambitions, present studies would indicate. In this situation there is hope, and all good nations stand by ready to shame if not to stop a bully. Is this fact a path to peace? Definitely it is, if we may realize that a path may be a path to glory though its side trails may be fraught with danger. It is pleasant to think that the Frankenstein monster of war preparation may destroy itself by its sheer ugliness. It is concededly horrible to think that it may not.

This brings us to a pretty point. What are nations doing with their armies and navies? Introspection at home may help answer this question. For a long time armies and navies have done less fighting than anything else. They are justified and are justifying themselves more and more by services other than mere offense and defense.

The American Army, for example, has given us a pioneer application of social security. Its officers have taken a nebulous C. C. C. idea and have made of it a good civilian product. The service is valuable in work and succor during flood and other distress. I have asked the National Guard to study more labor relations, even at the expense of perfecting the hand salute, and in this I am most serious.

What other little avenues of peace have we? We—all nations together—would do well to require one another to speak frankly upon armament needs, to tell others frankly that which now we report among ourselves so secretly, for example, how many guns, ships, airplanes we need, and for what purposes. A ridiculous exposition such as most nations would have to give, were they to speak the truth and confess their fears and ambitions, would not likely be made, and a self-imposed restraint would come. Defense would become defense, not potential aggression. How splendid if all defenders merely sought defense.

Imperialism is said never to have been an American policy but this statement has been questioned with some reason. But today where have "the white man's burden", "dollar diplomacy", and "a battleship wherever a dollar is invested" gone? They are not part of our national thinking. May we say today as an absolute statement imperialism is not American? Of course, we may. Nonimperialism is not universally accepted, and we hear that somebody or other needs colonies. But if some of us are backing up from a sure-fire trip down the slippery wet pavement that leads to a crash head-on into war, does it not follow as a corollary that we are getting that much closer to peace?

Americans are prone to belittle mere international conversations, saying we are built for action, not for words. We are amazed, therefore, to see our industrialists and labor leaders talking across the table, liking it, and getting somewhere. Wherever and whenever they do so they are not on a path merely, but a boulevard that leads straight to labor peace. What difference is there between labor peace and any other? Why do many of our people feel that they must regard international conversation as being just plain gab? Is it not possible that we have traveled toward peace, on a wide, wide path, each time we have conversed with our neighbors, and that more and more frequent conversations will take us within sight of the broad highway?

How now to end my talk tonight? With a bundle of loose ends? Shall I confess that all I know about peace, or, worse still, that all that is known about peace is a basket of loose ends, and that the only paths to peace are, like the loose ends, though perhaps more numerous, as scattered and incomplete as the ideas thrown out here tonight?

If I should so confess before a lay audience, the effect would be wonderful, for our very helplessness and relative hopelessness would frighten a lay audience into some hard thinking.

But we who already have thought long and hard upon the subject of international relations, if we come to conclusions, as we must, are we not in much better position than the layman in figuring out mere premises? The conclusion is obvious. We must organize and plan, organize and plan, organize and plan.

The fragmentary gains I have mentioned are nearly the only gains we actually have made. We have almost the whole job before us; little of it behind us. We have had little trial and error, and far from making an exact science of our meager findings in the seldom-visited laboratory of peaceful experiments, we have scarcely encugh data for the formation of the most inexact science. Seeking peace is a brand-new activity. But the rules are about the same as any set of rules for a new project. Like the fool who thought he could make a steamboat, harness electricity, fly an airplane, cut through America's middle with a canal of water, or build Boulder Dam, we must first really have faith in our dream. We must organize and plan, and, of course, everyone is laughing and will laugh.

They do not, however, know why they laugh, because, for the first time in the world's history, all the plain people on the face of the earth pray for peace and ask the gods of their destinies to keep war from their lives, and with this knowledge, some of us in Congress and some of us not in Congress may lay a fairly stable foundation for the world's greatest project.

Senator Norris and the Supreme Court Plan

EXTENSION OF REMARKS

OF

HON. PRENTISS M. BROWN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Friday, April 9, 1937

ARTICLE FROM THE DETROIT NEWS, APRIL 7, 1937

Mr. BROWN of Michigan. Mr. President, on April 7 an editorial in the Detroit News paid a very highly deserved tribute to the distinguished senior Senator from Nebraska [Mr. NORRIS] and at the same time set forth a very logical discussion of the Court issue. I ask unanimous consent that the editorial be printed in the Appendix of the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Detroit News, Wednesday, Apr. 7, 1937]

AMENDMENTS BY THE VOTERS

It has been left to Senator NORRIS—as usual, it almost might be said—to suggest what seems the one unanswerable substitute for the President's Supreme Court plan. He proposes to father an amendment to the Constitution making it easier in the future to change or add to the provisions of that excellent document.

The Constitution grows or evolves in two ways, infrequently by amendment and almost continually by the process of interpretation. A good example of the latter was the Supreme Court's reversal of its own previous opinion on the constitutionality of State minimum-wage laws. A review of the manifold present-day functions of the State and Federal Governments is sufficient to demonstrate that, without this informal method of amendment, the Constitution as originally written and intended would have proved hopelessly inadequate.

The excuse for tampering with the Supreme Court is that, in respect to certain fields of legislation, the process of constitutional evolution through interpretation has been brought to a dead stop. It is appropriate enough to retort that, when the courts refuse to stretch the Constitution further in a given direction, the right remedy is a constitutional amendment. But this retort justifies the answer the President has made to it, namely, that the process of amendment is too rigid to substitute satisfactorily for the gentler and essentially more conservative remedy provided by sympathetic constitutional interpretation. It is evident that, if the process of formal amendment were not too rigid, the courts never would have stretched the Constitution as far as they have.

What Senator NORRIS proposes, in effect, is to relieve somewhat this dangerous pressure on the judicial branch of Government. He would make the process of amendment easy enough that no excuse will exist for attempting to prod the courts into particular, and possibly illogical, constitutional interpretations.

His proposal would retain the requirements as to ratification by three-fourths of the States, but would submit amendments to popular referendums in each State. There will be argument as to just how easy the process of amendment should be, but no doubt is admissible, it seems to us, that in principle the Norris remedy is the only one that fits the disease.

Messages to Minnesota Legislature by the Late Governor Olson

EXTENSION OF REMARKS

OF

HON. ERNEST LUNDEEN

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Friday, April 9, 1937

THIRD INAUGURAL MESSAGE AND SPECIAL MESSAGE TO THE LEGISLATURE OF MINNESOTA

Mr. LUNDEEN. Mr. President, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD the third inaugural message of the late Gov. Floyd B. Olson to the Legislature of Minnesota, delivered January 9, 1935, and the special message of Gov. Floyd B. Olson to the Legislature of Minnesota December 3, 1935.

Floyd B. Olson was the first Farmer-Labor Governor in American history. He was an able and distinguished statesman who served his people with great courage.

There being no objection, the messages were ordered to be printed in the RECORD, as follows:

THIRD INAUGURAL MESSAGE OF GOV. FLOYD B. OLSON TO THE LEGISLATURE OF MINNESOTA, JANUARY 9, 1935

No matter what our social, economic, or political philosophies may be, the conditions which have prevailed in the United States during the past 5 years must in themselves have convinced us that the social and economic system under which we have lived has terrible defects and vices. The inability of millions of people, desirous of working at gainful employment, to find such employment; the loss of homes by hundreds of thousands of rural and city dwellers, through no fault of the owners; the presence of almost one-fifth of the population of the United States upon the relief rolls; the realization that even during so-called periods of prosperity a substantial part of our people were living on or below a subsistence basis; the inability of farmers to sell their produce in the face of the unsatisfied need of millions for such produce; the lack of proper nourishment for children; and the consequent stunting of the mental and physical growth of our future citizens; the past defense by the economic system of the employment of child labor, now fortunately substantially removed through the national administration's New Deal—all of these things and many others must move us to attempt to effect changes in our social and economic system.

We must be particularly conscious of much-needed changes in that system because of the present denial of opportunity for employment to our youth, and the menace that such denial of opportunity will continue in the future.

In what I believe to be our common endeavor to use our best efforts in the remedying of these evil conditions, we need not be concerned with debatable "isms" or doctrines. We may use as a fundamental basis our American tradition and heritage. This Nation was founded upon the philosophy that God had given people the sacred rights of life, liberty, and the pursuit of happiness, and that governments were instituted for the express purpose of promoting and protecting those rights. Let us therefore join together upon the fundamental basis of doing our collective best in passing and approving legislation designed to effect this truly American philosophy by improving the standard of living of our people as much as possible; by protecting and strengthening their liberties; and by making the "pursuit of happiness" and its attainment a reality rather than a phrase. Of course we cannot entirely solve our social and economic problems, but we can do much to alleviate them.

SOCIAL LEGISLATION

I know that a number of you disagree with me in my belief that there can be no permanent alleviation of the suffering of the masses under private, individualistic capitalism, but I am also convinced that the great majority of you do agree with me in the necessity for the passage of legislation tending to give social and economic security from want to our citizens. The legislation of that nature which I shall propose to you has the support of millions of public-spirited people throughout the United States.

The national administration proposes to levy a tax of 3 percent upon pay rolls in the United States in order to build up an unemployment reserve fund for the payment of benefits to those who suffer a loss of employment in the future. Payments will be disbursed from this fund to States wherein unemployment insurance laws are passed. While the proposed Federal law is delinquent in making no provision for those now unemployed, certainly Minnesota should avail itself of the opportunity thus presented for future security. The unemployment insurance bill presented by me to the 1933 session of the legislature, subject to certain substantial amendments, such as providing for a State-wide pool, can be used by you as a basis for the drafting of your ultimate bill.

The national administration also proposes to collect a sufficient sum of money through taxation with which to assist States having old-age pension laws. That assistance will be to a maximum extent of $15 per person.

Our present old-age pension law should be liberalized as to amounts paid, age limits, length of residence, and property requirements. Because of the difficulty on the part of eligible applicants in counties having a high rate of tax delinquency to obtain the pension justly due them, and for other reasons, the cost of an old-age pension system in Minnesota, over and above the grants received from the Federal Government, should be financed entirely by the State. The necessary funds for that purpose may be obtained through the imposition of higher inheritance taxes, as hereinafter outlined by me. The assumption of the financing of old-age pensions by the State and Federal Governments will not only result in absolute equality between eligibles all over the State, but will also relieve local tax burdens.

I also recommend the passage of maternity and health and accident insurance legislation. With your permission, I shall hereafter address a special communication to you covering in detail such legislation.

To protect our citizens in the retention of their properties I recommend the continuation of the Mortgage Moratorium Act until May 1, 1937, with an amendment hereinafter referred to.

RELIEF

During the 1933 special session of the legislature a law was passed providing for the expenditure of $5,000,000 by the State, in cooperation with the Federal Government, for direct relief, work relief, and reemployment of citizens of Minnesota. Since passage of that law Minnesota has received approximately thirty-two and one-half million dollars from the Federal Government for such relief purposes. The $5,000,000 provided by you has been spent or allocated for expenditure by the State executive council. A detailed account of such expenditures will be furnished to you by the executive council.

The relief bill passed at the 1933 session of the legislature provided for the raising of relief money through the imposition of a tax upon beer, wine, and whisky. The proceeds of that tax are about $3,000,000 per annum. Provision was made in the law for the sale of certificates of indebtedness, which were made liens upon the liquor tax receipts and not general obligations of the State. The Supreme Court of Minnesota has sustained the validity of the act. Such certificates as it was necessary to sell in order to obtain relief funds were readily disposed of at an interest rate of 2 percent. The outstanding certificates are liens upon the receipts for 1935.

Similar certificates of indebtedness creating liens upon liquor tax receipts in 1936 and succeeding years can be sold without any difficulty at a 2-percent or lower rate of interest.

The Federal Government proposes to engage in a gigantic work program in the United States in order to create employment for those now on relief rolls who may be classified as employables, and for other unemployed persons not on public relief rolls. It is estimated that allotments to Minnesota from this fund will be considerably in excess of the amount allocated by the Federal Government to Minnesota for public relief during 1934. The Federal Government expects the several States and the local political subdivisions thereof to contribute a share of the total cost, failing which the Federal Government will either diminish or withhold its contribution. The Federal Government has estimated that the reasonable contribution of the State of Minnesota and its local political subdivisions should be $20,000,000 for 1935 and 1936. It is estimated that local political subdivisions should contribute about one-half of that amount and the State the balance.

I therefore recommend that you amend the relief law passed at the 1933 special session of the legislature so as to authorize the expenditure by the State, for the purposes and in the manner provided in such existing law, of the sum of $10,000,000 for 1935 and 1936, and that you provide for the raising of such amount through the sale of certificates of indebtedness operating as liens on liquor-tax receipts for the years 1936, 1937, 1938, and 1939, in the same manner as is now provided in the existing relief law passed at the 1933 special session.

The Federal program contemplates, among other things, rural electrification and metropolitan and rural housing projects.

Only 5 percent of Minnesota farms are connected with central-station power, as compared with 10 percent for the United States. The average Minnesota rates are higher than the average rates throughout the country. Approximately 88 percent of Minnesota farms have no electricity service, either through a central station or independent plants.

This Federal program offers the greatest opportunity the State of Minnesota has ever had to assist its farm population. Enabling legislation by you will be necessary in order to carry out the Federal program. This legislation will include a liberalization of the laws of the State with reference to cooperative enterprises, and will necessitate a law giving municipalities which own and operate power and light plants authority to extend their lines beyond the boundaries of such cities and villages without any mileage restrictions, all of which I recommend.

Legislation will also be necessary with reference to housing projects, forms of which, with your permission, I will submit to you in the near future.

Because of the difficulties of uniform administration of relief in counties having the township system of poor relief, the township system should be abolished and the county system provided for all the counties of Minnesota.

AGRICULTURE

In the interests of the farmers of Minnesota, the tax laws should be amended so as to provide for the removal or the reduction of the real-estate tax upon the first $4,000 of valuation of all homesteads.

I recommend that the Mortgage Moratorium Act be so amended as to provide that whenever the owner-occupant of a farm seeking court relief from mortgage foreclosure, or eviction, following the expiration of the period of redemption, offers to turn over to the owner of the mortgage upon such farm one-fourth of the crop production of such farm for the calendar year as a payment to apply upon existing indebtedness to such mortgagee, it shall become mandatory upon the court to restrain any attempted foreclosure or eviction.

The passage of this amendment will not only give the security of a home to live in to the farmer who has been obliged to mortgage his farm but will also influence the mortgagee to assist the farmer so that his production yield may be increased.

I also recommend that the rural-credit bureau be authorized to sell farms owned by the State upon a crop-payment plan comparable to the present and customary leasing process. Under such a plan the share of the crop to be turned over by the purchaser would be comparable to the net cash income of the particular farm, exclusive of the amount necessary to maintain the family.

This suggestion is made upon the fundamental theory that valuations are based entirely upon actual or potential income, and that farm-land values are determined for the most part by the residue of the farm income over and above what is necessary to maintain the farm, its equipment, and the farm family. It is out of this residue that interest and principal are paid on the purchase price of the farm or on the mortgage.

Under this plan a great number of rural-credit farms will be returned to the tax rolls; the returns to the rural-credit department will not only increase but will become more certain, and the opportunities for liquidation of the department will be greatly improved.

In my opinion the foregoing proposals for payment by the farmer of his obligations in kind instead of cash will not only give him added security for the retention of his home but will give him other economic advantages in that his creditors will have to share with the farm debtor all the uncertainties of production, price, and markets. Consequently many groups now opposed indirectly to the demands of agriculture will lend more assistance toward remedying the inequalities from which agriculture is now suffering.

In view of the price-fixing opportunities given by national legislation to industry, and in view of the curtailment of farm production in the face of a consumption need that exceeds the production capacity of agriculture at its peak, except for wheat, I urge you to memorialize Congress to pass legislation directing the Secretary of Agriculture to fix minimum prices upon basic farm commodities as a prerequisite to any plan or program for production control of such basic farm commodities.

LABOR

The well-being of the people of this State is dependent basically upon the buying power of agriculture. But agriculture can have no buying power unless it is able to sell its products at prices which represent a fair profit above the cost of production. Collectively, labor is the largest consumer of food products that we have. In order that it may be able to purchase farm commodities at prices representing a profit to the producer, it is necessary that labor have employment based upon decent wage standards. The securing of a scale of wages sufficient to maintain decent standards of living for working people and their families is usually obtained only through constant and bitter struggle. In its endeavor to achieve a decent standard of living, labor should have legal protection. This can be accomplished in Minnesota through the passage of a law giving the State industrial commission authority, by regulation, to prescribe minimum wages, hours of labor, and working conditions within the State. Such an act should also legally guarantee the right of collective bargaining, such right to be defined clearly and definitely, and not in the ambiguous language of section 7 (a) of the National Industrial Recovery Act.

Legal authority should be granted to any State relief or reemployment commission now existing or to be created to lease and operate factories in order to furnish employment therein for the unemployed, and to provide for the distribution of the products thus manufactured to needy citizens of the State upon a relief basis.

TAXATION

The tax system of the State needs a thorough revision. The assessment of taxes should be based upon the principle of means and ability to pay on the part of the person assessed. To this principle may be added the one of presumptive means and ability to pay. For example, one who has large holdings of considerable value presumptively has a greater means and ability to pay than one with property of small quantity and value.

The principle of presumptive means and ability to pay may be logically applied to the real-estate tax upon homesteads, and to the license tax upon automobiles.

I recommend an amendment to the so-called homestead-tax law passed at your 1933 session and since approved by the Supreme Court of Minnesota, under the terms of which amendment the first $4,000 of valuation of the homestead will be exempt from taxation. As an alternative to complete exemption, the least that could be done in an endeavor to aid people in the retention of their homes and to encourage the acquisition of homes by those not now owning them would be an amendment to the present homestead-tax law so that the first $4,000 of valuation would be taxed on the basis of not to exceed 10 percent of such valuation instead of the present rate of 25 percent on platted property and 20 percent on unplatted property.

If you decide that the motor-vehicle taxes shall not revert to the rates in effect prior to the legislative act of 1933, I recommend that the rates determined upon in any new classification shall be progressive as to valuation. For example, the tax rate upon an expensive car shall be substantially greater than upon an inexpensive one.

Factual data gathered from the enforcement of the income-tax law passed at the 1933 session of the legislature is very interesting, and should prove very valuable to you in your consideration of changes in that law. I shall not weary you with a complete recital of such data, but shall call your attention to several very significant facts:

One-half of all income tax on individuals was collected from 713 returns with net incomes of over $11,894. The other half came from 33,676 returns with net incomes under that figure. The tax returns indicate that 37.9 percent of the gross income of the taxpayer is net income. No citizen in Minnesota engaged exclusively in farming paid an income tax, but of the 121 corporations in the State who reported taxable net incomes of $50,000 or more for 1934, 34 were engaged in trading in or processing farm commodities; 4 were engaged in manufacturing grain supplies; and 8 were engaged in manufacturing or preserving foodstuffs.

The imposition of rates in the higher brackets equal to the income-tax rates of other States would yield in Minnesota an income-tax return substantially greater than that collected. The reduction of exemptions so as to broaden the base of income taxation would result in a very slight increase in the aggregate amount collected. I recommend that the income-tax rates imposed in the higher brackets be substantially increased.

Through an oversight no penal provisions were incorporated in the income-tax law passed at the 1933 session. That defect should be remedied by you.

Under our present inheritance-tax law there is no bracketing of bequests in excess of $100,000. Instead of a flat rate on bequests in excess of $100,000 the rate of taxation should be increased with each $100,000 added bequest.

I recommend an increase in the inheritance-tax rates in the higher brackets to be thus created, graduated up to 60 percent in the highest bracket of $1,000,000. I further recommend that the taxes so collected be used exclusively for the financing of the operation of social legislation heretofore referred to.

I again advocate an increase in the percentage rate of gross-earnings taxes upon public utilities. They should pay the same amount of tax under the gross-earnings tax system as they would be obliged to pay if they were subjected to a property tax. They now pay considerably less.

The chain-store-tax law should be made more drastic and effective by increasing the rates of taxation upon the larger chain institutions.

I again urge the passage of a bill providing that every taxpayer be required to pay his or its taxes before he or it shall have the right to contest the same, subject of course to such future remittences as the court shall decide upon; and providing for the appointment of a receiver in the case of nonpayment of taxes. The action of the mining companies in northern Minnesota in practically impoverishing the local subdivisions of government through their refusal to pay taxes seems to me to make such action mandatory on your part.

I am sure that we are all in accord in a desire to shift the burden of taxation from real estate as much as possible. That can partially be accomplished by a drastic strengthening of the money and credits tax law. A more substantial shift can be accomplished through the medium of the so-called corporate excess-tax law passed at the legislative session of 1879. A test case to determine the constitutionality of that law is now pending. A reading of court decisions, including one by the Supreme Court of the United States, on identical legislation in other States, suggests that the law will be sustained. I am of the opinion that the assessment of this tax upon a personal-property basis, particularly if collection was made for unpaid taxes during past years, would result in confiscation of corporate properties. A law fair in its terms, however, can be devised. If that is not done, and the 1879 statute is upheld by the Court, there will be no choice but to invoke the authority of the State for full collection.

A statistical analysis shows that if this tax law had been enforced in past years, and a real effort made by the then authorities to collect the money and credits taxes due, real-estate taxes would have been cut by at least 33⅓ percent. During a period of depression it will be difficult to effect a cut in that amount through the proper enforcement of the money and credits tax and a fair corporate excess tax, but a very substantial cut can be thereby effected.

I recommend that you carry out, by appropriate legislation, the mandate of the people of Minnesota expressed through ratification of the constitutional amendment providing for the exemption from taxation of household goods and farm machinery.

Bona-fide cooperative enterprises in Minnesota are now exempt from the payment of certain taxes, including the income tax. Because the only real opportunity for equitable distribution of produced wealth and income and the attainment of a decent standard of living is found in a system of cooperatively owned and operated enterprises of producers and consumers, I recommend that all property used in the operation of such enterprises be exempt from any tax.

TAX DELINQUENCY

In 1933 I called the attention of our legislature to the serious situation which exists in some of our northern counties as regards the reversion of land to the State for nonpayment of taxes. Even before the depression there were over 4,000,000 acres so far in arrears that redemption by the owners seemed out of the question. The past few years have naturally aggravated the situation. It seems inevitable that a large acreage of swamp and cut-over wild land is going to revert to public ownership in the near future. Ultimate reversion of 10,000,000 or 12,000,000 acres is not out of the realm of possibility.

The last legislature provided a temporary moratorium on tax reversion to give time to work out a more permanent solution. The time has now come to seek a more far-sighted and lasting program to deal with this land in northern Minnesota.

To find the solution to this problem of cut-over tax-delinquent land, I appointed in 1932 a land-utilization committee, headed by President Lotus D. Coffman, of the State University, to go into the situation and make recommendations. The committee devoted nearly a year to a study of the land-use problems in the State, and within the last month has submitted a comprehensive report in which it makes very concrete recommendations for the solution of the problem. Copies of this report have been sent to every member of the legislature, and I commend the report of the land-utilization committee to your careful consideration.

I recommend that you refrain from enacting further tax bargain statutes after the manner of Laws of 1933, chapter 414, section 1. This statute was passed by you in 1933 and no doubt is still fresh in your memory. It permits and allows a property owner under certain circumstances to satisfy his delinquent taxes in full by the payment of a fraction thereof. This statute is clearly unconstitutional in that it violates that part of article 9, section 1, of the Minnesota Constitution, which requires that "taxes shall be uniform upon the same class of subjects." Classifications made by the legislature of taxable subjects must not be unreasonable, fanciful or arbitrary. The statute passed by you at the last regular session classifies realty owners into two classes, those who pay promptly and those who do not, and exacts a higher rate from the former than from the latter. Thus a premium is put upon delinquency. Persons and corporations owning large properties are encouraged to let their taxes become delinquent, knowing that in time a settlement in full may be secured by the payment of an amount less than that originally assessed. This results in injustice and inequity.

I recommend, rather, that you enact a law designed to permit the State to compromise and settle delinquent taxes where necessary, but that in so doing you do not encourage or permit taxpayers to let their taxes become delinquent deliberately, with a view to settling them later at a discount. Such a result as I should like to see achieved could be accomplished by the enactment of a statute permitting a thorough examination by the tax commission and boards of county commissioners after a certain period of nonpayment or delinquency. In such an examination, the ability of the owner to pay, the value of the property, the amount that the State would realize from a sale as against a compromise and perhaps other factors should be considered and become determinative. Then a compromise or settlement could be made. In this manner voluntary delinquencies would not be permitted and yet the State could legitimately compromise claims for taxes. Further, it is very probable that such a statute would constitute a reasonable classification and would not violate the uniformity clause of article 9, section 1, of the Minnesota Constitution. It seems proper that you should empower the tax commission, which now has machinery for this purpose, and the board of county commissioners in each county with authority to conduct investigations and examinations and with authority to compromise and settle taxes. My reason for suggesting these agencies is that the benefits of such a law then will be readily available to all citizens and taxpayers.

STATE HIGHWAYS

On the basis of present revenues, the Minnesota Department of Highways will be unable in 1935 and 1936 to obtain Federal highway aid allotments authorized by Congress. These allotments, as authorized by the Hayden-Cartwright Act, will amount to nearly $7,000,000 for this State in the next 2 years. This money will not be given to Minnesota unless it is matched dollar for dollar by State funds. If it is not matched here, it will go to increase allotments to other States.

Minnesota's present inability to match Federal funds is due to the increase in mileage of the trunk system made by the 1933 legislature, and the decrease in motor vehicle license fees made at the same time. The effects of this increase in expenses and decrease in revenues were cushioned in 1933 and 1934 by emergency Federal highway grants which the State received without any matching obligation. Such grants enabled the department of highways to carry on construction in the past biennium. Hardly any construction will be possible in the next biennium if State revenues of the highway department are not increased.

The national Government's policy on future highway aid was explained by President Roosevelt on signing the Hayden-Cartwright Act, in June, 1934, when he said: "Notice also is given to the 44 State legislatures which convene early next year (1935) that unmatched emergency grants are to be abandoned, and that there is to be a return to the established plan which required that the States shall meet the Federal Government half way in paying the cost of new construction."

Therefore, if the Minnesota Legislature wishes this State to receive its share of Federal aid in 1935 and 1936, it must provide additional State highway revenues. Minnesota ranks near the bottom among the States in the matter of taxes paid by the average motorist.

At the request of the department of highways, the United States Bureau of Public Roads has conducted in the past year a comprehensive study of Minnesota's highway problem. The results of this study will be available to the 1935 legislature.

The proposed State constitutional amendment ratifying the 1933 expansion of the trunk system and preventing further additions until the enlarged system shall have been 75 percent permanently improved, failed of adoption at the general election in November 1934. Since then there have been suggestions that further additions be made to the system at the 1935 legislative session.

It is true that certain logical additions to the trunk system were not included in the 1933 expansion. However, the danger is great that if these should be added in 1935, the door will be opened to demands for inclusion of a large mileage of new routes which the highway department will not be financially able to maintain. Unwise additions also would invite litigation which might jeopardize the present status of the trunk system. Therefore no proposals for new additions at this time should be granted without the most serious consideration.

Serious financial embarrassment is caused the highway department in those years when the legislature extends the time limit for payment of motor vehicle license fees. To enable the department to meet its obligations during the time between January 1 and the deferred date established for license payments, it is recommended that the legislature authorize the department of highways to anticipate such delayed license fee receipts by borrowing from available State funds.

Improvements in internal-combustion motors are making it possible for more and more motor vehicles to use fuels other than gasoline. Such fuels are not subject to the Minnesota gasoline tax. It is obviously unjust to tax the gasoline used in most motor vehicles and not to tax a different fuel used in other motor vehicles transporting commodities on the public highways. Remedial legislation is needed.

The 1933 legislature enacted a driver's license law and placed its administration under the commissioner of highways. No adequate provision was made in the legislation for financing the operation of this act on a permanent basis. Unless such provision is made, an effective administration cannot be provided in the future.

Sentiment has been expressed in some quarters that the highway patrol be given full police powers. However, control of traffic and prevention of accidents on our highways has become a matter of such vital public concern that the highway patrol should remain primarily a traffic-police organization. The patrol is inadequate in size to cover effectively the enlarged trunk system.

As a measure of cooperation with the United States Bureau of Public Roads, it would be desirable for the legislature to authorize the commissioner of highways to act as agent for this Bureau in supervising Federal highway construction work not on the trunk system, and also in disbursing the Federal funds for such projects. This would enable the highway department to meet requests of the Federal Government for closer cooperation in the improvement of roads within national forests and Indian reservations.

CONSERVATION

Since the creation by the 1931 legislature of the unified department of conservation, interdependence of conservation problems has become more apparent than ever before. Game and fish and forestry are interrelated. These are tied up with water conservation and soil erosion in any comprehensive conservation scheme; and all of these problems are inseparably linked with the problem of land use.

The solution of the land-use problem, particularly in northern Minnesota, must engage our immediate attention. In order to bring about an early economic adjustment to enable the more seriously affected communities to rebuild their physical, educational, and social structures, this problem must be faced courageously. All lands within these counties should be classified without further delay and agricultural and nonagricultural zones created. Land settement should be restricted to tracts upon which the settlers can earn a livelihood, within easy access to roads, schools, and other governmental facilities.

There is another phase of this problem that I should like to call to your attention. Millions of acres of marginal and submarginal lands in northern Minnesota have been abandoned by their owners, leaving decadent homesteads, deserted villages, and extensive drainage ditches growing up to brush and scrub as mute evidence of a program—if such it may charitably be called—that has failed. These tracts have become a "no man's land", with the private owners gone and no public agency with control over their management.

There are 21 E. C. W. camps scattered throughout and adjacent to State forests at the present time. Work can be conducted on

only publicly owned lands. The only publicly owned lands within State forests are the trust-fund lands, which are scattered in isolated tracts throughout the areas. This fact has impaired the efficiency of E. C. W. work. Thus far camps have been approved largely on the assurance that tax-delinquent lands will revert to the State in the spring of 1935. Unless tax-delinquent lands located within the State forests and established conservation areas are permitted to revert in fee to the State without further delay, present E. C. W. camps cannot be justified.

The need of enactment of statutes delegating to the conservation department regulatory and supervisory powers over public waters is quite generally recognized. Bills have been introduced in past sessions to bring this about, but invariably they are defeated by opposition from interests which profit from commercial use of water. Minnesota has much at stake in its water resources. Its lakes need scientific study and care. Its streams are of no value for any purposes—industrial, municipal, or recreational—unless water is flowing in them. Pollution contaminates and makes water unfit for any public use. We should know something about our underground water resources. Minnesota is discovering that, despite its vaunted water resources, many sections of the State have reached a dead line in development because of lack of this resource, especially in periods of drought.

Legislation creating a "water code" for the State is an imperative need.

At the rate at which iron ore has been removed from the State during the past decade, and assuming that no additional merchantable ores are discovered, the end of the State's mining industry insofar as high-grade ore is concerned, is in sight. This industry, second only to agriculture in importance, will become decadent within the next 40 or 50 years.

Unlike forests and wildlife, iron ore cannot be replenished through any known human ingenuity. But, on the other hand, Minnesota has untold billions of tons of low-grade ore. The life of the iron-mining industry hinges on the discovery of beneficiation processes which will make this low-grade ore merchantable. Progress in beneficiation will depend upon research work carried on at the University Mines Experiment Station, in the laboratories of the department of conservation, and in cooperation with the manufacturers of mining machinery and equipment. The time to prepare for future eventualities is now, before actual decadence sets in. The legislature should make a sufficiently large appropriation to the division of lands and minerals to enable it to expand its research facilities to carry on intensive research in beneficiation of iron ore.

The legislature should reconsider many of the sources of revenue from which the division of game and fish is maintained, as well as the material diversions which have been made from game and fish revenues for purposes never intended to be financed from such sources and which are defeating the major functions of the division. Such divisions, together with a drastic falling off in revenues, have created a situation which is making it difficult for this division to function along constructive lines.

The drought has wrought havoc with groves, woodlots, and shelterbelts in the prairie sections of the State. The demands on the Department's limited nursery output, due to the establishment of the E. C. W. camps, has emphasized the inadequacy of the nursery operated by the division of forestry. The legislature should authorize the expansion of the nursery facilities to include not only coniferous species for planting in the State forests, but also species which can be supplied to the nonforested areas for a sustained tree-planting program.

Soil-erosion control is the youngest member of the family of conservation problems, especially in Minnesota. The reason for this is the slow rate at which the process of soil erosion operates and the relatively small areas that are affected in a sufficiently striking manner to attract public attention. Although slow in operation, the fact remains that the ultimate destruction of some of the best and highest-priced agricultural lands, located in the most intensively developed sections of the State, from soil depletion is certain unless methods are adopted to stay its progress.

Soil erosion control possibilities are being demonstrated in the southeastern counties by the National Forest Service E. C. W. soil-erosion camps. The works erected and improvements undertaken, however, are not intended to completely remedy the situation in any one community or even on any one farm. Their purpose is to show to the landowners what can be done as a means of encouraging them to pursue on their own initiative soil-conservation activities.

It is time to consider and recognize the eventuality which is certain to overtake large areas within what has been the most prosperous communities of the State, and which will cause their abandonment for agricultural pursuits unless the processes which have steadily removed fertile topsoils are stayed. Productive surface soils when once removed cannot be replaced. Public concern is being shown in the conservation of forests, wildlife, and waters, and public funds annually expended for replenishing, preserving, and protecting these resources. Conservation of soil fertility, the basic source of agricultural prosperity, certainly merits a conspicuous place in the State's conservation program.

The direction of soil-erosion control should be definitely placed within the department of conservation with sufficient funds made available to enable it to cooperate effectively with land owners in the promotion, improvement, methods of cultivation, tree and shrub planting, and other means that will tend to stay soil destruction.

The work of the conservation department constitutes one of the most important functions of our State government. The department is the custodian of the State's natural resources.

The present conservation law was intended to bring to an end a policy of ruthless dissipation of these resources. It was to bring to an end, forever, a shameful period of our State's history, a period during which the future welfare of our people was sacrificed to the private greed of a band of looters. These looters stand discredited, but their kind have a way of speaking through mouths other than their own. Sometimes other persons are induced to play their game unwittingly.

There has been much criticism during the past year or so of the department of conservation, criticism of such a nature as to leave a doubt in the minds of many people, good conservationists, as to whether the department is functioning in the interest of the people and the future welfare of our State. I have reviewed some of the charges myself and I am satisfied that they are politically inspired. Nevertheless, much harm to the department has resulted and the people of the State are entitled to know the truth. To that end an investigation of the department should be had.

An investigation of this kind, which involves so much of the public welfare, patently should not be conducted by persons whose political views would color their findings. Not only that, but the investigators should be persons competent to conduct it, possessing a thorough knowledge and understanding of conservation problems.

A committee appointed by the legislature, composed of the president of the Minnesota division of the Izaak Walton League, the president of the Minnesota Game Protective League, and the head of the forestry department of the University of Minnesota should meet with popular approval. I do not believe there is a person in this State who would question the legitimacy of the findings of this committee.

This committee should be supplied by the legislature with funds, if necessary, to hire personal investigators and competent auditors.

The department is entitled to such an investigation. The people, as I have said, want to know the truth of the charges made against the department. And I am sure that sufficient helpful suggestions for improvement of the department by legislative action would result, to more than justify the outlay in money.

In your consideration of conservation and land use, I commend for your study, the reports and findings of the State Planning Board, as well as the report of the Land Utilization Committee.

PUBLIC OWNERSHIP AND OPERATION

In its tremendous work program for the future, the Federal Government contemplates not only rural electrification, but also contemplates the building up in the Mississippi Valley of a gigantic system for the production of electricity. The benefits of such a plan to Minnesota can be tremendously increased if the State has the authority to own and operate a power system. This can be accomplished only by an amendment to the constitution of this State, through a vote of the people. You alone have the power to permit them to vote upon such a constitutional amendment. Except to urge you to provide for the submission of such an amendment to a vote of the people at the next general election I shall not encroach upon your exclusive prerogative. Permit me, however, to suggest that the people are sovereign—not the Legislature—and that the people have a right to determine for themselves not only what form of government they desire, but also what means shall be used by government in contributing to their welfare. No one can challenge the statement that through the joint action of the Federal and State Governments it would be possible to tremendously increase the electrification of homes and business establishments in Minnesota at rates considerably less than the rates now charged by the public utilities.

In view of the opportunities presented to the people of this State for improving their standard of living and their factory development, I earnestly request you to carefuly consider the propriety on your part of refusing to permit the people of Minnesota to vote upon this important question.

In the same connection, I recommend that you submit to the people of Minnesota a constitutional amendment, in addition to the one hereinbefore proposed, under the terms of which the Legislature of Minnesota will be empowered to engage the State in the general operation of public utilities, packing plants, and other key industries.

In view of the extensive ownership of the State of Minnesota in iron mines, I recommend that you memorialize the Congress of the United States to pass appropriate legislation providing for the complete manufacture of munitions of war by the United States Government. If such legislation is passed, the State could mine the ore in its own mines and sell it to the Federal Government.

I also recommend the establishment of a central State bank of deposit, to be owned by the State of Minnesota and to be the only legal depository in Minnesota for State funds and the funds of any local subdivision of the State. It would act in the same capacity toward the independent banks of Minnesota as the Federal Reserve Bank of the United States acts toward its member banks, but would not be permitted to loan money to private enterprise. The discount loans to member banks would be protected by providing that such loans be a preferred claim. Such a bank would not only provide a means for financing and refinancing obligations of the State but would also tend to liberalize credit.

There are now approximately $400,000 in unpaid claims before the Minnesota Industrial Commission as a result of insurance companies becoming insolvent in the past few years. Many of these claims will never be paid. I recommend, for the protection of employers as well as employees, the establishment of State workmen's compensation insurance in Minnesota under the jurisdiction of the industrial commission of the State.

LEGISLATURE

The platforms of the three leading political parties of the State of Minnesota proposed the election of members of the legislature upon a party basis. In view of these pronouncements and assuming that all of you are members of some one of these three political parties, I anticipate that legislation to that effect will be passed without any dissent.

There will be bills introduced in this session of the legislature for the purpose of either reducing or abolishing various State departments and bureaus. You have my assurance that I will cooperate with you in every way in such an endeavor where no useful public service is crippled or eliminated.

During past sessions of the legislature many members of those bodies have informed me that the work of the legislature is very difficult because of the excessive number of members in both houses. Accepting that as an existing fact I hope I am not overbold in suggesting to you that in a program of reduction in the agencies of government by you, your attention should first be directed toward reduction in the numbers of your own membership and a redistricting of the legislative districts of Minnesota.

I am heartily in favor of a unicameral legislature and I recommend that you submit a proposal to the people of the State for the establishment of that form of legislature with a maximum membership.

EDUCATION

The cost of school books is a considerable item of expense to a great many families in the State of Minnesota. Like a great many other States, Minnesota should furnish free school books to every child attending the public and private schools. When one strips the subject of the falsehoods, the propaganda, and the hysteria which surrounds it, and when one considers that the book companies of the United States are so influential as to be able to change textbooks in high schools each year so that when a student has finished a semester the books used by that student are worthless, the necessity for furnishing free school books is obvious and demanding. The claim that some mysterious persons will write textbooks tending to insidiously influence the minds of the student readers is but a political bugaboo, because by appropriate legislation you can provide that the same school authorities who now select the kind of books to be used can continue such selection.

I recommend that you provide for the printing and free distribution of school books to the children of this State. Complete data upon the subject of costs, patent rights, and other necessary factors is before you in the form of a report of a legislative interim committee.

I also recommend that the laws with reference to teachers' tenure be strengthened on behalf of the teachers of the State.

LAW ENFORCEMENT

The American public is becoming increasingly conscious of the necessity for restraining the ever-increasing unlawful activities of professional criminals. The Federal Government is making a concerted drive for the apprehension of criminals.

No program can be effective without the coordinated effort of all law-enforcement agencies. Minnesota has a splendid opportunity to increase the effectiveness of its law-enforcement agencies by increasing the personnel and powers of its bureau of criminal apprehension. This will not only increase the effectiveness of the bureau but will also permit the complete coordination of all agencies in and through a central agency. The bureau has already been successful in that respect in some sections of the State while laboring under the handicap of having only eight investigators.

I therefore recommend that 24 additional investigators be added to the bureau and that all investigators of the bureau be given full powers of arrest throughout Minnesota, subject to the restriction that they shall never be used in labor disputes. This authority will not in any way conflict with the jurisdiction or power of sheriffs and local peace officers.

In the enforcement of law, prevention of crime and rehabilitation of offenders is important. Many judges who are inclined to suspend sentences in the cases of first offenders committing law violations of no great seriousness are unable to do so because there are no local officers to supervise the conduct of such offenders during the period of probation. I therefore recommend the enlargement of the State probation system.

I recommend for your earnest consideration the report of the 1934 crime commission.

CIVIL SERVICE

The ever-increasing functions of government and the ever-increasing necessity for a trained personnel in public service justify the creation of a State civil-service system by you. I so recommend.

You have my assurance that I will always be ready and willing to cooperate with you in the fullest degree, individually or collectively, in the discussion or the carrying out of any project or program tending to further the interests of the people of Minnesota.

SPECIAL MESSAGE OF GOV. FLOYD B. OLSON TO THE LEGISLATURE OF MINNESOTA DECEMBER 3, 1935

The passage of social-security legislation by the Congress of the United States, which can only be taken advantage of by immediate cooperative legislation on the part of the State impelled me to call you into extraordinary session. This message will be confined to a discussion of security legislation and matters incidental thereto. By so confining the subject matter of my message, I assure you that I am not presuming to suggest any limitation of the scope of the legislation to be considered by you at this special session.

OLD-AGE PENSION

Under the constitution of Minnesota no State moneys can be paid to any person except for services rendered the State, or for relief on the basis of need. A pension system which would make for the most economic security to our aged would be one which provided for the payment of a certain amount per month, based only upon the applicant for pension attaining a certain age. Such a pension system would require an amendment to the constitution. I recommend that you submit to the people a constitutional amendment empowering the State to pay pensions on that basis and providing that the funds therefor may be raised by taxes upon pay rolls and/or by other means. The sovereign people can then determine for themselves what kind of a pension system they desire and what means should be taken by them to improve their economic security.

The old-age pension system to be here considered must be one based upon the payment of State moneys upon the basis of the need for public assistance to the aged. Such a system should not require the complete pauperization of the aged before help is given by the State. It should have no limitation upon the amount to be paid, but should be based upon the payment of a sum to an aged needy person sufficient to enable that person to maintain a decent standard of living.

It should be State-wide, not only in theory but in practice. According to reliable information, 42 of the 87 counties of Minnesota are not paying any old-age pensions under the existing compulsory pension law. This means that the aged in 42 counties of this State are being discriminated against as compared to the aged in the other 45 counties of the State. The fact that 15,523 persons over the age of 65 were receiving public relief in Minnesota according to a survey made last October, is conclusive evidence of the inequalities arising under a pension system based upon county control and county expenditure.

It is therefore recommended that the administration of the old-age pension law passed by you be placed under the exclusive control of the State, and that the cost thereof be borne entirely by the State except for such contributions as are made available to the State from the Federal Government. Only through State control and complete State financial obligation can we insure decent standards for pension payments, and pension equality between the aged citizens of the State.

In considering an exclusive State system we are concerned with the cost of the system and the means for securing tax moneys sufficient to pay the cost.

The October survey previously referred to results in an estimate of 30,178 persons over 65 years of age eligible for old-age pensions according to current pension standards. That number will be increased by a liberalization of present standards, which you undoubtly contemplate. A decent old-age pension system in Minnesota, costs of which are borne by the State, would cost the State between $8,000,000 and $10,000,000 per year, with an additional contribution by the Federal Government of between $5,000,000 and $6,000,000.

The form of taxation resorted to in order to raise money for a special purpose should have some relationship to the purpose for which the funds are to be used. A sales tax upon necessities certainly has no relationship to the payment of moneys to the needy. A sales tax upon necessities is a penalty imposed upon poverty. A sales tax for the purpose of raising old-age pension funds would be a penalty upon the needy, imposed in an endeavor to help the needy. The "have nots" would be paying a tax to aid those who have naught. The only fair system of taxation to raise money to care for the needy is one which involves the redistribution of wealth. The founding fathers of this Nation in their constitutional conventions emphasized the use of the power of taxation for the purpose of regulating social and economic conditions. Despite the legal legerdemain of courts the principle remains a vital part of the American plan of government.

There is a great amount of property in Minnesota escaping proper taxation because of (1) the absence of tax laws covering it, (2) the inadequacy of the tax imposed under existing laws, and (3) the failure by public authorities to collect the tax amounts due under existing laws.

The tax yield on the moneys and credits tax for 1934 was $1,400,000. It is reliably estimated by tax authorities that only about one-eighth of the amount due under the moneys and credits tax law is actually collected. Under existing laws only one-sixth of the amount collected goes to the State. By assuming the burden of total payments under an old-age pension system, the State has the right to provide for the payment of the entire tax collections on moneys and credits into the State treasury. I recommend that legislation passed by you provide for complete State jurisdiction over moneys and credits tax collections; that the rate be increased from 3 mills to 6 mills; and that the entire tax proceeds be paid into the State treasury.

Under existing law, farmers and other property owners pay a property tax based upon the full and true value of their property. Their actual equity in the property may be of little or no value, because of mortgages. The owner of the mortgage pays no tax upon the mortgage except a very nominal registration fee. I recommend that all mortgages upon real property be classified as moneys and credits, and pay the proposed 6-mill rate, and that the mortgage registration tax be repealed. Mortgages upon real property in Minnesota aggregate in excess of $500,000,000. In order that the tax imposed on these mortgages may not be passed on to the mortgagor, I recommend a reduction in the legal rate of interest.

I also recommend that the State tax commission be authorized to use information received in income-tax reports for the purpose of effecting collection of the moneys and credits tax.

To absolutely insure sufficient funds with which to pay an adequate old-age pension in Minnesota, I recommend that the gross earnings tax rates upon telephone companies and railroads, the royalty and occupation taxes upon iron ore, and the tax upon chain stores be substantially increased. The tax law affecting telephone companies should provide for an exemption of the first $4,000 of gross earnings, so as to protect the smaller companies.

It is further recommended that inheritance-tax rates be substantially increased, and that the entire proceeds of such tax be paid into the State treasury.

The principles applicable to taxation of mortgages upon real property are equally pertinent to a corporate-excess tax. There is a tax upon all the tangible property of the average citizen. The average citizen has no intangible property, but there is a great concentration of wealth among a comparative few in the form of intangible property. That can only be reached by a corporate-excess tax. The claimed excessive tax upon real property results largely from our failure to collect taxes upon intangible property, and through our failure to collect the proper amount of taxes upon personal property, moneys and credits, and net income. The best medium for relieving the tax upon real property is the corporate-excess tax. That is truly a tax based upon means and ability to pay, because it falls almost entirely upon concentrated wealth. The average small corporation has no corporate excess. Whatever arguments may be made against the corporate-excess tax upon private industry certainly cannot be made against a corporate excess tax upon public utilities, because the value of the corporate excess in the case of the utility is represented entirely by the monopoly possessed by it. That monopoly has been given to the utility by the people themselves. Because of the distinction between private industry and public utilities, I am agreeable, as a part of the foregoing complete tax program, to a new corporate excess-tax law imposing a tax of 20 mills upon the corporate excess of public utilities. For the purpose of computing the tax, the valuation should represent the difference between the combined amount of bonded indebtedness and capital stock on the one hand, and other corporate property already taxed and/or exempt from taxation on the other hand. For the reasons stated in the recommendation with reference to moneys and credits, the entire proceeds of a corporate excess tax should be paid into the State treasury and its collection placed under the exclusive jurisdiction of the tax commission of Minnesota.

These proposed tax laws will yield a total additional revenue entirely sufficient to meet the cost of a decent old-age pension system, and these recommendations are offered for the purpose of securing adequate funds to meet such demands.

Relevant thereto, it is recommended that the tax commission be given an additional substantial appropriation for the purpose of collecting taxes imposed under new legislation and for collecting taxes now evaded under existing laws.

UNEMPLOYMENT INSURANCE

A State unemployment insurance law should provide for contributions only by employers, in amounts at least equal to the amounts prescribed in the Federal act; should be applicable to all employers of one or more employees and to all employees, including seasonal and part-time employees, except those engaged in agricultural, domestic, and casual labor and those engaged in public service under civil-service tenure.

It is also recommended that you memorialize Congress to pass the so-called Lundeen social security bill.

AID TO THE BLIND, DEPENDENT CHILDREN, MATERNAL AND CHILD HEALTH, AND CRIPPLED CHILDREN

Suitable legislation should be passed so that complete advantage may be taken of the Federal social security law with respect to aid to the blind, to dependent children, to the maintenance of maternal and child health, and to crippled children, and so that proper assistance may be given by the State to the persons included within those groups.

EQUALITY OF EDUCATION FOR CHILDREN

Within the general subject of security legislation may properly be included legislation designed to secure equality of education for all the children of the State.

At your last regular session you provided by chapter 288, Session Laws of 1935, that if a school district levies 30 mills for school maintenance, and if this levy, together with all funds received from the State as apportionment or special State aid, does not equal $60 per elementary and $100 per high-school pupil in average daily attendance, the State shall pay the balance as supplemental aid.

The laudable purpose of this law was to equalize educational opportunities for the children of the State. About $5,000,000 is available for the payment of almost $8,000,000 in special State aids for the coming year. These aids will, therefore, have to be prorated at less than two-thirds of the amount set in the law. Unless the needed additional funds are provided, boys and girls of the State in the poorer school districts will not have educational opportunities equal to those of boys and girls in the wealthier school districts. It is imperative, therefore, that additional funds be provided.

I recommend that the income-tax law be amended so as to provide an additional $2,500,000 annually, and that one-half of the total income-tax receipts be transferred to the special State-aid fund. The remaining half of the income-tax receipts can be distributed for the payment of outstanding indebtedness, where districts have bonds or outstanding warrants, as is now provided by the income-tax law.

May your efforts lead to your sincere conviction at the close of this session that you have genuinely contributed to the economic security of the people of Minnesota.

Public Jobs for Veterans

EXTENSION OF REMARKS

OF

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 9, 1937

Mr. PATMAN. Mr. Speaker, due to the depression, unemployment among veterans has transcended in importance all other problems affecting, as a group, those who once wore the uniform.

While pensions and compensation are most desirable and needed, at best they are merely supplemental to salaries or wages for those still capable of performing in gainful occupations. There have been varying estimates of the number of World War men alone who are today jobless with the figure generally agreed upon as exceeding 300,000, or nearly 10 percent of what remains of the men who served in 1917 and 1918.

Unable to obtain location in crippled private industry, thousands of these veterans have looked to public jobs. To many of these former service men, the pursuit of employment of this sort was entirely a new venture, and few of these men knew of their rights for places in the civilian jobs of the Nation, State, county, or municipality.

No more readable veterans' publication than the Semi-Monthly of the Disabled American Veterans is published. In its usual effort in the interest of the wartime disabled, this organization has recently finished publication of installments of a digest of veterans' preferences in each of the several States, each preference carrying with it the citation of the State law, making it possible for a veteran to go to the public library, or the bar association or to write to the secretary of state of the commonwealth in which the veteran lives to obtain the full text of the particular law in which he is interested Not only does this digest cover employment, but also all other particular privileges that go to veterans in each State.

It would be useless for me to attempt to elaborate upon the respected position of the Disabled American Veterans before Congress. Because of the restricted eligibility—which permits only those with disabilities resulting from the war to join—the D. A. V. manifestly cannot be the strongest organization numerically; nevertheless, the very sacredness of its principle of justice to the war's victims commends it to a position of highest esteem of this body. For more than 10 years Congress received the presentations of the D. A. V. legislative objectives through its national legislative chairman, Thomas Kirby. In light of the work the D. A. V. was was doing, Congress, then, by special act deliberately granted the organization one of the relatively few national incorporations ever approved.

The research work on this digest of State laws was done by the Library of Congress, and I am, therefore, presenting for the RECORD this information in the form in which it was published in the D. A. V. Semi-Monthly.

DIGEST OF STATE BENEFIT LAWS IS COMPILED—STATUTES FOR RELIEF OF VETERANS AND DEPENDENTS IN VARIOUS STATES LISTED BY D. A. V. FOR INFORMATION OF ALL MEMBERS—DETAIL COPIES OBTAINABLE

For the information of all concerned, the D. A. V. Semi-Monthly prints the first compilation of all State laws pertaining to benefits for veterans and their dependents.

The various forms of State relief cover so-called bonuses, burials, education of children, education of veterans, employment rights, guardianships, homes and homesteads, hospitalization, pensions, tax exemptions, and other special privileges.

It has been suggested that each department and each chapter, as well as each rehabilitation officer, should obtain through citations from the secretary of state in which the unit or the officer is located, complete copies of each of the laws, of which the following is merely a digest.

Due to the amount of material this compilation must necessarily run as a serial in successive issues of the paper.

ALABAMA

State service commission provided to assist veterans and their dependents with claims for benefits from the Federal Government (Code (Michie) 1928 and Cumulative Supp., 1936, par. 2292 (1)–2292 (7)).

State service officer authorized to administer oaths in connection with claims for benefits (Code (Michie), par. 2292 (4)).

Public officials required to furnish free copies of public records' certifications for use in claims before the Veterans' Administration (1936 Cumulative Supp. to Code (Michie), par. 8134 (14)).

State service commissioner authorized to certify as to correctness of documents in connection with claims for benefits (Code (Michie), par. 2292 (4)).

Honorable discharges recorded free of charge (1936 Cumulative Supp. to Code (Michie), pars. 2292 (10)–2992 (11)).

Uniform guardianship law to protect persons and funds of mentally disabled veterans is part of State law (1936 Cumulative Supp. to Code (Michie), par. 8134 (1)–8134 (20)).

Provisions for commitment of incompetent veterans to Federal hospital (Laws 1931, no. 240).

Legal protection of insignia of recognized veterans' organizations (Code (Michie), 1928, par. 3359).

Armory privileges permitting meetings of veterans' organizations (1936 Cumulative Supp. to Code (Michie), par. 78 (26)).

Tax exemption for certain property owned by veterans' organization (Laws 1935, no. 194, p. 258).

World War veterans exempt from poll tax (Constitutional amendment X).

War-risk insurance exempt from income tax (Laws 1935, no. 194, p. 406).

Veterans exempted from business or occupation license fees to the amount of $25 (1936 Cumulative Supp. to Code (Michie), par. 2292 (13)–par. 2292 (25)).

ARIZONA

State service officer provided to assist veterans and their dependents for any benefits to which entitled (Revised Code (Struckmeyer), 1928, par. 3222–3223).

Free notarial service on any document to be filed in connection with claim for benefits (Revised Code (Struckmeyer), 1928, par. 1495).

Public officials required to furnish free copies of public records for use in connection with claims before Veterans' Administration, (1934 Supplement to Revised Codes, par. 4149f).

Honorable discharges recorded without charge.

Certain allowances for burial of veterans and their widows. Burial may not be in potter's field. County shall apply to United States for suitable headstone and have same set in place (Revised Code (Struckmeyer), 1928, par. 3224–3225).

Uniform guardianship act with modifications (1934 Supplement (Courtright) to Revised Code, par. 4149a–4149l).

Provision for commitment of incompetent veterans to Federal hospital (1934 Supplement (Courtright) to Revised Code, 4149H).

Preference granted veterans under Land Resettlement Act (Revised Code (Struckmeyer), 1928 and 1934 Supplement, par. 1963–1975).

Direct relief to ex-service men and their dependents (1934 Supplement (Courtright) to Revised Code, par. 3225a–3225f).

Certain veterans' associations exempted from publication of articles and filing fees (1934 Supplement (Courtright) to Revised Code, par. 588).

Property-tax exemption to veterans and their widows.

ARKANSAS

Provision for State service officer to assist veterans and their dependents (Castle's 1927 Supplement to Crawford and Moses' Digest, par. 9146a–c).

Public officials required to furnish free copies public records for use in determining eligibility of wards of United States Veterans' Bureau to benefits (Castle's 1931 Supplement to Crawford and Moses' Digest, par. 10548N).

Education provided for children of World War veterans under certain conditions, administrative agency being State board of education (Laws 1935, No. 248, p. 655).

Tuition benefits to World War veterans (Castle's Supplement, 1927, to Crawford and Moses' Digest, par. 9842a).

Uniform guardianship law for mentally disabled veterans (1931 Supplement (Castle) to Crawford and Moses' Digest, par. 10548a–10548t).

Provision for commitment of incompetent veteran to Federal hospital (Acts 1929, No. 36).

Certain veterans exempt from peddler's licenses. Also, certain veterans exempted from payment of certain occupational fees (Digest of Statutes (Crawford and Moses), 1919, par. 9842).

American Legion and other organizations granted use of memorial (old State capitol buildings and grounds) (1927 Supplement to Crawford and Moses' Digest, par. 10344a–10344f).

Credit for active service, give in National Guard (1931 Supplement to Crawford and Moses Digest, par. 7168n2, p. 363).

Provision for safekeeping of service records (1931 Supplement to Crawford and Moses' Digest, par. 7168c1, p. 354).

April 1, 1937, Arkansas passed State law giving 5 additional points to earned rating of veterans not disabled; 10 points in addition to earned rating for those with service-connected disabilities and those who have reached certain age, regardless of service connection, but who are entitled to pension or compensation; also to the wives of those disqualified because of disability and to the widows. Same preferences extended to retired officers and enlisted men when disability is proven through official channels, as required of others granted these preferences (known as Act No. 90, passed during March 1937).

CALIFORNIA

State service officer provided to assist veterans and their dependents (Statutes, 1935, ch. 380, pars. 50–59, 690–962).

Free notarial service in connection with claims for Federal benefits (Statutes, 1935, ch. 803).

County clerks authorized to certify affidavits for pension claimants free (Gen. Laws (Deering), 1923, act 1849; Gen. Laws (Deering), 1923, act 2501; Political Code (Deering), 1923, par. 4302).

County allowance for burial of indigent veterans and their widows. Burial may not be in potter's field (Statutes, 1935, ch. 389, pars. 929, 940–950).

Maintenance of soldiers' graves a county charge (Statutes, 1935, ch. 389, pars. 949, 960–962).

Counties shall apply to United States for suitable headstone and allowance is made for placement of such stone (Statutes, 1935, ch. 389, pars. 948–960).

Certain education provided children of veterans (Laws, 1935, ch. 389, p. 1396).

Educational aid to certain veterans (Statutes, 1935, ch. 389, pars. 870–878).

Certain preferences to veterans and their widows in the State civil service (Statutes, 1931, ch. 742).

Preference to veterans and their widows in State civil service specifically retained (Initiative const. amend. adding art XXIV (Statutes, 1935, XCVIII)).

Preferences to veterans under merit system applied to noncertificated employees in certain school districts (Statutes, 1935, ch. 618).

Preference to veterans in administrative and other work under veterans' aid and welfare laws (Statutes, 1935, ch. 389, par. 697).

Uniform guardianship law (Statutes, 1931, ch. 281 (Probate Code), par. 1650–1669).

Home for care of ex-soldiers, sailors, and marines of the United States (Statutes, 1935, ch. 389, par. 1010–1045).

Women's Relief Corps Home for care of ex-army nurses and certain dependents of Union veterans (Statutes, 1935, ch. 389, pars. 1080–1090).

Counties may maintain homes for veterans (Stat. 1935, ch. 389, pars. 1120–1121).

Provision for commitment of incompetent veteran to Federal hospital (Stat. 1931, ch. 281, par. 1663).

Land-settlement benefits available to veterans (Stat. 1935, ch. 389, par. 720–772).

Farm and home purchase benefits for veterans (Stat. 1935, ch. 389, pars. 800–841).

Authorization for counties and municipalities to extend relief to veterans and dependents through certain organizations created for that purpose (Stat. 1935, ch. 389, pars. 920–931).

Protection of insignia of veterans' organizations (Stat. 1933, ch. 409).

Memorial districts permitted to maintain buildings for meeting places of veterans' organizations (Stat. 1935, ch. 389, pars. 1170–1235).

Counties, cities, and towns permitted to lease property to veterans' organizations (Stat. 1935, ch. 389, pars. 1260–1261).

Counties permitted to maintain buildings, meeting places, recreation centers, etc., for veterans' associations (Stat. 1935, ch. 389, par. 1262).

Provision for headquarters of G. A. R. at State Capitol (Stat. 1935, ch. 389, pars. 1290–1291).

Provision for publication of reports of the G. A. R., V. F. W., D. A. V., and Spanish-War Veterans (Stat. 1935, res. chs. 82, 84, 85, and 105).

Property-tax exemption to veterans or their wives, widows, or widowed mothers and to pensioned widows, fathers, and mothers (Constitution, art. XIII, par. 1/4).

Exemption of property of the Californian Soldiers' Widows' Home Association and by the Ladies of the G. A. R. (Constitution, art. XIII, par. 1/4).

Veterans exempted from educational poll tax (Constitution, art. XIII, par. 12).

Civil War veterans exempted from county road poll tax (Political Code (Deering), 1923, par. 2652).

Certain veterans exempted from peddler's license under limited conditions (Stat. 1935, ch. 138).

Gaming licenses free to Civil War veterans (Stat. 1933, ch. 73, pars. 429, 1316; amended 1933, ch. 167).

United States pension money exempted from execution or attachment (Stat. 1935, 723, par. 690.22).

Medals to National Guard and naval militia members who distinguish themselves in the State or National service (Stat. 1935, ch. 389, pars. 640–649).

Active service for United States credited in National Guard (Stat. 1935, ch. 389, pars. 215, 228, 256).

COLORADO

Public officials required to furnish free copies of certifications of public records for use in claims of veterans with United States Government (Supplement to Compiled Laws 1932, par. 5546.15).

Adjutant General required to furnish copies World War enrollment records to posts of American Legion without cost (Supplement to Compiled Laws 1932, par. 719.4).

County allowance for burial of indigent veterans. Burial may not be in potter's field. Relatives or friends permitted conduct of funeral service (Compiled Laws 1921, pars. 709, 711).

State authorized to acquire and maintain burial grounds, management and control of which vested in service organizations. No charge for interment in such grounds (Compiled Laws 1921, pars. 712, 718).

County allowance for headstones for soldier graves (Compiled Laws 1921, par. 710).

Loans to veterans of World War for educational purposes (Compiled Laws 1921, pars. 8513–8515).

Preference to Civil War veterans in State, county, and municipal work under veterans' aid and welfare laws (Compiled Laws 1921, par. 719).

Preference to veterans in municipal fire departments under civil service (1932 Supp. (Courtright) to Compiled Laws, par. 9277.10).

Uniform guardianship act for protection of mentally disabled veterans (Supp. to Compiled Laws 1932, pars. 5546.1–5546.19).

Home for veterans, their wives or widows (Compiled Laws 1921 and 1932 Supp., pars. 692–708, amended by Laws 1933, ch. 172).

Provision for commitment of incompetent veteran to Federal hospital (Supp. to Compiled Laws 1932, par. 5546.16).

Certain preferences with respect to sale and improvement of State lands (Compiled Laws 1921, pars. 1202–1212).

Credit of $1 per day for each day service on purchase of State lands (Laws 1933, ch. 173).

United States pension money exempted from attachment (Compiled Laws 1921, par. 5918).

World War veterans' organizations may use memorial armories (Compiled Laws 1921 and Supp. 1932, pars. 256–258).

Protection of insignia of veterans' organization (Supp. to Compiled Laws (Courtright) 1932, pars. 2459–2460).

Appropriations to G. A. R. and United Spanish War Veterans for maintenance of headquarters (Laws 1933, chs. 10 and 27).

CONNECTICUT

State allowance for burial of indigent veterans. Burial may not be in potter's field (Gen. Stats. 1930, par. 1961, Cumulative Supp. 1935, par. 776c).

Provision for firing squad at veteran funeral (1935 Cum. Supp. to Gen. Stats., par. 172c).

Cities and towns privileged to make appropriations for care of soldier graves (Gen. Stats. 1930, par. 486).

Towns may appropriate for Memorial Day observance (Gen. Stats. 1930, par. 484).

Permanent identification of location of veteran graves in State by State librarian (Gen. Stats. 1930, par. 1058; 1935 Cum. Supp. 66c).

State allowance for headstones for soldier graves (1935 Cum. Supp. to Gen. Stats., par. 777c).

Cemeteries may not prohibit erection of such headstones (Gen. Stats. 1930, par. 2994).

State allowance for markers, individually or severally, in cemeteries or public places for veterans buried abroad or missing (Gen. Stats. 1930, pars. 1963, 1964; Cum. Supp. 1935, 778c).

Preference to veterans in public departments and on public work in State or county (1935 Cum. Supp. to Gen. Stats., par. 775c).

Home for care of veterans (Gen. Stats. 1930, pars. 1942–1948, 1954, 1957, 1960, and 1935; Cum. Supp., pars. 767c–770c, 774c).

Veterans entitled to hospitalization at State expense, with provision for commitment of incompetent veteran to Federal hospital (Gen. Stats. 1930, pars. 194, 1946–1952, 1954–1955; 1935 Com. Supp., par. 767c).

United States pension money, while in hands of pensioner, exempted from attachment (1935 Com. Supp. to Gen. Stats. 1672c).

Medals available to veterans of Spanish-American War, Philippine Insurrection, and China Relief Expedition (Gen. Stats. 1930, par. 789).

War service credited in National Guard service (Gen. Stats. 1930, par. 787; 1935 Com. Supp. 169c).

Weekly allowances to widows of Civil and Spanish War veterans under certain circumstances (Gen. Stats. 1930, par. 1956).

Direct relief to certain veterans under certain circumstances (1935 Cum. Supp. to Gen. Stats., par 771c).

Aid to certain dependents of veterans under hospitalization in certain institutions (1935 Cum. Supp. to Gen. Stats. 772c).

Temporary financial assistance to certain dependents of men who died in service (1935 Cum. Supp. to Gen. Stats. 779c).

Appropriations to be expended for certain relief of World War veterans, their wives, widows, and dependent children under direction of American Legion (1935 Cum. Supp. to Gen. Stats., par. 780c).

American Legion and Veterans of Foreign Wars permitted to hold property (1935 Cum. Supp. to Gen. Stats., par. 781c).

Protection of G. A. R. and American Legion insignia (Gen. Stats. 1930, par. 6389).

Veterans' organizations permitted armory privileges for purpose of meetings (1935 Cum. Supp. to Gen. Stats., par. 170c).

Property tax exemptions for American Legion and G. A. R. posts (Gen. Stats. 1930, par. 1163 (15–16), par. 1172).

Charitable funds of G. A. R. and other veterans' organizations exempted from taxation. (Reference same as above.)

Benefit performances for veterans' associations exempted from amusement tax (Gen. Stats. 1930, par. 1358).

Property tax exemptions to veterans, their wives or widows, and parents (Gen. Stats. 1930, par. 1163 (18–23); Com. Supp. 1935, pars. 369c, 371c).

Veterans exempted from payment personal tax (1935 Cum. Supp. to Gen. Stats. 371c).

Tax exemption for war-risk insurance (1935 Cum. Supp. to Gen. Stats., par. 487c).

Veterans exempted from payment of peddler's license (1935 Cum. Supp. to Gen. Stats., par. 1254c).

DELAWARE

Adjutant general directed to assist service men and their dependents in claims with the Federal Government (Laws 1921, ch. 23, par. 10; Laws 1935, ch. 73).

Fee for recording discharge papers limited to 25 cents (Laws 1920, ch. 16).

State allowance for burial of indigent veterans (Laws 1927, ch. 207, as amended by 1933, ch. 189).

Fund appropriated annually to United Spanish War veterans for burial of indigent veterans and care of or aid to indigent veterans (Laws 1931, ch. 33).

Provision for funeral service for men killed in action or died overseas and were brought back to their home State for burial (Laws 1921, ch. 23, par. 10).

Annual appropriation by State to Veterans of Foreign Wars for Memorial Day observance (Laws 1933–34 (Ex.), ch. 5).

Annual appropriation by State to American Legion for observance of Memorial Day (Laws 1931, ch. 32).

Certain aid to children of veterans in pursuance of education (Laws 1935, ch. 190, p. 701).

Suitable medals for presentation to World War veterans (Laws 1919, ch. 261).

War service and medals credited in connection with National Guard service (Laws 1927, ch. 35, p. 99).

Adjutant General required to accept for safekeeping certain service records (Laws 1921, ch. 23, p. 110).

State appropriation to W. C. T. U. for soldier rest room (Laws 1931, ch. 21, p. 115; Laws 1933, ch. 33, p. 216).

Protection of insignia of veterans' organizations (Laws 1929, ch. 266).

Appropriations to American Legion, Spanish War Veterans, Veterans of Foreign Wars, and G. A. R. for operating expenses (Laws 1935, chs. 42, 54, 58, 59, and 60).

Annual appropriation to American Legion and Veterans of Foreign Wars for Memorial Day observance (Laws 1931, ch. 32; Laws 1933 (Ex.), ch. 5).

Tax exemption for property of American Legion and Veterans of Foreign Wars (Laws 1933, chs. 72 and 73).

Property tax exemption for property used for soldiers' rest rooms (Laws 1933, chs. 72 and 73).

Certain veterans exempted from payment of peddler's and occupational license requirements (Laws 1921, ch. 7; Rev. Stat. 1915, par. 213).

FLORIDA

Adjutant General required to assist veterans in connection with claims against the United States (Compiled General Laws (Skillman). 1927, par. 2022, par. 2130).

Provision for State service officer to assist veterans and their dependents on claims before Veterans' Administration and other Government agencies (1934 Cum. Supp. (Skillman) to Compiled General Laws, pars. 2131–2132).

Public officials required to furnish, without cost, certifications in connection with veterans' claims (1934 Cum. Supp. (Skillman) to Compiled General Laws, par. 2146 (15)).

Adjutant General required to furnish records and documents for use in connection with claims, without charge to the claimant (Compiled General Laws (Skillman) 1927, par. 2022).

World War veterans may have discharges recorded without charge (Compiled General Laws (Skillman) 1927, par. 4859).

Educational assistance extended children of certain veterans (Laws 1935, ch. 17474, p. 1431).

Certain veterans certified as public accountants without examinations (1934 Cumulative Supp. to Compiled General Laws (Skillman), pars. 3935 (26), 3935 (27)).

Uniform Guardianship Act for protection mentally disabled veterans (1934 Cumulative Supp. (Skillman) to Compiled General Laws, pars. 2146 (1)–2146 (20), amended by Laws 1935, ch. 1743. Also Compiled General Laws (Skillman), 1927, pars. 2133–2146).

Provision for commitment of incompetent veterans to Federal hospital (Cumulative Supp. to Compiled General Laws (Skillman), par. 2146 (16)).

Certain assistance authorized in locating veterans on Government land (Compiled General Laws (Skillman) 1927, par. 1424).

Protection of insignia of veterans' organizations (Compiled General Laws (Skillman) 1927, pars. 7300–7301).

Property tax exemption to disabled veterans (Constitution, art. IX).

Tax exemption for property of American Legion and other veterans' organizations (Compiled General Laws (Skillman), 1927, pars. 898–899).

Disabled veterans exempted from payment of poll tax (compiled General Laws (Skillman), 1927, par. 910).

Veterans exempted from license to peddle (Compiled General Laws (Skillman), 1927, par. 1268; Cumulative Supplement, 1934, par. 1279 (60), 1279 (89).

Veterans of World War and Spanish War exempted from business or occupational tax to amount of $50 (Acts 1935, ch. 17476).

GEORGIA

Service officer provided to assist veterans and their dependents in claims for benefits against the Federal or other State Government (Code, 1933, pars. 78–101, 78–113).

Fee for recording of discharges limited to 25 cents (Code, 1933, pars. 24–2726).

Uniform Guardianship Act with modifications for protection of mentally disabled veterans (Code, 1933, pars. 49–801, 49–816).

Commitment of incompetent veteran to Federal hospital (Code, 1933, pars. 49–813).

Credit for war service extended in connection with National Guard service (Code, 1933, pars. 86–515, 86–1407).

Veterans exempt from payment of peddler's license (Code, 1933, pars. 84–2006, 84–2008, 84–2011; Acts 1935, no. 127, pp. 163–166).

Veterans may conduct any business not prohibited by law without payment of license tax (Code, 1933, pars. 84–2011; Acts 1935, no. 127, pp. 163–166).

IDAHO

Free notarial service in connection with claims for benefits from United States Government (Code, 1932, pars. 63–301).

Public officials may not charge veteran or dependents, including legal representatives, fees for administering oaths (Code, 1932, pars. 30–2713).

Public officials required to furnish free copies of records in determining eligibility of wards to Veterans' Administration benefits (Code, 1932, pars. 15–1914).

Discharges recorded and indexed without cost (Code, 1932, pars. 63–301).

County allowance for burial of indigent veterans, their wives, or widows, with relatives or friends permited to conduct the service (Code, General Laws, 1932, pars. 30–2911).

School districts permitted to provide for vocational rehabilitation of veterans (Code of General Laws, 1932, pars. 32–1901).

Uniform Guardianship Act for protection of incompetent veterans (Code of General Laws, 1932, pars. 15–1901, 15–1921).

Notice to United States Government agency of certain proceedings under the law on guardian and ward (Code, General Laws, 1932, pars. 15–1801, 15–1838).

Admission of veterans to the soldiers' home (Code General Laws, 1932, pars. 64–701, 64–705).

Provision for commitment of incompetent veteran to Federal institution (Code General Laws, 1932, par. 15–1915).

Preference to veterans in the settlement of certain lands (Code General Laws, 1932, pars. 41–1713, 41–1714).

Financial relief to veterans and their dependents (Code General Laws, 1932, pars. 63–201, 63–207, as amended by Laws, 1935, ch. 130).

Right of ex-service men to incorporate (Code General Laws, 1932, pars. 29–1101, 29–1107).

Protection of insignia of veterans' organizations (Code General Laws, 1932, par. 17–3909).

Provision for G. A. R. headquarters in statehouse or other public building (Code General Laws, 1932, pars. 63–401, 63–403).

Privilege of veterans' associations to parade (Code General Laws, 1932, par. 45–802).

Property-tax exemptions to certain veterans and buildings and memorials of World War veterans' organizations (Laws, 1935, ch. 97).

Veterans exempted from payment of road poll tax (Code General Laws, 1932, par. 39–501).

Certain veterans exempted from payment game-license fee (Laws, 1935, ch. 96).

Since publication of these laws the Idaho Legislature passed H. B. No. 278, twenty-fourth session, house of representatives, giving preference to disabled war veterans in employment in all State, county, and municipal work excepting technical and professional.

ILLINOIS

Provision for State service officers, duties of which are not specifically outlined in statute, but assumption is that they assist on veterans' claims (Laws, 1933, p. 107; Laws, 1935, p. 131).

Public officials required to furnish free copies of public records for use in connection with claims of veterans before Veterans' Administration (Laws, 1935, p. 1411).

Honorable discharges recorded without charge (Laws, 1934, 3d Ex., p. 215).

State bonus to certain veterans (Smith-Hurd Rev. Stat., 1933, ch. 126½, pars. 1–15n).

County allowance for burial of indigent veterans, their mothers, fathers, wives, widows, or minor children. Burial may not be in potter's field. Relatives permitted to conduct rites (Smith-Hurd Rev. Stats., 1933, ch. 34, pars. 131–133; Laws, 1935, p. 252–253).

Counties permitted to acquire burial grounds for indigent veterans, their mothers, wives or widows (Smith-Hurd Rev. Stats. 1933, ch. 34, pars. 134–141).

Cemetery lot which is property of veterans' organization vests in municipality on dissolution of the organization. Municipality to enforce contracts for care of the lot (Smith-Hurd Rev. Stats. 1933, ch. 32, pars. 395–396).

Provision for State registration of soldier graves with veterans' organization, authorize to assist in collecting data and entitled to copies of cemetery plats (Laws 1935, pp. 244–247).

State to requisition Federal Government for headstone and provision made for setting up such headstone (Laws 1935, pp. 244–247).

Cemeteries may not prohibit erection of headstones prescribed by Federal or State Governments (Smith-Hurd Rev. Stats. 1933, ch. 21, par. 40).

Counties permitted to provide headstones for soldiers graves (Smith-Hurd Rev. Stats. 1933, ch. 34, pars. 133, 134, 141; Laws 1935, p. 252).

Certain educational privileges for children of veterans (Laws 1935, pp. 253–254, superseding former provisions).

Normal School and University of Illinois, scholarship available to World War veterans (Smith-Hurd Rev. Stat. 1933, ch. 122, pars. 192, 200).

Home provided for rehabilitation of World War veterans (Smith-Hurd Rev. Stats. 1933, ch. 122, pars. 155–163).

Preference to veterans in State and municipal civil service (Smith-Hurd Rev. Stats. 1933, ch. 24½, pars. 12, 49, 109).

Preferences to veterans in civil service of Cook County (Smith-Hurd Rev. Stats. 1933, ch. 34, par. 64 (19)).

Annuity of Civil War veterans on retirement from municipal service (Smith-Hurd Rev. Stats. 1933, ch. 24, par. 1100).

Preference to veterans in employment on public works of State and local units (Laws 1935, pp. 1411–1412).

Preference to veterans or their widows in appointments to administrative positions under Veterans' Relief Committee (Laws 1935, pp. 266–268).

Provision for protection of person and property of incompetent veteran (Laws 1935, p. 901).

Home provided for veterans and their wives (Smith-Hurd Rev. Stats. 1933, ch. 23, pars. 115–139).

Provision for commitment of incompetent veteran to Federal hospital (Smith-Hurd Rev. Stats. 1933, ch. 85, par. 11).

Mothers, wives, widows, and daughters of veterans admitted to Soldiers' Widows' Home (Smith-Hurd Rev. Stats. 1933, ch. 23, pars. 144–153).

Veterans' organizations may lease grounds from forest-preserve districts for certain purposes (Smith-Hurd Rev. Stats. 1933, ch. 57½, par. 6).

No fees allowed public administrators for administering personal estate of war veteran, which consists of compensation, insurance, and other United States moneys (Smith-Hurd Rev. Stats. 1933).

Pensions, etc., received from United States or Illinois on account of military service exempted from attachment for 1 year after receipt thereof (Smith-Hurd Rev. Stat. 1933, ch. 52, par. 13).

Medal provided for World War veterans (Smith-Hurd Rev. Stats. 1933, ch. 126½, pars. 16–20).

Quarters may be set aside in county memorial buildings for the use of veterans' organizations without charge (Smith-Hurd Rev. Stats. 1933, ch. 34, par. 145).

Nonpolitical Civil War organizations authorized to use memorial hall erected by Soldiers Home in Chicago without charge (Smith-Hurd Rev. Stats. 1933, ch. 34, par. 145).

County aid to veterans and families of deceased through veterans' organizations (Smith-Hurd Rev. Stats., 1933, ch. 23, pars. 154–154i, as amended, Laws 1935, pp. 266–268).

Relief of widows and children of deceased World War veterans through State department of public welfare (Smith-Hurd Rev. Stats., 1933, ch. 126½, par. 15N).

Protection of insignia of Veterans of Foreign Wars and American Legion (Smith-Hurd Rev. Stats., 1933, ch. 34, par. 145).

Memorial buildings in honor of soldiers and sailors of the county are exempt from tax as county property (Smith-Hurd Rev. Stats., 1933, ch. 34, par. 147).

INDIANA

Certain public officials required to administer oaths and seal of office without cost for veterans, their widows, or orphans (Annotated Stats. (Burns), 1933, pars. 59–1001).

Officials authorized to administer oaths limited to fees of 25 cents in cases of veterans, their widows, orphans, children, or legal representatives (Annot. Stats. (Burns), 1935, par. 10–5712).

Free public record certification in connection with eligibility of wards for benefits from United States (Annot. Stats. (Burns), 1933, pars. 3–314).

Free recording of discharge papers (Annot. Stats. (Burns), 1933, pars. 59–1004).

County allowance for burial of veterans, their wives, or widows (Annot. Stats. (Burns), 1933, pars. 59–1009).

Certain requirements of township trustee with regard to grave care and decoration (1933 Cum. Suppl. to Annot. Stats., par. 21–801).

Counties, townships, cities, and towns authorized to make appropriations for veterans' organizations for Memorial Day observance (Annot. Stats. (Burns), 1933, pars. 59–1010).

Cemetery authorities may not prohibit setting up of grave markers provided they conform to standard of those furnished by

Federal Government (Annot. Stats. (Burns), 1933, pars. 21-911, 21-912.

Certain education privileges to children of veterans of the World War (Laws, 1935, ch. 69, p. 173).

Special examinations for high-school diploma for veterans who have had Federal vocational training (Annot. Stats. (Burns), 1933, pars. 28-4926).

Authorization for organization of veterans' welfare associations with right to maintain homes, assembly halls, schools, etc., for care, protection, education, etc., of veterans, their widows, and orphans (Annot. Stats. (Burns), 1933, pars. 59-813).

Cooperation of soldiers' and sailors' section of State free employment service in vocational rehabilitation of crippled soldiers and sailors (Annot. Stats. (Burns), 1933, pars. 40-605 (b).

Preference to veterans in civil appointments (Annot. Stats. (Burns), 1933, pars. 49-301).

Preference to certain veterans and their dependents for appointments in the State Soldiers and Sailors Children's Home (Annot. Stats. (Burns), 1933, pars. 22-2303, 22-2305, 22-2312, 22-2313).

Duty of soldiers' and sailors' section of State free employment service to secure suitable employment of World War veterans (Annot. Stats. (Burns), 1933, pars. 40-605).

Uniform Act with modifications for protection of the person and funds of incompetent veterans (Annot. Stats. (Burns), 1933, and Cum. Suppl., 1935, pars. 8-501, pars. 8-520).

Provision for commitment of incompetent veteran to Federal hospital (Annot. Stats. (Burns), 1933, par. 22-1207).

All rights and privileges granted to Civil War veterans extended to veterans of other wars and their dependents (Annot. Stats. (Burns), 1933, and Cum. Supp. Dec. 1935, pars. 59-1007, 59-1008).

Veterans' organizations granted use of any State, county, and city World War memorial building (Annot. Stats. (Burns), 1933, pars. 59-205, 59-213, 59-301, 59-314, 59-316, 59-401, 59-414).

Accommodations for war veterans may be provided in any memorial building erected by county containing city of the second class (Annot. Stats. (Burns), 1933, par. 26-1716).

Protection of insignia of veterans' organizations (Annot. Stats. (Burns), 1933, par. 10-503).

Annual appropriations to Spanish War Veterans and Veterans of Foreign Wars for encampment expenses (Annot. Stats. (Burns), 1933, pars. 59-1011, 59-1012).

Local units authorized to make annual appropriations to veterans' organizations for Memorial Day observance (Annot. Stats. (Burns), 1933, par. 59-1010).

Disabled veterans exempted from payment of property tax (Annot. Stats. (Burns), 1933, pars. 64-205, 64-207).

Property of American Legion and other veterans' organizations exempted from tax (Annot. Stats. (Burns), 1933, pars. 64-201 (9), 64-204).

Stock and property of certain veterans' memorial associations exempt from payment of property tax (Annot. Stats. (Burns), 1933, pars. 59-809, 64-201 (17)).

Certain World War memorial buildings tax exempt (Annot. Stats. (Burns), 1933, pars. 59-220, 59-304, 59-321, 59-417, 59-421, 59-512).

Property tax exemption for National Home for Disabled Volunteer Soldiers (Annot. Stats. (Burns), 1933, par. 62-1005).

Certain veterans exempted from payment of license to peddle (Annot. Stats. (Burns), 1933, par. 62-1005).

Veterans exempted from payment of game license tax (Annot. Stats. (Burns), 1933, pars. 11-307, 11-309).

IOWA

Public officials required to furnish free copies of public records to veterans or dependents in claims before United States (Code, 1935, par. 5175).

Discharges recorded without charge (Code, 1935, par. 5173-5174).

State bonus and disability allowances to certain veterans (Acts, 1921, ch. 332; and Code, 1931, pars. 145-h1, 145-b5, 5932-b1, 6987).

County allowance for burial of indigent veterans, their wives, widows, or minor children. Burial may not be in potter's field (Code, 1935, pars. 5385, 5393, 9395).

Provision for care of soldier graves under certain circumstances (Code, 1935, pars. 5396-a1, 5396-a2).

Adjutant general required to preserve by counties permanent registry of soldier graves (Code, 1935, par. 467-f42).

Children of certain veterans granted assistance in education (Laws, 1935, ch. 126, pp. 204-205).

Free tuition to certain veterans who served in World War prior to age of 21 (Code, 1935, par. 4273).

Certain annual appropriations for World War veterans for certain schools (Laws, 1935, ch. 126, p. 204).

Preferences for veterans in appointment, employment, and promotion in public departments and on public works of State and local units (Code, 1935, pars. 1159-1165).

War service granted as credit for retirement in police or fire department (Code, 1935, par. 6315-b1).

Uniform guardianship act with modifications for protection of incompetent veterans and their funds (Code, 1935, pars. 12644-a1, 12644-c21).

Veterans or their wives or widows admitted to soldiers' home (Code, 1931, pars. 3366-3384, as amended, acts 1935, ch. 89, par. 9).

Admission of veterans' orphans to home (Code, 1931, pars. 3706-3720, as amended, acts 1933, ch. 87, par. 17, and 1935, ch. 32).

Provision for commitment of incompetent veteran to Federal hospital (Annot. Stat. (Burns), 1935, par. 22-1207).

Pension money or homestead bought with such funds exempted from execution (Code (Whitney), 1935, pars. 11761-762).

Memorial buildings erected by counties, cities, or towns available for accommodation of veterans (Code (Whitney), 1935, par. 500).

Veterans exempted from military service in State at their election (Code (Whitney), 1935, par. 467-f1).

Certain paroled veterans who have honorable discharges from World War service may be recommended for pardon (Code (Whitney), 1935, par. 3815).

Pensions to survivors of the northern border brigade, Spirit Lake relief expedition, and Mitchell's cavalry, and their widows (Code, 1931, pars. 480-482).

Relief for veterans, their widows or families, outside the county home (Code, 1931, par. 5325).

County aid to veterans, their wives, widows, and minor children (Code, 1931, pars. 5385-5392-b1, as amended by acts 1933, chs. 101, 121).

Supervision of memorial halls (Code (Whitney), 1935, par. 484, 492-495, 500).

Property-tax exemptions to veterans, their wives or widows, dependent children or mothers (Code (Whitney), 1935, pars. 6946-6949).

Exemption for property of veterans' associations and soldiers' homes (Code (Whitney), 1935, par. 6944 (6, 12)).

Tax exemption for soldiers' bonus bonds (Code (Whitney), 1935, par. 6944 (22)).

Veterans, except World War veterans, exempted from poll tax (Code (Whitney), par. 6946).

Veterans' pensions exempted from income tax (Code (Whitney), 1935, par. 6943-f8).

City council may exempt homestead of veteran of Civil and Mexican Wars from special tax assessments (Code (Whitney), 1935, par. 6020).

KANSAS

Notary service in connection with claims against United States Government limited to 15 cents (Rev. Stats., 1923, par. 28-132).

Public officials required to certify without charge records to be used in connection with a ward's eligibility for Government benefits (1933 Supplement to Rev. Stats., par. 73-514).

Public officials required to furnish as many free copies as necessary of certain records in connection with claims of veterans against United States Government (Laws, 1935, ch. 230).

Adjutant General required to furnish without charge certification of military records (Rev. Stats., 1923, par. 73-209).

State bonus to certain veterans (Rev. Stats., 1923, and Supplement, 1933, par. 73-101, par. 73-147, as amended, 1935, ch. 263).

County allowance for burial indigent Union veterans, their wives or widows, and for certain other veterans. Burial may not be in potter's field. Right of relatives to conduct funeral. Provision for removal of remains of certain soldiers from abandoned cemeteries or pauper burying ground (Rev. Stats., 1923, and Supplement (Corrick), 1933, par. 73-301, 73-303, 73-308).

Cities may make appropriations to G. A. R. for Memorial Day observance (Rev. Stats. 1923, par. 12-1612).

County allowance for headstones for soldiers' graves (Rev. Stats. 1923, par. 73-302).

Counties may provide metal grave markers for soldier graves (Rev. Stats. 1927, par. 73-730, par. 73-432; Laws 1935, ch. 266).

Preference to veterans in appointment and employment in public departments and public works of State and local units (Rev. Stats. 1923, par. 73-201, par. 73-204).

Uniform Guardianship Act for protection of person and funds of incompetent veteran (1933 Supp. (Corrick) to Rev. Stats., par. 73-501, par. 73-521).

Admissions of veterans, their wives or widows, children, or mothers to Soldiers' Home and Mother Bickerdyke Annex (Rev. Stats. 1923 and Supp. 1933, par. 76-1901, par. 76-1923.

Provision for commitment of incompetent veteran to Federal hospital (1933 Supp. (Corrick) to Rev. Stats., par. 73-515.

Special privileges to World War veterans and their dependents in county memorial hospitals (1933 Supp. (Corrick) to Rev. Stats., par. 19-1820a).

Preference to World War veterans for State aid in purchase of farm homes (Constitution, art. 15, par. 11).

All rights, privileges, and immunities granted veterans of wars previous are extended to World War veterans (Rev. Stats. 1923, par. 73-205).

Pensions money exempted from attachment under certain conditions (Rev. Stats. 1923, par. 73-205).

World War compensation exempted from attachment under certain conditions (Rev. Stats. 1923, par. 73-142).

Veterans' organizations permitted use of memorial parks in first-class cities (1933 Supp. (Corrick) to Rev. Stats., par. 13-1357).

Veterans granted exemption from National Guard duty (Rev. Stats. 1923, par. 48-102).

Veterans, their wives or widows, and minor children to be supplied with necessities in their homes (Rev. Stats. 1923, and Supp. 1933, par. 73-211, par. 73-212).

Protection of insignia of veterans' organizations (1933 Supp. to Rev. Stats., par. 21-1307.

Property-tax exemption for veterans' associations (Rev. Stats. 1923, par. 79-202).

Veterans given free peddler's license under certain conditions and permitted to operate under free license delivery or baggage truck (Rev. Stats. 1923, par. 73-207, 73-208).

KENTUCKY

Service officer provided to assist veterans and their dependents in claims with the United States Government (Acts 1934, ch. 28; 1936 Ex. ch. 1, art. IX, par. 3, p. 7).

Free notarial service for veterans and their dependents on papers to be used in connection with claims for Federal benefits (Carroll's Stats. 1930, par. 1746).

Public officials required to certify free copies of records to be used in determining ward's eligibility for benefits (Baldwin's Stats. Service, 1932 (supplementing Carroll's Statutes), par. 2043–14).

Public officials required to certify free of charge public records to be used in connection with claims of veterans or their dependents (Carroll's Stats. 1930, par. 2062a–21).

Discharge papers recorded without charge (Carroll's Stats. 1930, par. 1637a–1).

State aid of local funds for suitable burial places for certain soldiers (Carroll's Statutes, 1930, par. 2739f–1).

Educational privileges to children of veterans of World War (Laws, 1934, ch. 66, p. 348).

Certain scholarships to World War veterans (Acts, 1934, ch. 65, pp. 330–331).

Uniform guardianship act with modifications for protection of incompetent veteran (Baldwin's Kentucky Statutes, Service 1932, pars. 2043–1, 2043–20).

Provision for commitment of incompetent veteran to Federal hospital (Baldwin's 1932 supplement to Carroll's Statutes, pars. 2043–15).

Protection of insignia of veterans' organizations (Baldwin's 1932 supplement to Carroll's Statutes, par. 1376a).

Armory privileges for veterans' meeting places (Carroll's Statutes, 1930, pars. 2711a–128(8)).

American Legion posts exempted from license fees to hold boxing, wrestling, sparring matches, etc. (Acts, 1934, ch. 26, par. 6).

LOUISIANA

Service officer provided to assist veterans and their dependents in claims for Federal benefits (General Statutes (Dart) 1932, pars. 9216–9221, 9222–9231).

State service commissioner authorized to administer oaths in connection with claims for benefits (General Statutes (Dart) 1932, pars. 9219–9225).

Veterans' service in the State employment service (1935 Cumulative Supplement to General Statutes (Dart), par. 4286.4).

Uniform guardianship act with modifications for protection of incompetent veterans (General Statutes (Dart), 1932, and Cumulative Supplement, 1935, pars. 9232–9255).

Provisions for commitment of incompetent veteran to Federal hospital (General Statutes (Dart), 1932, par. 9246).

Inmates of soldiers' home entitled to special treatment at eye, ear, nose, and throat hospital in New Orleans (General Statutes (Dart), 1932, pars. 2496–2497).

All pensions exempted from liability for debt (1935 Cumulative Supplement to General Statutes (Dart), par. 4105).

Payment of certain claims to Spanish War veterans from moneys received from United States (General Statutes (Dart), 1932, pars. 9209–9215).

City of New Orleans authorized to lease or give by donation to the Disabled American Veterans any building or land for veterans' relief or club purposes if same no longer needed for governmental purposes (General Statutes (Dart), 1932, par. 6182).

MAINE

Public officials required to furnish free public records for use in connection with determination of a ward's eligibility for benefits (Revised Statutes, 1930, ch. 81, par. 14).

Fee for copies of records of discharge papers limited to 25 cents (Revised Statutes, 1930, ch. 93, par. 7; ch. 126, par. 3).

Fee for recording discharges limited to 25 cents (Revised Statutes, 1930, ch. 93, par. 7; ch. 126, par. 3).

State bonus for veterans (Revised Statutes, 1930, ch. 160, pars. 1–9, as amended 1933, ch. 225).

State allowance for burial of indigent veterans or their widows. Burial may not be in potter's field (Revised Statutes, 1930, ch. 5, par. 70; Laws, 1931, p. 221 (16)).

Provision for care of graves of Revolutionary soldiers (Revised Statutes, 1930, ch. 24, par. 3).

Cities and towns required to decorate veteran graves on Memorial Day (Rev. Stats. 1930, ch. 5 par. 79, 81).

Appropriation for markers for Revolutionary graves (Laws 1931, ch. 144 (Resolution)).

Uniform guardianship act for protection of person and funds of incompetent veterans (Rev. Stats. 1930, ch. 81).

Admission to State Military and Naval Children's Home (Acts 1933, ch. 1, pars. 470–471).

Provision for commitment of incompetent veteran to Federal hospital (Rev. Stats. 1930, ch. 81, par. 15).

Certain rights for soldier under Settlement Act (Acts 1919, ch. 189 (see Rev. Stats. 1930, p. 1813)).

State bonus payments not subject to claims of creditors (Rev. Stats. ch. 160, par. 6).

Pensions to veterans of Civil, Spanish War, and Philippine Insurrection, their widows, dependent children, parents, or sisters (Acts 1935, ch. 16).

Relief to veterans and their families in their own homes (Rev. Stats. ch. 33, par. 8).

Relief of wives, children, and parents of World War veterans (Acts 1933, ch. 1, pp. 61–62).

Incorporation rights of G. A. R. and American Legion posts (Rev. Stats. 1930, ch. 70, par. 1).

Protection of insignia of veterans' organizations (Rev. Stats. 1930, ch. 138, par. 10).

Right of veterans' associations to parade (Rev. Stats. 1930, ch. 18, par. 77).

Property of American Legion exempted from taxation (Rev. Stats. 1930, ch. 13, par. 6).

Property-tax exemption to certain veterans (Acts 1935, ch. 53).

Poll-tax exemption for certain veterans (Acts 1935, ch. 53).

Employees and soldiers regularly employed at National Soldiers' Home considered State residents in connection with game licenses (Acts 1935 (Appendix: Inland Fish and Game Laws, pp. 14, 22, pars. 19, 41)).

MARYLAND

Veterans' Commission provided to assist veterans and their dependents in claims against United States (1935 Cum. Suppl. (Flack) to Pub. Gen. Laws, art. 65, par. 60).

Public officers required to certify public records for use in determination of a ward's eligibility for benefits (1935 Cum. Suppl. (Flack) to Pub. Gen. Laws, art. 65, par. 56N).

Certain public officials required to furnish free copies of public records for use in connection with claims for Federal benefits (1935 Cum. Suppl. (Flack) to Pub. Gen. Laws, art. 17, par. 1A).

State registrar required to furnish free copies of birth and death records for use in claims for Federal benefits (1935 Cum. Suppl. (Flack) to Pub. Gen. Laws, art. 43, par. 27).

State bonus to certain veterans (Const. amendment, art. III, par. 34, adopted November 1924).

State provision for burial of indigent veterans (1935 Cum. Suppl. to Pub. Gen. Laws, art. 65, par. 57).

Provision for permanent registry of veteran graves (1935 Cum. Suppl. to Pub. Gen. Laws, art. 65, par. 60).

Certain provisions for educational assistance to children of certain veterans (Laws 1935, ch. 481, p. 1022, superseding Laws 1929, ch. 430 (Bagby's Annot. Code 1929, Supp. Art. 65, par. 57)).

Preference rating to veterans under merit system of State service (1935 Cum. Supp. (Flack) to Public Gen. Laws, art. 64A, par. 9).

Uniform guardianship act for protection of persons and funds of incompetent veterans (1935 Cum. Supp. to Annot. Code of Public Gen. Laws, art. 65, par. 56A–56U).

Provision for commitment of incompetent veteran to Federal hospital (1935 Cum. Supp. to Annot. Code of Public Gen. Laws, art. 59, par. 21A, art. 65, par. 56O).

Medals to certain Spanish and World War veterans (Annot. Code of Public Gen. Laws (Bagby) 1924, art. 5, par. 36).

Relief to veterans, their widows, and children (1935 Cum. Supp. to Annot. Code Public Gen. Laws, art. 65, pars. 57–60).

Protection of insignia of veterans' organizations (1935 Cum. Supp. to Annot. Code, Public Gen. Laws, art. 27, pars. 174A–174H).

Property-tax exemption for Veterans of Foreign Wars, American Legion, and Disabled American Veterans (1935 Cum. Supp. (Flack) to Public Gen. Laws, art. 81, par. 7 (27)).

Tax exemption of real property to survivors of Civil War for establishment of monuments, etc. (1935 Cum. Supp. (Flack) to Public Gen. Laws, art. 81, par. 7 (7)).

MASSACHUSETTS

Commissioner of State aid provided to assist veterans and dependents in claims for benefits (Gen. Laws (Tercentenary Ed.), ch. 115, par. 2).

Adjutant general authorized to procure from United States records of Massachusetts troops in War of 1812, etc. (Acts 1934, ch. 153).

Fee for recording discharges limited to 25 cents (Gen. Laws (Tercentenary Ed.), ch. 115, par. 24).

State bonus for certain veterans (Acts 1919, ch. 283, as amended).

State allowance for burial of indigent veterans, their wives, widows, minor children, and dependent fathers or mothers. Burial may not be in potter's field. Right of relatives to conduct funeral (Acts 1934, ch. 336).

Bodies of deceased veterans may not be turned over to medical schools for dissection (Gen. Laws (Tercentenary Ed.), ch. 113, par. 2).

Soldier graves are to be cared for by the town unless other provision is made (Gen. Laws (Tercentenary Ed.), ch. 115, par. 22).

Cities and towns may appropriate money for erecting headstones for soldier graves (Acts 1933, ch. 245, par. 2).

Certain provision for reeducating World War veterans and rehabilitating them in industry (Gen. Laws (Tercentenary Ed.), ch. 74, par. 41).

War service credited as practical experience in qualifying as plumbing inspector (Gen. Laws (Tercentenary Ed.), ch. 142, par. 11).

Electricians granted certain privileges in renewing license without examination, after discharge from United States military or naval service (Gen. Laws (Tercentenary Ed.), ch. 141, par. 3).

Preference to veterans under civil service, in State and certain local units (Gen. Laws (Tercentenary Ed.), ch. 31, par. 3 (f), pars. 21–28, as amended, Acts 1933, ch. 137).

Preference to veterans in labor service of towns in which civil service does not apply (Gen. Laws (Tercentenary Ed.), ch. 41, par. 112).

Preference to veterans on public works of State and local units (Acts 1935, ch. 461).

Labor preferences to veterans in construction of rural highways with Federal aid (General Laws (Tercentenary Ed.), ch. 81, par. 30).

Preference to veterans in employment of temporary laborers in the classified labor service, State or local (Acts 1934, ch. 243).

Retirement rights of veterans in service, State and local (General Laws (Tercentenary Ed.), ch. 32, par. 1, 20, 49–60a, as amended, Acts 1932, ch. 114, 1934, ch. 285).

Leave of absence to veterans in public service of State and local units on Memorial Day (General Laws (Tercentenary Ed.), ch. 149, par. 44).

Certain protection for person and funds of incompetent veteran (General Laws (Tercentenary Ed.), ch. 206, par. 7).

Provision for State institution to be known as Soldiers' Home (Acts 1931, ch. 452).

Provision for commitment of incompetent veteran to Federal hospital (General Laws (Tercentenary Ed.), ch. 123, par. 10, 34A and 77, as amended by Acts 1935, ch. 314, par. 5).

Hospital care for needy Civil War veterans, their wives, or widows (General Laws (Tercentenary Ed.), ch. 115, par. 25).

Provision for compilation of State laws relating to veterans and distribution of same to veterans' organizations (Acts 1931, Res. ch. 16 (p. 760)).

Provision for distribution of free copies of the gold-star record of Massachusetts in World War to surviving parents, widows, or heirs and to veterans' organizations (Acts 1930, Res. ch. 8 (pp. 57–58)).

State aid, military aid, and soldiers' relief to veterans and their dependents (General Laws (Tercentenary Ed.), ch. 115, par. 1–18, as amended by Acts 1932, chs. 63, 106, 113, 270; 1933, chs. 323, 363).

Towns may appropriate money for aid to veterans and their families (General Laws (Tercentenary Ed.), ch. 40, par. 5 (11)).

Certain veterans' organizations exempted from registration of charitable corporations (Acts 1935, ch. 246).

Protection of insignia of veterans' organizations (Acts 1933, ch. 245, par. 4).

Armory privileges to veterans' organizations (Acts 1933, ch. 166).

Exploitation of uniform of veterans' organizations penalized (Acts 1933, ch. 276).

Rooms in statehouse for veterans' organizations (Acts 1933, ch. 199).

Appropriation for G. A. R. expenses (Acts 1935, Res. no. 9).

Towns may appropriate money for G. A. R. quarters (General Laws (Tercentenary Ed.), ch. 40, par. 5 (11)).

Cities may provide quarters for G. A. R. posts (Acts 1935, ch. 305).

Cities and towns may provide quarters for Spanish War veterans (General Laws (Tercentenary Ed.), ch. 40, par. 9A).

Cities and towns may provide headquarters for local posts of American Legion, Veterans of Foreign Wars, Disabled American Veterans of the World War, and Jewish War Veterans of the United States (Acts 1935, ch. 305).

Drill, parade, and flag privileges (General Laws (Tercentenary Ed.), ch. 136, par. 10; Acts 1934, ch. 120).

Rights to use of blank cartridges (General Laws (Tercentenary Ed.), ch. 148, par. 39).

Provision for State publication of proceedings of veterans' organizations (Acts 1933, ch. 245, par. 1).

Exemption from publication of annual reports for certain veterans' organizations (Acts 1935, ch. 246).

Property-tax exemption to certain veterans, their wives or widows (Gen. Laws (Tercentenary Edition), ch. 59, par. 5 (22023), as amended; Acts 1932, ch. 115, par. 5).

Property of veterans' organizations exempted from taxation (Gen. Laws (Tercentenary Edition), ch. 59, par. 5 (5)).

Poll-tax exemption for certain veterans (Acts 1932, ch. 115, par. 4).

Certain veterans exempted from peddler's license fee (Gen. Laws (Tercentenary Edition), ch. 101, par. 24).

Veterans exempted from fee for life-insurance broker (Acts 1934, ch. 137, par. 3).

Veterans' organizations exempted from club license under certain conditions (Acts 1933, ch. 284, as amended, 1934, ch. 328, par. 16).

Veterans' organizations exempted from license to sell certain tickets (Gen. Laws (Tercentenary Edition), ch. 140, par. 185G).

MICHIGAN

Limitation on notarial fees for papers to be used in claims for benefits by veterans or their dependents (Compiled Laws 1929, par. 873–4).

State commissions of health required to furnish free copy of vital record for use in connection with claims for Federal benefits (Mason's 1933 Supp. to Compiled Laws, par. 6588).

Certain fee limitations for certification of guardianship, administration, death, etc., in connection with veteran claims (Compiled Laws 1929, par. 874).

Transcripts of certain official records to be furnished for use in veterans' claims without charge (Compiled Laws 1929, par. 899).

Discharge papers recorded and indexed without charge (Compiled Laws 1929, par. 896–898).

State bonus for World War veterans (Compiled Laws 1929 and Mason's Supp. 1933, par. 864–872–6).

Payment of Civil War bounties (Compiled Laws 1929, par. 830–844).

County allowance for burial of certain veterans, wives and widows of veterans (Compiled Laws 1929, par. 927–928).

Provision for burial of Michigan members of north Russia forces of A. E. F. in Russia or for removal to United States for burial by Federal Government (Compiled Laws 1929, par. 923–926).

Privilege of removal of bodies to soldiers' burial grounds (Compiled Laws 1929, par. 932–935).

Power of certain veterans' organizations to establish, as corporations, cemeteries (Compiled Laws 1929, par. 10484, 10499, 10511, 10519; Mason's Supp., par. 894–897).

Power of State military board to purchase veteran burial plots (Compiled Laws 1929, par. 922).

County shall apply to United States for suitable headstone and have same set in place (Compiled Laws 1929, par. 929–930).

Municipalities may furnish metal markers for memorial purposes (Compiled Laws 1929, par. 936–937).

Certain educational aid to children of certain veterans (Laws 1935, no. 245, p. 416).

Certain credit to World War veterans on application to take bar examination (Compiled Laws 1929, par. 904).

Preference to veterans in employment in public departments or on public works of State and local units, with right to hearing on removal (Compiled Laws 1929 and Mason's 1933 Suppl., pars. 900–903).

Preference to veterans in appointments to State police force (Mason's 1933 Suppl. to Compiled Laws, par. 556).

Preference to veterans in county civil service (Compiled Laws 1929, par. 1545).

Uniform Guardianship Act with modification for protection of incompetent veterans (Compiled Laws 1929, with Mason's Supp. 1933, 1935, pars. 810–829).

Veterans admitted to Soldiers' Home (Compiled Laws 1929, pars. 782–792, as amended by acts 1934, ex. no. 17).

Admission to home for widows and wives of veterans (Compiled Laws 1929 and Mason's Supp. 1933, pars. 797–799).

Provision for entrance into home of ex-nurses and dependents of veterans (Compiled Laws 1929, pars 793–796).

Aid to American Legion children's billet at Otter Lake (Compiled Laws 1929, par. 888).

Provision for commitment of incompetent veteran to Federal hospital (Compiled Laws 1929, par. 823).

If adjudged insane, inmate of Soldiers' Home may be admitted to State hospital for insane (Compiled Laws 1929, par. 6897).

Certain wartime emergency funds used for hospital and medical care, etc., of World War veterans (Compiled Laws, pars. 876–887).

Certain benefits enjoyed by Michigan regiments in Civil War extended to other veterans (Compiled Laws 1929, pars. 862–863).

State bonus exempted from garnishment, etc. (Compiled Laws 1929, par. 865).

Medals for veterans of Spanish War and Philippine Insurrection (Compiled Laws 1929, pars. 915–919).

State appropriations for securing trophies of war for distribution to veterans' organizations (Compiled Laws 1929, par. 955).

Common carriers may provide free transportation to inmates of soldiers' homes (Compiled Laws 1929, par. 11021 (a)).

County relief to veterans, their wives, widows, children, and mothers (Compiled Laws 1929 and Mason's Supp. 1933, pars. 854–861).

Aid to Spanish War veterans (Compiled Laws 1929, pars. 845–853).

Incorporation rights for certain veterans' organizations and auxiliaries (Compiled Laws 1929, pars. 10478–10520; Mason's 1933 Supp. 894–1, 894–8).

Protection of insignia of veterans' organizations (Compiled Laws 1929, pars. 8977–8984).

Armory privileges to veterans' organizations (Compiled Laws 1929, par. 700).

Quarters at State capitol for certain veterans' organizations (Compiled Laws 1929, pars. 889–894).

Municipality may lease quarters to G. A. R. at nominal rent (Compiled Laws 1929, par. 895).

Appropriations to Spanish War Veterans, Veterans of Foreign Wars, Disabled American Veterans, American Legion, and Purple Heart Association for conventions, etc. (Acts 1935, no. 257, p. 455).

Property-tax exemptions to certain veterans (Mason's 1933 Supp. to Compiled Laws, par. 3395 (11)).

Exemption for memorial homes of World War veterans (Mason's 1933 Supp. to Compiled Laws, par. 3395 (4)).

Personal-property exemption of certain veterans' organizations (Public Acts 1934, ex. no. 10).

Veterans exempted from fee for peddler's license (Compiled Laws 1929, pars. 905–907).

MINNESOTA

Fees for recording discharges limited to 25 cents (Mason's Stats. 1927, pars. 885–887).

Bonus to World War veterans (1936 Supp. to Mason's Stats., par. 4397–11, par. 4397–20).

Bonus to veterans of Spanish War, Philippine Insurrection, and China Relief Expedition (Laws 1931, ch. 405).

State allowance for burial of indigent veterans. Burial may not be in potter's field. Right of relatives or others to conduct funeral. Flag allowance for each veteran (1934 Supp. to Mason's Stats., par. 4370).

Power of county to establish a "soldiers' rest" and no charge shall be made for space therein (Mason's Stats. 1927, par. 763; 1934 Supp., par. 764).

Burial plot provided near State hospital for insane for indigent veterans dying in such hospital or vicinity and their wives or widows. Appropriation for care of such lot may be made to G. A. R. post (Mason's Stats. 1927, pars. 4375–4377).

County empowered to expend money for Memorial Day observance with apropriations to veterans' organizations for such purpose (Mason's Stats. 1927, pars. 762–762–1).

Cities, towns, and villages required to decorate soldier graves not otherwise decorated on Memorial Day (Mason's Stats. 1927, par. 1933–1, 1933–2).

Cities authorized to appropriate money for Memorial Day observance (Mason's Stats. 1927, par. 1318).

Provision for registration by Adjutant General of soldier graves (1934 Supp. to Mason's Stats., par. 7559).

Provision for setting up of headstone from Federal Government or other source and State allowance for headstone if none other available (1934 Supp. to Mason's Stats., par. 4371).

Adjutant General required to furnish grave markers for memorial purposes, under certain circumstances (1934 Supp. to Mason's Stats., pars. 4373, 4374).

Certain educational privileges for children of World War veterans (Laws 1935, ch. 350, p. 636).

Admission of certain World War veterans to practice law without examination (1936 Supp. to Mason's Stats., par. 5686–2).

Preference to veterans in public departments and public works of State and local units (Mason's Stats. 1927 and Supp. 1936, pars. 4368–4369–3).

Preference to veterans in appointments as trustees, officers, and employees of the soldiers' home (Mason's Stats. 1927, par. 4349).

War service credited in period of service for retirement from firemen's relief association (1936 Supp. to Mason's Stats., par. 3750–23).

Provision for employment placement and advisement service for disabled veteran in welfare activities (1936 Supp. to Mason's Stats., par. 4604).

Provision for protection of funds of incompetent veterans (1936 Supp. to Mason's Stats., par. 8992–138).

Admission of veterans, their wives, widows, or mothers to the soldiers' home (Mason's Stats. 1927 and Supp. 1936, pars. 4344–4366).

Provision for emergency hospitalization from the State soldiers' welfare fund (1936 Supp. to Mason's Stats., pars. 4601–4604).

Provision for State veterans' recreation and recuperation camp (Mason's Stats. 1927 and Supp. 1936, pars. 4393–4397).

County aid to rest camps for disabled veterans (1936 Supp. to Mason's Stats., par. 4397–1–2).

"Certificate of military service" issued to Civil War veterans (Mason's Stats. 1927, pars. 4378–4380).

Provision for publication and distribution to veterans' description of Minnesota's part in the Spanish-American War, the Philippine Insurrection, and the World War (Mason's Stats. 1927, par. 2537).

Common carriers may provide free transportation to inmates of soldiers' home (1936 Supp. to Mason's Stats., par. 4807).

Provision for pensions to Indian war veterans (Mason's Stats. 1927, pars. 4387–4389).

Direct relief provided for disabled veterans and their families (1936 Supp. to Mason's Stats., par. 4397–3–9).

Authorization for soldiers' home to extend relief outside the home to soldiers' widows, deserted wives, children, or parents (Mason's Stats. 1927 and Supp. 1936, pars. 4354–4356, 4364–4365).

Emergency relief from State soldiers' welfare fund (1936 Supp. to Mason's Stats., pars. 4601–4604).

Village aid to ex-service men (1936 Supp. to Mason's Stats., par. 1192–1).

Provision for veterans to incorporate (Mason's Stats. 1927, pars. 7937–7940).

Protection of insignia of veterans' organizations (Mason's Stats. 1927, par. 10462).

Quarters provided in State capitol and other public buildings for certain veterans' organizations (Mason's Stats. 1927 and Supp. 1936, pars. 4381, 4384–2).

Veterans exempted from payment of peddler's license fee (1936 Supp. to Mason's Stats., par. 4367).

MISSISSIPPI

State service commission provided to assist veterans of all wars since 1898, their relatives or beneficiaries, in claims for benefits to which they may be entitled (Code of Pub. Stat. Laws, 1930, pars. 7328–32; Laws, 1934, ch. 167).

State service commissioner and his assistants authorized to perform notarial duties (Laws, 1934, ch. 167, par. 2).

American Legion post officers given notarial powers in connection with claims of veterans and may not charge for such services (1933 Supp. to the Code of 1930, par. 7354–5).

Public officials required to furnish copies of public records in connection with eligibility of wards to certain benefits (Code of Pub. Stat. Laws, 1930, par. 7348).

Chancery clerks required to furnish to veterans or their relatives or representatives copies of military records without cost (Laws, 1922, ch. 273).

Bureau of vital statistics required to furnish without charge to certain veterans, or their authorized representatives, copy of birth and death certifications (1933 Supp. to Code of 1930, par. 7354–4).

Discharges and other military documents of veterans of the Spanish-American and World War recorded without charge (Laws, 1922, ch. 273).

Uniform guardianship act for protection of person and funds of incompetent veterans (Code of Pub. Stat. Laws, 1930, pars. 7335–7354; Laws, 1935, Ex. S. B. 43).

Provision for commitment of incompetent veteran to Federal hospital (Code of Public Statute Laws 1930, par. 7349).

Farm and home aid to veterans (Laws 1935, Ex. S. B. No. 15 (contained in advance sheets of General Acts 1936, regular session)).

Protection of insignia of veterans' organizations (Code of Public Statute Laws 1930, par. 899).

Municipalities may make donations to American Legion or other patriotic organizations toward World War memorial (Code of Public Statute Laws 1930, par. 290 (k)).

MISSOURI

State service officer provided to assist veterans of all wars in claims for benefits against United States or any State (1934 Annot. Supp. Rev. Stats. pp. 629–630).

State bonus to certain veterans (Constitution, art. IV, pars. 44b 44c; Laws 1921–2d Ex., pp. 6–17, as amended 1935, pp. 362–363).

Preference to veterans in work on road projects (Rev. Stat. 1929, par. 8100).

Soldiers and sailors employment commission, although apparently not functioning at present time (Laws 1919, pp. 81–82).

Certain provisions for the protection of persons and funds of incompetent veterans (Rev. Stat. 1929, pars. 605–607).

Admission of veterans of Civil and Mexican Wars and their wives to Federal soldiers' home (Rev. Stat. 1929, pars. 13935–13940).

Provision for commitment of incompetent veteran to Federal hospital (Rev. Stat. 1929, par. 605).

Medals for service in World, Spanish-American, and Mexican border wars (Laws 1919, pp. 76–77).

Protection of the insignia of certain organizations (Rev. Stat. 1929, pars. 14338–14341).

Armory privileges to certain organizations for meeting places (Rev. Stat. 1929, par. 13781).

MONTANA

Public officials required to furnish certification of records in connection with claims of wards eligible for benefits (Laws 1929, ch. 61, par. 14).

Honorable discharges recorded free of charge (Rev. Codes (Choate) 1921, par. 5654).

State bonus under 1927 Supplement to Revised Codes (Choate), page 682, held unconstitutional (66 Mont. 76).

County allowance for burial of veteran and burial may not be in potter's field (Laws 1931, ch. 181).

County shall apply for suitable headstone to United States Government with county allowance for having same set up (Rev. Codes (Choate) 1921, par. 4539).

Certain educational aid to children of veterans (Laws 1935, ch. 156, p. 315).

Educational aid for veterans of World War (Rev. Codes (Choate) 1921, pars. 5655–5663).

Preference to veterans in public departments and on public works of State and local units (1927 Supp. Rev. Codes (Choate), par. 5653).

Preference to veterans on Federal-aid public works projects (Laws 1931, ch. 102).

Veterans exempted from age limits on appointment to municipal police force, with war service counted in qualifying for police retirement (Laws 1929, ch. 120).

Provision for assistance from veterans' welfare fund in getting jobs for veterans (Revised Codes (Choate), 1921, pars. 5655–5668).

Uniform Guardianship Act for protection of the person and funds of incompetent veterans (Laws, 1929, ch. 61).

Admission of veterans, their wives, or widows to soldiers' home (Revised Codes (Choate), 1921, and Supplement, 1927, pars. 1526–1546, as amended, Laws, 1931, chs. 60, 156, and 1935, ch. 12).

Provision for commitment of incompetent veteran to Federal hospital (Laws, 1929, ch. 61).

Land settlement provision for certain veterans (Revised Codes (Choate), 1921, pars. 5638–5652).

Service-connected disabled veterans exempted from jury duty (1927 Supplement to Revised Codes (Choate), par. 1401).

Funds provided for current use of United States war veterans (1927 Supplement to Revised Codes (Choate), 1373–1).

Veterans' organizations exempted from certain exhibition license fees (Laws, 1935, ch. 44).

Veterans' organizations exempted from payment of certain property tax (Laws, 1931, ch. 98).

Property-tax exemption for certain incompetent veterans and their minor dependents (Laws, 1931, ch. 98).

NEBRASKA

Public officials required to furnish public records in connection with the determining of a ward's eligibility for any benefits (Compiled Statutes, 1929, pars. 38–414).

Department of Public Welfare required to furnish free two copies of any vital record necessary in settlement of veterans' claims (Compiled Statutes, 1929, pars. 71–2416).

Public officials required to furnish free copies of public records in connection with veterans' claims against government (Compiled Statutes, 1929, pars. 84–712).

Discharge papers recorded and indexed without charge (Compiled Statutes, 1929, pars. 526–1012, 26–1013).

County allowance for burial of indigent veterans, and burial may not be in potter's field, with relatives permitted to conduct services (Compiled Statutes, 1929, pars. 80–107).

Provision for soldier burial grounds in Wyuka State Cemetery, with certain veterans' organizations empowered concerning control of such burial ground (Compiled Statutes, 1929, pars. 13–104, 13–105).

Bodies of veterans may not be turned over to State anatomical board for dissection (Compiled Statutes, 1929, pars. 71–2802).

County shall apply to United States for suitable grave marker and have same set in place (Compiled Statutes, 1929, 80–108).

County required to furnish certain grave markers for memorial purposes on proper application (Compiled Statutes, 1929, pars. 80–110–111).

Uniform Guardianship Act for protection of incompetent veterans and their dependents (Compiled Statutes, 1929, pars. 38–401–421).

Admission of veterans, their wives or widows, and mothers to soldiers and sailors' home (Compiled Statutes, 1919, and Cumulative Supplement, 1935, pars. 80–301–308).

Provision for commitment of incompetent veterans to a Federal hospital (Compiled Statutes, 1929, pars. 38–415).

Pension money and property purchased and improved therewith by disabled veteran exempted from attachment (Compiled Statutes, 1929, pars. 20–1560).

Aid to World War veterans, their wives or widows, and children, through veterans' organizations (Compiled Stat., par. 80–401–406).

Provision for corporations of veterans (1935 Cum. Supp. to Compiled Stat., par. 24–607).

Protection of insignia of certain veterans' organizations (Compiled Stat., 1929, par. 28–1221, 1222).

Provision for publication of proceedings of G. A. R., United Spanish War Veterans, and the Veterans of Foreign Wars (Compiled Stat., 1929, par. 80–112, 113).

Copies of veterans' census furnished to G. A. R. and United Spanish War Veterans (Compiled Stat., 1929, pars. 80–102).

Certain veterans exempted from payment of poll tax (Compiled Stats., 1929, par. 16–709, 17–879, 77–802, 80).

NEVADA

State board directed to investigate and collect claims against United States of Spanish-American War Veterans (Compiled Laws (Hillyer), 1929, pars. 6948–6950).

Public officials not permitted to make charge for administering oaths in connection with pension claims (Compiled Laws (Hillyer), 1929, par. 6873).

Public officials required to furnish free copies of records in connection with determination of eligibility of wards of United States Veterans' Bureau for benefits (Compiled Laws (Hillyer), 1929, par. 9561).

Honorable discharges recorded without fee (Compiled Laws (Hillyer), 1929, par. 2132–33).

County allowance to G. A. R. or United Spanish War Veterans for burial of indigent veterans (Compiled Laws (Hillyer), 1929, par. 6876).

Preference to veterans in public departments and on public works in State and local units (Compiled Laws (Hillyer), 1929, par. 6173).

Uniform guardianship act for protection of incompetent veterans and their funds (Compiled Laws (Hillyer), 1929, pars. 9548–9568).

Provision for commitment of incompetent veteran to Federal hospital (Compiled Laws (Hillyer), 1929, par. 9562).

Separate quarters provided for ex-service men in State hospital for mental diseases (Compiled Laws (Hillyer), 1929, par. 3526).

Certain benefits to veterans under reclamation and settlement act (Compiled Laws (Hillyer), 1929, pars. 5560–5573).

Common carriers permitted to give free transportation to State officers of recognized ex-service organizations and the ladies' auxiliaries thereof, not to exceed three from each such organization (1934 Supp. to Compiled Laws (Hillyer), par. 6121).

Provision for American Legion incorporation (Laws, 1928, ch. 23).

Protection of insignia of certain organization (Compiled Laws (Hillyer), 1929, pars. 10404, 10405; Supp., 1934, pars. 3299–3299–07).

Quarters provided in State building for use veterans' organizations (Laws, 1927, ch. 108).

Certain property tax exemptions to veterans and veterans' organizations (Compiled Laws (Hillyer), 1929, par. 6629; Supp., 1934, par. 6418).

Veterans' organizations exempted from fee for license to conduct boxing bouts (Compiled Laws (Hillyer), 1929, pars. 890–895).

Veterans' associations exempted from fee for tent shows and circuses (1934 Supp. to Compiled Laws (Hillyer), 1929, par. 2041).

Exemption for veterans of payment of peddler's license fee and license for auctioneer (Compiled Laws (Hillyer), 1929, pars. 6718–6719).

NEW HAMPSHIRE

State service officer provided to assist veterans and their dependents on claims for benefits under State or Federal laws or regulations (Laws 1935, ch. 103).

State bonus for certain veterans (Laws 1919, chs. 140 and 1919, Ex. ch. 1; 1935, ch. 167).

State allowance for burial of indigent veterans (Laws 1929, ch. 28).

Cities permitted to appropriate money for Memorial Day observance (Public Laws 1926, ch. 42, par. 6, p. 182).

Towns may appropriate money to certain veterans' organizations for grave decoration (Laws 1929, ch. 172).

Preference to veterans in public departments and on public works in State and local units (Laws 1935, ch. 144).

Preference to veterans in appointment of State liquor-store agents, etc. (Laws 1934, ch. 3, par. 39).

Uniform guardianship act with modification for protection of incompetent veterans (Laws 1929, ch. 171).

Admission of veterans to soldiers' home (Public Laws 1926, ch. 12, as amended by Laws 1931, ch. 138; and Public Laws, ch. 106, par. 19).

Pension and other money from Government exempted from trustee process (Public Laws 1926, par. 1408).

Aid provided veterans, their wives or widows, and children in their own homes (Public Laws 1926, ch. 106, pars. 9–18, as amended by Laws 1931, ch. 94, and 1933, ch. 78).

Protection of veterans' insignia (Laws 1929, chs. 36 and 110).

Armory privileges to organizations of certain wars (Laws 1931, ch. 24).

State House quarters for American Legion (Laws 1921, ch. 175).

Appropriations to American Legion (Laws 1933, chs. 178–179).

Appropriations to G. A. R. (Laws 1935, chs. 157–158).

Towns may appropriate money for meeting place of G. A. R. (Public Laws 1926, p. 181).

Appropriations to New Hampshire Veterans' Association (Laws 1935, ch. 181).

Towns permitted to appropriate for Memorial Day decorations money to be expended through certain veterans' organizations (Public Laws 1926, p. 181).

State assumes expense for certain G. A. R. printing (Laws 1929, ch. 36).

Property-tax exemption to veterans, their wives, or widows (Public Laws 1926, p. 244).

Exemption of property of certain veterans' organizations from tax (Laws 1930, ex. ch. 4).

Poll-tax exemption for veterans (Public Laws 1926, p. 241).

Certain veterans and their widows exempted from license fee to peddle (Laws 1931, ch. 102).

Certain ex-service men exempted from payment of game license fee (Laws 1929, ch. 157).

NEW JERSEY

Adjutant general charged with duty of assisting veterans and their dependents in claims against the Federal Government (Laws 1931, ch. 6).

Public officials may not charge for certain papers to be used in connection with claims of veterans (Laws 1931, ch. 372, pp. 908–909).

Public officials required to certify records to be used in connection with the determination of eligibility of wards of the Veterans' Bureau for benefits (1925–30 Supp. to Compiled Stats., pars. 191–124).

Fee for issue of copy of discharge limited to 50 cents (Laws 1931, ch. 60, par. 2).

Honorable discharges recorded without charge (Laws 1931, ch. 60, par. 1).

State bonus to certain veterans of Spanish American and World Wars (Rev. Stats. (report of Commission Revision and Consolidation of Public Statutes), 1934, par. 38, 15 (1–14)).

County allowance for burial of indigent veterans and burial may not be in potter's field (Compiled Stats. 1910, pp. 4875–4876; Cum. Supp. 1911–24 and Supp. 1925–30, par. 191–69, par. 191–73).

Municipalities may appropriate money for maintenance of cemetery for certain veterans and contract with societies for care of such grounds (1925–30 Supp. to the Compiled Stats., par. 136–3770).

Duty of county to decorate graves of veterans on Memorial Day (Compiled Stats. 1910, p. 4876).

Provision permitting municipalities and counties to appropriate money to certain organizations for Memorial Day observance (Laws 1933, chs. 147 and 342).

County allowance for headstone for soldier graves (1925–30 Supp. to Compiled Stats., par. 191–70).

Federal vocational certificates recognized as preliminary work in qualifying for the study of accounting, architecture, law, and nursing in certain cases (1911–24 Cum. Supp. to Compiled Stats., par. 191–108).

Disabled World War veterans admitted to bar entitled to certain books without charge (Rev. Stats. (report of the Commission on Revision and Consolidation of Public Statutes) 1934, par. 38:19–1).

Uniform Guardianship Act with modification for protection of incompetent veterans (1925–30 Supp. to Compiled Stats., pars. 191–111, 191–131).

Certain provisions regarding appointment and accounting of guardian for ex-service man who is incompetent (Compiled Stats. 1709–1910, p. 2784, par. 3a; Cum. Supp. 1911–24, par. 94–3b; Supp. 1925–30, par. 86–37–86–44, 94–3b (1)). (These provisions are probably superseded in whole or in part by the uniform act previously cited.)

Provides for appointment of county public guardian of incompetents and requires certain duties in protection of such incompetents (Cum. Supp. 1911–24 and Compiled Stats., 1925–30, pars. 94–19a, 94–191; Laws 1935, ch. 135).

Admission of veterans, their wives or widows to soldiers' home (Rev. Stats. (Report of the Commission on Revision and Consolidation of Public Statutes) 1934, par. 30:6 (1–18)).

Provision for commitment of incompetent veteran to Federal institution (1925–30 Supp. to the Compiled Stats., par. 191–125).

Provision for compilation of State laws affecting veterans (Laws 1931, ch. 71).

Wages of World War veterans not subject to garnishment for debts contracted prior to war (Rev. Stats. 1934 (Report of the Commission on Revision and Consolidation of Public Statutes), par. 38:21–1).

Medals for men of Civil War, Mexican border war, Spanish War, and World War (Rev. Stats. 1934 (Report of the Commission on Revision and Consolidation of Public Statutes), par. 38:27–1).

Pensions from State to blind veterans (Rev. Stats. (Report of the Commission on Revision and Consolidation of Public Statutes), 1934, par. 38:18 (1–3)).

Relief to veterans outside the home (Rev. Stats. (Report of Commission on Revision and Consolidation of Public Statutes), 1934, par. 30:6 (6–7)).

Provision for protection of insignia of veterans' organizations (Laws 1933, ch. 236).

Protection of badge of Disabled American Veterans and the Women's Auxiliary thereof (Laws 1935, ch. 131).

Armory privileges to certain organizations (Rev. Stats. 1934 (report of Commission on Revision and Consolidation of Public Statutes), par. 38 (8–13), par. 38 (8–15)).

Rooms in county buildings for use of veterans' associations (1911–24 Com. Supp. to Compiled Stats. par. 47–702).

Municipalities may provide quarters in municipal buildings for veterans' organizations (1911–24 Comp. Supp. to Compiled Stats., pars. 136–1803).

Municipalities may lease with or without nominal expense property to veterans' organizations (Laws 1931, ch. 237).

Provision for annual appropriation to G. A. R. (1911–24 Com. Supp. to Compiled Stats., par. 129–327, par. 129–429).

Temporary loan of camp and garrison equipage, etc., to certain veterans' associations (Rev. Stats. 1934 (Report of the Commission on Revision and Consolidation of Public Statutes), par. 38 (10–1)).

Provision for State printing of proceedings of Spanish-American War veterans and Veterans of Foreign Wars (Laws 1931, chs. 79 and 86).

Property-tax exemptions to certain veterans and their widows. Exemption for property of certain veterans' organizations and exemption of property owned and used by a corporation to provide instruction in agricultural pursuits for crippled veterans (Rev. Stats. (report of the Commission on Revision and Consolidation of Public Statutes), 1934, par. 54 (4–3) (f) (m) (p)).

Veterans and their widows exempted from payment of poll tax (Acts 1931, ch. 372, p. 907).

Veterans exempted from payment of peddlers' license (Acts 1931, ch. 321; 1934, ch. 119).

Veterans entitled to free licenses for certain occupations (1911–24 Cum. Supp. to Compiled Stats. pars. 26–21).

NEW MEXICO

Soldiers' Relief Commission provided to disseminate information to veterans and their dependents regarding benefits and to assist in preparation and presentation of claims for such benefits from Federal Government (Laws 1935, ch. 18).

Certain officials designated to administer oaths in connection with claims for benefits by veterans (Laws 1935, ch. 18).

Certain public records furnished without cost in connection with claims of veterans before Federal Government (Stats. (Courtright) 1929, pars. 110–316).

County clerks required to furnish without charge copy of soldier's marriage for use with Veterans' Bureau claims (Stats. (Courtright) 1929, pars. 87–115, 87–117).

Discharge papers recorded free of charge (Stats. 1929, pars. 122–401).

County allowance for burial of indigent veterans with burial not permitted in potter's field. Right of friends, relatives, or G. A. R. to conduct funeral (Stats. (Courtright) 1929, pars. 33–5301, pars. 33–5303).

Certain aid given children of certain veterans in pursuit of education (Laws 1935, ch. 118, p. 292).

Provision for Disabled Soldiers' Relief Commission to maintain employment service for veterans (Laws 1935, ch. 18).

Provision for filing of certain guardianship reports (Stats. (Courtright) 1929, pars. 62–122).

War Mothers National Memorial Hospital Association—hospital for ex-service men, their dependents, and dependent descendants (Stats. (Courtright) 1929, pars. 149–101, 149–104).

County clerks required to provide safekeeping of insurance and adjusted-compensation certificates of veterans without charge (Stats. 1929, pars. 122–503–505).

Protection of insignia of veterans' associations (Laws 1933, ch. 167).

Certain rights of members of veterans' associations with respect to uniform, insignia, etc., of the National Guard or United States Army (Stats. (Courtright) 1929, pars. 93–178).

Veterans exempted from payment property tax (Stats. (Courtright) 1929, pars. 141–1401, 141–1409, as amended Laws 1933, ch. 44).

Veterans permitted to apply property tax exemption in partial satisfaction for motor-vehicle registration fees (Laws 1933, ch. 170).

NEW YORK

Public officials required to furnish certain public records without charge in use of determination of wards of Veterans' Bureau to certain benefits (Laws 1932, ch. 606, par. 1384N)

Fee for copy of record of honorable discharged limited to $1 (Laws 1935, ch. 270).

Honorable discharges of World War veterans recorded free of charge (Laws 1935, ch. 270).

State bonus to certain veterans (Cahill's Consolidated Laws 1930, ch. 67, pp. 2778–2780).

County allowance for burial of indigent veterans, their wives or widows and minor children, with burial not permitted in potter's fields. Relatives or friends allowed to conduct funeral. (Cahill's Consolidated Laws 1930, ch. 49½, par. 120).

Provision for removal of veteran bodies from potter's field or neglected and abandoned cemeteries to properly kept burial grounds (Laws 1932, ch. 634, par. 295).

Counties authorized to acquire and maintain burial grounds for soldiers (Cahill's Consolidated Laws 1930, ch. 49½, par. 120).

Soldiers' burial plots in Dutchess County (Cahill's Consolidated Laws 1930, ch. 11, par. 40a).

Towns authorized to purchase and maintain soldier burial plots in cemeteries (Laws 1932, ch. 634, par. 294).

Cities permitted appropriations for Memorial Day observance (Cahill's Consolidated Laws 1930, ch. 22, par. 12; Laws 1933, ch. 233).

Villages permitted to appropriate money for observance of Memorial Day (Cahill's Consolidated Laws 1933, ch. 65, par. 89 (32)).

Towns may make appropriations for Memorial Day to be expended through veterans' organizations (Laws 1935, ch. 741).

Provision for perpetual care soldier burial plots in Dutchess and Niagara Counties (Cahill's Consolidated Laws 1930, ch. 11, par. 40a).

Provision for report to adjutant general of name of soldier and location of his grave (Cahill's Consolidated Laws 1930, ch. 37, par. 256b).

County allowance for headstones for indigent veterans, their wives or widows, or the grave of any such person left for 5 years without headstone (Cahill's Consolidated Laws 1930, ch. 49½, par. 120).

State scholarships for certain World War veterans and nurses (Cahill's Consolidated Laws 1930, ch. 15, par. 78).

Board of regents may endorse Federal rehabilitation certificate as a license to practice any of the professions over which such board has supervision (Laws 1935, ch. 612).

Federal vocational training credited as experience or training on examination for position under civil service (Cahill's Consolidated Laws 1930, ch. 8, par. 14–a).

Credit for Federal rehabilitation course in architecture on application for license to practice (Laws 1934, ch. 633).

Preferences, rights, and privileges of veterans under civil service in State and local units (Const. art. V, par. 6; Cahill's Consol. Laws, 1930, ch. 8, pars. 9, 14a, 16b, 21–23, as amended, Laws 1934, ch. 366, 1935, ch. 639).

Extension of age limit for appointment of superintendent of armory to certain veterans (Laws 1932, ch. 272, par. 4).

Leave of absence granted veterans in public service of State and local units on Memorial Day (Cahill's Consol. Laws 1930, ch. 48, par. 63).

War service counted as leave of absence in computing service to qualify as an exempt volunteer fireman (Cahill's Consol. Laws 1930, ch. 26, par. 200b).

Provision for retirement of veterans employed in the division of public buildings (Cahill's Consol. Laws 1930, ch. 45, par. 3 (7)).

War service credited in computing service under Police Pension Act (Laws 1934, ch. 762).

Uniform Guardianship Act with modifications for protection of incompetent veterans (Civil Practice (Cahill) 1931, pars. 1384–a–1384–s, Laws 1932, ch. 606).

Admission of veterans, their wives or widows, mothers, and daughters to State Woman's Relief Corps Home (Cahill's Consol. Laws 1930, ch. 56, pars. 250–253, as amended by Laws 1931, ch. 201).

Provision for commitment of incompetent veteran. (Cahill's Consol. Laws 1930, ch. 36a, par. 78 (6); Laws 1932, ch. 436).

Provision for revision and compilation of laws of State relating to veterans (Laws 1935, ch. 894).

Pension or other money by United States or State for military or naval service exempt from execution (Civil Practice (Cahill), 1931, par. 667).

Certain medals for World War service (Cahill's Consol. Laws 1930, ch. 37, par. 247).

Credit in National Guard given for active service in the United States (Cahill's Consol. Laws 1930, ch. 37, uar. 102).

Retirement and pension of certain war veterans from military or naval service of State (Laws 1932, ch. 272, par. 1).

Bureau of War Records to accept for safekeeping discharged papers, etc. (Cahill's Consol. Laws 1930, ch. 37, par. 20 (7)).

Absent voting by inmates of soldiers' homes and United States Veterans' Bureau hospital (Laws 1933, ch. 389).

Absent registration for inmates of soldiers' homes, hospitals, etc. (Laws 1931, ch. 272, pp. 661–664 (par. 153–b)).

Pensions to blind veterans (Cahill's Consol. Laws 1930, ch. 37, par. ar (m–o), ch. 67, pp. 2789–2790).

Relief through veterans' organizations to veterans and their families in their own homes (Cahill's Consol. Laws 1930, ch. 419½, pars. 117–121, as amended by Laws 1935, ch. 785).

Relief for sick and disabled veterans (Cahill's Consol. Laws 1930, ch. 37, par. 24 (a–g), as amended by Laws 1933, ch. 655).

County aid to veteran or his family (Cahill's Consol. Laws 1930, ch. 11, par. 12 (37)).

Use of certain war-chest funds for relief of veterans (Laws 1935, ch. 584).

Corporate rights for certain veterans' associations (Cahill's Consol. Laws 1930, ch. 4, pars. 2–3, as amended, Laws 1934, ch. 322).

Protection of organization insignia (Laws 1935, ch. 787).

Veterans' organizations to receive copies of compilations of the State laws on veterans (Laws 1935, ch. 894).

Armory privileges to veterans' organizations (Laws 1935, ch. 789, par. 3).

Quarters at State capitol for V. F. W. (Laws 1932, ch. 284).

Municipal corporations may lease public buildings to veterans' associations without expense or at nominal cost (Laws 1935, ch. 788).

Towns may appropriate money for rental of rooms for meeting places of certain organizations (Laws 1935, ch. 741).

Appropriation for maintenance of G. A. R., United Spanish War Veterans, American Legion, V. F. W., and D. A. V. (Laws 1935, ch. 27).

Expenditure through veterans' organizations of city Memorial Day appropriations (Laws 1933, ch. 233).

Expenditure through veterans' organizations town Memorial Day funds (Laws 1935, ch. 741).

Parade privileges for veterans' organizations (Cahill's Consol. Laws 1930, ch. 22, par. 5).

Provision for State to print D. A. V. proceedings (Laws 1934, ch. 543).

Provision for State printing of reports of G. A. R., United Spanish War Veterans, American Legion, Veterans of Foreign Wars, and Jewish War Veterans of the United States (Laws 1935, ch. 319).

Property tax exemption for certain veterans and veterans' organizations, including certain property of the dependents of veterans (Laws 1931, ch. 339).

Veterans and their widows exempted from fee for peddler's license (Cahill's Consol. Laws 1931, ch. 21, par. 32).

NORTH CAROLINA

State service officer provided to assist veterans and their dependents in matter of claims before Government and to cooperate in securing employment for veterans (Code (Michie) 1935, pars. 2202 (2), 7312 (b) (c)).

Public officials required to furnish public records in connection with determination of right of ward of Veterans' Administration to benefits (Code (Michie) 1935, par. 2202 (15)).

Bureau of vital statistics required to furnish without charge to officer of American Legion copies of vital records of World War veterans in connection with claims (Code (Michie) 1935, par. 7111 (a)).

Fee for issuing copy of discharge record limited to 50 cents (Code (Michie) 1935, par. 3366 (o)).

Fee for recording of discharges limited to 25 cents (Code (Michie) 1935, par. 3366 (k) (n)).

County allowance for burial of indigent World War veterans (Code (Michie) 1935, par. 1343 (a)).

Bodies of World War veterans or their wives may not be turned over to medical schools for dissection (Code (Michie) 1935, par. 6786).

World War veterans permitted certain exemptions in taking examination for pharmacy (Code (Michie) 1935, par. 6659 (a)). (This provision now apparently expired by limitation.)

Guardianship act with modifications for protection of incompetent veterans (Code (Michie) 1935, par. 2202 (1) (19)).

Provision for commitment of incompetent veteran to Federal hospital (Code (Michie) 1935, par. 2202 (16)).

Provision for delivery of inmates of State hospitals to Federal agencies (Code (Michie) 1935, par. 6163 (a)).

Certain settlement preferences for veterans (Code (Michie) 1935, pars. 7507–7516).

Veterans exempted under certain circumstances from the prohibition against wearing uniform of U. S. Military or naval forces (Code (Michie) 1935, par. 7895 (a)).

Protection of American Legion emblem (Code (Michie) 1935, par. 4511 (b)).

Exemption of pension and compensation from tax (Code (Michie) 1935, par. 5168 (aa).

Property tax exemption for American Legion (Code (Michie), par. 7971 (17–6), (19–7)).

Certain veterans exempted from payment of poll tax (Code (Michie) 1935, par. 7971 (51a–51b)).

NORTH DAKOTA

Service commission provided to assist veterans and their dependents in claims against the Government (Laws 1927, ch. 281; 1929, ch. 74; 1935, ch. 196).

Adjutant general directed to assist in prosecution of veterans' claims (1913–25 Supp. to Compiled Laws, pars. 2360 (8), 2360a; Laws 1935, ch. 196).

Public officials required to certify public records for use in connection with determination of right of Veterans' Administration ward to benefits (Laws 1931, ch. 309, par. 14).

Bonus to World War veterans under certain circumstances (1925 Supp. to Compiled Laws, pars. 3187c1–3187d2; Laws 1927, ch. 254; Laws 1931, ch. 259).

Bonus to First North Dakota Infantry who served on border under call of President June 19, 1916 (1925 Supp. to Compiled Laws, par. 2423a).

State allowance for burial of indigent Civil War veterans. Burial may not be in potter's field (Compiled Laws 1913, and Supp. 1913–25, pars. 3181–3184; Laws 1935, ch. 17).

County shall apply to United States for suitable headstone for grave of Civil War veteran. County allowance for having same set in place (Compiled Laws 1913, par. 3183).

Length of war service credited in certain elective or appointive positions in State or local unit where length of service in particular vocation, profession, or trade is involved in qualification (1925 Supp. to Compiled Laws, par. 3187b).

Preference in appointment to veterans on public works and in public departments of State and local units (Compiled Laws 1913, pars. 3186–87).

Preference to World War veterans in appointment to State highway patrol (Laws, 1935, ch. 148).

World War service counted as "teaching service" under Teachers' Insurance and Retirement Law (Laws 1935, ch. 261).

Uniform Guardianship Act for protection of incompetent veterans and their funds (Laws 1931, ch. 309).

Admissions of veterans, their wives, or widows to soldiers' home (Compiled Laws 1913, and Supp. 1925, pars. 1775–1796 as amended by Laws 1933, ch. 200).

Provision for commitment of incompetent veteran to Federal hospital (Laws 1931, ch. 309, par. 15).

County commissioners are authorized to provide rooms in courthouse in certain cities for exclusive use of ex-service men (Laws 1935, ch. 116).

Counties having war memorial buildings urged to furnish meeting places for veterans' organizations without charge (Laws 1933, Res. —, 446–447).

Protection of insignia certain veterans' organizations (Compiled Laws 1913, par. 9967; Supp. 1925, par. 9991b).

Annual appropriation in aid of G. A. R. (1925 Supp. to Compiled Laws, par. 1796a1–a5).

Exemption of property tax for land belonging to military organizations used for park or monument (1925 Supp. to Compiled Laws, par. 2078 (12).

OHIO

State commission provided to assist veterans and their dependents in prosecution of claims against United States (Throckmorton's Code, Baldwin's Revision 1934, pars. 811–19).

State commissioner authorized to administer oaths without fee (Throckmorton's Code, Baldwin's Revision 1934, par. 818).

Public officials required to furnish public record for use in connection with determining right of ward of Veterans' Administration to benefits (Throckmorton's Code; Baldwin's Rev. 1934, pars. 11037–14).

Fee for recording discharges limited to 25 cents (Throckmorton's Code; Baldwin's Rev. 1934, pars. 2770–2779).

Bonus to certain veterans (Constitution, art. VIII, par. 2a).

County allowance for burial of indigent veterans, their mothers, wives, or widows. Burial may not be in potter's field (Throckmorton's Code; Baldwin's Rev. 1934, pars. 2950–2957).

Privilege of removal and reinterment of bodies in soldiers' plot (Throckmorton's Code. Baldwin's Rev. 1934, pars. 2943, 2946–48).

Power granted counties, townships, and municipalities to purchase soldiers' plots in cemeteries (Throckmorton's Code. Baldwin's Rev. 1934, pars. 2943–2944, 2949, 2949–4.

Expense for care of soldier graves a charge on the local unit (Throckmorton's Code. Baldwin's Rev. 1934, pars. 2945, 2960–2961).

Counties, townships, and municipalities empowered to make appropriations for Memorial Day observance, same to be spent through veterans' organizations (Throckmorton's Code. Baldwin's Rev. 1934, par. 2503).

County required to apply to United States for headstone and have same set in place (Throckmorton's Code. Baldwin's Rev. 1934, par. 2957).

Cemeteries prohibited from barring erection of headstone provided by United States or State of Ohio for soldier graves (Throckmorton's Code. Baldwin's Rev. 1934, par. 12499–1).

County required on proper application markers for soldier graves for memorial purposes (Throckmorton's Code. Baldwin's Rev. 1934, pars. 2958–2959).

Certain tuition benefits for World War veterans (Throckmorton's Annotated Code. Baldwin's Rev. 1934, pars. 7930–7931).

Civil-service preference in State and local units for veterans (Throckmorton's Annotated Code. Baldwin's Rev. 1934, pars. 7930–7931).

Civil service preference in State and local units for veterans (Throckmorton's Annotated Code. Baldwin's Rev. 1934, pars. 486–10, 486–13).

Preference to veterans as caretakers of township or county memorial buildings (Throckmorton's Annotated Code. Baldwin's Rev. 1934, par. 3069–1).

Uniform Guardianship Act for protection of incompetent veterans and their funds (Throckmorton's Annotated Code. Baldwin's Rev. 1934, pars. 11037–1, 11037–20).

Admission to soldiers' and sailors' home (Throckmorton's Annotated Code. Baldwin's Rev. 1934, pars. 1905–18).

Provision for admission to the Madison Home for soldiers, sailors, marines, their wives or widows, mothers, and Army nurses (Throckmorton's Annotated Code. Baldwin's Rev. 1934, pars. 1919–25).

Provision for admission to Ohio Soldiers' and Sailors' Orphans' Home (Throckmorton's Annotated Code. Baldwin's Rev. 1934, pars. 1931–46–3, as amended, Laws 1933, pp. 210–211).

Provision for commitment of incompetent veteran to Federal institution (Throckmorton's Annotated Code. Baldwin's Rev. 1934, par. 11037–15).

Badges of honor to veterans of Civil, Spanish-American, and World War (Throckmorton's Code. Baldwin's Rev. 1934, pars. 14867–2–14867–8, 14867–17–22).

State roll of honor for officers and enlisted men receiving awards for gallantry (Throckmorton's Code. Baldwin's Rev. 1934, pars. 14867–9–14867–15).

Badges of honor for those serving on Mexican border (Throckmorton's Code. Baldwin's Rev. 1934, Appendix, p. 39).

Township memorial buildings for free use of veterans' organizations as meeting places (Throckmorton's Code. Baldwin's Revision 1934, par. 3410–11).

Certain organizations have certain rights in connection with use of county memorial buildings (Throckmorton's Code. Baldwin's Revision 1934, par. 3068–8).

Power of certain counties with respect to erection of memorial structures containing rooms for certain organizations (Throckmorton's Code. Baldwin's Revision 1934, par. 14349–1).

Relief to veterans, their wives or widows, parents, and children (Throckmorton's Annot. Code. Baldwin's Revision 1934, par. 2930–41).

Protection of insignia of certain veterans' organizations (Throckmorton's Annot. Code. Baldwin's Revision 1934, pars. 13163, 13163–1).

County commissioners may permit use of county buildings for certain organizations (Throckmorton's Annot. Code. Baldwin's Revision 1934, par. 3069).

Property-tax exemption for monuments, monumental buildings, and funds set aside for such purposes, as well as exemption for land for such purposes (Throckmorton's Annot. Code. Baldwin's Revision 1934, par. 5359–62).

Veterans required to pay only nominal fee for peddler's license (Throckmorton's Annot. Code. Baldwin's Revision 1934, par. 635).

Disabled or unemployed veteran may do certain business in more than one county on single license (Laws 1935, pp. 53–54).

OKLAHOMA

Provision for State service officer, although duties are not specifically outlined (Stats. 1931, pars. 12084–12104; Laws 1935, p. 392).

Public officials required to certify public records for use in connection with determination of right of Veterans' Administration ward to benefits (Stats. 1931, par. 12064).

Certain public officials required to furnish free of charge to veterans or their dependents copies of certain public records for use in connection with claims against the Government (Stats. 1931, par. 11999).

County clerks required to furnish free copies of record of discharge papers (Stats. 1931, par. 11999).

Discharge papers recorded without fee (Stats. 1931, pars. 12000–12001).

County allowance for burial of indigent veterans, with burial in potter's field prohibited, and relatives permitted to conduct services (Stats. 1931, pars. 12008–12009).

Uniform Guardianship Act for protection of incompetent veteran and his funds (Stats. 1931, pars. 12051–12069).

Provision for admission of World War veterans, their wives or widows, to Confederate Home (Stats. 1931, pars. 12032–12039).

Provision for admission of veterans of Civil and World Wars, as well as certain other veterans, to Union Soldiers' Home (Stats. 1931, pars. 12019–12031).

Provision for commitment of incompetent veteran to Federal hospital (Stats. 1931, par. 12065).

Provision for hospital care of veterans (Stats. 1931 and Supp. 1936, pars. 12084–12104–c).

Provision for hospital care of tubercular ex-service persons (Stats. 1931, pars. 12086, 12092–12094; Supp. 1936, par. 5293a).

Money received by disabled veteran as pension exempted from execution or attachment (Stats. (Harlow) 1931, par. 1648).

Rooms for veteran meeting places in county courthouses (Stats. (Harlow) 1931, par. 12014).

Rooms for veteran meeting places in Historical Society Building (Stats. (Harlow) 1931, pars. 12017–12018).

Authority to Logan County to transfer certain disused jail property for use of veterans' organizations (same reference as above).

Personal-property exemption to veterans and their widows (Stats. 1931, par. 12319).

War-risk insurance and bonus money exempted from income tax (Harlow's 1936 Supp. to Stats., par. 12498h (b–6)).

Certain veterans exempted from payment of peddler's license fee (Stats. 1931, pars. 12002–12007).

Certain veterans exempted from payment of certain occupational licenses (reference same as above).

OREGON

Adjutant general required to assist veterans in prosecution of claims against United States Government (Code 1930, pars. 52–118).

Adjutant general required to furnish free copies of certain records for use in connection with claims (Code 1930, pars. 52–118).

Discharge papers recorded free of charge (Code 1930, pars. 27–1605).

Cash bonus or loans to World War veterans (Code 1930, pars. 66–101, 566–137, as amended by Laws 1935, ch. 93).

State purchase of burial ground for veterans of Spanish War and Philippine Insurrection (Code 1930, pars. 66–305, 66–508).

Veterans' preference under civil service and on public works (Code of General Laws 1930, pars. 27–2909, 66–502, 67–1106).

Certain requirements with regard to notices to Government bureau or department in connection with guardianship cases (Code of General Laws 1930, pars. 11–1333).

Provision for admission of veterans, their wives, or widows to State soldiers' home (Code 1930, pars. 67–1801–1806).

Provision for admission of veterans to State tuberculosis hospital (Code 1930, pars. 59–503).

Provision for cooperation with the United States for settlement of veterans or their widows, on lands suitable for agriculture (Code of General Laws 1930, pars. 60–201).

Cities and towns empowered to maintain community houses for benefits of veterans (Code 1930, pars. 66–402).

Money received as pension from United States or any State exempted from all process (Laws 1933, ch. 383 (10)).

Counties empowered to erect memorial buildings for use of club rooms and meeting places of veterans' associations (Laws 1931, ch. 17).

Certain cities empowered to erect memorial buildings for veterans in public works, or to acquire land for such buildings within or without corporate limits of the city (Laws 1933, Ex. chs. 46–47).

Relief to veterans, their widows, and orphans (Code 1930, pars. 66–301, 66–305).

Certain aid to World War veterans (Code 1930, pars. 66–201, 66–205).

Regulation of relief to veterans by counties or public agencies (Laws 1935, ch. 435).

Protection of insignia of certain organizations (Laws 1933, ch. 271).

Meeting places in certain public buildings (Code 1930, pars. 66–401, Laws 1931, ch. 6).

Certain property-tax exemptions for veterans or their widows (Laws 1935, ch. 391).

Gifts to veterans' organizations allowed as deductions in computing net gifts (Laws 1935 ch. 20).

Certain veterans entitled to fish and game licenses at nominal fee (Laws 1933, ch. 390).

PENNSYLVANIA

Department of Military Affairs' appropriation to assist veterans in the prosecution of claims before United States (Appropriation Acts 1933, ch. 300–A (the General Appropriation Act), p. 180).

Certain officials in Department of Military Affairs required to administer oaths in connection with all matters relating to veterans' claims (Laws 1935, No. 162).

Certain free notary services to veterans and their dependents in connection with pension claims, etc. (Laws 1935, No. 326).

Vital statistics certified free to veterans and their dependents (Laws 1933, No. 207).

Fee for filing discharge papers made a charge on the county (Digest of Stat. Law, 1920, par. 8805).

Bonus to veterans of World War, Spanish War, and certain other engagements (Laws 1933, Ex. No. 53, as amended; Laws 1935, Nos. 233, 236, 237).

County allowance for burial of veterans and their widows (Laws 1933, Nos. 190 and 191; Laws 1935, No. 149).

Right of veterans' organization to be accompanied by military band for funeral service of veterans (Digest of Stat. Law 1920, par. 20053)

Department of Military Affairs empowered to acquire land as State cemetery for veteran burial (Laws 1929, No. 175, par. 1406; Laws 1931, No. 201).

Counties empowered to acquire soldier burial plots (Laws 1929, No. 447, par. 427).

Municipalities empowered to acquire burial plots (1928 Cum. Supplement to Digest of Stata. Law, pars. 1576a–2817, 19983c; Laws 1931, No. 317, p. 1010; No. 331, p. 1256–1257; Laws 1933, No. 69, p. 138).

Bodies of veterans may not be turned over to medical schools for dissection (1928 Cum. Supplement to Digest of Stat. Law, par. 8289).

Counties required to see to care of soldier graves (Laws. 1931, No. 146, p. 4330434; Laws 1935, No. 149, par. 6).

Counties required to appropriate for Memorial Day observance with money to be expended through veterans' organizations (Laws 1929, No. 447, pp. 1337–1338; Laws 1933, No. 190; Laws 1935, No. 149, par. 7).

Municipalities empowered to appropriate for Memorial Day observance (1928 Cum. Supplement to Digest of Stat. Law, pars. 1576a–1202 (XII); Laws 1931, No. 317, p. 1009; No. 331, p. 1256; Laws 1933, No. 69, p. 136).

Provision for county registration of soldier graves (Laws 1931, No. 146, pp. 434–435; Laws 1935, No. 149, par. 8).

Counties required on proper application to furnish markers and headstones or secure same from United States and furnish foundations therefor (Laws 1933, No. 192; Laws 1935, No. 149, par. 5).

State allowance for headstone of unmarked graves of veterans of Revolution and War of 1812 (Laws 1929, No. 537).

Cemeteries may not prohibit erection of any headstones furnished by United States or by any county of State of Pennsylvania for veteran grave (Laws 1929, No. 379).

Veterans who served in Army or Navy during World War as dentists licensed without examination (1928 Cum. Supplement to Digest of Stat. Law, pars. 8940a–8941).

Disabled veterans are to be placed in department of the State government for placement training on request of Federal Board of Vocational Training, but State not liable for payment of compensation or salary during such period (1928 Cum. Supp. to Digest of Stat. Law, par. 19973b).

Certain preference rights in civil service in State and local units (Digest of Stat. Law, 1920, pars. 3104, 3728, 15859, 15860; Cum. Supp. 1928, par. 19973a–1–b; Laws, 1931, no. 316, pars. 4405, 4407).

Preference to Union veterans in public departments and public works, with tenure protected (Digest of Stat. Law, 1920, par. 19970–74).

Preference to veterans in employment of clerical help under Veterans' Compensation Act (Laws, 1933, No. 53, par. 19, p. 228).

War service computed in computing service in public-school employees' retirement system (Laws, 1929, no. 269, pp. 638–639).

Certain requirements in connection with the protection of the funds of an incompetent veteran (Laws, 1929, No. 273).

Admission of veterans to the soldiers' and sailors' home (Digest of Stat. Law, 1920, and Cum. Supp. 1928, par. 19990–20001 as amended, Laws, 1931, no. 12).

Admission for soldiers' orphans to the Soldiers Orphans' Industrial School (Digest of Stat. Law, 1920, and Cum. Supp. 1928, par. 20002–16 as amended Laws, 1929, No. 532, 1935, No. 117).

Provision for commitment of incompetent veteran to Federal hospital (Laws, 1929, No. 267).

Laws of State pertaining to veterans to be compiled with copies available to veterans' organizations (Laws, 1931, No. 327).

Duty of State Veterans' Commission to advise Department of Military Affairs on administration of veterans' laws and recommend

legislation for veterans to the Governor (Laws, 1929, no. 175, par. 1411, pp. 257–258; 1933, no. 321, par. 448–b, p. 1473).

County memorial halls shall contain auditoriums for meeting places of organizations (Laws, 1929, No. 447, par. 597, pp. 1367–1368).

Credit for World War service for retirement from National Guard (Laws, 1933, No. 122).

Veterans and veterans' organizations permitted to keep certain ordnance as relics (Laws, 1929, No. 329).

Pensions to veterans of War of 1812 and of Civil War, their widows, and children (Digest of Stat. Law, 1920, par. 10948–965).

Relief for unemployed veterans (Laws, 1933, Ex. No. 66, par. 6).

Protection of insignia and uniforms of certain organizations (Digest of Stat. Law, 1920, par 1051–1052; Cum. Supp. 1928, par. 1052b–1054a–6; Laws, 1929, Nos. 111, 224, and 346).

Counties, cities, and boroughs empowered to provide meeting places for organizations (Digest of Stat. Laws, 1920, par. 20025; Cum. Supp. 1928, par. 1576a–1202 (XLIV–XLV), par. 20025a; Laws, 1929, No. 447, par. 560; Laws, 1931, No. 317, par. 2403 (40–41); Laws, 1935, No. 405, par. 7 (XLV).

Appropriations by counties, boroughs, etc., to veterans' organizations for observance of Memorial and Armistice Days (1928 Cum. Supp. to Digest of Stat. Law, par. 1576a–1202 (XLII, XLIII); Laws, 1929, No. 447, pars. 430–431; Laws, 1931, No. 317, par. 2403 (34); Laws, 1933, No. 190, par. 2).

Provision for publication of proceedings of conventions of certain organizations (Laws, 1931, No. 247).

Property-tax exemption for veterans' organizations (Laws, 1933, No. 155, par. 204 (h).

Cars owned by certain veterans' organizations exempted from fees for certificate of title or registration (Laws, 1933, No. 281).

Disabled veterans exempted from fee for peddler's license (Laws, 1935, No. 49).

RHODE ISLAND

State service officer position abolished and powers and duties of that office vested in division of soldiers' relief, which office assists veterans in claims against Government (acts 1931, ch. 1788; acts 1935, ex. ch. 2250, pars. 55, 151).

Secretary of soldiers' home constituted a pension agent for State and is required to prosecute claims for veterans and their dependents (General Laws 1923, par. 1686).

Town clerks and registrars required to furnish without charge to veterans and their dependents copies of vital records for use in claims with the United States or the State and local government (acts 1932, ch. 1938).

Honorable discharges recorded without fee (acts 1923, ch. 438).

Bonus to certain veterans (Laws 1920, ch. 1832, 1921; ch. 2048, 1922; ch. 2189, 1923; ch. 2341).

Provision for burial of indigent veterans at expense of town or city. Burial may not be in potter's field and relatives or friends are permitted to conduct funeral (General Laws 1923, par. 1706–08).

Special State appropriation for burial of veterans (Laws 1935, ch. 2196, p. 111).

Right to have firing squad at funeral of veteran (Laws 1933, ch. 2029).

Division of soldiers' relief has certain duties in connection with soldier burial plot in North Cemetery at Bristol (Laws 1931, ch. 1730; Laws 1935, ex. ch. 2250, pp. 107–108).

Duty of division of soldiers' relief to provide care for neglected or abandoned graves of veterans (Laws 1928, ch. 1188; Laws 1935, ex. ch. 2250, pp. 107–108).

State appropriation for metallic markers for soldier graves (Laws ch. 2016, p. 155; Laws 1935, ch. 2195, p. 111).

Provision for headstone for veteran graves at expense of town or city (Gen. Laws 1923, pars. 1709–10).

State appropriation for metallic markers for soldiers graves (Laws 1933, ch. 2016, p. 155; Laws 1935, ch. 2196, p. 111).

Certain assistance to children of veterans in securing education (Laws 1934, ch. 2130, p. 188; 1935, ch. 2264, p. 241, amending Laws 1932, ch. 1869).

Preference to veterans in public departments and on public works of State (acts 1924, ch. 557).

Preference to Civil War veterans in appointments and employment at soldiers' home (Gen. Laws 1923, par. 1691).

Eligibility of veterans for appointment as firemen or policemen in any city or town of the State (Laws 1923, par. 1893).

Public office or employment not forfeited by war service (Gen. Laws 1923, par. 6750).

Admission of veterans to soldiers' home (Gen. Laws 1923, pars. 1682–1705, as amended; Acts 1930, ch. 1555; 1933, ch. 2025; 1935, p. 107).

Credit for war service with reference to award of service medals and retirement in National Guard (Acts 1928, ch. 1216; Acts 1931, ch. 1734).

Relief for veterans and their dependents (Gen. 1923, pars. 1688–90, 1694–95, 1700, as amended; Acts 1930, ch. 1555; 1935, p. 107).

Annual appropriations for relief of World War veterans, wives or widows, widowed mothers, and children (Acts 1934, res. no. 71; 1935, res. no. 10).

Protection for insignia of veterans' organizations (Gen. Laws 1923, par. 6223).

Certain rights to members of veterans' organizations with respect to uniform, insignia, etc., of National Guard or United States Army (General Laws 1923, par. 6737).

Armory privileges to certain organizations (Acts 1926, ch. 760).

Permitted use of old statehouse until April 1, 1936 (Acts 1935, res. no. 17).

Appropriation for annual field outing of Civil War veterans' associations (Acts 1935, ch. 2196, p. 111).

Certain parade privileges to veterans' associations (General Laws 1923, par. 6739).

Appropriations for printing G. A. R. Journal (Acts 1935, ch. 2196, p. 111).

Property tax exemption to veterans or their widows (Acts 1932, ch. 1867).

Veterans' organizations exempted from property tax (Acts 1927, ch. 986).

Veterans exempted from poll tax (General Laws 1923, par. 851).

Veterans exempted from fee for peddler's license (General Laws 1923, par. 2929).

Veterans exempted from fee for license as insurance broker (Acts 1928, ch. 1220).

SOUTH CAROLINA

State and county service officers to assist veterans with claims against the United States (Code of Laws (Michie) 1932, pars. 2967–2972).

Fee for copy of record of discharge papers limited to 50 cents (Code of Laws (Michie) 1932, par. 8893).

Fee for recording discharge papers limited to 25 cents (Code of Laws (Michie) 1932, par. 8893).

Certain tuition benefits to World War veterans (Code of Laws (Michie) 1932, par. 5707).

Preference to veterans in public departments and on public works of State and county (Code of Laws (Michie) 1932, pars. 2962–2963).

Uniform Guardianship Act for protection of incompetent veterans (Code (Michie) 1932, pars. 8639–8658).

Provision for commitment of incompetent veteran to Federal hospital (Code (Michie) 1932, par. 8653).

Protection to insignia of certain organizations (Code of Laws (Michie) 1932, pars. 1241–1242, 2964).

Copies of World War service roster furnished to American Legion posts and auxiliaries (Acts 1929, no. 298).

Exemption from tax for "all pensions payable to any person by the United States or any State" (Code (Michie) 1932, par. 2578 (19)).

Property of certain veterans' associations exempted from tax (Acts 1935, no. 98).

Certain veterans allowed certain poll-tax exemptions (Code (Michie) 1932, pars. 7124–7125).

SOUTH DAKOTA

Provision for State service officer in attorney general's office to aid disabled veterans and their dependents in prosecution of claims against United States Government (Laws 1933, ch. 44).

Director of vital statistics required to furnish copies of records without charge for use in connection with claims of veterans (Laws 1931, ch. 267, pars. 17, 20).

Clerk of court required to furnish free copies of documents necessary in obtaining benefits on behalf of veterans under guardianship (Compiled Laws (Hipple), par. 9962Y).

Fee for recording of discharge papers apparently limited to 15 cents (Compiled Laws (Hipple), par. 569; Laws 1931, ch. 221).

Bonus to veterans of Spanish-American War, Philippine Insurrection, and World War (Compiled Laws (Hipple), 1929, pars. 9962A–P; Laws, 1931, ch. 231; 1933, ch. 45; 1935, ch. 32).

State allowance for burial of indigent veterans, their wives, or widows, and burial may not be in potter's field (Compiled Laws (Hipple), 1929, pars. 9963–64, 9965–67; Laws, 1931, ch. 226).

Counties may appropriate money for burial expense of indigent veterans, their wives, or widows (Compiled Laws (Hipple), 1929, pars. 9963–A, 9964–A–B).

Counties may appropriate money for purchase of burial plots for veterans and for the perpetual care thereof (Compiled Laws (Hipple), 1929, pars. 9963–A, 9964–A, 9964–B).

County judge required to apply to United States for headstone, with State allowance for having same set (Compiled Laws (Hipple), 1929, par. 9965).

Counties may appropriate for headstones and grave markers for veterans (Compiled Laws (Hipple), 1929, pars. 9963–A).

Certain tuition benefits to certain veterans (Compiled Laws (Hipple), 1929, par. 5707).

Preference to veterans in public departments and on public works of State and local units (Laws, 1935, ch. 188).

Uniform Guardianship Act for protection of incompetent veterans (Compiled Laws (Hipple), 1929, par. 3491–A–U).

Admission of veterans, their wives or widows to soldiers' home (Compiled Laws (Hipple), 1929, pars. 9948–59 as Amended Laws 1931, ch. 227).

Provision for commitment of incompetent veteran to Federal hospital (Compiled Laws (Hipple), 1929, pars. 3491–0).

Veterans extended preference under Land Settlement Act (Compiled Laws (Hipple), 1929, par. 10173B–S).

Annual appropriation for relief of Civil War veterans (Laws, 1931, ch. 25; 1933, ch. 43; 1935, ch. 33).

Protection of insignia of certain organizations (Laws, 1933, ch. 82).

TENNESSEE

Provision for ex-service men's bureau in the Adjutant General's office to assist veterans in securing benefits permitted under Federal legislation (Code, 1932, pars. 1005–7; Laws, 1933, ch. 40, p. 88).

Discharge papers recorded without charge (Code, 1932, par. 7612 (20)).

Certain assistance to children of certain World War veterans in the securing of education (Laws, 1935, ch. 69, p. 183).

Extension of State and county teachers' certificates and certificates of county superintendents of public instruction held by World War veterans (Acts 1931, 2d Ex., ch. 19).

Adjutant General empowered to appoint a director of the ex-service men's bureau, but the appointee must be a World War veteran (Code, 1932, 1007).

Uniform Guardianship Act for protection of incompetent veterans (Code, 1932, pars. 8541–58; Laws, 1935, chs. 70 and 71).

Admission of veterans, their widows, and orphans to the Confederate soldiers' home (Code (Williams-Shannon-Harsh), 1932, pars. 4976–88).

Provision for commitment of incompetent veteran to Federal institution (Code (Williams-Shannon-Harsh), 1932, par. 8555).

Soldier Settlement Act (Acts 1919, ch. 140 (not contained in the 1932 Code)).

Money received as pension from State of Tennessee exempted from execution, attachment, etc. (Code, 1932, par. 7715).

Pensions to veterans of the Civil War, their widows and servants, and to veterans of the Mexican War (Code (Williams-Shannon-Harsh), 1932, pars. 4934–4975, as amended, Acts, 1931, chs. 25, 30, 77; 1935, ch. 61).

Certain corporate rights for American Legion (Code, 1932, pars. 4428–4432).

Protection of certain insignia (Code, 1932, par. 11404).

War-risk insurance exempted from inheritance tax (Code, 1932, par. 1261a).

Veterans exempted from tax imposed on merchants and peddlers (acts, 1931, ch. 13, p. 75 (16b)).

Veterans exempted from payment of certain privilege taxes (Code, 1932, par. 1253).

TEXAS

Duty of State service officer to aid veterans and their dependents and beneficiaries in claims against the United States Government (1928 Complete Stats. (Vernon) and 1931 Supp., par. 5798a).

State service officer authorized to administer oaths in connection with claims for benefits (1928 Complete Stats. (Vernon), par. 5798a).

State service officer permitted to certify correctness of documents submitted in connection with claims (1928 Complete Stats. (Vernon), par. 5798a).

Fee for recording discharges charged against county (1928 Complete Stats. (Vernon), par. 1939).

State allowance for burial of Civil War pensioners (1928 Complete Stats. (Vernon) and 1931 Supp., par. 6227).

Certain tuition benefits for certain veterans (1934 Supp. to Complete Stats., par. 2654b–1).

Resolution urging heads of State departments to give preferences to disabled and aged veterans in employment (Laws, 1935, 2d Ex., S. C. R., no. 5, p. 1906).

Provision for appointment of guardian for certain veterans or their dependents who receive money from Federal Government (1928 Complete Stats., par. 4102).

Provision for certain reports to Veterans' Administration in connection with estate of beneficiary of that agency (1931 Supp. to Complete Stats., par. 4227a).

Priority to World War veterans in admission to the American Legion Memorial Sanatorium (TB) (1928 Complete Stats. (Vernon), pars. 3252–3254).

Common carriers permitted to grant free transportation to veterans of the Civil and Spanish Wars and to their wives or widows, as well as to Indian war veterans (1928 Complete Stats. (Vernon) and 1931 Supp., pars. 4006–4006A).

Pensions to Civil War veterans and their widows (1928 Complete Stats. (Vernon) and 1931 Supp., pars. 6204–6227).

Restricts use of the words "veteran", "Legion", "ear", etc., in the names of corporations (Laws, 1935, ch. 167).

UTAH

Appropriation to the board of examiners for use of the American Legion in assistance to veterans on claims for State and Federal benefits (Laws, 1931, ch. 64, p. 270).

Public officials required to certify public records for use in determination of eligibility of ward of Veterans' Administration to benefits (Rev. Stats., 1933, par. 98–5–14).

County recorder required to furnish free copies of honorable discharges and other military records to veterans, their parents, brothers, sisters, and lineal descendants (Rev. Stats., 1933, par. 19–18–14).

Honorable discharges and all orders, citations, and decorations of honor recorded without charge (Rev. Stats. 1933, pars. 19–18–14).

State allowance for burial of needy Civil War veterans and burial may not be in potter's field (Rev. Stats. 1933, pars. 98–2–4, 92–2–5).

Uniform guardianship act for protection of incompetent veterans (Rev. Stats. 1933, pars. 98–5–1, 98–5–17).

Provision for commitment of incompetent veteran to Federal institution (Rev. Stats. 1933, par. 98–5–15).

Relief of Civil War veterans, their widows, and Army nurses in their own homes (Rev. Stats., 1933, pars. 98–2–1, 98–2–3).

Protection of certain insignia (Rev. Stats. 1933, par. 103–18–15).

Armory privileges to certain organizations (Rev. Stats. 1933, par. 98–4–1).

Provision for publication of G. A. R. proceedings (Rev. Stats. 1933, par. 98–3–1).

Property-tax exemption to disabled veterans, their widows, or orphans (Rev. Stats. 1933, pars. 80–2–4, 80–2–5).

Certain State and Federal benefits exempted from income tax (Rev. Stats. 1933, par. 8–14–4).

VERMONT

Public officials required to certify public records for use in determination of eligibility of wards of Veterans' Administration to benefits (Public Laws 1933, par. 3314).

State bonus to certain veterans (Public Laws 1933, par. 8057).

State allowance for burial of indigent veterans and their widows (Acts 1935, no. 79).

Bodies of veterans may not be turned over to physicians for dissection in furtherance of science (Public Laws 1933, par. 7471).

State allowance for headstones of graves of indigent veterans and their widows (Acts 1935, no. 79).

Uniform guardianship act for protection of incompetent veterans (Public Laws 1933, pars. 3301–3320).

Soldiers' home incorporated for care of veterans and deserving members of their families (Acts 1884, No. 180, as amended by 1888, No. 184; 1919, No. 230).

Provision for commitment of incompetent veteran to Federal institution (Public Laws 1933, par. 3315).

Relief for veterans and their dependents in their own homes (Public Laws 1933, par. 3931–34).

Protection of certain insignia (Public Laws, par. 8471).

Towns permitted to make appropriation for meeting places of certain organizations (Public Laws 1933, par. 3557).

Annual appropriation to G. A. R. (Public Laws 1933, par. 8077).

Property-tax exemption to Civil War veterans and their widows. Also on property owned by G. A. R. and American Legion (Public Laws 1933, par. 390 (II, X)).

Poll-tax exemption for certain veterans (Acts 1935, no. 20).

VIRGINIA

Veterans' advisory board provided to assist in claims of veterans and their dependents (Acts 1934, ch. 358, p. 626).

County clerks and registrar of vital statistics required to furnish to veterans, their dependents and legal representatives, free copies of records for use in connection with claims against United States Government (Code (Michie) 1930, par. 5214e).

Fee for certified copy of discharge papers limited to 50 cents (Code (Michie) 1930, par. 5214d).

Fee for recording of discharge papers of World War veterans limited to 35 cents (Code (Michie) 1930, par. 5214b, 5214c, and 5214d).

Public office or employment not forfeited by war service (Code (Michie) 1930, par. 291b).

Provision for guardian for incompetent veteran when needed to administer benefits being received by such veteran (Acts 1932, ch. 388, par. 1050a).

Provision for artificial limbs or compensation in lieu thereof for Civil War veterans (Code (Michie) 1930, par. 2668–71).

Protection of insignia and uniform of veterans' associations (Code (Michie) 1930, pars. 4302b–4302h).

Certain rights to members of veterans' organizations with respect to uniform, insignia, etc., of United States Army, Navy, and Marine Corps (Code (Michie) 1920, par. 2673 (105)).

Armory privileges (Acts 1932, ch. 373, par. 8).

Rooms in State office building for organizations of World War veterans (Acts 1932, ch. 49).

Property-tax exemptions for certain veterans' organizations (Acts 1934, ch. 295).

WASHINGTON

Appropriation to be expended through the American Legion for assisting Spanish and World War veterans in claims against the United States (Pierce's Code 1933, par. 6255–22).

Appropriation to be expended through Disabled American Veterans of the World War for assistance to World War veterans in establishment of service connection for disabilities (Laws 1935, ch. 38).

Honorable discharges of Spanish and World War veterans recorded free of charge (Pierce's Code 1933, par. 1652a).

State bonus to certain veterans (Pierce's Code 1933, pars. 6255–6, 6255–21).

County allowance to bury indigent veterans, their wives and widows, with relatives or friends permitted to conduct services (Pierce's Code 1933, par. 6252).

Preference in employment to veterans and their widows in public departments and on public works of State and county (Pierce's Code 1933, pars. 6254–6255).

Provision for certain reports in connection with the guardianship of incompetent veteran (Pierce's Code 1933, pars. 9920–1, 9920–2).

Provision for admission of veterans, their wives or widows, to a soldiers' home or colony (Pierce's Code 1933, pars. 6234–6245–3).

Preference to veterans in Land Settlement Act (Pierce's Code 1933, pars. 94–2, 94–10).

Extension of certain laws enjoyed by veterans' associations (Laws 1921, ch. 41) to the Disabled American Veterans of the World War (Laws 1935, ch. 38).

Money received as pension from the United States exempted from legal processes (Pierce's Code 1933, par. 7856–7).

Common carriers may provide free or reduced transportation to inmates of soldiers' home (Pierce's Code 1933, par. 5545).

Relief to veterans and their families in their own homes (Pierce's Code 1933, pars. 6246–6251, 6253).

Armory privileges for meetings of veterans (Pierce's Code 1933, par. 3765–144).

County aid to veterans through veterans' associations (Pierce's Code 1933, par. 6246–51; Laws 1935, ch. 38).

Property-tax exemption for veterans' organizations (Laws 1933, ex. ch. 19).

War-risk insurance exempted from payment of inheritance tax (Pierce's Code 1933, par. 7052–12).

Civil War veterans exempted from fee for peddler's license (Pierce's Code 1933, par. 3633–36).

WEST VIRGINIA

Provision for official under department of public welfare to assist veterans in their claims with the United States or any State (Official Code, 1931, pars. 29–6–1, 29–6–2, as amended by Laws, 1931, ch. 2, par. 5).

Public officials required to furnish free copies of public records for use in connection with determination of eligibility of ward of Veterans' Administration to benefits (Official Code, 1931, par. 44–15–13).

State registrar required to furnish free copies of birth and death records to State and county welfare departments for use in connection with veterans' claims (Laws, 1935, ch. 106).

County allowance for burial of indigent veterans. Burial may not be in potter's field and relatives and friends permitted to conduct services (Official Code, 1931, par. 9–1–25).

Certain assistance rendered children of certain veterans in pursuing educational career (Laws, 1935, ch. 48, p. 195).

Uniform guardianship act for protection of incompetent veterans (Official Code, 1931, pars. 44–15–1, 44–15–17).

Provision for commitment of incompetent veteran to Federal hospital (Official Code, 1931, par. 44–15–14).

Protection of certain insignia (Laws, 1935, ch. 101).

Copies of the roster of West Virginia soldiers, sailors, and marines of recent wars furnished veteran's organizations (Official Code, 1931, pars. 10–4–1, 10–4–4).

Veterans' associations represented on advisory council of the department of public welfare (Laws, 1931, ch. 2).

Civil War veterans exempted from poll tax (Acts, 1933, 2d Ex., ch. 59).

War-risk insurance and other benefits to disabled members of military or naval forces of United States exempted from income tax.

Certain veterans' associations exempted from payment of certain amusement taxes (Acts, 1931, ch. 3).

WISCONSIN

Discharge papers recorded free of charge (Stats. 1935, par. 45–21).

State bonus to certain veterans (Laws, 1919, ch. 667, as amended, 1923, ch. 133).

County allowance for burial of indigent veterans, their wives, and widows. Burial may not be in potter's field (Stats. 1935, par. 45–16, 45–18).

If veteran dies leaving estate of less than $1,000, exclusive of benefits due him or his heirs from the United States, that estate shall not be liable for more than $100 for burial expenses, in addition to amount allowed by United States Government (Stats. 1935, par. 313–15 (4b)).

County provision for the care of soldier graves, as well as those of their wives or widows, when care not otherwise provided (Stats. 1935, par. 45–185).

Adjutant General required to compile record of veterans' burial places (Stats. 1935, par. 42–215).

County shall apply to United States for proper headstone and have same set in place (Stats. 1935, par. 45–18).

Certain assistance to children of certain veterans in securing education (Laws, 1935, ch. 111, amending 1931, ch. 305).

Educational bonus for certain veterans (Stats. 1935, pars. 37–25, 37–32).

Preference to veterans in State civil service (Stats. 1935, par. 16–15).

Leave of absence to veterans in public service of State and local units for Memorial Day (Stats. 1935, par. 256–16).

Admissions of veterans, their wives or widows, mothers, and Army nurses to veterans' home (Stats. 1935, pars. 45–07, 45–09, 45–19).

Certain hospital benefits to World War veterans (Stats. 1935, pars. 45–25, 45–277, 142–09, 142–10).

Money received from United States as pension, compensation, insurance or adjusted compensation exempt for 1 year after receipt thereof from attachment (Stats. 1935, par. 272–18 (24)).

Papers of any veteran derived from military or naval service or adjusted compensation, pension, citation medal or badge exempted from inkeeper's lien (Stats. 1935, par. 289–43).

Provision for Grand Army of the Republic headquarters in memorial hall of State capitol (Stats. 1935, pars. 45–01, 45–04).

Temporary aid to veterans and their families on their own homes (Stats. 1935, par. 45–20).

County aid to veterans, their wives or widows, children and parents (Stats. 1935, pars. 45–10, 45–15, 45–19).

Town aid to destitute soldiers and their families (Stats. 1935, par. 60–18 (6)).

Certain corporate rights to Grand Army of the Republic and American Legion (Stats. 1935, pars. 188–01, 188–04, 188–08).

Protection of certain insignia (Stats. 1935, par. 343–251).

Armory privileges for Spanish American War Veterans and American Legion (Stats. 1935, par. 21–€15 (15)).

Rooms for meetings of veterans furnished by counties (Stats. 1935, par. 45–06).

Annual appropriations to certain veteran organizations for expenses of annual encampments (Stats. 1935, par. 20–15).

Provision for publication of annual proceedings of certain veteran organizations (Stats. 1935, par. 35–305).

Certain veterans' organization represented on Soldiers' Rehabilitation Board (Stats. 1935, par. 45–27, 45–271, 45–275).

Certain memorial buildings and property of veterans' associations exempted from property tax (Stats. 1935, par. 70–11 (28)).

Exemption of pensions and bonus money from income tax (Stats. 1935, par. 71–05 (1–a, 1–b); and rules and regulations under this section).

Certain veteran associations exempted from license fees for boxing matches under certain circumstances (Stats. 1935, par. 169–01 (20–b)).

Disabled veterans exempted from peddlers' license fee (Stats. 1935, par. 129–02).

WYOMING

Public officials required to certify public records for use in connection with determination of right of wards of Veterans' Administration to benefits (Rev. Stats. (Courtright) 1931, par. 50–614).

County allowance for burial of indigent veterans (Rev. Stats. (Courtright) 1931, par. 100–301–303).

Bodies of veterans may not be turned over to medical schools for dissection (Rev. Stats. (Courtright) 1931, par. 55–102 (4)).

Preference to certain veterans in public departments and on public works of State and local units (Rev. Stats. (Courtright) 1931, pars. 100–101, 100–102).

Uniform Guardianship Act for protection of incompetent veterans (Rev. Stats. (Courtright) 1931, pars. 50–501, 50–620).

Admission of veterans and certain dependents to soldiers' and sailors' home (Rev. Stats. (Courtright) 1931, pars. 108–1301, 108–1312).

Provision for commitment of incompetent veteran to Federal hospital (Rev. Stats. (Courtright) 1931, par. 50–615).

Certain benefits to veterans under Land Settlement Act (Rev. Stats. (Courtright) 1931, pars. 100–201, 100–211).

Certain corporate rights for American Legion (Rev. Stats. (Courtright) 1931, par. 28–801 (8)).

Protection of Grand Army of the Republic insignia, etc. (Rev. Stats. (Courtright) 1931, pars. 32–921, 32–922).

Property tax exemption to veterans and their widows (Laws 1935, ch. 24).

Exemption of veterans to poll tax (except school polls) (Laws 1935, ch. 24).

The Supreme Court

EXTENSION OF REMARKS

OF

HON. ED. V. IZAC

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 9, 1937

RADIO ADDRESS BY HON. JOHN H. CLARKE, FORMER JUSTICE OF THE SUPREME COURT

Mr. IZAC. Mr. Speaker, under leave to extend my own remarks in the RECORD, I include the following address of the Honorable John H. Clarke, only living ex-Justice of the United States Supreme Court, a constituent of mine and an esteemed citizen of my city of San Diego, whose talk was delivered in a Nation-wide radio broadcast emanating from San Diego, Calif., on March 22, 1937:

For a month I have steadfastly refused many requests for a public expression of my views of the President's program for judiciary reform. This for the reason that the obvious proprieties forbid that one who has served 6 years as a member of the Supreme Court should publicly criticize either the contemporary decisions of that Court or the political principles or policies of the President of the United States. However, it has become so widely asserted that the President's proposal with respect to the Supreme Court is unconstitutional that I have concluded it to be not improper but my duty as a citizen to publicly state my views as to this purely legal question, the decision of which may be so fateful to our country.

The case that is clearly stated is more than half argued, and therefore be it known that I yield to no man in my confidence in and estimate of the great value of the Supreme Court as a department of our Government, and that in what I have to say I shall not criticize in any manner either any of its recent decisions or the proposals of the President, but shall confine myself to the naked legal question, "Would a conditional increase of the number of judges of the Supreme Court by act of Congress, as recommended by the President, be constitutional or not?" That is the question.

No rule of law is better established than that great weight must always be given by the courts to early, contemporaneous, construction of the Constitution by the legislative or executive departments of the Government, especially when such construction has been repeated, acted upon, and long accepted by the country.

Let us apply this rule to the history of the action of Congress and of many Presidents with respect to our subject.

The Government under the Constitution was organized in April 1789, and 5 months later, in September, by act of Congress, approved by President Washington, provision was made for the organization of the Supreme Court, and the number of judges was fixed at six.

This action of Congress in determining the number of judges of the Supreme Court was accepted by the country as obviously constitutional. The judges were appointed by President Washington and proceeded to act under it.

The number of judges remained at six for 11 years, until in 1801 when Congress reduced the number to five by an act approved by John Adams, our second President. The number of five judges continued for only 1 year when by act of Congress, approved by President Jefferson, our third President, the number of judges was restored to the original six.

With this number of six judges the Court continued for 5 years, when again by act of Congress, also approved by Jefferson, the number was increased to seven.

With this number of seven judges the Court continued in the discharge of its high duties for 30 years, when the growth of the country and of the business of the Court led Congress to add two more judges in an act approved by President Andrew Jackson, thus making the number nine. With this number the Court continued for 26 years, until in 1863 when the number was increased from 9 to 10 by act of Congress approved by President Lincoln.

This fifth change to 10 continued for only 3 years, when in 1863, shortly after the death of President Lincoln, again by act of Congress it was provided: "That no vacancy in the office of Associate Justices of the Supreme Court shall be filled by appointment until the number of Associate Justices shall be reduced to six", making seven with the Chief Justice.

This potential reduction of the total number of judges from 10 to 7 lasted only 3 years, when, General Grant being elected President, by act of Congress approved by him in 1869, the number of judges was restored to 9, at which number it has continued to our day.

Thus in 80 years of our history the number of judges of the Supreme Court was first determined by act of Congress; twice the number has been reduced, and five times it has been increased, always by act of Congress, and never before has the power of Congress under the Constitution to thus legislate been questioned, certainly not in the courts.

It is confidently believed that few, if any, other important powers of Congress have been so early and so often exercised with the entire approval of our country, our Presidents, and our courts, as this of determining the number of judges of the Supreme Court.

This history alone, were there no other reason, would warrant the courts—indeed, would compel any court—to approve as constitutional such exercise of power by Congress as the President proposes.

Consider now for a moment the specific provisions of the Constitution on which this long line of congressional and executive action, which we have recalled, has been based. They are only two, and they are very short.

First. The Constitution declares "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish"; and

Second. After providing a very limited original jurisdiction for the Supreme Court the Constitution declares, "In all other cases before mentioned the Supreme Court shall have appellate jurisdiction, * * * with such exceptions, and under such regulations, as the Congress shall make." And that is all.

While the Constitution thus declared we shall have a Supreme Court, no provision whatever was made for its organization, and it was at once apparent that the only department of Government which could provide for such organization was the Congress and accordingly the long course of congressional action with regard to the membership of the Court which we have just recalled was promptly entered upon, was accepted, and, by acting under it, approved by the Court and the country.

But in addition to this, in the provisions of the Constitution quoted, the Congress also found obvious warrant for regulating in all respects the appellate jurisdiction of the Court, and this power of Congress over the Supreme Court has also been frequently exercised—always with the approval of all three branches of the Government.

No amount of argument could make this grant of power we are considering clearer than these plain provisions of the Constitution make it—to argue the question further would obscure it.

The wise men who framed our Constitution may have had more confidence in the wisdom and patriotism of the Congresses and the Presidents which were to come after them, and less confidence in courts than some seem to have today. Whether or not they were wise in entrusting to the Congress and to the President such extensive powers over the courts as we have found they possess and have long exercised are not questions which are now before us. The single question I am considering is: Would a conditional increase of the number of judges of the Supreme Court, by act of Congress, as recommended by the President, be constitutional or not? And for the reasons thus briefly stated I think that the answer to that question should be—must be—that such an act would plainly be within the powers granted to the Congress and therefore clearly constitutional.

The Civil Rights Bill for the District of Columbia

EXTENSION OF REMARKS

OF

HON. ARTHUR W. MITCHELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 9, 1937

RADIO ADDRESS BY HON. HERMAN P. KOPPLEMANN, OF CONNECTICUT, ON APRIL 7, 1937

Mr. MITCHELL of Illinois. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by the gentleman from Connecticut, Mr. KOPPLEMANN, on April 7, 1937:

We hear a great deal about constitutional liberty and civil rights, these days. Throughout the land people are being incited to fear that our individual freedom as American citizens is in danger, and yet, right here in the Nation's Capital, where repose the Constitution, as well as the Declaration of Independence, which wrote into the very foundations of our Government the ideals of liberty, equality, and freedom, the important right of equal opportunity is being violated.

A greater issue than appears on the surface is involved in the assurance of civil rights.

When the barrier of slavery was broken down, and when subsequently the fourteenth amendment was added to the Constitution, America had bridged a mighty gap in its progress in civilization.

Those two historical crises had sounded the death knell to discrimination and oppression, or so we supposed. The truth of the matter is that discrimination has and still does exist.

A man's private life is his own business. So long as his private activities harm no one else, so long as they do no harm to the community, he is free to go his own way. But when men use their prejudices against the interests of their fellow men and their communities, then the Government must step in and protect by law the persons and the communities which the Constitution placed under its protection.

Discrimination can and will hamper the path of progress. It can and will obstruct the path of justice. It can and will block the liberty of the individual and the equality guaranteed by the Constitution. It can and will hinder economic and social development. And by social development I mean the progress of the American way of living, whether it be the American way of living in a community, or in the Nation at large.

The civil rights bill for the District of Columbia which I am sponsoring should not be necessary. Unfortunately, it is. Its purpose is simple—to assure to all persons within the District full and equal privileges of places of public accommodation. It interferes in no way with a man's private activities. It simply guarantees to all persons the rights of the public in public places.

In an enlightened civilization there will not be need of laws such as this one I propose. Indeed, there will not be need of many of the laws which this administration has sponsored and carried into effect. Men of their own volition, because their best instincts revolt against any other course, will join with their fellow men in giving the glorious opportunities of a free country to all its law-abiding citizens.

But that day of enlightened civilization has not yet come to America. Hence, for the protection of all our people, for the protection of the Republic itself, for the unhampered development of America, we are compelled to enact laws to assure all citizens decent wages for their labor, decent hours of work, free-

dom from economic oppression, and, as in this civil-rights measure, freedom to use with equality, public places.

In 1889, by direction of Congress, the District was given an equal-rights law, but inadvertently, let us hope, the prohibition against discrimination in places of public accommodation and entertainment, provided in that law, was omitted when the District Code was compiled in 1901—12 years later.

This measure which I propose merely reaffirms a policy established long ago. It does not involve any new legislative policy for the District. It merely revives the freedom of opportunity guaranteed us in the Constitution, and existent in at least 20 States of the Union, my own State of Connecticut, I am happy to say, included.

The city of Washington, the seat of the Federal Government where are written the laws governing the entire United States, should set the example for the rest of the country. I am glad that Washington has organizations which are working with me for the eradication of racial and religious prejudice. I am pleased to note that outstanding men and women are giving their time and energy to tear down the walls of discrimination, which have been built up here. May their forces increase.

One of the earliest decisions where a court upheld a State civil-rights law was handed down in 1873 by the supreme court of Mississippi. Let me quote from that decision: "Among those customs which we call the common law, that have come down to us from the remote past are rules which have a special application to those who sustain a quasi-public relation to the community. The wayfarer and the traveler had a right to demand food and lodging from the innkeeper; the common carrier was bound to accept all passengers and goods offered for transportation according to his means. So, too, all who applied for admission to public shows and amusements were entitled to admission."

The reasonableness of civil-rights laws is explained further in a New York case, in which the decision said: "In the judgment of the legislature, the public had an interest to prevent discrimination between citizens on the part of persons maintaining places of public amusement and the quasi-public use to which the owner of such a place devoted his property gives the legislature a right to interfere. The statute does not interfere with private entertainments, or admission to an entertainment given for a social purpose, nor does it seek to compel social equality."

Discrimination, like bigotry, is permitted to go its own way, will know no bounds. With regret, I read last week of an incident which occurred in New York City. The wife of the man who set America to dancing with his tune, "St. Louis Blues", dying, was at first refused admission to a hospital. If any institution, because of the nature of its purposes, is endowed with public interest, a hospital certainly is.

The woman is dead. I do not wish to insinuate that the hospital's inhuman action caused her death. But the circumstances which surrounded her death were not alone sad, they were disgraceful. How poignant will ever be the memory of her last hours to her relations and friends. How can they refrain from bitter resentment? How can they suppress a bitter hostility against a society which permitted the occurrence?

She was finally admitted after her family frantically had sought the help of the authorities. But, she was kept waiting outside the hospital door for 55 minutes—a dying woman. When finally the door was opened and a bed discovered to receive her unconscious form, her husband was compelled to pay more than the sum agreed to when arrangements were made before the hospital knew that she was a colored woman.

Even were that hospital solely a private institution, supported by private funds, this action would be a disgrace. But it is a tax-exempt institution and receives free ambulance service at the expense of New York City, a service to which it is properly entitled, but not so entitled when it seeks to close its doors and refuse ministration to a woman in the few hours before her death because that woman's skin is brown.

That is the sort of thing which happens in those lands where civil rights have been torn away from the people, where laws are passed to make men and women miserable unless their ancestors happened to be of a certain color or of a certain creed or with but one certain strain of blood in their veins, where the government sponsors newspapers which openly and repeatedly incite hatred against minority groups in their midst. It has no place in the United States of America.

The report of the Interracial Committee of the District of Columbia, which organization has stamped its endorsement on my bill, reveals an unfortunate inequality of school quarters and school equipment, even of books, for colored pupils, and also an unfortunate inequality of living facilities for colored residents.

Civil-rights laws would serve to produce a healthier civilization in America. They will unquestionably result in a more appreciable understanding of the problems which interraciality and internationality produce. After all, the progress of any community or of any nation depends upon a true understanding of the various groups which compose the human family.

Human beings, regardless of their color, regardless of their creed, are quick to respond to human kindness. There can be no question but with the enactment and proper enforcement of a civil-rights law in the District of Columbia there will follow naturally the development of a higher type of citizenship. Character is influenced by environment. An environment which breeds understanding and respect for all is bound to give expression to the highest qualities of character.

Lift up the bars of discrimination and oppression, and humanity in America will go far toward its constitutional goal of equality.

As Countee Cullen has said:

"God knows I would be kind, let live, speak fair;
The meek are promised much in a book I know,
But one grows weary turning cheek to blow."

Celler on Antilynching

EXTENSION OF REMARKS
OF
HON. EMANUEL CELLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1937

Mr. CELLER. Mr. Speaker, everybody agrees that lynching is vile, horrible, and unspeakable. I have yet to find anyone who approves of or condones this heinous offense. The only argument, therefore, concerning the matter of lynching is the remedy used. It should and ought to be a remedy limited to the States. Unfortunately, however, the record clearly indicates that the States do not do their full duty in this regard. Consequently, the Federal Government must and should intervene.

HISTORY OF LYNCHING

The record shows that lynching is neither sectional nor racial. For many years more victims were white than black. For example, in the year 1882, of the 114 people lynched, 65 were white and 49 were black; in 1883, of the 131 people lynched, 79 were white and 52 were black; and in 1884, of the 210 people lynched, 158 were white and 52 were black.

Only six States have been free of lynchings, namely, the six New England States—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

In California, between 1882 and 1930, 42 whites and 4 blacks were lynched.

In Kansas, between 1882 and 1930, 34 whites and 18 blacks were lynched.

In Mississippi, between 1882 and 1930, 45 whites and 500 blacks were lynched.

In Louisiana, between 1882 and 1930, 60 whites and 328 blacks were lynched.

In Texas, between 1882 and 1930, 143 whites and 349 blacks were lynched.

In all United States, between 1882 and 1930, 1,375 whites and 3,386 blacks were lynched, equaling a total of 4,761 persons lynched, of whom one-third were white and two-thirds black. But in recent years 90 percent of those lynched have been black.

IS LYNCHING ON THE DECREASE?

In 1936, the Tuskegee Institute reports, there were eight lynchings. The National Association for the Advancement of Colored People reports a higher figure, namely, 13. The highest point in lynching took place in the year 1892, when 226 people were lynched. In 1932 there were 38 lynchings. In 1936 there were eight lynchings; these were eight too many. To date, in 1937, there has been one lynching in the United States. This is the one which took place in Alabama; this one lynching is one too many.

Moreover, the National Association for the Advancement of Colored People reports that in 1935, while there were 25 cases of lynching, there were—the association specifically points out—102 cases of narrowly averted lynchings. This is very significant.

I now desire to read from a report called "The Mob Still Rides." It is published by the Commission on Interracial Cooperation, with headquarters at Atlanta, Ga. It has on its national committee such distinguished Americans as George Ford Milton, who was recently appointed by President

Roosevelt as a delegate to the Peace Conference in South America; Robert R. Moulton, successor to Booker T. Washington; and W. L. Alexander, who succeeded Mr. Tugwell as head of the Resettlement Administration.

The number of lynchings declined from a yearly average from 124 between 1895 and 1905, to 70 between 1905 and 1915, to 53 between 1915 and 1925, and to 17 between 1925 and 1935. The past decade, however, shows more lynchings in the latter half than in the first half—the only decade in which this was true. The number of attempted lynchings also rose during the latter half of the decade. The optimism of 10 years ago is waning; lynchings are not fading naturally from the American scene.

I am firmly convinced that there is a diminution in the number of actual lynchings. But the abatement may not be permanent. There can be a shift at any time, say, from the South to the North. Like an epidemic, it can crop out at any moment.

We are told that since there is at present a decrease in lynching, antilynching legislation is not necessary. It might be well to present the analogy of having a good doctor attend a sick patient. If the patient does well, should we dismiss the doctor? In other words, since the States as the "doctor" are doing very well, should we bring in a Federal "doctor"? You may say, however, that the analogy is not perfect; that the crime of lynching is diminishing; and that the patient, therefore, is doing well. I say, however, that it might be effective to call in a specialist, or rather, to keep a specialist within call. The symptoms may change. The specialist can act in an emergency. The old "doctor"—State antilynching laws—can remain, while the new "doctor"—Federal antilynching law—is in the offing.

Neither the Mitchell bill nor the Gavagan bill nor the Celler bill prevents the old "doctor" from still ministering. These bills simply summon aid—the Federal "doctor"—only when the old "doctor" falls down and does not do his duty or cannot do his duty.

A study of 84 lynchings in the past 5 years, 1931 to 1935, reveals the following facts:

First. A larger proportion of the lynchings of this period occurred in the South than ever before, and a larger proportion of the victims were Negroes.

Second. Eleven percent of the mob victims were not accused of any crime; an additional 30 percent were accused only of minor offenses. Of the other 59 percent, many were not guilty of the crimes with which they were charged.

Third. Contrary to the general impression that rape is the chief cause of lynching, only 11 percent of the victims were even accused of this crime. Scarcely one-fourth were accused of rape and attempted rape combined.

Fourth. Courts rarely indict lynchers, more rarely convict, and almost never impose sentences commensurate with the crime. Indictments have been returned in but 1 lynching in 12 and convictions in scarcely 1 in 30.

Fifth. There is evidence that peace officers participated in several lynchings and connived in as many more.

Sixth. Over nine-tenths of the lynchings occurred in the open country and a little over four-fifths in counties where the per-capita income and taxable wealth were below those of their respective States. Over three-fourths of the threatened lynchings were prevented also in the poorer rural counties.

Seventh. When a mob does not lynch it sometimes dominates the court, and so brings about a "legal lynching."

Eighth. Nearly 20 percent of the persons lynched and threatened by mobs were mental defectives.

CHANGING ATTITUDE IN THE SOUTH

I give you a reprint from an editorial in the Richmond Times-Dispatch of Tuesday, February 2, 1937:

The Times-Dispatch favors the enactment of the Federal antilynching bill just introduced in the House of Representatives and shortly to be introduced in the Senate. It sees no hope of ever wiping out lynching, the greatest crime against southern civilization, except through Federal action.

If every State would enact an antilynching law similar to that which Virginia passed a decade ago, lynching could be almost, if not wholly, obliterated. The Virginia law makes lynching an offense against the State as a whole, subjects all participants in lynchings to charges of murder, and authorizes the Governor to have the attorney general aid in the prosecution and to spend any sum he—the Governor—deems wise in convicting the guilty parties. There has not been a single lynching in the Old Dominion since that law was placed on the statute books.

But it has become plain that few, if any, of the Southern States will follow Virginia's legislative example. Although the Dyer antilynching bill of 1922 and the Costigan-Wagner antilynching bill of 1935 would almost certainly have passed but for the filibusters of southern Senators, most Southern States seem to have learned nothing from these episodes. Southern Senators on both occasions expressed profound resentment over the possibility that the Federal Government might be permitted to interfere in the affairs of the States, but they do not seem to have done anything to make such intervention unnecessary.

This newspaper's primary objective is to put a stop to the seemingly endless series of mob murders which have disgraced the South and America before the world. That impresses us as far more important than the preservation of something generally referred to as "State sovereignty" or "State's rights." As long as State's rights are appreciated by the States, and the administrative authorities of the States show that they recognize the duties which accompany the exercise of such rights, this newspaper believes in respecting those rights. But when the phrase, "the rights of the States", degenerates into a mere shibboleth behind which the State and local authorities can ignore and flout the law of the land by permitting lynchers to go unpunished year after year, then the Times-Dispatch believes that intervention by the Federal Government is not only desirable but necessary.

* * * * * * *

It is clear, then, that lynching will not be wiped out until there is a new spirit abroad in the land, or until State and local authorities bestir themselves far more vigorously than they have done heretofore. We see no likelihood that either will occur in the measurable future.

One of the most convincing demonstrations that this is true was given in the autumn of 1934, when Claude Neal was taken from an Alabama jail and lynched in Florida. At least 15 hours' notice was given in the Nation's press and over the radio that Neal was to be lynched, and from 4,000 to 7,000 white people gathered, among them many small children. Neal was put to death with the most unspeakable and unprintable tortures. No one was even arrested.

As long as State and local officials are indifferent to these barbarities they will continue to occur. We see no alternative but to enact a Federal law with teeth in it and to let the G-men and the Federal courts go into action.

In the Washington Post there recently appeared a report of a poll of the Institute of Public Opinion, which indicates that 70 percent of the people of America favor a Federal antilynching law. Sixty-five percent of the people of the South favor a Federal antilynching law. The South is entitled to great credit for the real progress it has made in developing public opinion against lynching. It should continue its great efforts by education, moral suasion and precept, and the spreading of righteous enlightenment to stamp out utterly this dreadful crime.

I have before me the picture of the lynching and hanging of Rubin Stacy, a Negro, who was lynched at Fort Lauderdale, Fla., on July 19, 1935, for "threatening and frightening a white woman." He suffered physical torture for a few short hours. In the picture one sees a number of children viewing this victim hanging by his neck. What psychological havoc is being wrought in the minds of these children! They gaze at this gruesome spectacle. One cannot tell whether it is horror or gloating on the face of the neatly dressed 7-year-old girl in the scene. Another child, about 4 years of age, is seen in the picture. One wonders whether she is old enough to comprehend the barbarism her elders have perpetrated. What kind of citizens will these children make, whose elders made them familiar with this inhuman practice?

The victim, Stacy, is also manacled. That tells a story of its own. He was powerless in the hands of the law. But the State law was powerless to protect him from being lynched.

Since 1922 over one-half of the lynched victims have thus been taken from legal custody.

I have before me another picture, that of Claude Neal, a Negro, whom a mob took from the custody of a sheriff in Florida. He was transported over State lines to Alabama and there was lynched. The lynching was advertised in the newspapers and over the radio 12 hours in advance of the horrible exhibition. Between six and seven thousand persons came to witness the hanging. The picture of the vic-

tim before me shows horrible mutilation of his chest and thighs. His fingers were cut off, I am informed, and taken as souvenirs. After this picture was taken, his toes were cut from his feet. An "enterprising" photographer, I am further informed, made post cards of this picture and sold them in large quantities at 50 cents each.

THERE IS NO ADEQUATE PUNISHMENT BY STATES

There is a shameful failure, there is a cruel dereliction of duty on the part of States in punishing the horrible crime of lynching. In all cases since 1882, 99.2 percent of the perpetrators went unwhipped of justice. The State acts have failed; the States have failed to punish this heinous crime.

Those who have brought their minds and hearts to bear on this vital subject, including the speakers who persuasively address us today, fully realize that the hour has passed when we may longer leave this evil, which disgraces us at home and abroad, to the cold mercy of States where prejudice, in the form of real or simulated rage, may at any moment light an indiscriminate torch and demand victims, guilty or innocent.

The punishment for homicide in this country is up to 44 percent. However, when it is the crime of lynching, the punishment is only eight-tenths of 1 percent. James H. Chadbourn, assistant professor of law at the University of North Carolina, says:

> Although 1,741 persons were lynched (1900–30), there is a record of only 12 instances in which convictions have been secured. These 12 instances embrace 67 individual convictions. Statistically, therefore, only eight-tenths of 1 percent of the lynchings since 1900 have been followed by convictions of any of the lynchers.

Convictions for lynching

State	Date	Charge	Pleas	Number convicted	Sentences
Alabama	1900	Murder	Guilty	3	10 years to life.
Do	1919	Complicity in murder	Guilty (28) Not guilty (2)	30	$100 to 15 years.
Do	1920	(?)	Not guilty	3	$100 and 3 months.
Do	1920	Murder	do	3	15 years to life.
Georgia	1922	(?)	do	3	1 to 4 years.
Do	1926	Murder	Guilty (2) Not guilty (7)	9	4 years to life.
Missouri	1903	(?)	(?)	7	10 years.
Oklahoma	1922	Complicity in murder	(?)	7	Life.
Virginia	1923	(?)	(?)	2	1 and 2 years.
Minnesota	1920	Rioting	(?)	1	(?).
Texas	1920	Manslaughter	Guilty	3	2 years suspended.
Illinois	1903	(?)	(?)	11	Indeterminate.

The first inclination in considering this low percentage of successful enforcement is to conclude that here is one of the worst failures, if not the worst, with which the law has been confronted. This conclusion is strengthened by comparing the relatively high percentage of 44 for the punishment of homicide.

Convictions for attempted lynching

State	Date	Number convicted	Sentences
Illinois	1925	1	$100 and 30 days.
Georgia	1924	4	3 to 4 months.
North Carolina	1921	1	4 years.
Do	1925	11	4 to 8 years.
South Carolina	1914	2	(?).
Tennessee	1920	8	$50 and costs.
Do	1921	3	(?).
Virginia	1920	2	$25 and 10 days.
Do	1921	1	$100 and 1 year.

TYPICAL CASES OF FAILURE OF PUNISHMENT

"Passing the buck" is an effective method. Following a lynching in Missouri in 1925 the coroner was reported to have said, "There will be no inquest"; the county attorney, "We feel that justice has been done—of course, the method was crude." The chief of police said that he knew members of the mob, but "it was up to the county attorney."

In two 1930 cases the grand jury investigations did not come until 6 months after the lynchings. In one of these an investigator reports that "it (the grand jury hearing) doubtless would not have been instituted then except for the persistent demands of a few leading citizens." In the other he reports:

> The investigation * * * was disposed of as routine business and no one was surprised that no indictments were drawn. The investigation amounted to nothing more than an entry on the court records that a lynching had been investigated.

The continuance sometimes comes at the grand jury stage. In Georgia in 1930 the grand jury convened within 2 weeks of the lynching. No indictments were returned, but the presentment said, "We heartily recommend and urge our next grand jury to continue zealously the investigation which we have begun." The next grand jury returned no indictments, but recommended that its successor, in turn, give serious consideration to the matter.

Related to the continuance is the mistrial. In Alabama in 1923 there were three mistrials before a conviction was secured, and this conviction was ultimately reversed after five appeals.

The change of front by the State's witnesses is not without precedent.

Reluctance to testify is exhibited in other ways, however, than a change of front. In Union, S. C., in 1930, the sheriff testified before the coroner's jury, "I almost had my hands on the 'nigger' but never succeeded in getting hold of him." When news came to Governor Richards that the sheriff, although in the mob for some time presumably trying to gain possession of the prisoner, could not identify any member of the mob, Governor Richards declared the sheriff's conduct was reprehensible, and sent investigators from his office. No court action was taken. Again the material witnesses may be intimidated. This was true of the 1930 case at Bryan, Tex. A local attorney made the statement that there were Negroes who, he knew confidentially, had incriminating evidence which would lead to trials and probably conviction of the men who killed Roan, but that they would not give it before the courts for fear of reprisal.

Thus, the break-down of cases, listed in the order of the frequency of occurrence, is as follows:

First. Refusal of persons with first-hand knowledge to testify.

Second. Trial-jury verdict actuated by local prejudice in lieu of consideration of evidence.

Third. Failure of the grand jury to make adequate investigation.

Fourth. Failure of the prosecuting officer to investigate and furnish the grand jury with evidence.

Fifth. Nolle prosequi by prosecuting officer.

Sixth. Adverse trial-court rulings on motions and evidence.

Seventh. Reversal by appellate court on nonprejudicial error.

Certainly, in view of this record, the States have woefully failed to punish. The conclusion is therefore inescapable: There must be Federal antilynching legislation.

CONSTITUTIONALITY OF ANTILYNCHING LEGISLATION

The fourteenth amendment to the Constitution provides that no State "shall deny to any person within its jurisdiction the equal protection of the laws", and further provides that "the Congress shall have power to enforce, by appropriate legislation, the provisions of this article." It is well

settled by decisions of the Supreme Court of the United States that the denial forbidden is not alone a denial by positive legislation but that "no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws."

It is thus made the duty of the Congress under the Constitution to enact such laws as may be needful to assure that no State shall deny to any person within its jurisdiction the equal protection of the laws. Within the limits of the jurisdiction thus conferred the Congress has the right to exercise its discretion as to what laws or what means can best accomplish the desired end.

In nearly all cases of lynching the person put to death is taken by a mob from the sheriff, marshal, or other police officer of the State, whose failure to defend and protect him denies to him the equal protection of the laws.

In *Ex parte Virginia* (100 U. S. 339, 346), the Supreme Court, in a unanimous opinion by Mr. Justice Strong, speaking of the prohibitions of the fourteenth amendment, says:

> They have reference to actions of the political body denominated a State, by whatever instruments or in whatever modes that action may be taken. A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty without due process of law, or denies or take away the equal protection of the laws violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State. This must be so, or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or to evade it.
>
> But the constitutional amendment was ordained for a purpose. It was to secure equal rights to all persons; and to insure to all persons the enjoyment of such rights, power was given to Congress to enforce its provisions by appropriate legislation. Such legislation must act upon persons, not upon the abstract thing denominated a State, but upon the persons who are the agents of the State in the denial of the rights which were intended to be secured. (See also the very recent cases of *Home Telephone Co.* v. *Los Angeles*, 227 U. S. 278, 290; *Buchanan* v. *Worley*, 245 U. S. 60, 77.)

A distinguished southern judge has given this definition:

> By "equal protection of the laws" is meant equal security under them to everyone in his life, his liberty, his property, and in the pursuit of happiness. It not only implies the right of each to resort on the same terms with others to the courts of the country for the security of his person and property, the prevention and redress of wrongs, and the enforcement of contracts, but also his exemption from any greater burdens and charges than such as are equally imposed on all others under like circumstances.

The Supreme Court of the United States says of this provision:

> When the facts shown establish an administration directed so exclusively against a particular class of persons as to warrant and require the conclusion that, whatever may have been the intent of the laws as adopted, they are applied by the public authorities charged with their administration, and thus representing the State itself, with a mind so unequal and oppressive as to amount to a practical denial by the State of that equal protection of the laws which is secured to the petitioners as to all other persons, by the broad and benign provisions of the fourteenth amendment to the Constitution of the United States. Though the law itself be fair on its face and impartial in appearance, yet if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances material to their rights, the denial of equal justice is still within the prohibition of the Constitution.

In another case the same court said:

> An actual discrimination against a Negro on account of his race by officers entrusted with the duty of carrying out the law is as potential in creating a denial of equality of rights as a discrimination made by law.

Article I, section 8, of the Constitution gave the Congress the power "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States", as well as "to provide for calling forth militia to execute the laws of the Union, suppress insurrections, and repel invasions", but it was not until long after the adoption of the fourteenth amendment that our courts construed "insurrections" to include mobs and riotous assemblages. Under these two provisions quoted there can be no doubt whatever as to the power of Congress to define and punish the crime of lynching.

To my mind, in the light of the cases cited, the Mitchell bill has a better chance of being declared constitutional than the Gavagan bill. The Mitchell bill limits the crime of lynching to such cases where the victim is actually taken from the custody of the officers of the State, like the sheriff or marshal or peace officer. The State acts through its officers. If such officers fail to act or fail to do their duty, that failure attributes to the State. The State is therefore guilty.

The Gavagan bill goes further and imposes the crime of lynching on a wide variety of acts, and would impose the crime of lynching on cases where the victim was not actually in the custody of a State officer. A mob could walk up under the Gavagan bill and seize a victim and lynch him. Yet, if the victim were never really in the custody of an officer he would be deemed never to have been in the custody of the State. The Gavagan bill is faulty in that regard. It seeks to cover too much territory.

KIDNAPING

Most, if not all, States have laws against kidnaping. But the crimes of stealing children continued unabated. Then came the Lindbergh case. A Federal law against kidnaping was set up. Kidnaping has abated. The culprits fear the G-men. They fear the Federal law. They often do not fear the State law. Should there be any difference between our treatment of kidnaping and lynching?

INDEMNITY PAYMENTS UNDER ANTILYNCHING LEGISLATION

Indemnity under any antilynching bill should be exempt from the claims of creditors. We exempt bonus money from the claims of creditors. Likewise, should indemnity payments under this legislation be exempted? All liquidated damages provided for—in antilynching legislation—are really for the benefit of the family of the victim. Usually the ones who are lynched are the poorer and most defenseless of persons. Were we not to insert in the measure adopted a provision exempting indemnity payments from the claims of creditors, it is very possible that all sorts of claims might be filed against the estate. These claims might well be fictitious. A community that has been so lawless as to lynch or to allow lynching would not be averse to allow fraudulent or fictitious claims against the estate of the victim.

PAYMENT OF INDEMNITY AT THE INSTANCE OF FOREIGN NATIONS FOR THE LYNCHING OF ALIENS

I know of nothing more humiliating and disgraceful than the confession by this Government that it is without the power to make good the guaranty in our Constitution that no person should be deprived of life, liberty, and the pursuit of happiness without due process of law.

Yet the State Department still does make this proclamation in official communications to civilized countries like England, France, Germany, and so forth.

We have appropriated, and this Government has paid to other governments the sum of $792,499 to compensate for the murders of aliens by American mobs. There are now in the State Department unadjustable claims to a large amount for the murder of Greeks, Japanese, Mexicans, and Italians. The aforementioned sum of $792,499 was paid for less than 100 lives of foreigners taken by American mobs. The following question is rather pertinent: If we paid $792,499 for less than 100 murdered foreigners, how much has the country lost by the murder of 4,761 Americans killed by mobs since 1882?

The following four cases have arisen since 1921 and have been filed with the Mexican-American Claims Commission:

(1) Jose Maria Casas and Gerardo Contreras, two Mexicans who were hanged by persons described as American Federal employees. Hanging took place near Rio Grande, Tex., December 26, 1887. Mexico claims $50,000.

(2) Antonio Gamez was lynched at Thorndale, Tex., June 9, 1911, after killing a man in self-defense. Four persons were tried for the crime and acquitted. The prosecuting attorney said each one of the four was guilty and should

have been convicted under the evidence produced at the trial. Mexico claims $50,000.

(3) Antonio Rodriguez was burned alive at Rock Spring, Tex., November 3, 1911. He had murdered the wife of one L. K. Henderson. He was arrested by the sheriff and taken to jail. The same day a mob of over 100 men overpowered the sheriff, took the prisoner about one-half mile from Rock Spring, and burned him alive. Mexico claims $50,000.

(4) Santos Ortiz and Hose Gonzalez were taken out of jail at Pueblo, Colo., by a mob of masked men who entered the jail, overpowered the officials, and abducted the prisoners, who were later found hanged. Mexico claims $50,000.

The following case was taken up by the Italian Government through diplomatic channels, but our Government disallowed the claim since it was not proved that the victims were Italian subjects:

Johannes Stathis, Theodorus Sinarkos, and Georga Gorgin were taken in custody by P. W. Brewer and Thomas Booth, and by them were locked in a jail at Cedar Key, Fla. Brewer and Booth then burned the jail and the three men locked within. Brewer and Booth were subsequently convicted of murder in the first degree (Nov. 18, 1932).

That there has been some progress in the determination of an aroused citizenry to rid itself of this evil, is to be found in the fact that although lynching and mob violence under the common law had no technical significance, nevertheless, statutes have made lynching a crime sui generis in six States—Alabama, Indiana, Kansas, Kentucky, Virginia, and North Carolina. The same is true of mob violence in four States—Illinois, Pennsylvania, New Jersey, and West Virginia. Four States have provisions for accessorial liability—Alabama, Indiana, Kansas, and Kentucky. Kentucky also provides penalties for attempted lynching.

So great is the national concern as regards lynching that the President has felt called upon to denounce this "vile form of collective murder" and to berate its apologists. Thus, a number of years ago, following the lynching of two youths at San Jose, Calif., when the Nation was shocked and indignant over the endorsement by the then Governor of that State of mob ruthlessness, President Roosevelt unreservedly denounced lynching as "collective murder" and declared: "We do not excuse those in high or low places who condone lynch law."

Let us follow the lead of our enlightened leader in the White House. Let us urge upon Congress the vital importance of this legislation. Let us once and for all times do away with this horrible lynching blot on the pages of American history.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Monday, April 12, 1937

RADIO ADDRESS BY HON. HAROLD L. ICKES, SECRETARY OF THE INTERIOR AND FEDERAL PUBLIC WORKS ADMINISTRATOR, ON APRIL 10, 1937

Mr. ROBINSON. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address delivered on Saturday, April 10, 1937, by Hon. Harold L. Ickes, Secretary of the Interior, relative to the proposed reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ODD MAN WINS

When last I spoke in Chicago the air was heavy with the thunderings of the Chicago Tribune and the Chicago News. Colonel McCormick was counting frantically the days that were left in which he could save America. Colonel Knox had just made Virginia, North Carolina, Texas, and the border States safe for the Liberty League and was winding up his affairs preparatory to moving to Washington.

On election night a feast was spread in the Tribune Tower. It is not recorded whether the morning colonel invited his vesperal brother to share that feast. But it is recorded that what begun as a victory dinner ended as a wake.

Today Chicago is the Chicago of last November. The same brazen throats croak the same old hymn of hate for the man they couldn't stop then—and can't stop now.

For once more that man has proved the courage for which they hate him. He has dared to cut the Gordian knot with which they thought they had tied up the election in the courts.

They didn't believe anyone would have the sheer political courage to cut that knot. They forgot that since a certain banking crisis in March 1933, cutting Gordian knots has become a habit with Franklin Delano Roosevelt.

Make no mistake. This struggle to make the Federal courts a living part of our generation is not a new war. It is only a second battle in the same war we were fighting last November. Those who are with Franklin D. Roosevelt today are trying to carry through the election of November. Those who are against Franklin D. Roosevelt today are trying to maintain in power a majority of Supreme Court Justices who will nullify the election of November.

But from the battle of last November the enemy has learned a lesson. Even John Hamilton now knows that a front line of Hoovers and Smiths and Du Ponts, of Liberty Leagues and American Bar Associations, will make the American people reach for bigger bricks.

So this time Mr. Hamilton's front line consists of deserter decoys from the Roosevelt ranks of November—reactionary geographical Democrats frightened by November's proof of the real democracy of America, piqued professional liberals who would rather have no reform than one for which someone else might get credit.

But behind that thin front line of decoy Democrats and decoy liberals are the tanks, the artillery, and the poison gas of last November—the newspapers, the money, the organized propaganda, the McCormicks, the Knoxes, the Gannetts, and, of course, the Du Ponts.

If you want to know why every man and woman of good will, why everyone who hopes that democracy may succeed in America, should be with President Roosevelt in this fight, take a look at the people who are against him. That one look will teach you more about the real issue involved than a thousand of the ablest lawyers arguing for a thousand years.

The American people may not have the time or the interest to know the niceties of Marbury against Madison or of writs of certiorari. But they need no lawyers in order to know their enemies when they see them.

The President's proposal to rejuvenate the Federal courts is now 2 months old. Never have we had such a fury of debate; never such pontificating of lawyers.

One month ago the President explained over the radio in a fireside talk to the people why it was his considered statesman's judgment that the Federal judiciary must be rejuvenated now if the mandate of the election was to be carried out—if democracy was to have a chance to succeed in this country.

Today, when everything has been said that can be said, when the proceedings before the Senate committee have become only repetitious filibuster, let us see what the last 30 days has brought forth to answer or to confirm the simple common sense—the calm statesman's judgment of this fireside talk of the President to the people.

Have his charges, his prophecies, been vindicated?

In his fireside talk the President charged that a majority of the Supreme Court had denied, both to the Congress and the State legislatures, the essential powers of free government—that something had to be done to end judicial tyranny.

That charge has been admitted.

Not one witness of consequence before the Senate Judiciary Committee—not one responsible leader of the opposition in or out of Congress—has denied the truth of that major indictment. None has been so low as to do honor to the record of the Supreme Court over the last 25 years. None has denied that something must be done to cure that record. The only question has been—"How?"

In his fireside talk the President agreed with Chief Justice Hughes that the Constitution was what the judges say it is—that the process of Supreme Court decision is not, as Mr. Justice Roberts has so piously and solemnly insisted, merely "to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former." The President charged that the process of judicial interpretation made and unmade, amended and reamended, the very Constitution itself.

And oh, how that charge has been corroborated!

Only a few days ago, in a burst of "shotgun liberalism", the Supreme Court, by a 5-to-4 decision, in the Washington State minimum-wage case, amended the Constitution to give working women the benefit of minimum-wage protection, of which two other 5-to-4 decisions—one 14 years old, one only 10 months old—now turn out to have robbed them.

This amendment by judicial decision was just as real as if it had been formally adopted by Congress and 36 State legislatures. As the Attorney General commented: "The Constitution on Monday,

March 29, 1937, does not mean the same thing that it meant on Monday, June 1, 1936."

What has always been clear to those who have lived in national affairs is now clear to every American citizen—that the Constitution is not even what the Justices say it is. It is—as it always has been—what the odd man among the Justices says it is.

The majority opinion in that Washington minimum-wage case has done the people of this country a service in teaching them how right the President was about the nature of the Constitution. But the minority opinion in the very same case has taught them how magnificently right the President was on still another important point.

In his fireside talk the President said that our trouble was not with the Constitution but with the kind of judges who are interpreting it—that the present crisis was a judicial and not a constitutional crisis—that what we really needed was not a new Constitution but a way to save the present Constitution from the judges for the people.

In that minority opinion four Judges, Mr. Justice Sutherland, Mr. Justice Van Devanter, Mr. Justice Butler, and Mr. Justice McReynolds, all of them 70 or over, to whom the American people are committed to pay $20,000 a year for life, stated bluntly and finally that they are willing to learn nothing and to forget nothing; that changing economic conditions mean nothing to their well-insulated legal minds; that they do not take into consideration the fact that other men have different opinions in appraising the infallibility of their own; that self-restraint is a matter of will and that there is no obligation upon any Justice of the Supreme Court to exercise any self-restraint in passing upon a question submitted to the Court.

In other words, four Judges whose ages average 74½ years have served notice on the Nation that they are on a sit-down strike and will not help the people of the United States work out their modern problems.

Read that opinion for yourselves and see the judicial open-mindedness, the judicial spirit of helpfulness, for which the American people are paying $80,000 a year.

That opinion tells the American people as clearly as legal language can speak that unless the present personnel of the Court is enlarged, every new and debatable constitutional issue will come before the Court with four Justices definitely hostile to any theory which would permit the Constitution to be adapted to the needs of the time. Four out of nine votes are loaded—packed against the people. If there should be any difference among any one of the five Justices whose minds are at all open regarding the applicability of the Constitution to new problems, then the efforts of the legislatures, State or Federal, to meet those problems, will be nullified. Whether democracy can be made to work depends on a single peripatetic vote.

It is intolerable that in a period of social and economic change the adaptability of Government and the continuity of legal growth should rest upon the judgment and human frailty of a single Justice. And this is particularly true when one of the five Justices whose minds are at all open has shown an unpredictable vacillation of mind, while another of those five Justices, although possibly less susceptible to economic predilections, is not always able to liberate himself from some strongly entertained political predilections.

And what that arrogantly noncooperative minority thinks of a country that doesn't like to pay $20,000 a year to sit-down Judges, we may learn from that enlightening homily on sportsmanship of Mr. Justice McReynolds only 3 weeks ago.

The welfare of 130,000,000 people, it seems, is the moral equivalent of a fox hunt. First and foremost a Supreme Court constitutional case is a sporting proposition. And what is really important for the continuation of American traditions is not what happens to the daily lives of the people affected by a decision, but the sporting way in which they accept their fate from the gods of the Supreme Court.

If the hundreds of thousands of children who have suffered in mine and mill and factory for years since the child-labor decisions in which Justice McReynolds participated don't like it—they are not good sportsmen.

If they object that a Supreme Court which quite properly managed to interpret the commerce clause so that the Federal Government could protect the children of the rich from kidnaping ought with equal propriety to be able to find power under the same clause to protect the children of the poor from child labor and sweatshops—they are not good sportsmen.

If the millions of men and women who have suffered because the Justice has decided that they cannot have the protection of minimum-wage laws don't like it and complain about it—they are not good sportsmen. If the coal miners don't like the destruction of the Guffey Coal Act; if the railway workers don't like the destruction of their pension act; if the farmers don't like the destruction of the A. A. A.; if the people of the Tennessee Valley don't like a constant barrage of court injunctions—then, a plague on the cheeky beggars, they are one and all poor sportsmen.

Abraham Lincoln once said that you couldn't indict a whole people. Lincoln and Supreme Court Justices never did agree.

But if the be-all and the end-all of American life is good sportsmanship, how good sportsmen are the Justices of the Supreme Court?

Let me read you the sixteenth amendment to the Constitution:

"Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States and without regard to any census or enumeration."

Now, this language seems to be perfectly simple and clear. The people intended to, and did, give to the Congress the right to assess taxes upon incomes regardless of their source.

But the Justices of the Supreme Court in 1920 passed judgment on their own case and solemnly amended the sixteenth amendment to provide that the salaries of Federal judges were not subject to a Federal income tax.

Mr. Justice Holmes and Mr. Justice Brandeis dissented. But Mr. Justice McReynolds and Mr. Justice Van Devanter concurred.

The highest attribute of despotic power is that of immunity from taxation. The subjects pay and the sovereign enjoys.

The President of the United States pays income taxes. Senators and Representatives pay such taxes on their salaries, and members of the Cabinet and other Federal officials pay income taxes on what the Government pays them.

But by the Supreme Court's ukase of self-exemption, none of the Justices pays a Federal income tax on his salary of $20,000 a year for life.

Would it not have been an act of real sportsmanship if the Supreme Court had declared the law in accordance with the plain intendment of the sixteenth amendment? Or, if there were really any doubt whether this amendment was intended to cover judges' salaries, would it not be an act of true sportsmanship if the Justices of the Supreme Court should pay income taxes voluntarily?

What kind of sportsmanship was Justice McReynolds himself displaying when he broke into a tirade about Nero when the decision in the first gold case was handed down, or when only the other day he abused Mr. Justice Stone from the bench—both times in extemporaneous interpolation which even he dared not make a part of his opinion of record?

If Louis XVI had been as humane and sportsmanlike as Mr. Justice McReynolds, he would have known how to appease hungry citizens of France when they clamored at the gates of Paris for bread. He would have told them to be good sportsmen and pay more taxes to make up for those he didn't pay.

In his fireside talk the President asserted that his proposal for judiciary reform was clearly constitutional. Who has dared to challenge that?

Two weeks ago the only living ex-Justice of the Supreme Court, Justice John H. Clarke, who retired from the Court at 65, spoke over the radio to assure the people that this proposal is perfectly constitutional. And the ex-Justice pointedly remarked: "The wise men who framed our Constitution may have had more confidence in the wisdom and patriotism of the Congress and the President which were to come after them and less confidence in courts than some seem to have today."

In his fireside talk the President has given his considered political judgment that those who poposed other remedies would not be able to agree among themselves.

How true that prophecy is proving!

No substitute plan of any kind has been agreed upon by more than a corporal's guard.

No substitute has ever been proposed which would not wrack this country for months or years on end with a bittle political controversy and open no one knows what Pandora's box of new troubles.

And no substitute plan has even been proposed which would give this session of Congress justification to pass, or to reaffirm, with reasonable hope that they would be sustained as constitutional, those statutes the people's mandate demanded last November—statutes to help workingmen and workingwomen by establishing minimum wages and maximum hours, collective bargaining, unemployment insurance, and old-age pensions—statutes to help the farmer by establishing control of surpluses and crop insurance—statutes to help the unemployed with relief and public works—statutes to help the sufferers from flood and drought with permanent protection—statutes to help the full third of our population who are ill-housed to have a decent place in which to live—statutes to conserve the human resources of our country by giving needed protection and help to children until they grow to manhood and womanhood.

These statutes and the time when we can have them—whether it shall be now or 4 years from now—is what this fighting is really all about. And no democracy in this stage of world history can afford to go 4 barren years without them.

What have the President's opponents been able to say to you?

The Chief Justice and two other Justices—of an average age of 78—have told you that a Court of nine Judges is more efficient than a Court of more than nine Judges. But at the same time they served notice that they would refuse to answer questions which might reveal whether a Court of nine efficient in torturing the Constitution to the destruction of democracy might possibly be less desirable to the people of America than a Court of more than nine willing to give men, women, children, and democracy a chance to live.

The three Justices who thus ventured to advise the Congress that the efficiency of the Supreme Court might be impaired by an increase in its size have together in the past three full terms of the Court written approximately one-half as many concurring and dissenting opinions as the three Justices of the Court under 70 have together written. And one of the Justices who joined in that advice has, during the past 6 years, written an average of not more than three and a half opinions a year. I wonder whether Mr. Justice McReynolds regards it as good sportsmanship

for a Justice to remain on the Court when obviously he cannot bear his fair share of the Court's burden.

Suppose the Justices were right about efficiency, although I do not admit it. What of it? What is more important to the American people—the pretty way the judicial wheels go round—or the effect on 130,000,000 people of the decisions that they produce? If we must choose between judicial efficiency and economic justice under the Constitution—you and I will choose justice.

What else have the President's opponents said we should be afraid of? Of anything President Roosevelt will do with the new Justices? They say not. Of the appointees whom President Roosevelt will nominate and the present Senate of the United States confirm? They say not. Of anything else that may happen here and now to you and me? They say not.

The only bogey they have been able to raise are formless fears of precedents, of future opportunities for possible future dictators, of future loss of civil and religious liberties.

Let us look this issue squarely in the eye.

I am and have always been deeply concerned about personal liberty and freedom of worship. Nor have I merely given lip service to these ideals. My small law office in Chicago would experience its greatest thrill when Jane Addams would telephone us from Hull House just over the way from this stadium that some poor devil was in trouble.

Without boasting I can truthfully say that whenever a case involving civil liberties was brought to my attention I never refused it because of any demands of private practice. In the many such cases in which I have been interested, either as a lawyer or as a citizen, I have seldom run into those corporation lawyers—those corporate caretakers—those economic embalmers of economic royalists—who now cry out that if the President's proposal is accepted, our liberties and our civil rights will be swept away by a dictatorship. I know something about those who are truly concerned and I know something about those who are falsely concerned with those rights and liberties.

Now let us be realists about these liberties. No kind of legal guaranty on paper can withstand the chaos produced by the breakdown of an economic system. Courts do not function in a vacuum. The courts may momentarily protect the individual against the passion and the wrath of the community, but the courts never can and never will protect individual rights in a community which has abandoned its belief in and its devotion to the principles of personal liberty. Tolerance and a fine regard for individual rights are seldom found in communities harassed by war, domestic strife, or economic distress.

Respect for law and order was not at high tide during the depression in the Farm Belt when enraged farmers saw their farms foreclosed by due process of law. What availed the courage or integrity of a few brave judges who rendered their decrees according to the mortgage bond and the letter of the law? It was not such judicial heroism but the A. A. A. which restored the reign of law in the Farm Belt—yet the A. A. A. was declared unconstitutional by a 6-to-3 vote of the Supreme Court.

And if our courts lose the respect and confidence of an increasingly large part of the community, their inherently slender powers will be even less able to protect individual rights. If the courts refuse because of their own economic predilections to enforce the law of the legislatures and of the people, the people will not for an indefinite period continue to respect the decrees of the courts. A civilized community demands that both capital and labor respect its law. But it is of the essence of a workable democracy that the law should reflect the community's sense of right and of justice and not that of any one class or group. If the courts are to stand as the bulwark of our liberties and to have the prestige and strength necessary in times of chaos to protect human rights, the people must not have just cause to suspect them of frustrating the honest efforts of the community to meet its social and economic problems.

I appeal to every man and woman in America who really treasures personal liberty to support the President's program for the reform of the judiciary, because it will give us courts that will allow the Congress and the legislatures of the States to cope with the pressing social and economic problems of the day.

For if our democracy does not cope with these problems while there is yet time, individual liberty will have scant chance of survival. If the liberties of America cannot be made living realities in the factory, in the shop, and on the farm, they cannot be saved in the courthouse.

The President's proposal, unlike the principal proposal of his opponents, does not take away the slightest power which the Supreme Court now has to protect the civil rights or the religious liberties of our people. And how can anyone who knows the President's record as Chief Executive of the United States or as Governor of the State of New York think for a moment that he would appoint to the Supreme Court of the United States anyone whom he has the slightest reason to suspect as not being passionately devoted to the great principles of civil and religious liberty embodied in the Constitution.

Never forget that the words of the Constitution will not avail to protect our liberties unless the Justices of the Supreme Court give force and effect to those words. Do not forget either that those Justices who have been the most responsible for the decisions invalidating social and economic legislation are not the Justices who have been the most steadfast in the protection of the civil and religious rights of the individuals.

A few years ago, for example, the Supreme Court by a bare 5-to-4 vote held that the constitutional guaranty of the freedom of the press could not be set aside by a State which sought permanently to suppress by injunction a newspaper merely because it had negligently charged officials of the State with neglect of duty and corruption. The Justices who stood for the freedom of the press were the most liberal, not the most conservative, Justices on the Court. The four Justices who dissented were those same Justices who dissented in the recent minimum-wage case; they were the four Justices known to be most antagonistic to New Deal legislation.

The Justices who have been most solicitous to protect the absolute rights of property have not been the Justices zealous in their defense of human rights. Individual liberty is far more likely to be defended from new and subtle forms of encroachment by Justices who are alive to the social and economic needs of the present generation than by Justices who have lost touch with and who cannot understand the aspirations of their fellow men.

This is therefore no time for those who love liberty and hate tyranny to betray their trust in the democratic process to deny themselves the means of dealing with the present because of formless fears of the future. This is the time for those of us who cherish the realities of freedom, who think things and not mere words, to join the President in his proposal to protect the Constitution from the courts and the courts from themselves.

It is reported that the late Justice Holmes once said to Justice Stone: "My boy, about 75 years ago I learned that I was not God. And so when the people of the various States want to do something and I can't find anything in the Constitution expressly forbidding them to do it, I say, whether I like it or not, 'let them do it.'"

What we need on the Supreme Court of the United States today are fewer gods who demand fetish worship in the name of "sportsmanship" and more men who are willing to help the American people do what they want to do.

We want human beings whose hearts have not grown too old and too cold to respond to human responses and the constructive urge to make a better world.

We want men whose mental processes remain fresh and alert and sensitive to the social changes that are going on all about us—who don't think they look ahead when they gaze into a rear-vision mirror—men who realize that, with individuals as with nations, from the moment that we cease to grow we begin to die.

We want men with a "contemporary sense of the Constitution" who can understand, as did its framers, that it contains within itself the germ of life capable of developing to meet the unforeseen and unforeseeable needs of present and future generations.

We want men on the Supreme Court who will help us make democracy function and avoid the alternative of either fascism or communism.

Stand behind the President who had vision enough to dream of such a Supreme Court.

Stand behind the President who has courage enough to try to give you such a Supreme Court.

Don't let the odd man nullify your vote of last November. Stand behind President Franklin D. Roosevelt.

Withdrawal From Philippines

EXTENSION OF REMARKS

OF

HON. ELBERT D. THOMAS

OF UTAH

IN THE SENATE OF THE UNITED STATES

Monday, April 12, 1937

STATEMENT BY MAJOR GENERAL RIVERS

Mr. THOMAS of Utah. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD a statement written by Maj. Gen. William C. Rivers, formerly Inspector General of the United States Army, concerning our far eastern policy as it has to do with our withdrawal from the Philippines. The statement appears in the New York Times of Sunday, March 28, 1937.

General Rivers spent many years of his lifetime in the Philippines in the American service and in connection with the Philippine Constabulary. General Rivers' opinions, at the present time, are strictly worthy of public consideration.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the New York Times of Mar. 28, 1937]

OUR FAR EASTERN POLICY—WITHDRAWAL FROM THE PHILIPPINES REGARDED AS SENSIBLE

To the EDITOR OF THE NEW YORK TIMES:

Your recent editorial discussion of Nathaniel Peffer's statement that we have no definite policy regarding the Far East is interesting. You feel that the Philippine question, our policy as to neutrality during another world war and whether or not we

should hasten our naval construction because of Great Britain's new program to expend $7,500,000,000—half of it on her Navy—are three political problems related to our policy in the Far East.

Shall the United States keep pace with Britain by allotting about $3,000,000,000 to our Navy during the next 5 years, in addition to the fully $500,000,000 a year we now spend for naval purposes? The press speaks of England planning to have a great fleet based on Singapore; to build a new fleet for the China coast; both these fleets to have a contingent of battleships, and so on. While the Singapore fortifications were planned for a fleet of battleships, Britain's battleships have been mostly in the English Channel since the Moroccan crises of 1901 and 1911. It may be many years before Britain can send any of her battleships farther from home than the Mediterranean.

Fortifying the narrow Strait of Malacca at Singapore is a British defense precaution. The purposes are to prevent any Western Pacific power threatening the Indian Empire and also to have at hand a naval force on the flank of any possible Japanese expansion to Australia. A glance at a globe—not at a map—will illustrate this by showing the relative positions of Singapore, Japan, and Australia. The distances are: Singapore to Japan, 3,400 geographical miles; Singapore to Australia, 1,800; Japan to Australia, 3,400; Japan to Philippines, 1,600; Japan to her Pellew group in the Carolines, 2,100.

OUR SITUATION DIFFERENT

Our own situation—geographically and as to neighbors and food—is greatly different from that of England. England is compelled to convoy food freighters long distances or starve in war; she is obliged to run risks to preserve the freedom of the seas. If our people feel the urge to spend yet more money for defense, they would be wise to put such funds into aircraft, rather than battleships merely to keep pace with Britain. Why Britain builds more battleships when her most vulnerable "frontier" is the Rhine it is difficult to see. A grand fleet will never again lie safely in Scapa Flow; the dangers from enemy aircraft would force such a fleet to constant movement and dispersion.

You mention the pressure of American sugar and farm groups in aiding the passage of the Philippine independence bill a few years ago. The present strong movement to amend that bill so as to annex the Philippines to the United States, under some form of dominion status, has the support of the sugar interests of the Philippines. This plan for the United States to accept responsibility for the defense of the Philippines should be considered with the plan for a permanent American naval base at Manila. There can be no base at Manila for the United States, because Japan lies squarely between the United States and Manila. A base is a fortified place from which forces advance and to which they may fall back. At best Congress can build at Manila only an exposed fortified salient. Would we be pleased if Japan built a naval station near the Gulf of Southern California? Any advanced naval salient we might build at Manila could readily be bombed from the air from bases in Japan itself and from bases in the Bonins and at Formosa, very near the Philippines.

INVOLVED RELATIONSHIP

A reported plan for immediate independence accompanied by a trade treaty appeared to be quite like the British-Iraq treaty of 1930. Such a plan would mean that the United States would maintain a protectorate over the independent Philippine Republic. Under such a plan the Philippine State could join the League of Nations and make treaties with and send ministers to other countries. The United States and the Republic of the Philippines would be in a military alliance to aid each other in case of war with a third power. Washington would have no veto on Philippine legislation and could intervene in Philippine affairs only to protect the government at Manila in great emergencies.

The cost of any such arrangement would naturally be colossal to the American taxpayers. First, an army of American soldiers would have to be maintained at Manila. Second, the United States would have to build a new fleet to defend the Philippines. Such a fleet would have to be at least as large as the fleet of Japan.

BACK TO WASHINGTON

We would do well to return to our own fairly consistent national-defense policy. This policy came to us from our first President. We had this policy until it was broken into by two dramatic excursions taking over the Philippines and shipping a great field army to Europe. The idea in taking the Philippines was to protect our trade with China; now many persons propose that we must protect China to guard the Philippines. We have now commercial trade with Japan which is far greater than our combined China and Philippine trade.

Holding the Philippines will involve us in a war with Japan at some time; it may also place on the United States the responsibility for suppressing a Filipino revolt against the local government at Manila. Conflicts at such distances would be for the United States the most difficult wars man could devise.

The United States should withdraw from the Philippines and from the Orient. We have no territory in Asia proper and no political interests at all in Asia. The United States is not the guardian of Asiatic morals and we are not going to interfere in Asiatic affairs. The future of eastern Asia will inevitably be settled by the people who live there—by Japanese, Chinese, and Russians.

WILLIAM C. RIVERS,
Major General, United States Army (Retired).

NEW YORK, *March 25, 1937.*

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. EDWARD R. BURKE
OF NEBRASKA
IN THE SENATE OF THE UNITED STATES
Monday, April 12, 1937

RADIO ADDRESS BY HON. PATRICK H. DREWRY, OF VIRGINIA, ON APRIL 9, 1937

Mr. BURKE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a radio address delivered on Friday, April 9, 1937, by Hon. PATRICK H. DREWRY, Representative from the Fourth District of Virginia and chairman of the Democratic National Congressional Committee, relative to the proposed reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S COURT PROPOSAL SHOULD BE DEFEATED

The suggestion of the President that six additional Justices be placed on the Supreme Court, whether unintentionally or otherwise, makes possible, if the suggestion be adopted by Congress, a serious change in the fundamental form of the Government of the United States.

The question is not necessarily abstruse or obscure. In its final analysis it is easily understood. It is admitted that the proposal does not call for an interpretation of constitutional law. The college president and the man in the street may express their opinions in varying phrases, but the common run of men have the intelligence and the will to make the decision whether they want their power in their Government to remain in their own hands as fixed in their Constitution, or whether they desire to yield their power into the hands of another, thereby establishing a possibility of the ultimate loss of all their power and a precedent that might conceivably, in the hands of a man not as able and honest as our present Executive, be used adversely to their interests.

The provision of the Constitution contained in article II, section 3, reads: "He (the President) shall from time to time recommend to their consideration (the Congress) such measures as he shall judge necessary and expedient." In the exercise of this constitutional privilege the President sent his message concerning the Supreme Court, for these remarks will only apply to this one subject. Having done his duty as the Executive in recommending this measure, which he judged "necessary and expedient", it then becomes my duty and the duty of other Members of the Congress to give the recommendation careful and conscientious consideration. If the Members of the Congress reach the conclusion that the proposal is neither necessary nor expedient, then clearly under their oath it is their duty to well and faithfully discharge that duty by opposing the legislation suggested. There is no occasion for harsh or contemptuous reference by either the proponent or the opponent of recommended legislation. Each under the oath of his office has his duty to perform, one to recommend, the other to consider. Then the latter enacts, or refuses to enact, such legislation.

It seems strange that such a plain and simple statement should have to be made, but when Members of the Congress of the United States, of equal dignity in our form of government, with the Executive and the judiciary, and outstanding citizens of the country who have the welfare of the Nation at heart, are classed, because of their opposition to this legislation, as "the same elements of opposition" which, by inference, attempted to prevent beneficial movements for the care of the ill-nourished, ill-clad, and ill-housed, then protest must be made by those whose independence of thought and action is thus impugned. I am opposed to this legislation—for I believe it to be neither necessary nor expedient, and in addition it establishes a dangerous precedent in our form of government. I have great admiration for the President and high regard for the dignity of his office, and believe in the honesty of his purpose in recommending this legislation, but I claim for my office as Representative an equal dignity and for myself the right as a citizen of the United States to place loyalty to my country above that of adherence to the views of the Executive.

I cannot be classed as being a part of the "same elements of opposition" that opposed former policies of the administration, for I gave my services willingly and wholeheartedly to insure the continuance of the administration, and the control of the policies of the Government by the Democratic Party. But this proposal is not and should not be made a subject of partisan debate. The issue goes too deep into the center of the system of the Government of this country to become confused by partisans striving for political advantage. Every citizen, whether he be Democrat or Republican, is concerned with a change in the

administration of justice as between man and man in our courts. I am presenting my view solely as an American citizen.

It is a matter of regret that in the discussion of this subject of the most serious import to the country and its people there should be brought into play the use of such words as denote hostility. There should be no "fight" by any of the three great divisions of the Government with the others—each has its function and should be permitted to function without undue interference on the part of one with the other. The people are citizens of a common country and they have the right to demand of each division that there be cooperation for the general welfare—not antagonism. And the people are demanding that this proposal be carefully considered by the Congress, for eventually it may affect every man, woman, and child in this country. It should not be hastily adopted. As representatives of the people, it is the duty of the Congress to safeguard the power of the people which has been placed in their hands to defend, preserve, and protect. The people understand the illustration of the three governmental plow horses, and they agree that the team of three should pull as one, but they have not yet decided which one of the three is "plunging off in another direction." Everybody was agreed that business conditions were better and the field was being well plowed, or so they thought. This proposal did not come from the judiciary, which was moving along in the way it had always moved, interpreting legislation as to its accord with the Constitution; nor did it come from Congress, which was discharging its duty as best it could, drafting legislation for the welfare of the people. No; this proposal came from the Executive, and the field has not been plowed since its receipt by the Congress. Little work has been done and further work cannot be done until this matter of supreme importance has been decided. The people would prefer the picture of the Spirit of '76, the patriots moving forward, heads high, and keeping step to brave music, under the folds of the Nation's flag.

It is essential also before examining the question of the necessity or expediency of this proposed legislation to refresh our knowledge of the Constitution as an instrument of government. Was the Constitution intended to be rigid or flexible? The answer is—and this goes to the core of the whole question—it was intended to be rigid, until the people changed it. As provision was made in the document itself for such changes as the people desired, it must be termed "flexible." In the Constitution is lodged the power of the people. The people gave the Constitution to the country that their rights and liberties should be known and preserved as they gave it and only the people can take it away. There is no other power, by direction or indirection, that can change it except it be done by the will of the people in the manner prescribed, viz, by amendment. It is said that the process of change by amendment is hard to obtain. That is true. It was intentionally made difficult for the express reason that if it be kept rigid until the people see the absolute necessity for a change then there will be a feeling of security in the basic law that will tend to permanence of our governmental institutions. On the other hand, if it were easy to change it, then it would finally become not a Constitution but a code of laws. The result would be that at any time a sufficiently powerful majority, carried away by the political enthusiasm of the moment, might ignore or destroy the rights of impotent minorities. Some may think that this would be desirable but our political fluctuations are too sudden for any man, whether he be at the bottom or the top of political control to take a chance so subversive of our form of government.

The United States has prospered under its system of government. Starting from nothing, as might be said, it has developed into the most important Nation on earth, as its citizens fondly believe. The Supreme Court in the exercise of its powers has often passed upon legislation desired by the Executive and the Congress and declared it invalid. Presidents have objected and Congress has objected but the Supreme Court has replied "The will that prevails is the will of the people, expressed in the Constitution which they have enacted", as was so tersely stated by a distinguished student of our form of government. And this same authority further said, "To construe the law, that is, to elucidate the will of the people as supreme lawgiver, is the beginning and end of their duty." Reference should also be made to the remarks of James Wilson, of Pennsylvania, who has been called "one of the deepest thinkers and most exact reasoners" of the Constitutional Convention of 1787, when in addressing the Pennsylvania Congress of 1788, he said, "Perhaps some politician who has not considered with sufficient accuracy our political systems would observe that in our governments the supreme power was vested in the constitutions. This opinion approaches the truth but does not reach it. The truth is that in our governments the supreme absolute and uncontrollable power remains in the people. As our constitutions are superior to our legislatures so the people are superior to our constitutions."

There must be some final arbiter in whom the people have confidence to render the final decision. Under the Constitution, and under their oath to interpret it and validate all legislation consonant with it, for all the years of this Nation the Supreme Court has been doing its duty as seemed to it right and proper in rendering its decisions. The people have accepted their verdict. Some have objected to its judgment at one time or another, but the people have seemed content to abide by its interpretation and have received it in good faith. No one knows what dangers have been avoided by this willingness of the people to accept this method of settling their disputes and disagreements. So there has grown up a very proper regard and reverence for the Court and a very decided opinion among the people that the system that has worked acceptably for 150 years should not be lightly changed. Some will immediately say "The system will not be changed—the Supreme Court will still have its power—no change is made except in the number of justices." Ordinarily, that would be true and the argument would resolve itself into a discussion of how many justices there should be—whether the Court would function better with a larger or a smaller number. At this time, however, when there has been irritation manifested that the Supreme Court has decided certain legislation was not in keeping with the Constitution, there would be reasonable ground for assumption that the proposal is put forward in order that such legislation would be declared constitutional instead of unconstitutional. The decision has been rendered. It is final. The people have accepted it.

There is no special virtue in the number 15 any more than in the number 9. To add six more would simply increase the cost to the people in that they would have to bear the expense of six more than now constitute the Court. The present membership is composed of men learned in the law with years of experience and study of the Constitution. No fault has been found with their ability or integrity. Any matter arising under the Constitution could safely be left to their interpretation, except legislation some wish to become the law of the land which has heretofore been adjudged unconstitutional by the present judges. The conclusion is inescapable that it is hoped the new judges, if appointed, will render a different interpretation than has been already rendered. Otherwise there would be no point in simply enlarging their number. This is now virtually admitted by witnesses advocating the proposal testifying before the Senate committee. At first there were certain reasons given for the enlargement of the Court. As the argument was shown not to be correct in its statement of facts, the real argument was then advanced, viz, that it was desired to have certain legislation declared constitutional which had previously been held unconstitutional. It then necessarily follows that a precedent is established of changing the number for the purpose of having certain legislation declared valid which would otherwise be declared invalid. If this purpose could be accomplished by adding six it could be accomplished by adding more—any number to attain the desired result. With stronger reasoning, instead of a rigid constitution, flexible only to the will of the people, you would have a constitution subject, not to the will of the people, but to the will of the Executive or Congress or both. In fact, you would have no Constitution at all, such as it is now, for you would have destroyed it, and the will of the President becomes the law of the land. This possibility is certainly existent and if the possibility becomes an accomplished fact, then the fundamental form of our government has been materially changed.

Why did the Executive declare this legislation to be "necessary"?

It must be noted that the proposal with reference to placing additional judges on the Supreme Court was tied up with recommendations for district and circuit courts. The reasons given as applicable to the recommendations for district and circuit courts also were applied generally to the Supreme Court. Yet the reasons given in some cases were applicable to district and circuit courts alone and were not applicable to the Supreme Court.

First, reference was made to the congestion of the calendar. This was easily remedied in the lower courts, but it was found that there was no congestion in the calendar of the Supreme Court; therefore this reason can be eliminated so far as the Supreme Court is concerned.

Second, it was proposed to make the judiciary more elastic by providing for temporary transfers of circuit and district judges. In its terms this did not apply to the Supreme Court—it referred only to circuit and district courts.

Third, to furnish the Supreme Court practical assistance in supervising the conduct of the business in the lower courts. This was to be done by establishing the office of a proctor, and in its terms did not make applicable to the Supreme Court the necessity of six additional judges.

Fourth, to eliminate inequality, uncertainty, and delay in the determination of constitutional questions. No inequality or uncertainty was shown to be applicable to the Supreme Court in its determination of such questions.

As to delay and cost to litigants, there were no facts cited to show that 15 judges would take any shorter time to decide than would 9 judges. As a matter of fact, the probabilities are that it would take longer for 15 judges to determine a case than it would take 9. Certainly there is no ground to believe that the cost to litigants would be any less. The procedure involved is the same and the cost would probably be about the same. Therefore none of the four reasons became applicable to the Supreme Court.

Why did the Executive recommend this legislation as "expedient"? This word has such broad implications that it may be said this question was answered not specifically but by the recommendation taken in its entirety. Attention might be called to the fact that the expediency of the legislation seemed to have been overlooked. However, the Attorney General in an address broadcast on February 14 probably throws light on this. He wanted to know in a rhetorical question why the Supreme Court should be granted a "special exemption from the plan", and he said no one had explained that to him. Maybe no one was presumptuous enough to think that the Attorney General of the United States should be informed that the Supreme Court was the court of last resort and that their decision was final. Then he said, "What, then, is the real objection?" Answering his own question, he

replied to himself as follows: "It is simply this: Those who wish to preserve the status quo want to retain on the bench judges who may be relied upon to veto progressive measures." If this be true, then the corollary is true, that those who wish to change the status quo want to place on the bench judges who may be relied upon to sustain progressive measures. In an analysis of this statement the first trouble arises in defining what are "progressive measures." What are "progressive measures" and who will decide what is "progressive" and what is not progressive? Not every measure that someone calls "progressive" is necessarily "progressive" in the definition of the word as it exists in the minds of all others. Our lunatic asylums are full of people who are there because they advocated something they called "progressive" but which everybody else called "nonsense." Who will decide what is a "progressive measure"? "Aye, there's the rub." Surely the Attorney General would not blithely undertake the tremendous responsibility of deciding what measures were progressive that the judges might be relied up to sustain. The matter has not been cleared up by the words of the Attorney General; only the real reason for placing additional judges on the Supreme Court, which heretofore has been obscure, is now brought out into the light of day.

But the matter as a whole has not been stated correctly by the Attorney General. Judges should not be placed on the Supreme Court because they can be "relied upon" to veto what some think are progressive measures, nor because they can be relied upon to sustain what some think are progressive measures. The prime reason for appointing judges is the exact antithesis of this statement. Justices are put on the Supreme Bench to declare honestly and conscientiously that certain legislation brought before them is in accord or is not in accord with the Constitution, regardless of whether anyone thinks such legislation is progressive or not progressive.

The charge is made that the Supreme Court has usurped the powers of the Executive and the Congress. There can be no usurpation by the Court so long as it decides such cases as are brought before it in accordance with what it thinks is the law. No one charges that it has deliberately seized and used offices, functions, powers, or rights which belonged to other divisions of the Government. The charge is merely that its decision is not the decision some others might have made. Usurpation, if usurpation there be, can be far more readily applied to other divisions of the Government for the proposal would usurp not merely the power of the Supreme Court but, what is far more important, it would usurp the power of the people of the United States. The Supreme Court was intended by the founders to protect the people of the States from the usurpation of power by the Executive on the one hand and the Congress on the other. So this device of government, new departure as it was from other governmental systems, was made into an independent judiciary, when by unanimous vote in the convention of 1787, the judges were appointed for life and became independent of legislative or executive control. The President's proposal destroys that independence whenever the Executive and Congress legislate to provide such a number of additional judges that the duly considered views of incumbent judges may be overridden. It is true that their life tenure still makes them independent, in a sense, but could they remain independent in their decisions if they thought that at any time their rulings displeased Congress or the Executive they would be virtually superseded by a judge who might be placed on the bench to render opinions more pleasing to "the powers that be"? Would they not be sensitive to such procedure to an extent that would influence their judgment? Who would then say that the power of the people as expressed in the Constitution has not shifted from the people to the Executive and the legislative body? What has become of the security of the power of the people, which the fathers thought they had irrevocably provided in that great document, the Constitution? There is only one answer: The power of the people as expressed in their Constitution is forever lost.

Labor and Legislation

EXTENSION OF REMARKS

OF

HON. PAT McCARRAN

OF NEVADA

IN THE SENATE OF THE UNITED STATES

Friday, April 9, 1937

RADIO ADDRESS BY I. M. ORNBURN, SECRETARY OF THE UNION LABEL TRADES DEPARTMENT, AMERICAN FEDERATION OF LABOR

Mr. McCARRAN. Mr. President, on February 13, 1937, Mr. I. M. Ornburn, secretary and treasurer of the union label trades department of the American Federation of Labor, delivered a very interesting radio address on the subject of Labor and Legislation. I ask unanimous consent that it may be printed in the Appendix.

Without objection, the address was ordered to be printed in the RECORD, as follows:

I desire to express the deep appreciation of the American labor movement for this opportunity to broadcast over the coast-to-coast network of the Columbia Broadcasting system. Radio is our most effective method of communication with the millions of labor unionists and their sympathizers who have so loyally patronized those firms that display the union label, shop card, and button. The efforts of the members of labor unions, ladies' auxiliaries, union-label leagues, and their friends are bringing definite results. From all sections of the United States and Canada we are receiving requests for union-label directories. Many manufacturers are seeking information about how they may obtain the right to use the union label, and thousands of merchants are asking for lists of industries that display the union label on their products.

The most tragic economic problem in America today is unemployment. The only practical solution that has been offered is the shorter workweek—a remedy which has been constantly advocated by the American Federation of Labor. With shorter working hours the millions of men and women who are still without normal employment can be put back to work. It is appropriate to recall the words of the great emancipator, Abraham Lincoln, who said: "So long as one man who is willing to work is seeking employment and cannot find it, the hours of labor are too long." A decrease in working hours would put more wage earners on steady jobs, and with no reduction in wages, purchasing power would be increased. This is the only way to pass around the "spotty" prosperity that is now being enjoyed by a few.

Working hours are, however, on the increase at the present time. Before the N. R. A., from January 1932 to June 1933, the workweek in American industry was 41¾ hours; the codes cut it to 37¾ hours; but at the present time the average workweek is 41½ hours. The best way for all workers to prevent a further increase in working hours is for them to join labor unions, and through collective-bargaining agreements demand that employers cut hours but not pay. In order to even maintain the present hours, workers and their friends should purchase only those products which bear the union label and patronize only those services that display the shop card and button, because in so doing they are upholding the wages, the hours, and the conditions of those industries that are maintaining our present purchasing power.

One of the most cheering notes of the recent National Conference on Labor Legislation was sounded by President Roosevelt in his message of greeting to the delegates. He interpreted the 1936 election as a mandate from the people for the enactment of more adequate labor laws, and he promised the National Government would do its part.

The President said: "I believe that this country has last [November] given a mandate in unmistakable terms to its legislators and executives to proceed along these lines until working people throughout the Nation and in every State are assured decent working conditions. These include safe and healthful places of work, adequate care and support when incapacitated by reason of accident, industrial disease, unemployment, or old age; reasonably short working hours; adequate annual income; proper housing; and elimination of child labor." We hope that Congress as well as the executive departments of our Government will not forget this mandate of the people.

Among the several beneficial laws passed by the last Congress is the Walsh-Healey Act. Manufacturers who comply with it should have a distinct advantage in bidding on Government contracts. This act of Congress provides that in the manufacture or furnishing of materials and other supplies to be purchased by the Federal Government (in any amount exceeding $10,000), the contractor must comply with certain fair conditions in the employment of workers. These standards comprise prevailing minimum wages, 40-hour week, and sanitary working conditions. The law also requires that no boy under 16 years of age, no girl under 18 years of age, and no convict labor shall be employed by the contractor or manufacturer.

The union label trades department is anxious to have the scope of the Walsh-Healey Act extended and some "teeth" placed in the law. We shall ask Congress for the enactment of amendments to reduce the amount of purchases from $10,000 to $1,000, with stiff penalties for anyone who splits up purchases to evade this amount. We also desire a change in the act so that successful bidders will be compelled to submit proof that all materials used to fill Government contracts were produced under fair labor conditions.

The Walsh-Healey Act imposes certain labor conditions that are in harmony with the principles for which the union label stands. Industries which have the right to display the union label should have no difficulty in qualifying as bidders for Government contracts.

While workers require remedial legislation for their industrial ills and protective legislation for their rights already gained, they can help themselves through independent action by buying collectively. They should patronize those firms that display union labels, shop cards, and buttons. Collective buying is as strong an arm of the American labor movement as collective bargaining. If workers do not buy their own products and services, they cannot maintain the wages, hours, and conditions that they now enjoy in America. It is most assuredly true that they cannot better their conditions by buying foreign-made products and the merchandise of chiselers who employ child labor and women at coolie wages in industries in our own land.

If American business firms, factories, and other industries do not find a market for their increased production, we shall take a

tail spin into another depression. The only thing that will keep recovery in its present altitude is greater purchasing power. The buying of union-label products is the only way to hold the speed of the prosperity motor which is required to keep America at its present economic levels.

The able administrator of the W. P. A., Harry Hopkins, recently said:

"For the very life of business, the mass of people must be able to buy, for mass production is the heart of the system. With all the talk about taking care of the unemployed what is going to take care of the unemployed employer? Nothing except the consumer's dollar."

In order to be more specific, here are many ways in which all workers and their friends can help in our union-label campaign:

Patronize only those firms that display the union label, shop card, or button.

Attend all meetings of your local union.

Form a union-label league in your city.

Form a ladies' auxiliary to your labor union.

Support your labor newspapers.

Prove to the merchants that the advertising of union-label merchandise pays.

Issue a local directory of union labels and a list of merchants that display them.

Hold a union-label week in your city.

Plan a union-label exhibit.

Always remember that you must spread the gospel of the union label, shop card, and button in your community and enthuse your local unions to serve notice on all firms to unionize and sell union-made goods.

You are the one upon whom we must depend to relay the message about union labels, shop cards, and buttons.

I desire to take this opportunity to express the thanks of American labor for the enlightening exposure of detective agencies that is being made by the Civil Liberties Committee of the United States Senate which is headed by the able United States Senator, ROBERT M. LA FOLLETTE, JR. This investigation proves that certain industries have wasted millions of dollars in employing worthless agencies to spy on labor unions. The methods used by these trouble-making agencies include riots and other violent outrages. In one case, a bomber was employed by an antilabor organization to blast workers' homes. Such tactics are un-American and will be condemned by all fair-minded citizens.

Industry should cooperate with organized labor and establish collective bargaining agreements in every plant in America. Strikebreakers, gunmen, and company police always cause industrial warfare. Instead of spending millions of dollars for spies, stool pigeons, company unions, and in other antilabor activities, if labor and industrial leaders would sit down together at a common conference table and intelligently discuss their problems, it would lead to industrial peace.

In addition to the fight for better wages and shorter hours that organized labor has made for the American people, labor unions have been the agencies in every community to obtain a fuller and better life for the American people.

Labor unions first started the movement for free public schools. Wage earners demanded schools so that their children might have opportunities for an education.

Labor unions keep the children of wage earners in the school and out of factories and mines, because labor unionists are paid wages which will support a family. They have been foremost in demanding improvements in public education.

When a worker makes more money, he can spend more money. Higher wages in your community will better business. Workers want and need many things, such as furniture for their homes, clothes, and food. If they have higher wages, they can buy these things.

Because labor unions help to increase pay and to make work more regular, it is possible for workers to save against a rainy day. Workers' savings mean insurance and bank deposits. These savings are important to bankers and the community.

Labor unionists are home owners. Better income makes a better citizen. No one likes to rent or live in tenements. All people want comfortable homes in attractive surroundings. The labor union makes this possible for the worker.

Because a labor unionist works for shorter hours, workers have leisure time to study and read and be better citizens. Labor unions carry on adult educational work, and this work depends upon the public library.

The labor union helps to make more independent, healthier, and better informed men and women workers.

These various services contribute to the upbuilding of the community, to better and more wholesome living, and to the development of more equitable principles of living and working together.

The union label trades department has had a most successful year. Numerous union label exhibits, including the one of the Washington Union Label League in this city, have been held during the past year. They have been very successful. The women's auxiliaries of the national and international labor unions have formed the American Federation of Women's Auxiliaries of Labor, which is unusually active in promoting union-label products. There has been a substantial increase in the number of union-label leagues throughout the country. Central labor unions have designated special committees to urge union-label buying. In addition to all these organizations, a million farmers have become union-label conscious and are demanding union services as well.

The outlook for the future is very bright. The increased demand for the union label means that organized labor will raise wages, shorten hours, and better the conditions of all workers in America. The union label is the only guaranty that the merchandise upon which it is displayed is not made in a sweated industry or by child labor.

There has been a great deal in the papers about collective bargaining during the past few months. It may be interesting to our radio audience to know the definition of this item. Collective bargaining means that the organized employees of a trade or industry through representatives of their own choosing shall deal with the employer or employers in the making of wage scales and working conditions. Collective bargaining is the only practical proposal for adjusting relations between the management and the workers in a business way, assuring a fair deal to both sides.

In 1776 our forefathers put into practice the principle of collective bargaining. In order to settle certain grievances with a monarch the Thirteen Original Colonies joined together in a union, which eventually became a nation. The Members of Congress chosen by the people to represent them are similar to the representatives chosen by labor unions to represent them in industrial problems. For any court to declare the principle of collective bargaining unconstitutional would be the same as to declare that the United States of America is unconstitutional. Therefore labor unionists believe that this great principle of collective bargaining is as important to the American labor movement as the Declaration of Independence was to the greatest form of government in the world—our own Republic.

P. W. A. Projects—Where Bond Elections Were Held and Carried

EXTENSION OF REMARKS
OF
HON. ALFRED F. BEITER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, April 12, 1937

Mr. BEITER. Mr. Speaker, prompted by the desire to obtain a clear picture of the non-Federal projects approved by the examining divisions of the Public Works Administration for which bond elections have been held and carried as of April 1, 1937, I requested the Assistant Administrator of the P. W. A. to furnish me a list and have hereto attached such list for the information of the House.

There are undoubtedly many projects listed where the need has reached such proportions as to be of social and economic necessity and that it be corrected in the very near future.

It is clear that any effort toward extending the P. W. A. and making additional appropriations to complete not only those projects where bond elections have been held but also the 2,987 projects approved by the examining division for which no allocations have been made would create a boom in construction and business in general, the likes which would practically restore the country to normal levels single-handedly.

ABSORBING THE JOBLESS

It has become a commonplace to say "that it is up to business and industry to absorb the jobless."

The statement is a truism, but we may as well be realistic about it. Business is conducted for profit; it is not altruism. If you owned a corner grocery and discovered that by employing two clerks you could operate at a profit but that with three clerks you would be operating at a loss, it would take something more than idealistic preachments to induce you to add that extra clerk. Only in degree does the problem of the big corporation differ from that of the corner grocer.

I think industry can profitably do more than it has yet done to enlarge its pay rolls. But with the best intentions, it will in time reach the point of diminishing returns beyond which I cannot honestly expect it to go within the framework of the present system.

Recognizing that fact I shall continue my efforts to continue P. W. A. with an appropriation sufficient to complete the projects approved, for I believe there will be plenty for all of us to do after industry has done the best it can, and I hope to have your support in this connection.

The list is as follows:

List of all pending non-Federal projects (approved by examining divisions) for which bond elections have been held and carried as of Apr. 1, 1937

Docket no.		Location	Type of project	Key [1]	Loan	Grant	Total	Total estimated project costs
Main	Sub.							
ALABAMA								
W1041	.....	Moulton	Filtration plant	6	$17,000	$13,909	$30,909	$30,909
W1088	.....	Fort Payne	Sanitary sewer	5	.....	20,454	20,454	45,454
W1151	.....	Ashford	Waterworks	5	.....	12,422	12,422	27,605
W1174	.....	Phenix City	Courthouse	5	.....	42,340	42,340	94,088
W1213	.....	York	Municipal improvements	5	.....	18,000	18,000	40,000
ARIZONA								
W1023	.....	Maricopa County	School	5	.....	$6,955	$6,955	$15,455
ARKANSAS								
W1011	.....	De Witt	High school	5	.....	$39,272	$39,272	$87,272
W1173	.....	Clarksville	Hospital	6	$25,000	20,454	45,454	45,454
CALIFORNIA								
W1117	.....	Watsonville	Gymnasium	5	.....	$56,455	$56,455	$125,455
W1142	.....	Sweetwater	School	5	.....	143,181	143,181	318,141
W1165	.....	Sacramento	Electrical distribution	5	.....	5,400,000	5,400,000	12,000,000
W1194	.....	Barstow	Disposal plant	6	$48,000	39,272	87,272	87,272
W1217	.....	Pacheco Pass	Waterworks	6	185,000	151,364	336,364	336,364
W1316	.....	Santa Barbara	Swimming pool	5	.....	35,181	35,181	78,181
W1317	.....	....do	Stadium	5	.....	15,545	15,545	34,545
W1333	.....	California, State of	Waterworks	5	.....	3,060,000	3,060,000	6,800,000
W1379	.....	San Francisco	Municipal building	5	.....	137,400	137,400	305,334
W1442	.....	Barstow	School	5	.....	66,272	66,272	147,272
W1446	.....	Ontario	Auditorium	5	.....	180,000	180,000	400,000
W1456	.....	Anaheim	Schools	5	.....	252,818	252,818	561,818
W1469	.....	La Mesa	Irrigation	6	145,000	118,636	263,636	263,636
W1474	.....	Eureka	Detention Home	5	.....	18,000	18,000	40,000
W1493	.....	Fresno County	Schools	5	.....	79,191	79,191	175,980
W1494	.....	Dinuba	School	5	.....	105,300	105,300	234,000
W1497	.....	Porterville	....do	5	.....	68,951	68,951	153,225
W1500	.....	Escondido	School building	5	.....	53,181	53,181	118,181
W1529	.....	Merced	School	6	20,000	16,364	36,364	36,364
W1537	.....	Banning	....do	5	.....	121,500	121,500	270,000
W1544	.....	Williams	City hall and jail	5	.....	13,776	13,776	30,614
W1552	.....	Woodlake	High-school addition	5	.....	67,545	67,545	150,100
W1564	.....	Sacramento	School	6	60,000	49,091	109,091	109,091
W1568	.....	Chula Vista	....do	5	.....	29,250	29,250	65,000
W1584	.....	National City	City hall	5	.....	16,363	16,363	36,363
W1587	.....	Indio	School addition	5	.....	32,850	32,850	73,000
W1593	.....	Soledad	....do	5	.....	9,360	9,360	20,800
W1601	.....	Mojave	School	5	.....	60,075	60,075	135,500
W1607	.....	Carpinteria	....do	5	.....	63,000	63,000	140,000
W1618	.....	San Bernardino	Schools	5	.....	76,283	76,283	169,518
W1629	.....	Oakland	Dock improvements	5	.....	72,225	72,225	160,500
COLORADO								
W1171	.....	Arapahoe County	School	5	.....	$24,545	$24,545	$54,545
W1172	.....	Greeley	....do	5	.....	86,400	86,400	192,000
W1176	.....	Monte Vista	....do	5	.....	72,000	72,000	160,000
W1179	.....	Arvada	....do	5	.....	24,545	24,545	54,545
W1186	.....	Bent County	School addition	5	.....	54,000	54,000	120,000
DELAWARE								
W1022	.....	Milford	Waterworks	5	.....	$83,250	$83,250	$185,000
FLORIDA								
W1338	.....	Palm Beach County	Bridge	5	.....	$43,363	$43,363	$96,363
GEORGIA								
W1063	.....	Pembroke	Courthouse	5	.....	$22,500	$22,500	$50,000
W1178	.....	Portal	Waterworks	6	$8,000	6,545	14,545	14,545
W1296	.....	Avondale	School building	5	.....	34,883	34,883	77,517
W1304	.....	Augusta	School addition	5	.....	24,615	24,615	54,699
W1308	.....	Americus	High school	5	.....	34,364	34,364	76,364
W1318	.....	Cumming	School	6	5,500	7,875	13,375	17,500
W1320	.....	Metter	....do	5	.....	36,000	36,000	80,000
W1323	.....	Gore	Buildings	5	.....	9,225	9,225	20,500
W1327	.....	Dawson	School	5	.....	29,250	29,250	65,000
W1328	.....	Eton	....do	5	.....	15,423	15,423	34,272
W1329	.....	Cedartown	Disposal plant	5	.....	44,627	44,627	99,170
W1332	.....	Alma	School	6	8,500	7,257	15,757	16,125
W1333	.....	Carrollton	....do	6	4,000	4,950	8,950	11,000
W1335	.....	Carroll County	....do	6	2,000	2,863	4,863	6,363
W1337	.....	Carrollton	....do	6	2,000	2,863	4,863	6,363
W1338	.....	Villa Rica	....do	6	2,000	2,863	4,863	6,363
W1340	.....	Rossville	....do	5	.....	28,636	28,636	63,636
W1342	.....	Rockmart	....do	5	.....	16,363	16,363	36,363
W1344	.....	Decatur	....do	6	14,000	11,455	25,455	25,455
W1349	.....	....do	....do	6	12,000	11,246	23,246	24,990

[1] Grant only: 30 percent, 1; 45 percent, 5. Loan and grant: 30 percent, 2; 45 percent, 6. Loan only: 30 percent, 3; 45 percent, 7.

List of all pending non-Federal projects (approved by examining divisions) for which bond elections have been held and carried as of Apr. 1, 1937—Continued

IDAHO

Docket no.		Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
Main	Sub.							
W1029	------	Idaho Falls	School	5	----------	$25,650	$25,650	$57,000
W1034	------	Preston	Waterworks improvement	5	----------	46,767	46,767	103,927
W1047	------	Coeur d'Alene	Hospital	5	----------	54,000	54,000	120,000
W1063	------	Plummer	High school	5	----------	22,909	22,909	50,909
W1074	------	Bonners Ferry	School addition	5	----------	33,545	33,545	74,545
W1075	------	Deary	....do	5	----------	6,300	6,300	14,000
W1091	------	Mesa	Irrigation	5	----------	23,727	23,727	52,727
W1096	------	Pocatello	School addition	5	----------	302,727	302,727	672,727

ILLINOIS

W1053	------	O'Fallon	Electrical distribution	5	----------	$79,200	$79,200	$176,000
W1104	------	Morton	Paving	5	----------	51,545	51,545	114,545
W1204	------	O'Fallon	Disposal plant	5	----------	13,090	13,090	29,090
W1214	------	Clinton	Waterworks improvement	5	----------	67,909	67,909	150,909
W1232	------	Floyd	Streets	5	----------	19,636	19,636	43,636
W1235	------	Kell	Highway	5	----------	24,545	24,545	54,545
W1250	------	East Peoria	Disposal plant	5	----------	118,636	118,636	263,636
W1274	------	Perryton	Streets	5	----------	18,000	18,000	40,000
W1299	------	Piper City	Auditorium and gymnasium	5	----------	30,272	30,272	67,272
W1334	------	Paris	Disposal plant	5	----------	101,250	101,250	225,000
W1370	------	Charleston	....do	5	----------	46,636	46,636	103,636
W1537	------	Prairie Township	Streets	6	$4,000	25,363	29,363	56,363
W1600	------	East Moline	Auditorium and gymnasium	5	----------	40,090	40,090	89,090
W1647	------	East St. Louis	Bridges	5	----------	54,180	54,180	120,400
W1682	------	Earlville	Disposal plant	5	----------	2,290	2,290	5,090
W1704	------	Virden	School addition	5	----------	19,350	19,350	43,000
W1715	------	Mount Carroll	School auditorium	5	----------	70,363	70,363	156,363
W1776	------	Hamilton	School addition	5	----------	3,681	3,681	8,181
W1777	------	Yates City	....do	5	----------	25,363	25,363	56,363
W1779	------	Georgetown	City Hall	5	----------	6,136	6,136	13,636
W1780	------	New Boston	School addition	5	----------	21,272	21,272	47,272
W1792	------	Shipman	School	5	----------	17,181	17,181	38,181
W1803	------	Niles Center	High school	5	----------	346,909	346,909	770,909
W1806	------	Niles	School addition	5	----------	24,545	24,545	54,545
W1807	------	Chapin	High school	5	----------	24,545	24,545	54,545
W1810	------	Joliet	School	5	----------	81,818	81,818	181,818
W1832	------	Beecher City	School addition	5	----------	8,182	8,182	18,182
W1846	------	Lebanon	School	5	----------	40,090	40,090	89,090

INDIANA

W1385	------	Goshen	Light plant	5	----------	$40,000	$40,000	$89,050

IOWA

W1255	------	Grafton	Waterworks	5	----------	$10,227	$10,227	$22,727
W1348	------	Plainfield	School	5	----------	24,750	24,750	55,000
W1351	------	Humboldt	Courthouse	5	----------	83,250	83,250	185,000
W1356	------	Larrabee	Waterworks	5	----------	6,300	6,300	14,000
W1360	------	Hampton	School addition	5	----------	99,000	99,000	220,000
W1363	------	Royal	School building	5	----------	24,300	24,300	54,000
W1374	------	Waukon	School addition	5	----------	37,350	37,350	83,000
W1378	------	Dawson	School	5	----------	20,250	20,250	45,000
W1379	------	Blairsburg	Waterworks	5	----------	5,850	5,850	13,000
W1380	------	Iowa City	Community building	5	----------	29,000	29,000	64,443
W1387	------	Westfield	School	5	----------	25,200	25,200	57,500

KANSAS

W1051	------	Eudora	Street improvements	5	----------	$21,273	$21,273	$47,273
W1076	------	White City	Waterworks	5	----------	23,629	23,629	52,508
W1154	------	Wamego	High school	5	----------	81,000	81,000	180,000
W1166	------	Sylvia	Waterworks	5	----------	17,396	17,396	38,658
W1173	------	Atchison	School	5	----------	65,000	65,000	143,990
W1178	------	Valley Falls	Vocational school	5	----------	3,681	3,681	8,181
W1231	------	Marysville	High school	5	----------	94,500	94,500	210,000
W1304	------	Woodston	Waterworks	5	----------	10,620	10,620	23,600
W1305	------	Stafford	School	5	----------	51,210	51,210	113,800
W1306	------	Hutchinson	College	5	----------	168,750	168,750	375,000

KENTUCKY

W1138	------	South Fort Mitchel	Fire department	6	$13,500	$11,455	$24,955	$25,455
W1179	------	Allensville	City hall and jail	6	1,700	1,718	3,418	3,818
W1215	------	Williamstown	Electrical distribution	6	16,000	12,100	28,100	28,100
W1271	------	....do	Courthouse	5	----------	45,000	45,000	100,000

LOUISIANA

4927	------	Amite	Courthouse	5	----------	$39,150	$39,150	$87,000
7662	------	Bordelonville	School	5	----------	9,358	9,358	20,783
7663	------	Simmesport	School addition	5	----------	9,352	9,352	20,783
8860	1	Delcambre	Waterworks	6	$16,000	13,090	29,090	29,090
W1013	------	Wisner	....do	6	24,000	20,056	44,056	44,568
W1014	------	Winnsboro	Waterworks and sewer	6	33,000	27,000	60,000	60,000
W1030	------	Liddeville	School addition	5	----------	9,818	9,818	21,818
W1034	------	Jonesboro	Courthouse and jail	5	----------	112,500	112,500	250,000
W1041	------	Ashland	School addition	5	----------	10,890	10,890	24,200
W1061	------	Brusly	....do	5	----------	13,500	13,500	30,000

List of all pending non-Federal projects (approved by examining divisions) for which bond elections have been held and carried as of Apr. 1, 1937—Continued

Docket no.		Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
Main	Sub.							
MARYLAND								
W1081		Colmar Manor	Streets	5		$45,000	$45,000	$100,000
MASSACHUSETTS								
W1010		Stoneham	School	5		$72,000	$72,000	$160,000
W1045		Lunenburg	High school	5		59,400	59,400	145,000
W1078		Boston	City hall	5		1,125,000	1,125,000	2,500,000
W1170		Littleton	School	5		46,350	46,350	103,000
W1360		Wareham	Town hall	5		72,000	72,000	160,000
W1370		Lexington	Sanitary sewer	5		47,385	47,385	105,300
W1371		Attleboro	School addition	5		58,500	58,500	130,000
W1373		Easthampton	do	5		63,000	63,000	140,000
W1374		Walpole	Municipal improvement	5		23,535	23,535	52,300
W1375		Clinton	Street improvement	5		15,358	15,358	34,130
W1376		do	Courthouse	5		34,650	34,650	77,000
W1383		Quincy	Fire department	5		72,000	72,000	160,000
W1384		Natick	Courthouse	5		32,850	32,850	73,000
W1387		Bellingham	School	5		49,091	49,091	109,091
MICHIGAN								
191		Bessemer	Electrical distribution	6	$103,000	$84,500	$187,500	$187,500
4381		Sandusky	Disposal plant	6	19,000	15,545	34,545	34,545
W1042		Harris Township	High school	6	35,000	28,636	63,636	63,636
W1088		New Buffalo	School addition	5		20,266	20,266	45,035
W1197		Niles	Disposal plant	5		166,910	166,910	370,910
W1199		Pickford	School addition	5		16,363	16,363	36,363
W1290		Evart	Streets	5		14,727	14,727	32,727
W1293		St. Clair	do	5		44,010	44,010	97,800
W1328		Manistique	Municipal improvements	5		43,364	43,364	96,364
W1392		Fenton	High-school addition	5		34,363	34,363	76,363
W1405		Bedford	School addition	6	16,000	13,090	29,090	29,090
W1406		Marine City	Bridge	5		14,850	14,850	33,000
W1413		Delta Township	School	5		7,650	7,650	17,000
MINNESOTA								
W1017		Hibbing	Paving	5		$106,270	$106,270	$236,155
W1080		Kellogg	Sanitary sewer	5		14,737	14,737	32,747
W1082		St. Louis Park	High school	5		122,400	122,400	272,000
W1112		Warren	Paving	5		25,360	25,360	56,360
W1141		Tracy	Municipal building	5		28,395	28,395	63,100
W1150		Glencoe	Electric plant	5		68,799	68,799	152,887
W1156		Austin	Disposal plant	5		146,376	146,376	325,280
W1167		Owatonna	do	5		65,250	65,250	145,000
W1184		Barnum	School addition	5		8,066	8,066	17,925
W1243		Lake Crystal	Electric plant	5		44,550	44,550	99,000
W1252		Caledonia	Auditorium	5		25,785	25,785	57,300
W1287		New Ulm	School addition	5		97,633	97,633	216,963
W1295		Warba	School building	5		40,638	40,638	90,306
W1298		Blomkest	School	5		12,150	12,150	27,000
W1299		Grand Rapids	School addition	5		96,491	96,491	214,424
W1300		Hutchinson	School	5		161,580	161,580	350,066
W1302		Excelsior	Disposal plant	5		57,800	57,800	128,450
W1317		Munger	School	5		16,965	16,965	37,700
W1323		St. Paul	Filtration plant	5		270,000	270,000	600,000
W1324		do	Watermains	5		117,000	117,000	260,000
W1325		do	Waterworks	5		15,750	15,750	35,000
W1326		Goodland	School	5		10,654	10,654	23,675
W1327		Jordan	School addition	5		20,790	20,790	46,200
W1332		Minnesota City	School	5		13,275	13,275	29,500
W1334		Kandiyohi	Waterworks	5		8,754	8,754	19,454
W1338		Bird Island	Auditorium and gymnasium	5		24,300	24,300	54,000
W1339		Claremont	School addition	5		29,784	29,784	66,186
W1342		Marshall	Swimming pool	5		11,728	11,728	26,063
W1346		Jackson	High school addition	5		106,065	106,065	235,700
MISSISSIPPI								
5034		Lake	Reservoir	2	$4,000	$3,272	$7,272	$7,272
W1097		Shaw	Paving	5		27,045	27,045	60,100
W1190	1	Ridgeland	Gas plant	6	2,500	2,100	4,600	4,600
W1214		Philadelphia	School	5		28,636	28,636	63,636
MISSOURI								
W1010		Kansas City	Waterworks	6	$145,000	$237,272	$382,272	$527,272
W1017		Jackson County	School improvement	5		10,800	10,800	24,000
W1027		Clayton	School addition	5		107,100	107,100	238,000
W1037		Fulton	Schools	5		111,273	111,273	247,273
W1093		Mt. View	Waterworks	5		23,727	23,727	52,727
W1111		Vandalia	Waterworks improvements	5		54,818	54,818	121,818
W1135		Clayton	Library	5		34,496	34,496	76,658
W1140		Kirkwood	Schools	5		207,000	207,000	460,000
W1176		East Prairie	Sanitary sewer	6	20,000	16,363	36,363	36,363
W1180		Washington	School	5		24,545	24,545	54,545
W1198		Carrollton	Highways	5		41,727	41,727	92,727
W1230		St. Louis	Sanitary sewer	5		139,050	139,050	309,000
W1257		Jamesport	Auditorium and gymnasium	5		6,970	6,970	15,490
W1277		Herculaneum	do	5		13,909	13,909	30,909
W1278		La Due	Sanitary sewers	5		195,750	195,750	435,000
W1279		Miller County	School	5		20,430	20,430	45,400
W1283		Brunswick	Highways	5		45,000	45,000	100,000
W1285		Kansas City	School	5		164,704	164,704	366,010
W1286		do	High-school addition	5		100,343	100,343	222,985

List of all pending non-Federal projects (approved by examining divisions) for which bond elections have been held and carried as of Apr. 1, 1937—Continued

MISSOURI—continued

Docket no. Main	Sub.	Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
W1288	------	Kansas City	High-school addition	5	----------	$22,050	$22,050	$49,000
W1289	------	------do	------do	5	----------	7,954	7,954	17,675
W1290	------	------do	School	5	----------	30,971	30,971	68,825
W1291	------	------do	High school addition	5	----------	7,965	7,965	17,700
W1292	------	------do	School addition	5	----------	29,862	29,862	66,360
W1293	------	------do	------do	5	----------	67,610	67,610	150,245
W1294	------	------do	------do	5	----------	11,524	11,524	25,610
W1296	------	Wakenda Township	Highways	5	----------	38,700	38,700	86,000
W1302	------	Neosho	Municipal building	5	----------	40,500	40,500	90,000
			MONTANA					
5975	------	Three Forks	Water main	6	$32,000	$26,181	$58,181	$58,181
W1031	------	East Helena	Sanitary sewer	5	----------	18,000	18,000	40,000
W1064	------	Conrad	Courthouse	5	----------	45,000	45,000	100,000
W1069	------	Ekalaka	High school	5	----------	31,500	31,500	70,000
W1075	------	Fort Shaw	School addition	5	----------	9,818	9,818	21,818
W1144	------	Plains	Waterworks	5	----------	40,500	40,500	90,000
W1155	------	Helena	Hospital	5	----------	60,144	60,144	133,654
W1157	------	Sheridan County	Courthouse, jail	5	----------	40,950	40,950	91,000
W1158	------	Plentywood	School addition	5	----------	12,262	12,262	27,250
			NEBRASKA					
W1281	------	Grant	School addition	6	$40,000	$32,728	$72,728	$72,728
W1287	------	Dodge	Auditorium	5	----------	16,650	16,650	37,000
W1291	------	Alexandria	Waterworks	5	----------	10,800	10,800	24,000
W1292	------	Cortland	------do	5	----------	12,812	12,812	28,470
W1293	------	Grainton	------do	5	----------	2,700	2,700	6,000
W1295	------	Farwell	------do	5	----------	12,225	12,225	27,165
W1308	------	Beaver Crossing	------do	5	----------	16,110	16,110	35,800
W1310	------	Ashton	School improvements	5	----------	18,000	18,000	40,000
			NEVADA					
W1037	------	Clark County	Schools	5	----------	$45,000	$45,000	$100,000
			NEW JERSEY					
7353	------	Northvale	School addition	6	$29,000	$27,000	$56,000	$60,000
W1090	------	Waldwick	School	5	----------	67,909	67,909	150,909
W1199	------	Butler	High-school addition	5	----------	74,454	74,454	165,454
W1252	------	Yardville	School	5	----------	90,000	90,000	200,000
			NEW MEXICO					
W1009	------	Clovis	Hospital	5	----------	$45,450	$45,450	$101,000
W1041	------	Gallup	------do	6	$59,000	57,273	116,273	127,273
W1058	------	Fort Sumner	Disposal plant	6	31,000	25,364	56,364	56,364
			NEW YORK					
W1352	------	Fair Haven	School addition	5	----------	$39,938	$39,938	$88,751
W1420	------	Caledonia	School	5	----------	99,900	99,900	222,000
W1487	------	Hartsdale	School addition	5	----------	103,500	103,500	230,000
W1489	------	New Woodstock	School building	5	----------	28,980	28,980	64,400
W1509	------	Richfield Springs	School	5	----------	206,744	206,744	459,432
W1510	------	Wyoming	------do	5	----------	138,841	138,841	308,537
W1543	------	Northport	Schools	5	----------	189,000	189,000	420,000
			NORTH CAROLINA					
W1210	------	Fair Bluff	Waterworks, sewer	6	$42,000	$34,363	$76,363	$76,363
			NORTH DAKOTA					
W1070	------	Grenora	Waterworks	5	----------	$15,545	$15,545	$34,545
W1165	------	Hatton	------do	5	----------	10,800	10,800	24,000
W1171	------	Rolette	School addition	5	----------	23,229	23,229	51,620
W1174	------	Portland	Schools	5	----------	5,911	5,911	13,137
			OHIO					
8165	------	Edon	Waterworks	5	----------	$19,636	$19,636	$43,636
8373	------	Cleveland	Bridge	5	----------	2,205,405	2,205,405	5,566,000
W1217	------	Ross Township	School	5	----------	72,000	72,000	160,000
W1251	------	Akron	Reservoir	6	$233,000	190,636	423,636	453,636
W1293	------	Coventry Township	School addition	5	----------	31,043	31,043	68,986
W1296	------	Miami County	High school	5	----------	110,250	110,250	245,000
W1390	------	Bowling Green	Swimming pool	5	----------	112,500	112,500	250,000
W1428	------	Summerfield	School addition	5	----------	12,150	12,150	27,000
W1498	------	Morrow	------do	5	----------	40,909	40,909	90,909
W1512	------	Champaign County	------do	5	----------	26,338	26,338	58,529
W1514	------	Lockland	------do	5	----------	45,000	45,000	100,000
W1515	------	Lynchburg	------do	5	----------	37,636	37,636	83,636
W1517	------	Old Fort	------do	5	----------	45,000	45,000	100,000
W1518	------	Farmer	------do	5	----------	45,000	45,000	100,000
W1520	------	West Unity	Waterworks	5	----------	34,510	34,510	76,688
W1521	------	Avon Lake	School addition	5	----------	22,500	22,500	50,000

List of all pending non-Federal projects (approved by examining divisions) for which bond elections have been held and carried as of Apr. 1, 1937—Continued

OHIO—continued

Docket no.		Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
Main	Sub.							
W1522	.....	Mariemont	High school	5	.....	$123,750	$123,750	$275,000
W1525	.....	Ashtabula County	School	5	.....	13,500	13,500	30,000
W1538	.....	Irondale	High school addition	5	.....	23,850	23,850	53,000
W1544	.....	Cincinnati	Park development	5	.....	40,500	40,500	90,000
W1545	.....	Pierpont	High school	5	.....	20,454	20,454	45,454
W1552	.....	Sandusky	Waterworks	5	.....	369,000	369,000	820,000
W1556	.....	Paint Township	Auditorium and gymnasium	5	.....	12,763	12,763	28,363
W1558	.....	Mowrystown	School	5	.....	40,663	40,663	90,363
W1559	.....	Akron	Street improvements	5	.....	25,650	25,650	57,000
W1560	.....	do	Water tank	5	.....	32,400	32,400	72,000
W1563	.....	do	Street improvements	5	.....	42,300	42,300	94,000
W1566	.....	do	do	5	.....	36,450	36,450	81,000
W1571	.....	Dayton	Hospital	5	.....	155,250	155,250	345,000
W1591	.....	Galion	Disposal plant	5	.....	40,905	40,905	90,900
			OKLAHOMA					
W1062	1	Tulsa	High school	5	.....	$632,091	$632,091	$1,404,648
W1096	.....	Stillwater	School	5	.....	75,275	75,275	167,250
W1115	.....	Ponca City	School addition	5	.....	167,564	167,564	372,364
W1122	.....	Chickasha	do	5	.....	34,400	34,400	76,400
W1219	.....	Cyril	Waterworks improvement	5	.....	16,812	16,812	37,360
			OREGON					
W1078	.....	Huntington	Municipal improvements	6	$7,000	$5,727	$12,727	$12,727
W1161	.....	Elgin	Waterworks improvements	6	10,000	8,181	18,181	18,181
W1168	.....	Huntington	Municipal building	6	4,500	3,970	8,470	8,822
W1178	.....	Roseburg	Schools	5	.....	44,181	44,181	98,181
W1179	.....	Harrisburg	Gymnasium	5	.....	18,000	18,000	40,000
W1187	.....	Independence	High school addition	5	.....	18,000	18,000	40,000
W1201	.....	Multnomah County	Water main	5	.....	9,818	9,818	21,818
W1204	.....	Beaverton	School	5	.....	31,500	31,500	70,000
W1206	.....	Jefferson	do	5	.....	21,600	21,600	48,000
W1207	.....	Sandy	Waterworks	6	18,000	14,727	32,727	32,727
W1208	.....	Gilbert station	School	5	.....	32,727	32,727	72,727
W1209	.....	Coquille	Gymnasium	5	.....	18,409	18,409	40,909
			PENNSYLVANIA					
W1147	.....	Farrell	High school	5	.....	$232,364	$232,364	$516,364
W1149	.....	Bentleyville	Watermains	5	.....	62,182	62,182	138,182
W1560	.....	Enola	High school addition	5	.....	48,388	48,388	107,530
W1565	.....	State College	Sanitary sewer	5	.....	54,900	54,900	122,000
W1571	.....	North York	School	5	.....	49,500	49,500	110,000
W1577	.....	Clarks Green	Disposal plant	5	.....	62,713	62,713	139,361
W1579	.....	Conneaut Lake	School	5	.....	20,927	20,927	46,505
W1580	.....	Nanticoke	High school addition	5	.....	168,678	168,678	374,840
W1582	.....	New Oxford	School addition	5	.....	25,361	25,361	56,358
W1592	.....	North Charleroi	School	5	.....	26,282	26,282	58,404
W1594	.....	Camp Hill	High school addition	5	.....	55,269	55,269	122,820
W1613	.....	Biglerville	School addition	5	.....	14,815	14,815	32,923
W1614	.....	Somerset County	High school	5	.....	159,417	159,417	354,261
			SOUTH CAROLINA					
W1055	.....	Charleston	School	5	.....	$126,818	$126,818	$281,818
W1057	.....	do	Auditorium and gymnasium	5	.....	42,545	42,545	94,545
W1070	.....	Darlington	Disposal plant	5	.....	33,545	33,545	73,545
W1178	.....	Hartsville	High school	5	.....	40,252	40,252	89,449
W1189	.....	Gaffney	Street improvement	5	.....	49,090	49,090	109,090
W1200	.....	Olar	Waterworks	6	$15,000	12,273	27,273	27,273
W1222	.....	Rock Hill	Waterworks improvement	5	.....	14,800	14,800	32,889
			SOUTH DAKOTA					
W1011	.....	Bowdle	School addition	6	$10,000	$8,182	$18,182	$18,182
			TENNESSEE					
W1028	1	Chattanooga	County building	5	.....	$154,449	$154,449	$343,221
W1028	6	do	High school	5	.....	65,343	65,343	145,207
W1091	.....	Knoxville	Power equipment	5	.....	90,000	90,000	200,000
W1105	.....	Chattanooga	Electric plant	6	$2,382,000	1,948,000	4,330,000	4,330,000
W1114	.....	Memphis	Street improvements	5	.....	160,835	160,835	357,402
W1132	.....	Chattanooga	Hospital	5	.....	490,909	490,909	1,090,909
W1157	.....	Marion County	Schools	6	90,000	73,636	163,636	163,636
W1224	.....	Memphis	Paving	5	.....	46,238	46,238	102,752
W1225	.....	do	do	5	.....	53,852	53,852	119,671
W1228	.....	do	do	5	.....	88,345	88,345	196,322
W1230	.....	do	Drainage	5	.....	42,889	42,889	95,309
W1236	.....	do	Paving	5	.....	104,584	104,584	232,410
W1238	.....	do	Structures	5	.....	163,085	163,085	362,411
W1239	.....	do	Paving	5	.....	55,526	55,526	123,393
W1241	.....	do	Street improvements	5	.....	61,417	61,417	136,484
W1261	.....	Crockett County	School repairs	5	.....	18,554	18,554	41,231
W1268	.....	Clarksville	Electric plant	5	.....	112,500	112,500	250,000
W1274	.....	Jackson	School addition	5	.....	11,610	11,610	25,800

List of all pending non-Federal projects (approved by examining divisions) for which bond elections have been held and carried as of Apr. 1, 1937—Continued

TEXAS

Docket no.		Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
Main	Sub.							
2544	.....	Encinal	School	6	$15,000	$12,273	$27,273	$27,273
4539	.....	Midland	....do	5	.....	81,818	81,818	181,818
9320	.....	Edcouch	High school	5	.....	27,000	27,000	60,000
W1601	.....	Pecos	Courthouse	5	.....	77,891	77,891	173,091
W1048	.....	Paris	Paving	5	.....	58,909	58,909	130,909
W1085	.....	Wharton County	Highway improvement	5	.....	1,732,500	1,732,500	3,850,000
W1096	.....	Galveston	Paving	5	.....	26,100	26,100	58,000
W1100	.....	Victoria	....do	5	.....	162,000	162,000	360,000
W1118	.....	Rochester	High school addition	5	.....	29,880	29,880	66,400
W1132	.....	Lubbock	High school	5	.....	36,900	36,900	82,000
W1135	.....	Wink	Sanitary sewer	6	28,000	22,909	50,909	50,909
W1140	.....	Cleburne	Jail	5	.....	34,364	34,364	76,364
W1185	.....	Fort Worth	City hall	5	.....	225,000	225,000	500,000
W1188	.....	Houston	Street improvements	5	.....	405,000	405,000	900,000
W1205	.....	Gilmer	Paving	5	.....	80,180	80,180	178,180
W1217	.....	Fort Worth	Library	5	.....	180,000	180,000	400,000
W1218	.....	Kilgore	Paving	5	.....	135,000	135,000	300,000
W1227	.....	League City	Building	5	.....	25,364	25,364	56,364
W1239	.....	Anton	Recreation center	5	.....	6,136	6,136	13,636
W1268	.....	Tehuacana	Waterworks	6	9,000	7,363	16,363	16,363
W1291	.....	Tyler	School improvement	5	.....	102,600	102,600	228,000
W1299	.....	Sherman	Auditorium	5	.....	45,000	45,000	100,000
W1312	.....	Corpus Christi	Building	5	.....	85,090	85,090	189,090
W1337	.....	Fieldton	Auditorium and gymnasium	5	.....	10,227	10,227	22,727
W1371	.....	Sherwood	Courthouse and jail	5	.....	36,000	36,000	80,000
W1390	.....	Pasadena	School	5	.....	81,818	81,818	181,818
W1411	.....	Waco	Courthouse and jail	5	.....	270,000	270,000	600,000
W1422	.....	Delwin	Gymnasium	5	.....	18,000	18,000	40,050
W1437	.....	Trent	High school	5	.....	13,909	13,909	30,909
W1438	.....	Galena Park	High school addition	5	.....	40,365	40,365	89,760
W1441	.....	Forth Worth	Hospital	5	.....	225,000	225,000	500,000
W1462	.....	Gordon	School	5	.....	11,454	11,454	25,454
W1466	.....	Sudan	Sanitary sewer	5	.....	13,909	13,909	30,909
W1484	.....	Fairbanks	School	5	.....	13,005	13,005	28,900
W1490	.....	Center Point	Auditorium and gymnasium	5	.....	9,000	9,000	20,000
W1492	.....	Balmorhea	Gymnasium	5	.....	20,700	20,700	46,000
W1525	.....	Redon	Gymnasium	5	.....	3,681	3,681	8,181
W1530	.....	Sherman	Waterworks	5	.....	65,454	65,454	145,454
W1532	.....	Dublin	School	6	22,000	18,000	40,000	40,000
W1553	.....	Beaumont	Dock warehouse	5	.....	135,000	135,000	300,000
W1575	.....	Dallas	Sanitary sewer	5	.....	225,000	225,000	500,000
W1576	.....	....do	Disposal plant	5	.....	369,000	369,000	820,000
W1591	.....	Lipscomb	Highway improvement	5	.....	27,000	27,000	60,000
W1597	.....	Baird	Gymnasium	5	.....	5,625	5,625	12,500
W1600	.....	Doole	High school	5	.....	12,272	12,272	27,272
W1605	.....	Galveston	Paving	5	.....	23,047	23,047	51,216
W1606	.....	....do	Drains	5	.....	15,545	15,545	34,545
W1618	.....	Uvalde	School	5	.....	41,727	41,727	92,727
W1626	.....	Angleton	River improvement	5	.....	19,687	19,687	43,750
W1644	.....	Darrouzett	Gymnasium	5	.....	8,181	8,181	18,181
W1646	.....	Paris	Abattoir	5	.....	16,363	16,363	36,363
W1660	.....	North Zulch	Gymnasium	5	.....	9,409	9,409	20,909
W1661	.....	Comanche	....do	5	.....	8,181	8,181	18,181
W1665	.....	Denison	Street improvement	5	.....	19,636	19,636	43,636
W1667	.....	Alpine	Waterworks	5	.....	4,500	4,500	10,000
W1668	.....	Pleasanton	....do	5	.....	20,454	20,454	45,454
W1689	.....	Woodsboro	Paving	6	33,000	27,000	60,000	60,000
W1713	.....	Bay City	Highways	5	.....	34,837	34,837	77,416
W1745	.....	Galveston	School	5	.....	224,505	224,505	498,900
W1746	.....	....do	....do	5	.....	84,600	84,600	188,000
W1747	.....	....do	School addition	5	.....	47,700	47,700	106,000
W1768	.....	Mount Pleasant	Filtration plant	5	.....	25,363	25,363	56,363
W1788	.....	Chester	High school	5	.....	20,454	20,454	45,454
W1790	.....	Ellis County	Highways	5	.....	63,272	63,272	140,609
W1792	.....	Liberty	Highway	5	.....	64,012	64,012	142,250
W1797	.....	Corpus Christi	....do	5	.....	225,000	225,000	500,000
W1818	.....	Flat	School	5	.....	3,681	3,681	8,181
W1842	.....	Leonard	Gymnasium	5	.....	6,545	6,545	14,545
W1850	.....	Fort Worth	Paving	5	.....	48,272	48,272	107,272
W1854	.....	Austin	Municipal building	5	.....	281,250	281,250	625,000
W1900	.....	Houston	Children's home	5	.....	72,765	72,765	161,700
W1905	.....	Matagorda	Highways	5	.....	45,000	45,000	100,000
W1908	.....	Calliham	Gymnasium	5	.....	6,930	6,930	15,400
W1928	.....	Eldorado	Waterworks	5	.....	47,454	47,454	105,454
W1935	.....	Anahuac	School	5	.....	90,000	90,000	200,000
W1942	.....	Snook	....do	5	.....	11,863	11,863	26,363
W1949	.....	Tuscola	Auditorium and gymnasium	5	.....	4,909	4,909	10,909
W1954	.....	Houston	City hall	5	.....	818,181	818,181	1,818,181
W1958	.....	....do	Paving	5	.....	72,795	72,795	161,767
W1982	.....	Fort Bend County	Highway	5	.....	110,250	110,250	245,000
W1994	.....	Angleton	Highways	5	.....	360,000	360,000	800,000
W2000	.....	New Caney	School	5	.....	25,363	25,363	56,353
W2009	.....	Elwood	School addition	5	.....	4,909	4,909	10,909
W2015	.....	Haskell	....do	5	.....	19,350	19,350	43,000
W2016	.....	Detroit	School	5	.....	18,000	18,000	40,000
W2017	.....	Wellman	Auditorium and gymnasium	5	.....	20,454	20,454	45,454
W2023	.....	Stephenville	Park	5	.....	28,350	28,350	63,000
W2030	.....	Splendora	High school	5	.....	26,181	26,181	58,181
W2033	.....	Goose Creek	School addition	5	.....	204,545	204,545	454,545

UTAH

W1054	.....	Panguitch	High school	5	.....	$45,000	$45,000	$100,000
W1071	.....	Honeyville	Waterworks improvement	5	.....	16,353	16,353	36,340

VIRGINIA

W1083	.....	Marion	High school	5	.....	$67,500	$67,500	$150,000

List of all pending non-Federal projects (approved by examining divisions) for which bond elections have been held and carried as of Apr. 1, 1937—Continued

Docket no.		Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
Main	Sub.							
WASHINGTON								
6188	.....	Pullman	Municipal building	5	.....	$16,425	$16,425	$36,500
8195	.....	Wahkiakum County	Bridge	1	.....	225,000	225,000	500,000
W1180	.....	Seattle	do	3	.....	1,552,500	1,552,500	3,450,000
W1187	.....	Omak	School	5	.....	58,500	58,500	130,000
W1236	.....	Riverland	Irrigation	5	.....	21,600	21,600	48,000
W1240	.....	Ellensburg	School addition	5	.....	57,600	57,600	128,000
W1248	.....	Quincy	School	5	.....	29,700	29,700	66,000
W1265	.....	Bremerton	Library	5	.....	25,605	25,605	56,900
W1286	.....	Othello	Water tank	5	.....	4,023	4,023	8,940
W1288	.....	Curlew	School addition	5	.....	14,895	14,895	33,100
W1337	.....	Uniontown	Town hall	5	.....	4,050	4,050	9,000
W1373	.....	Tacoma	Sanitary sewer	5	.....	283,909	283,909	630,909
W1376	.....	Winthrop	School	5	.....	20,700	20,700	46,000
W1393	.....	Twisp	Waterworks	5	.....	15,930	15,930	35,400
W1394	.....	Kalama	School building	5	.....	40,909	40,909	90,909
W1403	.....	Bridgeport	School	5	.....	13,392	13,392	29,762
W1413	.....	Olympia	School addition	5	.....	60,300	60,300	134,000
W1414	.....	Snohomish	School	5	.....	54,000	54,000	120,000
W1422	.....	Marcus	do	5	.....	42,300	42,300	94,000
W1425	.....	Silver Lake	do	5	.....	36,900	36,900	82,000
W1437	.....	Raymond	do	5	.....	13,950	13,950	31,000
W1438	.....	Foster	do	5	.....	31,500	31,500	70,000
W1439	.....	Elkplain	do	5	.....	6,885	6,885	15,300
W1440	.....	Pierce County	do	5	.....	13,208	13,208	29,350
W1446	.....	Port Orchard	Gymnasium	5	.....	23,940	23,940	53,200
W1450	.....	Grandview	City hall	5	.....	5,625	5,625	12,500
W1451	.....	Mossyrock	School improvement	5	.....	20,700	20,700	46,000
W1454	.....	Roslyn	School	5	.....	33,300	33,300	74,000
W1457	.....	Castle Rock	do	5	.....	37,125	37,125	82,500
W1458	.....	Union Gap	do	5	.....	24,300	24,300	54,000
WEST VIRGINIA								
W1098	.....	Charleston	Bridge	5	.....	$450,000	$450,000	$1,000,000
W1104	.....	Dunbar	Municipal improvement	5	.....	49,500	49,500	110,000
W1119	.....	Logan County	Schools	5	.....	164,184	164,184	364,853
WISCONSIN								
W1049	.....	Hancock	Community building	5	.....	$10,227	$10,227	$22,727
W1050	.....	Waupun	High school addition	5	.....	96,750	96,750	215,000
W1057	.....	Pepin	High school	5	.....	29,700	29,700	66,000
W1073	.....	Prentice	School	5	.....	18,000	18,000	40,000
W1096	.....	Pittsville	School addition	5	.....	22,950	22,950	51,000
W1101	.....	Fox Lake	Disposal plant	5	.....	33,750	33,750	75,000
W1106	.....	Hammond	School	5	.....	18,675	18,675	41,500
W1112	.....	Trempealeau	Waterworks	5	.....	18,000	18,000	40,000
W1115	.....	Coon Valley	Disposal plant	5	.....	20,182	20,182	44,849
W1163	.....	Winneconne	do	5	.....	15,545	15,545	34,545
W1197	.....	Edgar	Waterworks, sewerage	5	.....	31,566	31,566	70,146
W1213	.....	Gilman	School addition	6	$16,000	13,091	29,091	29,091
W1224	.....	Fond du Lac	High school	5	.....	29,250	29,250	65,000
W1253	.....	Baldwin	Disposal plant	5	.....	21,600	21,600	48,000
W1277	.....	Cedarburg	School addition	5	.....	35,505	35,505	78,900
W1278	.....	Combined Lock	Waterworks	5	.....	7,773	7,773	17,273
W1295	.....	Milwaukee	High school	5	.....	785,362	785,362	1,745,250
W1340	.....	Abbotsford	School addition	5	.....	28,008	28,008	62,240
W1404	.....	Wrightstown	do	5	.....	13,950	13,950	31,000
W1417	.....	Wauwatosa	School	5	.....	24,750	24,750	55,000
W1418	.....	South Milwaukee	Filtration plant	5	.....	78,750	78,750	175,000
W1419	.....	Wauwatosa	School	5	.....	15,300	15,300	34,000
W1424	.....	Palmyra	Auditorium and gymnasium	5	.....	19,350	19,350	43,000
W1425	.....	Mauston	School	5	.....	51,750	51,750	115,000
W1440	.....	Wabeno	do	5	.....	52,650	52,650	117,000
WYOMING								
W1014	.....	Thermopolis	Courthouse and jail	5	.....	$49,090	$49,090	$109,090
W1028	.....	Pinedale	School	5	.....	20,454	20,454	45,454
ALASKA								
W1020	.....	Seward	Gymnasium	5	.....	$11,318	$11,318	$25,150

Tribute to Hon. James P. Buchanan

EXTENSION OF REMARKS

OF

HON. LUTHER A. JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 25, 1937

Mr. JOHNSON of Texas. Mr. Speaker, the Nation has suffered an irreparable loss in the death of Hon. JAMES P. BUCHANAN. His 24 years' service as a Member of the House was marked by his fidelity to duty and a courageous and conscientious devotion to those principles and policies which he believed just and right and for the welfare of the Nation as a whole.

Coming from an agricultural section, he realized the discrimination which had existed against agriculture, the need for its restoration, and that the other industries of the Nation could not prosper unless the farmers of America had an equal chance of success, and he devoted the major portion of his service in trying to improve the conditions and the opportunities for success of the farmers of America.

Before he became chairman of the great Committee on Appropriations he served as chairman of the Subcommittee on Agriculture, and was either chairman or a member of

that subcommittee for many years. Many benefits now enjoyed by the farmers of America are due to his efforts.

Coming from the Southwest, where cotton is the principal agricultural product, he was not a sectionalist, and he fought just as vigorously for the rights of those in other portions of the Nation, and his consuming ambition and desire was to see that the farmers everywhere were given a square deal.

As chairman of the Committee on Appropriations, he sought to hold down expenditures, to prevent waste, and to see that appropriations were made in accordance with economy, and for the Nation's welfare. He had the courage to say "no", even to his best friends, when he thought they were wrong. One of his colleagues once said of him that he was stingy with the Government's money.

He abhorred waste and extravagance, and endeavored at all times to see that Government funds were expended in accordance with law, and that the Government received value received for all expenditures.

He was a man of strong convictions, candid and courageous in expressing and defending his views, but just and fair in dealing with his colleagues and his constituents.

He was genuine. Sham and hypocrisy were no part of his nature, and there was nothing artificial about him. He cared not for pomp or ceremony, or ostentatious display, and there was no "front window" decoration, either in his life, his speeches, or in his relations with his fellow man.

He was scrupulously honest, his word was his bond, and true at all times to every trust confided to him.

Endowed with a bright and analytical mind and the ability to retain facts and figures, and a high sense of justice, he was splendidly qualified and equipped as chairman of the Committee on Appropriations.

He was an indefatigable worker, and he literally gave his life in the service of his country. For over a year he had been in ill health, and although he had been warned by his physician and friends that his continued activity jeopardized his life, he continued to carry on to the end.

Just before he was taken to the hospital during his last illness, I told him that he had worked too hard, and he replied that he could, as chairman of the committee, have drifted with the tide, but that it was not his nature to do so, and that he was glad that he had fought at all times for what he conceived to be right.

When Speaker Byrns died, Mr. BUCHANAN—or "Buck" as his friends affectionately called him—said to me, "The Nation does not realize what a loss they have sustained in Joe Byrns' death", and this can also be truly said of JAMES P. BUCHANAN.

He was my true and loyal friend, and I had for him a deep and affectionate regard, and I shall miss him, and the membership of this House will miss him, and the Nation owes him a debt of gratitude for his great service to his country.

Henry Elbert Stubbs

EXTENSION OF REMARKS
OF
HON. FRANK H. BUCK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 3, 1937

Mr. BUCK. Mr. Speaker, Hon. HENRY ELBERT STUBBS, Representative in Congress from the Tenth Congressional District of the State of California, has passed to his final reward.

He was respected by every Member of the House for his conscientious performance of his duties, for his never-failing good humor, and for his cooperation with all of those with whom he served.

Elected to the House in November 1932, he began service at Washington in the following March, together with many others, who, like myself, were newcomers to this line of public work. Intensely interested in work that was of particular interest to his district, his State, and to the West generally, he served with distinction on the Committees on Indian Affairs, Irrigation and Reclamation, and Public Lands.

If for no other reason, he will be gratefully remembered by his former constituents and by the people of California for the deep and abiding interest that he took in the development of the Central Valley water project and for the vigor with which he presented its cause both in committee and on the floor of the House.

California has lost an able citizen, one who gave his care and attention to the slightest request of his humble constituents as well as to the larger problems of government. As his friend and his associate in Congress, I mourn his passing, as do all of those who have associated with him. To his sorrowing family we can only extend sympathy in their hour of grief and bring to them, perhaps, the consolation that a good and faithful servant on earth has gone to his just and heavenly reward.

The Late James P. Buchanan

EXTENSION OF REMARKS
OF
HON. WRIGHT PATMAN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 3, 1937

Mr. PATMAN. Mr. Speaker, the Honorable JAMES P. BUCHANAN was one of my best friends. I had the pleasure of serving with him in the House of Representatives for more than 8 years. It was my privilege to receive the benefit of his valuable, constructive, and kindly assistance and advice. As a young Member of Congress, no Member was more helpful to me than Congressman BUCHANAN. He was always kindly, sympathetic, and patient. His advice was always wholesome, constructive, and in the public interest. No man rendered a more unselfish service to his country than Congressman BUCHANAN. He always had the interest of his country first. He was one of the best men I have ever known, and I deeply regret his passing away.

The day of his death, Mr. Bascom N. Timmons, staff correspondent of the Times Herald, Dallas, Tex., and former president of the National Press Club, Washington, D. C., wrote a very interesting article about Mr. BUCHANAN. It was headed "Texans Mourn Passing of J. P. BUCHANAN—Cotton Picker Who Became Congressman Dies of Heart Ailment", and it was published in the February 23 issue of the Dallas Times Herald as follows:

The Nation's Capital joined Texas today in mourning for Representative JAMES P. BUCHANAN, one-time cotton picker who rose to one of the highest legislative posts of his land. He died late last night at Naval Hospital from a heart ailment after a week's illness.

Flags throughout the city were at half staff today as Congress planned to adjourn in tribute to one of its oldest members in point of service.

Death of the Texan, who was 69 years old, was a severe shock to the President, and his colleagues in Congress. Both the President and congressional leaders had counted heavily upon his services during the remaining months of this session, when he was not only to have guided new appropriations through their legislative paths but to have headed the important congressional committee to study and report upon governmental reorganization.

PRESIDENT'S ADVISER

BUCHANAN rose to the chairmanship of the House Appropriations Committee through years of hard work in Congress and closest study of Federal expenditures. He was recognized as one of the leading authorities on the financial set-up of the Federal Government, and for the past 5 years has been one of the President's closest advisers.

Although a firm believer in Government economy, BUCHANAN early realized the necessity for additional emergency appropriations with the advent of the Democratic administration at the depth of the depression and threw his support behind appropriations which to date have aggregated more than $10,000,000,000.

Despite his part in drafting these gigantic emergency appropriations the Texan never lost his head and blocked many appropriation items which he believed were unnecessary. In his fight against what he believed needless and wasteful expenditures, regardless of the economic depression, BUCHANAN had the utmost confidence of his colleagues in the House, and in almost every instance they backed his judgment.

His friends and his opponents alike generally regarded him as a most powerful balance check against the tendency of the present administration to seek too heavy appropriations and have leaned heavily upon his judgment in these matters.

FRIENDLY BUT FIRM

Although soft-spoken and friendly in his particular fashion, BUCHANAN ruled the House committee with an iron hand. Once he made a decision, it was final. Even the President found this to be true when the Texan determined to spike some appropriation item dear to the heart of one of the President's aides. On more than one occasion BUCHANAN resisted the persuasive attempts of the President to keep by his decision.

BUCHANAN'S health first broke under the heavy strain during the early part of 1936. He suffered a slight heart attack in January and was forced to rest for several weeks. Upon his return to duty, he was ordered by his physician to give up smoking, a decision against which he rebelled bitterly. For years his friends had never seen him without a cigar in his mouth except on the floor of the House.

Despite this first break in his health, he returned to Congress to assume his work in even harder fashion. Months of work during the remainder of last session did not appear to affect him and he returned this winter in high spirits. His friends, however, warned him against undertaking too much. Nevertheless, he took the chairmanship of the highly important reorganization committee in addition to the appropriations post. Ten days ago his physician sent him to Naval Hospital for a rest. While there his condition grew steadily worse and he lapsed into unconsciousness Saturday. His wife and son, James P., Jr., were told then that he had little chance for recovery and they were at his bedside when he died.

ELECTED IN 1913

BUCHANAN was elected to Congress in 1913 to succeed Albert Sidney Burleson, who was appointed Postmaster General in President Wilson's Cabinet. He has served continuously since that time and was only ranked in service by three Members of the House.

He became chairman of the Appropriations Committee, a post he had long desired, when the late Speaker Joseph Byrns was elevated from the chairmanship to the Speaker's chair.

Throughout his service in the House, BUCHANAN remained a strong partisan against national prohibition and upon several occasions his position almost cost him his seat. At one time he stood almost alone among the Texas Members of Congress alined with the wet cause.

His major vocation, a vocation and hobby, was his congressional work. For a number of years he spent a part of his leisure time playing old-fashioned stud poker, at which he was considered an expert, but during recent years gave it up in the interest of his work and health.

He was one of the earliest proponents of soil conservation, flood control, and development of better grades of cotton. Measures sponsored by him led to the establishment of Federal laboratories which have resulted in finer and more uniform staples of cotton. He also fathered the first measure enacted by Congress looking toward a national soil-conservation program.

DAM NAMED FOR HIM

His greatest pride, however, was in the final approval several years ago of the Colorado River Basin development program. Under this program, $20,000,000 is to be spent for flood control and power development of this major river in Texas. In tribute to his long fight for the project, the major dam on the river has been named Buchanan Dam.

BUCHANAN was born in Midway, S. C., April 30, 1867, but was brought to Texas when only a baby by his parents. His father was considered a wealthy man at the outbreak of the Civil War but lost everything through its outcome. When only a small boy, BUCHANAN was forced to help pick cotton in the fields near his home in Washington County.

Later, however, he resumed his education and received his law degree from the University of Texas. His first public office was justice of the peace in Washington County. After 3 years in this post he was made prosecuting attorney of the county. He subsequently was prosecuting attorney of the twenty-first judicial district.

He was elected to the State legislature in 1906, where he soon gained State-wide recognition when he led the wet bloc of the legislature into the camp of Representative SAM RAYBURN, of Bonham, a vigorous dry, who was campaigning for speaker of the Texas House. RAYBURN was elected and only a few years later came to the National House, where he is now floor leader.

Since that time RAYBURN and BUCHANAN have been the closest of friends. The leader was greatly shocked to hear of his death.

"His death is a very great shock to me", he said. "He was a man of fine ability and rendered great service to his State and country."

Speaker WILLIAM B. BANKHEAD declared, "I am greatly distressed and grieved that such a useful and courageous man has passed. I can hardly find words to express my admiration and respect for him."

RECORD-BREAKING DISTRICT

Congressman BUCHANAN came from a district which has had just four Congressman since the reconstruction days, and every one of them rose to great eminence.

The first of these was John Hancock, of Austin, firebrand of Civil War days, whose congressional term ran from 1871, when Texas again attained full congressional representation, until 1885.

He was succeeded by Joseph D. Sayers, who served until 1899, when he resigned to become Governor. Albert Sidney Burleson followed Sayers, and after he had served 14 years, the exact time served by his predecessors, Hancock and Sayers, he resigned to become Postmaster General in the Wilson Cabinet.

Then came wiry, diminutive "Buck" of Brenham, and he broke all records for a record-breaking district. He served 24 years and guided the fiscal affairs in Congress in a period when more funds were appropriated than ever before in history.

Years ago, under the prodding of one of BUCHANAN'S predecessors, Joseph D. Sayers, who complained of excessive Republican appropriations, which were nearly a billion dollars a year, Speaker Tom Reed replied:

"This is a billion-dollar country."

BUCHANAN lived to see it a multibillion country.

BUCHANAN made up his mind to retire several years ago. His health even then was not good. Joseph W. Byrns, then chairman of the Appropriations Committee, induced him to remain. Eventually BUCHANAN succeeded Byrns.

The last two bills introduced in Congress by Congressman BUCHANAN were in the interest of farmers, whose effective champion he was for a quarter of a century.

Just before he went to the hospital he put two bills in the hopper. One provided for the classification of cotton by grade and staple for producers, to furnish farmers timely information on market demand, location, condition, and market prices for cotton.

The other Buchanan bill authorized the Secretary of Agriculture to make surveys of representative farm areas each year in each State for the purpose of obtaining and publishing information upon the economic condition of agriculture.

The Houston Chronicle, Houston, Tex., in its February 24, 1937, issue, contained the following splendid editorial concerning the life and service of Congressman BUCHANAN:

In the running web of modern Texas history few men have made a more impressive record than Congressman JAMES P. BUCHANAN, of Brenham, who died in Washington Monday. Yet so intense was his desire for self-effacement that scores of men of smaller attainment were better known.

Seven years as county attorney, 7 years as district attorney, 5 years in the State legislature, and 24 years in the National House of Representatives were capped with the chairmanship of the most powerful Appropriations Committee. He gave to all of these positions vigor, frankness, poise, and deep integrity.

Holding the purse strings of the Nation in a difficult time, his rare sense of values was a public asset. No man ever presented a proposal to his committee who did not find JAMES P. BUCHANAN scrupulously fair. Never did he take an official or a private action that did not represent his best judgment and conscience.

As a youth of 8 years he came to Texas from South Carolina. His people, once comfortably circumstanced, had been ruined by the war. His family in an oxcart worked their way from Galveston up through Houston and to Washington County.

The length and eminence of his national public service is attested by the fact that only three men in the House of Representatives had longer service than he held at his passing. The congressional district which he represented for 24 years has a unique history. Four men, John Hancock, Joseph D. Sayers, Albert Sidney Burleson, and Buchanan, carry it back to reconstruction days. His service exceeded by 10 years that of any of his three predecessors. None of them was defeated. One of them retired to resume private life, one to become Governor, and one to enter a President's Cabinet.

Even had JAMES P. BUCHANAN never been chairman of the all-powerful Appropriations Committee, his congressional career would still have been rich in public service. The first bill he ever introduced in Congress had as its purpose benefiting the lot of the farmer. So did the last introduced as one of his last acts before going to Naval Hospital.

Perhaps the legislation which gave him the greatest satisfaction was that for the prevention of soil erosion. Before the Nation was awake to the problem, he fought for the Nation's good earth. Year after year he stood up in Congress and told his colleagues how the country's rich topsoil was riding the winds out of the West.

Came a sympathetic President who listened to his story of farm lands denuded and of grazing lands made as bare as a trampled schoolyard. A soil-erosion service was set up and C. C. C. men went out to battle against the squandering of the soil.

From this he turned to the fighting of floods in his own section. To his unusual resources may be attributed most of the credit for the establishment of the Colorado Valley Authority. A great dam of the Colorado River will bear his name down through the ages.

Years ago, in a time of discouragement, when his rich bottom land had washed away in a flood and taken his possessions with it, he stood in his saddle and wrote above the high-water mark a little piece of verse, the burden of which was that he would never return to these bottom lands. But BUCHANAN never meant a word of it. He did come back time and again, and he brought

the citizens of that section more aid in solving their problems than any other man.

A sound lawmaker, a wise counselor, a fine friend—the passing of JAMES P. BUCHANAN is a loss his State and the Nation can ill afford.

Tribute to Hon. James P. Buchanan

EXTENSION OF REMARKS
OF
HON. SAM D. McREYNOLDS
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 3, 1937

Mr. McREYNOLDS. Mr. Speaker, I merely desire to say a few words in reference to the death of our distinguished colleague the Honorable JAMES P. BUCHANAN, chairman of the Appropriations Committee of the House.

We have been close friends for many years, with practically a daily association during the term of Congress, and I feel his passing away very deeply, and I shall not undertake to express my real feelings.

I desire more especially to speak of his service in the House, his prominence, and his usefulness. He had been a member of the Appropriations Committee for many years, and at the beginning of the Seventy-third Congress he was elected chairman of that most important committee. He has been in this responsible position when it was necessary to look into and bring out billions of dollars in appropriations for the preservation of this country. His position during that time was most trying, and he performed that position with energy, skill, and with ability that no one could question. His record has been such that those of us who knew him best, and loved him more, are proud of his achievements.

Mr. BUCHANAN, when he became chairman of this committee, was not well known and understood in the House, because it was not his make-up to seek out and make new acquaintances and friends. At the time of his election many Members of the House did not know of his ability to handle the affairs of this great committee. But those of us who knew him recognized his worth and predicted for him a great success, which his record will show. He worked hard and diligently in order to try to keep down the expenses of the Government and yet be just to all of its demands. He was very anxious to see the day when these appropriations could be cut down and the Budget balanced. I heard him discussing and expressing these views with the President in a conference about a year ago. Not long since he was in a conversation with me, and he expressed himself as very much perturbed over the increased amounts approved by the Budget in different departments. You have often heard the expression that a man was the "watchdog of the Treasury." This could be well applied to him. He knew his health was failing; he knew his physical condition, yet no one could keep him away from the constant toil in discharging the duties as chairman of that great committee.

His service to his country, in my opinion, has cost him his life. His services and his memory will ever remain green with those of us who knew him best and appreciated his worth.

Mr. Speaker, I mourn his loss as a friend. His death is not only a loss to the district which he represented, but also to this great country at large.

Some 2 years ago I was able to secure a very large appropriation for the commencement and building of what is known as the Chickamauga Dam on the Tennessee River, near Chattanooga, in Hamilton County, where I live. This appropriation was made possible on account of Mr. BUCHANAN'S activity in supporting such appropriation. The people of Chattanooga are well aware of the interest that he took in our behalf, and we were very appreciative of what he had done. Many times since that time, they had endeavored to secure him to come to our city to show him their appreciation, but on account of his health and the duties of his office, he was unable to go. When they learned a few days ago of Mr. BUCHANAN'S death they were greatly grieved, and the county court of Hamilton, including Chattanooga, was called together in special session, and having had permission granted me by the House to extend my remarks so as to include what occurred on that occasion, I desire to place in this extension the remarks of Judge Cummings, and the resolution, as passed, which are as follows:

TRIBUTE TO HON. JAMES P. BUCHANAN, DECEASED, MEMBER OF CONGRESS, BY JUDGE WILL CUMMINGS

Gentlemen and fellow members of the county court of Hamilton County, Tenn., we are come together to perform a sad duty—to pay a tribute to one of the greatest statesmen the South has ever produced. To voice our recognition of our own irreparable loss in the untimely death of our friend and benefactor, that great humanitarian, the Honorable JAMES P. BUCHANAN, the late chairman of the Appropriations Committee of the Congress of the United States.

We are all familiar with the part he has played in the restoration to prosperity of a stricken nation. Most of us are familiar with his 100-percent cooperation with our own Representative, the Honorable SAM D. MCREYNOLDS, in securing the appropriations for our long-wanted Chickamauga Dam.

We are so stunned by the shock of his passing that we cannot realize fully the magnitude of our loss—only time can acquaint us with that.

While we bow to the will of Him "who doeth all things well", who has called a faithful servant to his rest, let us do so with the prayer in our hearts that out of this pain and sorrow the sweet incense of the memory of his tireless, unselfish service will rise an inspiration to greater service, greater responsibility to our country, our homes, and our fellow men, in the hearts of all.

SATURDAY, FEBRUARY 27, 1937.

STATE OF TENNESSEE,
County of Hamilton:

Be it remembered, that on this the 27th day of February 1937, before the Honorable Will Cummings, county judge of Hamilton County, Tenn., a meeting of the Hamilton County Quarterly Court was begun and held at the courthouse in the city of Chattanooga, Tenn., when the following proceedings were had, to wit:

RESOLUTION

Whereas his honor, Judge Will Cummings, has, with profound regret, learned of the death of the Honorable JAMES P. BUCHANAN, Representative in the Congress from Texas, and has called this honorable court into special session so that the people of this community might have the opportunity, through us, the members of this court, to pay suitable tribute to his memory, and to express their appreciation for his life, his works, his virtues, and his humanity; and

Whereas the people of the Commonwealth of Texas have seen the Honorable JAMES P. BUCHANAN rise from the office of justice of the peace to eminence at the Texas bar, prosecuting attorney, United States attorney, member of the Texas Legislature, and then in 1913 gave him to the Nation as a Member of the Congress, and we have all watched his career from then until his death, and saw him rise to the chairmanship of the Appropriations Committee of the House of Representatives, and with admiration watched his career during the Roosevelt administration, and while guarding the Treasury with proper economy, his humanity always controlled his judgment, and, by virtue of the appropriations that he piloted through the House of Representatives, the Roosevelt administration has restored prosperity throughout the Nation; and

Whereas the people of Tennessee and our own community have been vitally interested in the $4,800,000,000 appropriation for relief, the appropriations for the Tennessee Valley Authority, and especially the appropriations for building dams for the purpose of navigation, flood control, and the generation of electricity, as well as the appropriations for the benefit of agriculture, conservation, and other means of flood control; and

Whereas we especially attribute to Representative BUCHANAN the wisdom, the foresight, and the appropriations for building the Chickamauga Dam; and

Whereas the Honorable JAMES P. BUCHANAN was a particular friend of our own able and distinguished Congressman, Judge SAM D. MCREYNOLDS, and cooperated in every way possible with this court in the development of the Tennessee Valley, and our own county: Now, therefore, be it

Resolved by the members of the Hamilton County Court, That it is with deep sorrow we learn of the death of Representative JAMES P. BUCHANAN, and we hereby declare that the Roosevelt administration has lost one of its wisest and most valuable counselors, and that the Nation has lost one of its most able statesmen, and that the people of this community have lost a particular friend; be it further

Resolved, that a copy of this resolution be spread upon the minutes of this court, and that a certified copy be sent by the clerk to the family of Representative BUCHANAN, and that a copy also be sent to Hon. SAM D. MCREYNOLDS, our Representative in the Congress, and copies be given to the press.

Will Cummings, C. E. Camp, B. L. Freeman, Luther Hamby, J. W. Johnston, Mack Fryar, W. Lat Holder, G. Russell Brown, Wilkes T. Thrasher, W. F. Langley, Hays Clark.

STATE OF TENNESSEE,
Hamilton County:

I, T. W. Killough, clerk of the county court of said county, do hereby certify that the foregoing two pages contain a full, true, and perfect copy of the resolution on the death of Hon. JAMES P. BUCHANAN, Representative in the Congress from Texas, as the same appears of record in Quarterly Record No. 12, now on file in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office, in the city of Chattanooga, this 27th day of February 1937.

[SEAL]

T. W. KILLOUGH, *Clerk.*
By SARA WATTS, *Deputy Clerk.*

The Late Benjamin K. Focht

EXTENSION OF REMARKS
OF
HON. ALFRED F. BEITER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 30, 1937

Mr. BEITER. Mr. Speaker, with feelings of deep sorrow I take this opportunity to speak a few words regarding the late Honorable BENJAMIN K. FOCHT, who served the State of Pennsylvania so long and faithfully in the House of Representatives.

I was associated with Mr. FOCHT on the War Claims Committee, and at the time of his death he was the ranking Republican Member. I consider it an honor to have known him and to have had the privilege of working with him in the affairs of the committee. His loyalty was outstanding, and he was always ready to cooperate with his colleagues in every worthy cause.

BENJAMIN FOCHT served 4 years in the Pennsylvania Assembly and 3 years in the State senate before coming to Congress and was the sponsor of many important legislative measures. He was elected to the House of Representatives in 1907 and served with distinction in 10 Congresses. He was sincere and conscientious in all his endeavors, and I know that all who knew him and were associated with him in the House consider his passing as a deep personal loss. To his widow, his son, and daughter we extend our profound sympathy and mourn with them in their loss.

The Late Henry Elbert Stubbs

EXTENSION OF REMARKS
OF
HON. CHARLES J. COLDEN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Friday, April 2, 1937

Mr. COLDEN. Mr. Speaker, California has suffered an irretrievable loss in the death of HENRY ELBERT STUBBS, of the Tenth Congressional District. His was a gentle soul. Other Members frequently get irritable, sometimes speak hasty words, show some degree of temper, but "PAT" STUBBS, as his close friends called him, always preserved an even tenor of his way. His career as a pastor for many years tempered his emotions, softened his words, and gave him a kind humility and a broad sympathy for humanity. "Pat" was most zealous in the cause of his constituents and in his loyalty to the State of California. He was intensely interested in all the projects that pertained to his district. He was loyal to his people and devoted to the causes he espoused. He was faithful and considerate in his judgments and in his opinions.

I was one of the last Members to be privileged to call on him on his bed of sickness at the Walter Reed Hospital. He told myself and a colleague that his time had come, that his hours were numbered, that he had made the best fight that he could, but his work was ended and he was ready to depart. The pallor on his face foretold with certainty that his prediction was true. He passed on a few days later. The House of Representatives, with California, lost a noble soul.

Some days later in conversation with a physician the name of HENRY ELBERT STUBBS was mentioned. This physician told me that Mr. STUBBS had known for years that he was battling with an incurable affliction; that his death was inevitable; that the only hope he carried for years was to defer the inevitable hour.

When I think of the poise and the resignation of one who knew and understood that death was calling him every day, I think this struggle is an expression of a remarkable fortitude and forbearance. Few men can face death daily with that kindness of spirit, the pleasant word, that characterized our good friend HENRY ELBERT STUBBS.

The Late Benjamin K. Focht

REMARKS
OF
HON. HARRY L. HAINES
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, April 7, 1937

Mr. HAINES. Mr. Speaker, it is with a feeling of sincere, deep sorrow that I address you at this time. I want to pay my respects to the memory of a former colleague, the Honorable BENJAMIN K. FOCHT, with whom I had the honor to serve in this body for several years. Prior to his coming here I did not have the honor of his acquaintance, but shortly after his arrival here I learned to know him; and to know him was to respect him. As time went on he and I were together quite a bit and an affection grew up between us that will always linger in my memory. Mr. FOCHT was a good legislator and served with distinction both his State and Nation during a long period of time. I believe it to be no exaggeration, Mr. Speaker, for me to say that he had the respect of every Member of this House and in his passing we have lost not only an able, conscientious colleague but a true friend. Those who knew Mr. FOCHT best attest to his worth as a citizen and a neighbor. I attended his funeral at Lewisburg, Pa., where he lived for many years, and it was there that I talked with men who knew him as a neighbor and a public servant. I hope that the same fine sentiment might be expressed toward all of us as was heard on every hand by his own people. It has been truly stated by another that "his word was as good as his bond" and that "even his political foes respected him." While he and I were not of the same political faith, we were, however, seeking the same objective—a more abundant life for the people we served. He always displayed a fine spirit of tolerance toward all who might disagree with him, a spirit that commends itself to everyone.

I feel a distinct personal loss in his passing and shall always remember him as a friend.

The Labor Problem

EXTENSION OF REMARKS
OF
HON. AUGUSTINE LONERGAN
OF CONNECTICUT
IN THE SENATE OF THE UNITED STATES
Monday, April 12, 1937

RADIO ADDRESS BY HON. LEWIS B. SCHWELLENBACH, OF WASHINGTON, ON APRIL 8, 1937

Mr. LONERGAN. Mr. President, I ask unanimous consent to have printed in the RECORD a brief but thoughtful address on the labor problem delivered in America's Town Hall of the Air by the distinguished junior Senator from Washington [Mr. SCHWELLENBACH].

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE LABOR PROBLEM

The question of how we are to deal with our labor problems is a social and economic one. To understand it we must know and appreciate the social and economic facts upon which labor relations in industrial America are based. Our task is to find the causes of our labor troubles and to treat with those causes.

While industrial unrest continues and capital and labor spar for position, inevitable incidents arise. We must take care not to mistake those incidents for the problem itself.

In order to determine how we shall deal with our labor problems, it is much more important that we should understand the causes of the labor struggles than that we should, with moral indignation, pass censor upon the participants in those struggles. Industrial warfare is always an ugly thing, costly to labor, to capital, and to the general public.

The duty of men who will to understand, who will to solve our present problems, is the duty to refrain from inflaming the suspicions and ill feelings that inevitably attend differences between industry and labor.

The plain fact is that we have already lost costly and critical years in the long and difficult process of developing orderly, responsible industrial relationships. The establishment of such relationships is the first and primary task of industrial as well as political statesmanship.

MUST RECOGNIZE LABOR'S RIGHT TO COLLECTIVE BARGAINING

Enlightened public opinion has long recognized that before we can achieve and maintain industrial peace we must create conditions under which labor will be able to act and bargain collectively and with dignity. We cannot expect industrial peace until we can expect and ask for collective responsibility on the part of labor; and we cannot expect collective responsibility on the part of labor without a frank recognition of a democratically chosen collective leadership of labor in industry. The very preservation of private enterprise in industry depends upon industry's willingness to permit the irresistible demand of the average man for a larger share of control over, and consequent responsibility for, the conditions of his work.

But for years the recognition of labor's right to bargain collectively has been delayed beyond the just expectation of enlightened public opinion. For years the law of the courts has lagged behind economic events and social needs; and throughout those years powerful employers have availed themselves of the outmoded laws of the courts.

The Supreme Court of the United States not only recognized the validity of contracts under which employers forced their workers to agree not to join any labor union but nullified State as well as Federal laws forbidding such contracts. The Court went further and held that it was the duty of a court of equity to prevent by injunction labor unions from peacefully soliciting members among workers who had been obliged to sign such contracts in order to get their jobs. Such decisions encouraged the belief that it was industry's constitutional right to refuse to deal with union labor; and in furtherance of that supposed constitutional right some employers engaged detectives and spies to ferret out union members from their employ. Such employers thereby held back the natural growth of unionism within their plants and at the same time sought protection against the interference of so-called outside agitators and troublemakers. As the recent investigations by the Senate have shown, large corporate employers have used extensive systems of espionage to terrorize their workers and to stamp out any form of independent unionism in their plants. Then if unionism was still able to make any headway, those employers did not hesitate to use thugs as strikebreakers against their own workers.

As we emerge from the depression it is important that labor should be in a position to protect its own purchasing power and to resist the inflation of the profits of a few at the expense of the consuming power of the many. Modern methods of mass production result in the employment of thousands of workers trained to perform some small operation in the complicated technique of the straight-line method of mass production. Though their tasks are too specialized to qualify them for the skilled crafts, still these workers are too intelligent and capable to be treated as workers have been treated in the past. Their self-organization is an urgent need for the social dignity and self-respect of the American community of which they form a not inconsiderable part.

It is not helpful for corporate management, which has not always so reverentially observed the law or respected other people's property or the problems of labor, to brand every strike, regardless of its justification, as a lawless, morally indefensible trespass upon other people's property. It is not helpful for labor to think that, because sit-down strikes in one or two instances may have brought corporate managements to a better appreciation of their responsibilities to corporate workers, such strikes may be resorted to at will, without regard to the wishes of their fellow workers, to wrest every possible advantage from embarrassed employers.

DEMOCRACY'S ESSENCE

A civilized community demands that both labor and capital respect its law. And if respect for law and order is to be maintained, the law must reflect the community's sense of justice and not the demands of any one class or group. That is the very essence of democracy. And if the law reflects the community's sense of justice, no class or group may defy or set itself above or beyond the law without bringing upon itself the just resentment of the whole community. It is unfortunate that the courts have refused to recognize laws which the community deemed necessary if we were to attain some measure of equality in the bargaining power of capital and labor. To that extent the attitude of the courts has impaired the sanctity of the law in the minds of large sections of the community. Courts which have refused to enforce the laws of the people could not expect the people indefinitely to give willing respect to the decrees of the courts.

BALANCE IS ESSENTIAL

Under the present administration, Government has at last moved, and is continuing to move, toward providing machinery which will safeguard the principle of collective bargaining. These efforts of the Government may be seriously impaired by excessive labor disturbances now visible in different sections of the country. Labor, which was extremely patient when Government was insensitive to its needs, should not lose its self-restraint when Government has demonstrated its awareness of labor's just demands. It is important that labor as well as capital recognize that if any group or class presses its demands beyond what the community as a whole regards as the bounds of reason, there is danger that the community may reject the just as well as the unjust demands of that group or class. In a democracy men must accommodate their demands to the demands of others; there must always be a large measure of give and take in the adjustment of human relations. A civilized democracy demands patience and self-restraint from all of its citizens.

There is no magic solution for the labor problem. Free labor and competitive industry will never yield to the stagnation of an industrial feudalism. But there can be rules to govern the relations of free labor and fair industry if labor and industry will it. A few guiding principles toward the establishment and effective application of such rules may be briefly stated.

A BASIC PROGRAM

(1) Labor and capital should freely use the machinery now provided by the Wagner Act to make operative the principle of collective bargaining. Let this be done voluntarily without further quibbling. Such quibbling threatens, indeed, to embarrass the winning litigant as much as the defeated litigant.

(2) Capital should abandon all forms of espionage over labor, all kinds of subsidized company unions, and the use of strikebreakers. As long as industry spies on labor, or sets up its own pet union, or brings in professional strikebreakers to render a lawful strike useless, it will be difficult to convince labor that the scales of industrial democracy have not been weighted against it.

(3) If capital abandons the unfair and arbitrary practices which I have enumerated, labor may then fairly be compelled to abandon retaliatory practices adopted in real or feigned self-protection against capital's unfair and arbitrary methods—for instance, the sit-down strike and the refusal to hold elections to permit the workers themselves to choose their own union and their own representatives to bargain for them.

(4) If the courts are resorted to—and the courts have not as yet shown themselves to be practical or effective instruments for the adjustment of labor disputes—the courts should recognize: First, that the basis of the employer-employee relationship has changed fundamentally in modern times and that traditional legal precedents are not necessarily applicable to an essentially different factual situation; and, second, that if judicial intervention is unavoidable under State law, judicial relief should not take the form of a unilateral decree operating only in favor of one party to the employment relationship, but should be conditioned upon the observance by all parties to the employment relationship of all reasonable obligations consequent upon that relationship.

It would certainly be advantageous to the interests of labor and capital and to the prestige or effectiveness of the courts if the courts deliberately sought to write their opinions and to draft their decrees so that intelligent men and women not trained in the mysteries of legalism may be convinced that the opinions and decrees have been based upon something more than the meaningless jargon of outworn precedents and have been adapted to provide a settlement not offensive to the claim of justice and common sense. There is a natural reflection upon our courts when a decree is issued in favor of the employer, which even the employer hesitates to use until as a matter of favor he has yielded concessions to his employees which in fairness and common decency should have been accorded them as a matter of right in the court's decree.

The labor problem in America is one which requires the efforts of all branches of the Government to effect its solution, and by all branches of Government I mean not merely the executive, the legislative, and the judiciary but also enlightened public opinion, which is the vitalizing force back of all democratic government.

Story of the Constitution

EXTENSION OF REMARKS

OF

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 9, 1937

Mr. PATMAN. Mr. Speaker, every Member of the Senate and House has received in the last few weeks a copy of the book, The Story of the Constitution, prepared and published

by the United States Constitution Sesquicentennial Commission as a part of its program of celebration of the one hundred and fiftieth anniversary of the formation of the Constitution. I am quite sure that all of those Members who have had the opportunity of examining the book will concur in the opinion that its publication is one of the most important accomplishments of any Government department, bureau, or commission on the subject of our Constitution.

Long after the heated political discussions of the day have faded into memories—long after the problems that seem so crucial at this moment are settled one way or another and forgotten—the influence of this work on the people of the United States in giving them a greater knowledge and understanding of the Constitution and its origin will be a significant factor in the progress of our Nation. My colleague, Mr. BLOOM, of New York, as Director General of the Commission, and the staff of the Commission have succeeded in bringing out a magnificent and a unique contribution to the welfare of every man, woman, and child in the United States.

It is my belief that every student of every school in the United States should be furnished with a copy of The Story of the Constitution, and that its reading and study should be made a part of the curriculum of every school in the country. Moreover, I believe that an appropriation should be made to furnish each Member of the Senate and House with a generous supply of the book for free distribution to their constituents.

ACCURATE, READABLE, AND UNDERSTANDABLE

The reason that The Story of the Constitution is unique and valuable is that, in spite of the fact that thousands of works have been written on the Constitution, this is the very first to combine three essential qualities. These qualities are: First, a simplicity and readability which makes it possible for a child or an adult who is untrained in law and technicalities to know our Constitution and its history; second, a degree of accuracy in the reproduction of texts and in the relation of historical facts that has never been equaled; and third, a strict adherence to fact, without the introduction of any political bias, constitutional opinion, prejudice, or partnership. As we all know, there are books that have been published in the past on the Constitution which are simple and easy to read, but they are loose and inaccurate and usually in favor of or against certain opinions. Also, there are a number of works of great accuracy, but they are so technical that their use is largely restricted to lawyers, students, and experts. Finally, there may be works that are dispassionate and unprejudiced, but they suffer from the faults also of being too technical for the average reader, or inaccurate in their relation of facts. Thus we can see that the book of the Constitution Commission is indeed unique.

DISCUSSIONS OF CONSTITUTION

Today the Constitution of the United States is being discussed by millions of people. Excited groups offer their opinions at length about all the problems related to the Constitution. Not only in the Halls of Congress but in smoking cars and trains, in clubs, in schools, in homes, and on the streets the Constitution has come to rank almost with the weather as a topic of conversation.

Such discussion is surely beneficial, such interest is surely praiseworthy, such excitement is surely indicative of a high sense of responsibility on the part of the sovereign people, provided that the opinions offered are based on facts and knowledge and not on misinformation and lack of knowledge. It is when we begin to examine the actual knowledge of the Constitution possessed by most people that we become disheartened. If all discussion of the Constitution were restricted from today on just to people who have read the Constitution in the last 5 years, think what a tremendous silence would fall upon the Nation on this subject.

THIS BOOK FURNISHES KNOWLEDGE OF CONSTITUTION

Every American citizen should have an opinion and a decided opinion on every question relating to the Constitution. But before anyone is qualified to have and express an opinion he should have a fundamental knowledge of the document which he defends, attacks, or interprets. This book for the first time makes it possible for everyone to have that knowledge, not only of the document itself but of its origin, of the men who framed it, of the conditions of the times, and of the story of its establishment.

NOT CONTROVERSIAL

The complete avoidance of all controversial matter, of all expression of opinion, is truly remarkable. How often have we all read books on the Constitution that are admirable in many ways, only to find the personal opinions of the author sooner or later begin to become evident, and we find the work an argument for one side of some political question instead of a dispassionate account of facts. Such works may be valuable, and often are, but they serve to mislead any reader who believes that he is being given fact instead of opinion. Before such works should be read or judged there must be a basic knowledge of the facts, and it is these facts that are given without bias in The Story of the Constitution.

INTERESTING AS POPULAR MAGAZINE

The Story of the Constitution is a book for reading, with its historical sections as interesting as the popular magazines of the day. It is also a book for study, containing the essential facts of the Constitution and its history. Finally, it is a book for reference by laymen, by students, by everyone interested, with an amazingly simplified arrangement that makes such reference easy and valuable. When Mr. BLOOM first conceived of this work, he made a thorough examination of literally hundreds of books on the Constitution. With the staff of the Commission, he analyzed these works from the standpoint of accuracy, of simplicity, of readability, and of nonpartisanship. The Commission found that our country is almost literally flooded with misinformation about the Constitution; that even in many of our schools students are being taught things that are not true, are reading texts of the Constitution that are not accurate, are being confused by partisan and controversial statements that have been put forth as facts. So what was decided upon was a book that would be different from all the rest in the ways that I have described. The intention and the purpose of the work are well explained in the introduction, which says:

> This book is dedicated to "We the people"—to the 128,000,000 who desire to know something about the story of the Constitution and to have it told to them in such a way that they can understand what it is all about. It tries to reach the millions who are not judges or lawyers or professors or historians or otherwise trained in a knowledge of the Constitution, which governs the daily life of all of us. It is a book for the people.

READABLE TYPE, GOOD PAPER, AND FULLY ILLUSTRATED

When we look over the book we see borne out the splendid intention of producing a work that should become a vital part of American life. The entire book contains 192 pages. Physically it is a splendid example of bookmaking, printed in clear and readable type, on good paper, containing 54 illustrations which include photographs of the portraits of 37 of the signers of the Constitution and of all the Chief Justices of the Supreme Court, and bound in sturdy board covers bearing in colors the beautiful Constitution poster by Howard Chandler Christy. The edition that I am describing is the one that was sent to every Member of Congress and sells for 10 cents. A de luxe edition is printed on the finest coated paper and encased in limp-style leatherette covers, stamped in gold. It sells for $1.

PROBABLY ONLY LITERAL TEXT OF CONSTITUTION

Let us consider the reproduction of texts of the great documents of our Nation, as they are contained in the book. First of all, there is the Constitution itself. The preparation of this text took many months alone, for it is an absolutely literal reproduction, including spelling and capitalization, of the original document now in the Library of Congress. It is probable that not one out of a hundred people who have read the Constitution has ever seen the exact, literal text. What they have seen is a text changed in spelling, punctuation, and capitalization, and added to with headings and subheadings inserted by the publishers. There really is something thrilling in the thought that at last there is available at this nominal price a text that actually is in every detail what the framers of the Constitution signed. This is also

true of the 21 amendments, taken from the original rolls in the Department of State.

The same care and accuracy went into the reproduction of the Declaration of Independence, and the book publishes an entirely literal text taken from the 1823 copperplate facsimile of the document, the original of which is now so faded as to be illegible. Also, the identical treatment has been given to Washington's Farewell Address. It is interesting to learn that up to the publication of this book, an exact version of the text has not been available except in the limited and expensive Palstits edition published by the New York Public Library.

In addition to these great documents, four short State papers are reproduced, which most of us have never before read, but which are of important historical significance in connection with the Constitution. These are the resolution of the Convention, written on the same day that the Constitution was signed, laying it before Congress and recommending its ratification by the people of the States; the letter of George Washington, as president of the Convention, also written the same day, accompanying the Constitution and the resolution of the Convention; the resolution of Congress of September 28, 1787, submitting the draft to the legislatures in order that the people should ratify the Constitution; and the historic resolution of September 13, 1788, setting the days for appointing electors, for their voting for a President and for the commencement of the proceedings of Congress under the Constitution.

LIVES AND CAREERS OF WRITERS OF CONSTITUTION

But just to read the Constitution and these other documents is not enough to inform one completely on the subject. The child in school and the adult in his home want to know who wrote the Constitution, why it was written, how it was ratified and established, what needs and conditions and struggles brought it forth. All these The Story of the Constitution tells us in simple, interesting fashion. It makes the signers of the Constitution become alive with a photograph of every available portrait of them and with short sketches of their lives and careers. Several months were required for the collection and photographing of these portraits and for the extensive historical investigation necessary to authenticate them. In addition to these portraits and sketches there is interesting material about them and the other framers of the Constitution at the time of the Philadelphia Convention, with a short account of their ages, their interests, and their personalities.

BRIEF HISTORY OF COUNTRY

In a brief, simple, and highly interesting series of historical sketches the history of our country, beginning with the discovery by Columbus, and going through to 1937, is given. The chapter headings alone in these sketches excite interest and illustrate the completeness of the work. Among them are: Discovery—Title to the Soil, Colonial Government, Causes of the Revolution, the Continental Congress, Articles of Confederation; Confederation Fails—the Critical Period, Genesis of the Convention, the Deputies, Organization, the Virginia Plan, the Paterson Plan, the Compromise, Law of the Land, Method of Ratification and Amendment, Finishing the Work, Ratification, the Nation of 1790, Expansion to 1860, Conditions in 1860, Immigration, Industrial Trend, the South and Slavery, Secession and War, The Nation of 1937, Ratification of Amendments (with the individual history of each of the 21 amendments).

CONSTITUTION AND AMENDMENTS SUMMARIZED

To make the Constitution more understandable a section entitled "The Constitution in Operation" analyzes and summarizes the provisions of the Constitution in general and by articles, and also summarizes the content of each of the 21 amendments. One of the most valuable parts of the work makes reference to any subject covered in the Constitution more simple and easy than it has ever been before. This is by an ingenious method of alphabetical separation and cross-reference of all important words in the Constitution, including the amendments. This is called an alphabetical analysis and is patterned after that of William Hickey, whose Constitution of the United States of America, * * * with an alphabetical analysis, was published in 1846, and contains much valuable historical information. The advantage of the present anlaysis is a simplification, with the elimination of nonessentials and the addition of new features, such as cross-references and words and subjects not actually in the Constitution but covered by the Constitution. For every Member of Congress, for every student, and for every layman and lawyer who is interested in some particular point of the Constitution this is a tremendous convenience. If one is interested, for example, in the subject of "Taxes", one simply turns to the word in the alphabetical index and finds before him every reference in which the word or subject occurs printed in full. If one searches for some subject, such as "Patents", which is not mentioned by name in the Constitution, the word gives a cross-reference to the section which covers the subject. If one is interested in the "Census", which the Constitution directs shall be taken, he may have forgotten that the word "census" is not used in the provision and that the word "enumeration" is used instead; but he will find exactly what he wants by looking up the word "census" in the alphabetical analysis. Countless other examples of the convenience of this feature might be given.

MAPS, CHARTS, QUESTIONS AND ANSWERS

A wealth of additional historical and analytical information is given in other sections, maps, charts, and so forth, and particularly in a section of questions and answers pertaining to the Constitution. In this section 121 commonly asked questions about the Constitution, its provisions and its history, are answered simply and clearly.

Let Us Restore Two-Cent Letter Postage

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 9, 1937

Mr. LUDLOW. Mr. Speaker, unless Congress takes action to continue the 3-cent first-class postage rate the United States will return to universal 2-cent letter postage on July 1 next.

I think the Members of this legislative body and the people of the country generally should be giving serious thought to the advisability of restoring 2-cent letter postage in the interest of the general welfare. No additional action by Congress is necessary to accomplish this purpose, as the 3-cent first-class postage rate now in existence will be automatically canceled on June 30 unless Congress passes new legislation extending the present rate.

Restoration of the 2-cent postage rate would be hailed with much satisfaction by the business interests of the country and would be a helpful factor in lifting business and industry toward a normal recovery.

Surely legitimate business, struggling so hard to get on its feet, is entitled to every encouragement we can give it, for there is nothing in the economic picture that is more important than that honest business shall be given every assistance to enable it to function and reabsorb into regular employment the millions now on relief rolls. So it is well that we should now be thinking of restoring the 2-cent postage rate as an aid to business.

Then, too, we may well be considering the claims of the general public to the lower postage rate. The difference between 3 cents and 2 cents on the amount of postage paid by the average citizen may seem inconsequential but it is surprising how it pinches when the citizen is out of work, without money to buy actual necessities.

Constituents of mine have stated in communications to me that they would write oftener, but that they cannot

afford to pay the postage charged. Others have reluctantly written the secrets of their most intimate problems on postal cards in order to save 2 cents. Others, including a professional man for whom I handle many cases, include half a dozen letters in one envelope in order to send for 3 cents what would otherwise cost 18 cents. In that way the sender of the correspondence saves the price of a bowl of soup and a cup of coffee, which is not an inconsiderable item in times of awful depression.

If any one imagines that 3-cent postage does not pinch the common man as well as the business man, let him come to my office and look over my files and ascertain for himself the ingenious methods that have been devised to circumvent a high postage rate.

"Necessity is the mother of invention" is an old adage that appears to be particularly applicable to this situation. The necessity of conserving every penny to keep wife and little ones from starvation is often the motive that prompts the substitution of the telltale postal card for the secret letter or that in some instances causes the stoppage of correspondence entirely except at intervals.

Similar inventive genius exercised by businessmen has brought into existence a large variety of schemes to beat 3-cent postage legitimately, as for instance the use of the radio instead of the mails in advertising campaigns, the use of messengers in lieu of the mails in effecting deliveries, the use of cent and a half unsealed envelopes in place of sealed envelopes, and so forth.

How the 3-cent rate impinges upon business is told over and over again in letters I have received from businessmen in high standing. Frank R. Weaver, manager of a large wholesale house of Indianapolis, wrote to me a few days ago:

> There is no question but that the 3-cent rate has tended to diminish business communications—in fact, first-class communications of all kinds, both business and personal. We know from our own experience and the experience of other Indianapolis businesses with which we are familiar that it has been a considerable handicap from an advertising standpoint, often making it prohibitive to use first-class mail where it was desirable.
>
> We want to put our weight on the side of the return to 2-cent postage from the standpoint that 3-cent postage is a burden to business and a handicap to advertising, and we should think the increased volume resulting from a return to 2-cent postage would more than offset the lessened revenue per piece.

Among the almost innumerable objections urged against 3-cent postage some are unusually interesting and novel. Roger T. Sneden, a student, of Indianapolis, writes:

> The increase in first-class postage of 50 percent affects over a million ambitious men and women who have found it necessary, because of this readjustment, to discontinue their learning by correspondence. This increase in postage increases the cost of home study and reduces, in many cases, its possibility. I am one of the great number of home-study students, and I have felt the additional cost in no small way.

Explaining how business has suffered as a result of the increase in first-class postage, Merritt Fields, manager of the Indianapolis Association of Credit Men, wrote:

> It has had a blighting effect on business. Much business is obtained and promoted by direct-mail campaigns. Because of the 50-percent increase in first-class postage, from 2 to 3 cents, there has been a restraint, a pulling in of horns, a failure to use the mails as much as they would be normally used, with the result that there has undoubtedly been a great restriction in business. It is not believed that the increase in revenue, if there has been an increase, would offset the losses of taxes to be obtained in other directions if the postage had not been increased.

Bamberger & Feibleman, well-known Indianapolis attorneys, write:

> In many instances now people are writing on postals where they have heretofore written letters, and companies are delivering statements that used to be mailed. We believe that the Government as well as the individual business people will profit by the proposed change.

Col. Robert L. Moorhead, treasurer of the Bobbs-Merrill Co., says:

> Our firm is one of the Indiana firms that advertises extensively through the mails. When the 3-cent postage went into effect we found that it was impossible to conduct our mail-order business at a profit, and as a result of the postage expense we have largely discontinued our direct-mail advertising.

Kingan & Co., of Indianapolis, write:

> The law increasing the rate to 3 cents has reduced the revenue of the Post Office Department very substantially and has placed a burden on industry which industry cannot at this time well bear. Many businesses have substituted other means of delivering their mail.

A friend residing at Vevay, Ind., wrote soon after the postage increase became effective:

> Today we received our big annual Montgomery Ward catalog from a man paid for delivering same. Heretofore they have always come by mail. Why?

A. B. Chevalier, vice president of the United Mercantile Exchange, Indianapolis, estimates that of all the mailings that have been withdrawn from the mails since June 30, 1932—

> Approximately 100 percent can be attributed to the increase of postage, and that only.

I could fill an entire issue of the CONGRESSIONAL RECORD with letters I have received protesting the 3-cent postage rate and presenting what seem to me to be very convincing reasons why we should return to the old 2-cent universal letter postage which proved so satisfactory over a long period of our Nation's history. There is no doubt that the increase affects many ordinary citizens and it is equally certain that a great many individuals and companies are not using the mails, as they formerly did, to create and promote business, because they feel they cannot stand the high postage rate of first-class mail.

There is abundant evidence, I believe, to prove that legislation to restore 2-cent letter postage is justified from the standpoint of sound business and sound governmental policy. When the law increasing letter postage from 2 to 3 cents, a 50-percent increase, went into effect on July 1, 1932, it placed on the business interests of the country a handicap and a deterrent that has aggravated business and industrial paralysis and to that extent has prolonged the evil period of prostration through which we are passing.

I appreciate the apprehension of the Post Office Department that a return to the 2-cent rate would mean a falling off of revenue which the department can ill afford to lose, but I believe the officials overlook the probability that the lower rate would largely increase the number of stamps that would be sold and that the increase in volume of mail would greatly minimize, if it would not completely offset, the anticipated loss of revenue.

In the interest of trying to reestablish business, which needs a helping hand, as well as in behalf of the masses of the people who use the mails, I hope the Post Office Department will agree to the return of universal 2-cent letter postage.

Why Puerto Rico Does Not Want Independence

EXTENSION OF REMARKS

OF

HON. SANTIAGO IGLESIAS

RESIDENT COMMISSIONER FROM PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Friday, April 9, 1937

Mr. IGLESIAS. Mr. Speaker, pursuant to the permission given to me by the House, I am extending my remarks to express some ideas and convictions resulting from many years' experience on a subject matter of the greatest importance to the people of Puerto Rico. I am including, as a part of my remarks, statements made by Col. William Cattron Rigby, Dr. Ernest Gruening, Hon. Henry L. Stimson, and the late Elihu Root in behalf of Puerto Rico, and also a resolution, adopted by the Puerto Rico Bar Association, relative to two pending citizenship bills which I introduced.

It is my purpose, Mr. Speaker, to call to your attention the fact that Puerto Rico is an organized Territory of the United States with approximately 1,800,000 American citizens, whose

desire is to be treated as such, without privileges or discriminations.

If your knowledge of Puerto Rico is limited to what you read about it, you probably have the impression that Puerto Rico is eager to become independent of the United States; that there is a large group of dissatisfied people on our little Caribbean island who want to become separated from Uncle Sam, because there is no other course to follow to emancipate the islanders' producers. Many writers have given that impression during the last few years in interpreting some unexpected legislation which has been introduced in Congress. Each time such kind of bill has been introduced their headlines have read: "Puerto Rico Seeks Independence."

In answer to the frequent questions which are put to me, as to whether the people of Puerto Rico want to become independent, my reply is a forceful, emphatic, unqualified "No. How could they, in view of what the United States has meant to them?"

The masses of the workers of Puerto Rico know that independence for them would mean loss of their freedom and individual rights as citizens and also an inevitable economic catastrophe for the island; it would mean for them that sort of nationalist independence without liberty and without human guaranties of life. The material interests from outside and inside surely will continue to receive ample protection.

It is not accurate to say that the honest propertied interests alone are opposed to independence for Puerto Rico. The greatest majority of the producing classes in the agricultural fields and industry also are opposed to independence with more emphasis, because they organize to work for better life and happiness in behalf of the greatest mass of the people of Puerto Rico. For the producing people, independence is not a problem of propertied interests and business alone, but it also is the great problem of keeping freedom and the rights of citizenship, democracy, education, and popular representation in the affairs of the country. The reason the few rich, or business men, the intellectuals and the "ilustrados" who talk about independence, nationalists, or no nationalists, is because they are almost sure that, if Congress would force independence on the island, in the long run they would get control by force of the "new" regime for their own benefit and glory.

Yes, it is true that in the many years past economic rehabiliation of the masses of producers was neglected and the "American standard of life" for the workers was far from what organized labor had conquered on the mainland, and, when economic conditions became depressed in the Nation, Puerto Rico became a part of President Roosevelt's program of relief and rehabilitation, and the New Deal began to give to the poor and well-to-do classes of Puerto Rico assistance and compensation never before enjoyed by them.

The idea of outright independence is terrifying and unthinkable to all but a group of pretentious intellectuals "ilustrados" among our people. Some who have not clearly thought through the questions conscientiously feel that the island would be better off if it were separated from the States. There are, in addition, a few well-to-do discontented professionals who would like to have the island turned over to them for their personal administration, just as there are groups of individuals in New York and Chicago and San Francisco who promote the overthrow of the Federal Government in favor of radicals and communism. Every community of any size has the same kind of people, only our particular group seems to have done an unusually good job of advertising and making a lot of noise through sensational news and other devices.

I feel qualified to speak for the Puerto Rican people. I was a grown man when the island still belonged to Spain. I was there at the time of the American occupation, and I have lived there ever since. I did not see all the course of the American occupation, because I was in jail at the time, put there for daring to suggest to the Spanish authorities that Puerto Rican laborers be given those rights which today are enjoyed by every Puerto Rican and every other American citizen—the right to strike and to bargain collectively. A few years later they put me in jail again, and sentenced to serve 4 years in the penitentiary. My ideas were too advanced for the times, but President Theodore Roosevelt and the American Federation of Labor sponsored an investigation which set me free and established forever the rights and the liberties of the workers to organize to better their conditions.

We, the Free Federation of Workingmen of Puerto Rico and the Socialist Party with 145,000 votes, the Union Republican Party with 155,000, and the majority of the Liberal Party, or 80 percent of the people of the island, are in favor of insisting on the President and Congress the need for a broad and comprehensive economic, social, and political program to lead and to keep Puerto Rico as an integral part of the Nation. We are asking for the extension of all Federal laws covering education, sanitation, public works, economic rehabilitation, agriculture, and social security which will help the producers and the needs of the island. Puerto Rico is pledging itself to comply with all duties and obligations inherent to these benefits by paying its corresponding share so that the welfare of the people of the island will continue to be builded up under a mutual understanding and obligations of both peoples, United States and Puerto Rico. We assure that the people of Puerto Rico desire to continue under American institutions, enjoying all the rights and privileges of American citizenship, but also sharing all responsibilities without any special favors or discriminations.

Some writer printed this nationalist sentence coming from our "ilustrados":

> In terms of purchasing power wages have been reduced almost consistently since the first days of American occupation * * * the Puerto Ricans will welcome a king, a dictator, independence, anything but the present regime * * *.

Of course, such declaration is pure and simple demagogy.

To understand why Puerto Rico deeply appreciates and values its relations with the Union, it is necessary to compare present-day conditions on the island with those which prevailed prior to the American occupation, during the Spanish domination. Puerto Rico spent slightly more than 400 years as a colony of Spain, and during that time developed even less than Cuba. That was not because the Spanish Government mistreated or willfully neglected Puerto Rico, but rather because the island was not as rich and important as Cuba.

When we first became a part of the United States, as a consequence of the Spanish-American War in 1898, Puerto Rico was typically tropical and all that that term implies. Puerto Rico has made rapid strides in every conceivable respect since becoming a part of the United States and outranks the other Caribbean areas in many essential ways. That development, which has come about and been made possible only through institutions of democracy and the friendly help of the people of the United States, is the basic reason our people cannot stand the thought of independence, why Puerto Rico, in fact, hopes some day to become a full-fledged self-government or a State of the Union rather than an island "possession."

Unquestionably the advantage which the people value most highly, as a consequence of being a part of the United States, is their American citizenship and all that goes with it. Every Puerto Rican was given the opportunity of becoming an American citizen in 1917, and all but about 200 enthusiastically seized the opportunity. We do not vote in national elections, but we have a true insular democracy in that we elect our own legislature and many other officials, we have trial by jury, and we enjoy freedom of association, speech, and of the press that many independent and nationalistic countries do not enjoy. Last general elections we, the people of Puerto Rico, have elected 9 senators and 15 representatives who belong to the ranks of the labor man and the Socialist-Labor Parties. We have a commissioner of labor and a treasurer as members of the cabinet of the Governor and many other officials from organized labor. Of the 19 senators, 14 were elected by the Union Republican and Socialist-Labor Parties, and, of the 35 representatives, 26

were elected by the same parties. This overwhelming majority, together with the representatives of the Liberal Party, are against nationalism.

Only an individual who has lived without those precious privileges can understand how much they mean to a people. Foreign citizens of many nations all over the world envy those advantages which go with American citizenship, and it is readily understandable why the Puerto Ricans who already enjoy them would not think of giving them up. I, who have spent more than a year in jail for speaking freely about matters of labor and human social progress which are dear to me, have a special appreciation of what our American citizenship means.

We now enjoy, in addition, freedom of religious belief and all other free and democratic institutions of the United States. In short, Puerto Ricans already are as free as any people can be, and they wish to stay that way as a guaranty to the masses of a future in which they may build up their happiness for all society.

Being a part of the United States also has brought other more material benefits to the people of our island, largely as a result of the labor laws passed by our Legislature and also of the intelligent development of our agricultural resources. Employment and income have been increased with the New Deal and have brought higher living standards and a greater degree of happiness.

In the past all our commerce had to be with Spain, and that was relatively little. In the 1900's our entire sales outside the island amounted to less than $8,000,000 a year. When we joined the States, however, that picture quickly changed. Free access to the American market stimulated our trade to the point where we last year sold over $100,000,000 worth of commodities to the States. Naturally, our purchases from farmers and businessmen in the United States increased accordingly.

Our increased production and increased commerce are due partly to the ingenuity of Puerto Ricans themselves. But the development was greatly aided by the masses of workers and the technical skill from the States. Outside capital was sorely needed, in accordance with the system, for the simple reason that our island had little yet of its own. Some few individuals, of course, had been able to accumulate savings, but the total was small as compared with that of the mainland. Most of the working people had never earned enough to make any appreciable savings possible.

When our sugar and tobacco production has been protected, it has increased, and other crops and industries were stimulated, and then through the continued efforts of organized labor wages rose and the number of jobs available became much better, though it is not to the standard asked by labor. Greater income always enabled the masses of the people—the laborers—to enjoy a much fuller measure of the necessities of life, and most of those necessities are purchased in the States.

The island now buys more than $30,000,000 worth of foods a year from the mainland, nearly half a billion pounds in 12 months. Indeed, approximately half of all the food eaten in Puerto Rico comes from the farms of the States. Inasmuch as food production on the island has increased at about the same rate as the population since 1900, and food purchases from the outside have increased 900 percent in that period, it is clear that the average Puerto Rican now has more food to eat than he did 38 years ago. Thus, convenient access to the food surplus in the States is another cogent reason Puerto Ricans value the privileges of American citizenship.

Labor, organized and otherwise, also has much to be thankful for. Under Spanish rule the working classes had no liberty, no freedom of action, and no opportunity to extricate themselves from their miserable state. Today they enjoy all the freedom of labor on the mainland. We have and strictly observe in Puerto Rico an 8-hour day, which includes agricultural laborers; a child-labor law; collective bargaining; arbitration of labor disputes; and a workmen's compensation law which is superior to those of many States. Strikes are necessary when employers refuse to discuss terms with their employees, and almost invariably are settled through arbitration in a few days' time and without violence.

The wages paid to labor—most of it farm labor—still are relatively low as compared with industrial wage levels on the mainland. Yet three facts stand out in that connection. First, wage levels have increased in the last 30 years, so that the average daily wage in the sugar industry now is about three times as high as it was when no labor organizations were permitted. The agricultural wages in Puerto Rico are higher than those prevailing in many of the independent nations of the Caribbean and Central America. Second, many more individuals have better employment now than was the case in the early nineteen hundreds. Third, our wage levels are relatively high compared with those prevailing in the nationalists countries. They are higher than the rates paid in most other of the sugar-producing areas of those nations where the workers have been denied the rights of human beings—organization and defense of their lives and homes.

The average conditions of the workers now are the highest of all time, as a result of their constant insistence for increased wages and better living conditions so that families of the laboring class in Puerto Rico now enjoy many more of the necessities of life than they once did. It is only natural that the people appreciate the improvement in their lot and want to maintain the relationship which brought it about.

Equally striking advances have been made in education. Before the United States flag was raised over our island there was only one government school building in the island. Fewer than 23,000 children were in school and the total budget for education was only $130,000. Today we have over $11,000,000 invested in school property, more than 2,000 school buildings, and more than 250,000 children in school. Taxes, made possible by our increased industrial and agricultural activity, have made these advances possible. The island also has a modern university with an enrollment of more than 4,000 students and numerous high schools. The annual expenditure for education now exceeds $6,000,000, whereas in 1898 the entire insular revenue for all purposes was less than $3,500,000, and much of that modest total was devoted to upkeep of the church and the army.

I could mention scores of other ways in which Puerto Rico has shown surprising progress. For example, there were only 152 miles of paved highways in 1898, as compared with more than 2,000 miles at the present time. At the end of the Spanish regime sanitary conditions were deplorable. There was just one city with a sewage system, only eight cities had water systems, and none provided any means for water purification. At the present time, however, 68 communities have the advantages of water systems and 32 have sewage-disposal facilities. All but four of the island's cities have electric lights.

The encouragement and help of the United States have been largely responsible for the tremendous improvement on the island, and our people fully realize that fact. They know there is no other explanation for the fact that they have more to eat than before; that they have a better balanced diet, better clothing, a higher percentage of people in school, and a higher rate of literacy and knowledge of English language than any of the comparable Caribbean and other countries; that they have more miles of railroads and more miles of highway per hundred square miles than any of those countries.

Thus there are many reasons the people of Puerto Rico prefer by an overwhelming majority to remain a part of the United States. And the reasons are not all selfish by any means. The people appreciate the help they have received and have formed a strong, loyal feeling of friendship for the United States. They are becoming more American each year; they think of themselves as American; and they will bitterly resist the efforts of any minority to change their status.

PUERTO RICO IS A TERRITORY

On March 17, 1937, there appeared before a special subcommittee of the House Committee on Agriculture, Col. William Cattron Rigby, counsel for the government of Puerto Rico, who testified as follows:

My name is William C. Rigby, counsel for the government of Puerto Rico, and I appear at the request of the Governor and on behalf of the insular government of Puerto Rico and the people of Puerto Rico and its interests generally.

Puerto Rico is a Territory of the United States. It is the greatest Territory of the United States today. It is the greatest in population, greatest in purchases from the mainland, greatest in financial interests. Puerto Rico, when we took the island over in 1898, had a population of something over 900,000 people. That has been steadily increasing until now it is estimated that there are something over 1,800,000. The last United States census in 1930 found about 1,543,000, I think. The census taken in 1935, locally, for the Puerto Rico Reconstruction Administration found a population of one-million-seven-hundred-thousand-and-some-odd.

It is now estimated that there are over 1,800,000.

Puerto Rico feels that speaking of "offshore areas" in connection with the continental areas, and speaking of the "insular possessions", is psychologically wrong, and is very unfair to Puerto Rico.

Puerto Rico came into the Union; came to the United States in exactly the same way that Louisiana came to the United States.

By the treaty of 1803 the first consul of France "cedes" Louisiana to the United States. By the treaty of 1819, His Catholic Majesty "cedes" east and west Florida to the United States. By the treaty of 1898, ending the Spanish-American War, Spain "cedes" Puerto Rico to the United States.

Puerto Rico, upon being taken over, became "territory belonging to the United States" in just precisely the same way as any other territory.

At the same time and by the same treaty of 1898, of course, we took possession of Cuba; but not in the same way. As to Cuba, the treaty says Spain "relinquishes all title and sovereignty in Cuba", and that inasmuch as it is understood that upon the evacuation of the islands by Spanish forces the United States will occupy them, the United States undertakes, so long as it occupies them, to discharge the duties of international law.

We started the war, of course, for the benefit of freeing Cuba, and Cuba is a foreign country today. We never have claimed anything there. We took the Philippine Islands in the course of the war as a trusteeship. They were "ceded" to the United States; but in voting to ratify the treaty, the Senate passed a resolution reciting that it was not the purpose of the United States to remain permanently in the Philippine Islands. That it was not intended to incorporate the inhabitants of the Philippine Islands into citizenship of the United States, "nor is it intended to permanently annex said islands as an integral part of the territory of the United States; but it is the intention of the United States to establish on said islands a government suitable to the wants and conditions of the inhabitants of said islands to prepare them for local self-government, and in due time to make such disposition of said islands as will best promote the interests of the citizens of the United States and the inhabitants of said islands." (Senate resolution, Feb. 14, 1899; CONGRESSIONAL RECORD, vol. 32, pt. 2, pp. 1478, 1480, 1487, 1846, 1847-1848.)

That promise has now been carried out. The Philippine Islands are on their way out; in a dominion status. Their inhabitants were never made citizens of the United States. The laws of the United States generally were never extended to the Philippine Islands. They have been kept in a different position.

But none of that is true as to Puerto Rico. When General Miles entered Puerto Rico there was no promise that they should ever be given back to any other country or that we would not hold them permanently. General Miles said in his proclamation to the people of Puerto Rico July 28, 1898:

"We * * * bring you protection, not only to yourselves but to your property, to promote your prosperity, and bestow upon you the immunities and blessings of the liberal institutions of our Government."

Puerto Rico was one colony of Spain where there never had been an effective revolt. There was no insurrection there. Puerto Rico had been the beneficiary, to some extent, of immigration of the better Spanish families from other colonies.

Chief Justice White, speaking for the United States Supreme Court, said:

"It may be justly asserted that Puerto Rico is a completely organized territory, although not a territory incorporated into the United States, and there is no reason why Puerto Rico should not be held to be such territory."

That is in *People of Puerto Rico* v. *Rosaly* (227 U. S. 270, 274), citing *Kopel* v. *Bingham* (211 U. S. 468, 476).

So that, although Puerto Rico is not formally "incorporated" into the Union, in the sense of extending the jury trial to Puerto Rico, it is, nevertheless, a Territory of the United States, in the same situation as Hawaii, exactly; and is entitled, as it seems to the Puerto Rican people, to the same treatment, certainly, as is accorded to Hawaii and to other parts of the United States.

By section 5 of the act of March 2, 1917, the Organic Act for the Island (c. 145, 39 Stat. 951), the Puerto Ricans were made citizens of the United States; so that they are now a part of the body of the citizens of the United States, just as much, really, as the people who stand here today.

Now, they ask to be treated in that status, to be considered as a part of the United States.

On the financial end of it, Puerto Rico has now become the sixth best customer of the United States. It buys more from the United States mainland than Cuba does. It buys more than any other country or area in the Western Hemisphere except Canada.

On March 22, 1937, before the above-mentioned subcommittee, appeared Dr. Ernest Gruening, Director of the Division of Territories and Island Possessions of the Department of the Interior, whose testimony in part is as follows:

I am here representing the Department of the Interior, which has through its Division of Territories and Island Possessions supervision of the affairs of the Territories and islands and is therefore naturally very much concerned over any legislation which is related to them, and especially legislation of the far-reaching importance of this which so vitally concerns their economic and social welfare.

The Department of the Interior's position in relation to this bill involves a fundamental principle.

We desire to make that protest now. Our protest is embodied in the fact, as I say, that the bill perpetuates a new geography. It creates two kinds of territory for America. It creates a continental and an offshore America. We cannot recognize such a division and such a distinction. There is no warrant or justification for it whatever. We think it is just as unwarranted to make this division as to make a similar division based on any physical or historical factor, such as the Mississippi River, for instance, and to say that Americans living west of that river are entitled to some kind of consideration and Americans east of it to another kind, or to base such discrimination on the Continental Divide or the Mason and Dixon's line.

We only know one kind of America, and that includes all the land where the flag flies and American citizens dwell. We do not recognize two kinds of Americans, continentals and offshore Americans. I really do not know what a continental is. If I were asked, I would assume that you referred to a man in a blue and buff uniform with knee breeches who had fought at Valley Forge and had been present at the surrender of Yorktown. If you spoke of an "offshore American", I would suppose that it had something to do with a mermaid. But we cannot recognize that division, and it is our plea, and our very earnest plea, that only one terminology be used in this bill so far as all parts of America are concerned, and that the term applied be "domestic."

We can recognize only two classifications, domestic and foreign.

Now, shortly, there will be introduced a specific recommendation about this bill that embodies that point. This question is a question of principle. It is not a question of quotas.

We feel that Hawaii and Puerto Rico are entitled to exactly the same kind of consideration that the beets, that Florida, and that Louisiana will be entitled to, and are entitled to. We are not raising the issue of quota at all. If the total quota is to go up, Hawaii and Puerto Rico's quota should go up, too. If it is to go down, we desire to be cut accordingly, but we wish to be treated exactly as any other part of America or Americans are treated.

SECRETARIES ROOT AND STIMSON SPEAK

Now, let us go back several years to see what were the sentiments of two outstanding Secretaries of War regarding the future political status of Puerto Rico.

On Thursday, April 4, 1912, during hearings and statements before the Senate Finance Committee, Sixty-second Congress, second session, Secretary of War Hon. Henry L. Stimson said:

In the first place, you will remember that there has never been any party difference as to the treatment or policy of this country toward Puerto Rico. Puerto Rico came to this country as a permanent addition to our territory with the acquiescence and consent of all Americans. There has never been any question of temporary possession of the island of Puerto Rico. There has never been any issue between large sections of this country as to the ultimate relationship of that island to our Nation. So far as my recollection extends, the status of the island and its connection with this country have always been regarded as permanent. On the other hand, Puerto Rico itself came to this country with the utmost loyalty and freedom of consent, so far as the attitude of its own people was concerned, and has ever been in an attitude of free and eager acceptance of American conditions.

I only have to refer you, for instance, to the report of my predecessor, Secretary (Elihu) Root, for the year 1899, as follows:

"The problem of civil government in the islands yielded or ceded by Spain presents in the simplest form in the case of Puerto Rico. That island is fully and without question under the sovereignty of the United States. It came to us not only by legal right but with the cheerful and unanimous desire of its people, who are peaceful and loyal and eager for the benefits to be derived from the application of American ideas of government. There is no obstacle in the way of our providing for Puerto Rico the best government which we are capable of devising for a people situated as the inhabitants of that island."

Instead of clamoring for independence, all that they have asked for is citizenship. Call them what you like, they are parcel and part of the United States.

CITIZENSHIP

Mr. Speaker, I also am taking this opportunity to incorporate in my extension of remarks an English translation of a resolution adopted by the Puerto Rico Bar Association relative to granting American citizenship to certain native-born Puerto Ricans.

[Translation from Spanish]

PUERTO RICO BAR ASSOCIATION, COMMITTEE ON INTERNATIONAL LAW—RESOLUTION

Whereas the territory of the island of Puerto Rico was vested with American nationality from the very moment of its formal cession to the United States of America in 1899 (192 U. S. 10), and the natives of said island domiciled therein acquired that nationality as a necessary consequence of applicable rules of international law (Research in International Law, Harvard Law School (1929), Draft of Convention on Nationality, p. 61) whose sanction as a legal system under the designation of Law of Nations is expressly recognized by the Constitution of the United States (Const. U. S., art. I, sec. 8, cl. 10); and

Whereas the acquisition of nationality jure soli—that is, by birth within the national domain—is a legal doctrine accepted by a large number of civilized States and was substantially in force in Puerto Rico at the time of the aforesaid cession, a fact which was set forth by the Supreme Court of the United States in its opinion dated January 4, 1904, in the case of *González* v. *Williams* (192 U. S. 1, 9), wherein that Court said: "By the constitution of the Spanish monarchy and the Spanish Civil Code, in force in Puerto Rico, when the treaty was proclaimed, persons born in Spanish territory were declared to be Spaniards"; and

Whereas the said doctrine has become a part of the public law of the United States since before the establishment of that country as an independent nation, being incorporated into the Civil Rights Act in 1866 (U. S. C., t. 8, sec. 1), and subsequently or in 1868, as a part of the fourteenth amendment of the Federal Constitution, which provides, insofar as now pertinent: "All persons born * * * in the United States and subject to the jurisdiction thereof, are citizens of the United States * * *"; and

Whereas eminent American textwriters maintain that "there is ground for contention that in view of the traditional assertions of the United States under the jus soli, the United States does, by implication and without the aid of affirmative enactment, make such a claim (of allegiance or nationality) automatically in the case of persons born in all territories under its flag" (Hyde, International Law Chiefly as Interpreted and Applied by the United States, vol. I, p. 618, text and note 2); and

Whereas the said doctrine of jus soli also applies, pursuant to Federal legislation, in the Virgin Islands, an unincorporated territory, acquired by the United States, some 16 years subsequent to the establishment of the American Sovereignty in Puerto Rico, the Organic Act for said Territory providing, since 1927, that "all persons born in the Virgin Islands of the United States, on or before January 17, 1917 (whether before or after February 25, 1927), and subject to the jurisdiction of the United States, are hereby declared to be citizens of the United States" (U. S. C. (1934 ed.) t. 8, sec. 5b) (see also article by Richard W. Flournoy, assistant legal adviser, Department of State, in the December 1934 issue of the American Bar Association Journal, vol. XX, p. 780, 783, where this distinguished expert on the subject of nationality says: "It may also be noted that, while a person born in the Virgin Islands of parents having the nationality of a foreign state, is born a citizen of the United States (sec. 3, act of Feb. 25, 1927, 44 Stat. 1234), this does not seem true of a person born in Puerto Rico of such parents (act of June 27, 1934, Public, No. 477, 73d Cong.)"); and

Whereas, although in the American public law some distinction is made between "nationality" and "citizenship", such distinction, however, is not ordinarily recognized in the external or international sphere, nor is to be taken into account as regards territories not yet admitted into the Union as States; and

Whereas the Federal statutes which relate to the citizenship or nationality of the natives of Puerto Rico, especially the act of Congress of June 27, 1934, adding section 5b to the organic act of Puerto Rico of 1917, are so worded that in consequence of their administrative construction they do not recognize unconditionally the application in this island of the said doctrine of jus soli; that is, the acquisition of American nationality or citizenship by the mere fact of birth in this island, subject to the jurisdiction of the United States (see commentaries of Richard W. Flournoy, Esq., supra); and

Whereas such legal situation, besides being in open conflict with the traditional attitude and the genuine thought of the people of the United States upon this matter, clearly reflected in the opinion rendered by the Federal Supreme Court in the case of *United States* v. *Wong Kim Ark* (169 U. S. 649), also tends to deprive a large number of natives of Puerto Rico, children of alien fathers, permanently residing in the island, from the exercise of substantial rights and to create difficulties even for those natives who are not of foreign parentage when called upon to establish their American citizenship or nationality by means of proper evidence; and

Whereas the board of governors of the Puerto Rico Bar Association, aware of the statutory deficiency above noted, has adopted a resolution calling upon the committee on international law of said bar association to consider this matter and to make suitable recommendations to the said board of governors with a view to securing the enactment of proper amendments to the legislation in question: Now, therefore, be it

Resolved, That the committee on international law of the Puerto Rico Bar Association, pursuant to the aforesaid resolution and in compliance therewith, recommend, as it does hereby recommend, that the board of governors of the said bar association exert its efforts, through appropriate official channels, especially through the honorable Resident Commissioner from Puerto Rico to the United States and the honorable Governor of Puerto Rico, in order that section 5b of the organic act of Puerto Rico in force be amended so as to read as follows:

"SEC. 5b. All persons born in Puerto Rico on or after April 11, 1899 (whether before or after the effective date of this act), and not subject to any foreign power, are hereby declared to be citizens of the United States: *Provided*, That this act shall not be construed as depriving any person, native of Puerto Rico, of his or her American citizenship heretofore otherwise lawfully acquired by such person; or to extend such citizenship to persons who shall have renounced or lost it under the treaties and/or laws of the United States or who are now residing permanently abroad and are citizens or subjects of a foreign country: *And provided further*, That any woman, native of Puerto Rico, and permanently residing therein, who, prior to March 2, 1917, had lost her American nationality by reason of her marriage to an alien eligible to citizenship, may be naturalized under the provisions of section 4 of the act of September 2, 1922, entitled 'An act relative to the naturalization and citizenship of married women', as amended.

"Any person hereinbefore described, if of full age, and born in Puerto Rico of an alien father, may retain his present political status by making a declaration, under oath, of his decision to do so within 6 months of the taking effect of this act before the district court in the district in which he resides, the declaration to be in form as follows:

"'I ------ being duly sworn, hereby declare my intention not to become a citizen of the United States, as provided in section 5b of the act of Congress conferring United States citizenship upon certain persons born in Puerto Rico on or after April 11, 1899, permanently residing in said island.'"

SAN JUAN, P. R., *January 22, 1937*.

Federal Antilynching Law

EXTENSION OF REMARKS

OF

HON. JOHN M. HOUSTON

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 12, 1937

Mr. HOUSTON. Mr. Speaker, the need for a fair and just Federal antilynching law is apparent. "A man is innocent until proven guilty" and the provisions of the Constitution that no man shall be deprived of life, liberty, or property without due process of law must be safeguarded. A Federal antilynching law should be enacted by this Congress so that order may be maintained in America and the blight of the crime known as lynching may be removed from the United States. Every time a victim perishes at the stake or by the rope the emancipation proclamation is suspended and civil equality is reduced to a political myth.

The bill now under consideration, H. R. 1507, was carefully drafted and represents the best thought of many citizens as to what Congress may do to check lynching. It defines a mob as three or more persons acting in concert, without authority of law, to kill or injure any person in the custody of any peace officer. It provides that if a State or governmental subdivision thereof fails, neglects, or refuses to provide and maintain protection to the life or person of any individual within its jurisdiction against a mob or riotous assemblage, whether by way of preventing or punishing the acts thereof, it shall be deemed to have denied to such person due process or equal protection. Any State officer with authority or power to protect an individual from injury by any mob who fails to make all diligent effort to protect such individual, or any officer charged with the duty of apprehending and punishing participants who fails to make all diligent efforts to punish such persons shall be guilty of a felony, punishable by a $5,000 fine and/or 5 years' imprisonment.

Any State officer who conspires with any member of a mob to injure a prisoner in his control or to allow a prisoner to be taken from his control shall, with his conspirators, be punished by imprisonment of from 5 to 25 years. Federal district courts shall have jurisdiction to punish members of mobs, in accordance with State laws, when it is shown that the responsible local officers have failed to prosecute, and any county or counties in which a person is injured or killed by mob action resulting from failure of State officers to perform their duty shall be liable in damages from $2,000 to $10,000, recoverable in a civil action for the in-

jured person or his representatives by the United States district attorney.

Lynching is a flagrant violation of many constitutional rights. The victim is seized and held without legal warrant by a lawless mob. He is frequently taken from the custody of peace officers, with their active or passive sanction. All rights of fair hearing and trial are brutally and summarily denied. The victim is often transported from State to State. Usually by torture, which permits no alternative, he is driven in utter misery to meaningless self-indictment. And, finally, he is put to death with young and old indiscriminately looking on, or participating, under crime-breeding circumstances of indescribable savagery.

It is within our power to put a stop to this terrible foe of civilization, to eradicate this public enemy no. 1 of the United States and civilization, the lyncher. It is my honest belief that those whose hands are stained with the blood of one not proven guilty in a court of justice should be punished accordingly, should be charged with the murder they have committed, and should be punished to the fullest extent of the law. It is time that this most dastardly, most cowardly, and most repulsive form of crime be abolished. The time is ripe when we should turn upon the wrongdoers who are responsible for this premeditated form of murder and show these mobs, for once and for all, that we are not a race of savages who will tolerate the taking of a man's life without first granting him the trial that both God and man intended he should have.

"A man is innocent until proven guilty", and that guilt can be proven only in a court of law and not by a band of murderers who would defy all principles of rationalism and Americanism.

The President's Plan Set Forth in His Message, January 6, 1937, for Enlarging the Supreme Court of the United States by Appointing Six Additional Justices, One for Each Justice of the Present Court Over 70 Years of Age

---

EXTENSION OF REMARKS

OF

HON. THOMAS A. JENKINS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1937

ARTICLE BY HENRY BANNON AND THEODORE W. REATH

Mr. JENKINS of Ohio. Mr. Speaker, Hon. Henry Bannon, of Portsmouth, Ohio, was formerly a distinguished Member of this House. He represented a portion of the congressional district which I now have the honor to represent. He is a very capable lawyer. In collaboration with Mr. Theodore W. Reath, a distinguished lawyer from Philadelphia, he has prepared an article which his friends in the legal fraternity think should be published in the CONGRESSIONAL RECORD.

Out of respect for their wishes and out of my personal respect for Mr. Bannon and his long, brilliant service in the House, I ask unanimous consent to have this article printed in the CONGRESSIONAL RECORD.

There being no objection, this article was ordered to be printed in the RECORD, as follows:

I. EVERY CITIZEN HAS AN IMPORTANT INTEREST IN THE PLAN OF THE PRESIDENT TO ENLARGE THE SUPREME COURT

The right to make contracts is properly protected by the Constitution from seizure by Congress or the States. This right includes the right to work, to exercise a craft, or calling for such compensation and under such conditions as the individual can secure by his own contract or by collective bargaining through his duly constituted representatives.

The President has said in his message of January 6, 1937, that "The problems" of N. R. A. "are still with us."

A case that arose under the N. R. A. in 1934 will illustrate how freedom was taken away. Jacob Maged and his wife were tailors, doing their own work. The Presidential code for cleaners and dyers provided a minimum price of 40 cents for pressing a suit of clothes. Maged charged in one case 35 cents. He was arrested, tried, convicted, and sentenced to 30 days in jail and a fine of $100 for violation of the Presidential code. His constitutional right to contract for the exercise of his skill was turned into a misdemeanor and punished.

The decision of the Supreme Court in the N. R. A. case on May 27, 1935, ruled that "the discretion of the President in approving or prescribing codes" gave him the unfettered power of "enacting laws for the government of trade and industry throughout the country" in violation of the constitutional separation of the legislative from the executive departments.

The unanimous decision of the Supreme Court upheld the Constitution as the supreme law of the land against this attempted invasion by N. R. A.

The President in his address to Congress of January 6, 1937, conceives of the field of regulation, which should be passed to the Congress and to him as "the length of working hours, minimum wages, child labor, and collective bargaining."

The result of commingling the departments of the Government was foreseen by Washington and warned against in his Farewell Address (1796). After stressing the importance of those intrusted with the Government in the separate departments of executive, legislative, and judicial, Washington used this unforgettable phrase:

"The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism."

Not time, nor party, nor circumstance has divided patriotic men on these problems of constitutional liberty.

Colonel Bryan said in a speech October 16, 1900:

"Beware, my friends, of a President when he becomes greater than the Constitution; for when a President becomes greater than the Constitution, there is no place where you can draw the line. It will become all President and no Constitution."

United States Senator CLARK, of Missouri, on March 1, 1937, speaking against the plan, gave this brief description of the decisions of the Supreme Court preserving individual freedom of the citizen under the Constitution from invasion by Congress or the States:

"It should never be forgotten that in a very large percentage of the comparatively few cases in which the Supreme Court has declared acts of Congress or the acts of State legislatures unconstitutional, it was in pursuance of the Bill of Rights, the safeguard of our personal liberties. The Supreme Court has prevented illegal searches and seizures of private papers. It has prevented authorization of criminal prosecution after a man has been compelled to testify before a grand jury. It has prevented an effort of Congress to authorize retrial in a Federal court of facts already tried and settled in behalf of the plaintiff in a State court.

"It has prevented the taking of property for public use without just compensation. It has prevented imprisonment at hard labor without indictment. It has prevented violation of the constitutional provision requiring the defendant in a criminal trial to be confronted by the witnesses against him. It has forbidden a statute authorizing an appeal by the Government in cases where the accused had been once in jeopardy and been found not guilty by a jury. It has declared unconstitutional a statute which attempts to make a crime out of an act which was not a crime when the act was committed and to punish the man for such an act. These are acts of the Congress declared invalid by the Supreme Court which make us pause when the question is asked as to whether or not the Congress cannot be trusted to determine what is constitutional.

"I recall that in my own State, indeed in my native county, a priest notable throughout that county for kindness and good works was once put in jail for the crime of administering extreme unction to a dying parishioner without having taken a political test oath required by a despotic legislature in the dark days of reconstruction following the Civil War. He was freed by the 'old men' then on the Supreme Court on the ground that it was a violation of the Bill of Rights, and the reign of terror in Missouri was thereby ended."

II. THE PRESIDENT'S COMPLAINT IN HIS ADDRESS, MARCH 4, 1937, OF INABILITY TO FIND REMEDIES "FOR THE INDUSTRIAL WORKER IN THIS SESSION" IS WITHOUT SUBSTANCE

Here is the President's complaint in his address of March 4, 1937:

"And I defy anyone to read the opinions concerning A. A. A., the Railroad Retirement Act, the National Recovery Act, the Guffey Coal Act, and the New York minimum-wage law and tell us exactly what, if anything, we can do for the industrial worker in this session of the Congress with any reasonable certainty that what we do will not be nullified as unconstitutional."

In the *A. A. A. case* (297 U. S. 1) the decision was that a tax on the processor was not a Federal tax but an unlawful exaction. Thus the tax was upon the miller for grinding the wheat of the farmer, and was to be paid over to the farmer "to restore the purchasing power of agricultural products to a parity with that prevailing in an earlier day." The decision was in the interest of "the industrial worker." But for the decision he would bear the increased prices caused by the taxes.

In the *Guffey Coal Act case* (298 U. S. 238) Congress invaded the business of mining coal, which was subject only to the authority reserved to the States by the people in the Constitution. Any required remedy can be sought in the States. For example, in the *Nebbia case* (291 U. S. 502) a reasonable regulation of price and

distribution of milk by the State of New York was upheld by the Supreme Court.

The *Railroad Retirement Act case* (295 U. S. 330) ruled that a pension system for the railroads was not a regulation of commerce and was not within the authority of Congress. A pension system by act of Congress limited to the employees of railroads engaged in transportation in interstate commerce would be valid.

The *National Recovery Act case* (295 U. S. 495) decided that Congress cannot pass to the Executive its legislative authority "virtually unfettered" to regulate the internal affairs of the States.

The simple truth is that sometimes the Congress or sometimes the President was exercising, in defiance of the supreme law of the land, powers and authority withheld by the Constitution to the States and to the people themselves. The President's denunciation is accordingly of the constitutional framework of the Government dividing authority into the three independent departments of executive, legislative, and judicial. There should be no reason to expect that any personnel of the Supreme Court would, by the stroke of a judicial pen, transfer the authority of the States to the Federal Government or the Federal Executive; or would arbitrarily enlarge the commerce power of Congress to include matters not commerce in themselves, and not having any relation to commerce.

The President's proposal is that he be given the power to appoint six Judges of the Supreme Court. Contrast this proposal with his position in his book, Looking Forward (1933), wherein he said:

"The only way to attack the problem is by rigorous application of judicial efficiency. In the face of this congestion the remedy commonly proposed is to add new judges or new courts, but it will readily be seen that if the problem is what I have stated it to be, such a so-called remedy merely aggravates the complaint."

If a constitutional amendment is sought the people will, through appropriate representatives, be heard in approval or disapproval. The transfer by a judicial decision of State authority to the Federal Government would be arbitrary and within the condemnation of James Wilson, of the Constitutional Committee, and the Supreme Court, who said:

"Nothing is more to be dreaded than maxims of law and reasons of state blended together by judicial authority. Among all the terrible instruments of arbitrary power, decisions of courts, whetted and guided and impelled by considerations of policy, cut with the keenest edge, and inflict the deepest and most deadly wounds."

The emphasis in the President's address is on the word "now", of a desire to clothe the naked, feed the hungry, shelter the homeless, impose minimum wages. No new plans are presented for feeding or clothing or housing, nor any old ones that court procedure has stayed. All this is going forward already. The attack is upon the N. R. A. decision rendered May 27, 1935. After the election of 1932 the repeal of the prohibition amendment was approved, a constitutional amendment repealing an amendment of repeal was adopted. If the people of the United States desired amendment then an amendment submitted immediately after the decision of the N. R. A. case was decided 2 years ago would have been in effect long since and the powers vested in Congress beyond challenge in the courts. For example, the joint resolution submitted to the States, the repeal of prohibition, was lodged with the Secretary of State February 20, 1933, and on December 5, 1933, eight and a half months later, the President issued his proclamation making the amendment effective.

At the time the N. R. A. decision was rendered, May 27, 1935, Congress was in session and continued in session until August 26, 1935, of that year available to adopt a resolution for amendment.

The President's insistence that all these things spelling change in the constitutional structure must be done "now" shows that, according to his own view, he has been derelict in the obligation to recommend to Congress a constitutional amendment immediately after May 27, 1935. Any remedies are by way of amendment of the Constitution. If the restraints imposed by the Constitution upon the exercise of arbitrary power by Congress and the States are abolished by Court decisions, there is an end of certainty of right and of constitutional government.

III. THE PRESIDENT'S RADIO ADDRESS TO THE NATION, MARCH 9, 1937

First, the President said:

"In effect, four Justices ruled (in the gold cases) that the right under a private contract to exact a pound of flesh was more sacred than the main objectives of the Constitution to establish an enduring Nation."

Note the Presidential phrase, borrowed from Shylock's contract for a pound of flesh nearest his debtor's heart, used as like an agreement to pay back the same money borrowed.

Mr. Justice Stone was one of the five Justices constituting the majority, and he stated that he deplored "this refusal to fulfill the solemn promise of bonds of the United States."

The Presidential parallel of Shylock with the owner of a gold obligation is asserting that the gold contract is the same as an agreement to enforce a debt by killing the debtor.

The problem the Court had to resolve was whether the power of Congress to coin money and regulate the value thereof authorized changing the value of the money in a private contract.

The Court held that Congress could change the money value in a private contract. No question of the power of Congress to change values of currency was raised or decided.

The court of last resort in England upheld the promise to pay in gold or its equivalent in private contracts; and no one had noticed that any objectives of the British constitution to "establish an enduring nation" have been affected by the decision that the gold contract is binding. England has a balanced budget.

The devaluation of the dollar by Congress spread to all private contracts, savings-bank depositors, accident- and life-insurance policies, and interest on investments and every obligation to pay dollars.

The President ascribes recovery to the requirement of turning over all privately held gold and gold certificates to the Government "dollar for dollar." If his phrasing had been accurate, he would have said "dollar for 60 cents."

Second, the President asserts that the courts "have cast doubts on the ability of the elected Congress to protect us against catastrophe by meeting squarely our modern social and economic conditions." This statement is an assertion that the Federal Government must control wages, prices, and State business affairs; and the answer is that the unanimous Court in the N. R. A. case, so far from casting doubt upon the power of Congress, flatly denied that power at every point where it invaded the constitutional protection of the States and the people from Federal aggression.

As to the "catastrophe", the elected Congress has the same power already exercised by previous Congresses freely for unemployment relief, by the Works Progress Administration and other dispensing authorities. Mr. Hopkins recently announced that 10,000,000 people were receiving relief.

The truth is that no powers of Congress required for the "catastrophe" or the present "economic conditions" have been asked of Congress and not granted, or have been denied by the Supreme Court.

The President also asserts that "if in the future America cannot trust the Congress it elects to refrain from abuse of our constitutional usages democracy will have failed far beyond the importance to it of any kind of precedent concerning the judiciary."

If Congress can't be trusted to keep within constitutional restraints, then democracy has failed. The very object which the Constitution sought to obtain was by the separation of governmental authority into the three departments to keep them separated. The congressional and executive tyrannies which the Court prevented by the N. R. A. decision of May 27, 1935, were actually attempted in the National Industrial Recovery Act by the Congress. Democracy would indeed have been overthrown and freedom substituted by Executive legislation and decree if the Court had not protected the rights reserved to the people by the Constitution.

Third, the President asserts that the Court has read "into the Constitution words and implications which are not there, and which were never intended to be there", and has thus acted as a superlegislature. In the National Industrial Recovery Act Congress delegated its legislative authority to the President and he exercised this authority uncontrolled. The Supreme Court, in the unanimous N. R. A. decision, enforced the division of authority into the three separated departments, and so far from reading words into the Constitution which were not there the Court enforced the literal values of separation in the Constitution itself.

Fourth, the President demands that "in our courts we want a government of laws and not of men." True. His administration sought in N. R. A. a government of men without law. Congress delegated to the President its legislative authority and he exercised that authority unrestrained in uttering such codes as that of the cleaners and dyers, under which Maged was convicted and fined $100, with imprisonment for 30 days, for exercising his constitutional right to sell his work. The President is demanding a government of men, not laws. Sugden, the Irish chancellor, said:

"Tell me what you have done under a deed and I will tell you what that deed means."

Fifth, the President's address of March 9, 1937, was not here specific. He dealt in general statements not self-explanatory, and we always have to go back to his message to Congress of January 6, 1937, wherein he reasserted that "the problems" are "still with us", namely, "the length of working hours, minimum wages, child labor, and collective bargaining." These are the subjects which the President is insisting shall be shifted from the States to the Congress and to him.

The description by Andrew Jackson in his second inaugural address of the dangers from encroachment by the Federal Government is pertinent today:

"My experience in public concerns and the observations of a life somewhat advanced, confirm the opinions long since imbibed by me, that the destruction of our State governments or the annihilation of their control over the local concerns of the people would lead directly to revolution and anarchy, and finally to despotism and military domination. In proportion, therefore, as the general Government encroaches upon the rights of the States, in the same proportion does it impair its own power and detract from its ability to fulfill the purposes of its creation. Solemnly impressed with these considerations, my countrymen will ever find me ready to exercise my constitutional powers in arresting measures which may directly or indirectly encroach upon the rights of the States or tend to consolidate all political power in the general Government."

IV. WHAT DOES THE SUPREME COURT DO IN CONSTITUTIONAL CASES?

There is widespread misunderstanding of the function of the Supreme Court. Those hostile to our constitutional system assert that the Supreme Court exercises a veto power upon acts of Congress and of the State legislatures. As the Supreme Court has recently said:

"This is a misconception. The Constitution is the supreme law of the land ordained and established by the people. All legislation must conform to the principles it lays down. When an act of Congress is appropriately challenged in the courts as not conforming to the constitutional mandate, the judicial branch of the Government has only one duty—to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former."

Woodrow Wilson, in his work Constitutional Government in the United States, pages 17, 142, expressed how essential this function of the Supreme Court is for the liberty of the individual:

"Our courts are the balance wheel of our whole constitutional system; and ours is the only constitutional system so balanced and controlled. Other constitutional systems lack complete poise and certainty of operation because they lack the support and interpretation of authoritative, undisputable courts of law. It is clear beyond all need of exposition that for the definite maintenance of constitutional understandings it is indispensable alike for the preservation of the liberty of the individual and for the preservation of the integrity of the powers of the Government that there should be some nonpolitical forum in which those understandings can be impartially debated and determined. That forum our courts supply."

V. THE RELATION OF THE PRESIDENT'S PLAN TO THE CONSTITUTIONALITY OF THE SOCIAL SECURITY ACT

The Social Security Act passes on the moneys exacted as taxation (in equal percentages) from the 26,000,000 employees in the United States and the employers, and the cash will go without earmarking into the Treasury of the United States. Mr. Bell, of the Treasury Department, explained in the hearings before the subcommittee of the Committee on Appropriations, House of Representatives, December 16, 1936 (p. 39), that the taxes under the Social Security Act will be "covered into the general fund of the Treasury." The Secretary of the Treasury, Mr. Morgenthau, at the same hearing, had made this explanation of the probable amount of such taxes and the use that will be made of the money by the Treasury (pp. 38–39):

"Secretary MORGENTHAU. * * * If the law stands as it is, in the next 17 years or so various laws, such as social security, sinking fund, etc., will absorb about $30,000,000,000 worth of public debts * * *."

The taxation of employees and employers producing these fabulous sums will thus be used for the general expenses of the Government. In 1942 the first payments will be due of annuities under the Social Security Act. As the money collected in taxes is not earmarked or kept in a fund, the Government will finance itself out of these taxes.

The desire of the Treasury that the Social Security Act may be sustained in the courts, thus making these vast sums available for Government expenses, can be well understood. Doubtless, the hope is entertained by the Treasury that these sources of revenue may be defended by the President's plan to enlarge the Supreme Court against attack as an arbitrary misuse of the funds collected by taxation of industry and business under the act. The hope is also doubtless stimulated by consideration of the fact that the total taxation of employees and employers under the Social Security Act will result in revenues at least twice as great as the money that will be needed in 1942 and thereafter to pay the annuities. This aspect of the long-time operation of the Social Security Act suggests that the employees and employers will bear billions of dollars of governmental expenses.

These considerations indicate a result of the President's plan by which it is expected to have the Judiciary Department rewrite the fifth amendment, which, as always heretofore construed, protects the employees and employers from taxation which is arbitrary and in the use of the money for other purposes than those which alone could justify the levy of the taxes.

Vermont at Valley Forge—A New Star in the Canton and a New Stripe in the Field

EXTENSION OF REMARKS

OF

HON. CHARLES A. PLUMLEY

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 12, 1937

ADDRESS OF HON. CHARLES A. PLUMLEY, OF VERMONT, IN THE WASHINGTON MEMORIAL CHAPEL, VALLEY FORGE, APRIL 11, 1937

Mr. PLUMLEY. Mr. Speaker, under leave to extend my remarks in the RECORD I include an address I delivered in the Washington Memorial Chapel, Valley Forge, Pa., on April 11, 1937, as follows:

VALLEY FORGE, PA., *April 11, 1937.*

It is an honor I do not fail to appreciate and a responsibility not to be minimized to undertake to speak for Vermont upon this occasion and at this shrine of America. The State of Vermont was and is unique. Its people have certain outstanding characteristics which distinguish them from the mass and attract the attention of those who are observing and appreciate unadulterated Americanism whenever and wherever it may be found.

Exactly the same kind of men and women, determined, sure, dogged, possessing the sterling qualities of honesty, perseverance, thrift, and a serious conception of life's responsibilities—those Vermonters whom we pass daily on the road and with whom we mingle in our activities; just that same type it is which talked about, fought for, and wrought out the principles of civil and religious liberty which are the foundation of and were the starting point of all free institutions, and whom I represent today.

From the days of the earliest settlers Vermonters have asserted their independence. To their descendants have been transmitted many of their outstanding characteristics. Of the hardy pioneers of the early days it was well said that "Encompassed by enemies, they were never conquered; beset by evils, they were always undaunted; forsaken by friends, they forsook not themselves." The State whose independence they secured is the monument of their labors, and the children to whom they left it rise up and call them blessed. As you very well know, no such storm of opposition ever confronted any other State such as was encountered by the men who achieved the independence of Vermont. The struggle, the vicissitudes, the opposition developed certain attributes and outstanding characteristics which have rendered the name of "Green Mountain boys" immortal. Sound common sense, a keen perception of right, promptness of action, calm, steady courage, tenacity of purpose, thrift and unfaltering perseverance, and a strong conviction that God helps them who help themselves are some of the characteristics of the people whom I have the honor to represent.

These forbears of ours did not attempt to indulge in oratorical expressions when they insisted in inserting in their Bill of Rights the statement that a "frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality are absolutely necessary to preserve the blessings of liberty, and keep government free."

They meant exactly what they said, and said exactly what they meant, and, as a consequence, from these little green hills and valleys we love, and those humble unpretentious homes which are found in our little State, there have walked out, and there still will walk out, through all the splendid history of the days to come, men and women whose deeds have changed and will change the map and the current of the history of the world, whose accomplishments are the possession and the proud heritage of us all for: "Our country is the world, and our countrymen are all mankind."

The land of the Green Mountain Boys. That is more than a phrase, my friends, for nothing was ever said more truly than that—"the gods of the hills are not the gods of the valleys." We love our friendly mountains. To us—

> Fair as the hills of Paradise they rise
> Bathed in the tint Peruvian slaves behold
> In rosy flushes on the virgin gold—

To us our hills and mountains are a challenge and an inspiration.

We lift up our eyes unto the mountains, for from hence cometh our help.

> "'All roads lead down from the summit',
> The plodding and worldly say,
> 'Down from the stars and glaciers
> To the roofs and walls of day.'
>
> 'All roads lead down from the summit':
> Oh, not for him who knows
> Those mightier peaks ascending
> Above the unmelting snows.
>
> Not for the climber spellbound
> On twilight's purple crest,
> When darkening golden ranges
> Loom in the cloudy west!
>
> He, with fierce wings aspiring
> Where the last sunbeam dies,
> Soars bodiless to pathways
> Where never an eagle flies.
>
> And, in a passionate worship,
> With a vision freshly born,
> Perceives that from man's summits
> All roads lead up and on!"

Since and before the Revolution the territory occupied by the Green Mountain Boys has been the scene and seat of intense patriotism, both local and national.

> "The old Thirteen, united,
> Fought the Revolution through;
> But single handed Old Vermont
> Fought them and England, too!"

Upon its soil occurred some of the most stirring activities of the War for Independence. From among its sons, as has been well said, native or adopted, came several of the most aggressive and inspiring leaders of that conflict. It was one of them who, midway in time between Lexington and Bunker Hill, gave to the American cause a thrilling slogan when he demanded the surrender of a British fortress "in the name of God 'Imighty and the Continental Congress!" for such and not the more reverent

"Great Jehovah" of conventional tradition was the authority given by Ethan Allen at Ticonderoga. It was another, a very Vermonter of the Vermonters, who on the crucial field of Bennington vowed that the enemy should be vanquished "or Molly Stark's a widow." Odd, by the way, that the place of that battle, one of the historic glories of the State, should bear the name of the man on whose account the independence of Vermont was long disputed.

And yet—and this is the unique circumstance—Vermont was not one of the Thirteen Colonies, nor one of the original thirteen "free and independent States" which they declared themselves to be. It had no delegate in the Continental Congress. It gave no signer to the Declaration of Independence. It had no part in the organization of the United States of America in Congress assembled under the Articles of Confederation, nor in the final establishment of a genuine Republic under the Constitution. It was partly a ground of contention between two covetous States and partly an independent and thus technically alien commonwealth. And when in the fullness of time it entered the Federal Union it did so not as a Territory erected into statehood by the sovereign will of the Congress but rather as a foreign country annexed by mutual treaty.

As a State, Vermont was the first to be added to the original thirteen, and it was for its representation that the first alteration was made in the national ensign by the placing of another star in the canton and another stripe in the field.

There is no question about the historical accuracy of the foregoing statement. You have but to consult any recognized encyclopedia or standard history to learn that on the admission of Vermont in 1791 the citizens complained that their new State was not represented in the flag in either star or stripe. Then in 1792 Kentucky also joined the Union, and she, like Vermont, was not symbolized with the star or stripe. Both States were without heraldic representation on the national flag until May 1795, when Congress ordered: "That from and after the 1st day of May 1795 the flag of the United States be 15 stripes, alternate red and white, and that the union be 15 stars, white in a blue field."

But this did not solve the problem of flag standardization, for in 1796 Tennessee came into the Union and wished a star and a stripe, as did also Ohio in 1802, Louisiana in 1812, Indiana in 1816, Mississippi in 1817, and Illinois in 1818. And it was the latter, Illinois, which would not be stilled, and she insisted that her star or stripe, or both, must come into heraldic significance, and so Congress, on April 4, 1818, ordered: "That from and after the 4th day of July next the flag of the United States be 13 horizontal stripes, alternate red and white; that the union have 20 stars, white in a blue field." And the Illinois, or twenty-first star, legally went into the flag July 4, 1819.

Congress in three basic laws has always referred to our national flag as "The flag of the United States", and, strictly speaking, the designation "The American flag", is wrong, as there does not legally exist such an emblem, but there is a flag of the United States, as decreed in the law of June 14, 1777, May 1, 1795, and April 4, 1818. On September 9, 1776, Congress ordered that the words "United States" be used where heretofore the words "United Colonies" were used.

And so Tennessee, Ohio, Louisiana, Indiana, Mississippi, and Illinois were for some time without symbols on the flag, and in order that all new States in the future would not pester Congress for a star and a stripe, section 2 of the order or bill which became a law in 1818 provided: "That on the admission of every new State into the Union, one star be added to the union of the flag, and that such addition shall take effect on the 4th of July next succeeding such admission." (Approved Apr. 4, 1818.) Hence on April 4, 1818, the third and last law establishing the creation of our national flag was instituted.

The little State of Vermont—although from the standpoint of area it is the largest of the New England States except Maine, a fact not generally recognized—has contributed to the public life of America an exceptionally large number of men of commanding rank, several of whom were protagonists in epochal achievements, and it has been consistently instinct with a spirit of aggressive loyalty and unfaltering devotion to the Union not exceeded by that of any other State, old or young, great or small.

Under his hand and the great seal of the State, on the 26th day of December last, the following proclamation was issued by the Governor of the State of Vermont:

"State of Vermont—Charles M. Smith, Governor

"A PROCLAMATION

"Whereas Gen. Ethan Allen was born on the 10th day of January 1737; and

"Whereas the Ethan Allen Bicentennial Commission, appointed by me in accordance with the provisions of a joint resolution of the general assembly, has designated the week commencing on the 10th day of January 1937 as a week to be set apart for the observance of the two hundredth anniversary of his birth: Now, therefore,

"I, Charles M. Smith, Governor, do hereby call upon the people of the State of Vermont to commemorate, during the aforesaid week, the life and the deeds of Ethan Allen, chieftain of the Green Mountain Boys, victor at Ticonderoga in the first offensive action of the American Revolution, who, after enduring the rigors of British captivity for 2 years, returned to aid in the preservation of the young Republic of Vermont, wielding his pen and his sword with courage and daring, unawed by threats, undaunted by failure, never shaken in allegiance to the Vermont that he loved, the Vermont which, in turn, has, in his own day and in all the succeeding generations, placed him in the forefront of those most meriting respect and honor.

"Given under my hand and the great seal of the State, at Montpelier, this 26th day of December, A. D. 1936, and of the independence of the United States the one hundred and sixty-first.

"CHARLES M. SMITH, *Governor.*

"By the Governor:

"[SEAL] "ELEANOR DANA,

"Secretary of Civil and Military Affairs."

It is eminently fitting that the people of all States of the United States should take notice of this proclamation and of the occasion which it sought to and did observe, for the leader in thought and action of that group which with him fought for and maintained the liberties of the people of Vermont as an independent republic for 14 years may have said of him that within his territorial limitations and circumscribed environment no man contributed more toward the establishment of the independence of our country than did this man Ethan Allen. His reckless courage and daring, bold defiance of conventions, natural literary and military genius and ability, and real statesmanship made him and marked him for all time as an outstanding hero of Revolutionary times and days.

He was the idol of the intrepid Green Mountain Boys, whom he led and served, and of all those who have come after them. Impetuous in his decisions, inexhaustible in his energy, brave as a lion, familiar with danger, undaunted of courage, impatient of restraint, the years only serve to testify to the respect and appreciation of his countrymen for a man of such remarkable natural endowments and attainments as were his.

He was the unyielding advocate of the rights of man and universal liberty, unconditional and without reserve, and the champion of and fearless fighter for the cause of the humble citizen, as he contended for the rights of individual property and the equal dispensation of justice.

An enemy to oppression, he was a stranger to fear. Honest in his conclusions, however erroneous might have been the premises from which they were deduced, his spirit never faltered; he never quailed beneath the sneer of the enemy, no matter how powerful or numerous, nor was he awed by the threats of insolent authority.

Ethan Allen fought to stand and hold his ground and yielded it only inch by inch, if and when inadequately supported or when stripped or deprived of weapons with which to meet his adversary.

He possessed the physical courage which despises all danger and that moral courage which discounts all opinions. One is necessary for the camp and the other for the council, and both are absolutely essential and necessarily found in such men whom we are pleased to honor and the ages call great.

Ethan Allen needs no monument, for, as has been so well said, only those deserve a monument who do not need one; he raised himself a monument in the minds and memories of men. He needs no marble statue; no granite mausoleum or bronze plaque to mark his final resting place or to perpetuate his memory.

"Deeds, not stones, are the true monuments of the great." Ethan Allen erected to himself a monument more lasting than brass, more sublime than the pyramids, which neither the storms of the centuries that waste nor of the years which succeed each other innumerably with their everlasting flight of the seasons, shall be able to demolish.

"The very pyramids have forgotten their builders"; but so long as courage and daring, love of liberty, justice, and country shall last, the name of Ethan Allen will be held in the memories of and be venerated by his appreciative countrymen.

"Brave deeds", said Napoleon, "are the monuments of brave men."

In conclusion, may I say, in the words of the late Joseph A. DeBoer, one of Vermont's distinguished adopted sons, of whom it was and is justly proud:

"It is probably true that Vermont, as nearly as any spot upon the earth's crest, has been the scene of the most conspicuous action by men in all efforts to create, maintain, and advance a true independence of person and State, and upon principles fundamentally included in the term 'self-government.' In fact, its history, upon utmost analysis, discloses that no people organized as a State have more nearly attained to perfect sovereignty or maintained it under their constitution and political methods than the people of Vermont. The original stock, according to a census more than a century old, was composed almost wholly of English and Scotch, and was, therefore, Anglo-Saxon in its quality. That carried with it, considering only insignificant changes in its character, the virtues of their institutions, language, and literature, and, what is equally important, however derived, the fine character of Anglo-Saxon intelectual and moral life. Vermont in the American Revolution had reason for, and might have profited by, serving England; but its people, under a lofty leadership, saw fit to espouse the cause which under Providence has led to stupendous advances in the history of civilization and created a nation which outruns all others in its achieved results for man. Its people came of stock which held education, religion, freedom of person, and honest dealings in chief regard, and they were ready in sustaining these assets of sovereignty to sacrifice all.

"From thence followed the conquest of the wilderness, the long-continued political strife with neighboring States and finally with Congress itself, and from thence also came the glorious contribution which Vermont men made to the success of the Revolution by which the Nation was established. The same spirit, animating the children of these forbears, sustained the subsequent wars of the United States and contributed materially to the existing unprecedented position of our common history in the world at large. In fact, Vermont has been an extraordinary upbuilder of the Nation

because of the intrinsic character of the people who compose it, their patriotism, thrift, and self-sacrificing works, and chiefly because they always made education and religion and fair dealing, as defined by laws and interpreted by courts, the basis of their public life.

"My heart is where the hills fling up
Green garlands to the day.
'Tis where the blue lake brims her cup,
The sparkling rivers play.
My heart is on the mountain still,
Wher'er my steps may be;
Vermont, O maiden of the hills,
My heart is there with thee."

Short-Wave Broadcasting

EXTENSION OF REMARKS
OF
HON. JOHN J. BOYLAN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, April 12, 1937

ADDRESS BY HON. GEORGE HENRY PAYNE, FEDERAL COMMUNICATIONS COMMISSIONER, AT BOSTON, MASS., ON JANUARY 11, 1937

Mr. BOYLAN of New York. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following address by Commissioner George Henry Payne, Federal Communications Commissioner, at the Graduate School of Business Administration, Harvard University, Boston, Mass., January 11, 1937:

When a little over a year ago I discussed at Syracuse University the proposed Government short-wave broadcasting stations which had been planned for several years, and which had been enthusiastically supported not only by high officials of the Government, including the Secretary of State, the Secretary of the Navy, and the President himself, but also the communication leaders of the House and Senate, I mentioned at the same time that certain unscrupulous and misguided captains of industry were attempting to block the entire project, even though they recognized its great importance from a national standpoint, merely because at some later date it might be looked upon as the entering wedge for the Government operation of all broadcasting. I tried to point out the absurdity of such a position, showing that a station of this sort, far from leading in that direction, would rather tend to allay the fears of those who have felt that broadcasting is in the hands of a selfish minority whose only object is to exploit the public with commercial nostrums for their own financial enrichment. The plans for this Pan American station provided as a definite step in the cementing of the bonds of friendship and the cultural understanding between the nations on the Western Hemisphere, the setting up of governmental short-wave broadcasting stations in each of the participating countries. These stations were to be used in "promoting better understanding among the republics of the American continent through the broadcasting" of whatever would tend to give these American countries a better understanding of one another.

In accordance with the plan that the United States was to take the lead in the development of this project, an Executive order of the President was issued, allocating radio frequencies for a proposed station in Washington, D. C. The Berne bureau was notified that these frequencies had been set aside; an engineering survey was made. And that was as far as the matter had gone when, a year ago, I called attention to the fact that one of the reasons for the long delay was supposed to be the clever opposition of commercial interests who had apparently succeeded in opposing the building of this station on the ground that it might be the entering wedge of Government control and operation of broadcasting.

I stated then, and I state now, that unless constructive steps are taken by the industry itself to clean up some of the flagrant violations of public confidence and support, Congress itself will be obliged to take an active hand in the matter.

One of the first steps in the development of a national policy, particularly a policy dealing with our foreign friends, is the construction of a national broadcasting station owned and controlled solely by the United States. Every other nation in the world has such a station.

Every other nation in the world is prepared to defend itself over the air from the attack of foreign or unfriendly agencies.

Every other nation in the world is prepared to see that the world understands its point of view—and yet this Nation, where the greatest development of radio has taken place, is absolutely without control over the commercial interests within its own borders and outside of its borders is at the mercy of every propagandizing nation.

We ought to have a station through which the President of the United States could speak to the world, particularly at this time of world unrest and stress.

I am sorry to say this morning that my fears were fully justified and that not only have these same interests continued to block the development of this essentially American project but actually within the last few months a vicious attempt has been made to take over from the Government these precious five frequencies which were allocated for this service by Executive order of the President, to take them over for commercial operation on the specious plea that since little progress had been made in the development of this project by the Government itself, it is now necessary for private interests to operate stations on the frequencies in order to protect the use of these frequencies for the United States as a whole.

It is hardly necessary for me to point out to you that the very people who are urging this are the ones who have been opposing the project all along and who, until the present, have effectively succeeded in sabotaging it.

I have complete documentary evidence to support all this, including the names of the persons and the organizations involved. I hope that it will not be necessary to wash all this dirty linen in public, and I am refraining from saying any more at this time, because I know that steps are being taken in the very highest administration circles to clear away all this barrage of interference and start immediately operation of the project. I mentioned it, however, to point out the dangers to our American system of government of the sort of insidious back-door lobbying of the type which led to such scandals as Teapot Dome.

H. R. 6099

EXTENSION OF REMARKS
OF
HON. PETER J. DEMUTH
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Monday, April 12, 1937

Mr. DEMUTH. Mr. Speaker, I have introduced bill H. R. 6099 in the House of Representatives to appropriate annually the sum of $150,000,000 to assist the States and Territories in providing public education and stimulate home building, encourage ownership of farms and homes by giving relief from local and general property tax.

The relief is extended to small home owners and farmers through the application of the principle of exemption as used in our present graded income-tax law, in that it provides, first, for the relief of owners of homes and farms and other real property up to $5,000 in valuation before giving relief to that part of properties of greater value than $5,000. By this method the apportionment received by each State or Territory will not be used to relieve the owner of the larger and more valuable real-estate holdings in so much greater amount than owners of smaller homes and smaller farms. In other words, if it were not for this provision, the owner of real property valued at $1,000,000 would receive 200 times as much relief in dollars and cents as the owner of a home valued at $5,000.

The bill also provides that the apportionment be made to such State or Territory according to the number of children attending school in proportion to the number of children attending school in the entire United States. By using the figures of the number attending school it assures more equitable distribution, in fact, otherwise it would provide as much help to a State or Territory which did not require or provide education for all children as it would a State or Territory that provided compulsory education for all children.

This law, in providing State aid for maintenance of schools, should greatly stimulate home ownership with a more content and secure home owner and farmer. It will relieve property owners in many States from property taxes for school purposes, which have increased in recent years because of the broadened scope of education. The tax obligation, being less, should result in better security and demand lower mortgage interest rates. Secure home ownership and farm ownership is the backbone of our Government and by protecting and stabilizing such ownership, our democracy is more secure.

While it is the constitutional right and obligation of each State to maintain adequate free schools for its citizens, but

inasmuch as education is of great assistance to our national economic stability and is necessary to maintain our democratic form of government, it is only right and proper that the National Government should assist in the maintenance of the educational program.

This act is in no way intended to control the administration or jurisdiction of the State or local school districts in the operation of their schools nor to delimit the appropriation of funds for the support of schools. It is the right and mandatory duty devolved upon the State or Territory to guarantee to all the opportunity of education.

Therefore, I urge that the Committee on Education favorably report bill H. R. 6099 to the floor of the House in order that it be enacted into law.

The Supreme Court

EXTENSION OF REMARKS
OF
HON. ED. V. IZAC
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, April 12, 1937

RADIO ADDRESS BY HON. BYRON N. SCOTT, OF CALIFORNIA, ON APRIL 9, 1937

Mr. IZAC. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following address of the Honorable BYRON N. SCOTT, Member of Congress from California, delivered over a Nation-wide network of the National Broadcasting Co., April 9, 1937:

Mr. SCOTT. The mail we are getting on the President's proposal to reorganize the judiciary is funny. You'd be surprised at some of the things some people imagine will happen if we adopt the proposal.

Others, like a judge in my home town, consider it "the most forward step that has been taken for the furtherance of justice that has been proposed in the last 100 years." He says he "would not change it in any particular", and suggests that Congress "pass it just as it stands."

A few days ago I received another letter from home; this time from a newspaperman. He wanted to tell me "just how so many of our friends feel about President Roosevelt's proposed change in the Supreme Court."

Because I think many are reacting exactly as he did, and because I feel that in the future still more will, I am going to quote his letter in full. Here it is:

"There is no question but what the President is far ahead of the country and, too, he has been right so many times that we should trust to his judgment. But all our lives we have been taught and led to believe that the Supreme Court is the chief cornerstone in the foundation of our Government, and without any good reason have assumed it perfect.

"President Roosevelt's suggestion was so new and so surprising that it met opposition among some of his strongest supporters, who, however, after reading the President's speeches, in which he gave logical and very important reasons for the proposed plan, are again willing to support his judgment. I am one of them."

I pay my respects to that man as an intelligent American citizen. His decision was based on thought and study, not on blind partisanship and hatred, or, to quote the words used over this system on March 30 by the senior Senator from a great southern State, "from the depths of a soul filled with bitterness."

However, the attacks that are being made on the President by some Senators and some Members of the House, along with the newspapers and those who combined against him before November, remind me of the second-rate pugilist who at the end of the fourth round came back to his corner and asked his second, "Am I doing him any damage?" "No", replied the disgusted second, "but keep on swinging, the draft might give him a cold." They are delaying action on the plan, but they will never stop it; nor will they force a compromise that will jeopardize the President's program.

For myself, I acknowledge that I approach this question from the point of view of a layman. I am not a lawyer. I have always thought, and still think, that there are too many lawyers in Congress. I wouldn't be averse to having a few laymen on the Supreme Court. Not that I have anything in particular against lawyers, because I don't have, but so many lawyers and especially some of the bar associations are taking such a narrow-minded point of view right now. They seem to think that we should not criticize their Supreme Court.

In the words of Representative SHANNON, of Missouri, "Opponents of this administration's reform measures deem it within their constitutional privileges to libel, scandalize, and belittle the legislative branch of the Government, and to pour out abuses and misrepresentation upon the head of the executive branch, without limit or decency, and yet demand that when he approaches the question of the Supreme Court we must kowtow at the doors and advance in hushed whispers."

I do not wish to convey the impression that I have no respect for the courts. To the contrary, I do have, but I do not hold them in such awe as to prohibit my talking about them or even criticizing them. These judges are human beings even as you and I, and as such, are subject to human frailties and worthy of honest criticism, even as you and I.

In 1898 Associate Justice Brewer, of the Supreme Court of the United States, framed it properly when he said, "It is a mistake to suppose that the Supreme Court is either honored or helped by being spoken of as beyond criticism. The time is past in the history of the world when any living man or body of men can be set on a pedestal and decorated with a halo." That is even more true today. Let's speak frankly about a coordinate branch of a government that, presumably, was established, among other things, to "promote the general welfare."

It is essential, if we are to preserve the American constitutional system in this modern day of interrelated industrial economy, that we have a Supreme Court which will recognize the Constitution as a basic charter flexible enough and broad enough to meet modern conditions. We have not yet recovered from a terrific depression and, unless the Constitution is interpreted so as to permit us to meet these modern conditions, we cannot forestall other depressions as dangerous as the one from which we are now recovering. And the present Supreme Court won't do it.

Incidentally, the mere fact that the Supreme Court reversed itself on State minimum-wage legislation, gratifying though it was, is not enough. Regulation of wages, hours, and conditions of labor cannot safely be left to the States. Uniform standards for the United States must be set up to protect all American workers. This is necessary to prevent the transfer of industry from enlightened States with decent labor standards to backward States or those controlled by selfish interests that profit from child labor and sweatshop conditions for women.

Mr. Justice Roberts changes his mind, and something that was illegal becomes legal. What is to prevent Mr. Justice Roberts from changing his mind again? That man, as the fulcrum of the Supreme Court, has too much power. As Senator SCHWELLENBACH put it the other day, he is the man "who today wields more power and more influence than anybody in the United States." He, by his vote, amended the Constitution and gave to the State powers that the Supreme Court had once held they did not have.

But the problem is just the same. We need a Supreme Court which will recognize at all times that the Constitution is a basic charter flexible enough and broad enough to meet modern conditions. The power is in the Constitution. The framers put it there. Why doesn't the Supreme Court recognize it in place of denying it?

To understand this we must recognize, as too few of us do, that government has come to be about 10 percent politics and 90 percent economics. Almost every piece of legislation that is passed or thwarted now has to do with the national economy. The political machine is but an instrument for bringing about economic ends.

For those of you who are engaged in an honest study of the President's Court proposal, I recommend the reading of Storm Over the Constitution, by Irving Brant. Chapter XII of that book is especially pertinent to the present discussion. It is titled "The Financial Oligarchy."

What we are confronted with is a fight over property rights and privileges. Protection of property rights is a natural function of government.

Naturally, when the Government protects property rights, the people with the most power get the most protection. That means, practically speaking, that the people with the most property get the most protection, for property and power travel together. In a democracy, where political power is measured by numbers, the government might be expected to give first thought to the property rights of the most numerous class, which consists of those with the least wealth. But the power of numbers must be actual, not nominal. In the United States the power of numbers has ever been illusory. Only at times has it tended to become partly true that the Government stands for the interests of the many rather than the few. That is what causes the great political tumults in a democracy.

In the early period of American nationhood there was an extension of Federal authority and contraction of the powers of the State to protect the property rights of individual capitalists from the regulation of State legislatures egged on by the restless democracy of the agrarian hinterland.

Then came the development of the modern corporation. Berle and Means describe it in these words: "A society in which production is governed by blind economic forces is being replaced by one in which production is carried on under the ultimate control of a handful of individuals. The economic power in the hands of the few persons who control a giant corporation is a tremendous force which can harm or benefit a multitude of individuals, affect whole districts, shift the currents of trade, bring ruin to one community and prosperity to another. The organizations which they control have passed far beyond the realm of private enterprise—they have become more nearly social institutions." They have become so large that they now completely overshadow the State governments that created them. They operate nationally while the States to whose jurisdiction they are theoretically subject are confined withif their original political boundaries. A new commercial feudalism has been created which has challenged and defeated American political democracy in the

realm of State government, but is itself challenged in the realm of national government, where it has been predominant but not wholly triumphant.

Now that minimum-wage decision again. By one decision the Court created a "no man's land" of government. Neither the State nor the Nation could regulate conditions of labor. Opponents of the President's proposal began to talk amendment. An amendment to give Congress this power was suggested. Then Justice Roberts acted. He gave the States the power to act. In effect he said to those institutions in our country who have always opposed labor legislation, "if you fellows want to stop this kind of legislation, get busy on your State legislatures." Remember what Nebraska did to the child-labor amendment.

Today the struggle of corporate wealth for political control is at the heart of the conflict over Federal and State sovereignty This is not, and never has been, a conflict between States and Nation, but between warring elements in the population striving to use political power for conflicting purposes.

There are no better examples of the subjugation of the States by corporations, aided and abetted by the courts, than the railroads and public utilities.

When the people of the States, aiming at the unfair practices of the railroads, erected State railway commissions with power over rates, the railroads replied by securing control of Governors and legislatures. The real victory for the people lay in demonstrating that nothing short of Federal power could deal with the railroad problem.

The use of centralized political power to break down centralized financial power is the only possible answer of the American people to their feudal masters. Watch the present Supreme Court limit the power of Congress over commerce. They are giving to the States, in theory, a sovereignty they are helpless to exercise.

In the public-utility field State control collapsed because it faced aggregations of capital collected under the sway of giant holding companies whose intricate corporate structure was sufficient to defy the valuation inquiries of State and municipal legal staffs, whose treasuries could finance lobbies of unlimited persuasive powers, and whose activities were screened from State control by their interstate legal status.

The fight for economic democracy against industrial feudalism follows a definite cycle. First comes action in a few States where corporate control is weakest or popular feeling is most intense. Action spreads until blocked in States where corporate control is strongest. The fight there shifts to the Federal field and national regulation follows—or does not follow. These corporations organized nationally, operating nationally, can be coped with, if at all, only through the National Government. And the present Supreme Court won't let us do it.

Add to these the influence of manufacturers, and these, in combination, dominate legislatures, thwart the public will, disregard the common welfare, and create that contempt for the state and that desperation of mind which have caused the American people to turn to the President and the Congress as the sole hope of political and economic democracy.

The New Deal tried to do the necessary. Naturally, those who have established control over the corporate wealth of the country fight with equal determination against Federal control. Having acquired an ascendancy over State governments which protects them in the original field of attempted regulation, they are determined to limit Government action to that field. As long as they can do so they are masters of America.

The Supreme Court has played its part in this process. Its action could have been foreseen, being in perfect harmony with its previous policy. It has never made any concealment of its reactionary viewpoint.

The forces which have chained this Nation to a highly individualistic and destructive competitive industrialism have succeeded in dominating the Supreme Court. Is this domination sacrosanct? Is it hallowed? Contrary to all our instincts of social well-being, are we compelled to worship it? Or are we to replace it by orderly means which are fully provided or which are fully permitted by the Constitution?

The power to do what the people have indicated they want us to do is in the Constitution. The present Supreme Court claims that it cannot find that power. Very well, let's have a Supreme Court composed of men enlightened enough to see the power that the framers—the founding fathers, if you please—put into the Constitution. Adoption of the President's proposal would make this possible.

The Long-and-Short-Haul Clause of the Interstate Commerce Act Should Not be Repealed

---

EXTENSION OF REMARKS

OF

HON. ALFRED L. BULWINKLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 13, 1937

Mr. BULWINKLE. Mr. Speaker, in speaking in opposition to H. R. 1663, to repeal the long-and-short-haul clause of the fourth section, I wish, first, to impress upon the membership the views of Commissioner Eastman, of the Interstate Commerce Commission, in opposition to the bill. Mr. Eastman, in opposing the bill on behalf of the entire Commission, said:

First. That the long-and-short-haul clause has been a part of the law for 50 years; that it was enacted in response to strong and outraged public opinion to correct an abuse which has become widespread; and that this agitation persisted for many years until the original defects in the section had been remedied. A law with such a history ought not lightly to be repealed or emasculated.

Second. That it is proposed to substitute for this clause an untried provision which it can be argued, could conceivably be used to produce much the same results. If this is true, there is no sense in making the change. It is clear, however, that those who favor the bill do not believe it to be true, because they confidently urge that it will produce very different results. They have reason for this belief, because the Commission and the courts would find it difficult to avoid the conclusion that Congress, when it changed the law, intended also to change the policy and the results, and because, in any event, the Commission would encounter very great, and probably insuperable, practical difficulties in applying the present policy and producing the present results.

Third. That while there may, perhaps, be some reasonable ground for complaint because of delay in the administration of the fourth section in certain cases in the past, the present administration is expeditious. If it is desired to insure expedition in the future, this can be done by providing the same time limit as in suspension cases.

Fourth. That the chief reason offered for the bill is that it will have the result of enabling the railroads to compete more freely with other forms of transportation and thus add largely to their revenues and employment. Upon analysis it is clear that it is from the water carriers that this traffic is to be taken. The bill is directed chiefly against them. The facts are that the Commission has been liberal in granting fourth-section relief to enable the railroads to compete with water carriers. The complaint that it has not been liberal centers on transcontinental rates and the competition of the intercoastal water carriers. The facts are that the Commission has good reasons for denying relief in the case of these transcontinental rates; but even had it been granted, not enough traffic is involved to affect appreciably the earnings of the western railroads, especially when the reductions in rates which would undoubtedly be made by the water lines, and perhaps also by the eastern railroads, are taken into account.

Fifth. That the theory that net earnings can be improved by taking on traffic at so-called out-of-pocket costs is full of fallacies and dangers because such costs are a highly uncertain and fluctuating quantity. They are very low only when no employment is required, but the proponents of this bill claim that the traffic which it will add will increase railroad employment greatly.

Sixth. That relief from the fourth section creates no new traffic but merely diverts traffic which is already moving from one carrier or one part of the country to another, except in a few cases where imported goods are involved. It cannot affect the prosperity of the country as a whole. The claim that failure to grant liberal relief has prostrated manufacturing in the interior of the country at the expense of the seaboard is not supported by the census figures. On the contrary, they show the reverse.

Seventh. That fourth-section provisions were omitted from the Motor Carrier Act and the proposed water-carrier bill because it was felt that there was no need for such provisions in the case of those forms of transportation. If need is shown, they should be included. It still does not appear that there is any need in the case of the water carriers. There may be need in the case of the motor carriers, but the situation with respect to their rates is still very confused, and it is not yet possible to state with certainty that such need exists.

As is shown in the former hearings, the Honorable SAMUEL B. PETTENGILL wrote to the President of the United States, asking in substance for his opinion on the passage of this bill. This letter of Mr. PETTENGILL was transmitted from the President to the Interstate Commerce Commission, and answered by Mr. Eastman, so we have a right to assume that the President of the United States is opposed to this legislation.

The Maritime Commission likewise opposes the enactment of this bill into law.

The minority views, which were filed with the bill and the report, clearly state the reason why nine members of the Committee on Interstate and Foreign Commerce oppose the enactment of this bill into law.

I shall attempt in the time that I have for my disposal to discuss the various features of this bill. The support of it by its proponents is based largely upon the following points:

(1) The long-and-short-haul clause of the fourth section is no longer necessary because—

(a) There is now no railroad monopoly of transportation; and

(b) Any action of the rail carriers in meeting competition at "farther distant" points will be fully covered and protected by other provisions of the act, notably sections 1, 2, and 3.

(2) There is a lack of "balance" in regulation due to the fact that carriers by truck and water are not made subject to any fourth-section inhibitions.

(3) That there has been a loss of competitive traffic to other agencies of transport which rail carriers are unable fairly to combat with the long-and-short-haul clause in the statute.

(4) That the development of the coastal rim of the country to a degree disproportionate to that of the interior is chargeable, at least in part, to the prohibitions of the fourth section.

These points of reasoning and the obvious fallacy underlying them we shall now discuss in the order of their statement.

POINT 1. THE NECESSITY OF A LONG-AND-SHORT-HAUL CLAUSE AND THE RELATION OF SUCH A CLAUSE TO OTHER SECTIONS OF THE ACT

It is contended that a long-and-short-haul clause is no longer necessary because there is now no railroad monopoly in transportation. This brings us to a discussion of our first point, which is that—

There is no relation between the former railroad monopoly of transportation and the long-and-short-haul clause of the fourth section

The fourth section was not enacted in the first instance as a protection against railroad monopoly. It was enacted solely as a protection against discrimination against intermediate points or territories not favored by the lower competitive rates made to meet competition at terminal or farther distant points.

Protection against monopolistic rate making by the railroads, so far as the basic measure or relationship of rates was concerned, was fully covered by the provisions of section 1 that rates must be just and reasonable; of section 2, that the carriers must not by "rebate, drawback, or other device" charge shippers differently for the performance of "a like and contemporaneous service" of transportation; of section 3, that the railroads must not commit undue prejudice or preference as against shippers, localities, or classes of traffic in the exercise of their right to initiate rates; and of section 6, in requiring that all rates must be openly displayed to the public in the form of tariffs (adherence to which was made mandatory) as a guaranty of equal treatment for all shippers of the same commodities.

With these provisions in the act from its very inception, it is obvious that there was no need of a long-and-short-haul clause as a protection against the evils of a monopoly, as such. The clause became necessary as a protection against the action of carriers, in the exercise of their rate-making initiative, from concluding that conditions at a farther distant point were such as to justify a rate different from and lower than that obtaining at an intermediate point where, in their opinion, such conditions did not exist. In other words, the carriers, without a long-and-short-haul clause in the original act, would have been the sole arbiters as to whether conditions were such as to warrant rates to, or from, a farther distant point lower than those applying to, or from, an intermediate and lesser distant point.

If Congress had felt when it passed the original act that the practices of the railroads in these respects were sufficiently policed or protected by the provisions of sections 1, 2, 3, and 6, contemporaneously enacted, then there was no need for any fourth section. That Congress did not entertain such view is clearly evidenced by its enactment of section 4.

Two methods were open to Congress to afford protection to intermediate territory. First, it could have enacted an absolute fourth section which would have prohibited the charging of a higher rate for a lesser distance over the same line or route under any circumstances. Or, secondly, it could have made such action unlawful, as a general proposition, saving to the carriers by proviso the right to depart from the general rule if they were able to show special circumstances and conditions which would warrant such departures.

Congress adopted the second plan, and under the act as passed in 1887 and effective until the amendment of 1910 the railroads, under the interpretation announced in the *Alabama Mildland case* (168 U. S. 144), had the right to determine in the first instance whether circumstances and conditions at the farther distant point were "substantially dissimilar" from those at the intermediate point so as to justify the publication of lower and more favorable rates at the former point. The Commission had only a reviewing power.

This rate-making initiative was exercised by the railroads from 1887 to 1910, when the long-and-short-haul clause was amended, among other ways, by the elimination of the words "under substantially similar circumstances and conditions." In other words, instead of merely prohibiting the railroads from charging higher rates for shorter distances, and so forth, "under substantially similar circumstances and conditions", and leaving to the railroads the right to judge for themselves as to these conditions, the 1910 act contained a general prohibition against such rate making, with a proviso that the Commission might in "special cases, after investigation", authorize departures from the general prohibition. In the *Intermountain Rate cases* (234 U. S. 476) the Supreme Court held that this amendment did not change the basic rule of law, but merely transferred the "initiative" or original determination as to whether "circumstances and conditions" justified a departure from the general rule from the railroads to the Commission.

Even with initial, rather than reviewing power thus vested in the Commission instead of with the railroads, Congress in 1920 saw fit to further tighten the fourth section by laying down certain specific standards for the Commission to apply as a condition precedent to grant of authority to depart from the general prohibition contained in the act. Among the most important of such standards was that which required that rates so made, even with Commission consent, must be "reasonably compensatory for the service performed." It is significant that the "reasonably compensatory" provision was enacted contemporaneously with other provisions relating directly to revenue, particularly section 15 (a) requiring that rates should be made so as to yield "as nearly as may be" a fair return upon the value of the property devoted to transportation, and section 15 authorizing the Commission for the first time in history to prescribe minimum rates for transportation. Congress doubtless felt that the "fair return" contemplated by the act would be endangered without an accompanying standard in the fourth section that rates must be "reasonably compensatory."

It will thus be seen that nothing in the history of the original enactment of the fourth section or its subsequent amendments affords the slightest support to any contention that it was designed as a protection against railroad monopoly as such. On the contrary, its primary purpose, as stated, was the protection of intermediate points or territories from discriminatory rate practices of the railroads. And since 1910 the Commission, instead of being simply a reviewer of railroad policy after its exercise has had the power initially to determine whether conditions are such that the rule should be relaxed.

This is as it should be. It must be obvious at the outset that the moment a rate is provided at a farther distant point, lower than at an intermediate and lesser distant point, a discrimination arises. But discriminations as such are not condemned by the law and never have been. Only those discriminations which are unjust or undue fall within the ban of the law. To give the railroads the initial power to determine whether a discrimination is unjust or undue—and this is exactly what will result from this amendment—is a throw-back to the 1887 legislation, which, as we have shown, was found to be highly unsatisfactory. Indeed, the condition created by this amendment will be even worse than that existing in 1910, because then the act contained a gen-

eral prohibition against the charging of a higher rate for a lesser distance, and so forth, and here it is proposed to wipe that out.

The view of those favoring the bill that discriminations created by the railroads under the immunity afforded by this amendment will be protected by the provisions of sections 1, 2, and 3 of the act is utterly fallacious

As we have pointed out, the moment a railroad publishes at a farther distant point a rate lower than that maintained at a lesser distant point, a discrimination is created. The majority seem of the opinion that the creation of such discrimination will be amply policed and protected by the other provisions of the act, particularly sections 1, 2, and 3.

To show the fallacy of that view, it will be helpful to consider the matter first from the general point of view and then from the standpoint of each of those sections as they will operate upon rates made pursuant to this amendment.

General considerations

Two thoughts should immediately come to light to those who support the bill. They are:

(a) Sections 1, 2, and 3 have been part of the law, along with section 4, since its original passage. That being true—

(b) If they are to have the effect claimed for them without a general prohibition such as that now contained in the fourth section, then they must have had the same effect in connection with rates made despite the general prohibition, because—

(c) Authority to make rates in contravention of the general prohibition is the same in actual results as though the prohibition were absent from the act.

All of which leads to the further thought that if elimination of the long-and-short-haul clause carries with it no change in the basic law or the basic rule of rate making then why eliminate it? That it will change the basic rules of rate making, which explains its earnest advocacy by the railroads, will be made clear by our discussion of the legal and practical operation of sections 1, 2, and 3 upon rates made under immunity of the amended law.

Let us open the discussion with a simple illustration under which the railroads, acting on the power conferred by this amendment, have published and filed with the Commission a rate of 25 cents to terminal point A, while at the same time keeping in effect a rate of 40 cents to intermediate point B. We shall first discuss the effect upon this publication of—

Section 1

Section 1 (5) provides that all rates for the transportation of property shall be "just and reasonable." Let us assume, then, that the shipper or receiver at B complains to the Commission in a separate complaint, or protests against the effectiveness of the 25-cent rate under section 15 (7), that the 40-cent rate remaining in effect as to him is an unreasonable rate under section 1.

If he is able to show that the assailed rate is intrinsically unreasonable the Commission, of course, will require a reduction in it. But that remedy would be open to the shipper with or without any reference to the 25-cent rate with which his competitor at the farther distant point has been favored.

What we are here concerned with is whether section 1 provides him any protection because of the publication by the railroads of the 25-cent rate. The answer is "No." He cannot show "unreasonableness" of the 40-cent rate by comparing it with the 25-cent rate because the railroads will immediately defend by showing that the latter is less than a reasonable maximum rate and is made so by force of competition not existing at the intermediate point, and there is thus no comparison of like against like. Countless decisions of the Commission and of the courts will sustain them in this contention.

So unless the shipper at B is able to show that his rate of 40 cents, in and of itself, is higher than a maximum reasonable rate he is without any remedy under section 1. And, as we have shown, proof of intrinsic unreasonableness is always open to him regardless of any rate to a farther-distant point because the railroads have always been prohibited from maintaining unreasonable rates.

In connection with the possible effect of section 1 upon situations created by this amendment it will be well to consider the practical as well as the legal effect of the so-called zone of reasonableness. While rate making has never been reduced to arithmetical exactitude and there has always been a flexible limit of judgment, the present law has created a definite zone of reasonableness. This came about through the amendment of 1920 which, as stated, empowered the Commission to prescribe "minimum", as well as "maximum" reasonable rates. Between the two extremes lies the so-called zone of reasonableness. And the courts have held that within that zone the railroads are free to adjust their rates to meet competition and that disparities thus created are not in violation of sections 1, 2, or 3 (*United States* v. *Illinois C. R. Co.*, 263 U. S. 515; *Texas & P. Ry. Co.* v. *United States*, 289 U. S. 627; *United States* v. *Chicago, M. St. P. & P. R. Co.*, 294 U. S. 499).

It follows then that for the shipper, or receiver, at B to successfully attack the "40–25" relation of his rates to those granted at A as such, under section 1, he would have to show either that his rate exceeded the maximum of reasonableness or that the rate to A was less than the minimum of reasonableness; that is, that the railroads in adjusting their rates had gone outside the zone of reasonableness.

While neither the Commission nor the courts have ever definitely outlined the extent of this so-called zone of reasonableness, the extreme to which it may be expanded is well illustrated in connection with rates on sugar considered in the *Sugar cases of 1933* (195 I. C. C. 127). There a rate—all-rail—of 54 cents was in effect from New Orleans to Chicago. It was a rate approved by the Commission in 1922 and repeatedly referred to by it in subsequent decisions as less than a maximum reasonable rate. Under the guise of meeting water competition the railroads proposed to reduce it to 30 cents, contending that the latter was higher than a minimum reasonable rate. If we assume, then, that the true maximum was 56 cents and the true minimum 28 cents, we are confronted with a zone of reasonableness which is equal to the base rate itself. While the Commission in that case did not approve the proposed rate of 30 cents, it did approve a rate of 34 cents, thus itself creating a zone of reasonableness of 24 cents—assuming again that the rate it approved was 2 cents over an exact minimum. The decision of the Commission was affirmed by the Supreme Court in *Mississippi Valley Barge Co.* v. *United States* (292 U. S. 282). It is significant that that case was decided purely on section 1 principles, no fourth-section departure being involved.

Thus it will be seen that confronted at the outset with this so-called zone of reasonableness and mindful of the holdings of the Supreme Court that railroads are free to adjust their rates within that zone, there would be no hope for any relief to a shipper at an intermediate and unfavored point for the correction of a rate disparity under section 1 considerations. As a matter of fact, the shipper at B would be under compulsion to produce the same proof to have his rate reduced that he would be without reference to the rate at the farther distant point.

Section 2

If the shipper (or receiver) at B attempted to remedy the disparity as between his rate of 40 cents and the rate of 25 cents at A, under section 2 of the act, he would be met at the outset with the insurmountable legal obstacle that the provisions of section 2 do not come into play where the shipper complaining of unjust discrimination and the shipper alleged to be preferred are located at different stations.

Section 2 prohibits the charging, and so forth, of a "greater or less compensation" by means of "any special rate, rebate, draw-back, or other device" for doing for two persons a "like and contemporaneous service." The Commission has invariably held that the term "like and contemporaneous service" has no application where the points of origin (or destination) are different (*Pittsburgh Plate Glass Co.* v. *Pittsburgh, C., C. & St. L. R. Co.* (13 I. C. C. 87); *Tide Water Oil Co.* v.

Director General (62 I. C. C. 227); *Traffic Bureau, Davenport Chamber of Commerce* v. *Alton & E. R. Co.* (167 I. C. C. 276)).

So section 2 may be discarded as a possible source of relief against rate disparities of the character here considered.

Section 3

It is insisted, however, that section 3 will come to the rescue of any rate disparity created pursuant to the proposed amendment. This section prohibits and declares unlawful any undue prejudice or preference in rate making as between persons, localities, or classes of traffic. Let us, then, apply the provisions of this section to the "40–25" relationship created in the illustrated situation as between B, the intermediate and lesser-distant point, on the one hand, and A, the farther-distant point, on the other hand, respectively. The railroads, acting under the rate-making initiative conferred by this amendment, have concluded that there is competition at A which compels a rate of 25 cents, but that at B, an intermediate point, there is no such competition, so that a 40-cent rate will be proper. Let us assume, for illustration, that the distance to B, the 40-cent point, is 300 miles, and to A, the 25-cent point, the distance is 400 miles.

It goes without saying that the railroads by the mere act of publishing the 25-cent rate to A, while maintaining a 40-cent rate to B, have created "prejudice" to B and "preference" to A. But here again we find that section 3 does not condemn mere prejudice, but runs only against undue prejudice. Prejudice to be undue in law must arise from a difference in the treatment of shippers, localities, or classes of traffic where the treatment should be the same. It follows, therefore, that the moment the difference in treatment is explained by difference in circumstances and conditions, the explanation becomes a legal justification. If this were not true—if the mere mechanical act of publishing different rates brought a situation within the purview of section 3—then it would be impossible to justify the thousands of departures from the general prohibition of the fourth section which the Commission has officially sanctioned since 1910. This because, as we have pointed out, a waiver of the general prohibition in particular cases is the same in its practical effect as a general repeal of the prohibition.

Moreover, if the proponents of this bill believe sincerely that the provisions of section 3 will be an effective bar against the creation of the rate disparities which are bound to occur, then there would be no point in passing the bill. Section 3 will have the same effect upon rates made pursuant to repeal of the long-and-short-haul clause as it has always had upon waiver of the clause—that and no more. So that a showing by the railroads that there are circumstances and conditions (competition with other agencies of transport) at the favored point which are not present at the unfavored point will enable them completely to escape the provisions of section 3.

Some very enlightening comment upon the possibilities of sections 2 and 3 as checkmates against rate-making practices of the railroads when they are permitted to act upon their own initiative will be found in the decision of the Supreme Court in the Intermountain Rate case, supra, at 487, where it is stated:

> As the power of carriers to meet competition, and the relation of that right to noncompetitive places, may concern the fortunes of numberless individuals and the progress and development of many communities, it is said, to permit authority to be exerted concerning the subject without definite rules for its exercise will be to destroy the rights of persons and communities. This danger, the argument proceeds, is not obviated by declaring that the provisions of the second and third sections as to undue preference and discrimination apply to the fourth section, since, without a definition of what constitutes undue preference and discrimination, no definite rule of law is established, but whim, caprice, or favor will, in the nature of things, control the power exerted.

The obvious solution of the problem

It may be urged that if railroads upon a proper showing are permitted under the law as it now stands to create rate disparities without coming into violation of sections 1, 2, and 3 of the act, why should they not be permitted to continue the creation of such disparities without the bar of the long-and-short-haul clause?

The answer is plain. It resolves itself into a simple question of public policy as to whether railroads should be permitted to exercise sole and exclusive initiative in this respect, or whether their proposals to create these disparities should be subjected to the preliminary scrutiny of an impartial body like the Interstate Commerce Commission. Left to themselves in the matter, the railroads will be in position to establish any rates they see fit to establish, relying upon—

(a) Their legal right to adjust competitive rates within the so-called zone of reasonableness.

(b) The nebulous character of and the uncertainty as to the extent of that zone.

(c) The fact that proof of confiscation as to a particular rate is impossible of production because the cost of handling a particular commodity is impossible of ascertainment.

(d) The proposition that different circumstances and conditions prevailing at the favored rate point will constitute a complete legal defense of the difference in treatment.

It may be said that the Commission, in its administrative judgment, could stop the ensuing rate reductions made by the railroads if it felt they were going too far. The Commission will be powerless to stop them under section 1, unless it is able to and does find that some provision of the act is violated. This is made plain by the decision of the Supreme Court in United States against Chicago, Milwaukee, St. Paul & Pacific R. R. Co., supra, in which the Commission found not justified a proposed reduction in the rates on coal but did not make findings of fact that such rates were lower than minima or violative of other sections of the act. Its decision was reversed by the Court.

So far as section 3 is concerned, the Commission again would be powerless to act unless the published rates created undue prejudice and, as we have shown, the prejudice created would not be undue if the circumstances and conditions affecting the intermediate and farther-distant points are in fact dissimilar. Neither the Commission nor the courts have ever gone so far as to say that if actual competition exists at one point and the railroads meet it, they are obligated in law to accord the same treatment to points not affected by such competition.

Again it may be argued that if disparities in rates created as the result of differentiating circumstances and conditions are defensible, as such, under the existing law, the power lodged in the Commission by the act is the same with or without the long-and-short-haul clause.

It is in this respect that the proponents of the bill have been lulled into misconception. Without any prohibition of the long-and-short-haul clause the railroads will be free to make rates and create disparities in rates on general principles. And such rates and rate disparities will be subject to all of the defenses we have pointed out. With the present law in effect the fourth section starts right out with a general prohibition—

> That it shall be unlawful * * * to charge * * * any greater compensation * * * for the transportation * * * of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance * * *.

That is the basic law. True, the section goes on to say that "upon application" the railroads may "in special cases, after investigation", be authorized by the Commission to depart from the basic law. But—and here is the important point—the Commission is vested with final power and discretion to determine whether the railroads have made out a "special case." And it lies within the discretion of the Commission to decide that question in the negative on an application under section 4 upon a showing which would not justify it in disapproving rates proposed under other sections of the act. This because section 4, as shown, contains a direct prohibition against such rate making and lodges in the Commission the discretionary power to determine whether it would be wise or in the public interest to relax the prohibition.

To say that the Commission would have the same power of decision or discretion with the long-and-short-haul clause repealed as it now has, is to fly in the face of the facts and the law. It is well settled that, except where they under-

take to publish rates for shorter distances higher than for longer distances, the railroads have the absolute initiative in rate making. Without the long-and-short-haul clause that initiative will extend also to that character of rates. And no rate proposed by a railroad under the exercise of its appropriate rate-making initiative may be rejected by the Commission without a factual showing that it violates some provision of the law—United States against Chicago, Milwaukee, St. Paul & Pacific Railroad Co., supra. Moreover, if this clause is repealed, the Commission, as the administrative arm of Congress, is bound to take cognizance of the fact that there is no longer a general prohibition in the act against the charging of higher rates for shorter distances, and so forth, and will be compelled to decide these questions under the other provisions of the act. No longer will it have any real discretion in the matter.

Between 1910 and 1920, for example, Congress merely gave the Commission general power to pass upon and decide fourth-section applications under its own standards. In 1920, however, Congress laid down certain definite standards to be applied in respect of rates made under that section. The Commission was quick to sense the import of that change. In *Transcontinental Rate Case of 1922* (74 I. C. C. 48, at 70), it said:

> We think the amendment was the Congress' way of saying that we should follow a less liberal policy in dealing with departures from the long-and-short-haul rule than had been followed in former years. Our administrative power at this time is in some respects narrower than before the amendment. The fourth section, as amended, requires the observance by us of certain administrative rules which we were enforcing prior to the amendment, but which in some measure lay within our sound discretion to modify or change.

By the same token repeal of any inhibition as to long-and-short-haul rates must be taken by the Commission to mean that many of the standards or criteria theretofore imposed as to these rates must be discarded.

To deprive the Commission of this discretionary power in respect of the fourth section will be to undo a protection which has been thrown around rates to intermediate territory for a period of 50 years and will open the way for an era of vicious rate slashing which must in the end be highly inimical to the transportation industry and to the maintenance of that adequate system of transportation contemplated by the law.

POINT 2. THE MATTER OF UNBALANCED REGULATION

Much point is made of the fact that while the railroads are made subject to the prohibitions of the fourth section, there is no similar prohibition running against the motor-trucks and water carriers, thus causing an unfair balance in regulation.

The bare statement of this point provokes a feeling of sympathy for the bill, and this is doubtless what has caused its exposition. Reduced to cold analysis, however, the argument loses all force.

So far as trucks are concerned, their regulation was not attempted until 1935. There was no demand for any "fourth section" in respect of truck rates, nor has the need of such regulation asserted itself. Commissioner Eastman, speaking on behalf of the Commission, made this clear, and stated also that if and when the need of such regulation does arise, it will promptly be recommended for enactment into law.

In spite of the fervor with which this point has been advanced by proponents of this bill, no one has yet pointed to any rates made by water lines which violate the principles of the long-and-short-haul clause. Nor is it readily conceivable how such situations could arise. Service of the water lines is limited to port cities, and these ports of call are relatively insignificant in number as compared with railroad points. The competitive problems of the water lines are virtually the same at all ports and there would be no point in charging rates at intermediate ports of call higher than those obtaining at farther-distant ports. Indeed, considering the limited number of points served by water carriers, they would find it difficult, if not impossible, to reconcile such practices to their shipping trade.

In any event, even if it should be admitted that this so-called unbalanced regulation operates unfairly against the railroads, the plainly correct method of effecting a proper balance is by the imposition of similar restrictions against the trucks and water carriers rather than by their elimination from the law.

POINT 3. LOSS OF TRAFFIC BY RAILROADS TO OTHER FORMS OF TRANSPORTATION

There is no such thing as a "loss" of traffic in the sense that any agency losing it has been entitled to it as a matter of vested right. If any right is involved in this respect, it is the fundamental right of the shipper who pays the bill to choose his means of transport. If in the logical development of our country there has come into being highway, water, air, and pipe-line transportation, in addition to the railroads, the shipper has an undoubted right to make his choice among those agencies, and the ones not selected have no valid claim of any loss in the true sense of that word. There is nothing sacred in steel rails or boxcars as a means of transportation.

The only legitimate contention that can be made by any agency of transport in respect of the play of competition upon potential traffic is that any attempt by the Government to regulate it should be fair and impartial and bear alike upon all. It is on this phase of the matter that the railroads make their play for sympathy, contending that the restrictions of the fourth section deprive them of a fair opportunity to meet competition. Let us analyze this contention.

Considering the fact that the long-and-short-haul clause has never been absolute—remembering that from 1887 to 1910 the railroads themselves had the initiative in determining whether conditions justified departures from the general rule—bearing in mind that from 1910 to date the Commission has been made the original judge as to this matter and has approved thousands of applications for relief—many without even a hearing—it must be apparent that the railroad contention simply comes to this:

> No competition can be fairly conducted by the railroads unless they are given the right to be the sole judge of the necessities of each case as it may arise.

There can be no question that the power to grant or withhold competitive rates carries with it the power to discriminate as between shippers, localities, and classes of traffic. Removal of discrimination and the power to effect it were the cornerstones of the act. It is inconceivable that Congress, after 50 years of regulation, should turn this power back to the railroads. Yet that is the inevitable result of this amendment.

An interesting sidelight on this sort of situation will be found in the Intermountain Rate case, supra. There, it will be recalled, the Supreme Court held that the effect of the 1910 amendment of the fourth section was to take the initiative in rate making from the railroads and deposit it with the Commission. The railroads attacked the constitutionality of the amendment on the ground, inter alia, that it amounted to an unlawful delegation of power. Mr. Chief Justice White made this barbed comment, at page 486:

> We do not stop to review these (cited) cases, because the mere statement of the contention, in the light of its environment, suffices to destroy it. How can it otherwise be since the argument as applied to the case before us is this: That the authority in question was validly delegated so long as it was lodged in carriers, but ceased to be susceptible of delegation the instant it was taken from the carriers for the purpose of being lodged in a public administrative body. (Parentheses supplied.)

When it is considered that relaxation of the general prohibition against higher rates for shorter distances, whether upon the initiative of the railroads or the Commission, amounts in practical effect to a repeal of the clause as to the particular traffic treated, it is obvious that the comments of the learned Chief Justice have equal application here.

We come now to a consideration of some of the practical results of turning loose to the railroads the unprohibited right to depart from the general prohibition of the present

fourth section in their bearing upon various elements vitally connected with the public interest, beginning with—

The effect of unrestrained competition upon the railroads themselves

While it is true that the railroads as a whole are not earning the fair return of 6 percent on the value of their property contemplated in the act, there is no question that their position is improving by leaps and bounds. A statement issued by the Commission on February 4, 1937, shows, for example, that in December 1936 the net railway operating income of all class I carriers was 33.6 percent higher than for December 1935, and the returns for the latter month were far in excess of those accruing for the preceding years of 1934 and 1933.

History proves to the point of demonstration that when railroads set out to make these low competitive rates at favored terminal points they determine the question of profit from the rates on the "added traffic" theory. Under that theory they contend that only 50 percent of the true operating expense for traffic generally should be considered. Bear in mind that even the full operating expense reflects nothing as to fixed charges, tax accruals, or return on investment.

In 1935 the total operating revenue of the class I carriers of the United States as a whole amounted to $3,451,929,411. They had other income amounting to $187,723,806, indicating a gross income of $3,639,653,217. Their net income—as distinguished from net railway operating income—was $7,539,127. The difference, therefore, between the total intake and what was ultimately left in the cash drawer was $3,632,114,090, which figure obviously represents the true cost of running the railroads. The operating expense, however, was $2,592,741,419, or only 71 percent of the true cost of running the railroads. The balance of 29 percent is made up of taxes, fixed charges, and so forth, and includes nothing at all for return on investment.

Thus we begin to see where the added traffic theory of making rates based on 50 percent of the operating expense, or only 35.5 percent of the true cost of running the railroads, will lead us. There is no escape from the conclusion that continued and substantial resort to the practice will bring the transportation machine down on its own head. This is inevitable. If the additional traffic resulting from this practice will not necessitate additional trains or train-miles, then it follows that these 35.5 percent rates must be balanced off in respect of traffic to and from noncompetitive points. If the added traffic becomes so substantial that extra trains and train-miles must be resorted to, then it follows that it is no longer classifiable as added traffic, and it would be suicidal to haul it at rates reflecting only 35.5 percent of the true cost of running the railroad.

No more effective exposition of the evils of the added traffic theory can be found than that made by Commissioner Eastman in an address on November 1, 1936, before the Academy of Political Science in New York City. Among other things, he said:

> The carriers must know and give heed to the costs of their services. It will not do to slash rates regardless of costs to meet competition, on the old theory that somewhere and somehow other traffic can be made to carry the load. The idea that it is good business to take competitive traffic at a margin over so-called out-of-pocket expense is dangerous and delusive if extended beyond narrow limits. Various reductions in rates are much to be desired, but the vital thing is to get costs which will justify the reductions.
>
> The best hope that employees can have for a transportation system that will continually employ more men lies in one which will, through better service and lower costs and prices, continually build up the volume of business. It does not lie in artificial means of making more work which will add to costs, stand in the way of better service and lower prices, and stifle traffic. More-work schemes will in the end be suicidal.
>
> It is often said that the railroads are hog-tied by regulation and deprived of initiative in management. This is far from the fact, but I agree that regulation should be held to the minimum which the public interest requires. If the railroads, or anyone else, can show that some of the present regulation serves no useful purpose and is an unnecessary nuisance, it ought to be abandoned. When I was Coordinator I asked the railroads for a specific showing on this point, but what I got was not impressive. Their requests for relief were surprisingly few. Now they are seeking freedom from the qualified prohibition against charging more for a shorter than for a longer haul over the same line or route. I think this would be a reversion to the jungle.

The effect of unrestrained competitive rate making upon intermediate points not affected by competition

It goes without saying that if the railroads feel compelled to establish competitive rates at certain points which reflect only 35.5 percent of the true cost of running the railroads, they must, in the nature of things, look to the intermediate and nonaffected points to take up the extra burden. No better proof of this state of mind can be found than the statement of Mr. Kerr, their principal witness:

> There is no force in the argument that if a railroad can afford to take on traffic at low rates in competition with a steamship it can also afford to handle traffic to interior intermediate points at no higher charges. To do so might result in reducing the revenues on the interior traffic more than the added profit picked upon the highly competitive traffic, and therefore the revenue effect would be ruinous. (Hearing, p. 11.)

The interior South had a very eloquent demonstration of the effects upon it of unrestrained water competition based solely on railroad initiative in rate making. Prior to the time the Commission in *Rates From, To, and Between Points in the Southeast* (64 I. C. C. 306) required the railroads to readjust their rates into the Southeast on fourth-section principles, they—the railroads—had for years indulged in an orgy of competitive rate making, having as its sole objective the elimination of water competition. Parenthetically, it may be remarked that they succeeded in eliminating it. This was all very nice for the few river ports favored with the competitive rate wand; but let us see how the interior was affected in the meantime. Tables in the report of the Commission (ibid.) at 309–313 show the rate situation at the ports and in the interior on some 38 commodities moving from St. Louis. Taking one commodity—farm wagons—which, of necessity, move to all points, we find that from St. Louis to New Orleans the railroads maintained a rate of 52 cents for the maximum rail haul involved in the territory. Intermediate or interior points in Mississippi, 24 in number, not favored with the competitive rates, were compelled to pay an average of 76.6 cents for a much shorter distance.

Substantially all railroad revenue must come from transportation. And there would be no incentive for, or, indeed, no reasonable possibility of, the publication of these extremely low competitive rates at terminal points without an eye to the revenue-producing possibilities in this tremendous backlog of traffic to and from noncompetitive territory. If this is not true, then the railroads must be charged with colossal ignorance of the plain elements of doing business.

The effect of unrestricted competitive rate making upon agencies of transportation other than the railroads

We have pointed out that rail rates made on a competitive basis reflect only about 35 percent of the true cost of running the railroads. Rates made by water carriers, on account of the slower and inferior service, must be made lower than the corresponding rail rates, if the water lines hope to attract any traffic. In the nature of things, every pound of traffic handled by the water lines is competitive with the railroads. They, unlike the railroads, have no "intermediate" territory to which they may look to recoup any losses resulting from handling traffic below cost. Stated differently, the water rates made lower than rail rates reflecting only 35 percent of cost must be the normal or 100-percent rates for the water lines.

It follows from these truisms that water carriage may not long survive under a competitive situation of that character. And the vice in the situation becomes more apparent when it is remembered that water transportation is necessarily restricted in its extent both as to the area of participation and the character of commerce transported. This

enables the railroads to concentrate their competitive efforts against those few commodities which the water lines can handle, with little relative loss to themselves but causing irreparable loss to the water lines.

A striking illustration of this condition occurred in 1933, in respect of one commodity—sugar. That commodity constituted approximately 35 percent of the tonnage handled by the Mississippi Valley Barge Line Co., and created about 40 percent of its total revenues. Its carload rates, in relation to those maintained by the railroads, were on the "differential" basis approved by the Commission. By way of comparison, sugar constituted less than 2 percent of the total tonnage and revenue of the competing railroads. By drastically reducing their rates—to a level far below that maintained by the Barge Line—and defending them on the ground that they were not below this so-called "zone of reasonableness" they succeeded in converting a modest profit of the Barge Line into an actual loss. The figures are of record, hearing, page 230.

The Barge Line carried that case through the Commission to the Supreme Court of the United States—292 U. S. 282—but was unsuccessful in its attempt to forestall the reduction. And what was the result? The reductions already referred to caused repercussions throughout the entire country in respect of sugar rates so that we find these results in the railroad figures:

Year	Tons sugar handled	Revenue	Percentage change	
			Tons	Revenue
1932	6,672,397	$25,304,954		
1934	7,562,243	22,370,845	+13	−12

The railroads handled 13 percent more tonnage but received 12 percent less revenue. And it should be borne in mind that the rates which produced this 1932 revenue were rates approved as reasonable by the Commission in 1922.

While it is true that certain interests favored by the results of these cutthroat competitive practices may benefit temporarily, it is obvious that from the long-range point of view such a situation cannot long endure. The water lines will naturally continue in business and meet these rates as long as they can but in the end their surrender is inevitable. In this respect a statement made by Commissioner Eastman in April 1934 in an address before the National Rivers and Harbors Congress in Washington is particularly apropos:

> So far as water transportation is concerned, you know what happened in the past when the railroads had a free hand and swept the inland waterways practically free of competing craft. In an open fight without let or hindrance, the advantage lies with the form of transportation which has the largest reserves of traffic upon which other transportation agencies cannot encroach, and with all of the competition by which they are beset, the railroads still have the edge in that respect. In that connection I suggest that you who have the interest of water transportation at heart may well keep an eye on the attempts which are being made to wipe out the long-and-short-haul clause of the Interstate Commerce Act (the Pettengill bill). I venture this suggestion lest there be a repetition of our early experience with destructive competition.

If Congress sincerely desires to continue water transportation, especially on inland waterways, passage of this bill will make that desire impossible of fruition. No inland water carrier with its limited choice of commodities and its limited area of operation can hope indefinitely to cope with rate policies of the character bound to follow as a result of this amendment.

POINT 4. THE EFFECT OF THE FOURTH SECTION UPON THE DEVELOPMENT OF THE COUNTRY

It is urged by those who support this bill that the present fourth section has been responsible for development of the coastal rim of the country to a greater relative degree than has taken place in the interior of the country.

Just how such a conclusion could be reached by any normal process of reasoning is beyond comprehension. Accepting as a fact the existence of this condition, to what causes may it be attributed? The only obvious conclusion is that it is because the coastal rim has access to water transportation at lower water rates than are maintained in the "land-locked" interior. Passage of this amendment will aggravate that condition because it is not to be assumed that if the railroads reduce their rates and wean traffic away from the water lines there will be no reprisals. (We speak here of the coastal rim and make no reference to the situation on inland waterways.) What the proponents here are asking is that the advantage gained by cities along the coastal rim through lower water rates be compounded by according them also lower rail rates. How could the interior possibly benefit from that situation?

Let us assume, for example, that low water rates are in existence from the Pacific coast to New York on some important commodity produced also in Illinois and Indiana. Let us assume, also, that the rail carriers serving Illinois and Indiana meet that rate, and we lay aside for the moment any thought of a further reduction by the water lines. Who will benefit? The producers in Indiana and Illinois? Perhaps. But at what cost? Obviously, they must pay, and others along with them, for this concession by being subjected to higher rates on the same commodity in other directions, and on all commodities into and out of their producing points, in order to take up the share of the general transportation burden which was ignored in making the competitive rate.

If there is one thing responsible for the disproportionate development of coastal cities in relation to interior cities, insofar as rail rates are concerned, it is because the former have enjoyed lower relative rates due to relaxation of the rule of the long-and-short-haul clause. Repeal the rule entirely and the development percentage figures submitted by those favoring the bill will fade into insignificance.

CONCLUSION

The making of lower rates for longer distances under compulsion, real or imaginary, of competition is an inevitable breeding ground of discrimination. To allow the carriers to be the sole judge of the propriety of these moves in the first instance, and to put upon the shipper the task of showing such discriminations to be undue and hence unlawful would be to throw rate making back to the unsatisfactory conditions prevailing prior to 1887 and from then until 1910. In fact, the situation would be infinitely worse than in those earlier years because we now have many more agencies of transport and the transportation machine has been developed to a far greater degree.

In making these statements we are not unmindful of the provision in the amendment to the effect that "in any case where there is brought in issue a lower rate" for a longer distance "the burden of proof shall be upon the carrier to justify the rate or charge for the longer distance against any claim of a violation of sections 1, 2, and 3 of the Interstate Commerce Act."

From a practical or procedural standpoint those words mean little or nothing. In the first place, sections 1, 2, and 3 operate upon and run against any rate published by the railroads because they are a part of the basic law. So as a practical matter all that the amendment does is to shift the burden of proof. And what is the burden? It runs only against the rate or charge for the longer distance. It may be met under section 1 by a showing that the rate, while lower than a maximum, is within the "zone of reasonableness", and this contention could be made with confidence in the knowledge that no one could conceivably rebut that showing by defining the "zone" because of his inability to prove the cost of performing service as to a particular commodity. It may be fully met under section 3 by a showing that the circumstances and conditions at the

competitive point are different from those prevailing at the complaining point, hence there is no difference in treatment other than that explained and justified by the differences in circumstances and conditions. As we have shown, section 2 would have no application. The burden of proof thus easily met the impossible burden of proceeding would be back upon the complainant.

I believe that the long-and-short-haul clause is one of the important keystones of the act and should be retained therein.

The Federal Land Bank, St. Paul, Minn., Refuses to Make Loans in North Dakota

EXTENSION OF REMARKS

OF

HON. USHER L. BURDICK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 13, 1937

Mr. BURDICK. Mr. Speaker, the Federal Land Bank of St. Paul is about the most high-handed financial institution on this continent. For over 2 years now they have been following the policy of collecting and selling land which they have taken away from farmers. They were not, during this period, making their main business that of a Federal lending agency. The fact is the mortgages to be financed for the farmers were negotiated when land values were high, and now that land values have shrunken $48,000,000,000 since the depression began, and the bank makes no allowance for that, it will be seen that the principal function of this bank ended sometime ago.

In North Dakota there were a few applications passed upon favorably, and the loans were granted, the papers signed, abstracts completed, and then what? The Federal Land Bank of St. Paul refuses point-blank to make these loans already approved, because the Supreme Court of North Dakota has ruled that a tax for hail insurance in North Dakota is a tax that is superior to the mortgage on the land. In North Dakota the State has been, for several years, insuring its farmers against loss by hail under a plan which has reduced the costs for private hail insurance more than half since 1919. The crops are insured and the average cost per acre since 1919 has been 41 cents, or less than half of the rates charged by private insurance companies operating in the same field. The object of the State is to furnish this insurance for cost—a clear case of operating a business for use and not for profit. To make the plan work automatically the premium on the number of acres insured—if a farmer wants to insure—is made a tax on the land.

The question before the Supreme Court of the State of North Dakota was in substance this: Does such a tax become a lien superior to the mortgage existing against the land at the time the hail tax becomes due? The court held that since the mortgage was made and executed after such a State law was in effect that the tax became a superior lien to the mortgage.

This the Federal Land Bank of St. Paul objects to. The farmer is insured—he is their client—he must pay them interest and some principal. To make sure he can, he takes out hail insurance in the best company on earth at the cheapest rate known in the insurance field. If he hails out, the Federal land bank will be paid; if he has no insurance and is hailed, no one will be paid, and besides the Federal Government will have to furnish this farmer with some kind of work whereby he may support his family. The amount of the tax, say, on 100 acres insured for $800 would probably not exceed $50—on an average over 18 years it would be less. The farmer can pay his insurance tax and have $750 left. Is he not in better shape to take care of the Federal land-bank payments insured than if not insured? What possible objection can there be to this protection? In almost all other forms of loans the Government finance agencies demand insurance.

The Supreme Court of North Dakota did not hold that the hail tax was superior to all liens. Seed liens are superior in North Dakota to any mortgage, on the theory that without seed there would be no crop. Any money advanced by the Federal Government for seed is superior to any mortgage, yet the Government is demanding that farmers race up and down the State to get waivers from mortgagees, when no waivers are necessary under the law.

Lest someone might think I had misinterpreted the refusal of the Federal land bank to complete these loans, let me quote from their own letter:

THE FEDERAL LAND BANK OF ST. PAUL,
April 2, 1937.

Adams NFLA—No. 651. Application No. 307831.

Mr. EMIL JOHNSON,
Edinburg, N. Dak.

DEAR MR. JOHNSON: After your application for a loan had been received and given preliminary consideration, the courts of your State interpreted the State hail insurance law as amended in 1933. It was determined that any mortgage executed on land in North Dakota after such amendment would be subject to the priority of hail insurance premiums for each year. This would, if you should be granted a loan, mean that the Federal land bank and/or the Federal Farm Mortgage Corporation would be deprived of a certain continuing first or second mortgage, respectively, as is by law required.

Your State legislature refused to pass a bill which was intended to give the necessary relief. It has adjourned without enacting appropriate legislation to change the situation, and hence farm real-estate loans cannot be closed in your State by the above institutions.

We regret that under the circumstances we are obliged to withdraw our allowance for both land-bank and commissioner loans, and accordingly your application is canceled. Your signed note, mortgage, and other papers, if any, are being returned to the secretary-treasurer of your association.

We trust that at some future time conditions may permit us to serve you.

Very truly yours,

T. A. VELDEY, *Assistant Treasurer.*

TAV:ED
cc:Secy-Treas.
cc:Loan Folder—No. 14321-D

The Supreme Court of North Dakota was right when it decided that a hail tax is superior to a mortgage executed after the law was passed; the Legislature in North Dakota was right when it refused to change the law at the command of the Federal land bank in St. Paul. The Federal Land Bank of St. Paul is wrong when it seeks to benefit by the insurance without being willing to allow the hail insurance to be paid for. They have no standing in court, any court. They seek equity but are not willing to do equity. They want to eat their pie and keep it too. If the Farm Credit Administration supports the Federal land bank in their demands, and it has up to date, the Farm Credit Administration is as wrong as the Federal land bank.

I bring this matter to the attention of Congress and the country so that the farmers will know where the fault lies. It is actually too bad that this refusal of the Federal land bank to function cannot be charged up to the Supreme Court of the United States. The best the administration can do is to charge it up to the Supreme Court of North Dakota and the Legislature of North Dakota. As the case stands, on all principles known to equity and justice, there is no one to blame except the Farm Credit Administration under the administration of President Roosevelt.

To show conclusively how just and reasonable the hail-tax rates are in North Dakota, under insurance at cost, I submit herewith table of the cost per acre for insurance of $8 per acre from 1919 to 1934, the only available figures I have:

Hail indemnity tax rates by years	*Cents*
1919	25
1920	25
1921	44
1922	42
1923	50
1924	33
1925	36
1926	44
1927	54
1928	69
1929	36
1930	43
1931	42
1932	51
1933	24
1934	40

Sit-down Strikes

EXTENSION OF REMARKS

OF

HON. JOHN W. McCORMACK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 13, 1937

LETTER FROM HON. FRANCES PERKINS, SECRETARY OF LABOR

Mr. McCORMACK. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following letter received by me from the Secretary of Labor:

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D. C.

The Honorable JOHN W. McCORMACK,
Member of Congress, House of Representatives,
Washington, D. C.

MY DEAR CONGRESSMAN McCORMACK: Your statement on the floor of the House yesterday that "a few weeks ago the Secretary of Labor expressed doubt as to whether or not the sit-down strikes were legal or illegal" is a misinterpretation of a remark, taken out of its context, a misinterpretation which was widely circulated before you made it; and I am taking this opportunity to put the record straight.

During the early days of the labor dispute in the General Motors I said in response to a question at a press conference that I thought the officials of the General Motors were unwise and failing in their public responsibilities by refusing outright to meet and discuss the issues and grievances involved with the representatives of those aggrieved and their principal advisor. There was ample evidence that such a prompt meeting and discussion would have ended the sit-down strikes in that industry and probably the so-called epidemic in the area. An informal question was asked as to "whether or not the fact that the strikers were illegally down justified the officials of General Motors in their refusal to meet them."

I replied that, in my opinion, it did not. That the function of General Motors was to make automobiles and to that end to conduct its relations with its workers in such a way as to make possible the regular performance of that function; that any error or even misbehavior on the part of those workers did not impose on the company the duty of judging and punishing the offense nor relieve them from public responsibility of talking with representatives about their grievances. Their remedy in this respect, I added, was to ask the public authorities and the courts to make determinations of the propriety and legality of the actions of their fellow citizens who worked for General Motors. I said as an aside in what was a rather long informal conversation: "The legality of this sit-down method has not yet been determined by the courts." It was, of course, a statement of fact and no opinion was asked or given on a point which is in the jurisdiction of the courts and legislative bodies exclusively.

Since that time the Michigan courts have taken final action in ordering the evacuation of the plants and I have never questioned that these decrees were within the competent jurisdiction of these courts. Nor should disobedience to these orders be counseled by any Government official.

The courts are an instrumentality established by the people themselves as a method agreed upon by citizens in a democracy as a practical way of settling civil disputes among the people. It is necessary to have and sustain such a method in order that we may live together in free democracy.

I think that it is the duty of the Secretary of Labor to point out the problems, purposes, and intentions, as well as the conditions, of the wage earners of the United States of America, so far as these are understood or expressed. So I think it is my duty to say that careful inquiry indicates that the sit-down strikes do not reflect any widespread movement to defy the law or impair civil government or change current conceptions of property rights. The objectives are the usual objectives of unions in labor disputes.

Your remarks in the House also refer to a report in the New York Times of March 25. I think perhaps the article has been incorrectly reported to you, for certainly I have not said nor was it stated in that article that I said that the "economic aspects of the sit-down strike place it in the category of picketing."

I was asked in a press conference on March 24 what were the economic consequences of the sit-down strikes. I replied and differentiated the true economic result from the social situation surrounding it. I said "that the economic consequences were the same as in any stoppage of work—namely, no production, no wages, no sales, etc. Serious, but no different from the economic result of any stoppage. The situation and considerations surrounding the sit-down methods are different and are what make it a grave problem and one that is a subject of concern to all who think about it or are in touch with it."

I refer to its relation to the law of trespass—the possibilities of abuse in a number of ways—the hazard of lack of discipline, the interference with orderly processes of adjustment.

I have written you at length, sir, and with deep respect for your views and opinions in this most puzzling situation, but I am glad of this opportunity of stating accurately the position I was reported to have taken.

In connection with the Michigan situation it must be recognized that Governor Murphy has had extremely difficult problems in the field of industrial relations confronting him since he took office and he is to be congratulated for solving them in a peaceful way in the public interest and in that of all the disputants. His firmness shows that State officials, who alone have regulatory authority in such situations as confronted Michigan, can solve such difficult problems in the public interest by the rule of reason.

The action of the United Automobile Workers in vacating the Chrysler plants shows that responsible labor leaders can and will comply with court rulings on private-property rights.

The recent success of the conference method of settling of labor differences indicates that collective bargaining is becoming more and more recognized by farseeing industrialists as the proper and advantageous way of dealing with their employees when differences arise. Costly strikes and lockouts can be avoided, industrial relations stabilized, and the mutual practice of responsibility and good discipline promoted by the continued and growing use of the collective-bargaining principle as set forth in the National Labor Relations Act and other Federal labor statutes.

Sincerely yours,

FRANCES PERKINS.

Let Us Preserve a Well-Tried Rate Policy—Make No Change in the Long-and-Short-Haul Clause

EXTENSION OF REMARKS

OF

HON. JOHN R. MURDOCK

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 13, 1937

Mr. MURDOCK of Arizona. Mr. Speaker, most of the legislation which this House has considered since I have entered it as a new Member has pertained to emergency legislation having a definite expiration limit. We have been giving our thought, then, to continuing such of the legislation of the depression period which we think necessary. However, in the bill before us at this moment we are to decide whether we are going to change existing legislation, which has been on the statute books for half a century, and inaugurate a new policy which will be a reversal of a long-established national policy. I am opposed to this bill because it would change a national policy which has been in existence for so long, and I am opposed to it because it would be of doubtful value to the country as a whole, and it would be of positive detriment to the interior portion of our country. Certainly I feel it would hurt that part of the country in which my district lies.

With all due regard for the work of the railroad builders in the West five, six, and seven decades ago, and even with a little inclination to wink at some of their unethical procedure in those early days, I am convinced that the lawmakers of 1887 were compelled to bring the railroads under regulation by the National Government. The preceding regime of local regulation on the part of the States, during which time many State legislatures passed granger laws, all proved ineffective in giving the country the necessary regulation of railroads. Since 1887 we have had supplementary legislation increasing the regulation of the railroads. It was a long, hard fight to convince our Nation that these private railroad companies were, after all, quasi-public and therefore logically and legally subject to regulation by the Government.

From this step of public regulation of private rail carriers we have gone by one step and another to the theory of Government subsidy of the railroads. Today, I believe, the railroads are wholesomely and closely supervised by the Interstate Commerce Commission, and the railroads as a whole are guaranteed a reasonable return on their investment. Accordingly, when we legislate any advantage to the railroads, the cost of which must come out of the pockets of any of our people, it is the same as legislating a governmental subsidy. Now, I feel that this bill, if enacted into law, would cause the railroads to carry some traffic at a

loss to or from coast points, and that that loss would have to be made up by higher charges on goods to or from interior points. I object to having my own State of Arizona bear the brunt of such a subsidy by higher freight rates.

I acknowledge the debt which the intermountain country owes to the transcontinental railroad lines for its development, but in the same breath I must add that the industrial development of this western interior country has also been retarded by high freight rates. I believe that this bill, if enacted into law, would throw a blight over Arizona and such other portions of the country which have no outlet to the sea. My people must ship in all their manufactured goods, either by rail or by trucks. My district produces a great deal of mineral products and agricultural produce, as well as livestock and the like. Since the prices of these things are fixed in the eastern markets, the freight rates necessarily come out of the pockets of the producers.

Arizona is blessed with great physical possibilities and untold stores of mineral wealth yet to be exploited. Farming communities with a soil as rich as the Valley of the Nile and a climate furnishing an all-year-round growing season enable my district to furnish much of the country's needs. However, our prosperity will be hampered if too heavy a toll is taken from our producers in excessive and discriminatory freight rates.

I am as anxious as anyone to have the railroads prosper, and especially to have them furnish more and more employment to railroad men. Some brotherhoods have recommended the passage of this bill, but I have a feeling that they have done so under a misconception. No doubt they feel that there will be more railroad prosperity and earnings to be divided among railroad employees. I doubt very seriously whether that would be the case. I believe that if this bill passes, the railroads can carry the business which they take away from the steamship lines with the present railroad trains and crews. On the other hand, the additional cost of living caused by higher freight rates would cause railroad employees to suffer a reduction in real wages instead of their contemplated increases.

Mr. Speaker, I do not think it wise public policy to drive out of business or cripple our water carriers. We built the Panama Canal partly that we might have ocean carriers to compete with our transcontinental rail carriers, and thus regulate rates by competition. The building of the Canal was a big investment, whose commercial benefits we hoped would accrue perpetually to the Nation. If we pass this bill, we may be eliminating the commercial benefits of that huge investment.

I have been asked by the Legislature of Arizona to oppose this measure, and requested by officials of the State livestock associations and various farmer groups to voice opposition to it. I trust the House will see fit to follow the suggestion of the Interstate Commerce Commission and deny to the railroads the permission this measure would give them.

Strikes

EXTENSION OF REMARKS
OF
HON. ANDREW J. TRANSUE
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 13, 1937

Mr. TRANSUE. Mr. Speaker, the permission to extend my remarks was obtained because my request to speak upon House Resolution 162 was not granted. This important matter was arbitrarily limited to 1 hour of debate.

This resolution was brought before the House in such a manner that there was no opportunity for amendment. It proposed to investigate, among other things, "the efforts made by the local and State authorities to prevent such 'sit-down strikes.'" The adoption of such a proposal would be a reflection upon and condemnation of the local and State authorities of the State of Michigan in the handling of strikes in Michigan.

This resolution is directed at Michigan, and many of those who espoused it have criticized the Governor of the State of Michigan for the way in which he has proceeded in respect to strikes. Governor Murphy should be commended rather than investigated. Those who have been so free to criticize and have not had the direct responsibility of this strike problem have asked that the strikers be forced from the plants with guns and bayonets. They do not look beyond the strike itself. Consideration by the House of the sit-down strike without taking into account the grievances of those laboring in mass production would not tend to solve the problems of labor and capital.

The sit-down technique has been held illegal by two circuit judges in the State of Michigan. The United States Senate has passed a resolution by a vote of 75 to 3—

> That it is the sense of the Congress that the so-called sit-down strike is illegal and contrary to sound public policy; and
>
> That the so-called industrial spy system breeds fear, suspicion, and animosity, tends to cause strikes and industrial warfare, and is contrary to public policy; and
>
> That it is likewise contrary to sound public policy for any employer to deny the right of collective bargaining, to foster the company union, or to engage in any other unfair labor practice as defined in the National Labor Relations Act.

I deplore the use of the sit-down strike technique, together with the spy system, and other unfair practices on the part of employers. There should be some forum in which the present disputes could have been fairly adjudicated. In considering the establishment of such a forum for the settlement of disputes between employer and employee it has been necessary to take into account the decision of the Supreme Court of the United States rendered on May 18, 1936, where, in the majority opinion in the cases involving the Bituminous Coal Conservation Act of 1935, the Court said:

> Much stress is put upon the evils which come from the struggle between employers and employees over the matter of wages, working conditions, the right of collective bargaining, etc., and the resulting strikes, curtailment and irregularity of production, and effect on prices; and it is insisted that interstate commerce is greatly affected thereby. But, in addition to what has just been said, the conclusive answer is that the evils are all local evils over which the Federal Government has no legislative control. The relation of employer and employee is a local relation. At common law it is one of the domestic relations. The wages are paid for the doing of local work. Working conditions are obviously local conditions. The employees are not engaged in or about commerce, but exclusively in producing a commodity. And the controversies and evils, which it is the object of the act to regulate and minimize, are local controversies and evils affecting local work undertaken to accomplish that local result. Such effect as they may have upon commerce, however extensive it may be, is secondary and indirect. An increase in the greatness of the effect adds to its importance. It does not alter its character.

This was the status of the law with regard to labor in the manufacturing processes when the sit-down strikes began. Under this decision the Congress was without power to legislate in regard to the problems of employer and employee in the manufacturing industries. Under the Supreme Court decision of yesterday Congress may now address itself to legislation dealing with the settlement of such issues and disputes.

Labor in mass production has sought collective bargaining as an instrument for dealing with the employers in mass production. The employers generally have resisted the effort on the part of employees for collective bargaining by methods denounced by the United States Senate. Collective bargaining has been espoused and a law has been passed by Congress declaring in effect that workers shall be granted the right to bargain collectively with their employers. The Supreme Court's action in holding this law within the Constitution will bring order out of chaos.

The fact that sit-down strikes have occurred is to be regretted. The fact that espionage and other unfair methods have been used by the employers to prevent unionization and collective bargaining is to be regretted. It is my hope that the attitude of employers with regard to labor will change; that they will realize that labor is not just another commodity making up a finished product but that labor is

composed of human beings the same as they, having the same desires, the same hopes, and the same aspirations. I am glad that there has been no bloodshed in the handling of strikes in Michigan; that we have not had another Herrin massacre or Homestead riot; and if there is any element of our population engaged in these strikes who would tear down our Government, it is satisfying to know that the humane method which Governor Murphy has pursued in the settlement of these strikes has been no comfort or aid to them.

The Supreme Court Decision Upholding the Washington Minimum Wage Law—What Does it Signify?

EXTENSION OF REMARKS

OF

HON. HENRY ELLENBOGEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1937

Mr. ELLENBOGEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

I want to discuss the decision of the Supreme Court of the United States of March 29, 1937, upholding the law of the State of Washington fixing the minimum wages of women and children—West Coast Hotel Co. against Ernest Parrish and Elsie Parrish, his wife.

This law was passed by the State of Washington in 1913. We must remember that it extends the protection of minimum wages to women workers only. In previous decisions the Supreme Court has upheld legislation passed by State legislatures establishing minimum hours for women, but has declared similar legislation for men invalid. For instance, in the case of *Lochner* v. *People of New York* (198 U. S. 45), decided in 1904, the Supreme Court held unconstitutional an act passed by the Legislature of New York which provided that:

> No employee shall be required or permitted to work in a biscuit, bread, or cake bakery or confectionery establishment more than 60 hours in any 1 week, or more than 10 hours in any 1 day * * *.

In its decision of last Monday the majority of the Supreme Court took particular notice of the fact that the Washington minimum-wage law applied only to women and not to men. Chief Justice Hughes, in delivering the opinion, emphasized this distinction. The Court expressly stated that in upholding the Washington minimum-wage law for women it did not uphold similar legislation for men. Chief Justice Hughes, in speaking of the woman plaintiff, quotes with approval the following language taken from a previous decision of the Supreme Court:

> Hence she was properly placed in a class by herself, and legislation designed for her protection may be sustained even when like legislation is not necessary for men and could not be sustained.

The decision of the Washington Minimum Wage case is important, because of the light which it throws upon the Constitution of the United States and upon the Supreme Court. To understand the full significance, I want to review briefly the previous history of such legislation.

THE SUPREME COURT HAS PREVIOUSLY HELD THE SAME LEGISLATION UNCONSTITUTIONAL

In 1913 the State of Oregon and the State of Washington passed practically identical minimum-wage laws for women and children. The Oregon law came before the United States Supreme Court in 1917, Two Hundred and Forty-third United States Reports, page 629. Justice Brandeis did not participate in the decision, and the Supreme Court was divided 4 to 4 on the question of its constitutionality. Since the Supreme Court was equally divided it was not able to act.

In 1918 Congress enacted a minimum-wage law for women and children for the District of Columbia. This law came before the Supreme Court in 1923, in the now famous *Adkins case* (261 U. S. 525). Justice Brandeis did not participate in the decision, and the Supreme Court, by a majority of 5 to 3, declared the law unconstitutional. Chief Justice Taft, former President of the United States, Associate Justice Holmes, one of the most eminent jurists of all times, and Justice Sanford dissented. That was in 1923.

In 1925 the Supreme Court declared unconstitutional a similar minimum-wage act of the State of Arizona (*Murphy* v. *Sardell*, 269 U. S. 530). In 1927 the Supreme Court again declared unconstitutional a similar minimum-wage law of the State of Arkansas (*Donham* v. *West Nelson Co.*, 273 U. S. 657).

The same question was again before the Supreme Court in the case of Moorehead against People of New York, which involved the validity of the New York minimum-wage law for women and children. On June 1, 1936, the Supreme Court handed down its decision in that case and by a division of 5 to 4 held that act unconstitutional.

Justice Roberts sided with the majority of the Court in holding the New York minimum-wage law unconstitutional. It must be remembered that only 12 days prior to that—on May 18, 1936—the United States Supreme Court, in a case involving the Guffey Coal Act, had decided by a vote of 6 to 3 that Congress had no power under the Federal Constitution to regulate wages and hours in mining.

By these two decisions, delivered 12 days apart, the United States Supreme Court had held that the Federal Constitution prevented Congress from regulating hours and wages, because such powers had been reserved to the States, and at the same time it had decided that the States did not have such power because of prohibitions in the Federal Constitution.

THIS CREATED "NO MAN'S LAND"

This created a condition termed by President Roosevelt a "no man's land", where neither the Federal Government nor the State governments could legislate.

THE PRESIDENT'S PROPOSAL TO REORGANIZE THE FEDERAL COURTS

Then came the proposal made by President Roosevelt to reorganize the Federal courts. The President insisted that there is no need to amend the Constitution of the United States, that it contains sufficient authority for Congress to fix wages and hours in interstate commerce. It was recalled that Chief Justice Hughes had said that the Constitution is what the judges say it is, and the President insisted that judges be placed on the Supreme Court who have an understanding of the needs and conditions of the present time, so that they will sustain the power of Congress to deal with national needs in accordance with the intent of the framers of the Constitution.

THE WASHINGTON MINIMUM-WAGE DECISION CONFIRMS THE PRESIDENT'S VIEWS

The decision of the Supreme Court of last Monday upholding the minimum-wage law of the State of Washington is proof that President Roosevelt is right and that the Constitution contains ample power. Remember that the Supreme Court has now upheld an act as constitutional which only 9 months ago it declared unconstitutional. Remember that the Supreme Court has just declared constitutional the same act which it declared unconstitutional in 1923, in 1925, again in 1927, and again in 1936. Remember that the Constitution has not been changed during these years. Remember that even the judges have not changed between the decision of June 1, 1936, declaring the wage law of the State of New York unconstitutional, and the decision of March 29, 1937, declaring the same law passed by the State of Washington constitutional. Both of these decisions were rendered by a majority of 5 to 4.

In June 1936 Justice Roberts sided with the conservatives of the Court in declaring the law unconstitutional. Now, having changed his mind, he has sided with the liberals of the Court and has declared the same law constitutional.

It is remarkable that four out of the nine judges of the Supreme Court still insist that States do not have the power to pass minimum-wage laws for women and children. It is thus clear that four of the nine judges of the United States Supreme Court are definitely determined upon a narrow

construction of the Constitution. In other words, we have four Justices bent upon denying to State legislatures and to the Congress powers which the legislatures believe they have under the Constitution and which must be exercised for the welfare of the country.

JUSTICE ROBERTS HOLDS BALANCE OF POWER

Justice Roberts, by siding with the liberal or the conservative group, thus determines and controls the decision of the Supreme Court. His decision, the decision of one judge, made the New York minimum-wage law unconstitutional 9 months ago, and his change of mind some days ago made a similar minimum-wage law for the State of Washington constitutional. It will be contended, therefore, that these decisions do not reflect the meaning of the Federal Constitution but the changed opinion of Justice Roberts.

The change of mind on the part of Justice Roberts lends support to the statement of Chief Justice Hughes that the Constitution is what the judges say it is. It lends support to the assertion of President Roosevelt that the Constitution needs no revision, but that we must have the right kind of judges; judges with an enlightened viewpoint and with a proper regard for the rights of the legislatures—State and National—under the Constitution.

THE RECENT DECISION OF THE SUPREME COURT HAS NOT CHANGED THE SITUATION IN WASHINGTON AS IT CONCERNS THE COURT AND THE CONSTITUTION

The President still insists that the Constitution contains the necessary powers for Congress to deal with national problems. He still insists that a majority of the present judges of the Supreme Court has refused to properly interpret the Constitution. So the situation as regards the Constitution and the Supreme Court has not changed.

The same Justice Roberts who changed his mind regarding the minimum wage law on May 6, 1935, delivered the opinion of the majority of the Supreme Court which held unconstitutional the act of Congress establishing old-age retirement pensions for railroad employees. That also was a 5-to-4 decision. There is nothing to indicate that Justice Roberts is willing to change his mind regarding old-age retirement pensions for railroad employees.

The Supreme Court has so far failed to decide the constitutionality of collective bargaining between labor and capital, as contained in the Wagner Labor Relations Act, and until that is done the Federal Government is powerless to act concerning the sit-down strikes.

As I have pointed out before, there is no assurance, and none can be obtained, that the Supreme Court would uphold State minimum wage laws for men. The decision in the Guffey Coal case still stands. In that case the Supreme Court, by a majority of 6 to 3, held that Congress had no power to legislate concerning wages and hours in coal mining.

WE NEED NATIONAL LAWS ESTABLISHING MINIMUM WAGES AND MAXIMUM HOURS

While we all welcome the decision of the Supreme Court which extends some protection to women and children against exploitation by ruthless employers, State minimum-wage laws for women and even for men, are utterly inadequate to deal with the situation. The coal miners in the Pittsburgh district cannot be paid adequate wages, unless the coal miners in Kentucky and other competing States are paid similar wages and enjoy similar conditions of labor.

The steel workers in Pittsburgh cannot have decent wages and fair hours unless the steel workers in Birmingham, Ala., are paid similar wages and extended equal condition of work.

The textile workers in Butler, Pa., would still lose their jobs if a shirt factory in Butler would move to Tennessee, attracted by lower wages and longer hours prevailing in the South. Fair-minded employers are still unable to pay decent wages to their employees and work them decent hours if they must compete with sweatshop competitors who work men, women, and children long hours at starvation wages.

There is only one remedy. That is the establishment by Congress of minimum wages and maximum hours in every State in the Union. National minimum-wage and maximum-hour laws are the only protection for employees and employers.

We are living at a time of change, economical and political. The welfare and prosperity of our country depends upon a higher standard of living in the United States. The standards of hours, wages, and salaries will determine the welfare and happiness of some 50,000,000 working people.

We cannot have security for these people and for their employers without appropriate legislation by Congress for decent minimum wages and for maximum hours, uniform in application and enforcible in every State in the Union.

The Long-and-Short-Haul Clause

EXTENSION OF REMARKS

OF

HON. JOHN A. MARTIN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 14, 1937

On the bill (H. R. 1668) to amend section 4 of the Interstate Commerce Act

Mr. MARTIN of Colorado. Mr. Speaker, I avail myself of the privilege of extending my remarks in the RECORD on the Pettengill bill in addition to the several statements made by me during the course of the consideration of the bill in the House today.

During the consideration of the bill in the Seventy-fourth Congress I made a rather lengthy explanation and defense of the bill, which will be found in the CONGRESSIONAL RECORD of March 24, 1936, beginning at page 4280. I shall be much briefer here.

Mr. Speaker, a subcommittee of the Interstate Commerce Committee held lengthy hearings on this bill during the Seventy-fourth Congress, and the full committee during this session has held ample hearings on the bill. I attended every session and heard every witness at both of these hearings. I did so for the reason that I reside in the Mountain States area, which has been the head and front of the movement for section 4 of the Interstate Commerce Act as it now reads and against any modification of that section; and for the further reason that I had little knowledge of the history and workings of the section and felt that in my situation I should become as fully informed as possible in order to arrive at a conclusion as to whether the section should be retained as it now reads or modified as proposed by the Pettengill bill.

I may say further that I began with an impression of bias against the bill. For reasons which I shall try to make clear this position gradually gave way to the view that the long-and-short-haul clause in section 4 of the Interstate Commerce Act ought to be repealed and that it can be repealed without impairing rate regulation by the Interstate Commerce Commission, and with benefit to the Mountain States area, which has been so active in preserving a status quo, the existence of which is of no benefit, if not a detriment, to the area lying between the Missouri River and the Pacific coast ranges.

At this point let me say that nothing I shall say in my remarks is intended to reflect upon that great agency of Congress, the Interstate Commerce Commission. I have a very high regard for the Interstate Commerce Commission, which is celebrating the fiftieth anniversary of a great and useful service. I think it ought to be, and I trust it will be continued as an independent agency, subject to no other department of the Government.

In the brief time allotted me I cannot discuss the many important phases of railroad-rate regulation as centered in section 4 of the Interstate Commerce Act. I covered most of these phases quite fully during the consideration of the bill in the Seventy-fourth Congress, and this discussion will be found in the CONGRESSIONAL RECORD of March 24, 1936,

beginning at page 4280. In this discussion I must limit myself largely to those phases which involve the West, with a view to determining whether the long-and-short-haul clause has benefited that area.

Before doing so, however, I want to mention some conclusions which I have arrived at in my study of the question which enabled me to reach a decision on the question which may be of benefit to others. I do not believe we can ever reach a final judgment by reasoning from particular instances, from railroad rates in special cases, or localities, or at various times. You will always find yourself reasoning in circles and getting nowhere.

As an example, a representative of the State of Idaho appeared before the subcommittee and, among other things, stated that in an area of that State the apple acreage had declined from 12,000 to 2,000 acres during a given period of years, and this was attributed to excessive railway rates. A little later he stated that in the same area and during the same period potato shipments had increased from 20,000 to 30,000 cars annually. These two situations cancel each other, and even if we leave the potatoes out of the picture, we find that the apple crop declined under section 4 as it had stood in the statute for 25 years, being apparently of no benefit to the apple crop.

What we must do is to lay hold, if possible, of some fundamental propositions, concerning which there is little dispute, if such may be found, and I think there are such, and then arrive at a judgment from these propositions.

One of the things which will never enable us to arrive at a judgment is the past history of the railroads, the good old days when every big railroad had a State government or two among its assets and sent its lawyers to the United States Senate and placed them on Federal benches and subsidized public officials and newspapers with railroad passes and built up favored shippers with rebates and that sort of thing. In the language of the comic strip, "them days is gone forever." It is clear to my mind that testimony, a large part of which is a rehash of ancient history, is of little value in determining what ought to be done now about section 4.

As a part of that ancient history were the railroad land grants in the West, going back 60 and 70 years for an argument which in some way is supposed to support section 4. These grants for the most part have long since been disposed of and perhaps much of what is left is largely a tax burden. That cookie has been eaten. On the other hand, the land-grant roads are required to haul Government traffic over the granted lands at 50 percent of normal rates. This must have worked a large saving to the Government during the war. So, when the account is all cast up, the roads are in the status of having been made a loan 60 or 70 years ago, upon which they must pay interest forever. The loan is gone and nothing but the debt remains.

Nor will it help us much to go back into ancient history on rate discriminations and abuses. In the hearings almost without exception the opponents of the bill went back to a time when the railways enjoyed a complete monopoly of transportation, and were as well a political power in the country, and had not accepted regulation as they now have. I remarked several times to witnesses during the course of the hearings, and I repeat it here, that I considered precedents of more than 15 years' standing, regarding railroad conditions, practices, and abuses, and certainly precedents antedating the World War, as of very little value in shedding light on the solution of this problem.

I find corroboration of this view in the following paragraph from the report of the Federal Coordinator of Transportation, Senate Document No. 152, Seventy-third Congress, second session:

> The past 15 years have been a period of great change, development, and adjustment in transportation not only in this country but all over the world. There has been an extraordinary growth in the use of other means of transporting persons and property as a substitute for railroad transportation. Two of these means are new, the highway motor vehicle (3,000,000 trucks daily) and the airplane. One, the pipe line, has been in use for many years, but experienced a sudden and rapid new development. Another, carriage by water, is one of the oldest forms of transportation, but has recently gained a relative importance in this country, principally through the opening of the Panama Canal and the improvement of inland waterways. The electric transmission line transports only energy, but it tends to reduce the transportation by the railroads of stored energy in the form of coal.

Assuredly the railroads know to the full the meaning of the ancient curse that the sins of the father shall be visited upon the son. I may go so far as to say that if a curtain could be drawn on railroad history prior to the past 15 or 20 years there would be no opposition to this bill, and that, notwithstanding the past history of the railroads, if the long-and-short-haul clause were not now in the law no attempt would now be made to put it in the law.

Now let me marshal briefly some of the major undisputed facts developed by the hearings which enabled me to reach a decision favorable to the bill. The railroads represent an investment of $26,000,000,000. They are not only the first agency of transportation in the country but the only indispensable agency. The record is that during the World War, at which time the Panama Canal was abandoned by the water lines to enter the more profitable trans-Atlantic traffic, and at which time bus and truck transportation had not yet developed, the railroads transported both the ordinary and war emergency traffic of the country. Under the Consolidation Act the country now has nine transcontinental lines. In a war emergency they would again be, as they were in 1917 and 1918, the principal transportation arm of the national defense, aided now, it is true, by motor transportation; but water transportation would again pass out of the picture. The Panama Canal, even if it remained in commission, could handle only a hatful of intercoastal traffic.

It was stated before the committee by opponents of the bill that the total valuation of all forms of water transportation, coastwise, intercoastal, and inland, amounts to not more than three-fourths of a billion dollars, as compared with $26,000,000,000 in the railways. Yet the intercoastal shipping through the Panama Canal, representing an investment of less than $200,000,000, has taken practically all intercoastal shipping from the railways. Since the return of the ships to the Panama Canal after the World War their tonnage has increased from 2,000,000 to 8,000,000 tons per annum, all of which increase came from the railroads. As the chief spokesman of the water interests said before the committee, "We have got it all now."

So far as the relative social and economic values of these two types of transportation are concerned, there is no comparison whatever. The railways are an integral part of the social and economic life of the Nation and of every community, adding to the value of every community, paying a high percentage of their earnings in taxes, employing high-type and high-paid labor, and furnishing the only constant and dependable transportation service.

At first blush it is a singular fact that coastal areas are supporting the Pettengill bill. Light is thrown on this attitude of the coastal areas by the testimony of Mr. Carl D. Loos, traffic counsel of the Southern California Fruit Growers Exchange, who made this statement before the committee, page 470:

> We have seen the perishable traffic grow in proportion from less than 15 percent in 1920 of the total weight moved by the transcontinental railroad lines to around 40 percent now; so that we today, the perishable shippers, are paying 40 percent of the railroad traffic to the transcontinental lines, whereas 15 years ago we paid only 15 percent. That means that our share of the transportation burden is increasing tremendously, and we need anything that will help the railroads get some of that revenue from other sources.

It was the same thing from the Lumber Dealers Association of the State of Washington, located in proximity to the deep water of Puget Sound, one of the finest inland bodies of water in the world. The head of that association, appearing before the subcommittee, said in substance that lumber must have something more than cheap transportation; it must have markets. He said that 15 or 20 years ago the railroads hauled 75 percent of their lumber, and water 25, and that now water hauled 75 and the railroads 25, and that

the railroad market as a customer had declined correspondingly.

Other representatives of coastal ports, both on the Atlantic and Pacific, took the position that the prosperity of the ports depended upon inland development and ability of the inland to ship its products out, and that they believed that that result would be achieved by permitting the railroads to reduce rates from points of production to the market more than they can now do under the long-and-short-haul clause.

Now, let me approach more closely the inland angle of the controversy, and I shall begin by laying down this proposition: Notwithstanding the fact that the long-and-short-haul clause as it now reads has been in section 4 for 27 years, industry west of the Mississippi River and between the Mississippi River and the Pacific coast ranges has stood still or has dried up, while at the same time industry has increased and multiplied on the coast, I do not attribute this condition of arrested progress to the long-and-short-haul clause. I simply say that you cannot take this admitted condition and make out a case for the long-and-short-haul clause.

It was stated before the committee that since the opening of the Panama Canal more than 5,000 industries have died in the Mississippi Valley. An opponent of the bill admitted that a steel industry had been transferred from Gary, Ind., to the Pacific coast within the past few years. It was stated by an opponent of the bill that during the past few years milling industries had been transferred from Minneapolis and St. Paul to Buffalo. It was testified before the committee that a Colorado steel company was unable to meet Atlantic coast competition in steel at Houston, Tex., and had to withdraw from that territory when its common carrier was denied fourth-section relief. It was testified before the committee that western sugar could not compete at Chicago and St. Louis with Philippine sugar, refined in San Francisco and carried by water through the Canal and the Mississippi River. Western sugar got some relief, but not sufficient relief.

THE TRANSCONTINENTAL RATE CASES

As bearing upon the effect of the long-and-short-haul clause on inland transportation, I want to refer to what is known as the Transcontinental Rate cases. Mr. Eastman, toward the close of his testimony, said:

> The chief criticism of what the Commission has done has arisen, I think, in the case of the transcontinental rates. That is really where this criticism centers. It is over what the Commission has done in refusing to grant relief in connection with those transcontinental rates, and I think it might be of interest to you to analyze the three most important cases in regard to that matter very briefly.
>
> The first one was the transcontinental cases of 1922. The applicants in that case were the lines operating all the way across the country. They did not undertake to meet the rates at the ports. (Mark that.) What they were undertaking to do was to get some of the traffic that was moving from interior points to the Atlantic coast ports, then by vessel. Chicago and Omaha (Omaha, mind you), would be given the same rate as Pittsburgh in reaching Pacific-coast terminals.
>
> In other words, said the Commissioner, these western points which did not have the advantage of location on the ocean were to be placed in the same position as Pittsburgh, which was relatively near the ocean (but nevertheless, if you took any of the intermediate destinations such as Reno, Spokane, or Denver, then Pittsburgh was to continue to pay a higher rate than Chicago and Chicago a higher rate than Omaha). In other words these western points were to retain all advantages which they already had in location in comparison with their eastern competitors, but, so far as the Pacific-coast terminals were concerned, they were to be put upon a parity with their competitors.

The application was denied by the Commission.

Now I again quote from the hearings, page 454:

> Mr. MARTIN. Let me ask you a question there. Just what section lost by the denial of these applications? It was the Middle West, was it not?
>
> Commissioner EASTMAN. I think it was the Middle West.

The Commissioner stated that he did not include the intermountain country in the Middle West, which, however, included Omaha, but it is manifest that large midland centers and the transcontinental railroads, all of which traverse the intermountain country, were the losers by the denial of the application.

The next case mentioned by the Commissioner was the Commodity Rates to Pacific Coast Terminals case, in which the application was filed by the western transcontinental carriers, operating west of Chicago, covering rates originating in territory from Chicago to Denver on a number of products, including iron and steel.

The application was denied on the ground that the ensuing increase in business to the western transcontinental roads originating at western points of production would result in eastern rate reductions on the part of the joint rail-and-water lines, and thus no benefit would ultimately result to the western carriers.

If the commodity rates application had been granted, the rate from Denver to the Pacific coast, the Commissioner stated, would have been lower than from Chicago, which would have still carried the Pittsburgh rail-and-water rate. The application was denied. It was not necessary to ask who lost.

The last of these three cases, the Southern Pacific Transcontinental case, was denied mainly on the ground that the rates would not be reasonably compensatory.

The foregoing and similar testimony had the most decisive influence on my mind. For this reason: The Mountain States are all producing States. I mean by this that whatever they produce is produced in excess of local consumption. If they are to prosper, they must find markets for their excess production. I became convinced that if it were not for the long-and-short-haul clause they could extend their market zones. I am entirely convinced of that. The cases I have cited prove it. We are not so much concerned over rates that will bring things in as in rates that will take things out. This is my reason number 1 for being for this bill.

Another decisive fact established by the hearings is that the low water rates at the coast are already there. The inland producer cannot compete now. The low water rates, which the railways cannot meet and which our industries cannot meet, are already at the coast ports, and the midland industries and carriers are denied the opportunity to compete. Defeating the bill will not change that situation.

So the fact that the cheap water rates and the resultant advantage are already at the coastal ports, and the certainty that the market zones of the western area are restricted by the long-and-short-haul clause, have had a very great influence on my judgment.

Now, I want to glance briefly at the only question which troubled my mind at the end of the long hearings on this bill in 1935, even after I had decided in favor of the bill. It was the question whether the long-and-short-haul clause had not become a yardstick for the measurement of railroad rates and whether the railroad rate structure had not been built up around it and whether its repeal would not break down the mechanics of rate making and throw the process into confusion. This doubt was fairly removed at the hearing before the Committee on Rules in the Seventy-fourth Congress when Commissioner Eastman, appearing against the bill, stated in substance that the Interstate Commerce Commission would have the same powers under the Pettengill bill that it has under existing law.

At the recent hearings I asked the Commissioner what would be the effect of the repeal of section 4 on the procedure and the power of the Interstate Commerce Commission in rate making. His statement was that the Commission could, so far as legal power is concerned, do what is now being done, mentioning the power to fix minimum rates, and to prevent undue prejudice and preference, and other powers conferred by other sections. But he felt that it would be considered that Congress had intended to liberalize the law in favor of the railroads. Of course, if it did not liberalize the law by enabling the railroads to meet competition through a reduction of long-haul rates without lowering intermediate rates, there would be no object in passing the bill.

In order that the House may have the benefit of the Commissioner's views on this important phase of the con-

troversy, I quote the following from the hearings on the pending bill:

Commissioner EASTMAN. Now, I also say that under this proposed provision of the law the Commission could, so far as legal power is concerned, do substantially what is now being done, by reason of its power to suspend a change in rates for investigation when one is proposed, by reason of its power to fix minimum rates, and by reason of its power to prevent undue prejudice and preference, with the exception to which I shall refer later, that in a suspension of that kind we have to decide the case within 7 months or the carriers may put the rates in effect pending our decision.

Mr. MARTIN. Mr. Eastman, will you restate what you just said about having substantially the same power under this bill as under the present law? What would be the effect of the repeal of section 4 on the procedure and the powers of the Interstate Commerce Commission in rate making; how would it affect your procedure?

Commissioner EASTMAN. That is just what I am going to discuss now. Now, notwithstanding the fact that as a matter of legal power, I believe that we could do substantially what we are now doing, there seems to be a conviction on the part of those who favor this bill that we would not do what we are now doing, that things would be entirely different, and that by reason of our change in policy the railroads would be able to secure a great deal of traffic that they do not now get and which would be of great benefit to them.

In other words, though we could do under the present law what the railroads want, and, in my opinion, could do under the proposed law substantially what we are doing now, it seems to be the belief of the proponents of the bill that we would not do that and that our practice would be materially changed in a way that would be of great benefit to the railroads.

The Commissioner then states that the reasons for the belief of the carriers that they could increase their tonnage through the change in the law, is that the Commission would have to assume that Congress intended a more liberal treatment of the railways in the matter of rate making, and that shippers and communities would have to be more on the alert to see that they did not get the worst of it in the matter of new rate schedules filed by the carriers.

The point I am making is that there is no claim that long-established processes of rate making by the Commission would be so disorganized by the repeal of the long-and-short-haul clause as to impair the work of the Commission and render it necessary to order up some new rate-making system. It has been contended by the opponents of the bill that it would deprive the Interstate Commerce Commission of the power to fix rates which were just, fair, reasonable, nondiscriminatory, nonprejudicial. The statement of the Commissioner disposes of that contention.

Again, on page 440:

Mr. MARTIN. Let me ask one more question. It has been claimed that the long-and-short-haul clause is a yardstick which enables the Commission to fix and to adjust rates—the intermediate rates as compared with the proposed long-haul rate—and that if the clause were repealed, the Commission would not be permitted by the courts to lean any on its former procedure or practice, or to render decisions in rate cases which indicate that although the provision had been repealed, they would still, nevertheless, be using it as a yardstick in the making of rates.

Commissioner EASTMAN. I do not know that I would put it just that way, but, as I have already indicated, I think that the Commission, and probably the courts, would construe this law as having been passed with the intent to change something and to produce results that are different from those that are being produced now, and that the Commission in all probability for that reason would pursue a different policy from what it has pursued in the past, and no doubt the courts would be inclined the same.

Another question asked the Commissioner was the probable effect of repealing the reasonably compensatory clause of the fourth section, to which the answer was that the Commission under its power to fix minimum rates now has the power to apply and does apply the reasonably compensatory standard, outside of section 4. His objection to the repeal of the compensatory clause, like that to the long-and-short-haul clause, was that it might be considered by the courts that the repeal of the clause was expressive of an intent that a more liberal rule was contemplated.

At the hearing before the full committee some of the opponents of the bill stressed the reasonably compensatory clause as being of even greater value to the shippers than the long-and-short-haul clause. This view of the reasonably compensatory clause had not been so stressed at the former hearings. I desire the Members to have the benefit of the Commissioner's views on this clause, and the following from the hearings on this point is self-explanatory:

Mr. MARTIN. Mr. Eastman, I understood Mr. Pitt a moment ago to say that in some of the cases where the Commission denied the application on its own motion, it was found that the proposed rates were not reasonably compensatory.

Now, in the hearing thus far it strikes me that some of the opponents of the bill have stressed the value of the reasonably compensatory clause even as against the long-and-short-haul clause, so that it occurred to me to ask what effect it would have on the bill if the reasonably compensatory clause were left in; if the long-and-short-haul clause was dropped out of the law and the reasonably compensatory clause was retained, what effect would that have?

Commissioner EASTMAN. Why, I think that the Commission now, under its power to fix minimum rates, has the power to apply and does apply substantially the reasonably compensatory standard.

I think that the Commission can apply the same standards under its power of fixing minimum rates under section 1 that it now applies under the reasonably compensatory provisions.

Mr. MARTIN. Is it your statement, then, that that reasonably compensatory clause is of no practical value or force in the law and that it could be dispensed with as long as your powers are unimpaired in the matter of rate making?

Commissioner EASTMAN. When I was Coordinator I made a report on section 4, I think, in 1934. At that time I did suggest striking out that "reasonably compensatory" provision, because Congress does not define what "reasonably compensatory" means, and in all of the important fourth-section cases we have a tremendous amount of debate between the parties as to what it actually does mean.

Now, I think the Commission reached a pretty reasonable conclusion and a proper conclusion in regard to the meaning of those words, and in view of the controversy about them in the past my first thought was that no harm would be done in striking them out. I later retreated from that position, because I felt that if Congress should strike those words out after the Commission had defined them it would then be urged with a great deal of force that Congress felt that the Commission's definition was wrong and the Commission should apply some other standard to the rates for the longer hauls.

It will be seen that the Commissioner, while advancing the objection to the repeal of the reasonably compensatory clause, that he advanced to the repeal of the long-and-short-haul clause, to wit, that it might be considered by the Court that the repeal of the clause was expressive of a legislative intent that a more liberal rule of rate making was contemplated, yet it is admitted that the power to make the rate reasonably compensatory would remain in the law, and what is more important, is being exercised now by the Interstate Commerce Commission under sections of the Interstate Commerce Act other than section 4. For brevity I have omitted a case cited by the Commissioner in which the power was exercised under section 15 (a).

Mr. Speaker, in view of the tremendous changes which have occurred in the transportation field and the need for relief both to the carriers and commerce, I would be inclined to favor the repeal of the fourth section even though it specifically and in terms lessened the powers of the Commission, but when my apprehensions on that point are allayed and I am assured that it will not disorganize the administration of the law and will not deprive the Commission of any necessary powers to regulate railroad rates, every doubt is resolved in favor of the bill. If I should be mistaken in any particular, there will be another Congress.

A final consideration is that of the three principal forms of transportation, railways, highways, and waterways, the railways are the only form which is or can be subjected to the restrictions of the long-and-short-haul clause. It is not applicable to the waterways, and it is impracticable and unnecessary on the highways. I think the hearings clearly established these facts, but I have no time for the detail.

In sum, the railways are by far the most valuable and dependable form of transportation and the most indispensable transportation arm of national defense. They should be enabled to maintain themselves in the highest practicable state of efficiency, especially when this can be done at no cost to the Treasury. They should be enabled to meet the competition of other growing forms of transportation and to equalize opportunities of every section of the country to reach the great markets of the country with their products, just as was attempted in the Transportation cases of 1922.

And they should be relieved from restrictions which prevent them from rendering such services and which restrictions are not applied to and are not applicable to competing forms of transportation. Let us give them a chance and see what happens.

The Long-and-Short-Haul Clause of the Interstate Commerce Act

EXTENSION OF REMARKS

OF

HON. GUY L. MOSER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 14, 1937

Mr. MOSER of Pennsylvania. Mr. Speaker, under leave granted this day to extend my remarks in the RECORD, I would first take occasion to state this privilege was requested for the reason I did not desire to prolong debate on the so-called Pettengill bill, H. R. 1668; take up the time of the House, and only repeat, except for sentiment, what has been so ably stated from the floor in opposition to this legislation.

Recalling the days of my childhood in Pennsylvania, when canal boats transported coal to Philadelphia, I too recall their disappearance and the abandonment of the canals as a means of cheap transportation. In my young manhood, I recall the tales recounted of the political control of Pennsylvania's Assembly under the Quay domination, when this cheap transportation was passed over to the railroads, in turn creating a monopoly on transportation and ensuing increased cost to the consumer.

From my earliest youth I recall the "public be damned" policy being denounced by all opponents of monopoly. I have never learned who first coined that phrase. The only place I have ever noticed it recorded in the The Life and Times of Thomas Jefferson, by the late and Honorable Thomas E. Watson, some time a Senator from Georgia, who ascribed the phrase to a certain railroad president.

Mr. Speaker, as on yesterday we listened to the eloquent tribute paid Thomas Jefferson, by both sides of this House, on the occasion of the one hundred ninety-fourth anniversary of his birth, I cannot help but remember today the "public be damned" phrase uttered by a contemptuous railroad president of another day.

The railroads have stubbornly resisted the all too apparent necessity for reduced rates, both freight and passenger. In the former, they have adamantly cleaved to high rates until truck competition has eaten materially into their traffic. Bootleg coal is the contemptuous charge hurled at the truckers. In my district, quite to the contrary, many truckers have established a business of buying anthracite at legitimate collieries and delivering it to the homes of consumers at lower prices than the legitimate coal dealers, relying on railroad transportation, can meet in competition.

Mr. Speaker, I have seen the advent of the full crew law in Pennsylvania, and the Adamson Act under President Wilson. I have seen the mammoth locomotives, exhibited at the county fair, with their vaunted power, lessening the necessity for human employment proportionately. I have heard the proponents of this measure predict additional employment as a consequence of its passage. I cannot conceive such to be the case in the light of experience and precedent.

The gentleman from New York [Mr. WADSWORTH], a proponent of the bill, has made the best argument against it that it was my privilege to listen to today. He clearly showed the purpose of this legislation to be in the light of competition with cheaper transportation by way of steamship transportation and the Panama Canal to the Pacific coast. Using the steel industry for an example and pointing to the decentralization and the centralization of population, attributing it to the problem of transportation, with reference to the seaboard, while I may not agree with him entirely, I conceive that he made a good argument against the bill he was supporting.

The Panama Canal, unlike the inland canals of my youth, is one that cost the taxpayers of the United States a princely sum. Likewise the taxpayers have been taken for many an expensive ride in the development of a merchant marine and shipping industry. Shall we, the Representatives of these taxpayers, therefore lend our support to a measure purported to be designed in opposition to what has been established at such great cost?

Personally, not one constituent of mine nas voiced sentiment either way on this proposal, and I would be entirely free to follow the crowd on the vote; but having in mind the background of my youth and the denounced "public be damned" policy ringing in my ears, I am against a policy that would make possible a reduction of freight rates to meet one form of competition and at the same time leave the door open to soaking the public on short hauls where the competition proposed to be met does not reach and cannot serve.

The Palm Sunday Massacre in Ponce, P. R.—Cold-Blooded Murder by the Authorities

EXTENSION OF REMARKS

OF

HON. JOHN T. BERNARD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 14, 1937

Mr. BERNARD. Mr. Speaker, friends, I have here an editorial from the New York Post, published March 27, 1937, which I take the liberty to read, hoping that it will make you realize the necessity for this body to conduct a just, impartial, and fearless investigation of the cold-blooded murder by the authorities in Puerto Rico of many peaceful and unarmed citizens of that American possession.

HAVE WE FORGOTTEN 1776?

On March 21 police turned their machine guns on a Nationalist parade in Ponce, P. R. Seven persons were killed and 40 wounded.

We hope that Congress will initiate an independent investigation into the growing unrest in Puerto Rico. Suppression of the Nationalist movement seems to be growing more bloody and is calculated to undo the good effects of the good-neighbor policy in Latin America and the removal of the last blemish on that policy.—Ambassador Caffery at Habana.

Gov. Blanton Winship has promised an investigation. It is improper for the Governor to be in the position of investigating his own administration. An inquiry of that kind, in which the defendant is also the judge and the jury, cannot command confidence.

Four Nationalists were killed by the police at Rio Piedras in October 1935. Two Nationalists in retaliation shot and killed Colonel Riggs, head of the insular police. The two were seized and killed by the police a few hours later. Is there to be law enforcement or perpetual vendetta in Puerto Rico?

What of the severe sentences imposed on eight Nationalist leaders on charges of conspiracy to win independence for Puerto Rico? Have we forgotten our own traditions? The Nationalists are only a minority. Our tactics are winning sympathy for them. If Puerto Rico wants freedom, our answer should be to grant it. Reply by machine gun is unworthy of a people that cherishes memories of its own "seditious" nationalists in 1776.

Mr. Speaker, on Palm Sunday, March 21, in Ponce, the second largest city in Puerto Rico, the police forces fired with machine guns, rifles, and pistols into a crowd of marching Nationalists. Seventeen were killed, more than 200 wounded.

The Nationalists are the most militant fighters for independence in Puerto Rico. Following a period of intense propaganda, the leader of the Nationalist Party, Dr. Pedro Albizu Campos, a Harvard graduate, together with seven of his followers, was arrested and indicted by officers of the Federal court in Puerto Rico on sedition charges. On July 31, 1936, the eight Nationalists were convicted and sentenced to serve from 6 to 10 years in the Federal penitentiary of Atlanta, Ga., thousands of miles away from their

homeland. An appeal was entered immediately but the judge refused to grant bail pending appeal.

The public sentiment was aroused with the convictions of these men, since Dr. Albizu Campos is one of the most beloved leaders of the Puerto Ricans. A fight ensued to free the political prisoners. A defense committee was organized in Puerto Rico. A national congress was also called and held with delegations of all the municipalities. It was decided to launch a united defense movement. Hundreds of public meetings were held throughout the island. Puerto Rico was stirred up.

Simultaneously a campaign for the liberation of the Puerto Rican political prisoners was carried on in the Spanish section of New York City. On August 29 a monster parade was held in New York with 10,000 persons marching, as reported by the New York Times.

The government of Puerto Rico headed by Gen. Blanton Winship decided to block the campaign for the raising of defense funds and for the independence of the island. So, the mayor of San Juan denied a permit for a parade that was to be held August 30 by the national congress and the defense committee. The parade was postponed.

A new request was made to the mayor of San Juan; he reconsidered his position and granted a permit to hold the parade on September 6. On September 3 General Winship asked Commissioner of Labor Rivera Martinez to remove congress president Geigel Polanco as legal adviser to his department. The commissioner refused on the grounds that Geigel was one of his most efficient employees. Geigel being a member of the liberal party was hired by a coalitionist administration. He was head of the bureau of social research and responsible for the most advanced social legislation in the island for the last 8 years. Geigel resigned his office to relieve Rivera Martinez from the government's pressure. On the night of Friday, September 4, Colonel Orbeta broadcasted an order calling off the parade. He said at that time that he was acting at the request of General Winship.

The president of the defense committee, Rafal Torres Cordova, and Geigel had a conference with the chief of police. He told them that in the event they would have held such parade he would have shot both of them down. They filed on September 4 an injunction against Winship and Orbeta in the San Juan district court but it adjourned the hearing.

Police, soldiers, and marines were fully equipped with tear gas and blackjacks and concentrated ready for action. It was evident at that time that the Governor was antagonizing the supporters of independence to justify a collective massacre in the event the parade was held, and it was called off, although more than $1,000 had been spent for its preparation. It had been previously announced that in the parade were going to march members of the different political parties, prominent among them being several university professors, and Luis Munoz Marin, a leader of the Liberal Party.

The action of the Government was received with a storm of opposition, both editorial and otherwise, El Imparcial and La Correspondencia having condemned the action of Winship. But the parade was not held.

After this time rules were passed by the board of trustees of the University of Puerto Rico, at the request of General Winship, prohibiting the teachers to express publicly their political or religious creeds, and an oath of allegiance to the Federal Constitution was forced upon all college professors and school teachers.

Independence supporters were discharged from the Puerto Rico Reconstruction Administration—P. R. R. A.—and from other public offices. A reign of official terror against Puerto Ricans began.

Juan Juarbe, secretary of Albizu, asked for a passport to go to Argentina on December 1936. The same was denied to him by Winship, alleging that he was going to campaign for independence. He had to go away without any passport.

The Nationalists dedicated all their efforts to fight for the freedom of Dr. Albizu Campos and the others. But on January 31, 1937, the Nationalist Party held its annual convention at Caguas. It was reported as the largest convention of the party. Thousands paraded through the city. Nothing happened. It was a peaceful parade. Yet the demonstration showed that the party was stronger than ever.

On February 12, 1937, the Boston Circuit Court of Appeals sustained the convictions. An appeal was taken to the Supreme Court of the United States and is now pending. Funds are still needed to cover the expenses. Having the above facts as background, let us see what happened at Ponce on Palm Sunday.

The Nationalists were going to hold a meeting and a parade in Ponce on March 21. During the meeting they were to make a collection. The mayor, Tormes, issued a permit. One hour before the time set for the parade and when the demonstrators were ready to march, the mayor canceled the permit on frivolous grounds. As Winship pointed out in a statement issued after the massacre, the parade was called off by the mayor at the request of Winship and Orbeta. General Winship went out of San Juan. Colonel Orbeta went to Ponce and concentrated there a heavy police force, among which he included all the machine gunners. For many days the government had been planning their action in Ponce.

Chief of Police Guillermo Soldevilla, with 14 policemen, placed himself in front of the paraders; Chief Perez Segarra and Sgt. Rafael Molina, commanding 9 men, armed with Thompson machine guns and tear-gas bombs, stood in the back; Chief of Police Antonio Bernardi, heading 11 policemen, armed with machine guns, stood in the east; and Chief of Police Esteban Rodriguez, commanding 12 men, armed with rifles, placed himself in the west.

The demonstrators, at the order of their leader, and while La Borinquena, national song, was being played, began to march. Immediately they were fired upon for 15 minutes by the police from the four flanks. The victims fell down without an opportunity to defend themselves. Even after the street was covered with dead bodies, policemen continued firing.

More than 200 were wounded; several were killed. Men, women, and children, Nationalists and non-Nationalists, demonstrators and people passing by, as well as the people who ran away, were shot. They were chased by the police and shot or clubbed at the entrance of the houses. Others were taken from their hiding places and killed. Leopoldo Tormes, a member of the legislature, told the reporters how a Nationalist was murdered in cold blood by a policeman after the shootings, in his own arms.

A 7-year-old girl, Georgina Velez, while running to a nearby church, was shot through the back. Two women, Georgina Maldonado and Maria Hernandez, were also killed, and a girl of 14. Carmen Fernandez, 33, was severely wounded. After she fell down a policeman struck her with his rifle, saying, "Take this; be a Nationalist." Maria Hernandez was a member of the Republican Party, and while running away was clubbed twice on her head by a policeman.

Several of the wounded have their arms and legs fractured, many of them non-Nationalists and having nothing to do with the parade.

Dr. Jose A. Gandara, one of the physicians that assisted the wounded, testified that wounded people running away were shot and that many were again wounded through the back. Don Luis Sanchez Frasqueri, former president of the Rotary Club in Ponce, said that he had witnessed the most horrible slaughter made by police in defenseless youth. No arms were found in the hands of the civilians wounded nor in the dead ones.

About 150 of the demonstrators were arrested immediately after, several of them being women. Defense attorneys Ramos Antonini and Gutierrez Franqui asked that the prisoners be moved from the police headquarters to the jail, because the policemen armed with rifles were provoking them. All the Nationalist leaders were also arrested. They came out on bail.

The usual speeches at the funeral were called off, but, nevertheless, they were delivered both at Ponce and at Mayaguez. Among the speakers was Rev. Hernandez Valle,

a Protestant preacher. More than 15,000, as was reported by El Mundo, assisted the funerals at Ponce and more than 5,000 at Mayaguez.

After the arrests and because of stormy public protests, the Governor ordered an investigation but issued a statement congratulating the police forces and blaming the Nationalists.

On March 24 Jose A. Buitrago and Antonio J. Colorado, known Puerto Rican intellectuals, and Jaime Benitez, a professor of sociology in the University of Puerto Rico, sent a letter to the Governor which was published in the daily press condemning the Government investigation as partial and as one which commanded no confidence.

El Imparcial published two fiery editorials denouncing the police as murderers and pointing at Winship as responsible. One of them ended with the words written with his own blood in the sidewalk by a dying Nationalist, "Viva la Republica (Long live the Republic), "Abaja los asesinos" (Down with the assassins). La Democracia, political organ of the Liberal Party, has written several successive editorials condemning the massacre, and asking for the ousting of Winship from the island and the recall of Orbeta. A protest meeting was organized to take place on March 24 by members of all the political parties, but the mayor of San Juan denied the permit. Among the persons requesting the permit were Fonfrias, president of the Liberal Youth, an organization of the Liberal Party, and Walter Rivera, a lawyer, Socialist, member of the civil service commission, and son of the commissioner of labor. Father Orjales, a Catholic priest, said from the pulpit on Good Friday:

> The public justice crucified centuries ago the Son of Nazareth, and in Puerto Rico the public justice crucifies in the streets defenseless children, men, and women.

A member of the house of representatives said:

> What happened in Ponce is worse than what happened in Ethiopia.

Martinez Aviles, former candidate for the senate, assailed General Winship. Munoz Marin, on arriving in Puerto Rico from Washington on Easter, said:

> I notice that the public indignation for the wanton killings is profound and universal. As to the basic causes of these happenings, I must say that as long as the Government in Washington should continue to give power to a North American bureaucrat, who himself has said that we have the right to be free if we want to be free, to fight the pacific and orderly defense of the ideal of independence, the said bureaucrat would be jeopardizing the good faith of the Government he represents, and increasing the probability of the occurrence of future tragedies as the one of Ponce. Men who venerate the memory of George Washington will understand this historic truth without an argument.

When Munoz Marin speaks of a bureaucrat he is referring to Dr. Ernest Gruening, a former liberal. But he said to the press boys that it could be applied to General Winship as well.

All the permits for parades and meetings have been denied to all persons connected in any way whatsoever with the Nationalists. The Governor mobilized the regular army, the police forces, and the national guard subject to a call on Friday, March 27, at midnight, in an effort to terrorize the people. The total military forces stationed were reported to be 1,200 national guards, 600 regular soldiers, and 1,000 policemen.

Civil liberties have been crushed in the island, and General Winship promises new machine-gun fire to disperse future parades.

The reports of the United States newspapers up to now are based on information received from one of the following sources:

(1) United Press.
(2) Associated Press.
(3) The Governor of Puerto Rico.
(4) The official bureau in Washington in charge of the affairs of Puerto Rico.

Both the United Press and the Associated Press have in Puerto Rico two biased agents, enemies of the independence movement. La Democracia, in its edition of March 30, indicates that Harwood Hull, who represents United Press, has a patronage job in the P. R. R. A. and that his son is working for General Winship. The Governor of Puerto Rico is one of the persons held responsible for the massacre. The official bureau in Washington in charge of the affairs of Puerto Rico is controlled by Dr. Gruening, who is actually also an enemy of the liberation movements.

Aware of the true facts, it is the duty of all the conscientious and liberal-minded persons of the United States to protest against the Government's action in Puerto Rico, and of Congress to conduct an immediate and impartial investigation.

I thank you.

Federal Anti-Lynching Law

EXTENSION OF REMARKS

OF

HON. EDWARD W. CURLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 14, 1937

Mr. CURLEY. Mr. Speaker, for the past month illness prevented me from attending the meetings of the Congress, having obtained an indefinite leave of absence through the courtesy of the House. I am happy to return in time to give my humble support to this sound, humane legislation, which will curb the vicious crime of lynching, and check the flagrant violation of the constitutional rights of citizens of the United States.

LAW AND ORDER MUST PREVAIL IN AMERICA

On September 17 of this year, the Nation will celebrate the sesquicentennial, or the one hundred and fiftieth anniversary of the adoption of that great document, the Constitution of the United States. It is the organic law of our great country. It starts with the preamble that—

> We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty for ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

If that preamble means anything, it means justice to all and not a few people or group. To my mind it is intended to promote the general welfare and secure the blessings of liberty to all the people of the American Nation, regardless of race, creed, or color. It was never meant to be a straight jacket to shackle justice, so that lynch law would prevail in its place.

The claim of State jurisdiction proved a fallacy in the past. For after 150 years we find mobocracy and lynch law in operation in a number of the States of the Union. It is plainly evident that these States are unable to capture and punish those responsible for the inhuman crime of lynching, according to the public record of such cases. What is this public record? Since the year 1882, 5,105 men and women were tortured to death by the brutal method of lynching. Just think of it. What a frightful, lurid page these appalling crimes made in the public records of our American history. A record of shameful outrage against all decency, law, and order which can never be blotted out. Why do these inhuman, callous crimes of lynching keep cropping up so continually? Is it because the several States failed to provide the police protection vested in their public officials, or is it because it is beyond their power to compel those in authority in the political subdivisions to enforce proper respect for law and order? There must be some lack of cooperation somewhere, or we would not have a public record that indicates that in 99.2 percent of the 5,105 lynchings involved the lynchers escaped scot free, while in eight-tenths of 1 percent of the aforesaid lynchings the punishment was so slight as to be negligible. So that past experience shows from the public record that the States cannot curb lynching nor compel the guilty persons to respect law and order. Congress,

therefore, must enact a Federal law to square with the provisions of the Constitution. In my opinion, the Gavagan bill will carry out the expressed constitutional provision.

It is the firm belief of many thinking citizens who have written me on this antilynching subject that the protection of the constitutional rights of all citizens is a Federal obligation under the law. But the opposition to this humane legislation claims "it trespasses on the jurisdiction of the States." If this argument is correct, why does the record indicate 39 more lynchings in the years 1935 and 1936? In support of the Federal legislation on the subject we find on reading section 1 of amendment XIV of the Constitution of the United States that—

> No State shall deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

So there you have the protection right in the organic law of the Nation. The Gavagan bill will provide the necessary provisions to enforce recognition of that right to protection of our citizens.

So that American justice demands the adoption of this Federal antilynching bill because the rule of law and the spirit of freedom cannot be constantly destroyed by such cowardly acts of the mob. It is deadly poison to our American system of democracy. The ghastly record of outrageous crimes of lynchings indicates an utter disregard and contempt for the law. These flagrant violations of the law have no place in our American scheme of decent organized society. The public officials authorized to protect citizens and enforce laws should be made to understand that "a public office is a public trust." If that trust is betrayed, then they must answer to the people at the bar of justice.

The critics of this humane legislation object that it will injure the basis of good accord and of respectful cooperation between the States and the Federal Government. There are others who believe the contrary to be true. That question came up when the heinous crime of kidnaping was rampant throughout the country. Congress passed a law permitting G-men to cross State lines in pursuit of the "kidnaping racketeers." And what happened? That gang of cutthroats were landed in jail and the racket destroyed. So if Congress had the power to curb kidnaping, why not lynching? What is the difference between lynchers and kidnapers? They are both in the outlaw class. Pass the Gavagan bill, and it will strip the mask of cowardice and brutality from these public enemies of the law, for the "mob hath many heads but no brain." You now have a precedent for Federal intervention.

The Constitution is not a strait jacket but meant to serve mankind. I am in favor of this bill, lock, stock, and barrel. It will strengthen assurance to persons within the jurisdiction of every State and give equal protection of the laws to all our citizens and punish the crime of lynching, the essential purpose of the act being the protection of the lives and persons of citizens of the United States and other persons against unlawful and violent interference with or prevention of the orderly processes of justice and against possible dereliction of duty in this respect by those vested with police authority in the United States or any political subdivision thereof.

The Long-and-Short-Haul Clause

EXTENSION OF REMARKS

OF

HON. EVERETT M. DIRKSEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 14, 1937

Mr. DIRKSEN. Mr. Speaker, I favor and shall vote for the Pettengill bill. The railroads and the railroad men in my district favor it. The farmers identified with the Farm Bureau favor it, and I am reasonably certain that other farmers favor it. Shippers favor it. The chamber of commerce in the largest city in my district favors it, and hence I shall vote for it. Above all, it seeks equitable treatment for rail carriers.

In stating my own position on this measure and the reasons which impel me to support it, I shall be as brief as possible.

In 1830 we had but 40 miles of railroads. In 1936 we have 250,000 miles of class I railroads and many short lines. The empire builders of other generations aided by such inventions as the telegraph, the automatic block signal system, the automatic car coupler, the refrigerator car, the air brake, the Pullman car, and other devices made the railroads a far-flung domain. Today they pay nearly $250,000,000 in taxes. That is an average of $1,000 for each mile of track. In Illinois alone railroad taxes amount to twenty-six millions per year. The value of railroads are estimated to be twenty-six billions. They have outstanding eighteen and one-half billions in bonds and securities, held by one and one-half million investors. In the peak year of 1920 the railroads employed 2,200,000 men. Today they have a scant million on the pay rolls. Railroads are in a diseased condition. Of the class I roads, 73 percent are not earning their fixed charges, 9 percent are able to refinance, and 18 percent continue to pay dividends. They are fixed, national, heavy-duty investment which is meticulously regulated by the Interstate Commerce Commission. Once upon a time they were in healthy condition, paying dividends on their securities, making extensions, and prospering. Today they are sick. There must be a reason.

Forty years ago, railroads had a monopoly of transportation. That is no longer true. The motor car has invaded the transportation field. In 1895 there were but four automobiles in the United States. There were no trucks. By 1910 we had 458,500 motor cars and 10,000 trucks. By 1935 we had 22,450,000 cars, 3,550,000 trucks, 22,820 intercity busses, 5,000 interstate busses, and 615,315 registered trailers. Busses in 1935 traveled 11,287,000,000 passenger-miles and carried 387,000,000 passengers. Trucks carried millions of tons of freight. All this was business diverted from the railroads and diminished their revenues. Yet, because they had a fixed, unmovable plant, their charges and overhead expense went on just the same. Nobody, however, contends for one moment that because trucks and busses have diverted railroad revenues that they should be abolished as a mode of transportation. It is agreed that they are a necessary part of our transportation requirements. But the fact remains that they have diverted railroad revenues.

Years ago we knew nothing of pipe lines. Today there are 110,000 miles of such lines which transport gas and oil for incredible distances, and have capacity to carry the equivalent of 150,000,000 tons of freight annually. Pipe lines have diminished the use of tank cars and have made heavy inroads upon railroad revenues. Yet railroad expense, because of the fixity of the plant, goes on just the same.

Gas conducted through pipe lines, oil through pipe lines, and electric current carried on wires has gradually curtailed the use of coal, and in so doing have diverted substantial revenues from the rails. In 1910, when our population was 101,000,000 people, railroads carried 403,428,364 tons of coal. In 1926, when our population was about 120,000,000, railroads reached their peak year and carried 582,306,558 tons of coal. In 1934, when our population was 125,000,000, their tonnage of coal dropped to 364,060,051. Compared with 1926, they have lost the revenues on 218,000,000 tons of coal. Despite this diversion of revenues, the fixed plant of the railroads must be maintained, must yield its increment of taxes.

In the last 10 years we have witnessed the expansion of the airways. From a few passengers per year in the formative years, domestic travel by air jumped to 374,935 persons in 1930 and to 746,946 persons in 1935. Before the days of air travel, people journeyed by rail. Today those revenues are lost to the railroads.

A little more than 20 years ago there was no Panama Canal. Shipments from east to west or west to east across the continent went by rail. Today shipments go by water from the Atlantic to the Pacific and vice versa via the Canal, originating in the United States and destined to some other point in the United States. The water carriers using the Canal fix their own rates. In 1916 the monthly intercoastal shipments via the Canal averaged but 258,000 tons. In 1935 the average was 2,059,000 tons, or at the rate of 25,000,000 tons per year. Nobody decries or takes issue with the benefits of the Canal, but the stark fact remains that these revenues have been diverted from the rails.

A few years ago we began to develop our inland waterways. The capital for the Inland Waterway Corporation was provided out of the United States Treasury. Vast sums have been expended to deepen, widen, improve, and make secure our water courses. All this was done out of the Public Treasury. The Corporation secured boats, barges, and tugs, and launched out on a freight business. Today it carries millions of tons of freight, and while everyone recognizes that waterway transportation has a distinct place in our transportation system, yet the fact remains that the revenues now accruing to water transports on millions of tons of freight have been diverted from the rails.

It must be apparent, therefore, that little by little competing carriers have taken away revenues from our fixed and immobile railroad plant and, like the dog that had a little bit of its tail snipped off each day, it became very sick. So the railroads today are sick. Meanwhile the holders of securities clamor for dividends. Unemployed railroad labor seeks to be restored to jobs. The public clamors for better, speedier, safer, and more improved service.

At the same time the political doctors look at the patient, shake their heads solemnly, and state most profoundly that unless the railroads mend their ways and recover from their illness they should be taken over by the Government. As if the wartime experience was not a sufficient answer to that suggestion.

All that the railroads ask in order to effect a recovery is to be given a chance to recover. All they ask is for equality and fair treatment. They have no quarrel with water carriers. They have no quarrel with trucks. Every railroad official I have ever met fully recognizes that these competing carriers have a definite place in our transportation system. All they ask is for equal consideration; and one way that the Congress can constructively aid the condition is to enact the pending bill and give them a chance to compete on equal terms.

Go into the division yards of any railroad today and note the thousands of idle engines and rolling stock. If these cars can be put to work, it will mean employment for additional thousands of railroad men. As an example, the 110,000,000-ton increase in railroad freight in 1934, as compared with 1933, accounted for jobs for 37,000 additional railroad men. Increased tonnage through fair and open competition will operate in the same fashion and augment the pay rolls of railroads. The pending bill will give them that right to reduce the charge for a longer haul and enable railroads to compete for business at distant points. That will mean extra men, extra trains, extra revenues, and a gradual improvement in the condition of the patient.

All through the discussion of the bill we have emphasized the interest of the railroads in this measure. As a matter of strict fact, this bill is essentially in the interest of the shipper and the consumer. In support of that contention I cite two cases. In 1931 railroads applied to the Interstate Commerce Commission for the right to reduce the rates on sugar from San Francisco to Chicago from 84 cents per hundred pounds to 62 cents per hundred pounds. In 1932 the I. C. C. denied the application. In 1933 the case was reargued and the order entered to grant the reduced rate. It was a long, cumbersome, and expensive procedure. Years of good time were wasted in effecting this reduction. Who were the real parties in interest in this case? The railroads and shippers, to be sure, had an interest, but the real party was the consumer in the great landlocked empire of the Middle West, who had a chance to benefit by a reduction in freight rates. Incidentally this interior market was being made more readily available to shippers on the Pacific coast.

The other case is closer home. The rate on grain from Peoria, Ill., to Memphis, Tenn., by rail was 18½ cents per hundred pounds. The rate by barge down the Illinois and Mississippi Rivers was 6.1 cents per hundred pounds, excluding terminal services. The railroads run 12 months in the year. The barges operate about 8 months in the year. The railroads, in 1935, petitioned the Interstate Commerce Commission to reduce rates on grain from 18½ cents to 7⅝ cents. The Federal Barge Line resisted the petition and the relief was finally denied in an I. C. C. decision handed down on November 15, 1935. What vast benefits would have accrued to Illinois corn farmers and to farmers in that territory by such a rate reduction! Were the water carriers thinking of the farmer when they resisted that application, or were they thinking only of keeping in effect a restriction on the railroads that would permit the water carriers to divert revenues from the rails at a rate that was less than one-third of the rail rate? Such a reduction for the long haul, as in this grain case, would have opened up wider markets for the grain farmers in our territory, but the relief was denied. What more need be cited to indicate that the benefits from the enactment of this bill will redound to the farmer, the manufacturer, the shipper, and the consumer?

Intercoastal water commerce already enjoys the benefits of low rates for long hauls, rates which they make themselves. From Chicago to San Francisco by rail is less than half the distance from the Atlantic seaboard to San Francisco by boat via the Canal. Yet one can ship candy from the seaboard to San Francisco via the Canal for 85 cents per hundred pounds, whereas from Chicago to San Francisco by rail the rate varies from $1.35 to $1.60 per hundred. Where is the equality in that situation, so far as inland shippers and manufacturers are concerned?

All we ask for is equal treatment, and the enactment of this measure will be a forward step in that direction.

Immediate Necessity for Including the Minneapolis (Minn.) Upper Harbor in the 9-Foot Channel of the Mississippi River

EXTENSION OF REMARKS

OF

HON. DEWEY W. JOHNSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 13, 1937

Mr. JOHNSON of Minnesota. Mr. Speaker, there is now pending before this House an appropriation, the final one, I believe, for completing the 9-foot channel in the upper Mississippi River. Present plans, as designed by the Board of Engineers for Rivers and Harbors, call for completion of this great project by the end of 1938. The Federal Government will spend some $150,000,000 in the construction of 26 locks and dams, which will maintain a constant, canalized depth, under all conditions, of at least 9 feet of water, throughout the 662 miles from Alton, Ill., to the head of navigation at Minneapolis and St. Paul. With the work so far advanced, it is hardly conceivable that the Congress will fail to provide the necessary $25,000,000 with which to complete this work as originally planned.

Even when this plan is completed, however, there will still be lacking one of the most vital factors necessary to the fullest use of this great artery of commerce, which is destined to give the Northwest and Middle West their long-needed outlet to the sea. Surely, it is understandable that the channel can hardly be expected to accomplish its purpose without an adequate harbor at the head of navigation, where millions of tons of freight, even now potentially available, will originate. That harbor must be provided.

Minneapolis, my home city, has now a small terminal, but very limited harbor space, although there is quite easily accessible some 9 miles of deep water, from 1,000 to 2,500 feet wide, extending through the very heart of the industrial district of the city. But this harbor, which has been called by eminent authorities the finest inland harbor in the whole world, is blocked off by what the power companies have left of the long-famous Falls of St. Anthony. This is now merely a series of rapids, harnessed for power.

To extend the 9-foot channel into this fine and indispensable harbor it is only necessary to build two locks through these rapids, the Falls of St. Anthony. The Board of Engineers for Rivers and Harbors now is completing an engineering survey of this project, and it hoped that final authorization for the construction of these locks will be given by this session of the Congress. Since it will take more than 2 years to complete these locks, it is imperatively necessary that this authorization be given now, so that the harbor may be opened to commerce as soon as possible after the completion of the channel job itself, by the end of 1938.

Several economic surveys of this harbor and its possibilities have been made and now are of record. They have been made by eminent authorities and conclusions reached have not been disputed. Some of the salient features of these surveys include the following:

Many of the huge grain elevators of Minneapolis are on or adjacent to this North Minneapolis harbor. Grain and grain products will constitute a large proportion of the down-river tonnage. Capacity of the elevators which are practically at waterside on this harbor exceeds 16,000,000 bushels. The world-famous flour mills in my city also are on the river, on the harbor. But there is a vast amount of other industry which must be served by this harbor. Of the total amount of tonnage received and processed in Minneapolis, 35 percent passes through plants and factories within five city blocks of this harbor. And 34 percent of all tonnage forwarded from Minneapolis is handled in this same area, within five blocks of the harbor.

Not only that, but coal, another important river cargo, must be handled through this harbor. Of all the coal used by industry in Minneapolis, 44 percent goes to plants within five blocks of this harbor.

What this really amounts to is that 5,475,000 tons of freight a year, received and/or forwarded at Minneapolis, will pass through a narrow industrial area not more than five blocks from this harbor.

The board of engineers has found that even 1,000,000 tons of freight per year will justify the improvement necessary to tap this great industrial district by building locks through the rapids. This construction, it is admitted, presents no engineering difficulties.

I wish also to show, by a few examples, just what necessary and full utilization of the 9-foot channel and the North Minneapolis harbor will mean to the shippers and to the public generally.

The rate on wheat from Minneapolis to Pittsburgh now is 31 cents per hundredweight. The river rate should be only 5 cents.

The rate from Duluth to New York, for export grain, by the rail-and-lake route, is 16½ cents per hundredweight. The rate from Minneapolis to New Orleans should be 5 cents—and I might add that the export rate is about the same from New Orleans to Liverpool as from New York to Liverpool.

These are only a few examples of what it will mean to some 25 Midwestern States to achieve their outlet to tidewater, to be placed on parity, in the matter of water transportation and accessibility to world markets, with seaboard States now served by the Panama Canal.

When the channel project first was authorized, in 1930, there were several difficulties which prevented the North Minneapolis harbor from being included in this great waterway. To understand why the principal of these difficulties no longer exists, we must realize that even in the last 5 years there have been tremendous strides forward in the use and design of commercial powerboats and barges. In the old days the towboats and packet boats were towering structures, with tall stacks which necessitated extensive clearance under bridges. This was one of the objections to utilization of this natural harbor in Minneapolis. There are seven bridges spanning it, and not all of them are high enough above high water to permit the conventional 26-foot clearance.

But due to the improvements in river craft, it is now no longer necessary to raise or rebuild any of these bridges. I will explain why.

Dam no. 1, in the upper channel, is located in Minneapolis about 4 miles from the present terminal. For upriver tows, it would be necessary to bring the regular towboats only to the locks at this dam. It used to be necessary to use the powerful but unwieldy towboats to bring the barges all the way to the terminal, and then to use these great powerboats for switching purposes as well. That day is past. Now the towboat need only uncouple from its tow of six or eight barges at the lock of dam no. 1 and couple up with a waiting tow to be conveyed downstream and to the markets of the world. The switching is done otherwise.

The arriving tow of barges would be shunted through the locks by means of small but powerful Diesel-engined tugboats. They are much more versatile for harbor operations, move the barges much faster than would be possible with the big towboats, and their use saves a great amount of time at terminals. These tugboats are low enough to move the barges all the way into the North Minneapolis Harbor, under every bridge, without the slightest difficulty. The lowest bridge would allow 6 feet of clearance over the top of an unloaded barge. A slight change will have to be made in one bridge, and one only, to widen the distance between its present arches.

Thus the former bridge difficulties—and they were the main ones—no longer exist. We only need to canalize the rapids, and the work must start soon because of the imminence of completion of the 9-foot channel. Without this harbor, Minneapolis, the largest city in the Northwest, would be crippled as far as river transportation is concerned. A vast amount of industry would be forced out of business. Minneapolis would be at the mercy of every other river port in the entire Mississippi Valley. With this huge amount of industry established, anxious to expand but handicapped by an uneconomic and unfair freight rate structure, it is inconceivable that so vast an amount of tonnage be throttled by lack of adequate harbor facilities at the head of navigation.

It is only necessary to know what is going on in other cities along the upper river to realize that industry in the Midwest is preparing for its inevitable but long-delayed expansion. Private terminals are being built, and even now are utilizing the experimental 6-foot channel carrying boats of the Inland Waterways Corporation. It is also of record that this Government-owned corporation, under the efficient management of Gen. T. Q. Ashburn, its president, has consistently maintained a standard of efficiency unequaled in the history of river transportation in the United States. Traffic has been maintained, the public has been efficiently served, in spite of this theoretical 6-foot channel, which, due to the droughts, has at time dwindled to less than 4 feet in depth. It is this condition which the 9-foot canalization system, the 26 locks and dams, will definitely correct. The dams will maintain the 9-foot minimum at all stages of the river as long as any water at all flows into it.

If our country is to protect its own investment in this system, the channel to the north city limits of Minneapolis must be completed; I foresee neither doubt nor difficulty as to that. But this harbor at the head of navigation must be utilized, and I have every hope that the Congress immediately will recognize the imperative necessity for an early authorization.

As to the present status of the engineering survey, I submit herewith a letter recently received from Gen. George B. Pillsbury, Acting Chief of Engineers:

Hon. DEWEY W. JOHNSON,
House of Representatives, Washington, D. C.

MY DEAR MR. JOHNSON: I am in receipt of your letter of March 24, 1937, in which you point out the advantages which would

result to the city of Minneapolis from an extension of the 9-foot channel in the Mississippi to the harbor area above the falls of St. Anthony.

The district engineer at St. Paul, Minn., has been making borings to determine accurately the foundations available for the structures required for this work. As soon as this information is available and plans and estimates of cost of the proposed extension of the project have been duly perfected, the case will receive the further consideration of the Board of Engineers for Rivers and Harbors and a report made to the Committee on Commerce of the Senate as requested by its resolution authorizing a review of the prior reports in the case. The Department will give the case all possible expedition.

Very truly yours,

G. B. PILLSBURY,
Brigadier General, Acting Chief of Engineers.

It is of record that the improvement of the upper Mississippi River for transportation has been approved and demanded by practically every farm and grain organization in the Northwest. In addition, these organizations have appeared in Washington in support of the North Minneapolis Harbor, because the farmers recognize the necessity for adequate terminal facilities at Minneapolis.

In conclusion I wish to call attention to the pioneering done by Senator SHIPSTEAD, who has been responsible, more than any other one man, for the 9-foot channel. He had the vision and the perseverance to awaken the public consciousness to the necessity for this great Federal project. It was Senator SHIPSTEAD who showed that the Federal Government must take the lead in the improvement, maintenance, and utilization of this natural artery of commerce, in order to give the landlocked States their contact with the markets of the world. With him also is Senator LUNDEEN, formerly a Member of this House, and I deem it a signal honor to join with them in carrying forward an enterprise of primary necessity to the Northwest, the Midwest, and, in actual fact, to our entire country.

The President's Court Proposal Should Be Defeated

EXTENSION OF REMARKS
OF
HON. SAMUEL B. PETTENGILL
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 13, 1937

RADIO ADDRESS BY HON. PATRICK H. DREWRY, OF VIRGINIA, ON APRIL 9, 1937

Mr. PETTENGILL. Mr. Speaker, under leave to extend my remarks, I include the speech by our colleague, Hon. PATRICK HENRY DREWRY, of Virginia, delivered by radio on April 9 at the invitation of the Columbia Broadcasting system.

His subject was The President's Court Proposal Should Be Defeated.

Mr. DREWRY is one of the most important figures in the Democratic Party. As is well known, he is chairman of the Democratic National Congressional Committee. In that capacity he worked untiringly in the campaign last fall for the reelection of President Roosevelt and for the election of a Democratic Congress.

His statement in opposition to the President's Supreme Court proposal is therefore of extraordinary interest and importance.

In addition to Mr. DREWRY's official position in the Democratic Party his speech, for clarity of expression, excellent temper, and fine courage, is a splendid defense not only of the Supreme Court but of the Congress of the United States. It contains more sense in fewer words than anything I have seen on the subject. At a time when parliamentary government is under attack throughout the world, Mr. DREWRY's defense of the constitutional right and duty of the Congress to "consider", on their merits alone, whether measures are "necessary and expedient" is bound to reestablish respect for the National Legislature, without which our democratic institutions cannot long endure. I hope it will be read by every American.

Mr. DREWRY's speech is as follows:

The suggestion of the President that six additional Justices be placed on the Supreme Court, whether unintentionally or otherwise, makes possible, if the suggestion be adopted by Congress, a serious change in the fundamental form of the Government of the United States.

The question is not necessarily abstruse or obscure. In its final analysis, it is easily understood. It is admitted that the proposal does not call for an interpretation of constitutional law. The college president and the man in the street may express their opinions in varying phrases, but the common run of men have the intelligence and the will to make the decision whether they want their power in their Government to remain in their own hands as fixed in their Constitution or whether they desire to yield their power into the hands of another, thereby establishing a possibility of the ultimate loss of all their power and a precedent that might conceivably, in the hands of a man not as able and honest as our present Executive, be used adversely to their interests.

The provision of the Constitution contained in article II, section 3, reads: "He (the President) shall from time to time recommend to their consideration (the Congress) such measures as he shall judge necessary and expedient." In the exercise of this constitutional privilege the President sent his message concerning the Supreme Court, for these remarks will only apply to this one subject. Having done his duty as the Executive in recommending this measure, which he judged "necessary and expedient", it then becomes my duty and the duty of other Members of the Congress to give the recommendation careful and conscientious consideration. If the Members of the Congress reach the conclusion that the proposal is neither necessary nor expedient, then clearly under their oath it is their duty to well and faithfully discharge that duty by opposing the legislation suggested. There is no occasion for harsh or contemptuous reference by either the proponent or the opponent of recommended legislation. Each under the oath of his office has his duty to perform, one to recommend, the other to consider. Then the latter enacts or refuses to enact such legislation.

It seems strange that such a plain and simple statement should have to be made, but when Members of the Congress of the United States, of equal dignity in our form of government, with the Executive and the judiciary, and outstanding citizens of the country, who have the welfare of the Nation at heart, are classed, because of their opposition to this legislation, as "the same elements of opposition" which, by inference, attempted to prevent beneficial movements for the care of the ill nourished, ill clad, and ill housed, then protest must be made by those whose independence of thought and action is thus impugned. I am opposed to this legislation—for I believe it to be neither necessary nor expedient, and in addition it establishes a dangerous precedent in our form of government. I have great admiration for the President and high regard for the dignity of his office, and belief in the honesty of his purpose in recommending this legislation, but I claim for my office as Representative an equal dignity and for myself the right as a citizen of the United States to place loyalty to my country above that of adherence to the views of the Executive.

I cannot be classed as being a part of the "same elements of opposition" that opposed former policies of the administration, for I gave my services willingly and wholeheartedly to insure the continuance of the administration, and the control of the policies of the Government by the Democratic Party. But this proposal is not and should not be made a subject of partisan debate. The issue goes too deep into the center of the system of the Government of this country to become confused by partisans striving for political advantage. Every citizen, whether he be Democrat or Republican, is concerned with a change in the administration of justice as between man and man in our courts. I am presenting my view solely as an American citizen.

It is a matter of regret that in the discussion of this subject, of the most serious import to the country and its people, there should be brought into play the use of such words as denote hostility. There should be no "fight" by any of the three great divisions of the Government with the others; each has its function and should be permitted to function without undue interference on the part of one with the others. The people are citizens of a common country, and they have the right to demand of each division that there be cooperation for the general welfare, not antagonism. And the people are demanding that this proposal be carefully considered by the Congress, for eventually it may affect every man, woman, and child in this country. It should not be hastily adopted. As representatives of the people, it is the duty of the Congress to safeguard the power of the people which has been placed in their hands to defend, preserve, and protect. The people understand the illustration of the three governmental plow horses, and they agree that the team of three should pull as one, but they have not yet decided which one of the three is "plunging off in another direction." Everybody was agreed that business conditions were better, and the field was being well plowed; or so they thought. This proposal did not come from the judiciary, which was moving along in the way it had always moved, interpreting legislation as to its accord with the Constitution; nor did it come from Congress, which was discharging its

duty as best it could, drafting legislation for the welfare of the people. No, this proposal came from the Executive, and the field has not been plowed since its receipt by the Congress. Little work has been done, and further work cannot be done until this matter of supreme importance has been decided. The people would prefer the picture of the Spirit of '76, the patriots moving forward, heads high, and keeping step to brave music, under the folds of the Nation's flag.

It is essential also before examining the question of the necessity or expediency of this proposed legislation to refresh our knowledge of the Constitution as an instrument of government. Was the Constitution intended to be rigid or flexible? The answer is—and this goes to the core of the whole question—it was intended to be rigid until the people changed it. As provision was made in the document itself for such changes as the people desired, it must be termed flexible. In the Constitution is lodged the power of the people. The people gave the Constitution to the country that their rights and liberties should be known and preserved as they gave it, and only the people can take it away. There is no other power, by direction or indirection, that can change it except it be done by the will of the people in the manner prescribed, viz, by amendment. It is said that the process of change by amendment is hard to obtain. That is true. It was intentionally made difficult, for the express reason that if it be kept rigid until the people see the absolute necessity for a change, then there will be a feeling of security in the basic law that will tend to permanence of our governmental institutions. On the other hand, if it were easy to change it, then it would finally become not a constitution but a code of laws. The result would be that at any time a sufficiently powerful majority, carried away by the political enthusiasm of the moment, might ignore or destroy the rights of impotent minorities. Some may think that this would be desirable, but our political fluctuations are too sudden for any man, whether he be at the bottom or at the top of political control, to take a chance so subversive of our form of government.

The United States has prospered under its system of government. Starting from nothing, as might be said, it has developed into the most important nation on earth, as its citizens fondly believe. The Supreme Court, in the exercise of its powers, has often passed upon legislation desired by the Executive and the Congress and declared it invalid. Presidents have objected and Congress has objected, but the Supreme Court has replied, "The will that prevails is the will of the people, expressed in the Constitution which they have enacted", as was so tersely stated by a distinguished student of our form of government. And this same authority further said, "To construe the law—that is, to elucidate the will of the people as supreme lawgiver—is the beginning and end of their duty." Reference should also be made to the remarks of James Wilson, of Pennsylvania, who has been called "one of the deepest thinkers and most exact reasoners" of the Constitutional Convention of 1787, when, in addressing the Pennsylvania Congress of 1788, he said, "Perhaps some politician, who has not considered with sufficient accuracy our political systems, would observe that in our governments the supreme power was vested in the constitutions. This opinion approaches the truth, but does not reach it. The truth is that in our governments the supreme, absolute, and uncontrollable power remains in the people. As our constitutions are superior to our legislatures, so the people are superior to our constitutions."

There must be some final arbiter in whom the people have confidence to render the final decision. Under the Constitution, and under their oath to interpret it and validate all legislation consonant with it, for all the years of this Nation the Supreme Court has been doing its duty as seemed to it right and proper in rendering its decisions. The people have accepted their verdict. Some have objected to its judgment at one time or another, but the people have seemed content to abide by its interpretation and have received it in good faith. No one knows what dangers have been avoided by this willingness of the people to accept this method of settling their disputes and disagreements. So there has grown up a very proper regard and reverence for the Court and a very decided opinion among the people that the system that has worked acceptably for 150 years should not be lightly changed. Some will immediately say, "the system will not be changed—the Supreme Court will still have its power—no change is made except in the number of Justices." Ordinarily, that would be true and the argument would resolve itself into a discussion of how many Justices there should be, whether the Court would function better with a larger or a smaller number. At this time, however, when there has been irritation manifested that the Supreme Court has decided certain legislation was not in keeping with the Constitution, there would be reasonable ground for assumption that the proposal is put forward in order that such legislation would be declared constitutional instead of unconstitutional. The decision has been rendered. It is final. The people have accepted it.

There is no special virtue in the number 15 any more than in the number 9. To add six more would simply increase the cost to the people in that they would have to bear the expense of six more than now constitute the Court. The present membership is composed of men learned in the law, with years of experience and study of the Constitution. No fault has been found with their ability or integrity. Any matter arising under the Constitution could safely be left to their interpretation, except legislation some wish to become the law of the land which has heretofore been adjudged unconstitutional by the present judges. The conclusion is inescapable that it is hoped the new judges, if appointed, will render a different interpretation than has been already rendered. Otherwise there would be no point in simply enlarging their number. This is now virtually admitted by witnesses advocating the proposal testifying before the Senate committee. At first there were certain reasons given for the enlargement of the Court. As the argument was shown not to be correct in its statement of facts, the real argument was then advanced, viz, that it was desired to have certain legislation declared constitutional which had previously been held unconstitutional. It then necessarily follows that a precedent is established of changing the number for the purpose of having certain legislation declared valid which would otherwise be declared invalid. If this purpose could be accomplished by adding six, it could be accomplished by adding more—any number to attain the desired result. With stronger reasoning, instead of a rigid Constitution, flexible only to the will of the people, you would have a constitution subject, not to the will of the people, but to the will of the Executive or Congress, or both. In fact, you would have no Constitution at all, such as it is now, for you would have destroyed it, and the will of the President becomes the law of the land. This possibility is certainly existent, and if the possibility becomes an accomplished fact, then the fundamental form of our Government has been materially changed.

Why did the Executive declare this legislation to be necessary? It must be noted that the proposal with reference to placing additional judges on the Supreme Court was tied up with recommendations for district and circuit courts. The reasons given as applicable to the recommendations for district and circuit courts also were applied generally to the Supreme Court. Yet the reasons given in some cases were applicable to district and circuit courts alone and were not applicable to the Supreme Court.

First, reference was made to the congestion of the calendar. This was easily remedied in the lower courts, but it was found that there was no congestion in the calendar of the Supreme Court, therefore, this reason can be eliminated so far as the Supreme Court is concerned.

Second, it was proposed to make the judiciary more elastic by providing for temporary transfers of circuit and district judges. In its terms this did not apply to the Supreme Court—it referred only to circuit and district courts.

Third, to furnish the Supreme Court practical assistance in supervising the conduct of the business in the lower courts. This was to be done by establishing the office of a proctor and in its terms did not make applicable to the Supreme Court the necessity of six additional judges.

Fourth, to eliminate inequality, uncertainty, and delay in the determination of constitutional questions. No inequality, or uncertainty was shown to be applicable to the Supreme Court in its determination of such questions.

As to delay and cost to litigants, there were no facts cited to show that 15 judges would take any shorter time to decide than would 9 judges. As a matter of fact, the probabilities are that it would take longer for 15 judges to determine a case than it would take 9. Certainly, there is no ground to believe that the cost to litigants would be any less. The procedure involved is the same and the cost would probably be about the same. Therefore, none of the four reasons become applicable to the Supreme Court.

Why did the Executive recommend this legislation as "expedient"? This word has such broad implications that it may be said this question was answered, not specifically, but by the recommendation taken in its entirety. Attention might be called to the fact that the expediency of the legislation seemed to have been overlooked. However, the Attorney General in an address broadcast on February 14 probably throws light on this. He wanted to know in a rhetorical question why the Supreme Court should be granted a "special exemption from the plan", and he said no one had explained that to him. Maybe no one was presumptuous enough to think that the Attorney General of the United States should be informed that the Supreme Court was the Court of last resort and that their decision was final. Then he said, "what then is the real objection"? Answering his own question, replied to himself as follows: It is simply this: "Those who wish to preserve the status quo want to retain on the bench judges who may be relied upon to veto progressive measures." If this be true, then the corollary is true, that those who wish to change the status quo want to place on the bench judges who may be relied upon to sustain progressive measures. In an analysis of this statement the first trouble arises in defining what are "progressive measures." What are "progressive measures" and who will decide what is "progressive" and what is not progressive? Not every measure that someone calls "progressive" is necessarily "progressive" in the definition of the word as it exists in the minds of all others. Our lunatic asylums are full of people who are there because they advocated something they called "progressive" but which everybody else called "nonsense." Who will decide what is a "progressive measure"? "Ay, there's the rub." Surely the Attorney General would not blithely undertake the tremendous responsibility of deciding what measures were progressive that the judges might be relied upon to sustain. The matter has not been cleared up by the words of the Attorney General—only the real reason for placing additional judges on the Supreme Court, which heretofore has been obscure, is now brought out into the light of day.

But the matter as a whole has not been stated correctly by the Attorney General. Judges should not be placed on the Supreme Court because they can be "relied upon" to veto what some think are progressive measures, nor because they can be relied upon to sustain what some think are progressive measures. The prime reason for appointing judges is the exact antithesis of this statement. Justices are put on the Supreme Bench to declare honestly and conscientiously that certain legislation brought before them is

in accord, or is not in accord with the Constitution, regardless of whether anyone thinks such legislation is progressive or not progressive.

The charge is made that the Supreme Court has usurped the powers of the Executive and the Congress. There can be no usurpation by the Court so long as it decides such cases as are brought before it in accordance with what it thinks is the law. No one charges that it has deliberately seized and used offices, functions, powers, or rights which belonged to other divisions of the Government. The charge is merely that its decision is not the decision some others might have made. Usurpation, if usurpation there be, can be far more readily applied to other divisions of the Government, for the proposal would usurp—not merely the power of the Supreme Court but what is far more important—it would usurp the power of the people of the United States. The Supreme Court was intended by the founders to protect the people of the States from the usurpation of power by the Executive, on the one hand, and the Congress, on the other. So this device of government, new departure as it was from other governmental systems, was made into an independent judiciary when, by unanimous vote in the Convention of 1787, the judges were appointed for life and became independent of legislative or Executive control. The President's proposal destroys that independence whenever the Executive and Congress legislate to provide such a number of additional judges that the duly considered views of incumbent judges may be overridden. It is true that their life tenure still makes them independent in a sense, but could they remain independent in their decisions if they thought that at any time their rulings displeased Congress or the Executive they would be virtually superseded by a judge who might be placed on the bench to render opinions more pleasing to "the powers that be"? Would they not be sensitive to such procedure to an extent that would influence their judgment? Who would then say that the power of the people, as expressed in the Constitution, has not shifted from the people to the Executive and the legislative body? What has become of the security of the power of the people, which the fathers thought they had irrevocably provided in that great document, the Constitution? There is only one answer: The power of the people, as expressed in their Constitution, is forever lost.

The Motorist Girds for War

EXTENSION OF REMARKS
OF
HON. ROBERT T. SECREST
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, April 14, 1937

ARTICLE BY HON. WILBURN CARTWRIGHT, OF OKLAHOMA, IN SCRIBNER'S MAGAZINE

Mr. SECREST. Mr. Speaker, the alarming tendency in recent years to divert special road users' taxes to other than road purposes presents the most serious problem we have to contend with, so far as the future of a stable and adequate road program is concerned.

As a member of the Committee on Roads of the House and an earnest advocate of improved roads, especially rural roads, and sound road financing, I have been greatly impressed by a very able and timely article on the subject of highway-fund diversion by the gentleman from Oklahoma [Mr. CARTWRIGHT], which was published in the December 1936 issue of Scribner's Magazine, New York.

Few men in the Nation are better qualified to discuss this important question than the able chairman of the House Roads Committee, who has been coauthor with the distinguished Senator from Arizona [Mr. HAYDEN] of the important and far-reaching highway legislation generally known as the Hayden-Cartwright Acts, and of authorizations of more than $2,000,000,000 for roads, bridges, and grade separations within the last few years.

I ask unanimous consent to have printed in the RECORD the illuminating article by the gentleman from Oklahoma [Mr. CARTWRIGHT].

THE MOTORIST GIRDS FOR WAR

(WILBURN CARTWRIGHT, Member of Congress from Oklahoma; chairman, House Committee on Roads)

Wearing the decoration of the double cross, the American motorist, some 25,000,000 of him, arises to ask why he should continue to stand for taxation without representation—a small matter about which America once fought a war.

The taxation refers to the money the motorist pays in gasoline taxes and automobile-license fees. The double cross was pinned on him by some 38 States which have been collecting the tax (presumably for roads on which he can run his automobile, but which have built only a portion of the roads he has paid for—what with the motor-vehicle money being so handy to spend for other things.

And so the motorist pays and pays—not only gasoline taxes but also his share of ordinary State and Federal taxes. Thus it happens that in many States the car owner pays more general-purpose taxes than his non-car-owning neighbor, but has no voice in how part of his tax money shall be spent—though for years he has cheerfully paid, believing that he was contributing toward good roads. In fact, the motorist has always paid his own way. He hasn't asked the Government to build his roads for him. In truth, he has a huge balance to his credit—a balance which should be invested in roads.

For years the motorist has been too pleased with the ownership of a car to take notice of what was being done to him in the matter of roads. The very fact of the car itself, with sleek, new models of increasing safety every year, has been so satisfying that other factors in transportation have seemed unimportant.

Lithe, potentially swift, and safe though it be, an automobile is only half a unit of transportation. A road is the other half, just as a roadbed and rails are half of a unit of railroad transportation. An automobile can no more run comfortably and safely without roads than locomotives and passenger coaches can run without tracks. Recently car owners have begun to realize this fundamental truth.

Since the first gasoline buggy chugged and wheezed along a turnpike, motorists have assumed the existence of roads—taken them for granted. And as automobiles have multiplied, and roads, too, the drivers have continued to be more interested in their cars than in the tracks on which to run them. The average car owner knows a lot more about the intricate mechanism of his car than he knows about highway planning, financing, and construction. He has only the vaguest ideas about how roads are built and why they are located as they are—and until recently very little realization that his gasoline taxes and motor-license fees are, in effect, a toll for the use of roads.

Suppose that in the early days, when it was realized that automobiles needed better roads, all the States had agreed to turn the job of road building over to private companies who would build the automobile roads and charge a toll for their use? It would then have been quite clear to the car owner that he was paying a fixed fee for the tracks on which to run his automobile.

The present system of gasoline taxes, started in Oregon in 1919, isn't so different in theory. The difference comes in actual practice, however, for if private companies owned the roads, they'd be compelled to give the motorist what he paid for, or else quit collecting toll. The States, however, have done an excellent job of collecting from the motorist, but they have not yet permitted their highway departments to give him value received in roads.

Not for more than 12 years has all the money the motorist has paid in gasoline taxes been used for road purposes. More than three-quarters of a billion dollars of it has been diverted to purposes unrelated to roads—a sum which would have paid for many thousands of miles of fine roads. A modern highway from New York to San Francisco, another from Chicago to New Orleans, and still another from New York to Jacksonville, Fla., could have been constructed with the highway funds misappropriated in 1 year—1934. In 1935 this diversion reached a staggering total of $146,449,711, according to the United States Bureau of Public Roads. More than $86,000,000 went into general State funds; $15,000,000 into relief; $31,000,000 into education, and the rest into airports, oyster propagation, interest on nonhighway debts, irrigation, parks, and other projects totally unrelated to roads. And yet nobody has asked the motorist's permission to misuse his money.

ARE YOU GETTING WHAT YOU PAY FOR?

Diversion of motor-vehicle revenues by States, 1935

State	Total motor-vehicle and motor-fuel receipts	Diversion	Percentage of diversion to total receipts
Alabama	$13,840,893	$653,183	4.72
Arizona	4,126,744	192,344	4.66
Arkansas	10,787,579	68,118	.63
California	50,546,457	1,282,510	2.54
Colorado	8,216,463	984,277	11.98
Connecticut	14,064,252	103,375	.74
Delaware	2,493,339	561,169	22.51
District of Columbia	3,102,110	924,589	29.81
Florida	22,851,746	6,986,495	30.57
Georgia	17,020,001	5,582,148	32.80
Idaho	5,003,899		
Illinois	49,461,003	7,505,078	15.18
Indiana	27,547,223	2,102,591	7.63
Iowa	21,470,849		
Kansas	12,456,766		
Kentucky	13,343,067		
Louisiana	12,980,349	1,869,184	14.40
Maine	7,842,597		
Maryland	12,377,875	463,148	3.74
Massachusetts	23,654,486	9,527,688	40.28
Michigan	40,385,113	352,161	.87
Minnesota	18,537,581	156,098	.84
Mississippi	9,253,226	775	.01

ARE YOU GETTING WHAT YOU PAY FOR?—continued

Diversion of motor-vehicle revenues by States, 1935—Continued

State	Total motor-vehicle and motor-fuel receipts	Diversion	Percentage of diversion to total receipts
Missouri	$18,195,812		
Montana	5,115,841		
Nebraska	11,807,378	$1,113,218	9.43
Nevada	1,224,504		
New Hampshire	4,517,826		
New Jersey	34,834,311	5,821,030	16.71
New Mexico	3,986,319	390,432	9.79
New York	90,764,327	58,526,852	58.67
North Carolina	25,761,227	1,757,462	6.82
North Dakota	3,704,869	905,778	24.44
Ohio	61,322,274	9,736,633	15.86
Oklahoma	15,738,517	3,494,006	22.20
Oregon	10,704,757		
Pennsylvania	72,864,207	5,161,045	7.08
Rhode Island	4,522,358	671,750	14.85
South Carolina	10,432,654	140,880	1.35
South Dakota	5,686,445	2,356,601	41.44
Tennessee	18,623,588	2,654,785	14.25
Texas	49,394,319	8,290,061	16.78
Utah	3,785,890		
Vermont	4,348,094		
Virginia	18,491,260	28,849	.16
Washington	16,983,554	1,002,791	6.23
West Virginia	10,617,934	2,392	.02
Wisconsin	27,146,779	5,089,317	18.75
Wyoming	2,414,800		
Total	942,454,002	146,449,711	15.54

Source: U. S. Bureau of Public Roads.

At last the motorist is becoming aware of his rights. It was perhaps inevitable that he should begin to wonder whether he hasn't been paying too much for gasoline taxes. There has been much loose talk about gas-tax rates. The facts are, though, that the average motorist pays more for garage rent each year than he pays for the tracks on which his car runs. Governor McNutt of Indiana reports that the average automobile owner in that State pays $48 a year for garage rent. The average of all motor-vehicle taxes, State and Federal, paid for use of the roads is only $46.23 a year (1934 figures).

But primarily it is not the amount of the gasoline tax that the motorist objects to, but the way in which it is spent. The motorist seeks to buy transportation with his money—economy, comfort, and convenience in getting from one place to another. This depends on just two things, the vehicle and the track on which it runs. The better the vehicle and the better the track, the less it costs to move passengers and merchandise from one place to another.

A wooden-wheeled oxcart driven over the finest road in existence wouldn't, by any stretch of the imagination, be comfortable or economical transportation—nor would the finest modern motor car, operating on rutted mud roads. If motorists were called upon to vote as to whether they preferred 1916 model roads and no gasoline tax, or durable, safe highways and a gasoline tax just high enough to build and maintain such highways, there would be no doubt about the result.

It is a well-recognized fact that good roads reduce driving costs for all vehicles. Theoretically, gasoline taxes are fixed by the highway needs for economical transportation in each State. A 3-cent tax might provide roads which would save car owners a cent a mile in vehicle-operating costs, but if a higher tax were needed to reduce driving costs still further, it would plainly be good business for the motorist to pay it. As a matter of fact, in most States no additional highway revenues are needed. If all the money the motorist is paying now were applied to road construction and maintenance, safe, economical, and adequate highways would be provided within a reasonable period of time.

An erroneous impression which is gaining credence among people who are not fully informed is that there are already enough improved roads in America; that the American system of highways is pretty well completed. The facts are quite to the contrary, as was made plain in Washington by the testimony of highway authorities before the House Committee on Roads, during March 1936.

In a tabulation of road mileages, W. C. Markham, secretary of the American Association of State Highway Officials, showed Congressmen that only 373,000 miles of America's 3,069,000 miles of roads are improved with any type of surface. And less than half of this improved mileage, or about 160,000 miles, is of high-type paving; 2,696,000 miles of American roads are still mud or dust, and more than half of the so-called improved mileage is of a type unsuited to modern traffic. Said Mr. Markham: "With reference to the type of roads, it might be well to call attention to the fact that in these 373,000 miles of improved road, over 40,000 miles are simply graded and drained."

No one can expect that the entire 3,069,000 miles of roads can be paved in the near future from gas taxes, but there is every economic reason why the 373,000 miles of main traveled roads should be paved without delay. Further, there are thousands of miles of main traveled streets used by city motorists who have been paying gas taxes for years without getting their share of safe, economical pavements.

How nearly completed is America's highway system may also be judged from the testimony of Thomas H. MacDonald, Chief of the United States Bureau of Public Roads:

"Many miles of the roads in the Eastern States, or in the States east of the Mississippi River, were completed 10, 15, or 20 years ago. Many of them are still 'horse and buggy' roads. In those States a large mileage of main roads is just as far from being complete as in the new State systems. Some of them are further away."

And Thomas J. Keefe, general manager of the American Motorists' Association, quoting unimproved road mileage to the Congressmen, concluded: "Thus highway construction is still in its infancy." Mr. Keefe said further: "So long as more than 25,000,000 automobiles and trucks use the highways of our Nation, the construction and maintenance of roads will be of major importance among public works. The Federal system of highways is by no means built up to a point that approaches public requirements. There is an impression to the contrary, but it is an erroneous impression. We are far from completeness in our highway system. The job is only about half done."

Does America have enough roads? The answer is found in official documents open to any who will read.

Another thing which has aroused the motorist is his realization of the tremendous accident bill he is paying, due in part to lack of modern highways. In dollars and cents, according to R. E. Toms, chief of design of the United States Bureau of Public Roads, this accident bill has mounted to the appalling total of more than a billion and a half dollars annually—in wages lost, medical expense, overhead, insurance, and property damage, to say nothing of more than 37,000 lives and countless numbers of maimed and injured. Last year some 37,000 were killed in automobile accidents, 100,000 crippled for life, and 1,000,000 injured—a terrible toll that, experts agree, could be cut down considerably if the Nation's roads were what they should be.

In a recent address before a conference of the National Safety Council in Chicago, Paul G. Hoffman, president of the Studebaker Corporation, declared that highway engineers have proved that it is possible to build highways which are almost accident-proof, and pointed to a number of specific examples of such roads. These, he said, all demonstrated "conclusively that modern highway construction can give both safety and reasonable speed. Certainly there is every justification for enthusiasm for the contribution that engineering can make to highway safety through a program of street and highway modernization."

"The pitiable aspect of this situation", Mr. Hoffman continued, "is that our highway engineers know how this job should be done, but it takes money to do it, and during the past 5 years, hundreds of millions of tax money taken from motorists for highway construction have been diverted to other uses. We have witnessed time and again the sad spectacle of public officials who have deplored the increase in accidents and at the same time encouraged diversion of highway funds which, if expended on modernization, would have saved hundreds of lives."

Now, finally aware that he's been paying all that is necessary for adequate roads, but has not been getting them; that he's being taxed unfairly, besides bearing the brunt of the cost of highway accidents, the motorist is becoming articulate. In the language of the street, the motorist has the "gimmes" in an acute form.

"Gimme a square deal," he is demanding through a host of national organizations. And it seems likely that his demands may be heeded. Under the leadership of the United States Bureau of Public Roads, 27 States have inaugurated rational highway plans to determine just how extensive a road system they can afford to own and maintain. Ten other States have announced the intention of dropping haphazard methods and basing road expenditures on the facts revealed by economic studies and traffic surveys.

Still red in the face from his decoration of the double cross, the aroused motorist has quit taking it on the chin. And he'll get what he wants, too, if he keeps informed about road matters and insists that his State adopt and execute a rational highway plan, for he has the whole highway-transportation industry behind him—one of the biggest industries in the country, too big to be kicked around for long and too vital to the Nation to continue to get the worst of it.

At the recent election in Maine a referendum bill was passed by an overwhelming vote prohibiting diversion of highway funds to other uses. While no permanent diversion has taken place in Maine, it was the custom to "borrow" from the highway fund, and future raids were anticipated.

Maine is the fourth State to take legal measures to protect highway funds through constitutional amendments, following Missouri, Minnesota, and Colorado. A petition now being circulated in Massachusetts will, if successful, protect that State's highway funds. Motorists elsewhere are bound to win out eventually because their cause is right in fact and by official sanction. Diversion of highway funds—always unfair, always illegal—is being outlawed State by State.

Proposal for Judicial Reform

EXTENSION OF REMARKS

OF

HON. M. M. LOGAN

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Thursday, April 15, 1937

RADIO ADDRESS BY HON. ALBEN W. BARKLEY, OF KENTUCKY, ON APRIL 10, 1937

Mr. LOGAN. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD a speech on the proposal to reorganize the judiciary, delivered by my colleague the senior Senator from Kentucky [Mr. BARKLEY] on Saturday last at Chicago, Ill.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

My friends, I wish, at the outset, to congratulate those who have been responsible for summoning this great gathering here to discuss the vital topic of judicial reform. The very fact that such a concourse of people has gathered here who are concerned with this particular subject is a striking manifestation of the new spirit of democracy which prevails today in the United States of America.

I wish also to congratulate the country upon the fact that the President's message on the judiciary has yanked this institution out of its seclusion and brought it into public view, where it belongs. The legislative and judicial developments of the past 4 years have made this inevitable. For during that period the Supreme Court has not merely slaughtered a great part of the New Deal program; it has so narrowed the construction of two major provisions of the Constitution as to threaten the Federal Government with a fatal paralysis.

Such a gathering as this would have been impossible a few years ago. It would have been impossible to bring together so cosmopolitan and intelligent an assembly to discuss what was wrong with the Supreme Court, and what should be done to remedy the wrong. Before the inauguration of the New Deal by Franklin D. Roosevelt the Supreme Court for many years had been something about which men and women talked in sacred awe and whispered accents, and only the most courageous adventurers had the hardihood to suggest that the Court was anything less than perfect. To do otherwise was to invite derision, scorn, and the abusive epithets of those who perpetually parade as professional patriots and are blind to everything about the Court except its pedestal and its halo.

Let me here assert what all honest and intelligent men must concede, that neither the Supreme Court nor any other court is the master of the people. All courts, whether Federal or State, are agencies created by the people as tribunals for the adjustment of disputes, for the adjudication of rights, and for the enforcement of rights and privileges set out in constitutions and statutes.

They are not beyond the power of the people to change, reform, or rejuvenate. In a democracy no public institution is above the power of public criticism. The ancient doctrine that the court is sacred and inviolate is vanishing in the light of reason and common sense. I do not mean by this that the courts as institutions are not entitled to our respect, or that we should not obey their decisions. But I mean that the mere fact that they are called courts and have the power of decision over the rights of the people does not render them immune from public scrutiny. It emphasizes the need for such scrutiny when its course touches at every vital point the social and economic welfare of a great nation of free and enlightened people.

In this connection let me remind you that those reactionary elements which have professed such deep reverence for the judiciary have been the identical elements who have used their purse and their talents to promote the most abusive attacks upon the President and the Congress of the United States.

Until recently those who believe that the Supreme Court should dwell apart, that it is not moved by the impulses which actuate ordinary mortals, would have said that our present efforts are in vain because the Court took no account of the thoughts and aspirations of the people in arriving at their decisions. But that was before the recent decision in the Washington minimum-wage case. Let us hope that even a majority of the Supreme Court is now becoming, as a minority had already become, aware of the new spirit of democracy in America, and is beginning to take judicial notice of its existence in the formation of its views upon social and economic legislation with which the people's representatives have sought to solve some of their problems.

If in this I am wrong, at least the Washington minimum-wage decision constitutes an agreeable interlude. It was a welcome and thrilling victory won by toiling men and women over the ancient enemy of judicial dictatorship at the very moment when President Roosevelt was launching his great drive for court reform.

Let us continue the drive. Let us continue to emphasize and demonstrate what the American people think about this great question in the hope that we may be rewarded by a few more such agreeable interludes.

I shall again refer to the recent decision of the Supreme Court. The action of the Court in overruling and nullifying its benighted decision rendered 14 years ago forms a landmark in the judicial history of the Nation and, if adhered to, will result in growing benefits to the generations of the future. Perhaps, after all, the conviction is beginning to take root in certain quarters that the poor and the humble in this America of ours have rights which are entitled to equal consideration and respect with those enjoyed by the powerful and the affluent.

But why, let me ask, is it necessary to reform and revitalize the Federal courts of the United States, the Supreme Court as well as the inferior courts? The answer is simple and complete. It is because over a period of nearly half a century an unfortunate series of decisions have been handed down which have rendered the people powerless to control the basic elements of their social and economic life. The courts have in these decisions contended that the Constitution itself bars the way to effective control over ruthless exploitation and intolerable working conditions in commerce and industry.

I challenge that view. I challenge the statement, whether it comes from litigant or court or special pleader, that the greatest charter of human liberties ever devised by mortal man can be warped and twisted and tortured into an instrument to promote denial of a decent standard of living to millions of men, women, and children in the United States of America. Such decisions as maintain that view of the Constitution are based upon a legalistic and pedantic concept of the spirit of the instrument itself. They are not worthy of the great traditions of liberty and the rights of man on which the Nation was founded. I alone do not make this assertion, nor does any Senator, nor does the President. Some of the most eminent members of the Supreme Court have said so, and still say so.

Whatever the cause may have been, and whatever reason may be assigned for the cause, the fact remains that because of these narrow and legalistic decisions, because the Court has gone beyond its proper sphere of declaring the law into the sphere of adjudicating the folly or the wisdom of economic legislation, we are now lagging at least a quarter of a century behind our times and behind imperative needs in protective legislation to guard the health and happiness of men and women. Our health standards are backward. Our wage standards are in many instances shockingly low. The hourly workweek in many industries is beyond the maximum of human endurance. In many respects we are still living in the economic dark ages which have disgraced industry and manufacture ever since the transformation from the earlier days of handicraft and hand labor. Mass production has come too often to mean mass exploitation of helpless workers.

In this day of so-called enlightenment, when billions of dollars are being expended yearly to educate the people and give them better social and economic chances in life, why are such conditions longer tolerated? Have Congress and the State legislatures failed in the performance of their duties? Are they blind and insensible to the miserable conditions which I have just described? You know the answer to that question.

You know too well the long and arduous and wearisome process by which every step forward taken by labor has been challenged in the courts by highly paid special pleaders for special interests. You know the distressing tale of how often these highly paid special pleaders have succeeded in convincing courts that simple statutes to safeguard the health of toiling women and children constituted some mysterious and dangerous challenge to the Constitution of our country.

While you and I have been unable and unwilling to follow the devious course of such reasoning, nevertheless we know what havoc it has played with the attempts of Congress and the States to deal with these questions of life and death among millions of our people.

It is not my purpose to attempt a detailed analysis of the vital welfare and labor legislation which has found its graveyard in the Supreme Court of the United States. The story is too well known to need much repetition. But let us consider a few of the outstanding examples.

In 1922 the United States Bureau of Labor Statistics estimated that up to that date the Supreme Court had invalidated a total of 300 statutes enacted by State legislatures for the benefit of working men and women. In other words, every State in the Union has been handicapped in its effort to protect the rights of the poor and underprivileged by the unfriendly attitude of the supreme judicial tribunal of the land.

What has occurred in the past 15 years since the Labor Bureau made that compilation is now common knowledge. Every citizen knows how the Court has struck down legislation vitally necessary to aid in lifting the country out of one depression and keep it from plunging into another.

The Agricultural Adjustment Act was swept away on the ground that agriculture is local, notwithstanding that both great political parties declared it to be national, and despite the fact that three of the most learned Judges upon the Supreme Court insisted that it was thoroughly constitutional.

The National Recovery Act was scrapped. The Guffey Coal Act was invalidated. The first Railroad Pension Act was nullified, and also the original Farm Mortgage Act. The Court, or rather I should say a bare majority of the Court, has set itself athwart the path of progress, determined to keep this country within the narrow confines of its own antiquated economic reasoning.

While the Court has so repeatedly stated that it is not its function to determine the wisdom of legislation as to make reiteration the subject of suspicion, it has gone on passing on the wisdom of legislation under the guise of constitutional interpretations.

While it has for a century and a half held that a statute will be held valid unless it is unconstitutional beyond all reasonable doubt, it has ignored the rational doubt created in the minds of reasonable men by the sincere and able dissenting opinions of its own members.

That, my friends, is the record, in part. I cannot here go into it further. It is a record of Congress and State legislatures rendered powerless to act for the welfare of millions of American people because a Supreme Court majority is determined they shall not act.

Is any further proof needed as to the imperative necessity for the enactment of the judicial reform bill proposed by the President?

The tactics of the selfish groups who oppose wholesome regulation never change. They are using today the same battle maneuvers which they have used since the foundation of the Republic, and which, I assume, have always been used by powerful minorities bent on thwarting the rights and the will of the majority.

These groups never intentionally disclose their purpose or their final objective. They never admit that their deliberate design is to strike down statutes intended to guard helpless working women and children from the greed and callous unconcern of cold-blooded and inhuman sweatshop operators. According to their chatter the destruction of such a protective statute is only an unfortunate incident in the process of economic evolution. They are interested in some deep, problematical constitutional question, which is unrevealed to ordinary mortals like ourselves. They pretend that they, too, are interested in saving women and children in industry; but that they are more interested in saving the Constitution as it was written and ordained by the founding fathers, which makes impossible the course which they oppose.

You will not fail to recognize the tactics I have described. It is the old game of straw man setting up, which is undertaken whenever an effort is made through legislation or administrative policies to enforce the God-given rights of the majority of American citizens.

It is the old game of creating false issues, then bowling them over, while professional patriots and economic dilettantes roar their applause.

How familiar some of these straw men have become. We recognize them on sight. We know the game, and we recognize those who pull the strings.

We recognized these creatures of the straw pile in 1936, when the Liberty League and other Bourbonic tories sought to defeat Mr. Roosevelt for reelection. We recognized them in 1934 when they first became alarmed for the Constitution when they saw the progress of New Deal remedies and policies. We have seen them paraded ever and anon when some law has been suggested or enacted for the benefit of the common man. Students of history and government tell us that the same type of straw man was brought out for use in the day of Thomas Jefferson when the great battle to make America a truly democratic State was first begun.

From sections of the bench and bar and social rendezvous we hear the cry "The Constitution is gone." This is one of the hoariest of the men of straw. "If we give the President this power," says another, "some dictator will arise in another day to use it for the destruction of the people's liberties." "This is a thrust at the heart of democracy", says another, and still another shouts, "The people must be saved from themselves." We recognize in these anathemas the familiar sounds which have greeted the ears of progressive and enlightened statesmanship for a century and a half. They no longer frighten us. The people are no longer awed or intimidated by these self-appointed liberty preservers and Constitution savers.

The mass of intelligent laymen throughout America, to say nothing of the members of the legal profession, realize that this judicial proposal which the President has submitted to and urged upon Congress is unquestionably constitutional and that it is a method which has been tried in the past without any serious undermining effect upon the pillars of constitutionalism.

The men who founded this Republic took pains to provide that the people, through their Representatives in Congress, should have full and adequate authority to revise, modify, and reform the Federal courts whenever such action might become necessary or advisable. That power, the existence of which is beyond question, we now propose to exercise.

Before I completely quit the society of straw men, about whom I have been talking, I wish to pay my respects to one familiar bogey which has again arisen, as from the tomb, but which seems to need reconsignment to its dismal grave. I refer to the dishonest and hypocritical charge started by some of the opponents of the President's court proposal to the effect that this measure is a menace to religious or to personal liberty.

Those who have indulged in this obvious fraud are merely trying to play upon the fears of God-fearing men and women in America. They themselves know there is no whit of truth in the assertion. They know it is an effort to draw a red herring across the trail of dubious and devious methods. Their purpose is to light the flames of fierce controversy in the hope that it will destroy their adversaries. They ought to realize that such a fire may spread to their own destruction.

The question of religious worship touches the human heart too deeply to permit of its use for any such dishonest purpose as that for which it is now being employed. Let me warn those who have improperly dragged the questions of religious and personal liberty into this discussion that they are doing a disservice to both religion and liberty, and to the Nation itself, which they will live to regret. That particular bogey has been overworked on too many previous occasions to prove effective in this fight.

We hear well-meaning but timid men assert that "We know the Supreme Court has been violating the economic rights of the people, but we might establish a dangerous precedent by adopting the measure proposed by the President." While I do not question the good faith of those who offer this objection, I do question the validity of the objection itself.

If we acknowledge that the Court is in need of reform, why should we fear or hesitate to let it be known? Why should we be afraid to take the steps necessary to bring about the change?

But, we are told, the Court has a fairly good record in defending the civil and religious rights of the people. So it has. The Constitution itself guarantees to us the rights of free speech, free press, free assembly, and freedom of worship in language too simple and direct to permit of its misunderstanding or misinterpretation. But, because the Court has upheld our civil rights, are we to be asked, and are we willing, to forfeit our economic rights?

I refuse to accept the theory that in order to continue to secure or preserve our civil rights we must ingratiate ourselves with the Supreme Court by consenting to surrender our economic and social rights. It would be intolerable and unthinkable to suffer every form of social and economic maladjustments to continue in order to avoid the threat that if we seek to remedy the situation we shall be punished by the loss of our personal or religious rights and privileges. Any man who would foster or promote such a conception or program would be doing what is unworthy of the spirit of America.

What, then, may I ask, is the heart of the controversy about which we are talking? What are we trying to do? Why are we trying to do it? Is this proposal inspired by some caprice of the human mind, or is it inspired by a desire on the part of the responsible leadership of the forces of genuine democracy in America to make that democracy a moving, living, breathing power and force for the solution of the perplexing problems that face our people insofar as Government may assist them? Are we satisfied—is anybody satisfied, save those whose selfish and narrow purposes are served by it—with the recent or the present trend of judicial thinking regarding either the Federal power or the powers of the States in dealing with questions whose proper settlement is vital to the life and growth of America?

The need of reform, the need for a more modern and liberal approach to these problems by those who wear the robes of judicial authority is now almost universally recognized by the people of the Nation.

It is a significant fact that almost every person who has appeared before the Committee on the Judiciary in opposition to the President's plan has produced from his bosom an alternative plan to curb the powers of the Supreme Court. It is indeed significant that the most active leaders in opposing the President's program are proposing constitutional amendments which are far more drastic in their implications and their possibilities than the relatively simple plan put forward by the President. His is the mildest of them all.

The argument is now being advanced by the opponents of the Court proposal that there is no need for immediate action, because in the Washington minimum-wage decision the Court seems at last to have been converted to a more humane view of the Constitution with reference to the needs and the rights of working women and children under the Constitution. It is contended now that under that decision the Court will recognize the rights of those who work as well as the rights of those who work them.

The decision of the Court in that case was indeed epoch-making in its importance. I welcome it with enthusiasm. I do not minimize the wholesome fact that in that decision five Justices on the Supreme Court were willing to recognize that under certain conditions the State may legislate for the protection of those who otherwise have no protection, and by overruling a former decision have recognized the power of Congress under certain circumstances to do the same insofar as the District of Columbia is concerned.

But can we say with any degree of certainty how far this new doctrine will be extended? Are we certain that the Court has experienced such a change of heart that the rights of men, women, and children who labor in factory and field will be accorded that consideration so vital to the maintenance of justice and equality in America?

The answer is emphatically "No." The decision in the Court on Monday of last week was, I admit, a notable victory. But it was only a skirmish in the campaign. It is too early for the victors to rest on their arms. The campaign has but begun. Let us look

for a moment at the real meaning of the decisions in the Washington minimum-wage case.

In 1923, the Supreme Court, by a vote of 5 to 3, denied the right of Congress to enact a minimum-wage statute for women in the District of Columbia on the ground that such legislation violated the Constitution.

During the following years four similar statutes were invalidated by the courts, including the New York statute, which was nullified less than 1 year ago by a vote of 5 to 4.

With his usual acumen, the President was the first to point out that the Supreme Court had created a "no man's land" by denying the authority of both the Federal and State Governments to legislate on the all-important subject of hours and wages. He pointed out that under the New York decision and the previous District of Columbia decision, and more recent decisions dealing with both State and Federal power, neither the people nor their various governments could deal with the cruelties and brutalities of indifferent sweatshop operators and other exploiters of labor. It was indeed a "no man's land", where helpless human beings could be ground down in mass production while the Nation and the States stood by powerless to intercede or interfere.

With the Supreme Court occupying so ridiculous and untenable a position, is it any wonder that it had a change of heart? Or, should I say, that one Justice had a change of heart? It evidently dawned upon one of the Justices, who had formerly aided in striking down these laws for the preservation of health and life and for the maintenance of justice, not only that the Court had practically destroyed the power of Congress and the States to deal with such problems, but that the Court itself was well on the way to losing the confidence of the American people, if indeed it had not already lost it.

Under these conditions, and in the midst of the consideration of the bill for judicial rejuvenation, Justice Roberts shifted his position and moved over with the former minority and thus transformed it into a majority, at least for the time being.

I not only make no complaint because of the change of view of this one Justice; but I rejoice over it. I know Justice Roberts, and I owe it to him to say that I entertain for him the high personal esteem to which he is entitled as a lawyer and as a man.

But the truth is that Justice Roberts, by his change of attitude since last June, amended the Constitution of the United States as completely as if Congress had submitted the amendment and it had been ratified by the required number of States. At least, he amended it by enabling the Court to say by another 5-to-4 decision that what the Judges said the Constitution was 14 years ago was really not what it was, but that the Constitution was then and would have been since what they now say it is but for the mistake the Court made 14 years ago in saying it was not what they now say it is.

The point is, not that we complain because one Judge by changing his mind made it possible for the Supreme Court to get on the right track in saying what the Constitution is, but are we willing for the great charter of our liberties, the fundamental framework of our Republic to be tossed back and forth like a volley ball depending upon the mood or the personal economic predilections of any one man on the Supreme Court of the United States, or on any other court in America?

What greater proof do we need of the correctness of the President's position? What greater proof do we need that his opponents are deliberately beclouding the issue involved in this legislation?

He has said repeatedly that there is nothing fundamentally wrong with the Constitution—but that what we need is a more enlightened interpretation of it—that we need judges who will look at that great instrument through the glasses of progressive understanding—who believe that the law grows and is never wholly finished. He has taken the position that if the Constitution is correctly interpreted both Congress and the States will be adequately equipped to deal with pressing social and economic problems. And the decision in the Washington case has, insofar as the questions there decided are concerned, overwhelmingly vindicated his judgment and his position.

What an immense amount of injustice would have been avoided if in 1923 the Supreme Court had rendered an enlightened opinion in the Adkins case. What an immense amount of suffering might have been prevented if in 1923 the Supreme Court had said the Constitution meant what they now say it means.

Verily, verily, the "Constitution is what the judges say it is"—at the moment when they say it.

Education is a marvelous corrective, sometimes, and let us hope that even courts are not immune from its influence.

We rejoice that at least a part of the "no man's land" is temporarily unoccupied. But it is a mistake to assume that it has been completely and permanently evacuated. What we need is the injection of fresh water into what has been a very stagnant judicial pool. Let us not abandon our purpose to make this fresh stream constant and permanent merely because of one partial, and it may be, temporary refreshment.

The measure proposed by the President creates that constant and permanent freshness of which I am speaking.

Nearly 20 years ago Congress enacted a law very similar to this proposal, applying to district and circuit judges of the Federal courts. It provided that when any sitting judge who has served 10 years and has reached the age of 70 fails to retire under the privileges accorded him, the President may appoint an associate judge if he finds that the sitting judge is mentally or physically incapacitated to perform his duties.

Because this law almost requires the President to institute a physical or mental examination to test the capacity of any sitting judge, it has been of no value and will continue to be of no value.

The measure which is now before Congress provides that when any Federal judge, whether he be on the district, circuit, or Supreme bench, fails or declines to retire when he becomes eligible for retirement, the President may appoint an associate judge or Justice to assist such retirable but unretired judge or Justice. It makes automatically applicable to district and circuit judges the present law, except it relieves both them and the President of the embarrassment of a finding of physical or mental condition.

In addition to this it makes the law applicable to Justices of the Supreme Court as well as to the district and circuit courts.

Is there any reason why the Supreme Court should be exempt from this fair and wholesome process? Is there anything sacred about the Supreme Court that ought to lift it above all human considerations?

The Supreme Court is composed of men who are not greatly different from other mortals. They are subject to the influence of early training, environment, professional association, and the intellectual slants which actuate other men. Some of them are even victims of their own prejudices and animosities which they have accumulated over the years. The Supreme Court on the whole determines exclusively vital questions of constitutional construction involving not only property but human welfare as well. Shall we be content to reform and revitalize the inferior courts and leave the Supreme Court untouched by the renewing process?

What we propose is constitutional.

It does not destroy or touch the power of the Supreme Court.

It does not force any judge to retire from any court.

But it offers an opportunity to place on the Supreme Bench men whose minds are at least open and fair and whose intellectual processes are not closed in advance to any favorable consideration of any new legislation that comes out of the American Congress for the relief and benefit of the American people.

It offers an opportunity to place on the highest Court in this land men who are not wedded to a tortured construction of constitutional power on the part of State and Nation to deal with modern life in the light of the spirit of our forefathers, who wrote an instrument intended to be sufficiently adaptable and flexible not to require amendment with every changing phase of American life.

It offers an opportunity for the American people to have their registered will acknowledged and respected under the broad powers contained in the Constitution.

This measure, proposed by the President and now pending in the great Committee on the Judiciary of the United States Senate, and soon I trust to be brought upon the floor of the Senate itself, is more than a court-reform program. Under the wise leadership of the President, and with the determined support and approval of the American people, it will become the new economic bill of rights of the toiling masses of this Republic.

The Woodrow Wilson Medal Awarded by the Woodrow Wilson Foundation

---

EXTENSION OF REMARKS

OF

HON. KENNETH McKELLAR

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Thursday, April 15, 1937

ADDRESS OF HON. CORDELL HULL, SECRETARY OF STATE, UPON RECEIVING THE WOODROW WILSON MEDAL AWARDED BY THE WOODROW WILSON FOUNDATION, AT NEW YORK CITY, ON APRIL 5, 1937

Mr. McKELLAR. Mr. President, I ask unanimous consent to have printed in the RECORD the address delivered by Hon. Cordell Hull, Secretary of State, upon the occasion of receiving the medal awarded him by the Woodrow Wilson Foundation at the Biltmore Hotel, New York City, Monday, April 5, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Chairman, ladies and gentlemen, I was deeply moved when I was informed that the directors of the Woodrow Wilson Foundation had decided to confer upon me the foundation's medal and to cite my efforts to bring about a lowering of international economic barriers as the reason for the award. I accept the honor with heartfelt gratitude. It evokes in me many memories of the long years during which the problem of improvement in the economic relations among the nations has been of absorbing interest to me.

Among these memories none is more vivid than that of the 8th day of January 1918, on which the ideal of economic peace among the nations received the formal championship of one of the greatest statesmen our country has ever produced. It was

on that day that Woodrow Wilson laid before the world its historic peace program, point 3 of which called for "the removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all nations consenting to the peace and associating themselves for its maintenance."

I well recall the gratification and joy which this clear-sighted appeal to constructive statesmanship aroused in those of us who like myself had watched the developments of the war years with a heart growing ever heavier and more despondent.

President Wilson's call was addressed alike to our friends and to our foes in the stupendous conflict in which nearly the whole civilized world was engaged at that time. On both sides of the battle front plans had been perfected for an indefinite continuation of warfare in the sphere of economic relations after the cessation of armed hostilities. The politico-military alliances, the lines of which had been drawn so sharply for the all-embracing purposes of the war, were to be perpetuated in the form of economic alliances. The world was to continue to be divided into hostile camps, with economic obstacles and the multifarious forms of inequality and discrimination in commercial treatment as the weapons of warfare. It was against this "war after the war" that President Wilson raised his powerful voice.

The emotional welter which dominated the transition to political peace obscured in some measure the clarity of vision which Wilson sought to inject into the task of rebuilding the war-shattered world. It is true that the victorious Allies discarded, at the Paris peace conference, most of the basic ideas of a special economic alliance upon the creation of which they had agreed among themselves in 1916. So much was salvaged for sound statesmanship. But in the treaties of peace provisions were inscribed which subjected Germany and her allies to unequal treatment in commercial matters for varying periods. It was not until the beginning of 1925 that equality in commercial matters was restored as between the victors and the vanquished in the World War.

Unfortunately, this latter development, so heartening in itself, served as a signal for an increase rather than decrease of trade barriers. During the early post-war years, tariffs and other obstacles to international commerce were rising in nearly all countries whose freedom of action was untrammeled in this respect by the treaties of peace. As the defeated countries of central Europe reacquired freedom in commercial matters, they, too, plunged into the race for extremes of restrictive action.

So widespread and so alarming did this race become that enlightened statesmen in many countries began to exert their influence in the direction of some effort to halt its headlong career. Before the end of 1925, a movement was launched on a world scale for the liberation of international trade from the excesses of the ever-growing restrictions which threatened it more and more with complete strangulation. This movement culminated in the convocation of a world economic conference, which met at Geneva in 1927.

The conference surveyed the sorry plight into which international economic relations were being plunged deeper and deeper. It recommended to the governments the imperative need of reversing the direction of their policy and action in the sphere of commerce.

For a short time thereafter the outlook brightened sufficiently to arouse hope. There was a noticeable retardation of restrictive action and even some movement in the opposite direction. But this improvement was all too soon overwhelmed by a new and sharp reversal or trend, to which our country, unfortunately, made the largest single contribution.

Immediately following our national election of 1928 the dominant political and economic forces in this country embarked upon a drastic upward revision of our tariff rates and an extension of other trade restrictions. This process was continued through the year 1929 and the early part of 1930. It served as a signal which unleashed the forces of extreme protectionism all over the world.

The years which followed—the years of ever-spreading and ever-deepening depression—were characterized by an uninterrupted growth of barriers to trade. The exigencies of the unprecedented economic upheaval, panic, desperation, short-sighted attempts at defending narrowly conceived national interests, retaliation, and counter retaliation—all these combined to create as tangled a newark of trade restrictions, and as large a measure of discrimination in commercial policy, as the world has ever seen in times of peace.

That "war after the war", which had smouldered ominously during the first decade of renewed political peace, finally burst upon us in all its fury. It differed from the pattern of international economic hostility which had been devised in the days of the world conflict in that it did not involve the creation of mutually hostile economic alliances. But its scope was even more widespread and its destructiveness far more deadly.

Opinions may diverge as to the extent to which failure to adopt sane and constructive policies in the economic relations among the nations was responsible for the onslaught of the great depression. Personally, I am convinced that it was the most important single cause of the holocaust. However that may be, once the depression had assumed the scope and the character which it did assume, the conclusion became inescapable that there was no hope of full and lasting recovery unless peace succeeded war in international economic relations.

It was acting upon this conclusion that our Nation, after the lapse of more than a decade, assumed once more the responsibility for providing its fair share of leadership in a world movement for economic peace—as an essential foundation of international political stability, as well as of economic well-being within nations. We placed on our statute books the Trade Agreements Act of 1934 and inaugurated, under the authority of that act, a comprehensive program of negotiation for the purpose of rebuilding our foreign commerce and international trade in general through a liberalization of commercial policy everywhere. We made a standing offer to each and every nation to go as far as may be practicable and mutually profitable in reducing in its favor our barriers to trade and to extend to it full equality of treatment in commercial matters—provided it was willing to deal with us in the same spirit and to act toward us in the same manner.

For nearly 3 years we have pursued this policy with vigor and sincerity. The response of others to our initiative has been most gratifying. We have concluded 16 trade agreements. The mutual benefits conferred by these agreements—through reciprocal relaxation of trade barriers, through removal of discriminations, and through expansion of trade—are a matter of public record.

Equally of public record are many other manifestations of improvement in international economic relations. Responsible statesmen and leaders of business and of public opinion in many countries are more and more giving utterance to the idea that the removal of excessive trade barriers and the establishment of fair dealing and of equality of treatment in international commercial relations are indispensable to the welfare of all nations. The representatives of the 21 American Republics, meeting at Buenos Aires last December, were unanimous and emphatic in recommending to their governments the imperative need of reducing barriers to trade and of abolishing unfair and discriminatory practices in commercial relations. Instances of efforts to translate these realizations into concrete action multiply in many quarters.

As 10 years ago, there is again a brightening of outlook and a new hope. Unfortunately, there are also today in the world other and discordant tendencies.

The problem of removal of trade barriers is much more difficult than it was in 1927. The years of the depression created obstructions to trade and brought about impairment of friendliness and fair dealing in commercial relations of such scope and destructiveness as would not have appeared possible even a short time ago. As a result, the volume of international commerce has been drastically curtailed, and a large portion of what remained has been arbitrarily diverted away from channels of economic advantage. The task of correcting these artificial shifts and of repairing the damages of the economic war is, indeed, one of enormous magnitude.

Moreover, the situation today is complicated by many new factors—some of them constituting direct repercussions of the long period of intense economic hostility. During the past few years there has been in many parts of the world an alarming deterioration of all essential international relationships. Solemn obligations among nations have been set aside with a light heart. International law has been breached and flouted.

Animosities and resentment in the sphere of commercial and financial relations, and economic aggression and retaliation which they have provoked, must bear an important share of responsibility for the depth of economic distress into which some nations have been plunged. Out of such distress springs temptation to seek a greater measure of self-sufficiency by force of arms.

We have witnessed the spectacle of some nations, already in the throes of economic poverty, straining their meager resources for the creation of unprecedented armaments. We have seen other nations drawn into the suicidal race. The construction of armaments on so vast a scale gives the impression of intensive economic activity. But that activity is like the unhealthy flush of fever. It destroys rather than builds. It sows the seeds of disaster, either in the form of a military explosion or of an economic collapse.

There is only one way to avert this impending doom. It is for the nations which today bend their major effort toward preparation for war to join with those other nations which are intent upon a policy of peace in a determined and concerted effort to rebuild international political and economic relationships upon a basis of friendliness and cooperation. No outcome of an armed conflict can possibly bring the nations concerned greater benefits than they can derive from a peaceful and fruitful exchange of goods and services developing in a liberal spirit upon a basis of fair dealing and mutual regard for each other's needs and rights.

It was this type of economic peace that Woodrow Wilson urged upon the world. The acceptance by the nations of the basic ideas which underlie it is even more desperately needed today, when the dark clouds of a possible new war or of another economic catastrophe gather ominously on the horizon.

Since this is an intimate occasion, permit me to end these brief remarks on a personal note. I have never faltered, and I never will falter, in my belief that enduring peace and the welfare of the nations are indissolubly connected with friendliness, fairness, equality, and the maximum practicable degree of freedom in international economic relations. I have never doubted the ability of statesmanship to create conditions in which relations of this type will become firmly established. I earnestly hope that no development will ever arise which will impel me to relinquish this belief. I shall continue to seek, as I have sought in the past, in whatever manner and in whatever measure time and circumstance may vouchsafe me, to translate these profound convictions into the realities of public service.

Stabilization of Bituminous Coal Industry

EXTENSION OF REMARKS

OF

HON. JAMES J. DAVIS

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 15, 1937

RADIO ADDRESS BY HON. JAMES J. DAVIS, OF PENNSYLVANIA, ON APRIL 10, 1937

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a radio address which I delivered April 10 over Station WJAS, Pittsburgh, Pa., on the subject of stabilization of the bituminous-coal industry.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I have been asked to speak on the Bituminous Coal Stabilization Act, better known as the Guffey-Vinson Act, which finally passed the Senate yesterday. For many years I have been studying the general conditions of the coal industry. If there ever was an industry the Government should help regulate, it is bituminous coal. It is reported that in the mining of coal 30 percent of the natural resources is wasted. The coal bill, now up to the President for signature, will enable the President, with the confirmation of the Senate, to appoint a commission of seven members, two of whom shall be experienced coal miners, and also two who have had experience in the production of coal, none of whom is now financially interested in the industry. Full power has been given this Coal Commission to regulate the industry. The Commission is authorized to fix prices, conduct research, and find new markets for coal. The industry is divided into 23 districts. The Commission is given full power to remove members of the district boards for cause. The district boards, after proper consideration, will fix the minimum prices for coal, subject to the approval of the Commission. The Commission can review and revise these prices if necessary.

The law further provides that the President shall appoint a consumers' counsel. All information related to coal is to be made available to this counsel. Excessive commissions and salaries for their sales agents is designated as unfair practice in the industry. Coal-marketing agencies are held to be unlawful unless their producers have accepted the coal code. All member producers of coal must belong to the marketing agencies. If their memberships are canceled for violation of the code, they must pay double tax for the period of suspension to gain readmission. A tax of 1 cent is levied on every ton of bituminous coal produced. For those who fail to accept the code of fair practices, a general tax of 19½ cents is provided. The law provides a code of fair practices to prevent ruinuous price cutting and all of the unfair methods of competition that now prevail in the bituminous-coal industry. Exemptions from the civil-service requirement cover all Commission employees, with the exception of clerks and minor employees. I have favored President Roosevelt's plan of the merit system and believe that it should apply to the Commission. However, this suggestion was voted out in the subcommittee and the committee as a whole. I believe that this law, if properly administered, will stabilize the coal industry, end cutthroat competition, enable coal operators to get fair prices, and pay decent wages to the miners. I trust the Commission will regulate the affairs of the coal industry in such a way as to insure the return of the favorable conditions which obtained when the Jacksonville agreement was first in force.

Coal legislation has been discussed in Washington the past 10 years. Every type of investigation has been made in and for the industry. During the time I was Secretary of Labor, Senator Watson of Indiana introduced the first coal bill to regulate the coal industry. I appeared before the Senate Committee on Interstate Commerce to state the conditions of the industry. After my election to the Senate I presented a bill which I believe would have stabilized the industry and would have solved many of our problems, if it had passed. The Senate held hearings, but by the time the hearings were over the Senate had adjourned, and no action was taken. I served on the committee that reported out the first Guffey coal bill that was declared unconstitutional by the Supreme Court. I also served on the committee for the present bill, introduced by Senator Guffey, which was drafted to conform to the decision of the Supreme Court, and I hope, if it is appealed to the Supreme Court, that it will be found constitutional. I have worked earnestly for its passage, made an extended speech on the subject in the Senate, and now am glad to report that yesterday the Conference Committee of the House and the Senate of which I was a member, reported an agreement, and the Senate and House confirmed it. When signed by the President we shall have a new coal law. I hope that it will help to end labor unrest and strikes in the industry, bring reasonable profits for the operators, decent wages for the miners, and a more thorough understanding of the rights, privileges, and responsibilities of workers, operators, and consumers.

Our problem as a nation is to find increased liberty under law. In the past we have found our greatest good in freedom only as we have operated according to the fundamental laws of the world in which we live. Abuse of freedom leads to license and an excess of individualism. The need of America today is not less liberty, not less individualism, but a better understanding of their scope and purpose. Once again we must carefully define the areas of individual liberty in order that within newly formed areas of thought and action the individual may achieve greater liberty.

Fascism and communism sound the death knell of individualism and freedom. Any currents in the United States which partake of these European patterns are foreign to America and should not be tolerated, for they are directly at variance with the principles upon which America has achieved her greatness.

Increasing quality production, increasing wages of workers, and increasing transfer of caiptal goods in sales is the solution of America's problem of distribution. With an ever-growing consciousness of distribution needs we shall increase American individualism and initiative. The success of our people has always depended on their liberty of thought and action. The Indian of yesterday was a slave as compared to the white man of today, for he was chained to his bow and arrow, his primitive plow, his limited food supply, and his squalid wigwam. Today when we use the automobile and the airplane intelligently we have more freedom of movement than did the Indian on his prairie pony, and we have more individualism. The Indian had but one way of long-distance travel—his pony—while we have a dozen or more. With science has come an increase of both individuality and freedom. However, in order to achieve these, it has been constantly necessary to define the areas of operation within which the individual could exercise his freedom. Traffic laws, money, and business laws have been evolved for the purpose of giving us more liberty under law.

Today when we face our present problems of industrial espionage and sit-down strikes we must observe our age-long wisdom of increasing liberty under law. When we flaunt the law we bind ourselves with the chains of disorder and internal conflict. By violating the law we make it more certain that others will violate it, and within a short time such a course of action can lead only to chaos and confusion.

It is not necessary for me to attempt to define the error either of industrial espionage or sit-down strikes. They are equally out of harmony with a common sense of propriety and this is recognized by those who participate in them as well as those who witness them as impartial observers. What worker wants to have his companion spy on him? What property owner wishes to be dispossessed of his holdings overnight without due process of law? These activities are fundamentally unsound and require no long dissertation to prove how injurious they are to social and moral values.

The sit-down strike is a lawless demonstration clearly containing the seed of social revolution. Its further utilization will undoubtedly be demanded by those whose objective is to stimulate class warfare. Industrial espionage has been one of the thorns in labor's side which is equally illegal, and just as thoroughly reprehensible. It is not too much to say that industrial espionage is one of a number of industrial methods which has led on to the lawless outbreaks among labor in the form of sit-down strikes. There is no cure for the one without a thorough repudiation of the other. If we are to call for an end of the sit-down strike, we must be prepared to put an end to the violations of freedom of speech and assembly projected through industrial espionage. The right of the worker to his liberty is just as precious as the right of industrial management to company property.

The current epidemic of strikes has brought us face to face with the need for a further extension of collective bargaining and labor organizations in this country. This is the issue around which the present strikes have revolved. Heretofore only a small percentage of strikes have been called primarily for the purpose of securing union recognition. Today this is the dominant issue in the struggles currently attracting public attention. Perhaps this indicates that we are merely passing through a normal phase of industrial development. If the current strike wave carries us forward to a more general recognition of the advantages to employers, as well as employees, of responsible organization of labor for bargaining purposes, the temporary losses involved may be endured.

I say this in order to make it clear that now as always I wish to uphold the worker's right to quit his job. This is not the issue of the sit-down strike. For under this new expedient of the strike the worker not only quits work but insists on remaining on the place where he ordinarily works. The issue before us is not one of the worker's right to strike but his right to take possession of property to which he holds no legal title.

A solution of this difficulty will come as industrial management and workers meet together around the council table and prepare to abandon tactics of industrial and labor warfare which are clearly without the sanction of the law.

Strikes have always been very real to me. I was born in the year of one of the great strikes, the strike of 1873. Although there were many minor strikes during my youth, the one which made the greatest impression on me was the Homestead strike in 1892. The disorder, the rioting, the bloodshed, the dreadful hatred then unleashed have always remained in my memory. Growing out of these early experiences came my desire for peace in industry.

During the time I was Secretary of Labor I was faced with the great strikes in a dozen or more of our great industries, when more than a million men were out on strike at one time. Back in those days we learned the need for the spirit of conciliation and a larger understanding and sympathy between the various elements of modern industry.

Rather recently I have traced through the history of strikes over a period of the events of my lifetime and expect to present this story to the public in book form in the near future. The present epidemic of strikes now calls for a thoroughgoing understanding of the social and economic forces at work among us. I dare say that no problem in America is more acute today than that manifest in our current industrial unrest.

Jefferson Day Address

EXTENSION OF REMARKS
OF
HON. ALBEN W. BARKLEY
OF KENTUCKY
IN THE SENATE OF THE UNITED STATES
Thursday, April 15, 1937

ADDRESS BY HON. JAMES A. FARLEY AT THE JEFFERSON DAY DINNER AT PHILADELPHIA, PA., APRIL 13, 1937

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered on the 13th of April by Hon. James A. Farley, before the Penn Athletic Club of Philadelphia.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is a happy circumstance that I find myself addressing a stanchly Democratic audience in this great Democratic city of Philadelphia. In a brief period the Commonwealth of Pennsylvania has shifted from a Republican to a Democratic stronghold. Pennsylvania has become as steady and as sturdy a fortress as any in the family of 46 States that last year testified to their faith in a Government of progress and humanity, committed to making our country one of greater happiness and opportunity.

I use the party name not in any narrow sense but as a label for all those who rallied to the support of our great President—not because he was a Democrat, but because they had found in him a captain unafraid to do whatever was needful for a nation in a deep period of crisis and stress. I recognize, of course, that the conversion of this cradle of American liberty from a hotbed of privilege to a fortress of liberalism was not the work of my party alone. It was the combined effort of men and women of every political party and of no party at all that brought this Government back to the people, and brought this country back to relative prosperity. And it will be the union of these same people that will keep us where we belong, regardless of the utmost that the forces of reaction may attempt. Even while I am paying my debt of gratitude and appreciation to those who joined us I know you will permit me a little extra gratification that the outcome in this State has come under the magnificent leadership of such men as Senator JOSEPH F. GUFFEY and Gov. George H. Earle. I wish you would contrast these with those sinister, ruthless figures who in the not so distant past delivered your votes tied in a neat package to those to whom they owed allegiance and, incidentally, owed plenty that was more tangible. They delivered prosperity, true, but they handed it to your steel kings and coal barons and the rest of the close corporation of industrial and financial magnates.

You know where this outfit landed you when the bubble they had blown burst and left all of us gasping in a hurricane of adversity.

Now the very people who contributed most to our national misfortune are complaining of an unbalanced Budget and a huge relief expenditure. Just keep your mind on who is chiefly responsible for all of this. Let me tell you now and here that if the legislation the Roosevelt administration is seeking at the hands of Congress had been on the statute books in 1929 and had been adequately administered by the then Government, the great panic would never have attained the proportions that made the United States of America reel and totter in the worst economic gale it ever encountered.

The man whose memory we are honoring tonight was the real inventor of the New Deal, and the tirades that were directed at and against President Jefferson for his efforts at progress make the similar clamor now being directed at President Roosevelt seem mild indeed.

The founder of the Democratic Party—and which is a greater distinction, the founder of democratic principles in America—was no plaster image, or marble statue with a rigid stock muffling his throat and keeping his head in the clouds. On the contrary, he was an intensely alert, practical, resourceful human being. He came to the White House at the opening of the last century, and found the Supreme Court had been stacked and packed against the measures for which he stood, by his Federalist predecessor. Almost the last important official act of President Adams before leaving the White House was to put through what history records as the Midnight Judges Act. This, among other things, reduced the number of Supreme Court Justices from six to five, by providing that the next vacancy in the high Court should not be filled. In other words, to fix things so that Jefferson, who was to take office within a few weeks, should not be able to name a Justice of his own political persuasion.

Albert J. Beveridge, in his Life of John Marshall, gives this explanation of the motives and morals of the Adams Act. He wrote that it "gave Adams the opportunity to fill the offices thus created with stanch Federal partisans. Indeed, this was one motive for the enactment of the law."

Jefferson was definite and practical in meeting the situation. He did not waste time on a constitutional amendment to correct the abuse resulting—to use his own words—from "the courts being so decidedly Federal and irremovable." Pending the advent of a Congress sympathetic to him he gave notice that in view of the attitude of the courts it was "indispensibly necessary" to appoint "Republican attorneys and marshals." The Democrats of that day were called Republicans. As soon as the Seventh Congress had assembled he sent a message giving the facts about the status of the court calendars and promptly there was introduced an act to repeal the "midnight judges law." According to Beveridge, the general public was not disturbed, but the Federal chieftains raised a terrific clamor.

Fisher Ames, the Bert Snell of his day, promulgated that "the message announced the downfall of the late revision of the judiciary * * * the United States Government is to be dismantled like an old ship."

Stanley of North Carolina put forth that "this measure will be the first link in that chain of measures which will add the name of America to the melancholy catalogue of fallen republics."

Bayard of Delaware found that a repeal of the Adams legislation meant that "the moment is not far off when this fair country is to be desolated by civil war." The country was also told that "the Constitution, which Washington framed and the people adopted, has become a dead letter and no better than a last year's almanac."

These dire predictions of what was bound to happen if Congress sustained the President, in whose hallowed memory we are now erecting a stately memorial, were made 135 years ago.

Let me read you another quotation: It describes a movement to put liberal-minded judges on the high court as "a hateful attempt to drive eminent jurists from the bench in order to crowd into the Court a lot of judicial marionettes to speak the ventriloquisms of the White House."

That was not an utterance of 135 years ago. It was the statement of an opposing Senator delivered just the other day. It came about the same time as that of another member of the opposition. He, speaking of the Justices whose names President Roosevelt must send to the Senate when the pending judicial bill is enacted, said that men who would accept the posts could deserve the respect of nobody.

I wonder how much chance such hypothetical judges would have of being confirmed by a majority of the United States Senate?

I note that some of the opponents of the measure recommended by President Roosevelt are saying that the recent decisions of the Supreme Court have rendered it unnecessary. That is an absurd idea. The circumstances that by a single vote the Court sustained the validity of several New Deal measures furnishes no security of permanent liberalism on the high bench. The majority opinions yesterday were so hedged about with qualifications that neither Congress nor the President can be at all sure of the fate of pending or future legislation. Suppose, for example, a measure was introduced providing that in no industry children under 14 could be employed in a particular form of labor or beyond a limited number of hours. I don't know that such a bill is in contemplation, but am simply using it as an illustration. Doubtless you would find lawyers arguing that such an act is constitutional and an equal number arguing that it is unconstitutional. We know that four of the nine Judges would be against it and whether the fifth would join them is only a matter of vague guessing. In some of the decisions yesterday, as it turned out, one Judge reversed the verdict of three district judges, probably with much longer judicial experience than that of the overruling Supreme Court Judge who reversed them. The necessity for the judicial-reform measure is as great and as compelling today as it was day before yesterday, and I am quite sure that Congress, when it comes to voting, will be found to feel the same way.

But let us get back to Thomas Jefferson, than whom no abler, more conscientious, far-seeing, and brave man ever occupied the White House. His bill passed Congress all right. In due course of time he filled the vacancy that his predecessor had tried to insure in order to keep the Court reactionary. Another Justice was added. And strange to say, chaos did not come and the American Republic did not collapse into a melancholy ruin. In Jackson's time two additional Justices were put on, and still the Supreme Court functioned along without damage until the War between the States, during which the number of Judges rose to 10. To prevent President Andrew Johnson from making an appointment Congress cut the number to eight. President Grant put it back to nine in order to have his legal tender law sustained. There it has stood for 68 years—until once more the Court has reached a stage where the majority is again hopelessly out of step with present-day thought—

which is not surprising, considering that the aggregate ages of the nine Justices considerably exceeds 600 years.

Taking no chances that the Supreme Court might invalidate the repeal of the midnight judges law, Congress abolished one term of the Court, so that the high tribunal was in effect adjourned for 14 months.

And how the antiadministration press did rave when Jefferson prevailed a century and a third ago. Said the Washington Federalist—anticipating by a century the editorials of the New York Herald Tribune, the Chicago Tribune, and other newspapers which are now forecasting utter destruction of everything American if President Roosevelt's program goes through—"The fatal bill has passed. Our Constitution is no more." It headed its editorial: "Farewell, a long farewell, to all our greatness." One hundred and thirty-five years is a long time, but intellectually it is bridged. For example, is there a great distinction between John Rutledge, Jr.'s, description of the Jefferson adherents as "demagogues who carry daggers in their hearts and seductive smiles on their hypocritical faces", and such outbursts of fury as we have listened to recently?

We smile as we read the reports of the heat and fury of political controversies in the infancy of the Republic, and our descendants will smile when they turn the pages back and read the fulminations of today. They will wonder in the next century how men who attained to eminent place in the 1930's could have been so childish as to fail to perceive the absurdity of their ferocious speeches.

After all, what is the President now seeking to accomplish? Precisely what the founder of the Democratic Party did when he was confronted with a similar situation. John Adams left Jefferson a Court committed to invalidate the very things the people had elected Jefferson to do, and Jefferson found a constitutional method of giving the people what they demanded. Roosevelt inherited a Court from Herbert Hoover just as antagonistic to the mandate the people gave our President, and Roosevelt proposes a perfectly constitutional method of correcting the situation. Even if he were as indifferent to the verdict of history on his administration as his critics imply, he could not, if he would, put unsuitable judges on the Supreme Bench. To listen to the speeches of the opposition would suggest that the President meant to beat the bushes for unfit judicial timber.

The Senate by no means infrequently has turned down Presidential candidates for the high Court because they did not qualify in the Senate's opinion for the post. Does anybody imagine, after all the clamor we have listened to in the present instance, that any but the best among our lawyers and jurists could run that gauntlet?

Now let us take a few moments to analyze the opposition to the President's Court program. Its base is exactly the same element as opposed his election. True, there are a few Democrats among them. I have never yet met a partisan who sheered off from his party policies who did not offer the highest motives for his defection; so let us assume that those of my party who are with the enemy this time are conscientious, and destitute of grouches or personal concern. Their number, however, is unimportant, for I assure you that whenever the Court question comes before the Senate to be voted on the bill will have a substantial majority. We know this and they know it—hence the dilatory tactics so much in evidence right now.

It is not the Democrats who are putting up the large amount of money that the greatest propaganda campaign ever put on in this country requires. Our friends, the enemy, learned something from the Liberty League adventure of the campaign last year. So this time the money batteries are masked, but the same people who sought to prevent the President's reelection are using the same methods to prevent the fulfillment of the program which 28,000,000 people told him to go ahead with. They would repeal the 1936 election.

They are inventing all sorts of real and pretended organizations to issue letters and pamphlets, and, incidentally, appeals for money. You remember the "constitutional Democrats" of last year which cloaked other Republican activities. Well, I have just been looking over one broadside issued by the Constitutional Democracy Association, which proclaims this language: "We have planned the strongest fight, fighting first in the two Judiciary Committees of the House and Senate, fighting next on the floor of both Houses. In the Senate we plan, if necessary, even to invoke a determined filibuster against the bill. If the measure should be enacted, we plan to fight the confirmation of every new name nominated by the President."

Could there be a franker admission that Congress is for the President's plan? A filibuster is only undertaken to prevent a vote, that they know will be adverse to the men and interests that are behind the opposition to this bill.

As a matter of fact, the filibuster is on now. The Senate Judiciary Committee has been holding hearings for a solid month. It has heard from college presidents and deans of law schools, from book authors and press columnists, from labor chiefs and agricultural leaders, and at least one Senator has delivered a speech from the witness chair. On the committee are 18 Senators, most of them lawyers, capable of weighing the evidence as well as the clap-trap they have listened to. Certainly they have all the light and advice they need toward framing a bill and reporting it to the Senate. Yet at the first suggestion that a day be set to close the taking of testimony the opposition clamored that an effort was being made to muzzle them, and their spokesmen declared that there were 50 witnesses they wished to produce. Doubtless they can find them as long as there are publicists eager for the limelight and authors seeking advertisement for their books. But what use is the reiteration of the same story from different tongues? The only purpose is to use up more time, for the longer they can carry on the filibuster in the committee, the better they believe their chances to filibuster successfully in the Senate.

So you see the antiadministration Democrats are pulling the chestnuts out of the fire for the Republicans. It is a good game from the minority party viewpoint, but it will get nowhere. They may defer the day somewhat, but sooner or later that filibuster is going to collapse, and the Congress is going to vote to bring the Supreme Court back to where liberal laws will have some chance of unbiased consideration.

I suppose some of you might ask how I am so certain that we have an adequate majority in the Senate to pass the bill. Well, here is some collateral evidence. I have here a circular issued by the young Republican organization of Alleghany County in your own State. In it they invite all their mailing list to bring pressure to bear on 29 Senators—27 of them Democrats—to induce them to vote against the Court bill. Obviously the Republicans would not be importuning all those men if they already had even one of them. The list is actually the roster of those who have been approached and refused to pledge themselves to the opposition. But quite aside from this circumstance, let me assure this audience that there is a substantial majority of the Senate that will vote for the President's program.

Everybody at all conversant with congressional customs knows that on every controverted question the party leaders in House and Senate conduct an unofficial tally of the membership. It has been done in this case, so I am not guessing when I repeat that our side has the votes. Moreover, I am betraying no confidence when I tell you that two-thirds of the names on the Republican "doubtful" list are not doubtful at all, but will be found supporting the President when the roll is called in the Senate. All that stands in the way of prompt enactment is the filibuster. That may waste considerable time, but cannot change the ultimate result.

It is fitting on Jefferson Day that his struggle and victory against moss-covered reactionism on the high bench should be recalled and what this meant for the safety and progress of our great country. We are witnessing another of the great battles in the never-ending war against special privilege. I question neither the probity nor the ability of the immovable members of the Supreme Court. It is quite understandable that some of them in the twilight of their lives should be unable to keep mental pace with contemporary thought. It is natural that they should see virtue only in what has been, and peril in any change. But the world moves on. Just as we look back and recognize the service Jefferson did for our welfare and liberty, so our descendants will review the events of 1937 and mark another milestone in the human progress.

Federal Aid for the Education of Underprivileged Children

EXTENSION OF REMARKS

OF

HON. LEWIS B. SCHWELLENBACH

OF WASHINGTON

IN THE SENATE OF THE UNITED STATES

Thursday, April 15, 1937

RADIO ADDRESS BY HON. CLAUDE PEPPER, OF FLORIDA, ON APRIL 10, 1937

Mr. SCHWELLENBACH. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered over the radio on April 10, 1937, by the junior Senator from Florida [Mr. PEPPER] on the subject of Federal Aid for the Education of Underprivileged Children.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I wish every person listening to me this evening could have been with me yesterday morning during a hearing which we were having on Senate bill 1634, providing for Federal aid for the education of underprivileged children. From the Maryland State School for the Deaf came Miss Kathleen Nolan, the teacher, and five beautiful little girls who were totally deaf. They were from 6 to 8 years of age, bright-eyed, smiling, and cheerful. The teacher would request the little girls, one after another, to indicate from a pile of toys on the desk nearby a frog, a horse, a dog, a car, a doll, and, quick as a flash, the child addressed would pick up the toy named from reading the lips of the teacher. Then the teacher would hold up a placard having on it the words, "Bow to a girl", "Walk slowly", "Clap your hands", and the little face would light up and she would immediately do the act suggested. They also gave examples of their writing. Most remarkable of all, the very excellent teacher had her little deaf pupils talk some for us in a perfectly intelligible manner. Every face was an eager one. They laughed while

pictures were being taken—the contagious, happy laugh of happy children.

And then blind Andrew Birmingham, from the ninth grade of the Baltimore School for the Blind, gave us a lesson in the use of his Braille writer, which you and I would call a typewriter. He wrote sentence after sentence upon this machine in certain and sure manner, while little Miss Mary Wright, in the first grade, also totally blind, in a clear voice and confident manner, read to us the sentences which Andrew wrote. Andrew, standing by my side, said, "Well, Mr. PEPPER, how do you like being Senator?" Little Mary said she would read anything we wanted her to read.

The interesting thing to me was that I didn't have the consciousness that I was in the presence of particularly handicapped children. They were reading, writing, laughing, doing things so nearly like ordinary children that I was hardly conscious of their pathetic infirmities.

How different would the lives of these children have been if they hadn't had the good fortune to have attended schools where special education for those having their handicaps was provided. If society into which they were born had permitted Andrew and little Mary to have continued in the eternal night which has hovered over their lives, instead of their having confidence in themselves, an attitude of assurance and composure toward normal children, a capacity to do things, which many normal children could not have done, Andrew would never have felt like standing up to me as a sort of an equal and saying, "How do you like your job, Mr. PEPPER", and little Mary, instead of winning the hearts of her audience with her clear voice and her gracious manner as she read the sentences which Andrew wrote, would have clung fearfully to someone's hand or slunk apologetically in some out-of-the-way place to which her infirmity cast her. And there would not have been children's hearts in the breasts and children's smiles upon the lips of the five little girls, who laughed so cheerfully that the photographer enjoyed taking picture after picture of them.

This illustrates just what we are trying to do in Senate bill 1634. This bill, which I introduced in the Senate and which has the hearty approval of all the societies which are doing such splended work in the education and development of underprivileged children of all classes, provides a Federal appropriation of $11,580,000. This sum, by the provisions of the bill, shall be used in paying the cost of services for the education of physically handicapped children over and above the cost of educating physically normal children in the public schools of the several States and the subdivisions thereof, and for the training of teachers of such children. A sum of $40,000 of Federal funds is directly appropriated to each of the several States, which does not have to be matched, which sum, according to the language of the bill, "shall be used to establish, extend, and improve services for the educating of physically handicapped children, especially in rural areas."

There is a further sum of $9,000,000 apportioned to the several States on the basis of the ratio of the number of inhabitants in each State between the ages of 5 and 20 years to the total number of inhabitants in the same age range in the Untied States, this sum to be matched by the several States.

The bill carries every possible safeguard of the rights of the several States and subdivisions thereof, to determine absolutely the kind of educational program to be carried out in their borders. In other words, this bill, although it provides for general supervision of the education carried on under its authority, is a bill for Federal aid and not for Federal control of the education of physically handicapped children.

All of us know that neither wealth nor income is equally distributed over the United States with respect to the population of children of school age. We know that in some of the States of the Union, although they employ a larger proportion of their total income than other States toward public education, yet they are able to spend in dollars and cents only a portion of what their sister States expend. It is only the Federal Government which reaches to every part of the United States, derives its income from every kind of business and activity in the United States, which is able to equalize differences in the abilities of the several States to provide educational opportunities to their children.

I cannot make it too clear that it is my conviction, and the conviction of the Education and Labor Committee of the Senate, that the control of education shall forever remain within the power and control of the several States. In the same degree it is my conviction, and the conviction of the Education and Labor Committee, that the Federal Government can no longer stand idly by and permit the greatest asset of our society—the growing generation of America—to be neglected and ignored.

I wonder if we are aware that there are in the country 66,000 children who are blind or of partial sight; 100,000 children crippled; 500,000 deaf and hard of hearing; 500,000 delicate; and 1,000,000 of defective speech; a total of 2,165,000, by the best estimates we are able to make, who are growing rapidly toward maturity, dependent entirely on the provision which society shall make for them, as to whether they shall be pathetic outcasts, who not only are financial burdens upon their fellow men and women, but whose souls suffer the anguish of their isolation and their infirmity, or whether they shall be a living, vital, helpful, and creative part of a thoughtful and considerate society. Statistics indicate that at the present time hardly more than 5 percent of the physically handicapped children of school age in the United States are receiving any special consideration. It is only natural that the several States, burdened to the bending point with the task of educating their normal children, have little left for the physically handicapped child whose education generally costs from two to five times as much as that of the physically well child.

I wonder also if we are aware of the injustice which the Federal Government has done those physically handicapped children. If they were adults and were deaf, blind, speechless, or physically handicapped, the Federal Government would provide for them in cooperation with the several States through the National Vocational Rehabilitation Act, or through the benefits provided by the Social Security Act. They would even have college training available to them, if they were deaf students at the Columbia Institute for the Deaf; and if they were blind, the Library of Congress and the American Printing House for the Blind would be available to them as sources of special instruction. If it were simply physical aid which they needed—hospitalization or medical care—these services would be at hand under the beneficent and humanitarian provisions of the Social Security Act; but if, after all possible medical care, they are still left crippled, if their blindness, deafness, or impaired speech cannot be cured, there is no provision whereby the Federal Government contributes a penny to the special education which they must receive if they are not to be dregs in the cup of our country.

There is nothing to my mind more important in promoting the welfare of this Nation, even the economic development of the country, not to speak of opening the highway of happiness for our people, than education. I very gravely doubt whether any money which we may spend upon public education of the right sort is either beyond our means or unwisely expended. I know that the best way to keep people off the relief rolls is to fit them for the kind of work which other people want and will pay for. I know that the surest preventive against relief is to teach people useful professions, trades, arts, to ascertain in their infancy what they are fitted for, as best we may, and then guide them to their appropriate place of usefulness in life. The most pathetic person in the world to me is a person just looking for a job. He knocks at the door of the banker, the baker, the candlestick maker, seeking employment, fitted especially for nothing. Society which permits a man or woman to grow up with such disability need not be surprised that later it shall be called upon to provide food and clothing and shelter for him, when there is no place for what he can do in the complex economic order of today.

The Federal Government is blazing a trail in the right direction. It has given us the Vocational Rehabilitation Act to provide special training for adults. It has done the most humanitarian thing of the day when it has given us the Social Security Act to straighten the bended limbs and distorted bodies of little children, and now I hope we are about to fill in the gap and in the adoption of Senate bill 1634 give to underprivileged children their place and the consideration which they peculiarly deserve.

We are not too poor to do this. We would be too poor if we did not. We can vindicate what we do in this respect in the economic return which will come back to us from the increased usefulness of those whom this bill will benefit. But we do not have to put it on that basis. The conscience of America is entirely willing to put it upon a broader basis, to put it on the principle of humanitarianism, on the basis of the Christian spirit which moves the heart of this Nation; on the provisions of our Constitution that an American citizen has a right to the high aspiration of happiness even though the hand of fate has closed his eye, stopped his ear, stilled his speech, or distorted the poor body which houses an American heart and an immortal soul.

Proposed Supreme Court Changes

EXTENSION OF REMARKS

OF

HON. ALBEN W. BARKLEY

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Thursday, April 15, 1937

ADDRESS BY HON. THEODORE F. GREEN, OF RHODE ISLAND, AT THE DINNER OF THE LAW SOCIETY OF MASSACHUSETTS AT BOSTON, APRIL 14, 1937

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered last evening at a dinner of the Law Society of Massachusetts, at the Chamber of Commerce in Boston, by the Senator from Rhode Island [Mr. GREEN] on the subject of "Proposed Supreme Court Changes."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. President and members of the Law Society of Massachusetts: Your invitation to address you would be highly appreciated by me in any event. It is especially appreciated now, when I am assigned a topic looming large in your minds, and one on which there is room for honest differences of opinion.

One of the most notable incidents of my administration as Governor of Rhode Island was when the Governor of Massachusetts formally visited me to present a copy of the repeal by the Commonwealth of Massachusetts of its edict of banishment of Roger Williams, the founder of Rhode Island. He was banished because of an honest difference of opinion, and he founded a new colony in order that differences of opinion might be freely expressed, even as to fundamental issues, such as the relation of a citizen to his State and the relation of a man to his God. So your Governor's visit signified that after 300 years Massachusetts was willing to admit that Rhode Island was right in its stand for civic and religious freedom and for toleration of differing opinions. To the intolerant attitude of some other organizations this invitation of the Law Society of Massachusetts to two speakers to present opposing views as to the President's proposal for the reorganization of the United States Supreme Court offers a pleasing contrast.

To begin with, it seems to me that we are facing a situation with respect to the courts that is rapidly approaching a crisis. It is fashionable nowadays to understate situations. The virtual economic collapse from which we are emerging is generally referred to as "a depression", as though it were merely a gentle undulation in the economic curve. But seriously, gentlemen, the attitude of the courts, particularly that of the United States Supreme Court, toward the measures which an aroused people has adopted or advocated in order to preserve our social and economic system is, with a few very recent exceptions, an attitude which has thwarted the efforts and the will of the people and has raised problems so serious that "crisis" is the only word adequate to describe the situation.

The Supreme Court's decisions, we have been told, rest on a "tortured construction of the Constitution", and represent simply the "personal economic predilections" of the majority Justices. These are not the words of some rabble-rousing agitator, spoken from a soap box (always assuming the police would let him speak such thoughts). These particular phrases are those of Mr. Justice Stone, a Republican, who was appointed to the Court by President Coolidge after having served as Attorney General in the latter's Cabinet. To strike even nearer home, let me recall some words of that distinguished son of Massachusetts, Mr. Justice Holmes, written only a few years ago. "I have not yet adequately expressed the more than anxiety that I feel at the ever-increasing scope given to the fourteenth amendment in cutting down what I believe to be the rights of the States. * * * I cannot believe that the amendment was intended to give us carte blanche to embody our economical or moral beliefs in its prohibitions. Yet I can think of no narrower reason that seems to me to justify the present and the earlier decisions to which I have referred."

These comments, made by judges actually present at the discussions in the conference room, are striking in their significance. They indicate that only lip service is being paid to the doctrine, until now considered fundamental in our constitutional system, that acts of the legislature are presumed to be constitutional until their invalidity is established beyond a reasonable doubt. There are even indications in current opinions of the Court that the burden of proof has actually shifted, and that it is now necessary for the defenders of a statute affirmatively to establish its constitutionality.

It is this present attitude that has produced the present crisis. For let me remind you what a learned and eminent constitutional lawyer, my old law teacher and friend, the late James Bradley Thayer, pointed out; that review by a court of the constitutionality of a statute is only workable, and can be justified only, if the so-called presumption of constitutionality is rigidly adhered to. For once you shift the burden, once you establish what may be termed the opposite presumption of unconstitutionality, then the system breaks down, and in place of judicial review you have a court sitting—to use an expression of another Massachusetts Justice—as a "superlegislature."

The founding fathers did not intend the Supreme Court to pass upon the wisdom of legislation. At the convention at which the Constitution was drafted it was urged by James Wilson that the Court should have this function, but this proposal, though supported by Madison and by Ellsworth, was emphatically voted down. Yet today we find the Court in some cases doing precisely what the Constitutional Convention specifically refused to permit it to do. It is passing on the wisdom of legislation. That legislation was passed by Senators and Representatives of the people who actually have grappled with today's economic questions, who have faced the problems of unemployment and poverty, who have had to wrestle with the hard actualities of life, and who, for the most part, were elected to replace men deemed by the voters to have failed in those very tasks. But that legislation is being reviewed by men carefully sheltered from the storm, secure in their positions, without responsibility for the economic and social problems that cry out for solution, and, to a considerable extent, unaware of and oblivious to the marked change in the public's point of view in the last 8 or 10 years. This may be summed up in the words of Mr. Justice Sutherland a fortnight ago: "The meaning of the Constitution does not change with the ebb and flow of economic events", and he said this in giving his opinion that the due-process clause in a Federal constitutional amendment applies to a State law establishing a minimum wage.

The solution proposed by the President proceeds on the sound assumption that the difficulty in the last analysis is with the judges and not with the Constitution, is with judges of closed minds, not with judges of open minds, and is with aged judges who are more apt than younger judges to have closed minds. It is a fact that, just as age often hardens the arteries, so also does it often harden the mind. There are exceptions to both, naturally, but by and large it is so. Take, for example, the recent minimum-wage decision, which at long last overruled the Adkins case. All of the Justices under 70 were of the opinion that minimum-wage legislation was constitutional; but two-thirds of the Justices over 70 adhered to the view that it was unconstitutional. That, it seems to me, is a good illustration of the general rule.

It is a striking fact that there has been no criticism of any kind regarding the application of the President's plan to the lower courts. It seems to be agreed that a circuit judge or a district judge passes the peak of his effectiveness at 70. What is there in a Supreme Court Justice that makes him immune to the usual effect of increasing years? Nothing that I have ever heard of. And if it is desirable to have open-minded judges on the lower courts, and this desirability is not questioned, then is it not even more desirable to have them on the Supreme Court, from which there is no appeal anywhere?

As to the constitutionality of the proposal—that seems so clear to me that it is hardly worth mentioning before an audience of lawyers. Congress in the first instance fixed the size of the Court and has since changed it six times. Why should such a change today be any less valid than in the past?

Some say, "But never before did a President change so many Justices as to give him control of the Court." President Taft appointed a majority of the Court and a Chief Justice. President Roosevelt, even if he appoints all that the proposed law would permit, will appoint only a minority of the Court.

The real issue is not whether the Court has kept up with its calendar; it is whether the Court has kept up with the country. The temporary inconvenience of the judges seems to me infinitely less important than the permanent hardships which 130,000,000 American citizens may have to endure if the Court persists in its obstructionist attitude. Bear in mind that four out of the present nine Justices, come what may, are opposed to the social philosophy that prevails in the United States today. This philosophy has been overwhelmingly approved by the people at three successive national elections and with ever-increased majorities. These four Justices, all of them over 70 and three of them over 75, hold to a different philosophy. They will not resign because apparently they want to impose their own view and thwart the people's view regardless of consequences.

Look at the last minimum-wage-case decision. In the forenoon of Monday, the 29th of March 1937, such legislation was, as it had been for 14 years previously, prohibited by the Constitution. In the afternoon of that same day such legislation was permitted by the Constitution. Who amended the Constitution? Was it the President, or the Congress, or the legislatures of 36 States, or 36 State conventions? No! It was simply Mr. Justice Roberts. He changed his mind. "The Constitution is what the judges say it is." The Constitution is what Mr. Justice Roberts says it is. The Constitution is what he says it is now. This is not said in disrespect of the learned Justice. It is more important to be right than to be consistent. His courage and open-mindedness command respect. Neither is it said in criticism of majority rule, which would apply equally to an enlarged Court. It is said to emphasize the fact that the Federal Constitution is not something fixed and definite, having the precision of a statute law or of a zoning ordinance. Although it is a written instrument, it is a living, changing thing. That most glorious instrument of government was conceived for no specific time. In its fundamental provisions it sets forth principles applicable to all times. These principles have to be applied from time to time to make timely their timelessness.

Look, too, at the four decisions day before yesterday on the Wagner Labor Act where the change of one judge's opinion would have meant vital changes in the relation of capital and labor.

But it is still insisted by some persons, in spite of these occurrences, and in spite of the score of times the Supreme Court has overruled itself on constitutional questions, that the President's objectives should be reached only after a constitutional amendment has been duly proposed and ratified. I cannot agree with them for several reasons.

In the first place, I do not think that a constitutional amendment is necessary. It would not be wise, in my opinion, to introduce any substantive change into the distribution of State and Federal powers. Personally, I am of the view that so far as possible local affairs should be left to local regulation, except when the effects of such local affairs transcend State lines. And for the latter result no amendment is necessary, but only a Court that is aware of the facts of economic life. In each case the question must be, Is there in fact an appreciable effect on interstate commerce? And if the answer is "yes", then the Constitution as it stands is broad enough to support Federal regulation. I may add that these lines were written before the Wagner Labor Act decisions were handed down.

In the second place, most of the constitutional amendments so far proposed have more obvious shortcomings than the President's proposal. I am far from saying that a satisfactory amendment cannot be drawn, but if such eminent lawyers as the authors of the various proposals, who have devoted much time and thought to the subject, are unable to draft amendments which can survive even a cursory scrutiny, then I submit that it will be a long and difficult task to draft an amendment that will pass muster.

In the third place, I seriously doubt whether any such amendment would really help. After all, we are confronted with an attitude of mind. The frame of mind that can give the Constitution a tortured construction is fully capable of giving a tor-

tured construction to any amendment. We don't want an amendment that goes too far in the grant of substantive powers. On the other hand we cannot press for an amendment each time that a specific case arises. In other words what is needed is an amendment which embodies the constitutional philosophy of Mr. Justice Holmes in such a way that it will be proof against the constitutional philosophy of Mr. Justice McReynolds. I will not be dogmatic and say it cannot be done, but I can safely state that I have not seen it done yet.

"Well", say some people, "suppose the Supreme Court does make a few mistakes? We all make mistakes sometimes." The trouble with this approach is that it underestimates the consequences of a Supreme Court mistake. The mistaken decision in the slave case *Dred Scott* v. *Howard* was overruled, but it was overruled only as a result of 4 years of civil war, four hard and bloody years, in the course of which thousands of Massachusetts men as well as those of other States, north and south, laid down their lives. The income-tax case, *Pollock* v. *Farmers Loan & Trust Co.*, was finally overruled by the sixteenth amendment—but not until 19 years of agitation had intervened. The 5–4 decision in the child-labor case, *Hammer* v. *Dagenhart*, out of line with everything before and everything since, and especially since the Wagner Labor Act decisions, is still law after more than 18 years of ceaseless effort to wipe it out so that the heritage of our children may not be despoiled by unscrupulous exploiters. "A few mistakes"—well, perhaps so, but how costly to correct! Only the mistakes of our medical friends are less susceptible of correction than the mistakes of the Supreme Court.

In the fourth place, and finally, any such amendment proposed by Congress is virtually sure to fail of ratification. This doubtless is one reason why the amendatory process is so strongly urged upon us by many opponents of the New Deal, who say that if a majority of the people want an amendment they can get it easily. They overlook, however, the unequal system of representation which prevails in many States. Take my own State of Rhode Island for example. The President carried it last November by about 40,000. Yet the senate consists of 27 Republican senators elected by 51,711 voters and 15 Democratic senators elected by 120,319, or over twice as many voters.

But it is suggested that ratification could be by State conventions instead of by State legislatures; to which I reply that the conventions would have to be called, and their composition determined by these same legislatures opposed to the amendment, so that the outcome would be the same. Some persons suggest that Congress could call the conventions and fix their composition. That has never been done. It would involve the Federal Government in a State election in an unprecedented way, and is of doubtful constitutionality.

Some of you may be in agreement with me up to this point and yet inquire whether the President's plan may not lead to dictatorship. The short and simple answer is that there is nothing in the President's proposal which impairs in the slightest degree the independence of the judiciary. There is nothing in the proposal that lessens the power of the Court to declare a statute unconstitutional. How, then, can it be said that the judiciary is any less independent? It is urged that the new Justices, if any are appointed, will thereafter be the President's men. All our past experience refutes this notion. Mr. Chief Justice Chase was not Abraham Lincoln's man in the *Legal Tender cases*. Mr. Justice Holmes was not Theodore Roosevelt's man in the Northern Securities case. Mr. Justice Cardozo has never been Herbert Hoover's man in any case. But it is objected, that if this is so, there is really no use in the proposal. I disagree. What is needed is not subservient judges but more open-minded judges. The present Court is in large measure, four-ninths, to be exact, not open-minded. It is that which has brought on the crisis; it is that which makes some remedy imperative.

And as for any fancied dictatorship, from which direction does it threaten? Was there ever in any democracy a dictatorship comparable to that of Mr. Justice Roberts? With more justification than King Louis XIV of France, he can exclaim, "I am the State!" As his opinion changes he prohibits or permits the fixing by great sovereign States of a minimum wage for tens of millions of working people. He lays down and reverses the fundamental law for 130,000,000 Americans. He is not answerable to anyone. He is not recallable by anyone. The Constitution is what he thinks it is. When his mind tends in one direction, railroad retirement, municipal bankruptcy, and minimum-wage legislation are unconstitutional; when it tends in the other direction, gold-clause, milk-control, mortgage-moratorium, minimum-wage and labor legislation are constitutional. Yet while this is called "democracy" and "government of the people, by the people, and for the people" the President's mild proposals for reform are branded as "dictatorship" and drive some newspapers and old ladies of both sexes into hysteria.

I submit that the President's plan is essential to the preservation of our democratic form of government, and is necessary if we are to restore public confidence in our courts. The wounds which the judiciary nurses today are in the words of the present Chief Justice "self-inflicted." We cannot go on indefinitely with four out of nine Justices adamantly opposed to every idea which was not current a generation ago. We cannot breathlessly each Monday make our whole economy mark time until we learn where Mr. Justice Roberts or some other Justice stands.

Despite some recent liberal majority decisions, the margin is too precarious and the decisions too inconsistent with others to make possible the laying down of lines of national policy necessary for our social and economic security and industrial peace.

From my desk chair in the Senate Office Building, I look across the courtyard into the windows of the room where the Judiciary Committee is holding its daily hearings on this subject. I have been strongly tempted to walk down the corridor and listen to the arguments made there, but unfortunately have found myself chained to my desk. However, I have followed the hearings and from the mass of speeches made there, largely repetitions, I think the situation may be summed up as follows: There are three possible alternatives facing the Government and people of our country. The first is to do nothing. The second is to amend the Constitution. The third is to accept the President's proposal. There seems to be a general, though not entire, concensus of opinion that something should be done and that otherwise our capitalistic system and our democratic form of Government are in danger. So we may discard the first alternative. There is a large body of opinion for amending the Constitution in various ways and another large body of opinion against it. The arguments in favor are that this is an orderly procedure provided in the Constitution itself, and that it is feasible because a number of amendments have been readily adopted in the past. The arguments against it are, firstly, that very few people can agree as to what amendments are desirable, and secondly, that even though they did agree it would be impracticable without very long delay to amend the Constitution in a matter of partisan controversy or where the economic advantages of an influential part of the community are thought by it to be adversely affected. Those who believe as I do in the validity of the last arguments are forced to abandon the second alternative. This leaves the third alternative. In addition to trivial or fanciful objections some serious ones have been raised. The most serious objection of all in my opinion is that there can be no assurance that the proposal will make possible the changes in our social and economic structure which are generally felt to be necessary or desirable. However, it does offer a reasonable possibility of accomplishing that end, and so this alternative is preferable to either of the other two.

Let us not forget the critical condition of this country on the 4th of March 1933. Prompt and heroic action was necessary to save it then. It was as though a patient with the false bloom of health on his cheeks, due to high blood pressure, had suddenly collapsed. He has by artificial means been gradually brought back to seeming health. Color has returned to his cheeks, and he is beginning to enjoy life again. However, measures must be taken to guard against another attack. The fundamental causes of his sickness must be removed. The fundamental causes of the Nation's sickness are the evils which have developed in our capitalistic system. They can only be removed and the system made healthy with the aid of governmental action. There is no necessary and causal connection between the capitalistic system and the democratic form of government. Yet the masses of the people who suffer from economic conditions will hold their Government responsible. So we must make use of our democratic form of government as a means to that end. If it is prevented from being used for that purpose—it makes no difference who is responsible for preventing it—the end will be the same. Then our present capitalistic system will be changed somehow, and our democratic form of government will probably be changed, too. In other words, recovery from the depression which we have experienced does not mean recovery from the causes which brought on the depression. These have not been removed, and they must be removed if another depression with even more serious consequences is to be avoided.

It is really a question of the survival of democracy. Democracies have died in Europe because they proved ineffective to meet the people's needs. Democracy here may well prove ineffective unless the present general course of judicial strangulation is reversed. Some say, "Wait for death", meaning the passing of men on the Court already past the Biblical threescore and ten. Let us take care lest by waiting too long we risk death of another kind—the death of the institutions political, social, and economic for which generations of patriotic and public-spirited men and women have fought and bled and worked and sacrificed even their all. Let us act in the best way open to us. That way I am convinced is the way we are now discussing—the way the President has proposed.

A Plea for World Peace

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 15, 1937

RADIO ADDRESS BY HON. GEORGE H. EARLE, GOVERNOR OF PENNSYLVANIA, ON APRIL 8, 1937

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD an interesting and thoughtful address delivered by Hon. George H. Earle, Governor of

Pennsylvania, at the thirty-first annual dinner of the United Business Men of Philadelphia on April 8, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

This week marks the twentieth anniversary of America's formal entry into the World War.

All of us had hoped to end war 20 years ago. We had believed, and believed sincerely, that by crushing imperialism we could bring peace to the world.

We went into battle inflamed with idealism. We were fighting "for the ultimate peace of the world and for the liberation of its peoples."

In 19 months we had 4,000,000 men in uniform. In less than 2 years the war cost us 100,000 American lives and $30,000,000,000.

For what?

For the "ultimate peace of the world."

The world is not at peace. Spain is in the throes of a bloody, brutal, merciless civil war. The Fascist legions and the Nazi battalions are on the march. France is armed and fortified. England has begun the greatest rearmament program in the history of modern Europe. A military clique is in power in Japan.

A mighty army is marking time in Russia. Abyssinia has been invaded and conquered. There is no land that does not feel and hear the approach of war.

If not for the "ultimate peace of the world", then perhaps for the "liberation of its peoples."

Who will dare to say that has been accomplished? Hopeful young democracies arose after the World War inspired by the precept and example of America. One by one they have fallen. True enough monarchy has waned, but the greater evil of dictatorship has succeeded it. Today, 20 years later, the peoples of Europe are less free than they were on April 6, 1917.

Let no one suppose, because the high goal of our idealism was not achieved, that our sacrifice was in vain. The men who fought and the men who died were charged with the task of keeping the ideal of democracy alive. No one can tell what greater calamity might have befallen the civilized world but for their heroic devotion to that ideal.

Without in any sense detracting from the glory that is rightly theirs, we can now, in the perspective of the years, look back and say that neither "the peace of the world" nor the "liberation of its peoples" can be achieved by war.

Let us look forward with the same clear vision.

There are in Europe today two great forces struggling for supremacy, fascism and communism.

American democracy has nothing in common with either of these doctrines. America has no reason to go into war to defend either side.

Fascism and communism have many more points of similarity than they have points of difference.

Both are iron-clad dictatorships. Under both systems the hand of the secret police may fall on a citizen's shoulder at any time. Under both systems there are political prisoners, jailed for no crime other than their convictions and opinions.

Both suppress freedom of speech. Both drastically limit freedom of the press. Both regiment the right of assembly. Both operate without any bill of civil rights, without any regard for human liberties.

Both are noted for suppression of minorities. Both are entirely alien to the American system of democracy and the American way of life.

Imperialism is usually thought of in terms of a single country's ambition for conquest.

We should remember that there is another kind of imperialism—the imperialism of political doctrine. Stalin, dictator of Russia, makes no attempt to disguise the fact that the purpose of communism is to extend its sway throughout the world. Hitler, dictator of Germany, and Mussolini, dictator of Italy, are outspoken in declaring that they intend to spread fascism beyond the borders of their own countries.

American democracy is fundamentally opposed to dictatorship. The American bill of rights is a standing rebuke to both fascism and communism, both of which are reigns of terror.

We have nothing to gain, nothing to hope for, nothing to accomplish, by involving ourselves in the struggle for power that is making Europe an armed camp today. No matter which side wins, democracy loses. No matter which side we might take, in the last analysis we must realize that the end is the same—and that end is dictatorship.

War in Europe is imminent. War is inevitable. In fact an undeclared world war, involving the great powers of the Continent, is being waged in Spain even now.

We learned in 1918, at a cost of 100,000 men and $30,000,000,000, that we cannot assure liberty and peace through bloodshed. Let us not forget that lesson today.

Our foreign policy, under the wise guidance of President Roosevelt and the able execution of Cordell Hull, is the policy of the good neighbor.

The good neighbor never interferes in the quarrels of the family across the street. He may try to bring peace, but never with a sword.

Yet we all recognize, only too well, that the same factors which led us into the holocaust of 1918 are operating in our country today.

The danger flags are flying in the production charts of heavy industry—war industry. The warning signals are clear and unmistakable in the stock quotations of basic war commodities. Europe is buying, preparing for the slaughter.

If we are going to remain the good neighbor, we must have the courage to forego war profits.

To me it is unthinkable that any citizen should take advantage of his country's need to increase his own bank balance. Yet that is what has happened in the past, and will happen again if it is not prevented.

Many people have advanced innumerable plans to keep the United States out of the impending European bloodshed. I say we need only abolish war profits. If we can prevent the munitions makers and the steel trust from holding a pistol at Uncle Sam's head when war is declared, and if we can prevent Wall Street from dictating terms to Washington, enthusiasm for war will die quickly and quietly.

War hysteria is easily fomented. It is not to the credit of any nation to succumb to it. Brass bands and gold braid are powerful incentives to an adventurous, pioneering, courageous people. The glamour and romance that cloak the brutal sordidness of war are real dangers. To meet them we require a higher courage even than that of the battlefield—moral courage.

Those of us who served in the World War know how wars tear down the finest things of our civilization, how they degrade and destroy. We have said "Never again", and we have said it with a prayer on our lips for those who would come after us. That generation has come. It has grown to maturity since the armistice silenced the guns on the Western Front. In Europe that generation today is being trained to man the artillery to pilot the bombers. All too soon that schooling will be over, for even today all Europe is a volcano ready to erupt.

Let us not say "It can't happen here." Let us say instead, "It must not happen here." Let us now, by self-sacrifice, spare ourselves and our children the greater sacrifice that may come after. Let us destroy the war spirit by destroying war profit. Let us uphold the good-neighbor policy of dynamic neutrality, of positive action to preserve peace. And let us pray God that by our efforts, and by our sacrifice, we may spare our children—and our children's children—from the horrors and the ravages of war.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. RUSH D. HOLT

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 15, 1937

ADDRESS BY H. B. LEE, FORMER ATTORNEY GENERAL OF WEST VIRGINIA, BEFORE THE CIVITAN CLUB OF CHARLESTON, W. VA.

Mr. HOLT. Mr. President, I ask unanimous consent to have published in the RECORD an address delivered by H. B. Lee, former attorney general of West Virginia, before the Civitan Club in Charleston, W. Va., on the subject of the reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

No question since the ante-bellum issues of slavery and secession has so profoundly stirred the country as the President's demand for legislative authority to increase the membership of the Supreme Court from 9 to 15 Judges. Briefly stated, the proposal is that for each Justice over 70, who refuses to resign, the President shall appoint one additional Judge. Under the plan the membership of the Court shall not be fewer than 9 or more than 15.

Happily, the issue has risen above party. Many leaders of the President's party bitterly oppose the plan, while a number of leaders of the opposing party are alined with him. Therefore, I assume that I may freely discuss the question on this occasion.

In itself, the proposal contravenes no provision of the Constitution or any possible construction of that instrument. Yet its opponents urge that it strikes at the very heart of our liberties, and if carried out will ultimately destroy our constitutional form of government. While its supporters with equal earnestness say that it must be accepted if the Constitution and the Court are to serve the needs of the people amid the changing conditions of our complex civilization.

If the proposal endangers American liberties, wherein does the danger lie? Is such danger real, or imaginary? If real, the proposal should be rejected. If imaginary, and there is a vital need for such additional Judges, it should be accepted.

In his message to the Congress, the President demanded this authority for two reasons: (1) Because the Court is behind with its work, and additional Judges are necessary for the speedy administration of justice; and (2) because at least six of the present Judges are too old to perform their official duties.

However, since it has been shown that the President was misinformed, and that the Court is abreast of its work, and that age has not seriously impaired the mental vigor or bodily strength of the Judges, the President and his supporters have shifted their positions. They now boldly admit that the purpose of the plan is to bring the judicial branch of the Government under the domination of the Executive, and to place on the Court a majority of Judges who will interpret the Constitution so as to validate certain legislation favored by the President.

The President defends his position on two grounds: (1) That his overwhelming majority in the last election was a mandate from the people to carry out whatever plans he may formulate and propose; and (2) that old age and senility cause certain of the present Judges to see new problems through old glasses.

Let us examine these contentions.

First, was the last election such a mandate as is now claimed by the President? The platform on which he was elected pledged him and the Congress to legislate within the limits of the Constitution; and should that be found impracticable to submit to the people for their approval or rejection an amendment to the Constitution granting to Congress the legislative authority desired.

At no time during the campaign did the President or any of his supporters suggest that the Executive even contemplated changing our judicial system so as to bring the Supreme Court under his domination. In fact, when the opposition charged that such was the President's ultimate aim, it was branded as a campaign canard.

In reply to such an accusation, Senator ASHURST, of Arizona, chairman of the powerful Foreign Relations Committee in the Senate, said:

"And among the unjust criticisms which have been made about the President is that he intends at sometime—nobody knows when or how—to increase by some legerdemain the membership of the Supreme Court, so that his policies may be sustained. A more ridiculous, absurd, and unjust criticism of a President was never made."

When the President remained silent, and such a course was even denied by his responsible supporters in the campaign, how may it be said now that the election gave him a mandate to dominate, if not destroy, the independence of a coordinate branch of the Federal Government?

Today this solemn platform pledge is repudiated on the grounds that it takes too long to submit and have the people ratify or reject a constitutional amendment. But this argument loses its force when we consider that the first 10 amendments were approved in 8 months and the last 3 declared adopted in an average of 9 months—very short periods in the life of a nation.

Moreover, consideration of such an amendment need not wait the convening of the legislatures of the respective States. Under article V of the Constitution Congress may provide for its acceptance or rejection by conventions in the several States, which conventions Congress alone has the authority to call and fix the dates therefor. By this process it is possible to have any proposed amendment either accepted or rejected in a very short time.

Second, are the Judges who have taken 70 years at full stride too old to perform their official duties? Are the new facts in our American life blurred by their old glasses? Are they too old to decide problems in this changing world? History refutes the contention. Such a law would have deprived the Nation of the services of Chief Justice Marshall during the last 10 years of his life—the most productive and useful of his entire career. Mr. Justice Holmes, retiring at 91, was hailed without dissent as possessing the greatest wisdom, vision, and liberalism in his latest years. Mr. Justice Brandeis, the oldest member of the Court today, is among its youngest in industry and liberalism. Benjamin Franklin, with the accumulated wisdom of 81 years, was the leader in the great convention which gave us our Constitution. If the country were deprived of the great figures in the United States Senate who have seen 70 winters the Nation would suffer an irreparable loss.

All art, literature, and science teach the fallacy of this cruel doctrine. Titian, the master painter, did his greatest work at 90; while Longfellow at 70 wrote his greatest poem, Morituri Salutamus, in which he said:

> Cato learned Greek at eighty; Sophocles
> Wrote his grand Oedipus, and Simonides
> Bore off the prize of verse from his compeers,
> When each had numbered more than fourscore years,
> And Theophrastus, at fourscore and ten,
> Had but begun his Characters of Men.
> Chaucer, at Woodstock with the nightingales,
> At sixty wrote the Canterbury Tales;
> Goethe at Weimar, tolling to the last,
> Completed Faust when eighty years were past.
> These are indeed exceptions; but they show
> How far the gulf-stream of our youth may flow
> Into the arctic regions of our lives.

To determine whether the President's proposal constitutes a danger, either present or remote, to the liberties of the people, we must review a little history.

When our Constitution was written in 1787, the people had but lately emerged from a long and bloody war. They had fought that war for individual liberty, to break the shackles forged for them by a tyrannical government, to destroy the power of a select group to order the lives of men, to gain and keep their natural rights as proclaimed for the first time in the Declaration of Independence; in short, to control their own destiny.

To preserve these rights and liberties which had been so dearly won on a hundred battlefields, a little group of 55 former soldiers and patriots met in Philadelphia, and after 4 months of arduous toil completed our Constitution. Those men were practical statesmen, with a great purpose and a noble vision. They were familiar with the lessons of history. They understood that power feeds on power, that authority unrestrained always ends in despotism, and that human liberty is never safe when those who exercise power are not held in check by an authority greater than their own. This Constitution not only restrains the Government from acts of tyranny against the people but a still higher purpose is made clear in one phrase of its preamble, namely, "To secure the blessings of liberty to ourselves and our posterity." Hence this charter of liberty was made for us. It is ours, but it is not ours to surrender or fritter away. We simply hold it as trustees for future generations.

What was the vision which moved those founding fathers? As they worked, no doubt they looked back across the seas and the years and saw themselves or their parents or grandparents among England's mongrel millions, limned in hopelessness, their rags fluttering in the wind, their scanty substance taken by royal tax gatherers, their children conscripts for regal armies, their lives circumscribed by the inflexible rule: As your grandsires were, so were your sires and so must you be, and so also must your children be after you.

And then through the mists of years they saw the Government they hoped to create—a government where men were no longer as clods of the fields, but where they should have equal access to the resources of life, liberty, and the pursuit of happiness; where they could freely speak their own minds, live their own lives, worship God in their own fashion, work at tasks of their own choosing; where they could collect, spend, or save the fruits of their own toil; climb as high as their ability, integrity, and industry would permit; and where they would possess those rights so inalienably that they could not barter them, nor the Government infringe upon or abrogate them.

To accomplish this dream, the constitutional fathers had a threefold purpose in mind: (1) To establish a national government strong enough to protect the States from foreign aggression, and to give it control over all matters of a strictly national concern; (2) to guarantee the political integrity and rights of the States; and (3) to preserve the rights and liberties of the citizens against encroachment by the very National Government they created.

Then, to prevent infringement by the National Government upon the rights of the States or liberties of the people, they provided for two kinds of laws: (1) The supreme law or Constitution, which was enacted by the people themselves, and which expressly defines and limits the powers of the Federal Government and the authority of its officers and requires from such officers a most solemn oath to preserve, protect, and defend it; and (2) laws enacted by the people's representatives in Congress and which must conform to the Constitution. In other words, laws enacted by Congress are rules made by the Government for the people to obey, while the Constitution is a set of rules laid down by the people for their Government and elected servants to obey.

Mindful of the tryannies which had always resulted in governments where one individual or group made, interpreted, and enforced the laws, the framers of the Constitution divided the Government into three separate and distinct branches, each supreme in its own sphere, and each with a check upon the powers of the others. These branches are: The legislative to make, the executive to enforce, and the judicial to interpret, the laws. This system of checks and balances was designed to keep the Government from becoming a tyranny. It is the genius of our Constitution, the citadel of our liberty.

This supreme law or Constitution delegates to the Federal Government only such powers as are therein enumerated. All others are reserved to the States or to the people. Its framers understood that in time conflicts would arise between these different branches of the Federal Government, and also between them and the States, and that citizens, too, would complain that their rights were being infringed. Therefore, as a final arbiter or umpire in the settlement of all such controversies they provided in the Constitution for a Supreme Court.

But the founding fathers had seen their colonial courts of justice become instruments of tyranny under kings who appointed and controlled the judges. In fact, one of the charges brought against George III by Thomas Jefferson in the Declaration of Independence was that "He (the King) has made the judges dependent upon his will alone." Therefore, to secure absolute independence of the Federal judiciary, insure impartial and unobstructed justice, prevent the judges from being made dependent upon either the President or Congress, and insofar as humanly possible to remove them from the turmoil of politics, parties, and factions, the constitutional framers provided that the judges shall hold their offices during good behavior, which is a life tenure.

This independence of the judiciary has been our most cherished possession, our one safeguard against tryanny. No litigant has every stood before that high Court who felt that the scales of justice were loaded in favor of the Government or that the Judges are compelled to do the bidding of the Chief Executive, and this fact has inspired confidence in our country and faith in its justice and institutions.

Moreover, this independence of the Supreme Court is vital to our democracy, and, if lost, democracy itself is lost. Our priceless religious and civil liberties are lost, and the dictator has arrived. Because when one man controls the three coordinate

and independent branches of the Government, however noble his impulses or pure his motives, there is then no protection for these God-given rights except an appeal to his clemency.

The final arbiter of the meaning of the Constitution is the Supreme Court and not the President. Yet the President seeks authority to abandon this policy of judicial independence and constitutional interpretation which for 150 years has been intertwined with our American traditions, and to expel from the Court six Justices over 70, or to appoint six additional Justices to share their judicial responsibilities. When the country asks why, we are told that the present Court does not agree with the President's interpretation of certain provisions of our fundamental law, and if his policies are to be carried out the Court must be packed with a majority of Judges who agree with his views.

But a packed Court ceases to be a court of justice and becomes an instrument of oppression. History teaches that power once seized is never willingly surrendered. Therefore, if we take this step now we can never retrace it. A bill to repeal it, if vetoed by an ambitious President, would require a two-thirds vote in both Houses of Congress, which probably would be impossible. It becomes a precedent for future Presidents, good or bad, to pack the Court with six or even a dozen Judges, if necessary, to carry out their whims. The Court will be emasculated, its decisions command neither respect nor confidence, and it will ultimately become nothing more than a political football in the hands of transient majorities or future dictators.

It was such transient majorities, when inspired by temporary prejudices and political passions, that the framers of the Constitution mostly feared. Therefore, as a bulwark for the defense of minorities and individuals, they provided in the Constitution for a Supreme Court and set it as a watchman in the tower of liberty to see that the elected servants of the people did not become drunken with power and enact laws which deprived them of any of the rights and liberties reserved to themselves. Through this watchman the people may say to their public officials, high and low, "Thus far shalt thou go, and no further."

Today we are told that by the exercise of this authority the Supreme Court has become a tyrant in two respects: (1) That our fundamental law confers no authority upon the Court to determine the constitutionality of laws enacted by Congress, and its present exercise is a usurpation by the Court which must be gotten rid of, even if the Court has to be packed to do it; and (2) that too many of the Court's decisions are made by a 5-to-4 vote, or a majority of one only.

In neither case are the critics sustained by the facts. The Constitution invests all judicial power of the United States in one Supreme Court and in such inferior courts as Congress may create. It also provides that such judicial power shall extend to all cases, in law and equity, arising under the Constitution and the laws and treaties of the United States.

What is this "judicial power" of the United States which the Constitution vests in the courts? It is the authority to hear and pronounce judgment in accordance with the Constitution and laws in any controversy between persons and parties who may bring a case before the courts, and to carry that judgment into effect.

To say that this "judicial power" does not extend to acts of Congress is to say that the Supreme Court is wholly impotent and its creation a meaningless gesture. To deprive the Court of this authority is to destroy the Constitution, strangle the Bill of Rights, drive a knife through the heart of liberty, and erect a fortress of despotism upon the ruins of this Republic. We then substitute for the Constitution the unrestricted will of a temporary, and possibly temperamental, congressional majority. We then make Congress supreme, and the people become subject to its whims, caprices, ambitions, and venalities.

While our high Court has never been free from attack, criticism has been especially vituperative in the last few months. In a recent radio "fireside chat" we heard it blamed for droughts, dust storms, soil erosion, and floods. Still more recently a few college professors testified before a Senate committee that it was responsible for communism, fascism, nazi-ism, labor unrest, sit-down strikes, lock-outs, and violence. And all because the Court has dared to exercise its constitutional right to declare certain laws passed by Congress in violation of our Constitution.

From the virulence of this present criticism one would assume that most of the Court's labors have been thus directed. In truth, however, in our 150 years of history as a nation, and possibly 25,000 laws passed by Congress, only 62 acts have been held in violation of the Constitution, of which 7 were during the last administration. Of these decisions, 25 were by the unanimous vote of the Judges and only 11 by a 5-to-4 vote. It is significant, too, that the N. R. A. case, of which the President complains most bitterly, received the unanimous condemnation of the Court.

If we include the N. R. A. and A. A. A. cases, only seven of these adverse decisions are still criticized, the others being now recognized as clearly right. Whether any one was wrong is an open question, but assuming all seven to be so, it affords no grounds for demanding a complete revolutionary change in our form of government. The Supreme Court is a human institution; it may have made mistakes in the past and it may err in the future. But would this be cured by the President's proposal? Would a decision by an 8-to-7 vote be any different or less criticized than one by a vote of 5 to 4?

In the present controversy it is not a question of whether we favor Judges retiring at 70 or 75, or whether we think the N. R. A. and other laws recently outlawed by the Supreme Court should be in effect. In fact, we may believe that both these things are highly desirable. But that is beside the point. Such changes may come only by amending our Constitution, and this may be done by the people by the orderly processes provided in that instrument, or by our elected servants usurping such authority. The President's proposal to effect these changes by packing the Supreme Court with Judges picked to decide questions as he desires is to amend the Constitution by the most flagrant usurpation ever attempted in American history. Such a course will mean the beginning of the deadly process of erosion which in time will result in the ultimate destruction of every constitutional guaranty of individual liberty.

From the dead lips of the Father of his Country, who speaks to us from an undying past, comes a solemn warning against changes in our Constitution by usurpation. In his Farewell Address to the American People, Washington said:

"If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way the Constitution designates. But let there be no change by usurpation; for, though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield."

Do not misunderstand me. I am not challenging the purity of motive or high purpose of the President. He is burdened by mighty tasks and faced by grave problems. We readily concede that he honestly seeks to materially aid that portion of our people who are ill-clad, ill-nourished, and ill-housed, and whenever and wherever legitimately possible we must aid in that lofty undertaking. But his motives are in no sense an issue here. It is written that man shall not live by bread alone. Liberty is dearer than life itself. And we concede to no man, however high his place or pure his motives, the right to initiate a program by which Congress shall enact a statute that will ultimately destroy the constitutional liberties of the American people.

Our Constitution is not a static instrument. Throughout its 150 years of history it has proved itself strong enough to meet the demands of the present and flexible enough to admit the needs of the future. If it continues to live it will remain the protection of 125,000,000 people and the hope for multiplied millions yet unborn. If it dies, the last and best hope of our Republic perishes with it.

Mr. Bigelow's Statement on Equal Rights

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1937

STATEMENT OF HON. HERBERT S. BIGELOW, OF OHIO

Mr. LUDLOW. Mr. Speaker, our colleague from the Second District of Ohio, HERBERT SEELY BIGELOW, holds an eminent place as statesman, lecturer, and publicist and whatever he has to say on questions of public importance is certain to be illuminating and interesting. As a former member of the Ohio House of Representatives and president of the Fourth Constitutional Convention of Ohio he had an unusual background of public service when he entered the Halls of Congress at the opening of the present session.

Mr. BIGELOW has been throughout his public and private life a stanch supporter of the cause of women, and by unanimous consent of the House I wish to present for the consideration of this body an impressive statement he made today upholding the so-called equal-rights amendment, House Joint Resolution No. 1. His statement is as follows:

The equal-rights movement means more than the demand for equality under the law. It is profoundly deeper than this. It is a movement for the complete recognition of woman's right to the free expression of her own personality. If we were to embrace this better thought, if we were really to take women into civic partnership, if we were to show that we really could rise to this conception of the equality and democracy of the sexes, this better thought would come like cleansing sunshine to sweeten all the

relationships between men and women. It would be a victory of reason over ignorance and prejudice, of chivalry over cowardice and stupidity, of love and light over the errors that fetter the human spirit.

The passage of the equal-rights amendment, now before Congress, will strike down the shackles the common law has placed upon women. It would mean that every woman shall hold her life, liberty, and property under the protection of the general rules governing other human beings. It would not interfere with mothers' pensions or maternity laws. It would require that all industrial laws apply alike to men and women, being based on the work and not on the sex of the worker. Industrial laws applying only to women are among the gravest discriminations against women. They close the doors of opportunity to women seeking employment, while women thrown out of work by their passage are forced into harder and more poorly paid work.

Today, when women are an established and increasingly important part of economic life, justice requires that legislation concerning them be on the same basis as that for their male competitors. I have the impression that conditions as to housing and unemployment and relief problems are as bad in the District of Columbia as exist anywhere in any of our cities. It ought to be the ambition of Congress to make the District of Columbia a model and an example for the rest of the country; and I think a good place to begin would be, now that the Court has spoken, with a model minimum-wage act for the District of Columbia which should set up proper standards applicable to men and women alike, and one that might well be imitated in the State laws throughout the country.

Since 1848 women of the United States have been struggling to have their rights as human beings recognized in the Constitution. In 1920 the right to vote was granted. After 89 years of effort there still remain to be won equal rights in the control of property, in the guardianship of children, in making contracts, in the professions, in the church, and in the home. As a means to this end I favor the passage of the equal-rights amendment.

Seventy-second Appomattox Anniversary Banquet

EXTENSION OF REMARKS

OF

HON. JAMES J. DAVIS

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 15, 1937

ADDRESS BY HON. JAMES J. DAVIS, OF PENNSYLVANIA, AT McKEESPORT, PA., ON APRIL 9, 1937

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address which I delivered April 9, 1937, at McKeesport, Pa., at the seventy-second Appomattox anniversary banquet, Capt. A. B. Campbell Camp, No. 99, Sons of Union Veterans of the Civil War.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

America is paramount among the nations of the world today in its love of peace. We spent billions in the World War, and lost thousands of lives—having in mind the ideals of Woodrow Wilson who said the World War is a war to make the world safe for democracy. Instead we made the world safe for dictatorship, and the nations who borrowed from us failed to pay. The peace of Versailles seemed to have planted the ideal of war instead of peace—and this war to end wars seems to have been in vain.

The situation in regard to the Civil War, with Appomattox Day recognizing the end of the strife, stands as a memorial of lasting peace between the sections of our land. Here we catch the true spirit of conciliation. On April 9, 1865, when General Lee surrendered to General Grant, virtually concluding the Civil War, there was a remarkable display of nobility of character on the part of both the defeated and the victorious. Grant was filled with a deep sympathy for the conquered South. He felt like anything but rejoicing at the triumph over a foe who had fought so long and valiantly and suffered so much for a cause. Therefore, his terms of surrender were very generous, winning the southern respect.

Lee accepted defeat with a calm dignity. After the war Lee set himself out to heal the wounds of his people.

We can learn much from Appomattox Day—both in the field of sportsmanship, and in the field of warfare. Lee and Grant were true noblemen. Had Grant not felt a profound sympathy for the southern people which prompted his generous terms there would have been even bitterer wounds to heal, perhaps festering into fresh outbreaks between the sections of our country. Yet had Lee not with the same quick responsiveness caught the spirit of the day—had he not accepted his defeat with courage and determination there could have been misunderstanding and hatred. Both of these men were truly sportsmen in the highest sense of the word. They knew how to play the game. Winning or losing they did not forget the fundamental issues at stake—human values which must always be paramount in the game of life.

When we think of the tremendous waste of life in the Civil War we appreciate anew the futility of war. For after the war conciliation had to be made—conciliation which had it been made a few years sooner would have prevented waste of life and property. There must always be conciliation. We fight madly, we strive to win unqualifiedly, and in the end, after loss of much that is beautiful and worth while, we are forced to compensate. War does not eliminate compromise. War cannot eliminate compromise. The peace of Appomattox was lasting because of the true desire of both the northern and southern leaders to come to an agreement.

Had either man been less skillful there could have been no lasting peace between the sections of the country torn by bloodshed and vivid memory of the horrors of war. Hatred remaining in the breasts of the participants in this civil strife could have led only to another serious rupture in the relationships of the North and the South. The fact that the war had weakened the South did not bring peace. War never brings peace. That a war could be fought to end war is almost as dangerous and fallacious a line of thinking as the thought that a war effects a settlement. After the battle, after the dead have been piled up and the wounded are tying up their injuries—then with clear minds and receptiveness prompted by a sympathy for our foes we make our compromises.

Industrial warfare does not produce peace. Time, labor, and money are wasted to no avail, for after the war is over the compromise must still be sought. Strikes and espionage are merely phases of this industrial warfare, which is expensive and dangerous, while accomplishing nothing toward the effecting of a true compromise. These are not the methods of understanding, but evidence of greed and hatred. Industrialism must come to realize that that spirit of conciliation which was present at Appomattox Day is necessary today on the industrial front. Only with sympathy and cooperation can we achieve a lasting peace which will typify, as did Appomattox Day, a united Nation.

Repeal of Long-and-Short-Haul Clause

EXTENSION OF REMARKS

OF

HON. HENRY C. LUCKEY

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1937

Mr. LUCKEY of Nebraska. Mr. Speaker and colleagues, the repeal of the long-and-short-haul clause of the Interstate Commerce Act is a reversion to the "good old days" of railroad dominance of Congress, a reversion to the dog philosophy of enterprise.

This bill has been solidly supported by the railroad brotherhoods, and I want to say that such support is a real demonstration of their loyalty to their employers, because it was only a short time ago that the railroad executives were fighting the Railroad Retirement Act. Since I have been in Congress I have tried to support all equitable and just labor legislation. The fact that I must oppose this long-and-short-haul bill is not opposition to the railroad laborers. The railroad employees will not receive any benefits from this legislation. If this legislation becomes complete and the railroads are allowed to change their rates on long hauls, railroad employment will not be materially increased, but the woes of the farmer and the businessman in the Middle West will be very materially increased.

A number of railroad organizations have asked me to support this Pettengill bill on the grounds that it will increase railroad employment and therefore will add to the material welfare of my district. In the testimony offered in the committee and in the propaganda disseminated by the railroads, this line of argument has been repeatedly stressed. The facts in the case do not bear out this line of reasoning, and the fallacy of such arguments can easily be seen. The president of the Baltimore & Ohio Railroad stated:

Today net loads of 10,000 tons are equivalent to 1,000 trucks manned by 1,000 men.

If you will break down the tables showing railroad employment gains in relation to increased traffic, you will find that one employee would be added per net gain of a little over 2,000 tons. In other words, it takes 200 truck drivers to man the trucks carrying the same tonnage as would be equivalent to 1 railroad employee. In addition, other employees would be necessitated in the trucking industry for maintenance and repair while the railroad figure takes into account such employees.

If this bill would increase railroad carrying, would it bring any corresponding increase in railroad employment? The answer is unequivocably "no." In 1930 the vice president of the Southern Pacific stated that an approximate increase of 33½ percent in west-bound tonnage and 15 percent in east-bound tonnage could be handled without an increase in personnel. From the hearings let me submit some figures. In 1923 railroad operating revenues were $6,289,580,027 and the average number of employees was 1,857,674. In 1929 the operating revenues were $6,279,520,544 and there were 1,660,850 employees.

In just a moment I want to return to this subject of employment under the proposed legislation, but first let me show some of the effects of such legislation upon my particular section of the country and my State of Nebraska.

Nebraska and my congressional district cannot be considered among the competitive points of rail-and-water transportation. Under this bill we will receive no benefits from reduced freight rates. On the other hand, we will suffer a distinct handicap because our freight rates will be maintained or increased, while rates between competitive points will be decreased. The farmer and the merchants in our section will pay for the gains accruing to some few in the competitive regions. Our grain and livestock shipments are made to mills and to packing plants where the rates will not be affected. The farmer and livestock operator will be penalized because his shipments are made to Omaha instead of to Chicago or New York or San Francisco. The flour mills, packing plants, manufacturing establishments, and so forth, having no competitive water routes, will be forced to pay higher rates for raw materials or for agricultural and semiagricultural products than they would if their plants were located many miles farther from the source of materials. A smart businessman will not operate in a locality where he will be forced to pay higher freight rates than those paid by similar processors or manufacturers at a greater distance. Yesterday I cited some concrete examples of this situation, and I need not refer to them again.

This situation will inevitably lead to removal of Nebraska industries to such places as profit by the long-haul arrangement. Decreases in manufacturing and processing bring decreases in employment in our section. Increased freight rates on our farm products mean decreased shipments and decreased returns to farmers on goods shipped. This is one more factor in the decrease of local employment. Decreased employment and decreased shipments from our farms, factories, and processing plants bring decreased railroad employment in our own section, although there may be increases in railroad employment in other sections of this country. No matter which way you look at this, we hold the sack.

One of the greatest factors in the creation of a balanced economic life for our country has been the tendency toward decentralization of industry. In recent years factories and other establishments employing labor have sought locations adjacent to the field of raw materials. This long-and-short-haul bill gives to the railroads the power of exploiting the interior States for the benefit of the marginal States. If freight rates to the seaboard States can be reduced to bring about an equality of rates between water-borne and railroad freight, the industrial life of the country will be centered in the places where the rates are made the most advantageous. The proponents of this bill have stated that one of the reasons why it should be passed is that population has been decreasing in the inland and mountain sections. Frankly, I cannot understand just what they consider to be the inland and mountain States. The census figures for 1910, 1920, and 1930 tell their own story as to what has been the condition of population increases. Since 1910 there have been the following population increases: East north central States, 38.6 percent; west north central States, 14.3 percent; east south central States, 17.6 percent; west south central States, 38.6 percent; mountain States, 40.6 percent. The shift in population could easily be brought about by the creation of a system, as proposed by this bill, whereby one section or several sections of the country could be exploited for the advantage of another section. The only sections of the country that can be benefited by this measure are those which now enjoy the advantages of water-borne commerce. The proponents of the bill tell us that it will benefit the interior of the country. How can it do this? The reduced railroad rates are to meet water rates. That means that just one more advantage is to be given to those regions having the present water advantages.

One very harmful feature of this bill, if enacted into law, is that it will place in the hands of the railroad the initiation of rate changes. Under the law as it has been administered since 1910, the power to determine circumstances warranting a departure from the general prohibition of the long-and-short-haul clause is initially vested in the Interstate Commerce Commission. This is clearly stated in the minority report of the committee. I quote:

Enactment of this bill would strip the Commission of that initial power and return it to the carriers whose administration of it was found unsatisfactory, and affected shippers would be faced with the impossible burden of demonstrating that the competitive rates established pursuant to the authorities created by the amendment would be lower than the cost of service if they are to have any hope of relief from the operation of the law.

The effect of this change will put the burden of proof on the shipper, whereas under the present law it is put on the carrier. This means that the shipper must appear before the Interstate Commerce Commission and prove that the rate schedule as filed by the railroad is inequitable. He would have to hire attorneys, secure evidence, appear before the Commission, and go through the costly processes of such an appearance. The average shipper would not have a ghost of a chance of securing redress under those circumstances.

This is in reality a subsidy—however, not a subsidy based upon an open asking but upon fraud and deceit. Purportedly this demand is made to enable railroads to compete with busses, trucks, and ships. The railroads want to be fixed up so that they can compete against their own subsidiaries. These railroads own and operate their own bus and truck lines on the public highways, carrying mail, freight, and passengers. They operate barge lines, freight-shipping lines, and passenger-ship lines, and now they tell us they must be given privileges to allow them to compete with their own lines. Travel down the roads of my native State of Nebraska and meet the members of the fleet of busses operated by the Burlington Railroad. The driver of the Burlington truck or bus is just as much a railroad employee as the engineer or brakeman on the iron horse. The replacement of 200 bus and truck employees by one employee on the steel rails cannot bring much of a decrease in unemployment, but it can bring a great hardship to thousands of farmers and businessmen.

Correction of Committee Report

EXTENSION OF REMARKS

OF

HON. FRANCK R. HAVENNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 14, 1937

Mr. HAVENNER. Mr. Speaker, I desire to call attention to an error in the committee report on H. R. 1668, which was approved by the House of Representatives today. The committee report included a list of organizations which were stated to have recommended the passage of the bill. In this list was included the name of the San Francisco Chamber

of Commerce. I am in receipt of the following statement from Mr. Edwin G. Wilcox, manager of the transportation department of the San Francisco Chamber of Commerce:

The board of directors of the San Francisco Chamber of Commerce, at a meeting held March 5, went on record as taking no action on the bill.

The Traffic Problem in Washington

EXTENSION OF REMARKS

OF

HON. ERNEST W. GIBSON

OF VERMONT

IN THE SENATE OF THE UNITED STATES

Thursday, April 15, 1937

EDITORIALS FROM THE WASHINGTON POST

Mr. GIBSON. Mr. President, I ask unanimous consent to have printed in the RECORD two editorials relating to the traffic problem in Washington, D. C., which were published in the Washington Post of April 4 and April 15, 1937.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post of Apr. 4, 1937]

A NEEDED SURVEY

The bill introduced by Senator ERNEST W. GIBSON, of Vermont, calling for a comprehensive survey of the traffic problem in Washington, is worthy of serious consideration.

The Senator himself inclines to the belief that the best way to relieve traffic congestion here and to reduce highway hazards is by means of an underground transportation system. This contention is of dubious validity. In no cities where subways have been built—New York is the outstanding example—have they solved the traffic problem, however useful or indispensable they may have been otherwise. On the contrary, by concentrating population instead of distributing it, the subways have tended to produce in downtown districts, still greater traffic congestion.

An investigation of the feasibility of a subway for the District would not be amiss, however, if it were made part of a broad survey of the traffic problem in all its multifarious phases. This is the virtue of the Gibson bill. The five-man commission proposed by this measure would not be limited in its investigation to one possible remedy. It would be able to deal with the whole problem.

Since traffic control is a part of community planning, it cannot be dealt with piecemeal. Common experience shows, for example, that wider and better paved arterial highways only relieve traffic jams for a little while; before long their very availability tends to encourage their use by an increasing number of motorists. Nor is a solution to be found alone in better traffic regulations, restrictions on parking, increased parking facilities, and other suggested panaceas. These touch only individual aspects of a highly complicated situation. All of them must be considered, but only as parts of a general picture which takes into account not only existing circumstances but future needs as well.

[From the Washington Post of Apr. 15, 1937]

TIME FOR TRAFFIC ENGINEERING

A policeman properly summed up the reactions of thousands of motorists who jammed Washington's streets on Sunday when he said it was the "worst mess" he had ever seen. At many points traffic was literally paralyzed. In spite of the fact that most District residents kept out of the muddle, it became a striking demonstration of the inadequacy of the city's traffic facilities.

In several cases prolonged tie-ups seem to have been a direct result of inadequate traffic direction. But the best possible supervision could not have kept so large a volume of traffic flowing smoothly through such bottle necks as Dupont and Thomas Circles. These intersections leading traffic from eight different directions into a confused merry-go-round were never intended to serve a large city teeming with motorcars. District authorities might just as well recognize the fact that a smooth flow of traffic will never be attained until some means of relieving the congestion at these points have been devised.

The District's worst tie-up in history came just 2 days after Dr. Miller McClintock, director of the Harvard Bureau for Street Traffic Research, had told officials that our highway design must be modified, if intolerable congestion is to be relieved. Dr. McClintock especially stressed the desirability of separating traffic grades. New York and various other cities have greatly facilitated the movement of automobiles by providing speedways that eliminate the delay and hazards of cross traffic.

No doubt Washington will have to apply the same principle to some of its most congested streets. An underpass beneath Dupont Circle for Massachusetts Avenue, for example, would greatly facilitate the movement of both automobiles and streetcars. There appears to be no other way of avoiding the intolerable tangles that result from the pouring of eight streams of traffic into one circle.

Senator GIBSON has already introduced a bill calling for a thorough study of the District's traffic dilemma. Expert advice is certainly needed. The task of adapting our highway system to modern demands upon it cannot begin too soon.

Antilynching Legislation

EXTENSION OF REMARKS

OF

HON. CHARLES A. WOLVERTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1937

Mr. WOLVERTON. Mr. Speaker, today the House will have an opportunity to definitely make plain that the principle of equal protection of the law was meant to be effective and useful and not merely a beautiful phrase without substance.

The crime of lynching in portions of our country has, because of its frequency, become a national disgrace and scandal. There can be no justification in any civilized nation, where orderly law and procedure is the established practice, to take human life without first providing a fair and impartial trial by jury in an orderly manner, and observing to the fullest extent the principles upon which due process of law is founded.

To accomplish this purpose and correct a wrong and injustice to the colored race that has long existed, the National Association for the Advancement of the Colored People has had prepared what it considers an adequate, effective, and constitutional bill to remedy and provide relief from the intolerable conditions resulting from unrestrained mob violence that frequently finds expression in lynching. At the request of the association officers the bill was introduced by me on January 27, 1937, H. R. 3785, and also by several other Members of the House who were likewise desirous of aiding in this worthy cause, and another bill of similar purpose and scope was introduced by Congressman GAVAGAN, of New York, H. R. 1507, which likewise has the approval of the National Association for the Advancement of Colored People.

It was strongly indicated that the House committee, to which the bills had been referred, would not take favorable action upon them nor report them to the House. The proponents of these bills thereupon sought to bring the legislation before the House by means of a petition to be signed by 218 Members, a majority of the House, a method that made it compulsory, under the rules, for the Speaker to submit the question to the House for a vote. This effort proved successful, and accordingly it was determined that the Gavagan antilynching bill would come before the House for a vote on Monday, April 12.

Last year toward the close of the session the same kind of a petition had been signed by 218 Members of the House, but the Democratic leaders brought the House to a final adjournment before the vote could be taken. This maneuver destroyed all the work that had been done by the friends of antilynching legislation to bring such before the House for action, and made it necessary to start all over again this session.

When it became evident that the necessary 218 signatures would again be obtained, thus bringing the antilynching bill automatically before the House for a vote, notwithstanding the opposition of the committee, then political strategy again came into play to deny the evident will of a majority of the House, who wished an opportunity to support a real, genuine, and effective antilynching bill that had the support and approval of the National Association for the Advancement of the Colored People.

In an effort to prevent this bill from coming to a vote on April 12, as required under the rules of the House, the committee reported out by a vote of 8 to 7, an emasculated measure, with all "teeth" removed; and, under the guise of calling it the Mitchell antilynching bill, utilizing the name of

the colored Democratic Member of Congress, from Chicago, who succeeded Oscar De Priest, and who had as a Republican represented the district well and honorably for several years, sought to cloud the issue and camouflage the real purpose by substituting the Mitchell antilynching bill, with amendments rendering it harmless and ineffectual as an antilynching bill, instead, and in place of a "real, honest-to-goodness" antilynching bill, with a full set of "teeth" to make it effectual.

The Mitchell substitute bill came before the House. On a demand being made, the House was required to vote whether it was willing to consider the Mitchell bill. On a vote being taken the Speaker counted 103 in favor of the motion and 100 against: thereupon a roll call of the entire membership of the House was demanded. The result of the roll call showed only 122 voting "Aye" and 256 voting "No", thereby defeating the bill and making it possible to bring a real antilynching bill, as desired by the colored race, before the House for action.

It was a plain case of using parliamentary and political strategy in an attempt to deny what was known to be the will of a majority of the House and in defiance of what is known to be the desire of our colored citizenship, who have worked diligently and intelligently for effective legislation to correct the great evil of lynching. But, fortunately, it did not succeed.

I now wish in a few words to call attention to the ineffective provisions of the so-called Mitchell bill.

The bill had been introduced by Congressman MITCHELL of Illinois on January 8, 1937, and designated as H. R. 2251. A reading of this bill clearly shows that, even as it was introduced by the author and before it was emasculated to make it worthless, it never would have proved a real remedy or deterrent to lynching.

I was astounded when my reading of section 3 of the Mitchell bill revealed that, instead of an officer and those with whom he conspired to lynch the prisoner being treated as guilty of murder and punishable with the penalty of murder, they were, if convicted, to be punished by mere imprisonment for a term that might be as little as 2 years. In all my practice of law I have never heard of such a slight penalty for anyone, much less an officer of the law, who conspired to take the life of another.

It is inconceivable how anyone could justify himself in advocating such a trifling penalty for murder under any circumstances, and particularly as a penalty for mob lynchings; but how such a penalty could be justified in the case of an officer of the law, sworn to uphold the law and who violates his oath and his duty by entering into a conspiracy to commit murder, is beyond my comprehension or understanding. When any act of that kind is committed it is murder and should be punished as murder and not by the small penalty that would be applied to some petty offense.

Nor is that all of this strange bill introduced by Congressman MITCHELL, colored Democrat of Chicago, to which attention should be directed. For instance, it is further provided in that bill that—

> Any officer, agent, or employee of any State, or governmental subdivision thereof, who shall have any person in his custody by virtue of his power or authority as such officer, agent, or employee, and who shall, without lawful justification or excuse, suffer or permit such person to be taken from his custody and injured or put to death, or to be unlawfully injured and put to death while in his custody, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding 5 years, or by both such fine and imprisonment.

Now, I want you to notice the words that have been used which destroy entirely, in my opinion, any possibility of making that section of the law effective in getting worth-while results. I refer to those significant words—

> Any officer * * * who shall, without lawful justification or excuse, suffer or permit such person to be taken from his custody and injured or put to death—

And so forth. In all sincerity I ask what "lawful justification or excuse" could there ever be for an officer of the law to "suffer or permit such person to be taken from his custody and injured or put to death"? If there is in the mind of the author of this bill any "lawful justification or excuse" for an officer in whose custody there is a prisoner to permit him to be taken by a lynch mob, then it should have been clearly and distinctly set forth and not left in such broad and comprehensive language as to leave a jury a free hand to discharge from any liability an officer of the law who would "permit" a person to be taken from his custody and "unlawfully injured or put to death."

The same wording, restricting or curtailing liability, also appears elsewhere in the Mitchell bill. It indicates clearly an intention that the provisions in the act shall not apply unless the turning over of the prisoner to the mob was "without lawful justification or excuse." What purpose such language can serve in providing a remedy for lynching I cannot understand. What "justification or excuse" could there ever be to give over a person to a mob to be lynched?

It is also important to notice that before the Mitchell bill was reported to the House the House Judiciary Committee struck from the bill the only sections that had any "teeth" at all. I refer to the section reading as follows:

> Proof that any person being in the custody of any such officer, agent, or employee was unlawfully injured or put to death or unlawfully taken from such custody and injured or put to death, shall be prima-facie evidence that such officer, agent, or employee suffered or permitted such person to be so taken from his custody or injured or put to death—

And so forth.

That section if it had been permitted to remain in the bill would have been very helpful in procuring convictions. When it was removed the only "tooth" the bill ever had disappeared and became helpless and worthless to prevent or deter lynchings or obtain any redress therefor. I confess that if such bill had been mine I would have refused to permit my name to be used as its author after it was so horribly "emasculated" by the committee. Instead, however, of any disclaimer being presented, it was sought to force this bill on the House under the cloak of a title "To assure to persons within the jurisdiction of every State the equal protection of the laws", and what a farce it was. It is not strange that the true friends of antilynching legislation should overwhelmingly defeat that bill by a vote of 257 to 122.

This action upon the part of the House left the way clear to vote on April 12 to discharge the Judiciary Committee of the Gavagan antilynching bill in order that the same might come before the House for consideration notwithstanding the failure and refusal of the committee to favorably report it. On April 12 the vote of 283 to 107 showed the strong and favorable sentiment in the House to consider antilynching legislation. In the face of this tremendous and overwhelming sentiment what justification was there for the effort of the Democratic leadership to prevent the consideration of the Gavagan antilynching bill by the House?

With the Gavagan bill now before us we have the opportunity to pass an effective antilynching measure. It has real "teeth." The horrible lynchings that took place in Mississippi within the last 2 days makes action on this bill imperative at the earliest possible day. What could more clearly indicate the necessity of this legislation than the arrogance of that Mississippi mob as it took two helpless colored men out of the custody of the officers and after brutally torturing them with "blow torches", burned one at the stake and the other was shot full of holes? It is inconceivable how any human beings in this advanced stage of civilization, and, in a country wherein it is the right of every citizen to have a fair trial by an impartial jury, could be so cruel and so forgetful of their rights and obligations as citizens as to take and burn at the stake a human being. And that it happened in America makes it all the more disgraceful.

We have been told that there is no need for this legislation as lynchings are rapidly decreasing. And, yet in the face of these statements and even while the Congress is giving consideration to the subject, with an arrogance and contempt that is astonishing, this Mississippi mob is guilty of an act so horrible as to class the participants as worse than savages in their brutality.

As an indication of the need of the type of legislation provided for in the Gavagan antilynching bill, which not only punishes individuals participating in lynchings, but places a responsibility upon the local government where such lynchings may occur, to pay money damages to the family of the person lynched or otherwise injured or killed as a result of mob violence, permit me to use the statistics concerning lynchings that apply to the State of Mississippi within which State this latest outrage has just occurred. Records show that from 1832 to 1936 there have been 582 lynchings in the State of Mississippi alone—it is stated that more than 100 of those lynched were women; I hope this is not true—and according to statistics submitted, less than one out of every six men lynched was charged with rape or attempted rape. Hundreds were charged with only trivial offenses and in many cases innocent of any offense at all. Justice is but a mockery when it is realized that although there were more than 3,000 lynched between 1889 and 1935 in one section of this Nation, only in about 12 cases were there any apprehension and conviction of the perpetrators, and they were given only slight sentences.

In view of this unpleasant record of atrocious treatment of helpless colored citizens, and the failure of justice in such cases to be either adequate or effective in granting them protection or providing compensation to their families, it is not strange that the Judiciary Committee of the Senate, in making its report on the Wagner-Costigan antilynching bill, stated:

> A continuation of the practice of lynching, coupled with a complete failure of the government of those States involved to apprehend and punish the participators of these crimes, supports the need for Federal legislation.

The National Association for the Advancement of Colored People in strong, clear, and forceful language, on May 7, 1936, made an appeal to President Roosevelt urgently requesting that the administration bring the desired antilynching legislation to the floor of both Houses, so that it might be considered upon its merits. The association pointed out in its message to the President that since inauguration day, March 4, 1933, there had been 72 authenticated lynchings, and that these killings by mobs had occurred at an average of 1 to every 15½ days, and then emphasized the fact that nothwithstanding the administration had been in full power to enact antilynching legislation, yet it had refused and neglected to do so.

The performance of this duty to our colored citizenship should not be delayed any longer. Now is the time to act. Even while the House considers this legislation, brutal mobs continue their horrible work. Further delay gives encouragement to their lawlessness. Our action today will determine whether this blot upon American civilization shall continue. Let each of us respond to the opportunity that is ours and pass this bill to give relief and protection to our colored citizens from the intolerable conditions that all too frequently occur.

In Support of Antilynching Legislation

EXTENSION OF REMARKS

OF

HON. WILLIAM H. SUTPHIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1937

Mr. SUTPHIN. Mr. Speaker, I desire to raise my voice in support of the Gavagan antilynching bill. By introducing a similar measure, I have already made my position known, but in a few words I wish to declare the basis of thought on which my decision to support this measure is predicated.

GAVAGAN BILL CONSTITUTIONAL

The Constitution of the United States, in section 1 of the fourteenth amendment, states:

> Nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

And section 5 of the same amendment states:

> The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

So it is seen that it is not only in the power of Congress to pass such legislation as this bill, but it is the solemn duty of the Congress to enforce the Constitution, including the fourteenth amendment.

STATE RATIFICATION HAS GIVEN CONSENT

By ratifying the fourteenth amendment the several States have bound themselves to perform and discharge the duty of affording to all persons within their respective boundaries the equal protection of the laws and the Federal Government has guaranteed this performance. Such action by Congress is in no way an invasion of State rights but should be welcomed by the States as an additional protection to fundamental privileges which they, too, are equally bound to guarantee.

INDEFENSIBLE MURDER

This bill has for its purpose the effective prohibition of an indefensible crime. There is no difference of opinion in this Congress regarding the heinous crime of lynching. No matter where it occurs, or what the provocation, it is a relic of barbarism in any organized community where there exist laws and officers of the law.

Mob violence is a sort of collective insanity, whose contagion spreads and consumes like a prairie fire. In its mad rage, reason, pity, and mercy are forgotten, and only mad delirium of vengeance reigns. Only after the red tide of anger has subsided and the brutal aspect of the outrage is realized do the people realize the extent to which they have shamed themselves in this recession to primitive brutality.

Every time a man or woman is lynched or burned at the stake it means that the emancipation proclamation has been suspended and that their civil rights and equal rights have been destroyed under the law and under the Constitution. The Federal Government is obliged to take notice of the dastardly and cowardly crime of lynching and provide a penalty so drastic as to render it dangerous for future mobs to indulge in.

The time has come to put an end to mob violence and the hideous plague of lynching, which is a black stain upon the honor of our country. If certain States and counties cannot or will not protect the lives of our citizens, regardless of race, color, or creed, then the Federal Government must do it.

The lynching mob is generally armed to the teeth and the victim unarmed. The lawless mob composed of cowardly ruffians are almost never apprehended and unless drastic legislation is passed and enforced the spirit of lawlessness will continue unchecked throughout the country. If lynching is not suppressed, it will spread to take in the unpopular employer or capitalist and even public officials enforcing the law.

Five thousand Americans have been lynched in the last 50 years in this great free country of ours that is supposed to be the most civilized in the world. The rest of the world laughs at us every time we say we stand for justice and law and order. They bring up that stigma of lynching law and throw it back in our face.

DEFEND THE CONSTITUTION

The Federal Constitution is the greatest charter of human rights and liberty ever devised. It makes for our rights and liberties as a free people. Its aim is to safeguard the inalienable rights of the individual citizen. The preamble of the Constitution defines the principles of our Government. To safeguard and protect the lives of our citizens is the reason for the existence of the Government itself. If we will protect our Government, we must protect the lives of our people. This bill proposes to protect our citizens from mob murder. It proposes to enforce what everyone believes, that law and order shall prevail over illegal, disorderly, mob

violence. It may not be perfect, but only in practice can the imperfections be realized and the law improved upon.

For these reasons, I declare myself in favor of this legislation.

The Policy of Neutrality and Peace Legislation

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Monday, April 19, 1937

ADDRESS BY HON. KEY PITTMAN, OF NEVADA, CHAIRMAN OF COMMITTEE ON FOREIGN RELATIONS, TO THE ACADEMY OF POLITICAL SCIENCE, NEW YORK CITY, APRIL 7, 1937

Mr. ROBINSON. Mr. President, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD an address delivered by the senior Senator from Nevada [Mr. PITTMAN], chairman of the Committee on Foreign Relations, at the Academy of Political Science, New York City, April 7, 1937, on the subject The Policy of Neutrality and Peace Legislation.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. President and members of the Academy of Political Science, I deeply appreciate this honor of being invited to address you on the subject The Policy of Neutrality. It is always a pleasure to discuss with scholars and distinguished students vital problems that require immediate action by Congress. I gain inspiration from such a discussion, though I approach this subject with some humility in the presence of the distinguished members of this nationally known and recognized Academy of Political Science.

I am restricted under the program to discuss our policy of neutrality. I prefer under this title to discuss proposed congressional legislation intended to aid us in keeping out of foreign wars.

The President and the Congress of the United States at the present time are naturally most interested in those phases of neutrality which will tend to keep our country out of the threatened, if not impending, world war.

While the general definition of neutrality is well understood, it is well known to you also that international writers, international lawyers, courts, and arbitration bodies have given peculiar definitions to the expression deemed necessary in defining the rights of belligerents as well as neutrals during war. For instance, it is held by high authority that it is unneutral for a neutral, after war has commenced, to so change its financial and commercial relations with the belligerent as to take such belligerent by surprise and suddenly deprive it of sources of supply that it depended upon, and the deprivation of which will seriously injure it in the conduct of its defense. I call attention to this holding solely as an illustration in an extreme case which, while apparently just to the belligerent, may work great harm to the neutral, in arousing the animosity of the enemies of such belligerent and possibly involuntarily involving the neutral in a foreign war not of its own making.

For instance, during the Italo-Ethiopian war Mussolini declared that the placing of an embargo by the League of Nations upon the export of oil to Italy would be deemed not only an unneutral but an unfriendly act, attended with grave consequences. In fact, he clearly indicated that he would consider such an embargo a casus belli. At the time this matter was under consideration by the League of Nations, when the President indicated that he was considering bringing about an embargo upon the export of oil to both of the belligerents, Mussolini communicated to our Government that he would consider such an act both unneutral and unfriendly. This whole incident was packed with the most sensitive explosives of imminent war.

Our Government, in my opinion, undoubtedly has the legal right to place an embargo upon the export of any commodity. The Supreme Court of the United States, in a recent decision entitled *United States* v. *Curtiss-Wright Export Corporation et al.*, seems to hold that the President possesses such power without expressed authority of congressional enactment. Certainly such an act is not prohibited by any so-called international law recognized or binding upon the United States. There is no existing treaty of which I have knowledge that would prohibit such an act. Two treaties which might have been so construed have been vitiated through the acts of the parties to such treaties. Whether the exertion of such right is moral, just, and wise during war is a grave question. It is for this reason that Congress has determined that any such restrictive legislation must be enacted during times of peace so that all future belligerents may have notice. Wars between powers separated by the seas have most often arisen over controversies with regard to the "freedom of the seas." In the very nature of things, as no government beyond the limits of its territorial waters has any sovereignty over the seas, all governments possess absolute and arbitrary freedom upon the seas, except insofar as they may have voluntarily restrained or surrendered a part of such rights through national legislation, treaties, or through the recognition and conformity with certain general customs universally recognized and accepted by governments. These universally accepted customs are included in what is designated as international law.

Philosophers from the earliest times have written upon the law of the seas. These rules of conduct, universally designated as international law, have relation generally to the rights of neutrals and the rights of belligerents upon the high seas during war. Grotius, one of the earliest writers upon the subject, as far back as 1625, in dealing with the question of contraband, divided contraband into three classes, namely:

"(1) Those that were of use only in war;

"(2) Those that were of no use in war, but served only for pleasure; and

"(3) Those that were useful both in war and in peace."

He held that the first was contraband of war subject to seizure and confiscation; that the second was free; and that the third became contraband of war if the belligerent could not protect himself without seizing it.

This rule has been substantially approved in principle by all of the great governments of the world, and has been restated in treaties at various times with various modifications. The difficulty arises in the application of the rule. What are the articles and materials that constitute contraband, noncontraband, and conditional contraband? Some governments by their proclamations and their treaties have abandoned the classification of noncontraband, dividing contraband into the two classes; that is, contraband and conditional contraband. The question, then, arises during naval warfare as to the circumstances that change conditional contraband into absolute contraband. Who is to determine whether the "belligerent could not protect himself without seizing it", that is, seizing conditional contraband of war? Undoubtedly Grotius meant that the belligerent should primarily determine such question. This has been and ever will be a source of violent controversy between belligerents and neutrals. Primarily, the belligerents determine and proclaim what constitutes absolute contraband and conditional contraband, and the conditions under which conditional contraband will be treated as absolute contraband.

The neutrals, on the other hand, desiring that their commerce and trade shall be interfered with as little as possible, make and assert their own definitions of contraband, noncontraband, and conditional contraband. They also for themselves declare the rule as to what state of facts, and what acts result in the conversion of conditional contraband to absolute contraband.

Such was the practice of the belligerents and the neutrals during the World War. Our Government, before it entered the war, asserted the broad rights of neutrals with the restricted list of contraband and yet, when it entered the war, it repudiated its former contentions as a neutral and as a belligerent adopted most of the rules, policies, and practices of the belligerents against whom it had so strongly complained. It also depends upon whose ox is gored. Neutral nations always anticipate the time when they may be called upon to defend the lives of their nationals, their property, and their government. It is a fear of becoming a belligerent that prevents governments in times of peace from agreeing upon rules that would protect the rights of neutrals. It is this fear of becoming a belligerent that has made impossible the serious attempts through years to codify the so-called rules of international law.

I again repeat that what our Government is most vitally interested in at the present time is the enactment of laws prescribing rules of conduct for our own citizens during a foreign war that will eliminate some of the chief causes that have heretofore dragged us into such wars.

Whether these rules be necessary or not under the implied powers of the President, nevertheless they constitute the pronouncement of a policy which undoubtedly will be respected by the President in the conduct of foreign affairs.

At a time when another world war of even greater magnitude and destructiveness is threatened, if not impending, we have little time to discuss the academic questions involved in the rules of contraband, blockade, mining the open seas, and other questions generally included in the hazy doctrine of the "freedom of the seas." We must first prepare to meet an emergency. When peaceful conditions throughout the world arrive, it will be the duty of governments to renew the attempt to have all governments, through a convention or conventions, adopt certain fundamental and humane rules of warfare. These conventions will be morally, if not legally, binding upon the governments that adhere to such conventions. The convention will in itself be a codification of international law. There is no other way, in my opinion, to accomplish the establishment and codification of international law. We should, then, bend every energy also through universally accepted and ratified conventions, or at least through the adoption and ratification of such conventions by all of the powerful nations of the world, looking to the adjustment of international controversies through peaceful means.

In preparing for the next world war, and in determining what action we shall take on our own behalf in such event, it would seem wise and profitable that we should consider our relations to the last World War and the causes that involved us in that great catastrophe.

When the war broke out in Europe in 1914 our Government contended that under international law the citizens of the United States had a right to export anything to belligerents, and that only arms, ammunition, and implements of war were absolute contraband subject to being seized and confiscated on the high seas, unless such other articles and materials were being shipped to or for the direct use of the military forces of a belligerent, or to a port occupied or blockaded by a belligerent.

Instantly the all-time controversy between belligerents and neutrals arose. All of the belligerent powers, as is customary, arbitrarily made and defined their own lists of contraband and conditional contraband. These lists of contraband contained numerous articles other than arms, ammunition, and implements of war, such as fuels, foodstuffs, and clothing. The rules governing the conversion of conditional contraband to absolute contraband were so broad that substantially all items listed as conditional contraband were treated by the belligerent powers as contraband, subject to seizure and confiscation.

In fact, early in the war Great Britain, by reason of the alleged action of the German Government in covering into her military forces all of her subjects and in taking over control of all property, abolished the distinction between contraband and unconditional contraband, and proclaimed everything going to her enemies to be absolute contraband of war. Germany and her allies, of course, instantly followed the same course. The result was that there was nothing that we could ship to any belligerent without having it subject to seizure and confiscation.

Our Government protested violently against this usurpation of the alleged rights of neutrals. These protests accomplished nothing. There was no treaty to which we could appeal, and there was no rule of international law that the belligerents recognized as binding upon them in the circumstances. There was no way to protect and enforce our alleged rights save by war or acts of war. We had the alternative of surrendering our alleged rights or fighting for them. The uncertainty and impotency of so-called international law, at least during war, was conclusively demonstrated.

Prof. John Bassett Moore, than whom there is no greater authority on international law, correctly stated the condition of international law during war when he said:

"The ancient maxim inter arma leges silent merely states a fundamental legal principle, which was happily expressed by Shakespeare in the line, 'The law hath not been dead, though it hath slept.'"

As we must have some law, even for the governing of our own citizens during war, and, as international law sleeps during war, we will have to make our own laws.

Great Britain then violated the accepted rules of blockade and the humane understanding that destructive mines should not be placed in the high seas.

On November 3, 1914, she announced:

"They therefore give notice that the whole of the North Sea must be considered a military area. Within this area merchant ships of all kinds, traders of all countries, fishing craft, and other vessels will be exposed to the greatest dangers from mines which it has been necessary to lay and from warships searching vigilantly by night and day for suspicious craft."

The Declaration of Paris, in defining blockades, declared:

"Blockades, in order to be binding, must be effective; that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy."

Similar definitions have been given at various times by courts, boards of arbitration, and writers upon international law. Under none of these definitions nor under the accepted customs of international law was it legal for Great Britain to take the action provided for in her declaration. She strewed mines on the high seas, in the course of travel between neutrals, which demonstrated her contempt for all so-called rules of international law.

The United States, of course, made every protest and demand that such violent action warranted. Nothing was accomplished by these protests and demands. Great Britain justified such acts on the grounds that it was legitimate retaliation against Germany for her illegal use of the submarine in sinking merchantmen without notice and without making provision for the safety of the lives of those on board.

There is always, it appears, some exception or excuse that belligerent governments can find and use to justify the violation of their treaties and of the so-called rules of international law.

And then Germany, on January 31, 1917, in retaliation against Great Britain, as she alleged, established a war zone upon the high seas around Great Britain, France, Italy, and the eastern Mediterranean. This zone not only surrounded these countries but covered trade routes on the high seas between neutrals. In giving public notice of the establishment of such zone, she declared:

"Under these circumstances Germany will meet the illegal measures of her enemies by forcefully preventing, after February 1, 1917, in a zone around Great Britain, France, Italy, and the eastern Mediterranean, all navigation, that of neutrals included, from and to England, from and to France, etc. All ships met within that zone will be sunk."

There was no question of contraband involved here. Any neutral vessel, including our own, entering the zone with or without its knowledge, accidentally or deliberately, carrying neutral cargo to a neutral country, would be sunk without notice. Our Government gravely protested against such inhuman proposal, which violated every accepted custom of naval warfare. Germany stood on the supreme laws of self-defense and the alleged right of retaliation, and so our Government, having no remedy save war, sought to bring about an adjustment between Germany and her enemies so that the destruction of the lives as well as property of neutrals might cease.

On January 18, 1916, Mr. Robert Lansing, Secretary of State, with the approval of the President, addressed identical letters to the British Ambassador and the French, Russian, and Italian Ambassadors, and the Belgian Minister, in which he said:

"While I am fully alive to the appalling loss of life among noncombatants, regardless of age or sex, which has resulted from the present method of destroying merchant vessels without removing the persons on board to places of safety, and while I view that practice as contrary to those humane principles which should control belligerents in the conduct of their naval operations, I do not feel that a belligerent should be deprived of the proper use of submarines in the interruption of enemy commerce, since those instruments of war have proved their effectiveness in this particular branch of warfare on the high seas."

In this letter Mr. Lansing laid down five rules governing the conduct of submarines and merchantmen. I will not set out these rules. I will quote only one of the paragraphs from this letter, which I think discloses the gist of the proposition. Mr. Lansing wrote:

"It would therefore appear to be a reasonable and reciprocally just arrangement if it could be agreed by the opposing belligerents that submarines should be caused to adhere strictly to the rules of international law in the matter of stopping and searching merchant vessels, determining their belligerent nationality, and removing the crews and passengers to places of safety before sinking the vessels as prizes of war, and that merchant vessels of belligerent nationality should be prohibited and prevented from carrying any armament whatsoever.

"In presenting this formula as a basis for conditional declarations by the belligerent governments, I do so in the full conviction that your Government will consider primarily the humane purpose of saving the lives of innocent people rather than the insistence upon a doubtful legal right which may be denied on account of new conditions."

All of the governments so addressed declined to accept or consider such proposals. The President then announced to the world that he intended to stand on our rights under international law. We had stood upon our alleged rights under international law from the very beginning of the World War. It had led us to the position that the President found our country in when he made that celebrated declaration. This announcement had no effect upon the situation. The sinking by submarines continued and the violation of all our rights under the accepted customs of nations with regard to naval warfare proceeded with renewed vigor.

On the 13th day of March 1917 the President proclaimed armed neutrality and ordered the arming of our merchant vessels. This was the gravest mistake that our Government made. Between that date and our entry into the war on April 6, 1917, less than a month, we lost the lives of a greater number of our citizens in the sinking of our merchantmen by submarines than we did from the beginning of the war until March 13, 1917. President Wilson, in his war message, recognized the failure of armed neutrality. In that address he said:

"When I addressed the Congress on the 26th of February last I thought that it would suffice to assert our neutral rights with arms, our right to use the seas against unlawful interference, our right to keep our people safe against unlawful violence. But armed neutrality, it now appears, is impracticable. Because submarines are in effect outlaws when used as the German submarines have been used against merchant shipping, it is impossible to defend ships against their attacks, as the law of nations has assumed that merchantmen would defend themselves against privateers or cruisers, visible craft giving chase upon the open sea."

And such was the history of the relations of our Government to the war before our entry.

We relied upon international law as a justification for our citizens in traveling upon belligerent vessels. We relied upon international law as a justification for supplying the Entente powers with arms, ammunition, implements of war, and all materials and supplies essential to the successful conduct of the war by the Entente powers. We relied upon international law as a justification for the approval of our Government of the sale of the bonds of the Entente powers in our country to enable them to successfully conduct the war. We relied upon international law in opposing the sinking of merchantmen by submerged submarines without notice. We relied upon international law for our declaration of armed neutrality. We relied upon international law for every assertion of our alleged neutral rights. This reliance brought us no benefits or protection and was our undoing. By our unrestrained supply of credit, by our unlimited and unrestrained supply of arms, ammunition, and other contraband of war to the Entente powers, by our failure to force Great Britain to respect our undeniable neutral rights, we excited the German people and aroused their hatred until they had conclusively determined before we entered the war to engage in war with us, either during the pending contest or after that war was over. They undoubtedly had in mind that they would win the World War and that we would be made to pay the entire cost of it through a subsequent

war with us in which they hoped and expected to have powerful allies.

This was clearly evidenced by the conspiracy that the German Government attempted to consummate with our neighbor, Mexico, and the powerful Government of Japan. A hatred that inspired such an act, and the intent for war could alone explain why an enlightened power, through its diplomatic officers in our country, at a time when we were at peace with it, and its diplomats were enjoying diplomatic privileges and immunity, would violate our hospitality and confidence and seek to destroy us. This act alone, without regard to other causes, justified our Goverment in declaring a state of war to exist, and was the chief reason why I voted for such declaration.

And yet we must not be too intolerant. We must place ourselves in the position that the German people were then in. We must realize that they were fighting for their lives and their liberty. The law of self-defense excuses many violent and inhuman acts.

The excuse for Germany's illegal acts, and I may say also those of Great Britain, is best expressed in a memorandum written in 1915 by Secretary Lansing, in which he said:

"What does a government whose people are dying by thousands for the sake of their country care about a legal right of property? What is the observance of law compared to a nation's life? How much do commercial interests weigh against the sacrifice of human life? That is the attitude of the governments of warring Europe. Can we blame them for their indifference to our legal rights? Can we blame them for their bitter complaints that we are mercenary, selfish, and unsympathetic when we insist that our rights shall be respected, if to do so seems to conflict with their efforts against their enemies?"

In this same memorandum he laid down the alternative for our Government, in frank language. He said:

"Unless this Government is prepared to back up its threats with force it is useless to make them. No one believes that we should go as far as that, if it can be honorably avoided. There is only one way to avoid the issue, and that is to adopt a conciliatory and amicable tone. Even that may fail to give partial relief, but it is the only way to obtain any relief under present conditions."

His declaration was sound and true. His prophecy was sustained by history. Our insistence upon what we termed our legal rights could but lead to war, and I firmly believe that in the event of a similar war—and such a war is threatened—if we follow the same course of action, we will again be involved in a foreign war.

And so Congress seeks to profit by our experience in the last war, that we may be able to keep out of the next war. The Senate and the House of Representatives have enacted legislation of a similar character, now pending in conference between the two Houses. This legislation prohibits our citizens from traveling on belligerent vessels except under such rules and regulations as the President may make to meet emergencies. It prohibits the arming of our merchant vessels engaged in commerce with belligerents. It prohibits loans to belligerent governments, or the sale in the United States of bonds, securities, or other evidences of indebtedness of such governments.

It provides that armed merchantmen of belligerents may enter our territorial waters only under such rules and regulations as the President may prescribe. It permits our citizens to sell to belligerents as well as to neutrals any and all products save arms, ammunition, and implements of war. It defines and places an embargo upon the exportation of arms, ammunition, and implements of war to belligerents. This is the only embargo imposed. It cannot be enlarged by any agency of our Government. The only restriction upon the sale or export of other goods is that the title of such goods when intended for export to a belligerent shall be transferred out of the citizen of the United States before being placed upon a vessel for shipment to a belligerent. There is another provision which authorizes the President of the United States to prohibit vessels of the United States from transporting such articles and materials in addition to arms, ammunition, and implements of war, when he determines that such transportation of such articles or materials to belligerents will endanger the lives of our citizens and threaten the peace of our country. Most of the lives of our citizens were lost while traveling upon the vessels of belligerents. There is no good reason why our citizens should travel on vessels of belligerents. It is not only unnecessary but it is a useless danger for them to take, and upon their destruction causes greater excitement among our people than anything else that leads to war. No one, I believe, can successfully oppose this provision. No one has seriously opposed the placing of an embargo upon the export of arms, ammunition, and implements of war to belligerents. There is no reason to oppose the prohibition against the arming of our merchant vessels. Such arming is no defense against a submerged submarine and invites and even justifies attack.

There is considerable complaint against the provision requiring a transfer of title of our goods before they are exported to belligerents. Some contend that it is an unjustifiable burden upon our producers. Nearly all manufacturers ship their goods in the United States f. o. b. Why should our citizens be required by belligerent countries to take the risk of the loss of their goods in crossing a sea infested with submarines and war vessels of all of the belligerents intent on destroying commerce intended for their enemies? It is a well-known fact that those who lose their goods always contend that the destruction was illegal. They immediately start violent protests and seek to force our Government to demand redress even to the point of war. These things have often involved neutral countries in foreign wars.

It is again contended that the transfer of title to belligerents will bring the war to our doors. What reasonable grounds do they find for such assertion? The place of attack is determined solely by naval strategy and naval necessities, and not by the ownership of the product being transported. It is well known that naval vessels cannot successfully operate 3,000 miles away from their base of supplies. Where would submarines and naval vessels obtain their fuel, their ammunition, and their supplies? A submarine might have a cruising radius that would carry it to the shores of the United States and back again to its base in Europe; but it could not carry supplies sufficient for it to remain long upon our coast. At the most, a submarine cannot carry over 10 or 12 torpedoes. When they are shot away the submarine must return to its base for additional supplies of torpedoes. Imagine a German submarine traveling 3,000 miles to shoot 10 or 12 torpedoes and then returning 3,000 miles through a sea covered with cruisers, destroyers, and airplanes seeking its destruction.

The same impracticable conditions exist, but to a lesser degree, with regard to surface war vessels. None of these belligerent vessels could remain in our ports over 24 hours, and none of them could return to our ports within a period of 3 months thereafter. None of such war vessels could take on arms, ammunition, or any other supplies for the purpose of the conduct of war off our coast. It is far easier to blockade a narrow area near the enemy than it is to cover thousands of miles of the coast line of the United States. This contention is absurd.

Strong opposition in some quarters is manifested against the provision permitting the President to prevent our merchantmen from transporting certain articles to belligerents. These opponents of the measure contend that it will injure our merchant marine. I do not believe that that would be true. Our vessels now engaged in trade with countries that became belligerent might be compelled to transfer their trade to neutrals. The history of the last war was that ships of all nations left the Pacific and the south Atlantic, abandoned their existing trade, and flocked to the Atlantic ports of the United States to carry the more profitable freight to the belligerent countries. This abandoned trade would be open to the vessels of the United States. It might and probably would result in the opening up of commerce over trade routes from which our American vessels had been largely excluded. But it would be far more economical for our Government if it paid to our merchant marine a bonus to cover any loss that it might sustain by reason of such restrictions than that our American seamen should lose their lives and that our people should be incited to war, as happened in the last war.

This provision is intended solely for the purpose of the preserving of the lives of our seamen. It is intended to meet such a condition of unrestrained submarine warfare as existed in 1917. I do not believe that such warfare will ever again be carried on against our neutral vessels. If we so mark our vessels each time that they leave our ports, so that they may be readily identified by belligerents, and not be compelled to rely upon a misused flag for such identification, and we notify all belligerents that our vessels are unarmed, that they will stop when commanded, and will submit to peaceful visit and search, I am sure that such vessels will not be sunk as they were during the last war. If this eventuates, then there will be no danger of the loss of the lives of our seamen, and there will be no necessity, therefore, to put in force and effect this provision of the act.

There are a great many wild expressions uttered, even by learned men, in opposition to any and all restraint upon our citizens and upon our commerce, even though Congress may deem such restraint necessary to keep us out of a foreign war. They say that we are surrendering the freedom of the seas. Well, what freedom of the seas? Do they mean the same freedom of the seas that we claimed prior to the last war? Do they mean the same freedom of the seas that was constantly and continually challenged by all of the belligerents for a period of nearly 3 years, while the lives of our citizens were being taken and our property destroyed? If they do mean that freedom of the seas, do they intend to fight for it, or will they allow the destruction and loss to continue, and after the war is over to seek damages for such destruction under some theory of international law? This may seem to international lawyers, who profit through damage suits, to be adequate protection, even though such damage suits are rarely won. The American people do not recognize that there is any adequate compensation for the loss of the lives of their citizens.

It is asserted that the reasonable restraint that we place upon our own citizens and upon our commerce will be more likely to drag us into the war than to keep us out of the war. What arguments have they in support of such silly assertion? The people of this country fully realize the futility and tragedy of our entrance into the World War. They lost the lives of many of their sons. Others came back to them broken in body and mind, maimed, blinded, deranged, too frequently to spend the rest of their hopeless lives in hospitals and insane asylums. And where was the financial profit? The money that we spent will never be recovered. The money that our Government lent to the entente powers with which to purchase our products will never be returned, and all of the false profits that our people thought they were making will be taxed out of them, and more for years will be taxed out of them, for the little comfort and protection that we can give to our heroic disabled soldiers.

War was not so near to our people in 1917 and 1918. It may be much nearer to all of them in the event of another great war. All of us may be soldiers then; in fact, wars in these days are wars participated in not alone by armies but by all the people and all the resources of their government. In the next war it is probable that there will be no war profits, and every man and woman will be required to serve first his government.

I have mentioned these things only that the seriousness of war may be brought home to all of us, and that our people may be thinking more of keeping out of war than of the controversial questions of the "freedom of the seas", the rights of neutrals, and the rights of belligerents, and the possible injury of our merchant marine.

Serious controversies constantly arose between the United States and Great Britain prior to our entry into the war in regard to the seizure of our products in transit to neutral countries, which threatened the involvement of our country in the war. These controversies included questions of contraband, which was involved in a more hazy question of continuous voyage. They involved the question as to whether Great Britain could take our vessels off the high seas into her ports for the purpose of search. They involved the question of military areas on the high seas and what constituted a blockade. These questions were so grave that had we asserted what we then believed to be our rights under international law we would have been justified in pronouncing the acts of Great Britain as acts of war. Germany, however, precipitated our entrance into the war by her unrestrained submarine destructions, beginning in 1917, and by her conspiracy against our peace. The President in his declaration of war stated:

"I am not now thinking of the loss of property involved, immense and serious as that is, but only of the wanton and wholesale destruction of the lives of noncombatants, men, women, and children, engaged in pursuits which have always, even in the darkest periods of modern history, been deemed innocent and legitimate. Property can be paid for; the lives of peaceful and innocent people cannot be."

And so we were dragged into a futile and devastating war not of our own making and against our will. We might have avoided the horrors of such a war had we been less contentious with regard to what constitutes international law and our rights thereunder, and had we been willing to make some temporary sacrifices.

It is not necessary to surrender our just rights, but it is better that we suspend them than that we lose the lives of our citizens without settling the questions and without any beneficial results.

If we intend to assert what we claim to be our rights, let us not place the burden of protecting them upon helpless merchantmen, but let us place the responsibility upon our naval forces. Our Government cannot determine the rules of neutrality; they may be only determined by a convention of nations. We can determine the acts of our own citizens in relation to a foreign war. This I conceive to be our duty. No mere handful of citizens seeking the excitement of travel nor exporters seeking extraordinary profits should be allowed to disturb the peace of our country and drive all of our people into a useless and devastating war.

America's Power in the Air

EXTENSION OF REMARKS

OF

HON. EDWIN C. JOHNSON

OF COLORADO

IN THE SENATE OF THE UNITED STATES

Monday, April 19, 1937

EDITORIAL FROM THE WASHINGTON HERALD

Mr. JOHNSON of Colorado. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD an editorial from the Washington Herald of today relative to the power of America in the air.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

[From the Washington Herald, Apr. 19, 1937]

AMERICA LAGS IN AIR POWER

America stands sixth among the seven air powers of the world, according to the aircraft yearbook published by the Aeronautical Chamber of Commerce.

Great Britain, the leader, with more than 4,000 fighting craft, could put two combat planes in the air for every one of ours.

Each of four other nations could match our entire aerial combat strength, and have half as many planes left over for reserve.

This includes Germany, which 2 years ago had only 600 fighting airplanes, and today has multiplied that number by five.

Instead of improving its position as an air power, America is slipping.

A year ago we were fifth in the standings. In another year, if we continue to lag, we will probably be last. For Japan, seventh among the air powers, is not content to lag.

All this is true in spite of the fact that American aviators are the most competent in the world and American airplanes are superior to any in the world.

The efficiency of American aircraft and airmen has been dramatically illustrated by the "perfect flight" of 12 Navy ships from the mainland to Hawaii.

This is an astounding feat, even in a day of air miracles. And it was accomplished with the simplicity of a routine maneuver. The aviation experts of every major power view these American achievements in amazement, and envy the assurance of security America should have.

Still more disturbing is the yearbook's report of the progress being made by other nations in challenging the superiority of American aircraft.

All of the major European air powers are spending vastly greater sums for aeronautical research and experiment than we are, a fact which the yearbook thus interprets:

"While the superiority of American equipment is unquestioned at the present, it is being challenged by the scientific efforts of other powers."

America should be not sixth among the air powers of the world, but first. Only in the top position can we be assured of adequate defense, and thus be assured of peace.

Twenty-fifth Anniversary Dinner of Children's Bureau

EXTENSION OF REMARKS

OF

HON. JAMES J. DAVIS

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, April 19, 1937

ADDRESS BY DR. KENNETH BLACKFAN, PROFESSOR OF PEDIATRICS, HARVARD MEDICAL SCHOOL, AT TWENTY-FIFTH ANNIVERSARY DINNER, CHILDREN'S BUREAU, ON APRIL 8, 1937

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by Dr. Kenneth Blackfan, professor of pediatrics, Harvard Medical School, at the twenty-fifth anniversary dinner of the Children's Bureau, April 8, 1937.

This was a memorable occasion in honor of the three noble women—Miss Julie Lathrop, Miss Grace Abbot, and Miss Katharine F. Lenroot—who have served successively as Chief of the Bureau. The Children's Bureau is revered wherever its work is known in countless homes throughout the land because of its protective influence in behalf of the boys and girls of the Nation. For 10 years, while I was Secretary of Labor, I was associated with these three distinguished American women in the work of the Children's Bureau.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Physicians, by the nature of their daily work, are concerned with individuals. For the most part, they have an opportunity to influence parents only as parents seek professional service for their children. It has been a main task of the Children's Bureau to serve as a medium by which medical knowledge and the results of clinical and laboratory research can be translated into terms within the understanding of the average parent and disseminated widely throughout the country. These accomplishments are fruits of the collaboration of leaders of the medical profession with the agency of the Federal Government entrusted with responsibility for conserving the interests of the child—his physical, intellectual, emotional, and social well-being, and the opportunities which should constitute his American birthright. Here I wish to express to the Children's Bureau my appreciation of its contributions in scientific research, the technical integrity of its undertakings, and the timeliness of its studies.

Speaking in behalf of my colleagues of the General Advisory Committee, appointed to assist the Children's Bureau in the development of general policies for the administration of title V, parts 1, 2, and 3 of the Social Security Act, I bring assurance to the Children's Bureau of continuing cooperation. This committee includes representatives not only of the professions of medicine, public-health nursing, and social work, but also of citizens associated in groups having among their objectives the advancement of the welfare of the child. Especially do we associate with us in extending our support to the Children's Bureau, Dr. Henry F. Helmholz, chairman of the Advisory Committee on Maternal and Child Health; Dr. Fred L. Adair, chairman of the Special Subcommittee on Maternal Welfare; Dr. Albert H. Freiberg,

chairman of the Advisory Committee on Services to Crippled Children; Miss H. Ida Curry, chairman of the Advisory Committee on Community Child Welfare Services; and Mrs. George Mangold, chairman of the Committee on Participation of the Public.

Thus, the threefold strength of the professional person, the administrator and the interested lay public can be focused upon the problems on which the Bureau requests counsel and guidance.

This evening I shall endeavor to report on the progress made under the Social Security Act and the immediate tasks that lie ahead.

During the past year and a half public attention has been directed increasingly toward the opportunities for maternal and child welfare afforded by this act. Congress has now placed in the hands of the States the means for incorporating into practice much of the knowledge that we now have concerning the health and welfare of mothers and children. As the activities in the program move forward it must be borne in mind that constantly renewed efforts must be made to add to our basic knowledge and to put into effect our present knowledge if practice is to be maintained at a high level of effectiveness. Resources for investigation are doubly needed as resources become available for actual service, for research has been and must continue to be the foundation for advance in any field of public health or social welfare. It is fortunate that the Bureau is set up to carry on such work on the broad basis of a correlated approach to all the problems of childhood, in their economic, social, and medical aspects, and in relation to the inequalities which exist in our social, economic, and industrial life.

To make a beginning in remedying this deficiency in the training of our physicians, 38 States have inaugurated under their new plans postgraduate lecture courses in obstetrics or pediatrics, or in both, for general practitioners arranged in cooperation with the local medical organizations. So far the effort has been largely to take these courses to the physicians in their own communities and to arrange them so that it is relatively easy for practitioners to get away from their practice to attend. The response has been enthusiastic. Likewise, for the nurses engaged in this maternal and child-health program opportunities for formal postgraduate work have been provided through assistance from the Public Health Service and the Children's Bureau.

It is a year and eight months since the Social Security Act was passed by Congress and signed by the President; it is a year and two months since funds became available for grants to States. Many of you here know far better than I the details of what has taken place in individual States and communities under the cooperative plans made possible by the maternal and child-welfare sections of the act. These provisions authorize Federal cooperation with the States in extending resources for conserving life and promoting health and welfare to mothers and children in the most remote areas of our country and in places of greatest need.

It is of more than passing interest that within 9 months of the time when funds became available all 48 States, Alaska, Hawaii, and the District of Columbia were cooperating under the maternal and child-health sections of the act. This prompt action on the part of the States was due in no small degree to their experience gained during the period of existence of the Sheppard-Towner Act. In the crippled children's and the child-welfare service programs the States had new procedures to develop, new legal and administrative problems to work out. It is with very real satisfaction that I can report today 42 States, Alaska, Hawaii, and the District of Columbia cooperating in the crippled children's program and 42 States and the District of Columbia in that for child-welfare services.

Under the maternal and child-health provisions great impetus has been given to developing and extending facilities for prenatal and postnatal care, infant- and child-health conferences, home visiting by public-health nurses, and school-health services. These types of work have been augmented and advanced very materially in quality of performance under State leadership. Policies of payment for clinical services of physicians, long since established in city child-health work, have been applied in many States to work in rural and semirural areas. Activities in the field of nutrition, dental care, and health education are being extended rapidly.

The services for crippled children are making possible the development throughout the entire country of comprehensive programs for meeting the medical and social needs of these most appealing children, numbering, it is estimated, from 300,000 to 500,000. The heart of the program is represented by its provisions for medical, surgical, and hospital care, but it is being related to the general public-health and social-work services, especially in their preventive and community aspects. Like the maternal- and child-health program, the cooperative activities for crippled children afford a large field for developing sound relationships between the private practitioner and the public administrator.

The objective of the third part of the program coming under the Children's Bureau is to make available understanding and wise social treatment for the child in the rural community or small town who is confronted with problems too great for him or his family to solve unaided. Already some 250 child-welfare workers are serving local communities, cooperating with teachers, health workers, judges, relief and assistance workers, and parents in dealing with problems of neglect, illegitimacy, mental deficiency, and delinquency that have long been overlooked. Some 170 social workers on the staffs of State welfare departments are giving advisory, consultant, and supervisory service in the child-welfare program. The response to the practical demonstrations of the value of social service in these situations on the part of public officials and the lay public is most encouraging. One of the chief difficulties in this, as in the other aspects of the program, is the limited supply of workers with the requisite training and experience. The Bureau of Public Assistance of the Social Security Board and the Children's Bureau are working closely together in the encouragement of unified State and local public-welfare programs under competent leadership, and are emphasizing the importance of maintaining adequate personnel standards and providing educational opportunities for training of staff.

The special and general advisory committees in session yesterday and today after reviewing progress reports submitted by the staff of the Children's Bureau found that unfavorable conditions surrounding maternity and early infancy remain today as they were 20 years ago, urgently in need of courageous and constructive attack.

During the past 20 years the maternal death rate has decreased but little; the deaths of infants under 1 month of life but little; and if we consider the infant deaths during the first week or the first day, we find that essentially no decline in the rates has taken place. Reports of studies of maternal deaths indicate that half, and perhaps a larger proportion, might have been prevented had care been really adequate. The possibilities of saving the lives of those who now die before or shortly after birth are equally great. These facts constitute a challenge and an obligation that cannot longer be put aside or evaded.

Most of our effort in this country has been directed toward providing facilities for prenatal care. In cities this has been done reasonably well, and in some places provision has been extended to include nursing care at time of delivery when requested by the physician or the family. In rural areas, however, facilities for prenatal care are still far from adequate, though they are increasing steadily under the new State plans; postpartum care by nurses is being given in increasing amounts, but it, too, is far from adequate. Nursing care at the time of delivery is still provided so seldom in rural and semirural areas as to be essentially lacking, although 10 States have actually begun in certain areas demonstration services of this kind.

For about 10,000,000 of our rural population hospital care is entirely inaccessible when it comes to meeting emergency obstetric needs. Moreover, resources available to the general practitioner for consultant obstetric or pediatric service are poorly distributed in rural and semirural areas and entirely inaccessible or lacking in many.

A quarter of a million women were delivered last year by so-called midwives, and we all know the utter inadequacy of such service unless rendered by an adequately well-trained group. An unknown number of women, actually probably many thousand if we take the number reported to the Bureau of the Census as a basic figure, have no recognized attendant at time of delivery. Many thousands of women face the experience of childbirth knowing that there is no money to pay for medical or nursing care for themselves or for their offspring.

More than a million and a half women are delivered by physicians, of whom many are well trained in obstetrics and thoroughly understand the care of the newborn, but many have graduated from medical school with only a theoretical knowledge of obstetrics and with little or even no practical clinical experience. Furthermore, we provide essentially no facilities for clinical postgraduate work in these fields. Is it any wonder that our maternal and neonatal mortality rates are still so high?

The need has been established fully for providing medical and nursing care during the maternity period for mothers for whom adequate care cannot be provided at family expense; for consultant obstetric and pediatric service; for emergency hospitalization; and for opportunities for postgraduate training for physicians and nurses in attendance at childbirth. It is known that the extension of facilities of this kind will save many thousands of lives. The general advisory committee in action today recommended the extension of the maternal and child health work, especially in rural areas and in areas suffering from severe economic distress through Federal cooperation with the States under title V, part 1, of the Social Security Act. These recommendations provide for increased maternity care and care of the newborn and for a program of educational training in these fields for physicians and nurses. In these undertakings medical practice, public administration, the lay public, and parents themselves can be united in a great common undertaking, in which the interests of all can be duly protected.

To the Children's Bureau we bring a challenge for leadership. In its fulfillment we pledge our earnest support.

The Supreme Court and the South

EXTENSION OF REMARKS

OF

HON. BENNETT CHAMP CLARK

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Monday, April 19, 1937

EDITORIAL FROM THE ARKANSAS GAZETTE

Mr. CLARK. Mr. President, I ask unanimous consent that there be printed in the Appendix of the RECORD a very

illuminating editorial from the Arkansas Gazette of April 11, 1937, on the Supreme Court and the South.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Arkansas Gazette, Little Rock, Apr. 11, 1937]

THE SUPREME COURT AND THE SOUTH

The Supreme Court of the United States has been the savior of the South. In times of sectional bitterness born of the Civil War, when the constitutional rights and liberties and privileges of southern people were marked for destruction by men who held the legislative power of the Federal Government in their hands, the Supreme Court stood firm against partisan passion and inflexible against vengeance.

It was to those times and to laws passed by a Congress whose masters were Thaddeus Stevens and men who joined with him to treat the Southern States as "conquered provinces" that Senator Carter Glass referred when he said the Supreme Court "saved the civilization of the South", and saved the people of the South from anarchy and ruin during a period of "unspeakable outrages."

Horace Greeley, editor of the New York Tribune and one of the founders of the Republican Party, wrote of the spirit prevailing in a Congress that was soon to impeach and try the President of the United States as a southern sympathizer:

"Greedy and malignant partisanship began to demand, as necessary to the public welfare, measures which were only needful for the maintenance of unworthy or corrupt men in power. Of these measures the Enforcement Act was one of the most odious. Under it, shameful abuses have been perpetrated."

In such a Congress, where the South had no real representation, the various reconstruction and enforcement laws were passed. If those laws had worked as their authors intended them to work, no man identified as a former "rebel" would have been safe from summary arrest and trial by a military court, or from confiscation of his property at the point of the bayonet. No white man who had "supported, aided, or favored by act or word the cause of the Confederacy" could have held a public office, preached from a pulpit, or practiced law or certain other professions. The commingling of the races in hotels, restaurants, conveyances, and other public and semipublic places would have been ordained by Federal law. Political power would have passed nominally to masses of newly freed and enfranchised Negroes and actually to military rulers and "carpetbagger" civil authorities. It was the unconcealed purpose of the radical reconstructionists to keep the South in subjection by means of the Negro vote and the denial of suffrage to the bulk of the white population.

But by a great series of decisions beginning in 1866 the Supreme Court gave the South the protection of the Constitution.

First came the reestablishing of civil liberties in the South. In the Milligan case the Supreme Court ruled that neither President nor Congress had power to set up military tribunals to try civilians except in an actual theater of war where the civil courts were not open. So was removed the threat of summary arrest and trial by military commissions in time of peace, and with it the threat of confiscation of property. (It was the Supreme Court which restored to the heirs of Gen. Robert E. Lee the Arlington estate, which the Government had seized without compensation and was holding with a military garrison.)

In the Garland case—brought by Augustus H. Garland, of Arkansas, later Grover Cleveland's Attorney General—the Supreme Court not only struck down as unconstitutional the "test oath" which would have barred southern lawyers from appearing in Federal courts but in practical effect ruled out all laws directed at former Confederates that might partake of the nature of bills of attainder or ex-post-facto laws or general proscriptions.

The violence done to the purposes of the South's oppressors can best be measured by the violence of their resentment. A storm of invective and denunciation broke out. The Supreme Court "had made itself the support of the advocates of the rebellion" and had furnished "a secure shelter for treason, vanquished on the battlefield." It had undertaken to "destroy the congressional plan for reconstruction." It had "rendered the Freedman's Bureau and Civil Rights Acts a nullity." The decisions were "forerunner to a defeat of Republican ascendancy and a restoration of southern domination." "Verbose sophistries" had been used in the opinions "to conceal iniquitous doctrines."

After the decisions that thus reaffirmed personal rights and immunities came decisions that reaffirmed and restored the rights and institutions of self-government. In the eight Civil Rights cases passed on between 1875 and 1884 the Supreme Court built up the broad principle that Congress cannot go into the domain of State and local government and lay down rules for the conduct of individuals toward each other. In particular, this series of decisions made it possible for the former Confederate States to solve their own peculiar problems of suffrage and racial relations according to their own best lights and conscience.

It may seem that personal criticism of the present Supreme Court has gone to great lengths. But after the Milligan and Garland decisions the Justices—five of them Republicans appointed by President Lincoln—were assailed as "Rebel hirelings", as "traitors", as betrayers of the "great revolution", and enemies of the "sacred human rights" of millions of freedmen. The Supreme Court Justices were "antediluvian judges", "old fossils", and "nine old superior pettifoggers."

Nor did reconstructionist anger find its vent in invective alone. Measure after measure was introduced in Congress, along the line of the present proposals for 6-3 or 7-2 decisions, to restrict the Court's power of review over acts of Congress. Other bills sought to deny the Court any power of review whatsoever over legislation dealing with the defeated South. Violent though its anti-Supreme Court feeling was, Congress drew back from such direct assaults on the judicial branch of the Government. But to avert an almost certain invalidation of the reconstruction acts as a whole, it went to the length of repealing a statute under which a case whose outcome was feared had come up to the Supreme Court for review.

Fortunately for the South, the one proposal seriously made to enlarge the Court's membership was so strongly opposed by both Republicans and Democrats in the North as a scheme to pack the Court that it was quickly dropped.

In those dark days no voices in the South made protest against invalidation of acts of Congress that were found in conflict with the Constitution. There was no talk of the Supreme Court's "usurping power." The Justices were not called doddering old men who should be shoved off the bench. There was no condemnation of 5-to-4 decisions as something essentially unsound and intolerable.

And yet the Supreme Court did not seek to make itself the special champion of the South or to show special favor to the South. The Supreme Court saved the South because it saved the Constitution.

The Guam Delegation

EXTENSION OF REMARKS
OF
HON. ERNEST W. GIBSON
OF VERMONT
IN THE SENATE OF THE UNITED STATES
Monday, April 19, 1937

ARTICLE FROM THE PHILIPPINE-AMERICAN ADVOCATE

Mr. GIBSON. Mr. President, two members of the Advisory Congress of Guam are in Washington at the present time, representing the people of that island and asking for the same grant of citizenship as has been given to other island dependencies and Territories of the American Nation. This commission is financed largely by the school children of Guam.

Recently an article appeared in the Philippine-American Advocate relative to these representatives. I ask unanimous consent that a portion of that article be inserted in the CONGRESSIONAL RECORD.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[From the Philippine-American Advocate for April-May 1937]

THE GUAM DELEGATION

Without fanfare and ballyhoo such as often attending Philippine delegations to the United States the two able and brilliant missioners of Guam, B. J. Bordallo and F. B. Leon Guerrero now in Washington on a mission of state, are what you may call, in the parlance of everyday Americans, fast workers. Within a month and relying principally upon their own personal exchequers and such penny contributions the school children of their island home could afford to give, these truly humble, modest but as capable and dynamic statesmen as any to be found anywhere, have accomplished more for their country's cause in a comparatively short time than any other insular mission that from time to time and again and again has come to plague the Congress. Two bills already introduced in Congress is their record to date. Senators TYDINGS and GIBSON and Representative KOCIALKOWSKI have offered bills which would confer United States citizenship to inhabitants of these tiny atolls of the Pacific. A canvass of sentiment on Capitol Hill reveals that these bills are assured of early passage.

The Guam delegation is able to accomplish such an unbelievable legislative feat without resorting to pompous state balls and dinners, banquets, teas, and receptions in honor of Washington dignitaries and distinguished legislators. They are very frank—these two Guam delegates. They would tell you they are poor; hence, they cannot afford to dominate the society columns of the Nation's press. No personal guards in the persons of puppet generals, majors, and army captains, nor detectives trailing their very steps, nor a retinue of physicians, technical assistants, and what nots; not even a cook with them. In plain, they do not have any excess baggage hanging around their necks to give them pain. They do not have for their headquarters suites of gilded rooms in exclusive hotels in New York and Washington; just a room or two in a plain, modest American home in a typical section of metropolitan Washington. Verily they depend solely upon the merits of their case and the innate sense of justice of their fellow Americans.

Guam is poor, indeed! But she is rich in men and women with great and noble souls. May we wish for her self-sacrificing sons in Washington success in their national aspirations.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. SHERMAN MINTON
OF INDIANA
IN THE SENATE OF THE UNITED STATES
Monday, April 19, 1937

RADIO ADDRESS BY DR. CHARLES BEARD ON MARCH 29, 1937

Mr. MINTON. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD an address delivered over the radio in New York City by Dr. Charles Beard and having relation to the proposal to reorganize the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is never helpful in a controversy over a public policy to call one another names. Everybody is entitled to his opinions, but opinions are not facts. In every debate it is important to separate opinions from facts, so before expressing my opinions I am going to present certain facts which are beyond dispute. I believe that these are facts which everybody ought to take into account before making up his mind on President Roosevelt's plan for reorganizing the judiciary.

The first fact is that Congress has the constitutional right to alter by law the number of Supreme Court Justices. The number is not fixed by the Constitution. It must be fixed by act of Congress. The present number, nine, is not a sacred number. It happens to be the number which Congress fixed the last time it changed the number of Supreme Court Justices. So let us get this straight. The President's plan laid before Congress is a constitutional plan. It squares with the letter of the Constitution. Nobody who sticks to the truth can deny that fact. The President has not asked Congress to violate the Constitution. He has proposed that Congress exercise a power vested in it by the Constitution. It is, therefore, not in accord with facts, to say, as some have said, that the President is flouting the Constitution. His proposal is authorized by the Constitution.

The second fact is that Congress has changed the number of Supreme Court Justices several times since the Court was first established. It has increased the number. It has reduced the number. On at least three occasions, all under the auspices of the Republican Party, Congress has changed the number of Justices for the known purpose of affecting the decisions and policies of the Court. In making these changes the Republicans did not violate the Constitution. They did not destroy the Constitution. The country did not go to pieces. In the light of that experience we may venture the opinion that the Constitution, the Court, and the country will not be ruined if Congress increases the number of Justices in 1937.

The third fact which I wish to present is that the Supreme Court is not the only guardian of the Constitution in the United States. Indeed, the Constitution does not expressly confer upon the Supreme Court the power to declare acts of Congress unconstitutional and void. That power the Court itself has read into the Constitution. Even if we admit that the Court was right in so interpreting its powers, still we are compelled to admit that the Court is not the sole guardian of the Constitution. The President, Congress, and all American citizens are bound to guard and uphold the Constitution as they know it and understand it. If they believe that the Supreme Court by its decisions has misinterpreted the Constitution, they have the right and the duty to exercise constitutional powers to bring the Court back within the Constitution. And increasing the number of Justices is one of the constitutional ways of accomplishing this end. So let us get this straight, too: The Supreme Court is not the sole guardian of the Constitution.

The fourth fact beyond dispute is that the Supreme Court has itself more than once violated the Constitution, or misinterpreted the Constitution—which is the same thing in other words. Proof of this statement lies in the fact that the Court has more than once reversed its own interpretation of the Constitution. For example, take the Legal Tender cases. In the first case the Supreme Court declared unconstitutional a part of an act of Congress issuing paper money. Then President Grant appointed two new Justices known to be on the other side of the fence. About a year later the Supreme Court reversed itself and declared the same act of Congress to be constitutional.

Then, take the Income Tax cases. At first the Supreme Court upheld as valid and constitutional an act of Congress levying taxes on incomes. In 1895 it reversed itself and declared an income tax invalid and not warranted by the Constitution. This very day the Court reversed two opinions—one less than 1 year old. To put the matter in another way, the Supreme Court has said on one occasion that the Constitution meant one thing and then reversed itself and said that the Constitution meant the opposite. Now, two opposites cannot both be right. We are bound to conclude that the Court misread or violated the Constitution in the first case or in the second case, and citizens may take their choice.

The fifth fact is that Congress and the President have more than once sought to bring the Supreme Court back within the Constitution as they were given to see it. In one case Congress and the President simply defied the Court. In 1857 the Supreme Court declared that Congress has no power under the Constitution to abolish slavery in the Territories of the United States. A few years later Congress passed and President Lincoln signed a bill abolishing slavery in the Territories in spite of the Court's opinion.

In the Legal Tender cases, to which reference has just been made, President Grant believed that the Legal Tender Act was constitutional. He appointed two new Justices who believed that it was constitutional. And about a year later the Supreme Court came back within the Constitution, as President Grant understood it, by reversing its earlier decision. The country did not go to pieces as a result of these actions. The country, the Constitution, and the Supreme Court remained. And, in truth, most people now believe that Congress and the President were right in both these instances—right in enforcing their views of the Constitution as against the Court.

The sixth fact is that Presidents have nominated and the Senate has confirmed men as Justices of the Supreme Court with full knowledge that the new Justices would help reverse previous opinions or policies of the Court. When President Grant nominated two Justices he knew—and said he knew—that they were on his side of the fence in a dispute with the Court; indeed, both Justices voted to reverse the decision made by the Court in the first Legal Tender case.

The seventh fact is that it would be absurd for a President to nominate for the Supreme Bench, and for his supporters in the Senate to confirm, men known to be opposed to their views of the Constitution. We have a right to suppose that the President and his supporters are as honest as their opponents. We have a right to suppose that they believe their policies to be constitutional and good for the country. It would be ridiculous for them to appoint Justices who believed their policies unconstitutional. They never have done it, and it is safe to say that they never will.

Every Chief Justice of the United States, except one, has belonged to the party of the President who nominated him. John Marshall was a Federalist politician and officeholder before he was made Chief Justice by a Federalist President, John Adams. Chief Justice Taney was a Jacksonian Democrat, politician, and officeholder before he was elevated to the bench. Chief Justice Taft had been elected President on the Republican ticket, and then defeated for re-election, before the Republican President, Harding, nominated him for the Supreme Bench. Anybody familiar with the history of the United States can fill out the record. All this is right and proper. There is no ground for quarrelling with a President and Members of Congress who want to have their views of the Constitution upheld by the Justices appointed during their tenure of power. Such Justices, to be sure, may disappoint them in some cases, but in the main the Justices follow the views of the party with which they have been affiliated or at least one wing of the party.

The eighth fact is that only once in 150 years has a decision of the Supreme Court against an act of Congress been reversed by constitutional amendment. If the conduct of Presidents and Congresses is any guide, if experience is any guide, then it is not correct to say that the "natural", "right", "normal", or "democratic" way of overcoming an adverse decision by the Court is to resort to a constitutional amendment. Where reversal has been deemed right and proper by Congress and the President, other methods have been chosen, except in one single case, ever since the Constitution was adopted.

The exception was the income-tax decision of the Court in 1895. In that case the Court declared the income-tax law of 1894 to be unconstitutional, although it had previously declared such a tax to be constitutional. Immediately a storm of criticism broke over the action of the Court. Several years later, Members of Congress, including Senator BORAH, proposed to enact a new income-tax law in spite of the adverse decision of the Court, and to resubmit the issue to the Court, with a tacit invitation to reverse itself again. This proposal was staved off, mainly under the leadership of men who did not want an income tax at all, and a constitutional amendment was submitted to the country. It was ratified in 1913, that is 18 years after the Supreme Court declared the law of 1894 null and void. This is the only case in 150 years in which a decision of the Court against Congress has been reversed by resort to a constitutional amendment.

It seems to me in accord with the facts, therefore, to say that the normal way to overcome adverse decisions against Congress is not to resort to an amendment, to tinker with the Constitution, every time a case arises. The American way in general practice is to use other means—that is, to change the number of judges, to appoint the right kind of judges, and to resubmit issues to the Court for reconsideration. No way is absolutely secure, but certainly the adoption of an amendment is no guaranty that public purposes will be realized, for the Supreme Court may riddle the new amendment by adverse decisions as soon as Congress acts under it. A good example is the judicial defiance of the plain and express words of the income-tax amendment, adopted after 18 long years of agitation and discussion.

The ninth fact is that the process of amending the Constitution is not democratic in nature. An amendment requires a two-thirds vote in Congress and the approval of three-fourths of the States.

Now under this rule 13 States may defeat an amendment desired by 35 States. Under this rule less than 5 percent of the people of the United States, scattered among 13 States, may defeat the overwhelming majority of the people of the country. Under this rule, opposition interests can concentrate their fire and their money on 13 of the smallest States in the Union. This is just what the real opponents of New Deal policies want done now, and for the purpose of defeating those policies. Is this what the people voted for last November?

The tenth fact is that Congress has the same right as the Supreme Court to be courageous and independent. If Congress believes, with leading students of constitutional law, if Congress agrees with four of the Supreme Court Justices that five of the Justices have misread, misinterpreted, and in substance violated the Constitution, then Congress has the civic and moral obligation to bring the Court back within the Constitution. If it so believes, Congress is bound by oath of office to do this very thing. And citizens who believe in the necessity of legislation dealing with agriculture, unemployment, industry, social security, and natural resources now have a right to expect Congress to do this very thing.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. ROYAL S. COPELAND
OF NEW YORK
IN THE SENATE OF THE UNITED STATES
Monday, April 19, 1937

STATEMENT BY DR. NICHOLAS MURRAY BUTLER

Mr. COPELAND. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an article from the New York Herald Tribune of this morning, embodying a statement by Dr. Nicholas Murray Butler, on the proposal to enlarge the Supreme Court.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune of Apr. 19, 1937]

BUTLER DENIES VOTE JUSTIFIES COURT CHANGE—ENVISIONS DESTRUCTION OF BENCH IF JURISTS ARE PICKED BECAUSE OF VIEWS

Dr. Nicholas Murray Butler, president of Columbia University, in a statement issued yesterday on the President's Supreme Court plan, charged that public opinion as expressed in the last election did not justify the President in "depriving the judicial department of the Government of its power to interpret the fundamental principles of the Government itself."

The contention that a Supreme Court Justice loses his power of public service with the passing years was attacked by Dr. Butler as absurd. He envisioned the destruction of the Supreme Court as a Court if Justices were selected because of their views upon questions which may come before them for decision.

Dr. Butler also asserted that the proposal to require more than a majority vote to declare an act unconstitutional "means the frank establishment of minority rule."

Dr. Butler's statement follows:

"The Nation-wide discussion as to the proposed legislation in reference to the United States Supreme Court, for which the President has unfortunately made himself responsible, has once more made it plain that the American people are profoundly interested in the preservation and protection of those fundamental principles of social, economic, and political order upon which their Government is built. Only once before in our Nation's history have the people been so deeply stirred as they have been by this proposal, and that was when, in 1860–61, the attempt was made to disrupt the Federal Government by secession.

"The questions now involved rise above party differences or interests, as well as above personal loyalties, and must be looked straight in the face because of their fundamental importance.

"Of the three departments or branches of the Federal Government, the judicial power, as vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish, is the only representative which the American people have to which they may turn for the protection of the underlying principles of their Government. The Supreme Court has no concern with the wisdom or unwisdom of either a given administrative policy or of a given legislative set.

WAY OPEN IN AMENDMENT

"It is called upon to do but one thing in respect to action taken by the other departments of the Government, and that is to determine whether or not such acts, if challenged, are consonant with the principles upon which the Government itself rests. If such acts are not consonant with these principles as written into the Federal Constitution, then they must be set aside as outside of and beyond the limits of power set by the Constitution. If the people of the United States, because of changed conditions, now believe that the statement of their fundamental principles should be so altered as to make constitutional any acts that are now successfully challenged, then the way is open for them to make that possible by the process of constitutional amendment which they have reserved to themselves.

"The executive department of the Federal Government represents and reflects the opinions and the emotional state of the people when last appealed to for a Nation-wide expression of opinion. The President is justified in acting or endeavoring to act in accordance with public opinion as expressed at the time of his election, but this is something quite different from depriving the judicial department of the Government of its power to interpret the fundamental principles of the Government itself.

"The legislative department of the Federal Government does not always represent sober and disinterested public opinion. It too frequently represents and reflects the current opinion of districts, of States, of sections, of organized minorities, of pressure groups, of lobbies, and of special self-seeking interests. Time and time again most important matters of public policy wait for years untouched by the Congress because they are in the general public interest only and there is no special group or lobby to urge action upon them.

WILL DESTROY THE COURT

"Let there be no mistake about these matters. To select Justices of the Supreme Court of the United States because of their views or supposed views upon any question or class of questions which may come before them for decision is to destroy the Supreme Court of the United States as a court and to turn it into an additional and wholly unnecessary legislative body.

"The proposal that in order to declare a given policy or act unconstitutional the votes of more than a mere majority of the membership of the United States Supreme Court should be required means the frank establishment of minority rule. Instead of the judgment of 5 out of 9 Justices being required to pass upon a disputed question of constitutional rights, this vital matter would then be determined by the votes and opinions of three or perhaps even of two Justices. This fact needs only to be stated to become ridiculous. It would be just as absurd to provide that no bill should pass either the Senate or the House of Representatives by the vote of a mere majority of the Members of that body.

"The people throughout the Nation have rallied to the defense of the United States Supreme Court and of all that for which it stands. If it be their wish and purpose to alter in any way the present constitutional expression of their fundamental principles and policies, the door to orderly and reasoned amendment stands wide open.

"Most absurd of all is the hypothesis that a Justice of the United States Supreme Court loses his power of public service with the passing years. He is much more likely to gain power because of wider knowledge and steadily growing experience, and he is much more likely to pass from conservatism to liberalism in his views of public questions than to move in the contrary direction. It would be well for some of our fellow citizens to inform themselves concerning the judicial career of John Marshall and of Oliver Wendell Holmes. Their orderly growth was itself the fruit of wisdom and experience."

The Supreme Court

EXTENSION OF REMARKS
OF
HON. ARTHUR H. VANDENBERG
OF MICHIGAN
IN THE SENATE OF THE UNITED STATES
Monday, April 19, 1937

RADIO ADDRESS BY HON. HENRY CABOT LODGE, JR., OF MASSACHUSETTS, ON APRIL 18, 1937

Mr. VANDENBERG. Mr. President, the distinguished junior Senator from Massachusetts [Mr. LODGE] delivered a very able address in Boston last evening on the subject of the Supreme Court. I ask that the address may be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

My fellow citizens, let us talk tonight about the pending proposal for reorganization of the judiciary, not those parts relating to the lower courts, some of which I approve, but the proposal to enlarge the membership of the Supreme Court of the United States.

It is our right to know the complete position of our public servants on a question of such importance. It is also your right to demand of me that I consider such a question respectfully and

with no slur on the motives of those who differ. It must be considered solely on grounds of high principle, without any regard whatever to narrow partisanship. Party has a useful place in our system of government, but every public servant must remember that when he has taken office and the election is over he owes his duty to every citizen and not to any group of party bosses.

That this is a nonpartisan measure is strikingly plain. There are in the Senate more Democrats opposed to it than there are Republicans. It is opposed by Senators who supported President Roosevelt and Garner and Lemke and O'Brien. It is opposed by such progressive Republicans as Senator Hiram Johnson, of California, and Senator Borah, of Idaho, and by such progressive Democrats as Senator Burton K. Wheeler, of Montana, and Senator Edward R. Burke, of Nebraska. If, as some say, it is "reactionary" to oppose this program, then the word "reactionary" has no meaning.

What is the criticism of the Supreme Court? What were the reasons given for this attempt to seize control of it?

It was argued that because there were only nine judges there was tremendous delay in getting cases decided. Facts were produced and it was found that the Court was abreast of its work. Then this argument was dropped.

It was argued that the Court had abused its power of not hearing certain cases. The facts were produced. Then this argument was abandoned.

It was stated that there was precedent in the past for such a move, that other Presidents had done the same thing—careful research has disproved this statement.

It was declared that a man past 70 was reactionary and useless. That long list of useful and liberal-minded men, all well over 70 years of age, was brought to public attention and no longer do we hear much of that argument. Indeed the truth is that we need not pay much attention to the question of how old in years or how young in years a man may be. What counts is the kind of man he is. You cannot measure a man's worth by looking at his birth certificate.

It was inferred that the Court stood in the way of financial reform, trade development, flood reconstruction, and agricultural relief. But we remembered that the Court had not interfered with the Securities Act, which regulates the stock market, and the Reciprocal Trade Act for foreign-trade expansion. We recalled that it had never stopped—or even mentioned—the spending program under which flood control, agricultural relief, and hundreds of other activities are being conducted; all of which are important to us.

Some said that the Court stood in the way of economic progress. Let us look at the figures of business revival after the Court's action in the Schechter case. These figures show that the reverse is true. And if we do not look that far, we have only to remember the statements constantly made during the election campaign that prosperity had returned—and recall who made these statements—apparently in spite of the Supreme Court!

Finally the Court was criticized because of its 5 to 4 decisions. Let us look at this criticism. Out of 41,389 cases which have come before it, the Supreme Court has held 76 acts of Congress unconstitutional, and of this number 11 were by a majority of one.

It is also well to remember that not all of the cases hold entire acts of Congress unconstitutional. In fact there appear to be but eight instances where an entire act, in the technical sense, has been held unconstitutional by the Supreme Court.

A vote of 5 to 4, for example, means a majority of 11 percent. A vote of 47 to 48 in the United States Senate means that the issue has been decided by a far smaller percentage. Indeed it is quite possible for a popular election to be decided by one vote—for selectman, for mayor—even for Governor or President. This is a majority so small that you can hardly calculate it. But until the present time no one has complained. No one raised the question when several of our Presidents were chosen by a popular vote in the proportion of 5 to 4 or less. The fact is that we either believe in the rule of the majority or we do not. We must either have a majority vote or require a higher proportion. That is our only choice. If we require a two-thirds vote, then three members, or one-third of the Court, can determine the outcome. If we require a unanimous vote then one man can decide. We are a democracy and clearly the majority vote is the most democratic.

These are the criticisms of our Court. One by one they have been dropped. Truthfully, is not this the argument of the critics of the Court: The administration wants to do certain worthy things; the Supreme Court stands in the way; therefore the Court must be made over so that it will agree with the administration. Knowing of the suffering and unemployment in this country which we all want to relieve, let us presume that it desires to relieve this suffering. Let us presume that it desires to do so by setting up national standards for shorter hours, higher wages, and better conditions of work. This is the friendliest possible way of explaining the proposal to enlarge the Court. Let us therefore consider it on the friendliest possible basis.

I earnestly desire the development of a national labor policy. I want to do something about it. I do not need to tell my fellow citizens of Massachusetts that I have fought for labor legislation. I have voted for amendment of the Constitution; and in common with many others I have seen the damage which is being done to the people every day of the year because we have not got a national labor policy. I shall not cease my efforts until we have such a policy.

We know the sad story. We know that there are States, like Massachusetts, which have child-labor laws and other humane laws, whereas other States have none. We know of industries where the weekly pay is $12 or $14 in certain States, whereas in certain other States employees receive as low as $2 or $3 a week for exactly the same kind of work. In those States which do not have such labor standards sweatshop conditions can legally exist; and because it is cheaper to operate industry that way business has been enticed away from States having higher standards. In this vicious race to see who can undercut labor standards the most States with good laws are penalized for their virtue.

The States with good laws and decent standards have been helpless in the face of this situation. They cannot make laws for other States. The only thing that can save them is some sort of action on a national scale. We in Massachusetts, for instance, cannot cut hours and raise wages all by ourselves. Would that we could! There must, therefore, be a national labor policy. Any steps, no matter how novel they may be, which will accomplish that result—which will actually work when put into practice—should be supported.

Feeling this way and representing a State which stands to gain so much by national standards, it was natural for me to examine the proposal to increase the membership of the Supreme Court in that light. I asked myself—and no doubt you have asked the same question—"Will it make possible the progressive national legislation which is generally desired?" "Will it lift the burden from which the workers of Massachusetts and the Nation are now suffering?" "Will it really produce results?"

Let us go back first to the N. R. A. in 1933, which, with all its many faults in other ways, did seek to regulate nationally, hours, wages, and child labor, and in this respect was helpful to workers in States with higher standards. And let us also remember that the N. R. A. was held unconstitutional by a vote of 9 to 0. The judges were not saying that the law did not have some merit. They said in effect that you could not have such a law because Congress had abdicated its power and turned it over to trade associations. This, as Judge Cardozo put it, was "delegation running riot." And he said further, "The licit and illicit sections are so combined and welded as to be incapable of severance without destructive mutilation."

You and I ask: How would this situation be corrected by adding judges to the Supreme Court? Every judge now on the bench, old and young, agreed that laws on hours and wages as embodied in the N. R. A. were unconstitutional. Would new judges take a different view? And if six more judges were appointed, surely they could not outvote the nine judges already there.

You can be quite sure that new judges would not take a different view. We assume that men of high character would be appointed to the Court. Once they had been appointed, how could anyone control their opinions?

President Abraham Lincoln appointed his personal friend, David Davis, to the Supreme Court. And when the question came before the Court as to the legality of the military tribunal constituted by Lincoln, it was Judge Davis who delivered the opinion of the Court holding the tribunal illegal.

President Theodore Roosevelt appointed Judge Oliver Wendel Holmes to the Supreme Court. The Northern Securities case, which was close to the President's heart, came before Judge Holmes, and he ruled against the President's desires. Yet he was President Theodore Roosevelt's own appointee and a more liberal man never lived.

I repeat, you cannot be sure that the new judges would be obedient to the President. Indeed, you can be very sure that they would not. Every man differs from his neighbor. None of you have ever met a person with whom you agree on everything. What is liberal to one man is reactionary to another. And an upright man must vote as his conscience and intelligence tell him to vote, even if his best friend may disagree. A man who is not upright may yield to pressure from some outside source. But a man who will bow to the will of a political leader will also do the bidding of sordid material interests.

We need a national labor policy. National standards on hours, wages, and working conditions would help the people of my State and of all the States. But the proposal to increase the number of judges does not solve the problem. It does not even scratch the surface. And in the meantime precious time is passing by. To the thousands of my fellow citizens who with me want to see shorter hours, higher wages, and better working conditions, I say: This is not the answer. It is hopelessly ineffective. In this respect, it does not go far enough. In this respect it is, as one of its supporters said, "mild." Yes, far too mild.

The question of hours, wages, and working conditions is sufficiently important for us to act frankly, definitely, and promptly. At this very moment Congress has the power to prohibit the movement in interstate commerce of any article which was made below accepted standards for hours, wages, and working conditions. It would speedily do so if the President were to give his support. This was made clear by the Supreme Court's decision last January on the Ashurst-Sumners Act, which involved the question of transporting goods made by convict labor. If there is the urgency and the crisis of which we have heard so much, we may well ask: Why was this prompt and effective method overlooked?

The proposal to increase the number of judges is utterly ineffective insofar as guaranteeing the passage of social legislation is concerned. Viewed in this light, it opens the door right back into the same old corridor. Taking the short view of the

proposal, it reminds one of the old nursery rhyme of the King of France who with 20,000 men went up the hill and then came down again.

There are ways—an example of one of which I have just mentioned—of changing the present situation by simple acts of Congress. It is hard to understand why they have not only not been used, but have scarcely ever been referred to.

But, if such methods should fail, if there should still be vexing problems out of the reach of legislation, then let us, by all means, have a change in our fundamental law. Let us amend the Constitution. Let us give Congress a definite grant of power.

Objection is made, of course, to the idea of a constitutional amendment on the grounds that 13 of the States having less than half the population could stop an amendment from being ratified, inasmuch as three-quarters of the States must give their consent. This is theoretically true. It is also theoretically true that a group of States having less than half the population could have an amendment ratified. The fact is, however, that neither of these things has ever happened, nor are they likely to.

It is also true that the amending of the Constitution is often slow. The pending child-labor amendment, for instance, has never been ratified. On the other hand the prohibition amendment was ratified with considerable speed and the amendment repealing it was ratified even faster. Can we doubt that an amendment which gave Congress a definite grant of power—for example, to prohibit the movement between the States of goods made under certain conditions—and which did not bring in the spiritual and educational aspects of the child-labor amendment could have been speedily adopted? When Congress convened there were 42 State legislatures in session. If we had acted then, with Presidential approval, such an amendment would probably be approaching ratification by this time, whereas it will be impossible for the present proposal even to come to a vote before the 1st of June. An amendment can definitely settle definite things. We may well, therefore, ask again: If there is the urgency and the crisis of which we have heard, why was this effective method overlooked? Why were the people not trusted to decide this question for themselves?

Having taken the short view, let us now take a longer look into the future. Let us look ahead to the America in which our children will live. We do not know who will be President then. We may have a man in the White House at that time who looks and acts like a believer in democracy, but actually and secretly he will have scorn for the right of the people to govern themselves, a man who is consumed with personal ambition and who desires to get all the reins of Government in his hands—not for the benefit of others but for the reactionary gain of his own little group.

Being so popular, he would have the House and Senate with him. Only the Supreme Court would stand between him and autocratic rule. He would therefore want to enlarge the Supreme Court. He would not merely want to enlarge it, he would want to pack it with men who would do his bidding. Men of that type have arisen in foreign countries; they can arise here. Such men never want to show their hand. They never want the public really to know what they want to do. They would never present a straightforward proposal to the people. Oh, no. Such a man would say to the people that back in 1937 the Court had been enlarged and that therefore there was nothing at all wrong about his enlarging it.

In other words, if we grant one man power to do a certain thing, we can be certain that another man who is far from good will one day use this same power. We would, if we passed the present bill, establish a precedent which could be used to destroy this Republic.

This is strong language, but it is justified by the service which the Supreme Court has rendered in the past. You have in this speech heard the criticisms against the Court. We can admit that the Court is composed of human beings like you and me and that they are therefore not perfect. Let us, however, see some of the fine things which they have done.

Let us first go out to Nebraska. In that State some years ago they passed a law which made it illegal for children to be taught any modern language other than English in their schools. This was a State law. If you lived in that State and wanted your child to learn and speak a language other than English, you could not do so. You would have had nowhere to turn—except to the Constitution of the United States and its defender, the Supreme Court. This is what was done, and the Supreme Court said that children could be taught foreign languages, that this law was an interference with personal liberty, and it set that law aside.

Let us go farther west to the Pacific coast, to Oregon. A case arose there called the case of *Pierce* v. *The Society of the Sisters of the Holy Names of Jesus and Mary*. An act of the State of Oregon required every person in the State between 8 and 18 years of age to go to a public school. A parent who wished to educate his child differently could not do so. Fortunately, we have a Supreme Court which said in effect, "No. No government, be it the government of Oregon or the Government of the United States, can interfere with the parent's right to guide the spiritual and educational life of his child. This is a power which no group of officials should possess." As one of the judges said, "Rights guaranteed by the Constitution may not be abridged by legislation. The child is not the mere creature of the State."

Let us go south to Alabama. You may remember the case of the Negro boys in the town of Scottsboro who were condemned to die. They would have died if it had not been for the Constitution of the United States and for its defender, the Supreme Court, which boldly stated that there should be no racial prejudice in our courts. These boys were poor and humble and obscure. They may never have read the Constitution. They may not have known about the Supreme Court. But, like you and me, they could seek protection against an unfair Government beneath the protecting arm of the Constitution.

Our country is enriched by the variety of its racial cultures. The fathers, grandfathers, and forebears generally of the people of the United States stem originally from every country of the western world. They have in many cases brought with them their languages, their customs, their faiths—and it is well that they have done so. It is, therefore, no offense for an American citizen to speak a foreign language. It is, therefore, no crime for parents to give their children the spiritual and educational training which they desire. It is, therefore, the right of every American to worship when and how he pleases, and no government on earth should have the power to interrupt or stop their worship of God.

Of course, this is not likely now. Yet there have in the recent past been just such attempts—to interfere with these sacred rights. If they have been made in the past they will doubtless be made again. And when they are made, can you look to the legislative branch of the Government for relief? No; of course not, because it was they who passed the law. Can you look to the Executive for aid and comfort? Certainly not, because the Executive probably signed the law. You can only look to the Supreme Court of the United States.

We are so rich in our diversity and so strong in the variety of occupations and interests and peoples which are bound together under our flag! We are bound together by the fact that in the case of every one of us our people came to this country to escape oppression, to get away from a government which was all-powerful, to worship God in our own way. Your Senator would be untrue to you if, knowing his countrymen, he did not protect these rights and do all in his power to guarantee freedom for race, creed, and color under our flag. And these are just some of the sacred rights which are endangered by the proposal to enlarge the Supreme Court.

What are some of the other rights? Cardinal O'Connell in his essay on The Danger to Democracy says:

"Thus, to every American citizen has come the blessed inheritance of civil, political, and religious liberty, safeguarded by the American Constitution—giving to every man 'the right to his children and his home; the right to go and come; the right to worship God according to the dictates of his conscience; the right to be exempt from interference by others in the enjoyment of these rights; the right to be exempt from the tyranny of one man or of a few; the right so to live that no man or set of men shall work his or their will upon him against his consent'."

The vital and far-reaching question therefore resolves itself to this: Shall the Constitution of the United States remain a fundamental, basic, paramount law not to be changed by ordinary means, not to be changed for the whim of the moment—or shall it be on the same plane as ordinary acts of the legislature, to be altered and amended almost at will? Shall it in other words become a scrap of paper?

In the hands of a ruthless man—who might some day come—this is what it would become. Such a man, taking advantage of the precedent which is now proposed to establish, would appoint puppet judges to the Supreme Court, and, as Thomas Jefferson implied, it is better to toss a coin and abide by the flip of heads or tails than to put your fate in the hands of a puppet judge.

No man can deny the fact that the United States is a great nation because we are different from any nation on earth—because our Government is different from that of any other government—ours is a constitutional government. We are different because in this country there are certain things which no government can do to you.

The idea of a country in which the state is the ruler of the people and in which people are supposed to serve the state is a very old idea which we fought to get rid of. A country like ours, in which the state is the servant of the people and exists for the benefit of the individual, is something new. The tyrant state is strong. It can last for a long time. The democratic state is weak. It is always under attack either by predatory wealth or predatory politicians. It must always be defended by us, the rank and file. Tomorrow—Patriot's Day—we in Massachusetts celebrate the one hundred and sixty-second anniversary of Lexington and Concord, where the rank and file did come to the defense of human rights.

Should we not here and now defend this system of government? Have we not prospered under the Constitution? And shall we, now that we are on the road to recovery, throw away that safeguard—that form of constitutional government under which we have prospered?

Shall we say to every future Presidential candidate in every election henceforth: "What sort of constitution have you in mind? How many members do you want to add or take away from the Supreme Court? If you propose some fundamental change in our Government, do you want to amend the Constitution or do you want to amend the Court?"

Or shall we say to the people of the United States: "The future of our sons and daughters is secure. The United States shall continue under a written constitution. If there is to be a change in the fundamental law of the land, we, the people, shall decide it."

We can do so. The machinery of State conventions is at hand. We used it recently. It affords a complete and perfect plebiscite. But, as George Washington said, "Let there be no change by usurpation."

Let us not exchange the slavery of the machine age for the bondage of bureaucracy. Let us restore the promise of American

life without being ground under foot either by the tyranny of politics or the tyranny of money. We got rid of the political tyrant when we won our independence as a nation. We can shake off the tyranny of money without taking that terrible backward step. An economic royalist is bad—but so is a political royalist. Indeed, the political royalist is worse, because he soon becomes an economic royalist as well. We need not—we must not—go from the frying pan into the fire. It shall never be said that the American people broke their own spirit and wrecked their own glorious future in such a miserable and tragic squirrel's cage.

In conclusion, we Americans can solve our problems. We can solve them as soon as we see an end to these days of phrases and slogans and squabbles between Americans and the beginning of that fair common sense and mutual good will which, taking advantage of our wonderful resources, will lead us forward triumphant. And we can solve our problems without destroying the States. We can solve them without destroying the Congress. We can solve them without destroying the Supreme Court. We can solve them without destroying the Constitution. We can solve them without destroying our liberty. We can solve them without destroying ourselves.

Foreigners on the Dole

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, April 19, 1937

EDITORIAL BY BERNARR MACFADDEN, AND A NEWS ITEM FROM TIME

Mr. REYNOLDS. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an editorial by Bernarr Macfadden, entitled "How Long Must We Carry This Staggering Load?" published in the Liberty magazine for March, and a brief news item relating to the same general subject matter, published in Time magazine recently.

There being no objection, the editorial and item were ordered to be printed in the RECORD, as follows:

[From Liberty Magazine, issue of March]

HOW LONG MUST WE CARRY THIS STAGGERING LOAD?

While the Government is increasing our indebtedness to the tune of billions, we have hundreds of thousands of foreigners on the dole who are here illegally.

Senator ROBERT R. REYNOLDS, assisted by Congressman STARNES, has determined to stop this huge drain on the Treasury. They have introduced five bills which attack the various problems in an effective manner. They provide for the prompt deportation of habitual alien criminals and other undesirable aliens now in this country, though they have attempted to avoid unnecessary hardship or separation of families.

They provide for the reduction of immigration and authorize exclusion of any aliens whose entry would be undesirable to the United States. They have provided for the preferred employment of American citizens on all governmental jobs.

The average reader might ask why it is necessary to introduce these bills when what we call "common law" should protect us from such injustice.

But Government officials are apathetic, and laws that are definitely set forth with a view to curing these evils might bring effective action.

There are thousands of Americans capable of filling jobs that have been given to aliens. There seems to be no differentiation between American-born citizens and foreigners.

We should first of all take care of our home folks. When the members of our own families have been made reasonably comfortable, then we can afford to give attention to strangers. But American citizens should come first.

And when the taxpayers of this country are compelled to support hundreds of thousands of aliens here illegally, due to official neglect, it is, indeed, time to register vigorous complaints.

We have been taught that this is a government of the people, by the people, for the people. These sentiments were indelibly recorded by Lincoln, our martyred President, and they especially deserve official attention at this time.

Some months ago we called attention to some statements in the CONGRESSIONAL RECORD of June 26, 1935, which told us that we have seven and a half million unnaturalized foreigners in this country, with one and a half million on the relief roll, and that there are three and a half million foreigners who are in this country illegally and 6,000,000 unnaturalized foreigners holding good American jobs.

Foreigners who are here legally and who expect to become good American citizens should be heartily welcomed. But those who are here in defiance of the law should be deported. And it is especially irritating to learn that such a large number of those unwelcome foreigners are on the charity roll. Every patriotic citizen should write to his Congressman and Senator, call their attention to the five bills that have been introduced, and demand their passage during this session of Congress.

Every dollar spent for such relief adds to the huge governmental indebtedness, which may some day become an unbearable load.

Sympathy for our fellow man is commendable. But we are facing serious problems at this time. The various foreign countries are fully able to take care of their citizens. We should not have to assume this responsibility.

If we were able to support these foreign visitors without borrowing money for that purpose, such liberality might be desirable. But when a charitable attitude means huge additional indebtedness it is, indeed, a questionable procedure.

BERNARR MACFADDEN.

[From Time for March 1937]

MEXICO

CONSCIENTIOUS

Mexico's conscientious President Lázaro Cárdenas last week made an appointment with one Miguel Ugalde of Dallas, Tex., who brought news of some 2,500,000 Mexicans who have entered the United States legally or otherwise. Mr. Ugalde's principal news was that 2,000,000 of them were out of work.

Shrugged Mexico City's Universal: "The majority of our jobless countrymen are now living on relief aid given by the United States Government."

Reasons for Repealing the Act of March 3, 1933, Providing for the Transfer of Explosive Materials From the War Department to the Department of Agriculture

EXTENSION OF REMARKS

OF

HON. JOHN M. COSTELLO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 19, 1937

Mr. COSTELLO. Mr. Speaker, the House has passed this afternoon a bill (S. 1230) repealing an act of March 3, 1933, which provided for the transfer of powder and other explosive materials from deteriorated and unserviceable ammunition under the control of the War Department to the Department of Agriculture, to be used for land clearing, road building, and other agricultural purposes. Both the War Department and the Department of Agriculture recommended that this act should be repealed.

Due to the interest of many Members in this legislation and in its effect upon agriculture, I believe that a brief explanation of the existing situation should be made. The act to be repealed was enacted in 1933 with the understanding that it would make available to the farmers of the country an inexpensive supply of explosives to be used by the farmers in connection with their agricultural pursuits. Under the terms of the act the War Department was directed to retain and store deteriorated explosives in a very dangerous and hazardous condition until such time as the Department of Agriculture might request it to be transferred. Since the enactment of this law the Department of Agriculture has made no requests for the transference of any such explosives.

The Department of Agriculture does not have the facilities necessary for handling and reconditioning such deteriorated explosives and could only do so at considerable expense, which would make the cost per pound to the farmer much higher than the retail market price. No appropriation has ever been made providing the funds with which to carry out the purposes of this act because of the expense of reconditioning and the impractical situation requiring the Department of Agriculture to actually establish a munitions plant.

Following the World War, the War Department had a surplus supply of munitions and explosives on hand, which were not deteriorated and so were available for practical use by the Department of Agriculture. These explosives were

turned over to agriculture by the War Department, and as a result the farmer was able to purchase explosives at approximately half the current market cost. This surplus supply, however, was completely used up during 1927, so that at the present time only deteriorated explosives are available. Starting on April 1, 1919, the War Department disposed of, to the Department of Agriculture, over 23,000,000 pounds of TNT for the use of the Bureau of Roads, forestry, national parks, State highways, as well as farmers. Seven million seven hundred and twenty thousand pounds of picric acid was disposed of by sale to farmers, and 33,746,500 pounds of pyratol was used by the farmers. Since July 1, 1927, there has been no additional supply available, and so the practice heretofore employed of selling at cost to the farmer such explosive materials has been discontinued.

I believe that this brief explanation will make clear to the Members a few of the reasons for the enactment of the bill S. 1280, which was no. 102 on this afternoon's Consent Calendar, and will justify the favorable recommendations urging the passage of this legislation by both the War Department and the Department of Agriculture.

The New Deal and Fair Trade Legislation

EXTENSION OF REMARKS

OF

HON. JOHN E. MILLER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 19, 1937

Mr. MILLER. Mr. Speaker, much is heard these days of the New Deal. It is the subject of bitter controversy in every nook and corner of the land. In exclusive clubs, on the street, in the country store, and on the farm it is defended and damned with equal fervor. There are some who profess to believe that the new teachings are subversive of our institutions and go so far as to undermine the foundation of the Republic. There are others, however, who see the New Deal as a belated effort to work humanity a bit closer to the top and to give all an opportunity to enjoy life, liberty, and the pursuit of happiness.

There are some who regard the new political concepts as directly contrary to the principles and purposes of our system of government. To them the new teachings are alien teachings having no place in a country devoted to democratic ideals. There are some who regard the President as an agent of destruction, bent upon tearing down the temple built by the fathers. There are others who view him as an apostle of a new political philosophy which places a greater value upon mankind and which seeks to give all a greater share of the comforts and enjoyments of life. To these the more "abundant life" is not a term of derision. These have no difficulty in catching the idealism which places human rights above property rights.

The storm of controversy will continue to beat itself against the new order. The controversy will become more bitter as the days wear on. Prejudice will vie with prejudice in adding to the general confusion. Be this as it may, I give it as my deliberate opinion that the laurel wreath of immortality will crown that doctrine which places the man above the machine which he operates. The happiness of people, the material progress of families, the well-being of millions of individuals have come to stand out as one of the major objectives of government.

The time is here when we must regard industry as a means to an end, and not the end itself. We must view labor and toil in terms of people, living people, who make it possible for the wheels of industry to hum, and we must realize that the producer is vastly more important than the goods which he produces. We are approaching the day when we shall understand that ultimately all problems are social problems, and that government, industry, economics, and philosophy must all bend themselves to the task of bringing about a fuller and more equitable existence for mankind as a whole. Man was not made for the Sabbath, but the Sabbath was made for man. Ultimately, everything shall be judged in the light of what it has contributed to human happiness and human betterment. You may call it a New Deal or anything you please, but I want to take my stand alongside of the man with the hoe, rather than with the hoe itself.

America has had many New Deals. There has always been a certain unrest in the hearts of our people that has pushed them further and further ahead. The ringing of the Liberty Bell announced the beginning of the greatest political experiment in the history of the world. Even today we can hear the clang-clang of the old Bell as it announced the glad tidings that America had cast off the old to face into the new. Each clang of the bell may be likened to the hammering of the anvil as there was beaten and forged the basic pattern of an America devoted to religious and political liberty, and which dared to proclaim that all men are created equal. Even now we can visualize the courage and devotion of our forefathers as they plunged headlong into a fight from which was to emerge a land consecrated to the principle of a square deal, and a free and open road for all. The new deal, then and now, was simply another word for opportunity.

Our present difficulties in America spring from no defect or break-down in those early doctrines. The principles born at Bunker Hill, nourished through the horrors of Valley Forge, and nailed down for posterity at Yorktown, are as immortal today as they were when first baptized with the blood of men who placed liberty and freedom above life itself. Those doctrines flourished in the early days of the Republic. They were given life and form by Jefferson, glorified under Lincoln, championed by the first Roosevelt, and consecrated anew under Woodrow Wilson, and are being brought to full fruition under the second Roosevelt.

The principles of liberty, freedom, opportunity, confront us today as the noblest expression of all that America was meant to be. The present constitutes a challenge to our right to the past. The New Deal, as I see it, is nothing but another step in giving immortality to the principles inherent in America herself. America must again become the land of liberty, liberty of opportunity, liberty of thought, liberty of action, and freedom from the heel of the despot, whether that despot be a foreign foe or a domestic foe, wrapped in the cloak of monopoly or wearing the garb of special privilege.

The difficulty is not with the basic pattern of America, but with those forces which would twist the pattern to serve their own selfish ends. For years there have been powers at work which would sacrifice our institutions if only they themselves might prosper. New forces, strange forces, forces alien to the true American way of doing things, forces bent upon having their own way, irrespective of what ruin they may bring to others, have long been at work chiseling away the foundation upon which the country rests.

Quietly, cautiously, insidiously, and cunningly, these forces have bored their way in until today they sit at the controls. They now have the power to destroy all that stands in their way. These smart lads have been building fences, pulling strings, fixing this and fixing that, until the economic scheme has become pretty much what they want it to be. They crack the whip and put the rest of us through the jumps. In a very real sense, they control the destiny of millions of people, and their imprint is now to be seen in the social status that prevails.

Vast changes have come about in our social and economic set-up, and because of these vast changes, America finds herself facing the terrifying problems of today. Wealth and power have become vested in a few to such an extent that the very existence of our ideals lies in the balance. We have sat by while the forces of monopoly have juggled the industrial and economic systems to their heart's content. The business life of every city and hamlet in the country

has become vastly disturbed by the invasion of absentee ownership and outside control. A country which was built upon the ideal of opportunity for all, has come to mean opportunity for but a few.

This is nowhere better illustrated than in the field of retail distribution. Here the destruction may be seen piled high along the roadside. Here may be seen the stark tragedy which stalks alongside the present trend of things. Here may be seen the play and interplay of the forces which would make America the mere footstool of monopoly. Here may be seen the change and interchange of the forces which have woven their own strange economic pattern for the American people. Here may be seen the course and intercourse of the powers which seek to bend our political institutions to serve the interests of the few at the expense of many. Here may be seen the charge and discharge of the forces which have distorted and disfigured American principles to the extent that the door of opportunity swings to admit only a few. Retail distribution has become so intense, so colored with the curse of special privilege, so completely under the heel of despotic powers, that it stands a challenge to all the finer things America was meant to be.

I have observed the economic trends in the retail field. First of all, retail distribution is by far our largest industry. In 1929, for instance, there were nearly a half a million stores selling food at retail, with a total sales nearly $11,000,000,000. The combined sales for all retail stores amounted to the almost legendary total of $53,000,000,000. There are about 1,500,000 retail stores in this country, employing millions of people, and affording the one service which brings the products of the farm and factory to your door. Retailing constitutes the bedrock of our national prosperity. It is the one means which permits America to carry on.

There is every reason why we should keep the channels of retail distribution clear of all obstructions. There is every reason why we should see to it that no one is permitted to gain control and to direct it to selfish ends. There is every reason why we should not permit a few to monopolize it, and to use their power for the destruction of independent business enterprises.

Yet, strange as it may seem, we are doing just these very things. In spite of its great importance, economists, political leaders, and legislators have, on the whole, shown scant interest in the problems confronting the neighborhood store. During the past decade or so many fields of retail distribution have fallen into the hands of centralized power. These fields were once in the hands of individual businessmen, each serving his place in the economic scheme and each doing his share toward building up American industry and American communities. It was the independent businessman, proud of his position in his community, who put America on her feet.

The grocer, the hardware dealer, the jeweler, the pharmacist were to be found shoulder to shoulder with the doctor, the lawyer, the clergyman in their efforts to upbuild and uplift. These men constituted the woof and fabric of our national life. It was their prowess that built an empire in the wilderness. These men built our cities, railroads, factories, churches, colleges, universities, and hospitals. These men trudged through the horrors of war that freedom might come to have a meaning far beyond the power of words to express. These were the men who met in legislative halls, who sat on the bench, and who were entrusted with executive authority to give force and life to the principles of opportunity for all and special privileges to none.

Thoughtful men, men really concerned with the economic and social future of America, have been greatly alarmed by the changes which have come about in retail distribution. These men see in the present situation forces at work which spell the doom of all that our country was meant to be. They see a break-down in the orderly processes of distribution, and a consequent break-down in the forces of production. They see, too, the beginning of a break-down in the social status of those once engaged in conducting their own independent businesses. They see the footsteps of a new feudal system with a few in complete control of the destiny of millions.

They see the present unemployment problems as the logical outcome of the centralization of distribution in the hands of a few. They ask themselves just how can unemployment be cut down by continuing a system which pushes greater and greater numbers out of work? How can there be a pick-up in business activity by continuing to squeeze a greater and greater number of stores out of business? What is there to be gained by crippling the system which heretofore at least has provided for the free and open distribution of the products of American industry? How can prosperity be restored by hammering harder and harder against the great army of independent businessmen upon whom the burden of distribution rests? How sound is that economic system which has nailed the doors and closed the shutters of hundreds of thousands of independent stores throughout the length and breadth of America?

These men have been casting about for some effective means of retaining a place for the independent merchant. They seek to retain his code of business morals; they seek to conserve his fair-minded point of view; they seek to preserve his influence in community life; they seek to maintain, in its original force and power, the doctrine of opportunity for all and a free and open road for all; they seek to engender in the great bulk of our people a sense of responsibility and awaken them to the perils which lie ahead.

Some years ago there was conceived a legislative plan which has become known as fair-trade legislation. This legislation followed closely upon the plan before Congress for many years. The first State to enact fair-trade legislation was California. This legislation has since been adopted in Oregon, Arizona, Wyoming, Iowa, Louisiana, Illinois, Kentucky, West Virginia, Maryland, New York, Rhode Island, New Mexico, Utah, Idaho, Washington, Montana, South Dakota, Kansas, Arkansas, Wisconsin, Ohio, Tennessee, Virginia, Pennsylvania, New Jersey, North Dakota, Georgia, Colorado, Indiana, Nevada, North Carolina, Minnesota, Delaware, Oklahoma, Nebraska, and South Carolina. These States comprise more than three-fourths of our entire population and include the great industrial sections of the country. Combined, these States have nearly three-fourths of the membership in the National Congress.

The purpose of this legislation is to equalize, to some extent at least, the difference between large and small business, and to strike down the unfair advantages which the big operator enjoys. This legislation is aimed at giving plain everyday honesty a place in retail distribution, and to bringing back common decency to the market place. It is intended to call a halt upon the plundering hordes which have marched roughshod over independent enterprise. It is designed to bring back peace and order to retail distribution, and to cure the madness of current commercial warfare.

In a practical sense, fair-trade legislation recognizes the naked dishonesty and gross deception of the modern predatory price cutter. Surveys without number, conducted by the Government as well as by private concerns, have shown that predatory prices are a snare and a delusion whereby the purchaser is led as a lamb to the slaughter. Once inside, the wily retailer proceeds to fleece the purchaser. Congressional investigations have shown that while a few cents are knocked off the price of standard articles to create a false impression upon the public, profits well above 2,000 percent are gouged from the pockets of the buying public by the predatory operator.

The costs of doing business must be met by the deep cut-price artist no less than by the retailer who feels that he should deal honestly and fairly with those who come to him. There is no magic in the matter of operating expense. One way to pull operating costs down is to steal wages from employees, and congressional investigations again have shown just how low the wage scale is in those stores claim-

ing to always undersell. Millions upon millions have been gouged from the buying public and the unfortunate employees by those concerns who always sell for less. The whole predatory system is a rank deception, a hollow delusion, and a stench in the nostrils of those who know just how contemptible the game has become.

The fair-trade movement has engendered a much greater interest upon the part of our lawmaking bodies in the problems of distribution. The feeling is growing that the buying public has been sandbagged and gypped long enough. The feeling is growing, too, that the public is safer in the hands of honest independent business. The predatory cutrater is being seen as one who must play under cover, and who cannot stand honest competition. His code is a code of destruction, he can rise only upon the ruin which he himself brings about. Predatory business is crooked business. It depends upon the blackjack, and it strikes below the belt.

Certainly such business principles are alien to American ideals, and must be crushed if the America of the past is to be the America of the future. We cannot maintain true American ideals unless the benefits and advantages of American ideals are free and open to all.

WHAT IS THE ORIGIN OF THE FAIR-TRADE MOVEMENT?

The fair-trade movement grew out of attempts to maintain free and open competition in retail trade by eliminating those business practices which tend to monopoly. Chief among these is predatory price cutting, commonly known as "loss leader" selling. Loss leader selling consists in offering standard merchandise at less than cost. Such merchandise is known as "bait" merchandise, and is offered for the purpose of creating the false impression that everything in the store is sold at correspondingly low prices. Customers are thus lured into the store and every artful device is then used to switch them from the articles offered at cut prices, upon which the dealer sustains an actual loss, to other similar articles of unknown quality, upon which the dealer makes an exorbitant profit. Prolonged selling at such predatory levels results in freezing out small dealer competition, and once such competition is destroyed, monopoly is created. Because of its pernicious, destructive, and antisocial nature, loss leader selling has been declared an unfair trade practice by the Federal Trade Commission.

One of the greatest Justices of the United States Supreme Court once referred to loss leaders in the following terms:

> When a trade-marked article is advertised to be sold at less than the standard price it is generally done to attract persons to a particular store by the offer of an obviously extraordinary bargain. It is a bait, called by the dealers a "leader." But the cut-price article would more appropriately be termed a "misleader", because the very purpose of the cut price is to create a false impression.

The only way for the customer to beat the game is to buy the bargain and nothing else, but the price cutter knows that the customer will not do this, just as a professional gambler knows that the sucker can be induced to remain in the game by permitting him to win occasionally.

The fact that cut-rate stores exist is proof that they make money, not on loss leaders, but their profit comes from the sale of merchandise of unknown quality, for which they get a higher price than is possible on standard goods of known value.

WHAT IS A FAIR-TRADE LAW?

It is an act of a State legislature aimed at the elimination of certain evils, and particularly at the elimination of the evils of loss-leader selling. Generally speaking, these acts of the State legislatures provide that contracts relating to the sale or resale of commodities which bear, or the label or content of which bears, the trade mark, brand, or name of the producer or owner of such commodities, and which are in free and open competition with commodities of the same general class produced by others, are valid, and that such contracts may provide that the buyer will not sell such commodity except at the price stipulated by the vendor. As heretofore stated, fair-trade acts have been enacted in 37 States. They are practically uniform and make provision for the closing out of the owner's stock of merchandise or for the sale of damaged or deteriorated goods or sales held under orders of any court.

ARE THESE STATE FAIR-TRADE ACTS PRICE-FIXING ACTS?

They are not price-fixing acts in any sense. It is doubtful whether any legislative body has the right to enact a price-fixing statute. Such an enactment would be contrary to the inherent attributes of property itself, and such an act would probably violate the fifth and fourteenth amendments, which in effect guarantee the owner of property the right to determine for himself the price at which he will sell. The State fair-trade acts only grant legislative authority to the interested parties to enter into a contract for the disposition of identified goods.

The Supreme Court of the United States, in the case of *Old Dearborn Co.* v. *Seagram Corporation* (299 U. S. 178), decided December 7, 1936, held that the Fair Trade Act of Illinois is constitutional; and, since all of the fair-trade acts enacted by the various States are similar, it cannot successfully be argued that such acts of the State legislatures are not valid.

DO THE FAIR-TRADE ACTS COVER ALL MERCHANDISE?

The fair-trade acts of the States are limited in their scope. By express language they apply only to commodities and merchandise which bears, or the label or content of which bears, the trade mark, brand, or name of the producer and which are in free and open competition with other merchandise of the same general class.

IS EVERY PRODUCER REQUIRED TO ENTER INTO A CONTRACT?

The contracts are purely voluntary. A manufacturer or producer may or may not desire to have his products sold in accordance with and under such contracts as are authorized by the acts. It is a matter entirely within the discretion of the owners. The legislation merely makes such contracts legal and enforceable, once the parties enter into them.

WHAT IS TO PREVENT MANUFACTURERS AND OTHER PRODUCERS FROM AGREEING AMONG THEMSELVES REGARDING RESALE PRICES?

The acts of all the States provide that they shall not apply to contracts or agreements between producers or between wholesalers or between retailers as to sale or resale prices. The acts of the State legislatures will and do prevent monopolistic combinations and agreements among the producers and manufacturers, as well as to prevent retailers themselves from entering into contracts with each other to govern the prices at which the goods will be sold to the consumer.

WHAT ASSURANCE HAS THE CONSUMER THAT MANUFACTURERS WILL NOT SET UNREASONABLY HIGH RETAIL PRICES FOR THEIR PRODUCTS?

Under the State acts the contracts are limited to the particular kinds of merchandise hereinbefore stated. Practically all identified merchandise is highly competitive. The natural effect of free competition is to lower prices. For illustration, there are probably one hundred or more trade-mark brands of tooth paste. Under the law the manufacturers or producers of tooth paste, or any other merchandise, cannot enter into agreements among themselves as to the price of their products and, therefore, not being able to enter into such unlawful combinations, the manufacturers and producers must continue to strive for as large a share of the business as he can possibly obtain. Thus he is compelled to keep his retail prices low enough to secure customer acceptance.

ARE RETAIL PRICES HIGHER IN STATES HAVING THESE FAIR-TRADE ACTS?

Retail prices on the whole have declined in the States having fair-trade acts. Carefully conducted surveys show a general leveling of retail prices. By eliminating loss-leader selling there is no need for exacting exorbitant profits on other goods and this has had a tendency to pull all prices down to a level which permits the merchant to actually give to the customer a lower price, and at the same time permits the merchant to make a reasonable return on his invested capital.

WHY IS IT NECESSARY TO ENACT H. R. 1611?

The constitutionality of fair-trade acts has been sustained, but unless section 1 of the act of July 2, 1890, is amended it

is reasonably certain that the rule announced by the Supreme Court of the United States in *Miles Medical Co.* v. *Parke & Sons Co.* (220 U. S. 373), decided April 3, 1911, will apply, and that it will be unlawful to ship merchandise in interstate commerce into States for sale under such contracts. It is certain that the State legislation will not fully function unless H. R. 1611 is enacted, because the producers and manufacturers will be fearful of criminal prosecution if such goods are shipped in interstate commerce for sale under such contracts. Many manufacturers not domiciled in the State where the goods are to be sold are unwilling to take the risk of violating a Federal law, and the effectiveness of the State fair-trade acts is seriously impaired. H. R. 1611 does no more than to remove Federal obstacles to the enforcement of contracts which the States themselves have declared lawful. The bill does not commit the Congress to a national policy on the subject matter of the State laws and is not price-fixing legislation in any sense.

Sound public policy lies in the direction of lending assistance to the States to effectuate their own public policy with regard to their internal affairs. The States have no right to regulate interstate commerce, but they are entitled to every assistance possible from the Federal Government to regulate commerce within their own boundaries, and unless H. R. 1611 is enacted this right will be denied to the States.

It should be borne in mind that H. R. 1611 will not apply to those States that have not enacted fair-trade acts, and if the States, after giving a fair trial to the fair-trade acts, should repeal such legislation, then section 1 of the present act, approved July 2, 1890, will remain in full force and effect.

Thirty-seven States have said by these legislative enactments that they desire to regulate these matters themselves. It seems that the Congress should accept this decision of these States and render every assistance possible to carry into effect the opinion of the lawmaking bodies in the several States, not only upon this question, but on all other matters where it is possible for the States to act.

The Army Engineers

EXTENSION OF REMARKS

OF

HON. ALBERT THOMAS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1937

EDITORIAL FROM THE HOUSTON POST

Mr. THOMAS of Texas. Mr. Speaker, too much cannot be said in favor of the Army engineers. Those distinguished, service-minded gentlemen render each year to the country as a whole, a service of almost incalculable value. Their objective is to serve, and to serve well. Party partisanship and politics have no place in their endeavors. They bring to the use of the Government the very highest type of engineering ability and skill, and a diversified experience in their field that is difficult to obtain elsewhere in the country.

The Houston Ship Channel is a tribute to the corps' vision, untiring efforts and skill. Only a few years ago, the Houston Ship Channel was a lazy nonnavigable stream to sizeable ships. The Army engineers have produced from it, what some people of less vision and ability, call a miracle. Today the Houston Ship Channel accommodates all sizes and types of ships. Houston is now the fourth port in quantity of business in the United States. During the year 1936, the port of Houston handled 23,800,415 tons of cargo at a total value of $619,326,957. But few people, along with the Army engineers, could foresee such a remarkable record. That great territory called the Southwest, tremendous in area, rich in natural resources, and a large consumer of different kinds of products, has been, and is daily being benefited, by the efforts of the Army engineers in developing the great port of Houston.

The Houston Post on April 11, 1937, carried the following editorial on the Army engineers, which ably expresses the appreciation of Houston and the Southwest, for the invaluable service the Army engineers have rendered that territory:

No State in the country has more reason to be grateful to the United States Army Engineers than Texas.

Great ports along the coast, the intracoastal canal and waterways throughout the State are monuments to their energy and constructive genius.

The great improvement programs they have planned and supervised were responsible largely for an increase in tonnage handled by the ports that has amazed the whole world.

In 1927 Texas ports handled 41,000,000 tons of cargo. In 1936 the total had jumped to 79,000,000 tons. The economic benefits of this vast increase in commerce have been distributed through the entire State.

The service of the Engineering Corps to the Nation was vividly and spectacularly dramatized by the recent floods in the Ohio and Mississippi River Valleys.

Ohio River waters, after devastating the Ohio Valley, surged into the Mississippi to test a levee system devised by Army engineers and built under their supervision.

The levees held, half a million people were spared death and destruction of their property, and it was demonstrated conclusively that the Army Engineering Corps is one of the most efficient agencies of its kind in the world.

In fact, the outline of a flood-control plan for the Nation which was adopted by Congress in the flood-control bill of 1936 is wholly the result of years of painstaking work, research, and planning of the Engineering Corps.

Technical information and statistics assembled during the Ohio River and Mississippi inundations will be used to prevent similar catastrophes in the future.

Houston has been benefited tremendously by activities of the Army engineers. They conducted the survey and made the favorable report which led to Government participation in digging the channel to the sea. They have investigated and passed upon every request for improvements and maintenance operations. More recently, the Engineering Corps was designated to conduct a flood-control survey of Buffalo Bayou, which will form the basis of the plan eventually to be adopted.

Texas and Houston, therefore, are greatly interested in a report incorporated in Senate Document No. 8, which proposes to relieve the Army engineers of their important duties in connection with river and harbor development and flood control. The report was filed by the President's committee on administrative management, which recommended that the War Department confine its activities to military affairs and administration of military services.

For many years the Army engineers have been looked upon as a trained staff of technicians who approach proposed improvements from the standpoint of professional men interested only in the practicability and usefulness of the projects. They have acted impartially and without political or partisan pressure.

Their fairness and impartiality is conceded by all. As a result politics has been eliminated from the development of rivers and harbors and the equally important task of harnessing the Nation's rivers and streams.

If that arrangement is disturbed and the Army engineers are replaced by some other agency which is not free from political domination, the loss to the country will be great.

In the first place, the people will lose the services of some of the finest technicians in the country. Some of the ablest engineers in the United States will be forced to abandon their peaceful work of development to be replaced, perhaps, by an agency more interested in politics than in the engineering soundness or economic worth of the projects presented to it.

That proposed change should be opposed vigorously by Houston and by Texas.

Twenty-one Railroad Brotherhoods Support Ludlow War Referendum Resolution

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 14, 1937

Mr. LUDLOW. Mr. Speaker, the 21 railroad brotherhoods, 1,000,000 strong, comprising the flower of organized labor, are promoting a peace measure which I predict will soon stir labor circles of America from center to circumference.

The association of railroad brotherhoods, the most forelooking labor organization in America, has decided that the time has come when the common people, those who have to toil and bear the burdens of life in times of peace and furnish the cannon fodder in times of war, should take up the fight in behalf of real peace legislation that will keep America out of future foreign wars.

With the stage being set for another world war, which may break at any time, the railroad brotherhoods have interpreted—correctly, I think—what is in the hearts of all of the common people of this country when they declare that our fine young men shall not be sent abroad to be slaughtered in foreign wars in the settlement of quarrels of alien origin.

The railroad brotherhoods, after surveying the entire field of proposed peace legislation, went on record squarely and unequivocally in favor of a resolution which I have introduced—House Joint Resolution No. 199—as being the measure that is best adapted to serve the purpose of keeping America out of foreign wars.

TEXT OF PROPOSED AMENDMENT

That resolution proposes to amend the Constitution by decentralizing the war power so that hereafter (except in the case of attack or invasion) the people, and the people only, shall have the right to declare war. That resolution proposes to insert in the Constitution of the United States the following new provision:

SECTION 1. Except in the event of an invasion of the United States or its Territorial possessions and attack upon its citizens residing therein, the authority of Congress to declare war shall not become effective until confirmed by a majority of all votes cast thereon in a Nation-wide referendum. Congress, when it deems a national crisis to exist, may by concurrent resolution refer the question of war or peace to the citizens of the States, the question to be voted on being, Shall the United States declare war on ———? Congress may otherwise by law provide for the enforcement of this section.

Under that amendment no such thing will be possible as conscripting our boys and sending them away to die in the shambles of foreign wars until the question has been submitted to the people and approved by them in a national referendum, the women having equal voting rights with the men. And why should women not have a right to vote on declarations of war? Women go down into the shadow of the valley of death to bring our boys into the world. Why should they not have something to say as to whether their own flesh and blood shall be hurled into the hell of a foreign conflict?

Congress now controls the war-declaring mechanism and of the 531 Members of Congress only 6 are women at the present time, so it is apparent how utterly negligible under the existing arrangement is the prospect of giving expression to women's viewpoint on any particular war proposal.

LABOR'S VITAL INTEREST IN PEACE

Labor has a vital interest in the peace movement. No other element in our complex civilization is quite as deeply concerned in the elimination of the causes of war as the toilers of the land. It is upon them that war's heavy hand is laid most relentlessly. Others may evade the hardships of military service through exemptions provided for executives, farmers, and persons of specialized qualifications, but for workingmen, generally speaking, there is no loophole. They comprise the mass of the eligible fighting population. They have to take it on the jaw.

Workingmen furnish the great bulk of the Nation's cannon fodder. War breaks up their happy homes, tears them away from their loved ones, and sends them forth to be shot, or to be blown into bits or to be strangled with poison gas and does not give them or their families one single solitary word to say about it.

Furthermore, the common people in all walks of life are tired of being eternally the buffer in the game of war, and since they have to do the suffering and the dying, and to furnish war's cannon fodder, they are asking why they should not have something to say as to whether war shall be declared. They are asking why a question so tragic in its nature, so intimately interwoven with life and death, which involves the very existence as well as the welfare and happiness of the millions of our people, should not be submitted to the people for decision in a national referendum.

If the common people of America—the people whom Lincoln said God must love, because He made so many of them—could make themselves articulate in this time of serious thought, with the menace of another world war troubling their souls to the very depths, I believe they would pour out their richest blessings and benedictions on the railroad brotherhoods for chartering the way to a rally of all of the toilers and common people of the country back of House Joint Resolution No. 199, the war referendum resolution, for that resolution undoubtedly interprets the most sacred convictions of the masses on the subject of war. It is based on the philosophy that those who have to suffer and, if need be, to die and to bear the awful burdens and griefs of war shall have something to say as to whether war shall be declared.

DISCHARGE PETITION FILED

As the author of the resolution I have filed a discharge petition, sanctioned by the rules of the House, at the Speaker's desk, to bring it before the House for debate and a vote. The discharge petition is known as Discharge Petition No. 11. The discharge petition will not become effective unless, or until, it is signed by 218 Members of the House of Representatives. I wish that every Member of the House could see his way clear to sign Discharge Petition No. 11 so that we might bring the resolution out of committee as a basis for peace discussions, perfect it by amendments if it needs perfection, and pass it.

Let us do this much for the common people of America—the people who have to fight and die, to have their homes wrecked, and their heart strings torn asunder in war.

VIEWS OF 21 BROTHERHOODS

The Railway Labor Executives' Association, which speaks for the 21 railroad brotherhoods, unanimously adopted a statement in support of my war referendum proposal and from the text of that statement I quote as follows:

Every thoughtful American who is at all informed on international affairs must feel that there is very grave danger of another war among European and Asiatic nations within the next few years. Ancient rivalries have been revived and hatreds have have been heated again to the point where a minor incident may be enought to precipitate a conflict even more destructive than that of 1914–18. Political adventurers, military leaders, and those industrial interests which profit from wars and preparation for wars, have stirred international animosities and brought about a situation which can be compared only to that preceding the great war. The outbreak of hostilities may occur without warning.

We believe in preparedness, but of a kind directly opposite to that which our militarists advocate. We believe that our Government must be prepared to keep America out of the next war; we believe that the people of the United States must be prepared to resist those propagandists who will not hesitate to urge our participation in the next holocaust toward which the world is moving. We believe that such preparations, if they are to be effective, must be made now, before new warfare has created the atmosphere of panic and hysteria which permits professional patriots to drum up war sentiment.

We believe that the constitutional amendment proposed in this resolution is patriotic preparation against European war—we believe that its adoption will keep America out of the general destruction threatening modern civilization.

The workers we represent, in common with all decent citizens of our country, have been sickened and disgusted by the revelations recently made of the activities and the profits of the peddlers of war munitions. Efforts sincerely made by governments desiring to limit armaments, and thereby to lessen the international suspicion which breed wars, have been defeated by the incredibly brutal and vicious practices of these munitions makers. Professional propagandists have collaborated in producing the state of mind among the peoples of the world which assures the widest sale of the implements of war. These munitions makers and their agents are creating their markets and selling their goods with no other thought in mind than securing for themselves the greatest possible profit.

This greed for profits was not lacking from American munitions manufacturers before and during the World War. While American soldiers fought in the trenches to decide a European war whose issues were of no real concern to us, billions of dollars were being paid by our Government directly and through the financial agents of foreign governments to the manufacturers of munitions in the United States. The appalling sacrifices demanded of our soldiers and their families should have brought voluntary surrendering by our munitions manufacturers of all profit; they should have been eager to supply to us and our Allies all possible munitions at actual cost. We know now that to the eternal disgrace of these interests they reaped profits which were far beyond any possible justification—which were possible only because of the desperate needs of the Government and the people of the United States.

If European war comes again, there will be no lack of the same kind of destructive and unpatriotic action by our munitions manufacturers. Nothing has happened to make us believe they have changed their spots. There will be no lack of newspapers to give space to false reports of atrocities, or to imaginary insults to our national honor. There will be plenty of skilled propagandists who will, for money, use all their arts to confuse and to mislead our people into believing that we should take up arms against some other nation. No sensible American, whose memory runs back to the last war, and who has followed the disclosures of the munitions investigation, can doubt that the munitions manufacturers will try to force this country into whatever war they can promote in Europe or Asia. No sensible American can fail to realize that war psychology can be created out of the lies and the oratory of the propagandists. No sensible American wants to see us in that next war.

The constitutional amendment proposed will prevent the sudden and ill-considered sort of action which might plunge us into war. The referendum will give time for thought and for countering the propaganda of those selfish interests which would be served by war. This amendment, however, still permits speedy congressional action to defend the Nation against actual invasion.

This legislation is racing against the danger of war, and there is no time to spare.

America Needs a Nation-Wide Program for Adult Civic Education

EXTENSION OF REMARKS

OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 19, 1937

Mr. RANDOLPH. Mr. Speaker, I have today introduced a bill to assist the States in establishing and developing demonstration centers in adult civic education during a 3-year period.

One of the most crucial problems facing this country today is that of strengthening our bulwarks of democracy against the tide of dictatorship.

A FORTIFICATION AGAINST DICTATORS

We cannot fool ourselves. We must fight as hard in the next few years to preserve our right to solve our problems through free and open discussion as our forefathers fought to give us that right. We must get ready for that battle. Otherwise those liberties which took mankind thousands of years to gain may be taken from us.

The very best safeguard in that battle will be an intelligent, informed citizenry trained to understand the complex social, economic, national, and international problems facing the United States and fortified with a critical judgment not easily turned aside by the promises and panaceas of would-be dictators.

I firmly feel that a Nation-wide system of forums, such as have been conducted by the United States Office of Education during the last year on a demonstration basis, is perhaps the most practical and effective way of arming American citizens for the coming combat to preserve democracy.

Our early people had the town meetings. They gathered frequently to talk things through. We should also get a modern counterpart for the town meetings. Such a method we find in the public forums. The continuous and free discussion of important public problems by our people in their own neighborhoods will make our heritage of free speech and assemblage a reality for the great group of our citizens.

WEST VIRGINIA HAD FIRST FORUM

One of the forum projects, and the initial one established, has been operating in my own district in Monongalia County, W. Va. With marked interest I have watched it grow from the very beginning. So great has been the demand of my constituents to have a chance to discuss vital public problems that its area of operations has spread into three adjoining counties.

Floyd B. Cox, the county superintendent of schools, who has organized the West Virginia project, reports that more than 50,000 people have met in discussion groups in the rural and urban communities in northern West Virginia during the past year.

In demonstration centers now operating in communities with total populations of less than 4,000,000, over 150,000 people are meeting in such discussion groups monthly. Hundreds of radio discussions over local stations are being conducted and the people are using their libraries as never before. With public forums in every community, the people have the opportunity to meet under the guidance of trained and informed leaders and discuss the problems before them, returning to their duties as citizens better able to exercise their rights as citizens of a democracy in a more efficient and effective manner.

THE BILL PROPOSES

First. To authorize the appropriation of Federal funds to be allocated to the several States during a 3-year period for the purpose of conducting one or more demonstration centers under local management in each State in the field of adult civic education, that is, to conduct public forums and discussion groups on public affairs.

Second. To enable the Office of Education to cooperate with the local and State systems of education in demonstrating practical patterns for the conduct of adult forums.

Third. The Federal funds would be appropriated to the States and local communities on a matching basis. All administrative costs are to be borne by the State or local community, or both.

REASONS ADVANCED FOR PROPOSED PROGRAM

First. The Federal Government has already invested $660,000 in 19 forum demonstration centers in 19 States to test the efficiency of this type of adult civic education. They are a proven success. The proposed bill gives further stimulus to the movement and consolidates the gains already made. It expands the program to the 48 States.

Second. It offers a means of extending on a professional basis under the direction of existing agencies of public education the forum and discussion programs stimulated by the emergency adult education program and the National Youth Administration.

Third. Federal support for education has shown itself practical and successful in the field of vocational education. There is even greater justification for expending public funds for programs to prepare the individuals for their function as citizens than to prepare them personally for vocational competence.

THE PRESENT PROGRAM HAS ACHIEVED

First. Scope: During the 5-month period between September 1, 1936, and February 1, 1937, with 10 projects operating in communities with a total population of approximately 2,000,000, 3,800 public-discussion meetings were conducted, attended by over 350,000 persons. Over 1,000 radio programs, most of which carried the discussion to radio audiences, were presented. Thousands of books and pamphlets dealing with public affairs were read. During the month of March 1937, 17 operating projects reported over 1,500 meetings, attended by more than 165,000 people.

Second. More than 10,000 letters have been received at the Office of Education inquiring about the program, seeking information for the establishment of new forums, and urging the expansion of the program. A large percentage of these letters came from superintendents of schools. A forum-counseling service has been conducted by the public-forum project to make available the accumulating information on conducting

public forums and to spread the results of the demonstrations to educational authorities in all parts of the country.

Third. Several bulletin publications have been prepared and distributed widely so that leaders in adult education have come to depend upon the Office of Education for leadership in the field of adult civic education.

TOWN MEETINGS REVIVED

The growth of forums and public discussion generally has been remarkable during the past 4 years and especially since the forum projects began operations. The Nation-wide publicity concerning the present program is responsible to a large extent for what appears to be a renaissance of the town-meeting approach to public affairs.

The President and the Supreme Court

A frank discussion of present-day problems and President Roosevelt's constructive plan to vitalize the Federal judiciary and facilitate adjudication of litigation affecting the national welfare.

EXTENSION OF REMARKS

OF

HON. COMPTON I. WHITE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1937

ADDRESS OF J. STITT WILSON, OF BERKELEY, CALIF.

Mr. WHITE of Idaho. Mr. Speaker and Members of the House, in considering the proposal of President Roosevelt for certain changes in the law affecting procedure in the Federal courts where the validity of acts of Congress are involved, and the appointment and tenure in office of Federal judges which has raised a Nation-wide controversy, I desire to submit for your consideration, the statements made in a recent address by an outstanding Democrat, a delegate from California, to the Democratic National Convention at Philadelphia, Mr. J. Stitt Wilson, former mayor of Berkeley, Calif., as follows:

Mr. Chairman, fellow Democrats, and fellow citizens, this is called a victory dinner because we are assembled here to celebrate one of the greatest victories of the common people, one of the greatest triumphs of democracy that this or any country has ever witnessed.

The deep meaning and far-reaching significance of that great victory of last November will not appear unless we refresh our memories. Nor shall we adequately realize the relation of that great victory of democracy in the last election to the present tremendous earthquake under the Supreme Court, unless we review the tragic economic problems in which these events have occurred.

The victory we celebrate tonight and our consideration of the present battle over the Supreme Court is directly related to the political battle of Hoover versus Roosevelt in 1932, and the victory of that year.

LEST WE FORGET

We need to refresh our memories lest we forget the pit from which we are seeking to escape. The political campaign in 1932, the overwhelming defeat of Herbert Hoover, the election of Franklin D. Roosevelt was revolt no. 1 of the common people against the "economic royalists" who had long ruled and almost ruined America. It was the first Nation-wide notice to the economic exploiters of this country and their political underlings and their judicial usurpers that the plain people of America were no longer going to permit a small minority of enormously rich individuals and huge corporations to run this country for their own private enrichment, irrespective of what was happening to the life and security of millions of farmers and workers and producers who are the fundamental creators of all our wealth.

In 1932 we did not know this man Roosevelt as we do now. We did not know what he thought. We did not know how he can fight. We did know the economic ruin that had come upon us under Republican rule, and especially under the maladministration of Hoover and Andrew Mellon and Ogden Mills and the whole Republican administration.

THE HOOVER RUIN

The story of that ruin ought to be carefully edited and kept fresh in our memory. Thousands of banks had crashed taking down the billions of dollars of the people's savings. Tens of thousands lost their businesses, their investments, their incomes, their all. Farmers by the hundred thousands lost their farms. Millions upon millions of workers were jobless and destitute. Youth of both sexes in thousands went homeless and vagabond upon the highways. Multitudes of homes were broken up and young people could not contemplate marriage. The spirit of the people was broken as poverty, want, destitution, and economic insecurity seemed to settle down upon the Nation as a black pall. If Republican leaders seek to escape the blame for bringing this wholesale economic disaster upon the American people, one thing is certain they had no policies or programs to bring us out. They stood dumb and helpless and incompetent in the face of disaster.

ALMOST REVOLUTION

It should now be definitely stated that Republican rule, climaxed in Mr. Hoover, had culminated in the most colossal economic ruin and economic insecurity that the American people have ever had to suffer.

It was economic hell. But it was more. Many of the most careful observers of the economic and political scene of this country declared that in 1932 we were not far removed from violence, bloodshed, and revolution.

ROOSEVELT TO THE RESCUE

It was in the midst of this American tragedy that Providence raised up a new leader, a good shepherd of the people—Franklin Delano Roosevelt. He came with no blare of trumpets, with no watchwords of revolution. Considering the wrath and revolt in the heart of America at the time Roosevelt preached a very simple, mild, and constructive gospel. He said: "We, the people, need a new deal." And the voters of America from sea to sea, from north to south, rose up and answered: "We do need a new deal. We give you a mandate for new legislation, new and aggressive executive action on our behalf, new and advanced steps to secure our constitutional rights and liberties." And that was the victory and mandate of 1932.

And if ever a man sought to fulfill that mandate it was Franklin Roosevelt. Scarcely had his tongue uttered the oath of office until he hastened to stop a complete collapse of banking and finance. And never in all our history has any President, even in wartime, acted with such zeal and wisdom and efficiency in facing the colossal problems of a people engulfed in unspeakable tragedy.

He began to fight the battle on every front. Napoleon himself never threw defenses and attacks on all fronts as did Gen. Franklin D. Roosevelt. History need indulge in no idle boasts of Roosevelt in action. All the historian needs to do is to chronicle the bare record of his heroic facing of our problems.

NEW DEAL LAWS

He reorganized the chaos of currency and banking, so successfully by the way, that in our recent year not a single national bank failed. Farmers had seen their prices fall almost to zero values through 12 long years of misrule. By and with their advice and counsel Roosevelt gave agriculture the A. A. A., which within this last week has been declared by the Brookings Institution the greatest effort yet made for the farmers of this country.

Ruthless competition in business, with its drive for long hours and ever-lowering wages and its curse of child labor, had to be thwarted and controlled. The organization of the laboring multitudes and their right of collective bargaining had to be made permanently effective. This and similar aims of equity and justice in our economic life he sought to secure with the N. R. A.

Millions upon millions of the savings of humble people had been gouged out of them by stock speculators and Insull groups of high finance. He conceived the Securities and Exchange Commission—the S. E. C.—to safeguard investments. The Power Trust of America had successfully robbed the farmers and the city dwellers under the protection of legislation, Executive order, and judicial decisions of the Republicans.

He carried out the dream of Senator NORRIS, long resisted by the Coolidges and the Hoovers, by inaugurating the Tennessee Valley Authority, which as an example and a yardstick will save the people millions upon millions of their hard-earned wealth. Head-on he attacked the problem of the jobless with a $5,000,000,000 bond issue, inaugurating the greatest system of work-relief in the W. P. A., the P. W. A., ever undertaken in the world.

Without solving the problem of youth, he at least rescued our youth from the devastating idleness, vagabondage, and possible crime in which they were left by the Hoover regime. This was supplemented by the N. Y. A. for help to youth in high school and college. For equity in the coal fields came the Guffey Coal Act. For new measures to meet the struggle of labor against the almost limitless power of organized wealth he devised the Wagner Labor Relations Act. The Social Security Act is the first law ever passed by any administration to meet the problems of unemployment insurance and pensions for the aged. The President knows this is only the beginning, but he started it in the very presence of the Nation's worst economic disaster.

Time fails me even to list the long record of lesser measures all with one outstanding design—to safeguard human rights, to make toward economic security, to open up and keep open economic opportunity for the men and women of this country. His Republican enemies, the Liberty League, and a hostile press heaped disgusting attacks upon these undertakings on our behalf—N. R. A., A. A. A., S. E. C., W. P. A., P. W. A., F. H. A., and Rural Settlement. All this to them was "alphabetical soup."

But to millions and millions of the hard-working, struggling people who constitute the American democracy, who had given him their mandate, all these vast efforts were anything but "alphabetical soup." It was the beginning of rescue from economic hell; in the case of multitudes it was rescue from actual starvation; for other multitudes it has been economic salvation.

It is all right and very proper for Liberty Leaguers and Hearst Fascists gloating over their enormous profits, with their women laden with sparkling jewels, as they feast at sumptuous banquets, to ridicule and to heap diatribes on Franklin Roosevelt for these strenuous efforts to meet the economic sufferings of the poor. But we praised him and we loved him.

VICTORY OF 1936

And after the Republican Party, the Liberty League, the Hearst Fascist press, under the personal leadership of Mr. Landon, and Mr. Knox and Mr. Hearst and John Hamilton, backed by 80 percent of the press of the country, had impeached his patriotism, declared him an un-American dictator, a destroyer of our constitutional rights, had charged him openly with being directed from Moscow, had descended even to make sport of the most glorious speaking voice that has ever fallen on American ears; after they had done all in their power to discredit and dishonor him, to impugn his motives, and to scorn his principles; after they had attacked almost every act of legislation passed during his first administration—then what? The voters of America—the common people of this country—farmers, workers, white-collar folk, men and women, marched 27,000,000 strong on that day in November and gave to President Franklin Delano Roosevelt the most unmistakable mandate to "Go forward" that has ever been given to any leader of democracy in the world, and greater than that ever given to any candidate for President since the founding of this Republic.

JUST BEGUN TO FIGHT

Toward the close of the battle last year, the campaign of the Republicans became increasingly bitter, and they began to bait the President, and Mr. Landon's speeches became full of taunts, demanding that Roosevelt should list the new legislation he would propose if reelected.

Mr. Roosevelt let them voice their abuse and vent their rage. And then at that famous Madison Square demonstration in New York, speaking to the Nation, he recited the efforts he had put forth to meet the economic problems and the great suffering of the people. He confessed he had been frustrated by decisions of the Supreme Court and by injunctions against the execution of these Federal laws. Then, pointing out the measure of success he had achieved, he defied his detractors, and inspired the common people of America, by reiterating the ringing announcement: "And for these things we have just begun to fight."

That battle cry stirred the hearts of the people. From that hour it was all over but the shouting. The Republicans were in panic, and through the big corporations that had filled their campaign chest they poured into the mails and the pay envelopes of the workers the most pitiful attack on the Social Security Act, Governor Landon in the lead. The masses of the city workers and the farmers in all Mr. Landon's prairie States—typical and untypical—rose in their political might and not only reelected the President but swept out of public office, back into private oblivion, scores of reactionaries from the Senate and the House of Representatives.

AND NOW WE FIGHT

The people were determined that if Roosevelt had "just begun to fight" for social righteousness and economic justice, if Roosevelt had "just begun to fight" in order to place human rights above the rights of property and privilege, then he should have the backing of a huge majority in Congress in order to carry out the will of the people. And so it is. If we don't get economic justice and economic opportunity, it will not be because we did not fight for it. It will not be because we did not send the men to Congress to write it into law. Roosevelt was given a mandate and Congress was given a mandate by the people to make the Government and the Constitution of these United States the instrument of our deliverance from poverty and unemployment and economic exploitation, the instrument to secure our economic opportunity and our economic security.

MANDATE FOR ACTION

That was the mandate of the victory of 1936, which echoed and reechoed across the whole Nation. And every State in the Union, except two, joined in the victory march. It was a glorious tribute to a great leader, but it was preeminently an unparalleled victory for the plain people of this country against every obstacle and every enemy of their economic deliverance.

And President Roosevelt knows that this was a people's victory. He is under no dilusions. If the shattered ranks and the beaten leaders of the Republican Party and a hostile press do not know what this victory means in our political and economic life—well, it is just too bad! They will have to live and learn.

But the President knows. And Congress had better know and remember well the mandate. And so when at the opening of this Congress in January Mr. Roosevelt spoke on the state of the Nation to Congress and to the whole of the people, he spoke in no uncertain terms. If in November 1936 he had declared, "We have just begun to fight", then in January 1937, as a reelected President, he would again recite what he would fight for.

ROOSEVELT'S PURPOSE NOW

In that address the President restated his purposes in the light of the mandate of the people in November. Again he insisted that legislation must take the direction of greater satisfaction for the average man. "It is important", he declared, "that every man and woman in the country be able to find work." Simply because there had come an upturn in business, with some of the hard pressure lifted off the people, Mr. Roosevelt said, "This was no time for placing the unemployment problem in a filing cabinet of finished business." Some of you may recall these words. He deplored the fact that "millions of Americans still live in habitations that breed disease and impair the health of future generations." He uncovered the disastrous trend of farm tenancy and the jeopardy of great numbers of small farm owners. He called the attention of the Nation to the evils which the N. R. A. sought to meet. He said, "The statute of the N. R. A. has been outlawed. The problems have not. They are still with us." Again he declared that "decent conditions and adequate pay for labor and just returns for agriculture" cannot be secured by State action. Federal law must come to the rescue. Again he reminded us that modern invention and huge industry pays "scant regard to State lines."

What I mean to convey to you in this hurried résumé of the President's speech to Congress in January is that he understood the mandate the people had given to him and to Congress, and he was determined to carry on. "We are far from the goal", he said. "There are far-reaching problems still with us for which democracy must find solutions if it is to consider itself successful."

PRESIDENT—SUPREME COURT

Our Republican opponents, now so violent in their attack on the President's proposal concerning the Supreme Court, forget the fact that it was in this address at the opening of Congress that Mr. Roosevelt presented an analysis of the attitude of the courts in interpreting the Constitution with reference to these national problems of labor, industry, and agriculture, and the conservation of human lives and our national resources.

Our Republican opponents tell us that the relation of the courts to the New Deal had not been a campaign issue. When the courts had knocked down practically all the big New Deal laws, when Roosevelt had been flagrantly attacked as a destroyer of the Constitution—why the entire frontal attack on the whole Roosevelt administration involved plainly all the Roosevelt purposes and policies and the attitude of the courts thereto.

All this was matter of the most public character. Over 2,000 injunctions were issued against the A. A. A. before it was declared invalid. The Power Trust obtained 56 injunctions against spending P. W. A. funds for building electric works. The Wagner Labor Act had 80 injunctions held over it. The great T. V. A. enterprise barely escaped with its life.

Never before had the citizen voters of America been treated to such a procession of outlawed laws of Congress—laws designed for their deliverance from the ruthless power of property and salvation from their economic misery. Congress had been literally hamstrung by the courts—by the judiciary.

Judicial nullification by the lower courts and then outlawing congressional action by the Supreme Court, was an outstanding feature of the last 3 years of the first Roosevelt administration. All the people knew this from the least to the greatest. At any moment right now the judicial axe may fall on several other New Deal laws designed to secure greater equity, justice, and fair play for the common people.

The people did not desert Roosevelt because these New Deal laws were declared unconstitutional by the Supreme Court, or because thousands of injunctions were brought by the privileged classes against the New Deal laws.

The people were undaunted and determined to return to the fray under the leadership of Roosevelt. And they marched to the polls 27,000,000 strong, they gave him 333 Democrats against 89 Republicans in the House of Representatives, and they almost emptied the Republicans out of the Senate, leaving only 16 Republicans there as against 76 Democratic Senators.

A MILITANT CITIZENRY

However blind and dumb Republican leaders and a hostile press may be in reading the signs of the times, surely it is plain as a flagstaff that the American people are determined that the courts, yes, even the Supreme Court, shall hear their cry, for social and economic justice and that the American people do not believe and will not believe that the Constitution of the United States is an instrument to bind them as slaves to their economic masters and hamstring them in the economic chaos of the modern world.

CONSTITUTION AND PROGRESS

And so in his message to Congress in January President Roosevelt gave to Congress and to the Nation some general indications of his conception of the Constitution and its interpretation by the courts with reference to our modern world. He said—I quote: "The vital need is not an alteration of our fundamental law but an increasingly enlightened view with reference to it. Difficulties have grown out of its interpretation, but, rightly considered, the Constitution can be used as an instrument of progress, and not as a device for prevention of action." Proceeding, he said of the founding fathers, "that it was their definite intent and expectation that a liberal interpretation in the years to come would give to Congress the same relative powers over new national problems as they themselves gave to the Congress over the national problems of their day."

I quote the President further: "With a better understanding of our purposes and a more intelligent recognition of our needs as a Nation, it is not to be assumed that there will be prolonged

failure to bring legislative and judicial action into closer harmony. Means must be found to adopt our legal forms and our judicial interpretation to the actual present national needs of the largest progressive democracy in the world."

COURT MUST AID DEMOCRACY

And again, "Because all of us believe that our democratic form of government can cope adequately with modern problems as they arise, it is patriotic as well as logical for us to prove that we can meet new national needs with a historical constitutional framework clearly intended to receive liberal and not narrow interpretation."

"The United States of America within itself must continue the task of making democracy succeed"—and then he concludes: "The judicial branch also is asked by the people to do its part in making democracy successful. We do not ask the courts to call nonexistent powers into being, but we have a right to expect that conceded powers or those legitimately implied shall be made effective instruments for the common good. The process of our democracy must not be imperiled by the denial of essential powers of free government."

President Roosevelt knew that the people, out of whose sovereign power, all constitutions and all courts arise, were determined that the processes of democracy to achieve their economic deliverance must not be thwarted.

It was his wish and it is our wish that the courts, awakened to the new and tragic problems of this mighty modern age, would do their part in making the Constitution an organ of deliverance, and not a bulwark of our economic servitude.

The President's next message was direct to Congress to reorganize the Federal courts, including the Supreme Court, to effect these imperative results.

THE FAT IN THE FIRE

This put the fat in the fire. Perhaps we now enter upon the greatest national debate since the famous Lincoln-Douglas debates on slavery. And it behooves every citizen to inform himself or herself as well as one can on the history of the Supreme Court, the character and predilections and economic viewpoints of the present Supreme Court. And above all, we must thoroughly consider the terrific efforts we, the people, are now making to secure our freedom from the existing economic injustice, by the regular process of democracy and the relation of the Constitution and the courts to that struggle.

Because we are going to be free. And all necessary readjustments of courts and constitutional amendments, if need be, must be made to secure that end, for "We also have just begun to fight."

Every citizen should have before him a clear picture of the situation. The simple facts are that the real problems now before the President and Congress are national problems that transcend all State lines and State action; that in his first term Mr. Roosevelt and Congress passed a long series of laws to meet these pressing and threatening problems; that practically all of these laws were declared unconstitutional by the Supreme Court (the London Express carried this headline: "America stunned! Roosevelt's work killed in 20 minutes").

At the end of Roosevelt's first administration these problems remain unsolved. The people reelect him and give him a huge backing in Congress. What for? To make more laws to meet these same problems. All the routine business of Congress is secondary to this supreme task.

At this very moment the President is seeking to draw up new laws to meet the problems of the N. R. A. and A. A. A., farm tenancy, crop insurance, etc.

And it would appear from the language of the recent decisions of the present Supreme Court and the precedents established that nothing Roosevelt and Congress can do which is really national in scope to meet our problems can ever get by this veto of the present Supreme Court.

Instead of being a palladium of our liberties it is the wall against our emancipation, it is the bulwark and citadel of the reactionary and privileged powers in America which we have wholly whipped and beaten with our regular democratic processes of votes, ballot boxes, and elections.

WHO IS THE DICTATOR?

Who then, now, is the dictator in our political and economic life? Not President Roosevelt. Not a high-handed congressional majority. Not a wrathful and outraged citizenry. But one, two, three dyed-in-the-wool Republican reactionaries who sit on the Supreme Court Bench—and can make it possible for "even one man in the Court to overthrow the work of 531 Federal lawmakers", to quote the San Francisco News.

If our Republican opponents really want to get terrified over what may happen to American institutions in this battle over the Supreme Court, let me say to them that a real revolutionary danger may arise, not from the imaginary dictatorship of Roosevelt but from this real and dangerous dictatorship of a reactionary Supreme Court setting at naught the will and purpose of democracy.

THE SAN FRANCISCO NEWS QUOTED

This revolutionary danger has been stated in a series of recent editorials in the San Francisco News. The News points out that if this obstruction of a reactionary Supreme Court continues, "a feeling of futility on the part of the people when they at last come to believe that the Government under which they live has failed to function and cannot function" constitutes an explosive factor.

Let us just remember that the Roosevelt program of expending Federal Government funds in huge amounts has been for 4 years the only thing preventing wholesale starvation and outright revolution in this country.

I warn the Republicans to open their eyes to the sense of outrage that millions upon millions of American voters will feel and express if they finally conclude that campaigns and agitation and votes and even success and triumph at the polls prove futile for the accomplishment of their social and economic deliverance.

The San Francisco News very soberly declares: "There is, therefore, in our opinion, a closer threat of eventual dictatorship in continued obstruction and frustration (by the action of the present Supreme Court) than there is in packing the Court." And further says: "In our belief, if Roosevelt's proposal is beaten and no definite alternative to the Court problem accompanies the defeat, if mere acceptance of the status quo is to be the result, then we foresee developments that will make the present rage of sit-down strikes seem by comparison only a mild flirtation with illegality."

This is a soft-cushioned lady-like warning of outright revolution. The editor certainly had his ear to the ground. We recommend to our Republican defenders of the status quo that they halt their hate and fear of Roosevelt just long enough to observe the real dangers and not the imaginary dangers in this national crisis.

The Court must become a coordinate power in our Government, and not the ruler of America.

FOR A LIBERAL COURT

Now, what did President Roosevelt mean by saying that, "Rightly considered the Constitution can be used as an instrument of progress and not as a device for prevention of action." What was in his mind when he urged that "the judicial branch of the Government also is asked by the people to do its part in making democracy successful", and by declaring that "we have a right to expect that conceded powers or those legitimately implied shall be made effective instruments for the common good?"

Well, these are declarations in his language of the interpretations of the Constitution as given us by the liberal and constructive minds on the Supreme Court as well as by the liberal leaders of a century. When we contrast their interpretations with the views of the reactionary majority, we can see the President's hope that new blood in the Supreme Court might make it possible for the judicial branch "to do its part in making democracy successful."

HARD-BOILED REACTIONARIES

Over one-half of the members of the Supreme Court were hard-boiled reactionary corporation lawyers, who had served the "economic royalists" well before they were made Supreme Court Justices. Some of them were the very cream of the legal supporters of the status quo, the arch defenders of property rights.

Justice McReynolds only last year is quoted by Pearson and Allen as declaring: "There is only one movement in this country which I consider dangerous to it and which must be destroyed at all hazards. That is the labor movement."

It has been said that only one decision has been given by Justice Van Devanter in 26 years that could be called liberal. He cannot find words bitter enough with which to flay the Roosevelt regime.

Justice Sutherland, appointed by President Harding, "has done as much to cripple legislation and block State efforts to control business as any man in the United States", says the same authority.

Mr. Hoover appointed Justice Roberts who had been the legal adviser of the Pennsylvania Railroad, the Bell Telephone Co., Equitable Life Insurance, and other huge corporate interests. He swung the big axe on the A. A. A. "Powers not granted to the Federal Government are prohibited", declared Justice Roberts. "None to regulate agricultural production is given and therefore legislation by Congress for that purpose is forbidden." And the A. A. A. lay beheaded and dead. It is this man who is the spokesman and editor for the reactionary wing of the Court.

But the blue ribbon for reaction incarnate must go to Justice Pierce Butler. The Democratic Party may take what comfort it can from the fact that Butler was a Democrat—of the old days—before the New Deal—but appointed by President Harding, probably because he was said to be "the most successful and hard-boiled railroad attorney in the United States" and right then the question of railroad valuation was to come before the Court. The Morgan interests, controlling millions of railroad stocks, were highly pleased. Drew and Pearson, in their book The Nine Old Men, say that "Justice Pierce Butler has done more to enrich the big corporations at the expense of the public than any other individual in the country."

WHAT HOPE IS LEFT

To the tender mercies of men like these we bring the laws designed to alleviate Nation-wide human suffering, laws to abolish

social wrongs and economic injustices that know nothing of State lines.

According to the decisions of these men the Constitution of the United States protects property rights and consolidated corporate wealth almost to the limit, while, on the other hand, it is beyond the powers of Congress and the Constitution to meet the terrible and tragic needs of the people arising out of this enormous concentration of economic power thus so duly protected by the Constitution and defended by the courts. Any law designed to secure a full and adequate percent of profit on corporate investment is constitutional, but any law to secure full and adequate wages for workingwomen, like the minimum-wage law, is unconstitutional.

On the day the Supreme Court killed the Guffey Coal Act, John L. Lewis remarked: "It is a tragic and ominous commentary on our form of government when every decision of the Supreme Court seems designed to fatten capital and destroy labor."

The liberal and constructive interpretation of the Constitution which President Roosevelt hopes for and believes in we find expressed in the decisions or dissenting opinions of such men as Justice Brandeis. Let me quote from Brandeis: "I cannot believe that the framers of the fourteenth amendment, or the States which ratified it, intended to leave us helpless to correct the evils of technological unemployment, excessive productive capacity, which the march of invention and discovery has entailed. There must be power in the States and Nation to remold through experimentation our economic practices to meet changing social and economic needs. * * * Denial of the right of such experimentation may be fraught with serious consequences to the Nation."

"Property is only a means", he declares. "It has been a frequent error of our courts that they have made the means an end. * * * Instead of amending the Constitution I would amend men's economic and social ideals."

But these fervent appeals of Justice Brandeis fall upon the deaf ears of his reactionary colleagues in the Supreme Court.

It is the hope of the President and his supporters that the reorganization of the Court he proposes by adding perhaps six new members to the Court may make it possible for the judicial branch of the Government to do its part in making democracy successful and to "make the implied powers in the Constitution effective instruments for the common good."

WHO HURTS SUPREME COURT?

In this great debate now before the country there are some aspects of the discussion that ought to be kept in mind. The admonition to "keep hands off the Court", and treat the Court as the holy Ark of the Covenant, does not come with good grace from the Republican Party, which has just concluded a campaign of the bitterest and most disgraceful, shameless, and false attacks upon the executive branch of the Government, the President of the United States, and which has kept up a running fire on the legislative branch of the Government, as a cheap, rubber-stamp dummy, whipped and cowering under the lash of a dictator-President. This should not blind us to the fact, however, that it is our bounden duty to give due reverence and allegiance to the judicial branch of the Government. But the history of the Court shows, and all historians agree, that the Supreme Court has lost its prestige time and again not by the attacks from the people but by decisions that were made against the tides of democracy and that were finally reversed, or as in the Dred Scott decision, wiped out by Civil War.

PACKING THE COURT

Our Republican opponents are in a rage and fury against Roosevelt because his proposal is what they call "packing the Court." Well, here again we need to know the history of the Court. The fact is it has always been packed and it has almost always been packed with reactionaries by the reactionaries. John Adams packed it with reactionary Federalists to withstand the movements of Democracy under Jefferson, who followed him. Jefferson tried to "unpack the Court" and, if you please, pack it with liberals. Andrew Jackson collided head-on with reaction in the Court. Both Jefferson and Jackson, in the name of democracy, feared the usurpation of the judiciary. Jefferson declared: "It has long been my opinion, and I have never shrunk from its expression, that the germ of dissolution of our Federal Government is in the judiciary—the irresponsible body working like gravity, by day and by night, gaining a little today and gaining a little tomorrow, and advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped."

We have seen the party of Abraham Lincoln, humanitarian and emancipator, seized upon by the privileged classes, become the party of Mark Hanna, Boies Penrose, Harry Daugherty, the Liberty League, Mr. Hearst, and John M. Hamilton. So Democrats may just as well know their history. After Andrew Jackson, little by little, the Democratic Party was seized upon and became the party of the great slave owners of the South. And thus again the slavocracy packed the Supreme Court with defenders of slavery, who finally in the Dred Scott decision outlawed the Missouri Compromise bill, passed 20 years before, and gave the complete sanction of the Constitution of the United States to the institution of chattel slavery. That packed Court, headed by Chief Justice Taney, never was unpacked. Civil war wiped it out. Abraham Lincoln collided with the Supreme Court. Republicans should go back and read what he had to say of the usurpation of the Court.

When Mr. Landon delivered his Lincoln Day speech in New York and attacked President Roosevelt's proposal for the reorganization of the judiciary, why did he not quote Abraham Lincoln's clash over the Supreme Court? Lincoln said, "The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigations between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal."

Some claim that President Grant packed the Court to get his Legal Tender Act made constitutional.

And the Court is packed now, as I have shown you, with hard-boiled reactionaries appointed by Republican Presidents. You can choose your own language as to whether Roosevelt is to "unpack" the Court or to "pack" it. History is repeating itself. Democracy is moving on against plutocracy.

The President believes that he is making way for democracy to achieve its ends peacefully, constructively, and constitutionally in the presence of the most threatening problems that have ever confronted mankind.

STAND BY ROOSEVELT

Considering all the elements in the question, and the issues involved, considering the real danger to our institutions by this continued Court veto of the will of the democracy, it behooves the people of America to stand by the President to the last ditch in this historic crisis. If we desert his leadership, to whom shall we turn?

The amendments offered by Senators BORAH and WHEELER and others will not stand the test of careful scrutiny. BORAH would give the States new rights. This is a wholly backward look. WHEELER's amendment would put power into the hands of a minority of the Court to rule America. Time forbids any extended consideration of various proposals.

CARRY OUT 1936 PLATFORM

As you know, I had the honor to be placed upon the subcommittee that prepared the final draft of the national Democratic platform. No plank in that platform was worked over more carefully and patiently than the plank on constitutional amendment. The unanimous decision of the committee and the endorsement of the President is there recorded.

It declares for a constitutional amendment that will specifically grant to the Federal Government such powers as to safeguard social and economic legislation such as these urgent and crucial problems demand. Such a specific amendment would put it forever beyond the power of a reactionary Court to strain the Constitution for the defense of property rights to the neglect or usurpation of human rights. And I am glad to note in a Washington dispatch, dated February 27, that President Roosevelt is in favor of such an amendment, but he insists upon enactment first of his rejuvenation bill. And with that we agree.

Now is the time to strike for that larger amendment. Strike while the iron is hot. Roosevelt's proposal for the reorganization of the Supreme Court by congressional action has surely put the fat in the fire. Never since the Civil War and the Dred Scott decision has the whole question of the powers and prerogatives and personnel of the Supreme Court been so thrown into the arena of public debate. The whole Nation is reading and thinking about this issue. Now is the hour to strike for a comprehensive amendment that will give the Federal Government full powers for national necessities and redefine the rich prerogatives of the several States coordinate with those Federal powers.

Let us give the President and Congress the inspiring support necessary to carry such an amendment through with all due haste. While the people are thinking, let us act. I would recommend to this great victory demonstration that a night message be drafted and sent to the President and to our Representatives and Senators in Washington expressing our sincere desire that, along with the President's proposal now before the country, that the Democratic Party carry into execution at once that plank of the 1936 Democratic Party platform on constitutional amendments.

I feel gratified to have had this privilege of placing before you the conditions, the historical setting, and the reasons why immediately we should stand back of President Roosevelt and call upon the whole insurgent movement of democracy in this country to do likewise.

We have fought two great battles—1932 and 1936—and we have gained a great and again a still greater victory. We have in President Roosevelt a wise, a humane, man, a fearless champion of human rights, the outstanding leader of the principle of democracy in the world. We are not going to be thwarted or turned aside from our march to economic freedom. Nor will we allow the Republican enemy to bend our will or break our ranks. With Roosevelt we will fight to capture the next trenches. Under his leadership we will write the new laws of the new day and the Dred Scott decisions of our time will become forgotten in the brightness and gladness of that morning.

Administration of Justice in Inferior Federal Courts

EXTENSION OF REMARKS

OF

HON. WILLIAM GIBBS McADOO

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 20 (legislative day of Monday, Apr. 19), 1937

STATEMENT OF HON. WILLIAM DENMAN, UNITED STATES CIRCUIT JUDGE OF THE NINTH CIRCUIT, TO THE JUDICIARY COMMITTEE OF THE SENATE, APRIL 16, 1937

Mr. McADOO. Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared by Hon. William Denman, United States circuit judge of the ninth circuit, relative to the administration of justice in the inferior Federal courts.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE DENIAL OF JUSTICE IN THE LOWER FEDERAL COURTS, AND ITS REMEDY—AN EVER-READY JUDGE FOR EVERY FEDERAL LITIGANT, AND A CONSIDERATION OF THE PROCESS OF ADJUDICATION IN APPELLATE COURTS

CONTENTS

I. An enlarged Supreme Court could consider more appeals or give more time to each appeal because, like the Federal circuit courts of appeals, the Court of Appeals of New York and the Massachusetts Supreme Court, it can function as one Court with sessions of a lesser number than the total membership. In the few more controversial constitutional and other cases a Court rule could give the minority the right to require a hearing or rehearing by all the Justices.

II. Criticism of the Justice denying delay in the processes of Federal courts, in comparison with the pace of modern industrial and social institutions. Herein of the absurdity of terms of court and the denial of justice while the Court is in its so-called "vacations."

III. The huge business of the Federal courts and its gross mismanagement.

IV. The responsibility for the present denial of justice lies in the administrative inertia of the overwhelmed judges as they cling to obsolete legalistic concepts of the obligation of an American court to its litigants.

V. The denial of justice from the fatigue of overworked judges. Distinction between the burden of trial and appellate judges.

VI. Comments on certain "Pundits at Large" who assure the world of the perfection of Federal justice in the lower courts. Here concerning Professor Lowell.

VII. The administrator or proctor should have full control of all the business of the courts including the preparation and presentation of their budget. The Federal judiciary, constitutionally coordinate with the legislature and Executive, should have a separate coordinate organization responsible in fiscal matters directly to the Congress. It should be completely divorced from the Executive, Attorney General, the prosecutor, and litigating over 60 percent of the cases before the courts.

VIII. Duties of the proctor in connection with the administration of the courts. He should have sufficient rank and dignity to require response in investigating the administration of any court.

To Chairman Ashurst and the Committee on the Judiciary of the Senate:

This statement is in response to the request of your chairman's letter of February 13 last, asking your witness' views on the organization and administration of the Federal courts.

The statement is not concerned with the wisdom of the proposals of the President and Attorney General in relation to the decisions of the Supreme Court in vetoing such legislation as the Agricultural Adjustment Act or the child-labor law. That would require a long historic discussion of the decisions of the Court which reviews some of his own court in which he has participated and it probably would lead to his disqualification in pending or future appeals.

The conclusions reached regarding a widespread denial of justice in the Federal courts were his several years before the controversy over the President's proposals began.

Briefly summarized they are: That the litigants in the great majority of Federal cases are denied justice in the delay due to the understaffing of the courts and in the absence of any management on the whole, and gross mismanagement in particular of the vast Federal judicial enterprise, with the consequent confusion and error in the decisions of its overworked judges when they are at last given the suitor.

It offers as a remedy a concept of justice which demands that there be for every Federal litigant an ever-ready energetic Federal judge, free from fatigue, who will take charge of his case as soon as it is docketed in his court. Thereafter he will press the officers of his court, the attorneys, out of their laggard time-consuming habits and force cases to issue at the earliest possible date, try the cases at once (not the next term or 18 months later) and decide them as promptly as full and energetic deliberation can effect.

It is proposed to do this at an added cost of two-tenths of 1 percent of the annual expenditure for your Army and Navy with their ever-ready admirals and generals waiting for future wars. It hazards the suggestion that the danger of future conflict is less a menace than is the growing disrespect and aversion to the Federal courts.

It proposes that cases shall be decided in the district courts, on the average, in less than 6 months and appealed and decided in less than 6 months thereafter.

It postulates that not only is this possible but it can be accomplished in a reasonable time. It is submitted that once it is accomplished our citizens seeking justice will regard an ordinary case taking more than a year from filing to final appellate decision, as much an anachronism as delay of a Ford car for 8 hours in the assembly line.

This statement was prepared to deal solely with the circuit courts of appeal and the district courts, but since your chairman has asked for your witness' experience in an appellate court, which is still one court though the personnel of the judges changes in successive appeals, that question will be considered first.

I. AN ENLARGED SUPREME COURT COULD CONSIDER MORE APPEALS OR GIVE MORE TIME TO EACH APPEAL, BECAUSE, LIKE THE FEDERAL CIRCUIT COURTS OF APPEALS, THE COURT OF APPEALS OF NEW YORK, AND THE MASSACHUSETTS SUPREME COURT, IT CAN FUNCTION AS ONE COURT WITH SESSIONS OF A LESSER NUMEER THAN THE TOTAL MEMBERSHIP—IN THE FEW MORE CONTROVERSIAL CONSTITUTIONAL AND OTHER CASES A COURT RULE COULD GIVE MINORITY THE RIGHT TO REQUIRE A HEARING OR REHEARING BY ALL THE JUSTICES

The letter of the Chief Justice to Senator WHEELER states in apt and definite phraseology the difficulty of conference, if for all appeals there were a session of 15 members of the Supreme Court. It also gives his opinion on the debatable question whether a court could be considered "one" court if, as in many of the States, it functions in two divisions. However, the letter, admittedly hastily written, fails to consider a third possibility. That is of successive sessions of the Court of, say, 7 Justices each, in which various of the 15 Justices rotate and thereby divide the judicial labor.

No doubt if the Chief Justice, as witness and advocate, had come before your committee for discussion of the details of possible court reorganization, this third method of procedure would have been developed. Quite likely he will appear and the subject be fully explored, just as others have been in other appearances where he has faced the questioning of congressional committees on matters which he believed affected the tribunal of which he is chief. His appearance here certainly would no more disqualify him from passing on the question of what constitutes "one" court than has his letter—if that be deemed a disqualification.

However, since the question could not arise in your witness' court, he deems it proper to answer the inquiry addressed to him in your chairman's letter of last February insofar as it involves the consideration of appellate-court organization.

The statute creating the circuit courts of appeals provides:

"There should be in each circuit a circuit court of appeals, which shall consist of three judges, of whom two shall constitute a quorum."

The statute further provides that in addition to the circuit judges the Chief and the Associate Justice of the Supreme Court assigned to the circuit, and the district judges in the circuit shall be competent to sit as judges in its circuit court of appeals.

It cannot be believed that the opinion expressed in the Chief Justice's letter intends to make a legalistic distinction between the phrase "a court" in the statute creating the circuit court of appeals and the phrase "one Supreme Court" in the Constitution.

The experience of the eighth circuit functioning under this organic act of the circuit court of appeals is illuminating. In that court there are eligible to sit eight circuit judges, five active and three retired. These eight judges have all participated in hearings and decisions in a single year. There is a rotation of the eight circuit judges among the three sitting in successive appeals. Your witness does not know how the selection of the varying groups of circuit judges is made, but certainly no one has ever claimed that there are two or more circuit courts of appeals in the eighth circuit.

In the witness' own circuit there are five active, though no retired circuit judges. From the five, the three sitting are chosen with reference to the accumulation of submitted cases by the various judges, their occupation in district three-judge cases, and their illness or health. No one has ever dreamed of suggesting

that there is more than "a" or "one" circuit court of appeals in the ninth circuit.

While, of course, one cannot speak for the experiences of the eighth circuit, he can say with confidence for the ninth during his two years of incumbency that there never has been any disagreement or embarrassment regarding who should sit in a case of particular importance or interest. It must be remembered that this is a court supreme in all private Federal litigation arising from upward of 10,000,000 citizens. This finality arises from your legislation of 1925, sponsored by the then Chief Justice when he appeared before your committees and clearly pointed out in the recent letter to you from the present Chief Justice.

In Massachusetts the legislature created its supreme court in the following language: "The supreme court shall consist of one chief justice and six associate justices." It provides that "the full court shall be the supreme judicial court in banc, and four justices shall constitute a quorum to decide all matters required to be heard by it."

The usual practice in this distinguished tribunal is to sit with five Justices, though sometimes with only four. Where five sit a majority of three decides the appeal. No one has suggested that because of the changes of personnel "the" Supreme Judicial Court of Massachusetts is two courts and not "one" court, like that provided by the United States Constitution.

Similarly the New York Court of Appeals, from which came Mr. Justice Cardozo, was created by the New York constitution as "the court of appeals." It consists of the chief justice and six elected associate justices, to which may be added, on certification of its necessity, four judges from the lower supreme court. With this total membership of 11, the New York constitution provides that 5 members of the court shall constitute a quorum for decision and no more than 7 judges shall sit in any case. No one has suggested that "the" court of appeals is more than "one" court, because of the 11 members provided by the constitution but 7 may sit at any one time.

The justices of the British Court of Appeal, from which very few cases reach the House of Lords, consist of the Lord Chancellor and any retired Lords Chancellor, the Lord Chief Justice, Lords of Appeal in Ordinary, Master of the Rolls, the President of the Probate Division, and six ordinary judges entitled Lord Justices of Appeal. In addition, the Lord Chancellor may request the attendance at any time of any judge of the high court of justice, which corresponds to our district court in many respects. The total membership of the British Court of Appeal may well be 15 judges. Unless there has been some recent statute changing the number, three judges constitute a quorum and have for over 50 years. By consent of the parties, two judges in that court may render final decisions.

The Supreme Court, as constituted since 1869, has had a quorum of six of the nine Justices. When a Justice is sick or disqualified or for any other reason does not participate, it is obvious that this creates a session of different personnel from that in which some other Justice fails to participate. Certainly no one has ever suggested that the Supreme Court is any less "one" court because the same Justices do not participate in the succeeding appeals.

Prior quorums of the Supreme Court have been, by the act of February 13, 1801, four in a court of five justices; the act of January 21, 1829, four out of seven Justices; the act of March 3, 1837, five out of nine Justices; the act of July 3, 1866, four out of seven Justices.

Prior to the Certiorari Act of 1925, it was argued by some that each appealing litigant was entitled to a review participated in by each Justice. The force of this argument disappears in the legislation denying the suitor the right to appeal and giving to the Court its option as to whose case will be considered.

The President's contention, with the wisdom of which this statement is not concerned, is that if there were 15 members of the Supreme Court, a greater number of appeals could be entertained. This is obviously true if the participating members in a particular appeal were not to exceed, say, seven, with a rotation of the participating Justices in the succeeding appeals.

Undoubtedly in some constitutional and other cases there would be those of sufficient controversy to make it advisable to have a participancy of the entire Court. Such superlegislative constitutional questions, where the exercise of the veto power may be invoked, the President contends, will be better considered where 15 able lawyers, chosen from throughout the United States, add their experience in expanding the area of judicial notice. True, there will be more debate but in most of these great cases the wider the experience of the debaters the wiser may be the decision. Congressional legislation proceeds from the deliberation of 500 men to make certain that diversities of interest are fully presented. Fifteen men, he contends, are not too many to make certain the widest area of judicial notice in the application of the formula first stated by Mr. Justice Bushrod Washington, as follows:

"It is but a decent respect due to the wisdom, the integrity, and the patriotism of the legislative body by which any law is passed to presume in favor of its validity until its violation of the Constitution is proved beyond all reasonable doubt."

And more recently by Mr. Justice Van Devanter, as follows:

"* * * If any state of facts reasonably can be conceived that would sustain it, the existence of that state of facts at the time the law was enacted must be assumed."

Only a small portion of the cases in which lawyers raise constitutional questions are of this paramount interest. In the October 1935 term 210 cases were decided after hearing on submission on the merits. Of the 46 cases in which constitutional questions were disposed of, only 15 had dissents. Of the 210 cases, 182 were without dissent. A rule of Court could provide for a hearing by all the Justices wherever a question seemed to three, or possibly more of them, to demand it, and likewise for a rehearing by all the Justices if, after a decision by the seven, it is demanded by any three Justices, including those not participating in the decision.

Assume that the Justices demand full court hearings or rehearings in 30 such cases of the 210, had there been 15 judges, the division among them of the judicial labor of the 180 remaining cases, each considered by but 7 Justices, would have afforded much more time for the consideration of each, thus easing the heavy strain now resting on the Justices of that Court, or permitting the granting of a greater number of certiorari.

If there be anything sacrosanct in the number nine, that could be made the maximum number sitting in any but the more important constitutional cases. These are matters of detail which are for practical solution. Fortunately they are not to be solved for a primitive tribe worshipping a group of voodoo priest judges in an African jungle. There an alteration in the paint of the ceremonial mask may lead to a shuddering expectation that the heavens will fall. We Americans are a practical people. We are divided as to the advisability of judges wearing a distinctive robe, but those who think it no more necessary in a judge than in the President, tolerate it good-naturedly. It is not the gowns or the vaulted chamber of the shining white palace, or the conventional features or posture of the Justices which we Americans venerate. It is the mental and moral power and wisdom of the men who sit inside the marble walls.

Your witness welcomes the recent voluntary posing for the cinema of the Chief Justice and individual Justices as a tearing aside of the veil of sanctified buncombe, which the designing have draped around the judicial office. Since the exercise of their function is so closely interwoven into the fabric of the lives of everyday human beings, he felt no grievance that in the filming of the evening's screen, the Justices were preceded by scenes of women and girls working in the sweatshops, and were succeeded by "Popeye the Sailor" and his spinach. The Justices smiling and intimate proffer of friendship to the public is a healthy example to all the Federal bench.

Lawyers, who with their associates spend weeks in the preparation of briefs in a Supreme Court case, often fail to realize how little time the Justices have for their consideration. As we have seen in the October term, 1935, covering 8 months, the Court disposed on the merits of 210 argued or submitted cases. In the same period it disposed of substantially two-thirds of the 869 petitions for certiorari; that is, approximately 580 petitions.

Assuming the old factory workweek of 6 days, including all Saturday and excluding only Sundays and holidays, and assuming a 7-hour work day, which is well agreed the limit of hard intellectual concentration over extended periods; and assuming the certiorari petitions take no more than half an hour each; and assuming also that the hearings instead of taking a full hour on each side, average but an hour and a half per case, we find that each member of the Court can give, on the average, to the consideration of each appeal before and after its hearing but 4 hours and 15 minutes.

The details of the calculation are 204 working days in the term, including all Saturdays but excluding Sundays and holidays, less 41 days of 7 hours in consideration of 580 petitions for certiorari ($580 \times \frac{1}{2} \div 7 = 41$). This leaves 163 days of 7 hours for the 210 cases disposed of on the merits. On the basis of 7 hours per day, 5 hours and 45 minutes is the average for each case. Deducting the hour and a half for argument, leaves 4 hours and 15 minutes for the study of the briefs and records. In addition, in this limited time for study each must write on the average over 20 finished opinions.

True these are averages suggestive rather than conclusive. In 210 cases they have real significance.

We know that this is approximately all that anyone of the judges can average over these 8 months of concentrated intellectual endeavor, for the Chief Justice has repeatedly assured us that each one of the members of the Court arrives at a separate judgment on each petition for certiorari and gives full and prepared study to each case prior to the conference at which the decision is reached, and that thereafter when the opinion is prepared by one of the members it receives the studied consideration and suggested corrections, if any, of each Justice.

Incidentally, your witness may be permitted to comment, this is a superb judicial accomplishment, by what he regards as the strongest group of intellects ever assembled in the Supreme Court and presided over by one of its ablest, if not its ablest, Chief Justice.

However, admitting that aggregation of intellectual power, it is apparent from this calculation showing 4 hours and 15 minutes for a study of each appeal, that there cannot be many cases presenting the doubt or intricacy which would require a demand by a majority for a hearing or rehearing by the entire Court.

It must not be understood from the above comment that your witness is suggesting that it is necessary to increase the Court from 9 to 15 or any other number. He does not know whether, in any considerable number of cases, certiorari should be granted where they are now denied. Nor does he care to venture to say, concerning these nine strong intellects, that their power would be exercised more advantageously for American justice if, on the average, each had, say, 3 hours more, in the study of each appeal. The fact remains that the circuit courts of appeals are the supreme courts for all private Federal litigation and that but three

out of a larger number, as large as eight, constitute a session for the final determination of the rights of 98 percent of the human beings seeking their justice.

II. CRITICISM OF THE JUSTICE DENYING DELAY IN THE PROCESSES OF FEDERAL COURTS IN COMPARISON WITH THE PACE OF MODERN INDUSTRIAL AND SOCIAL INSTITUTIONS

Since your witness regards the Federal courts as now denying justice to litigants they are created to serve, and the denial a grave menace to our democracy, it is his intention, in responding to your chairman's request, to make his description of these conditions as vivid as he is capable of stating them, without respect to the persons he believes share in the responsibility for their existence.

It is, therefore, proper to state on what experience his comment is based. In part it is on a practice in the Federal courts beginning some 35 years ago. With other young men leaving law school in the nineties, he concluded that his future practice, in both courts and legislature, would be freer, wider, and more interesting if he took no time retainers from corporations. This plan, pursued save in a single exception, succeeded so far as freedom and wider interests are concerned. Being tied to no client for current advice, he has been able to practice in the Federal courts and departments in many States and here in Washington for long periods of time. It has enabled him to be at once the attorney for labor organizations and for and against large industrial and transportation companies.

An early interest in judicial reforms in California came from his participancy, as a lad, in a crooked deal in the nominations for justices of the supreme court in one of the State conventions where both factions were controlled by the Southern Pacific Railway. This led to his later participancy in the campaign for the nonpartisan election of judges which HIRAM JOHNSON finally secured for us, and in the 25-year struggle for freeing the appellate justices from State-wide electoral campaigns, which a constitutional amendment gave us in 1934. Incidentally, it brought intimate contacts with many judges and a close-range observation of the effect of judicial occupation on the human mind.

Freedom from time retainers enabled him to leave his practice and for 7 years assume the management of a large logging and lumbering company in Oregon. This company sold its product entirely in interstate commerce, carrying it in a fleet of vessels on the Pacific. At one time it had four kinds of labor organizations among employees, ranging in number from 1,200 to 2,000 men. Your witness' contact with many of them was intimate and personal. In the woods among its loggers he had a running fight for several years with the I. W. W., a syndicalist organization, the members of which he finally eliminated from the company. On its logging railroads its men, though not members, were dominated by the concepts of the American Railway Union. All of the sailors on its fleet were members of one or another maritime union. The distributing yards in California were open shop. Dut to this intimacy of contact and despite this diversity of organization, in the 7 years there was not a day's loss of time from labor disputes.

The fir lumber of these western mills is in competition with the pine of the Southern States, and his connection with the national organization of the industry brought wide acquaintance with the manufacturers and distributors of the South as well as the Northwest.

This experience has been detailed because as a Federal practitioner he was always curious concerning the attitude of the laborer and industrialist toward the Federal courts. It is no exaggeration to say that in every one of scores of serious discussions they have been condemned by industrialists, businessmen and laborers alike, for their laggard time-consuming processes and their obsolete intricate procedure. This condemnation is made with a positive hatred on the part of many laboring men. Businessmen and laborers often will take any kind of unjust settlement from their stronger and better-entrenched opponents rather than seek the Federal justice which they know Federal delay will deny them.

This antagonism is not because of constitutional cases, but what make up 95 percent of the claims of those seeking the daily function of courts in determining the ordinary legal rights of human beings and protecting them from the oppression of the abuse of superior economic or social power. It is that part of our duty as judges which is covered by our oath that "we will administer justice without respect of person and do equal right to the poor and to the rich * * * and faithfully and impartially discharge and perform all the duties incumbent upon us as judges."

The mills of which your witness assumed management also were obsolete in their processes and had to be converted from belt to direct electric drive. Old logging machinery had to be replaced with modern equipment. This led to elaborate studies for the elimination of the time lag in the many steps of the process between the falling of the tree 65 miles away in the woods and the finished board leaving the tail of the mill.

Now, your witness is not claiming to have a degree of master of industry, but he can claim some knowledge of an industrialist's approach to problems of process.

When your witness began his participancy in the hearing of appeals he was particularly moved by three coming from different district courts of his circuit. They were suits involving insurances against the permanent total disability of the policyholder. They were for monthly payments to sustain the permanently disabled men ranging in amounts from $12.50 to $37.50 a month. The defenses offered by the insurance companies were in good faith, but we finally decided each of the three in favor of the policyholders. In one of these cases the totally disabled man, 56 years of age, received the payments supposed to sustain him in his affliction when he was 59 years of age; that is, 3 years after the case was filed. The others had to wait 2 years. In another appeal, on a policy for a paralyzed and bedridden veteran, his wait was 4 years. While these four cases are more painful examples of judicial human tragedies of suffering and suspense, they are typical illustrations justifying the charge that Federal justice is delayed until it is denied. Under modern management, with adequate judicial equipment, none should have waited as much as a year.

Following his industrial experience, your witness then began a study of the successive steps of the judicial process in the district courts from which the appeals came to his court, and extended it to a general survey of the conditions in all the district courts. The results of this study he left here last February. It recommended a full-time administrator or proctor for all the lower courts, with an adequate staff; a complete segregation of the Federal courts in a new judicial unit, separate from the executive Attorney General, who represents the United States, their principal litigant in upward of 60 percent of Federal causes; over 50 more district judges, some at large; and a corresponding increase in circuit judges. There was no recommendation touching on the Supreme Court.

It may be remarked in passing that your witness came to Washington last January to seek relief for the ninth circuit in the two judges which you have just created for it, and also to press for the reforms suggested above. Except for his testimony concerning the Supreme and other courts functioning in sessions of lesser number of judges, which is made in response to your chairman's letter, your witness would be pressing for court reorganization along the line of these proposals had there been no bill presented by the President.

Naturally arose the comparison between the success of the American genius in eliminating the time lag in industry, which has made American manufacturers the leaders of the world, on the one hand, and on the other the archaic legalistic concepts clogging the wheels of justice in the Federal courts. Your witness came to the conclusion that, comparing the pace of industrial and social life of the present time with that of the first half of the nineteenth century in England, the Federal courts were instruments of justice comparable to those described in the novels of Charles Dickens.

It is a proper analogy with industry to regard the court as a processing plant and the judges its machines. On one side is stored the raw material of the evidence. This deteriorates rapidly as memory fades, witnesses disperse, and real exhibits are lost. On the other side is an intense consumer demand for the machine's product; that is, for justice.

As in industrial processing, the product of the judicial mechanism is defective where made from deteriorated and decaying raw material. Also, as in the industrial process, where the machine is overloaded the product is defective. Often the consumer is compelled to take this product, since the cost of claim and rejection technically by appeal is beyond his means.

There are other pertinent analogies, such as the malingering of the workers and the swapping of the court's and client's time in stipulations for continuances by laggard attorneys. In theory they are officers under the command of the court, but the exercise of that command in compelling the prompt preparation of the material—that is, in getting the cases at issue—is so neglected by the commander that the function seems completely atrophied. These evils, this statement aims to show, arise primarily from the failure to supply judges commensurate in number with the rapid increase in Federal litigation and the complete absence of modern management of the huge Federal judicial enterprise.

What would the stockholders and the employees say of a management which at a negligible cost could install machines for the processing of vast stores of decaying raw material to meet an intense consumer demand for the product of such machines and yet fails to do so? Surely this would be an economic crime against the laborer, stockholder, and customer. Yet this, your witness is certain you will agree, is the degraded condition of the Federal courts today.

Consider the absurdity of terms and vacation periods in a manufacturing plant. With such abundant and deteriorating raw material and such a consumer demand, the plant shuts down because an arbitrarily fixed manufacturing term is ended and the machines take a vacation for several months. This in part is for use in another step in processing (writing opinions in chambers) and for reconditioning.

Would any manager not be discharged who would fail to install another machine and keep the plant running? Justice's eyes may be bandaged, but should they be closed in slumber while the accused languish in jail, the widow waits the hearing on her policy of insurance, and the crippled laborer for his jury?

III. THE HUGE BUSINESS OF THE FEDERAL COURTS AND ITS GROSS MISMANAGEMENT

Few realize the size of the Federal judicial establishment. There are 85 district courts scattered over the 48 States and the District of Columbia. They have upward of 145 district judges. Above them are 10 circuit courts of appeals and the Court of Appeals of the District of Columbia, having altogether 44 circuit judges.

In the fiscal year 1936, that is, long after prohibition litigation had ceased, there were filed upward of 78,000 cases in the lower courts, exclusive of bankruptcies. In that year in the circuit courts of appeals upward of 3,520 cases were docketed.

This is so vast a business that its regulation would challenge any administrator's constant daily effort in its management.

The constitutionally coordinate power of the judiciary with the legislature and executive and the majesty of the judicial function in society are extolled by passionate orators within and without the Congress. Yet it is not only without any management commensurate with our industrial genius but has no continuous management at all.

Like any other unmanaged enterprise, public and private, it has become bankrupt in its failure to meet its obligation or prompt justice.

Twenty years ago arrearages clogged courts, overwhelmed judges, and denied justice. Since that time a number of new district and circuit judges have been created. This has been in a haphazard grudging manner out of keeping with the eloquence with which the courts are so reverently described.

At the end of these 20 years, with the added judges, the filings of civil cases for each district judge have increased 44 percent. That is, increased from 161 cases per annum per judge average for the biennium 1914–15, against 234 cases per annum per judge for the biennium 1934–35. Bankruptcies increased 55 percent per judge. In addition, criminal litigation, after prohibition litigation had ceased, had increased 13 percent per judge.

But the number and the percentage of increase, challenging as they appear, are but lesser factors in the increased burden. Since the war in Europe the expansion in volume of economic creation and the increase in the complexity and rapidity of pace of industry have been vastly greater than in any period in the mechanical age. The enormous production power of the Ford plants, the intricacy and vast extent of the destructive pyramiding of the Insull empire are not isolated examples. They are typical of the increased complexity of all industry and commerce. Social legislation in all the States and in the Congress, attacked always as to its constitutionality, reflects the changes in human relations caused by the new and complex relations created by our industrialism. Federal taxation to meet the bill for the failure of our capitalism to master the Frankenstein of efficiency and power it has created again reflects this involvement and complexity.

Correspondingly, in the 20 years, have increased the complexity and involvement of the problems presented to the judge, whose cases have to do with the pathology of these business and human relations. A typical mail fraud case requires an accounting to the jury of years of operation of a great chain of 20 grocery stores. An income-tax case requires the annual accounting of a manufacturing industry in a dozen plants in half a dozen States. Labor litigation involves hundreds of thousands of men in the coal or automotive industry. Bankruptcy, which in 1915 was largely administered through the referee, now, under 77B, requires in a single case weeks of study of a projected great reorganization. Such examples can be expanded over the whole field of litigation.

Truly, the 44-percent increase in number of civil cases does not tell the story of increase in the Federal judge's burden. If he could discharge that burden, his increased labor in the 20-year period would be nearer 60 percent.

Equally true it is that he does not discharge it. The result is that the weak compromise at the terms of the strong and the criminal laughs as he leaves court unwhipped of justice.

Excluding prohibition cases, in the biennium 1934–35 over 6,500 Federal criminal cases were nolle prossed or dismissed—that is to say, the accused were freed without trial. The fault is not that the cases were improperly commenced. With the arrearages of litigation, district attorneys do not casually bring ill-considered charges to the grand jury. But when months and often years later, trial is reached on the crowded calendars, witnesses are gone and evidence forgotten and lost. No wonder, as the younger offenders escape, they merge into the gangster group and swindler's ring. They have "beaten the Federal rap" and they think they can beat it again.

It is also proper to assume that in a disturbance of our social and economic order such as now exists Federal and State legislation will increase the volume and variety of civil regulation and tax imposition; that American economic progress will continue its acceleration of American creative effort, and that as a result the volume of Federal litigation, instead of remaining static, will steadily increase.

The analysis made last year, applied to the returns of the clerks of the district courts for the fiscal year 1936, shows that in one group of 26 district courts disposing of 6,907 private civil cases in that year, the judges on the first day of the next year faced their daily accumulation of new cases with a load of 14,980 already pending. This means they faced not only the daily new filings but a past accumulation of cases mortgaging, on the average, practically 20 months of their disposing energy.

That tells the situation for the judges. They are overwhelmed. What happens to the litigants for whom alone the judges are created? The average of 20 months includes all those quickly disposed of by settlement and dismissal, decision on demurrer, etc. For each case disposed of in, say, 3 months there is one on the other side of the 20-month average that must have a delay of 37 months before the litigant obtains his decision. As a matter of fact, in such averages there are many cases delayed for 4 or 5 years.

In another group of 26 courts, in which 7,710 civil cases were disposed of in the fiscal year 1936, on July 1 following, the litigants in 8,655 cases had them piled behind the daily accumulation of their judges' dockets. Here the load against their judges' disposing time average 13½ months, with a similar condition of cases months and often years above the average against those of which quick disposition had occurred.

In 16 district courts disposing of 4,587 cases in 1936, there remain 2,610 for the new fiscal year. That is, the judges' time was mortgaged to less than 6 months. It is submitted that the litigants in the 16 district courts having less than 6 months average accumulation of cases ahead of their judges, are entitled to no preference over those citizens having an average of 20 months. What can be done for litigants in the one set of district courts can, with adequate staffing, be done in the other.

As said, these are but averages. The examination of individual courts discloses accumulations due to sickness of judges, to vacancies, to the pendency of cases taking an extraordinarily long time to try, to the fading energies of elderly judges, and quite probably, since the 155 district judges are but human, some who are indolent. The averages of thousands of cases in each group tells the story.

As a matter of fact, so far as the litigants are concerned, vacancy, sickness, age, and indolence are given factors for which litigants are not responsible but under which they must suffer. This is one of the reasons why judges at large are required to relieve them from conditions which are certain, occasionally, to occur even after an increase of permanent resident judges, sufficient to give true currency to the court.

These figures of averages disclose the disease. In any industrial enterprise, they would have led to an investigation by the manager's accountants as to their various factors. There should be some elimination of cases really defunct. But no one has ever before put together these totals, much less make a business examination of the details.

IV. THE RESPONSIBILITY FOR THE PRESENT DENIAL OF JUSTICE LIES IN THE ADMINISTRATIVE INERTIA OF THE OVERWHELMED JUDGES AS THEY CLING TO OBSOLETE LEGALISTIC CONCEPTS OF THE OBLIGATION OF AN AMERICAN COURT TO ITS LITIGANTS

Your witness has spoken of his contact with many judges. With hardly an exception they are enormously industrious and conscientious in the solution of the instant case. However, overstrained preoccupation of cases is almost certain to destroy the executive faculty. The green judge enters a court already piled with arrearages. He plunges into a trial docket of aging cases. His neck is in the yoke and often he never lifts his head above the dust of the road to survey the load he drags behind him.

With his association with other judges he acquires their institutional attitudes. He soon absorbs the medieval concept that he must never reveal to the public any defect in the administration of justice. He must maintain the myth of this perfection. When the stench of decaying evidence becomes to strong and the cry of time-defeated litigants too loud, he must minimize instead of frankly stating the evil in seeking a cure at your hands. In fine he often sacrifices the need of litigants for what he concedes to be the prestige of a court.

The only administration of your Federal judicial enterprise you have imposed on your 10 senior circuit judges. In their courts, their judicial accomplishment is startling. Several have written nearly 100 opinions a year against an average of 20 each for the Supreme Court Justices.

However, the word "senior" guarantees that they have been longest steeped in judicial as distinguished from executive preoccupation. Though they are managers of an enterprise requiring constant inspection and ordering they meet but once a year. Their reports are illuminating of this tendency to minimize the long-accumulated evils of the system over which you have forced them to preside.

Take for instance the concept that the judge should rule the court and his officers, the attorneys, to press litigation to prompt justice for the human beings seeking it. This concept has recently been stated by the Attorney General in his letter to the President, as follows:

"The litigant conceives the judge as one promoting justice through the mechanism of the courts. He assumes that the directing power of the judge is exercised over its officers from the time a case is filed with the clerk of the court. He is entitled to assume that the judge is pressing forward litigation in the full recognition of the principle that 'justice delayed is justice denied.' It is a mockery of justice to say to a person when he files suit that he may receive a decision years later. Under a properly ordered system rights should be determined promptly. The course of litigation should be measured in months and not in years."

And his testimony here on March 10 states:

"This, however, is not the complete story of the law's delays. The statistics of the judicial conference have reference only to the interim between joinder of issue and the time a trial may be had if all goes well. Further time is lost in bringing cases to issue, due to delays in securing rulings on preliminary matters such as demurrers and motions. Another source of trouble is the undue lapse of time that frequently intervenes between the final submission of a case to the court and the date when the decision is actually rendered."

Instead of conceiving of the judge's duty to press cases to adjudication in months instead of years, we find in the report of the Judicial Conference of October 1927, the following:

"In any case which might have been brought to trial, in which no action has been taken by the parties for 1 year, it shall be the duty of the clerk to give notice to counsel * * * 30 days before the opening of the term of court following the 1st of January in each year.

"If such notice has been given and no action has been taken in the case in the meantime, an order of dismissal shall be entered as, of course, at the opening of such term of court."

Here we have the duly constituted administrators of Federal justice saying to laggard lawyers, you may delay for a year and twenty-nine days in taking any action on behalf of your clients before the judge will regard it a matter for his consideration. Do you wonder that the American businessman and laborer alike harbor the deepest resentment toward a tribunal of justice, seated in a civilization with the pace of American industrial and social life and having such a primitive notion of the value of time?

This rule was proposed for enactment by the district courts. It has been substantially followed in nearly all of them. Some have extended the laggard loafing period to the cases not at issue and allowed the officers of the court a year's time prior even to coming to issue, before the court will inquire concerning the delay of justice to the litigant.

One outworn legal concept to which the bench and the bar have clung is that a court is current where cases which are at issue and ready to try in one term of the court are tried in the next. Nearly all of us have accepted this as a "salutary condition." It is a criterion which the clerks find it easy to satisfy, because they pass the word around to the bar that the judge has a full trial docket, and lawyers fail to claim that their cases are "ready."

On analysis it is apparent that a court which has two terms a year can satisfy this criterion of currency if a case which is ready for trial at the opening of its January term is in fact tried 11 months later in December at the close of its July term. In a three-term court the criterion may be satisfied by a delay of trial of 7 months after readiness.

The average would, of course, be better, but in these days of Fordized manufacture and airplane passenger transportation, it is ludicrous as a criterion of justice. If such loose approximation were to prevail in the accounting of a corner drug or grocery store we would expect the inevitable entry of the sheriff.

Is there any reason if the courts were staffed as is the Army or an automobile plant why "ready" cases should not be tried when they are ready?

Here again we can thank the Attorney General for accepting the leadership out of such ancient criteria. His demand that litigants shall be served by the court and its officers in terms of months instead of years casts aside this remnant of the past. But it is the Attorney General and not the judicial conference which takes the leadership.

Probably the most startling example of a judge's tendency to suppress and minimize the true facts regarding the justice denying delays in our trial courts appears in the report of the Judicial Conference for October 1934. In the preceding fiscal year 78 percent of the civil litigation failed to comply even with this obsolete concept of currency. The delays between filing and disposition in the tribunals ran into years in thousands of cases. This is what the conference says on a tabulation made up of the returns of the clerks as to the conditions in their courts:

"It is gratifying to note that it appears from this tabulation that out of 84 Federal districts in continental United States (exclusive of Alaska and the District of Columbia) in 31 districts 'all ready cases are tried at term following joinder of issue.' This is also true in certain divisions of 6 other districts, as to all civil cases, and in all divisions in 3 other districts, as to some classes of cases. Further, in 13 other districts, and in certain divisions of 3 other districts, as to all classes of cases, and in 6 districts as to some classes of cases, the average interval between joinder of issue and trial is reported to be not over 6 months. It is apparent that any general criticism of the work of the district courts, with respect to delays in reaching cases for trial, is wholly unjustified. Undue congestion and delays characterize, not the district courts as a whole but only certain districts and because of exceptional circumstances."

Would anybody infer from this statement that 78 percent of Federal litigation did not satisfy even the criterion of "over 6 months" from the time the case was "ready" and its trial? Far from representing the need for instant relief over 78 percent of the area of Federal litigation, this is a "Pollyanna" suggestion that there are but minor difficulties in the judicial organization, requiring only here and there a few additional judges.

By October 1936 the clerks, many of whom also motivated by the desire to make a showing in their courts, reported that in 51 out of 85 courts they had attained this archaic currency. The Judicial Conference hails the gain as if it were significant and says nothing of the fact that over the whole field of Federal litigation 69 percent was then in arrearage even under this criterion.

You had recently an acceptance of the general healthy condition of Federal litigation from a very able district judge, whose opinions command the respect of all of us. Presumably he had fully prepared himself to discuss its administration. Yet, as I understand his presentation, it ignored the fact that nearly 70 percent of its area is in hopeless arrearage. He is conceiving perfection by the number of courts, and those in lesser settled districts, instead of the total number of human beings seeking justice. He speaks as if the evil existed only in spots. It does not strain analogy to suggest that a coat, 70 percent spotted, has little cloth left of the original color.

But even assuming the criterion that is American justice to try a "ready" case 5 or 6 months later, how about delays between the filing and reaching issue and readiness? Recently the Attorney General showed you the condition in one of the extremely congested district courts. Here is an example of a court described as better than current in this legalistic sense. It is a court in my circuit. Its judges drive through a hard day on the bench and work in their homes at night.

The clerk returned for the judicial conference that cases were averaged not over 2 months in reaching trial after joinder of issue. An analysis of the reports of the individual cases disposed of in 1936 in that district court shows that but 13 out of 78 cases at issue reached trial in 2 months after issue was joined. Many litigants were dragged along for from months into years. Is that court current? Assume that some of the delay was due to their laggard counsel, are we to continue so to overwhelm our judges that they cannot take charge of their calendars and compel the lawyers, the courts' officers, to perform their obligation to procure prompt justice for their clients? Yet that court, from the return of its clerk, is not only current but a shining example to other courts.

So far as the citizen seeking justice is concerned the delays between cases ready and their trial are but a minor part of this story. A very large part of the bar is engaged in swapping the courts' time in the intermediate processes before arriving at issue. That is, in the filing and arguing of demurrers to the complaint and the answer and in the filing of answers. Knowing the court is overwhelmed with submitted cases, they feel certain that they will procure the judge's confirmation of their stipulations extending time. It is no unusual thing for a lawyer to say to another, "Why, I gave you 6 months in the case of *Smith* v. *Jones*, and now I need that much time in this case of *Brown* v. *Johnson*." Where one gives time to an opponent he accumulates a credit of time in another case. True, they are violating their duties as officers of the court, sworn to do justice, which in its essence must be prompt. It is rationalized by saying, "There is no hurry; the judge is so busy he won't care, so why should I turn this over to another less-occupied rival at the bar?" And thus is justice delayed before the case is at issue.

Let us turn to the interval in months from the day when trial is begun to the final disposition of the case. We may take as the example the district court in our circuit, that is regarded as better than current because cases in which the attorneys reported them ready for trial were reached within 2 months thereafter. Out of the 94 cases tried, of which the records were returned for the conference, only 48 were disposed of in less than a month. These were probably largely jury cases, in which nothing was submitted to the judge for decision. Of the remainder, submitted to the judge, the final disposition of the case strung along for many months. The average time was 7 months but in seven of the cases the litigant had to wait from 1 to 3 years.

With difficult cases, overwhelmed judges often postpone their decision for those requiring less labor. The choice so forced on the judge is a proper one, but his delays, though compelled by inadequacy of the system, are certainly not justice to litigants.

In our court in the fiscal year 1936, 270 appeals were decided on the merits. A tabulation of the story of these cases, from the filing of the first pleading below to their docketing in our court fully illustrates the delusion concerning the currency of the district courts. The longest, 10 percent of the total number, were over 5 years between the filing and the docketing of the appeal in our court. The next group was 4 years. In these two groups there were a number of cases from the Board of Tax Appeals where the break-down of justice is worse even than in the district courts. In the next group, they were 3 years in the district courts; in the next group 2 years and 4 months, and in the remaining groups 20, 17, 13, 8, and 6 months.

The average periods for all of the 270 cases was 2 years and 4 months pendency prior to appeal. It is apparent that the litigants who received Federal justice in the groups of 13, 8, and 6 months were lucky exceptions to the evils of the system. What was done for the latter, with proper staffing, could be done for the remaining 70 percent, which average over 5 years.

Take our court for another example. Its experience is typical of the disease of delay in the Federal system. Fifteen years ago we had four circuit judges hearing the appeals of the largest of the circuits with the greatest diversification of legal problems. As said, it is the supreme court for 98 percent of its citizens seeking justice. Without any increase in its four judges at the fiscal year 1934, the total case load of appeals had increased 86 percent. Two of the judges died of overwork within a short period. A third was fading and died soon after. Did your managers of the court, the judicial conference, do anything about it? Did it report to you, who are constitutionally responsible, when the litigants' need for Federal justice is properly stated to you?

In 1935, when I was appointed to that court, I did not know how its processes of adjudication had degenerated from the days of Gilbert, Ross, Hunt, and Morrow. I did not then credit the whispers of the bar that the court for several years had been rendering one man dominated appellate decisions. That is to say, the court was assigning an opinion to a judge before conference; after hearing he wrote a complete and final opinion for the court before he knew how the court was to decide the case; this followed by a decision accepting the opinion. In at least 90 percent of the cases in which I have participated a decision was reached without any conference of the three judges, whether prepared or otherwise. It is a method condemned long ago by Thomas Jefferson. It has been disapproved by the judicial conference itself and probably was disapproved in the time of King Tut. In the whole history of the Supreme Court here in Washington such a denial of appellate justice has not occurred. Can you guess what was the report of the proceedings of the judicial conference of October 1934? It was:

"Circuit courts of appeal: It is gratifying again to be able to observe that no problem is presented so far as the circuit courts of appeal are concerned."

Yet the records of their own clerks showed an 86-percent increase in appeals in our circuit without any increase in the number of judges and they knew of the death of the two overworked judges.

Your witness had just been appointed but had not qualified and was ignorant of the condemned process pursued by the court. He was certain it needed at least one more circuit judgeship, and asked the Congress in February 1935 for its creation. He was much embarrassed at first by the questions of some of you gentlemen, why, in such a case there was no recommendation from the judicial conference. The only answer he could make was the 86-percent increase in cases and the death of the judges. You seemed then to understand what an administrative failure your conference was, for you created a fifth judgeship with the open advocacy even of Mr. Blanton, of Texas, who had fought all bills for judge increase.

When your witness joined the court he discovered the condemned process of adjudication, gave it a try-out for over a year, and then presented the matter to the judicial conference. This was accompanied by the statement of our senior judge that if we gave our cases the same appellate consideration as the Supreme Court, our output would be cut in half and the delays of the other half accumulating through the years would deny justice. Our whole court asked for two more judges.

At last the conference acted, and how! It appointed a committee to report a year later on the advisability of consolidating the circuit with others.

Two days' study of the figures of the origin of appeals from the different States would have shown that the two judges would have to be appointed in any event, but the managers would let litigants suffer first until October, a year away; then, possibly, a recommendation to Congress; then again delay until the following session of Congress in 1938; that is, if we have no World War sabotaging remedial civil legislation.

Your witness came directly to you, secured the presentation of a bill, made no camouflage of the true facts, and you have given our litigants the two judges. No one has reproached him for his frankness in describing the justice-denying process in his court. You seem to agree that if the Chief Justice can give to the public the details of the beneficent procedure in his Court, a fortiori should Congress and the public know of evil in other courts which you alone can cure?

V. THE DENIAL OF JUSTICE FROM THE FATIGUE OF OVERWORKED JUDGES

We have been considering the effect of a lack of judges on delay of justice. In our overcrowded courts there is as grave a danger to the litigants from the fatigue of judges.

Mr. Justice Brandeis, stating the case for the Supreme Court in the hearing before one of your committees, spoke of the danger that judges, long fatigued in struggling to master overwhelming arrearages, will become mentally indifferent in their application to their work, with the consequent deterioration in its quality. There had been no deterioration in that Court, because it courageously had given full consideration to each case and sought your relief when the arrearages accumulated. But he stressed the danger. He was as right as he always has been in his public statements.

In none of these discussions has anything been said about the difference between the strain and exhaustion on an overburdened trial judge and that on those sitting on appeals. With us, a case is heard in 2 hours. We can relax when we will.

In many district courts judges are compelled to focus their minds for weeks, and even months, in the trial of complicated causes. The extraordinary intricacy of the Insull empire presents the extreme example, but there are plenty of mail-fraud conspiracy cases, long patent suits, governmental regulatory causes, and the like, where the trial judge is compelled to hold his mind through weeks of testimony of scores of witnesses and live in an atmosphere of warring counsel, upon whose disputes he must constantly rule. In many cases involving expert testimony, the failure to be able to focus on a single phrase of the expert may cast the decision the other way.

After trial and in the evening is the attempt to keep pace with their law calendars. It is a marvel they do so well in construing, say, a trust instrument of 70 pages. For most of the judges this work is unremitting. It certainly requires the vigor of midmanhood.

As age overtakes them, some find that nature has limed their circulatory system, even the cranial arteries. The kidneys weaken under the strain and with that a fading memory of what was testified a week or a month before. Of course this is not always the case and in our circuit we have several exceptions of prolonged vigor. As a Californian, I would not dare suggest that it is the climate.

Incidentally, I suggest as a matter of administrative detail, that many judges over 70, who do not now retire, would do so and gladly continue serving within their capacity, if they were assured that they could retain their legal stenographers and their chambers, with their personal libraries. The position of a retired judge, who must occupy temporarily vacant quarters, or sometimes work in the general library with the law students and visiting lawyers, is not an inviting one. Provision should be made for working conditions which are efficient and agreeable to men of mature years and service.

VI. COMMENTS ON CERTAIN "PUNDITS AT LARGE" WHO ASSURE THE WORLD OF THE PERFECTION OF FEDERAL JUSTICE IN THE LOWER COURTS—HERE CONCERNING PROFESSOR LOWELL

All these detailed examinations into diverse facts and their summarization make dreary talk in the excitement of the contest over what some call a constitutional and some a judicial crisis. Yet you may be certain that the manager of a second-class logging and lumbering outfit or a small steamship company would be fired from his job if, as administrator, he had not mastered vastly more complex figures of his production and distribution accounts or his freight bookings or cost of the operation of his steamships. And if these facts seem dreary, think how dreary the years of waiting for litigants like those I have described, who suffered for years with their physical disabilities, while American justice staggers along in the disposition of their pleas.

The consideration of these facts is recommended to such sapients as Professor Lowell, the ex-president of Harvard, whose particular area of knowledge has to do with the history of certain branches of the law. He has recently given to the press of the country a vigorous assault on the proposals for the Supreme Court. With that I am not concerned.

What is of primary importance to the American people is his assurance that all is well with Federal justice, that no general reforms are needed, and that a mere judge, here and there in a few courts, will eliminate the delays.

Referring to the ground on which is based the President's plea for the reform of the lower courts, I quote his language:

"One is that the United States courts are at present overburdened; that their work is in arrears and that to perform it properly more judges are required.

"Now, as a matter of fact, save in a few places where additional judges may be provided, the Federal courts are not in arrears, they keep well up with their work and do not need an increase in membership."

Here we have the pontifical finality of a corporation lawyer arguing the sanctity of the fourteenth amendment and, though Lowell does not realize it, tending to perpetuate the same condition such lawyers seek to maintain. Yet the courts having over 69 percent of Federal litigation are in arrearage, even under the legalistic concept of a "current" court. They are over 80 percent, if we are really thinking of the rights of litigants.

You will recall the ironic laughter of sensible men when artful journalists persuaded Henry Ford, because he had created new processes in manufacturing automobiles and made a great contribution to the mechanical age, to step out of his part and lecture the world on questions of philosophy, statesmanship, and history—particularly the history of the Jews. There is excuse for Ford, for he had no university training in the scientific approach to the facts about which he advised all and sundry. For Lowell there is no such excuse.

All this is assuming that President Lowell was talking about the Federal judiciary without knowing the facts. If he does know them, it is recommended that he reread Bleak House.

VII. THE ADMINISTRATOR OR PROCTOR SHOULD HAVE FULL CONTROL OF ALL THE BUSINESS OF THE COURTS, INCLUDING THE PREPARATION AND PRESENTATION OF THEIR BUDGET

From discussions your witness has had here he understands that the proposed proctor will absorb all the functions of the judiciary now exercised by the Attorney General. This is as it should be. It is hardly necessary to state that the proctor's duties would be confined to administration and have nothing to do with the adjudication of individual cases.

Despite all of the glowing tributes paid to the organization of the Department of Justice in the early seventies, it was really conceived in what we would now term "judicial iniquity." It was to unify all the processes of justice in the Southern States during the reconstruction period. The judges and the United States marshals there had a political purpose. It was a domination of the conquered States through the judicial arm of the Government. The effect of that has passed into history, but it now accounts in part for the so-called "solid South", which illogically persists in political life today.

Now, he finds no grounds for the complaint often whispered at the Federal bar, that the district judges are too close to the Department of Justice and that the district attorneys spend too much time in the judges' chambers. Certainly the present Attorney General has done as much, if not more, for the bar in securing, for instance, the amendment to the rules in cases at law which the bar itself had failed in its attempts to procure over a period of 20 years. No one could have served us better in presenting the occasional meager requests of the judicial conference for additional judges.

Nevertheless, the courts, like Caesar's wife, should be above this widespread whispering. It was certain to arise from placing the fiscal administration of the courts' business under the attorney for its principal litigant, the United States, who opposes the lawyers of the Federal bar, in private employment in over 64 percent of Federal litigation.

In the matter of the Budget, the requirements of the courts for more judges, with properly salaried law clerks, who in New York

are rightly termed legal consultants, for their libraries and their chambers are lost in the unit consideration of these judicial needs and the executive need for Assistant Attorneys General, lawyers and clerical force, all for the United States as litigant and as the executive arm of justice.

What would be said if we obtained them from some other litigant, say, the Steel Corporation. True, the Attorney General is a public officer, but he is a litigating officer. Whether the analogy is or is not a proper one, it is constantly made at the Federal bar.

The present net cost of the courts, after deducting fees, is six and one-half million dollars. This is buried in a total of $40,000,000 for the Department of Justice. The other thirty-three and one-half millions are for the executive and litigating functions of the Attorney General.

His oath of office is as an executive. The demands of the judiciary, coordinate with him in constitutional authority, necessarily embarrass the budgetary duties of his oath as executive.

Obviously, what your coordinate judiciary, organized as a unit, should have is a sole representative appointed by them who will present their need as a separate and distinct part of the Budget and of your appropriations.

Take, for instance, the present position of our law clerks, of which the circuit judges each have one. In the mass of decided cases he has to search in running down various points, in handling the record often ranging from 500 to 6,000 pages, the so-called law clerk is an extremely important adjunct of the court. Some are recognized in New York as having a quasi-judicial office, and the salary is $5,000 a year from the day of his appointment. Before one is qualified to become such a Federal law clerk he must have at least 7 years' preparation in college and law schools and must be of exceptional ability. The highest your witness can get for his law clerk, a married man of 28, with the maturity of a man of 40 and very able, is $2,300 a year. What a career to offer a young man!

You do not realize it, nor does the public or the bar, but it should be said in behalf of the whole law-clerk group throughout the United States that in case after case of importance, if they were corrupt and did not discharge the responsibility of their positions in the work they do for us, with long records, they could often shift a case one way or another. Yet they are paid but $2,300 a year. It should be increased to an amount which may attain $5,000 a year after proved service.

We would like to have a representative here, freed of any other claims upon the Budget, who would look you gentlemen in the eye and say, "The least any of you Senators have for clerical hire is $10,300. Your correspondence is large, you need it, but our function is an important one, sitting as the Supreme Court in the circuits as we do. Many people clamor that in some respects we are your superior. At any rate, we are your equals in constitutional function. Your witness doubts whether settling disputes as to past facts, though satisfying a profound craving for justice, is as important as your shaping the conduct of present and future millions in your legislation. However that may be, we have to work as hard as you—and all the year round, yet there are only 44 of us and 96 of you. Should we not be able to pay at least $7,000 in clerk hire against your $10,300?"

Of the district judges there would be less than half the number of the Members of the House of Representatives. They, too, work all the year round, while the Members do not. Does not the function of a trial judge entitle him to at least as much money for clerk hire as his coordinate legislative brother in the House of Representatives?

Now, whether you agree to this thesis or not, I think you will admit that under the Constitution we are of sufficient rank to press it on you as your equals in the performance of our function.

VIII. DUTIES OF THE PROCTOR IN CONNECTION WITH THE ADMINISTRATION OF THE COURTS

Your witness' plan proposes that with the proctor there shall be a sufficiently large staff for an examination of the arrearages of cases in all the 85 district courts. This should be done, having in view the objective that the accumulated cases should never exceed, on the average, one-half of the Court's annual accomplishment, and the further objective that, whatever the percentage of arrearage, the average time of the pendency of a case in the district court should be not over 6 months.

When this study has been made, it should be returned to the Supreme Court for the consideration and criticism of a committee of that body. They should devise and submit to you a plan whereby constant additions will be made to the number of judges, not to clear arrearages but sufficient in number to provide that no arrearages shall ever arise.

It is your witness' opinion that, including the number of judges contemplated by the President's plan, if you adopt it, there should be at once created at least 50 additional district judges, many to be permanently assigned, the rest at large. With them it will be some time before the arrearages are cleaned up and the cases average but 6 months in the district courts. If you find at any place there is an excess of judges, it may be rapidly absorbed by the reaching of the age limit and retirement.

When you have done this, you will still have but one Federal trial judge for each 600,000 people.

Let us consider again the comparison with the admirals, generals, colonels, commanders, and lieutenants, upon whose organization you spend a billion dollars a year, though they are not fighting but simply because they are ready to fight. Let us consider, not the menace of future wars, but the menace, in our so-called peacetime, of mistrust and aversion toward the courts and its immediate danger to our democracy.

Should anyone be shocked or receive with horror the fact that the Federal courts are staffed to a point where, occasionally, a Federal judge is free from immediate trials and devoting his time to the same study of his profession that is expected of officers of the Army and Navy?

Think what it would mean in the restoration of confidence to have every human being feel there was always a judge ready to do him justice.

Certainly we members of the judiciary are a timid lot, if we fail to press on you the comparison of the six and one-half million dollars our coordinate judicial establishment receives, against the billion dollars you pay one executive branch alone. Your witness would not take the required $2,000,000 to restaff the courts, from any $40,000,000 battleship or from the guns for the defense of our coasts, but he does press the comparison between the two coordinate constitutional functions.

Coming again to the consideration of a proctor, since his function requires intimate contact with the judiciary from the senior circuit judge to the junior district judge, his position should be of the highest dignity. He should rank any judge under the Supreme Court and he should have a salary of not less than a circuit judge. That is to say, in every manner should he be given the dignity necessary for the intimate inquiry he must take concerning the efficiency of any judge.

It must be obvious that the Attorney General, litigating a number of cases in a court presided over by a dull or sick or aged and feeble judge, who cannot perform his duties, is not in a position, either with grace or delicacy, to suggest his retirement. But unless we are to permit the continuance of the wrong done to litigants by the presence of such judges, and there are such, somewhere the administration must find a method of protecting the suitor. No such thing would be permitted in any industrial or business concern. Aging and ill presidents and general managers are eased into the chairmanship of the board of directors or some position of dignity but lesser strain where he is, in effect, pensioned.

No one desires to injure the feelings of a man who has given years of service on the bench, but pride of position and aging arrogance of power should not be allowed to obstruct the justice to which each litigant is entitled.

When it comes to the question of laggard judges, of which your witness knows none, and those who lack the capacity to organize the business of their individual courts, here the proctor plays his most important part. For the recalcitrant there is always the fear of a reserved and delicately applied publicity, not necessarily to the general public but within the judicial organization itself.

The proctor's inspection should be outside as well as inside chambers of the clerk's office. The public must be made to feel that there is an ever-ready Federal judge waiting to do them justice. Business organizations and public organizations of a general character, and the labor unions should be visited and judicious inquiry made concerning the public opinion of the administration of the courts in the particular area.

This is as much for the protection of the judge as it is to procure efficiency. Often a judge is bitterly condemned because of a necessary absorption over a long period of time in a single important and complicated case which submerges other litigation. Usually he never hears of it, while his reputation is impaired. If he does, he should not be placed in a position where he must make his protest and explanation. The proctor should discover and remove the cause promptly.

In conclusion, your witness makes you two guarantees. One is that the majority of the bench and the bar will tell you that his proposals are but an idle dream. The other is that all industrialists and businessmen will assure you that, if undertaken with a resolution, a condition can be produced where a case need not stay over 6 months in the district court nor over 6 months in our appellate courts.

None of the great judicial reforms have come from bar associations as a whole or from any unanimous drive of the bench. The motivation in all of them is the pressure of an outraged litigating public. Analogies with the British courts cannot be pressed far, but one thing is certain, that in old established communities law is less complex, and most of the important questions have been longer decided. Returning lawyers talk much of the perfection of British justice, yet 3 years ago, under pressure from businessmen and associations and some younger lawyers, stirred with the ardor of reform, there was appointed a royal commission to investigate the lack of "despatch" in the King's bench. This corresponds to our district courts on their law side. After sitting for 2 years that commission recommended the appointment of the full time, fully paid public official, who should assume charge of the court's calendar with a view to the more efficient exercise of judge power.

It is submitted that we Americans, with our power of elimination of time, in the air, on trains, in elevators, and along assembly lines vastly exceeding anything accomplished by our British brethren, can take a longer step than they, with regard to the pace of our litigation, and that we can find a way in which the weak are no longer compelled to surrender to their stronger opponents, while a sluggard justice slumbers in our Federal courts.

Mississippi River Floods

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 20 (legislative day of Monday, Apr. 19), 1937

ARTICLE BY JAMES E. CROWN

Mr. REYNOLDS. Mr. President, I ask unanimous consent that there be published in the Appendix of the RECORD a brief article by Mr. James E. Crown appearing in the New York Times of Sunday, March 21, 1937, entitled "Lower Valley's Safety Proved by Great Flood—The Mississippi River Commission's Figures Show the New System of Control Won By Wide Margin."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times of Mar. 21, 1937]

LOWER VALLEY'S SAFETY PROVED BY GREAT FLOOD—THE MISSISSIPPI RIVER COMMISSION'S FIGURES SHOW THE NEW SYSTEM OF CONTROL WON BY WIDE MARGIN

By James E. Crown

NEW ORLEANS, March 20.—The 1937 Mississippi River flood is history. The river waters which wrought such devastation in the upper stretches of the great stream are pouring into the Gulf of Mexico in orderly cadence. The river gages are falling all along the line. The Bonnet Carré spillway, which was built to protect the city of New Orleans, is being closed.

From Cairo to the Gulf not one main-line levee of the Mississippi River spilled a drop of water over its top. Official figures show that the Lower Valley never was in any real danger. These figures have just been compiled by the Mississippi River Commisison staff of engineers, checked by Gerard H. Matthes, principal engineer at Vicksburg headquarters, and then checked by Brig. Gen. Harley B. Ferguson, president of the commission. They indicate that New Orleans never was safer from river flood in the 220 years of its existence than it was in 1937. (Nor was the Lower Valley.) The engineers' report shows that when the water had reached a crest of 19.3 feet on the Carrollton (uptown) gage the levees protecting New Orleans still rose 6.8 feet above the flood.

WORK OF THE SPILLWAY

The Bonnet Carre Spillway, 23 miles above New Orleans, at its maximum discharged 210,000 cubic feet per second into Lake Pontchartrain. When the spillway discharges 60,000 cubic feet per second the gage at Carrollton drops 1 foot. Thus the spillway kept the water at Carrollton 3½ feet lower than it might have been. But even if there had been no spillway, still there would have been 3.3 feet of levee untouched. And this flood was approximately equal to the historic "all-time" high of 1927.

Now that it is passed, Army engineers have discovered that certain facts stand out conspicuously. The $300,000,000 levee system built under the Jadwin plan not only stood the test without failure at any point but showed by the generous amount of freeboard on the levee that it is able to hold far greater floods. Further, it was demonstrated that the plan of General Ferguson to increase the flood-carrying capacity of the river by means of cut-offs and corrective dredging has added an extraordinary margin of safety to the levee system. The plan was put into effect in less than 5 years at an approximate cost of $25,000,000.

WORK OF THE CUT-OFFS

The 1937 flood also proved what hitherto it had been found impossible to prove—that the cut-offs and corrective dredging of the Ferguson plan serve to make flood heights lower in the river just as much as they serve to lower the river when it is only bank full.

These three major points spell safety for the lower valley as the valley has never before known safety since the white man entered it.

Here are the major factors of flood control as the engineers explain it:

(1) Keeping water off the land by building levees.

(2) Diverting waters in excess of the flood-carrying capacity of the stream by means of floodways, bypasses, or spillways.

(3) Storing excess waters in reservoirs. (Though General Ferguson says officially, "The only reservoir big enough to hold the Mississippi River is the Gulf.")

(4) Increasing the flood-carrying capacity of a river, whether it has levees or not, by straightening and otherwise improving its channel.

For the application of this last method there was little useful precedent. Cut-offs had been made in this country and abroad, but not in rivers as great as the Mississippi. General Ferguson was the first man in authority to attempt such measures on the great stream. In 1937 his plan lowered the height of the flood-congested river for the first time in its history, not merely in spots or for short distances but continuously over more than 400 miles. The river in flood is now much lower with respect to the land outside the levees and with respect to the levees themselves than it was when he began his operations.

RECORD AT ARKANSAS CITY

To illustrate what has been done, let us look at the river at Arkansas City. Arkansas City is just above the first of the 12 cut-offs that stretch south to just below Natchez. In the 1929 flood the measurements of Army engineers showed a flood flow of 1,788,000 cubic feet per second when the flood stage reached 58.7 on the Arkansas City gage. That was before General Ferguson started the cut-offs. In 1937 the Army engineer measurements showed that the river was carrying off 1,738,000 cubic feet per second, when the gage stood at 47.2 feet. In the simplest language, the Mississippi River at Arkansas City, after General Ferguson got to work on it, was carrying to the sea in 1937 the same amount of flood water it carried in 1929, but the water was 11.5 feet lower in 1937 than in 1929.

Much work remains to be done on the lower river. But Natchez—to take another example—already shows marked improvement since 1935. In that year 50 feet on the flood gage meant a flow of 1,364,000 cubic feet per second. In 1937 the same flow passed when the Natchez gage read 46.8 feet.

Eleven of the twelve cut-offs in this section of the river were made by General Ferguson and one (Yucatan) was made by nature. They shorten the river distance 100.6 miles in 372.3 river miles. Some of the greatest bends are going out of commission as active river channels.

The 1937 flood demonstrated that the cut-offs, once they are well developed, cause the water levels of the river above to be lowered by an amount approximately equal to the fall that previously existed in the original bend, less the fall in the cut-off channel. This lowering of water levels extends upstream and is felt often as far as 40 or 50 miles above the cut-off. Intelligent dredging operations carried out at strategic points have extended the lowering effect of a cut-off for a much greater distance upstream.

General Ferguson's system has consisted in discovering that if you give the Mississippi River a channel 50 feet deep or more, and a sufficient slope, the river itself will carry sand, gravel, and even pebbles, keeping its own bed scoured clean of obstructions that pile up floods. So General Ferguson has done only as much dredging at critical points as enables the river to finish the job.

A SMOOTHER FLOW

The general discovered also that once the river reaches its new lowered position it is much the same river as before except for having descended the lower elevations. The new river channel has fewer flat reaches and humps in it. It has a better alinement. It flows on a more uniform grade without earlier pronounced irregularities. The result is a sustained flow of floods to the sea that is not held up at every turn by some kink or other obstacle in the river channel. Flow conditions thus are improved. In flood the water gets to the sea faster and in more orderly fashion.

Delaware's Recreational and Scenic Attractions

EXTENSION OF REMARKS

OF

HON. WILLIAM F. ALLEN

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 20, 1937

Mr. ALLEN of Delaware. Mr. Speaker and fellow Members of the House, sometime ago I extended through the RECORD an invitation to each of you to visit the State of Delaware during the coming summer months and take advantage of our recreational facilities. I mentioned our wonderful bathing and fishing and other attractions and called your attention to the fact that it is only a 3-hour trip via automobile to many of our seacoast resorts.

In extending this invitation I was most serious and at this particular season of the year Delaware is a veritable garden spot. There is no better time to learn the route to Delaware than during these spring days. Thousands of

acres of peach trees, apple trees, and pear trees are in bloom and line our highways for miles. To view this spectacle alone would justify a trip to my State at any time. In order to reach the lower end of the State from Washington one would drive to Annapolis and from there ferry across Chesapeake Bay to Matapeake, Md. After reaching Matapeake a short drive would place you within the confines of my beloved State.

Delaware would welcome you, and I am sure the scenery would make a pleasing and lasting impression upon you. I believe you would be rejuvenated and that an irresistible desire would be created in you to return and see more of us. I cannot too strongly urge you to make this trip at this time and I am confidently hoping that many of my colleagues will also visit our splendid coast resorts during the hot days just a little further ahead.

The Significance of the Labor Act Decision

EXTENSION OF REMARKS
OF
HON. JENNINGS RANDOLPH
OF WEST VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 20, 1937

RADIO ADDRESS BY HON. JENNINGS RANDOLPH, OF WEST VIRGINIA, MEMBER OF THE HOUSE LABOR COMMITTEE, ON APRIL 19, 1937

Mr. RANDOLPH. Mr. Speaker, under leave granted to extend my remarks in the RECORD I include an address I delivered over Station WOL and the Intercity Broadcast System on Monday night, April 19, 1937, as follows:

Today the people of America find themselves faced with weighty and important questions of social and economic significance. Perhaps at no other time in the history of the country have the legislative and judicial branches of our Government been forced to meet more challenging situations and to consider interpretations of law as they have at the present time.

On April 12 the Supreme Court of the United States, sitting in its main character as final interpreter of the constitutionality of laws as passed by Congress, handed down a decision which perhaps will prove to be tremendously important and far reaching in its ultimate effect upon practically all classes of the American public. At the present time, it is much too soon for a full realization and thorough understanding of the significant importance of the Supreme Court's decision in affirming the constitutionality of the Labor Relations Act in its fundamental application to the basic industries of our country. Whatever its effect on the future, it is clear that the historic opinion will prove to be a landmark in American economic and political experience. Briefly, I shall attempt to explain the fundamental precepts embodied in the act itself.

The Wagner-Connery Labor Relations Act, reduced to its simple elements, attempts through legislative channels to give to workingmen the right to organize unions and to bargain collectively with their employers through designated representatives. It restrains employers from unfair labor practices, including interference with labor organizations and discrimination against their members. In order to effectively enforce these provisions the Federal Government has constituted a National Labor Relations Board consisting of three members acting as a quasi-judicial unit. The act in itself does not attempt to set up wage and hour standards for industry. It concerns itself mainly with the enforcement of the rights and privileges of the workingmen in basic industries to be left free to organize in a manner and method to be determined by themselves. Furthermore, the authority of the Board does not extend over the collective bargaining in all industrial plants in the United States. Following the letter and spirit of the decision, the scope and sphere of the Board's authority is limited only to firms and corporations held to be participants in interstate commerce.

The Labor Relations Board, therefore, has authority to eliminate any causes of obstruction to the free flow of commerce which may result from the denial by employers of the right of employees to organize and from the refusal of employers to accept the principle of collective bargaining. The Labor Relations Act defines unfair labor practices and lays down rules as to the representation of employees for the purpose of collective bargaining, and its judicial function consists of the power to prevent the described unfair labor practices affecting commerce. When a situation arises wherein employers and employees find themselves at cross-purposes concerning collective bargaining, the Board is empowered to hear evidence concerning the situation of fact and to prescribe remedies which may procure the rights of the workers to bargain for their just demands. The Board is also authorized to petition designated courts to secure the enforcement of whatever orders it may issue as a result of its unbiased findings, and the findings of the Board as to the facts, if supported by evidence, are to be conclusive.

The Board, by authority granted under the act creating it, has broad powers of investigation; yet any person or firm or corporation aggrieved by its final order may obtain a review of that case in the designated courts with the same procedure as in the case of an application by the Board for the enforcement of its own order. Perhaps one of the most significant features of the Labor Relations Act is that nothing in it is to be construed to interfere with the right of labor to strike.

The Supreme Court in its decision ruled that the Federal Government, through legislation enacted by Congress, has the power to prescribe rules and regulations for the conduct of any industry or business whose product flows in the stream of interstate commerce. The Court by reference to well-established authority decided that it was clear that the National Labor Relations Act should be construed so as to operate within the sphere of constitutional authority. The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States or between the District of Columbia or any Territory of the United States and any State or other Territory or between any foreign country and any State, Territory, or the District of Columbia. There can therefore be no question that the commerce thus contemplated by the act is interstate and foreign commerce in a constitutional sense, and the Board, in wielding the authority vested in it by the act, is operating within a lawful sphere.

To sum up, then, the National Labor Relations Act merely guarantees to employees the rights to self-organization and collective bargaining and any other mutual protection without restraint or coercion by their employer. And the Court, in the words of the majority opinion, deemed that "this is a fundamental right. Employees have as clear a right to organize and select their representatives for lawful purposes as the industrialists have to organize their business and select their own officers and agents. Discrimination and coercion to prevent the free exercise of the right of employees to self-organization and representation is a proper subject for condemnation by competent legislative authority."

In order to properly evaluate the far-reaching effects of this decision we must look at it in the light of previous opinions as handed down by the Supreme Court. It would be safe to say that the decision under discussion contains a greater range of possibilities than any heretofore delivered from the Supreme Bench. At no time within the last 100 years has the Federal Government been granted greater power than has been sanctioned in this decision. The National Government therefore finds itself equipped with adequate functional power to meet a situation which in the past has been hampered by a too restrictive definition of what actually constitutes interstate commerce. By declaring the National Labor Relations Act constitutional, the Supreme Court has, in effect, given utterance to the proposition that capital and labor have within themselves, by virtue of the bargaining principle, the power to discuss their mutual problems in a manner heretofore subject to caprice and whim on the part of the employer. The capricious element is deleted by giving to the employee what, in effect, amounts to a court of appeals.

The social implications of the decision, from the viewpoint of the laborer, are tremendous. It means that the workingman can stimulate his own organization and bring about contractual relationships with his employer through collective bargaining. The spirit of the decision of the Supreme Court will prevent the occurrence of manifest injustices to those of the laboring classes who have suffered grievously for their advocacy of the principles of the right of the laborer to strike and his right to collectively bargain with his employer. There is thus brought about a fuller and more complete coordination of the industrial structure because the laborer and the producer assume a place in the organization more equitably in proportion to the importance in the plan and organization of the industrial and commercial framework as it exists in America.

Where in the past the laboring man has been forced by the exigencies of his position to accept whatever the employer deemed to be fair and just in the matter of bargaining or, as in many cases, was met with a flat refusal to bargain, he now finds himself through legislative pronouncement placed upon an equal footing with his employer in a matter which, after all, is of mutual interest and consequently requires mutual deliberation which can be effected only through the recognition of the employees' fundamental rights in a question pertinent to his and his employer's general welfare.

The laborer and the worker therefore finds himself enhanced and privileged at no expense or loss of prestige on the part of the manufacturer or industrialist. He merely takes his place as a social being in the industrial scheme of things with an additional facility at his disposal for the competent and effectual method of solving one of his major industrial problems. The employer is not deprived of any of the basic rights consonant with his management and ownership of the industrial, commercial, or business structure of his own creation. But he is required by the terms of the Labor Relations Act to meet the efficient cause of his production on a plane that is by all principles of justice and equity more conducive to a better mutual understanding and a fairer exposition of the arguments on both sides.

The sociological effect of the Supreme Court decision, therefore, is to place the employee in a position which should awaken him

spiritually, and, as a result, impress upon him the necessity of maintaining a high standard of industrial ethics in order that the advantages gained may be effectively preserved. He is, in regard to his right to bargain with his employer, placed on a plane of equality which should enable him to command a broader and more inclusive view of the complexity of industrial organization, and, consequently, make him realize that the powers of self-determination are always subject to the adequate consideration of the rights of others. There is imposed upon him the eternal necessity of continually striving on all fronts for a fair and just solution of his problems, so that any achievement which he may attain will be realized without violation of other standards and without intruding into a sphere which is alien to his functions.

As a corollary of his social and industrial betterment through the decision of the Supreme Court in the Wagner Labor Relations Act, the American laborer has been given a clearly defined path along which to develop his economic evolution. There is placed in his hands through the medium of constitutional legislation a definite opportunity to weld his latent economic strength into a powerful force capable in a goodly manner of warding off to a greater degree the pitfalls of another industrial and economic depression, and places in his hands a more potent weapon to battle the insidious attacks of that minority section of industry which stoops to hostile and unscrupulous means of attaining selfish objectives.

Labor, therefore, through the medium of a National Labor Relations Board, has at its disposal both an offensive and defensive means of securing and safeguarding its economic privileges and determining through fair and unbiased arbitration its most pertinent and weighty problems. It is universally admitted that the fundamental thesis in support of unionization is the need on the part of the workingman for the opportunity to make the forces of his collective economic strength play a substantive part in effecting any lawful objective which he may hope to gain through the employer-employee relationship.

It follows, as a logical conclusion, from the declaration of his rights that he is also burdened with the responsibility of avoiding any excesses of arrogance which might frustrate the beneficial advantages gained through the Supreme Court's upholding of his right to collective bargaining. Through the force of the decision, the worker and laborer takes a more exalted position in the economic scheme of things, and his duties and obligations to society are commensurately enlarged. In other words, every right is accompanied by correlated duties and the general welfare of both capital and labor will not admit of any abuse or diversion of powers legally granted and constitutionally upheld.

In conclusion, I may say that the Wagner-Connery National Labor Relations Act should serve as an effective means of reducing labor unrest; and this, in itself, is perhaps one of the most far-reaching effects of the decision as handed down by the Court. The mediation board, as set up under the authority of the act, is established for the benefit of both employer and employee. Through the medium of a broader interpretation of what constitutes interstate commerce, labor finds itself on the threshold of a new era—and it is upon labor that the final responsibility rests for its own social and economic well-being.

Due regard must be given to the proposition that labor is but one of the integral organs of a complex commercial and industrial body, and that the health and soundness and growth of that body depends upon an effective coordination of all its organs in order that it may survive the ravages of any internal social or economic diseases which may best it.

What Congress Can Do on Public Ownership

EXTENSION OF REMARKS

OF

HON. JOHN M. COFFEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 20, 1937

RADIO ADDRESS BY HON. JOHN M. COFFEE, OF WASHINGTON, ON APRIL 10, 1937

Mr. COFFEE of Washington. Mr. Speaker, under leave to extend my remarks in the RECORD, I include herewith a speech recently delivered by me at Peoples' Lobby Luncheon, Washington, D. C., April 10, 1937, as nationally broadcast by Mutual Broadcasting Co. network, as follows:

Mr. Chairman, distinguished guests, members of the Peoples' Lobby, and friends, it is a great pleasure and privilege to be accorded the honor of speaking on the program featuring two such distinguished statesmen as United States Senators WHEELER, of Montana, and FRAZIER, of North Dakota. Senator WHEELER is a national liberal leader who is known affectionately to us for his courage and ability in fighting in behalf of legislation to curb and restrict the financial operations of public-utility corporations. His magnificent work as chairman of a special committee resulted in the involuntary departure from a certain President's Cabinet of an Attorney General of the United States for engaging in what we shall euphemistically call unethical practices. As chairman of another special Senate committee, he has performed signal public service in focusing the searchlight of pitiless publicity upon devious financial manipulations of great utility promotion and railroad corporations in the United States. Senator FRAZIER, whose name is a household word in his own North Dakota, enjoys Nation-wide fame as coauthor of the Frazier-Lemke bills for the rehabilitation of agriculture and for reducing the burden of farm indebtedness. The Peoples' Lobby, in my judgment, deserve the grateful thanks of citizens everywhere for their frank exposure of fraud, deceit, and evil influences in public politics, and for spreading the gospel of public ownership throughout the length and breadth of our land.

The subject assigned to me, What Congress Can Do on Public Ownership, is comprehensive in scope. It embraces the whole field of public-ownership potentialities. It suggests an intriguing trip of exploration. In the limited time assigned to me opportunity will be vouchsafed me merely to touch a few outcropping pinnacles.

The growth of the public ownership idea in America has been marked since the turn of the century. It is the direct result of the abuse by privately owned public utilities of powers and privileges accorded these companies by law. Since the middle of the nineteenth century the stigma of the word "socialism" had a disastrous effect upon the efforts of those proclaiming the superiority of public ownership. We were familiar with the Post Office Department, but we limited its field of operations. Today the Post Office is second only in efficiency of all the nations on the globe. No civilized country now permits its mail to be handled by a private corporation. In 1912 we established the parcel post. We added star routes and rural free delivery. Of late we have embarked upon a field of superadded services. We have used our post offices as aid in connection with the Social Security legislation. We have called upon the Post Office Department to facilitate the distribution of the bonus. Through the parcel post we have vastly cheapened and expedited the transport of large packages. No one accuses the Post Office Department, in and of itself, of being inefficient.

For too long our people have had dinned into their ears inaccurate stories concerning the wisdom of public ownership. When private corporations in the past, operating some business coupled with a public interest, were inept, or confronted with insurmountable obstacles, as a result of which bankruptcy threatened them, the fashion was to unload the enterprise upon the all too gullible public at an extortionate price. Thus the moribund streetcar system of Seattle was dumped upon the taxpayers at a price two and one-half times in excess of its fair liquidated value. The Cape Cod Ship Canal was taken over. Certain railroad systems in Canada were wished upon the Canadian Government.

Public ownership has not been given a fair trial until now. When the railroads broke down during the World War, the Government took them over as a war emergency and operated them for the benefit of the country, guaranteeing a reasonable return to the stockholder. This operation had all the disadvantages of private ownership and none of the advantages of public ownership. We have been told it is satisfactory that we have imposed upon us public operation of nonprofit undertakings. It is said, "You may operate the schools—they produce no profit. You may construct and maintain sewer systems—they produce no profit. You must set up municipal fire departments and pay for them—they produce no profit. You must maintain police systems for public safety—they produce no profit. You must establish a system of milk, meat, plumbing, sanitary, building, health inspection—they produce no profit." Shall we be content always to load ourselves with public services from which we derive no income, while according to private corporations the business of conducting public services from which profits may be derived?

Happily, the people are waking up. The myopia afflicting their eyesight is being cured. The gleam of understanding has transformed their gaze, and, like Tennyson, enjoins us, let us all "follow the gleam."

Congress can provide for taking over its telephone and telegraph systems in connection with its Postal Department. Bryan advocated it in 1904; Postmaster General Hitchcock in 1907. The telephone system is the most profitable utility in America. The American Telephone & Telegraph Co. has continued to pay $9 a year dividends during the hard times. It is the most gigantic utility industrial corporation in the United States. Experts can and have worked upon the recondite accounting set-up and the countless inscrutable ramifications in the maze of its interlinking subsidaries, and have failed to detect more than a mere glimmer of light.

Australia, Austria, Belgium, Jugoslavia, Germany, Switzerland, Great Britain, Sweden, Italy, Japan, Holland are among leading nations which own and operate both telegraph and telephone systems. The United States, China, and Ecuador are about the only nations left which do not own and operate either their telephone or their telegraph systems.

France, Germany, Denmark, Sweden, Switzerland, and Norway are prominent among the nations which built their own lines and have operated them from the beginning. England was at the mercy of private ownership of the telegraph until 1868, and of

the telephone until 1912. Postmaster General A. S. Burleson, in 1914, and DAVID J. LEWIS, Congressman then and now of Maryland, issued a monumental treatise on the subject in which they strongly urged Federal ownership and operation of both systems. Seventeen different times committees of Congress have investigated this matter, and in every case, without exception, have concluded that public ownership of telephone and telegraph was desirable and have recommended such action. The average rate paid in the United States for telegraph messages is three times as high as in other countries under public ownership. Long-distance telephone rates here average five times the cost of comparable service in countries having public ownership. The greater the distance the greater the excess rate.

Under public ownership many economies may be effected. One system of wires, exchanges, and equipment can take care of both telephone and telegraph service. The telegraph service may be superimposed upon the telephone system, and thus avoid duplication. The telegraph companies themselves admit the truth of this fact. Western Union and Postal duplicate their agencies in more than half of the country. The telephone and telegraph service could be efficiently handled in conjunction with post-office operation.

A liberal bloc of House Members has been meeting recently to discuss a measure providing for Federal ownership and control and operation of the Federal Reserve System. Why should the financial well-being of the Nation be placed in private hands? Why should the credit of the country be at the mercy of private bankers? Why should our currency bear the imprimatur of the Federal Reserve Board? More than 120 House Members have already signified their willingness to march in solid phalanx toward that desirable goal.

The railroad brotherhoods fostered the Plumb plan for Government ownership of railroads after the war. With the rise of post-war prosperity that plan has been in eclipse. The only solution for the transportation problem in the United States is for the Government taking over the railroad systems, as advocated by Joseph B. Eastman. Mr. Eastman's report to Congress contained irrefutable arguments proving the desirability of Government ownership of railroads. Mr. Eastman, however, said: "I am unwilling to recommend Federal ownership of railroads unless it is sufficiently backed by a body of public opinion, and as yet I have seen no satisfactory evidence of such opinion." In 1935 the Railway Labor Executives Association adopted a stirring resolution advocating Federal ownership of the railroads. Reasons favoring such a program may briefly be cited as follows: Public credit would take the place of crippled private credit. Management and operation would be wholly united. Public regulation would largely merge with management and operation. Financial domination would cease. The manipulations of holding companies, management trusts, investment trusts, would disappear. The possibility of an insider, by secret and fraudulent manipulation, securing a block of voting stock in a holding company for the purpose of wrecking or free-booting would be gone.

The oil monopoly is a menace to public safety. The seven major oil companies are mulcting the American people out of millions daily. In my native State of Washington, where we produce no oil, we are at the mercy of the oil combination. Simultaneously prices are raised and lowered. They are lowered in order to crush some independent operator, whose ephemeral existence is soon stamped out. Any service station attempting to violate the edicts of his monopolistic master is dried up and blacklisted. Thereafter he can buy no oil from any company. All this in America under an antitrust law, which, sad to say, was emasculated by a Federal court when it interpolated by judicial fiat the word "reasonable" in connection with restraint of trade. Shall we remain supine and complacent in the face of such a menace? Great lumber companies have denuded the forests of Minnesota, Wisconsin, Idaho, Oregon, and Washington. The majestic beauty of nature's handiwork has been destroyed for centuries. The oil companies are exhausting their resources in the insensate desire for profit. Conservation is impossible under such conditions. Conservation and profit are incompatible.

Under President Roosevelt America has embarked happily upon a comprehensive program of public power development. Where private companies refuse to expand, Uncle Sam has set the pace. At Grand Coulee and Bonneville on the mighty Columbia; at Muscle Shoals on the Tennessee and Boulder Dam on the Colorado we have built great dams creating hydroelectric energy to revolutionize the hinterland. We have divorced ourselves from the slavery of steam—a unit of energy that cannot be easily subdivided. Electricity, that magic wand which can squeeze oranges at a soda fountain or lift ships weighing 10,000 tons; which can milk cows or operate 5,000 factories; which can wash dishes in the kitchen or haul a train at 75 miles an hour.

In my home city of Tacoma we sell power at the lowest rate per kilowatt-hour in America—yet we make a profit of nearly a million a year and pay a 7½-percent gross-earnings tax toward the reduction of taxation, as well as share the costs of municipal government. It is not puzzling that barons of industry view the effort of the Federal Government to sell this life-giving energy to plain citizens at low rates as a disaster. It is a disaster to them but not to the people. In Tacoma the family consumption of electricity is more than four times the national average of electric customers because of the cheap power. But the Federal Government must be vigilant in controlling the transmission systems and keeping its hands on distribution through its own subsidiaries or a municipal or State governmental agency in order that the great blessing of these magnificent projects be not lost.

The question is asked, What can Congress do for public ownership? And I have undertaken to give the answer in brief form. Congress can pave the way by legislation for the expansion of the Federal Government into the industrial field in those enterprises having a public interest. I contend that regulation is ineffective, and that regulators first become regulated and then are absorbed.

In my State 60,000 citizens signed petitions to put the State into the wholesale gasoline business because they were disgusted with the manner of their being gouged by the private oil companies. When Americans wake up to their dilemma they will act. When Americans send to Congress men possessing the ability, intestinal fortitude, and persistence and truly liberal viewpoint, these objectives will come to pass. Congress can move only as rapidly as is desired by the people back home. Let them send tested liberals to Congress who will fight the good fight and keep the faith; who will be as Chevalier Bayard was of old, "without fear and without reproach"—then Congress will enact the legislation enshrouding America with the protecting mantle of public ownership and its manifold blessings.

I thank you.

Thomas Jefferson Memorial

EXTENSION OF REMARKS

OF

HON. BYRON N. SCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 20, 1937

Mr. SCOTT. Mr. Speaker, the Seventy-fourth Congress passed an act which was signed by the President and became Public, No. 635, to authorize the execution of plans for a permanent memorial to Thomas Jefferson.

In that act a memorial Commission was set up and given the power to determine upon a plan and design for, and proceed with the construction of, such memorial upon a site selected by the Commission, under a contract or contracts hereby authorized to be entered into in a total sum not exceeding $3,000,000.

Acting under this authority, in a perfectly legal manner, the Commission has selected a site, the Tidal Basin. In my remarks on Tuesday, April 13, I attempted to show why it was a poor selection.

The Commission has selected a plan. I attempted to show that this was not a suitable plan and made some objection as to the manner in which the plan was adopted. I likewise found some reasons for objecting to the design adopted by the Commission.

The reactions to my remarks from Members of this House, private citizens who have expressed an interest, and on the part of the press lead me to believe that a change in site, plan, and design may be accomplished. I must say here that I am not interested in any site. I do not care where they put it, just so it is not the Tidal Basin.

I also said in my remarks on April 13 that the way to prevent the execution of the plan of the Commission was to refuse to make the appropriation to build the monument where it is suggested.

This is not entirely accurate. Under the act the Commission is empowered "to proceed with the construction of such memorial * * * under a contract or contracts hereby authorized to be entered into in a total sum not exceeding $3,000,000."

In other words, the Commission can, without further action by Congress, and unless further action by Congress is taken, proceed to commit the United States Government to a contract for $3,000,000.

I do not for a moment think the Commission would do this in the face of the opposition that is undeniably growing against their proposal, but I think it would be well to serve public notice on any and all contractors that the appropriation has not and may not be made to carry into effect any such contracts. This might prevent later claims against the Government.

I call attention to the fact that the Bureau of the Budget has approved an item of $500,000 for this project. This might lead some to believe that completion is a foregone conclusion.

The gentleman from Iowa [Mr. WEARIN] has introduced a resolution calling a halt on further proceedings and requiring the Commission to come back to the House for approval of any plans. That resolution is now before the Committee on the Library. A hearing has been promised on it.

A news item in the Washington News for April 16 indicates that the cost of the proposed memorial may run as high as $10,000,000. The Herald for April 16 says that Maj. Walter D. Luplow, United States Army engineer for this area, is opposed to the Pope design and construction of it at the Tidal Basin if it would make the water area less useful than it is at present.

The Washington Times quotes the President as leaving the matter entirely in the hands of Congress.

An editorial in the Washington Post for April 16 calls for an "entirely fresh start in this grossly mismanaged undertaking."

The Washington Evening Star for April 15 calls attention to the various organizations in Washington opposed to the Tidal Basin site.

I agree with the gentleman from New York [Mr. BOYLAN] that the Thomas Jefferson memorial is the business of the Nation, not that of the District of Columbia. While reminding him of the fact that the District of Columbia is a part of the Nation, let me also remind him that the Nation has not been heard from on the matter. It may be heard from shortly.

Is it asking too much to ask that we wait awhile? We have waited over a hundred years; why not a few more weeks while we look into the whole thing? Even three, much less ten millions of dollars is a lot of money to spend on what might easily become known as BOYLAN'S folly, while we are at the same time cutting down on money for vitally needed relief to sufferers.

Agricultural Marketing Agreement Act of 1937

EXTENSION OF REMARKS

OF

HON. FRANK H. BUCK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 20, 1937

Mr. BUCK. Mr. Speaker, the manner in which the proposed Agricultural Marketing Agreement Act of 1937 was considered in the House yesterday, under unanimous consent, prevented any opportunity for a serious discussion of the bill and any amendments thereto. I do not believe that there was any real opposition to the passage of the bill, and consequently I do not wish to be understood as being critical of the manner in which the Committee on Agriculture presented the bill.

Its provisions, however, are of such great importance to my own State, California, that I cannot refrain from calling the attention of the Members to some of the actual effects of the marketing-agreement programs in California as they have affected certain specialty crops.

The bill passed yesterday reenacts all of the marketing agreements and order provisions of the Agricultural Adjustment Act, as amended, as well as certain other provisions in relation to production adjustments. It has been felt by the Committee on Agriculture, and I think rightly, that Congress has the power to regulate interstate and foreign commerce in agricultural commodities in the manner provided in the act. The Supreme Court in *United States* v. *Butler* (297 U. S. 1) declared invalid the provisions of the Agricultural Adjustment Act authorizing production adjustment programs involving processing taxes and benefit payments. The question of marketing agreements and orders was not before the Supreme Court, but lower courts have differed in decisions on this question, and in two cases have held that the marketing agreement and order provisions were inseparable from the production adjustment provisions invalidated in the Butler case.

It is therefore of the highest importance, if the marketing agreements and order provisions are to continue in effect, that this legislation be adopted promptly as an independent reenactment of these provisions of the original act.

An amendment was offered by Representative HOOK, of Michigan, which would have extended the provisions of H. R. 5722, the bill passed yesterday, to all fruits and nuts and would have included fruits and vegetables for canning.

Without entering into a discussion of the merits of this amendment—and I am advised that the California Farm Bureau Federation and other agricultural interests of my State feel that the provisions of the law should cover these additional subjects—it was apparent that the adoption of the amendment would only tend to delay the passage of the pending bill through the Senate.

Controversial questions of real import are involved in the addition of canned fruits and vegetables, and apples in particular. The need now is to hasten the enactment of the extension provisions of existing law. The chairman of the Committee on Agriculture yesterday made the statement that his committee hoped at a little later time to consider the questions raised by Mr. HOOK'S amendment, along with others in a general farming bill. I sincerely hope that his committee does find the time to investigate the matter thoroughly and to extend authorization to the Secretary of Agriculture to enter into marketing agreements and to make orders covering canned fruits and vegetables. Such experience as we had in a limited way in California with the cling-peach crop, when an agreement covering it was in effect, was beneficial both to canners and to producers.

The other crops which marketing agreements in California have covered have all benefited by the operation of these agreements.

The State of California is one of the most important fruit- and vegetable-producing States in the Union. The total farm value of California fruits and vegetables produced in the calendar year of 1935 is estimated by the Department of Agriculture at $247,000,000 as compared with a total United States farm value of $637,600,000 for fruit and vegetable crops, exclusive of potatoes. In terms of farm value, therefore, the State of California has more than one-third of the commercial fruit and vegetable crops in the United States. In terms of physical volume, the proportion is without doubt even greater. The marketing problems of growers in California are particularly important because they are located long distances from their principal markets. Because of the perishable nature of fruit and vegetable crops, growers often suffer considerable loss, particularly so when market gluts occur. In addition to normal risks of losses from spoilage, there have been great losses and unprofitable returns to growers as the quantities shipped have been increased. Transportation and other marketing and selling charges have tended to be high relative to the market value of the commodities. When major declines in the market prices of these products take place, grower returns, or what is left after all other charges have been paid, have frequently been small or have even represented sizable losses.

Regulations under marketing agreements and orders have been found very useful in regulating the grade, size, and volume of fruit shipped to terminal markets and thereby preventing gluts which would result in direct losses to growers. When markets are once spoiled through gluts, it is a long and difficult process before they can be recovered. The procedure under marketing agreements and orders is what is commonly known as orderly marketing. Marketing agreements and orders for California crops are now in effective operation for oranges, walnuts, fresh plums, Bartlett pears, winter pears, and Elberta peaches. The combined farm value of these crops produced in the calendar year of 1935 is estimated at approximately $77,000,000. It is further estimated that these particular crops are in the hands of some 50,000 growers. Oranges and walnuts alone account for over

20,000. Important items with reference to the specific agreements are as follows:

CALIFORNIA-ARIZONA CITRUS-MARKETING AGREEMENT

This agreement includes oranges and grapefruit but not lemons. It has been operating uninterruptedly since late December 1933. According to census enumeration, about 20,000 growers are affected by this program. The citrus industry has been confronted with the problems arising from increased production. In the past the industry has sought to meet this problem solely from its own efforts. Following the passage of the Agricultural Adjustment Act the industry availed itself of a marketing agreement under the act to maintain an orderly week-to-week movement of oranges to market, stabilizing marketing conditions and adjusting the total movement of fruit in accordance with consumers' demands in order to insure to growers a return at as favorable a level of prices as is practical and feasible. Such a program is particularly effective for California during its Valencia season when other areas are not shipping. During the 1936 Valencia orange-shipping season about 37,000 cars moved in the domestic market and 3,000 in export markets. It is estimated that growers averaged $1 per box more for Valencias this season than the previous season. The program did not operate in connection with grapefruit during the 1936 season. California growers are hopeful for the continuation of similar orderly marketing programs now being established in other citrus areas.

WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

This agreement has been in effective operation since 1933 and affects about 10,000 growers in the State of California. When this program went into effect the industry was faced with a carry-over from 1932 of 60 percent of the normal domestic consumption. Through the operation of the program walnut growers have succeeded in maintaining a stable market and have disposed of heavy crops at reasonably satisfactory prices. During the 1935–36 season total returns to growers are estimated to have increased by at least $2,800,000 over the preceding season.

CALIFORNIA FRESH DECIDUOUS TREE FRUITS

This agreement and order are designed to improve returns to some six to ten thousand growers through regulations which make it possible to limit sizes, grades, and volume of fruit not likely to bring prices in markets sufficiently high to net a return to growers. This program applies to Bartlett pears, fresh plums, Elberta peaches, and winter pears. The 1936 California Bartlett pear crop was 45 percent larger than the 1935 crop and more than 10 percent larger than the average production for the past 5 years. Nearly 4,000 cars of Bartletts were shipped during the 1936 season. This large volume was moved in an orderly manner with returns to Bartlett pear growers one-third or more higher than in 1935.

Fresh-plum growers adjusted shipments to market demands and succeeded in maintaining prices for the 1936 season at an average equal to that for the past five seasons despite the fact that the 1936 season exceeded by more than 10 percent the average of the past five seasons. Elberta peaches in 1936 to eastern and midwestern markets totaled about 1,250 cars, or 500 cars more than in 1935. Under size and grade regulations the industry marketed a greater percentage of the crop on an f. o. b. basis, and prices were from 10 to 15 cents a box higher on an average than during the 1935 season. These increased prices were maintained at a time when heavy shipments of peaches were moving forward from producing areas other than California.

From the examples that I have cited it will be obvious that the extension of the Agricultural Marketing Agreement Act in its existing provisions will benefit the producers of California, and I am happy, indeed, that the House has taken the initial step to see that these are extended. I strongly feel that even more beneficial effects can be obtained if the act is broadened to include, as suggested by the gentleman from Michigan, all fruits, nuts, and vegetables, including those used by the canning industry. Let us hope that such an amendment will be forthcoming in the near future.

Thirty-eight States Have Condemned the Principle of the Supreme Court Proposal

EXTENSION OF REMARKS

OF

HON. SAMUEL B. PETTENGILL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 20, 1937

RADIO ADDRESS BY HON. SAMUEL B. PETTENGILL, OF INDIANA, ON APRIL 9, 1937

Mr. PETTENGILL. Mr. Speaker, on April 9 the junior Senator from Nebraska, Hon. EDWARD R. BURKE, and myself addressed a meeting at the Auditorium Theater, in Chicago, in opposition to the pending proposal respecting the Supreme Court.

This meeting was held under the auspices of the Chicago Citizens Court Defense Committee, of which Hon. Floyd E. Thompson is chairman. As is well known, Mr. Thompson is a former chief justice of the Supreme Court of Illinois, and in 1928 was the Democratic candidate for Governor of Illinois.

Under leave to extend, I attach copy of my address on that occasion, which was also broadcast over the Mutual system, as follows:

If I were asked to name three reasons why America is the greatest Nation in the world today, with the most remarkable growth in population and wealth in human history, I should name, first, the natural resources of a virgin continent, its enormous reserves of iron, coal, petroleum, copper, timber, water power, soil fertility, and the like. These were the gifts of God. But other countries have great natural resources, also.

Second, I should name the character of our people. From Plymouth Rock down to the father and mother of Knute Rockne, those who braved the hazards of the Atlantic to face the dangers of a trackless continent were the best of the breed. The timid, the cautious, the weakling, stayed at home. Only the brave and resourceful ventured to make their homes in a far-away continent. A hundred years ago, when the second migration poured over the Alleghenies down into the valleys of the Ohio and Mississippi, it was said of them, "The cowards never started and the weak never arrived." Again it was the providence of God that determined our destiny.

The third, and a very important reason why we have become a great people is, in my judgment, the fact that we have lived under a written Constitution interpreted by judges who have been free from the pressure of politics. For this we are indebted to man himself—to the foresight of our fathers who met in Philadelphia 150 years ago.

The reason I name this as the third great contribution to our unexampled growth is that it has given us stability by placing the great rights of Americans beyond the ordinary hazards of changing popular majorities. In addition to manpower and natural resources we needed capital. Under our Constitution property has been free from the risk of legislative confiscation, whether the cabin in the wilderness or the corner grocery. One hundred and fifty years ago capital from abroad began to pour across the Atlantic and is still coming by the hundreds of millions to employ our men and build our canals, our railroads, our factories. The earnings on that capital, in turn, have enabled Europe to buy our cotton, wheat, and automobiles. As we became wealthy we invested in our own long-term bonds in preference to those of any other nation on the globe. For five generations no one has seriously thought of "selling America short."

In our elections, whichever party won, the defeated party has always gracefully accepted the result—far differently than in the countries of South America and Europe. The great rights of Americans, both human rights and property rights, have been sure, whichever party won. Freedom of worship, of speech, of the press, of family rights, of property against the legislative confiscation of political majorities, have never been at stake in our election campaigns. Consequently, we have had conditions under which wealth could accumulate. That wealth has not always been equitably distributed. It is not so now. Nevertheless, in no other country, now or in the past, has the common man been served one-half so well. There are, for example, more automobiles, radios, telephones, and more life insurance on more lives here in America, with only 7 percent of the world's population, than in all the rest of the world put together. With all its faults the American system has produced and has distributed more of the goods and comforts of living to more people over a greater territory and for a longer period of time than any other system since Adam walked out of the Garden of Eden.

Believing as we do that a written Constitution construed and applied by judges as free as possible from the pressures of politics has afforded the stability which has so largely contributed to the greatness of this country, we cannot but be deeply disturbed with the proposal that our highest court, and, hence, all courts, everywhere, must be made to respond to the will of the executive and legislative branches of the Government, and that in effect far-reaching changes be made in our Constitution without submitting those changes to the people for their approval. We cannot believe that any permanent good, but, on the contrary, much evil will come from this suggestion if adopted.

We do not believe that this proposal can properly be called a liberal movement. We believe, on the contrary, that it is reactionary in the extreme. We believe our children must pay for any supposed temporary benefit to ourselves. There is no instance in the world's history where the concentration of power, financial or political, in the hands of one man, or of a few men, has long promoted the happiness of mankind. The wise ruler is in time always followed by a bad successor.

Those of us who have supported President Roosevelt in the pursuit of great objectives do not now question his patriotism or his purpose. But for want of taking counsel with his own party leaders we believe he has, in this instance, hit upon a very unhappy and questionable method. It is an open secret in Washington that on its merits alone the pending proposal would be overwhelmingly defeated by the Democrats in the House and Senate.

The chairman of the Senate Judiciary Committee, for example, prior to February 5, said:

"Among the unjust criticisms which have been uttered or printed about President Roosevelt, was that he intends at some time by some legerdemain to increase the membership of the Supreme Court so that his policies might be sustained. A more ridiculous, absurd, and unjust criticism of a Persident never was made. No person whose opinion is respected has favored such a reckless policy."

Only 4 days before February 5 the Senator said further:

"I have no sympathy with attempts to whittle or to chisel by indirection, circumlocution, and 'house that Jack built' methods in order to get power. The way to reach the desired objective is by bold frankness, by asking the people of the States to ratify the necessary amendments."

But on February 5 the proposal was made and immediately the Senator did one of the most remarkable turn-abouts in history and became a strong champion of the proposal he had himself called "ridiculous and absurd." Immediately, too, other men prominent in politics and labor organizations became sudden enthusiasts for a proposal none of them had ever even thought of, much less discussed.

Under such circumstances it is the part of wisdom and patriotism to consider this measure with unhurried deliberation. Nothing can be lost by discussing this proposal strictly on its merits, without calling names or impunging the motives of those with whom we disagree.

We are a people of sudden enthusiasms and catchwords. We go in head over heels for barnyard golf, mah jong, lateral passes, contract bridge, baseball kings, and movie queens. Whatever it is, it is all the rage. Sometimes in great matters we leap first and look later. In 1898 we went to war on a sudden enthusiasm, "Remember the *Maine*." Twenty years ago this month we declared another war. The vote in the Senate was 82 to 6. We went into that war with high hopes and lofty purpose. Today only the six who voted "no" are remembered. Our hopes have turned to ashes and prevailing public opinion today is that we made a mistake in 1917 which must not be repeated in 1937 or at any other time. Today the political war drums again throb in the streets. Every mechanism of pressure politics is being applied. We of the majority party, who oppose this bill, believe that the issue is not and cannot be made a party measure. The Constitution belongs to the people—to all the people.

As the proposal now before the country was not attempted to be made a party matter in the national convention, and was not discussed during the campaign, we hold that Democrats have as much right to oppose it now as we would have had last June if we had been on the resolutions committee of the Philadelphia convention and it had then been suggested. That platform pledged the party to submit clarifying amendments if necessary. We stand on that platform and are ready to redeem that platform plank.

We are good enough Americans to trust the people and cheerfully abide their judgment whenever and however expressed in the way the Constitution provides. We are willing right now to agree to submit to the people for their approval any reasonable amendment deemed necessary by the administration either to reform the judiciary or to solve modern problems.

The theory that the Supreme Court must be the third horse of a three-horse team was repudiated in 1787 and has never since been suggested by any person occupying the White House. It is alien to the American tradition. It is directly contrary to the whole theory of checks and balances under which we have conducted our Government, State and National, for 150 years.

On this point let me quote, not a Liberty Leaguer, but the wisest liberal of them all—Justice Brandeis. In one of his great opinions he said that the separation of power in the Constitution was not to promote efficiency, "not to avoid friction, but by means of the inevitable friction incident to the distribution of governmental power among the three departments to save the people from autocracy." It was the price to be paid for liberty.

The Constitution and the Court are the brakes in the car. We generally are more interested in the hum of the engine but few accidents take place because the brakes work. It is when the brakes do not work, as in Russia, Germany, and Italy, that liberty goes over the precipice. None of us wants an automobile with nothing but brakes but only a few of us want one without any brakes.

If the President, Congress, and courts are a three-horse team, why should the President veto an act of Congress? Yet he does, and should when he thinks he ought, and no one questions his right to do so. That is one of the checks and balances of the Constitution. In 4 years the President has invalidated 221 acts of Congress, 7 times as many as President Wilson in 8 years, 10 times as many as President Coolidge, 10 times as many as President Hoover, and 3 times as many in 4 years as the Supreme Court has declared unconstitutional in 148 years.

Moreover, the President has himself not hesitated to ask the Supreme Court to declare an act of Congress unconstitutional. This point, so far as I know, has never heretofore been mentioned thus far in the debate. Contrary to his present declared purpose to have a court that will "not undertake to override the judgment of Congress on legislative policy", the President has asked the present Supreme Court to do that very thing. This happened in the case of Federal Trade Commissioner Humphrey.

In that case the President removed Mr. Humphrey because "your mind and my mind do not go along together." But Congress had provided, as a matter of legislative policy, that a Commissioner could be removed only for "inefficiency, neglect of duty, or malfeasance in office." The legality of the dismissal therefore depended on whether the statutory grounds of removal forbade the President to dismiss for any other cause. In the brief filed in the Supreme Court by Solicitor General Reed for the President, it is said that if the act "deprives the President of the power to remove a Commissioner except for one or more of the causes stated, we submit that the provision is unconstitutional * * * as an unwarranted interference with Executive power."

In that case the President asked the Supreme Court horse to pull against the congressional horse, and not with it. The Supreme Court, however, refused to hold the act unconstitutional, as requested, but held it constitutional instead, and therefore the dismissal of Commissioner Humphrey was an unwarranted and illegal exercise of Executive power. This remarkable case can be found in 295 U. S. 602, decided May 27, 1935.

On that same day the Supreme Court also decided the N. R. A. case and the first Frazier-Lemke case. All these cases were unanimous. In the Humphrey case the Court held the congressional act constitutional when the administration asked that it be held unconstitutional. In the other two it held the acts of Congress unconstitutional when the administration asked that they be held constitutional.

Let me take a moment to discuss each of these cases. As an emergency measure the N. R. A. was "a sincere effort to meet a grave crisis and raise the spirit of the Nation." Many of its good features can and are being continued by the Federal Trade Commission and by voluntary action of trade organizations. But as an act of Congress to control the most minute affairs within the States, not directly concerned with interstate commerce, it was so plain that Congress did not have that power under the Constitution, without amending it, that the liberals as well as the conservatives on the bench were unanimous in holding it beyond the delegated powers of Congress.

The vote was 9 to nothing. If we add six judges to the bench, and they should all jump through the hoop, which cannot be assumed—if they are honest men and brave men—the vote would still be 9 to 6 against a new N. R. A. So it seems to me that the friends of a new N. R. A. are as badly mistaken in the virtues of a Supreme Court of 15 members as we were in the "war to end war" in 1917.

If a new N. R. A. is desired by the President, if it be considered necessary to transfer from the State legislatures to the National Congress the power to fix hours and wages in the multitude of our complex business affairs, I respectfully submit that a constitutional amendment is the only way it can be done, and a 15-judge Supreme Court is a good deal of a gold brick.

Let us ask the proponents of this bill this question: If your new 15-judge Supreme Court declares a new N. R. A. or other important measure unconstitutional, will you pack the Court a second time; and if not, why not?

They will not answer that question; but they are betrayed by their refusal to do so. If this bill is justified, they would be equally justified the second or third or thirteenth time in again packing the Court.

An honest answer to this question in the affirmative would disclose a complete abandonment of constitutional government for a legislative (or executive) government. They shrink from the answer. They have not the courage to admit the road along which they would proceed. By abandoning the constitutional method of amendment in favor of this judicial short cut the servants of the

people become their masters. Congress and the Executive become supreme. The principal is ruled by his agent.

When it is said that "The Constitution is what the Supreme Court says it is", let us ask in turn if America will be better off when "the Constitution is what the President tells the Supreme Court to say it is."

A week ago Monday the Supreme Court passed on a new Frazier-Lemke bill. That decision shows that if Congress were to use the same care in drafting bills as they expect courts to use in interpreting them, very few acts would be declared unconstitutional. The original Frazier-Lemke bill was declared unconstitutional. A new act carefully drawn to meet the objections of the Court was held constitutional. Both decisions were unanimous, and the decision in each case was written by Justice Brandeis. This answers the charge that the Court is deliberately bent on "blocking" legislation. It is unfair to the Court and to the stability of democracy to make the Court the residuary legatee of sloppy, half-baked bill writing. If the country knew the way things have been done, it would place the blame where it originated.

The experienced men in the legislative drafting service of Congress have been pushed aside, their advice disregarded, and bills have been jammed through, written by young sophomores intent on instructing Chief Justice Hughes and his associates on the law.

It is time for Congress to resume its constitutional function and permit and require its own competent lawyers to do what they were sent to Washington to do—write bills within the power of attorney given them—the Constitution of the United States.

We need an old-fashioned Congress more than a new-fashioned Court.

I mention these matters not because I do not think the Supreme Court does not itself make mistakes. I do think so. I thought so, and said so publicly last June when the New York Minimum Wage case came down. But I do respectfully submit that the Court has been blamed for many decisions when the blame rested on other shoulders. We must give our judges a fair trial. That is what we ask of them, and that is what they have a right to ask of us.

Not only is this the first time in our history that a President has asked Congress for power to increase the Supreme Court so that "it will not undertake to override the judgment of Congress on legislative policy" but it is a remarkable fact that the American people have overwhelmingly declared against the principle involved in the pending measure. As State supreme courts have to pass on the constitutionality of laws enacted by State legislatures as well as acts of Congress, there can be no difference in principle between "packing" the supreme courts of the States and the Supreme Court of the United States.

But in 38 States out of 48, in which 100,000,000 of our people now live, the number of judges of the State supreme courts—Illinois included—is fixed by the State constitution, thus putting it beyond the power of Governors or State legislatures to do to their supreme courts what is now proposed to be done to the Supreme Court of the Nation.

This condemns the principle of the pending proposal by the highest legislative authority in the land, the people themselves. In 38 States, when they could act deliberately and objectively, the people from time to time, by action in their State constitutional conventions, later ratified by submission to the direct vote of the people themselves, have decided that they wanted their own highest courts to be forever free from political pressure or intimidation by their executive or legislative branches of government.

The jury has already been polled. The principle of this proposal has already been condemned by the overwhelming mandate of 100,000,000 people living in 38 States.

Let us ask the advocates of this bill another question: If you were in power in these 38 States, would you advocate the repeal of the provisions of these State constitutions to protect the independence of their State supreme courts, and if not, why not? Why should their supreme courts be free from executive and legislative domination and control and the Supreme Court of the United States be subject to it?

Our forefathers did not know in 1787 how large this Nation might become either in territory or population, and therefore it seemed wise to them at that time to allow for such increases in the size of the Court as might be necessary to properly handle the litigation of a growing Nation. But no one can read what they said then and have the slightest doubt that they ever intended the Court to be increased for the sole and declared purpose of controlling its decisions.

But since then the people in 38 States have emphatically declared against the principle of what is now attempted. What further warrant is necessary now to support those of us who say that there should not be done to the United States Supreme Court what the people have declared must not and shall not be done to their State supreme courts?

It will not do to say "it can't happen here." It did happen here—in Louisiana. Louisiana had a dictatorship under the shell of democracy. It could happen, and may happen, in any other State capitol. It could happen in the Capitol of the Nation. Millions of people have confidence in President Roosevelt. But they have no confidence in his successor, whoever he may be, less than 4 years from now.

A power once used by a well-intentioned man to remake the Supreme Court would surely be seized upon by an evil-minded successor, and we then are headed back to the dark jungle of absolutism in government. This is more power than a good man should want or a bad man should have.

Governmental Policies

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 20 (legislative day of Monday, Apr. 19), 1937

ARTICLE BY HON. ROBERT R. REYNOLDS, OF NORTH CAROLINA

Mr. REYNOLDS. Mr. President, I ask unanimous consent that there be printed in the Appendix of the RECORD an article by me, which was published in 105 different newspapers in North Carolina, interesting itself in Federal expenditures and revenue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN WASHINGTON—WHAT IS TAKING PLACE

By ROBERT R. REYNOLDS, United States Senator

The big drive is on in Congress for action on legislation that may have the effect of virtually reshaping national affairs. The fact that this drive is along many fronts and is without the noise of verbal "big guns" does not lessen its significance. And "behind the scenes" is much feeling as legislative generals map plans, form their lines, and prepare for the "zero hour" of voting on measures that affect all our citizens.

The situation in Congress is all the more acute because congressional procedure is naturally affected by the acts of the legislative and judicial branches of the Government. What will be the final Government policy with regard to the sit-down strikers that may cause concern in the South? What changes, if any, will be made in the President's Court plan before it comes up in Congress for a vote? What will the Supreme Court do with regard to the Labor Relations Act, which is certain to influence action on the Court plan? Not even the most optimistic Member of Congress will attempt to answer these questions today. And they must be answered before the present uncertainty in Congress gives way to certainty—that is before the objective of the "big drive" is clear.

As a result, Members of Congress are unable to give satisfactory answers to many questions raised by constituents. They are unable to hazard a guess as to what will be done about this or that. They will find it difficult to form their own final decisions.

The reason is simple. It is because factors outside of Congress are perhaps more than ever before having a strong effect on legislation. In other words, conditions that are acute today may become less serious tomorrow and make drastic legislation unnecessary. However, they may become more serious and require swift movement in the "big drive."

Whatever else may be said, it can be stated that the President is keenly alive to the situation and his record for action clearly indicates that he will be ready to move at a moment's notice. The fact that all his plans have not been disclosed does not minimize their sweeping character. It has been amply demonstrated that our people by and large have confidence in the President's recommendations and that the Congress in the final analysis will be in accord with his more important policies. This will be more in evidence during the weeks ahead.

Our people should not be alarmed by the evidences of the present uncertainty in the legislative branch of the Government. It is in reality a most hopeful sign. It indicates that Members of Congress are studying and weighing the various proposals. It is a sign that Members have the courage of their own convictions as to what is best for the country. And it is a refreshing indication that this is not a "rubber stamp" Congress.

With it all is new evidence that the day of temporary expedients to meet emergencies is over. The mere fact that the Congress is moving slowly toward final objectives is really a hopeful sign—a sign that the experience of the last decade and all the lessons learned are not being forgotten. That in itself, should allay many fears with regard to Federal activities in the future.

War! How Much Do You Pay a Dead Man? Draft Him? Draft Property? If So, Draft All

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 5, 1937

Mr. MAVERICK. Mr. Speaker, the Military Affairs Committee, of which I am a member, is now considering the Sheppard-Hill war profits bill.

In expressing my grave doubts about this bill, I should like to make two statements which do not specifically concern it but which in general concern all legislation in the House of Representatives.

LOVE THY CHAIRMAN, BUT SAY WHAT THOU WILL

The first is my relation with the chairman, Mr. LISTER HILL. Some of our conversation, wherein we refer to each other as "my distinguished friend the gentleman from Blankety-Blank Crossing, Son-of-a-Gun State", often sounds to me like meaningless flattery. We get on the floor and tell how we love each other and how we hate to differ.

I am inclined to think this often-quoted statement is absolutely sincere. We all get to like each other and hate to oppose each other. I find myself in that position at this time. For, without flattery, Mr. HILL of Alabama is one of the ablest men in Congress. I believe he will be the best chairman the Military Affairs Committee has had in many years.

In proposing this bill of his to take the profits out of war, he has given it a great deal of patient study. He is not hunting votes for the very good reason that he does not need them, and because, I believe, he is one of the most popular men in the Congress with his own people. Likewise, like any other honest man, war deeply grieves him, and he believes that this legislation is right.

However, I have great misgivings of the legislation, and I doubt very much the wisdom of passing it at this time.

TO OPPOSE THE POMP OF WAR IS NOT ALWAYS TO BE THE VILLAIN

The second matter concerning this legislation is the attitude of some of its strongest supporters. One of my colleagues the other day said that the "Communists and pacifists" would oppose the bill. The idea of villains and saints has already entered the picture.

Another colleague said that it would be a good idea to send a list of the bill's opponents to the American Legion so that pressure would be put on the Members of Congress to force them to support this bill.

The gentlemen making these statements are upstanding and honorable. But I am afraid that it evidences a disposition which is not conducive to the adoption of legislation according to proper democratic principles. In other words, when legislation is accompanied by intimidation, either by colleagues or by the public, it is not likely to be sensible legislation. Therefore, I have that much against this legislation too; that the spirit in which it is offered by some of its proponents is not peaceful, to say the least.

I would not call this legislation fascism—since for me to use terms like that, would be for me to commit the same offense as those who loudly speak of "communism and pacifism." But using pressure and bandying about ugly words is the opposite of thinking, and the opposite of intelligent parliamentary government.

OPPOSITION AND DEBATE FOUNDATION OF PARLIAMENTARY GOVERNMENT

That disposes of the two matters which apply in general to all legislation. I am hoping that this legislation, as well as any other, can be approached calmly. I hope that men who serve on all committees and who differ with their chairman will do so openly, and not refrain from opposition because of their affection for the chairman.

I actually know of instances where minority members have not opposed certain legislation merely because it was proposed by the "chairman." I think that men on committees can have mutual respect for each other and at the same time oppose each other. That is the essence of parliamentary government.

NAZIS TRY CATHOLIC PRIEST NOW FOR "PACIFISM" BACK IN 1931

Speaking of the general idea of a draft, I am thinking of a Nazi trial which has been going on in Germany for a long time.

An excerpt from a dispatch to the New York Times dated April 13, 1937, says as follows:

NAZI JUDGE SCOLDS PRIEST AS PACIFIST—"WHAT HAS UNIVERSAL MILITARY SERVICE TO DO WITH RELIGION?" HE ASKS FATHER ROSSAINT—TRIAL DRAGS INTO SECOND WEEK—SECRET POLICE APPEAR IN BERLIN CHURCHES AND SEIZE BILLS CRITICIZING THE ELECTION

BERLIN, April 12.—The propaganda trial of seven Catholics before the people's court opened a new week today with the presiding judge still employing every opportunity to heckle the defendants and laud the National Socialist point of view.

Judge Engerts has now taken to pounding the bench with his fist, and the high point of today's proceedings was his bitter reprimand to Rev. Joseph Rossaint for his pacifist activities in 1931 and 1932.

You will note above that this Catholic priest is being tried for "pacifist" activities in 1931 and 1932, before the Nazis were even in power! That a man should be dragged out and tried for something that he did long before a government was even established is shocking to any person who believes in civilized government.

The story is very long and I shall not quote it all. It is interesting to see, however, that a leading German paper, the Angriff, said on April 12:

The Rossaint case is not to be regarded as unique. It is generally difficult to discover the intrigues of Catholic priests. That which has been made public is probably a very small part of what has really happened.

It will be seen that this is religious persecution of the military class against the religious class.

There is no reason to suspect the patriotism of priests, preachers, or rabbis in any country. Because, no doubt, this priest had many years before advocated peace, he is being persecuted these many years later.

BIBLE RESEARCH SECT PERSECUTED

The following is a short story of police persecution of religious elements:

ASK PRISON FOR 29 IN FRANKFORT

FRANKFORT ON THE MAIN, GERMANY, April 12.—After a trial lasting several weeks the prosecution today asked 4-month to 3-year sentences for 29 members of the Bible Research Sect, forbidden in 1933.

It was explained people who were connected with Bible activities were really "Pacifists and Communists." It seems the military craze in Germany is going to every extreme.

Let us not get started in this country with any military craze. We already have military preparedness.

AMERICAN LEGION WANTS TO TAKE PROFITS OUT OF WAR—SO DOES EVERYBODY ELSE

Concerning the attitude of the American Legion on this legislation, I have this general idea: The Legion, like any other honest organization, wants to take the profits out of war. However, in writing legislation of this kind it is very difficult to write legislation which has an exact result. It is like neutrality legislation.

In other words, I perfectly understand the objectives of the Legion. Whether this bill will have the desired results, I seriously doubt. At least one Legion post does not think so, and they have made a study of the bill.

They report as follows:

REPORT OF WILLARD STRAIGHT POST

APRIL 9, 1937.

This post has given careful and extended consideration to the Sheppard-Hill bill and to the 23-page pamphlet issued by national headquarters in support of it. We share most earnestly in the desire to promote peace and strengthen the national defense by the establishment of universal service in time of war and by taking the profits out of war; but we are convinced that the proposed measure does not accomplish these objects, and we sincerely believe that the American Legion has been misled into supporting it.

In the pamphlet referred to the advantage claimed for the bill is: "That in time of war there shall be equal service for all—that dollars and materials and every resource must fight on the same basis with the soldiers in the trenches and the sailors on the high seas."

The pamphlet refers to the millionaires created by the World War and the profiteers who entered the "luxury classes"; it points out that while the boys were dying at the front "the man who stayed home to work in the factory, separated by the breadth of the Atlantic Ocean from the nearest enemy machine gun, made more in 1 hour than the man at the front received per day." To avoid recurrence of this condition a plan is urged whereby "the President would be authorized to bring into the service of the country, in time of war, capital, industry, resources, services, and manpower, with special privileges or profit for none."

AMERICAN LEGION PROPOSALS—A SUMMARY

To summarize, the proposals announced in the Legion pamphlet are:

1. That in time of war industrial manpower shall serve on the same basis as military manpower.
2. That in time of war industry shall be drafted into the service of the country on the same basis as manpower.
3. That service of the country in time of war shall not yield a profit to anyone—that the profit shall be taken out of war.

GENERAL OBJECTIONS TO PROPOSED LEGISLATION

We do not find that the provisions of the Sheppard-Hill bill encompass these proposals.

First objection—Labor provisions not clear

No provision of the proposed act authorizes the President to draft industrial manpower except those engaged in "management or control", and these "into the service of the Government as civilians." On the contrary, as the Legion pamphlet points out, the bill does not provide for the conscription of labor. Still, the President is given the power to fix "compensation", which may very well mean the wages of labor.

Is the laboring man in wartime to be put to work as a Government employee, for his keep and a soldier's pay? If he is not, the inequality so dramatically denounced by the Legion will persist; if he is, the provision to that effect should be clear and unequivocal.

Second objection—Conscription, commandeering of industry, not set up

The control over industry proposed to be given to the President is regulatory only. He may fix prices; he may grant licenses and fix the conditions under which industry shall operate. But if industry is not satisfied with the conditions imposed, it need not operate. Experience in the World War showed that where producers were dissatisfied with the prices fixed by the Government for the purchase of war materials, they simply refused to produce or sell; in the end, they got the prices they wanted and reaped huge profits.

The only complete corrective to this condition is to provide for the actual commandeering of plant, resources, and capital—to draft industry into the service of the country.

The Sheppard-Hill bill makes no such provision.

Third objection—Tax features not satisfactory

The way to take the profits out of war is to prohibit profits from war enterprises. Under the Sheppard-Hill bill an industrialist is allowed a profit during "the period of the emergency" to the extent of his "previous 3-year average" plus 5 percent. But the rank-and-file citizen, drafted into Army service, is afforded no such similar security.

We do not understand this tender solicitude to protect the earning power of the industrialist while the doughboy is guaranteed merely the hazards of war, "corned willy" and a dollar a day. In addition, it leaves a wide-open loophole for profits in the form of "capital expenditures for war purposes." Under the proposed measure neither Du Pont nor Bethlehem Steel would have paid a cent of taxes upon all of their enormous profits for 1917 and 1918.

Mr. Speaker, concerning the third objection, the Military Affairs Committee is attempting as far as possible to have a tax provision which will be effective and satisfactory. I hope that there will be success in obtaining such a provision. I am afraid, however, that it will not be successful because apparently it will not be definite enough.

Moreover, there is a principle in all war legislation which I think should be considered. Taxes mean nothing to a dead man. Take a man's life, and there is no compensation that you can give him or his family. For that reason, unless we adopt the most comprehensive taxes and conscriptive policies in reference to property, any legislation enacted now will prove a failure.

The objections of the Willard Straight Post, American Legion, continue:

These results are derived from no other source than a careful and impartial reading of the actual provisions of the Sheppard-Hill bill. The conclusion is inescapable that the headquarters pamphlet, while it fairly presents the admirable and highly commendable attitude of the American Legion toward universal service, it endows the provisions of the law with more significance than they deserve.

We do not overlook the possibility that we may have misconstrued this bill; we do not claim to be infallible. It is all the more important, then, that a measure of such tremendous significance be so clearly drawn and so unequivocal in its implications that it will be impossible of misconstruction.

There are other questions in connection with this bill which require further consideration. There is, for instance, the serious question as to whether it is advisable to put into the hands of the President the power to mobilize the entire country upon the occasion of even the smallest war, which might possibly be used as a pretext for the establishment of a military dictatorship.

For the moment, however, the important thing is that the American Legion should not delude itself into supporting a measure which fails to accomplish the objects it so earnestly desires to forward and which, on the contrary, may establish principles which would prove a serious detriment to a realistic program of universal service in time of war. We most strongly and earnestly urge that the pamphlet issued by national headquarters be withdrawn from circulation, and that the national organization of the American Legion withdraw its support from the Sheppard-Hill bill.

In view of the current consideration of this bill by the Committee on Military Affairs of the House of Representatives there is no time to forward this communication through regular channels. We are, however, sending a copy to our county commander for transmission in the usual manner.

Respectfully and sincerely,

WILLARD STRAIGHT POST No. 842,
By CYRUS LEROY BALDRIDGE,
Commander.

NECESSARY? FRIENDLY NEIGHBORS NORTH AND SOUTH; FRIENDLY OCEANS EAST AND WEST

Mr. Speaker, what is the real necessity of this legislation? We have a good Army, a good Navy, a good Marine Corps. We are much more fortunately situated than any country in Europe. In Europe the people are tense and everyone seems to be preparing for war. A war is in progress at this time.

With our Army and Navy and with huge amounts being spent on national defense, we have a friendly neighbor to the north, a friendly neighbor to the south, and friendly oceans to the east and west of us. That we are likely to be attacked, in view of our geographical position and national defense, seems out of the question.

There is also another objection to this bill which I think is quite valid. Why should we enact legislation now, which can be repealed in 10 minutes?

DO WE WANT A DRAFT BILL IN PEACETIME?

The effect is to give the impression of passing a draft bill in peacetime and in which we attempt to regulate what Congress and the President will do in the future. It has somewhat the attitude of setting up a dictatorship in advance.

Why should we enact legislation for other Congresses in the future? Is it effective or is it good? These are questions which we must answer.

COWS, LAND PAID FOR—BUT NOT LIFE

It is a fine principle of our Government that a man should be reimbursed for what he has lost. If a man loses a cow, a piece of land, or other property by virtue of the fault of the Government, he gets the money back, or its equivalent. But if a man is drafted into an army to be killed, and he loses his life, he cannot be given any equivalent, nor can he be paid. When he gets killed he is dead. The Government cannot bring him back to life again.

Therefore, I have always thought that in warfare life is so cheap that nothing can be made to compensate for it. We are all willing to fight a war of defense.

We are all willing, if we really have the opportunity, to fight for liberty. But the opportunity to fight for liberty does not come often. The last time, it seems to me, was in 1776. The attitude of establishing the draft principle in time of peace and of engendering the military idea is bad.

I have talked to various friends of mine on the committee. One of them said that the reason that he was in favor of this bill was to make it sure that we will have peace. He believes that by adopting this bill that it would insure peace. He may be right. But I do not believe that it will. I very much fear that it will have the opposite effect.

DOES THE BILL ACCOMPLISH THE PURPOSES SET OUT? NO!

Let us analyze this bill. The preamble is as follows:

To prevent profiteering in time of war and to equalize the burdens of war and thus provide for the national defense, and promote peace.

Does it prevent profiteering in time of war? No.
Does it equalize the burdens of war? No.

Does it provide for the national defense? That is already provided for.

Does it promote peace? No.

Either let us have effective and drastic legislation, assuring our war mongers that they will be destroyed, with further provisions, fair to all honest men, or let us rely on our present National Defense Act, and our Army, Navy, and Marine Corps. Do we really need this legislation? Is the legislation what it claims to be?

Oaths of Office of the President and Members of the House

EXTENSION OF REMARKS

OF

HON. GUY L. MOSER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1937

LETTERS FROM S. R. McGOWAN AND HUGH RUSSELL FRASER, AND REPLIES THERETO

Mr. MOSER of Pennsylvania. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following letters:

[Kenyon College. Department of history and political science: Raymond D. Cahall, William F. Pierce, Clarence P. Gould, Stuart R. McGowan]

GAMBIER, OHIO, *March 22, 1937.*

The Honorable GUY L. MOSER,
Washington, D. C.

DEAR MR. MOSER: I have just read with the greatest interest your acknowledgment and reply to a letter sent you from one Professor Dyer, of Vanderbilt, in the CONGRESSIONAL RECORD for March 19. Allow me to take this opportunity of thanking you for your stand. While I believe that you were a bit harsh in your judgments of those "ensconced * * * in smug complacency on the faculty", I quite agree with you on your stand. The Fourteenth District of Pennsylvania is to be congratulated in having you to champion the cause of the administration.

All college professors are not of the opinion of Professor Dyer, and I assure you that many of us are with you. I cannot promise you a vote but you won at least an ardent rooter. I shall watch your further remarks with great interest.

Sincerely yours, S. R. McGOWAN.

WASHINGTON, D. C., *March 24, 1937.*

Mr. S. R. McGOWAN,
Kenyon College, Gambier, Ohio.

MY DEAR MR. MCGOWAN: I cannot refrain from expressing my appreciation of your kind and thoughtful letter of the 23d instant expressing approval of my action in giving expression to my true opinion of the contemptible manner in which Professor Dyer, of Vanderbilt University, undertook to assail the integrity of Members of Congress.

I certainly meant no offense to the profession. None other than he, so far as I know, ever accused the legislative and executive branches of the Government of the United States of committing perjury, a felony worse than murder in his prejudiced opinion, as violators of our oath of office.

I used the term "ensconced as you are in smug complacency on the faculty of an institution of higher education", in both the first person singular and literally as well, for his chair of economics has been endowed for his sole benefit for life. I am creditably informed the chancelor and board of trustees would have dispensed with him long ago, but cannot lest the chair's continued endowment in the future be forfeited.

I was reluctant to insert it in the RECORD lest I be regarded as rash. I yielded to the persuasion of associates, and my action is acclaimed. I appreciate it very greatly, coming from an educator like yourself. For the good of education, we needs must deal harshly with instructors whose prejudices warp and twist their competent judgment.

Very truly yours, GUY L. MOSER, M. C.

[Joseph W. Byrns, Jr., attorney at law, Nashville, Tenn.]

APRIL 1937.

Hon. GUY L. MOSER,
Member of Congress, Washington, D. C.

MY DEAR CONGRESSMAN MOSER: I have been reading in the RECORD lately your reply to Professor Dyer, of Nashville. Please be assured that Professor Dyer does not represent the sentiment of this district as shown by the recent poll. For your information, Professor Dyer has been on the pay roll of the Southern Manufacturers Association for some time, and therefore can be regarded as any other paid lobbyist. Professor Dyer could not get a dozen votes in this district for any office.

Yours very truly, (Signed) JOSEPH W. BYRNS, Jr.

[The Andrew Jackson Society of Tennessee (cut of Jackson), Sterick Building, Memphis, 1973 Poplar Boulevard. Claude Bowers, honorary president; Hugh Russell Fraser, president; Cordell Hull, honorary vice president; Andrew Jackson Donelson, vice president, C. Rudolph Johnson, secretary; John Galella, treasurer. Directors: The Honorable John D. Martin, Col. William J. Bacon, Prof. Dan Robison, A. D. Waldauer, Allan Tate, Joseph Trinner, Judge E. Bunyan Carter, John Jackson Valentine, Hon. Walter Chandler, M. C.]

Congressman GUY L. MOSER,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN MOSER: I think if Andrew Jackson were living, he would thank you for your brilliant reply to the insulting letter written you, and other Members of Congress, by Prof. Gus Dyer, of Vanderbilt University, Nashville.

Certainly, even the slightest knowledge of Jackson's career would disclose that Old Hickory was always on the side of the exploited against the exploiters, of the humble against the arrogant, and of the underprivileged against the privileged. Any other inference libels him.

Our friend and board director, WALTER CHANDLER, Representative from this district, will tell you how deeply we appreciate your letter. The humiliation we feel that such propaganda should emanate from Nashville, within a few miles of Jackson's beloved Hermitage, you can readily understand.

The Governor of your great State, the Honorable George H. Earle, is honorary vice president of this society, and a friend of our objectives, and you have honored all of us by your splendid and straightforward reply to a vicious and sinister form of propaganda.

Gratefully yours, HUGH RUSSELL FRASER,
President, the Andrew Jackson Society of Tennessee.

WASHINGTON, D. C., *April 20, 1937.*

HUGH RUSSELL FRASER, Esq.,
President, Andrew Jackson Society of Tennessee,
Memphis, Tenn.

DEAR MR. FRASER: I wish to acknowledge your undated letter, postmarked at Memphis, Tenn., April 18, 11 p. m., 1937, on the subject of a letter addressed and mailed by me to one Prof. Gus W. Dyer, Vanderbilt University, Nashville, Tenn.

I am humbled at the generosity of the acclaim you accord me for doing exactly what I conceived it my duty to do, viz, defend the honor and integrity of the legislative and executive branches of the Government of the United States against the malicious and sinister attack of a babbling professor exhibiting abundant proof of a warped and twisted judgment.

From my earliest youth Andrew Jackson was one of my heroes. Since attaining manhood I have had no hesitancy to ever place him among the noble statesmen of my beloved country, with Washington, Jefferson, and Lincoln. In the administration of his duties as Chief Executive Andrew Jackson stands as my idol, approached only by Theodore Roosevelt for outstanding courage, and backbone for wishbone. That in the liberality of your acclaim you believe if Jackson were living he would thank me, is what humbles me. I am sure that I do not deserve it, but confess I am human enough to like the appeal of your thought of it.

I sought no publicity. I did only what I conceived a duty to my associates in Congress and the President, viz, defend them against a sinister and unwarranted attack, in which as an interested party I shared. That what I have done is approved to the extent of your acclaim, commands an expression of my grateful appreciation.

Cordially and sincerely yours, GUY L. MOSER, M. C.

Statements Regarding the Administration in Puerto Rico

EXTENSION OF REMARKS

OF

HON. SANTIAGO IGLESIAS

RESIDENT COMMISSIONER FROM PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1937

RESOLUTION OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF PUERTO RICO, AND STATEMENT BY HON. MIGUEL A. GARCÍA MÉNDEZ, SPEAKER OF THE HOUSE OF REPRESENTATIVES OF PUERTO RICO

Mr. IGLESIAS. Mr. Speaker, with permission granted me by the House to extend my remarks in the RECORD, I include

a resolution unanimously adopted by the board of trustees of the University of Puerto Rico, expressing, without reservation, their complete confidence and trust in Gov. Blanton Winship, and also a statement issued by the Speaker of the House of Representatives of Puerto Rico, Hon. Miguel A. García Méndez, which has received the approval of thousands of citizens, many institutions, and municipalities of the island.

The resolution and statement are as follows:

[Government of Puerto Rico, University of Puerto Rico board of trustees, Río Piedras, P. R.]

RESOLUTION

"Whereas the Honorable Blanton Winship, during his stay in Puerto Rico, has conducted himself as an honest and equitable ruler, showing in high relief his devotion to duty, obeisance to law, and a high spirit of justice;

"Whereas all persons who have had the opportunity of getting in touch with Governor Winship have been able to appreciate his enviable personal gifts, his probity, his exquisite gentlemanliness, and his rectitude of intentions, which qualities exalt his personality as an honest public official and exemplary citizen;

"Whereas the society of Puerto Rico, peaceful and temperate by tradition, is passing since some time ago through a period of continued alarms, uneasiness, and anxieties, provoked by deplorable happenings which have culminated in losses of life, transgressions, menaces, riots, placing of explosive bombs, and other acts of violence of overt unlawfulness;

"Whereas under the institutions in force in Puerto Rico all ideas may be expressed and all ideals may be upheld within the limits of the law, it being highly reproachable that violence be resorted to when an appeal may be made to the public conscience by means of peaceful propaganda and persuasion;

"Whereas the tranquillity and welfare of Puerto Rico urge that without distinctions nor reservations the responsibilities of such acts be fixed and established wherever they may be found, and it is the duty of the insular Executive to realize all possible efforts within law to restore the material and spiritual peace to this suffering Puerto Rican society, which never before in the past witnessed such events;

"Whereas every citizen who is interested in the happiness and the welfare of this country ought to be equally interested in the keeping up of order and in stimulating the utterance of a strong public opinion of decent protest against these violations of law, demanding its enforcement in order to make effective the mandates thereof and to insure the establishment of peace;

"Therefore this board of trustees resolves to express without any reservation whatsoever its trust and confidence in Gov. Blanton Winship and to offer him its most decided cooperation in his endeavors to restore to the people of Puerto Rico its tranquillity lost, guaranteeing to every citizen the exercise of his rights but demanding at the same time the fulfillment of these two great duties—obedience to law and respect to the rights of others."

I do hereby certify that the preceding is a true and faithful copy of a resolution unanimously carried by the Board of Trustees of the University of Puerto Rico on motion of the Honorable Judge Félix Córdova Dávila, a member of this governing board, at its special meeting held on April 10, 1937.

SAMUEL MEDINA,
Secretary, Board of Trustees, University of Puerto Rico.

THE SPEAKER INVITES THE INSTITUTIONS OF THE COUNTRY TO DEFINE THEIR ATTITUDE IN REGARD TO THE POSITION OF THE GOVERNMENT IN PUERTO RICO

Hon. Miguel A. García Méndez, speaker of the house of representatives, authorizes the following statement:

"It is a reason for the greatest satisfaction to see the eloquent manner in which all the towns of the island are responding to the appeal I permitted myself to make last Saturday to the men and women of Puerto Rico who are not disposed to give their passive consent, through inertia more than for any other reason, to having the public opinion of the country misled or to giving, outside of the country, a prejudicially erroneous impression in regard to what we think and feel here. Many outstanding leaders of the various towns of the island—men of prestige in the community, who enjoy the respect of their fellow citizens on account of their public acts and their exemplary private lives—have once more reaffirmed their old ideal of permanent union with the people of the United States on the basis of equality in the rights and obligations of citizenship. I thank them all for the gallant manner in which, without delay, they have answered my call.

"But, on the other hand, although this could be attributed to the fact that some of the paragraphs of my previous statement, as I realize now that I reread them, did not express as clearly as they should the thought that inspired them, it is also true that men and institutions outside of politics, who, I thought, would be the first to state their points of view fulfilling their civic duty of helping to clear up any hazy situation that might mean a menace to the dearest interests of their people, refrained from answering.

"My call was not solely and exclusively to provoke a reaffirmation of our faith in the ideal of permanent connection with the United States, but it also tried to be an exhortation to all those who, without sharing such ideal, believe that the final destiny of Puerto Rico must be worked out in intimate compenetration and harmony with the American people, to state publicly and without evasions of any kind their repudiation of means other than those of love and persuasion, in propaganda for separatist ideas.

"We have, in Puerto Rico, a government of order, of respect, and of peace in harmony with the desire for peace, for respect, and for order which every cultured people demands; but now, in some sectors, an attempt is being made to give the impression that that is not what the people desire, but that what they do wish for are the drastic measures of inflamed strife and the contemptuous challenging of law, and it is for the people to state clearly if they are for the principles of a stable government or against that government; if they stand for order, for peace, and for the ideal of confraternity, or are in favor of a constant, chaotic upheaval, charged with dread, bathed in innocent blood, and terribly laden with the greatest economic, political, and social perils to all Puerto Ricans as a collective entity.

"Leaving aside the question of our natural longing to win more and greater liberties, we may say with pride that there is no people on earth, not even in England itself or in the continental United States itself, where individual liberty is more respected than in our island. While the regime is accused of everything bad that happens in Puerto Rico, all the immense benefits that we have received under it being forgotten, it is the undeniable truth that that regime, daily qualified as oppressive and tyrannical by its enemies, is the one that is protecting with its guaranty of liberty of speech, the right to censure it and to attack it unjustly.

"In order to comprehend the greatness of that liberty, it is sufficient to consider the fact that no government in the world would tolerate having the American flag and American institutions and the noble spirit that directs the national destiny from the White House, the Honorable Franklin D. Roosevelt, offended and calumniated in the merciless manner in which it is being constantly done by some people in Puerto Rico. For much less than that, free governments of powerful nations have had to offer hurried excuses.

"And the same thing is happening to the administration of that good man who is deeply interested in our welfare and happiness, a true friend on whom the people of Puerto Rico may count at all times, Governor Winship, whom the strangest insanity tries to represent as a kind of monster before minds easy to deceive by false and childish imputations. The administration of Governor Winship, with his devotion to the highest interests of Puerto Rico and his deep respect for the democratic rights that we enjoy, is a source of pride to our island. On the basis of my personal, intimate knowledge of Governor Winship, I affirm on my word of honor that he is a man interested in working, with the devotion of the most patriotic of Puerto Ricans, for the happiness and aggrandizement of our people; that the accusations of Neronian cruelty that have been published against him are the falsest of the false; that I, as a Puerto Rican who loves his country and as a man who loves the truth, consider myself honored to be called his friend, as any impartial Puerto Rican should be; and that I endorse his serene, fair, constructive acts as the acts of a gentlemanly, humane, and useful governor, pledged exclusively to fulfilling with pleasure his duty to give our people the prosperity, happiness, peace, and order that it needs for its complete development.

"And this being the true situation, and it also being the truth that an attempt is being made by minority groups to blur that clear situation to such an extent that in some sectors outside of our island a mistaken idea has been formed, and consequently our interests as a people are beginning to be impaired, the moment has come, as I said in my former statement, for all institutions to define their positions clearly and publicly, coming forth from the comfortable shadows to which their inertia carried them to fulfill a sacred civic duty which they cannot evade without being traitors to the people where they operate and prosper.

"Outstanding leaders of the island responded to my call; but what is the opinion of the men and, above all, of the institutions that are still silent? The commercial, banking, labor, industrial, agricultural, and all those other associations that are constantly writing and engaging in discussions in the press in defense of their private interests—what do they think now that it is not a question of private interests but of the highest interests of the country in general? Are they in favor of or against having a government of order, of respect, and of peace in Puerto Rico that works, in intimate compenetration with the American people, toward the final solution of its definite political status?

"Or do they prefer a condition bordering on anarchy on account of the constant contempt for all authority and on account of the cruel and continual jeering at the flag on which we aspire to be represented by one star more and against the laws under whose protection they develop their activities? Or is it that, in the face of the situation, supercharged with political, economic, and social dangers that those small groups try to create for the country and are beginning to create for the country the sweet comfort of indifference would be preferable, bestowing smiles on both sides while secretly complaining that the country is being swept along to a point that may at any moment mean ruin, and hopelessness, and hunger for all?

"I made my appeal, and I again make it to all sensible persons who understand their responsibility to their children and to posterity. And let each one choose, there in the innermost recesses of his conscience, whether he should speak frankly or should dissemble his thoughts, for in due time history will pronounce for everyone its unappealable verdict."

Independence of the Courts and the Wagner Act Decisions

EXTENSION OF REMARKS

OF

HON. EDWARD C. EICHER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1937

ADDRESS BY HON. EDWARD C. EICHER, OF IOWA, AT DES MOINES ON APRIL 19, 1937

Mr. EICHER. Mr. Speaker, under leave to extend my remarks, I attach copy of my address at Des Moines, Iowa, on April 19, before a forum on court reform held under the sponsorship of Labor's Nonpartisan League, as follows:

The sponsors of this meeting deserve great credit for the contribution it is sure to make to the cause of better government. Without the backlog of an intelligent and informed electorate, the warming fire of a government wherein the people actually rule cannot long be kept burning. That is the lesson of all history—ancient, modern, and current. It is fitting also that here in our great State of Iowa, leading as it does all the other States of the Union in the percentage of literacy among its population, there should be conducted one of the pioneering forums for the study of the important public question that is now undergoing national debate.

When the invitation came to me to address this meeting at Des Moines tonight, it was suggested that I follow the line of basic discussion that I developed in my speech on the floor of the House of Representatives on April 1. However, in the last several weeks so much constitutional history has been made by the Supreme Court that I have concluded to devote my time on this occasion to dissecting the bugaboo of threatened destruction of the Supreme Court's independence that opponents of Court reform are now parading with such direful foreboding and also to analyzing the bearing of the Court's latest decisions on the President's proposal. If any of my listeners should desire a copy of my speech in the House on April 1, or of my address this evening, I shall be happy to mail it upon request to me in care of the House of Representatives.

It is of no slight significance that we are gathered tonight on the anniversary of a great event in our Nation's history. The spontaneous resistance by the patriots of Lexington and Concord to taxation without representation flowed from the same instinctive yearning for self-government as has inspired the present-day rebellion against the one remaining autocratic and undemocratic element in our governmental structure.

At the beginning of our Nation there were three such elements designed to check our functioning as a pure democracy—the electoral college, whose members theoretically could choose a President regardless of the popular vote; the Senate, chosen by the State legislatures; and the Federal judiciary to hold office "during good behavior." As to the electoral college, the people's mandate in the choice of a President has by usage and tradition, under our party system, become so binding and conclusive that any flouting of the popular will by the Presidential electors is, of course, forever unthinkable. By constitutional amendment in 1913 the election of Members of the United States Senate was made subject to direct vote of the people. Remaining, therefore, as the only part of our constitutionally authorized governmental machinery that is undemocratic in its tenure and authority is the judicial arm, whose members may hold office (not for life) but during "good behavior."

These two words, which obviously may mean widely differing things to different minds, find no further definition in the Constitution. Whether the Senate, upon whom is placed the duty of electing judges by confirmation, impliedly remains the umpire over their continued "good behavior" during incumbency, is left open for speculation, but such a deduction would be by no means farfetched. It would accord with the English practice and precedent, which makes judges removable by Parliament, upon address to the King, without cause assigned. It cannot be conclusively asserted that the impeachment process is the exclusively intended constitutional check upon the judiciary, for it is expressly limited to "treason, bribery, and other high crimes and misdemeanors", and it is clear that conduct that in no sense involves the moral turpitude necessary for impeachment, might, by preponderant impartial opinion, fall far short of good behavior.

I make the foregoing confessedly academic observations only as preliminary to my discussion of the point which in recent weeks has been receiving the greatest emphasis, in truth, about the only emphasis, by the opponents of the President's retirement or alternative enlargement proposal as to the Supreme Court, namely, that it would destroy the independence of the judicial department and would break down the system of checks and balances that was intended by the founding fathers.

It has become my own well-settled conviction that the intended system of checks and balances is now broken down and that the responsibility for it lies squarely at the door of the Supreme Court itself. Also, that avoidance of the dangers we are facing as a self-governing democracy lies not in the necessity for preserving the present undue independence of the judiciary, but in destroying its supremacy and in restoring the lost independence of the legislative and executive branches of our Government to the degree that will reestablish the traditional coordination of the three constitutional arms. In the course of my further remarks I hope to make clear what I mean by these assertions.

The stability of society demands the maintenance of judicial tribunals that command the virtually unanimous respect of its citizens. In our country the courts have two jobs to perform. One is to administer the criminal laws and to settle the private controversies of our citizens. Unlike England and most other countries, our own courts have implied from our written Constitution and have assumed another power that is more than judicial and is in fact legislative, namely, the power to decide that statutes, both of the State legislatures and of the National Congress, are null and void.

It is the exercise of this legislative power by the Supreme Court to the unconstitutional extent of setting up the personal views of its members as to the economic wisdom of laws passed by the people's elected representatives that has created such tremendous popular dissatisfaction with the workings of our judicial system.

It is naturally difficult for the average citizen to understand the difference between action by the Supreme Court that is strictly judicial and its action in vetoing legislation. Out of this situation arises the very serious danger that public respect, for not alone the Supreme Court, but for all our courts, will become more and more impaired as to all their functions.

This is why I say that the safeguarding of that public confidence in the courts that is so essential for the perpetuation of a stable social order is peculiarly an obligation upon the courts themselves. They cannot meet it by continuing to fly in the face of preponderant public opinion with decisions that apply an outmoded political and social philosophy to the interpretation of vague phrases of the Constitution and that rest their denial of Federal and State legislative power upon the most shadowy sort of implied limitations.

That, indeed, is the road which will lead to the loss of their independence, for of what avail is their independence if they fall into public disrepute and lose that popular confidence and respect that is their only sceptor. Far from lowering them, then, in the people's esteem, the President's proposal, when it becomes law, will restore our entire Federal judicial system to a higher plane of public usefulness and regard than it has enjoyed since more than a quarter of a century ago when there was a period of serious agitation for even such an extreme corrective as recall of judicial decisions.

This brings me to the consideration of the current history that the Supreme Court is making on Capitol Hill. Before taking up the legal aspects in detail, let me summarize what has been happening.

The Supreme Court seems, itself, to have found the answer to the slogan former President Hoover offered the country about 2 months ago, "Hands off the Supreme Court." They have done it by the simple device of jumping around so much that you can't even put your finger on them, let alone your hand. Perhaps the anti-New Deal cartoonists who have been lampooning the prospective new appointees as puppets unwittingly sensed the need to provide congenial company for the incumbent jumping jacks.

The Washington State minimum wage decision 3 weeks ago, notwithstanding its narrow margin of 5 to 4, is a forthright precedent for the guidance of the bench and bar of the country. It squarely and manfully overrules the Adkins case of 1923 and ties down Justice Roberts so tightly in reversal of his position of last year on the question of State power within the due-process clause as to make it reasonably certain that there can be no honorable retreat by our two roving Justices.

Not so, however, of the Wagner Act decision in the steel-company case last Monday on the subject of Federal power under the interstate-commerce clause. Justices Hughes and Roberts both concurred with the majority less than a year ago in the Carter case which outlawed the labor provisions of the Guffey Coal Act on the express ground that employer and employee relationships in the coal-mining industry were local. The record in that case was replete with evidence of stoppage of interstate commerce in coal, threatened and actual, due to disturbances in those relationships. And yet Justices Hughes and Roberts attempt now to distinguish that precedent without overruling it on the theory that there are factors in the manufacturing industry which are not present in the coal-mining industry. With meticulous care they limit the scope of the decision in the steel case to a concession of Federal power to prescribe machinery for collective bargaining for purposes of strike prevention.

Thus they are keeping carefully tucked away in their inside vest pockets a return-trip ticket to the outlawing of any Federal interposition in the field of minimum wages, maximum hours, child labor, or even social security, and certainly A. A. A. A workable T. V. A. and an adequate flood- and erosion-control program, of course, is still left high and dry on the doubtful list.

I, for one, ardently wish it were true that we could henceforth count on a consistently liberal majority on our Supreme Court as presently constituted, even though its margin of safety be uncomfortably narrow. But a sane appraisal of actualities compels the conviction that the battle for our administration's policies is by no means won—not even half won. The Labor Act decisions merely skirt the rim of our national needs.

All citizens who sincerely favor the policies that our administration is pledged to make effective and honestly believe that they are now safely constitutional can logically no longer entertain any conscientious scruples against the Court proposal by reason of any fear that it would be construed as an attempt to pack the Court for the deliberate purpose of obtaining desired decisions in specific cases. It should be easy for them now to come along with the President in a legislative program to accomplish objectives that long ago were urged by Chief Justice Taft, by Chief Justice Hughes, and by a committee of the now horrified American Bar Association itself, to advance the admittedly laudable end of expediting the administration of justice and of keeping our Federal judiciary in tune with the aspirations of the generations that they are called upon to serve.

It is becoming more and more apparent that the organized lawyers of the country had better stop, look, and listen lest their influence upon public opinion sink to the same absolute zero that many of our metropolitan newspapers now enjoy. There might also be included in this category a lot of newspapers, cartoonists, and columnists that are not so particularly metropolitan.

But I am unable to share any such confidence that our policies are now secure. Accordingly, the necessity for making them so, to my mind, remains as an additional compelling consideration in support of the President's proposal.

Let me urge, therefore, with all the emphasis at my command that neither Members of Congress nor the American people must let themselves be turned from their course by the shadowy signs of conversion from reaction to liberalism that have emanated from one or two human minds during the last several weeks. The suspicion simply will not down that the change of heart may not be sincere and lasting, and that a relapse may soon again occur after the forces of liberalism relax their guard.

The story of Mike and Pat illustrates my fear: There had unfortunately developed a bitter personal enmity between them after years of close friendship. Mike was supposedly on his deathbed. The priest urged Mike to call Pat in and make peace with him. Mike finally agreed, and when Pat came to the sick room these were Mike's words: "Pat, the father thinks that you and I should make up and be friends, and I guess he is right. I apologize and beg your forgiveness, but I want it distinctly understood that if I should get well my apology is all off."

My point is just this: The Supreme Court has been exercising to such an unconstitutional degree the power of legislative veto as to make the judiciary the supreme power in our governmental system. A bare majority gives evidence now of a more enlightened view, but the conversion is not complete nor dependable. The President's proposal, in essence, merely seeks to encourage the judiciary to withdraw from the mountaintop of law-limiting supremacy and to remain side by side with our legislative and executive arms on the constitutional plateau of coordinated independence.

So let us bear in mind the ancient warning to beware of Greeks bearing gifts and to look out for the Trojan horse. Now is the time for the Congress to gird its loins anew to the task of keeping faith with the 28,000,000 of our voting fellow citizens who put their trust in us last November. We should remember the old maxim of the horse and buggy days: If a man swindles you in a horse trade once, it is his fault; if he does it a second time, it is your own.

Supplementing the foregoing generalized observations, permit me now to discuss more exhaustively the legal as well as some of the factual implications to be drawn from the five Labor Act decisions.

The opinions of Monday extend the advantages of Federal assurance of collective bargaining to far fewer American workers than appears on the surface. The only workers protected are those in industries which, in the judgment of the Court as each individual instance comes before it, constitutes "activities which have such a close and substantial relation to interstate commerce that their control is essential or appropriate to protect that commerce from burdens and obstructions." Workers in transportation itself, in large manufacturing industries producing steel and automobiles and ready-to-wear clothing, and in the great news bureaus—the product of which is obviously physically traceable in interstate commerce—are affected—so far as collective bargaining is concerned. Workers in smaller industries and the service industries of the country, whose product is obviously and physically interstate, are not affected. Not more than half the workers of the country can probably be affected by those decisions—and they relate to collective bargaining only.

Everyone rejoices that five of the nine Justices of the Supreme Court are willing for the present to adapt the Constitution to modern needs, so far as Federal power to encourage collective bargaining between employers and employees and State power to enact minimum-wage laws for women are concerned. Whatever face-saving language may be used by the Court to conceal the abrupt turnabout in the Court from a tortured construction to an enlightened interpretation of the Constitution, there is no blinking the fact that the majority of the Court now confesses that the constitutional aims of the New Deal have been obstructed in recent years by wholly unwarranted, wholly unnecessary decisions of the high Court itself.

And democracy has relearned the great lesson of its everlasting war against tyranny—that a strong offensive is the best defensive. "Shotgun liberalism" proves at least one thing—that the executive and legislative branches of the Government, like every self-respecting member of a community, can best keep their rights from being trampled on by the judiciary or any other usurper by putting up a fight for them and by making it clear that they mean business in that fight.

But while we rejoice in present gains, this is no time for believers in democracy to lose their fighting determination to correct permanently a situation like that of today where we feel pitifully grateful for being given what is only our due. The very fact that we are so surprised and so amazed that five members of the Supreme Court have been willing to recognize the existence of facts which no one else would dare to deny is proof enough that the reorganization of that Court must go on until we are no longer surprised and gratefully amazed when its so-called constitutional law accords with the common-sense needs of the country.

We have won only a tiny foothold in reconquering the territory stolen from us over the last 4 years. Federal laws for collective bargaining, State laws for minimum wages for women, are only a tiny segment of the great circle of human rights we have been trying to draw in the last 4 years. In the labor field alone we have remaining problems of the ability of the Federal Government to establish national minimum-wage and maximum-hour laws for both men and women, problems of the abolition of child labor on a national basis, problems of the elimination of unfair trade practices which make it practically possible for the honest employer of good will to give willing cooperation with such laws for the protection of labor. And beyond that we have the whole gamut of laws for the protection of agriculture, for the protection of the investor, for social security and old-age pensions, for protection against the monopolies of utility companies, for the possibility of housing development, for prevention of floods and drought and erosion.

It has taken us 4 years of constant pressure on the Supreme Court to get five Justices to go along to give us the slight concessions represented by the Washington Minimum Wage case decision and the Wagner Act decision of last Monday. So far as practical results are concerned in this struggle between the people and the Supreme Court, we have only just begun to fight.

The circumstances surrounding Monday's decisions on the Wagner Act and the decision on the Washington Minimum Wage case instill no confidence that the enemy will retreat any further.

The most significant thing about those two decisions has been the two minority opinions. In those two opinions four judges, all of them over 70, have served notice on the Congress and the American people that they constitute an unbreakable bloc opposed to the legalization of the modern way of living in America. They have served notice that four votes are loaded—prejudged before hearing—against any theory of constitutional interpretation suc has that adopted in the majority opinion of last Monday which would recognize as constitutional our present way of living and the future ways of living which we hope will be able to meet the problems of one-third of a nation ill-clad, ill-nourished, and ill-housed.

On the other side are only three votes on which the Congress and the people can really count as being open-minded to their problems—the three votes that were willing to believe that the A. A. A. was constitutional in meeting the farmers' problems. To attain even a 5-to-4 majority, such as we had last Monday, the Congress and the people have to depend on being able to swing two uncertain votes—one, the vote of the Chief Justice, which has been against the adequacy of the Constitution more often than for it in the last few years, and, the other, the vote of Mr. Justice Roberts. "No man's land" is now one man's land—Roberts' land. Admitting, arguendo, that the Chief Justice has been permanently converted, at least to the practical expediency of finding the Constitution adequate to meet modern needs, what possible reliance can be placed upon the future consistency of the unpredictably vacillating mind of Mr. Justice Roberts? That he is with the Congress and the people now under circumstances of extraordinary pressure means absolutely nothing. For he was with us once before when pressures were high and left us when the pressures abated. In the Nebbia case in 1933 Mr. Justice Roberts wrote the majority opinion—5 to 4—holding that the State of New York had power to relieve its distressed agricultural population by fixing a minimum price for their chief product—milk.

At that time the pressure of public opinion was riding high in favor of this ability of the States to meet their modern problems. But in the course of 3 succeeding years Mr. Justice Roberts

later with the Chief Justice threw the deciding vote to make unconstitutional the statute of the State of Vermont exercising the rights of the State to order its internal economy by encouraging local investment of local savings, and Mr. Justice Roberts alone threw the deciding vote to make unconstitutional the minimum-wage law of New York asserting the right of the State to fix a minimum price for the product of its laboring women. Today Mr. Justice Roberts having had that little frolic of his own of being first with us and then against us—is once more with us. But for how long can we depend that he will be with us? How long can we depend upon the support of a judge who has himself slapped the railway workers and the farmer in the face with opinions that have been considered the most outrageously reactionary of even those written by reactionaries on the bench, and has consistently voted to slap down the Congress for 3 solid years before the election returns rolled in?

Without being irreverent (because the wobblings of this Court have put it beyond reverence on constitutional questions), will Mr. Justice Roberts be with us after the heat is off? Will even the Chief Justice be with us after the heat is off? Even if we hope they may, are we justified in betting on that hope the welfare of 130,000,000 people in our care? There is an old tradition among horsemen that a horse which has once stumbled is never safe to ride again. In the Supreme Court stable of nine, three are horses whom Congress and the people can depend on today to carry them toward democracy without stumbling.

Four of the rest of the nine have definitely served notice that they will throw us at the first fence. And two others have stumbled too often to bet the welfare of 130,000,000 people and the preservation of our constitutional democracy on their performance.

The net results of Monday's decisions, coupled with the Washington minimum-wage decision, ought to leave no doubts that we must push forward as fast as we can with the President's reorganization plan. This present balance of power on the Supreme Court—four openly and avowedly with minds closed against the people, three with minds reliably open to the people, and two unpredictably sitting on the fence—is something no democracy that means business can tolerate when it doesn't have to—and we don't have to.

The two most significant things about the last decison are, first, its confirmation of Chief Justice Hughes' now famous remark: "The Constitution is what the judges say it is", and, secondly, its declaration of war on modern society by four resolute minority judges.

Once more the Constitution has been amended by judicial decision in the Wagner Act case as it was in the Washington minimum-wage case. On Monday, May 18, 1936, in the Carter case, a majority of the Supreme Court held: "That commodities produced or manufactured within a State are intended to be sold or transported outside the State does not render their production or manufacture subject to Federal regulation under the commerce clause. * * * The word 'commerce' is the equivalent of the phrase 'intercourse for the purposes of trade.' * * * The employment of men, the fixing of their wages, hours of labor and working conditions, the bargaining in respect to these things, whether carried on separately or collectively, each and all constitute intercourse for the purpose of production, not of trade."

On Monday, April 12, 1937, in the Steel case, upholding the Wagner Act, four members of the Supreme Court again announced that "there is no ground on which reasonably to hold that refusal by a manufacturer, whose raw materials come from States other than that of his factory and whose products are regularly carried to other States, to bargain collectively with employees in his manufacturing plant, directly affects interstate commerce." But two members of the Court happily chose to give a more enlightened interpretation to the Constitution than that for which they had voted on May 18, 1936, and in consequence the Constitution does not mean the same thing today that it meant a year ago.

Yet note how carefully the Court has reserved its right and its powers to change its mind. It has been careful to say that the constitutionality of the Wagner Act depends upon the circumstances of each individual case, leaving it the freedom to overrule even this case if the wobbly votes wobble or the stumbling horses stumble when subsequent applications of the act come up. Don't forget that in 1876 in Munn against Illinois the Supreme Court recognized the right of the States to regulate public utilities, and ever since it has been whittling down that right in specific cases until the benefit of Munn against Illinois has almost been destroyed. The most recent whittling was as late as February 1 of this year when the Court by a 5-to-4 decision emasculated the Washington public-utility law assessing the costs of utility regulation, with Mr. Justice Roberts writing the opinion. The circumstance of having the Wagner Act declared constitutional in the first test, therefore, means nothing unless the Court is made up of Judges modern in mind who are willing to follow it up rather than whittle it down in subsequent cases.

Last Monday, as in the minimum-wage decision of 3 weeks ago, four out of nine Justices have strikingly demonstrated that they entertain a view of the Constitution which denies its adaptability to new conditions.

Division in the Court may be unavoidable. But it is unthinkable that in a period of social and economic change the adaptability of the Constitution to new events should depend upon the judgment and human frailty of a single Justice; and that is precisely our predicament, because four out of nine Justices, however honest and sincere, have definitely and publicly prejudged the acceptance of any such theory of the Constitution as a living instrument and have definitely and publicly denied that the Constitution is or can be adapted to the inevitable "ebb and flow of economic events."

Under such conditions democracy simply cannot feel secure—it must "keep its powder dry." We must go forward with the President's proposals to preserve the Constitution as a living instrument of American democracy.

Government Receipts and Expenditures

EXTENSION OF REMARKS

OF

HON. BERTRAND H. SNELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1937

STATEMENT BY HON. BERTRAND H. SNELL, OF NEW YORK

Mr. SNELL. Mr. Speaker, under permission to extend my remarks, I wish to include a short statement I gave to the press on April 12, 1937, as follows:

Reckless Federal spending still is moving the Nation inexorably along the path toward a disastrous inflation.

During the last 4 months widespread public alarms for the safety of the Constitution and the security of law have submerged the continuing New Deal deficits momentarily as an object of acute national concern; but the official Treasury statement for April 1 reveals a still swelling tide of bootstrap spending for the first 9 months of the 1937 fiscal year. These obscure processes of inflation, with their inevitable upward spiral of living costs and wages, have been for 4 long years at the root of a painless creeping paralysis now all too apparent in our entire social and economic organization.

Total Federal revenues for the first 9 months of the current fiscal year were $3,740,428,265, and net loan payments into the Treasury by the Commodity Credit Corporation, Farm Credit Administration, P. W. A., and R. F. C. were $432,196,282. This gives total net Treasury receipts of $4,172,624,547 for the 9 months.

The corresponding items for the same 9 months of the previous fiscal year show net total Treasury receipts of $3,412,922,790.

Thus Federal revenue, plus loan repayments, this year to April 1 were $759,701,757 in excess of the same income items for the corresponding period of the previous fiscal year. This represents an average increase of $84,411,306 per month in Treasury receipts and repayments this year as compared with the same period of last year.

Despite this tremendous increase in cash income, however, the final Budget deficit, including public-debt and trust-fund operations, shows an increase of $115,762,291 as of April 1 this year over the deficit for the same 9 months of the previous fiscal year.

These figures mean that Federal expenditures from all funds for the first 9 months of the current fiscal year were $875,464,048 greater than during the same months of the previous year—an average increase of $97,273,783 in expenditures for each calendar month as compared with the corresponding month a year ago.

Such is President Roosevelt's progress toward a balanced Budget: Monthly income up $84,000,000, monthly outgo up $97,000,000, average monthly deficit up $13,000,000.

Here is the Nation's realization after 4 years of experiment with the New Deal promise that recovery automatically would bring increased revenues, decreased expenditures, and a balanced Budget. Under the prevailing policy of rubber-stamp, lump-sum appropriations, only the President can decide when expenditures shall be curtailed.

Several devious operations in "blue sky" bookkeeping are employed in the Treasury Department to conceal the current Budget situation from public discussion, but the official Treasury statement for April 1, 1937, reveals the whole picture in the following figures:

Net increase in public debt July 1, 1936, to Apr. 1, 1937	$994,127,802
Decrease in general fund balance same period	861,544,961
Deficit for 9 months	1,855,672,763
Deficit same 9 months, previous year	1,739,910,472
Increased deficit for first 9 months, 1937 over 1936	115,762,291
Average increase in deficit per month, 1937 over 1936	12,862,477

Adding this excess in the deficit to the increased receipts and repayments we have:

Increased revenues 9 months, 1937, over 9 months, 1936	$634,781,124
Increased repayments, 1937 over 1936 (9 months)	124,920,633
Increased deficit, 1937 over 1936 (9 months)	115,762,291
Total increased expenditures 9 months, 1937 over 1936	875,464,048
Average increased expenditures per month, 1937 over 1936	97,273,783

The bookkeeping devices by which the Treasury statement conceals this great increase of spending from public view are indicated below:

Classified increase of expenditures first 9 months, 1937	$185,408,565
Increase of expenditures direct from repayments	124,920,633
Smaller debt retirement charges this year to Apr. 1	289,569,000
Smaller bank-note retirements this year to Apr. 1	275,565,850
Total of increased expenditures for 9 months (as above)	875,464,048

Below are some of the more striking items of increased expenditure this year as compared with the first 9 months of last year—from the official Treasury statement of April 1, 1937:

W. P. A., increase for 9 months	$737,319,301
Social Security expenditures, increase	306,005,560
Resettlement Administration, increase	70,167,723
P. W. A. loans and grants to States, increase	102,469,187
Public highways (relief), increase	41,597,194
Public Highways (general), increase	74,638,802
Interest on public debt, increase	58,434,297
T. V. A., increase	23,231,140
Soil Conservation, increase	203,594,174
A. A. A. contract adjustments, increase	105,049,877
Other A. A. A. payments, increase	38,486,029
National defense, increase	88,656,521
Rivers and harbors, increase	46,456,297
Regular, departmental, increase	44,115,832

Other expenditure accounts showing somewhat smaller increases over last year include public buildings, Panama Canal, railroad retirement fund, civil-service retirement fund, Rural Electrification Administration, Veterans' Administration, Federal Housing Administration, and emergency housing.

Reviewing these figures, it is not difficult to understand why President Roosevelt proposed to abolish the office of Comptroller General, as recommended in his January message on reorganization of the executive branch.

Labor Refuses To Be Bought Off

EXTENSION OF REMARKS

OF

HON. JOHN T. BERNARD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1937

ADDRESS OF HON. JOHN T. BERNARD, OF MINNESOTA, UNDER THE AUSPICES OF LABOR'S NONPARTISAN LEAGUE, AT NEW HAVEN, CONN., APRIL 20, 1937

Mr. BERNARD. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include an address I delivered at New Haven, Conn., on April 20, under the auspices of Labor's Nonpartisan League, as follows:

Fellow workers and friends, today in scores of cities and towns throughout the Nation workers, farmers, professional people, and their progressive friends have gathered at meetings like this one to demand that the Congress put into effect the President's program for reforming the Supreme Court.

The issue has been stated by the President himself, by his supporters in Congress, and by many progressive leaders of farm and trade-union groups. Who is going to make the laws of this Nation—the elected representatives of the people of the United States or the reactionary majority on the Supreme Court Bench, usurping a power not theirs under the Constitution?

You know what hinges on that issue. You know how the Court has vetoed the acts of Congress in the last few years. You know, not because you are lawyers, who like the legal gymnastics of the Court, but because what the Court has done hits you where you live. The Court, through the decision of its reactionary majority, gave the women workers of New York State "freedom" to work for long hours at a starvation wage. It deprived railroad workers of their old-age pensions. It threw out the Guffey Coal Act. It told the farmers to paddle their own canoe against the stream of monopolistic control of agriculture. Looking at the recent record of the Court, President Roosevelt said:

"I defy anyone to read the opinions concerning the A. A. A., the Railroad Retirement Act, the National Recovery Act, the Guffey Coal Act, the New York minimum-wage law and tell us exactly what, if anything, we can do for the industrial worker in this session of Congress with any reasonable certainty that what we do will not be nullified as unconstitutional."

You understand the issue. You know that for you it is a plain question of bread and butter. That is why you are going to answer the big bosses who oppose the President as clearly as you answered them at the polls on November 7.

I am not a lawyer. I am a miner and a union man. The people of the Eighth District of Minnesota sent me to Congress to work for the things they desperately need: Security in their jobs; the right to organize and bargain collectively; adequate relief; unemployment, sickness, and old-age insurance; and the right of farmers to make a living on their farms. Today the Supreme Court of the United States is sitting down on Congress. It tells me and my colleagues we can't do the job you sent us to Washington to do.

I am not a lawyer, so I am not going to talk to you about all the legal evidence of the Court's inconsistencies in years past. I am not going to cite *Atkins* v. *Children's Hospital* (261 U. S. 525), or puzzle over the question of when commerce isn't interstate commerce. You and I don't need the lawyers to tell us that the Supreme Court majority stands in the way of our getting the things we must have if we are to feed our families and live like human beings. We don't need the lawyers to explain what the decisions in the Wagner labor cases mean.

What about the Wagner Act? Congress passed and the President signed it. The ink was hardly dry on his signature when the American Association of Manufacturers came out with an opinion, written by the high-priced lawyers of the Liberty League, announcing that the act was unconstitutional. Until April 13 these gentlemen were so sure they were right and the Congress wrong that they flatly refused to obey the law. Henry Ford, Rand, Ernest Weir, and other overlords of industry didn't wait for the Court to write its opinion. They didn't recognize the legal rights of organization on collective bargaining because they were certain that the Constitution is what they say it is.

The very same gentlemen of the Liberty League and the Manufacturers' Association are against the President's proposal for reforming the Court. That's unconstitutional, too. But a funny thing has happened. Since April 13 they have spread themselves all over the newspapers with joyful words of welcome for the Court decision upholding the constitutionality of the Wagner Act.

What's the answer? Maybe you remember that in the weeks before the Court gave its decision things were happening to make the bosses change their minds. Spurred by its November victory over Landon and Hearst, American labor was on the march. In craft and industrial unions it was going forward to new victories and stronger organization—General Motors, Chrysler, the Steel Trust. Workers stormed the very strongholds of open-shop policy. Workers made it unmistakably clear that, Court or no Court, collective bargaining is a right they can enforce themselves. You workers decided the constitutionality of the Wagner Act in those stirring days.

Then came the big surprise of Monday, April 13. The Wagner Act was upheld as the law of the land. The high Court, faced by the accomplished fact of union victories, admitted that the workers had won a round. Mr. Justice Roberts simply changed his mind.

And immediately the reactionaries came forward with their own interpretation. They said, "You see, the Court isn't reactionary after all." They said, "The Court has junked it's horse and buggy and gone stream-lined." They said, "What more do you want? You got what you asked for, now drop the silly talk about reforming the Court."

There is something strangely familiar about all this. Workers may well ask themselves, "When have we heard this kind of stuff before?"

I'll tell you when we have heard it. We have heard it whenever a big organization drive is under way, and a strike for union recognition, higher pay, shorter hours, and better working conditions looms. At times like that don't the bosses often come forward with the old trick—a "voluntary" increase in pay? Old unionists know that trick too well. No; we won't deal with "outside agitators." No; we won't recognize your union. No; we won't bargain collectively. But, out of the goodness of our hearts we have already given you a wage boost. You don't need a union. You got what you wanted. So just go back to work and be good little boys.

That's one of the oldest gags in the history of the labor movement. And that's the trick the bosses are trying to put over on the people of the United States today.

Well, what do you do when you get a "voluntary" raise at the height of an organization drive? Do you stop organizing? Are you going to stop organizing now?

The people are organizing in support of the President's proposal. Workers and farmers, teachers and students, the youth who demand jobs and the old who demand security, employed and unemployed, have drawn closer together than ever before in American history. Political differences and sectional rivalries are being forgotten in this growing unity for a reformed and curbed Supreme Court. No wonder the reactionaries on the bench and their backers in Wall Street are scared. One of them changes his mind about the Wagner Act. That's a very small price to pay for buying off this mighty movement of the people against the autocracy of the Court.

But we won't be bought off. We remember Abraham Lincoln, who said:

"If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the people will have ceased to be their own rulers."

We remember that it was the Court which upheld the legality of chattel slavery in 11 decisions rendered between 1825 and 1858. We remember the Dred Scott decision, reversed at such bitter cost on the battlefields of the Civil War. We demand that the Court be shorn of the power it has seized before its support of wage slavery leads to other battlefields.

The decisions in the Jones & Laughlin Steel and the Friedman Harry Marks cases show up the fable that the Court is "independent" and infallible. The Court itself and the hired legal hired men of the corporations have been telling that fairy story for years. The Court is sacred. The Court is pure. The Court is above the battle. The Court neither hears nor sees, knows neither friend nor enemy in the world of living things. The Court lives only by the Constitution.

No honest lawyers—and there are a few—reading the decisions of April 13 can any longer defend that faith. The Court stands clearly revealed to us for what it is—nine human beings, nine men who want to keep their jobs and their prestige. One of them "changed his mind" to save the jobs of all.

Right now, before we have time to forget this spectacle of a Court which is human, all too human—right now, before the old myth gains new believers—right now is the time to act.

Mr. Justice Roberts has changed his mind. What is there to guarantee that he won't change it again? My friends, you know the answer. If you get a "voluntary" raise, what is there to guarantee that the boss won't take it back at the first opportunity? Nothing but a good strong union. Nothing but holding out for your rights to organize, to bargain, and to sign a contract binding him to that raise.

Our struggle against the Court isn't any different in this respect from our struggles against the bosses. What counts is organization. If we accept the Wagner decision as a "voluntary" gift and relax our efforts to get the President's reform passed by this session of Congress, we take a licking. That is what the bosses are playing for. We're going to disappoint them. We're going to push forward to a new victory for the people, to follow our victories at the polls and in the factories. A victory for the President's proposal in this Congress will be a step toward our final victory over the Court.

We cannot let the Court continue to stand in our way, for there is much work to be done. As Franklin D. Roosevelt has repeatedly said, one-third of our Nation is ill-clothed, ill-housed, and ill-fed.

Production at the beginning of this year was higher than in 1929—the great boom year. But 10,000,000 workers have no jobs. Compare December of 1936 with December of 1929. Instead of talking in percentages, let's say that 100 workers in December 1929 produced $2,000 worth of goods. In December 1936 it took only 98 of those workers to raise that production to $2,480 worth of goods. Today fewer workers produce more. That is what we call "recovery." Profits to industry increased 50 percent in 1935 and another 50 percent in 1936. But, full-time earnings of workers increased only 5 percent in 1935 and 7 percent in 1936. That's recovery, too. It is the kind of recovery that leads to another crash, when workers don't have enough money in their jeans to buy back what they have produced.

If you send good fighters to Congress and back them up with your organized strength, you can get Federal laws passed which will help us to a better kind of recovery. Minimum wages, shorter working hours, protection of the rights to organize and strike, taxes on the rich, social security. Let's make sure that the bogey of what the Supreme Court may say doesn't prevent the passage of the laws we work for. Let's make sure that, once passed, these laws can't be thrown out by a reactionary majority.

Do not forget that farmers have their fight to make all over again. Secretary Wallace said:

"The Justice who wrote the majority opinion that knocked out vital parts of the Agricultural Adjustment Act in 1936 now wields the balance of power on the Court. * * * The decision of the Court in the A. A. A. case, that agriculture is a local matter, still discriminates against the farmers and blocks their progress. The reasoning of the Court majority in that case was in direct contrast to the reasoning of the majority in the Wagner cases."

Though Justice Roberts has changed his mind, the farmers aren't any better off. His opinion in the Hoosac Mills case still stands between them and adequate Federal aid. Workers cannot afford to forget this fact. They must use all their organized power for fight against a Court which, by this kind of discrimination, aims to set farmers and workers against each other. We need the farmers in the battle for the President's proposal and against the Court, quite as much as the farmers need us. We can only win if all progressive forces pull together.

Mr. Wallace also pointed out that a year ago, when it upheld the T. V. A. Act, the Court seemed to be reforming itself. But the reform didn't take. A few weeks later the Guffey Act and the New York minimum-wage law were thrown out. In the face of those facts are you going to stake everything on Mr. Justice Roberts and his latest about face? Are you sure the Court will stay "reformed" even as long as it takes to decide the validity of the Social Security Act?

For years the Court has been packed. President Roosevelt proposes that we unpack some of its excess Wall Street baggage. I say we must fight for the President's proposal to unpack the Court, because we need to do first things first. Some misled progressives have joined with the reactionaries in saying that a constitutional amendment is the only solution. But a solution that will take years to achieve doesn't solve the things we need to solve now. Of course, we shall go on from the first step to the second. Of course, we won't leave the final decision up to 9 Judges or 15, young or old. The power to veto acts of Congress was never given to the Supreme Court by the Constitution. That power they grabbed for themselves. Congress must put the Court in its place—the place reserved for it by the framers of our Constitution. First, the President's plan. Then forward to abolishing for all time the Court's power to veto laws passed by Congress.

That is my program and the program of other true progressives in Congress. That is the job we expect to do. We can't do it alone. You've got to put the heat on. Tell the reactionaries where they'll get off at the next election unless they vote your way. Some progressives make excuses and pretend to see a threat of "dictatorship" in the President's plan. Tell them what real progressivism is. Tell them who has been doing the "dictating" to the Court and through the Court to you. Yes; and watch us real progressives, too. We might slip if we didn't know you were watching.

Through your Nonpartisan League, through your trade-unions, and farm and other progressive organizations you can make yourselves heard. Write to your Congressman. Write to your Senator. We read our mail in Washington. We listen to what you people say. We know you can fire us if we don't do our job. It's up to you. Make the Halls of Congress ring with your demand that the President's plan go through.

Labor Relations Under Modern Conditions

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

RADIO ADDRESS OF HON. ALBEN W. BARKLEY, OF KENTUCKY, APRIL 19, 1937

Mr. ROBINSON. Mr. President, I ask that an address delivered by the senior Senator from Kentucky [Mr. BARKLEY] in the National Radio Forum over the facilities of the National Broadcasting Co. on April 19, 1937, on the subject Labor Relations Under Modern Conditions, be printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, I have been asked to speak briefly this evening on some phases of recent industrial controversies in the United States in the light of legislative efforts to resolve them and thus contribute to industrial peace, and in the light of recent judicial interpretation of these efforts in the field of State and Federal legislation on the subject.

I presume that all reasonable and patriotic men and women will agree that industrial peace, good will, and mutual understanding are desirable if not indispensable to the progress and happiness of our Nation.

That the relationship of employer and employee ought to be one in which reciprocal confidence and respect prevail cannot be denied; and that it should form the basis of genuine cooperation in the productive enterprises which constitute so large a part of the social and economic life of the Nation is equally undeniable.

I presume we may also agree that such confidence and respect may not and ought not to be secured by the denial to either party of the just proportion to which each may be entitled to the profits of the joint productive efforts which make and have made American industry the giant it has come to be.

The growth of industry, the use of machinery, the development of the industrial corporation, the combination and consolidation of producing units, the inauguration of mass production, and the wide distribution of these products through the States and throughout the world have severed the close personal relationship which previously existed between employer and employee.

Under the former system the employer knew his employee, his circumstances, and his family. Frequently they associated in the same social, fraternal, or religious circles, and the worker enjoyed an approach to his employer which made it possible for each to possess full knowledge of the other's economic surroundings.

If the employee needed more wages or improved working conditions, he might go personally to his employer and lay his needs before him in the confident belief that they would be given personal and sympathetic consideration.

With the growth of industrialism and the advent of the so-called machine age, the broad expansion of corporate forms and control, and the wide separation of plants and units under the same management, the personal relationship between employer and employee practically ceased, and the individual employee became a small cog in the great wheel of industrial and economic transformation which he witnessed but could not guide or control.

Out of this condition grew the labor union. Under modern industrial surroundings the individual laborer became helpless by his single efforts to improve his condition. If he was not satisfied with his wages, he was told that he might quit his work. If he complained about his working conditions, he was told that he might look elsewhere in search of improvement. Often no account was taken of standards of living, of family obligations, or of the worthy and laudable desire of the head of a family to give to his children the opportunities of education, social advancement, or the enjoyment of a decent standard of living according to accepted American models.

It became increasingly necessary, therefore, for the workers to organize into unions, in order that they might present their grievances and their needs as a unit and not as individuals. They realized that in union there is strength, and without union there is impotence.

The formation of the unions gave to the employees a bargaining power closer to the level occupied by the employer; and this has given rise to the legislative and judicial recognition of the right of collective bargaining for employees in the United States who wish to enjoy its benefits and participate in its processes.

This right has been recognized by both State and National enactments over a long period of years.

In the Transportation Act of 1920 Congress made a somewhat abortive effort to establish this process for the adjustment of railroad-labor disputes by the creation of the Railroad Labor Board. The provisions of this act were not successful or satisfactory, and they were repealed by the Railway Labor Act of 1926, which was enacted in substantially the language of the Howell-Barkley bill, of which I had the honor to be the author in the House of Representatives. This act was amended in 1934, and 3 weeks ago was sustained in a unanimous decision of the Supreme Court.

This act, of course, dealt only with employees of railroads engaged in interstate commerce, and there was no just or reasonable ground upon which its constitutionality could be attacked; but as the Supreme Court frequently said, Congress has the same right to regulate the commerce that is carried by the railroads that it has to regulate the railroads which carry the commerce, and this principle has been extended to apply to all carriers by land, water, steam, or other propelling powers which are engaged in interstate commerce, and it has even been extended to intrastate commerce where it operates as a burden upon or affects directly commerce among the States or with foreign countries.

Recognizing the right of labor to organize and reasonably enjoy the fruits of its labor, Congress has within the last 4 or 5 years enacted a large number of measures designed to safeguard the rights of labor in its relationship with its employer.

Among these legislative acts are the following:

The National Labor Relations Act, which defines and strengthens the rights of workers to organize and bargain collectively as a means of settling and prohibiting labor disputes.

An act prohibiting interstate transportation of strikebreakers.

A resolution providing for investigation of violations of the right of free speech and assembly.

An act designed to assist the States in the enforcement of State laws regulating or prohibiting in the open market prison-made goods in competition with the products of free labor.

An act which regulates conditions of employment of seamen and engine room workers in our sea-going merchant marine.

An act creating the United States Maritime Commission with power to investigate conditions of employment in ocean-going shipping with a view to revising the contracts providing for subsidies and incorporating in them better standards of labor.

The Public Contracts Act, which provides in Government contracts for material, articles, supplies, and equipment in amounts exceeding $10,000 for labor standards governing hours, wages, child and convict labor, and working conditions.

The Social Security Act, providing, under certain circumstances, for unemployment compensation, old-age security, security for children, aid to the blind, and the extension of Public Health Service and vocational rehabilitation.

It also passed the Railroad Retirement Act, providing annuities to railroad employees retired at the age of 60, or after 30 years' service, which was invalidated by the Supreme Court, as was also the Guffey Act, whose purpose was to stabilize the bituminous-coal industry and improve its industrial relations and labor conditions.

The Workmen's Compensation Act, which enables States to apply their workmen's compensation laws to Federal projects within their geographical boundaries.

In addition to these Federal statutes, an unusually large and significant body of labor laws have been enacted by a number of States during the past year. These include child-labor laws in 5 States, collective-bargaining laws in 2 States, industrial home work in 1 State, prison-labor laws in 5 States, public employment offices in 3 States, safety-health-sanitation in 21 States, State departments of labor in 24 States, minimum-wage laws in 3 States, and wage payment and time of employment laws in 7 States.

These enactments, both by Federal and State authorities, have been designed not only to improve the relationship between employers and employees but also to improve the conditions under which men and women and children must work, and accord them a measure of security during old age and periods of unemployment.

During the recent depression the workers in practically all classes of industry underwent hardships and privations never before endured by the American people and made it necessary for State governments and the Federal Government to engage in enormous expenditures for relief and to afford employment to the unemployed.

There has been a marked improvement in the employment situation during the last 3 or 4 years. We have undoubtedly turned the corner and are definitely on our way to a more permanent and more fairly distributed prosperity. During this process of recovery there have been numerous labor disputes growing out of wages and hours and the right to bargain collectively in determining wages and hours and conditions of employment. These disturbances during periods of recovery from long depressions are not unusual. They have occurred at the end of every depression and during the process of recovery. During long depressions not only does industry separate large numbers of workers from their positions, but they also reduce wages and impose harder working conditions upon their employees. I shall not here attempt to discuss the wisdom or justice of such a policy. The fact remains it does occur, it has occurred, and always occurs in periods of great industrial depression.

When the processes of recovery begin, and profits begin to be realized and accumulate in the industries themselves, it is natural that the employees of these industries should not only seek to recover the ground they lost during the depression, but it is also natural that they should seek to advance their position beyond the status they enjoyed prior to the depression.

As a result of this situation during the last year or two, we have witnessed numerous labor disturbances in the country. This has been particularly true in the shipping industry, the automobile industry, the textile industry, and certain merchandising enterprises located in large cities. But it ought to be stated that in those industries which have heretofore recognized and now recognize the right of collective bargaining among their employees, there has been the smallest proportion of labor disturbances throughout the United States. This is particularly true of the railroad employment and of employment in the coal industry and in certain portions of the textile industry where collective bargaining has been recognized and practiced.

Of the more than 1,000 strikes of various types and sizes which have occurred recently in the United States, between five and six hundred of them, or a decided majority, grew out of the unwillingness of the employer to recognize the right of their employees to bargain collectively over wages, hours, and conditions of labor.

These conditions, and these results, emphasize the wisdom of the policy and the theory out of which grew the Wagner Labor Relations Act, which has just been sustained by a 5-to-4 decision of the Supreme Court of the United States.

This act undertook to set up the machinery through which both labor and capital, both employer and employee, might negotiate on equal terms for the settlement of their labor and industrial problems.

It undertakes to define certain well-recognized unfair labor practices, among which are the denial of the right to organize for their mutual advancement and protection; coercion or intimidation in the selection of the representatives of employees who are to participate in the negotiations over wages and hours and working conditions; the discharge of men because they see fit to join a labor union; or efforts to coerce or force them into so-called company unions fostered or initiated or dominated by the employer; and many other practices which are recognized as unfair, which the law seeks to eliminate in the interest of more friendly relations in the industrial field.

Many of the large manufacturers in the United States ignored the provisions of this act and resorted to the courts to defeat its purposes.

Insofar as this law is concerned the atmosphere has been somewhat clarified by the recent decision of the Supreme Court.

In that decision the Court recognizes the effect which may be wrought on commerce among the States and with foreign countries by the sort of labor disagreements and disturbances which the Wagner Act was set up to avoid.

The Court recognizes that if Congress can regulate railroads and other instruments of commerce, and can even regulate carriers wholly within one State if the State imposes conditions or permits practices thereon which operate as a burden on interstate commerce, then Congress may exercise the same power over the commerce which is transported by the carrier. In other words, it recognizes the inconsistency of saying that Congress may regulate all the practices of a railroad engaged in interstate commerce, and may set up machinery for the settlement of labor disputes on such railroads, but that Congress should not be held to have the power to do the same thing with relation to the commerce that passes over the railroad or other carrier which is being regulated.

While this decision, upholding the Labor Relations Act passed muster of constitutionality by a narrow margin, the result was most gratifying. But in spite of the gratifying nature of this

decision in the five cases passed upon by the Court on Monday last, we need not console ourselves with the thought that we are out of the woods in the matter of constitutional interpretation of the powers of Congress in dealing with industrial subjects which are national in their scope and which cannot be successfully solved under the guiding supervision of any other authority less than the Government of the United States itself.

It is not enough to say that Congress may concern itself with the settlement of labor difficulties in factories which import raw materials from other States, and then export the finished product to other States, thus constituting a sort of "bottle neck", as the Court has said in the process of conducting commerce among the States.

If shipping raw materials from several States to a factory in one State and the subsequent shipment of finished products from the factory to other States gives Congress jurisdiction over the settlement of labor disputes in the factory because those disputes may have a direct effect on the flow and continuance of interstate commerce, then it seems to me that Congress may exercise the same authority where the factory merely ships into other States the product of its enterprise regardless of the source from which it secures its raw materials.

In other words, if a manufacturing plant is engaged in interstate commerce, it does not matter whether that commerce flows in or flows out of the State, or whether both occur. If the conditions of labor which prevail are such as to promote strife, disagreement, strikes, and interruption of the processes by which commerce is fostered and carried on, then Congress may set up certain standards of fairness and unfairness, and provide the machinery for their administration, without regard to the direction toward or from the plant where the conditions prevailed.

In the light of these deductions, and in consequence of the logic of the Supreme Court in the five decisions rendered last Monday upholding the constitutionality of the Labor Relations Act, the labor provisions of the Guffey Coal Act ought to have been held to be constitutional by the same Court instead of being nullified as contrary to the Constitution and beyond the power of Congress to deal with.

Many of us in positions of responsibility have been asked frequently in the past week what effect the favorable decision of the Court will have on the relations of employer and employee, and on the further organization of labor in the unorganized industries of the country.

In view of the fact that more than one-half of the strikes which have occurred in the past year have grown out of the refusal of employers to accord to their employees the right to bargain collectively in regard to the conditions of their employment, it seems to me inevitable that the assertion and observance of this right will materially reduce the causes of friction, the sources of dispute and unrest among laboring men and will result in a more friendly approach from both sides to the settlement of their differences and will consequently reduce the number of strikes of all kinds throughout the Nation.

It is my opinion also that the observance of this congressional enactment by both sides to industrial controversies will result in the increase in the number and membership in labor organizations, for, in practical operation, it is almost impossible for large groups of employees to select those who are to speak for them unless they are organized and can engage in their negotiations in an orderly and well-recognized manner instead of under the chaotic conditions which frequently accompany unorganized efforts along the same line.

Now that this great step toward industrial peace has been justified by the subsequent course of legislative and judicial history, let us hope that it will be accepted by both employers and employees, and by the public generally, as a sincere and practical method by which our industrial system may be elevated to a higher standard of efficiency and of justice among those whose brains and whose muscles and whose very lives are devoted to the production and distribution and enjoyment of the things which we have come to regard as so essential to the American way of living.

Let us believe that the Government of the United States is not a great monster seeking to establish some mysterious and brutal sway over the lives of men and women and children for whom it feels no real concern, but that it is an agency set up, ordained, supported, and perpetuated by the people themselves for the present and potential exercise of all its powers and functions in guiding the people in the solution of hard problems they cannot resolve by their individual efforts, and in protecting them from the inhumanity and the rapacity of any element or combination of elements which seek only to use that Government to enforce their own selfish and special privileges in a world of modern and humane standards of life and of work.

We who hold office or possess great power sometimes boast in our hearts of the great contribution we think we make to the sum total of human happiness. But who can say that the man who digs a ditch in the middle of the street to lay a pipe or a wire or a cable to bring light, heat, and comfort to the homes of millions of people has not rendered a greater service to society than a Senator or a governor or a judge upon the bench?

In our approach to these great social and economic questions, let us be fair. Let us be just. Let us be open-minded. Let us remember that even an impersonal government should protect the weak, restrain the strong, and seek constant improvement in every relationship which binds the people together.

D. A. R. Convention

EXTENSION OF REMARKS
OF
HON. ROBERT R. REYNOLDS
OF NORTH CAROLINA
IN THE SENATE OF THE UNITED STATES
Thursday, April 22, 1937

ADDRESS BY HON. A. HARRY MOORE, OF NEW JERSEY, AT THE D. A. R. CONVENTION

Mr. REYNOLDS. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a very interesting, instructive, and inspirational address delivered by the senior Senator from New Jersey [Mr. MOORE] at the Annual Convention of the Daughters of the American Revolution in Constitution Hall, Washington, D. C., on the evening of Tuesday, April 20, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is a happy privilege for me to participate in the activities of this Congress of the National Society of the Daughters of the American Revolution.

You mark, this year, 47 years of patriotic service in fostering the principles of Americanism, in the support of our system of public education, in the work of Americanization among those more recently come to our shores, in the development of sturdy citizenship and in keeping fresh in the minds of the people of this Nation the deeds, the sacrifices, the service and wisdom of those earlier sons and daughters of America who patterned the form and wove the fabric of our free institutions and our free Government.

I am proud to hail tonight the 150,000 members of the National Society of the Daughters of the American Revolution.

We in New Jersey claim close association with this society. Hannah Arnett, of Elizabethtown, served, I am told, as the inspiration, and William McDowell of Newark, N. J., a descendant of Hannah Arnett, issued the first call and presided at your organization meeting here in Washington.

I like to read the story of Hannah Arnett. The same scenes were enacted but unrecorded in history, I am sure, in a thousand colonial homes.

When Washington was in retreat across New Jersey in 1776, the colonists discouraged and giving up the fight, General Howe proclaimed pardon to all who would lay down their arms. A company of men met at the home of Isaac Arnett in Elizabethtown to discuss the offer. Hannah, the wife of Isaac, listened in, or to use the vernacular "butted" in. "We are poor and few and weak", she said, "but our God is mighty. We counted the cost, we should be willing to pay the price. Would you now kiss the feet that have trampled us? Would you make by your surrender the last resting place for our liberty here in this wilderness?" Turning to Isaac, she said, "If you take the protection of the British, you lose your wife, and I, I lose my husband and my home." The men and women of New Jersey did not surrender and the story of the struggle for freedom ran on to Yorktown and victory.

The history of the growth of your society is typical of the growth in and of America.

You have found fields of ever-increasing usefulness. In recent years you have made the interests of youth a part of your program. Your interest in youth is logical and natural.

I believe in the importance and significance of youth. Disraeli said youth "are the trustees of prosperity." Edmund Burke said, "People will not look forward to posterity who never look backward to their ancestors." And he said again, "Civilization is a contract between the great dead, the living, and the unborn."

We must not default on our part of the contract. It is a noble thing to perpetuate the traditions and the deeds of those who have gone before. It is a nobler thing to train and inspire the youth of America in the faith of their fathers, that they may carry high the banners of liberty for which their fathers died.

I believe in youth, but not a youth movement that seeks to separate out the problems of youth and regiment and delude and betray youth itself. The youth movement for America must be a part of our whole effort toward the preservation and development of our American way of life, of our spiritual and our material security and well-being—a movement which spells understanding, helpfulness, and opportunity, sturdy enough to stand against these strange theories, false doctrines, and fantastic schemes that assail us in these days on every side.

Yes; this is indeed a testing time for America. Despotism and dictatorial power have broken through the guards of developing and expanding freedom in every part of the world.

Free governments have fallen, not to be supplanted by freer governments, but by oppression and tyranny.

In America we have maintained our free institutions, but we cannot sit indifferent to the dangers of these alien influences abroad in our land.

I like to think of our American institutions as designed to provide opportunity, not opportunity for a job alone, important as that may be, but opportunity for creative growth and development, for liberty and happiness, to live as men and women, free from fear and oppression and want, in keeping with our best conceptions of American life.

Here in our land have burned the fires of freedom and of hope. Hither have come the millions from the older nations, looking to these shores as the land of promise.

On the base of the Statue of Liberty we read:

"Give me your tired, your poor,
Your huddled masses, yearning to breathe free,
The wretched refuse of your teeming shores,
Send these, the homeless, the tempest tossed, to me,
I lift my lamp beside the golden door."

Inside that door has dwelt opportunity. And I accept no dictum that opportunity is dead, that patriotism and sacrifice, that character and determination no longer live in the land and that America holds no further hope.

I deny the charge that our Constitution, our institutions, our principles of liberty, our form of government are no longer true and adequate and that alien theories, failures all before America was born, must now be accepted as the saving philosophy of the American people.

Your membership seeks to perpetuate the great tradition of American democracy, of the liberty which we hold to be a part of our being, of the equality which expresses itself in a government based upon the consent of the governed, of the freedom for which men whose names you bear laid down their lives and their fortunes. With you I venerate that tradition.

Our national dream has been as Adams expressed it. "A land in which life should be better and richer and fuller for every man, with opportunity for each, according to his ability and achievement."

Young men and youth have a place in that dream, and the real America must be the place of dreams come true. We talk of the distribution of wealth, or wider education, of opportunity for jobs, of combatting crime, of curing all our social ills. But these involve basic problems and the long view.

The question that plagues you and me and all of us is: What shall we do now? Youth cannot wait. It is passing into maturity. When we survey the field we see its complications. The whole problem of youth is, after all, the sum of its parts. The whole country is the sum of its communities. And so it seems to me that the way to start upon this youth problem is to start now by helping the youth next to you. Make the youth problem your personal problem, my personal problem, and it will be solved. Develop leadership, but you help. Enlist interest, but do it directly. Fight crime—make it personal. Broaden education. Give your counsel. Make the problem of youth a community problem, and remember you are a part of the community.

I should like to develop this thought further, but my time is limited and I want to address a word to youth itself.

Anxious and baffled youth seek answers to pertinent questions.

If I could answer all of these questions, I would know, as Burns says, "What God and Nature is." I could dissolve all your doubts.

But I would say that those who have gone this way before have left some guide posts that remain. Out of the agony of their bodies and the travail of their souls they have established some principles that last.

The men and women, and they were young, who founded this Nation did not bring over a system of government; they made one. They found a wilderness peopled by hostile tribes. They were beset by dangers by day and terrors by night. They did not look to government for security. They depended upon their faith and the strength and vigor of their manhood and womanhood. Where there was no law, they made it. Where were no schools, no churches, no homes, they built them. They helped every man his neighbor. They dreamed their dreams and made them come true.

It will be tragedy, indeed, if we in America create a generation which refuses to play the game unless it knows it is sure to win.

Youth has done and will do the work of the world. Youth commits most of the crimes of passion. Youth is frequently delinquent. Youth has its failures. But youth fights the battles, blazes the trail, finds new and higher grounds of accomplishment for the human race.

Young men and women settled America. Young men fought the Revolution. Young men fought the bitter battles of the Civil War. The boys of the world shouldered the rifles and manned the guns in the World War.

Lindbergh flew the Atlantic at 25; Ericsson, who built the *Monitor*, was an engineer at 15; Jane Austen wrote her best novels at 21; Hamilton was a member of Washington's staff at 20; John Paul Jones was sea captain at 22; Bryant wrote Thanatopsis at 19; Whitney invented the cotton gin at 28; and Alexander had conquered the world at 26. So the list of youth who aspired and dared and won runs on and on. Today the pied pipers blow weird and misleading tunes. The demagogues, the false prophets, those who would tear down instead of build up, fling in the face of youth day after day false slogans, new and treacherous rallying cries whose adherents in no country and at no time in the world's history have ever made a constructive contribution to happiness, security, or civilization.

Aye, it is not wealth and ease and narrow selfishness youth wants; it is only a chance.

"I dream no dreams of a nursemaid state
To spoon me out my food.
The stout heart sings in the fray with fate
And its shock and the sweat are good."

That is the spirit, and in spite of the cynicism and sophistication of the present day it is the spirit that will bring youth safely through this crisis.

It is youth's country. It is youth's hands into which we deliver our country's future.

We received the torch of liberty in our youth from those who had gone before. We deliver it, dimmed in these recent days to be sure, to the youth whose eager hands await. But, thank God, it is still burning.

Ah, youth:

"You are your country's keeper
And yours forever the blame,
If the fingers of scorn be pointed
At a country in shame,
Yours is the hand that will guide her
And yours forever the praise
If she girds herself with glory
That shall last through the length of days.

You, the Daughters of the American Revolution, citizens everywhere, I would impress upon you the seriousness of the obligation which rests so heavily upon us all. In spite of the accumulating force of the complicated social and political and economic problems that have pressed upon us in all their fury in this first third of the century we must go on. We dare not accept defeat.

We have a rendezvous, not with death, but with life; not with the old, but with the young. It is ours to find the way to fight these foes, these giants that stalk the world in these days and threaten disaster to our social and economic and political institutions. It is our supreme obligation to transmit to our children and our children's children that philosophy, that faith, that progress, and that freedom which we have enjoyed.

It will not matter so much that we have not completely succeeded; it will matter only if we have failed to build our part of the temple of human endeavor straight and strong and true, enduring as the ages.

A builder builded a temple,
He wrought it with grace and skill;
Pillars and groins and arches
All fashioned to do his will.
Men said, as they saw its beauty,
"It shall never know decay."
"Great is thy skill, O, Builder,
Thy fame shall endure for aye."

A teacher builded a temple
With loving and infinite care,
Planning each arch with patience,
Laying each stone with prayer.
None praised her unceasing efforts,
None knew of her wondrous plan;
For the temple the teacher builded
Was unseen by the eyes of man.

Gone is the builder's temple
Crumbled into the dust;
Low lies each stately pillar
Food for consuming rust.
But the temple the teacher builded
Will last while the ages roll,
For that beautiful unseen temple
Is a child's immortal soul.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSH LEE

OF OKLAHOMA

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

ADDRESS DELIVERED BY JUDGE WILLIAM JONES, JR., OF McALESTER, OKLA., TO THE HARTSHORNE ROTARY CLUB, APRIL 8, 1937

Mr. LEE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address on the subject of judicial reform delivered by Judge William Jones, Jr., of McAlester, Okla.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Today in America we are becoming conscious that the welfare of our Nation depends upon correct policies of government. We have passed through the experience of watching the inactivity of governmental machinery allow the Nation to sink into economic chaos. The hands-off policy of a previous administration, and the terrible loss and suffering resulting from that policy, have brought us to the realization that our Government must act as the balance wheel if we are to prevent our economic machinery from becoming a machine of destruction.

We have observed the presumed economic captains of yesterday kneeling at the altar of National Government and asking for governmental action to solve the problems they had been unable to solve. We have observed the executive branch of our Government, assisted by the legislative branch of Government, set in motion the economic machine of this democracy, after the best mechanics of private industry had given up the job as hopeless and were predicting that dictatorship would be the only effective solution.

To protect 32,000,000 people in agriculture, these two branches of government set in motion the Agriculture Adjustment Act. The legislative and executive branches of Government acted to stabilize a foundation industry, and the dream of farm leaders was incorporated into the machinery of agriculture where a planned agricultural program would replace the hit and miss agricultural machinery.

To protect business from unfair competition and to protect those workmen who were the tools of those unfair tactics of business, the same two branches of Government brought forward the National Recovery Act, to be the governmental measuring stick as to whether business machinery was being operated in fairness to its competitors and workmen within industry. The N. R. A. guaranteed those operating the machinery of business a level of fairness which competitors must meet in the open market with a similar fair level of operative cost. Within this same N. R. A. program was the first governmental action to emancipate the industrial worker from unreasonable hours of labor, inadequate daily wages, and it resulted, in addition to these benefits, in the furnishing of jobs for millions of unemployed whose problems were threatening the security of our Government.

The coordination of these two elective branches of Government and the programs inaugurated by them again caused all the gears of our economic machine to function. Those who had foretold dictatorship and destruction accepted the benefits of governmental action, while at the same time planning their attack upon the acts of the executive and legislative branches of Government through the third branch of our Government, the judiciary.

Agriculture hardly had seen the light of a new day, business had only experienced a few months of protection, and the American workman had barely visioned the enlightened future when this third arm of our Government saw fit to again throw off the governmental balance wheel, and by their ruling nullify the action of these two progressive branches of Government.

The Supreme Court of this Government by the opinion of five men against the opinion of four men in the same Court said that it was unconstitutional and thereby nullified the "general welfare clause of the preamble of the Constitution." Six men said it was not within the constitutional rights of our National Government to protect 32,000,000 people in agriculture and relegated this problem to the States, who have as much chance of controlling the Nation's agriculture as they have of controlling the tides of the ocean. Thereafter, the same Court, divided in opinion, unable even to agree among themselves as to what was constitutional, voided the acts of the liberal branches of government. Those very acts that changed our stalled national economic machinery into one that was again meeting the needs of the Nation were declared unconstitutional by the failure of one or two judges to recognize that the welfare of the Nation was a national problem.

Though crippled by these reactionary views of a hostile branch of government, the two branches of government answerable to the people, passed a demanded new legislative program and thereafter went again before the citizens for their endorsement or rejection of the acts of these two representative branches of government. Each of you are familiar with all the charges brought against these two liberal branches of government. You heard the praise of the judicial branch by those who now are fighting against judicial reform.

The case of the executive and legislative branches of government against the judicial branch was tried in the fall of 1936. Both sides brought forth all the evidence they could muster. The same radical partisan, the same paid press, the same group of calamity howlers who cried "wolf" then are crying "wolf" now. On November 3, 1936, their case was completed, the same evidence had been produced, the same witnesses had been heard that are being heard today against the judicial reform measure. On November 3, 1936, that great American jury, the voters of America, returned their verdict of not guilty of the crime charged. The farmer, the laborer, the sound-thinking citizen of America had repudiated the economic principles of the majority of the Supreme Court.

That mandate is now a matter of record. The people today, as they did on November 3, demand the enforcement of their judgment. The Constitution of the United States gives its President and Congress the right to enlarge the Supreme Court and thereby secure a judiciary that will recognize the problems of the Nation. Those who oppose such action are now wanting a new trial. Their remedy is to go back to the people with their constitutional amendment, limiting the power of Congress in increasing the size of the Supreme Court. A new case, if filed, should be filed by those who question the meaning of the judgment rendered on November 3.

The people have spoken, and it is their mandate that the "general welfare clause" read out of the Constitution be revitalized. Add to our Supreme Court six men who recognize that the problems of agriculture are national and vitally affect the Nation; six men who recognize that child labor is a national problem, that 47 States can outlaw child labor and the forty-eighth State can, by prostituting child labor, upset the markets of the Nation. Let those that oppose such construction of the Constitution come forward with these amendments to limit this power of Congress. We welcome this conflict. We challenge them to submit this amendment.

The enlightened citizen of today no more looks with awe on the judiciary. They are recognized as men with the same fine qualifications and the same petty prejudices possessed by other men; capable of expressing fair, honest opinions, but of course their views and opinions can possibly be erroneous because of failure to understand, or lack of ability to comprehend the solution of the problems they are facing. A 5-to-4 decision on cases that involve the interpretation of our Constitution which affects the future of a Nation, should be proof in itself that what is constitutional or unconstitutional is just a matter of opinion. Four judges say that the Government can, under the Constitution, meet a problem. Five judges deny the executive and legislative branches the right to act in meeting national problems of today. Shall we allow their interpretation of our constitutional rights to block progress in America? Shall the branch of Government that represents the minority view in America dictate the policies by nullifying the acts of our two branches of Government that have gone before the people and won their case and received the mandate to go forward? We have elected officials possessed of a new thought and a new conception of the duty of government to its people in the executive and legislative branches of our National Government.

Men who represent the repudiated "do nothing" policy of government control the judiciary. They fail to recognize or understand that progress has centralized America. What might have been local problems when they were active men now have become national because of high-speed transportation and communication. Child labor, sweatshops, overproduction in agriculture, or any unfavorable economic condition in New York State affects the welfare of Oklahoma and the Nation.

Judicial reform is necessary if the governmental balance wheel is to remain a part of our national economic machinery. Our experiences of the past prove that it will be economic suicide to return to the old plan. Judicial reform will mean that our third branch of government will coordinate in a program of reconstruction. Let each of us pledge to do all in our power to urge our Congress to carry out the mandate of the people and adopt the President's judicial reform bill. Such action on their part will mean that the decision of the people will have been accepted. Modernize the judiciary and the social reforms necessary to preserve this democracy will become a reality, and the general-welfare clause of our Constitution will become the heart and soul of the greatest document ever conceived by man.

This Nation is too great now to slip back from its position of leadership. This Nation was the birthplace of human liberty. It must continue as a government protecting the liberties granted by our Constitution when action is necessary to guarantee fair play to its people.

Unemployment Conditions in Vermont

EXTENSION OF REMARKS

OF

HON. ERNEST W. GIBSON

OF VERMONT

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

ARTICLE ON UNEMPLOYMENT CONDITIONS IN VERMONT

Mr. GIBSON. Mr. President, there appeared in a recent press issue a statement in regard to the situation with respect to unemployment in the State of Vermont. I ask unanimous consent that the statement may be inserted in the CONGRESSIONAL RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOBLESS OF STATE CUT TWO-THIRDS—EMPLOYMENT SERVICE HEAD REPORTS DROP IN APPLICANTS—SEES GAINS IN PRIVATE BUSINESS

MONTPELIER, April 20.—Unemployment in Vermont is two-thirds less than on April 1 last year, according to E. Reynold Johnson, director of the Vermont State employment service, who attributes

a large percent of the drop to absorption of workers by private industry.

The number in the active files of the service has been cut from 19,169 on April 1 last year to 6,033 this year. With the spring employment season just opening and 3 months more of the fiscal year to make a further decrease, the service has already placed 612 more persons in private employment than during the fiscal year ending July 1, 1936, Johnson said.

To date, 3,190 persons have been given private employment as compared to 2,578 at the end of the fiscal year in 1936. At the same time, Johnson stated, fewer persons on his lists have been absorbed through public and relief agencies. To date, 6,762 persons have been placed in public employment as compared to 8,677 in 1936, and replacements in relief agencies have decreased from 4,197 in July 1936 to 409 on April 1 this year.

Director Johnson has been faced with a lack of household assistants and farm hands to fill the many calls he has for this type of employment.

Federal Aid for Underprivileged Children

EXTENSION OF REMARKS

OF

HON. CLAUDE PEPPER

OF FLORIDA

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

STATEMENT OF ARMY AND NAVY UNION IN BEHALF OF S. 1634, PROVIDING FEDERAL AID FOR THE EDUCATION OF UNDERPRIVILEGED CHILDREN

Mr. PEPPER. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a statement of the Army and Navy Union in behalf of Senate bill 1634, providing Federal aid for the education of underprivileged children.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The Army and Navy Union of the United States of America, after a thorough study of legislation pending in Congress providing for special education of physically handicapped children of all types, today instructed its national legislative chairman, John J. Crim, to support Senate bill 1634, introduced by the Honorable CLAUDE PEPPER, Senator from Florida.

The organization which is composed of veterans, ex-service men, and men who are now in the service, will throw its entire strength behind the measure. Through its branches in all States it has made a survey indicating that 2,600,000 children of the Nation are in need of the special kind of education provided for in the Pepper bill.

The organization's legislative committee is preparing to acquaint the Nation with the program, utilizing not only its adult garrisons but also through junior garrisons in high schools and colleges.

"It took 161 years for the United States to provide for social security", said Mr. Crim, "but fine as it is there are certain gaps in the welfare program which it does not and cannot fill. The principal one is the education of the partially blind, partially deaf, and also those who are totally handicapped because of loss of sight and hearing or because of some other individual physical handicap. The States are carrying such burdens in the education of their children who are in no way handicapped that they are financially unable to take care of the burden of special education for physically handicapped children. Under the Pepper bill each State would receive $40,000 as an outright grant for this purpose, and in addition would receive from the Federal Government an amount equal to sums specially appropriated by the States annually for special education. The bill carries an appropriation of $11,580,000 to carry out the program.

"The necessity of such Federal aid is the gap in the Social Security Act, which, under present conditions, cannot provide for the special education of these children, although it does provide for medical and social care. It also provides for vocational rehabilitation but only of persons of legal working age. For years physically handicapped children have been a liability to their local communities and to themselves because they have not been able to obtain the special education necessary to enable them to earn their own living.

"The essentials for special education of physically handicapped children are special techniques, special equipment, and very often transportation to and from school.

"The Army and Navy Union, from both a humanitarian and an economical standpoint, believes this type of legislation should have the wholehearted support of every thinking man and woman in the United States."

The President's Message—Which Way Are We Headed?—Where Has the Money Gone?

EXTENSION OF REMARKS

OF

HON. CHARLES A. PLUMLEY

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1937

Mr. PLUMLEY. Mr. Speaker, I am taking the President at his word. I am going to vote against H. R. 2711, not because the bill in itself is not meritorious for it has very great merit in itself so far as the ends sought to be attained are concerned, but because in my judgment it unnecessarily appropriates a million dollars for the establishment and the work of another bureau or commission—a commission which if established will duplicate or do the work which should be done today by an already existing department of the Government.

I do not know where the million dollars is coming from except out of the taxpayers' pockets. A million dollars of the taxpayers' money is easily spent, but earned with great difficulty these days, these billion-dollar days of reckless, wasteful spending.

Let us start right here and now to save some money.

Then, while we are talking about saving, may I say that I am told—and I believe it is true—that if Congress approves President Roosevelt's request for $1,500,000,000, the Federal funds set aside for relief since the depression began will rise above $10,000,000,000?

When general recovery activities are included, the total is doubled.

Actual relief expenses up to this month amounted to $8,840,000,000. More than one-third went to the Works Progress Administration, one-sixth to the Civilian Conservation Corps, and the rest to W. P. A.'s predecessors and the Resettlement Administration.

Although relief rolls gradually are decreasing, on March 20 there were 2,134,000 W. P. A. workers, 380,000 C. C. C. members, and 338,000 in other Federal relief posts. Where has all the money gone, Mr. Speaker, and what has been accomplished that is not due to the energy, enterprise, and initiative of individuals rather than to the policy and program which has created an army of dependent, disappointed, and dejected Americans? Where has the money gone?

I listened attentively to the reading of the President's message. In view of what has actually happened since I listened to the last one preceding, and in view of what happened theretofore as against that so freely predicted and prophesied, since the only abundance is that of obligation to pay, I am constrained to ask, Does the President really know what he is talking about this time? The tax bill, he said, would produce the necessary revenue to balance the Budget. It did not.

He is responsible for that bill, and if the truth were known it was left at the door of the Ways and Means Committee with instructions. I doubt if Mr. DOUGHTON or Mr. VINSON or Senator HARRISON had any idea the bill would be what the President claimed for it. Now they are left out on a limb, as usual. The President inferentially in his message disowns his brain child, but its parentage is susceptible of positive proof.

It is only a month or two ago that he told us in his Budget message that the revenue for the fiscal year 1937 would be $5,796,320,000. We now know that is not so; it will be only $4,741,000,000, so he was wrong a billion dollars in his estimate for 1937. Did he know, or did he not? So his estimate for 1938 or $7,262,000,000 must be at least a billion and five hundred million overestimated. He said we would have to expend slightly over $2,000,000,000 for recovery and relief in 1937; whereas the total to date shows the actual expenditures will be $3,918,000,000 in round numbers. Wrong again.

He estimated so-called regular expenditures at four billions and a half, or thereabouts, and we now know that they will approximate nearer five billions and a half. He is only half a billion or five hundred million under what it is going to cost to run this Government, under the plan for expenditures outlined in the Budget for 1937, and the Budget will be $1,500,000,000 more than he told us in January. If he knew what it was going to be, why did he not say so?

When you stop to think that this is an evidence of all those who are attempting to run the financial end of this Government know about their business, the situation is a serious one; a sorry one to contemplate. Think of it!

There is one thing that we know and he knows, and that is this, namely, his administration, for which he is to be held responsible, because never in the history of the country was there a man who assumed such dictatorial powers with respect to governmental affairs as he has. He has, I say, increased the national debt from $20,937,350,964, as it was on March 4, 1933, to $34,837,471,252.58 as of yesterday. He is still going strong. We have had continuous proposals from him for increasing the expenditure of money. Among other things, he has advocated the expenditure of a billion dollars for the farm-tenant bill, a half a billion dollars for the so-called flood control, another half a billion dollars for the Youth Administration, $1,051,000,000 for the Wagner housing bill, $400,000,000 for the permanent C. C. C., which is an annual cost; a total of over $3,000,000,000, recommendations for the expenditure of which came down from the White House. You want to think of that when you are thinking about his yesterday's message.

What a financial situation to contemplate! What an exhibition of incompetency in administrative ability from a money raising or spending standpoint. Bleed the people white and run the Treasury into the red—and make us all blue—may be patriotic from the red, white, and blue standpoint, but from a governmental and business standpoint the whole set-up is black.

Gentlemen, on April 20, the day of the President's message, the United States Government debt was $34,832,075,135. Up to April 20 the Government had spent $6,054,340,619 since July 1, 1936, and had collected only $3,994,091,855. Think that over! And that is not all! The President estimates that by June 30th the expenditure will have reached $7,781,000,000, while total revenue to be collected will not exceed $5,224,000,000. The fiscal year—taking the best, the most favorable of three poor guesses—will end with the Government at least $2,557,000,000 in the red; or, in other words, $309,000,000 worse off than when the President told us what he thought it would be when he delivered his January message.

In his Budget message in January he said he would later send us an estimate of the work-relief appropriation necessary for the year 1938. He estimated the Budget deficit for 1937 at $2,248,000,000. Estimates for 1938 seemed to show a surplus of $1,537,000,000, so he said, but the so-called revenue-producing tax bill failed to produce the anticipated receipts, to the tune of $267,000,000, and other alleged sources of revenue yielded less than somebody guessed by $337,000,000. So the Budget message shows a Federal deficit for the fiscal year of $2,557,000,000 or $309,000,000 more than was estimated in January.

That is not all! The message forecasts a deficit of $418,000,000 for 1938 because of his $1,500,000,000 request for work-relief appropriation, and because the revenue will not be what somebody guessed it would be.

"Miscalculation" they call it. What do you call it? What an orgy of uncontrolled, unbridled spending of your money it is, by those who do not know within $300,000,000 what they are talking about. How long will you continue to let them "guess" you into private and public bankruptcy, chaos, and calamity?

When you stop to consider the plight this country is in because of the mismanagement and maladministration of those who have usurped and held the power, it gives real Americans, no matter what partisan political stripe may be on their sleeves—it gives them a fearful shock.—Just think of it—relief, so called, during a year of depression has cost about $2,154,000,000, and for a year of relative prosperity, will be $2,420,000,000. One, the first, represents dollars paid out between July 1933 and July 1934 to take care of nearly 5,000,000 families, depending upon the Government for an existence; and the larger amount, yes, the larger amount, represents dollars to be paid out between July 1937 and July 1938 to take care of three and one-half million families still dependent upon the Government for an existence. More dollars, my friends, have to be spent for relief in recovery than were spent for relief in depression. Think this over.

When relief was left largely to local and State governments and to agencies which theretofore had handled satisfactorily worse situations than then obtained, we had no army of habitual loafers, no hordes of perpetual sit-down strikers who would not even work in order to eat, no multitudes of barnacles on the ship of state, and bloodsuckers on the body politic. Relief was furnished to those who needed it, and the self-respect of the Nation was preserved. We have been made the laughingstock of the world; a Nation that was bought and sold to make a Roman holiday for Farley and Roosevelt; we are disgraced, even in the eyes of those who contributed to help start something they cannot now stop. Under the hypocritical mantle of economy, the greatest spender of other peoples money that the ages have ever produced, the most extravagantly wasteful, power-drunk, self-centered, and most astute politician who ever sat in the White House now hangs onto the strap, opens his parachute, lays the blame to those who are responsible only to him for what he has ordered them to do, jumps the ship, goes fishing, while his cohorts drift in a boat that has but one destination unless they have the courage to mutiny and take over the ship themselves.

I have a sneaking notion that some of the 100-percent Americans on the other side of the aisle, who, incidentally, forget more every night than the White House brain trusters ever knew, and whose loyalty to their country and its interests in the show-down is their underlying and fundamental motivating thought. I have a notion, I say, that the showdown is about due and that when it comes they will choose between their country and the gratification of the greed for further selfish political gratification of Franklin D. Roosevelt, and that the devil may take the hindmost, so far as they are thereafter concerned. In fact, some of them have told me they have stultified themselves and their consciences to go as far as they have, and that the end of the rope has been reached. I wonder if they have the courage and the convictions, and the courage of their real convictions. I believe a good many of them have both.

Gentlemen, the wasteful spending program contemplated involves spending $190,569,822,595.95, as represented by the total authorizations for appropriations sought by bills pending in this Congress down to April 1—$190,000,000,000 in round numbers.

The President started something that it is very difficult to stop. I hope he is scared. I am scared, and I have been for a long time, and as much if not more frightened at the seeming lack of comprehension and at these misstatements with respect to the financial condition of this country as at the condition itself.

You might just as well look the facts in the face. All of these appropriations have got to be trimmed to the bone, if and when any of them are made, else this country will go bankrupt and the people pay for their recklessness by the loss of their liberty.

If and when you vote for the expenditure of a cent of money, the absolute necessity for which cannot be incontrovertibly demonstrated to you, you are voting for a sales tax and a lower-bracketed income tax—the only two sources of revenue left. The people ought to know this. They ought to realize that the income of every family in which the breadwinner has an income of a thousand dollars, and the income of every unmarried person whose income exceeds $500 will have to be subjected to a very large and appreciable tax if this program be permitted to continue.

The President has sawed off the limb of the tree into which he has driven those men who undertook to carry out

his program with the assurance that he knew what he was talking about. It is obvious and apparent that he did not know anything about what he was talking about, as demonstrated by the facts and figures found from reading his several messages.

I know what I am talking about when I say to you that credit inflation and higher living costs are already here and unpredictable and uncontrolled inflation will follow unless we take the bits in our mouth and run the business of the Government headed in an absolutely opposite direction from that in which we are now being driven. The situation will not permit or allow any delay.

The responsibility is squarely on the shoulders of the President for having got us into this situation, notwithstanding his attempts to alibi and to lay the blame onto Congress. Congress did what he asked, and he signed the bill.

Now is the time for us to act.

Nonpartisan Social Security League

EXTENSION OF REMARKS

OF

HON. JAMES J. DAVIS

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

ADDITIONAL STATEMENTS BY THE NONPARTISAN SOCIAL SECURITY COMMISSION

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD additional statements on the subject of social security made by the Nonpartisan Social Security Commission.

Previous statements made by this commission have heretofore been placed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT ON COVERAGE

The Nonpartisan Social Security Commission, sponsored by the Hearst newspapers, authorizes the subjoined statement:

"The commission suggests revision of the Social Security Act to correct the anomalous situation under which during the early years average payments under the old-age assistance or relief sections of the act will exceed payments made under the contributory old-age benefits sections. It believes that it is especially necessary to adjust this inequity during the critical introductory years. This comparison also suggests the advisability of initiating old-age benefit payments before 1942, to those who have reached the age of 65, thus cutting down the interim applications for relief under the old-age assistance sections of the act.

"It would still be possible to accumulate a substantial contingency reserve by 1945 if present pay-roll taxes amounting to 2 percent were continued instead of being stepped up in 1940, as now provided, and if old-age benefit payments were started in 1940 instead of 1942, and were raised to a basis more nearly comparable with the schedule 25 or 30 years hence.

"At the beginning of this year State old-age relief grants throughout the country averaged about $19 a month per recipient. In five States the average was more than $25 a month, and some Commonwealths are beginning to realize what a strain old-age relief on such a scale places upon their budgets. Of course, the payments under the Federal contributory old-age benefits program and the State grants under old-age relief are not on a par, since relief is subject to fluctuation and to proof of need. Despite this difference, the commission believes that the Federal contributory old-age benefits program should not be put in an unfavorable light by comparison with noncontributory State old-age relief programs, which, under the present act, are financed up to 50 percent (not exceeding $15 per recipient) by the Federal Government. A realistic relationship should be maintained between the monthly payments under these two programs. This is the more necessary during the next decade in order that in its introductory period, the Federal contributory program should not be judged adversely.

"With a proper relationship between these two programs, old-age relief costs should contract commensurately as the coverage of the Federal contributory old-age benefits program increases. The total burden to the people of the country need not be increased, because additional benefit payments under the contributory program would lessen the need for old-age assistance in the future. Although the administrative difficulties of bringing in large groups, now excluded, such as agricultural workers and domestic servants, might prevent including such groups in the near future, desirable as such a change would be, the commission thinks that some groups, such as maritime workers on vessels registered in this country and employees of national banks, could promptly be brought under the terms of the act. Recognizing that constitutional considerations exclude State and local governmental employees, the commission suggests that those States which have not already provided pensions for their employees make arrangements to do so. Many organizations and institutions, now excluded from the provisions of the Social Security Act at their own request, which may after more deliberate judgment desire to come under the provisions of the act, should be afforded an opportunity to be included.

"More general extension of coverage under the old-age benefit provisions, tends to reduce but does not eliminate the need for consideration of the problem of workers who switch from a covered to an uncovered occupation.

"While recommending more adequate benefits for those retiring in the next decade or two, the commission emphasizes that the principle of relating the benefits received to previous payments and contributions should be maintained as an incentive to good employment records. Also tying the benefit payments to contributions takes them out of the realm of doles and keeps the factor of cost clearly before the public mind. The exception in favor of those now approaching the retirement age is justified by the fact that these older people were not afforded an opportunity to make contributions in their earlier years."

UNEMPLOYMENT COMPENSATION

The Nonpartisan Social Security Commission, sponsored by the Hearst newspapers, has reached conclusions concerning the subjoined aspects of the unemployment-compensation provisions of the Social Security Act:

I. APPOINTMENT OF STATE UNEMPLOYMENT COMPENSATION PERSONNEL ON MERIT BASIS

In the administration of the Social Security Act it is vital that the personnel appointed be chosen on the basis of proved fitness and that complete confidence in the competence of those appointed be assured at the start. The public may not be generally aware of the fact that, while the employees of the Unemployment Compensation Division of the Social Security Board are chosen on a competitive merit basis, through civil-service procedure, the operation of unemployment compensation is on a Federal-State basis and most of the administration is left to State agencies. The unemployment-compensation plan, as a whole, will require, on the part of the Federal Government, merely a small supervisory staff at Washington and regional headquarters, but large administrative staffs will have to be appointed by the States themselves in administering their unemployment-compensation plans.

Since there are few States which have effective civil-service laws and procedures, the degree to which the principle of appointment by merit has been applied has varied considerably. Most States have written into their unemployment-compensation laws the principle of selection on a merit basis, in order to conform to the Federal standards. But it is known that in practice, in many of the States, appointments to the unemployment-compensation staffs have been largely, or almost wholly, on a patronage basis. This has not merely hampered the effective administration of the act thus far, but has tended and is tending to discredit Government participation in socially desirable activities. From the standpoint of the employers, who pay the tax, as well as the employees, who are to receive the benefits, and who also pay a tax in some jurisdictions, no aspect of the Social Security Act deserves more immediate and serious attention than this defect regarding methods of appointment of State personnel to the State unemployment-compensation administrations. A significant expansion of such personnel is to occur shortly, in connection with the beginning on January 1, 1938, of actual benefit disbursements to those now working who become unemployed. Accordingly, the staffs of State unemployment administrations may soon run into tens of thousands, many of whom will be appointed on a patronage basis, unless steps to avoid this are taken immediately.

If social security administration is not to be handicapped by inefficient personnel, it behooves the States to adopt adequate laws and strict procedures in the selection of personnel on a merit basis through bona-fide civil service. Unless this is done political patronage will load the unemployment compensation systems with a personnel which will prove a permanent obstacle to the attainment of administrative efficiency and public confidence.

The expenses involved in administering State unemployment compensation plans are, under the terms of the Social Security Act, defrayed by the Federal Government on requisition through the Social Security Board. The Board now has the power to scrutinize the budget submitted by State unemployment compensation administrations and to approve or reject items which seem excessive or ill-advised. But it is specifically barred by a provision of the act from disapproving an appropriation for personnel because of the methods of selection, compensation, and tenure.

The Commission observes with approval that in a recent conference State administrators of unemployment compensation put themselves behind the principle that State unemployment compensation agencies should select their personnel on a nonpartisan merit basis. Yet some take the view that progress along such lines will be slow without Federal leadership. Already there is

some agitation for authorizing the Social Security Board to pass upon the adequacy of civil-service procedures established by States which desire Federal appropriations for unemployment compensation personnel. An alternative to giving such discretion to the Board would be a clear delineation in the Social Security Act of the minimum standards to which State unemployment compensation agencies must conform in order to receive Federal aid.

II. COVERAGE OF UNEMPLOYMENT COMPENSATION PROVISIONS

The Social Security Act provides for contributory old-age pensions for a group of employees larger by several millions than the group to which the unemployment compensation applies. There are differences between the two types of social insurance which raise the question of providing a more unified base for the act.

A. Expansion to smaller concerns

The provisions regarding contributory old-age pensions apply to concerns employing even one worker, whereas the Federal unemployment compensation affects only concerns employing eight or more. The exclusion of concerns having fewer than eight employees creates administrative problems, especially because fluctuations in the number of employees tend to bring some borderline concerns in and out of the plan. Such an exclusion is unfair to the employees of the smaller concerns left unprotected by unemployment coverage. Furthermore, many of the smaller concerns, as well as their employees, desire to be brought under the plan. Some small employers at present excluded realize that the availability of good labor may be affected by the desire of many workers to be employed by concerns covered by the act. On the other hand, the fact that small employers, not subject to this act, do not bear the same tax burden as the larger employers, is unfair to the covered concerns with whom they may be in competition.

Of course, individual States may, on their own initiative, enlarge the coverage by including concerns employing fewer than eight. Already 16 States and the District of Columbia have done this. Of this number, eight States and the District of Columbia apply their unemployment compensation plans to concerns employing one or more persons. There is, however, pressure in such States to reduce the coverage to that required by the Federal act.

In the circumstances it seems advisable to expand the coverage uniformly throughout the Nation. As the first step, the Federal tax should be applied at least to concerns employing four or more. As soon as it is regarded as administratively feasible, preferably by 1940, the act should apply progressively to even smaller concerns and thus approach a universal coverage within the occupations included.

B. Occupational coverage

The exclusion of various classes of employees from coverage because of administrative reasons creates inequities which, in the course of time, will have to be dealt with. It took Great Britain two decades of experience before she was ready to include agricultural workers. However, certain groups, such as maritime workers, could immediately be included on a strictly Federal basis, since they are engaged in interstate rather than intrastate commerce. Likewise it would seem administratively feasible to include full-time regularly paid employees of non-profit-making institutions.

Supremacy of Democracy

EXTENSION OF REMARKS

OF

HON. WILLIAM J. BULOW

OF SOUTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

EDITORIAL FROM THE NATIONAL YOUNG DEMOCRAT

Mr. BULOW. Mr. President, the April issue of the National Young Democrat, of which organization Mr. Frank Wickhem, of my State, is president, has a very excellent editorial on the Supremacy of Democracy. I ask that it be inserted in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the National Young Democrat]

THE SUPREMACY OF DEMOCRACY

To live and let live is the true expression of democracy. This principle has struck a new pinnacle in America today—a day when the world flaunts a challenge to democratic government. The young and old in America will meet and conquer the challenge.

Ideals expressed at the formation of our Republic, guaranteeing life, liberty, and the pursuit of happiness, can only be perfected and sustained by keeping democracy supreme.

Never before in the history of the United States is democracy more in evidence than today. Administrative policies under Republican regimes were reactionary and permitted the predominance of privilege. Thanks be that these policies were definitely defeated by the elections in 1932 and the electorate further repudiated the Republican theories in 1934 and again in 1936. The purchases of political prestige is a procedure of the past. This was proven most emphatically in the last election when Republican expenditures almost doubled those of the Democratic Party. Special privilege cannot through financial distribution control public opinion. Under the splendid administration of Franklin Delano Roosevelt democracy in its full sense has reached its greatest height of attainment since this country identified itself as a republic, and has brought to the average and underprivileged citizen the greatest deserved beneficial recognition. An enlightened electorate of independent views through the media of radio is guided by the independent discussions of public questions. Persuasive broadcasts exercise more influence than is attained by large expenditures in the attempt to sway public opinion.

The New Deal has brought to life new political policies revolutionary to those which predominated in Republican administrations of the past. The President, having pride in the perpetuation of these progressive policies, is determinedly endeavoring to hold true to his program for the benefit of the Nation as a whole. This is evidenced by present conditions by providing the greatest good to the greatest number.

The attainment of the aspirations and the ideals of democracy are unquestionably best secured under a Democratic program. Complete self-reliance is the ambition of every citizen. A good government, as evidenced by the present administration, promotes policies that make self-reliance possible. The best and surest way to help yourself to happiness is to support governmental activities that give opportunity to the average and underprivileged as well as to the superior, fortunate, and self-reliant. Only by the establishment of liberalized leadership has a modern monarchical government been able to exist. Government by dictatorship, repugnant to Americans, has supplanted the old-established governments in many instances amongst the European countries. The democracy of America has lived and flourished and survived ordeals that tested the temper, tenacity, and the stamina of its people. Our welfare as a nation depends upon the objectives of this idealistic government. It should be the purpose and privilege of every young American to determine and endeavor to see that these instrumentalities of government are preserved by the continuance of Democratic administrations. Franklin Delano Roosevelt's progressive policies should be made imperishable.

The Supreme Court

EXTENSION OF REMARKS

OF

HON. SHERMAN MINTON

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

ADDRESS BY GOV. M. CLIFFORD TOWNSEND AT THE MEETING SPONSORED BY LABOR'S NONPARTISAN LEAGUE, INDIANAPOLIS, IND., APRIL 19, 1937

Mr. MINTON. Mr. President, I ask unanimous consent to have printed in the RECORD an address on the Supreme Court, delivered by the distinguished Governor of Indiana, M. Clifford Townsend, at a meeting sponsored by Labor's Nonpartisan League, held in Indianapolis, Ind., April 19, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Chairman, ladies, and gentlemen, I am here tonight to welcome two distinguished gentlemen who have traveled far to be in Indiana for this occasion. They have come to you at the invitation of Labor's Non-Partisan League of Indiana. They are to address you shortly on a subject which is of vital interest to every laborer and wage earner in America. It is a matter which is of such serious concern to the working men and women and voters of this country that throughout the land tonight other meetings such as this are being held, and leading statesmen, without regard to their political affiliations, are discussing the same subject. We have come together to learn and to hear what the common people of America have to say about President Roosevelt's proposals for congressional legislation—legislation which will speed justice and infuse new blood into the Federal courts of America.

It is a distinct honor for me to share the platform tonight with that liberal and progressive Congressman, Representative BYRON SCOTT, of California, and with Judge M. A. Musmanno, who has come to us from Pittsburgh, Pa. I do not know the politics of these two gentlemen and have not taken the time to inquire. I do know, however, that they both have demonstrated their loyalty to the working men and women of this country and that they have been on the side of the President of the United States in

this great controversy. I do know that Judge Musmanno is honored and respected as the friend of laboring men throughout the world, principally because of what he has done for the miners of Pennsylvania. These two are learned gentlemen, who, as champions of working people, can discuss issues with the legal scholars and the students of government.

It rather amuses me to read all that has been printed in the large newspapers of the past several weeks about this subject of judicial reform.

I have read no end of speeches and articles and statements by the professional "savers of the Constitution." Societies and clubs, which I am inclined to believe hardly knew before the difference between the State supreme courts and the United States Supreme Court, have been adopting resolutions and sending letters to Washington. Writers of fiction and poetry have been put to use by the anticourt-reform campaigners, and even they are issuing profound statements about "our forefathers" and the sacred tenets of a document which they hardly knew from Lincoln's Gettysburg Address. Professors and experts of all kinds are attempting to tell us what the framers of the Constitution had on their minds. Everybody but Sir Oliver Lodge has been asked to communicate with our departed statesmen and to interpret their thoughts to the common people.

A great campaign of education—they call it—is being financed in the hope that public opinion will be turned against these long-delayed court reforms. The great hue and cry they raise is "Don't pack the Supreme Court." If there must be a change, they argue, do it by amending the Constitution. That recalls something to my mind.

If I am not mistaken, a very similar campaign of education was being waged over the country under the slogan "Save the Constitution" and with it the plea not to tinker with that document. They said, "Let's amend it." Isn't it odd that the old battle cry against tinkering with the Constitution is now one against tinkering with the Supreme Court? It would seem that the same folks who, 2 years ago, wanted the Constitution saved for themselves, now are willing to forfeit that desire, if only they can have the conservative opinions of the Supreme Court saved for their own selfish purposes. These campaigners are not such great friends of the Constitution, or of the Supreme Court, as free and useful institutions of the great United States. They worship them only as protectors and guardsmen of opinions which have been won to save their property and their rights, to exploit the people, and the laws of this land for selfish gain. No, indeed, when the Constitution and the Supreme Court fail to protect the selfish interest in their rights to exploitation of men, natural resources and finance of America, they will be done with them both and will be calling for the services of a dictator.

Our friends who are lambasting the judicial reform proposals are attempting to call their forces together on the plea that the subject rises above all political issues. They have set up another great nonpartisan movement to save democracy from itself. They want to save labor from itself. They ask that the dead hand of the past be saved from the living hand of the present. They insist that we turn to the pagan rites of ancestral worship and drop all thought of progress and of the future. America must be saved, they insist, from a President who is too sympathetic with the people. They are nonpartisan except that they are solidly opposed to the President and to the millions who have supported his program of social and governmental reforms through two overwhelming popular elections. If the anti-Court reform movement is nonpartisan, this meeting and others like it tonight throughout the country is our answer—labor and the common people will make themselves heard whether it is to be a nonpartisan campaign or a political election.

It seems to me that the venerable gentlemen of the United States Supreme Court must suffer quite acutely from deafness if they have not by this time sensed the popular will of America's people who went to the polls last November. They are still talking about it in Europe. Even Mussolini, who had predicted the early downfall of this American Republic, received a setback and hasn't issued any predictions since.

But it is a law of Nature that those who live in tunnels, caves, and other secluded places can neither see nor hear as plainly as can those who move about in the sunlight and places where people live. Leave a man to an academic proposition in a hidden nook and he will come out years later to be as bewildered with modern things as was Rip Van Winkle. Let him remain out of touch with progress and with other human thought, and he will prove to himself that the world is flat and that water runs up hill. He may even turn up some day with an opinion that minimum wage laws violate a person's right to contract for starvation wages.

I am not a lawyer. I have been a wage earner and farmer most of my life. Maybe I am not well enough schooled to see the importance of some of these legal contentions. However, I know the Declaration of Independence pretty well. They taught me in school as a little boy the story of how, and why, the Colonies were formed which became the States of this great Nation. I remember that the Pilgrims and others who settled this continent were in search of freedom. They sailed across the sea to escape a tyrant's hand. They asked only to be allowed to work and to worship God according to the dictates of their consciences. They talked about human rights and liberty. They wrote a letter and sent a copy of it back to the King of England in which they spoke of their "inalienable rights" to "life, liberty, and the pursuit of happiness." They told the King that "governments as instituted among men derived their just powers from the consent of the governed", and added that, "whenever any form of government becomes destructive to these ends, it is the right of the people to alter or to abolish it and to institute new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to affect their safety and happiness."

If I had the powers of a revival minister, I could preach for hours on those words I have just quoted and which are forever framed in our Declaration of Independence. That Declaration was the battle cry of the Revolutionary War. America became a free land. Her heroes and statesmen assembled to take the next step to prescribe the form which their new Government was to take, and to lay its foundation upon the principle that the just powers of their Government should come from the consent of those to be governed. The Constitution of the United States was drafted by men who fought and bled to establish the truths written in the Declaration of Independence. The scholars and lawyers can debate 'til doomsday about the thoughts and the theories that were going through the minds of those who wrote the Constitution, but they will never convince me, that anything was more important then or now than the principle so clearly written by Thomas Jefferson in the Declaration of Independence.

If we are going to have campaigns of education every year or two on the subject of the sacred institutions of the United States of America, why not try it all over again and start out with that first great document, the Declaration of Independence? It is the one thing that essentially is the product and the very essence of freedom reborn on this continent. When our forefathers were writing it, there was no quibbling among them. They were not vague in either thought or purpose. As written, it stands for all time without alteration or amendment. It is the covenant in America's ark. It should be taught, memorized, and understood by every American. If there is any institution of these United States which should be exalted in our temple of freedom, the Declaration of Independence is that institution.

I thank God that when the framers of our Indiana constitution were at work they reverently incorporated some of the Declaration of Independence in their text. It is a great reminder to those who would go astray on byways having to do with interstate commerce, due process of law, contractual rights, and subjects which to my mind at all times are subordinate to the American doctrine of human rights.

We respect, defend, and uphold the Constitution of the United States because it is the instrumentality by which we, as a people and as States, have formed a union to promote our safety and happiness. Through it we have equipped ourselves with three branches of government, under which collectively we can better enjoy "life, liberty, and the pursuit of happiness." The Constitution of the United States begins with these words: "We, the people." It gives our aim as being "a more perfect union" through which to advance the "common welfare." Yet there are volumes of law and of legal opinions which have been written to prove that almost every other subject under the sun except the "common welfare" and the "people" are the first consideration of the law.

I hold with President Roosevelt that the people and their common welfare come first. For the past 4 years they have stood first in the minds of our executive and legislative branches of government. The Constitution of the United States, interpreted in the light of present-day needs and by the Declaration of Independence, would put the common welfare of our people first. And our judiciary branch of government would put it first if there were any possible chance for it to feel the pulse of the Nation.

I hope this night will sound the bell for a reawakening of our American democracy. It is high time our judiciary got out of the perfumed bed into which the legal brains of the privileged interests had tucked them. No man who rubs elbows with the common folks can shut his eyes to the injustices which exist in our social and economic structure. Justice needs to be impartial, but not blind; speedy but not hasty; deliberate but not inactive. America has problems relating to agriculture, to labor, to society, and to posterity which will never be satisfactorily solved if the people and their common welfare do not become as much the concern of the judiciary as they are of the legislative and executive branches of our Government.

As Governor of Indiana, I am proud of our United States Senator, SHERMAN MINTON, who has had the courage to lead the President's fight for judicial reform. In doing so he has the support of our Indiana General Assembly, of our laboring men and women, and of our farmers. My personal message to Washington was to the effect that the people of Indiana want action. Eighty million wage earners, including farmers and industrial workers, want action. We are not asking that the Constitution be amended; only that the Supreme Court and its deadly, slow processes be amended. We want Supreme Court decisions which do not interpret the Constitution as being a strait jacket, but which make of it a living instrument for promotion of the safety and happiness of our people. We can get justice, responsive to modern thought and need, in every court in the land except the Supreme Court. Why not legislate under the constitutional authority we have now? There is no reason to hazard further the uncertainties and chaos threatening our American democracy. We insist as a people that democracy exert all of its powers for the salvation of agriculture, labor, the unemployed, the unfortunate, and the great wealth of our natural resources.

Grover Cleveland Centennial Radio Program

EXTENSION OF REMARKS

OF

HON. ROBERT F. WAGNER

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

RADIO ADDRESSES OF HON. HUGH GORDON MILLER, CHAIRMAN, HON. JAMES W. GERARD, AND HON. WILLIAM HARMON BLACK AT THE PRESIDENT CLEVELAND BIRTHDAY CENTENNIAL CELEBRATION OF THE GROVER CLEVELAND DEMOCRATIC CLUB, OF NEW YORK, MARCH 18, 1937, ON GROVER CLEVELAND

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD addresses delivered by Hon. James W. Gerard, Hon. William Harmon Black, and Hon. Hugh Gordon Miller on the occasion of the President Cleveland Birthday Centennial Celebration of the Grover Cleveland Democratic Club, of New York, on March 18, 1937. Mr. Miller was the chairman and the subject of the addresses was Grover Cleveland.

There being no objection, the addresses were ordered to be printed in the RECORD, as follows:

The CHAIRMAN (Hon. Hugh Gordon Miller). Today, ladies and gentlemen, is, as you know, the centennial of the birthday of that great independent Democratic Governor of New York and two-term President, Grover Cleveland, who has been elected to, and whose bust is being unveiled this afternoon at the Hall of Fame, where he certainly belongs. The Grover Cleveland Democratic Club of New York, sponsoring this radio program and celebrating the event at its clubhouse on Park Avenue this evening, will be represented at that unveiling.

Most appropriately the first speaker this afternoon, long one of our best-known jurists and diplomats, is Hon. James W. Gerard, recently appointed Special Ambassador to the coming coronation of King George VI of England, and president of the Grover Cleveland Democratic Club of New York. Judge Gerard.

Mr. GERARD. Grover Cleveland, son of a poor minister, was born 100 years ago today and was twice President.

Elected in 1884 against James G. Blaine, he was defeated in 1888 by Harrison, but was again elected against Harrison in 1892. He was the first Democrat to be elected since the Civil War.

His political career commenced in 1862, when he became assistant district attorney in Buffalo, and was then successively sheriff of Erie County, mayor of Buffalo, and Governor of the State of New York, characterized in all these offices by a sturdy, bold, and determined honesty, and always refusing to barter principles for using that prerogative fearlessly in checking unwise, illegal, and votes.

When mayor of Buffalo, he was known as the veto mayor, extravagant expenditures, and when he assumed the office of Governor, in a letter written to his brother on election day, he stated that he regarded his election as a "business engagement between the people of the State and myself, in which the obligation on my side is to perform the duties assigned me with an eye single to the interest of my employers."

In his inaugural address as President, he said that the people had committed to one of their citizens a supreme and sacred trust.

For example, when Governor of New York, he vetoed a bill to reduce the fares on the elevated railways, because the rates of fare had been guaranteed by the original franchise. He vetoed a bill to place the Brooklyn fire department under political control, and otherwise showed himself so strong, so free from control by politicians, that in the Presidential campaign enough independent Republicans, known popularly as "mugwumps", voted for him and secured his election.

The same independence marked his first administration as President. Against his own party, he fought for civil-service reform, a continuation of the fight he had made while Governor of New York, and he went down to defeat by Harrison, largely because of his advocacy of a drastic reduction of the tariff.

Known as a practical man and as a man of action, noted for the brevity of his speeches, in his last message to Congress in December 1888, he showed unexpected vision and a grasp of the problems confronting our Republic, which had grown in the 100 years of its legal existence from a simple farming community to the vast and complicated Nation of 1888, and he wrote: "Our survival for 100 years is not sufficient to assure us that we no longer have dangers to fear in the maintenance, with all its promised blessings, of a government founded upon the freedom of the people. The time rather admonishes us to soberly inquire whether in the past we have always closely kept in the course of safety, and whether we have before us a way plain and clear, which leads to happiness and perpetuity.

"A century has passed. Our cities are the abiding places of wealth and luxury; our manufactories yield fortunes never dreamed of by the fathers of the Republic; our businessmen are madly striving in the race for riches, and immense aggregations of capital outrun the imagination in the magnitude of their undertakings.

"As we view the achievements of aggregated capital, we discover the existence of trusts, combinations, and monopolies, while the citizen is struggling far in the rear or is trampled to death beneath an iron heel. Corporations which should be the carefully restrained creatures of the law and the servants of the people are fast becoming the people's masters."

He wrote of the farmers' long suffering and patient struggling in the race of life with hardest and most unremitting toil, and obliged to accept such prices for their products as are fixed in foreign markets where they compete with the farmers of the world, and of the workingmen he said that they will reasonably demand steadier employment, cheaper means of living in their homes, freedom for themselves and their children from the doom of perpetual servitude, and an open door to their advancement beyond the limits of a laboring class. He spoke of two kinds of communism, saying: "Communism is a hateful thing and a menace to peace and organized government, but the communism of combined wealth and capital, the outgrowth of overweaning cupidity and selfishness, which insidiously undermines the justice and integrity of free institutions is not less dangerous than the communism of oppressed poverty and toil, which exasperated by injustice and discontent attacks with wild disorder the citadel of rule", and he said that "the forbearance and fraternity among our people which recognize the value of every American interest are the surest guaranty of our national progress and of all who desire to see the products of American skill and ingenuity in every market of the world."

Thus he was a President, perhaps the first, to recognize that a new outlook must come with our increase in wealth and population, and that we were faced by new problems created by the changes in our economic life. He sought to help the downtrodden masses, he visualized a reorganization of the economic life of the Nation.

His second term came in a period of intense depression. He fought against unjust pensions, a too high tariff, and he secured the repeal of the vicious silver purchase bill, and against the most violent opposition of his own party, against conditions and obstacles which seemed insuperable, he succeeded in maintaining honest money and the gold standard. He dealt with strikes which were almost revolts with a strong hand, and in the matter of the dispute between Great Britain and Venezuela over the boundary between the latter country and British Guiana, Cleveland as President stoutly and successfully maintained the Monroe Doctrine against the risk of war, sending to Congress a message, the purport of which was that any attempt by Great Britain to enforce its claims with reference to the boundary between British Guiana and Venezuela without resort to arbitration, would be regarded as a cause for war.

In consequence, the dispute was settled by arbitration.

Probably, our Republic was the first real republic of all history. The ancient Republics of Greece and Rome were based on the power of a ruling class, large numbers of the people were either slaves or without the right to vote, and the Italian Republic of the Middle Ages were usually controlled by petty despots or a few families.

In our Republic we have placed great powers in the hands of our President and as time has gone and even since Cleveland's day, those powers have been materially increased. The German Kaiser several times said to me, "I wish I had as much power as your President."

And so our faith in our country and its destiny was affirmed by the two splendid administrations of Grover Cleveland.

His example is one for all Presidents to follow and I am sure that the verdict of posterity will place his name high in the roll of honor of those who have well and faithfully served our United States.

It is impossible, of course, in a few minutes to tell all of his career, and of the great qualities of this brave, masculine, and honest President, but we might borrow the words from Shakespeare to describe him, and

"Nature might stand up and say to all the world—this was a man."

The CHAIRMAN. Our next speaker, ladies and gentlemen, is one of our most distinguished jurists. Judge Black never fails his fellow citizens in a call to public duty, whether on the air or on the ground. He has long been noted for his devotion to American ideals. He has recently been reelected by a great plurality as a justice of the Supreme Court of the State of New York. I present Judge William Harmon Black.

Mr. BLACK. About 1880, a strong, forceful man, who had not been in the political eye for many years was elected sheriff of Erie County, in which Buffalo is located. His fearless discharge of his duties soon brought him into great prominence, and he was elected Governor of the State of New York. The same qualities that had endeared him to the people of Buffalo soon established him firmly in the confidence of the people of the entire State. So, when Democrats began to look for a candidate for President all eyes turned toward the popular Governor of the State. He was nominated by the Democratic Party after a bitter fight upon him by Bourke Cockran and the local Democratic organization. He was elected and he was the only Democrat who had been President since 1856, nearly 30 years before.

The closeness of the election and some sensational speeches by the Republicans gave the greatest interest to the election, which was won in New York only by the narrowest margin of some 1,149 votes. The joy of the Democrats at the result was unbounded, bonfires were lighted, there were torchlight processions, and, especially in the South, business was suspended and everything was subordinated to the universal happiness of the supporters of the President. In the State of Georgia the impulsive Henry Grady went to the State capitol in Atlanta and prorogued the legislature in the name of the reborn democracy.

Mr. Cleveland came into office amid the imprecations of his opponents and with dire prophecies that sound very much like those that we hear today. It was freely predicted that the end of democracy had come, that the country was ruined, and that the banks would soon close and the grass would spring up on every street. The Democrats at first were alarmed lest the situation in the Tilden-Hayes contest would be repeated, but Daniel Manning announced that the Democrats had won and that they would insist that Mr. Cleveland be inaugurated. The opposition press finally accepted the inevitable, and the President started with a geographically balanced Cabinet representing the best brains in the country.

During President Cleveland's first term his popularity was immeasurably increased by his marriage to the beautiful young Miss Folsom, whose mother had been the brilliant Miss Harman. She was the idol of Washington society and beloved of all the people everywhere.

During his first term President Cleveland was importuned by the protected interests to increase the tariff, but he steadfastly refused, preferring a tariff for revenue with only incidental protection. When he ran for the second time he was defeated by the high-tariff Republican Party. For 4 years he practiced law, and I had the pleasure during that time of interviewing him. At the end of his 4-year retirement he was again made the candidate of the party for President, running upon the same low-tariff platform which had defeated him 4 years before. After one of the bitterest campaigns in our history, President Cleveland was again triumphantly reelected. Up to that time he was the only candidate to be three times nominated by his party.

His announcement that "public office is a public trust" as his most notable utterance, and his most criticized expression was that of "inocuous desuetude", by which we finally understand that he meant long-continued disuse.

The most popular declaration President Cleveland ever made was when he reiterated to England the existence of the Monroe Doctrine.

President Cleveland has left to his family and to the Nation a precious heritage of rugged honesty, steadfastness of purpose, patriotism, and high courage. It is most fitting that we should celebrate the one hundredth anniversary of his birthday. His public life was a beacon to which the youth of any land might look, and his memory to this day continues as a synonym of great Americanism.

I now turn the microphone over to Mr. Hugh Gordon Miller, chairman of the Grover Cleveland Democratic Club Centennial Committee. Mr. Miller.

Mr. MILLER. Ladies and gentlemen, to sum up briefly as we wait the delayed arrival of Mr. Francis Grover Cleveland, the son of Grover Cleveland, from the Hall of Fame ceremonies, we commend to the Nation and public officials especially, the sincerity, the common sense, the patriotism, and above all the supreme example of courage set by this great statesman on all occasions, whether in regard to domestic or foreign affairs, and regardless of political consequences to himself. No consideration whatever ever swerved Grover Cleveland from his high ideals or his devotion to his duty.

Time of course will not permit me to review here Mr. Cleveland's inspiring public record. The press has been covering those details now for several days. Suffice it to say that Mr. Cleveland set a priceless example of statesmanship and courage in this celebration and everybody has emphasized his courage in connection with all the numerous positions he held in city, State, and Nation. In the highest degree he rang true to the great American Presidential tradition, during the two terms he occupied the White House. He was a statesman not only of courage and decision, but of great foresight in regard to both domestic and foreign affairs. No President, whether Democratic or Republican, can do better than to emulate Cleveland's example in public affairs, and carry out the great Cleveland tradition of public service.

I have to pass over, therefore, Mr. Cleveland's great and successful fight for sound money at a critical time, and for civil-service reform, as to which we might call him the father.

Mr. Cleveland was certainly the promulgator and exemplar, if not the actual author, of that great slogan in American politics that "a public office is a public trust" just quoted by Judge Black. That expression has become his monument and will be always associated with his great name. It is the motto of the Grover Cleveland Democratic Club of New York, which has arranged this ceremony in his honor.

Many phases of the great career of President Cleveland are being discussed today throughout the Nation. I can, in my limited time, call attention to only one. I refer to his magnificent courage and statesmanship in handling the Venezuelan crisis with Great Britain in 1895. Of that incident, as a student of history, I made a critical study. In the Monroe edition of the Isthmian Highway, which is said to contain a background of America's foreign policy, I quoted the ultimatum of President Cleveland delivered to Great Britain and said:

"Thirty-five years have elapsed since the communication from Secretary of State Richard Olney to Lord Salisbury, and the message to Congress of President Cleveland, informing the world that the doctrine, suggested in principle by a British Minister of foreign affairs and proclaimed by President Monroe, still stood. There is no reason to suppose that Great Britain will seek modification now."

Again I quote from the same volume:

"President Cleveland * * * on December 17, 1895, sent a message to Congress, laying before them the situation in Venezuela and pointing out that there must be a settlement. After proposing an American commission to settle the boundary dispute, he closed his message with the following language: 'In making these recommendations I am fully alive to the responsibility incurred and keenly realize all the consequences that may follow.

"'I am, nevertheless, firm in my convictions that while it is a grievous thing to contemplate the two great English-speaking peoples of the world as being otherwise than friendly competitors in the onward march of civilization, and strenuous and worthy rivals in all the arts of peace, there is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injuctice and the consequent loss of national self-respect and honor beneath which are shielded and defended a people's safety and greatness.'"

Mr. Cleveland also said in his message of December 17, 1895:

"The doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a Nation and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every stage of our national life and cannot become obsolete while our Republic endures."

Forty-two years have now elapsed since Grover Cleveland thus, by courageous statesmanship, settled forever the status of the Monroe Doctrine in the western world. That language, which I term in effect an ultimatum, took courage in a superb degree.

Grover Cleveland was not only a man of courage, as emphasized in the fine centennial tribute from President Roosevelt which appeared this morning, he was a man of action. In the book already mentioned, in referring to the Central American Republics and the Panama Canal, I said: "To these Republics the United States applies no principle which she does not apply to herself. When Grover Cleveland was President there were riots in Chicago which held up the Federal mail. The Government intervened, and against this intervention Gov. John P. Altgeld, of Illinois, pleading States' rights, made a protest. President Cleveland replied: 'Time for discussion is past. The marines are on the way.'" A domestic upheaval was not permitted to menace the communications which are necessary to the organized life of the continent. I call attention to these historic incidents in the public career of Grover Cleveland because they may point a moral in connection with some of our present troubles, and because they have not been mentioned before during this centennial celebration except by my friend Senator JAMES HAMILTON LEWIS, of Illinois, in a warning yesterday in the Senate, and Judge Gerard and Judge Black in this broadcast.

And so the Grover Cleveland Democratic Club of New York, founded by Judge Mahoney, Judge James W. Gerard, and others, under the inspiration of the great Cleveland tradition, has been able, we believe, with that motto, to contribute certainly to some extent, toward lifting politics in the city and State of New York to a higher and more dignified plane of conduct, and has contributed thereby in some degree to the welfare of the country.

In that spirit of American citizenship the club has recently honored the memory, for instance, of President Andrew Johnson, as a "man of courage", and celebrated with great enthusiasm the birthdays of Woodrow Wilson and Abraham Lincoln, the great emancipator; and, I may add, recently had the honor of entertaining President Roosevelt's gracious mother, Mrs. James Roosevelt, one of the loveliest ladies of this or any other land.

A splendid portrait of President Cleveland, painted by the well-known artist, Marian Baar Stanfield, for this centennial celebration, will be unveiled by Mr. Cleveland's son, Francis Grover Cleveland, at the clubhouse on Park Avenue, this evening and distinguished speakers will pay tribute to Grover Cleveland.

As the resolution under which the club is conducting this centennial celebration reads: "Though campaigns and elections may come and go, this club proposes to adhere to and be guided by those ever-enduring American traditions of good government inspired by Grover Cleveland."

Before closing these remarks I desire to read a paragraph from a letter I received from Grover Cleveland when I was a Virginia boy. Around that letter the Jamestown Exposition of 1907 was largely built, and it seems to be prophetic of this centennial celebration and the spirit in which the Nation is honoring the name of the author of that declaration:

"We have fittingly celebrated the four hundredth anniversary of the discovery of America. The three hundredth anniversary of the settlement of Jamestown is hardly less worthy of commemoration. A great nation cannot bring to mind its small beginning and its stupendous growth through such a celebration as the Jamestown Exposition contemplates without stirring in the hearts of its people their best patriotism and the sincerest devotion to the principles which have made this Nation great. And such patriotism and such devotion so completely underlies American institutions that their soundness and strength are absolutely necessary to our strength and perpetuity.

"I hope, therefore, that nothing will be lacking to make the exposition successful as an agency for the stimulation of our national pride and the increase of our faith in free institutions."

Today I paraphrase that statement and say that a contemplation of the life of Grover Cleveland is a similar "agency for the

stimulation of our national pride and the increase of our faith in free institutions."

A simple shaft in the old cemetery at Princeton, N. J., marks the grave of Grover Cleveland, but his record and his splendid example will be his enduring monument. He has not become a plaster saint, as some have in American history, but he has in many important respects become a model, though a very human model indeed, for all Presidential successors.

As was observed in last Sunday's New York Times, comparatively few Presidents have found their places in the Hall of Fame. Cleveland's presence there will be merely one more indication of his steady growth in public esteem. Attacked, the center of bitter controversies during his two terms as the first Democrat to occupy the White House after the Civil War, Cleveland has attained general recognition as one of the great Presidents only in recent years. Grover Cleveland, in short, will rank in history with Jefferson and Jackson, the greatest of our Democratic Presidents.

As Prof. Allen Nevens, the author of a new book on Cleveland, in that same issue of the Times, truly said: "Certain general verdicts as to Grover Cleveland were clear long before he was buried at Princeton on a June day in 1908; even before he dropped the reins of office. His contemporaries knew that he was one of the most powerful and commanding figures of his generation, for even his enemies conceded that. They were assured by such keen-minded judges as Carl Schurz and Woodrow Wilson that he stood among the half dozen ablest Presidents in our history."

On account of his delay at the Hall of Fame, Mr. Cleveland is not able to appear on this radio program as announced.

A Plea for American Labor

EXTENSION OF REMARKS

OF

HON. JAMES J. DAVIS

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

RADIO ADDRESS OF HON. CLARE GERALD FENERTY, FORMER CONGRESSMAN FROM PENNSYLVANIA, MARCH 30, 1937

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address entitled "A Plea for American Labor", delivered by the Honorable Clare Gerald Fenerty, former Representative from Pennsylvania, on March 30, 1937. Mr. Fenerty voices a protest against unfair competition of foreign goods in American markets which leads to the evils of unemployment. This point of view deserves the careful consideration of every patriotic American citizen. Mr. Fenerty's address was published in the Progressive Labor World, April 15, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

[From the Progressive Labor World, Philadelphia, Pa., Apr. 15, 1937]

Ladies and gentlemen, if I were to ask any of you what is the most important material problem now causing you anxiety, would I be wrong in believing that you would respond that your greatest worry is the question of procuring and maintaining a decent livelihood for yourself and those whom Providence has here entrusted to your care? The thought of unemployment—the gaunt specter that keeps pace with your footsteps by day and troubles your slumbers by night—it is this, not work, but the lack of it, that covers many a brow with the snows of premature age and remorselessly drives men and women hopeless to a too-early grave. To speak to any husband or father—or, indeed, to anyone—of the terror of constant and enforced idleness would be to tell you that which you yourselves well know—and I here advert to it, not to comment upon the obvious, but to emphasize that there is a remedy for American unemployment which, if adopted by our Government and people would, in a very short time, restore work to those millions of discontented souls now walking our streets through unemployment—a number variously estimated as between nine and twelve millions, not to speak of their families, of the 25 millions, one-fifth of our people, who, as the Saturday Evening Post for April 3, 1937, declares, are forced to eat the bread of unemployment at this moment.

Do you not agree with me that America, with the keen inventive genius of her people, her colossal industries, her gigantic farms, her passion for individual opportunity—America should be leading the advance of the nations on the road to economic recovery, instead of dragging listlessly along, as labor and Government statistics show, not far from the rear of the procession?

A great American once said that "nothing is sure but death and taxes." And, without intending to be facetious, I might, as a former Member of Congress, suggest that if nothing be certain but death and taxes, there is this to be said for death, that it does not get worse every time Congress meets. And, just as Congress can do something about taxes, if it but have the courage and desire to do so, so too, if it only have the vision, it can do something about the economic death that has now its glacial fingers around the arteries of American labor and industry.

One of the chief reasons for our present unhappy plight is the fact that we are not completely fulfilling our duty to frame laws for the protection of the American worker, laws that will safeguard the products of his hands and brain, that will insure his just claim to a decent living wage, and to the social justice and individual opportunity and security which are his inalienable rights.

If the American standard of living is to be preserved for the workers of the land, it is imperative that they be protected against the influx of the products of the cheap labor of foreign nations. When you realize that the American workingman is accustomed to a standard of living that is an unknown luxury to the workers of other countries, when you recall that the American workman receives—and deservedly—as much pay per day as the Russian laborer, for example, is paid in a month, you will see that American industry must outsell its foreign competitors in order to keep our labor from being underpaid and unemployed. It is a simple corollary to this that the American people interested in safeguarding their own system should be sufficiently alert to the welfare of their own workers and farmers to buy American goods wherever practicable, and thus encourage the industry and agriculture upon which our life as a people must depend.

It is a most disheartening fact that foreign competition has not only cast thousands of Americans out of employment, but it has partly wrecked many American industries and totally destroyed others, built up by so much effort and sacrifice upon the part of American industrial pioneers.

I am unable to agree with those men who, during the last few years have repeatedly argued that an increase in our imports from foreign countries will stimulate business here and assist us in recovering from the depression. For, is it not true that for every acre of foreign food brought in alien ships to our shores, an acre of American soil is taken out of cultivation? Now, when you consider that 30 million American acres were by law taken out of production in the past few years, you can logically see that American farm workers on 30 million American acres were thrown out of employment. Industry affords an equally impressive illustration—for today American industry and labor are being assailed by a veritable onslaught of foreign competition, of goods manufactured in frequently unsanitary shops abroad, sometimes by prison labor, and sold here at prices with which neither American labor nor American capital can possibly compete.

We can grow sufficient wheat and corn and rye and barley and malt for our needs, but yet we are importing these and other staples from foreign farmers in Canada and the Argentine and elsewhere, at the expense of our own workers. We can make good matches, but we are allowing the Soviet to sell here matches manufactured in Russia under the soul-stifling iron discipline of the Communist sweatshop. We make superb glassware, but we are permitting Japan and Belgium to sell their products here, thus disemploying American workers. We can make the best toys in the world, such as were produced in this city, and yet we are permitting Japan and Russia to capture our toy market—and the American toymaker is without a job. Since rugs and carpets and textiles, which formerly were made in the great factories of the Kensington district of Philadelphia, where thousands of men and women were once employed in the weaving trades, are now being imported from England and Japan and France under reciprocal agreements that do not sufficiently protect our products, it follows that American manufacturers of similar commodities are to that extent unable to sell, and that American labor is correspondingly displaced. The ultimate result of the discouragement to American labor and industry is the increasing fear to establish new industries. For if the American's own country will not sustain him and foreign nations buy only their own products, the American naturally loses confidence, labor is eventually compelled to bear much of the ensuing suffering born of idle workshops and unemployment. Once we had 40 watch factories in the United States employing many thousands of persons to make the highest grade of timepieces, but through unwise agreements we have abandoned our markets to foreign products, and 37 of these factories are now out of business. You can estimate the extent of the inroads made by cheap foreign labor upon the American workman, when you recall that in 1934 Japan sent us over eight and a half million dozen pieces of tableware to compete with our own domestic production, a quantity equal to almost 40 percent of the American total. And there is food for prolonged meditation in the discovery that in Boston recently there were seized 16,000 pounds of Russian butter which were branded "Made in U. S. A." How such cunning strategy ever failed to escape the attention of our Government is something that I am at a loss to understand.

Consider for a moment that the average American rises in the morning from a bed of foreign linen, shaves himself with a razor whose steel may have come from Germany, uses a soap from England and a face lotion from France, garbs himself in shoes made from Canadian leather, with socks whose silk came from Tokyo, a suit of English worsted, and a necktie from Edinburgh, descends to his breakfast of cereal made from South American corn, or ham from Ontario, and eggs from China, served upon dishes from Yokohama, consumes bread made from Siberian wheat, and butter churned in Denmark or Holland, looks at his Swiss watch, throws Russian coal into the furnace, rushes across pavements of Belgium

cement to his place of employment, picks up a newspaper to read of foreign wars and rumors of wars and tranquilly puffing upon a Dunhill pipe from London, musingly says to himself: "I wonder where these foreigners get the money for their big armies and navies when Americans are out of work and there seems to be no business here." So he rises in disgust, goes across the street to stand at a bar made of lumber from Manitoba, takes a glass of Scotch whisky with a nibble of Schweizer cheese, and follows it with a stein of Bavarian beer. I don't blame you for smiling, ladies and gentlemen, but it is no laughing matter to the American workingman. And, of course, I could have added a number of other food products made in foreign countries, but it is not my object to give my subject indigestion at breakfast time.

To what base uses, ladies and gentlemen, has this, our America, come? Memories are so short that we sometimes forget that only 8 years ago foreign commissions were sent to this country to learn why industrial America was leading the rest of the world. And they discovered that with 7 percent of the world's people the United States had more purchasing power than all of Europe combined; that this little group had created and owned more than half of the world's wealth; that from 6 percent of the world's acreage they harvested over half of the world's foodstuffs; that 60 percent of the world's minerals were extracted from American mines; that half the communication facilities, almost half of the railways and electrical energy, had been developed and were in use here.

They saw individual transportation triumphantly interpreted in the production of 92 percent of the automobile output, operated on 600,000 miles of splendidly paved highways. With a standard of living that enabled America to consume half of the world's coffee, half of its tin, half of its rubber, one-fourth of its sugar, three-fourths of its silk, one-third of its coal, two-thirds of its crude petroleum, the commissions found here luxurious buildings, a wealth of educational facilities, comfortable individual homes—and glowingly paid tribute to the American plan that in less than a century had produced three times as much wealth as had been created by all other nations and men since omnipotence laid the foundation of the world. That was the America of only 10 years ago. And tonight, if I may make the suggestion—and, I am, of course, not the first to make it—I would urge our Government to discourage by tariffs the importation of products made abroad which can be better made here, and thus encourage the American worker to obtain permanent and reliable private employment. Were this done, the headlines in yesterday's Philadelphia papers telling of the increase in the number on the relief rolls need never have been. Nine million unemployed represent a tremendous reduction in the purchasing power of our Nation. At a thousand dollars a year, it means no less than a reduction of nine billions of dollars. A vigorous and courageous determination on the part of Congress to engage in a stand-up strike for American character and labor; a determination that no foreign nation shall be permitted to continue to sell her cheap labor products here, when better articles are made by the American workman—would put these nine million Americans back to work and increase our internal buying power by nine billions of American dollars. Such a step would not only automatically balance the Budget, but it would enable Congress to reduce the overwhelming burden of taxation and open the doors of opportunity to the 300,000 boys and girls who each year reach the job-seeking age and who are now wandering along the highways of America, subject to the vicissitudes and temptations that such a nomadic life so readily generates.

Even assuming that Congress should neglect to respond to such a plea on behalf of the American workingman, it is still in the power of the American people to restore the trade balance to America and keep here those billions of American dollars which are now pouring into the pockets of foreign peoples—sums sufficient each year to guarantee the social security to which our own citizens are entitled. Without making a blanket proposal that Americans should pay exorbitant prices, or submit to domestic profiteering, or fall into the ridiculous error of abstaining from those articles which we ourselves cannot produce, yet, Americans can create jobs for American labor and keep American money in circulation here instead of expending it for inferior articles from nations that have repudiated their just obligations to us, if we will but pledge ourselves to buy American goods wherever it is feasible—and particularly to buy American when the foreign products offered to us under reciprocal-trade agreements or otherwise are given by our Government an unfair advantage in labor and material costs over the products of our American labor. In this way we shall sustain the industries in our own land and lead our army of unemployed back to the factory and the farm.

Here, ladies and gentlemen, is an American purpose worthy of immediate American thought. For these are perilous days—days that call for high accomplishment, for Maccabean courage and lofty patriotism. There is no room for timidity, no room for the little Americans who are afraid to speak for our traditions and our people. We of this generation will determine the future of the Nation. Our foremost task is to profit by the evils of our time and make the future more secure for those who shall come after us. If we make this our very own true philosophy of life, no power on earth can destroy the heritage of citizenship which we have received from our valorous ancestors and which our unborn posterity has a right to inherit undiminished from us. So, be American, ladies and gentlemen, think American, work American, buy American, and America shall once again take her exalted place at the head of the onward march of the nations of the earth.

The Water Pollution Control Bill

EXTENSION OF REMARKS
OF
HON. GUY L. MOSER
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, April 22, 1937

Mr. MOSER of Pennsylvania. Mr. Speaker, I have sought this privilege for the sole reason, the chairman of the committee, the gentleman from Texas [Mr. MANSFIELD], was unable to allot me any time for the discussion of this bill in debate. The sudden turn in the parliamentary procedure under which this bill was passed, furthermore, prevented an expression of opinion in debate under the 5-minute rule.

Mr. Speaker, I am so full of a personal abhorrence of the contemptible practice of stream pollution and an aversion to it that amounts to hatred of those so violating the common decency involving the "rights of man" that I am constrained to give expression to my feeling.

From my earliest boyhood impression of the Chic Sale form of architecture constructed over a running brook, to and including the days of my manhood when I observed the sewage of cities poured into streams, I have had engendered an abhorrence of such unthinkable practices.

I have fished the mountain brooks of my native State, and I have seen the effect of the dumping of the waste material from the tanneries, including the poisonous residue from the hemlock bark used in the process, into the fine clear spring water of these streams so affected. I have seen the effect on the beautiful game fish, the brook trout. It is appalling. It was Socrates who died from the hemlock cup.

I have seen the effect of the dumping of the waste matter from the West Virginia Pulp & Paper Co., at Tyrone, Pa., into the beautiful blue Juniata River. I have seen the carp, eels, the catfish, snakes, and frogs floating upside down, alongside the black bass, pickerel, and pike, as in the stillness of death they floated away.

I have seen, in wartime the effect of the Aetna Explosive Co. disposing of its acids and poisons used in the production of munitions when dumped into the same Juniata River, with like effect.

I have seen the coming of the industrial plant of the Suskana Silk Co., to Lewistown, Pa., on the same Juniata River, but I have, too, seen the disposal plant that corporation erected at a stated cost of only $5,000. This disposal plant was constructed on property the company believed its own, but without a survey, only to find they erected it on real estate owned by the Pennsylvania Railroad Co. The latter company promptly leased the ground to its neighbor for 99 years for $1. This is an example of neighborly cooperation in the interest of the common welfare and to avoid a violation of Pennsylvania's State law against stream pollution. The residue of the processing and manufacture of rayon was believed that poisonous and destructive that at least one known corporation, rather than violate State law by polluting a stream, did honorably erect a disposal plant rather than pour its refuse in the Juniata River.

Mr. Speaker, I have seen the same Aetna Explosive Co. erect a similar plant on the West Branch of the Susquehanna River at Emporium, Pa. I was told by protesting citizens that at this plant they employed a superintendent who declined to pour the plant's waste into the river because it would kill everything for miles below, and be injurious to cattle and other livestock using the water, not to mention human beings. Ordered to do so, the superintendent's refusal resulted in his dismissal and replacement with another less interested in the common welfare of humanity and livestock. After this poisonous waste matter was placed in the river by the successor superintendent, all forms of aquatic life in that river floated on its backs down the river and were personally observed at Milton, and I was informed at Sunbury, Pa.

This resulted in a prosecution, and a fine of $100 was imposed, resulting in the heat being turned on the then fish commissioner of Pennsylvania, Nathan R. Buller. The pressure was so great, Mr. Buller handed back the fine check with apologies. The Philadelphia North American, a great progressive Republican daily newspaper in that day, published an appropriate two-column width, full-page length editorial by Mr. E. A. Van Valkenburg. Mr. Van Valkenburg was ever a staunch supporter of the late President Theodore Roosevelt. He was likewise a staunch supporter of Gifford Pinchot in his unsuccessful campaign for election to the United States Senate on the Bull Moose ticket in 1914. In connection with the editorial Mr. Van Valkenburg had his cartoonist, Walter Bradford, prepare and publish a strip cartoon of the processes of this stream pollution to and including the likeness of Mr. Buller handing back the check with his apologies.

Mr. Speaker, I personally preserved the editorial and cartoon, hoping the time would come when I might be able to use it. With the election in 1922, of Gifford Pinchot, that vaunted conservationist, sportsman, and lover of outdoor life, as Governor of Pennsylvania, some time after he had assumed his official duties as such, I called on the Governor, and personally placed in his hand, both the editorial written by his stanch friend and supporter, Mr. Van Valkenburg, as well as the strip cartoon by Mr. Bradford, in his friend's newspaper. The Governor promised to give the matter his careful consideration and attention, saying he appreciated my bringing it to him; that he had never before seen or noted it; and, it certainly involved a matter requiring action. Though the State's attorney general, Mr. Schaeffer (later a State supreme court judge) was press-quoted as saying if one prosecution was brought, he gave assurance of his wholehearted support and that an example would be made. No such action was brought, and Mr. Buller was retained as fish commissioner.

Mr. Speaker, the Holtwood Electric Power Co. constructed a dam in the Susquehanna River at McCall's Ferry. The same Pennsylvania law requires adequate fishways where such streams are dammed. The fishway at this dam has never been navigable for fish and remained uncorrected. This, too, was brought to the attention of Governor Pinchot, who promised correction, but failed. Before this dam was constructed, shad from the Chesapeake Bay entered this river, proceeded up the Susequehanna and Juniata Rivers to natural spawning ground. The result was that fresh shad were caught as far west as Huntingdon, Pa., and as far north as Milton, Pa.

Years before I was born, Mr. Speaker, the coal barons of Pennsylvania conceived it more profitable to deposit the silt from their collieries and washeries in the anthracite regions in the fresh-water rivers than to bear the expense of depositing it on their own property. Floodwaters carried this silt downstream, filling the channel and with increased heavy rains, quickly causing the stream to flood its banks and inundate surrounding property. Rivermen have found it profitable to use scows, pump this silt from the channel of the stream, wash and screen it, salvage tons upon tons of river coal, of course depositing the silt once more into the channel of the stream. This business has become quite profitable, but as permitted to continue to operate, legislation should be enacted by the State to prohibit the redeposit of the silt in the channel of the stream.

Floodwaters causing the river so treated to overflow its banks, inundate the surrounding shore and have destroyed vegetation, destructively depositing this silt over the surface of the land, once beautiful meadowland, not inches but feet in depth. The once beautiful willows and sycamores that adorned the shores are now browned and dirtied stumps, tombstones to their once natural majesty. The Schuylkill River, coursing through the full length of my district, is a living testimony to the truth of this assertion.

Mr. Speaker, floods and flood control consumed a considerable amount of the time of the early days of this Congress. Enormous sums of money must be expended on flood control. As this form of stream pollution contributes so materially to flood stages of our rivers, the provision of the Vinson bill extending to the tributaries of navigable waters clearly brings the class of tributaries enumerated within the purview of the bill, and as a step forward in the right direction I heartily support the bill H. R. 2711.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. WILLIAM GIBBS McADOO

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 22, 1937

LETTER FROM HON. WILLIAM GIBBS McADOO, OF CALIFORNIA, TO DR. RODNEY A. YOELL, OF SAN FRANCISCO

Mr. McADOO. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a copy of a letter which I addressed to one of my highly esteemed constituents of San Francisco, Dr. Rodney A. Yoell, relative to the measure now pending before the Senate providing for reorganization of the Federal judiciary.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 30, 1937.

DR. RODNEY A. YOELL,
Medico-Dental Building, 490 Post Street,
San Francisco, Calif.

DEAR RODNEY: I have your letter of the 12th instant and have read it with much interest. I knew that you were skillful with the scalpel and that you could dissect, with rare ability, the human anatomy; but I had never pictured you in the role of a dissector of our constitutional anatomy and interpreter of our statute laws.

Of course, I am delighted to have your views in extenso any time you feel like favoring me with them, and I shall answer to the full extent that my time will permit. It would require a speech to discuss the numerous cases you cite in your letter, but, as I view the matter, this is immaterial to the fundamental points involved.

I have no quarrel to find with your portrayal of the historical background of the Constitutional Convention of 1787 and the results of its labors. Our chief point of difference consists in the fact that we differ in our understanding of the question raised by the President's proposal for judicial reform.

Among other things, you seem to proceed on the assumption that it is the Supreme Court as an institution and the doctrine of judicial review itself which are under attack. This is not the case. I share your devotion to the Court as an institution and your belief in the doctrine of judicial review. The President's proposal rests upon a similar devotion to the Court as an institution and a similar appreciation of judicial review in our American system.

We seem to differ in this: I believe that the Court as an institution and the doctrine of judicial review are in danger from a handful of individual judges who, unwittingly and unintentionally, have failed to practice that essential judicial restraint which should control them in dealing with constitutional questions, and have permitted themselves to elevate their personal opinions of economic and social policy above the Constitution. It is rather difficult to make this point clear without seeming to impute bad faith to certain of the Justices, but I know you will acquit me of any such purpose.

The central question which the Nation faces today may be stated in these terms: What are we to do when a bare majority of Justices—unwittingly and unintentionally, as I have already said, as I do not impute improper motives—exceed their lawful authority under the Constitution, and in doing so, push the Court into dangerous waters, where the Constitution never intended it to be, where it does not belong, and where it is not competent to function. Like you, I deplore the present crisis. But I believe that the primary responsibility for it rests squarely upon these individual Justices.

This can be abundantly substantiated out of the mouths of the very judges who have taken this course. Never has this been brought out more vividly than in the majority opinion in the case of *Lochner* v. *New York*, decided in 1904—the first case in which the Court invalidated labor legislation and which was decided upon an economic theory, as stated by Associate Justice Oliver Wendell Holmes in his dissenting opinion.

In that case, a law of the State of New York, which prescribed a maximum 10-hour day, and 60-hour week, in bakeries, was declared unconstitutional by a 5-4 vote. Those who dissented were among the strongest legal minds on the Court, for instance, Associate Justices John M. Harlan, Edward D. White (subse-

quently Chief Justice of the Court), Oliver Wendell Holmes, and William R. Day.

Speaking for the majority, Mr. Justice Peckham said:

"In every case that comes before this Court, therefore, where legislation of this character is concerned, and where the protection of the Federal Constitution is sought, the question necessarily arises: Is this a fair, reasonable, and appropriate exercise of the police power of the State, or is it an unreasonable, unnecessary, and arbitrary interference with the right of the individual * * *."

Thus Mr. Justice Peckham and his four colleagues departed from the well-established rule for statutory interpretation, namely, that "a legislative enactment, Federal or State, is never to be disregarded or held invalid unless it be, beyond question, plainly and palpably in excess of legislative power." (See dissenting opinion in *Lochner* v. *N. Y.*, 198 U. S., p. 68.) Various cases are there cited in support of this rule. Mr. Justice Peckham and his four colleagues assumed an unfettered discretion to pass upon the broadest questions of economic and social policy. I must add that only a few years prior to this decision the Supreme Court had sustained a law of the State of Utah prescribing an 8-hour day in mines. Although the four dissenting Justices (Harlan, White, Day, and Holmes) threw this decision into the face of the majority, the latter contrived to find some fundamental constitutional distinction between the two laws. In short, they assumed a discretion that was limited neither by the language of the Constitution nor by their own precedents. Nor was it limited by the voices of their four dissenting brethren. Nor was their discretion limited by any sense of responsibility to the voters at the polls. These majority Justices had assumed an arbitrary power to determine the course of this Nation's economic and social destiny. I use the words "arbitrary power" advisedly. This power may or may not be exercised arbitrarily in particular cases. But, however it may be exercised, it will remain in its nature arbitrary. No wonder Mr. Justice Harlan, dissenting in the Lochner case, warned the majority that they were "abandoning the sphere assigned to it (the Court) by the fundamental law" and that they were causing the Court to "enter the domain of legislation."

This remarkable decision must be considered against the background of our history. In 1787, during the Constitutional Convention, James Wilson, a delegate from Pennsylvania, twice proposed that the Supreme Court be given the power to revise laws passed by the Congress, which, to use his words, as reported in Madison's Journal, "may be unjust, may be unwise, may be dangerous, may be destructive, and yet may not be so unconstitutional as to justify the judges in refusing to give them effect."

This proposal was twice rejected by the Constitutional Convention. Now I want you particularly to notice James Wilson's words. He wanted the Court to have power to invalidate laws which "may be unjust, may be unwise, may be dangerous, may be destructive." You will be struck by the fact that these words are amazingly similar to the very words which Mr. Justice Peckham used in describing his standard of decision over a hundred years later. Thus Mr. Justice Peckham and his four colleagues wrote into the Constitution the very power which the Constitutional Convention specifically denied to the Court.

The Justices who happen to be members of the Court at any particular time do not own the Court. They hold their places on the Court in trust for the people of the United States and in trust for the Court itself as an institution. To my mind the most tragic aspect of the present crisis is that the majority of the Court, rigidly bound, apparently, in the fixed convictions of a past generation, by exceeding their lawful authority under the Constitution, have tended to impair the standing and dignity of the Court among a very large and representative cross-section of our people.

What is to be done in such a case?

Every proposed amendment that I have seen would have the effect of limiting the scope of the Court as an institution and of restricting the doctrine of judicial review in one way or another. In effect, therefore, such amendments would punish the Court as an institution for the earlier mistakes of the individual judges.

The President's proposal would do just the reverse. It would protect the Court as an institution and the doctrine of judicial review against those judges who have unconsciously permitted themselves to subordinate the Constitution to their personal or economic or social or political views. That is why I believe the President's proposal to be conservative and the fairest proposal that has been made to meet existing conditions. It is not an unconstitutional proposal.

You doubtless heard ex-Justice Clark, of San Diego, on the radio a few nights ago. He made clear, beyond a possible doubt, the absolute constitutionality of the President's proposal.

The framers of the Constitution contemplated that judicial crises might be precipitated and that they might have a personal rather than a constitutional basis. For extreme and flagrant cases of judicial abuse, these framers of the Constitution provided the remedy of impeachment. Beyond this, and evidently for the purpose of enabling Congress to protect the legislative power against encroachments by the Court, Congress was invested with the power to control the membership of the Court. Even such a conservative historian and champion of the Court as Charles Warren recognized that, controlled by Congress, the membership of the Court constitutes one of the normal checks and balances in our constitutional system. In his book, "Congress, the Constitution, and the Supreme Court", at page 250, he describes the system of checks and balances as follows:

"Thus, each branch was 'coordinate' to a limited extent only; and each was subject, in a certain degree, to action by the other interfering with its uncontrolled powers and with its entire independence."

He describes the normal checks and balances to which the Supreme Court is subject as follows:

"The Supreme Court was not entirely independent; for its members were subject to confirmation by the Senate; its membership could be added to, or (in case of death or resignation of a judge) reduced in number, by Congress; its salaries were dependent on appropriations by Congress; and its members, in case of misperformance of duties, were subject to impeachment by the House; its sentences in criminal cases were subject to the President's power to pardon, and even its exercise of inherent judicial power to commit to prison for criminal contempt was subject to the similar power in the President to pardon the contemning offender."

I cannot refrain from quoting two remarks of Thomas Jefferson:

"The judiciary, if rendered independent, and kept strictly to their own departments, merits great confidence for their learning and integrity. But it now appears that we have no law but the will of the judge. Never will chicanery have a more difficult task than has been now accomplished to warp the text of the law to the will of him who is to construe it. Our case is the more desperate as the attempt to make the law plainer by amendment is only throwing out new amendments for sophistry."

"It has long been my opinion, and I have never shrunk from its expression, that the germ of dissolution of our Federal Government is the judiciary, an irresponsible body working like gravity, by day and night, gaining a little tomorrow, and advancing its noiseless step like a thief over the field of jurisprudence, until all shall be usurped."

I could cite a long line of cases since *Lochner* v. *New York*, in which the Supreme Court has more and more encroached upon the legitimate powers of the legislative body. It has not observed the true rule of statutory construction. It has permitted the social, economic, and political views of the judges to be reflected in decisions holding acts of the Congress to be unconstitutional. The true rule, it seems to me, of interpretation is that no act of Congress should be declared unconstitutional unless it is found to be so beyond "reasonable doubt." When five Justices of the Court say that an act is unconstitutional and four Justices say that it is not, how can any reasonable man conclude, in view of such a difference of opinion between men of the highest character and ability on each side, that there is no "reasonable doubt" about the validity of such legislation?

The Court stands today in imminent danger because of its inability to meet, successfully, the tremendous social, economic, and other problems which are pressing for solution. Are we to sit quietly and say that the wheels of the Government are locked, and that nothing can be done to alter the present status except by seeking amendments to the Constitution, which may require years before they can be incorporated into the organic law, during all of which time the ship of state will be drifting inevitably further and further toward the reef of ultimate disaster?

To increase the membership of the Court is, as already stated, unquestionably, constitutional. It is absolutely within the power of the Congress to take such action when, in its judgment, it is wise or expedient. It is solely a question of policy for the Congress alone to determine.

I revert now to a few specific statements in your letter.

(1) "Roosevelt received no mandate from the people to alter the structure of our Government" and (2) "his proposal strikes at the most fundamental portion of that Government."

As I have already said, the Congress has had the undisputed power since the beginning of our Government to increase or decrease the membership of the Supreme Court. It has exercised that power on numerous occasions. It is not necessary to specify them. Since Congress has this constitutional power, how can its exercise "alter the structure of our Government"? How can it "strike at the most fundamental portion of that Government"? I am speaking now of an increase of six in the membership of the Supreme Court. I cannot conceive of any possible impairment or injury to the "structure of our Government" from the exercise by the Congress of its constitutional power in this regard.

You assume in your letter that the proposed increase in the membership of the Supreme Court would subject it to "party domination." This assumption you can justify only on the ground that the President would appoint six "puppets" who would at all times be subservient to his will. Now, my dear Rodney, you are allowing your fears to run away with you. The President could not appoint six puppets, because the Senate would not confirm them. And if he nominated, as he would have to nominate, six men of the highest character and professional ability, in order to secure senatorial confirmation, he would be utterly unable to control their decisions or their minds after they had taken an oath to render impartial justice and to protect the Constitution of the United States.

Let me quote to you from that admirable book by Chief Justice Hughes entitled "The Supreme Court of the United States." At page 45, he says:

"Justices of the Supreme Court are appointed and confirmed by political departments of the Government. But an examination of the work of the Supreme Court discloses a most gratifying freedom from control by political parties. It has been shown abundantly that, while fundamental political principles have been held strongly, the judges have not been subject to influence by party machinery or by either visible or invisible government. Judges as men of mature years and wide experience undoubtedly have their convictions, political and economic, their views of the nature and purpose of our Government, of the relation of the judicial department to the working of the Government, but they

have not been instruments of political manipulations or the tools of power. One cannot study their lives and decisions without confidence in their sincerity and independence. The Supreme Court has the inevitable failings of any human institution, but it has vindicated the confidence, which underlies the success of democratic effort, that you can find in imperfect human beings, for the essential administration of justice, a rectitude of purpose, a clarity of vision, and a capacity for independence, impartiality, and balanced judgment which will render impotent the solicitation of friends, the appeals of erstwhile political associates, and the threats of enemies."

At page 47, Chief Justice Hughes quotes with approval the following from Mr. Charles Warren's notable work on the Supreme Court:

"'Judges appointed by Jefferson and Madison did not hesitate to join with Marshall in sustaining and developing the strongly nationalistic interpretation of the Constitution so obnoxious to Jefferson. Judges appointed by Jackson joined with Marshall and Story in supporting the Cherokee missionaries against Georgia, in flat opposition to Jackson. The whole bench appointed by Jackson decided against his policy in relation to the Spanish land claims. Judges appointed by Jackson and Van Buren threw down the gauntlet to the former by issuing a mandamus against his favorite Postmaster General. In every case involving slavery, antislavery judges joined with proslavery judges in rendering the decisions. The constitutionality of the obnoxious fugitive slave law was unanimously upheld by antislavery Whig judges and by proslavery Democrats alike. A northern Democrat joined with a northern Whig judge in dissenting in the Dred Scott case. President Lincoln's legal tender policy was held unconstitutional by his own appointees. The reconstruction policies and acts of the Republican Party were held unconstitutional by a Republican bench. The constitutional views of the Democratic Party as to our insular possessions were opposed by a Democratic judge who joined with his Republican associates in making up the majority in the insular cases.' He adds that 'nothing is more striking in the history of the Court than the manner in which the hopes of those who expected a judge to follow the political views of the President appointing him have been disappointed.'"

At page 49, Mr. Hughes continues:

"If conscientious, able, and independent men are put on the bench, you cannot predict their course as judges by reference either to partisan motives or to personal or party loyalties. If you could get further down to the bedrock of conviction as to what are conceived to be fundamental principles of Government and social relations, you might be able to get closer to accurate prophecy. But you cannot expect to have judges worthy of the office who are without convictions and the question from that point of view is not as to the qualifications of judges but whether you will have a court of this character and function."

Chief Justice Hughes and Mr. Warren are absolutely right in what they have said. There is no danger, I say unqualifiedly, to be apprehended from the appointment of six additional able and unbiased Justices to the Supreme Bench. Let us look at this another way. Suppose that there should be six vacancies in the present Supreme Court of nine during the term of President Roosevelt, because of voluntary retirement or death or otherwise. Would you apprehend any danger if the President should fill these vacancies, as he is required to do by the Constitution, by nominating six outstanding men of character and legal ability, who in turn should be confirmed by the Senate? The Court would then consist of six appointees of the President out of nine. Would you say, in such circumstances, that the Republic was in danger? Would you say that the President had effected a "political coup d'état"? Would you say that he had abused his power, and that he was seeking to rend the framework of democracy? Would you say that this valid exercise on his part of his constitutional power to fill six vacancies in the Supreme Court would endanger the civil liberties of the people? Would you say that it threatened to destroy religious liberty or freedom of the press or free speech or the right of peaceable assembly? Of course not. I can assure you that there can be no greater danger in the appointment of six additional Justices to the present Supreme Bench than there would be in the filling of six vacancies in the present Court of nine (if that should occur) by the President, with confirmation by the Senate of the President's nominees.

You say: "Certainly it is no part of democracy's tenets that the Court should be subject to party domination." No one, much less the President, has made any such claim. No political party can dominate the Court. I think Chief Justice Hughes has proved that beyond doubt in the quotations I have heretofore submitted to you from his notable book on the Supreme Court.

There has been no appeal, as you assert, to party loyalty in this matter, either through political patronage, the cracking of the party lash, the many conferences, and the general force type of tactics which you attribute to President Roosevelt. Not one of these things has happened. The President has conferred with a number of Senators and Members of the House of Representatives. What conceivable objection can there be to this when, under the Constitution and under our system of government, it is absolutely necessary for him, in the proper discharge of his duties, to confer with Senators and Members of the House of Representatives? I have never heard, however, of the President conferring with the members of the Supreme Court concerning any of its work because that branch of the Government is purely juridical and interpretative. I presume that if the President conferred with members of the Court about his proposals for judicial reform, a thing which in itself would be perfectly proper, the claim would be made that he was trying to influence or coerce the action of the Court. To such a depth has suspicion and prejudice reduced us in the discussion of a problem of such vital importance to the welfare of the people.

You ask if I cannot reconcile my views to the idea of "submitting as an amendment (to the Constitution) the question of the '6-3' decision before an act is declared unconstitutional." This proposal, my dear fellow, seeks to undermine the fundamental principles of democracy by giving the minority the right to make the decisions of the Supreme Court. Suppose, for instance, no act could be declared unconstitutional except by six of the nine Justices. Suppose that only five voted that an act was unconstitutional and that four held it to be constitutional. The decision of four (the minority) would prevail and the unconstitutional law would remain on the statute books. I think such an amendment would be a direct menace to religious liberty, to freedom of the press, freedom of speech, and other civil liberties established in the Bill of Rights.

In the incident I have cited, if the issue had been that an act of Congress had impaired the right of religious worship, or free speech and it had been attacked as unconstitutional, if five of the Justices said it was unconstitutional and four said it was not, the minority would keep the unconstitutional statute on the books, and civil liberties, such as freedom of the press, freedom of speech and religious liberty, would be impaired to the extent of the questioned statute. No. We must preserve the essential attribute of democracy—majority rule.

I admit that in some circumstances a two-thirds vote should prevail—as when the President vetoes an act of Congress which can be overruled by a two-thirds vote of each House; as also when a resolution to amend the Constitution must be passed by a two-thirds vote of each House and ratified by three-fourths of the States before it becomes a part of the Constitution.

I don't want to interfere with the scope of the Supreme Court, or with the powers of judicial review. What I am fighting for, is to preserve the "structure of our Government" and at the same time to preserve also the essential elasticity of our Constitution—that elasticity which the framers of that noble instrument inserted into it as a vital quality, just as blood in the arteries is essential to the life of human beings.

I have no objection to the submission of lawful constitutional amendments, from time to time, in accordance with the provisions of the Constitution, but I do not see that any amendment is needed to effectuate the President's proposal in view of the undisputed power of the legislative branch to enact the necessary laws.

Before I close I would like to remind you that there have been, within the past 25 years, some drastic proposals concerning the Supreme Court. You will remember that Theodore Roosevelt, Progressive candidate for the Presidency in 1912, ran on a platform which declared for popular "recall of judicial decisions." I forget the exact details of his proposals, but in substance they were to have the decisions of the Supreme Court on constitutional questions overridden by a vote of the people.

In 1924 Senator La Follette was the Progressive nominee for the Presidency. His platform declared in favor of an amendment to enable Congress to override a decision of the Supreme Court by reenacting a statute which the Supreme Court may have held unconstitutional or invalid. It also declared in favor of the election of Federal judges, for terms not exceeding 10 years. It was declared in the Progressive campaign book in explanation of these principles: "Today the actual ruler of the American people is the Supreme Court of the United States. The law is what the courts say it is, not what the people through Congress enact. Even the Constitution itself is not what its plain terms declare it to be. It is what the Supreme Court of nine men construe it to be. As a matter of fact, five men are the real rulers, for in some of the most important decisions the Court has divided 5 to 4, and the views of these five men have overruled the laws of Congress."

I could continue with quotations from some of our great statesmen to demonstrate their deep concern about the power the Supreme Court asserted in the early days of the Republic to declare acts of the Congress unconstitutional. But this is of little value except to show that we now are face to face with some of the evils they anticipated.

Let me repeat, that I want, and am seeking, to preserve the Supreme Court in its full dignity and majesty, without any of its powers curtailed, or its right of judicial review impaired. The President's proposal to increase the membership, I reassert, does not affect these essential powers in the slightest degree. Nor will they give him domination, individually, or through political power over the Court. Nor will this increase in membership "alter the structure of our Government" or "strike at the most fundamental portion" of our Government. It will simply add to the Court six new members au courant with the times, unquestioned as to ability and unblemished in character. They will be nominated by the President and subjected by the Senate to the most searching investigation of their lives and professional conduct before they are confirmed. Such men will not prostitute our highest Court, impair its dignity, or disgrace its great traditions.

If we refuse to accept this moderate measure of essential reform, which the President has submitted in strict conformity with his constitutional duty to the Congress, then it may be that a constitutional amendment, altering the status of the Court and limiting its power of review in a far more radical form than the mere increase in its membership, may be adopted. I do not favor extreme measures. In this connection, please refer to the Appendix of the CONGRESSIONAL RECORD, page 579, there read a statement made by Dr. Thomas F. Konop, dean of the School of Law of Notre Dame

College, before the Judiciary Committee of the Senate. I do not agree with everything that Dean Konop said, but he has given expression to the sentiments and beliefs of a vast American constituency. The Judiciary Committee is holding exhaustive hearings on the proposed bill. I am attending many of these hearings. I am eager to get the views of the ablest intellects in the country and to give them full consideration. After the Judiciary Committee has reported to the Senate, the whole matter will be debated at length on the floor of this great forum of free speech and unlimited debate. I invite you to follow those debates with the intelligent interest you always manifest in the great problems of life. I hope that you will reach a final conclusion only after you have heard all sides of the case.

I agree with you that mental capacity is not a question altogether of age; that some of the greatest men of our time and of former times have reached the zenith of their powers after the age of 70. The question of an age limit is purely arbitrary and relates to a general policy under the economic and social development of our era. I replied a few days ago to a letter from our mutual and highly esteemed friend, Mr. Garret W. McEnerney, of San Francisco, wherein I made some observations on this question. I quote, therefore, from that letter:

"I need only cite your own case to prove that persons past 70 years of age may nevertheless function as highly useful citizens. In all fairness, however, I must say that the position of Congressmen past 70 years of age is not analogous to that of judges of the courts who are past 70 years of age. Members of the Senate are answerable to the people every 6 years and Members of the House every 2 years, so that if age has rendered them inefficient the voters can remove them from office. Similarly practicing lawyers are continuously responsible to their clients, and if age should render them inefficient, we may be sure that their clients would seek other counsel.

"The problem is different, however, in the case of Justices of the Supreme Court and judges of the inferior Federal courts, because they are appointed for life. Whatever the conviction of the general public or of the lawyers who appear before the court may be in regard to the efficiency of any particular aged judge, they are in no position either to express their opinion or to make it effective.

"That is why an orderly system of regular retirement of Justices of the Supreme Court and judges of the inferior Federal courts at the age of 70 or more seems to me to be both reasonable and desirable. One might conceivably suggest that only those Justices past the age of 70 whose efficiency has in fact been impaired should be retired; but such a proposal would vest in the Congress or the President the discretion to choose between individual Justices, a discretion which I am sure you would deplore as strongly as I. The President's proposal eliminates all elements of discretion, and therefore eliminates the risk of abuse.

"But as Congress has no power to provide for compulsory retirement of members of the Federal courts because of age, inefficiency, or incapacity, since the Constitution gives these judges office for life, we can only hold out to them the opportunity of retirement at full pay for life after they arrive at a given age. If they do not accept it, they can sit on the bench as long as they choose, even until death overtakes them.

"As you know, the Congress has recently passed an act permitting Justices of the Supreme Court to retire at the age of 70 on full pay for life. This, it seems to me, is a generous provision. It is not intended as a reflection upon any member of the Supreme Court or of the inferior Federal courts.

"I think it is the generally accepted view of modern society, in our country at least, that retirement at some reasonable age of men engaged in industry, in business, in the military services of the country, and in the professions is desirable to make room for promotion and advancement of the younger men who are coming on.

"I understand that some of the great universities retire their presidents at 68. In the Army and the Navy the age limit for commissioned officers seems to be 64. There is no general rule in business or banking, but many corporations, particularly some railroad corporations, insist upon the retirement of their chief executives at the age of 70. Rotation of this sort in a great organization would seem to me to be a wise and sound policy.

"I was interested in your suggestion 'merely as a basis for discussion * * *' that at his appointment a Justice should not be under 50 or 55 and serve until, say, 70 or 75. This would render ineligible for appointment to the bench anyone younger than 50 or 55 years of age. Would this be constitutional?

"In section 2, article I, the Constitution itself has recognized an age limitation with respect to the eligibility of Members of the House of Representatives by providing that no person shall be a Representative who shall not have attained the age of 25 years, etc., and

"In section 3, article I, that no person shall be a Senator who shall not have attained the age of 30 years, etc., and

"In section 1, article II, that no person, except a natural-born citizen shall be eligible to the Presidency who shall not have attained the age of 35 years.

"Perhaps it would be wiser to say that no one who has not attained the age of 35 years shall be appointed to the Supreme Court, thus putting the members of that Court, with respect to age limitation, upon a parity with that provided in the Constitution for the President of the United States.

"One of the most noted of the Justices of the Supreme Court would have been excluded if the 35-year age limitation had been applied to members of the Supreme Court in the early days, as Justice Story was only 32 years of age when he was appointed in 1811."

This letter is too long, but you provoked it!

Assuring you, my dear Rodney, of my continued esteem and best wishes, I am,

Cordially yours,

W. G. McADOO.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. JOSEPH F. GUFFEY
OF PENNSYLVANIA
IN THE SENATE OF THE UNITED STATES
Thursday, April 22, 1937

ADDRESS BY HON. LEWIS B. SCHWELLENBACH, OF WASHINGTON, DELIVERED BEFORE LABOR'S NONPARTISAN LEAGUE, IN MINNEAPOLIS, MINN., APRIL 19, 1937

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address on the proposed reorganization of the Federal judiciary, delivered by the Senator from Washington [Mr. SCHWELLENBACH] before Labor's Nonpartisan League, in Minneapolis, Minn., on Monday, April 19, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The President of the United States proposes to reform the judiciary. Since February 5, when this proposal was made, the American people for the first time have been given full opportunity to know something about their courts and their judicial system. There are many people who are shivering and shuddering because of this frank, open discussion. They express fearful outcries that the disclosures will result in a lessening of respect for the judicial institution. I contend that in a democracy if there is something wrong in any branch of our Government it should be examined and discussed. I don't exempt the judiciary from such examination or discussion.

Let us pose the question, "What is the President's purpose in this proposal?" Let us answer it first by the process of elimination. The President does not desire a packed Court of subservient puppets. The President does not desire a Court which will amend the Constitution to follow his will. What the President wants, and what the Congress of the United States is going to give him, is an independent Court which will stick to its job of being a Court and will not insist upon being a third branch of Congress. Don't for a minute think that this situation of having a Supreme Court which insisted upon passing upon the desirability as well as the constitutionality of statutes is one that has existed for only the last few years. As far back as 1911 Justice Harlan, in the Standard Oil case, said:

"After many years of public service at the National Capital, and after a somewhat close observation of the conduct of public affairs, I am compelled to say that there is abroad in our land a most harmful tendency to bring about the amending of constitutions by means alone of judicial construction."

A review of the decisions of constitutional cases since the turn of the century brings forth the testimony of numerous witnesses in the persons of Justices of the Supreme Court of the United States in confirmation of Justice Harlan's view. Justice Holmes repeatedly charged the Supreme Court with exercising a veto power on the basis of economic views of its members. Justice Day, Justice Moody, Chief Justices Fuller, White, Taft, and Hughes have denounced their colleagues upon the bench in the most scathing terms for encroaching upon the rights of the Congress and State legislatures. Yet the majority of the Court in all these cases has piously and sanctimoniously written in their opinions the legal fiction that they were simply laying the statute alongside of the Constitution in an effort to determine whether or not it squared with it.

We have on the Supreme Court today four men who persist in their contention that we live under a system of judicial oligarchy and that they have a right to negative and nullify the wishes of the people as expressed at the polls and the laws of the people as written by the people's representatives. Yet, ignoring the charges made by this long line of dissenting opinions, there are men in this country like Herbert Hoover, who still say "Hands off the Supreme Court."

There are those who argue that because of the fact that in the last 3 weeks a majority of the Court has seen fit to reverse its previous position we should abandon our efforts toward reformation. Laying aside from consideration the doubts and uncertainties involved in relying exclusively upon Associate Justice Roberts, the American people must realize that today any litigant, whether he be a private citizen, a corporation, or a State or Federal Government whose cause of action brings a situation contrary to the

economic or political ideas of Justices Butler, Sutherland, Van Devanter, and McReynolds must secure the unanimous approval of the other five Judges in order to win the case. There are many people in this country who believe that a law should not be declared unconstitutional until at least seven of the Judges have concurred. The situation that exists now is that in order for a law to be defended as constitutional it is required that that law have the unanimous approval of all the open-minded Justices of the Court. Does anybody believe that the framers of the Constitution, of whom the Court's defenders speak so reverentially, ever intended this situation to exist in democratic America?

There are those who say that we should have a constitutional amendment. Such persons can probably be properly classified in two groups. First, the reactionaries of the country who would be the first to campaign against, and spend their money in attempting to defeat, any constitutional amendment which might be proposed. In the second group are the honest and sincere progressives and liberals in this country whose efforts to defeat the President's proposal will only result in getting them out on the end of a limb, which limb the reactionaries will cut off as soon as they deem it expedient.

The decisions in the Washington State Minimum Wage case and the Wagner labor cases clearly demonstrate the lack of any need for constitutional amendment. The fault lies not with the Constitution but with the economic predilections of those who have construed it. Does anybody believe that the founding fathers intended to set up a form of government which would prevent that government from solving the current problems of the people? I think the Supreme Court has demonstrated that there was no such intention. Take, for example, the minimum-wage law in my own State. We adopted it in 1913. For 10 years it was constitutional. For 10 years the lawyers of my State so well knew that the five out of nine Judges of the Supreme Court would uphold it that they didn't even take it beyond my own State supreme court. Then in 1923, after President Harding had appointed two new members of the Court and after the Supreme Court had stricken down the District of Columbia minimum-wage law, our law became unconstitutional. It was a dead letter on our statute books.

Three weeks ago today, by judicial declaration, it was revived from its coma and became constitutional again. There were no constitutional conventions, three-fourths of the State did not ratify any amendment, and two-thirds of the Congress did not submit any amendment, yet the Constitution was just as effectively amended, so far as our minimum-wage law is concerned, as if we had gone through the most detailed procedure.

Less than 2 years ago the Supreme Court solemnly declared that for the Federal Government to attempt to regulate the problem of labor relations was unconstitutional. Labor relations were proclaimed to be purely and exclusively local problems. Yet last Monday at 12 o'clock noon the Court convened and by 3 o'clock Federal control over labor relations became constitutional. Again, the Court amended the Constitution.

Suppose we did amend the Constitution? Is there anyone who could say that a constitutional amendment could not be warped and twisted out of shape as other amendments have been? After the Civil War we adopted the fourteenth amendment. We inserted therein the "due process of law" clause for the sole purpose of protecting the life, liberty, and property of the newly created Negro citizen. Twenty years later, after everyone had forgotten the discussions and debates concerning the purpose of that amendment, the Supreme Court came along and seized upon it as an instrumentality it could use to stifle, hamper, and even throttle every effort of every State legislature in the country to improve the working conditions of the people of the States. It is true that the Supreme Court did not take advantage of the first opportunity it had to make such use of this amendment.

In the first case in which the argument was presented to the Court, five of the Judges stuck by the real purposes of the amendment, but in the course of time one of the Judges died and the new man joined with the minority, and this amendment intended for the protection of the helpless Negro was converted into a machine gun which the forces of entrenched wealth of the country could use to prevent the great mass of the people from improving their conditions.

We adopted the sixteenth amendment in order to tax incomes. We had income taxes in this country for many years, but a change in the Court resulted in a new Judge lining with the former minority and income taxes became unconstitutional. Finally, after a long, determined struggle, we adopted the amendment. It gave to the Congress the right to levy taxes upon incomes "from whatever source derived." The term "from whatever source derived", seems to be plain, simple, and unequivocal. Anybody can understand it. It means from "every source derived." That is, it was plain, simple, and unequivocal until the Supreme Court got a hold of it. A case went before them involving the taxation of their own salaries. The Government then found that the language was not so simple. They held that the word "every" did not include the Judges of the Supreme Court, so they draw their $20,000 a year free of any tax.

I think it was Cassius into whose mouth Shakespeare put the words "The fault, dear Brutus, is not in our stars, but in ourselves, that we are underlings." I would suggest that if the Chief Justice wants to perform a real service to the country, he would have hung in each one of the spacious offices provided for the Justices, a framed replica of Cassius' famous words, adding underneath the paraphrase, "The fault, dear Justices, lies not in our Constitution, but in ourselves that we are humans."

There is spread throughout this country in the last 2½ months much talk of the danger of dictatorship. I have seen a greater display of abysmal ignorance by intelligent men and women on this subject than has ever been displayed to my knowledge in this country. Those people who have spread the doctrine of fear of dictatorship have either never read or have forgotten their reading of the history of the decline and destruction of democracy. Futility has long been the nemesis of democracy. So long as a people have faith in their government and confidence in the ability of that government to give them reasonable assurance of the solution of their problems, dictatorship need never be feared. It is only when that government fails them and when their disappointment in that failure is so great as to bring them to the belief that the efforts of that government are futile that they are willing to surrender the liberty guaranteed to them by a democratic government and hand over their destiny to a dictator. We need not go back further than the post-war period to demonstrate the truth of this assertion.

Mussolini gained power in Italy because the Italian people were dissatisfied with the frustrations of their war objectives and believed that their Government having thus failed them could not provide them with economic security to which they felt they were entitled. The German democracy was succeeded by Hitler because it failed to rescue the German people from the shackles by which they were bound by the Treaty of Versailles. To hear some people in America talk today one would think that government was a mechanical thing and that the future of the Government could be foretold by the use of a slide rule. A nation is a thing of the spirit. Laws are merely the formal enactment of the public will. Any government which meets the needs of its people and retains the confidence of its people can never be destroyed. The people of this Nation 5 years ago had their hearts filled with despair, distrust, and dissatisfaction. We stood closer to the doorstep of dictatorship after 4 years of the disregard of the people's need by Herbert Hoover than we have ever stood since the signing of the Declaration of Independence. I do not think that Franklin Roosevelt has a mandate from the people. He does have a definite obligation and responsibility to the people—that is, to so conduct the affairs of the Government that democracy in America will work. If he is faithful to that trust, if those of us in public office are faithful to that trust, and if the hopes and aspirations of the American people are not thwarted, then the day of dictatorship in the United States need not be feared, even though we scan the future to the most distant horizon.

Excellent Work of Soil Conservation Service in Cherry Creek Drainage Area Near Denver, Colo.

Entire Cherry Creek drainage area, because of its comparatively small size, economic importance, and proximity to a large center of population, is an ideal demonstrational project for Soil Conservation Service.

EXTENSION OF REMARKS

OF

HON. LAWRENCE LEWIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 22, 1937

Mr. LEWIS of Colorado. Mr. Speaker, under the leave to extend my remarks in the RECORD, I wish most heartily to commend the work now being carried on by the Soil Conservation Service in the Cherry Creek drainage area in Colorado, to emphasize the importance of this work, to urge that it be continued, and, within the limits of reasonable appropriations, carried on to completion.

CHERRY CREEK "FUNNELS" THROUGH DENVER

Cherry Creek rises about 55 miles south of Denver. Fed by numerous tributaries and flowing in a northerly direction, it empties into the South Platte River in the center of the business district of Denver.

Although entirely irrelevant to this discussion, it may be interesting to recall that it was at the confluence of Cherry Creek with the South Platte River, at a place now in the heart of the city of Denver, that small discoveries of placer gold were made in 1858 by the Russell brothers leading a party of Georgians. The news of these and subsequent discoveries led to a great influx of gold seekers and resulted in the settlement of Colorado.

The entire drainage area of Cherry Creek is only about 55 miles long and 13 miles wide at its broadest point, comprising a total area of approximately 263,000 acres. It is shaped like a long, narrow funnel, with the narrower end

passing between two boulevards, through one of the finest residence districts of the city of Denver, and thence through the warehouse and wholesale district and the railroad yards to the South Platte River.

The greater portion of this drainage area lies in parts of the counties of Arapahoe, Douglas, and Elbert, in the congressional district of my colleague, the Honorable FRED CUMMINGS, with a small portion to the extreme south in El Paso County, in the district of my colleague, the Honorable JOHN A. MARTIN.

CHERRY CREEK IS A TYPICAL WESTERN "FLASH STREAM"

Cherry Creek is a typical western "flash stream." Under ordinary circumstances there is on the surface of the channel only a trickle of water. But, after heavy rains or a summer cloudburst up the valley to the south, this thread of water changes into a raging torrent for a few hours and then returns soon to its normal quiescent state. At all times, however, there is more or less underground flow, that is to say, a percolation of water through the sand below the surface of the channel bed.

IN CHERRY CREEK DRAINAGE AREA ARE PRESENT ALL FACTORS CONTRIBUTING TO EROSION AND EVER-INCREASING HEIGHT OF FLOODS

In this Cherry Creek drainage area the average slopes from the sides of the drainage area to the main channel are comparatively steep—100 feet to the mile. The infrequent summer rains often attain the intensity of cloudbursts. Overgrazing and improper methods of cultivation have prevailed in the past. In short, there are present all the factors which make for erosion, soil destruction, increasingly rapid run-off, heightened and ever more disastrous floods, and, except during these floods, a decrease in the average and especially in the minimum flow of water in the stream. Fortunately, however, erosion in this drainage area has not progressed to the extent where it cannot be stopped.

Cherry Creek has always been a great menace to the City of Denver. In the early days there were floods but not of the terrific force and height which some later floods have attained. In the summer of 1933, following a cloudburst and the collapse of the so-called Castlewood Dam, 25 miles south of the city, which dam, engineers tell me, was improperly constructed, a wall of water approximately 6 or 8 feet high came down Cherry Creek, causing damage aggregating many hundreds of thousands of dollars in the residential and business districts of Denver. In order to avert a similar disaster in the future, the city has erected, at a cost of approximately $1,000,000, a retarding dam near the hamlet of Sullivan, a few miles south of the corporate limits of the city.

SOIL CONSERVATION SERVICE IS ATTACKING THE CAUSE NOT MERELY A SYMPTOM

I submit, however, that this was merely treating a symptom rather than attacking the cause. I believe the Soil Conservation Service is attacking the cause.

Frankly skeptical was my attitude toward the work of the Soil Conservation Service until last November, when I spent one full day examining the work which had been done and was then in progress in the Cherry Creek Valley. Later I examined certain statistics and records. I was astounded at what I saw and learned.

The total drainage area of Cherry Creek from the head waters in El Paso County to the Denver city limits includes about 263,600 acres. The Soil Conservation Service selected 43,000 acres on West Cherry Creek, one of the tributaries of the main stream, as a demonstrational area, designated as "Cherry Creek (Col-3) Project." Of this tract only 13,946 acres had been completed or were being worked at the time I made the investigation in November 1936. In this area I saw 20 or more shallow reservoirs, many only the size of a large room; one or two of an acre or more in extent. Each of these reservoirs or ponds was well filled with water from what had been not excessive recent rains and snows. On adjoining land where reservoirs had not been constructed, the ground was dry.

I also examined the terracing work and the work on check dams on lands where erosion had started. On one piece of land I visited and where improved methods had been adopted by the owner who was cooperating, twice as many bushels of oats per acre were raised during the summer of 1936 as had been raised thereon in preceding years. And twice as many bushels of oats per acre were raised in 1936 on the land of this cooperating ranchman as were raised per acre on an immediately adjacent area where practices recommended by the Soil Conservation Service had not been adopted. Officials of the Soil Conservation Service assured me these cases were typical.

I was much gratified also to learn that landowners in general were greatly and increasingly interested and were cooperating fully.

I have referred to the retarding dam which the city of Denver erected at great expense and which was completed early in 1936. When I visited this dam in November of 1936 I found that silt and debris had accumulated behind the dam to a height of 6 or 8 feet, all of which had been brought down by the not excessive period of high water of one summer. All this silt and debris came from rich lands farther up the stream, which had been overgrazed or on which improper methods of cultivation were still being practiced.

EROSION HAS NOT PROGRESSED IN CHERRY CREEK DRAINAGE AREA TO A POINT WHERE IT IS HOPELESS; IT CAN BE CHECKED AND STOPPED

Officials of the Soil Conservation Service tell me, however, that erosion has not progressed in this drainage area to the point where it is hopeless. On the contrary, they assure me that erosion can be arrested and practically stopped by the adoption of the methods now being demonstrated on the experimental area; and that Cherry Creek can perhaps be restored to being a clear stream in which, as in early days, trout can thrive. From what I was able to see with my own eyes and from examination of statistics, I am convinced that the claims of the officials of the Soil Conservation Service are at least in large measure justified.

ENTIRE CHERRY CREEK DRAINAGE AREA IS COMPARATIVELY SMALL AND AFFORDS AN IDEAL DEMONSTRATIONAL PROJECT FOR SOIL CONSERVATION SERVICE

Because of its comparatively small total area, the entire watershed of Cherry Creek could all be worked within a comparatively few years and within the limits of reasonable appropriations. When completed, it would serve as an outstanding demonstration of the beneficial results of applying the methods of land use advocated by the Soil Conservation Service to an entire drainage area.

I believe that if the entire Cherry Creek drainage area is established as a project, the Soil Conservation Service, with the cooperation of the land owners and with the E. C. W. camps already in the area, can check the destruction of the soil, reduce the height of floods, and bring about a more nearly uniform flow of water in the stream itself.

Herewith I submit certain figures concerning the project I propose:

Proposed Cherry Creek drainage project

	Acres
Total drainage area of Cherry Creek, headwaters to Denver County line	263,600
Present Cherry Creek project 25,000 acres on West Cherry Creek:	
Acreage on project area completed or being worked	6,681
Acreage completed or being worked by E. C. W. camp	7,265
Total acreage completed or being worked	13,946
Balance of acreage to be worked	249,654
Estimated acreage possible to be worked based upon 70 percent cooperation of landowners	174,575.8

Average slope from sides of drainage to main channel: 100 feet in 1 mile.

ESTIMATED WATER-HOLDING CAPACITY OF STRUCTURES TO BE BUILT

	Acre-feet
(a) Dams	3,000
(b) Contour furrows	122,330.5
(c) Pasture terraces, on abandoned farm land returned to grass	35,388
Total	160,718.5

Estimated time to complete above work: 6 years, with aid of an E. C. W. camp.

Proposed Cherry Creek drainage project—Continued

ESTIMATED COST TO COMPLETE WORK ON ENTIRE DRAINAGE

Dams	$900,000.00
Contour furrows	36,699.15
Pasture terraces	9,436.92
Broad base terraces	110,097.30
Total cost	1,056,233.37
Farmers cooperating (teams and own labor, materials)	250,000.00
E. C. W. camp (labor and supplies)	306,233.37
S. C. S.	500,000.00
	1,056,233.37

BREAKDOWN OF S. C. S. COST PER YEAR FOR PROJECT ONLY

Administration:		
Office salaries		$9,700.00
Rent, telephone, telegraph, lights, etc		7,080.00
		16,780.00
Field operations:		
Technical	$21,840.00	
Labor	32,280.00	
		54,120.00
Material	19,100.00	
Repairs and replacement	10,000.00	
		29,100.00
		83,220.00
		100,000.00

UNDERGROUND FLOW OF CHERRY CREEK IS ONE OF THE SOURCES OF DENVER'S WATER SUPPLY

I have referred to the underground flow or percolation of water through the sands in the bed of Cherry Creek. In order to divert part of this underground flow as one of the sources of water for the city of Denver, so-called galleries were constructed in 1886. These first galleries were improperly constructed and new galleries were built in 1890, which, except for necessary repairs and slight improvements from time to time, are still in use. These galleries lie 18 feet below the bed of Cherry Creek and consist of 30-inch concrete pipe, laid with open joints and packed with gravel. They are located in the neighborhood of the hamlet of Sullivan, just outside the corporate limits of the city of Denver.

DURING LAST 40 YEARS MAXIMUM UNDERGROUND FLOW OF WATER HAS DIMINISHED AND VARIATION BETWEEN MAXIMUM AND MINIMUM FLOW HAS INCREASED

Continuous existing records of the flow of water obtained from these galleries start with 1897. Previous to that time records were fragmentary but the best information available is to the effect that when the galleries were first built the maximum delivery of water per day was 8,000,000 gallons. In recent times the maximum has been only about 5,000,000 gallons per day.

Furthermore, records and charts for recent years show an increasingly wide variation between the minimum flow and the maximum flow. In 1935, for example, the minimum flow was slightly over 1,000,000 gallons a day and the maximum flow about four and one-half million gallons. These fluctuations from year to year, and especially during the different months of the year, detract materially from the value of the Cherry Creek galleries as one of the sources of Denver's water supply.

In a recent letter to me, Mr. D. D. Gross, chief engineer of the board of water commissioners of Denver, says:

> It has been our opinion that the soil-conservation work now in progress on the headwaters of Cherry Creek would be beneficial in ironing out these flows. A more uniform flow is what we desire. Apparently much of the water is carried off on the surface in flashing floods, soaking the sands in the stream bed and producing a temporary large flow of water in the galleries, but not giving a sustained flow during times of diminished precipitation.
>
> It is my hope that the work of soil conservation may continue on Cherry Creek, giving a definite demonstration as to what can be accomplished. Personally, I am convinced that this work will be very beneficial in reducing the torrential floods, conserving the water in the soil for the benefit of crops and pastures, and that the underground flow for gallery use for our city galleries and similar uses will be made more uniform and dependable.

In an earlier letter, to one of the officials of the Soil Conservation Service, written after inspecting their work, Mr. Gross says:

We were very much impressed with what you are accomplishing on Cherry Creek and believe that the work which you are doing will be very beneficial in preventing the rush of floodwater and the washing away of valuable topsoil. This work will make a more uniform flow of the underflow of Cherry Creek, which will certainly be very beneficial. We, of course, are interested in improvements of this nature which will increase the water supply available for the Cherry Creek galleries near Sullivan, used as part of the Denver water-supply system, especially any improvement that will increase the minimum flows. The work of the Soil Conservation Service will increase the minimum inflow, making the flow more uniform.

While your work is progressing nicely, we can see that there is still a great deal of work to be done before you accomplish your ultimate purpose. We congratulate the Soil Conservation Service on the work already done.

SUMMARY

To summarize: Cherry Creek, in Colorado, is a typical western "flash stream" in the drainage area of which are present all the factors which make for erosion, soil destruction, increasingly rapid run-off, heightened and evermore disastrous floods, and, except during these floods, a decrease in the average and especially in the minimum flow of water in the stream. Although now well under way, the processes of erosion have not progressed to the point where they cannot be checked and stopped and further damage averted. This has been demonstrated by the work of the Soil Conservation Service on a typical but comparatively small project in this drainage area.

Continuing the work of the Soil Conservation Service in the Cherry Creek drainage area is of the highest economic importance not only in saving from destruction valuable grazing and farming land but also in conserving one of the sources of water supply for the city of Denver and in reducing the height of floods which in the past have done millions of dollars of damage in this, the largest city between the Missouri River and the Pacific coast.

Because the entire Cherry Creek drainage area is comparatively limited in extent, it could be fully worked by the Soil Conservation Service within a reasonably short period of years, with the active cooperation of the landowners, which has already been manifested. When completed, this would serve as a practical demonstration of the beneficial results of applying proper principles of soil and water conservation to the entire drainage basin of a stream. Furthermore, by reason of being adjacent to a city, which with contiguous suburbs has a population of 350,000, the work of the Soil Conservation Service in the Cherry Creek drainage area would arouse and continue to command a degree of popular attention and support far greater than could be aroused if similar work were carried on at a place remote from a large center of population.

CONCLUSION

For all of these reasons I most earnestly hope that the Congress will continue reasonable appropriations for the Soil Conservation Service and that the extremely valuable work in the Cherry Creek drainage area will be carried on without interruption to completion.

The Farm-Tenure Situation in the Cotton South

EXTENSION OF REMARKS

OF

HON. JOE STARNES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 22, 1937

ADDRESS BY W. W. ALEXANDER AT DES MOINES, IOWA, FEBRUARY 19, 1937

Mr. STARNES. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by W. W. Alexander before National Farm Institute, Des Moines, Iowa, February 19, 1937:

Mr. Chairman, gentlemen, a few evenings ago I heard Sir Wilmot Lewis, of the London Times, say in Washington that after 10 years of looking down on Congress from the press gallery he had come to the deliberate conclusion that our State lines were artificial and that we have in this country a series of economic regions. He undertook to define those regions. I shall not do it. The exact outlines would vary with the experience of the man who is making them, but by and large, they would fall generally into eight or nine general economic regions that are more important economically, according to Mr. Lewis, than our State lines. In discussing this, he made the further point that economic legislation by our Congress had come to be a series of interregional treaties. Now, insofar as this is true, the relationships of these regions to each other are very important. I suppose that is why I was asked to come and speak about one of the most distinctly regional of all the sections of the United States—the old Southeast.

I speak of the old Southeast rather than the South because more and more the South is being broken into two regions. The economic and social problems of the Southwest are becoming more and more sharply distinguished from the problems of the old Southeast. So long as the original settlers of Texas were living Texas leaders were the children of the old South. The later generations in the Southwest, however, are now in charge; they have forgotten largely their origin and are looking and thinking of their problems in their own way and under their own leadership as almost completely separate from the problems of the old Southeast.

The Southeast is a region in several distinct ways. Culturally, of course, it is very distinct. Its folk ways are clear-cut and less changed than the folk ways of any other section of the United States, certainly than those of New England, which we think of as clear-cut and stable. This regional situation to which I have referred brings about two difficulties when we think nationally about such problems as agriculture. One of them is to find any national pattern that will meet the needs of these differing regions. A great deal of study is being devoted to the question of tenancy. One of the things that has been sought is the common denominator between tenancy in the Southeast and tenancy in the Corn Belt. There just isn't any satisfactory common denominator. The tenant in the Corn Belt is a capitalist who owns his tools and has an entirely different relationship to the land and to society from that of the tenant in the Southeastern States. This illustrates the difficulty of finding in this country any basis for national legislation on economic problems. Furthermore, there is always the possibility of special interests playing these regions against each other.

The agricultural situation in the Southeast is determined largely, as most agriculture is, by our climatic conditions, which enable us to produce a cash crop, in fact two cash crops—cotton and tobacco. We have devoted our energies to the production of these money crops.

These two crops—cotton in particular—depend for their success upon a world market. I came out of Egypt 5 years ago with the men who were leading in the cotton enterprise of the British in the Sudan. I talked with these men about their plans for cotton production in the Sudan, realizing that the success of that enterprise had a distinct bearing on the remotest tenant cabin in the South. Hold in mind, therefore, that the world market is an important element in our whole agricultural situation.

This is a type of agriculture that did not lend itself to mechanization. Although the cotton picker is slowly getting a start, we will, in my opinion, be picking the cotton by hand for some time to come. Ours was, and is, a type of agriculture that demands a great deal of unskilled labor. The dean of the college of education in the University of Alabama has said that farming in Alabama is a set of inherited motions. Very little change has taken place in the methods of cotton production over the years. You, who go south on a journey, are greatly interested in the first cotton field you see; you get a few cotton bolls and put them in your car and try to understand what it is all about. One thing which impresses you is that great army of hand labor planting, chopping, picking. In the use of unskilled labor, it resembles the farming in the Nile Valley.

Southern agriculture requires a large amount of short-time credit for crop production. This has always been borrowed. A study was made not long ago of the debt structure of the South in the 10-year period before the Civil War. We then owed large sums in the East, and our farming operations have until recently depended year by year upon that eastern credit. I have thought sometimes that our landlords in the South were not farmers so much as credit arrangers. They are the financiers of the current enterprise of farming, and a great debt is incurred before the crop season has begun. This is a distinct and essential element in understanding this situation.

Being dependent upon world markets and large credit southern farming is subject to great hazards. We have an occasional good crop and good markets. The number of owners increases in such years and drops down again. That means that, by the law of averages and by the providential order of things, once in a while we can make some money out of cotton or tobacco, and whenever that happens tenants take their share and, making a down payment, begin the struggle for ownership.

A great deal has been said about the high rate of interest paid by our tenants for the advances with which to make their crop. Well, sometimes we have looked at those rates of interest and have felt moral indignation. The fact is that a loan on a cotton crop is probably as hazardous a loan as was ever made. Other loans in this country with equal hazards carry equally high interest rates. It is a gamble. I suppose that farming on the whole is a gamble. Farmers bet against the weather and the insects, the markets, and the people who manufacture farm machinery. Out in the Rocky Mountains I have seen lonely men who follow prospecting year after year. A fellow comes out of the gulch with a pick in his hand and you say, "Who is that?" "Well", your host says, "he is a sort of nut; he is a prospector; he goes up and down these gulches year after year with the hope that he will strike it, and he is getting a little bit wrong in the head." Cotton farming has that sort of effect on you; it is a sort of disease, or at best an adventure or a gamble. It takes that sort of spirit to enable the farmer to persist in the face of such tremendous hazards.

Because cotton was a cash crop and because of the importance of always being ready for the combination of good crop and good market when it came, we have mined the soil away. In the South the temptation to mine the soil has been greater than in the Middle West—mine it and ship it away in the form of lint cotton. So we have plowed the fields year after year and as they have grown thinner we have thrown in more fertilizer with the hope that we might catch the good crop and the good market. Today 61 percent of all the badly eroded lands in the United States are in the cotton Southeast, and erosion at its worst is to be found there—lands, hundreds of thousands of acres, that were formerly productive are now very distinctly submarginal, and the problem of soil depletion is greater in those commercial-crop areas than anywhere else in the United States.

Under this system tenancy has grown to an extent greater than in any other part of the country. Sixty percent and more of all our farms in the South are tenant operated, and in many of the areas—and curiously enough in many of the best areas—70 percent of all the farms are operated by tenants. The owner-operators who have hung onto their farms have an equity of only 35 percent in the farms that they are operating. The equity of the average owner-operator on the United States is 42 percent. Tenancy in the South is increasingly constantly, and the agricultural ladder is less and less operative. Ten percent of the entire land in that section is owned by the banks and insurance companies and other lending agencies.

I should have mentioned a while ago that as one of the byproducts of soil depletion we use five and one-half million tons of commercial fertilizer every year. The rest of the Nation uses two and one-half million tons. This is a part of the burden of expense and credit for making crops in the South.

The income of farm families in the Southeast is exactly half of the average for farm families in the Nation. The farm income in the highest income State in the Southeast is lower than the farm income of the lowest income State outside that area. The average farm income for the area is $365 a year. I need not elaborate on that fact, except to mention one or two things which I think ought to be of interest to you. In that area, with the lowest income of any other agricultural section in the country, are one-half of the Nation's farm children. One-half of the Nation's farm children are being educated in that area with the lowest farm income. I suspect that there may be someone here who says, "Well, they are not an important part of the population because they are Negroes." This problem—the human problem on the farms of the South—is no longer primarily a race problem. Of our tenant families, 1,200,000 are white and only 600,000 are Negroes. Of those farm children, the overwhelming majority are white. So far as that is concerned, I do not think it is any advantage to the Nation for Negro children to be without opportunity for more education than that sort of economic system will pay for.

I want to emphasize this because I think it is important. Out of the total income in that region we maintain a dual school system which is very expensive. However, we spent in percentage of our total tax income above the Nation's average—not a larger amount, but a larger percentage. So that there is the consciousness in this breeding ground of the Nation's future workers, voters, and citizens that education is of very great importance. It is the most important single thing that confronts us, and it is quite significant that the most distinguished men in the South in the past 50 years have been our educators. They have occupied a position of influence in our social system greater perhaps than educators in any other section of the country. I am not talking about farming; I am talking about people. What is involved in all this is our civilization, for our civilization is what happens to our people. I am tremendously interested in what is going to happen to Iowa land, but I am more interested in what is going to happen to the people out here who have dared to maintain their own ways until this is called the Bible belt. Your background has continued sufficiently rural, so that there is here more of early New England spirit than in any other section.

Between 1920 and 1930, 60 percent of all the farm people who migrated to cities were from southern farms. In Detroit and in Toledo and in all the industrial centers I find my neighbors and friends, and how glad they are to see me and how lonesome they get for the rural South. I should imagine that for many of those people, black and white, the distance from a sharecropper or tenant home in the South to Gary or Detroit is as far as one could travel socially and economically in this country. It is almost as far as it was from Italy to Pittsburgh in the period of foreign immigration.

This rural section of the South will continue to produce a large part of the Nation's surplus population. The most important thing that we give to the Nation are the children growing up on the farms of the South. For a long time to come a great many of these children must find their lives outside the South. National industries cannot expand greatly without them. Those children down there are very important for the future of the country.

So long as we have this surplus farm population the industrial problem of the Nation will be affected. Over the long years we have built up better labor standards in the country—hours and wages and conditions, but the greatest threat to those standards for industrial workers in this country is the surplus of workers in the South. When the N. R. A. came and took the cover off, there was one plant in the South that was particularly interesting. It manufactured a very common, homely commodity. The machinery in that plant was machinery that had been outlawed by safety legislation in Ohio. It had been moved south, where there was less interference by safety regulations. The wage of that plant was $4 a week. Mr. Meeman is here—his papers have recently been giving us a picture of what is happening industrially in the South. Some industries, good ones, have gone south, some important ones, but there have been a lot of the other sort. So long as there is a surplus population in the South there will be the temptation to exploit the surplus labor. That means the very great danger of breaking down the standards for our industrial workers.

And the moral to all this tale is that the rest of the Nation has a tremendous stake in these children of the South. Some of your own men have said to me in Washington, "Well, I don't see that anybody will profit by this piece of legislation except the South." My reply to that is that anything that will help that human situation in the South will be a great profit to the rest of the Nation.

Farm people in the South must become more politically conscious. You may be interested to know that of the total voting population in Alabama, of the total citizens 21 years old and above, only 20 percent vote. In Virginia, it is 25 percent; in Arkansas, 18 percent; in Georgia, 19 percent; in Mississippi, 16 percent; and in South Carolina, 14 percent, while in the Corn Belt States more than 80 percent vote.

That means that the towns and cities do most of our voting. The great masses of those farm people do not vote—and this is not just disfranchised Negroes either; in our effort to deal with that problem we have disfranchised a large element of our white voters. I started out by reminding you that this country was a series of regions and that economic legislation on a national scale represented a series of regional treaties. I close by saying to you that an understanding between this region and the Southeast is important to you and vastly important to us. I do not known whether we have wisdom enough to bring that about or not. It should be brought about. [Applause.]

Munitions of War

EXTENSION OF REMARKS

OF

HON. GEORGE D. O'BRIEN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 22, 1937

Mr. O'BRIEN of Michigan. Mr. Speaker, the earth is meant to be fruitful for the life of man. Services performed toward this end and things made that are aids to the life of man are proper fields for reward and profit.

The chief offense that mankind can commit is action which is directed against the right of men to live. Like the faithful physician who seeks to blot out disease and the causes of it, we should as earnestly address ourselves to the elimination of war as a recognized field of profitable pursuit.

Profits paid to munition makers in time of war are huge. While we are at peace the prospect of such profits invites war. In the last war the Du Pont Co. refused to build a great powder plant which it alone was qualified to build until it was assured of what it considered sufficient profits. Mr. Pierre du Pont wrote that: "We cannot assent to allowing our patriotism to interfere with our duties as trustees."

Judge Gary, representing the steel industry, said: "Manufacturers must have reasonable profits in order to do their duty." Not patriotism, therefore, but profit is the motive that is the heart and soul of traffic in munitions.

We have experienced recently sit-down strikes of labor. I have seen such strikes and have been through factories where workers were in occupancy. But the sit-down strike of capital is not so obvious. If another war comes to us, which God forbid, our first experience no doubt would be as in the last war, a sit-down strike of capital—no munitions supplied until exorbitant profits be guaranteed. It might be observed here that while our Government emerged from the victorious war with its laurels in the shape of uncollected debts, the munition makers followed the motto of old Omar and took the cash and let the credit go.

Profit is not the only cause of war but it is one of the causes. And it has been proven neither moral nor expedient. It is not ethical in peace to plan on the profits of war and it is not a safe reliance in time of war to be obliged to meet the terms of those who make a business out of war.

Our country is not at all likely to start a war of our own. But we are likely, viewing from the experience of the past, to let interested parties draw us into some other nation's war. Whether our people sell for cash at our own port or do it in some other way, there is a premium placed on war and a nation cannot expect to live in the blessings of peace when the bloodstream of its economic life is infected with the poisonous profits of war.

It is sometimes proposed that we tax the excess profits out of the munitions industry in time of war. During the last war we had excess-profits taxes as high as 80 percent but it has been ascertained since that such taxation only reached about 40 percent of the abnormal profits. The elusive element in determining the tax is to settle on the value as a base for the tax rate. And in time of war the valuations may be set at almost any figure. The belligerent will say, "What do we care about the price? What we need are munitions."

I have proposed, therefore, to prohibit and penalize the manufacture of munitions of war except by the War and Navy Departments of the United States or by authorization from the Congress of the United States.

Our Constitution enumerates the powers granted to the Congress. The powers therein granted to the Congress have been held to be exclusive powers. For example, the power to regulate commerce with foreign nations and among the several States rests exclusive power in that respect in the Congress of the United States. Again, the power to establish post offices and post roads rests exclusive power in the Congress of the United States. No private industry could set up and operate a competing postal system and acquire any property rights therein.

In the same category of enumerated powers of the Congress is the power to raise and support armies and to provide and maintain a navy. Why then are not the support, provision, and maintenance of an Army and Navy exclusive powers of the Congress? No other institution save the Congress alone may regulate interstate or foreign commerce. No other institution save the Congress alone may establish and operate a postal system. But each of those powers is granted to Congress in the same section of the Constitution—section 8 of article I—and expressed in language that allows no distinction.

Therefore I infer that Congress under the Constitution has exclusive power in the matter of supporting, provisioning, and maintaining an Army and Navy in the same degree that Congress has exclusive power to establish and operate a postal system or to regulate interstate or foreign commerce.

In pursuance of this interpretation I have introduced a bill in the Seventy-fifth Congress, being H. R. 4962 and providing as follows:

Whereas the Congress of the United States of America, under the Constitution, has the exclusive power to raise and support armies and provide and maintain a navy; and

Whereas private persons and corporations are now engaged in the manufacture of munitions of war for profit; and

Whereas the manufacture of munitions of war for profit constitute a grave menace to peace: Therefore

Be it enacted, etc., That any person or corporation that manufactures or aids in manufacturing munitions of war (as defined in the Neutrality Act of 1936) within the United States of America without authorization from the Congress of the United States of America is guilty of a felony and shall be punished by a fine not exceeding $100,000 or by imprisonment not exceeding 5 years, or

by both such fine and imprisonment: *Provided*, That the Department of War and the Department of the Navy of the United States of America are hereby authorized to engage in the manufacture of such munitions of war.

The "pride, pomp, and circumstance of glorious war" that the poet wrote of is a myth. Let us recognize it in the true light of reality. It is the chief crime against civilization. All who deliberately aid and abet it; all who plot and plan to flourish and grow wealthy out of its destruction and slaughter should be put in the category of criminals. There is courage in the soldier whose place is not to reason why, only to do and die; there is a courage in facing the odium of public disapproval by vociferous jingoists; there is patriotism in so loving our country that we do not will the death of its finest youth. But there is neither courage nor patriotism in the munitions trade. Its flag is not the Stars and Stripes but the international flag of heartless greed.

Dedication Address

EXTENSION OF REMARKS

OF

HON. JAMES H. GILDEA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 22, 1937

ADDRESS OF HON. JAMES H. GILDEA, OF PENNSYLVANIA, AT THE DEDICATION OF POTTSVILLE, PA., POST OFFICE, APRIL 22, 1937

Mr. GILDEA. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include an address I made on April 22, 1937, at the dedication of the Pottsville, Pa., post office, as follows:

Mr. Chairman, Postmaster General Farley, distinguished guests, friends and fellow citizens of Schuylkill County: The coming of Postmaster General Farley to Pottsville is in itself a noteworthy occasion. The dedication of this splendid new post-office building justifies his visit because today we not only record progress and advancement in the Postal Service, of which Mr. Farley is the chief, we recognize and do honor to a national policy, the Public Works program of the national administration designed to make work for men and women who otherwise would be unemployed.

Here in Schuylkill County we know from experience and direct contact what President Roosevelt had in mind when he said: "One-third of our people are still ill-fed, ill-clothed, and ill-housed."

We are reminded of the remark credited to the former Prince of Wales, when before his abdication he was officiating at the dedication of the majestic ocean liner, the *Queen Mary*. Prince Edward had toured the slums of Glasgow, and going over the palatial liner, he turned to a companion and said: "How can we reconcile a civilization capable of producing so glorious a floating palace with the scenes we have just witnessed?"

Therein you see the difference between the democratic and popular son of European royalty and our own popular and courageous President, Franklin D. Roosevelt.

Prince Edward could not reconcile conditions and made history by abdicating.

President Roosevelt does not attempt to reconcile the fact that one-third of our people are still underprivileged. He has done something to alleviate conditions. He has given America a program designed to improve and perpetuate American living standards to the end that nowhere on the face of the globe is government showing a more healthy concern in the general welfare of its people than right here in the United States.

This splendid new post office and Federal building is not merely a creation of limestone and granite representing the expenditure of $268,115 of Government money. It stands for more than that. It represents the administration way of dealing with American labor, the recognition given the man who works under application of the Walsh-Healey Act, clearly setting forth that every particle of steel, every cut of stone, every block of granite, every bit of woodwork, including all the fabrics represented by the complete structure are produced in accordance with Government policy.

Pottsville today has more than a new post office. Schuylkill County has a monument to the national 40-hour week, and we can tell our children and our children's children that no child or convict labor contributed one single iota to the construction of this splendid new building.

As progress in national policy is recorded, so also progress in postal service is written.

Pottsville has plumbed the depths of depression and slowly but surely is working its way back. Postal receipts are a true index of community life and community business. Comparison, from that viewpoint, justifies the belief that business here is returning to normalcy.

The postal receipts at Pottsville have been:

1910	$51,017
1920	85,074
1930	151,158
1936	138,532

The pendulum has swung back. Schuylkill County rates with any county in all these United States as a community playing its full part in the forward march of restored confidence and applied recovery. Its foundation stone is the W. P. A. pay envelope, the sense of security some 8,000 of our people feel in the knowledge that their Government has not forsaken them.

Personalities play their part in all improvement. This Government of ours exacts loyalty, devotion, and untiring service from those entrusted with positions of confidence. In no branch of the Government service is more emphasis placed on perfection than in the postal service. The mistaken impression that the Post Office Department reflects the spoils system in its worst form is corrected immediately stock is taken showing the high caliber of our postmasters. This applies equally as well to men chosen under Republican rule as under Democratic rule.

In calling the long roll of postmasters who have served Pottsville since Thomas Silliman took charge of the post office at its establishment in 1825, no name shines brighter as reflected by courteous devotion to service, constant effort to develop and improve business and working conditions for his fellow employees than the name of your friend and my friend, Postmaster Jim Rattigan. It is fitting indeed that this new post-office building should be dedicated during his regime as postmaster, because he has dreamed and talked post office, lived post office since the project was first undertaken and since authority for construction of the building was first granted under the emergency construction program June 19, 1934.

There was one other who carried close to his heart the idea of a new Federal building for Pottsville. My predecessor, the lamented Congressman Frank Brumm, was untiring in his effort to give Pottsville a new post office. Under date of May 4, 1931, he had appropriated the sum of money necessary toward its construction, but vexatious delays prevented a start being made, and in 1933 the money thus appropriated was diverted to the national program of reforestation. In that realm where men are given a better understanding of things, I know the spirit of Frank Brumm rejoices with us today.

Friendship amongst men is the one enduring and all-abiding quality worth striving for. Material gain may be dissolved by the trials of tomorrow—but friendship founded on trust, loyalty, devotion, and love goes on forever.

It was my great privilege to attend the Jim Farley dinner at the Mayflower Hotel in Washington, February 15. Seventeen hundred Democrats gathered to pay tribute to the one man in all America who called the correct score, 46 to 2. But it is not the picture or story of a victorious party chieftan I would give you today. Instead it was the friend-to-friend eulogy of President Roosevelt that thrilled every fiber of my being.

No President of the United States has been served more loyally and more faithfully by a lieutenant than Mr. Roosevelt has been served by Mr. Farley.

It was fitting for the President to hail Mr. Farley as a loyal friend and fine public servant and to say that history will record many interesting things about him. Best of all, the President said:

"Loyalty will be written there—that loyalty to friends which results in loyalty from friends.

"Honor and decency will be written there—the honor and decency which have done much to raise the standards of public service in our Nation.

"Good temper will be written there—the kind of good temper which is based on a sense of perspective, a sense of humor and a sense of forgiveness. In all my years of association with "Jim" Farley, I have never once heard him utter one mean syllable about any human being."

Who would not cherish such words uttered by the President of the United States and who amongst us today is not honored by the presence at this dedication of the man who stands at the right hand and supports the great humanitarian Franklin D. Roosevelt?

So, my friends, we dedicate a building to the service of our Government. The Postal Service in turn dedicates itself to the people of Pottsville.

Every boy and girl in this audience today is reminded by the life and experience of Postmaster General Farley that this great land of ours is still the land of opportunity. A member of the President's Cabinet, a man born in humble circumstances comes here to dedicate your public building, and I say to you boys and girls and to every man and woman in this audience, a lifetime devoted to service and made endurable by friendship and tempered by loyalty and decency will live long after this magnificent building has crumbled into the dust of a forgotten past.

From No Man's Land to One Man's Land

EXTENSION OF REMARKS

OF

HON. LUTHER PATRICK

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 23, 1937

ADDRESS BY HON. W. D. McFARLANE, OF TEXAS, AT BIRMINGHAM, ALA.

Mr. PATRICK. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered recently by my colleague, Hon. W. D. McFARLANE, of Texas, at Birmingham, Ala., on the President's Court proposal:

Mr. Chairman, ladies, and gentlemen, I am glad to be here this evening and to have this opportunity of speaking to this splendid audience favoring the President's judiciary reorganization plan.

When I was invited by the Labor's Nonpartisan League to come here and speak to you on this subject I gladly accepted, even though I fully realize my inability to adequately deal with this, the most important subject we will have before us in our lifetime.

In the brief time that I will speak to you I will talk the same language I use in speaking to Texas folks. After all, I find there is little difference when we are talking with folks in this or other parts of the country. Although this is the first opportunity I have had of speaking in Birmingham, I feel that I know and understand you and your problems because of my close association with a great many Alabamans. My grandfather was an Alabaman and guided boats through Muscle Shoals as a boy before he "pulled stakes" and headed for Texas nearly 100 years ago. I am glad to be here speaking under labor's banner on behalf of the President's Court plan, for I believe I know the language of labor, having come up through the ranks, having been what we call a "coal digger", and I am proud of the fact that I marched under the banner as a member of the United Mine Workers and carried their banner until the World War, when I enlisted as a buck private and began carrying a musket in the rear ranks.

THE ISSUE THEN AND NOW

Let us examine the situation confronting us at this time and see and understand just what it is that has caused this great issue to come before us and demand our immediate consideration. We are all familiar with the situation confronting the Nation when this administration came into power in March 1933.

We remember the three previous administrations of Harding, Coolidge, and Hoover and their "hear nothing, say nothing, do nothing" administrations. All too well we remember the more than 14,000,000 unemployed, our banks busted, our people on the farm and in the city being driven into the streets through foreclosure, being unable to make their payments. We remember how the economic and social conditions of our people were becoming rapidly worse with fear in the hearts of everyone, and all eyes were turned toward Washington, and yet Washington did nothing to correct this chaotic condition. Then in 1932 the people voted for a new deal and placed in the White House in Washington that great leader, Franklin Delano Roosevelt, and a supporting Congress overwhelmingly elected in favor of the New Deal program. You remember now how for the past 4 years the legislative and executive branches of the Government have closely cooperated and have enacted into law a program that has proven of tremendous benefit not to just the preferred few as has been done for more than 50 years by the Republican administrations but this administration program has benefited all the people fairly and justly alike.

"BY THEIR WORKS YE SHALL KNOW THEM"

Then let us examine and see how the third branch of the Government, the judiciary, has fitted to this picture. The Good Book tells us, "By their works ye shall know them." So with that in mind let us examine their decisions not only under this administration but through the years and determine for ourselves just what effect the decisions of these lifetime appointed judges have had upon the economic and social progress of the people of our country.

Before discussing some of the many different decisions of the Supreme Court I want to call your attention that the great crisis now confronting our country was not brought on by the President or this administration, but as I will endeavor to show, by the Supreme Court through its decisions. The crisis now confronting us has been brought on largely because of the reactionary, economic, social, and political views of the Supreme Court as expressed by the majority in their decisions.

Before considering the different decisions of the Court nullifying acts of Congress in this administration, let us refer to some of their many decisions through the years nullifying the Constitution and acts of Congress, in each and every instance of which they have favored the rich at the expense of the poor.

INCOME TAX UNCONSTITUTIONAL

Let us take first their tax decisions. From the creation of the Court in 1787 down to and including 1895, for nearly 100 years through a long line of unbroken decisions the Supreme Court held that the Congress had the right to enact such income-tax legislation and the Court by a 5-to-4 decision in the *Pollock case* (151 U. S. 429) at first so held. All the Court's prior decisions and the courts of all other nations, and all the authority law writers, such as Kent, Story, Cooley, Pomeroy, Hare, Burroughs, Odreoneaux, and Black through the years had recommended the right of all governments to tax such items as income. Yet overnight one Justice changed his mind and the majority became the minority, and the *Wilson* v. *Gorman* income tax law levying 2-percent tax on income less than $4,000 was held unconstitutional. The Government records available clearly show this decision in the Pollock case cost the Government more than $100,000,000 annually on this very modest tax measure alone.

Thus during the next 18 years while we were trying to pass a constitutional amendment over the bitter opposition of the economic royalists in 36 States, the Government lost a revenue of more than $1,800,000,000.

EXEMPTIONS ALLOWED

In the case of *Collector* v. *Day* (11 Wall. 813, Apr. 3, 1871) the Court exempted from income tax the salaries of all State, county, and municipal employees, and later decisions have reaffirmed and broadened the scope of these exemptions, thus losing the Government more than $100,000,000 annually in revenue. Finally, after 18 years, after the enactment of the sixteenth amendment providing "The Congress shall tax income from whatever sources derived" was finally ratified, and the Supreme Court began chipping away the clear meaning of this amendment. In the case of *Eisner* v. *McComber* (125 U. S. 189) the Court held stock dividends were not subject to income taxation and during the past 16 years this decision has lost to the Government a billion, sixty million dollars in revenue. Under this decision, for example, if you as an individual have an income of $5,000, you must pay an income tax unless you come under some of the Supreme Court's exemptions as they rewrite the law. However, a corporation with the same $5,000 income can issue stock dividends and thus avoid a payment of any income tax.

In the case of *Hamner* v. *Dagenhart*, by another 5-to-4 decision, the Supreme Court held the Federal Government could not regulate child labor, thus reversing a straight line of decisions of nearly 100 years on this question; and we have now been trying for more than 18 years to amend the Constitution and rewrite into it the right to regulate child labor in interstate commerce, and to date we have finally secured the approval of only 28 of the necessary 36 States for such an amendment. Yet the economic royalists and our misguided theorists would have you believe that the only way under our present crisis to change the complexion of the Supreme Court is through constitutional amendment rather than through statutory enactment, as recommended by the President. It took from 1895 to 1913 to enact the clearly written income-tax provision of the Constitution that the Supreme Court had nullified and has already chipped away a large part of the meaning of the reenacted income-tax amendment, and it is evident under the facts existing that it will take several more years at least to reenact the child-labor amendment. They know us, you know. So far no other method of amendment has yet been suggested that has stood the guess of the Supreme Court, and as suggested by Thomas Jefferson when he said, "Our case is the more desperate as the attempt to make the law by amendment is only throwing out new amendments for sophistry."

The Constitution, as written, is in such clear, understandable language that it seems that even the Supreme Court should be able to understand it. However, since they have through hair-splitting 5-to-4 decisions nullified many provisions of the Constitution, as the above quotation from Thomas Jefferson says, why throw out new amendments for them to nullify? What we need at this time is not new amendments, but new blood which will fairly interpret the Constitution as written.

In the National Life Insurance Co. case and other cases the Supreme Court has held that interest on bonds issued by States, counties, and other local subdivisions are exempt from taxation. Chief Justice Hughes, as Governor of New York, opposed the amendment, but as a lifetime appointed Chief Justice of the Supreme Court, he adheres to the decision that Congress has no power to tax such bonds. This exemption by the Court loses the Government in revenue about $100,000,000 annually. Through the Court's estate- and gift-tax decision, the Government loses many millions of dollars annually. As you know, under the reign of Mr. Mellon from 1920 to 1927 alone, there was given back to the very wealthy in income-tax refunds several hundred million dollars.

JUDGES' PENSIONS, YES; WORKERS' PENSIONS, NO

In the recent *Railroad Retirement Pension case* (295 U. S. 330), by another 5-to-4 decision the Railroad Pension Act was declared unconstitutional and the language of the Court is such that it makes it impossible for Congress to write a valid pension law. Yet we find the Supreme Court Justices have been very careful to take care of preserving all of their own salaries, disregarding the clear provision of the sixteenth amendment, which provides: "The Congress shall tax income from whatever sources derived", which is the people's mandate to the Supreme Court as their last expression and direction to the Congress in writing income-tax legislation. Yet we find in the case of *Evans* v. *Gore* the Supreme

Court has held that their salaries and the salaries of all constitutional courts, which includes the circuit courts of appeal and all district judges shall pay no income tax on their salaries. And when Congress passed the economy bill in 1933 reducing all Federal employees' salaries 15 percent the Supreme Court, in the case of *O'Donoghue* v. *United States* (289 U. S. 516), held that the salaries of all judges of the above-named courts were not only exempt from income-tax payment, but were not subject to reduction under the economy bill. Moreover, all salaries of the many retired Federal pensioned judges of all these courts, the Court has held, are not subject to payment of income tax or any salary reductions.

FARMERS' BENEFITS, NO

In the Triple A case the Court held that benefits pertaining to farmers and laborers under this legislation soil-conservation program was unconstitutional and this decision cost the Government a billion seventeen million dollars in loss of revenue.

NO REGULATION HOURS AND WAGES

The Court's decision in the *Schechter Poultry Corporation case* (295 U. S. 495), declaring the N. R. A. unconstitutional, was the death knell to regulating hours and wages.

GUFFEY ACT VOID

Through their decision in the Carter Coal case they nullified the Guffey Coal Act, which denied the right of those engaged in the coal industry of working out their own salvations.

POWER PROGRAM SABOTAGED

The Court, in the decision in the T. V. A. cases and the recent Duke Power case, have made it almost impossible to write legislation that will stand the test of the Court on the power question.

ANTITRUST LAWS INVALIDATED

I am sure you are all familiar with the many injunction suits filed Nation-wide through which the Power Trust has selected their own Federal courts and has enjoined this administration's power program and has almost completely blocked the construction of these worth-while projects which demonstrate how cheaply electric current can be produced and distributed to the people. For example, T. V. A. has shown the way for generating and distributing electric current in this 500-mile area and the cities and towns in this area are furnishing their citizens this wonderful utility at an average of about 1 cent per kilowatt-hour. The private power companies are charging the citizens, Nation-wide, from three to five times the price which is charged for this current by the Tennessee Valley Authority.

Now that we have demonstrated how cheaply electric current can be furnished the people, we should not permit the Supreme Court to block this splendid program through the carefully laid plans of the Power Trust.

The year of 1895 was a banner year for those of wealth who appealed to the Supreme Court. In addition to saving the wealthier people of the country several billions by invalidating the income tax, the Supreme Court also upheld the efforts of the trusts to sink their monopolistic fangs into the industry and commerce of the country. In order to prevent small industries from being crushed by the giants of monopoly Congress in 1890 passed the Sherman anti-trust law to protect trade and commerce against unlawful restraints and monopolies. The first real legal test on this act came before the Supreme Court in 1895 and involved the sugar interests (*United States* v. *E. C. Knight Co.*, 156 U. S. 1). For all practical purposes the Supreme Court admitted that a monopoly exists. According to the findings of the Court the American Sugar Refining Co. had acquired the stock of four Philadelphia refineries and by this act had, to use the words of the Court itself, "acquired nearly complete control of the manufacture of refined sugar within the United States." Notwithstanding this fact, the Court made a unique decision that the acts of the parties "bore no direct relation to commerce between the States or with foreign nations." By making the absurd holding that such a combination had no direct relation to commerce the Supreme Court successfully clipped the power of Congress to outlaw monopolies and based on the Tariff Commission reports and other information available the consumers of sugar are paying many millions of dollars to the sugar monopoly in excess of what other nations are paying for sugar. Later in 1904 when Theodore Roosevelt attempted to bust the monopolistic trusts of the country the Supreme Court came to the rescue of certain large corporations and saved them from the penalties of the antitrust laws and assured all corporations of such magnitude and power that they had nothing to fear, that only their corporations were liable and that of course corporations cannot be sent to jail.

CLAYTON ACT VOIDED

After the Supreme Court emasculated the Sherman Antitrust Act Congress passed new legislation in 1914 in what was known as the Clayton Antitrust Act and at the same time created the Federal Trade Commission. However, Congress was soon to discover that it could not keep pace with the destructive decisions of the Supreme Court. The Clayton Act soon followed the Sherman Act into the Supreme Court's waste basket. The first decision involved the Carnegie Steel Co., and the Supreme Court overruled the decision of the Federal Trade Commission and supported the Carnegie Steel Co. (*Federal Trade Commission* v. *Warren, Jones, & Gratz*, 253 U. S. 542).

Later it again struck at the Clayton Act in the case of the Curtis Publishing Co. (*Federal Trade Commission* v. *Curtis Publishing Co.*, 262 U. S. 568), though it was alleged the contracts of that company were admittedly producing monopolistic practices in violation of the Clayton Act. This was followed by the decision of the Court holding that the Federal Trade Commission had no power to prevent fraudulent or deceptive advertising (283 U. S. 5643).

Under the leadership of the present Chief Justice the Court has continued to nullify the efforts of the Federal Trade Commission and the Sherman Act. In a decision favoring the Standard Oil Co. the Court held that cross-licensing of patents and pooling of royalties were not in violation of the legislation against monopolies (*Standard Oil Co.* v. *United States*, 283 U. S. 163).

INTERSTATE COMMERCE COMMISSION NULLIFIED

In 1896 the Supreme Court began its attack upon the Interstate Commerce Commission, which had been established in 1887 to give the people a fair break on railroad rates. By this action the Court restored to the railroad a right to practically fix rates, thus outlawing years of efforts by the people of the country to obtain fairer and more just railroad rates. From that day to this the Interstate Commerce Commission has never exercised the protective powers which it was intended they should have in order to protect the people from being plundered by the large corporations (*Maximum Freight Rate case*, 167 U. S. 479).

RAILROAD RATES ALL TRAFFIC WILL BEAR

In determining the rates to be charged by the railroads the Supreme Court has required that consideration be given to reproduction costs and not to the amount of capital invested in the enterprise. In other words, though the owners of a railroad may have only $10,000,000 invested in it, if it would today cost $20,000,000 to build the railroad, the $20,000,000 figure (and not the $10,000,000) is considered in fixing the rates. However, this rule which was laid down in 1925 in the O'Fallon case (*St. Louis & O'Fallon R. R. Co.* v. *United States*, 279 U. S. 461), when values were increasing, does not work both ways. A decrease in value does not serve to decrease the rates, so the people learned when the Court refused to allow a reduction in public-utility rates by reason of the decrease in values due to the depression (*West* v. *Chesapeake & Potomac Tel. Co.*, 295 U. S. 662). And a still further scuttling of the Interstate Commerce Commission was recently made by the Supreme Court when it failed to protect the bondholders by nullifying an order of the Commission designed to prevent excessive reorganization fees in the Chicago, Milwaukee, St. Paul & Pacific Railroad reorganization. This decision was the Supreme Court's gift to the lawyers and the others who thrive upon the fat fees allowed them in reorganizing corporations which are in financial difficulties, such persons being the only ones who derive any profit out of the reorganization (*United States* v. *Chicago, Milwaukee & St. Paul R. R.*, 283 U. S. 840).

STATES' RIGHTS

The Federal Government is not the only body which has suffered at the hands of the Supreme Court. The States have also had their rights curtailed. The doctrine of States' rights as today applied to by the Supreme Court is a peculiar doctrine. If the problem is one which cannot, as a practical proposition be handled by the States, then it is one which in the opinion of the Court should be handled by them. If the problem is one on which the States can make a fair degree of progress, then the Supreme Court declares the State act invalid. All this simply means that the men of wealth and power continue to exploit the people and the resources of our country because the Supreme Court successfully stops any effective measures enacted against it.

For example, the State of Wisconsin, which has an inheritance-tax law, attempted to prevent evasions of such tax on account of gifts made to defeat the tax, only to have the Supreme Court in 1925 declare such provision invalid. Pennsylvania had a corporation-tax law which was declared invalid after it had been in effect for 40 years (*Quaker City Cab Co.* v. *Pennsylvania*, 277 U. S. 389). A Massachusetts tax upon inheritances was held unconstitutional (*Coolidge* v. *Long*, 282 U. S. 589). The State of Vermont enacted an income-tax law, and it was declared invalid. Why? Did the Court sing its song of States' rights? No; quite the reverse, for it said, "We are members of a single great community consisting of all the States united and not of distinct communities consisting of the States severally" (*Colgate* v. *Harvey*, 296 U. S. 404).

The Supreme Court's attack on States' rights is a broad one, reaching all kinds of legislation by the States. Here is an incomplete list of State laws (other than tax laws and acts of State agencies which have been invalidated by the Supreme Court):

In Alabama the sale of nitrates in original bags is not subject to State tax (*Anglo-Chilean Nitrate Sales Corporation* v. *Alabama*, 288 U. S. 218).

An Arizona law against the use of injunction in labor cases (*Truax* v. *Corigan*, 257 U. S. 312).

The industrial court established in Kansas (*Wolff Packing Co.* v. *Industrial Court*, 264 U. S. 5522).

A Nebraska uniform bread weight law (*Burns Packing Co.* v. *Bryan*, 264 U. S. 504).

A New Jersey law designed to prevent extortionate fees being charged by employment agencies (*Rebnik* v. *McBride*, 277 U. S. 350).

The Illinois State Public Utilities Commission was not allowed to compel lower rates by the Bell Telephone Co., and similar protection was given the New York Telephone Co. with respect to orders of the New York Commission (*Smith* v. *Ill. Bell. Tel. Co.*, 282 U. S. 133).

The California Railroad Commission and also the city of Los Angeles were prevented from establishing a 5-cent fare in Los Angeles.

An Oklahoma law regulating competition in the ice business was declared invalid (*New State Ice Co.* v. *Liebmann*, 285 U. S. 262).

FREEDOM OF SPEECH

A good deal has been said to the effect that the Supreme Court is necessary for the protection of our fundamental rights, such as freedom of the press and freedom of speech. The truth of the matter is that the courts are the ones which without limitation may throttle the press and the people in expressing their opinions. If a State imposes a tax upon newspapers, the Court invalidates the tax on the alleged ground that it violates the freedom of the press. If a State passes an act to prevent a newspaper from publishing "malicious, scandalous, and defamatory" matter, the act is declared invalid by the Supreme Court. In other words, a newspaper can do just about anything it wants to do by way of malicious and defamatory publication, but if it points a gentle finger at the courts, that is an entirely different proposition, for the courts have taken unto themselves the power of supervising the press. If anyone has any question on this point, let him look at the decision of the Supreme Court in *Toledo Newspaper Co.* v. *United States* (247 U. S. 402). In that case the Toledo News-Bee very vigorously expressed its opinion with respect to a suit brought by the creditors of a street railway to restrain the enforcement of a city ordinance with respect to the fares to be charged. For such expression the newspaper and its editor were held for contempt of court.

TRIAL BY JURY

The significance of a contempt proceeding is that the party has no right to a jury trial, so the courts have held. In other words, the judge who holds a person for contempt of court is also the one who decides the case without giving the accused a jury trial. Following this procedure in the Toledo case, the judge found the editor guilty of contempt of court, despite the fact that it was not shown or found that any of the publications complained of was brought into the courtroom or court building or read by the judge. This star-chamber procedure by which the court throttles the press was sustained by the United States Supreme Court, and yet today there are persons who think that the Supreme Court is a protector of the freedom of the press.

The President's recommendation reads: "That no additional judge shall be appointed hereunder if the judge who is of retirement age dies, resigns, or retires prior to the nomination of such additional judge." Thus we believe when this bill becomes a law those eligible will retire and the Court will not be increased.

The Court records show that for the past 7 years the six judges eligible for retirement on full pay of $20,000 per year have averaged writing opinions of only 16 cases per year to earn their $20,000 annual salaries. That 87 percent, or seven out of eight, cases presented to the Court last year were denied without written opinions.

PRECEDENT

The Court has been changed in number six times; none seriously questions the constitutionality of the President's recommendation nor that it is in keeping with the Democratic platform, which provides:

"We have sought, and will continue to seek, to meet these problems through legislation within the Constitution."

AT THE CROSSROADS

It is recognized that we are at the crossroads. Our legislative program has been sabotaged and nullified thus far by the Court, seven of whom were appointed by Republicans, five of whom were repudiated by their own people at the polls before appointment, and most of whom represent an economic policy that has been repudiated at the polls the last three elections.

LAWMAKING POWERS

The Constitution, article I, sections 7 and 8, clearly define the lawmaking authority and powers of Congress. Article III, sections 1 and 2, and article VI, and the eleventh amendment clearly define the powers of the Supreme Court.

I ask each of you to carefully read these provisions of the Constitution and you will be of the opinion that Congress under the Constitution is delegated with the lawmaking power and the Supreme Court with only the power to construe, not the power to make the laws, under which the people must live.

Four times in the Constitutional Convention, June 4, 1787, June 6, 1787, July 21, 1787, and August 15, 1787, Alexander Hamilton and James Madison tried to write specific provisions into the Constitution to give the Supreme Court the right to nullify acts of Congress, and four times these provisions were defeated. Yet the Supreme Court has usurped the power of nullifying acts of Congress.

USURPATION

I have pointed out through citation of typical cases and have shown how the Supreme Court has nullified the taxing provisions of our Constitution and how they have gone out into the speculative realm and have taken jurisdiction of almost every conceivable subject, and through their outworn and outgrown economic and social philosophy the majority of the Court have held unconstitutional most of our progressive legislation throughout the years dealing with human rights and legislation for their betterment. I have pointed out how through the nullification of our different tax laws they have nullified the Constitution and amendments thereto, losing to the Government in revenue many billions of dollars—have prohibited the Congress and the States from enacting legislation eliminating child labor and sweatshop conditions, which elimination would reemploy millions of our people; how through their utility rate legislation they have held with the powerful corporations and have permitted them on their watered stock set-up to earn billions of dollars in excess of reasonable rates for the services rendered. How their decisions have nullified our antitrust laws, the power of the Interstate Commerce Commission and the Federal Trade Commission to properly regulate the trusts, and how they have approved payment of large subsidies through tax exemptions, tax refunds, etc., to the large corporations amounting to many millions of dollars and at the same time have refused to permit small payments to farmers for soil conservation and crop-control legislation. How they have exempted their own salaries and that of all constitutional judges, State, county, and municipal employees from income-tax payments or reduction of their salaries, and at the same time have stricken down the Railroad Retirement Act, making further legislation on the subject impossible.

I have pointed out how under these decisions the records show that 4 percent of the people own more than 90 percent of the wealth. That less than 200 corporations own and control more than 50 percent of the corporate wealth of the Nation, brought about largely by the construction placed upon our laws by the Supreme Court.

RICH GET RICHER, POOR BECOME POORER

It may truly be said that throughout the years and right down to date under the decisions of the Supreme Court and with their approval the rich have grown richer while the poor have grown poorer, and the last economic survey clearly shows these facts to be true.

RECENT DECISIONS

But the reactionary plutocratic press and the same crowd who have bitterly opposed us in the last three elections now wail that recent opinions of the Supreme Court in the Minimum Wage and the Wagner Labor Relations cases eliminate any further necessity for the President's Court proposal.

INSTEAD OF NO MAN'S LAND, IT'S ROBERTS' LAND

Let's examine this last alibi. By reading the press since these decisions and the statements recently issued by the United States Chamber of Commerce now in session in Washington, we find their construction of these decisions are very closely limited to the cases at bar and are not authority for the Congress to enact legislation protecting the rights of those who toil, declaring a policy for hours and wages and general working conditions. It is too well recognized that these recent 5-to-4 decisions on these different subjects clearly show that four of the nine members of the Court refuse to recognize the changed social and economic conditions confronting us. These recent decisions show that Justice Roberts is really the dictator and has usurped the power of Congress writing the laws, for we find in his decisions last year he decided that railroad pensions, municipal bankruptcy, and minimum-wage legislation are unconstitutional. Yet, through these recent decisions by the odd man on the Court, he decides the gold clause, the milk control, mortgage moratorium, minimum wage, and labor legislation are constitutional. Thus we have a man appointed for life, subject to removal only upon misbehavior, controlling the destinies of 130,000,000 people. Instead of having a no man's land left by his decisions last year we now have a Roberts' land. Truly, as Chief Justice Hughes says, "The Constitution is what the judges say it is", and now we find the Constitution is what either Chief Justice Hughes or Justice Roberts says it is.

A careful reading of their recent decisions on labor and wage legislation clearly shows they are meant to apply only to the cases at bar.

AMEND CONSTITUTION EACH MONDAY?

Then are we to breathlessly await each Monday morning's decisions of the Supreme Court to learn what the odd member of this Court will decide is the meaning of the Constitution for that week?

CONGRESS THE LAWMAKING BODY

Our forefathers, when they wrote the Constitution, debated the question in the Constitutional Convention as to whether or not the Supreme Court should have the right to void acts of Congress, and their debate clearly shows that they intended to leave the right of all lawmaking to the duly elected representatives of the people, the Congress—that in placing their checks in balances they intended to allow the Supreme Court the right only to construe the laws Congress enacts. They never intended and four times refused to give the Supreme Court the power to nullify acts of Congress.

SUPREME COURT ONLY TO CONSTRUE THE LAW

Based upon all history up to the time our Constitution was written and since then the facts show no other government has given their supreme court the right to declare unconstitutional the acts of the supreme legislative authority and rightly so, for if the Congress errs in enacting legislation, the people at the next election can elect a new Congress that will repeal the legislation, but if lifetime-appointed judges through nullification of acts of Congress err, the only way their mistakes can be corrected is either through death or the enactment of the President's proposal.

In the Battle of Mirango, Napoleon faced a crisis. The old guard, the backbone of his army, was being driven back. He finally called his faithful drummer and asked him to beat a retreat. With tears in his eyes the little drummer exclaimed, "I have never learned to beat a retreat, sir, but I can beat a charge

that will raise the dead", to which Napolean then replied, "Then beat a charge." The drummer beat a charge and the old guard reformed and fought through to a glorious victory.

The same enemies that have viciously fought this administration through the past three campaigns have delayed consideration of this legislation in both Houses of Congress for many weeks, and we are told from the propaganda that is distributed Nation-wide that they expect to fight every inch of the ground until Christmas, if necessary, to defeat this legislation.

Shall we retreat, even though we know our cause is just, or shall we beat a charge? The results of your action in contacting your friends in the Congress may largely decide this great issue. Let's beat a charge.

False Economy of Sit-Down Strikes

EXTENSION OF REMARKS

OF

HON. FRANK E. HOOK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 23, 1937

ADDRESS BY HON. FRANK E. HOOK, OF MICHIGAN, ON APRIL 20, 1937

Mr. HOOK. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include my speech delivered at Baltimore, Md., on April 20, 1937, as follows:

Dear friends, I am always proud to speak to a gathering of loyal Democrats. I know that no people of Democratic faith are more true to the real cause of democracy than the people of your great city and State. Anyone who has ever been elected to public office knows how great is his debt to those individuals who form the organization upon which the party is built. So far as I know, no man was ever elected to a major political office without a party organization back of him. Sometimes the party organization is founded on graft and spoils and becomes in the language of the politican a "machine." Sometimes the party organization is made up of hired servants of financial and industrial interests who can afford to pay for party organization because they profit by the control which this gives them over political officers and the government. Sometimes the party organization is made up of men and women who give their services because they are devoted to the principles for which their party stands. I said that I am always happy to talk to loyal Democrats. I repeat that statement for I know that our Democratic Party organization is true democracy made up of men and women unselfish enough to be willing to serve because of the high ideals and sound philosophy of our party. We are neither a machine, nor are we the hired help of those who have money to buy their parties.

Our Democratic Party has faced terrific problems during the past 4 years. When our party assumed the responsibility of government in March 1933, our cities held millions of unemployed who faced undoubted starvation unless relief was given them. Farmers were bankrupt; railroads were going into receiverships; our financial structure was in ruins; hundreds of banks were closing every month; hundreds of homes were being foreclosed; the small businessman was forced to the wall.

Our problems today are perplexing and the issues presented are fundamental. How these issues are decided will affect deeply the future of our society. Our Government is democratic, our society is democratic, and they must remain so. Democracy will continue just so long as the people of our Nation maintain a strong and healthy interest in public policy. Democracy is endangered when the people follow blindly misguided propaganda and prejudice rather than truth and intelligence.

At few times in our history has public interest been more aroused, and we need an intelligent approach to those who are being misguided by unworthy forces. I might say, however, there is more thinking of and talking about public questions today than at any time in the past decade, and justly and rightly this should be so.

One of the most surprising things is the extent to which some people have gone in order to try to lead the American public to believe that action was not necessary and that it would have been better if we had no Government at all than what we got. I have talked to a number of businessmen, among them one who owns and operates a business distributing an important food product through a network of associated brokers in every important market in every State in the Union, who I know is qualified to speak on conditions as they existed yesterday, as they exist today, and as we expect them to be tomorrow. He, as well as other businessmen, have lost patience with the public men of yesteryear who were beseeching this great benevolent democracy of ours for help and today are criticizing that Government for extending that help. The businessmen of this community and other communities throughout the whole United States look back with horror on the late depression, when millions of men were tramping the streets, cold and hungry, with revolution in their hearts. Industry was sunk in the mire of despair and liquidation was the order of the day. Corruption reigned in high and low places. Large financial institutions had unloaded worthless stocks and bonds on the public—yes, even worse, the trust funds of widows and orphans were looted, being loaded up with sour paper, such as South American bonds, etc.

From the effects of the noble experiment crime was rampant and the rattle of gangsters' machine guns was echoing through the streets of our big cities. The farmers in the Midwest had organized pitchfork brigades to repel the process servers. Corn and wheat were being used for fuel. Warehouses were bursting with foods and yet millions were hungry.

Social conditions were horrible. Many unfortunate girls and young women, through economic pressure, were forced onto the streets. Bands of homeless boys were roaming the country, thieving here and there enough food to keep body and soul together, while their parents were offering up prayers asking God to save their boys from a life of crime. No wonder the theme song of those days was "Brother, can you spare a dime."

We have partially met the problem of the youth of today by instituting the C. C. C. camps which was the answer to the prayers of the youth of this Nation and the prayers of the fathers and mothers of this Nation. No one needs to be reminded of the great and growing body of American youngsters who enrolled all over the country in the depths of the depression. Hundreds of thousands of boys broke and ashamed to leech off of their impoverished families wandered blindly from place to place. They asked for work, were refused, moved on. Asked for work, refused, and moved on again. They knew there was no place for them in their homes and there was no place for them in society. They had to move on in a hopeless, purposeless exile, a vast army of potential hoboes. They had the great American right to "rugged individualism", but were ignored. They were denied American opportunities, surging hopelessly across the country. They were at once the gravest threat to American civilization and its greatest shame. Contrast that mighty migrate horde of defeated, bewildered, hungry young people with the Civilian Conservation Corps today. Now they are working, not all of them, but a good share. Instead of living off their families they can even contribute a little. Instead of being a threat to their homeland, those boys who are in the Civilian Conservation Corps are cooperating to make it a better, more beautiful place to live. Surely this is one of the brightest stars in President Roosevelt's career, surely the salvation of so many thousands of youthful citizens is reason for much beating of drums. Still there are those who by either ignorance or design would try to lead this Nation into the headlong plunge toward a breaking down of a democratic government and setting up the principles of communism. Every thinking businessman feels there is no place in this Nation for class hatred, for business is certainly entitled to a fair return on its actual investment. By the same token labor is entitled to a fair return for its toil. Regular employment at good wages increases the purchasing power and tends to equalize the circulation of money.

I do not understand why some businessmen would actually beggar the working class to whom they expect to sell their commodities. Lest we forget, may I add that the depression just about broke all small-business men, and that the recovery program of the Democratic Party rehabilitated them and has brought about conditions in this country to such an extent that we may now look to those businessmen and industries that have been rehabilitated to cooperate and bring about better conditions in this Nation and assure the people of this Nation a place in the economic sun, so that they may provide for spiritual, cultural, and economic advantages for their families, their employees, and for themselves.

A situation has arisen, however, that is not local but is national in its scope. I might say at this time that I have voted for every single, solitary piece of labor legislation that has come before the House of Representatives since I have been a Member of Congress; but when a certain class of agitators desecrate the noble, real, honest labor organizations by setting up false fronts and masquerade under the guise of true labor organizations and as such enter the field of anarchy, then it is about time that the Members of Congress and the thinking people of this Nation take cognizance of the fact. I refer to that element which has taken advantage of the benevolence of a truly appreciative Government and attempt to use it as a vehicle for communism; I refer to those who have confiscated stores, factories, and property and, through the method of sit-down strikes, has stilled the wheels of industry and have again forced the smokestacks of those factories to be a somber monument of idleness.

I have been in close touch with the situation as it arose in the automobile factories of the great State of Michigan and know what Governor Murphy had to contend with. I know, also, that Governor Murphy inherited this problem, because the sit-down strikes were under way when he was inaugurated as Governor of that great State. They commenced under Republican administration in Michigan. No man's heart beats more true to the cause of labor and the common masses than his. No man has worked harder and has been more sincere in his efforts to cope with the sinister forces of fascism and communism.

He has disregarded them and has dedicated himself to the great spiritual movement known as humanism. He is attempting to restore men to their rights without bloodshed, without display of brute force, and without turning away from the course of real Americanism.

There are those, however, of communistic tendencies—yes, anarchistic actions, who are taking advantage of the people of this Nation for their own selfish interests.

The Apostle Paul was keenly aware of the demands of his stewardship when he said:

"I am debtor both to the Greeks and the barbarians—both to the wise and the unwise. So, as much as in me is, I am ready to preach the gospel at Rome also."

So I, feeling keenly the love of country, the cause of labor, the duty I owe to my people, and regarding highly the oath of office, I have taken to defend the Constitution of the United States, not only against enemies from without but those from within, who either by ignorance or design would wreck the principles of that sacred document and thereby bring about a collapse of our democratic form of government, I address my remarks not only to Republicans, not only to Democrats who have forgotten their promises of last fall but to all citizens of this Nation, both wise and unwise.

I think the time has come when certain rascals who are taking advantage of the benevolence of this great Government should be curbed and I hope that before it is too late the United States Government will institute laws so that constituted authority will be able to reach out with the law and take these troublemakers who would implant communism in this great democracy to a place where they will not be able to interfere with organized society. If it is not done, these outlaws, whose every effort is bent toward the destruction of democracy and the uplifting of communism, will bring about the very thing none of us want, and that is bloodshed, because the real true American will never stand for either communism or facistic dictatorship in preference to democracy.

They must be stopped, these outlaw leaders. These ambitious political-minded individuals who would set up a dictatorship over industry and labor should be restrained either by law or strong public opinion. The real people of this Nation want real, honest, true Americans to lead labor on to a glorious victory. I love the cause of labor but will fight to the limit anyone who will besmirch it with anarchistic tendencies.

I am a liberal and believe that the recognition of the Supreme Court of the validity of the Wagner Labor Relations Act with regard to collective bargaining will do more toward the stabilization of this Nation than any other single thing that has happened in the last decade. We must have law and order and the Supreme Court must recognize the laws passed by Congress for the purpose of bringing order out of chaos. If the laws passed to curb the monopolistic price-fixing corporations were recognized by the Supreme Court and the laws passed in favor of labor and agriculture were recognized, and these laws were enforced both on labor and industry alike, the people of this Nation would then have faith in their Government and public opinion would force these agitators of the sit-down strikes out of the make-up of this Nation and an orderly government would follow. When law and order is ignored there is no government, because government is based upon law and order, but law and order must be enforced on industry as well as labor in order that our democracy may survive. Do not be misled into the fact that the sit-down strikes, even though their goal may be laudible, have been the cause of the increase in wages and the decrease in hours in the steel industry and the mines. The reason for this increase was a Democratic piece of legislation that was passed after the Guffey coal bill was declared unconstitutional. It is known as the Walsh-Healey bill. It provides that no person, partnership, or corporation will be tendered a contract by the United States Government for any materials unless they conform to the minimum wage and maximum hours as set forth in the Walsh-Healey bill. The big steel corporations wanted the Government's business, but could not have it unless they conformed to that great piece of Democratic legislation just mentioned. This, coupled with the revenue bill of 1936, brought better conditions regarding labor.

Men do not work solely because of the pleasure of work, but that they may enjoy the fruits of that work, and when we destroy the incentive to work then all progress and all civilization will perish from the earth. Men do not work willingly just for a bare existence, but should, in a democratic government, be able to enjoy the fruits of their labor and share in the blessings of living. Unless the people of this Nation are given economic advantages equally with industry this democracy will not endure.

It is my opinion, and I believe the opinion of every true American, that the issue is clear cut. We must curb this communistic movement known as "sit downs", that will end in either a communistic or a fascistic dictatorship if we are to preserve democracy and liberty for our people. If we are to preserve this great Nation for which millions of men and women have sacrificed their lives in time of war and peace that our democracy should be preserved, that our institutions which have been the pride of every great American should be preserved; if the blood that hallows the battlefields of our Nation—north, south, east, and west, as well as abroad—shall not have been spilled in vain; if we are to keep faith with those who lie where the creeping vines and grasses of the Argonne knit coverlets over their graves, where the weeping willows of the Marne droop in mournful sympathy; if we are to keep faith with those who lie beneath the poppies of Flanders Field, the time is now proper and the moment has arrived when America must assert herself, through her sons and daughters, in behalf of democracy by wiping from our institutions all threats of dictatorship. Democracy must live. The cry of Americanism must be heard. We must, in conformity with the Constitution, have courage to proclaim the economic philosophy of the day so that human rights will be conserved and preserved, but not allow unworthy individuals to take advantage of these things in an attempt to break down the very things we are trying to preserve. If we continue to struggle, to battle, and to legislate in behalf of humanity, but with a firm hold, and check on all communistic or fascistic movements in order to enable our citizens under the guiding leadership of that great patriotic character, Franklin D. Roosevelt, to put into fruition and realization the ideals embodied in true democracy for which he is battling, we will be enabled to bring about the brotherhood of man and the fatherhood of God, and thus continue to dedicate and consecrate our Nation upon the altar of true constitutional democracy that it may live on and be the pride of home life and family life to such an extent that we will continue to be a liberty loving, God-fearing people down into the ages and save democracy for the world and future generations.

The Antilynching Bill

EXTENSION OF REMARKS

OF

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1937

Mr. DINGELL. Mr. Speaker, in order that I may be on record as to my attitude in regard to the Gavagan bill and at the same time that I may express myself on the question of lynching, I take this opportunity to say that I consider lynching a most dastardly and inexcusable crime, a blot upon our national escutcheon and a sin which cries to high heaven for vengeance.

According to my viewpoint the question of lynching is not racial nor under any circumstances sectional. Certainly he who would give to this question any political or partisan color must be a scoundrel of the lowest type. Punishment by a mob of any man without a trial, regardless of his crime, is indefensible. It cannot be said that lynch law is essential to the preservation of law and order, or to correct the deficiencies of the courts, because it is subversive of these very objectives.

For more than 20 years, Mr. Speaker, I have advocated laws which would wipe out this unspeakable crime in the United States. Prior to his retirement I collaborated with my old friend and political mentor, Senator Costigan, as regards this important legislation. I introduced a bill in the first 2 years of my congressional service bearing on the subject and aiming at correction. Having heard of the election of my friend ARTHUR MITCHELL, of Chicago, I was glad to yield any precedence or priority, even willing to forsake the credit due the authorship of any bill, as I expressed myself willing to follow him in this matter of antilynch legislation, which was seemingly of deep interest to the Negro people.

I have attended caucuses. I have signed petitions to force out of committee antilynching bills. I gave assistance to this cause of good government at every opportunity.

I was privileged to cast my vote in behalf of the Mitchell bill because it was the first to come up for consideration. I was happy, indeed, to give aid in the forcing of the Gavagan bill to the floor where I cast my vote which speeded the legislation on to final enactment in the Senate.

The bill may not be perfect and it may not stamp out the crime of lynching. It will, however, under its provisions punish the perpetrators of this heinous crime.

Because the seventh commandment does not eliminate thievery, even though it says, "Thou shalt not steal", does not justify critics to demand that the commandment should be stricken from the Decalog.

Because the opposition to this legislation argued that the bill was unconstitutional did not mean that I should accept their interpretation as to what is constitutional or unconstitutional. As a Member of Congress representing a constituency of over 400,000 people of every creed, color, and nationality, it is my duty as I see it to sustain and support such legislation as is intended to benefit my people taking into account the worthy objective and permitting the courts to decide the question of constitutionality. The authors of

this bill are fair-minded, intelligent, God-fearing citizens, who, like myself, have taken the obligation to uphold the Constitution, and I have every confidence in their ability and honesty. I feel certain that they were as capable, sincere, and more anxious than was the opposition to produce a bill which will stand the constitutional test.

My congressional service record will show that I have bent every effort in aiding the Gavagan bill and that I have fought against every attempt of the opposition to emasculate or in any other way weaken the bill.

It was a genuine privilege, Mr. Speaker, for me to cast my vote in behalf of H. R. 1507, a bill by Mr. GAVAGAN to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching.

Labor Problems

EXTENSION OF REMARKS
OF
HON. CLARE E. HOFFMAN
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Friday, April 23, 1937

EXCERPTS FROM LETTERS

Mr. HOFFMAN. Mr. Speaker, under privilege granted on April 13, 1937, to print in the Appendix, I insert the following excerpts from letters received by me:

APRIL 16, 1937.

As a worker who lives on less than $1,500 per year and a reader of the CONGRESSIONAL RECORD, will say that the golden secret of capitalism is its control over labor power and the master-slave relationship that exists today in our social economic system has given the worker a psychology.

When a man works 20 years in a certain factory, he gets the feeling that he belongs there somehow; a good part of his life has been invested there, and, though it may not be recognized in the law books, his interests are those of an owner. That is why being thrown out of such a job to starve seems like a betrayal to an unemployed worker, and it is also why a sit-down strike in his own factory appeals to a worker's instincts more than does a walk-out strike.

Sitting down, on the other hand, is a sort of unspoken assumption that the worker has a claim on his factory; he is no intruder or sudden enemy but part of the family—imagine your own father tear gassing and blackjacking you out of your own home.

I do not condone strikes or lock-outs, for they all have to be settled across the table; but the worker has never had the training of a social education; he has never had any training to equip him physically and mentally to make social adjustments in his relation to others.

The worker in the modern industrial plant has no ownership interest in the industrial plant, and the return he receives for his labor is based neither on his need nor his ability as a worker; instead, he is paid the lowest price that will purchase his services, and the profits from his labor go to nonworking stockholders.

It is not to the worker's interest to cooperate with the other workers, as this often results in him or some of his fellows being discharged; but in spite of these drawbacks and lack of security due to widespread unemployment, the worker finds a partial sublimation and often loves his work. But the results are disappointing, and in consequence crime and mental disturbances are increasingly common.

We need broad-minded men who can give labor the incentive to stimulate his desire for higher standard of education and cultural standards to take away that fear his efforts will not cause him or his fellow worker to lose their jobs. The worker must feel that his labor is important and that it means his security and that of his family and fellows and that some of the profits accrue to the workers.

I respect you for your opinion and hold no ill feeling against you for it, but after being kicked around in a predatory competitive economic system for 44 years, feel that the workers and all others can lay the foundation for a better U. S. A. by planning an economic system that will embrace the 130,000,000 people that inhabit it.

The foregoing letter, as indicated, is signed by a worker. The following letter is from a factory owner:

APRIL 14, 1937.

I refer to the practice of employers in hiring detectives to learn just what certain groups of workmen are plotting. Usually, in all of the speeches made regarding this question and the articles written about it, these detectives have been referred to as "spies" employed to "spy upon" the workers.

In the Chicago Journal of Commerce, issue of February 18, the editor, Mr. Phil S. Hanna, said: "The La Follette committee, hunting espionage cases, pays all attention to the employer, none to the employee representative who uses coercion, yea, terrorism, to gain his ends. Picture a young girl employee at the Kelvinator plant who came to the plant manager weeping because, she said, 'They threatened me if I did not sign', or of the Flint workman who was asked, 'Do you love your children? Well, if you want to see them again, you know what you had better do.' These are just samples of what goes on in the organizing business everywhere. But does the Senator move to bring these abuses into the light of public gaze? He avoids all of those things. Yet when a corporation hires detectives to find out what destructive agents—accountable to no Government body—are doing to undermine employees' confidence in the employer, he bends every effort to give those matters the utmost publicity. Never from the beginning of time has error all been on one side."

Now, suppose we consider from the employer's viewpoint this matter of employing a detective to learn just what workmen in a factory are doing. Certainly when a man has a business that represents the efforts of his entire business life—and he has reason to suspect that certain individuals are attempting to steal something from that business—he is perfectly justified in protecting his property and his interests. It doesn't make any difference whether these individuals are plotting to steal materials or to steal the loyalty of the other men who work for him—in either case, they are taking something to which they have no right.

How is the employer to get a true picture of the situation if he does not employ confidential agents to acquaint him with the facts?

If professional agitators are hired by the employer, who is unaware of their true purpose in joining his organization—and they proceed to stir up the workmen generally by poisoning their minds against the employer—shouldn't the employer be free to protect his business by getting the actual facts about the agitators and their activities?

A detective in the factory is nothing more or less than a watchman. He is there to warn the employer of anything which may threaten the harmonious, continuous operation of the business. Too, he informs the employer of any conditions in the factory that are not right—enabling the employer to correct them. And my observation is that the average employer is glad to do something constructive in such a situation, without waiting for some labor agitator to come along and attempt to force the action.

After all, why should any employee resent the presence of impartial "reporters"? A clear conscience does not breed fear. And what better way is there for the deserving worker to gain recognition than through the reports of a man who is on duty to keep the employer informed about his men?

The fact is that wherever you have a large number of men working together it is almost a necessity for somebody in authority to know what is going on. Our colleges, for instance, find it advisable to have ways and means of watching the activities of students—to keep informed of what the students are doing and talking about both in and out of the classrooms. Governments have long made use of certain individuals—some of them, most certainly, working "under cover"—to keep abreast of developments in their own and other countries. Yet when the employer of a large group of men places detectives on the job to advise him confidentially of just what is happening, he is denounced for adopting a "spy" system.

Certainly, if you employed 10 servants in your home and somebody attempted to poison their minds against you, wouldn't you be justified in taking steps to learn the true situation and to remedy it?

[Received April 20, 1937.]

We'll probe the cost of seaside sand—
And grill a beauty queen;
We'll probe the cost of spinach and the sex life of a bean;
We'll probe most anything you like
With actions dull or clever;
But probe into a sit-down strike?
Now, listen, mister—never!

We'll gladly poke into your home
And see if all are happy.
Through any private life we'll roam with attitude most scrappy.
Our zest for probes never fails—
We'll clean that all up early.
We'll probe the cost of wooden legs
Or of a bottle stopper.
We'll probe pineapple, fish, and eggs;
But, sit-downs—how improper!
An American Democrat says it's sad but true.

APRIL 6, 1937.

I'm a young Chrysler employee, writing to you for the first time regarding the strike situation.

I frankly state under oath that I never worked in an organization yet who was more considerate and fair to their employees as Chrysler and hold Chrysler to the exception. I was very happy in my work, because everyone seemed to work harmoniously with each other and the employers were always willing to cooperate with me at all times with any problems dealing with my work,

etc. Our social life was made happier through the various clubs organized for the benefit of its employees.

I really think it very unfortunate that all innocent victims, such as I, who are satisfied with the wages and conditions as they are, have to be deprived of a position just because union-labor leaders import mobs, which include some of the unemployed "bums" in the United States, to seize, without notice, one of the greatest corporations in the world and have no respect for the law of the courts.

With this social unrest we are not guaranteed an opportunity for life, liberty, and pursuit of happiness. I fear sooner or later factory workers will soon sicken of the bargain that has been forced upon them by these organized racketeers, or thugs, such as Lewis, Martin of the 1937 Soviet roll.

I'm also very concerned over the fact that the hundreds of men and women who have been thrown out of work through these strikes cannot find a satisfactory position. Obviously, this movement of Lewis is presenting a destructive force which is heading industry and the country back into depression conditions. Union men are no longer Chrysler employees because they obey the authority of the unions and have no respect for the authority of the corporation.

APRIL 15, 1937.

I heard just yesterday from my son, who is an employee at the Chrysler plant, that one of the men told him that he had joined the union just so he could vote against a strike in the Chrysler plant. "It was never brought to a vote by the union as a whole." As far as I have been able to ascertain, in nearly every case it was the promoters and not the union members who called the strike.

I was in one of the stores here, Detroit, doing demonstrating work on a new appliance for the home when a strike was called. If any of the employees as a group had anything to do with the strike being called, it was just a few from the cafeteria. The union leaders, outsiders, walked in, drove the patrons out, and guarded the doors.

I have a relative working at Chryslers who was threatened with an accident if he did not join the union; was told that many pounds of metal would be likely to fall on him.

If it can do any good, I can get names and dates in connection with these facts as I hear them.

Fathers of the Constitution—Jefferson as Well as Madison—Washington, Too—Virginians All!

EXTENSION OF REMARKS

OF

HON. JOHN R. MURDOCK

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 23, 1937

ADDRESS BY HON. JOHN R. MURDOCK, OF ARIZONA, BEFORE THE WAR MOTHERS OF FALLS CHURCH, VA., APRIL 22, 1937

Mr. MURDOCK of Arizona. Mr. Speaker, under unanimous consent to extend my own remarks in the RECORD I include therein a copy of a short speech that I made before the teachers and pupils of the Falls Church, Va., schools, Thursday, April 22. These remarks pertain to the Constitution of the United States, delivered before the War Mothers of that place and the pupils of the Jefferson and Madison Schools. I believe my statement is of timely interest to all American citizens, now turning their thoughts, under the direction of the Sesquicentennial Commission of this Congress, to our great state papers, such as the Declaration of Independence and the Constitution. The address follows:

Mme. Chairman, War Mothers, and faculty and students of the Jefferson High School and Madison School, I have been invited to speak today for a few minutes on some phase of the Constitution of the United States. I noticed by the announcement made by your chairman that you students are engaged in a study of the fundamental law of our land. That is most commendable. It is thought that I, as a former teacher of American history and government and a present Member of the American Congress, might be able to point out to you some of the more important things concerning our Constitution.

Before going into that, I want to remind you that it was 150 years ago that the Constitution of the United States was drafted, and that a commission of Congress is now carrying on elaborate plans for a suitable Nation-wide celebration of that momentous event. This beautiful book which I have in my hand is the Story of the Constitution, by the Honorable SOL BLOOM, Congressman from New York, who is now directing the Commission's activities. I am presenting your chairman this copy, but I am holding myself in readiness to supply some of you students with copies to help you in your study, particularly if you engage in the contest which madam chairman has announced. Of course, I cannot promise very many copies of this little book.

I want to urge you young people to join with American citizens generally in a suitable celebration of the birth of our Constitution, and especially to urge you high-school students to enter the contest which these ladies are fostering. There is great educational value in so doing.

It is appropriate for me to note that you are students of the Jefferson High School and of the Madison School. What historic reminders you young people have all about you. As I crossed the Key Bridge coming over to Virginia from Washington, I thought of the song we sang at the opening of this program and of its author. Whenever I think of the Constitution of the United States I always think also of that great Virginian whose home was at Mount Vernon. I cannot think of our Constitution without remembering that another great Virginian, perhaps not so large physically, but very great intellectually, James Madison, another of the fathers of the Constitution. I presume that this building is the James Madison School in which we are meeting today. It just wouldn't be right for it to be any other Madison, would it? And this remarkable A Capella Choir, I am told, is from the Jefferson High School. Well, there again I cannot think of the Constitution of the United States without thinking of Thomas Jefferson, likewise a great Virginian.

Shall I call Thomas Jefferson one of the fathers of the Constitution? Ah! I see some of you are trying to catch me up on a mistake. You think the Congressman doesn't know his history. Of course, I am aware that Thomas Jefferson was not in the Convention of 1787, which body wrote our supreme law. To my mind, however, Thomas Jefferson had as great a part in establishing the real Constitution of the United States as did either of the other two Virginians, George Washington, who presided over the Convention, or James Madison, who contributed so much to the learned discussions during the Convention. Let me explain this view and prove my case.

BLUEPRINT AND EDIFICE

In studying the Constitution we need first to consider the Declaration of Independence. Jefferson, as you know, was the author of the Declaration of Independence. If I can show a vital connection between the Declaration and the Constitution, I will have proved Jefferson one of the fathers of our supreme law.

These great documents are inseparably linked in American political history, even if the Declaration did appear nearly a dozen years before the Constitution. The relationship between the Declaration of Independence and the Constitution of the United States is variously pictured by writers and speakers in figurative language, something like this: If the Constitution is called the foundation of our Government, the Declaration is usually referred to as the cornerstone of the same. If we are familiar with the foundation of a building and of a cornerstone as a prominent part of the foundation, we get the connection in our mind.

Let me suggest a different simile. It is this: I like to think of the Declaration of Independence as a blueprint and the Constitution as an edifice built thereon. All of you know that before this building was erected some architect designed it and drew some plans on blue paper, which builders know as blueprints. After the designs had been drawn the building was erected as nearly according to plan as was wise or possible. Now, if my simile is logical and correct, that the Declaration serves as a blueprint of our civil society, of which the Constitution is the subsequent structure, then the author of the Declaration of Independence, Thomas Jefferson, becomes one of the fathers of the Constitution. This is true, even though he may have been abroad when the real structure was erected. Is my comparison or simile far-fetched? Let us see.

THE DECLARATION A "BLUEPRINT"

In the first part of the Declaration of Independence a new and revolutionary theory of human government is announced to the world, with at least three great, new revolutionary ideas contained therein. These ideas may be expressed in three words: Liberty, equality, and democracy. These are mighty concepts. The liberty which Jefferson espoused was not the liberty that was setting fire to Europe in the eighteenth century, which the Frenchmen called "natural liberty." Jefferson's brand of liberty was liberty restricted and defined by law. We have since come to call this in America, civil liberty. It is the kind of liberty which Katherine Lee Bates had in mind and speaks of in her song, "America the Beautiful."

The equality which is mentioned in the introduction of the Declaration is the equality of rights of all citizens and their equality before the law. This makes a plan quite different, if worked into the scheme of American society, from the inequalities of class distinction prevailing at that time in the Old World. Over there class distinctions prevailed.

The third great idea was democracy, which means the rule of the people. That, too, was quite the opposite of the state of affairs existing in Europe, for at that very moment the nations of Europe were ruled by kings. Thus we see that Jefferson thought of the right kind of civil society as embodying liberty for the individual, equality of all citizens and government by the collective voice of all the people. Jefferson, as the architect and designer of American political society, hoped to build on these great plans. The men who drafted the Constitution actually builded very nearly according to design.

FIX IT EXACTLY OPPOSITE

I spoke of these as revolutionary ideas because they were so different from actual conditions in the mother country at that time and in Europe. In another sense, Jefferson wished to establish in this country principles and institutions of government that were exactly opposite those prevailing in the Old World. In planning a new society, he reversed all the practices of the old society. A famous Frenchman about that same time said: "Whatsoever is, is wrong: if you want to know how to do a thing correctly, do exactly opposite from what is now being done." Now, that's about the procedure that Jefferson followed in 1776 while blueprinting the American Government of the future.

In the latter part of the Declaration of Independence, Jefferson indicts the King of England for some very bad governmental practices. It is interesting to note that the things Jefferson complained of were fixed in our Constitution in exactly the reverse order. I will cite a few of those to illustrate what I mean.

In the Declaration, Jefferson indicted the King by saying: "He has refused his assent to laws, the most wholesome and necessary for the public good." Now, that means that the King had an absolute veto power over law, and used it too freely, which was harmful to his American subjects. In our Constitution, we give the Executive only a limited veto power, making it possible for the lawmaking body to pass a law over the President's veto, and in general that same thing is found in State constitutions.

Again, Jefferson says: "He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records for the sole purpose of fatiguing them into compliance with his measures." In contrast with that, we know that in our Constitution a fixed place and time is established for the meeting of the lawmaking body. The legislature meets at the appointed time and the appointed place, whether the Executive wants them to meet there or not. In America it is not left with the Executive to call the lawmakers together not to fix their place of meeting. Thus you see we have a plan exactly the opposite of the old practice, both in our National Government and in all our States.

Again, Jefferson said: "He has dissolved representative houses repeatedly for opposing with manly firmness his invasion of the rights of the people." When we made our Constitution we did not give the President the right to dissolve Congress and send it home. Nor do we give the Governor of the States the right to dissolve the State lawmaking body. Again, we have done exactly opposite from the evil practice which prevailed in the old country and in colonial days here.

Jefferson said in the Declaration, as another indictment of the King: "He has made judges dependent upon his will alone for the tenure of their offices and the amount and payment of their salaries." Now, that was a bad practice of government and tended to make judges puppets of the King. Reversing that matter, our Constitution provided that judges should be as nearly independent as it is possible for human beings on this earth to be. To make such independency possible our Federal judges are appointed to serve during good behavior, with presumably adequate salaries, which salaries may not be reduced or taken away from them.

There are many indictments found in the Declaration of Independence, and I could go on at some length citing more cases, but will offer one more only. In the Declaration of Independence, Jefferson charged further that the King of England "affected to render the military independent of and superior to the civil power." Now, if you look carefully in the Constitution, and this same thing is found in each State constitution, you will find it definitely stated that the civil is superior to the military power. I think these few cases will illustrate the point I am making, and that is that nearly all of the important constitutional provisions, which stand out so prominently in our supreme law, were principles that were exactly opposite the practices of a despotic monarch in the mother country.

JEFFERSON DESERVES HONOR

Of course, I do not need to argue the matter with you high-school students from the Jefferson High School that Thomas Jefferson was in reality one of the fathers of our Constitution. But for all others, some of whom might be skeptical, since Jefferson did not help to write the document in 1787, have I not said enough to show convincingly that Jefferson was the father in America of such great basic ideas as liberty, equality, and democracy? And have I not also shown that some of the outstanding features of our constitutional government are exactly opposite the evil practices which Jefferson complained of in the Declaration of Independence? Right now in the Capital City, across the Potomac, we're contemplating building a great memorial to Thomas Jefferson. He deserves a fitting memorial, but, of course, he has one in the Declaration of Independence itself.

As my time is up, I want to say to you younger students of the James Madison School that that distinguished citizen of Virginia was the very brainy man who helped to draft our Constitution in 1787, and caused it to materialize some of the fine ideas which his fellow Virginian, Thomas Jefferson, had years before suggested. So James Madison is very rightfully called the father of the Constitution. And it is he who is usually thought of first when that expression, "father of the Constitution", is used.

Maybe you do not feel that the mere fact of George Washington's being President of the Constitutional Convention entitled him to be called a father of the Constitution. But since he was Father of his Country, and a versatile man of many achievements, you'll find, when you study more about the great man of Mount Vernon, that he also has a claim to that title. Do not ask me which of the three Virginians have the best claim.

And now, young folk, I wish you success in your contests and a due appreciation of our great State papers and of these great Virginians about whom you are to study as a part of the sesquicentennial celebration. Next time you invite me to talk to you, if you do, I'll not talk about early American history, but something more modern in my far away State of Arizona.

Liberty, Death, and the Soldier

EXTENSION OF REMARKS

OF

HON. JOHN M. COFFEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, April 23, 1937

ADDRESS BY HON. JOHN M. COFFEE, OF WASHINGTON

Mr. COFFEE of Washington. Mr. Speaker, under leave to extend my remarks I include the following address I delivered before a group of Spanish War veterans:

Tonight, fellow citizens, we are met to commemorate muster day, a date dear to the hearts of all Spanish War veterans. While it should properly fall on April 21, I am informed that this is the meeting night of your organizations occurring nearest to that date.

It is peculiarly fitting that we should discuss patriotic events and give utterance to patriotic sentiments on the night of April 19, for it was on this day in 1775 that our forefathers had their first sanguinary combat for liberty with those who would deprive them of that precious possession. Who does not remember the poet's lines?—

"'Twas the 18th of April in '75,
And hardly a man is now alive
Who remembers that famous day and year
Of the midnight ride of Paul Revere * * *."

That romantic nocturnal ride through the Massachusetts countryside is carved indelibly in the hearts of all liberty-loving Americans, for it presaged the successful initial battle at Lexington on the next day. To students of American history, this day, the anniversary of the Battle of Lexington, has a definite sentimental attachment. If any of you have visited that sylvan scene, as have I, and have watched the placid river as it flows under that old wooden bridge, unruffled in its calm on its way to meet the sea, you must thrill with me in golden memory of a spot never to be forgotten. 'Twas Ralph Waldo Emerson who said, in dedication of the Concord monument, those immortal noble lines:

"By the rude bridge that arched the flood,
Their flag to April's breeze unfurled,
Here once the embattled farmers stood
And fired the shot heard 'round the world.

* * * * * *

"On this green bank, by this soft stream,
We set today a votive stone
That memory may their deed redeem
When, like our sires, our sons are gone.

"Spirit that made those heroes dare
To die, or leave their children free,
Bid time and Nature gently spare
The shaft we raise to them and thee."

APRIL HISTORICALLY SIGNIFICANT

My friends, enshrined forever in the hearts of their succeeding countrymen will be the glory of that April day. What a significance has April in the struggle of liberty up from its primitive beginnings to its fruition in modern times, especially in American history. April saw the commencement of the Revolution; April saw the inauguration of George Washington as our first President in 1789; April witnessed James Knox Polk's fiery declaration of war with Mexico; in April came the firing on Fort Sumter and its gallant defense for 3 long days and nights by Major Anderson, and with it the start-off of a 4-year fratricidal war that nearly tore this Nation asunder; April saw America again marching to the rescue of the oppressed and downtrodden subject peoples under the thralldom of Spain. Again in April America went to war against Germany and her allies inspired by Woodrow Wilson's ideal of self-determination of nations, freedom of the seas, and liberty for subjugated nationalities. In April was born and died, in 1564 and 1616, respectively, the greatest man of letters who ever lived at any time and any place in the history of the world. He infused the breath of life into literature and climaxed the Renaissance at the end of the Dark Ages. The inspiration of his writings shall never perish. His name was William Shakespeare. To him the cause of liberty owes an unrequitable debt of gratitude.

LIBERTY'S PROGRESS HAS BEEN A PERPETUAL STRUGGLE

Throughout all history the progress of civilization has been marked by the bloody struggles of people for liberty. My friends,

stray back with me along the shadowy labyrinthine corridors of time. Envision with me the lessons which history teaches us.

We speak of liberty as one thing and of virtue, wealth, knowledge, invention, national strength, and national independence as other things. But of all these liberty is the source, the mother, the necessary condition. She is to virtue what light is to color, to wealth what sunshine is to grain, to knowledge what eyes are to sight. She is a genius of invention, the brawn of national strength, the spirit of national independence. Where liberty rises there virtue grows, wealth increases, knowledge expands, invention multiplies human powers, and in strength and spirit the freer nation rises among her neighbors as Saul amid his brethren—taller and fairer. Where liberty sinks there virtue fades, wealth diminishes, knowledge is forgotten, invention ceases, and empires once mighty in arms and arts become a helpless prey to barbarians.

Only in broken gleams and partial light has the sun of liberty beamed among men, but all progress has she evoked. Like the poet, let us ever charge ourselves to "follow the gleam."

Liberty came to a race of slaves crouching under Egyptian whips and brought them forth from the house of bondage. She calloused them in the desert and metamorphosed them into a race of conquerors. The spirit of the Mosaic law lifted their thinkers up to the sunlit heights where they beheld the unity of God, and inspired their poets with strains that yet phrase the noblest sublimities of thought. Liberty dawned on the Phœnician coast and ships passed the Pillars of Hercules to plow the uncharted sea. After the darkness of slavery the arrival of liberty came like the effusion of Shakespeare, "Night's candles are burned out, and jocund dawn stands tiptoe on the misty mountaintops." Liberty shed a partial light on Greece, and marble grew to shapes of ideal beauty, words became the flaming instruments of subtlest thoughts, and against the scanty soldiery of free cities the innumerable caravan of the great King of Persia broke like surges of ocean breakers against a rock-bound coast. She cast her ray on the small farms of Italian husbandmen, and born of her strength a power came forth that conquered the world. They glinted from shields of German warriors, and Augustus wept for his legions.

Out of the night that followed her eclipse, liberty's slanting rays fell again on free cities, and modern civilization began. A new world was unveiled, and lost learning found again. Alike as liberty grew, so grew wealth, art, knowledge, power, and refinement. Every nation's history has enscrolled on its pages the same truth. The strength born of the Magna Carta won Crecy and Agincourt. It was the rebirth of freedom from the despotism of the Tudors that glorified the Elizabethan age. It was the renaissance of liberty from the tyranny of the Stuarts which brought on the golden era of Victorian culture. It was the spirit that brought a crowned tyrant to the block—Charles II—that planted here the seed of a mighty tree. Ancient freedom, the moment that its energy had gained unity for its devotees, made Spain the mightiest power of the world, only to fall to the lowest depth of darkness when tyranny succeeded liberty. All French intellectual vigor died under the absolutism of the seventeenth century, only to revive in splendor as liberty awoke in the eighteenth and on the enfranchisement of the peasantry in the great Revolution, culminating in the power that in our times has defied defeat.

Shall we not trust her? Today, as in times before, creep on the insidious forces that destroy liberty by producing inequality. Liberty calls to us again. Her clarion voice points a warning finger at the horizon, where the clouds are beginning to lower. She calls to us again to follow her further, to trust her fully. We must unstintedly accept her or she will not linger in our midst. It is not enough that man should vote nor that he be theoretically equal with his fellow before the law. Liberty must lead us on to avail ourselves of the opportunities of life. Men must stand on equal terms in relation to the bounty of nature. Otherwise liberty withdraws her light. Either this or darkness approaches and progress vanishes in the murk of the night. This is the law of the universe. This is the lesson of the centuries. Unless founded upon justice and liberty the social structure cannot stand.

LIBERTY HAS EVER BEEN THE LIGHT; DESPOTISM, THE ROAD TO IGNORANCE AND DESPAIR

We know that Babylon, Persia, Syria, and Egypt all fell and their enlightenment was destroyed when the modicum of liberty their rulers allowed them was taken away. Phœnicia became a great shipping nation because it threw off the chains which encompassed its liberty of contract. The glory that was Greece attained full flower under the Republic, and the most magnificent utterances of its orators, dramatists, and poets were made in praise of liberty. So up from the darkness and gloom of slavery struggled the ancient people. Rome flourished under the Republic when liberty inspired the people; but with the coming of the Empire, at the time of the birth of Christ, the sappers and the miners dug caves under freedom's superstructure, and the beauty and learning of Rome under the lashings of enslavement and the decadence and moral disintegration of the emporers faded away. From 476, when Rome fell, until 732, the Battle of Tours, liberty was under a cloud and all but disappeared from the earth's surface. But at Tours the dark forces of the Moslem were turned back from northern Europe and the future civilization saved. Spain was obscure and unknown until it drove the Moors out of the country in 1491. After Tours, and thenceforward until 1215, our European forbears, in direst ignorance and woeful servitude, continued their bloody struggle. One thousand two hundred and fifteen is one of the outstanding dates of history, for in that year the medievalism gave way to a form of representative government. King John, on the field of Runnymede, signed the Magna Carta, the first great palladium of liberty vouchsafed the common people in the Christian era, and thereafter came the Renaissance. England has had many a struggle for liberty—the Wars of Roses, the driving out of the Stuarts in 1649 and 1688, the struggles in Parliament culminating in England's Bill of Rights. Italy united and drove out the enemy in 1870. France stormed the Bastile in 1789, and after years of the bloody Directory and Robespierre, became a republic. Napoleon, intoxicated by his military successes temporarily held back liberty from the French, but in 1871, after the Franco-Prussian War, a third republic was formed, and under the broad freedom enjoyed thereunder France has become one of the three great powers of the world.

No lover of liberty may neglect to pay a tribute to Rousseau, Voltaire (who thundered at the emperors, "I may not agree with a single word you say, but I will defend to the death your right to say it"), and Montesquieu. Frederick the Great encouraged freedom in Prussia and after the Revolution of 1848 we see a new Germany emerging, but it remained for the defeat of Germany in the World War to launch a new and greater nation. No military dictator such as the Kaiser and no despot resembling the Iron Chancellor, Bismarck, ever exalted a nation into the do-or-die spirit. Spain in 1931 threw out the Bourbons and begat a republic. Watch Spain from now on. The Turks tried to overrun Europe with their religion of despair and their bloody absolute forms of government but were stopped at the gates of Vienna three centuries ago by little Poland, which up to the World War was dismembered and almost forgotten. Out of the chaos of that conflict, when the tumult and the shouting died, sprang forth a rejuvenated Poland, a free and independent nation with a corridor to the sea. The scattered legions of Napoleon after Jena overwhelmed Europe and almost turned back five centuries of political progress, but this arrogant despot couldn't surmount the forces of nature, and the retreat from Moscow in 1812 was the beginning of the end. The opponents of Napoleon were filled with an unquenchable thirst for liberty, and they united under Blücher and Wellington, and the Battle of Leipzig was followed by Napoleon's more disastrous defeat at Waterloo and his banishment to St. Helena. The world breathed more easily, but at Vienna in 1815, led by the arch tyrant Metternich, the few remaining emperors tried to parcel up the booty among themselves. There and then they set the long fuze to the powder magazine that became the World War a century later. Once given a taste of liberty, the common people will not surrender the prize. Beating with deathless pulsation in human breasts is the yearning for a free home, a free speech, a free press, and freedom of religion.

Thomas Jefferson, America's greatest protagonist of liberty, was born in this month of April. He it was who wrote those immortal words from the Declaration of Independence, "We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." Notice, my friends, how Jefferson stresses the word "liberty." The French have as their motto on their national coat of arms, "Liberté, égalité, fraternité." Patrick Henry cried out amid the agony of those early days: "I care not what others may say, but as for me, give me liberty or give me death." The Revolution was fought to bring to us freedom from an oppressive mother country and liberty to rule ourselves for ourselves.

AMERICA HAS BEFRIENDED HER NEIGHBORS SEEKING LIBERTY

The War of 1812 was fought to prevent England's depriving American seamen of their right of citizenship and to destroy England's interference with our freedom of trade. We helped Texas remove itself from the iron heel of oppression in 1836, and we fought with Mexico to bring political freedom to the inhabitants of the southwestern part of the United States. We waged the Civil War to determine once and for all the right of our "fellow countryman in chains", the Negro, to be captain of his fate and master of his own soul. "No more shall the war cry sever or the winding river run red" after that bloody holocaust. In April, General Lee surrendered at Appomattox and Johnson surrendered in the same month to Sherman in North Carolina. The tortured Nation was again rewelded.

In 1868 began the noble battle of the Cuban peasants for independence from the Spanish overlords. Sporadically they were helped by American sympathizers, but in 1895 Spain determined upon the inauguration of a butchering and starvation policy, and the world was horrified. The Spanish governor, Weyler, corraled the Cuban farmer in prison camps and impoverished and starved the country. These camps were called "reconcentrados", and no food or sustenance could be obtained outside their walls. But Cuban patriots fought on for independence, for the precious freedom denied to them. The Queen Regent, finding the reign of terror of Weyler unavailing, essayed a policy of conciliation and named Blanco to succeed Weyler, but it was too late. The die had been cast, and "the Rubicon was crossed."

Intrepid Cuban General Garcia rerallied his scattered and tattered troops, crying, "On, on to victory." Had he not had the examples of the great Negro patriot, Toussaint L'Ouverture, who in a magnificent campaign drove the French out of Haiti a few decades before? Were not the Cuban patriots fired with zeal to emulate Miranda, who drove the Spanish tyrant out of Central America, and Bolivar, the George Washington of the Southern Cross, who drove the Spaniards into the sea and gave South America back to the common people?

Naturally, the United States was sympathetic. We had fought the same fight in the Revolution. We sent the battleship *Maine* to Habana Harbor to show our regard, but alas, some sinister

force in the dead of night planted a terrible explosive, and the beautiful ship was sent to the bottom in a cataclysm that electrified the world. Two hundred and sixty-six brave boys were sent to their eternal abode by that dastardly blow. America was horrified. With difficulty McKinley held in leash the dogs of war, but no people could stomach for long such a brazen affront to their dignity and honor. War was declared April 21, and the militiamen and regulars leaped to arms. Thereafter was fought the only American war in 100 years in which only volunteers exclusively participated. The boys moved on Tampa, Chickamauga, Cuba, Puerto Rico, and the Philippines. Who cannot remember the names of some of the brave commanders—Miles, Shafter, Merritt, Lawton, Wheeler, Wood, Roosevelt, and Funston, and on the sea, Schley, Sampson, and Robley D. Evans?

THE AMERICAN SOLDIER HAS BEEN INSPIRED BY LOFTY IDEALS

Retreat is a word not found within the lexicon of the American soldier or sailor. There was no retreat at Lexington, Ticonderoga, Saratoga, Trenton, Monmouth, or Yorktown in the Revolutionary War. There was no retreat when the *Constitution* shattered the *Guerriere*, or at Forts Henry and Donelson, or at Lundy's Lane, Chippewa, or New Orleans in the War of 1812. There was no retreat at Monterrey, at Chapultepec, at Cerro Gordo, at Buena Vista in the War with Mexico. There was no retreat at Gettysburg, Chickamauga, Shiloh, Antietam, Fredericksburg, Petersburg, and Vicksburg in the Civil War. Retreat was out of the question at El Caney, San Juan Hill, Manila Bay, Santiago, and the fights with Aguinaldo in the Spanish War. Retreat was the missing link from the chain forged by our troops in the World War at Soissons, at Belleau Wood, the Argonne, and Chateau-Thierry.

The Spanish War was fought by brave men, all volunteers. They were imbued by a love of liberty and a desire to sever the chains binding their Cuban and Philippine brothers to the yoke of the Spanish tyrant. They came, not to enslave but to free—not to destroy but to save. Theirs was an inspired mission. They plowed through fever-infested ewamps. They ran the gantlet of the malaria mosquito, they hazarded their lives in the torrid jungles of the tropics, beset by snakes, filth, insects, impure water, decayed food, and embalmed beef. Theirs was no golden road of romance or a marching to battle between lines of waving, cheering multitudes; theirs was no glitter and pomp; they were not endowed with the privileges of free postage, Y. M. C. A. camps, Salvation Army lassies, publicly maintained recreation camps. No hostess houses arranged for beauteous ladies to beguile their idle hours; no Sam Browne belts added to the pulchritude of their appearance; no French maidens administered to their playful whims; theirs was a grim business—to drive the Spanish devil out of the thicket. Nights they slept in the open—"no roof but the vault of heaven, no floor but the beaten sod." The bravery of the 1st of May at Manila Bay is unparalleled in our naval annals. The matchless fortitude of Naval Constructor R. P. Hobson, Ensign Blue, who carried the message to Garcia, and of the sailors that sunny Sunday morning of July 3, 1898, when our fleet drove the last vestige of Spain's Navy from the surface of the ocean in a battle marked by heroism on both sides, baffles comparison. Thus was Spain eclipsed and Cuba, Puerto Rico, Guam, and the Philippines divorced from their unloving spouse. Alike in all these battles has the American soldier and sailor fought for liberty under that beautiful flag [pointing]:

"The flag whose red is her heroes' blood
That laved its infancy;
Whose white is her undying fame
Of stainless purity;
Whose blue her field of azure is
Where, gleaming from afar,
We see a star for every State,
A State for every star * * *."

THE SPANISH WAR VETERAN DESERVES OUR GRATITUDE

The soldiers of the American Revolution received no pension for many years, and then only in the most niggardly amounts. It was nearly 20 years after Lincoln's assassination before the Civil War veterans received reluctant pension recognition from Congress. The Spanish War veterans received no pensions until years after the World War, and then with the help of World War veterans.

Liberty for the oppressed peoples has been fought for by our soldiers in every war. Our intervention in Cuba was an idealistic act. To them we kept the faith. We found Cuba a skeleton of unrelated, unshaped visions and dreams; we clothed it in flesh and blood, and there emerged the island republic of today, a gem of the Caribbean. The independence of the Philippines must come if we are to keep our faith with those who paid "their last full measure of devotion."

And speaking of the soldiers who are gone, those whom we honor on Memorial Day, let me say that no sweeter honey of its kind has dripped from the hive of genius than the immortal words of the poet:

"On fame's eternal camping ground
Their silent tents are spread * * *."

In a few short years the last survivor of '98 will have bivouacked on the fields of the beyond. Let us dedicate these words on their monument: "He who saves his country saves all things, and all things saved bless him." For he died to make men happy and he died to make men free. Nor shall we permit hostile forces today, from within or without, to prevent our carrying into effect the words of Lincoln when he said: "* * * From these honored dead we take increased devotion to that cause for which they gave their last full measure of devotion." The challenge is here: "Let us here highly resolve that these dead shall not have died in vain." The reign of the gangster must be destroyed. People's homes and children must be made safe. Let us not mock our heritage. We must exercise our vote and not merely give a votary gesture before party fetishes.

OUR DUTY NOW IS TO CHAMPION ECONOMIC FREEDOM

Let us refuse to send into office puppet mediocrities who dance on strings pulled by the manipulating machines controlled by the racketeer. Let us not drown out America's acclaim with the rattle of the gangster's machine gun and the agonized screams of men shot in the back in the land of the free and the home of the brave. Let us not permit the loyalty of our citizenry to our institutions to be eradicated by the gnawing aches of hunger in a land of plenty. Let us give our people economic freedom as well as political freedom.

Soldiers of high and low degree have no social distinctions in death; no gaudy tinsels or gilded trappings can create invidious distinctions at the sepulcher's dread mouth. How well did the great poet Gray phrase it when he wrote:

"The boast of heraldry, the pomp of power,
And all that beauty, all that wealth e'er gave
Await alike the inevitable hour;
The paths of glory lead but to the grave."

It is a mournful, somber truth that all men when crossing the bar must shed the onus of their griefs and honors; that man takes with him only that which he has freely given away, but we do know this—that even death may not despoil the soldier of the riches of his patriotic service and self-sacrifice. The soldier takes with him to his bier a legacy so rare that even envy is compelled to pay the tribute of admiration. Many of these men "matched mountains" in their bravery and "compelled the stars to turn aside to conquer" them.

The time has come again, my friends who fought the good fight 34 years ago, when the drums should beat and the lights gleam from the church tower to rouse us to our danger. Let us gird on our armor anew and go out to give gage of battle. Emerson said of our country: "It is God's best effort in behalf of the human race." I say to you in God's name, let us allow no force to annihilate that which our fathers builded. We have too many laws which maketh no respect for law and too many laws mean loss of freedom. You may ask me why I am so excited, but I reply to you, as did William Lloyd Garrison, the great abolitionist, the man whom malignity searched with candles to destroy:

"Brother, I have need to be all on fire
For I have mountains of ice about me to melt."

In closing I pay this tribute to the deceased Spanish War veteran:

"Erect with shining head
The great Republic claims her dead;
Nor in that day when every stripe and star
Proclaims the reign of peace
Shall honor to them cease,
Nor fame their laurel mar;
Though no battle peal awake them,
Time upon its scroll shall make them
Among earth's heroes dead,
Whose deeds that golden day more swiftly sped."

The (So-Called) Antilynching Bill

EXTENSION OF REMARKS
OF
HON. GUY L. MOSER
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1937

Mr. MOSER of Pennsylvania. Mr. Speaker, no sane liberty-loving American can endorse lynching. I am equally certain that no Member of Congress, by his vote in opposition to the antilynching bill (H. R. 1507), does for one moment yield in the slightest degree any endorsement to mob violence or unlawful assembly in any form whatever, much less lynching. Despite the fact that one of the proponents of this bill clearly and openly stated before this House that to vote against this bill is to endorse lynching, that Member exceeded his rights and violated the courtesy due from one Member to another in thus categorically classifying his colleagues.

The first section of this bill classifies three or more persons acting in concert without authority of law as a mob or riotous assemblage. It might well happen that one of the Nation's most respected citizens in his own community would, without being cloaked with authority of law,

apprehend a person who had committed a crime rather than let the culprit escape. It could readily happen that two or more similarly respected citizens could come to his aid; a crowd collect and according to the degree or gravity of the crime, the crowd being incensed, rashness predominate, and violence be done the culprit, even to the extent of death to the criminal. This bill, if enacted into law, would make the well-intentioned citizen a part of that mob or riotous assemblage.

Mr. Speaker, paradoxical as it may seem, I was once, yet only once, in exactly such position, and had this bill at that time been the law I would have been the innocent victim of its rigorous action as proposed and my native county the indemnifying victim. I still bear the scar of that experience. I apprehended a man who had shot up a railroad station where I was a waiting passenger. After he had fired on me and shot a hole through my overcoat, I knocked him down, receiving my injury, and wrested his revolver from this madman. A youthful sailor in uniform came to my assistance. With the man subdued, a third party rushed up in great excitement and with a loaded revolver he had obtained wanted to kill the man then in custody. None of us were acting with authority of law, yet we were acting in the interest of society. Had the third party carried out his expressed desire to kill the culprit, the three of us would have constituted a mob or riotous assemblage within the purview and intent of this bill.

In the second section of this bill:

> If any State or governmental subdivision thereof fails, neglects, or refuses to provide and maintain protection to the life or person of any individual within its jurisdiction against a mob or riotous assemblage—

And so forth.

O Mr. Speaker, how might my native county have been expected to maintain such cited protection, had what was avoided, in the instance of my personal experience occurred? Yet my native State, "by reason of such failure", would have been "deemed to have denied to such person due process of law", and so forth.

Under section 3 of this bill, what would have been the liability of my county, or the sheriff of my county, laying aside the provisions of subsection (b) as a possibility, had what was avoided occurred in my above-cited personal experience?

Section 4 of this bill proposes to give to the district courts of the United States "jurisdiction to try and to punish, in accordance with the laws of the State where the injury is inflicted or the homicide is committed", and so forth. Again, Mr. Speaker, what trouble and difficulty might have been mine had rashness occurred in my own experience?

Of the last sentence of this section, having covered it in my remarks in the body of the RECORD, I shall not repeat it in the Appendix.

Under section 5 of this bill, had it then been the law, and had what was avoided occurred, it would have made my county liable for indemnification to "the legal representatives of such person for a sum not less than $2,000, not more than $10,000, as liquidated damages", recoverable under the terms of this bill in the manner and form as described by the gentleman from New York [Mr. WADSWORTH]. Acting in the best interest of society and entirely well-intentioned, what trouble might I not have caused had this bill then been the law and matters have turned out other than they did? This section would automatically have the effect of insuring the life of a criminal, in an amount from $2,000 to $10,000, while a respected and law-abiding citizen, murdered by one or two persons, though a breadwinner of a family, could in no manner be provided with either the protection or the indemnification this bill proposes to provide to a criminal.

Should this bill be enacted into law, what conspiracies to secure the indemnification under the provisions of this section may not be resorted to in order to have the counties pay and pay and pay such indemnities? As conspiracies have been entered into for the committing of a murder to collect life-insurance indemnities, how much easier under this bill would the evil-minded find it possible to conspire to commit an atrocity in communities where a "riotous assemblage" is likely to ensue and blame the crime on an innocent victim that the indemnity may be collected by the conspirators, one or more of whom would be the beneficiary thereunder?

Section 6 of this bill would impose upon an innocent and duly law-abiding county a liability for indemnification thereunder through the rash acts of a "riotous assemblage" on the part of an entirely different class of people, foreign to the county affected, to divert suspicion, or without purpose where county lines meant nothing at all to the perpetrators of a crime.

Mr. Speaker, much has been argued by this bill's proponents that the bill, if enacted into law, will be constitutional. Yet section 7 says:

> If any provision, sentence, or clause of this act or the application thereof to any person or circumstances is held invalid, the remainder of this act and the application of such provision to other person or circumstances shall not be affected thereby.

That in itself is confession of doubt. It amounts to: If any part is held invalid, the remainder shall apply.

Mr. Speaker, I felt called upon some time ago to defend the integrity of the Members of Congress against a malicious attack on the part of a babbling professor who charged all alike with a violation of their oath to support and defend the Constitution. I said then and still believe that each Member sincerely performs a duty to his constituency as each sees it. I could not miss the observations made that certain Members must sign the discharge petition to release the bill from its committee for political reasons, and for the same reason only vote for the bill, knowing if it ever is enacted into law the same will be declared unconstitutional. That is a dangerous risk, as well as a chance to take. Such chances have been taken but have not worked out. It is not in anger or criticism, but in charity and regret, I am voicing these observations.

It happens that I have gone on record as saying that in my candidacy for this honorable station as a Member of Congress, I was not aspiring to the prerogatives of a Justice of the Supreme Court; that I would not attempt to pass upon the constitutionality of a bill when voting for or against it, leaving that solely to the judiciary.

If I had believed the antilynching bill would stop all lynching, I would support it. Believing that it would not prevent lynching but that the bill, by its provisions, would make the duly constituted authority of the law less liable to incur the risks the bill would place them under since undeniably self-preservation is the first law of nature. Feeling that this is axiomatic, a fact, prevailing in the past will continue in the future, and in so doing remove much of the protection the law now affords in practically all instances, in keeping with my convictions and my conscience, I am opposing this bill.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ALBERT THOMAS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 23, 1937

ADDRESS OF HON. WRIGHT PATMAN, OF TEXAS, AT HOUSTON, TEX., ON APRIL 19, 1937

Mr. THOMAS of Texas. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of Congressman WRIGHT PATMAN, of the First Congressional District of Texas, delivered at Houston, Tex., April 19, 1937, in behalf of President Roosevelt's Supreme Court proposal, under the auspices of Labor's Nonpartisan League:

I congratulate Labor's Nonpartisan League for the efforts put forth to fully acquaint the American people with the great issue now before us. I commend Maj. George L. Berry, president of this great organization, for sponsoring this demonstration and 24 other similar demonstrations throughout the Nation on this day. It is Patriots' Day, and a patriot is a defender of popular liberty. I also commend Major Berry for this statement which he recently announced:

"We promised Mr. Roosevelt that we would walk with him for the next 4 years, and we naturally expected him to choose the path. We believe his plan is the only way to avoid a continuance of chaotic conditions, particularly of industry and labor, and among the farm people, which would unquestionably lead to another economic depression. We are fearful that even our Government itself could not survive such a catastrophe. Public welfare is at stake in these matters."

When our President visited the Alamo at San Antonio, Tex., July 11, 1936, he referred to Travis, Bowie, Crockett, and Bonhan and the 178 who were their comrades, who made the supreme sacrifice for the life of Texas, and then he referred to Travis' message: "I shall never surrender"; and stated in his own language that this is a good watchword for each and every one of us today. On this Supreme Court fight this watchword is appropriate; let us adopt it—we will not surrender.

LOCAL NATIONAL LEADERS

This congressional district in Houston, Tex., has been very fortunate in having very fine, able, efficient, and courageous men to represent them in Washington. It was my pleasure to know and serve with the late lamented Daniel E. Garrett, at one time your Congressman; also to serve with and to cooperate with my good friend, the Honorable Joe Eagle. It is now my pleasure to serve with another gentleman, who is living up to the good name of his predecessors and who is making good in Washington, the Honorable ALBERT THOMAS.

Houston has furnished this Nation one of our present-day outstanding national leaders, a man who is often consulted by the President of the United States and whose judgment and ability are unquestioned, the Honorable Jesse H. Jones.

GREATEST OF ALL PRESIDENTS

No person living or dead has ever done more to improve the social and economic conditions of the people of America than our great President, Franklin D. Roosevelt. The people of this country for a hundred years have been praying for just such a leader, one who possesses knowledge and information, and who has the ability to execute his plans. In addition to his own ability he has been able to surround himself with the very best counselors and advisers this country affords. To these unselfish men the people of our Nation are also indebted. Many of them have gone forward at great sacrifice helping and assisting our wonderful leader in the greatest of all social and economic undertakings. It is not possible for all the people to know the value of such a great President. He is the one man who knew the inner workings of financial manipulators and Wall Street speculators. He has given the people the benefit of this knowledge, and although his opponents are those who have the greatest amount of the wealth of this country, and have at their disposal effective means of communication to the people, our President has never faltered, has never weakened, but has gone straight down the middle of the road fighting the battles for the plain people of our Nation.

PEOPLE WHO SUCCEED MAKE ENEMIES

It has been said:

"He has no enemies", you say;
My friend, your boast is poor.
He who hath mingled in the fray
Of duty that the brave endure
Must have made foes.
If he has none, small is the work that he has done.
He has hit no traitor on the hip,
Has cast no cup from the perjured lip,
Has never turned the wrong to right,
Has been a coward in the fight."

ACCOMPLISHMENTS OF PRESIDENT ROOSEVELT

Although it can be said about our President that he has made enemies, it cannot be said that he has been a coward in the fight. He has accomplished something for the people of America. Among these accomplishments I list the following as the greatest:

1. Regulating and controlling many of the activities of great banking and other corporations where the public credit was used against the interest of the people, including protection of stockholders, purchasers of securities, and consumers.

2. Using the credit of the Nation for the purpose of saving the homes and farms of a half million people from foreclosure sale.

3. Causing the enactment of laws to provide fair wages, collective bargaining, and in the direction of a fair, adequate annual living wage.

4. Causing the enactment of laws to help for the first time the farmers of our country. At no other time in the history of this Nation has the administration in power caused money to be taken from the Public Treasury to aid the downtrodden farmers.

5. Causing the adoption of a policy that will force lower power rates. All the rivers in the United States run southward. The greatest potential electric power is in the South. This undeveloped power, under the President's plan, will be sold at such a low price that it will not only help the consumers everywhere but manufacturing plants will necessarily find their way to this cheap power. The South has never had in the history of this Nation the opportunity for advancement, improvement, and progress that it has today by reason of the policies adopted by this administration.

6. Social security and assistance for the aged, unemployed, unfortunate, dependent and neglected children, the crippled, and the blind. No nation in all the world has advanced so rapidly in the direction of helping poor people than this Nation under the leadership of our great President.

7. The great wealth and resources of this Nation were used for the first time in our Nation's history to feed the poor, relieve the unfortunate, and provide employment, aid, and comfort to the masses. Mistakes were made, yes; possibly some made by our President, but let it be said in his favor that his instructions were, which I hope were carried out, that every mistake should be made on the side of mercy.

Many other substantial and lasting contributions to the happiness and welfare of the people of the Nation could be referred to in commending our President.

MORE YET TO BE DONE

In his inaugural address January 20, 1937, he made this statement?

"I see millions of families trying to live on incomes so meager that the pall of family disaster hangs over them day by day.

"I see millions whose daily lives in city and on farm continue under conditions labeled indecent by so-called polite society half a century ago.

"I see millions denied education, recreation, and the opportunity to better their lot and the lot of their children.

"I see millions lacking the means to buy the products of farm and factory and by their poverty denying work and productiveness to many other millions.

"I see one-third of a Nation ill housed, ill clad, and ill nourished."

Do not overlook the fact that the President has made every effort to carry out every promise that he has made to the American people. It is because he has tried to carry out his promises that he has made so many enemies. The special privileged few who have been dominating and controlling our country do not mind electing a liberal to office, but they do not want him to remain liberal after he is elected. That is the reason that Franklin D. Roosevelt has not pleased the greedy, monopolistic, selfish interests who have for so many years oppressed and robbed the plain people of our Nation.

SUPREME COURT CHANGE NECESSARY

In order to carry out this program announced by our President in his inaugural speech, it is necessary to make a change in the Supreme Court of the United States. It is this change I desire to discuss with you. Recently on two different occasions the Supreme Court of the United States took an about-face and wholly changed its opinion. One day before noon a certain law passed by the State of Washington was unconstitutional. A few minutes thereafter Mr. Justice Roberts changed his mind and the law was constitutional. A few days ago, until noon of one day, the Wagner Labor Act was unconstitutional, but a few minutes thereafter Mr. Justice Roberts changed his mind and the Wagner Labor Act became constitutional.

ONE MAN CHANGED CONSTITUTION BY CHANGING HIS POINT OF VIEW

Mr. Justice Roberts amended the Constitution by amending his point of view. If the reactionary Republicans and Liberty Leaguers believe that the American people are going to be fooled by any such tactics, it is my belief that they have another guess coming. These decisions clearly demonstrate the fact that we have a one-man dictator on the Supreme Court of the United States, who is not elected by the people, who has a lifetime job, and whose interest has always been in behalf of entrenched wealth and greedy privilege.

I agree with our President and our able Postmaster General that this fight must continue until won.

THE CONSTITUTION OR THE COURT

The Constitution of the United States, article III, section 1, states:

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."

The same document, article II, section 2, paragraph 2, requires that the appointment of all judges of the Supreme Court be confirmed by the United States Senate.

Therefore it is clear that if the President's plan to appoint six more members to the Supreme Court Bench, contrary to the misrepresentations of the Mellons, Morgans, and other Liberty Leaguers, cannot pack the Court. It is not his desire to pack the Court. He would not if he could, and he could not if he would.

PACKING IMPOSSIBLE

There is only one way that a President could pack the Supreme Court with six new judges, and that would be in the case where the six new judges were corrupt men and they were appointed by a corrupt President and confirmed by a corrupt majority of the United States Senate consisting of 96 Members. Further, in order for the packing to be successful, a majority of the United States Senate must have been elected by a corrupt constituency, who would be a party to the Court packing.

Let us consider what will happen when the President appoints a new member to the Supreme Court under his proposed plan, which will become law. First, he will select a good, honest, qualified

person, one who does not have warped judgment, preconceived convictions in behalf of any class or group, but one who will be fair to both rich and poor. That is all the President will expect. This appointee's name will go to the United States Senate for confirmation, and thence to a Senate committee for investigation. This appointee will be called before this Senate committee, and any Member of the United States Senate can ask him any question he desires to ask him. For instance, he may be asked if he has talked to the President or one of his advisers or agents, or if he has made any promise of any kind in the event he is appointed to the Court. If so, what that promise is. He may also be asked what his views and convictions are on certain questions. In fact, any question any Senator desires to ask him may be asked. After the committee's investigation and report the entire membership of 96 Members will vote on the appointee's confirmation, and if there is anything wrong about any such appointee it will certainly be discovered and his confirmation will be rejected.

Any appointee receiving the confirmation of the Senate will have the position for life, with a salary of $20,000, which cannot be diminished or reduced during his lifetime. Certainly no President can control or dominate the views and activities of any lifetime appointee, and certainly not where no promises have been made, as will be the case in the appointment of these judges.

After six members are placed on the bench, decisions heretofore unanimously rendered, or 8 to 1 decisions, will not be reversed, as six judges—presuming all of them should be on the other side, which is unlikely—added to one of the minority on the present Court, would not constitute a majority to reverse such an opinion.

According to our Constitution, the Congress has a right to increase the number of judges from 9 to 15. No one contends that this effort on the part of the President will be unconstitutional. The Constitution deliberately left the number of Justices to be fixed from time to time by Congress. In other words, an admittedly constitutional method is used to make this change. If we were to decide on a constitutional amendment instead of Congress assuming its constitutional prerogative, the same judges who have brought us to our present condition would be permitted to construe the constitutional amendment after it was adopted, and what assurance have the people that they would not destroy the purpose by a distorted construction? Judges who resort to a tortured construction of the Constitution may also torture an amendment. Every minute the Supreme Court is in session a constitutional convention is in session. Chief Justice Hughes, when Governor of New York, put in a single sentence our whole constitutional law when he said:

"We are under a constitution which is what the judges say it is."

SIXTEENTH AMENDMENT MISCONSTRUED BY COURT

One time Congress passed a law to tax incomes and the Supreme Court held it unconstitutional. Then the people adopted the sixteenth amendment, which says that Congress has the right to collect taxes on incomes from whatever source derived, and yet the Supreme Court of the United States, after the adoption of that amendment in such plain language, in unmistakable terms, without ambiguous words, foreign phrases, or misleading clauses, construed this amendment in a way that millions of people receiving billions of dollars a year in income, incidentally including themselves, are exempt from the payment of any income tax whatsoever to the Federal Government, so what assurance have we that the present Supreme Court would not in a similar way destroy the will of the people?

DILUTE A PACKED COURT

Let me name five of the nine members of the Supreme Court whose views have remained as they were before becoming members of that Court when they represented the privileged few. It is not difficult now for any lawyer to greatly bolster his case in a brief in behalf of the privileged interests by referring to one of the briefs filed by one of these five judges back before they were members of the United States Supreme Court, and when they too were preparing briefs in favor of the privileged few. Let us call the roll:

Willis Van Devanter. Republican. Reactionary Justice. At the time he became a member of the United States Supreme Court he represented one of the largest corporations in America, the Union Pacific Railroad Co.

James C. McReynolds. Democrat. Reactionary Justice. At the time of his appointment a member of a Wall Street firm.

George Sutherland. Republican. Reactionary. At the time of his appointment he was the legal representative for two of the largest railroad systems in this Nation, including the Union Pacific.

Pierce Butler, Democrat. Appointed by President Harding. A reactionary, and at the time of his appointment represented one of the largest railroad corporations in America, the New York Central, and other railroads and public utilities.

Owen J. Roberts, Republican, reactionary. At the time of his appointment he represented the largest railroad system in America, the Pennsylvania, and other railroads and utility corporations.

In view of the fact that the present United States Supreme Court has been packed with acknowledged representatives of entrenched wealth and power at the time of their appointment, it is my belief that the people are entitled to fair representation in that Court, and the President's Court plan should become law.

PLAN WILL STRENGTHEN AND REINFORCE DEMOCRACY

The enemies of judicial reform shriek dictator at the President. They conceal the fact that, in defending the present Supreme Court majority and all its deeds they are defending an actual judicial dictatorship that has been a growing menace to American democracy.

They pretend that President Roosevelt will enjoy dictatorial powers because the plan gives him the right to nominate six new Justices. Six out of fifteen is 40 percent, considerably less than a majority of the Court. In all the 4 years of his first term he has had no opportunity to make an appointment.

Yet President Hoover in his 4 years appointed 3 out of 9, or 33 percent. There was no howl about dictatorship, though the Senate couldn't stomach one of his appointments and was reluctant about another.

President Harding appointed 4 Justices out of 9, or 45 percent, in less than 3 years.

President Taft appointed 6 out of 9, or 67 percent, in 4 years.

Later, after the people would not reelect him, he became Chief Justice himself. No anguished cries from the economic royalists about Dictator Taft!

President Lincoln appointed 5 out of 10, or 50 percent.

President Jackson named 5 out of 7, or 71 percent.

President Washington not only appointed all of the original Court of 6, but filled 4 subsequent vacancies, making 10 appointments, or 160 percent of the full Court of that time.

PRESIDENT'S PLAN IS SPEEDY, SIMPLE, AND CONSTITUTIONAL

Everybody agrees that the President's plan is constitutional. Even his bitterest opponents admit that Congress has the power to determine the number of Justices, and Congress has used that power from time to time.

The very fact that the President's plan is constitutional is what makes the reactionaries so mad. They are also enraged because the plan is simple, without any complicated ratifications by State legislatures or State conventions—just a plain constitutional act of Congress, the President's signature, and the thing is done.

Speedy as well as simple—and that's the third reason why the economic royalists hate it.

Those who are in the wrong always clamor for delay. The criminal is helped by delay in the courts. The rich man has an advantage over the poor man by delays of justice. Weak men wait for opportunities. Strong men, like our President, make them. Members of Congress can speak for the masses and little is said, but if one speaks for the special few, he is a great statesman and his name is heralded far and wide, because his views please those who have so much control over the means of communication to the people.

I do not brand all Democrats as Liberty Leaguers, Wall Street sympathizers, and puppets of special interest because they are against the President's plan, but I do say that all Democrats who are fighting the President's plan during this crucial hour are lending aid and comfort to the enemy, and their efforts are more destructive than the Liberty Leaguers and puppets of Wall Street with whom they have joined hands against the greatest of all Presidents.

NO VISION THE PEOPLE PERISH

Where there is greed there is no vision, and the Good Book says that where there is no vision the people perish. Our President has vision and is trying to protect the people against greed and selfishness. He knows the problem and he knows the course to take. If we do not help him pursue that course, the country is no better off than if we did not recognize the problem.

While you are marching along with Mr. Roosevelt in this administration you are marching along with a construction gang, and not with a wrecking crew. You are being led by a man who believes that he who serves his brother best is nearer to God than all the rest. He believes that his soul is worth more than gold. Permit me to repeat the timely words of Gerald Massey:

O men, bowed down with labor;
O women, young, yet old;
O hearts, oppressed in the toilers' breasts,
And crushed with the power of gold,
Keep on with your weary struggle
Against triumphant might;
No question is ever settled
Until it is settled right.

Nero fiddled while Rome burned; the British Army slept while Washington crossed the Delaware. Let us neither fiddle nor sleep while the economic royalists destroy our country. We should insist that Congress adopt the President's plan without delay. He is going all the way with us, and we should go all the way with him.

Employment Created by P. W. A. Construction

EXTENSION OF REMARKS
OF
HON. ALFRED F. BEITER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, April 26, 1937

Mr. BEITER. Mr. Speaker, construction of public works has been regarded for many years as one of the more prom-

ising means of relieving unemployment in periods of acute industrial depression. Public construction provides jobs when they are needed most and stimulates employment in the heavy industries by creating a demand for the raw materials used in construction. Moreover, with the purchasing power of the workers directly or indirectly employed maintained, the demand for the consumer goods is sustained and other parts of the industrial system are kept in motion.

The Federal Administration of Public Works ends June 30 of this year unless Congress takes appropriate action. Its life must be extended. In addition to the fallacy of ending Government aid now, many of the larger P. W. A. contracts cannot be completed by June 30, in which event untold complications will arise between contractors, political agencies, and the Federal Government.

Its present program should be continued inasmuch as its discontinuance would result in the loss of ground gained in the fight on the depression affecting the construction industry. Its discontinuance would result in unemployment of a large proportion of the workers in the building trades, as private work has not yet reached the point where it can absorb those workers in need of employment.

Considering the President's message with reference to the reorganization of governmental construction activities into a Federal Department of Public Works, I believe the general public applauds the proposal that the Public Works Administration should be combined with and become the nucleus of a new Federal Department of Public Works, and that provision should be made for a continuing transition from emergency conditions to a point where normal employment in the construction industry resumes its progress.

I believe that local, municipal, State, and other governing authorities should plan and prepare a reservoir of well-considered projects on which work can be undertaken as soon as the necessity arises and the funds necessary for their construction allotted.

It is my further belief that the construction of public works under a long-range plan should provide for the employment of any qualified persons in need of employment, and that the construction of public-works projects should not be for the exclusive benefits of recipients of public relief or those persons now carried on public-relief rolls.

Mr. Speaker, on April 12, 1937, I was given permission to insert into the RECORD a list of pending non-Federal projects approved by the examining divisions of the Federal Emergency Administration of Public Works for which bond elections have been held and carried as of April 1, 1937. Since that time more projects have returned from the various State directors. The information from which these lists were compiled is as of April 20, 1937, and is as follows:

ALABAMA

Docket no.		Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
Main	Sub.							
W1207	------	Lafayette	Water mains	5	----------	$25,364	$25,364	$56,364

ARKANSAS

W1072	------	Little Rock	Community B	6	$418,000	$342,000	$760,000	$760,000

CALIFORNIA

W1167	------	Huntington Beach	Pavilion	5	----------	$23,456	$23,456	$52,125

COLORADO

W1180	------	Grand Junction	Library	5	----------	$32,737	$32,737	$72,750

CONNECTICUT

W1019	------	Thomaston	High school	5	----------	$81,900	$81,900	$182,000
W1174	------	Oxford	Highway	5	----------	21,511	21,511	47,804
W1266	------	Stafford	School	5	----------	73,350	73,350	163,000
W1267	------	Hamden	Bridge	5	----------	21,060	21,060	46,800
W1274	------	Greenwich	Fire department	5	----------	119,250	119,250	265,000
W1278	------	----do	Incinerator	5	----------	72,192	72,192	160,427

FLORIDA

W1347	------	Fernandina	Paving	5	----------	$38,250	$38,250	$85,000

GEORGIA

W1306	------	Fort Valley	Street sewer	5	----------	$71,505	$71,505	$158,900
W1324	------	Menlo	Auditorium and gymnasium	5	----------	4,909	4,909	10,909
W1336	------	Cumming	Waterworks	5	----------	13,163	13,163	29,250
W1339	------	Bowdon	School	5	----------	8,100	8,100	18,000

ILLINOIS

W1130	------	Onarga	School addition	6	$20,000	$16,363	$36,363	$36,363
W1206	------	Roberts	----do	5	----------	21,272	21,272	47,272
W1248	------	Patterson	School	5	----------	11,454	11,454	25,454
W1525	------	Elgin	Gymnasium	5	----------	212,465	212,465	472,145
W1558	------	Avon	Waterworks	5	----------	20,454	20,454	45,454
W1560	------	Metamora	Gymnasium	5	----------	16,363	16,363	36,363
W1650	------	Brooklyn	Sanitary sewer	5	----------	23,727	23,727	52,727
W1670	------	Wythe Township	Highways	5	----------	22,073	22,073	49,050
W1708	------	Waterloo	School	5	----------	66,285	66,285	147,300
W1717	------	Valmeyer	----do	5	----------	32,727	32,727	72,727
W1768	------	Alpha	School addition	5	----------	6,136	6,136	13,636
W1799	------	New Windsor	School	5	----------	36,818	36,818	81,818
W1804	------	Stillmann Valley	High-school addition	5	----------	13,909	13,909	30,909
W1805	------	Dakota	School addition	5	----------	18,818	18,818	41,818
W1809	------	Rockford	School	5	----------	13,909	13,909	30,909
W1833	------	Edinburg	High school	5	----------	39,272	39,272	87,272
W1835	------	Meredosia	----do	5	----------	31,090	31,090	69,090

Docket no. Main	Sub.	Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
INDIANA								
W1060	------	Salem	Disposal plant	5	----------	$22,909	$22,909	$50,909
W1137	------	Francesville	Waterworks	6	$19,000	18,000	37,000	40,000
W1218	------	Batesville	Sanitary sewer	5	----------	75,415	75,415	167,590
W1323	------	Rossville	Waterworks	5	----------	16,364	16,364	36,364
IOWA								
W1330	------	Des Moines	Fire department	5	----------	$104,850	$104,850	$233,000
W1352	------	Millersburg	School	5	----------	15,300	15,300	34,000
W1369	------	Norway	Auditorium and gymnasium	5	----------	13,500	13,500	30,000
W1376	------	Ottumwa	County home	5	----------	50,850	50,850	113,000
W1400	------	Atalissa	School addition	5	----------	9,450	9,450	21,000
W1402	------	Belle Plaine	do	5	----------	29,250	29,250	65,000
KANSAS								
W1011	------	Junction City	Park development	5	----------	$19,995	$19,995	$44,434
W1019	------	McPherson	High-school addition	5	----------	138,000	138,000	306,667
W1256	------	Wichita	Schools	5	----------	139,633	139,633	310,296
W1257	------	Augusta	School	5	----------	56,250	56,250	125,000
W1270	------	Pittsburg	do	5	----------	40,500	40,500	90,000
W1271	------	do	do	5	----------	117,000	117,000	260,000
W1296	------	Seneca	Auditorium and gymnasium	5	----------	27,000	27,000	60,000
W1310	------	Marion	Municipal building	5	----------	18,000	18,000	40,000
W1313	------	Turner	School addition	5	----------	63,000	63,000	140,000
W1316	------	Glen Elder	School	5	----------	24,545	24,545	54,545
W1321	------	Ellsworth	Municipal building	5	----------	28,636	28,636	63,636
W1322	------	Oberlin	High school	5	----------	122,727	122,727	272,727
W1152	------	Topeka	School	5	----------	71,775	71,775	159,500
LOUISIANA								
W1033	------	Bonita	Buildings	5	----------	$32,727	$32,727	$72,727
W1042	------	Campti	Auditorium and gymnasium	5	----------	17,775	17,775	39,500
W1045	------	St. Gabriel	do	5	----------	9,352	9,352	20,783
W1047	------	Shady Grove	School	5	----------	45,187	45,187	100,416
W1056	------	White Castle	Auditorium and gymnasium	5	----------	20,250	20,250	45,000
MASSACHUSETTS								
W1377	------	South Hadley	Street improvements	5	----------	$9,328	$9,328	$20,730
W1380	------	Middleboro	School	5	----------	55,350	55,350	123,000
W1386	------	Waltham	School addition	5	----------	47,250	47,250	105,000
W1389	------	Melrose	Sanitary sewer	5	----------	91,350	91,350	203,000
W1390	------	Norton	School improvements	5	----------	4,500	4,500	10,000
W1395	------	Mendon	School addition	5	----------	27,000	27,000	60,000
MICHIGAN								
W1366	------	Vicksburg	School addition	6	$30,000	$28,607	$58,607	$63,570
W1410	------	Kalamazoo	do	5	----------	58,500	58,500	130,000
MINNESOTA								
W1336	------	Hibbing	Sanitary sewer	5	----------	$19,080	$19,080	$42,400
W1341	------	Farmington	School	5	----------	2,670	2,670	5,933
W1352	------	Stillwater	do	5	----------	203,985	203,985	453,300
MISSISSIPPI								
W1232	------	Cleveland	School addition	5	----------	$14,318	$14,318	$31,818
W1233	------	Carthage	School	5	----------	42,954	42,954	95,454
MISSOURI								
8481	------	Ash Grove	High school	2	$25,000	$20,454	$45,454	$45,454
W1004	------	St. Charles	High-school addition	5	----------	107,848	107,848	236,363
W1031	------	Archie	School addition	5	----------	18,040	18,040	40,051
W1100	------	Mound City	School	5	----------	16,363	16,363	36,363
W1213	------	Webb City	do	5	----------	14,580	14,580	32,400
W1287	------	Kansas City	High-school addition	5	----------	55,539	55,539	123,420
W1304	------	Stewartsville	School addition	5	----------	12,272	12,272	27,272
W1312	------	Union	Auditorium	5	----------	32,727	32,727	72,727
NEBRASKA								
W1241	------	Tamora	Auditorium	5	----------	$3,272	$3,272	$7,272
W1285	------	Polk	School auditorium	5	----------	12,150	12,150	27,000
W1297	------	Dwight	Waterworks	5	----------	11,686	11,686	25,969
W1301	------	Auburn	High school	5	----------	59,974	59,974	133,275
NEW MEXICO								
W1074	------	Artesia	School addition	6	$85,000	$69,545	$154,545	$154,545
OHIO								
W1440	------	Lucas	School addition	5	----------	$38,700	$38,700	$86,000
W1551	------	Bucyrus	Disposal plant	5	----------	63,080	63,080	140,180
W1572	------	McGuffey	High school	5	----------	69,545	69,545	154,545

Docket no.		Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
Main	Sub.							
OKLAHOMA								
W1118	------	Fairview	Highway improvement	5	----------	$99,000	$99,000	$220,000
W1182	------	Dewey	School addition	5	----------	11,045	11,045	24,545
W1203	------	Dale	School	5	----------	18,484	18,484	41,076
W1218	------	Fairview	Disposal plant	5	----------	3,320	3,320	7,378
W1229	------	Oklahoma City	School	5	----------	28,636	28,636	63,636
OREGON								
W1107	------	Toledo	Waterworks	5	----------	$58,092	$58,092	$129,092
W1182	------	Reedsport	School addition	5	----------	7,413	7,413	16,474
W1212	------	Klamath County	do	5	----------	54,000	54,000	120,000
PENNSYLVANIA								
W1583	------	Venango County	School	5	----------	$132,950	$132,950	$295,445
W1586	------	Girardville	High school	5	----------	84,097	84,097	186,882
W1630	------	Washington County	Schools	5	----------	104,935	104,935	233,190
RHODE ISLAND								
W1128	------	North Providence	High school	5	----------	$225,000	$225,000	$500,000
SOUTH CAROLINA								
W1224	------	Union	School	5	----------	$34,425	$34,425	$76,500
TENNESSEE								
W1205	------	Waynesboro	Waterworks	6	$22,000	$18,000	$40,000	$40,000
TEXAS								
W1173	------	Fort Worth	High school	5	----------	$96,750	$96,750	$215,000
W1708	------	Muleshoe	Gymnasium	5	----------	11,115	11,115	24,700
W1712	------	Freeport	Paving	6	$10,500	8,590	19,090	19,090
W1805	------	Waskom	Waterworks	5	----------	33,545	33,545	74,545
W1807	------	do	Sanitary Sewer	5	----------	18,000	18,000	40,000
W1857	------	Fort Worth	Viaduct	5	----------	29,454	29,454	65,454
W1903	------	Houston	Stadium	5	----------	24,300	24,300	54,000
W2006	------	do	University buildings	5	----------	125,370	125,370	278,600
W2026	------	Port Arthur	School	5	----------	265,050	265,050	589,000
W2055	------	Jewett	Waterworks improvement	6	4,500	3,681	8,181	8,181
UTAH								
W1123	------	Price	Municipal building	5	----------	$67,500	$67,500	$150,000
VERMONT								
W1048	------	Grafton	Highway bridge	5	----------	$11,864	$11,864	$26,364
W1050	------	Fair Haven	do	5	----------	4,500	4,500	10,000
WASHINGTON								
W1321	------	Oroville	School addition	5	----------	$20,250	$20,250	$45,000
W1389	------	Seattle	Street sewer	5	----------	225,000	225,000	500,000
W1400	------	Roy	School	5	----------	13,905	13,905	30,900
W1407	------	Sultan	School addition	5	----------	22,500	22,500	50,000
W1423	------	Mabton	High school	5	----------	23,535	23,535	52,300
W1432	------	Dupont	School addition	5	----------	40,500	40,500	90,000
W1435	------	South Bend	School	5	----------	22,500	22,500	50,000
W1441	------	Startup	Auditorium and gymnasium	5	----------	7,200	7,200	16,000
WISCONSIN								
W1074	------	Medford	City hall	5	----------	$24,107	$24,107	$53,574
W1192	------	Elkhart Lake	Municipal building	5	----------	9,000	9,000	20,000
W1270	------	Preble	Waterworks	5	----------	83,455	83,455	185,455
W1286	------	Stephenson	School addition	5	----------	14,850	14,850	33,000
W1364	------	Wauwatosa	do	5	----------	153,000	153,000	340,200
W1412	------	Sheboygan	School	5	----------	21,600	21,600	48,000
W1413	------	Wauwatosa	High school	5	----------	228,150	228,150	507,000
W1427	------	Waupaca	School	5	----------	39,960	39,960	88,800

Summary of list of all pending non-Federal projects (approved by examining divisions) for which elections have been held and carried, as of Apr. 20, 1937

State	Number of projects	Loan	Grant	Total allotment	Estimated cost
Alabama	6	$17,000	$132,489	$149,489	$294,420
Arizona	1		6,955	6,955	15,455
Arkansas	3	443,000	401,726	844,726	892,726
California	30	458,000	10,550,885	11,008,885	23,448,379
Colorado	5		207,827	207,827	461,840
Connecticut	6		389,263	389,263	865,031
Delaware	1		83,250	83,250	185,000
Florida	2		81,613	81,613	181,363
Georgia	23	58,000	410,747	468,747	912,767
Idaho	6		414,858	414,858	921,908
Illinois	35	20,000	1,371,603	1,391,603	3,048,025
Indiana	5	19,000	172,688	191,688	383,913
Iowa	16		563,927	563,927	1,254,670
Kansas	23		1,404,120	1,404,120	3,119,815
Kentucky	4	31,200	70,273	101,473	157,373
Louisiana	15	73,000	390,005	463,005	866,668
Maryland	1		45,000	45,000	100,000
Massachusetts	19		1,958,512	1,958,512	4,365,251
Michigan	15	203,000	591,381	794,381	1,313,903
Minnesota	28		1,812,746	1,812,746	4,028,318
Mississippi	6	6,500	118,325	124,825	262,880
Missouri	36	190,000	2,123,986	2,313,986	4,716,642
Montana	9	32,000	284,355	316,355	631,903
Nebraska	11		176,379	176,379	391,951
Nevada	1		45,000	45,000	100,000
New Jersey	4	$29,000	$259,363	$288,363	$576,363
New Mexico	3	116,000	140,359	256,359	311,909
New York	7		806,903	806,903	1,793,120
North Carolina	1	42,000	34,363	76,363	76,363
North Dakota	4		55,485	55,485	123,302
Ohio	32	233,000	4,086,773	4,319,773	9,776,825
Oklahoma	8		902,251	902,251	2,004,933
Oregon	15	39,500	346,345	385,845	769,658
Pennsylvania	16		1,302,778	1,302,778	2,895,065
Rhode Island	1		225,000	225,000	500,000
South Carolina	8	15,000	353,748	368,748	785,109
South Dakota	1	10,000	8,182	18,182	18,182
Tennessee	19	2,494,000	3,759,772	6,253,772	8,356,158
Texas	90	100,000	6,936,436	7,036,436	15,414,241
Utah	3		128,853	128,853	286,340
Vermont	2		16,364	16,364	36,364
Virginia	1		67,500	67,500	150,000
Washington	36		1,569,361	1,569,361	3,487,470
West Virginia	3		663,684	663,684	1,474,853
Wisconsin	33	16,000	2,066,556	2,082,556	4,592,550
Wyoming	2		69,544	69,544	154,544
Alaska	1		11,318	11,318	25,150
Total	597	4,645,200	47,618,851	52,264,051	106,528,700

List of all pending non-Federal projects (approved by Public Works Administration examining divisions) for which appropriations have been made by State legislatures as of Apr. 20, 1937

[NOTE.—"W" preceding docket number designates application received after Apr. 8, 1935]

ARIZONA

Docket no. Main	Docket no. Sub.	Location	Type of project	Key[1]	Loan	Grant	Total	Total estimated project costs
W1040	1	Phoenix	State building	5		$137,520	$137,520	$305,600

CONNECTICUT

W1190	.....	Bethlehem	Street	5		$56,545	$56,545	$125,657
W1205	.....	Ashford	Streets	5		45,059	45,059	100,133
W1215	.....	Manchester	do	5		69,324	69,324	154,054
W1223	.....	Norwich	Bridge	5		80,999	80,999	179,998
W1252	.....	Woodstock	Highway	5		21,201	21,201	47,115
W1272	.....	Bridgeport	Bridge repair	5		33,750	33,750	75,000
W1281	.....	do	Bridge	5		21,645	21,645	48,100
W1290	.....	Middletown	Street	5		36,018	36,018	80,040
W1291	.....	Portland	Paving	5		28,728	28,728	63,841
W1295	.....	Waterbury	Street improvement	5		75,116	75,116	166,924
W1298	.....	Chester	Highway	5		32,648	32,648	72,550
		State total				501,033	501,033	1,113,412

GEORGIA

W1108	2	Milledgeville	Gymnasium	5		$43,430	$43,430	$96,511
W1112	2	Atlanta	University building	5		52,585	52,585	116,865
W1116	2	Athens	do	5		85,084	85,084	189,075
W1345	.....	Milledgeville	Dormitory	5		44,550	44,550	99,000
W1353	.....	Athens	Building	5		52,920	52,920	117,600
		State total				278,569	278,569	619,051

IDAHO

W1147	.....	Boise	Sanitarium	5		$93,600	$93,600	$208,000

INDIANA

W1366	.....	Fort Wayne	Buildings	5		$126,000	$126,000	$280,000
W1368	.....	La Fayette	Dormitory	5		101,250	101,250	225,000
W1410	.....	Bloomington	Building	5		21,234	21,234	47,187
		State total				248,484	248,484	552,187

IOWA

W1237	.....	Iowa City	Athletic field	5		$22,950	$22,950	$51,000
W1296	.....	Cherokee	Boiler	5		42,750	42,750	95,000
W1297	.....	Clarinda	Dining hall	5		90,000	90,000	200,000
W1357	.....	Des Moines	Fair building	5		53,100	53,100	118,000
		State total				208,800	208,800	464,000

MAINE

W1025	.....	Washington County	Bridge	5		$81,000	$81,000	$180,000
W1045	.....	Kittery	do	5		55,152	55,152	122,560
W1046	.....	Rumford Point	do	5		54,450	54,450	121,000
W1063	.....	Augusta	Buildings	5		19,575	19,575	43,500
W1065	.....	Skowhegan	Heating plant	5		37,800	37,800	84,000
W1066	.....	Hallowell	do	5		30,960	30,960	68,800
W1069	.....	Fairfield	Building	5		29,700	29,700	66,000
W1070	.....	Augusta	State building	5		258,255	258,255	573,900
		State total				566,892	566,892	1,259,760

[1] Grant only: 30 percent, 1; 45 percent, 5. Loan and grant: 30 percent, 2; 45 percent, 6. Loan only: 30 percent, 3; 45 percent, 7.

List of all pending non-Federal projects (approved by Public Works Administration examining divisions) for which appropriations have been made by State legislatures as of April 20, 1937—Continued

MINNESOTA

Docket no. Main	Docket no. Sub.	Location	Type of project	Key	Loan	Grant	Total	Total estimated project costs
W1319	------	Minneapolis	Disposal plant	5	----------	$50,850	$50,850	$113,000

MISSISSIPPI

W1234	------	Stoneville	Buildings	5	----------	$38,700	$38,700	$86,000

MONTANA

W1125	------	Lewistown	Water main	6	$131,000	$107,182	$238,182	$238,182

NEW HAMPSHIRE

W1056	------	Manchester	Armory	5	----------	$199,539	$199,539	$443,420

NEW JERSEY

W1271	------	Morristown	Armory	5	----------	$135,000	$135,000	$300,000
W1279	------	Greystone Park	Hospital improvements	5	----------	380,250	380,250	845,000
W1280	------	Marlboro	Miscellaneous buildings	5	----------	364,500	364,500	810,000
W1301	------	State of New Jersey	Armory repairs	5	----------	213,750	213,750	475,000
		State total				1,093,500	1,093,500	2,430,000

NEW YORK

W1111	------	West Haverstraw	Hospital repair	5	----------	$69,545	$69,545	$154,545
W1402	------	New York City	Grade crossing	5	----------	961,200	961,200	2,136,000
		State total				1,030,745	1,030,745	2,290,545

NORTH CAROLINA

W1074	------	Chapel Hill	Cafeteria	5	----------	$97,989	$97,989	$217,754
W1274	------	Boone	Power, heating	5	----------	14,850	14,850	33,000
		State total				112,839	112,839	250,754

OHIO

W1390	------	Bowling Green	Swimming pool	5	----------	$112,500	$112,500	$250,000

RHODE ISLAND

W1134	------	Providence	Heating plant	5	----------	$26,550	$26,550	$59,000

SOUTH CAROLINA

W1211	------	Columbia	Hospital improvement	5	----------	$50,305	$50,305	$111,790

VERMONT

W1020	2	State of Vermont	Bridges	5	----------	$64,504	$64,504	$143,342
W1020	3	----do	----do	5	----------	54,574	54,574	121,275
W1020	4	----do	----do	5	----------	33,697	33,697	74,883
W1043	------	Franklin County	Highway	5	----------	92,045	92,045	204,545
W1044	------	Alburg	----do	5	----------	40,909	40,909	90,909
		State total				285,729	285,729	634,954

WASHINGTON

W1068	------	Clark County	Highway	5	----------	$20,300	$20,300	$45,111
W1070	------	----do	----do	5	----------	16,000	16,000	35,556
W1129	------	Bellingham	Paving	5	----------	12,600	12,600	28,000
W1186	------	Tacoma	----do	5	----------	24,620	24,620	54,710
W1196	------	Everett	----do	5	----------	30,500	30,500	67,778
W1220	------	Tacoma	Bridge	5	----------	171,000	171,000	380,000
W1269	------	Lincoln County	Highway	5	----------	87,533	87,533	194,517
W1271	------	Seattle	Street improvement	5	----------	103,500	103,500	230,000
W1273	------	----do	----do	5	----------	107,438	107,438	238,750
W1294	------	Yakima County	Highway	5	----------	38,828	38,828	86,285
W1295	------	----do	----do	5	----------	60,075	60,075	133,500
W1341	------	Skagit County	Highway improvement	5	----------	149,400	149,400	332,000
W1342	------	Pierce County	Paving	5	----------	25,053	25,053	55,673
W1375	------	Spokane County	Highway improvement	5	----------	48,300	48,300	107,333
W1382	------	Methow Valley	Surfacing	5	----------	95,427	95,427	212,060
W1396	------	Wahkiakum County	Highway bridge	5	----------	87,434	87,434	194,297
W1399	------	Whitman County	Highway improvement	5	----------	43,382	43,382	96,404
W1415	------	Grant County	Grading	5	----------	83,570	83,570	185,710
W1430	------	King County	Paving	5	----------	45,367	45,367	100,815
W1431	------	----do	Street improvement	5	----------	52,816	52,816	117,368
W1436	------	----do	Highway	5	----------	13,050	13,050	29,000
W1463	------	Klickitat County	Highway improvement	5	----------	19,530	19,530	43,400
W1475	------	Fort Steilacoon	Hospital addition	5	----------	79,920	79,920	177,600
		State total				1,415,643	1,415,643	3,145,857

WEST VIRGINIA

W1126	------	Beckley	Sanitarium	5	----------	$180,000	$180,000	$400,000

Summary of list of all pending non-Federal projects (approved by Public Works Administration examining divisions) for which appropriations have been made by State legislatures as of Apr. 20, 1937

State	Number of projects	Loan	Grant	Total allotment	Estimated cost
Alabama					
Arizona	1		$137,520	$137,520	$305,600
Arkansas					
California					
Colorado					
Connecticut	11		501,033	501,033	1,113,412
Delaware					
Florida					
Georgia	5		278,569	278,569	619,051
Idaho	1		93,600	93,600	208,000
Illinois					
Indiana	3		248,484	248,484	552,187
Iowa	4		208,800	208,800	464,000
Kansas					
Kentucky					
Louisiana					
Maine	8		566,892	566,892	1,259,760
Maryland					
Massachusetts					
Michigan					
Minnesota	1		50,850	50,850	113,000
Mississippi	1		38,700	38,700	86,000
Missouri					
Montana	1	$131,000	107,182	238,182	238,182
Nebraska					
Nevada					
New Hampshire	1		199,539	199,539	443,420
New Jersey	4		1,093,500	1,093,500	2,430,000
New Mexico					
New York	2		1,030,745	1,030,745	2,290,545
North Carolina	2		112,839	112,839	250,754
North Dakota					
Ohio	1		112,500	112,500	250,000
Oklahoma					
Oregon					
Pennsylvania					
Rhode Island	1		26,550	26,550	59,000
South Carolina	1		50,305	50,305	111,790
South Dakota					
Tennessee					
Texas					
Utah					
Vermont	5		285,729	285,729	634,954
Virginia					
Washington	23		1,415,643	1,415,643	3,145,867
West Virginia	1		180,000	180,000	400,000
Wisconsin					
Wyoming					
District of Columbia					
Alaska					
Hawaii					
Puerto Rico					
Total	77	$131,000	6,738,980	6,869,980	14,975,522

The Supreme Court

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 23, 1937

ADDRESS OF THE HONORABLE O. H. CROSS, FORMER MEMBER OF CONGRESS, BEFORE THE BAR ASSOCIATION OF WACO, TEX.

Mr. MAVERICK. Mr. Speaker, under unanimous consent to revise and extend my remarks I offer a speech delivered by the Honorable O. H. Cross before the Bar Association of Waco, Tex., on the subject of the powers of the Supreme Court. Mr. Cross, who is known to practically all Members of the Seventy-fifth Congress, is one of the finest students of the Constitution and its history in the United States. He has spent many years studying the debates at the Constitutional Convention and Madison's Journal. His speech is as follows:

My countrymen, shall we have legislative supremacy as vouched for in the Constitution, by the people's chosen representatives, which means democracy, or shall we have judicial supremacy, by lifetime judges, through judicial nullification, contrary to the Constitution, which means an aristocratic oligarchy and which in turn means, on some not distant tomorrow, revolution?

Before replying to those who assert that though the Supreme Court has no power delegated to it in the Constitution to nullify acts of Congress, that it nevertheless has such power as a matter of implication, let us contrast for a moment conditions as they existed when the constitutional fathers met in the then little city of Philadelphia on the 2d day of May 1787 with those existing today.

PRIME REASON OF REVOLUTION—NEGATION OF LAWS

Lying to the north and south of them along the Atlantic coast the Thirteen Original States, with a population of some 3,000,000 souls, were still in their swaddling clothes, having recently thrown off their allegiance to their mother country, and stating in the Declaration of Independence as one of their prime reasons for doing so was that "he (the king) has refused his assent to laws, the most wholesome and necessary", and "he has abolished (nullified) our most valuable laws."

There were a number of straggling villages here and there, widely separated, and in the vicinity surrounding each were to be seen clearings with their log cabins. What transportation there was was carried on by means of wagons drawn by horses and oxen over all but impassable roads blazed through the woods. There was but little traffic across State lines and most men lived and died without leaving the communities in which they were born. While not many miles to the west of them stretched a vast unexplored forest where no human voice was heard save that of the war whoop of the Indian.

ERA OF "RUGGED INDIVIDUALISM"

Into the harbors of the more pretentious towns along the coast, now and then some sail boat from across the Atlantic would find its way with its cargo of manufactured products to carry back such furs, hides, and other raw products as these infant States had to sell. No steam-propelled vessel had as yet plowed the waves. No genius had yet devised the iron horse that was to travel with the speed of the wind on steel rails and to annihilate time and space and revolutionize traffic. It was the era of rugged individualism.

Corporations were practically unknown and it was to be more than a hundred years, and then after the Supreme Court had assassinated "the general-welfare clause" of the Constitution, the keystone of democracy, before that monopolistic monster, "the holding company", was to make its advent and by means of which a few men were to manipulate far-flung public-service corporations, oppressing the people and harvesting unto themselves the wealth of the Nation.

STUPENDOUS CHANGES SINCE 1787

Since that day in May 1787 time has wrought stupendous changes. Our continental possessions have been more than trebled, and in the place of 3,000,000 souls there are 130,000,000.

But the framers of the Constitution were men of vision and realized that great changes would inevitably take place. And so in this instrument of fundamental principles that was to be used as a chart for all time by the people and their chosen representatives, their President and Congress, they wisely provided for such changes. In it they specifically enumerated certain fundamental democratic axioms which should be inviolate.

Then they specifically designated certain subjects about which it was evident, regardless of changing conditions, they should legislate. And then in order to take care of future conditions impossible to be foreseen they added the "general-welfare clause" empowering Congress to "enact all laws for the general welfare of the United States." That is, laws which are in the opinion of Congress "for the general welfare."

SUPREME COURT USURPS AUTHORITY AND VIOLATES CONSTITUTION

I made a speech in Congress on the 28th of January last year in which I charged that the Supreme Court usurped authority and violated the Constitution in nullifying acts of Congress and challenged their defenders to point to anything in the Constitution delegating to the Court any such power. They met the challenge by admitting that there is no such power delegated in the Constitution but that the Court possessed the power from "implication." In one breath they contend that the Federal Government, consisting of an executive, legislative, and judiciary, is one of expressly delegated powers, and then in the next breath they assert that the Supreme Court gets its power to nullify acts of Congress not from any expressed power but as a matter of "implication." What do you think of that for consistency and logic?

"CHECKS AND BALANCES"—WHAT DOES THAT MEAN?

But they say our Government is one of "checks and balances" and therefore the constitutional fathers intended that the Supreme Court should nullify any law enacted by Congress which, in the opinion of the Court, does not harmonize with the Constitution. It is the result of the frequent use of the expression "that our Government is one of checks and balances" that has caused so many lawyers, as well as others to conclude, without investigating, that it was intended by the founding fathers that the Court should have such power. However, if they would inform themselves by reading the constitutional debates, as reported by Messrs. Pierce, Madison, Yates, and King, they would find the facts to be just the reverse.

At the time of and for several years prior to the convening of the Constitutional Convention the country, under what was known as the Articles of Confederation, was administered by a unicameral Legislature or Congress without a Senate and any Executive head.

The mother country had a bicameral legislature, Parliament, and which was referred to by Blackstone and other law writers as being a government of "checks and balances", the House of Lords being a check on the House of Commons, and vice versa. Blackstone in his Commentaries, which was often quoted in the debates, says that to permit the judiciary to nullify the laws passed by the legislative branch would be subversive of all government.

This erroneous "implication theory", which is based on the phrase "checks and balances", and from which it is assumed that the Court was to act as a check on the Congress by nullifying acts passed by it, is zealously insisted on by those ignorant of the fact that this phrase in the constitutional debates was always used in advocating a legislature to consist of two branches, a house and a senate, acting as checks and balances on one another. To make this clear I here quote from the debates the remarks of every delegate in which he referred to "checks" or "checks and balances."

THE CONSTITUTIONAL CONVENTION—WHAT THE FOUNDING FATHERS SAID

Governor Randolph, of Virginia: "He thought it would be impossible for the State legislatures to appoint the Senators because it would not produce the check intended. The first branch of the Federal Legislature should have the appointment of the Senators, and then the check would be complete. There will also be a check in the revisionary power of the Executive."

Mr. Williamson, of North Carolina: "Preferred a small number of Senators. * * * He suggested 25 as a convenient number. The different modes of representation in the different branches will serve as a mutual check."

Mr. Patterson, of New Jersey: "It is urged that two branches in the legislature are necessary. Why? For the purpose of a check. * * * Do the people complain of Congress? No; what they wish is that Congress may have more power."

Mr. Wilson, of Pennsylvania: "If the legislative authority be not restrained, there can be neither liberty nor stability; and it can only be restrained by dividing it within itself into distinct and independent branches. In a single House there is no check but the inadequate one of the virtue and good sense of those who compose it."

READ WHAT ALEXANDER HAMILTON SAID

Mr. Hamilton, of New York: "He had no scruple in declaring, supported as he was by the opinion of so many of the wise and good, that the British Government was the best in the world, and that he doubted much whether anything short of it would do in America. His plan consisted of two branches and he would give them unlimited power of passing all laws * * * subject to the Presidential veto. * * * The three great objects of government are agriculture, commerce, and revenue, and they can only be secured by the General Government."

Permit me here to suggest how ultra different from this Hamiltonian view of agriculture is that of a majority of the Supreme Court as enunciated in the Triple A decision.

Mr. Bedford, of Delaware: "Was opposed to giving the President a veto. He thought the Representatives of the people were the best judges of what was for their interest and ought to be under no external control whatever. The two branches would produce a sufficient control within the Legislature itself."

Mr. Gouverneur Morris, of Pennsylvania: "It is confessed on all hands that the second branch ought to be a check on the first, for without its having this effect it is perfectly useless. The first branch can only be checked by ability and virtue in the second branch. * * * History proves that the men of large property will uniformly endeavor to establish tyranny. Give them the second branch * * * and this lust of power will ever be checked by the democratic branch, and thus form a stability in your government."

Judge Ellsworth, of Connecticut: "Is it not the case in the British Constitution, the wisdom of which so many gentlemen have united in applauding? Have not the few, the House of Lords, a check upon the many, the House of Commons, and one upon both."

Mr. Dickinson, of Delaware: "Was of the opinion that the mode by him proposed, like the British Houses of Lords and Commons, whose powers flow from different sources, are mutual checks on each other and will thus promote the real happiness and security of the country."

CHECKS AND BALANCES DID NOT CONCERN COURT

Mr. Wilson, of Pennsylvania: "May there not be legislative despotism if in the exercise of their power they are unchecked or unrestrained by another branch."

Mr. Martin, of Maryland: "If gentlemen conceive that the legislative branch is dangerous, divide it into two."

Mr. King, of Massachusetts: "The Congress must be divided into two branches, by this means it may be balanced, which is impracticable with one body."

Mr. Patterson, of New Jersey: "There is no check in a single branch. There should be distinct and independent branches, reciprocal control."

Mr. Madison, of Virginia: "We are now forming a body (the Senate) on whose wisdom we mean to rely. * * * Landholders ought to have a share in the Government to support these invaluable interests and to balance and check the other branch."

And thus as a fog vanishes before the light of the sun, so in the light of the constitutional debates vanishes their "implication theory of nullification." Why, sirs, when a resolve was offered in the Convention to permit the Court or a part of it to act with the President in a revisionary capacity in exercising the veto, even that mild resolve was voted down about 4 to 1. And when a delegate had the temerity to suggest that the Court be given the power to hold an act of Congress unconstitutional, there was such a storm of protest that no one dared even offer a resolve to that effect. I quote from the debates some of the remarks called forth by that suggestion:

Benjamin Franklin, of Pennsylvania: "That it would be improper to put it in the power of any man to negative a law passed by Congress."

Mr. Gerry, of Massachusetts: "It would be making statesmen of judges and setting them up as the guardians of the rights of the people. He relied for his part on the representatives of the people as the guardian of their rights and interest. It would be making the expositors of the laws the legislators, which ought never to be done."

Mr. Mercer, of Maryland: "He disapproved of the doctrine that the judges as the expositors of the Constitution should have authority to declare a law void. He thought laws ought to be well and cautiously made, and then to be uncontrollable."

Mr. Dickinson, of Delaware: "Was strongly impressed with the remark of Mr. Mercer as to giving power to the judges to set aside a law. He thought no such power ought to exist. The judiciary of Aragon, he observed, became by degrees the lawgiver."

Mr. Sherman, of Connecticut: "He disapproved of judges meddling in politics and parties. We have gone far enough in forming the negative (giving the President a veto) as it now stands."

Mr. Charles Pinckney, of South Carolina, suggested: "That powers be vested in the Congress to negative all laws passed by the several States interfering in the opinion of Congress with the general interest and harmony of the Union." Mark you, not in the opinion of the Court but in the opinion of the Congress.

In reply to this suggestion, Mr. Sherman, of Connecticut, states: "That he thought it unnecessary, the laws of the General Government being supreme and paramount to the State laws according to the plan as it now stands."

MEN FROZEN IN OFFICE FOR LIFE

Again the wisdom of the founding fathers was shown in selecting a tribune in which all impeachments were to be tried. Realizing that men frozen in office for life, unaccountable to the people for their conduct and place, would be more inclined to be actuated in their decisions by partisanism and prejudice than would men who are at short intervals accountable to the people for their conduct and place, they selected the Senate in preference to the Supreme Court. Gouverneur Morris declaring: "That no other tribune than the Senate could be trusted. The Supreme Court was too few in number and might be warped and corrupted."

How plainer could it be made that the Supreme Court was to have no power as a matter of implication or otherwise to nullify acts of Congress.

NULLIFICATION BY "IMPLICATION"

No, my countrymen, there is nothing to base this "implication theory" on. Nor did the original advocates of nullification contend that it was based on "implication." But when its outstanding champion, a Federalist Senator, was challenged in debate by Senator Breckenridge, of Kentucky, to point to any such delegated power to the Court in the Constitution, he frankly admitted that there was none and then boldly asserted that the "Court derived that power from authority higher than the Constitution." And so, in trying to justify his position, he was forced to claim for the Court that ancient doctrine, the divine right of kings. But they can neither lay it on God nor "implication", for the indisputable facts show that the plan was adroitly laid for the usurpation by the Court of this nullification power when the Federalist President, Adams, having been defeated by Jefferson, the Democrat, in the dying days of his administration rushed through his lame-duck Congress the midnight judges bill and persuaded the then ailing Chief Justice to resign to be succeeded by his young and vigorous aristocratic Federalist Secretary of State, John Marshall. And then the coup d'état was accomplished when this new midnight Jefferson-hating Chief Justice repudiating his 1796 opinion in *Ware* v. *Hylton* handed down his ex parte Marbury decision to be used as a precedent for declaring acts of Congress unconstitutional and in that way foster and protect the aristocratic wealthy class from any legislation that they feared might be enacted by the Jeffersonian democratic administration.

FOUNDING FATHERS ENTRUSTED CONSTITUTION TO REPRESENTATIVES OF PEOPLE

Does not our history prove, with that proof accentuated by the recent past, that our founding fathers acted wisely in entrusting the Constitution and its construction (as their mother country did and does its constitution and its construction to the Parliament) to the chosen representatives of the people, their Congress, and President, who coming from every part of the Nation are familiar with conditions and the needs of their constituents, and who, at short intervals, are answerable to the people for the laws they enact, so that if they enact unwise laws or laws violative of the fundamental democratic axioms specifically enumerated in the Constitution, they can and will promptly replace them.

But the defenders of the Court contend that these nine men composing the Supreme Court should continue to exercise usurped authority in violation of the Constitution, as a matter of custom, and to nullify any and all laws that do not harmonize with their construction and interpolations of the Constitution. In other words, as the present Chief Justice Hughes once said, "We have a Constitution, but it is what the judges say it is." That is, it is an instrument to be made to mean anything that the Court by interpretation or interpolation may see fit to make it mean—and this Court not selected by the people nor accountable to them and secure in their jobs for life.

PRESENT PERSONNEL OF THE SUPREME COURT

Let us see how the present personnel of this Court, deciding on what economic and social laws the people shall live under, obtained their places. We know that the political party in power that appointed them did so as a reward for their political partisanship and the funds contributed by their corporate clientele for campaign purposes.

Then we also know that one's economic and political views are largely the result of environment and association. We know, too, that practically all the members of this Court, present and past, have as their attorneys been the brains of the major corporate and monopolistic interests of the country. With their views and opinions formed and molded in such an atmosphere, is it difficult to conceive how a majority of these nine judges would construe the Constitution when passing on economic and social legislation enacted in the interest of the people, which of necessity conflicts with the interest of their old clients. In England no court dare nullify an act of Parliament as unconstitutional because in its opinion such act is not in harmony with the English Magna Carta or the English Bill of Rights. They function as courts should, confining themselves to adjudicating the rights of litigants as they find them to be under the laws, leaving to statesmen, the representatives of the people, to say what laws, in their opinion, shall be enacted and, in their opinion, not violative of the constitution. As a result of the English courts not meddling in governmental policies, they stay clear of partisan criticism and consequently have and hold the confidence and esteem of all classes.

If Congress cannot be induced under section 2 of article III to take from the Court this embezzled power and restore to the people their democratic form of government as provided in the Constitution, would it not be better to have a Court, stacked if you please, by a President who is trying so zealously to get a square deal for all the people by economic and social legislation, rather than have it stacked as it is and has been for years in the interest of organized greed?

EIGHT LONG, BLOODY YEARS

For eight long, bloody years our ancestors fought, as they declared in the Declaration of Independence, because a Tory king "nullified their most valuable laws." Will their descendants do less if their "most valuable laws" continue to be abolished by a reactionary Tory Court enthroned in a marble palace in Washington?

In their Triple A decision the Court says that while Congress can legislate for what in its opinion is for the general welfare, but if in the opinion of the Court it is not for the general welfare, then it is the duty of the Court to nullify the act. And since in the opinion of the Court agriculture does not affect the general welfare, but is only a local matter, they nullified the law. And this in spite of the Constitution that Congress shall enact all laws for "the general welfare." In whose opinion? Of course, in the opinion of Congress. In this decision they not only violated the Constitution but show intense ignorance in holding agriculture did not affect the "general welfare" and therefore was only a local matter.

How different from the opinion of Alexander Hamilton as expressed during the constitutional debates when he said, "The three great objects of government are agriculture, commerce, and revenue, and they can only be secured by the General Government." Under the welfare clause it was the purpose to give to Congress broad powers for the reason explained by Mr. Madison: "I would always exclude inconsistent principles in framing a system of government. The difficulty of getting its defects amended are great and sometimes insurmountable. The Virginia State was the first which was made, and though its defects are evident to every person, we cannot get it amended. The defects of the Amphictyonic League were acknowledged but were never reformed. The Netherlands have four times attempted to make amendments in their confederation, but have failed in each attempt. The fear of innovation, the hue and cry in favor of liberty of the people will, as they have done, prevent the necessary reforms."

THE WEEPING OF MODERN REACTIONARIES

That explains why the reactionaries are crying, "submit a constitutional amendment." Today as Congress, fearful of the influence of wealth-inspired propaganda, hesitates to act, I am again constrained to quote Gouverneur Morris, of Pennsylvania, as reported in the constitutional debates and it now looks as though he spoke with prophetic vision when he said: "It is necessary then that the executive magistrate should be the guardian of the people, even of the lower classes * * *. Wealth tends to corrupt the mind and to nourish its love of power and to stimulate it to oppression. History proves this to be the spirit of the opulent. * * * The executive, therefore, ought to be so constituted as to be the great protector of the mass of the people."

Let all who stand for democracy and progress rally around the Roosevelt banner upon which is emblazoned economic and social justice. Let those who stand for economic piracy and special privilege rally around the black flag of the Liberty League and its mercenary allies. Who can spend a fortnight in Washington without sensing the Liberty League hate and prejudice constantly oozing from a majority of the Court for Roosevelt and the Democratic administration.

Embittered by their sacrosanct halos being imperiled as a result of "abolishing our most wholesome and necessary laws for the public good", and feeling secure in the thought that there were enough of their reactionary worshippers on the Judiciary Committees in the House and the Senate to smother any bill that might be introduced under section 2, article III, of the Constitution to stay them in their ruthless nullification policies, and fearing to further arouse public resentment by assassinating additional "wholesome and necessary laws for the public good" while Roosevelt remained in the White House, it became patent to the dumbest that they had determined to convert their $12,000,000 marble palace into a "bleak house of the law's delay." But they overlooked the fact that there was another Jackson in the White House, and his wise and timely message calling upon Congress to enlarge the Court unless the judges passed 70 years of age see fit to retire fell like a thunderbolt, turning them pale with rage and sending a shiver through every monopolistic maw, while causing bitter curses to fall from the lips of their hirelings.

But let the President beware lest his appointees in their yearning for power, when they ascend the judicial throne in their robes of black, do not also raise the black flag of nullification against all major economic and social legislation. But if they would immortalize themselves and restore to the people their Constitution and democratic form of government, let them hand down a ringing decision repudiating the Court's usurped power of nullification of congressional laws and hereafter confine itself to its judicial duties. And may Congress be not deceived by the wails of that part of the press that is always to be found truckling in the wake of organized greed, which never ceases to struggle in devious ways to destroy, through Court nullification, every law enacted for the economic and social betterment of the people. Nor yet by resolutions of some legislature, here and there, which may be under the spell of monopolistic influence.

Neither by those of a few uninformed lawyers who may be corraled into a courtroom by the attorneys of public-service corporations and then air mailing them to Members of Congress, labeled so as to give the impression of being the unanimous action of this or that bar. Then remember, too, how the great majority of the lawyers joined with the so-called aristocrats to fight and condemn as would-be dictators Jefferson, Lincoln, and Theodore Roosevelt for every reform they attempted in the interest of the people. So let those who believe in democracy and the rule of the people stand with the President in this great reform and let those who believe in nullification and a judicial oligarchy vote with Vermont and Maine. There is no halfway ground, no twilight zone in which to duck and dodge and take refuge.

The heart of the Nation is troubled because of the "abolition of its most valuable laws." The people expect their Representatives in Congress to aid their great President in proclaiming anew the Declaration of Independence and restoring to them their Constitution and democratic form of government.

Great Floods

EXTENSION OF REMARKS

OF

HON. WILL M. WHITTINGTON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 26, 1937

ADDRESS OF HON. WILL M. WHITTINGTON, OF MISSISSIPPI, BEFORE THE NATIONAL RIVERS AND HARBORS CONGRESS ON APRIL 26, 1937

Mr. WHITTINGTON. Mr. Speaker, under the leave granted me to extend my remarks in the RECORD, I include the following address which I delivered on Monday, April 26, 1937, in Washington, D. C., at the Thirty-second Annual Convention of the National Rivers and Harbors Congress, to wit:

After great floods come the deluge of plans and schemes to end floods. This was apparent following the Mississippi flood of 1927. History repeats itself. Following the Ohio-Mississippi flood of 1937 the entire range of the phantastic have been covered.

The schemes come most often from those far removed from the Ohio and Mississippi Rivers; they come from the coasts, from the Lakes, and from the interior. The paving of the channel of the Mississippi River from St. Paul to the Gulf of Mexico has been recommended. Another scheme was to tap the Missouri River by a new river southward. A plan for a canal from the Ohio above

Cairo straight to Mobile Bay has been advanced. A scheme is advocated for the construction of gigantic boilers to convert floodwaters into steam and vapor.

Major floods always bring forth a new brood of half-baked solutions of the problem of flood control. Not only are novel and fantastic schemes advanced, but new and untried agencies are proposed to plan and to execute programs for the great rivers and valleys.

Many maintained after the Mississippi flood of 1927 that 20,000,000 acres of alluvial lands must be abandoned to the river, which could not be controlled. An eminent engineer said:

"No similar problem of similar size has ever been mastered by man."

So-called scientists and professors in universities, after the flood of 1937, advocated that man should retire from the valleys to the hills and surrender to the jungle.

Again, selfish interests with proposals that are unworthy and unsound, with projects that are unable to stand on their merits, insist that they advance the only solution. Designing agencies, under the guise of need for further thinking and investigations, but in reality to perpetuate bureaucracy, advocate delay.

All of the visionary schemes have one thing in common—they show that the authors lack an utter comprehension of the real problem, which is to carry two and a quarter million cubic feet per second, representing more than 20 times all of the water flowing over Niagara Falls, from Cairo to the Gulf of Mexico.

The Corps of Engineers proposed the only comprehensive plan to prevent a recurrence of the 1927 Mississippi flood. It was not perfect, but it was fundamentally sound and capable of enlargement. All of the works authorized and constructed will be utilized in subsequent programs for the expansion of the act of 1928.

The New Madrid floodway saved Cairo in 1937. Many towns and millions of acres in the lower Mississippi Valley have been saved from the floodwaters which caused direct losses of hundreds of millions of dollars and indirect losses of hundreds of millions more in the unprotected Ohio Valley. The Bonne Carre spillway made New Orleans safe. "The great Father of Waters has at last found its master."

The Corps of Engineers have reported a program for flood control in the Ohio Valley. Emergency works are given prior consideration. Portsmouth, Paducah, and Louisville were the greatest sufferers from the 1937 Ohio flood, because in these cities the largest populations were subjected to floods. Many other cities, towns, and communities were wrecked. The conscience of the Nation was aroused, and the people of the Ohio Valley are demanding that the Corps of Engineers be authorized to give to their cities and to their lands protection comparable to that accorded to New Orleans and the lower Mississippi Valley.

The report of the Chief of Engineers was promptly prepared, in response to the resolution of the Committee on Flood Control of the House of Representatives; it was forwarded to the President of the United States for transmission to Congress or for the consideration of the committee. The committee is ready to recommend the enactment of legislation to prevent a recurrence of 1937 and previous record floods.

The President of the United States has taken the lead in providing generously for flood-stricken areas, and he is expected to recommend the prompt construction of prior and emergency projects and a long-range program for flood control in all parts of the United States in transmitting the report of the Chief of Engineers to the Flood Control Committee.

NO SINGLE REMEDY

Flood-control improvements must not be confused with conservation works. Levees and reservoirs are for flood purposes. The growing of grasses and trees and soil-erosion prevention will retard floods; each has its own proper place. Careful planning is needed and proper land uses should be practiced.

Flood control does not mean levees alone, or channel improvement alone. Projects often involve both. Reservoirs are often accompanied by both levees and channel control. While detention reservoirs are the outstanding features of the Miami Conservancy project in the Dayton, Ohio, area, yet a considerable part of the project is composed of levees and channel improvement.

Enthusiastic advocates of power development insist that all dams should provide for the generation of hydroelectric power. Arthur E. Morgan, chairman of the Tennessee Valley Authority, and author of the Miami Conservancy project, recently said:

"There is a popular overexpectation as to the possibilities of power development associated with flood control in the eastern United States. Few eastern rivers are so favorable in that respect as the Tennessee and the possibilities of that river system fall far short of those on the Pacific coast. Moreover, flood control and power in some cases are mutually exclusive."

Again, in the same article, in the Engineering News Record of March 18, 1937, Mr. Morgan stated:

"In my opinion there has recently been exaggeration of the possibilities of flood control by soil management, forestry, and the construction of reservoirs on very small headwater streams."

There is no single remedy; all possible solutions must be explored; power, navigation, water storage, and conservation have their places; soil protection and reforestation must not be ignored.

STUDIES AND INVESTIGATIONS

The rivers and harbors of the United States have been improved by the Corps of Engineers for navigation for 130 years; they have had more experience in flood-control work than any other engineers in the United States or in any other country. The first comprehensive survey of a river in this country was the survey of the Mississippi by Captain Humphreys and Lieutenant Abbott, which was completed in 1861. Their report dealt largely with flood-control problems and contributed to the development of flood-control engineering.

The Mississippi River was first improved for navigation. The first flood-control appropriations in 1881 for flood control were incidental to navigation, but flood-control works for more than 50 years on the Mississippi River have been carried on by the Corps of Engineers; they constructed the flood-control works along the Sacramento River, they have constructed projects in Alaska, reservoirs in Vermont, on the Tygart in West Virginia, and 14 reservoirs in the Muskingum Valley. The Fort Peck Reservoir is being constructed by the Corps of Engineers; the Panama Canal was finally completed by them.

Basic data and thorough studies and investigations are necessary. In 1927 and again in 1928 Congress made provision for thorough investigations. In the past 9 years the Corps of Engineers have made the most comprehensive survey of the water resources of the country ever undertaken. At a cost of $12,000,000 more than 200 streams were investigated for flood control, navigation, and power. The reports, known as 308 reports, contain a mass of invaluable information; they are available to Congress and to the country.

The Corps of Engineers were thus prepared to recommend projects to prevent a recurrence of floods along the Connecticut, the Merrimac, the Susquehanna, the Allegheny, and the Monongahela Rivers after the floods of 1935 and 1936.

Flood control had been declared to be a national problem in the Flood Control Act of 1928, and after careful studies and thorough planning a national flood-control act, with a declared national flood-control policy, embracing 270 projects, in some 31 States and affecting nearly every State in the Union, with an authorization of $300,000,000, was passed in 1936.

As the act of May 15, 1928, was progressive when it provided for the inland waterways experimental laboratory, long advocated by the eminent civilian engineer, John R. Freeman, so the Flood Control Act of 1936 provided for surveys and investigations for some 238 streams, with authority for the formulation of plans for flood control, and it also provided for studies and surveys of watersheds, measures for run-off, water-flow retardation, and soil-erosion prevention by the Department of Agriculture. Reservoirs for the protection of populous centers in New England, in southern New York, and along the tributaries of the Allegheny and Monongahela Rivers were authorized. The flood-control projects were planned and are to be executed by the Corps of Engineers.

There is no conflict between flood-control works by the War Department and soil-erosion prevention and reforestation by the Department of Agriculture. The works are integrated and coordinated; all factors that enter into the solution of the problem of flood control are given their place in the picture. The program is capable of expansion. All additional planning along the headwaters and tributaries may be done by the Soil Conservation Service and by the Forest Service under the supervision of the Secretary of Agriculture. There is no occasion for any additional planning or advisory agency. Existing agencies may be enlarged, otherwise inefficiency and duplication would result.

CORPS OF ENGINEERS FOR RESERVOIRS

It has been erroneously said that the Corps of Engineers oppose reservoirs for flood control; antagonistic interests have repeated the statements. Reservoirs have not been opposed but they have been given their rightful place; they have been recommended where they would promote flood control; they have not been recommended when they would not afford protection. The first dams for flood control on a large scale were constructed in the Dayton area following the 1913 flood. The dams did not provide for power; there was no provision for reforestation or soil-erosion prevention. The project was primarily to control great floods.

Some 14 reservoirs are now being constructed in the Muskingum Valley by the Corps of Engineers. Conservation is provided for; the dams are the most adequate and complete ever constructed for flood control.

Similar dams were recommended by the Corps of Engineers, and they are embraced in the Flood Control Act of 1936. The engineers have been criticized for not recommending the building of dams where dams could not be substituted for leeves. The Corps of Engineers give the facts; their conclusions are supported by their arguments, and generally their conclusions are unanswerable.

The Corps of Engineers, I repeat, advocate reservoirs, and as the policy of national flood control expands and enlarges they will continue to propose reservoirs. It is to the credit of the engineers that they recommended for inclusion in the Flood Control Act of 1936 only projects where the benefits exceeded the costs, in compliance with the declared policy of the act.

It is apparent, especially where two or more States are involved and where the local interests are already paying for protection they do not receive, that the local contribution for reservoir construction required by the act of 1936 must be liberalized, otherwise many of the reservoirs provided by that act, especially where the benefits will accrue to areas far removed from the dams, will never be constructed.

The Army engineers have also been criticized because they have not recommended in all cases the construction of dams for both flood control and power. Again they have given the facts. An empty reservoir is essential for flood control; a full reservoir is necessary for a constant head for the development of power. The

Army engineers report the truth. Where power can be developed they recommend that provision be made for power. Probably the outstanding power development of recent years is the Bonneville Dam on the Columbia River, constructed by the Corps of Engineers.

MISTAKES IN PLANNING AND ENGINEERING

Mistakes have been made in industrial and in city planning. Cities have been built and industrial plants have been constructed along rivers without regard to flood conditions. Cities have built river walls when they were known to be inadequate. The river wall at Portsmouth, Ohio, was constructed by the local interests to a gage of 62 feet. This was lower than the high water of 1913, which was 67.9 feet, although the Army engineers predicted a much higher flood than that of 1913. The predicted flood came in 1937 with a gage of 74.2 feet, and the river wall was overtopped with great losses and destruction.

Waterworks, power stations, and gas plants have been located where they are subject to overflows; they are among the first to go under and go out. Untold suffering resulted to the city of Louisville, as well as other communities, because of the mistakes of civilian engineers in planning and locating the plants that are essential to the very existence of the people and of the city. Local interests must cooperate in planning.

LESSONS FROM THE OHIO RIVER FLOOD

Great floods are generally caused by excessive rains over approximately 25 percent of the watershed of the larger rivers. If all of the reservoirs in the act of 1936 along the tributaries of the Ohio River had been constructed and in operation, the flood of 1937 would not have been prevented. Flood losses would have been reduced. The Corps of Engineers advised, in addition to the reservoirs in the act of 1936, that river walls were necessary to protect the Golden Triangle of the city of Pittsburgh. The excessive rains fell below the dams and dam sites in the Ohio Valley; they fell below the Norris Dam and the Wheeler Dam in the Tennessee Valley. While there were unusual rains along the upper tributaries of the Tennessee River, they were widely distributed. The aggregate rainfall was around 13 inches against a normal rainfall of 4½ inches preceding the 1937 flood. However, in the lower Tennessee Valley below the dams the rainfall was from 23 to 25 inches. The precipitation was continuous and excessive.

LEVEES AND RIVER WALLS

Additional protection is needed in the lower Ohio Valley; emergency works are essential. Louisville, Paducah, Portsmouth, and other similar communities in the Ohio Valley must have local protective works. Levees and river walls are imperative. Reservoirs alone will not suffice.

The lesson from the Ohio flood is that local protective works must come first; they must be followed in the expansion of the program, by additional reservoirs along the tributaries.

LESSONS FROM THE MISSISSIPPI RIVER FLOOD

Engineers should be well trained. The Corps of Engineers are equipped from the outstanding students of West Point. Postgraduate work is done in the Army Engineering School and in the leading universities of the United States and other countries.

Experiments and research are essential. Basic data must be obtained. The outstanding feature of the Flood Control Act of 1928 was the authorization for the construction of the Waterways Experiment Station at Vicksburg, Miss. There has been a revolution in civil engineering. The improvement in engineering gave us the automobile—a revolution in transportation resulted.

The experiments of the waterways station are working a revolution in flood control. Cut-offs were heretofore opposed. Just before Gen. H. B. Ferguson became President of the Mississippi River Commission a cut-off occurred in the Yucatan bend below Vicksburg. There was no material damage above or below the cut-off. General Ferguson refused to follow the beaten path; he experimented; he utilized the experiments; he began a system of cut-offs. In 4 years the Mississippi River between the mouth of the Arkansas and the mouth of the Red Rivers has been shortened by 100 miles.

CUT-OFFS

There has been corrective dredging; the carrying capacity of the river has been increased by dredging. Eleven cut-offs have been made; the great bends are being eliminated; flood heights have been lowered; in 1937 the gage between Cairo and the mouth of the Arkansas River was the highest in history, but as a result of the cut-offs the gages were materially lowered and a smoother flow was provided south of the mouth of the Arkansas River. The cut-offs did the job. Arkansas City is just above the cut-offs that extend south of Natchez. In 1929 at Arkansas City there was a flood flow of 1,788,000 cubic feet per second when the gage reached 58.5 feet. That was before General Ferguson started his 11 cut-offs to supplement the one made by the river at Yucatan. In 1937 there was a flow of 1,738,000 cubic feet per second when the gage stood at 47.2 feet. The Mississippi River was carrying to the Gulf in 1937 the same amount of flood water it carried in 1929, but the water was 11 feet lower in 1937 than in 1929 at Arkansas City. At the crest the volume was much greater than the gage 5 feet lower.

While the cut-offs have lowered the levels in the bends, there has been an increase in the flood heights below the cut-offs. While the gage at Greenville and Arkansas City was lower than in 1929, the gage at Natchez in 1937 was the highest in its history. However, the cut-offs have increased the flood-carrying capacity of the river, and with corrective dredging, a margin of safety has been added to the levee system.

General Ferguson dared where others faltered; he is a credit to the Corps of Engineers, and his work is an outstanding example of the achievements of the Army engineers. He will go down in history as one of the great engineers of modern times. The cut-offs and dredging will do far more than reservoirs and at materially less expense.

Formerly obstructions or sills were placed at the head of the Atchafalaya River to prevent the enlargement of the channel; in truth, they have been the contributing factor in the enlargement of the channel. Theories and practices along the lower Mississippi River have been revolutionized by the experiments already successfully conducted at the Vicksburg waterways station. Dredging through the lower reaches of the Atchafalaya River has materially reduced flood heights in the backwater area of the Red River. Additional channel capacity to accommodate major floods will contribute to the reduction of overflows.

BACKWATER AREAS

Recent experiments will contribute to change views respecting the necessity of backwater areas as storage basins. It is now estimated that in floods, 90 percent of the floodwaters are carried in the channel and between the banks of the Mississippi River. The remaining 10 percent is carried between the banks of the rivers and the levees. When we recall that the average width between the levees from Cairo to Baton Rouge is about 4 miles, and that the average width between the banks of the river is less than a mile, there is much food for flood-control thought in the experiments showing that 90 percent of the floodwaters is accommodated in the area between the banks of the river.

FLOODWAYS

In addition to providing for stabilization of the channel, accomplished by means of dredging and cut-offs, the Flood Control Act of 1928 provided for diversions through the Boeuf Basin and through the Atchafalaya Basin. From time to time it has been urged that reservoirs along the Arkansas and White Rivers be substituted for these diversions. The Corps of Engineers have repeatedly recommended against the substitution. The flood of 1937 vindicates their wisdom. There were no great floods along the Arkansas and White Rivers in 1937 and reservoirs would not have reduced the flood heights in 1937 or protected the lower Mississippi Valley from the great flood that came out of the Ohio River. It is apparent, however, as always insisted by the Chief of Engineers and by the Corps of Engineers, that reservoirs along the Arkansas and the White Rivers will be additional factors of safety. As such additional factors of safety they are recommended by the Chief of Engineers.

Hand in hand with the value of cut-offs is the necessity for floodways and diversions between the Arkansas and the Red Rivers. The high gages at Natchez show that diversions are necessary; the Morganza and Eudora floodways are imperative.

The unprecedented gages emphasize the further necessity of correcting levee heights and raising the levees along the Mississippi River in certain sections. This is especially true between Cairo and Helena. Between Helena and Vicksburg there must be levee rectification because of the cut-offs, with the resulting change in the location of the channel of the river.

HUMAN ELEMENT IN DIVERSIONS MUST BE ELIMINATED

The city of Cairo was protected by diverting approximately 400,000 cubic second-feet into the New Madrid floodway, as planned. The Government acquired only flowage rights in this floodway. The landowners protested; there was armed resistance to diverting waters into the floodway. Bloodshed was narrowly averted. We have learned our lesson. In all floodways the Government should own the fee. There should be an automatic diversion; the human element should be eliminated. Moreover, if a bankful diversion will promote protection in the Morganza floodway, a bankful diversion will promote protection in the Euroda floodway. The two are inseparably linked, but in both it is imperative that the title to the lands be acquired in fee. It is estimated that the flowage rights cost from 75 to 85 percent of the value of the fee. Acquiring the lands in fee will cost comparatively little more than acquiring the flowage rights.

In the Bonne Carre spillway the Government owned the lands in fee; there was no protest and there was no objection. The Bonne Carre spillway functioned to protect the city of New Orleans. Large amounts have been authorized to acquire rights-of-way in the Morganza and the Eudora floodways. Provision should be made to utilize as little land as possible, but the title in fee should be acquired.

Fuse-plug levees are a menace that cannot be tolerated; automatic diversions with the human element eliminated and with the Government owning the flowage in fee should be substituted for fuse-plug diversions.

ADVISORY OR PLANNING AGENCIES

There are those who advocate planning or advisory agencies, and the Tennessee Valley Authority is cited in support of the plea for the establishment of authorities. I supported the Tennessee Valley Authority; it is a social experiment; it has contributed to the reduction of power rates; it has served to give us a yardstick for power costs, but it is still an experiment. There is no balance sheet of the social or economic benefits against its hundred million dollars of expenditures. Moreover, the Authority is primarily a power project. Most of those who advocate authorities frankly say that their advocacy is based upon the fact that the Government will underwrite the entire costs of all flood-control works.

It is contemplated that both the planning and execution of the works shall be under the supervision of the authorities. The Corps of Engineers would do the construction, but they would be subject to the authorities. Supervision is given over navigation. It is said there would be a coordination of flood control, reforestation, downstream and upstream engineering. There are many objections to the authorities. The agency that plans can best execute. To place navigation in part under the authorities would cripple, if not destroy, the uniformity and efficiency of navigation that has resulted from the river and harbor work that has been done by the Corps of Engineers. Some harbors are located on rivers and others on the sea; some are located on both river and sea. Philadelphia, New Orleans, and Portland are located on navigable rivers and at the same time they are ocean ports. The placing of these ports under the authorities would certainly place them under a different basis from other ocean ports. It is essential that the navigation facilities of the Government be operated under uniform laws and maintained with uniform standards. All decisions respecting navigation should be uniform.

The National Resources Committee has spoken plainly. The committee advocates a central planning body for the approval and allocation of funds for all public-works projects. Congress would continue to make lump-sum appropriations. The representatives of the people who vote to levy taxes would have no voice in the selection of the projects. Authorities and planning agencies constitute a revolutionary proposal for public-works construction; they mean an economic and planning dictatorship. There is no proper place for the proposed authorities for flood control and public-works improvements.

Again, the Army engineers cannot serve two masters. We hear much about the reorganization of executive departments. I maintain that the flood-control work and the river and harbor work of the Federal Government should remain under the supervision of the Corps of Engineers and that the Corps of Engineers should remain under the direction of the War Department, and the War Department alone, subject to the direction of the President of the United States.

I maintain also that the interests of flood control will best be promoted by retaining the planning and execution of projects in the War Department, an executive department responsible alone to the President and to the Congress. Advice and planning are essential, but they can be provided for in the enlargement and expansion of the flood-control policy adopted in 1936 without the establishment of one or of nine authorities.

The Corps of Engineers have an organization for all of the 48 States. The district engineer plans and constructs; his report is submitted to the division engineer; the division engineer forwards the report, with his recommendation, to the Board of Engineers for Rivers and Harbors. The Chief of Engineers makes the final decision. In public works as in Government there must be an executive with the final word. If additional advisory or planning agencies are desired with local representation and with representatives from the Soil Conservation Service and from the Forest Service, the set-up in the lower Mississippi Valley can be followed. The excellent work now performed by the Mississippi River Commission could be utilized in providing for planning agencies.

There might be established river commissions in the New England and North Atlantic States, in the South Atlantic States, in the Gulf States, along the Great Lakes, along the Ohio River, along the Missouri, the White, the Arkansas, and Red Rivers; along the Colorado and along the Columbia Rivers. As in the case of the Mississippi River Commission, of which Gen. H. B. Ferguson is the president, each commission might consist of Army engineers, civilian engineers, and citizens from the regions served, with representatives from the Weather Bureau, the Coast and Geodetic Survey, the Forest Service, and the Soil Conservation Service of the Department of Agriculture, so that both upstream problems and downstream flood-control works would receive full consideration.

I believe I speak the sentiment of Congress when I say that an aroused Congress will refuse to strip the Army engineers of the functions now exercised by them. The President of the United States has utilized the Corps of Engineers in Public Works and Works Progress projects. Congress will insist upon flood-control works being planned and executed by the Corps of Engineers.

The work of the Army engineers is their monument; they are efficient; they are honest; they are patriotic; they represent no group or section; they serve the country and the people. Whatever may be said of other departments at a time when publicity and publicity agencies abound in the Capital of the Nation, it must be said that the Corps of Engineers have no publicity agents. The taxpayers get a dollar of service for every dollar spent by the Corps of Engineers.

Prior to 1927 the Mississippi River Commission was supreme in flood control and navigation works. The act of 1928 adopted the plan recommended by the Corps of Engineers. It is a tribute to their efficiency and to their ability that for the first time a record flood has been carried in safety between the main river levees of the Mississippi River. I gladly pay tribute to Maj. Gen. Edward M. Markham, Chief of Engineers, who has executed the project and has advocated its enlargement and expansion. Under his administration the greatest flood that ever came out of the Ohio River has passed between the levees from Cairo to the Gulf. He stands out conspicuously among the great engineers and executives of the Nation. The valley and the country owe him a debt of gratitude.

A COMPREHENSIVE PROGRAM

Congress has made adequate provision for surveys and planning. Investigations of the Mississippi, Ohio, and other important rivers of the United States have been made. Basic data were available for the preparation of projects to prevent a recurrence of the 1937 and previous record floods. Emergency work, including the protection of large cities in the Ohio Valley, is entitled to priority. Additional reservoirs on the tributaries of the Ohio and on the tributaries of the Mississippi should be approved. A long-range program is in order. Great floods occur only at long intervals. An economically and engineeringly sound program, in keeping with the fiscal ability of the Government, is in order. Adequate measures to reduce and to control floods should be adopted. Only projects where the benefits exceed the costs should be approved.

The administration, under the leadership of President Franklin D. Roosevelt, has been most liberal with the flood sufferers of 1935, 1936, and 1937. The American people contributed through the American Red Cross $20,000,000 to flood sufferers in 1937. The expenditures by the Government for rescue and rehabilitation aggregated many millions of dollars. Under the present administration, after a campaign of many years, a sound program of flood control was adopted in 1936; it provided for flood-control works under the Secretary of War; it provided for soil-conservation works under the Secretary of Agriculture. The administration during the emergency has spent more money for soil-erosion prevention, water retardation, and reforestation than in any, and probably in all, of the preceding administrations. Large appropriations have been made to expand the national forests and to promote the Forest Service. For the fiscal year 1938 the House of Representatives has approved for the Forest Service appropriations aggregating $19,783,000 and for the Soil Conservation Service, appropriations aggregating $24,869,265. There should be no duplication of existing planning or advisory agencies, but they may be increased or enlarged.

The Flood Control Act of 1936 provides for flood-control works by the Chief of Engineers and provides for water retardation and erosion prevention by the Department of Agriculture. If provision is to be made to prevent a recurrence of the flood of 1937, the flood-control work should be done by the Chief of Engineers. If additional plans to survey our lands, forests, and watersheds are to be adopted, the existing Forest Service and the existing Conservation Service can be expanded.

The Omnibus Flood Control Act of 1936 contemplated a 6-year program. The current appropriation should be increased from the $30,000,000 recommended by the Budget to at least $50,000,000.

The Mississippi Flood Control Act of June 15, 1936, also contemplates a 6-year program. The Budget has recommended an appropriation of $22,500,000 for the fiscal year 1938. The amount should be increased to $40,000,000. The act of 1936 should be amended in the light of the flood of 1937 to provide for levee rectification and to authorize the Government to acquire in fee the lands in the Eudora and Morganza floodways.

The remedy is not to delay; the remedy is to expand and to enlarge the flood-control acts of 1936 to include projects to prevent a recurrence of the 1937 floods in the Ohio and other valleys of the United States and to provide for a liberalization of the Federal contribution for reservoirs, especially where two or more States are affected or where the benefited areas are contributing at present to flood-control protection.

The rivers and the lands are the principal material foundations of our civilization. Our rivers are larger and our floods are more destructive than in other countries. The mastery of the flood problem will, therefore, be without a precedent in human history. The costs will be great, but the savings will be greater. The losses from destructive floods should be superseded by the gains from productive economy.

Flood control on a national scale is demanded by the country. Floods are not more frequent than formerly, but because of the increase in population and the improvement of the country, the losses are greater. Floods are more destructive as the population increases in the valleys and the works of civilization multiply along the rivers. Great floods cannot be prevented, but they can be controlled.

One Hundred Days of Progress — Advancement Through Legislation in First 3 Months of Seventy-fifth Congress and Results Shown by Continued Improvement in Conditions Affecting Labor, Agriculture, Business, Industry, and the People Generally

EXTENSION OF REMARKS

OF

HON. MARTIN F. SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, April 26, 1937

Mr. SMITH of Washington. Mr. Speaker, the first 3 months of the first session of the Seventy-fifth Congress have proved to be noteworthy. Since convening on Tuesday,

January 5, 1937, the congressional legislative program of the administration in the interest of labor, industry, and agriculture has moved steadily forward and kept pace with the marked progress and improvement in social and economic conditions in the communities throughout the Nation.

PROGRESS IN SOUTHWEST WASHINGTON

I have been made very happy and am deeply gratified by the knowledge conveyed to me daily as a result of the thousands of cheerful messages which come over my desk from the citizens residing in the southwestern portion of the State of Washington, as well as from all parts of the Evergreen State, and from the news items in the press, indicating that labor, farm, business, and industrial conditions have continued to improve until they are now the best they have been in many years and, in some respects, the best they have ever been. Higher wages, shorter hours, better working conditions for labor, fairer and more compensatory prices for farm products, and increased returns for business and industry have combined to bring a larger measure of happiness, well-being, and security to all our people. To cherish the feeling that one has had even the humblest part in contributing in the slightest degree to the attainment of these desirable results for our people is, in my opinion, the most satisfying reward which can come to those of us who have been privileged to serve as Members of Congress during the past 4 years, probably the most crucial in American history. To still further lighten the burdens, gladden the lives, and brighten the firesides of the men, women, and children of America and thereby render safe and secure the glorious future of our beloved country is the noble objective which is again uppermost in the minds and endeavors of the national administration during this present session of Congress.

NEUTRALITY LEGISLATION

Congress is again taking steps during this national administration to surround our Nation with every possible safeguard to prevent, if possible, our becoming involved in future foreign wars. We are providing that those citizens who travel in war zones on the high seas do so at their own peril and trafficking in war munitions and trading with and making financial loans to belligerents are so circumscribed that that danger of our being drawn into the vortex of another European war is reduced to a minimum. This legislation does not go as far as I would like to have it go, for if I had my way I would enforce by legal fiat absolute 100-percent neutrality in letter and in spirit so that we would have no commercial or financial transactions whatsoever with any foreign power engaged in warfare. However, we are making substantial progress in that direction during this session, and ultimately we will attain the goal sought by millions of American citizens who value peace and the lives of our young men high above the profits of international trade and finance.

TAKE THE PROFITS OUT OF WAR

There will also soon come before Congress legislation now being considered in the committees of the House and Senate to take the profits out of war in the event we should be compelled—which God forbid—to wage a war of self-defense to repel invasion and defend our homes and people against a foreign foe. I strongly favor the enactment of legislation during this session which will utterly prevent profiteering in wartime, so that never again in our country will be repeated the tragedy of the World War when our young men faced death in the trenches for a dollar a day while at home thousands became millionaires and coined huge fortunes out of the blood and tears and sacrifices of the multitudes of our people. If manpower is to be conscripted, then I favor conscripting every dollar of wealth and every piece of serviceable property in the land for the duration of the war. I also favor the manufacture of war munitions by the Government itself, for I firmly believe that if this policy were in effect and enforced throughout the world, we would end war and the angel of peace would spread her snow-white wings over all the homes of mankind, for, when we demonetize war, we end war. War is the most cruel, devilish, hellish business conducted by man and is fomented, promoted, and carried on by the manufacturers of war munitions and their emissaries and hirelings in high places in order to make financial profits and pay dividends to stockholders, and these inhuman monsters resort to bribery, high crime, and misdemeanors and treason to accomplish their diabolical purposes.

LABOR LEGISLATION

During the past 4 years Congress has enacted a larger number of measures beneficial to labor than have ever before been enacted into law during a like period of American history. I consider the most important to be the Wagner National Labor Relations Act, which defines and strengthens the rights of workers to organize and bargain collectively as a means of settling and prohibiting labor disputes, an act prohibiting interstate transportation of strikebreakers, an act designed to assist the States in the enforcement of State laws regulating or prohibiting the sale in the open market of prison-made goods in competition with the products of free labor. I actively supported and voted for each of these great prolabor measures, and in this session am favoring the enactment of legislation to establish minimum wages, maximum hours, and better working conditions for labor. I also favor voluntary arbitration of labor disputes as provided in my bills drafted by committees of organized labor and following the pattern enunciated in the Railway Labor Act. President Roosevelt and the New Deal administration have recently achieved the most outstanding court victories gained for the rights of labor in the 150 years of our history as a result of the Supreme Court, in one brief month's time, having upheld and sustained the constitutionality and validity of the Washington minimum-wage law for women—our own State law—the Railway Labor Act as amended in 1934, and the Wagner Labor Relations Act, the latter being the most liberal and progressive decision ever rendered by any court in the history of the civilized world, and constituting a veritable Magna Carta for labor.

THE PRESIDENT'S COURT PROPOSAL

The proposal of President Roosevelt to increase the membership of the Supreme Court from 9 to 15 by adding 6 new Justices at a salary of $20,000 each per year, with individual secretaries, clerks, and all the accessories; secondly, providing for the retirement and pensioning of Supreme Court Judges; and thirdly, to provide for appearance on behalf of, and appeal by the United States in, certain cases in which the constitutionality of acts of Congress is involved is pending before the United States Senate, hearings have been concluded, and it is now under consideration by the Committee on the Judiciary of the Senate. It will undoubtedly be debated at great length before it is voted upon by the Senate and sent to the House for consideration, debate, and vote. As yet the proposal to increase the membership of the United States Supreme Court from 9 to 15 has not been taken up or considered by the House, and no Member of the House has been in a position to do anything for or against the proposal. Of course, nobody even knows in what form the proposal will come to the House from the Senate. Consequently, out of 435 Members of the House, probably less than 35 Members have been foolhardy enough to blindly indicate what their action would be in regard to a proposal which is not as yet before them and the form of which is as yet unknown to them. In the meantime there are almost as many modifications and amendments pending in the Senate as there are Members of that honorable body. The other sections of the President's proposal providing for retirement of Supreme Court Justices and appearance by the United States in cases involving the constitutionality of acts of Congress have already come before the House separately for consideration and been passed, and I voted for both of them. The proposal to increase the Court from 9 to 15 members to prevent 5-to-4 decisions is receiving thorough study, awaiting the outcome in the Senate, in the hope that, contingent upon the extent of the enlargement, some method can be devised to prevent 8-to-7, 7-to-6, 6-to-5, as well as 5-to-4 decisions. The leading liberals of the Nation are finding this to be rather a difficult problem to solve. Senator GEORGE W. NORRIS, of Nebraska, generally recognized to be the truest

friend labor, the farmers, and honest business have ever had in public life, and the stanchest friend and supporter President Roosevelt has ever had, has recently advocated a proposal to submit constitutional amendments direct to the people for popular vote and referendum, as he has an abiding faith in the intelligence and capacity for self-government of the American people, a view which is shared by most Members of both branches of Congress, and doubtless by the American people themselves. When the Court proposal finally comes to the House from the Senate, in whatever form it is in, I intend to give it the earnest and deliberate consideration which it warrants, and will favor that form which will best protect the interests and rights of the workers, the farmers, and the small-business men who constitute the majority of the American people, whom President Roosevelt and Congress will continue to serve in the future as we have endeavored to serve them during the past 4 years.

FARM LEGISLATION

We have already passed the bill appropriating $50,000,000 to the Farm Credit Administration—F. C. A.—to be loaned in sums under $400—"except in emergency areas"—for raising crops and livestock. Crop-insurance and farm-tenant relief legislation is now being formulated in the committees and will be brought before the House and Senate for passage in the near future, and I shall give to these measures my continued friendly and sympathetic consideration.

However, I will not support any legislation to pay bounties and subsidies for the destruction or reduction of crops and foodstuffs in a country where, according to the statement of President Roosevelt, "one-third of the people are * * * ill nourished", as I consider such a policy to be un-Christian and a crime against humanity.

I have signed the discharge petitions on the Frazier-Lemke mortgage refinancing, the home-owners' refinancing, cost of production and moratorium on Home Owners' Loan Corporation and Farm Credit Administration foreclosures bills, which relate to agriculture and the homes of the people.

VETERANS' LEGISLATION

During this session we have acted favorably upon H. R. 5331, to restore benefits to World War veterans suffering with paralysis, paresis, or blindness, or who are helpless or bedridden; and H. R. 5478, to amend existing law to provide the privilege of renewing expiring 5-year level-premium term policies for another 5-year term.

The Committee on Pensions, on which I hold membership, has held hearings and reported out favorably H. R. 5030, which provides that a Spanish War veteran who attains the age of 65 years will be placed upon the rolls at $60 per month and that a Spanish War veteran who requires the constant aid and attendance of another person will be placed upon the rolls at $100 per month. Our committee intends to bring this bill before the House for consideration and a vote as soon as our committee has the call on Calendar Wednesday. It is meritorious, just legislation in the interests of the veterans of the great Volunteer Army whose ranks are thinning rapidly, and I feel confident the bill will receive the almost unanimous approval of the House and Senate and be signed by President Roosevelt.

C. C. C. CAMPS AND FEDERAL HOUSING

I am very hopeful that in this Congress we will make the Civilian Conservation Corps a permanent institution and that sufficient funds will be appropriated to obviate any reduction in the number of camps. This activity of the administration has received universal approval and is one of the soundest which has been undertaken.

The Federal Housing Administration should and will likewise be continued, and I also favor the new Wagner-Steagall housing bill designed to provide financing for the building of new low-cost homes. It would be a boon to the millions of families who are now ill-housed and the construction program would, of course, furnish employment to mechanics in the building trades and those employed in the industries which manufacture building materials, including shingles, lumber, plywood, veneer, and other Washington products. Our section of the country would be certain to share liberally in the general benefits to the Nation as a whole.

W. P. A. AND P. W. A.

I am continuing my vigorous support of the activities of both the Works Progress Administration and the Public Works Administration. Under these agencies many important and beneficial projects were provided in southwest Washington and much-needed employment given thereby. We now have a number of meritorious projects pending which I hope can be consummated.

THE TOWNSEND PLAN

As in former sessions, I am serving on the steering committee, which is striving for a full and fair consideration of the Townsend plan upon its merits on the floor of the House. We have filed a petition to discharge the Ways and Means Committee from further consideration of the General Welfare Act of 1937 and bring it before the House for full debate and a record vote and have 60 signatures on our petition. I was one of the first to sign and hope that we will secure the required 218 signatures to force consideration of our new bill during this session of Congress.

CIVIL SERVICE

The bill placing first-, second-, and third-class postmasters under civil service passed the House and is now awaiting action in the Senate. I supported it and favor extending the civil service or merit system to all positions in the Federal Government. I also favor voluntary retirement for all Federal employees at the end of 30 years' service, and I have, as in former sessions, supported the legislative program of the postal and Federal employees and consider their pay demands to be reasonable and just as compared to the standards being applied in the business and industrial world. I believe that the Federal Government should at all times in the treatment of its employees set a salutary example for private business and industry to follow.

HARRISON-BLACK-FLETCHER BILL

The bill sponsored by Senators HARRISON and BLACK and by Representative FLETCHER to provide Federal funds to aid the States in improving and extending the public-school and educational systems of the country is, in my opinion, one of the most meritorious measures to come before Congress in many years. I heartily favor its early enactment into law on account of the great benefits certain to accrue to every community in America. Our public schools are truly the bulwark of our civilization, our school children are the homemakers and citizens of tomorrow, and our school teachers are the guardians of our liberty and progress, and in their hands—not in the hands of the President and Congress—is held the future of America.

FLOOD CONTROL

As a direct result of my bills passed by Congress, Public Laws No. 336, 337, 338, and 339, affecting the Cowlitz, Chehalis, Lewis, and Columbia Rivers, and the Flood Control Act of 1936, much diking and flood-preventive work has already been done, and the United States Army engineers have recently held public meetings in my district in an effort to work out the most economical and effective flood-control program in cooperation with the local communities. This is a long-term undertaking, and the funds which can be provided by the Federal Government are necessarily limited, especially at this time when there is such a widespread demand that President Roosevelt curtail expenditures and balance the national Budget, if possible. In a country as vast as ours and in which there have been so many disastrous floods in recent years, it is going to take a long time to do all the work which should be done. However, we have made a good start, and by proper continued cooperation between local, county, State, and Federal agencies we will in the course of time work out a satisfactory solution of our flood-control problems.

BONNEVILLE—LOCAL SOUTHWEST WASHINGTON PROJECTS

I introduced the first Bonneville project administration bill, and have pressed for action this session in order to avoid

our experience of last year occasioned by waiting until late in the session for another body to act. I have continued to favor bus-bar rates at the switchboard and am unalterably opposed to a so-called blanket or postage-stamp rate. I favor preferential rights for the local communities, farm cooperatives, and public-utility districts. I also favor the recommendations of the United States Army engineers to construct the main trunk transmission lines on the Washington side of the Columbia River, with a substation at Camas. It has been and will continue to be my contention that the most desirable and suitable industrial sites are located at North Bonneville, Wash., Hamilton Island, Skamania County; Camas, Washougal, and Vancouver, Wash.

The Bonneville project, if properly administered as a two-State project, instead of our allowing Portland and Oregon to "bottle it up" for their aggrandizement, will serve Clark, Skamania, and Cowlitz Counties, and western Washington.

I have presented before the Rivers and Harbors Committee, on which I hold membership, and which will be included in the omnibus river and harbor bill, the following economically sound and meritorious navigation projects so vital to low-cost water transportation for farm and industrial products, to wit: The 27-foot channel from Vancouver, Wash., to North Bonneville, Wash., to cost $2,300,000; new Olympia dredging project, to cost $98,000; Vancouver Turning Basin project, to cost $22,000; Elokomin River project, to serve Cathlamet and vicinity in Wahkiakum County, $16,000; bill for survey of Knappton River, affecting Grays and Deep Rivers; continuation of reconstruction of Grays Harbor jetties, to cost $4,500,000; Willapa Harbor dredging and maintenance; Bakers Bay dredging and maintenance; and bill for survey to improve port of Camas-Washougal.

PROTECTION FOR SHINGLE WORKERS

My bill for a census of the red-cedar shingle industry, necessitated by the 25-percent quota limitation on importations pursuant to the reciprocal-trade agreement with Canada, section 811 of the Revenue Act of 1936, and the Executive order of President Roosevelt issued March 13, 1937, has been considered at hearings held and been reported favorably by the Committee on the Census of the House, and the funds have already been appropriated for the work. The bill will come before the House for passage in the near future.

I have appeared before the Subcommittee on Appropriations in behalf of the Forest Products Laboratory, important to the lumber, plywood, and veneer industries of southwest Washington, and the item for joint forest-fire protection in cooperation with the States under section 2 of the Clarke-McNary Act; before the Judiciary Committee in support of the bill providing an additional United States district judge for western Washington; have supported the anti-stream-pollution bill reported out by the Rivers and Harbors Committee to cooperate with the States, municipalities, and industries in controlling and eliminating stream pollution in the interests of the public health.

Our pulp and paper industry in the State of Washington is adversely affected by foreign importations, principally from Canada, Norway, Sweden, Finland, Estonia, and Germany. To meet this situation, at least partially, I have introduced H. R. 223, which is the same bill which was sponsored by former Representative Sam B. Hill in the last Congress, to amend section 601 (c) (4) of the Revenue Act of 1932 by imposing a tax of one-third of 1 percent per gross weight on chemical wood pulp. I hope that when the Committee on Ways and Means conducts hearings on this type of legislation we will be able to present convincing arguments establishing the need for this relief to protect our labor pay rolls against competition from those countries in which wage and living standards do not measure up to our own.

MONETARY AND BANKING REFORM

I am continuing my policy in this Congress of favoring all legislation which would tend to restore to Congress the constitutional authority and duty "to coin money and regulate the value thereof" (art. I, sec. 8). I have therefore gladly joined with Representative WRIGHT PATMAN, of Texas, and more than 100 of my colleagues in serving on the steering committee to sponsor legislation to have the Federal Government acquire, own, and operate in the interests of the American people the 12 Federal Reserve banks. This would be a forward stride in the direction of Government ownership, control, and operation of the credit and money of the Nation, low interest rates for labor, farming and legitimate business, and the abolishing of tax-exempt, interest-bearing bonds.

BE STRONG!

Be strong!
We are not here to play, to dream, to drift,
We have hard work to do and loads to lift.
Shun not the struggle—face it: 'tis God's gift.

Be strong!
Say not the days are evil. Who's to blame?
And fold the hands and acquiesce—O shame!
Stand up, speak out, and bravely, in God's name.

Be strong!
It matters not how deep entrenched the wrong,
How hard the battle goes, the day how long;
Faint not, fight on. Tomorrow comes the song.

International Friendship and Rotary

EXTENSION OF REMARKS
OF
HON. FRANCIS H. CASE
OF SOUTH DAKOTA
IN THE HOUSE OF REPRESENTATIVES
Monday, April 26, 1937

ADDRESS BY HON. WILL R. MANIER, JR., OF NASHVILLE, TENN., INTERNATIONAL PRESIDENT OF ROTARY

Mr. CASE of South Dakota. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of Hon. Will R. Manier, Jr., of Nashville, Tenn., international president of Rotary, before the diplomats dinner of the Washington Rotary Club, February 24, 1937:

President Warner, distinguished guests, and fellow Rotarians, I have been thinking of the strange chain of circumstance that has led to this meeting of the Washington Rotary Club in honor of the diplomatic representatives of the world who are accredited to the Government of the United States, and I have been thinking, too, of how an insignificant event may become the cause of effects of world-wide importance, and I have thought, too, of the power of an idea, and in particular of the simplicity of that idea, which is Rotary.

Thirty-two years ago last night a lawyer, a coal dealer, a gold-mine promoter, and a tailor, after two of them had dined in an Italian restaurant, met in an office in Chicago. Because they had few friends and few acquaintances in that great city, they determined to form a club to enlarge the circle of their friends; and because each of them happened to be in a different kind of business, they decided to make the basis of membership in that club vocational classification; and because they proposed at first to meet in rotation at the place of business of their members, they called the new club Rotary.

ROTARY GOES 'ROUND THE WORLD

A little more than 5 years later there were 16 Rotary Clubs in the United States, and then, in Chicago again, delegates from 14 of them met and formed the National Association of Rotary Clubs. One of the delegates there—I do not know where he got his figures—made a prediction. He predicted that in 80 years there would be 500 Rotary Clubs in the United States. Today, just 32 years later, instead of 500 clubs in the United States, there are 4,142 Rotary Clubs organized in 82 countries of the world; and the Rotary International, the organization which comprehends in its membership all the Rotary Clubs, of which I happen at the moment to be honored with the presidency, has become a great business organization. The secretary of Rotary International at Chicago occupies a floor and a half of the great Pure Oil Building, with some 140 employees. Then there is a branch secretary at Zurich, with a dozen employees, that services all of the clubs in Europe; a branch in London that services the clubs in Britain; and another

branch at Singapore, at the crossroads of the world, that services the clubs of the Orient.

The budget of Rotary International, including the budget of the international convention that will be held in Nice, France, is a little more than $1,100,000, and the finance committee of Rotary International has estimated that the total expenditures of Rotary International and the Rotary Clubs of the world and of Rotarians in attending district conferences and national conventions is between fifteen and sixteen million dollars annually; and this great organization, in so short a time, 32 years, has spread all over the world, and most of that great expansion has been in the last 12 years, because more than three-fourths of the clubs have been organized in that time.

Rotary is divided up into about 140 districts throughout the world. Each one operates under a district governor, and those district governors are assembled at the venue and the time of the international convention for a week's intensive planning of the Rotary program for the year. Then they go back to their districts and hold conferences with their presidents and secretaries, and they, in turn, return to their clubs and hold conferences with their boards of directors and committee chairmen.

EXCHANGE OF SOCIAL PROGRESS

More remarkable even than this growth of Rotary has been some of the social and sociological consequences that have come from our Rotary movement.

The Chicago Rotary Club was probably the first organization in the world to hold regular weekly noonday luncheons, and all of the great host of luncheon meetings have grown up. Then, because all of these meetings were composed of businessmen, they had to start and stop on time; they had to do it, and that inculcated the habit of promptness. Then, in the wake of these meetings of Rotarians, the whole style of speech making in this country has seen a complete change. There are fewer words and better terminal facilities, and it has improved the contents. You speak out and sit down in half an hour, and you have had something to say while on your feet. Then, too, I have heard the past president say that it has done a great deal to train speech makers, and that some Rotarians, before they belonged to a Rotary Club, could hardly speak back to their wives, and he made the statement that if all of the amateur speech makers trained in Rotary could just be laid end to end, wouldn't that be fine? [Laughter.]

Then, too, while we did not invent it, we popularized community speaking in this country, because years ago Rotarians began to have club singing and everywhere the Rotary Club became a vocal club.

Years ago at a convention I heard the statement made from the Rotary platform that some Rotary Club somewhere had undertaken to perform every sort of community service except to organize an old ladies' home, and one delegate in the back of the hall from Texas says, "Make it 100 percent; we raised $10,000 for our old ladies' home." [Laughter.]

Perhaps it would be impossible to measure in terms of community service what Rotary has accomplished. Think of the patronage of the Boy Scouts and the development of that organization through Rotary; think of the neglected crippled people that Rotary Clubs have helped. Yesterday out in Indianapolis I visited the great Convalescent Home of Crippled Children built by funds donated by Rotary.

Then, in furtherance of our second object, high ethical standards of business, Rotarians have been going out and trying to develop standards of conduct in all of the crafts and associations. Years ago, at the earlier conventions, all of the lawyers and doctors and florists and undertakers used to meet together separately, and out of those meetings, it is true, have grown most of the great craft and trade associations in the United States. You see everywhere today, "Say it by flowers by telegrams"; the organization that invites you to do that was organized right in the Rotary convention at the meeting of the florists. If you should leave this city and should die away from home, the undertaker to whom your body would be turned over would ship it to an undertaker back here who is a member of the association, and that practice grew out of a meeting of the undertakers in this Rotary convention.

WORLD PEACE THROUGH FELLOWSHIP

Then, latterly, since the Rotary has become international, we have been talking about the possibility of Rotary in international understanding. Now, bear in mind that Rotary has been an evolution.

Rotary, as we know it, is a composite of many minds thinking Rotary, and I am always impressed with the simplicity of this Rotarian idea, which is nothing at all except a group of men in every community in the world engaged in different kinds of business banded together for service for their communities and service to society throughout and dedicated to bring about international understanding and good will, and, as far as we can, peace. Then we have this very wise thing in Rotary, wiser than we knew; we have Rotary international.

Each individual Rotary club is absolutely autonomous. No Rotary international club in the world tells an individual Rotary club what they must do or what they must not do. There is no matter of discipline provided for in the bylaws of any international for any Rotary club. All Rotary International does is to advise with the district governors who, in turn, advise the clubs as to what they should do; but they need not do it; they can take it or leave it, just as they please.

Then we have been wise enough to allow Rotary to develop in every country according to the customs of the people of that country. There is no standardization. Rotary has always accepted the fact that we are just a business organization, an organization of the business and professional men, and that Rotarians, no matter in which country they live, will first give their undivided loyalty to their own country.

Then, too, Rotary has never undertaken to mix in affairs that are religious, and every Rotarian is expected to be a loyal member of that religious body to which he owes allegiance.

There has been that growth of Rotary, and since it has become international we have been thinking of the possibilities of this great machine that we have been building up, this great international machine, in advancing international understanding, goodwill, and peace, and the end is not yet in the development of that machine.

A PREDICTION FOR CHINA

At the meeting of the district governors of the international assembled at Buck Hill Falls in Pennsylvania, where some one-hundred-and-forty-odd district governors from all over the world were gathered together, someone told me the district governor of the rotary clubs in China, that Dr. Wan, a very distinguished citizen of his country, a man who has been foreign minister and acting premier, and the prediction he is reported to have made was that there would soon be 2,000 rotary clubs in China. I asked him if he had made that prediction, and he said, "Yes." I said, "What do you mean by 'soon', because in the life of China 'soon' may be a century of the millennium." He smiled and said, "Within our lifetime." I reported that prediction to the board of directors of the Rotary International, and Colonel Ray, who is a member of that board, said, "That prediction will probably come about very quickly if international will do its part; and, furthermore, when there are 2,000 clubs in China, there will be many more than 2,000 clubs in India."

Think of what this great organization will be when, instead of 2,900 clubs in the United States and 500 in Britain, there will probably be 5,000 here and 1,500 in Britain, and when, instead of 100 or so Rotary Clubs in France there will probably be 800 or 900, with 2,000 in China and more than 2,000 in India; and when, instead of a total of 4,142 Rotary Clubs as today, we may have 15,000 Rotary Clubs.

OUR FOURTH OBJECT IN FIRST PLACE

And think of the marvelous machinery we will then have for the accomplishment of our fourth object. I like it, and I am going to read it: "To encourage and foster the advancement of international understanding, good will, and peace through an honorable fellowship of business and professional men."

I like it, in the first place, because it does not claim too much—just "to encourage and foster." What? Merely the advancement of what? International understanding, good will, and peace.

And I like the sequence of those words, because understanding is the real basis of good will. If you know a man or know a people, or if you know and understand a country, you can only have good will for them, and good will is the only possible basis for an enduring peace. In Rotary we are building up the machinery for that understanding and good will, which is the predicate of it all. At our district conferences, at the regional conferences, at the international assembly, at the national conventions, men from all over the world are meeting together, under the aegis of Rotary, and learning to know and to like each other.

It is inconceivable to me that after the opportunities we have had through Rotary for becoming acquainted and making friendships with men from all over the world we can bear ill will to any peoples anywhere; and I think I might say to the professional diplomats here that Rotary International and Rotarians are not, as amateurs, going to intrude on the functions which you so well exercise professionally.

We are aware of the limitations of this organization. We are merely trying to lay the background for the very things that diplomats the world over are trying to accomplish—a background of friendships that cross national boundaries; a background of friendships, of truly international friendships, which may come quickly and impulsively through this Rotary movement. I have frequently said that, after all, friendships are formed through intimacies, and in this Rotary movement, somehow, the friendships we make are peculiarly intimate.

When I think of the men that I have been privileged to know all over the world through Rotary I can hardly believe that this thing is real. We may not accomplish our whole object sometimes through intimate organization, and we may think we do not get anywhere with it; but always I know that there is one reality in Rotary and these friendships, and they are worth every bit of it; yet we are doing many things.

COMMITTEES MEET IN EUROPE

All over Europe—and I think the diplomats here from those European countries know of it—there has been no publicity in the newspapers about it, but wherever two European countries join there are petits comités, little committees, formed from the two countries, such as a petit comité of the German and French, who meet every 3 months to discuss the problems that arise as between those countries. There is a petit comite between Germany and Austria, France and Italy, Italy and Austria, Italy and Yugoslavia, Yugoslavia and Rumania, Bulgaria and Hungary, and Hungary and

Czechoslovakia, and so on. Perhaps 18 of those little committees of Rotarians meet every 3 months in an effort to bring about international understanding and good will.

I wish I could tell you some of the stories that were told me in Europe as the accomplishments of those committees. I think I might just mention one, without mentioning any names. The Minister of Finance and the Foreign Minister of one of these countries are prominent Rotarians, and the Foreign Minister of the other is a prominent Rotarian, and they are about to get together, and without newspaper publicity they will try to find a solution in the petit comité. They are to hold meetings on the border. Those three men have become Rotary speech makers, and they will find an opportunity while there to meet and discuss the questions at issue. Those men will meet privately and there will be no publicity and one of them, who is a very distinguished citizen in his own country, has told me that he regards that meeting as fraught with the greatest possible consequences in international understanding and good will.

Go with me to the great international cities of the Orient—Hong Kong, Shanghai, Singapore, Jerusalem, and Cairo. In Singapore every week 36 nationalities meet around a Rotary Club table.

HOW IT HAPPENED IN BOMBAY

I was told a very interesting story in Bombay. There was trouble between the Mohammedans and the Hindus. Every effort had been made by the Government to settle it and the Rotary Club at Bombay, at a meeting of Hindus and Musselmans, a solution was worked out. Then the question arose as to how they were going to get that over to the ignorant populace. There was a group of Rotary Clubs, divided up into groups of three each, composed of Englishmen, Mohammedans, and Hindus and those men should march through the squalid quarters of that great city, as indication of peace and calm.

So after hundreds of people had been killed in riots, the Rotary Club and these members brought peace to that community. I told that story recently and a man in the audience immediately got up and said, "I was in Bombay at the time; I heard the shouts in the streets, and I walked to the window and I saw those three men walking down the street."

I could tell you many other stories making up the little background of things that happen in America and everywhere, but to me the most important thing I have learned about Rotary, and the most hopeful, was this:

FOLKS

When I was the Rotary district governor, in making visits to Rotary Clubs in Tennessee and Kentucky, the first thing they told me, "You know, this community is different; we have our own peculiar troubles." Then I went to the next club and I heard the same story. They had the same problems. Then, 8 years ago, I became chairman of the extension committee of Rotary, and visited Rotary Clubs in Europe, and everywhere somebody said, "You are an American; we are different over here; we have our own unique problems and you cannot understand them." I smiled and said, "I know your problems." Then I proceeded to outline to them the problems of Rotary Clubs in Tennessee and Kentucky and they clicked every time. Having discussed this with some 40 men from all the countries in Europe for 5 years, I have never heard of a positive problem that I was not familiar with down in Tennessee and Kentucky.

So, through Rotary, I have concluded that, after all, while we have real problems, they are not peculiar to us; each will reproduce itself all over the world, and, subject to certain superficial differences, people the world over are the same, reasonably and hopefully seeking that international understanding. If you go over the whole world, through this Rotary movement, that one fact will be the basis for that understanding, and it is a basis for good will, which is the only basis for peace.

In closing, I might recall the fact that I roomed with Jim Davison at the convention in St. Louis. He is the man who took Rotary to Australia and New Zealand, and later took it to the Orient. The first time that a great number of people came from Australia and New Zealand to a convention was in St. Louis. One night Jim said to me, "There are going to be 31 people from Australia and New Zealand. They will drop in on us, and they will no doubt be calling us by our first names, because we use them among ourselves, and I don't know what to call them." So I said, "We will not call them anything; we will just say 'You.'" Then we became acquainted with Charles Rhodes, of Auckland, who had a suite with us in the hotel. Jim and I had a room with twin beds, and he was in another room. We sat up there every night talking about Rotary.

One night Jim stepped out of the room, and Rhodes said, "I notice you just call me 'you'", so I told him the story, and he said, "I will be glad if you will call me 'Charles'", and I said, "I will go you one better and call you 'Charlie.'" Then he turned around and said, "Bill, when I was coming 3,000 miles across the Pacific with 35 people from Australia and New Zealand, I was thinking what fools we were to come so far just to attend a convention of Rotary Clubs. Then I got to St. Louis, and I found that there were 10,000 other people who were just as big fools as we were. Then, when I came here and got an understanding of what Rotary really is, I naturally felt that we are not fools at all. After all, we are the wisest people in the world. Perhaps we are far wiser than we think."

Thank you. [Great applause.]

The Federal Reserve System and Our National Economic Policy

EXTENSION OF REMARKS

OF

HON. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 26, 1937

Mr. VOORHIS. Mr. Speaker, there are more than 130 Members of this body who are drafting a bill for public ownership of the 12 Federal Reserve banks. In line with that effort, I should like to comment on the disappointment expressed by the President of the United States in the message you have recently heard, that tax revenues have fallen below expectations.

Faced with actual revenues half a billion dollars below expectations, the administration must postpone its attempt to balance the Budget and attempt to cut expenses this year by $250,000,000. A part of this cut will affect necessary parts of the program of providing useful work for the unemployed.

Why should these things be?

Manifestly, recovery has not been so rapid as expected. We have had recurrent warnings from the President and from the Chairman of the Federal Reserve Board of Governors, Mr. Eccles, that recovery has been unbalanced. This is why, in the face of a sharply rising stock market and great activity in some industries, we still have almost as much unemployment as ever.

The unbalance has come from monopolistic forcing of higher prices for goods which the people use. Recovery has been warped by speculation to expand the heavy-goods industries, at a time when the existing equipment of industry for production of wanted goods which the people eat, wear, and use is being employed at not more than half capacity.

Not long ago the President informed the country that, during 1936, the industries of this Nation attained a maximum average working time of 33.4 hours per week. That is less than a 6-hour day, with a single work shift.

Of course, it is possible to work our machinery an average of two, or even three, daily shifts instead of one, to use it for 60 hours, or even 90 hours, a week instead of 33, and thus more than double the national income with the same existing equipment. What would happen to tax revenues then?

We have the men. We have the machine power. We have the raw materials to make up into finished goods. All that industry lacks today is the orders.

All that is needed by the mass of people today is the monetary means to make our industries hum at full capacity. They do not lack the physical means. They do not lack the real wealth. They lack only the monetary symbols to match and to actuate that real wealth. If we can so organize our money and credit system as to reflect the physical facts of our existence as an industrial people, we shall achieve real recovery.

Our recovery should not have as its goal anything resembling the present impotent attempt on the part of speculative investors at return to the boom period of 1929. For, in 1929, nearly one-half of the people were unable to meet a family budget of health and decency. We must aim higher than the standard of living in 1929. In that year the American people produced only $81,000,000,000 worth of goods. But we can produce $120,000,000,000 worth of goods which consumers want, and with a dollar that buys more goods than the dollar bought in 1929. We can easily double the revenues of Government without increasing the rate of taxation. We can balance the Budget. We can pay the national debt.

THE TROUBLE DEFINED

What, then, is the trouble? Why have we not, as a Nation of consumers, the purchasing power to match our

selling power as a nation of producers? What has this proposal, that the Government take over the 12 Federal Reserve banks to do with actualizing mass buying power, in step with the actual producing and selling power of our industries?

A short answer to this question is found in the warning uttered by Thomas Jefferson:

> If the American people ever allow private banks to control the issuance of their currency, first by inflation and then by deflation, the banks and corporations that will grow up around them will deprive the people of all their property until their children will wake up homeless on the continent their fathers conquered.

With this warning coming to us down the years of our history, a right diagnosis of the plight of our people must include the following six points:

First. It is wrong for the bank of issue of the money of the United States—the Federal Reserve banks—to be the private property of private banking interests.

Second. It is wrong for our Government to have to pay interest on its own credit.

Third. It is wrong for the American people to have to borrow into circulation the money they need to carry on their business.

Fourth. It is wrong for one kind of businessmen—about 75 big banks and financial houses—to be able to force the Government to print money for their use and back it with the Government's credit when other kinds of businessmen cannot do the same thing. This leads to financial and industrial monopoly.

Fifth. The twelve Federal Reserve banks were created to stop booms and depressions; they were intended to pay all surplus earnings into the Treasury of the United States—see section 7, paragraph 1, of original Federal Reserve Act; they were supposed to pay interest for the use of Government-issued and Government-backed money—see section 16, paragraph 4, of original Federal Reserve Act; they were supposed to prevent the growth of a financial monopoly in this country.

Sixth. The facts are, however (1) that the worst depressions in our history have occurred since the passage of the Federal Reserve Act, and that it is at least an open question whether the Federal Reserve Board is at present in a position to prevent another and yet more violent cycle of boom and depression; (2) that the 12 Federal Reserve banks have only paid about $150,000,000 into the United States Treasury in all their history, and that by the Bank Act of 1933 the franchise-tax requirement that surplus earnings be paid into the Treasury was repealed outright—see section 7, paragraph 1, of the Federal Reserve Act as amended; (3) that the original provision empowering the Federal Reserve Board to charge interest to the private Federal Reserve banks for the use of the Government's credit has never been carried out, and through all of these years the banks have never paid any interest on the Federal Reserve notes issued for their use; (4) that whatever else may be claimed for our present financial policies, certainly they have permitted a steady growth of financial monopoly, until today 75 great financial houses control half the assets of all the 15,000 banks in America and are reaching out to control our industries as well. The small bank is helpless before these great aggregations of capital and is disappearing from our economic scene.

The primary reason for these conditions is the fact that by congressional action the American people have given over to an essentially private banking system the right to employ Government credit free of charge as security for the issuance of bank notes—Federal Reserve notes. Coupled with the privilege which all banks enjoy, of maintaining only partial reserves against their deposits, this power enables our banks to create and destroy the medium of exchange—whether it be cash money or check-book money—upon which all America depends to carry on the business of the country.

THE REMEDY

The Democratic platform of 1936 declared:

> We approve the objective of a permanently sound currency so stabilized as to prevent the former wide fluctuations in value which injured in turn producers, debtors, and property owners on the one hand and wage earners and creditors on the other. A currency which will permit full utilization of the country's resources.

In consonance with this declaration these principles are fundamental:

First. There is only one agency in the Nation which has a moral or a constitutional right to issue money, and that is the Federal Government. We propose, therefore, to make the bank of issue of the United States—the 12 Federal Reserve banks—Government property.

Second. When Government credit is extended it should benefit all the people equally, the consumers, farmers, wage earners, businessmen, and small bankers, as well as the large bankers; and this can be brought about by stopping the process of borrowing credit from a few big banks, and instead of that, by having the Government handle its own financing through its own Federal Reserve banks, save the interest on bond issues, permit payment of the national debt, and remove the necessity of further bond issues.

Third. Our national debt should be gradually liquidated by replacing it with Government money. As this is done the legal-reserve requirements against demand deposits should be raised correspondingly so that not a penny of inflation need result. There should be but one kind of legal tender in the Nation, and but one kind of reserve behind all bank deposits, and it should be United States Government notes.

Fourth. Historically the function of the banks is not to manufacture the monetary means of payment for goods. That belongs to government. The functions of the banks is to receive money, manufactured by the Government, as deposits from the people; to safeguard such deposits, to keep the accounts of their depositors, clear their checks thereon; to lend their own capital and the money of their depositors as trustees. Their function is that of an institution for service. They can obtain reserves, up to 100 percent of existing deposits, in exchange for their present holdings of Government securities. They can make ample profits by legitimate service charges for handling accounts and serving as agent and trustee on behalf of their depositors as lenders and investors. Of course, also, time and savings accounts would continue to have earning assets behind them as at present.

Fifth. We desire to bring about a complete unification of the banking system of America by bringing all our banks into one truly national system effectively controlled by a really national Federal Reserve Board consisting of 12 members, one from each Federal Reserve district, and employing as a central bank of issue the 12 Federal Reserve banks, which would be as much a part of the Government as the Treasury itself.

EXPLANATION OF THE TROUBLE

Mr. Frank A. Vanderlip, formerly president of the National City Bank of New York, defines the objective of a Federal monetary authority as follows:

> We want money in which we will have unshaken confidence. We want a dollar that will, in the language of the President, "not change its purchasing and debt-paying power during the next generation." We want to improve on the dollar, whose value merely meant a certain number of grains of gold. We want to end the control over the dollar's value which has been exercised by both domestic and international bankers. We want to avoid the changes in price levels that have resulted from international speculators who sometimes invade and sometimes augment the very basic foundations of our currency. We want to free our domestic price level from the danger of manipulation by foreign central banks.
>
> All this can be done, and done simply, and without bringing into action any power that has not been proven by the experience of other countries to be safe and effective.
>
> I have proposed that this be done by creating a Federal monetary authority—as much a part of the Government as is the United States Treasury. To this authority would be given the exclusive control of currency issue.

In this statement Mr. Vanderlip bares the root of our troubles. It lies in our failure to make a distinction between legitimate banking functions and the essentially governmental function of bringing money and credit into original circulation.

Since we depend for over 90 percent of our circulating medium upon bank credit it is necessary for the American

people to borrow into circulation nearly all the purchasing power they ever possess. Since only partial reserves are required of the banks, each of them becomes, really, a private mint coining credit—which is our money—in boom periods and destroying it in times of depression. Thus we have a constant succession of inflation and deflation, a constant increase in the Nation's interest charges, and a constant transfer of property ownership, both in homes and in industrial property from the people to the money lenders.

At present there is no scientific relationship between our wealth production and need for money and credit on the one hand, and the amount of money in circulation on the other. This results largely because the national credit and even our national money—Federal Reserve notes—are essentially commodities bought and sold by one kind of businessmen—and not by the Government—to all other businessmen and to the community generally.

Let us explain how the system works: When a loan is made by a bank, either to a private individual or to the Government, new money to the amount of the loan is put in circulation. Most people, whether bankers or other citizens, do not realize that on the basis of the loan an endless chain of transactions is begun which will continue as long as this credit substitute for money remains in circulation.

This is why we can accurately say that those who loan credit actually are the creators of America's money.

On the other hand, when a loan is called in or repaid, the opposite happens. Someone draws down a deposit to pay the loan and that much credit goes out of existence. There is that much less "money" in the country. With the power to create money goes the power to destroy it. And some 90 percent of all the business of America is done with credit money. This is a staggering thought. Our Nation depends completely on the banks. Every dollar in circulation must be borrowed into circulation. If the banks loan abundantly, we have a boom. If they do not, we have a depression.

A few figures will illustrate. All our 15,000 banks have as capital, surplus, and undivided profits about $7,000,000,000, about half of which belongs to 75 large banks. But the banks own $18,000,000,000 of Government bonds. That is, they have in effect drawn on the Nation's credit for $11,000,000,000 of credit money and loaned it to the Government at interest. But, in addition, the banks have about $25,000,000,000 of other loans and investments. So that, starting out with $7,000,000,000, our banking system has multiplied its holdings to somewhere in the neighborhood of $43,000,000,000. And this has been made possible because, through our banking laws, the system is able to employ the credit of the American people to acquire the real property of those people and the bulk of our Government's securities.

In the 12 Federal Reserve banks is concentrated all the reservoir of what may be termed the credit of the Nation, since it is credit which is based in by far the larger measure not on the resources of the banks but on the wealth of the Nation and the taxing power of the Government. Our Government stands behind every Federal Reserve note that is issued. Yet these notes are really nothing but private-bank notes.

Now, how did the banking system obtain this power? The answer is by spending the small sum of $132,000,000 in the purchase of the stock of the 12 Federal Reserve banks. For by this purchase, under our laws, the banks in effect bought the money-creating power of the Nation and the right to control and use the Nation's credit. And since the Federal Reserve banks are no longer required to pay their surplus earnings into the Treasury it may be accurately said that the member banks may exchange commercial paper for money guaranteed by our Government. This is true because the charge for rediscounting the commercial paper goes to the Federal Reserve banks, which belong to the member banks, and whose earnings are accumulated for the member banks themselves. Under present law such earnings could be restored to the Nation only in case of the liquidation of the 12 Federal Reserve banks, as proposed in the bill now being framed. And when Government bonds are "purchased" by the banks they can be deposited by the member banks with the Federal Reserve banks as collateral for Federal Reserve notes in the proportion of 60 percent collateral and 40 percent gold backing. If this is done the bond still belongs to the member bank; Government interest continues to be paid on it to that bank, despite the fact that the bank is at the same time enjoying the use of the money itself, which likewise is guaranteed by our Government, and is in effect, therefore, a blanket mortgage on all the property in America.

JUSTIFICATION OF THE REMEDY

Our colleague in the drafting of the proposed bill, Mr. PATMAN, of Texas, has stated:

> The first step should be for the Government to take over the 12 Federal Reserve banks and coordinate their activities with the Reconstruction Finance Corporation; then the Government's credit can be used for all banks—national, State, or private—all business, all agriculture, all commerce, and all people. Interest rates can be substantially reduced and the Government can obtain considerable revenue by charging a small sum for the use of its credit; all Government financing can be handled through the new set-up without charging the Government interest which will eliminate the necessity for the issuance by the Government of another tax-exempt interest-bearing bond, or to increase taxes.

Accordingly, the powers and advantages described in the preceding subdivision are too great powers and too great advantages to be left in private hands. We believe our Government should purchase the stock of the Federal Reserve banks from the member banks which now hold it; and thus, first, reclaim the right to create money; second, obtain the power to regulate directly and effectively the flow of money and credit; and third, end forever the ridiculous practice of borrowing its own credit from private financiers.

Already the Federal Reserve Board has raised the legal reserve requirements as high as it can raise them under our present law. This measure has, of course, been taken as a means of forestalling an inflation of bank credit. Whether other means of control open to the Board will prove adequate, we seriously doubt. And we would feel far safer for the Nation if the 12 Federal Reserve banks were Government institutions and if the Federal Reserve Board enjoyed broad enough powers to control directly and absolutely the issuance of credit money in the Nation. Only under such circumstances do we believe booms and depressions can be done away with. Only under such circumstances can the small banks which cannot now afford to belong to the Federal Reserve System at all be accorded fair treatment with the larger institutions and thus brought into one unified banking system.

As I have said, in the 12 Federal Reserve banks is concentrated all the reservoir of what may be termed the credit of the Nation—credit based on our wealth as a Nation and on the taxing power of the Government. Our Government stands behind every Federal Reserve note that is issued. Yet they are really private bank notes. We think they should be Government money instead, and that it should be the Government that has the control directly and absolutely over their issue, and the Government that derives the benefit from putting them into circulation. And if the Government can issue a bond and pay interest on it and have the bond worth par, how much easier can it issue a dollar and pay no interest and keep it worth par.

We think the Government should stop "selling" bonds to private bankers; instead, it should "sell" bonds to its own Treasury, paying interest to itself, instead of to private groups, and using such bonds as backing for the issuance of money and credit. This can be accomplished by means of book-credit entries, precisely as the private banking groups issue money and credit today.

Two safeguards are needed in such a system as we suggest. First, to do away with inflation and deflation, our Federal Reserve Board of Governors should be charged by Congress with the task of maintaining a stable price level on an expanding economy of national production and consumption. Since it would be in complete command of the situation, the Board could easily accomplish this simply by regulating the supply of money and credit, expanding them only as warranted by expanding production and trade. A threatened price rise could be prevented by an issue of Gov-

ernment money or credit spent into circulation, with due attention to the indexes of production and consumption, thus checking the danger of overexpansion. And as production expanded and America's wealth increased, her currency would be expanded in proportion. Businessmen could plan for the future with safety. Costs could be figured with assurance. Speculation in inflated values would be impossible, for there would be no inflated values. The people could no longer have their property taken from them by deflation or their purchasing power stolen from their pockets by inflation. The Nation would march steadily forward. A dollar would be worth 100 cents yesterday, today, and tomorrow.

The second safeguard should be to empower the Federal Reserve Board to raise the cash reserve requirements of the banks, if necessary, even to 100 percent, in order to prevent inflation. And if this were done, the Board could then gradually go about the business of eliminating our national debt by purchasing outstanding Government securities from the banks and raising the reserve requirements as it did so. This would save our Government $800,000,000 a year in interest on the public debt once it was accomplished.

In justice to the banks, if reserve requirements were raised in this manner, they should be allowed to compensate for loss of legitimate revenue by making service charges for the use of their facilities by depositors. And they would, of course, enjoy the right of lending such money as belonged to them and such money as was put in their charge in the form of time deposits, with the understanding that it was to be lent by the bank, or invested by the bank, acting as the depositor's agent.

Do we want to abide by our Constitution and fulfill the Government's exclusive right and duty to coin money which the Constitution gives it?

Do we want to save our Government the $800,000,000 interest on our public debt?

Do we want to end booms and depressions?

Do we want the income derived from bringing money and Government credit into circulation to go to the people instead of the big bankers?

Do we want to save our small banks from destruction?

Do we want to stop the trend toward monopoly?

Do we want to prevent international finance from plunging us into another war?

If the answer to all these questions is "yes", then let us buy back the Federal Reserve banks from their present private banker owners and create a real national banking system that will work for the people and not against them.

Neutrality

EXTENSION OF REMARKS

OF

HON. LUTHER A. JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 26, 1937

ADDRESS BY HON. SAM D. McREYNOLDS, OF TENNESSEE, BEFORE THE FOREIGN POLICY ASSOCIATION, BALTIMORE, MD., ON APRIL 20, 1937

Mr. JOHNSON of Texas. Mr. Speaker, under leave granted me to extend my remarks I submit herewith the able, interesting, and instructive address delivered by the gentleman from Tennessee [Mr. McREYNOLDS], chairman of the House Committee on Foreign Affairs, before the Foreign Policy Association in Baltimore, Md., on the evening of April 20, 1937, on the subject of neutrality.

This address was delivered upon the occasion mentioned when the Foreign Policy Association of Baltimore had as its subject for the evening Neutrality, and the speakers of the evening were the gentleman from Tennessee [Mr. McREYNOLDS] and Dr. Charles G. Fenwick, noted author and authority on international law, professor of economics and politics in Bryn Mawr College, and a delegate to the Inter-American Conference for the Maintenance of Peace at Buenos Aires.

The address of Mr. McREYNOLDS, published herein, does not contain the rejoinder made by him in reply to Dr. Fenwick, or Mr. McREYNOLDS' replies to various questions asked by persons in the audience at the conclusion of the debate. I regret my inability to include herein Mr. McREYNOLDS' rejoinder and his reply to questions, but no shorthand report was taken thereof.

The address is as follows:

Mr. Chairman, ladies, and gentlemen, I consider it quite an honor to be here tonight and discuss a question in which the American people are very much interested—that of neutrality—with the distinguished gentleman, Dr. Fenwick, who is one of the outstanding authorities on this subject in this country. While we have not had the privilege of having the doctor before our committee on this subject, evidently much to our loss, yet we have had many others for whom I have the highest regard and many of whom I class as my personal friends and who belong to the same school of thought, judging from certain books and articles of which the distinguished gentleman is the author.

For the past 4 or 5 years the people of the United States have been greatly interested in neutrality. This has been caused to a great extent by the organization of peace societies throughout this country depicting the horrors of war and advocating the passing of certain measures to prevent us from being drawn into a war. The result of this has been the suggestion of many kinds of neutrality legislation, many of which would come nearer involving us in trouble than that which we desire to escape. Let me lay down this proposition: No legislation can be passed that can be an absolute safeguard against our becoming involved in a war. Why do I say this? For many reasons; but two will suffice: The first is that we may be forced into war by trying to defend our neutral rights. I feel this was done in 1812 and in the World War; and, secondly, the people of this country can decree what they desire, and if they should become aroused over what they considered an effort on the part of some foreign country to reflect upon this country, or its citizenship, they would force the repeal of such statutes and demand satisfaction. Then what can we do? We can throw certain restrictions around our citizens; we can prevent the shipment of arms and ammunition to belligerents; we can prevent our American vessels from carrying certain commodities in what we term as "danger zones"; we can deny belligerents credit, so that they cannot finance their wars in this country; we can prohibit belligerent vessels and submarines from coming into our ports, and many other things of this kind that will aid us in keeping out of war.

Then what kind of legislation should we pass that is best to accomplish this result? That is the question. To solve that question I have been giving serious consideration for the past 5 years. I don't know that we have solved it, but I do believe that the bill which we have passed through the House at this session, and now in conference with the Senate, is the most practical that we could hope to pass at this time.

Now let me enumerate to you the different bills that I have reported out as chairman of the Foreign Affairs Committee of the House since 1933:

Neutrality questions, relative to South American countries, have been handled by special legislation. In 1933, President Roosevelt called a special session of Congress, and I introduced a short neutrality bill which had for its purpose, under the discretion of the President, the control of the export and sale of arms or ammunition of war. This bill was passed on April 17, 1933, and went to the Senate. It made it unlawful to export, or sell for export, under such limitations and exceptions as the President may prescribe, any arms or ammunition of war from any place in the United States to such country or countries as he may prescribe. After he had issued a proclamation showing that such shipments may promote or encourage the employment of force in the course of dispute or conflict between nations.

If this had become the law the President would have had the right to judge the aggressor nation. We felt at that time, with the set-up in Europe, that the President could use this authority to aid in preventing wars. This did not become the law. The Senate did not act on it until February 28, 1934, at which time they passed it with an amendment, providing that any prohibition of export or of sale of arms or munitions should apply to all parties involved alike. This came back to the House in that form, and I let it die on the Speaker's desk. So no neutrality legislation was passed during the years 1933 or 1934.

On August 17, 1935, I introduced a House joint resolution which had for its purpose to maintain the neutrality of the United States in the event of war or threat of war between or among foreign nations. While this resolution contained several provisions, such as "American vessels prohibited from carrying arms, ammunition, and implements of war"; prohibiting the use of American ports as basis of supplies, "submarines prohibited from entering American waters", "Finance transactions with belligerent governments", "Travel by American citizens on belligerent vessels." Yet it is the first section of that bill to which I desire especially to

call your attention; that under such conditions it was unlawful to export arms, ammunition, or implements of war from any place in the United States to such countries as the President may designate. You can see from this language that the President would have had a great deal of authority which he could have used toward the prevention of wars. But understand I am not advocating it now, as conditions have changed. This was not accepted by the Senate, and the result was a compromise measure making the last section above referred to mandatory and applying to all nations alike, and limiting the life of this section to February 29, 1936. There are other sections in that act, such as the creation of the Munitions Control Board et al., that are now the law, but which it is not necessary to refer to at this time.

In January 1936 I introduced another general neutrality bill including many of the features of my former neutrality bill, but for the first time undertook to include what we might term commodities of war. We ran into a great deal of trouble on this question, and you always will; but at that time, especially as the Italian-Ethiopian war was going on, I was able to get my bill reported out of the House committee favorably, but the chairman of the Foreign Relations Committee was not, so it resulted in a compromise, as follows: The act passed in 1935 was extended to May 1, 1937, and two new sections added, one prohibiting credits to belligerent nations, to which I will refer more specifically hereafter, and the other providing the act shall not apply to an American republic or republics engaged in war against a non-American state or states, providing the American republic is not cooperating with a non-American state or states in such war.

Now, this brings us up to the bill which we have passed during this session of Congress, and that is what I propose to discuss somewhat in detail and give you the reasons that we propose this character of legislation at this time. I have cited the previous legislation so you may know what we have been trying to do and what we have done and the difficulties of the situation. It is my purpose to explain to you the bill that has just passed the House, explaining our reasons of so doing, and Dr. Fenwick will point out to you the inadequacies of this bill, as he sees them, but in so doing I trust he will suggest the remedy. This question is a live question before Congress, and will be for some time, and to aid me in my work I am more than glad to have any practical suggestions. I do not claim that the present bill is ideal; in fact, some of it is experimental. I do claim that it is better than the Senate bill, and that it is a step in the right direction, and the best that we could hope for at this time. Now, if any of you think that a bill can be passed that will be a guaranty of keeping us out of war, just get that out of your heads; it can't be done. Now, let us see what this bill does and why.

I will undertake to call your attention in a general way to the various sections of this bill and discuss more in detail those sections which I feel are the most controversial. It provides that whenever the President shall find that there exists a state of war between two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to any belligerent state, named in the proclamation, or any neutral state for transshipment for the use of any such belligerent. The President also has the right, by proclamation, to extend this to any other countries that may become involved, and enumerate the arms, ammunition, or implements of war the export of which is prohibited. This is the law at the present time, with one amendment added thereto, giving the President the same authority wherever he shall find that a state of civil strife exists in a foreign state and that such armed conflict is of such magnitude, or is being conducted under such conditions, that the export of arms, ammunition, or implements of war from the United States to said foreign state would endanger or threaten the peace of the United States, and so forth. The purpose of this amendment is to enable the United States to maintain its neutrality wherein conditions as above cited appear. I might add that the war existing in Spain was really the cause of this amendment, as both sides of this conflict have vessels on the seas that might cause us trouble in our shipments. You will see that this section is mandatory. I will discuss it more fully later on.

The next section of this bill has to do with the export of other articles or materials, such as we may call commodities of war, and, in my opinion, is the most controversial of any section in the bill. I know that it has caused more controversy, by witnesses who appeared before our committee, as well as the position of the House as against that of the Senate, and I presume that the distinguished gentleman who is to follow me will center a great deal of his attack on this section. It is what you may call the cash-and-carry system, and we place a limitation on this section of 2 years. I will return to this section a little later to discuss it in detail.

The next section following is relative to financial transactions, and this section is also mandatory. Whenever the President issues a proclamation that a war exists between two countries, it shall thereafter during the period of the war or civil strife be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any belligerent state or state wherein civil strife exists, or of any political subdivision thereof, or of any person acting for or on behalf of such government, issued after the date of such proclamation. It is also unlawful to make any loan or extend any credit to any such government or person. I might add that this is the law at the present time, with one amendment, as follows: "Or to solicit or receive any contribution for any such government, or political subdivision, or any person acting for or on behalf of such government or subdivision."

As you all are aware under the Johnson Act, which was passed in the Senate first and which was afterward reported out in the House by me and passed in the House, those governments at present indebted to the United States and refusing to pay their indebtedness cannot legally dispose of their bonds, etc., in this country.

This section is along the same lines and extends to all nations when they become belligerents. There is a provision in this section providing that if the President shall find that such action will serve to protect the commercial or other interests of the United States or its national, he may, in his discretion and to such extent and under such regulations as he may prescribe, except from the operation of this section ordinary commercial credits and short-time obligations in aid of legal transactions and of a character customarily used in normal peacetime commercial transactions. The purpose of this section is to prohibit foreign countries when they become engaged in war to finance that war in the United States. It is not only encouragement to them to engage in war if they know where they can be financed but if it is financed in the United States, it makes our people interested, of course, in that government's success which is financed, and it is our purpose, if possible, to keep our people as nearly neutral as we can. The purpose in adding this new amendment, providing or making it unlawful to solicit or receive any contribution for any such government, or political subdivision, or any person acting for or on behalf of such government or subdivision, is to maintain the neutrality of our people. As the citizenship of this country is made up of people from every part of the globe, no war can occur abroad but what immediately those people are interested in their native land, and public meetings and solicitation of funds for that government involved, which necessarily brings about and arouses a feeling among our own people.

Section (6) of our bill, passed in the House, makes it unlawful for American vessels to carry any arms, ammunition, or implements of war to any belligerent state named in the proclamation by the President as being at war, or as to a state wherein civil strife is proclaimed to exist, and, of course, to any other state for transshipment to belligerents, and a penalty is prescribed for this violation.

Section (7) of our bill prohibits the use of American ports as a base of supply for belligerents after proclamation by the President, etc. This section makes it unlawful to carry out of a port of the United States fuel, men, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of a belligerent state, and provides that if the evidence is not satisfactory, bond may be required of such shipper; and if any vessel clears from the port of the United States in violation of this statute and returns to the United States, such vessel may be prohibited from departing our shores during the duration of the war. I might add that this is the law at the present time, and this is the act of June 15, 1917, rewritten.

The next section is relative to submarines and armed merchant vessels, and provides that whenever any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States or its possessions by the submarines or armed merchant vessels of a foreign state will serve to maintain the peace of the United States, etc., and makes proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port of the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe.

The next section deals with travel by American nationals on belligerent vessels, and there has arisen some controversy over this section. The bill which I am sponsoring provides that after a proclamation issued by the President that a war exists, and afterward he finds that in order to protect the lives of the citizens of the United States, or the security of the United States requires that American citizens should refrain from traveling on the vessels of the state or states named in the proclamation, he shall so proclaim, and thereafter it is unlawful for any citizens of the United States to travel on a vessel of the state or states named in the proclamation, except under such limitations and according to such rules and regulations that the President shall prescribe. The reason for this exception is, of course, there are many islands wherein our own vessels do not come and go, and it might be necessary to pick up our citizens. Again, it might be necessary to place some diplomatic courier on some of these belligerent vessels, or to permit newspapermen to travel on these vessels, and so forth. Of course, there is a provision that this section shall not apply to the citizen traveling on a vessel whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date, and providing further that it shall not apply under 90 days after the date of the President's proclamation to a citizen returning from a foreign state to the United States or to any of its possessions. As I have stated, this section has been somewhat controversial, and there are some differences now between the Senate and the House on this section. I do not know what position my distinguished friend will take on this subject if there are any differences.

There was established by an act of the Seventy-fourth Congress, first session, what is known as the National Munitions Control Board, which had for its purpose the registering and licensing

of every person who engages in the business of manufacturing, exporting, or importing ammunition or implements of war referred to in the act, and charging certain fees for such registration and providing that no shipments should be made without proper certificate. The main purpose of this act was to keep a check on the exportation and importation of arms and ammunition, which is generally done by the larger nations of the world. I presume there is no reason to go into the details of this legislation, as it is carried in this bill, more especially for certain amendments.

Section (11) of the House bill provides that the act shall not apply to an American republic or republics engaged in war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war. This is the law at the present time, as has been pointed out by me to you in a previous statement. I notice this section has been denounced by some writers who are an authority on neutrality, but I do not consider their objection in any way valid. I am going to take upon myself the original responsibility for the suggestion of this section when it was originally passed. One reason was that heretofore the neutrality relative to South American countries had been handled separately by legislation from Congress. Again, if we are to carry out the principles of the Monroe Doctrine, in not allowing foreign countries to further acquire American states, there must be a difference in our treatment of our neighbors south of us than that of other foreign countries. I thought it best that this be placed in the law now rather than make it apply to South American countries and repeal it, which would be done in case a war should arise between some of the South American countries and other foreign powers. Of course, this act applies to South American countries if they are in warfare with each other, or would apply in case one of the South American countries were cooperating with a foreign power. I am glad this idea of the Monroe Doctrine, or the mutual advantages derived from our association, was adopted in the conference held in December in South America. But, of course, we understand that prior to this time there was some misunderstanding in the South American countries (our neighbors) as to our purposes, and their construction of the Monroe Doctrine, but this has been done away with.

Now, I have gone over this bill in a general way, trying to give you a general idea of the various restrictions that we are trying to place which will enable us to keep out of war. I shall now return to what I consider probably the most controversial parts. The greatest fight that we are having in Congres over certain provisions of this act is what might be termed "mandatory" and "discretionary" on the part of the President. This is the real controversy existing now between the Senate and the House. That section of this bill which prohibits the export of arms and ammunition, after the President has issued a proclamation that a war exists, is mandatory, but does give the President under our bill the right to enumerate the articles that cannot be shipped. The Senate bill would undertake to freeze the definition given by the Chief Executive in his proclamation of April 10, 1936. We have opposed this, of course, because if that were done it could not include new inventions of arms and size of bullets, and new gasses that are being discovered or invented.

I have stated to you in the first part of my speech that on some two or three different occasions I advocated discretion on the part of the President in reference to the shipment of arms to belligerent governments. At that time we felt that with the organization of the chief nations of the world, if this discretion were given the President, that he would be able, in cooperation with these various governments, probably to prevent war. However, conditions have changed and those nations upon which we thought we could rely have split up in factions among themselves and some several of the foreign nations have ignored the treaty rights, which they have heretofore entered into, and considered treaties no more than the scraps of paper upon which they were written. So, under present conditions, I feel that it is necessary to make this provision mandatory and apply to all nations alike. I want us to use whatever power and influence we may have to prevent wars, but I never want us to be tied up, politically or otherwise, with any foreign nation that will cause us to become involved in any wars.

Now I shall return to section (4) of the present House bill, which deals with the export of other articles or materials outside of arms, ammunition, and implements of war. As before stated, this is the most controversial section of this bill, and I am frank to say has given me more concern than any other question relative to neutrality. There have been more different theories and plans advocated, because it affects the whole people of this country. Some have advocated complete isolation; in other words, as soon as the noise of cannon is heard abroad they would stop all shipments of every character with such belligerents. This was once tried in this country during the Jefferson administration of 1808, and while conditions are different now from what they were then, yet, in my opinion, the effects would be the same, which were described by historians of that date as absolutely destructive to every interest of the American people.

Again, in keeping ourselves out of war we must look at both sides of the picture; not only what to do so as to keep out of wars but what will be the effects at home. You know and I know that if you adopt the policy of isolation you would cause a condition in this country that would more likely result in war. And let me say this to you: In my opinion, we are never in any danger of results of any war with a foreign foe. In other words, if evil ever befalls our country, it will come from within and not from without; and may God forbid.

The mandatory provisions which are demanded would place our President in a strait jacket. Mandatory and discretionary power, in my opinion, is not the proper way to express it; it should be flexible and nonflexible, as one is just as much mandatory to keep us out of war as the other. Under mandatory provisions the President can only act when certain conditions have been reached and take such action as is prescribed by legislation. In other words, it is comparable to prohibiting a doctor from treating pneumonia, except under certain prescribed rules and regulations, when certain conditions arise, with no rights of prescribing a preventive remedy.

Now let me say again that this commodity section is new, and I am frank to say to you that I don't know whether it will work or not. I do believe, however, that it has merit, and with proper discretion being given the President it is the best that can be passed at this time.

Now as prescribed under subsection (a) of this section, that after the President has issued his first proclamation that a war exists and he shall thereafter find that the placing of restrictions on the shipment of certain articles and materials, in addition to arms, ammunition, and implements of war from the United States to said belligerents, and so forth, named in the proclamation, and in order to protect the lives and commerce of our people he shall so proclaim and thereafter it shall be unlawful except under such limitations and exceptions as the President may prescribe for any American vessel to carry such articles or materials to any belligerent state or any state wherein civil strife exists named in said proclamation or proclamations, or to any other state for transshipment to or for the use of any such belligerent state or any state where civil strife exists, the President shall from time to time name the articles which are unlawful for any American vessel to carry. And further provides that insurance written by American underwriters shall not be collected on articles carried by an American vessel. In other words, it removes any American interest so that no claim can be put forward by the Government of the United States. The purpose of this section is to keep our vessels and our shipments out of dangerous zones. The discretion given to the President is for that purpose. We do not want a condition to arise in this country of absolutely destroying our merchant marine or our shipments when to a great extent that can be avoided. In other words, if the war is being carried on in European waters and it became necessary to prohibit the shipment of vessels on account of the safety of certain materials in that zone, and yet there were no dangers in the Pacific, under this section the President would have control of such a matter. Again unless this discretion was given to the President, if England, in connection with Canada, should become involved in a war, although there would be no danger to our shipments or vessels in the Great Lakes, or probably from Seattle to Vancouver, yet if we did not have this discretion reserved for the President it would destroy this trade.

Subsection (b) of this same section prescribes that after a proclamation is issued by the President that a war exists between two countries, and then afterward it appears to the President that in order to protect our neutrality, and in order to protect the lives of our people and the commerce of our people, and he so proclaims, it is thereafter unlawful, except under such limitations and exceptions as the President may prescribe, to export or transport from the United States to any belligerent state or states wherein civil strife exists named in said proclamation or proclamations, or to any other state for transshipment to, or for the use of such belligerent state or such state wherein civil strife exists, any articles or materials whatever until all right, title, and interest therein shall have been transferred to some government, agency, institution, association, partnership, corporation, or national, and certain provisions are set up in the bill providing how this shall be done. Now, this is what might be called the cash-and-carry system. The Senate bill makes this section automatic after the first proclamation is issued by the President, but we do not. We feel that wars might exist in which there is no chance or reason why we should become involved in such wars. Trade is timid, and there is no reason to set up this machinery and interfere with trade unless it is for the purpose of protecting our neutrality or to save the lives or commerce of our people. Again, if the President did not have this discretion, and using Canada and Great Britain as an illustration again, if these countries were involved in a war with some other nation, no article of any character under a general order by the President could be carried across the Great Lakes to the Canadian coast. Thousands of our people have summer homes across the Great Lakes, and they could take nothing across those Lakes unless the title was transferred to some foreign agency.

The bill in the Senate does not make this exception. It is true that we place at the end of this section that any embargo against one nation shall apply to all, and this might in some respects interfere with the discretion of the President. For that reason, in order to get away from that term and make it sure, there has been inserted the word "overseas", and this may be too broad in its general terms. Anyway, the theory of the bill is that belligerent nations have the right to come to this country, purchase whatever they may desire, and pay for the same and then carry it away. Of course, the argument is made that if this is carried out that those nations with a great navy will be affected less. This is true, but I hardly feel that this is a valid argument, since we treat nations alike. It will always be true that the stronger nation

will receive more benefits. This would be true if we prohibited any commodities of any kind to be purchased here or shipped abroad; the stronger nation would reap greater benefits from a law of that kind than the weaker nation, which would have no chance to get its supplies. In my opinion, the only way that this could be remedied would be if the President had the broad discretionary power to choose the aggressor nation in a shipment of commodities, and then, if the greater nation were the aggressor, cut off their supplies and sell supplies to the other nation. Understand, however, that I would not for one instant advocate this policy, because this would not be neutrality and it would come nearer involving us in a war which we are hoping to escape.

I have tried in a general way to give you what is contained in this legislation and our reasons for so adopting it.

I might add that we placed a limitation of 2 years on these sections for two reasons; one, as before stated, it is experimental and different from anything that has ever been advocated heretofore; and, secondly, we hoped by this limitation that the Senate would consider this a concession and agree with us on the provisions of our bill. Heretofore we have introduced bills and advocated the handling of commodities by permitting the shipment of commodities to belligerent nations—the ordinary shipments during peacetime—on the theory that if this were done no nation could complain. This, however, was abandoned in this bill because of the fact of the great trouble we would have in properly enforcing it. The idea was to determine what the normal trade was as between our country and belligerent nations or states, by going back 3 to 5 years to figure it out. But in arranging these quotas we would necessarily do great injustice to many of the shippers of this country. For that reason it was abandoned in this bill.

I don't know whether this will work or not. I know it looks better at the present time than anything that we could pass.

I have tried in a general way to give you what our bill contains and our reasons for such bill. I want to reiterate that no neutrality bill passed can ever be a guaranty against war or our entering into a war; it is speculative in the highest. We all hate war and want to do everything in our power that is honorable, that is right, that is just to ourselves, to prevent war and keep out of war. The people of the United States of America are sold upon this idea and we are trying to do the best we can to carry out what we think is to the best interest of the people and the will of the people. We are all endeavoring to reach the same goal, with diversity of opinions on all sides, and we, as legislators, are aways glad to have the best thought of the country upon this proposition.

The War Debts

EXTENSION OF REMARKS
OF
HON. JAMES A. SHANLEY
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Monday, April 26, 1937

Mr. SHANLEY. Mr. Speaker and my colleagues, everyone sincerely interested in the solution of the vexatious World War debts must welcome the statement of Neville Chamberlin, Chancellor of the Exchequer, in the House of Commons yesterday. While that statement was general and said that England could only pay when able, it is a heartening step in the right direction.

I have said before that the Bible of our stand on World War debts is a speech of President Roosevelt on June 1, 1934. In that document which he sent to Congress, he said that the American people—

> Are certain to be swayed by the use which debtor countries make of their available resources—whether such resources would be applied for the purposes of recovery as well as for reasonable payment on the debt owed to the citizens of the United States, or for purposes of unproductive nationalistic expenditure or like purposes.

It is significant also that he asked for "determined efforts" for "substantial sacrifices" on the part of debtor nations. In addition I believe that the two closing paragraphs in his message best explain the present situation and point our course.

> We are using every means to persuade each debtor nation as to the sacredness of the obligation and also to assure them of our willingness, if they should so request, to discuss frankly and fully the special circumstances relating to means and method of payment.
>
> Recognizing that the final power lies with the Congress, I shall keep the Congress informed from time to time and make such new recommendations as may later seem advisable.

Agriculture Appropriation Bill, 1938

EXTENSION OF REMARKS
OF
HON. KARL STEFAN
OF NEBRASKA
IN THE HOUSE OF REPRESENTATIVES
Monday, April 26, 1937

Mr. STEFAN. Mr. Speaker, we are about to vote on a bill appropriating $927,398,548 for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1938. That is a tremendous amount of money, and I am wondering, in view of what has been said in debate, just what percentage of this gigantic sum of money will actually go toward the betterment of agriculture. I would like the farmers in my district of Nebraska to know what we are really doing here today. They should know that the appropriations for the Agriculture Department called for in this bill do not all go to benefit agriculture. As ably stated by the distinguished chairman of this committee [Mr. CANNON], only about $53,000,000 of this gigantic sum actually goes toward the benefit of agriculture. Much of the rest of this vast sum of money goes toward salaries and other expenses of other divisions which have been added so rapidly to the Agriculture Department.

It should be stated here that from 1836 when we appropriated only $1,000 for the Agriculture Department we find ourselves today appropriating nearly a billion dollars for this Department. In view of the fact that only about $53,000,000 of this great sum goes to actual agriculture it is readily seen how numerous have been the divisions added to this Department which have nothing to do with agriculture. I would like the farmers in my district to know this, especially in view of the fact that some Members frequently rise to say we are spending too much money to help farmers. There are several items in this bill which should be brought to the attention of this committee. One of them is the statement of a member of the committee that in this bill there are 217 items amounting to over $100,000,000 about which the committee knows nothing. I am wondering if these 217 items are agriculture items; if they are items which can be eliminated, the money should be given to real agriculture which needs it so badly now for seed and feed. We are told that the committee reduced 109 items and increased 214 items but knew very little or nothing about 217 items which cost the taxpayer $100,000,000 a year. We people from Nebraska still think of $100,000,000 as a lot of money.

The committee has worked hard for many weeks. It should be congratulated for this work, especially in view of the fact that it had cut the Budget estimates several million dollars. The membership of this committee is composed of serious-minded men who are giving every bit of their energy to get all of the information they can in order to economize Government funds. But this and other committees which have to do with appropriations must depend mostly upon Government officials or employees who are personally interested in their own departments and their own divisions. There is a tendency on the part of these interested officials and employees to keep appropriations for their departments and divisions high enough to continually expand their personal departments or bureaus, with the result that the committee must depend upon their information and abide by the advice of interested officials and employees of departments and bureaus. As a result the committee is faced with continual demands for increases and no decreases in expenditures. It is also true that the committee is pressed by even Members of Congress who come before these committees asking for increases due to pressure from home. It is for that reason, Mr. Speaker, that I feel these appropriation committees should be furnished with highly trained experts who are independent of any departments or bureaus—experts who can give their time to investigating the expenditures of all

departments and bureaus and divisions—and when these committees sit to work on appropriation bills they will be furnished with unbiased data and information and advice by unprejudiced and disinterested experts, to the end that the taxpayer's dollar is spent wisely and efficiently and in order that any obsolete divisions can be eliminated. There is no reason why the membership of this House should not know today what 217 items in this bill, costing $100,000,000 a year, are for. The farmers in my district are entitled to know what this $100,000,000 is for, especially when it is charged to agriculture, as it is in this billion-dollar bill.

Mr. Speaker, I am also interested in the item on page no. 101 in this bill under the head of "Farm Credit Administration" for "salaries and expenses." On page 103 you will find that the amounts read $4,000,000, together with $2,950,000, or a total of $6,950,000. I assume this is for salaries and expenses as the title indicates. This is for a farm credit department. The reason I view this with so much alarm at this time is because I have just received a letter from the emergency relief administrator of my State of Nebraska who tells me that hundreds of farmers are leaving my district because they cannot borrow money for feed and seed. He tells me that thousands of acres of tillable land in my district will be idle this year for the same reason. If we are spending nearly $7,000,000 for salaries and expenses for only one department which has to do with farm credit and farmers are forced to leave their farms because they cannot get this credit, does it not seem to you that there is something wrong? It makes me wonder just what percentage of this gigantic sum which we think we are voting to help the farmer the farmer actually gets. What is the use of all of these divisions and bureaus costing nearly a billion dollars if the farmer is not benefited? Are we voting here millions of dollars to keep lawyers and officials in offices or are we voting money for the benefit of actual agriculture? To vote nearly a billion dollars for the Agriculture Department when we know that only fifty-three millions of it goes to agriculture indicates to me that we are overdoing this bureau system in Washington.

I wish to call your attention to this letter I received today from this official in my State. He accompanies the letter with a survey which his department has made of the question of farm abandonment and land utilization throughout the State of Nebraska.

This summary shows reports from the 93 counties in Nebraska, and the report sent to me by the State administrator shows that 1,193 farms will not be farmed in 1937 in Nebraska; 358 of these idle farms are in four counties in my district—Nance, Boone, Greeley, and Thurston. The report shows that 1,690 farm operators have moved to town since January 1, 1937, and that 2,487 farm families have settled in towns since October 1936. Because of inadequate or poor or overcrowded housing conditions 2,040 farm families have immigrated to other States. The report also tells me that 139,630 acres more of tillable land will be idle this year than last year and that 60,000 acres of this tillable land which will lay idle is located in four counties of my district—namely, Boone, Greeley, Pierce, and Thurston. The number of farmers quitting business and who have held farm sales from October 1, 1936, up to the present time numbered 3,624. Of this number 703 were in nine counties of my district, including the counties of Antelope, Boone, Burt, Cedar, Greeley, Knox, Madison, Nance, and Platte.

The remarks of this State official contain many reasons for these deplorable conditions. They indicate that so many farmers have moved into town in some localities that the housing situation is serious. Let me give you a few other reasons for this condition:

Antelope County: Situation about the same as last year, except more families emigrating to other States.

Boone County: Families leaving the State, mostly going to California, Washington, and Idaho. There are few foreclosures because the land is being turned over without foreclosure. With rain this spring some vacant farms are being farmed by nearby farmers.

Boyd County: Even though tenant farmer has left, most of the land will be farmed by neighboring farm owners. Many farm buildings are occupied by distressed families.

Burt County: There will be quite a few idle farms if landlords do not sign waivers on seed and feed loans.

Cedar County: Housing badly congested. Families living in granaries, old churches, and chicken houses.

Cuming County: Some tenant farmers forced to move to town because farm sold and none others available.

Dakota County: Most of the vacated places will be farmed by neighbors.

Dodge County: Vacant land being used by adjoining farmers. Tendency is toward largest farm units and useless tractors.

Greeley County: Reason for quitting farm; did not want to get further in debt or could not get money for seed or feed. It is in this county that about 12,000 additional acres of tillable land will lie idle this year.

Knox County: 225 foreclosures pending.

Madison County: Housing situation crowded. No vacant houses, one family of nine living in a one-room chicken house.

Stanton County: No vacant houses, many living in trailers or in rooms, many livestock sales, but only one known forced sale. Most vacated land will be farmed by neighboring farmers or by landlords themselves.

Wayne County: Farms vacated will be farmed by other farmers taking on land.

Mr. Speaker, even though this bill calls for nearly a billion dollars for the Agriculture Department and in view of the description I have given you of conditions in my district, I know this vast expenditure of money will not relieve our situation. I wish it were in my power to take out the chaff from this bill and vote for real agriculture appropriations here. I must vote for the bill in order to get what little is really left in for the farmer. But I want to go on record today to state that this bill will not solve our farm problem. I recommend to the membership of this house two bills which we are trying to get out of the clutches of the "gag rule" which this house adopted. I refer to the Frazier-Lemke farm refinance bill and the cost-of-production bill. These two bills are the answer to our problems in the farming country. With the passage of these two bills and with good moisture and a crop in my district, no other farm relief is asked for by our farmers.

William Jennings Bryan

EXTENSION OF REMARKS

OF

HON. JAMES A. SHANLEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 26, 1937

Mr. SHANLEY. Mr. Speaker and my colleagues, no one who is really interested in international law and peace could allow the dedication of the statue of William Jennings Bryan in the Capitol's rotunda next Tuesday without restating what Prof. Edward M. Borchard, in his book, Neutrality for the United States, says about the Great Commoner.

The great Yale jurist, in a pithy generalization, says that—

All the policies for which Mr. Bryan stood—the embargo on arms and munitions, a prohibition on loans, a prohibition to travel on belligerent ships except at the traveler's risk—policies which the rest of the administration firmly opposed, and thereby, as Bryan foresaw, projected us into the war, have now received the practically unanimous support of the Congress and of the present administration.

He added:

Mr. Bryan looms larger as a statesman and a prophet.

Again, the unforgettable statement of Secretary Bryan as he found himself unable to continue as a Cabinet

member on the issue of "strict accountability note" to Germany after the *Lusitania* will live long in history. It is worth our study.

It is significant that the genesis of the break with President Wilson hinged on the desire of Secretary Bryan to permit arbitration, a suggestion that Connecticut's most distinguished scholar in international law, at that time, Professor Woolsey, also offered.

Forgotten, but snug, in the records of documents of Foreign Relations, 1914, Supplement, on page 7, we read under the caption:

THE SECRETARY OF STATE TO THE MINISTER IN BELGIUM (WHITLOCK)

DEPARTMENT OF STATE,
Washington, September 15, 1914.

We have just signed treaties with Great Britain, France, Spain, and China. These, with the 22 previously signed, connect this Government with more than two-thirds of the population of the globe by peace treaties * * *.

W. J. BRYAN.

Again on October 5 we learn that—

Germany and Austria have endorsed the principle and we are hoping to secure treaties with them soon.

In all, Bryan negotiated 33 peace treaties as Secretary of State. In the penetralia of these little understood documents rests the prohibition against resort to arms until grievances have been investigated by an impartial tribunal, "a cooling-off period."

Wayne C. Williams in his book, William Jennings Bryan, succinctly says that the heart of the philosophy of the treaty can be stated in three sentences:

All disputes must be investigated.
No war until investigation is concluded.
Independence of action after investigation.

America's Peace Policy

EXTENSION OF REMARKS
OF
HON. JAMES P. POPE
OF IDAHO
IN THE SENATE OF THE UNITED STATES
Tuesday, April 27, 1937

ADDRESS BY HON. ELBERT D. THOMAS, OF UTAH, AT THE FORTY-FIRST ANNUAL MEETING OF THE AMERICAN ACADEMY OF POLITICAL SCIENCE, ON APRIL 17, 1937, AT PHILADELPHIA, PA.

Mr. POPE. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD an address delivered by the junior Senator from Utah [Mr. THOMAS] at the forty-first annual meeting of the American Academy of Political Science, Saturday evening, April 17, 1937, at Philadelphia, Pa.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

AMERICA NEED NOT HAVE A DEFINITE PEACE POLICY, BUT SHE MUST HAVE AN ACTIVE ONE

I am talking to the general subject of "How can the United States aid in maintaining peace?" and on the particular subject of "America need not have a definite peace policy but she must have an active one."

First, what does your general topic mean? Does it mean that the United States must merely maintain her own peace, or does it mean that she has a responsibility in maintaining the peace of the world? Are conditions of peace and war general propositions or are they particular propositions? Or is war what the League of Nations theory maintains it is, a matter of universal concern, or is it merely a matter of particular concern? These questions I shall not discuss.

What do I mean by my particular subject? By an active peace policy, I assume that the best way for America to maintain peace is to think in terms of peace and not in terms of war, and to be active in behalf of peace rather than merely passive in attempts to stop, to limit, or to avoid war. This point may be illustrated by accepting our latest slogan for national behavior in international relations, "the good-neighbor policy", and consider it in its three degrees.

It is one thing for the United States to say to the nations of the world, "You must be good neighbors." It is another thing for us to say, "Let us be good neighbors." But it is still another thing for us to proclaim, "I am going to be a good neighbor." There is as much difference between the first and the last statements as there is between the implication of the Pharisee's prayer and the attitude of the humble One, or as there was between the haughty boast of an ancient people that they were the chosen ones of the Lord and the attitude of the humblest among them that they will be the chosen ones of the Lord because they themselves choose to be and taught love for the Lord by living His commands.

My idea of an active peace policy is simply this: If peace is an ideal, then work for it. We have studied war and its causes, and we find that its causes are so many and so varied that if we think of avoiding war instead of working for peace we will be lost in overcoming the different prejudices, the desires, the habits, the customs, constitutions, and the attitudes of nations and peoples that the cause and the cure of war is almost a hopeless proposition. But we do know what makes for peace. And peace can be attained in a positive way by following a few simple rules.

In an international sense the Golden Rule of a peaceful program should be to never ask another nation to do that which you know your own Nation will not do.

But having spoken my general thesis, I had best turn to particulars to illustrate my point. This I wish to do because the purpose of your meeting surely is to stimulate thought and not to settle questions. How is peace maintained in your own neighborhood? How do you live with the people with whom you move? Immediately you will say, "All that has no bearing on an international question because persons and nations are different." But are they? Did England, France, Italy, and America write the Treaty of Versailles, or did the big four, Lloyd George, Clemenceau, Orlando, and Wilson, write the treaty? Does Italy speak today, or does Mussolini speak? Did England speak at Geneva or did Eden? Did France, England, and America crush the Germans, or did Foch, Haig, and Pershing? It is the actions of men, not of nations, that count. The men may be moved by something which has been misnamed "public opinion" but more often the public is moved by the opinion of men. Therefore, good international relations are in their nature the same as good personal relations.

Therefore, knowing the factors that make for peace and prevent misunderstanding, why cannot we use them in an active way constantly? Of course, you say we do, but have we?

Now to the record. Let us see what we might have done and what we have done in regard to peace in the Far East. In 1844 we established our first unequal treaty with China. As a result of it, and as a result of the changing conditions since that time, we gained extraterritorial rights. Have we done anything to remove the implication of our assumed superiority as a result of those rights? In China we have not. In Japan and in the Near East we have. But in both Japan and the Near East we were practically forced to recede. Are we going to continue our attitude until China hints so broadly and so strongly that it will be another case of a forced withdrawal? Have we made any promises in regard to extraterritorial jurisdiction? You know we have. Has China done anything to meet those promises? You know she has. Even if we do not wish to withdraw our courts and our officers, we can at least have those courts and officers administer Chinese law instead of American law and thus cease to be the outstanding sustainer of a condition which cannot make for good feelings. When you realize that China cannot enforce her own laws in regard to labor or sanitation upon the foreign-owned factories within what should be her own jurisdiction, you can see that we are doing nothing there toward making for peace.

Were we on the alert when a changed condition through Russia's entering into the League of Nations made obsolete the nine-power and the five-power pacts? We were not. Adhering to the theory that history is a process of change, the first stage of the League's evolution represented a combination of capitalistic nations against a revolutionary Russia. That stage passed with Russia's entrance into the League, and with its passing an entirely new approach to world outlook should have followed. In the Pacific, Russia, although an outstanding Pacific power, was not a party to the Washington conference and its treaties, this primarily because unconsciously the Washington conference states accepted the League reaction against Russia. Russia's entrance into the League, like our recognition of Russia, gave Russia nothing which she was not entitled to, for she merely took a place which the Covenant makers anticipated, but with her entrance there was a de-facto change. Russia was no longer, either consciously or unconsciously, united against. As a naval power she was free to build, while Japan, her nearest neighbor, was bound by treaty. This change should have been apparent to all. I, for one, attempted to make this plain and suggested a consultation of powers bound by our Washington conference treaties. Not a single editor, and I am sure no official, saw my point, and no nation made the suggestion. When Russia began building a great navy again she became naturally an interested party in the five-power and nine-power pacts. Did we do anything? We did not, and as a result Japan was forced to break both of those two treaties.

Have we done anything in an effort to mollify the feelings of Japan as a result of our Immigration Act of 1924? Nothing. This is in no sense a vital question any more because the Japanese people are willing to understand, but if we had an active peace policy we would probably not force them to understand.

We should not retract in our nonrecognition policy in either the Far East or northern Africa, but in each case our stand should be actively one for peace, and in liberal appreciation of the prob-

lems, or assumed problems, which Japan and Italy think they face. In Japan's case her problem has remained identical since before the Russian War came the suggestion of the neutralization of the Shimonoseki Straits.

In our peace policy we should always speak the truth and face all international conferences, and especially disarmament conferences, by speaking the truth ourselves and thus indirectly insist upon it on the part of others. We have tried to approach the naval disarmament question in a general way by reducing tonnage with the caliber of guns, or the number of guns or the instruments of destruction. That is definitely the wrong approach because it invites substitution and causes the individual nation to attempt to gain advantage within an agreement. For example, if tonnage is reduced in an attempt to control size, a nation may build larger ships by reducing the armor weight. Knowing this, why should we not attempt to make governments justify their own policies and their own defensive needs in the presence of other governments by stating truthfully our own needs? A navy department can justify its own need to its own parliament or congress, but never does it speak frankly when it talks to the outside world. Take our own case as an example. If we have an idea that we must fight the combined strength of all of the fleets of the world in either the Pacific or the Atlantic, let us figure out how many ships, how many airplanes, or how many men it would take to do the job, and then go into a conference and say that we need this maximum. It would be very much harder to justify an absurd national policy if nations could be led to speak the truth and tell their fears.

Of course, men may become so refined in their talking that it is really difficult to speak the truth and have it accepted as such, and sometimes even that leads to misunderstanding. Take for example a pronouncement in our present neutrality law. Every thoughtful man knows that America is not going to be neutral if some non-American state should attack some American state. We have had a hundred years of various kinds of thinking about what we call our Monroe Doctrine. Latin American states did not remain neutral after we went into the World War. And if for no other reason than to be responsive to that idea, it was right for us to make the declaration we did in our neutrality act. But this, even, has been misunderstood by some of our own people. The Monroe Doctrine stands ready to be made into a positive and active peace policy and I believe our American leaders have seen the point.

The Monroe Doctrine, whether considered as an altruistic expression, a defensive measure, a reciprocal relationship, or a regional understanding, is still of our making and depends upon us for its perpetuation. It was never a static proposition and it never will be, but the suggested concept of allowing it to evolve into the sisterhood of American republics and making it just that, gives it an all-American ideal in very fact. With this changed attitude the responsibility for its maintenance no longer rests upon us; it rests upon the whole or North and South America. A union of spirit, a union of hope, a union of aspiration. A dream of a Bolivar come true. A dream even better than Bolivar's, for Bolivar thought in terms of a political unity. To us that thought seems and is an anachronism, for we know today a better and a surer unity. It is the bond of the spirit, a bond of mutual endeavor, a bond of mutual helpfulness. I shall leave this thought by reference to our ancient story: Shall we live on our neighbors or shall we live with our neighbors? If we turn that changed attitude into a positive peace program for the Americas and continue to hold open the invitation for Canada to join us as an American Republic, we have a positive, active peace policy for the Americas.

Our peace plan should rest on understanding in our relations with the League of Nations and all of its organizations. It should be based upon an appreciation of her problems and ours. With public opinion as it is in the United States, we can go no further than this in regard to those institutions of the League which we speak of as the World Court and the Assembly and the Council of the League. Collective action has made for peace in the world and will continue to make for peace. Our own history proves it. But it should be collective action based upon the democratic principle and the democratic processes. This means cooperation on our part only when our people want it. Our active peace policy should be to use both the Court and the League whenever it is to our advantage to use them. If there are certain cases, for example, and international differences which the litigants are willing to submit to the World Court, America should do her part in presenting those cases, but she should do it only after telling the Senate of the United States why she is doing it, that the parties to the controversy want it done, and that the Government wants the Senate's approval. There is nothing illegal, nothing improper, nothing out of the ordinary, in this suggestion, and then we would learn from actual practice whether or not the institution is good for us. Experience and history give us no alternatives but collective action for the settlement of disputes by legal processes by using the Court, recognized as having the power to decide by all litigants to a controversy. I have said there were no alternatives. There are no peaceful alternatives. There, of course, is the alternative of turning to war.

We have made progress in overcoming some of our own, and the world's, trade difficulties through reciprocal treaties. This should be continued. But reciprocal trade arrangements are not cure-alls for the world's ills. At best they temper strong national feelings and remove trade barriers. And thus they contribute to the removal of friction and bring about better intercourse. But they do not constitute a panacea for war. The world and nations in the world can fight quite as well even under a free-trade status as any other. But remarks some thoughtless one, "That is not the case. Our Constitution by bringing about free trade between the States cured many little wars between the States." I think our Constitution did prevent many a little war, but even the free trade between all the States did not prevent our Civil War.

Thus again I emphasize the need of a positive and active peace attitude rather than a negative approach for curing war. Too much and for too long we have accepted the economic theory of the state with its Marxian conclusion. Man's love, material gain, is not the only thing for which he will fight.

Linked with the theory of reciprocal trade must, of course, come some effort to stabilize those mediums by which men account for and strike a trade balance, money and credit. There is a great deal of difference between money and credit, although most writers on these subjects fail to recognize the difference. America should build her international money habits upon her own national law and use that which she has not only in the protection of her own but in lending stability to others. In this she can probably do her greatest service to the world. She must see to it that the world does not either from force of necessity or from the zeal for new things go off a metallic monetary base. Ultimate money stability rests upon the discovery and the maintenance of a common denominator whose value remains nearly constant and upon which other fluctuating values may be based. If we fuse the two we get rid of the common denominator and in an international sense that means that the economic strength of one nation when compared with another rests entirely upon the labor of the nation and not upon any accumulated wealth. That in turn means that if managed currency becomes the universal rule, that nation which is nearest to the ultimate consumer and that nation which has the greatest surplus and the cheapest labor, all other factors being equal, will have the advantage. For America to flirt with the money systems of the exhausted nations of the world is for us ultimately to reduce our standards of living. Thus we must maintain the metallic base and that metallic base must be as it is today, made up of both precious metals. Thus we attract all nations of the world, instead of a particular group, to our money. Our present law is proving itself to be of such magnificent success that the nations and the peoples of the world recognize it by their very action as being the soundest money policy of the earth, and surplus credit is flowing to us, probably too much, but if we keep our heads and keep control there is no reason why that day is not near when there can be free flow again of specie in our own land and in the other lands. If we only recognize that kind of money, the world ultimately must come to a stability based upon it. And being the master of the money situation of the world our ability to use that mastery to the advantage of the whole world depends upon our attitude. If our attitude is one of active peace furtherance, the world will not become suspicious of us and money will continue to flow to us as it is today.

In our neutrality acts we have stressed the duties of Americans in time of war instead of emphasizing our rights. That part of our Neutrality Act we can all be in favor of. It deserves universal support and is in keeping with the ideas of an active peace policy. But we do not need to renounce all our rights in emphasizing our duties. Giving up rights will not make for peace. Insisting upon them when they are fair and have the complete sanction of international law and custom and good international morals will never be questioned by others.

I could cite the example of little Switzerland in the summer of 1936, when the Italian newspaper representatives attempted to create disorder in Geneva. The Swiss police and the Swiss state stood for what was right and a bully of the earth respected that stand.

Thus I might go on, using illustration after illustration. Probably I have made my point of what I mean by an active peace policy. I would, if I were running the international affairs of our Nation, follow the homely custom of the old model emperor, Shun, who carried on the affairs of the state by being willing at all times to talk about those affairs and the duties of the state. You will remember he hung out in front of his home a bell, a gong, and a clapper. And he stood ready at all times, if someone rang the bell, to come out and talk about the relations of man to his ruler. If someone sounded the gong he stood ready to come out and talk about the relations of man with his elders. And if someone sounded the clapper he stood ready to come out and talk about the relations of man with his neighbor.

The fundamental principle of the democratic process is, after all, "talk." To be ready and able to lead in international conference and international conversation is consistent with a positive, active peace policy. As I suggested when Russia entered the League of Nations that it was time for a new conference to revise the nine-power and five-power pacts and to make Russia a party to that conference, I say today that it is time for America to lead again in discussions about threatening international conflict, threatened international rivalry in arms building, and threatened break-down of world economics because of the conflict of moneys and the threats to judicial and collective peace action. A number of treaties have become null and void in the last few years. They need to be replaced, not necessarily by some schemes that will last forever, but by some understanding from which we can work today. The world needs leadership in an active way, and I know of no nation better qualified and better able to assert that leadership than one which has accepted that aspect of good neighborliness by declaring that "As for me, I am going to be a good neighbor."

Regional Research Laboratory

EXTENSION OF REMARKS

OF

HON. JOHN H. BANKHEAD, 2D

OF ALABAMA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 27, 1937

RADIO ADDRESS BY HON. THEODORE G. BILBO, OF MISSISSIPPI, ON APRIL 23, 1937

Mr. BANKHEAD. Mr. President, I ask unanimous consent to have printed in the RECORD an interesting address on a timely topic, delivered over the radio by the junior Senator from Mississippi [Mr. BILBO] on the subject of the establishment of a regional research laboratory for discovery of new uses of cotton and cottonseed products and other southern farm products.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Prior to the World War the South grew three-fifths of the cotton produced on the globe. For every 3 acres planted in cotton in the United States at that time 2 acres were grown in all foreign countries. As recent as the year 1934 the land devoted to the cultivation of cotton in the United States was 27,515,000 acres, while in all other parts of the world it had increased to 45,985,000 acres. The situation had almost reversed itself over that which obtained preceding our declaration of war against Germany. It is interesting to note for that same year 1934 a production of cotton in the United States was 9,634,000 bales, while foreign production reached the peak of 12,869,000 bales.

Due to increased production abroad and to curtailed production at home and because also of a simultaneously drastic reduction in our cotton export trade, both of the raw cotton and the manufactured products, the hour has struck when we must give earnest consideration to the matter of looking to the people of the United States, and more especially the rural sections, as a potential market for our cotton and its byproducts.

That group which has provided the most profitable market for industry in this Nation is composed chiefly of farmers and those who live in small towns and villages adjacent to the farms. Surprising as it may seem to some, this group comprises approximately one-half of our population. It is to this great army of farmers and those who live in close proximity to them that we must turn for the markets that are now being denied us and in some instances closed in foreign lands. The potentiality of this home market is dependent upon the increased purchasing power of American agriculture.

A short time ago a survey was made in one of our Western States to determine the necessities not then enjoyed of the farm homes, and not inclusive of the farm itself, but just of the home—the household necessities that would be bought for these homes if the occupants had the purchasing power so to do. Bear in mind this list included no luxuries, no extravagancies, but simply those things that meant for a decent standard of living, the ordinary, customary, family necessities. This careful survey in an average Western State of average population revealed the startling disclosure that it would take $100,000,000 to buy the household necessities that the farmers were doing without, but would purchase if they had the money.

By applying this yardstick to the country as a whole and with respect to the farmers only, it has been estimated that if all the farmers' wives of the Nation were to go shopping on a given day to buy the actual necessities for their homes, without the addition of a single luxury, the aggregate of their purchases on this one day's shopping tour would be $5,000,000,000 worth of manufactured products.

If to this list were added the necessary farm machines, the material for repairing fences and buildings, the equipment and labor for electrification projects, and a large number of other farm accessories so essential to modern requirements and standards of living, the farmer husbands would have accompanied their wives on their buying expedition and would have spent, according to careful estimates, another $5,000,000,000 for manufactured products.

The conclusion reached from close and intelligent study of this survey is that the permanent establishment of the purchasing power of American agriculture will solve our problem. It is my contention that this necessary purchasing power can be best attained by the development of new products or new uses for old products to promote and advance the industrial use of farm products through applied science. In the future, institutions must be established giving more emphasis to the problem of new uses for old products and less attention to the problem of greater production of old products.

The industrialist, when faced with an impaired market condition, a diminished demand for his manufactured products, proceeds to develop new products for new markets and also new uses for old products. By advancing the industrial use of farm products through applied science and encouraging the production of new crops and crop products we will in the long run increase the purchasing power of the farmers and his consumption of manufactured products. It is one way, if not the only way, out of the Nation's economic distress.

Modern science has placed new tools at man's disposal, and by the use of them he has taken many of the heretofore discarded products of the soil and transformed them into usable materials for industry. The story of the achievement of farm chemurgy within the past decade affords one of the most interesting and inspiring chapters in the agricultural and industrial progress of the Nation. There are no limits to be placed on the markets for the things developed from products through applied science. The products of the soil are not alone to feed the stomach and clothe the body.

It would require volumes to list the materials that can be processed from the soil and through chemurgic research made available for industry, thus contributing to the purchasing power of the farmer, the prosperity of agriculture, and the wealth of the Nation.

The march of progress through all the years is invariably led by some new development, by the scientific preparation of some product for the absorption of industry. Basic research through applied science in promoting the industrial uses of farm products opens a territory for development that challenges the interest and financial support of the Federal Government.

The electrical and mechanical advances that were made possible during the past quarter of a century have not contributed more to human progress than will the science of chemistry have done within the next decade. We have only touched the surface of unlimited possibilities and achievements in this new field of scientific research. The Nation is becoming science-minded in the consideration of the utilization of our own farm products through the discovery of new uses for these products.

Permit me to call your attention to some of the well-nigh miracles that applied science has brought in the development in recent years of certain farm products that were considered of no special value when touched by the magic wand of chemurgy and inventive genius.

I have in mind more particularly the discoveries that have been made through chemurgic research, or applied science, as the chemists term it, of an astounding list of uses of cottonseed in the manufacture of so many household and industrial necessities.

The uses of cotton itself, from which the cottonseed is derived, were comparatively limited until the invention of the cotton gin in 1794. Only 3,000 bales were produced in this country in 1790, 4 years before Whitney completed his gin. Following the perfection of the cotton gin, the growing of the plant gradually increased until in 1926 a record crop of 17,750,000 bales was produced in the United States, with a yearly average ginning for the past 25 years of about 13,000,000 bales.

The land devoted to its culture in this country ranges from twenty-seven to forty-nine million acres, and the value of the crop has been as much as $2,000,000,000 in 1 year. Fourteen million people are employed in the textile industry and countless thousands from planting to weaving are supported through employment in some phase of its production, sale, and manufacture.

Not until recent years have any new uses been discovered for cotton other than for spinning yarns and weaving cloth. Today it is our chief cellulose crop. Rayon is as much a cotton fabric as calico. It is a chemical product produced from cotton linters, a short fuzzy lint attached to the seed after the cotton is ginned.

Last year the world's production of rayon was valued at $535,000,000, and of this new wealth created by chemurgic research the United States produced goods valued at $148,000,000. Through the means of applied science a new industry has been established of such huge proportions as that 6,600,000 acres of land are required yearly to grow the cotton from the seed of which the linters are taken. Another chemurgic use of cotton linters is by the plastic industry, and a million or more acres additional are required to grow the linters for this chemurgy product. It takes 300,000 acres of land to grow the linters used in making the smokeless powder bought last year by America's sportsmen and 1,100,000 acres to produce the linters in making lacquers and varnishes.

In the manufacture of rayon a glucose solution for the hardening of the filaments is used, and this glucose last year required in its making all the corn grown on 320,000 acres.

This chemurgy product derived from cotton linters was not made in the United States until 1925. Within the short period of 12 years there is hardly a home in the country that is not supplied with some product made from the lint on the lowly cottonseed that was once a veritable scourge, to say nothing of being valueless.

It still lives within the memory of men in the South that cottonseed was a thing for which there was no possible use. It was dumped into the fields and there left to rot and the stench therefrom was so great that men shunned it. It was unfit for livestock because it was thought that if they ate it they would die. Laws were passed in some States prohibiting the dumping of the seed into the rivers because it contaminated the waters. The menace became so great that the planters in some communities seriously considered abandoning the growing of cotton.

This cottonseed, which at one time was a curse, has now proved itself to be a boon to the South, and adds upward of $250,000,000 annually to the wealth of the Nation. Instead of becoming a

detriment to the health of the people because of the vapors arising from its decay, it is today conserving the health of the people by furnishing an adequate supply of edible fats in the form of shortening and salad oils.

It has been said by an eminent authority, "If all other sources of man's food supply were cut off and yet a bountiful supply of cottonseed were available man could still live, move, and have his being, as he could obtain from the cottonseed his flour, butter, lard, and salad and cooking oils; his cattle could be fed with the cottonseed cake, meal, and hulls; and his soil could be enriched by these products in the form of fertilizer." This one-time discarded and discredited byproduct of cotton in the year 1934–35 produced, according to the United States Department of Commerce Bulletin 172, cottonseed oil in the value of $91,849,000; cake and meal, $54,023,000; hulls, $10,260,000; linters, $21,606,000, making a total value of $177,738,000.

In the story of cottonseed and its development may be found the finest example of the accomplishments of applied science, chemurgy research, in the transformation of a farm product into a thing of utility, that had been since the days of Christopher Columbus considered a thing of no earthly value.

The progress in discovering new methods for the utilization of cottonseed and its byproducts is a monument to the achievements of chemurgic research. It was the chemists of the Bureau of Chemistry and Soils of the Department of Agriculture who through the slowly moving years, working with faith, hope, and patience and with scientific knowledge, have brought to perfection to a greater degree than all others the byproducts of the cottonseed in an ever-increasing number of industrial and domestic uses.

I am proposing to the Congress the favorable consideration of a bill that I recently introduced to provide for the construction and maintenance of a laboratory to be located in the Cotton Belt of the South, fully equipped for more extensive research work in the discovery and development of still further new uses for cotton and cottonseed products and certain other farm products, not inclusive of forestry products. The Government this year is spending only $88,000 for chemical research in 12 Southern States. This is a mere bagatelle when compared with the gross agricultural returns of these States amounting last year to approximately two and a half billion dollars.

Billions of dollars are annually being lost by the southern farmers because science has not yet come to their rescue by converting the byproducts of the southern farm crops into usable and commercial forms. A partial list of yearly southern farm products that now offer opportunity for further chemical research is as follows: Byproducts from cotton alone: 18,000,000 tons of cottor stalks, about 5,000,000 tons of cottonseed, 1,200,000 tons of cottonseed hulls, and 1,000,000 bales of 500 pounds each of cotton linters. Byproducts of waste and culls from other southern farm crops: 15,000,000 bushels of culled sweetpotatoes, 1,500,000 tons of rice straw, 500,000 tons of sugarcane bagasse, 100,000 tons of peanut hulls, and undetermined amounts of tung-nut hulls and shells, pecan hulls and shells, and with all this the story is only half told.

I am placing this research work, according to the terms of the bill, under the direction of the Department of Agriculture, because it has had many years of experience in the operation of small regional research laboratories seeking industrial utilization of farm products.

Millions have been appropriated by Congress to improve plants and increase production, and the time has now arrived to give attention to the spending of a part of these millions in scientifically conducted research to discover new uses for this increased production and the fruits of these improved plants.

The gospel of chemurgy is taking root on the hillsides and in the valleys of every farm and garden in the Nation. No news of the day is of greater importance to the farmers. Its achievements, both real and potential, have caught the imagination of the man on the farm and the man in the industrial plant. It has inspired a song of hope and honest promise upon the lips of those toiling in the laboratories of the colleges and in the experiment halls of the factories.

Finally and emphatically, it has destroyed the doctrine of defeatism in the heart of agriculture.

Will Real Democracy Survive?

EXTENSION OF REMARKS

OF

HON. HIRAM W. JOHNSON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 27, 1937

RADIO ADDRESS BY HON. H. STYLES BRIDGES, OF NEW HAMPSHIRE, ON APRIL 26, 1937

Mr. JOHNSON of California. Mr. President, I ask leave to submit for publication in the RECORD a radio address on the question "Will real democracy survive?" delivered by the junior Senator from New Hampshire [Mr. BRIDGES] last night.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen of the radio audience, at the outset I wish to thank the National Broadcasting Co. for offering their facilities to me for the purpose of making some observations concerning the state of the Union.

Under the title "Will real democracy survive?" I propose to show that American constitutional democracy is being attacked on two fronts by the Roosevelt administration. On one front the President attacks it directly by proposing that Congress legislate democracy out of existence; and on the other front the President attacks indirectly through his fiscal policies which have brought about a financial crisis sufficient to challenge the stability and integrity of the Government itself. Unless the people compel positive action to avert it, it is doubtful if American democracy can stand up under another financial collapse.

In view of the situation, I think the time has come for some plain, honest, vigorous back-yard talk. I think the time has come to strip the bunk and hooey from official pronouncements and propaganda; and I think this kind of talk can proceed without personal or partisan bitterness.

I said that the President is asking Congress to legislate real American democracy out of existence. By that I mean that in addition to the already enormous powers which a controlled Congress has vested in him during the past 4 years, the President has proposed to Congress during this session two bills—the Supreme Court enlargement and the administrative reorganization bills—which, if enacted, will result in the setting up of an all-powerful executive government. There are other bills pending which presumably have the President's backing and will, if enacted, further consolidate legislative power in the Executive.

True liberals, as distinguished from noisy self-proclaimed liberals, are warning the American people against an encroaching personal government. They are beseeching the people to halt Executive domination over the legislative and judicial departments; they are urging the American people to cease sowing the seed of Executive mastery lest they reap a dictatorship. No dictator ever ran on a platform calling for a dictatorship, and it is no sufficent answer to deny that a dictatorship is the aim of a group in control.

The President's proposal to enlarge the Supreme Court by appointing six additional Justices is a very far-reaching one, and the controversy provoked by it must be settled by affirmative action. In my judgment the American form of government as we have known it for 150 years is, by reason of this proposal, on trial for its life. Strong forces are at work, and they are apparently sincere in their belief that the legislative and judicial departments of our Government should be subordinated to the executive department. I cannot subscribe to that doctrine, and I will resist it.

Also, there are other forces at work which threaten the life of American constitutional government no less than the President's proposal to adulterate the Supreme Court and debase its independence and integrity. The American people can repel the attack on the Supreme Court, but of what benefit would that victory be if at the same time the people permit reckless spending and inflation to destroy the foundation of the Government, which they sought to protect by defeating the President's Court plan?

Informed people feel that we are speeding toward a disastrous inflationary era because of the administration's unsound fiscal policies. The President himself has raised storm signals, as also have the Chairman of the Federal Reserve Board, Senators, Congressmen, and numerous authorities outside of the Government. Will not the American people heed these warnings and force the administration to reverse its fiscal policy? Has not the time come when the test of sincerity is the way things are done and not the way in which they are said?

The American people want security, and to have security they must get stability in their Government. Security of jobs, social security, old-age assistance or pensions, security of homes, security of farms—all are predicated on the financial stability of the Government. They become myths and illusions when the Government is imperiled by an administration which is so reckless in its spending operations that the value behind this security is diminished or menaced. The jittery Federal bond market of the past few weeks and the wide fluctuations in the price of Government bonds should be a sufficient storm signal for the American people.

The people want the better things of life which we have demonstrated that we can produce, but our ability to attain them is limited by our ability to pay for them. A beneficent government which oversteps the ability of its people to pay for these things invites ultimate disaster instead of promoting a "more abundant life." And the people who suffer most in inflationary times are not the rich and well-to-do people but—and here is the tragedy of it—the people who suffer are the ones on the lower rungs of the economic ladder. The wage earner, the small-home owner, the man on security wages—all of these, if you please, are the ones who will first feel the cruel results of the administration's imprudent fiscal policies. How will they feel it? They will feel it by sharp increases in the prices of necessaries of life; they will feel it by having their purchasing power sharply reduced.

Reduced purchasing power on the part of the people means less production in the mills and factories and on the farms. Less production in the mills and factories and on the farms means fewer jobs and more unemployment. Fewer jobs and unemployment mean a greater tax burden on those who do work; and with ever-increasing prices and higher rents, how can those who do work share still more of their wages with those who are unemployed? Those who now are working are already sharing, through taxation and otherwise, a very generous portion of their wages. Can the administration ask the workers to do more, and by so doing cover up its own failure to do its part? The recent corporate surplus-tax law, which restricts corporations from storing up reserves sufficient to maintain their financial integrity and at the same time continue employment during bad times, has admittedly failed to produce the expected revenue and has further weakened the permanent stability of industry. Members of the Republican Party and business leaders throughout the Nation consistently pointed out the inherent weakness of that tax bill. Now, administration leaders are meditating its repeal. It therefore follows that by its loose, unsound financial policies the Roosevelt administration is drawing a vicious circle of insecurity, and the part that hurts a true liberal is that this circle is being drawn in the name of a "more abundant life."

During last October and November the American people heard from high and mighty places that recovery was here; that the wheels of industry were turning again; that the economic train had been put back on the track and that smiles were on the faces of all the people; that the depression had been licked and licked permanently; and that we were going forward to the promised land. There were some speakers, however, who were bold enough to issue a warning. They were denounced as alarmists and prophets of gloom. These were not the only speakers who were denounced. There were those who warned of the President's plans to tamper with the judiciary. But in the short space of 6 months or less the American people have seen the accuracy of these statements proved in both instances by the President's own words.

The President's court proposal has been finally reduced to the proposition of whether the American Government shall continue to be a government of legislative, executive, and judicial departments or whether it shall become a government dominated and controlled by the executive department. To say it another way, the issue is whether the Supreme Court shall continue to be a court of law or whether it shall become a mere appendage of the administration in power. The great mass of the people understand that this is the issue, and no amount of clever language will conceal it.

In prosecuting his proposal the President seeks to convey the impression that the granting of this request guarantees a cure for all of our economic troubles. If the implied guaranty means anything, it means that a new court could be relied upon by him to interpret the Constitution in a way which will give additional grants of power to the Federal Government. Now, it may be advisable to give the Federal Government more power and to further restrict the power of the States and the people, but who is to make these decisions, and who shall make these grants of additional power—six new Justices or the American people themselves? As for me, I want the people by express action to make those additional grants of power if it is advisable. I shall oppose any plan whereby six men, whoever they might be, can convey by judicial construction that power which the American people have reserved to themselves.

In my judgment, the distinguished Senator from Idaho [Mr. BORAH], in a recent speech, said in one paragraph everything that can be said on this subject. I quote him:

"Have we not in good conscience arrived at the hour when we should consult a higher authority than the courts or Congress or Executive—the people, the final authority upon this question of the distribution of power? It seems to me that a question has arisen which only the people have the authority or the right to settle. Should there be a redistribution of power between the State and the Federal Government? A question of this nature under the present conditions cannot be put at rest by decisions from time to time upon particular statutes—it is more than a matter of judicial construction. It is not for us to urge, or connive, at the courts, through strained and doubtful construction, filching from the people power which the people have not granted."

That seems to me to be a true and complete statement of the issue. That is the American conception of democracy, and to do things in a democratic way is the American way.

To oppose the President on the Court and spending issues does not mean that I am also opposed to the broad objectives of his program for a "more abundant life." This is not said for the purpose of fortifying my opposition in these instances, for I am and have been, as my record in New Hampshire will attest, an unyielding advocate of sound, progressive, and forward-looking measures to promote the social and economic welfare of the great mass of the American people.

I have supported the collective bargaining. It is not a new principle. It was not first enunciated and written into our statutes by the Roosevelt administration. The principle of collective bargaining was first written into our laws in the Railway Labor Act of 1926, which was signed by President Coolidge.

Social security is not a new idea. It has had militant support in America for 20 years or more. I have supported social security, and when I was Governor of New Hampshire my State was the first State to qualify under the Federal Social Security Act.

I know the problems of the average workingman because I have always worked for a living. I know the problems of the American farmer. For many years I have worked for his economic improvement. I was born and reared on a farm, educated in an agricultural college of a State university, served as a county agricultural agent, as a member of an extension staff of the University of New Hampshire, as secretary of the New Hampshire State Farm Bureau Federation, and as an official in a mutual farm-insurance company.

I know the problems of the small-home owner because I reside today on a typical small New England farm. It is home for myself and family. That home has been acquired in the same manner as most of the small homes and the small farms in this Nation have been acquired—by hard work and by saving.

Prior to my election as Governor of New Hampshire I served for 5 years as a member of the public service commission of that State. During that period the New Hampshire Commission came to be recognized as one of the outstanding regulatory bodies in the Nation. My record there, I believe, will show that in all cases I stood for the protection of the rights of the people and for fairness to all concerned.

I am persuaded to submit this brief personal background because I am new on the national political stage, and I am not impressed with myself to the extent that I believe the American people have been interested enough in me to ascertain that background of their own accord.

I like to think of the objectives toward which the American people are working. At the same time I distrust the mechanics of the machine which is carrying us on our way. The mechanism of the New Deal machine is faulty, so faulty that it has not worked to solve permanently any of the major problems confronting us, and also so faulty that at times it has broken down in the middle of the road.

The American people want, and intend to have, a machine that will not break down nor run off either the right or the left side of the road. They want a machine that will carry them safely to their destination without having to suffer abrupt stops and violence, without having to experience detours on untraveled roads.

The psychology of the New Deal in respect to its mechanics is bad. It is predicated on the personality of the driver of the machine, rather than in the structural perfection of the motor. When this machine breaks down, as it has done, the New Deal engineers have attempted to get it going again by placing a larger steering wheel in the hands of the driver. It never occurs to them to look underneath the hood and examine the motor, and make the necessary repairs.

The President's Supreme Court proposal is a personification of the New Deal theory of mechanics. This proposal is simply a plan for a larger steering wheel—it repairs none of the defects known to be in the motor.

When the President submitted his proposal to Congress, several newspaper men asked me, along with the other Senators, for a statement. I said that the President's plan to enlarge the Supreme Court should be read in the light of his proposal to reorganize the executive branch of the Government and that both plans were component parts of a still larger plan which has not yet been revealed. I think that statement was fair and accurate. I think that thoughtful persons will so regard it.

Free citizens cannot forget the President's message to Congress on the state of the Union in January 1936, when he said that "we have built up new instruments of public power", which could "provide shackles for the liberties of the people"; nor can they forget his speech at Madison Square Garden in November 1936, when he gave expression to the word "master."

The Madison Square Garden speech was significant and the American people have waited to see what legislative form that expression would take. So far it has been presented in two parts—one seeking the control of the Supreme Court, and the other seeking the absolute control of all independent regulatory agencies of the Government, and civil service.

The American people had a fleeting glimpse of the President's plan to reorganize the administrative branch of the Government when the President sent the report of his committee to the Congress. A bill drawn by this committee was submitted to a congressional committee in executive session. When the people learned what that bill contemplated, it was hastily withdrawn and another bill substituted. Although the second bill is locked in the fastness of executive session, and its contents will not be public until a later date, I predict that when the full details of the plan are presented, the people will be as shocked and amazed and as bewildered as they were when the Supreme Court plan was presented.

Little imagination is needed to visualize intentions of this administrative reorganization bill when it is understood that Congress is to be further relieved of control of public funds.

It is my belief, and it is also the belief of the greatest constitutional lawyers in the country, that we can attain the objectives sought by the American people within the framework of the Constitution. This has been closely demonstrated. Only recently the Supreme Court upheld the new Frazier-Lemke Farm Mortgage Act, after the first act had been declared unconstitutional. When the Supreme Court declared the first Frazier-Lemke bill invalid, Congress set about in a statesmanlike manner to cure the defects of the law and meet the Court's objection on constitutional points. This was done as attested by the Court's latest decision.

More recently the Supreme Court upheld the validity of the Wagner Relations Act, clearly showing that carefully prepared legislation can withstand attacks on its constitutionality.

Since coming to the United States Senate I have endeavored in every instance to cooperate with the administration, and when the administration has been right in objective and approach, I have

given my wholehearted support. On certain other parts of the administration program I have, in the public interest, offered amendments which would clarify and perfect legislation.

I contend that Congress can constitutionally enact measures to promote the economic welfare of the people, if these measures are drafted properly. Where it cannot be done, and the people hold that Congress should be given additional powers, then let us proceed in a constitutional way to submit an amendment to the people.

This is the liberal way to do it. This is the American way to do it. May I quote from Senator WHEELER, from Montana, that great liberal Democrat whose record down through the years shows that he has the courage of his convictions:

"The liberals of America have come thus far by trusting the people. Their movement is the people's movement. We shall continue to trust them. Every cause we ever had received its strength and won its victory from them. They can attend to their job. I am not afraid to trust them. They have the blood, the youth, the age and the wisdom to keep the Constitution and the law alive. If there must be a dictator in America, I nominate the American people for dictator."

I, like Senator WHEELER, have been identified with the liberal wing of my party, the Republican Party, down through the years. On many occasions, and by positive action, I have shown that I trusted the people. I have shown my belief in the right of the people to govern themselves. Just as one illustration, I supported the direct primary law in New Hampshire, as against the old convention system. I am not one who artfully courts democracy for the purpose of openly compromising it, or surreptitiously ravishing it.

In the issue involving the Supreme Court my position is still that of a liberal. I stand on the side of the people and against those who are organizing a raid to seize their rights under the Constitution.

The President has stated that the amendment process is too slow, and administration leaders constantly refer to the child-labor amendment, which could be more aptly termed the "youth-control" amendment. Again they fail to tell the whole story. Instead of referring to the one amendment, why don't they tell the story of the two amendments which were before the country during the President's first administration—the prohibition-repeal amendment and the so-called lame-duck amendment—both of which were submitted and ratified in less than a year. As a liberal I supported the child-labor amendment, but being a liberal, I grant others the right to oppose if they have legitimate objection; and in this instance I can plainly see they might well have legitimate objection. If I had drafted that amendment, I think I could have drafted it so as to allow the regulation of child labor for hire, and I believe it would have been ratified by the country quickly and without any serious objection. My amendment would have accomplished all that the people desire to be accomplished along this line. It would have given Congress full authority to stop the exploitation of child labor for hire, but it would have placed a barrier against any future Congress which might attempt to control the education or social activities of youth.

The combination of President Roosevelt's requests for more executive power and his unsound spending policies are operating to destroy real American democracy. In the limited time that I have at my disposal I have talked briefly on his plans to reorganize the administrative branches of the Government and to enlarge the Supreme Court. In the remaining time that I have I will talk on reckless Government spending.

You will remember that in 1932, when Mr. Roosevelt was a candidate for President, he criticized very severely President Hoover for the two deficits incurred during the latter's administration. Mr. Roosevelt then very properly said that the Government cannot continue to pile up deficit after deficit, that to do so is the road to bankruptcy.

Let me impress on you the truth of Mr. Roosevelt's statements. But instead of correcting the very thing which he criticized President Hoover for, President Roosevelt has aggravated the situation. Next year will be the eighth consecutive year of Federal deficits and the end is not yet in sight. President Roosevelt has repeatedly increased taxes until now the Federal income is approximately $6,000,000,000 a year, almost double the income during President Hoover's administration. And despite this enormous increase in revenue and despite the increased business activities we continue to have larger deficits than during 1931 and 1932. On June 30 of this year, when the Government balances its books for the year, we will have a deficit of about $3,000,000,000, and another deficit is inevitable next year unless we act now to prevent it.

I just told you what President Roosevelt said in 1932. In each succeeding year he has promised to make Federal income equal to outgo. Only last January he said: "We shall soon have a balanced Budget that will also include provisions for the reduction of the public debt."

Last week in a special message to Congress he admitted that this was an impossibility, but he held out the hope that it would be done next year.

We all know that this can never be done except in two ways: First, by increasing taxes to the point where they will meet the spending program of the administration and, second, by curtailing expenditures to the point where they do not exceed Federal income. One or the other of these methods will have to be chosen, and if the President intends to peg Government spending on eight or nine billion dollars a year, he should in all fairness to these millions of people who depend upon the financial stability of the Government for the security of their jobs, the security of their homes, the security of their farms, the security of their benefits, increase taxes to protect that financial stability.

Mr. Roosevelt has attempted to convey the impression that relief alone has been responsible for the deficit. Such is not the case. The real facts are that although relief contributed to the deficit the ordinary costs of the Government, as represented by the regularly maintained Departments, have increased during the past 4 years by about $2,000,000,000 a year. Individual budgets of most Government Departments have been successively increased.

No American is opposed to the granting of relief to those who need it. The needy of the country must be assured of the necessaries of life. The American people have proved that they are very generous in this respect.

The financial stability of government must be maintained. Reckless spending must stop. It is not liberal to go bankrupt. It is not liberal to impose back-breaking taxes. It is not liberal to undermine the security of the millions who depend upon the financial stability of the Government. It is not liberal to penalize the millions yet unborn.

Republicans in this country and their chosen representatives in Congress almost as a unit, and the thoughtful Members of the President's own party, recognize the hazards of reckless spending and the perils of the road which we are traveling. It is not enough to give lip service, let us have action now.

The Republicans stand ready to cooperate with the President, and since the President has clearly demonstrated his control over his own party, there should be no delay if the President is willing to bring financial stability about.

All my life I have been an optimist. I have never sold America short. If tonight there are some who choose to class me as an alarmist, let me say that the administration's financial practices and legislative proposals have forced me to be one. But there are some things to be said for an alarmist.

Paul Revere was an alarmist. He carried the alarm through every Middlesex village and farm, and, partially as a result of that contributary action, this Nation won its freedom. Surely one cannot be condemned for sounding an alarm in a constructive way so that real democracy may survive.

In the words of that great American, Theodore Roosevelt—

"This country cannot long be a good place for any of us to live unless it is a good place for all of us to live."

Let us all stand on that principle and in support of it dedicate our efforts in the months and years ahead.

Cutting the Cables

EXTENSION OF REMARKS
OF
HON. H. STYLES BRIDGES
OF NEW HAMPSHIRE
IN THE SENATE OF THE UNITED STATES
Tuesday, April 27, 1937

ARTICLE BY HON. HENRY CABOT LODGE, JR., OF MASSACHUSETTS

Mr. BRIDGES. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Cutting the Cables", by the junior Senator from Massachusetts [Mr. LODGE], which is published in the current issue of the Saturday Evening Post. It relates to the subject of neutrality, a subject of great interest in the country today and at the present time unsettled by the Congress. It deals with the subject in a very instructive and able manner.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the Saturday Evening Post for May 1, 1937]

CUTTING THE CABLES

(By HENRY CABOT LODGE, Jr., United States Senator from Massachusetts)

There is sweeping through the United States today a desire—which I wholeheartedly and enthusiastically share—to stay at peace in a war-torn world. We have had this desire as strongly in the past. It is always under the surface. At present the gruesome news from Europe has again brought it to the top.

Although the desire is shared by all groups in our population—or would be if the question were put to them—there are certain elements for whom it is the object of special activity.

For these people it is not enough to want peace and to love peace; it is vital that something be done about it. With this attitude I also agree.

Soon after the war some of the groups who give especial attention to the question of peace believed that the United States could best remain at peace by joining with foreign nations in punishing any nation which went to war. This theory of starting a war to

stop a war manifested itself in the desire for American membership in the League of Nations and its Court. Fortunately, I believe, the suicidal character of this method became apparent and, for the time being, anyway, it was dropped.

But, fortunately, too, the desire to do something about peace did not end. Instead of preaching involvement in European affairs, we went to the opposite extreme and demanded a complete cutting of all the cables—as Chairman PITTMAN, of the Senate Foreign Relations Committee, well phrased it—with the Old World. With this feeling, too, I have great sympathy.

PEACE BY LEGISLATION

This much having been decided, the question arose, How was this cable cutting to be done? And right here is where I believe confusion and wishful thinking took the place of realism and reason. I say this because the view was adopted, and is widely held today, that this great, and, I believe, desirable, result could be achieved by the passage of a legislative act. There is, to be sure, nothing new in this faith in legislation. History is full of attempts to control human nature by making laws, and the record of success is not impressive. If law was all that were necessary, there would be no crime in the country. The idea is always a tempting one; you pass your law, pat yourself on the back, exclaim, "Well, that's attended to", and then fall back into the same old groove which heads you in the same old direction. In the case of peace, the idea is especially tempting because there definitely are certain factors which may lead to war which are within the province of government. But there are, very definitely, certain other factors, more numerous, and, I believe, more important, about which government can do little or nothing.

The faith in peace by legislation rests on the belief that it was our wartime ocean-borne foreign trade which got us into the World War. This being so, what is more natural than to pass a law which will prohibit all American wartime ocean-borne foreign trade? In accordance with this belief, the Senate on March 3, 1937, passed the Pittman bill, which takes two major steps with regard to wartime ocean-borne American foreign trade.

It first authorizes the President, after a foreign war has broken out, to prohibit the shipment of any "articles or materials" which he believes should be prohibited in order to "preserve the peace or neutrality of the United States."

This Presidential discretion is, in itself, historic. If a war breaks out between nation A and nation B, the President could, under this bill, prohibit the shipment of all articles which nation A might need, but about which nation B, having its own domestic supply, would be indifferent. He could thus, at once, make an enemy of nation A. Viewed in this light, this provision adds to the many great powers already given to the President the awesome power of peace and war.

I still believe it to be worth while to recall that Abraham Lincoln said that "the provision of the Constitution giving the war-making power to Congress was dictated, as I understand it, by the following reasons: Kings had always been involving and impoverishing their people in wars, pretending, generally, if not always, that the good of the people was the object. This our convention understood to be the most oppressive of all kingly oppressions, and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us."

Pursuing still further the subject of American ocean-borne wartime foreign trade, the bill says:

"Whenever the President shall have issued a proclamation or proclamations under section 3 of this act and he shall thereafter find that the placing of further restrictions on exportation of commodities from the United States to the belligerents, or to any state wherein civil strife exists, is necessary to promote the security and preserve the peace or neutrality of the United States, or to protect the lives or commerce of nationals of the United States, he shall so proclaim and it shall thereafter be unlawful except under such limitations and exceptions as the President may prescribe, to export or transport from the United States to any belligerent state or state wherein civil strife exists named in said proclamation or proclamations issued under section 3 of this act, or to any other state for transshipment to, or for the use of, such belligerent state or such state wherein civil strife exists, any articles or materials whatever until all right, title, and interest therein shall have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national.

"The shipper of such articles or materials shall be required to file with the collector of the port from which they are to be exported a declaration under oath that there exists in American citizens no right, title, or interest in such articles or materials, and to comply with such rules and regulations as shall be promulgated by the President. Any such declaration so filed shall be a conclusive estoppel against any claim of any American citizen of right, title, or interest in such articles or materials.

"Insurance written by American underwriters on any articles or materials, the exportation of which is prohibited by this act, or on articles carried by an American vessel or airship contrary to subsection (a) of this section shall not be deemed an American interest therein, and no insurance policy issued on such articles or materials and no loss incurred thereunder shall be made a basis of any claim put forward by the Government of the United States."

This is the so-called cash-and-carry provision. Anyone with cash and sea power can have our trade. We go on trading—so the advocates of this bill tell us—but stay out of war. We are to eat our cake and have it, too.

To my way of thinking, this provision is the heart of the bill. I think it is dangerous and unsound because: First, its practical operation will, I am afraid, lead to dangers which are new and unforeseen; and, second, it rests on a violently false assumption.

PRACTICAL OPERATION

Let us discuss its probable operation when put to the test, remembering, in so doing, that, to many people, this bill is known as a neutrality bill, although Senator PITTMAN in his able and honest-minded defense of the measure, very frankly admitted that it was no such thing. If the President finds that a European war has broken out, the Pittman bill goes into effect, and the President is obliged immediately to invoke the cash-and-carry provision. American shipping dries up, a sudden dislocation of important trade occurs which might well create panic, and panic is not conducive to clear thinking on the intricacies of war and peace.

Of course, most American foreign trade would go on as usual, during the first few days, because so much of our foreign trade is carried by foreign vessels. Let us assume—as assume we must—that in the war which is raging, one party to the conflict is stronger upon the sea than its adversary. This is sure to be true in almost any war. Even if France and Italy, for example, had navies of equal size, France would be stronger on the Atlantic than Italy because France is on the Atlantic. She would therefore have a natural naval advantage over Italy in stopping trans-Atlantic trade. If a major European war involved England—and it is hard to imagine a war which would not—England, with conditions as they are today, would have superior sea power. And so we ask the question: Would England, with her huge navy and merchant marine, sit idly by and watch American goods going to her enemy?

We must assume that England will not be stricken with suicidal mania and that she will therefore stop those goods. We must assume, in a Pacific war, that Japan, with her unquestionably superior navy, would do the same thing. We are, therefore, driven to the conclusion that in staying off the seas, as we do in the Pittman bill, we announce that we will sell only to the largest sea powers, since they will be the only ones able to buy, and that we are, therefore, entering an "entente, if not an alliance, with those larger sea powers. Gone for good—if we are to judge by this bill, is American sympathy for small nations and for minorities. We say to the world, in effect: "No matter what the moral issues, no matter who is right and who is wrong, we the American people are on the side of the biggest navy." Was it not the Prussian General von Moltke who, paraphrasing Voltaire, said, "God is on the side of the big battalions"? And is it not strange to see Congress officially adopting the militaristic code that might makes right?

If we are going to make a public commitment with some foreign nation or nations, should not the American people at least realize that that is what we are doing? Should they not also remember that other foreign countries have representatives in the United States who read the American papers and send back reports? And, remembering this, may we not easily imagine that certain foreign leaders, reading that they are to be forever debarred from wartime access to the huge American market, will regard such a condition as ample justification for increasing their own naval construction? Germany might thus strive to become Britain's superior on the seas, Russia might try to surpass Japan, all using, as their convincing pretext, the American cash-and-carry plan. And Americans would then find themselves the partners of Soviet Russia, on the one hand, or Nazi Germany on the other. Is this neutrality?

From the standpoint of naval tactics the implications of the cash-and-carry policy are impressive. Remember that American goods would become belligerent property on the piers of American seaports. When they crossed our 3-mile limit they would actually be the property of warring nations—desperate nations who, with their backs to the wall, must at all costs stop any aid or comfort, be it ammunition, clothing, food, or medicines, from reaching the enemy. Is it not natural to expect that in some cases attempts would be made to stop trade leaving a known port of departure rather than groping for its unknown port of arrival? Instead of torpedoing ships on the high seas, or waiting for them off the coast of Europe, are we not bringing the conflict closer to our shores? I believe we are. We have a 3-mile limit. Three miles is a short distance for modern weapons. Due to the cash-and-carry policy, shells may burst over our coastal communities, to say nothing of the destruction which aviation can "accidentally" cause in the interior.

All this is admittedly guesswork, and the advocates of the plan have arguments against it. They say, in complete good faith, that whether we legislate or not we will always be on the side of the nation having the largest navy, and that there is nothing unneutral in setting up a set of rules in advance of an event. If some nation is able to take advantage of our rule—so say the advocates of the bill—it is none of our business. Apparently we can say anything under the sun and be perfectly neutral—so long as we say it far enough ahead.

We may well question the statement that the United States will always be on the side having the largest navy. No one seriously contends that we joined the Allies in the World War because of British sea power. We would never have joined them if emotion—powerful, unselfish, and utterly devoid of materialism or calcula-

tion—had not driven us to do so. We may also question the theory that, because we pass this law in advance, the Nation which is hurt by it will accept it cheerfully as a neutral act. It will not interest the nation which is starving for want of American supplies that we passed this law in 1937. The people of that nation will also—perhaps unreasonably, but certainly humanly—resent the fact that we sell only to large naval powers.

The plain fact is that at a time when the United States will need all its wisdom, all its self-retraint, and all its freedom of action to avert involvement in war, we will find ourselves bound and gagged by a law of our own making. And by that time, if we disliked this law and the commitments under it, it would be an excessively dangerous business to repeal or amend it. We would thus have raised an entirely unnecessary embarrassment to the intelligent conduct of our foreign relations.

FALSE ASSUMPTIONS

Nor is there any consolation in reflecting that this bill was passed—as it undoubtedly was—in response to a sentiment of which every American approves. Certainly, if glorious aims were all that we needed to solve our problems, they would have been solved long ago. It is easy to enunciate aims, and there are plenty of men in high positions who are past masters at doing so, but the real need is workable methods. The cash-and-carry method must fail, when put to the practical test, because it rests on three very false assumptions.

1. It ignores the reality of our foreign trade. Advocates of the bill referred to people engaged in foreign trade as contemptible hucksters. A visitor from Mars, listening to the debate, would have concluded that Americans engaged in foreign trade were a species of particularly selfish devil who helped themselves at the expense of national bloodshed. I do not happen to number among my intimate friends any foreign traders, but I imagine that they are as selfish—or as unselfish—as their brethren who try to make their living at home. I particularly cannot escape the belief that the American goods which American traders sell abroad employ large numbers of American citizens, and that, if American foreign trade were stopped tomorrow, the sufferers would not be restricted to the contemptible "hucksters." If they were so restricted, I would gladly do away with it tomorrow. If the price of peace consists in lining up some foreign traders against a wall, peace could be cheap indeed. Whether we like it or not, we are, at this moment, dependent on foreign trade for the existence of our present civilization. The worker whose weekly pay envelope goes from $30 to $70 per week in wartime is just as pleased as the corporation executive. The cash-and-carry policy would reduce our foreign trade materially and would thus throw out of employment American citizens whose living depends on it. This is a fact, and it is a fact which legislation must face.

2. The cash-and-carry policy rests on the assumption that a display of weakness will induce favorable and friendly treatment. In the Pittman bill we make a public admission to the world that we will let a large segment of our foreign trade disappear without a murmur—in fact, with loud applause. As one who deeply fears the dangers of foreign trade and wants to take practical steps to free us from those dangers, I submit that we would do better to embark on such a policy when the need arises, and that we obtain concessions from other nations for so doing. The cash-and-carry theory would have you believe that if you lead with your chin your opponent will not hit you. All human experience seems to be against it. Give up some of your rights and it becomes harder to hold on to the others. I hope I am wrong, but I fear that this bill will give fresh stimulus to every swashbuckler and jingo the world around.

3. The cash-and-carry theory implies that foreign trade is the cause of American involvement in war. That it is a major factor, I agree. But there were millions of Americans whose moral sense was offended when they read of the invasion of Belgium. There were millions more whose anger was aroused by the sinking of the *Lusitania*. There were millions more who hated Germany and her allies, not for selfish motives but on high moral grounds. Democracies do not often go to war for reasons that are purely selfish, calculating, and materialistic. It is to the everlasting credit of human nature that most men are unwilling to be killed for causes which they do not think are greater than themselves. True, the hindsight of history may make their cause seem futile, but, at the time they knew they were fighting for ideals. I believe our national tendency to pass moral judgments is still as strong as ever. I believe that future disturbances will arouse our unselfish passions. And no nation which has not got a cash-and-carry moral code can conform to a cash-and-carry law.

The cash-and-carry bill, with its half-truths and attractive illusions, which was passed by the Senate and, with some changes, passed by the House, was labeled "Peace Act of 1937." A colleague who also voted against it received a telegram on the following day saying, "Extremely disappointed to see that you voted against peace." Nobody likes to vote against peace, and no one in public life likes to have people think that he did, even though his own conscience is clear. But it is also noteworthy and encouraging that much of the correspondence which I received not only urged me to vote for peace—which I believe I did—but urgently requested me to plug the holes in the Pittman bill—which I tried unsuccessfully to do. I believe, however, that a public servant who recognizes the importance of a problem, but disapproves of a proposed solution, should offer a constructive alternative of his own. This attitude, if adopted toward all great questions, would immeasurably raise the tone of and increase the utility of public discussions. In the case of the peace question it should be possible to vote for peace without opening up new pitfalls.

In conclusion, therefore, I submit that there are many things which can be done to promote peace for the American people; some—though by no means all—of which can be done by government. In all fairness, some valuable governmental aids to peace were incorporated in the Pittman bill.

1. It set up Government control over the travel of Americans in wartime.

2. It established a prohibition on American loans to belligerents. This is an appealing idea, but we should remember that it will not prevent American wealth from being used to give aid and comfort to warring nations. Huge American holdings are scattered throughout the world, from Cuba to Sumatra and from the Argentine to the British Isles. These holdings would, of course, be confiscated and would be rich prizes for an enterprising belligerent.

3. Another important Government aid to peace lies in the day-to-day conduct of foreign policy. Our executive branch should show common sense, moderation, and courtesy—something which legislation cannot guarantee, but which counts for more than most laws.

4. Congress should make available to the military and naval departments of the executive branch sufficient funds so that an Army and Navy can be maintained which, while never so large as to strike fear and jealousy in the hearts of foreign nations, should be manifestly strong enough to show to any foreign swashbuckler that the United States really means what it says. With such a Navy and such a policy we would probably, as Colonel House said many years ago, never have to fire a gun.

5. Congress, too, should enact legislation so that, if the dread eventuality of war should come, we could prosecute it with a minimum of waste of life and public money. We already have the National Defense Act of 1920, which sets forth our military organization in time of war. Congress should endeavor to draft laws as soon as possible which will set a ceiling on prices, so that profiteering will, as nearly as possible, be eliminated. In the event that the tragedy of war should again smite us, Congress should set up a rigid tax schedule which will, as nearly as possible, make any future war a pay-as-you-go and not a bond-supported war. This tax schedule should square with the very correct idea that "war is hell." The fact that such a law exists ahead of the emergency should be widely advertised and the knowledge that we were ready, strategically, economically, and fiscally, for war would be a powerful deterrent to the domestic waver of the bloody shirt and to the militarist abroad.

6. We should fish or cut bait insofar as the Philippine Islands are concerned. The day when one could reasonably hope for a mutually profitable development of the islands is past. The government has been turned over to the Filipinos. Yet our flag still flies at Cavite on Manila Bay and we still assume a responsibility for the external protection of the islands. We are not, by any stretch of the imagination, equipped to fight a war in their defense, and the thought that we might sometime find ourselves in the position of sending men across the Pacific to fight in a tropical war can be nothing but a nightmare to anyone who thinks about it. We have decided not to govern. Therefore, let us get out.

7. Finally government should, if it is single-minded about peace, encourage national self-sufficiency. I am well aware that, to the classical economist, the notion of self-contained nations is abhorrent and that, from the standpoint of everyday business, it is a two-sided question. I submit, however, that if we do want peace at any price, we can pay the price of the loss of our foreign trade and feel that we have made a substantial Pacific investment. Theoretically, the United States can more nearly achieve self-sufficiency than any other nation. If its early settlers had extended the sweep of their operations a little further south, we would have tropical raw materials within our own borders, and could be absolutely independent.

The fact is, however, that while we could be nearly self-sufficient, we are not self-sufficient at all. Foreign trade is interwoven into our daily lives. It is a direct source of employment to millions of Americans and an indirect source to many millions more. Such a condition cannot be changed by a single legislative act. It is easy to see the impossibility, for instance, of passing a tariff act today which would be sufficiently high to develop thoroughgoing economic independence. Is it not equally absurd to assume that at the outbreak of war we could pass such a law?

The cash-and-carry plan, to be sure, does not contemplate extinction of foreign trade, although, as I have tried to show, it would deal foreign commerce a shattering blow. But there are many proposals for embargoes which would completely and suddenly stop foreign commerce. The embargo is a more honest proposal than the cash and carry, but this is its sole merit. We tried the embargo in 1807 at the request of President Jefferson. It did reveal that, even at that early stage in our history, the art of bootleg trade was soon discovered. It did strike a blow at the seaport towns of New Haven and Newburyport from which they have never recovered. But it did not stop war. It is indeed a warlike act and rests on the same moral basis. What moral difference is there between starving and freezing the women and children of a nation through an embargo on food, fuel, and clothes and shooting the able-bodied men of that nation with rifle fire?

Surely every counsel of experience and of reason must prove that it is like asking a man to cut off his own leg to expect this Nation to consent to a sudden amputation of its foreign trade. Yet we can agree that foreign trade is dangerous to peace. Believing this, should we not gradually seek to develop our own self-sufficiency so that after a period of time we would be, in fact as well as in theory, self-maintaining and free to develop our own internal and foreign policies without the influence of forces lying beyond our control? And if we can agree on this, we will not be satisfied with policies which one week through reciprocal-trade treaties seek to expand foreign trade, and the next week, in the Pittman bill, consign it to oblivion. We will not be content with legislation like the present, which utterly ignores the harsh facts of our economic life, but instead will demand of our Government that it look toward a self-maintaining America which thinks first of its home market and sends its surplus abroad. Only thus can we become the masters of our own destines.

8. I have tried to indicate practical steps which government can take to promote a practical peace policy. These steps will not be successful without an enlightened public opinion. And an enlightened public opinion cannot exist without public knowledge of the facts which have a bearing on war. For this there must be publicity. The facts on foreign holdings in American property and contemporaneous reports of foreign transactions should be widely available. As Ernest K. Lindley well asked in a recent issue of the Saturday Evening Post, "Can these billions of foreign investments stay neutral?" And would it not be both unjust and fruitless for so-called peace legislation to hit an American producer, but leave the foreigner untouched?

9. The present administration has a stabilization fund of $1,800,000,000. It is frequently said that this money is used in operations in foreign exchange. This is a great power—no less so than the more conventional methods of foreign policy. Yet, on January 19, 1937, when a motion was made in the Senate to require a periodic report on the use to which this fund had been put, the motion was immediately defeated. Here, too, is a fruitful line for government to follow. As one who saw, at fairly close range, the secrecy and obfuscation which characterized the conduct of foreign policy under the previous administration, I had hoped that the present would bring an attitude which showed more confidence in the ability of the people to understand the facts. Apparently, this is still ahead.

The individual citizen's sense of balance and mastery of emotion will, in the last analysis, decide the issue of peace and war, but, if the moral sense of this country is outraged, a demand for action will arise which no government can ignore. The very least we can expect of government, it seems to me, is that it shall not befog the public mind. So long as the actions of government create a sense of false security, be it by Kellogg Pacts under Republican administrations or cash-and-carry laws under the New Deal, just so long will the day of purposeful peace action be postponed. There are, as I have tried to show, many specific criticisms to be made of so-called peace legislation, but none is so fundamental as the fact that it fosters the dangerous illusion that we can get peace cheaply—that the greatest privilege which any nation can have in a war-torn world can be achieved without having to pay for it.

The Government and Business

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 27, 1937

Mr. LUDLOW. Mr. Speaker, while the way of national duty is not always plain, there is one thing the Government of the United States can and should do to promote industrial stability—hasten a normal recovery in business and manufacturing and facilitate the reabsorption into regular jobs of the millions now on the relief rolls.

The Government can and should stay out of business.

There is something grossly unfair and improper about Government competition with private enterprise. The impropriety of it does not have to be demonstrated; it speaks for itself.

What can the private manufacturer do, when the Government appears as his competitor, except to take it on the jaw? He strains every nerve and spends sleepless nights wondering how he is to meet the weekly pay roll, but the manager of a Government enterprise is beset with no such worry.

It is immaterial to the Government manager whether his enterprise makes any money or not, for back of it is the Treasury of the United States and all of the money that is wrung from the taxpayers, and if a deficit looms up, all he has to do is to dip a little deeper into the public till.

There are at the present time unwholesome indications that some of our Government bureaus and activities are interesting themselves in competitive undertakings far beyond the proper scope of governmental operations.

One of these undertakings which, I think, is at least open to challenge is the allotment of $1,276,264 of public-works funds to build two prison factories in Missouri, where products will be made to sell in the open market in competition with private industry. I cannot imagine what defense can be made of that allotment, and I have addressed the following letter of inquiry to Public Works Administrator Ickes:

DEAR MR. ICKES: I cannot help feeling the gravest apprehension and concern over information that has come to me that an allotment approximately in the sum of $1,275,000 has been made from Federal funds to the State of Missouri for the purpose of constructing two prison factory buildings in which will be produced articles to be sold in the open market in competition with the products of private industries employing free labor.

I think this allotment is a great mistake and that it never should have been made, and if it is not too late, I would hope to see it withdrawn. I have observed what seems to be too evident a tendency on the part of the Federal Government to enter fields of industry that should be left to private initiative. Nothing could be more demoralizing or discouraging to private business, struggling to get on its feet, than to have the Government cut in with competing activities, financed by Federal taxation. It seems to me that now, of all times, we should strain every effort to help legitimate private business to get reestablished, to the end of bringing about normal recovery and the reabsorption into regular jobs of the millions now on relief rolls.

While I have no question of the good motives that have inspired this allotment of funds I would not be honest if I did not say that I think it is a great mistake and against the interest of the public, weighed in its relationship to the problem of recovery. If you will do me the favor to inform me the reasons on which this allotment was based, I will be much obliged. Thanking you in advance,

Very sincerely yours,

LOUIS LUDLOW.

I have also started an inquiry to develop the facts in regard to the use of Emergency Relief funds to establish a corn mill at Isabela, P. R. I take it that the principle is the same in the Puerto Rican undertaking—Government competition with private industry. I am calling for full information from responsible officials in regard to that paternalistic scheme. That matter has been brought to my attention by an official of an Indianapolis milling company, who writes:

We are informed that the Puerto Rican Reconstruction Administration, supplied with Government funds, has decided to build a corn mill at the town of Isabela.

Many mills in the United States for years have been supplying Puerto Rico with sizable quantities of corn meal, and the building of such a mill at Puerto Rico will reflect to the disadvantage of mills, workers, and producers in this country.

It seems a shame that we are taxed to the very limit in this country and then have those taxes used to build competitive plants at other destinations. This is a most unusual state of affairs, and we are writing this letter in the hope that you can take some action to eliminate such unfair competition.

The ultimate of this situation is that industry will have no profits with which to pay taxes in order to operate such unfair governmental institutions.

No doubt the proponents of these governmental forays into the realm of private business are motivated by good intentions and benevolent purposes, but I fear their brain children are capable of working incalculable harm to industrial recovery, besides contributing directly to prolonged unemployment. It is time for Members of Congress to be considering what legislative measures could be adopted to keep ambitious governmental activities from invading the domain of business.

The governmental bureaus already have projected the Government altogether too far into the field of private enterprise. They ought to get out and stay out.

Let us quit baiting business and do something worth while to raise honest business from the prostration that has paralyzed it in recent years and reestablish it in its normal sphere. In that way we can render a real service to the thousands upon thousands of our fellow citizens who are starving for regular jobs.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. HENRY F. ASHURST
OF ARIZONA
IN THE SENATE OF THE UNITED STATES
Tuesday, April 27, 1937

RADIO ADDRESS BY HON. HOMER CUMMINGS, ATTORNEY GENERAL OF THE UNITED STATES, ON APRIL 26, 1937

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a radio address delivered on Monday, April 26, 1937, by Hon. Homer Cummings, Attorney General of the United States, on the progress of the President's plan for judicial reform.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

PROGRESS OF THE PRESIDENT'S PLAN FOR JUDICIAL REFORM

Ladies and gentlemen, nearly 3 months have elapsed since the President submitted to the Congress his proposal for the reorganization of the Federal judiciary. Now that the Senate hearings, after 6 weeks of spirited debate, have been brought to a close, let us briefly survey the situation.

Those who testified in behalf of the plan pointed out the defects in the existing system and called attention to the unmistakable and improper invasion of the legislative field by the Supreme Court. With few exceptions even the opponents criticized the decisions of the Supreme Court and called for effective remedies, presumably by constitutional amendments. Pitifully few of those who testified approved in wholehearted fashion the course the Supreme Court has pursued. And now, as if to make the conclusion unanimous, the Supreme Court, albeit by a narrow margin, has voted itself a winter garment of repentance and has upset crucial decisions of long standing.

Manifestly, these events have contributed to a real understanding of our present difficulties. The need of judicial reform has been demonstrated. Only the method remains open to debate.

Lest the proposals of the President be obscured by words, it is necessary to keep steadily in mind what they are and what has already been done toward carrying them into effect. Parts of the plan have met with almost universal approval.

In the matter of injunctions and suits raising constitutional questions, I am aware of no serious opposition to the recommendation that the Attorney General be given notice and an opportunity to present the Government's side of the case, with the right of direct appeal to the Supreme Court. A measure to this effect has already passed the House and will shortly receive the consideration of the Senate.

The President also recommended a measure to permit the voluntary retirement of Supreme Court Justices at the age of 70, upon a pension. A bill to this effect has already been passed and is now the law of the land. The Congress has thereby recognized that 70 is a proper age for the retirement of Supreme Court Justices—just as it has long been recognized as proper for judges of the lower Federal courts.

The recommendation for the appointment of additional judges, in order to relieve chronic congestion and inexcusable delay in the lower courts, has met with little opposition. So far as these courts are concerned, few responsible persons have challenged the need of an enlarged judiciary and a more flexible system.

The debate has centered upon the Supreme Court and it is constantly reasserted that that Court is abreast of its work. The answer is simple. No one has contended otherwise for the Supreme Court itself selects the cases it will review and thus controls the size of its own docket. Moreover, the opposition ignores the fact that when justice has been speeded in the lower courts more applications for review will be presented to our highest tribunal, already heavily burdened.

If, as the Chief Justice insists, 60 percent of all applications for review are wholly without merit, there still remain 40 percent which are subjected, as he says, to critical examination. However, let us lay aside altogether the matter of passing upon applications for review, which the Chief Justice concedes to be laborious, and direct our attention only to the cases actually received upon the docket and heard upon the merits. Even then, the Court assumes a staggering load. If each Justice labored 10 hours a day, Sundays, holidays, and during the summer recess, he would have to dispose of the legal papers involved at the rate of more than 30 pages an hour; and in addition, if we take the 1935 term as an example, find time, somehow, to hear arguments, participate in formal Court conferences, examine authorities, and write his share of 170 full opinions as well as 159 short memoranda and per-curiam opinions. Surely it is not unreasonable to say, with a Court thus circumstanced, that some way must be found to ease or spread the burden.

As to the suggestion that an enlarged Court might improve its methods by a more efficient division of labor, the Chief Justice intimates that it might be unconstitutional for the Court to separate into "two or more parts * * * functioning in effect as separate Courts." This is a patent begging of the question for no one in authority, so far as I am aware, has advanced any such idea. Instead it has been suggested that, except in cases of great importance, only a rotating quorum of an enlarged Court should sit at a time, leaving the other Justices free to write opinions or to examine applications for review. No one has ever challenged the constitutionality of the statute under which the Court now operates and which authorizes a quorum of six Justices to discharge its functions.

Such a plan has proved to be eminently successful in State courts and in the Federal circuit courts of appeals throughout the country. The committee on jurisprudence and law reform of the American Bar Association in 1921 suggested a similar system for the Supreme Court. Such a plan contemplates not two or more Supreme Courts but the efficient use of the personnel of one.

Surely the Chief Justice cannot be understood as suggesting that it would be unconstitutional for less than a full Court to render a decision. If that were true, then the Supreme Court has rendered many invalid decisions in the course of its history, and but recently has handed down opinions in which only eight Justices participated.

Let us now consider another aspect of the President's plan. The right to fill vacancies created by Providence is unquestioned in the present debate, but we are told that appointments, when made because incumbent Justices are of retirement age and do not see fit to retire, constitute "packing" the Supreme Court. Yet the necessity of a systematic replacement system, such as we find in every other field of government, as well as in commerce and industry, has been urged in one form or another by a long line of eminent men, including Justices Miller and McReynolds and Chief Justices Taft and Hughes.

The evil they sought to avoid has been growing. In 1789 the average age of the Justices of the Supreme Court was less than 50 years; half a century later, in 1841, when Harrison took over the Presidency, the average had increased to 60 years; when the second Harrison assumed the office of President, in 1889, after the lapse of another half century, the average age had reached 65; and now, after 148 years of national history, the average age has reached the unprecedented peak of more than 70 years. With the utmost respect to those who now occupy the bench, I ask you frankly whether it is fair, to a great and vital Nation of 130,000,000 people bent upon setting its house in order, to have a Supreme Court two-thirds of the members of which are over 70 years of age and a majority who are over 75 years of age.

I should like to point out still another trend. Because retirement is voluntary, the judges themselves, throughout the Federal system, exercise great control over the personnel of the various courts, since they may withhold their retirements until a President to their liking occupies the White House. The courts may thus "pack" themselves. Twice as many Federal judges resigned or retired in the Hoover administration as have resigned or retired in 4 years of the present administration. Sixty-five percent of the Federal judges over 70, and eligible for retirement during the first 4 years of the present administration, still remain upon the bench.

Every previous President from the beginning of the Republic who has served a full 4-year term has appointed from one to five justices of the Supreme Court. Even Harding, in his short incumbency, appointed four. But now, for the first time, a President has served a full term without making a single appointment to the Supreme Court. It is a matter well worth pondering.

The President in urging his plan called attention to the need of a "constant infusion of new blood" to "vitalize the courts and better equip them to recognize and apply the essential concepts of justice in the light of the needs and the facts of an ever-changing world."

The soundness of the President's position is readily demonstrated. How the Constitution shall be applied in a particular case depends largely upon the experience of the judges and their understanding of the facts—not merely the facts of the case but the facts relating to economic and social conditions generally, the facts relating to our complicated industrial and economic system, the facts relating to the way in which business is conducted and the way in which people live.

We learn from the recent letter of the Chief Justice that litigants in ordinary cases, such as "controversies over contracts and documents of all sorts", to quote the Chief Justice, "have no right to burden the Supreme Court with a dispute which interests no one but themselves." Aside from settling conflicts of authority as between the lower courts, the Supreme Court devotes its attention to questions of "importance" and to "determining constitutional questions, or settling the interpretation of statutes." Most cases involving such matters, as we all know, arise when large interests seek to avoid the control deemed necessary by organized society. In short, the Court has largely ceased to hear private disputes, as such, and devotes its energies to a field of litigation which, in many crucial matters, involves censoring the work of the Congress, the Executive, and the States.

Despite the fact that the attention of the Supreme Court is thus directed, the Chief Justice decries the addition of more Justices, for there would be, he says, "more Judges to confer, more Judges to discuss, more Judges to be convinced and to decide." But, of course, he is careful to speak, as he says, "apart from any question of policy." However, with a Court primarily concerned in matters involving social and industrial policy, we cannot ignore questions of policy.

The point is easily illustrated. Twenty-five years ago, for example, the Supreme Court held valid a statute prohibiting the use of the channels of interstate commerce for the transportation of women or girls for immoral purposes. Five years later, however, the Court held that it was improper to close the channels of commerce to the products of child labor. Yet the Constitution makes no distinction between the protection of women and the protection of children.

When another 5 years had passed the Court decided that even women in industry were entitled to no protection and held invalid the minimum wage statute of the District of Columbia. In 1925 and 1936 it again struck down acts adopted to prevent gross exploitation of the labor of women. In those three decisions five Judges of the Supreme Court determined social policy and the scope of the Constitution for 15 years. Then, less than a month ago, again by the narrowest of margins, the line of minimum wage decisions was completely reversed. Who amended the Constitution on March 29 last? Not the President. Not the Congress. Not the States. Not the people. The Supreme Court amended it by correcting its previous misinterpretation.

This bewildering history demonstrates how courts may ignore patent facts and paralyze both States and Nation by the peripatetic vote of a single Judge holding office for life. It demonstrates, too, that enlightened judgment, when it comes, may hang precariously upon the social or economic views of one man. Small wonder that, in our own day, eminent lawyers and jurists have spoken of the Supreme Court as "a continuous constitutional convention."

The temper of these times demands a realistically minded Court if our institutions are to thrive, not a reactionary Court temporarily in a liberal mood. It is not the Constitution that is at fault, and the cumbersome machinery of amendment was not designed and cannot serve to correct judicial mistakes one by one. Some Judges, seeking to read their own views and social philosophies into our fundamental law, insist that if their Constitution stands in the way of needed legislation, the only remedy is by way of formal amendment. And when, over their protest, constitutional interpretations are attuned to the facts of the time, such adjustments are made not by them but by their brethren. They remain fixed and immutable. When the Nation moves it moves around them.

Lest anyone in his heart deny that the courts need "unpacking", let him recall that during the last 4 years every essential measure the Government has been called upon to defend has had to be submitted to a Court of nine with four votes lost to it in advance.

Of course, no one desires a subservient judiciary. Those who assert that such is the present purpose have grievously misjudged the President and misread the history of our long struggle to free ourselves of all tyrannies—executive, legislative, and judicial. The independence of our courts must be zealously preserved, but it must be an independence in a very real and genuine sense, not merely an independence from coercion and improper influences but from all ulterior motives and all impulses to invade the legislative field and free, too, from blind subservience to deadening and obstinate legalism.

The President's plan is direct, simple, workable, and constitutional. Of all the plans submitted, it is the least drastic. It touches no part of the Constitution. It impairs no power of the Supreme Court. It entails no disheartening delay. It enables our country to move forward to the solution of the problems that crowd upon us, and it preserves the courts and the Constitution as the workable instruments of a free people.

Good Housekeeping Supports War Referendum

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 26, 1937

Mr. LUDLOW. Mr. Speaker, Good Housekeeping, a magazine of enormous circulation, whose readers are numbered by the millions, is warmly supporting my proposed peace amendment to the Constitution, which would make it impossible to send our boys into foreign lands to be slaughtered in the settlement of quarrels of alien origin until the question has been submitted to the people of the United States and voted on in a national referendum, with women having equal voting rights with men.

William F. Bigelow, the gifted editor of that magazine, is a zealous advocate of the doctrine that those who have to do the suffering and the dying and to bear the awful burdens and griefs of war should have something to say as to whether war shall be declared, and the clear and convincing arguments he has brought forth in support of my resolution for a constitutional referendum on war have been a most valuable means of introducing it to the women of America because of the close and intimate association of his publication with the sacred institution called home.

Millions of women, realizing that war now broods over three-quarters of the area of the globe and that dictators are thrumming the strings of war preparing for another mass slaughter, are turning their attention to House Joint Resolution No. 199, my war referendum resolution, as the peace measure that offers the most hope of keeping America out of the next world war, which, in the opinion of all competent experts and observers, is bound to come; and which if it does come, with all of the modern inventions in the art of destruction, will be the most awful calamity that ever befell the earth. Untold numbers of women are being attracted to this referendum proposal for the guaranty it offers that their sons will not be drafted and hurled into the shambles of foreign war.

In an editorial in the May issue of Good Housekeeping, now on the newsstands, Mr. Bigelow makes an eloquent plea to the women of America to rally on the eve of Mother's Day to the support of House Joint Resolution No. 199, the Ludlow war referendum amendment. His editorial, entitled "Peace by Amendment", is as follows:

[From Good Housekeeping for May 1937]

PEACE BY AMENDMENT

Congressman LUDLOW, of Indiana, speaking:

"If ever I prayed to God Almighty to give me the gift of expression, I pray for it today, because I want to make perfectly clear and understandable what the common people of America are thinking on the subject of war. They are thinking this: They are thinking that they love their country and that they would pour out the last drop of their blood, if necessary, to defend it from attack or invasion by a foreign foe, but they are bitterly denouncing and resenting the idea that if a world war comes, their sons shall be conscripted and sent away to die in foreign slaughter pens in the settlement of quarrels of other nations.

"Furthermore, the common people are tired of being eternally the buffer in the game of war, and since they have to do the suffering and the dying and to furnish war's cannon fodder, they are asking why they should not have something to say as to whether war shall be declared. They are asking why a question so tragic in its nature, so intimately interwoven with life and death, which involves the very existence as well as the welfare and happiness of the millions of our people, should not be submitted to the people for decision in a national referendum."

The place was the House of Representatives; the time, January 14. Congressman LUDLOW was speaking in behalf of his peace amendment bill, which he had introduced on January 5 and which had promptly been referred to the Committee on the Judiciary. This is the committee which suppressed the same bill in the last Congress. (It is common practice for committees to kill in that way bills they do not like.)

And now—

A MOTHER SPEAKS

(By Grace Noll Crowell)

All mothers have the certain right to say
If there should be war! We who have borne sons
In agony and rapture rise today
In fierce defense of these, our precious ones.
As tiger mothers guard their helpless young,
So shall we stand when threats of war arise.
No waving flag, no oratory flung,
Shall dim the steadfast purpose in our eyes.

All wars are useless—let there be no more!
We shall not have a part in this mad thing.
You cannot take the fine sons that we bore
And offer them for bloody slaughtering.
Consult the mothers of the earth, O men,
And there will never be a war again!

If you wish to be consulted on the question of going to a foreign war—the kind of war the newspapers are telling us about every day, only a lot bigger—ask your Congressman to support the peace amendment bill. He may not know it by that name, so tell him it is House Joint Resolution No. 199. A similar, though not identical, bill was introduced in the Senate by Senator NYE, January 6. When writing to your Senators about this bill, refer to Senate Joint Resolution No. 10. These bills take from Congress and the President none of their power to provide for defense or to engage in defensive warfare; there must be no hesitation about such matters—not in a war-crazy world. But in the matter of going crazy ourselves, the people should have some say.

Mother's Day will be a good day to write your letter—if you must wait that long. Better do it now.

WILLIAM FREDERICK BIGELOW, *Editor.*

Enlargement of Supreme Court

EXTENSION OF REMARKS

OF

HON. GUY M. GILLETTE

OF IOWA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 27, 1937

STATEMENT OF HON. SMITH W. BROOKHART, FORMER SENATOR FROM IOWA, BEFORE THE SENATE COMMITTEE ON THE JUDICIARY

Mr. GILLETTE. Mr. President, I ask unanimous consent to have printed in the RECORD the statement made before the Judiciary Committee by Hon. Smith W. Brookhart, former Senator from Iowa, on the proposal to enlarge the membership of the Supreme Court.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The National Lawyers Guild supports the President's plan to reorganize the Supreme Court unequivocally. If it results in terminating the power of the Court to annul acts of Congress, we stand with Justice Holmes, who said in 1920:

"I do not think the United States would come to an end if we lost our power to declare an act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several States."

STATE LAWS NOT INVOLVED WITH ACTS OF CONGRESS

The exact question he was considering was the review of the constitutionality of acts of Congress by the Supreme Court. That is also the exact question which the whole country is considering. An accurate understanding demands that it should not be confused with any other proposition and especially with the constitutionality of acts of State legislatures under the Federal Constitution. Witnesses before this committee and Senators speaking on the radio confuse them indiscriminately citing Communist cases under State laws which are wholly immaterial to the question of the constitutionality of the acts of Congress. Of course if a State legislature enacts a law infringing the Constitution of the United States, the Federal courts should have jurisdiction to annul it and the Supreme Court to finally decide upon appeal in all cases as the Congress may determine. Many of these decisions cannot be defended but that is only an added reason why President Roosevelt should change the personnel of the Court with Senate approval. Perhaps even some of the fourteenth amendment questions might be left to the jurisdiction of the State courts and appeal to the Supreme Court of the United States withdrawn. In any event it is certain that liberal members of the Court are more favorable to personal liberty and States rights than the conservative members.

COURT REVIEW STATUTORY, NOT USURPATION

The question of the constitutionality of an act of Congress presents an entirely different situation. It may arise in any of the above-mentioned cases, but the question also arises as to what tribunal shall have jurisdiction for its final decision, and this may present an issue between so-called coordinate departments of the Government. Those supporting the jurisdiction of the Supreme Court do not point out how that jurisdiction is obtained. There are two schools of thought upon this question. One says it comes directly from the Constitution in all cases; the other, that the courts have usurped it. Both are wrong. The correct view is that the Constitution only gives the Supreme Court original jurisdiction in four specific cases, and in all other cases its jurisdiction is appellate and dependent upon acts of Congress.

CONSTITUTIONAL PROVISIONS

The constitutional provisions are as follows:

Article III, section 1: "The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish * * *."

Section 2: "The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made * * *", enumerating other cases.

Section 2, clause 2: "In all cases affecting ambassadors or other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make."

ORIGINAL AND APPELLATE JURISDICTION

From these provisions it is plain beyond controversy, legal or otherwise, that the only original jurisdiction of the Supreme Court is the four cases affecting ambassadors, ministers, consuls, and when a State is a party. Original jurisdiction in all other cases authorized by the Constitution is not in any court set up by the Constitution itself, as is the Supreme Court, but in such inferior courts as the Congress "may", not shall, from time to time ordain and establish. A list of cases are enumerated which Congress may give in original jurisdiction to its inferior courts, and among these is the case involving the constitutionality of its own acts. Congress may withhold the jurisdiction of this constitutional case or any other case mentioned from the original jurisdiction of its inferior courts or it may authorize all of them at its pleasure. It is also plain that the Supreme Court has only appellate jurisdiction in all the enumerated cases, including those arising under the Constitution, excepting the four cases, and Congress has control of all appeals. (Appellate jurisdiction means the case can only come before the Supreme Court upon appeal from an inferior court.)

STATUTORY JURISDICTION OF CONSTITUTIONALITY

Has Congress authorized the inferior courts to take original jurisdiction in cases involving the constitutionality of its own acts and has it also authorized appeal to the Supreme Court? Yes. There are two old statutes enacted by the first Congress, amended and alive today. One gave the inferior Federal courts that jurisdiction and authorized appeal to the Supreme Court (28 U. S. Code, sec. 41). The other recognized the jurisdiction of the State courts and authorized a writ of error from the supreme court of the State to the Supreme Court of the United States and "the writ shall have the same effect as if the judgment or decree had been rendered or passed in a court of the United States" (28 U. S. Code, sec. 344). Congress has thus made the State courts inferior Federal courts and recognized their jurisdiction of constitutional questions. Without this statute the State courts could have no jurisdiction of any Federal question and would certainly be enjoined by the Federal courts if they assumed such jurisdiction. Every appeal or writ of error except 3 original cases among the 76 held unconstitutional went to the Supreme Court under these statutes. It has not assured or usurped the power to review acts of Congress as so many assert. Congress itself gave that jurisdiction to the inferior courts and provided appeal to the Supreme Court, and it can withdraw it all at any time and cancel the power of review, except in the four cases. Congress may withdraw court jurisdiction and become final judge itself. Written constitutions give inherent and inescapable judicial power to legislatures. They are the first courts that must decide the constitutionality of their own acts.

It must now be observed that all this original and appellate jurisdiction in both State and Federal courts is authorized by acts of Congress and not by the Constitution except the four cases. These being laws of Congress, they can be amended or repealed as any other law. The courts have acquired no vested right in these jurisdictions, and there is no way known to the law whereby such rights can be acquired. Congress, at its discretion, can withdraw all these jurisdictions, except in the four cases, and thus become its own tribunal to finally decide the constitutionality of its own acts. I present this argument to show that it is a long step backward to amend the Constitution, take this power from Congress, and turn it over to the Court by either a two-thirds vote or with the right of Congress to overrule the Court with a two-thirds vote. The power is now in Congress to control these jurisdictions, and I should strongly oppose taking it away by any amendment. Congress itself has given it away by statute, and the chairman says every member of this committee would oppose taking it back. If that be true, the President's plan is the only feasible plan now. Is it a wise policy to exercise this right?

SUPREME COURT POWER IN FOUR ORIGINAL CASES

Before answering that question it might be well to consider the power of the Supreme Court to pass upon constitutionality of acts of Congress in the four cases where it has original jurisdiction directly from the Constitution and which the Congress cannot take away. It is evident even to laymen that cases affecting ambassadors, ministers, and consuls can have no material bearing upon the economic questions now in issue in the courts. It has also been settled by the Supreme Court itself that a State cannot maintain an action parens patriae on behalf of its citizens to test the constitutionality of an act of Congress (*Massachusetts v. Mellon*, 262 U. S. 447–480). The only way a State can raise such a question is when it owns property that is injured by the act. For instance, the State of Georgia brought such an original case in the Supreme Court to test the validity of the Bankhead Cotton Act. It alleged that the State owned a 160-acre cotton farm that was injured because the tax levied by this law was unconstitutional and void. Assuming that this case was properly brought and that upon final determination the Supreme Court would hold the Bankhead law to be unconstitutional, the decision would apply only to that 160 acres; and if the original jurisdiction of the inferior courts in all other cases were withdrawn, the law would stay constitutional as to the rest of the United States. It is, therefore, evident that the original jurisdiction of the Supreme Court in the four cases does not reach very far in its power to annul acts of Congress.

ENGLISH PRECEDENTS CITED BY SENATOR BORAH ANALYZED

It being established that the Congress has the constitutional right to withdraw the jurisdiction of the courts and finally decide as to the validity of its own acts, the question now arises as to the wisdom of such a policy. Some witnesses think it unwise and believe the liberties of the people are better safeguarded by judicial review. They cite many historical precedents, mainly from Great Britain, but partly from our own country. Let us analyze this history.

It was the King who sought to dominate "the judicial judgment and will of Sir Edward Coke." It was the power of the King that "took some of the keenest and brightest minds of the English bar and made them corrupt and willing instruments of oppression and injustice." It was the same power that drove Essex to his suicide. It was the King that gave Pemberton his polluted ermine and commissioned the unspeakable Jeffreys, who died in prison for his judicial crimes.

On the other hand, it was the peoples' Parliament that promoted the revolution of 1638, overthrew the power of the King, and gave the crown to William III, and extended its own authority over the English courts, imprisoned Jeffreys, and established its authority to remove judges without any stated cause. It was under this authority that we find the honored names of Somers and Holt and York and Hardwick and Eldon and Mansfield laying deep and firm the great principles of English law and justice. These judges were independent of the power of the King, but they were entirely subject to the law and the power of the Parliament. Those citing English precedent entirely forget that English history decided against them the very question, to wit, the policy of judicial review over legislative enactments and the so-called coordinate independence of courts. The English courts have never had jurisdiction to annul acts of Parliament upon any grounds whatsoever, and in 1386 they hanged the chief justice for holding otherwise. Did the lack of this power in the English courts destroy their independence and override the guaranties of liberty? The legislative power is supreme in Great Britain, even in the House of Commons, which can now overrule the veto of the House of Lords and enact a law binding upon every court. It is this democratic power of the people that guaranties liberty, law, and justice over both kings and courts so eloquently but erroneously ascribed by the Senator from Idaho to an "independent judiciary" which, in fact, was and is completely dominated by the Parliament.

POWER OF HEREDITARY KING VERSUS ELECTED PRESIDENT

There can be no valid analogy between the power of kings over courts and the same power of our President and Congress over courts. The Kings were heriditary autocrats and exercised their power over courts for religious fanaticism and royal privilege. The President and the Congress hold their powers for limited terms and derive these from direct election by the people. This is the strongest possible guaranty that they must exercise their powers over courts for the rights and liberties of the people. Hamilton's argument for judicial review of acts of Congress was based upon the fact that the Constitution gives the Congress control of the courts through the power of impeachment.

UNLAWFUL USURPATIONS OF EXECUTIVE AND LEGISLATIVE VERSUS JUDICIAL

Again it is said, "We need not travel outside our own history or seek examples outside our own country. From time to time the executive and legislative, or in other words, the political side of the Government have disregarded or trampled under foot practically every guaranty found in the Bill of Rights." Let us concede this to be true, but they neglect to state what these same departments have done to correct these evils. Lincoln's emancipation proclamation did more for human liberty than all the court decisions we will get in a thousand years. They also entirely neglect to state the part the courts had in these same violations. The alien and sedition laws were sustained by the courts, and their judgments under them were the most cruel in American history. If we would add up all the inhuman and third-degree acts of our courts from the case of Matthew Lyon to that of Eugene V. Debs, the list would make our political excesses insignificant. The Dred Scott case alone did more damage to the Constitution and the liberties of our people than all the fool things Congress has done in all its history.

MARSHALL THE POLITICIAN IN COURT

Again it is said, "It would be a serious error, if not a fatal mistake, to regard the questions touching the integrity of the Constitution and the independence of courts as party questions, or to seek to treat them as such." This is a self-evident truth, but the first great mistake of this kind was made by John Marshall himself in the first case in which he asserted the power of the Court to set aside an act of Congress as unconstitutional. Here are the amazing facts: Adams was President, Marshall his Secretary of State. In the last days of his administration Adams appointed Marshall Chief Justice, which was confirmed by the "lame duck" Senate, and he did take and hold both offices until the end of Adams' term. Under the "packing" argument this was the first pack. On the last day Adams appointed Marbury and several others as justices of the peace in the District of Columbia. The commissions were signed and sealed, and it was the duty of Marshall to deliver them, which he neglected. The next day Madison came in as Jefferson's Secretary of State, and refused to deliver the commissions. Marbury then brought a mandamus suit against Madison as an original action in the Supreme Court to compel delivery of the commissions. This was a fifth kind of original case in the Supreme Court, whereas we have seen that only four were authorized by the Constitution. Madison ignored the case and intended to disobey the writ if Marshall issued it. The parties to the suit raised no question as to constitutionality, but Marshall himself first invented a statutory construction and then raised the question as to its validity. He said the statute provided a fifth case of original jurisdiction in the Supreme Court and was therefore void.

MARSHALL IMAGINES A STATUTE

Let us now see about this imaginary statute. Here is the real one: "The Supreme Court shall also have appellate jurisdiction from the circuit courts and the courts of the several States, in the cases hereinafter specially provided for; and shall have power to issue writs of prohibition to the district courts when proceeding as courts of admiralty and maritime jurisdiction, and writs of mandamus, in cases warranted by the principles and usages of law, to any courts appointed, or persons holding office, under the authority of the United States." There is not one word about a suit at mandamus as an original action in the Supreme Court. The writ may be issued by the Supreme Court "in cases warranted by the principles and usages of law." There were two channels by which such cases might come before the Supreme Court—one by appeal from the lower courts, State or Federal, the other in the four original cases authorized by the Constitution. Marbury did not come to the Court through either of these channels, but brought a fifth original case. His case was improperly brought and that was the only question before the Court.

MARSHALL HIMSELF IN POLITICS

Did John Marshall decide that question and then quit? No. He invented a statutory provision as we have seen and then raised the question as to its constitutionality. Even if this question had not been imaginary, the logical thing was to decide it and if found unconstitutional, that ended the case. Did John Marshall do this? No. Instead he went into politics. He used 7,000 words to decide that Jefferson and Madison had violated the law and failed to do their official duty in refusing to deliver Marbury's commission. Then after this elaborate decision upon the merits of the case he used 2,000 more words to decide that there was nothing before him for decision because this statute with his imaginary construction for a fifth original case was unconstitutional and void. There is no more flagrant case of obiter dictum in all the history of jurisprudence.

MARSHALL RECANTS ASSERTED DICTUM

Nor does this end the history of this fantastic political case. Marshall had declared for the right of the Court itself to raise the constitutional issue, even though not raised by the parties to the case, and further declared for direct constitutional authority to annul acts of Congress in any case. This sweeping and far-reaching opinion was rendered in a trivial and unimportant case improperly brought as an original action in the Supreme Court and without any such issues being presented by the parties to the case. This is the only assumed jurisdiction in all the cases, and afterward repudiated. These audacious assumptions immediately raised a storm of protest, and Marshall was threatened with impeachment for invading the legislative powers of Congress. Justice Samuel Chase, who had joined in this opinion, was impeached for this and like decisions while sitting in the circuit courts. While his case was pending before the Senate, Marshall wrote Chase a letter from Richmond on January 23, 1804, in which he repudiated everything he had said in *Marbury* v. *Madison*. The material part of the letter is as follows:

MARSHALL LETTER RECANTING

"According to the ancient doctrine, a jury finding a verdict against the law of the case was liable to an attaint, and the amount of the present doctrine seems to be that a judge giving a legal opinion contrary to the opinion of the legislature is liable to impeachment. As for convenience and humanity the old doctrine of attaint has yielded to the silent, moderate, but not less operative influence of new trials. I think the modern doctrine of impeachment should yield to an appellate jurisdiction of the legislature. A reversal of those legal opinions deemed unsound by the legislature would certainly better comport with the mildness of our character than a removal of the judge who has rendered them unknowing of his fault."

This not only recognizes the authority of the legislative department over the judicial but goes to the extreme of giving Congress power to recall decisions of the Court in any case. At this time the most comprehensive proposition only wants to withdraw the jurisdiction of the courts as to the one issue involving the constitutionality of the acts of Congress, but Marshall's proposition, without amendment to the Constitution, might overrule the Court in every case by a majority vote of the Congress. Modern liberals proposing a two-thirds vote are more reactionary than Marshall himself. This letter being of later date is a more authoritative precedent than the dictum of the case.

MARSHALL FRIGHTENED FOR 31 YEARS

It has been said that Marshall was frightened and coerced into this opinion by the threat of impeachment. Such fear seems to have been unfounded in one who had been a gallant and brave soldier; but, if true, it must have lasted for 31 years, because never again did he raise the question or hold an act of Congress to be unconstitutional. It cannot be said that Marshall's course in this case speaks either for intellectual integrity, judicial superiority to political bias, or for moral courage. It was 53 years after that letter before it occurred again and that in the Dred Scott case.

THE YAZOO LAND FRAUD CASE

Some of his other famous cases will scarcely bear analysis and some are repudiated by those who invoke the rule of judicial review. The famous, or more properly speaking infamous, Yazoo Land case exudes a stench that would stifle Teapot Dome. The contract for this vast land domain was secured by bribery of the Legislature of Georgia. The proof was conclusive beyond all possibility of doubt, but still John Marshall held the contract valid upon the flimsy pretext that even the Supreme Court cannot question an act of a legislature although proven to be obtained by corruption and bribery. Under the leadership of John Randolph the Congress repudiated this decision for many years and finally condoned it only in part upon a compromise. It was the forerunner of many other questionable land decisions while Marshall was Chief Justice which protected the liberty of speculators but not of the people.

MARSHALL DECISION FOR CORPORATIONS, AGAINST THE PEOPLE

The Dartmouth College case was the forerunner of the giant evil of holding companies, watered capital, and combinations in restraint of trade. This decision protected the liberties of the "malefactors of great wealth" until superseded by the more efficient holdings of the Court under the due-process clause. Both stand stubbornly in the way as Congress and the legislatures seek to protect the liberties of the underprivileged.

McCullough v. *Maryland* extended the power of the Federal Government into the States for the benefit and liberty of the money lenders, but that doctrine is now repudiated by the Court when applied to the liberty of farmers and laborers and the acts of Congress in their behalf fall down before its discriminating abilities. Marshall's really great decisions were those that established the power of the National Government over the States and gave the Constitution a liberal interpretation for the general welfare. The same power in the Congress is now being denied by the Supreme Court under the pretext of Marshall's dictum in *Marbury* v. *Madison*, but in fact under the jurisdictional statutes. Thus the recanted dictum is now nullifying his liberal statesmanship.

SUPREME COURT DECISIONS FOR PROPERTY RIGHTS, AGAINST HUMAN RIGHTS

Unless it is stated in error, it is not conceivable that anyone approves the history of the Court as here recited. They certainly do not approve the decision of the Dred Scott case, which set aside a law that had been in force for 37 years, and led to the Civil War, the most disastrous event in our national life. Neither will they claim this decision was other than political, although made by the Supreme Court. Can it be said that any of these decisions beginning with Dred Scott were in the protection of liberty and justice? Were they not all in support of slavery, either actual or economic? Among all of the 76 cases in which the Supreme Court has held acts of Congress to be unconstitutional you can scarcely more than name one decision that was for personal liberty, although about 15 of them were for its technical protection.

Seven like the Dred Scott case went against liberty and half of the other 12 were technical escapes from guilt. All of the others mentioned, 57 in number, have been for property rights as against human rights. They are nearly all of recent origin. Marbury against Madison was decided in 1803. The impeachment of Chase stopped decisions to annual acts of Congress for 54 years, and the next was the Dred Scott case in 1857. The next case usually mentioned was the court-martial trial of Milligan, a private citizen, in 1866 and the order of the President was held partly unconstitutional, but 2 years later, after Congress had withdrawn the jurisdiction of the Supreme Court, a like case was dismissed and the statute stood valid. The Court repeatedly dodged a decision of the constitutionality of the reconstruction military statutes under which Milligan was held and released him upon a technicality, and nobody ever believed that either President Lincoln or President Johnson would have hanged him.

In 1869 the Legal Tender Act was almost held unconstitutional by a 4–3 vote, but the Court was enlarged and upon rehearing it was held valid in 1871 by 5 to 4, and the greenbacks are still in circulation. There is a long line of decisions in which the fourteenth and fifteenth amendments were emasculated by judicial construction and the enforcing acts practically nullified. These acts were by the Congress for the constitutional liberties of the Negro race, but the court decisions were to the contrary. These adverse decisions offset by many thousand times the recent protection given to a single Negro by the Supreme Court in a State law case and cited so often. Speaking of these fourteenth-amendment cases, Senator BORAH himself said: "The Supreme Court becomes really the economic dictator in the United States."

It was in 1895 that the income-tax case was decided and since then every act of Congress affecting big business has become a constitutional target for corporation lawyers. Since so many of the judges have been appointed from that class of lawyers and their decisions have reflected the bias of their training, many question marks as to the independence of the courts have arisen in the minds of ordinary citizens.

POLITICAL BIAS OF THE SUPREME COURT

It is further said, "By reason of certain decisions the Supreme Court is again under severe criticism. Again the political side of the Government feels that the Court is in great error. A study of the decisions to which opposition has been raised will disclose that, while a number of important matters have been passed upon the dominant, overshadowing constitutional question, one which will return again and again, involves the distribution of power between the State and the Federal Government."

First. Is it quite fair to refer to "the political side of the Government", and by inference exclude the Supreme Court from all political bias? There is no better known facts in American politics than, that the Supreme Court is made up of three liberals, four conservatives, one near conservative, and one in between who has said, "We are under a Constitution, but the Constitution is what the judges say it is." It is just as well known that in spite of all their learning in the law their judicial opinions divide quite generally in accordance with their political views upon questions that have a constitutional import. This is no discredit to either side. In fact it is an indication of honest decision. Every man fit to be a judge ought to have political opinions, ought to frankly and honestly declare them and after appointment ought to just as honestly live up to them when in issue. If he will be dishonest as to his politics he is likely to be dishonest as to everything. This does not mean that a judge should engage in political controversy or decide any case according to the politics of the parties when other matters are at issue. It was for similar reasons that 26 Senators opposed the confirmation of Chief Justice Hughes as a conservative.

ISSUE AGAINST FEDERAL JURISDICTION RAISED BY CORPORATIONS, NOT BY STATES

Second. Is there a genuine issue over the "distribution of power between the States and the Federal Government"? Only one State has brought a suit alleging such issue, and the Governor who brought that suit was emphatically eliminated as soon as the people could get at him in an election. No; the issue is not between the States and the Federal Government. The issue is made by corporations who oppose the power of the Federal Government to regulate them by asserting that power is reserved to the States under the Constitution. When the States seek to regulate them they assert the power is in the Federal Government. Recently they have been able to win both contentions in the Supreme Court and thus stand above the law in "no man's land." However, the Court has just overruled a 14-year-old case of this kind.

IMPROVED METHODS WIPE OUT STATE LINES

Third. Will the issue between the States and the Federal Government "return again and again"? Our whole civilization is now against the idea. Improved methods of communication and transportation have in effect reduced the size of our country. In the matter of communications with our telegraph, telephone, and radio, the whole United States is not as large as one township in the time of George Washington. In the matter of transportation, with our railroads, our automobiles, and our airplanes, the whole United States is not as large as the State of Virginia in the days of Thomas Jefferson. In those days it was impossible to regulate either communications or transportation in a national way. Today it is impossible to regulate them in any other way. The same stage is rapidly approaching for power, production, health, and education. This judgment has just been reached by every State in the Union except Maine and Vermont. There is not the slightest danger of them stirring up a rebellion. The "horse and buggy days" are over. Everybody seems to know this situation now except the "financial royalty" and the Supreme Court. They must be reorganized so they will know it, too.

CHANGE BY PACKING AND UNPACKING THE SUPREME COURT

So there must be a change, but in the language of Washington, "Let there be no change by usurpation." The changes must come from the people, and they have already spoken in no uncertain terms. Change does not always mean amendment to the Constitution. There is vast room for changes under its strictest provisions. The great liberal Justices on the Supreme Court easily find those provisions. They are supported by the President, the Congress, and the people. It is unreasonable, un-American, that this change should be halted by a conservative majority of the Supreme Court. The President has proposed a perfectly frank and constitutional method of changing this majority. The spokesmen of "financial royalty" viciously denounce this method of "packing the Court." No, if a harsh term like that is to be used, it is "unpacking the Court." Certainly the Court has been packed with a conservative majority "since the memory of man runneth not to the contrary." Overwhelming proof of this conclusion is found in the records of the Court itself in the dissenting opinions of Justices Harlan and HOLMES. In truth and in fact this plan is a sensible, patriotic, constitutional, and efficient method of carrying out the sovereign will of the American people. It is Jefferson, Jackson, Lincoln, and Theodore Roosevelt united into one.

CHANGE BY CONSTITUTIONAL AMENDMENT

The other method of change is by constitutional amendment. This is not inconsistent and may run concurrently with the President's program. Every liberal favors amending the Constitution in the direction of economic liberty and against Court autocracy, but recognizes the difficulties and delay in that method of procedure. Thirteen States can defeat any proposal of amendment. If those should be the smaller States, with less than 8,000,000 population, it follows that a majority in all of these States being less than 4,000,000 people could defeat an amendment supported by

122,000,000 people in the other States. While such a situation is not likely to arise, still it is possible under the requirements for amendment, and one-fourth of the people will defeat almost any amendment. In spite of an overwhelming sentiment in its favor, the child-labor amendment is still far from final ratification after more than a dozen years. While our "financial royalty" is but a small fraction of our people, still its subversive methods are so cunning and so powerful that it can defeat almost any liberal amendment in 13 States and thus defeat it entirely or delay it indefinitely.

These are powerful reasons why we should proceed with the President's program under present constitutional limitations. This is no threat to these limitations. The President has said that N. R. A. was the heart of the New Deal. It was ruled out by all nine Justices. In order to "pack" the Court and overrule this decision he would have to appoint 10 new Justices instead of the 6 the President has proposed. Therefore, to carry out the full New Deal it will be necessary to propose and carry amendments. While personally I favor the T. V. A. and O'MAHONEY's methods to N. R. A., still I think it constitutional for basic reasons in spite of the unanimous decision. The first reason that it was an improper delegation of legislative power is to me no question for the Court. The Constitution puts "all" legislative power in the Congress, and therefore the Congress is the only authority to decide as to delegation of legislative power. The statutory definition of interstate commerce suggested by witnesses on both sides disposes of the other question.

SENATOR JAMES A. REED SUBMITTED THIS ISSUE IN THE CAMPAIGN

Some opponents of the President's plan to increase the Supreme Court membership denounce him because it was not made an issue in the campaign. Another bit of unfairness is the charge that the President did not submit his plan with frankness. This charge is made in face of the fact that in his annual message he declared the Constitution was broad enough with enlightened interpretation and amendment was unnecessary. Besides it was specifically made an issue in the campaign. The President himself did not so urge it because he probably had not fully made up his mind, but former Senator James A. Reed, the ablest, most brilliant, and most forceful opponent the President had in the whole campaign, did present in detail the President's plan upon accurate information. He filled the radio air with it from coast to coast and was echoed in all the great opposition press. In his inimitable way he challenged the President to deny his statement. There was no denial because Senator Reed was telling the truth and the President was content to submit the issue upon the violent arguments against it alone, though some of us did vigorously defend it and got a response of emphatic approval from the common people everywhere. The opposition is estopped from claiming that the issue was not submitted to the people, because they submitted it themselves and the people overwhelmed them.

PRESIDENT'S ADVICE AS TO REASONABLE DOUBT, RIGHT

Much radio time and newspaper space has been used to denounce the President for advising a Member of Congress to vote for a measure even though there were reasonable doubts of its constitutionality. This criticism is based upon ignorance of the Supreme Court's own rule. It has always been a rule of the Court that if there is any rational doubt as to the constitutionality of an act of Congress, it is constitutional and not unconstitutional. The President simply advised the Congressmen in accordance with this rule and in good faith, but the Court has not followed its own rule in good faith. It will not permit the vote of four Justices in its own membership in favor of the constitutionality of an act of Congress to raise even a reasonable doubt in its favor and five votes on the other side then annuls the act in that case and beyond all reasonable doubt. Such a theory with its contrary practice is a violation of every concept of plain common sense. One vote for the constitutionality of an act should certainly raise a doubt in its favor and under the Court's own rule the act should stand valid. One vote on a jury for a bootlegger or a murderer raises a doubt as to his guilt and prevents his conviction. Four votes on the Supreme Court will not raise a doubt as to the validity of a law approved by the whole Congress and the President all under the same oath to support the Constitution of the United States. It is this illogical and unthinkable conclusion that suggests a regulation of appeals that will require a unanimous vote of the Court to annul an act of Congress under its own rule and thus end the split decision on Constitutional questions. There is no reason for ending it in ordinary cases that do not have the reasonable-doubt rule.

THE PEOPLE, NOT THE COURTS, MAKE THE CONSTITUTION

The charge that the Court is invading the legislative department is answered by the countercharge that the President is also invading it. But the President has legislative power under the Constitution by his veto equal to two-thirds of the membership of the whole Congress and is required to "recommend to their consideration such measures as he shall judge necessary and expedient." This includes even the drafting of a bill. The Court has no such power.

In conclusion, let me say that the most sacred thing about the Constitution of the United States is its own making. No court has anything to do with the making, amending, or changing of the Constitution. This is all done by the direct-elected representatives of the people in Congress, in State legislatures, and in conventions. It is perfectly logical and entirely constitutional that the Congress elected by the people should be the final tribunal to decide as to the validity of its own acts under the Constitution which it helped to make. It knows better what the Constitution means than any technical court, but if such a law were passed, five members of the present Supreme Court might annul it. Liberal Justices certainly would not. If the Congress and the President go wrong, the people can remove them at the next election. If the Court goes wrong, it may take a war, as in the Dred Scott case. If this be judicial authority in the Congress, such is not repugnant to any part of the spirit of the Constitution. The highest court under the Constitution is not the Supreme Court. Over and above the Supreme Court the Constitution makes the United States Senate a Court with judicial power to remove every member of the Supreme Court, and even the President, upon impeachment by the House. This is the supreme authority under our Constitution and the supreme guaranty of our liberties and under the sovereign control of our people at the ballot box. The talk of a Presidential dictatorship is utter nonsense. The one danger of autocratic power is a five majority of the Supreme Court, with final power over both President and Congress and with no accountability to the people. What we need is a peoples' Congress, a peoples' President, and a peoples' Court to sustain them and not even an amendment to the Constitution is necessary. The people are the umpire and not the Supreme Court. This is said to be an issue between so-called coordinate departments of government. Upon that theory it is beyond all reason that one of the parties to the controversy should also be the umpire to decide it. In a free country the people alone can be the umpire. Senator Reed presented the issue fully to the people and they decided in favor of the President and the Congress. The slogan of "financial royalty" is "hands off the Supreme Court"; the slogan of the rest of the folks is "The Supreme Court must take its hands off the mandates of the people."

Labor Troubles

EXTENSION OF REMARKS

OF

HON. ERNEST LUNDEEN

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 27, 1937

ADDRESS BY JAY C. HORMEL BEFORE THE OWATONNA ROTARY CLUB, OWATONNA, MINN., ON APRIL 12, 1937

Mr. LUNDEEN. Mr. President, I ask unanimous consent to insert in the Appendix of the RECORD a talk by Mr. Jay C. Hormel before the Owatonna Rotary Club, Owatonna, Minn., Monday noon, April 12, 1937.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

The so-called labor situation seems to be the subject which is attracting the most attention from most people at the present time.

In talking with various businessmen, I find the general opinion is that labor troubles would not occur if labor could be made to understand business. I have come to the opposite opinion. It is my belief that labor troubles would not occur if business could understand labor.

The fact is, there are certain elementary rights which labor claims. I cannot help believing that the public concedes labor these rights, because I notice that when labor goes on the warpath to get them, the public is at least apathetic if not actively sympathetic. Likewise, I notice that after a good first-class riot, these rights are always conceded by the employer.

It seems to me that if the employer could understand labor, he would concede these rights voluntarily in the first instance. Then there would be no occasion for labor troubles.

What are some of these rights which labor demands and which the public concedes?

Well, in the first place, there is the right of self-organization and collective bargaining through representatives of their own choosing.

There are too many employers who wish to amend this right to read: "An organization approved by the employer, with collective bargaining through representatives satisfactory to the employer."

Now, in the first place, I don't believe that such a revision will ever prove satisfactory. In the second place, self-organization with representatives of their own choosing is the law of the land, and up to this moment the Supreme Court has not declared that law unconstitutional. However, I will go further and will say to you, if it so happens that while we are sitting here the Supreme Court is handing down its decision saying that the law is unconstitutional, the principle still represents the demands of labor and is backed by public opinion, and whether or not the law as now drafted conforms to the Constitution, it is safe to say that a constitutional law will eventually make that principle the law of the land.

With respect to collective bargaining, then, the point is this: At the moment it is absolutely unlawful for the employer to deny

to labor the right of self-organization and bargaining through representatives of their own choosing. Even if it should temporarily become not unlawful it would still be ill-advised for the employer to deny labor that right or for the employer to directly or indirectly interfere with that right, because it is perfectly apparent to anyone who reads the newspapers that public opinion concedes the right and that the employer who tries to deny it or who tries to interfere with it finally finds himself acknowledging the right, too often after a long, bitter struggle in which everyone—employer, employee, and the public—has been penalized.

But why should labor want the right of self-organization and collective bargaining through representatives of their own choosing? Is it because men who work for a living are Communists and are bent on discovering some device by which they can overthrow law and order and the American form of government? My answer is "no." I am not prepared to say that there are no laboring men who have communistic inclinations. It so happens that the worst Communist I ever heard of in this country was a third-generation capitalist who never did a day's work in his life. I have an idea that those with communistic inclinations are just about proportionately distributed through the various strata of our society.

No; labor is just as much inclined to law and order as you and I. Labor has no desire to set up some extra-legal organization to overthrow or replace government. The only reason labor wants the right of self-organization and the right to bargain through representatives of their own choosing is that there are certain other and more fundamental rights which labor wants, which public opinion concedes, but which nevertheless have been denied.

What are these fundamental rights which labor demands?

Well, what rights would you want if you were a workingman? What rights are always conceded as a result of any labor struggle?

The first thing you would want if you were a laboring man is a sense of security in your tenure of employment.

Security of tenure of employment becomes an issue under two different sets of conditions. First, when a reduction in the working force is being made, labor believes, the public believes, and, except in your own shop, you yourself believe that the most recently employed should be the first laid off. Second, when there is a discharge for cause, labor believes, the public believes, and, except in your own shop, you believe that the employee is entitled to fair hearing and fair consideration before he is deemed guilty of the transgressions which cause his discharge.

If you will resist this whole trend toward labor organization, if you will deny the principles we have just stated, I believe you will some day find yourself in labor difficulty. You may win the first few skirmishes but eventually you will lose. When you finally make your settlement, you will find in it a clause under the imposing title of "Seniority rights"; and since the principles of seniority have been denied in the past, you will probably find yourself agreeing to conditions of seniority which go further than you believe is right and further than most of your workmen really believe is right. Thereafter it will take years to get the workings of seniority back to the middle ground—away from the abuses practiced by the independent-as-a-hog-on-ice employer and away from the abuses of the overzealous labor organization.

Now, of course, there are many minor considerations which come up in the collective bargaining between an employer and his organized group of employees. Most of them are trivial matters which an alert and right-minded employer should take care of without any "bargaining" if only someone would call the circumstances to his attention. That leaves only one other important consideration for collective bargaining—wages.

Strangely enough, I have never heard of a labor disturbance based on a minor deficiency in wages. I have heard of cases where general wage levels were in line but where petty chiseling methods were practiced. Even so there are three important points about wages. First, right-minded employers should somehow do their part to see that all employers pay proper wages. Second, right-minded employers should be meticulous to see that their own wages are fully up to standard and that there are no petty practices in connection with wage calculations. Third, we are not keeping pace with the trend of the time unless extra earning power by the employer brings extra wages or bonuses to his employees.

THE TRUSTEESHIP OF BUSINESS

The idea that an employer is the lord and master of his own business is an antiquated notion. If you are an employer or if you are the proprietor of a business, you have a job and a trusteeship. In your job you are working for the people who supply you with patronage and the people who supply you with labor and materials. Of course, you are responsible for providing a fair rate of return to the people whose money you are using in your business. That rate must be commensurate with the risk involved. Management and patent holders are entitled to the premiums and royalties that fairly express the value of their contributions to the business. Beyond that, however, you are working for the producer, the consumer and your coemployees. Your trusteeship runs to them and to the public. Perhaps the best statement of this idea which our company has been able to make was one which was written in 1930 and which has been circulated within our organization from time to time ever since:

"The following is a statement of the business policy of this company.

"This stated policy must be followed.

"The policy is not a set of rules. It has to do simply with your attitude.

"An employee may think he is working for Geo. A. Hormel & Co. He is not. He is working through Geo. A. Hormel & Co. He is working for the producer, the consumer, and the other employees.

"An employee may think he gets his pay check from Geo. A. Hormel & Co. He does not. He gets his pay check through Geo. A. Hormel & Co. The money comes from the producer, the consumer, and the effort of other employees.

"Geo. A. Hormel & Co. is the treasurer who collects the money and passes it on to you. Geo. A. Hormel & Co. is the agency through which it is possible for you to work for the producer, the consumer, and the other employees.

"If you are an employee your first responsibility is to protect the business, because you need the company as the agency through which you can work and as the organization in which you can work. You must see that the business makes a profit, because without profit the business cannot function. The company needs profit to buy materials, to build buildings, and to employ men.

"But don't forget that the company—and through the company you—can get paid only as we satisfy the boss. The boss is the person who actually puts up the money. The money comes from the producer, from the consumer, and from the effort of other employees. Therefore, you can hold your job only as long as you give the producer, the consumer, and the other employees what they want for their money.

"The producer wants a dependable outlet for his livestock at the highest possible price. You must see that he gets it.

"The consumer wants a dependable and convenient source of the highest quality product at the lowest possible price. You must see that he gets it.

"The other employees want dependable and wholesome employment under good working conditions in a pleasant atmosphere, and at the highest possible wage. You must see that they get it."

It should also be mentioned that we are furthering no good social or economic cause when we endeavor to buy our supplies at prices so low as to prevent our supplier from fulfilling his business trusteeship.

OUR DESTINY

I am thoroughly out of sympathy with the defeatist attitude which is now being taken by so many of our good people. Both in church and in school I was taught that man stands out in all the universe on one count—man has been endowed with the power of self-determination. Man alone in all the universe is the master of his own destiny if he wills to be.

The world seems to be drifting toward communism, fascism, and disorder. America does not need to follow that drift. This Nation seems to be in the throes of social and economic revolution. It might be disorderly and ruinous. It need not be. Man, and hence man's society, has the power of self-determination if there is the will.

So I am out of sympathy with that popular pastime of criticizing the Governor, criticizing the administration, and bemoaning the trend of the times while we are doing nothing to remove the causes of the things we don't like. The State of Minnesota is what we have made it and will be what we do make it. The community of Owatonna likwise will be what we make it.

LABOR TROUBLES UNNECESSARY

We were talking of labor difficulties. Is Owatonna planting the seeds of labor difficulties? If so, we know very well what the harvest will be. If you come into an epidemic of sit-down strikes, I don't believe you will find some new and heroic way to handle the situation. If you don't want to go through what other communities have gone through, I can only say, don't plant the seeds from which such situations grow.

If you want to avoid any labor disturbance in Owatonna, I can tell you how to do it. Don't misunderstand me. I didn't say I could tell you how to avoid having unions in Owatonna, because industrial organization is a definite trend of the times in this country, and as one who is responsible for the operation of a plant which has about 3,000 union members, I can say to you, it is not a destructive tendency. A good union is not a bad thing. But, you say, there is no such thing as a good union. That's not true, but remember this: It would be asking too much to expect to have a good union unless you also have a good employer. As I say, it may or may not be that workers in Owatonna will join organizations of their own to select representatives of their own choosing to do collective bargaining for them. If they do, no particular harm will come to any of you from that alone, because whether Owatonna is totally unorganized, or open shop, or closed shop, labor troubles can be avoided—to the benefit of your workers, of your employers, and of your public, and to the eternal credit of your employers.

First, recognize—don't merely give lip service, but wholeheartedly concede—the lawful and generally recognized right of labor to self-organization and collective bargaining through representatives of their own choosing. Second, provide security in tenure of employment, first by making lay-offs on the rule that the last person employed is the first person dropped; and second, by giving fair and unprejudiced hearing and judgment in case of a discharge; and third, maintain fair wage levels. Don't let some sham class consciousness permit you to condone wrong practice on the part of some other employer. Any employer who is paying unfair wages is tearing down your business and economic structure. Have your businessmen's organization know what fair wages are in various lines of business and insist that fair wages be paid.

Give labor the fair treatment which is its right and labor's right to organize will never harm you.

The Farmer and the Supreme Court

EXTENSION OF REMARKS

OF

HON. GERALD P. NYE

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 27, 1937

RADIO ADDRESS BY LOUIS J. TABER, MASTER OF THE NATIONAL GRANGE, ON MARCH 30, 1937

Mr. NYE. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a radio address on the subject of the Farmer and the Supreme Court, delivered by Louis J. Taber, master of the National Grange, on March 30, 1937.

There being no objection, the address was ordered to be printed in the RECORD as follows:

Let us give credit at the very outset of this discussion to the President of the United States and to the administration for courageous and constructive guidance that has made possible the improved conditions we enjoy and which have helped lift us out of the depression.

The farmer's share of the Nation's income has increased, farm purchasing power is being restored, wages are advancing, business, manufacturing, and transportation are on the upward march. And surely we can give some credit to those in power for this achievement. It would be folly at this time, when all signs point to continued progress, to take any step that might check returning prosperity or endanger the liberty that has been our heritage.

And yet thoughtless folk are inclined, without careful consideration or proper inquiry, to accept without challenge decisions and methods and ways of procedure that have been untried and that ignore the careful and traditionally secure admonitions of the founders of this Nation.

The thoughtless are apt to say, "I am not concerned about the division of power between the Federal Government and the States. What I want is a strong Federal Government to help me." They forget that the United States is an indivisible Union of indestructible States.

WHAT IT WOULD MEAN

Who of us wants a Federal inspector or bureaucrat to tell us whom we shall employ for school teacher, how we should drain our roads, how we shall repair our bridges, how we shall handle our streets and alleys, what we shall do about local assessments and taxes? Who wants somebody from a distance to handle our county jails, to look after county government and local affairs? Who cares to give up the right of State government and through our State legislatures and State administration to conduct our purely State affairs in our own way? Those who want to retain in themselves all these rights for which our fathers died must remember that every added power given to the Federal Government is a liberty or privilege denied ourselves or taken away from our local units of government.

This brings us to the very heart of the challenge with which we are confronted. America is different because, "We, the people", have retained to ourselves, to our townships and counties, to our cities and towns, and to our States, most of the power and responsibility that is inherent in our system of free government. Our Federal Government does not have a single power or a single right that is not granted to it by the Constitution, and here, my friends, is the very lifeblood of liberty, the very touchstone of democracy and of progress.

We have a Federal Government strong enough and powerful enough to do anything that needs doing, and we have retained unto ourselves all the privileges and authority that we desire to enjoy. The contrast between America and the rest of the world is the contrast between the philosophy of true liberty and the theory that men, women, and children are the property of the State, a dangerous doctrine, rampant in Germany, Italy, and Russia and most of the world today.

It was to get away from that philosophy that our forefathers crossed the Atlantic, conquered the wilderness, and gave America its new birth of freedom. We believe with Thomas Jefferson that "Governments derive their just powers from the consent of the governed", and that we want to retain the maximum of privilege, authority, and responsibility as close to our firesides as we may, so that we may enjoy to the full the privileges of free institutions.

THE NEED OF AN UMPIRE

When we realize that our Federal Government is one of limited and delegated authority, that our State governments have certain rights and privileges, and that we as sovereign citizens, as masters of our own political destiny, have retained to ourselves the larger measure of authority, we can understand the need of an independent judiciary. When we remember the balance between the States and the Federal Government and the fine check that must be maintained between the legislative, the executive, and the judicial deparments, we see anew the need of an umpire of some final authority that can guide and control. In other words, we come face to face with the Supreme Court as the umpire of the game.

All this is challenged by the proposal to change the size of the Court and to appoint six new judges because of the age of the members of our high court; and so we ask you, as those who help guide the destinies of America, to urge the rejection of that portion of the proposal before Congress that gives to any President of the United States at any time the authority to increase the size of the Supreme Court on the mere basis of age of its members.

It must be remembered that age alone is not a matter of years. Some men are vigorous at 70, while some are old at 50. Our older Justices are the more liberal. Our youngest members at the present time are the most conservative. There is no more reason why members of the Supreme Court should resign at 70 than that Congressmen or Senators or Cabinet members should retire at this age.

We believe that it would be impossible to appoint six judges to the Court at one time for a definitely announced purpose, without making the Court subservient either in thinking or in fact, to the Executive or to the Congress.

MOST SERIOUS CHARGE

We believe that the most serious charge against this proposal is that if the size of the Court can be increased to validate progressive laws under a liberal administration, it would be possible for a different administration again to increase the size of the Court for an entirely different purpose.

We are opposed to this change because of the plain implication that it is intended to change the interpretation of the Constitution by legislative enactment and executive appointment.

We oppose the change because the lesson of history is clear that amending a constitution by indirection is but a stepping-stone toward the destruction of the rights of the people.

We oppose this change because it seeks to make a temporary majority superior to the written Constitution of the land.

We oppose the change because of the danger of making the Court political in its relationships.

We oppose this change because, after all, it is no solution to our problems. The same conditions may arise in the future unless we have the courage to clarify the rights and responsibilities of the sovereign States in our indestructible Union. This can be done only by an amendment referred to the people themselves in a constitutional way.

Finally, we are opposed to this change because we think this proposal is a threat to the religious and political liberties of our people.

Some of us are seriously concerned about the rights of minorities, especially in the matter of religious toleration. We note, across the sea, evidence of religious and racial intolerance, and we regret to find evidence of it at home. In the last 20 years organizations have come into power, have flourished, and have elected men to office because of their belief in or opposition to religious or racial groups.

THE VETO RECORD

If some of you are about to say that the Supreme Court has exceeded its authority, has attempted to legislate, has infringed on the liberties of the people, let me say the reverse is true. No one will deny that judges are human and that courts make mistakes; but so do Presidents and Congressmen, and so do we all. A little research reveals the startling fact that Congress has passed more than 58,000 laws, of which number about 25,000 were public laws, and that the Supreme Court has only declared 77 of them unconstitutional. Only 11 major decisions affecting congressional action in the entire history of our Supreme Court have been made on a close vote. Most of the decisions were unanimous.

Research also discloses the startling fact that Presidents of the United States have vetoed 15 times as many bills as has the Supreme Court. While the Court has said 77 laws exceeded the rights of Congress, Presidents of the United States in the same time have vetoed more than 1,100 bills. We have not forgotten that former Presidents vetoed two or three farm-relief bills, and World War veterans remember that the bonus legislation was vetoed four times before it was finally enacted into law.

You believe, and I believe, that the President of the United States has the right to veto bills if he believes it is his sworn duty to do so. If you believe this, you must also believe that the Supreme Court has the greater responsibility to declare laws of Congress unconstitutional when they violate the Constitution.

Are not the greatest achievements of this administration the stabilization of the banks, the passing of bank guarantee legislation, the development of soil conservation, the revaluation of gold, providing better farm-credit facilities, the development of the R. F. C., the credit for home owners and scores of other important pieces of legislation which have either been sustained or are untouched by the authority of the Court.

WHERE DANGER LURKS

All that we enjoy rests upon constitutional guarantees, the human right to happiness, the human right to religious and political liberty, and all these are protected and defended at all times in every crisis by the judiciary and by the Constitution. Trample one underfoot, and liberty is gone. Many will say we have a good President and we love him. In this we all agree. You will say we can trust the President to appoint, and our Senators to confirm, only good and able judges. This is beside the question. This President will not live forever and we must sadly admit that passion and prejudice, with misunderstanding

and strife, have burst into flame in the past and may do so again.

We must keep step with progress. When needed, we must amend our Constitution. This is a machine age. Speed and progress have eliminated old landmarks, but we dare not eliminate the foundation of our liberty, which is the Constitution and the judiciary. Mussolini, Hitler, Stalin, as they have moved across the pages of history, have first destroyed a free press, an independent parliament, and then made the judges the voice of the State.

We must have the patience and statesmanship to cure the evils of unemployment and to bring a better distribution of the wealth of the Nation. We must improve the standards of living for the common man. This is the goal and destiny of America.

No group of people in all America are more concerned than the farmers in the preservation of constitutional and judicial integrity. The farmer's broad acres, his livestock, his buildings, and his crops are located far from police protection and would be subjected to lawlessness, violence, and the mob spirit. Therefore, farmers as a class through all the years have been strong supporters of every step that makes for liberty, justice, and progress. It was our farmer forefathers on the village green at Lexington but 162 years ago who fired the shot heard round the world. The Continental Army represented a nation 90 percent rural. The Commander in Chief, who became the Father of his Country and father of the Constitution, was one of the best and most progressive farmers of all time.

In the Constitutional Convention were many farmers, and agriculture made its voice articulate in the framing of not only that document but the Bill of Rights that followed.

PLEA FOR COURAGE

Behind us is Easter, with its glorious challenges of sacrifice, of immortality, of resurrection and the fuller life. In this hour of unrest and of uncertainty may we all have the courage to give of ourselves and our very lives, if need be, in the building of a finer and a happier world. We all desire that unemployment shall be corrected, that those who toil shall enjoy a larger share of the wealth they create. But let us never in a moment of impatience destroy the ark of the covenant of our liberty, which is the Constitution and the judiciary.

I cannot dismiss this question without emphasizing the fact that the power of the judiciary in America rests largely on the respect of the people for the decrees of our courts.

Congress must ever hold the purse strings of the Nation. Here is the power to declare war, to summon legions to the defense of a cause, to write the legislative charter of liberty and progress. Here is the most powerful and important legislative tribunal known to mankind.

The White House is at the other end of the Avenue. No man in all the world can exert greater influence for the good of his fellow beings and for the welfare of mankind than the President of the United States. His is the responsibility of administering the millions and the billions that may be appropriated by Congress. His is the opportunity of appointing literally thousands to positions of responsibility. He is not only commander in chief of the Army and the Navy, but he is the captain of our destiny.

We approach with reverence the marble temple of justice. We recognize that here is a tribunal without a policeman or a soldier to enforce its authority. It cannot offer money, honors, or rewards to support its decisions. Its power is dependent almost solely upon the confidence and respect of the American people for the integrity, ability, and honesty of this great tribunal.

NEED OF THE HOUR

Each of you can help America by writing your Congressman and Senators in your own language and in your own way telling them that, as lovers of liberty, you ask that the proposal to give any President at any time the authority to influence or override the Supreme Court be not adopted. Defeat the pending proposal relative to the Supreme Court. Then let Congress submit to the States for ratification any amendments to the Constitution deemed necessary or proper.

Peace Policy of the United States

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 27, 1937

ADDRESS BY HON. SUMNER WELLES, ASSISTANT SECRETARY OF STATE, BEFORE THE FORTY-SIXTH CONTINENTAL CONGRESS OF THE NATIONAL SOCIETY, DAUGHTERS OF THE AMERICAN REVOLUTION, ON APRIL 19, 1937

Mr. REYNOLDS. Mr. President, I ask unanimous consent that there be published in the Appendix of the RECORD a very able address delivered by Hon. Sumner Welles, Assistant Secretary of State, before the Forty-sixth Continental Congress of the National Society, Daughters of the American Revolution, at Constitution Hall, Washington, D. C., on Monday evening, April 19, 1937, in which Mr. Welles discusses the peace policy of the United States Government.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

You have been good enough to ask me to address you this evening on some aspects of the peace policy of your Government. And I have welcomed the opportunity because of my full realization of the outstanding service which great patriotic associations such as yours can render in preaching, in supplementing, and in reinforcing the policy which your Government is carrying forward.

To be worthy of support, our peace policy must be a policy which is practical in its conception, and which takes into account, without minimizing them, the fundamental nature and the scope of the causes for the threat of war which exists in this modern world. It must recognize as well that no matter how determined, the Government and people of the United States may be, and today are, that this country of ours shall not again be drawn into another foreign war, nevertheless, the social and economic effects of a great war in some other part of the world must inevitably have their disastrous repercussions in our own midst. Consequently, our policy must envisage first the means whereby the United States can be safeguarded, so far as may be possible, from being plunged into the vortex of a war not of our own making, and secondly, the manner in which this Government, without political involvement, may lend its great moral influence and its effective cooperation in furthering the creation of world conditions which are conducive to the maintenance of peace.

The so-called neutrality legislation which has been enacted, and of which amended forms are now before both Houses of the Congress for their final determination, is designed within the limitations defined therein to assist in assuring the attainment of this first objective. You will also wish to know what your Government has done, and can do, to advance the second objective, the promotion of world peace.

You are familiar with the tremendously heartening success attained by the Inter-American Conference for the Maintenance of Peace, held at Buenos Aires last December, at which there met upon the initiative and at the suggestion of the President of the United States, representatives of the 21 independent American democracies. At that conference there was achieved an unanimity of criterion on the part of all the nations of the New World as to the peace policies which they will pursue in their relations between themselves. As you will recall, at that conference the American republics jointly agreed upon a treaty providing for consultation between them all whenever the peace of the American republics is menaced, whether that menace arises through the threat of war between American States, or whether it be of any other nature whatsoever, or in the event of an international war outside America which may menace the peace of the American republics, in order to determine the proper time and manner in which the signatory states, if they so desire, may eventually cooperate in some pacific action tending to preserve the peace of the continent. You also know of that far-reaching resolution adopted at the same conference in which the American nations jointly declared "that every act susceptible of disturbing the peace of America affects each and every one of them and justifies the initiation of the procedure of consultation" provided for in the treaty to which I have just referred.

In his address at the opening session of the conference President Roosevelt, in voicing the common faith of the American republics, declared "that we maintain and defend the democratic form of constitutional representative government. * * * and that through it we offer hope for peace and more abundant life to the peoples of the whole world."

What were, therefore, the concrete accomplishments of the conference at Buenos Aires, apart from its great spiritual significance in showing unmistakably the mutual confidence and interdependence of the 250,000,000 human beings comprising the American democracies, as an indication of the practical nature of the peace policy which our Government is assisting in carrying on? I should cite the salient gains as twofold: First, affirmation of the principles of democracy as a prime factor in assuring peace between the American republics; and second, the contractual obligation entered into by the American nations to consult together whenever the peace of our continent is jeopardized. For if we, the peoples of the New World, assure ourselves that our democratic institutions are maintained inviolate and the people themselves, therefore, have the untrammelled opportunity to determine whether they shall remain at peace or go to war, the process of consultation between all the American governments now made effective, will necessarily mobilize on behalf of the maintenance of peace and force of public opinion in every one of our respective nations. I reiterate what I have said on another occasion, that the greatest ally of peace that the world possesses today is the force of public opinion freely expressed.

A few weeks ago there died a very great American, Elihu Root. Some years ago he wrote these reflections upon the manner in which democratic governments, responsible to their peoples, must

conduct their foreign policy. I wish to read them to you this evening because they illustrate so clearly one of the principles of the policy your Government is pursuing. Mr. Root said:

"However much ambition, trade competition, or sinister personal motives of whatever kind may have led toward a warlike situation, two great bodies of human beings, without whose consent war cannot be carried on, can never have come to two diametrically opposed genuine beliefs as to the justice of the quarrel without one side or the other, and probably both, being mistaken about their country's rights and their country's duties. * * * Irresponsible governments may fight without being in the least degree mistaken about their rights and duties. They may be quite willing to make cannon fodder of their own people in order to get more territory or more power; but two democracies will not fight unless they believe themselves to be right. * * * When foreign affairs are ruled by democracies, the danger of war will be in mistaken beliefs. * * * There is a * * * way to prevent a people from having an erroneous opinion. That way is to furnish the whole people, as a part of their ordinary education, with correct information about their relations to other peoples, about the limitations upon their own rights, about their duties to respect the rights of others, about what has happened and is happening in international affairs, and about the effects upon national life of the things that are done or refused as between nations; so that the people themselves will have the means to test misinformation and appeals to prejudice and passion based upon error."

Through consultation when their joint interests are affected, through continuous enlightenment of their peoples as to the dangers which may arise, and as to the pacific methods for their solution, democratic governments, by the demand of the people, can and will keep the peace.

The value of the achievements of Buenos Aires must necessarily be judged by the test of time. We may be justified, however, in considering them as an example which offers hope and encouragement to a world desperately tried and rent asunder by the recrudescence of old hatreds, by the birth of new passions, and by the growth of economic factors arising from modern inventions, the full significance of which we may barely conceive. I think, in any event, they made clear to the entire world that while the United States stands with the other independent democracies of the American Continent, it takes this stand in no spirit of selfish isolation. Our Government, by determination of the American people, is unwilling, and I believe will remain unwilling, to involve itself in any political involvements with nations across the seas.

And yet, time and again, while maintaining national armaments adequate to defend our just rights and interests, we have signified and will continue to signify our willingness to cooperate in concerted efforts to obtain the reduction and limitation of military and naval armaments. For we realize that unless the existing rearmament race is halted the entire world will experience an economic collapse utterly destructive of the civilization we have built up.

Likewise your Government, during these past 4 years, has taken the lead in urging all nations to join with it in furthering in a practical manner the removal of all of those excessive and artificial obstacles to the movement of goods across frontiers, so that there may again spring up between the members of the family of nations a normal and healthy commercial relationship which, by giving employment and by raising standards of living, promotes the contentment and security of the individual, and thereby fosters international good will and becomes one of the surest foundations for permanent peace that the world can possess. And in carrying out our own trade-agreement program we have practiced what we have preached.

We will thus take part, and bear our full share, in all international efforts to secure military and economic disarmament. We are likewise today cooperating with other governments in efforts to stabilize currencies, in the control of narcotics traffic, in the betterment of international health, and in the improvement of hours and of working conditions of labor everywhere. As President Roosevelt has said, "We are not isolationists except insofar as we seek to isolate ourselves completely from war."

Those are among the principal foundations upon which the peace policy of the Government of the United States rests.

It may be that thinking men and women everywhere are coming to the conclusion, as a result of the experience of the 19 years which have elapsed since the termination of the World War, that peace under present conditions cannot in practice be achieved through the exercise of force. For a variety of causes they have seen provisions for the employment of economic and military sanctions, and for the utilization of an international peace force, fail at least in part in giving rise to a peace-minded world. It may be that the devotion and untiring efforts which peace-loving men and women in all parts of the world have shown for the cause of enforced security, may in some not distant day be exerted in behalf of the creation of those conditions which alone can engender peace; conditions which would obtain were those rankling injustices which today may exist between nations to be removed through sane conciliation of conflicting interests by pacific negotiation; were representatives of the nations of the world, sitting at a common council table to agree upon a plan whereby the world's raw materials would be made accessible on an equitable basis to all peoples, and whereby excessive and unwarranted barriers to commercial intercourse might be progressively abandoned; and finally, were the peoples everywhere, as Mr. Root so well said, themselves to "have the means to test misinformation and appeals to prejudice and passion based upon error", and in possessing that saving knowledge, thus have the opportunity to demand and to secure peace.

The Philippine Islands

EXTENSION OF REMARKS

OF

HON. LYNN J. FRAZIER

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 27, 1937

ADDRESS BY MAJ. GEN. WILLIAM C. RIVERS, UNITED STATES ARMY (RETIRED).

Mr. FRAZIER. Mr. President, I ask unanimous consent to have printed in the Appendix of the Record an address on the subject of the Philippine Islands, delivered by Maj. Gen. William C. Rivers, United States Army (retired), at a luncheon given by the Foreign Policy Association in honor of President Manuel L. Quezon, of the Philippine Commonwealth, on April 3, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Your Excellency, President Quezon, Mr. Toastmaster, ladies, and gentlemen, for me it is a great pleasure to see Manuel Quezon as the President of the Philippine Commonwealth. I gave the best 10 years of my working life to the service of the Filipinos. Soon after arriving in the Philippines as one of the first group of officers selected for Elihu Root's new army general staff, I accepted duty under the Philippine government civil authorities—with the constabulary. When I settled my family in Mr. Quezon's town, 60 miles south of Manila, Mr. Quezon was a young lawyer. Mrs. Quezon, the able and charming first lady in the Philippines, was a very young school girl, Aurora Aragon.

My duty required our residence in various provincial towns, and I had to work in all parts of the islands and with the Filipinos of all classes. My wife and I soon grew to like the Filipino people. They are a hard-working people with ability, ambition, and much racial pride. With peace in the Orient, the Filipinos will govern themselves well.

I want to say a few words about the far eastern policy of the United States—the military problem in the Orient from an American viewpoint. Also, about the alleged Japanese menace to the Philippines. (Here, however, I warn you all not to expect very much from an old general. Lloyd George has written five volumes to prove how stupid old generals are. I am an old general, for I saw as a cadet boy at West Point the great triumvirate of the Civil War—Grant, Sherman, and Sheridan. Lloyd George may be right, but why did he omit old admirals and the diplomats and officials of the state and foreign departments of the various lands? Old generals may study the last war, but diplomats study the status quo and the status quo ante and talk of bilateral and multilateral conversations between nations. I say, let us have both kinds of talks; do let everyone talk at once and at the same time if it will make for peace in the Pacific.)

America has no far eastern policy. Such as we have developed might be expressed: "We took the Philippines to protect our trade with China; now many seem to think we must fight Japan to protect China so as to guard the Philippines"—around the circle Far East policy, you see.

I think the Republic of the Philippines can be and should be neutralized. It is to the selfish and national interest of Australia, New Zealand, Java, Singapore, Siam, France, China, Great Britain, Russia, and especially Japan to have the Philippine Archipelago neutralized. The small armament of the Swiss has had little effect on the neutrality of Switzerland for a century—it is the peculiar strategic situation and location of the country. This is also the case with the Philippines.

The United States should now withdraw from the Philippines and from the Orient. We have no territory in Asia proper and no political interests at all in Asia. We are not going to interfere in Asiatic affairs, the United States is not the guardian of Asiatic morals. The future of eastern Asia will inevitably be settled by the people who live there—by Japanese, Chinese, and Russians.

The Filipinos alone, nor the United States alone, nor the Filipinos and the United States combined in an alliance, cannot defend the Philippines against a nearby military power which is squarely between the United States and the Philippines. There are two routes from the west coast of the United States to the Philippines. The normal and short steamer route passes very near Japan. The long route by Hawaii and Guam is 7,500 miles and is flanked for almost 3,000 miles by the numerous Japanese man-

dated islands. Guam with its poor harbor is surrounded by islands of the mandated groups and is in easy bombing range by airplanes from the Bonin Islands and from Japan itself. No two western powers combined—England and America, for example—could permanently dominate and control the Philippines region.

It is far-fetched to speak of an American naval base at Manila. A base is a fortified place from which forces advance and to which they may return. With Japan and the Japanese mandated islands blocking the way to Manila, all the Congress can build at Manila would be a far-off, exposed, and untenable salient. No such distant salient has ever been successfully defended in the history of warfare, where both contestants had great fleets. For the United States to defend an exposed fortified salient at Manila we would have to construct a new and additional fleet for service in the Philippines; such a fleet would have to be at least as large as the Japanese fleet. We would also have to maintain at Manila a field army of American soldiers, fully equipped with the heavy impedimenta of war. Heavy land-based airplanes, more powerful than any airplanes carried by a fleet, could bombard such a salient; airplanes from Japan's bases at Formosa—very near the Philippines—and from other Japanese bases.

Holding the Philippines will involve two dangers of war for the United States—a war with Japan at some time and the responsibility for the United States to suppress a revolt at some time of the Filipinos against the Filipino Government at Manila. Either of these conflicts—at greater distances than any war has ever been fought between two armed peoples—would be for the United States the most difficult war the wit of man could devise.

Vast changes have taken place in the Northwest Pacific regions. Some of these are the rise of Japan as a first-class power; the return of Russia to that region far more formidable than czarist Russia ever was; and the doubling of the range, speed, and capacity of the air bombers in the past 4 years—with the development of the new submarines. (The airplane will make the greatest changes in warfare since the introduction of gunpowder.)

Russia now has in eastern Asia more soldiers than Japan has in its peace army, lines of new concrete forts, many airplanes, and many railway-shipped submarines.

Russia threatens Japan at the north from Vladivostok and Russia pushes from the west into outer Mongolia toward the sea. Unless Japan holds Manchuria as a buffer and also pushes westward in north China, Russia can soon have the islands of Japan proper in dire peril. A strong foothold on the mainland of Asia is vital to the continuance of Japan as a first-class power.

I favor our recognition of Manchukuo and our recognition of Japan's strategic movements in North China. I favor efforts on the part of the United States to secure the interest of Japan in the independence and the success of the Philippine Republic. I am in favor of a world system for peace—as most people are—but it is evident that such a system is not practicable at present.

Japan will not attempt forcible annexation of the Philippines because such action would interfere with Japan's trade in the Philippines and make the division of the Japanese fleet necessary.

I hope that our own people here in America will grant generous trade privileges to the Filipinos for a number of years. I hope that our people will generously pay off the some $70,000,000 bonded debt of the Philippines, for money which the American administrations at Manila borrowed.

I trust that our "good neighbor" policy is not only for the nations to the south of us. All honor to those who went to South America. Especial honor to the dozen women who took the *Clipper* at Washington and flew down; who took the doves of peace across the great Andes Mountains to Buenos Aires! I hope that these ladies will soon take the *Hawaii Clipper* to Honolulu and meet there representatives who come from Asia to meet the ladies, representatives of people who live in Asia—Chinese, Japanese, and Russians. I hope the ladies will carry the peace doves into the Pacific.

We are now assembling in the North Pacific Ocean the greatest (certainly the most costly) aggregation of fighting ships and combat airplanes the world has ever seen in one place. The Pacific crisis will come in 2 or 3 years, when the Japanese and ourselves have completed and ready for the line of battle the additional warships both are now constructing. I have been to several overseas wars and I had a line-of-battle command in all our major combats in France: I am convinced that the only way to minimize or to end such conflicts is to start movements to avoid them several years before the advent of a crisis. We can well defend our west coast with a more moderate fleet based on the ice-free harbors of the Aleutian Islands. (Honolulu is more than 2,000 miles from the route to the Orient—it is not suitably located for a primary base. Honolulu is necessary for us as a secondary base.) The fleet of the United States based on Unalaska is more powerful than at any other place in the North Pacific Ocean, whether for defense or for offense. (This is because the fleet at Unalaska can operate on the interior and shorter lines, forcing the fleet of an antagonist to operate on the exterior and longer lines.) Also, the fleet is more powerful for defending the Panama Canal when based on Unalaska.

We can well defend in the Pacific our normal line (more than 2,000 miles from our own shores) which runs from the Aleutians to the Hawaiians and on down to Panama. Then our normal line in the Atlantic running from Panama through the Caribbean to the general neighborhood of Newfoundland. We can well have a national defense policy to maintain forces adequate for the defense of our borders and coasts and to control that portion of the seas in the vicinity of—adjacent to—our own coasts and harbors.

Conservation and Opposition

EXTENSION OF REMARKS
OF
HON. JAMES E. MURRAY
OF MONTANA
IN THE SENATE OF THE UNITED STATES
Tuesday, April 27, 1937

EDITORIAL FROM THE SALT LAKE CITY TRIBUNE

Mr. MURRAY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a very brief editorial entitled "Conservation and Opposition", which appeared in the Salt Lake City Tribune April 9, 1937.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Salt Lake City (Utah) Tribune of Apr. 9, 1937]

CONSERVATION AND OPPOSITION

Reclamation leaders from 14 Western States have been conferring in Salt Lake City during the past week on problems pertaining to their work, including water conservation, flood control, and the preservation of timbered watersheds. It is believed by these members of the organization that the sum of $50,000,000 will have to be expended annually until comparative safety of ranges, river bottoms, and valley farms is assured. Every year some unexpected manifestation of Nature's idiosyncrasies adds to the perplexities of the day and the peril of the future. Millions of tons of rich alluvial soil are carried away on winds or waters to be lost forever to the ever-increasing needs of a short-sighted race.

Forest fires, floods, and dust storms are not the only discouragements encountered in an effort to save and increase the cultivable area of this country. One of the most difficult obstacles to overcome is the hostility of eastern people to conservation. To be sure, erratic elements are trying to educate them, but the task is almost as hopeless as it is to farm the stony acres of their shallow soil.

Clubs and associations of farmers were organized in New England a few years ago to combat all reclamation measures. "Let Nature have its course and the waters seek their level", one of the spokesmen exclaimed. Then came the floods that covered the East, submerged cities, wrecked homes, closed factories, and covered farms with gravel. Stubborn opposition to a policy of conservation was about the only thing the overflowing streams failed to carry away.

Western Congressmen are reported as unwilling to ask for any appropriation in excess of what is already provided in the Budget. There may be reasons for this attitude, but when a man's house is threatened by fire and his family by onrushing waters, when his farm is about to be blown or washed out of existence by impending storms, he can usually think of many items upon which to economize besides the saving of his soil, his crop, his home, his prospects, his children's future.

Expenditures are justified best where they prevent waste and permanent loss. Such apparent extravagance is actual frugality.

The Supreme Court

EXTENSION OF REMARKS
OF
HON. EDITH NOURSE ROGERS
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 27, 1937

LETTER FROM EDWARD H. WARREN, JOSEPH WARREN, AND MORTON C. CAMPBELL

Mrs. ROGERS of Massachusetts. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following letter:

MARCH 22, 1937.

Hon. EDITH NOURSE ROGERS,
Washington, D. C.

DEAR MADAM: The President, in advocating his Court proposals, justified them by the parable of the three horses used to plow a field, who must "pull together." But the legislative, executive, and judiciary branches of this Government are not under a duty to have no differences. If a President vetoes a measure passed by Congress, he cannot justly be held up to reproach or obloquy

as the horse that lay down. On the contrary, it is his duty, under the Constitution, to exercise an independent judgment, and, on occasion, to be a check upon the legislature.

It is also the duty of the judiciary, if exercising an independent judgment, it is convinced that a measure passed by the legislature violates a provision of the Constitution, so to declare. If it does so declare, it cannot justly be held up to reproach or obloquy as the horse that lay down.

The Constitution protects the rights of the Several States, as against the Federal Government ,and it protects the rights of minorities, however small, on religious questions, on racial questions, on questions involving deprivations of the right to a fair trial. Whenever the Court gives to a State or an individual the protection to which it is convinced that the State or the individual is entitled under the Constitution, it deserves respect, not abuse.

The President's parable reveals a misunderstanding of the nature of our Government. Our Government was designed to be a system of checks and balances. It contemplated an independent legislature, an independent executive, and an independent judiciary. It was designed, consciously and carefully, to guard against a concentration of power in any one branch of the Government.

The framework of our Government may usefully be compared with the framework of the British Government. The British Government has not a system of checks and balances. Power is concentrated in the legislature, and there are not even two effectively independent branches of the legislature. The will of the House of Commons is final on some matters at once, and on all other matters after a relatively short period.

In substance, the Prime Minister could rule Great Britain as he pleased, provided he had a majority in the House of Commons who were subservient to his will. At present the House of Commons is in control of independent men, and a prime minister would be quickly purged if he had illusions of grandeur. But fill the House of Commons with yes men and the substance of British democracy would be gone.

If the President's proposals are enacted by the Senate, we shall have taken a long step away from our system of checks and balances. The President would seem to be in a state of mind where more than the independence of the judiciary is at stake. The independence of the Senate would seem to be threatened and to be threatened now.

The President has already great power in his hands—means by which he may attempt to bring the Senate into line. There are apparently Senators who fear that opposition to the President's proposal may cause them to be at a disadvantage in the distribution of patronage or may cause them to be read out of the Democratic Party, or at least to be deprived of important aid when they come up for renomination.

The President intends to have President men control the judiciary, and it would appear to be probable that he also intends, if it is necessary in order to accomplish his will, to have President men control the Senate. If the President relieved Senators from all Presidential pressure and left each Senator free to exercise his independent judgment on the merits of the proposals, these proposals would, we believe, be rejected decisively.

It will take a good deal of courage by some Senators to exercise an independent judgment. Certain Senators have already shown that they have such courage; but we fear that there will be President men, creatures whose knees, not their minds, are in motion. If the country is to lose an independent judiciary, it will, we believe, be because it would have first lost an independent Senate. A long step, a very long step, would have been taken away from our system of checks and balances.

Influential papers in London and other British cities have expressed approval of the President's plans. That is understandable; it is a step toward a system of government with which they are familiar. We very earnestly hope that there may be good and better relations between the two democracies. But let it frankly be recognized that the two systems of government are different and substantially different. Whether one system or the other is preferable is a matter upon which opinions differ. If the British people desire to have a democracy without checks and balances, that is for them to say. If the American people desire to have a democracy with checks and balances, that is for them to say.

Which system of government does the American people desire? It is a tremendous issue. It is not a partisan issue. It is not an economic issue. It is a system-of-government issue. Shall or shall there not be this long step taken away from our system of checks and balances? We believe it to be the most tremendous issue, unconnected with a war, which has ever arisen in this country.

To return to the President's parable: The three horses could not of themselves plough the field. There must be a driver, and a driver prepared to use a whip if necessary. Where is the driver to be found? Where is the whip to be found? In his victory banquet address the President revealed himself. Let not your heart be troubled. I will be the driver; I will supply the whip.

The reaction of the country was not what the President had expected. He realized too late the implications of his parable. He sought to explain it away. But he did protest too much. By his own parable shall ye judge him.

In the name of American democracy the President is proposing something which will undermine the foundations of American democracy. We have now the Supreme Court of the United States. The adoption of the President's proposals would swiftly lead to the substitution of the supreme will of a single individual.

Problems we have, but the way to solve them is not by declaring American democracy bankrupt and passing to what would be, in substance, a new system of government.

Yours very truly,

EDWARD H. WARREN,
JOSEPH WARREN,
MORTON C. CAMPBELL,
Graduates of the Harvard Law School, class of 1900, and now members of the faculty of that school.

Regulation of Advertising

EXTENSION OF REMARKS
OF
HON. JOSEPH W. MARTIN, JR.
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 27, 1937

Mr. MARTIN of Massachusetts. Mr. Speaker, I have introduced a bill, which has been referred to the Committee on Interstate and Foreign Commerce, to regulate advertising of imported articles. If enacted, advertisers of all foreign-made goods would be required to show in their advertising matter, the name of the country from which the goods were imported.

The bill applies to all forms of advertising and sales promotion. It applies equally to all newspapers, whether daily, weekly, biweekly, or Sunday; magazines both of national and local circulation; pamphlets, books, booklets, circulars, envelope stuffers, all outdoor and indoor display and counter-display signs, and in fact, advertising media of any description, such as calendars, buttons, and so forth, if the goods advertised were made or grown outside of the United States.

In radio broadcasting, where commercial programs are used to advertise for sale in the United States any imported article or material, a broadcasting announcer would be required at the beginning and end of each broadcast period, to state the name of the country of origin.

Administration of the act is lodged in the Department of Commerce and the Secretary of Commerce is empowered to make such rules and regulations as are necessary for the proper enforcement of the law.

The bill also provides penalties for failure to comply with its provisions.

This proposed legislation is based on the theory that the American people, who wish to buy goods manufactured or grown in their own country, should be enabled by their Government to quickly determine the origin of the products offered for sale in the market places of their country.

Increasing numbers of Americans today are aware of the importance of confining their purchases, so far as practicable, to the products of American factories and farms. It is a matter of common knowledge, in this day and age, that it is in the self-interest of all who labor in factory and in field, to buy the products of their own fellow countrymen.

The high American standards of wages and living can only be maintained by a system which protects products made or grown in this country from the inroads of the low-wage and low-cost-of-production nations of Europe and Asia.

Changing standards for the workers, shorter hours and higher wages, which every fair-minded man knows are desirable, will have the inevitable effect of raising prices in some measure. Increased prices bring to some the temptation of taking advantage of the lower costs offered by the industries of other nations, in which, in some instances, the workers are little better than slaves. If the higher standards to which we are going forward are to be preserved, we must have the cooperation of the Federal Government in maintaining these levels by adequate tariff protection, in the first place, and in the second place, we must educate the American people to the knowledge that whenever they buy goods produced in countries where the wages are low, they are in effect pulling down the level of the workers of their own country.

Millions of Americans are today conscious of these inescapable facts. With these facts in mind, they desire to "buy American." It is the intention of this legislation to help them in distinguishing between American and foreign goods.

Then there is another group who are seemingly indifferent to this question. I do not believe it is intentional indifference. It just never occurs to them to wonder whether the purchases they are making are purchases that will give employment to American labor and in so doing react in some way to their own benefit. But I believe, if this bill became a law and brought out in clear light the country of origin of the goods sold in our markets, it would inspire them to catch the spirit of this movement and they would thereafter govern their purchases accordingly.

Let us take a concrete example. Suppose a merchant was offering for sale a bolt of cloth. He desires to advertise it in the newspapers. In his ad extolling the virtues of this particular cloth he is compelled to state it was made in Japan. I cite Japan only because that country has in recent years been the source of the greatest competition in this particular item. It may be any other country. Then he displays the cloth in his shop window, and on the card advertising its nature and price he must also add "Made in Japan." The same thing follows in his counter display, if he has one, and in any circular matter which he may send through the mail about it. Thus there is constantly before the prospective buyer the fact that this item was not made by American labor; the profit from its sale and the wage that was paid for making it goes outside of the United States, across the sea; if it is purchased, it is detrimental to the best interests of our neighbors and ourselves.

The same situation would prevail if the item happened to be cheap imported jewelry or any one of a vast number of articles being brought in from abroad.

Let me emphasize that the need for such legislation as this is not far-fetched or the figment of anyone's imagination. There are constantly occurring examples of attempts to obscure the origin of products being sold in America; indeed, in some cases there has been evidence of actual misrepresentation.

I have in my files in connection with this bill a letter from a concern in New York State which manufactures matrix paper. Foreign manufacturers of this paper ship it into the United States with the name of the country where it is made stamped along the edge. However, the edge is trimmed off before the goods are marketed in this country, thereby leaving no indication the goods were made abroad. I am informed the manner in which it is advertised leads buyers to believe it is made in the United States, although about all that is done to the paper here is cutting to size. This bill, if enacted, would prevent such practices in the future.

There was recently brought to my attention the seizure of 16,500 pounds of Russian butter, carrying the label, "Made in the U. S. A." While this kind of misbranding is already a violation of present law, the passage of my bill would supplement and reinforce the labeling statute we already have.

A growing proportion of our industries are alive to the necessity of this legislation. I have received dozens of endorsements from home manufacturers who are trying to pay American wages and better the conditions of their employees, but who are constantly beset with the necessity for meeting the competition of goods produced by low-cost foreign labor.

As just one instance, I have here a letter from a Wisconsin industry, the head of which writes:

> We are very much in favor of this bill and believe out of fairness to American workmen and American industry, everything possible should be done to bring to the attention of the American purchaser the fact that he is buying foreign goods and discriminating against the man who must live in America, maintain American living standards, and support the American Government.

There are several national organizations which are today engaged in the work of educating the people of the United States to the benefits of buying home products. They number among their members a large and varied group of American manufacturing interests. These organizations have endorsed my bill and urge its passage.

I have asked the Committee on Interstate and Foreign Commerce for a hearing on the measure and I hope the request will be granted in the near future, in order that the industries and workers of America, whom this bill seeks to protect and aid, will be given an opportunity to make known to the committee the feelings they have about this situation, as they have already expressed them to me.

In conclusion, let me emphasize that this movement affects the average man in a very direct way. Individuals who work for a wage never think of themselves as being able to give employment. Yet if we stop to think, we are helping to give employment when we buy. The uses we as individuals make of our purchasing power determine to what people we give employment.

Every time a person purchases an article or a service "Made in America", that person is doing his bit to keep his fellow Americans from joining the ranks of the unemployed. Every time he helps to put some unemployed person of his own country to work, he is helping himself in several important respects. He is making it possible for that person to help keep him employed, and he is relieving his own and his children's tax burden.

Other nations have taken the lead in these movements to keep their own citizens employed.

Great Britain has had success with its "Buy British" idea, Canada has its "Produced in Canada" campaign.

The Government of our country should itself foster and encourage our own people to do likewise. In my opinion, the passage of this bill would be a great forward step toward that goal, which should be the aim of every patriotic citizen—American markets for American labor.

Modern Legislation and Executive Management of Navigation Improvements in the United States

EXTENSION OF REMARKS

OF

HON. JOSEPH J. MANSFIELD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 27, 1937

ADDRESS OF HON. JOSEPH J. MANSFIELD, OF TEXAS, BEFORE THE NATIONAL RIVERS AND HARBORS CONGRESS ON APRIL 26, 1937

Mr. MANSFIELD. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following address I delivered before the National Rivers and Harbors Congress on April 26, 1937:

Mr. President, and delegates to the National River and Harbor Congress, may I express my appreciation for this opportunity to address you on a subject, of such vital interest to each of us, as Modern Legislation and Executive Management of Navigation Improvements in the United States. It is my pleasure this year in bringing up to date certain phases of my last year's address to point out particularly, the fact that there are perhaps few, if any, activities of the Government in these times that are so beneficial to the public at large as river and harbor improvements. There is no individual in this great country who fails to receive each day tangible benefits from these improvements.

Last year I devoted some time to discussing the River and Harbor Act of 1935, certainly, the most comprehensive and constructive waterway legislation ever enacted by the Congress of the United States. It is with a sense of pride that I now summarize briefly the progress that has since been made on projects authorized by that act.

With $130,000,000 provided in the regular 1936 War Department Appropriation Act and the Second Deficiency Act of 1936, together with an additional $305,000,000 provided from emergency funds during the last 3½ years, work on the projects authorized recently, particularly by the River and Harbor Act of 1935, has been prosecuted at a rate never before attained.

Some of the more important projects on which work has been completed or is being carried on include: Boston Harbor, where dredging in the 40-foot main ship channel has been practically

completed; Cape Cod Canal, where work on the enlargement of this important ship canal has been advanced by the expenditure of more than $10,000,000 during the past 3 fiscal years; New York Harbor, where the work on enlargement of anchorage areas is being actively prosecuted and the 40-foot Hudson River channel for the full width of the river to Fifty-ninth Street, is nearing completion; New York State Barge Canal, where deepening of the channel from 12 to 14 feet has been advanced with funds in excess of $9,800,000; Delaware River from Philadelphia to Trenton, where work on the 25-foot channel to Trenton has been completed, thus enabling ocean vessels of that draft to reach Trenton without lightering; the Chesapeake & Delaware Canal, where funds in excess of $9,800,000 are being applied to deepening the channel to 27 feet; Morehead City Harbor, N. C., where the 30-foot channel from the ocean to the wharves at Morehead City has been completed; Miami Harbor, where deepening of the main channel to 30 feet has been practically completed; Tampa Harbor, where deepening and widening of channels of this important Gulf port has been vigorously prosecuted with funds in excess of $3,000,000 expended for new work during the past 3 years; Sabine-Neches Waterway, Tex., where the enlargement of channels serving the ports of Beaumont, Orange, and Port Arthur has been accomplished at a cost in excess of $1,300,000; Houston ship channel, where work of deepening the channel to 34 feet is progressing rapidly with funds in excess of $2,600,000 expended during the last 3 years; and Brazos Santiago Pass, where completion of a 25-foot channel to the ports of Brownsville and Point Isabel was accomplished during the year 1936 at an expenditure of $3,592,000 from United States funds and $1,806,000 from contributed funds.

At Galveston and her neighboring port of Texas City, where tremendously large volumes of traffic are handled, channels are being dredged to a depth of 34 feet. Groins are also being constructed to strengthen the foundations of the Galveston sea wall which for many years has so successfully protected the city and harbor from the elements. At Freeport a 32-foot depth has been attained.

At this point, while mentioning navigation improvements in Texas, I should like to refer to an editorial that appeared recently in the Houston Post expressing the gratitude of the people of Houston and of Texas to the distinguished and skillful engineers of the Corps of Engineers of the United States Army who are entrusted with the large task of carrying out river and harbor improvement and maintenance work. I quote from this editorial:

"No State in the country has more reason to be grateful to the United States Army engineers than Texas.

"Great ports along the coast, the intracoastal canal, and waterways throughout the State are monuments to their energy and construction genius.

"The great improvement programs they have planned and supervised were responsible largely for an increase in tonnage handled by the ports that has amazed the whole world.

"In 1927 Texas ports handled 41,000,000 tons of cargo. In 1936 the total had jumped to 79,000,000 tons. The economic benefits of this vast increase in commerce have been distributed through the entire State.

"For many years the Army engineers have been looked upon as a trained staff of technicians who approach proposed improvements from the standpoint of professional men interested only in the practicability and usefulness of the projects. They have acted impartially and without political or partisan pressure.

"Their fairness and impartiality is conceded by all. As a result politics has been eliminated from the development of rivers and harbors and the equally important task of harnessing the Nation's rivers and streams."

On April 19 an editorial of similar import appeared in the Galveston News, the oldest newspaper of continuous publication in the State of Texas. I quote from this editorial as follows:

"LET THE ENGINEERS ALONE

"Some concern has been expressed over a reported proposal to transfer the supervision of rivers and harbors improvements from the United States Army engineers to some other agency of the Government. So far as the News can learn, no definite proposal of that nature has been made.

"It is possibly implied, however, in the report of the President's Committee on the Administrative Reorganization of the Government. In dividing the functions of government among the various departments, the report says that the major purpose of the War Department should be to advise the President with regard to military affairs and to administer the military services.

"Obviously this is not an affirmative recommendation for transferring river and harbor work, though it might be construed as a negative one. The improvement of rivers and harbors is not, strictly speaking, a part of the military service, though it is connected to some extent with national defense.

"The report also recommends the addition of a department of public works to 'design, construct, and maintain large-scale public works which are not incidental to the normal work of other departments, except as their agent on request.' This might include rivers and harbors improvements, though that work has been handled by the Army engineers for 113 years.

"But, as a matter of fact, the committee emphasizes that it is not attempting to recommend in detail how the various establishments, agencies, and bureaus shall be distributed among the departments, though it does recommend that the many independent agencies be placed under departmental control. In his message transmitting the committee's report to Congress, President Roosevelt made no specific recommendation. Congressman MANSFIELD informs the News that it is felt the President does not have in mind shifting rivers and harbors work to any other existing Government agency or to any agency which may be created. The Congressman states that he himself is unalterably opposed to taking away from the engineers the work they have handled 'in a most commendable and efficient manner for so many years.'

"As chairman of the House Rivers and Harbors Committee, Congressman MANSFIELD is, of course, intimately acquainted with the quality of the Engineers' work. It seems to us that every well-informed citizens must share his opposition. The engineers are doing an excellent job, and it is worth considering that this work helps materially to create public good will for the Army. We cannot see how any citizen who appreciates the importance of an adequately supported Army could advocate a change.

"The only helpful change we can think of would be one making it harder for politicians to overrule the engineers' recommendations on rivers and harbors work."

I present these editorials which show the trend of thought of the ablest and most prominent newspaper publishers of the Southwest, reflecting their complete confidence in the able and efficient manner in which the engineers of the War Department have handled our waterway problems. I believe that this sentiment is practically universal throughout the Nation and that it would be a calamity for river and harbor work to be taken out of the hands of the Army engineers.

Passing on to the West coast, mention should be made of outstanding waterway improvements such as San Diego Harbor, where widening the bay channel to 2,200 feet for a depth of 35 feet was completed during the fall of 1936 at a cost of about $1,000,000; San Joaquin River, where a 30-foot channel to the city of Stockton has been completed; and the Bonneville Dam on the Columbia River. In addition great strides have been made on navigation projects in the Great Lakes, on the canalization project of the Mississippi River between the Missouri River and Minneapolis, on the Illinois Waterway, on the Missouri River regulation, and on the Allegheny and Monongahela River improvements.

Similarly noteworthy progress has been made by the Chief of Engineers and the Board of Engineers for Rivers and Harbors in making reports authorized by the act of 1935 and review reports requested by resolution of the Rivers and Harbors Committee of the House of Representatives. In the past 12 months the Chief of Engineers through the Secretary of War has transmitted 197 reports to Congress of which about half were provided for by the 1935 act. Of these 197 reports 45 were on preliminary examinations and 152 were on surveys. About 60 percent of the survey reports were favorable.

The present national policy adopted since I have been a member of the Rivers and Harbors Committee has greatly facilitated waterway improvement work and placed it on a sound working basis. This policy of enacting every few years general river and harbor legislation authorizing appropriations for definite projects with a view to their completion over a period of years and of making available in the annual War Department appropriation a lump sum for application to these authorized projects provides for the modern and extensive program we now have. While the legislation necessary to carry out this policy and provide for a comprehensive program might at first appear to be an insuperable task since both preliminary and final decisions depend upon agreement in the committee and on the floors of both Houses of Congress, the records of the past decade stand as monumental evidence that our river and harbor work has functioned efficiently and expeditiously. I feel safe in saying that I believe there is no other committee of Congress that receives and studies more petitions or that functions more effectively in arriving at its decisions in a friendly manner as does the Committee on Rivers and Harbors of the House of Representatives. It is comparatively seldom that any member of this committee fails to support a report of the committee which is taken to the floor of the House. There is no other committee of Congress that accomplishes more work or is less prone in these modern times of complex statesmanship to permit petty bickering to interfere with real and worthy accomplishment. Each matter that comes before the Committee on Rivers and Harbors is considered on its merits in a spirit free from partisanship and passed on for the good of the country.

The executive management for carrying out the actual construction work involved in prosecuting navigation projects but not subject to the inherent difficulties of the legislative phase of these improvements, functions in an orderly and efficient manner under executive procedure. Construction of river and harbor improvements is administered and executed by the Corps of Engineers in a way that is most economical for the United States, a reliable and capable Government agency already developed in public service and limited in size so that excessive overhead, inefficiency, and increased cost are avoided. Supervision is organized with territorial jurisdiction, single executive responsibility, and decentralization of authority to trustworthy and trained subordinates. The really efficient organization is good because of the training and character of its individuals from the executive head down through subordinate executives to the lowliest worker. All these fundamentals of good organization are embodied in the Corps of Engineers, the governmental agency that plans and prosecutes our navigation improvements in such a satisfactory manner.

There is still another role with respect to river and harbor improvements, and that is played by this capable and intelligent Congress which presents its desires to those charged with public

legislation. The dispatch with which petitions can be handled by legislators and actual construction work accomplished by the engineers is materially affected by the orderly and logical manner in which this organization functions. Constant cooperation in the same cordial and friendly spirit that has always existed between the Rivers and Harbors Committee of Congress, the Corps of Engineers of the Army, and this great National Congress will assure the continuation of efficient modern legislation and executive management of navigation improvements in the United States.

The size of the United States, its population, natural resources, industries, and wealth require our work for excellent harbors. There are 25,000 miles of lake and ocean shore lines along which harbors for coastwise and foreign trade must be kept up to date. The improvement of the more than 20,000 miles of navigable river channels, canals, and lakes for inland traffic must not be neglected. These natural assets of the Federal Government have given a return in saving on freight alone conservatively estimated at more than $600,000,000 a year. This public benefit extends to the pocketbook of every person in the country. The advocates of waterway improvements who possess the courage and vision to strive for waterway improvements may be certain that they are democratically serving all the people when they support river and harbor legislation for worth-while projects.

I may conclude by saying to this National Rivers and Harbors Congress that, when the inevitable processes of Nature and Divine Providence make it necessary for me to surrender the great work for the improvement of our rivers and harbors, it is my ambition to leave my successor, whoever he may be, a work intact, ready to serve our citizens and Nation and ready to move forward steadily to meet the modern needs of the Nation—a work which has proved that the democratic methods in vogue now are efficient and successful with respect to waterway improvements. This ambition of mine has been and will be accomplished through the good will and cooperation of each and every member of the National Rivers and Harbors Congress combined with the same spirit among my colleagues in Congress.

Roosevelt, Labor, and the Courts

EXTENSION OF REMARKS

OF

HON. FRANK J. G. DORSEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 27, 1937

ADDRESS OF HON. FRANK J. G. DORSEY, OF PENNSYLVANIA, AT LABOR NONPARTISAN LEAGUE MEETING, PHILADELPHIA, PA., OF APRIL 19, 1937

Mr. DORSEY. Mr. Speaker, under leave to extend my remarks in the RECORD, I am including a speech delivered by me at the Labor Nonpartisan League meeting on April 19, 1937, at the Metropolitan Opera House, Philadelphia, Pa., as follows:

It is a wholesome thing for America, and tangible evidence of a living democracy in operation, when men can freely gather and publicly express their views on legislation affecting the body politic of this country. God forbid that the day will ever come when the freedom of assembly and of speech is abridged in this fair land.

This meeting is typical of many being held throughout the country tonight. It is labor's challenge through its Nonpartisan League to those reactionaries who would set back the clock of progress to the days of the spinning wheel, indentured apprentices, the stagecoach, and treadmill. It is labor's protest against the barrier to progress raised by a coordinate branch of Government designed by its founding fathers as one of checks and balances.

It is now approximately 10 weeks since the President sent his message to Congress recommending certain changes in our judiciary. Since that time ample opportunity has been given for public sentiment to crystallize and for the presentation of arguments pro and con. The Senate has been and is conducting hearings. Everything that can be said on the subject has already been aired before the Senate Judiciary Committee, over the radio, and in other public forums.

As a Congressman, endeavoring to be truly representative of my people, I have given thought and study to the arguments advanced on the President's proposal, and in accordance with an established policy have kept in close touch with the sentiments of my district. After eliminating the messages sent to me by those not residing within the district, I have analyzed those from the people whom I represent. The score to date shows that I have received 925 letters, telegrams, post cards, and petitions favoring the President's proposal. These do not include the petitions of organizations, such as Labor's Nonpartisan League and the Full Fashioned Hosiery Workers, representing thousands of citizens. Two hundred and thirty-one communications are registered against—a favorable ratio of 4 to 1. And today I received this first report of a survey being held in an independent section of the district, which shows a score of 165 for and 35 against—a ratio of 5 to 1. It is interesting to note that on this list favoring the President's plan are 89 registered Republicans.

It is significant that those opposing the plan are either unwilling or unable to advance a rational reason.

Invariably they are caustic in their remarks and show a violent hatred or dislike for the President personally. Some demand that the Members of Congress oppose the measure in order to show an element of independence, thereby disclosing their thoughts that no one else but the President is favorable to a change in the Court's personnel. It is reminiscent of the last campaign because it definitely identifies them as the same groups and individuals who were opposed to him then, and are now trying to nullify the mandate of the electorate for legislation in the interest of all the people.

Those favoring the plan are generally more specific and cite the Court's annulment of N. R. A. or A. A. A. They are of the opinion that the Supreme Court has blocked the recovery program without justifiable reasons. The messages are of a sincere nature, and are generally from just plain folks. Let me read two typical letters:

MY DEAR MR. FRANK DORSEY: I am dropping you these few lines in regard to President Roosevelt's proposal on the Supreme Court. * * * As a voter, and a Dorsey supporter, I would like you to go along with our President in making some change in the Supreme Court, as I think when we had the N. R. A. the workingmen of America got a break, and then the Supreme Court came along and called it unconstitutional. I was working 40 hours a week during the N. R. A., and was making a fair pay where I worked. But since then I am now working 70 hours a week, and if I don't like those hours I am told I can quit. So that is the reason I am in favor of President Roosevelt's action on the Supreme Court, and I know of hundreds of different people who thought that the N. R. A. was a good thing, and it really put more men to work right in my neighborhood. The place where I work now could put 12 men to work if we had shorter hours, and where I work is only one in thousands that could do the same; I mean in different factories * * *.

_____.

P. S.—Hoping you won't make my name public, as it may harm me at work.

Hon. FRANK J. G. DORSEY.

DEAR SIR: Being in business here for the past 17 years, and feeling that I understand the sentiments of those thousands of the less fortunate that surround me, I deem it my duty to write to you. I am sure those thousands of us that voted for Roosevelt down the line are with him now in his efforts to enlarge the Supreme Court, as the quickest way to carry out the New Deal policies.

These people around here will send you no telegrams, and perhaps not even write, but I can assure you that they are with President Roosevelt with heart and soul * * *.

_____.

Now, what is the President's proposal? It contains five distinct legislative recommendations. Four of these seem to have met with little opposition. The fifth has brought a storm of protest from the self-appointed Constitution defenders, publicity seekers, reactionaries, and a few sincere people. In substance, this proposal recommends that when any Federal judge attains the age of 70 years, and has been a Federal judge for at least 10 years, if he has neither retired nor resigned after reaching that age, the President, with the advice and consent of the Senate, shall appoint an additional supplemental judge to the same court. Certain limitations have been suggested by the President, one of which limits the Supreme Court in case of additional appointments to 15.

Those opposing this change charge that it is an effort to set up a personal Government, the beginning of a dictatorship, otherwise the President would not himself have made the recommendation.

Let me remind such critics that it is the President's duty to advise Congress regarding the judiciary when he deems it necessary, just as it is the constitutional duty of Congress to maintain the effective functioning of the Federal courts.

The charge that it is an effort to make the Supreme Court subservient to the Executive is just as absurd, and is an insult to the elected Representatives of the people in the Congress and a challenge to our democracy. Only those who have lost faith in our democratic institutions would make such a charge. Do they think that the Senate, by the majority vote, would approve the selection of anyone not fitted by training and principle to hold such office? Have the lawyers lost respect for their own profession by accusing outstanding attorneys of being pliable enough to accept appointment to the Court on such basis?

But such accusations are not new in American politics. President Grant was accused of adding Judges previously committed to his viewpoint in the Legal Tender cases.

Did not President Theodore Roosevelt write to Senator Lodge, who recommended the appointment of Justice Holmes, saying:

"Now I should like to know that Judge Holmes was in entire sympathy with our views; that is, with your views and mine, and Judge Gray's, for instance, just as we know that ex-Attorney General Knowlton is, before I would feel justified in appointing him."

Is there anything wrong with that? Does anyone think that President Franklin D. Roosevelt would appoint Justices who would be out of step with the times? Certainly not. He would, however, appoint men of outstanding ability who know and realize that the local problems of the "horse and buggy" days are national in scope in this highly industrialized age.

By adopting the President's plan Congress is exercising a constitutional right, for the Constitution, by its tenets, gives Congress power to establish courts and designate the number of judges. Why was this power given to Congress, if it was not for the purpose of effectuating the governmental operations through a system of checks and balances? This is plainly one of the checks on the judiciary granted to Congress, and likewise to the Executive through the appointing power, by and with the advice and consent of the Senate. Those who are opposed to this plan are evidently seeking to prevent the use of an expressed power by Congress, inculcated in the Constitution to carry out the very system of checks and balances which they say it will destroy.

Other critics contend that this will wreck our system of an independent judiciary. Independent of what? Independent of the people's will? We have had an example of that kind of independence in the nullification of acts designed to promote the general welfare—the A. A. A., N. R. A., Railroad Retirement Act, and Guffey coal bill. When you consider how the Court has emasculated the Sherman Act of 1890 and the Clayton Act of 1914—both antitrust legislation—you will see that the Wagner Labor Disputes Act can be murdered by interpretations that the Court might make in the future. Last Monday's decision did not establish the right of the Labor Board to order plant elections, nor did it settle the question of giving exclusive bargaining power for all to the representatives of the majority, for those questions were not involved in the cases before the Court.

Labor must consolidate the gains which have been made by the assurance of sympathetic, present-day attitudes in decisions to come. It is too dangerous to have this dependent upon the whims of one Justice. Future decisions on these points can make a mockery of the victory that labor thought it won a week ago. We have seen that independence destroy the balance in government, and in actual practice force upon us a dictatorship, the dictatorship of one Justice, who can even change the Constitution by changing his mind.

What these critics actually want is the perpetuation of a Court composed of lawyers made famous before their elevation to the bench as corporation attorneys. But foremost in their minds is their apparent intention of preventing the President, who thinks in terms of the people, in terms of humanity, from making any appointments to the Supreme Court for fear that such appointees would interpret the Constitution as a living document, protecting the rights, interests, and security of a democratic people.

Why was the Constitution adopted? Its very preamble states it clearly:

"In order to form a more perfect union; to establish justice; to insure domestic tranquillity; to provide for the common defense, and to promote the general welfare."

Every instrumentality of government is charged with the responsibility of carrying out that mandate.

Under the Constitution the Supreme Court was established. Has the present Supreme Court, in its narrow interpretation of the Constitution, insured domestic tranquillity? What about the farmers? What about strikes and labor disturbances? Is that evidence of the Court's idea of domestic tranquillity? Do they not realize that the Constitution which they, on assumption, are interpreting, was designed as a living instrument of government? If they do, are they blind to the conditions of the day, the change from an agricultural nation to a highly industrialized state, in which each segment of the population is dependent upon other segments and groups? Are they mindful of the general-welfare clause when they hand down such decisions as were given upon legislation passed by a Congress designed to meet the needs of this day and age? It was never intended by the founding fathers that the courts should determine the social, economic, and political life of the Nation. It was never designed that a veritable dictatorship, not responsive to the will of the people, not selected by popular mandate, should be set up. In the system of checks and balances it was never thought that the interpretation of our basic law would depend upon the caprice of a single Justice.

As the Court stands today, four out of nine Justices are adamantly opposed to every idea, to every progressive legislative enactment of the present administration. They are opposed to any idea not current a generation ago. Is not this Court already packed? What about these four Justices? It is not so much a question as to whether or not they have kept up with the calendar, but it is more important that they have not kept up with the country.

The Jones & Laughlin case, involving the Wagner Act, is a fitting example. This decision rested upon the opinion of one man. If he had changed his mind, the decision would have been reversed. It is too serious and is destructive of the best principles of our democracy, when our whole economy can be changed and progress halted until one Justice makes up his mind as to whether or not a law is constitutional.

Our founding fathers had no thought that this condition would exist. Sensing that the Court would thwart the will of the people, Hamilton and Madison, among others, proposed that the legislative body should have power to override judicial decisions when desirable legislation had been stamped out through judicial review. Said Madison:

"* * * And as the courts are generally the last making the decision, it results to them, by refusing to execute a law, to stamp it with its final character. This makes the judiciary department paramount in fact to the legislature, which was never intended, and can never be proper."

The interpretation of the Constitution by the Supreme Court has become a matter of personal judgment, affected by the background of the individual Justice. This was definitely proved in the minimum wage laws for women. After declaring such State laws unconstitutional, one Justice changed his mind, and realizing that "no man's land" cannot exist in a democracy, he decided that such laws, formerly recognized as the illegitimate child of both Federal and State Governments, must be honored with some parentage; so it was decided to make the States the legislative father.

Again let us look at the seriousness of the situation when with a Court packed with four Justices opposed to all New Deal legislation, one Justice can decide the fate even of the Nation.

In the so-called bullion case decided recently by a 5-to-4 decision, involving the constitutionality of the suspension of gold payments, if the vote of one Justice had been changed, we would have been faced with days as dark as 1932. One man, by changing his vote, could have put the Nation in "hock", because enough gold is available to pay but a small fraction of the billions of obligations outstanding and payable in gold. Do you ask what the emergency is requiring Court reform? Does not such a condition present a grave emergency? Was there ever a dictatorship having the power of Justice Roberts in that decision?

Too much time, money, and energy, the time of serious and earnest men called to hearings, the assembling of vital and necessary information for the benefit of the 531 elected Representatives of the people in Congress, are put behind legislation to have its validity decided in a toss-of-the-coin manner by nine members of an appointed Supreme Court.

In closing, let me remind you of the prophecy of Jefferson:

"It has long been my opinion, and I shrank from its expression, that the germ of dissolution of our Federal Government is in the judiciary, an irresponsible body, working like gravity by day and by night, gaining a little today, gaining a little tomorrow, advancing its noiseless step like a thief over the field of jurisdiction, until all shall be lost."

Extending Reclamation Act to Puerto Rico

EXTENSION OF REMARKS

OF

HON. SANTIAGO IGLESIAS

RESIDENT COMMISSIONER FROM PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 27, 1937

Mr. IGLESIAS. Mr. Speaker, with permission granted me by the House, I am taking this opportunity to include as a part of my remarks a concurrent resolution unanimously approved by the Senate and the House of Representatives of Puerto Rico, as follows:

SENADO DE PUERTO RICO,
San Juan, P. R., April 9, 1937.

The Honorable the RESIDENT COMMISSIONER FOR PUERTO RICO,
Washington, D. C.

SIR: I have the honor to transmit herewith certified copy of concurrent resolution entitled: "To request of the Congress of the United States of America the extension to Puerto Rico of the Reclamation Act, approved June 17, 1902, and for other purposes", which was unanimously approved by the Senate and the House of Representatives of Puerto Rico on March 10, 1937, and on March 29, 1937, respectively.

Very respectfully yours,

E. GONZÁLES MENA,
Secretary of the Senate.

I, Enrique Gonzalez Mena, secretary of the Senate of Puerto Rico, do hereby certify that the following concurrent resolution was unanimously approved by the Senate of Puerto Rico on March 10, 1937, and by the House of Representatives on March 29, 1937:

"Concurrent resolution to request of the Congress of the United States of America the extension to Puerto Rico of the Reclamation Act, approved June 17, 1902, and for other purposes

"Whereas there is in force in the United States of America the Reclamation Act approved June 17, 1902, under the provisions of which there have been constructed and continue to be constructed and in operation all public irrigation systems in the arid States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming;

"Whereas this act was made extensive to the State of Texas by act of June 12, 1906;

"Whereas said Reclamation Act reads as follows:

"'THE RECLAMATION ACT

"'An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands (act of June 17, 1902, ch. 1093, 32 Stat. 388).

"'SECTION 1. (Reclamation fund established from public land receipts—exception—support of agricultural colleges—deficiency): That all moneys received from the sale and disposal of public lands in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, South Dakota, North Dakota, Oklahoma, Oregon, Utah, Washington, and Wyoming, beginning with the fiscal year ending June 30, 1901, including the surplus of fees and commissions in excess of allowances to registers and receivers, and excepting the 5 percent of the proceeds of the sales of public lands in the above States, set aside by law for educational and other purposes, shall be, and the same are hereby, reserved, set aside, and appropriated as a special fund in the Treasury to be known as the "reclamation fund", to be used in the examination and survey for and the construction and maintenance of irrigation works for the storage, diversion, and development of waters for the reclamation of arid and semiarid lands in the said States and Territories, and for the payment of all other expenditures provided for in this act: *Provided*, That in case the receipts from the sale and disposal of public lands other than those realized from the sale and disposal of lands referred to in this section are insufficient to meet the requirements for the support of agricultural colleges in the several States and Territories, under the act of August 30, 1890, entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provision of an act of Congress approved July 2, 1862", the deficiency, if any, in the sum necessary for the support of the said colleges shall be provided for from any moneys in the Treasury not otherwise appropriated (32 Stat. 388).

"'SEC. 2. (Authority to locate and construct irrigation works—report to Congress): That the Secretary of the Interior is hereby authorized and directed to make examinations and surveys for, and to locate and construct, as herein provided, irrigation works for the storage, diversion, and development of waters, including artesian wells, and to report to Congress at the beginning of each regular session as to the results of such examinations and surveys, giving estimates of cost of all contemplated works, the quantity and location of the lands which can be irrigated therefrom, and all facts relative to the practicability of each irrigation project; also the cost of works in process of construction as well as of those which have been completed (32 Stat. 388).

"'SEC. 3. (Withdrawal of lands for irrigation works—withdrawal of lands susceptible of irrigation—homestead entries—determination whether project is practicable—restoration and entry—commutation): That the Secretary of the Interior shall, before giving the public notice provided for in section 4 of this act, withdraw from public entry the lands required for any irrigation works contemplated under the provisions of this act, and shall restore to public entry any of the lands so withdrawn when, in his judgment, such lands are not required for the purposes of this act; and the Secretary of the Interior is hereby authorized, at or immediately prior to the time of beginning the surveys for any contemplated irrigation works, to withdraw from entry, except under the homestead laws, any public lands believed to be susceptible of irrigation from said works: *Provided*, That all lands entered and entries made under the homestead laws within areas so withdrawn during such withdrawal shall be subject to all the provisions, limitations, charges, terms, and conditions of this act; that said surveys shall be prosecuted diligently to completion, and upon the completion thereof, and of the necessary maps, plans, and estimates of cost, the Secretary of the Interior shall determine whether or not said project is practicable and advisable, and if determined to be impracticable or unadvisable he shall thereupon restore said lands to entry; that public lands which it is proposed to irrigate by means of any contemplated works shall be subject to entry only under the provisions of the homestead laws in tracts of not less than 40 nor more than 160 acres, and shall be subject to the limitations, charges, terms, and conditions herein provided: *Provided*, That the commutation provisions of the homestead laws shall not apply to entries made under this act (32 Stat. 388).

"'SEC. 4. (Contracts for construction—public notice of irrigable lands, limit or area, charges per acre, and method of payment—limit of work hours—Mongolian labor): That upon the determination by the Secretary of the Interior that any irrigation project is practicable, he may cause to be let contracts for the construction of the same, in such portions or sections as it may be practicable to construct and complete as parts of the whole project, providing that the necessary funds for such portions or sections are available in the reclamation fund, and thereupon he shall give public notice of the lands irrigable under such project, and limit of area per entry, which limit shall represent the acreage which, in the opinion of the Secretary, may be reasonably required for the support of a family upon the lands in question; also of the charges which shall be made per acre upon the said entries, and upon lands in private ownership which may be irrigated by the waters of the said irrigation project, and the number of annual installments, not exceeding 10, in which such charges shall be paid and the time when such payments shall commence. The said charges shall be determined with a view of returning to the reclamation fund the estimated cost of construction of the project, and shall be apportioned equitably: *Provided*, That in all construction work 8 hours shall constitute a day's work, and no Mongolian labor shall be employed thereon (32 Stat. 389).

"'SEC. 5. (Requirements of entrymen—limit of 160 acres—residence—payments—disposal of receipts—commissions): That the entryman upon lands to be irrigated by such works shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay to the Government the charges apportioned against such tract, as provided in section 4. No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona-fide resident on such land, or occupant thereof residing in the neighborhood of said land, and no such right shall permanently attach until all payments therefor are made. The annual installments shall be paid to the receiver of the local land office of the district in which the land is situated, and a failure to make any two payments when due shall render the entry subject to cancelation, with the forfeiture of all rights under this act, as well as of any moneys already paid thereon. All moneys received from the above sources shall be paid into the reclamation fund. Registers and receivers shall be allowed the usual commissions on all moneys paid for lands entered under this act (32 Stat. 389).

"'SEC. 6. (Reclamation fund to be used for operation and maintenance—Management of works to pass to landowners—Title): That the Secretary of the Interior is hereby authorized and directed to use the reclamation fund for the operation and maintenance of all reservoirs and irrigation works constructed under the provisions of this act: *Provided*, That when the payments required by this act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior: *Provided*, That the title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress (32 Stat. 389).

"'SEC. 7. (Authority to acquire property—Attorney General to institute condemnation proceedings): That where in carrying out the provisions of this act it becomes necessary to acquire any rights or property, the Secretary of the Interior is hereby authorized to acquire the same for the United States by purchase or by condemnation under judicial process, and to pay from the reclamation fund the sums which may be needed for that purpose, and it shall be the duty of the Attorney General of the United States upon every application of the Secretary of the Interior, under this act, to cause proceedings to be commenced for condemnation within 30 days from the receipt of the application at the Department of Justice (32 Stat. 389).

"'SEC. 8. (Irrigation laws of States and Territories not affected—Interstate streams—Water rights): That nothing in this act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof: *Provided*, That the right to the use of water acquired under the provisions of this act shall be appurtenant to the land irrigated and beneficial use shall be the basis, the measure, and the limit of the right (32 Stat. 390).

"'SEC. 9. (Repealed by sec. 6, act of June 25, 1910, 36 Stat. 835.)'

"NOTES

"The repealed section reads as follows:

"'That it is hereby declared to be the duty of the Secretary of the Interior in carrying out the provisions of this act, so far as the same may be practicable and subject to the existence of feasible irrigation projects, to expend the major portion of the funds arising from the sale of public lands within each State and Territory hereinbefore named for the benefit of arid and semiarid lands within the limits of such State or Territory: *Provided*, That the Secretary may temporarily use such portion of said funds for the benefit of arid or semiarid lands in any particular State or Territory hereinbefore named as he may deem advisable, but when so used the excess shall be restored to the fund as soon as practicable to the end that ultimately and in any event, within each 10-year period after the passage of this act, the expenditures for the benefit of the said States and Territories shall be equalized according to the proportions and subject to the conditions as to practicability and feasibility aforesaid.

"'SEC. 10. (Authority to make rules and regulations): That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purposes of carrying the provisions of this act into full force and effect (32 Stat. 390).

" 'Textual note: This section is codified as section 373, title 43, United States Code. In the code the first word "That" is omitted, and "act" reads "Capter".'

"Whereas the law to include the State of Texas reads as follows:

"EXTENSION OF RECLAMATION ACT TO TEXAS

" 'An act to extend the irrigation act to the State of Texas (act June 12, 1906, ch. 3288, 34 Stat. 259).

" 'SECTION 1. (Reclamation act to apply to Texas): That the provisions of an act entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation or arid lands", approved June 17, 1902, be, and the same are hereby extended so as to include and apply to the State of Texas (34 Stat. 259).'

"Whereas the public irrigation systems of the United States have been constructed and continue to be constructed on the basis of collecting from the settlers and/or landholders on each project only the construction cost of the several works without any charge for interest;

"Whereas the public irrigation systems of Puerto Rico have been constructed with money borrowed by the Insular Government through bond issues at a considerable rate of interest;

"Whereas the Government of Puerto Rico has at present its good faith pledged for the payment of bond issues for irrigation in the amount of $8,000,000;

"Whereas the annual interest on this debt reaches the considerable sum of $350,000;

"Whereas the lands included in the irrigation districts have an area of about 35,000 acres wherefore each acre is subject to pay $10 annually for the payment of interest only, without considering the amount necessary for redeeming the debt and for operation and maintenance expenses;

"Whereas the exemption from the payment of interest on this debt for public irrigation systems would be a permanent solution of the financial condition of these systems and of the landholders;

"Whereas the importance of these public irrigation systems is considerable when their potentiality to stabilize the economy of Puerto Rico is taken into account;

"Whereas for many years, through the Morrill Act, Puerto Rico has enjoyed a grant of $50,000 for the maintenance of the College of Agriculture and Mechanic Arts of Mayaguez from the same fund as that devoted to the construction of public irrigation systems;

"Whereas the pledge to reimburse to the original fund the cost of the irrigation works would be made between the Government of Puerto Rico and the Government of the United States and it would not be, as in the United States, an obligation between the landholders and the Federal Government;

"Whereas it is generally known that the Insular Government has always been able to fulfill fully its obligations to pay all public debts;

"Whereas the Congress of the United States passed in the year 1934 a moratorium act to suspend the collection of irrigation charges from such landholders in irrigation systems as were in the worst economic conditions;

"Whereas the amount of interest paid by the lands under irrigation in Puerto Rico exceeds the total sum of $6,000,000, which fact deserves to be acknowledged as a sacrifice made by this country;

"Whereas the economic situation of Puerto Rico has been and continues to be critical, and the national administration is continually making efforts to stabilize the insular economy;

"Whereas the government of Puerto Rico has made surveys for the construction of public irrigation systems in the jurisdictions of Lajas, Camuy, Quebradillas, Manatí, and Vega Baja, and in some other zones throughout the island, and also has under consideration certain projects for draining and reclaiming lands;

"Whereas the cost of all these public projects for the irrigation, drainage, and reclamation of lands, added to the critical condition of the country, prevents the immediate construction of these projects which would so greatly benefit this island;

"Whereas the construction of these projects should be pushed until these works have been put in operation in order greatly to increase the productive capacity of these lands that now produce very little, or nothing whatever: Now, therefore, be it

"*Resolved by the Senate of Puerto Rico (the house of representatives concurring)*—

"1. To request, as it is hereby requested, from the Congress of the United States of America, that the Reclamation Act of June 17, 1902, be made extensive to Puerto Rico, as a part of the plan of the national administration to promote the economic reconstruction of the island of Puerto Rico.

"2. To declare, as it is hereby declared, that the people of Puerto Rico ask for the benefits of the Reclamation Act, with the desire that their public irrigation debt be converted into a debt of the government of Puerto Rico to the Government of the United States, with the obligation of reimbursing the present balance of this debt to the fund created by the Reclamation Act, within a period of 40 years, without any payment of interest; and with the desire that the necessary funds for the construction of such projects for public irrigation, drainage, and reclamation of lands as are under consideration for different districts of the island, be made available to the government of Puerto Rico.

"3. To request the Resident Commissioner of Puerto Rico in Washington to push this measure before Congress, and likewise to request the good offices of the Governor of Puerto Rico, Blanton Winship, and of the Director of the Division of Territories and Island Possessions, Dr. Ernest H. Gruening, to obtain the passage of this measure during the present session of Congress, if possible.

"4. That copies of this resolution be sent to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of Congress, to the Commissioner of the Interior of the United States, to the Commissioner of Reclamation of the United States, to the chairmen of the corresponding committees of the Congress of the United States, to the Director of the Division of Territories and Island Possessions, to the Governor of Puerto Rico, and to the Resident Commissioner of Puerto Rico in Washington."

In witness whereof, and for transmittal to the Honorable the Resident Commissioner of Puerto Rico in Washington, I have hereunto set my hand and caused to be affixed the seal of the Senate of Puerto Rico on this the 13th day of April, A. D. 1937.

[SEAL] ENRIQUE GONZÁLEZ MENA,
Secretary.

Civilian Conservation Corps

EXTENSION OF REMARKS
OF
HON. CLYDE L. GARRETT
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 31, 1937

Mr. GARRETT. Mr. Speaker, under date of March 31, I obtained leave from the House to extend my remarks on the Civilian Conservation Corps and the work which it has done for the youth of our land. I submit to the Members of this body, that while it has cost much money, it has and will ever repay for itself in those intangible values as well as in the material wealth it has created. It has been seen and judged in most instances on the seen, but the unseen lives on as a heritage in the life of the boys and in the intangible wealth of the Nation.

In other words, we see the spectacular and give credit for the doing of those things which make the newspaper headlines. Forest fires and flood rescue work make those headlines which startle and which attract the attention of the general public. Those are the things which appeal and which with their attention-compelling interest focus the viewpoint of all upon just one phase of this or any other work worth while.

They have their place in the times of necessity but like everything else worth while there is a groundwork being done all the time which is neither spectacular nor is it of the heroic. It is the work which is worth while, and the C. C. C., with all their headline work of the past year, has been doing something which is really worth while.

It is the unseen which is potent, which wields the real power, and while we have put this organization to work as a relief agency, it is something even greater than that. It is a conserver and a builder of wealth, wealth of all kinds, and has been worth far more than it has cost.

From the reports of the Civilian Conservation Corps we learn that the boys in that work have planted over a billion trees. That will go a long way toward paying for the cost of the entire work in the future. They planted those trees as shelterbelts, on cut-over land, and as flood control, aiding in the work of conserving the soil, controlling floods, and retiring land from cultivation for the use of future generations. They have planted these trees for that purpose but in doing so along with their other work they dug millions of holes in the ground, a procedure which helped in the storing of ground water, a vital need in the flood areas and in the drought sections of the country. In the land as the pioneer found it on almost every stream the busy beaver was to be found at work. His job was to slow up the running water and with his dams and ponds he did this. Civilization killed off the beaver and cut his dams to drain the land and the floods have been coming ever since. The C. C. C. with their tree planting and their terraces and flood-control work have partly overcome this damage of the past. It remains for more of it to be done in the future that mankind may restore some of the damage done in the past.

But despite the spectacular and the seen things which these boys have done there lies beneath it all something

which only time can reveal as the most potent thing which they have received and which the country will benefit from.

They have sent home their $25 per month as the law requires for the use of those families on relief from whose homes they came. That has made the plan worth while. But they themselves have received new hopes and a new faith. There is nothing which will ruin the morale and destroy the faith of a person quicker than idleness and the loss of hope. This one canker which was eating at the heart of the morale of the Nation was destroyed in the lives of the millions who went into the C. C. C., and they face the world day by day with the strength and vigor that come from hope achieved, desire satisfied, and faith in their destiny fulfilled. Those boys have felt a stirring in their hearts, an ennobling of their souls, and a lift to their spirits which only time can evaluate.

Undernourished as many of them were when they entered camp, they have gained in weight and have added health as a price they received for their labors. They have learned how to work, how work is done, and how men can cooperate on a job for the fulfillment of a specific task. They have felt honest perspiration flowing down their faces, and felt in their souls the joy of doing something which they knew the world could and would appreciate. Learning to work is the ambition of every boy who has the proper attitude toward life. It is his hope and ambition to some day begin earning money for his own use and for the good of others. With enlistment in the C. C. C. he felt that hope for its first time, for most of those boys had their first job when they went to the C. C. C. They got that first glad feeling which comes with a pay envelope and a sense of work well done.

In this they earned their own self-respect and they learned respect for the other fellow. They learned that he must work with them for both to do the most, and they must not obey the first instinct, but must respect and obey the laws made for all. In doing this they developed a personal pride which has made them stronger for the years of their manhood and has started them out in life unafraid and unashamed of the fact that the world's work must largely be done with the human hand.

With this increased self-respect and respect for others and with a personal pride in cleanliness of body and mind, with the hope for the future that was engendered in their hearts they now have a more hearty respect for the man who made this possible, and in the years to come our own Uncle Sam is going to stand higher with them and is going to receive a greater fealty from those whom he has stood beside in his hour of development. Patriotism is one of those inherent and unseen forces which have developed in the hearts of these boys and which will go through life with them, stronger for the years spent under the shadow of the flag, for the contact with the Army men and for the hope which was given to the one who was being crushed under the heel of fate. In these camps the boys of the Civilian Conservation Corps came under the direction of men from the Army; they had to meet with and work under men experienced in the work of the world in those engineers and foremen, and they came in contact with teachers of the educational force. Thus they met three types of men who will influence them through the years. The Army stands for that rigid discipline, that control, and that force which directs the life of mankind. The hard-boiled foreman and painstaking engineer showed them the way of work and the pride that comes from successful toil, and in the teacher they met a force which showed them the road that was open for the trained mind and aspiring heart.

There are literally thousands of them scattered over the country who have had new educational visions given them by these teachers, and in the classes taught in the camps they have broadened their minds and secured that training which will enable them to grow mentally through the years. Those boys who have taken advantage of this one feature of the C. C. C. alone in the years to come will go far toward the repayment of the money spent on them.

I want to see this work go on. I want it broadened and made of greater utility to the Nation. The foregoing words of mine are spoken from the bottom of my heart. Everywhere that three or four hundred men are gathered together there should be added to the number of the leaders a man of the church that its force may be fully felt in their lives. They have been touched industrially, mentally, and morally by the foreman, the teacher, and the Army man. Let this work in the future touch them also with the spirit of the Perfect Man, who said "Come unto me all ye who are heavy laden that I may give you rest." Let their lives be influenced and their thoughts made better by such a contact, and this work will reflect for good through the years to come. I want the C. C. C. to continue. I want it made greater and better for the young manhood of this Nation, to give them a hope, a start toward a useful life and full rounded outlook on the problems of the world as they will face each of them in their own limited life.

The young men of our country need this work, they need this hope, and they need this attention to their lives at the crucial time that the Civilian Conservation Corps gets them and, money or no money, cost or no cost, as long as the work is done as it has been in the past, it will repay in useful lives, raised hopes, and joyous spirits all the outlay that is made for the work. They have added to the material wealth of the country by their labor. We have added to them a greater hope and faith. Their debt has been paid to society and the Nation by this increase. Let us collect interest for the future by adding to their spiritual life by the placing of chaplains in the camps to direct them toward the higher and holier things of life.

The Property Right of a Worker in His Job

EXTENSION OF REMARKS

OF

HON. J. BURRWOOD DALY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 27, 1937

ARTICLE BY REV. PAUL L. BLAKELY, S. J., APPEARING IN AMERICA FOR APRIL 10, 1937

Mr. DALY. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following article written by the Reverend Paul L. Blakely, which appeared in America under date of April 10, 1937:

PROPERTY RIGHTS IN THE WORKER'S JOB—WHAT DO YOU OWN WHEN YOU SECURE A JOB?

By Paul L. Blakely, S. J.

Last week John Smith found a job. Does he own that job? Is it his property just as his coat and his hat are his property? If it is not his property, what are his rights in the job?

That these questions are pertinent today is evident from the statements made by Homer Martin, leader of the sit-down strikers, and by the former Chrysler employees in their ultimatum to Governor Murphy. "This right to strike involves the property right of the worker's job", wrote Mr. Martin to the Governor, "which is in our opinion the most sacred property right in America."

I have not been able to discover any principle, acceptable to Catholic philosophy, which justifies the view that a job is property. It is clear, however, that in some sense the worker has a "right" to his job. But in what sense?

Light will be thrown on this question by an examination of the manner in which a man usually secures a job. Generally it is through a contract, explicit or implied. While it is true that since a man must support himself by the sweat of his brow he has a right to work, he has no strict right to work for this man or that. John Smith has a right to marry, but he has no right to marry Arabella Jones until she bashfully whispers "yes"—if that is the way things are done nowadays. Similarly, John finds an outlet for his natural right to work by agreement with a particular employer.

Now John has his labor to offer, the prospective employer has his money to give for it, and the two come together to strike a fair bargain. John's labor is not, of course, a mere commodity like pig iron to be bought and sold in the lowest competitive market. His labor has two aspects, one personal, the other social. Since he has no means of supporting himself and his family except by his labor, he is entitled to demand in the contract a

wage sufficient for his and his family's reasonable needs. Furthermore, the question of the common good is intimately connected with John's labor, and it must be given full attention. Wages that are too low, wages that represent nothing but the power of an employer to force his will upon John, thus destroying his right to contract freely, must be absolutely ruled out, not only in justice to John but also in fairness to the community. For a State composed of wage slaves and unjust masters is a State in which vice and disorder will flourish.

Let it be supposed, then, that a just contract has been made. What right has John acquired to his job? Does he now own it, in the sense that it is his property?

The job is most certainly not his property. But it does not follow that he has no rights relative to the job. He has all the rights which follow from the explicit terms of the contract and from terms which are contained in it implicitly.

As to the rights explicitly stated in the contract, controversy rarely arises. The same cannot be said of the rights which flow from the implicit terms of the contract. Probably the strikers in the automobile industry were never allowed to exercise their right to enter into a true contract, but they appear to assert the possession of certain sweeping rights as the result of their employment, whatever the terms, by the companies. Thus Mr. Martin is quoted as saying that the strikers did not seize the belongings of the Chrysler corporation, but merely asserted their property right over their jobs and over what because of their jobs belonged to them. When the strikers occupied the factories and took possession of the corporation's machinery and private records, no injustice, argues Mr. Martin, was done the corporation. It lost no property, even temporarily, since what it appeared to lose belonged to the strikers.

It is difficult to take these statements seriously. Whatever the rights which belong to an employee by the implicit terms of his contract, no employer can be supposed to concede "rights" so sweeping that they deprive him of ownership of his property. Such "rights" cannot be implicit, for they are recognized neither by the law nor by the generality of employers and workers.

In engaging an employee the employer assumes that he will work on the premises with tools and machinery supplied him. It cannot possibly be assumed that the employer intends to cede his ownership of the buildings or of the machinery, still less of his books and records, to any employee or to all of them. They remain strictly his property. They are his so completely that he may without injustice sell them to another manufacturer or close his business and retire. It is true that in abruptly terminating his contract he might offend against charity (as the worker might by similar action), but what we are here examining is the right in justice claimed by Mr. Martin.

It is not true, however, and cannot possibly be maintained, that in case of differences between employer and employees the latter may seize the employer's property and then justify themselves by the assertion that the employer has no property, nor is it true that they may hold it "temporarily" against his will. From whatever angle they are viewed, Mr. Martin's claims to property rights not only in jobs but in the employer's plants and equipment, are wholly untenable. Labor will set itself back 50 years if it allows itself to be deluded by so preposterous a philosophy.

Recently some statements made by James M. Landis, an administration adviser, in an address at Washington, have been cited to show that if the sit-down strike is not proper, it ought to be, and probably soon will be. It seems to me that Mr. Landis' case has been badly misunderstood. What he said was, in substance, that all property has or may have an aspect which affects it with a community interest. That view is by no means new. It was a commonplace when more than 40 years ago Leo XIII appealed to it in his encyclical on the Condition of the Working Classes. As Pius XI wrote 6 years ago in his encyclical on the Reconstruction of the Social Order, no Catholic authority has ever denied or even questioned "the twofold aspect of ownership which is individual or social, accordingly, as it regards individuals or concerns the common good." It is not only the right of the state, but the solemn duty of the state, to regulate the use of property, always having in mind the precepts of the natural and the divine laws. Hence the state may "in view of the common good specify more accurately what is licit and what is illicit for property owners in the use of their property."

It must be remembered, however, that "the state may not discharge this duty in an arbitrary manner." While it may and should regulate the use of property, as the common good demands, the natural law forbids it to destroy a man's right to possess property as his own. For, writes Pius XI, quoting Leo XIII, "the right to possess private property is derived from Nature, not from man; and the state has by no means the right to abolish it, but only to control its use and bring it in harmony with the interests of the common good."

If what Mr. Landis said is interpreted as meaning that at some future time the state may legislate "more specifically", to quote Leo XIII, in reference to the use of which an owner may make of his possessions, no fault can be found with him. But all Catholics and all who pray for the establishment of social justice will pray that the state act speedily. Men goaded by injustice cannot be excused when they in turn violate justice. But they can be understood and they can be helped.

As we pointed out at the beginning of the strikes in the automobile industry, it was clear that the workers had been subjected to treatment that was cruel and unjust. We point out now that not by one act has the Legislature of Michigan moved to end this reign of cruelty and injustice. Committees and conferences are now at work, and some of them have struck treaties which will end these industrial wars for 1 year. At the end of that time, as far as any means provided by the State of Michigan are concerned, the industrial wars will begin again. Are we to have in the States one war after another, ended by private compacts which win for the worker some temporary respect for his rights but leave him, as far as the State is concerned, with no guaranty that they will be forever respected?

It is wholly within the power of the Michigan Legislature to legislate more specifically for the benefit of the wage earner. Since the decision of the Supreme Court in the Washington minimum-wage law for women it is at least probable, and in my opinion reasonably certain, that it can legislate for a minimum wage for men. Through its police powers it can ban long hours and the inhuman speed-up system which breaks down the health of the strongest worker. When we set ourselves to guarantee the least of the real rights of the wage earner and to protect them with all the power and authority of the State, we shall hear little of claims for rights that do not exist. But not before.

Recognition of James Rumsey

EXTENSION OF REMARKS

OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 23, 1937

Mr. RANDOLPH. Mr. Speaker, I have recently introduced in this body House Resolution 182, asking that there be established a commission, known as the James Rumsey Sesquicentennial Commission, to consider the authenticity of documentary evidence regarding the invention of the steamboat and to make plans for the proposed celebration in honor of this man whom we believe to be the real inventor of the steamboat.

Because of this pending resolution, I trust the Members of the House will find an opportunity to read the following letters. The first is from Matthew Page Andrews, a noted historian of Shepherdstown, W. Va., and Baltimore, Md. He throws a new light upon the inventive genius of Rumsey. There is printed following his communication a very brief résumé of heretofore undisclosed facts about Rumsey.

The second helpful letter comes from Mrs. Alexander D. Cox.

VIRGINIA HISTORY COMMITTEE,
Baltimore, Md., April 3, 1937.

Hon. JENNINGS RANDOLPH,
House of Representatives, Washington, D. C.

DEAR MR. RANDOLPH: In view of the coming celebrations in two, and perhaps three States with regard to the sesquicentennial of the launching of the steamboat constructed by James Rumsey at Shepherdstown, I feel that you, as the Representative in Congress from the district where this historical event occurred, are the proper person to make public some recent investigations showing that Rumsey should be credited with hitherto unheralded achievements rivaling or excelling the invention of the steamboat.

The story of these achievements was to be disclosed in the forthcoming history entitled "Virginia, the Old Dominion", but I have received permission from the committee in charge to have announcements made in time so that those interested may make proper allowance for them in the Rumsey sesquicentennial plans.

Rumsey, of course, fully deserves the monument erected to him at Shepherdstown, the celebrations that have been accorded to him recently on the Ohio, and the memorial that is planned for his birthplace in Cecil County, Md. However, none of these celebrations or memorials have taken into account that, although Rumsey's particular kind of steamboat perished with him, he secured patents in England on certain vital elements in steam-propelled machinery that are in universal use today and for which he has received no public credit other than occasional references in the transactions of the Society of Mechanical Engineers, or in technical works on engineering design.

I am therefore appending that portion of the galley proof of the proposed History of Virginia in which credit is given to Rumsey's inventions now in use. This matter was first called to my attention by Dr. L. G. Hoxton, professor of physics at the University of Virginia, and I have secured supporting references, which are appended to the above-mentioned statements, including a letter from the Engineer in Chief of the United States Navy.

It will be seen from this that an essential principle in the construction of the Navies of Great Britain and the United States is based upon Rumsey's inventions in the matter of water-tube boilers. In truth, I don't know where any discovery of a scientific principle has been so continuously adopted and yet where the inventor has been at the same time so generally neglected or ignored.

The principles concerning boilers with which Rumsey worked out his first crude experiments have been, and still are, basic in engineering construction.

Yours sincerely,

MATTHEW PAGE ANDREWS.

[Excerpts from forthcoming volume by Matthew Page Andrews, entitled "Virginia, the Old Dominion", being galley proof]

During this session a bill was passed giving to James Rumsey the exclusive right to construct and navigate boats "upon his model" in the waters of the State during a period of 10 years, and in the following year he secured a similar privilege from the General Assembly of Maryland. Rumsey enlisted the interest of George Washington, who issued a certificate, September 7, 1784, to the effect that he had "seen the model of Mr. Rumsey's boats", and that "at the town of Bath" (Berkeley Springs) he had "been eyewitness to an actual experiment" thereof.

By 1787 Rumsey had secured sufficient capital to build a passenger-carrying boat, in lieu of his former model; and its first successful trial was made at Shepherdstown, (West) Virginia, on December 3, on which occasion this crudely constructed steamboat carried six persons up the river amid the great excitement of a curious crowd of onlookers, among whom was Gen. Horatio Gates. "Crazy Rumsey" had now become a man of note. He went to Philadelphia, where Franklin was instrumental in creating the "Rumseyan Society." With the help of the society Rumsey sailed for London to secure financial aid in the construction of a vessel fashioned with better material. There he died on the eve of apparent success, and his steamboat perished with him. But regardless of the failure of his associates to follow up the steamboat plans upon which he was working, Rumsey is now receiving recognition because of his contributions in allied lines. In England he patented several forms of boilers, one of which was the first coil boiler; and, according to high authority, it is he who may truly be classed as the originator of the universally used water-tube boiler, while another form in the same patent was the vertical tubular boiler, practically as made at the present time. The water-tube boiler, first successfully used by this hitherto overlooked American inventor, is the type of boiler employed today for applying steam to stationary engines or turbo-generator units, as the combined steam-raising capacity of other types of boilers is small in comparison with the equivalent capacity of water-tube boilers. Since mechanical engineers are agreed that water-tube boilers are the best for large steam plants and plants worked at very high pressure, and that the modern trend in engineering is toward higher and higher pressures, the significance of Rumsey's pioneering is all the more remarkable. In addition, it may be said that after a lapse of a century and a half his genius is honored in practical fashion by the fact that the water-tube boiler originated by him has been adopted by the Navies of Great Britain and the United States.

NEWBURG, W. VA., *April 19, 1937.*

Congressman JENNINGS RANDOLPH,

House Office Building, Washington, D. C.

DEAR SIR: In the Grafton Sentinel of April 14 I note that you are interested in getting for West Virginia the credit for having had the first steamboat built within the borders of our State.

A few days ago I wrote a few West Virginia items for Miss Gertrude Knott, of Kentucky, who will conduct the Fourth National Folk Song Festival in Chicago the last of May.

During my research I found among some old books a history that seems the most accurate, according to old traditions, that I have yet found, and I have quite a few. The front pages were missing, and I cannot give the date of its publication, but it goes back as far as 1607 concerning activities on the eastern coast leading up to and into our present State.

I am sending you a copy of what this history says about James Rumsey. Accompanying the sketch in the book is a drawing of his old home at Shepherdstown, drawn by Henry Howe in 1840.

I imagine you have all this, but this subject is contested, and I find that our early history is fading so rapidly from our later editions that I am sending this just in case it should be overlooked, as in the case of the birthplace of Nancy Hanks, which was found by a mere chance after months of research.

The world in its mad march has discovered West Virginia, and I am glad you are protecting our history. In one way or another nearly all American history leads straight into our hills. Hideouts, wars, murders, and romance marched hand in hand.

An educated girl who loved too well but not wisely took refuge in our hills and gave life to the mother of Abraham Lincoln. George Washington loved them so well he spent months in the wildness of our forests. Thomas Jefferson wrote about them and there somewhere among his early works, I imagine, can be found the complete facts about the launching of the first steamboat.

Following are quotations from the old history:

"The first literary work that related in any manner to what is now West Virginia was the Notes on the State of Virginia, written by Thomas Jefferson, third President of the United States, and published in Paris, France, in 1784, because the work could be done more cheaply there than in America. The edition consisted of but 200 copies, some of which were distributed in Europe, but the greater number in America. The work was reprinted in France and this country. The author described with great exactness the rivers and mountains of West Virginia, having access doubtless to the journals of Gist and other early explorers within the present limits of the State.

"Shepherdstown is famous for having been the residence of James Rumsey, who was the first man in the world to propose steam as a substitute for wind in propelling vessels. He built a steamer on the Potomac in 1784, which was tested on the broad reach of that river at Shepherdstown, in the presence of General Washington and other distinguished men of the day. The material and workmanship, together with the tools used, were those of an ordinary blacksmith shop. After patenting his invention, Rumsey went to London, where greater facilities were offered for perfecting it. There he built a steamer which was tested on the Thames. December 20, 1792, while explaining his invention before the Society of Arts, of London, he placed his hand upon his head and complained of pain. This was his last utterance. He died 24 hours later and was buried at St. Margaret's, in Westminster Abbey. He is the only West Virginian whose dust sleeps with that of the great men of England. Thus one of the world's greatest inventors was a West Virginian, and he found a grave in a foreign land. The honor of the invention has been long claimed for others, and it is now time that the great wrong be corrected and credit given to him to whom it rightfully belongs, and whose claims are beyond successful contradiction."

I hope this information aids you in your research into the life of this great man.

Sincerely yours,

MRS. ALEXANDER D. COX.

Importance of Soil Conservation

EXTENSION OF REMARKS

OF

HON. WILLIAM L. NELSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 23, 1937

On the bill (H. R. 6523) making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1938, and for other purposes

Mr. NELSON. Mr. Speaker, within a few hundred yards of my home in Columbia, Mo., there has been carried on since 1917, under direction of the Missouri Agricultural Experiment Station, investigations covering soil and moisture losses and conservation under different systems of cropping and cultural practices. These were the earliest investigations of this character in the United States, and the results have been widely used by the Federal Soil Conservation Service in the development of its program. So, as a member of the Agriculture Committee, I am greatly interested in certain items in this bill.

The investigations to which I have just referred include a study of the influence of different crops and cropping systems upon run-off and erosion losses, as these are taking place on the farms of the country. The object is to determine those systems which offer the most in conserving both soil and water so that these might be more generally adopted. There is also included a study of the influence of degree and length of slope of land upon the amount of run-off and erosion taking place. During the 20-year period through which these experiments have been conducted a large amount of data have been accumulated.

The general results of these investigations may be summarized very briefly as follows: For an average slope and on an average Missouri soil land left uncropped and kept free of weeds loses approximately 40 tons of soil per acre annually, continuous corn loses approximately 20 tons, continuous wheat approximately 10 tons, and continuous grass less than 1 ton. At the same time the amount of water lost from the bare soil was cut to less than half where the ground was covered with a continuous crop like grass. Think of it, less than half! One of the most striking results from these investigations is the influence of a good cropping system. For instance, a crop rotation of corn, wheat, and clover not only greatly reduces the run-off from that under bare soil or corn but the erosion is reduced to less than 3 tons per acre per year. In other words, if a man will adopt a good cropping system in which the acreage of corn is limited and where small grain and sod crops are included, erosion on average slopes may be reduced to almost negligible quantities. This, I am glad to say, has also been shown on Eminence, my home farm, which has been in the family for

many years. The number of pounds of run-off water to remove 1 pound of soil varies from 34 pounds for bare cultivated land to over 1,600 pounds for bluegrass sod. Soybeans sown in rows are shown to cause practically the same amount of soil loss through erosion as does corn. Where they are drilled, so that the land is well covered, the loss is only about half as much as that under corn. The annual losses of plant nutrients in the eroded soil under continuous corn or wheat are shown to be as great or much greater than the amounts removed by the crop, while under a good rotation or grass these erosion losses are much less than those through the crops. In general, these investigations have given information through which systems of cropping and cultural practices may be worked out for controlling erosion losses and greatly lessening run-off losses on lands of this character.

So my enthusiasm for the soil-conservation item carried in the agricultural appropriation bill now under consideration is easily understood. I wish also to refer to another and somewhat similar project being carried on in my State. Before doing so, though, permit me to call your attention to the importance of this great Nation-wide soil-saving work, as I see it.

We are fortunate in having in the White House a leader who appreciates the gravity of the conservation problem which America must solve soon, if ever. Nor is the present occupant of the White House the first Roosevelt to advocate the saving of our natural resources. Said Col. Theodore Roosevelt, "When the soil is gone, man must go; and the process does not take long."

Back of much of the present-day grief is greed. Thoughtlessness, though, and lack of understanding have played yet larger parts in the loss of our soil upon which we as a people must depend. Far be it from me to censure the pioneer, who with his family went west with ax, rifle, and Bible, all of which he used, and enduring hardships made clearings in the forest or broke the dense prairie sod. Without these hardy spirits there would have been no Midwest as we today know it, no Mississippi Valley bread basket and meat market upon which the populous cities of the East largely depend.

Nature is kindly and tolerant, but will permit abuse and excuse man's mistakes only so far. The time comes, and come it has here in our United States, when the tables are turned. There is no longer free land for farming. The day is gone when one who has mined or robbed the soil can get in his covered wagon, call his dog, and move on to another 160 acres. Changed are the conditions such as Dr. Van Dyke described when he referred to the fact that the path of empire westward was greased with the bacon fried on the way.

Droughts and dust storms do not just happen. In part they are man-made. In too many places plows replaced cows. Neither the man nor his sons or grandsons who, in the districts of scant rainfall, destroyed the grass, can now put it back. Eventually, let us hope, through an acknowledgment of the mistakes that have been made and a better understanding of the remedies within reach and by working with nature, a part of the damage may be corrected. Speaking of droughts, they are not so spectacular as floods, but the actual losses are frequently much greater. By this let it not be understood that I am opposed to flood control. I would, though, suggest that much of the work to be done will serve to lessen the losses, whether marked by dust storms or floods, some of the sources of trouble being similar.

We are a spectacular people. We delight in bigness. Sometimes it seems that we imagine we can go to the lower reaches of the great rivers and control floods. This theory is as foolish as to suggest that in some mysterious manner we might stop a dust storm once it had started. In the control of either—and here is where soil conservation and kindred activities come in—we must begin at the beginning. We need to remember that sponges hold more moisture than stones or humus-starved soils. As every observer knows, the leaf-covered soil in the forests holds moisture just as did the lands where, in an earlier day, grew bluestem, often several feet in height.

The grass of the pioneer is gone. The same is true of more than one-third of the original forests of the United States. Under conditions which then obtained, water walked rather than ran. Today it races. So to slow it down is one of the things we must do. If our soils are to continue to produce anything like as plentifully as in the past, we must do everything possible to stop sheet erosion, the most harmful and the stealthiest form of fertility loss. So, because the original helpers which nature gave us are gone we must turn to crops, and in regions of deficient rainfall to farm practices which have been found helpful.

This leads me to refer to other work being carried on in Missouri in addition to that at Columbia. In 1930 the Bureau of Chemistry and Soils and the Bureau of Agricultural Engineering of the United States Department of Agriculture, in cooperation with the Missouri Agricultural Experiment Station, established a soil-erosion experiment station at Bethany, Mo. This station, which later was taken over by the Federal Soil Conservation Service, is now known as the Bethany Soil Conservation Experiment Station. It was one of the original 10 stations set up by the Federal Government in cooperation with different States throughout various erosive sections of the country.

This experiment station was located at Bethany upon leased land for the purpose of studying erosion losses and methods of soil-erosion control on the rolling Shelby loam type of soil. This is an agriculturally important soil in north-central Missouri, south-central Iowa, southeastern Nebraska, and northeastern Kansas. At the time these experiments were established from 55 to 70 percent of the area was cropped to corn and small grains. Erosion has been serious to severe because of the rolling character of the land, the impermeable nature of the subsoil of the Shelby loam, and the relatively high percentage of corn. The practice of planting tilled crops up and down the slope has accentuated the severity of the soil losses.

Representatives of the department of soils and department of agricultural engineering of the Missouri College of Agriculture and representatives from the corresponding Federal bureaus planned the various erosion-control experiments. Suggestions for changing the nature of the experiments, as well as the interpretation of results, have been the result of joint action between the cooperating agencies.

The aim of the experimental work has been to determine the extent of soil erosion on the Shelby loam under different methods of handling the land and to find out the most effective means of keeping soil and water losses to a minimum under a system of productive farming. Both the agronomic and engineering phases of erosion control are being studied in order to attain the complete objectives of the station.

The practical results to date include the following findings relative to effective erosion control: The importance of grass and legumes in the farming system, the importance of fertilizer applications in providing fertility for better crops and thereby lessening erosion, the significance of crop sequence, the effectiveness of terraces, the proper terrace grades and intervals, the behavior of different types of gully structures, the effect of regulated grazing on water and soil losses.

Future plans of the station include a completion of the studies originally planned and a study of the fundamental factors involved in the erosion process, such as the length and degree of slope factor and the interception of rainfall by different plants at various stages of their growth. Some additional experiments are also needed to evaluate the effect of various tillage practices on erosion and the technique and effectiveness of strip cropping in the agriculture of the region. It is believed that a maximum of 10 more years will be required to reach the complete objectives of the station on this particular type of soil, after which such experiments should be inaugurated on some of the other important soil types of this part of the Corn Belt.

In conclusion, I anticipate that somebody might suggest that this is a work for the local communities, counties, or States. Maybe this would be so if streams recognized politi-

cal division lines, but they do not. No one farmer, no one county, no one State, unaided and alone, can do the work so necessary to be done. All must cooperate, but without Federal assistance in this field, to think that we can solve such a problem is folly. Of course, control of waterways would be much more simple had watersheds, rather than rivers, marked the divisions between States. The reason for this view is easily understood. It but serves to stress the importance of Federal aid in moisture control and soil conservation as represented in the item carried in this agricultural appropriation bill.

The soil must be saved. Farming must be made safer.

Labor's Stake in Peace

EXTENSION OF REMARKS
OF
HON. JOHN LUECKE
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1937

RADIO ADDRESS BY HON. JOHN LUECKE, OF MICHIGAN, ON APRIL 27, 1937

Mr. LUECKE of Michigan. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following speech I delivered over the radio on the subject of peace:

In time of war labor has everything to lose and nothing to gain, not only in loss of life and limb but in money. Who is it that pays the bill in the end if not labor? When I say labor I mean the man in the field, in the factory, behind the counter, or anywhere where brain or brawn are found in honest toil. Regardless of what taxation may be imposed upon war profits, the rising costs of living come out of the pockets of the people, and especially those who can least afford it. Personal fortunes running into the millions can stand a 75-percent tax in time of war and still not feel the pangs of poverty. But a few pennies added here and there to the price of necessities leaves the wage earner hard pressed to make ends meet. They are the ones who pay the bill in the end.

There is no such thing as peace for labor. In time of war labor goes into battle because of international disorder; and in time of peace labor is taken up with the economic battles of life which might be termed national disorder. And because labor is thus engaged, it is not as active as it should be against war. Today, if at any time, organized labor should leave nothing undone which would prevent it from happening again as in 1917. War upsets the rational evolution of our economic life because it diverts the attention and study by the workers from their social-welfare problems. And that is why the dictators in power today are going out of their way to keep the spirit of conquest alive and holding that up to their people as the noblest and loftiest thing in life. They have failed to meet the economic needs of their people and in order that they might continue to rule, resort to war and to the primitive in man.

Labor will never advance as long as the warmongers have their way. That is history. In the Scandinavian nations, which have not had war for 100 years or more, there is found social progress and security. During the darkest depression years when those nations which took part in the World War were on the verge of revolution, Sweden was quietly and wisely building homes for its workers. In little Denmark, but great in progress, 85 percent of the farmers own their own homes, and that country hasn't had a war in a century. Compare that to the State of Iowa, richest farm-land State in the Nation, where 77 percent of the farmers are heavily mortgaged because of false war values.

The nations which participated in the World War are today the most insecure. They are heavily in debt with no let-up in sight. Discontent is rife among their people. And many of them have undergone complete changes of government with the worker worse off than he was before the war. That alone should be enough to make us hesitate and wonder whether or not it shall happen again.

Force never was and never will be the way to peace. If that were true, the earth should be the most peaceful spot in the universe, providing there are other worlds in it like ours, for 18 years ago there was a display of power by the nations of the earth such as was never seen in all its history. And instead of peace and good will what do we find?

There was a time when noncombatants were respected and protected, but not today. The fair soil of Spain is clotted with the blood of children, of women, of the aged, and the infirm. No one is spared. The man eaters of Europe, it seems, will stop at nothing to gain their end. And that is a fair example of the methods to be employed in the next war.

In days gone by nations declared war upon each other before taking up hostilities. But that has become old-fashioned. The modern way is to move troops in and take over the enemy-to-be's territory before he knows what it is all about. Why go to the trouble of declaring war? That only gives the other fellow the chance to bring up his defense, and that is poor war strategy. As long as there is going to be war, why tell the enemy about it? And that is sound reasoning. Man learns, even in the art of declaring war.

Only recently England voted a $7,000,000,000 war budget. It staggered us for a moment, but we quickly regained our self-control. Perhaps we were expecting it. At least it is taken for granted that that huge amount is necessary to preserve the British kingdom—for a while. But what I wanted to bring out in particular was the manner in which the British people were asked to shoulder that burden.

In spite of the fact that it imposes a tax upon business of 33⅓ percent on all new earnings over the average of the past 3 years—in spite of the fact that it will impose an income tax of 25 percent, or $1 on every $4, on every British taxpayer—Chancellor of the Exchequer Chamberlain calls it a "national-defense contribution." I want to stress that, "contribution."

The British people are becoming dubious of having such a burden draped over their shoulders, and so the shrewd English statesman asks them for a "national-defense contribution." And that is entirely in line with the modern development of war strategy and preparation.

But the significant thing about that huge war chest is the fact that it puts the English Nation on a war footing in times of peace. Not long ago we read where Germany was going on war rations because of certain developments in that Nation, and that, too, in times of peace. And how far is this thing going? That is the question.

Before Congress today is a bill to take the profits out of war. Of course, everyone knows that profits are the cause of war; and that being true, taking the profits out of war would certainly put an end to it as far as we are concerned.

Now, that bill is a mighty important thing and should be debated over and over again. Will it actually achieve the desired result? Let us see.

In the first perusal of the bill it reads like a fairy tale. Here is the thing we have been waiting for for years—to end wars by ejecting the cause. But on second reading things begin to cloud up a little. For instance, section 3 reads: "That in the event of war, or of a national emergency declared by Congress to exist, which in the judgment of the President demands the immediate increase of the Military Establishment, the President be, and he is hereby, authorized to draft into the military service of the United States such members of the unorganized militia between the ages of 21 and 31 as he may deem necessary, subject to such conditions, exemptions, rules, and regulations as the President may prescribe and publicly proclaim."

Now, the danger lies in the words "or of a national emergency declared by Congress to exist."

We have just gone through a wave of sit-down strikes. And as you will remember a certain hysteria came to the surface and a lot was said of law and order. No doubt there was some cause for such sentiment. But supposing this bill under discussion had become law and Congress had declared a national emergency to exist, the President, if he were inclined to do so, could have drafted everyone of the strikers between the ages of 21 and 31 into the military service.

Now I don't think that the sponsors of this bill want that to happen. And yet under the bill it can happen here, as it did in France during the railway strike some years ago. You remember that an emergency was declared and the railway workers were called to the colors and their cause was lost.

I understand that in the Senate the section of the bill which would tax profits was eliminated and what those profits are to be left up to the discretion of the Secretary of War. Why was that done? There can be only one answer. The munition makers are not asleep and nothing like taking away their profits is going to become a part of this bill. That alone should defeat it.

Labor must be on its guard lest this bill become law. And here again I wish to call your attention to the fact that wartime legislation is being enacted in time of peace. I think that is a dangerous precedent.

We are not an imperial nation. We should be the last on earth to become military-minded to the extent that our youth should live it and breathe it as is being done in some parts of the world today. I believe that it is possible for a man to be a man, that is, for youth to develop manhood clean of mind and body without being schooled in the art of driving a bayonet through the body of another human being.

There are some who say that war is a necessity. That it drives the race toward loftier and nobler heights. That if it were not for war the race would long ago have degenerated and become sterile. That war will eventually give birth to the superman. From whence this reasoning comes I do not know. But I do know this—every history book is merely a tale of war and destruction, of noble youth sacrificed for the sport of kings and erring diplomats. In spite of that record we are still on the bottom rung of the ladder of civilization.

These are days of voluminous mail as far as a Congressman is concerned. What with the Supreme Court issue, and other vast

questions which are before him, many letters are read and replied to in the course of a month. But during these months I received one letter which I prize very highly. It comes from a joint meeting of the Methodist and Presbyterian young people of my home town back in Michigan, and in that letter three requests are asked of me.

First. Please do not support H. R. 1954, because we are unanimously opposed to conscripting all men between 21 and 31.

Second. We ask you to support H. R. 199, the Ludlow bill, which would allow the people to vote on the question of going to war.

Third. We further believe that due to our isolated position we have a Navy plenty big enough. We favor a senatorial investigation of our war boom and of our naval policy.

It is signed by three boys and two girls, and that is one letter which gave me hope. These young people are on the right track. I would that it were possible to arouse all of our coming manhood and womanhood to shun war and work for peace. Because we have indulged in the past in this game of death and destruction we can't feed the hungry nor shelter the homeless today. It is up to labor, to the coming generation, to put an end to this thing. It is not yet too late.

Government Spending and a Balanced Budget

EXTENSION OF REMARKS

OF

HON. JOHN TABER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1937

Mr. TABER. Mr. Speaker, on the 5th of January last the President of the United States sent a Budget estimate to Congress providing for expenditures of the Government for the fiscal year 1938 and for certain deficiencies during the fiscal year 1937. He then stated that the Budget for 1938 would be in balance.

He estimated internal-revenue receipts for the fiscal year 1937 at $5,796,000,000. Based on the actual income-tax collections and other internal-revenue collections to date it is apparent that the total revenues of the Government for the fiscal year 1937, ending June 30 next, will be $4,741,000,000. In other words, the President was $1,055,000,000 out of line on his estimates for the 1937 Budget. He estimated at that time receipts for the Federal Government for 1938 of $7,262,000,000. It is apparent from the failure of income-tax revenue for this year that next year, with the same taxes, he will be $1,500,000,000 out of balance. At that time the President estimated expenditures for recovery and relief at $2,166,000,000 for 1937. It is now apparent that the actual expenditures will be $3,918,000,000, taking into consideration the $901,000,000 of principal receipts that have been expended for this purpose and a conservative estimate of $767,000,000 for expenditures from the middle of April to the 1st of July.

It is also apparent that the regular expenditures of the Government are going to run approximately $5,000,000,000 against an estimate of the President of $4,500,000,000. In other words, the total actual expenditures for 1937 are going to be $8,900,000,000—$500,000,000 more than the President estimated in January and even more than it was in 1936; and we are going to run behind for the year over $4,000,000,000.

Yesterday he submitted to the Congress a Budget estimate for $1,500,000,000 for relief and requested Congress to provide that amount. At the same time he continued to fail to comply with section 202a of the Budget law requiring him, when the Budget is out of balance, to submit estimates for taxes.

Ever since this administration began in 1933 we have had a continual failure on its part to comply with the law and we have had a continual series of promises that have not been kept.

He has increased the national debt from $20,000,000,000 to $35,000,000,000 in 4 years. He has spent $15,000,000,000 for so-called relief and has increased the debt by that amount.

In the measure of yesterday, after first submitting a Budget estimate of $1,500,000,000 for relief, he says:

> I propose to use every means at my command to eliminate this deficit during the coming fiscal year.

The President admits in that message that he has led the country to the edge of an abyss. He admits in that message a record of complete failure—that it will take but very little to push us over.

Every program that he has adopted has failed. The N. R. A. failed; its only result was to keep the people out of work and destroy small business. The A. A. A. failed; it has caused a shortage of crops and resulted in the importation of millions of dollars of farm products when this country should be self-sustaining.

And now he admits the failure of his relief program.

He admits that a continued failure to balance the Budget of the country will destroy our credit structure. It will do more. It will destroy the very fabric of our civilization. It will destroy the liberties of the American people.

At the same time that the President is urging economy upon Congress and contradicting himself by requesting the appropriation of an exorbitant sum, he is also urging before Congress the following bills:

Farm-tenant bill, to cost	$1,000,000,000
So-called flood-control bill, to cost	500,000,000
Youth administration bill, to cost	500,000,000
Wagner housing bill, to cost	1,051,000,000
Permanent C. C. C., which will cost annually	400,000,000
Public schools	100,000,000
Total	3,551,000,000

Costing a total of $3,551,000,000.

Does this look like the President was sincere?

Down to the 1st of April, Members of Congress have introduced bills which would authorize the expenditure of the tremendous sum of $190,000,000,000. I have placed in the CONGRESSIONAL RECORD, at page 3651, a list of those bills so that the people might see them. I have not the slightest idea but what the volume will increase from this time on.

The passage of these bills means total bankruptcy for the country.

One would think that we would have a right to ask the administration if it is talking about economy to have sincerity enough to abandon programs that have been a failure.

It comes before the country now and admits the complete failure to solve the problems of the Government and it comes before us with a contradictory program. Is the time never coming when the people will realize what has been done to them?

Now, let me dwell for just a moment on one more thing. The appropriation bills, in my opinion, will probably pass through Congress about June 15, that is, the regular bills and the deficiency bill on which hearings are now being held. From that date on there will be no regular business before the Congress except propaganda legislation. Propaganda legislation costs money. The very least it can cost the Treasury of the United States is from $100,000,000 to $200,000,000 a week in legislation that will be passed after the appropriation bills are disposed of on June 15.

Why is Congress going to be held in session after that date? Because, and because alone, the President of the United States has submitted to the Congress, and insisted upon their passage, two notorious bills.

First. The bill to pack the Supreme Court.

Second. The bill to reorganize the Government and to do away with an independent audit of Government expenditures so that a dictatorship can be brought about.

I estimate that if Congress is held in session to September 1, there will be an additional burden placed on the Treasury, not considered in the President's Budget, of $1,225,000,000. The responsibility for this lies entirely upon the President and upon his demand for the power of a dictator. Is it not time to stop?

Let us return relief to the States to be taken care of intelligently and honestly, get rid of the professional reliefers

who are crowding improper methods of spending the people's money onto the localities.

Let us get rid of all forms of fake before the whole country is pushed over the abyss. Let us provide for flood control in an honest way, with small dams costing a small amount of money and not with great big dams used for power projects which are generally full of water when they are wanted for flood control. Let us keep education in the hands of the parents of children back home where it belongs. Let us reduce the cost of Government in Washington, not by adding to the number of Government employees and bureaucrats and destroying their efficiency, but by trying to save a dollar for the taxpayer. Only two sources of revenue are open to the Treasury that can yield enough funds to meet this situation.

First. A general sales tax.

Second. A lowering of the income-tax brackets so that the married man with a family will begin to pay a tax when he has a $1,000 income and the single man will begin to pay a tax when he has a $500 income.

Remember, when you are asking for more appropriations, you are either asking for the absolute end of the American form of government and the complete ruination of our present civilization and the destruction of the liberties of the working man and the farmer, or you are asking for the sales tax and lower bracket income tax. Let us have the courage to do the thing we ought to do and stop the program of destruction before it is too late.

The alternative is uncontrolled and unbridled inflation, the destruction of industry, the destruction of the purchasing power of the workingman and the farmer. Now, before it is too late, is the time for patriots in Congress to set aside promotion schemes, to set aside those things which will cost the people money which they have not, and fight to maintain the liberties of the people and the solvency of our Government.

It is time for the American people to wake up and realize what the man in the White House is doing to destroy them, and in their might to support those Members of Congress who are fighting for the liberties of the American people and to stop the spending of money.

Harlan County

EXTENSION OF REMARKS

OF

HON. C. ARTHUR ANDERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1937

Mr. ANDERSON of Missouri. Mr. Speaker, when I came to Congress a little over 4 months ago I came here imbued with a desire to represent my entire constituency and my Nation; and my every effort has been toward that objective.

Especially did I come here with the intention to advance, insofar as possible, the cause of labor and of the underprivileged to the fullest extent of my ability.

Recent developments before the Civil Liberties Committee of the Senate have moved me to make a few brief remarks.

Few people can realize that there could ever be so dark a place as Harlan County, Ky. The mind finds it difficult to believe that such atrocities could transpire in the United States. But the time has come when we must purge from the annals of our history this record of disaster and tragedy.

Every day we read of some kindly individual of extraordinary humanitarian qualities hurling calumny at certain foreign countries for the instigation of practices that are repulsive to our conception of liberty and government. But I say let us take note of our own disgrace before we point an accusing finger across the sea or beyond our national boundaries. This Nation has suffered the blight of scandal and corruption before, but, in my opinion, no greater disgrace has ever befallen our country than the bloody episodes of Harlan County.

Not only have sacred and inalienable rights been ignored but human life has been extinguished with complete and notorious abandon. Common constables and sheriffs have reaped incomes of hundreds of thousands of dollars because they plundered, murdered, and manipulated the laws of justice to appease the greed of wealth and ruthless finance.

Men have died, families have been terrorized and maimed because they dared to ask for a chance to enjoy just a little of the liberty to which this Nation is dedicated.

Hired assassins have operated behind the shield of law and official position. With impunity and official sanction they have committed acts for which other men have been sent to prison or even to death.

I spent a great part of my life as a public prosecutor; I have been faced with terrifying and bloody crimes; I have come face to face with some of the Nation's worst criminals; I have sent men to prison and to the gallows to atone for outrages which they perpetrated upon our society. But never in my life has any criminal or any crime so completely overwhelmed my conscience as these recent Harlan County horrors. And it all happened right here in America.

Bold as these outrages may stand out in our mind we still lack the complete picture of this horrible crucible of human depravity, because the perpetrators of these crimes plead the protection of the Constitution. They are the first to seek the protection of the law which they have denied to others. The inescapable conclusion seems to be that our civilization has not advanced in proportion to the general progress in other lines of human endeavor.

It is time for every American, for every laboring man, for every housewife and mother to join in public denunciation of the persons responsible for the conditions in Harlan County.

While this plague is relatively local, its effects are universal. No nation can hope to merit the confidence of the masses upon which its existence depends when such sordid conditions are permitted to grow and flourish.

A ghastly crime has been committed against our society and our Nation, and the great tribunal of public opinion stands ready to condemn forever those who by their acts are unworthy of further toleration in our midst.

The Good Old Silver Certificate—Almost As Much To Be Desired As the Silver Dollar

EXTENSION OF REMARKS

OF

HON. JOHN R. MURDOCK

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1937

Mr. MURDOCK of Arizona. Mr. Speaker, I listened in amazement to the objection raised by the gentleman from New York [Mr. TABER] to an item in this second deficiency appropriation bill concerning the printing of silver certificates. The gentleman seems to deplore the use of silver in any form in our monetary system. He seems to indicate that the use of the white metal, or the paper substitute therefor, results in no good to anyone excepting two rich mining corporations who ought not to be thus subsidized. While I am in favor of economy, and have all along regarded myself as a sound-money man, I cannot agree with the gentleman from New York with this item of economy nor with his evident desire to restrict this kind of circulating media.

The United States of America has had an interesting monetary history. This is true whether we consider our various

kinds of currency or our diverse coinage practice. It is difficult to say whether there has been a greater conflict between the supporters of governmental currency versus bank currency, or the conflict between the supporters of the yellow metal and the supporters of the white metal. The battle of the standards is an old one and is by no means a dead issue today.

However, we need not consider merely the struggles between the forces that favored a bank currency against those that preferred governmental currency, nor the bitter contest between the forces favoring gold as the basic metal and the forces who insisted on both gold and silver as the basis of our money structure. In our economic and monetary history there has been going on perpetually a struggle greater than either of the two thus mentioned, but inclusive of both. I refer to the age-old American struggle between the sound-money men and the cheap-money men.

Even before the Constitution of the United States was framed and adopted there was a conflict on the one hand between those who favored cheap money to the extent of having the States issue such, and on the other hand the creditor class, who saw the injurious effects to them and to their business by such a monetary policy. One of the purposes of the framing of the Constitution was to limit the issuing of money to Congress solely that we might have a sound and uniform coinage system, and presumably, escape the evils of irredeemable paper money. The adoption of the Constitution was a victory for sound money. Let it be remembered that the Constitution itself recognizes both gold and silver as a basis of our money, and makes no discrimination in favor of either. By this recognition the way was paved for a conflict later between the yellow metal and the white metal and the respective supporters of each. About a century ago the controversy between bank notes and governmental paper money came into the picture, and that, too, became one of the phases of the struggle between sound-money men and cheap-money men.

Now, although I have regarded myself as a sound-money man, I am beginning to doubt the wisdom of letting the banks have too much to do with our currency and also with our credit. There is likewise a doubt in my mind whether the yellow metal ought to be the sole backing and support of our money system. I am not in favor of bimetallism, but I do believe that silver has as vital a part to play in our money scheme as it has ever had in this country or any other country or at any other time.

It might be supposed that because I am from a western mining State where silver is one of our chief mineral products that my views are influenced by that fact. This may be true to a slight extent. I would oppose vigorously any decreased use of silver in our monetary scheme of things. I am in favor of as extensive a use of silver as wisdom and sound economics justify. The greater the extent of that use, the greater the benefit to my silver-producing State. However, that is not my only view of the matter. If I were a resident of Rhode Island, I should still insist on a liberal use of silver in our coinage system.

Perish the day when a silver coin can no longer be found in the pockets of our citizens. I mean a silver dollar as well as the smaller silver coins. Of course, I know that we cannot coin and use silver dollars to the full extent of our needs, and, accordingly, I am satisfied with the use of silver certificates. We must have them. I agree thoroughly with the gentleman from Colorado [Mr. MARTIN], for as I feel in my pockets for the wherewithal to buy the next meal, I bring forth a new crisp $1 bill, a silver certificate, which I have just received from the Sergeant at Arms. I like that silver certificate, the new $1 bill with the seal upon it, almost as if it were a silver dollar, the old one with the majestic Goddess of Liberty upon it. Surely the gentleman from New York is entirely erroneous in the suggestion of economy he has made today concerning silver certificates.

World Peace

EXTENSION OF REMARKS
OF
HON. HENRY G. TEIGAN
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 27, 1937

ADDRESSES BY HON. JOHN T. BERNARD, OF MINNESOTA, HON. HENRY G. TEIGAN, OF MINNESOTA, AND HON. JOHN M. COFFEE, OF WASHINGTON, ON APRIL 22, 1937

Mr. TEIGAN. Mr. Speaker, under leave granted me to extend my remarks, I submit herewith copies of an address by the gentleman from Minnesota [Mr. BERNARD] made before the students of Howard University and of addresses by the gentleman from Washington [Mr. COFFEE] and by myself, made before the students of George Washington University.

These addresses were all delivered at peace demonstrations held at the universities named on April 22 last and are in the nature of a protest against the United States engaging in the world armaments race and in that way joining hands with those other nations that are now obviously preparing for another world conflict.

ADDRESS OF HON. JOHN T. BERNARD, OF MINNESOTA, BEFORE STUDENT STRIKE RALLIES AT HOWARD AND GEORGE WASHINGTON UNIVERSITIES ON APRIL 22, 1937

YOUTH'S CHALLENGE TO THE WAR MONGERS

Today the youth of America registers its protest against the war makers of the world. I am proud to stand here with you in the cause of peace. I am proud to be able to tell you that in my State, Minnesota, our Farmer-Labor Governor, Elmer Benson, has officially proclaimed April 22 as Peace Day throughout the State school system. All students in my State are taking part in some action for peace today.

You are here because you know that the struggle against war is your struggle. I am here because neither the youth of the world nor any other single group can successfully struggle against war alone. I speak to you as a worker, a trade-unionist, elected by the workers and farmers of my district to serve the cause of peace in Congress. I tell you that it is only by uniting with other peace-seeking groups—with farmers, workers, white-collar people—that the young men and women can make a world which will use your strength and your brains in the service not of death but of a better life.

We cannot speak of the youth movement for peace as a separate thing. It is an important part of the people's movement for peace gaining force in the world today. I want to talk to you of that people's movement, of its allies and its enemies.

Would resistance to the Fascist bullies precipitate a world war? I think not. What has been done in the name of "keeping the peace" has, instead, betrayed peace. No single nation acting alone can stop the march of war. On that theory the League of Nations and the idea of collective security were founded. Though collective security grows weaker day by day, and the League lies dying, the theory remains sound. The trouble was not with the theory, but with the failure of the nations, and particularly of Great Britain, to carry it into practice. Aroused recently by Germany's threat to Morocco, France and Great Britain made one convincing counterthreat. Germany backed down. If Japan had faced a world united in defense of Manchuria, there might be no Manchukuo. The prompt and rigorous use of sanctions would perhaps have saved Abyssinia. And if the policy of nonintervention had never been born to curse the legitimate government of Spain the Spanish rebellion could long ago have been put down. The Soviet Union has worked ceaselessly to use the League of Nations for bringing about a united defense of peace. It has succeeded at least in helping postpone the explosion.

The Fascist war makers are united by the German-Japanse pact, in which Italy is a silent partner. A world front of peaceful, democratic nations is big enough to say "no" to this unholy alliance. That ringing "no" would lift the war clouds from Europe and America for many years to come.

But England wavers and America is seeking peace along a different path. Shall we find peace by isolating ourselves from all nations and people who are willing to struggle with us against war? Certainly not. That is what the Fascist powers would like to see us do. Hitler and Mussolini in particular have mocked at the idea of collective security. They would like to see the defenders of peace squabbling among themselves—England at logger-

heads with France; France abandoning her alliance with the Soviet Union; mutual-defense pacts destroyed in the Baltic States and in the Balkans. Above all, Hitler and Mussolini find cause for rejoicing when isolationist policies triumph in the United States. It was Hitler who congratulated the Congress that passed the shameful neutrality bill, against which I cast a solitary dissenting vote on my first working day in the House of Representatives. Hitler, Mussolini, and the Japanese militarists saw what that bill means—a free hand for Fascist intervention in Spain, a free hand for Fascist aggression everywhere.

Many who really want peace confuse peace with neutrality. But we are not neutral when we play directly into the hands of those forces now mobilizing for the next great conflagration.

If we abandon the sham of neutrality, where shall we find allies to assist us in defense of peace? We shall find them, first of all, among the people of the world, the workers and the farmers and youths who have nothing to gain and all their blood to lose if war does come. Our strongest allies are therefore in those countries where the people's peace movement has gained the greatest strength. In France, where the people's front government struggles against the forces of fascism, both at home and abroad. In Spain, where the great people's army of the Republic fights its historic battles for the peace of the world. In the Soviet Union, where Ambassador Davies found the red army "a great army of citizens organized for peace." We shall find a strong ally in China, whose growing unity puts a check on the aggressive designs of Japan. We shall find allies among the small countries—Czechoslovakia, Finland, Rumania, Belgium—all those whose national existence is threatened by the Fascist advance.

There is talk, so often repeated that it appears to be more like a trial balloon than mere idle rumor, that our Government is considering a project for world conference to discuss the maintenance of peace. Any such action on our part would serve notice on all would-be aggressors that the United States has once more resumed the responsibilities of world citizenship.

Can America keep out of war? If war comes to the rest of the world, there are few with their feet on the ground who would care to gamble on our chances of peace. "War anywhere threatens peace everywhere", said Secretary of State Hull. And Ambassador Bullitt, speaking in Paris, emphasized the point in these words:

"It is impossible to affirm that if war broke out in Europe America would not be forced in, as in 1917."

It is Mr. Hearst who says simply, "Stay out of it." And tells us that the American people know how this is to be done. Says Mr. Hearst:

"It is to be done by molding an Army, Navy, and air force second to none—to make this Nation so strong that no foreign aggressor ever will dare attack or even antagonize the United States."

That is Mr. Hearst's recipe for peace. No foreign aggressor attacked us in 1917. The fear of attack is just a Hearst bogey.

And what do you mean, stay out of it, Mr. Hearst? We are already so far in that the mere rumor of a possible peace conference, reported in the Wall Street Journal, was enough to send stock-market prices tumbling. We are in it to the tune this year of $953,000,000. Those are the figures given by the President in his Budget message last Tuesday. They mean that we are unbalancing the Budget by overweighting it on the side of armament expenditures, and trying to balance it again by cutting three or four hundred thousand persons off the W. P. A. rolls.

What we need is not a bigger war budget but a better peace policy.

ADDRESS BY HON. HENRY G. TEIGAN BEFORE THE STUDENTS' PEACE DAY DEMONSTRATION AT GEORGE WASHINGTON UNIVERSITY, WASHINGTON, D. C., APRIL 22, 1937

It is indeed gratifying to know that the youth of our land is taking the question of world peace seriously. The fact that in literally hundreds of colleges and universities of the land meetings of this sort are being held today by students in those institutions, protesting against the mad armaments race and urging upon our Government that steps be taken looking toward the establishment of permanent peace throughout the world, bears ample testimony that the young folks of this generation are alive to the situation.

WORLD WAR COST $400,000,000,000

A few days ago I was doing a little research on the cost of the World War insofar as the belligerent nations were concerned. I came across a statement of President Nicholas Murray Butler, of Columbia University, in which he estimated that the cost of the war had reached the vast sum of $400,000,000,000. Think of it, $400,000,000,000! This is an amount so great as to stagger the imagination.

The only practical appraisal that can be made of this tremendous loss is that it represents more than the entire wealth of the United States. This, of course, does not include any monetary estimate that might be placed upon the millions of lives that were lost.

PEACE DEMONSTRATIONS A HAPPY OMEN

This peace-day demonstration taking place in our universities and colleges is a happy omen. It shows that the young men of the land are not reconciled to the thought of being made cannon fodder in any future wars waged by the capitalist class of this country, as was the case in the World War when their patriotism was aroused by the false plea that they were enlisting to make the world safe for democracy. It is you, the young men of the country, who will do the fighting if another war comes upon us. And it will not be your war.

In this connection it is well to keep in mind that the United States has engaged in no foreign war that was not of its own making. We have not had war forced upon us, notwithstanding the hypocritical pleas that have been made by those in power at the time we entered such a conflict. We made war upon Mexico to rob that country of millions of acres of territory; we made war upon Spain in behalf of the Sugar Trust and at the suggestion of William Randolph Hearst and his newspapers; and we made war upon Germany and Austria in order to make good the bonds of Wall Street speculators who feared that defeat of the Allies might destroy the value of their investments.

FEW PERSONS FAVOR WAR

There are, of course, relatively few persons who believe war is a good thing. Yet I recall that some years ago an ex-President of the United States, Theodore Roosevelt, attempted to glorify war by contending that it brought out and developed many of the stronger qualities in our young men. On this basis he justified war. Even so, there are not many persons who really favor war. They are only blind to the possibilities of peace and ignorant of the causes of war.

I come from a State where war is neither favored nor glorified. Gov. Elmer A. Benson, of Minnesota, a few days ago issued a proclamation declaring April 22 as Peace Day. Governor Benson stated that he subscribed fully to the aims and objectives of Peace Day. He urged the participation by the people as a whole in this enlightened movement of the young people in order that they might direct their thoughts and energies to an analysis of the causes of warfare, its futilities and the means of its prevention.

GOVERNOR BENSON ANALYZES SPANISH WAR

Speaking of the present war going on in the Spanish peninsula, Governor Benson said:

"In one European country we are now witnessing what they call a civil war, but which in reality contains all the elements of international conflict. A heroic people is struggling against foreign invaders to preserve its democratic right of self-determination, while fighting side by side with them are also volunteers from foreign lands. The statesmen of Europe are looking on nervously, not knowing when the spark will set the entire world aflame.

"And while this war is being waged with dreadful fury and with appalling butchery, the bombing of exposed cities, slaughter of civilian populations, killing of women, children, and old men, the only solution which the statesmen can find is producing more armaments, more bombs, more airplanes, more poison gas, more and bigger cannon, more machine guns, more battleships, more effective engines of destruction. Fear has supplanted reason—and the nations are preparing to plunge headlong into the maelstrom which they believe inevitable. Even the United States, whose shores are safe from foreign invasion, has joined the race for more armaments."

WAR LORDS AND FAKE STATESMEN

It is, indeed, a happy sign of the times that there are Governors who take issue with our war lords and fake statesmen who are willing to spend billions of dollars to build up a more powerful war machine in this country. A few days ago Congress passed a bill appropriating more than $500,000,000 for the Navy. Now, it is quite obvious to any man at all familiar with the situation that a navy is today almost obsolete as an instrument of defense. It is now primarily useful for offensive purposes. Yet those who support this large military program consistently talk about building up an army and navy for defensive purposes. What hypocrisy! Or, perhaps, I should say, what lack of understanding!

Incidentally, those who lead in the fight for increased expenditures for armaments are the most vigorous in their opposition to spending public money for the relief of distress among the farmers and workers of the country. Wall Street influences appear to guide the thought and actions of these public officials.

GOOD WISHES FOR FUTURE DEMONSTRATIONS

In conclusion, let me say that I wish you well. I hope that you will continue the good work you have started out to do. Let next year's Peace Day demonstration be even greater and more militant than the one you have staged today. My only regret is that the president of this institution should have seen fit to interfere with your demonstration against the plans and program for another world conflict. Apparently the results of the late World War have fallen upon deaf ears as far as he is concerned.

I thank you. [Applause.]

ADDRESS OF HON. JOHN M. COFFEE, OF WASHINGTON, AT GEORGE WASHINGTON UNIVERSITY ON APRIL 22, 1937

Are we to be led supinely into another frightful world holocaust as we were docilely inveigled into the last war? The slogan of the war makers has ever been, "We are in it for national defense. We must fight to avenge the national honor."

The Anglo-French loan was about to be defaulted in April 1917. Ambassador Page, sycophant of the British Foreign Office, squirmed

like a stuck pig—appealed frantically to Washington—and lo and behold! we declared war against Germany * * *. The institute poll showed more than 7 out of 10 now opposed to our having declared war against Germany 20 years ago. Are we to repeat the same blunder?

What a travesty! Inspired by lofty slogans—"A war to end all wars", "A war to make the world safe for democracy"—we credulous ones were fanned into a war hysteria. Now democracy struggles, bleeding, against the powerful onslaughts of fascism. The world smugly stands aside as a friendly democratic government in Spain, inspired by the loftiest of ideals, fights the combined might of Fascist Germany and Italy.

We are isolationists when Ethiopia, Manchukuo, Grecian Islands, and Spain are invaded from without. But we are participationists when American corporate and financial interests are menaced.

The McReynolds unneutrality bill puts profits above lives, impliedly allies us with the forces of fascism, leaves it discretionary with the President to draw the whole Nation into ruin by forcing us into another war, exempts South and Central American dictatorships from regulatory provisions of the bill; in effect, guaranteeing such fascist puppets and governments in power.

Why not socialize munitions manufacturing? Take all profits out of the instruments of war. Prohibit the sale, the export, of munitions in time of peace as well as war. Prohibit the sale of raw materials in time of war.

Liberals are shocked at the spectacle of Uncle Sam spending more than half a billion a year on his Navy while cutting his already inadequate appropriation for the unemployed in half. Which is more important—to save lives and morale at home or to build the war juggernaut?

The Supreme Court

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, April 29, 1937

ADDRESS OF HON. KENNETH McKELLAR, OF TENNESSEE, ON APRIL 12, 1937

Mr. REYNOLDS. Mr. President, I ask unanimous consent to have printed in the RECORD the able and interesting address delivered by the distinguished Senator from Tennessee [Mr. McKELLAR] at Kinston, N. C., on April 12 of this year. The main subject of the address is the proposal to enlarge the Supreme Court of the United States.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Chairman, ladies and gentlemen, I am very happy to be here tonight. Thank you so much for inviting me. To us Tennesseans, North Carolina is very dear, for she is the mother of Tennessee. For a long time we were a part of your territory. We are proud of the fact. We are proud of our ancestry, and we are proud, not only of our own history, but we are also proud of your history, and so it is with peculiar pleasure that I visit here tonight.

Before going into the subject matter of what I was asked to say here tonight, I want to have a word about the two Senators from your State. I know both intimately and well, and I admire them both very much.

Senator BAILEY is a man of ability and an able and splendid Senator. He is one of the best speakers and debaters in our body, and an upright and conscientious gentleman. I do not agree with him at all in this Court matter about which I am going to talk to you. I think he is utterly wrong, but you know, my friends, there must be differences between us, and I do not criticize the position a Senator may take in the discharge of his public duty. Until a measure is tried out, it is impossible to say who is wrong and who is right.

I next come to your other distinguished Senator, the handsome and delightful gentleman who has just introduced me. BOB REYNOLDS came to the Senate on November 8, 1932, and he has certainly made an enviable record there. He is one of the most popular men in the Senate. He is one of the most vigorous and active men in the Senate. His splendid work to restrict immigration into this country has been his outstanding work. His voice is ever raised in behalf of the common masses of the people. He stands 100 percent with our great President, Franklin Roosevelt, and he stands high not only in the estimation of his fellow Senators but high in the estimation of the American people. I am delighted to have him as a colleague. I am delighted to have him as a coworker, and I believe that in him you have a representative worthy of the great State of North Carolina.

In 1923 Claude Kitchin, one of the finest men that North Carolina ever produced, one of the most able and eloquent men that ever served in Congress, and my good friend when I was a Member of that body, died. He was succeeded by your present Congressman, the Honorable JOHN H. KERR, who has been elected to every Congress since that time, and in the 14 years that he has served he has made a splendid and distinguished record, and I take great pleasure in testifying as to his ability, character, and worth. No district in the United States is any better represented in the House of Representatives.

And now, my friends, before embarking upon the main question that I have come here to talk about, I want to have a word to say about another man. He is your friend and mine, and, in my judgment, he stands closer to the American people today than any man has ever stood in the history of our Nation. He is a man of great ability. He is a man of great energy and industry. He is a man of the noblest purposes and the loftiest ideals. He is a man of the kindliest and gentlest nature I have ever known. He is a man of wonderful education and attainments. He is the best radio speaker in the world today, and he has done more to bring this country out of want, penury, and woe and more to restore it to prosperity and happiness than any President that this country ever had—and I refer to your President and my President, Franklin D. Roosevelt.

As we all know, our constitutional forefathers set up three divisions of government—the legislative, the executive, and the judiciary. These three divisions of government, contrary to what many people claim, were not independent of one another nor were they equal in power. The legislative was given the largest grant of power, the executive the second largest, and the judiciary came third.

At the very outset I want to say that supreme sovereign power was not lodged in the Supreme Court, and no such contention can be maintained by reference to the Constitution itself or by any implication of the Constitution, or by any law, or by history, or by precedent.

On the contrary, the Constitution expressly provides that Congress should regulate the appellate jurisdiction of the Supreme Court both as to law and as to facts; that the number of members of the Court was to be fixed by the Congress; that the members of the Court were to be chosen by the President by and with the consent of the Senate; that all inferior courts Congress should have the power to establish or not to establish and fix the jurisdiction of all such inferior courts. It is true that a check was put upon the Congress in regard to inferior courts by requiring that judges should be appointed for life or for good behavior.

In addition to all of this, the House of Representatives was given the right to impeach any judge upon proper cause, and the Senate was to be a court of impeachment to try such judges.

It is also to be noted that Congress has exercised the jurisdiction given it and has passed literally hundreds of laws fixing, changing, or revoking jurisdiction not only of the inferior courts but also of the Supreme Court itself.

Thus it is perfectly clear that the final arbiter was to be the Congress and not the Court.

THE POWER TO DECLARE LAWS UNCONSTITUTIONAL

There is no express provision and no implied provision in the Constitution of the United States giving the Supreme Court the right to declare acts of Congress unconstitutional. It is true that in the Constitutional Convention a resolution was introduced by Mr. Madison, the secretary of the convention, requiring that acts of Congress should be submitted both to the President and to the Supreme Court, and if both the President and the Supreme Court approve them they became the law. If both vetoed them, then Congress could only pass such vetoed law by a three-fourths majority. If either the President or the Supreme Court vetoed the law, then it should pass after two-thirds majority voted for it. This amendment was defeated, and the provision established giving the President the right of veto as now provided. The question of the Supreme Court's right to invalidate acts of Congress was mentioned by six members of the convention, three of them seeming to assume that the Supreme Court would have that right, the other three more or less violently asserting that the Supreme Court would not have that right.

THE JOHN MARSHALL DECISION

In 1803 came the John Marshall decision, or rather the dictum in which he stated that the Supreme Court had the right to declare an act of Congress unconstitutional. That opinion arose in this way: Up to March 4, 1801, the Federalist Party had been in power. Mr. Jefferson running as a Democrat, then called Republican, won. The Federalist Congress in the short session had passed a bill authorizing the appointment of five justices of the peace for the city of Washington. Mr. Adams appointed the five justices of the peace. John Marshall was the Secretary of State under Mr. Adams. The commissions of the five justices were signed by the President and put in the hands of Mr. Marshall and for some reason he did not deliver them and they had not been delivered when Mr. Jefferson took office. A man by the name of Marbury was one of these justices and he, through his lawyers, made a motion in the Supreme Court for a writ of mandamus to force Mr. Madison to deliver his commission.

Now this was an attempt to have the Court exercise its original jurisdiction, and under the very terms of the Constitution the Court had no jurisdiction over it and John Marshall in this opinion of Marbury against Madison held that the Court did not have jurisdiction and that was or should have been all there was to the case, but Mr. Marshall did not content himself with this but went on to argue that in a proper case the Supreme Court did have the right to annul an act of Congress.

THE HISTORY OF INVALIDATING OPINIONS

The Supreme Court continued its work until 1856 before it ever attempted again to indicate that an act of Congress was unconstitutional, but in 1856 the Dred Scott case came before the Congress. He was a Negro slave who sued his master in the Federal Court to obtain his freedom on the ground that his master had taken him north of the 36°30' latitude, which was the dividing line between slavery and freedom under the Missouri Compromise Act. While the case was pending in the Court and 2 years before its decision the Missouri Compromise Act was repealed, but the Court did not bother about the repeal of the act, incidentally after it had been in effect 34 years, and the Court rendered an opinion holding the Missouri Compromise Act void.

Many thought it brought on the Civil War, and it probably had a great deal to do with it, and was the second noted case of the Supreme Court meddling in matters over which it had no jurisdiction.

The next most famous case was the so-called *Legal Tender cases.*

During the Civil War Lincoln was President and Salmon P. Chase was Secretary of the Treasury. The Government had to have money, and a law was passed under Mr. Chase's supervision creating what was known as greenbacks, or legal tender. Mr. Lincoln afterward appointed Mr. Chase Chief Justice. In Johnson's administration Congress had passed a law reducing the Court to seven members, so that Johnson would not have an opportunity of appointing a member of the Court, but a bill attacking the constitutionality of the Legal Tender Acts had been filed in the courts, and finally, in 1868 or 1869, got to the Supreme Court. Chase had virtually created the act, and everybody supposed that he would be for its constitutionality. However, on February 7, 1870, during the first year of Grant's administration, the Supreme Court declared the act unconstitutional, Mr. Chase voting to abrogate the act and delivering the opinion.

In the meantime a bill had been introduced to fix the Court's number at nine. The Court was then at eight, and Grant had been given authority to appoint another, so he appointed two Justices the afternoon of the very day that the Supreme Court held the act unconstitutional. Both of these new Justices favored the constitutionality of the act, and it was soon brought before the Court again and held to be constitutional.

So that we find the Supreme Court in the absurd attitude of having declared the legal-tender money unconstitutional one year and the very next year it declared it constitutional, and it has so remained ever since.

Some time before the Civil War income-tax acts had been passed and upheld by the Court. They were upheld by the Court during the war. They were upheld by the Court after the war. For a period of nearly 50 years income taxes had been upheld, but in about 1890 it came up again. Justice Howell E. Jackson, of Tennessee, was a member of the Court at that time. He had been ill and absent for quite a while. The case was before the Court and it was supposed that it would be held constitutional, Justice Shiras, of Pennsylvania, it being understood was strong for the constitutionality. Just before it was decided, however, Justice Jackson returned to Washington, and it was supposed beyond doubt that with his vote and Shiras' the income-tax law would be upheld. Shiras changed his mind overnight and the act became unconstitutional by a 5-to-4 decision. Of course, Shiras' overnight somersault made his name a byword for all time, and it took more than 20 years to get an income-tax amendment passed.

The next most famous invalidation act of Congress came when in 1918 the Congress passed an act creating minimum wages and maximum hours for women who labor in the District of Columbia. It got to the Supreme Court in 1923, and they held by a 5-to-4 decision that it was unconstitutional, notwithstanding the fact that the Constitution of the United States provides that Congress shall "exercise exclusive jurisdiction in all cases whatsoever" in the District of Columbia.

In other words, it has all the powers and jurisdictions that any government could possibly have, and yet five out of the nine held that this law was invalid.

It made the Court a laughingstock at the time.

To make it worse for the Court, a case arising under a New York statute to fix maximum hours and minimum wages for women came before the Court, and by a 5-to-4 decision the Court in June 1936 held the New York statute unconstitutional, boldly announcing its opinion that neither the National Government nor the State government had the right to fix maximum hours and minimum wages. This made the Court the butt of ridicule among the lawyers throughout the country, and lo and behold, in March of this good year the Supreme Court had another case, a Washington case of minimum wages and maximum hours for women, and, bless your soul, they overruled the decisions of 1923 and of 1936. By their decisions they have amended the Constitution twice by first holding against the law, and the other day reinstating it, and yet there are some people in the country that believe that the Supreme Court is infallible.

Probably the most remarkable case of all, however, is the child-labor case, which the Court has at least twice declared unconstitutional. There is an amendment to the Constitution now pending which has never been adopted.

THE 5-TO-4 DECISIONS

If it were not such a serious matter, one of the most ludicrous of all the antics of the Supreme Court in its history is its 5-to-4 decisions. They are not always 5 to 4, but there are few important decisions where there is not a divided Court. How can an American citizen know what the law is when the allegedly greatest Court in all the world divides 5 to 4 on what the law is or what the Constitution means, and then at least twice in our history take back their own rulings made in this way? In the interest of itself the Court ought to stop this foolishness of declaring acts unconstitutional by a 5-to-4 decision. This kind of decision is more hurtful to the Court than anything any outsider could do or say. They owe it to themselves to fix a rule doing away with 5-to-4 decisions.

The A. A. A. decision, to my mind, was probably the weakest decision ever delivered by the Supreme Court. It is not decent nonsense. Justice Roberts delivered the opinion of the Court, and held that the Congress had an unlimited right to tax and an unlimited right to appropriate money for any use it decided, but in order to declare it unconstitutional it had to go to the limit of saying that the processing tax was not a tax but a penalty, and that the tax and the appropriation both being in the same bill made the act invalid. They reached this remarkable conclusion after stating that their rule was that no act would be declared invalid if there was a "reasonable possibility" of its being declared invalid. They solemnly held by a majority of one, five men taking part in the majority opinion that three of the Justices of their own Court rendering the strongest kind of opinions in favor of the act, that the action of a majority of the House of Representatives and a majority of the Senate and the President of the United States, all acting together to enact the law and all of whom had taken the same oath as these five men, did not raise a reasonable possibility that it was constitutional.

WHAT IS THE PRESIDENT'S PROPOSAL?

The President's proposal is simply this: That—take the year 1936—the Court had had about 1,100 cases before it, some by appeal, a few by writ of error, and some 800 by certiorari had come to the Court, and the Court had decided only 270 cases, leaving some 800 undecided; that 731 of the certiorari cases, or about 87 percent of them, were dismissed without explanation and without reason being assigned. He took the position that it was the Court's duty to decide these cases like other cases appealed to the Supreme Court. The Attorney General at the same time pointed out that in these certiorari cases there had been 869 petitions, 53,000 pages of briefs, and 290,000 pages of printed record, and that it was impossible for the Court as it is now constituted to give all these cases that consideration to which they are entitled.

For these reasons the President recommended an increase in the Court of six new Justices. He thought that these six new Justices would infuse new life into the Court. This is what brought on the whole Court controversy. Immediately the Republican newspapers all over the country, the Republican leaders, and the Democrats who were opposed to President Roosevelt took up the cry that the President was trying to pack the Supreme Court.

THE HUGHES LETTER

This went so far that even the Chief Justice of the United States wrote a letter to Senator WHEELER, one of the opponents of the President's proposal, saying that the Court was well up with its work; that there was no congestion; that 15 Judges could not do as much work as 9 Judges, and that it was not in any way needed. This letter at first was accepted at its face value, until 2 weeks ago today a debate was started in the Senate on the letter, and the arguments made by the learned Chief Justice were, in my judgment, annihilated, and very frankly, I took some part in the annihilation. The facts were that Chief Justice Hughes made the remarkable statement that these certiorari cases were being used by the Court for the purpose of straightening out and harmonizing the decisions of Federal courts; that the litigants themselves had no interest in these certiorari cases; that they had had their day in court, and that it was a burden on the Supreme Court for them to attempt to bring their cases before him; that they did not look into the facts of these cases at all, but only at the law, and then only on the rule that they did not touch the cases unless there was something in the decisions below which needed harmonizing with the Supreme Court decisions or the opinions of other circuit courts of appeal. His statement that the litigants themselves had no interest in the case was probably the most remarkable statement that ever fell from the lips of any judge in any court.

In order to get those cases to the Supreme Court the litigant had to have a petition and printed brief, and, when the record came up, a printed record, and he had to pay lawyers' fees, and, after all of this, have the Chief Justice of the Court to say that the litigant had no right whatsoever in the case.

The learned Chief Justice further built a straw man and knocked him down in order to bolster up his court. He said that if a litigant had had a fair trial in the trial court and had had a fair trial in the court of appeals, that he had no right to burden the Supreme Court by any more of his troubles.

My Heavens! What is a Supreme Court for except to hear the cases that are appealed to it, and if the litigant had no right to appeal from an appellate-court decision, what was the use of the Supreme Court at all? The most remarkable thing about the Chief Justice's letter was, however, that he very carefully avoided showing how certiorari cases were considered by his Court. The Court had been charged with having parceled them out among the nine Justices. He said that this was not correct, but the whole Court passed on them. Of course, that could not be true, because it was physically impossible for each of the nine Justices to read and digest 53,000 pages of printed briefs and 290,000 pages of printed record. It was just a physical impossibility; that is all.

There was also a report that these cases were read by law clerks employed by the Justices. This could not be true, because

the Court does not have enough clerks to read that many pages of the record. But however it is done, the Chief Justice did not disclose it, though as everybody knows, I challenged him to tell the Congress how the cases were considered and disposed of.

Now the result is, my friends, that 87 percent of the certiorari cases and nearly three-fourths of all the cases that go to the Supreme Court are not being properly considered by the Court. They do not give any reason for their denial of certiorari cases. It is a matter of discretion on their part and the litigant never knows why his case has been denied.

On the frieze of the new magnificent marble Supreme Court building are inscribed these words, "Equal justice under law." My friends, it is not justice that these certiorari cases should be denied by the Supreme Court without rhyme or reason. The President is exactly right. There ought to be enough members of the Supreme Court to pass upon all the cases that are appealed there. There is no question of unrestricted appeals, but the cases that are appealed there should have proper consideration and judgment.

Water, and What it Means to the Southwest

EXTENSION OF REMARKS

OF

HON. CARL A. HATCH

OF NEW MEXICO

IN THE SENATE OF THE UNITED STATES

Thursday, April 29, 1937

ADDRESS BY HON. DENNIS CHAVEZ, OF NEW MEXICO, ON APRIL 27, 1937

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the Appendix a very able address upon the subject "Water, and What It Means to the Southwest", delivered by my colleague the junior Senator from New Mexico [Mr. CHAVEZ] on Tuesday, April 27, 1937.

There being no objection, the address was ordered to be printed in the Appendix of the RECORD, as follows:

Mr. President, members of the National Rivers and Harbors Congress, ladies and gentlemen, the role of water for us in the Southwest is no new matter. For centuries water has formed the lifeblood of our communities. Even before the coming of the Spaniards into the Southwestern United States the native Indian population had evolved systems of irrigation, the ruins of which even today astound our best engineers. Our prosperity, yes, our very life, depends on water.

When I decided on a subject for today's talk, coming from this region, and from a reclamation State, and addressing a group whose interests have often been devoted to my particular section of the country, I selected the subject of Water and What It Means to the Southwest. The more I studied the problem, the more I came to realize that there was very little new to discuss from the sectional point of view. It is only natural that we in the West should be interested in extended reclamation, flood control, irrigation, and hydroelectric-power development. These are a part of our life and if I, in a humble way, can assist in the development of projects of this nature, I believe that I am only accomplishing what represents the wishes and desires and dreams of my constituents.

However, the problem transcends the desires and the needs of a particular section of our Nation. In other words, I am convinced that the rivers, the harbors, the streams, the forests, and the wildlife of our country are not the exclusive heritage of those living in their vicinity, but that they are a part of the wealth and responsibility of the entire Nation.

This Congress will talk of water. I know it will talk of deserts blooming like a rose. It will discuss and plan and dream of rivers confined to their channels. It will discuss low-cost electric power and the resulting convenience and comfort for farm and home. I know it will discuss streams, fresh and pure, and free from pollution. If it is wise, it will discuss the sources of these streams and the protection of the timbered watersheds, of conserving the natural grasses. But, in addition, will it recognize that there is another reclamation problem distinct but not apart from these objectives? I speak of the task of reclaiming from despair the men, women, and children, estimated at some 100,000 rural families, who are on relief. These men and women are willing to labor, willing to toil, and willing to face hardships; yet they are beaten by forces of drought and bleak wind, forces greater than themselves, forces worthy of the mettle of the greatest thinkers of our day. There are today thousands of farm families now on relief with no prospect of encouragement, with nothing to look forward to for themselves or their children but serfdom.

There lies the greatest justification for the things we have all worked for. Build the dams, construct the laterals and irrigation ditches, but for God's sake locate on that land these American families. Preserve, before it is too late, their hope and their morale.

In my opinion, nothing but praise can be directed to the great leader now occupying the White House; we owe him a debt of gratitude. Under his guidance, as a result of his foresight and genius, we have approached all these problems and made efforts to solve them. I am sure that none of us here regret supporting and endorsing the relief efforts of this administration. At the same time we must recognize that there has been, due to the urgency of the situation, extreme extravagance and waste through needless duplication of effort. These resulted factors have so blackened the eye that the general public is in danger of losing sight of the basic worth of these efforts. For example, the Resettlement Administration recognizes a fact we all know, that there are in the Nation marginal and submarginal lands economically unfit, impossible of sustaining life on an agricultural basis, and it also recognizes the need of rehabilitating stricken rural communities. It has expended millions of dollars. In my State alone there is one particular project that has cost close to $1,000,000, and in the end it will rehabilitate a few families. I condemn such extravagance and insist that it cannot, should not, and will not go on.

Does this mean that we should not attempt to solve the problem of these unfortunate people? It does not. It does mean, however, that this group should appreciate that there soon will be brought to the attention of the National Congress a bill calling for the reorganization of the Government, and that this Congress should be prepared to bring before the National Congress a sound program calling for the orderly organization of all its plans and efforts.

Personally, I would like to see this Rivers and Harbors Congress go on record endorsing not only further reclamation and flood control but definitely taking a stand on the part that reclamation can play in the ultimate solution of farm relief. I am already convinced that the relocation of desperate relief-roll farm families on new irrigation projects offers the only solution to the problem. I am satisfied that eastern opposition to the extension to reclamation in the West can be overcome on this basis. Relief rolls have not diminished; relief costs have increased. No end is in sight. But if you can show the country that with the reclaiming of additional millions of acres of irrigable land in the West you can definitely promise the removal of all these families from the relief rolls and the eventual repayment to the Treasury of the cost, then you will have the unanimous support of the Nation for your plans.

To be frank, I want every dam, every ditch, and every project I can get for the State of New Mexico, because they represent additional wealth, future development, and increased values; but I would be more interested in solving the problem of the several thousand farm families in New Mexico and in the West who are now on relief than I am in increasing through Federal reclamation the value of land held by a few.

I did not come to tire you. I know you have heard many speeches; but at the same time I am interested in bringing to the attention of a water-conscious group the tremendous good that could be accomplished by its use in the manner as I outlined.

I would like to call the attention of this assembly to the need of an accurate survey of farm families on relief in the West and the yearly cost of the same.

I would like to call your attention to the necessity, from a flood-control reason alone, of withdrawing economically unsound land from production and its conversion into range.

I again call your attention to the fact that reorganization of the Government is impending, that useless bureaus and duplicate efforts should be done away with, and if they are done away with it will represent a boon to your cause.

I urge you to free your efforts from the taint of extravagance, inexperience, and zealous but impractical enthusiasm. Do so, and the Nation will support you. Direct your attention to the plight of the farmers on relief rolls in the West. Do these, along with your other objectives, which I unqualifiedly endorse, and your Congress will be a success.

Economy in Government and Balancing the Budget

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 29, 1937

RADIO ADDRESS OF HON. KENNETH McKELLAR, OF TENNESSEE, ON APRIL 29, 1937

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered this afternoon by the Senator from Tennessee [Mr. McKELLAR] over

the Columbia Broadcasting system on the subjects of "Economy in Government and Balancing the Budget."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

For the past 4 years economy in government has been impossible. As everybody knows, 4 years ago a condition had arisen in our country which actual experience had shown could only be remedied by Federal expenditures. On account of the depression, local and State governments were unable to make expenditures for the relief of the destitute in our land, and as the success of our entire governmental and economic system was at stake, the Federal Government was the only organization financially able to make these expenditures.

It will be remembered that when the depression first came we tried the plan of governmental economy, and we all recall what a failure it was. Then when President Roosevelt came into office we tried the plan of liberal Federal expenditures, and we all know what a success that plan has been.

It is true that in those 4 years the Government spent more than it collected in taxes. Its expenditures exceeded its revenues, although the success of the plan tremendously increased the revenues of the Government.

Prosperity has been restored, employment increased, production has increased, profits have increased, bank deposits have increased, and, generally speaking, our country has been restored. As I view it, the time has arrived for greater economy, and a reduction in the expenditures of the Federal Government.

The case could not be better stated than it was by our President last January and repeated in a message to the Senate on April 20, when he said:

"Expenditures must be planned with a view to the national needs; and no expansion of Government activities should be authorized unless the necessity for such expansion has been definitely determined and funds are available to defray the cost. In other words, if new legislation imposes any substantial increase in expenditures either in the expansion of existing or the creation of new activities, it becomes a matter of sound policy simultaneously to provide new revenue sufficient to meet the additional cost."

Again, he says in his message of April 20:

"I regard it as extremely important that we should achieve a balance of actual income and outgo for the fiscal year 1938, and I appeal to you to join me in a determined effort to bring about that result."

It is true that he does recommend a billion and a half dollars for relief, but this is a tremendous reduction over last year.

These are wise recommendations, and I wish to call upon every Member of Congress, every head of every department and independent establishment, every good citizen, to join the President in reducing expenditures and thus bring about a balanced Budget at the end of the fiscal year 1938.

As far as we have gone, the Senate Appropriations Committee has cut expenditures below the estimates.

LAST ACTION FIGURES

So many statements, many of which include figures, have been published recently showing increased expenditures of the Government during the present session of Congress that I feel the exact truth should be told. Of course, we have not finished the appropriation bills of this year. Two of them, the independent offices bill and the Navy bill, have been agreed to in conference, and I have no doubt the President will sign both of them. Three of them, the legislative bill, the State, Justice, Commerce, and Labor bill, known as the four-department bill, and the Post Office and Treasury bill have been passed in the House and the Senate but have not been agreed to in conference. The Agriculture bill has passed the House and the reduction is $101,355,039 under the estimate. The District of Columbia bill has passed the House but has not yet passed the Senate. The Interior bill and the War bill have not yet been reported to the House. We have, however, the Budget estimates, both original and supplemental, for all these bills. Therefore we can give the last action figures on the appropriations for 1938.

In the independent offices bill the Congress has cut the Budget estimate $15,572,000.

In the Navy bill both Houses have cut the estimate by $47,666,901.

The legislative bill, which has passed both Houses, produces a cut of $1,039,280.22.

The State, Justice, Commerce, and Labor bill, which has passed both Houses, is cut $3,100,250.40.

The Treasury and Post Office bill, which also has passed both Houses but has not been agreed to in conference, shows a cut of $10,807,930.70.

In addition to this, we have passed a deficiency bill in which there is a cut of $1,593,720 under the Budget estimate.

This makes a total in cuts, up to date, under the Budget estimate of $182,539,327.32, leaving as yet the Interior bill and the War bill out of the picture because neither has yet been reported to the House.

In other words, I can say to the people of the country that the Congress this year has not increased the Budget estimates by a single dollar on any appropriation bill, but, on the contrary, has decreased every one of them up to date by cutting off $1,039,280.22 from the smallest one and $101,000,000 from one of the larger ones. In all, the Congress has appropriated, in the aggregate, $182,539,327.32 less than the Budget estimates for these several Departments.

Sensational newspaper writers, feature-story writers, writers who see nothing but bad in the Roosevelt administration, are apparently seeking to impress the country with the statement that the Congress is not cutting down expenditures. These figures, which I give you and which I am going to put into the CONGRESSIONAL RECORD, as last-action figures, prove exactly the contrary is the truth. In other words, the Congress is cutting expenditures below the estimates in every case.

It may be said that a cut of $182,539,327.32 is not impressive, and that may be true, but it shows a good start; and I believe that when these bills become the law the cuts will be even more substantial. These figures show that the Congress realizes that the country has been restored to prosperity by President Roosevelt's administration and by judicious use, for the most part, of Federal appropriations, it is now time to reduce these appropriations to within the limits of our income.

It may be remembered by some of you that during the Hoover administration I offered a bill cutting appropriations for the various departments 10 percent. This cut was passed for some of the departments but was defeated for others. The general effect of it, however, was to reduce expenditures of Government. I am inclined to think that a horizontal cut on all departments alike would be a benefit and I have prepared such an amendment. I was glad to see in the papers yesterday that the President endorses a proposal to give him the power to reduce appropriations 15 percent. This is splendid. I hope and believe we can work out some plan of this kind that will reduce expenditures while not injuring the Government's activities.

A congressional committee is now working hard upon a reorganization of the Government in order to simplify the activities of the Government, to prevent duplication, to bring about economies, and to reduce expenditures. I know that this committee has been diligent and I believe great good will be accomplished by its recommendations.

A wholesale reduction cannot be made all at once, and there are instances where the necessity of increasing certain sound services of the Government is obvious to all.

For instance, it would be necessary to appropriate money with which to guarantee our citizens against these recurring national floods.

In winning back our foreign trade it will be necessary to spend moneys in creating the necessary machinery by which to recover this trade.

Having erected many new public buildings it will be necessary to keep up and maintain Federal buildings.

In the building of dams, systems already begun should be completed.

In establishing a great system of social service, in partnership with the States, it will take money to operate the Social Security Administration. I think no one would want to stop or weaken this great work.

In regulating and controlling the issuance, sale, and distribution of commercial securities, funds will be needed. An act of Congress that has contributed tremendously to the welfare and security of stock and bond holders in the country should not be interfered with; and the necessary money for its administration should not be denied.

In the conduct of our immigration and naturalization law, no backward step should be taken.

In our aviation industry it is necessary, in its strict regulation, control, and continued operation, that all things possible be done to bring about safety to those who travel by air.

In agriculture, too, which has so long lagged behind, we should take no backward steps and should not mind a reasonable cost.

No one should object to some cost in settling labor disputes under the recent Labor Relations Act which has been upheld by the Supreme Court.

For all these, and some others perhaps, I do not think the people of the United States would object to the money spent in upholding and promoting these great acts of Congress passed during the Roosevelt administration.

But none of these except social security, will take any great sum. We should appropriate only such sums as may be necessary. We must be economical all along the line. We must cut down expenses and we must balance the Budget next year.

TRADE AGREEMENTS

I wish to call attention here to a very large increase in our trade and commerce under the system of trade agreements inaugurated by this administration under our Secretary of State, Cordell Hull. The increase in our exports of 1936 over 1935 amounted to 7½ percent, or $170,000,000 Imports increased 18 percent, or $371,000,000. The increase in exports means the sale of our products abroad and adds to our prosperity, while the increase of imports adds to our national income through customs taxes and indicates that our people have the money with which to buy these products. The $170,000,000 increase in our exports is almost entirely due to trade agreements. It is quite remarkable that our exports increased in trade-agreement countries 15 percent, while in the other countries it was only 4 percent, showing absolutely the good effect of these trade agreements. To give the figures on one or two typical countries might be interesting. Our export trade with Cuba was increased $7,000,000, while our import trade

was increased $18,000,000; but our import trade has always been about double what our export trade was with Cuba. The figures, therefore, are not far from equal. On the other hand, in Brazil our exports showed an increase of $5,000,000, while the increase in our imports was only three and one-half millions. In France it was about equal. While our import increase was a little more than twice our export increase, this is due to perfectly natural causes, and not due to competitive articles. Among the increases were the following:

	Millions of dollars
Crude rubber	40
Raw silk	6
Tin	5
Nickel	5
Cocoa	6
Furs and fur manufactures	28
Beverages	34
Unmanufactured wool and mohair fiber (largely carpet or other low-grade wool not competitive)	23
Wheat (due wholly to domestic crop failure)	17
Showing a total of	164

This largely accounts for the increase in imports over exports.

The increase of these imports should be the occasion of rejoicing rather than alarm.

One of the major factors in the progress of economic recovery in the United States is these trade agreements.

TAXES

While I believe in the balancing of the Budget at the earliest possible moment, I do not believe we should impose additional taxes. I believe with proper economy the taxes now levied will be ample to balance the Budget and run the Government properly. I believe, also, that within 2 or 3 years we may be able to reduce taxes. Under no circumstances should we increase them. I am utterly opposed to any increase in taxes and shall welcome the time when we can reduce them without injury to the various activities of our splendid Government.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. MATTHEW M. NEELY

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 29, 1937

ADDRESS BY HON. JOSEPH F. GUFFEY, OF PENNSYLVANIA, ON APRIL 19, 1937

Mr. NEELY. Mr. President, I ask unanimous consent to have printed in the RECORD an able address delivered by the Senator from Pennsylvania [Mr. GUFFEY] under the auspices of Labor's Nonpartisan League at Monessen, Pa., on Monday, April 19, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, it is a real pleasure to be here today and to participate in this inspiring meeting, which demonstrates to our fellow citizens the power and the purpose of organized labor. There has been no time in the history of the labor movement when such meetings have been more important. And I venture to add that there has been no time when such meetings have been more effective than they are today.

It is my happy belief that a new day is dawning for the men and women who do the work and carry the burdens of this world. A new light is beginning to brighten dark corners and to show itself where it is most needed. After a struggle that seemed almost endless, a struggle that at times was heartbreaking, wearisome, and discouraging, the age-long battle for the rights of the workingman is beginning to turn in the right direction. We have won the opening skirmishes. And we propose, with your good help, to keep up the fight until a decisive victory has been achieved all along the line.

Ever since you have been old enough to hear and understand the English language, you have listened to political candidates telling the people of their great love and devotion to the cause of the working people. Too often those candidates have been lavish in their promises but short on fulfillment. Too often have the working men and women been flattered and feasted when the voting was in progress and then forgotten when the voting was over.

Whatever experience you have had in the past, I can say today with pride that the administration with which I am honored to be associated keeps its promises to the people. Last November we gave you our solemn pledge that the Roosevelt administration would continue without retreat or interruption its battle for the wise and salutary reforms of the New Deal. We promised you that the laboring man and the farmer would be given the full protection of their constitutional rights just as surely as were the corporate interests, the rich, the wealthy, and the powerful. That pledge is being kept.

It is a fortunate thing for this country that we have a leader in command who is too sensible to be frightened, too courageous to be bullied, and too big to be turned back by personal abuse and malicious attacks on the part of cowardly partisans who are infuriated by his program.

The foes of President Roosevelt may heap upon him every foul epithet that small minds can think of, but no one yet has ever called him weak-kneed, gutless, or spineless. He dares to do the right—and even when some of his own followers draw back in weakness and trembling he still presses forward to attack the enemy at their strongest point.

It is my firm conviction that a leader like President Roosevelt can't lose; he has the habit of victory. The country is extremely lucky to have him in the White House, and before his second term is ended I venture to predict that the cause of labor will have made more progress than it did in the preceding three decades.

My own record on labor legislation is well known to you all. Ever since the electorate of the great State of Pennsylvania conferred upon me the honor of a seat in the United States Senate it has been my constant purpose to advance the interests of the great mass of men and women who are dependent for their living upon the industry and commerce of the Keystone State. There have been temporary defeats and set-backs. It was unfortunate for the bituminous coal industry that the original Guffey coal bill was brought before the Supreme Court for adjudication before the majority of that body had made up its mind that the true meaning of the interstate commerce clause in the Constitution is what they have only recently pronounced it to be. But, my friends, it is never too late. Even the Supreme Court is beginning to see the light. Once again you have my solemn promise that we will work untiringly until we have done legislatively all that may be necessary to cure the ills of the bituminous industry.

During my 3 years in the Senate it has been my privilege to vote for every single measure which was designed and intended to promote the interests of the laboring people. During that period the voters of Pennsylvania were aware that at least one of their Senators was giving 100 percent support to the humanitarian legislation sponsored by the Roosevelt administration. The list of bills sponsored by the Chief Executive, which I supported, included N. R. A., the various relief proposals, the public-works bills, and the Wagner Labor Relations Act which has just been declared constitutional by a majority decision of the United States Supreme Court.

The record of accomplishment to date has been good enough to hearten and encourage the friends of labor. And even though we have been disappointed because some of this necessary legislation has been ruled out by the courts, including the effort to fix maximum hours and minimum-wage standards, the fight will not be abandoned. We propose to go forward until we make it legal and make it stick.

But it was not my primary purpose in coming here today to review the many needed measures which have been placed upon the statute books for the benefit of labor under the guidance of the Roosevelt administration. My chief purpose was to ask your wholehearted and enthusiastic support for the bill now pending to reorganize the United States judiciary. During my whole career in public life I have never known a measure which has been more important to the country nor one which bore greater promise of doing lasting good for the well-being of the great mass of American citizens.

Let me emphasize this point as strongly as I know how. This fight to reform the Federal judiciary is your fight; this bill is the weapon being used by President Roosevelt and his supporters in Congress to reduce the last great citadel of concentrated wealth and special privilege. This bill is the instrument being used by the Chief Executive to compel the Supreme Court and every other court in this land to respect and uphold the constitutional rights of working men and working women. Boiled down to its essence, this Court reform bill is in reality labor's bill of rights, which will forever end the evil practice of judicial tyranny and the outlawry of needed social and humanitarian legislation by old and reactionary judges. Faced by such an issue, it is my earnest hope that the great laboring hosts of Pennsylvania will stand as a unit in firm support of the President's program.

The controversy over the judicial reorganization bill has been going on now for a little over 2 months. And already you are reaping the fruits of victory. Already those selfish groups that thought the Constitution was their own private property are being rudely awakened. They are discovering that working people likewise have rights that are going to be sustained by the courts. The truth is beginning to dawn upon these reactionary forces that in the future the Constitution is going to be something more than a mere protecting wall to shelter and protect the evil practices of sweatshop operators and other exploiters of the general public.

The Constitution is just now beginning to be what the great forefathers intended it should be—the greatest instrument for the defense of the poor and the underprivileged ever devised by man.

When President Roosevelt first proposed his program for bringing the Federal judiciary into line with enlightened and progressive thought, he became at once the target for a hysterical and unreasoning attack hurled in his direction by the professional patriots, the self-styled protectors of the Constitution, and the same old crowd of reactionaries and Tories who have opposed every move ever made to improve the lot of the common man. But this time the frantic and frenzied outcry reached a new pitch.

The Chief Executive was accused of nearly every outrage that could be conceived in the vivid imagination of frightened bourbons. We were told that the Supreme Court bill meant the end of our civil and religious liberties, that the independence of the courts was gone, that the Constitution was nothing but a scrap of paper, and that the Bill of Rights was now nothing more than a meaningless collection of outworn platitudes. All those crimes and many more were laid at President Roosevelt's doorstep. And why?

Simply because he had the courage and fortitude to state the obvious fact that Congress has adequate power to cope with industrial problems if the Supreme Court would only interpret the Constitution without yielding to their own personal and political prejudices. He was accused of every sin in the political calendar merely because he said that what we need is not a new Constitution but a few new judges who know what the Constitution means. Was he right or was he wrong?

Apparently the Supreme Court itself has decided that the Chief Executive was right. Leaving the professional patriots and calamity howlers high and dry, the Court has proceeded in the last couple of weeks to prove beyond the shadow of a doubt that legislation can be enacted to protect the rights of labor without in any way violating the provisions of the Constitution. First, the Court overthrew a monstrous decision of 14 years before which denied the right of a State to enact minimum-wage laws for women in industry. That foul blot upon the organic law of the land was wiped out completely when a Supreme Court Justice from the State of Pennsylvania decided to change his mind and in doing so changed the course of history as well.

Then came the Wagner Labor Relations Act. Unbelievable as it seemed to the lawyers of the Liberty League, who had already denounced it as unconstitutional, the act was upheld by the narrow margin of 5 to 4, Justice Roberts again making a spectacular intellectual leap from the negative to the affirmative. We are grateful—truly and deeply grateful—that our fellow Pennsylvanian has at last seen the light; that he has come to realize that toiling men and women are citizens and human beings whose rights under the Constitution must be respected. It is a notable victory, the significance of which I would be the last to gainsay.

But for myself, I am not satisfied with that sort of a partial victory. It has been well said that "no-man's land" is now "Roberts' land." If the Justice remains on our side, we win. If he shifts again, we lose. That kind of business is too uncertain for me. I never believe in giving up the fight just before the final victory is won. The thing to do is to put a few more Judges on the Bench who can look at the Constitution without prejudice.

I say it is time to put an end to this business of judicial wiggle and wobble. It is the height of folly to go ahead under the assumption that the Constitution means one thing one day and something else on another. Let me read you what the Court said regarding strikes and collective bargaining in its decision striking down the original Guffey coal bill:

"But in addition to what has just been said, the conclusive answer is that the evils are local evils over which the Federal Government has no legislative control. The relation of employer and employee is a local relation. At common law it is one of the domestic relations. The wages are paid for the doing of local work.

"Working conditions are obviously local conditions. The employees are not engaged in or about commerce, but exclusively in producing a commodity. And the controversies and evils which it is the object of the act to regulate and minimize are local controversies and evils affecting local work undertaken to accomplish that local result. Such effect as they may have upon commerce, however extensive it may be, is secondary and indirect."

Now let us contrast that opinion with the majority decision upholding the Wagner Act. I quote:

"When industries organize themselves on a national scale, making their relations to interstate commerce the dominant factor in their activities, how can it be maintained that their industrial labor relations constitute a forbidden field into which Congress may not enter when it is necessary to protect interstate commerce from the paralyzing consequences of industrial war?"

The fact that the decision in the Wagner Act contradicts what the Court said in overturning the Coal Control Act is apparent to any person who can read the English language, unless it is intended to take the absurd position that steel is different from coal. But who changed or what changed in the interim between those decisions? Was it the Constitution or the Judges? If the Justices did the changing, then why is President Roosevelt criticized for stating frankly that what we need is more Judges who understand what the Constitution really means?

The great danger in struggling for the advancement of a worthy cause is to be lulled into a sense of security and inaction by winning a partial victory. There is a tendency always to take it easy, to coast along, after the tide starts turning in the right direction. To adopt tactics like that is to play directly into the hands of the enemy. Already we hear the soft whispers of those who say, "Well, the fight is already won; the Court is recognizing the rights of labor; why not quit for the time being and see what happens?"

I beg you to remember that the people who are suggesting retreat are the same people who were against us from the start. Cautious and timid, they drew back or went over to the enemy when President Roosevelt opened the battle to overthrow the forces of judicial tyranny.

Now that the outcome is no longer in doubt, they realize their mistake and are looking for an easy way out. They counsel vacillation and delay. They propose halfway measures with a promise of more to come. They ask you to gamble recklessly with the fruits of the great victory you have won—to take a chance that Justice Roberts will continue to see the light in his decisions touching these great and momentous questions.

My own advice is don't do any such thing. Let us be realists. We have won two smashing victories in the arena of human rights because our great leader, the Chief Executive of the United States, has refused to bargain or to traffic with the enemy. He never contents himself with halfway measures or meager gains. He has determined to make justice prevail in the settlement of industrial disputes and controversies and he will never rest until he captures that objective.

President Roosevelt is still the undisputed leader of his party. We have lost a few of the faint-hearted and the timid, but we have the votes in the Senate and House to write his judicial reform program into law and we propose to do it. There is no doubt in the world about the outcome.

The laboring men and women are about to win their greatest triumph in the history of industrial relations because they have been loyal and steadfast in their support of that matchless leader, President Roosevelt. Victory is within your grasp. Ignore the pleas of those who hope to profit by divided counsel and indecision in your ranks.

Take as your slogan "Follow Roosevelt" and victory will be yours just as surely as the sun rises tomorrow.

The Supreme Court

EXTENSION OF REMARKS

OF

HON. WILLIAM H. KING

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, April 29, 1937

ADDRESS OF HON. BENNETT CHAMP CLARK, OF MISSOURI, ON APRIL 21, 1937

Mr. KING. Mr. President, I ask unanimous consent that there be inserted in the RECORD an able and comprehensive address delivered on April 21 by the senior Senator from Missouri [Mr. CLARK] at the Waldorf-Astoria, in New York City, before the American Newspaper Publishers Association, on the proposed change in the Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I consider it an honor and a privilege to have the opportunity of appearing here today at the annual meeting of the American Newspaper Publishers' Association. This body represents one of the greatest and most influential sections of that great profession whose freedom in the reporting of facts and in the expression of decent opinion is guaranteed by the first article of our Bill of Rights and which by reason of that guarantee has imposed upon it a moral if not a legal duty to exercise its great power fearlessly, efficiently, and fairly.

As our forefathers visioned a free press as one of the bulwarks of our liberties, so it follows that to properly perform its functions it must likewise be an honest press, a vigilant press, a courageous press, and an impartial press in its presentation of facts.

Insofar as the press has failed in the past or may fail in the future in fulfilling these obligations, it is to be criticized and stringently condemned. But the experience of the world and contemporary history in other lands teach us that no fault which has ever been charged against the press—neither prejudice nor inefficiency, neither cowardice nor greed for money, neither vindictiveness nor blatency, not ignorance, not even corruption—can possibly be so dangerous to the liberties and well-being of any land as the suppression of the freedom of the press.

Nothing can be more dangerous to the liberties of any people than to have the press controlled by government, forced to be subservient to officials, appointed perhaps by dictators, as to what facts they may not bring to the knowledge of the people, what fables or distortions of fact they must foist upon the public, what opinion they may express, to what vile propaganda

they must give utterance, and what proper expressions of opinion and warning on questions of public import they must suppress.

DICTATORSHIP AND SUPPRESSION

In every land where dictatorship has reared its ugly head the suppression of the freedom of the press has invariably been one of the most deadly weapons in the destruction of the liberties of the people. The right of free speech by individuals has never long survived the right of free expression by the press, and personal liberty or personal rights as to property or life have not long existed after the subjugation of either of the twin rights of freedom of speech and of the press.

It should never be forgotten that while our constitutional guarantee of freedom of the press incidentally inures to the benefit of the press, that is not its primary purpose. The framers of our Bill of Rights were not concerned with granting a special privilege to one class of citizens. They were asserting and guaranteeing to the whole people a right to an adequate medium of expression and information absolutely uncontrolled.

It is in the light of this public interest that the constitutional provision was framed and it was in the light of that primary purpose that the Supreme Court of the United States has in several cases recently construed it.

In view of some of the recent decisions of that high tribunal involving some of the most precious of the rights guaranteed by the Constitution either by amendment or by change in judicial construction brought about by radical and violent change in the membership of the Court with regard to particular issues and litigation, it seems not amiss to discuss some of the more fundamental rights which have been protected by the Constitution as construed by our courts.

CITES PLEA OF MILTON

It is an interesting fact in connection with the history of our institutions, but one frequently overlooked, that the theory of the right of freedom of the press is far older than the right of freedom of speech except as the two were joined together. It was the demand that the public might be informed and served by an uncontrolled and unlicensed press to supply not only facts but theories, which was the forerunner and genesis of the contention that even the humblest citizen should be permitted to express his free and untrammeled opinion.

Nearly 300 years ago, upon the eve of the Puritan revolution in England, John Milton in his noble "Areopagitica—a Plea for the Liberty of Unlicensed Printers" sounded the battle cry against what had been one of the chief weapons of absolutism, the denial of freedom of expression which at that time meant the suppression and punishment of political pamphleteers among whom Milton himself was the greatest.

His majestic words in describing the England of free expression which his sightless eyes visioned still rings in our ears: "Methinks I see a noble and puissant nation rousing herself like a strong man after sleep, and shaking her invincible locks; methinks I see her as an eagle mewing her mighty youth, and kindling her undazzled eyes at the full midday beam, purging and unscaling her long-abused sight at the fountain of heavenly radiance; while the whole noise of timorous and flocking birds, with those also that love the twilight, flutter about, amazed at what she means, and in their envious gabble would prognosticate a year of sects and schisms."

And then with an eloquence seldom equaled in our tongue, Milton exhorted the "Lords and Commons of England" to "consider what nation it is whereof ye are, and whereof ye are the governors; a nation not slow and dull, but of a quick, ingenious and piercing spirit; acute to invent, subtle and sinewy to discourse, not beneath the reach of any point that human capacity can soar to." And then he reached the splendid climax, "Give me the liberty to know, to utter and to argue freely according to conscience, above all liberties."

These are the old words of an old man who lived and died long before the "horse and buggy" days of our Nation; but upon the wisdom, the courage, and the sacrifice of such as he many of our most vital rights and liberties were founded.

So potent were the arguments of Milton and his followers in the long, bitter struggle which followed for generations that when the time came to frame the American Bill of Rights, in the first 10 amendments to the Constitution, without the assurance of which the Constitution itself could not have been adopted, the guarantee of the freedom of the press was included in the very first amendment.

FOUR EARLY SAFEGUARDS

James Madison introduced into the first Congress of the United States the first 10 amendments to the Constitution which we now know and cherish as the Bill of Rights. Only eight of the original States had bills of right. Some of his provisions Madison took from these constitutions. Some he borrowed from other sources. Some were absolute innovations.

It is significant that the bill of rights of each of the States then possessing one contained at least four safeguards of popular liberty, the fruit of long experience—freedom of the press, freedom of religion, trial by jury, and a guaranty against being deprived of life, liberty, or property without due process of law.

It is significant that the separate guaranty of the right of freedom of speech, which we now prize so dearly, was not mentioned in the bill of rights of any State prior to the adoption of the Federal Bill of Rights. Before the adoption of the Federal Bill of Rights, the provision as to freedom of individual speech amounted only to an immunity against being called to account in any other place, that is to say, in a court, for words spoken on the floor of the legislature.

We think of the rights guaranteed in the Bill of Rights together, whatever may have been their origin, because they were adopted at the same time. And this is proper because so long as they stand, they stand together as parts of the Constitution, and anything which impairs the force and authority of the Constitution as a whole necessarily impairs the effect of each of the provisions of the Bill of Rights.

I might stand here for hours, if your patience were sufficient for you to endure, and tell you wherein from my reading of the history of the Nation and from a lifetime during much of which I have been close to public affairs, of times and instances wherein I think sections of the American press has failed to live up to the obligations morally imposed upon it by its constitutional sanctions.

If my opinions as a layman on the subject of newspaper ethics were of any value to you, I could readily explain why as a layman I believe that certain newspapers have failed to live up to the obligations implicit in the guarantee of freedom of expression by exhibitions of venomous partisanship, of activity in propaganda of dubious character, of seeking after profit by sensationalism, by the exploitation of the most depraved of human actions.

On the other hand, I could more easily recount a splendid sequence from the foundation of the Republic down to the present in which the press of the Nation as a whole has well and faithfully performed its functions of keeping the public advised of developments from which the people could draw their own conclusions; of many instances of outstanding public service by the newspapers of the country, of a general attitude of vigilance and independence which have contributed much to the safety and progress of the Nation.

RIGHT HAS BEEN ABUSED

So we all know that the right of freedom of speech has been abused during the history of this country by extremists in both radicalism and conservatism who have sought to tear down the very institutions which permitted them their license to express their opinions, no matter how erroneous they might be. Nevertheless, the right to free speech has in the long run been one of the most valuable of the rights guaranteed in the Constitution and has stood as one of the strongest bulwarks against the possibility of tyranny.

Freedom of religion has been abused in our history, but it has been a priceless gift to our Nation. The right of trial by jury has resulted in freeing many guilty people, but it has been the protector of millions of citizens against the tyrannical aggressions of government against the rights of the people that we see taking place before our eyes in other countries.

Other provisions of the Bill of Rights and other provisions of the Constitution have been the subjects of abuse as well as of benefits. Any of them are subject to change at the will of the people in the manner provided by the Constitution.

WOULD GUARD JUDICIARY

But certainly the question of the desirability of a change in any constitutional provision is not such as to justify the undermining of the authority of the whole Constitution by the destruction of the independence of the judicial branch of the Government, thereby completely wiping out the whole theory of the separation of powers between the branches of the Government upon which the Constitution rests.

Let me say that I am not one of those who believe that the Constitution should be sacrosanct, as immutable as the laws of the Medes and Persians, although I have always believed and still believe, as Gladstone said, that it is the greatest document ever struck off by any group of men at any one time. The framers of the Constitution themselves wisely set up explicitly the means whereby the Constitution might be changed in any particular by the will of the people. This method is cumbersome and difficult, to be sure—purposely made so by the framers of the instrument—but capable, as we have recently seen, of being employed with amazing rapidity and completeness once the people have made up their minds.

It has also been demonstrated that it is sufficiently flexible to enable the people to try an experiment in government, and if proved unsatisfactory to speedily repair their error. The repeal of the eighteenth amendment was accomplished in less than 10 months after the submission of the twenty-first amendment. With one exception, none of the latest eight amendments to the Constitution required more than 2 years for ratification, and some of them much less.

Indeed, the Constitution itself was wisely amended, at least by general agreement, by the insertion of the Bill of Rights before it was even adopted—else it had not been adopted.

STATES BASIS OF CHANGE

The test of whether changes should be made in the Constitution should be determined not by reverence for its antiquity, and only by the question of whether changes would be in the interest of increasing the happiness and well-being of the people. Thomas Jefferson said:

"The only orthodox object of the institution of government is to secure the greatest degree of happiness possible to the general mass of those associated under it."

But in the determination of the question of proposed changes the greatest consideration should be given to the question of whether or not the prospect of success of the proposed change is sufficient to justify us in abandoning a system of government under which

we have enjoyed a century and a half of amazing progress and of general, though by no means universal, prosperity.

But as the man whose memory is still revered as "first in the hearts of his countrymen" wisely said in taking his long farewell of the nation he had served so faithfully, if changes are to be made they should be made by the will of the people according to the orderly processes provided for amendment. In his farewell address, George Washington said:

"The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern; some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates.

HE OPPOSES USURPATION

"But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield."

But the proposition is now advanced from the highest quarter that constitutional construction should now be changed not by the process of amendment which necessitates a submission to the people, but by the indirect process of simply adding to the Supreme Court sufficient additional members to change the known or assumed attitude of the tribunal on certain definite legislation recently pending, now pending, or soon to be pending before it.

The issue raised by the historic message of the President demanding of the Congress the complete revamping of our whole judicial system is among the most momentous in the Nation's history. Reduced to bare bones the issue is this:

Has the time come in our national life when the Congress upon the demand of the Executive shall attempt to subvert the judicial branch of the Government, packing the highest tribunal with reference to particular litigation and a particular situation and thereby to all intents and purposes destroying forever the national policy of adhering to a written Constitution, with a well-defined system of checks and balances, and definite limitations upon the various agencies of government?

To my mind a belief in the affirmative of this proposition is the only ground upon which so violent a proposition as the sack of the Supreme Court can be justified.

WANTS FIGHT ON HIGH PLANE

The issues involved in this proposal are so weighty, their determination is of such vital consequence to the present and future well-being of this Republic and to the perpetuity of our institutions—the ultimate refuge of free government upon this earth—that the discussion should be conducted upon the highest possible plane. These issues transcend partisanship, sectionalism, personalities, the interests of any particular class or clique of our citizens or the political ambitions or, indeed, the political survival of any man or set of men in our national life.

Vituperation, personal abuse or personal appeals, the imputation of improper motives can only serve to becloud the essential issues. On an issue of this magnitude, to waste time in suggesting improper motives to those of contrary convictions simply evidences an unwillingness or inability to think the question through and face the proposition on its merits.

The President, the Members of the Senate, and the Members of the House of Representatives, whose duty it will be to determine the matter, are all sworn upon their solemn oaths. Twice in the United States Senate, five times in the United States Army, three times before in civil life I have held up my right hand and taken this oath:

"I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without any mental reservation or purpose of evasion in me whatever; and that I will well and faithfully perform the duties of the office upon which I am about to enter, so help me God!"

SEES PURITY OF MOTIVE

I concede to the President and to those who agree with him in the Congress the purity of motives and the devotion to duty which this solemn oath requires; I demand for myself and my colleagues who agree with me the same presumption that we are striving to our uttermost upon our oaths of office to accomplish the best that may be done for the safety and well-being of the Nation.

I believe that it is not only the right but the duty of any citizen in the country to form an opinion upon this great question and to make it articulate in any way at his command. But I plead with my fellow citizens to see that the essential issues shall not be lost sight of in personalities or partisanship, in charges or countercharges, in coalitions or organized minorities, in government by prejudice and propaganda. That way lies destruction and chaos.

Any essential proposal from the President of the United States (any President) is entitled by reason of his great office to the most careful and deferential consideration by his fellow-citizens and more particularly by the Members of the Congress. This is especially true in the case of such a man as Franklin D. Roosevelt by reason of his own achievements and the overwhelming favor of the American people. The just confidence of our people in this period of violence and rapine and dictatorship throughout the world has made him easily the foremost figure in the world today.

But to freely concede the splendid purposes and high ideals of the President is by no means to agree as to either the necessity or the wisdom of his proposal to fundamentally change our whole governmental fabric to meet a temporary situation. Of the integrity of his purposes and of his high ideals I have no doubt. But suggestions for changes of such vital and far-reaching importance should be carefully considered by the American people dispassionately and removed from the influence of the personality and charm of any man. Especially should this be true of the men and women who have equally with the President taken an oath to well and faithfully perform the duties of their office.

NO MANDATE FROM PEOPLE

I have said and I believe that this question transcends all partisanship. But I cannot ignore the proposition, repeatedly urged by supporters of the plan for packing the Supreme Court that it is in pursuance of a mandate from the people, to wit, the sweeping popular and electoral majority returned for the President and the Democratic ticket in the November election.

I deny any such proposition absolutely. No such mandate was received from the people for the all-sufficient reason that no such issue was submitted to the people. Indeed, an entirely different issue was submitted to the people by the Democratic National Convention, of which I was a member. That was the issue of the submission of proper amendments to the Constitution to authorize necessary social legislation and whatever mandate there was in the last election was in favor of that proposition.

The claim that the people in the last election expressed a preference for the present plan is as sheer nonsense as it would be to claim that the landslide majorities for Harding in 1920, or Coolidge in 1924, or Hoover in 1928 were mandates from the people authorizing any or all of these estimable gentlemen to change the Constitution as he pleased by indirection. Lovers of the Constitution would be afraid to vote at all if their selection between candidates presenting themselves for their favor carried any such implication of a mandate for essential changes in our governmental structure.

Not by the farthest stretch of the imagination can it fairly be said that the American people expressed themselves in favor of changing our fundamental law by enlarging and packing the Supreme Court unless one holds to the doctrine, which the President himself would be the first to repudiate, that under our system a tremendous vote of confidence in a free country as a reward for a task nobly performed amounts to the equivalent of a ukase from the people that the "king can do no wrong." Certainly on no other theory can it be conceived that the last election was a popular mandate for changing the Constitution by packing the Supreme Court. I know that millions who voted approval of our platform and for the reelection of our President had no such idea.

AGE HELD NO TEST

Stripped of excess verbage and pretensions, the issue is very simple, important as are its consequences and implications. In his message with his facile mastery of rhetoric and his charm of exposition, the President combined several subjects which had no real connection with each other. With the President's expressions as to the absolute necessity of insuring that the administration of justice shall be speedy and sure, I entirely agree, as do nearly all of the people. I strongly favor the creation of all the additional judges which may be necessary to make certain that delays will be reduced to a minimum.

I do not agree that there is any connection whatever between the age of the judges and the congestion in certain inferior Federal courts. The courts in which there is congestion unfortunately do not by any means coincide with the jurisdiction in which new judges would be appointed. Nor is age any test of liberalism of the judges. Some of the most reactionary in the United States are well below 60 and would not be reached by this measure, while some of the older judges are among the most liberal in their view of the law.

But while the method proposed for the appointment of additional judges is neither the most logical nor the most scientific, it would add to the working personnel of the Federal judiciary available for duty where needed. I would gladly support such a measure and am sure it would encounter no serious opposition in Congress.

The proposal of the President for the appointment of a proctor to advise the Supreme Court in its advisory jurisdiction is a minor administrative matter to which there can be no serious objection but which has been tacitly abandoned by the proponents of the President's plan.

The proposal to extend to Justices of the Supreme Court the privilege which has long been extended to other Federal judges of retiring at the age of 70 is of such obvious fairness that it has been adopted by both Houses of Congress by a substantially unanimous vote and is now a law. Had it been enacted under happier circumstances, it would probably have achieved the desire of the President in the retirement of some of the Justices.

DEFENDS COURT'S WORK

But these are the minor and really unconnected matters thrown into the proposal as make-weights. About them there need be no dispute. It has been conclusively demonstrated and admitted that there is no connection between any congestion in the lower courts and the packing of the Supreme Court.

Moreover, it has been conclusively proven out of the mouths of the Solicitor General and the Attorney General as well as from

the utterances of Prof. Felix Frankfurter, close adviser of the President and eminent commentator on legal matters, that the idea that age has impaired the vigor of the judges to the extent of interfering with the work of the Court is fallacy pure and simple.

The Supreme Court is up with its docket and it is nearly the only court in the Nation, Federal or State, which is. Matters properly coming before the Court may be speedily heard and a decision may be had with a minimum of delay, usually at the same term of Court.

The refusal of the Court to take jurisdiction of cases under the extraordinary writ of certiorari is in pursuance of a policy deliberately imposed upon the Court by Congress, which determined that the time of the highest tribunal should not be occupied in reaffirming in private disputes principles of law often before announced, but should be reserved for the proper exercise of its constitutional functions, for the coordination of decisions of inferior courts, and for the exercise of its supervisory functions over those courts.

That the age of the present Justices on the Court is not the real reason for the proposals but is in truth merely the basis for a temporary expedient for packing the Court for a definite purpose has now been nearly universally admitted even by the supporters of the measure. Mere age is not a test either of efficiency or liberalism.

Gladstone, who had in his youth been the "rising hope of the stern, unbending Tories", conducted his greatest fight as the leading Liberal in the world at the age of 80 and was the great Liberal Prime Minister of England at 89.

JEFFERSON LIBERAL AT 80

The fires of liberalism burned as brightly in Jefferson at 80 as they had when he wrote the Declaration of Independence at 33. Of the two greatest liberal Jurists of modern times, Mr. Justice Holmes served with unimpaired vigor of mind until his ninetieth year and then voluntarily resigned, and Mr. Justice Brandeis, now 80, is still the brightest ornament of our judicial system.

On the Court at the present time the oldest member is the outstanding liberal, while the youngest has been at times the ablest spokesman for the conservative group.

With the complete explosion of the factual support set up for the proposed change insofar as it applies to the Supreme Court, this basis of argument has been largely abandoned. The franker proponents of the change openly avow the purpose to stack the Supreme Court with regard to a particular situation and with respect to particular litigation now pending or soon to be pending before it, and justify it on the ground that it is desirable that certain particular legislation be held constitutional, an argument closely akin in candor and logic to the plea of the defendant who justified himself for stealing a horse on the ground that he needed the horse.

Another current development in the situation is only less ominous in its implications than the main proposal to pack the Supreme Court and thus overturn the system of separation of powers by changing the Constitution by indirection. This is the apparent effort of certain administrative officials of the Government, controlling huge pay rolls out of funds appropriated by Congress, who should be the servants of the Government, to become its masters.

SCORES FECHNER ON C. C. C.

Only the night before last, Mr. Robert Fechner, an excellent gentleman hitherto unknown to fame as an expert on governmental theory except for his putative control of several hundred thousand splendid young Americans through the rather effective censorship which he has established as director of the C. C. C. activities of the Government, joined several others of the chief Government spenders and handlers of relief activities in demanding the adoption of the program for packing the Supreme Court.

It seems to me that this obvious attempt to organize millions of honest and patriotic American citizens on relief, or holding emergency jobs, under fear of losing their jobs or relief through official favor, into an effort to dragoon an unwilling Congress into enacting fundamental changes in our form of government, is a dangerous development in our political history.

As a matter of fact an official White House statement tacitly abandoning the reasoning set forth in the President's message and the supporting letter of the Attorney General admitted that plans for changing judicial construction by enlargement of the Court were set on foot nearly 2 years ago as a direct result of the unanimous decision invalidating the N. R. A., in which Mr. Justice Brandeis concurred, and in which the great liberal Justice Cardozo went distinctly further than his conservative colleagues.

END OF INDEPENDENT COURT

This, then, presents the bald, naked proposition of the packing of the Supreme Court with regard to a particular situation and particular litigation. It presents in bold relief the question of whether we shall set the precedent of changing constitutional construction by violent means, which necessarily implies the end of an independent judiciary and the end of our constitutional system of checks and balances, or whether we shall follow the system established by the fathers and acquiesced in until now of making changes in the fundamental law only by the processes set up by the Constitution itself by submission to the sovereign power, the people of the United States.

In passing, it is only fair to say that any delay which has occurred with respect to the determination of the legislation of the last 4 years has not been due either to delay upon the part of the Court or of the adverse parties by reason of the procedure of the Government itself.

In one notable instance under the N. R. A., a case which had been selected by the Government as a perfect test case was dismissed by the Government after it had reached the Supreme Court and immediately before it was set for trial and while I was in the act of introducing in the Senate a resolution calling upon the Attorney General to try the case and determine the question of the constitutionality of the act.

If the proposal to increase the Court were one of permanent public policy to be decided upon its merits and to be put into effect gradually or at some day certain in the future, I would have an entirely open mind upon the subject.

SPECIFIC PURPOSE SEEN

My objection is not so much to the increase in the size of the Supreme Court, although I deem so large an increase inadvisable. It is because it amounts essentially to abolishing the Supreme Court of the United States as it has existed since the foundation of the Republic and the setting up of a new tribunal in its stead with reference to a particular situation and particular litigation. The conclusion is inescapable that to increase the Court at one time by the addition of two-thirds of its present membership is to pack the Court for a specific purpose.

It would mean the end of an independent judiciary in this country as we have always known it. In my judgment, it would be better to have no judicial branch of the Government at all than to have a pitiful shadow of one, subservient to either the Executive or the Congress or both of them combined.

Be it not forgotten that a precedent set by a good President of high ideals for good public purposes may be taken advantage of in some future time by a bad President or a mistaken President, or one with ulterior motives. If the Court can now be increased to nearly double its present membership with respect to a particular situation some future reactionary President with a subservient Congress could again pack it for the subjugation of our rights.

But the question is asked, "Do you not trust the Congress?" (which, of course, includes all future Congresses as well as the present).

JEFFERSON ON TYRANNY

I answer in the words of the immortal Jefferson, the author of our Bill of Rights:

"It would be a dangerous delusion if our confidence in the men of our choice should silence our fears for the safety of our rights. Confidence is everywhere the parent of despotism. Free Government is founded on jealousy, not in confidence. It is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power. Our Constitution has accordingly fixed the limits to which, and no further, our confidence will go. In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

We know both from the history of the world and from observation in our own country that extraordinary powers granted to or assumed by a good legislature or a good executive for beneficent purposes and beneficently used by him may be seized by a bad legislature or a bad executive and made an engine of tyranny.

We have frequently heard it said that it was the custom of the ancient Roman Republic in times of danger to appoint a dictator with absolute power as a measure of safety for the Republic. I doubt not that there were times when this system worked well, but one fateful day there came a bad dictator who did not turn back his extraordinary powers and the Roman Republic was no more.

But we need not go back to ancient history for illustrations of the fact that tyranny may be the outgrowth of the breaking down of constitutional safeguards even for good purposes. We have seen in very recent years striking instances of this sort.

HITLER'S COURT IN GERMANY

The machinery by which Hitler achieved his despotic mastery of Germany was not devised by him. He had neither the means nor the popularity to impose his undisputed will upon the German people. The system of government by decree, in contravention of the German constitution, was devised to meet a temporary economic crisis by an honorable, upright, patriotic German citizen, Hitler's predecessor, Chancelor Bruening. But when Hitler by devious means came into the chancellorship, he proceeded to avail himself of all of the breaches made in the system of constitutional law by Bruening to establish himself as dictator. It was at the time that the German people acquiesced in the benevolent extra-constitutional methods of Bruening that they unwittingly bowed their necks to the chains of Hitler.

In our country in the recent past in an American State we have witnessed the functioning of what might fairly be classed as a test laboratory for dictatorship. We have seen in an American Commonwealth the constitutional changes sponsored by a Governor of good intentions and not misused by him, seized by a man of towering ambition and used by him to destroy every vestige of a republican form of government and establish a dictatorship as complete as that of Mussolini or Hitler—only to be ended by assassination.

It is not necessary to here discuss the question of whether or not the dictatorship of Huey Long was a benevolent despotism. Many thousands of citizens of Louisiana believed, and still believe, that it was dictatorship in the interest of the people. Many thousands of others believed, and still believe, that it was a dreadful tyranny.

The fact which is outstanding that a constitutional change enacted by his predecessor, Governor Parker, in effect authorizing the legislature to resolve itself into a constitutional convention and adopt constitutional changes without submission to the people was the means by which Long achieved his dictatorship. Nor is it to be disputed that his empire did not become complete until he had brought the judicial as well as the legislative and executive branches of the State under his control.

LONG AND THE COURTS

Once having achieved this control of the courts, Long proceeded to break down every vestige of local self-government in opposition to him. Martial law was declared on the slightest provocation. Registrations and elections were held under the menacing weapons of the military arm of the State. Ballot boxes were forcibly taken from the possession of the court by the soldiery. Taxation was controlled by the dictator. Local governments, including that of New Orleans, with nearly a third of the population of the State, were either voted out of office or ravished of all authority and left helpless.

Having taken steps to bring the medical and legal professions under his absolute control, Long then proceeded to jam through legislation to effectually destroy the freedom of the press guaranteed by the Constitution. This incursion against the Constitution and our liberties was thwarted by the unanimous decision of "nine old men" sitting as the Supreme Court of the United States.

In that memorable case I had the honor of being of counsel for those who sought the freedom of the press. I rejoiced in the sweeping unanimous decision, which vindicated that right. But it is only fair to say that I rejoiced no less a few days ago at the equally logical and equally correct opinion of the same Court in setting limitations to the claim of newspaper freedom.

BENEFIT IS FOR PUBLIC

These decisions taken together emphasize the proposition which I stated a little while ago, that the constitutional guaranty is for the benefit of the public and not the publishers of newspapers as a class. Where the public interest is involved the constitutional guaranty stands with drawn sword across the path of governmental aggression. Where attempt is made to use this provision as a shield against the operation of general laws as to labor conditions, tax levies, or any other, the Supreme Court has wisely declared that the guaranty has no application.

Our independent judiciary has always been the protection of the liberties of the individual and of minorities. Without the protection of the Constitution and the courts many of our most precious liberties would have been lost. The Supreme Court has been the guardian of the Bill of Rights.

In our own time we have seen an attempt made by the Department of Justice to convict the greatest liberal Senator in the country on a trumped-up charge in revenge for his work in driving from office a venal, corrupt Attorney General. He was triumphantly acquitted because the Court, under the Bill of Rights, refused to permit him to be framed before a picked court in an alien jurisdiction.

THE COURT NOT SACRED

I am very far from believing that the Supreme Court is sacred or that its decisions are necessarily above criticism. I have read the criticism of Jefferson and Jackson upon both the personnel and the decisions of the Court. I have read the bitter attacks of Lincoln upon the Dred Scott decision and other policies of the Court. My first memories are of an era when the Court was generally criticized by liberals and by none more than by my father—for its action by a 5-to-4 decision declaring the income-tax provisions of the Wilson bill unconstitutional by reason of one Justice changing his mind over night. But these matters have been corrected either by the march of time or by definite constitutional amendments.

I have myself as a lawyer disagreed with the narrow construction shown in some of its decisions, notably the child-labor decisions and the District of Columbia and New York minimum-wage decisions, and more particularly with regard to the decisions of the Court with regard to the taxing power of the Government under the sixteenth amendment. I have not forborne to criticize the Court for these decisions or to vote for measures which I knew to be contrary to the letter of the decisions or to favor constitutional amendments for changing them.

I myself in 1933 offered an amendment to a tax bill, an amendment which I knew to be in the teeth of a Supreme Court decision designed to tax the so-called tax-exempt securities. This amendment was adopted by the Senate by an overwhelming vote but was jockeyed out of the bill in conference.

POINTS TO REVERSALS

Even as I write this speech the Supreme Court has reversed itself on one of the decisions upon which many of us thought they were plainly wrong. Doubtless they would have done it long ago if the issue had been presented to them in such a way that they could pass upon it.

Also in the recent past the Supreme Court has upheld acts of Congress, when properly drawn, which will accomplish the same ultimate purpose as other acts which they declared invalid by reason of obvious defects in draftsmanship, which made them contravene the Constitution. If some of the draftsmen, who in recent years have supplanted Congress in its constitutional role of preparing legislation, had taken the trouble to read the Constitution and the decisions of the Supreme Court in construing it, much of the present crisis might have been avoided.

It should never be forgotten that a very large percentage of the comparatively few cases in which the Supreme Court has declared acts of Congress or the acts of State legislatures unconstitutional was in pursuance of the Bill of Rights, the safeguard of our personal liberties.

The Supreme Court has prevented illegal searches and seizure of private papers. It has prevented authorization of criminal prosecution after a man has been compelled to testify before a grand jury. It has prevented an effort of Congress to authorize retrial in a Federal court of facts already tried and settled in behalf of the plaintiff in a State court. It has prevented imprisonment at hard labor without indictment. It has prevented violation of the constitutional provision requiring the defendant in a criminal trial to be confronted by the witnesses against him. It has forbidden a statute authorizing an appeal by the Government in cases where the accused has been once in jeopardy and been found not guilty by a jury.

It has declared unconstitutional a statute which attempted to make a crime out of an act which was not a crime when the act was committed and to punish the man for such an act. These are acts of the Congress declared invalid by the Supreme Court which make us pause when the question is asked as to whether or not the Congress cannot be trusted to determine what is constitutional.

I recall that in my own State, indeed in my native county, a priest, notable throughout that country for kindness and good works, was once put in jail for the crime of administering extreme unction to a dying parishioner without having taken a political test oath required by a despotic legislature in the dark days of reconstruction following the Civil War. He was freed by the "old men" then on the Supreme Court on the ground that it was a violation of the Bill of Rights and the reign of terror in Missouri was thereby ended.

James Madison, the father of the Constitution, once wrote:

"The people who are the authors of this blessing must also be its guardians. Their eyes must ever be ready to mark, their voice to pronounce, and their arms to repel or repair, aggressions on the authority of their Constitution."

The American people have ever been devoted to their Constitution. They know full well that wise men conceived it, that strong men have administered it, that brave men have fought and heroes have died for it. It is my hope and fervent prayer that it will be long, long, indeed before the people consent to break down the bridge upon which we have crossed the chasm by changing the fundamental spirit in which the Constitution was conceived and the principles upon which it was founded.

Federal Expenditures and Taxation

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, April 29, 1937

RADIO ADDRESS OF HON. ROBERT R. REYNOLDS, OF NORTH CAROLINA, ON APRIL 22, 1937

Mr. REYNOLDS. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address delivered by me on April 22 of this year.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

During the last 48 hours you have undoubtedly heard and read much with regard to the President's latest Budget message to the Congress. It relates to Federal expenditures and methods for financing these expenditures. It is characterized by frankness and sincerity. It warns the national legislature, and through it the American people, that expanded relief and other projects, however meritorious, must be met with new taxes.

To use the words of the Chief Executive: "* * * if new legislation imposes any substantial increase in expenditures either in the expansion of existing or the creation of new activities, it becomes a matter of sound policy simultaneously to provide new revenue sufficient to meet the additional cost."

At the same time, the President expresses the hope that the Congress will adhere to Budget recommendations and thereby make new taxes unnecessary at the present session. In the final analysis, the course of the Congress will be governed largely by the desires of our people. If they want new expenditures, they must be prepared to foot the bills. If they want reduced expenditures, they should make their wishes known. They, and they only, should make the decision.

Nevertheless, we are given timely warning that the day is fast approaching when our system of producing revenue must be overhauled. Loopholes must be closed and inequities removed. Our tax bases must be broadened. Expediency in levying taxes must

give way to equity. We should consider the effect of certain forms of taxes on business and, in turn, on labor and on the farmer.

I fear that much of present conditions, and those we have gone through, may be attributed to the way in which we have pyramided taxes—Federal, State, and local—without regard for their effect. Perhaps we have been too prone to use the word "emergency" without regard for what would follow from too liberal use of the word. I refer, of course, to forms of taxes that have been levied for so-called emergency periods only to become permanent sources of revenue. As a result, the situation today may be described somewhat as follows:

A citizen lights his taxed cigarette, waves a morning farewell to his family with a promise to take them to taxed movies, enters his property-taxed garage, starts his taxed automobile with taxed gasoline, and leaves for his office for a conference with his tax advisers. At noon he goes to a taxed restaurant and joins his friends for a discussion of the tax situation. At 4 comes a bottle of taxed beer, followed by a meal of hidden-taxed food, the taxed movies, and tax dreams. And the pitiful spectacle of that is, he never knows just what taxes he pays. He should know, and when he does—through a broad tax base, Mr. Citizen will have a new interest in Government and its functions.

It is my privilege to represent, in part, in the United States Senate the State of North Carolina, which contributes a great share of Federal revenue as a result of taxes imposed on cigarettes manufactured in North Carolina. True, the great bulk of this revenue is not paid by North Carolinians, but by people everywhere who smoke cigarettes, and my State is simply the source of collection. Thus, in addition to my concern for the fiscal standing of my country and my concern for tax-harassed citizens generally, I am also concerned about the effect that pyramided taxes may have on employment and income in factories and on the farms of my State. Certainly some of the taxes we levy as a Nation today have lost all semblance to equity and have little, if no regard, for ability to pay.

In his Budget message to Congress the President said: "It has become apparent that there is an immediate need for a careful study of the present tax structure. The Treasury will be prepared by November next to present to the appropriate committees of the Congress information as to such loopholes as may exist in the present revenue laws and suggestions for such new or additional taxes as may be necessary to meet deficiencies, if any, in the revenue-producing power of the present levies. This will permit these committees to study such information and suggestions for the purpose of proposing early in the next session of the Congress legislation necessary to remedy defects in the present tax laws."

Therefore we may anticipate that tax revision in 1938—if necessity does not force it earlier—will be approached on a sound basis. Such an approach has been too long delayed, although the need for it has been recognized by the Nation's fiscal experts.

For example, late in 1932 a subcommittee of the House Ways and Means Committee studying Federal and State taxation and duplications therein, made a preliminary report. Let me quote from the statement made by the able chief of staff of the Joint Congressional Committee on Internal Revenue:

"At the completion of some months of study of our taxation system as a whole, it is our opinion that very substantial improvements can be made therein through cooperation between the Federal Government and the States. The tax burden is great and the public is fully conscious of this burden in these times of stress. A more equitable distribution of the burden and its ultimate reduction through a judicial curtailment in expenditures would doubtless not only be welcomed by the public but would also have a most beneficial effect on business."

Obviously, the conditions have not changed, although emergency needs of the last few years have made Federal and State tax conferences perhaps inadvisable. But, in my opinion, such a program should precede any revision of the taxing system. During the last few years the Congress has, of necessity, enacted taxes which, to say the least, were not entirely equitable.

At the head of the important House Ways and Means Committee, of which a subcommittee undertook the study of double taxation, is my able colleague, Representative ROBERT L. DOUGHTON, of North Carolina. Upon his shoulders falls the burden of guiding tax legislation in the House, where all revenue measures must originate. I am confident that when the time for tax revision comes, he can be counted upon to aid in bringing order out of chaos in our present system of taxation. Such a program will have my unqualified support.

Let me hasten to say, however, that the chaos to which I have referred does not lie entirely in the field of Federal taxation. It is due in large measure to the fact that the levying of Federal, State, and local taxes has not been on the basis of a well-defined pattern. We should have certain sources of revenue that should be strictly reserved for the Federal Government. And we should have sources that should be strictly reserved for the States. Lack of these established sources of revenue is one of the weaknesses in our whole national tax system today.

A case in point is our tobacco taxes. Federal taxes of this character have been not only large revenue producers but also have maintained their yield in bad years as well as in good years. The Federal tax on cigarettes is 6 cents for the ordinary package of 20. In recent years, States have also invaded this field of taxation with the result that the variance in the retail price of cigarettes is often as much as 8 cents per package in cities and towns located only 500 miles apart.

Another instance of double taxation is that imposed on gasoline. At the outset, committees of the Congress refused to enter this field of taxation, expressing the view that it should be reserved for the States. Nevertheless, a Federal tax on gasoline in the amount of 1 cent per gallon was levied in 1932, limiting it to 1 year only. In 1933 this tax was extended for another year, the Senate Finance Committee saying:

"Your committee is of the opinion that the gasoline tax should be reserved for the States after June 30, 1934." However, the Congress again extended the gas tax in 1934, again in 1935, and it is scheduled for reenactment at the present session.

Certainly here is evidence enough that taxation cannot be based on equity when the Federal Government and the States are attempting to find revenue from the same sources, without regard for the effect. I mention tobacco and gasoline taxes solely because they are illustrative of an unwise and unjust system of tax duplication.

It is not my purpose here to hold a tax post mortem. During the last few years we have been forced on many occasions to accept taxes that would be ill-advised in more normal times. However, I am serving long-range notice that in looking to the future we have ample time to chart our course. We should, and must, once and for all, establish our fields of taxation for respective units of government. The Federal Government can and should take the initiative in this program. It cannot be launched too soon.

We should ask ourselves the following questions:

Which taxes are most adaptable for the use of the Federal Government and which taxes are most adaptable for the use of the State governments?

What taxes may be properly imposed, if any, by both State and Federal Governments without serious objection from the standpoint of equity?

We must give our citizens a fair and just system of taxation, free from loopholes and inequities, and we must also give our people a full measure of value for their tax dollars. This will require the reduction in expenditures now sought by the President.

In conclusion, our situation today might be described in that famous phrase which reads:

"Our Constitution is in actual operation; everything appears to promise that it will last, but in this world nothing is certain but death and taxes."

We can and should change our tax system so that even if taxes are certain they will at least be equitable.

The Supreme Court

EXTENSION OF REMARKS

OF

HON. SHERMAN MINTON

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Thursday, April 29, 1937

ARTICLES RELATIVE TO THE SUPREME COURT IN EXTENSION MAGAZINE AND CHRISTIAN SCIENCE MONITOR

Mr. MINTON. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing in the April number of the Extension Magazine entitled "Growing Pains of the Supreme Court", written by the managing editor, S. A. Baldus.

I also ask that immediately following the insertion of the article from the Extension Magazine there be printed in the RECORD an article appearing in the Christian Science Monitor on Saturday, April 24, entitled "Other Court Plans Held More Radical Than President's."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Extension Magazine, April 1937]

GROWING PAINS OF THE SUPREME COURT

By the managing editor, S. A. Baldus

On January 20, 1937, Franklin Delano Roosevelt was inaugurated President of the United States, Chief Justice Hughes administering the oath of office. Some of the newspapers the next day reported that when the Chief Justice spoke the words—"and (I) will to the best of my ability preserve, protect, and defend the Constitution of the United States"—he put a stinging emphasis on the words, "preserve, protect, and defend", and which the President, said the reporters, flung right back at him.

A few days later I saw the inaugural scene enacted and heard the administering of the oath in the newsreel. Remembering what some of the reporters had written about it, I listened intently to the words of the oath as spoken by Chief Justice Hughes, spoken in an even, clear, emphatic, and solemn manner, and as evenly, clearly, emphatically, and solemnly repeated after him by

President Roosevelt. Perhaps my ears lack acuteness, for I failed to catch the "stinging emphasis" on the words "preserve, protect, and defend." Whatever may have been in the minds of these two men as they stood there facing each other, I choose to believe that neither of them in that solemn moment would have permitted himself to give public vent to any personal pique or petty rancor. So far as I know, there is no animosity between these two men; but, whether or no, both are gentlemen. And some reporters have notoriously vivid imaginations.

And yet it might have happened, for, say what you will, there has always existed a lodged and ancient grudge between the Presidency and the Supreme Court; a strained feeling which lies smouldering but bursts into flame whenever issues of great pith and moment arise or purposes are crossed.

WHEN THE FEDERALISTS WERE IN POWER

It was so in 1801, when Jefferson challenged the supremacy and arrogance of the Supreme Court. The Federalists, who were the economic royalists of their time, had been in power for 12 years, and so firmly entrenched were they that they were on the way to establishing, not a monarchy as Jefferson held and honestly believed, but an absolute State, an oligarchy of wealth and power centralized in the hands of a few. It was the earliest attempt at the totalitarian State. But they overreached themselves when they passed the infamous and stupid alien and sedition laws which even Alexander Hamilton declared smacked of despotism. "Let us not establish a tyranny", he said.

The Sedition Act provided fines and imprisonment for any person who should write, print, publish, or speak anything "false, scandalous, and malicious" against the Government, either House of Congress or the President "with intent to defame" the Government, Congress, or the President, or "to bring them or either of them into contempt or disrepute; or to excite against them or either or any of them, or to stir up sedition within the United States." Stalin, Mussolini, and Hitler could not have improved on that.

The Alien Act vested the President with power to send away all such aliens as he judged dangerous to the peace and safety of the United States or whom he suspected of hatching treason or laying plots against the Government. Stalin, Mussolini, and Hitler would have loved that had they lived in those times.

By these flagrant legislative acts, the reserved powers of the States were abolished, all the natural rights of freemen were swept aside, and the fundamental rights declared to be sacred and inviolable in the Constitution—liberty of speech and of the press, and trial by jury—were virtually abrogated by the Federalists, while the President was armed with dangerous personal power.

THE BACKGROUND OF HISTORY

To get a true picture of those times, one must envision conditions as they existed then. Washington—the Nation's Capital—was a village, with bad roads and intolerable living conditions. The common people were in a miserable condition, living in wretched cottages, poor and ignorant. They had practically no standing in the Nation. Quoting from Albert J. Beveridge's The Life of John Marshall: "At that time (1801) American manhood suffrage did not exist excepting in three States, a large part of the people could not read or write, imprisonment for debt was universal, convicted persons were sentenced to be whipped in public and subjected to other cruel and disgraceful punishments. Hardly a protest against slavery was made, and human rights as we now know them were in embryo, so far as the practice of them was concerned."

But there was one man who did concern himself seriously with human rights—"the people's friend"—Thomas Jefferson. And when he took office in 1801 he determined to strike first at the national judiciary, which he considered a Federalist institution used to thwart the will of the people and to nullify or circumvent laws not agreeable to the Federalists.

"The Federalists", wrote Jefferson, "have retired into the judiciary as a stronghold * * * and from that battery all the works of republicanism are to be beaten down and erased."

PACKING THE JUDICIARY

With the defeat of the Federalists through the election of Jefferson, "the dominant and governing force in the development of the American Nation went down forever * * *. All was lost, including honor", writes Albert J. Beveridge in The Life of John Marshall (vol. II, p. 547).

"But, no! All was not lost. The judiciary remained. The newly elected House and President were Republicans (editor's note—to the younger readers it should be stressed here that in those years the Jeffersonians [Democrats] were called Republicans, and nicknamed Jacobians, while those we call Republicans today were the Federalists) and in 2 years the Senate also would be 'Jacobian'; but no Republican was as yet a member of the national judiciary. Let that branch of the Government be extended; let new judgeships be created, and let new judges be made while Federalists could be appointed and confirmed, so that, by means, at least, of the national courts, States' rights might be opposed and retarded and nationalism defended and advanced—thus ran the thoughts and the plans of the Federalist leaders.

"Adams, in his speech to Congress in December of the previous year, had urged the enactment of a law to this end as 'indispensably necessary.' In the President's address to the expiring Federalist Congress on December 3, 1800, which Marshall wrote, the extension of the national judiciary, as we have seen, was again insistently urged. Upon that measure, at least, Adams and all Federalists agreed. 'Permit me,' wrote General Gunn to Hamilton, 'to offer for your consideration the policy of the Federal Party extending the influence of our judiciary; if neglected by the Federalists the ground will be occupied by the enemy, the very next session of Congress, and, sir, we shall see ——— and many other scoundrels placed on the seat of justice, etc.' "

To make a long story short, the judiciary was deliberately packed by the Federalists before they went out of power by the defeat of Adams. As one historian puts it: "At the very fag end of his (Adams) administration the Judiciary Act was passed, creating 23 new Federal judicial districts. Adams sat up half the last night of his term signing commissions to fill these judgeships with men whom for the most part he did not know, but who were of the right stamp."

And so it has always been, and so it will always be—under our political party system. Presidents and Congresses will appoint to the judiciary men whom they believe to be of their own mind. That was done 135 years ago, and it will be done 135 years hence. Call it packing if you will. Whatever it may be called, it is historically defensible. To cry out now as if in horror and agony is—well, to say the least—peculiar. The cry seems to lack the ring of sincerity. Of course it makes a difference whose ox is gored.

CHIEF JUSTICE VERSUS THE PRESIDENT

Adams, in the closing days of his administration, had appointed John Marshall Chief Justice. If John Marshall could have had his way, he would have made the Supreme Court paramount in the Nation, and the executive department subject and subservient to the will of the judiciary. In the famous Burr trial he ruled that a subpena duces tecum be issued to Thomas Jefferson, President of the United States. Where would be the loudly proclaimed "independence" of the Executive, asked Jefferson, if the President "were subject to the commands of the latter (judiciary), and to imprisonment for disobedience, if the several courts could bandy him from pillar to post, keep him constantly trudging from north to south and east to west, and withdraw him entirely from his constitutional duties?"

Marshall had calmly assumed the function of announcing his own opinions as those of the Supreme Court. Not only had he asserted "that in the judiciary rested the exclusive power to declare any statute unconstitutional and to announce that the Supreme Court was the ultimate arbiter as to what is and what is not law under the Constitution", he also resolved to "announce from the Supreme Bench rules of procedure which the executive branch of the Government must observe."

If it had not been for Jefferson's peremptory challenge to the arrogated supremacy of the Supreme Court, dictatorship by the Supreme Court would probably have resulted.

PRESIDENT ROOSEVELT'S MESSAGE ON JUDICIARY REFORM

These historic events came crowding back on me when on February 5, only 2 weeks after his inauguration, President Roosevelt submitted a message to Congress recommending reorganization of the Federal judiciary. "The Federal judiciary", he said, "is insufficient to meet the business before them; the Federal dockets are crowded; additional judges are needed; delay in any court results in injustice; speeding up processes are necessary; the Supreme Court is laboring under a heavy burden; many of the Federal judges are aged and ought to be retired", etc.

While President Roosevelt's reorganization recommendations embrace the entire Federal judiciary, his critics have chosen to interpret his message as a demand on the part of the President that he be given power to pack the Supreme Court. Let us consider the matter briefly.

In the mind of the President there seems to be this thought: A Judge ought to retire at the age of 70. Six of the Supreme Court Judges have passed the age of 70. A law is proposed that any Judge having reached the age of 70, and willing to retire within 6 months thereafter, shall continue to receive his full salary for life. Failing or refusing to retire, that there shall be appointed to assist him an associate judge. Considering that six Judges are now more than 70 years of age, this would mean, in case all six of the Judges concerned declined to avail themselves of the retirement privilege, the appointment of six additional Judges to the Supreme Court. In other words, the present number of 9 Judges would be augmented to 15.

Would that obviate any of the difficulties the President enumerates in his message? Would the decisions by the Court be materially altered? I don't think so. If I have the arithmetic of the thing straight, at present the decisions of the Court are 5 to 4, or 6 to 3, or 7 to 2, or 8 to 1, or unanimous. Under the new system the decisions would be 8 to 7, or 9 to 6, or 10 to 5, or 11 to 4, or 12 to 3, or 13 to 2, or 14 to 1, or unanimous. (Mr. Hoover, in his radio address recently, spoke of "half votes" for additional judges. I don't know what he means, but whatever he means, it would not alter the ratio or the results.)

Personally, I fail to see how the President could bring about Court decisions more acceptable to him merely by adding six new Judges. He would have to have the assurance—which he has not and cannot have—that the six appointees would decide all cases as he wishes them to decide, a thing so absurd as to be unthinkable. There are not to be found in the United States six men of brains and ability who would be so slavish as to abjectly pledge themselves to ignore all law and reason and follow blindly the wishes of the President. But if six such men could be found, they would be reduced to nonentities in the first serious contest. My guess would be that the nine Supreme Court Judges would, by the weight of their combined intellects, smite their six associates to the ground—if only as a show of strength—and from that

moment on the old Supreme Court (nine members) would be sitting in the saddle and the six associates and their creator the laughingstock of the world.

Moreover, let us say that the President has actually deluded himself into thinking that if he now be given the power to appoint six of the Judges of the Supreme Court under the Retirement Pension Act he will appoint men who are not only not hostile but favorable to some of his New Deal measures likely to be enacted during the next 4 years; surely he cannot be so blind as not to see that his successors will, in like manner, avail themselves of the same power to appoint Judges during the next 8, 12, or 16 years who will gladly knock out many of his New Deal measures and give their judicial approval to laws just the opposite.

Instead of packing the Supreme Court for himself, he would actually be building the machinery that will enable future Presidents to pack the Court to their hearts' content; and this would defeat the very purpose he is accused of trying to accomplish. I cannot persuade myself that the President has overlooked this contingency.

Furthermore, the Supreme Court Judges' Retirement Pension Act can be repealed, and probably would be repealed promptly, if the Republicans succeed in getting into power again. And wouldn't it be a great joke if the sitting Supreme Court Judges would declare the Retirement Pension Act unconstitutional?

WHO WILL BE THE NEW JUDGES?

The question arises, Who would the President appoint? Nobody knows; but there are those who indulge in guessing, and in all the lists I have seen the name of Felix Frankfurter comes first. Is Professor Frankfurter a radical? A man not to be trusted? Is he a man after the President's own heart? Is there ground for fearing him and men of his stripe? Judge for yourself. This is what Prof. Felix Frankfurter wrote in an article appearing in the Forum for June 1930:

"To the success of our scheme of government an independent and statesmanlike Supreme Court is vital. In all governments there must be organs for finality and decision. In a Union of States, like ours, with the respective powers of the States and the Union distributed in the Constitution in necessarily broad terms, a detached and strong Court is the most dependable mechanism for adjusting controversies between the individual States and between States and Nation. * * * Under the commerce clause of the Constitution the Supreme Court maintains the balance between States and Nation by determining when a State has attempted to project its authority beyond its State lines, and when, on the other hand, Congress has interfered with the purely domestic concerns of the individual State. Here is an area of conflict within which peace must be preserved by the Supreme Court." While "the decisions of the Court must be subjected to constant scrutiny to save them from pedantry and sterility, as the unconscious rationalizations of the economic and social biases of the individual Justices", nevertheless "the power of the Supreme Court to mediate between the States and the Nation in interpreting the commerce clause must be left intact * * *."

We may lay down this principle with absolute certainty that, once appointed, a Judge of the Supreme Court slips out of the control of his appointer—the President. I doubt whether any President has ever tried to suggest or intimate to any number of Supreme Court Judges what sort of decision would be acceptable or pleasing to him. I do not believe that President Roosevelt would attempt any such thing; and consider it stupid to waste any time talking about it.

THE INFERIOR FEDERAL COURTS

We have been so busy discussing the old-age question as applied to six of the sitting Supreme Court Judges that we have entirely overlooked the other and to me altogether more important recommendations made by the President, and which he said require immediate attention. These have to do with the lower Federal courts. Said the President in his message:

"We have witnessed the spectacle of conflicting decisions in both trial and appellate courts on the constitutionality of every form of important legislation * * *.

"A Federal statute is held legal by one judge in one district; it is simultaneously held illegal by another judge in another district. An act valid in one judicial circuit is invalid in another judicial circuit."

This means that often cases hang in court "for periods running as long as 1 year or 2 years or 3 years—until final determination can be made by the Supreme Court." And in the meantime the Government must stand aside. "It matters not that the Congress has enacted the law, that the Executive has signed it, and that the administration machinery is waiting to function, etc."

This, together with all the other implications clearly set forth by the President in his message to Congress, is a matter of extreme importance to the country at large and commends itself to the thoughtful consideration of the whole Nation.

A PUZZLED LAYMAN

The point that interests me, a layman, most is the anomalous status of the inferior Federal courts in our judiciary system. The Supreme Court was established by the Constitution, but the inferior Federal courts are created by the authority of Congress. Here is the language (art. III, sec. 1):

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish * * *."

Now, let us concede without argument that the Supreme Court has the power to declare acts of Congress unconstitutional. But I do not concede to any inferior court judge the right or the power to declare an act of Congress unconstitutional. Yet the inferior courts do declare such acts unconstitutional. And they are declared unconstitutional by a single judge. Here is the anomaly: An inferior court is created by Congress; but the judge of this inferior court created by Congress can declare an act passed by Congress and signed by the President of the United States unconstitutional, invalid, and of no effect.

An illustrious example is the case of the Public Utility (Holding Company) Act of 1935. The suit was carried by the lawyer for an interested party into the Federal district court at Baltimore. Judge Coleman ruled that the Public Utility Act was unconstitutional "in its entirety"; and he advised the public-service corporation directly involved to regard the act as "invalid and of no effect." He declared that Congress "has flagrantly exceeded its lawful power under the commerce clause of the Constitution."

He contended that the theory of the act passed by Congress is that the legislation was in the public interest. "But", said the judge, "under the Constitution there is no 'national public interest.'"

"No national public interest." Quite a surprise to ordinary folk.

LOGIC VERSUS LAW

A layman, unskilled in the fine-spun niceties of the law, and with only his poor rules of logic to guide him, may be pardoned for contending that the Constitution of the United States did not confer this power to declare acts of Congress unconstitutional on any inferior Federal court; and that neither Congress nor the Supreme Court can delegate this plenary power to an inferior Federal court judge.

It may be argued that the exercise of this power is conferred by article III, section 2, of the Constitution: "The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States and treaties made", etc. * * * Or implied in section 2, "* * * the Supreme Court shall have appellate jurisdiction as to law and fact, with such exceptions and under such regulations as the Congress shall make." But if so, I enter a denial. To admit that an inferior Federal court (created by Congress) has or can have the power to nullify an act of Congress is to proclaim the untenable doctrine that the part is greater than the whole; and that the creature is greater than the creator.

The Constitution declares that the laws of Congress passed in pursuance of the Constitution shall be the supreme law of the land. It declares also that the judicial power of the United States shall extend to every case arising under the laws of Congress.

Still, nowhere do we find any explicit grant of power to any inferior Federal court to nullify laws passed by Congress and approved by the President.

The contention that 200 individuals—judges of inferior Federal courts, scattered throughout the United States—can each declare any act of Congress as unconstitutional is too grotesque for words. It takes at least five members of the Supreme Court to declare an act of Congress unconstitutional, but one judge, sitting solitary in an inferior court, exercises a greater power. The fact that five members of the Supreme Court may reverse his decision is no answer.

THE WEAKNESS OF OUR JUDICIARY SYSTEM

The real menace to the country and the weakness of our judiciary system today is not the Supreme Court but the inferior Federal courts, which can be and are being used by scheming and designing individuals and corporations to gain their unholy ends. Every judge of the inferior Federal courts is known; the probability of his favorable or unfavorable ruling is in many cases anticipated with uncanny accuracy. All too often suits are instituted in districts where favorable consideration is almost a foregone conclusion. This is especially true in cases where injunctions are sought.

"Government by injunction", said President Roosevelt in his message to Congress (Feb. 5, 1937), "lays a heavy hand upon normal processes; and no important statute can take effect against any individual or organization with the means to employ lawyers and engage in wide-flung litigation until it has passed through the whole hierarchy of the courts."

And now we get to the meat of President Roosevelt's recommendations, which none of those who are opposed to any kind of reorganization has touched on so far. Here is the passage from the President's message:

"Now, as an immediate step, I recommend that the Congress provide that no decision, injunction, judgment, or decree on any constitutional question be promulgated by any Federal court without previous and ample notice to the Attorney General and an opportunity for the United States to present evidence and to be heard.

"This is to prevent court action on the constitutionality of acts of the Congress in suits between private individuals, where the Government is not a party to the suit, without giving opportunity to the Government of the United States to defend the law of the land."

When it is remembered that a smart and brilliant lawyer had so engineered the case against the aforementioned Public Utility (Holding Company) Act of 1935 that the Federal Government was permitted to intervene merely "as a friend of the court", but not as a defendant, it is easy to see why the President is seeking redress of an intolerable and dangerous condition.

LET'S BE SENSIBLE—AND FAIR

My personal reaction to all this discussion is to ask, "What's all the shooting about?" The charges flung against the President, that

he wants to make himself a dictator, that he is scheming to destroy the Constitution, and abolish the Supreme Court, and other silly vaporings, are too ridiculous for serious consideration among intelligent men. If the President has any unconstitutional ambitions, the Constitution provides the means to remove him by impeachment. Let those who pretend to believe that the President is an enemy of the Republic and that he has violated his oath of office draw up the indictment—or else hold their peace.

I do not agree with the President as to some of the views he expressed anent the ages of Supreme Court Judges. It is immaterial whether a Judge is 50, 60, 70, 75, or 80. The intellect of some men is keener at 75 or 80 than that of other men when in their prime. Age is not an important point, to my way of thinking, in this discussion. Neither is the number of Judges decisively important. Whether we have 9 or 15 Judges—what's the difference so long as equitable results are obtained? In short, the emphasis has been put on the two points which seem to me least important—almost irrelevant, whereas little or no attention has been paid to the major suggestions made by President Roosevelt—namely, the reorganization of the entire judicial machinery. I blame the President for this, for he has made the age question the paramount issue.

At present under our Federal judiciary system the welfare and happiness of 128,000,000 people and as yet unborn generations are at the mercy of, say, 200 men—Federal judges 'nto whose heads some mighty queer ideas as to what is law and what is justice, and what the Constitution permits or does not permit, and what the people can or cannot do, have imbedded themselves in the course of 150 years. When you have a situation that enables a single Federal judge pontifically to declare from his seat that under the Constitution there is no such thing as national public interest you have a condition which, if permitted to continue much longer, will end disastrously for the people of this Nation.

CLEARING UP THE CONFUSION

The impression that some of those who are against the Federal judiciary reorganization plan have been trying to create in the minds of the people is that it is, first of all, an attempt on the part of the President to control the Supreme Court—as if any President could control the Supreme Justices—whether their number be 9 or 16; and, secondly, an attack on the Supreme Court itself. A great deal of confusion has resulted from all this, which calls for clarification.

None has raised any question—least of all, the President—about the right or the power of the Supreme Court to declare laws enacted by Congress unconstitutional. That right or power, regardless of how or when acquired, is today conceded. It is not a point of dispute in the present controversy. But the thing that is disputed and attacked is the interpretation that the Supreme Court Judges are giving to the Constitution, and have given in times past, in handing down their decisions.

There is justification for this challenge for when in an important case nine men equally learned in the law, equally conscientious, differ in their opinions—four, let us say, holding one opinion and four a contrary opinion—and when the validity of a law, or the constitutionality of an act, or the favorable or unfavorable decision is determined by the preponderance of 1 vote, you have a condition that is at least worth thinking about and susceptible of improvement. (Many, though not all, of the important decisions have been 5 to 4.)

As a matter of fact, in many cases the Judges are swayed and influenced largely by their political, social, and economic philosophy; for when a Supreme Court Judge puts on his judicial robes, he does not automatically divest himself of his personal bias, prejudices, and predilections. The Supreme Court Judges are human.

SUPREME COURT INTERPOLATIONS

Moreover, those who have intelligently studied some of the important decisions of former years cannot have failed to observe that the Supreme Court, or rather the Judges, in a number of cases have not hesitated to go beyond the language of the law, even interpolating extraneous words and phrases in order to justify their opinion. For example, in the famous Standard Oil case, in deciding which the Court invented "the rule of reason."

One of the Justices—Harlan—commented: "One thing is certain; 'rule of reason', to which the Court refers, does not justify the perversion of the plain words of an act in order to defeat the will of Congress."

Again, in the Tobacco Co. case, Justice Harlan said: "But now the Court, in accordance with what it denominates the 'rule of reason', in effect inserts in the act the word 'undue', which means the same as 'unreasonable', and thereby makes Congress say what it did not say; what, as I think, it plainly did not intend to say; and what, since the passage of the act, it has explicitly refused to say. * * * In short, the Court now, by judicial legislation, in effect amends an act of Congress relating to a subject over which that department of the Government has exclusive cognizance."

THE CRIPPLING OPINIONS OF MEN WHO ARE DEAD

Another thing to think about is this: The hundreds of decisions rendered by the Supreme Court stand. The rules or principles laid down in previous decisions are perpetual in law and may be invoked at any time. It is reported by one commentator that in a certain case John Marshall insisted that his decision was right, "fortifying his argument by more than 30 citations."

Here is a dangerous element in our judiciary which ought to make all thoughtful men more thoughtful. If something is not done to alleviate that danger, the time will surely come when the Supreme Court, by the weight of the opinions of men long since dead, and the number of their judicial decisions, can do anything it wants to do, and the people will be helpless.

Some of these decisions made long ago are plaguing us today. It is to a decision of the Supreme Court, or rather the opinion of Chief Justice Marshall, in the Dartmouth College case (handed down 118 years ago—truly in the "horse and buggy" days) and which conferred upon corporations the attribute of sovereignty, that we owe the unending stream of evils that have flown from the unbridled and lawless excesses of corporation skullduggery. Under the protection of that decision "a corporation is an artificial being, invisible, intangible, and existing only in contemplation of law * * *. It possesses only those properties which the charter of its creation confers upon it * * *. Among the most important are immortality, and * * * individuality * * *, etc."

In 1889 the iniquitous holding-company device was invented. The time to have challenged it was in the beginning; but what power has the Government to proceed? For against the Government stand many crippling Supreme Court decisions corollary to Marshall's judicial pronunciamento in the Dartmouth College case in which he decreed that the mere fact "that a charter of incorporation has been granted" does not justify a legislature in changing "the character of the institution", or in transferring "to the Government any new power over it."

If the Government could have gone to the root of the matter when the first holding company was organized, the hydraheaded monster could never have evolved; and certain acts passed within recent years would never have become necessary—acts some of which have already been declared unconstitutional and others likely to be so declared.

There are also numerous decisions of the Supreme Court which have permitted corporations, particularly railroads and public utilities, to put an excessively inflated valuation on their properties, and to charge excessive rates based on the excessively inflated valuations, against the public. The list of trouble-breeding decisions could be considerably lengthened. But these few suffice to show the drift.

IN CONCLUSION LET ME SAY—

I am far from being in agreement with all of the President's ideas. For example, he favors a child-labor amendment; I do not. If I had been a member of the Supreme Court, I would have voted against the N. R. A. and the A. A. A., not because they are unconstitutional, but because they are poor economics. And this applies also to many other New Deal measures. In short, I am opposed to about 50 percent of the President's views; but that does not prevent me from trying to be fair. I am willing to give him credit for honesty of purpose and sincerity of intentions. Moreover, he is the only President, in my lifetime, who has had the courage to come to grips with the real problems that confront us.

And so, far from condemning his proposal to bring about needed improvement in our Federal judiciary system, I commend it. He is doing what Jefferson did a hundred and thirty-five years ago. If Jefferson had not challenged the arbitrary encroachments of the judiciary, democracy would have perished. We of today owe a debt of gratitude to Jefferson for his valiant fight on behalf of the people; and I think posterity will be grateful to President Roosevelt if he accomplishes, even in part, what he is trying to do today. The questions he has raised with regard to the Federal judiciary system must be answered some time—the sooner the better. It must be decided once and for all whether the Constitution of the United States is the property of the people or the patrimony of the privileged.

[From Christian Science Monitor, Apr. 24, 1937]

OTHER COURT PLANS HELD MORE RADICAL THAN PRESIDENT'S

NEW YORK, April 24.—Every alternative plan on the Supreme Court save one—that providing for the retirement of members of the United States Supreme Court when they have reached the age of 75 years—is essentially more radical than that submitted to Congress by the President, in the opinion of Federal Council of the Churches of Christ in America, voiced in an analysis of both sides of the issue today.

"Whatever may be thought of the several propositions offered as alternatives to the plan in dispute", it says, "it must be recognized that, with the exception of compulsory retirement of judges, they are all essentially more radical than the President's plan in their effect on governmental processes. This does not mean that they are not preferable, nor does it mean that some of them are not in any case needed as supplementary remedies for the evil of anachronistic court decisions * * *.

"The conclusion of the whole matter seems to be that those who think that the Nation is now in a critical situation, who are deeply impressed with the inferior economic status of one-third of our people, to which the President has called attention, who share the concern expressed by the Chief Justice himself in the recent minimum-wage decision over 'the unparalleled demands for relief which arose during the recent period of depression and still continue to an alarming extent', and who believe these conditions can be met only by immediately securing a liberal attitude on the part of the Supreme Court toward New Deal legislation, will tend to favor the President's proposal as the quickest method of infusing new blood into the Court.

EDUCATIONAL PURPOSE

"On the other hand, those who do not regard the situation as grave and think that with a little patience and in the course of

nature changes in the personnel of the Court will bring about changes in the interpretation as well as substantive amendments to the Constitution, and those who fear the precedent of changing the Court in any way without the approval of the whole people will be inclined to oppose the President's plan and favor proceeding by way of amendment."

The council finds, however, that whatever the outcome, the controversy has served an educational purpose.

"It has brought to the attention of the country, as evidenced by the surprising satisfaction voiced in the conservative press over the recent liberal decisions of the Supreme Court, the necessity of a modern judicial interpretation of our basic law", it says:

CENTRAL ISSUE DEFINED

"A fair statement of the central issue would seem to be somewhat as follows:

"When the Supreme Court has made clear in a number of decisions, most of them divided, that it is averse to sustaining a legislative program, adopted in a very critical period, which is in line with a broad declaration of policy that the people have decisively approved at the polls, is it sound to bring about a change in the tenor of decisions by appointing additional members of the Court whose views are known to be more favorable to the general aim of the administration and to the character of the measures designed to implement them? That is the issue in a nutshell * * *.

"If * * * the proposal is stated in terms of a plan to pack the Court, the question is begged * * *.

"It is probably safe to say that the supporters of the President's proposal for the most part regard it as a rather drastic but necessary expedient to render the Supreme Court independent of the strong individualistic tradition which our economic system has developed and more dependent upon the will of the people as to the spirit in which the language of the Constitution shall be interpreted."

The council finds little justification for the apprehension of critics of the President's proposal that it would set up a precedent.

The Supreme Court

EXTENSION OF REMARKS

OF

HON. KENNETH McKELLAR

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Thursday, April 29, 1937

RADIO ADDRESS BY EDWARD A. FILENE ON APRIL 28, 1937

Mr. McKELLAR. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address delivered by Edward A. Filene, on April 28, 1937. The title of the address is, "Whose Supreme Court?"

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Friends of the radio audience, although I am not a lawyer, I am going to speak for a few minutes about our Supreme Court.

Perhaps I had better say because I am not a lawyer, I am going to talk about our Supreme Court.

We've heard the lawyers—on both sides. That's all right, as far as it goes. But personally I would rather hear from the people who aren't lawyers; and these past few weeks, I believe, will live in American history as a time when our Supreme Court began to hear in a big way from the people of the United States.

Please notice that I call it our Supreme Court. It doesn't belong to the lawyers. It belongs to us—to you and me, and every American citizen. It exists only because we, the people, want it to exist; and if it doesn't work as we want it to work, we can, if we wish, restrict its powers to any extent which we, the people, believe to be necessary to preserve our democracy.

This, I know, is not the customary way of referring to the Court. For many years the average American citizen got to thinking of the Supreme Court, not as a mere branch of our democratic government but as a sort of sacred tribunal somehow raised above the Government and endowed with some mysterious authority to tell the Government what to do.

And we called that attitude reverence. It wasn't. It was superstition. It wasn't an attitude of respect for the Court but an attitude of contempt for democracy.

If we are to have true democracy, to be sure, we must respect the courts; and we will respect their decisions and abide by them, even when we are convinced that their decisions are wrong. Otherwise, we could not have order, and without order the rule of the people would be impossible. But that is far different from assuming that the courts are above the people and not subject to the people's will.

I told you I was not a lawyer. Think of me as a man who likes good sports and good sportsmanship. As a lover of baseball, I know we must have umpires, and we must respect and abide by the decisions of the umpire or the game could not go on. But the game, nevertheless, does not belong to the umpires, and if the umpires ever got to thinking that it does, we would either lose interest in the game or, in the interest of the game, we would demand a different kind of umpire.

In America for many years we seemed to lose interest in democracy. We still had our democratic forms. We still had our elections. And we still seemed to think that this constituted democracy. But I want to ask any listener over 50 years of age if the average American of his acquaintance did not seem to think of the Government as something above the people, rather than thinking of the people as above the Government.

But all that has been changed. In 1932, the people of these United States demanded a new deal. We were rather hazy, doubtless, as to how it might be brought about. But we were sick of poverty in the midst of plenty, and of unemployment in the land of opportunity, and by the New Deal we meant such a fair distribution of opportunity that the people generally would be guaranteed employment and their full and just share of the wealth which their work produced.

And so, taking a chance, we elected Franklin D. Roosevelt.

And 2 years of Roosevelt convinced the people of the United States that they had chosen well. Whereupon all the little groups of the privileged and powerful—all the groups which had come to think of themselves as rightfully above the people—began their campaign to stop Roosevelt at any cost.

Most of us, I think, remember what came of that. The answer was 46 to 2, and the largest popular majority that any President ever had. But one would think to read some of our newspapers today that the editors had forgotten all about it.

The American people, I am sure, have not. By 1936, surely, they knew what they wanted. They knew whom they were voting for. There was no hasty decision and all the arguments against Roosevelt were given a full hearing. The opposition controlled most of the newspapers and the special interests poured out millions for special propaganda. But the people of the United States—wage earners and farmers and housewives, who had never seemed to realize their power before—declared overwhelmingly that the New Deal must go on until they, the people, could have and enjoy the good things of life in accordance with their new capacity to produce them.

I said I was a lover of sports, and you may have guessed that I believe in government by the people. But that isn't all I do. I am a businessman, and for 50 years I have done my best to study our business development. If it hadn't been for those business studies I might be as afraid of democracy in action as are some other businessmen. At any rate this uprising of the people frightened most of the businessmen who had not been studying business development. They were honest and conscientious enough. They simply didn't know that this better distribution of wealth had now become as necessary for business as it was for the people generally.

So they were frightened. But they saw one bulwark between them and the New Deal. That was the Supreme Court. The Supreme Court had declared a large part of the New Deal unconstitutional; and the Supreme Court, as they saw it, was above and beyond the will of the people of the United States.

Now they, and their lawyers, and their other spokesmen have been telling us that President Roosevelt is trying to make himself superior to the Supreme Court. What he is really doing, of course, is keeping his pledge to the people of the United States.

He promised, in effect, to go on with the New Deal until the people of the United States would be assured of such buying power that they could purchase the products of our industries and thus keep themselves profitably employed. To achieve this, however, workers generally must have high wages, and farmers must not only be able to sell their products profitably but the very soil which they tilled must be protected from the ravages of rugged individualism which were fast wearing it out. This necessitated a Nation-wide program of conservation. It necessitated checks upon grasping corporations. It necessitated the control of agriculture and of industry for the common good.

The Supreme Court, however, declared that the Government could not do many of these things. I couldn't always follow its line of reasoning; and neither, in fact, could the Court itself. One day it declared that the regulation of agriculture was not a matter for the National Government, which could regulate it, but for the individual States, which, as every farmer knew, could not.

One day it said that the regulation of the labor of women and children must be left to the individual States. Then it followed with a declaration that the States couldn't do it, either. Then Justice Roberts changed his mind; and in changing his mind he changed the mind of the Supreme Court and thus changed the Constitution of the United States, for everybody had come to understand by this time that the Constitution is what the Justices say it is.

Now this, undoubtedly, was all good law, the only trouble with it being that it didn't make sense. Many people began to demand amendments to the Constitution, but the Constitution was actually being amended right before our eyes. Monday was not only wash day but a day for general alteration and repairs, as far as the Constitution was concerned.

I am not blaming the Supreme Court for this. I think it is as conscientious a court as we could hope to have. But when President Roosevelt observed that the Court needed new blood, I know that the American people could see the point.

We were interested in a fuller and fairer distribution of wealth, as promised by President Roosevelt. The President, we know, was under oath to stay within the Constitution. So was the Supreme Court, the only difference being that the Supreme Court could and did amend the Constitution to fit the views of the judges, whereas the President could not.

He and Congress, however, could amend the Supreme Court.

It was an extraordinary proposal, and it could hardly be justified if these were not extraordinary times. But they are, and everybody knows they are, extraordinary times—times as extraordinary as were the 1850's, when the famous Dred Scott decision failed to settle anything but so unsettled everything which the American people were trying to do that it became one of the chief events leading up to the War between the States.

And yet, legalistically, that Dred Scott decision was a masterpiece. If Chief Justice Taney and his colleagues, however, had only been able to look ahead, as well as back, they would not have helped to plunge the Nation into war. The real issue before us today is: How can we, the people of the United States, be sure that our Supreme Court will possess foresight equal to its hindsight?

None of us believes in packing the Court to suit the will of the Executive; and we know for a certainty that President Roosevelt does not. In ordinary times, we know, the Court is a steadying influence, and puts a needed check upon rash legislation. But these are not ordinary times. This is a historic turning point between the age of scarcity and the age of plenty; and it is a day when the people generally must be able to buy that plenty, else the machinery of plenty cannot be kept in operation, and we are necessarily plunged into unemployment, depression, poverty, and economic chaos. If, at such turning points, our Supreme Court cannot look ahead as well as back, it becomes a most unsteadying influence and may, despite the best intentions in the world, bring on national disaster.

Let me repeat: I am not blaming our Supreme Court. No one can rightly be blamed for growing old, and I am past 70 myself. It is well to remember, however, that when we aging capitalists have important new business to transact we entrust it to people who are up and coming, not to those whose minds are too much in the past and whose decisions are fixed by the precedents of the past.

If we object to new blood in the Supreme Court, therefore, while we may hire lawyers to advance other reasons, our real reasons must be plain. It is because we don't want this important New Deal business transacted. It is because we don't want the people of these United States to have what they voted for. It is because we want to stop Roosevelt from effecting the fuller and fairer distribution of wealth which not only the people but these new times demand. But the American people, I am sure, will not be fooled. They, I know, are with Roosevelt in his determination to bring the Supreme Court in line with these new times and in line with the will of our American people, for not only political, but economic democracy.

The Supreme Court

EXTENSION OF REMARKS

OF

HON. RUSH D. HOLT

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 29, 1937

RADIO ADDRESS BY FRANK O. LOWDEN, OF ILLINOIS, ON APRIL 7, 1937

Mr. HOLT. Mr. President, I ask unanimous consent that there be printed in the RECORD an address delivered over the radio on Wednesday, April 7, 1937, by Frank O. Lowden, former Governor of Illinois, on the President's plan to increase the membership of the Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The issue has now become clear, Shall we subordinate the Supreme Court to the Congress or the President, or even both? Or shall we retain the Constitution as handed down by the fathers, with its checks and balances?

This question rises above partisanship. And so I speak tonight as an American proud of his heritage. I cannot believe that the American people wish the Congress or the President to wield supreme power. And an independent Supreme Court alone stands in the way. A written Constitution, with its guaranty of the liberties of the citizen, would become but a rope of sand unless power to interpret it were given to someone whose decision should be final, binding upon all.

Shall the Congress have the right to make the final decision upon its own powers as defined in the Constitution? The framers of that great document were familiar with history. They knew that the tyranny of a majority was just as odious as the tyranny of a king. They therefore erected barriers beyond which the Congress could not rightly go.

FAMILIAR WITH KINGS

They were familiar, too, with kingly rule. They had but recently revolted against that kind of government. They therefore limited in precise terms the power which the President might exercise. If he were permitted to construe his own prerogatives, they knew that the end would be exactly the kind of government which they had risked their lives to overthrow.

There was but one answer to the problem they faced. And that was an independent tribunal whose function it should be to determine finally just what the boundaries were beyond which neither Congress nor the President could pass. And thus the Supreme Court came into existence.

"It has, indeed, no power to legislate. It cannot appropriate a dollar of money. It carries neither the purse nor the sword. But it possesses the power of declaring the law, and in that is found the safeguard which keeps the whole mighty fabric of government from rushing to destruction. This negative power, the power of resistance, is the only safety of a popular government." Thus spoke Justice Field upon his retirement from the bench after a long and distinguished career.

LEGISLATION NOT REVIEWED

There is a popular misapprehension as to the functions of the Supreme Court. It does not review legislation, as is often alleged. The Congress is at liberty to pass any law it wills. That law remains upon the statute books unchallenged until some citizen who feels himself aggrieved under its operation claims that the law in question is in conflict with his constitutional rights. Then, and then only, does the Court concern itself with such a law. It lays the law alongside the provision of the Constitution in question and decides whether or not such a conflict exists.

If the decision is in favor of the citizen who claims the protection of the Constitution, the Court has no alternative but to declare the law of Congress void. For surely if the two are in conflict both cannot be valid. And if either must yield, it must be the statute and not the Constitution. Otherwise the Constitution would be but a scrap of paper.

And then, too, a Supreme Court subordinated to the Executive, would mean sooner or later a complete centralization of all power in the Federal Government. This the framers of the Constitution thought they had guarded against by apportioning the powers of government between the States and the Federal Government and by establishing an independent tribunal which should be arbiter between the two.

PERIL IN CENTRALIZATION

Do we realize what a completely centralized government would mean? In all the vital concerns of the citizen, it would be Washington, not a State capital, that would have the authority to speak. Indeed, all local self-government would in effect be gone. There are but two forms of government covering so wide a territory as ours that can long endure: one, power divided between the central government and local subdivisions; the other, an absolute autocracy governing all and everything from the country's capital. Under the former alone is popular government possible. Destroy local self-government and the other form will come.

A completely centralized government would, of course, have the power to determine all prices and wages. Do the producers of commodities and the wage earners wish to risk their all upon an act of Congress? The present Congress, it is true, I think, is friendly to both farmers and wage earners. What assurance have they, however, that some future Congress would not use this same power to effect their ruin?

I am told that many farmers are in favor of bestowing such power upon the Federal Government. At this point I want to issue a solemn warning. The farmers constitute about a quarter of our population. The other three-quarters are interested in low prices for farm products. This 75 percent, living largely in the cities, have greater facilities for making their wishes known than the agricultural other 25 percent. What chance will the American farmer have in the long run if the Federal Government is given the power to name the price of the products of the soil?

DEMOCRATS LEAD FIGHT

It is peculiarly fitting that members of the President's own party are leading in this great fight for the independence of the Supreme Court. The Democratic Party has always been a stanch defender of the rights of the States. And those rights are secure only so long as that august tribunal shall be independent of both Congress and the President, as designed by the wise men who framed our Constitution.

A judiciary independent of the Executive power has been thought of for centuries as the outstanding achievement of our Anglo-Saxon civilization. It has been the object of admiration of liberty-loving men everywhere. The last ruler in the English-speaking world of whom I know to subordinate the judiciary to the Executive was James II of England, 250 years ago—and he lost his crown.

It is said, however, that the large majority the President received in the last election is a mandate to employ whatever means are in his power to carry out the program he has in mind, whether it runs against the decisions of the Supreme Court or not. If the issue now presented was even hinted at by the supporters of the administration in the last campaign, I never heard of it.

Aside from this, however, it was never contemplated by the framers that the Constitution should be amended in this way. A specific method was provided for, which should guard against hasty and ill-considered action and require the concurrence not merely of a majority but of considerably more than a majority of all the States. It is now urged, however, that this method would require much time. That was exactly why the framers of the Constitution provided elaborate machinery for the amendment of the fundamental law. Hasty action affecting the liberties of the citizen was what they most feared.

COURT STILL THE SAME

The President has been in office for more than 4 years. The Supreme Court is the same Court which the President found when he was inducted into office. If men past the age of 70 cannot be trusted to keep in step with modern progress there has been ample time to correct this in a constitutional way. For a majority of the Supreme Court had passed that age when the President was inaugurated. A simple amendment to the Constitution making retirement at the age of 70 compulsory would have achieved the end.

Can anyone think that such a resolution for amendment would not have received the requisite vote in Congress, dominated, as it has been, by the President? Does anyone believe that such a proposed amendment would not have been ratified before now by the required number of States if the people of the United States really desired this change in the Court? Of course, if the people had read between the lines, as well they might, a secret design on the part of the President to pack the Court, it would have been, in my opinion, overwhelmingly defeated. And isn't that the reason why the method by amendment was not employed?

The distinguishing feature of our form of government is that supreme power abides in the people, and in the people alone. They never have surrendered it to the Congress or the President or the Supreme Court, or all combined. They have delegated certain powers but withheld others. If a conflict exists between any two coordinate branches of the Federal Government, the people alone have the right to adjudicate that conflict. And this can be done only through conventions or legislatures of the States.

MINORITIES PROTECTED

It was minorities and individuals that the Constitution aimed to protect in the exercise of their rights. We are all in a minority in most of our relations to the society in which we live. The very church in which we worship, whatever our creed may be, is in a minority. The occupation in which we gain our daily living, whatever that occupation may be, is in a minority. Individually, we are in contact with society at a thousand points and in every one of them I can now recall we are in a minority. If, therefore, minorities are not protected our liberties have taken flight.

The Bill of Rights, guaranteeing the fundamental rights of minorities and even individuals, is the most precious heritage of the citizen. It is the ripe fruit of a thousand years of man's struggle for liberty. Under it the humblest individual or the smallest minority is secure in the exercise of fundamental rights against the power of either Congress or the President or both. It, and it alone, secures the liberty of the individual against arbitrary punishment with the right to trial by a jury of his peers, the right to worship God in accordance with the dictates of his own conscience, freedom of speech, freedom of the press, and other rights essential if man is to remain a freeman.

And yet every one of these rights has at one time or another been violated either by the legislative or the executive branch of the Government and rescued only by the action of the courts. For a century and a half an independent judiciary has been the bulwark of the people's liberties. If the President's proposal is enacted into law, that bulwark will have been destroyed.

It is said, however, that other Presidents have complained of the decisions of the Court. Jefferson and Jackson and Lincoln are specially mentioned as coming within this class. That is true, I think. Never before, however, has any President attempted to reconstruct the Court with a view to validating acts which had been declared beyond the power of Congress. President Jefferson's long war with Chief Justice Marshall is well known. Never, though, did he attempt to remake that great tribunal in order to give expression to his personal views. And when this great man retired from the Presidency the Supreme Court was functioning in all its dignity, integrity, and independence.

JACKSON ALSO COMPLAINED

President Jackson, too, complained of the Court. If he ever made an effort to subordinate it to the Presidency, I have never heard of it. After this doughty old warrior laid down the cares of office the only regret that he was heard to express was, not that he had failed to reconstruct the Supreme Court, but that he had not killed Henry Clay in a duel and hung John C. Calhoun for treason.

And Lincoln, they say, expressed bitter disappointment over the decision in the famous Dred Scott case. Yet when he came into power he made no effort to reorganize the Court to reverse that decision but calmly waited for an amendment to the Constitution to achieve this end.

Grant was charged with packing the Court in order to reverse a decision of that body in the Legal Tender cases. The congressional act at that time to increase the Supreme Court judges by two, thus only restoring it to its original size, was enacted months before the first decision was rendered in those cases and before anyone knew what that decision would be. This charge, too, therefore falls to the ground.

Lord Bryce, in his great work The American Commonwealth, pointed out that the failure of the Constitution to fix the number of judges of the Supreme Court was "a joint in the Court's armor through which a weapon might some day penetrate." And now for the first time in our history that weapon is being employed. The framers of the Constitution could not foresee a time when a President who had taken an oath to support the Constitution should one day attempt to impair, if not destroy, an integral part of the Consitution he had sworn to uphold. They had more faith in the future Presidents of the Republic—and that faith has been justified until almost this very hour.

NOT THE FIRST ATTACK

This is not the first time an attack has been launched against the Court. In the early half of the last century the Court was violently assailed. The chief grievance then was, not that the Court declared acts of Congress unconstitutional, but that they had sustained the constitutionality of certain laws. The criticism of these decisions was much more violent than any we have heard in recent years. And yet, whatever party has been in power since has not only acquiesced in the soundness of those decisions, but in its own legislative policies has availed itself of the powers of Congress which these decisions had upheld.

After the Civil War the Supreme Court again vindicated its usefulness in a series of decisions upon laws of Congress enacted during the period of reconstruction. This time, however, instead of sustaining acts of Congress, they declared them null and void. After the war the South lay prostrate. The Republican Party was then in power. The hot passions engendered during the war were still aflame. Laws were passed which reduced the Southern States to impotence over their own affairs. This was the darkest hour in that tragic era. The Southern States seemed almost helpless under a conqueror's heel. Then the Supreme Court in all its majesty intervened and declared those acts beyond the power of Congress. Hope revived among the people of the Southern States and the happy reconciliation we now behold between the North and the South dated from that time. And yet fierce and bitter was the denunciation hurled at the Court. But now, after the lapse of half a century, who is there in America to arise and say that he wishes those decisions had been other than they were?

The President already possesses more power unquestioned by the Court than any other President has ever possessed even in time of war. He can devalue the American dollar whenever he pleases. No other President ever possessed this power. He can cause to be issued billions of dollars in notes for the purpose either of reducing the national debt or purchasing any governmental securities. No other President ever possessed this power. He can prescribe the rules and regulations under which gold can be acquired and held. No other President ever possessed this power. He can spend, at his own discretion, a sum twice as large as the entire Federal Budget in the years before the war. No other President ever possessed this power. And other powers have been conferred upon him which no one of his predecessors enjoyed. And still he is not content. He would remold the Supreme Court so as to have yet other and vaster powers given him.

PRESIDENT IS MORTAL

Even if we concede that the President's purposes are worthy; that the power he seeks he would exercise for the benefit of all; that exact justice would be done to everyone; that he might be reelected for a third and even a fourth term, and continue this beneficent rule; still the fact remains that he is but mortal. What assurance would the people have that his successor would employ the power of a completely centralized government in the interest of the people as a whole? Or, if his successor were a man of Fascist tendencies, that he would not again reconstitute the Court in such a way as to support a Fascist dictatorship?

The President confesses in a message to Congress that some of the powers he has sought, placed in other hands than his, might "provide shackles for the liberties of our people." That is the very reason why, under the American system, such powers were not granted even to the best of men.

The founders of our Government recognized the limitations of human nature. They knew that men elected to high office were not always wise nor always good, and therefore they set limits to the exercise of power by even the highest officer in the State. George Washington presided over the convention which framed the Constitution. It was generally understood that he was to be the first Chief Magistrate under that Constitution. And yet the Constitution withheld from Washington the power which President Roosevelt seeks.

We have heard during the last few years members of the administration declare that we were in the midst of a revolution. We did not at the time take these words seriously. We looked upon them as nothing more than the ebullitions of youthful enthusiasm. Now, however, if the President's plan with reference to the Supreme Court should succeed, these words will have proven true words—and the revolution will be complete.

I have been in sympathy with much that the President has done. I cannot believe, however, that he realizes the grave consequences if his present proposal should succeed. Is he so immersed in present-day problems that his vision for the long future has been obscured? Millions of his supporters are opposing him in his attempt to remake the Court. And in doing so they do well. They

owe it to the President, whom they so much admire, to save him from himself.

If his proposal does succeed, a future historian will some day write of the rise and fall of the great American Republic. He will describe in glowing words its achievements during its first century and a half under the Constitution. It will be a thrilling story he will have to tell; how under the Constitution of the United States modern civilization had made its greatest gains. And then with reluctant pen he will tell of its decline and fall. And if the President does succeed in subordinating the judiciary to the Executive Office, it may well be that the historian will date the beginning of that most tragic failure of man's effort to govern himself with that momentous event.

A Federal System of Old-Age Pensions

EXTENSION OF REMARKS
OF
HON. LYLE H. BOREN
OF OKLAHOMA
IN THE HOUSE OF REPRESENTATIVES
Thursday, April 29, 1937

Mr. BOREN. Mr. Speaker, it is my purpose in Congress to do what I can to hasten the day when society will cease to produce millionaires and mendicants, gorged indolence, and famished industry. I care nothing for the rich except how they use their money. I am looking for the time when the useful man will be the honored man.

Throughout the universal sweep of history societies have produced aristocracies of title, wealth, or power but under our Government there is no aristocracy that has a right to exist other than that of heart and brain. I am not absorbed in the question of the origin of the present social and economic conditions in America, but I am absorbed in the question of the destiny of the Government and its people, which is today confronted with a reconstruction of that economic structure planned for the general welfare. It is my contention that an action for the welfare of the many need bear no concurrent fear of invading the right of the few.

Our economic structure grew up in haphazard fashion. The man who operated a tailor shop on one side of the river could make more suits than he could use, but he needed pork to supply his larder. The man on the other side of the river raised more hogs than he could consume, but he needed clothing to supply his family. And so, a third party came in with sufficient wealth and resources to build a bridge across the stream that there might be traffic in interchange of these commodities. This third man put up a sign on one end of the bridge to say that the pork producers should bring their hogs on to the bridge if they wished to exchange for the products of the clothier.

The sign on the other end of the bridge advised the tailor to bring his clothes on to the bridge if he wished to exchange for the products of the meat producers on the hitherto inaccessible side of the river. And when the clothier came bringing one suit to trade for a hog, he was told by the man on the bridge that it would take two suits to buy a hog. But when the pork producer came to trade for a suit, he was told it would take two hogs to buy a suit. And so the trade went on—two suits for one hog, and two hogs for one suit, until, at last, an overabundance was accumulated by the man on the bridge. He then put up signs at each end of the bridge saying, "Your products are unwanted; there is an oversupply." This did not cause those on each side of the river to wish any less for the fulfillment of their needs.

Out of this general system of haphazard economic development, there has been a constant ruthless castaway of all regard for the welfare of those who could not, at the moment, be utilized by the masters, the privileged, the supported. There are 8,000,000 people in America today who lack and hope for economic independence. These 8,000,000 people are those who have pioneered the development of this great country. Their hair has grown silvered in the service of this country. Their lives may be what the world calls failure, but it stands as record that they were builders and producers. They have achieved! We owe them an obligation for that achievement. Their lives have been useful and filled with constructive labor but they are spending their last few years in economic dependence because of the errors in a system which has riveted the chains upon the oppressed and counseled the robbing of the poor. The laborer and producer today are constantly dogged by the shadow of a life of work and future want. My own father has produced enough cotton and corn on the gullied hills of Texas and Oklahoma to feed and clothe his family for a thousand years, but today he lacks economic independence. Eight million people that have filled the storehouses of America with the goods of their production and that have filled the coffers of our treasuries with the fruits of their labor, are today economic dependents and either directly or indirectly are charges upon charity. It is a charge against the honor of this great country that these millions must accept the dole of charity. They should be permitted to share in the fruits of their industry and labor.

I have introduced a bill designed to give a Federal pension to every man and woman who has reached the age of 60 years and who has been a citizen of the United States for 20 consecutive years, making proof of age and citizenship the only requirement, and specifically protecting the honor of this Nation against exacting a pauper's oath as a stigma to be forced upon these 8,000,000 who would come under the terms of this legislation.

Now, Mr. Speaker, I come from a tenant farm. I bought my school books with the money I earned by picking bumblebee cotton on gullied Oklahoma hillsides. I do not want to leave any false impression here. I admit I did not do any more than my dad could get me to do. I was just like any other farm boy who had to follow the practice of going to bed when he was not sleepy and getting up when he was. But there are 8,000,000 people engaged in these enterprises that are now in poverty and deserve to be pensioned from the wealth that they have produced.

Now, I have been hesitant and none too ready to address this body, but I want you to know that what I may lack in the power in expression of thought I make up for in sincerity of purpose. I make no pretention of being able to present this case as it should be. I am not even ambitious to wear a collar so high that I have to tiptoe to spit over it, but in my plain way I want to recommend to the Congress the philosophy that would not permit me to turn a faithful animal out into the barren roads to starve after he has faithfully served a lifetime in the harness in my fields on my farm. Why, I would turn him on to the finest pastures.

I simply want to say that it is evident to all of us that the present assistance program for the aged is unsatisfactory and needs amendment, but I have offered here a simple program and have clearly set forth in my bill a program to raise the revenue necessary to see to it that the hand of want is not forever extended in the world of plenty by the creators of that plenty. I have provided for the financing of this program in the terms of the bill, but I might add that in my conviction one tear of hunger's grief outweighs a nation's gold. I would as soon see the Nation impoverished as to see its most deserving and faithful builders impoverished, cast off, and neglected.

There have been a score of bills introduced to provide a practical and worthy old-age pension system, but my bill offers a most reasonable approach to the best program that we can all agree on.

The liberal and progressive members of this body should rally to the support of this bill, because it has the following of organizations and groups which make up the support of general progressive programs for the Nation. In my own State practically all of the interested groups in old-age security and the various liberal organizations are 100 percent in support of this measure.

The Speech I Was Not Permitted to Make—Most Democratic Country in the World Suppresses Elected Representatives of the People—Neutrality Resolution Jammed Through by Hush-Hush Method of Dictatorship

---

EXTENSION OF REMARKS

OF

HON. JOHN T. BERNARD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 1937

Mr. BERNARD. Mr. Speaker, we are asked today to commit a crime in this House, a crime cloaked by the word "neutrality." You cannot separate that crime from the outrage of all civilized decencies which Monday took place on the soil of Spain.

Neutrality. Gentlemen, have you read the morning papers, and do you still speak of neutrality?

The resolution which has come out of a conference and is being rammed down our throats today takes no notice of the fact that Germany and Italy are engaged in a brutal war of invasion, in the senseless slaughter of innocent women and children.

I read to you from the New York Times of April 28:

> The bombardment of this open town (Guernica, in the Basque Province) occupied precisely 3¼ hours. During that time a powerful fleet of airplanes, consisting of three German types—Junkers and Heinkel bombers and Heinkel fighters—did not cease unloading bombs weighing up to 1,000 pounds and 2-pound aluminum incendiary projectiles. It is estimated that 3,000 of these projectiles were dropped.
>
> Fighting planes meanwhile plunged low from above the center of the town to machine-gun those civilians who had taken refuge in the fields.

War is hell, gentlemen. But the fires of Guernica, lit by the Fascist invaders of republican Spain, make even hell fire pale in comparison. And what is happening to the Basque civilians is not war, as history has known war in times past.

Listen again to the Times reporter:

> In the form of its execution and the scale of the destruction wrought, no less than in the selection of its objective, the raid on Guernica is unparalleled in military history. Guernica was not a military objective. A factory producing war material that lay outside the town was untouched. Two barracks on the outskirts containing small forces were untouched. The town was not near the lines.

Monday was market day in Guernica. At 4:30 p. m., when the market was full and peasants still coming in, the church bell rang the alarm. The people sought refuge, showing good spirit and discipline. Are there Catholics in this House? I myself was brought up a Catholic. It means something to me that a Catholic priest took charge and maintained order until he shared the fate of his parishioners.

Five minutes later the first German plane appeared. I quote again from the Times:

> The whole town of 7,000 inhabitants plus 3,000 refugees was slowly and systematically pounded to pieces. For a radius of 5 miles around, the raiders bombed separate caserios or farmhouses. In the night these burned like little candles in the hills.

The little candles burning in the hills were funeral pyres for simple peasants, for men, women, children, and the beasts that worked their fields.

German bombs. German planes. German machine guns. Gentlemen, can you read these facts in your morning paper, and then come to this House and pass a resolution which takes no notice of the fact that Nazi Germany is at this moment engaged in war, in the destruction of an age-old civilization?

We were sent here to Washington by the plain people of our home districts. Do you think those people do not read—do not know what is happening in Spain? Do you think they feel no bonds of kinship with their brothers in the Basque country, or in Madrid, facing its seventeenth consecutive day of German and Italian bombardment?

I call your attention to the last paragraph of section 3 (a). This section gives the President an unconstitutional power to permit or prohibit solicitation of funds for medical aid, food, and clothing for war sufferers. Congress sets no standards by which the President shall guide his decision as to who may or may not raise funds for these humanitarian purposes.

Is this constitutional? Is this democratic? Where are the voices in this House which day after day have been crying "dictator." They are silent. This is the kind of dictatorship they find congenial.

I say to you that this one section is enough to establish the unconstitutionality of the whole resolution. But leave constitutionality aside. I am no lawyer. I do not need a lawyer to tell me that this section is an unparalleled insult to the American people, and a shameful betrayal of America's noblest traditions. The people of this country have always exercised their democratic right to extend medical aid, food, clothing, and funds to distressed people everywhere. Shall they now exclude the democratic people of Spain, suffering under the barbaric invasion of Fascist murderers, from such brotherly assistance?

I have been informed that the nonpartisan Red Cross will be the licensed agency for carrying on humanitarian aid to Spain, and that no other agency is needed.

What has been the record of the Red Cross so far? What has it done to make it acceptable to the American people as the one and only agency through which they will be permitted to express their solidarity with their brothers who fight for democracy in Spain?

The official figures of the International Red Cross show what it has done. Up to January 28 of this year, through its sections in all countries, it appropriated the ridiculous sum of $118,000 for Spain. One hundred and eighteen thousand dollars! One hundred and eighteen thousand dollars appropriated. And that sum, according to official records, was about equally divided between the Fascist murderers and their victims. Do you think the American people will be satisfied with this kind of aid to the homeless women and children of the Basque Province, or to the harassed civilians of Madrid?

But $118,000 was merely appropriated by the International Red Cross. What did it do with these appropriated funds? Finance Minister Negrin, of Loyalist Spain, declares that the International Red Cross has not even one medical center in Loyalist Spain. Of the $118,000 appropriated, the Red Cross, by January 28, had spent only $61,425. The Fascists got more than went to the Loyalists.

By January 28, official figures inform us, the Red Cross claims to have contributed only $23,570 to the Loyalists, and admits having given the Fascists $25,387.

Is this the kind of nonpartisan aid which the American people can accept as humanitarian? Will they submit to a State Department order to contribute to the Red Cross, so that funds so collected may lie idle or draw interest, while the heroic defenders of republican Spain bleed to death? Not if I know my fellow citizens, they will not.

Today, and even at this very moment, the slaughter goes on in Spain. The resolution before this House takes no notice of the incontrovertible fact that Germany and Italy are responsible for that slaughter. It helps to maintain the legal fiction that Germany and Italy are not at war. Is not this shame enough for 1 day? Must we further shame ourselves and our countrymen by prohibiting the solicitation of funds for the relief of those who survive the massacre of Guernica? Are we going to divide the pennies, nickels, and dimes collected by the workers of this country equally and fairly between the survivors of Guernica and those who swooped down upon them in German planes and pounded them to pieces with German machine guns and German aluminum bombs?

Our people sent us here to defend peace, to assure their safety from such horrors as now afflict the people of Spain. Can we return to face them at election time if we have betrayed peace, betrayed the safety of all the people of the world, and in no less measure the safety of our own American citizens by voting for this pro-Fascist, pro-Nazi, pro-war resolution? Call it neutrality, but we will not fool the folks back home, who have eyes to see and ears to hear, if we have not. These same electors gave their answer to home-grown reaction and native pro-Fascist forces when they reelected Franklin D. Roosevelt on November 3.

This is the speech I did not make on the floor of the House today. I was not permitted to make it. Under gag rule and the dictatorship of the gentleman from Tennessee the conference report on Senate Joint Resolution 51 was rammed down the throats of the membership. Opponents to the report were denied one single moment of time. Electors! Is this the kind of representation you want? Is this your conception of democracy? I do not stand alone, but speak for all my progressive colleagues in the House when I say that democracy has this day been shamed in the House of Representatives.

Democracy and peace. Two American ideals have been betrayed today. Two American ideals have been cut down by the forces of war and dictatorship.

There are people in this country who treasure their ideals and know how to defend them. You cannot gag those people. They will yet make themselves heard in this House.

Neutrality

EXTENSION OF REMARKS
OF
HON. HERMAN P. KOPPLEMANN
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Thursday, April 29, 1937

Mr. KOPPLEMANN. Mr. Speaker, I regret that this neutrality measure on which the conference committee has rendered its report omits provisions which are important for the adequate protection against the American people becoming involved in war. The conference report retains, in particular, three striking weaknesses. It does not keep American shipping out of war zones. It does not prevent a war boom in domestic industry. It permits retention of title by Americans in goods sold to belligerents.

I will vote to accept the neutrality conference report but my vote must not be construed as a vote of approval for the measure. Our present law expires on Saturday. A slice is better than nothing at all and while the bill is inadequate it does reenact the present law, which is good as far as it goes, and gives us something on which we can continue to work for strengthening amendments.

If time were not so short I would attempt today to persuade this House to remove some of the weaknesses in this bill and respond to the demand of the American people by giving them a law which will more nearly serve our aim of keeping this country free from the possibility of entanglement in a foreign war. But rather than risk the possibility of leaving us entirely unprotected and without any neutrality law whatsoever I am compelled to vote to accept the conference report.

I want, however, to warn this House of the dangers inherent in this measure as it now reads. I urge you to keep these dangers in mind and constantly be alert to the fact that for real neutrality, for the full protection of American peace, for which the people of this country are depending upon us, amendments will have to be made to our neutrality law.

The letters which you and I have received point conclusively to the fact that the American people are willing to deprive themselves of temporary and illusory profits from war trade in order to have peace. They want to eliminate the possibility of our involvement in a foreign war. In these letters we hear the voice of the people we represent asking us to keep peace at all costs. The World War and our entrance into it because of an unwise effort to preserve our wartime foreign trade is fresh in their memories. The boom and the prolonged depression resulting from it, because of which American social and economic structure is still overturned, is more fresh in their memories. It will be years before the situation truly rights itself.

That the question of peace is uppermost in the minds of the people today, and has been so for the past few years, is evidenced in resolutions that have been drawn up in various industrial, economic, and social conferences. Labor, which would profit temporarily by the increased amount of employment to carry on war trade, has denounced this country's encouraging and abetting a foreign war or the preparation for war. Their resolutions have emphasized the need of embargoes, not alone on arms, ammunition, and implements of war such as the present law provides, but equal embargoes on basic materials of war. Their resolutions have called for a prohibition against American ships traveling in belligerent waters, against American citizens visiting warring countries, against loans and credits to warring nations.

The Oregon State Federation of Labor, at its annual convention in 1935, in adopting a program to "preserve the neutrality of this Nation", also advocated as a national policy refusal of protection to American manufacturers or tradesmen in selling or transporting any product to a nation engaged in war.

The New Deal, a Labor publication of Sheboygan, Wis., stated editorially:

> It is better that our citizens should run the risk of commercial loss than that the country should be involved in a war to protect their alleged commercial rights.

This same publication deplored the inadequacy of the present neutrality law because it does not limit the sale of war materials to belligerents.

Among the national labor organizations which have gone on record in favor of strict neutrality legislation to keep this country out of war are the American Federation of Hosiery Workers, the United Textile Workers of America, and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees. These are in addition to numerous State and local labor organizations.

American agriculture might profit considerably were there no neutrality law. A foreign war might be the vehicle for the return of great prosperity, even for a limited time, for American farm products would be greatly in demand. But what do we find? Agricultural organizations have and are demanding stronger neutrality legislation. They are demanding strict embargoes on basic war materials.

Louis J. Taber, master of the National Grange, in his annual address before the National Grange convention only last November said:

> Once again let us proclaim to the world, especially to Europe, that our land is determined to observe that type of neutrality that will leave fighting and turmoil over there, and America's fine young manhood over here. * * * We must make illegal for export, all munitions and raw materials that are essential to war. This will mean that agriculture must make a sacrifice, because cotton, wheat, and fats are as essential to war as are gunpowder, steel, and munitions.

Indicative of the farmer sentiment are these words of J. Edward Anderson, State secretary of the Minnesota Farmers's Union:

> Minnesota farmers do not want war. They do not object to an adequate national defense strong enough to protect this Nation against any invader, but they do object to the idea that the American flag should follow the American dollar.

The Oregon State Grange in its annual convention last June resolved to—

> Place human welfare and happiness above dollars, and that American business interests engaged in war trade should be forced to do so entirely at their own risk.

The National Farmers Union at its annual convention last November recommended that the present neutrality legislation be continued and further strengthened and that "every possible precaution be taken to prevent our entrance in any future war."

Yet, in the face of these demands and representations, apparently as if they had not been made at all, this Congress has passed a law which prohibits merely the export of the prime materials of war after war has been declared, but which law takes no precaution against our encouraging foreign warfare through many other routes, and furthermore, permits American industry to assist actively in foreign war preparation.

Within 10 years after the close of the World War, just when grass was beginning to grow again in the fields and territories of Europe, which for many weary months had been given over to trenches and war traffic, just when the signs of war devastation in Europe were beginning to be cleared and the stark horror of war fading from the minds of the people, war preparations were beginning for conflicts which, by comparison, could make the World War "sick."

Nations whose sole concern should have been the economic and social rebuilding of their people were instead devoting their energy, their money, their resources for war preparations. The war to end wars had been fought supposedly with the peace treaties; it had become a matter of history. But on all sides instead it appeared that the war to end wars had merely furnished the impetus for greater, more consuming, more devastating warfare. Chemical laboratories and munitions plants boasted that products were being discovered and manufactured to shorten the duration of the war because these products provided destruction in a much shorter space of time.

Let me repeat what I said the day the McReynolds bill was adopted by the House. I voted for that bill, as I am voting for this conference report, because I do not want this country to remain without at least some semblance of neutrality legislation. We at least have this neutrality law to cling to, and, as I said before, to strengthen.

Neutrality is not the final answer to peace. It is selfish. It takes the American people and places them in a citadel. We deliberately enclose ourselves behind our walls and let the rest of the world fend for itself. World peace can only be obtained by the concerted cooperation on the part of all nations of the world. A determination, participated in by all the nations of the world to keep peace, to iron out international difference as they should be settled around a conference table, is the real answer; but something has happened to the world. The day when nations will work together for peace seems very remote this afternoon. However, because there seems to be an unbridled desire for war on the part of leaders of other nations, regardless of how their people may feel, that is no reason why we should follow suit. The world is depending upon America today, depending upon us for methods of progress, depending upon us for our national resources, for our financial strength; depending upon American genius in all fields of science, economics, and politics to point the way to a happy economic and social existence which other nations may adopt.

Today America's mission is also to point the way to peace.

We will not point the way to peace by engaging in a war nor by preparing for war, nor, as this bill provides, assisting other nations in their war activities. We must keep the peace in America. We must make every sacrifice and take every precaution lest any statement or deed of ours, or any part of us, tells another government that we would approve of its engaging in war.

It is because this neutrality bill is woefully lacking in protecting the American people against the danger of involvement in war because it permits American industry to encourage other nations in their preparations for war, that I introduced a bill restricting the export of scrap iron and steel from this country. Estimates indicate that 3,000,000 tons of scrap will be shipped from this country during 1937. In 1933 we exported 773,406 tons of iron and steel scrap. In 1934 we exported 1,835,170 tons of iron and steel scrap. In 1935 we exported 2,103,959 tons of iron and steel scrap. In 1936, 1,941,031 tons. Those figures—they are constantly going up, like all figures that pertain to war preparation. In the 1 year between 1933 and 1934 there was an increase of 237 percent in the amount of scrap iron and steel exported from this country, most of which went for the production of war materials, which, for all we know, may come right back to us in the form of ammunition used against us. The alarming thing is that this terrific increase of iron and steel scrap exports is continuing, and the frightening estimates for 1937 indicates a 50-percent increase over the exports of 1936.

If, for the protection of American people, we are going to write a neutrality bill, we must go all the way. The present law is full of loopholes. If this Congress were sincere in its expressed desire for neutrality, it would stop the exporting of supplies proven to be used in the preparation for war. It would place a mandatory embargo upon materials of war. There would be no loophole left in the law by discretionary provisions.

The very least it could do would be to prohibit American ships from entering war zones and to deny the retention of title by Americans of goods sold to belligerents.

A condition which was influential in dragging us into the World War is likely to be repeated. This neutrality bill before us does nothing to stop that condition. I refer to the unnatural boom in war trade which will bring temporary prosperity to American industry and give temporary employment to American labor. In 1917 we preferred war to giving up our war-trade profits. The fact that the law retains a prohibition against loans and credit to belligerent nations does not cover the situation, because in this country there are millions of foreign dollars invested in American securities. There is nothing to stop these foreign holders of American securities from selling their stocks and bonds once war is declared and using the money right in this country to purchase American war goods.

Furthermore, these goods can be shipped in American bottoms. Whether there is sufficient foreign money invested in this country to buy enough American war goods to carry on a foreign war for any appreciable length of time is, I admit, a question. On the other hand, like every other industry, the industry of war has been speeded up and made more efficient, and the business of war destruction can be carried on much more efficiently and do its work more effectively in a shorter period of time than it used to take.

Unless we are ready once and for all to pay the price of peace by giving up the profit of war trade this country will always be faced with the possibility of finding itself involved in an armed conflict.

The neutrality struggle has in reality just begun. The people of the country are not aware of the omissions in our neutrality law. They are not aware of the dangers incorporated in the legislation we are going to pass. Once they are aware of them they will demand definite strengthening provisions. They will demand that American ships be kept from the war zones. They will demand restrictions on American goods which are exported from this country to aid foreign nations in preparation for war, even at the sacrifice of a war boom in America. They will demand that American title be eliminated from all goods sold to belligerents.

There are many Members of this House who are compelled, with me, to vote for this bill because it is the best that can be obtained at this time from a Congress which, apparently, is blinking at the encouragement the measure gives to those who will profit from war trade. The measure is not keeping faith with the platform the Democratic Party presented to the country a little less than a year ago, when we proclaimed—

We shall continue to observe a true neutrality in the disputes of others—to guard against being drawn, by political commitments, international banking, or private trading, into any war which may develop anywhere.

Law Enforcement and the Publisher

EXTENSION OF REMARKS
OF
HON. WILLIAM P. CONNERY, JR.
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Thursday, April 29, 1937

ADDRESS OF JOHN EDGAR HOOVER AT NEW YORK CITY, ON APRIL 22, 1937

Mr. CONNERY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following remarks of John Edgar Hoover, Director, Federal Bureau of Investigation, United States Department of Justice, at the annual dinner of the American Newspaper Publishers Association at New York City, on Thursday, April 22, 1937, at 9 p. m.

In appearing before the members of the American Newspaper Publishers Association, I feel highly honored, greatly indebted, and filled with the hope that I may say something of interest about a problem with which we are both concerned, that of our responsibility toward law enforcement. If the officer is the guardian of the law, then the free press is the guardian of the officer, and it is our dependence upon this trust of yours that I want to discuss tonight. For your freedom carries with it, as we all know, great responsibilities.

First, let me remind you that the criminal hates and loves publicity. Likewise, he hates and loves secrecy. Both serve his purpose in seeking to defeat the law and both can be the factors which will bring him his just punishment. Therefore, the newspaper has a great responsibility in the handling of news concerning crime, which, directly or indirectly, casts its menacing shadow over every home into which your newspaper goes.

I wonder if crime has ever been viewed in its proper magnitude as it affects the persons who make your newspapers possible? The subject of crime and crime news enters into every phase of the daily lives of your readers. We must all admit that there is no more sinister force in the United States than that of the 4,300,000 persons who are engaged by day and by night in the commission of felonies which proceed at the rate of 1 every 24 seconds. Last year, it is estimated that 1,333,526 major crimes were committed in our country; a murder or manslaughter every 40 minutes, a robbery every 10 minutes, a burglary every 2 minutes, a case of larceny every 44 seconds. And the annual crime bill of the Nation is estimated at $15,000,000,000; $10 per month for each man, woman, and child. There is not a family in America which is not, in one form or another, paying this continuing taxation, levied by the assessors of the underworld. These families comprise the subscribers of the newspapers of America, and they turn to the newspapers for information, for aid, and for guidance.

I am afraid that America would be chaotic indeed were it not for the fearlessness of those editors who are brave enough to point out evidences of municipal corruption, or of criminal affiliations as they see them. That the press speaks all too often to an apathetic audience is unfortunate; that it continues to speak certainly commands the highest of commendation.

Therefore, the problem I want to discuss is not one which the unthinking person so often alleges, namely, that newspapers print too much pointless crime news, or that newspapers simply aid the criminal. It is rather one of distilling the wide and varied efforts of the many publishers into a purer and more clarified viewpoint and program by which the desires of the forward-looking newspaperman may be accomplished for the good of all.

I have said that a criminal loves and hates publicity, and in this axiom lies, I believe, the explanation of some of the condemnation placed upon newspapers by those who believe that some newspapers aid crime. To understand this statement, one must understand the phychology of the criminal, which first of all demands a certain peculiar type of ego and love of self-aggrandizement, a desire to be in the forefront, to be admired, to be talked about, even though he must murder some honest citizen to obtain that position.

Practically every bandit-desperado of recent years, a type which I prefer to term "public rat", rather than "public enemy", fed his ego, and assembled his so-called courage for new depredations by what a person in other pursuits might call his press notices. Every time some unthinking writer referred to him as daring, or courageous, or romantic, or brave, or shrewd, or clever, it fed the flames of his ego, and burned him with new desires to rob more banks, plunder more citizens, and kill more people to keep the fires of publicity burning.

The best way to deflate ego-maniac individuals is to tell the whole truth about them. I have said that the criminal hates publicity, and indeed he does when it truthfully depicts his rat-like existence, his self-centered mind, his cowardice, his craven stealthiness. Had John Dillinger been depicted for the filthy type of vermin that he was, crawling through the holes of our law enforcement, rather than, as one series of articles portrayed him, as a clever and adventurous individual given to a marked degree of chivalry of Robin Hood proportions, perhaps there would not be so many silly boys now in penitentiaries for having tried to emulate him. One of the bitterest complaints Alvin Karpis made to me after his capture at New Orleans was that I had publicly branded him a "rat." That hit home. He knew it was true.

I trust my next remarks will be received as those of a man who does not pretend to know anything about the newspaper publishing business, but, who, through grim circumstances, has had to learn something about crime and criminals. Reverting to my statement that a criminal loves publicity, I have only to think of the numerous unfortunate occasions when publicity has resulted in the continuation of criminal careers.

There was, for instance, in a Midwest city, the publicity-seeking police officer who could not refrain from supplying a newspaper with the confidential knowledge that plans were being made by special agents of the Federal Bureau of Investigation and local officers to apprehend John Dillinger upon his planned return the following day for medical aid. The information was printed and, of course, John Dillinger did not walk into the trap which had been laid for him by the authorities. Instead, he was able to continue his depredations for several months. Thousands of additional dollars were necessary for his pursuit and the plunder of armories and banking institutions multiplied from the continued activities of this "mad dog."

In the case of Alvin Karpis, who held the headlines for a brief time, one newspaper could not resist the temptation to "jump the gun" on a tip it had received that Karpis was about to be captured. Karpis was not captured at that time. In the case of "Machine Gun" Kelly, one of the kidnapers of Charles Urschel, plans had been laid to entrap him when, in a northern city, he picked up a newspaper which emblazoned across the first page the information that "Machine Gun" Kelly was about to be arrested there. It was necessary to chase him several thousand miles farther before the Federal Bureau of Investigation and local officers captured him at Memphis, Tenn.

I could continue with these examples throughout the cases of many public rats who have been sought by the Federal Bureau of Investigation within the last few years. However, I have no desire to appear as a critic of the press in general, because it has only been a small minority of the press which has thoughtlessly, I believe, been unwitting parties to these instances of obstruction of justice. No one appreciates the cooperation, the earnest assistance, the forthrightness, and honesty of the American free press better than we of the Federal Bureau of Investigation.

I view this meeting rather as a clinic in which we have gathered as physicians looking to the cure of a malignant disease, namely, crime, which has fastened itself upon America, viewing its symptoms and its possible remedies and seeking to correct any defects in a selected mode of treatment, through frank and sincere cooperation and consultation. Incidentally, the foregoing instances will indicate why the Federal Bureau of Investigation sometimes proceeds on cases without consulting local authorities. We cooperate always when circumstances otherwise permit, except when experience shows local agencies to be publicity-mad, crooked, or incompetent. Fortunately, the Federal Bureau of Investigation has received excellent cooperation from the police agencies of the Nation, and the departments with which we cannot work shoulder to shoulder are in the great minority. To those State and local agencies which have so efficiently and whole-heartedly cooperated with our Bureau we owe a tremendous debt.

Since I have cited instances in which overenthusiasm for news or overeagerness to supply the demands of subscribers have brought about unfortunate results, I desire at this time to pay my respects to all newspapermen, and especially those of the city of New York, for what was to me the perfect example of newspaper cooperation in law enforcement. This concerned the arrest of Bruno Richard Hauptmann, the kidnaper of Charles Lindbergh, Jr.

Here was a case in which the efforts of all law-enforcement throughout America had been bent to the utmost for months. This was especially true of the Federal Bureau of Investigation, which was given the task, more than a year after the commission of the crime, of coordinating efforts for the pursuit of this criminal, and toward that end had worked night and day upon tedious, painstaking plans which were approaching their culmination.

Steadily and surely, through the aid of eager and efficient local law-enforcement bodies, the net had been drawn about the offender; bank notes were being traced through purchases; it had been established that the wanted man was a carpenter; that he lived in a certain part of the Bronx; that he was spending ransom money more and more openly. Bank clerks were on the lookout for him; storekeepers everywhere were aiding us. All of this could have failed if one single newspaper, or one single newspaperman had been unable to keep the tremendous secret which had passed throughout law enforcement; that the forces of law and order were about to close in upon this fiend; that his arrest was a matter only of days, perhaps hours.

If a single line of type had appeared anywhere saying that the Lindbergh kidnaper was known, that he was about to be

arrested, there would have been immediate flight, and the solution of the Lindbergh case would perhaps have been as far away as ever. But through the great pulsating world of newspaperdom that secret remained a secret; the lips of newspapermen were closed; not once did the clatter of the linotype machine make known this most important knowledge. The result was that Bruno Richard Hauptmann remained unaware of the tremendous plans that were approaching consummation until at last he walked into the trap—a trap perfected through cooperation, through coordination, on a common ground of fidelity and zealousness. I cannot praise that spirit too highly; I cannot commend too greatly the newspapermen who made it possible.

It is with this status of perfection in mind that I have cited the other instances when publicity has defeated or detained the law. The fact that the Hauptmann case was handled so excellently shows that the spirit is there. If the flesh is sometimes weak, may I suggest that to a law-enforcement officer of integrity and earnestness every case is another Lindbergh case, whether it be a kidnaping, a bank robbery, or a crime of less importance. For we never know when the petty criminal of today is to become the madman of tomorrow.

But let us contrast the helpfulness of the press in the Lindbergh case with the situation which existed in a more recent major kidnaping case under the jurisdiction of the Federal Bureau of Investigation. A group of press representatives issued an ultimatum to the father of the kidnaped person to the effect that, unless he would agree to permit them to interview the victim immediately upon his release by the kidnaper, they would continue to "picket" the home of this distraught parent throughout the 24 hours of the day and night, and they would follow any relative who might leave the home to make contact with the kidnaper. I am sure that the editors of these papers did not realize the true significance and consequences of that action.

Crime news may sometimes not be news until it is published. The printing of information concerning the sudden activity of relatives of kidnaped persons or of officers in cases of apprehension can be of ultimate interest only to one person—that is the man whom those officers are endeavoring to apprehend. The temptation to jump the gun on news concerning the identity or apprehension of criminals is a temptation to the underworld which has been offered unconsciously by the press.

There have been instances when press representatives have attempted to make comparisons or contrasts between the effectiveness of law-enforcement agencies in dealing with certain types of situations. May I suggest that such action serves to confuse the public in erroneously creating the impression of a lack of cooperation between police agencies and tends to destroy confidence in organizations which are attempting to do their best to serve their communities. The common basis of all law-enforcement agencies is the public welfare, and anything which tends to create doubt in the public mind concerning the cooperative endeavors of police agencies serves as an aid and comfort to the criminal.

I revert to my statement that a criminal loves and hates secrecy. What he hates most of all is his inability to find in any newspaper the details of law-enforcement activities which will allow him to know the names of the officers who are seeking him, or reveal their photographs, or tell of the plans by which he is to be apprehended. That secrecy chills the heart of a criminal, and by that secrecy newspapers can achieve a great accomplishment in the protection of the public and their readers through the more frequent capture of dangerous wanted men.

As for the secrecy which the criminal loves, it is the lack of publicity upon community or local matters having to do with the efficiency of law enforcement or the stultifying influence of politics upon those who seek to enforce the law. Crime lives and thrives by this sort of secrecy. When an influential criminal is arrested in your community, he immediately assembles his powers of influence, his high-paid lawyers criminal, his alibi witnesses, and all the rest of the machinery by which such an offender seeks to defeat the law. He hopes above all else that the newspapers will refrain from probing deeply into the activities by which he plans to remain free. He does not want you to demand a quick trial or to continue to demand that trial until it is brought about. He does not want you to delve into the political affiliations he may be employing to delay indictment or to influence witnesses. He does not want you to ask with some asperity where he got the money to hire the most expensive set of lawyers in your vicinity. He wants you to forget all these things.

It seems to me that in matters of this kind every newspaper has an opportunity to demonstrate the finest type of journalism. Through you your subscribers can ask why the big criminal gets away and the little fellow is sent to prison. Through you they can demand to know why some law-enforcement agencies are lenient toward offenders of political affiliation but highly efficient when the unaffiliated, the poverty stricken, the poor come to the bar of justice. Through you they expect that vicious offenders will be held to the sentence meted out to them in court and not be able to melt steel bars of prison into pliable putty through the use of underworld influence or underworld money. You are their voice and their protector, and to be their protector both you and our group must be implacable; we must be unremitting. And you know, better than any less informed persons can know, just how true my statement is that crooked politicians aid and abet arson, robbery, and murder.

It is not enough to carry on sporadic campaigns against vice or lawlessness, ceasing these campaigns with the throwing of a few sacrificial bodies into the flames. A campaign against lawlessness can succeed only when the roots of that lawlessness are torn up one by one, and the forces behind the active criminals are exposed and brought to justice.

If I were a publisher, and I realize this is a most dangerous thing to say, I would apply the same principles to crime that newspapers have applied to medicine. Certainly, the average American newspaper subscriber is better equipped to evaluate his health because of the campaigns of education which have been carried on by skilled men of science and medicine in the columns of their newspapers. I believe persons can be taught by the proper writers and proper specialists how better to protect their homes against robbery; how to recognize swindlers; how to stave off the racketeer and the chiseler and the petty embezzler; how to recognize a venal violator of public trust when he begins his nefarious activities; how to understand and demand a proper type of law enforcement; how to understand the need for appropriations for proper police equipment, proper police personnel, and proper scientific development of law enforcement. All these are subjects which are crying for consideration because the American newspaper subscriber today is asking in general terms how he can be protected and how crime can be reduced. You are the medium to supply the answer in words and pictures which everyone can understand.

Another important problem in connection with proper law enforcement is one dealing with the administration of our parole systems in the various States. This problem is perhaps more complicated than ever, because of the efforts of interested persons to conceal the true severity of the situation and, by their twisting of apparent facts, to seek to muddle the public mind concerning it. I am a firm believer in the principle of parole but I have said before and I say now that the administration of parole systems in all too many of our States approaches a national scandal.

Parole today is becoming one of the major menaces of our country. Through its misapplication convicts are being freed with little or no supervision and often with no sound reason for release. In my opinion, there can only be one reason why thousands upon thousands of criminals who have repeatedly committed crimes are set free to commit other and often more dangerous offenses against the law. This is the failure of public officials to faithfully carry out their public trust. And this dangerous condition should be exposed. There is no power but yours to do it.

The Federal Bureau of Investigation maintains a list of 13,516 of the most desperate, vicious enemies of society. Of these, 3,948 have been recipients of either sob-sister or sentimental or monetary or politically controlled pardon or parole, not once but, in many cases, time after time. Every special agent of the F. B. I. who has died in gun battle with criminals has been sent to his death by a gun in the hands of a paroled convict. Not one was a first offender, they were all paroled convicts. I do not believe that prison doors should be opened by sentimental sob-sisters to such men as Alvin Karpis, John Dillinger, Harvey Bailey, Harry Brunette, "Baby Face" Nelson, or the rest of their recidivist, habitually and professionally criminal clan of plunderers, sex criminals and murderers whose freedom can only place a stain upon the theory and practice of parole.

Such maladministration creates only enemies to society. It cheapens the dignity of law enforcement. It lowers the majesty of the law in the estimation of persons who deliberately commit infractions. It is a problem to be weighed and attacked by every home-loving person. I ask that all of you give of your time, your thoughts, yours efforts, and your great power that this horrible tangle of misapplied clemency be stricken from the list of our problems.

Another barnacle which clogs law-enforcement—a monumental fake which has too long been perpetrated upon the American public—is the prison sentence which says one thing and means another. The newspaper subscriber must be taught that he should not be lulled to peaceful acquiescence when a judge sentences a man to prison for 20 years, knowing full well that he will be out in 5. Prison sentences today are largely a matter of division and subtraction. The criminal knows it and takes advantage of it. There is no such thing as a life prisoner—the average man who receives a life sentence for murder serves less than 10 years and the average sentence served by persons convicted of murder is only 43½ months.

Many of our prisons are disorganized; they are ill-kept; they often are hotbeds of vice and agitation. Punishment in many States has all but become a thing of the past. Some of our prisons may well be classed as country clubs, while others are mere temporary stopping places for persons who have violated our laws. Many of them are badly manned and are easily accessible to escape, like sieves through which the rats placed in them may depart almost at will. In many prisons, the inmates are granted the benefits of the radio, of the daily newspaper, selected magazines, the latest movies, orchestras, traveling bands, hand-decorated cells, tennis, baseball, handball, basketball and football, and any other amusement which oversympathetic and sob-sister wardens or prison boards may contrive so they may better enjoy their stay behind bars.

This is not punishment. It does not create respect for law. So long as such idiotic, disgraceful, sentimental convict-coddling persists, the majesty of the law cannot be looked upon with the seriousness necessary to bring about the respect which it should command.

The press has done more than any other public group to arouse and crystallize public attention upon the evils and abuses which

exist in the administration of our parole and penal systems. Some improvement has been noted as a result but much remains to be done. I am indeed hopeful that the free press of our country will not relax in its crusade against these evils, because it is only by unceasing vigilance and persistence that effective and lasting results may be accomplished.

If every publisher would dedicate a column on the front page of his paper to a statement of the status of crime and criminals in his community, it would be informative not only to their readers but it would also tend to make more alert and diligent those public servants charged with the enforcement and administration of the laws.

I trust I have not been misinterpreted as one who merely criticizes. I hope the debt of law enforcement to the press has been made clear and that you fully understand my personal feeling of that indebtedness. What I have said has been advanced only as the views of one seeking to bring about frank discussion of an important problem so that a good friend can be made into even a more able one. Only cooperation and mutual understanding can bring success to our endeavors. But the goal of that success is the eradication of concerted and professional criminality throughout the Nation. May we all give our most earnest efforts toward its early attainment.

Taboos—The Judges and the Public—Dictatorship Discussed—King George III and Justice Roberts

EXTENSION OF REMARKS

OF

HON. MAURY MAVERICK

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 1937

ADDRESS BY HON. MAURY MAVERICK, OF TEXAS, BEFORE FORD HALL FORUM, BOSTON, MASS., APRIL 25, 1937

Mr. MAVERICK. Mr. Speaker, under unanimous consent, I include a speech I recently delivered in Boston at the Ford Hall Open Forum, on Sunday night of April 25, 1937, as follows:

Mr. Chairman, ladies, and gentlemen, it is a pleasure to visit Boston, because I know so little about it. But I am a theoretical Bostonite, for Sam Maverick, an ancestor, came here in 1621. He was in continuous hot water with your authorities because he believed in civil and religious liberties. One time he reported to Lord Clarendon that three Quakers had been hanged for practicing their religion and said he did not think it was exactly right. I understand that you have recently discontinued burning people at the stake and hanging them because of their opinions [laughter], so I shall proceed to say what I think.

I have been here once before. And now for the past 2 or 3 days I have been riding rubberneck wagons, talking to intellectuals, high-toned people, low-down people, common people, and even to professors over at Cambridge. I have been over to East Boston, once called Noddle's Island, and which the good Sam Maverick owned. There you will find a Maverick Lumber Co., a Maverick drug store, radio company, gas station, street, square—and although the Mavericks have left there, it makes me feel at home.

DON'T GET EXCITED, MY FELLOW AMERICANS

My fellow Americans, I am going to make you a talk. My title is "Don't get excited", and I am going to talk generally about the Supreme Court and some of our fundamental issues. Now, I have heard so much talk in the National Capital, so much nonsense, excitement, and hysteria about the Supreme Court that a talk on that subject seems futile. But I might as well spill it in the beginning and tell you what my opinions are and not try to build up to a grand climax like a classical speaker who has his oration divided into proper segments.

I am going to give you some conclusions in advance, which is more or less turning the tables on you. The most important thing in any free government, I believe, is civil and religious liberty. I believe your teacher's-oath bill is an abomination; it is against the spirit of our American form of government. That law ought to be repealed. [Applause.] Patriots are not made by oaths.

POLITICAL AND ECONOMIC JUSTICE, CONSERVATION, EMPLOYMENT, SOCIAL SECURITY

The big question facing the American people is political and economic justice. Included in that is the conservation of our natural resources, unemployment, and social security. Looming high on the horizon of everything is the Supreme Court of the United States. And I am for the suggestion made by the President of the United States for the reform of the judiciary. That is, I am for his plan, although his suggestions do not go far enough. [Applause.]

NINE GENTLEMEN; ORDINARY FELLOWS, NOT NINE GODS

The nine members of the Supreme Court are fine gentlemen, and some of them are excellent lawyers. But let us begin by saying they are not nine gods, and the Court is not such a sacred institution that we cannot discuss it.

In fact, they are common, ordinary fellows like us. One of them is very, very common, and I think you will agree. For, indeed, he was a Member of Congress, and another was defeated for State senator on the Democratic ticket.

JUSTICE ROBERTS WIELDS MORE POWER THAN GEORGE III

It is proper, I think, to mention the names of the Justices. One of them, for instance, is Mr. Justice Roberts. This one man, who flips from one side to the other, has more power than was ever wielded by any British monarch. He has wielded and still wields far more power than was ever wielded by George III, whose vetoes brought the American Revolution. George III exercised this power through his concept of divine right, and through birth, and his irresponsibility lost the Thirteen Colonies to the British Empire. As I said, Mr. Justice Roberts exercises much greater power than this King did; he does it through his appointment to a lifetime job, and in which he is not responsible to anyone on the face of the earth. How he does it we will have to find by going into history.

We need not be too polite to history or to our ancestors. Had our ancestors wasted their time worshiping their ancestors we would never have had the Declaration of Independence. But let us study the facts and see what they mean.

In the first place, there were only 13 small agricultural colonies, of which your own Bay State colony was one. Out to the west was a vast unexplored forest, and you heard no human voice except that of the Indians. There were no steam vessels, no radios, no railroads—none of the great mechanical achievements of today. There were no corporations as we understand them. Since then we have had stupendous changes.

GEORGE III. "HE HAS ABOLISHED OUR MOST VALUABLE LAWS"

Why, generally, did we revolt? Conditions were bad. Commerce, agriculture, business, and employment generally were in a tragic condition. Every time the Colonies tried to correct conditions or alleviate suffering the King would knock the law out. So in the Declaration of Independence the colonists said of him:

"He (the King) has refused his assent to laws, the most wholesome and necessary, and he has abolished (knocked out) our most valuable laws."

Having said that, we made our Revolution good and finally adopted the Constitution. The preamble said it was for the general welfare, and in the Constitution Congress was further given the specific power to legislate for the general welfare. Now we find that the general welfare has been abolished by the Supreme Court, and they have, like King George III, knocked out the most wholesome and necessary laws.

Let us look at the power of the judges in England at the time of the Revolution. For a hundred years before no judge could destroy a law of Parliament, nor could a King exercise the veto. The destruction of laws were only of the colonies, which they called the plantations. It was done through the King and his Privy Council.

Concerning the judiciary, Blackstone, who was then an authority and is still considered an authority in the law colleges, said that to permit the judiciary to nullify laws passed by the legislative branch would be subversive of all government.

READ TRUE STORY OF CHECKS AND BALANCES

We have heard a great deal of the checks and balances set up by our forefathers, so let us step into the Constitutional Convention and see about it. If we look closely we find that checks and balances were not of the judiciary upon the legislative, but of the House of Lords or Senate as against the House of Commons or the Representatives, against each other.

Alexander Hamilton suggested the possibility of a Presidential veto, and said the three great objects of government are agriculture, commerce, and revenue. And he added, "They can only be secured by the General Government." Others opposed the President having a veto, but none of them favored giving the power to the judiciary of declaring acts unconstitutional. Old Benjamin Franklin, who is still considered to be a very wise man, said that "it would be improper to put in the power of any men to negative a law passed by Congress."

CONSTITUTION—THE POWERS OF CONGRESS AND THE HIGH COURT

In any event, the power to declare acts of Congress unconstitutional was not placed in the Constitution. As I said in the beginning, what our founding fathers said is not entirely relevant, for we have to decide for ourselves what we want. But it is absolutely true that they did not say one single word in the Constitution about the Supreme Court having any such power.

On the contrary, they vested in Congress the power to regulate and make exceptions to the character of cases appealed to the Court. Indeed, the Supreme Court cannot meet without a law upon it by Congress. At one time Congress did not allow the Court to meet for a whole year.

The Judicial Code sets up the Supreme Court, and the regulation of the Court by Congress has been affirmed in more than 20 direct cases by them. Rules set up by Congress are frequently mentioned by the Court.

Now, here is what the Constitution says in reference to the jurisdiction of the Supreme Court:

"In all cases affecting Ambassadors, other public Ministers, and consuls, and those in which a State shall be a party, the Supreme

Court shall have original jurisdiction. In all other cases • • • the Supreme Court shall have appellate jurisdiction, both as to law and to fact, with such exceptions and under such regulations as the Congress shall make."

Fellow Americans, that is perfectly plain. Instead of the Supreme Court having the power to declare an act of Congress unconstitutional, Congress has the right to regulate the jurisdiction of the Supreme Court.

But, you say, the Court exercises the unregulated power to declare acts of Congress unconstitutional. That is quite true; so let us face the practical facts.

How did the Supreme Court get this power? The answer is, by public opinion, and by misrepresentation to the public. John Marshall started the idea in the famous case of *Marbury* v. *Madison*, and most of you already know it. It was not then accepted by the people, the Congress, or the President. But it grew in the minds of the lawyers, although John Marshall never dared declare it again. It came into full flower in the case of Dred Scott, in the year 1857, which was 57 years after John Marshall first declared the doctrine.

ABOLITIONISTS, DRED SCOTT TABOOS, THE TEARING OF HAIR

Preceding the Dred Scott decision the Supreme Court and its functions were becoming a taboo. You can see it today in the expressed opinions of men like John Haynes Holmes, who is characterized as a radical, and Oswald Garrison Villard, characterized as an extreme liberal, both fine gentlemen, in their tearing out their hair and throwing fits over increasing the size of the Supreme Court.

Take, for instance, Bishop Freeman, who is of the Episcopal diocese of Washington, D. C. I attended church 2 or 3 weeks ago, and I could see that he was in a terror. Later on I saw him testify before the Senate Judiciary Committee. He read a statement that must have taken 20 or 25 minutes, and in the entire statement he said absolutely nothing to support his views except that he was afraid.

Historically, I think there is a reason for all this. When we settled in this country, we had all kinds of religions. We were intolerant, burned witches, hanged Quakers, and in general denied religious liberty to each other. But when we became a republic, we adopted a bill of rights and founded religious liberty.

As a result of untrammeled religious liberty, we have the most enlightened churches in the world. We have no trouble over religion, because it is free. Occasionally we have evolution trials, but, on the whole, religion in this country has great universities and patronizes art, good government, and science. From the founding of our Republic, too, we forgot our taboos about our officials, such as Congressmen, Senators, Governors, and Presidents. That was because they were elected.

It was a different story with the Supreme Court. They were appointed for life, and not by the people. They were isolated and secluded. They were responsible to no one. They have never had to explain, except that in their opinions they have used mysterious words which no one could understand.

So, since everything else was free, and since the people had no official or other taboos, the Supreme Court became the great taboo of the American people. So when I heard the bishop talk—whom I just mentioned—he was a good example of those who are living with a tabooed Supreme Court in their minds. The good bishop is otherwise intelligent and rather broad-minded, although quite conservative, and when he got to taboos he was in horror.

Whereas in the Constitution the President was given limited power of veto—that is, that the National Legislature can pass an act over his veto by two-thirds vote—the Founding Fathers denied even this to the Court. But with veto idea as a basis, they began to develop the power, not in a limited way, but in an unlimited way. For, if an act is declared unconstitutional, it is void, and of no force and effect, and stays void, for it just isn't a law, and never was one, according to that doctrine. So that law stays checked, and there is no balance as in the case of the President whose veto can be passed over.

VETO OF THE TRIBUNE—WEBSTER'S DICTIONARY ON TABOO

It is, then, a taboo. And in speaking of taboos, among the Romans the veto was declared by the representatives or Tribunes of the people as against arbitrary power. The Supreme Court exercises their power in an opposite manner. They arbitrarily say that an act passed by the representatives of the people is to be permanently vetoed or declared unconstitutional.

Let us take a look at Webster's Unabridged Dictionary. We find that taboo means interdicted, prohibited, prescribed. Then we look at the meaning of veto and it is interdict, refusal, prohibition. In other words, we have built up certain taboos in our own minds, and the actual meaning of veto is that of taboo. The taboo used by the Supreme Court on the people of the United States is altogether different from any veto ever used in any government.

With the idea of the taboo built up in the minds of the people, let us discuss the Dred Scott decision. The Missouri Compromise on slavery was adopted in 1820. Then, in 1857, the act was declared "unconstitutional" by Chief Justice Taney. The first time the case came to him he dismissed it with costs and with no opinion. But pressure was brought to bear, and so the dismissal was erased, and one of the longest opinions ever issued in America was delivered.

THE JUDGES BUILD THEMSELVES THEIR OWN TABOO—AMAZING EGOTISM

And strangely enough during the time the people were developing their taboo about the Court, the judges were building one for themselves. They had an idea if they just said something, that the people would shut up and mind them like a lot of simple children.

Listen to what the judges said in the case:

"The case involves private rights of value and constitutional principles of highest importance, about which there had become such a difference of opinion that the peace and harmony of the country required the settlement of them by judicial decision."

Think of the amazing egotism of the judges in that case! Imagine it; they were to decide "private rights of value", great problems, by writing on a piece of paper! Now, let us see what their opinion did.

It opened all the western areas to slavery. It took away American citizenship from free Negroes in free States. It enraged the Northern States and made the settlement of the West by free white men impossible. It meant not only perpetuating slavery in the South but spreading it all over the West and the Northwest, and since the white man would have been destroyed by the slave labor, he quite naturally protested with violence.

The decision was looked upon with contempt by all the States of the Union except the Southern States. Of course, the South hailed the decision as learned and wise, just as the reactionaries and manufacturers' associations and chambers of commerce always hail a reactionary decision today. It was natural for them to do it, for they thought it fastened slavery on America perpetually.

Legislatures of the North and the West promptly announced they would not obey the decision.

WHAT NEW HAMPSHIRE SAID IN 1857

Let me read from the New Hampshire laws of 1857:

"First. That the great power vested in the Supreme Court of the United States, and the permanent tenure of office by which it is removed from the direct control of the people, require that its action should be the object of constant and vigilant observation; that an influence upon it can be exerted only by public expression of censure upon any attempt of the Court to transcend the limits of its authority; and that it is especially the duty of the legislatures of the several States to expose and denounce any such attempt.

"Second. *Resolved*, That the decision of the Court in the case of *Dred Scott* v. *John F. A. Sanford*, as pronounced by Chief Justice Taney, contradicts the facts of history, is repugnant to the Constitution and subversive to the rights and liberties of the people.

"Seventh. *Resolved*, That the expression of extra-judicial opinions from the Supreme Bench on subjects agitating the public mind is undignified and unbefitting the position, and the use made of such position to propagate political doctrines tends directly to destroy confidence in the integrity of the Court and respect for its decisions.

"Eighth. *Resolved*, That in undertaking to decide those questions which, according to its practice, were not in issue, the Court evinced a desire illegally to control the action of Congress; that such course justifies the apprehensions entertained by the framers of the Constitution that there might be danger from the too great latitude left to the discretion of the Court; that a repetition of and persistence in such action would confirm the belief that there was a design and purpose on the part of the Court to usurp the functions of the legislative department and justify the State in resisting, by all constitutional means, the enforcement of laws dictated by the Court."

VERMONT ALSO DEFIES SUPREME COURT OF UNITED STATES

Now let me read from the Vermont laws of the same year:

"*Resolved*, That Vermont reasserts the constitutional right of Congress to regulate slavery in the Territories of the Union by legislative enactments; that such right is clearly conferred by the Constitution itself, and its timely exercise is indispensable to the safety and perpetuity of the Union.

"*Resolved*, That these extra-judicial opinions of the Supreme Court of the United States are a dangerous usurpation of power, and have no binding authority upon Vermont or the people of the United States.

"*Resolved*, That no ingenious sophistry of the judges of that Court can make it appear that the citizens of each State are not citizens of the United States and citizens when in the other States; and entitled, as such, to all rights and privileges of citizens in the several States.

"*Resolved*, That whenever the Government or judiciary of the United States refuses or neglects to protect the citizens of each State in their lives or liberty, when in another State or Territory, it becomes the duty of the sovereign and independent States of this Union to protect their own citizens, at whatever hazard or cost."

This is given to show the recorded attitude of the Northern and Western States. The two States are at present, through some of their officials, praising the Supreme Court. And they are probably praising the Supreme Court for the exact reason that the slave owners praised the Court in the Dred Scott decision. That is because these officials do not believe in the principle of free labor any more than the southern slave owners believed in free people.

This is an example when this mighty power is surrendered by the people to a few men. Think of it! Men had to go to war to overrule the decision. If that is true, we have no democracy at all.

As far as I am concerned, the people must have a right to adjust their problems through their representatives. And I am here to say that the Supreme Court is no more sacred now than it was in 1857 when its decision led to the Civil War. So when I said in the very beginning I was for the reform of the judiciary, I

believe that it is the most vital necessity for America if we are to survive as a free government. [Applause.]

Now, fellow Americans, I merely make these statements in order that we can view the Supreme Court as a human institution, but not as a divine institution which can break down the laws of the people at will.

Now, let us discuss in a general way some of the things that the Supreme Court has done. By the use of devious phrases, such as "due process of law", they have broken down the laws of the various States and municipalities. But, we are told, the Supreme Court is the bulwark of our liberties. Now I should like to know, is it really?

What is the record of the Supreme Court on the matter of civil and religious liberties? In the famous case concerning Oregon, where they permitted the continuation of parochial schools, it was principally on the basis that the owners of the school had a right to continue its business. The religious rights of minorities were not really considered. It was practically all on the basis of "business rights."

And the appeal from Oregon, the De Jong case, just lately decided, is cited as a great preservation of civil liberties. But the Court went through a long discussion of the fact that the defendant really didn't try to do anything illegal, and that he wasn't really proven to be a Communist, and so on. In other words, they gave advice how to write an indictment next time so the conviction would stick. The Court did not declare the Oregon act unconstitutional. In other words, the Court did not essentially protect civil liberties in the De Jong case.

JEFFERSON, PRESIDENT, NOT COURT, DECLARED SEDITION ACT UNCONSTITUTIONAL

The Alien and Sedition Act passed in the Adams administration is another case where the Supreme Court did not preserve liberty. Men were put in jail all over the country and Federal judges kept them there. These acts never did get to the Supreme Court throughout all these years.

When Jefferson became President he declared it unconstitutional, as President of the United States, by saying as follows:

"It is unconstitutional, and I shall not enforce it."

And he followed this by letting everybody out of jails who were in jails. That was an instance where civil liberties were saved, not by the judicial branch of the Government, but by the executive branch.

SUPREME COURT DECLARES ESPIONAGE AND SEDITION ACTS CONSTITUTIONAL

Then let us take, for instance, the World War. The Espionage and Sedition Acts were declared constitutional by the Supreme Court in the most bizarre decisions that you can imagine. After the war the State syndicalism acts, which were supposed to support patriotism, but were really freedom of speech denied, were declared constitutional.

Although the Court has taken some cognizance of civil liberties in the Huey Long Newspaper case, it was for the newspaper owners on a tax, and it is generally understood the constitutional prohibition is against Congress, and not against the States. Usually, therefore, a State does what it pleases.

Let us consider the point of the Supreme Court defending the liberties of the people as against Congress. There is not a single case on record of the high Court knocking out a Federal law or declaring it unconstitutional on a basis of its violating civil and religious liberties. Once, just after the Civil War, a law preventing ex-Confederates practicing in the Supreme Court was held unconstitutional. That is all.

INCOME TAX IN CONSTITUTION—INTERPRETED AWAY BY HIGH COURT

We had an income tax following the Civil War. It was repealed and then reenacted. In 1895 it was declared unconstitutional, where five cases had to be overruled. Then the people took 18 years to get an amendment for a tax on incomes. To be sure everyone had to pay; the amendment said it was to be paid from "whatever source derived." But the Court soon met, said only God and conscience ruled a judge, and exempted their salaries. Exemption after exemption has been made, until it exempts even water-company employees. Many of you read that in the paper recently.

The Hearst papers are now suggesting an amendment to tax Government employees on their incomes; to abolish exemptions. But the Constitution already says that the income tax shall be paid on incomes "from whatever source derived." The only amendment I know that would be suitable would be to add "and we don't mean maybe."

In the N. R. A. and Agricultural Adjustment Act decisions the Court held that the manufacture of coal and a business involving the shipping of chickens, and so on, were merely local matters. Sometime after that, in the New York Wage case, they held that minimum wages in any State was in violation of due process of law. In less than 10 months afterward the Court changed its mind.

AS JUDGES SWAY TO AND FRO, WE HAVE SAME CONSTITUTION

At this point I want to emphasize an important fact: When the New York wage case was knocked out as being against the Constitution we had the same Constitution we always have had. When the Washington wage case was declared constitutional, an opposite holding altogether, we still had the same Constitution. Now, the truth of the matter is that we have always had exactly the same Constitution, but the law and the so-called constitutionality of the law has been changed back and forth time after time in decision after decision.

In the last cases, where the Wagner Labor Relations Act was found constitutional, we do not know what these opinions mean. The right of collective bargaining was affirmed and women were guaranteed rights of minimum wages, but practically the whole field of labor is left open, and no one knows what are the rights of men. The Guffey Coal case and the Agricultural Adjustment Act, although labor and agriculture were there declared to be mere local matters, were not reversed in the Wagner cases.

So no one knows the status of labor law.

No professor can teach constitutional law and no one knows what it is until after the judges make up their minds. In fact, since the Court is usually balancing back and forth between 5 and 4, anything might happen.

What is wrong with all this, you say? Well, of course, it is wrong because the judges are exceeding their power. But it is also wrong because it causes business instability, labor disputes, and one never knows what is to happen next. Besides, the people should have persons in office directly responsible to them. In the case of the High Court, there is no responsibility.

COURT ACTS ABOVE PEOPLE, CONGRESS, PRESIDENT

They act as a superlegislature—above the people, above the President, above the Congress, above everything in the United States of America. Obviously, something should be done about it. What, then, should be done?

First of all, we should have judges who will mind their own business. [Applause.] The business of a judge is judicial, not legislative. Judicial wisdom and statesmanship mean the protection of civil and religious liberties, fair interpretation of the laws, and not interfering with the legislator's duties.

How can this be done? It can be done by appointing the right kind of judges. Ah, you say, but that will make of the President a dictator.

WHAT ABOUT THIS DICTATOR TALK?

The President suggested it, and that, therefore, makes him a dictator. Let us get that dictator stuff out of our minds as soon as we can. For, indeed, it is the constitutional duty of the President to suggest matters to Congress.

The Constitution says:

"SEC. 3. He shall from time to time give to the Congress information of the state of the Union and recommend to their consideration such measures as he may judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States."

Ah, but someone says Mr. Roosevelt will control these judges. The party in power will get judges who are in favor of social security, old-age pensions, and New Deal legislation. Now, man to man, what kinds of fools would you think us if we went out and got judges to knock our legislation out? No one considers us that simple.

THE HOUSE OF LORDS REALIZED TIMES HAD CHANGED

But there is one thing important, and extremely important. It is that the Supreme Court, like the House of Lords in England, must realize times have changed. The present Court has gone far beyond its powers. The present controversy will do two things:

First. It will inform the American mind and take from it any taboo about the high Court.

Second. It will take from the judge's mind his own taboo that he can settle social problems with pen and ink.

Third. The Court will cease to become a super-Congress and a super-President, and will confine itself to judicial duties.

NUMBER 9 NO MORE SACRED THAN 15

Indeed, my fellow Americans, there is nothing especially sacred about the number 9. Fifteen, on occasions, might serve the American people better than nine.

But what I have just said still may not solve the problem. We must have democracy. How are we going to get it?

Well, if what I have said fails, let us use the plain terms of the Constitution. For instance, your court here in the city of Boston declared the Social Security Act and all that went with it unconstitutional. I believe that the Congress of the United States, if there is any danger in losing the social-security law, should set out that no lower court can pass on it, and that the Supreme Court of the United States cannot declare it unconstitutional. Congress has this constitutional right and should exercise it if necessary to preserve this country from destruction.

In connection with these suggestions I would like to ask did the A. A. A. or the Guffey Coal Act violate anybody's liberties? No! In both of those cases the Court felt it necessary to protect State's rights, and the rights of contract, and the rights of labor, and so on. But in neither of the cases was there any State complaining nor was there any laborer or farmer complaining. It was a mere pretext to break down a law which private litigants—and Supreme judges—did not like.

OUR PROBLEMS CAN BE SOLVED UNDER THE CONSTITUTION

I am convinced that all of our problems can be solved inside the Constitution. For our present problems, I do not think any amendment should be necessary. If Congress will be firm and do its constitutional duty, the problem can be solved.

But if I should be asked about an amendment, I should say that the most important amendment would be to make an amendment

easier. For now a handful of people—about 4 percent of our population—can prevent an amendment. Eventually, therefcre, I hope we can have our law similar to that in England, where issues can be submitted to the people as frequently as necessary.

Fellow Americans, our problems are not solved by any means. The depression, in the sense of a crisis, may be passed, but our problems remain. We cannot solve these problems if the representatives of the people make laws and they are summarily dissolved by the high Court, which is responsible to no one.

We must establish a responsible democracy. We must establish a government where rich and poor must work with it. By this I mean many of the big industrial and very wealthy groups have contempt for Congress, because they feel whatever humanitarian law is passed will be knocked out by the Court. If we have a responsible government it necessarily will be fairer to all, everyone will know they cannot evade the law, and that will mean stability for both business and labor.

From every viewpoint our problems are serious. Probably 10,000,000 are still unemployed. Our natural resources are in a desperate condition. Wages are low for those who are employed. Our economic, political, and social problems are still tremendous and nowhere near solved.

For that reason we must shed our taboos, face the truth, demand the preservation of our liberties, and require every force that stands in the way of progress to get out of the way. [Applause.]

Ballots Before Bullets

EXTENSION OF REMARKS

OF

HON. LOUIS LUDLOW

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 1937

RADIO ADDRESS OF HON. LOUIS LUDLOW, OF INDIANA, ON APRIL 28, 1937

Mr. LUDLOW. Mr. Speaker, by unanimous consent of the House, I present herewith a radio address I delivered over the red network last evening. It deals with a subject that is uppermost, I think, in the minds of all of us—war and how to keep out of it. My subject was Ballots Before Bullets. The address was as follows:

There is a resolution now prominently before Congress which, if it becomes effective, will prevent our boys from being sent into foreign lands to die in the settlement of quarrels of alien origin. This resolution already has sunk deeply into the consciousness of America and is being highly regarded as a reasonable and proper safeguard to keep America from being sucked into the maelstrom of another world war.

As the author of the resolution, believing that it would preserve the peace of America and keep our boys out of foreign slaughter pens, I wish to express my unfeigned gratitude and my sincere thanks to the National Broadcasting Co. for the privilege of explaining the proposition to the people of the United States through the stations on its red network.

The talk I shall make this evening will be in the nature of an urgent appeal to the people of the United States to come to the support of this resolution while time yet remains to erect safeguards to prevent our embroilment in another world war which, in the opinion of all qualified experts and observers, is certain to come, and which, if it does come, with the modern perfection that has been wrought in implements of destruction, will be the most awful calamity in the history of the world. War now broods over three-fourths of the area of the globe. All the great powers are feverishly piling up armaments, awaiting the fateful day. Dictators are thrumming the strings of war and preparing for another mass slaughter. In the face of all of these sinister signs and portents there is vast meaning in a declaration issued by the 21 railroad brotherhoods in support of my resolution. That organization of workers, comprising the flower of organized labor, 1,000,000 strong, says in closing an appeal for the enactment of my proposal:

"This legislation (the Ludlow resolution) is racing against the danger of war, and there is no time to spare."

The resolution I have offered is a very simple one, and at the same time I believe it would be most effective in keeping America out of war. It proposes to amend the Constitution of the United States so that the war power shall be decentralized, so that the authority to declare war shall be taken away from a little group in Washington that is subject to all kinds of pulls and influences and shall be vested with the people themselves, to be exercised in a national referendum. My resolution proposes to amend the United States Constitution by inserting a new section, as follows:

"SECTION 1. Except in the event of an invasion of the United States or its Territorial possessions and attack upon its citizens residing therein, the authority of Congress to declare war shall not become effective until confirmed by a majority of all votes cast thereon in a Nation-wide referendum. Congress, when it deems a national crisis to exist, may by concurrent resolution refer the question of war or peace to the citizens of the States, the question to be voted on being, Shall the United States declare war on ———? Congress may otherwise by law provide for the enforcement of this section."

Under the existing constitutional mechanism war, as I have stated, is declared by a little group in Washington, infinitesimal in size compared with the vast number who have to do the dying and suffering in war, and every member of that group is immune from military service. The Constitution vests the power to declare war in the Congress, which is composed of 531 Members, House and Senate. As a matter of fact, war can now be actually and officially declared by only 267 individuals, comprising a majority of the House and Senate, while the great masses of our population who have to do the fighting and pay the bills have nothing to say about it. War is too important a venture to be precipitated by the agent acting under the thousand and one special pressures and influences that are brought to bear on Congress when the war fever is at its height. It is a case where the principal, and not the agent, should act, and in this case the principal is the 130,000,000 people who comprise the American Nation. I have no criticism of Members of Congress, but after all they are human and are likely to crack under the terrific war strain and vote for war under high pressure when otherwise they would not want to do so.

The referendum on war which I have proposed in the pending resolution is based on the philosophy that those who have to suffer and, if need be, to die and to bear the awful burdens and griefs of war should have something to say as to whether war shall be declared. What could be more elementally just than that?

War should be declared, if it is declared at all, by all of the citizens of America, in the privacy of the ballot booths, each citizen alone with his Maker. In that way we will have the real verdict of the judgment and conscience of America on the question of war. A declaration of war is no idle and inconsequential thing. It signs the death knell of our fine young manhood. Surely it is a matter of sufficient importance to entrust to the decision of all of our people, with women having equal voting rights with men.

And why should not women have the right to vote on a declaration of war? War is the supreme calamity affecting family ties. It breaks up happy homes and tears heartstrings asunder. Women go down into the shadow of the valley of death to bring our boys into the world. Why should not they have something to say as to whether their own flesh and blood shall be hurled into the hell of a foreign conflict? In every war, terrible as is the fate that awaits many men, the women are the worst sufferers. Of the 531 Members of Congress, only 6 at this time are women, so you can see how pathetically impotent is the opportunity afforded to give expression to whatever may be women's viewpoint on any particular war proposal.

It would have to be a mighty good cause that would drag America into war under this constitutional provision. I sincerely believe that it would keep America out of all foreign wars and, indeed, out of all wars, unless the occasion should arise for a righteous war of defense. It will be observed that my resolution does not interfere in any way with adequate national defense.

What the referendum on war does is to change the mechanism that brings the Nation's military forces into action. And therein lies its vast importance as a peace stabilizer and as a guaranty of no more participation in foreign wars. It changes the Constitution so that the trigger that starts the war machinery will be pulled, not by a little group subject to being cajoled and bulldozed by selfish special interests, but by all the people of the United States registering their judgment at the polls in a national referendum. It is a very simple proposition and that is all there is to it, but there is no doubt that it would keep our boys out of the shambles of foreign wars.

Under its operation, America could not go to war (except in the case of attack or invasion) unless a majority of American citizens so vote in a national referendum. It is impossible to imagine that the fathers and mothers, the wives and sisters and sweethearts of potential soldiers would vote to sacrifice their loved ones in a war of aggression, to send them abroad to kill, and to be killed, by persons they have never seen and whose language they do not speak; to be strangled by lethal gases in foreign trenches; to be blown to bits by foreign bombs; to be subjected to merciless and agonizing death by disease germs hellishly spawned in foreign laboratories.

Such a thing will never happen if the people of America acquire the right to vote on a declaration of war. The fathers and mothers, the wives and sisters and sweethearts will see that this cruel fate does not befall our young men, even though under the impulse and promptings of an acute sense of patriotism they themselves would be willing to go.

The only tenable argument ever made against the plan is the time required to take a referendum. In the early days of the Republic that was, indeed, an insuperable obstacle. The railroad, the telegraph, the telephone, the radio, the airplane, were in the bosom of the unknown future. Even the pony express was as yet undreamed of. Letters mailed on the eastern seaboard were 6 months arriving at the uttermost frontiers, if, indeed, they ever reached there at all. Now, it is all different. The fast train roars its way across the continent in 100 hours; the airplane in 24. The President, sitting before the microphone in Washington, talks to the entire Nation. Communication has annihilated the only real objection ever urged against a war referendum.

In America today we have a dual autocratic and popular control where sovereignty stops at the water's edge. Our citizens can elect their constables and their dog catchers; they can express themselves on the location of a pesthouse or a waterworks, but they do not have one word to say on the greatest of all questions—a declaration of war that involves the happiness of their homes and the life or death of their children, husbands, and sweethearts. In its foreign relations our Government is a pure autocracy. This situation harkens back to the Dark Ages, the ages of tyranny and oppression. It recalls the black, heartbreaking centuries when men, with unspeakable suffering and travail, toiled slowly upward toward the light of freedom, and now the advancement in the means of communication has made it possible in this twentieth century for us to complete the free processes of government so nobly begun in the Bill of Rights by giving to all of our people an equal right to vote on declarations of war, the vote of every citizen to have equal weight with the vote of every other citizen. The time has come in the development of free governmnt to give the people the right to vote on war.

If you who are listening in are opposed to the use of our manpower in raking the chestnuts of other nations out of the fire, if you agree with me that our American boys are too precious to be slaughtered in foreign wars, if you want to assist in avoiding the yawning cataclysm of another world war with its sickening financial burdens and its moral degradation that will sink men to the level of beasts, your support at this time will be of tremendous value if you will contact your Representative in Congress and express your approval of my resolution.

Pensions Via Transaction Tax Are Urged in State of Washington

EXTENSION OF REMARKS

OF

HON. JOHN M. COFFEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, April 30, 1937

Mr. COFFEE of Washington. Mr. Speaker, under leave to extend my remarks I include herein a statement in the nature of a petition relating to national recovery and old-age pensions through a national transaction tax. It is significant to note that this petition is signed by 102 members of both houses of the Legislature of the State of Washington, constituting 70 percent of the entire membership of that body. The signatures as printed at the end of the petition represent among their number some of the most prominent and highly regarded citizens. The arguments contained in the petition are such as to warrant the sober consideration of all Members of the Congress of the United States. Advocates of the Townsend plan are insistent that some hope be provided for citizens when they have reached the sunset of life, and the Townsend movement deserves to be treated with respect because of the formidable numbers comprising it and because the existence of the movement is concrete evidence of the cogent need for drastic steps to be taken at once to solve the evils against which Townsendites complain.

The petition is as follows:

A petition relating to national recovery and old-age pensions through a national transaction tax

This petition in the form of a memorial having passed the house of representatives twice during the present session and having received the majority of votes in the Senate the last time it was voted upon by that body, we, 102 members, constituting 70 percent of the members of the Legislature of the State of Washington respectfully petition the Representatives of the State of Washington in National Congress assembled, in the following manner:

Whereas millions of our elderly citizens who have served their country in peace or war during the period of their natural working lives are now spending their last days in poverty and misery, dependent upon public or private charity or their relatives; and

Whereas social security has become the dominant question before the American people, and therefore justice and the public welfare demand that ample provision be made for the health and support of these elderly citizens; and

Whereas security for the aged is a national rather than a State or local problem, which cannot be solved by a miscellany of conflicting State laws, imposing unequal burdens of taxation, and subject to continued change, but can be adequately solved only by a uniform basic law, national in scope, which will insure to the aged citizens of each State equal protection with those in every other State; and

Whereas the depression through which we are passing is due to lack of purchasing power by the people, and that balancing the ability of consumers to buy with the productive power of industry is essential to complete and permanent national recovery; and

Whereas numerous civic organizations throughout the country claim that the only feasible plan that has been proposed to solve the above-stated situation is a Federal Government tax levy of 2 percent upon the fair gross dollar value of each transaction done within the United States and Territories, the proceeds therefrom to be equitably distributed among our citizens of age 60 or more on the condition that the same be expended within a period of 30 days; and

Whereas such a transaction tax imposed by the Federal Government will be equal and uniform in the several States and based upon the ability to pay; and

Whereas this proposed plan does not ask the Federal Government to issue any interest-bearing bonds, or to borrow any money to meet the provisions of this act, since the Government is to pay out only after it has received and to pay no more than it does receive from the 2-percent transaction tax; and

Whereas there is a widespread popular belief that the enactment of said plan into law will—

(1) Provide employment for millions of persons now idle by increasing production and withdrawing large numbers of elderly people from the field of productive activity, thus creating new opportunities for the youth of our land and making unemployment benefits unnecessary;

(2) Greatly reduce crime, thus saving billions of dollars expended annually for the enforcement of law, maintenance of numerous prisons, reformatories, and protective agencies; also saving tremendous direct losses to our private citizens due to crime;

(3) Save billions of dollars now spent for the maintenance of public welfare agencies, poorhouses, old people's homes, and other institutions and temporary organizations maintained for the care of the poor and aged; and minimize the necessity for yearly public and private charities, thus inspiring a greater spirit of loyalty to our Governments and their institutions;

(4) Substitute an economy of abundance for an economy of scarcity and provide markets for the products of our farms and industries;

(5) Effect tremendous savings, which will offset the cost of operating and maintaining the proposed plan;

(6) Stabilize business and industry and guard against future depressions, and establish a stable and permanent social and economic system: Now, therefore, be it

Resolved, That your petitioners, members of the Senate and House of Representatives of the State of Washington, do respectfully petition the Members of Congress from the State of Washington (in order to accomplish the foregoing purposes) to make a thorough and unbiased investigation of the plan hereinbefore mentioned and give fair and just consideration to the enactment by the Congress of a law providing for a national old-age retirement system and create a fund for the maintenance thereof through a 2-percent Federal Government transaction tax levy, the proceeds of which shall be distributed equitably to all citizens over 60 years of age with the provision that it shall be expended within 30 days; and be it further

Resolved, That copies of this petition be immediately transmitted to the President of the United States and the Senate and House of Representatives of the United States and to each Senator and Representative in Congress from the State of Washington.

Representatives Mert Francis, H. C. Armstrong, Violet P. Boede, Robert W. Ginnett, Fred J. Martin, Frank L. Hatley, John Sherman, Francis Pearson, Dan L. Guisinger, Alex Gabrielsen, George Greig, Charles D. Bowen, Jack Sarvela, E. L. Emerick, Rev. W. R. Robinson, A. W. Clark, A. A. Mackie, George Twidwell, Z. A. Vane, H. N. Jackson, Edward L. Pettus, Kenneth H. Simmons, Tom Brown, Gerald G. Dixon, Frank Schultz, Arthur Brine, Richard G. Cook, C. B. Auker, C. M. Eaton, Clyde V. Tisdale, J. H. Petit, Lloyd Lindgren, Mel Butler, A. Lou Cohen, Gene L. Bradford, Margaret Coughlin, David Cowen, H. D. Hall, John N. Sylvester, A. F. Hall, J. Howard Payne, Donald B. Miller, Edward E. Henry, J. O. Gates, Clyde Taylor, James T. Sullivan, Chart Pitt, Ralph Van Dyk, J. D. McDonald, George H. Johnston, L. A. Dwinell, Ray T. Frederick, W. Newton Fry, Bert Lynch, J. B. Smith, M. T. Neal, Floyd Miller, Belle Reeves, Ernest A. Dore, Jr., Carl J. Luck, W. A. Richmond, Thomas Voyce, George F. Yantis, Edward J. Reilly, Alfred J. Hanson, R. D. Wiswall, John R. Jones, Albert Meade, G. E. Drew, Michael B. Smith, Christian Aalvik, N. L. Brown, Harry D. Austin, Fred D. Kemp, Charles Gessell, J. J. Feil, C. A. Hughes, Robert M. French.

Senators LeRoy F. Todd, S. C. Roland, James A. Murphy, Chapin A. Mills, Monty Percival, G. B. Kerstetter, C. P. Stinson, H. I. Kyle, A. C. Wingrove, A. E. Edwards, Lulu D. Haddon, Harry H. Brown, John H. Ferryman, Paul G. Thomas, Geo. Henry Tucker, T. C. Bloomer, James Dailey, Joe L. Keeler, Harold P. Troy, J. M. Koontz, Pearl A. Wanamaker, Edmund J. Miller, Howard Roup, Geo. A. Lovejoy, Hugh Herren.

This is to certify that each of the above names is identical to the name appearing on the original petition.

Dated this 3d day of March 1937.

[SEAL]

FLORENCE EVERETT,

Notary Public in and for the State of Washington, residing at Olympia.

Neutrality

EXTENSION OF REMARKS
OF
HON. H. JERRY VOORHIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, April 29, 1937

Mr. VOORHIS. Mr. Speaker, on neutrality the time has come for some hard thinking. Do we want to send another American army to Europe? Do we believe we are called upon to assist England and France in any future struggle in which they may become engaged? Do we really intend to be the active guardian of the rights of small nations outside the Western Hemisphere? Do we intend to insist, under all circumstances, upon the freedom of the seas and to protect American trade wherever it may find it profitable to go? Do we intend to supply the sinews of war to other nations?

If the answer to these questions is "Yes", then we ought to form a close association with England and France; we ought to join the League of Nations; we ought to set aside some $30,000,000,000 to defend the Philippine Islands, which are supposed to have been granted independence; and we ought to stop stating hypocritically that we never will vote to send American boys across the seas to fight in someone else's war. Because if the answer to the questions is "Yes", then as sure as can be we will build up a great expansion of trade and manufacture of war materials, our financiers will find ways to finance their sale, and we will be drawn into a position where "perhaps only by going to war can a collapse of our foreign trade be prevented."

There is another alternative. But we are not taking it merely by passing a bill which provides, in effect, that we will not supply war materials, if in the judgment of the President, after the war has started it is dangerous to do so. It would be far too much to expect for us to look forward to America remaining out of war if she took the selfish attitude that she would make money out of war so long as she could safely do so.

America can remain neutral. She can keep out of war if she is willing to pay the price. The price is a determination, backed by effective legislation, not to supply a war any place any time for the simple reason that it is a war and that we do not believe it morally defensible to make money out of it. That attitude, and that attitude alone, can keep America neutral. It implies an embargo, or at least a peacetime quota restriction upon trade in all types of war supplies to belligerent nations. It implies that Americans will be willing to share a common lot here at home; to bolster up, not with charity but with a just measure of assistance those farmers and other people who may be hard hit by such trade restrictions. It implies that American ships will be kept out of war zones.

This effort to keep America out of war must further include a real withdrawal from the Philippines, a building up of an American peace to include the Western Hemisphere, fostering of stronger ties with neutral nations, evidence of constant willingness to do what we can to bring about greater equality of economic resources among the nations.

If we start out with the premise that we will keep the peace if we do not have to sacrifice too much trade, we will not keep the peace. If we start out with the premise that we will sacrifice as much trade as necessary to keep the peace, we have a chance to do it.

As long as the invoking of trade restrictions is discretionary with the President after war has started, there is slight chance of even the strongest President being able to invoke such restrictions. Only when, ahead of time, a strong policy of trade restrictions for the sake of peace has been laid down by Congress, and public opinion educated to understand it, will there be a strong solid hope that we can make good on our promise never again to send American boys across the seas to fight in someone else's war.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. TOM CONNALLY
OF TEXAS
IN THE SENATE OF THE UNITED STATES
Thursday, April 29, 1937

STATEMENT BY JOHN H. CROOKER

Mr. CONNALLY. Mr. President, I ask unanimous consent to have printed in the RECORD a very interesting and able statement made before the Committee on the Judiciary by a distinguished citizen of my State, Mr. John H. Crooker.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN H. CROOKER, ATTORNEY, HOUSTON, TEX.

The CHAIRMAN. Now, Senator CONNALLY.

Senator CONNALLY. Mr. Chairman, the first witness we are privileged to present is Mr. John H. Crooker, of Houston, Tex.

The CHAIRMAN. Mr. Crooker, you have been introduced. You may proceed, and during the course of your remarks you will not be interrupted, but after you have finished the committee may reserve the right to ask you such questions as they choose. You may proceed.

Senator CONNALLY. Mr. Chairman?

The CHAIRMAN. Senator CONNALLY.

Senator CONNALLY. Because of Mr. Crooker's modesty, might I examine him on the voir dire?

The CHAIRMAN. Right.

Senator CONNALLY. Mr. Crooker, state your name and residence and occupation, please?

Mr. CROOKER. My name is John H. Crooker; I live in Houston, Tex. I am in the general practice of the law at Houston, Tex., where I have resided and been engaged for some 26 or 27 years, Senator.

Senator CONNALLY. Were you at any time the holder of any public office?

Mr. CROOKER. I was district attorney for 4 years at Houston before the war and up to the war.

Senator CONNALLY. Were you in the military service during the war?

Mr. CROOKER. Yes; I was. I was first attached to a rifle company at Camp Logan as an enlisted man, but received a commission from the Judge Advocate General's Office after I arrived, and served during the war as a major.

Senator CONNALLY. That is a pretty good promotion, from a private to major at one jump?

Mr. CROOKER. It just happened all one morning, Senator. It was quite a promotion, but I had been sort of expecting it, but did not know whether it would happen or not for some time.

Senator CONNALLY. You were in the Army until the end of the war?

Mr. CROOKER. Yes; I was for some little time after the end of the war. The legal department were sort of kept on after the rank and file.

Senator CONNALLY. Mr. Crooker, have you occupied any other position of prominence or responsibility other than that of district attorney?

Mr. CROOKER. No other public office outside of my major's commission in the Army, Senator.

Senator CONNALLY. Were you not at one time grand master of the Masonic Lodge of Texas?

Mr. CROOKER. Yes; for a year, which is the limit in Texas for anyone to hold that office.

Senator CONNALLY. What year was that?

Mr. CROOKER. That was 1935.

Senator CONNALLY. And you were grand master then. You may proceed now.

Mr. CROOKER. As a preface to my statement, it seems appropriate to say as a citizen and a lawyer I share your concern as to a proper solution of the troublesome question which confronts this committee. It so happens that much of my professional life and activities have been devoted to legal problems affecting labor and to the trial of cases wherein the rights of labor were directly or indirectly involved. Accordingly, candor compels me to say that I examined the propcsed legislation with an eye single to its effect on the general masses—however, in a large measure influenced by my viewpoint of labor's perspective.

There seems to be a good deal of misunderstanding, and considerable misstatement, as to just what the Supreme Court has decided in what may be termed "labor cases." I have reviewed rather closely practically all of these cases—perhaps a hundred cases in all—and I say quite positively that, viewed as a whole, the decisions have been overwhelmingly in favor of labor's rights and contentions.

In those relatively few cases that have been decided in a way that might be said to be adverse to the supposed interests of labor,

most of the decisions have turned on the construction of Federal laws, such as the Sherman Act, the Clayton Act, and other similar laws. No serious question can be raised about the laws construed being open to meanings other than those found by the Court. In any event, the remedy is in the hands of Congress to change any or all of these laws in short order if they see fit to do so. I refer to such cases as the Danbury Hatters case, decided in 1908, the Gompers case (221 U. S. 418), *Duplex Printing Co.* v. *Deering* (254 U. S. 443), *American Steel Foundries* v. *Tri-Cities Central Trades Council* (257 U. S. 184), and *United Mine Workers* v. *Coronado Coal Co.* (259 U. S. 344). These cases were decided during the period from 1908 till 1922, and all of the Presidents and all Members of Congress were fully advised as to what the Supreme Court had held. Much legislation favorable to labor has been passed since those early decisions, but to whatever extent the effect of any of those decisions ought to be changed, clearly Congress has undoubted power to enact such changes in statutes as will give labor any and all additional rights and safeguards which may seem proper.

Of course, it must be frankly admitted that the Supreme Court has declared unconstitutional both Federal and State statutes in cases where the holdings were adverse to labor's contentions. But for each case in which some act thought to be favorable to labor was declared invalid, there may be pointed out five times as many cases in which the Supreme Court has upheld acts in which labor was peculiarly interested. In this connection it may be pointed out that the Supreme Court has upheld every State employers' liability law that has been brought before it. The same is true as to every statute abrogating or modifying the fellow-servant doctrine—these cases being of unusual interest to workingmen.

In like manner the Supreme Court has upheld every State law that has come before it abrogating or modifying the doctrine of assumed risk—one of the most unfair and distasteful doctrines to the workingman that ever found its way into the lawbooks. Text writers are agreed that the law doctrine of assumed risk is harsh and not favored by modern law, and some decisions call it a "damnable doctrine" that the courts are unwilling to extend or to apply in doubtful cases. And while that question is not before this committee, I hope I will be pardoned for suggesting parenthetically that if Congress wants to do something beneficial to labor that is fair and proper it should amend the Federal Employers' Liability Act by abrogating the doctrine of assumed risk that is now allowed under that act.

Returning to the immediate question, the record of the Supreme Court is 100 percent perfect for labor as to each and every State workmen's compensation law that has come before it. In no single case has the Supreme Court failed to uphold all of these splendid acts for the protection of those who toil with their hands, thus preserving the tendency to hold human rights above property rights. In like manner every State act as to hours and working conditions of women has been upheld. Also the Supreme Court has upheld almost without limit State laws regulating child labor, 8-hour-day laws, laws requiring payment of wages in cash rather than merchandise, etc.; semimonthly pay laws; acts requiring employers to give service letters to discharged employees; full-train-crew laws and full-switching-crew laws; safety measures and safety-appliance laws of all kinds; various laws for protection of coal miners; laws limiting the hours of labor for women; many and various mechanics and laborers' lien laws; several rent-control and housing laws; and literally dozens—yea perhaps a hundred—other such laws.

Thus it is demonstrated by the decisions of the Supreme Court that it has always preserved the rights and safeguarded the interests of labor. And now labor should rise in its might and reassert the truism so aptly expressed more than a century ago by John G. Jackson, of Virginia:

"An enlightened and independent judiciary is the safeguard of the poor against the tyranny of the rich; it is the safeguard of the citizen against the tyranny of his Government. * * * Our judiciary is the sheet-anchor of safety against popular fury, or the more destructive though less violent attacks of usurpation." In most cases where decisions were regarded as unfavorable to labor, defects in early acts were regarded by letter laws. The adverse decision in the first employers' liability case (1908) was cured by amended legislation. The effect of *Adrair* v. *United States* (208 U. S. 161), and *Koppage* v. *Kansas* (236 U. S. 1)—usually referred to as the "yellow-dog contract" cases—was removed by the Railroad Labor Act of 1926 which act was sustained in its fullest vigor in *Texas & New Orleans Railway* v. *Brotherhood of Railway Clerks* (281 U. S. 548, 74 Law. Ed. 1034), in a unanimous opinion by Chief Justice Hughes. Likewise Congress has passed legislation regulating the interstate movement of prison-made goods and this wholesome act was upheld by the Supreme Court——

Senator CONNALLY. May I interrupt to say that the chairman of this committee was one of the authors of the act?

Mr. CROOKER. I so understood, that the people were indebted to him for that splendid service.

The CHAIRMAN. I know that modesty is preventing you saying that the distinguished chairman of the House Judiciary Committee, Hon. HATTON SUMNERS, of Texas, was the coauthor.

Senator CONNALLY. Yes; that is true.

The CHAIRMAN. I know modesty prevented you saying that.

Senator CONNALLY. I did not want to be invidious in the comparison, but I did want it to be shown that the chairman of this committee was the author.

Mr. CROOKER. That act has been upheld by the Supreme Court, thus paving the way for like legislation with respect to child labor. There can be little question about the Supreme Court upholding laws protecting child labor in every way possible insofar as concerns products moving in interstate commerce. Of course, we know that the Supreme Court very recently upheld the right of the several States to legislate with respect to minimum wages for women, thus overruling its action of 1923 in *Adkins* v. *Children's Hospital* (261 U. S. 251).

Congress has shown every disposition to be fair to labor, for example by enacting the Adamson law fixing 8 hours as the basic day for railway labor. The Supreme Court showed its judges to be no less friendly disposed toward labor by upholding the Adamson Act in the well known case of *Wilson* v. *New*. Surely no well-balanced lawyer will deny that the Supreme Court stretched legal rules almost to the limit in sustaining this law in which labor was so vitally interested.

Indeed it may well be said that the National Labor Relations Act goes to every limit in establishing and safeguarding the rights of labor that labor's most ardent advocate should ask for. And the courts have done their full part in upholding and enforcing this act, which readily appears from the splendid unanimous opinion by Circuit Judge Hutcheson of the fifth circuit in the late case of *Agwilines Inc.* v. *National Labor Relations Board* (87 Fed. [2] 146), Advance Sheets of March 1, 1937. Here may be found as clear and concise a résumé of labor's rights set forth and upheld as can be found in the law books, all supported by numerous decisions of circuit courts and the Supreme Court. If labor is asking more from our courts than is given by that decision—as well as the cases cited therein—its requests have not come to my attention and it is difficult to perceive just what else the courts might be asked to do in labor's behalf.

And I am not to be understood as indicating that this timely holding by the Circuit Court of Appeals for the Fifth Circuit and the decisions cited go too far. Indeed, the case proceeds along exactly the same lines as the Brotherhood case which I personally conceived, worked out, and won through all the courts. Only last week I had the privilege of arguing to that very circuit court another most important labor case—there again urging the rights of the railroad brotherhoods as against an interstate carrier.

Further, do we not realize that courts and judges have always safeguarded human rights, even under the most trying circumstances? One of the cases which I mentioned earlier as being adverse to labor was American Steel Foundries against Tri-Cities Central Trades Council, in which the Clayton Act was interpreted. But the critics of that case neglect to state that Chief Justice Taft in that opinion warmly upheld the rights of union men on strike to engage in peaceful picketing and other forms of persuasion and appeal to strikebreakers and to the public.

Union men throughout the length and breadth of this country should not forget that the Supreme Court upheld this important right of peaceful picketing in this case, just as that Court has always placed its restraining hand on any part of the executive or legislative branches of the Government which sought to interfere with the fullest exercise of all rights by the citizens.

We all remember a few years back how martial law was declared so frequently in mining areas as soon as a strike was called. Lots of times this was followed by the strike leaders being tried before some military tribunal, and the ordinary civil courts would hold that the Governor's proclamation declaring martial law was conclusive that a state of insurrection existed and no one could inquire further. For many years that seemed to be the rule, and the Congress took no action whatever to relieve against the injustice. Directly a three-judge Federal court in my own home city of Houston held that the courts could go behind the Governor's proclamation and see if there really existed a state of insurrection. And here, again, the United States Supreme Court, in *Sterling* v. *Constantine* (287 U. S. 378, 77 Law. Ed. 375), upheld human rights against official usurpation—poor strikers may no longer be tried by the military; obscure citizens may no longer have their property and rights overridden by the military without any power being vested in courts to look into the matter and stop whatever may be improper and unlawful.

Much the same is true as to religious liberty. Not many years ago an anti-Catholic movement got control out in one of our Western States and promptly they passed a law and sought its enforcement against any parochial schools, even though the Catholics of that State built and maintained their own schools to which they wanted to send their children. Religious intolerance held such sway that the governmental forces of that State were doing everything possible to do away with all Catholic schools and to prevent the Catholic families from educating their children the way they saw fit and in the schools which they alone supported. The local courts seem to have responded to what was pressed upon them as a "mandate of the people in two elections", but the ears of the Supreme Court Judges were not attuned to popular clamor of that kind, and that great tribunal said, "You can't do that", and saved that State from its intolerance. This was the case of *Pierce* v. *Sisters of the Holy Name* (268 U. S. 510, 69 Law. Ed. 1070), opinion by Justice McReynolds. I have always felt that schools of any and all creeds should be supported by the churches interested in maintaining them, and not by the State, but by the eternal I believe just as strongly that the people of any church or creed have undoubted right to build and support and conduct all the schools they may desire, and thank God for a Supreme Court which will always see to it that such rights of religious liberty are preserved in this country to people of all beliefs.

And right over in one of our neighboring States we remember how a powerful political figure had laws passed taxing almost out

of existence some of the newspapers which had the hardihood to oppose the things which he claimed some two or three "mandates from the people" to put into effect. And here again the Supreme Court, speaking through the conservative Justice Sutherland, said, "You can't do that", and upheld the freedom of the press—one of the most cherished of the rights of a free people—the case being *Grosjean* v. *American Press Co.* (297 U. S. 233, 80 Law. Ed. 660).

Senator CONNALLY. What State was that from?

Mr. CROOKER. That is from Louisiana, Senator.

A somewhat different situation arose in Minnesota, and yet the same general principle was involved. There a small publication severely criticized the grand jury and certain State officers in connection with their handling of some matter of public concern. The criticisms were so severe against the political folks in power that the Minnesota Legislature was induced to pass a law permitting the stifling and suppression of the publication by injunction as in cases of abating a public nuisance. All the Minnesota courts ruled against the publisher, but he took the case to the United States Supreme Court, and there again, in an opinion by Chief Justice Hughes (*Near* v. *Montana*, 283 U. S. 697, 75 Law Ed. 1357) that Court upheld the freedom of the press, joining in effect with Milton's immortal plea, "Give me liberty to know, to utter, and to argue freely according to conscience, above all liberties."

Just a few years ago down in Texas a powerful railroad undertook to coerce its employees to join a company union, at the same time interfering with these employees in being represented by persons of their own choice in negotiating with the railroads for agreements as to pay, hours, and working conditions. This was in violation of the plain letter of the Railway Labor Act passed by the Congress but which the railroad attacked as unconstitutional. Here again the holding was with the railroad employees, the railroad was ordered to reinstate some men discharged, and the president of a great railroad system was ordered to jail for contempt if he willfully refused to comply with the court's orders. Of course, the railroad appealed all the way to the United States Supreme Court, and I had the honor of arguing the case at the bar of that great tribunal. Chief Justice Hughes, speaking for a unanimous Court, upheld the lower courts. And only 2 weeks ago the Supreme Court, by another unanimous decision, upheld the amended Railway Labor Act of 1934, which goes further in favor of railroad employees.

Other like decisions might be cited, almost without limit, but certainly anyone who follows closely the decisions of the United States Supreme Court dealing with human rights, social problems, and economic questions should realize that practically all those decisions are well abreast of the most modern trend of our times.

Indeed there are but a very few decisions of the Supreme Court that even the most progressive among us are out of harmony with—while there are literally hundreds of strong and important decisions from that great tribunal which form the very mud sills of all of our cherished rights.

Viewing the whole question under consideration, and having in mind the splendid manner in which the Supreme Court has protected and safeguarded the welfare and interests of the general masses—and especially those of labor and wage earners—the conclusion seems inescapable to me that we should "make haste slowly" in tampering with the Supreme Court.

Yes; we sometimes feel that progress should be hastened and that the orderly processes of our courts and our laws move rather slowly. But it must be remembered that if the Constitution and our laws shifted freely in an effort to keep pace with all change, they would merely train human life instead of guiding it. Our Constitution and laws must be the balance wheel—the governor on the machine—seeing to it that we progress and advance with certainty and accuracy, rather than merely to move speedily without due regard for direction and ultimate goal. Indeed, the law must be something of a summary of the basic and very best from all ages. Its primary concern is about what is timeless and fundamental—the unerring right and wrong of things—right and wrong that never change. Surely the Constitution and the law must never become mere frail straws tossed here and there with each eddy and cross-current. But heavily freighted with the wisdom and experience of all the people of all the ages the law must ride the deep and lasting channels of time.

The CHAIRMAN. Thank you, Mr. Crooker.

Senator Connally, I am called away and am obliged to go. I am very sorry, and I hope these gentlemen who have favored us with their presence this morning will not consider my leaving the room at this time as any lack of respect. It is an important matter and I am compelled to go.

I will ask Senator KING, the ranking member of the committee, to preside during my absence.

Senator KING (presiding). Proceeding along the line usually followed by the chairman, Senator Austin is next.

Senator AUSTIN. Mr. Chairman, I have been very interested in this statement, because it seems to afford a history of judicial interpretation relating to the interests of labor, which is something that we have before this tried to bring about and have not been so successful as we had hoped to be.

It has occurred to me that there is a line of decisions by the Supreme Court to which attention ought to be called at this time, and I want to ask you, Mr. Crooker, if you are familiar with them. They arise in the interpretation of the various rules in different States statutes affecting the trial of labor cases. For example, in Vermont, we had a rule that imposed a burden on the plaintiff, whom we will say is a brakeman or a brakeman's widow, in trying to recover damages against the railroad company, requiring the plaintiff to show that the plaintiff or the plaintiff's intestate was free of any negligence that contributed in the least degree to his injury. Of course, the railroad company in such cases would always claim that burden had not been discharged by the plaintiff and would ask for a verdict in favor of the defendant.

Now, one of those cases was White, administratrix of her husband, who was a brakeman, against the Central Vermont Railway, and it is reported at Two Hundred and Thirty-eighth United States Reports at page 507. It came to the Supreme Court in 1915. That was early after the Federal Employers Liability Act came into effect. Do you recall that the Supreme Court in that case held substantially as follows? I am not reading from the case, but from the dicta.

Senator CONNALLY. You mean the syllabus, do you not?

Senator AUSTIN. We call it "dicta" in Vermont.

Senator CONNALLY. You are wrong.

Mr. CROOKER. We would say that is wrong in Texas.

Senator AUSTIN. "The Federal courts have uniformly held that as a matter of general law the burden of proving contributory negligence is on the defender, and have enforced the principle even in States which hold, as does Vermont, that the burden is on the plaintiff of proving that he was not guilty thereof."

Do we not find in the mass of our jurisprudence that comes from decisions of the Supreme Court this type of case, which builds up for labor an assurance of its right in the administration of justice?

Mr. CROOKER. Senator, I am frank to say to you that that case has come to my notice only very casually. I try a few of the good personal injury cases. I do not get a lot of them. I always represent the plaintiff. I never represented a railroad. The courts of my State are not concerned with any such rule as was attempted to be made in Vermont. Therefore, I never have any direct connection with or any definite reason for the study of those cases. I never happened to look into them. But as you read the syllabus in that case, it seems to me it might well be added as another reason. It seems to me the decision in that case, as I gather it from the syllabus which you read, was distinctly favorable to labor. Do you not think it was?

Senator AUSTIN. I know it was.

Mr. CROOKER. Yes. There seems to be no doubt about it. Whereas the legislature of Vermont undertook to shift the burden in favor of corporate influence or the railroad, the Supreme Court said they could not do that. The Federal courts have always held the burden to be on the defendant to show as an affirmative defense contributory negligence. That is the rule in my State. I know it was in the Federal courts, and it was upheld by the Supreme Court.

That particular case has never come to my attention, sir, but it seems plain and clear that it might well be added as another example of how the Supreme Court has kept the State legislatures from overturning our principles of what we American lawyers think, I believe, is proper procedure on the part of the Court: First, that he was injured; second, generally, that the negligence of the employer was a proximate cause of the injury; and third, the resulting damage. That constitutes a case. If the railroad wants to prove contributory negligence, it may take the laboring oar and do it. That ought to be the law. I would have added it to my memorandum if it had been called to my attention.

Senator BURKE. Will the Senator from Vermont yield?

Senator AUSTIN. Yes.

Senator BURKE. The Senator from Vermont states that he knows the holding of the Court in that case was favorable to labor. I am wondering if, it being a Vermont case, the Senator's information as to the real gist of that holding comes from reading the decision of the Supreme Court or whether he has personal knowledge.

Senator AUSTIN. I represented the widow in that case.

Senator BURKE. And you presented the argument in the Supreme Court?

Senator AUSTIN. Yes.

Senator CONNALLY. This was a case where the Supreme Court was not against labor.

Senator AUSTIN. That is true.

The importance of the matter here, it seems to me, is this: That not only in Vermont, but in every other State where that rule with respect to burden of proof is in effect, in every other State in the United States from that decision on, labor had a load lifted from its shoulders.

Mr. CROOKER. Another one, Senator, by the Supreme Court.

Senator LOGAN. Will the Senator from Vermont allow me to interrupt?

Senator AUSTIN. Yes.

Senator LOGAN. The statement the Senator makes would only apply to those States where they had a statute requiring the plaintiff to prove he was not guilty of contributory negligence. The Supreme Court would not follow the State court in matters of general law in such cases. If a State had a statute requiring the plaintiff to prove he was not guilty of contributory negligence, the Supreme Court would have to follow it, but in matters of general law the Supreme Court has held in favor of the defendant in such cases.

Senator AUSTIN. The syllabus, to use the term of the Senator from Texas, further states as follows:

"While matters of procedure depend upon the law of the place where the suit is brought, matters of substance in regard to an action based on a Federal statute depend upon the statute; and

in an action under the Employer's Liability Act the burden of proof as to whether the employee was guilty of contributory negligence is a matter of substance and not for mere State procedure."

Senator LOGAN. That is true.

Mr. CROOKER. Might I ask if the deceased was killed or injured in interstate commerce?

Senator AUSTIN. He was killed in interstate commerce.

Mr. CROOKER. Therefore, the Federal Liability Act governed the case and not the State statute.

Senator AUSTIN. That is correct.

Mr. CROOKER. The Supreme Court there held that the man being engaged in interstate commerce the Federal Employer's Liability Act governed to the exclusion of State law or rule of procedure, and made a very substantial advancement for workingman by upholding that right.

Senator AUSTIN. That is correct. It relieved the workingman of the burden of showing he was free from contributory negligence.

Mr. CROOKER. I am very sorry the matter had not come to my attention. If I say anything further on this subject, I should be very happy to add that splendid reinforcement to the other reasons why I say the Supreme Court has always been considerate of the rights of labor and the masses.

Senator BURKE. Allow me to say that some of us hope you will continue to say very much on the subject, after listening to you this morning.

Mr. CROOKER. Thank you.

Senator KING. Is it not a fact that the Federal courts, wherever they could, have tried to get away from the doctrine which was announced with respect to negligence or contributory negligence or proximate cause, which was laid down by Chief Justice Shaw, and which had such a profound and controlling influence upon State courts for many years?

Senator AUSTIN. That is true. There is one of those departures in this case relating to the assumption of risk.

Mr. CROOKER. I take the privilege of bringing that to the attention of Congress. It is not before this committee, of course. The assumption of risk seems to me to be an unfair doctrine. It is out of the law in nearly all the States, but is still in the employer's liability law.

Senator CONNALLY. That is not the fault of the Supreme Court, is it?

Mr. CROOKER. No. It is the fault of Congress only. The Supreme Court has uniformly upheld such State laws.

Senator CONNALLY. That could be remedied by Congress enacting a proper law, instead of changing the Court, could it not?

Mr. CROOKER. It is the only way it can be done. If you leave the law as it is, that is still in the law.

Senator AUSTIN. Mr. Chairman, let me call attention to this, which does not go quite far enough, but nevertheless contains the words of the Court, which is the thing we are interested in. I read from another syllabus:

"The Federal Employers' Liability Act abolishes the fellow-servant rule and an employee does not assume risks arising from unknown defects in engines, machinery, or appliances."

So they went part way with it.

Mr. CROOKER. That is correct, and the statute goes part way, Senator, with "unknown." But where the negligence of the railroad company is so unrestrained and so open and it continues so obviously over a great length of time and where it requires a good deal of care to know of it, then the doctrine of assumed risk which the law books and some of the courts say is contemplated and the law so clearly implies, it can be stricken out by Congress with a very simple amendment like most of the important States have.

Senator KING. Is that all?

Senator AUSTIN. That is all.

Senator KING. Senator VAN NUYS?

Senator VAN NUYS. No questions.

Senator KING. Senator LOGAN?

Senator LOGAN. Mr. Chairman, I have no questions, but I have another engagement which I must keep, and I want to extend my thanks to the witness for his very complete statement. I appreciate it very much.

Senator KING. Senator LOGAN will be excused with regret. Senator MCGILL?

Senator MCGILL. No questions.

Senator KING. Senator HATCH? Senator BURKE?

Senator BURKE. Mr. Chairman, I was very much interested in this statement, as it presents a phase of this controversy which has been too largely overlooked. Of all of the opponents of this proposal in either House of Congress, Representative SAM PETTENGILL, of the South Bend district in Indiana, has been most outspoken and most clear in his presentation of the same line of thought as presented by the witness. Congressman PETTENGILL sits by my side here, and I hope that the Senator from Texas will see that he meets his delegation.

I have no questions.

Senator KING. Senator CONNALLY?

Senator CONNALLY. I want to close the case; I will waive my rights.

Senator KING. Senator O'MAHONEY?

Senator O'MAHONEY. Now, Mr. Chairman, like the other members of the committee, I have been very much impressed by the clarity of the statement of Mr. Crooker.

I observe, however, on page 2 of your statement this sentence which seems to me to deal with the fundamental issue which is presented by this bill; at the top of the page:

"In any event, the remedy is in the hands of Congress to change any or all of these laws in short order if they see fit to do so."

Now, of course, the argument which is being made in support of the proposal is that Congress has enacted numerous laws which the Supreme Court and the other Federal courts have held unconstitutional, thereby tying the hands of Congress to perform certain services which it is admitted are necessary to be performed for all of the people of the United States in order to advance economic and social justice. Now, in the preparation of this paper, did you make any attempt to deal with that phase of the question?

Mr. CROOKER. Not particularly, Senator; although I have no disposition to avoid that part of it to the slightest extent. If the Senator will read that closely and the context of it closely you will have in mind, I am sure, that that is made in connection with the thought that in a great many of the cases that are said to be unfavorable to labor, that they have turned—just in the same paragraph, but on the bottom of the front page—I say the cases have turned on the construction of Federal laws such as the Sherman Act, the Clayton Act, and other similar laws. Now what I am trying to say here is that when you get a decision about a congressional act, the Clayton Act, or the Sherman Act, or something like that, that you don't like that rule or don't like that interpretation all on earth you have got to do in a few short days or as quickly as it may be expedited in Congress, you can just change the rule and the Supreme Court can not say differently.

Senator CONNALLY. Change the Clayton Act.

Mr. CROOKER. That is what I am talking about.

Senator O'MAHONEY. Of course, the Clayton Act was never held unconstitutional.

Mr. CROOKER. But you had not considered, Senator, how the rest of those were handled. I discuss those acts in the next paragraph, the very next paragraph at the middle of page 2, where the acts were declared unconstitutional.

Senator O'MAHONEY. And those are the acts of Congress—which I think is true—which were later altered?

Mr. CROOKER. Well, a great many of them were; now, some of them were. For example, the A. A. A. was declared unconstitutional, as I have in mind; it was not particularly favorable to labor, but more nearly to agriculture. And yet in Congress—if you will pardon my saying so, frankly and bluntly—I think when the Congress comes to use the statesmanlike capacity of the able Senators in drafting these laws, I think they will have better luck when they come in contact with the Supreme Court.

Senator O'MAHONEY. Your point, then, is that instead of changing the Court Congress might change the law whenever the courts deny it?

Mr. CROOKER. Yes; and by Members of Congress who have studied these questions before some of these folks who have been writing a few of our emergency acts were out of their swaddling clothes—I don't mean to be——

Senator O'MAHONEY. Of course, you have no criticism of youth?

Mr. CROOKER. None whatever; not at my age, Senator; a mere boy myself. But I do have criticism, sir, I do have criticism for the writing by inexperienced writers of important legislation in the law books which nearly every thoughtful lawyer must have known was going to be open to serious question, if not invalid, when the thing could be done so much more ably by experienced Members in drafting legislation. With the slower processes, perhaps, and the exchange of ideas and those things that the Senator is so thoroughly familiar with, and when they have been planned and have been argued out to a fuller extent, I don't think you will have nearly so much difficulty with acts being declared unconstitutional.

Senator O'MAHONEY. Well, of course, the argument is made that the Supreme Court by its decisions has made it impossible for Congress to draft laws, whether by inexperienced hands or by experienced hands, which will do the job that ought to be done. Do you have any opinion about that?

Mr. CROOKER. Yes; I have a very definite opinion, Senator, a very clear one: I don't know how wise it is or how valuable it is, but I have some very definite views on it. For example, the conservative bloc in the Supreme Court—and we might just as well be frank about admitting there is one—did not have anything to do with declaring invalid the N. R. A.; they did not have anything to do with it. I mean, their conservatism was not responsible. And neither the ages of the Justices nor any of their so-called economic predilections had anything to do with declaring invalid the N. R. A., which was by a unanimous Court, including the progressives.

The same thing is true of the Humphreys case, where the Executive was denied the power to remove from office before his term expired a member of the Federal Trade Commission. Now, I don't believe that—of course, the Congress can give such power, but they had not done it—no man can urge that the Federal Trade Commission Act, with all of its safeguards for independent commissions and with its bipartisan provisions, where Congress has clearly indicated the purpose of establishing those independent boards like the Federal Trade Commission and the Interstate Commerce Commission, that it was not intended for the Executive to tamper with. Now, I think the real complaint, the majority of the real complaint, is not about some of the acts that are referred to; but my own judgment about it—you were asking me for my own opinion, and I am giving you my view—I think the real complaint is that the N. R. A. was declared unconstitutional and the Humphreys decision was made unanimously, which denied the Executive power which apparently someone close to the Executive wants to be exercised by the Executive instead of

being regulated in the manner that the Congress intended that it should be regulated.

Now, that is my view, and, of course, I have some very definite views on the thought that Congress ought not to pass such legislation as the N. R. A., and I thank God for a Court that held it invalid. And I think it saved the party by doing so. Though I am a Democrat, I think it would have been in chaos in a very few months.

Senator O'MAHONEY. Well, would it be a proper question for me to propound, since you have announced your political party and commented on the conservatism of some members of the Court, whether you classify yourself as a conservative or progressive Democrat?

Mr. CROOKER. Well, Senator, everybody who knows me has classified me all the way from a conservative to a progressive, and some few have called me pink, but none of them have called me red. But I am a progressive, not only as to the present time, but I try to look a little into the future.

Senator O'MAHONEY. Then you do not classify yourself as a conservative?

Mr. CROOKER. No; I do not, Senator.

Senator O'MAHONEY. But I understand it to be your opinion that the Constitution, as now standing, is broad enough to permit the Congress to pass any necessary and wise legislation for the social and economic betterment of the country?

Mr. CROOKER. Well, no; I would not say that; no. I think there is a very definite line where the Congress cannot pass all necessary legislation for the benefit of the country. In other words, unless you just wipe out the States entirely, and the power of the States, obviously the Congress cannot legislate upon any subjects except those that are expressly delegated to its keeping. And the thing is made so perfectly clear, Senator, my views on it are expressed so ably in a talk given on March 2, 1930, in a radio address by the then Governor of New York, which expresses the view of States' rights to Democrats so much better than I can express it, that I swear by this declaration of Democratic doctrines that Mr. Roosevelt spoke over the radio on March 2, 1930; and it is expressed so clearly.

Senator BURKE. Mr. Chairman, I move that the address be printed in the record as a part of the witness' statement.

Senator KING. Any objection? It is so ordered.

(The statement referred to by the witness from radio address of Franklin Delano Roosevelt, Mar. 2, 1930, is as follows:)

This authority says:

"I have been asked to talk about the respective powers of the National and State governments to rule and regulate, where one begins and the other ends. By some curious twist of the public mind, under the terms 'home rule' or States' rights, this problem has been considered by many to apply primarily to the prohibition issue.

"As a matter of fact and law, the governing rights of the States are all of those which have not been surrendered to the National Government by the Constitution or its amendments. Wisely or unwisely, people know that under the eighteenth amendment Congress has been given the right to legislate on this particular subject, but this is not the case in the matter of a great number of other vital problems of government, such as the conduct of public utilities, of banks, of insurance, or business, or agriculture, or education, of social welfare, and of a dozen other important features. In these Washington must not be encouraged to interfere.

"The proper relations between the Government of the United States and the governments of the separate States therefore depend entirely, in their legal aspects, on what powers have been voluntarily ceded to the central Government by the States themselves. What these powers of Government are is contained in our national Constitution, either by direct language, by judicial interpretation thereof during many years, or by implication so plain as to have been recognized by the people generally.

"The United States Constitution has proved itself the most marvelously elastic compilation of rules of Government ever written. Drawn up at a time when the population of this country was practically confined to a fringe along our Atlantic coast, combining into one Nation for the first time scattered and feeble States, newly released from the autocratic control of the English Government, its preparation involved innumerable compromises between the different commonwealths. Fortunately for the stability of our Nation, it was already apparent that the vastness of our territory presented geographical and climatic differences which gave to the States wide differences in the nature of their industry, their agriculture, and their commerce.

"Already the New England States had turned toward shipping and manufacturing, while the South was devoting itself almost exclusively to the easier agriculture which a milder climate permitted. Thus already it was clear to the framers of our Constitution that the greatest possible liberty of self-government must be given to each State, and that any national administration attempting to make all laws for the whole Nation, such as was wholly practicable in Great Britain, would inevitably result at some future time in a dissolution of the Union itself.

"The preservation of this home rule by the States is not a cry of jealous commonwealths seeking their own aggrandizement at the expense of sister States. It is a fundamental necessity if we are to remain a truly united country. The whole success of our democracy has not been that it is a democracy wherein the will of a bare majority of the total inhabitants is imposed upon the minority, but because it has been a dividing of governments into units called States, the rights and interests of the minority has been respected and have always been given a voice in the control of our affairs. This is the principle on which the little State of Rhode Island is given just as large a voice in our national Senate as the great State of New York.

"The moment a mere numerical superiority by either States or voters in this country proceeds to ignore the needs and desires of the minority and, for their own selfish purposes or advancement, hamper or oppress that minority, or debar them in any way from equal privileges and equal rights—that moment will mark the failure of our constitutional system.

"For this reason a proper understanding of the fundamental powers of the State is very necessary and important. There are already, I am sorry to say, danger signals flying. A lack of study and knowledge of the matter of the sovereign power of the people through State Government has left us to drift insensibly toward that dangerous disregard of minority needs which marks the beginning of autocracy. Let us not forget that there can be an autocracy of special classes or commercial interests which is utterly incompatible with a real democracy whose boasted motto is 'of the people, by the people, and for the people.' Already the more thinly populated districts of the West are bitterly complaining that rich and powerful industrial interests of the East have shaped the course of government to selfish advantage.

"The doctrine of regulation and legislation by 'master minds' in whose judgment and will all the people may gladly and quietly acquiesce, has been too flaringly apparent at Washington during these last 10 years. Were it possible to find 'master minds' so unselfish, so willing to decide unhesitatingly against their own personal interests or private prejudices, men almost godlike in their ability to hold the scales of justice with an even hand—such a government might be to the interest of the country, but there are none such on our political horizon, and we cannot expect a complete reversal of all the teachings of history.

"Now, to bring about government by oligarchy—masquerading as democracy—it is fundamentally essential that practically all authority and control be centralized in our National Government. The individual sovereignty of our States must first be destroyed, except in mere minor matters of legislation. We are safe from the danger of any such departure from the principles on which this country was founded just so long as the individual home rule of the States is scrupulously preserved and found for whenever they seem in danger.

"Thus it will be seen that this home rule is a most important thing—the most vital thing—if we are to continue along the course on which we have so far progressed with such unprecedented success.

* * * * * * *

"Now, what are the powers delegated to the United States by the Constitution? First of all, the National Government is entrusted with the duty of protecting any and all States from the danger of invasion or conquest by foreign powers by sea or land, and in return the States surrender the right to engage in any private wars of their own. This involves, of course, the creation of the Army and the Navy and the right to enroll citizens of any State in time of need. Next is given the treaty-making power and the sole right of all intercourse with foreign states; the issuing of money and its protection from counterfeiting. The regulation of weights and measures, so as to be uniform; the entire control and regulation of commerce with foreign nations and among the several States; the protection of patents and copyrights; the erection of minor Federal tribunals throughout the country and the establishment of post offices are specifically enumerated. The power to collect taxes, duties, and imposts to pay the debts for the common defense and general welfare of the country is also given to the United States Congress as the law-making body of the Nation.

* * * * * * *

"On such a small foundation have we erected the whole enormous fabric of Federal Government which costs us now $3,500,000,000 every year, and if we do not halt this steady process of building commissions and regulatory bodies and special legislation like huge inverted pyramids over every one of the simple, constitutional provisions we will soon be spending many billions of dollars more.

"A few additional powers have been granted to the Federal Government by subsequent amendments; slavery has been prohibited; all citizens, including women, given the franchise; the right to levy taxes on incomes; and the famous eighteenth amendment regarding intoxicating liquors practically cover these later changes.

"So much for what may be called the 'legal' side of national versus State sovereignty. But what are the underlying principles on which this Government is founded? First and foremost, the new thought that every citizen was entitled to live his own life in his own way so long as his conduct did not injure any of his fellow men. This was to be a new land of promise where a man could worship God in the way he saw fit; where he could rise by industry, by thrift, by intelligence, to the highest places in the Commonwealth, secure from tyranny, secure from injustice—a free agent—the maker or the destroyer of his own destiny.

"But the minute a man or any collection of men sought to achieve power or wealth by crowding others off the path of progress, by using their strength, individually or collectively, to force the weak to the wall, that moment the whole power of government, backed, as is every edict of the Government, by the entire Army and Navy of the United States, was pledged to make progress through tyranny or oppression impossible.

"On this sure foundation of the protection of the weak against the strong, stone by stone, our entire edifice of government has been

erected. As the individual is protected from possible oppression by his neighbors, so the smallest political unit, the town, is, in theory at least, allowed to manage its own affairs, secure from undue interference by the large unit of the county, which, in turn, is protected from mischievous meddling by the State.

"This is what we call the doctrine of 'home rule', and the whole spirit and intent of the Constitution is to carry this great principle into the relations between the national Government and the government of the States.

* * * * * * *

"Remembering that the mining States of the Rockies, the fertile savannahs of the South, the prairies of the West, and the rocky soil of the New England States created many problems, introduced many factors in each locality which may have no existence in others, it is obvious that almost every new or old problem of government must be solved, if it is to be solved to the satisfaction of the people of the whole country, by each State in its own way.

"There are many glaring examples of where exclusive Federal control is manifestly against the scheme and intent of our Constitution.

"It is, to me, unfortunate that under a clause in our Constitution, itself primarily intended for an entirely different purpose, our Federal courts have been made a refuge by those who seek to evade the mandates of the State judiciary.

"I think if we understand what I have tried to make clear tonight as to the fundamental principles on which our Government is built, and what the underlying idea of the relations between individuals and States and States and the National Government should be, we can all of us reason for ourselves what should be the proper course in regard to Federal legislation on any of the questions of the day."

* * * * * *

The author of these very sensible observations was Franklin Delano Roosevelt, former Governor of New York and now President of the United States, in a Nation-wide radio address March 2, 1930. Needless to say, those parts of the address omitted in no way change the sense of the speech.

Senator KING. Proceed, Senator.

Senator O'MAHONEY. Well, do you think there is anything to the argument that there is a field in which, by reason of the tremendous expansion of the means of communication and transportation, for example, neither the States nor the Federal Government can legislate as public welfare demands?

Mr. CROOKER. No; I do not think there is a twilight zone, Senator. You are asking me now for my own views and ideas, and in a brief way I will tell you I do not think there should be nor indeed there is a twilight zone in which neither the congress nor the legislatures of the several States could legislate.

Senator O'MAHONEY. I do not understand you; you say there is or there is not?

Mr. CROOKER. There is no such thing as a twilight zone.

Senator O'MAHONEY. Well, there was——

Mr. CROOKER. All powers can be exercised either by the Federal Government or by the several States, I think; all governmental and legislative functions.

Senator O'MAHONEY. Well, in the minimum-wage decision and the Washington case 2 weeks ago there was a twilight zone with respect to minimum wages for women; was there not?

Mr. CROOKER. Yes; there is still some place that—it is not a twilight zone; I think that is a misnomer—I may say at the outset, Senator, that I did not agree with the Adkins against Children's Hospital case of 1923. I thank God that the Supreme Court overruled it; I never did agree with it. Personally I think the several States always had that power. But, of course, I am not going to suggest that there is something, some particular act that might be passed. Suppose somebody gets the idea that the homestead preservation, the preservation of the homesteads in Texas, provided for under our constitution, ought to be modified in some way. Why, there is no power, there is no legislature this side of heaven which could do it, simply because of the constitutional safeguard. Suppose the Congress or the States undertook to breach the freedom of the press, which the first amendment says you cannot do. I admit freely that there are many, many acts that cannot be passed by any legislature because of this constitutional safeguard; freedom of speech, freedom of worship, freedom of right to assemble, and any number of things.

But I am returning to your question, which I understood to be your question. I don't think there is a proper conception of legislative functions that are prohibited by the Constitution. As, for example, those that are prohibited by the Federal Constitution and those that are prohibited by the constitutions of the given States. You take any propositions but those, I think either the legislature of the State or the Congress can pass all necessary and appropriate legislation; certainly it can.

Senator KING. May I interrupt the Senator?

Senator O'MAHONEY. Certainly.

Senator KING. In view of the amendment to the Constitution which declares that powers not delegated are reserved to the States respectively and to the people, is it not a fact that there may be some power or some action or function that the State might want to execute or carry into effect, but which under its own constitution it is prohibited from doing, but they could amend their constitution to do something which under the constitution they were forbidden from doing?

Mr. CROOKER. Clearly. I might carry that thought a little further.

Senator O'MAHONEY. Let me interrupt you. I do not believe that is stated in the question I asked you. Of course, we all know there is a certain field in which the rights of the individual are preserved above all governments, whether State or Federal. I am not discussing that phase of it. Somebody else once called that "every man's land", instead of "no man's land", which I think was a very apt and appropriate expression.

I am referring to the growth of commerce in its national scope, and to the fact that the Supreme Court and other courts have held that certain activities, like production and manufacturing, are local in their legal effects and cannot be handled by the National Government. Sometimes that aspect changes in the Court, as it did 2 weeks ago, when in the Virginian Railroad case it was held that the work of a shopman in a particular city in a particular State, who never goes out of the State, though he is working for the railroad in a shop that is purely local, nevertheless, it has an interstate aspect and is subject to control.

The argument is made that certain phases of commerce, though local in their situs, have a national aspect, and, because of the attitude of the courts, have not been the subject of necessary or desirable remedial legislation by Congress. Do you feel that the Constitution is broad enough to cover that phase?

Mr. CROOKER. I do think there can be no doubt but that there is a sphere in which interpretation of the commerce clause—that is what you were talking about—may be narrow or may be broad and more liberal.

Senator O'MAHONEY. That comes back to the first question I asked you. Is there any law that Congress can pass to bring about a more liberal interpretation of the commerce clause, if that were desirable?

Mr. CROOKER. My judgment about that would be, Senator, that if it is a Federal power given to the National Government in the Constitution, the commerce clause, I do not think you could just pass a law undertaking to define it that would be binding on the courts, to be sure; but I do think that statesmanlike drawing of legislation can successfully bring within the Federal if it is a Federal power given to the National Government in power the exercise of legislative functions that a schoolboy is unable to do. Let me use an illustration that I have already referred to. Take the cases of *Coppage* v. *Kansas* and *Adair* v. *The United States*, in which the Legislature of Kansas and the Federal Congress undertook to prohibit what was known as the "yellow dog" contract among railroad men. The Court held it could not be done. I was a little impatient with that decision. I still think it was wrong.

When they drew the Railway Labor Act of 1926, they did it more ably. They brought to bear so much more emphasis upon the question of the public right as distinguished from mere private rights. For example, in the Adair and Coppage cases, the Yellow Dog Contract cases, there they simply undertook to tell the railroad company what it could or could not do with respect to the employment of an individual. But in the Railway Labor Act in 1926, as well as the Brotherhood case in the Supreme Court, they dealt not so much with the question of the individual rights of the individual worker as the public interest in the promotion of industrial peace. I think those are reasons why the courts are progressing. I do not think they overruled the Adair case, but because much better-drawn legislation was placed before them in the Railway Act of 1926, it was able to and did make a great advancement in industrial peace, in my judgment. The law in Kansas, covered by the Coppage case and the Adair case, was poorly drawn.

Now, I come to the answer to your question. I think there is a line beyond which some folks would not be able to go in respect to the commerce clause, but I think those who may want to go to the limit of their ability to progress further could do so by drafting prospective legislation with a greater degree of ability than some has been drawn. Just where that line is I am not smart enough to say. The same as any legislation, it would have to be a process of trial and error—try this and if it does not work satisfactorily then discard it. I am not excited because I do not accomplish what I want to do within 2 or 3 weeks. While I am progressive, I think it is well sometimes to make haste slowly. I am not satisfied with a good many things in America. I thank God for you progressive men.

Senator O'MAHONEY. Speaking as a progressive, it is your opinion that the solution of the problem we have lies rather in carefully drawn legislation than in changing the Supreme Court?

Mr. CROOKER. I think it boils itself down to that. I think if we avoid hastily drawn legislation on the ground that an emergency exists, we could accomplish more. I think the emergency is largely over, and I think we should proceed in the future with very much less haste. I think we can accomplish all we should accomplish in that manner. Certainly we would not do it, even if the end were justified—and I say it is not—without a little more care. The means are so doubtful that I shudder at the thought of it.

Senator KING. Would you have any difficulty in drawing a "hot oil" statute to meet all objections, mechanical or otherwise?

Mr. CROOKER. That is correct, Senator. The "hot oil" legislation was of paramount importance to the people of my State. It could not have been successfully done except with statesmenlike ability, thought, and care. I do not think it is as difficult as it might seem. That is proved by the Soil Conservation Act and a good many other acts.

Senator KING. You will remember that in one of the statutes providing for the retirement of railroad employees even the Chief

Executive made some comment upon its being rather hastily drawn, and the Supreme Court practically unanimously, as I recall, challenged attention to one or two provisions which clearly made it unconstitutional, and there was no difficulty in drawing a statute to meet the situation.

Mr. CROOKER. I do not think so. I do not mean any A-B-C stuff. It calls for major legal ability, but the Senate has it.

Senator KING. You are not in favor of legislation that would destroy the States or emasculate them or rob them of the powers reserved under the Constitution or to the people?

Mr. CROOKER. Indeed I am not, as Mr. Roosevelt so ably pointed out in the address to which I called attention a moment ago.

Senator STEIWER. You referred to the case of the Brotherhood of Railway Clerks, and I thought you said you appealed the case. Were you one of the counsel in that case?

Mr. CROOKER. Yes. But we were not on the appellant's side. I represented the brotherhood. It was appealed by the railroad. We won it all the way. I drew the petition in it and tried the case.

Senator STEIWER. I read the decision, but I do not remember exactly what it held. As I recall, it was the right of collective bargaining, and the right of agents selected by the brotherhood.

Mr. CROOKER. Free of interference by the railroad.

Senator STEIWER. It was sustained by the unanimous Court?

Mr. CROOKER. That is correct.

Senator CONNALLY. Senator O'MAHONEY was interrogating you about the interstate-commerce clause, as to just how far we could go. There is a constitutional method of acquiring more power than we possess under the Constitution, if it is desired by the people, is there not?

Mr. CROOKER. Undoubtedly so.

Senator CONNALLY. What is that?

Mr. CROOKER. Amendment.

Senator CONNALLY. Amend the Constitution?

Mr. CROOKER. Certainly.

Senator CONNALLY. Did or did not the framers of the Constitution anticipate that with a growing country and changing conditions we might want to amend it?

Mr. CROOKER. Of course, they knew that we would want to, or certainly might want to. They made clear provision for the fullest exercise of that right.

Senator CONNALLY. Mr. Chairman, the other day Mr. Wilson testified at some length as to the time which was required to secure the adoption of the various amendments that have been adopted. The committee asked him to furnish data showing the average time from the date of submission to the date of actual ratification. He has done that, and I am sending to my office for a statement to go in the record. As I recall, he testified that with 21 amendments the average time required for adoption was about 14 months.

Mr. CROOKER. I have understood that is true.

Senator CONNALLY. From the date of submission.

Mr. CROOKER. Yes.

Senator CONNALLY. They were finally ratified within an average of 14 months or a little over.

Senator KING. Do you want to include that in the record?

Senator CONNALLY. I will put it in a little later. I do not want to interrupt Mr. Crooker's testimony. I thought on this point of amending the Constitution it was pertinent to call attention to it as a possible method and one not heretofore found impracticable, if the people are in favor of it.

Mr. CROOKER. If we have got this mandate they are talking about, there should be no serious delay in amending the Constitution, if we can do it anything like we did in the last election.

Senator CONNALLY. Senator O'MAHONEY asked you about your political affiliations. Would you mind telling how you voted during the last election?

Mr. CROOKER. Oh, I am a Roosevelt Democrat right on through. I am a New Dealer down my way; really sincerely so, Senator.

Senator KING. But you are not for this judicial reform?

Mr. CROOKER. No; this is one of the few things. I do not mean I took it under, hook, cork, sinker, and all, but for the most part, 90 percent of the New Deal, I have stood for and argued for and believe in, and still believe in the majority of it.

Senator CONNALLY. And you have supported Mr. Roosevelt ever since he was a candidate?

Mr. CROOKER. One of the early supporters in my State, Senator.

Senator BURKE. Would the Senator yield for just a question on that point?

Senator CONNALLY. Yes.

Senator BURKE. Mr. Crooker, in a speech which the Secretary of the Interior, Mr. Harold Ickes, made in Chicago last Saturday night, he classified all opponents of the President's plan to make over the Supreme Court in three groups; and I would like to call your attention to those three groups and ask in which one you find yourself: The first group he called "Deserter-decoys from the Roosevelt ranks of November." The second group, "Reactionary geographical Democrats frightened by November's proof of the real democracy of America." And the third group, "Piqued professional liberals who would rather have no reform than one for which someone else might get credit." In which group do you find yourself?

Mr. CROOKER. I deny all three, Senator.

Senator KING. May I say that if Mr. Ickes and some other executive officials would pay a little more attention to their duties as executive agencies of the Government, instead of propagandizing throughout the country, they would be serving the country better. [Applause.]

Mr. CROOKER. We have had some visits down our way from some folks whom we believe might be better employed in Washington engaged in the duties for which we thought the people were paying them.

Senator KING. I agree with you.

Senator CONNALLY. How is that, Mr. Crooker?

Mr. CROOKER. I say, we have had some visits in Texas from some Federal officials whom we thought could have been better employed in performing the duties for which the people were paying them in Washingtoin to do, rather than messing around with political stuff down in our State.

Senator STEIWER. Did it not develop in the Panama Refining case that the defendant was charged with the violation of a regulation that had never been signed by the Interior Department—Mr. Ickes?

Mr. CROOKER. I believe it did, Senator; but I was not really familiar with that case.

Senator CONNALLY. Is that the case where the regulation was not found until the fellow was in jail?

Mr. CROOKER. I think so. I seem to recall something like that.

Senator KING. Will you take the chair and preside, Senator BURKE?

[At this point Senator BURKE assumed the chair.]

Senator HUGHES. Mr. Chairman, I think the discussion is getting into matters that are not very helpful to the members of this committee.

Senator BURKE (presiding). The new chairman will be very strict now in enforcing the rule.

Senator HUGHES. If the new chairman will excuse me now, I will have to leave.

Senator CONNALLY. Mr. Chairman, I have now a memorandum that Mr. Fred Wilson called up to say he has estimated the percentage of time taken to ratify the constitutional amendments, and that the average for the 21 amendments is 14 months and from 15 to 20 days for all of the amendments that there were submitted.

Now, right on that point you say that with public sentiment overwhelmingly in favor of the amendment it could be speedily ratified, if the people really wanted it?

Mr. CROOKER. Yes; I said that, Senator.

Senator CONNALLY. In view of this average for the ratification of the amendments, would you not say it would be possible to get the ratification of an amendment, if the people really wanted it? Of course, if they don't want it, they would not ratify it at all——

Mr. CROOKER. That is right.

Senator CONNALLY. But if the people really wanted the amendment, would you not say they can ratify it in 14 months?

Mr. CROOKER. My judgment is they could ratify the amendment if it was fair and proper and the people wanted it, in less time than the average, because of the facilities that we have today that certainly we did not enjoy back in the early days.

Sentor CONNALLY. Do you recall the repeal of the eighteenth amendment—how long that required?

Mr. CROOKER. It seemed shockingly short to me as a Prohibitionist, Senator. [Laughter.]

Senator CONNALLY. I think the evidence is that it was less than 10 months, if I might inject that.

Mr. CROOKER. It seemed a good deal shorter than that to me, but probably it was about that.

Senator CONNALLY. Now, you speak about the poor draftsmanship of many of these laws. Was there any kind of drafting that could have made the N. R. A. legal with its palpable delegation of legislative power to the Executive, which the Court unanimously set aside?

Mr. CROOKER. They declared it unconstitutional, of course, on both the ground of the delegation of power, which certainly could not have been upheld by any views I am familiar with, by any enlightened court; and in the second place, to regulate the purely State affairs of a business, which we are not for in Texas; there are a great many things we want the Federal Government to do and do well, but I do not understand that the people of any State want to surrender their entire local domestic governmental activities, and no man wants to be just regimented into industry and hours and prices and wages and what they can do and what they cannot do, and have that regulated by a Federal bureau; and even that Congress should establish the rules for such a thing is unthinkable.

Senator CONNALLY. That is, the N. R. A.?

Mr. CROOKER. That is the N. R. A., as I understand it.

Senator CONNALLY. Now, in the case of the A. A. A., after the action of the Court in that case, did not the Congress rewrite the law into what is now the Soil Conservation Act?

Mr. CROOKER. Yes; it was modified to that effect.

Senator CONNALLY. And is it not true that that act is now operating with a large degree of success?

Mr. CROOKER. Yes; it accomplishes, well, all of the wholesome ends that were sought to be accomplished by the first act, which was declared unconstitutional; and I think all the lawyers, or almost all of them agree that it is altogether valid and will be so declared.

Senator CONNALLY. Now, Senator O'MAHONEY asked you about a declaration by Congress or a definition by Congress of interstate commerce. Now, while Congress could not by a mere dictum make interstate commerce what is palpably not interstate commerce, yet is it not true that the Supreme Court under its rules of practice can go a very great way in undertaking to sustain an act of Congress; and would not a declaration by Congress in a statute of what constitutes interstate commerce be very persuasive on the Court, and would not the Court run into the rule

which it has adopted, that it would declare such definition unconstitutional unless it was so beyond a reasonable doubt?

Mr. CROOKER. Undoubtedly any definition by Congress would be very persuasive; and if it could reasonably appear that that were the rule, that is if the Justices might so word the rule themselves, I think they would follow it. And I think something can be done in two ways: One in drafting the legislation with more care and greater clarity, and the other with perhaps a definition.

Now, of course, we cannot just call it what it is not and expect to get by the court with a definition which is not adequately written, as you point out, Senator.

Senator CONNALLY. But in a borderline case, even though a court or an individual judge might hold an opinion that it was not interstate, but if it were a close decision and a borderline case, and if there was a declaration of a definition by Congress that it was interstate, would that not have perhaps a controlling influence on the Court in a borderline case?

Mr. CROOKER. I believe it would; and I think the unanimous opinion of the Supreme Court the other day in the Virginian Railway case is a very splendid illustration of that tendency toward upholding an act that there is some doubt about. A very plausible argument was made on the other side of the Virginian Railway case.

Senator CONNALLY. That is one case you did not mention, but the Court just a few days ago upheld the Railroad Labor Act as it has been amended in the Virginian case?

Mr. CROOKER. Yes.

Senator CONNALLY. And broadened every section of the Federal power in that regard?

Mr. CROOKER. Yes; broadened it considerably.

Senator CONNALLY. And is that not in line with the other decisions you quoted here relative to being favorable to labor?

Mr. CROOKER. Quite so, sir. I did say only the other day it was upheld, but I did not give the citation because I knew everybody knew about it, and it is not reported yet, and therefore I only said "recently."

Senator CONNALLY. Mr. Crooker, I do not want to take too much of the time of the committee myself, but I would like to have you elaborate somewhat and develop a little more the Houston Railroad case in which you were counsel, and in which you represented the union as against the railroad company, and in which you secured an injunction, not against the union but against the railroad, requiring them to recognize the regular brotherhoods as the negotiating agency, and enjoined the company from organizing and promoting and fomenting a company union as against the regular union. Go into a little more detail on that.

Mr. CROOKER. Well, the Brotherhood of Railway Clerks in Houston came to me in about 1929, I believe, and appointed a committee on what might be done with the Southern Pacific Railroad Co.'s insistence upon dealing exclusively with a company union which the railroad company had set up. It had fostered it, and it was insisting on dealing only with its own stooge, one might say puppet, I believe has been used in that connection, sort of. And I studied the Railway Labor Act of 1926 and drew a bill for an injunction and presented it to Judge Hutcheson, who was then Federal district judge at Houston, and secured a temporary injunction. We had a hearing and were able to prove sufficiently that the railroad company was interfering with the maintenance by their men, by their employees of their right of concerted action for collective bargaining. Meantime the company got hot at one or two employees from whom I had secured an affidavit with respect to the facts, and discharged them; and upon a full hearing, Judge Hutcheson, who is now on the supreme court——

Senator CONNALLY. Did the railroad plead unconstitutionality of the act?

Mr. CROOKER. Yes; they did.

Senator CONNALLY. That is the point I want. Go ahead.

Mr. CROOKER. And at the full hearing Judge Hutcheson ordered them to reinstate these four men whom they had discharged, and to deal exclusively with whatever representatives their men in that particular line of work selected and designated, as required by the Labor Act of 1926, and to refrain from further fostering and promoting a company union, on the theory they were not entitled to a man on each side of the council table when they wanted to negotiate with respect to hours and working conditions.

The railroad company appealed from that, and it was upheld by the fifth circuit. Then it was carried up on its constitutionality, and its application was upheld in its fullest degree in 1930 by the unanimous opinion written by Chief Justice Hughes, which was heralded all over the country as a declaration of independence for labor.

Senator CONNALLY. Did you not argue the case before the Supreme Court?

Mr. CROOKER. Yes; I did. Mr. Richberg joined in the case in the Supreme Court. I had tried it and argued it in the circuit court, and he and I argued it jointly in the Supreme Court.

Senator CONNALLY. Now, Senator O'MAHONEY asked you about the reference made to the power of Congress to change some of these acts; and you were referring there particularly to the Clayton and Sherman Antitrust Acts?

Mr. CROOKER. The Clayton Act and the Sherman Act.

Senator CONNALLY. And both acts were passed by the Congress?

Mr. CROOKER. Yes, sir.

Senator CONNALLY. And the Supreme Court in one or two instances has held that in interstate-commerce transactions if the laboring men should conspire, it would be in violation of the Antitrust Act?

Mr. CROOKER. Yes; they did.

Senator CONNALLY. In other words, if they conspired, it would interfere with interstate commerce, and so forth, in violation of the Antitrust Act?

Mr. CROOKER. Yes; the Sherman Act.

Senator CONNALLY. If that ought not to be the law, the way to get rid of it is to have Congress take it out of the law?

Mr. CROOKER. That is the way I see it.

Senator CONNALLY. It is no fault of the Supreme Court that that language is in there?

Mr. CROOKER. I think not, Senator. And let us suppose that somebody said they did not have to hold that, and they stretched it somewhat in interpreting it that way. I don't think it can be fairly said, but if a man were to say that, I think you can make it so plain that a justice of the peace would hold with you on it.

Senator CONNALLY. There was another case that originated in our State that you know something about. That is the East Texas Oil case, when martial law was declared by the Governor, in which men were arrested and tried. Did that case come to the Supreme Court of the United States?

Mr. CROOKER. Yes. It is cited in my memorandum. The Governor declared martial law. I think his intentions were good. The price of oil was going way down and things were going economically wrong in the oil industry, but clearly he shut wells down and regulated the production of oil.

Senator CONNALLY. With soldiers.

Mr. CROOKER. With soldiers and the State militia. The precedent had been established in some of the mines. It had been held that when the Governor proclaimed martial law nobody could go behind it and interfere; that it was conclusive and the courts were bound by it. The same Judge Hutcheson who wrote the opinion in the Brotherhood of Railway Clerks case, sitting in a three-judge court, wrote a splendid opinion holding that the courts could go behind a declaration by the Governor to see whether a true state of insurrection really existed or whether it was a mere pronouncement. He held that the courts could do it, and he did it, and found there was no state of insurrection. The case was upheld by the fifth circuit court of appeals, and again upheld by the Supreme Court of the United States. I think it is one of the outstanding advancements that the masses and labor have made in the history of this country.

Senator CONNALLY. Was it not true that the rich and powerful interests were back of the Governor and wanted martial law?

Mr. CROOKER. There is no doubt about it.

Senator CONNALLY. And the Court ruled against the high and powerful interests and ruled in behalf of the individual, and freed them from military rule.

Mr. CROOKER. That was precisely the situation in my State. The trial was held in my city of Houston. I was not in it, but I watched it very closely and took a good deal of interest in it. I talked to Judge Hutcheson at length about his opinion, after he had rendered it, of course, and he showed me the difficulty he had in struggling with the cases and West Virginia and Pennsylvania and Idaho and some of the other mining States.

Senator CONNALLY. Was that a decision in behalf of human rights, the rights of men, rather than in behalf of money and corporate power, the predatory interests?

Mr. CROOKER. It was 100 percent for the masses and especially for the underdog, for the laboring people as against what might be called the predatory or vested interests. The small independent oil people were on the side of the masses and did not want the State militia regulating what they could or could not do, purely in their own affairs.

Senator CONNALLY. Unless there is something else you think of, I believe that is all.

Senator BURKE (presiding). In behalf of the committee, we thank you, Mr. Crooker.

Senator CONNALLY. The testimony of this witness has been very instructive and enlightening, and I want to add that the Supreme Court a few moments ago upheld the Wagner Labor Relations Act in the case involving the Associated Press. They have not yet reached the other cases. I think we have a right to be proud of you, and I want to express that pride.

Mr. CROOKER. I want to express my deep gratitude to the committee for the attention and courtesy and splendid manner in which they have received my humble efforts.

Senator O'MAHONEY. May I ask one question?

Mr. CROOKER. Yes.

Senator O'MAHONEY. Have you represented any other union organizations beside the railway clerks?

Mr. CROOKER. Yes. I was a member of the Switchmen's Union a good many years ago, and I have represented a good many labor cases, not great in number but in importance. I argued in the circuit court week before last a most important case for railroad labor.

Senator O'MAHONEY. For which particular union?

Mr. CROOKER. The Brotherhood of Railway Clerks. I have represented the other four brotherhoods—the trainmen, the engineers and firemen, and the conductors. All of them had combined in three or four important matters and engaged my services.

Senator BURKE (presiding). Thank you very much. The committee will recess until 2 o'clock.

(Whereupon, at 12:10 p. m., a recess was taken until 2 p. m.)

AFTER RECESS

The committee reconvened at 2 p. m., at the expiration of the recess.

Senator KING (presiding). The committee will be in order. Mr. Crooker will resume the stand. Senator Austin wants to ask another question.

STATEMENT OF JOHN H. CROOKER—RESUMED

Senator AUSTIN. During recess it occurred to me that a signal example of the subject that you testified about this morning ought to be familiar to you, and that I ought to ask you about it. It ought to be familiar to you because I think that the State of Texas had a special interest in it, and I think the courts of Texas have dealt with the matter. It is that part of the N. R. A. which related to "hot oil." I believe it was called section 9 (a). I am not certain about the section number, but do you understand what it is that I refer to, the "hot oil" section of the N. R. A., which was declared to be unconstitutional because it undertook to delegate legislative powers to the President?

Mr. CROOKER. I think I do, Senator.

Senator AUSTIN. Are you aware that your distinguished Senator CONNALLY subsequently redrafted that particular part of N. R. A. to remove from it the unconstitutional element, and that thereafter it accomplished the objective for which it was originally drawn, without having any successful attack made upon it in the courts?

Mr. CROOKER. I do realize that, and I think the people of the entire Union, certainly the oil-producing States, are under additional and increased obligations to the Senator from my home State for having done such a splendid task in such a fine way.

Senator AUSTIN. Does not that practice show how unnecessary it is to attempt a radical change in the Court, just because you or anybody wants to have held constitutional that which formerly was held unconstitutional?

Mr. CROOKER. I think it is perhaps one of the most striking examples. It did not occur to me to make it this morning when I was being questioned by one of the other Senators with respect to how legislation might be drawn, and yet I think it is one of the very best examples of the very thing to which you refer.

Senator AUSTIN. We have had in this session of Congress another instance. If it should appear that the Congress has been successful in redrafting the Guffey coal bill so as to avoid the original unconstitutional features of it, that would be still another example of the same thing to which you referred, would it not?

Mr. CROOKER. It would, indeed. I am not as familiar with it. In my State and in my general practice of law I represent some few independent oil operators, and they are peculiarly interested in the Connally Hot Oil Act, but we have no mining in our State, and I have not read except very casually some excerpts from the Guffey Coal Act. But I do think I realize that it is an improvement. It is certainly vastly improved by the amended act, and it certainly has infinitely better chances of being upheld. Some able lawyers have indicated that it would likely be upheld, whereas the earlier act was drawn hastily and is subject to a good deal of the things I was talking about this morning, sir.

Senator AUSTIN. Of course my interrogatory is directed to the main issue here, and that is the practice of the Congress. Should Congress attack the Court just because it does not like the Court's judgments, or should the Congress try to cooperate with that Court and rewrite its legislation to conform to what that Court says is the law?

Mr. CROOKER. And what usually is, Senator. We must recognize it. Sometimes it gets on our toes a little bit, when the courts do not agree with us, but that sober second thought that comes to us will come to the people of America. I do not think there will be any doubt but that when it exercises its judgment we will not be throwing brickbats at the Court, merely because we disagree, or think we disagree with something that the Court is doing.

Senator AUSTIN. Thank you, sir.

Senator KING. Do you know that since 1879 there have been possibly 50,000 acts passed by the Congress, and that out of that number only about 75 or 80 have been declared unconstitutional, many of them with reference only to some particular section in the act which was declared unconstitutional, and that many of them that have been declared unconstitutional were so unimportant they have been forgotten and attracted but little attention upon the part of the public at the time the decisions were rendered? You are familiar with that?

Mr. CROOKER. I do realize it. I did not realize quite how many acts had been passed, but I knew there had been an amazing number of them.

Senator KING. That is a very high "batting average", is it not?

Mr. CROOKER. Well, that is better than the major league ball players do.

Senator KING. Take your own State, and all the rest of the States, who have supreme courts—and all of them have their highest judicial bodies. They frequently declare acts of the State legislatures unconstitutional, do they not?

Mr. CROOKER. Yes. I have no doubt but that if the question were fairly examined and analyzed, I think the courts of last resort of nearly all of the American States, it would be found, had declared more acts—proportionately, I mean, by percentage—unconstitutional than has the United States Supreme Court declared unconstitutional the like acts of Congress.

Senator KING. I noticed since we adjourned, in reading the paper from my own State, the supreme court 5 days ago declared an act passed by the legislature of my State unconstitutional, by a unanimous court. That, I suppose, is a very common occurrence in the States.

Mr. CROOKER. It is, indeed. We all experience it in our own States, which we watch closely.

Senator KING. And there has been no effort made to destroy the courts because the State courts have declared acts unconstitutional?

Mr. CROOKER. None that I know of, in any State in America.

Senator KING. Nor to rob them of their efficiency and their power and their authority?

Mr. CROOKER. There has not come to my notice any such attempt in any State.

Senator KING. Senator Burke wants to ask a question.

Senator BURKE. How many members are there on the highest court in the State of Texas?

Mr. CROOKER. Three, sir.

Senator BURKE. Three members?

Mr. CROOKER. Yes, sir.

Senator BURKE. Is that number fixed?

Mr. CROOKER. It is fixed by our constitution.

Senator BURKE. In other words, in the State of Texas the people have taken pains to see that it is not left to the chief executive of the State or the legislature, at any time that they are dissatisfied with decisions of your highest court, to add members—only the people themselves, by changing the constitution, can put any additional members on the court?

Mr. CROOKER. Precisely, Senator.

Senator KING. And in addition to those three I suppose you have inferior courts or additional courts?

Mr. CROOKER. To be sure. And we have found a need for additional judges, that has been supplied in my State by the creation of commissions of appeal to aid the supreme court, performing duties almost comparable in all respects to those, but it is the supreme court which passed on the matter itself, in the last analysis.

Senator BURKE. In my own State of Nebraska, we have the same provision, only our constitution fixes the supreme court at seven. A few years ago, on account of the increase in litigation, the court became about 2 years behind, so the legislature set up two commissions, commissions no. 1 and no. 2, to hear cases assigned to them by the court. But the matter was then referred to the supreme court, and if the matter was of any importance the parties could file requests for a rehearing before the court. The court very frequently granted them. But that is a very different situation from adding members to the court, to dilute the court and the judgment of the individual members thereof?

Mr. CROOKER. It is obviously just very much different.

Senator BURKE. Are you aware of the fact that 37 other States, in addition to Texas, have written into their constitutions a provision fixing the number of judges on their supreme courts, so as to take away from the Governors and the legislatures of those 38 States, including Texas, the possibility of ever having the State presented with a situation such as the one that arises by virtue of the presentation of this matter to Congress?

Mr. CROOKER. I had not been aware of the precise number, Senator, but I did understand that roughly three-fourths of all of our States had safeguarded the matter in that splendid way.

Senator BURKE. And in those 38 States there reside more than 100,000,000 of the total population of this country?

Mr. CROOKER. Yes; there are bound to be.

Senator CONNALLY. In connection with the organization of commissions of appeal in Texas, after the commission of appeal passes on a case which you have before it, it has no force or effect until it is passed over to the supreme court and is adopted by the court as its opinion?

Mr. CROOKER. That is right. It is just like the stenographer writing an opinion, insofar as its legal effect is concerned. The opinion does not become effective unless and until it is adopted by the court and the court clothes it with power, to be sure, and it is the opinion of the court, prepared by the commission.

Senator KING. Thank you very much.

Mr. CROOKER. I thank you again, Senator.

War Profits Legislation

EXTENSION OF REMARKS
OF
HON. GERALD P. NYE
OF NORTH DAKOTA
IN THE SENATE OF THE UNITED STATES
Monday, May 3, 1937

ARTICLE FROM BALTIMORE SUN

Mr. NYE. Mr. President, I ask unanimous consent that there may be printed in the Appendix of the RECORD an article by Mauritz A. Hallgren in the Baltimore Sun of April 27, 1937, entitled "War Profits Bill in Congress."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sun, Baltimore, Tuesday morning, Apr. 27, 1937]

WAR-PROFITS BILL IN CONGRESS—HALLGREN SAYS EFFECT OF SHEPPARD-HILL MEASURE IS MORE RADICAL THAN ANYTHING OFFERED BY THE NEW DEAL

By Mauritz A. Hallgren

WASHINGTON, April 26.—Surprisingly little notice has been taken of the Sheppard-Hill bill, which is now awaiting action in Congress.

Yet in its potential effect upon the national economy and upon our civil liberties this brief and innocent-appearing measure is far more drastic than anything that has to date been offered under the New Deal. It is, perhaps, the most radical legislation that Congress has ever been asked to consider.

Ostensibly the bill is simply another plan—of which we have had several in recent years—to "take the profit out of war." Its sponsors in Congress are urging its enactment on the ground that it will "draft capital" as well as soldiers in the next war. This argument appeals strongly to the war veterans' organizations, especially to the American Legion, whose powerful lobby here and throughout the country is exerting tremendous pressure on Congress to get the bill passed. The argument has also found a certain attraction for numerous civic organizations, a few State legislatures, and even for some pacifist groups.

It may seem odd at first glance that "capital" itself should be supporting the bill, as is indicated by the activity of the business lobbies on its behalf. Closer study reveals that this seeming paradox is not a paradox at all. For the bill makes no provision for the conscription of capital. It does not even pretend to draft capital. On the contrary, it would not only guarantee to business and industrial enterprise full enjoyment of their peacetime profits, but would actually underwrite part of their excess profits in time of war.

As Stephen Raushenbush, secretary of the Senate Munitions Committee, has put it, "The only provision in the bill which gives any evidence of intent to prevent profiteering or to equalize the burdens of war is the proposal that once war is declared a tax of 95 percent shall be levied on all incomes above the previous 3-year average. On its face companies can keep all the profit they make in peacetime and in addition 5 percent of the wartime profits.

"They can do even better. They can secure 'proper adjustments for capital expenditure.'" This latter section would enable them to charge off to "amortization" a large part, in some cases all of their net earnings, and to the extent that they did so these net earnings or profits would escape the war tax. Under this plan Mr. Raushenbush points out, "the Du Pont Co. would not have paid a penny to the Government in 1917 or 1918."

More than that, the bill would greatly stimulate trade in war goods. It is safe to presume that the only war in which the United States might find itself involved in the foreseeable future would be one very much like that of 1914–18. Presuming that it eventually went into the war in defense of its "honor" or its "interests", there would in all likelihood be a preliminary period during which it remained at peace while other countries were fighting.

In this preliminary period American enterprise would inevitably seek to carry on a war trade with the belligerent powers as it did in 1914–17 (and it would find the existing "neutrality" laws so shot through with loopholes that it would have no difficulty whatever in carrying on this trade). Under the Sheppard-Hill plan it would be directly encouraged to take part in this trade, since the more profits it made in the period of "peace" before America's entry into the war the smaller would be the war tax it would subsequently be called upon to pay.

However, though no provision is made for the conscription of capital in the sense that owners of property might be deprived of the right of ownership or of the monetary fruits of ownership, the bill does provide that the right to control and manage property shall be handed over bodily to a military dictatorship. Not only would executive officials and managers and foremen be commissioned as officers in the Army, but the President, or rather the Army and Navy through the President, would be empowered to fix prices, service fees, and other forms of "compensation"; to establish dictatorial control over the production, transportation, and marketing of goods; to take over and manage industries, businesses, and "public services", as and when deemed essential; to take over other property and to license industrial corporations, individual businesses, and the like.

Naturally the raw material needed to man the factories and to fight in the ranks is not overlooked in the Sheppard-Hill bill. The measure would give the President full power to conscript the manpower of the Nation. All able-bodied male adults would be required to register. Some would be sent into the Army or Navy at once, the remainder being put on a "deferred" list. The net effect of the creation of this "deferred" list would be to give the dictatorship power to draft labor for work in the factories and elsewhere, while under other sections of the bill it would find plenty of authority to fix wages.

Indeed, conscription of labor and wage fixing are and must be integral parts of the plan envisaged in this bill, for it would be impossible to control the other elements in the national economy, as the bill would do, while leaving the all-important labor supply uncontrolled.

One must not suppose that these virtually absolute powers would be used to hinder production, for production would be indispensable to the war effort. They would be used rather to regiment business and the workers along military lines, and more especially to crush all opposition to the wartime dictatorship. They would cover practically everything.

They could be employed to suppress any newspaper, printing press, publishing firm, or other business, or any individual in a position to influence or appeal to public opinion. They could be used to compel any corporation, other organization, or individual to do whatever the dictatorship might order done. The whole Nation would be compelled to bow to the wisdom or the madness, as the case might be, of those sitting in power in Washington when the war came.

Never have such sweeping powers as those provided or implied in this bill been conferred upon any modern government or chief of state. Not even the Nazi regime of today enjoys as much power. Only the German dictatorship of 1914–18 can be said to approach in extent and inclusiveness this contemplated American dictatorship.

It can be argued that if we were, unhappily, to engage in another major war some such centralization of power would be essential. Yet this argument by definition presupposes American participation in another war abroad on the same basis and of the same scope as that of 1917–18. The chances of our ever having to defend ourselves against invasion are so remote, so slim, that they simply cannot be taken into account in connection with this bill. An invader, moreover, could be repelled so quickly and with such little military effort that it would be utterly absurd to establish a dictatorship for the purpose. The conclusion is inescapable that the Sheppard-Hill bill is but part of the preparations being made by the Army and Navy for another war abroad.

No less ominous is the probability that, should the United States go to war again, the dictatorship would not dissolve itself, as it did in 1919, after the fighting ends. There can be no question that during or following the next great international war Europe will be swept by revolution. Nor can there be any question that this country will witness popular unrest and disturbances on a much broader scale than was experienced in 1919.

That would come partly as the result of the economic readjustment made necessary by the cessation of hostilities, partly because of the psychological letdown that follows every intensive war effort, and partly as a reaction to the revolutionary movement in Europe. The dictatorship would contend that in the interest of "law and order" it must maintain itself in power.

Under the Sheppard-Hill plan it would have sufficient authority to do so. As a matter of fact, under that bill the projected dictatorship might be set up even though the country is not at war. The bill states in very plain language that the powers which it would create shall become effective, not only "whenever Congress shall declare war", but also in the event "of a national emergency declared by Congress to exist."

Remembering what was done only a few years ago in the name of a "national emergency", who will have the hardihood to predict, with such legislation as this spread upon the statute books, that the dictatorship authorized thereunder will not be called into being if another "emergency", banking panic or similar domestic crisis, were to confront us?

Considering the terms and far-reaching implications of this vicious bill, it is truly surprising that it should have attracted so little attention. The American Legion and the war lobby are supporting the measure vigorously and enthusiastically. The peace lobby is opposing it with such means as it can command, but this opposition to date has had very little effect.

These groups apart, there seem to be very few people in the country or here in Washington who are at all concerned with this question. There are even a number of Congressmen who are prepared to vote for the bill (as some of them have told me recently), although they are not acquainted either with its contents or its significance.

Alumni Association of Boston University Law School

EXTENSION OF REMARKS

OF

HON. JOSEPH F. GUFFEY

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, May 3, 1937

ADDRESS BY HON. JAMES A. FARLEY BEFORE THE ALUMNI ASSOCIATION OF BOSTON UNIVERSITY LAW SCHOOL, APRIL 22, 1937

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD the able and interesting address, dealing with problems of the times, delivered on April 22, 1937, by Hon. James A. Farley, before the Alumni Association of the Boston (Mass.) University of Law School.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, in accepting your kind invitation to be here tonight I was moved to accept very largely by the pleasant memories of my previous visits to Boston. I have had occasion to come here several times during the past few years, and during those visits I have come to form an attachment for Boston which makes it doubly pleasant to return.

As members of the Alumni Association of Boston University, the men and women who comprise this audience are keenly aware of current happenings in politics, in government, and in industry. Forces and events are moving swiftly. New problems are arising to vex those in authority because the old problems have never been settled on a satisfactory basis. And whether we approve or disapprove of what is being done, the fact is that we must face conditions as we find them, and that some kind of a solution must be worked out by the people of this generation.

The country is now listening with eager and alert interest to a great debate on the merits of certain proposals which have been put forward to cope with current problems. Naturally these proposals have awakened fierce controversy. In fact, the subject has been debated so thoroughly that I believe everyone here is fully informed of the arguments both pro and con.

A full and free discussion is always the best method of settling any controversy, but sometimes in the heat of discussion we are apt to lose our perspective. We are inclined to forget the long view, to see only the immediate present, and to forget what history and experience have taught us about previous occurrences of a similar nature.

And so tonight it is my purpose to see if, in the lessons of the past, there is a parallel situation that will help us in understanding the problems that we grapple with today. This great Republic has a habit of surviving crises, and some of those of the past were far more critical than anything this generation must face.

Perhaps naturally, as a Democrat, I turn back to the stirring and momentous times of Thomas Jefferson to find an era, the events of which may serve as a useful guide in giving us a proper perspective on the events that are taking place in the present.

Born an aristocrat, Jefferson was the greatest Democrat of his time; born to property, he was the stanchest champion of human rights. He was not interested in the side of the barricade on which he was born because he proposed to level all barricades of class by the creation of a nation of free men with equal rights.

In the preamble to the Declaration of Independence he laid the cornerstone of Jeffersonian democracy when he said that "governments derive their just power from the consent of the governed."

He proclaimed the then revolutionary doctrine that government is the servant of men and men are not the slaves of government; and he shocked the Tories of his time with the assertion that no man, nor group, nor class has a divine right to mount and ride on the backs of the masses of mankind.

He challenged the Tories of his day with the startling declaration that there are legitimate rights of property and legitimate rights of men, but that whenever a conflict came between the rights of money and the rights of man, the rights of man take precedence.

When the Constitution was promulgated, Jefferson was not content—because it contained no provision for the protection of the rights and liberties of the people against the abuse of power. He sounded the bugle that put the minute men upon the march again, and forced into the fundamental law the Bill of Rights—the most sacred part of that immortal document.

But, even then, Jefferson was not content. He was not satisfied merely with a republic. He was student and philosopher enough to know that a republic may serve or enslave a people. In the Tory atmosphere of New York and Philadelphia society he noted the hostility against popular government, and he read the beginning of privilege in the policies of Hamilton.

In the mobilization of selfish forces he saw a plutocratic republic rearing its ugly head.

In high political circles he heard democracy denounced as the vulgar philosophy of the base and low born.

Thus he sounded the battle cry that aroused the people to the need of another revolution at the ballot box to make ours a democratic republic, responsive to the people's will.

The first great battle for democracy in America continued through 8 bitter years; and the attacks on Jefferson in the Tory press were precisely those that were made on President Roosevelt in the last campaign.

Because he mentioned human rights, they said he was a demagogue.

Because he subordinated money to men, they said he was undermining organized society.

Because he urged democracy, they denounced him for sapping the foundations of American institutions.

There was not a term of reproach that has been applied to President Roosevelt that was not constantly applied to Jefferson by the Tories of his time in the first major battle for democracy.

And just as there is a striking similarity between Jefferson's battle for democracy and Roosevelt's battle for its preservation, there is a startling uniformity in the treatment of their first administrations by the Tory critics of the two epochs.

For example, there was scarcely a single administration measure of Jefferson's term that was not denounced as unconstitutional. Does that remind you of anything?

There was hardly a day that Jefferson was not attacked as seeking dictatorial power. That phrase likewise has a familiar ring.

Because Jefferson opposed the exploitation of the many by the few, he was charged with arousing the hatreds of class. That sounds very similar to some of our current newspaper editorials.

And Jefferson was savagely assailed as an enemy of the institution of the Supreme Court—and why? Because he proposed so to reform the Court as to make possible the preservation of democracy.

When Jefferson took power, there was not one man on the Supreme Bench who did not hate the principles and policies the people overwhelmingly had proclaimed at the polls. And the Tories of the time frankly looked to the court to defeat the swing toward democracy.

He found that Justices of the Supreme Court attended party caucuses.

He found that under the pretext of charging a grand jury, judges of the Federal courts delivered threatening political harangues, preparing them as political speeches to be published in the party press.

He knew, what history now admits, that in political cases involving the liberty of speech and the freedom of the press, these judges misused their courts for political persecution.

He knew that in such cases Federal judges and Federal marshals deliberately packed the juries against the defendant.

He knew, as history now tells, that when democracy was voted in in the revolution of 1800, the defeated Tories sought to entrench themselves in power by elevating a lot of political lame ducks to the Federal bench for the express purpose of defeating the will of the people.

And when Jefferson, with a clear mandate from the American people, refused to commission the newly created judicial wrecking crew; when he said that judges were to pass on laws and facts and not on political principles and policies; when he said that the judicial bench as a party rostrum was indefensible and indecent and had to go; when he declared that the packing of juries in political cases had to cease, and that political decisions had to stop, the Tories of his time overwhelmed him with a venomous attack that has never been approached.

They said he was destroying the independence of the Supreme Court—that has a familiar ring.

They said he was removing all legal restraints to the dictatorship he planned for himself—another resounding phrase that has again become extremely popular.

And Gouverneur Morris, the Tory leader, wept in the Senate in pronouncing a funeral oration on the Constitution and the Republic. And, mark my word, some current Gouverneur Morris will parrot that speech in the Senate of today.

Well, what happened?

Jefferson, supported by public opinion, pushed forward to his purpose and, purging the Federal judiciary of the abuses that were destroying public confidence in its integrity, restored to the courts the respect and confidence of the Nation. And when he did that he restored confidence in American institutions.

Now, the major problems of Jefferson's time were political; today they are social and economic.

The danger in Jefferson's time was that judges, beyond the reach of public opinion, would interpret the Constitution in the light of their unreasoning political prejudices; the danger to progressive democracy today is that judges, long remote from contact with realism, may interpret the Constitution through the murky glasses of their economic prejudices and hates.

If less than half a dozen men, long out of touch with the human problems of an industrial age and civilization, have the power to veto the purposes of the people, we cannot expect the people long to accept the veto.

We are grappling today with the economic readjustments absolutely necessary for the preservation of our present civilization.

No one but the few selfish beneficiaries of the existing inequalities doubts the imperative need for these reforms if American institutions are to be preserved.

If, as we believe, these reforms were endorsed by the sovereign people as absolutely necessary for the general welfare, for which the Constitution primarily was framed, then we expect the mandate given Franklin D. Roosevelt to be carried out.

Eleven million majority of the American people expect it.

Forty-six of the 48 sovereign States demand it.

And if reforms in the judiciary are required to make all branches of the Government reasonably responsive to the will of the sovereign people, American democracy will demand that they be made.

And remember this: No servant of the Nation is above analysis or criticism. And if it be true, as Chief Justice Hughes has said, that "the Constitution is what the judges say it is", the American people will demand to know something of the economic prejudices and backgrounds of men who are entrusted with that awful power over the destiny of 130,000,000 people.

When that justly admired and loved old jurist, Justice Holmes, warned his colleagues on the Supreme Bench that they had not been given unlimited authority to embody their economic or moral beliefs in the nullification of the laws of the land, we may assume that some laws have been set aside, not because they violate the Constitution but because they antagonize the economic views of individuals on the bench.

Now the President's plan removes no man who prefers, despite old age, to remain upon the Supreme Bench. But it does make possible the infusion of fresh blood and the introduction of new minds fresh from the problems of human beings with which nations must deal speedily in critical days like these.

What is Jeffersonian democracy? What is the significance of American institutions?

Does anyone challenge the answer that Jeffersonian democracy and American institutions stand for the right of the people to determine the destiny of the Nation at the ballot box?

Well, the Roosevelt policies and plans have been submitted to the arbitrament of the men and women of America in the most

intensive and exhaustive debate on all their merits since the adoption of the Constitution.

They were debated with reasonable moderation for 2 years and with bitterness and intemperance for 2 years more.

The reactionary opposition resorted to every human means in making their case against the policies of the administration. The greater part of the metropolitan press hammered away day after day for 2 long years and daily poured their millions of pages of abusive opposition into untold millions of American homes to be read at the breakfast table and about the evening fireside.

The radio poured bitter denunciation of the President's program into the family circles in millions of homes night after night.

Magazines and books increased the bombardment of the President's position every week and month.

Powerful organizations of the privileged, powerfully financed, worked at high speed with the aid of trained experts in publicity for 2 full years to prove that the great leader who had saved American institutions was trying to destroy them.

Never in American history has any issue been more exhaustively debated in every possible forum; and when the debate was over, no human being but understood the issue when he passed into the election booth to render his verdict in the American way.

And in that awe-inspiring referendum of the people, who are the sole sovereigns in this Republic, Franklin D. Roosevelt was given the most impressive mandate ever given to any President in any election for a century and a half.

Now, if American institutions mean the rule of the people—and they do—the American people have instructed their chosen leader to write his program into law.

To say that the people who gave him 11,000,000 popular majority, and the electoral vote of every State in the Union save two, cannot have what they so impressively have said they want, is to pronounce democracy itself a mockery and a sham.

For 2 years the tories told us that they were giving us the battle of the century; and now that victory has perched upon the standard of Franklin D. Roosevelt, we don't propose that they shall tell us that it was a sham battle after all.

The people won the battle, and to the people shall fall the fruits of victory.

Now to complete the program on which President Roosevelt has a clear mandate we must deal with social and economic problems during the next 4 years. Call the roll of some of the President's achievements that assured him the electoral vote of 46 States—they all go to social, financial, and economic reforms.

He saved the banking system on the verge of a collapse by decisive and bold leadership.

He reformed the banking laws, ended the use of your deposits in speculative gambling, and provided an insurance for your savings against loss.

He found millions of women and children threatened with starvation and he made the Government perform a nation's task and fed them.

He found the spirit of millions broken on the hard bread of charity, and he launched a program of public works that has restored millions of breadwinners to self-respecting toil.

He found the workers in factories and shops threatened with the denial of their right to collective bargaining, and he gave them a new charter of human rights.

He found the farmers on the verge of serfdom, and for the first time in 50 years he put them on a par with industry, commerce, and finance; and when he did that the spirit of Jefferson must have given him its blessing.

He found no provision such as England long has had to insure the industrious against unemployment, to assure the aging against an old-age of beggary and want, to assist the mother in the care of her orphan children, and to give to crippled children a chance to live and work; and he launched a social-security program to make government responsive to the needs of a complicated civilization.

And I submit that if this great humanitarian had done nothing more, that would have been enough to have assured immortality to any man, of any country, in any period in all the tide of time.

To go further, these are the sort of economic and social reforms that President Roosevelt has sponsored; and this is the sort of work that must be rounded out in the next 4 years to justify democracy to the masses of mankind.

Throughout the European world democracy is giving way before the mailed fist of might, and always the justification is that some part of the machinery of democracy has failed to function as the demands of the time required. And we don't want any part of the machinery of our institutions to make humane progress impossible in the land of Jefferson.

Throughout the world today the work of Franklin D. Roosevelt is being watched by the statesmen and rulers of the earth; and everywhere the verdict is that he is waging the wisest, bravest, most constructive fight for the preservation of liberty and democracy of any leader in the entire world.

The people are behind him; his support springs from every section of the country; and the purely economic views of a meager few must not be permitted to defeat the reforms on which the life of democracy depends.

The blessings of Jefferson are on him and an 11,000,000 majority of the American people are mobilized behind him; and he will push forward to the achievement of the people's purpose, because he marches with his times to the tune of justice for every man and woman of good intent beneath the flag.

Enlargement of Supreme Court

EXTENSION OF REMARKS

OF

HON. PETER G. GERRY

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Monday, May 3, 1937

STATEMENT SUBMITTED BY BISHOP PHILIP M. RHINELANDER, OF THE EPISCOPAL CHURCH, ON THE SUBJECT OF INCREASING THE PERSONNEL OF THE SUPREME COURT

Mr. GERRY. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD a statement by Bishop Philip M. Rhinelander, of the Episcopal Church, protesting against the President's program for the enlargement of the Supreme Court.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

LIBERAL OPPOSITION TO THE PRESIDENT'S PLAN

It is very significant that the strongest and best reasoned opposition to the President's plan for the Supreme Court comes from men and women of liberal opinions. It was certain that conservative opinion would be against it and, incidentally, conservative opinion should carry weight insofar as it is set to "hold fast that which is good" in our political tradition. But in the present crisis liberal opposition is the more striking and convincing. These liberals are in the main sympathetic with the social and economic objectives of the administration. They hold these objectives to be in line with the true principles of liberalism. Therefore, they have worked and voted for them. Yet now the most thoughtful and influential minds among them oppose with equal vigor and determination the plan of the administration for the reconstruction of the Supreme Court. This may look like inconsistency. But it is not so. These liberals are entirely consistent. It is their love of liberalism that explains and justifies their support of the President's social and economic program. It is this same love of liberalism which explains and justifies their opposition to his plan for the Supreme Court. They hold the plan to be antiliberal. That is the most convincing argument that can be made against it.

THE PRINCIPLES OF LIBERALISM

It is, of course, common knowledge that the proponents of the plan, following the President, insist, not only that the plan is in line with liberal principles, but that liberal ends in public and political affairs cannot be reached so directly and effectively in any other way. Doubtless they are sincere. Doubtless that is what they honestly believe. But they are wrong. Whatever may be the merits or demerits of the plan, considered by itself, one thing is certain, namely, that it cuts across the central and formative doctrine of all true liberalism in government. For the primary aim of liberal government must be, as it always has been, concern for, and protection of, the rights of minorities and individuals over against oppression, whether by executive autocracy or by dominant majorities or by popular emotional excitement. It is in religious faith that this liberal principle finds its full expression. In Christian belief "each man counts for one and no man counts for more than one." This high religious faith has in the past profoundly affected the political structures of the western nations, however tragically in recent years some of them have rejected and denied it. Its influence on our own political structure, from the birth of the Nation to the present time, is very noteworthy. It is this fact more than any other which has given us our standing as a Christian nation.

THE LIBERALISM OF THE CONSTITUTION

This basic principle of liberalism is woven into the very texture of the Constitution. The history of its drafting and adoption makes this quite clear. The founding fathers were moved by their experience of the intolerable autocracy of the British Crown over British subjects in the Colonies. Rightly interpreting the minds of those whom they represented, and upon whose consent the establishment of any form of Federal Government depended, they took this first principle of liberalism as formative and decisive in working out their instrument of government. It can be traced in every section of the Constitution. It is implied in almost every sentence. That there might never be the shadow of a doubt as to this vital matter, the Bill of Rights was written in as an amendment, an amendment which really amends nothing but is itself an impressive summary of all that has preceded it. Granting that, as was clearly foreseen at the time of its adoption, changes in the Constitution may be required in changing times, still, now as in the past, its doctrine of liberalism is indisputably clear. The Constitution stands or falls, not in part but as a whole, if at any time its cardinal insistence on the inalienable rights of minorities and individuals shall be overridden or denied.

THE FUNCTION OF THE SUPREME COURT

In order that this essential and formative feature of our Government should not be a mere expression of opinion, but a working part of the machinery of government, the Supreme Court was set in place. Its function can be understood only if this is kept in mind. Minorities and individuals under our Government are at all costs to be protected from oppression. The Supreme Court is on hand to see to it that such protection shall always be effective, no matter what political or public clamor may rise up to threaten it. This is the great responsibility entrusted to the Court. And there can be none greater. For on the Court's effective discharge of this responsibility depends our whole political philosophy as well as the proper functioning of our whole governmental system. To liken the Supreme Court to one of a team of three governmental units charged equally with the duty of pulling the car of state along its destined course is wholly to mistake the purpose of the Constitution. Rather the Court is like an umpire or referee with the exacting duty of seeing that the game is played strictly according to the rules. There is no room for debate or doubt as to the role assigned the Court in our governmental drama. The Constitution has established it as the normal bulwark of our liberalism; in times of crisis, as its final and impregnable defense.

THE THREAT TO FUNDAMENTAL LAW

But the present agitation is more serious than a mere threat against a written document. A document cannot be more than a symbol of something greater than itself. What really matters is the mental and spiritual disposition, of which the document is the deliberate expression. The Constitution is our fundamental law. That is what gives it its high dignity and its rightful claim on our allegiance. We revere the Constitution, not only for its own sake, certainly not because we think it infallible or sacrosanct. We revere it because of what it represents and has represented since we became a nation, namely, our well-considered, earnest, and even passionate determination that ours shall be a government of law and not of men, and that, behind all separate laws and statutes, there shall be one supreme law, subject to change from time to time if the people so determine, but providing from one generation to another a permanent foundation on which the common welfare shall securely rest.

If this determination to have and to uphold a fundamental law as guaranty of national unity and continuity shall ever be surrendered or suppressed, then the way is at once open to a government apart from law; that is, to arbitrary rule, whether by dictators or by oligarchies or by transient majorities at the polls and in our legislatures. There is no need to stress this point. It is precisely what has happened in Russia, Germany, and Italy. Already to a perceptible and even ominous degree, the President's proposal has undermined respect for law and courts of law and legal procedure as a whole. More than this, the President's proposal is encouraging our people to believe that the legitimate and final source of law and of obligation under law is to be found in the ballots of shifting and often irresponsible majorities or in the personal wills and wishes of individual executives whom we may choose to put into temporary office.

If and when that comes to be our prevailing mind and mood, under pressure of organized political activity and propaganda, then liberalism in any sense worthy of the name will have been done to death and we shall have turned our backs upon all that has given us a significant and worthy place among the nations.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ROBERT R. REYNOLDS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, May 3, 1937

ADDRESS BY HON. ROBERT R. REYNOLDS, OF NORTH CAROLINA, AT MIAMI, FLA., APRIL 29, 1937

Mr. REYNOLDS. Mr. President, I respectfully request unanimous consent that there be printed in the Appendix of the RECORD a speech delivered by me at Miami, Fla., last Friday night, April 29, at Bascayne Bay Park, under the auspices of the Dade County Democratic Executive Committee, the National Lawyers' Guild, the Florida State Federation of Labor, and the Young Democratic Clubs of the State of Florida pertaining to the President's recommendations for reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, it is a pleasure to be here tonight and to join with the citizens of this great State in demonstrating our hearty enthusiasm for a policy of government which may become a landmark on the path of human progress.

I refer, of course, to President Roosevelt's program for reorganization of the Federal judiciary. With characteristic energy and with that flaming zeal for justice which has ever marked his conduct in public office, our great President has decided that the time has come to end once and for all the evil of judicial tyranny in this country. He hopes to have the courts serve the ends of justice instead of serving the interests of minority groups and property rights. He hopes to annihilate the absurd and dangerous belief that the Federal courts are omnipotent and untouchable, and that whatever they decide must be the eternal law of the land, no matter how unwise or how unjust that decision may be.

This is a magnificent crusade which the Chief Executive has started upon and it gives me the most intense pleasure to know that so many of you are with him heart and soul. For myself, I have enlisted in the cause and it is my determination to remain in the ranks, fighting to the best of my ability, until the flag of victory flutters over the ramparts, telling the world of another great triumph for the cause of human rights. And make no mistake about it—this struggle is going to end in victory for the President's forces.

To those who may be doubtful or skeptical, and to those of faint heart who may need a little encouragement, let me give assurance that the atmosphere of victory is already in evidence. Since the day in February when President Roosevelt's proposals first went to Congress, there has been a change in the judicial attitude which has been most heartening and most wholesome. For the first time in decades a light is beginning to dawn in some quarters; the idea is beginning to penetrate that perhaps the Constitution is something more than a legal fence to be thrown around the property and possessions of those who happen to control most of the Nation's wealth.

Yes, it is an undeniable and welcome fact that already the Supreme Court of the United States is beginning to back away from its previous unyielding attitude and to cease standing four-square in the path of human progress. A bare majority of the nine Judges are now willing to concede that laboring men and women have some rights, that legislatures are clothed with some authority to enact laws for the benefit of the majority, and that the Court is grossly exceeding its own powers when it attempts to throw such measures upon the legislative scrap heap.

In fact, confronted by an aroused and outraged public opinion that is no longer willing to tolerate arbitrary misuse of power, the Supreme Court actually reversed its own position in upholding the minimum-wage law for the State of Washington. The effect of that statute is almost beyond belief. It means that in the future, when a State wishes to curb sweatshop employers who exploit the labor of helpless women, it may do so through the enactment of salutary legislation—that is, provided a certain Justice on the Supreme Bench does not change his mind again.

And the Court has in effect reversed itself in other important particulars. A majority of five Justices has seen fit to uphold the Wagner Labor Relations Act which is in essense an effort to bring the force of law and order into the conduct of industrial relations. In rendering its decision the Court had to come very close to a flat reversal of its decisions on the Guffey coal bill and other similar statutes, but even though the light of understanding was a bit tardy, it was none the less welcome. The significance of that decision lies in the fact that it paves the way for a sensible and sound policy toward labor and industrial relations that is absolutely necessary under the conditions which prevail today. Because if the Government is debarred from aiding the establishment of peace in industry, who is going to perform the task?

The Supreme Court likewise showed a reawakened or a newly acquired sense of what is needed in this modern world when it upheld the Railway Pension Act and the revised Farm Mortgage Moratorium Act. The combined effect of these recent decisions is to prove beyond a doubt that the problem of bringing the judiciary into line with modern thought is not impossible, and it has proved beyond a doubt that the way to do it is to do what President Roosevelt has done—that is, to tackle the problem head-on.

Make no mistake about it—the man responsible for the victories which the people of the United States are now winning in the United States Supreme Court is President Franklin D. Roosevelt. If he had backed away from the task, if he had listened to those who counseled delay or vacillation, if he had preferred to let things take their course, the process of judicial usurpation would have continued in all its force and all its dangerous tendencies. There would have been no reversal of the despicable decision banning minimum-wage laws for women; there would have been no favorable decision permitting Uncle Sam to use his influence and authority in preserving peace between industry and labor.

To assume that the brave and courageous attack launched upon judicial usurpation by the President was not a factor in determining the Court's influence is too obvious a farce to be convincing. The plain fact is that President Roosevelt was so overwhelmingly right that the die-hard element on the Court was compelled to give way in the face of public opinion. It is not my purpose to condemn those Justices who have at last seen the error of their ways and who now seek to undo the harm they have done by previous decisions misinterpreting the Constitution of the United States. In the true Christian spirit, repentence is always welcome,

but I believe the wisest course is to put a few more Justices on the Bench, a few men with backbone and character who will help their fellow members from wandering again into the paths of error and untruth.

Of course, the Chief Executive has been bitterly assailed for having the hardihood and the fortitude to propose needed reforms in the judiciary. There never was a case in history when a man fighting for justice and truth failed to stir up the wrath, the bitterness, and the vindictive vituperation of those who were opposed to change for their own selfish reasons. Of course, the Chief Executive was accused of every imaginable crime in the political calendar because he had the candor to suggest that if the Constitution was rightly interpreted by the courts, the country would be able to deal with its problems in an effective way.

For the life of me I cannot understand why all this hullabaloo about the increase in the number of members constituting the Supreme Court of the United States. As you all know, it has been increased and decreased on several separate and distinct occasions, and when these increases and decreases took place from all that the opponents of the President's plan have said, we have heard nothing of the hue and cry about those increases or decreases on these separate and distinct occasions, so why this fuss now? The Court was increased from 5 to 7, then from 7 to 9, and from 9 to 10, and then back to 7 and up to 9, where it has remained for the past 60 years.

But how uncomfortable these critics of President Roosevelt must have been when the Court itself proved he was right by reversing its decision in the Washington minimum-wage case. Through the simple process of one Justice seeing the error of his ways, the long tedious, and disheartening process of amending the Constitution was avoided and the States were given back the right to pass needed legislation which never should have been taken away from them.

After all, experience is the wisest teacher. We know what happened. Which course proved the more effective—to propose a remedy as the Chief Executive did or to sit back and wait for something to happen as his opponents suggested? The facts show conclusively that the best course for the American people to pursue is to follow the leadership of Mr. Roosevelt. He gets results and the harder the going the harder he fights. Naturally, he is hated and detested by those whose interests are opposed to the well-being of the great mass of citizens. They hate him and detest him because they know down in their hearts that he will defeat them just as surely as he did in 1932, in 1934, and again in 1936. This great battle for reform of the judiciary is going to be won and it is going to be won by your steadfast and loyal adherence to the leadership of President Roosevelt.

Now, before proceeding to a detailed consideration of the plan which the Chief Executive has suggested, it might be wise for us to clear away the underbrush which has been piled up for the purpose of obscuring the real point at issue. Just as in the great election of last November, the opponents prefer, of course, to avoid the real issue and to clutter up the landscape with a lot of straw men and scarecrows which they hope will divert attention and fool the people.

My friends, the opponents of President Roosevelt's plan never discuss the real issue of judicial usurpation or the grave injustice which has been done to the laboring men and women of America, and to the farmers, by arbitrary and unreasonable court decisions over the last half century. The opponents never discuss the fact that if the Court had been half as energetic in guarding the rights of plain citizens as it was in protecting the bankers and big corporations, this present fight would never be waged. Far from it. They would prefer not to talk about those cases at all. They prefer not to discuss the Court's action in striking down the original income-tax law, the early laws establishing workmen's compensation and employer liability, the original law banning child labor, and the many court rulings which made the Federal antitrust laws a farce upon the statute books. Far from it. They won't even whisper the fact that in the last half century, the Supreme Court and other Federal courts have invalidated more than 300 State laws designed to promote the well-being of men, women, and children in industry. That kind of factual language is taboo.

The opponents of President Roosevelt's court-reform program never refer to the fact that if the Court had not knocked out needed and salutary legislation, perhaps the Hoover depression never would have reached the ugly and destructive proportions that it did. On the contrary, those who assail and condemn the President prefer not to discuss realities at all. Instead they like to talk about what might happen. They are always painting a sky full of crimson horrors that might take place if certain things should happen under certain conditions at some unnamed future time. They like to wander on in a vague way, murmuring about dictatorial powers, autocratic rule, dictatorship, and other fancied horrors which have no place in the American system of government. Just imagine how silly it is to talk about a man destroying the roots of democracy when he has just been reelected by over 27,000,000 votes, the largest popular majority in the history of the country.

So, in considering these fake issues that are being raised, let us state the plain fact that the horror expressed by a great many of those who are condemning the President's court proposals is purely synthetic. This business of talking about the Chief Executive becoming a dictator is so much poppycock, and no one knows that fact better than those who are spouting it.

In the first place, it is well to remember that these people who are now moaning over the existence of a so-called rubber-stamp Congress were the very people who a few years ago were leading the attack upon Congress for failing to stand by Presidents Coolidge and Hoover. These same people today would do away with Congress entirely if they could get a President to their own liking.

A classic example of the kind of nonsense we are confronting is given us by former President Herbert Hoover himself. True to form, he was one of the first to oppose the President's judicial-reform program. Let us consider his own record.

A few years ago, when he was in the White House, Mr. Hoover decided that he wanted to postpone war-debt payments due from European nations. Did he summon Congress into session in accordance with his sworn duty to uphold the Constitution? He did nothing of the sort. Instead of that, fearing that Congress might upset his little plan, Mr. Hoover summoned the leaders of Congress to the White House in the dead of night and there enacted a pledge that if he declared a moratorium Congress would later give the moratorium its approval. This promise was sweated out of reluctant leaders of the Senate and House on the spurious plea that if they refused their consent, civilization in Europe and later in this country was bound to collapse.

In other words, the first crisis which Mr. Hoover confronted he met by the simple process of kicking the Constitution out of the window. Of course, the whole proceeding was beyond the pale of the law. It was an act of Executive usurpation, pure and unadulterated, and it was upheld as such by every Republican leader in Congress. A committee of Congress condemned it as such. And let me remind you that it was also extolled by the same Republican newspapers that are today pretending to fear that Mr. Roosevelt might want to be a dictator if Congress should vote to reform the Supreme Court. I wish to call your attention to the fact that in all the hurry of the past years, when speed was the essence, when Mr. Roosevelt was working under the severest kind of pressure to undo the blunders of the Hoover administration, he never once acted without first obtaining legal authority from Congress in the usual constitutional way. The reason for that is that Mr. Roosevelt believes in the democratic process and Mr. Hoover does not.

Now, what about this gentleman Mr. Hoover, ex-President of the United States? He was one of the first to cry "Hands off the Supreme Court of the United States." The words "hands off" are familiar words to him. He has employed these words most frequently. While he was President of the United States he yelled:

"Hands off the panic."
"Hands off the big banker."
"Hands off the homes under mortgage."
"Hands off the farms that are being foreclosed."
"Hands off the bread lines and the jobless."
"Hands off the starving soldiers."
"Hands off the bonus marchers."
"Hands off the children laboring in mills and sweatshops."

He raises his voice against increasing the number of members of the Supreme Court and alleges that the President is endeavoring to pack it. The word "pack" is also a word most familiar to him. He employed it and carried it into execution frequently during his administration.

He packed the sweatshops with children.

Packed the warehouses with 6-cents-a-pound cotton.

Packed the graneries with 20-cents-a-bushel corn and 30-cents-a-bushel wheat.

Packed the jails with prohibition violators.

Packed the poorhouses with the aged and the decrepit.

And now he would pack the coffers of the greedy with the meager earnings of the poor.

There are a few more intervening brush piles that ought to be reduced or eliminated in order to clear the landscape and to improve the vision of a few people who are now looking at this question from a distorted perspective. The ugly charge is made constantly that President Roosevelt has taken over the legislative branch of the Government and that now he seeks to take over the judicial as well.

I intend to pass over the fact that the charge is a cruel slur upon the character and courage of every Member of the Senate and every Member of the House. I intend to pass over the fact that the people who make the charge are now relying upon these same Members of the Senate to thwart the plan for reform of the judiciary. In other words, the theory seems to be that if Senators and Representatives are sufficiently insulted and abused, they will show their gratitude by becoming subservient to the wishes of those who attack them.

My answer to the charge of a rubber-stamp Congress is the declaration that it is a deliberate misstatement of fact. The assertion was first made by an editorial writer who gets paid for writing what his publisher likes to read, and it has since been bandied about by unthinking people, especially in this fight. There is no disposition on my part to deny that President Roosevelt has been a marvelous leader; that he has ended the futility and do-nothing policy which nearly destroyed democracy under Mr. Hoover and his predecessors. Naturally Congress responded quickly to a man who moved in unerring fashion to correct wrongs and abuses which should have been corrected years ago. But when the assertion is made that Congress has granted everything

Mr. Roosevelt has requested without question or protest, and without regard to its merit, the obvious answer is that such an assertion is false. Let's look at the record.

President Roosevelt recommended enactment of the St. Lawrence Waterway Treaty with Canada. His recommendation was defeated by the Senate. President Roosevelt proposed ratification of the World Court. His recommendation was defeated by the Senate. President Roosevelt opposed cash payment of the soldiers' adjusted-compensation certificates. On two occasions he vetoed such a measure. Yet Congress enacted the measure into law over his veto. President Roosevelt, in 1934, opposed the restoration of cuts which had been made in the Economy Act of 1933. Yet Congress restored those cuts over his veto.

A survey at the White House has shown that President Roosevelt has used the veto power more than any Chief Executive in recent history. In other words, he has not hesitated to perform his duty, time and again, of vetoing bills passed by Congress which he thought were unwise or undesirable. So then, on at least four major occasions, on legislation of vital importance to the country, Congress has shown its complete independence by rejecting the recommendations of President Roosevelt. Does that bear out the charge of a rubber-stamp Congress? Are men honest or truthful when they repeat charges of that nature against the National Legislature?

The fact is that in the last few years Congress has functioned better as a legislative body than it did in preceding decades. The proof of that fact lies in the wise legislation on flood control, farm relief, unemployment relief, and other serious problems which have been written into law. I think any man who sat in Congress during the long period from 1920 to 1932 will agree that Congress is worthier of its position and traditions today than it was during that period of futility and frustration.

The record shows, then, that when Mr. Hoover and other reactionaries profess to be disturbed over a possible dictatorship, they fear nothing of the kind. What they really fear is a democracy that works. The record shows likewise that when men charge Congress with being a rubber-stamp body for the Executive, they are mouthing a charge that is completely refuted by the facts.

I think there is a striking parallel in the fact that the campaign waged against the election of Mr. Roosevelt in 1936 was based almost wholly upon fear and that the campaign now being waged against his court reform program is likewise based upon fear. The great objection raised against the President's proposal is some vague alarm that he might seek to wield dictatorial powers, or that some future unnamed tyrant, operating in some distant time, might use this as a precedent in seizing dictatorial powers. The latter argument is invoked because the case against Mr. Roosevelt personally falls pretty flat. What about this business of setting a precedent which some dictator might follow? In the first place, any man powerful enough to occupy the position of a prospective dictator will seize power without a precedent if he feels so inclined. The mere fact of a flimsy precedent will neither persuade him nor deter him. In the second place, the danger of leaving social and economic problems unsolved because of judicial opposition is far more grave than the possible emergence of a dictator. We have had positive proof of that fact already.

As Governor La Follette, of Wisconsin, so well said, "The menace to our democratic institutions lies in bad times more than it does in bad men." If we permit the courts to continue the denial of fundamental rights to our fellow Americans, the danger of a violent overthrow of our democracy will be imminent and real. But if we proceed to a just solution of labor and farm troubles through the wise use of Government powers and functions, the dangers to democracy will fade away like a black cloud disappearing across the horizon.

By some remarkable process of reasoning, the opponents of this bill have sought to convey the impression that the good faith of President Roosevelt is at stake in this legislative question. It is not. There is no question here of a chief executive violating the prerogatives of his office. We have been confronted with a palpable case of usurpation but, in the words of the opponents of this law, the usurpation was not committed by the President of the United States—it was committed by the majority members of the United States Supreme Court. The rights of millions of American citizens have been violated, but they were not violated by the Chief Executive. They were violated by court decisions which plainly run counter to the spirit and the letter of the Constitution. Someone has said that the Constitution is remade every Monday morning—when the Supreme Court hands down its decisions—and no man conversant with recent judicial developments would dare deny that assertion.

So I say let us not attempt to dodge the issue. The crisis which we face was not brought about because of unwarranted Executive action or because the organic law is deficient. The crisis was brought about by the failure of certain Supreme Court Justices to observe the manifest and inalienable rights conferred upon the mass of citizens by the Federal Constitution. The best proof of that is the action of the Court itself in reversing its position on minimum-wage legislation for women. Obviously, if the Constitution authorizes such legislation, then it always has done so and the conclusion is inescapable that for 14 years the Supreme Court itself was flagrantly disobeying the organic law of the land by invalidating minimum-wage statutes.

Having shown that the arguments against this Court reform program are silly and exaggerated, the next thing to consider is why is its adoption vitally necessary to ensure the well-being of the great mass of American citizens? To answer that question, it is imperative to face frankly and squarely the situation which is confronting the Chief Executive and the Congress at the present moment.

President Roosevelt is engaged in a realistic effort to protect the farmer and the small-wage earner from being pounded to pieces by the harsh workings of an economic system over which neither the Government nor the individual has any control. To picture this move to reform the judiciary as a visionary scheme to enhance the power of the Chief Executive is absurd and ridiculous.

What increased power will the President have should this bill become law? There will be no increase of power that could possibly benefit him personally.

The Chief Executive is simply trying to carry out his constitutional duty of finding a workable, efficient, and reasonably swift means of promoting the common good. Everyone realizes that conditions cannot continue indefinitely as they are. That fact is recognized by some of the most outspoken foes of the judiciary bill who insist that they wish to accomplish the same end by a constitutional amendment. Mr. Roosevelt has given ample reasons why he thinks this present method should be tried first.

Suppose we consider in the briefest fashion what it is that Mr. Roosevelt is trying to accomplish. Let us consider first the wage earner who gets a weekly stipend that is barely enough to furnish the barest necessities for himself and his family. It is generally agreed that the man is entitled to an increase in pay and should have it. Instead of $12 a week, a wage commonly paid to unskilled laborers in many sections, he ought to be getting at least $15 a week. In the case we are now considering, the man's employer believes that he should be granted an increase. But unfortunately the employer is prevented from doing what his own good motives impel him to do because a chiseling competitor down the street is paying only $11 a week to his employees for the same work. Obviously, if the first employer proceeds to raise the wage level to $15 a week, he faces financial ruin and bankruptcy.

The kind of case I have just described is happening at this very minute in thousands of instances in this country. The 10 percent minority of chiseling employers are holding down wage rates and keeping workers ground down to a salary scale that is hardly above the subsistence level. This condition cries out for correction. It is manifestly wrong to assume that the organized community, acting through its duly chosen representatives, is without power to protect itself against the unsocial actions of the greedy few. To make such an assumption is to challenge the basis of all law and order.

But the conditions I have just described continue unchecked and uncorrected principally because every effort to provide a remedy by legislation has been rendered null and void by court decrees. And yet the people of the country are almost unanimously in favor of ending these abuses. They want relief from the injustices of low wages and inhuman hours of labor. There is no excuse on earth for the continuance of such barbaric industrial conditions in rich and prosperous America. But hampered as we are at present by the sweeping character of court decisions in industrial cases, it is not too much to say that legal anarchy seems to be the only thing left in the handling of industrial relations. It is not a healthy condition or one that the United States can long tolerate.

The farmer is in virtually the same position as the wage earner. The last 10 years have taught us, by the hard lessons of bitter experience, that agriculture must be given protection by the Federal Government or else it will perish as the livelihood of free Americans. We tried the scheme of hands off, and we saw prices fall off to nothing while the farmers themselves went into bankruptcy and actually lost their homes as well. There is not a reasonable man in this country who will assert that the farmers can get along without Government aid.

And yet the Congress enacted a measure for crop control which was thrown out by the Supreme Court by a divided vote, despite the fact that it was working fairly and equitably and was giving the farmers a much-needed increase in income after years of penury and poverty. Congress has since enacted a substitute soil-control measure. No one can say definitely whether it will serve as an adequate substitute for the A. A. A. and no man can predict what its fate will be if the forces of special privilege decide to challenge its constitutionality in the courts. And so then, we have another deep and fundamental impasse. We see the spectacle of the farmer who needs Federal aid in price and crop adjustment if he is to be protected from ruinous prices and conditions; we see the President and Congress ready to carry out their sworn duty to provide such aid; and we see all of these frustrated because the courts deny the right of the Government to extend such aid, even in a time of extreme emergency.

Obviously something must be done. We must not drift along under conditions that make it easy for us to slip back into the abortive conditions of a few years ago. The necessity for action rests upon President Roosevelt. He has suggested a plan to meet the situation. Now it is up to the Congress to decide whether the Government shall remain impotent, or whether it shall provide a legal method of doing what patently must be done to protect the farmers and the small-wage earners of this country.

To rest on our oars, to assume that the fight is won because a bare majority of the Court is now willing to concede the legality of minimum-wage legislation, would be the height of folly. It would be worse than that; it would be fatal. The wavering sup-

port of a single Justice who is uncertain in his own mind as to the real meaning of the Constitution of the United States, is too slender a thread upon which to hang the moral and material welfare of the great mass of hard-working God-fearing Americans. They deserve a better fate.

If we really believe that the interests of the workers and the farmers are entitled to a greater degree of protection in our courts, then it is our sworn duty to make sure that those rights are accorded them. Let us remember that it can no longer be said that President Roosevelt is trying to put over legislation that is unconstitutional. On the contrary, the Court has now demonstrated beyond the shadow of a doubt that it has been the guilty party by throwing out legislation that was constitutional in every meaning of the term.

Victory is in sight—a complete and smashing victory over those forces which for decades have sought to use the Federal judiciary to twist and torture the Constitution from a noble charter of human rights into an instrument for the subjugation and exploitation of humble and poverty-stricken citizens. Therefore, my friends, the enemy is in retreat.

Backed by the overwhelming majority of his fellow citizens and conscious of the fact that his cause is just, President Roosevelt is ready to give the final thrust at a pernicious system that has hampered and hamstrung the cause of social and economic justice for generations. The final decision rests with you. Uphold the mighty arm of the President; give him your enthusiastic, wholehearted, and complete support, and before many months have passed, he will have won another glorious victory in the never-ending struggle to achieve human freedom.

A Protest Against the Compromise Neutrality Bill—I Contend It Is More Provocative of War Than a War Contraceptive—Deprivation of Humanitarian Aid Secured Through Friends of Spanish Democracy Deplored—No Neutrality Legislation Can Be Effective Which Permits Sale of Raw Materials of War to Belligerents—Why Penalize the Friendly Democratic Peoples of Spain—Leading Intellectuals of America Oppose Features of Compromise Neutrality Bill

---

EXTENSION OF REMARKS

OF

HON. JOHN M. COFFEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 1937

Mr. COFFEE of Washington. Mr. Speaker, I desire to speak briefly upon the conference report on the Senate Joint Resolution 51, known as the neutrality bill.

SECTION 3 (A) IS UNPRECEDENTED

I particularly object to that portion of section 3 (a) as follows:

> Nothing in this subsection shall be construed to prohibit the solicitation or collection of funds to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, political subdivision, faction, or asserted government, but all such solicitations and collections of funds shall be subject to the approval of the President and shall be made under such rules and regulations as he shall prescribe.

It will be noted that this section specifically enjoins the collection of funds for medical aid, food, clothing, or general humanitarian assistance unless approved by the President and the section inferentially repudiates all such medical aid.

INTELLECTUALS OPPOSE PROVISION PROHIBITING HUMANITARIAN AID

I am in receipt of many telegrams of protest against this compromise neutrality measure from reputable citizens and organizations throughout the entire Nation. That brilliant cinema comedian and character actor, Lionel Stander, wires me as follows:

> Protest alleged neutrality legislation prohibiting medical aid to suffering people of Spanish democracy.

From Pittsburgh comes a vigorous telegram as follows:

> Undersigned vigorously protest subsection 3 of revised neutrality bill prohibiting any humanitarian aid to Spanish people except by express Presidential approval. Such provision regarded an un-American and a deprivation of personal liberty. Urge you vote against it.
>
> J. B. Alemany, professor of modern languages, Carnegie Tech, chairman, Pittsburgh Chapter of the North American Committee to Aid Spanish Democracy; Dr. Bernard C. Clausen, pastor, First Baptist Church; Mrs. Bernard C. Clausen; Clinton S. Golden, regional director, Steel Workers' Organizing Committee; Lois McBride, judge, Allegheny County; Rose Stein, secretary of the Workers' Schools, western Pennsylvania; Norman H. Dawes, Harold Stearns, Stuart W. Chapman, professors, Carnegie Tech; Irmgard Stearn; Maybelle Kennedy Chapman, executive secretary, Pittsburgh Chapter North American Committee to Aid Spanish Democracy.

Mrs. Herman Langworthy, representing a large organization in Kansas City, Mo., telegraphs me to this effect:

> We vigorously condemn the current inhuman and outrageous neutrality bill.

From Brooklyn a large organization of liberals wires me:

> We protest the inclusion of subsection 3 (a) of neutrality measure which contains the prohibition of collection of medical supplies, food, etc., to Spain. As upholders of humanitarianism and democracy, we demand its withdrawal.

Mrs. Eleanor F. Grose, of Kendall Green, Mass., via Western Union, insists that I vote against the compromise neutrality bill.

Dr. Mary Alice Hoover, secretary of the Interprofessional Assembly of Washington Commonwealth Federation, Tacoma, Wash., flashes me a message expressing the unanimous opposition of her great organization to the conference-generated neutrality bill.

From Mrs. D. W. Douglas, of Northampton, Mass., comes the following telegram:

> Protest section neutrality bill interfering right of American citizens to send medical supplies to democratic Spain which is suffering Fascist invasion. This is an affront to American liberty and traditions of democracy. Urgent you do everything in your power to have this section of bill cut out.

The Medical Bureau to Aid Spanish Democracy, at San Francisco, telegraphs that it strongly protests the proposed neutrality legislation prohibiting collections of medical supplies for Spain.

CINEMA ARTISTS ARE AROUSED

However, among the most significant wires are those signed by the foremost motion-picture actors and actresses, producers, scenarists, directors, in the movie world. The Motion Picture Artists, comprising a group of creative writers, producers, and actors, telegraph me:

> We protest subsection 3 (a) of neutrality measure prohibiting the collection of funds for medical supplies for Spain without Presidential approval. Such restriction violates every tradition of American humanitarianism.

This wire is signed, among others, by Herbert Biberman, Sidney Buchman, Humphrey Cobb, Florence Eldridge—Mrs. Frederic March—George Gershwin, Lewis Milestone, Dudley Nichols, Samson Raphaelson, Madeleine Ruthven, Donald Ogden Stewart, Franchot Tone.

Of the last two signers, Donald Ogden Stewart will be remembered as the novelist who wrote the Crazy Fool, who appeared as leading man in Jack Kirkland's play Tobacco Road on the legitimate stage, has for years appeared in motion pictures as a comedian and whose son is a rising young star in the cinema world. The final signer, Franchot Tone, who sprang into prominence in his first starring vehicle, Gabriel Over the White House, is the husband of Joan Crawford and a graduate of Cornell University. His father is the principal stockholder and is an official of the Carborundum Co. of America.

It is a significant and hopeful indication of a fast-growing sentiment in this country that men of such prominence should take time out of their busy engagements to lift their voices in behalf of the peoples of a friendly democratic Government fighting with its back to the wall against the invasion of Fascist foes from without.

I have similar wires signed, among others, by Stella Adler, Konrad Bercovici, John Bright, J. Edward Bromberg, Rose Chayes, Harold Clurman, Frank Davis, Florence Eldridge,

Guy Endore, Lief Erickson, Frances Farmer, Leonard H. Fields, Harold Goldman, Frances Goodrich, Milton Gross, Gordon Kahn, Edwin Justic, Mayer Milton, Merlin Dudley Nichols, Samuel and Sadie Ornitz, Joseph Joland, Gordon Rigby, Wells and Linn Root, Muriel Rukeyser, Madeleine Ruthven, Viola Brothers Shore, Tess Slesinger, Eugene Solow, Arthur Strawn, Robert Tasker, Marion Spitzer Thompson, Nathaniel West, David Boehn, Oscar Hammerstein 2d. These are among the foremost actors, writers, and creative artists of our day.

Mr. Speaker, during the debate upon the McReynolds bill in this House I endeavored, in my humble way, as a novitiate Congressman, to call the attention of the membership to the grievous wrong embraced within the pending measure. I showed that the McReynolds bill exempted Central and South American nations from its provisions on the theory of a good-neighbor policy following the Buenos Aires conference, and on the theory, further, that we were carrying out the Monroe Doctrine thereby. Yet the government of each country south of Mexico represents more or less a fascist dictatorship. I showed that the bill was a discretionary neutrality, not a mandatory neutrality, and expressed the conviction that the majority of our citizens demanded mandatory neutrality.

SECTION 3 (A) IS TANTAMOUNT TO AN APOSTASY TOWARD OUR OWN HISTORY

I endeavored to demonstrate that the bill was a slap at the friendly democratic government of Spain and that its legal and practical effect would be inimical to the interests of our own country in failing to befriend, in a humanitarian way, a struggling sister democracy. We have now repudiated the policy of a century and a half. Though we welcomed the aid of France in the Revolutionary War; though we invited to our hospitable shores Louis Kossuth and Karl Schurz; and though we were for more than a century what Israel Zangwill called "the melting pot"; though we were interested in saving the lives and assuaging the dire suffering of innocent noncombatant women and children in Armenia, Turkey, China, Germany, Belgium, Japan, times without number, suddenly we find ourselves bitterly opposed officially to the extension of humanitarian aid to Spain, primarily because the conservative element in America viewed with hostility the fact that the Spanish Government was ultraliberal in tone.

I have heretofore attempted to incorporate in the neutrality legislation a provision for a peacetime quota on raw materials of war. This was in accord with the persistent demands of such great thinkers as Stephen Raushenbush and the leading students of the war evil throughout the world. By an amendment I attempted to limit the sale of essential materials of war to a quota equal to a peacetime average over a period of years. Unfortunately, under the House rules, I had but 5 minutes to develop my theme and the amendment was voted down overwhelmingly, receiving but 21 votes in its support. Previously the gentleman from Connecticut [Mr. KOPPLEMANN] had attempted to write an embargo upon the sale of materials of war to belligerents in wartime. This was likewise decisively beaten. Thus the House of Representatives went on record as refusing to place a practical effort for the assurance of peace above the consideration of profit.

IS PROFIT PARAMOUNT?

No neutrality bill can effectively keep us out of war any more than murder statutes can halt murders. The principal and most potent casus belli is the desire for profit. Remove it and the bellicose stimuli are gone. I was disappointed in the disinclination of the peoples' representatives to take this stand. The removal of profit from our sale of war material, to me, is of transcendent importance and indispensable to effective neutrality legislation. Let no one vote for this measure under the delusion that it represents a fair and equitable neutrality measure.

In the Nation of May 1, 1937, we find this statement:

Compromise neutrality bill—

We feel that it (compromise neutrality bill) * * * offers no real protection to the United States, and that its inconsistency with the principles of collective security greatly increases the likelihood of war abroad * * *. The cash-and-carry policy * * * would set up precisely the same chain of events as that by which we became involved in the last war * * *. In the world today there is no safe and easy road to peace. The duty of the realistic pacifist is to choose the course that offers the best chance of strengthening the forces of democracy in Europe on which peace depends.

I compliment those Members of another body in this Capitol who refuse to vote for this factitious neutrality bill. It will be noted that the men who were leaders in the Nye Munitions Committee of the Senate refuse to be cajoled into voting for this compromise neutrality bill.

THIS COMPROMISE WILL NOT ACCOMPLISH THE END SOUGHT

Mr. Speaker, I cast my vote against it as a protest, because I am convinced that it does not go far enough, that it is unfair and discriminatory, and that it is an unfriendly gesture toward the friendly democratic government of Spain. I agree heartily with the editor of the Washington Daily News when he wrote in a recent edition—

Another provision (of the compromise neutrality bill) gives the President authority to forbid or permit the collection of funds, clothing, and medical supplies for the suffers in nations at war or engaged in civil war. Here is a perfect example of the unneutrality of launching a policy "after the fact." American sympathizers have been sending clothing and medical supplies to the civilian sufferers in Madrid and other Spanish cities bombarded by rebel planes. To decide now that this humanitarian aid must stop would be regarded as an unfriendly act toward the Spanish Government. And that is exactly what it would be.

Our hearts go out to the suffering peoples of Spain. The soil of the Iberian Peninsula is drenched with the blood of little children whose innocent lives have been snuffed out by the murderous warfare brought on by the Fascists in their insensate attempt to destroy Spanish democracy. Italy and Germany have sent armed forces by the tens of thousands who, in uniform, fully equipped, are openly waging war in another country against its established government. Yet we look on complacently, officially unmoved by this horrendous spectacle.

The neutrality resolution in existence proclaimed that we would refuse to sell munitions of war to belligerents—yet when Senator NYE endeavored to invoke its provisions against Fascist Germany and Italy because of their open invasion of Spain, our State Department indignantly refused even to make a formal protest. This is a travesty upon neutrality.

The frightful slaughter of women and children taking place recently in Bilbao has horrified the civilized world. Contrast it with the United States. Even Great Britain, under a conservative government, has sent her warships to protect food ships carrying supplies to succor the starving in the Spanish rebellion, and now both France and England have announced that their navies will protect merchant ships in their noble efforts to evacuate noncombatants from besieged Bilbao and prevent the savage annihilation of tens of thousands by the invading butchers.

DEBATE LIMITATION IS UNFORTUNATE

I join with the gentleman from Minnesota [Mr. BERNARD] in his heated jeremiad at policies which preclude the participation in the debate on the compromise neutrality bill by those who would oppose it. One man, the gentleman from Nebraska [Mr. LUECKE] was permitted to offer a laconic criticism of the measure, though announcing he would vote for it, nevertheless. The gentlemen from Minnesota [Mr. TEIGAN and Mr. BERNARD], the gentleman from Montana [Mr. O'CONNELL], and myself, among others, were eager to participate in this debate but under the rules and the limitation of time imposed, were not accorded that privilege. I deplore such a happening in this august body, Mr. Speaker. I decry a situation wherein a bill affecting the peace and the future of America, and possibly the very continuation of white civilization within the United States, is limited as to debate to 1 hour, divided between Republican and Democratic proponents of the bill.

The Rush-Bagot Agreement, 1817–18

EXTENSION OF REMARKS
OF
HON. NAN WOOD HONEYMAN
OF OREGON
IN THE HOUSE OF REPRESENTATIVES
Monday, May 3, 1937

Mrs. HONEYMAN. Mr. Speaker, on April 28, 1818, President James Monroe issued a proclamation giving force to what is commonly known as the Rush-Bagot Treaty.

This is not a treaty as is commonly known. It is an exchange of notes between Charles Bagot, the British minister to the United States, and Richard Rush, our then Acting Secretary of State. The ratification was advised by the Senate on April 16.

Although this treaty, convention, or arrangement could be annulled by either of the high contracting parties upon 6 months' notice, it has stood for 120 years and is a lasting monument to what can happen to the cause of peace when two nations in all sincerity meet together and say, "There shall be no more war between us."

Following the War of 1812 between Great Britain and the United States, both countries maintained a very considerable naval force in the Great Lakes. Great Britain had on the Great Lakes, including Lake Champlain, approximately 30 ships of various sizes, in commission, building, or temporarily out of service, while the United States had 23 similar ships and a large number of small craft capable of mounting one or more guns. By stroke of the pen this force, large for the time, was reduced for each country to:

On Lake Ontario to one vessel not exceeding 100 tons burden and armed with one 18-pound cannon.

On the upper lakes to two vessels not exceeding like burden each, and armed with like force.

The same restriction applied to Lake Champlain. All other vessels were to be promptly dismantled. This was done immediately by both countries, and never again have these inland seas been submitted to the dangers of naval friction or the temptation to enforce national ideas by force. There have been times when local feeling has run high but without the means for war along our water boundaries, both Great Britain and now the Dominion of Canada and the United States have had time to allow quick passion to subside and then around the council table work out knotty problems in accordance with rational understanding.

It is true that both Canada and the United States keep armed vessels on the Lakes, but these ships are for the enforcement of purely local laws of customs and immigration and rescue. They interfere in no wise with the laws of the other country.

By solemn treaty, ships of both countries may use international waters with absolute freedom. Not only are our boundary waters removed from the dangers of armed friction, but so is our entire boundary running from the Strait of San Juan de Fuca to Passamaquoddy Bay, a distance of 3,987 miles. On our Canadian frontiers there are no forts, no armed military patrols. We pass from one country to the other with absolute freedom and safety, subject only to customs, immigration, and police laws. Canada and the United States are at friendly peace.

And here may I read the simple proclamation of President Monroe, giving effect to an unofficial treaty, for this treaty never passed under the great seal of Great Britain, and yet I know of no other treaty in the world which has been so enduring and so closely cherished by two great countries.

Proclamation by the President of the United States:

Whereas an arrangement was entered into at the city of Washington, in the month of April, in the year of our Lord one thousand eight hundred and seventeen, between Richard Rush, Esquire, at that time acting as Secretary for the Department of State of the United States, for and in behalf of the Government of the United States, and the Right Honorable Charles Bagot, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, for and in behalf of His Britannic Majesty, which arrangement is in the words following, to wit:

"The naval force to be maintained upon the American lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side, that it—

"On Lake Ontario, to one vessel not exceeding 100 tons burden, and armed with one 18-pound cannon.

"On the Upper Lakes, to two vessels not exceeding like burden each, and armed with like force.

"On the waters of Lake Champlain, to one vessel not exceeding like burden, and armed with like force.

"All other armed vessels on these lakes shall be forthwith dismantled, and no other vessels of war shall be there built or armed.

"If either party should be hereafter desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of 6 months from the date of such notice.

"The naval force so to be limited shall be restricted to such services as will in no respect interfere with the proper duties of the armed vessels of the other party."

And whereas the Senate of the United States have approved of the said arrangement, and recommended that it should be carried into effect, the same having also received the sanction of His Royal Highness the Prince Regent, acting in the name and on behalf of His Britannic Majesty.

Now, therefore, I, James Monroe, President of the United States, do, by this my proclamation, make known and declare that the arrangement aforesaid, and every stipulation thereof, has been duly entered into, concluded, and confirmed, and is of full force and effect.

Given under my hand, at the city of Washington, this 28th day of April, in the year of our Lord 1818, and of the independence of the United States the 42d.

JAMES MONROE.

By the President:
JOHN QUINCY ADAMS,
Secretary of State.

If only the suspicious, warring countries had the will to peace, they need only turn to the letters of Bagot and Rush, showing their profound hope of removing forever the danger of war, and how a few simple, clear words can lead to national agreement against strife and misery. Bagot and Rush pointed the way. Will the peoples of this world ever learn from example set by this country when the Nation was young?

Puerto Rico

EXTENSION OF REMARKS
OF
HON. SANTIAGO IGLESIAS
RESIDENT COMMISSIONER FROM PUERTO RICO
IN THE HOUSE OF REPRESENTATIVES
Monday, May 3, 1937

ADDRESS BY MAJ. GEN. BLANTON WINSHIP, GOVERNOR OF PUERTO RICO, AND RESOLUTIONS OF THE PUERTO RICO LEGISLATURE

Mr. IGLESIAS. Mr. Speaker, with permission granted to me by the House, I include herewith, as part of my remarks, an address delivered April 27, 1937, before the National Rivers and Harbors Congress in Washington by Maj. Gen. Blanton Winship, Governor of Puerto Rico, as follows:

ADDRESS OF GOVERNOR WINSHIP

Mr. President, ladies, and gentlemen of the National Rivers and Harbors Congress, I bring you greetings from a tropical part of the United States.

On behalf of the people of Puerto Rico I want to express to you our deep appreciation of the cooperation and assistance rendered by your Congress in the development of our ports and harbors.

Projects have been completed for improvement of the harbors in Mayaguez, Ponce, and San Juan. Further improvements have been recommeded, and it is hoped that the necessary funds for these projects will be available in the near future.

These improvements are deeply appreciated by the Puerto Rican people. They realize that good harbors are indispensable to their economic and social welfare. Puerto Rico's location and its peculiar economy make ocean commerce absolutely necessary. Owing to the nature of its resources, Puerto Rico must sell outside the island a large share of what she produces and buy outside a large share of what she consumes. With its isolation from the rest of the world, the island is very largely dependent on ocean commerce for its well-being and, indeed, for its economic existence.

Accordingly, anything that interferes with or restricts ocean commerce works against the interests of the island, and anything that facilitates shipping and reduces the expense thereof is certain to be beneficial.

Here in the continental United States, with an area of over 3,000,000 square miles, it is difficult to realize what tremendous benefits are derived from harbor facilities in a country with a geographical location such as Puerto Rico's, an island of only 3,500 square miles. In order to appreciate this importance, we need only to look to some of our neighboring tropical countries where the land, no doubt, is just as fertile as ours and the other natural resources are even more abundant. However, in many of these places their ports and harbors have not been developed, they do not have sufficient roads and railroad facilities, and consequently their products are not accessible to world commerce.

Puerto Rico, however, has stepped out ahead of its neighbors. Since it has been a part of the United States, the island's trade with the mainland has increased from about $10,000,000 in 1900 to $190,000,000 in 1936; while its total trade with countries other than the continental United States increased only slightly—from approximately $6,000,000 to $9,000,000 in the same years.

In 1900, Puerto Rico ranked twenty-sixth as a purchaser of mainland products. It now ranks sixth, exceeding all countries of the Western Hemisphere, except Canada. Its purchases from the mainland have increased from less than $5,000,000 in 1900 to more than $86,000,000 in 1936, an increase of about 1,700 percent. The benefits accruing to the mainland as a result of this volume of purchases can only be estimated when we take into consideration the huge payments of wages for the labor required in the production of the raw materials for the goods the island buys here and for the manufacture and handling thereof. For example, Puerto Rico buys from the mainland more shoes and more rice than all foreign countries combined. It is the second largest buyer of wheat flour and the third largest purchaser of lard from the mainland.

I also want to tell you of the progress that Puerto Rico has made along other lines, but first will take the opportunity to clear up an unfortunate misunderstanding. You may have read in the newspapers recently of the activities of an insignificant element which was attempting to substitute its authority, through a military organization, for the constituted authority of the government. This could not be entertained and will not be. There is no part of the world which affords its people a wider opportunity for free expression of their ideas than does Puerto Rico. The well-disposed people of the island, including by far a very large majority of its citizens, realize the importance and the responsibilities of organized government and have no sympathy whatever with these subversive activities.

May I ask you now to look to the brighter side of the actual conditions existing on the island. Any fair-minded person will agree readily that Puerto Rico really has made tremendous progress since the beginning of the American administration there.

In addition to the remarkable growth in commerce, the following are a few of the other constructive accomplishments during the past few years:

The government of Puerto Rico has maintained a balanced budget; a large part of its bonded indebtedness was refinanced when all then callable bonds, amounting to $3,778,000, bearing interest at the average rate of 4.23 percent, were refunded with new bonds bearing interest at only 2.75 percent, which sold above par; usury has been practically eliminated and commercial loans are now being made at reasonable rates of interest, with the result that a building boom is now in full swing; law and order have been generally maintained; we have a child-labor law which is rigidly enforced; labor conditions are very much improved, and an 8-hour working day has been established by law under which capital and labor are working in harmony; no serious strikes have interrupted our industries; no kidnapings or criminal hold-ups have been experienced, such as have occurred in other parts of the country; the wages of labor have been increased in all the important industries; collective bargaining for labor has been accepted under an agreement reached over 3 years ago which also established minimum wages and maximum hours; and a model workman's accident compensation law has been in successful operation during the past 2 years which has the unique feature of covering agricultural laborers as well as those in mills and factories.

The cost of electricity for lighting and other purposes has been reduced by half a million dollars a year in the three principal cities.

In short, general living conditions have been greatly improved during recent years. Actual living conditions, however, cannot be properly estimated without taking into consideration the fact that the island has a population of over 500 per square mile.

The work of the Puerto Rico Reconstruction Administration, and of other emergency Federal organizations operating on the island, has been of great assistance in helping the people through these difficult and strenuous years. In order to solve the basic problems of the island, we are now starting on a program of settling a large number of families on land capable of affording an opportunity for economic independence.

The development of Puerto Rico as a tourist center is another matter that has received my uninterrupted support since I assumed the governorship over 3 years ago. Considerable progress has been made in making the natural attractions of the island more accessible and in providing facilities to accommodate visitors in order that these attractions may be fully enjoyed. We have an ideal all-year-round climate, with continuous refreshing trade winds, beautiful mountains in the interior, and a good road system over the entire island.

You have, just within the past few days, had your beautiful Japanese cherry blossom festival here in Washington. I believe, however, that anyone who has seen the gorgeous beauty of our flamboyant trees arching the roads and on the hilltops will agree with me that they are fully as impressive as the cherry blossoms. This is only one example of the luxuriant and very colorful tropical vegetation. I could go on at length with descriptions of various wonders of nature with which Puerto Rico has been endowed.

In conclusion I want to express to the Army engineers our highest appreciation for their splendid accomplishments in public works in Puerto Rico. I know we may call upon this Congress for your continued cooperation and support in the development of our harbor facilities. We are especially anxious that the San Juan Harbor be deepened and enlarged, so that we can adequately accommodate both the necessary commercial shipping and also the largest tourist ships afloat that are expected to make regular calls in the coming years and will mean so much to the future welfare and happiness of nearly 2,000,000 citizens of the United States residing in Puerto Rico.

Also, I submit for the earnest consideration of this body two concurrent resolutions, adopted by the Legislature of Puerto Rico, containing requests directed to the Congress of the United States to amend the Organic Act of Puerto Rico with respect to citizenship and the borrowing of margin of the municipality of Mayaguez, as follows:

SAN JUAN, P. R., *April 15, 1937.*

Hon. SANTIAGO IGLESIAS,
Resident Commissioner of Puerto Rico,
Washington, D. C.

SIR: I have the honor to transmit herewith a certified copy of the Senate Concurrent Resolution No. 8, approved by the Senate and House of Representatives of Puerto Rico, entitled: "Concurrent resolution to request the Congress of the United States to pass certain amendments to the existing provisions of the Organic Act of Puerto Rico in regard to the American citizenship of the natives of the island."

Respectfully,

ENRIQUE GONZALEZ MENA,
Secretary of the Senate.

Concurrent resolution to request the Congress of the United States to pass certain amendments to the existing provisions of the Organic Act of Puerto Rico in regard to the American citizenship of the natives of the island

Whereas by virtue of the formal cession of the territory of the island of Puerto Rico to the United States of America in 1899, said territory and the natural inhabitants hereof, domiciled there, acquired American nationality in conformity with the applicable rules of public international law;

Whereas it is a legal doctrine accepted by a large number of civilized states, including the majority of the American republics, the doctrine that establishes the acquisition of the nationality of persons by the fact of their birth in the national territory, under the jurisdiction of the country of their origin, and such doctrine governed substantially in Puerto Rico at the time of the above-mentioned cession;

Whereas that same doctrine has formed part of the public law of the United States since a remote epoch, its consecration as a constitutional precept being reached in the United States when the fourteenth amendment to the Federal Constitution was approved, which amendment provides, in this respect, "All persons born • • • in the United States, and subject to its jurisdiction, are citizens of the United States • • •";

Whereas the said doctrine of nationality or rule of jus soli also governs in the Virgin Islands, an unincorporated territory acquired by the United States 16 years after the establishment of its sovereignty in Puerto Rico, the Organic Act for said territory, approved in 1927, providing that "All persons born in the Virgin Islands of the United States on or after January 17, 1917 (whether before or after February 25, 1927), and subject to the jurisdiction of the United States are hereby declared to be American citizens";

Whereas the Federal laws in force in regard to the American citizenship of the natives of Puerto Rico, and especially the act of the Congress of the United States of June 27, 1934, admit the interpretation that has been given them by certain Federal administrative centers, in the sense of not unconditionally recognizing the effectiveness of said doctrine in this island, thus refusing the acquiring of American citizenship by the mere fact of birth in this island, under the jurisdiction of the United States;

Whereas such a state of law not only is contrary to the traditional attitude and the genuine feeling of the people of the United States in regard to this matter but it also tends unjustly to deprive of the enjoyment of important rights a great number of natives of Puerto Rico, children of foreign parents with permanent domicile in this island, and to create difficulties for Puerto Ricans in general in those cases in which they need to accredit, by documentary proof, their status as American citizens under present laws: Now, therefore, be it:

Resolved by the senate (the House of Representatives of Puerto Rico concurring)—

SECTION 1. To request the Congress of the United States, and it is hereby requested, to pass any legislation that mey be pending

before it or which hereafter may be introduced for the purpose of amending the existing Organic Act of Puerto Rico in the sense that it declare that all the persons born in Puerto Rico either on or after April 11, 1899 (whether before or after the date on which the amendment takes effect), and not subject to the jurisdiction of a foreign power, and children of citizens of Puerto Rico, whether or not born in Puerto Rico but who now reside in the island of Puerto Rico and who manifest their desire to be citizens of the United States of America, are citizens of the United States, excluding those who now reside outside of Puerto Rico and have a different nationality, those who have renounced or lost American nationality under the international treaties or laws of the United States, and those natives of Puerto Rico, of age, and children of foreign parents, who, within such reasonable term as the act may fix, declare under oath before a competent court their intention and purpose of keeping their present nationality or political status.

SEC. 2. That certified copies of this resolution be sent to the President of the National Senate, to the Speaker of the House of Representatives of the United States, to the Resident Commissioner of Puerto Rico in Washington, and to the chairman of the Insular Committees of both legislative bodies.

I, Enrique Gonzalez Mena, Secretary of the Senate of Puerto Rico, do hereby certify:

That the concurrent resolution, ut supra, was unanimously approved by the Senate and the House of Representatives of Puerto Rico on April 7 and on April 15, 1937, respectively.

In witness whereof, and for transmittal to Hon. Santiago Iglesias, Resident Commissioner of Puerto Rico in Washington, D. C. I have hereunto set my hand and caused to be affixed the seal of the Senate of Puerto Rico on this, the 15th day of April, A. D. 1937.

ENRIQUE GONZALEZ MENA,
Secretary of the Senate.

HOUSE OF REPRESENTATIVES OF PUERTO RICO,
San Juan, Puerto Rico, April 15, 1937.

The Honorable SANTIAGO IGLESIAS,
Resident Commissioner of Puerto Rico in Washington,
Washington, D. C.

SIR: In compliance with section 2 of of H. C. R. 6 of the Legislature of Puerto Rico, entitled "Concurrent resolution to request the Congress of the United States of America to amend section 3 of the Jones Act in the sense of increasing to 10 percent the borrowing margin of the municipality of Mayaguez", I am sending you herewith a copy of the said concurrent resolution.

Respectfully, ANTONIO ARROYO, *Secretary.*

Concurrent resolution to request the Congress of the United States of America to amend section 3 of the Jones Act in the sense of increasing to 10 percent the borrowing margin of the municipality of Mayaguez

Whereas in section 3 of the Jones Act, the municipalities of San Juan and Ponce are granted the privilege of having a borrowing margin of 10 percent of the total assessed value of their properties;

Whereas Mayaguez is today the first industrial center of the island, with an urban population and area almost double what they were on the date said section 3 was passed by the Congress of the United States;

Whereas such a rapid progress in the economic life of the municipality of Mayaguez requires the establishment of hospitals, asylums, emergency rooms, etc., etc., having greater capacity; the construction of streets; the extension of the waterworks and sewer systems, and the increase of municipal services in general, all of which is not now possible because the municipality has a borrowing margin of only 5 percent, which is totally exhausted;

Whereas the existing discrimination in the Jones Act should be corrected, since the municipal life of the municipality of Mayaguez is as costly as that of Ponce, and the needs of both develop on the same plane;

Whereas with the increase in the borrowing capacity of the municipality of Mayaguez, it could contract a loan for public improvements which, at the same time that it provides the city with what is necessary so that the municipal authorities may render efficient service, would give work to thousands of laborers now unemployed;

Whereas by a quick glance at the census and statistics, the increase in the population and in the industrial and commercial activity of Mayaguez may be noted in comparison with other cities of the island: Now, therefore, be it

Resolved by the House of Representatives, the Senate of Puerto Rico concurring:

1. That the Congress of the United States of America be requested, and it is hereby requested, to amend section 3 of the Jones Act in the sense of increasing the borrowing capacity of the municipality of Mayaguez from 5 to 10 percent.

2. That a copy of this resolution be sent immediately after its approval to both Houses of the Congress of the United States, to the Chief of the Division of Territories and Island Possessions, to Governor Winship, and to the Resident Commissioner for Puerto Rico in Washington, asking them to give all their cooperation to the request contained herein.

MIGUEL A. GARCIA MENDEZ,
Speaker, House of Representatives.
R. MARTINEZ NADAL,
President of the Senate.

Civilian Conservation Corps

EXTENSION OF REMARKS
OF
HON. F. RYAN DUFFY
OF WISCONSIN
IN THE SENATE OF THE UNITED STATES
Monday, May 3, 1937

EDITORIAL FROM SHEBOYGAN PRESS

Mr. DUFFY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD a very interesting editorial from the Sheboygan Press of April 6, 1937, on the fourth birthday of the Civilian Conservation Corps.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Sheboygan Press, Apr. 6, 1937]

C. C. C.'S FOURTH BIRTHDAY

Yesterday marked the fourth anniversary of the creation of the Civilian Conservation Corps, one of the finest character-building organizations ever conceived by this or any other government.

It was born during a crisis, when single young men were out of work, and its ultimate aim is to rebuild American manhood and give them a stepping stone to success in later life. When they were taken to camps these young men were housed, clothed, and fed, and paid at the rate of $30 a month. Of this amount, the major portion went home to help support members of their families. It had a twofold purpose in this respect, that of providing a livelihood for the young men and relieving the burdens at home. Hundreds of thousands of these young men have come back from camp with a new slant on life, and a feeling that Uncle Sam rendered them a service in the time of need.

The C. C. C. was created at the suggestion of President Roosevelt, and as originally conceived by him has a fivefold purpose: Employment of young men unable to find work through the usual channels; conservation and expansion of natural resources; assistance to families dependent on relief; stimulation of industry through purchase of equipment and supplies; maintenance of morale in the young, education in citizenship, vocational training, and reemployment.

There is nothing that can compare with this young man's movement, and efforts to discredit it from any source have utterly failed. The Civilian Conservation Corps has put many a young man who was a drifter back into useful occupation. He has been taken off of the streets and alleys and sent to camps where the spirit of building has been the dominant factor in all his training. He has witnessed the beauties of the great outdoors; he has learned a hobby; and when you have a hobby you are not criminally inclined.

These young men are returning from the camps, taking their places in society. As a result of these conservation camps there is less crime, less need for increasing the size of penal institutions. Our courts are no longer cluttered, and from every viewpoint there is a saving not only in dollars and cents but in the molding of better American citizens. Conservation doesn't mean just preserving fish and animal life that it may not be slaughtered. True conservation means building a more beautiful outdoors and conserving and stimulating the youth to recognize the beauty of that handiwork. Through it the youth, the forests, and the streams become partners.

Today we are preserving the remaining fringes of timber that we have and reforesting through a system of cooperation in which the Federal Government, through the Civilian Conservation Corps, is playing a major part. We are restoring our forests, recreating lands through our soil-erosion programs, cleaning the streams of pollution, thereby adding to plant and animal life. Forest-fire hazards have been lessened with the clearing of underbrush, construction of fire lanes, building of telephone lines for communication, and other protective measures.

The United States Forest Service, in years to come, can look back on the work of the Civilian Conservation Corps camps, performed under its direction, with pardonable pride, for a Nation is being rehabilitated through its natural resources. Vast acreage that was unproductive except for trees will again yield forest crops. Future generations will share in this. Again we will see flood control by natural process. Now we find vast areas flooded because of failure to reforest. It will take 25 years before these trees will be large enough to give protection, but in the meantime we will have set an example for future generations. We will have sensed the need for planting a tree every time one is cut.

We cannot afford to see these camps discontinued. The moral effect would be bad. These young men without jobs would be thrown back on the communities, and, being single, they would be handicapped in the matter of getting work. The old cry, "Married men first", would apply, and these young Americans who are in the molding period would become distrustful of their Government and in many instances willing

to join any movement, no matter how radical. To preserve the morale of the Nation we must keep these camps going, and if anything, increase the appropriation to the end that larger numbers can be taken care of. We must look upon this as a school where benefits accrue in a better and more contented American citizenship.

Yesterday President Roosevelt sent a message to Congress recommending the Civilian Conservation Corps as a permanent part of the Federal recovery and relief program, and recommending a maximum enrollment of 300,000.

In his message the President called attention to the fact that a large bulk of the Civilian Conservation Corps money goes direct to needy families whose sons send them a major portion of their pay check each month. In the President's message he said:

"You are acquainted with the physical improvements that have taken place in our forests and parks as a result of the activities of the corps, and with the wealth that is being added to our national resources for the benefit of future generations.

"More important than the material gain, however, is the improvement we find in the moral and physical well-being of our citizens who have been enrolled in the corps, and of their families, who have been assisted by monthly allotments of pay."

These two paragraphs hit at the essence of the plan, which has to do with building a better manhood and remedying the defects and oversights of the last 70 years in failure to properly protect and rehabilitate our forests.

Of the Roosevelt measures none has been more popular and none more deserving than the Civilian Conservation Corps, and we hope Congress will continue it as a permanent set-up in this country.

Bureau of the Comptroller of the Currency

EXTENSION OF REMARKS

OF

HON. THOMAS F. FORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 3, 1937

SUMMARY OF THE ACTIVITIES OF THE BUREAU OF THE COMPTROLLER OF THE CURRENCY DURING THE YEAR ENDED OCTOBER 31, 1936

Mr. FORD of California. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following, being a summary of the activities of the Bureau of the Comptroller of the Currency during the year ended October 31, 1936:

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE CURRENCY,
Washington, D. C., January 5, 1937.

SIR: According to section 333, of the Revised Statutes as amended, the Comptroller of the Currency is required to make an annual report to Congress, which report shall contain: First, a summary of the state and condition of every association from which reports have been received during the preceding year, with an abstract of their total banking capital, total debts and liabilities, total means and resources, the amount of lawful money held by them, and the amount of circulating notes outstanding; second, a statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed and the amount outstanding; third, any amendment to the laws relative to banking by which the system may be improved, and the security of the holders of its notes and other creditors may be increased; fourth, such information as is obtainable regarding the resources and liabilities and condition of banks, banking companies, and savings banks organized under the laws of the several States and Territories; fifth, the names and compensation of the clerks employed by the Comptroller, and the whole amount of the expenses of the banking department during the year. Therefore, pursuant to this statute, I have the honor to submit the seventy-fourth report made to Congress by the Comptroller of the Currency since the organization of this Bureau.

ACTIVITIES OF THE BUREAU

The following summary sets forth some of the more important activities of the Bureau of the Comptroller of the Currency, and events relating thereto, during the year ended October 31, 1936.

1. No national bank failed in the United States. This establishes a 55-year record in the history of the national banking system. The last national bank to fail was the Commercial National Bank of Bradford, Pa., which closed on September 30, 1935.

2. Four calls for condition were made on national banks. Each of the last three calls successively established a new high record in national bank deposits. The figures for deposits as of the four call dates are as follows:

	Number of banks	Deposits
Nov. 1, 1935	5,409	$24,033,236,000
Dec. 31, 1935	5,392	24,847,733,000
Mar. 4, 1936	5,381	24,859,455,000
June 30, 1936	5,374	26,209,453,000

Attention should be called to the fact that there are 2,895 less national banks in operation than there were in 1922, when the largest number was in existence.

3. As of June 30, 1936, deposits in the 15,803 active banks of all classes in the country amounted to $58,339,815,000, an increase of $6,753,692,000 over the preceding year.

4. The consolidated returns of all national banks for the year ended June 30, 1936, showed net additions to profits of $241,971,000, an increase of 239 percent over the preceding year.

National-bank suspensions, actual failures, for which receivers were appointed

Years ended Oct. 31—	Number of banks	Deposits
1912	8	$3,665,576
1913	5	5,995,997
1914	21	7,516,182
1915	12	8,203,765
1916	13	1,997,020
1917	7	4,327,166
1918	2	1,543,397
1919	1	283,684
1920	6	3,154,793
1921	38	13,084,637
1922	32	8,982,862
1923	51	17,358,274
1924	127	48,816,366
1925	95	39,836,690
1926	91	30,616,232
1927	111	46,113,688
1928	52	19,798,224
1929	71	46,448,301
1930	88	49,707,145
1931	357	361,976,551
1932	322	250,494,710
1933 [1]	396	255,049,262
1934	1	41,950
1935	4	5,398,802
Total	1,911	1,230,411,274

[1] Revised figures.

5. Receiverships numbering 215 were terminated. Total disbursements to depositors and other creditors of these institutions, including offsets allowed, amount to $64,016,705, or 77.49 percent of the total liabilities established.

6. The termination of national-bank receiverships has enabled the Bureau to combine several receiverships under one receiver, and there are now 1,212 national banks in receivership in charge of 526 receivers.

7. The percentage of cost of liquidation to total collections from all sources has risen from 7.67 percent for the year ended October 31, 1935, to 10.27 percent for the current annual report year. With no new receiverships added, and only the less desirable assets remaining in the trusts, it is expected that the average cost of liquidation will continue to rise.

8. Preferred stock in the aggregate par value of $183,001,627 was retired, in full or in part, by 807 national banks. On October 31, 1936, the aggregate par value of preferred stock outstanding in 2,025 national banks was $352,072,786.

9. The Bureau issued a volume entitled "Federal Laws Affecting National Banks as of January 1, 1936", in which all such statutes passed up to that date are segregated from the various laws to make these important provisions readily available to the banking world. The Bureau also published volume V of the Digest of Decisions Relating to National Banks. This is considerably larger than former volumes and contains cross-indexes and an elaborate topical index. The demand for the book was so great that a third printing was necessary.

10. The retirement system for national-bank examiners, assistant examiners, and clerks, authorized by Congress at its last session, was placed in effect on June 1, 1936, and 711 individuals are sharing its benefits.

11. Charters were issued by this Bureau for 6 new national banks, and 63 new banks other than national were chartered by the various States. Before October 31, 1936, 2 of these 63 newly chartered banks were admitted to Federal Reserve membership; 36 were admitted to insurance as banks not members of the Federal Reserve; 1 was placed in liquidation; and 24 are in operation and not insured.

12. At the close of the banking holiday in March 1933, 1,417 national banks (including 10 State banks in the District of Columbia) were not licensed to reopen. Their unsecured liabilities were $1,922,698,738. There has been made available to depositors

and creditors of these institutions $1,520,662,159, representing 79.09 percent of the total unsecured liabilities.

13. From time to time various sums have been borrowed from the Reconstruction Finance Corporation for the purpose of paying dividends to depositors in closed national banks, pledging with the Reconstruction Finance Corporation assets of the trusts. The greatest amount due the Reconstruction Finance Corporation on such loans at any one time was $143,662,107 on December 31, 1934. The total interest paid on these loans through October 31, 1936, amounted to $10,024,539. Up to this date the corporation has had no losses to charge off on such loans. Reconstruction Finance Corporation loans have been taken over from receivership institutions by 33 going banks, and the balance due these going banks is $28,300,753.

14. In accordance with the order issued by Hon. Henry Morgenthau, Jr., Secretary of the Treasury, on March 11, 1935, calling for redemption United States Panama Canal and Consol bonds which had the circulating privilege, and due to the expiration of the circulating privilege on certain other United States bonds, national-bank notes amounting to $535,418,115 have been retired. There is at present outstanding $328,659,920 in such notes.

15. At the request of the Board of Governors of the Federal Reserve System this Bureau issued $2,115,345,000 in Federal Reserve notes during the year.

16. Only two important changes have been made in the personnel of the Comptroller's Office. Floyd G. Awalt resigned as First Deputy Comptroller of the Currency on February 15, 1936, to join a Washington law firm. William Prentiss, Jr., of California, was appointed as his successor and his appointment was approved by the Secretary of the Treasury. L. L. Madland resigned as chief national-bank examiner of the Twelfth Federal Reserve District on September 1, 1936, to accept an important position with one of the larger banking institutions on the coast and he was succeeded by Frank W. Shanley.

FEDERAL DEPOSIT INSURANCE CORPORATION

From the establishment of the Federal Deposit Insurance Corporation up to October 31, 1936, 71 member banks of the fund have failed, with total deposit liabilities at date of closing of $19,400,000. One of these banks, with deposits of $85,000, was subsequently reorganized and reopened as an insured bank. The remaining 70 banks were placed in receivership. Five of these were national banks. Depositors in the 70 banks numbered 84,700. All depositors were paid their insured deposits immediately upon the presentation and proof of their claims. Up to October 31, 1936, the Corporation has recovered approximately $2,900,000 in dividends from these banks to apply on its liability. All payments made by the Corporation on deposit liabilities and for its operating expenses have been paid out of earnings.

The total assessments paid by all insured banks to the Federal Deposit Insurance Corporation amount to $47,035,025. Of this sum the national banks paid $25,778,356. It is interesting to note that the 10 largest national banks paid $8,916,421, or 34.59 percent of the total paid by the 5,351 national banks. The percentage of deposits insured in national banks varies from 1.2 percent of the total deposits up to above 90 percent. In the 10 largest national banks, 22.6 percent of the total deposits are insured by the Federal Deposit Insurance Corporation. The following table gives the percentage of insured deposits in each of these banks:

Percentage of insured to total deposits

Name of bank:	
The First National Bank of the City of New York	1.2
The Philadelphia National Bank	6.2
The Chase National Bank of the City of New York	9.0
Continental Illinois National Bank & Trust Co. of Chicago	16.3
The National City Bank of New York	17.4
The First National Bank of Boston	23.4
The First National Bank of Chicago	26.0
National Bank of Detroit	29.5
Bank of America National Trust & Savings Association, San Francisco	50.9
Security-First National Bank of Los Angeles	55.3

As of May 13, 1936, 5,367 national banks were insured by the Federal Deposit Insurance Corporation with total deposits of $25,394,075,000, of which $10,626,017,000, or 41 percent, was insured. The following table gives the percentage of insurance based on the size of the banks:

Insurance coverage of national banks, May 13, 1936, by size of bank

	Number of banks	Amount of deposits (in thousands of dollars)		Percent of deposits insured
		Total	Insured	
Banks with deposits of—				
$100,000 and under	56	4,262	3,988	93
$100,000 to $250,000	531	98,816	88,275	89
$250,000 to $500,000	1,114	410,255	354,429	85
$500,000 to $1,000,000	1,310	938,894	763,755	81
$1,000,000 to $2,000,000	1,058	1,490,393	1,163,653	78
$2,000,000 to $5,000,000	779	2,378,634	1,693,814	71
$5,000,000 to $50,000,000	458	5,874,951	2,897,823	49
Over $50,000,000	61	14,197,870	3,663,286	25

The Federal Deposit Insurance Corporation reports that on May 13, 1936, insured commercial banks reported a total of 57,000,000 accounts, of which 56,000,000, or 98.4 percent, were accounts with balances not exceeding $5,000, the maximum insurance for each depositor. Deposits in these banks amounted to $45,000,000,000, of which $19,500,000,000, or 43 percent, were insured. On October 1, 1934, total deposits of 14,060 insured commercial banks amounted to $36,000,000,000, of which $15,600,000,000, or 43.5 percent, were insured.

PRESENT BANKING SITUATION

The periodic reports of conditions received in response to calls made on all national banks, under the provisions of section 5211 of the Revised Statutes, continue to show an improvement in the banking situation of the country. The last such call in the current annual report year was on June 30, 1936. A comparison of the returns made for that date with the returns for June 29, 1935, which were published in the Comptroller's last annual report, shows increases in the loans and investments, cash in vault and balances with other banks, total assets, total deposits, and total capital account. The loans and investments on June 30, 1936, aggregated $20,245,967,000, an increase during the year of $2,160,864,000, or 11.95 percent; the total of cash and exchange, comprising cash in vault, balances with other banks, and reserve with Federal Reserve banks, amounted to $3,381,426,000, an increase of $1,513,205,000, or 22.03 percent; and the total assets of $29,702,839,000 were greater by $3,641,774,000, or 13.97 percent. The book value of the capital stock on June 30, 1936, was $1,691,375,000, a decrease of $118,128,000 due to the retirement of preferred stock and a reduction in the number of active banks. However, surplus, profits, and reserves totaling $1,474,353,000 showed increases in the year in the aggregate of $197,438,000, or 15.46 percent. The deposits were $26,200,453,000, the greatest in the history of the national-banking system, exceeding by $3,682,207,000, or 16.35 percent, the total reported for June 1935. Borrowed money, represented by bills payable and rediscounts, was reduced $1,771,000, or from $4,643,000 to $2,872,000. The number of active banks decreased in the year from 5,431 to 5,374.

In the 3-year period from June 30, 1933, the first call following the banking holiday, when there were 4,902 licensed national banks, to June 30, 1936, the loans and investments rose 30.69 percent; cash and exchange 103.48 percent; and the total assets 42.39 percent. The book value of capital stock during that period increased 11.59 percent; the total of surplus, profits, and reserves 9.95 percent; and deposits 56.20 percent.

A material improvement in the condition of all classes of banks in the country is disclosed by a comparison of the returns for all active banks, State and national, covering the 3-year period from June 30, 1933, to June 30, 1936. Loans and investments of $48,698,692,000, reported for 15,803 banks on the latter date, exceeded by $8,380,211,000, or 20.79 percent, the amount reported for 14,624 licensed banks operating on an unrestricted basis 3 years ago. Cash, balances due from banks, and reserve with reserve agents, increased $7,357,596,000, or 94.76 percent; and the total assets increased $15,896,673,000, or 30.99 percent. Capital stock, including capital notes and debentures, on June 30, 1936, amounted to $3,421,226,000, an increase of $521,685,000, or 17.99 percent, in the 3 years, and surplus, profits, and reserves totaling $4,549,867,000 increased $64,120,000, or 1.43 percent. The total deposits on June 30, 1936, were $58,339,815,000, showing an increase of $16,806,345,000, or 40.46 percent, in the 3-year period. Borrowed money of $46,231,000 was reduced 90.83 percent.

A comparison of returns for all classes of banks in the country on June 30, 1936, with those for June 30, 1935, shows the loans and investments to have increased 9.10 percent; cash and exchange, 21.98 percent; and total assets, 11.27 percent. Although the capital stock, capital notes, and debentures show a reduction of 5.11 percent, the total of surplus, profits, and reserves was increased 7.55 percent. The deposits of all banks on June 30, 1936, were $6,753,692,000, or 13.09 percent, greater than reported in 1935. Bills payable and rediscounts decreased 24.63 percent.

The earnings figures for all classes of banks in the country are not obtained by the Comptroller. However, the earnings reports submitted by national banks show that after providing for losses and expenses, but before dividends, there was added to the undivided profit accounts $241,971,000 in the year ended June 30, 1936, which is the largest addition made to the profits since the fiscal year 1930. Net addition to profits in the current year exceeded by $170,599,000, or 239 percent, the amount reported for 1935, and represented 14.25 percent of the total of common and preferred stock outstanding on June 30, 1936. Dividends paid in 1936 on common and preferred stock amounted to $125,679,000, or 7.40 percent. These dividends, which included $10,345,000 payable in stock, were the largest in amount and percent paid in any of the last 4 fiscal years.

LEGAL DEPARTMENT

The work of the legal department of the Office of the Comptroller of the Currency may be divided broadly into two classes:

(1) Advice, rules, and decisions upon matters relating to: (a) Going national banks, including the interpretation and construction of existing laws and consideration of prospective banking legislation, (b) issuance of preferred stock in going national banks and the scope and extent of rights, liabilities, and duties incident thereto, (c) reorganization of national banks, including the drafting of plans of reorganization and papers in connection therewith, (d) liquidation of insolvent national banks in receivership.

(2) Supervision over, and, where advisable, actual participation in, litigation incident to the foregoing fields of activity.

Since the abnormal increase in March 1933 in the number of closed banks under the jurisdiction of the Comptroller of the Currency, there has been an ever-increasing necessity for supervision of legal matters in the receiverships, and particularly the necessity for careful supervision of novel questions of law arising through litigation. The time which has elapsed since the inception of the major portion of these novel questions has been sufficient to cause many of them to be now on hearing in the appellate courts and courts of last resort.

This office participated in and advised concerning many cases in circuit courts of appeal. For the period of this report, 68 of these cases may be found in published reports, 41 containing decrees favorable to the receiver and 27 adverse to the receiver.

During the past year (October term, 1935, to October term, 1936) 26 cases involving receivership banks under the supervision of the Comptroller of the Currency were before the Supreme Court of the United States for consideration, either on writs of certiorari or for argument on the merits. Of these, 16 were disposed of in favor of the receiver and 4 cases were pending before the Court at the close of the October 1935 term, in 3 of which the Court has since handed down opinions favorable to the receiver.

In addition to supervising litigation and advising upon legal questions arising from the receiverships and submitted by the receivers, the legal department has upon its own initiative directly handled and negotiated many compromises and settlements of cases which would otherwise require large expenditures and consume much time of the receiverships and this office. Through negotiations initiated and carried through by attorneys in the Comptroller's Office, some of the major recoveries for the benefit of depositors since the last annual report of the Comptroller have reached a total amount in excess of $14,000,000. The matters have been effected directly by the legal department of this Office.

The legal department passes upon and actively supervises every case involving insolvent national banks carried (by either side) to the various courts of appeal throughout the United States, and where necessary participates with the local attorneys in the arguments. No appeal is taken by a receiver to the circuit court of appeals unless the case has first been considered and authorized by the legal department.

SUGGESTIONS FOR LEGISLATION

In view of the very satisfactory condition of the banks of the Nation and the constructive legislation which has been passed during the past few years, no recommendations are made for additional bank legislation of a general character. With respect to financial institutions within the District of Columbia, which are under the supervision of this Office, two recommendations to the Seventy-fourth Congress are renewed, one for a thoroughgoing revision of the code for building and loan associations, the other for assessing against each credit union the costs for examining it.

Pass H. R. 6092 and Save the Home Owner by Reducing His Rate of Interest and Spreading His Payments Over 25 Years Instead of 15 Years as Now

EXTENSION OF REMARKS

OF

HON. HENRY ELLENBOGEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 12, 1937

Mr. ELLENBOGEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Interest rates of the H. O. L. C. are too high. They must be reduced.

The home owner whose property has been refinanced through the Home Owners' Loan Corporation is still in danger of losing his home. In many cases he has substituted one set of financial obligations for another set which are equally burdensome and too heavy a load for him to carry. The home owner is grateful for the aid which the Government extended him through the H. O. L. C. He appreciates this assistance, and in most cases is making every effort to repay the loan.

But the policy of the H. O. L. C. is making it difficult for the home owner to make these repayments, and many home owners are finding themselves back where they started—heavily in debt, unable to meet their payments, close to foreclosure again.

The present H. O. L. C. interest rates are not justified. I believe that any fair-minded person who will examine the purpose, the history, and activities of the H. O. L. C. since it was set up by the Congress of the United States to save the properties of American home owners, will agree with me.

ACHIEVEMENTS OF H. O. L. C.

What are the facts? The Home Owners' Loan Corporation was organized under the act of Congress of June 13, 1933, and was amended several times in subsequent sessions of Congress. It was created at a time when the depression was at its very deepest, when more than 16,000,000 people were unemployed, when business, production, and commerce were the lowest in decades, and when the homes of our people, both in the cities and on the farms, were being foreclosed by the thousands and tens of thousands.

The record shows that by June 12, 1936, when its power to make loans expired under the terms of the law, the Home Owners' Loan Corporation had refinanced 1,021,814 homes with mortgages totaling $3,092,870,784. The majority of these 1,000,000 homes would have been foreclosed, and the money invested in them would have been lost to the home owners.

FORECLOSURES BY THE H. O. L. C. ARE RAPIDLY INCREASING

I have devoted a large part of my time to aid and assist home owners in obtaining relief by the H. O. L. C. While I have criticized it where I felt criticism was necessary in the interest of efficiency and for the better protection of the home owner, I am happy to be able to pay tribute to the outstanding achievements of the Home Owners' Loan Corporation in saving the homes of the people.

But past achievement cannot blind me to the fact that there must be something wrong when foreclosures of Home Loan mortgages have increased as rapidly as they have in the last few months.

HOME LOAN FORECLOSURES

As of March 31, 1937, there were 84,385 foreclosures, having a value of $331,348,872. It is estimated by the Home Loan Bank Board that when the fiscal year 1938 ends on June 30 of next year, foreclosures will amount to almost 20 percent of the H. O. L. C. loans granted, totaling about $600,000,000. Whatever the causes, the high proportion and the large aggregate amount of foreclosures is alarming.

RECORD OF COLLECTIONS IS GOOD

The Home Owners' Loan Corporation was created for the sole purpose of refinancing distress mortgages. By the very terms of its corporation it was prevented from acquiring mortgages which were not in default; it was directed to confine itself to the saving of homes on which foreclosures were threatened by the private money lenders.

Improved conditions have permitted the majority of home owners to meet their obligations to the Home Owners' Loan Corporation. The record of collections is remarkable; it shows that 76 percent of home owners have not only met their obligations but have met them on time. Many of them have done so at great sacrifice and by depriving themselves and their dependents of necessities of life.

Most of the remaining 24 percent of borrowers would also be up-to-date if the monthly installments were reduced. Of course, there may be some persons who believe that they can take advantage of the fact that the H. O. L. C. is a Government agency and who have no intention to make payments. I am not defending those who are shirkers.

MONTHLY HOME LOAN PAYMENTS ARE TOO LARGE

The law has now been in operation for a sufficiently long period of time to permit us to realize its defects and deficiencies. The plain fact is that monthly payments required under the Home Loan plan are too large. This is due to two factors:

First. The rate of interest, which is 5 percent and in some instances even 6 percent, and

Second. The fact that the principal amount of the mortgage debt must be paid off in 15 years, in some cases in 10 years.

THE H. O. L. C. INTEREST RATE OF 5 PERCENT IS UNFAIR TO THE HOME OWNER

How was the H. O. L. C. 5-percent rate established in the first place?

At the very beginning of the operation of the H. O. L. C. it issued its first bonds. These bonds were sold to obtain the money which it loaned to home owners. At the beginning, the interest offered on these bonds was 4 percent. The H. O. L. C. estimated that it should allow 1 percent to make up for losses on loans, and for administrative expense. Therefore, it added this 1 percent to the 4 percent which it had to pay on these bonds, and said: Our interest rate will be 5 percent.

However, and this is an important point to remember, the H. O. L. C. did not have to pay interest rates of 4 percent on all of its bonds. It had to pay this on only the very first bonds it issued. Thereafter, the Government guaranteed both the interest and the principal of the H. O. L. C. bonds, so that they could be offered for sale at much lower interest rates. The average interest rate, as a matter of fact, of all H. O. L. C. bonds which have been issued, is only slightly more than 2½ percent—or 2.624 percent to be exact.

Therefore, since the interest cost to the Government of these bonds is only about 2½ percent, and since the H. O. L. C. itself has estimated that only 1 percent margin is required above the interest rate, what excuse is there for continuing to charge the home owner 5 percent for his loan? Two and one-half percent plus 1 percent is 3½ percent, and that is the charge that should be established to the home owner.

The profit which has been made by the H. O. L. C. by paying lower interest rates on its own bonds should be passed on to the home owner—not kept by the H. O. L. C.

BURDENSOME INSTALLMENT PAYMENTS CAUSE FORECLOSURES

Let us pass the saving in the rate of interest on to the home owners, instead of continuing to charge them 5 percent and in some cases even 6 percent. It is wrong to continue to charge a rate of interest which the home owner, in a large number of cases, cannot pay, which is dragging him deeper and deeper into debt, and which is already resulting in an excessive number of foreclosures.

There is no sense in helping the home owner out of one hole and pushing him into another by making it impossible for him to meet his new payments on his home-loan mortgage. This is just what is happening and will continue to happen, unless we reduce the rate of interest.

SPREAD INSTALLMENT PAYMENTS OVER 25 YEARS INSTEAD OF 15

Another burdensome feature of home loans is the fact that the principal amount of the home-loan mortgage must be paid off within 15 years—and in some cases within 10 years. In addition to taxes, insurance, and interest, the home owner must pay off the principal amount of his debt in monthly installments, so that at the end of 15 years his entire debt is paid off and his home is clear.

HOME LOAN INSTALLMENTS ARE LARGER THAN PREVIOUS PRIVATE LOANS

Many a home owner, with an H. O. L. C. loan, is now in deeper water than before. Here is the reason:

The average home owner, excepting those who had a building and loan mortgage, had a straight mortgage. He paid on his private mortgage 6-percent interest and nothing on the principal of the mortgage debt. For every $1,000 debt his interest payments amounted to $5 a month. On a $3,000 mortgage this meant $15 a month. Thousands upon thousands of such home owners were unable to meet these interest payments, were faced with foreclosure, and were only saved by exchanging these private mortgages for Government home-loan mortgages.

They thought they were saved. By now, they realize that they obligated themselves to make larger monthly payments than before. Under the home loan mortgage plan, monthly payments amount to $7.91 per $1,000, or $23.73 for a $3,000 mortgage.

Let me repeat this. Under the present law the home owner must pay off his Government mortgage at the rate of $7.91 per thousand per month. On a $3,000 loan that means a monthly payment of nearly $24. Of course, I am not overlooking the fact that on a private mortgage loan nothing was paid off on the principal amount of the debt, whereas in the Government loan the home owner gradually, by monthly payments, pays off his entire mortgage, so that at the end of 15 years he owns his home free and clear of any debt.

This is indeed a fine feature of the Government loan provided the home owner is able to make these monthly payments. But the plain fact is to the contrary; he is not able to make these payments. The money which the H. O. L. C. receives from the home owners is used to pay off the home-loan bonds issued by it. If the home owner stops payments, the Government must pay the home-loan bonds with tax money. To stop all foreclosures by law would lift the burden of debt from some home owners and place it upon the shoulders of the taxpayer. But the Government should not follow the practice of private financial institutions. It should be lenient and forbearing when it deals with home owners in default and should keep in mind not only dollars and cents but public and social considerations.

MY BILL, H. R. 6092, PROVIDES FOR 3½-PERCENT INTEREST AND AN EXTENSION TO 25 YEARS

The difficulties of the home owner should be solved by reducing the rate of interest and by extending his time for making payments. For that purpose I introduced H. R. 3974 on January 16, 1935. I reintroduced it this year on April 2, 1937 and it is now known as H. R. 6092. This bill reduces the rate of interest on home-loan mortgages to 3½ percent and spreads the monthly installment payments of principal and interest over a period of 25 years instead of 15 years as now provided.

This will greatly reduce the monthly payments of the home owners. Under the present home-loan plan, the home owner must pay $7.91 or nearly $8 per month for every $1,000 of his mortgage. Under my bill, he will be required to pay only $5.01 per $1,000. On a $3,000 mortgage a home owner who now must pay about $24 a month to the H. O. L. C. would have to pay only about $15 a month.

H. R. 6092 IS A PERMANENT SOLUTION

The solution which I propose is a permanent solution. It is fair to all home owners who have home-loan mortgages. It reduces the burden of all in the same way and in the same proportion. It does not discriminate. It is a realistic approach to the problem of the home owner. It eases his burden and reduces his monthly payments. My proposal saves the Government from loss and saves the home owner from foreclosure. It preserves home ownership and the investments of our people in their homes. At the same time it protects the Government and the taxpayer.

The problem which I have discussed affects 1,000,000 home owners directly. It affects all of us indirectly, because mass foreclosures would bring down real-estate values and undermine recovery.

There is nothing more important to a man and to his family than their home. There is nothing more valuable to them than their home, the home in which they have spent good days and bad days, the home which they love and to which they are bound by lifelong associations.

I consider it a social and an economic duty to save these homes for their owners, and I shall continue to exert every effort to attain this. Therefore, I shall press for passage of my bill, H. R. 6092.

One Businessmen's Organization and National Problems

EXTENSION OF REMARKS

OF

HON. WALTER CHANDLER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 3, 1937

ADDRESS OF HON. WALTER CHANDLER, OF TENNESSEE, AT THE FIFTY-SEVENTH ANNIVERSARY DINNER OF THE MEMPHIS MERCHANTS EXCHANGE ON APRIL 29, 1937

Mr. CHANDLER. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following address delivered by me at the dinner commemorating the fifty-seventh birthday anniversary of the Memphis Merchants Exchange on April 29, 1937:

Mr. Toastmaster, distinguished guests, members of the Memphis Merchants Exchange, and friends, it is true that a Memphian who takes a trip will return home at the first chance. That wholesome sentiment was intensified in me when I was given the privilege of coming home to join with valued friends, old and new, in celebrating the fifty-seventh anniversary of the founding of the present Memphis Merchants' Exchange. This is a most interesting event and becomes the occasion for heartiest congratulations, commendations, and good wishes.

Strong, vigorous, and forward-looking after 57 years of busy life, the Memphis Merchants' Exchange is a great institution, and we are justly proud of it. It is unique in its purposes and in the position which it occupies in the life of the Midsouth. Not a money-making corporation, yet it provides mediums through which trade and commerce may be prosperous. Not an educational institution, yet it disseminates useful information to the commercial world that an academy cannot spread. Not a public enterprise, yet its aims and ideals are designed to promote the public welfare, and, although not an aesthetic organization, yet it fosters and insists upon the highest concepts of business ethics and practices.

And I do no violence to the truth when I say that the Memphis Merchants' Exchange is also suspiciously fastidious. You admit being only 57 years of age, but as one who is skeptical that so much wisdom could be accumulated and so much progress acquired in just 57 summers, I pried into the old family records and found out that you are 77 years old, and a "Siamese" twin. You and your brother were born of the Tennessee Legislature (it is bicameral, you know) on February 25, 1860, and were named Memphis Chamber of Commerce and Merchants' Exchange. You were authorized to live 99 years, but at the tender age of 2 you disappeared on the approach of the Federal Army and Navy to Memphis in June 1862 and did not come from your hiding place until February 1880. In that interim you were severed from your brother and from that time until now you have remained apart. But in this good year of 1937 you have returned to single parental control in that the alert and indefatigable William H. Jasspon presides over you both with all the pride and dignity of a fond father.

Singularly, though, you were not corporately reborn until May 1, 1883, when you were christened by the State, "Memphis Merchants' Exchange", and under that cognomen you have risen to the high place which you now enjoy. So it would seem that your anniversary has some of the attributes of a movable feast, and, by way of an appetizing suggestion, you are entitled to repeat this delicious repast three times a year; that is, if you will include us, who are most appreciative guests this evening.

You chose most favorable years for your births. Eighteen hundred and sixty marked the highest point in the growth and progress of the old Memphis. Memphis was the fastest growing city in America when the War between the States began, Brooklyn being second, and Chicago third; but, tragically, no community suffered more than did Memphis during the next 20 years. The Memphis Merchants Exchange was a courageous young body when it reorganized in February 1880. Civil strife with its devastation had drained the lifeblood of the city. Reconstruction, with the wormwood and the gall of hatred, had left its ugly scars; and four scourges of yellow fever had swept away a splendid population. The city was plunged into bankruptcy by pitiless creditors in 1879. One-third of all the realty was sold to the State for delinquent taxes. The Governor of Tennessee, in calling a special session of the legislature in December 1879, to deal with the problem, made this astonishing statement: "The appearance of yellow fever in Memphis in 1878 was believed to be no more than an accidental visitation, but its recurrence in 1879 indicates the possibility of its permanent domestication."

But the dawn of 1880 brought new life to Memphis. The city seemed to awake suddenly as from a miserable dream. The uncharitableness of sectional animosity gave way to the kindly interest of a sympathetic world. The bitterness of partisan politics was vanquished by the realization that ours was one common country after all. General Grant visited the city in April 1880, and was received and acclaimed. Rutherford B. Hayes, who had proved to be a friend of the South, was President. Alvin Hawkins was Governor of Tennessee, Isham G. Harris, of Memphis, and James W. Bailey, of Clarksville, were Senators, and H. Casey Young was the Congressman from the Memphis District. The population of the city was 33,592, almost 25 percent less than in 1870, because of the epidemics.

April 29, 1880, was Thursday, too. The Memphis Merchants' Exchange quotations for the day showed corn selling at 48 cents per bushel, Timothy hay at $18 per ton, oats 39 cents per bushel, best patent flour at $7 per barrel, meal $2.15 per barrel, creamery butter 33 cents per pound, and white sugar 11 cents. Middling cotton was quoted at 11⅜ cents per pound with only a fair demand. Mercantile paper was discounted from 6 to 8 percent, depending on the security, and new Memphis bonds were selling at 37 cents on the dollar, while old city bonds had no market value. Yes, we have come a long way forward since then. Time will not permit the contrast, and it is not necessary, because you see all around you a progressive, healthy, beautiful, well-governed metropolis of 280,000 loyal people. The bonds of the city now sell above par, the tax rate is low, and the city not only lives within its budget but accumulates a surplus each year. Memphis is still the largest inland cotton market in the world, handling more than 2,000,000 bales annually. It is the world's largest hardwood market, and one of America's greatest centers of the woodworking industry. It is also the world's largest processor of cottonseed products, and the South's greatest manufacturer of mixed feeds. Memphis has come to be the principal mule market in America, and the largest nonproducing steel center in the land. We have fine streets and parks, pure water, and the best sewered city in the United States, and the river transportation which flourished in 1880 is being revived on a larger scale. And, just to prove that history does repeat, the distinguished gentleman who presides so efficiently over our city today as mayor, Hon. Watkins Overton, is the grandson of the John Overton who was acting head of the taxing district of the new Memphis on April 29, 1880.

Perhaps, in the midst of glowing terms and mutual felicitations, we should be reminded that this is not the millenium. That is yet to come. But we are emerging from another dark and dismal scene into what we all hope is a new era in our Nation's history. We have met and defeated one stark enemy, but we must prepare to battle others when they appear. The nature of our governmental system is such that we cannot avoid extremes and emergencies, and yet our form of government is the best yet devised by man. Private ownership of property, unregulated by law, cultivates man's predatory instinct to get possession of more and more land, money, power, food. Unchecked, the craving leads toward monopoly, class selfishness, maladjustment, want, and strife. Then a costly and painful struggle for recovery is inevitable. We are arising from such a struggle now. If we could do just exactly enough to win, the cost would be much less, but no perfectly planned battle has ever been fought. On the contrary, every great battle in history has been waged by tired and hungry men who have marched and marched and marched.

We who, by your selection, have the official responsibility to win the remaining battle of the war of the depression, are striving to conserve the gains already made and avoid the exhaustion of manpower and the present and potential resources of our rich country. That progress has been made, no honest man will deny. I hope that you agree with me that we have weathered the worst of our economic storms. Our banking system has been placed on a sound basis, our social-security program is underway, international trade is being revived, wholesale foreclosures have been prevented, and much of our debt structure, public and private, has been refinanced on easier terms. And I believe that most of those who have been able have contributed to the accomplished progress. Many have complained about increased burdens, but no sane man could have expected the struggle to be won without heavy costs for a number of years. Self-recovery was tried and almost ruined us!

Fortunately, we have the Federal Government acting as collector and distributor of relief funds. Otherwise, impoverished communities and charitable individuals would be staggering under the load now being borne proportionately by all who are able to carry it.

My friends, among the unsolved national problems, three of outstanding importance now confront the American people, and are entitled to our best thought and cooperation—the necessity for eliminating excessive unemployment, the improvement of labor relations, and the balancing of the public budgets. I am sure that you expected me to include the proposal to increase the membership of the United States Supreme Court. While it is a subject which has excited and aroused wide interest and feeling, it is not as serious as any of the three, and will be decided without impairing the importance of the Court as a separate branch of our Government. The three problems referred to possibly contain the answer to the often asked question: Are we headed for another depression or a change in our form of government within the next 10 years? And the more you study the three main questions, the more difficult of solution they become. Assume a national viewpoint and ask yourself how you would solve these problems. Many

responses occur to you, but think them through and what have you? Can we now withdraw the Federal Government from the role of emergency employer? Are private business and industry ready to hire every worthy employable? Shall the Government leave to employers and their employees the settlement of their increasing controversies? Congress has enacted and the Supreme Court has sustained the National Labor Relations Act designed to bring about the peaceful adjustment of capital-labor differences. If that law does not point the way to right and justice for the parties themselves and the public, further efforts must be made by Congress.

The Federal Budget can be balanced by discontinuing relief work, eliminating the Civilian Conservation Corps, curtailing the social-security program, and by reducing a number of other emergency and regular expenditures. Shall we cut to the bone now, or should we make one more drive to reach the top of the hill we have been climbing for the last 4 years? Can the States carry the relief burden and stay out of the red? President Roosevelt says that "The only way to keep a Government out of the red is to keep the people out of the red", and I think that his statement during the 1936 campaign that, "We have to balance the budget of the American people before we can balance the Budget of the National Government" is still true. It will require much restraint to put aside the farm tenancy and low-cost housing legislation until next year, but indications now are that this must be done. Probably, the most important subject of permanent legislation is that of reorganizing and consolidating the departments and independent establishments of the Federal Government in the direction of efficiency and economy, and it is recognized that the task is too complicated for completion in one session of Congress. Hearings will be held during recess, if we have such a thing this year.

May I emphasize that the President and Congress are working diligently toward a reduction of the cost of operating the Federal Government, and that you may expect substantial improvement in the Budget record during the fiscal year beginning on July 1. It is well to mention here also that the current fiscal-year deficit is running about $450,000,000 lower than that of last year; and that profits in business thus far this year average 40 percent more than in the first period of 1936.

We in Washington appreciate the overwhelming importance of a steady and substantial volume in every legitimate business, and we all know that greater purchasing power is essential to bigger and better business. As the National City Bank Review for March 1937 stated: "True and lasting prosperity results from regular and balanced production of goods that minister to the needs and welfare of the masses, and from a reciprocal trade which enables the varied individual groups to buy from each other in mutually beneficial trade. Such trade, if it settles itself, may continue indefinitely, in ever growing volume, for it is obvious that we have not even approached the satisfaction of all wants." Those wants relate realistically to a wider distribution of profits and to consumer purchasing power; and the balanced production referred to depends on the markets for raw and finished products. Business will perform a reciprocal feat by increasing the buying power of the people and thereby raising the living standards. At the same time, a most necessary step forward will be made by benefiting, rather than exploiting, the workingmen and women of America. James Truslow Adams, the historian, says that, "In a highly competitive society, we cannot expect businessmen to run their business simply according to the Golden Rule and be pushed off the sidewalk by others who have more worldly aims"; but businessmen must consider the good of society as a whole, not only as a matter of public duty, but as a way to self-preservation. At the same time, self-interest must not supplant the quality of patriotism so essential to a successful democracy.

I appeal for the use of the best brains of business in the interest of all, because if you can evolve a better social order than the statesmen or the politicians can conceive, it will be most welcome, I assure you. In any event, you do not take sufficient interest in your Government. I know that; because you do not contact your Representative as often as you should, and you rarely give him your views on National problems. This cooperation, we all need and appreciate, and it is important to you, too. I believe that on the decisions of our business leaders will depend much of the future of our country; and I am confident that you will be equal to the high limit of your responsibility.

In the field of agriculture, the income and the purchasing power of farmers have increased, although the farm dollar is still below parity. It is most important that the soil-conservation program be supported to the utmost. It will lead to a happier and finer life for our producers from the good earth. The world needs a bumper food crop this year. This will do more than any other constructive effort to prevent further inflation, and will increase the profits from the farm. There is considerable sentiment in the House of Representatives for some form of crop insurance, but the measure requires long study, and no enactments are anticipated at this session. Legislation to put sugar under a quota system is making headway, although the pending bill calls for an annual appropriation of $55,000,000. The sugar growers of Louisiana will benefit from this measure.

We of the South are most fortunate in these times. Far from the congested centers, surrounded by the abundant fruits of nature and an ample supply of labor, we have much for which to be thankful. We have a real friend in the White House. Our people are still a homogeneous people. We have overcome unparalleled disasters of flood, pestilence, and war. We have been made stronger by our adversities; and we love our great Nation with an unexcelled devotion. We appreciate the American way of life. We believe in the democratic system, and earnestly wish that it go forward to heights not yet attained. This cannot be accomplished by well-wishing alone, but it can be achieved by calm and thoughtful judgment, by hearty and persistent cooperation, and by that all-American spirit of striving for the best attainable by human efforts.

Flood Control

EXTENSION OF REMARKS

OF

HON. NEWT V. MILLS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 3, 1937

RESOLUTIONS OF THE BOARD OF COMMISSIONERS OF THE TENSAS BASIN LEVEE DISTRICT, LOUISIANA

Mr. MILLS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following resolutions adopted by the Board of Commissioners of the Tensas Basin levee district:

OFFICE OF THE BOARD OF COMMISSIONERS
OF THE TENSAS BASIN LEVEE DISTRICT,
Rayville, La., April 15, 1937.

Whereas the line of levee over which this board has supervision from the Lincoln-Jefferson County line extending along the south bank of the Arkansas River and on the west bank of the Mississippi River to the line dividing the States of Arkansas and Louisiana for a distance of 142⅛ miles, to the construction and maintenance of which this board has contributed more than $13,000,000 derived from local taxation, protecting an area of more than 4,500,000 acres of land (by far greater than any one line of levee in the entire Mississippi Valley), with a population in excess of 300,000 persons and a property valuation of more than $450,000,000; and

Whereas the imposition of the destructive Boeuf Basin floodway, by means of the fuse-plug device, known as the Jadwin plan of the 1928 act of Congress, through this district, yet affecting the said area of land, population, and property values, without any protective levees being constructed for such areas as provided for protection in the Jadwin plan; and

Whereas the area of 1,300,000 acres of fertile land of this district, in the Boeuf Basin floodway (as provided for in the Jadwin plan), having for the past 9 years borne the stigma and resultant damage from the mere fact of the declaration of its use as a fuse-plug device for a floodway in providing a diversion for the flowage of excess waters in the Arkansas and Mississippi Rivers, derived from the drainage waters of 31 States of the Union, with not a drop of Louisiana or Arkansas rainwater, below the mouth of the Arkansas River flowing into the Mississippi River during flood stages, if at all; and

Whereas the Overton flood control bill, following a report of the Mississippi River Commission, under the recommendation and approval of Maj. Gen. Edwin M. Markham, Chief Engineer of the United States Army, being submitted by an advisory or steering committee, which labored unceasingly for several months, representing all the flood-control interests, organizations, and authorities of the lower Mississippi Valley, especially in the States of Arkansas, Mississippi, and Louisiana, and fully approved by them as well as having the unqualified approval of the said Chief Engineer of the United States Army, and enacted into law as the Overton Flood Control Act of Congress in May 1936; and

Whereas this board realizes that there is no question but that the Eudora and Morganza floodways, as provided for in the Overton Flood Control Act of Congress of 1936, when completed, will fully protect the southeast Arkansas and Tensas Basin levee districts from the floodwaters of the Arkansas and Mississippi Rivers, materially lower the backwater area in the Yazoo and Red River areas, and the operation of the Morganza additionally protecting the levees on the Mississippi River below the mouth of the Red River as well as doubly protecting the city of New Orleans; and

Whereas there appears little or no opposition on the part of the landowners within the limits of the proposed Eudora floodway for the granting of flowage rights over said land for a just and reasonable compensation, on the basis of double the assessed value of lands in the State of Louisiana and three times the assessed value of lands in the State of Arkansas, as suggested by the Chief Engineer of the United States Army and as set up in the Overton Act, in the amount of $15,600,000 for the payment of 75 percent thereof; and

Whereas a great majority of the landowners within the limits of the said proposed Eudora floodway, not wanting to convey their lands in fee to the United States Government for many reasons,

but preferring to convey easements for flowage rights, retain the ownership, and continue to operate and cultivate the same as was intended and provided for in the said act; and

Whereas the said Flood Control Act provides that the Boeuf Basin floodway, known as the "fuse plug" device of the Jadwin plan, shall be abandoned as soon as the Eudora floodway is completed and ready for operation, thereby relieving that basin of a much-dreaded menace: Therefore be it

Resolved by the board of commissioners of the Tensas Basin levee district in the regular session convened, That the Secretary of War, the Chief of Engineers, and the Mississippi River Commission on the part of the Federal Government, and the Louisiana Flood Control and Waters Conservation Commission, the National Rivers and Harbors Congress, the Mississippi Valley Flood Control Association, the several local official and civic bodies within the areas affected as may be in position to render service, on the part of the local interests, to cooperate to the very fullest extent within their power, be earnestly urged to exert themselves to the limit in advancing, by all possible means and at the earliest possible moment, any and every move necessary to circumvent delay or clear away all obstacles to the immediate undertaking of these badly needed projects. And since the Bureau of the Budget has recently recommended appropriations of $30,000,000 for the omnibus act and $22,500,000 for the Overton Act for the present fiscal year, and since these amounts fall so far short of what is needed for the purposes of these acts in the light of the fact that the recent record flood in the Ohio River, far exceeding the expected superflood estimate, thereby creating a most disastrous and hazardous condition in the lower valley, should the upper Mississippi River and its lower tributaries develop past record flood stages simultaneously with that of the Ohio River pending the installation and completion of the projects provided for in the said Overton Act; be it further

Resolved, That we earnestly urge that all the provisions of the said Overton Flood Control Act be speedily and fully carried out, without any changes or modifications, and that we voice the strenuous opposition being made by the landowners within the Eudora floodway area, to the idea of conveying said lands to the United States Government in fee, and insist that only flowage rights and easements be conveyed and granted, as provided for in said act, and that fair and just compensation be paid therefor in the amount as set up in said act, and on the basis as proposed by the Chief Engineer of the United States Army; be it further

Resolved, That official copies of this resolution be furnished to the Secretary of War; Chief Engineer, United States Army; President, Mississippi River Commission; United States district engineer, Vicksburg, Miss.; Board of State Engineers of Louisiana; Louisiana Flood Control and Water Conservation Commission; Mississippi Valley Flood Control Association; Senators OVERTON and ELLENDER, of Louisiana; Congressmen ALLEN and MILLS, of Louisiana; Senators JOSEPH T. ROBINSON and HATTIE W. CARAWAY, of Arkansas; Congressmen JOHN L. MCCLELLAN, JOHN E. MILLER, and KITCHENS, of Arkansas; Hon. ROYAL S. COPELAND, chairman, Senate Commerce Committee, Washington, D. C.; and Hon. W. M. WHITTINGTON, chairman, House Flood Control Committee, Washington, D. C.; and that newspaper publicity be given thereto.

Unanimously adopted April 15, 1937.

J. W. SUMMERLIN,
President, Tensas Basin Levee Board.

Attest:

H. A. MANGHAM, *Secretary.*

A true copy.
[SEAL]

H. A. MANGHAM,
Secretary, Board of Commissioners,
Tensas Basin Levee District.

The President Smiles and Smiles—The Taxpayer Worries and Worries

---

EXTENSION OF REMARKS
OF
HON. CLARE E. HOFFMAN
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Monday, May 3, 1937

Mr. HOFFMAN. Mr. Speaker, the President goes fishing. The worker digs for the tax money.

It was on October 19, 1932, that the President told us:

> Taxes are paid in the sweat of every man who labors. * * * Our workers may never see a tax bill, but they pay in deductions from wages, in increased cost of what they buy.

Comment on these self-evident truths is encouraged by the recent statement of the President of the great danger of inflation, which, he told us, was about to engulf us; by his statement that high prices, especially in durable goods, must be reduced, and that a continuously mounting deficit would plunge the Nation into bankruptcy—all of which some of us have been telling him for the more more than 3 years last past.

Well, here we are, on the broad and joyous road to bankruptcy, and what does the President do about it? He goes fishing, after suggesting that Congress neither appropriate nor authorize the expenditure of any sums other than those mentioned in the President's Budget.

His suggestion would be all to the good, if it meant anything, but it does not stop our trouble, for spending the sums mentioned in the Budget would still leave us in our tailspin into bankruptcy.

Just look at and analyze these figures:

This year the Treasury figures place our governmental expenses at	$6,147,024,503
Last year at this time they were	5,874,203,651
An increase in expenditures of	272,820,852

This with returning prosperity.

Oh, yes; we have been taking in more than before:

This year our receipts are	$4,036,540,530
Last year they were	3,294,674,339
An increase in receipts of	741,866,191

Last year the current deficit was $2,579,529,311. So far this year it is $2,110,483,973. This in spite of an income $741,866,191 more this year than we received last year. No one knows where the current deficit will be at the end of the year.

Now, get this statement, taken from the Treasury statement of April 24: Last year at this time the national debt was $31,436,531,536, but now it is $34,877,002,968. This, again, with returning prosperity and increased receipts.

Let me ask again, What does the President do about it? He goes fishing.

There is some cheer in the situation, however; some marks of repentance, for Republican leadership in the House has proposed a 10-percent cut on all items mentioned in the Budget. This would help some, and it would accomplish a saving, although comparatively small.

The other plan, which seems to have the support of the President, is for a 15 percent cut—that looks good (but is not)—with the 15 percent so cut impounded for a time, with power in the President to reallocate it to the various departments, which, being interpreted, means that Congress cuts from the Budget 15 percent of the total and places that 15 percent at the disposal of the President, to be spent as he suggests if and when he deems it necessary—and is only another political move. And, strange as it may seem, over in the Senate JOE ROBINSON, Democratic leader, has at last rebelled.

So now we have the anomalous situation of the Republican minority in the House, bent on economy, having its efforts supported by Democratic leadership in the Senate and opposed by a House majority and the President.

Who will win—the advocates of real economy or those who desire another slush fund in Presidential hands? Let the voters watch and learn.

In the Senate the President's plan was characterized as "czaristic" and a grasp for more power. It means more funds to spend, possibly in an effort to influence Senators in their voting on the Court issue.

April 28 the House Democratic majority insisted upon awarding George Cohan a $700 medal for writing the song Over There, which calls to mind that other song:

> Pack up your troubles in your old kit bag,
> And smile, smile, smile!
> What's the use of worrying?
> It never was worth while.

Which seems to be the President's motto now, as heretofore.

> He's left his troubles behind him—
> He's on his way to sea;
> He's left the paying of the debt
> To you, and you, and me!

Un-American Activities

EXTENSION OF REMARKS

OF

HON. WILLIAM H. SUTPHIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 3, 1937

ADDRESS BY HON. SAMUEL DICKSTEIN, OF NEW YORK, BEFORE THE STATE CONVENTION OF THE JEWISH WAR VETERANS AT ASBURY PARK, N. J., MAY 2, 1937

Mr. SUTPHIN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of the gentleman from New York [Mr. DICKSTEIN]:

For many months now it was my duty as a Member of Congress to address myself to the public and to the Rules Committee of the House of Representatives on a resolution to investigate all un-American subversive activities from within or from without. Very much to the regret of all fair-minded Americans, this resolution was defeated on the floor of the House at a time when the attendance was poor and no proper vote could be taken.

This country has for many years past been infested by foreign agents well supplied with money and subsidized from abroad, who are preaching nazi-ism, fascism, and communism, and who seek to impose an alien ideology upon our American people.

I showed repeatedly this alien menace and gave a very detailed story to Congress as to how well-organized propaganda from foreign sources is seeking to overwhelm the American democracy. I showed how printed propaganda is being disseminated in this country; how foreign agents go about our people preaching disloyalty to the Government and are undermining the democracy upon which our country was founded.

On this question no racial or religious issue is involved, and it makes no difference whether one is a Catholic, Protestant, Mohammedan, Jew, or follows no religion. It is purely an attempt to protect the American people from foreign intervention and to protect the American home directed by propaganda from foreign sources. I know this menace and I know this propaganda, not only because for years past it was a part of my official activity, but because I receive evidence almost daily of the fact that this menace continues unabated, and nothing is being done to prevent it. It is because of this continuous flow of propaganda and spy system which has been definitely established, and the unchecked manner in which it is spreading, that I made it my duty to advocate the proposed legislation on the floor of the House and in the Committee on Rules.

Patriotic organizations have repeatedly endorsed my proposed resolution, and all Americans who think that this country requires a vigorous defense of its institutions have supported me right along. I wish to mention the Veterans of Foreign Wars, the American Legion, the Spanish American War Veterans, and a number of State legislatures and other such organizations. The public is with me, I am sure.

A vigorous and energetic investigation will expose to our people all these groups which follow an alien ideology and seek to impose upon our people a form of government contrary to the spirit of America, and contrary to its democratic traditions.

I had hoped that a well-conducted investigation under the proposed resolution would expose all these nefarious groups and throw the searchlight on all subversive groups, so that we may clean house and rid this country of a menace that is being spread with the aid of foreign money and foreign countries.

The situation calls for drastic remedies, not because the menace is new but because this menace is continuing. When we see that men drill in foreign uniforms and take an oath of allegiance to a foreign ruler, and who continue to advocate fascism and other isms directed against our democracy, are we to sit back and say, "It can't happen here"?

With the world now being torn to pieces between fascism and communism, what is there that our American democracy can do to protect itself in either direction? Or are we to wait until the enemies of our form of government become so powerful that they will make it impossible even for the Congress of the United States to stem this menace?

Not only is this foreign propaganda directed against our American institutions, but it is also particularly venomous against our people and members of the Cabinet.

I have before me a great number of newspapers published abroad and sent to this country through the mails or smuggled in surreptitiously which does not stop at any amount of scurrilous and obscene slander directed against the head of this Government and the members of his Cabinet. In addition to this, prominent American citizens are villified on the pages of these so-called newspapers, magazines as well as pamphlets of all kinds which are being sent to this country from abroad.

The object of all this printed propaganda can be only to stir up trouble and dissatisfaction among our people, and to array one group of our people against the other.

We are not interested in how foreign countries choose to direct their own affairs at home. If they like the form of government under which they live, that is their own privilege. If they like to be curtailed in their right of free speech, free press and free public assembly, they are welcome to it. We do not wish to dictate to any nation how to govern itself, but if a foreign nation takes steps to cause dissatisfaction in the ranks of our own citizens, and seeks to undermine the foundations of our own Government, then it is up to us, Members of the American Congress, to take the proper steps to put an end to this menace.

Secret meetings are held at all times at which our Government is contrasted to the Government of that country in which our President is being ridiculed and our Congress maligned.

Every ship that comes to these shores carries a crop of agitators who promptly desert the ship and mingle with our people to engage in their subversive activities. Not only is propaganda distributed in the form of books and pamphlets, but also by the living voice of hundreds of agitators who travel up and down this country inciting to revolt and preaching sedition.

Evidence at hand proves that thousands of letters come into this country through the medium of the mails preaching the same doctrine of un-Americanism and the destruction of our cherished democratic institutions.

One of these foreign agitators boasts that he has an army of 200,000 men in uniforms who will take his orders and go wherever he directs them at any time. Shall we permit such an army to become a power within and fight against our very Government?

I, as a Member of the Congress of the United States, consider it my duty to open the eyes of the public to this continuous flow of propaganda. What do you want me to do? Shall I sit supinely back and watch the undermining of the very foundations of this country without lifting a finger? Shall I permit this unchecked and unbridled abuse of our right of free speech to destroy the very vitals of our Government?

About 2 years ago the House authorized an investigation by what was known as the Committee on Un-American Activities, of which the Honorable John McCormack of Massachusetts, was chairman and I was vice chairman. All we had then was about 6 months within which to make an investigation throughout the country. We found groups and organizations that were so subversive in their character and so un-American that to our way of thinking they were a load upon the American people. We filed our report, and the committee did not get any further time and did not ask for any further time to continue its investigation, because it was practically the end of that Congress.

Since that time many things have happened. We have had the Black Legion in Detroit. The same Black Legion has been organized in about 12 States of the country. We have had black-hooded wings and white-hooded wings and brown shirts and blue shirts and dirty shirts spreading throughout this country of ours, making the American people believe that they are so patriotic that in some instances they have contributed money to slaughter Americans because of these hooded wings in this country.

During the last campaign the same hooded men and women who are unpatriotic sent out a hate campaign against the President and other officials of the Government. They have appeared in their uniforms throughout the Nation attacking men and women who are loyal Americans. In the last year and a half or 2 years we have had all forms of organizations, which, to my way of thinking and, I am sure, to yours also, have been un-American.

When is the Congress going to put the searchlight of public opinion upon them? Can a country go on without determining who are the friends of America and who are the enemies of America? We have had all sorts of propaganda directed from within and from without the United States.

Uncle Sam has been so friendly that he has allowed almost everybody to hatch any kind of plot he may want in this country. You could not do in any other country in the world what you can do here in this respect.

When 4 years ago, on January 30, Adolf Hitler became Chancelor of Germany, a chill ran through the back of all friends of liberty and democracy; it meant the death of liberalism in a country which saw fit to associate with the progressive democracies of Europe since the armistice was signed in 1918. We had gone to war to make the world "safe for democracy", and we were definitely assured that with the passing of the Russian Czar, the Austrian Emperor, and the German Kaiser, a new dawn would arise for the suppressed peoples of Europe. And for a while after this event things seemed to point to a betterment of the standard of the common man in the former European autocracies, and it looked as though the world was coming to a new era of good feeling and liberalism.

Unfortunately, this condition of affairs was not to continue. One by one the democratic countries of the world were shedding their liberal constitutions and becoming a prey to dictatorships and oppression.

In Russia a liberal government was overthrown by the forces of the Bolsheviki, who establish what they choose to call a dictatorship of the proletariat, denying freedom to most of its citizens, and engaging in the ruthless suppression of free speech, free press, and free public assembly. A little later in Italy, under the guise of destroying communism, which was making headway in that country, a dictatorship was established under the name of fascism, which again suppressed the freedom of the Italian people, again suppressed the freedom of speech, of the press and public assembly. For a little while a Fascist dictatorship was also established in Spain. In Turkey a sort of "benevolent" fascism was introduced, while in other smaller countries there have been

rumblings of incipient dictatorships which have not fully come to fruition for some reason or other. But democracy as we understand it was definitely dispensed with. None of the European countries saw fit to continue under constitutions modeled after ours, making their people supreme, and defining the powers of government as we are accustomed to define ours. European traditions were decidedly against democracy.

Normally, of course, it would make no difference to us what form of government the European countries saw fit to adopt for themselves. After all, when we established the American Commonwealth there were very few democracies in this world. France had not yet established its first republic, and the only constitution of a European country which was at all comparable to ours was the constitution of the Swiss Confederation. So, of course, it makes no difference to us how European countries choose to govern themselves. If they like dictatorships, if they enjoy being suppressed in their most essential human rights, why, of course, that is their privilege. We have no concern with them, and we surely will not go to war to help them to alter conditions or maintain their existing organizations.

But while we disclaim all interest in their doings, and all interest in the form of government which European countries choose for themselves, we cannot lose sight of the fact that where a European country becomes a menace to our own people it is our duty to point out the fact to our public and take such measures as will protect our own people and our own democracy. It has become more and more apparent that the present rulers of Germany are stimulating within their borders those warlike activities which invariably lead a nation to a conflict with another.

If the public of a particular country is being imbued with a militaristic and aggressively offensive spirit of combat, sooner or later a spark will fly which will ignite a conflagration. And it is on this danger and menace to our people that I see fit to address you today, pointing out in no unmistakable terms how dangerous Germany's course is to the people of the world.

Germany has practically adopted a new religion. This religion contains but two dogmas: The first, hatred of religion, and the second, love of war. These two dogmas apparently go hand in hand, "and you cannot be a good German citizen today", as this term is understood by the master of Germany, unless you disclaim all religion and exalt the spirit of war.

In a sermon preached in one of the best-known Presbyterian churches in New York, the Fifth Avenue Church, the pastor, describing the present-day relation of church and state in Germany, has this to say:

"Little did we think at the beginning of the twentieth century that the church and state would become one of the paramount issues of the century. This question was settled for Christians 1,900 years ago when Jesus said: "Render, therefore, unto Caesar the things that are Caesar's, and unto God the things that are God's." These words acknowledge the fact that the state possesses certain rights over its citizens, but they also make it clear that there are bounds beyond which the state must not go in the coercion of Christian conscience. The principle enunciated by the Founder of Christianity denies the right of a totalitarian state to render the Christian Church impotent by making it merely the mouthpiece of dictatorial leaders. That is the religious issue which is paramount in Germany today.

"It has arisen very largely because of the tremendous hostility manifested toward Jews in the 25-point program of the Nazi party. A three-point program is being forced today on German Christianity; first, the test of Aryan blood applied to all who would qualify for membership or office in the Christian church; secondly, an attempt to suppress completely the Old Testament and to substitute for it Nordic myths and legends; and, thirdly, an attempt to alter the Christian conception of the universal fatherhood of God to that of God as father of the Aryan race, and especially the German section of it.

"The Christian church can never consent to the abolition of the Old Testament. That would mean the destruction of the foundations of Christianity, for it is inseparable from the glorious religious heritage of the prophets, lawgivers, and seers of the Hebrew race. If we were to attempt to divorce Christianity from the Old Testament revelation, it would mean that we would have to tear the name of Jesus from the Bible, for He was a first-century Jew."

The fight against the churches is one of the main theses of the German creed of today, and hand in hand with it goes the exaltation of war and all that it means.

Some months ago, one of the members of Hitler's Cabinet, General Goering, startled the world by announcing that Germany was going to produce more and more cannon and more and more bullets, and that the country would prefer "bullets to butter." He said, "Let the Germans tighten their belts and eat less butter", but do not let them deny themselves the privilege of manufacturing more guns and more armaments. This is the principal point in the new German religion. "By all means let us have armaments, by all means let us have the biggest military establishment in the world."

Germany feels that she can improve her economic condition by becoming the world's chief dealer in armaments. And it is a well-known fact that if armaments are sold by Germany that they will necessarily call for the assistance of German experts in their operation and German officials in their management. We cannot, therefore, sit by complacently and let Germany become the dominating factor in supplying all Europe with military weapons and organizing Europe in a military way.

We must destroy the poison of communism just as we are destroying the poison of fascism. The two are equally obnoxious to our democratic form of government, which guarantees to the humblest citizen the right of free speech, free press, and a free assembly; and we must not permit Fascist agents to tell us how to run our democratic Commonwealth. The danger of war forces us to go into a program of military expenditures, and, much as we dislike it, we must keep our Military Establishment in top-notch condition, lest the furore of war overwhelm our democracy and destroy our institutions.

The threat of war makes it necessary for us to marshal our resources in such a way that it will protect our own country if war should break out anywhere in Europe. We must not be dependent upon Europe's products for our living, and we must not permit anything in the world to violate our traditional neutrality if Europe sees fit to unleash the terror of war.

There are at present but three democracies which are able to stem the tide of war—Great Britain, France, and the United States. A few smaller countries can be depended upon to stay in the democratic group and keep away from war. These are the Scandinavian countries—Sweden, Denmark, and Norway—little Finland, Switzerland, Belgium, Holland and Czechoslovakia. Within these limits we must all work for the cause of peace; but whether we succeed or not we must not permit our American neutrality to be engulfed in the bloodiest conflict which threatens to destroy our civilization.

We are a neutral people—we do not want war—yet we are spending money for preparedness so as to have peace. Would it not be advisable for us to prepare likewise to have that sort of internal peace which will prevent foreign groups or groups influenced by foreign groups from undermining our Constitution.

Now, let me tell you, my friends, if you do not get behind your Senator or your Congressman, and have him do his duty in having the American Government protect itself for you against all these subversive attempts, we shall be very sorry indeed.

The Constitution and the Supreme Court

EXTENSION OF REMARKS

OF

HON. BERTRAND W. GEARHART

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1937

ARTICLE BY MR. EMORY RATCLIFFE, A MEMBER OF THE FACULTY OF THE FRESNO STATE COLLEGE AT FRESNO, CALIF.

Mr. GEARHART. Mr. Speaker, pursuant to the unanimous consent of the membership of the House, I am privileged to extend in the CONGRESSIONAL RECORD Some Observations on the Constitution and the Supreme Court, a paper which comes from the capable pen of Mr. Emory Ratcliffe, head of the social science department of the Fresno State College at Fresno, Calif. Because of his splendid contributions in the field of learning, his broad comprehension of public questions, his thorough mastery of the subjects he undertakes to discuss, Mr. Ratcliffe commands the respectful attention of thousands.

I am sure that his paper, which I now hand to the Public Printer, will be regarded by all of those who shall have the good fortune to read it as a most worthy addition to the fastly accumulating expressions apropos the great constitutional issue which now engages the attention of the country.

SOME OBSERVATIONS ON THE CONSTITUTION AND THE SUPREME COURT

Few times in our history have the Constitution and the Supreme Court been more in public view than at the present. Both have been questioned and criticized, and both have been just as warmly defended. Some of the criticism and defense have shown an understanding of the principles involved, while much of both have been put forth for purely partisan propaganda or with little appreciation of the place of either in our plan of government.

Perhaps it will clarify our discussion if we approach the subject from the following definite viewpoints: (1) What was the attitude toward the Constitution of the men who drafted it; was it a perfect document or one that would call for change as times and conditions changed; (2) was the Constitution the work of a certain economic group working more or less consciously for their own advantage as has often been charged; (3) was it understood at the time of drafting of the Constitution and when it was before the States for ratification that the Supreme Court would have the right to declare acts of Congress unconstitutional; and (4), in a Federal type of government, such as ours, is this a proper function of the Supreme Court?

The answer to the first is so obvious that it would not call for serious consideration were it not that so many of our papers are editorializing on it, that a Federal judge recently used it as his subject before the American Legion convention, and that officials, high and low, and propagandists from both sides have given it a place above its merit.

A sufficient answer is found in the fact that ample provision was made for amending the Constitution. If this were not sufficient it may be pointed out that 55 delegates attended the Constitutional Convention, only 39 of whom were willing to sign. Of those who signed, Franklin expressed the opinion of most when on that last day, in urging members to sign, he said:

"I confess that there are several parts of this Constitution which I do not at present approve, but which I am not sure I shall never approve. For, having lived long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions on important subjects which I once thought right but found to be otherwise. It is therefore that the older I grow the more apt I am to doubt my own judgment and to pay more respect to the judgment of others. In these sentiments, sir, I agree to this Constitution, with all its faults, if they be such, because I think a general government necessary to us; and there is no form of government but what may be a blessing to the people if well administered. I doubt, too, whether any other people's convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected?" [1]

"Gouverneur Morris said that he, too, had objections, but considering the present plan as the best that was to be obtained he should take it with all its faults." [2]

"Hamilton said no man's ideas were more remote from the plan than his were known to be; but is it possible to deliberate between anarchy and convulsion on one side and the chance of good to be expected from the plan on the other?" [3]

If this leaves any doubt that the members believed that their work was not perfection, then turn to the discussions in the State conventions, where every type of criticism, reasonable and unreasonable, was brought against it. That the Constitution proved so well adapted to the needs of the time astonished both its friends and enemies.

The second question, "Was the Constitution the work of a certain economic group working more or less consciously for their own economic advantage?"

Historians in various periods have shown a tendency to try to interpret history in terms of some one dominant factor. At one time we find history written from the point of view of the religious interest; at another time in terms of the political; and for some time, especially since Marx wrote Das Kapital, historians have seen the economic as the one great determining force, losing sight of the great fact that human behavior is always the resultant of a great complex of factors.

In the field of political writing, Prof. Charles A. Beard, some time professor of political science at Columbia University, is the leading exponent in America of the theory of economic interpretation. In a book entitled "An Economic Interpretation of the Constitution of the United States", he supports the theory that the Constitution was the work of the dominant economic class of the time working for their class interests. Professor Beard says that, in fairness to the fathers of the Constitution, one must admit that their attitude was a more or less unconscious one. To prove his point, Beard finds that the delegates in the Constitutional Convention were the bankers, plantation owners, ship owners, men interested in speculation in western lands, men who would profit by having the credit of the United States improved, lawyers, newspapermen, and leaders in politics of the time. It is true, of course, that these men were leaders in their several States in their lines, or they would not have been named as delegates to the Convention. But is this the whole story? Are we to infer that the various groups from which these men came were solidly back of them? The truth is there was a wide variety of opinion as to the problems of the time and as to whether the proposed constitution would contribute to their solution. In every community there were those who favored and those who opposed the Constitution. Some who favored were wealthy, some in moderate means, some were laborers; some who opposed were wealthy, some in moderate means, some were laborers. In Virginia George Mason, the outstanding slaveholder, opposed the Constitution and fought its ratification in his State. James Madison, a slaveholder, and with Jefferson, the founder of the Democratic Party, favored. The vote on ratification stood 89 to 79. Aristocratic land and slave holders will be found in each group; bankers, lawyers, and politicians lined up on both sides.

The same holds true with reference to the vote in New York. Chancelor Livingstone favored the Constitution; Governor Clinton was opposed. Aristocracy was found on both sides; so were merchants, farmers, sailors, etc. In Massachusetts the vote was very close. The small States—New Jersey, Delaware, Georgia, etc.—voted unanimously to ratify. Certainly the main reason was the feeling of security they had under the new Constitution. The security was not economic, but a feeling that under this Constitution there no longer was danger of being dominated and destroyed politically by their big neighbors. This idea was expressed by Ellsworth, of Connecticut, in the State convention:

"Union is necessary to preserve commutative justice between the States. If divided, what is to prevent the large State from oppressing the small? What is to defend us from the ambition and rapacity of New York when she has spread over that vast territory which she claims and holds? Do we not already see in her the seeds of an overbearing ambition? On our other side there is a large and powerful State. Have we not already begun to be tributaries? If we do not improve the present critical time—if we do not unite—shall we not be like Issachar of old, a strong ass crouching down between two burdens? New Jersey and Delaware have seen this and have adopted this Constitution unanimously." [4]

The Constitution as it came from the Constitutional Convention did not contain a bill of rights. This was an argument used by its opponents against ratification in the State conventions, and it is now cited as evidence that the framers were thinking in terms of their own selfish interests. This argument was answered by Governor Randolph in the Virginia convention, when he insisted that the people had all the rights they had previously had, and that the matter had not come up in the convention; that a bill of rights was not an essential part of a constitution; that six or seven of the States did not then have bills of rights, and that rights were no less secure in them because of the ommissions.

James Wilson, in the Pennsylvania convention, in one of the best, if not the best, dissertations on the Constitution ever written, also answered the charge, as follows:

"I am called upon to give a reason why the Convention omitted to add a bill of rights to the work before you. I confess, sir, that I did think that, in point or propriety, the honorable gentleman ought first to have furnished some reasons to show such an addition to be necessary; it is natural to prove the affirmative of a proposition; and, if he had established the propriety of this addition, he might then have asked why it was not made.

"I cannot say, Mr. President, what were the reasons of every member of that Convention for not adding a bill of rights. I believe the truth is, that such an idea never entered the minds of many of them. I do not recollect to have heard the subject mentioned until within about 3 days of the time of our rising; and even then there was no direct motion offered for anything of the kind. I may be mistaken in this, but as far as my memory serves me, I believe it was the case. A proposition to adopt a measure that would have supposed that we were throwing into the General Government every power not expressly reserved by the people would have been spurned in that House with the greatest indignation. Even in a single government, if the powers of the people rest on the same establishment as is expressed in this Constitution, a bill of rights is by no means a necessary measure. In a government possessed of enumerated powers, such a measure would be not only unnecessary, but preposterous and dangerous. Whence comes this notion, that in the United States there is no security without a bill of rights? Have the citizens of South Carolina no security for their liberties? They have no bill rights. Are the citizens on the eastern side of the Delaware less free or less secured in their liberties than those on the western side? The States of New Jersey, New York, Connecticut, and Rhode Island have no bill of rights. I know not whether I have exactly enumerated the States who have not thought it necessary to add a bill of rights to their constitutions; but this enumeration, sir, will serve to show by experience, as well as principle, that even in single governments a bill of rights is not an essential or necessary measure. But in a government consisting of enumerated powers, such as is proposed for the United States, a bill of rights would not only be unnecessary but, in my humble judgment, highly imprudent. In all societies there are powers and rights which cannot be particularly enumerated. A bill of rights annexed to a constitution is an enumeration of the powers reserved. If we attempt an enumeration everything that is not enumerated is presumed to be given. The consequence is that an imperfect enumeration would throw all implied power into the scale of the government and the rights of the people would be rendered incomplete. On the other hand, an imperfect enumeration of the powers of government reserves all implied power to the people, and by that means the Constitution becomes incomplete. But of the two, it is much safer to run the risk on the side of the Constitution, for an omission in the enumeration of the powers of government is neither so dangerous nor important as an omission in the enumeration of the rights of the people." [5]

He states further that throughout English history particularly bills of rights have been grants by King to people.

"But in this Constitution the citizens of the United States appear dispensing a part of their original power in what manner and what proportion they think fit. They never part with the whole, and they retain the right of recalling what they part with. When, therefore, they possess, as I have already mentioned, the fee simple of authority why should they have recourse to the minute and subordinate remedies, which can be necessary only to those who pass the fee, and reserve only a rent charge?

"To every suggestion concerning a bill of rights the citizens of the United States may always say, 'We reserve the right to do what we please.'" [6]

This line of reasoning, presented in other State conventions, did not satisfy many of the delegates, so as a result we find the

[1] Madison, Journal of the Constitutional Convention, p. 741.
[2] Madison, Journal of the Constitutional Convention, p. 745.
[3] Madison, Journal of the Constitutional Convention, p. 745.
[4] Elliot's Debates on the Federal Constitution, vol. II, p. 186.
[5] Elliot's Debates on the Federal Constitution, vol. II, p. 435.
[6] Elliot's Debates on the Federal Constitution, vol. II, p. 437.

Constitution was ratified only after its friends promised to help amend it at the earliest possible time. However, this did not mean what most people read into it today. In fact, it meant exactly the opposite. To understand the thought of the time, we must consider that liberty and decentralized government went together. Hence, the dread of a strong national government. Rights and liberties were safe only in State governments. Mason, of Virginia, said: "I believe this Constitution sets up a national government, and a national government tends to destroy liberty in a democratic government."

Smith, in the New York convention, said he considered the great interests and liberties of the people could be secured only by State governments. This idea ran through the discussion in all the State conventions. There were grave fears that the States would be overshadowed, if not destroyed. Today many are lamenting that the States were left so much power and that the National Government was not given more by the Constitution. The demand today is to make the Government more national and centralized—just the thing from which the anti-Federalists demanded protection.

To get the point of view of those who feared a strong national government, we should remember that these men had just been through the Revolutionary War, in which the issue was centralization or decentralization in government. King George and Parliament insisted that the British Empire was a unit with one lawmaking body for the whole. Parliament insisted on the right to legislate on "all matters whatsoever for all the Empire." The Americans insisted that there were a number of coordinate lawmaking bodies within the British Empire, each legislating for its own people—there was the Parliament in London, another in Massachusetts, another in Virginia, another in New York, etc. The bond of allegiance common to all British subjects was allegiance to the King, and not to Parliament. This was why in the Declaration of Independence Parliament is not directly mentioned and the King is made out a great scoundrel. We can see why men who had fought a war against centralization should hesitate to set up a strong national government.

While we do not wish to minimize the importance of the role played by economic interests, yet we state again that human behavior is the resultant of a complex of factors, and the Constitution was no exception to this principle.

The third question before us is, Was it understood at the time of drafting the Constitution and when it was before the States for ratification that the Supreme Court would have the right to declare acts of Congress unconstitutional?

It is sometimes stated that the fathers did not intend to give the Court this power and that it was slipped over on them by the committee on style when giving the Constitution its final form.

One matter that received long and earnest consideration in the Convention was how to maintain a proper balance between the executive and legislative branches of the Government. We find in Madison's Journal of the Constitutional Convention a very much abridged but yet the only account we have of the discussion within the Convention; that a lot of time was given to providing a proper check on Congress. Many suggestions were made. One was that the Court should have the right to pass on bills before Congress; another, that the Court, after Congress had passed an act, had the right to veto it; another, that the President and the Court together should have the right to declare an act void. These suggestions were all thrown out as being outside the proper field of Court action. It was agreed that the Court should stick to matters of a judicial nature. Madison was for limiting the power of the Court in cases arising under the Constitution to those of a "judiciary nature." He says:

"The right of expounding the Constitution in cases not of this nature ought not to be given to that department." [7]

This view, according to Madison's Journal, was agreed to. In other words, in the opinion of the members of the Convention, the Court was not to go outside its field and express opinions on pending legislation, but to act only as matters came before it in the form of cases.

Fortunately the matter is much clearer in some of the State conventions. In Pennsylvania, referring again to James Wilson, we find:

"There necessarily exists in every government a power from which there is no appeal, and which, for that reason, may be termed supreme, absolute, and uncontrollable. Where does this power reside? To this question writers on different Governments will give different answers. Sir William Blackstone will tell you that in Britain the power is lodged in the British Parliament; that the Parliament may alter the form of government; and that its power is absolute, without control. The idea of a constitution, limiting and superintending the operations of legislative authority, seems not to have been accurately understood in Britain." There are, at least, no traces of practice conformable to such a principle. The British Constitution is just what the British Parliament pleases. When the Parliament transferred legislative authority to Henry VIII the act transferring could not in the strict acceptation of the term be called unconstitutional.

"To control the power and conduct of the legislature by an overruling constitution was an improvement in the science and practice of government reserved to the American States.

"Perhaps some politician, who has not considered with sufficient accuracy our political systems, would answer that, in our governments the supreme power was vested in the constitutions. This opinion approaches a step nearer to the truth, but does not reach it. The truth is that in our governments the supreme, absolute, and uncontrollable power remains in the people. As our constitutions are superior to our legislatures, so the people are superior to our constitutions. Indeed, the superiority, in this last instance, is much greater, for the people possess over our constitutions control in act as well as right." [8]

Later on in his address Wilson says:

"This observation naturally leads to a far more particular consideration of the government before us. In order, sir, to give permanency, stability, and security to any government, I conceive it of essential importance that its legislature should be restrained; that there should not only be what we call a passive but an active power over it, for of all kinds of despotism, this is the most dreadful, and the most difficult to be corrected." With how much contempt have we seen the authority of the people treated by the legislature of this State, and how often have we seen it making laws in one session that have been repealed with the next, either on account of the fluctuation of party or their own impropriety.

"This could not have been the case in a compound legislature; it is therefore proper to have efficient restraints upon the legislative body. These restraints arise from different sources. I will mention some of them. In this Constitution they will be produced, in a very considerable degree, by a division of the power in the legislative body itself. Under this system they may arise likewise from the interference of those officers who will be introduced into the executive and judicial departments. They may spring also from another source—the election by the people, and, finally, under this Constitution, they may proceed from the great and last resort—from the people themselves. I say, under this Constitution, the legislature may be restrained and kept within its prescribed bounds, by the interposition of the judicial department. This, I hope, sir, to explain clearly and satisfactorily. I had occasion, on a former day, to state that the power of the Constitution was paramount to the power of the legislature acting under that Constitution, for it is possible that the legislature, when acting in that capacity, may transgress the bounds assigned to it, and an act may pass, in the usual mode, notwithstanding that transgression; but when it comes to be discussed before the judges, when they consider its principles and find it to be incompatible with the superior power of the Constitution—it is their duty to pronounce it void, and judges independent and not obliged to look to every session for a continuance of their salaries will behave with intrepidity and refuse to the act the sanction of judicial authority." [9]

Again, in the Virginia convention, John Marshall, in defending the Constitution against the ideas of the anti-Federalist, raised the question as to the protection of the Constitution against infringements, thinking also of infringements by the States. He says:

"To what quarter will you look for protection from an infringement on the Constitution if you will not give the power to the judiciary? There is no other body that can afford such a protection." [10]

In reading through the debates on ratification of the Constitution in the other States, one finds that the question of the judicial power of the new government received a great deal of consideration, but it is also difficult to find that exactly this issue was raised in them. We find practically every possible objection raised to the powers of the court and ably defended by its friends, but as to the exact issues of the right of the court to declare acts unconstitutional it seems not to have been presented in all.

The principle involved, however, was not an unfamiliar one to the men of that day. They were accustomed to having acts of their own legislatures declared void by the British Government. There were a number of such cases. That there was any question in the minds of the men who made and those who ratified the Constitution as to the right of the Supreme Court to declare acts of Congress unconstitutional, there seems to be no doubt.

As to our last question, whether in a federal type of government, such as ours, is this a proper function of the Supreme Court? When we consider the conditions that existed when the Constitution was framed and the thought of the time, it seemed very necessary that this power be lodged somewhere. The States had failed to live up to the Articles of Confederation; they had passed laws violating the articles; and there was no power to prevent State legislation from encroaching upon the powers of the central government. Again, in order to maintain the balance of power between the executive and the legislative departments it was necessary that there exist somewhere the authority to prevent each of these from getting outside of its field and encroaching upon the other. Fear of infringement upon their liberties and dread of tyranny was very prominent in the minds of the men who drafted the Constitution. Especially was there a dread of the tyranny in the legislative department. Some way, therefore, must be provided to keep the legislative department within bounds.

The method that was devised was that of permitting the Supreme Court, in the course of its work as a judicial body, to pass upon the constitutionality of acts of Congress and of the States.

Another problem that entered in, and enters into all federal types of government, is that of protection of the minority from the tyranny of the majority. Down through history, of course, there has been much more tyranny of majorities by minorities than of minorities by majorities. However, in the federal type of government the minority should have some way of protection of its interests. In other words, the legally constituted authori-

[7] Madison, Journal of the Constitutional Convention.

[8] Elliot's Debates on the Federal Constitution, vol. II, p. 432.

[9] Elliot's Debates on the Federal Constitution, vol. II, p. 445.

[10] Elliot's Debates on the Federal Constitution, vol. II, p. 554.

ties should be restrained from exceeding their rights in times of emotional enthusiasm and passing laws or performing acts contrary to the constituted rights of the minority. It may be pointed out that in France or Great Britain or some other republican type of government no such authority as that of our Supreme Court to declare acts of Congress unconstitutional is recognized. This is true; but it must also be recognized that these countries have a different type of government from that which we have; that there is not the problem of state relations with the federal government of the nature that we have, nor the separation of the powers within the federal government of the executive, legislative, and judicial departments as we have them. So long as we continue to have the present relationships between the Federal and State Governments and the division of powers just mentioned, the authority to prevent encroachments must be lodged somewhere; and the Supreme Court, acting within the field of its judicial interpretation, is, therefore, the natural and logical authority to prevent this act, and the power becomes a very necessary one in our form of government. Take away this power or make the Court subject to the will of the Executive and our federal form of government practically ceases to be.

Entrance and Clearance of Vessels by Customs Authorities

EXTENSION OF REMARKS

OF

HON. JOHN W. McCORMACK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1937

Mr. McCORMACK. Mr. Speaker, during the past 20 years or more it has been the practice at the port of Boston for the collector of customs to authorize a deputy collector to go on board vessels, usually large passenger vessels that only stay in the port for a few hours, to receive entrance and effect clearance from the master on board. This practice was in the public interest, as it permitted the master of the vessel to conclude necessary formalities with foreign consuls, stevedores, ship chandlers, towboat men, and pilots without leaving his ship. The expense of transporting the deputy collector to and from the ship, and the overtime, was always paid for by the vessel.

Some 20 months ago a special agent of the Treasury Department, in making an examination of the customs records at Boston, criticized that practice on the grounds that it was violative of the law which required the master of the vessel to make entry and clearance "at the customhouse." As a result of the agent's report, the Treasury Department issued an order requiring the local collector of customs to comply strictly with the wording of the statute in the future. The practice previously in vogue was then discontinued, and now the master of the vessel is required to make entry and clearance at the customhouse. In actual practice this results in a loss of time—from an hour to an hour and a half—in the turn-around time of these large passenger vessels at Boston.

The port of Boston is located in the great circle route between New York and European ports, and in late years it has been the practice for all the large combination passenger and freight vessels to serve New York as a terminal port, with Boston as a port of call for passengers and valuable express freight. Such vessels out-bound to Europe from New York call at Boston, and the same operation is performed inbound, in that they stop at Boston for a few hours en route to New York.

In view of the fact that by far the larger number of the passengers on these vessels are either taken aboard at or are destined to New York, they naturally complain of any great delay at Boston. In fact, we have been advised by officials of the steamship lines that if they cannot make a quick turnaround at Boston they will be compelled to eliminate the Boston call. We have, as a compromise measure and in view of the fact that it will give us at least 90 percent of what we want, agreed to have this authorization for a deputy collector to receive the master's entrance and effect clearance on board the vessel limited to nights, Sundays, and holidays, and such arrangement has been approved by the United States Department of Commerce and the Treasury Department.

Practically all the large vessels of the Cunard, White Star, Anchor, Italian, and United States Lines arrive or depart from Boston either on a Saturday or Sunday, and the compromise arrangement referred to is acceptable to them.

No doubt the fact will be stressed that the law permits the mate or chief officer of the vessel to act in place of the captain with respect to entry and clearance, but in view of the fact that the chief officer, who is the executive officer of the ship, has many duties to perform in connection with the docking or undocking of a large passenger vessel, there is always a considerable period of time after the vessel is docked before he is prepared to leave for the customhouse. Another point is that quite often these vessels are delayed by fog, and the Government employee is required to await the vessel's arrival in the customhouse, sometimes waiting there hours for such arrival, whereas under the old method the local agents of the vessels would arrange to send a taxi to his home to transport him to the pier when the steamer was actually reported off quarantine, which would be about an hour to an hour and a half before the actual docking.

It is very necessary for all the reasons above enumerated that this law be amended to take care of what I can frankly admit is a situation peculiar only to the port of Boston. This situation does not obtain at any other port, as it would not be practical to operate large and fast passenger vessels from New York to Europe via, for example, the ports of Philadelphia, Baltimore, or Norfolk.

Relief Appropriations and Unemployment

EXTENSION OF REMARKS

OF

HON. ROBERT G. ALLEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1937

RADIO ADDRESS BY HON. ROBERT G. ALLEN, OF PENNSYLVANIA, ON APRIL 25, 1937

Mr. ALLEN of Pennsylvania. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech which I delivered recently over the radio:

Good afternoon friends in Westmoreland County. Several days ago President Roosevelt submitted to Congress his estimates for the amount of money which will be necessary to carry out work relief and direct relief during the next fiscal year. The amount of money asked for is far below that which is necessary to give relief and work to the unemployed. In his message President Roosevelt urged strict curtailment of Government expenditures, and asked for governmental economies all along the line. At the same time President Roosevelt suggested that there would be no further taxation unless absolutely necessary, and he repeated that his general policy would be to balance the Budget based on present income. I am in accord with the President's general proposal, but not at the expense of the unemployed. I am just as anxious to balance the Budget as any other man in America. I, too, wish to see Federal expenditures cut down, and I yield to no man in my desire to eliminate the waste which exists in our Government. It is my opinion, however, that we cannot balance the Budget at this time without imposing higher taxes on those who are able to pay them and upon those who are receiving the benefits of our present business prosperity. I, for one, am determined to vote for the necessary amount of money which will provide jobs for our unemployed and relief for those who are out of work. I, for one, am still unwilling to balance the Budget on the basis of present income at the expense of human beings whose sole means of livelihood is either work relief or direct relief. Millions of dollars can be saved in Washington today by eliminating useless agencies, by stopping duplication of effort, and by pumping energy into a sluggish bureaucratic machine. Why, then, start an economy program by cutting relief appropriations when relief is still needed badly? I do not think that is right.

In my opinion the time has come when we must cease treating the unemployment problem in America as an emergency measure. The hour is here when we must formulate sound, long-range

policies to take care of those men and women whom private industry has failed to absorb. Please consider with me for a moment the problem which confronts us today. We are still faced with the horrible spectacle of poverty and destitution in the richest nation on the face of the earth. We are enjoying in America today an industrial boom; factories are working full time and in many places at full capacity. Profits are mounting with leaps and bounds and at least one group of our people is as prosperous as in 1929. Alongside this bright picture, however, there is a darker one, which is far more important. In a nation where business prosperity has returned there are still 10,000,000 men and women unemployed in private industry. There are approximately 6,000,000 more who are working part time and at wages so low that if they were to lose their jobs tomorrow, they would immediately be forced to demand relief or starve. Buying power in America is already beginning to lag; labor and the white-collared groups are rapidly nearing the point where their income is insufficient to buy back the goods which they produce. Although our national income has increased during the past year, our Budget is still out of balance. In other words, our great economic problem has not been solved.

What are we going to do about it? That is the question. President Roosevelt has tried to solve the problem by insisting that industry shorten the hours of work, increase wages, and lay less emphasis on profits. Business for the most part has refuted his policies and his attempts to better the conditions of the unemployed and the working people in America have been thwarted.

I have heard it proclaimed by business leaders in America that they could easily absorb the unemployed and that they could expand their business, but that they lacked faith in Roosevelt and the Democratic administration in Washington. They say they are afraid of the unbalanced Budget, and because of the uncertain future they will not increase their program. Well, that may be true, but nevertheless I, for one, would meet their challenge. I know as well as you do that an unbalanced Budget is an unhealthy thing. I know that any man who spends more each month than he earns invites uncompromising bankruptcy, and so it is with a nation. Crying for a balanced Budget alone, however, is somewhat like planning to swim where there is no water. Balance the Budget, they say. Fine, but what are we to do with the unemployed and those who are on relief is my reply. We simply cannot provide relief or work for the unfortunate people of America and balance our Budget based on present income. Now, I have a suggestion that I would like to make. I would call the industrial leaders of America to Washington and I would speak to them in this fashion. Yes; we will balance our Budget just as rapidly as you restore our unemployed men and women to their rightful jobs. Yes; we will curtail all this so-called reckless spending little by little each month as we see you putting men back to work. Yes, we will relieve you of all oppressive taxes just as rapidly as you remove the cause of these taxes, and just as quickly as you erase from the economic picture the need for relief. I would remind these industrial leaders that they control within their own hands the jobs of millions of our people. The people of America have no place to turn today for work except to private industry, the farms, or as a last resort to the Federal Government. The only real answer to the unemployment problem is work in private industry. Budget or no Budget, it is the responsibility of our industrialists to put men back to work at steady jobs at high wages and under decent working conditions.

It can be done, and it must be done. I would place this whole matter squarely in the hands of our industrial leaders to solve, and I would promise to do the things which I mentioned above just as rapidly as they in turn fulfilled their own responsibility by giving jobs to the unemployed. Well, that is fair, is it not? What plan could be more cooperative, and what more could our business leaders demand?

Then, at the same time, I would say to big business, if you fail to absorb our unemployed under these conditions, you yourselves will have to pay the cost of relief. If you fail to assume the responsibility which is yours, the Government must assume it for you by providing work and relief for the unemployed in America and you must pay the bill. As long as there is a man or woman in America who wants to work and is unable to be absorbed by private industry, then the Government must provide work for them, but not at an ever-increasing unbalanced Budget. Big business, which has fought off every attempt to shorten hours and increase wages and lower selling prices, must shoulder additional taxes in order to provide work. In this way the Budget will be balanced, but at the same time the unemployed will be adequately cared for. I, for one, place human rights, the right to work, the God-given right to earn one's daily bread, above everything else. In my opinion, there is nothing more pitiful than strong, independent men and women begging for work. The American people do not want charity, they do not want relief; but they do want the opportunity to earn three square meals a day, and as far as I can give it to them they are going to get it.

I said a moment ago that business profits have mounted rapidly during the past 2 years. Industrial activity is approaching 1929 levels, but again I sound this warning—10,000,000 men and women are still jobless. In 1935 profits in industry increased 50 percent, and in 1936 profits increased another 50 percent. Compared with these figures, wages increased in 1935, 5 percent and in 1936, 7 percent. This is an alarming situation. That is the kind of recovery we have today, however. It is no real recovery at all, and before long we will fall headlong into another depression unless the present trend is stemmed immediately. Profits are not everything. As a matter of fact, they are very material, and they mean little where fundamental human rights are concerned. If the battle cry of American industry would be "Employment and high wages" instead of "Profits, and still more profits", America would be better off; the unemployed would be at work, and the Budget could be brought into balance. The real way to balance the Budget is to emphasize steady employment at high wages; and again I repeat, it can be done and must be done. I am going to make a statement at this point which is drastic, but I mean every word of it, and I do not want to be misunderstood. The excessive business profits of the past 2 years, which I have just described, are false profits. They are not real; and, above all, they are not justified. Who is there whose conscience is so case-hardened that they can say such profits are warranted when one-fourth of our labor force is still unemployed? Where is the man or woman who will publicly proclaim that such profits are justified when they relegate millions of our people to relief? It is my firm conviction that those profits should be taxed heavily and the proceeds should be used for further W. P. A. and for relief appropriations.

Unemployment in America a direct charge against industry. I would like to compare this situation with that of a man who tears up half his bills at the beginning of a month, and when he has paid only half of them, looks at his bank balance and tries to kid himself into believing that he has saved a lot of money. The business leaders of America are fooling themselves today when they think they are making profits and saving money. They have merely torn up a huge bill which is directly chargeable to them and they have thrown it in the wastepaper basket. That bill is the responsibility for giving 10,000,000 people a chance to earn a decent living.

It is so pitifully easy to see what all this is leading to. Those who cry for balanced budgets on the one hand are perfectly right when they warn that financial collapse is inevitable if we continue to spend more than we take in. On the other hand those who demand that the unemployed be cared for as a first consideration are likewise right because social collapse will follow if a large portion of our population is left destitute and to starve without relief. There are only three answers to unemployment that I know of, and in all my discussions and in all my reading I have yet to find the man who can offer any other alternative. Either a man works and he lives, or he receives relief and he exists, or he starves and he dies. As long as I am your Representative in Congress, my fight first and foremost will be to provide jobs for the unemployed that they may live. Failing to do that, I will fight for relief that they may exist until such time as our economic order is brought into a more perfect balance. Never will I permit my people to starve and die, and that is exactly what will happen if Congress does not appropriate adequate funds.

The Constitution was written—and I quote from it—"To establish justice, to insure domestic tranquillity, and to promote the general welfare." If these constitutional promises are to be made vital, if they are to really mean something, then our Government must safeguard the rights of our citizens when private enterprise fails to do so. In closing, let me say that I do not wish to offend any group, nor am I antagonistic toward any class of our people. I am trying to represent all the people in my district fairly and without prejudice. When I see one large group, however, whose interests are in danger, it becomes my immediate duty to stand in their defense. Yes; the Budget must be balanced, but not at the expense of the unemployed. If it cannot be balanced, based on present income after all possible economies in Government have been realized, then additional taxes must be levied on those who are best able to pay them and on those who are receiving the full benefits of our present prosperity. Those who are unemployed through no fault of their own must be provided for. That is justice.

The Constitution, Congress, the President, and the Supreme Court

---

EXTENSION OF REMARKS

OF

HON. CHARLES J. COLDEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1937

Mr. COLDEN. Mr. Speaker, one of the solemn moments in the life of a Representative in Congress is at the beginning of each term, when he stands before the Speaker of the House with his right hand raised and takes the oath of office:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservations or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

As one who has taken this oath, I believe it my duty, as a patriotic citizen and as an official, to maintain both the

letter and the spirit of the Constitution of the United States. I believe in the wisdom and the integrity of the framers of this outstanding document. I consider it a framework designed to guide the governmental and political policies of our Federal Government, with due respect to the rights of the States, and primarily to the people who comprise our Nation.

BACK TO SCHOOL DAYS

One of the early lessons in civil government was to commit to memory the preamble of the Constitution of the United States. These are significant words:

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

The Constitutional Convention emphasized "we, the people", and wholly ignored in the preamble the 13 States as 13 nations or units of government. The use of the term "general welfare" signifies again "a more perfect union" of all the people of the 13 States. The preamble clearly defines the purpose of the Constitution as an instrument "to secure the blessings of liberty to ourselves and our posterity." The purpose of the Constitution is set forth as a governmental framework to serve and to promote the welfare of the people. The language is plain, the meaning clear and unmistakable. The spirit of the opening paragraph of the Constitution prompts the thought frequently stated that the Constitution was made for men, women, and children, and that the people were not made for the Constitution.

The inference is just as clear that the framers intended that the three branches of Government—the legislative, the executive, and the judicial—should be coordinated—that is, cooperative divisions of government—that it was never intended that one branch should supersede the express authority of the other two, or that either should set aside acts of Congress. I dare say this is the interpretation that the average citizen places upon this great document. Furthermore, in order to fully carry out its mandate, we must always remember the purpose and the spirit of the Constitution aside from its mere mechanical letters and paragraphs.

WHAT THE CONSTITUTION SAYS

Following the preamble stating the purpose of the Constitution comes article I. It is significant that this article, which is the very first part of the body of the Constitution, begins as follows:

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

It seems logical that the very first part of the Constitution should deal with the legislative branch, because it is certain this branch is really the heart of every free government; it is the branch that springs directly from the people; it initiates the functions of the Constitution; it is the policy-making body of the Federal Government. "All legislative powers" are conferred on Congress; and this alone excludes court legislation. Congress controls the Nation's finances, fixes taxes and all appropriations, and establishes all salaries, and thereby enables the executive and the judicial branches to function.

The following articles governing the executive and judicial departments do not confer upon either of these branches of the Government the power to make laws. It is also noticeable that the Members of the House of Representatives serve but a short term of 2 years, strictly for the purpose of representing public opinion. It was undoubtedly the plan of the framers of the Constitution that the House of Representatives should speak the will of the people. It alone was to be selected by them. The Presidents are not directly selected by the people, as are the Representatives, but by electors from the several States; originally the Senators were elected for a period of 6 years by the legislatures of the several States; and the judges of the Federal courts, none of whom are elected, but all are appointed by the President to hold offices "during good behavior." It is clearly evident that it was intended that the House of Representatives should be the direct agency of the people.

THE HOUSE THE VOICE OF THE PEOPLE

In section 2 of article I, you will also find this significant language, "and shall have the sole power of impeachment." Thus, the House is clothed with the power to impeach, not only the President of the United States and his Cabinet officials but also the Judges of the Supreme Court and other Federal judges scattered throughout the land, and when impeachment proceedings are prosecuted by the House the Senate sits in judgment as a jury and acts judicially. Again another significant power is placed in the House of Representatives.

Section 7, article I, states: "All bills for raising revenue shall originate in the House of Representatives." One major reason our forefathers fought for freedom was because of "taxation without representation." This clause indisputably places the power to raise taxes in the House of Representatives. It is true the Senate must concur and may amend, and the President may veto, but the placing of this signal and fundamental responsibility on the House of Representatives indicates that the framers of the Constitution had no thought that the House of Representatives and the Senate should hold an inferior place in the scheme of government.

Section 8 of article I relates that—

The Congress shall have power to lay and collect taxes, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States.

The preamble declares the "general welfare" to be one of the purposes of the Constitution, and then, in the above clause, delegates to Congress the power to provide for the general welfare. In the A. A. A. case the Supreme Court has stricken out of the Constitution this power of Congress to legislate in behalf of the "general welfare."

THE PRESIDENT AND CONGRESS

Article II of the Constitution deals with the Executive power. It makes the President the Commander in Chief of the Army and Navy of the United States, but it leaves to the Congress the power to declare war and to levy taxes and to provide the men and the equipment necessary. While the President may veto an act of Congress, the act may be passed over the veto of the President by a two-thirds majority, leaving the final determination with the law-making branch.

The President has the power to make treaties, but he must have the concurrence of two-thirds of the Senators. The President may appoint ambassadors, other public ministers, Judges of the Supreme Court, Federal judges, attorneys, marshals, and postmasters, and others, but they also must be confirmed by the Senate; all of which indicates that the executive department is in no way superior to the legislative branch of the Government, but is very much dependent thereon.

THE CONSTITUTION AND THE COURTS

Article III, section 1, states:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Congress is empowered to establish by law the number of the Judges of the Supreme Court. This number has been changed from time to time. A story in rhyme was recently published showing the various changes in the number of Judges:

1789: Congress decided at first to fix
The number of Justices at six.
1801: Congress planned on a change to five,
But the six remained very much alive.
1807: Six high Judges, supreme as heaven—
And Jefferson added number seven.
1837: Seven high Judges, all in line—
Two more added, and that made nine.
1863: Nine high Judges were sitting when
Lincoln made them an even ten.
1866: Ten high Judges, very sedate;
When Congress got through there were only eight.
1869: Eight high Judges who wouldn't resign;
Grant brought the figure back to nine.

Article III, section 2, defines the judicial power of the Supreme and the Federal courts. In no place is there any direct language or any implied language that places the Federal courts above the other branches of the Government. In no place is there anything to indicate by word or implication that the Supreme Court has the power to set aside, to veto, to annul, acts of Congress.

JUDGES DENIED THE VETO

In considering this phase of the question it is interesting to note that four times during the Constitutional Convention resolutions or motions were submitted proposing a qualified authority in the Supreme Court to veto the acts of Congress, and in each case, four times, the Convention rejected granting even a limited jurisdiction to the Supreme Court for such vetoes.

The Librarian of the Library of Congress has kindly furnished me with photostatic copies of the proceedings of the Convention covering this momentous action. The first motion was considered and rejected on Monday, June 4, 1787; the second on Wednesday, June 6; the third on Saturday, July 21; and the fourth on Wednesday, August 15. The Convention sat for 116 days, from May 25 to September 17, 1787. The day fixed for the meeting of the delegates was May 14, but a quorum had not arrived until May 25.

WHEN THE TROUBLE BEGAN

We learn from history that the power of the Judges to set aside the laws of Congress was first asserted by Chief Justice Marshall in the famous Marbury against Madison case, 1803. Here the Supreme Court went beyond the real issue of the case to assert a very seriously challenged opinion. History records that Jefferson desired to impeach Justice Marshall for this astonishing decision. Not until 54 years after, 1857, did the Supreme Court further usurp the power to nullify an act of Congress, the famous Dred Scott decision. In recent years the Court in many decisions has reasserted this extraordinary power.

Congress apparently did not realize the magnitude of this growing usurpation through a long period of years, or was indifferent and took no action to reassert its power and to curb the growing menace of the courts. The executive department, through various Presidents, did make protests, but the encroaching power of the Federal courts marched on and on.

The powers conferred upon the Federal courts are included in two short sections—1 and 2 in article III—and in this brief statement concerning the Supreme Court we find this very significant language:

> In all the other cases before-mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

To the layman this appears to give Congress unmistakable authority over the jurisdiction of the Supreme Court in the cases that appear before that tribunal by way of appeal.

WHAT THE FOUNDERS INTENDED

A calm consideration of these quotations from the Constitution indicates that it was the purpose of its makers to provide for three branches of government: First, Congress to make the laws, including laws for the general welfare; second, that the function of the executive department is to enforce the laws; third, that it is the duty of the Judges to interpret the laws. But there is no authority to indicate that the wise men of 1787 intended that the Supreme Court should either annul the acts of Congress or that it should build up social and economic policies that should practically govern the American people.

It is undoubtedly the province of Congress to enact the laws under the general welfare clauses to carry out the mandate which was originally placed in the Constitution. Let us read a very significant paragraph in section 8 of article I of the Constitution—mark these words carefully:

> Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

This clause, when it is interpreted by a layman and divested of legal quirks and entanglements, would indicate clearly that Congress is the supreme authority, if there is any superior authority to be exercised by any of the three branches of the Government.

WHAT THE BRITISH DID

It is also a matter of significance that the framers of the Constitution were familiar with the English law, had been born under it, had lived under it, and drew heavily on that source of knowledge. The British Parliament has asserted its supremacy for centuries over all courts, and one of the startling events of English history was the hanging of a disreputable judge of the high court and others driven out of office. No such power as exercised by the Supreme Court of the United States exists in any other great power of the world.

Under the British system the House of Commons has widened its powers until it is the supreme branch of the Government today. The House of Commons, like the House of Representatives, is an expression of the public will. No court can annul the acts of the British Parliament. The King has not dared to exercise the veto for more than a century. If the House of Lords fails to approve a bill passed by the House of Commons, upon a second passage the bill becomes a law in spite of the cpposition of the House of Lords. In the United States a reactionary Supreme Court has retarded the progress of democracy, but the British House of Commons has been one of its leading promoters.

Under our system Justice Roberts possesses more dictatorial power than anyone in America, and by his single vote, swinging from side to side, has ratified or rejected the acts of Congress, and there is no appeal from his decision.

LET US LOOK AT THE RECORD

Mr. Speaker, let us review some of the historical decisions of the Supreme Court. It is not my purpose to enter upon a technical discussion; my viewpoint is not legalistic, not hair splitting, but an expression of ordinary common sense; and my appeal is to the minds of men and women of the homes of America. What we need in America is less courthouse sense and more common sense. This is not to reflect on lawyers dealing with real courthouse subjects, the private relations and the private controversies of citizens. The Constitution is not a private document but an institutional statement, to be construed by the lawmakers and the people for whom the laws are made. Shall the lawyers' opinion on the subject alone prevail? A lawyer's opinion! Of which one of their own number once said:

> We lawyers are often in error, but we are never in doubt.

THE MIDNIGHT JUDGES

First, permit me to call your attention to the abuse of the Federal courts by John Adams in the appointment of the "midnight judges." President Roosevelt's battle to reorganize the Federal courts is a repetition of the historical battle made by Thomas Jefferson. Jefferson succeeded John Adams, a Federalist. The Federalists had lost the election and proved to be bitter-enders. After the election the Federalists, on the 13th of February, in a "lame duck" Congress, just a short time before they were to surrender the Government to Jefferson on March 4, 1801, passed a bill which established 6 Federal circuit courts and 16 separate district courts.

There were six Judges on the Supreme Court at that time, and one was in poor health. In order to prevent Jefferson from appointing a judge to the Supreme Court the act passed by the Federalists also contained a provision:

> That from and after the next vacancy that shall happen in the said Court it shall consist of five Justices only; that is to say, of one Chief Justice and four Associate Justices.

Not only did the Federalists create judgeships throughout the country but they also created the offices of 42 justices of the peace in the District of Columbia.

Jefferson and his followers were greatly incensed at this "lame duck" action. The last days of John Adams' administration were occupied by his appointment of Federalist par-

tisans to fill the newly created judgeships, continuing into the night previous to the day on which he was to go out of office. Because of this, these judges have gone down in history as the "midnight judges."

JEFFERSON BATTLES WITH JUDGES

After his inauguration Jefferson and his followers attempted to undo the partisan scheme of John Adams. The Federalists were accused with creating these new judgeships for the purpose of taking care of favored partisans, as well as to block the liberal program of Thomas Jefferson. The act passed by the Federalists was revised. This program of Jefferson brought down severe and violent criticism upon him. He was denounced in terms that sound strangely similar to those now applied to President Roosevelt.

The Jeffersonians passed an act abolishing the new June and December terms of the Supreme Court and restoring the old February term, but not the old August term, thereby forcing the adjournment of the Supreme Court for 14 months. This was an unusual situation in that the legislative department of the Government suspended the functioning of the Supreme Court for more than a year in order to prevent the nullification of legislation enacted affecting it. This authority of Congress was recognized, posterity accepts it and acclaims Jefferson for his liberalism.

For this reason the Marbury against Madison suit, filed in December 1801, did not come up for decision before the Supreme Court until February 9, 1803. This suit was brought to force James Madison, Secretary of State under Jefferson, to deliver a commission to Marbury, one of those appointed as justice of the peace in the District of Columbia by Adams, 4 of the 42 commissions not having been delivered when Jefferson became President. Jefferson characterized the suit as a political expedient to use the courts to interfere with executive prerogatives.

The opinion of the Supreme Court as handed down by Chief Justice Marshall was to the effect that while Marbury had a right to his commission, the Supreme Court had no constitutional right to issue a mandamus to a member of the executive branch of the Government, needlessly adding that the act of Congress authorizing writs of mandamus by the courts was itself unconstitutional. This opinion was history-making in that it was the first pronouncement of the power of the Supreme Court to declare acts of Congress unconstitutional. The joker in the decision was that the Supreme Court went beyond the petition for a mandamus and erected a legal superstructure to override the legislative branch of Government and usurped a power nowhere granted in the Constitution and, as previously stated, four times denied to the Court by the Constitutional Convention.

JUDGES CAUSE CIVIL WAR

Another disastrous decision was in the Dred Scott case. Congress had enacted the Missouri Compromise, which established a dividing line between free and slave States. By setting aside this act and making legal the moving of slaves into free States the Supreme Court destroyed the effort of Congress to settle this very controversial question. Abraham Lincoln stated that he proposed to reverse this decision. No President has been more emphatic in his determination to overturn a decision of the Supreme Court, and the decision was reversed by 4 years of the bloodiest war in which this country has been engaged—a war that cost half a million lives, destroyed thousands of homes throughout the Southland, and left the Southern States ravaged by war, some parts of which have not fully recovered even to this day. The Supreme Court was reversed as to Dred Scott, but at what a tragic cost. Instead of recognizing the right of Congress to legislate, the Supreme Court overrode the lawmaking branch of the Government, but the Supreme Court will never outlive the reproach of the decision that brought such a bloody tragedy.

GRANT REVERSES THE COURT

Who will say that the Missouri Compromise was not a wise and beneficent act in itself? Who will point to any act of this Congress which the Court has nullified and show it to be unwise before all men? What laws unmistakably bad have been stopped by this Courthouse veto? Not the laws which gave away to looting millionaires, the racketeering speculators, the lands, the timber, the minerals, and the oil of the Republic. No bad laws favoring special privilege have been vetoed by the courts. But pause and consider the general-welfare laws the courts have killed or emasculated.

The Supreme Court decided against the greenback, the money that had won the Civil War. It was a decision not in the interest of the people but a decision that unjustly profited the bankers, the money lenders, and those who speculated in the money and credit of the Government. The decision was an immoral one in that it violated the faith of the people in their Government, while it robbed the poor and enriched the lenders and the exploiters. General Grant reversed this decision by adding two additional Judges. Who is so bold as to call President Grant a dictator, a Communist, and to reproach the Congress of that day by calling it a rubber stamp?

The action of Jefferson in ridding the country of the midnight judges of John Adams, the righteous indignation of Lincoln at the Dred Scott decision, the action of Grant in reversing the former decision of the Supreme Court on the greenback—all have been vindicated by time and have the approval of posterity.

JUDGES GOOD TO THEMSELVES

Another outstanding decision of the Supreme Court was on the income tax. It was first decided that the income tax was constitutional, then a Supreme Court Judge changed his mind, and it was reversed, and the act of Congress was declared unconstitutional. It required 13 long years before the sixteenth amendment to the Constitution was ratified, making the income tax legal.

Amendment XVI of the Constitution says:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived.

But what has the Supreme Court done? It has decided that Congress has no power to tax the salary of a Supreme Court Judge. Note the fact that the sixteenth amendment adopted February 25, 1913, plainly supersedes the original language of the Constitution. A majority of the Judges, with one hand on their pocketbooks and the other hand held up, swearing to observe the laws of the United States and the preservation of the Constitution, remove themselves beyond the pale of the Constitution itself as amended by the sixteenth amendment.

During the black days of March 1933, when the Nation was plunged into the depths of the depression, the Government itself facing a deficit of approximately $5,000,000,000, every bank with closed doors, fear and panic knocking at the door of every home, the Economy Act was passed cutting the salary of all Government officials 15 percent. Did the Supreme Court yield to the dire needs of a desperate hour? No. But they solemnly decided in their supreme wisdom that the Economy Act, like the income-tax law, was for others alone and not for them.

The Supreme Court again defied the sixteenth amendment by deciding that stock dividends were not income. This decision is one of many in which the power of economic might has overthrown the natural and human rights of the helpless masses, who have no high-priced and high-powered attorneys to plead their cause in the high-cost courts of the land. In spite of the plain language of the income-tax amendment, the Supreme Court has exempted holders of Government bonds and State and city bonds, and State, city, and county officials from paying an income tax. Excepting judges of the Federal courts, all United States Government officials, including the President and Congressmen, pay income tax on their salaries without deductions for items of expense.

JUDGES AMEND SHERMAN LAW

The Sherman antitrust law was passed years ago to throttle combines, trusts, and monopolies. A decision of the Supreme Court added the word "unreasonable" before combinations and trusts and thereby pulled the teeth of the law. The decisions was followed by the most gigantic combinations of capital, the fixing of prices, and the monopolization of

materials and products the world has ever witnessed. These ruthless corporations have flooded the Nation with watered and worthless stocks that have swindled the investor, wiped out his savings, and robbed the widow, the orphan, and the consumer. These gigantic aggregations of unearned wealth subsidize newspapers, corrupt public officials, and buy outright scholarly puppets to spread poisonous propaganda in the school, the forum, and the pulpit, and defy the law.

JUDGES REFUSE WOMEN AND CHILDREN RELIEF

There are other well-based criticisms of the Supreme Court. It annulled the National Recovery Act, an act of Congress to regulate hours and wages and the employment of children, on the ground that it was an invasion of State rights, but very inconsistently it also declared unconstitutional the New York State law to regulate the hours and wages of women and children. These decisions have but one interpretation. The Court apparently believed that no authority should protect the women and children from the greedy employers of this country. In so doing the Supreme Court violated the very purpose of the Constitution as stated in the preamble.

During this year, under the fire of an indignant Nation, the Supreme Court has reversed its former unfavorable decisions on State control of wages for women and children and collective bargaining. This is an apparent bending to public opinion. In these decisions one judge—Roberts—reversed his former decision and thereby reversed the decision of the Supreme Court itself.

DECISIONS FAVOR CORPORATIONS

The courts have said much about the right of contract, and frequently have decided that humanitarian and salutary legislation is unconstitutional. What better proof have we that the Supreme Court is utterly out of touch with modern problems when it balances a hungry mother and child or a father asking for decent wages on one side of the scale of justice and on the other the powerful Steel Trust, the coal baron, the Power Trust, Telephone Trust, and other great monopolistic enterprises of the country? The father with a family to support, the mother with hungry mouths to feed have no choice, have no opportunity, when individually forced to treat with the greedy captains of modern industry.

In numerous cases the Supreme Court and the inferior Federal courts have denied the States the rights to tax and regulate monopolistic enterprises within a State, denied the rights of States to regulate utilities and other enterprises, and have denied the right of municipalities to purchase utilities when opposed by the greedy power companies. The use of the injunction has struck at the very heart of organized labor when attempting a redress of wrongs in its battle with the economic royalists and the overlords of industry. Recently a power company of the South sought an injunction against the Tennessee Valley Authority, a Government agency producing and selling cheaper power. A petition was filed with a Federal judge and the injunction was denied; the Power Trust attorneys raced to another State and sought another Federal judge. For some unknown reason they withdrew this petition and then raced to a third Federal judge, who granted the injunction. The Power Trust shopped around until it found a favorable court. Where were "we the people" in this procedure?

Federal judges declare a law of Congress unconstitutional and issue an injunction. This edict may be issued out on the prairie of Minnesota, down in the canebrakes of Louisiana, or out in the remote sections of the far West. No notice is given to the Government, no representative from the Attorney General's office has an opportunity to defend. The program of the Federal Government may be thwarted, a great public project may be stopped at great expense to the public. Instances of this are so frequent that a very grave public doubt has arisen in the public mind as to the integrity of many of our Federal courts.

PERVERTING AN AMENDMENT

The "due process of law" clause—ominous words—in the fourteenth amendment was added to the Constitution for the purpose of protecting the former slaves freed by the Civil War. "Due process of law" today is the refuge, the hiding place of the great outlaw corporations which flee from the righteous indignation of a robbed and despoiled public. This mantle of protection, designed for the helpless and downtrodden, has been perverted by the Supreme Court into a cloak of mail to defend and to protect special privilege against the wrath of outraged victims.

Many believe the Federal courts have become the last citadel of reaction and the last trench of corporate greed. Senator NORRIS once said:

The people can change Congress and the President, but only God can change the Supreme Court.

Chief Justice Hughes is accredited with the saying:

The Constitution is what the Supreme Court says it is.

James M. Beck, a great constitutional lawyer, formerly a Member of Congress, said on the House floor:

The Supreme Court is a continuous constitutional convention—

thereby meaning that the Court is constantly framing the opinions and the policies of the individual Members into the fundamental fabric of the Nation. These are a few reasons why Congress should reassert its authority and curb the usurpation of the Supreme Court. Congress has too long suffered these offenses of Federal judges.

Mr. Speaker, I agree with many of my colleagues that a constitutional amendment is desirable giving Congress unquestioned jurisdiction to regulate interstate commerce, transportation and communication, industry and labor, agriculture, social and economic security, public health and general welfare. I would add another defining the jurisdiction of the Supreme Court over acts of Congress to a unanimous or three-fourths decision, and limiting the term of a Federal judge to 10 years.

PRESIDENT'S PLAN CONSTITUTIONAL

The President's program is clearly within the Constitution and the power of Congress. Only a long train of abuses which have contributed much to the disrepute of the courts has brought this question squarely to an issue. If the will of the people is to be considered the supreme law, the arbitrary action of the courts must be controlled that democracy and the general welfare survive. Liberty itself is endangered. In these days of industrial and financial domination liberty requires economic independence and social security.

The present hysteria against the President's program is based not upon a proper interpretation of the Constitution but upon the bias and the prejudice and the partisanship of the bitter-enders. All sorts of epithets are hurled at the President and his program; the mails are heavy with denunciations, on the one hand, and pleadings on the other, demanding that the President's program be thwarted. In many respects it seems to be a repetition of the bitter campaign of 1936.

ROOSEVELT NOT A DICTATOR

What are the President's purposes in this judicial program? Is the President asking for any power to be conferred upon himself for his personal benefit? He is asking that six more Judges may be appointed, but for what purpose? Is it not to give decent hours and wages to men and women, and does he not desire to eliminate child labor from the sweatshops in the land? Is he not endeavoring to give the farmer a living price for his products? Is he not merely trying to reverse the decisions of the superannuated Judges, who have made it impossible to carry forward a liberal and progressive and humanitarian program? Is he not merely trying to bring relief and recovery from the swamp of despair in which we have sunk in the days of the depression? Is he doing more than to seek a remedy for the ills of a mechanical and monopolistic age? Is he doing more than cure an economic malady that has sentenced one-third of our population to being ill-fed, ill-clothed, and ill-housed? Has he any purpose but to promote the general welfare? Is he asking for more than to curb the greed of the overprivileged? Is he unconstitutional because he desires to give the forgotten man a place in the sun? Is he a dictator because he believes all men should enjoy "the abundant life"? Is he doing more

than to achieve the mandate of the people in the election of 1936? Are not these the very objectives found in any humanitarian interpretation of the Constitution? Is the President not seeking only to carry out the general-welfare clause, to live up to the spirit that was breathed into this great document by its founders?

UNPACK THE SUPREME COURT

As I interpret the Constitution, I see no danger of a dictatorship, and I do not fear any abuses from the President's proposal. On the other hand, I do see an opportunity to unpack a Supreme Court that has already been packed and stacked by men who were born and reared in the tallow-candle and coal-oil lamp days, the "horse and buggy" days, and a majority of whom have reached affluence and fame as attorneys for railroads, banks, street railways, and other great corporations of the land. The exceptions are few and outstanding.

Who that thinks without bias can question the right of the President to recommend and the power of Congress to enact laws within the Constitution? The President and Congress have a mandate direct from the people to correct the abuses and the unfair practices of this industrial age. There is no doubt as to the will of the people. President Roosevelt was elected by the largest vote and the largest majority in the history of the country, 46 States for him, but 2 against him. The Democratic Party enjoys the largest membership in Congress of any party in the history of the country. Back of the President and Congress is a vast majority of the people who voted for a liberal, progressive, and humanitarian program. It was their verdict, evidenced by an avalanche of ballots, that they wished that this Government should go forward with the President and Congress, and not stand still or move backward with a reactionary majority of the Supreme Court. Is it not a disappointing spectacle for five old men—and in some cases one old man—over 70 to defeat the will of a vast majority of the people and thwart remedial and progressive processes of government?

The President's program offers the shortest route and the quickest relief. It offers an opportunity to carry out into law the decisive mandate given last November. It will enable the President and Congress to act not in the years to come but now. Why wait? The delay of social justice and economic security threatens the orderly processes of government, our democratic institutions, and our domestic peace and tranquillity. A vast number of American people under exasperating circumstances have been exceptionally patient, charitable, and long-suffering. Our aid has been temporary. We have afforded palliations but few cures. We must embark on new seas, in new experiments, to meet new emergencies. Ours is a mighty task. The responsibility faces us today and not tomorrow. The Constitution directs us to "insure domestic tranquillity."

"RUBBER STAMPS" OR TRAITORS

The same partisans that attack the President impugn the motives of Congress and denounce the Members as "rubber stamps"—malicious words. The Members of Congress were elected on the same platform with the President and have voted consistently for better wages, shorter hours, the elimination of child labor, relief for the farmers, homes for the mothers and food for the families, and have been sustained overwhelmingly in that record. Those who call Members of Congress "rubber stamps" only wish them to desert the leadership of the President, to scuttle the ship of state, and to be traitors to the humanitarian principles of government and to the general-welfare mandate of the Constitution. "Dictator", "communism", "rubber stamp", are but empty words cast by partisans who would destroy not only the program of the New Deal, but the very essence and the spirit of the Constitution itself. To stand firm, to support the President, to be loyal to our party and our principles, and be called a "rubber stamp" is a far more honorable cause than to yield to envious and partisan criticism and become a betrayer of our party and its brilliant and humanitarian leader and a repudiator of our solemn pledges to the people.

Mr. Speaker and Members, I desire to repeat, "The Constitution was made for men and men were not created for the Constitution." This is a parallel of the answer to the critics by the great Teacher that "the Sabbath was made for man and not man for the Sabbath." That to secure these rights—life, liberty, and the pursuit of happiness—governments are instituted among men, deriving their just powers from the consent of the governed, is as politically sound and as patriotically true today as it was when penned by Thomas Jefferson in the Declaration of Independence. The mandate of the American people overwhelmingly expressed both to the President and to Congress is, "Forward march!"

Let us not be deceived by the din and the dust and the clamor against the amendment of the Supreme Court. Special privilege has been driven to the last stronghold. Rugged individualism is battling furiously to hold its domination. It would hold from us economic democracy and social justice and security. The Constitution, Congress, the President, even the reluctant Supreme Court, are servants of "We, the people", "deriving their just powers from the consent of the governed." We are the people and the common good must prevail. The brotherhood of man, the rights of humanity, the spirit of democracy as embodied in the Constitution and as exemplified in the principles of Christianity, far outweigh the partisan and the reactionary opinions of the Supreme Court. "Equal rights to all, special privilege to none", is the golden rule of government and the fundamental principle of democracy.

Second Deficiency Appropriation Bill

EXTENSION OF REMARKS

OF

HON. RICHARD B. WIGGLESWORTH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1937

Mr. WIGGLESWORTH. Mr. Speaker, in the course of my remarks on February 3 on the independent offices appropriation bill I stated that the record before the Appropriations Committee raised the question in my mind as to the extent and value of the functions of the Tariff Commission under present conditions and policies, mentioning, among other things, that the State Department and the Committee on Reciprocity Information seemed to have taken over the work of the Commission in large measure under the present policy of tariff reduction.

I call the attention of the committee in this connection to the testimony on behalf of the State Department in the hearings on this deficiency appropriation bill, commencing on page 239. The testimony indicates that the State Department desires to maintain a Division of Trade Agreements with a personnel of 90, 24 of those included in the Division to receive annual salaries of $4,600 or more, the annual cost of the Division being estimated at $265,540. The appropriation of the Tariff Commission for the fiscal year 1938 provides for a personnel of 316 and amounts to $945,000.

I desire also to call attention in passing to the second largest item in the bill, the item of $15,000,000 for work in connection with the refunding of processing and related taxes. Hundreds of millions of dollars in taxes of this character were imposed under legislation subsequently declared or repealed in the belief that it would be declared unconstitutional. Congress then determined that these taxes should be refunded, but only on condition that the claimant should affirmatively prove that it had been impossible to pass the burden of the tax along to someone else. As a result, we are confronted by possible claims under the Agricultural Adjustment Act, the Cotton, Tobacco, and Potato Acts, estimated as amounting to over a billion dollars. For the administrative work in this connection, the Bureau of Internal Revenue believes it will require a force of 2,282—1,078 departmental and 1,204 in the field—at an annual cost of over

$6,000,000, the time involved for adjusting the claims being estimated at not less than 5 years.

One other item may be mentioned, the item of $488,500 appearing on page 25 of the bill for transportation of foreign mails. The purpose of this appropriation is to provide an additional subsidy for the Pan American Airways Co. and the Pan American Grace Co. for air-mail contracts on two new services in South America. The additional subsidy is designed to make possible two planes a week on two new routes, one from Arequipa, Peru, to La Paz, Bolivia, to Buenos Aires; the other from Rio de Janeiro to Asuncion, Paraguay, to Buenos Aires. The two companies referred to now receive subsidies amounting to $7,800,000 in respect to Mexican, Central American, South American, West Indian, and trans-Pacific service. The reasons impelling a majority of the subcommittee to approve this item are embodied in the statement of the Assistant Secretary of State, Mr. Moore, on page 637 of the hearings.

My chief purpose at this time, Mr. Chairman, is to place myself squarely behind the proposal of the gentleman from New York [Mr. TABER] to request the President of the United States to submit to Congress revised Budget figures for the fiscal year 1938, with specific recommendations for such reductions in contemplated items of expenditure as he may deem essential or advisable under existing conditions. This seems to me the orderly, direct, and effective approach to essential economy. The gentleman from New York [Mr. TABER] has introduced a resolution to carry this proposal into effect. Prior to the announcement of its introduction I had, myself, introduced a resolution with the same general purpose in view.

The public debt now amounts to some $35,000,000,000. Deficits incurred for the 4 years ending June 30 next will, in all probability, amount to some $14,000,000,000. Prospective expenditure under the regular appropriation bills for the fiscal year 1938 indicates an increase as compared with that for 1937 amounting to some $500,000,000. Pending legislation understood heretofore to have the general approval of the administration calls for expenditure over and above Budget items amounting to several billions of dollars. Bills introduced in the Senate and House are authoritatively stated to call for an aggregate expenditure, if enacted into law, amounting to $190,000,000,000. The gravity of the situation produced by the spending policies of the administration, the dangers inherent in those policies for every man, woman, and child in America need no emphasis. Proper economy has long been essential. Unjustifiable expenditure must be eliminated. The President himself has recognized the fact.

How is proper economy to be achieved? It can be achieved, in my judgment, if the administration will oppose the enactment of further legislation which the country cannot afford; if it will defer expenditure under existing legislation which can well be postponed; if it will indicate specific reductions in proposed items of expenditure which it believes to be essential; if it will urge the elimination of undertakings by the National Government which are inadvisable under present conditions.

Take the matter of postponement of expenditure under existing legislation. The principal item in the bill before us is the item to provide for expenditure by the Tennessee Valley Authority. As reported by the committee, the item includes an appropriation of over $40,000,000, a further appropriation of receipts from all sources estimated as amounting to over $3,775,000, and authority to incur obligations for the procurement of equipment for dams and power-houses to the extent of $4,000,000, a total of, say, $48,000,000.

Here is an undertaking contemplating, in the name of navigation and flood control, the construction of 12 great dams on the Tennessee River and its tributaries at a cost of well over half a billion dollars. Here is an undertaking contemplating in the name of the disposal of power, incidental to navigation and flood control, the construction of power-houses, substations, generators, and so forth, and the installation of a great system of transmission lines at a cost of many millions of dollars. Here is an undertaking spending millions of dollars on a fertilizer and soil-conservation program from which to date the farmers of America have apparently received little or no benefit. Here is an undertaking spending hundreds of thousands of dollars on a wide variety of activities, including regional studies, experiments, and demonstrations, among them studies of "population, distribution, and trends", "urbanism", "recreational developments", "social and economic changes and the migration of population", "interregional competition and the national interest", and other similar matters.

The record indicates that 7 of the 12 dams are partly or wholly constructed. Construction on the other five dams, however, estimated to cost over $232,800,000 has not yet been commenced. The record also indicates, as compared with a present maximum system demand of about 110,000 kilowatts, a present firm power capacity—60 percent load factor—of some 260,000 kilowatts and a present installed capacity of about 350,000 kilowatts. It further discloses an inability or unwillingness to indicate the new transmission lines contemplated or the power facilities available or utilized at this time at any of the points to which these lines may be constructed. The amount to be expended on new construction, on additional electrical transmission and generating equipment, on fertilizer experimentation, on regional studies clearly can and should be determined as a matter of policy in the light of the present fiscal situation.

The same question of policy presents itself in respect to the great reclamation projects in the field of the Interior Department calling for vast expenditure. However desirable, the time and extent of construction can and should be determined in the light of the condition of the Treasury.

A few days ago the House passed the largest appropriation bill for the Department of Agriculture in the history of the country. Included in the bill were appropriations or reappropriations aggregating $500,000,000 for soil conservation. This provision was made despite the fact that payments in this connection during the first 9 months of the current year were said to have amounted only to about $200,000,000 and despite the statement of the chairman of the subcommittee in charge of the bill on the floor of the House that no contracts had yet been concluded in respect to the fiscal year 1938.

I shall not take time to elaborate. No one, I think, can successfully challenge the statement that many hundreds of millions of dollars can be saved, and saved fairly, through a program of resisting new expenditure which we cannot afford, of postponing expenditure which can well be deferred, of reduction in other contemplated items of expenditure, of elimination of undertakings which cannot at this time be justified. To continue with waste and extravagance is impossible if the millions of men and women who labor in this country are to be saved from want and suffering.

The Budget for the fiscal year of 1938, and the recommendations of the President in this connection submitted to Congress in January, were based on estimates of revenue and expenditure which have proved to be erroneous. The estimates of January appear in April to have been in error to the extent, admittedly, of over $700,000,000. The financial position of the Federal Government is worse to that extent than it was represented to be 3 months ago. Obviously the President would not make today the recommendations made in January before the $700,000,000 error came to light. Manifestly his recommendations at this time would carry with them the greatest possible weight in Congress.

If proper economy is desired, the place to begin, in my judgment, is in revised Budget figures for the fiscal year 1938. The orderly way to bring about that revision is by consideration of amended recommendations from the President of the United States in the light of existing conditions. I hope that the Congress may have the benefit of such recommendations at an early date.

Farm Tenancy in the United States

EXTENSION OF REMARKS
OF
HON. JOHN E. MILLER
OF ARKANSAS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1937

SPEECH OF HON. CARL E. BAILEY, GOVERNOR OF ARKANSAS, ON FARM TENANCY IN THE UNITED STATES, DELIVERED APRIL 29, 1937, BEFORE THE CHAMBER OF COMMERCE OF THE UNITED STATES IN WASHINGTON, D. C.

Mr. MILLER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech on Farm Tenancy in the United States, delivered April 29, 1937, before the Chamber of Commerce of the United States, at Washington, D. C., by Hon. Carl E. Bailey, Governor of Arkansas:

I should like to emphasize in the beginning that I am not committed to any such fallacy as that farm tenancy is a relationship which should be entirely abolished. As a matter of fact, in the very nature of human differences, it is impossible to achieve a condition under which every tiller of the soil will be capable of farm ownership and management. Farm tenancy is a condition which can be and must be improved if our civilization and our political and economic systems are to survive. Farm tenancy is a heritage which has created new problems principally because of the fundamental differences in farm tenure in the United States and land tenure in other economic, political, and social systems throughout the world. The problems created by our system of land tenure have grown to their present magnitude and complexity with the growth of the Nation. They cannot be solved with a wave of the hand or a stroke of the pen.

The attack on these conditions is no class war, and neither is there any element of racial prejudice involved. It is the beginning of a siege which may require several generations of effort for successful conclusion. A few years, even a few months, ago it would have been politically suicidal for a State official to discuss the problems which form the subject of my talk to you on this occasion. He would have been played into the attitude of a demagogue stirring racial prejudice and arraying class against class. State officials were expected to deny the existence of any bad conditions within their respective States and meet with a blast of demagoguery every effort to identify bad conditions and inaugurate efforts to correct them. It would be politically perilous now for a State official to participate in this effort if the national administration were not providing the leadership. It would be futile, too, because State tax income is not sufficient to sustain any worth-while corrective program, and inherent interstate relationships of floods, erosion, immigration, and emigration are insurmountable barriers to State effort.

Throughout the history of mankind spectacular incidents have been the means by which public attention has been focused upon conditions which needed correction. Recently, incidents have occurred in my State which, though rather sordid and of more infrequent occurrence than total eclipses of the sun, have been distorted by the metropolitan press into lurid stories which have had the effect of centering national attention upon the evils of farm tenancy. Social and economic conditions in the metropolitan areas need correction too. But instead of nursing resentment at those who have chosen to exaggerate the condition in Arkansas and sulkily indulging the recrimination that "your condition is worse than ours", Arkansas is seizing the opportunity to take the lead in cooperating with the National Government in starting a long-range program for the improvement of farm tenancy. We hope history will give us a kind page for our effort.

There is some difference in farm-tenancy conditions in Arkansas, and the South generally, from the conditions to be found in other parts of the Nation. The percentage of tenancy is greater in the South and Middle West than in other sections of the United States. However, excluding sharecroppers, the percentage of tenants in the South is less than in all other parts of the country except New England.

Percentage of tenancy, excluding sharecroppers, by geographic divisions, 1935

	Percent
New England	23.2
Middle Atlantic	58.0
East North Central	59.9
West North Central	49.8
South Atlantic, East South Central, West South Central	40.9
Mountain	64.0
Pacific	41.9

Tenancy in the Nation has been increasing for several decades in practically all States except the Northeast, although from 1930 to 1935 the percentage decreased slightly in cotton-growing States. It has increased in the United States from 25.6 percent in 1880 to 42.0 percent in 1935, and the indications are that it will continue to increase unless drastic steps are taken.

Percentage of tenancy, by geographic divisions, 1880–1935

	1880	1890	1900	1910	1920	1930	1935
New England	8.5	9.3	9.4	7.0	7.4	6.3	7.7
Middle Atlantic	19.2	22.0	25.3	22.3	20.7	14.7	16.3
East North Central	20.6	22.9	26.3	27.0	28.1	27.3	29.4
West North Central	20.5	23.0	29.6	30.9	34.0	39.9	42.6
South Atlantic	36.1	38.5	44.2	45.9	46.7	48.2	46.3
East South Central	36.8	38.3	48.2	50.7	49.7	55.9	54.8
West South Central	35.2	28.6	49.1	52.8	52.9	62.3	59.5
Mountain	7.4	7.0	12.3	10.7	15.4	24.4	26.6
Pacific	16.8	14.7	19.7	17.2	20.1	17.7	21.2
United States total	25.6	28.4	35.3	37.0	38.1	42.4	42.1

The percentage of tenant farmers is greater in Mississippi, Georgia, Alabama, Louisiana, South Carolina, and Oklahoma than in Arkansas.

Percentage of farms by tenure, Southern States, 1935

	Percent
Mississippi	69.8
Georgia	65.6
Alabama	64.5
Louisiana	63.7
South Carolina	62.2
Oklahoma	61.2
Arkansas	60.0
Texas	57.1
North Carolina	47.2
Tennessee	46.2
Virginia	29.5

Furthermore, the condition of tenants in Arkansas is better than in some other sections of the South. A recent study of plantations by the Works Progress Administration shows that on the average there are more tenant houses painted and screened in Arkansas and the number of occupants per room is less than in other parts of the South. Also, the average net income for all plantation workers in Arkansas is approximately the same as throughout the South.

Factors of living standard of tenants included in a survey, 1934

[Landlord and Tenant on the Cotton Plantation, Works Progress Administration Research, Monograph V, 1936, pp. 224, 225, and 226]

States	Occupants per room	Houses screened	Houses painted
Alabama	1.49	26.1	13.2
Arkansas	1.29	59.1	19.0
Georgia	1.30	21.0	16.1
Louisiana	1.33	30.8	11.2
Mississippi	1.19	29.7	11.0
North Carolina	1.23	33.7	28.0
South Carolina	1.27	22.1	18.0
Average	1.30	30.2	16.8

Income: Average for South, $309; average for upper Delta, part of which is in Arkansas, $338; Arkansas River, altogether in Arkansas, $245 (p. 220, appendix, table 38).

(2) If we wanted to excuse the evils of farm tenancy in the South we could truthfully say that many of them are inheritances from that tragic incident in our national history referred to generally as the Civil War. Until the abolition of slavery no such problems existed as now confront the agricultural South. Upon the liberation of thousands of slaves, the South found in its midst human beings who had no place made for them in the economic scheme. At the same time landowners, stripped by the ravages of a fierce warfare, found themselves with lands and no manpower to cultivate them. Sharecropping, in that situation, was a happy device for both the freedman and the impoverished landowner. The landowner provided the land, seed, and implements and the liberated slave provided the manpower for planting, cultivating, and harvesting. Each took as his compensation an agreed portion of the crops. This relationship survives, though it by no means constitutes the major part of the farm-tenancy problem. Through the years this type of contract has been adopted by more and more tenants until today a majority of the sharecroppers are white persons.

An improved relationship between landlord and tenant is the share-renter relationship. The share renter furnishes labor and varying parts of the seed, feed, livestock, fertilizer, and implements. The landlord furnishes the land. The share renter gets a proportionately larger portion of the crop as his compensation.

The highest type of landlord and tenant relationship is the one in which the tenant pays to the landlord a stipulated amount of cash for the use of the land.

I outline these general examples of tenancy relationship as a preface to the thought which I desire to express—that it is not

my purpose to cooperate in a crude program of merely buying land at public expense to be given to sharecroppers. The purchase of desirable lands with public funds to be resold to selected purchasers on reasonable terms, and the retirement from cultivation of submarginal lands is only one phase of the larger program which is advocated by the President's Farm Tenancy Committee, of which I have the honor to be a member. As a matter of fact, the owner-operators are themselves victims of the present maladjustments in our social and economic systems. A large majority are under heavy debt, many operating without adequate profit, and substantial numbers operating at actual loss. Certainly, it would serve no useful purpose to transform tenants into the status of owner-operators if owner-operators themselves occupy an unsatisfactory status. As a matter of fact, a corrective program must include improvement of status for owner-operators and reduction of absentee landlordism.

It is a trite but appropriate axiom that a chain is no stronger than its weakest link. Agriculture is a link in our social, economic, and political chain. Its problems must be solved if the chain is to remain intact. When there yet remained vast expanses of unoccupied land on this continent for exploration and development, when all available manpower had employment, by reason of smaller population and the need for manpower created in building an empire and stretching its boundaries to the last limit, there were no such problems as exist in our national life today not only in relation to agriculture but in relation to every other phase of American life.

To quote from the report of the President's Committee on Farm Tenancy, the farm-tenancy problem in brief is that "Half a century ago one of every four farmers was a tenant. Today two of every five are tenants. They operate land and buildings valued at $11,000,000,000. For the past 10 years the number of new tenants every year has been about 40,000. Many change farms every 2 or 3 years, and apparently one out of three remains no longer than 1 year. Thousands of farmers commonly considered owners are as insecure as tenants, because in some areas the farmers' equity in their property is as little as one-fifth. Fully half the total farm population of the United States has no adequate farm security."

The farm groups found now to be insecure are—

1. Tenants.
2. Sharecroppers.
3. Farm laborers.
4. Families on submarginal lands.
5. Families on holdings of inadequate size.
6. Owner-farmers hopelessly in debt.
7. Farm young people unable to obtain farms.

TENANTS

A large proportion of those classified as owners occupy only a slightly different status to that of the tenant because of mortgage indebtedness. Taking operating farmers as a whole, it has been estimated that their equity in the lands which they operate is little more than one-fifth; the other four-fifths belongs to landlords and mortgagees.

SHARECROPPERS

The relation of landlord and tenant is generally unsatisfactory to both landlord and tenant, though in practically every general area there are individual instances of satisfactory relationships. Thirty-nine percent of all tenants in the southern cotton and tobacco areas are sharecroppers. They operate 716,000 farms, which is 10 percent of all the farms in the United States.

FARM LABORERS

In the Cotton Belt farm laborers do not constitute a major problem now, but according to the census of 1930, more than 25 percent of all persons gainfully employed in farming throughout the Nation were farm wage laborers. Migrations induced by dust storms and floods of recent months have added somewhat to the percentage in the Southwest this year.

FARMERS ON SUBMARGINAL LANDS

Submarginal lands are lands which, because of long-continued misuse or natural conditions, cannot be made profitably productive by either owner or tenant. It is estimated that more than 500,000 farm families occupy such lands. The total number of farm families in the Nation is about 6,500,000.

FAMILIES ON HOLDINGS OF INADEQUATE SIZE

A large number of farm families occupy holdings which are inadequate in size to support them, whether they be landlords or tenants. This condition is of noticeable importance, though there seems to be no very accurate estimate of the actual numbers so situated.

FARM FAMILIES HOPELESSLY IN DEBT

Thousands of farm families are hopelessly in debt. This condition exists for a number of reasons. They contracted to pay too much for their holdings, the rates of interest are impossibly high, or the debt is repayable in too short a period. Without relief for the predicament of this group they are likely candidates for a lower status.

FARM YOUNG PEOPLE UNABLE TO OBTAIN FARMS

Paradoxical as it may seem, it nevertheless is a fact that there are thousands of young people trained for agricultural pursuits by experience or by a course of study in agricultural schools who find it impossible to establish themselves in agriculture. These are a potential increase to industrial unemployment or will be added to the already too large lower classifications of farm tenure groups.

The causes of these insecurities may be summarized as:

(1) Economic maladjustment.
(2) Defective land and credit policies.
(3) Fee-simple ownership of lands.
(4) Credit disabilities.

The effects of these causes and conditions are:

(1) Soil erosion.
(2) Social decay.
(3) Shifting and shiftless population.
(4) Low standards of living.

ECONOMIC MALADJUSTMENTS

The floods and dust storms of recent and recurring experience constitute superloads to the strain of the general economic situation on our land tenure system. Let it not be imagined, however, that increase in the evils of farm tenancy can be charged exclusively to either or all of these experiences. The rate at which the number of those in lower farm tenure classification has increased, and the rate at which the number of those in the owner-operator classification has decreased, has continued unabated since 1880.

These experiences, however, have served to emphasize certain basic weaknesses in existing systems of land tenure. It is now perfectly clear that farm security cannot be accomplished by so simple a gesture as changes in the land tenure system and the correction of credit disabilities and revision of credit policies, unless at the same time agriculture is equitably balanced with other elements in our national life.

In my opinion, national policies, shaped to create conditions that bring about price levels for agricultural products which are proportionate to those of other commodities, are proper and necessary. Any national policy, also, which will operate to stabilize price levels will have a noticeable tendency to prevent the costly and painful recurrence of forced farm mortgage liquidations which inevitably follow speculative land booms.

I am by no means committed to the idea that general improvement in the economic position of agriculture will eliminate all tenancy difficulties. In order to readjust our traditional methods of holding lands and our attitude toward property in land substantially more than mere attainment of equality of income for agriculture must be accomplished. Increased income and easy credit will not of themselves eliminate the ignorance, malnutrition, morbidity, social discriminations, and low standards of living by which many farm families are now handicapped.

DEFECTIVE LAND AND CREDIT POLICIES

The Government, in large measure, is responsible for defective land and credit policies. In some regions the homestead policy created units too small for profitable occupancy. In disposing of public lands small effort has been made to prevent the occupancy of lands unfitted for farming, and practically nothing has been done to prevent speculation in land or to check the growth of tenancy. It is proper, therefore, that there should be a definite governmental responsibility in the solution of farm-tenancy problems created thereby.

FEE-SIMPLE OWNERSHIP OF LANDS

The Nation's "founding fathers" came out of a condition where fee-simple ownership was unknown. Ownership in lands was characterized by practically no personal ownership or domination, it being recognized as an exclusively public property, subject to limited occupancy and use by the individual. The opportunity for individual ownership and domination over land was one of the most powerful factors in the early migrations to North America.

It is now apparent that this system of landholding has not resulted in keeping the land in the possession of those who work it. Such ownership, furthermore, too generally has been interpreted as a license to abuse the land without regard to the effects on other lands and the general welfare. Early sales for quick profits have upset permanency of occupancy and destroyed stability of tenancy contracts. Governmental policies in disposing of public lands have made it possible for ownership to be vested in huge tracts by those who had only a speculative purpose and no intention of putting the land into cultivation.

CREDIT DISABILITIES

It seems to me that the most glaring credit disability is the traditional requirement that annual payments on farm debt be uniform, without regard to the fluctuations in economic conditions. Surely American ingenuity can devise something better than that. The Federal farm-loan banks are a step in that direction. They have provided more adequate credit facilities, lower interest rates, and longer periods of amortization.

SOIL EROSION

The President's Farm Tenancy Committee made this very terse but very pointed comment on soil erosion and social decay:

"The effect of past and present policies of land tenure can be measured in terms of what has happened to the Nation's chief national asset—the soil. The correlation between soil erosion and tenant occupancy is very striking. The reasons are obvious. The tenant, whose occupancy is uncertain at best, and ordinarily does not average more than 2 years, can ill afford to plant the farm to any but cash crops. 'The shorter the operator's time on the farm, the higher the percentage of crop land in corn tends to be, and consequently the higher the degree of erosion', says an Iowa Experiment Station bulletin. The tenant, who has no assurance of

permanent occupancy, can rarely afford to apply fertilizers beyond the amount which will give him most immediate return or to plant soil-building crops.

"The tenant who expects to remain but a short time on a farm has little incentive to conserve and improve the soil; he has equally little incentive to maintain and improve the woodlot, the house, barn, shed, or other structures on the farm.

"Tenancy has contributed to soil depletion; soil depletion has in turn contributed materially to the expansion of tenancy and the further improvement of tenants and croppers.

"The soil is a natural resource in which our total civilization has a stake. Its proper use and conservation require modification of our present system of land tenure.

"Erosion of our soil has its counterpart in erosion of our society. The one wastes natural resources; the other, human resources. Instability and insecurity of farm families leach the binding elements of rural community life."

SHIFTING AND SHIFTLESS CITIZENS

A national survey in 1935 indicated that about 34.2 percent of the 2,865,000 tenant farmers of the Nation had occupied their present farms only 1 year. In many large areas the proportion exceeded 50 percent. It may be surprising to you to know that white tenants move more frequently than colored tenants. This incessant removal from farm to farm and from community to community obviously prevents the possibility of these families being molded into the normal social life of any community. The children, caught in this turbulent current of continued removals, find their schooling continually interrupted, if not made utterly impossible. Thus they suffer from mental as well as economic insecurity. This shifting of citizens not only breaks down the social fiber of the families themselves and makes of them a shiftless lot, but it takes toll from the resources of the entire social order.

LOW STANDARD OF LIVING

A standard of living below any level of decency must prevail where one-fifth to one-fourth of the farm population lives in extreme poverty. Throughout the Nation large families of tenants, croppers, and farm-wage laborers live in houses of two or three rooms. Generally these houses are of poor construction, in a state of bad repair, unsightly, and weather-beaten; screens for protection against insects are rare. The surroundings are bleak and unattractive. None has modern sanitation, a few have no outside sanitary arrangements, and even toilets which are provided are disgustingly insanitary. These families are generally chronically undernourished; therefore, readily subject to disease. Pellagra, malaria, hookworm, and other parasites exact heavy tolls in life and energy. Provisions for maintenance of health and treatment of disease amongst these families is rarely suitable and totally lacking and inadequate in many localities. Clothing sufficient to afford bodily protection is the ambition of these people. Many of them do not have even sufficient to maintain self-respect.

It seems to me it would be superfluous for me to elaborate how closely interrelated farm and city well-being are. You are thoroughly conscious that low standards of living in the country limit production in the city. America's industrial productive capacity is definitely limited by standards of living on the farm. It is equally as true, of course, that the activity of American industry has a definite effect upon the capacity of the farm population to find more jobs and more and better markets for its products.

A consideration of the causes of the evils of farm tenancy and their enumeration does not conclude the necessary effort. Excepting myself, the members of the President's special committee on farm tenancy are thoughtful, public-spirited, well-informed, and generally successful men and women from all parts of the United States. The report of this committee was submitted to Congress in a message by the President on February 16, 1937 (H. Doc. No. 149, 75th Cong., 1st sess.).

If your enterprises are to prosper, the farm population of the United States must obtain a share of the national income sufficient to recompense it for its product and for maintaining the fertility of the soil. The situation requires sustained action, furthermore, to regulate land tenure so that an adequate share of agricultural income will go to the people who actually till the soil.

The committee recommended in adequate detail a course of action for both the Federal Government and the various State governments. For Federal action it was suggested that the effort in regard to correcting the evils of farm tenancy be directed by the Department of Agriculture. There would be created within the Department a farm security administration and a farm security corporation. The farm security administration would have as its function the outlining of policies. It would be the function of the farm security corporation to finance the efforts outlined by the farm security administration.

Through the cooperative endeavor of these two agencies the committee recommends a program of land purchase and disposition of it under long-term contracts to actual farmers. Conservative guidance in the operation of such units and safeguards against speculative alienation are provided. One of the most interesting features of this part of the recommendations is the suggestion that the corporation be authorized to construct a system of variable payments under which a surplus above the average annual payment required would be collected in favorable years and used to reduce payments below the basic average in unfavorable years. This recommendation is not entirely bizarre, because such a policy is now used by some insurance companies. The possibilities of subleasing instead of purchasing farms as one reasonable approach is recognized. Care in selecting farm families on the basis of reputation for integrity, industry, thrift, experience, health, and other qualities is emphasized. Families already living on lands purchased should be given preference. The committee also recognized that the types of holdings should be varied. In some areas the holdings should be such as to make commercial production possible. In others the emphasis should be on home-use production, supplemented by the development of cooperative community enterprises.

The committee recognized that converting tenants into landowners might prove futile if existing farm owners are permitted to lose their farms and themselves become tenants, or even migratory laborers. The committee suggested that since many small farm owners have never been in position to benefit by loans from the land banks, it might be desirable to help such small owners to obtain the benefits of refunding with a land-bank loan. The corporation could assist by advancing the small difference between the farmer's indebtedness and the amount which the Farm Credit Administration under the Emergency Farm Mortgage Act of 1933 is permitted to advance.

The committee pointed out that approximately 1,333,000 tenant and cropper families and members of other groups of disadvantaged farm workers are in urgent need of some form of financial assistance other than that obtainable from either the Farm Credit Administration or private lending agencies. The nature of their needs classifies them into several groups. Four hundred and twenty thousand farm families, who were already near the bare subsistence level, have been forced so far below that level that relief grants have been necessary to avoid real destitution. Over 500,000 families normally well above the subsistence level, who have suffered the distressing setbacks caused by floods and droughts have exhausted their resources of capital and credit. Both groups present acute problems for immediate relief and rehabilitation. A great majority of the 1,831,000 tenant and cropper families of the South, and a very substantial number of small farmers in other sections not included in the two groups just mentioned, are woefully lacking in adequate operating capital. To obtain it, they must pay rates of interest that would wreck your business or any other conservative business enterprise.

The committee recommended a system of rehabilitation loans associated with technical guidance to this class of farmers. This form of assistance already has been extended to approximately 300,000 families by the Resettlement Administration, which now has been absorbed into the Department of Agriculture. These loans would be for the purpose of purchasing machinery and other equipment, livestock, feed, seed, fertilizer, and other seasonal operating requirements, and for refunding existing short-term debts.

The committee recommended that where adequate temporary facilities are not already provided by local agencies, the Farm Security Administration or the Department of Labor continue the experimental policy begun by the Resettlement Administration in the construction, operation, and maintenance of sanitary camps for migratory farm laborers. Farm laborers have not shared in the benefits of either Federal or State legislation providing for collective bargaining, unemployment, accident, or old-age insurance, and requirements for assuring safe and sanitary conditions of employment.

The 500,000 families living on land too poor to provide an adequate livelihood occupy holdings estimated at approximately 100,000,000 acres. Nine million three hundred thousand acres of this substandard farm land are already being purchased and developed as forests, recreational areas, and wildlife refuges. The committee was of the opinion that from two to five million acres of this land should be retired annually.

It would serve no useful purpose to remove families now on these lands if others are to be permitted to occupy them. Such lands should be held in public ownership for reforestation, recreational purposes, and for wildlife conservation. In many of these areas the direct cost for relief and various other subsidies in a very short time equals the amount which would be required to buy the lands. The committee, of course, urged that loan policies be shaped so as to avoid perpetuating an economy in any area which should be essentially temporary.

Since the committee believes that land speculation has been one of the most potent factors in retarding the ownership of land by farmers, it recommended measures to avoid excessive overcapitalization and associated abnormal indebtedness resulting from widespread land speculation. A provision, it said, should be inserted in the Federal income-tax law to impose a specific tax on capital gains from sales of land made within 3 years of the date of purchase. In order further to discourage speculation and absentee ownership, the committee also proposed that the Federal Farm Loan Act and the Emergency Farm Mortgage Act be amended so as to limit loans for the purchase of land to persons who are, at the time of the loan, or who will immediately thereafter become, personally engaged in farming on the land mortgaged.

For State action the committee recommended measures to improve lease contracts and landlord-tenant relationships, to modify the taxation of farm lands, and to safeguard civil liberties of tenants.

Such specific measures as have been suggested for State action have already been adopted in Arkansas. The State is subdivided into soil-conservation districts. Each district is a legal entity which can deal with the Federal Government in the prosecution of efforts to prevent soil erosion.

A State forestry commission is adequately financed. It provides scientific management, fire protection, and reforestation on 7,000,000 acres now. New growth annually exceeds use. Another 14,000,000 acres will be brought under management within 2 years.

A State park commission has the responsibility for the operation of the State's system of parks. There is already an investment of over $1,000,000 in park facilities in four beautiful mountain areas. Other measures provide that tax-forfeited lands cannot be sold by the State to individuals until the forestry commission and the State park commission have certified that the lands are not adaptable to forestry or park use.

The present problems created by the slow growth of the evils of farm tenancy assume huge proportions. Mechanical cotton pickers have already been built. They function now, it is true, with indifferent efficiency. Their construction, however, is warning enough that operation will be perfected. When that is done, it will displace thousands of individuals in the Cotton Belt, thus creating suddenly the most perplexing social and economic problem with which we have yet been confronted.

It behooves us, therefore, to start solution of present problems in order that the decks may be cleared for a proper grappling with this new problem which is sure to come.

Your invitation to me to talk to you on this occasion about farm tenancy is evidence of your thoughtful interest in the condition. You recognize, I am encouraged to believe, that the effort to eliminate the evils of farm tenancy can be participated in by you not as a philanthropy but as a measure of security to your own enterprises. Limitations of time and ability prevent me from outlining how you can be helpful. If what I have said provokes thought on your part, that is quite sufficient. Your own intelligence will point you the way in which you can make substantial contributions to the formulation of a sound program and its successful administration.

The Northwest Air Base, Tacoma, Wash., Is a Superb Site—General Westover Used Excellent Judgment in Approving It—Strategically and Scenically Ideal For an Army Airport—Military Establishment Appropriation Bill for 1938

EXTENSION OF REMARKS

OF

HON. JOHN M. COFFEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, April 30, 1937

Mr. COFFEE of Washington. Mr. Speaker, I am particularly interested in the pending measure, H. R. 6692, because of its creation of the northwestern air base at Tacoma, Wash., which is in my congressional district.

I am not what is generally called a militarist, and conscientiously oppose heavy appropriations for Military and Naval Establishments, though believing in adequate defensive mechanisms for the protection of our people from invasion from abroad.

When, under the Wilcox bill, the northwestern air base was authorized to be established, most of us in the Sixth Congressional District were vitally interested that it be established in the Tacoma area. We had paid $2,000,000 for nearly 70,000 acres of land comprising the Fort Lewis cantonment. This fund was raised in the form of a bond issue, upon the balance of which we are now paying $100,000 annually in retiring a portion of the principal and paying the accumulated interest. The Army uses but about 5,000 acres of this vast reservation for actual military purposes. The remainder of it constitutes a vast and beautiful park, so breathtakingly beautiful at this time of the year as almost to defy description. Here wild flowers abound—the three-leaf trilium; the gentle white deer tongue, with its spiked brown and green leaves; the prairie bell; the Indian paint brush; the tiger lily; the starflower; the flowering dogwood; the prairie and forest violet. I can picture now the tree-studded prairies, a carpet of bluish-purple created by the millions of violets, lifting their appealing faces to the heavens.

This vast prairie land is a natural airfield. Though we have a comparatively heavy rainfall in the Puget Sound area, the land is of porous gravel formation through which rain water quickly filters, leaving the top soil dry. This prairie is a natural water table, carrying below the surface the vast run-off from the glaciers and melting snow from the mountains. Crystal-clear drinking water may be readily obtained by sinking a well in any part.

Mr. Speaker, it is gratifying to me that the House of Representatives, in pursuance of the committee report, has voted an appropriation of $370,000 for building runways, $225,000 for the erection of hangars and field shops, $30,000 for gasoline storage and distribution facilities, and $60,000 for the purchase of 350 acres separating Fort Lewis proper and the new airport. The Northwest air base will eventually become the most important Army or naval airbase in America, both from the scenic, strategic, and practical standpoint. The committee from the War Department made the following written statement:

That the Tacoma airport site afforded the most advantageous location in that region.

The Chief of Staff of the Army told the committee—

This recommendation was made after extensive consideration of a number of sites in Washington, Idaho, and Oregon. It was selected, not only because of its advanced location, but also because no mountain ranges intervene between the site and the sea. This specific choice has the approval of the Secretary of War.

This is the Pierce County airport, which is being taken over by the Federal Government. Upon it the taxpayers have expended about a half million dollars in concrete runways, hangars, signal stations, and so forth. Here there is no danger of dust, such as afflicts the Washington, D. C., airport; here no possibility of flood; here no tornadoes, earthquakes, hurricanes, sand storms, heat waves, extreme frigid weather ever occur. Not even a poisonous snake can be found in the region. The characteristic of the new airport of the Army is beauty in all of Nature's grandeur, with Mount Tacoma—Rainier—looming up in the immediate background, crowned with eternal snow. Army officers may drive in a few minutes to the Tacoma Country Club and there swim in crystal-clear American Lake or play golf on one of the most intriguing courses in America. Five other golf courses are within a few minutes' drive. The general's headquarters at Fort Lewis are 7 miles from the airport, can be reached in a few minutes' drive over perfect highways. Paved highways lead to and from the airport in every direction. These roadways are open all the year round. My people welcome the Army to the Tacoma field. We welcome it from the standpoint of defense. We welcome the officers because we know them and have learned to like them and have opened our homes to them. To the enlisted men we extend the warm hand of friendship. We will feel safer with the Northwest airport close at hand.

Mr. Speaker, my home people congratulate the Nation upon the selection of the Tacoma field. We donate our half-million-dollar investment to the Government as a patriotic act. May the establishment of this great airport be the harbinger of the maintenance of a permanent Army division at Fort Lewis, a site ideally suited and intended to be used for that purpose.

Governmental Finances

EXTENSION OF REMARKS

OF

HON. HAMILTON FISH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1937

RADIO ADDRESS BY HON. HAMILTON FISH, OF NEW YORK, ON MAY 5, 1937

Mr. FISH. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following speech I

will make over the Columbia Broadcasting System on Wednesday evening, May 5, 1937:

The President is constant in one thing, and that is in his inconstancy in approaching a balanced Budget, which he has promised to do for the past 3 years. As far back as March 10, 1933, a week after taking office, President Roosevelt declared to the Congress, "For 3 long years the Federal Government has been on the road toward bankruptcy. With the utmost seriousness I point out to the Congress the profound effect of this fact (the Hoover deficit) on our national economy. It has accentuated the stagnation of the economic life of the people. It has added to the ranks of the unemployed." The total Hoover deficit was $3,491,000,000, whereas the Roosevelt deficit is already $14,859,000,000.

Now after 4 years of the New Deal our financial house is deplorably out of order, with mounting debts and deficits and no immediate prospect of improvement. There can be no real business confidence until our financial house is put in order through reduction of appropriations and wasteful squandermania of the taxpayers money. Confidence and a balanced Budget are one and inseparable. I might even add that putting our financial house in order would accomplish both a return of confidence and employment.

We do not need inflation of currency, debts, deficits, bureaucracy, or State socialism. What the Nation needs most is inflation of confidence, employment, and sound American principles of government. The tragic truth is that we have no financial policy except to pile debt upon debt, deficit upon deficit, borrow billions upon billions by issuing more billions of tax-exempt securities. We are at the Armageddon of governmental finances. We must either cut appropriations and practice economy, or continue to drift toward the shoals of inflation, repudiation, bankruptcy, and financial chaos.

The big taxpayers have been bled white, and there are no more sources of taxation left except to soak and swat the little fellow, the wage earner, the farmer, and the small-business man with incomes from $1,000 to $3,000. Unless the governmental squandermania on Tugwelltowns and other impractical and socialistic experiments cease, the middle class and small-income wage earners will be the next to be lined up against the wall and their pockets picked of their meager earnings to meet the mounting costs of the Federal Government and maintain some 300,000 more Federal employees than we had in 1926 under the Calvin Coolidge administration, and 500,000 more than we had under Theodore Roosevelt.

It is difficult to discuss the financial policy of the Government, when there is actually no such animal. It is like trying to nail a custard pie to the wall; it just won't stick. The fiscal and financial policy of the administration is like the grinning Cheshire cat in Alice in Wonderland—of a vanishing type.

If my remarks had been made prior to the last election they would have been discounted as partisan and for political purposes or advantage. I reiterate, however, that there is no New Deal financial policy, except as comprised in the words debts, deficits, mounting taxes, and an unbalanced Budget. But, how could it be otherwise? I am willing to give President Roosevelt credit for certain social and economic reforms, some of which I voted for, but the unfortunate truth is that neither President Roosevelt nor Secretary of the Treasury Morgenthau, both of whom are my constituents, has had any experience with or knowledge of banking and finances. Mr. Roosevelt claims to be a dirt farmer in my district, and so does Mr. Morgenthau. Whether they are is another issue, but certainly neither of them has proved competent in dealing with finances. If President Roosevelt or Secretary Morgenthau is experienced in banking or finances, then Mae West is a saint.

The financial policy of the country rests with the President and the Secretary of the Treasury, and it is the function and duty of the opposition party to expose the fact that not only is our financial house not in order, but that it is daily growing, as Dr. Coue would say, "worser and worser." It is susceptible to proof out of the mouth of the President himself, not once but upon innumerable occasions, and from the Democratic platform, from both of which I quote:

(1) "We favor maintenance of the national credit by a Federal Budget annually balanced. We advocate an immediate and drastic reduction of governmental expenditures by abolishing useless commissions and offices, consolidating departments and bureaus, and eliminating extravagance to accomplish a saving of not less than 25 percent in the cost of the Federal Government." (Democratic platform, 1932.)

(2) "For 3 long years I have been going up and down this country preaching that Government costs too much. I shall not stop the preaching." (Acceptance speech, July 2, 1932.)

(3) "Through this program of action we address ourselves to putting our national house in order and making the income balance the outgo." (Inaugural address, Mar. 4, 1933.)

It must be self-evident that the time has come and actually is long since past for either one of two financial policies: (1) Either cut appropriations and balance the Budget, or (2) stop the borrowing and resort to additional taxes to balance the Budget. There is also the compromise course of curtailing expenditures, reducing borrowing, and providing for a limited or small increase in taxes. Any of these three programs would balance the Budget, restore confidence, and put millions of American wage earners to work at American wage standards. The present policy of drifting, including confession of increased debts and deficits, and avoidance of balancing the Budget is the road to financial disaster.

Next week I propose to speak in detail over the radio on the fiasco of our gold-purchasing policy, which costs the Treasury of the United States $1,250,000,000 annually for foreign gold at $35 an ounce, or twice the cost of production. This inane policy enriches South Africa and Soviet Russia and impoverishes America, unbalancing our Federal Budget and accumulating vast stores of gold mined in foreign countries that has to be buried in the ground again for protection, providing no benefit whatsoever to the American people or to the Treasury of the United States.

I know of no more useful service that the Republican Party can do at this juncture than to expose the lack of any financial policy of the administration, except the gold-buying program, that is the height of human folly and the most colossal blunder of the New Deal.

The public is beginning to understand that the vacillating and weak financial leadership is causing a state of uncertainty in business that is verging on downright fear and results in loss of confidence retarding recovery, and prolonging the depression.

The President and Secretary Morgenthau, since Congress has delegated away and surrendered the control of the purse strings to the Chief Executive—the only reason for its existence—and leaving itself with no more legislative powers than Gandhi has clothing—are responsible for the failure of the alleged fiscal policies of the Nation. But, by some hocus-pocus, Messrs. Hopkins, Wallace, and Ezekiel, those famous musketeers of finance, seem to be directing the New Deal financial schemes along inflationary lines without the consent of Congress.

What do the Republicans propose? First, that Congress should reassume its constitutional powers to control the purse strings and then legislate, with or without the consent of the budgetary, "brain trust", or even Executive authority, to curtail and cut appropriations by at least 10 percent and to stop buying any more gold from foreign nations at $35 an ounce. Secondly, the Republicans propose to turn the relief work over to the States, which already have the organization, and thereby decentralize relief under the Works Progress Administration so as to save the overhead and duplication and give the needy and unemployed a larger share of the governmental funds that are now being wasted on a supercentralized bureaucracy under Mr. Hopkins at Washington and duplicated in the States.

I shall insist that preference in employing relief workers be given to veterans of all our wars and to American citizens over aliens, and that Communists be purged from dominating and controlling the relief rolls and funds of New York City, as publicly stated recently by former relief administrator in New York City, Victor Ridder, who was appointed by President Roosevelt, and a public servant of the highest character, intelligence, and integrity.

I do not believe that new taxes are necessary or advisable, as cutting appropriations and ceasing to buy foreign gold is more than sufficient to balance the Budget. If new taxes are necessary later on, I would suggest taxing American heiresses 100 percent of their fortunes beyond the first million who marry foreigners. It is only right that this money be spent in America, where it was made, for the benefit of our wage earners instead of being squandered in foreign lands. If this tax had been on the statute books in recent years it would have brought in a tidy return to the Treasury of the United States.

It is not a pleasant duty to speak on the muddled state of our finances, but a most necessary one, as it affects not only all of our taxpayers but every American wage earner, whether on the farms, in the factories, or in the mines.

The American people want an increase in employment and wages and realize that continued deficits or new taxes will retard recovery and destroy business confidence. They also know and fear inflation as destroying the value of insurance policies, of which there are approximately 70,000,000, the money in the savings banks, and, above all, the buying power or standard of wages of American labor, and that is mainly why the American Federation of Labor is opposed to all inflationary schemes and experiments. It knows from experience that labor is robbed of its hard-earned wages by a reduced buying power that does not catch up with inflationary commodity prices and that the real beneficiaries are the speculators and money changers.

The American public is inclined to be apathetic to questions of finance until they become so intolerable that they interfere with the security of their jobs or become burdensome with taxes. We have, unfortunately, reached that stage.

Back in 1934 President Roosevelt spoke of "shortly getting the Federal Government out of the business of relief." Yet he has recommended an appropriation of $1,500,000,000 for the Works Progress Administration for the next fiscal year. I am in favor of whatever sum is necessary, but certainly there is something rotten in Denmark. The President says the depression is past, and the emergency is over, and yet the Federal Government is called upon for a huge relief appropriation. If the President is right, and we have attained recovery, why then should the relief bill be equal to that in 1934? What is the reason for this paradox? If recovery is on the upgrade, relief should be on the downgrade. Is it possible that the employment of labor has been ballyhooed or exaggerated by publicity and propaganda agents of the New Deal?

We have the same natural resources as we had in 1929, the same loyal and intelligent labor, and all that is lacking is confidence

without which there can be no permanent recovery or employment of labor. There can be no business or industrial confidence without a sound financial policy and a balanced Budget.

The public debt as of April 30, 1937, was $34,940,000,000, and on the corresponding date last year it was $31,425,000,000, or a net increase for the year of over three and a half billion dollars. The American people are beginning to ask embarrassing questions, and for the fulfillment of the promises repeatedly made by the President that the Budget would be balanced. Somehow or other the heroine Budget is always saved at the last moment from being balanced by new alibis. The annual Presidential Budget messages have become mere scraps of paper and a hollow sham and mockery.

There is one way to balance the Budget, and that is to adopt a definite financial policy; put our own financial house in order, cease all useless experiments with extravagant Tugwelltowns and other socialistic schemes; stop the unfavorable trade balances; prohibit the buying of gold from foreign nations; curtail appropriations; make a real effort to collect at least the payment of the money we loaned foreign nations after the armistice; make an honest and intelligent effort to continue the agreement to limit naval armaments under the supervision of civilians and not naval officers that would save us two hundred millions a year, and substitute good will for naval competition that creates enmity and hatred and eventuates in war.

It is time to expose the myth built up by the New Deal propagandists that the Budget cannot be balanced. I have enumerated several methods of balancing the Budget, and all that is necessary is proper leadership, courage, and determination to do the job. The ancient Romans at one time concluded their speeches with the words, "Carthago delenta est"—Carthage must be destroyed. It would be well for Americans nowadays, before it is too late, to conclude their speeches with the words, "The Budget must and will be balanced and our financial house put in order."

The Jefferson Memorial

EXTENSION OF REMARKS

OF

HON. JOHN F. HUNTER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1937

Mr. HUNTER. Mr. Speaker, I have this day addressed letters to the Honorable MAURY MAVERICK, the Honorable JOHN J. BOYLAN, and the Honorable ALLEN T. TREADWAY, suggesting a reconsideration of the Jefferson Memorial, proposed by Mr. BOYLAN, and the combination with it of the proposal of Mr. MAVERICK, to the end that there will be established in the District of Columbia the Jefferson Memorial Health Research Institution.

As an American, I revere the memory of Thomas Jefferson. As a Democrat, I look to his utterances and his life as an inspiration. I wish to see established here in the District of Columbia a fitting memorial. I believe, however, that the memorial can be more than a mere heap of marble or stone.

I do not believe it is necessary to drain away our beautiful tidal basin and destroy our cherry trees to establish that memorial. I do not believe it is necessary to appropriate money for a memorial that serves no humanitarian or useful purpose.

We have an abundance of statues in the city of Washington. The very floors of our Capitol Building sag under their weight. We find them at every circle, every corner, and in front of every public building. By their very number, memorials and statues have become more and more meaningless.

I see in the proposal of the Honorable MAURY MAVERICK to establish here in Washington a national institution for the study and prevention of the most horrible disease of modern times—cancer—an opportunity to make this institution the memorial for Thomas Jefferson.

Mr. MAVERICK has suggested that this Congress appropriate $2,400,000 for the fiscal year ending June 30, 1938, and $1,000,000 for each fiscal year thereafter for the purpose of establishing facilities for the diagnosis and treatment of cancer. Carried out, this will be the world's greatest effort to combat the disease that terrorizes so many of our people, and the one disease for which so far modern science has been unable to find a preventive.

Could there be any more fitting memorial to Thomas Jefferson, who himself idealized good health?

Thomas Jefferson was the son of a man whose huge strength and size made him famous throughout the countryside, and who taught his son that "it is the strong in body who are both the strong and free in mind." This was a text preached often throughout the life of Thomas Jefferson. He followed it; he believed it. By strict temperance and abstinence, by prudent and uniform habits, by regularity in exercise, he sought to preserve his own fine health throughout the years.

The founder of the Democratic Party would have been the first to applaud the establishment of an institution such as proposed by Congressman MAVERICK. He should be the one honored by the establishment of this memorial research institution dedicated to the study and elimination of cancer, the relentless enemy of every person past middle age.

This Congress is faced with the task of enforcing the most rigid economy. It is questionable whether we have the right to spend millions for a memorial that serves no humanitarian or practical purpose. There is no doubt that we must appropriate money for the purpose of waging war upon cancer. Let us reconsider the original Jefferson memorial bill. Let us act favorably upon the proposal of Congressman MAVERICK. Let us combine with it the Jefferson memorial, and by doing so set up here in Washington a memorial that will bring even greater fame to a great name. Let us set up a memorial that will be located in the District of Columbia but that will be blessed by the peoples not only in these United States but of every country in the world.

Economy or Inflation

EXTENSION OF REMARKS

OF

HON. DANIEL A. REED

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1937

Mr. REED of New York. Mr. Speaker, the New Deal administration, under the adroit leadership of President Franklin D. Roosevelt, has hypnotized and paralyzed the public mind to an imminent danger now coming to a head. Every device known to modern crowd psychology and to persuasive publicity has been utilized to prostitute and control public opinion. To gain and keep political control, billions of dollars have been spent, all of which will eventually be paid by a deluded and defrauded public.

The spending has continued until the danger point in our national credit required the assistance of certain New York banks to avert a major calamity.

Why this sudden turn-about face of the President from unlimited spending to a program of economy? This move is not dictated by desire but from absolute necessity. The credit of the United States is strained to the breaking point, a fact known to officials of the administration but not generally known to the public. Banks are overloaded with Government obligations which they do not want but which on the other hand they do not dare to attempt to sell. The public has a right to know that the fall of a few points in the price of Government bonds means disaster to the banks and their depositors. Such a decline in price is held in abeyance now only by the manipulation of the price of United States bonds by the Government. Depositors are led to believe that their savings in the banks are insured, but they fail to realize that the F. D. I. C. is supported almost exclusively by Government obligations. This is not security but political camouflage which, when and if the crash comes, will turn to ashes instead of assets.

There must be a conjunction of two governmental acts if a national disaster is to be avoided—one is to stop spending; the other is to raise revenue to balance the Budget.

The pending crisis in the fiscal affairs of this Government cannot be averted without cutting expenditures to the bone and then by taxing until it hurts. The longer the program of retrenchment is delayed the more the average man and woman will ultimately suffer. Already a laborer drawing $18 a week and with no other property pays $116 a year in hidden taxes. These taxes concealed in the goods and services he buys amount to 12 cents on every dollar.

A mechanic who receives $150 a month and who operates a used automobile pays in hidden taxes $229 annually. This is equal to 12.7 cents on every dollar, and this even though he owns no other property and as a family man is exempt from income taxes.

A survey recently made by the Family Economics Bureau of the Northeastern National Life Insurance Co. reveals that of 48 cities covered, the renter of a home pays on the average in taxes 25.3 cents on every dollar paid in rent.

It is no small load that the taxpayer carries, even at present, but to save the credit of the United States will require a far greater levy than this on the average man.

The attempt to stack the Supreme Court, the sit-down strikes, and the seductive assurances emanating from high places have obscured from the public mind the dangerous and devastating menace that stalks on the heels of the Government spendthrifts.

Inflation is no respecter of persons or institutions. History shows conclusively that inflation crushes the banks, the insurance companies, the homes for the aged, the orphan asylums, the colleges, the schools, and every institution, financial or humane, essential to human prosperity, happiness, and social well-being.

The longer drastic measures to preserve the public credit are delayed, the further into the abyss inflation will surely plunge this Nation.

Government Expenditures

EXTENSION OF REMARKS

OF

HON. WILLIAM E. BORAH

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Thursday, May 6, 1937

RADIO ADDRESS DELIVERED BY HON. JAMES F. BYRNES, OF SOUTH CAROLINA, ON MAY 3, 1937

Mr. BORAH. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address delivered in the National Radio Forum, May 3, 1937, by the junior Senator from South Carolina [Mr. BYRNES] on the subject of Government Expenditures.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

In the life of the average citizen there often arises an emergency when it is not only impracticable but unwise to attempt to balance the family budget. The emergency must be met. Extraordinary expenses must be incurred. If necessary, money must be borrowed. When the emergency has passed, the prudent individual realizes that he must not only reduce his expenditure within his income but from that income he must save some amount to pay upon the debts incurred during the emergency.

This is true of a government. The necessities of an emergency must be met, regardless of whether the Budget is balanced. Four years ago an emergency confronted us, and under the leadership of President Roosevelt it was courageously and humanely met by the Government of the United States. The homes and the farms of the people were saved and the needy and the unemployed were assisted, even though in order to do it the Government had to borrow billions of dollars.

As a Member of the United States Senate I voted for every recovery measure. As a member of the Appropriations Committee I actively supported every relief appropriation. If today the same conditions existed, I would vote for the same appropriations. But the same conditions do not exist. The recovery program of this administration has accomplished its purpose. Today we approach the conditions of 1929. In fact, the Federal Reserve Board has announced that industrial production in March reached 119 percent, as compared with an average of 119 percent in March 1929. It is unnecessary to read the charts of the economists. By every yardstick we have heretofore used to measure prosperity, the people of the Nation are prosperous. The emergency has passed, and it is now time for us to put our house in order.

First of all we must consider the debts we have incurred during the emergency. The indebtedness of your Government as of April 28, 1937, was $34,941,507,897.91. The interest you will have to pay next year on this indebtedness is $860,000,000. Now what chance is there of reducing this debt?

On April 20, 1937, the President submitted to the Congress a revised estimate of the Government's financial needs for the next fiscal year beginning July 1. He advised the Congress that the amount of revenue would be $604,000,000 less than was anticipated last January, and, if the Government spent the amount of money heretofore requested, and, in addition, the sum of $1,500,000,000 he estimated as necessary for work relief, at the end of the year—July 1, 1938—our expenditures would exceed our income by $418,000,000. If this year we cannot meet our current expenses and pay something upon the indebtedness, what will we do should we have a recession of business? Or, without a business recession, what chance is there of Congress reducing appropriations next year, which is an election year?

There is no question of greater importance to the people of this Nation. The securities representing the $35,000,000,000 indebtedness of your Government are held by the banks, insurance companies, and investors of this Nation. On June 30, 1936, $17,270,401,000 of the direct obligations of the Government, bonds, notes, and bills, were held by the banks of the Nation. That is approximately 50 percent of our debt. In addition, the banks held obligations of the H. O. L. C. and other Government corporations, which bonds are guaranteed by the Government, amounting to a little more than a half billion dollars.

If you had $1,000 to invest, would you buy United States Government bonds, if you knew the Government owed $35,000,000,000 and proposed to spend each year more than its income, or would you buy the tax-free bond of a State, county, or city which was living within its income and reducing its debt?

If the time ever comes when banks and investors fail to purchase the bonds of the United States Government, where will the Government secure the funds with which to operate? If there are fewer purchasers, there will be a decrease in the price of our bonds. As more than $17,000,000,000 of bonds are held by banks, a decrease of five points would mean a loss to the banks of $850,000,000.

Today there is no excuse for alarm. With the increased wealth of the Nation and the increased tax-paying capacity of the people, the credit of the United States Government is beyond question. But the credit of the Government must be maintained. The only certain way to maintain it is to balance the Budget. It can be balanced in one of two ways—by increasing taxes or reducing expenditures.

We have increased taxes on the larger incomes and on estates and we now find a falling off in the revenue expected from these sources. We must conclude that we have gone the limit. It is proposed that additional revenue be secured by either lowering the income-tax exemptions or levying a sales tax. If I had to choose, I would lower the exemption. But I am opposed to both proposals. The Budget should be balanced by reducing expenditures, not by levying more taxes.

Today when an effort is made to reduce any appropriation for the regular departments of the Government, or to prevent an appropriation for some new activity, the argument is made that even though the activity requiring the increase may not be essential, that as long as we are spending money for everything else, and particularly for relief, we might just as well vote for the increased appropriation. But there is a general recognition that we cannot go on forever spending more than our income, and there is a willingness to stand for a reduction if it is applied to all activities, and will result in balancing our income and expenditures.

When the appropriation bills have been passed by Congress they will total $7,000,000,000. I urge that the Congress, by an amendment to the last appropriation bill considered at this session, provide for a reduction of 10 percent in the appropriations for each department with the provision that the 10-percent cut should not apply to the so-called fixed charges. Those fixed charges should be specified by the Congress. This would exempt from the cut such items as the interest on the public debt, pensions for veterans, the permanent annual appropriations, and other items which cannot be reduced. The head of a department should be given the power to transfer from one bureau to another within the department funds not in excess of 10 percent. He knows the relative importance of activities in his department. If some bureau or service cannot stand a reduction, he can take a percentage from some activity not so essential and apply it to the more essential activity. I would require only that he keep the expenditures for his department within the appropriation fixed by the Congress, which would be 10 percent less than what he expected to receive for the next fiscal year.

The fixed charges, which must be exempted from the cut, would probably amount to one-half of the total appropriations, leaving

approximately three and one-half billion dollars to which the cut would be applied and making possible a saving of $350,000,000. It would not require a reduction in the compensation of employees. It would require dispensing with the services of some unnecessary employees. It would require deferring the construction of some buildings and the purchase of some land. It would inconvenience some officials and disappoint some persons interested in appropriations, but it would help the Government and help the people.

The Budget would not be balanced by a reduction of $350,000,000, or even $418,000,000, the deficit estimated by the President. During the year deficiencies will occur, which will increase this amount, and the total deficit will depend entirely upon the amount of these deficiencies.

The Congress, however, can make certain that the Government, during the next fiscal year, will at least live within its income if it cannot reduce its debt, by providing for work relief $1,000,000,000 instead of the $1,500,000,000 requested in the estimate submitted to the Congress.

This billion dollars would not be the only money granted to the States for relief. Next year the Federal Government will give to the States through the Social Security Board for old-age pensions, dependent children, and the blind $214,000,000. In addition to that, we will give to the States $36,000,000 to administer the unemployment-compensation law. Additional amounts will be appropriated to the States for relief through the Public Health Service and the Department of Labor and many more millions will be contributed to the States through the various 50-50 laws for highway construction, vocational education, and other purposes. Notwithstanding these generous appropriations, some persons will say, "I am for economy, but we must not permit people to go hungry."

I do not want a human being in this country to go hungry. But I am unwilling to admit that with the great improvement in business and the great improvement in the financial condition of local governments, our people will go hungry unless the Federal Government continues to make, for work relief, the tremendous appropriations which were made during the depression.

If this year when business conditions approach the greatest boom year in our history, 1929, the Federal Government must, in addition to the other grants to the States, appropriate a billion and one-half dollars for work relief, how much will it be necessary to appropriate should there be a recession in business? And what will we then use for money?

Prior to 1932 the Federal Government did not appropriate any money for relief or work relief. Relief was recognized as a duty of the States, counties, and cities. The Federal Government entered this field because the revenue of the local governments had decreased and they were unable to borrow the money with which to care for their own. The first bill provided that before the Federal Government granted aid to a State, its Governor must certify that the State and its subdivisions did not possess the revenue or the credit with which to secure funds to take care of its needy. Governors filed such certificates. They certified to the truth. Then the Federal Government borrowed money and made loans and grants to help the States. Loans made to home owners and farm owners included amounts to pay past-due taxes to States, counties, and cities. We gave millions to build roads, schools, and all kinds of projects normally and properly paid for by the local governments. As a result local governments as a rule are operating within their income. They have reduced their debts and increased their credit.

We have declared unemployment to be a national problem, but we have declared that work should be provided for the unemployed in cooperation with the States and local governments. I believe the States and local governments are just as much interested in the welfare of their citizens as is the Federal Government. Believing this, I urge that the appropriation for work relief should provide that the State, county, or city asking for Federal aid for a Works Progress project should pay 50 percent of the cost of the project, unless the officials of such State, county, or city certify that they cannot pay it and cannot borrow the money. In that case the Administrator should require only such contribution as the financially impaired State, county, or city could make. Should the Congress adopt this proposal, the entire billion dollars will never be applied for. The Budget will be balanced. The credit of the Government will be maintained. Business will improve. Employment will increase.

Most of the projects are proposed by cities and counties. They are often proposed not because the local officials believe that it is essential to provide relief work for the unemployed but because they believe that as long as other counties and cities are getting money from the Federal Government, they might as well get their share. If the mayor of a city does not ask for funds to construct an airport, his constituents will remind him that a rival city is securing one with the assistance of the Federal Government, and insist that he get one. An ambitious mayor will seek funds to do some public work as a monument to his administration. Of course, he knows that it will not hurt his chances for reelection.

The officials of the States, counties, and cities who have a real relief problem will gladly put up the 50 percent in order to secure a grant of 50 percent from the Federal Government. Few will certify that they have no revenue and no credit. Few officials could do it without misrepresenting the facts. The bonds of the various cities and counties of this country are with few exceptions selling at or above par, and in nearly every instance 25 percent above what they were selling for in 1933.

One reason why the States, counties, and cities have been able to reduce their indebtedness and improve their credit is that the Federal Government has been giving them money with which to do things they ordinarily would have had to finance out of local revenues. Today as a rule they are living within their incomes and reducing their indebtedness, while the Federal Government is living beyond its income and increasing its indebtedness. Judging from the balance sheets, the States, counties, and cities, instead of asking relief from the Federal Government, should be offering relief to the Federal Government.

Reducing this relief appropriation involves no criticism of Mr. Harry L. Hopkins, the Director of the Works Progress Administration. No official of the Government has had a more difficult or more disagreeable task. He has done a fine job. When he presents an estimate for funds based upon the number of persons upon the relief rolls, it represents the best information that can be secured by his organization. But, in determining whether or not it is necessary to retain so many people on the relief rolls, we must consider Mr. Hopkins' sources of information. He must rely upon his directors in the various States.

They, in turn, must rely upon State officials. State officials determine who shall be placed upon the relief rolls and how many shall remain there. In one State where the sentiment is in favor of retrenchment in Government expenditures the officials will cooperate with Mr. Hopkins in his efforts to eliminate from the rolls those who under the law are not entitled to relief work. In another State, where there is a sentiment in favor of getting all the money possible from the Federal Government, the officials will not cooperate with him. In some communities there will never be an end to the emergency. It will get worse every election year.

Many people who pay no income taxes are under the impression they pay no taxes to the United States Government. But they are keenly aware of every dollar they pay in direct taxes to local governments. If local governments are required to contribute out of funds secured by levying taxes 50 percent of the cost of a project there would be less inducement to local officials to retain upon the rolls those persons who could secure employment elsewhere if they really wanted to work.

Now, let us see if local governments are contributing as much as they can contribute. A statement prepared by W. P. A. within the last few weeks shows that through December 31, 1936, three and one-half billion dollars was spent for projects in the United States, and of this amount only $463,000,000, or 13 percent, was contributed by the public agencies sponsoring the projects. Do you not think that local governments can contribute more than 13 percent?

We are accustomed to regard the Empire State of New York as the wealthiest State in the Union, and yet only 7.2 percent of the cost of projects in New York State was contributed by the sponsors of those projects, which was the smallest percentage contributed by any State. Idaho, certainly not regarded as a wealthy State, contributed 28 percent of the cost of it's projects, which was the highest percent contributed by any State. If New York contributes the same percentage as Idaho, and all States are forced to contribute 50 percent, there will be no cause for dissatisfaction.

Having mentioned New York State, it is but fair to say that similarly small contributions were made by Pennsylvania and other States of the Union having large populations. It is also fair to state that it is argued by officials in those States that while they contribute but little to work projects, they spend very large amounts for direct relief. I contend, however, that they are in position to contribute 50 percent to these projects. They have the taxpaying capacity and they have the credit. For instance, the State of New York and the cities and counties of that State have unquestioned credit. In December 1933 its 3¼-percent State bonds, due in 1960, sold at $98. Today they are selling at $120.25. New York City's 4-percent bonds, which in December 1933 sold at $81, are today selling at $114. Nassau County 4¼-percent bonds, which then sold at $82, are today selling at $119. There has been a similar improvement in the market prices for the bonds of all States, counties, and cities. Officials of local governments may plead poverty to W. P. A. officials, but the price which people with money to invest will pay for the bonds of a State, county, or city is the best evidence of the ability of that State, county, or city to borrow money with which to care for its unemployed.

Now if the estimate of $1,500,000,000 was based upon a continuance of the policy of permitting the local governments to contribute only 13 percent, that 13 percent would add to the Federal Government's contribution only $195,000,000, making the total amount available for work relief only $1,695,000,000. If the Congress will adopt my proposal to reduce the Federal appropriation to $1,000,000,000 and make the local governments put up 50 percent of the cost of each project, it will make available $2,000,000,000. So instead of having less money for the hungry and the unemployed, we will have more money, provided the prosperous local governments will do as much for their own citizens as they ask to have done for them by the Federal Government, which is anything but prosperous.

When an individual's income is not sufficient to meet his expenditures or permit him to make a payment upon his debts, he is forced to deny himself many things that are desirable but not essential. So it is with government. In Congress today

there are pending many meritorious proposals to improve social and economic conditions. They are desirable but not essential. They should not be abandoned but should be deferred.

The President in his Budget message to Congress of April 20 stated:

"I regard it as extremely important that we should achieve a balance of actual income and outgo for the fiscal year 1938, and I appeal to you to join me in a determined effort to bring about that result."

The President does not recommend, and the Congress does not want to levy additional taxes. The only way to achieve a balance of actual income and outgo is for the Congress to reduce appropriations to the total income. I will join the President in his effort. To assist in balancing the Budget, I will vote against any appropriation not included in the Budget estimates. But restricting appropriations to estimates will not be sufficient. Therefore, I will vote to reduce by 10 percent the appropriations heretofore requested and vote to reduce by $500,000,000 the amount requested for relief. This will be sufficient to accomplish the declared purpose.

While it is the duty of the President to make recommendations, it is the duty of the Congress to raise revenue and to make appropriations. Therefore, it is the duty of the Congress to balance the Budget and this duty should not be shifted by the Congress to the President. There is no excuse for the effort to create the impression that there is a breach between the President and the Congress in this matter. We have the same objective and can settle any differences as to method. The important thing is that the President and the Congress are evidencing an interest in economy. Now, if the people will give their support to the cause, we should make some genuine progress toward putting our house in order.

Flood-Control Problems

EXTENSION OF REMARKS

OF

HON. ALLEN J. ELLENDER

OF LOUISIANA

IN THE SENATE OF THE UNITED STATES

Thursday, May 6, 1937

ADDRESS BY HON. JOHN H. OVERTON, OF LOUISIANA, BEFORE THE NATIONAL RIVERS AND HARBORS CONGRESS, APRIL 27, 1937

Mr. ELLENDER. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by my colleague, the senior Senator from Louisiana [Mr. OVERTON], before the National Rivers and Harbors Congress April 27, 1937, on the subject of flood-control problems.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. President, members of the Rivers and Harbors Congress, ladies, and gentlemen, it is a pleasure for me to appear again before the Rivers and Harbors Congress. This organization has back of it a long and commendable record of useful and constructive service. It stimulates public interest in and focuses attention upon the various problems of our rivers and harbors, and frequently initiates and directs congressional legislation dealing with those problems. The subject of paramount interest today with respect to our rivers and harbors is the question of flood control. It may well, perhaps, serve one of the chief purposes of this body if, while recognizing the value of congressional legislation and the service of the Federal Government and its various departments toward effecting a solution of flood-control problems, we should indulge in constructive criticism of some of the activity, or lack of activity, on the part of the Federal Government, its Congress, and its agencies.

Apparently it requires a major flood disaster to excite public interest in flood control and to awaken in the Federal Government a just sense of national responsibility. The havoc and horrors of the 1927 flood in the lower Mississippi Valley resulted in the Flood Control Act of May 15, 1928. The 1936 disaster in the New England States and Pennsylvania and along various tributaries of the Ohio River brought forth the omnibus Flood Control Act of June 22, 1936. And now this year, 1937, has witnessed the greatest flood tragedy in the history of the Ohio Valley.

Has the Federal Government responded, and is it now responding, with sufficient promptness to the obligations imposed upon it by the recurrence of these great national calamities?

The answer, I regret to say, must be in the negative. It is true that in the flood of this year ample funds for immediate relief were supplied through the Works Progress Administration and the American Red Cross, and that, through the skillful and heroic efforts of the Army engineers, Cairo was saved from inundation and the long levee line of the main stem of the Mississippi River was successfully held against a major crevasse. But candor compels the observation that the program of permanent adjustment of our river troubles is marked today by a dilatory and lagging policy.

The omnibus Flood Control Act, approved 10 months ago and enacted after prolonged committee hearings and deliberation during two consecutive sessions of Congress, stands today practically a dead-letter law upon our statute books. Not a single dollar has been appropriated by Congress to carry into execution a single project authorized by this act. The sum total of funds dedicated to the brave array of flood-control projects provided by the omnibus act and stretching across the continent from the Atlantic to the Pacific Coast has been a paltry $6,000,000, allocated out of the relief funds of 1936. This is all that has been provided for carrying into execution an act authorizing an appropriation of $310,000,000 and contemplating an expenditure of $50,000,000 during the fiscal year ending June 30, 1937.

If the omnibus Flood Control Act, although passed by Congress and approved by the President after long and conscientious deliberation and under the guidance of the best expert advice available to the Nation, is regarded as impractical or unworkable, let us be advised promptly by those in administrative authority to the end that we may legislate now and anew upon this century-old and century-studied problem of Nation-wide flood control. If, on the other hand, there are, as there must be, meritorious projects in the act, construction thereon should be begun without further delay.

When we turn from the omnibus act to a consideration of the program of flood control in the lower Mississippi Valley, we again witness an inexplicable delay in the execution of the major essential features of that program.

The sole effective solution of the lower Mississippi's problem is the operation of mammoth floodways through which there will be diverted permanently from the river all excess waters which levees cannot hold and which reservoirs and dams cannot withhold. The success of the Jadwin plan, adopted 8 years ago by the Congress, was predicated upon the operation of such floodways. The Markham plan, adopted in 1936, reenforced the conclusion as to the absolute necessity for these diversion channels. With the exception, however, of the Bird's Point-New Madrid floodway, which, although of great local benefit, is a mere detour and not an avenue of permanent escapement of flood waters, and with the exception of the Bonnet-Carre spillway, which, although essential to the protection of New Orleans, has a discharge capacity of only 250,000 second-feet, none of these floodways called for by either the Jadwin plan or the Markham plan has ever been put into operating condition.

Not only that, but not a single flowage right over any property within these floodways or even an option therefor has been obtained by the Federal Government. No work of any description has been begun upon the Eudora floodway, which is, in turn, a substitute for the old untouched Boeuf floodway, and even the location of the lower Atchafalaya outlet has not been established. For the first time in its history the treasury of the Mississippi River Commission is barren of available funds. And today the lower Mississippi Valley is dependent for its safety on the system of "levees only", a theory of protection which both experience and engineering opinion have long since discarded.

Why all this delay, this lethargy, this inaction? Is the Eudora floodway to be abandoned? Is the Markham plan to suffer the fate of the Jadwin plan? Are the lower Mississippi Valley Act of June 15, 1936, and the omnibus act of June 22, 1936, to be thrown out of the window and further appropriations for our flood-control program to await the formulation of new plans of flood control by new and inexperienced hands?

These are pertinent questions that may seriously address themselves to the consideration of this Congress.

Speaking as president of the Mississippi Valley Flood Control Association, and with respect to the lower Mississippi Valley, I think that I can justly make the statement that the present plan of flood control authorized by the Congress represents, when executed, a complete and final solution of our flood-control problem. Neither the act nor the program requires amendment or change. What is needed is action and funds appropriated for action.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS

OF

HON. HIRAM W. JOHNSON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Thursday, May 6, 1937

RADIO ADDRESS BY HON. JOSEPH C. O'MAHONEY, OF WYOMING, ON MAY 5, 1937

Mr. JOHNSON of California. Mr. President, I ask leave to have printed in the RECORD a radio address delivered last

night by the Senator from Wyoming [Mr. O'MAHONEY] on the subject of the reorganization of the Federal judiciary.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The judiciary bill which has now been before Congress for 3 months has been represented to the people of the country as the keystone of the arch of President Roosevelt's program of social and economic reform.

Because I find myself unable to give it my support, although I have always been and am now an earnest advocate of the President's policies, I feel it incumbent upon me at this time to make a public statement addressed primarily to the people of my State of the reasons which have impelled me to this decision. I have not reached it lightly, nor without regret that I cannot, in conscience, go along.

Far from being a direct and speedy method of solving the substantial problems with which our country is beset, this measure stands revealed, after weeks of testimony before the judiciary committee as an utterly futile gesture, so far as immediate needs are concerned, and as an extremely dangerous innovation as regards our constitutional system.

This bill not only does not accomplish any of the objectives for which it was ostensibly offered, but it does not make effective a single substantive purpose of the New Deal.

We were told that Federal judges, particularly the Justices of the Supreme Court, were too old and that it was necessary to infuse young blood into the judiciary. It is acknowledged now that the proposed bill will not remove aged justices from that Court or from any court, nor insure the appointment or retention of young judges.

The bill contains language which specifically exempts from its immediate operation judges, no matter how old, who have not served 10 years on the bench. Under this provision, it would be possible, if the bill should pass for the President to appoint to the Supreme Court a man 69 years of age, indeed, a man 69 years and 11 months of age, who, if he had never served as a Federal judge, would be entitled to sit upon the bench until he had reached the age of 79 years or 79 years and 11 months, without being subject to having a mentor placed beside him.

More than that, since the bill fixes the number of judges permanently at 15, in the event 6 new appointments are made, then, in such case, there would be no possible way thereafter of infusing young blood into the Court without a new law and a new expansion of the Court. Within a comparatively short time we should have a Court of 15 old men instead of 9 old men, and nothing to do about it except by further enlargement to create a sort of House of Lords to fill the magnificent marble palace on Capitol Hill.

POINT OF VIEW, NOT AGE, CAUSE OF COMPLAINT

But the age of the Justices is not the complaint of the proponents of the bill. Indeed, several of the witnesses who appeared before the Judiciary Committee on behalf of the proposal emphatically declared their opposition to any provision that would compel the retirement of judges at any given age. No one denies that Justice Brandeis now is, and that Justice Holmes, until his voluntary resignation, was an able, vigorous, just and liberal Justice at a much more advanced age than that which is fixed in the bill as the age of senility. No; it is not age but the point of view, the "economic predilections", to use the current phrase, of some of the Justices that is the cause of complaint. But one of these Justices, whose views are condemned and whose name is most frequently on the tongues of the advocates of the measure, is the youngest man on the bench and will not be touched by the legislation. He cannot be made to feel the sting of the lash, so the scapegoat for him is the venerable, the distinguished, the brilliant Brandeis, whose progressive views for a generation have been a beacon light to all who call themselves liberals.

So the bill fails on the score of age and it fails on the score of economic philosophy.

When the Attorney General and his assistant appeared before the Senate committee to make out a case for the bill, they each attacked the divided decisions, the rulings of the Court by which laws of Congress and of the States have been held to be unconstitutional by a vote of 5 to 4. It is acknowledged now that the bill does not touch this defect; that decisions of 8 to 7 will be just as possible in the new Court as 5-to-4 decisions are now, and that Justice Roberts will still be in the Court after its expansion to be the eighth vote as he is now the fifth. So the bill does not do away with "Roberts' land", as one of the proponents of the bill has designated that twilight zone between the constitutional and the unconstitutional law.

That there has been in the past an altogether unwarranted, undesirable, and even vicious tendency on the part of the Court to invade the legislative field, I would be the last to deny. That we should attempt to correct this tendency by ourselves invading the judicial field, I most respectfully but emphatically do deny.

The proponents of the bill go up and down the country denouncing the Supreme Court for its reactionary decisions and the Federal judiciary generally for the abuse of the power of injunction, as though this measure gave some assurance that only progressive decisions would be rendered in the future and government by injunctions would be abolished as a result of the passage of this bill. Both of these assertions I deny.

There is not a line or a syllable in this bill dealing with the issuance of injunctions by the courts. There is not a single provision in it that affects the power of the inferior courts to tie the hands of the Government in dealing with problems of public welfare. There is not a word in it that prevents the inferior courts from holding laws of Congress unconstitutional. Not a single argument made by the proponents of this bill to organized labor and to the liberal forces of the country on these grounds has the remotest bearing on the measure we are asked to support.

UNABLE TO FIX DECISIONS IN ADVANCE

When asked to point out how progressive decisions by the Supreme Court would be guaranteed, the advocates of the bill acknowledge, indeed they insist, that the President could have no contract in advance with any new Justices that they would render particular decisions in particular cases, or vote to sustain acts of Congress which have not yet been even written. It is acknowledged that the six new Justices, since they would not constitute a majority of a Court of 15, would have to depend upon the support of at least two of the present Justices to uphold any act. And, it must be acknowledged that since all nine of the present Justices concurred in holding the N. R. A. unconstitutional, there would be no certainty that any members of the present Court would vote with the new members in any particular case.

Thus every argument which has been advanced to sustain the bill has dissolved on the very tongues of its advocates. Only one count remains—and this is not an argument but a naive expression of hope—the hope that by "the infusion of new blood", a tendency would be developed in the Supreme Court toward a more liberal interpretation of the Constitution. When it was called to their attention that the decisions of the Justices could not be predicted and that, in the past, the views and even the decisions of the Justices have very frequently disappointed the confidence of their Presidential sponsors, then one after another of the witnesses for the bill weakly fell back on the statement, "We must take a chance." Surely, that is a very poor foundation on which to build the structure of economic justice!

We are told that the Court bill is within the letter of the Constitution—and it is. The Congress does have the legal right to make the Court as large or as small as it pleases. So, too, has Congress the right to refuse to appropriate a single penny to pay the salary of the President or to maintain the White House or any other branch of the Government. Such a use of acknowledged legislative power to cripple the Executive would be totally unwarranted and would amount to an attack upon the integrity of the Government. How, then, can it be argued that there can be any justification for a similar use of the letter of the Constitution to force the judiciary.

We are told that the Court has been both expanded and contracted before—and it has, but only once for a frankly political purpose, and then by a party that died when the bill was passed and was never resurrected. In the short session of Congress, after the election of Thomas Jefferson but before his inauguration, the Federalist Party passed what was known as the Midnight Judges Act. This bill reduced the number of the judges of the Supreme Court by one so that Jefferson could not appoint a successor to a member whose death was expected, and it created a large number of new judgeships throughout the country. John Marshall, who had been appointed and confirmed as Chief Justice by the outgoing President, John Adams, whose Secretary of State he was, did not take office in the Court until after Jefferson was sworn in, and he was accused of having feverishly worked until midnight on the 3d of March issuing commissions to the newly created jurists. Almost the first act of the Jefferson administration was to repeal that law. For 8 years the founder of the Democratic Party was in the White House, all during that period bitterly resisting what he regarded as the political activity of the Federal judiciary, and of John Marshall in particular. He could have overwhelmed Marshall by adopting the device of this bill and expanding the Court, but he never did.

The only other occasion in which there was even the slightest suspicion that the Court was enlarged for a political purpose was during the administration of President Grant, when two Justices were added to the Supreme Court. A decision in which the Government was vitally interested was reversed, but Grant thought the expansion of the Court for the purpose of influencing a decision so politically immoral an act that he always denied that he had such a purpose. But even if he had done so, I would not regard an act of his administration as a valid precedent for any Democratic administration. The Democratic precedents are all for the maintenance of the dignity, the honor, and the independence of the judiciary. Woodrow Wilson, in language that burns, once declared that the people would curse the administration that would expand the Court in order to affect its judgments.

Let us not mislead ourselves by an impatience to secure economic and social reform. Let us not injure ourselves, our objectives, and our Government by our desire to repudiate those judges who, we choose to believe, have been responsible for delaying progress. If we who call ourselves liberal can by statute increase this Court in order to induce or force it to interpret close constitutional questions the way we want them decided, then manifestly any succeeding administration can do likewise and the Supreme Court will be hopelessly engulfed by the political whirlpool.

The Supreme Court ought to be above politics. If it has debased itself in the past, if any of its members have framed their decisions

upon any other consideration than the law and the facts, then it and such members in such instances have stepped down from the position of high respect and confidence in which the people have placed them.

The Congress cannot remedy such failures of judicial integrity by expanding the Court to influence its decisions, for in doing so we would undermine the very basis of public confidence in the Court.

I quite agree that the Court has, upon occasion, allowed its economic predilections to lead it into the condemnation of statutes on the ground of the wisdom or propriety of such laws rather than on the ground of the power of Congress or the legislature to pass them. But we shall not correct this error by attempting to instill into the Court another and a different set of predilections. If the Court has erred—and I think it has—let us remedy the fault not by applying force to the judiciary but by ourselves adhering strictly to constitutional propriety. We shall thus the more quickly get ourselves and the Court back to sound principles.

OLD IMPEDIMENTS NOW BEING SWEPT ASIDE

They make a sad mistake who imagine that there can be no New Deal legislation without this Court bill. What measure is proposed so strange and radical that it cannot be enacted under the Constitution as it stands? It is true, as the Attorney General, his Assistant, and all the other witnesses who appeared on behalf of the judiciary bill have said, that the Constitution needs no amendment to give Congress substantive power to do the things that ought to be done. It is true that the constitutional interpretation of Chief Justice Marshall, who defined the Constitution as a broad instrument of adequate national power, would be sufficient for this hour if reasserted by the Congress in careful laws and by the courts in judgments based on early precedents. The Supreme Court has already indicated its return to the interpretation that is needed.

The "no man's" land we were talking about last summer at the time of the national conventions, that zone in which neither the States nor the Federal Government could legislate with respect to wages and hours and conditions of labor, has disappeared. The Court has seen the light. By the Wagner Act decisions the formula for collective bargaining has been validated. The Court has recognized the Federal power to legislate with respect to production that actually is national in its effect. The old impediments have been swept aside.

Why, then, should the friends of social and economic justice be called upon to struggle over a judiciary bill which, in the very words of its proponents, offers only a chance that at some unknown time in the future the Court might sustain the reform laws which Congress ought to pass—if they were attacked?

Sometimes it seems as though the public has the impression that the Supreme Court has a legislative function and that no law becomes effective until approved by that body. Of course, such is not the fact. The Supreme Court has no jurisdiction to pass upon any law until it comes into question in a litigated case. The judicial power extends only to cases. Therefore there are thousands of laws which the Court is never called upon to construe, much less to approve.

Let us remember that the Missouri Compromise Act was on the statute books for 20 years before it was attacked and invalidated. When the A. A. A. was held unconstitutional by the Supreme Court, Congress immediately passed the Soil Conservation Act to effect the same general purposes, and to date it has not even been questioned in any court. There is no reason to believe that any policy now contemplated by this administration will be subject to attack in the courts unless, by pursuing this attack upon the independence of the judiciary, we instill in the people of the United States the fear that our form of government is in danger.

This Constitution of ours, this Government of the United States, represents the greatest advance in human freedom that civilization records. The most important element in that advance is that provision of our system which makes the courts independent of both the Executive and the legislative powers. Until the independence of the judiciary was guaranteed here in our land, the courts which ruled our ancestors were the pawns of kings and parliaments. They were the instruments of oppression. They have sometimes been oppressively used here, but the ideal that has always been held before the American courts has been that they are the refuge of justice and freedom against arbitrary power, that they should never be under even the suspicion that they might be dominated by either the Executive or the Legislature.

Article I of the Constitution of the United States provides: "All legislative powers herein granted shall be vested in a Congress of the United States." If language means anything, these words mean that Congress is the lawmaking body.

Article II provides: "The executive power shall be vested in a President of the United States of America." If language means anything, those words mean that the President is the officer designated to enforce the law just as Congress is the body designated to make the law.

Article III provides: "The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish." The Constitution provides that the judicial power shall extend to "all cases in law and equity arising under this Constitution, the laws of the United States and treaties made under their authority." If language means anything, those words mean that the courts have all the judicial power that can be exercised under the Constitution. No other person or collection of persons, no other body, no other officer has the right to exercise that judicial power or to invade it in any way, but manifestly if Congress deliberately increases the number of Judges on the Supreme Court for the express purpose, as has been announced in this case, of bringing about a different interpretation of the Constitution, that constitutes an invasion of the judicial power of the United States.

INDIRECTION UNWISE WAY TO OBTAIN OBJECTIVES

Now, every citizen of this country is free to urge any alteration of the form of his Government which seems desirable to him, and is free to argue for it in any way that he may see fit, but when I was sworn in as a Member of the Senate of the United States, I assumed an obligation under oath to represent the State of Wyoming under this Constitution according to its written form. The Constitution provides a distinct method by which it may be changed to meet changing conditions. I am bound by that method. I cannot by indirection, through increasing the number of Judges on the Supreme Court, for the purpose of forcing upon that tribunal a particular point of view, make it possible for some future administration to change the fundamental law without submission to the people.

If it is desirable to infuse young blood into the judiciary, the only way to do that is by constitutional amendment compelling the retirement of Judges at a given age. If it be desirable to do away with divided decisions by which laws of Congress are found unconstitutional, the only way to do that is by constitutional amendment, or, if Senator NORRIS is correct in his contention, by a statute requiring a concurrence of more than a majority of the members of the Court to invalidate a particular law. If it be desirable to keep the Court in tune with popular opinion, the only way to do that is by constitutional amendment, doing away with life tenure and fixing definite terms.

But we are told that it would be impossible to ratify such a constitutional amendment. My friends, when this bill was sent to the Congress, the legislatures of 42 States were in session, and of these 42 legislatures only four were in States that were completely controlled by the Republican Party. I am persuaded that any amendment designed to accomplish any one or all of these formal changes with respect to age and tenure of service could have been ratified in less time than it has taken for the Senate Committee on the Judiciary to consider this bill.

When I hear the statement made that because 27,000,000 citizens voted last November for the President for whose election I labored and in whose triumph I rejoiced the people gave a mandate to the Members of Congress to surrender their own judgment and convictions on any question that may arise, I am reminded of a declaration of principle to be found in the eloquent Constitution of Wyoming, a declaration which breathes the very soul of America.

ARBITRARY POWER SHOULD NOT EXIST IN REPUBLIC

"Arbitrary power", says the Constitution of Wyoming, "exists nowhere in a republic, not even in the largest majority."

The majority is represented in the President and in the Congress. The rights of the majority are adequately protected by those who are elected to make the law and by him who is elected to enforce the law. But the right of the individual to be protected against the arbitrary use of power can be guaranteed only by the courts, and if the independence of the courts is not maintained all guaranties of freedom and justice vanish. This is not in any sense a partisan question; it is the most fundamental question of basic Americanism which has been presented to the Congress in a generation.

It would be the most tragic mistake in the history of the liberal movement in this country if this bill should pass. It accomplishes nothing except to divide the forces of economic and social justice.

This country does not need new Judges on the Supreme Court. It needs jobs for the unemployed. It needs opportunities for the rising generation. It needs to open the door of the future to youth. It needs economic stability.

The problem is pressing for solution now, not at some uncertain date in the future when the Supreme Court may hand down a constitutional decision in some case brought by litigants, who may not yet be born, to interpret some law that has not yet been passed.

The natural wealth of the United States is great enough to support every inhabitant in peace and plenty, yet millions are in distress. There is no man so blind now to deny that this is a national problem.

The Court bill does not solve it and holds out no prospect of solving it. Instead of indulging in futile debate over abstract questions of judicial power and the desirability of authorizing the President to appoint Judges whose action cannot be foretold and who will have no power to legislate, let Congress exercise the power which no one now denies that it has. Let us meet the situation with which we are now confronted by substantive law in the manner that the logic of modern economic conditions renders necessary.

Great though the achievements of the President have been; wise and necessary though his social program is; loyal as I have been and am to him personally and to the political movement he represents, I cannot believe that the judiciary bill should pass. Patience will pay us dividends. Let us enact the program the people want. The courts cannot hold it back. But we who call ourselves liberal, we can defeat it by insisting on a measure which violates the deepest convictions of constitutional propriety of thousands of a great President's best friends.

Convention for the Protection of Literary and Artistic Works

EXTENSION OF REMARKS

OF

HON. ELBERT D. THOMAS

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, May 6, 1937

ADDRESS BY HON. F. RYAN DUFFY, OF WISCONSIN, BEFORE THE SECTION OF INTERNATIONAL AND COMPARATIVE LAW OF THE AMERICAN BAR ASSOCIATION ON MAY 5, 1937

Mr. THOMAS of Utah. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by the junior Senator from Wisconsin [Mr. DUFFY] before the section of international and comparative law of the American Bar Association, at the Mayflower Hotel, Washington, May 5, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I have been requested to discuss briefly with this group the Convention for the Protection of Literary and Artistic Works. As you know, this convention is an instrumentality of international law which has been in effect among numerous countries for almost half a century. It was originally signed at Berne in 1886 and has been revised several times. Its purpose, of course, is to recognize and accord for a limited time international protection to the exclusive property of authors, composers, and other creators of artistic works in the copyright of such works. The convention, as revised at Berlin in 1908, was transmitted to the Senate by President Hoover in 1931, with a request for the advice and consent of the Senate to adherence on the part of the United States. In 1928 there was a further revision at the Rome Conference, and this revised version, which became effective in 1931 after President Hoover had made his request, was sent to the Senate in 1934 by President Roosevelt.

This convention was considered by a subcommittee of the Foreign Relations Committee of the Senate; it happened I was the chairman of this subcommittee, and I assume it is for that reason I have been requested to discuss that subject here.

The Foreign Relations Committee reported out the convention favorably, and on April 19, 1935, the Senate gave its advice and consent, but, because of a certain understanding with reference to legislation which was in the nature of an enabling act, the action of the Senate was reconsidered and it was restored to the Executive Calendar. It was thought by many that adherence to the ratification of the treaty and the passage of enabling legislation should occur at about the same time. The so-called Duffy copyright bill, S. 3047, passed the Senate. This bill contained many provisions which would place terms of the convention upon our statute books.

The fact that the President sent this convention to the Senate for consideration attests his belief that the United States should become a party; it also indicates the international character of copyright. It is international because copyright connotes a policy designed to encourage the production of literature and art. Because such production is deemed to be of importance to the public, the Constitution of the United States expressly authorizes the Congress to foster it. The public and international character grows out of the nature of copyright works; at their best they are treasures which all the world appreciates and which cannot be limited to nationalities or to national frontiers.

The Convention for the Protection of Literary and Artistic Works, the objective of which is to establish, with reference to outstanding essentials, a uniform international law of copyright, dates from conferences held in 1885 and 1886. President Cleveland, after talking with Mark Twain about copyright, became very much interested in the subject of protection for American authors in other countries, and urged the Congress in two of his annual messages to take appropriate action for the purpose of enabling the United States to become a member of the union. As heretofore stated, however, it was not until 1931 that the convention, which had in the meantime been considerably revised, was sent to the Senate for advice and consent to adherence.

As you are undoubtedly aware, international agreements with reference to radio have been made. It was soon established that ether waves refused to recognize national frontiers. They likewise refuse to prevent the radio diffusion of literature and art beyond the limits of national jurisdiction. I am informed that it is apparently becoming the policy of great broadcasting companies to acquire and own exclusive rights in copyrighted works needed for the ordinary pursuit of their business. As owners of such works, they have been put to large expense in order that they may enjoy for themselves full freedom of user and full assurance of nonuser by their competitors; but if their competitors across national lines, by merely listening in, may, by the aid of appropriate mechanical devices, make records of the broadcasts and then proceed to rebroadcast, again using the unruly ether waves that cross back over the national frontiers, much of the effort to maintain exclusive rights may well prove to have been in vain.

This is only one instance to show the necessity of international protection. Under the convention now before the Senate there is a provision that radio companies which own copyright in literary and artistic works "enjoy the exclusive right to authorize the communication thereof to the public by broadcasting." Such right is inferentially, though not expressly, protected by international law here. When the United States becomes a party to the copyright convention, its holders of copyrights will receive all the ordinary benefits of copyright protection throughout the principal countries of the world.

It is expected that there will be another conference of the Copyright Union held in the near future. One of the proposals includes a specific provision directed against the unauthorized mechanical recording of broadcast works, and also one recognizing, as a performance separate from broadcasting, the communication of a copyrighted work to the public by means of a loudspeaker, such as is used on a receiving set. I think you will agree with me that the representatives of the United States should be present at the coming conference to see that the interests of this country are protected both by appropriate additional stipulations and the prevention of unwise amendments.

Let us examine the copyright convention with a view to further ascertaining precisely why the President and the Secretary of State, charged as they are with the duty of protecting the rights of American citizens in other countries and conducting the international relations of the United States, have seen fit to recommend and to give sincere support to measures which are calculated to bring about the approval of the convention by the Senate, and also the passage of appropriate accompanying legislation by the Congress.

The convention provides not only that authors of each country shall enjoy copyright in the other countries but that such enjoyment and the exercise thereof "shall not be subject to any formality." This means that by the mere creation of a literary or artistic work, the creator—that is, the author—possesses automatically the sole right to copy it, or in general to make any sort of commercial use of it throughout most of the countries of the world where copyrighted material is appreciated and utilized on a large scale. The author's rights pass on to his assignee; hence the treaty operates to protect the possessor of copyright whoever he may be.

This convention carries out in a large and effective way the general purpose of such treaties, namely, to give assurance that one member country will not legislate in a way that is destructive of the interests of other countries. So long as the United States is not a member of the Copyright Union, so long as it depends, as it does today, almost solely upon arrangements which do not provide for copyright without formality, its people will continue to see their literary and artistic works pirated, and their legitimate profits in them proportionately diminished. It offers adequate protection in place of the existing inadequate protection of American interests.

Though enlightened self-interest is the leading motive which impels countries to join the Copyright Union, I should not fail to add that there is a genuinely ethical side to the matter also. The instrument is entirely reciprocal. If piracy of American works has occurred in other countries, and would be prevented by American membership in the convention, it is equally true that piracy has occurred in the United States and would likewise be prevented by American acceptance of the convention's obligations.

Piracy in the United States is not exclusively of ethical concern to the authors and artists of this country. It is a matter of unfair competition to them in the exercise of their professions. Some years ago it was notorious that American theatrical producers, publishers, and others did not hesitate to pirate on a grand scale, so that the creators of works of literature and art in other countries were unable to prevent their use here or to derive any profit from such use; American authors and artists found it difficult to persuade producers and publishers to pay a remunerative price to them for what could be obtained from authors and artists of other countries without the payment of any price.

(It was amusing, in this connection, when the bill which I introduced 2 years ago was being debated in the Senate, to read a number of communications, obviously part of systematized propaganda, protesting against the adoption of the convention, claiming that to permit copyright for authors of other countries would increase competition for American authors in the home market. That market, it seems, was viewed as "sheltered" by the fact that authors in other lands were denied full copyright protection here. Like so much other propaganda this item entirely missed the point and argued precisely contrary to the economic interests of American writers and musicians, who do not thrive on the pirating of their competitors' works. Fair play is usually best for all concerned.)

The copyright convention provides also that the authors of each member country shall enjoy in all of the others, treatment as favorable as is accorded to national authors. This is usually good treatment and constituted the guaranty that is accorded to patents and trade marks under various conventions, to which the United States is a party, for the protection of industrial property. What the United States has long been doing in behalf of its owners of industrial property, it ought no longer to defer doing in behalf of its owners of literary and artistic property.

Without going into too much detail, the principal provisions of the convention may be described as follows:

1. The term "literary and artistic works" is given a broad and inclusive definition. Parties to the treaty obligate themselves to protect such works.

2. Authors within jurisdiction of one of the countries party to the treaty are given copyright in their works in each of the other countries, whether unpublished or published, to the extent that the laws of each, respectively, accord such rights to its own nationals. This is called "national treatment."

3. In addition to national treatment, the treaty provides for certain specified treatment, which must be accorded by the country to the authors of the other countries whether accorded to its own nationals or not. The most important is the provision that the enjoyment of the rights granted shall not be subject to any formality. This means "automatic copyright." However, the extent of the protection and the means of redress for infringement are to be regulated according to the legislation of the country in which protection is claimed.

4. It is provided that authors shall have the right to object to deformation or modification of their works. This is the "moral rights" clause. The conditions for its exercise and the means of safeguarding it are left up to the individual countries.

5. A standard term of copyright is set forth: The life of the author and 50 years additional. However, each country may independently fix the length of term to be granted by its own law.

6. It is especially provided that authors shall enjoy the exclusive right to authorize the public broadcasting or motion-picture production of their works.

7. Infringing works may be seized by the competent authorities of the several countries.

8. The treaty does not interfere with the exercise of police power over offending works.

9. The treaty sets up the Bureau of International Union for the Protection of Literary and Artistic Works. This office is maintained at Berne, under the authority of the Swiss Government, and has the duty of studying copyright questions and making available pertinent information.

10. Revision of the treaty is contemplated from time to time. No change can be valid except by the unanimous consent of the countries who are parties.

11. The obligations of any country may be terminated on 1 year's notice.

REASONS WHY THE UNITED STATES SHOULD ENTER THE CONVENTION

The Government of the United States has the duty of protecting the rights of Americans in other countries. The most efficient existing instrumentality for the protection of copyright is the Convention for the Protection of Literary and Artistic Works.

The convention provides affirmative rights that national legislation cannot legally interfere with. The chief affirmative right is that of copyright without formality. This means that American authors, without having to do anything except create a literary or artistic work, have the guaranty of copyright in every country which is a party to the convention. There are over 50 countries which are now parties, and besides the United States, Russia and China are the only countries of large importance in the field of copyright which are not now parties.

Compliance with formalities, such as registration or deposit of copies, is not burdensome at home; but it is difficult, costly, and usually impracticable for an American author to comply with such provisions in countries other than his own. The convention provides guaranties that no country party to it can exact such requirements as a condition of copyright.

The United States is party to several bilateral copyright treaties, but these do no more than promise reciprocally national treatment—that is, the same treatment which it accords its own citizens.

In the House hearings there was complaint as to the attitude of the German Government. There are certain executive proclamations now outstanding with Germany, but the great complaint was that Germany treats non-Aryan Americans as it treats non-Aryan Germans. This is permissible under the present arrangement. It would not be permissible if we joined the convention. The present situation in Germany shows the need for the convention more dramatically than anything that has heretofore occurred.

Of course, some countries from time to time do not live up to their treaty obligations. In the overwhelming majority of cases, however, countries respect these obligations. This is particularly true of routine obligations, such as those of the Copyright Convention. We have a good illustration in the Tele-Communications Convention. This treaty regulates the radio wave lengths among the various countries. Individual stations from time to time violate these regulations. The Department of State is continually calling attention to infractions of this sort all over the world. Almost invariably the other country in question takes prompt remedial measures.

At present Americans have no copyright treaty rights in Germany. Entry into the convention would give our citizens such rights in Germany, and in some 50 other countries and colonial possessions, and it will give the American Government the means hitherto lacking of adequately protecting those rights.

There is plenty of evidence that piracy flourishes in other countries. Sigmund Romberg testified of instances where his songs were pirated in Denmark, in Sweden, and in Holland. The fact is that the literary and artistic works of America are in almost universal demand. In the absence of international copyright protection such piracy will continue. The exports of American literary and artistic works exceed the imports about three to one.

It would seem to be the proper attitude that the United States should see to it that the works of authors of other countries are protected within its own jurisdiction. In the past its failure to do so has brought repeated threats of retaliation. The excess of American exports over American imports makes retaliation easy of accomplishment.

There is much sentiment throughout the country in informed circles for the adherence to this convention. Several years ago the presidents of the University of California, the University of Chicago, Columbia University, Harvard University, the State University of Iowa, Johns Hopkins University, the University of Minnesota, University of Wisconsin, Yale University, Princeton University, the University of North Carolina, and the University of Texas joined in a letter to Secretary of State Hull; they said, "Adherence to the convention would at once meet the demands of honor, improve international relations, and be a boon to American authors. It would take high rank in copyright annals. Such a course is earnestly recommended."

The Duffy bill was favorably reported by the Committee on Patents in the Seventy-fourth Congress. I was in charge of the bill when it was considered by the Congress. After holding control of the floor of the Senate for 7 days, it passed the Senate. When it got over to the House a long series of hearings was scheduled during the months of February, March, and April 1936. I am very definitely convinced the extended hearings were so that the bill would not have time to come before the House of Representatives for consideration. Certainly the hearings took so long that there was insufficient time for the bill to be considered.

One objection to the bill was that in carrying out the provision of the treaty giving automatic copyright, we thereby granted to foreign authors privileges that our own authors did not have. American authors need automatic copyright in other countries because it is impracticable for them to comply with formalities in distant places. They do not especially need it at home because they have always registered their works at the Copyright Office for a nominal fee. They have become used to it, and they know the procedure. The Duffy bill took nothing away from the American authors that they now enjoy, but it and the convention would assure to American authors automatic copyright in 50 countries. The bill gave to authors in other countries automatic copyright in this country where they needed it, because they cannot readily comply with the formalities. The bill, however, held out to foreign authors inducements to register their works and affix notice of copyright, by providing much greater remedies for infringement if these formalities, in fact, have been complied with.

But the big opposition came from A. S. C. A. P. and its very efficient lobby * * * the very best in Washington * * * because my bill amended the provision in the law which provided for $250 minimum damages in case of infringement, no matter how innocent the infringement might be.

Under the act of 1909, which is the basis of present copyright law in this country, the author, or his assignee, has exclusive right to perform in public for profit the types of copyrightable works that are most used in broadcast entertainment. But what constitutes a public performance for profit?

In an early case that went before the Supreme Court of the United States it was held that to sing a copyrighted song in a restaurant which was run for profit constituted a public performance for profit, even though no extra charge was made because of the music and the direct profit came wholly from the service of food. Later on, this doctrine was so extended as to include the emission of sound waves from a radio receiving set, if the receiving set were located in a place where commercial enterprise was carried on. As you know, such places include hotels, dance halls, drug stores, taxicabs, and a variety of others. The Court furthermore held that the performance of the receiving set was a performance separate and apart from that which occurred when the broadcasting created the waves which travel from it to the receiving set, there to be transmitted into sound waves. The result of such decision is that every broadcast of a copyrighted work received at a commercial establishment will, if the author's consent has not been obtained by the receiving set owner, involve an infringement, even though the broadcast was with the author's consent, and obtained for substantial remuneration. As the owner of the receiving set has no practicable way of knowing what is copyrighted, or even what is going to be broadcast at any given time, he is likely to become an innocent infringer at any instant. As the law makes mandatory damages in the minimum sum of $250 for each offense, infringement is a matter of serious concern.

Possibly it was a mistake to attempt to incorporate much-needed copyright reform in a bill which largely contained provisions to make our statute law coincide with the provisions of the Copyright Convention, but I want to give you several illustrations of the insolent and arrogant manner in which A. S. C. A. P. has operated in my State.

There is no limit to the amount they will charge. "All the traffic will bear" is the only limitation. I have a letter which the American Society of Composers, Authors, and Publishers wrote to Mr. Alex N. Schmalz, route no. 1, Menasha, Wis., under date of March 13, 1934. Among other things, the letter said, "This isn't a matter of what you feel like paying. You fill out the application and send it to us and we will tell you what you should pay."

They can actually determine whether a small dance hall can run. I have in mind the instance of a summer resort hotel in northern Wisconsin called the Alpine Resort at Egg Harbor; Mr. Paul Bertschinger is the manager. They do have an orchestra which plays for the guests, but no extra charge is made if they care to dance. A. S. C. A. P. started them off with a $25 license fee; then a year or

two ago they raised this fee arbitrarily to $150. When Mr. Bertschinger sent in $35 it was scornfully returned, and he was sued in the Federal Court for the Eastern District of Wisconsin.

That an organization which gives a chance may be of a nonprofit nature does not make any difference. I have a letter from the American Society of Composers, Authors, and Publishers dated December 10, 1934, addressed to the Bowler fire department. Bowler is a small town in Wisconsin. The society says in their letter: "The fact that the dance and entertainment is for local benefit and that yours is a nonprofit organization, of course, does not exempt you from the necessity of obtaining a license from this society. * * * Under all the circumstances the license fee will be $50."

I have a letter from the Waupaca War Memorial Armory at Waupaca, Wis. This armory operates a National Guard armory to defray operating expenses and to establish a mess fund for the enlisted men of the Howitzer Company, One Hundred and Twenty-seventh Infantry. They hold a few dances each year, barely realizing enough to make a little profit. This society claimed they owed them $75, saying that they owed it for the 3 years, 1933, 1934, and 1935. There was no money in the treasury, so the soldier boys had to "dig down."

This monopoly represented by A. S. C. A. P. feels that the consuming public has no rights which should be considered. I have here a letter on the stationery of the American Society of Composers, Authors, and Publishers dated July 19, 1935. It is addressed to Mr. J. Dodmead, of Osseo, Wis. I quote parts of the letter:

"I have your letter, from which I note you only run old-time dances. In response let me say that the copyright on a sheet of music runs for 28 years. It is hardly likely that your musicians would play music older than that, even if they did know how to play it. I am sure that people want to hear music which is popular, music which is heard over the radio, and certainly not the schottisches and square dances of their grandmother's youth." Then he ends up the letter by adding, "It will be cheaper for you to obtain a license than to take a chance of infringing, since the law provides for damages ranging from $250 up to $5,000 for each violation." And the word "each" is underlined in blood-like red—I suppose to intimidate and frighten this good citizen of my State.

I have again introduced a bill in this session of the Congress, known as S. 7. It contains almost the same provisions as S. 3047, which passed the Senate. That bill seeks to eliminate the liability of the receiving-set owner, unless the broadcast received constitutes the whole or a portion of that for which the customers directly pay. The dance hall would continue to be liable, for music is of the essence of the service for which its charges are made; but the barber shop, the boarding house, the taxicab driver, and others using it in a merely incidental way would no longer be deemed to be engaged in a public performance for profit.

The bill leaves the amount of damages for infringement to the good judgment of the court, rather than to fix it in terms of dollars, but provides that the court must award damages sufficient to prevent the continuance of infringement.

From whatever experience we approach the present situation in this country in respect of copyright, there would seem to be one conclusion that is inescapable—the world-wide interests of American authors, publishers, motion-picture producers, and broadcasters demand the development of uniform law universally applicable. The Convention for the Protection of Literary and Artistic Works supplies such uniformity in most countries in respect of the primary elements of copyright protection.

I am convinced that the United States, once a member of this union, will exercise an influence it has hitherto lacked and possess a means not hitherto taken advantage of, to promote the interests of its people and stimulate the growth of international good will in yet another sphere of world life.

Problems of the Roosevelt Administration

EXTENSION OF REMARKS

OF

HON. SHERMAN MINTON

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Thursday, May 6, 1937

ADDRESS BY HON. JAMES A. FARLEY AT INDIANAPOLIS, IND., ON APRIL 28, 1937

Mr. MINTON. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by Hon. James A. Farley at Indianapolis on Wednesday, April 28, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, it is extremely fashionable in some quarters to take a very gloomy outlook in considering the future of America. We are constantly being assailed, either in the press or over the radio, with dire predictions about the dangers which threaten our cherished institutions. Despite all that talk, it is my firm conviction that the country remains on a fairly even keel. Of course, there are serious problems to be solved.

But in the last analysis the preservation of the Nation does not depend upon any class or upon any single concept of wise public policy. The sheet anchor of Americanism is democratic rule, and there has never been a time when the masses of the people were more awake to political conditions than they are today.

This meeting here tonight is typical of gatherings being held all over the United States. You are gathered here, it is true, for social reasons, to enjoy each other's company, and to enjoy the pleasures of good comradeship and pleasant surroundings. But you are also eager to learn something new about the complex questions of human and political affairs that are troubling not only our own people but the rest of the world as well.

It is hardly an exaggeration to say that the entire United States has been turned into one vast forum for the discussion of public questions. In traveling about the country I have been impressed at every hand by the eagerness of people to learn something new about their Government and its policies. There is a wholesome willingness on the part of most citizens to think out things for themselves and to be guided by their own judgment in deciding the wisdom or unwisdom of policies and programs. This independence of judgment exists on a scale never known before.

No matter what other people may think, it seems ridiculous to me to talk about the Nation being in peril when the great body of citizens has such an alert interest in what is taking place. It has been well said that every fundamental question which was submitted to the people for judgment has been settled right, and I am inclined to think that this will always be so. The collective mind of the voters has an ability to penetrate problems with keener insight than has any individual, no matter how able that individual may be.

So let us not be disturbed by the hysterical outbursts of those who predict disaster and the end of everything if their own personal views are not accepted by the majority. The strength of this country lies in majority rule, and when public opinion is vigorous and aroused there is no danger of our liberties being lost by the wrongdoings of minority groups.

This awakened interest in public questions, as I said a moment ago, is in my opinion an extremely healthy condition for this country. It is the surest guaranty of our continued strength as a nation. It is the safety valve which will always be ready to function if the country is imperiled by excesses of any kind.

Whenever discussion is as lively and widespread as it is at present, naturally differences of opinion are bound to exist. No one should complain when matters of policy are fully and adequately explored. Under the circumstances, the best contribution to the discussion is made by those who maintain their good temper and who address their appeal to the reason rather than to the fears and prejudices of their hearers.

In recognizing the fact that the general public has in recent years become more sensitive and more intelligently alert to political problems, I think it fair to say that this pleasing state of affairs has been brought about in large measure by the course pursued by President Roosevelt. No matter what may be said by those who disbelieve in his policies, the fact is that the Chief Executive has attacked the evils that afflict this Nation with a courage and frankness almost unparalleled in recent political history.

In adopting this wise policy of meeting the issue squarely, of pointing out injustice and proposing adequate remedies, President Roosevelt has performed a service for the Nation the value of which cannot be overestimated. For those who may be inclined to disagree, it may be well to recall the impossible conditions which existed in the days before the present administration came into power.

The vice of the administration which preceded the advent of the New Deal was not so much the fact that its policies were wrong as the fact that in the face of grave and pressing problems it stood helpless and did nothing. In other words, democracy remained paralyzed at a time when action was imperative. The floodwaters of the depression were sweeping away the homes and possessions of the people because no power was working to erect protecting dikes and embankments. Millions of idle hands that might have been employed at the task were doing nothing because there was no leadership to call them into action.

To sum up, democracy was in peril a few years ago because instead of grappling with realities the Government was evading them. The deadly habit of timidity and caution was in full play when time and events were calling for courage and fortitude. Those in power were afraid that if they struck out on a new course of action it might prove to be wrong; so they adopted the fatal alternative of pursuing no course at all.

While I am not one of those who think that the sum of all wisdom is bound up in the policies enacted by the present administration, yet at times I am moved to smile in reading the outpourings of its critics. How easy it is to lay down the simple rule that business is better off when freed from Government interference of any kind. How easy it is to parrot the simple proposition that the fewer laws we have the better off we are. How plausible it sounds to repeat the old theory that prices will reach their own level and stabilize themselves if the Govern-

ment will only keep hands off. How pleasing it is to be assured that if Uncle Sam will only stop meddling industry will thrive and the unemployed will all be absorbed into private industry.

The only reply to those propositions is that we tried all of them a few years ago and they failed to work. With wheat at 30 cents a bushel and other farm prices correspondingly low, it happened to be the wrong time for adopting a policy of nonintervention on the part of government. The Nation was forced to act, and through that action the farmers of the land were saved. The same was true of the home owners, the bank depositors, and other stricken groups within the population. The Government was compelled to come to their rescue. Even today, with industry once again on a high plane of activity, it is perfectly apparent that the misery among the needy and unemployed would be almost unbearable if it were not for the Federal relief program. The fact is that we are faced with a serious unemployment problem which exists even in normal times, and it behooves the Nation to work out the sanest possible solution. The remedy won't be found in repeating meaningless phrases about individuals being better off if they refuse to accept public funds to tide them over their misfortune.

By the prompt and courageous manner in which he faced the grave problems which we have just enumerated, President Roosevelt demonstrated again that democracy is capable of adjusting itself to every change in public conditions if those in power have the good sense to face realities. He never wasted his time or that of the Nation by relying upon the repetition of shopworn platitudes or by pollyanna predictions that everything would be all right in the end. He acted on the sage principle that the longer an unhealthy condition is allowed to continue, the worse it gets in the end.

There have been other problems to confront the Roosevelt administration during its term of office. As if the unhappy play of economic forces were not enough, nature likewise has been acting up and adding to the troubles and trials of the American people. The last few years have seen an unprecedented series of dust storms and damaging floods. The severity of these disturbances has served to call attention to the fundamental condition which must be met. There is no sense in letting dust storms carry away the soil in the grain-growing States while raging floods are doing the same thing along the seaboard.

President Roosevelt is determined that the Nation shall work out a sensible and long-time policy of prevention and cure. He has had working a conservation commission composed of eminent men and women to study the best policy of land and water usage for the United States. It is a problem of the utmost magnitude and the solution agreed upon and started by this generation should prove of lasting benefit in generations to come. We do not care to see a great desert in the heart of America. But we can't prevent it by simply murmuring the old maxim that the best government is the one which governs least. The solution can only be found through the sincere cooperation of the Nation and the States, and the Chief Executive is courageously working along that line.

Very fortunately for the country, our foreign relations have been most happy during the past few years. We have avoided entanglements either in Europe or the Far East. Our relations with Latin America have been manifestly improved by the application of the good-neighbor policy. The old foreign markets are gradually being reopened under the extension of the reciprocal trade pacts put into force under the supervision of Secretary of State Hull. Here, again, in this all-important field of Government action the Chief Executive has advanced the Nation's interests by a realistic approach to difficult problems.

When we consider the magnitude of the social, economic, political, and international forces which center in the White House, it is easier to appreciate the tremendous load and responsibility which the Chief Executive must carry. Surely if any man had an excuse to dodge some of these matters, to meet them by inaction rather than by positive measures, the President is that man. If anyone has the impression that President Roosevelt is going out of his way to grapple with conditions that might better be let alone, he is seriously mistaken.

The President has decided upon a course of positive action because he realizes better than any person in America that the attitude of the Nation toward these vital problems must be decided by this generation. Because many of these tasks are unpleasant, that does not mean that they may be shirked. In the decade after the World War things were allowed to drift, and the result was a disaster, which we have no desire to repeat.

By his ceaseless and persistent efforts in calling attention to these things which must be done, President Roosevelt is performing a heavy task, for which he deserves the profound gratitude of the Nation. He has awakened the minds and hearts of his fellow citizens to the responsibility which is theirs and to the contribution which they may make to the future happiness of America by dealing with current problems in realistic and bold fashion. He is profoundly aware of the fact that it is idle and dangerous to suggest Government inaction when there are grave matters which can only be met through the instrumentality of the whole people acting through their chosen representatives. The ravages of dust storms and floods must be met; the evils of long hours and sweatshop wages in industry must be met; the evils of ruinous farm prices must be met—and the only way in which they can be met is through the medium of well-planned and salutary Government action. It can be said emphatically that there can be no alternative.

Of late the Nation has been engaged in a discussion of President Roosevelt's plan for reorganization of the Federal judiciary. It is not my purpose at this time to launch upon a lengthy exposition of that subject or to review the reasons why the Chief Executive was convinced that the program which he presented was the only possible solution under the circumstances.

But I do wish to point out that by meeting this problem of the judiciary in his usual forthright manner, the Chief Executive has again performed an impressive service to the Nation. Whatever his critics may say, the undeniable fact is that in the few months since his recommendations went to Congress the Supreme Court itself has functioned in a wholesome manner, the effects of which will prove of lasting benefit to the entire United States.

In the first place, the importance of the Court's decision in overruling its own prohibition against the enactment of minimum wage laws for women cannot be exaggerated. The Court's original decision which it overturned was plainly a mistaken and dangerous interpretation of the Constitution. While it remained in force it constituted a blot upon the fair shield of American justice. To say that there is no power in this Nation to protect helpless women toilers from the greed of sweatshop operators is too absurd to be considered. And yet until a few weeks ago that decision was the law of the land.

The decision upholding the constitutionality of the Wagner Act was also a milestone on the path toward a more reasonable interpretation of the country's organic law. In rendering that decision the Court—or rather a majority of the Court—recognized the obvious fact that unless the restraining hand of the Government was allowed to play a part in industrial relations the alternative was bound to be chaos and perhaps worse.

This open-minded approach to the Constitution in the light of modern conditions is the very thing which President Roosevelt warned us must be had if the Nation is to cope successfully with those conditions which lie ahead. He told us truthfully that the difficulty was not with the Constitution but with the mental attitude of a few of the Judges; and his contention has been shown to be the correct one by the attitude taken by the Court itself.

In discussing the proposed changes in the make-up of the Supreme Court, it is a curious fact that some of those who oppose the President's plan are proposing methods of their own which are far more radical than anything the Chief Executive has suggested. For instance, one Senator has introduced an amendment which would empower Congress, after the Supreme Court has invalidated a law, to reenact it over the Court's veto by a two-thirds vote of both Houses. The adoption of that amendment would end for all time the usual process of amending the Constitution, and it would also in effect destroy the Supreme Court by rendering its power to review almost wholly void; and yet the author of that amendment is severely criticizing the President's mild alternative as a menace to American institutions.

Whatever hysterical statements appear in the daily press and whatever is heard over the radio, you may depend upon it that when the Supreme Court is at issue, or anything else, the future of American institutions is entirely safe in the hands of the present Chief Executive of the United States. He has no need of a lesson in patriotism from any man. On the contrary, there is no individual in this land who has a more devoted or a more intense regard for the fundamental principles of Americanism. But he had never deluded himself into believing that a problem will disappear if he merely shuts his eyes. With his deep-seated understanding of public problems he sees what must be done and he has set himself resolutely to the task of marshalling the forces of the Nation for the public good.

The next few years will be full of purpose and significance for the American people. Let us hope that the present inclination to study public questions thoroughly and to decide them upon their merits will be continued. The program of the Roosevelt administration is founded upon the democratic principle of majority rule.

In his constitutional duty of caring for the welfare of the Nation, President Roosevelt has faced its problems frankly and suggested reforms born of courage and common sense. Despite the bleatings of timid souls and the croakings of professional pessimists, I am confident that his courage and common sense will continue to win the full measure of approval of the American people.

Laws to Curb Crime

EXTENSION OF REMARKS

OF

HON. ELMER THOMAS

OF OKLAHOMA

IN THE SENATE OF THE UNITED STATES

Thursday, May 6, 1937

ADDRESS BY HON. JOSEPH B. KEENAN, THE ASSISTANT TO THE ATTORNEY GENERAL, BEFORE THE GENERAL FEDERATION OF WOMEN'S CLUBS, TULSA, OKLA., ON APRIL 29, 1937

Mr. THOMAS of Oklahoma. Mr. President, I ask unanimous consent to have printed in the RECORD an address on

the subject of laws to curb crime, delivered by Hon. Joseph B. Keenan, the Assistant to the Attorney General, before the General Federation of Women's Clubs at Tulsa, Okla., Thursday, April 29, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I am very glad to return to this audience of the council of the General Federation of Women's Clubs.

Two years ago I had the privilege of appearing before this council to explain to you the crime laws proposed by President Roosevelt then pending before the Judiciary Committees in Congress. These laws were designed to throw the forces of the Federal Government for the first time into the battle against kidnapers and other predatory forces engaged in crimes of violence with which the States alone were powerless to cope.

I shall never forget nor cease to be grateful for the enthusiasm with which you supported those proposals. Yours was the first great organization to throw its influence behind the activities of the Government to combat crime as a national evil. It was your resolution memorializing the Congress that was largely responsible for its favorable, speedy, and unanimous action.

You took this action at a time when many men, particularly lawyers, were protesting against these laws. These lawyers said that crime was a matter for the States alone and of no concern to the Federal Government, and that giving the Federal Government power to pursue kidnapers from State to State would create a bad precedent for the assumption of other powers by the Federal Government in the future. But you refused to be misled by any dry, unrealistic, legalistic fears of the future when the present safety of children and the happiness of mothers were involved. You chose the reply, in the words of your president, Mrs. Roberta Campbell Lawson, "We women must accept our share of responsibility, must learn to think deeply, if we are to overcome paralyzing obstacles to human progress of our established order of society."

And so I feel that I may address you this evening on the subject of the President's Court proposals knowing that you will hear me with minds not closed to the needs of human progress.

There is no audience which I believe would more instinctively appreciate President Roosevelt's proposals for the reorganization of the Supreme Court than an audience of intelligent women. The aim of those proposals is that continuity of the great traditions of our historic past, so dear to the hearts of loyal women, and that possibility of peaceful evolution of the future of our country, so dear to their peace of mind. And the method the President proposes to reach that aim is a simple method that treats a simple human problem for what it is—a method that faces human powers and human weaknesses with the same straight glance with which women face and solve such human problems.

At bottom this Court controversy involves a great deal of knowledge of men and very little law. It's hard to admit that. We men, and particularly we lawyers, are inclined to dress up all our affairs, like this problem of the Supreme Court, with big, mysterious words to make them seem much more imposing than they really are.

Men like to make over simple human relationships into what we like to think are impersonal "institutions." We feel surer of ourselves when we have put bigger columns on the fronts of our banks, although the man who sits in the president's chair of the bank is no wiser or more honest than when the bank had less imposing quarters. We feel safer when we are institutionalized in great corporations, although we are no wiser or abler than when we worked in little corporations. And we feel safer when we think of three men, five men, or nine men as "the Court" than when we think of them for what they are—three men, five men, or nine men. In short, men impress themselves, and hope they impress women with the idea that somehow they can turn the world into automatic mechanisms called "institutions" that don't make mistakes as men make mistakes.

But in the last 10 years or so we have had proof after proof that all our institutions are no bigger and no stronger and no wiser and no sounder than the men in them—that we can't stop thinking about men as men because they want us to call them an "institution" or a "system"—that there can be just as much human trouble, just as much failure of manpower in the greatest public institution as in the humblest business.

Ten years ago we thought we had a banking system that was foolproof. We thought we had organized and systematized everything into permanent security. And we listened to these carefully promoted success stories about the supermen our civilization was producing and how they would make everything safe for our women—their homes, their investments, and the peace and security both within and without the country that they dreamed of for their men.

We had a terribly rude awakening. The men behind the desks in the bigger and better banks turned out to have had just the same capacity for poor judgment in the investment of the savings of the women of the country as bankers in smaller banks before them. The captains of industry, in their skyscraper offices, turned out not to have learned how to keep even a job in every home, let alone a chicken in every pot and two cars in every garage. And great financial names whom you never saw in the flesh but to whom as "institutions" you blindly entrusted your investments began to land in jail.

Now, when those things began to happen in 1929 there was a Government at Washington that was concerned, above all things, not to set bad precedents for the future.

While there was still time to save the banks that Government refused to lend them enough money to keep them from closing unless they could put up extraordinary collateral; it was afraid to set a bad precedent for loose banking in the future.

It refused to give help to the individual farmer and home owners, because it was afraid that Government loans directly to individuals would set bad precedents for the future which might take business from financial institutions.

It refused to give anything but the most humiliating poorhouse treatment to those without work through no fault of their own; it was afraid of creating a bad precedent for the future of making people dependent upon Government.

It refused to proceed vigorously to punish malefactors in high places in finance or to stand vigorously in the way of their depredations upon the public for fear of shaking confidence for the future in the institutions those malefactors represented.

In short, Mr. Hoover's Government absolutely refused to look the present in the face for fear of what possibly and hypothetically and conceivably and contingently might happen some time in the future. And just because he wouldn't look the present in the face, the present blew up in his face. So 30,000,000 people went through a depression and untold agony to make sure we established no precedent for the future. In an unwise excess of respect for our institutions we put our heads in the sand about the way they were working for us and refused to think realistically about the abilities and the weaknesses of the human beings who constituted them.

Then in a reversion to common sense about the here and now, with an instinct of self-preservation, you and millions of other Americans elected as President Franklin D. Roosevelt.

He had human common sense—the common sense women have about the abilities and weaknesses of men and of the value of the present; the common sense of the bird in the hand and first things first. He had a sense of proportion about the comparative importance of the realities of the present and the contingencies of the future. Perhaps because he once had so personally to face real fears of an immediate hopeless future he had outgrown a lawyer's professional habit of worrying himself sick with fears of hypothetical possibilities in an indefinite future.

He told you over the radio to stop worrying about the future—to meet the concrete human problems of the present and that you'd then be fit to meet the future when you came to it. And a whole Nation then gladly followed his advice to take the bird in the hand. Today that Nation is even more glad that it did follow his advice.

He didn't worry about institutions and precedents and what some other President might do 50 years from now. He worried about paying and guaranteeing your bank deposit—about the mortgage on your home—about your boys wandering aimlessly over the country—about jobs for your discouraged husbands and brothers—about old-age security for your fathers and mothers—about decent housing for American families—about safety for your investment—about higher cash income for farm men and women—about higher wages and minimum wages and shorter hours for working men and women—about child labor—about methods of compelling collective bargaining so that we would not have the dangers of civil war and the waste of strikes—about ways to keep us at peace within this Nation as well as with foreign nations.

Last November more American women and men than ever voted for any man agreed that they were glad that a man with such a healthy sense of proportion—with such a sane grasp of human problems in the here and now—was President of the United States, and asked him to go ahead in his human wisdom and his human common sense. And in particular the women of America reaffirmed their faith and trust in his wisdom and in his judgment on the great problems which women busy with their homes and their work and their husbands and children had little time to examine for themselves.

About 2 months ago that President presented the country with a proposal for the reorganization of the Federal courts, including the Supreme Court, in the same terms of human common sense and from the same point of view of human common sense in which he has presented every proposal to you and solved every problem for you. Probably every one of you heard him over the radio, and I wouldn't presume to cover again the ground he has covered.

But I would like to give you some ideas that possibly supplement what he then told you.

One hundred and fifty years ago the generation of men who fought the Revolutionary War wrote a Constitution that they hoped would last long into the future, that would be adopted by every generation to the needs of that generation. That Constitution provided for a new Federal Government and for a new Federal Supreme Court and a new Federal Congress as part of that Government.

There was nothing in the Constitution about the Supreme Court having the power to declare acts of Congress unconstitutional. There was nothing in the Constitution about the size of the Supreme Court or of any lower Federal court. Establishing and fixing the size of all those Federal courts was left to Congress.

About 12 years after the Constitution was adopted in 1803 the Court refused to accept additional powers which Congress wanted to give the Court, but which were not provided for in the Constitution. In refusing to accept those powers the Court said it would be unconstitutional for the Congress to give the Court those powers. That was the only time the Court claimed the power to declare an act of Congress unconstitutional during

the lifetime of the generation who framed the Constitution, and indeed until the verge of the War between the States.

The next time it declared an act of Congress unconstitutional was the Dred Scott decision, which was reversed by the agony of the War between the States and the killing and maiming of hundreds of thousands of the husbands and brothers and sons of the women of that generation.

A few weeks ago the most distinguished and authoritative living American historian, Dr. Charles Beard, of Columbia University, whose History of American Civilization, written in collaboration with his wife, Mary Beard, many of you have read, talked over the radio in favor of the President's proposals. If you listened to that talk you will remember that he pointed out that up until 1895, only 40 years ago, when the Court by reversing its own decision held the income tax was unconstitutional, the country had never resorted to an amendment to reverse what it thought was an erroneous decision of the Supreme Court.

Up to 1895, as Dr. Beard pointed out in his radio speech, Congress had handled the problem of bad decisions, not by amending the Constitution, but by changing the number of Supreme Court Justices several times. That was the accepted normal way to meet human failure on the Court—the inability or the unwillingness of the Court to meet the needs of the generation then living. Congress increased the number and it reduced the number of Supreme Court Justices in the Presidencies of two of the Revolutionary fathers, John Adams and Thomas Jefferson. And on at least three occasions in Republican administrations Congress changed the number of Justices for the known purpose of affecting the decisions and the policies of the Court.

In making those changes the Republicans did not violate the Constitution and they did not destroy the Constitution. Those changes are among the reasons why we still have the Constitution with us. Those Republican Congresses saved the Constitution from a Court that was so obviously alienating the people from the Constitution that it was discrediting the Constitution. Now a Democratic Congress has the same problem—and, the President thinks, the same duty to meet it.

As I have pointed out, the generation of the men who wrote the Constitution had little trouble with the Supreme Court for the good and sufficient reason that in those years the Court did not make trouble by declaring laws of Congress unconstitutional in those years. It is really only in the last 25 years that the Court has seriously interfered with the powers of Congress. In those 25 years it has declared more acts of Congress invalid than in all the rest of our history. And since Franklin D. Roosevelt became President the Court's interference with laws of both State and Federal legislatures designed to bring security and avoid confusion, class division and civil strife in this country has become so bad that there has not been one lawyer who has appeared in the hearings before the Senate Judiciary Committee who has not agreed that something has got to be done to stop it. That includes Senator WHEELER.

Every woman in this country, lawyer or no lawyer, knows by her common sense that something is radically wrong with the Supreme Court today. We have 5-to-4 decision after 5-to-4 decision. We have "no man's" lands and "one man's" lands. We have the Court reversing itself on minimum wages for woman within 10 months—after being reprimanded by both political parties. We have Judges switching from side to side under the protest of public opinion—"shotgun liberalism", as someone has called it. We have Judges of the Court scolding each other in the open courtroom—scolding the public for poor sportsmanship for criticizing the Court—breaking all the proprieties by giving advisory opinions in this struggle in Congress.

Everybody now knows that the Court is not an impersonal and impartial agency, a legal sorting machine, automatically separating the constitutional from the unconstitutional. Everybody now knows that the Constitution is anything the Judges say it is—at the particular time they say it—and that the Judges are so hopelessly divided among themselves that we haven't any constitutional law any more except as five Judges—or the one Judge—make it up as they go along from day to day.

Everyone agrees that nobody can respect the Court today and that unless we can do something within a comparatively short time to put the Court on some kind of an even keel again—make it nearer of one general attitude of mind so that it can begin to reearn respect by consistent performance—the Court will never regain the respect of this generation.

Now, what are we going to do about it? The President pointed out in his fireside talk that the fault is not with the Constitution. And events have borne him out. Three, four, sometimes five, Judges have been able to find adequate authorization in the Constitution for the kind of laws with which Franklin D. Roosevelt got this country out of a depression and is trying to keep it from slipping into another. The series of decisions in recent weeks has proved that, as the President has said, the Constitution is potentially adequate for our modern needs, given Judges with legal imagination and social sensitiveness to make them willing and able to handle the task of administering an instrument of government like the Constitution.

There has not yet been proved a necessity for amending the Constitution, providing we have the right kind of Judges. At bottom, therefore, our problem is not one of the failure of institutions. It is not a failure of the Constitution. It is a failure of manpower—of human weakness and inadequacy in the temporary incumbents of the institution of the Court.

Now, what is the human situation on the Court? Out of nine Justices there are three, and only three, who do not stand ready to strike down acts of Congress simply because they disagree with the policy expressed in them. There are only three votes—Stone, Cardozo, and Brandeis—on which the Congress and the people can really count as consistently open-minded to their problems—the three votes that were willing to believe that the A. A. A. was constitutional in meeting the farmers' problems.

On the other side is an unbreakable bloc of four votes—all of them Judges over 70—who, in decision after decision, even in the shotgun liberalism of the last month or so, have made it clear that they have as a single purpose in life the paralyzing of the Roosevelt New Deal. In their consistent opinions of the last month they have served notice on the Congress and the American people that they constitute an unbreakable bloc opposed to the legalization of the modern way of living in America—of living as every decent, intelligent American woman hopes every American can live. They have served notice that they are unwilling to cooperate with the rest of the community in meeting modern practical needs with the legal continuity of our present theories of constitutional law.

The most significant thing about the recent decisions of the Court has not been the liberal opinions of the majority of five. It has been the minority opinions of this bloc of four, serving notice of their unwillingness to be helpful, to cooperate, to find an honorable way out of our modern difficulties in the direction that the American people want to go.

These four Judges might as well not be on the Court at all, so far as the Court is a useful institution in this civilization. They are practically off the Court except—and it is a tremendously dangerous "except"—that reversal by a fifth man will bring these reactionaries back in power.

Since I last appeared before you with the bill giving the Federal Government power to pursue kidnapers, the Supreme Court has commendably and properly held that bill to protect the children of the rich from kidnapers a constitutional exercise of Federal power under the interstate-commerce clause. Suppose another child-labor law should come before the present Supreme Court. Would that Court find that some commerce clause equally adequate to permit the Federal Government to protect the children of the poor from kidnaping through exploitation by sweatshop employers as it was adequate to protect the children of the rich against kidnaping by gunmen?

Every lawyer in the United States can prophesy at least how seven votes of the Court will be cast in such a case. If this case came up today, clearly the three liberal judges, referred to, would decide that the Federal Government did have power under the present Constitution to prohibit child labor. But just as clearly the unbreakable bloc of four would decide that the Federal Government did not have such power. And who would hold the deciding votes? Two Justices—Hughes and Roberts—who bend with the hurricane of public opinion, but who in lesser winds have stood with the reactionary four.

The vote of the Chief Justices has been against the adequacy of the Constitution nearly as often as for it in the last few years. The vote of Mr. Justice Roberts—who really is the Constitution today—is notoriously peripatetic. In the last week Justices Hughes and Roberts have been speaking for the Court in all cases. How does it come that not a single opinion has been written by one of the real liberals of the Court? Because the Chief Justice controls the writing of opinions; and at the present moment, in a case where the Court divides, Hughes and Roberts are the entire Court even to the writing of the opinions.

What safety is there in such an alinement? What clear charting of the future does it permit? How can the Court itself do its work from now on?

It is impossible for the present Court to function efficiently. It may be that a Court of 9 is more efficient than a Court of 15 for purposes of conference only when all Judges are willing to cooperate. But a Court of nine with a bloc of four irreconcilables and two unpredicable votes is not efficient, for the simple reason that affirmative action depends upon unanimity of the votes of all but the avowed reactionaries. That human blindness and stubbornness makes it impossible for the Court to function efficiently.

And it gives us entirely too narrow a margin of safety for the legislation on social questions absolutely necessary to get the country into economic, social, and emotional equilibrium. The attitude of the present minority and the resting of the balance of power in two Judges who cannot be relied upon to help us meet our problems is intolerable for anyone who loves his country and hopes for its future.

The crisis therefore presents a judicial and not a constitutional problem. It is definitely a matter of break-down of personnel rather than a break-down of an institution. It asks for no complicated correction of the institutions of the Constitution upon the power of judicial review. It requires only the simple and direct methods needed when institutions are failing, not from an inherent fault in their own structure but from the failure of the manpower managing them. In such a situation, the most direct, the least complicated, and, therefore, safest way to handle the situation is to alter the management. Because the Constitution does not permit it (no matter how crying the actual need), to get rid of the four minority Judges, or the two dangerous balance-of-power Judges, the Chief Justice and Justice Roberts, we can change the management only by supplementing the human beings we cannot depend on with other human beings on whom we feel we can rely with better hope that they will have open minds and that their viewpoint will not already be terminated before they open their eyes by economic conclusions.

It is a strange thing that in these prolonged but, I think, enlightening hearings before the Judiciary Committee of the United States Senate one might fairly conclude one outstanding fact above all others, no matter which side of this controversy he espoused, namely, that almost every witness of any consequence conceded or asserted or assumed that there is something vitally the matter with the operation of the Supreme Court and our modern laws. The difference existed only in the manner of bringing about the remedy. The President proposes to add younger personnel, fresher from the fields of daily endeavor and from grappling with the affirmative problems of our complicated civilization of today, without in any manner changing the Constitution or the powers or function of the Supreme Court. In other words, he has noticed that all wise people have met failures of humans within institutions by changing the humans in order to save the institution.

Note particularly how many times Kings have been changed to save the institution of monarchy in England. David Windsor is only one of a long string of examples in English history. Changing or neutralizing human beings who carry on the functions of state is a simple process in which we can understand what we are doing and fairly appraise the results. Tinkering with institutions themselves, like amending the Constitution, is always a process which ends up with complications unforeseen at the beginning.

For example, when the liquor laws were improperly enforced, instead of attending to the human problem of enforcing practicable laws—we tried the expedient of amending the Constitution with the eighteenth amendment. We tried to solve our problems with words instead of the more difficult but indispensable processes of human discretion and human judgment. And every woman in the United States knows the unforeseen evils bred by that amendment to the Constitution.

The fourteenth amendment to the Constitution we know from history was inspired with the purpose of assuring rights to the Negroes at the ballot box after the War between the States. And it ended up as the chief instrument in preventing the States from handling the labor problem in its beginnings despite the warnings of Mr. Justice Holmes until the problem finally landed fully grown on the doorstep of the Federal Government with no previous governmental experience in the States as a guide to the way to handle it.

All our experience with constitutional amendment—with tinkering with our fundamental laws—has taught us the same lesson over and over that it is a dangerous expedient to be resorted to only when there is available no other possible method with more foreseeable consequences. When an institution is functioning defectively, because inadequate or of stubborn men, if a choice has to be made of adapting the institution to the stubborn men, or getting rid of or neutralizing the stubborn men, the wise thing always is to get rid of or neutralize the stubborn men.

Furthermore, when institutions are functioning badly, it is always wise to take the shortest and quickest route of cure, so that no long controversy need open any wider than necessary the inevitable divisions between the people which tend to arise at such times. Emotional wrench and immediate pain of amputation is a lot safer for the public than the slow gangrene of controversy.

To those who like to stipulate and advert to analogies, the English had a much more dangerous emotional obstacle than we have, because their reverence for the King's person went somewhat deeper than does our reverence for the persons of the present Justices of the Supreme Court. The theory of the divine right of kings has not entirely disappeared. The king becomes such by reason of inheritance. We have not yet arrived at that position.

We face a test of our wisdom and our statesmanship today just as the English faced it last winter.

The President's proposal is unquestionably constitutional within the letter of the Constitution and constitutional usage over a hundred years. The only living ex-Justice of the Supreme Court, Justice John Clarke, recently spoke over the radio to assure the American people that the President's plan was completely constitutional.

And to those who object that it is against the spirit of the Constitution for the President to suggest to the Congress that it exercise its undoubted powers to change the number of Justices of the Supreme Court, or to do anything about the human problem on the Court except by "going to the people" with a constitutional amendment, there are two good answers.

The first is that there is no "law higher than the letter of the Constitution" except the power and right of a democracy to have its way.

And the second is that constitutional amendment is not a democratic way of "going to the people." It is a completely undemocratic process of going to one-twentieth of the people.

An amendment requires a two-thirds vote in Congress and the approval of three-fourths of the States. Now, under this rule 13 States may defeat an amendment desired by 35 States. Under this rule less than 5 percent of the people of the United States, scattered among 13 States, may defeat the overwhelming majority of the people of the country. Under this rule opposition interests can concentrate their fire and their money on 13 of the smallest States in the Union. This is just what the real opponents of New Deal policies want done now, and for the purpose of defeating those policies. Is this what the people voted for last November?

Of the constitutional amendments which have been sponsored by Senator WHEELER himself as an alternative to the President's proposal, neither can be welcome to American women who want to preserve the continuity of our constitutional traditions. The first amendment sponsored by the Senator proposed, in effect, to abolish the power of judicial review which the Court had assumed under the Constitution and to give Congress the power to amend the Constitution at any time, without going to even one-twentieth of the people, by a simple two-thirds vote of Congress after the Court had disagreed with Congress.

His second amendment, to which the Senator has now retreated, proposes requiring the Court to muster a 6-to-3 vote to declare a law unconstitutional. What the Senator forgot was that the great function of the Court under the clauses of the Constitution protecting civil liberties might be completely lost under this amendment.

But the Senator was reminded of his oversight only this week. On Monday the Supreme Court decided the so-called Herndon case. There, by a 5-to-4 decision, it held that an old Georgia statute passed during the reconstruction period was unconstitutional and freed a Negro boy who had at most been guilty of publicly expressing his opinions.

The same bloc of four reactionary Justices, of whom I earlier spoke, dissented, unable to see any danger to freedom of thought and opinion in the conviction of a poor Negro boy for expressing opinions unpopular in his community. These are the same four Justices who have been the most solicitous to protect the absolute rights of property. They have not been so zealous in the defense of human rights. And their attitude in the 5-to-4 Herndon case should dispose of the Senator's 6-to-3 idea as an alternative to the President's proposal. For the American people certainly would not have been satisfied to permit Angelo Herndon to spend 20 years of his life in a chain gang under an arbitrary statute of reconstruction days by a vote of a minority of three judges of the Supreme Court. When constitutional amendment is proposed as an alternative to the President's proposal, there is always one final and conclusive answer for intelligent women—with their practical sense of the necessity of keeping our country at peace within itself.

How long constitutional amendment will take is a matter of political judgment. The best political judgment in the United States—as proved by 27,000,000 votes—is the judgment of President Roosevelt, not the judgment of his adversaries. The President says that in his judgment a constitutional amendment will take 2, 3, or 4 years. None of his adversaries, I am sure, is willing to say that the President, our political expert, is dissembling about what he really thinks as to the time it will take. We, therefore, ought to accept his judgment as the best judgment available to us on a matter which we cannot now determine as a fact.

Our choice is, therefore, between the President's plan, which will take probably 3 more months, and a plan of constitutional amendment, which would involve the extension of a political struggle of unprecedented bitterness over 2, 3, or 4 years.

Such a 2-, 3-, or 4-year struggle will hold up the solution of all our other problems and may divide our people into warring political economic groups. In the end the courts, after being dragged through a fight of that kind and of that duration, can only come out second best, and no one knows what unforeseen intervening events may meanwhile come along to complicate our political and economic and social situation even more dangerously than they shape up today.

The wise thing for liberals and conservatives alike, therefore, is to take the short way out of this difficulty if only for the completely adequate reason that it is the short way and that it is the humanly understandable way of changing the management in which we most clearly understand what we are doing and where we are going.

There is much loose talk by his adversaries that under the President's plan some future President might become a dictator. If we are to think with precision and without sloppiness, let us clearly understand what we mean by this term. If we think of a dictator as one who acts entirely within the law and the Constitution and who attains his mastery by persuasion or prestige, we must assume that he has back of him the majority of the people. And that is democracy, not dictatorship.

If we are to assume that he disregards the law and the Constitution either because he has an army at his back or the support of overwhelming public opinion that enables him to defy the law, then he is a dictator, indeed; but he will need no precedent such as is given by President Roosevelt's application of Thomas Jefferson's precedent to make him that dictator.

And so far as the President's opponents argue that the President's plan would be a precedent which might be abused by a reactionary President in the future, by a Coolidge or a Harding, the answer is very simple. There are three departments of our Government. To get anything done, all these have to say "Yes." To see that nothing is done, only one department needs to say "No." A Harding or a Coolidge will never need to be able to make a court say "No" to have a reactionary administration. He will need only a Congress to say "No"—or the courage to say "No" himself in the executive department. A reactionary President will never need fresh blood on the Supreme Court.

There are difficulties with this short way. But there are difficulties in recuperating, in finding a way of adjustment after any failure of the human beings in charge of a great institution. There is no solution of such a problem without difficulties. In the nature of things, our choice is not between absolute good and absolute evil.

But the evils of doing nothing about the Court situation, or of taking the constitutional-amendment-long-political-row way out are immediate and certain.

And the difficulties that are prophesied as the result of the President's plan are contingent possibilities in the future—not

anything that President Roosevelt or the present United States Senate exercising its powers of confirmation or the appointees of President Roosevelt on the Court are expected to do here and now in the Roosevelt administration. These contingent difficulties are more likely not to come to pass than to happen.

It is a sad and humiliating thing that men have failed on the Supreme Court in their ability to maintain that delicate balance of judgment and self-restraint required to make the Court work as successfully and discreetly as it has to work in order to justify its place in our institutional system. Everybody of every party regrets that this situation had to arise. But since the arbitrary stubbornness of four human beings and the political vacillation of two others has created the situation, there is nothing practical women and men of good will can do but have the courage to take the action that seems wisest for the present and trust to our own common sense and practical instinct to meet in the future whatever problems our solution may raise for us in the future.

We cannot make the future bombproof by failing to meet the needs of the present. Worry over establishing a precedent for the future would have stayed the hand of the patriots of '76 when they established the awful precedent of completely changing our form of government; of Jefferson when he made the "unconstitutional" Louisiana Purchase which added Oklahoma to the United States; of Lincoln when he fought the War between the States to establish a constitutional principle of an indivisible union.

The risks of having to meet the future when it comes are the risks of life. Wise statesmen do not paralyze their power to meet problems of the present with such formless fears.

Again, I return to the language of your president, Mrs. Lawson: "We women must accept our share of responsibility, must learn to think deeply, if we are to overcome the paralyzing obstacles to human progress of our established order of society."

Think for yourselves! Reading the press, you will note the danger in hypothecating your mind and depositing it as security with Liberty League lawyers. They have shown that it is dangerous to follow this precedent. Within the last 2 years they have had the effrontery to constitute themselves a "kangaroo supreme court." They have had the boldness to anticipate the regular Supreme Court which they now hover around to defend, like harpies in the sky.

They dared to advise businessmen in general in this country, in written and printed opinions of their own, disseminated through the United States mails throughout our country, advising such businessmen who would be misled by their big names—names such as John W. Davis and other corporate lawyers—to be not bound by the laws of the United States now enacted in an orderly fashion by your duly constituted lawmakers—the Congress of the United States. Undoubtedly relying upon the four immovables and the two others usually found supporting them, these Liberty League lawyers issued their fiat, rendered their opinion that the Wagner Act was not and could not be considered constitutional by the processes of reason. And later on they, too, joined in the hue and cry asking our President, in defiance of the Federal statutes and the Constitution requiring the President to await the action of a State legislature or Governor before pouring Federal armed forces into local communities to preserve domestic peace, they demanded such action on his part.

At the same time they were making these demands their "kangaroo court" opinion lay on the desk of the official to whom it was sent—I hope unsolicited—encouraging him to defy the action of the institutions created by Congress to bring about peaceful settlement of such disputes and to prevent their recurrence.

For time, America, and Roosevelt march on. The great majority of the people of America have their faces turned resolute and confident toward the future. For they have faith in a great leader who has borne the battle brunt and achieved the victory—where he leads they will follow, and so will you and so will I—for under him we can truthfully and prayerfully say:

America, America, God shed His grace on thee
And crown thy good with brotherhood from sea to shining sea.
Oh beautiful for patriots' dream that sees beyond the years
Thine alabaster cities gleam undimmed by human tears.

The Communications Act

EXTENSION OF REMARKS

OF

HON. M. M. LOGAN

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Thursday, May 6, 1937

ADDRESS BY HON. THAD H. BROWN, FEDERAL COMMUNICATIONS COMMISSION, AT THE ANNUAL STATE CONVENTION OF OHIO INDEPENDENT TELEPHONE ASSOCIATION, COLUMBUS, OHIO, APRIL 22, 1937

Mr. LOGAN. Mr. President, I ask unanimous consent to have printed in the RECORD an address on the Communications Act, delivered April 22, 1937, by Commissioner Thad H. Brown, vice chairman of the Telephone Division of the Federal Communications Commission, at the annual State convention of the Ohio Independent Telephone Association in Columbus, Ohio.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It was 3 years ago that the appropriate committees of the Congress of the United States reported out favorably the bill which ultimately became the Communications Act of 1934, establishing the Federal Communications Commission. On July 11, 1937, the Commission will observe its third anniversary. This act marks another important step forward in the history of man's endeavor to convey thoughts quicker and farther by means of electrical communication. I desire to discuss with you today this important act, its historical background, its accomplishments to date, and the part which future administration of the act will have in solving our mutual problems.

No longer is the modern world made up of isolated countries or even isolated continents. Electrical communication has revolutionized the methods of commerce, has made the news of the world instantaneously common to all men, and has had a profound effect upon the conduct of international relations. Indeed, electrical communication by wire and wireless binds this far-flung world closer together with a constantly changing but ever present web of words.

Regulation of the various methods of communication became a necessity as the progress of the art increased. The problem of telephone regulation is one of the most involved of all the fields of communication. The magnitude of the task is reflected in the size and scope of the utilities to be regulated. The Nation's telephone industry, according to reports filed with the Federal Communications Commission, representing more than 95 percent of this branch of communications, recorded for 1936 total operating revenues of $1,039,463,007. The telegraph and cable industry, including wire and radio, reported 1936 operating revenues of $142,-023,955. The last census shows that there are over 18,000,000 telephones in use in the United States, or one for approximately every eight persons. Upwards of $6,000,000,000 are invested in the various communication companies controlling telephone, telegraph, and radio broadcasting in the United States. There are over 88,000,000 miles of telephone wires and over 2,000,000 miles of telegraph wires. Recent statistics show that there are over 30,000,000 radio sets in the United States, and it is estimated that there are more than 80,000,000 radio listeners. The telephone industry gives employment to over 300,000 workers. The telegraph industry employs over 65,000, and the radio industry has over 22,000 employees.

The first type of Federal regulation of communications came through legislation providing for the safety of life and property at sea. In 1910 Congress passed an act requiring apparatus and operators for radio communication on certain steamers. In the same year the Federal Government first exercised control over common carriers engaged in wire or wireless communication and assigned jurisdiction over such agencies to the Interstate Commerce Commission. This early regulation under the Interstate Commerce Act was, as has been pointed out often, merely an adaptation of railroad regulation to the communications field. The Interstate Commerce Commission, although it tried diligently to carry out the duties placed upon it by the Congress in relation to telephone regulation, was never adequately equipped to deal with communications matters.

About this time a new and prolonged struggle was developing out of the awards of basic patents in the new field of telephone communication. For a decade or two many experiments had been made in an effort to perfect an instrument which would convey over long distances the sound of the human voice, but commercial use began only after the award of patents to Alexander Graham Bell on March 7, 1876, and January 30, 1877.

We are told that the invention was hailed with enthusiasm and that the production and leasing of telephones quickly became a profitable business for two new corporations which were merged into the National Bell Telephone Co., which company was later reorganized into the American Bell Telephone Co. Other inventions followed and they were acquired by the Western Union Telegraph Co. The struggle for dominance in the field of communication was in full swing. Extensive litigation over patents followed. The Bell interests now represented by the American Telephone & Telegraph Co. continued to dominate the field. In later years, however, thousands of independent companies pioneered. There were over 12,000 non-Bell companies in 1908 operating over 4,000,000 telephones. In 1913 there were said to be 20,000 independent companies, with an investment approximating that of the American Telephone & Telegraph Co. The independents were providing competition in long-distance service by connecting their lines. A wave of consolidations followed. To protect their interests the independents organized State associations and a national association which by lawsuits defeated some mergers as in violation of State laws.

Finally the American Telephone & Telegraph Co., through its president, announced a policy of amalgamating telephone companies. "This process of combination will continue", he declared, "until all telephone exchanges and lines will be merged either into one company owning and operating a whole system or until a number of companies with territories determined by political, business, or geographical conditions, each performing all functions pertaining to local management and operation,

will be closely associated under the control of one central organization exercising all the functions of centralized general administration."

After this policy had become clear and after the United States Government had won notable victories over oil and tobacco combinations under the antitrust laws, petitions began to pour into the Department of Justice to take action against the telephone organization. The petitions also complained of the domination of the Western Union Telegraph Co. by the American Telephone & Telegraph Co., in both of which companies the same man acted as president. The entire story is graphically presented in the new book, Federal Justice, written by Attorney General Cummings in association with Mr. Carl McFarland.

The situation remained largely unchanged throughout most of 1913. One antitrust suit was instituted against the American Telephone & Telegraph Co. in Portland, Oreg., where the facts were believed to be especially favorable. This suit moved the company to seek an arrangement with the Department of Justice. Conferences were held, and at the same time, by correspondence and interviews, the Department sought to determine from the independents what arrangement would protect their interests.

Finally, on December 19, 1913, N. C. Kingsbury, vice president of the American Telephone & Telegraph Co., addressed to the Attorney General a letter embodying the outlines of a suggested policy, this letter being known as "the Kingsbury commitment." By it the Bell company agreed to dispose of its stock in the Western Union Telegraph Co. so that control and management would be entirely independent; not to make any further acquisitions, directly or indirectly, of competing telephone systems without turning over to the independents an equal number of stations, and to provide physical connection to its long-distance wires with the local exchanges or independent companies. In short, except for the long-distance provision, it accepted the status quo as the situation under which it would operate in the future, and the Government tacitly agreed not to make past conduct a basis for litigation.

With respect to radio, an act approved August 13, 1912, by which the Secretary of Commerce and Labor was given authority to grant radio licenses and to encourage the development of radio was the first attempt by the Federal Government to place radio communication under national control. Judicial interpretation of this act hampered effective control. In the early twenties radio was developing so rapidly that new legislation became imperative. On February 23, 1927, the law creating the Federal Radio Commission of five members was approved. The Commission was transferred from the Department of Commerce and became an independent commission. Its powers were further extended in 1929 and by the terms of an act approved June 30, 1932.

It was in the early twenties that additional legislation affecting telephone companies was proposed by way of an amendment to section 407 of the Transportation Act of 1920. This bill, known as the Graham Act, was enacted by Congress on June 2, 1921. At the time this act was proposed there was general apprehension that the Sherman law vaguely and the Clayton Act definitely prohibited consolidation of telephone companies where one company was even slightly tinged with interstate commerce; consequently anyone furthering such a combination would be amenable to prosecution for antitrust violation.

Because of innumerable duplications of telephone service which had arisen from unwise competition and caused public dissatisfaction, as well as because of critical financial conditions within the telephone industry, there was pressing need for such consolidations. To remove fear of prosecution under Federal antitrust laws and to permit essential consolidations, it was proposed to amend the Clayton Act and the Sherman Act to give clear authority to the Interstate Commerce Commission to suspend, on application for authority to it, the prohibition of telephone consolidation. Such suspension, however, was to be effected only after public hearing by the Interstate Commerce Commission and a finding that the particular consolidation under consideration was in the public interest.

It is interesting to note that the first application filed under the amended Transportation Act concerned Ohio companies. The people of Ohio favored a merger of the Bell and independent systems of the State and a joint resolution to this effect was passed by the Ohio Legislature. Stockholders of the Ohio State Telephone Co. and the Ohio Bell Telephone Co. ratified an agreement reached by the directors of the two organizations, and on September 1, 1921, a joint application was filed with the Interstate Commerce Commission for permission to merge under the name of the Ohio Bell Telephone Co. The Ohio Bell operated in 73 counties, with 76 exchanges, 303,476 telephones, 3,972 miles of toll lines, and 35,925 miles of toll circuits. The Ohio State Co., in about the same territory, had 85 exchanges, 143,059 telephones, 2,750 miles of pole toll lines, and 20,961 miles of toll circuits. The Graham Act has continued to be an important part of the basic Federal law regulating telephones. It is incorporated in section 221 of the Communications Act.

Thereafter, at the suggestion of President Roosevelt, in the summer of 1933, Hon. Daniel C. Roper, Secretary of Commerce, named an interdepartmental committee to study the communications systems of the United States. This committee made its report to the President on January 23, 1934, and on February 26 of the same year the President sent a special message to Congress in which he set forth definite recommendations for new legislation to meet the suggestions of the interdepartmental committee. The President's message said that the Congress had vested certain authority over certain forms of communication in the Interstate Commerce Commission. Other scattered jurisdiction over telephone and telegraph was then in the Post Office Department, while radio communication was then regulated by the Federal Radio Commission. The President recommended the creation of a new agency to be known as the Federal Communications Commission, which would have jurisdiction over wires, cables, and radio.

Separate bills were introduced in both Houses of Congress on February 27, 1934, and hearings on these bills were called promptly. The committees were aided materially in their study by the preliminary report on communication companies submitted by Dr. Walter M. W. Splawn, of the Interstate Commerce Commission. The State utility commissions, representatives of the various Federal governmental agencies concerned, and leaders in the communications industry appeared at these hearings to give the benefit of their advice and help in the drafting of the legislation. Congress enacted, and the President approved on June 19, 1934, the Communications Act creating a bipartisan commission of seven members.

The Commission, through its general order no. 1, divided itself into three divisions—the broadcast, telegraph, and the telephone—the first with jurisdiction over all matters relating to or connected with broadcasting; the second with jurisdiction over all matters relating to or connected with record communication by wire, radio, or cable in all forms and classes of fixed and mobile radiotelegraph services and amateur services; and the third with jurisdiction over all matters relating to or connected with telephone communication, other than broadcasting, by wire, radio, or cable, including all forms of fixed and mobile radiotelephone service, except as otherwise specifically provided for. Each division is composed of three members, with the Chairman of the Commission serving as an ex-officio member on each division. The Commission en banc exercises jurisdicton over all matters not specifically allocated to any of the divisions and over all matters which fall within the jurisdiction of two or more of the divisions. The purposes of the act are set forth in section 1, which states:

"For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide and world-wide wire and radio communication service, with adequate facilities at reasonable charges, for the purpose of the national defense, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is hereby created a commission to be known as Federal Communications Commission, which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this act."

The Communications Act is both mandatory and directory and it must be kept in mind that Congress was pioneering a new field in legislation. It recognized the demand and the necessity for Federal regulation of wire communications, as well as radio, and it purposely provided for a commission equipped to study the subject of regulation and to be in a position to advise what additional legislation might be needed to make such regulation a success.

Regulation by State commissions has now become the recognized effective means of a control of telephone companies by the various States. These commissions have exercised for years regulatory control over telephone and telegraph companies. It is conceded, however, that this regulation has not been completely effective because of a lack of jurisdiction over interstate commerce. This created, therefore, a necessity for a dual jurisdiction in the regulation of communications agencies.

A limitation of State regulation of telephones and the inadequacy of Federal regulation have both been generally recognized. It must be remembered that under this dual system of regulation the functions of the State commissions are clearly defined and are unimpaired by the Federal statute which is confined to jurisdiction over interstate telephone companies and their subsidiaries engaged in the development, manufacture, and sale of telephone equipment and supplies and services. Former President Theodore Roosevelt clearly outlined the field for Federal regulation in 1907 when he said, "Such regulation and supervision can only be effectively exercised by a sovereign whose jurisdiction is coextensive with the field of work of the corporation."

I have already stated that the purpose of Congress in the enactment of the Communications Act was to make available as far as possible to the people of the United States a rapid, efficient, Nation-wide and world-wide system of communications. No doubt this policy was accelerated because of the experience of the United States in the last war when communications became so vital in the protection of the affairs of our country. At the time Congress drafted the bill it had a knowledge of the experience and the operation of the Interstate Commerce Act. In drafting the communications statute Congress drew upon its knowledge as to the problems which had arisen and which had been delegated to the Interstate Commerce Commission under the Transportation Act, and the Communications Act was accordingly drafted using the Interstate Commerce Act as a model. This would lead to the conclusion that the two statutes were very similar, but it shall be my purpose to point out some of the features of the Communications Act which are not found in the Transportation Act.

Section 2 (b) of title I of the Communications Act is a declaration of policy. Congress, by this section, specifically provided that the act shall not be construed or applied by the Federal Communications Commission to the intrastate service of the wire common carriers. It also exempted from the provisions of the act carriers engaged in interstate and foreign communications

through physical connections with carriers not controlling or controlled by them. No such provision is found in the Interstate Commerce Act. The term "interstate commerce" has been held by the courts to include that commerce which is actually moving between the States and also that commerce which directly burdens, hampers, or affects commerce. In other words, the Court's construction of the Interstate Commerce Act in the Shreveport case is specifically guarded against by Congress in the Communications Act of 1934.

It will be seen that section 2 (b) (2) exempts from the jurisdiction of the Commission, except as to sections 201–205, inclusive, carriers engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier.

The Commission having heard and having considered all facts and matters presented for and on behalf of telephone carriers, and having considered the provisions of the law, and being fully advised, found and held that—

"(1) Every wire telephone carrier owning, maintaining, or operating a toll line which crosses a State or National boundary is subject to all provisions of the Communications Act of 1934.

"(2) A wire telephone carrier which neither demands nor receives any charge, compensation, or commission on interstate communication or service is not subject to the act.

"(3) Every wire or telephone carrier with one or more exchanges, or one or more toll lines within a single State, participating in interstate communication by physical connection with another wire telephone carrier within the same State is subject to sections 201–205 only of the act, except when the matter of control referred to in section 2 (b) (2) of the act is involved.

"(4) The phrase 'directly or indirectly controlling or controlled by, or under direct or indirect common control with', as used in section 2 (b) (2) of the act, contemplates a mixed question of fact and law to be determined in each case heard and considered by the Commission."

One of the most interesting of these cases involves the Rochester Telephone Corporation, Rochester, N. Y. After hearing, the Commission determined that this company should be classified as a wire telephone carrier subject to all of the provisions of the statute. It served an order upon said carrier to this effect. On March 18, 1937, the Rochester Telephone Corporation filed a bill in the United States District Court for the Western District of New York praying the court to enjoin the enforcement of the Commission's order against it. The issue in this case is whether the Rochester Telephone Corporation is controlled by or under the direct control of the New York Telephone Co. The Commission found this to be the fact, and the proceedings will now be reviewed by the court to determine the provisions of the statute with respect to companies engaging in interstate communication through physical connection with other carriers.

In section 3 of the act Congress defined the term "interstate communication" or "interstate transmission" and in addition thereto stated specifically that the term did not include communications between points within the same State as such communications are subject to regulation by the State commissions. In the same section "telephone exchange service" is defined, and by section 221 (b) Congress restated in specific terms its policy with respect to intrastate jurisdiction by declaring that nothing in the Communications Act shall be construed to apply or to give the Commission jurisdiction with respect to telephone exchange service. Like definitions and the statement of a similar policy are not to be found in the Interstate Commerce Act concerning transportation by railroads.

Under title II of the bill with respect to charges and services the Commission is given the authority to establish through routes and to require physical connections, to see that all charges are just and reasonable, and to prevent discriminations and preferences therein. Each carrier is required to file its schedule of charges except connecting carriers. There is no such exception in the Interstate Commerce Act. Hearings concerning complaints and new charges and the authority of the Commission to prescribe just and reasonable charges are very similar to the powers and authority of the Interstate Commerce Commission.

Section 212 concerning interlocking directorates is very similar to the Interstate Commerce Act in that it makes unlawful the holding of positions as officers or directors of more than one carrier unless authority by order of the Commission has been received to act. In the matter of interlocking directorates, the Commission had determined that the burden is upon applicants seeking to hold various interlocking directorates to show that the holding of such interlocking positions would not adversely affect the public interest. The Commission has denied various applications for interlocking directorates where in its opinion applicants failed to show that public interest would not be thereby adversely affected.

Section 213 authorizes the Communications Commission to ascertain from time to time the value of the properties used and useful in public service, but Congress again, in paragraph (h) of this section, announced its policy concerning the powers of the Commission by providing that "nothing in this section shall impair or diminish the powers of any State commission."

Section 214 is somewhat similar in its terms to section 1 (18) of the Interstate Commerce Act, but Congress again made specific mention of its policy with respect to intrastate commerce. In this section it is provided that no certificate is required for the construction of a line within a single State unless said line constitutes part of an interstate line. No similar provision such as this is to be found in the Interstate Commerce Act, and the construction of this provision is now pending before the Commission on a case arising in the State of Texas.

In December 1936 the American Telephone & Telegraph Co., by application, sought authority to supplement its facilities between Dallas and San Antonio and between Dallas and Houston by the construction of two additional wires on a pole line owned by the Southwestern Bell Telephone Co. In the application it was stated that at the time the Southwestern Bell Telephone Co. constructed the facilities for the American Telephone & Telegraph Co. it would supplement its long-distance toll facilities by the construction of additional toll lines between the same points. The Commission was unable to determine from the facts before it whether the construction of the Southwestern Bell Telephone Co. was such as would require a certificate from the Commission under this section.

The Commission requested the Southwestern Bell Telephone Co. to make application for authority to supplement its facilities between the same points. This it declined to do, and accordingly the Federal Communications Commission issued an order of inquiry requiring the company to disclose the facts with respect to the construction and its probable cost. State commissions are invited to submit their views concerning this matter.

At the time this application was being considered by the Commission the American Telephone & Telegraph Co. and the Ohio Bell Telephone Co. joined in an application for the construction of a cable between Circleville and Chillicothe, Ohio. This application was immediately granted, and a copy of the Commission's authorization, together with a copy of the application, was sent to the Governor of Ohio and to the Ohio Public Utilities Commission. In this manner the Communications Commission is attempting to keep the State regulatory authorities advised of the investment being made in new facilities within its jurisdiction.

Section 215 of the Communications Act is a new section not to be found in the Interstate Commerce Act, and it authorizes the Federal Communications Commission to examine into transactions between any common carrier concerning the furnishing of equipment and supplies. Under this section the Federal Communications Commission could inquire into the cost of telephone equipment which the independent telephone companies are required to pay.

The Commission, by section 219, is given broad powers to require reports from persons controlled by a wire carrier. Under this section the Commission has the authority to keep current the information which it may seek under section 215.

Section 220 is similar to the interstate commerce statute and authorizes the Commission to prescribe the rules and classifications of the accounts of the carriers. It was under this section that the Commission prescribed the uniform system of accounts requiring the telephone companies to record on their books the original cost of the property acquired from another carrier. This provision of the accounting classification was the subject of a suit by the American Telephone & Telegraph Co. and affiliated companies against the United States and the Federal Communications Commission. This action was carried to the United States Supreme Court, and that Court sustained the authority of the Commission to prescribe the system of accounts.

At the present time the Commission has circulated a proposed classification of accounts for class C companies to the public utilities commissions of the several States and to the committee organized by said commissions to cooperate with the Federal Communications Commission. This is to carry into effect the policy of cooperation laid down by Congress in certain provisions of the act. No such cooperative provision is to be found in the Interstate Commerce Act.

It is interesting to note that definite provisions for the protection of State commission regulation has been made in the revised uniform system of accounts as promulgated by the Commission. Order no. 7–C, issued by the Telephone Division, makes definite provision that nothing contained therein shall be construed as prohibiting or excusing any carrier from subdividing the accounts in the manner ordered by any State commission having jurisdiction or to the extent necessary to secure the information required in the prescribed reports to such Commission. Opportunity for cooperation with the State commissions was taken advantage of when the rules and regulations governing the construction, filing, and posting of schedules and tariffs was considered by the Commission. The State commissions were given the opportunity of cooperating in the formulation and promulgation of these tariff rules.

The new uniform system of accounts recently prescribed for telephone companies by the Federal Communications Commission will, it is believed, lighten in some degree the burden of telephone regulation under the Communications Act. Among the advantages expected to result from accounting procedure under the new system are:

(1) The production of balance sheets more informative than those of prior years.

(2) A higher degree of continuity and uniformity will obtain from the recording of items in the accounts on the basis of original cost, particularly in the plant accounts.

(3) With respect to property acquired from another public utility, more accurate information concerning original cost, concerning amounts of depreciation and amortization, and concerning classification of property, will be available and may be obtained with less effort at a saving in both time and expense.

Each of these three advantages seems worthy of brief additional discussion.

On the subject of a more informative balance sheet there are advantages in the showing of increases in book costs resulting from changes in ownership of telephone property through the acquisition of an entirely going business of one telephone company by another such company, in the separate balance-sheet account. Under this system the difference between the purchase price paid for such going business and the "original cost" of the telephone plant acquired is shown separately in the balance sheet, instead of being placed in the "telephone plant account" as heretofore.

Original cost is an important factor in rate-making procedure and Congress in framing the Communications Act has recognized this fact. Original cost, once determined and recorded in the existing accounts with respect to all of the property reflected in the plant accounts, furnishes a more stable and uniform basis for future use of the accounts than the telephone companies' previous plant accounts which included amounts stated on several different bases, such as: (1) Cost to the accounting company for plant construction by them; (2) current cost new at the time of acquisition of portions of their property purchased from predecessors; (3) structural value of property acquired from predecessors; (4) cost to predecessors where companies have transferred to their accounts those amounts carried on the books of the predecessor company.

With respect to property acquired from predecessors the accounts of the acquiring company kept under provisions of the new uniform system of accounts will reflect the following information: (1) The cost of the property to the accounting company; (2) the original cost of telephone plant, governmental franchises, and other similar rights acquired; (3) the amounts of depreciation and amortization applicable to such original cost; (4) the original cost of telephone plant under construction at the date of purchase; (5) the original cost of property held for future use.

These charges are of importance to regulatory commissions, but not exclusively so. The accounts kept in accordance with the new uniform system of accounts will disclose not only information reflected under previous systems, but will furnish additional information of interest to the companies for administrative purposes, to the stockholders, and to the public.

The uniform system of accounts will likewise secure to the independent companies the advantages of improved and uniform accounting methods and will be of general wide usefulness to them in making readily available in uniform style the valuable information which accounting is designed to supply.

Proceeding now with our consideration of the act, we come to an interesting case arising under section 221 (a). Under this section of the act the Crown Point Telephone Co. and the Northwestern Indiana Telephone Co. filed a joint petition for a certificate authorizing the proposed acquisition and consolidation of the property of the Northwestern Indiana Telephone Co. with the Crown Point Telephone Co. The Commission, after hearing and upon consideration of the record, declined to issue the certificate authorizing the consolidation. It has adopted the policy of scrutinizing closely the applications for authority to consolidate properties, since it believes it to be in the interest of the independent telephone companies to carefully consider any consolidation which may result in a further extension of a monopoly in the telephone field.

By section 221 (b) Congress provided that nothing in the Communications Act shall apply to wire telephone-exchange service, even though a portion of the service should be interstate in character. This is another example of the policy not to interfere with intrastate regulation, and is a limitation upon the authority of the Federal Communications Commission. No such provision is found in the Transportation Act limiting the authority of the Interstate Commerce Commission with respect to transportation affairs.

Title III of the bill concerns radio. Of course, it goes without saying that the sections of title III of the bill applicable to radio are not to be found in the Interstate Commerce Act, but are largely carried over from the Radio Act of 1927.

Section 410 is a declaration of policy. By this section Congress has authorized the Commission to refer at its discretion any matter arising in the administration of the act to a joint board to be composed of a member or of an equal number of members, as determined by the Commission, from each of the States in which the wire or radio communication affected by, or involved in, the proceeding takes place. Such a board is vested with the same power and is subject to the same duties and responsibilities as a member of the Commission when designated by the Commission as authorized by the statute. The action of the joint board shall have the same force and effect as if the proceedings were conducted by a member of the Commission.

The Commission is also authorized to confer with any State commission having regulatory jurisdiction with respect to wire carriers regarding the relationship between the rate structure as to the jurisdiction of the State commission and the Federal Communications Commission. Also the Commission is empowered to issue rules and regulations under which it shall hold joint hearings with any State commission with respect to any matter subject to the act, and the Commission is also authorized and directed to avail itself of such cooperation, service, and facilities as is afforded by any State commission. Such provisions are not to be found in the Interstate Commerce Act with respect to railroads. It is through this joint cooperation between the Federal Communications Commission and the State regulatory commissions that services of the Federal Government may be made available to and benefit greatly the independent telephone companies of all of the States.

By section 606 Congress recognizes the importance of the communications industry in times of national emergency. In this section war powers are provided for the President of the United States which authorize him, if he finds it necessary in the national defense, to give preference or priority to communications and also makes it unlawful for any person during a war to obstruct or retard or aid in obstructing or retarding interstate or foreign communications by wire or radio. The President is also given authority to suspend under certain conditions the rules and regulations applicable to all radio stations within the jurisdiction of the United States, and the President is also authorized to ascertain the just compensation for use and control of communications during times of such emergency. These provisions are not to be found in the Interstate Commerce Act. During the past war special legislation had to be enacted authorizing the President to take over the railroads during the period of national emergency.

War dramatizes whatever it touches, and the subject of American communications companies and of national preparedness is profoundly interesting to all of us. Fundamental problems concerned with electrical communications in connection with national defense involve the planning in advance for material and personnel required for combat forces, as well as for the increased demand for communication within the civilian areas of the Nation. Although telephone and telegraph facilities are operated by independent agencies in the United States, the entire system is capable of being integrated into a smooth-working unit with a minimum of delay.

Communication between the United States and foreign countries during time of war is of the utmost importance also, and every new development of the art must be made available to further the needs of the Nation in this emergency. The entire communications industry with its operating, its engineering, and its research facilities will stand ready to serve the best interests of the Nation should an emergency arise. The Commission, under the authority of the Communications Act, also stands ready to do its part to mobilize the wire and wireless communications facilities of the United States in the event of war. Preparedness is of the essence should such an emergency arise.

Some statistics concerning the number of telephone carriers subject to all the provisions of the act and subject to only sections 201–205 of the act will be of interest here. There are 12 carriers in Ohio presumed to be subject to all provisions of the act. Of these, 4 are class A carriers, that is carriers having annual operating revenues of $100,000 or over; 1 is a class B carrier, that is, a carrier having annual operating revenues from $50,000 to $100,000; and 7 are class C carriers, that is, carriers having annual operating revenues of $50,000 or less. In Ohio there are 179 connecting carriers, that is, carriers subject only to sections 201–205, inclusive. Of these connecting carriers 15 are class A, 15 are class B, and 149 class C. There are 91 carriers in Ohio whose status has not as yet been determined, consisting of 2 class A carriers, 1 class B carrier, and 88 class C carriers. The Commission has held hearings to determine the status of three telephone carriers in Ohio under section 2 (b) (2) of the act. These three companies include the Champaign Telephone Co., the Mansfield Telephone Co., and the Chillicothe Telephone Co.

A summary of investment in telephone plant and telephone operating revenues for the 256 independent telephone carriers in the State of Ohio for 1936 is also of interest. Records disclose that class A and class B carriers reporting to the Federal Communications Commission have an investment in telephone plant of $20,573,491 and total operating revenues of $3,496,909. Nonreporting class A and class B carriers show an investment in telephone plant of $16,699,472, with annual operating revenues of $2,778,303. Class C and class D nonreporting carriers show an investment in telephone plant of $6,392,704, with annual operating revenues of $1,211,924. These 256 independent telephone companies in Ohio show a total investment in telephone plants of $43,665,667, with total annual operating revenues of $7,487,136.

Radio telephony is one of the most recent innovations in the field of communications, and a few words concerning its current uses will prove of interest here. Transoceanic communication by cable has long been an accomplished fact. It was in 1858 that the first trans-Atlantic cable was laid. But Marconi's famous flash through the air across the great Atlantic came in 1901. It was on January 7, 1927, that radiotelephone service across the Atlantic between New York and London was inaugurated.

The extent to which radiotelephony is now being used is not generally recognized. This development the Federal Communications Commission is watching with great interest, since no one can tell what the future possibilities of radiotelephone will be in making telephone service available at reasonable rates to people in inaccessible areas.

Radiotelephone service to all the world has increased rapidly in the past 10 years. Radio engineers determined that with highly directional antennas a satisfactory overseas circuit could be obtained with much less power than was required for the long-wave circuit originally employed. The first short-wave channel was placed in service in June 1928 between New York and London. In April 1930, radiotelephone service was established between New York and Buenos Aires, and in 1931 a direct connection was established with Rio de Janeiro. Later, in 1932, Lima, Peru, was added as a direct connection, and by 1935 Paraguay was also connected.

Meanwhile, engineers directed their attention to trans-Pacific radiotelephone service. It was in December 1931 that the service was opened to Honolulu, Hawaii. A direct connection was established in March 1933 with Manila. Late in 1934, direct connection was made between San Francisco and Tokyo, thus providing service

to all Japan. Radiotelephone service to the Caribbean and Central America centered in Miami and grew apace also. Circuits via New York-London and London-Sidney were established in 1930 and negotiations are now pending for a direct circuit to Australia. On December 1, 1936, a direct, short-wave radiotelephone channel was established between New York and Paris, the service being formally opened in the offices of the Commission on that date. Iceland was reached in 1935 and Kenya in Africa was added in 1936. Today there is available, to the public of the United States, telephone service to nearly 70 countries and territories scattered all over the globe. Radiotelephone also plays an important role in coastal and harbor communication service.

Just recently the Commission, Telephone Division, having under consideration the application of the American Telephone & Telegraph Co. for a special experimental license for a point-to-point radiotelephone station utilizing 21 frequencies now licensed to its Lawrenceville, N. J., station to communicate "for experimental service only to any fixed point beyond the continental limits of the United States", set the application for hearing before the Telephone Division in Washington, D. C., on June 17. Short-wave transmitters are now maintained by this company at Dixon, Calif., for trans-Pacific radiotelephone service; at Lawrenceville and Ocean Gate, N. J., and Rocky Point, N. Y., and Bradley, Maine, for trans-Atlantic service; and at Hialeah, Fla., for Central American communication service.

Nor has radiotelephony stopped at communicating with continents only. Today by radiotelephone we may communicate with many of the larger steamships which ply the seas. If we were to talk this moment to a friend on, let us say, the *Queen Mary* or the *Normandie* in mid-Atlantic or a ship in mid-Pacific, we would have but to raise our own telephone receiver and ask for the party to be called, and radiotelephone would bring us, crystal clear and almost instantaneously, the voice of our ocean-going friend.

Rates for radiotelephone service are also of wide interest. A 3-minute call from Columbus to London or Paris would cost $24 during the day and $18 during nighttime hours. A call to Honolulu would cost $21 daytime and $16.50 nighttime, and to Buenos Aires $24 daytime and $18 nighttime. For shore-to-ship service from Columbus the rate would be $12 for the first 3 minutes daytime, if the ship called is not more than 1,500 nautical miles from shore, and $21 if it is beyond that distance. These rates have been reduced several times since the service was first introduced, the reductions being effected as the use of the service increased. The Christmas toll traffic over radiotelephone in 1936, for instance, was 88 percent higher than in 1935, giving some indication of the increased use being made of radiotelephony today.

Of interest also to Ohio telephone men is a recent development in the field of telephony inaugurated in this State by the Lorain County Radio Corporation in their ship-to-shore and shore-to-ship radiotelephone message service applying between Lorain, Ohio, and vessels on the Great Lakes, and also ship-to-ship service between vessels on the Great Lakes. In both cases the service is carried on by means of the company's coastal radiotelephone service with coastal and trans-oceanic vessels at such cities as New York, Philadelphia, San Francisco, Seattle, Los Angeles, and Miami.

Through arrangements made with the Ohio Bell Telephone Co. and the American Telephone & Telegraph Co., effective April 1, 1937, calls may be made from and to vessels on the Great Lakes through Lorain, from and to telephone stations in any part of the United States and also with foreign countries.

It is interesting also to consider the provisions made in the Communications Act for the division of tolls between carriers subject to all the provisions of the act and connecting carriers. Each Bell associated company makes its own contracts with the non-Bell companies for the division of tolls. The remuneration received by the connecting companies is generally composed of commissions and a portion of the revenue derived from messages transmitted over the joint facilities. The commissions paid to the connecting companies are generally based on the average revenue derived from messages handled by the connecting companies as sent paid and received collect. To determine the average revenue per message, records are kept for each call over a specified period. A schedule of commissions is then agreed upon which provides, in substance, that where the average revenue per sent-paid and received-collect message is over a designated amount, and not over a somewhat higher designated amount, the commission shall be an amount stated in the schedule. The commission which the connecting carrier receives usually increases as the average revenue per message increases. Setcion 201 (a) of the Communications Act controls in this situation.

After the commissions have been paid to the connecting carriers the balance of the revenue derived from messages handled over the joint facilities is divided between the carriers in proportion to the air-line distance of the circuits of the respective carriers used in handling the messages.

Other compensations may be paid, depending upon the facts in each particular case and upon the agreements of the parties. For instance, where a Bell toll center is the switching center for calls between connecting companies, compensation for this switching service is fixed by agreement of the parties.

There is another matter that has been determined by the Telephone Division of the Commission to which I invite your attention at this time concerning the application of the American Telephone & Telegraph Co. and the New York Telephone Co. for the construction of a coaxial cable between New York and Philadelphia for experimental purposes and for the transmission of common-carrier messages during the period of experimentation. The Commission went into this question very thoroughly and, after full and complete hearings, granted the application with certain restrictions as to use, intending thereby to protect the interests of the public and to make sure that any competent person might be permitted to carry on experimental transmissions over the cable to further the art of electrical communication. Particularly interesting in this connection is the television experimentation which has been provided for. Regulation was intended here to prevent any one company gaining a complete monopoly in this important development.

Before leaving this particular phase of the discussion of the Communications Act, I want to emphasize that the act asserts Federal authority only to the extent which is necessary to make this primary State control effective by closing up the gap in public regulation. The act seeks to dispel once and for all the troublesome twilight zones of regulation and the perplexing "no man's land", where State regulation was formerly impotent and where no effective Federal regulation existed.

The act specifically prohibits any encroachment by the Federal Communications Commission upon the proper sphere of the State. Not only is the principle of cooperation and assistance with the State commissions the keynote in the Communications Act in its substantive provisions; the same principle runs through the procedural provisions for its administration. Wherever the Federal Communications Commission is entrusted by law with a matter that affects the interest of the States, provision has been made that before the Commission may exercise that power it must give notice to the Governors and the appropriate commissions of those States. The Commission has, wherever possible, carried out its work in the field in order to make possible closer contact with State regulatory officials than might otherwise be obtained through the strict centralization of all functions at Washington.

Further assurance of the interpretation and administration of the Communications Act in harmony with the principle of cooperation with State commissions and State independent companies may be found in the background and viewpoint of the individual members of the Commission. It may safely be said that it is the clear intent of the Commission not to impair the regulatory power of the States over their public utilities. The clear direction for cooperation expressed in the Communications Act will be faithfully fulfilled.

Congress, through Public Resolution 8, signed by President Roosevelt on March 15, 1935, authorized and directed an investigation by the Federal Communications Commission of the American Telephone & Telegraph Co. and other companies engaged directly or indirectly in telephone communication in interstate commerce, including all their subsidiary, affiliated, associated, and holding companies, and any other companies in which any of them have any direct or indirect financial interest, or which have any such interest in them, or in which any of their officers or directors hold any office or exert any control, or whose officers or directors hold any office or exert any control in them.

For over 2 years the Commission has been undertaking an exhaustive study as directed by Congress, going into the corporate and financial history and the capital structure in relationship to its subsidiaries; the extent and character of intercompany service contracts, and all transactions between the telephone companies and their subsidiaries, particularly between the American Telephone & Telegraph Co. and the Western Electric Co. and other manufacturers of electrical communication equipment; charges during the years of declining prices; the effect of monopolistic control upon the reasonableness of telephone rates upon the methods of competition with independent telephone companies; the effect of mergers, consolidations, and acquisition of control by telephone companies; the accounting methods of the companies, particularly with reference to depreciation accounting, apportionment of investment, revenues, and expenses between State and interstate operations; employee pension funds and valuation of properties for both rate and tax purposes; the methods of competition with other companies or industries, including a determination of whether or not there has been any sale or refusal to buy from or sell to competing companies, or suppression of patents, and the expansion of the companies into fields other than telephone communication, and whether or not the companies have sought, through propaganda or the expenditure of money, the control of channels for publicity to influence or control public opinion, legislative or administrative action or elections. Engineering, accounting, and legal staffs were immediately set up and extensive hearings have been held.

I desire to take this opportunity to pay deserved tribute to the great public service rendered by the independent companies in telephony, in improving the industry and bringing out new and better equipment. Individual research and experimentation, which should always be encouraged, is accelerated when free competition and initiative are preserved. Certainly the independents are responsible for many of the new inventions serving so well in telephony today. The healthy competition furnished by independent companies through the operation of facilities in communities adjacent to those operated by the larger systems has had a salutary effect upon the telephone industry. Both the industry and the public would suffer immeasurably if the independents should not continue to be the vigorous force in the telephone field in the future that they have been in the past. The independent

telephone industry deserves commendation for the splendid service it has rendered in the past and encouragement to continue to play its important role in the future.

All of us might with profit study carefully the story of independent telephony. The smallest towns, the villages, and hamlets in farming districts were regarded as barren territory by the larger interests when the telephone business was first started. The large cities were selected as the first ones to be given the advantage of telephone service, because they awarded the highest revenues. The independent telephone companies courageously built lines in the smaller cities and farming areas.

The independents brought to these small cities and farming areas all the blessings, conveniences, and luxuries of the telephone as we know it today. Congress was presented with a clear-cut picture of what independent telephony has accomplished by the late F. B. McKinnon, president of the United States Independent Telephone Association, in his statement made before the Senate Committee on Interstate Commerce in connection with the hearings on the bill creating the Federal Communications Commission. Mr. McKinnon said that there are in the United States over 6,000 independent telephone companies which are not owned, controlled, or operated by the American Telephone & Telegraph Co. or any of its subsidiaries, and that they operate the only telephone exchanges in over 14,000 communities and serve in normal times 4,500,000 telephones, owning hundreds of thousands of miles of toll lines, and connecting with the toll lines of the Bell group. It is interesting to note that outside of cities of over 50,000 population the independent group serves approximately as many subscribers as the Bell group. The independent companies have an investment in their plants of over $600,000,000, and in normal times have average operating revenues of over $125,000,000.

Ohioans have always played an important part in the history of independent telephony. When the National Independent Telephone Association was formed on May 27, 1897, at Chicago, James M Thomas, of Chillicothe, was its first president, and James Fricker, of Ashtabula, its third vice president. Frank L. Beam, of Mount Vernon, one of the pioneers in independent telephony, having entered the independent telephone field as early as 1894, was the first president of your own Ohio Independent Telephone Association. Another outstanding Ohioan in the independent telephone field is my good friend of many years' standing, Frank A. Knapp, of Bellevue, now an honorary member of the board of directors of the Ohio Independent Telephone Association, and for many years an officer and active member of the board of directors of the United States Independent Telephone Association.

Both independents and Bell system companies throughout the Ohio Valley deserve our sincere appreciation for the heroic work which they performed in the most destructive inundation this valley has ever known. Tales of heroism and valor were many. Telephone companies, large and small, made every effort humanly possible to give assistance in the saving of lives and property through maintenance of telephone service. Although the flood is still an unhappy memory, reconstruction work goes forward apace. The Commission directed its assistant chief engineer in charge of telephone and its assistant chief engineer in charge of broadcast to make a tour of inspection of the flood areas to assist in the work of rehabilitation of communication facilities there and to make plans to meet any other emergencies which may arise during such disasters in the future. Replacement of cables and wire and switchboards will require months of tedious effort. Estimates of damages to telephone companies alone run well over $10,000,000. We congratulate the telephone industry for its courage and resourcefulness in meeting this unparalleled flood emergency.

In closing, gentlemen, may I express to you my conviction that the Communications Act, while, perhaps, not supplying the complete legislative answer to the great problem of regulation of communication, is one of the most progressive steps yet taken by the Congress of the United States in this broad field. The act is designed to provide the type of regulation which will be of enduring benefit to the telephone industry, independents and Bell system companies alike, as well as to the general public. The dual system of regulation with responsibility shared by both State and Federal Governments has during the first 3 years of its existence proved highly successful. The spirit of cooperation between these governmental bodies has been entered into so heartily in the past that we cannot help but be enthusiastic over the prospects for the future.

We must stand ready today to encourage all the new uses of communications which research in the electrical sciences may make possible to us. Encouragement of new uses of communications is always in the public interest. History has revealed to us that Thomas Carlyle's epic statement, "Transportation is civilization", may quite correctly be paraphrased to read "Communication is civilization."

The Federal Communications Commission earnestly solicits the cooperation and helpful suggestions of the members of your association so that the great principles of regulation written into the Communications Act may find expression in a manner which will mean a better day for the telephone industry, as well as for the general public. We who are engaged in the science, business, and regulation of communications must all join together, fully aware of the spirit of trusteeship which must animate all our undertakings, in a sincere effort to further expand the frontiers of human communication in such a way as to assure a more effective civilization.

Safety in Air Travel

EXTENSION OF REMARKS

OF

HON. PAT McCARRAN

OF NEVADA

IN THE SENATE OF THE UNITED STATES

Thursday, May 6, 1937

ARTICLE BY DAVID L. BEHNCKE

Mr. McCARRAN. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing in the Liberty Magazine of May 5, written by David L. Behncke, president of the Air Line Pilots' Association of America, bearing on the subject of the necessity for legislation to promote safety in aircraft.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Liberty for May 5, 1937]

WHY THESE AIRPLANE CRASHES?—AN AIRLINE PILOT'S ANSWER

(By David L. Behncke, president of the Air Line Pilots' Association)

Why these air-liner crashes? What can be done to stop them?

When an accident occurs, the blame can usually be laid to one or a combination of the following causes:

Mechanical failure of some part of the airplane.

Pilot.

Weather.

Air-line management.

Regulatory agency of the Government.

Every one knows that things mechanical are not infallible: my boy's bicycle, your automobile, trains, busses, steamships. Engines—even airplane engines—can quit or falter. Instruments, as good as they are, are not infallible. Radio is by no means perfect.

On December 21, 1934, I took off from the Chicago airport on my regular run, and after proceeding 10 minutes westward found my hands filled with dead throttles. Both motors had quit with every instrument in the cockpit registering normal. The result was a forced landing in the treetops at night, with injury to no one but myself. It was even possible to rebuild the plane.

This was my first serious accident in nearly 20 years of flying, but I have no doubt that if my co-pilot and I had not lived to defend ourselves, "pilot error" would have been given as the cause of this crash.

Practically all of the air-line companies have seen fit to discard single-motored equipment and adopt multimotored equipment, thereby greatly lessening the chances of complete power-plant failure.

What can be done to eliminate mechanical trouble? Strict and enforced Federal control, entirely free from politics, governing the engineering, inspection, and upkeep of all air liners used in interstate commerce carrying human cargo.

Next, pilot. And I speak of and for air-line pilots; not pilots, veteran or new, who have not flown air lines.

The air-line pilots are sober, well educated, industrious professional men. Most of them are family men and own their own homes. They are respected members of the communities in which they live; no better, no worse than the average good citizen.

Air-line pilots are for the most part Army, Marine, or Navy trained. The rest come from commercial schools. Uncle Sam is very exacting in choosing his young men for aviation training. Out of every four young men desiring to take up flying training, only one can meet the physical aviation requirements. From 40 to 50 percent of those accepted possess sufficient flying proficiency to win their wings. The remaining 50 to 60 percent are washed out by a benzine board made up of experienced Army pilots. Why? Because they do not have the "it" or "what it takes" to make a pilot.

The training these green pilots receive from the experienced pilots is indispensable to air safety. The air-mail cancelation catastrophe, during which the Army carried the mail, conclusively proved this point. Eight Army pilots were killed because, though they were good pilots, they just didn't have the kind of experience, the "what it takes", to fly air liners under all kinds of conditions, during both daylight and darkness.

The Air Line Pilots Association contends that when a pilot reports to take out a trip he should make a careful survey of the weather conditions, and if he feels that they are dangerous, the flight should be canceled without further discussion. If he feels that the flight can be made under border-line weather conditions, it should then become the responsibility of the company through its dispatching system to cancel the flight if the company feels that it cannot be completed with absolute safety. This procedure would definitely place responsibility for the actual starting of flights with the company, where it belongs.

Once dispatched, the pilot should be assisted by dispatchers and ground control giving him all helpful information possible, in-

cluding any changes in weather along the route. But no ground officials should ever try to dictate to the pilot flying miles away, where only he and not the ground officials know what the conditions are.

Much has been said about pilot pushing and competitive flying. It may be taken for granted that operators have pushed their pilots but that they are not doing so at the present time. Unfortunately, these things are, in most cases, intangible and not susceptible to proof. A pilot cannot reasonably be expected to report against the company from which he derives his livelihood.

Answering some of the questions our critics ask when a pilot is faced with an emergency:

Why doesn't he come down?

Coming down to low ceilings or no ceilings at all due to blind weather may mean collision with obscured high ground or mountains.

Why doesn't he go up?

If the pilot is in trouble, the chances are that he cannot go up because it takes a high motor-power output to climb. The ice hazard may prohibit him from climbing, because a very thin coat of ice over the entire surface of the ship quickly adds weight, causing the ship to vibrate and become logy and hard to manage.

Sometimes he must choose between flying underneath, which may bring him dangerously close to high ground, mountains, or other dangerous obstructions, or flying entirely by guess in or over the weather.

Why doesn't he stay on his course?

In all seasons at high levels the winds are almost always as much as 50 miles an hour, often 90 and a hundred. When the sky is overcast no one can tell their velocity or their direction. When the radio beam is out, the pilot has to guess his position.

Why doesn't he go back?

The ever-diminishing space between zero and the trembling pointer on the gas gage usually answers this.

Why did he attempt to fly this kind of weather?

He was dispatched by the company and in accordance with airline regulations, Federal and otherwise, that are supposed to insure safety.

How is the cause of an accident determined? By an investigation. And whom do we find at this investigation?

1. The company which dispatched the plane and which is responsible for the mechanical upkeep.

2. The manufacturers of the machine that has crashed.

3. The Bureau of Air Commerce, which—

(a) Writes the airline regulations under which the aircraft was operating at the time of the crash.

(b) Is responsible for installation, proper functioning, and upkeep of all aids to air navigation on which the wrecked plane was depending.

(c) Is responsible for approval of all engineering on the wrecked plane when it was placed in scheduled airline service.

We find that under the Bureau of Air Commerce system of investigation every participant is a "party in interest", including the Bureau of Air Commerce.

First, the Bureau makes the regulations, O. K.'s the engineering, installs and maintains the navigation aids; and then, when an accident occurs, it sits as judge and jury to decide as to the efficiency of its own activities. No man can be expected to decide a case against himself. This applies to every other participant under the present D. O. C. system of investigating airplane accidents.

When all of the various elements which may enter into a crash are considered the high percentages of "pilot error" issued by the Bureau of Air Commerce are obviously inaccurate and add nothing to public safety.

Bad weather has been the direct cause of many an airplane crash and has been a contributing factor to many others. It is the only hazard to air transportation over which mankind never has had, and never will have, complete control. There will always be bad-weather areas in the atmosphere through which we cannot fly and over which we cannot fly unless stratosphere flying becomes commonplace.

But there is no weather hazard if planes are not dispatched into areas of bad weather that cannot be flown with safety.

Regarding air-line management, this is certain: Abrupt and shortsighted supervisory and managerial policies are bound to cause a mental hazard in the minds of the line pilots that may lead to accidents. Tolerance and good common sense on the part of the officials is the answer to this problem.

The National Labor Board has no jurisdiction over air-line pilots, but the Congress of the United States has seen fit to extend protective legislation to them.

The regulatory agency of the Government which is responsible for the safety of the air-traveling public is the Bureau of Air Commerce. Air safety is, therefore, in politics. This Bureau, too, was created under an act passed when, to all intents and purposes, there was no air-transportation industry.

Bureau officials have repeatedly admitted that their aids are faulty, obsolete, and inadequate.

Four years ago the cry was for economy. Cut! Reduce the wattage of revolving beacons, the number of inspectors. Now the same voices are demanding money to modernize the American air-transport network, to equip it with proper navigation facilities.

If "pilot error" were the primary cause of practically all accidents, there would be no logic in the present cry for millions to improve airway aids on which the pilot must depend for guidance to put his human cargo over the line day after day. The air-line pilot is no different from the sea captain, except that he must, when flying blind and in bad weather, depend to a far greater extent upon threadlike beams and accurate radio communications.

The vital lines may be cut by inadequate, obsolete, failing, multiple-course swinging beams; or a pilot may be forced to bridge long distances on his run where navigation aids are improperly located. The pilot may also be forced to fly where aids do not exist at all, and where they admittedly are needed. That applies to the area in which Pilot Samson, with crew and four passengers, was last heard of on the night of December 15, 1936. He apparently lost his way where there is a gap in Federal aids to air navigation. Under these conditions, is it just to say that the pilot failed, or would it be more just to say that the aids failed the pilot?

Money alone will not solve this problem. What will solve it? The creation of a sharply defined, enforceable air-safety law.

The public may rest assured that, before any material gain can be made in the direction of increasing air safety, the Federal regulatory agency responsible for the safety of the air-traveling public must be removed from all political influence and interferences.

The American air-line pilot has, despite handicaps, carried the banner of American air transportation to the highest peak in world aviation.

The real price of pioneering has always been not dollars and cents but human life. Threescore and nine pilots have sacrificed their lives in the last 5 years to give to our country the swiftest of all modes of transportation, the potentialities of which, in speed, safety, and reliability, are beyond reckoning.

The air-line pilots have long been of the opinion that air transportation should be lifted out of the Bureau of Air Commerce and placed in a separate section of the nonpolitical Interstate Commerce Commission, which is quasi-legislative and quasi-judicial in its procedure, and where proper regulations will be created and enforcement insured. The Interstate Commerce Commission's long record for increasing safety in transportation speaks for itself. The pilots point out that within the to-be-created air-transportation regulatory section of the Interstate Commerce Commission there should be created a five-man air safety board, the members of which will be properly fitted, thoroughly experienced, and carefully selected career men and not political appointees. The sole purpose of this safety board will be to safeguard the American air-traveling public. This is the air-line pilots' answer to the question, How can we increase air safety?

Such legislation is now before Congress, and, if passed, the American public may look forward to a phenomenal improvement in air safety.

Mr. Citizen, it is up to you!

Connecticut Fisherman

EXTENSION OF REMARKS

OF

HON. AUGUSTINE LONERGAN

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Thursday, May 6, 1937

ARTICLE BY THOMAS C. PERKINS

Mr. LONERGAN. Mr. President, I ask unanimous consent to have printed in the RECORD an article recently published by Thomas C. Perkins relative to the fishing industry in Connecticut.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

There are many men in Connecticut who still go down to the sea for their daily bread and butter. Quietly, modestly, they live their lives. Through the murk of early morning their stanch craft steal their way along tortuous channels headed for deep, clear waters. Their trim little homes, clustered about the inlets, look out upon the stretch of blue that makes it impossible to walk the few miles that lie between the Connecticut shore and the plump hills along Long Island's north shore. And well do these hardy fishermen know the ups and downs of that hidden terrain beneath the waters of the sound. Daily, in fair weather and foul, their nets feel the bottom and come up bulging with a harvest of sea food. And strangely enough the food they haul in has far more fanciers in New York City than in their own Connecticut. In the estimation of gourmets in the great metropolis to the sou'west no salt-water fish equals in fine flavor that which these native fisherfolk ship to the market.

Connecticut fishermen have never made it a point to exploit by ballyhoo their haddock, codfish, sea bass, fluke, and dab, but

just the same, madam la housewife in New York prefers, indeed insists upon Connecticut fish and knows it when she sees it, cannot, in fact, be fooled about it. We tried, in our clumsy way, to get at the secret and came this near to it—New York hausfrau looks a fish in the eye and knows at once how long it has been out of the water, from whence it hails. An honest fish, we have it from a Stonington fisherman, is like an honest man. Generally both may be distinguished by their eyes. A fish that has been too long on dry land has the saddest kind of eyes, sunken in and covered by a pinkish-blue film. Now, Connecticut fish have what may be called bright eyes—yep, bright up to the very moment they go into pot, broiler, or oven.

"You see", our Stonington fisherman explained, "we go out and catch our fish and ship them to the market on the same day. And then they don't have to go on a long trip to get to the New York market. And—beggin' your pardon—these New York people get damned mad when a fish merchant tries to palm off on them a bit of fish that never saw Connecticut waters and has no near relatives a-livin' in the waters we fish in."

This is, indeed, a compliment to the fine taste and discrimination shown by New Yorkers and not such a compliment for the folks at home. Of course, there are some of our Connecticut people who ask for and insist upon having Connecticut fish when they dine out in public or buy it for their own table, but not nearly enough of them have acquired the habit. It would mean a lot to our native fishermen to have their wares widely recognized at home. All told, about 600 hardy sons of Connecticut wholly depend upon salt-water fishing for their bread and butter * * * and then their families number some 2,500 grown-ups and not yet grown-ups. These families patronize local merchants, pay State taxes and local taxes, buy boats, engines, gas, oil, and keep men working building more boats, repairing boats, looking after engines. And they love their native heath, have a mighty respect for their Maker.

One evening as we sat in at a meeting of the Southern New England Fishermen's Association in Mystic, the session was opened by a raising of hats and caps and a bowing of heads, and presently a voice, deep as old Neptune's intoned a paternoster:

"Most holy and gracious Lord God, Thou has promised that where two or three are gathered together in Thy name Thou wilt be in their midst and bless them. In Thy name we have assembled, and in Thy name we desire to proceed in all our doings. Grant that the principles of this association may so subdue every discordant passion within us, so harmonize and enrich our hearts with Thine own love and goodness that the association at this time may reflect that order and beauty which reign forever before Thy throne. Amen."

We couldn't avoid the thought that men who meet under such circumstances would be the ones to see that honest fish get into the hands of those who want an honest fish. Yet when occasion requires it these God-fearing men of the nets can do a beautiful job of rising in righteous indignation. Not more than a couple of years ago beetle-browed racketeers in New York City shipped word to the Connecticut salt-water fishermen that not a pound of their fish would be permitted to reach New York unless a tribute of so much per pound of fish was dropped into their underworld coffers. It was not a bluff; the same racketeers had dropped more than one fisherman from other parts who had refused to submit to the payment of blood money.

"Well", said Capt. John Smith, president of the Southern New England Fishermen, "we got our backs up. Fishing all these years, and our folks before us fishing all these years, we decided not to pay the blackmail." There was a nice, cold gleam in Captain Smith's blue eyes as he went on, "We close-hauled, hitched up our sea pants, and went after 'em. We got the company of a squad of he-men from the Connecticut State police, and they escorted our trucks to the State line below Greenwich. The gang's collectors were waiting at the line, but when they saw the troopers they melted away like a snow in May. And—beggin' your pardon—it was a damned good thing for their hides that they did melt away, because the third truck in our line had aboard a bunch of men that have been fighting the sea for years, and on the truck with them was, well, a lot of hardware you don't use in fishing." Cap'n Smith's bronzed fist hit the table. "And we got our fresh Connecticut fish into New York City and been gettin' it in ever since without paying a penny of that kind of blood money, making it possible, you see, for anybody to buy our fresh fish at a price they can afford to pay. But we would like to see a lot more Connecticut people get the benefit of fine fish from their own home waters. We'd like, for instance, to see an arrangement worked out so that it would be possible for some of State institutions to use fish caught by home folks."

And you can bet your bottom dollar the flags will break out all along the beach when news reaches the fishing towns of Connecticut to the effect that home folks who like an honest fish are at last insisting upon Connecticut variety.

A jaunt along Connecticut's water front is one continuous voyage of discovery—even a beauty may be turned up if one is of an inquiring disposition and has as guide and companion one versed in the lore of the beach. It seemed to us, as we stood on a dock in New London and watched a blunt-nosed tugboat puff upstream, that the two hombres pacing its deck were unusually gifted in the matter of complexions. Their skins were of a deeper brown than it is possible to acquire anywhere or any time in Florida. Fact is the faces of these tugboat men were about as brown as strong coffee—and when you mention coffee you name the secret. Tugboat coffee is not by any means ordinary coffee. A fresh cup of coffee is a total stranger about a tugboat. Night and day the coffeepot stands on the galley range, always simmering and brewing. When its strength is on the wane in goes a big cupful of fresh ground coffee usually as black as the ace of spades. The old grounds are allowed to remain in the pot. A new brew is put on only when the pot is so full of grounds that there is no room for water. And a fine sun tan appears upon the countenances of the tugboat boys. Some time, so the beach legend goes, tugboat coffee is employed as stain to impart a "high-yaller" cast to the interior and exterior color schemes in which tugboats are decked out.

And so as one drifts along the home coast odd bits of this and that perk through. It was the Elm Tree Inn, hard by Westerly, R. I., and yet in Pawcatuck, Conn., that we learned about champion oyster openers. Indeed on the strength of our interview with Chef Gardiner, of the Elm Tree Inn, we are now able to scotch a myth and claim for Connecticut, unofficially, of course, the world's fastest oyster opener, Chef Gardiner himself. We had heard of the rara avis who, after opening 100 oysters in 5 minutes at a recent show in Madison Square Garden, New York City, was proclaimed the world's champ oyster sheller. To the best of our information and belief that proclamation was all wet, for as we stood in the Elm Tree kitchen and watched Chef Gardiner perform, we counted 'em, no less than 25 oysters opened in a minute, or 5 oysters per minute better than the record so widely proclaimed in behalf of the Madison Square Garden performer.

Chef Gardiner is a full-blooded Narragansett Indian. His ancestors lived upon the shores of Charleston Pond near Pawcatuck. This is an inland salt-water pond, and from its waters for centuries came the principal food supply of Chef Gardiner's ancestors, always a goodly number of Charleston Pond oysters, and it was upon members of this bivalve family that Chef Gardiner performed his championship operations, opening the oysters faster than we could eat them—the kind of an oyster-opening contest we like to be in cn. Charleston Pond oysters are on the communistic order; they live in clumps, one for all, all for one, and they have a mild salty taste. Now taste. Now a little further south from Pawcatuck you come upon Connecticut's own Mumford Cove oysters (the cove is just a little west of Noank, and to get there by auto you leave No. 1 Highway just east of Poquonock Bridge). Mumford Cove oysters are highly individualistic mollusks, preferring to live separate and clumped lives, and they dearly love to establish their colonies on clean sand, where they move and have their being, offering not a syllable of complaint or regret as the roofs over their heads and under their feet give way to skillful touch of such masters of art of dispossession as Chef Gardiner.

A whale's eardrum. There's treat for curious eyes. We cannot say for sure anything about the size of our own eardrums, but we do know that a whale's eardrum is a monstrous contraption. You will find them on exhibition in the whaling museum maintained by the Mariners Savings Bank next to the post office in New London, and to which the public has a standing invitation, providing the visiting is done during banking hours. The whale's eardrums look like pink abalone shells—one from a finback whale, the other from a humpback whale. And in the same cabinet, almost next to the whale's hearing apparatus, are a pair of copper earrings which once dangled from the ears of Capt. Asa Benjamin, noted as an important figure in the Williams & Havens fleet, home port, New London. And all sorts of scrimshaw, bits of handiwork made by whaling men when time hung heavily upon their seahardened hands; and paintings depicting thrilling scenes of old whalers in whalers in action; and the beautiful exemplars of wood sculpture by the late Captain Tripp, whaler extraordinary; a collection of whales in miniature, all executed by Captain Tripp and his trusty pocketknife. And off in a corner a headboard with the names of 10 men carved in it; a bit of carving of outstanding merit and unusual origin, for the names were carved by 1 of 10 men aboard a scurvy-stricken whaler, all of whom died aboard their ill-fated ship, the last of them casting the headboard into the sea to be washed up and found, and to unfold the tragic story of the last trip of the good bark *Ansell Gibb* lost off Marble Isle, Hudson Bay. If you have a boy with a yen for sea by all means turn him loose some sunny afternoon in the Mariners Bank Museum, and see his young eyes bulge.

Connecticut is a land of rich memories, varied interests, and all you need to do to enjoy them is percolate, just percolate.

On Receiving the Degree of Doctor of Laws

EXTENSION OF REMARKS

OF

HON. RICHARD B. RUSSELL, JR.

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Monday, May 10, 1937

ADDRESS BY HON. JAMES F. BYRNES, OF SOUTH CAROLINA, AT THE PRESBYTERIAN COLLEGE OF SOUTH CAROLINA

Mr. RUSSELL. Mr. President, I ask unanimous consent to have printed in the RECORD the address delivered by the

Senator from South Carolina [Mr. BYRNES] at the Presbyterian College of South Carolina on April 26, 1937, on which occasion the degree of Doctor of Laws was conferred upon him. The address has reference to service in the Congress of the United States.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

That the President and trustees of this splendid institution could find in my public service justification for conferring upon me this degree makes me happy indeed.

To me there is no field offering greater opportunity for service than the field of government. I am willing to say the field of politics. Mr. Webster gives to that word two definitions—one, the science of government; the other, political trickery. Whether the politics of a nation should be classified in the good sense or in the bad sense, rests entirely with the people. Politicians are just as good or as bad as the people want them to be and permit them to be. I do not understand the attitude of the citizen who in time of war will willingly sacrifice his life to preserve his government, and in time of peace will sacrifice neither wealth nor leisure to serve that government. Nor do I understand the man who will not take the time to vote in an election but thereafter will spend all of his time criticizing the actions of those who are selected by the voters in the election. I think their attitude is in some measure due to the influence of the increasing number of cynics, generally men of intelligence and education, who believe that it is evidence of intellectual superiority to profess contempt for politics and for politicians. But I do not understand how these cynics can with sincerity profess respect and reverence for their government, and then hold in contempt those politicians who determine its policies and administer its affairs. The man of wealth who today indulges in unwarranted criticism of government officials, reflecting upon their honesty as well as their intelligence, must not be surprised if thoughtless persons who hear them and accept as true their cynical statements should tomorrow defy the government they have heard denounced as corrupt.

Let me speak of the Congress of the United States, where for 20 years I have served in House and Senate. Because the personnel changes every 2 years I think I have served with 2,000 men. They come from every walk of life, and necessarily from every section of the country. The thing about these men that has most impressed me is their absolute honesty. As a rule they are poor men. Daily they are subjected to temptations, and yet of the 2,000 men with whom I have served I know of only 2 who were convicted of dishonest acts. Those two were elected in political landslides. In a congressional district where one of the great political parties is normally in complete control an unworthy man may secure the nomination of a minority party because it is believed to be of no value. A political landslide may then sweep the candidates of the minority party, including this unworthy individual, into office. But I can give you the comforting assurance that "political accidents" are seldom reelected to Congress.

There are persons who would concede the possibility of legislators being honest, but would not admit the possibility of their being intelligent. To speak disparagingly of the intelligence of legislators is regarded by some as the "smart" thing to do (as definite proof of one's intellectual superiority). It is the drawing-room pastime or persons who are convinced of the infallibility of their own opinions, but who, fortunately, cannot induce many of their neighbors to share that conviction. From my intimate knowledge of the United States Congress, and a fairly wide acquaintance with those engaged in the professions and industries, I express the opinion that there has never been a time during the last 20 years when the intelligence of its Members would not have compared favorably with any group of 500 men similarly selected from any profession or industry.

If I had any criticism to make of our national legislators, it would not be that they are lacking either in character or intelligence, but that at times they are lacking in political courage. Let me say that they are poor men, and poverty makes cowards of many men. As a rule, when a Congresman dies, he leaves debts, not assets. When a legislator sacrifices a conviction and votes as some group of constituents desire, it is due not to fear for himself but fear for his dependents. These men when elected to office retire from their professions and business. When they are retired from public life they cannot return to their former avocations with much hope of success. While I admit some justification for the criticism as to lack of political courage, I assert that those who are willing to sacrifice their convictions in matters of principle are the exception, not the rule.

A legislator is often misjudged because after announcing his view of a particular question he modifies that view to bring about a compromise. I can understand this criticism from a business executive who is accustomed to reach a conclusion, announce that conclusion as an order and demand full compliance. That is not possible in a legislative body, where each member may have a different opinion and each one has an equal right to his opinion. (When a legislator, after announcing his views of a proposal, because of subsequent investigation and consideration, changes his opinion, it is an exhibition of courage, but many will believe it evidence of corruption.)

Again there are people who in their enthusiasm for a cause convince themselves that it is a great moral question, not susceptible of compromise. As a matter of fact there have been presented to the American people, few great moral questions where the issue is right or wrong, and the answer must be "yes" or "no." (Partisans in their zeal may regard many political questions as moral questions, but the historian viewing these questions in retrospect will not concur in the characterization.) Our political history is a history of legislative compromises. They were made by practical legislators who realized it was better to make some progress toward an ideal than to insist upon everything and accomplish nothing.

The man who serves in public life, if he is to find happiness in his service, must be able to properly appraise both the cheers and the jeers. He must realize that the ardent supporter of today may be the severe critic of tomorrow. He must realize, too, that for him there is no real compensation save the satisfaction that comes from doing that which he believes to be right, regardless of the consequences. When he does this he may lose the political support of men who differ with him, but he will not lose their respect, and what is more important he will not lose his own self-respect.

A man should not seek public office for its emoluments or its honors. In either case his motive is selfish. The need is for more men who are willing to seek public office not to serve themselves but to serve the State and the Nation.

I am conscious of my own weakness and of my failure to achieve the goal I would set for all public servants. Therefore, when your trustees can in my public service find justification for the conferring upon me of a degree, I am profoundly grateful. No greater honor could come to me.

My appreciation is the greater because of the high esteem in which I hold the Presbyterian College of South Carolina. By some it may be regarded as a small institution, but a college is not to be judged by the number of its students, the grandeur of its buildings, or the amount of its endowment. A college must be judged by its accomplishments.

Presbyterian College is training the minds and hearts of its students. Here there exists that personal touch between faculty and student so essential to education and character building. It is a great institution because of the greatness of its faculty. That faculty has included great scholars, great teachers, and great characters. These men have unselfishly rendered a public service greater than I could ever hope to render. They have left their influence upon the lives of those who have gone from this campus into every walk of life, and in turn these sons of Presbyterian College are influencing the lives of others and doing their part to make this State and this Nation a better place in which to live.

Our Foreign Finances

EXTENSION OF REMARKS

OF

HON. JOHN H. OVERTON

OF LOUISIANA

IN THE SENATE OF THE UNITED STATES

Monday, May 10, 1937

RADIO ADDRESS BY HON. ALLEN J. ELLENDER, OF LOUISIANA, ON MAY 6, 1937

Mr. OVERTON. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by my colleague the junior Senator from Louisiana, Mr. ELLENDER, over the Columbia Broadcasting System on May 6, 1937. The subject of the address is Our Foreign Finances.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, the battle cry of the campaign that elevated Senator Harding to the Presidency was, "Hands off big business—it knows best." The 12 years that followed his election will, in my opinion, go down in history as the darkest in the triumph of selfish special interests. Quickly these special interests took over the Government, and the concentration of wealth among the few increased by leaps and bounds. The privileged element was permitted to use the functions of government for its own advantage, regardless of human rights. Labor gradually lost most of the gains it had won in the past, and agriculture was plunging toward bankruptcy, with the powers that be treating its just demands with utter indifference. At the end of this tragic period came the inevitable crash, which threatened the very foundation of our American institutions.

During that period this rich country of ours and its citizens had been pouring billions of dollars into the hands of certain foreign governments for the purpose of rehabilitation, and got in return, as evidence of debt and in token of our generosity, beautifully etched and solemnly sealed foreign bonds. Germany

alone borrowed several billions and with this money cleared the slums of some of its large cities, built parks, and rehabilitated some of its factories. Now, mind you, these billions were advanced, in addition to the billions already due our Government by the Allied Nations as a result of loans made to carry on the World War. Not only were these certain foreign governments able to borrow from our people, but billions were loaned to private corporations organized under their respective laws and many of their municipal governments and political subdivisions. So long as we poured our billions in the laps of these foreign governments they did a tremendous business with us, some years reaching the enormous sum of almost $6,000,000,000. These foreigners did not care what the cost of our merchandise was—they simply ordered all they could, accepted our price, and paid us with our own money. Big business prospered. The shares and bonds of American industries skyrocketed during these prosperous days, and those in control of these gigantic industries made millions.

In justice to these certain foreign debtors I may say that so long as they were able to induce our American bankers to manage their finances in this country the buying power of our people was somewhat maintained and almost every branch of industry was in fair shape until pay day came along. When it was finally detected that our foreign debtors did not pay and could not pay, their credit was stopped; and gradually our foreign trade decreased to its lowest ebb. Billions of these worthless foreign bonds have defaulted, and I can see no hope for their payment to the holders. The citizens who hold these bonds are in a worse condition than Uncle Sam. With all the power at his command even he has apparently been helpless to force collection, and all he is able to do is to send his debtors a reminder each 6 months. Think of the enormous amount that will be lost by our citizens. If that money had been invested here for slum clearance, the bondholders would at least have the improvements on their own soil.

Now, what are we going to do about it? Shall we cancel the old debts and thereby make room for more financing in our country by these defaulters? Shall we permit our selfish financiers to make more millions and at the same time pave the way for another European war? Shall we extend credit to these fighting cocks so that they can equip themselves with modern instruments of destruction and probably attempt to turn them on us? I know what the answer of the American people will be. I am certain that the bulwark of our American civilization, the farmers and the toilers, will, in unison, say an emphatic "No!"

Now, how are we to prevent it? We may not, except probably by force, cause these debts to be paid. I would rather let these defaulters owe us till doomsday than to sacrifice American blood to fight about it. The solution, as I see it, is to prevent them from further borrowing one thin dime from the American people. Let us put them on our blacklist until they pay up their just debts in accordance with their agreements. These debtors could have discharged their obligations to us as they had agreed to, if only they had had faith in each other. For the past several years they have been spending the millions they should have paid to us, and in addition billions more, for war preparations. Judging from press reports, a marathon race is on amongst them to outdo each other in preparing for the next struggle. I have no sympathy nor patience with these defaulters, and I propose to advocate before the Congress of the United States a rigid strengthening of the so-called Johnson law. The proponents of this law had intended to prevent the sale or purchase of the bonds of any foreign government so long as such foreign governments are in default in the payment of their obligations to the Government of the United States.

On January 26 of this year I criticized before the United States Senate the sale of certain bonds of the Dominion of Canada to the American people, contending that the sale was in violation of the Johnson Act. I said at that time that I would seek an interpretation of the act from the proper Federal authority, and if contrary to my views I would seek to amend the act so as to comply with my idea of what the law ought to be in order to carry out its purpose as intended by its proponents.

To my surprise and disappointment, I was advised that the Dominion of Canada, although a part of the British Empire, was not a political subdivision thereof, and therefore did not come within the purview of the act. True, Canada has a so-called autonomous government, but the Dominion Parliament is composed of the King, who is represented by the Governor General; the Senate, comprised of 96 members, who are appointed by the Governor General for life; and the House of Commons, comprised of 245 members elected by popular vote in their respective constituencies. The executive functions of the Government devolve upon the Governor General and the Cabinet. The Cabinet is usually selected from the House of Commons and holds office so long as it has the confidence of the House of Commons. The House of Commons, although elective, may be dissolved at the will of the Governor General, who, as I stated above, is the personal representative of the King of England. The Dominion Parliament has jurisdiction over the public debt and property, the regulation of trade and commerce, currency and coinage, banks and banking, military and naval defense, the postal service, roadways, navigation, etc. And, to top all of this, all acts of the Dominion Parliament are subject to review by the Privy Council in London and may be declared null and void. Some of you will no doubt recall that last January a mass of legislation through which the Canadian Parliament sought to establish unemployment insurance, hours of labor, minimum wages, and regulation of marketing was ruled unconstitutional. If that spells independence, then Louisiana, my native State, is not a part of the Union. Under that interpretation, it is clear to me that only England, France, Italy, and other defaulters are prevented from borrowing, but all of their possessions and political subdivisions, including their municipalities, not in default, can dispose of their bonds to the American people and thereby destroy the purpose of the Johnson Act.

I was further advised that our debtor nations were not in default, so long as they made small token payments. In other words, England or France could pay us a few millions per year and then borrow a few billions. Fine business.

Again, I was advised that any bond issue that was floated by these defaulters prior to April 13, 1934, the date of the Johnson Act, could be renewed or adjusted and sold in this country, and such a transaction would not come within the meaning of the Johnson Act. Upon that interpretation, should England, France, Germany, or Italy have five billions or more outstanding bonds dated prior to the Johnson Act, they could be disposed of here without violating the said act. I am sure that without further explanation it is plain that such an interpretation of the act defeats its purpose.

Be that as it may, I now have a bill pending before the Congress which makes it unlawful for a person to purchase or sell, or to act as the agent of another person for the collection of, or payment of interest on, the bonds of any foreign government issued after April 13, 1934, while such government is in default of its obligations, or any part thereof, to the Government of the United States. As to renewals and readjustments, the bill applies only to bonds actually owned, by citizens of this country, if purchased prior to April 13, 1934. The bill defines a foreign government to be "any foreign government or political subdivision thereof and any organization or association acting for, or on behalf of a foreign government or political subdivision thereof, and all governments owing allegiance to the same sovereign, or to the same general government, shall be considered political subdivisions of the same government and a default on the part of any of them shall be held to be a default on the part of all of them." In other words, any possession, municipality, or subdivision of a defaulting nation is prohibited from selling its bonds to our citizens so long as the mother country remains in default.

The bill further provides that: "A foreign government shall be held to be in default at any time when it has failed to pay in full any payments or principal or interest due to the United States by such foreign government." We want no more token payments that will permit them to thus borrow our cash.

As you have no doubt noticed, I have attempted to draft an ironclad act, and it is to be hoped that the Congress will look upon it with favor and adopt it at an early date. Let us not be alarmed that such a policy will harm us. We are, of course, desirous of expanding our foreign trade, but if we have to lend our cash to foreigners so as to induce them to trade with us, and then find ourselves holding their worthless bonds, surely we will be better off if we would extend the credit to our own people for their betterment. If money is advanced to these for improvements, we will at least have the improvements on home soil. Nations are no different from individuals when it comes to a question of trading. They will buy for cash where they can get the best bargains, and if they have no cash, then where they can get the best credit advantages.

Let us keep our money for use in our own country. Money is like any other commodity. It is subject to the laws of supply and demand. The more of it that is loaned abroad, the scarcer it becomes at home and the higher will our interest rates be. Let us use it in our Nation to aid agriculture, to provide the farmer with cheap money, to help industry, to combat illiteracy, to clear our slums, and thereby afford our own people with better places in which to live, and continue to make our beloved country the grandest and best Nation on the face of the earth.

Elihu Root

EXTENSION OF REMARKS

OF

HON. WARREN R. AUSTIN

OF VERMONT

IN THE SENATE OF THE UNITED STATES

Monday, May 10, 1937

ADDRESS BY CHIEF JUSTICE HUGHES BEFORE AMERICAN LAW INSTITUTE

Mr. AUSTIN. Mr. President, Chief Justice Hughes, before a meeting of the American Law Institute, held in the city of Washington on May 6, 1937, delivered a short address eulogizing the late Elihu Root, statesman and lawyer, and pointing out the necessity of maintaining the instrumentalities for the impartial determination of controversies. I ask

unanimous consent to have the address of the Chief Justice printed in the Appendix of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

For the eighth time it is my privilege to greet you at this annual rendezvous of the members of the bar and bench. Last year we paid our tribute to George Wickersham, whose outstanding service as the president of the American Law Institute was the crown of his professional career. Today we recall the leadership of Elihu Root, to whose vision, creative force, and directing skill we largely owe the establishment of this great enterprise of restating the law and removing in a substantial degree the uncertainty and complexity which vex its administration.

Elihu Root will be remembered as one of America's most eminent statesmen. His service as Secretary of War and Secretary of State will always be conspicuous in an imperishable record. But he was preeminently a great lawyer and his distinctive public service was made possible because he was a great lawyer. He was great not only because he had a rarely acute mind and had mastered the technique of his profession but because he was wise. He brought wisdom not only to the service of his clients but to the carrying out of the highest conception of public duty in relation to the opportunities of the bar in improving the administration of justice. His intellectuality was so marked that only those who knew him well fully appreciated his passionate zeal for betterment. When I was charged with responsibilities in the government of the State of New York he warmed my heart and gave me fresh courage by his effective support in time of need. He constantly sought to improve the institutions of justice, local, national, and international.

How many important endeavors had the impetus of his proposals and his guiding hand in carrying them out. He led in the constitutional conventions in New York of 1894 and 1915. He promoted the organization of the Conference of Bar Association Delegates, which was the nucleus of a coordinated bar of the United States. His sagacity pointed the way to the solution of the difficulties which beset the organization of the Permanent Court of International Justice. No idle fancies dominated his thought or made his efforts vain. Whenever he appeared, there were vision, practicable proposals, and skillful execution. When the American Law Institute was organized, he clarified the need, he showed the necessary method, he procured the financial aid which made the enterprise possible. He had no illusion as to the difficulties. In his initial address he said, "Perhaps we can help." The "making of a permanent organization to accomplish the restatement of the law, with the earnest and real interest in the subject on the part of real men, will help; and as time goes on, the organization which you have made may accomplish such relations with other organizations and such additional duties, and avail itself of such opportunities as to aid all along the line in the reform of law and the reform of procedure." A prophecy, which I hope will be fulfilled as you approach the completion of your first great task. And he added: "We may not succeed; but we can try. Here is one thing we can try. It is something the need of which is universally recognized. It is something the responsibility for which rests especially upon us. It points the pathway where we will be acknowledged the natural leaders of the democracy in its struggles toward better life, toward permanency of institutions."

Elihu Root's method was thus to marshal the forces of intelligence in order to meet a specific need in a sensible fashion. And through the use of this method, he had faith—an abiding faith—that the competency of mankind to govern itself through democratic institutions could be vindicated. Your notable achievements have been due to that method and have been inspired by that faith—a laborious method indeed, but what labor is too great if it may serve to buttress in any degree the institutions of an ordered liberty? We erect no monuments to mere shrewdness. We honor Elihu Root for his specific services to the community, but not less, rather chiefly, because his intellectual power and practical judgment, matched by zeal for the public good, dignified the processes of reason by which alone the ends of our social organization may be attained.

It has been my custom on these occasions to refer briefly to the work of the Supreme Court. For several years I have been able to report at these meetings that the Court is fully up with its work. I am happy to say that this is true of the current term. We are concluding the hearing of arguments, and once more we have heard all the cases that are ready to be heard. This week cases have been argued which were filed as late as April 20. There are no inordinate or unjustified delays in the Supreme Court.

The figures for the current term do not vary greatly from those of the terms of recent years and I shall not trouble you with many of them. The total number of cases on our dockets for the current term is somewhat less than the number for last term. As of May 1 there were 946 cases on our appellate docket this term as against 986 last term, or 40 less. This term there have been argued and submitted on the merits 182 cases, including as one case those argued and submitted in a single group, or 218 cases in individual numbers. This number embraces cases on appeal and cases in which certiorari had been granted. Last term there were argued and submitted 169 cases, or 214 in individual numbers.

We have thus far during the current term granted 123 petitions for certiorari and denied 583. The number granted is close to the usual percentage of petitions which have been found entitled to a grant under our rules. These rules, as I said in my talk to you 3 years ago, are designed to carry out the intent of the Jurisdictional Act of 1925 in insuring the hearing of cases that are important in the interest of the law. That is, where review by the court of last resort is needed to secure harmony of decision in the lower courts of appeal and the appropriate settlement of questions of general importance so that the system of Federal justice may be appropriately administered. As I have frequently stated, we are liberal in the application of our rules and certiorari is always granted if four Justices think it should be, and, not infrequently, when three, or even two, Justices strongly urge the grant.

It may also be noted that of the petitions for certiorari which have been acted upon thus far during the current term, 233 were distributed to the Justices during the last summer and were examined by the Justices in the recess so that action could be taken, and it was taken, as soon as the Court convened in October. In addition, there were distributed to us during the summer recess 33 jurisdictional statements and 22 miscellaneous motions, making a total of 288 applications which we considered in the summer recess and were ready to act upon when we met in conference at the beginning of our term.

Of course, the final figures for the term, including the total number of cases that will be disposed of on hearing or otherwise, can only be determined at its close, but what I have said is sufficient, I think, to give you a fair idea of the state of our work.

An interesting feature of the administration of justice in the Federal courts is the large percentage of cases in which the Government is directly interested. Last fall the Attorney General reported to the Conference of Senior Circuit Judges that of 45,175 civil cases (exclusive of bankruptcy cases) which were pending as of June 30, 1936, in the Federal courts, 13,715 were "United States civil cases." In June 1935, the corresponding number of civil cases was 47,332, of which the United States cases were 15,265. In the Supreme Court the Government cases are apparently a larger percentage of the whole. The figures given in the last annual report of the Solicitor General indicate, on the average, that approximately 40 percent of the cases before the Supreme Court are Government cases.

Since the establishment of the circuit courts of appeal in 1891 there have been four outstanding measures for improving the procedure in the Federal courts. One was the new equity rules, promulgated by the Supreme Court in 1912, to simplify equity pleading and practice. A second measure was the Jurisdictional Act of 1925, to which I have referred, relating to the jurisdiction of the Supreme Court. That accomplished two results of the greatest importance. One, by enlarging the classes of cases in which jurisdiction should be entertained only upon the grant of certiorari, made it possible for the Supreme Court to devote itself to those cases which demand consideration because of the public importance of the questions involved. Without such a limitation no court of last resort could possibly perform its essential function in this great country with its vast amount of litigation affecting merely private interests. This limitation upon jurisdiction has worked well, and the rules of the Supreme Court and their administration have been directed to the carrying out of the intent of the statute and have given to the limitation its just effect. The other result has been that, through the operation of this jurisdictional statute, the Supreme Court has been able to act as a unit in dealing with all the cases before it. In this unique court of last resort, with its special function, that sort of action is believed to be highly desirable. It has the sanction of long usage. Every member of the Court feels his personal responsibility and meets it in each case, save in the rare instances where a particular Justice may be disqualified.

Even if a Justice is unavoidably absent so that he has not heard oral argument, he still has the opportunity to study the briefs and may take part in the conference. In this way, continuity of consideration and concentration of responsibility are maintained. It should be remembered that, as a necessary consequence of the principles of selection under the Jurisdictional Act, the cases we hear are important cases. There are of course degrees of importance but the cases come to use because of their important character. The attention of the general public is naturally engrossed in decisions of great constitutional questions. There are those who think that particular cases are especially important because they relate to subjects in which they happen to be especially interested. Many, even lawyers, are too nearsighted to observe the important implications in many decisions which attract no general attention. The members of the Court are always alive to these implications and watch each case with a critical eye. Cases which the ordinary observer might consider to be relatively unimportant may become important precedents and they require thorough study and discussion. The molding of the law is a continuous process demanding constant and exceptional vigilance in a court which speaks the last word in harmonizing conflicts and establishing the final interpretation of the public law. The Justices work under the influence of this demand and they are keenly conscious of the advantage which has been found to inhere in their historic method.

The third notable advance in Federal procedure was made in the promulgation by the Supreme Court, under authority of the Congress, of the Criminal Appeals Rules in 1934. By these rules

it was sought to simplify appellate practice and to put an end to inordinate delays in the disposition of appeals from the district courts in criminal cases. These rules are few and simple, and it is believed that they will expedite appeals without sacrificing any just interest.

The fourth measure for procedural improvement was the recent enactment by the Congress of the statute giving the Supreme Court authority to formulate rules of civil procedure for the district courts of the United States and the courts of the District of Columbia. The Court decided to undertake the preparation of a unified system of general rules for cases in equity and actions at law so as to secure one form of civil action and procedure for both classes of cases while maintaining inviolate the right of trial by jury in accordance with the seventh amendment of the Constitution of the United States and without altering substantive rights. To give the necessary assistance in this undertaking the Court appointed an advisory committee consisting of members of the bar and professors of law. This committee, composed of eminent experts, who have had the advantage of wide experience and have made a special study of procedural questions, has prosecuted its difficult task with unremitting industry. No words of mine can pay adequate tribute to the zeal, assiduity, and intelligence with which the members of the committee have labored. A year ago the committee submitted to the Court, and with its approval distributed for the criticism of judges and lawyers a preliminary draft of the proposed rules. This draft had the careful consideration of judges and of committees of lawyers in their respective circuits, with the result that the advisory committee received many important suggestions.

The proposed rules were debated in several local conferences. The committee has been sedulous in considering all these criticisms and suggestions and has now completed a final draft which will shortly be submitted to the Court and will be available for examination by judges and lawyers. I trust that this final draft will receive careful consideration during the coming months, so that before the Court meets in the fall the committee may have any further advice that judges and lawyers may care to give. Thus another great work which has called for the expert ability and a wide cooperation of the bar and bench is approaching completion. I take this opportunity to express the grateful appreciation of the members of the Court of the earnest work of those who have been devoting their time to this endeavor to provide an improved system of procedure for the Federal courts.

All these efforts are to make clear the paths of justice. The success of democratic institutions lies in the success of the processes of reason as opposed to the tyranny of force. Between these society must choose. If society chooses the processes of reason, it must maintain the institutions which embody those processes. Institutions for the exercise of the law-making power and for the execution of laws must have their fitting complement in institutions for the interpretation and application of laws, for the safeguarding of individual rights through a competent and independent judiciary. The firm and true administration of justice is thus the primary concern of civilized society. That administration must find its ultimate assurance not in statutes or forms but in the sentiment of a free people—themselves tolerant and reasonable and keenly alive to the necessity of maintaining the instrumentalities for the impartial determination of controversies. In the spirit and method of your cooperation you have shown how that end may be achieved.

Government and Politics

EXTENSION OF REMARKS

OF

HON. WILLIAM H. DIETERICH

OF ILLINOIS

IN THE SENATE OF THE UNITED STATES

Monday, May 10, 1937

ADDRESS BY HON. JAMES A. FARLEY BEFORE AMERICAN LEGION POST, GALESBURG, ILL., APRIL 27, 1937

Mr. DIETERICH. Mr. President, I ask unanimous consent to have printed in the RECORD the address delivered by Hon. James A. Farley before the American Legion post at Galesburg, Ill., on April 27, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

You have done me a great honor by inviting me to speak to you tonight. It is a delight to address an audience in a State where I have so many friends and political associates who have done so much to place democracy in the high place it enjoys in the estimation of the country. I am humbly conscious that your State in its long history has contributed many eminent men and women to the service of the Nation, and I am sensible of the part you have played in the development and progress of the United States.

I do not know that I can tell you any new thing, but perhaps I may be able to reaffirm some old facts and to correct some erroneous impressions begotten of recent events.

They tell us—I mean the folks of the opposition tell us—that this is a Government of checks and balances. Anybody who gets his notion of the progress of events in the Federal administration and in national politics might think from the speeches we have listened to, and some recent editorials we have read, that it is a government of slogans and humbug.

Perhaps it is natural that in political and economic controversies we should seek to make it appear that the other fellow is devoid of sense, reason, conscience, and patriotism in the effort to convince the people that all intelligence, virtue, honesty, and sportsmanship are on our side. It is hardly necessary at a veterans' dinner to remind my hearers of the stories of atrocity so widely circulated just before and during the World War. The enemy press and orators told their people that we were semi-savages, forced to fight by mercenary leaders who had been duped and bribed to bring America into a merciless war against a heroic people struggling to defend themselves against world aggression. The nations associated with us on the other hand pictured us as a gallant country proud to be among those engaged in saving civilization from the ruthless tyranny of a power-mad emperor. Later on, when it came to meeting their debts, we lost all the magnificent characteristics they had endowed us with and we became "Uncle Shylock", demanding his pound of flesh. But that is another story. Looking back, we wonder if we really believed the tales that were told us—such stories as that American war prisoners in Germany were paraded in cages for the edification of the enemy populace. And I suppose the average German citizen wonders in the same way if he actually gave credence to what he had been told about us.

Those of you who faced the foe 20 years ago ascertained then that he was a capable, hard-fighting soldier; but it took longer for the folks at home to learn that all on the other side were not devils any more than all on our side were angels.

It is something like this in politics. Hardly a day goes by that some heated orator does not trot out a special hobgoblin to scare the people into believing his way. The classical example of this was a celebrated speech about grass growing in the streets of our cities if the Democrats won the 1932 election and monkeyed with the sacred policies of the Hoover administration.

Just now we are in the midst of a terrific battle over changes in the Supreme Court recommended to Congress by the President. The foundations of the Republic are reported as tottering under the onslaught of the Executive on the judicial branch of the Government. So you see the President of the United States pictured as a scheming would-be dictator engaged in assassinating our liberties and tearing down every American safeguard against tyranny and despotism. The people who are screaming such charges actually know that Franklin D. Roosevelt is a hard-headed practical person who has carried on his back-breaking job successfully for 4 years and was ordered by 28,000,000 people to get on with it and finish his task.

When he started in, it was Congress which, according to his enemies, was being bulldozed and bludgeoned to carry out his will. Then we heard about a "rubber stamp" Congress, shamefully cringing under the Executive lash, and effecting legislation that was bound to bring the fabric of the American Government down into a chaos of communism. Well, the legislation went through and the fabric of Government did not fall in ruins. For a couple of years the unconstitutional N. R. A. functioned, decreasing unemployment and increasing business. For the same period the unconstitutional Agricultural Adjustment Act worked, and the farmers, far from being in a state of mass bankruptcy, were restored to the purchasing class of the population. It was too bad that this amount of prosperity resulted from infraction of the law, but factories got their wheels to turning and shops and stores found customers again because of it, and recovery got enough headway to keep on moving when these agencies of economic resurrection were outlawed by the Supreme Court.

Recovery is not a limited process. Stopping a flood does not constitute flood control, for the latter involves preventing future floods, as well as repairing the damage done by the latest one. President Roosevelt's job was not completed when United States Steel resumed payment of dividends. There are still millions without employment and the relief funds required for the feeding and housing of the destitute are still of large proportions. A nation does not stand still; it either advances or drops back. The President could not stop if he would, leaving things as they are—for the simple reason that things would not stop as they are, if Government took its hands off and let nature take its unaided course. True, we have a degree of prosperity. A great surplus crop on the farms, or a widespread drought might easily check that prosperity. American mills and factories are for the most part running well, but every strike and lock-out threatens the whole course of industry. The employer must make money to pay labor adequately so that labor can buy and so continue the demand for manufactured goods, so that the revolving wheels of trade can keeping moving. Some formula must be found to mitigate, at least, these recurring set-backs, which involve not only a particular industry or a single set of employees, but the

whole nation. This is a big country, but industrially it is a unit. A major disturbance anywhere upsets the balance far away.

Well, there's the situation and the President is faced with the necessity of finding a way to cure it. Every time a major industrial crisis develops he is called upon to straighten it out. But there is not a single law on the statute books that gives the Federal Government authority to intervene effectively.

Congress has before it certain laws aimed to provide at least an approach to handling such situations, but neither Congress nor the Executive knows what the fate of such laws will be when the Supreme Court considers their validity. It has been found after repeated tests that four members of the Court are bound to take the reactionary view in every close question. A fifth swings back and forth between a liberal and a conservative position. So we have had within a period of a few months decisions equally emphatic both ways. A little while ago, one Justice joined in a decision that said virtually that neither the States nor the Federal power had jurisdiction in matters affecting hours of certain types of labor, and the creation of a legal no-man's land was disclosed. The other day the most variable Justice joined in a decision that a State did have such jurisdiction, and one of my witty colleagues renamed the doubtful legal territory "Robert's land." There may have been some finely drawn legal technicality of difference, too minute to be perceived by a lay mind, that explains the inconsistency. But what has to be considered is not legal hair splitting, but the actual effect on the peace and prosperity of the United States.

Now, I have not the slightest purpose to ascribe unfair motives to the conservative Justices. Men have differed honestly always and will continue to differ. Undoubtedly the fundamental four on the high Court are perfectly sincere in feeling that their way of looking at a principle is the right way. It just so happens that the accident of time has placed them in a position adverse to contemporary thought. It has happened before in history. Jefferson encountered it and met it with remedial measures beside which President Roosevelt's recommendations seem mild and tame. Among the other things Jefferson did through Congress was to suspend the functions of the supreme tribunal for 14 months by abolishing one term of the Court.

Naturally Jefferson was subjected to the same drumfire of invective that is now being directed by the opposition at President Roosevelt. Then were heard the same prophesies of disaster; the same forecasting of dictatorship and the destruction of the Republic, we hear today. What they said about the high-minded, far-seeing third President of the United States appears childish and ridiculous in the light of the halo history has placed around the great statesman and patriot. I imagine that what his foes are saying about Franklin Roosevelt today will sound just as absurd to posterity.

Let me tell you also, while on the subject of the sincerity of the opposition to the plan for judicial reform, that I ascribe no unworthy motives to such Democrats as have adapted a course of hostility to the plan. I have worked with these men and have a high regard for their abilities and their honesty of purpose, even though I am thoroughly convinced that their conclusions are wrong. It is not surprising that lawyers, educated in precedent and reverent in their attitude to the traditions of their own profession, should see peril in every variation or change. If it had been left exclusively to lawyers, I fear jurisprudence would not have proceeded from the grim laws of the ancient cruel penalties to the present stage of reasonable enlightenment. As I have said, I have worked with these men who now oppose us, and I expect to work in harmony with them again. Among the dire prophecies of ruin and disaster that will never come to pass, the disruption of the Democratic Party over the Court issue is, perhaps the most absurd of all. When the Court legislation has gone through—and it is going through whenever the opposition permits Congress to vote on it—we will settle down to our normal business—the furtherance of the rest of the democratic principles and the continuance of democratic government. Some feathers will be ruffled and some individuals will be lonesome, but that is all the political effect. Our party has experienced many wider rifts. It has run on for a century and in the retrospect these interparty differences seem trivial indeed. So we will go on and on and will succeed—just as long as we deserve success and merit being rewarded with the people's confidence.

What I do find fault with is the tendency of these temporary foes to exaggerate and blow out their cheeks with intemperate charges and furious denunciation. After all, what is at issue is a question of policy that ought to be debated calmly and decided without heat or passion. Instead we find every specter and phantom and bugaboo trotted out, just as they were in Jefferson's time and Lincoln's time. This is done in an effort to scare the country into the belief that the citadels of popular government are being assailed and that the President of the United States, slaving away at perhaps the toughest job that ever befell an American Executive, is fiendishly scheming to dynamite the whole social and economic structure.

Probably this is natural also for men whose lives have been devoted to making arguments before juries, where passion is traditional and eloquence a common substitute for logic.

The Court question, however, is not before a jury capable of being swayed by the violence of an advocate. Just now it is before the United States Senate, a body composed of people to whom oratory is a commonplace and whose usual reaction is that it is something they have used at times but do not have to listen to. If the Members of the Senate who are opposed to the President's plan are able to muster 49 of their colleagues on their side, they will have accomplished their purpose. They cannot muster that number or anything near it, though the Republican standpatters are a unit with them. They know that a substantial majority of the Senate will vote for the Court measure as soon as it is submitted to them. Nevertheless we must be prepared for speeches vast in number and long and passionate in substance, reciting all that has been recited about the iniquity of bringing the Supreme Tribunal up to date and giving liberal laws a respectable chance of confirmation.

There is not a Senator or a Representative who has not thoroughly canvassed the Court question. He has all the information obtainable on the subject. He has heard from the home folks and knows what they think about it. He has, if he desired to do so, heard or read the enormous volume of testimony taken before the Senate Judiciary Committee. Precious little of that testimony had to do with the merits or demerits of the Court bill. What was laid before the committee was a recital of opinion, repeated over and over, until nobody would either listen to or read the monotonous iteration and reiteration of what was told in its entirety during the first week of the hearings. Those hearings were closed out of sheer weariness.

When the bill is reported, I suppose we will go through the same things as the effort develops to talk the bill to death. Perhaps we may have the variation of participation by the Republican minority. That has been the backbone of the opposition since the beginning. Their party affiliates seem to have supplied the funds for the most voluminous propaganda distribution this country has ever experienced outside of an election period. Its cost must approximate campaign expenditure, and in variety and virulence it was not exceeded even by the output of the Republican committee last year, including the productions of its figureheads, fake organizations, and subsidized agencies.

While the G. O. P. was paying the bills and putting out the literature, some but by no means all of it, surreptitiously, they left it to their Democratic converts to clash the cymbals and beat the drums in and out of Congress. There is nothing hard to understand about the Republican attitude. They fought against the recovery program during the 1936 campaign, and ingloriously lost out. Now they are trying, by preventing legislation that would make the culminating success of that program possible, to reverse the verdict of the people last November. They would oppose the President if he offered the Ten Commandments, for their one hope of regaining control of the Government is to break down his popularity, and their theory is that whatever he does is wrong, vicious, and destructive. If they can't find fault with his objectives they question his motives. This may seem like old-fashioned politics, but the G. O. P. has always proclaimed itself as the conservative party.

I have spoken to you tonight principally on the Court issue. It is not because of any danger that that plan will fail of adoption that I have made it the subject of my talk. But it is the issue uppermost in the public mind, and, I believe, the most important matter that has arisen since Franklin Roosevelt undertook his great task of pulling this country out of the mire of depression and disaster. Frankly, it seems to me that the entire success of his administration and the success of the recovery program hinges on the enactment of this legislation. Moreover, there has been such a fog raised over this thing; there has been so much misinformation spread about; so much misrepresentation disseminated, that I welcome this opportunity to set things straight for you.

There is nothing revolutionary about the plan. It simply appears to be the only constitutional method of accomplishing what everybody, including most of the opponents of the judiciary bill, agree has to be accomplished.

They talk glibly enough about doing it by amending of the Constitution. I have never yet heard of an amendment upon which any two of the opposition agree. In addition to this there is no certainty that if they could frame an amendment that would satisfy two-thirds of both Houses of Congress, it would be ratified by three-quarters of the States for a number of years. We have been trying to have adopted a child-labor amendment for 13 years, to correct a verdict of the Supreme Court on the subject, and that amendment is still hanging fire.

There is another objection. Nobody wants to abolish the Supreme Court or take away its power to review acts of Congress. The Court is and has been a great institution. True it has sometimes lagged behind the national progress, and steps have had to be taken to bring it into line, but during most of its honorable history it has performed the greatest service. It is a safeguard against hasty legislation; a breakwater against such floods of such excited feeling as all countries are subject to. A constitutional amendment is a permanent thing, and such an amendment as might be presented at the present time might conceivably cripple the high tribunal. On the other hand, such an act as Congress has now under consideration could be repealed almost overnight if an emergency demanded such a drastic measure.

The lifetime term of the Supreme Justices has made the present Court an obstruction instead of the aid to orderly progress it was intended to be. Hence the recommendation of an increase of its membership, pending the period when nature reduces the

number. At any time, if there is any question as to whether there is such a fire escape in the pending bill, Congress can direct that vacancies be not filled. The permanent number of judges is probably not very important. It has been changed half a dozen times; at times it comprised 5 members; at other times it numbered as many as 10.

Advanced age and political happenings have resulted in giving us a Court, as now constituted, unsuitable to present conditions.

The elder Justices may retire on full pay any time they desire, but none apparently cares to avail himself of the privilege. So there we are with a Court packed against progress by its wealth of years and the frozen predelictions of its members. The President has suggested the only practical method to cure the trouble.

It is not that he seeks more power; or that he wishes to dictate to the judiciary how they shall interpret the law. The judges whose names he sends to the Senate will be jurists, with no strings on them. Does anybody believe in the face of the controversy the Court measure has provoked, that a majority of the United States Senate would ever confirm any unfit man, or any subservient creature who would deliver his verdicts in advance, in payment for his place on the greatest legal tribunal on earth?

The rawest politician who might attain to the Presidency would not dare to offer such a bargain. Franklin D. Roosevelt, idealist, with his long public-service record, would not even dream that such a possibility could even be suggested.

Army Day Message

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Monday, May 10, 1937

MESSAGE BY MAJ. GEN. GEORGE VAN HORN MOSELEY, COMMANDING THE THIRD ARMY, ON ARMY DAY, APRIL 6, 1937

Mr. COPELAND. Mr. President, I ask unanimous consent to print in the RECORD the Army Day message by Maj. Gen. George Van Horn Moseley, commanding the Third Army. The Third Army is composed of the troops in the Fourth Corps Area, with headquarters in Atlanta, Ga., and those of the Eighth Corps Area, with headquarters at San Antonio, Tex.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

Army Day must not be one on which the soldier man simply rattles his saber, crying out for more men, more money, and more munitions, but rather, a day when he stands before the people, ready to give an account of his stewardship.

Perhaps it is unfortunate that a very small group of patriots suceeded in having April 6 named as Army Day. That happens to be the day we declared war and entered the World War on the side of the Allies. Millions of Americans, rightly or wrongly, now regret that act, for the idealistic purposes that actuated our entry have not been realized. Why, therefore, should we attempt especially to perpetuate it in memory? Unfortunately, too, whether we like the thought or not, other wars will come and go before the millenium shall arrive with its "peace on earth." What then will April 6 mean to the people of a later period? Had Armistice Day been selected, the day that brought peace to the world, largely as a result of America's participation in the war, the case would be very different. Why not correct this mistake now and select Washington's Birthday as Army Day? He was our first Commander in Chief. The policies underlying the Military Establishment today are largely his. His name will be revered as long as there is a drop of liberty left anywhere in the world.

In considering the Army, it must be remembered that for every man at the front in war, battling to regain the peace, there must be many behind the lines, supporting the fighting men, providing supplies, munitions, and transportation. Similarly, for every man on active service, guarding and securing the peace in normal times, there are hundreds of men and women at home who must support their Army sympathetically. In fact, the dependability of the Army in war or in peace is reflected directly in the general character of our people, and while for a time a really good Army may be maintained to protect a manpower on the decline, eventually the diseases of the nation will reach the Army itself and destroy it. Thus it is that the Army, more than any other agency of the Government, is interested in American manpower and in all things which go to improve it, for we realize how necessary such a manpower is for prosperity in peace, how necessary for victory in war. And that will be so until we reach that perfect day when all men shall put away the sword.

In the last address of our Commander in Chief—the President—to the Nation, he said, "I want to talk to you simply about the need for present action in this crisis—the need to meet the unanswered challenge of one-third of a Nation ill nourished, ill clad, and ill housed." He could have added that several million are diseased—that the derelicts of syphilis are crowding our public institutions and that that disease alone is now recruiting over 500,000 a year, thus doing greater permanent damage than all other diseases combined. In the last analysis the armed forces can be no stronger than the manpower from which they are recruited. What then should be the Army's appeal to the Nation today? If I could be permitted to voice it, it would be, "Law and order behind our lines." With friendly nations to the north and to the south—with a wide expanse of ocean to the east and to the west, self-contained as we are in the production of those things which are vital to us, certainly we have all the means at hand for living in peace. If we go into a foreign war it will be under the leadership of the almighty dollar. But if we avoid foreign entanglements the only things that can harm us are those unfortunate conditions which result from our failure to put our house in order at home.

Nowhere in the world are the human rights of an individual better protected than they are today in the American Army. Law and order prevail throughout that great human institution. Orders and instructions are drawn fairly and enforced justly. They are obeyed by all ranks, and the general must obey the orders of the sentry with even greater precision than anyone else. But with it all there exists the right of appeal—always permissible, not once, but repeatedly.

If we would have international peace, the first stepping stone to it must be discipline at home behind our lines. The lack of such discipline is sometimes disturbing to the Army, for if respect for our civil law enforcement agencies is not maintained the time may come when the law-abiding people, fortunately still in the great majority, may be compelled to turn to the Army to put their house in order.

This Army of which I speak is your Army. Today, with serious local disturbances here and there, the Nation can look to it with complete confidence. You can trust it thoroughly. It is the Rock of Gibraltar, guarding our liberties—the absolute guarantor that in the last analysis the will of the majority shall reign in the land.

Effect of Supreme Court Decisions on Labor and Agriculture

EXTENSION OF REMARKS

OF

HON. M. M. LOGAN

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Monday, May 10, 1937

STATEMENT BY HON. HENRY A. WALLACE, SECRETARY OF AGRICULTURE

Mr. LOGAN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement made by Hon. Henry A. Wallace, Secretary of Agriculture, relative to the effect of recent decisions of the Supreme Court on labor and also on agriculture.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The Supreme Court's decision in the Wagner cases has opened the way for labor to make long strides ahead, but it also has left agriculture exposed to severe legal inequality. The discrimination against agriculture will continue as long as the Supreme Court's decision in the A. A. A. case stands. The Justice who wrote the majority opinion that knocked out vital parts of the Agricultural Adjustment Act in 1936 now wields the balance of power in the Court. The situation is such as to cause complete uncertainty as to what future Court decisions hold for farmers.

Business has long had the right to act nationally through the corporate form of organizations. In the Wagner case decisions labor now has won a similar right. But by decision of the Supreme Court in the Hoosac Mills case, affecting the A. A. A., agriculture is still legally a local problem.

The decision of the Court in the A. A. A. case, that agriculture is a local matter, still discriminates against the farmers and blocks their progress. The reasoning of the Court majority in that case

was in direct contrast with the reasoning of the majority in the Wagner cases. In the latter the Court recognized that the employment of labor affects interstate commerce in the meaning of the Constitution. But in the A. A. A. case the Court completely ignored the fact that farm prices and production in one State affect farm prices and production in other States. The Court has said in effect that the farmers cannot cooperate with each other and with their Government to protect their incomes and their prices.

In the past the troubles of agriculture have been largely due to the fact that farmers working on 6,000,000 farms scattered over 48 States were unable to bargain on a basis of equality with the groups that were well organized.

With big business having the right and the ability to operate through large scale units, and labor given needed protection by the Government in its efforts to organize, what is going to happen to the farmers?

I want to make it clear that I am for the decisions in the Wagner cases. But I want to make it equally clear that from the standpoint of farmers, these decisions have made enactment of the President's plan of judiciary reform more imperative than ever before. If there were any doubts that the farmers' real interests lay in supporting the President's judiciary plan, all such doubts have been removed by the Court's decisions in the Wagner cases.

In the Wagner decisions, the Court has faced some of the realities of the present day. But is that any guarantee that the present court will reverse itself in the case of agriculture? With four Justices flatly hostile to vitally needed legislation and the Court's decisions now seeming to depend on the variable opinions of a single member, how can anybody tell what future decisions may be? A year ago, following the A. A. A. decision, the Court seemed to be guided by a more enlightened interpretation of the Constitution when it upheld the T. V. A. Act. But a few weeks later the Court reverted to narrower views when it invalidated the Guffey Act and the New York minimum-wage law.

For the present, agriculture is left in an uncertain situation by the continuing effects of the A. A. A. decision. The fate of farm legislation now apparently is in the hands of the one Justice who wrote that agriculture is a local matter and outside of effective Federal help.

Agriculture cannot afford to be subjected indefinitely to the uncertainty of shifting judicial interpretations of the Constitution. The only safe thing for farmers to do is to go ahead working on new legislation that will cope with farm problems on a national basis and redouble their support of the President's plan for judiciary reform.

Service Disabilities

EXTENSION OF REMARKS

OF

HON. ROBERT J. BULKLEY

OF OHIO

IN THE SENATE OF THE UNITED STATES

Monday, May 10, 1937

ARTICLE BY JOE D. CHITTENDEN

Mr. BULKLEY. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an article from the Foreign Service Magazine, written by Joe D. Chittenden, service director of the Veterans of Foreign Wars.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

YOU'VE GOT TO PROVE "SERVICE CONNECTION", AND YOU'VE GOT TO HAVE THE EVIDENCE THAT REALLY PROVES

(By Joe D. Chittenden, Director, National Service Bureau and National Rehabilitation Office of the Veterans of Foreign Wars of the United States.)

Conferences with post-service officers in attendance at department pow-wows in and near Washington have convinced the director of your national service bureau that these service officers are very anxious that they be furnished information that will aid them in the preparation of evidence.

The nature of the evidence to prove birth, marriage, death, and relationship in general has been covered elsewhere in Foreign Service. This article, therefore, deals with the securing of medical and lay evidence for the purpose of showing that the veteran did suffer, in fact, with a disability incurred in military service.

There are certain fundamental rules of evidence that should be followed. The evidence must be both material and relevant. Evidence is said to be relevant when it touches upon the issue which has been made so as to assist in getting at the truth of the facts.

Remember, that under Veterans' Administration regulations a claimant is not required to establish the service origin and degree of his disability to a mathematical degree or moral certainty. He must, however, establish both these factors by a preponderance of the evidence. It is also well to remember that it is the sworn duty of all rating agencies and appellate groups of the Veterans' Administration not to allow any claim unless it is supported by the law and evidence.

The rating agencies seldom have the advantage of seeing or hearing the witnesses who give testimony before them. It is necessary, then, that any statement by a physician or layman be made in such detail so as to give them a clear word picture of the disability.

All statements submitted must be sworn to before some officer, with a seal showing authorization to administer oath. Each statement so submitted should contain the veteran's full name and identifying number, and the full name and address of the affiant.

Where a claim is based upon physical disabilities it is better, of course, to present the testimony of physicians who have examined and treated the veteran for the disabilities for which compensation is claimed. In many cases, however, such medical evidence is not obtainable. In such cases it then becomes necessary to secure affidavits from persons not trained in medicine. These laymen can and do describe in many instances the symptoms of certain disabilities so clearly and in such detail that the rating authorities get a clear picture of the disabilities.

Lay evidence, however, given in general terms and containing a diagnosis is usually worthless. On the other hand, a statement in the layman's own language stating clearly what he actually observed concerning the veteran's disabilities may result in service connection being granted. For example: An affidavit by a layman that private John Doe had rheumatism in 1919 will not be given much weight, but since the general symptoms of rheumatism are known to all of us, a statement describing such symptoms, the dates, and under what conditions they were observed, will carry considerable weight. The same is likewise true of tuberculosis and other diseases.

Remember, that a simple, direct statement tells a story most effectively. It follows, therefore, that the exact language of the person making the statement is most effective. In other words, do not try to put the average layman's statement in the language of a physician.

If then the affiant states that John Smith walked like a horse with spavin, or John Jones' breathing while walking up hill sounded like a blacksmith's bellows, or that John Doe drank as much water as an ox and ate as much candy as half a dozen children for the purpose of showing the disabilities of rheumatism, respiratory ailment or diabetes, respectively, his statement should be quoted verbatim.

It has been said that medical evidence is the best evidence to establish service connection. Such medical evidence, however, is practically worthless unless it shows specifically the date and place of each examination. This is especially true as to date of first examination for in practically all claims, time is the controlling factor. This is easily understood since before presumptive service connection can be granted under the law, certain disabilities must have been present to a 10-percent degree or more before a certain date. (See World War Veterans' Act.)

Another thing of vital importance which a physician's statement should contain is a detailed report of the symptoms, physical and clinical findings, which led to making a certain diagnosis. These facts are of much more importance to the rating board than a mere diagnosis.

In many instances the physician has not kept records of examinations and treatment. In such cases it then becomes necessary that the dates be fixed by some happening which causes him to recall to his mind the date of treatment. This can be done in many ways, such as changing location of the physician's office, place or firm where the veteran was employed at the time of treatment, date of the birth of child in the veteran's family, etc.

There is of record one case where service connection was granted where the date was fixed by a receipt for house rent, and the fact that covering a certain period of time the claimant's name appeared in the city telephone directory. The physician in this particular case was clear as to the nature of treatment and the place of residence of the claimant but could not definitely fix the date of such treatment.

What is true with regard to fixing dates by physicians is likewise true of statements made by laymen and comrades in service. In all statements made from memory it is wise to show how and why the affiant remembers the things he offers in evidence.

In order to illustrate and clarify this question of evidence certain examples will be used herein showing both inadequate and adequate statements by both physician and laymen. These statements will be based upon a set of assumed facts.

Example no. 1. It is assumed that Richard Roe, a World War veteran, filed claim for compensation in 1925, alleging he was suffering with pulmonary tuberculosis and that he was treated by John Doe, M. D., of Kansas City, Mo., in June 1920. The post service officer contacts Dr. Doe for a statement in June 1927. Dr. Doe, being a busy man and without knowledge of Veterans' Administration law and regulations, makes the following statement:

KANSAS CITY, MO., *June 15, 1927.*

To whom it may concern:

This is to certify that I treated Richard Roe of this city, a World War veteran, for more than a year after he was discharged

from the Army. I found him suffering with pulmonary tuberculosis.

(Signed) JOHN DOE, M. D.

This statement then goes to the Rating Board, and after due consideration it is found to be practically worthless for the purpose of establishing service connection for pulmonary tuberculosis.

Now let us see why this statement is worthless. First, bear in mind that under any law, before service connection can be granted for tuberculosis the disability must have existed in active form and disabling to a degree of 10 percent or more prior to January 1, 1925.

Upon analysis, then, we find that the date of treatment is not specifically set forth. Since the statement was made June 15, 1927, the affiant could have treated the veteran for 1 year between the dates of January 1, 1925, and June 15, 1927, for TB, which would be after the date service connection could be granted.

Secondly, no mention was made of symptoms, physical or clinical findings at time of treatment upon which a diagnosis of active pulmonary tuberculosis could be based. The affiant even failed to say whether or not the pulmonary condition was active. If it was not active, service connection cannot be given under the law, nor would the mere statement of activity suffice unless backed up by physical or clinical findings.

Now let us assume the same set of facts, with a further assumption that the post service officer has given the physician a general idea as to Veterans' Administration laws and regulations. In the light of this, then, the physician makes a statement covering the same case.

KANSAS CITY, MO., *September 15, 1927.*

To whom it may concern:

This is to certify that I, John Doe, M. D., of Kansas City, Mo., treated Richard Roe, a World War veteran, of 915 Temple Street, this city, for active pulmonary tuberculosis from[1] June 1920 to June 1921.

I first examined him, according to my office records, June 15, 1920, and my diagnosis, upon first examination, was pulmonary tuberculosis, active. This diagnosis was based upon the fact that at the time of this examination he ran an afternoon temperature of 101 degrees. There was also present fine, persistent, stick râles in both lungs. I referred him to Dr. Smith, of 220 Third Street, this city, for sputum test and X-ray examination. The sputum test was positive for tuberculosis bacilli. The X-ray examination was then found unnecessary, as the other symptoms definitely established active pulmonary tuberculosis.

This examination was confirmed through other examinations by me, and Mr. Roe remained under my treatment for a period of a year, following my instructions as to rest and diet, at the end of which time his tuberculous condition reached arrest.

Upon first examination Mr. Roe related his personal history, which led me to believe that his condition was incurred in military service. He gave a history of having been gassed and hospitalized in France for pneumonia, and following pneumonia he had been treated on two occasions for a condition diagnosed as acute bronchitis.

Over the period that Mr. Roe received treatment he was totally disabled from following any occupation of any kind.

(Signed) JOHN DOE, M. D.

Subscribed and sworn to before me this 15th day of September 1927.

JOHN SMITH, *Notary Public.*

Upon analysis of this statement it will be seen that it clearly sets forth the date that treatment was given. It also gives a clear picture of two of the cardinal symptoms of active pulmonary TB. There can be no doubt, then, with this set of findings but what Richard Roe had active pulmonary tuberculosis when first examined by Dr. Doe June 15, 1920.

Since space will not permit the giving of examples to cover all types of cases, there is submitted the following form of statement which, when "cut to fit the cloth", will cover the information required in any given case:

Statement of ——— ———, M. D.
Address ——— ———.
Report of examination and treatment of ——— ——— (veteran).
How long have you known ——— ——— (veteran).
When did you first examine him ———. If you have no record of this examination, state how you fix the approximate date ———.
What was your diagnosis on first examination ———.
What symptoms were present ———.
Did you refer him to anyone else for further examination or consultation ———. To whom ———. Address ———.
Was your diagnosis confirmed ———.
If you have no record of examination or reference, state how you recall symptoms ———.
Was your first diagnosis confirmed by other examinations ———.
When were they made ———.
For how long thereafter did you treat him (give dates) ———.
Did the condition improve or grow worse ———.
What treatment was given ———.
Were any laboratory or other tests made; if so, describe them, showing when and by whom they were made ———.
Was an operation of any character performed ———. If so, describe ———. If not done by you, state by whom and where done ———.
Did ——— ——— (veteran) relate any history which led you to believe that his condition was incurred in military service ———. If so, give this history ———.
To what extent did his disability interfere with the performance of his usual occupation ———. Why ———.

——— ———, M. D.

Subscribed and sworn to before me this —— day of ——— 1937.

——— ———, *Notary Public.*

Example no. 2: Let us assume that Pvt. George Brown, Company F, Twenty-sixth Infantry, while serving in France suffered an attack of rheumatic fever, for which he was hospitalized, and a record was made of the disability. Service connection has been granted and compensation paid from date of discharge, June 1919 until June 1922, at which time it was found upon examination by the Veterans' Administration that the disability no longer existed, and no further examinations prior to his fatal illness were made by the Veterans' Administration or private physicians.

Let us further assume that Private Brown did, in fact, have recurrent attacks of rheumatism until his death in 1932, and the death certificate shows that the cause of death was influenza, contributory cause, heart disease.

The widow is now claiming death compensation. We now have, so to speak, a "double-barrel claim." The first proposition is to show that the recurring attacks of rheumatism brought about a heart condition which contributed to the veteran's death. The second proposition is to show that the disability for which service connection had been given was disabling to a degree of 30 percent or more under the provisions of Public, No. 484. Since medical evidence is not available it becomes necessary to attempt to prove one or both propositions by the statements of laymen.

Let us further assume that veteran John Jones worked with veteran Brown from 1923 until his death in 1932. Veteran Jones is then contacted by a post service officer and asked to make a statement concerning veteran Brown's physical condition. He makes a statement something like this:

DETROIT, MICH., *January 1, 1935.*

To whom it may concern:

This is to certify that I knew George Brown before he went in the Army in 1917, and he was a strong, healthy man. I also knew and worked with him after the war and his health was poor. He complained of rheumatism. He was also short of breath.

(Signed) JOHN JONES.

This statement, of course, is absolutely worthless.

1. It is not sworn to before a notary public.

2. It does not set forth any specific date, and the period of work he refers to might just as well have been between June 1919 and June 1922, over which period the Veterans' Administration knew the physical condition of Veteran Brown.

3. He does not give any details with reference to what he actually observed about Veteran Brown's physical condition.

Now, let us assume the same set of facts, with this exception, the post service officer has become familiar with Veterans' Administration laws, evidence, and its preparation. He then approaches Veteran Jones and gets the following statement covering the case:

DETROIT, MICH., *June 1, 1935.*

To whom it may concern:

This is to certify that I am 45 years of age and that I have known George Brown (C–212121), now deceased, for the past 20 years. We served in the same organization in France. After his discharge from the Army I did not see him again until the winter of 1923. From that date until June 1932 I worked with him for the Smith Construction Co., whose offices are located at 222 Bay Street, Detroit, Mich. During that time we were both working as carpenters, and the company was erecting dwelling houses for various real-estate corporations and private individuals in Detroit, Mich.

During this time the veteran, George Brown, complained continuously, especially in bad weather, of rheumatism. I have observed on a number of occasions that the joints of his hands were red and swollen and that at frequent intervals he had a decided limp and stiffness in the joints of his legs. This condition continued at intervals throughout the entire period we worked together. On several occasions during the lunch hour when George Brown removed his shoes for relief I noted the same condition of the feet and ankles as in the hands.

He also complained of shortness of breath, and this shortness of breath was quite apparent to me and other fellow workers when it became necessary for him to do any climbing on the scaffolds or taking any violent exertion. I recall upon one occasion in 1931 that while George Brown was climbing a scaffold one of the workmen with me on the scaffold remarked, "Gangway for the blacksmith's bellows."

This man was considered by all of us as an excellent worker and the foreman of the various jobs for the Smith Construction Co. favored him as much as possible by giving him inside work in bad weather throughout his whole period of employment.

I do not know the exact amount of time George Brown lost because of his disability, but would say that a conservative estimate would be about one-fourth. Definite information concern-

ing this point can probably be secured from the pay rolls of the Smith Construction Co.

(Signed) JOHN JONES,
618 Joplin Street.

Sworn and subscribed to before me this 1st day of June 1935.
JACOB SMITH, *Notary Public.*

The contrast of these medical and lay statements is obvious and requires no further explanation. If they are studied by the post service officers, it is believed that they will be able to render more efficient service.

They have been included herein merely as a guide for the post service officers and not with any thought in mind that they be influenced to deviate from the factual basis in preparing a claim for submission to the Veterans' Administration.

Remember the office of post service officer is a position of trust, and while the officer owes a duty to his disabled comrades he also owes a duty to the Government of the United States to deal with it honestly and fairly and in accordance with the spirit of the law in the preparation and submission of evidence.

Our Foreign Trade

EXTENSION OF REMARKS
OF
HON. DEWEY SHORT
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Monday, May 10, 1937

ADDRESS BY HON. L. C. DYER, FORMERLY A REPRESENTATIVE FROM MISSOURI

Mr. SHORT. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix of the RECORD to include some remarks recently made by Hon. L. C. Dyer, for many years a Representative in Congress from Missouri.

Mr. Dyer's remarks have to do with a very important subject that we are all interested in—that is, foreign trade, with special reference to the Far East and China in particular.

The SPEAKER. Is there any objection to the request of the gentleman from Missouri? [After a pause.] The Chair hears none.

The remarks referred to are as follows:

During my long service in Congress I have made several trips to China for the purpose of finding out the ways and means of improving our friendly and business relations with the Chinese.

One of the results of my activity in this regard was the enacting into law of the China Trade Act. This law, passed by Congress in 1922 and amended in 1925, has proved of great benefit to American merchants engaged in the development of trade with China, and puts our nationals on the same favorable basis as their foreign competitors.

The act provides for the issuance of Federal charters, under certain conditions and restrictions, to American concerns to engage in business in China, a uniform code of law under which they may operate. This act has also opened up a new field of investment for the Chinese businessman by enabling him to invest his capital jointly with American businessmen in corporations operating exclusively in China and under United States Government charters.

Upon my return from my last trip to China I was given a testimonial dinner by the chamber of commerce and other business and civic organizations of my city. The address that I delivered at that time was not published in pamphlet form. For that reason I have not been able to comply with the many requests that I have received from foreign trade bureaus, chambers of commerce, and so forth, for copies of it.

In order, therefore, that we may better know China, and of the opportunities that await us there to renew and increase the trade we once enjoyed with that country and the Orient, I am including the remarks which I made, with certain additions, in pamphlet form, in order that I may furnish copies to those desiring them.

The great Republic of the West and the soon-to-be great Republic of the East are and have been friends since the time when we were struggling colonies. Since those days we have done a lot of business with China, but just now our trade with that country and the Far East has fallen off to one-third what it was several years ago. We want to mend that situation for the good of both countries. Besides, with China containing a vast storehouse of knowledge and information most interesting and beneficial to the people of the United States, we should cultivate a closer friendship. Our relations socially and commercially should become more intimate. If we really know the Chinese as they are, we would not give credence to the portrayals misrepresenting the Chinese people on the screen and the many articles and books being published misrepresenting this great people.

China is today rapidly overcoming its difficulties of the last quarter of a century. Able and new leaders have arisen to guide China into a great nation. China has never had a greater leader than Gen. Chiang Kai-Shek, who is the president of the National Military Affairs Commission, and concurrently the president of the Executive Yuan. This great Chinese leader is ably seconded by his brilliant and charming wife, the former Soong Me-Ling, and who is of the great Soong family. Among her sisters and brothers are Mme. Sun Yat Sen, Mme H. H. Kung, and T. V. Soong. Dr. H. H. Kung, Minister of Finance and Ambassador Extraordinary to the coronation of the King and Queen of Great Britain, is also an able lieutenant. The Cabinet is, in addition to Dr. H. H. Kung, composed of distinguished men. They are—Interior, Chiang Tso-ping; Foreign Affairs, Wang Chung-hui; Military Affairs, Ho Ying-ching; Navy, Chen Shao-kuan; Industries, Wu Ting-chang; Education, Wang Shih-chieh; Communications, Yu Fei-peng; and Railways, Chang Kia-ngau.

There stands particularly, among the great leaders of modern China, Mr. T. V. Soong, former Minister of Finance and now president of the board of directors of the Bank of China and chairman of the National Economic Council. One of the greatest forces for the upbuilding of China is the National Economic Council. Through its able direction great progress has been made in highway construction, water conservancy, public health, agriculture, and education. Through the splendid assistance of the Chinese Government and the National Economic Council varied private industries have sprung up, with the result that business generally is going forward by leaps and bounds. With such leaders China cannot fail to make strenuous strides in government and business.

A further evidence that China is putting its best men forward was in the recent appointment of Dr. Sao-Ke Alfred Sze as the first Ambassador from China to the United States. Dr. Sze is a diplomat of the highest order and no representative from a foreign country stands higher at Washington and with the American people. With such men as these we cannot fail to increase the good will existing between China and the United States.

Our business and social relations with China began when we were only Colonies and in earnest when George Washington became President. On February 22, 1784, the ship *Empress of China*, measuring 300 tons, sailed from New York to China with a cargo of ginseng, a root grown in North America and which was of great value in China for medicinal purposes. This ship reached Canton on April 22, 1784, taking 6 months to make the trip from New York to China. Having sold its cargo of ginseng, it purchased silks and tea from the Chinese, which it disposed of on its return. On this ship, the *Empress of China*, when sailing from New York on August 23, 1784, was Major Shaw, who carried with him a commission from President George Washington as consul and commercial agent of the United States Government at Canton.

Our real first foreign trade was with China. It started shortly after the Revolution and continued actively and beneficially until the Civil War. With the close of that war we renewed our trade with China and it has continued ever since.

The Chinese people, under the able leadership of Gen. Chiang Kai-Shek, have moved forward with ability and foresight in creating a national government that is well organized, and that will be able to give protection to the people of China and other nationals. This great leader of the Chinese people has a particularly able assistant in Dr. H. H. Kung, vice president of the Executive Yuan and Minister of Finance. Every one realizes that a sound financial system is the mainspring of any country. There is no greater expert along this line than Dr. Kung, and that is why China's financial system is working so efficiently and well.

China having put its house in order, there is no reason why we should not increase our trade with that country by leaps and bounds. It appears we have been rather neglectful of our opportunities in this respect in the last few years. With China and the Far East rests our opportunities for finding markets for our excess products. From 1921 to 1931 our trade there was very large. Since 1931 it has fallen off until now it is at a low ebb. We must not neglect this asset to our foreign trade. It is up to our Government and people to better our relations in every respect with China, and to convince the Chinese Government that we are as anxious to maintain honorable relations with China today as we were in our beginning as a nation.

The Bureau of Foreign and Domestic Commerce in its last report had this to say, in part, regarding our trade with China, proper: "Our trade with China disclosed an import balance in 1935 for the first year since 1930. Exports, amounting to $38,153,000, were 44 percent smaller than in 1934 and 27 percent below 1933, the previous low of recent years, whereas imports of $64,200,000 were 46 percent larger than in the previous year and 145 percent above the low year 1932."

These facts, presented by our Government, while not much to brag about, are an evidence that we can greatly increase our business with China and all of Asia if we make a real effort. It is up to America's far-sightedness to find the gold of Ophir. No nation has a better chance with China in this regard than the United States. We have always insisted that other nations keep their hands off China and seek no special privileges. That is and has been our policy. In fact, one of the two foreign enunications of

the United States Government was the "Open door for China." It was John Hay, Secretary of State in 1899, who initiated the movement to secure the formal acceptance by the powers of the principle that they would not claim for their own nationals within their respective spheres, or leased areas, preferential treatment as regards custom duties, harbor dues, transportation charges, etc.

The United States Government has been the friend of China. Simply be a friend is not enough. We must be helpful in every possible way. China is destined to become a great nation. It is moving forward rapidly to that end. We have every reason to assist China. America began its existence as a trading nation with China trade, and this fact had a large part in shaping our destiny as a world power.

Among the nations of the world there stands out preeminently China. It is an ever source of interest to all the people. Its history is one of enchantment, knowledge, and benefit to all mankind. That is so, too, as to the old China. It is no less true to the new China. With its vast areas, its large population, and the great progress it is making in industry it should cause the United States to take a keener interest in everything that pertains to China. Our opportunity is there. Our first official relation with China has continued on a policy of recognizing China's sovereignty.

We demand that China remain in possession and control of her own territory and we will not countenance the action of any other nation in depriving China of any part of its territory. In this respect we should be firm.

The civilization of China is the oldest in the world, and China was a contemporary of Greece, Egypt, and Rome. From 2000 B. C. to 1842 A. D. the Chinese were a happy and a prosperous people. During this time they made great accomplishments. They invented lenses from crystals, mariner's compass, gunpowder, printing, and paper making. They made great contributions of literature and art, to religion and philosophy, to morals and ethics, to trade and commerce, to business and banking, to the domestication of useful plants and animals, and other conquests over nature, including human nature. Other great accomplishments by the Chinese of that period were the building of the Great Wall, the Ming Tombs, the Temple of Heaven, the Hall of Classics, the Forbidden City, the gorges of the Yangtze, and the works in paper, porcelain, silk, jade, cloisonne, carpets, etc.

The Chinese were happy, honest, and prosperous until foreigners forced opium upon the Chinese people, starting at Canton and Hong Kong. This was the greatest crime ever perpetrated upon a people. It has done China more harm than anything else. This menace first set its villainous fangs upon Canton. Chien Lung sent Liu to Canton in 1839 to do all possible to end the smuggling of opium into China. He did not succeed, and China has suffered immeasurably by reason thereof. From that time on to the present the Government of China has bent its best efforts to keep from the Chinese opium and other narcotics, such as heroin and cocaine. The Government knows the bad effect it has upon its people. Addicts and peddlers are being executed for the purpose of discouraging the sale and use of it. Foreigners are to blame. If they would honestly cooperate with Gen. Chiang Kai-Shek's government, this great evil would cease. Whoever would enrich themselves in the perpetration of such a crime upon the Chinese people should be frowned upon by the civilized world.

As one American who has given nearly a quarter of a century as a public official of the United States to bettering our foreign relations and increasing our trade and commerce, I believe in China, its leaders, and people. Nothing would give me greater happiness than to devote unstintingly of my time to further the cordial and business relations now existing between the peoples of these two countries. In doing so, I know that I would be aiding China as well as my own country.

Our forefathers bent every effort to trade with China and they did so with much success. It then took 6 months to traverse the Pacific. Now we have fast steamers, due to that great pioneer, Capt. Robert Dollar, and we cross from America to China in a few days of very pleasant voyage. Shall we prove less courageous than those great Americans who blazed the path to Asia after much hardship?

The Chinese have faith. They are loyal to the teachings of that leader and pioneer, Sun Yat-sen, who never turned his back, but marched straight on. He is today enshrined in the hearts of the millions that live to honor his memory.

China and the United States now and ever true friends.

This Congress is Doing Nothing

EXTENSION OF REMARKS

OF

HON. USHER L. BURDICK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 10, 1937

Mr. BURDICK. Mr. Speaker, there are three classes of people in this country who want the President to have the power to make wholesale appointments of judges of the Supreme Court:

First. Those who honestly believe the Supreme Court is the only stumbling block to regaining our prosperity. With those I have no quarrel. They have a right to their opinion; and I, for one, respect their views.

Second. Those who support it because they are drawing a salary under the administration, or are afraid if they oppose the President they will not be reelected to office. These men, many of them, are not otherwise in favor of the move. Men who will take this stand, for salary or for office, are cowards in their own eyes and in the eyes of everyone else.

Third. Those who know that when the President is given this power and the judges are appointed, that that in itself will not change our economic situation in the least. They admit it, but they say, "It is a step in the right direction." What direction, I ask? In the direction of the final destruction of this Government and the building of a new one, which is their hope and dream. These supporters are too smart to ever believe for a minute that this power granted to the President will right our economic wrongs, but they are all for the President. If this class was straightforward and honest, they would say, "Changing the Court will not change the 'profit system.'" Putting all this power in the hands of the President, who is an enthusiastic supporter of keeping the tools of production in the hands of private interests, cannot, in the nature of things, further the interest of those who desire to get rid of the profit system. Their philosophy probably is that in this country we cannot get rid of the profit system without first destroying the present Government. Under our present Government, and under the present Constitution, we are right now faced with giving employment to 9,000,000 people whom private industry cannot employ, no matter if all Government restrictions as to them were withdrawn. The Government must furnish this employment, and the present Constitution authorizes it. Production for use is close at hand. Those who object to the term "production for use" can call it something else; they can call it "cooperative production"; it means the same thing. The people will cooperate with the Government for work that cannot be obtained elsewhere, and, of course, if this work is handled scientifically and honestly, there can be no profit for anyone. This is all authorized by the Constitution without any amendment. My advice to this class of supporters is, do not attempt directly or indirectly to destroy the Constitution and the Government existing under it; do not destroy the Supreme Court, which has, time after time, handed down decisions guaranteeing the most priceless element of free government—namely, free speech. Name one Government existing today where the citizen can go on his way molding public opinion by free speech and a free press, as is the situation in this country. You cannot do it in Russia. You would be shot at sunrise; you would be shot in Italy before noon; in Germany, in the middle of the night.

The Supreme Court may hold some act of Congress unconstitutional, but many of those who vote for the acts know they are unconstitutional. The President himself, has vetoed 221 acts of Congress in a little over 4 years. He seems to have less regard for the wisdom of Congress than has the Supreme Court, yet some people applaud the President and condemn the Supreme Court for doing less than the President has done in a wholesale fashion. The "divine right of kings" is still in our bones. The tendency in America toward hero worship is quite as dangerous to democracy as has been the principle in other countries of the "divine right of kings." It may be that the people in America do not want democracy—democracy always moves slowly—it cannot be otherwise in a country with 130,000,000 people. It has many drawbacks, but absolute power in the hands of any one individual, whether king or hero, invariably ends in the loss of individual liberty. Search the history of the world for any other conclusion. Should Franklin D. Roosevelt be not the President, and should some other obtain absolute power in this country and use it against the people, the same Franklin D. Roosevelt would fight the system with what force and power he possessed. Would it not be the wisest plan to not take a course which has any possibilities of ending in absolutism, either good or bad?

As a matter of fact, in the readjustment of our economic life the Supreme Court matter is not even an issue. If the President could appoint the entire nine members, and all saw just as the President saw, we would still be in financial bondage. This issue, however, has disrupted this present Congress. Everything awaits that issue—parties are divided; the people of the country are divided, families are divided, friendships are broken, Congressmen are condemned by half of the people and congratulated by the other half, every seat in Congress is in jeopardy, every seat in the Senate open to attack in 1938 may have a new occupant. The Members of Congress will get particular hell from more constituents than they ever dreamed they had; all over nothing.

While we are thus fighting on nothing but a gesture the real barnacles on the ship of state increase in size and impede our progress. Certain things must be done and done now. We must relieve the people from the burden of interest; we must make them secure in their homes, for America without homes is not America; we must make the aged people in this country more than mere objects of charity. Common principles of humanity cry out against our present scheme of making them eke out a miserable end of life; people who are hungry must be fed—we cannot do it by destroying food as the New Deal commands; people who have no homes must be allowed to have homes, we cannot do that by taking homes away from the farmers and city people by the program of Government foreclosures; people who are naked must be clothed—we cannot do that by destroying cotton; the American people must be relieved of an annual interest burden on the public and private debt of $15,000,000,000—we cannot do that by continuing to issue interest-bearing, tax-free bonds; we cannot do it by letting private interest use our money and credit for their own profit.

No, we are not even attempting to solve the real problems confronting us—we are in one big row over nothing, while the country is sinking further each day in the mire of universal ruin. The immortal lines of Ignatius Donnelly, of Minnesota, literary genius, and once a Member of this House, should be read in every home of America:

> Courage, courage, courage—this should be the word written in undying letters of flame in the temple of every human soul. The indomitable, the inconquerable spirit never to submit or yield to injustice.

If the people desire this change in the Court, they have a right under the Constitution to make the change. They have changed the Constitution 21 times since it was adopted. Many claim that it will take too long to change the Constitution under the regular provisions since three-fourths of the States must ratify any such act. If the people are as solidly behind the President in this change as they were in the last election it will not take long to make the change, and the people will support the President. Then I say all right, for the following reasons:

The Revolutionary War was won under the Declaration of Independence. When the Government was formed, the Declaration of Independence was the foundation upon which the Constitution was built and the Government established. In other words, this Declaration of Independence was the charter of our action. In reading the Declaration of Independence, we find this language:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive to these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

When the change is made, the people will have the kind of Government they want, but for this Congress to indirectly do what only the people have the direct right to do, seems a dangerous attack by one branch of the Government against another and must eventually result in the loss of liberty for which the whole framework of government was established.

For Congress to indirectly do an act which has the effect of changing our organic law is to say that the people are not supreme in their control over the Government. For example, if I vote for the change as a Congressman, how do I know what the people of North Dakota desire to have done. So far in the debate the sentiment of the people seems to be sharply divided. Letters and petitions indicate a larger percentage against the change than for it, but not every voter expresses himself on the subject. Many people are for the change just because many of their old political enemies are against it. There are thousands of voters in North Dakota who never did support me in elections because I have been a progressive out and out. Many of these same voters are against the Court change; hence on this issue I find myself agreeing with them. If my political opponents are right on some particular subject, it would not be honest to disagree with them.

Politically, this Court issue is a dangerous barrier to all progressives. A progressive who votes against the change will not gain the support of organizations which have always been against him, and he is bound to lose a lot of support from those with whom he has been associated in fighting these opposition groups. In my own case it is apparent that standing firm for what I believe to be right will lose rather than gain support. However that may be, I would rather serve 4 years in this Congress and do it honestly and according to my conscience than to remain here the remainder of my days knowing myself to be a political weather vane and knowing that I contributed to a movement that cannot possibly end in anything but the final destruction of the greatest democracy on earth.

The political atmosphere of the world is saturated with fascism, and if this country escapes the scourge, every citizen must guard the liberty he now has with a vigilance commensurate with the highest privilege which any government can bestow upon its people. A one-man government is getting to be in fashion the world over. Four-fifths of the area of Europe is now under the heel of fascism. When this program is once established every other Fascist group seems determined to unite with Fascists and drive democracy from the face of the earth. The present Government of Spain was established by the majority of the people voting for that kind of government. Other powers in Europe are determined to set aside the will of the people in Spain and establish a government contrary to what the people of Spain have willed.

Trust no one man to keep alive on this continent the institution of democracy, which is the hope and prayer of the world. Do not grant any such power to a good man, or any man. Let us preserve our democracy and constantly make it better. Armed with free speech and a free press and a free radio, the people can mold public opinion. In this country we are guaranteed that right. Through this power we shall be able to readjust the affairs of our people. Under this Government, and under no other form of government known in the world today, we are able to reestablish here now the fundamentals of our charter of liberties, which are:

All men are created equal.

Every citizen shall be guaranteed and protected in the right to life, liberty, and the pursuit of happiness.

If we have in the past permitted selfish interest to undermine this Government, gaining a private monopoly upon the necessities of life; if we have slept at our posts until over half of our population is in financial distress; if we have been so blinded by the unsatisfied mania to make profits that millions are out of work, ragged and houseless; if we have been so senseless and indifferent to our general welfare as to permit a few, through special privilege, to amass over 90 percent of the Nation's wealth in the hands of 7 percent of the population, while 93 percent suffer, our plain duty as Members of this Congress is to right these

wrongs. The present Government was never intended to work that way. The reason why it has permitted these conditions to exist is because the people have been asleep at their posts. We have had so much democracy that we have grown indifferent to its benefits. Because we have slept is no reason why we should suddenly take a course of self-destruction the moment we wake up. We are now awake—we understand this Government, and with our own power and the support of the Divine Ruler of the Universe, we can, if we will, make this Government respond to the principles of freedom which the Declaration of Independence and the Constitution guarantees. Instead of undermining the Government and heading it toward fascism, let us retain it, let us protect it, and make it what the heroes of liberty intended it to be.

We can gain some incentive to act now from the lines of Longfellow:

Trust no future, how'er pleasant!
Let the dead past bury its dead!
Act—act in the living present!
Heart within and God o'erhead!

Dedication of Federal Building at Gary, Ind.

EXTENSION OF REMARKS
OF
HON. WILLIAM T. SCHULTE
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Monday, May 10, 1937

ADDRESS BY HON. JAMES A. FARLEY AT GARY, IND., ON APRIL 27, 1937

Mr. SCHULTE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of the Honorable James A. Farley, Postmaster General of the United States, at the cornerstone-laying exercises of the new Gary, Ind., Federal building, April 27, 1937.

We are assembled here today for the purpose of laying the cornerstone for the new Gary Federal building which is being erected by the present administration in order that the citizens of this great industrial city may enjoy the benefits of more adequate postal service.

At this time I want to express my sincere gratitude for the invitation which I received to participate in these ceremonies. I can think of nothing in the course of my official duties as Postmaster General that affords me more pleasure than the taking part in the exercises incident to the erection of a new post-office building.

Occasions of this kind promote civic pride and they also tend to recall to mind the necessity and importance of postal service both from the standpoint of the individual and the community itself.

Although Gary is the youngest city in this great Midwestern State, and in fact the youngest city of 100,000 population in the world, it is nevertheless one of the great industrial centers of the United States. This city is world renowned for its steel mills, sheet and tin-plate mills, its cement plants, and other allied heavy industries, many of its units holding world production records. Gary today ranks as one of the most modern industrial communities in the United States, if not in the world.

While Gary is best known for its industrial enterprise and might, we cannot on a patriotic occasion of this kind overlook the fact that the site of this great city is rich in the early history of the Middle West. It was here that Father Marquette and Louis Joliet camped in 1673 on a spot which is now part of Gary's beautiful Marquette Park, on the southern shores of Lake Michigan. It was here that many of the old Indian trails crossed and intersected, among which was the famous old Detroit Trail leading to Fort Dearborn, which we now know as the city of Chicago.

The industrial and commercial growth as well as the increase in population of Gary has been phenomenal, for it is only 31 years since this city was founded. In 1910, according to the Federal census, there were only 16,000 residents in Gary, while 20 years later the same census revealed a population in Gary of more than 100,000 people.

This amazing growth of this great industrial center of northwestern Indiana has been reflected in the sharp increase in postal receipts which has been recorded at the Gary post office since its establishment on June 9, 1906.

For the fiscal year 1910 receipts at the Gary post office amounted to slightly more than $38,000, and by 1930 they had jumped to $257,000. For the last fiscal year they rose still further to a new all-time high for the local post office with a mark of $279,000.

This imposing edifice for which we are now laying the cornerstone is to be the official headquarters of the American Government in this great city; a building for the use of all the people. It is being constructed with a view to rendering improved postal service to the residents of this community, as have the several hundred other post-office buildings that have been constructed throughout the country under the present administration's post-office building program. This building was authorized under the act of Congress of August 12, 1935, at which time $425,000 was made available for this project. This amount was later increased by $79,000, making a total limit cost of more than half a million dollars.

This new Federal building is but one of many things on all sides of us which offer visible evidence that we have in Washington today a President and an administration which are actually trying to help everyone. Only the historian of the future will be able to properly estimate the far-reaching effects of President Roosevelt's many measures which have been designed to make life a more pleasant and secure experience for us all.

Everything that has been done in Washington since March 4, 1933, has been planned as a help to the worker. You know as well as I do that today, if he feels he has been unfairly treated by his employer, he has the right to appeal to an unbiased umpire, the National Labor Relations Board. Every laboring man in this great steel center knows of the benefits that have accrued to him as a result of the Wagner Labor Relations Act, which was sponsored by that great humanitarian in the White House, President Roosevelt, and which was recently upheld by the Supreme Court of the United States.

If the worker has saved some money he can put it in a bank with the absolute assurance that it will still be there when he wants it; that assurance backed by the financial strength of the Federal Government itself. Only those who have seen their life's savings swept away because some bank was mismanaged can appreciate what that means. Never again will this country see those long lines of panic-stricken people outside banks hoping that they can get to the window and withdraw their money before that window closes for all time.

With the aid of his Government the small wage earner is today providing for his future security with that nightmare of all, a dependent old age, gone forever.

Perhaps of even greater importance than any of these is the President's determination that what happened in 1929 and the resulting 4 years of horror must never happen again. Overextension of credit for unbridled speculation, palming off of worthless stocks and bonds whose chief value is the paper they are printed on, are all being eliminated as rapidly as possible. The day of the stock-market racketeer is over.

There is no need for me to cover the whole list. Everybody knows of the work of the National Youth Administration, the Civilian Conservation Corps, which gave to thousands of young men a chance to get off street corners, to earn money and keep their self-respect. The Federal Government came to the rescue of thousands of communities with money for public improvements already too long delayed. Farms and homes have been saved. Great strides have been made in the fight against soil erosion and floods.

Thanks to President Roosevelt, the time is coming when the fact that this is the finest country in the world will really mean that to all and not to the privileged few.

It is only fitting on an occasion of this kind that I speak to you on the subject of the United States Postal Service. Every American is familiar with the post office. It is the favorite institution of all our people. There is scarcely any individual in the United States, rich or poor, who could carry on his daily pursuits without its help, and I need not inform you that it has been the outstanding factor in the growth and development of this great Nation.

Our post office had its origin in colonial times. As early as 1639, a postmaster was appointed at Boston. The first post road was established in 1672, and by 1691 steps were taken for a unified postal system for all the Colonies, under a Postmaster General appointed by the British Crown. In the years before the Revolution the system was gradually extended and improved. Post routes with regular schedules were established in all the Colonies and mail boats were placed in service between American ports and the West Indies. In 1753, Benjamin Franklin was appointed Postmaster General. In 1774, just before the Revolution, he was dismissed by King George for insubordination, but when he left office post roads were running from Maine to Florida and from New York to Canada, and the mail was being carried to and from the British Isles on a monthly schedule.

At the time of Washington's inauguration, there were post offices in 75 towns, and the mails were carried by post riders over 1,785 miles of post roads, consisting of one principal route along the seaboard and a number of cross or feeder routes serving the inland towns. There were no envelopes and no postage stamps in those days. The sheet or sheets of a letter were folded and sealed, and addressed on the back. Postage was paid in cash, the rate varying from 6 cents a sheet for distances not over 30 miles, to 25 cents a sheet for distances greater than 450 miles.

The efficiency and usefulness of the Postal Service was greatly increased under our early Presidents. Before the close of Washington's second administration the number of post offices, the mileage of post roads, and the volume of the mails had all increased fivefold, and 15 years after Washington's death there were 3,000 post offices in the United States, the mails were carried over almost 50,000 miles of post roads, and there was scheduled mail service between the centers of population and all the new settlements which were springing up in the inland territory. Newspapers and

pamphlets from the eastern cities were freely circulated in the West. Pioneers in the wilderness exchanged letters with their friends and relatives at the seaboard. Commercial and social intercourse was maintained among all sections of the rapidly growing country. The Post Office Department was a factor second to none in the settlement and development of our Nation during the period before the Civil War.

The post office of those times did not function alone in the matter of providing a communication service. It was through the post office that we laid the foundations of our national transportation system. First the stage coaches, and later the railroads and steamship lines, received contracts from the Post Office Department based nominally upon the expeditious handling of the mails, which had as their real object the creation of transportation facilities which were essential to our commercial development. Just before the Civil War, for instance, the Government was occupied in encouraging the settlement of our Pacific coast territory, and in those years a large part of the total postal expenditures was paid out on mail contracts covering ocean and overland services to California and other far Western States.

For 60 years after the adoption of the Constitution postage charges were paid in cash by the mail users. Stamps were first provided in 1847 for the greater convenience of patrons in mailing their letters and newspapers. Stamped envelopes were introduced 6 years later—in 1853. The registered-mail service was established in 1855. Railway postal cars for the distribution of letters while in transit were first used in 1862. Free delivery in the cities was authorized in 1863 and the money-order system was inaugurated a year later. Postal cards were introduced in 1873 and special delivery in 1885. These added features illustrate the policy which has always been pursued by our Government not only to employ the post office as an aid to the development of new territory and new national resources but constantly to increase the scope of its usefulness to the people in every community.

Four outstanding additions to our postal facilities have been made within the memory of a great many of the present generation. Rural free delivery was inaugurated on an experimental basis in 1896, and by 1907 was in full operation in all parts of the country. Letter carriers now bring to 25,000,000 people on our farms the same house-to-house service which is available to those who live in the great cities. In 1911 the Postal Savings System was founded, and the post office of today is the depository of savings belonging to more than 2,000,000 people and amounting to more than $1,200,000,000. The year 1913 saw the establishment of the parcel post—largely for the benefit of the farmers and those who reside in small places not reached by railroad or express service. By weight and volume parcel post now constitutes almost two-thirds of all the mail which the Post Office handles. The last important addition to postal facilities was the air-mail system, which had its beginnings in 1918, and at the present time embraces routes aggregating 28,000 miles in length. Mails are flown every day something like 175,000 miles and there is 15-hour mail service between the Atlantic and Pacific seaboards.

In closing, I want to say that this new Federal building will stand as a monument to our great President, who, in carrying out his far-seeing plans for the restoration and recovery of our national prosperity, seized the opportunity to provide employment and to stir the sluggish tides of business with a building program. Thus he served both the Post Office needs and the greater need for getting people to work.

It seems to me that loyalty to him and faith in his policies is the finest expression of gratitude that could be extended. Just at this time you know that the same forces that sought futilely to prevent his reelection last year are now engaged in trying to undermine confidence in him and undo the result of last year's election. A few members of my own party have joined in this movement, and, while I question neither their sincerity nor their patriotism, it seems to me they are making a regrettable mistake, and I expect that when the President's judicial program is enacted, as it will be, and the country views the results, they will see their error.

President Roosevelt has brought this country through the greatest economic crisis in its history. Future generations will appreciate his greatness even more than we do today, and the people of Gary will regard this useful and worthy addition to your institutions as a memorial to the wisdom, the humanity, and far-sighted care for the public welfare of Franklin D. Roosevelt.

A Political Lament

EXTENSION OF REMARKS

OF

HON. JOHN M. HOUSTON

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 10, 1937

POEM BY CLAUDE N. CLICK

Mr. HOUSTON. Mr. Speaker, under permission to extend my remarks in the RECORD, I quote a poem written by Mr. Claude N. Click, of Durant, Okla., prior to the 1936 election, as it is forever applicable to those of the minority party, who are still inclined to indulge in lengthy and abusive discourse concerning this administration and prate about a balanced Budget:

Republicans for 3 long years
Have shed their coats and skins and tears
To tell their comrades how they feel
Regarding Roosevelt's New Deal.

For 3 long years they've played for votes,
But never mentioned 9-cent oats;
They say this New Deal stuff is rotten,
But never speak of 4-cent cotton.

For 3 long years they've wept aloud
And cussed "this money-spending crowd";
They say of liberty we've been shorn,
But not a breath of 2-cent corn.

For 3 long years they've yelled and raved
"The Constitution must be saved",
But with their puerile prate and prattle
They sing no song of 2-cent cattle.

For 3 long years they've been at sea
And now they come to you and me
And offer us, as bait for votes,
More 2-cent steers and 9-cent oats.

For 3 long years they've yelped and wailed
And tell us how the New Deal's failed;
They tell us how we're going to spoil,
But never mention 10-cent oil.

For 3 long years they fume and fret
And hammer and slander our New Deal set;
They tell us all Roosevelt's a cheat,
But forget to talk of "2-bit" wheat.

They offer, as in days of old,
"A crown of thorns, a cross of gold"—
"A balanced Budget"—can you beat it?
Well, one thing's sure, you cannot eat it.

Governor's Reply to An Editorial in The Nation

EXTENSION OF REMARKS

OF

HON. LEON SACKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 10, 1937

LETTER FROM HON. GEORGE H. EARLE, GOVERNOR OF PENNSYLVANIA

Mr. SACKS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letter written by Hon. George H. Earle, Governor of Pennsylvania:

COMMONWEALTH OF PENNSYLVANIA,
GOVERNOR'S OFFICE,
Harrisburg, Pa., March 28, 1937.

To the EDITOR OF THE NATION: I have read with interest your editorial Spain in Flames. Will you be kind enough to publish this letter in answer?

I concurred in the findings of the Pennsylvania Censor Board, because Spain in Flames was too strong a reminder to me of the propaganda of the European causes preceding our entry into the World War.

How many thousands of our best American lives were lost due to this propaganda?

One of the subtitles of this picture was Spain Needs Men of Military Experience to Officer its Armies. Is that not, Mr. Editor, a direct invitation to our World War veterans, our men who served in the Navy, Army, and National Guard, and our graduates of military schools, to enlist in the Spanish Loyalist Army?

The Nation has undoubtedly done a magnificent job in its phillipics against the danger of fascism in this country.

But, Mr. Editor, so far as human liberty is concerned, just what is the difference between fascism and communism? Both are reigns of terror. The hand of the secret police may fall upon the shoulder of any man, woman, or child in a fascistic or communistic country, and they will disappear, never to be heard of again.

Both fascism and communism have absolute suppression of freedom of the press and freedom of speech. Fascist Germany and Communist Russia both have religious persecution.

That the army of General Franco is an army of Fascist mercenaries there is no question.

What about the Spanish Loyalists, made up in large part of Syndicalists, Communists, and Anarchists? Is the Nation so naive as to believe that the Spanish Government would be receiving the 100-percent backing of the Soviet Government unless the Soviets were convinced Spain would be communistic in the event of victory for the Government forces?

Take a trip to Pennsylvania and learn how the liberal Democratic administration and legislature there is giving fair play, for the first time, to the worker in Pennsylvania. Then compare this condition to what is happening to the worker in Fascist Germany and Communist Russia.

Once before, the Nation criticized me because I said it was a fortunate thing for Austria, Dolfuss put down the Socialists rebellion. Had the Socialists won, the entire country outside of Vienna would have gone over to Hitler and within 6 weeks Austria, including Vienna, would have been under the blighting curse of Nazilism.

If the barring out of recruiting propaganda of any alien cause from Pennsylvania, with the resultant prevention of the sacrifice of adventurous and courageous American youth on European battlefields, incurs the ire of the Nation, frankly I welcome it, provided the Nation will state fairly just what the issue is between us.

Very truly yours,

GEORGE H. EARLE.

Dirigibles

EXTENSION OF REMARKS

OF

HON. JOHN M. O'CONNELL

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 10, 1937

Mr. O'CONNELL of Rhode Island. Mr. Speaker, the unfortunate loss of the *Hindenburg* can be ascribed to only one cause—that is the use of highly inflammable lifting gas. If the *Hindenburg* had been filled with noninflammable helium gas the accident could not have occurred and it is probable it would have operated its schedule in crossing the Atlantic for several years.

It is inconceivable that the United States should fail to realize that the *Hindenburg* had demonstrated the commercial value of dirigible airships. With the construction of improved American dirigibles and the use of helium gas, we may secure an inestimable advantage over other nations in extending our foreign commerce.

Thus it is now most important that we do not delay in approving the construction of American airships. I am interested in having such airships to be able to operate with greatest structural safety. We do not have to worry about our gas exploding, as in the *Hindenburg*, for our helium gas cannot explode or burn; in fact it would put out fires.

The World War demonstrated the potential value of dirigible airships for naval and military use, as well as for commercial service. In recognition of this potential value our Navy Department, on March 20, 1920, was given entire charge of the design, construction, and operations of American dirigible airships. Later Congress appropriated funds for building three airships and for conserving our supply of helium gas.

I need not recall to you the manner in which the Navy fulfilled its trust, the tragic end of the airships the Navy built, nor that important facts connected with the destruction of these airships were withheld from the public.

The Navy now claims their limited test of airships have not demonstrated their value in naval operations. The Navy forgets that it was selected to develop American airships only because the airship demonstrated its worth in action during the World War. The fact the Navy had so limited opportunity to learn the value of airships rests entirely on the Navy, which approved the design, construction, and acceptance of the airships which provided so limited naval service.

In private enterprise, when an organization has approved the design, construction and acceptance of three large structures each costing millions of dollars which very soon thereafter were destroyed, through their weakness at vital points, such an organization would be unable to secure other work of the same type, nor would its advice be credited as of value. But the Navy, after its 17 years of signal failure, still considers itself our highest American authority on airships.

If we gave the same consideration to the disasters credited to airplanes as we have to the few disasters affecting airships, it is doubtful that America should have advanced to become the leaders of heavier-than-air craft today.

During this period of 17 years private enterprise, also founded on the experience of World War air service, has developed both naval and Army airplanes to be equal or better than similar planes of other nations, and from practically nothing has developed our commercial heavier-than-air service to a position of leadership among the nations of the world.

Over this same period of 17 years we have seen the dirigible airship, improved by Germany, secure a leading position in overseas air transportation. In commercial service German airships have traveled about a million and a half miles with 100 percent safety of its passengers and crews prior to the *Hindenburg* disaster. The United States may itself have had the leading place in airships instead of Germany if our American professional engineers had been employed in place of the Navy.

The record is sufficient to show a new approach to the problem of lighter-than-air development, which the bills H. R. 2252 and 2253 effectively provide.

I do not believe that it is necessary for me to stress our need of commercial dirigible airships. The construction of this type of aircraft has been advocated by the National Advisory Committee for Aeronautics; the Federal Aviation Commission; the Science Committee, of which Dr. Durand is chairman; the Department of Commerce; the War Department; and by even the Navy, in spite of its discouraging experience with naval airships.

Who will build these airships and establish a great new American transportation system which will supply a faster service to complement our merchant marine? Private capital may not invest in American-constructed Zeppelins unless the Government supplies a large construction subsidy or mail contract. Besides, private capital thinks that whatever another nation can do in construction our engineers can do better. Capital wants better airships.

Thus the failure of the Navy's own approved airships after so short a period of operation has not only discouraged the construction of dirigibles which may develop to be a primary means of defense for our country, but has also retarded construction with private capital.

Apart from the interest which all Members of Congress should feel in the development of dirigible airships by Americans, I want to point out to the chairman and members of a few selected committees of the House some facts of special interest to each such committee.

Members of the Committee on Commerce should recognize the dirigible airship as being a potent means for extending our trade relations with overseas nations, thus increasing the demand for American agricultural products and the products of our mines and factories. We may build marine vessels and airships to visit foreign seaports, but only the airship may cruise inland to rich markets which lack modern transportation.

There can be no international commerce without transportation. When a nation fails to provide modern transportation its standing among other nations is adversely affected and its international trade is reduced.

The commercial dirigible airship is in its infancy but has already impressed other nations with its potential value. Germany has greatly increased its trade with South America through the operation of the *Graf Zeppelin*, the *Hindenburg* had begun its second year's schedule to the United States this month. Holland has ordered two airships of the *Hindenburg* type, one of which is now under construction, to be employed in joint German-Dutch operation to the East Indies.

You are doubtless aware that very recently a British-Zeppelin syndicate has been formed in England to purchase

Zeppelin airships for service between Canada, England, and India, with later extension of the service to South Africa. Japan, it is also reported, will purchase airships for service between Japan and our Pacific coast. It is certain that such operations will expand rapidly, for the German Zeppelin Co. has already doubled its plant production and is expected to expand its construction facilities again in the near future. The Committee on Commerce should seriously weigh these facts as affecting American interests.

The Committee on Foreign Affairs is aware Great Britain's high standing among the nations of the world is based largely on her trade relations. Her vast shipping fleet has carried her flag and goods all over the globe. If a great fleet of American dirigibles were regularly operating to the commercial centers of the world, then American influence with all nations would be strengthened and the latent offensive and defensive power which such a fleet would imply would tend to reduce the possibilities of war.

The Committee on Merchant Marine and Fisheries should know the American merchant marine must be supported by the volume of our foreign trade and will be benefited to the degree that dirigible airships may succeed in stimulating this trade. Captain Dollar, of the Dollar Steamship Lines, has well said:

> When our business representatives can visit their foreign customers more quickly, they will go more often, get more orders, and our ships will get more cargoes.

The Committee on Commerce, in its report on the merchant airship bill (H. R. 8681, June 15, 1932), stated:

> The airship as a new vehicle for the service of our foreign trade can give an increase in speed over our existing fast steamers comparable to that following the replacement of sail by steam in the last century.

Dirigible airships can cross the Atlantic in one-third the time required by the *Queen Mary*, the fastest passenger steamship of today. Ten great American dirigible airships may be constructed at the cost of one *Queen Mary*.

The Post Office Committee should realize an American dirigible fleet would provide means of establishing an international postal service of tremendous value. The difference between present steamship service and a dirigible service would be like the difference between the pony express and the steam railway. The large freight capacity of the dirigible would make for reasonable postal rates, and the safety feature of air transport by dirigible render it a very desirable medium for handling mail. Provision can be made in the bill to include the following amendments:

> Mail shall be carried on these airships in such quantity and at postal rates as may be recommended by the United States Post Office Department, and the payment by the Department for such airship mail transportation may not be less than the per-pound rate charged for carrying first-class passengers.

Also—

> To provide a faster and safer heavier-than-air service, for the transportation of overseas mail, the airships shall provide means for heavier-than-air craft to "hook on" the airships and to receive gasoline, oil, and other supplies, and such service shall be available to all commercial heavier-than-air craft carrying mail, upon such terms and conditions as shall be approved by the Post Office Department.

Further—

> To supply information concerning meteorological conditions and weather reports along its route, and thus may provide greater safety for sea vessels and for aircraft carrying mails, dirigible airships shall be equipped with at least one heavier-than-air craft that is capable of flights to high altitudes, and may serve in the same manner as heavier-than-air craft are now similarly employed from land stations by the Weather Bureau, and shall provide means to transmit such information by radio to the Weather Bureau, which may provide remuneration for such services, if employed.

Committee on Labor: The development of a great American industry provides new means for the employment of labor. If the loan of only $12,000,000 were provided, in accordance with the bill H. R. 2252, there would be work for approximately 5,000 employees, in direct and indirect labor, for the first 12 months, and approximately $10,000,000 may be paid for such labor. Compare this with the report of the Department of Commerce on air industry for 1935, giving the number of wage earners employed as 11,384 and their total wages as $14,892,800.

To show that new industries of this character may expand quickly, I call your attention to the rapid increase in the construction of heavier-than-air craft in the past 18 months and to the recent announcement of the Douglas Aircraft Corporation that new orders will make it necessary to increase the number of its employees to 10,000 by next January 1. Thus only one company may soon require nearly as many employees as the entire air industry required in 1935.

Committee on Mines and Mining: Helium is the safest known gas for use in lighter-than-air craft. This Government has expended nearly $15,000,000 for the conservation and production of helium, and the American supply is probably the only one in the world which is sufficient to equip a large fleet of dirigibles.

The loss of the *Hindenburg*, through the explosion of its inflammable lifting gas, could not have been possible if helium were employed instead of hydrogen. The fact the United States has a large supply of helium should be an incentive for our constructing large commercial airships for extending our foreign trade. One of the survivors of the *Hindenburg*, a resident of Washington, when asked whether he would again fly in a dirigible replied, "If they fill it with helium, yes."

The members of the Committee on Naval Affairs, of which I am proud to be a member, must know from their association with me that I am loyal in my support of our Navy. The fact I condemn the acts of the lighter-than-air division as being in my judgment incompetent and as using the Navy's name to retard American development of dirigibles should not reflect upon the other departments of the Navy.

I do not suggest that the Navy "lighter-than-air division" be discontinued, nor that the training of airship personnel at Lakehurst be changed, unless to enlarge and extend this training. I recognize and approve the valuable work of the naval "lighter-than-air division" in demonstrating the water-recovery system and of proving the dirigible airship can receive and transport heavier-than-air craft. There are doubtless other items of airship improvement or equipment to the credit of the division, and its experience should be valuable in the equipment of new airships.

My charge is that the Navy is not competent to supervise the design and construction of American dirigible airships, and I condemn its practice of discouraging American inventors who have ideas of improving dirigible airships, thus prejudging principles which might be of substantial value if properly tested. I do not approve the principle of "follow the leader" when that leader has become established because American professional talent has been ignored. The Zeppelin type of airship can be improved upon. American engineers can devise such improvement if they are extended the opportunity.

The Committee on Military Affairs should consider the testimony of General Westover, upon his appearance before the Federal Aviation Committee, when he stated the dirigible airship may be of great value in national defense for the transportation of military personnel or valuable equipment and for the transport of military airplanes to the point where they may strike and then be released to oppose enemy aircraft.

The committee must recognize the value of quick and effective mobilization of our armed forces. When the United States has a great fleet of commercial airships, which can be converted to naval or military service, we would have, in effect, scores of "aerial airports", each equipped with a group of fighting airplanes, and can be moved to points of threatened attack at a speed of not less than 100 miles per hour. Our cities could be better protected from gas attack or bombing with defense weapons of this character.

The Committee on Appropriations should consider that the bills H. R. 2252 and H. R. 2253 would provide funds the expenditure of which will benefit our entire Nation. Under such circumstances the appropriation would be warranted without repayment to the Government, yet the bills make provision for only loans to be repaid with interest, except

in H. R. 2253, which provides should the Navy accept the fully equipped 10,000,000 cubic feet airship, the $6,000,000 loan would be canceled upon delivery of the airship with its 20 pursuit planes and armament, valued at approximately $1,000,000.

The committee should appreciate that the bill H. R. 2252 requires a loan of only two-thirds the amount which might be expended for the construction in America of two 8,000,000-cubic feet Zeppelin-type airships and the two great airship docks provided in the bill, if constructed upon the arch-frame principles heretofore employed. The bill contemplates the erection of a new type of docks, designed on the suspension-bridge principles, fully approved by leading American structural engineers and architects, at a saving of about $3,000,000.

These costs of American construction of Zeppelin-type airships and docks are from a program which was presented to the Federal Aviation Committee by the Assistant Secretary of Commerce, who stated the program was approved by the National Advisory Committee for Aeronautics, in which two Goodyear Zeppelin airships of only 7,000,000 cubic feet gas capacity, costing $10,750,000, and an Atlantic service dock costing $3,000,000, the latter estimate was said to have been supplied by the Bureau of Aeronautics of the Navy Department.

The committee should also take in account the fact the loans will be protected by all the present and subsequently acquired assets of the Respess Aeronautical Engineering Corporation. These assets now consist of valuable engineering work and patent rights.

When the loan or loans are approved by the Government it is expected the capital structure of the corporation will be increased, and as the construction progresses preferred participating shares may be sold to provide funds for the continued construction of airships; thus it is possible that in time the Government may be secured by these large additional assets.

Consideration should also be given to the fact that the bills provide that full insurance on the airships and other property constructed with the loans is required. The construction costs will include no patent royalty payments or profit to the corporation. Salaries of directing officers and engineers employed exclusively for work of the corporation may be limited as provided in the Merchant Marine Act of 1935.

I have enumerated briefly the warrant for appropriating funds to be loaned by the Secretary of the Treasury for American airship construction. I am in full accord with the President in his efforts to reduce Government expenditures and to balance the Budget. In this case I believe dirigible airship construction is of paramount importance to our Nation and failure to provide funds for their immediate construction would be uneconomical and tragic.

The same consideration which prompted the enactment of the Merchant Marine Act of 1936, providing Government loans to private enterprise, justifies the appropriations sought in these measures. Similar protection for the Government interests in transoceanic airships, as provided in the Merchant Marine Act for sea vessels, can be provided in an amendment to the bills if required.

WHO WILL BUILD AMERICAN AIRSHIPS?

During the time when interest in American lighter-than-air development was at its lowest ebb, there was one man who did as much as anyone to stimulate American progress in this field. That man is Mr. Roland B. Respess, of Cranston, R. I., the president of the Respess Aeronautical Engineering Corporation, to whom the loans may be made in accordance with the bills.

Mr. Respess resides in my district, and I have known him well for a number of years. He is recognized as a successful inventor of unusual ability, and his character and business references are the highest. Unfortunately, he is not a rich man capable of financing the building of his type of airships. He has, however, expended about $100,000 of his own funds, with no public offering of shares in his company. He has devoted 7 years to the development of his type of airship, employing leading American structural and aerodynamic engineers, constructing and testing a model to establish proof of the correctness and value of the suspension-bridge type frame for dirigible airships, and in promoting public interest in American lighter-than-air development.

It is my opinion that Mr. Respess knows as much about airships as any other man in the entire world. His ingenuity as an inventor is unquestioned, and he has secret plans for airship improvement, which, when tested and approved, may require the unusual procedure of applying for secret patents. He is of an age when he may do his best work, is active in business, and healthy, but should anything occur to take him away from us before his airships are constructed I feel it would be a national loss.

To return to the consideration of American airships, the bill H. R. 2252 requires that the organization of the Respess Aeronautical Engineering Corporation's engineering and operating personnel, with advisory engineers, scientists, inventors, and technical organizations, shall be composed of recognized leading American professional talent and may also include representatives of the Navy, Army, Commerce, or other departments of the Government as advisors in the design, construction, operation, and equipment of the airships to be constructed.

The purpose is to provide for private enterprise, engaged in the construction of American dirigible airships, the most capable and unbiased American engineering organization it is possible to secure. No provision requires that the Respess suspension-bridge type frame be employed if a better construction can be had.

It is intended to produce the best airships for American use. Therefore, any plans or ideas for improving airships which others may offer will be received confidentially, will be considered on their merit, and, if deemed warranted, models may be constructed and tested at the expense of the corporation. For any plans that may be accepted, a suitable remuneration will be allotted the inventor as may be approved by him.

In conclusion, some data concerning the Respess airship will be presented without technical description. Upon the completion of the model test which conformed to the specifications of the Naval Bureau of Aeronautics for the construction of the *Akron* and *Macon*, a firm of leading American engineers who are recognized as authority on tension structures, designed on suspension-bridge principles, were employed to make a comprehensive study and report their conclusions.

These engineers reported:

Whatever may be said of the performance of the Zeppelin airship will apply equally to the Respess airship, but the Respess airship would have in addition the following advantages:

Greater strength and safety.
Greater inherent strength.
Increased length of life.
Decreased maintenance costs.
More efficient use of material.
Reduction in cost of construction.
Reduction in time of construction.
Ease of construction.
Simplicity, accuracy, and definiteness of calculation.

The stresses in this airship never reverse, thereby removing all fear of failure in the hull through fatigue and crystallization.

The net pay load will be unusually high, facilitating economical commercial operation.

When funds are available for the program in H. R. 2252 the work will be rushed and because of the simplicity of their construction the two 8,000,000-cubic-feet airships are expected to be completed in about 12 months. These airships should be capable of a schedule speed of 100 miles per hour crossing the Atlantic and it is expected will be able to operate during all seasons of the year, each airship making at least one round trip weekly.

Statements made by Commander Eckener indicate the commercial operations of the Zeppelin airships have been profitable. After the close of the *Hindenburg's* operating season last year travel agencies reported in December that all space on the first 2 months of the *Hindenburg's* trans-Atlantic service this year had been sold.

The two larger and faster American airships provided in H. R. 2252 could carry much larger pay loads than the *Hindenburg*, and the net earnings of their first year's service as conservatively estimated will at least equal the cost of the two airships.

Economy in Federal Expenditures

EXTENSION OF REMARKS

OF

HON. BERTRAND H. SNELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 10, 1937

RADIO ADDRESS BY HON. BERTRAND H. SNELL, OF NEW YORK, ON MAY 8, 1937

Mr. SNELL. Mr. Speaker, under permission to extend my remarks, I desire to have printed in the RECORD the speech that I made over the National Broadcasting system Saturday evening, May 8, as follows:

Ladies and gentlemen, tonight I want to talk about economy in Federal expenditures. We Republicans, as you well know, have been talking about economy for a long time now. At last we seem to have converted a good many Democrats. They are at least talking about economy now—something they have not done for a long time.

I want to point out to you that talking about economy has not been a pleasant task. It has been an extremely unpleasant one. When you talk about economy people call you a skinflint. They call you hard-hearted. They say you are not interested in the poor. They say you are for the rich taxpayers against the poor.

That's what we Republicans in Congress have had to listen to—from some sources—during the whole of the last 4 years. Now I am not going to give you any long line of statistics. That is not necessary to prove the one point which I am going to make. Let me state that point clearly and simply. Governmental waste and extravagance ends by hurting the poor a great deal more than it hurts the rich. That's the actual fact. And let me now show you how and why.

When the New Deal administration came in there was an emergency. The President recognized that there was an emergency. We Republicans agreed and went right along with the Democrats in voting for a great many emergency measures. But I want to remind you of one of those emergency measures.

It was called the Economy Act. That's what the President himself called it. He recommended it to the Congress. His own advisers wrote it. I voted for it. It contained provisions for many different sorts of economy throughout the Federal Government. And the President made it clear that economy is not only a good conservative principle, he made it clear that economy is also a good liberal principle.

The President at that time made a famous remark. He said that we had to have economy because many governments have been wrecked on the rocks of loose fiscal policy. He he did not say simply "governments." He said "liberal governments." Let's quote his own exact words:

"Too often in recent history liberal governments have been wrecked on the rocks of loose fiscal policy."

And by loose fiscal policy he meant, of course, extravagance or living beyond our means. He meant living on borrowed money. He meant that he was against the thing that the administration has been doing ever since. Because, as you well know, the Federal Government has spent $2 for every dollar of income, and necessarily has been living largely on borrowed money from that day to this.

And what has been the consequence? The consequence is that we now have a crisis. I do not mean to try to convince you that there is a crisis. The President admits there is a crisis. Democratic Cabinet members, Democratic Senators, Democratic Members of the House, Democratic journalists tell us almost every day there is a crisis. Four years ago we had an emergency. Now we have progressed—yes, we have progressed from an emergency to a crisis. That is the outcome of 4 years of New Deal effort. And what is this crisis?

It is a crisis, as I need hardly inform you, of high prices. It is a crisis of prices starting to go higher and higher, faster and faster. It is a crisis of the beginning of what we Republicans have called inflation.

I almost apologize for using that word inflation. We Republicans have used it very often. We have warned the country that governmental extravagance would bring inflation. People have said that we were crying "Wolf!" "Wolf!" Our Democratic friends are now seeing him and hearing him. They are now afraid of this big bad wolf they have unleashed. They, too, are talking about inflation. They have adopted many and are discussing other governmental measures for restraining it. All the advisers of the President are trying desperately to find some way of preventing prices from going up through the roof. They now want, as they express it, to put a "ceiling" to prices. In other words, they want to check that inflation which their extravagance has caused. They now join us Republicans in fearing inflation and in wanting to stop it before it gathers so much force that nobody can stop it.

I want to say very seriously that we Republicans will cooperate with the Democrats in every practical measure for stopping inflation. For it can be stopped—if there is courage to stop it—and it must be stopped! For what is inflation?

To the practical man it is just one thing. Prices rise so fast that wages cannot keep up with them. It is a situation in which you have to pay so much for your living expenses that you cannot earn enough, unless you are already rich, to pay those expenses. It is a situation in which your income cannot possibly keep up with your outgo. The same is just as true of the Government income and outgo. It is a situation which has occurred time and time again in the history of the world. Prices, when you have inflation, go up like skyrockets. But wages do not. They lag behind the inflated prices. They always do. That is the record of every inflation that has ever happened. Prices go up through the roof and wages rise after them but never get much above the floor. The lift in prices is faster, and increasingly faster, than the lift in wages. All savings are eventually made worthless, and money itself in time becomes worthless. That is the history, that is the tragedy, that is the human distress, the human suffering, the human agony of every inflation.

In other words, an inflation can be a paradise for speculators, but it is automatic wreck and ruin and unmitigated misery in the end for all. And today we stand at the portals of it.

That is what I want to emphasize to you. We stand at the portals of inflation because after the emergency we continued to reject that conservative principle, that liberal principle—governmental economy. And what did we do instead? Let me just trace the course of it for you. Then you will see, I think, that we just simply have to quit doing it.

We went to the banks. That is, the Government went to the banks. It said to the banks, "We want to borrow money." And what did the banks do? They couldn't give the Government what it wanted in gold or silver. They couldn't even give the Government enough regular currency, like hundred-dollar bills. No. They simply did not have enough, and so they had to open their account books and write in those books:

One million dollars, or ten million dollars, or one hundred million dollars credited to the Government. Credit that was nothing but money made to satisfy governmental extravagance.

And then the Government drew checks against this credit to pay its employees. It handed them to the businessman from whom it was buying supplies. And those employees and those businessmen deposited those checks in their own bank accounts. And so the "thin air" which the Government had borrowed from the banks was changed in that way into current bank deposits and Government debts. And the bank deposits grow and grow, and the Government debts grow and grow. And presently we have, not new millions, but new billions and billions of bank deposits, and new billions and billions of Government debt produced largely out of governmental bank borrowings, which must be paid, as the President once said, out of taxes through "the sweat of every man who labors."

That was stage one. Now we come to stage two. All that artificial inflation of credit, all that artificial purchasing power, began to push prices artificially up. At first gradually. Then it began to push them up rapidly. Now it is beginning to push them up at such accelerating rapidity that the administration is afire with alarm.

Since the November election prices of semimanufactured goods, for instance, have been going up at the rate of more than 3½ percent per month. And the prices of certain raw materials, such as lead, zinc, and copper, have been going up even faster—faster than ever before in our history. The President himself has pointed out the menace of these increases for which the administration's policies are mainly responsible. When these increases get carried forward ultimately into the prices of the finished products which the average man buys for himself and his family, why, then, inflation will be really upon us, and its historic chief victim, the poor man, will be its chief victim again. The rich man will at least be able to buy the necessaries of life. The poor man will not.

We all must do everything that we can to prevent the arrival of that day. Both parties must join to prevent its arrival. But I want to repeat that the one basic thing that can prevent its arrival is the elimination of governmental waste and extravagance.

We do not believe that the crisis of today or any crisis, for that matter, can be cured by extravagance. We have repeatedly pointed out that the chief sufferers from such extravagance would ultimately be the farmer and the wage earner of small means. Our prophecy on that point is now obviously coming true. Inflationary prices are threatening the happiness and security of the masses of our population. Increased taxes alone have not and will not save us. So we Republicans therefore have continued and will continue to declare that economy, actual economy, must not only be preached but practiced.

The prospect for the coming fiscal year, as shown in the figures of the administration, is that during that year we will spend more than $7,000,000,000. This is a higher sum than was spent by the administration 4 years ago, when the depression was at its worst. We are not preparing to spend less than we were spending then.

We have progressively spent more and more, and we are really preparing to spend still more. I repeat that we Republicans said then that governmental extravagance would finally produce not weal but woe for the humblest home in the country. It was unpleasant to say it then. It is still unpleasant to say it now. But we must say it. It is the truth. And no political party which flinches from the truth is truly serving the people.

The Republican policy calling for reduction of Government expenditures has been concretely expressed in a resolution introduced by Congressman TABER, of New York, in the House of Representatives on April 23, 1937. This resolution calls for a straight cut of 10 percent in the appropriations for all regular Government activities other than relief. In this movement we have been joined by those Democrats who see the picture as it is.

But I do not want to end by talking about political parties. I want to end by saying just this:

No matter who is to blame for the crisis, the crisis is here. No matter who is to blame for the possibility of inflation, that possibility is here. As the leader of the Republican minority in the House of Representatives, I hope that men of all parties may be able to agree on sound and effective methods of preventing that possibility from coming into being.

Stops Discrimination Against Railroads and Railroad Workers and Prevents Undue Concentration of Industries and Population on and Near Oceans, Lakes, and Gulf, and Encourages Development of Interior, Thereby Promoting the General Welfare of the Nation

---

EXTENSION OF REMARKS

OF

HON. JOHN M. ROBSION

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1937

On the bill (H. R. 1668) to modify section 4 of the Interstate Commerce Act, and for other purposes

Mr. ROBSION of Kentucky. Mr. Speaker, as the time was limited for debate on H. R. 1668, the so-called Pettengill bill, seeking to modify section 4 of the Interstate Commerce Act, all Members did not have an opportunity to state their views on this important bill and I sought and was granted unanimous consent in the House to now do so.

This identical measure was up before the House during the Seventy-fourth Congress and the House passed it. It went to the Senate, but no action was taken on it in the Senate. I voted and worked for its passage. This measure died with the Seventy-fourth Congress by reason of the fact that the Senate failed to act on it. Our colleague, Mr. PETTENGILL, has reintroduced his bill, H. R. 1668, and it is now before us for consideration. I am again working and voting for the passage of this bill.

Its passage is urged by the railroad workers as well as the railroads in my district and the Nation. A very large number of my constituents engaged in various business activities have likewise urgently requested me to support this bill. No one in my district expressed opposition. After making a careful study of this proposed legislation over a period of many years, I am thoroughly convinced that the passage of this bill will be in the public interest as well as helpful to the railroads and the railroad workers, and I am happy to give it my earnest and active support.

The Interstate Commerce Act became a law nearly 50 years ago and included in that act the restrictive provision on "long-and-short haul" set forth in section 4 of the act. At and prior to the passage of that act there had been many abuses in the way of "cutthroat" competition in rates among the railroads, rebates, impartiality, and other unfair practices. We had no adequate Federal regulatory body to prevent these unethical and unfair practices. With the Interstate Commerce Act we created the Interstate Commerce Commission which was clothed with the authority and power to fix interstate railroad rates and in so doing it could take into consideration wages, hours, and conditions of workers, and it was especially charged with the duty of preventing discriminations, rebates, and so forth. This great Commission has accomplished the purposes for which it was created. It eliminated the evils and discriminations that were sought to be corrected under section 4.

The Pettengill bill before us does not wipe out entirely section 4. The bill expressly states:

Provided, That the Commission may from time to time prescribe the extent to which common carriers may be relieved from the operation of section 4.

Whenever it may appear necessary to the Commission in order to prevent any injustice to the shippers and to the public generally or other agencies of transportation, the Commission may invoke the provisions of section 4.

It appears to me that there is good reason, with the exceptions noted above, to relieve the railroads of the provisions of section 4. It turns out as a matter of fact that section 4 greatly discriminates against the railroads in favor of water, highway, and air transportation and greatly discriminates against the people and industries of the interior of the Nation in favor of the industries and people residing along the Atlantic seaboard, the Great Lakes, the Gulf of Mexico, and the Pacific coast.

Statistics clearly indicate the evil effects of this discrimination against the railroads. During the last few years the population and industries have increased 60 percent in the territory of the United States that has the advantage of water transportation, while the interior of the United States on the whole during that same period has made practically no increase in population and has lost many of its industries.

NO RESTRICTIONS ON WATER OR AIR TRANSPORTATION

Strange as it may seem, there has been no act of Congress placing any restrictions on rates, rebates, or other unfair practices as against water or air transportation. They can make and change their rates at their own will. They can discriminate in favor of one section or one city as against another. We turn them loose without halter or bridle.

There is some regulation under a recent act of Congress on interstate truck and bus business, but the truck and bus business are not subject to the long-and-short-haul provisions of section 4 of the Interstate Commerce Act. The railroads are the only agency of transportation that is haltered and tied with this so-called long-and-short-haul provisions, and the railroads have been and will be subject to the closest scrutiny and regulation of all their freight and passenger rates and in many other respects.

SUBSIDIES TO WATER, AIR, AND MOTOR TRANSPORTATION

The taxpayers of the Nation have provided very large subsidies for water, air, and motor transportation. The Federal Government has expended more than a billion dollars in improving water transportation in dredging harbors, building wharves, constructing canals, and lighthouses, contributions in creating and maintaining a merchant marine, and in doing other acts helpful to water transportation. The Federal Government and the States have expended several billion dollars in constructing highways, streets, and bridges that aid motor transportation; and likewise the Federal Government, cities, and States have expended large sums of the taxpayers' money in providing and maintaining landing fields, airways, and other instrumentalities to aid air transportation; while on the other hand the railroads, the pioneers in transportation, must provide their own roadbeds, rolling stock, and other equipment. They must support themselves.

Now is it fair to hobble and bridle the railroads and at the same time turn other instrumentalities of transportation loose without hobble or bridle?

NATION THROWN OUT OF BALANCE

This favoritism, especially to water transportation, has thrown our Nation out of balance. Because of the restrictions under section 4, the railroads have been unable to ship the products from the coast to the interior or from the interior to the coast, or from coast to coast, in competition with water transportation, and because of this condition not

only hundreds but thousands of large and small industries have moved from the interior of the country to points at or near these great water courses, such as the Atlantic Ocean, the Great Lakes, the Gulf of Mexico, and the Pacific Ocean, and as we have pointed out, 60 percent of the increase in population and industries is on or near these waters while the interior has either lost or made no appreciable gains.

These concerns locate at, near, or within 100 miles of these waters so that they may take advantage of the cheap water rates, and it can be seen at once that this has centered the Nation's population and its industries in great cities like Boston, New York, Baltimore, Philadelphia, and other cities on or near the Atlantic; Buffalo, Cleveland, Chicago, and Detroit on the Great Lakes; New Orleans, and Galveston on the waters of the Gulf of Mexico; and Los Angeles, San Francisco, and Seattle on the Pacific, and we have the control of the Nation's economic, industrial, and political life centered in these great cities at or near these great water courses. For instance, industries located in the interior of the country cannot ship their products to either the west coast or the east coast or to the Great Lakes or the Gulf of Mexico in competition with water transportation; therefore they remove their factories, mills, and shops to the water courses so that they may avail themselves of the low water rates, and thus unduly expand the industries and population of the central points that I have mentioned.

This is not good for the country. Congress should not thus discriminate against the growth and development of the interior of the United States by stripping it of its factories, mills, shops, and other industries which afford employment for its citizens and markets for the products of its farms, dairies, orchards, and mines.

We are assured if the Pettengill bill is passed it will tend to correct these conditions. It will aid in the general development of our country and restore the interior to its proper place in the industrial, economic, and political life of the Nation.

RAILROAD WORKERS HAVE SUFFERED

In 1920 there were approximately 2,000,000 railroad workers on the railroads of this country. Today there are approximately 1,000,000 employed, with approximately 1,000,000 experienced, trained railroad men, not equipped to follow other vocations, without employment, and we are assured that the discrimination that I have pointed out contributed greatly to this unemployment situation among the railroad workers.

A great deal of our commerce on the water is carried by foreign vessels employing foreign crews. It seems to me that it is very unfair, not only to American railroads but to American railroad workers, for Congress to permit this discrimination in favor of foreign vessels with foreign crews. These foreign vessels and foreign crews use the harbors and other facilities provided by the taxpayers of this country and pay no district, town, city, county, State, or Federal taxes; while on the other hand the railroads must provide their own roadbeds and equipment and at the same time pay very substantial taxes to all the school districts, villages, towns, cities, counties, and States through which they pass, and at the same time pay taxes to the Federal Government.

This measure merely grants to the Interstate Commerce Commission the right to examine these conditions and situations and to correct them. It does no violence to the motor-transportation industry. It places the railroads more or less on an equality with motor transportation and enables the trucks and busses with the railroads to compete on a more equitable basis with water and air transportation.

I am not opposed to building up motor or air transportation or building up our merchant marine, but I see no good reason why these agencies of transportation with their subsidies from the Government should go without halter or bridle and at the same time place the railroads in a straight-jacket so that the railroads cannot compete, and throw a million or more railroad workers out of employment and give a lot of business to foreign shipowners with foreign crews.

In other words, I am thoroughly convinced that this discrimination against the railroads and the railroad workers is unjust and unfair, and I strongly indulge the hope, as expressed by those who favor this legislation, that it will in a substantial way relieve this condition, permit the interior of our country to develop, and prevent undue concentration of industries and population in a few places in this country. We seek only to promote the general welfare of the people of this country.

Foreign-Trade Profits for New York

EXTENSION OF REMARKS

OF

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 11, 1937

RADIO ADDRESS BY HON. EMANUEL CELLER, OF NEW YORK

Mr. CELLER. Mr. Speaker, under leave to extend my remarks in the Appendix of the RECORD, I include the following radio address delivered by me:

It is estimated that more than 250,000 men are employed in the harbor trades centering upon the great port of New York. Not only are there many thousands of sailors, stevedores, lightermen, truckmen, warehouse employees, and shipyard workers whose employment directly depends on the activity of the port, but elsewhere throughout the city many others are subject to the port's fluctuations whom the public does not recognize. Customs brokers and freight forwarders, railway men, ship-supply houses, waterfront property owners, and workers of a dozen additional trades help to swell this total.

Wherever citizens of New York travel from their homes, east or west, north or south, they soon reach the waterfront on which the prosperity of this great city securely rests. You cannot observe it at Forty-second Street and Broadway, but when trade lags and ships' cargoes are light, the sensitive barometer of real-estate values carries the news to every parcel of property in the city. During the height of the depression more than 50,000 families were deprived of the services of their wage earners almost entirely because of the falling off of the trade of New York Harbor.

This is the port which has the greatest stake in the country's foreign trade. The investment value of its piers and warehouses, of the enormous establishment which keeps the trade active and moving, is close to a billion dollars. The shipping operations of the port bring in direct revenues to our citizens of over $75,000,000 a year. Export and import bank acceptances to the account of our foreign trade cantribute banking business in New York at a rate well over $150,000,000 a year.

These are some of the reasons why this city believes in foreign trade and wants more of it. It is the lifeblood of the greatest port in the world. Recognizing that fact, the port of New York not only vigorously pursues all modern methods of adding to its trade but experiments with new methods. One of these in which I am personally and particularly interested is the free port which was opened at Stapleton, Staten Island, on the 1st of February of this year. The operation of this port will undoubtedly in time greatly facilitate the uninterrupted flow of goods through the port and will reduce charges and costs. It does not in the slightest affect the present tariff structure of the country, but it does provide an important and valuable depot where goods can be set down free of duty for reshipment to other countries or for ultimate receipt into this country with the opportunity of grading, mixing, sorting, and other processes not classed as manufacturing.

The prohibition against manufacturing was incorporated mainly as the result of fears which it is believed are unfounded. No dislocation of American trade would ensue, I believe, if manufacturing were permitted. The legislation was, however, the result of a compromise and to diminish the undue opposition of Congressmen from interior States.

I had the honor to present the bill in 1934 which became the Celler Foreign Trade Zones Act. During the present session of Congress I propose to amend my bill to permit manufacturing and also to permit the exhibition of goods.

I shall confine my remarks on the free port to these general observations, as I understand that my friend Mr. John McKenzie, dock commissioner of New York, will also speak to you a little

later this week, on Wednesday night, from this station, on the attractive subject Gold in New York Harbor, and I urge you all to listen to him at that time.

This brings me to another interesting development in our great port of New York. On May 10 of this year there opens in the Port Authority Commerce Building the first foreign-trade fair ever held in the United States. My friend, Mr. Louis K. Comstock, president of the Merchants Association of New York, is the chief executive officer of that fair, and its board of directors comprise a group of practical and responsible men who are leaders in the foreign-trade profession.

The fair is being held for the purpose of fostering the foreign trade of this country by bringing together the very best products available both in our import and export trade. It is mainly a commercial fair, but it is bound to be a great educational enterprise for the general business public.

Not only is a very representative cross section of our foreign trade to be on exhibit at the fair but a very graphic view of our imports will be available in the exhibits of the 16 foreign nations which have officially agreed to participate in the fair. Moreover, our own Government has contributed its support and its participation in the exhibits to a very substantial degree.

According to the directors of the fair, the Government exhibits which have been worked out during the past few months will be one of the most important and unusual features, and I am sure you will be interested to hear some of the plans. For example, although a semijudicial body, the Tariff Commission is making the first exhibit of its work on this occasion in the form of a popular demonstration of the vast range of foreign products necessary to the American standard of living. Samples of these products will be linked by silk tapes to a large wall map picturing the 60 or more countries of the world which supply indispensable materials.

The Department of State, which is generally in charge of the Hull trade agreements, will have a series of striking wall panels, depicting the 12 American industries most helpfully affected by the recent improvement in foreign trade. The State Department will also put its passport division on view and will demonstrate other of its services which touch the average citizen, such as the work of consuls abroad and a motion picture giving the various stages in the signing of a specimen trade agreement.

The Department of Commerce will display a large illuminated map, exhibited at the Seville exposition, with the location of all American foreign-trade officers abroad, along with a straight-line study of what happens to an American export order from the time it is first developed in a foreign country by the promotional service of the Bureau of Foreign and Domestic Commerce through all its stages, until the American goods are delivered back in the foreign country.

The Department of Agriculture will set up a complete exhibit of export fruits, especially apples and citrus fruits, and will graphically show its elaborate method of guarding the high standards of large-scale agricultural products, mainly cotton, tobacco and grains, so that these basic materials of commerce shall pass the rigid inspection tests in foreign countries. Models of all standard grades will be exhibited in the original products under the supervision of the Bureau of Agricultural Economics.

The Post Office Department will have a foreign-mail exhibit specializing on foreign air-mail service with complete records of world schedules, methods of delivery, bulk mailing abroad, and shipside mail delivery.

The Department of Labor will have one of the largest exhibit spaces in the Government section and also will include a special exhibit by the International Labor Office of the League of Nations. This exhibit will comprise graphic and vivid reports from the most important industrial nations on labor standards in industry, especially affecting international trade.

The Department of Labor itself will exhibit its famous "automatic man" made of aluminum and steel and standing 7 feet high, which delivers addresses on the importance of mass production as a means of enlarging the standard of living for labor. The Department will also have a set of interesting panels of the importance of international trade to industrial workers throughout the United States, illustrative of the actual industries benefited.

Each one of the exhibits has been officially authorized by the department concerned, and a committee on the World Two-Way Trade Fair containing an official of each one of these departments is supervising the whole exhibit so as to avoid any overlapping features and to present it as a complete Government exhibit. Each booth will be staffed by responsible Government officials who will explain the foreign-trade functions of each of these departments to the public.

As to the commercial exhibits, commitments already made by American exporters now provide for definite exhibits of a wide variety of American industrial products, including automobiles, trucks, busses, and automotive parts of all kinds, electric batteries, electric house equipment and general appliances, accounting and adding machines, dictaphones, and a wide variety of office equipment supplies, industrial and construction machinery, international cable, telegraph and telephone facilities, airplanes and air communications, banking and credit facilities, freight forwarding, customs brokerage, and port and warehouse services.

Fairs are among the oldest devices of mankind to sell goods. We all look forward to 1939 to the world's fair in New York City. That will be an occasion long to be remembered in the life of our city. Do not confuse it, however, with the definite and clearly marked distinctions between it and the World Two-Way Trade Fair. That event will not be for 1 year only; it will be like the Leipzig, Brussels, and British Industries Fair, and many other familiar and standard industrial fairs of Europe, an annual occasion to be held each year as a fixture in the world of American foreign trade.

New Yorkers do not realize, and many other Americans still less, that last year almost 100,000 foreign visitors came to this country. Many of them came frankly as tourists, but a major proportion also came with a genuine interest in American business and industry, bent on seeing our good roads, our engineering enterprises, our modern mass-production industry, our shops, hotels, and ports. The outstanding value of the World Two-Way Trade Fair, to my mind, will be to focus the benefits in the years to come of this stream of foreign visitors so that at one time and place they may see at an industrial fair of our own a graphic picture of American life and American industrial progress. This will mean more business for our people, more activity in our ports, and, in the long run, more friends abroad.

I believe in the future of our foreign trade, and I stand ready to help it in all constructive measures. Our exports last year were almost 70 percent greater than at the depth of the depression. Our foreign trade is being vigorously resumed. It holds the prospect of more profits for New York and a better security for our people as a whole in maintaining a genuinely American standard of living.

I desire my audience to become interested in our great harbor and port of New York. I know of no better way than to become interested in our World Two-Way Trade Fair to be held May 10 to 22, 1937, at Commerce Hall, Port Authority Commerce Building, Eighth Avenue, New York City. Your interest will, indeed, be repaid a thousandfold and your pride in the magnificent development of New York's foreign trade will be greatly enhanced.

The Late Benjamin Kurtz Focht

EXTENSION OF REMARKS

OF

HON. J. ROLAND KINZER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 10, 1937

Mr. KINZER. Mr. Speaker, mindful and conscious of a personal loss, I desire to express my tribute to the memory of our late colleague, BENJAMIN KURTZ FOCHT, who on March 27, 1937, was called to his eternal reward. On that day his district, the State of Pennsylvania, and this body lost a true, able, and loyal son, citizen, and Representative.

Born in New Bloomfield on March 12, 1863, the son of a Lutheran minister, Mr. FOCHT pursued his education in the public schools and later at Bucknell University, Pennsylvania State College, and Susquehanna University, where, under religious and patriotic influence, he became well grounded in fundamental principles of government and economic development.

In the field of journalism and politics he devoted his life and talents to the service of his people with those qualities of ability, fidelity, and understanding that so endeared him to all his friends and acquaintances.

Mr. FOCHT was a veteran legislator, throughout a long and distinguished public career—embracing 10 years in the Pennsylvania General Assembly and State Senate, and almost 20 years as a Member of this body—he enjoyed the friendship, confidence, and esteem of his colleagues and constituents. He knew his people both as individuals and groups. He knew the farmer, wage earner, tradesman, merchant, and manufacturer. He knew the soldier, the widow, and dependents, to each and all of whom he extended true sympathy and such helpfulness as was within his power. In his service to his home people he knew no politics, no sects, and no classes. His life was spent in championing the cause of the oppressed, and he was a firm believer in the high principles upon which his political party was founded.

His colleagues in this body and the citizens of his State, particularly of the Eighteenth Congressional District of Pennsylvania, have lost an able public servant whose memory will long be cherished.

Consumers Bureau

EXTENSION OF REMARKS

OF

HON. H. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1937

Mr. VOORHIS. Mr. Speaker, the one universal interest of all citizens of America is their common interest as consumers. We have been a Nation of production-minded people, and this has had its advantages. But the interests of various groups of producers are frequently in conflict and we greatly need at present to counterbalance this by the development of an economic interest that can be universal in its appeal.

THE CONSUMER IS THE "FORGOTTEN WOMAN"

And yet the consumer has been as badly neglected as any population element in America, so far as practical governmental service is concerned. Bureaus which might render him invaluable service are either hidden from his view so he hardly knows they exist, or else have become primarily concerned with rendering service to groups of producers. For example, I believe the invaluable information possessed by the Bureau of Standards is available to manufacturers but not to the citizens of the Nation who support this Bureau with their taxes. Some of the recent work of the Department of Agriculture in demonstrating through its publications the necessary community of interest of farmers and consumers offers an encouraging exception to this general statement.

As consideration is given, therefore, to the proposal of the President for a reorganization of the executive departments, it seems most fitting to suggest that the interest of 130,000,000 consumers be definitely and specifically recognized in our governmental organization.

THE TRUTH IS BEST LAW-ENFORCING AGENT

There are a great many departments of government whose work normally creates a body of fact and information which would be invaluable to the consumers of the Nation if made generally available to them. Indeed, while we are worrying about the possibility of enforcing pure food and drug laws we ought to consider the power of information and knowledge in the hands of consumers as the most effective means of such enforcement that could probably be devised.

The consumers of the United States, moreover, are beginning to wake up and develop a "consumer consciousness." Especially among women's organizations and among consumers' cooperative groups is this true. All that is needed is a little guidance and some encouragement, and we may quite possibly develop, through the consumer consciousness a corresponding devotion to general public interest, which undoubtedly our Nation needs badly at present.

It has been demonstrated over and over again that when a bureau or agency of government is once set up to serve the people in a certain way it becomes a focal point for what would otherwise be sporadic and oftentimes fruitless effort.

CONSUMERS' BUREAU

It is for this reason that it is earnestly suggested that in the working out of plans for a reorganization of the executive department careful consideration be given to the setting up of a bureau in the department of social welfare to be known as the consumers' bureau. The personnel of such a bureau need not be large, for most of the detail and fact-finding work is already being done by existing departments and bureaus.

The proper duties and activities of such a bureau become easily manifest on a moment's consideration. It should have the authority and the duties of representing the consumers of the Nation in the formulation and administration of governmental policies. It should collect information of interest to or protective of the consumer from the various departments of government, such as the Bureau of Standards, Bureau of Mines, Bureau of Public Health, Food and Drug Administration, Department of Agriculture, and Department of Labor, and make such information easily available to the consumers of the Nation. It should have a particular duty in exposing and preventing false and deceptive advertising or to assist the policing agencies of government in getting that job done. Publication of the Consumers' Guide, now published by the Consumers' Counsel in the Department of Agriculture should be continued by the new agency and the scope of its subject matter broadened. Standards of weight, measure, and quality might eventually be set up to cover consumption goods and appropriate labels or tags prepared and made available to vendors of goods that met these standards.

ATTACK PROBLEM OF HIGH PRICES

A division of consumers' organizations might be a desirable part of such a bureau or department. By such a division guidance to groups in the formation of cooperatives could be given and the various organizations having altogether millions of members who are now eager to do something but at a loss to know what to do could be directed in their efforts.

In short, the suggested bureau or department would become the watchdog of the consumers' interest in the Nation. It would aim to protect the consumer. It would have a direct interest in seeing pure food and drug laws effectively enforced; it would assist in making the consumers' dollar go farther, thus in effect increasing the purchasing power of the people. It would be the effective weight to balance the effort of producers to raise prices beyond reasonable levels.

ALL CONSUMERS' COUNSELS SHOULD WORK OUT OF ONE OFFICE

If it were desired to go a step further in the interest of efficiency and greater effectiveness, all the consumers' counsels which are now functioning in many different departments and agencies could have their work coordinated under this bureau. The bureau ought then to have as part of its duties the responsibility of representing the consumers' interests before all the regulatory commissions of the Government.

The end and aim of the work of the proposed consumers' bureau would be to assist the consumers of the Nation in obtaining a steadily increasing supply of goods of established quality at fair prices, so that a constant advancement in their standards of living may be accomplished.

NO ADDITIONAL EXPENSE

All this could be accomplished with a very small personnel, since the principal need is for the coordination of the results of work already being done or supposed to be done in many different branches of Government. Savings resulting from such coordination should offset any additional expense.

Every American is a consumer. We need this emphasis on our common interest.

Thirteenth Anniversary of the Founding of the Order of Aleph Zadik Aleph

EXTENSION OF REMARKS

OF

HON. CHARLES F. McLAUGHLIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 10, 1937

Mr. McLAUGHLIN. Mr. Speaker, at this time I desire to direct the attention of the Members of the House to an event of importance to the Second Congressional District of Nebraska. On May 9 this year there will be celebrated the thirteenth anniversary of the founding of the international order Aleph Zadik Aleph, the junior B'nai B'rith, in the city of Omaha by a fellow citizen, Sam Beber, of the same city. Today that same movement numbers over 200 chapters.

This Jewish young men's organization is devoted to the work of developing an enlightened citizenry by its intense program of cultural, social service, religious, social, and athletic activity. Patriotism in its most desirable form, that of teaching an understanding of and devotion to the great democratic ideals of our country, has been the real aim of this fine youth movement.

I am told that the thirteenth birthday in Jewish circles is of real significance. It is the Bar Mitzvah year—the time when a Jewish youth becomes a "son of duty." The A. Z. A. is celebrating its thirteenth birthday in a spirit of rededication to duty. I desire, therefore, on behalf of my constituents and myself, to congratulate Aleph Zadik Aleph, and to wish it continued strength and success as it sends its call to duty to Jewish youth of our Nation from its birthplace and home, Omaha, Nebr.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. ALVA B. ADAMS

OF COLORADO

IN THE SENATE OF THE UNITED STATES

Tuesday, May 11, 1937

RADIO ADDRESS BY HON. EDWARD R. BURKE, OF NEBRASKA, ON MAY 10, 1937

Mr. ADAMS. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered over the radio yesterday by the junior Senator from Nebraska [Mr. BURKE].

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Whatever views the individual may hold concerning the President's proposal to increase the number of Judges on the Supreme Court, he should welcome an early termination of the bitter controversy that is raging. It will be my purpose tonight, before I conclude, to suggest a program, and urge its adoption, by which that desirable end may speedily be accomplished.

We are about to celebrate, with appropriate ceremonies, the conclusion of 150 years of life under the Constitution. It was in May 1787 that a little group of men began deliberations in Philadelphia that were to result in the submission of a proposed framework of government for the new Republic of the western world. I do not agree with Secretary Wallace when he says:

"Doubtless the delegates at the Constitutional Convention would be amazed to find the product of their labors still the fundamental law of the land."

I do believe they would be amazed to find responsible public officials advocating a measure, the necessary result of the adoption of which would be to seriously weaken that fundamental law. They would no doubt be gratified to find that by close adherence to the principles they wrote into our basic law the 13 weak and troubled States, fringing the Atlantic seaboard, have expanded into a mighty empire, stretching from sea to farthest sea. They would rejoice if they were made aware of the fact that with a phenomenal increase in population there has come also a wider diffusion of wealth, and a greater measure of happiness and well-being, than any people has ever known or dreamed of this side of Utopia.

If we develop and emphasize during this anniversary celebration a firm determination to press forward along the beaten path our fathers so well marked out for us, there is every reason to hope that we will continue to prosper. Our danger lies, chiefly, in being led astray by some brightly painted and plausibly presented immediate good to be reached by following an alluring short cut, that may seem to the unwary to offer a more rapid approach to a desired goal. Experience shows how frequently this means, at the least, a weary retracing of steps. Alas, if the wandering should take us so far that the old way, the tried and true way, cannot again be found.

It is such a proposed short cut that has so deeply stirred the country during recent months. You will find it set forth in the message and accompanying papers submitted to Congress by the President on the 5th of February, under the ill-chosen title of judiciary reform. We brush aside all secondary matters, and come at once to the heart of the proposal. The sugar coating has been removed. An ever-increasing number of people, in and out of Congress, are finding the pill very bitter. It becomes daily more doubtful whether sweet inducement, stern command, or even rougher treatment will suffice to force the unwilling patient to swallow that for which he has no liking at all.

We refer to the proposed increase in the number of members of the Supreme Court. The Presidents proposal may be stated thus: Whenever a Justice of that Court reaches the age of 70, after 10 years service, and does not resign or retire within 6 months, the President shall name an additional Judge, until the total reaches 15. Since everyone knows that six of the present nine members have already passed that arbitrary age limit and have shown no present need or inclination to cut short the duties, which they are performing, it should not be forgotten, in strict accordance with the terms of the Constitution, it must be assumed that an immediate Court of 15 is contemplated. Immediate, and permanent, for so reads the instrument.

The bill was introduced in both branches of Congress. By common consent, the House elected to stand by until the Senate should act. There the measure came to the Committee on the Judiciary. The task of piloting it through rocks and shoals, which every day appear more hazardous, devolved upon the chairman of that committee. May I bespeak from those who listen to my words tonight a tear, or perhaps better, a prayer, for our beloved chairman. Consider his unhappy plight. A few short months ago, on the floor of the Senate, he declared with feeling, and utmost apparent sincerity, that it was an unjust criticism to even suggest that the President would consider increasing "the membership of the Supreme Court, so that his policies might be maintained." I repeat the exact words of our chairman, because no present opponent of the proposal has so adequately described its viciousness. Here they are:

"A more ridiculous, absurd, and unjust criticism of a President never has been made. No person whose opinion is respected has favored attempting such a reckless theory and policy."

It must be admitted that fate has dealt very unkindly with our able chairman in putting him now in charge of the very identical bill, which he so lately and so completely excoriated. To add to his difficulties, he now finds that a decided majority of his committee agree with his former position and do not care to be put in the class of persons whose opinion is not respected.

At the other end of the Capitol almost equal embarrassment would prevail. In all the stages through the House of this proposal to add six members to the Supreme Court for the obvious purpose of affecting its decisions, the present distinguished Speaker, and his colleagues, would have constantly before their eyes the words of the late lamented Speaker Byrns. You will remember that he said:

"I am not in favor of any proposal to increase the membership of the Supreme Court because of its decision upon any case pending before it. * * * I would not under any circumstances favor any such proposal. * * * I know of nothing that would be more detrimental to our form of government than for our legislative body to endeavor to influence decisions on constitutional questions by a threat of this kind."

Speaker Byrns was a patriotic and far-seeing statesman. In this hour of peril the sober judgment of millions of Americans is responding to his warning.

Seven weeks of public committee hearings followed. The proponents contented themselves with a few witnesses, who shed little, if any, light upon the subject. Most of them left the impression that they have no stomach for the bill. In fact, many of them are on recent record as opposing the principle involved. For example, there was Editor Brant, who within the year wrote a book in which he declared his firm conviction that to add members in the effort to increase the liberal sentiment would be to make of the Supreme Court "a political chameleon, changing color with every change of administration." We must make allowance for the witness Leon Green, who came to the stand direct from conferences at the Department of Justice and was obliged to admit that at the very moment he was testifying in favor of the bill, in contradiction of his previously declared views, his name was before the Attorney General for consideration in filling a vacancy on the circuit court of appeals. Also, we must except the Honorable Smith W. Brookhart, who did not attempt to deny that he considered himself in line for appointment to the Interstate Commerce Commission. Moreover, he frankly declared his desire to do away with judicial review altogether. He adopts the President's plan only as a considerable step in that direction.

Then followed, day after day, a long line of witnesses, who came far distances, at their own expense, to express their vital opposition to a proposal to increase the size of our high Court in order to weaken the influence of Judges whose opinions are not always in line with the present executive and legislative will. One after another, these progressive, liberal, patriotic citizens exposed the weakness and the terrifying danger of this bold attempt to replace an independent Court with one that would be subservient. In complete accord, most of them, with the social and economic objectives of the invalidated legislation, they denounced this method of trying to secure its approval. Some pleaded for the rights of minorities, religious, racial, and political minorities, who are in constant peril without the assured protection of a fearless and independent Court. Others saw, and clearly emphasized, the futility of the measure and feared the establishment of a precedent that might very well at some time be the means of untold damage to the cause of progressive democracy. World-famous scholars and historians traced the fall of republics as starting always with subjection of the courts to executive domination. Students and

teachers of constitutional law emphasized the imperative need of an independent judiciary. They exposed the fallacy of the contention that there can be found in the history of our Nation a single valid precedent for this astounding proposal. Through all the testimony ran a note of poignant grief and frequent deep resentment that honored and conscientious Judges should be traduced and vilified because there are some who do not agree with their decisions.

Out of all the testimony and discussion thus far, certain facts and conclusions stand forth in clear relief. I attempt a brief summary.

First. No addition to the Supreme Court whatever, not six, nor two, nor one, is called for on the ground of expediting litigation. The Court promptly hears and decides all cases that come before it. To increase the size of the Court would tend to make it, not more prompt but less so, not more efficient but seriously weakened in efficiency.

Second. No merit attaches to the contention that age, and the wisdom that comes from long experience, are a handicap in the proper functioning of a judge. It may be that business executives and military leaders are required to make decisions, which would be difficult for a man of advanced years. Common sense, fortified by innumerable specific examples, demonstrates that this rule has no application in the case of a Judge. Moreover, the pending bill cannot shorten by a single day the service of any Judge, whatever his age. Nor does the bill contain any requirement for the appointment of young men. This measure might well result in a permanant Court of 15 old men. So, the age argument goes into the discard, along with the plea for the relief of a congestion that does not exist.

Third. Complaint is made of divided decisions. If this be an evil, the pending plan does not touch it. It might change 5 to 4 into 8 to 7, but what profit in that?

Fourth. In one breath, it is said that the independence of the Court will not be affected. The new appointees will be free to decide all questions as they see fit. A moment later, we learn that to add these six will do away with the necessity of amending the Constitution. Why? Because once they are appointed, they can be depended upon to construe the present provisions of the Constitution to mean what the proponents of this plan want those provisions to mean. Either one of two things must be true: The measure is a blind leap in the dark, the mere expression of a fond hope devoid of all certainty, or the new Judges, if they then may be called such, would be expected to act in recognition of the fact that their places were created, and they were appointed, to do a definite job, that it is expected they would carry out what would be at least an implied understanding.

Fifth. The confidence of the people in their independent Court would be shattered. In the eyes of millions of our people this whole scheme is considered, whether rightly or wrongly, a deliberate attempt to bend the Court to the will of the Executive. This is the very negation of independence. It would put an end to the doctrine of an untrammeled Court, bound only to resolve every reasonable doubt in favor of the validity of acts of Congress and the Executive. If this plan were adopted, it would be necessary for every Judge to consider something more. It is that something which measures the difference between an independent and a subservient Court.

One other factor should be considered before I propose, what seems to me, the proper solution of this difficult situation into which we have been thrust by the ill-advised submission of this revolutionary plan to subordinate the judiciary. Congress is at a practical standstill. A highly important legislative program that might be of much benefit to the country receives no serious consideration. Recovery is held back because of uncertainty and fear. Continued insistence upon the passage of this bill, or of any substitute that embraces, in whatever abbreviated form, the plan to increase the size of the Court in order to influence its decisions, means weary months of continued stagnation. By this time there should be no doubt in the mind of anyone that those who believe in a wholly independent Supreme Court will not permit it to be subordinated without a struggle, so bitterly contested, and so long-drawn-out that years will be required to heal the gaping wounds. Opponents who are convinced the adoption of this plan means a fundamental change in our form of government and incalculable danger to unborn generations have thought the matter through. They are willing to face the consequences of their opposition no matter how serious. Defeat is conceivable. Surrender of principle in this matter could not be tolerated.

The whole controversy can be promptly settled with satisfaction to all if the Committee on the Judiciary of the Senate will adopt a constructive substitute in place of the makeshift now under consideration. A decisive majority of the committee is opposed to the principle of the pending bill. If it is reported, it will be adversely. That will transfer the bitter struggle to the floor of the Senate. Prolonged debate will ensue, with the final outcome shrouded in doubt. There is a proper solution available at this time.

We ask four questions. Is it the will of the people that life tenure of Judges should give way to a definite retirement age in order that new blood may more readily be infused into the Court? Is it the will of the people that acts of Congress should not be invalidated by a bare majority of the Court? Is it the will of the people that complete independence of the Court from domination by the executive and legislative branches must be maintained? Is it the will of the people that this unfortunate contest, which has disrupted Congress, and greatly disturbed the entire country, should be brought to a speedy end? All of this is possible, and easy of accomplishment.

Suppose the committee shall announce that it will not report the pending bill at all, neither in its present form, nor as modified in any of the ways suggested by various conscientious members, who have been earnestly seeking a proper solution. Suppose further that the committee does promptly report to the Senate a resolution for a constitutional amendment reading substantially as follows:

"The judicial power of the United States shall be vested in one Supreme Court, composed of a Chief Justice and eight Associate Justices, and in such inferior courts as the Congress may from time to time ordain and establish. In the exercise of judicial power, no act of Congress shall be declared invalid by the Supreme Court except upon the concurrence of no less than seven of its members. The judges, both of the Supreme and inferior courts, shall hold their office during good behavior: *Provided*, That when any judge reaches the age of 70 years, and shall have served 10 years continuously or otherwise as a Federal judge, he may retire, and upon reaching the age of 75 years every such judge shall retire: *Provided further*, That in any calendar year only that judge, upon any court composed of more than a single judge, who shall have first reached the age of 75 years shall be retired under this provision. All judges shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office or during retirement."

This proposal will place before the people for decision the question whether they desire to substitute for the present constitutional life tenure of Federal judges a definite retirement age. It will make possible an orderly infusion of new blood into the Federal courts. It will do away with 5-to-4 and 6-to-3 decisions on constitutional questions. It will preserve inviolate the independence of the judiciary. It will remove any further danger from attempts to overwhelm the Supreme Court by the addition of unnecessary Judges for the purpose of influencing decisions of the Court.

Beyond all that, adoption of this course will end at once the bitter struggle that otherwise will rage on indefinitely. The fear that grips the hearts of our people will be dissipated. Congress and the country will be free once more to move forward. If a solution is desired that will accomplish these worth-while ends and still be free from attendant evils, let the Senate committee bury all pending proposals and report this resolution. Let both Houses of Congress take action to insure its early passage by the necessary two-thirds vote. Let the resolution be submitted to conventions promptly called in the 48 States. Then the people, as is their right, may calmly decide. This can be done. It will be done if the people now let their voices be heard in imperative demand for this solution of the Supreme Court controversy.

Civilian Conservation Corps

EXTENSION OF REMARKS

OF

HON. B. FRANK WHELCHEL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1937

Mr. WHELCHEL. Mr. Speaker, in my judgment, the Civilian Conservation camps have accomplished more and constitute the most outstanding organization which we denominate as an "emergency agency." It has been of inestimable value in many ways. It has helped to build character, by taking the youth of our land from off the streets and giving them gainful occupation, throwing good influences around them, and affording an opportunity for them to develop physically, mentally, and morally. Statistics show that there has been a vast reduction in crime among boys between the ages of 17 and 22 since these camps have been established, due largely to the activities of these camps.

I am heartily in favor of any measure that helps the masses, especially the young people, at a time when they need so much the right environment and instruction, and the C. C. C. camps afford them an opportunity to study the natural resources of our country and to make better men in every sense of the term. This work helps them to help themselves, and be forced, in many instances, to stultify their consciences by accepting direct relief, and this, to my mind, is the proper way to help them. In so doing we are not only assisting them, but their families, who in many cases are needy but too proud to accept a dole.

We have just cause to be proud of the work already accomplished by the C. C. C. camps, and let us hope this is but the beginning, not only for the good of our boys and their families, but for our native health. Certainly we did not begin too soon in the work of soil conservation and the preservation of our natural resources. We have a wonderful country, and we should do our utmost to preserve it.

I voted to make this legislation permanent instead of 2 years.

Publicity Is a Wholesome Remedy and Prompts Honesty

EXTENSION OF REMARKS

OF

HON. CHARLES J. COLDEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1937

Mr. COLDEN. Mr. Speaker, I voted against H. R. 6215—a bill to repeal provisions on the income-tax law permitting publicity lists of salaries paid to officials and employees of corporations above $15,000 per annum. I think this is a bad bill. It is a surrender to special privilege. It is my belief that publicity on incomes is a protection to the public, and I believe the public has a right to know how much is being paid. Directly and indirectly these salaries come from the pockets of the people.

It has been claimed by the proponents of the bill that it will eliminate a cost of $50,000 a year to the Treasury in the compilation of this list. I am not in a position to dispute this statement, but I am inclined to believe that the cost is exaggerated and that it is justified. Public opinion is powerful. The public knowledge of the payment of exorbitant salaries has a tendency to place a limitation on these compensations. It is also true that many officials of corporations and holding companies are not paid according to their ability and the service rendered, but upon strategic advantages in the manipulation of stocks and voting proxies. It is recalled that a few years ago one of the great tobacco companies was paying the president of the company more than $1,000,000 a year.

It was also developed that at the same time the tobacco factory wages were low and hours were long and that the tobacco growers were receiving around $500 per year for their labor, tools, plus use of horses or mules and land. Frequently the aid of the women and children was required to obtain this low income. These people, by the sweat of their brows, the strength of their arms, and the skill of their fingers, are contributing heavily to the outrageous salaries of the Tobacco Trust. Unquestionably the publicity turned upon this sort of practice has done much to reduce the salaries of these pampered and coddled pets of fortune. No doubt it will have the same effect in the future. To repeal the present law and to cover up these salaries will permit a resumption of the bad practice of the past.

THE SUCKERS AND "PINK SLIPS"

The objection was also raised by the proponents of the bill that a list of these higher-salaried officers was advertised throughout the country and known as the "sucker list." It was said that these names were used by salesmen, strong-arm artists, and racketeers and others who prey on the public. It can hardly be said that those with a salary of $15,000 or more per year can be classified as "suckers." Usually the "suckers" are the poor stockholders whose earnings are diverted by unfair tactics into the pockets of subtle corporation officeholders by insidious methods.

The repeal of the pink-slip provision of the income-tax law and the repeal of the present requirement are steps backward. It is a reactionary move. It is a discrimination against the men and women taxpayers of lesser incomes. The taxes paid on real estate and personal property to the city, the county, and the State are public property and open to the inspection of the public. Everybody knows the salary of the teacher in our public schools and, in fact, all government officials, whether Federal, State, or other political divisions—all are public property.

OTHER TAXES ARE PUBLIC

The taxpayer who fails to meet his obligations is, according to the laws of many States, published in the newspapers, not only his name, but the description of the property, and the amount he owes is heralded in public print. According to the purposes of this bill, H. R. 6215, if he is the fortunate employee of a great corporation with a salary of $15,000 or more, it is a secret hidden from the eyes of the public. The law steps in and draws a blanket over these higher salaries for the purpose of protecting the beneficiaries. It is idle to say that the public has no concern, because ultimately the consumer and the public pay these extravagant salaries. The men and women who pay the bill have a right, at least a moral right, and should have a legal right to know what becomes of their earnings.

THE MAN ON RELIEF

Mr. Speaker, contrast these fortunate few who are endeavoring to hide their salaries with the man who is down and out and who applies for relief. He must not only furnish information as to his own salary and income but also that of all the other members of his family. His income is gone over with a fine-tooth comb. I would not repeal the law or the rules and regulations that require this careful scrutiny of the applicant for relief, but, on the other hand, I would not repeal the law that provides for publicity of those with magnificent incomes. As I have before stated, it is unfair to the public to pass the bill and it may aid in the evasion of income taxes.

PUBLICITY PROMPTS HONESTY

It is well known that a number of large corporations and famous leaders of big business have made it a practice to resort to devious and insidious methods of evading a just share of taxes. Just recently the Attorney General of the United States has brought suit against two of the shining lights of the Liberty League—two Gold Dust Twins—Pierre S. du Pont and John J. Raskob. These men, famous figures in the stock markets and world of finance, indulged in wash sales in order to defeat the income tax. They sold stocks to each other, which on their face showed a heavy loss, in order to make deductions from their incomes and thereby defraud the Government of a just tax. After this loss on paper had served its purpose, each resold and rebought his former stocks. This was clearly a cover-up game for the purpose of defeating the Government. This case is not exactly at point with the higher salaries that are referred to in H. R. 6215, but it does illustrate a tendency on the part of men of great wealth to cheat the Government. Publicity prevents many frauds; it may be pitiless but it is potent for the good of all.

BOTTOM AND TOP SITTERS

We hear much criticism of the sit-down strikers for taking illegal possession of the property of others, but taking the possession of property of others is an old American custom. For years the few at the top have been preying on labor, the wages, the earnings, and the savings of those at the bottom. If we are going to dispossess those who illegally take possession of the property of others, such a law should apply to the top as well as to the bottom. The man with a salary of $100,000 or more per year should live up to the law that is made for the man who works for $20 per week. In this country of ours based on a fundamental principle of democracy "equal rights to all and special privilege to none" the law should be enforced against the rich and the poor, the high and the low, the opulent and the idle. To revoke publicity for a favored few is a violation of the spirit of democracy and the rights of our population.

Federal Relief and Its Administration

EXTENSION OF REMARKS

OF

HON. CHARLES A. HALLECK

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1937

RADIO ADDRESS BY HON. CHARLES A. HALLECK, OF INDIANA, ON MAY 8, 1937

Mr. HALLECK. Mr. Speaker, under leave to extend my remarks in the RECORD I insert an address I made over the radio on May 8, 1937, as follows:

Representative SNELL has talked about the necessity for economy in government. Some people may immediately conclude that to talk about economy necessarily means stopping or curtailing relief. That is a false conclusion. The Republican Party, striving for economy for the reasons outlined by Mr. SNELL, is just as eager to minister to the needs of our unemployed—just as concerned with their welfare and their future—as is the majority party.

Every American tradition demands warmth of heart and generosity of purse in meeting the needs of those without jobs, and their dependents. I know that the American people—the great majority of whom are wage workers and farmers who knowingly or unknowingly all pay taxes—feel deeply for the men and women out of work through no fault of their own. No one can honestly say that the American people have not been fair and responsive to the problems of relief. They have actually spent for relief $9,831,700,000 through the Federal Government alone from July 1, 1933, to April 1, 1937—this in addition to the other large expenditures made through State and local governments and through private agencies.

I would not criticize the expenditure of one dollar of that sum if the entire amount had gone to the men, women, and children of America who were entitled to relief. But we of the Republican Party believe—and I think the great majority of the American people believe—that too large a portion of this money has been diverted into other channels. There is abundant evidence to support this belief.

The Republican Party recognizes the responsibility for aiding the unemployed and for the creation of opportunities for reemployment. We think, also, that we have another duty to perform. We as a minority have a legitimate right as well as a duty to criticize constructively relief policies and methods of the present administration.

In the first place, the present system of administering work relief has added greatly to the cost of relief without actually giving the assistance to the needy which the expenditures would otherwise permit.

In the second place, administration policies have restricted opportunities for employment in many ways.

In the third place, centralized administration of relief has not and cannot possibly take into consideration local needs and circumstances.

In the fourth place, the New Deal is and has been for 4 years prescribing remedies without having made a thorough diagnosis of the trouble.

Let us look at this fourth point in some detail. If you are seriously ill, you naturally would go to a physician. You would hesitate, if not refuse, to take a pill if the physician gave you one before he had looked you over. Manifestly, you would have little faith in a doctor who prescribed without first having made such a diagnosis.

The analogy can be applied to the New Deal treatment of the unemployment problem. There is no accurate information with regard to the number of employable persons out of work. For instance, the figures of the National Industrial Conference Board for January show 8,403,000 persons out of work and those of the American Federation of Labor, made at the same time, show 10,269,000 persons out of work. Indeed, responsible officials in the Department of Labor and elsewhere concede that the number of unemployed citizens is unknown. Apparently, all estimates are what might popularly be called "shots in the dark."

Admitting the difficulties of prompt action in respect to a census of the unemployed at the beginning of his administration, the President could at this time have certainly more accurate information than is now available. Some of his stanchest supporters have joined us in demanding a census. Yet we have had the astounding spectacle of the President refusing for 4 years to find out by reliable methods the number of persons unemployed and entitled to relief.

There may be several reasons for the administration's unwillingness to have a count made. Possibly it is because of the fact that should these figures be unduly large it would prove the failure of the New Deal to provide the employment which it promised, or if the number was unusually small it would fail to sustain the large appropriations which the New Deal continues to seek.

The need for accurate information not only as to the number of unemployed, but as to the work which they could perform, is apparent to everyone. Its value lies chiefly in giving facts for an intelligent reemployment program. Accurate information would serve to lift the relief chiselers off the backs of the American workmen for the benefit of those genuinely in need, and consequently reduce the burden on those now employed.

During the past 4 years the New Deal has assumed a defeatist attitude on relief. Its spokesmen, selling American initiative short, contend that we shall always have a large number of unemployed workers. That attitude necessarily results from the administration's leanings toward policies—such as the undistributed profits tax—which reduces resources for business expansion and which cripple the enlargement of employment.

We reject that defeatist attitude toward relief as well as the policies on which it is based. We hold that the adoption of sound and progressive economic policies and the enforcement of all laws against monopolies and monopolistic practices, together with a friendly and cooperative attitude toward competitive business, will result in more jobs and more opportunities than ever before for the men and women of this Nation.

We hold that the Government has a vital duty to perform in this connection. Let us promote good will between employer and employee. Let the Government serve both and bring about a cooperative feeling between the two. Let the Government abandon its antagonistic attitude toward any group. Above all, let the Government adopt a policy of economic freedom that would stimulate production. This would lead to lower prices and to the elimination of unemployment.

The possibility of immensely enlarged employment can be seen in the fact that even in 1929, when we operated at the highest level of industrial capacity ever in our history, more than one-third of the population did not have all the necessaries that are generally recognized as desirable. The President himself said this year that at the present time at least one-third of the population does not have the goods necessary to maintain an adequate standard of living. The needs of these people can only be met by the increased production of goods. Through such increased production greater employment will result. In fact, potential demands are so great that if they could actually be met there would be a shortage, rather than a surplus of labor. Thus through encouraging production at lower prices, the causes of unemployment could be eliminated.

Now, for another point. We believe that the method best suited to carrying on a program of relief is to turn back to the States the administrative responsibility for its execution. We would have the Federal Government make grants-in-aid which, together with appropriations by the several States, would promote a cooperative undertaking between the States and the Federal Government. The advantages of this plan should be apparent to everyone. A centralized, all-powerful relief administration cannot know the problems peculiar to the 48 States, and by not knowing these problems it cannot do justice to the legitimate needs of the several localities.

Local administration by those familiar and sympathetic with local conditions, chosen for their ability and independence, and not for their political activities, can do a better job, a more conscientious job, than a political machine in Washington.

Local administrators, chosen from among neighbors, will be generous where generosity is needed; they will be fair and helpful to the deserving unemployed, but they will not be duped by political chiselers and the undeserving.

The President is asking $1,500,000,000 for relief for the next fiscal year. This request is not based on exact information. That information, as I have said, does not exist. The estimate is a mere guess. Or, in the language of the Democratic New York Times, this estimate is just another "guess-timate." We Republicans think that "guess-timates" are not enough.

We shall support the President in obtaining sufficient money to aid the deserving needy. But we shall vote to stop their exploitation. We shall vote to reduce the overhead cost of getting relief to the needy. We shall vote to get as much as possible of every relief dollar to the men and women on relief. We shall vote to emancipate them as much as possible from the politicians and the chiselers. We believe that in that way a great economy of expenditure can be effected and at the same time the needs of the sincere and honest men and women on the relief rolls can be more generously considered.

While I am speaking as an individual Republican Congressman from the State of Indiana, I feel that I voice the sentiments of the Republican Members in the House and in the Senate when I say that the time has come when relief policies should be revised to eliminate waste and wasters for the common benefit both of those citizens who are not on relief and for the benefit of those who are.

In closing this brief presentation of the views of the Republican Party, let me say this:

The honest man who cannot get a job is not asking charity. He has a right to relief. When the story of these years is told on the pages of history, it will not be a story of criticism of the men and women who honestly obtained aid, but one of tribute to them for enduring these years so bravely.

Mandatory Instead of Permissive Provisions

EXTENSION OF REMARKS
OF
HON. JOHN R. MURDOCK
OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, May 11, 1937

Mr. MURDOCK of Arizona. Mr. Speaker and Members of the House, while the Civilian Conservation Corps measure was before the Committee of the Whole Tuesday afternoon, I had in mind to submit an amendment which would make the educational provisions mandatory after the first amendment was adopted, which changed the original bill from its mandatory provisions to a permissive provision. Finding that I could not in this case propose an amendment to an amendment already adopted in the Committee of the Whole House, I now propose to call for a separate vote on the first amendment when the bill is taken up in the House Wednesday. My hope is that the amendment made in Committee of the Whole will be voted down, in order that we may substitute the word "shall" in lieu of the word "may", in the first line on page 2, as now provided in the first amendment adopted by the Committee of the Whole. Let me indicate my reasons for this move for a mandatory provision.

It is my feeling that the educational phase of the camp is the most important element in the whole C. C. C. program. I am aware, of course, that these young men were taken off the highways and byways of America and from surroundings of vice and crime to be placed in camps where their physical needs could be well taken care of, their energies used for constructive work, and at the same time their earnings going toward the support of themselves and their dependents. Aside from the educational significance to the individual enrollees, the relief benefits during the period of depression and the contributions to public needs from these camps were also great. However, I believe that the total educational value to the enrollees was the greatest contribution of this most successful of New Deal experiments. I say that, knowing full well the limitations on the educational part of the camp program. If these benefits have been so great in the past, I feel that they may be even much greater in the future.

If I may criticize the C. C. C. program in any respect, I feel that in general some camp commanders may not have had sufficient interest in the educational part of the program. I have had a feeling that there was often a lack of cooperation and sympathetic understanding between the camp commander and the educational adviser. If such has been the case, the commander probably minimized the facilities for educational work and was not very enthusiastic about backing up the educational adviser. If the provision in this bill is merely permissive, as the first amendment now has it, I greatly fear that some camps may in the future be without educational advisers or without equipment and the things needed by way of books, supplies, and the like.

STANDING OF EDUCATION IN THE CAMPS

When this program was in its earliest experimental stages, I listened in on a conference between two groups of C. C. C. leaders, consisting of 25 or 30 camp commanders and a like number of educational advisers. I was pleased at the air of the typical camp commander who, as a military man, sensed his obligation to the boys in his charge, and evidenced a great solicitude for their general welfare. However, I was amused when he seemed to assume that the educational adviser knew little or nothing about boy nature, about the elements of psychology, or the general principles of teaching, or the learning process. These military commanders were frank to say that they regarded their camps as filled with the culls of our public-school system. They looked upon the average enrollee as a boy with whom the public-school system had failed. Therefore, they seemed to think it was necessary to begin and to conduct his education all over again, using none of the techniques of the American school system.

If it is true that the commanders did have that feeling toward the educational leaders, amounting perhaps in certain cases to contempt, both for the leaders and their methods, they are quite apt to lose no opportunity to minimize the educational part of the camp's work. I am not saying that all military commanders of the camps have that attitude toward the educational program within their camps, nor the feeling I have suggested toward the educational leader in the camp. However, I fear that some of that unfavorable attitude has prevailed heretofore. If we now make educational training optional in the camps through this permissive provision in the bill, I fear a great educational opportunity to help those boys is going to be lost. I am perfectly willing to leave it optional with the enrollees, as to how much schooling they wish to receive in the camps, but not optional with the camp authorities as to providing these educational facilities, nor how much shall be provided.

ORGANIZED LABOR'S OBJECTION

It has been suggested that organized labor opposes a mandatory provision, especially if it pertains to vocational education. From the remarks of Mr. CONNERY, chairman of the committee, who so frankly explained why labor opposed vocational education, I have the feeling that that opposition was aroused by the original mandatory feature, because labor assumed that the law might provide dangerous mandatory vocational training. If organized labor is opposed to vocational training in the C. C. C. camps, and especially opposed to mandatory vocational training because it is feared that the boys will get a certain amount of industrial training which will deceive them into feeling that they are fully prepared on leaving camp to enter the industries, then I must say that, in my judgment, organized labor has the wrong view.

In the first place, these C. C. C. camps are not to be trade schools, nor anything remotely resembling trade schools. It would cost far too much to supply these camps with machines and the equipment to teach the boys the trades. It takes far too long a time to train a young man in any of the trades for anyone to hope that C. C. C. camps, under the most liberal provisions and the most favorable circumstances, could do that thing. Organized labor has nothing to fear from such vocational schooling in C. C. C. camps. The very best—or what might seem to organized labor the very worst—which C. C. C. camps could furnish young men in vocational training would be some of the simpler arts and skills which every man should have to promote his usefulness as a citizen and happiness in life, but not as a means of livelihood. I think it would be beyond the wildest dream of any advocate of vocational training in C. C. C. camps to expect or to hope that such camps could fit young men to step into the trades in competition with regular workers.

I should like this bill, H. R. 6551, on final passage in the House to provide at least for mandatory general educational and vocational training in elementary form. Many of these enrollees have left the schools in the lower grammar grades, and some of them, although now having arrived at man's estate physically, are mere children educationally. Is it likely that a tall, awkward, 18-year-old boy who has not advanced beyond the third grade in the public school is ever going back to a public school to enroll in the fourth grade? If we do not give him opportunity to get a little "book learning" and to develop some knowledge of tools and how to use them in the C. C. C. camps the Government is missing a great opportunity. I should like to see at least a minimum of education suitable to their needs made mandatory in the C. C. C. camps of the future. Only thus can we justify such a vast expenditure as this bill contemplates.

Reorganization of Federal Judiciary

EXTENSION OF REMARKS
OF
HON. WILLIAM H. DIETERICH
OF ILLINOIS
IN THE SENATE OF THE UNITED STATES
Tuesday, May 11, 1937

STATEMENT BY HON. CLARENCE N. GOODWIN, CHAIRMAN OF THE BOARD OF THE AMERICAN JUDICATURE SOCIETY

Mr. DIETERICH. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Hon. Clarence N. Goodwin, chairman of the board of the American Judicature Society, at its annual meeting in the Mayflower Hotel, Washington, D. C., on May 5, 1937. The statement is in reference to the proposal to increase the number of Justices of the Supreme Court.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Members of the American Judicature Society: What I propose is to state briefly the President's proposal with reference to additions to the Supreme Court and what seem the principal reasons in its favor, with some comment on it, critical and otherwise.

PROPOSALS AND REASONS RELIED UPON

The essence of the proposal, as I see it, is that when a Justice eligible for voluntary retirement does not retire the President shall appoint an additional Justice, but in no case shall the number of the Justices exceed 15. Of those now eligible for retirement one is 81, one 78, three 75, and one 71.

The most persuasive reasons put forward for any increase in the number of the members of the Court seem to be the claim that it has increasingly disregarded the limitations on its constitutional authority and has, in practice, prevented the enforcement of valid statutes because of a belief in their unwisdom; and the further reason that an increase in numbers through an addition of younger men is necessary to the efficient administration of justice by that Court. These reasons have not been put forward in this form or in this order, but they seem to be the substance of what has been most strongly urged, and the order seems logical.

CLAIM THAT THE COURT HAS USURPED LEGISLATIVE POWER

In considering the contention that the Supreme Court has on numerous occasions deliberately gone beyond the bounds of their constitutional authority some reference may well be made to the proceedings of the Constitutional Convention of 1787 as something which may afford a background for this discussion. I note that the learned dean elect of the Harvard Law School, the Honorable James M. Landis, has on two occasions pointed out that there were two vigorous attempts made in the Convention by Madison and Wilson to enlarge the power of the Supreme Court by making it a part of a council of legislative revision. Those attempts were decisively defeated, but he maintains that in spite of this fact the Court from time to time exercises the very power denied it by the Convention and does not do so as a part of a council of revision, but acting alone.

All that was said on that subject in the Convention is worthy of most earnest consideration, and so I venture some brief extracts which may be timely.

In the early days of the Convention Mr. Madison suggested that "the judiciary ought to be introduced in the business of legislation—they will protect their department, and, united with the Executive, make its negative more strong." Mr. Gerry opposed this on the ground that the judiciary would have a sufficient check against encroachments on their own department by their exposition of the laws which involved the power of deciding on their constitutionality. "On Mr. Gerry's motion, which gave the Executive alone without the judiciary the revisionary control on the laws unless overruled by two-thirds of each branch: Massachusetts, aye; Connecticut, no; New York, aye; Pennsylvania, aye; Delaware, aye; Maryland, no; Virginia, aye; North Carolina, aye; South Carolina, aye; Georgia, aye." (Madison's Minutes, Hunt's Edition, vol. 1, pp. 69–70.)

Later, on July 21, "Mr. Wilson moved as an amendment to resolution 10 that the Supreme National Judiciary should be associated with the Executive in the revisionary power. This proposition had been made before and failed; but he was so confirmed by reflection in the opinion of its utility that he thought it incumbent on him to make another effort: The judiciary ought to have an opportunity of remonstrating against projected encroachments on the people as well as themselves. It had been said that the judges as expositors of the laws would have an opportunity of defending their constitutional rights. There was weight in this observation; but this power of the judges did not go far enough. Laws may be unjust, may be unwise, may be dangerous, may be destructive, and yet may not be so unconstitutional as to justify the judges in refusing to give them effect. Let them have a share in the revisionary power, and they will have an opportunity of taking notice of these characters of a law, and of counteracting, by the weight of their opinions, the improper views of the legislature. Mr. Madison seconded the motion, and in supporting it said of the proposition: 'It would, moreover, be useful to the community at large as an additional check against a pursuit of those unwise and unjust measures which constituted so great a portion of our calamities.' Mr. Gerry opposed. He said 'It would be making statesmen of the judges, and setting them up as the guardians of their rights and interests. It was making the expositors of the laws, the legislators which ought never to be done * * *.' Mr. Strong supported Mr. Gerry. Gouverneur Morris supported Mr. Madison and Mr. Wilson. Mr. Martin, however, said, 'A knowledge of mankind, and of legislative affairs cannot be presumed to belong in a higher degree to the judges than to the legislature. And as to the constitutionality of laws, that point will come before the judges in their proper official character. In this character they have a negative on the laws. Join them with the Executive in the revision and they will have a double negative * * *.' Colonel Mason said, 'They could declare an unconstitutional law void. But with regard to every law, however unjust, oppressive, or pernicious, which did not come plainly under this description, they would be under the necessity as judges to give it a free course. He wished the further use to be made of the judges, of giving aid in preventing every improper law * * *' * * *."

"On question on Mr. Wilson's motion for joining the judiciary in the revision of laws it passed in the negative—Massachusetts, no; Connecticut, aye; New Jersey, not present; Pennsylvania, divided; Delaware, no; Maryland, aye; Virginia, aye; North Carolina, no; South Carolina, no; Georgia, divided. (Madison's Minutes, vol. 2, pp. 17–25.)"

FAILURE OF A LARGE PART OF THE BAR AND PUBLIC TO REALIZE CONSTITUTIONAL LIMITATIONS OF COURT'S AUTHORITY

There are a number of things in connection with the foregoing Madison-Wilson proposals which I think interesting. In the first place, I suggest that an overwhelming majority of the American bar believes that the Supreme Court actually possesses the powers which the Constitutional Convention so decisively denied them. There is a general, perhaps vague, impression that acts of Congress which are unreasonable, unwise, arbitrary, or dangerous are unconstitutional, no matter how clearly their enactment may come within an express power definitely given; that a law may be unconstitutional because it violates some principle of natural justice or some fundamental principle of our democratic government. There is, of course, nothing on which such a contention may properly be predicated. It is in the very nature of power that it may be unwisely, unreasonably, unjustly, arbitrarily, and even tyrannically exercised, but these are matters with which, as Mr. Justice Holmes so often lucidly pointed out, the judiciary has nothing at all to do.

Moreover, it may well be that there is a large section of our bar which believes that the Supreme Court has a patriotic duty to protect the public against laws and policies which it considers not merely unwise but dangerous to the vital principles of American democracy, and that such power is inherent in the judiciary. It has, of course, no such constitutional authority, but in a practical sense it does have that power, and in dealing with ends that are desired the bar shares with men generally an inability rightly to distinguish between power and authority. I leave it to the proponents of the President's plan to show wherein and where the Supreme Court has stepped outside its constitutional authority to exercise the powers which the Constitutional Convention so overwhelmingly denied it.

THE "REASONABLE DOUBT RULE"

Along with this indictment is the further declaration that the Supreme Court has, largely within the last 50 years, and increasingly in the last three decades by 5-to-4 and 6-to-3 decisions denied validity to statutes in defiance of the principle laid down in the very beginning, that the Court will not do so unless the invalidity is clear beyond a reasonable doubt. I think we may well pause here and consider the clarity and the force with which this fundamental of constitutional interpretation has been laid down, first by the State courts and later by the Supreme Court from its very inception.

You will find this vividly set forth and learnedly discussed in the address on the "Origin and Scope of the American Doctrine of Constitutional Limitations" delivered before the conference on jurisprudence and law reform at the World's Fair in Chicago August 9, 1893, by the late James Bradley Thayer, professor of law of the Harvard Law School, at whose feet I devoutly sat.

"In *Ogden v. Saunders* (12 Wheat. 213 (1827))", says Mr. Thayer, "Mr. Justice Washington, after remarking that the question was a doubtful one, said: 'If I could rest my opinion in favor of the constitutionality of the law * * * on no other ground than this doubt so felt and acknowledged that alone would in my estimate be a satisfactory vindication of it. It is

but decent respect due to the legislative body by which any law is passed to presume in favor of its validity until a violation of the Constitution is proved beyond a reasonable doubt. This has always been the language of this Court when that subject has been up for decision; and I know it expresses the honest sentiments of each and every member of this bench."

DANIEL WEBSTER'S ARGUMENT AGAINST THE "REASONABLE-DOUBT RULE" OVERRULED BY MARSHALL

Mr. Thayer goes on to show that up to that time (1893) this principle had been constantly reiterated and supported by the Supreme Court and the courts of the country, and he was at pains to show that in so doing they did not act without having the contrary view most strongly urged upon them. "In the Dartmouth College case," he says, "Jeremiah Mason, in his argument in the New Hampshire court, denied the rule 'that the courts * * * ought to act * * * with more than ordinary deliberation * * * that they ought not to declare an act of the legislature unconstitutional unless they came to the conviction with absolute certainty * * * and when reasons are so manifest that then none can doubt.' He conceded that 'courts should treat the legislature with great decorum * * * but * * * the final decision, as in other cases, must be according to the unbiased dictates of understanding.' But notwithstanding this the Supreme Court of New Hampshire declared that they 'could not act without a clear and strong conviction' and on error in 1819 Marshall, in his celebrated opinion at Washington, declared for the Court, 'that in no doubtful case will it pronounce a legislative act to be contrary to the Constitution.'

"Again when the great Charles River Bridge case was before the Massachusetts courts in 1829, Daniel Webster, arguing together with Lemuel Shaw for the plaintiff, denied the existence or propriety of this rule, but the Massachusetts court adhered to the rule and later repeated with much emphasis that * * * courts will * * * never declare a statute void unless the nullity and invalidity are placed beyond reasonable doubt. A rule thus powerfully attacked and thus explicitly maintained," says Thayer, "must be treated as having been deliberately meant, both as regards its substance and form" (Thayer's Legal Essays, pp. 23–25).

FAILURE OF SUPREME COURT TO FOLLOW THE RULE

While this rule was repeatedly emphasized in the first hundred years of the Court's existence, we find in many later cases a wide discrepancy between the Court's words and its deeds. The Court continues to state repeatedly that it will not declare an act unconstitutional unless that fact is clear beyond a reasonable doubt, and yet we have been repeatedly treated to the spectacle of having five or six Judges declare against the validity of a statute, while four or three equally learned maintain with all fervor that the authority of the Congress to enact the statute is clear and indisputable. Had the rule contended for by Daniel Webster prevailed and had the Court held itself free to declare a statute invalid where it seemed to be so, to use the words of Jeremiah Mason, "according to the unbiased dictates of understanding", the action of five Judges in invalidating a statute would be justified even where four took the contrary position with equal conviction. But how may five say that a statute is unconstitutional beyond a reasonable doubt when four equally qualified and able declare its validity to be unquestionable? If something can be said of the right of the majority to assume this intellectual arrogance, what can be said when four continue to declare against the validity of a statute while five rule it to be clearly authorized?

We go one step further when Chief Justice Fuller finds in April that the income-tax statute, with certain exceptions, is valid and in May holds that this same statute, under consideration in the same case, is wholly void. It would seem that his prior opinion, together with the positive certainty of four of his brethren with reference to the constitutionality of the act, should have been sufficient to raise a reasonable doubt. As a judge I was from time to time called upon, in charging the jury, to define a reasonable doubt, but I never have heard a definition suggested which would exclude the existence of such a doubt in the circumstances just recited.

PROFESSOR THAYER'S VIEW OF PROPER ATTITUDE TO LEGISLATION

In further discussing methods of constitutional interpretation, Mr. Thayer said: "The Court's duty, we are told, is the mere and simple office of construing two writings and comparing one with another, as two contracts or statutes are compared when they are in conflict; in declaring the true meaning of each and, if they are opposed to each other, of carrying into effect the Constitution as being the superior obligation—an ordinary and humble duty as the courts seem to describe it. This way of putting it easily results in the wrong kind of disregard of legislative considerations." The learned author then warns that "these narrow and literal methods would cause courts to forget, as Marshall said, that 'It is a constitution we are expounding.'" The method which Thayer discusses with such disapproval may well be compared with the statement of Mr. Justice Roberts in United States against Butler, that "when an act of Congress is appropriately challenged in the courts as not conforming to the constitutional mandate, the judicial branch of the Government has only one duty—to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former"—a process quite as mechanical and naive as the one which Mr. Thayer condemned.

UNCONSTITUTIONAL ACTS OF JUSTICES CREATE A CONSTITUTIONAL CRISIS

If there is, as the proponents of the President's proposal insist, adequate evidence that four of the nine Justices of the Supreme Court regularly and constantly hold against the validity of statutes not because of their actual unconstitutionality but because they are convinced that the statutes in question are unwise and even dangerous, with the result that wherever one of the other five Justices joins with them the statute is overthrown on grounds which exceed their constitutional authority, and if it has become customary to disregard the rule that acts of Congress are not to be overthrown if there is a reasonable doubt of their invalidity, then a constitutional crisis exists which requires a constitutional remedy. Obviously, judges, like legislators, may exceed their constitutional authority, may usurp power, may exercise functions denied them, may act as a super legislature and by a single deciding vote strip Congress of salutary constitutional authority necessary to preserve our domestic tranquillity. Where the Executive acts in a way not lawfully authorized his unconstitutional or illegal action is nullified where the action is drawn in question in court. Similarly, the unconstitutional acts of Congress, when brought in question before the Court, are nullified.

CHECKS AND BALANCES

This is in accord with our system of checks and balances; but when the judiciary acts beyond its constitutional authority how are its unconstitutional fiats to be restrained? Surely no matter how great the constitutional crisis may be supposed to exist, at the present time, it is nothing at all when compared with the extent to which such an unconstitutional course may upset the equilibrium of our constitutional Government if it continues to go unchecked. We have a typically Anglo-Saxon reverence for precedent and if these precedents continue long enough the authority of the judiciary to pass on the policy of legislative enactments will be as thoroughly established as though it were embodied in the Constitution itself.

THE REMEDY PROPOSED

The remedy suggested is to counterbalance the influence of those on the Court who constantly disregard the limitations of their constitutional authority by the addition of others who may be reasonably expected to regard them. That there is no constitutional objection to such action is now universally admitted. The question of the number properly to be added I will discuss later.

COURT EFFICIENCY

It is in order now to consider a second reason presented for an addition to the membership of the Court. It is claimed that the efficiency of the Court would be improved by the addition of a Justice in the case of every Justice eligible for retirement. In support of the first ground discussed, there is also the claim that the age of a Justice eligible for retirement inclines him to refuse to support legislative enactments necessary to meet the necessities which grow out of the complexities of our modern industrial organization.

I have not discussed this because it seems evident to me that what the situation required was not Justices who sympathize with legislation but Justices who, like the late Mr. Justice Holmes, will support any legislation which comes within the scope of Congress's constitutional power whether they approve of it or not. Moreover, we find that the question of a constitutional or unconstitutional attitude of a Justice in the exercise of his authority does not have any relation to his age. The oldest member of the Court may show a clear conception of the need of legislation adequate to meet the increasing complexity of our industrial situation, and in giving a broad Marshall-like construction to the great powers intended to permit us to function as a Nation, remember that it is a Constitution that he is expounding; while the youngest member of the Court may give a construction of the same powers so narrowed as to be without precedent.

The contention, however, that the efficiency of the Court is impaired by the age of its members is one that is properly debatable. I have studied with interest the letter in which the Chief Justice supported by the two senior members of the Court, who have exhibited very divergent views in regard to matters of constitutional interpretation, stoutly denies that there is any impairment of efficiency and insist that long practice has gained for the Justices a great facility in the dispatch of business. Unquestionably judges who have served for two decades or a quarter of a century do attain a remarkable facility in the groove which their daily routine has worn. Also at 75 or even 70 decision on a given proposition becomes almost automatic. All this is a resource for the Court which the Chief Justice rightly esteems. But to it might there not be added that capacity and will to explore so characteristic of Marshall, Wilson, and others when they were in their forties and fifties. My own experience as a lawyer, as a trial judge, as an appellate judge, as a student of judicial procedure, and of the enlightened efforts constantly being made by this society and other organizations to improve the administration of justice convinced me that means and methods can be devised that will add to the efficiency of the Court.

SIZE AND METHODS OF OTHER COURTS OF REVIEW

The overwhelming demand for a review of the almost innumerable cases within the scope of the Court's appellate jurisdiction finds a parallel in the work of the Judicial Committee of the Privy Council. I attended a session of this court at the insistent invitation of Lord Moulton, and on that day heard a case involving the vicissitudes of a lien on lumber in transit in Canada, and another involving a house law of an East Indian family. It passes on constitutional questions arising in Canada and the other Dominions of the Empire. It consists of a dozen or more judges, including the Lord Chancellor and others. Usually five sit at a time and in this and no other way could the business of the court be dispatched. There is a similarity between the question of discretionary appeals in the Judicial Council and petitions for writs of certiorari in the Supreme Court. Prior to the President's message I never heard anyone dissent from the proposition that the limitation of time prevented the Court from a review of many cases which might well have received its earnest consideration, and that the definition of the classes of cases in which certiorari may be granted might well be liberalized and enlarged.

The Chief Justice has called attention to the fact that all petitions are considered by all the Justices, but that where four Justices vote in favor of the petition the writ is granted. But why should all the Justices consider each and every petition? In a Court of nine it is possibly desirable. In cases involving serious questions of constitutional law it is necessary. But in a Court of 12 would it not satisfy the needs of justice if the Chief Justice assigned the ordinary cases to 5 or 6 of the Justices, with the understanding that if 3 voted in the affirmative the writ would be granted? In 1935 each Justice was called upon to consider 867 petitions. Under the method suggested nearly half of this time and effort could be saved, while the addition of three Justices to the Court would necessarily reduce the number of opinions written by each.

HOW MANY MEMBERS SHOULD BE ADDED

Assuming that the Court should be increased, how many should be added? Recently, in looking over the new Pottle & Bennett edition of Boswell's Journal of a Tour to the Hebrides, under the heading "Edinburgh, 16 August, 1773", my eye fell on the following passage: "We walked out, that Dr. Johnson might see some of the things which we have to show at Edinburgh. We went to the Parliament House, where the Parliament of Scotland sat and where the Ordinary Lords of Session hold their courts; and to the New Session House adjoining to it, where our Court of Fifteen (the 14 Ordinaries with the Lord President at their head) sit as a court of review." The fact that during the middle of the eighteenth century frugal Scotland, with a population of only a million and a quarter, should have made use of a court of review of 15 members would indicate that there is nothing inherently unreasonable in our having a Supreme Court of that number to take care of the matter of the Federal review of litigation growing out of highly complicated situations caused by a population a hundred times as large and the existence of 48 States busily engaged in enacting legislation which, as to its constitutionality, constantly attracts judicial scrutiny.

But my own answer to the question asked above is that where circumstances demand an increase in the Court to restore constitutional equilibrium in government, no more should be added than the needs of the situation require. All that the President and Congress can justly ask is a Court which will pass on questions of the constitutionality of statutes apart from any consideration of their policy, and not a Court which is necessarily in accord with the policies of the Congress and the Executive for the time being.

Those who support the President's proposals must admit that there are now on the Supreme Bench at least three judges whose constitutional attitude cannot be questioned. Personally, I would add to this group the courageous and forward-looking Chief Justice, who was formerly president of this society. But let us take the minimum of three and consider the possibility that two others will, at times, join the four whose attitude causes this great controversy. How many constitutionally minded judges must be added to insure that no constitutional act of Congress will be overthrown? The answer is clearly three, for with an equally divided Court an act of Congress still stands. Beyond four there appears to be no justification.

I would, therefore, suggest that the situation complained of can be remedied either by fixing the number of the Court at 12 or adding a proviso to the bill under consideration that no more than 3 of the authorized additional judges shall be appointed in 1937, and 1 additional Justices in each calendar year thereafter. If it be said that the addition of three younger members would still leave half the Court past, and on the average far past, the age of retirement the sad answer is that it is a situation which time will remedy all too soon.

ADDITION OF THREE JUSTICES AS EFFECTIVE AS FOUR

It may be noted that in a Court of 12 it would require 7 Justices to overthrow an act of Congress, and in a Court of 13 it would require precisely the same number.

On the main question I suggest that no matter how acute the constitutional crisis may be, wisdom demands that in remedying it there be moderation and restraint.

The Supreme Court and the Constitution

EXTENSION OF REMARKS
OF
HON. EMANUEL CELLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 13, 1937

RADIO ADDRESS BY HON. EMANUEL CELLER, OF NEW YORK, ON MARCH 1, 1937

Mr. CELLER. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include an address I made recently over the radio, as follows:

In order to talk sense about the Supreme Court and the Constitution we must separate the two issues.

The first is: Do we wish to amend the Constitution in order to increase or extend the Federal legislative power?

The second is: Do we wish to avoid increasing or extending the Federal legislative power now granted by the Constitution?

It is obvious that those who desire to amend the Constitution propose a more radical and dangerous program than those who believe that the Constitution now grants to Congress all the power necessary and desirable for the regulation of industry and agriculture, and the promotion of the general welfare.

What portion of the Constitution shall we amend? We cannot limit ourselves to an amendment of the due-process clauses, since many of the decisions fix the brand of unconstitutionality upon statutes because of their alleged violation of the general welfare and commerce clauses of the Constitution. By token of the same reasoning we cannot limit the changes to the commerce clause or to the general welfare clause. We would have to go the whole way.

This would make Congress practically supreme. It would strike a telling blow at fundamental rights. It would practically make subject to congressional change every phase of American life.

Legislative supremacy may go very well in England, where there is homogeneity in population, where there are centuries of tradition that militate against any taking away of fundamental rights. Parliament just would not dare to impinge upon such rights. The situation in this country is very different. Our population is heterogeneous. In parts of some States the official language is French, in others Spanish, and in still others German. The habits of the people are so utterly different in the various far-flung sections of our Nation. Age-worn traditions are absent.

Congressional supremacy, I say, is dangerous. I speak advisedly. I fear the unrestrained activity of Members of Congress and the Senate. There was a time in the last Congress when, beyond peradventure of a doubt, the ridiculous Townsend bill, if presented, would have passed the House overwhelmingly.

This was due to the hysteria which had descended upon the country west of the Mississippi and south of the Ohio. This frenzy was reflected in the House where the Members were fighting for their political lives. The Klu Klux Klan movement swept the country during the election of 1928 when Hoover beat Smith. It is very easy to imagine some such similar movement overmastering the congressional mind. Some dictator of the type of Huey Long could easily run wild in the legislative halls and smash his way to any objective—particularly if there were no commerce, general-welfare, or due-process clauses to stop him.

It is difficult to comprehend the attitude of the so-called liberals, who are struggling for these amendments. It is more difficult to understand those radical enough to propose the overriding of judicial decisions by a two-thirds vote of Congress. This would strike an even greater blow at fundamental rights. It means that every clause of the Constitution may be at stake, including freedom of speech, freedom of press, freedom of religion, jury trial, and right of petition. A totality of fundamental rights would be subject to the whim and caprice of the legislature.

Justice Stone, in 1936, had this to say, in part, on the subject of Congress overriding Court vetoes:

"When any such device is applied to the functions which the Court exercises as the arbiter between the rival claims of governments or the separate branches of the National Government, the question at once arises, shall it be applied equally to statutes passed by Congress and statutes passed by State legislatures, or shall it be applied to only one, the acts of Congress?

"If applicable only to one, it is apparent that the sovereign State and the National Government no longer stand on a plane of equality in matters of constitutional right or immunity, but the way is opened for the gradual curtailment of the constitutional powers granted to or reserved by one through the enactment of statutes by the other, which, whenever their constitutionality is assailed, have greater weight before the Court than the Constitution itself.

"But if the device of the weighted statute were to be applied both to the acts of Congress and to State statutes in the field of conflict of powers of government under our dual system, then each would be given the opportunity to extend its constitutional power in particular fields at the expense of the other by the enactment of statutes which, before the Supreme Court, must be given greater weight than is given to other forms of governmental action or to the provisions of the Constitution itself."

The President, in seeking primarily to avoid constitutional amendments, not only represents all those who support his program but he is also protecting the fundamental position of a large majority of those who, although they are now opposing his program, would oppose with equal vigor any constitutional amendment. From this line-up we must assume that a very large majority of the American people wish to avoid a constitutional amendment; and that it would be very difficult to obtain the necessary support of two-thirds of both Houses of Congress and three-fourths of the States in favor of a constitutional amendment, at least before exhausting every possible method of avoiding amendment.

In view of the results of the last election there can be no doubt that an overwhelming majority of the people approve of that judicial construction of the Constitution which is supported by a minority of the Supreme Court. This minority consists generally of Judges Brandeis, Stone, Cardozo, and less frequently Hughes. They have on many occasions insisted that there is ample power in the Constitution for the Federal Government to enact legislation necessary to accomplish the major New Deal objectives.

It must be conceded that legislation found valid by a substantial minority of able Judges on the Supreme Court (supported by other judges and legal authorities) can be sustained by a reasonable construction of the Constitution. Four Justices sustained the Child Labor Act; three sustained the A. A. A.; four sustained the Municipal Bankruptcy Act; four sustained old-age pensions for railroad employees; four sustained essential elements of coal industry regulation; four sustained State minimum-wage laws.

Therefore, it is not the Constitution, but a debatable construction of the Constitution adopted by a bare majority of the Court, which has been blocking the New Deal program. I deplore the cunning manner in which some opponents of the President have been carrying on a Nation-wide campaign to obscure this fact; and to make the people believe that Congress and the President have been trying to exercise powers which were clearly unconstitutional. I say this despite the fact that I disagree with the President's plan for six young additional Judges to replace those eligible for retirement. I sympathize with the President's objective but disagree with his method of obtaining it.

For 4 years all the reactionary forces in the United States have been trying to convince the people that adequate laws could not be enacted by the Congress to aid the farmers, the wage earners, and small-business men, because the Constitution prohibited all such laws. But the fact is that the Constitution grants ample power to the Congress to pass such needed legislation, according to the opinions of several Justices of the Supreme Court, and of many other judges and lawyers of high authority and reputation. In other words, I believe the majority of the Supreme Court was wrong and the minority was right.

When one group of lawyers and judges uphold the constitutionality of desirable laws and another group declares such laws to be unconstitutional it is perfectly plain that, in the language of Chief Justice Hughes, "the Constitution is what the Judges say it is."

The Constitution has not prevented New Deal legislation. It is the Judges who interpret the Constitution to conform to their ideas of public policy, and who do not believe in the wisdom of the New Deal program, who have blocked that program. They have nullified legislation which other Judges equally able and learned hold to be within the powers of Congress. But, I repeat, the President has, I believe, taken the wrong means to prevent future nullification of New Deal legislation.

Asking for six new appointments, if six over 70 fail to resign, is a rather bitter pill for the Nation to swallow. It sticks in the throat. Perhaps if the pill were smaller we could gulp it down, even though with difficulty.

I believe that many opposed to the President's program would have accepted the wisdom of enlarging the membership of the Supreme Court so that it might consist, say, of 11 Justices. I do not advocate such increase. It might have been, however, a way out.

Unfortunately the proposal—which, in effect, would give the President power practically to remake the Court by the appointment of six additional Justices—presented to many, on first consideration, the appearance of a desire to control the actions of the Court by naming six Judges who could be committed to support any legislation which the President saw fit to advocate.

But, on second consideration, it must be apparent to anyone who really understands the high quality of President Roosevelt's public service that the President could never have such an intention; and to anyone who understands our institutions it would also be apparent that even a President who had such an intention could not carry it out.

The President could not appoint and have confirmed by the United States Senate for the exalted office of a Justice of the Supreme Court anyone who was not a lawyer of such outstanding ability and mental integrity that he would never consent to act as the mere representative of the President.

Every President appoints a large number of Federal judges; but no President has ever had the thought that such judges, who are commissioned and sworn to uphold the law and to enforce justice, would permit the man who appointed them, or any other man, to dictate their opinions. The President of the United States knows that when he names a judge, and when that appointment is confirmed by the Senate, the judge cannot thereafter allow gratitude for his appointment, or obligation to the President who appointed him, or to Senators who voted for his confirmation, to weigh as much as a grain of sand in the scales of justice.

All that the President can do in appointing judges is to endeavor to select men who, in his opinion, will be the most competent, impartial, and conscientious public servants who can be chosen; and he must assume that the moment a judge ascends the bench he becomes completely independent of any control or influence from any source whatsoever, except his own conscientious convictions. It is that last fact which makes it so vitally important that men of fundamentally liberal views, men who believe most profoundly in sustaining the legislative power of the elected representatives of the people to appraise public needs and to enact measures for their satisfaction, shall be chosen. It is because judges must act in accordance with their conscientious convictions, that men who believe the courts should exercise a final control over the wisdom of public policies, and prevent what they regard as unwise exercises of legislative power, shall not be permitted to dominate the judiciary.

With this issue made clear, many of those who, at the outset, were opposed to the President's program may come to see it not as an effort of the President to pack the Supreme Court in order that it may respond to his will, but to provide, by a series of steps—all of which may not be necessary—for the eventual liberalization of the Court.

The President has proposed a program of far-reaching importance. It should be considered in the light of reason and not under emotional strain. Above all things, it should be considered on the assumption that the President of the United States in appointing Judges, the Senate in confirming them, and the Judges in assuming their office, will all be faithful to their oaths of office and will exercise a conscientious judgment in the fulfillment of their duties.

Every clamor now raised against any part of the President's program really could have been raised against the adoption of the Constitution itself. The Constitution gave the Congress the power to determine the number of judges in the courts. The Constitution gave the President the power to appoint all the Federal judges. The Constitution gave to the Senate the power of confirming or rejecting Presidential appointments.

Are we at this day to attack the exercise of those powers as destructive of the fundamental institutions of our Government? Or are we calmly to consider how and when those powers should be exercised in order that the entire Government of the United States may function as it was intended to function, to express in the laws of the United States the will of the people of the United States?

It is not the law written 150 years ago by the people of the United States, but the law written in the last few years by five Justices of the Supreme Court, which a majority of the people believe should be changed. If the people object to the laws written by Members of Congress, they express themselves by changing the Members of Congress. If the people objected to a law written by a judge who was subject to election, they would undoubtedly insist also upon electing another Judge in his place. But when a majority of the Judges of the Supreme Court write law which is objectionable to the people, they cannot change those Judges, because they are appointed for life.

The obvious way in which the people can change that judge-made law, is to induces Judges who do not understand and are not responsive to the prevailing opinion of the times to retire, so that Judges equally learned in the law but having a better understanding of existing social and economic problems may succeed them.

It is no reflection upon the integrity or conscientious devotion to duty of a Justice of the Supreme Court to criticize his opinions, or to suggest that a Judge who is out of step with the generation for which he is a public servant should retire. On the contrary, we must recognize that a Judge who is conscientiously convinced that laws enacted by the Congress are inconsistent with his interpretation of the Constitution cannot be expected to change his opinion merely because it is unpopular. Nor should there be the slightest suggestion that any man appointed to the Supreme Court of the United States should surrender his convictions regarding the law of the Constitution merely because of public opinion. But it is reasonable and proper to assume that Judges who believe the Constitution should be narrowly construed to restrict the legislative power, and Judges who believe that the Constitution should be liberally construed to sustain the legislative power, will decide many vital questions of constitutional law entirely differently.

Congress has opened the way to what I believe should be a proper solution of the present difficulty. Both Houses passed the optional retirement bill. When the House Judiciary Committee, of which I am ranking member, reported this self-same bill out during the last session, we were authoritatively informed that if the bill were passed, at least two of the Justices would retire.

Therefore, there was disinclination of the Judges to retire, because the statute only provided that Judges who had served at least 10 years upon reaching the age of 70 had the right to resign at full pay. The late lamented Justice Holmes had resigned; but unfortunately, the Economy Act cut his salary in half. A special bill was passed to restore the cut; and then one of the deficiency bills inadvertently, again, interfered with such stipend of a Judge who had resigned. A Judge who has resigned is no longer a Judge. Therefore he does not come within the constitutional prohibition that Congress cannot curtail his salary during his natural life. A Judge who has retired is a Judge subject to call. His salary is immune to congressional attack.

This retirement bill of the last Congress had been approved by our Judiciary Committee and had been reported favorably to the House, where it was defeated because of activity on the part of the American Bar Association. That association has now seen the light and approves the bill on the President's desk for signature, it having passed both Houses during the past fortnight.

I recently had a conference in Washington with a distinguished jurist of highest authority—he shall be nameless—and heard from him words of rare wisdom. He counseled delay. He said that time settles many things; that in due course the problem of the Court would settle itself. While he did not indicate it in so many words, the fair implication of his language was plain—two, if not more, of the Justices would soon retire if the retirement bill were passed. I asked, "Within what period?" He responded, "Six months to 1 year." Frankly I believe it to be most desirable to wait a year, if necessary, to make some of the older judges see the handwriting on the wall.

Of course, while the papers carry headlines on the controversy, no Judge would be likely to retire. It might be deemed resignation under fire. It might be considered spineless surrender. Later, when passions die down and calm returns, retirement may be made with grace and dignity.

In any event, as soon as the President signs the retirement bill, I believe we can point out that the issue is now with the Court itself. In a certain sense, the Court has been challenged. In a sense, the President has thrown down the gauntlet. Several times before in our history the more vigorous of the Judges had importuned one or more of their more senile colleagues to retire.

Chief Justice Hughes, in his lecture at Columbia University in 1928, informed us that a committee of the Court waited upon Justice Grier, to advise him of the desirability of his retirement.

Chief Justice Hughes said:

"Some Judges have stayed too long on the Bench. • • • Justice Field tarried too long on the Bench. It is extraordinary how reluctant aged Judges are to retire and to give up their accustomed work. They seem to be tenacious of the appearance of adequacy. I heard Justice Harlan tell of the anxiety which the Court had felt because of the condition of Justice Field. It occurred to the other members of the Court that Justice Field had served on a committee which waited upon Justice Grier to suggest his retirement, and it was thought that recalling that to his memory might aid him to decide to retire."

Justice Harlan waited upon Justice Field, and drew his attention gracefully, but with difficulty, to the need for his retirement. Soon after Judge Field retired. It is now the duty, similarly, of some of the virile and younger Judges, within the next 6 months or a year, to persuade their older and less vigorous brethren to retire. If these Judges fail to take heed or warning, other remedies may have to be devised or adopted.

Perhaps requiring a declaration of a staute as unconstitutional should require more than a bare majority vote of the Justices. Perhaps by a vote of 7 to 2. Concurrence of at least two-thirds of the Justices to declare a law unconstitutional was talked about over a hundred years ago, and twice almost was enacted into law. Of course, the present Court would not permit itself to be thwarted by such a means. It would declare such a statute unconstitutional.

The majority-rule principle seems to be inherent in our political system. It is age worn. Therefore, a constitutional amendment may be necessary. It is interesting to note that a bare majority vote is often employed in our political system—impeachment proceedings, ratification of treaties by the Senate, presentment of constitutional amendment by Congress, and ratification by the States. Furthermore, it might be well to add the provision that the Supreme Court shall have exclusive jurisdiction over constitutional cases with the requirement that cases involving the constitutionality of statutes shall be brought to the Supreme Court immediately, with consequent avoidance of costly delay.

What other remedies should be adopted only time can tell. Meanwhile I counsel delay and patience.

Air Transportation Problems

EXTENSION OF REMARKS
OF
HON. PAT McCARRAN
OF NEVADA
IN THE SENATE OF THE UNITED STATES

Wednesday, May 12 (legislative day of Tuesday, May 11), 1937

ARTICLE FROM U. S. AIR SERVICES FOR MAY 1937

Mr. McCARRAN. Mr. President, I ask unanimous consent to have inserted in the RECORD an article appearing in U. S. Air Services, entitled "Your Attention, Mr. Crowley!"

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From U. S. Air Service for May 1937]

YOUR ATTENTION, MR. CROWLEY!

You are ambitious and you love power, Karl Crowley. The record of your official activities supports this statement. You seem to have chosen to make this Nation's air-transportation problem your stepping stone to somewhere. There is nothing wrong with that if your aims and methods are constructive and your motives patriotic. But what of your aims, methods, and motives? Why are you, a counselor to administrators, so much in the spotlight? Are your associates in the Post Office Department embarrassed when you seem to invade the province of others in the Department? Are your methods injuring the prestige of your Department?

ONE-MAN OPPOSITION

If it is true, as reported, that you stated recently before a congressional committee that you were the only one in the Post Office Department who was actively opposing the bills S. 2 and H. R. 5234, that is news worthy of public attention. These bills are said to propose for air lines substantially the same control and opportunity for stability that Congress in past years prescribed for the railroads. We believe they are in the public interest, and they seem to give the Post Office Department even more power over air-mail movements than the Department now has over railway-mail movements. In our opinion such legislation is following a natural course, and we are not impressed by your arguments against these bills. Is yours a personal campaign in opposition? Are Messrs. Farley and Branch in sympathy with your comments on public policy? Are such esteemed builders of the Air Mail Service as Messrs. Cisler and Graddick in agreement with you? Candidly, we doubt that you have any important support in your campaign against the above-mentioned constructive legislation.

Our readers may not know that as Solicitor of the Post Office Department (and we believe the only departmental solicitor not appointed by the President) you were the counselor whose advice was followed by Postmaster General Farley when he canceled in 1934 all contracts for the carriage of air mail. You were the author, according to Mr. Farley, of a letter dated February 14, 1934, signed by the Postmaster General, assigning reasons for one of the strangest events in American political history, the canceling en masse at one fell swoop of an entire group of contracts with the Government covering an entire governmental activity. No doubt the thrill that comes from the exercise of power surged through your veins at that time.

We have no desire to drag out the skeleton of 1934 in this third year of new faces and new air-mail contracts in the air-transport industry. However, a review of your activities in connection with our national aviation problem has become necessary, and the fact that Postmaster General Farley stated to a Senate committee in 1934 that he was doing what he did and making his answers by advice of counsel, is important.

MISREPRESENTATION CHARGED TO CROWLEY

"At least 17 times the Postmaster General testified before us that he did what he did upon the advice of and upon the representations made to him by that man" (Crowley). We are quoting from remarks on the floor of the United States Senate in April 1934.

"We have Crowley's admission that what was taken to the President was the document which we had in our committee and which shows misrepresentation after misrepresentation in order to create the impression that there had been fraud and collusion in letting the contracts, in making the extensions, and in changing contracts into certificates."

There have been hearings during the past 2 years on proposed changes in the "vindictive" Air Mail Act of 1934, and in all of

them, Mr. Crowley, we believe you have been an active opponent of constructive changes. It is all a lengthy record printed and bound. The year 1937 finds you still active in an effort to control or influence air-transport legislation. Why do you do it? Why do you interfere with the deliberate action of congressional committees on an economic problem? There are many statements by you recorded in connection with 1937 hearings on bills S. 2 and H. R. 5234 that we believe to be clearly outside the scope of the functions of a Solicitor of the Post Office Department.

WHY SHOULD POST OFFICE CONTROL AIR TRANSPORT?

The following is typical of editorial comment we have seen during the past month:

"If common sense is to have any standing in connection with regulation of transportation by air, the whole job will be turned over to the Interstate Commerce Commission for exclusive handling. It is the only way by which the industry can be protected from politics and given a chance to develop itself so as to render to the public the best possible service."

You will probably say that this sounds like the remark of some Republican, in answer to which we will quote you from the remarks of that outstanding Democrat, Senator McCarran. He said during the 1934 Senate debate on the present Air Mail Act:

"We now propose to enact new legislation that will take the place of at least a part of the McNary-Watres Act. * * * But are we building or are we merely tearing down? * * * There must come something out of this (the air-mail contract cancelation and 1934 Air Mail Act) that will be forgetful of the past and only used as a framework by which we will build the future. * * * Let us build something that will be worth while. * * * Commercial aviation should be out of the hands of the Post Office Department. It has no place there. The Post Office Department has a commodity to ship, by commercial aviation and by rail and by water; but the fact that it has a commodity to ship is no reason why it should control the avenues through which the commodity should be shipped any more than a private individual, a great shipper, should control the avenues by which his commodity should be transferred from one State to another."

PATRONAGE AND TRANSPORT SHOULD NOT MIX

We continue our quotation from the Senate record of remarks by McCarran, Democrat, from Nevada:

"For sometime past—I do not know why—the office of the Postmaster General has been the office through which public patronage seems to have been dealt out under different administrations. * * * Why should we say that a great governmental agency having in its control one of the most vital things in national life, namely, the distribution and carriage of mail—and which by an unwritten law seems to have inherited the distribution of political patronage, should also control, by legislation enacted by Congress, the carrying of the mail by air, when, as a matter of fact, the navigation of air and the method of carrying the mail in that wise, is a new science only in its making? * * * Why should we adopt the method heretofore followed, when all that we can say of the result of past legislation is that we have brought a cloud upon a former Postmaster General and brought the present administration to its first dilemma, by reason of that very agency?

"As a Democrat, I wish to God that Postmaster General Farley had never had control over the air mail * * * it has presented the first opportunity or avenue for criticism on the part of those who would criticize the present administration * * * yet the bill now pending introduced by the chairman of the Committee on Post Offices and Post Roads [McKellar] proposes to put that control right back where it was * * *."

Since these words were uttered in 1934, Senator McCarran, of your own party, has consistently urged legislation to correct uneconomic features in the Air Mail Act of 1934.

SENATOR BLACK FAVORED I. C. C.

Senator Hugo Black, Democratic chairman of the well-known Special Senate Committee to Investigate Air Mail and Ocean Mail Contracts, followed Senator McCarran in the debate of 1934, and said: "I thoroughly subscribe to the Senator's (McCarran's) idea, as he understands, that we should take it out of the Post Office Department, and I shall be very glad indeed if the bill shall be amended * * * so that the I. C. C. may take charge and fix rates."

HOUSE COMMITTEE CHAIRMAN MEAD O. K.'S

Chairman "Jim" Mead, of the House Committee on the Post Office and Post Roads, was constructive in 1934, and is quoted:

"I want to say that our committee * * * made the revision in order to comply with the administration's request that we create a commission to study every phase of aviation." (Reference is to that part of the bill proposing Air Mail Act of 1934 which provided for the Howell Commission.) "The bill sets up a commission to study commercial, military, naval, manufacturing, experimental, and every phase of aviation, and to recommend the adoption of a national aviation policy. And that I believe will be very helpful to the industry and the country."

WE QUOTE PRESIDENT ROOSEVELT'S APPROVAL

The Howell Commission made the study referred to by Congressman Mead, and a portion of the President's letter of transmittal which accompanied the report when it was given to the Congress in January 1935 states:

"The Commission suggests that the I. C. C. be given temporarily the power to lower or increase air-mail rates as warranted, in their judgment, after full investigation. The purpose of this is to prevent the destruction of any efficiently operated part of the present system pending suitable consideration by the Congress of what permanent measures should be taken and what amendment, if any, the present general transportation policy of the Government should undergo. I concur in this recommendation."

PERFECTLY SILLY, MR. CROWLEY

It is for your benefit, Mr. Crowley, that we have been quoting all of this good Democratic philosophy relating to air transport in this country. Probably more than any one man in the Government, you are responsible for the gradual growth of a coolness between the Post Office Department and the air-mail contractors. We have talked with a number of them and find a feeling of regret that this is true. They appreciate fully the pioneering guidance and encouragement given by the Post Office Department during the development of the Air Mail Service. They praise highly Mr. Cisler, superintendent of mail transportation, and Mr. Graddick, superintendent of air mail, for current activity. They are puzzled and baffled because Mr. Branch, Second Assistant Postmaster General, in charge of air mail, says so little, while you say so much that foments unrest.

Another thing—you cannot afford to have an outstanding Democrat like Senator Wheeler saying, "It is perfectly silly, Mr. Crowley, to make such a contention as that", as he did during some of your arguments before his committee April 8. That's no kind of build-up for a man who has been mentioned as gubernatorial timber in Texas. Furthermore, Congress will probably agree with Wheeler on the point that under some circumstances air-line consolidations should be permitted. He said, "It seems to me that the power (to permit economic consolidations) ought to be vested in some body. We permit consolidations of railroads. * * * We not only have permitted them but we have tried to get them to do it in certain cases. That is a policy that was laid down by the Congress."

CROWLEY'S QUEER INCONSISTENCY ON CONSOLIDATIONS

Why did you get into an argument with Senator Wheeler in opposition to an amendment designed to make economic consolidations lawful, when you must have known that your approval of the Pennsylvania Airlines-Central Airlines consolidation would raise a question of legality under the present Air Mail Act? Section 15 of the Air Mail Act provides that "it should be unlawful for air-mail contractors competing in parallel routes to merge or to enter into any agreement, express or implied, which may result in common control or ownership."

You permitted the two named lines to transfer their mail contracts to a consolidated company and you told Senator Wheeler that "both of the contractors * * * insisted that * * * this prohibition applied to the transfer only of air-mail routes." In making that last statement you asked for what you got, and Wheeler let you have it in the following form: "Do you take the word of the airplane people, or do you construe the law yourself?"

Before we leave the Penn-Central matter the following bit of 1937 dialogue may be of interest to posterity:

"Senator McKellar. If these companies have violated the law, they ought to be prosecuted. The fact that the Postmaster General gave them the right would not excuse them for violating the law.

"Senator Wheeler. Excepting this, that of course they could not have done it if the contract had not been transferred.

"Senator McKellar. I think it is clearly, to my mind, a violation of this law, and I never would have advised the Postmaster General to do it."

So even Senator McKellar had to desert you here—a serious incident for you, when one recalls how faithfully he endeavored to ask you the questions you appeared to want to answer, during recent hearings on S. 2 before Mr. Wheeler's Senate committee.

WHAT TO DO ABOUT IT?

All that has been stated above is put down with the hope that you may grasp mentally the seriousness of your personal position, which seems clearly not constructive. The American people want stable and rapid aviation development. Their patience will be short lived toward any individuals who attempt to retard that development. You helped teach a few Wall Streeters that lesson in 1934.

Why not reconsider your own course and become a constructive factor—a builder of our national aviation? Why not abandon your ridiculous contention that air-mail contractors (collectively) are subsidized this year? It is not true! We challenge you to prove that it is true, and we do not intend to accept the published Post Office Department figures based upon an annual count for 1 week in only 300 of forty thousand-odd post offices in the United States. Upon the basis of the questions raised during the I. C. C. hearing on Air Mail Docket No. 19 this publication intends to become a crusader against the insidious propaganda that air mail is subsidizing scheduled air transport in the United States. We do not believe it! Whether or not we undertake the job of telling the American people the facts related to the subject of Air Mail Docket No. 19 will depend largely upon your attitude during the coming weeks.

Lest there be some doubt, let us make it clear to the Post Office Department that this publication will also crusade against any air-mail contractor or group of contractors who may in the future contend for unreasonable air-mail compensation. We want to see the Post Office Department pay a fair price for the carriage of the air mail. We believe the air-mail carriers want no more than is reasonable. We believe the I. C. C. can determine what is fair and reasonable. So why, Mr. Crowley, should anyone engage in silly misrepresentation? Let's get together on a national aviation policy based on economic facts.

Control of Floods

EXTENSION OF REMARKS
OF
HON. BENNETT CHAMP CLARK
OF MISSOURI
IN THE SENATE OF THE UNITED STATES
Wednesday, May 12 (legislative day of Tuesday, May 11), 1937

EDITORIAL FROM THE ST. LOUIS STAR-TIMES

Mr. CLARK. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an editorial from the St. Louis Star-Times entitled "The Floods and Congress."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the St. Louis (Mo.) Star-Times]

THE FLOODS AND CONGRESS

The latest flood, tumbling down the Ohio and threatening the Mississippi, less than 4 months after the vast devastation of January and February, is the strongest argument for getting an adequate flood-control program through this session of Congress. The movement in that direction began while the midwinter catastrophe was still vividly real, gained momentum with the 23-State conference held here in March under auspices of the Mississippi Valley Association. Next week in Washington a Mississippi flood-control committee will meet to add its force to the fight for legislative action.

Unfortunately, this program is running head-on into an equally powerful congressional trend toward economy and a balanced Budget. This trend itself is to be commended, but it must be remembered that there is always hostility in Congress toward any real-sized program of flood control. The best chance for such a program is while the urgent need for it is being driven home by two mighty floods.

Maj. Gen. E. M. Markham, Chief of the Army Engineers, in an address to the St. Louis flood conference in March, estimated the cost of the last 2 years' floods in the Ohio Valley at $700,000,000. The cost of flood control, he stated, would be about one and one-half times that much, and would protect the valley probably for "all time." At the same conference Senator CLARK declared that thorough tests by Army engineers in the lower Mississippi had demonstrated that they can effectively control floods, and that failure of Congress to appropriate for an adequate flood-control program at this session would be "criminal folly."

There can be no question that the major part, if not all, of the financing of the program must be done by the Federal Government. So sudden and so widespread is the havoc done by a flood like that of last winter that it would bankrupt most localities to attempt to recoup their losses by their own resources, much less engage in a control program. Add to this the serious national effects of enormous farm land erosion and destruction of crops—and repeat this picture of destruction again and again as successive floods have their way with one of the most fertile areas on earth.

If a hostile army were threatening to wrest this great valley from us, with its cities and farms and unexcelled natural resources, there would be no hesitation in financing a program of defense. There is a far more deadly enemy in the floods devouring this region and destroying it beyond hope of recapture. The Nation looks to Congress to take arms against the menace.

Competition in the Air

EXTENSION OF REMARKS
OF
HON. PAT McCARRAN
OF NEVADA
IN THE SENATE OF THE UNITED STATES
Wednesday, May 12 (legislative day of Tuesday, May 11), 1937

ARTICLE FROM THE NEW YORK HERALD TRIBUNE

Mr. McCARRAN. Mr. President, I also ask unanimous consent to have inserted in the RECORD an article appearing in the New York Herald Tribune of Sunday, May 2, by Mr. C. B. Allen entitled "Air Lines Face Possible 'War' Over Invasion of Each Other's Established Routes."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune of May 2, 1937]

AIR LINES FACE POSSIBLE "WAR" OVER INVASION OF EACH OTHER'S ESTABLISHED ROUTES—COMPETITION UNDER THE DISGUISE OF "SEPARATE" FIRMS MAY REVIVE BOOM-TIME CUTTHROAT TACTICS—NEW YORK-BOSTON "INDEPENDENT" WITH VIDAL AS HEAD IS ONE OF SEVERAL SUCH ENTERPRISES EXPECTED; PENDING LEGISLATION MAY SETTLE PROBLEM BY PUTTING I. C. C. IN CONTROL OF AVIATION MAP

By C. B. Allen

Rumors are abroad in the aviation industry of an impending war between various air-line operators, of plans to "go off the reservation" and invade each other's territory with parallel services under the disguise of "independently" organized companies. It begins to look as if the boom-time, post-Lindbergh flight era of dog-eat-dog competition in air transportation is about to be ushered in again on top of all the headaches that have befallen the industry in the last 4 years. Some observers say that if the trend isn't checked it will end in chaos; others insist it is the only path to continued progress in aviation. Viewpoints probably depend to a large degree upon whether the prophet is striving to hold on to something he has or trying to lay hands on something he wants.

Under present air-mail laws, of course, one air line cannot establish parallel services in territory served by a rival company without jeopardizing its own Post Office Department contracts. Rates of pay under these are revised from time to time on the basis of the air lines' earnings, from other sources, and the Government, logically enough, has refused to permit any off-line activities by one contractor which would cut in on the passenger and express revenues of another and thereby force it to make up the latter's losses in larger air-mail payments.

At the same time neither the Post Office Department nor any other branch of the Government now has the power to prevent an operator without air-mail contracts from starting up a competitive passenger and express service on any route in the country which appeals to him, provided he meets the same standards of safety required of the established air lines.

OUTSIDERS EYE "CREAM ROUTES"

During the depression this possibility was only an academic menace—no one exhibited any serious interest in trying to run an air line without a guaranteed business backlog of air-mail patronage—but with the return of more prosperous times this picture is changing. Numerous "outsiders" are beginning to look with covetous eyes on the "cream route" monopolies of the current air transportation map of the United States, and certain of the present operators have indicated their eagerness to find ways and means of extending their sphere of activities at the expense of their competitors.

One of the most probable and imminent developments in this field is a route between New York and Boston paralleling a service that has been maintained by American Airlines and its predecessor companies for 10 years. Reports indicate that this enterprise will be launched in the near future by a group with Eugene L. Vidal, former Director of Air Commerce, at its head and that the equipment to be used will be Douglas DC–2 monoplanes supplied by Transcontinental & Western Air—Lindbergh Line—as these ships are replaced on T. W. A.'s route by newer and larger DC–3 Douglases which T. W. A. ordered some time ago.

Avowedly the deal between Mr. Vidal's group and T. W. A. will be an out-and-out transaction in second-hand airplanes for which T. W. A. has little or no further use. But American Airlines, a formidable business foe of T. W. A. in the transcontinental and New York-Chicago field, has already felt the sting of rate war and other competitive practices resorted to by its rival, and is inclined to no such innocent view of the "invasion" of its territory.

Possibly American is merely trying to head off Boston-New York competition by throwing a good bluff, but reports are getting around that, when and if erstwhile T. W. A. Douglases start flying between New York and Boston, a fleet of similar ships which are no longer vital to American Airlines operations will be disposed of to an "independent" though friendly company for service on T. W. A.'s New York-Pittsburgh run.

It is also rumored that the "reprisal route", purely as a matter of business enterprise, of course, might be extended parallel to T. W. A.'s transcontinental run as far as Columbus, Indianapolis, and St. Louis. American Airlines happens to have radio stations and other facilities in Pittsburgh, Columbus, Indianapolis, St. Louis, and other cities along T. W. A.'s route which are used in connection with its present network of noncompetitive lines, and it could scarcely be penalized by the Post Office Department if it allowed a friendly company which had taken a batch of obsolescent airplanes off its hands to use these airway aids on reasonable terms.

The possibilities of this sort of cutthroat competition, once it is started by the major air lines, are almost limitless. Some of them feel that it is certain to be ruinous; others apparently are not so sure that the "chaos" it would create by throwing the air transportation picture wide open again might not prove beneficial in the long run, if not to aviation as a whole, at least to the surviving operators. Which is correct and whether the industry ever will be forced to face this issue only time can tell.

At the moment a majority of those in the industry seem to favor legislation pending in Congress which would put the air lines wholly under control of the Interstate Commerce Commission and make it impossible for operators, be they air-mail contractors or otherwise, to set up new routes without first obtaining I. C. C. certificates of convenience and necessity, such as must be obtained by railroads before they can establish a new line.

The I. C. C. already exercises an important function with respect to the air lines in that it establishes equitable rates which must be paid them by the Post Office Department for flying the mail, but there is no present way of preventing unrestricted competition except on the part of companies which hold air-mail contracts.

Mr. Vidal contends that wide-open competition on such heavy-traffic routes as that between New York and Boston, New York and Washington, and New York and Chicago, stimulates far more air travel than ever would result if any one line were allowed to have a monopoly. In support of this he cites the record of the old Ludington Line from here to Washington, with which he was connected before becoming Director of Air Commerce; he says that so many passengers never have been carried between these two cities as were flown when Ludington and Eastern Air Transport were fighting for patronage on this run 5 years ago.

GOOD EVEN WITHOUT MAIL

And Mr. Vidal believes that with modern, large-capacity planes, the sort of operation that enabled the Ludington Line to "stay in the black" during the time he was with the organization, despite the fact that it had no air-mail contract, will make it possible to run a New York-Boston passenger and express route on a very profitable basis. This is particularly true, in his opinion, because a nonmail contractor can set his schedules to suit the convenience of the traveling public and not the odd-hour requirements of the Post Office Department, which frequently motivate against paying-passenger loads.

Civilian Conservation Corps

The necessity for making the C. C. C. a permanent American institution nowhere exists. The proposition violates and is contrary to American ideas and ideals of democracy. Moreover, the expense to the taxpayer is prohibitive. The suggested program is devastatingly disastrous from the standpoint of what is best for the youth of America.

EXTENSION OF REMARKS

OF

HON. CHARLES A. PLUMLEY

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1937

Mr. PLUMLEY. Mr. Speaker, no man in this House has been more outspokenly an advocate of the C. C. C. as a temporary expedient than I have been. I am emphatically opposed to making it a permanent activity of the Government, and to the creation of another permanent bureau.

In the first place the expense involved is to be considered. It is estimated that the continuing annual cost will run from $345,000,000 to $500,000,000, depending upon the number enrolled. Now, Mr. Speaker, the President undertakes to lay the blame for the expenditure of the taxpayers' money on Congress. But here he comes, as heretofore he has come, recommending the appropriation and the expenditure of $500,000,000.

As our friend Mr. RICH, from Pennsylvania, has so often asked us, "Where is the money coming from?" With a public debt of over $35,000,000,000, in fact approximating $40,000,000,000, and with a deficit for this year which will come close to $4,000,000,000 more, I say that the program of spending the taxpayers' money, which is endorsed and encouraged by the President himself, and carried out by those who are shoveling out the dollars with the abandon and wantonness of inebriated incendiarists, must be stopped, and now.

In the second place, there is a serious question whether there is longer any necessity, speaking from the standpoint of necessity, for this particular kind of training for American boys. I am opposed to denying initiative and crushing incentive and individualism by inducing or fostering the growth of a perpetual army of 300,000 American boys, who will be led to believe and given to understand that the Government owes them a living, and that this is a good Government to live under so long as they can live off it.

The C. C. C. never should be made permanent. This attempt to create a permanent corps of 300,000 and upward of the youth of this country to be fed and clothed and housed, all at Government expense—and this means the taxpayers' expense—as against the millions of those boys who have the intestinal fortitude to work their own way on farms, the roads, and in the lumber camps, in industry, and, in fact, in any old place where they can make an honest dollar, get a living, and an education; this alinement of class against class is devastatingly unfair and invidiously discriminating. In the long run it will engender hatred and strife and breed all the "isms" except Americanism. It is an insult to the intelligence of the upstanding, red-blooded, self-respecting young men of America to suggest that there is no future for them except a hand-out of a dole and that their opportunities are not as great as those their fathers had.

The end of all things has not come to and for American youth. It will not come if we realize our responsibilities and put a stop to such propositions as this, to put the youth of this country on a perennial and perpetual dole.

There is another thing about this present measure which I do not like, and that is it contains the proposal to give the President unwarranted and unlimited power over an agency which Congress is creating. It is another attempt by the Executive to make this a one-man government; to usurp the rights and prerogatives of Congress; to take away from the legislative and appropriating branch of Government the right which is its, and which it should continue to control, namely, to insist upon the right to say how and when and where the money which is appropriated by it shall be expended.

I will not vote to give the President or the Director of the C. C. C. any such potential power, and possible authority as is contemplated and is undertaken by this act to vest in them; either, or both.

The needlessness of the proposed program of permanency for the C. C. C. is incidentally evidenced by the fact that there are 100,000 vacancies still existing; they cannot get the full and complete enrollment for which the money they are seeking to have appropriated will be expended. Apparently 100,000 jobs have been found by those who otherwise might have been seeking the comforts afforded by the C. C. C. camps. That is the answer. And it is the answer to the whole business.

A job, not a dole, is what every self-respecting American boy wants. Industry and private employment are embarrassed today by their inability to find the necessary help, because many of these boys from 17 to 23 prefer the life and opportunities afforded by the C. C. C., rather than the jobs which farmers, lumbermen, and private industry have to offer.

It will be a sad day for America when 350,000 boys get it into their heads, annually, that Uncle Sam is a Santa Claus.

The time to stop making temporary bureaus permanent is now.

The time to stop the reckless spending of the people's money was yesterday; and always.

Maine at Valley Forge

EXTENSION OF REMARKS

OF

HON. RALPH O. BREWSTER

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1937

ADDRESS BY HON. RALPH O. BREWSTER, OF MAINE, AT VALLEY FORGE, PA., ON APRIL 25, 1937

Mr. BREWSTER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include a portion of my address representing Gov. Lewis O. Barrows, of the State of Maine, at the dedication of a bell in the carillon at the chapel at Valley Forge, given by the Maine chapters of the Daughters of the American Revolution, on Sunday afternoon, April 25, 1937, as follows:

America may well now ponder why Valley Forge is a household word. More than any other place on this continent it symbolizes the American Gethsemane.

Here Washington and his little band of patriots passed through the valley of the shadow and emerged into eternal glory.

MEN FROM MAINE

Startling as it now seems, it is well to remember that Maine, perhaps, played a greater role at Valley Forge than any other section of our land. At the right hand of George Washington stood Gen. Henry Knox, from Maine, as unflinching as the rock-bound coast of our beloved Pine Tree State.

In that little band of 10,000 heroes we may not remind ourselves too often that there were more than 1,000 men from Maine.

The province of Maine comprised a population of 54,463, scarcely one-sixtieth of the approximately 3,000,000 that then composed the population of the embattled Colonies. Yet the consecrated courage of that province furnished one-tenth of the men who stayed with Washington throughout that tragic winter at Valley Forge.

More than six times our proper quota responded to that epic call and came across 500 miles of life-endangering roads, beset at every turn by Tory threats. They left behind home and loved ones in the uncertain perils of the wilderness and the savage and the constant menace to this province from the British on the north.

Let us remember also that 500 miles in 1777 was easily the equivalent of 5,000 miles today, if one contemplates the means of transportation and communication that were available in those days.

What agonies of ignorance crucified both those who were left at home and those who were suffering here at Valley Forge.

We like to think that these men were typical of the steel and fiber of Maine. We like to think that we today are worthy to be counted as their kin.

A great seer has well said that history is the shadow of its great men. So the spirit of Washington casts its shadow from Valley Forge across the sagas of suffering and devotion that mark the progress of the world.

And beside Washington at Valley Forge, as well as at Boston and Yorktown, marched at his right hand a man from Maine.

Through all those terrible 8 years of suffering and tragedy, from the siege of Boston on to the triumphant siege of Yorktown, and on through the 8 years of the Presidency stood, like a granite bulwark from the Maine coast, the figure of Gen. Henry Knox.

Gaining the confidence of Washington in his courage and determination by bringing the cannon through the woods from Vermont to settle the siege of Boston, Henry Knox was the faithful aide of his great master in the terrific test that lay ahead.

Though difficulties and discouragement threatened on every side, Washington could always turn with full confidence to Knox.

When Washington went aboard the flagship to consult Admiral Rochambeau at Yorktown on the plans for the joint operations with the French fleet, on which so much depended, his only companion was General Knox, from Maine.

The Boston book clerk became Chief of Artillery and successively Chief of Staff, and in later days our first Secretary of War, with jurisdiction over both our Army and our Navy in our national defense.

One may picture with what comfort and consolation President Washington turned to his old comrade in arms in the sessions of the Cabinet which were already disturbed with the conflicting ideas of Hamilton and Jefferson.

A MAINE WOMAN AT VALLEY FORGE

One rarely thinks of women in connection with Valley Forge. Yet Martha Washington was the ministering angel of the camp—nursing and knitting with the indefatigable devotion of a Florence Nightingale for the needs of 10,000 suffering men.

And always with her through those tragic days was Lucy Knox, of Maine, who left her patrician relatives in Boston to throw in her life lot with the rebellious book clerk, Henry Knox. It is thus altogether fitting that women of Maine should gather here today to dedicate this bell. May this bell ring out through the years to come the story of the heroism of those who struggled and sacrificed here 160 years ago to make America free.

May the peals of this bell inspire their descendants to preserve and protect America at every future Valley Forge.

A National Land Policy

EXTENSION OF REMARKS

OF

HON. HUGH PETERSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1937

RADIO ADDRESS BY HON. HUGH PETERSON, OF GEORGIA, ON MAY 12, 1937

Mr. PETERSON of Georgia. Mr. Speaker, under leave granted to extend my remarks in the RECORD I include a radio address I delivered over the Columbia Broadcasting network from Washington, D. C., on Wednesday, May 12, 1937, as follows:

I am very grateful to the Columbia Broadcasting network for inviting me to use its facilities at this time to discuss with the American people personally the national land program which I am advocating.

During recent years, as you well know, this Nation has experienced an economic crisis which has threatened the future welfare of this country.

In the hour of emergency, artificial stimulants have been hastily administered, and those in places of leadership have worked diligently to restore the country to its normal healthy condition.

Many permanent remedies have now been applied.

Industry and commerce have been rehabilitated.

Social legislation guaranteeing economic security and social benefits for industrial workers has been adopted.

Other similar measures of equal importance have been passed.

In one important field, however, that of agriculture, only temporary emergency treatment has yet been given.

There has been no legislation adopted which will permanently reestablish the farm population of this Nation on a self-sustaining basis.

As a Member of Congress, I am promoting a national land program designed to accomplish this result.

There are those who, in dealing with this problem, advocate the impractical and fantastic theories of socialism and communism, which lure us away from the true pathway of human freedom, and only lead us deeper into the wilderness of despair.

I propose that we return to sound American policies; and that Congress at this time wisely appropriate merely a small portion of the annual sum which it is now spending on a temporary farm-relief program in providing a permanent program which will reestablish our farm population in their own farm homes, free of debt, and thus permanently restore the Nation's rural economic life to a condition of normal prosperity.

Agriculture is the foundation of our economic structure, and there has always prevailed in this country a land policy which has assured the farm population of free access to the soil.

Free farm homesteads have constituted a cornerstone of our free government. They have been a city of refuge, affording a haven of safety where a citizen may provide the necessities of life for his family free from the threat of tenantry and serfdom.

Today, with no more free farm lands available in this country, the national policy of free farm homesteads is no longer effective. And the Federal Government has made no effort to revive or replace it.

For 40 years agriculture in the United States, without the protection of a definite national land policy, has been gradually drifting into the clutch of commercial and industrial practices which have prevailed for centuries, and which, when permitted to go unchecked, have invariably destroyed the independent farm home and reduced agriculture to a condition of serfdom.

Under such conditions free institutions cannot survive, and unless the farm homes of this Nation are rescued from their present hopeless plight our great system of free government shall crumble and decay.

Experience has demonstrated that proper homestead laws do provide a sure means of securing the independence of agriculture, and I firmly believe that the Federal Government should revise our homestead policies to meet the present vital needs of this Nation's farm population.

Two-thirds of the Nation's farm families are today bankrupt.

Those who advocate a system of Federal farm mortgage loans as a method of relief are proposing a program which will only add fuel to the flames.

The farm mortgage is the instrument by which the farm family has been reduced to poverty. And it is futile to think that Government mortgages can or will accomplish any more in solving the farmer's problems than have mortgage loans by private agencies.

Government mortgage loans only lead to Federal supervision and dictatorship.

Homesteads free of debt, provided by the Government, is the only way out. These homesteads, however, should not be subject to future debt or encumbrance. This is the soundest, the most practical, and the most economical method by which the problems of agriculture may be solved.

There is nothing new in this proposal.

The old Mosaic law, which for over 30 centuries has been recognized as a basis for civil conduct, clearly sets forth the principle of free farm homesteads.

In our own country this principle has always prevailed.

Each of the Thirteen Original Colonies was settled by families whose farm lands were given to them free of debt.

Every State of the Union was settled by families whose farm lands were given to them free of debt.

In 1803 our Federal Government purchased over 500,000,000 acres of land from France and gave from this tract lands free of debt to farm families. In 1819 we purchased land from Spain. In 1848 we purchased land from Mexico. In 1850 we purchased land from Texas. In 1867 we purchased land from Russia. And in each instance we have given from these tracts lands free of debt to farm families.

I propose now that we purchase liens on farm lands from loan agencies, cancel the farm-mortgage debts, and give homesteads free of debt again to actual farm families. This time, however, I propose that we protect these homesteads from again becoming subject to debt or encumbrance.

This law will be administered through the General Land Office and will not necessitate the creation of a single new agency.

It will, however, eliminate hundreds of thousands of Government jobs and unlimited Federal agencies which have sprung up in this country only to increase the tax burden and harrass the people.

This legislation is not the work of college professors or economic theorists.

I wrote this measure myself.

In my small home county, located in the great First Congressional District of Georgia, in the heart of a strictly rural section of the deep South, I have through these years witnessed the problems of the American farmer.

I have seen numerous of my good farmer friends become the unfortunate victims of farm mortgages.

On legal sale days I have seen hard-working fathers stooped from the years of honest toil and proud mothers with babes in their arms hover near the courthouse door, surrounded by a thinly clad family of fine American children who yearn only for an opportunity to enjoy even the bare necessities of life. I have seen them standing there in utter helplessness and complete despair, with no hope, no means of help, no avenue of escape, as they silently listen to the clear call of the sheriff as he issues his last "fair warning" and then to the ring of the hammer as the home which this sad family loves is sold at public auction. The law has been fulfilled. The mortgage has been satisfied. And another good American family has been driven to tenantry and serfdom. The farm mortgage has been the means of their downfall.

Even now, my friends, in my home county and in yours these dramatic human tragedies are happening every day. An unfair economic system is wrecking the homes of America and destroying our great civilization.

This, my friends, is not the American way. It is not the right way. These families, created by a supreme power, have the same right to live on this earth as you and I. And they have a divine right to earn from the soil the necessities of life.

I propose in this legislation to secure for our people these essential human rights.

Do you believe your family has a right to the opportunity of earning an honest living in economic independence?

Do you love your home?

Do you believe the free home occupied by free citizens is an essential element of our civilization?

If you do, then I am appealing to you to join with me in this fight.

Today, perhaps, you are enjoying the benefits of emergency subsidies. But remember that these temporary expenditures cannot continue indefinitely.

Some day this Nation will withdraw these liberal bounties.

Then where will you be?

Now, my friends, is the time for us to accomplish a permanent recovery, to place ourselves in a position of economic independence, and to establish a sound national land policy.

This program which I am advocating is right. It is just. It is the American way. And it is in harmony with the eternal laws of Nature and the divine laws of God.

Mother's Day Address

EXTENSION OF REMARKS

OF

HON. JOE STARNES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1937

RADIO ADDRESS BY HON. JOE STARNES, OF ALABAMA, ON MAY 9, 1937

Mr. STARNES. Mr. Speaker, under permission granted me to extend my remarks in the RECORD, I am inserting an address delivered by me in the Amphitheater at Arlington, Va., and broadcast over NBC network Sunday, May 9, 1937, on Mother's Day program sponsored by the national organization of American War Mothers, as follows:

Throughout the United States this holy Sabbath is being observed as Mother's Day. This observance has the official sanction of the Federal Government, and strikes a responsive chord in the heart of every citizen who desires to pay tribute to the good and beautiful in human life and conduct.

We are assembled today in Arlington, where lie in dreamless sleep the heroic dead of our Nation, to pay tribute to the mothers of men. We acknowledge our debt to them and their gallant sons. Here at the Tomb of the Unknown Soldier and in the presence of these mounded silences of our warrior dead we pledge anew our faith in the Nation they served so gallantly and our allegiance to its institutions.

It is a well-earned tribute we pay to these mothers who have banded themselves "to keep alive and develop the spirit that prompted world service; to maintain the ties of fellowship born of that service and to assist and further any patriotic work; to inculcate a sense of individual obligation to the community, State, and Nation; to work for the welfare of the Army and Navy; to assist in any way in their power men and women who served and were wounded or incapacitated in the World War; to foster and promote friendship and understanding between America and the Allies in the World War."

Service is the keynote of character—for the individual and for the Nation. The type of service rendered unerringly indicates the spirit of the individual or the Nation. The spirit which motivates the life of a mother is one of self-denial and unselfish service. Would to God that more of this spirit and service could motivate the affairs of nations today.

This Nation was founded by men who believed in the full and unfettered development of the spirit of individualism. The Government they created has fostered this spirit until genius and initiative have brought to flower the finer things of life. Today we hear much of the doctrine of what the Government owes the individual—and many paternalistic tendencies are being encouraged by so many that it seems proper to call to the attention of all the obligations the individual owes to "community, State, and Nation." As an individual unit in our complex civilization, each citizen should cheerfully sacrifice a certain amount of individual freedom for the common good when the undue exercise of that freedom injures or infringes upon the rights of his fellows. He should willingly make his contribution in service and taxes to the support of the institutions of community, State, and Nation for the common defense and to promote the general welfare. Since this is a government of laws enacted by legislators of his own choosing, enforced by an executive selected by him and his fellows, and interpreted by an independent judiciary, he should be obedient to its mandates and inculcate a spirit of law observance and respect for duly constituted authorities in the body politic of the Nation. No man, of high or low estate, rich or poor, great or humble, is above the law.

A self-disciplined nation is a law-abiding nation. A law-abiding nation respects its obligations to its own citizens and scrupulously observes its treaties and compacts with other nations and thereby sets the example of the "good neighbor."

American War Mothers have assisted in promoting a better understanding of the needs of an adequate national defense. Today we have the most efficient Navy in our history and an Army rapidly becoming a modern motorized and mechanized force highly efficient for service in war or in peace. The esprit in all branches of the service is high. Thinking men and women appreciate the value of the Nation of these gallant sons of ours. They are preservers of the law, the defenders of our institutions and command the respect of others for our rights among the family of nations.

In this troubled world today there is need for the healing balm of friendship and the exercise of cordial good will. We need to discuss our problems openly and frankly around the council table where reason and justice may prevail. Barriers to trade and to a proper understanding of our difficulties must be removed. The promotion of trade, respect for treaties and obligations, an exchange of ideas and the diffusion of social culture will foster and promote friendship and understanding between America and the other nations of the earth.

In all these much desired activities mothers with their tender sympathies and broad spirit of understanding illumine the way. For it was mother who walked unafraid into the valley of shadows to emerge with a new life. Upon this bud of life she showered her tenderest devotion. Her care and loving attention developed the bud until it expanded to full bloom and shed upon the world the sweetness and fragrance of a life devoted to service. Mother's breast furnishes a gentle haven for childhood, her spirit the inspiration of youth, and her life the lodestar of maturity. From the cradle to the grave she keeps alive the flame of filial devotion upon the altars of the home. When her son by years of unselfish service or by sheer genius of character and intellect reaches the loftiest heights of human endeavor her pride and joy exceeds all others. When the wayward one plumbs the depths of degradation, her love and her understanding spirit reaches down and lifts him up.

She restores his spirit, confirms his faith, and plants his feet on higher ground. Not only does mother bring forth life; she also points the finger of faith to the perfect life.

"O gracious guarder from the primrose way,
O loving guide when wayward feet would stray,
O inspiration sweet when the heart sings,
O patient ministrant to sufferings,
Down the long road, mother mine, may I see your face."

The sons of American War Mothers fought for the right of self-determination, the freedom of the seas, and to make the world safe for democracy.

Victory perched upon the banners of our Allies by reason of the unquestioned gallantry and the sacrifices of these men. As a result, millions of people throughout the world are today enjoying the beneficences of peace under an enlightened form of government of their own choosing. New nations were born and people who had long suffered from tyranny and want are now happy and free.

Although recent events may give the impression America has yielded to a form of hysteria and repudiated the doctrine of the

freedom of the seas established by Decatur and his gallant men in the earlier days of the Republic, such is not the case. The seas must forever remain a free highway for commerce and social intercourse amongst the peace-loving nations of the earth. Wherever our ships sail under the flag on the open seas bearing the products of our fields, the fruits of our labor and industry, and carrying citizens of our Republic upon lawful and proper missions, they should and must have the assurance the strength of this virile Nation shall afford full protection. Only by commanding respect for our rights have we grown great and powerful—and only by following this course shall we meet our obligations as a world power and attain our full destiny.

America today is the shining exemplar of constitutional democracy in the family of nations. After years of steady growth, her progress for a time was impeded by fratricidal strife, but after the indissolubility of the Union was finally and definitely settled by the arbitrament of the sword she made rapid progress in developing her natural resources and expanding her industries. No nation has ever experienced a more rapid and phenomenal growth in wealth and culture.

The stern test of a world war was met by a mobilization of manpower and industry on a scale never witnessed before. No nation better survived nor recovered more rapidly from the maelstrom of passion and hate of the World War than ours.

In the rapid and kaleidoscopic changes of human affairs during the past decade a world-wide economic crisis caused thrones to totter and fall, producing revolution and bloodshed. Monarchies passed under the yoke of dictatorships or the red hand of communism. Freedom of speech and action in these countries became a myth. Yet in America a triumphant democracy has met and conquered the greatest economic crisis and peacetime test of history without the loss of a single element of liberty, equality, or justice. To the contrary, the average citizen in America enjoys a wider degree of freedom and a stronger sense of economic security and social justice today than ever before. In no other country is the individual citizen accorded a wider degree of action, a greater exercise of the freedom of speech and press, or a more unlimited field in following the dictates of his conscience in walking before the Deity.

The faith of our people has been restored. With the restoration of their faith the full exercise of the inventive genius of the individual is opening new fields for conserving and utilizing our great natural resources for the benefit of mankind. With the radio, the airplane, and the wide use of electric energy we have annihilated time and space. Avenues of information and culture are afforded the humblest citizen.

Greater than our expansion of industry, stronger than the unlimited sources of physical energy, visible and invisible, is the indomitable courage and spirit of our people. To our people democracy is no longer an ideal or a dream; it is a living, vital reality. It is neither a tyrant nor a corporate state, but it is an instrumentality for the promotion of their welfare and happiness. They hold aloft the torch of democracy to the world and illumine the path of progress to a more abundant life.

Mothers of such gallant men, I salute you!

The War in Spain

EXTENSION OF REMARKS

OF

HON. JERRY J. O'CONNELL

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1937

Mr. O'CONNELL of Montana. Mr. Speaker, yesterday both Houses of Congress echoed with the indignation of Representatives and Senators who had read in their morning papers of Franco's spy ring and its activities in the United States. In the Senate Mr. NYE and in the House my colleague, Mr. BERNARD, expressed the shock and anger which all of us feel at this exposure of violations of passport privileges and our newly enacted neutrality laws.

Just last week I sent a letter, signed by myself and three colleagues in this House, and addressed to Secretary Hull. We called the attention of the Secretary of State to the massacre of Guernica, reported by all the foreign correspondents of accredited newspapers to be the work of German planes, German bombs, and German pilots. We asked the State Department to take official notice of what is common knowledge, namely, that Germany and Italy are in fact belligerents in the war of invasion now going on in Spain. And we pointed out that as belligerents Germany and Italy come under the arms embargo as set forth in our neutrality laws.

In his reply to our letter, the Secretary of State wrote that he agreed with Senator PITTMAN, who recently stated that "there is no evidence" that Germany or Italy are participating in the Spanish invasion.

No evidence! Mr. Speaker, I ask you what is the meaning of "evidence" in the vocabulary of the State Department?

The correspondents of many newspapers, both for this country and for England, signed their names to stories which recited in detail the "evidence" the State Department chooses to ignore. One of those correspondents, G. L. Steer, cabled to the New York Times from Bilboa on April 28—

I have seen and measured the enormous bomb holes at Guernica, which, since I passed through the town the day before, I can testify were not there then.

Unexploded German aluminum incendiary bombs found in Guernica were marked "Rheindorf Factory, 1936." The types of German airplanes employed were the Junkers Ju 52/3M, heavy bombers; Heinkel He 111, medium fast bombers, and Heinkel He 51 pursuit planes.

Steer went on to quote statements of German pilots who, when captured early in April, admitted that the insurgent airplanes are "manned entirely by German pilots, while nearly all the crews are German."

It seems that the State Department does not regard reports by responsible eyewitnesses as "evidence." But to the man on the street evidence that Germany and Italy are engaged in the most brutal slaughter of all history appears incontrovertible. And such distinguished Senators as Mr. NYE and Mr. BORAH seem to find it, to say the least, impressive.

Following on this example of the State Department's peculiar ideas regarding the nature of "evidence", I find new cause for concern in reports of the presence in this country of Franco's spies and purchasing agents. I understand that, now that these men have been exposed in the public press, the State Department is "inquiring into their status." I shall await with interest their findings.

In the meantime I ask unanimous consent to extend my remarks in the RECORD and to include an illuminating article by H. R. Knickerbocker, which appeared in the Washington Times of May 10. This article contains an interview with another agent of Gen. Francisco Franco, granted to Knickerbocker while he was with the insurgent forces in Spain. I should like now to read just one paragraph from this amazing story. The speaker uses the pseudonym of Major Sanchez, and here is what he told Knickerbocker of the kind of society Franco, if he wins, will establish in Spain:

Modern sewer systems caused this war. Certainly, because unimpeded natural selection would have killed off most of the "red" vermin. The example of Azana (President of the Spanish Republic) is a typical case. He might have been carried off by infantile paralysis, but he was saved from it by these cursed sewer systems. We've got to do away with sewers.

"Major Sanchez" is against schools. He is against woman suffrage. He is frankly against democracy, and was "melancholy" for days following the election of President Roosevelt. As for liberty, he says:

In our state, people are going to have the liberty to keep their mouths shut.

This interview, which I am going to print in full in the RECORD, gives a naked picture of Francisco Franco's agents and their philosophy, and gives it in the words of one of them.

Such words, spoken far across the water in Spain, are appalling. Knowledge that such men exist even on foreign shores makes my blood run cold. But it is not only in far-off Spain that Franco's servants hatch their murderous plots. Here in America, so we have learned to our horror, other Franco agents carry on their illegal work and flout the laws we make. I believe this House will not wait too long for further "evidence." I believe we shall soon suggest to the State Department in no uncertain terms that the evidence is plain. Let them look at it—and act!

[From the Washington Times of May 10, 1937]

"KILL 'EM", GRANDEE'S GOSPEL

By H. R. Knickerbocker

LONDON, May 10.—What sort of society would Insurgent Generalissimo Francisco Franco establish if he won the civil war in

Spain? This is the question most frequently asked today, next to the vital one of "Will Franco win?"

Under the pseudonym of Major Sanchez, one of Franco's officers prominent in the movement will testify to his own opinions. I have listened to them for countless hours, and this is a verbatim report. He reiterated:

"It is a race war, not merely a class war.

"TWO RACES IN SPAIN

"You don't understand because you don't realize that there are two races in Spain—a slave race and a ruler race. Those reds, from President Azana to the anarchists, are all slaves. It is our duty to put them back into their places—yes, put chains on them again if you like."

Sanchez is a count, the seventeenth in his line. He looks down upon three-quarters of the Spanish nobility and even upon recent kings as "jumped-up muck."

He is a landowner, but poor. He lives in one of the oldest castles in Spain. Pride is his principal asset. He has lived in most of the chief countries of Europe and speaks perfect English, French, and German. He asserted, enigmatically:

"Modern sewer systems caused this war. Certainly—because unimpeded natural selection would have killed off most of the 'red' vermin. The example of Azana is a typical case. He might have been carried off by infantile paralysis, but he was saved from it by these cursed sewers. We've got to do away with sewers.

WAR ON "POWERS OF EVIL"

"But what you absolutely refuse to understand is that this war in Spain is only a sector of the mighty international conflict of civilization against the powers of evil.

"The 'reds' are organized underground throughout the world. What you can't grasp is that any stupid Democrats, so called, lend themselves blindly to the ends of 'red' revolution."

Sanchez was melancholy for days after the American election returned a Roosevelt landslide. He said:

"All you Democrats are just handmaidens of bolshevism. Hitler is the only one who knows a 'red' when he sees one."

FURIOUS AT MERCY ORDER

Sanchez was furious when Franco in November issued an order to shoot only selected prisoners of war and not all as before. The major declared this order would lose the war. His favorite exclamation was:

"Take 'em out and shoot 'em!"

On labor his view is that all trade-unions must be abolished and membership be made punishable by death. Labor must accept the paternal direction of the owners. His idea for peasants is a benevolent serfdom.

On education he declared:

"We must destroy this spawn of 'red' schools which the so-called republic installed to teach the slaves to revolt. It is sufficient for the masses to know just enough reading to understand orders.

"We must restore the authority of the church. Slaves need it to teach them to behave."

HE SUPPORTS CHURCH

Sanchez himself is not religious, but supports the church as a useful instrument of social discipline.

"It is damnable that women should vote. Nobody should vote—least of all women. Women have got to be ruled by a strong hand. When we win, wives are going to obey their husbands. Husbands are going to have the right to shoot any wife caught fiddling about. Men will naturally retain the rights Nature gave them."

On Jews, the major affirmed:

"They are an international pest."

On liberty:

"It is a delusion employed by the 'reds' to fool the so-called democrats. In our state, people are going to have the liberty to keep their mouths shut."

On the fate of "reds" if his side wins, Sanchez was eloquent:

"We are going to shoot 50,000 in Madrid. And no matter where Azana and Largo Caballero (the Premier) and all that crowd try to escape, we'll catch them and kill every last man, if it takes years of tracking them throughout the world."

The Late Benjamin K. Focht

EXTENSION OF REMARKS

OF

HON. ALBERT G. RUTHERFORD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1937

Mr. RUTHERFORD. Mr. Speaker, as a Member of this body from Pennsylvania I wish to express my tribute to the memory of my friend and late colleague BENJAMIN K. FOCHT, who passed away on March 27, 1937.

It was my privilege to have known Mr. FOCHT for many years. As a newspaperman he represented the highest ideals in journalism, and his influence upon the thought of his community was very great. He always took an active interest in public affairs, and the people of his district, recognizing his extraordinary ability along this line, sent him to the Pennsylvania General Assembly and Senate and to Congress. As a Member of this body for almost 20 years he rendered distinguished service to his country and constituents.

It was my privilege to serve with him as a member of the Committee on War Claims during the present session of Congress, and we of that committee will miss his friendship and counsel.

In his death we in this body have lost a real friend and wise counselor and the citizens of the Eighteenth Congressional District of Pennsylvania a real public servant who continually had their interest at heart.

The Vanishing Alien in the United States

EXTENSION OF REMARKS

OF

HON. SAMUEL DICKSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1937

ADDRESS BY EDWARD J. SHAUGHNESSY BEFORE THE NATIONAL COUNCIL ON NATURALIZATION AND CITIZENSHIP

Mr. DICKSTEIN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by Edward J. Shaughnessy, Acting Commissioner of Immigration and Naturalization, before the National Council on Naturalization and Citizenship, New York City, April 2, 1937:

Tonight I am going to deal with two phases of the alien question. First, I am going to refer to the "vanishing alien in the United States", and secondly, to discuss briefly the legislation greatly needed that we hope to have enacted in the present session.

I would like to give what I consider as accurate a statistical picture as possible of the alien situation in this country. I know how dry statistics always are and with that knowledge I was reminded while preparing for my appearance here of having listened to an able orator who opened his remarks as follows: "The speaker and the audience, at least, have one thing in common—both are wondering what he is going to say." I know that in my own experience, after listening to most statistical talks, I am generally left in hopeless confusion. However, I hope that I will be able to draw a picture which will carry forth the desired thought.

It was just a little more than a year ago, to be exact, March 6 of last year, when our late Commissioner, Col. Daniel W. MacCormack, presented to your organization a very able report on the progress that had been made in the solution of the problems concerning immigration and naturalization with which our Service has to deal. At that time he aptly stated that questions coming under each of the subjects, namely, immigration and naturalization, are so interrelated that they cannot be separated and must be considered together.

The term "immigration" always seems to precede the term "naturalization", and after all, this seems to be the logical order, because an alien cannot be naturalized until he has been through the immigration procedure. I wish tonight that time would permit of detailed consideration of both of these subjects. However, as it does not, I have decided to devote my time to a discussion of immigration—that part of it with which the Service is most directly concerned at the present time and which is of the highest importance, namely, legislation to be introduced in the present session.

It is well known that in the fiscal years of 1905, 1906, 1907, 1910, 1913, and 1914 we admitted to the United States over a million aliens each year. Naturally, as the result of these huge immigrations, we had shortly thereafter a very large resident alien population. However, the picture has changed decidedly during the last decade. At this point I wish to emphasize as much as possible that statistics covering the alien population in the United States can never be termed absolutely exact. Likewise some of the other figures I shall give are not absolutely accurate. However, all have a sound basis and are not drawn out of a clear sky as are some of the estimates made by other persons interested in the alien problem.

The census of 1920 showed that there were 7,430,809 aliens not naturalized residing in the United States. The 1930 census showed an alien population of 6,284,613, or a decrease of 1,146,196. This

tremendous decrease during this decade, approximately 15 percent, occurred in spite of the fact that during each of the 10 fiscal years from 1920 to 1929, inclusive, there migrated to the United States from a minimum of 279,678 to a maximum of 805,228 aliens. We now estimate that during the past 7 fiscal years, 1930 to 1936, inclusive, the alien population has further decreased by approximately 2,000,000 persons.

When these figures were first handed to me by our chief statistician I stated, substantially, "You must show me", and he did. Let us analyze the various elements which go to make a decrease in alien population. We find four of them, namely: (1) Emigration, (2) naturalization, (3) derivative citizenship of minors through the naturalization of parents and wives through husbands, and (4) death.

Let us first look at the immigration during this 7-year period and we see that the annual immigration is almost insignificant in comparison with the immigration for the 10 previous years in which period, as I have stated, there was a decrease in the alien population of over 1,000,000, as shown by the census of 1920, in comparison with the census of 1930. In 1930 there were 241,700 aliens admitted to the United States. However, during the succeeding 6 years, we find the following admissions: In 1931, 97,139; in 1932 immigration dropped to 35,576; in 1933 to a new low of 23,068; in 1934 there were 29,470; in 1935, 34,956; and in 1936, 36,329. In other words, during the past 7 years we have admitted 498,238 aliens, as compared with 4,295,510 for the preceding 10 years. Stated differently, the average yearly immigration for the past 7 years was 71,177, as compared with 429,551 for the preceding 10-year period. For the last 6 years of this 7-year period, the annual average dropped to 44,090. During the last 7-year period in which 498,238 aliens were admitted, there were 410,341 who emigrated, or an excess of arrivals over departures of 87,897. During the preceding 10-year period there was an excess of arrivals over departures of 3,012,760. Thus it will be seen from these two sets of figures alone that during the past 7 years there had to be a decrease in the alien population greatly in excess of the previous decade.

But there are other features to be considered in connection with this matter, and they are the naturalizations, derivative citizenships, and deaths. I will not attempt to discuss in detail by years these various figures. Let me merely give you a few totals. For the 20-year period from 1917 to 1936, inclusive, 5,340,901 aliens were recorded as immigrants; 1,977,455 were recorded as having departed; 3,175,116 were naturalized; an estimated 1,110,100 derived citizenship either through the naturalization of the father or the husband (you will recall that prior to 1922 a wife derived citizenship through the naturalization of her husband); and there was an estimated total of 2,454,301 deaths. Recapitulating we find that during this 20-year period there was a total of 8,716,972 persons who either left the country, became naturalized, derived citizenship through someone else's naturalization, or died, as contrasted with 5,340,901 immigrants.

Just take one more glance at statistics, and then we will leave that subject for which I know you will be duly grateful. Last year our figures show that for every new alien added to our population, there was a decrease of approximately eight aliens by one means or another, such as I have heretofore mentioned; that is to say, by departure, naturalization, derivative citizenship, or death. In 1935 the ratio was about 8½ to 1; in 1934, about 10 to 1; in 1933, about 14 to 1, and in 1932 the ratio was about 11 to 1. These comparisons cannot but show the most skeptical that the alien population is rapidly decreasing.

There is one reservation that must be made to the statistics above cited. This statement does not account for the aliens who have entered the country illegally. It does not attempt to account for them because there is no way of even estimating accurately how many aliens gained entry to the country in an unlawful manner. Various officials and others interested in the problem have from time to time estimated or guessed that there are all the way from 100,000 to 4,000,000 aliens unlawfully here. In more recent years the late Secretary William N. Doak estimated that there were not more than 100,000 aliens illegally in the country and subject to deportation; the late Commissioner MacCormack, after a survey of the situation a year or two ago, finally reached the conclusion that this estimate was more nearly accurate than other estimates. I will discuss elements based on fact which are clearly related to the question.

There are three elements which have a bearing on the subject of the unknown number of aliens illegally in the United States. In 1929, March 2, to be exact, a law was enacted providing, in substance, that any alien who had entered the United States prior to June 3, 1921, had continuously resided here since then, and was a person of good character, but in whose case no record of admission for lawful residence could be found, might be registered—that is to say, he could have created an immigration record of permanent admission as of the time he alleged he entered the United States prior to June 3, 1921. Do not lose sight of the fact that this law passed in 1929 was designed to take care of all unlawful admissions of persons of good moral character who entered the country illegally as recently as 8 years prior to that time, or, namely, June 3, 1921.

Now, then, it seems to me that if there were millions of aliens illegally here, as has been alleged, and as this act made it so easy for an alien illegally here to have a record of permanent admission created for him, thereby putting him in a position to proceed to citizenship and secure the countless other benefits accruing from a record of lawful admission, these supposed millions of aliens would have gone through the simple procedure of acquiring this record. But what do we find? We find that in the 7 fiscal years this law has been in operation the Immigration and Naturalization Service has registered a total of only 65,587 aliens. Is this not an argument in itself that millions of aliens could not have been residing in the United States illegally?

Another feature that bears on the question of the number of aliens illegally in the United States is reflected in the length of residence of the aliens who have been apprehended and deported or caused to depart. Our statistics show that approximately 63 percent of the aliens who are apprehended in deportation proceedings have resided in the United States for a period of less than 3 years. Does not this again show that large numbers of aliens illegally here are apprehended within a short time after entry?

The third item related to the question of those illegally here deals with the problem of seamen. Under the law as passed, a bona-fide alien seaman is given 60 days' landing privilege within which to reship foreign. In 1935 it had been estimated by different persons that as high as a quarter of a million aliens entered the country illegally each year in the guise of seamen. We do not keep any statistics dealing directly with the question, because, after all, there is a limit as to how far you can break down statistics in work of this kind. However, I made an investigation and found that in that year there were 795,333 alien-seamen examinations.

Please distinguish the difference between an alien-seaman examination and an arriving alien seaman. I found that in that year large and fast ships like the *Bremen* and *Europa* had made 17 round trips to the port of New York. These ships carry crews in the neighborhood of 900 persons. This meant that the same alien who was employed on board the ships for a period of 1 year was counted 17 times. Other large ships had entered the port of New York as many as a dozen times in that year. So that it is safe to say that out of 795,333 alien-seamen examinations during that year not over 250,000 different aliens came to the United States as seamen. Certainly they all did not desert, because our records for that year showed comparatively few changes in the alien crews. I cite this merely as an example of exaggerations which have been made concerning the number of aliens illegally in the United States. Since the results of this investigation concerning seamen were made public I have not heard so many comments relating to the number of alien seamen who entered the country illegally.

I hope that I have been able to make clear, from the statistics I have submitted, the fact that the alien population in the United States is inevitably decreasing and decreasing at a tremendous rate.

I would now like to say a few words concerning the proposed legislation we hope to have enacted during the present session of Congress.

Why do we need any legislation when we have a whole book of immigration laws? We need more law to give us authority, on the one hand, to deport many criminal aliens not now subject to deportation, and, on the other hand, to permit aliens of good character who are here in more or less technical violation of law to remain, particularly in cases where they have American-citizen families and where deportation would amount to making public charges of these dependent relatives until such time as they reach an age when they will be self-sustaining.

Many people have asked me to give them a brief idea of the substance of our legislative plan. In most instances the citation of but one example has been sufficient to convince them of the necessity of a law which will supply the necessary balance now lacking in the immigration set-up. I take the cases of aliens A and B. A is a person who has been in the United States for possibly 15 years and has spent a great proportion of that time in jail or other penal institutions. However, he was not sentenced within 5 years after his entry to imprisonment for a year or more for a crime involving moral turpitude nor has he during his 15-year period of residence been sentenced on more than one occasion to a period of 1 year or more for crimes involving moral turpitude. He is, nevertheless, a confirmed criminal, a social menace, and clearly should be deported. Yet because of the extreme technicalities of existing law concerning the expulsion of criminals he is immune from deportation.

Let us now take the case of B. B entered the United States in the latter part of 1924 as a nonimmigrant international trader. As an international trader, it was necessary for him to conduct a business involving a preponderance of international trade. But in the course of time the business developed in such a manner that he eventually found himself a domestic merchant. He, therefore, failed to maintain his status as a nonimmigrant international trader and automatically became subject to deportation. He is a man of excellent character, and in the 13 years which have elapsed since his entry in 1924 he has acquired an American-citizen family dependent upon him.

I ask these inquisitors as to which one they would prefer to deport, A or B. They immediately say that they would deport A and leave B here, and I tell them under the law we must deport B and cannot deport A. This existing situation is so ridiculous that it is difficult for them to understand and frequently repetition is necessary. As I have previously stated, the legislation we propose would correct this condition.

Let us glance very briefly at the proposed legislation which constitutes our legislative program. First, provision is made for the deportation of four additional classes of aliens, namely: Persons who have been convicted of violating State narcotic laws. Under the present law the same class of persons who are convicted under the Federal narcotic laws are deportable. Surely there is no reason why this undesirable class, merely because they

are prosecuted under State laws instead of Federal laws, should not be deported. The next class involves those aliens who, after the passage of the proposed act, are convicted in the United States within 5 years of the institution of deportation proceedings against them, provided they are committed to an institution as a result of such conviction. At the present time we can only deport alien criminals who have been convicted within 5 years after entry of a crime involving moral turpitude and sentenced to a year or more or who, without regard to length of residence, have on more than one occasion been so convicted and sentenced. It is provided in the program that deportation of this additional class is contingent upon a finding that deportation is in the public interest. Discretion is necessary in such drastic legislation of this nature because without it it would be mandatory to deport a person who may have lived here practically his entire life, was convicted of a misdemeanor which involved moral turpitude, and given a short term of commitment to an institution. Clearly, we would not want to deport this type of a person on his first offense. However, if he had a record such as described in the example given in the case of alien A, deportation would be both desirable and possible under such a provision as this.

The third class provides for the deportation of smugglers of aliens, and in the fourth class provision is made for the deportation of aliens convicted of the crime of possessing or carrying concealed or dangerous weapons. Under judicial interpretations of moral turpitude, it has been held that such a conviction does not involve the element of moral turpitude. Under this provision it is hoped that we may be able to effect the deportation of many alien racketeers and gangsters.

In another part of the program it is proposed to grant authority to permit aliens of good character who are more or less technically subject to deportation to remain here under certain conditions. These conditions are: That they shall not be found to be deportable under the laws relating to the deportation of the so-called radical classes, criminals, and immoral classes. It is further conditioned that to come within this discretionary power the alien must be of good moral character and either have lived continuously in the United States for a period of not less than 10 years or have lived continuously in the United States for at least 1 year and has living in the United States a parent, spouse, legally recognized child, or if a minor, a brother or sister who has been lawfully admitted to the United States for permanent residence, or is a citizen of the United States.

There are other provisions in the program which are designed to improve the law, such as to advance the registry date from June 3, 1921, to July 1, 1924; to charge against existing quotas all cases adjusted under this bill; to improve the machinery involving the deportation of aliens by authorizing us to designate field officers to issue warrants, etc.

I have tried to describe to you, necessarily in a very sketchy manner in these few minutes, a situation concerning the alien as it appears to be in fact, rather than as pictured by those who have based their conclusions upon their feelings or imaginations.

It is shown that immigration has declined sharply, while naturalization has proceeded upon a large scale. While there is a very definite need for some legislation to strengthen the immigration laws to make more effective the deportation of alien criminals, there is also the necessity for some measure of elasticity in dealing legally with a limited number of aliens of good moral character who come within the technical terms of the deportation statutes. On the whole it may well be that the processes already described by which the number of aliens in the United States has decreased so materially will continue to so operate that by the end of the next decade an alien may be a comparatively scarce individual.

Let's Balance the Budget

EXTENSION OF REMARKS
OF
HON. ROBERT F. RICH
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 12, 1937

RADIO ADDRESS BY HON. ROBERT F. RICH, OF PENNSYLVANIA, ON MAY 11, 1937

Mr. RICH. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include the following address, which I delivered last night over the radio:

During my boyhood days my father counseled that if I wanted to be a sound stable citizen I should learn to work and work hard; that compensation would be paid me accordingly as I applied myself to my task; that I should save each week a part of the wages I received, with which I could buy a home, a farm, or go into business. Well do I recall the first $100 I saved. I loaned it at 5 percent, and the first year that $100 earned me $5, so I not only learned the value of a dollar but that money properly invested would earn money for me. It will do the same for you. It is not how much money you earn but how much you save and properly invest that counts. That principle is as sound today as it was then.

Wise saving and wise investing is capitalism. Under this teaching and principle our Nation has functioned successfully for 150 years. We have built up our Nation and Government in that period of time to be the greatest country on the face of the earth. Our workers receive the best pay, the most privileges, and greatest freedom that any people in any land have ever enjoyed.

Changes in our laws may be necessary from time to time, and under our republican form of government that can be accomplished any time our people deem it wise or desirable. Up to 1916 we had a national debt of $1,225,000,000, but the World War ran it up to $28,000,000,000, after which we reduced it to $16,000,000,000 on the principle that we should balance the Budget and on a pay-as-you-go policy. That was sound then and it is sound now. It is a sound policy for the home and a necessity for any business. If the income does not equal the outgo, there is trouble ahead.

During the previous administration our national debt was increased $3,491,000,000 on account of the depression.

Mr. Roosevelt, in his speech at Pittsburgh October 19, 1932, referring to the Hoover administration said—and I quote: "That, my friends, * * * is the most reckless and extravagant pace I have been able to discover in the statistical record of any peacetime government anywhere anytime." Mr. Roosevelt then evidently believed in economy in government. With 10,000,000 men out of work when he took office he started war on the depression, a spree of spending, a New Deal idea never undertaken before—and where do we find ourselves today after 4 long years priming the pump—that old pump brought down from New York State with a worn-out sucker. After pouring into the pump to the tune of sixteen thousand million dollars we find the pump sucker completely gone, the barrel bent, and the handle warped. Sixteen billion dollars gone through the pump and a gigantic debt to be paid by future generations. Still 9,000,000 unemployed, as the American Federation of Labor and Federal Reserve Index shows today, five times more unemployed than in 1929.

Mr. Roosevelt on March 10, 1933, in addressing Congress said, and I quote: "For 4 long years the Federal Government has been on the road toward bankruptcy. With the utmost seriousness I point out to the Congress the profound effect of this fact upon our national economy * * *. Too often in recent history liberal governments have been wrecked on the rocks of loose fiscal policy. We must avoid this danger."

Mr. Roosevelt's deficits from March 4, 1933, to January 30, 1937, will be over $15,000,000,000. Can you imagine how Mr. Roosevelt must feel now—creating this enormous debt and unemployment still not solved. From 1776 to 1916 the total cost of our wars was $17,000,000,000; from 1933 to 1938 cost of relief and public works will be $19,307,000,000. Six years of Roosevelt depression will cost two billion more than 140 years of war.

On July 2, 1932, the President said in his acceptance speech—and I quote: "I propose to you, my friends, that government * * * be made solvent and that the example be set by the President of the United States."

Mr. Roosevelt evidently did not mean what he said, for he certainly did the very opposite. His economy in government became a veritable avalanche of unprecedented spending.

I again quote from Mr. Roosevelt's speech at Brooklyn, November 4, 1932: "The people of America demand a reduction of Federal expenditures. It can be accomplished not only by reducing the expenditures of existing departments, but it can be done by abolishing many useless commissions, bureaus, and functions, and it can be done by consolidating many activities of the Government."

No previous administration has created as many new functions of government as this administration. It has not consolidated the bureaus. It has not abolished the useless commissions. Instead, it has created and is still creating new and useless bureaus and adding further burdens to the taxpayers. The national debt is now thirty-five billions, the largest in our history, and still growing. Our average daily loss this year is over $7,935,000. This is an increase over the daily loss of last year of over $546,000 a day. It is an astounding and deplorable situation, notwithstanding the fact that we have had a new tax bill each year. Last year Congress passed the most damaging of them all, the iniquitous corporate undistributed income tax of 1936. The chairman of the Ways and Means Committee stated the tax would not apply to insurance companies nor banks because it would impair their stability. Yet he would apply it to business enterprise, the place where the worker gets his job; the business that paid billions from surplus to stockholders during the depression.

The members of the Ways and Means Committee admit its principle is wrong. Will they have courage enough to change it, and do it now before this Congress adjourns? The tax was hundreds of millions short of anticipated revenue, and that feature is not as bad as the principle of the tax—the harm it will do to the institution that creates jobs for our workers, the most important function of all business enterprises for happiness and contentment. Taxation is driving people out of business, creating less jobs; and remember that taxation bears down on the wage earner in greater proportion than it does on the higher-salaried people. For instance, the $150-a-month man pays more taxes from his wages, in proportion, than the $10,000-a-year man. You pay taxes on your bread, taxes on your butter, taxes on your rent, and taxes on your clothing. In fact, taxes on everything

you buy, either directly or indirectly. Unless we exercise sense and business in Government spending forthwith, we will have still more taxes to pay. I am a believer in the theory that the more a man earns the more taxes he should pay. Income and inheritance tax can solve the wealth problem and be a leveler of man financially.

Government costs are too high and they should and must be cut down. For 4 long years I have been asking on the floor of the House the question, "Where are you going to get the money?" This warning did not concern many Members of Congress, and I am sure it did not the Chief Executive. Each year Congress spent more and taxed more. Now they find the "soak the rich" tax policy is not so lucrative and they must tax everybody. The rich are about exhausted, as the tax returns will show. The old statement that 5 percent of the people own 90 percent of the wealth has proved to be a fallacy.

I now have company. The President now asks, with the Vice President and the majority leaders, "Where are we going to get the money?" The sad answer must be, "From taxing everybody."

I have advised the President and Congress, and I do it again: Stop unnecessary Government spending, consolidate departments, abolish useless functions of government, and take the Government out of business. And do it now before it is too late.

I hold no ill will for Mr. Roosevelt or any other public official, but when they promised economy and a balanced Budget, and Mr. Roosevelt has put on the greatest show of expenditures of any nation of the world at any time, and knowing it to be unsound policy, it is my duty as a public official to register objection. I have been doing so for 4 years with my vote and voice. Why promise the American people an economic rule and then make it just the opposite? Recently President Roosevelt again stated he will economize. To what extent? In view of past performances and promises, can the American people expect him to do as he says in reference to finances? He never has.

The House and Senate should assume their legislative functions and fulfill their obligations to the American people. Let them make appropriations for relief and administer it through the States and local subdivisions where they know the needs of the people, and cut out politics. Separate from Government pay rolls political parasites who are securing over 30 percent of the money spent to administer it.

The idea that the Government must support the people is not in accordance with the spirit of the Constitution. The people should support the Government. Regulated mass production for a time, if necessary, and not the pay rolls of the Federal Treasury should solve the unemployment situation. People want and should have work in industry. We must work for our daily bread, and work means independence. Idleness breeds discontent, but busy hands occupy the mind and body. The Government out of business, balance the Budget, and establish confidence in our national affairs, and Government bonds will remain above par, and business will improve, and idleness cease. If we do not do this, we will have inflation and repudiation.

In the fiscal year 1936 we collected $4,715,956.13 and we spent $8,879,798.61. Our deficit was over four and one-half billion dollars. I anticipate a deficit of close to $3,000,000,000 in 1937. Congress this week will finish appropriating for the two emergency and nine regular appropriation bills for 1938, which will amount to more than $5,500,000,000. This will be in excess by $500,000,000 of their total in 1937.

Mr. Roosevelt has advocated additional measures that will cost more than $5,000,000,000, which, if enacted into law, would be appropriations of $11,000,000,000 at this session of Congress. Sane men will not continue to do what Congress has been doing for 4 years past in appropriations. Congress should curb the President's orgy of spending and do the job themselves.

I hope the President is now sincere in his desire to curb expenses and get back to sound fundamentals in Government; that he realizes we must spend less, tax more, or bust. The orgy of spending must stop.

Cooperation of Local, State, and Federal Governments

EXTENSION OF REMARKS

OF

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1937

ADDRESS BY HON. KARL A. CROWLEY, SOLICITOR OF THE POST OFFICE DEPARTMENT, AT BROWNWOOD, TEX., ON MAY 12, 1937

Mr. PATMAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of the Honorable Karl A. Crowley, the Solicitor of the Post Office Department, to the West Texas Chamber of Commerce, Brownwood, Tex., May 12, 1937:

I want to express my deep appreciation of your invitation to speak to this great association and its visitors, and my gratitude for the privilege I have of seeing so many of my old friends and neighbors, especially members of the bar of west Texas, with whom I have practiced law for the past 20 years.

The West Texas Chamber of Commerce is known to be one of the most active, progressive, and effective organizations of its kind in America. It was and is sponsored by great progressive leaders of west Texas and has the respect and good will of all Texas. Among the sponsors of your great organization was that great lawyer and citizen, Homer P. Brelsford, of Eastland, my original home town and where I practiced law 18 years ago.

Your association has, by coordinated and intelligent effort, secured the proper recogniton of the rights of west Texas in the affairs of our State, and its influence has been felt in the National Capitol at Washington. It is necessary that the influence of such a splendid organization continue to be felt in the capitols of our State and of our Nation, if our State and Nation are to go forward and continue to build and prosper as we have in the past.

Inasmuch as I am connected with the administration of President Roosevelt, I think it appropriate for me to discuss briefly during the short period of time allotted to me one of the great problems now confronting the American people and affecting you directly as taxpayers.

We can all look back on the dark days of the depression and recall the broken morale of the American people. While Texas did not feel the depression to the extent that it was felt in the industrial East, nevertheless, we all do recall that in the dark days following the Hoover debacle mortgages on farms and ranches were being foreclosed by the thousands, bankruptcy of business had reached the highest point in the history of Texas, prices of livestock—cattle, sheep, goats—wool and mohair, cotton, and other farm products had sunk to a level far below the cost of production. We can recall, also, that from behind the dark clouds of despair came the bright and shining leadership of Franklin Roosevelt to save America from the threatened collapse of civil government.

He not only rescued us from a dangerous approach to disaster but restored to us an era of prosperity such as we have not witnessed in a hundred years. This is a prosperity built upon actual production and accumulation and not on the mythical paper boom of the Wall Street-Hoover days of '29. The American people owe a debt that can never be paid to the arch foe of loot, spoil, pillage, and privilege; to the friend of the common man; to the friend of honest business and agriculture of our country—Franklin D. Roosevelt.

But, my friends, I ask you if we ourselves are not putting too heavy a burden upon the national administration? I ask you if we have not shifted too many of our own personal responsibilities on the shoulders of the Federal Government in Washington? I ask you if it is not high time that we in Texas, particularly, who truly believe in the rights of local self-government, should not show ourselves worthy of that right which we retain as people of a sovereign State by reassuming some of the duties and responsibilities which we have thrust upon Washington?

The enemies of Roosevelt would make it appear that he wants to set himself up as a czar; that he wants to extinguish the States, the legislature, and the judiciary. These enemies, the offsprings of privilege and predatory interests, are not only the enemies of our great President, they are the enemies of Texas, and they are the enemies of every farmer and livestock man in every part of this country. They, who have looted the Federal Treasury for generations and despoiled the farmer by high tariffs, have complained because this administration has aided agriculture, small business, and the laboring man. In spite of them this needed assistance has been given and our country is again prosperous and happy.

Now that prosperity is restored, it is high time for our citizens to stop making demands on the Federal Government. Our national debt is the highest in its history. Today we owe $35,000,000,000, the exact figure, according to the Treasury statistics, being, as of April 28, 1937, the sum of $34,941,507,897.91. This requires interest payments of $880,000,000 a year.

Congress this year will pass appropriation bills appropriating approximately $7,000,000,000 or more. This sum is almost sevenfold as much as the expense of the Government was before the World War. Following the request for appropriation of this gigantic sum, another shock was recently experienced in Washington. Income-tax payments have dropped several hundred million dollars below the estimated amount of revenue when last year's appropriation bills were passed, and much of our appropriations, my friends, have been furnished by the Government for use by the States for their own internal improvements.

A day of reckoning is coming, but unless we want to see the Federal Government levying heavier taxes and new taxes, including a preemption of the funds now providing for State and local revenues, spending must be reduced. It will not be reduced unless we quit asking for Federal grants for States.

This debt must be paid. It is your debt. It is my debt. It is the debt of every taxpayer of the United States, and it can only be paid by cutting down our spending. Governments must operate their business exactly like individuals do. We, as individuals, borrow to tide us over some emergency. When we do that we sign notes exactly like the Federal Government does, and we pay interest exactly like the Federal Government does, but prudent

men do not keep on borrowing year in and year out, because they know that the handling of their personal affairs in such fashion invariably leads to the door of the bankruptcy court. And so it is with any government, State or National. It cannot continue indefinitely to spend twice its revenue. The result is high taxes placed upon the backs of every individual, whether he toils in the field or is the executive of a great corporation.

We, who complain of high taxes, must quit running to Washington or Austin, asking for State or Federal handouts. Texas is one of the most prosperous States in the Union. Our oil and cotton production alone amounts to almost a billion dollars a year. If there is any State in the Union capable of taking care of her own problems without asking for this so-called Federal aid, then it is Texas. Yet there is seldom a week when our Senators and Congressmen are not visited by some delegation from home demanding that they secure for them Federal money with just as much ease as if they thought money grew on trees in Washington.

The truth of the business is the people of every State in the Union are doing it. We all seem to feel that the thing for us to do is to get the money while the getting is good. We have no business trying to fool ourselves. When we get an appropriation from the Federal Government some other State gets a similar grant. Congress must appropriate money for these grants, gifts, or donations. When the appropriation is made the money must be borrowed or it must be provided by higher taxes.

How many men in this room have attended meetings of local officials and chambers of commerce and decided to send a committee to Washington to see if "they" would not give you a Federal grant? I think we all have. When we send our representatives to Washington with empty sacks expecting them to be filled with Federal currency, do we think that "they" are getting this money from a vast store of hidden gold? Certainly not. We know that "they", in order to meet our demands, are borrowing it and taxing "us."

I do not want any of you to understand that I recommend a life of isolation for Texas. Quite to the contrary, our State government must cooperate with the Federal Government in every great national undertaking for the common good of our country. Many problems arise, for instance, which will affect the entire agricultural population of the country, where it is necessary for State governments to cooperate with the Federal Government to the end that sound plans can be worked out for the common good of all. State participation in such Nation-wide undertakings are necessary for the welfare, peace, and prosperity of this Nation, but if we continue to make national problems out of purely local affairs, shifting responsibility to the Federal Government, then slowly but surely the authority of every sovereign State in this Nation will be wholly extinguished, as was recommended by Federalist Alexander Hamilton when our Constitution was adopted.

Let us see just what we have been getting in Texas. The Secretary of the Treasury has just told me that Federal expenditures in the State of Texas during the fiscal year 1936 were the following sums of money:

	Million dollars
Agricultural Adjustment Administration rental and benefit payments	41.3
Federal Emergency Relief Administration	8.7
Emergency conservation work	20.8
Works Progress Administration	29.8
Public highways	15.6
Rivers and harbors	2.8
Public buildings	3.0
Reclamation projects	.6
Public Works Administration	22.8
Resettlement Administration	.1
Other expenditures	12.0
Total	157.5

These figures do not include expenditures for veterans' aids and benefits under Veterans' Administration or loans for such agencies as the Reconstruction Finance Corporation or the Home Owners' Loan Corporation.

The agricultural benefits of $41,000,000 will not be paid this year, and the emergency conservation work, amounting to $20,800,000 in 1936, and public-works projects, amounting last year to $22,800,000, and many other Federal projects will naturally be reduced during the present year.

Is it possible that thinking men believe that we have been getting all this money for nothing? Certainly not; we are bound to know that we ourselves must pay for these improvements.

I secured figures from the Commissioner of Internal Revenue on taxes being paid by Texas citizens to the Federal Government. In the fiscal year 1936 we paid Federal taxes amounting to $74,581,047. Tax receipts are up about 70 percent, due to the higher rates and more prosperous conditions, so that this year possibly our State will pay Federal taxes amounting to approximately $125,000,000.

We will not get one hundred and fifty-seven and one-half million dollars this year. We will not get it next year, but, unless times get hard in Texas and we suffer a local depression, we will continue to be paying $125,000,000 or more every year in Texas to the Federal Government.

It goes without saying that all of our taxes do not go back to the States. Tremendous sums are necessary for national defense, in the maintenance of a great Army and Navy, the operation of the Federal courts and departments, and the regulation of commerce between the States. Then there is a gigantic overhead expense of the Government not only in the Federal Government at Washington but for the vast number of men and women employed in the field service, which reaches to every nook and cranny of this country.

If these figures are correct—and I have no reason to doubt them—the people of Texas will pay far more into the Federal Treasury than we will receive, and we and our children will continue to pay and pay and pay out of our incomes and from taxes until the staggering debt of $35,000,000,000 is paid.

I want to cite just one example of request for Federal aid which I do not think we can justify. I have reference to relief funds. If any State in the Union can support her own, it is Texas, and yet we find our officials constantly pressing for larger and larger grants for so-called relief. This pressure and demand, coming from every quarter of the country, has made it appear necessary for a continuation of Federal aid for relief, without any definite obligation on the part of local communities to share in this expense. As long as the money is spent from Washington, just that long will the National Government be besieged with clamors and demands for more and more money, so that local communities can have more of their tax money for other purposes. Such a system leads to waste and extravagance and Federal aid for relief should be stopped, except in cases of dire disasters and in emergencies. It will not be stopped, but will continue for as long as the local officials and the majority of the States dodge their responsibilities and shift their burdens upon the National Government.

There are answers to the problem and there is a solution. These gigantic expenditures heretofore necessary can only be reduced by the cooperation of the people and the first step in this direction may be taken by the people of Texas in stopping their demands for Federal hand-outs. Let Texas be self-supporting because it is the soundest economy in the long run. But Texas cannot be self-supporting unless our citizenship determines that she shall be. She cannot be then, unless we back up that determination by the election of frugal, honest, courageous, and competent officials to administer the affairs of our local governments from county commissioners to the Governor of the State.

There was never a truer saying than that "eternal vigilance is the price of liberty", and it is as applicable today as it was when our ancestors fought for their freedom from a foreign tyrant. If we are to preserve property rights, men of intelligence and having something to fight for must again become crusaders with the object of keeping us free of economic shackles imposed upon us by demagogues, hypocrites, and political racketeers.

I cannot agree that the Federal Government is more competent to administer sound government than the State government, but I do feel that we cannot continue to preserve a true republican form of government of States for local affairs with the National Government concerned only with national problems of government, unless each State squarely meets its own responsibilities. The time has come for true believers in American liberty to demand the selection of men for office who are more than political racketeers. Texas can and will point the way to the Nation.

Expenditures made by the Government as direct payments to the State of Texas under cooperative arrangements during the fiscal year 1936 [1]

Department of Agriculture:	
Agricultural experiment stations	$127,341.19
Agricultural extension work	1,541,475.01
Forest funds	41,950.00
Highways	15,604,940.56
Department of the Interior:	
Colleges for agriculture and mechanic arts	70,000.00
Payments from receipts under Mineral Leasing Act	----------
Payments under certain special funds	----------
Cooperative vocational education and rehabilitation	557,152.69
Office of Education	----------
Puerto Rico Reconstruction Administration	----------
Reclamation Service	555,731.47
Department of Labor: U. S. Employment Service	42,563.04
Navy Department: State marine schools	----------
Treasury Department:	
To promote education of the blind (American Printing House for the Blind)	4,267.37
War Department: National Guard	1,389,465.66
Independent offices:	
Payments to States under Federal Water Power Act	----------
State and Territorial homes for disabled soldiers and sailors	----------
Federal Emergency Relief Administration grants	8,717,438.71
Federal Emergency Administration of Public Works grants	12,990,518.34
Works Progress Administration	25,670,683.29
Payments to States under Social Security Act	1,387,178.66
Payments to States under sec. 13, Tennessee Valley Authority Act, 1933	----------
Total	68,700,730.99

[1] The amounts shown in this statement are not additional to, but are included in the amounts shown in statement no. 1.

Keep P. W. A.

EXTENSION OF REMARKS
OF
HON. ALFRED F. BEITER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 12, 1937

Mr. BEITER. Mr. Speaker, President Roosevelt in his message to Congress on January 12, 1937, proposed the establishment of a Department of Public Works. A bill in connection with this will be presented to Congress in the near future.

The question immediately arises, What effect will the creation of a Department of Public Works have on the P. W. A.?

The Public Works Administration, headed by Secretary of the Interior Harold L. Ickes, was established in 1933 with the purpose of relieving unemployment throughout the country. Hundreds of thousands of workmen, skilled and unskilled, have since been given employment at prevailing rates of pay. In addition to this employment furnished on the construction sites of the schools, waterworks, sewerage work, hospitals, highways, bridges, dams, and other projects which make up the program of P. W. A., over twice that amount, or close to 100,000,000 additional man-hours employment were created in the hard-hit capital-goods industries through orders calling for the production, fabrication, and transportation of vast quantities of materials which go into the type of projects being built by communities throughout the country with P. W. A. funds.

The types of projects undertaken by the P. W. A. have been carefully weighed as to their necessity and usefulness to the community. Thus many a dream materialized. Many a community, which desired to obtain for its citizens municipal improvements to safeguard health, to provide better and more modern schooling facilities, and so forth, but were handicapped financially, were enabled to do so through the 45-percent outright grant given by P. W. A.

All projects on the P. W. A. construction program are being erected by experienced contractors on competitive basis supervised by well-trained engineers, thus stimulating and expanding building industries.

Many communities throughout the Nation have been badly in need of waterworks and sewer systems; others need schools and hospitals. The cost of doing this work without the aid of P. W. A. would be prohibitive.

The P. W. A. has proven to be an agency of great value in reviving and maintaining employment throughout the country; it has helped communities to obtain much-needed public works, which would have been impossible at this time without Federal grants; its construction program was put on a sound basis with a complete lack of waste and red tape; it has proven to be a most efficient and worth-while organization. It is the concern of all communities, those which have benefited by the P. W. A. as well as those which are to benefit in the future, that the life of the P. W. A. be not curtailed.

The P. W. A. should by no means be discontinued, but absorbed within the proposed department of public works, in order to provide for long-range planning and development of projects to take care of future emergency conditions.

If that comes to pass, the continuance of P. W. A. should receive favorable consideration and its functions continued until such time as private investment can take care of the country's needs in this direction.

The Constitution and Magna Carta

EXTENSION OF REMARKS
OF
HON. ROBERT J. BULKLEY
OF OHIO
IN THE SENATE OF THE UNITED STATES
Thursday, May 13, 1937

ADDRESS BY GILBERT H. MONTAGUE, OF THE NEW YORK BAR, BEFORE CONSTITUTION DINNER OF NATIONAL SOCIETY COLONIAL DAMES OF AMERICA ANNUAL CONVENTION, WASHINGTON, D. C., MAY 6, 1937

Mr. BULKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address entitled "The Constitution and Magna Carta", delivered by Gilbert H. Montague, Esq., of the New York Bar, before the constitution dinner of the annual convention of the National Society Colonial Dames of America, at the Shoreham Hotel, Washington, D. C., on May 6, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

At midnight in the evening of June 27, 1787, in Lausanne overlooking Lake Geneva, an Englishman was walking in a garden. As he took several turns under a covered walk of acacias, the sky was serene, all Nature was silent, and the moon was reflected in the waters of the lake.

The Englishman was Edward Gibbon, and in his Autobiography he describes this evening and also his sensations when, just before midnight in a small house in his garden by the lake, he laid down his pen after writing the last lines of the last page of the History of the Decline and Fall of the Roman Empire.

On the same day, at the exact moment while Edward Gibbon on the shores of Lake Geneva was completing his history of the fall of the greatest empire that the world has ever seen, there was drawing to a close in the city of Philadelphia a momentous session of the Constitutional Convention, which several weeks before had assembled for the purpose of proposing a constitution for the United States of America—then the newest, if not the weakest, nation in the world.

Throughout the entire day in Philadelphia, Luther Martin, member of the Convention and attorney general of Maryland and one of the ablest lawyers in America, had been speaking in behalf of the small States in opposition to the idea of a strong Federal Government.

As midnight drew near in Lausanne, and as the afternoon wore on in the Constitutional Convention in Philadelphia, Luther Martin still held the floor of the Convention, and next day he closed his address with a peroration declaring that the plan for a strong Federal Government which had been put forward in the Convention invaded the sovereignty and independence of the smaller States, and that sooner than submit to this plan he would prefer to see the Nation dissolved and partial confederacies take its place.

This was the critical moment of the Constitutional Convention of 1787, and it was on this occasion that Benjamin Franklin, painfully impressed with the wide and apparently irreconcilable discordance of views which had been manifested in the Convention, called for prayers imploring the assistance of Heaven to calm and enlighten the councils of the Convention in the effort to heal the divisions arising from contending local interests.

"DUE PROCESS OF LAW" AND MAGNA CARTA

Franklin and the other sponsors of a strong Federal Government eventually prevailed in the Constitutional Convention of 1787, and Luther Martin and the rest of the opposition were defeated.

To placate this opposition, however, and to prevent any possible oppression by the Government set up by the Constitution, one of the first acts of the new Government was to add to the recently adopted Constitution 10 amendments, which are frequently described as the Bill of Rights of the American Constitution.

Among other liberties guaranteed to the people, these amendments forbid Congress to prohibit the free exercise of religion, or to abridge freedom of speech or of the press, and guarantee the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, and declare that no person shall be deprived of life, liberty, or property without due process of law.

These phrases were old when they were written into the American Constitution.

"Due process of law" appeared in an Act of 1692 of the General Court of Massachusetts Bay, and before had appeared in an Act of Parliament adopted in 1355 in the reign of Edward III.

The idea behind "due process of law" was old even in 1692 and in 1355, for it is only a paraphrase of "the law of the land", which the embattled barons, ecclesiastics, and burghers, representing the English nation in its contest with King John, wrote into Magna Carta which they extorted from King John on the historic meadow of Runnymede on June 15, 1215.

"We have also granted", King John was forced to say at the beginning of Magna Carta, "to all free men of our kingdom, for us and our heirs forever, all the underwritten liberties, to be had and held by them and their heirs, of us and our heirs forever."

Among these "underwritten liberties" were fundamental laws and ancient customs which were old even at the date of Magna Carta:

"And the city of London shall have all the ancient liberties and free customs * * * furthermore we decree and grant that all other cities, boroughs, towns, and ports shall have all their liberties and free customs" (Magna Carta, ch. 13).

"No freeman shall be taken or (and) imprisoned or disseized or exiled or in any way destroyed, nor will we go upon him, nor send upon him, except by the lawful judgment of his peers, or (and) by the law of the land" (Magna Carta, ch. 39).

"All fines made with us unjustly and against the law of the land, and all amercements imposed unjustly and against the law of the land, shall be entirely remitted * * *" (Magna Carta, ch. 55).

"The law of the land"—"the lawful judgment of his peers"—"all the ancient liberties and free customs"—these were the terms in which Anglo-Saxon liberty was expressed in Magna Carta in 1215.

MAGNA CARTA AND THE CONSTITUTION

During the period of the American Revolution, beginning with the Virginian Bill of Rights, the phrase of Magna Carta, "the law of the land", was embodied in the constitutional provisions of eight of the Original Thirteen States.

"Due process of law", as a paraphrase for "the law of the land", was added by amendment to the new Constitution of the United States, and later this phrase "due process of law" came gradually into use in State Constitutions, and now is found, with few exceptions, in all the State Constitutions.

Straight from Magna Carta in 1215, down through the centuries and into our own Federal and State Constitutions, "due process of law" has come, teaching its great lesson that the Anglo-Saxon race will never permit any government authority to place itself above the supremacy of fundamental law.

This is a conception that the Greeks once dreamed of:

"Rulers ought to be governed by principles of rational generality", declared Aristotle 23 centuries ago.

"He who bids the law rule, bids God and reason rule * * *. The laws should be the rulers * * *. Laws ought to be supreme over all."

This conception might still be only a dream, if widespread dissatisfaction over their immediate vexations in respect of scutage, feudal dues, borough customs, trade privileges, local courts, and a long list of other matters, so remote from modern experience that antiquarians now dispute as to what some of them really were, had not let a united body of English barons, English ecclesiastics, and burghers to take arms against King John in the Spring of 1215, and after 8 days of ardent bargaining at Runnymede in June to settle their grievances in businesslike fashion in a very practical document which since has been called Magna Carta.

The practical-minded Englishmen who won Magna Carta knew little Greek, and even less of Aristotle and political theory.

They did their job in a common sense, straightforward, unpoetical English fashion, and not 'till after it was done did they and the world realize that for the first time in history a nation had dramatically compelled its Government to acknowledge that government is not uncontrolled, but must always be subject to the supremacy of fundamental law, which it is bound at all times to observe.

"With all its faults", says the leading English authority on this subject, "this document becomes and rightly becomes a sacred text, the nearest approach to an irrepealable, fundamental statute, that England has ever had."

FLEXIBILITY OF "DUE PROCESS OF LAW"

Before the American Revolution the American colonists invoked the "rights of Englishmen" as guaranteed by Magna Carta.

They had a notion of rights that were fundamental and irrevocable, and their purpose in the American Revolution, and later in the Constitution of the United States, was to make these rights secure.

Whether they were accurate in their understanding of the exact meaning of the text of Magna Carta may perhaps be disputed.

The point is not what Magna Carta meant when it was granted by King John, but what the American people in 1787 thought it meant, and what the founding fathers intended by "the law of the land" and by "due process of law", when by amendment they wrote the latter phrase into the Constitution of the United States.

"They did not attempt to define the meaning of the phrase", Chief Justice Hughes has said. "Doubtless it appeared to them as having an indefinite content, and it was all the better for that. They wanted protection against tyranny, wherever and however it might hit, and they were not careful even to try to limit by exact definition the guaranty of their liberties. * * * They preferred flexibility to certainty. The phrase 'due process of law' was vague, its meaning was unsettled, but it was not meaningless, nor was it limited by anything short of the general purpose to afford immunity from any violation of fundamental rights."

"A word", Justice Oliver Wendell Holmes has remarked, "is not a crystal, transparent and unchanged; it is the skin of a living thought."

The flexibility of "due process of law", "freedom of speech", "freedom of the press", "commerce * * * among the several States", and other phrases in which the limitations and powers of the Federal Government have been written into the Constitution of the United States, has at every period in our national history required the exercise of the highest degree of judicial discretion on the part of the Supreme Court of the United States.

Chief Justice Marshall expressed this idea in the greatest of his judicial utterances, that "it is a constitution we are expounding."

John Marshall's supremacy in the Anglo-Saxon world as a great constitutional judge lay in the skill with which he utilized this flexibility to achieve the practical needs of government.

"Great constitutional provisions must be administered with caution", Mr. Justice Holmes has said. "Some play must be allowed for the joints of the machine, and it must be remembered that legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts."

More than 50 years ago Justice Matthews, of the Supreme Court, stated: "There is nothing in Magna Carta, rightly construed as a broad charter of public right and law, which ought to exclude the best ideas of all systems and of every age. * * * On the contrary, we should expect that the new and various experiences of our own situation and system will mold and shape it into new and not less useful forms. * * * As it would be incongruous to measure and restrict them by the ancient customary English law, they must be held to guarantee not particular forms of procedure but the substance of individual rights to life, liberty, and property."

What is this substance?

This is a question which for nearly 150 years the Supreme Court of the United States has repeatedly been called upon to answer.

CRITICISM AND "FRICTION" ARE NOT "LESE MAJESTE"

"Both Congress and the State legislatures", said Chief Justice Hughes, "must have a wide field of legislative discretion that is essential to the exercise of legislative power. The due-process clause does not substitute the judgment of the court for this discretion of the legislature. The legislative action may be unwise without being arbitrary to the point of transcending the limits of its authority. Its action may be economically unsound without being constitutionally invalid. * * * Changing social conditions require new remedies, the novel exercise of the police power, to care for both social and individual interests. * * * Those who find fault with the multiplicity of laws and with vexatious interferences, normally must address themselves to the legislature, and not to the courts; they have their remedy at the ballot box."

"Checks and balances were established in order that this should be 'a government of laws and not of men' ", declared Mr. Justice Brandeis, of the Supreme Court. The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction but, by means of the inevitable friction incident to the distribution of the governmental powers among the three departments, to save the people from autocracy.

Such a government, of course, must have its legislature, and just as certainly must also have a court to interpret legislation.

To establish such a government was the purpose of the Constitution of the United States.

In the most natural way, therefore, as a result of the creation of a Federal Government under a written Constitution conferring limited powers, the Supreme Court of the United States came into being.

It must not be inferred from all this, however, that it is *lese majeste* to criticize the decisions of the Supreme Court of the United States, any more than it is *lese majeste* to criticize statutes enacted by Congress, or to criticize acts of the President.

Such criticism, even when directed by the legislative or executive branch of the Government against the judicial branch, may be only an essential and wholesome incident of the "inevitable friction" which the founding fathers intentionally wrote into the Constitution, when they ordained that there should be three departments of the Government—the legislative, the executive, and the judicial—in order that each might serve as a check and

balance against the other two, and thus maintain "a government of laws and not of men."

It was in this spirit that President Lincoln, in his first inaugural address, at one of the most critical moments of American history, referring to the Dred Scott decision declared that "if the policy of the government, upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal. Nor is there in this view any assault upon the Court or the Judges. It is a duty from which they may not shrink to decide cases properly brought before them, and it is no fault of theirs if others seek to turn their decisions to political purposes."

"It is a mistake", said Mr. Justice Brewer, of the Supreme Court, nearly 40 years ago, "to suppose that the Supreme Court is either honored or helped by being spoken of as beyond criticism. On the contrary * * * its judgments (should be) subject to the freest criticism. The time is past in the history of the world when any living man or body of men can be set on a pedestal and decorated with a halo. True, many criticisms may be, like their authors, devoid of good taste, but better all sorts of criticism than no criticism at all. The moving waters are full of life and health; only in the still waters is stagnation and death."

"SELF-INFLICTED WOUNDS"—HISTORICAL CATACLYSMS

Reviewing the Supreme Court's decisions in the Dred Scott case in 1857, and in the *Legal Tender cases* in 1870, and in the Income Tax case in 1895, Chief Justice Hughes has said that after the Dred Scott decision "it was many years before the Court, even under new Judges, was able to retrieve its reputation", and in the *Legal Tender cases* the decision "shook popular respect for the Court", and in the Income Tax case the decision "aroused a criticism of the Court which has never been entirely stilled."

"Putting aside", Chief Justice Hughes declared, "the long course of criticism of the Court, * * * with respect to which the Court has either been vindicated in public opinion or the criticism has had but slight effect upon the general reputation of the Court, it remains true that in (these) three notable instances the Court has suffered severely from self-inflicted wounds."

Historical cataclysms, like earthquakes, are generally the result of pressures, which far below the surface slowly gather over long periods of time with greater and greater strength and intensity, until the equilibrium of the understructures is suddenly broken, and the whole earth is shaken, and structures and parts of the landscape that for generations have seemed immutable are suddenly shaken to their foundations.

Such a cataclysm was the French Revolution. Another was the War between the States and the changes in our National Government which followed. Similar cataclysms were the great World War, and the violent and revolutionary changes in government and resulting losses of liberty that have since resulted in many nations.

The genius of Magna Carta is the genius of the Constitution of the United States and the genius of Anglo-Saxon civilization. This is the genius that has furnished the skill with which political leaders in the two great branches of the Anglo-Saxon race—the British Empire and the United States of America—so frequently have corrected pressures of dangerous strength and intensity, and thus have averted historical cataclysms by solving constitutional crises before they have reached the cataclysmic stage.

Less than 6 months ago the entire world stood breathless while the British Empire, in quiet Anglo-Saxon manner, solved a great constitutional crisis by accepting the abdication of one monarch and placing his successor upon the throne.

The coronation in London this month is, in a very real sense, not merely the coronation of a monarch, but also the coronation of a great principle of democracy, which goes back to Runnymede and Magna Carta in 1215.

SUPREME COURT SOLVES CONSTITUTIONAL CRISIS

Less dramatically, but no less certainly, the Supreme Court of the United States, in the performance of its sworn duty under the Constitution, has set in progress during the last few weeks, the solution of a constitutional crisis which, if left unsolved, might well have led to a historical cataclysm.

On March 29 of this year, the Supreme Court exercised its judicial power to overrule its decision of 14 years ago in the Adkins case which held unconstitutional the District of Columbia Minimum Wage Act.

Speaking for a majority of the Court, Chief Justice Hughes upheld on March 29 of this year the minimum-wage law of the State of Washington, on the express ground that "the importance of the question, in which many States having similar laws are concerned, the close division by which the decision in the Adkins case was reached, and the economic conditions which have supervened, and in the light of which the reasonableness of the exercise of the protective power of the State must be considered, make it not only appropriate, but we think imperative, that in deciding the present case the subject should receive fresh consideration."

Again speaking for the majority of the Court, Chief Justice Hughes, on April 12 of this year, upheld in five cases the National Labor Relations Act, on the ground that present conditions as exemplified in these five cases compelled the conclusion that this Act fell within the power which the Constitution of the United States conferred upon Congress to regulate "commerce * * * among the several States."

In the case of the Negro agitator Herndon, whose purposes and methods were undoubtedly abhorrent to every member of the Supreme Court of the United States, Justice Roberts, speaking for the majority of the Court, on April 26 of this year, set aside the conviction of this Negro on the ground that "the power of a State to abridge freedom of speech and of assembly is the exception rather than the rule. * * * The judgment of the legislature is not unfettered. The limitation upon individual liberty must have appropriate relation to the safety of the State. Legislation which goes beyond this need violates the principle of the Constitution."

In every crisis of Anglo-Saxon liberty, Magna Carta has been the ideal and symbol to which the Anglo-Saxon race has always repaired.

In years of quiet, Magna Carta may be forgotten. Shakespeare was able to write his entire play King John without once mentioning it.

But whenever there is any relaxation of the restraints imposed upon government by the supreme law of the land, the Anglo-Saxon race instinctively turns to Magna Carta as the palladium of its liberties.

This was so in the contests between Parliament and the King in the days of Coke and James I, and of Hampden and Pym and Cromwell and Charles I. It was so in the Revolution of 1688 that deposed James II. It was so in the American Revolution against George III. It was so when the American Constitution was being written in the Constitutional Convention of 1787. And it is so in the present ferment of social, economic, and political life of the United States in 1937.

SUPREME COURT AND THE TRADITION OF MAGNA CARTA

Principles of law and liberty which the Anglo-Saxon race has stoutly and continuously asserted, sometimes with much bloodshed, for more than 720 years since Magna Carta in 1215, and for 150 years since the Constitutional Convention sat in Philadelphia in 1787, are not likely to be forgotten by any absent-mindedness in these present days.

Listen to Chief Justice Marshall, speaking for the then young Supreme Court of the United States in 1803:

"The distinction between a government with limited and unlimited powers is abolished", said Chief Justice Marshall, "if those limits do not confine the persons on which they are imposed, and if acts prohibited and acts allowed are of equal obligation."

Then follows a passage, which is literature as well as law:

"It is a proposition too plain to be contested", continued Chief Justice Marshall, "that the Constitution controls any legislative act repugnant to it; or that the legislature may alter the Constitution by an ordinary act.

"Between these alternatives there is no middle ground. * * *

"If two laws conflict with each other, the courts must decide on the operation of each.

"So, if a law be in opposition to the Constitution; if both the law and the Constitution apply to a particular case, so that the Court must either decide that case conformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the Court must determine which of these conflicting rules governs the case.

"This is of the very essence of judicial duty."

"In these words", declared Judge Cardozo, now a Justice of the Supreme Court, "we hear the voice of the law speaking by its consecrated ministers with the calmness and assurance that are born of a sense of mastery and power.

"Thus Marshall seemed to judge, and a hush falls upon us even now as we listen to his words.

"Those organ tones of his were meant to fill cathedrals or the most exalted of tribunals * * *. The thrill is irresistible. We feel the mystery and the awe of inspired revelation * * *. Nothing is here of doubt; nothing of apology; no blurred edges or uncertain lines. 'There is no middle ground.' The choice that is made is 'of the very essence of judicial duty.'"

Quietly, effectively, and in the simple performance of their constitutional duty, Chief Justice Hughes and the Supreme Court in 1937, in their decisions in the cases of the minimum-wage law of the State of Washington on March 29, and in the case of the National Labor Relations Act on April 12, and in the case of the Negro agitator Herndon on April 26, have set in progress the solution of a constitutional crisis which might have proved more serious than any that confronted John Marshall during his 34 years' tenure as Chief Justice of that Court.

The Supreme Court's decisions during March and April of this year carry forward the ideals of law and liberty that were written into Magna Carta in 1215, and later were written into the Constitution of the United States in 1787, and these decisions of the Supreme Court are a fitting and dramatic commemoration of the seven hundred and twenty-second anniversary of Magna Carta and of the one hundred and fiftieth anniversary of the Constitutional Convention of 1787.

Forty-first Annual Convention of the Indiana Bankers' Association

EXTENSION OF REMARKS

OF

HON. FREDERICK VAN NUYS

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Thursday, May 13, 1937

ADDRESS OF HON. J. F. T. O'CONNOR, COMPTROLLER OF THE CURRENCY, BEFORE THE FORTY-FIRST ANNUAL CONVENTION OF THE INDIANA BANKERS' ASSOCIATION, INDIANAPOLIS, IND., MAY 6, 1937

Mr. VAN NUYS. Mr. President, on May 6 the Comptroller of the Currency, Mr. J. F. T. O'Connor, delivered a very exhaustive and interesting address before the Indiana Bankers' Association at Indianapolis. I ask unanimous consent that his address may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The State of Indiana has an interesting historical connection with the Bureau of the Comptroller of the Currency. The first Comptroller, appointed by President Abraham Lincoln, came from Fort Wayne, Ind., 74 years ago. Hugh McCullough not only organized the Bureau of the Comptroller of the Currency and remained in office for 2 years but later became Secretary of the Treasury, succeeding Mr. Chase.

We are indebted to Mr. McCullough for a very interesting book entitled "Men and Measures of Half a Century", and its over 500 pages present a running history of events of his day. He came from Maine and located in Indiana 100 years ago.

In his book Mr. McCullough discusses the leaders on your bench, at the bar, in business and political life, and the early history of your State. Permit me to read you some sentences from his book.

Referring to the Judges of the Supreme Court, he said, "I am quite sure that three abler Judges than Blackford, Dewey, and Sullivan could not have been found in any court in the United States."

Referring to the younger men in Indiana at that time, Mr. McCullough said, "A few years after there came to the front in Indiana a number of young men whose equals as speakers and in intellect are rarely found anywhere. Conspicuous among them were Joseph G. Marshall, Caleb B. Smith, Richard W. Thompson, Henry S. Lane, Edward A. Hannegan, Samuel Parker, Horace P. Biddle, and a little later George G. and William McKee Dunn." Smith was appointed Secretary of the Interior by Mr. Lincoln and Thompson was appointed Secretary of the Navy by Mr. Hayes.

Regarding an interesting personality of his day, Mr. McCullough said: "And here I cannot forbear to say a few words about Lucy Stone, the only woman that I heard speak upon a platform in the West, after hearing whom I was in accord with Wendell Phillips in the opinion he expressed, that not only should women be allowed to speak in public but if there were many like her they should be the only speakers." In another place he says, "There was need at that time of just such hearty and effective workers as Lucy Stone and her colaborers in the cause of woman, and their labors were not in vain. They gave to the public sentiment a direction which resulted in very important changes in the laws of most, if not of all the States, such changes, for instance, as those which secured to women rights to property."

Some paragraphs in Mr. McCullough's book might have been written in our own day, although a hundred years have passed. He says, "In the Indiana Harrison campaign of 1840, Thompson, Smith, and Lane were the most prominent speakers on the Whig side; Hannegan and Kennedy on the Democratic. In that campaign public feeling was altogether with the Whigs. The financial crisis of 1837 was followed by a long period of severe depression, during which business of all kinds was pretty nearly dried up. In the flush times of 1835 and 1836 almost everybody in all the States had run heedlessly into debt, and in most States when the crisis came relief was sought in stay and appraisement laws which completed in those States the general stagnation. There were more unemployed people in the United States than ever before, and, as is generally the case in times of financial trouble, the masses were disposed to attribute their misfortunes to other causes than the true ones. The true causes were inflation of the currency, injudicious extension of credit, and widespread speculation. * * * The majority of the people were heavily in debt, with no means to pay.

The only general currency in use was the notes of suspended banks, and these were steadily being called in. Gold and silver had disappeared from circulation. There was not enough of the latter even for change, and what were called "shinplasters" (fractional currency issued by States, companies, or corporations, uncurrent, of course, except in the neighborhood of their issue, and in many cases worthless) became the necessary substitute for it. Credit was known only in name. The whole country seemed to be upon the verge of absolute bankruptcy.

It might not be out of place to recall Mr. McCullough's comment on the Democratic Party: "Tyler vetoed Mr. Clay's bank bill, and became alienated from his party, and at the next election, the Democratic Party, which had been apparently buried so deep that its resurrection was impossible, again had the control of the Executive by the election of Mr. Polk, a comparatively undistinguished and unknown man, over Mr. Clay, who had been for years the leader of his party and the most personally popular man of his time."

Speaking further of the depression, Mr. McCullough said: "The depression which prevailed from 1837 to 1843 cannot be understood by any who did not witness it. It was widespread and all-pervading. It affected all classes, but the greatest sufferers, next to the day laborers, were the farmers. Everything which the farmer had to sell had to be disposed of in barter or for currency at ruinous prices. I witnessed in 1841 a sale to a hotel keeper in Indianapolis of oats at 6 cents a bushel, chickens at half a dollar a dozen, and eggs at 3 cents a dozen. Other farm products were proportionately low; two cents and a half a pound net for fat cattle and hogs was the ruling price at Cincinnati—at that time the great mart for beef and pork. These prices, so ruinous to farmers, would have been of advantage to consumers had they been merely the result of overproduction, but this was not the case. Money was as scarce as prices were low. The dollar had great purchasing power, but the dollar was difficult to get."

A further comment by Mr. McCullough is worth presenting, although a century old: "In February 1836 a bank under the name of the Pennsylvania Bank of the United States was chartered by the Legislature of Pennsylvania, to be the successor of the United States Bank and with the same capital. The result of these financial enterprises was a very large increase in the circulating medium and an expansion of credits, which led to investment in all kinds of property and to wild speculation. Within a period of 1 or 2 years cotton advanced from 7 or 8 cents a pound to 15 and 16, wheat from a dollar a bushel to $2, and almost all other agricultural productions in the same ratio. The advance in the prices of cotton and wheat lands was still greater, and millions of acres of Government wild lands were bought for purely speculative purposes. Unfortunately, however, as is frequently the case, in times of seeming prosperity, industry and, consequently, production declined, and in 1836 many articles of prime importance commanded exorbitant prices by reason of their actual scarcity. In July of that year the Government divorced itself from the banks and issued what was called the Specie Circular, prohibiting the receipt of anything but gold or silver for public dues. This checked to some extent the rise of the tide of speculation, but it continued with diminished force until the spring of 1837, when the current of exchange having turned against the United States, the banks in the seaboard cities were heavily drawn upon for coin, and on the 10th of May 1837 the banks in New York were compelled to suspend specie payments. Those in the other cities and throughout the country suspended also as soon as the intelligence of the New York suspension reached them, and thus was commenced that protracted period of terrible depression to which I have referred, during which the accumulations of years were swept away and many States and most of the enterprising citizens of the country were forced into bankruptcy.

The stay and appraisement laws which were enacted by State legislatures, instead of giving relief, aggravated the evils by the destruction of credit. No one who was not an observer of the troubles which then overwhelmed the country can have any conception of their extent and severity.

An incident cited by Mr. McCullough has a familiar ring: "There was another bank which came to grief by having too much money. The Bank of Michigan, at Detroit, had for years been managed with great prudence, meriting the confidence which it enjoyed. It was one of the 'pet banks', and a favorite. In January 1836 I had some business to transact with it, and I called upon the president, Mr. Hastings, just after the adjournment of the board of directors. He was not in his usual good humor, and he explained the cause. 'I have', he said, 'been overruled by my directors. We owe the Government a million of dollars and we have more than that in New York. I wanted to square the account and dissolve our connection with the Government. The directors did not agree with me. The idea of giving up the use of a million of dollars for which we were paying no interest seemed to them absurd. They instructed me to use the money in current business, and I must be governed by their instructions.' The money was loaned when the speculative tide was at its height, and the bank went down in the general crush, hopelessly insolvent."

You might be interested in Mr. McCullough's reference to the great metropolis of Indianapolis: "Indianapolis had been made the seat of the State government in 1821, but was not occupied as such until 1825. It had been selected for the capital, not because there was anything attractive in the situation, but because it was near the geographical center of the State.

"• • • As a director of the State bank, I was under the necessity for many years of making quarterly trips on horseback from Fort Wayne to Indianapolis through a country almost impassable by carriages of any kind, and yet I never encountered mud deeper or more tenacious than in the streets of the capital of the State. I have seen many of the incipient towns of the West, but none so utterly forlorn as Indianapolis appeared to me in the spring of 1833. It had no local advantages except the fact that it was surrounded by a very fertile country; nothing to recommend it but its being the metropolis of the State." But later, Mr. McCullough says: "No one who saw Indianapolis when I saw it for the first time could have anticipated its rapid growth and present condition. No one could have dreamed that in half a century this almost inaccessible village would become a great railroad center, with large and varied manufactures, a population of a hundred thousand souls, one of the best built and most populous cities in the Union not situated upon navigable waters. The engineers who surveyed it and platted it were wiser than their critics. The plat which then seemed so preposterous in the extent of ground which it covered, has been again and again extended by additions to meet the wants of its constantly increasing population."

Mr. McCullough pays a high tribute to some of the early founders of Indianapolis: "Indianapolis was fortunate in the character of its early settlers. Such men as Nicholas McCarty, James Blake, Samuel Merrill, Harvey Bates, Calvin Fletcher, James McRay, John Coburn, and Dr. Coe are rarely found in any place. Their superiors in intelligence, in enterprise, and moral worth can be found nowhere."

Mr. McCullough left the practice of the law to engage in banking and was made a director of the State Bank of Indiana, which was chartered in the winter of 1833 and 1834, with 10 branches. Mr. McCullough took charge of the eleventh branch, which was established at Fort Wayne. Mr. McCullough said, "I had no practical knowledge whatever of banking, and I said so to the directors; but they supposed that I was better fitted for the place than anybody else whose services they could obtain, and I did not feel at liberty to decline the appointment. I did not, however, intend to abandon my profession, and I accepted the appointment with the understanding that I should be at liberty to resign at any time after the organization had been perfected and business had been fairly commenced. I did not resign. I liked the business of banking, and had no disposition to resume the practice of law. In 1836 I was appointed, by the directors of the branch, a director of the State Bank, and I held the office of cashier of the branch and director of the bank until the expiration of the charter in 1857."

Referring to the State Bank, Mr. McCullough said, "In nothing was the wisdom, the practical good sense, of the representatives of the people of Indiana in the legislative assembly more strikingly exhibited than in the charter of this bank. In some respects it resembled the charter of the United States Bank; but it contained grants and obligations, privileges and restrictions quite unlike those which were to be found in any other bank charter, and which were admirably adapted to the condition of the State and the circumstances of the people. The number of branches was limited to 13, the capital of each of which was to be $160,000, one-half of which was to be furnished by the State.

During the existence of the charter no other bank or corporate banking institution was to be authorized or permitted in the State. As there were no capitalists and few men of more than very moderate means in Indiana, the charter provided that to every stockholder who should pay $18.75 on each $50 share by him subscribed for, the State should at his request advance as a loan $31.25, so that the stock might be fully paid up. The loan was to be secured by bond and mortgage on real estate at one-half its appraised value. The stockholder was to be charged 6 percent on the loan and credited with whatever dividends might be declared on that part of the stock which was thus to be paid for by the State. As an illustration, a stockholder who should subscribe for 100 shares of stock ($5,000) would pay $1,875 and the State, at his option, would pay for him $3,125. The dividends on the latter were to be received by the State and credited upon the loan. Many stockholders availed themselves of this option, and as in most of the branches the dividends largely exceeded 6 percent, they found themselves before the expiration of the charter to be the owners of the stock subscribed for, free from the lien of the State. In the best-managed branches, the lien of the State was discharged some years before the charter expired. The branch at Fort Wayne was not the best, but it was one of the best-managed branches. The profits of this branch so much exceeded 6 percent that the loan was paid, if I recollect rightly, 7 years before the expiration of the charter (during which period the largest profits were made), and the borrowing stockholder received for that period the dividends on the full amount of his shares. Nor was this all. At the winding up of the business of the branch he received not only the par value of his stock but an equal amount from the accumulated surplus.

Time will not permit reviewing the banking history under the so-called Free Banking Act, when promoters purchased bonds of States on credit, secured currency from the State, and prepared the way for the financial crisis of 1857, or to review Mr. McCullough's interesting illustration of a speculator with $10,000 in cash who secured a circulation of $600,000 secured by State bonds.

When the national banking system was placed in effect in 1863 Indiana's progressive spirit was evidenced by the fact that 9 of the first 50 banks which were granted national charters were in your State.

Under the original act bank charters expired at a definite time, and in some instances the original charters expired before Congress passed the Bank Act of July 12, 1882, permitting an extension of charters, and therefore it was necessary for these banks to go into voluntary liquidation, and other banks were chartered, under the same titles, to succeed the liquidated associations. Let me call your attention to some of the banks now in active operation which, by original charter or direct succession, may be regarded as among the oldest banks in the State still remaining active:

The First National Bank of Richmond, chartered June 30, 1863; the First Merchants National Bank of Lafayette, chartered July 1, 1863; the National City Bank of Evansville, chartered July 31, 1863; Terre Haute First National Bank, chartered August 3, 1863; the First National Bank of Madison, chartered October 24, 1863; the First National Bank of Danville, chartered December 11, 1863; the First National Bank of Elkhart, chartered January 19, 1864; the First National Bank of Vevay, chartered March 28, 1864; First National Bank & Trust Co. of La Porte, chartered April 11, 1864; the First National Bank of Crawfordsville, chartered November 16, 1864; the First National Bank of Aurora, chartered January 11, 1865; the Merchants National Bank of Indianapolis, chartered on March 9, 1865; the First National Bank of Knightstown, chartered on March 9, 1865; and the Indiana National Bank of Indianapolis, chartered on April 6, 1865.

The course of the depression in your State and your return journey on the road of recovery can be traced through the following figures for deposits in your national banks:

Date	Number of banks	Total deposits	Increase or decrease each year	
			Amount	Percent
Dec. 31, 1923	250	$307, 150, 000		
Dec. 31, 1924	247	330, 926, 000	$23, 776, 000	7. 74
Dec. 31, 1925	245	340, 943, 000	10, 017, 000	3. 03
Dec. 31, 1926	240	345, 941, 000	4. 998, 000	1. 47
Dec. 31, 1927	230	368, 530, 000	22, 589, 000	6. 53
Dec. 31, 1928	224	388, 229, 000	19, 699, 000	5. 35
Dec. 31, 1929	219	377, 168, 000	−11, 061, 000	−2. 85
Dec. 31, 1930	200	364, 350, 000	−12, 818, 000	−3. 40
Dec. 31, 1931	171	302, 769, 000	−61, 581, 000	−16. 90
Dec. 31, 1932	162	252, 615, 000	−50, 154, 000	−16. 57
Dec. 31, 1933	113	214, 198, 000	−38, 417, 000	−15. 21
Dec. 31, 1934	125	300, 654, 000	86, 456, 000	40. 36
Dec. 31, 1935	125	364, 428, 000	63, 774, 000	21. 21
Dec. 31, 1936	124	435, 215, 060	70, 787, 000	19. 42

With 126 less national banks in the State on December 31 of last year than there were on December 31, 1923, the national-bank deposits stood at the highest point they have ever reached in the history of the national-banking system in the State of Indiana.

Splendid progress was made in the national banks of Indiana from December 31, 1932, to December 31, 1936. In all aspects your record compares favorably with that of the national banks in the entire United States, and in some respects greatly exceeds the average for the country. On December 31, 1936, there were 124 national banks in active operation in the State of Indiana, or 28 less than on the same date in 1932, and there were 685 less national banks in the United States as a whole. The following comparative figures for Indiana and the United States will give you the picture:

Earnings and dividends of active national banks in the State of Indiana and in the United States, years ended Dec. 31, 1932 and 1936

	1936	1932	Increase or decrease over 1932	
			Amount	Percent
INDIANA				
Number of banks	124	152	−28	−18. 42
Capital (par value)	$23, 784, 000	$25, 224, 000	−$1, 440, 000	−5. 71
Net earnings from current operations	$3, 582, 000	$2, 241, 000	$1, 341, 000	59. 84
Recoveries, profits on securities, etc	$4, 221, 000	$901, 000	$3, 320, 000	368. 43
Losses and depreciation charged off	$2, 143, 000	$8, 175, 000	−$6, 032, 000	−73. 79
Net addition to profits	$5, 660, 000	−$5, 033, 000	$10, 693, 000	
Dividends declared	$2, 142, 000	$969, 000	$1, 173, 000	121. 05
Percentage of dividends to capital	9. 01	3. 84		

Earnings and dividends of active national banks in the State of Indiana and in the United States, years ended Dec. 31, 1932 and 1936—Continued

	1936	1932	Increase or decrease over 1932	
			Amount	Percent
TOTAL UNITED STATES				
Number of banks	5,331	6,016	−685	−11.39
Capital (par value)	$1,605,011,000	$1,634,484,000	−$29,473,000	−1.80
Net earnings from current operations	$260,134,000	$220,016,000	$10,118,000	4.05
Recoveries, profits on securities, etc	$360,617,000	$73,173,000	287,444,000	392.83
Losses and depreciation charged off	$306,608,000	$487,926,000	−$181,318,000	−37.16
Net addition to profits	$314,143,000	−$164,737,000	$478,880,000	
Dividends declared	$137,676,000	$135,381,000	$2,295,000	1.70
Percentage of dividends to capital	8.58	8.28		

The recovery which has been made during the past few years is no less evident in the condition of all the banks of Indiana, State, private, and national, as the following figures will show:

Statement relative to all banks in the State of Indiana June 30, 1933, and Dec. 31, 1936

	All banks			
	June 30, 1933	Dec. 31, 1936	Increase	
			Amount	Percent
Number of banks	492	536	44	8.94
Loans and investments	$367,131,000	$618,707,000	$251,576,000	68.52
Total assets	$626,772,000	$931,959,000	$305,187,000	48.69
Total deposits	$414,001,000	$829,695,000	$415,694,000	100.41
Capital stock (book value)	$39,798,000	$58,217,000	$18,419,000	46.28
Surplus, profits, and reserves	$36,413,000	$40,609,000	$4,196,000	11.52

Just before leaving Washington, there came to my desk the earnings and dividends figures for all national banks in the United States for the 6 months ended December 31, 1936, and a comparative summary for the calendar years 1936 and 1935. You will be interested in some of these figures, which have not previously been released.

The 5,331 active national banks in the country on December 31, 1936, reported gross earnings for the last half of the calendar year 1936 amounting to $423,893,000, and expenses of $287,161,000, resulting in net earnings from current operations of $136,732,000, compared to $123,402,000 in the previous 6 months, an increase of $13,330,000. Adding to the net earnings profits on securities sold of $79,024,000, and recoveries on loans and investments, etc., previously charged off of $96,944,000, less losses and depreciation of $158,302,000, the net additions to profits before dividends in the period amounted to $154,398,000, which was 9.62 percent of the par value of common and preferred capital stock, or 4.87 percent of capital funds. Dividends declared on common and preferred capital were $66,337,000 and 9,195,000, respectively, a total of $75,532,000, representing 4.71 percent of the total par value of capital stock.

In the calendar year 1936, national banks reported gross earnings from current operations of $825,847,000, compared to $794,156,000 in the calendar year 1935, an increase of $31,691,000, or 3.99 percent. Total expenses in 1936 were $565,713,000, an increase of $16,565,000, or 3.02 percent over the previous year. The net earnings from current operations were $260,134,000, or 6.17 percent over 1935 when they amounted to $245,008,000.

Recoveries of loans and investments, etc., previously charged off and profits on securities sold in 1936 totaled $360,617,000, exceeding by $120,370,000, or 50.10 percent, the amount reported in 1935. Losses and depreciation charged off decreased 6.17 percent, or from $326,764,000 to $306,608,000. Net additions to profits before dividends aggregated $314,143,000 in 1936, and exceeded by $155,652,000, or 98.21 percent, net additions to profits in the preceding calendar year. These additions in 1936 were 19.57 percent of the total par value of common and preferred stock, or 9.91 percent of capital funds.

Dividends declared in 1936 of $137,676,000, representing 8.58 percent of the par value of capital stock, showed an increase of $20,028,000, or 17.02 per cent, over 1935.

Among the important functions of the Bureau of the Comptroller of the Currency is the appointment of receivers for failed national banks and supervision over the administration of these trusts. At the time of the banking holiday in March 1933 there were 1,070 national banks in receivership, with total deposits at closing of $889,800,000, and, as a result of the banking holiday, there were added 661 more receiverships, with deposits at time of closing of $1,113,901,130, making a total of 1,731 receiverships, with total deposits of $2,003,701,130. Of this amount, $1,422,602,851, or 71 percent, has been made available to depositors. It is not necessary to make any comment on the herculean task involved in the distribution of this huge sum.

Since the banking holiday 6,355,499 checks have been issued to receivers for use in the payment of dividends to depositors and other creditors, and during that period there was made available to creditors in closed national banks the sum of $1,132,602,851.

In the State of Indiana there were 36 national banks in receivership prior to the banking holiday, and subsequent thereto 40 more were added. Of this total number, 1 was restored to solvency and 20 have been completely liquidated. These 20 had liabilities at date of closing of $4,893,461, and there was made available to depositors and other creditors, including offsets allowed, $4,301,300, or total disbursements of 87.9 percent. The cost of the liquidation was 8.96 percent of the total collections. In other words, out of every dollar collected by the receivers, a little over 91 cents was made available to the creditors.

At the present time there are 55 national banks in receivership in Indiana, with deposits at date of failure of $65,027,868, and there has been made available to depositors and other creditors $47,542,349. The average percentage of total disbursements to total liabilities was 77.4 percent, and the cost of liquidation to date is 5.4 percent of the total collections. Additional dividends will be disbursed to the depositors in these banks as the book value of the uncollected assets amounts to $27,245,918, and the receivers have estimated these assets at $10,093,825. In order to make these distributions, 55 receiverships obtained loans from the Reconstruction Finance Corporation amounting to $12,581,082, which were secured against some of the assets of the trusts, and $11,775,067 has been repaid on these loans. In addition, going banks have made loans to two receiverships in the sum of $2,547,700, of which $1,080,400 has been repaid.

One of the most far-reaching changes in the banking laws during the present administration was the act establishing the Federal Deposit Insurance Corporation in June 1933. Up to March 31 of the present year 80 insured banks, with deposits of $21,947,000, had failed since deposit insurance went into effect. Six of these banks were national banks and 74 were State institutions; 72 percent of their total deposits was insured by the Corporation. Recoveries by the Corporation in these banks up to March 31 amounted to $4,088,474. Since March 31 seven insured State banks have failed, but figures in connection with them are not yet available. The income of the Corporation from its investments in Government bonds has been more than sufficient to date to pay the losses and the overhead expenses of the Corporation, leaving the original capital and the assessments paid by the banks unimpaired.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. EDWARD R. BURKE

OF NEBRASKA

IN THE SENATE OF THE UNITED STATES

Thursday, May 13, 1937

TELEGRAM FROM JAMES TRUSLOW ADAMS, OF SOUTHPORT, CONN., AND OTHERS, BEARING ON THE PRESIDENT'S COURT PROPOSAL

Mr. BURKE. Mr. President, I ask unanimous consent to have inserted in the Appendix of the RECORD a telegram addressed to me, signed by James Truslow Adams, of Southport, Conn., and others, bearing on the President's Court proposal.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

APRIL 30, 1937.

Hon. EDWARD R. BURKE,
United States Senate, Washington, D. C.

DEAR SIR: We respectfully urge you to take your stand with the majority of Senate Judiciary Committee in opposing President's unfortunate Court proposal.

At stake in this struggle are not only the independence and integrity of the judiciary, but also the dignity and independence of the Congress. For Congress to serve as a mere validating agency to approve measures drafted for it by persons outside its membership is to renounce the authority and responsibility which belongs to the Congress. The people count upon the Members of Congress to exercise the legislative and deliberative functions which they have delegated to the Members of the Congress, and which it is their duty to perform for the people.

If, on this major issue, the duly elected representatives of the people are reduced to subordination by the Executive, and meekly validate a dangerous measure drafted by anonymous reformers,

not only the judiciary but Congress itself will be effaced as a vital force in American Government.

You owe it to the people, to Congress, and to the integrity of our democratic system of government, to assert the rights of Congress by repudiating any measure which would concede the dangerous principle that one branch of government may impair the independence and proper functioning of another.

We therefore respectfully urge that you refuse to accept any compromise whatever other than the submission of a constitutional amendment to the people. Packing the Court by even one member will concede a vicious principle and set for the future a highly damaging precedent.

We speak on behalf of hundreds of thousands of people in all States, who represent every walk of life and who are bringing their viewpoint to you through the Committee to Uphold Constitutional Government.

James Truslow Adams, Southport, Conn.; Rev. John Haynes Holmes, New York, N. Y.; Amos Pinchot, New York, N. Y.; Dr. Norman Vincent Peale, New York, N. Y.; Rt. Rev. William T. Manning, New York, N. Y.; Frank E. Gannett, chairman; Dorothy Thompson, New York, N. Y.; Louis J. Taber, Columbus, Ohio; Samuel K. Wilson, Chicago, Ill.; Douglas W. Johnson, New York, N. Y.

Conditions Under the New Deal

EXTENSION OF REMARKS

OF

HON. ROBERT J. BULKLEY

OF OHIO

IN THE SENATE OF THE UNITED STATES

Thursday, May 13, 1937

ADDRESS OF HON. JAMES A. FARLEY AT CINCINNATI, OHIO, APRIL 29, 1937

Mr. BULKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by Hon. James A. Farley at Cincinnati, Ohio, on April 29, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

As we look out over our country today and observe the conditions which prevail generally within its borders I think that most of us have a feeling of satisfaction. When our thoughts run back to the state of things 4 years ago we feel more than mere satisfaction, we experience not only a sense of relief but one of intense thankfulness. At that time, by the reckless action, the cold indifference, and the incredible inefficiency of those who were in control of government and business, our whole economic structure had been brought to the very brink of ruin.

Confronted with that prospect, we made a change in our Government. We decided we needed a New Deal, and we got it. We chose Franklin D. Roosevelt to take the helm, and immediately, electrically, the whole situation was transformed. By the swift, energetic action of the new President and by his inspiring courage and hopefulness the machine which had been tearing headlong downhill toward the abyss was placed under control, pointed away from danger, and set on the upgrade. I do not need to specify all the things that were done to save us in that hour of peril and desperation. Everybody at the moment realized the greatness of the hazard and appreciated the effectiveness of the rescue. All that is an old story and I would not retell it except for the sake of the record and its relation to the events that have come after.

I have just said that everybody appreciated the effectiveness of the rescue. That was true for a while, but as happens in private as well as public life, there are always some whose natures are infertile soil for gratitude, and so, as soon as they found themselves safe, as soon as they discovered that after all their property was not going to vanish completely, they convinced themselves there had never been much to worry about and that anyhow things would have been all right if they had been allowed to run their natural course. It was as if a man who had been dragged from the water after he had gone down the third time had denounced those who had pulled him out for interfering with his independence and asserted that his soaked clothing was due not to the water but to perspiration.

Happily, in this instance the section of the public which was inappreciative of what had been done for them was as small in number as it was loud in declamation. An overwhelming majority of the people recognized the fact that the country had been close to disaster and approved the methods by which that disaster had been averted. That was shown conclusively when they returned to Congress at the midterm election the same men, or men with the same principles, as those who had been responsible for the first New Deal legislation. This was really an unusual and emphatic endorsement of the Roosevelt administration, since it is not at all rare for the administration in power to lose strength, if not control, in the midterm congressional elections.

The new Congress continued its support of the President in his humanitarian policies and then came the 1936 national election in which President Roosevelt went before the people for approval or disapproval of his administration. You know what the result was. You have not forgotten that by the greatest popular vote and by the greatest popular and electoral majority in the history of the country President Roosevelt was asked to stay where he was and carry on as he had been doing for the welfare of all the people. Forty-six out of the 48 States asked him to do that. Twenty-eight million people, over 11,000,000 more than those who said otherwise, approved of the President's course and told him as plainly as speech can make clear in a democracy that they wished him to continue on it.

These millions of people knew what they were getting when they voted for Franklin D. Roosevelt. They were not trading "sight unseen." They were not buying a pig in a poke. They knew from his acts in his first administration and from his public utterances in the campaign exactly what to expect.

In his acceptance speech at Franklin Field, Philadelphia, last summer, President Roosevelt said: "Today we stand committed to the proposition that freedom is no half-and-half affair. If the average citizen is guaranteed equal opportunity in the polling place, he must have equal opportunity in the market place. The economic royalists complain that we seek to overthrow the institutions of America. What they really complain of is that we seek to take away their power. Our allegiance to American institutions requires the overthrow of this kind of power." Again in the same address he said: "We seek not merely to make government a mechanical implement, but to give it the vibrant personal character that is the embodiment of human charity."

There is nothing deceptive in those sentiments. There is nothing in them that could cause the people to be uncertain of either his beliefs or his purposes. Again, in his speech to the New York State Democratic convention at Syracuse, President Roosevelt said: "The most serious threat to our institutions comes from those who refuse to face the need for change. Liberalism becomes the protection for the far-sighted conservative. * * * Wise and prudent men—intelligent conservatives—have long known that in a changing world worthy institutions can only be conserved by adjusting them to the changing time." Nothing in that about preserving the status quo, of letting things rest, of a do-nothing policy.

And in his final speech of the campaign at Madison Square Garden, New York, President Roosevelt asserted that his vision for the future embraced more than promises. He thereupon clearly stated the objectives he had in mind. "Of course," he said, "we will continue to improve working conditions for the workers of America, * * * to end the labor of children, to wipe out sweatshops, * * * to end monopoly in business, to support collective bargaining, to stop unfair competition, to abolish dishonorable trade practices, * * * to work for cheaper electricity in the homes and on the farms, for low interest rates, for better banking, for the wiping out of slums, * * * continue our efforts in behalf of the farmers, * * * provide useful work for the needy unemployed." Of course, the President said, he planned to do all of these things, and concluded with emphasis: "For these things and for others like them we have only just begun to fight."

With such a clean-cut program of progressive action before them, is it possible that any of the 28,000,000 who cast their ballots for President Roosevelt and the other Democratic candidates had any doubts whatever about his purposes? No fair-minded and unprejudiced person can think so.

I believe that thousands of people voted for Mr. Roosevelt because of his attractive personality. There was a personal appeal in his clear speech, in his frank and cordial manner, in his hopeful way of looking at things, and above all, in his splendid courage. But granting all these undeniably great assets, I do not believe they predominated in moving the millions who gave him their endorsement. I firmly believe the people voted for him in such overwhelming numbers because they wanted him to carry on the Government during his second term in the same spirit he did in his first. They wanted him to continue the fight for real democracy, to put justice and heart into government.

Now, at the beginning of his second term, the President, in conformity with the mandate he received from the people and endeavoring to carry it out, comes to us with a recital of what has been done and what is needed still to be done. He says that in the dark days 4 years ago the problem was to remedy the abuses and inequalities which had thrown our economic system so terrifyingly out of joint and to take measures to prevent the recurrence of the evil. "Today," he said in his radio address of March 9, "we are only part way through that program. * * * National laws are needed to complete that program. * * * It will take time—and plenty of time—to work out our remedies administratively even after legislation is passed. To complete our program of protection in time, therefore, we cannot delay one moment in making certain that our National Government has power to carry through."

It is obvious to all from what we ourselves know and from what the President has said, that the progressive action demanded by the times and endorsed by the people cannot be fully carried out

so long as there are obstacles within the Government to its accomplishment. One of these obstructions is the Federal judicial system as at present constituted—a system unaffected by the people's will except through the action of Congress and the responsiveness of the judges themselves to the enlightened spirit of the age. As a consequence of the record of the Federal judiciary, especially in recent times, it has become impossible to know whether a statute of the United States was binding or not.

For most of us, a law is a law to be obeyed, which we have to obey, when it has been passed by Congress and signed by the President. Not so, however, with rich and powerful individuals and corporations able to hire lawyers and stand the expense of litigation. If they do not like a law, they defy it by going into court and, as often as not, securing an injunction from a judge restraining its operation. Worse even than that, we have had the spectacle within a year of eminent attorneys with a lucrative corporation practice advising their clients publicly not to obey a law passed by Congress.

The result of such practices is that in the case of many of the most important and wholesome laws a delay of months and even several years may occur before the constitutionality of the law is determined by a decision of the Supreme Court. And even in that Court, because of a frozen block of unalterable opinion, the chances of approval of progressive and liberal legislation are greatly impaired.

This situation was in the mind of Assistant Attorney General Robert H. Jackson when he told the Judiciary Committee of the Senate: "Nearly every newly organized agency of the Government rests under a legal cloud. This is true of the Securities and Exchange Commission, the Social Security Board, the Public Works Administration, and the Tennessee Valley Authority. The acts of Congress involving the hopes and fears of a great proportion of the American people are likewise clouded in legal doubt * * *. The whole program overwhelmingly approved by the people in 1932, 1934, and 1936 is in danger of being lost in a maze of constitutional metaphors."

Is it any wonder that the President is concerned for the fate of measures undertaken by the administration to carry out the wishes of the people? He wants to do away with the delay that now intervenes between the enactment of a law and its final approval by the Supreme Court by simplifying the present procedure. And he wants also to bring to the Supreme Court a better and more complete comprehension of contemporary problems by the appointment to it of a number of men with younger minds, so that laws passed in consonance with the opinion of the country will stand a chance of reasonable and unprejudiced interpretation.

The plan proposed by President Roosevelt to accomplish this is unquestionably constitutional; it is simple, it is effective, and it is reasonable. It is put forward not in response to any whim of the President, but solely as the best possible means for the administration to bring into being the reforms which a large majority of the people of the country have clearly indicated that they desire.

Now, with reference to this proposal, the same opposition comes to the front as fought the reforms instituted in the President's first administration. The same reactionary elements which viciously attacked the administration after they had recovered from the jitters 3 years ago are now seeking to regain the power they lost by preventing reform of the courts and the consolidation of the New Deal gains. They have erased the Liberty League sign on the door, but inside the same old copartnership of greed and reaction is at work. They are playing for time. They think that if they can cause enough delay they will thwart President Roosevelt and his program, and that if they can do that they will be safe.

In this I am convinced they are completely fooling themselves, for I am certain that the things which President Roosevelt is asking for are the very things which the great majority of the American people want. And what the great majority of the American people want they will get.

I said in the beginning that most of us, after a survey of our domestic situation, had a feeling of gratification. My judgment was based on the general condition of business, on the temper of the people, and the outlook for the future. We have made tremendous gains materially and in morale in the last 4 years. But the satisfaction that we rightly experience at this advance should not be allowed to lull us into an inert complacency. We have every reason to be happy that we do not live under the threat of war as so many nations do and that we do not suffer the oppressions prevailing under tyrannical forms of government. Because of this fortunate circumstance, we are freer to accomplish the constructive things which a changed and changing world demands.

We have already cleared away the debris of the late economic and moral disaster and started to rebuild. I am confident that we shall continue the work of reconstruction so that President Roosevelt's ambition, as he recently stated it, may be fully realized: To turn over to his successor "a nation intact, a nation at peace, a nation prosperous, a nation clear in its knowledge of what powers it has to serve its own citizens, a nation that is in a position to use those powers to the full in order to move forward steadily to meet the modern needs of humanity—a nation that has thus proved that the democratic form and methods of national government can and will succeed."

Sanitary Treaty With Argentina

EXTENSION OF REMARKS
OF
HON. KENNETH McKELLAR
OF TENNESSEE
IN THE SENATE OF THE UNITED STATES
Thursday, May 13, 1937

LETTER FROM HON. CORDELL HULL, SECRETARY OF STATE, TO THE SECRETARY-TREASURER OF THE ILLINOIS VETERINARY MEDICAL ASSOCIATION

Mr. McKELLAR. Mr. President, I ask unanimous consent to have printed in the RECORD a letter written by Hon. Cordell Hull, Secretary of State, to the secretary-treasurer of the Illinois Veterinary Medical Association on the subject of the sanitary treaty with Argentina.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, May 3, 1937.

Mr. C. C. HASTINGS,
Secretary-Treasurer, Illinois State Veterinary Medical Association, Williamsville, Ill.

MY DEAR MR. HASTINGS: I have received your letter of March 2, 1937, with which you transmitted for my consideration a copy of a resolution adopted by the Illinois State Veterinary Medical Association expressing opposition to the ratification of the Sanitary Treaty with Argentina on the ground that it would involve danger of the introduction of foot-and-mouth disease into this country.

The facts and issues involved with respect to this matter are simple. When the Hawley-Smoot Tariff Act was passed, there was included in it a provision contained in section 306 (a), under the terms of which an absolute sanitary embargo was prescribed against any country as a whole when foot-and-mouth disease or exposure to it is found to exist in any part of such country. Prior to the enactment of this provision the Department of Agriculture possessed and exercised full authority to impose sanitary embargoes against any country or part of a country found to be infected or exposed to infection. This broad authority, which was based upon a series of enabling statutes running back into the nineties of the last century, did not compel the Department of Agriculture to apply the embargo to the entire area of a country when there was infection or exposure in only certain well-defined areas or zones. The Department had discretionary authority to make an exception of any area or zone within such country if it were convinced that this could be done without risk of introducing the infection into the United States.

Section 306 (a) thus added nothing to the already-existing quarantine safeguards of the American livestock industry. What it did do, in effect, was to supplement the very high duties on imported meat—the duties having been virtually doubled in the Hawley-Smoot Act—with this sweeping sanitary embargo. Under the guise of sanitary regulation, whole countries were thenceforth to be subjected to such embargoes even though they might contain well-defined areas where there was no infection or exposure.

This provision was adopted by the Congress without the Department of Agriculture's being consulted at any time concerning its merits, and in the face of the fact that no additional powers were requested by that Department. The real object was not sanitary protection of the domestic livestock industry. The real purpose was to establish what amounted to an embargo tariff under the guise of sanitary regulation. It was Smoot-Hawleyism carried to its logical extreme of embargo protectionism.

The chief country affected, as was clear at the time would be the case, was Argentina. One part of Argentina, namely, the far-southern portion, usually referred to as Patagonia, occupies a unique position in that throughout the entire past there is no record of foot-and-mouth disease in that region.

The Argentine Government has naturally taken exception to the manifest unfairness and injustice of applying a sanitary embargo against Patagonia when there is no infection or exposure to infection in that region. It has condemned such action in unmeasured terms as contrary to every rule of justice, fair play, and fair dealing. It has naturally resented the fact that the application of an embargo to every part of the country has tended to stigmatize the whole Argentine livestock industry in a manner prejudicial to Argentina's large meat export trade with Europe. The inevitable result has been a serious impairment of our commercial and other relations with that country.

Is it any wonder that our trade with Argentina has suffered so heavy a decline? In 1929 our exports to that country were valued at $210,288,027. Then came the high duties of the Hawley-Smoot Act, together with this extreme and offensive sanitary provision.

Argentina, on her part, adopted a policy of "buy from those who buy from us." In 1936 our exports to Argentina were valued at only $56,910,088.

Where is the gain to the United States in such figures—or to the American livestock industry? Of course, there is none, but on the contrary sheer loss. That the export trade affected in this case is chiefly in manufactured rather than farm products is no answer. Such a trade loss means reduced industrial activity and employment right here in the United States and hence shrunken domestic outlets for products of both farm and factory. Not the least of such products is beef itself, the demand for which is especially responsive to upswings and downswings in consumer purchasing power. This vast trade loss, with its adverse repercussions upon our whole domestic economy, is one of the unsolicited and untoward results of the rampant, embargo protectionism of which this sanitary provision was a mischievous manifestation.

These were the immediate circumstances which led to the negotiation of the sanitary treaty. There is nothing complicated or sinister about this treaty. It affirms the right of either country to prohibit importation of animal or plant products from territories or zones of the other country which the importing country finds to be affected with or exposed to plant or animal disease. But it denies to the importing country the right to prohibit importation from territories or zones within the other country which it (the importing country) finds to be free from disease or exposure, simply because such infection or exposure is found to be present in other parts of the exporting country. As already stated, its effect in the instant case is to restore to the United States Department of Agriculture the discretionary authority which that Department possessed prior to the adoption of the Tariff Act of 1930 to exempt from the foot-and-mouth-disease embargo any area or zone which it finds is free from infection or exposure. It is precisely a proposal to do the very thing mentioned in your letter transmitting the resolution of the Illinois State Veterinary Medical Association, wherein you state that "it is the opinion of the veterinary profession of this country that the judgment of officials of the United States Bureau of Animal Industry can be relied upon in all questions concerning the possibility of importing foreign animal diseases into this country."

The draft of the treaty was discussed with, and carries the approval of the Department of Agriculture. The experts of that Department have given careful study to claims concerning outbreaks of the disease in Patagonia and have found no evidence to support them. The entire area of Patagonia is recognized as free from foot-and-mouth disease. The only packing plants, however, are in the southern section. These plants are practically inaccessible to livestock from northern Patagonia, owing to the vastness of the intervening semiarid area and the lack of rail communications. For export purposes livestock from northern Patagonia would at present be dependent upon packing plants in the infected regions to the northward and would therefore continue to fall within the sanitary prohibition.

This treaty must not be confused in any way with the tariff. It has nothing to do with the tariff and would not tie our hands in any way in regard to tariff matters. It would leave absolutely untouched the existing duties on beef, lamb, and mutton and would not hamper in any way the freedom of the United States Government in regard to regulation of the tariff duties on meat or any other livestock product. It would restore sanitary embargoes to their legitimate functions and tariffs to their legitimate functions; and either could be used by our Government to the fullest extent, within the scope of its proper function. This Government is committed to, and stands foursquare behind, all necessary measures for the sanitary control of plant and animal diseases. It is accordingly committed to the maintenance of such quarantine measures with regard to imports as may be necessary for that purpose. It does not favor, however, the resort to subterfuge which takes place when sanitary regulation is used as a cloak for covert protectionism of the embargo type.

This distinction is basic and vital. Embargo protection under the guise of arbitrary and sweeping sanitary measures is an evil universally recognized by all countries. This is not alone because of its obvious bearing on the problem of reviving and expanding world trade, vitally important though that is. Even more, it is owing to the need of removing sources of suspicion and friction between nations such as are provoked when any country arbitrarily abuses its perfectly legitimate powers to take whatever measures may be necessary to protect its animal and plant life from infectious diseases. This present instance is a concrete illustration of the way in which such arbitrary and unwarranted action tends to corrode and undermine the foundations of peaceful and friendly relations between nations.

There is another aspect of this proposed treaty that needs to be stressed, namely, its significance from the standpoint of safeguarding our own export trade from arbitrary and extreme sanitary measures by other countries. That such occasions do arise when "the shoe is on the other foot" is a matter of record.

To illustrate: In 1924, following outbreaks of foot-and-mouth disease in California and Texas, New Zealand placed an embargo on imports of grains, hay, livestock, plants, fruits, and vegetables from the nonexposed States of Oregon and Washington and the noninfected regions of California. It was more than 2 years before the New Zealand embargo was completely lifted and it caused severe losses to Pacific Coast farmers who had built up a thriving trade in fruits and vegetables with that country. In 1929 the United Kingdom placed an embargo on animals, hay, straw, and alfalfa meal imported from any part of the United States. The reason given was an outbreak of foot-and-mouth disease in the State of California. Following representations by our Government showing that the disease was restricted to California, the embargo was lifted as against other parts of the United States.

These experiences occurred before the enactment of Section 306 (a) of the Tariff Act of 1930; that is, at a time when we could consistently ask for modifications in the foreign embargoes as described. Since 1930, however, our position in the matter of securing such modifications has been rendered far more difficult. The presence upon our statute books of Section 306 (a) of the Tariff Act of 1930 places the United States in a wholly inconsistent and disadvantageous position when it comes to protecting our own export trade against similarly sweeping sanitary measures in other countries. Surely it must be clear that if we are to safeguard our export trade against foreign sanitary embargoes, applied to vast unexposed areas within the United States simply because of infection in one limited area, we must be willing ourselves to refrain from applying similarly arbitrary measures in connection with imports.

Finally, it remains to take note of the widespread and reckless assertions to the effect that adoption of the treaty would lead to a vast increase in imports of meat from Argentine, to the great detriment of the American livestock industry. Such claims would appear to be entirely without foundation. There are practically no beef cattle in Patagonia, and no beef is produced for export. It is a sheep, rather than a cattle, region; and any importation of meat which developed following ratification of the proposed treaty would accordingly be confined to lamb and mutton.

The prospect of any significant increase in imports of lamb or mutton from Patagonia is negligible. If the sanitary embargo against Patagonia were removed, that area would have the opportunity of sharing with other countries in whatever market exists for foreign lamb and mutton in the United States under present tariff and price conditions. But it is difficult to see how there could be any significant increase in imports under present tariff and price conditions. As already stated, the sanitary treaty does not touch tariffs. It leaves the duties on meat undisturbed. On mutton the present duty is 5 cents a pound; on lamb, 7 cents. Under the act of 1922 the duty on mutton was 2½ cents and on lamb 4 cents a pound. Until 1927, when an administrative order of the Department of Agriculture resulted in a sanitary embargo against all imports of fresh, frozen, and chilled meat from Argentina, the only barrier to importation of lamb and mutton was these duties of 2½ and 4 cents a pound, respectively. Yet the fact is that the average annual imports of lamb and mutton during the 4-year period 1923–26, inclusive, amounted to only 3,379,000 pounds (less than six-tenths of 1 percent of the average annual slaughter in the United States during this period), of which only 1,227,000 pounds, or 36.3 percent, came from Argentina. From the whole of Argentina imports of mutton and lamb amounted to only about one-fifth of 1 percent of our domestic slaughter. Under present conditions any imports, whether from Argentina or elsewhere, would have to scale a tariff wall nearly twice as high as in 1923–27.

To suppose, in the light of the foregoing facts, that the mere addition of Patagonia to the list of possible sources of import supply would result in any significant increase in imports is indeed, a heavy tax on the imagination. Our imports of lamb and mutton are negligible; we are even on a small export basis at the present time. In 1935 total imports of lamb and mutton were 47,883 pounds, mostly admitted free for use in ship stores. In 1936 imports were 30,919 pounds (figures for free versus dutiable not yet available). On the other hand, in 1936 we exported 481,950 pounds of lamb and mutton, or more than 15 times the amount imported.

In view of all the circumstances, the opposition which it has been sought to stir up against this treaty is wholly unwarranted and unfair. Without adding one iota to the assurance of full sanitary protection of our herds which would still prevail if the treaty were ratified, such opposition merely obstructs the efforts of our Government to improve our many essential relationships with other countries. Such improved international relationships, based upon good will and fair dealing, are indispensable to enduring world peace and the economic well-being of nations. Those who oppose the proposed treaty move, wittingly or unwittingly, in the direction of imperiling the great benefits which the improvement of trade and other essential relationships between us and other nations confers upon all groups in the United States, including the livestock industry.

To seek to convey the impression, as many opponents of this treaty have, that this administration is unfriendly to the interests of agriculture, including the livestock producers, is manifestly absurd in the light of the actual record. No administration in our entire history has sought more earnestly, or more successfully, to meet the difficult problems that beset American agriculture. Absolutely vital as a part of any such program is the recovery of our foreign trade to much higher levels than those of recent years and, in consequence, a healthy expansion of our markets for farm products both at home and abroad. This proposed treaty is distinctly a step in that direction, in that it would remove one

sore spot in our relations with Argentina for the continuance of which there is no justification or excuse from the standpoint of any interest involved for this country. If there were any real danger to our livestock producers from ratification of the treaty, this administration would be the last to urge ratification. But there is no such danger, and there are grave disadvantages and injuries in continuance of the present unsatisfactory situation.

Sincerely yours,

CORDELL HULL.

The Supreme Court and the Spirit of the Constitution

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Thursday, May 13, 1937

ADDRESS OF HON. PAT MCCARRAN, OF NEVADA, AT PHILADELPHIA, PA., MAY 10, 1937

Mr. COPELAND. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by our colleague, the junior Senator from Nevada [Mr. MCCARRAN], in Philadelphia on the night of May 10, 1937. I had the privilege of listening to the address, which was eloquent, inspiring, and convincing.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE DEMOCRATIC PLATFORM OF 1936 DECLARED "WE PROPOSE TO MAINTAIN THE LETTER AND SPIRIT OF THE CONSTITUTION"

Mr. Chairman, my fellow countrymen: At the outset it may be proper to state that I address you as one who by his vote has supported every major measure of the administration of President Franklin Delano Roosevelt, and one who subscribes to the platform of the Democratic Party, which in part declares:

"We have sought and will continue to seek to meet these problems through legislation within the Constitution.

"If these problems cannot be effectively solved by legislation within the Constitution, we shall seek such clarifying amendment as will assure to the legislatures of the several States and to the Congress of the United States, each within its proper jurisdiction, the power to enact those laws which the State and Federal legislatures, within their respective spheres, shall find necessary in order adequately to regulate commerce, protect public health and safety, and safeguard economic security. Thus we propose to maintain the letter and spirit of the Constitution."

Our meeting here tonight is significant. A century and a half has elapsed since the Constitution had its birth in this historic city. Today that Constitution is calling to the people to sustain its morality. It is not the Democratic Party that challenges its integrity. The threat comes from a false preachment. In that century and a half passed, the Government that was established here has protected its citizens, progressed with the years and defended its existence against the criticism of the world. It has won the admiration and respect of the world, because by our form of government the rights of the lowly and humble were declared and protected through the power and authority of an independent judicial system.

Lawful governments are created to defend the natural rights of men in the lowly walks of life and to guarantee that they have a full measure of justice in the hour when their liberties are challenged. The voice that was to speak for the individual citizen in our form of government; the word that was to be heard in defense of individual human liberty, established by the Constitution of the United States; the mandate that was to issue in defense of the toiler whose voice might not be heard in the multitude but whose inalienable right was nevertheless sacred—was the voice and mandate of the courts of the land.

"HE HAS MADE JUDGES DEPENDENT UPON HIS WILL ALONE"

We may observe, in the spirit of the hour in which we meet, a most significant fact arising from the pages of history. If we were to apply the rule sought now to be invoked against men who sit in high places, then the spirit of the great philosopher whose name is saintly in these surroundings would never have found a resting place in the history of the Constitution. Benjamin Franklin should have been retired from the Constitutional Convention—he was over 70 years of age! But what a wealth of splendid law civilization received as a heritage from the fertile mind of that citizen-philosopher. How glorious became the heritage of the sons of men derived from the statesmanlike thought of that simple soul! He lived and fought and died in the spirit of the lowly and the humble. He had joined hands with his fellows in a former historic assemblage from which had emanated an expression heard round the world—the Declaration of Independence. He had experienced the privations of war and the thrill of a victorious peace. He had been an emissary for his country abroad and his experience caused him to sign a pronouncement against the tyranny of a king, wherein it was said: "He has made judges dependent upon his will alone for their tenure of office and the amount and payment of their salaries."

This expression in the Declaration of Independence was made with reference to King George III—let it not be confused with a later date! It was given to the world out of a decent respect for the opinions of mankind, as one of the reasons for a declaration of independence by a liberty-loving people in the Western Hemisphere.

THE COURTS SHOULD BE INDEPENDENT

The War of the Revolution was fought and the blood of martyrs was shed in the spirit that would prevent a ruling power from making judges dependent upon its will for their tenure of office. The spirit that inspired that line into the Declaration of Independence, that prevailed through the burning years of the War of Revolution, is a chalice on the altar of this shrine at which we are assembled here, after the passage of 150 years.

A government, whatever its form may be, depends primarily and fundamentally upon the confidence given to it by the people who submit to its orderly direction. For this 150 years our growing population has lent the strength of its confidence to the mandate of the courts established by the Constitution of the United States.

That the constitutional court and the courts permitted by the Constitution should be independent of the will or dictate or dominance of any other authority, is the spirit of the organic law. Were that principle to be questioned or doubted, the pages of Anglo-Saxon civilization are replete with confirming authority. Interference by the ruling monarchs of Great Britain with the courts of the land was stopped on the field of Runnymede. Interference by George III with the will of judges in the Western Hemisphere was stopped on the field of Yorktown.

A FALSE PHILOSOPHY

Sponsorship of the pending bill is not to be ascribed to any individual. Sponsorship is to be found in a rampant philosophy that has been blared like a false note in the rhythm of our national anthem.

We are told by some well grounded in the law that this plan of reorganizing the judiciary is entirely possible under and within the Constitution. May we not reflect upon the words of wisdom which suggest that "the letter killeth but the spirit giveth life."

It was never within the spirit of the organic law that the judgment of an individual member of the Supreme Court could be colored—yes; even vetoed, because he, when by dint of the fleeting wings of time, crossed the line of 70, there would be automatically placed opposite him another, chosen for the express purpose of veto or augmentation. If we so write the law as to thus give the Executive veto power over the individual judgment of a member of the Court, we will do so in violation of the spirit of that lofty independence which has been conferred on members of that Court by every line of history in the background of that tribunal.

ADAPTION AND CONFORMITY IS THE DEMAND

But we are told that our Government is to be likened to a three-horse team; and if one of the horses does not pull in conformity with the other two, then the plow will fail. By this and other expressions of like import we are advised that the purpose of this bill is to have the courts conform to the views and direction of the political administration in charge of the Government. In other words, adaptation and conformity is the plea and the demand behind this bill; and this plea and demand is put forth to the people under the golden glamour of a pronouncement that it is constitutional. It would be more candid to have said—"We want a court that will conform; forget the Constitution." My fellow countrymen, the history of our Government and the spirit that pervaded the framing of the Constitution, denounces the philosophy declared as justification for this reformation of the judicial arm of the Government.

"THE SECURITY GONE LIKE A MORNING MIST"

How prophetic were the expressions of James Bryce, the world's outstanding commentator on our form of government, in his work the American Commonwealth, when he said:

"The fathers of the Constitution studied nothing more than to secure the complete independence of the judiciary. The President was not permitted to remove the judges, nor Congress to diminish their salary."

Addressing himself, in the year 1888, to that which we find at this hour to be involved in the bill now pending before the Senate, the great author said:

"Suppose Congress and the President, bent on doing something which the Supreme Court deems contrary to the Constitution, pass a statute. A case arises under it. The Court, on the hearing of the case, unanimously declares the statute to be null, as being beyond the powers of Congress. Congress forthwith passes and the President signs another statute more than doubling the number of justices. The President appoints under the new jus-

ticeships men who are pledged to hold the former statute constitutional. The Senate confirms his appointments. Another case raising the validity of the disputed statute is brought up to the Court. The new justices outvote the old ones. The statute is held valid; the security provided by the protection of the Constitution is gone like a morning mist."

CONSTITUTION MAY PROTECT ALL THE PEOPLE

Continuing, this great author said:

"What prevents such assaults on the fundamental law, assaults which, however immoral in substance, would be perfectly legal in form? Not the mechanism of government, for all its checks have been evaded. Not the conscience of the legislature and the President, for heated combatants seldom shrink from justifying the means by the end. Nothing but the fear of the people, whose broad good sense and attachment to the great principles of the Constitution may generally be relied on to condemn such a perversion of its forms. Yet, if excitement has arisen over the country, a majority of people may acquiesce, and then it matters little whether what is really a revolution be accomplished by openly violating or by merely distorting the forms of law. To the people we come sooner or later. It is upon their wisdom and self-restraint that the stability of the most cunningly devised scheme of government will, in the last resort, depend."

Citizens of America, what a warning! How fitting do we find this advice, how unanswerable the guidance! As against this clear prophecy and to meet its cogent argument, the proponents of the bill now pending point with pride to the last general election and to the overwhelming vote and confirmation given by the people to this administration, and then say that the election was a mandate to carry on. Yes; that was a solemn mandate for a great administration to carry on under a great leader within the lines of the Constitution of the United States, but not otherwise. The law is not the people. The people is not the law. The law is the spirit of justice governing the people, and its application to individuals, to associations, to every form of civil life must be so hedged around with reverence and security that the civil courts established by and with the consent of the Constitution may, in an hour of popular passion, protect all the people from the tyranny of what might be a lawless majority.

It was for and on behalf of struggling minorities that the Declaration of Independence was pronounced. It was for and on behalf of minorities that the Constitution of the United States was written. It was for and on behalf of minorities, yea, more, it was for and on behalf of the lowly minority of the most humble private citizen that there was written into the Constitution of the United States the following provisions, now sacred to civilization and comforting to those who leave the heritage of citizenship to their descendants. Let us recite them as we would recite the Beatitudes:

"No religious test shall ever be required as a qualification to any office or public trust under the United States."

"Congress shall make no law respecting an establishment of religion or preventing the free exercise thereof, or abridging the freedom of speech or of the press."

"No soldier shall in time of peace be quartered in any house without the consent of the owner."

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated."

"Private property shall not be taken for public use without just compensation."

"Neither slavery nor involuntary servitude, except as a punishment for crime, shall exist within the United States, or any place subject to their jurisdiction."

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State, on account of race, color, or previous condition of servitude."

"No State shall make or enforce any law which will abridge the privileges or immunities of the citizens of the United States."

"No State shall deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

PHILOSOPHY FALSE TO THE KEYNOTE OF A WRITTEN CONSTITUTION

In this hour you are called upon to think for yourselves and for your country. On the one hand stands a philosophy false to the keynote of a written Constitution. On the other hand stands the prescribed guarantees of individual human liberty which I have just quoted and which you will hand down as a heritage to your posterity. Was the enforcement of these guarantees and their preservation placed in the custody and control of the Executive branch of the Government? Was the enforcement of these attributes of liberty placed in the control and subject to the will of the legislative branch of the Government? If such had been the case, if such were true, then these golden guarantees, reduced from the crucible of men's trials through the avenue of ages, might be changed, abridged, or abrogated with each succeeding election.

The Romans wisely declared: "The voice of the people is the voice of God." But when the people, hearing the voice of God, indent the same into their organic law, and when through the trial of ages, this indenture is found to be worthy, then its pronouncements by an independent arbiter, constituted for that purpose, should be forever insured.

The Supreme Court of the United States was created to be an independent arbiter standing between the State—and when I use the term "State", I mean the orderly body of the people—and the Government, which Government under democratic form might itself change from period to period. The Supreme Court is essentially an instrument of the State and not of the Government. The Government is a temporary majority running the State machinery. But, however much the change might come about, the principles of individual human liberty are nevertheless present and their pronouncement and enforcement left by the organic law to the courts and not to the executive or legislative branches.

"IT IS IMMORAL; IT IS ANTICONSTITUTIONAL"

The Constitution of the United States, written where we now stand, declared for an independence of courts and that that independence should be absolute, not conditional; entire, not partial; perpetual, not temporary. It declared that our Court of last resort should be a constituted authority upon which Presidents might lean, in which Congresses might abide, and to which the lowly and humble might appeal for the redress of wrongs and the pronouncement of rights.

My individual interest, aside from my official duty in the question of the hour, is as deep-seated as my patriotism. I have but one worthwhile heritage to pass on to my children, and that is the guarantee announced by their Government that whatever their station in life, however humble their position, whether fortune may lead them to plow the furrow or to plead for the lives of men, to sit in the seats of worldly power or to walk the way of the lowly, to mold public opinion, or to serve under the symbol of their Savior, no hand shall be lawfully raised against the enjoyment of their liberties. No momentary power shall take from them, by reason of a tidal wave or whim of the hour, the right of life, liberty, and the pursuit of happiness.

When a challenge to those rights comes they, like the children of other men, may rest in security that the voice and mandate of an impartial, independent, finite Court constitutionally existing will pronounce their rights, redress their wrongs, and give them opportunity and encouragement to love their Government and to work out their destinies in their chosen walks of life.

If any authority, however much admired, can hold at its beck and call, or effect even to the least jot or tittle, the judgment of that Court, then to that extent individual liberty is jeopardized, the spirit of the Constitution is adulterated, and our form of government is challenged. There is no consolation in the assurance that the measure now pending before the Senate of the United States may be constitutionally enacted. To that assertion I reply in the language of Sir James Bryce: "It is immoral; it is anticonstitutional."

SUPREME COURT SUSTAINED A LOWLY CITIZEN

By the philosophy behind this measure it is declared that the Bill of Rights would never be violated, that freedom of speech, freedom of assemblage, freedom of the press, security in life, liberty, and property would never be challenged. My countrymen, law takes its greatest force and its most secure foundation when it rests on the forum of experience; and how has our Court of last resort in the past been called upon to contribute to that great fortification of the law? In *Cummings* v. *Missouri*, the rights of the lowly citizen walking in the pathway of the Nazarene were protected in the spirit of the Constitution by declaring that "No State shall pass any bill of attender or ex post facto in law." In the Milligan case, surrounded by the frenzied wake of the Civil War, it was the Supreme Court which sustained a lowly citizen against an act of Congress, suspending the right of trial by jury. In the case of *Pierce* v. *The Society of Sisters*, it was the Supreme Court that pronounced the inalienable right of the fathers and mothers of America to guide the destiny of their own children, when that power was challenged by an unconstitutional act of a sovereign State. Only a few months ago in the Scottsboro cases the rights of a Negro to have counsel were upheld by this Court under the due-process clause of the Constitution.

On March 26 of this year, in the Herndon case the right of freedom of speech and freedom of assembly was reenunciated. Only a few weeks ago the Supreme Court construed the Constitution to uphold the Wagner Labor Act. But the doctors sponsoring this bill now pending before us, say the Court is afflicted with hardening of the judicial arteries and requires infusion of new blood. Is it the malady that concerns the doctors or a desire to perform the post-mortem?

This is not the only epoch in which there were demands for the very thing we here deal with. In an hour of glamorous fury following the blood and fire of the Civil War, when the Supreme Court dared to invoke the Constitution and denied the right in Congress to suspend trial by jury, the call for increase in its membership was made by powerful leaders. How splendidly did the third horse in the team of government withstand the lash! How true and well was the furrow plowed, and when the dust storm had blown away, a united people was guided by its line. The Milligan decision fixed the policy of a nation, and roused the admiration of the world.

I have drawn attention to the mandate of the court of last resort speaking for and enforcing the rights of the individual citizen, however lowly. It is that type of citizen that goes to make up the body and mass of the great labor group of this country.

It is the toiler whose attention must be arrested today and whose thought must be centered on the safeguard of his rights and the solution of his problems. It is the wage worker who, bearing his responsibilities, supporting his dependents, carrying his burdens, entrusts his liberties to his delegated representatives in the Congress of the United States.

RIGHTS SECURED BY AN INDEPENDENT COURT

The only weapon of labor by which it may enforce its rights or redress its wrongs has, on many occasions, rested and now rests in its right to peaceful assemblage and protest. If in the past the right to trial by jury or the right to guide the destiny of the child has been challenged to the individual citizen, may not the day come when the right of the toilers of America to strike, might be denied? What agency or authority will stand to pronounce the principle of the right of peaceful assemblage? The rights of labor have been extolled and recognized by other governments, but strangely enough that recognition has now leveled to a denial to labor of its right to strike. Could this happen here? If it should, then to what independent arbiter would the toiling masses of the country turn?

We need not be afraid of dictatorship in this administration. We have nothing to fear save fear itself; fear that will creep into the minds and hearts of American citizenship when, if this bill should pass, they come to realize what may be done. It is not drastic action by this President that threatens us; it is the disappearance of confidence from its place in human hearts—the absence of which creates a void to be filled by lurking godless "isms."

The toilers of America have fought for every advancement they now hold. They will in the future be more secure if the things that have come to them by dint of time and struggle are fortified by faith. I would interpolate in the words of the great Georgian Benjamin Hill, who said: "The Constitution is my client and its preservation the only fee I ask." Workers, you can fight with the Constitution in your hands. Better to brook the cost of delay for a few years than to submit to anarchy and slavery for a century.

We are told the decisions of the Supreme Court have bulkheaded social legislation. The pages of history are replete with instances where that tribunal in an hour of popular passion stood between the oppressed and the oppressor, and proclaimed the constitutional rights of the minority against a self-righteous majority.

Whatever may be said in furtherance of the pending question there can be no cogency in the argument that the judgment of the judicial branch of the Government should be molded by either of the other two branches, and yet that is the very purpose of the pending bill. No one can read the expressions of those in high places, as such expressions have been given to the public, and come to any conclusion other than that the number of the Supreme Court is to be increased by six at this time, each one of whom is to be a check or a veto on the judgment of any member on that bench over the age of 70 years who fails to conform to the policy—whether constitutional or otherwise—of the present administration.

In this company let us read again that vigorous, ringing indictment of George III, promulgated in this city by Benjamin Franklin, Roger Sherman, and James Wilson: (I quote) "He has made judges dependent upon his will alone for their tenure of office, and the amount and payment of their salaries."

Here in this city, enshrining historic memories, let us revive the faith, renew the pledge, recall the oath, and standing together, say: "I will support and defend the Constitution of the United States, so help me God."

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. BENNETT CHAMP CLARK

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

ADDRESS OF HON. PETER G. GERRY, OF RHODE ISLAND, MAY 10, 1937, AT PHILADELPHIA, PA.

Thursday, May 13, 1937

Mr. CLARK. Mr. President, I ask unanimous consent that there be printed in the Appendix of the RECORD a very able address delivered by the senior Senator from Rhode Island [Mr. GERRY] at Philadelphia on May 10, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Our gathering here tonight is especially significant to me, because in this historic city, where the Declaration of Independence was signed and the American system of government was framed 150 years ago, Elbridge Gerry was fighting to have the Constitution contain the Bill of Rights. I know, as every thinking man knows, that the guarantees of civil and religious liberty, which were later made a part of the Constitution because of the battle waged by him and other lovers of liberty of that day, are endangered under this proposal. And, as a Senator, I am gravely concerned because I see in this plan a most serious threat to democracy itself.

I represent in the Senate a State with a tradition of religious freedom that goes back to Roger Williams. Rhode Island, like many other States, is the home of people of many religious faiths and of many racial stocks, all of them minorities. It is because I know this so well, and it is because I feel that the people who make up these minorities do not realize the danger that besets them, that I feel more than ever duty bound to set forth the facts as I see them.

In his message to Congress on February the fifth, the President recommended legislation to reorganize the Federal judiciary and asked approval for a law providing that when a Federal judge reached the age of 70, and after 6 months did not resign from the bench, the President would be empowered to appoint another judge to serve with him. As regards the Supreme Court, he would be empowered to make the appointments until the membership of that tribunal reached 15.

Advocates of the President's plan have deserted the claim that the docket of the Supreme Court is overcrowded. That was nothing but sugar coating for the pill that the doctor wants us to swallow.

I am certain that the patient isn't going to swallow it.

The supporters of the President's plan say that the needs of the time demand a Supreme Court that is more sympathetic to the program of the President. They say that the President is a man whose heart is in the right place, and if he is given this power he will not abuse it. In short, they say, "Put your confidence in the President."

The more popular an Executive is, the greater is the danger of his taking more power, because the vigilance of the people in guarding their rights is relaxed. Let us see what Thomas Jefferson said about confidence:

"Free government is founded on jealousy, not in confidence. * * * In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

It was with an understanding of these principles, and a knowledge of the struggle of humanity, through hundreds of years, to free itself from despotism of every kind, that the fathers created an independent judiciary, to protect the minorities as well as the majorities, and to preserve the fundamental rights of the individual. They set up this Court to safeguard the individual in his rights to worship God according to his conscience, to rest secure in his home, and to speak freely on any proposition confronting the Nation. We know what happens to people who try to exercise these rights in countries in Europe where the courts are no longer free. That is tragic history today.

Why did the fathers insist on independent judges? Because they knew the horror of having judges who were political hirelings. Judges and juries in the Colonies were not always deciding cases to the satisfaction of the Government in England. Three years before Lexington, the revenue schooner *Gaspee* was burned in Narragansett Bay. In the face of a royal order in council demanding the deliverance of the culprits, Stephen Hopkins, the chief justice of Rhode Island, refused to sanction their arrest because he knew the prejudgment that awaited them in London. Can we wonder, then, on their insistence on independent judges?

To make our study of personal government more complete, we can read from Trevelyan, the English historian, of the dismay of the King's Ministers:

"There was no use in having the law, good or bad, on their side if those who interpreted and administered it in America were independent of their influence and dictation."

It was for this reason that the Crown arranged to have the judges of Massachusetts paid by the Crown and not by the colony. And it was because the Crown did this that this charge appears in the indictment drawn against George the Third in the Declaration of Independence: "He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries."

It is undoubtedly for this reason that the United States Constitution made specific provision that "The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."

Why did the founding fathers attach so much importance to the Bill of Rights? Because they had suffered when those rights were trampled on. We know that they had seen the legislatures of four States—and Rhode Island was one of them—deprive their citizens of the right to trial by jury in civil cases. They had seen State legislatures pass bills sentencing men to death or banishment without a criminal trial by jury. They knew that the legislatures of almost all the States had deprived citizens of their property without due process of law. What a travesty on government this was! Take away the safeguard of the Supreme Court and ask yourself if it could happen today.

We take for granted the freedom of the press, but these men had seen the Massachusetts Legislature make a mockery of that freedom by confiscatory taxation. We saw one of the States make the same attempt only a few years ago, and we saw an independent Supreme Court put down that attempt. We may say that no government would quarter troops on the people in time of peace, but these men knew that the Royal Government had done it. Today many may think, although they would not care to say it aloud, that the right of assembly might be curbed; these men saw it crushed. In Maryland, they saw the Catholics, who offered religious freedom to all, themselves made the object of persecution. They knew what religious persecution was and they determined that we would have none of it. They knew what men had done, men might attempt to do again.

The Supreme Court is the guardian of these rights, and if the Supreme Court is anything but an independent body, these precious rights are unprotected.

The supporters of this plan may tell us that no American President and no American Congress will ever violate the Bill of Rights, but we know that not less than 10 times has Congress or one of its branches done this very thing.

Ten times has our fundamental charter of religious and civil liberty been attacked, and this, mark you, with an independent Supreme Court standing guard. Put political judges in their place—and they will be put there by each succeeding President once we start the game—and what will happen to our system of government? Put six judges on the bench now, and a half dozen more will be put on later; if the membership is raised to 15, it can be brought up to 21. Where is it all to end?

Ah, yes, when they really think, the American people know that an independent judiciary is the last safeguard for rights which they cherish. When an independent Supreme Court declared invalid the Oregon private-school law, it gave its protection to a right which is held dear by the people of my State. The language of that opinion, in the case of Pierce against Society of Sisters of the Holy Names of Jesus and Mary, should be in the minds of those who are too ready to give their confidence to any legislative body, or to any Executive. It should be a clarion call to preserve the integrity of a body which has proven itself a true defender.

The Court said this:

"The fundamental theory of liberty upon which all governments in the Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only.

"The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."

Again it was an independent Supreme Court which in the case of Meyer against Nebraska affirmed another great right—the right of the parent to have his child taught the language which is identified with the family's traditions.

In the hysteria of the days of prohibition, with a majority temporarily in power, the Supreme Court, aloof from the whims of the moment, stood fast to preserve a right which is as hard won and as cherished as any we enjoy. The sanctity of the home against search and seizure was upheld. Because of the Supreme Court's stand it could still be said of the humblest home as Pitt the elder said, that while "it may be frail, its roof may shake, the wind may blow through it, the storms may enter, the rain may enter, but the King of England may not enter. All his forces dare not cross the threshold of the ruined tenement." These are words that move the spirit and warm the blood. They would be little more than pretty phrases without an independent judiciary. Let us not forget that the legislative branch was willing to violate the home, and more than one executive officer tried to cross the threshold. It was only the Court that bade them stand back.

In deciding as it did, the Court did nothing more than it should do. It is not for the Court to make the laws. Its function is to interpret.

I am not an alarmist, but I would be worse than an alarmist if I ignored the lessons of history and if I closed my eyes to what men have done in our very day at home and abroad. The lesson cannot be overlooked that when all power is vested in one man, the blessings that men enjoy cease to be rights and become gifts which he may, or may not, choose to confer.

Look at what happened in a European country. A leader asked for greater powers from the legislative body. These were granted. Now that body really does not exist.

The leader then took steps to curb everyone who might prove troublesome. The funds of the labor unions were seized and the unions were abolished. Restrictions were placed on all religions, on Protestants, Catholics, and Jews. It was not only the minorities who suffered. The majority of the people are Protestants. They are subjected constantly to threats and intimidation. Clergymen of all creeds are tormented, and in the trials we see the judges acting as prosecuting attorneys, and the individuals are tried, not on charges of treason, but of preparing for treason.

Those things can happen here. Only recently we witnessed something astonishing. We saw the President of the United States stretch out his hand to seize the Supreme Court. And we heard him, as he attempted to destroy the independence of the judiciary, say to the leaders of Congress that there must be no change in the plan. There, in one act, is an attempt of a man for all practical purposes to combine in himself the powers of the executive, the legislative, and the judicial branches of the Government.

We have seen in this plan an assault on the independence of the judiciary and we know that the religious and civil liberties of our people are endangered. Let the plan go through and their precious rights, now protected by an independent Court, may be taken from them by the first President who does not agree that they should be maintained.

We have seen on occasions the development of bitter feeling against races and creeds in the United States. You may say these movements are dead now, but nobody knows when bigotry and ignorance will don some new fantastic dress, adopt some new fantastic name, and resume the age-old work of hatred and intolerance. Let us stand fast in our loyalty to an independent Supreme Court. There it stands—the valiant defender of freedom—the surest guarantee of American liberty.

Memphis Cotton Carnival

EXTENSION OF REMARKS

OF

HON. KENNETH McKELLAR

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Thursday, May 13, 1937

RADIO ADDRESS OF HON. CORDELL HULL, SECRETARY OF STATE, IN CONNECTION WITH THE 1937 MEMPHIS COTTON CARNIVAL, MAY 11, 1937

Mr. McKELLAR. Mr. President, the Secretary of State, Hon. Cordell Hull, on May 11, delivered over the radio a very learned and interesting address to the Memphis Cotton Carnival. I ask unanimous consent that his address may be inserted in the RECORD.

There being no objection, the address was ordered to be inserted in the RECORD, as follows:

I welcome this opportunity to express my interest in the 1937 Annual Cotton Carnival, which is being held in Memphis this week.

Cotton is entwined in the very warp and woof of our national economic life. One-third of the farm population of the United States is engaged in the growing of cotton. Half the population of the cotton-growing areas is dependent, directly or indirectly, upon cotton. When depression strikes the cotton-growing regions of the South, its effects are communicated to the agricultural groups which supply the South with meats, grains, dairy, and other farm products, and to the manufacturing industry throughout the entire country.

The purpose of the cotton carnival is to create greater interest in cotton and to stimulate its increased use. This purpose must command the approval of every public-spirited citizen, due regard naturally being given to possible effects on other established industries.

The cotton industry has had to face serious problems in recent years in consequence of the depression and collapse of domestic and foreign markets. But it has also had to face large problems peculiar to itself. The textile industry has been undergoing fundamental structural and technological changes and has had to deal with rapidly changing consumption habits, which have affected the demand for raw cotton. In bending their energies toward the development of new industrial outlets and toward increasing the existing household and clothing uses for cotton, leaders in the cotton industry, including those in Memphis who are sponsoring this carnival, are exhibiting a resourcefulness which is indeed commendable.

In the effort to find new uses for cotton, however, it is important that other factors upon which the prosperity of the cotton industry is most vitally dependent will not be lost to sight. In recent years certain organized groups in this country have been putting forward ambitious schemes for expanding domestic industrial uses of farm products, accompanied by large claims and broad inferences to the effect that such a program should displace efforts to restore export outlets. They have been talking and acting as if such schemes were a substitute for foreign trade.

If progress can be made in finding new industrial outlets, as a supplement to efforts to restore foreign outlets and without hampering such efforts, that will certainly be to the good. But if such a program is to be dangled before our eyes as a short-cut solution of the farm problem, or of the cotton problem, and as a means of diverting our attention from the basic problem of reviving our foreign trade, that is a much more serious matter.

After all, the greatest opportunity to increase the use of cotton lies in increasing its consumption for clothing and household purposes with which we are already familiar. This fuller satisfaction of established uses depends, in turn, upon a general improvement of economic conditions and a rise in standards of living. From the commercial point of view the cotton textile industry may have suffered from overproduction. But from a social standpoint it is still decidedly an industry of underconsumption. Recent studies have shown that the total consumption of cotton in the United States would be 25 percent greater than it was in 1929 if wage earners and farm communities were today consuming cotton products in quantities equal to those required to maintain a level of living adequate to insure health and social decency. If world cotton textile consumption increased even to the average per-capita consumption of the present population of western Europe, it would call for some 40 million bales of cotton a year for piece goods alone, instead of the present consumption of 26 million bales to cover all uses.

The paramount problem, therefore, is how to promote prosperity and rising living standards both for the United States and for the world as a whole. For this a liberalization of trade policies which will permit a healthy revival of world trade is absolutely indispensable. The rise of trade barriers throughout the world in recent years to the point where international trade as a whole was severely reduced is now recognized everywhere as one of the major causes of the world depression and one of the chief obstacles to healthy recovery. The cotton farmer has a large stake in such general recovery because it will make possible rising living standards and thus greater satisfaction of the vast latent demand for textile products.

But he has an even more direct stake. With more than half the domestic cotton crop normally moving into export, he has an immediate concern in any trade program calculated to increase foreign outlets for cotton.

For the past 3 years this administration has been engaged in a practical program for the reestablishment of normal channels for international trade. By means of trade agreements we are seeking to bring about a reciprocal relaxation of excessive trade restrictions. Such a liberalization of policies and practices in international trade is vital to the peermanent improvement of the cotton industry; it is vital to the prosperity of the country as a whole; and it is vital to our friendly relations with other countries. Increased trade between nations will do much toward the preservation of peace by removing the economic insecurity and friction which are so frequently causes of war. These are the larger objectives of which the cotton industry cannot afford to lose sight. Those who are celebrating the cotton carnival can, I am sure, be counted upon to give them their unfailing support.

C. C. C. Should Be Made Permanent

EXTENSION OF REMARKS

OF

HON. BERNARD J. GEHRMANN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1937

Mr. GEHRMANN. Mr. Speaker and fellow Members of the House, I am sorry that the time is so limited for open debate on H. R. 6551, which intended to make the Civilian Conservation Corps permanent. During the 5 minutes I had to speak on the bill I tried to show that it would be impossible to institute a more adequate and elaborate educational system than they now have unless this set-up is made permanent. Practically everybody that was against making the C. C. C. a permanent institution stressed the desirability and need for vocational education. That might now be done in camps that are adjacent to large, or at least medium-sized, cities where such instructors are available for short periods at comparatively little expense. But the great bulk of these camps are doing forestry work and are scattered throughout the national-forest area, while soil-erosion camps are scattered throughout the rural areas of these United States, and very often a long way from a school that is equipped with teachers and devices to teach even normal training. It would be impractical to equip each camp with the necessary machinery, tools, and devices that would make teaching almost any vocation possible as long as these camps are considered an emergency unit and only are allowed to continue from year to year. If they were made permanent proper equipment, as well as books and teachers, could be provided for and such a teacher could handle several camps within a certain area.

Let us remember that the Government now owns at least 200,000,000 acres of forest land, and more is acquired each year. Most of that land needs additional plantings, some of it timber-improvement work, like thinning or selective cutting. Fire lanes must be built and fires must be extinguished. The public demands that trails be built into these national-forest areas and that camp sites be provided so that a family might spend a week's vacation right out in the open and be close to Nature. Therefore, it will henceforth require an army of several hundred thousand to plant, maintain, and patrol this vast area of Federal forest land.

We talk of the cost as being about $1,100 per enrollee per year, which, of course, is being reduced rapidly, and no doubt will be considerably less the next year, because the original cost of the camps and all equipment is included in that unit cost. But then let us also consider the other side of the ledger. The Government will own 200,000,000 or more acres of forest, upon which is growing a crop of timber that is yearly increasing in value, and when finally harvested the Federal Government will receive 75 percent; the other 25 percent goes to the State or county in which this forest is located. Much of this forest will be ready to harvest selectively within 10 to 15 years, such as pulpwood, a large percentage of which is now imported from Canada. Oh, yes; many Members accuse me of favoring the retention of the C. C. C. because I have many camps in my district, which means business to those localities, and re-creates the forests that were destroyed by the lumbermen, and more so by forest fires. Yes; I admit it does add a little to local business, even though practically everything used in these camps is bought wholesale and shipped in from elsewhere. But as to the forest land itself, it is a great loss to the municipality, at least for the present, because the Government pays no taxes on this land. But I grant that it is a benefit to my State as a whole, because these C. C. C. camps established there are doing practical, useful work that will eventually repay all they cost the Federal Government.

On the other hand, how much has or will Wisconsin get out of the money appropriated for flood control? Last year's flood-control bill authorized over $300,000,000, and only about $30,000 was for Wisconsin. But that is as it should be; we need comparatively little flood-control aid, but are in need of replanting and maintaining our forest, which, in turn, is part of necessary flood control. There will have to be billions spent for flood control during the next few years, and I am for it and am ready to go the limit to eliminate these annual flood disasters. I cannot agree with statements made by some Members that the boys in these camps do nothing worth while and only fool around and kill time while pretending to work a few hours a week. I have visited many camps and have cost figures for different types of work, such as highway construction, graveling, stream improvement, building of low-cost wooden, stone, and earth dams, and so forth, that compare very favorably with similar contract work, and in many instances costs less. In all the camps in my district the boys put in a good hard day's work and play or study after the work period.

In conclusion I wish to quote from some correspondence I received a few days ago that will convince anyone that in my district at least we have an efficient, conscientious, alert working unit in the C. C. C. and forestry set-up that is always on the job, protecting the interests of their employer, who in this case is Uncle Sam. I quote:

BRINKS CAMP STAGES SHAM BATTLE WITH GREATEST FOE—FOREST FIRE

The Army and Navy, with their war games in which sham battles test and improve fighting knowledge and skill in preparation for actual combat, have nothing on the United States Forest Service, which stages sham battles against its red enemy, fire—preparing for the time when it will try again to plant its black and hideous footprints on the countryside. Such sham battles against fire were features of a 2-day fire school, held at Brinks C. C. C. camp in the Moquah district of the Chequamegon National Forest on Wednesday and Thursday of this week, under the direction of J. T. Horner, ranger of the Moquah district. Attended by Federal Forest Service officials, State forest rangers, C. C. C. squad foremen, and emergency fire wardens from the Moquah district and adjacent territory, the school was opened Wednesday morning with a review of the fire manual and a discussion of fire re-

port and smoke chaser report forms. In the afternoon job assignments for large fires and duties of fire fighters were discussed. Ferris K. Green, superintendent of Delta C. C. C. camp, conducted a demonstration of proper fire line construction by hand and plow. The "one lick" method of fire line building, in which the forest fire fighters have borrowed industry's idea of the assembly line, to an extent, was demonstrated in an interesting manner. A tractor crashed through the brush, dragging a huge plow which left a wide furrow, in which walked a single file of 20 C. C. C. boys armed with axes, mattocks, and shovels. Each took "one lick" at spots in the furrow as he walked along, and by the time the last man had passed, the furrow was clean of anything that would permit a ground fire to cross it and constituted an adequate barrier to patrol and from which to backfire. This method permits construction of fire line at the rate of 2 or 3 miles per hour.

The most interesting demonstration was the building of a fake forest fire to test the efficiency and speed of the fire detection and suppression agencies. J. E. Hanson, of Brule, district ranger of the State; Sam Warg, assistant ranger of the Moquah district; and George Mitchell, construction foreman; were elected as "firebugs" and sent out to start a fire somewhere in the woods which would have no danger of spreading, but which would throw up plenty of smoke. In their first effort they were defeated by the zeal of a truckload of C. C. C. boys who were not "in" on the game being played. The fire was started and the "pyromaniacs" fled, but before Louis Rosinski, lookout in the Lenawee tower, spotted the smoke the group of C. C. C. boys passed by, saw it, and extinguished it with enthusiasm. Their second effort was spotted immediately by Rosinski, who took a directional reading on it and reported by telephone to Brinks camp. He was not aware of the game in progress and he reported that he had seen "the skunks who started it making their get-away down the road." A direction check from another tower gave the exact location of the fire near Pine Lake, and the siren on the Brinks fire truck that stands always ready was sounded. Within 2 minutes the fire truck full of C. C. C. boys was racing to the fire, followed by another truck bearing those attending the school. It was a practical demonstration of the efficiency and speed of the fire detection and suppression agencies under actual working conditions.

I feel confident that this organization, under the efficient direction of Mr. Fechner, have done a fine piece of public work, and if made permanent could plan their cooperative work with the Forest Department to the advantage and benefit of both.

To Catch Criminals

EXTENSION OF REMARKS

OF

HON. ALFRED N. PHILLIPS, JR.

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1937

Mr. PHILLIPS. Mr. Speaker, under leave granted me to extend my remarks in the RECORD, I insert a statement I issued, this statement regarding a bill, H. R. 6739, I recently introduced to establish a crime liquidation bureau.

My experience in the past as mayor of Stamford, Conn., for three terms, and president of the Connecticut League of Municipal Executives (comprising mayors, first selectmen, and other municipal chief executives of towns and cities in Connecticut) for two terms, has given me an intimate insight into the workings of local municipality police departments. This knowledge so acquired convinces me that the average municipality police department in small or average-sized towns and cities is only organized and financed to cope with current crimes. By that I mean that if a major crime—a felony—is unsolved for a period of 90 days it gradually becomes "placed on the shelf", so to speak, tends to remain unsolved, and thus to all intents and purposes is forgotten so far as the ultimate solution and the apprehension of the criminal involved are concerned. Stating the matter another way, municipalities have not police facilities available for unrelenting pursuit of criminals guilty of a felony until their ultimate apprehension is accomplished. Local boards of finance or other budget-controlling bodies will not appropriate enough money for local police departments to establish policy or personnel and equipment necessary for unrelenting pursuit of criminals guilty of a felony until they get their man. Generally speaking, all that local appropriating agencies will allow is a budget sufficient to carry on the ordinary policing duties of a city, such as traffic control, looking after school children at crossings, and so forth, and a relative small detective force and other incidental expenses to the proper function of these members of the police force—and that is all. The result is that the ordinary local police department is only able to solve minor crimes for the most part of a purely local nature.

The final result, as I see it, of this situation is that felonies are committed all the time in America with the felon escaping to some community elsewhere, thus being in a position to repeat his offense or commit still other crimes elsewhere, often in another State. Therefore, I have introduced a bill which I have entitled "A bill establishing a United States Crime Liquidation Bureau." My thought is that we should give the Attorney General of the United States the authority, the responsibility, and the personnel and equipment to pursue these unapprehended criminals whom I have just discussed until they are caught and brought to justice. My thought is that we can make the same legal assumption as regards the uncaught criminal whose guilty act has been outstanding without liquidation—solution—for 90 days, that the law has made in the case of the so-called Lindbergh kidnaping law; it is this: The assumption is made that a State line has been crossed, thus Federal agencies may be invoked.

My feeling is that if my bill to establish a United States Crime Liquidation Bureau becomes law it will have the doubly good result of (1) apprehending more criminals guilty of felonious crimes; (a) bring about a very salutary effect from the standpoint of crime prevention because of the fact that notice will be served on the criminal world that criminals will be apprehended and thus that "crime does not pay."

This bill, H. R. 6739, has been referred to the Committee on the Judiciary.

The Relief Problem in the Mountain and Pacific States

EXTENSION OF REMARKS

OF

HON. HARRY R. SHEPPARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1937

Mr. SHEPPARD. Mr. Speaker, and Members of the House, calm, deliberate consideration, stripped of sectional and partisan considerations, is respectfully asked for a human problem that should challenge the interest and sympathetic cooperation of even the most hide-bound conservative in the country.

That problem is: What are the Mountain and Pacific States to do about or with the 100,000 refugee farm families that have come within their borders in recent years seeking land on which they can support themselves, keep off the relief rolls, raise their children, and again become self-respecting citizens?

It is no answer to assert that these good people were forced off the land in their home States by Secretary Wallace's crop-curtailment program, for the westward trek began long before President Roosevelt undertook to solve the agricultural problem of the Nation. Drought, floods, submarginal land, erosion, and heavy taxes, over which they had no control, are responsible, and we get nowhere by dragging in politics, State or sectional pride, or feeling.

Farm families from every State in the Union, with the possible exception of Delaware, have been recorded as coming into the Western States in recent years. It has not alone been the States hardest hit by the droughts that have contributed to this emigration, but farm families from the

South, from the East, from the Ohio Valley, from New England, New York, and New Jersey have come in, as well as from the Mississippi Valley.

Some have had funds with which they have rented land or bought small tracts and have kept off the relief rolls. But by far the greater number have been forced to seek aid from Federal, State, or local agencies, not of their own volition, but because they could find no land on which they could grow crops to support themselves.

What the cost of this deplorable condition of affairs has been to the Federal Treasury, to the States and localities, may never be known, but the greatest loss has been depriving these people of an opportunity to make a living.

We hear distinguished Members of this House stand on the floor as they did on March 10 and denounce the only sound economical plan yet afforded to provide land for these refugee farm families from other States as dangerous, senseless, wasteful, and uneconomical. They talk of contributions to surplus crops from irrigated land when they do not know what they are talking about and refuse to open their eyes to a human problem that should transcend partisan and sectional lines.

It should not be necessary to expose the fallacy of the argument that irrigation adds to the farm problems of the Midwest, when we buy more foodstuffs from them than all the western farms and ranges, irrigated and nonirrigated, sell. But that is another phase of the story that time does not permit to be nailed at this point. Neither at the moment can there be detailed the great market the Western States afford for the industrial products of the East, Midwest, and South, as well as the tobacco and cotton of the latter.

Detailed figures of the farm families that have taken refuge in all of the Mountain and Pacific States are not available at the moment. The nearest thing we have to an accurate check of the States of origin of these emigrants is that made by the Bureau of Plant Quarantine, United States Department of Agriculture, on the main highways entering California, from June 16, 1935, to June 15, 1936, reported by Edward J. Rowell, regional labor adviser of the Resettlement Administration, in the Monthly Labor Review, December 1936. A count of automobiles and occupants seeking employment was made for the 12-month period, with casual tourists and limousines, also Californians returning to their home, eliminated.

From Missouri alone there came into California in that 1 year 3,139 persons, or approximately 1,000 families.

From Iowa there were 1,039 persons; from Minnesota, 694 persons; from Illinois, 1,146; from Michigan, 868; from Ohio, 556; Indiana, 433.

The particular attention of the gentlemen from Minnesota [Mr. KNUTSON], from Iowa [Mr. DOWELL and Mr. GILCHRIST], from Missouri [Mr. SHORT] is directed to the foregoing figures. And the attention of the gentlemen from New York [Mr. CULKIN and Mr. TABER] and from Pennsylvania [Mr. RICH] is directed to the figures from their States.

New York sent California 593 persons; Pennsylvania, 304; New Jersey, 146. There were 313 from the New England States; less than 100 each from Maryland, Virginia, West Virginia, North and South Carolina. Southeastern States of Tennessee, Florida, Georgia, Alabama, Louisiana, with Kentucky and Mississippi sent from 450 down to 164 each.

A few of these emigrants may have been workers from the cities, but the great bulk of them were seeking land or a chance to work on land where they could make a living. Many of them were family men who hoped to get located on land and bring on their families.

Of course the great bulk of the farm families checked came from the States hardest hit by the drought; Oklahoma sent 13,894; Texas, 6,685; Arkansas, 5,191; Kansas, 3,139; Nebraska, 2,022; North Dakota, 630; South Dakota, 661.

From Arizona, Nevada, and New Mexico there were approximately 10,000, but doubtless many of these were seasonal crop workers. Others were folks from the Midwest who had stopped temporarily in these States, changed automobile licenses, and moved on to California. From Oregon and Washington there were 8,573, and from the other Mountain States there were 9,380, doubtless moving on from States farther east in most instances.

The survey does not cover those able to dig up railroad or bus fares or those who came in over roads not patrolled by the plant-quarantine men.

In this single 12-month period there were checked into California a total of 71,047 persons from other States, exclusive of 15,000 Californians returning from efforts to find work elsewhere.

A conservative estimate is that the number of persons listed as coming into California by Mr. Rowell's articles in that period represents one-half or less of the total number of farm refugee families moving into the 11 Western States in the last 6 months of 1935 and the first 6 months of 1936.

It is well known that Los Angeles and Southern California cities made efforts to turn back these farm families at the Arizona border because of the inability to place them on land or provide employment. Thousands of families were deterred from coming in by the publicity given that effort. Even at that Los Angeles had 1,600 farm families on relief the first of this year.

On April 15, 1935, Col. Lawrence Westbrook, deputy administrator, F. E. R. A., reported to the House Agricultural Committee there were 34,000 farm families in the rural districts of the 11 Western States "not on land" and on relief, or stranded in the cities and on relief. There were more than 50,000 farm families on land on relief in the 11 States at the same time, and most of these were families from other States who had come in since 1930 and had been unable to find irrigated or other productive land.

Authentic reports of the efforts of these families to eke out a living without going on relief testify to the resourcefulness and honest desires of these farm families to support themselves. They have made shacks out of anything available, have sought to pan gold in the creeks or dig in the mountains, worked wherever and whenever they had a chance. They do not want to become or remain objects of charity. All they ask for is a chance to get on land where they can have a garden, a cow or so, and opportunity to reestablish themselves.

There is no point in saying that these people should not have left Missouri, Minnesota, Iowa, or the major drought States, or even New York or Pennsylvania or the South. They have left and they have come west. When they reach California, they can go no farther west and they cannot be tossed into the Pacific. They will not go back; they refuse money for railroad fare or gasoline for that purpose, and even if they did leave, they would probably be no better off.

Is it senseless and harmful, as the gentleman from Minnesota [Mr. KNUTSON] remarked on March 10, to provide irrigated land for the 200 families from his State who came to California in 1935 and 1936?

A few acres of irrigated land for each of these families would take them off the relief rolls and permit them to be self-sustaining. Would they grow crops in competition with those produced in Minnesota, Iowa, Missouri, or any other Midwestern, Eastern, or Southern States?

You know they would not and could not, but on the other hand in a few years they would contribute to the rapidly expanding market in the reclamation States for the agricultural and industrial products of the Midwest, the East, and the South.

No reclamation-project farmers have been on relief. Do not take our word for it, but that was the fact found by F. E. Schmitt, editor of the Engineering News-Record, New York, and John W. Haw, of the Northern Pacific Railway, who made an investigation of the reclamation situation a few years ago. They found the relief load in irrigated counties in the West low "and those on relief were not project farmers but immigrants from the drought areas seeking seasonal employment and an opportunity for settlement." That was late in 1934, and the facts today

have been greatly aggravated by an increasingly large number of farm families from States outside the West.

The modest program provided in the proposed appropriations for reclamation projects is inadequate to speed the day when these incoming farm families can be placed on irrigated land. It is a step forward, however, and one that will aid materially in reducing relief rolls permanently.

Members of this House from the East, Central West, South, and Southwest, from whose States thousands of families have come to the West, have a responsibility in the solution of this problem as great as our own. It is not a local, sectional, political, or partisan matter. It is national in its scope and effect. Prompt solution will be national in its benefits, aside from the human element which, if nothing else touches your hearts, should command your support and help.

The Case for the Central Valley Water Project

EXTENSION OF REMARKS

OF

HON. H. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1937

Mr. VOORHIS. Mr. Speaker, one or two Members of the House have had some critical things to say about the Central Valley water project of California. It is interesting to notice that these attacks have come from people who live a very long distance from our State.

It has been said that we should save the money that this bill appropriates for the Central Valley water project, and is suggested that the country will be better off if that is done.

I wish merely to point out that California, all during the depression, has been striving to do her part to meet the need of the people of this whole country. California has made a unique contribution in the national emergency. She has carried in one respect a far, far heavier load than any other State. For during the past few years hundreds of thousands of needy citizens of practically every other State in the Union have come to California in search of work or some form of livelihood. At this very time an average of 11,000 persons who are in immediate need of employment in order to subsist are entering our State from every corner of the Union. Many of these people—indeed, most of them—have been on the relief rolls in other States; and in moving to California they have lessened the unemployment problem in the other States and increased it in California. Year by year about 85,000 to 100,000 persons have come to California under these circumstances.

In the face of these facts California has faced a tremendous problem. Should Federal work relief be further cut down by an appropriation of less than $2,500,000,000 for that purpose, an additional number of people will be thrown onto the State and counties of California for subsistence.

All California is asking in this appropriation for the Central Valley project is simple justice. If we are to go on assuming a considerable proportion of the unemployment problem of all the United States through the migration of people to our State, we believe that we are at least entitled to have money advanced temporarily for the purpose of enabling our own people to make a living on their land. That is all we're asking. Our peoples' farms in the San Joaquin Valley are drying up and the farmers being forced off of their lands. Land in California is worthless without water. The water in many of our wells has disappeared entirely; in others it is so low that it no longer pays to pump it for agricultural purposes.

We want the Central Valley project, not to open new lands, but to make self-sustaining agriculture continuously possible for our people. We want to keep California a place of opportunity such as she will certainly cease to be unless our water resources are conserved and properly used.

It is no more than just that California be enabled to maintain the prosperity of her agriculture and we are asking nothing unfair of the rest of the Nation when we seek a project which will save our own farmers from being forced onto relief in addition to the thousands of folks from other States.

Our problem in America is nationwide and what increases the prosperity and well-being of one section inevitably benefits other sections as well.

It should be remembered that every bit of the cost of the Central Valley project, except $12,000,000 for navigation, will be repaid to the United States by the users of electricity and water in California. But those who suggest that only the Federal reservoir on the San Joaquin River should be built and no work done on Kennett dam and power house in the north, are really suggesting that the main source of revenue from which revenue is to be derived to effect the repayments, be eliminated. Obviously, this would be impractical and foolish.

Federal Reserve Banking System

EXTENSION OF REMARKS

OF

HON. JOHN J. COCHRAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1937

LETTER FROM CHESTER MORRILL, SECRETARY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. COCHRAN. Mr. Speaker, following the remarks of my good friend, the gentleman from Ohio [Mr. LAMNECK], the St. Louis Post Dispatch published an article which a number of my constituents sent me and requested information regarding the statements attributed to our colleague.

I referred that article, together with a letter, to the Secretary of the Treasury, who in turn sent it to the Board of Governors of the Federal Reserve System. I am in receipt of a reply and, for the information of the House as well as the country, I am placing it in the RECORD, as follows:

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
WASHINGTON, *May 4, 1937.*

Hon. JOHN J. COCHRAN,
House of Representatives,
Washington, D. C.

DEAR MR. COCHRAN: This refers to your letter of April 21, 1937. You enclosed a clipping from the St. Louis Post-Dispatch of April 19, and request a letter regarding statements credited by the article to Representative LAMNECK, who was reported to have said that for a $300 investment a banker can get a $20,000 return. The article explains the manner in which this return may be obtained, as follows:

"The Treasury asks for bids for several million dollars worth of bonds. A banker says he will take $1,000,000 worth and credits the Treasury on his books with $1,000,000. Then he deposits the bonds with a Federal Reserve agent as collateral security for $1,000,000 in Federal Reserve notes and agrees to pay the cost of printing the currency, about $300. He now has $1,000,000 in currency to balance the $1,000,000 deposit he credited to the Treasury. He still owns the bonds and can collect the interest, about $20,000 a year, on an investment of $300."

It is not clear from the article whether Congressman LAMNECK was referring to profits obtainable by the Federal Reserve banks or by National and State banks that are members of the Federal Reserve System. It is thought, therefore, best to explain the procedure by which Federal Reserve notes are obtained by Federal Reserve banks and by national and State banks that are members of the Federal Reserve System.

Federal Reserve banks obtain Federal Reserve notes from Federal Reserve agents, who are the representatives of the Board of Governors of the Federal Reserve System at the Federal Reserve banks, upon depositing collateral with such agents equal in amount to the Federal Reserve notes applied for. This collateral may consist of gold certificates, eligible paper, and until June 30, 1939, direct obligations of the United States Government.

On April 28, 1937, the Federal Reserve banks had obtained $4,494,218,000 of Federal Reserve notes from the Federal Reserve agents, of which $4,176,990,000 were in actual circulation, and $317,228,000 were held by the Federal Reserve banks. In order to get the $4,494,218,000 of Federal Reserve notes from the Federal Reserve agents the Federal Reserve banks had deposited $4,518,132,000 of gold certificates with the Federal Reserve agents as collateral for such notes. It will be noted that the amount of gold certificates deposited with the Federal Reserve agents was in excess of the total amount of Federal Reserve notes obtained by the Federal Reserve banks from the Federal Reserve agents. On the same date the Federal Reserve banks also had pledged $10,848,000 of eligible paper and $52,000,000 of United States Government securities with the Federal Reserve agents as collateral for Federal Reserve notes issued to them. The total amount of collateral pledged with the Federal Reserve agents was $86,762,000 in excess of the notes issued to the banks.

Since the Federal Reserve banks had pledged $4,518,132,000 of gold certificates with the Federal Reserve agents against Federal Reserve notes, only $4,176,990,000 of which were in actual circulation, it is apparent that, taking the Federal Reserve System as a whole, Federal Reserve notes are merely substitutes for the gold certificates which are segregated and held against them. The cost of printing and redeeming Federal Reserve notes and shipping them to the Federal Reserve banks during 1936 was $2,173,119, all of which expenses were absorbed by the Federal Reserve banks. If it had been the policy to use gold certificates for circulating purposes the amount of Federal Reserve notes in circulation would have been greatly reduced, if not practically eliminated, and the cost of supplying gold certificates to take the place of Federal Reserve notes would have been paid by the United States Government. During 1936 the Federal Reserve banks received 2,233,480,000 pieces of currency, and 2,665,190,000 coins from member and nonmember banks, and paid out currency and coin in approximately equal volume. The expenses incurred by the Federal Reserve banks during 1936 in handling the currency requirements of the public, exclusive of the cost of Federal Reserve notes, amounted to over $4,000,000.

If a National or State bank member of the Federal Reserve System wishes to obtain Federal Reserve notes, or other currency, from a Federal Reserve bank it may do so by having the amount of notes desired charged to its reserve account with the Federal Reserve bank. Should the balance in its reserve account as a result fall below the minimum it is required by law to keep on deposit with the Federal Reserve bank it would have to restore such reserve balance to the minimum required by law or pay a penalty for deficient reserves.

Taking the specific illustration credited to Representative LAMNECK, a member bank may subscribe to $1,000,000 of United States Government obligations and pay for such Government obligations by crediting the Treasury on its books with the cost of the securities so purchased. The amount thus credited to the Treasurer's account on the books of the member bank is subject to withdrawal by the Treasury at any time, and as long as it remains on deposit the bank must pledge the securities purchased, or other acceptable collateral, as security therefor. The member bank cannot, of course, use United States Government obligations pledged as collateral security for Government deposits as a basis of obtaining Federal Reserve notes or other currency from the Federal Reserve banks. The only way in which unpledged securities can be so used, other than by selling them in the open market or to a Federal Reserve bank, is for the member bank to use the securities as collateral for its own promissory note which it may discount with the Federal Reserve bank. In discounting such notes the Federal Reserve banks charge member banks the regular discount rate, which is 1½ percent at the Federal Reserve banks of New York and Cleveland and 2 percent at all other Federal Reserve banks. It is apparent, therefore, that the member bank does not get Federal Reserve notes for the cost of printing them, which cost is paid by the Federal Reserve bank, but must pay the Federal Reserve bank's discount rate on any money borrowed for the purpose of obtaining Federal Reserve notes.

Under the provisions of paragraph 3 of section 14 of the Federal Reserve Act, the Federal Reserve banks are authorized to buy and sell direct obligations of the United States or obligations fully guaranteed by the United States as to principal and interest without regard to maturity, but only in the open market. Accordingly, the Federal Reserve banks, unlike member banks, cannot purchase Government securities from the United States Treasury and credit the Treasurer's deposit account with the purchase price of the securities.

For your information there is enclosed a copy of a mimeographed statement on the currency function of the Federal Reserve banks.

Very truly yours,

CHESTER MORRILL, *Secretary.*

THE CURRENCY FUNCTION OF THE FEDERAL RESERVE BANKS

SEPTEMBER 24, 1936.

Three fundamental facts must be kept in mind in order to understand the functions of the Federal Reserve banks in relation to the country's supply of currency. These facts are: (1) The Federal Reserve banks are semipublic institutions with Government representation on the boards of directors; they operate under the general supervision and in some vital matters under the control of the Board of Governors of the Federal Reserve System, a governmental body, appointed by the President. (2) The Federal Reserve banks are not operated for the purpose of making profits, but for the purpose of serving the public interest in ways prescribed by the law. Earnings of the Federal Reserve banks above expenses and dividends go into a surplus account which in case of liquidation belongs to the Government. (3) The amount of money in circulation is determined by the needs of the public and not by the Federal Reserve banks. This is what is meant by an elastic currency.

1. FEDERAL RESERVE BANKS ARE SEMIPUBLIC INSTITUTIONS

Each of the 12 Federal Reserve banks has 9 directors, of whom 3, including the chairman, are appointed by the Board of Governors in Washington. The appointments by the directors of the presidents and first vice presidents and all salaries fixed for officers and employees of the Reserve banks are subject to approval by the Board of Governors. The Board of Governors also has control over discount rates, that is, the rates that the Reserve banks charge for their loans to member banks, and constitutes a majority of the Federal Open Market Committee, which determines the amount of Government securities the Federal Reserve banks shall buy or sell. The Federal Reserve banks are privately owned institutions in the sense that their capital stock is owned by the member banks, but under the provisions of the law the stockholders elect only six of the nine directors, and the actions of the directors in all matters of national importance are subject to review by the Board of Governors in Washington.

Under the law the Board of Governors, through its local representative, the Federal Reserve agent, has authority "to grant in whole or in part or to reject entirely the application of any Federal Reserve bank for Federal Reserve notes." The frequently made assertion that the Government has turned over the power to issue money to a private agency which uses such power for its own profit is, therefore, contrary to the facts both as a matter of law and as a matter of practical operation.

2. FEDERAL RESERVE BANKS ARE NOT OPERATED FOR PROFIT

The Federal Reserve banks were created for purposes stated as follows in the preamble to the Federal Reserve Act: "To furnish an elastic currency, to afford means of rediscounting commercial paper, and to establish more effective supervision of banking in the United States." They were not created for the purpose of making profits for private interests. The principal functions of the Federal Reserve System are to exert an influence on changes in the supply and cost of credit with the view to accommodating commerce and business, to hold the reserves of member banks, and to make advances to them when they are in need of additional funds, to supply an elastic currency, to facilitate the collection of checks and interregional transfers of credit, to act as fiscal agents and depositaries of the United States Treasury and other governmental agencies.

Earnings of the Federal Reserve banks are derived from interest obtained on their loans and investments, the volume of which reflects principally credit policies adopted in the public interest and not for the purpose of obtaining profits. Of the total earnings since their establishment in 1914, the Federal Reserve banks have spent nearly one-half in meeting expenses, a large part of which represents the cost of collecting checks drawn on deposit balances in member and nonmember banks and in the maintenance and distribution of an adequate supply of currency.

After the Federal Reserve banks' expenses have been met, they are required to pay out of their earnings a 6-percent cumulative dividend to stockholding member banks. Of the amount earned by the Reserve banks above expenses from the time of their establishment to the end of 1935, about one-fourth has been paid as dividends to member banks, which in addition to their contribution to the capital funds of the Reserve banks are required to hold much larger reserve balances with the Reserve banks on which they receive no interest, one-fourth has been paid as a franchise tax to the United States Government, under a provision repealed in 1933, one-fourth was appropriated by Congress in 1933 as a contribution to the capital of the Federal Deposit Insurance Corporation, on which the Federal Reserve banks are not entitled by law to any return, and the remaining fourth has been paid into the Reserve banks' surplus account. The surplus increases the ability of the banks to serve the public and, when earnings are insufficient to pay expenses and dividends, it may be drawn upon to make up the deficiency. In case a Federal Reserve bank is liquidated, its surplus, after meeting all obligations, becomes the property of the United States Government.

It is apparent, therefore, that three-fourths of the net earnings of the Reserve banks since their establishment have been devoted to public purposes.

3. THE FEDERAL RESERVE BANKS PROVIDE AN ELASTIC CURRENCY

The amount of money in circulation at a given time represents what the public collectively wants, since currency always moves out of the Federal Reserve banks when the demand for it increases and returns to them when the demand subsides. This is what is meant by an elastic currency. When currency is needed, the public obtains it from its local banks, and the latter obtain it from the Federal Reserve banks. When it is not needed, the public deposits it in the local banks, and the local banks in turn redeposit it in the Federal Reserve banks. The Federal Reserve banks may be regarded as reservoirs from which additional currency is drawn when the public requires it and to which currency not required by the public is returned. The Federal Reserve banks

have no direct way of keeping in circulation a larger amount of currency than the public requires, or reducing the amount of currency that the public needs to finance its current operations.

The demand for currency is determined by various conditions. A certain minimum is required for day-to-day cash expenditures of individuals; a certain minimum is required for pay rolls. There are times when personal expenditures rise, as during holidays, and there are times when pay rolls rise, as during harvest. Certain individuals, businesses, and communities have their own periods when they need more or need less cash than ordinarily. The net effect of all of these factors is a normal and regularly repeated cycle of demand for currency year after year—slack after the 1st of January, when retail trade falls off following the holidays, larger during the succeeding spring months, when pay rolls increase and outdoor industries become active, slack again in midsummer, and steadily increasing during autumn and early winter to the regular peak in December.

In addition to this regular annual cycle, the amount of currency also responds to increases and decreases in the volume of retail trade and of pay rolls as the amount of business done by the country increases or decreases. There have been times also when the demand for currency was greatly increased as in the period preceding the banking holiday in 1933. In the course of a few weeks at that critical time the Federal Reserve banks furnished the public with as much as $2,000,000,000 of additional currency.

For more than 20 years the Federal Reserve banks have fully met the normal demands of the country for currency; they have also fully met peak demands both in times of prosperity and in times of depression, and they have made it possible for the volume of money to decline automatically when the public demand for it declined. The elasticity of our currency is complete.

MACHINERY OF NOTE ISSUE

Before a Federal Reserve bank can obtain Federal Reserve notes it must deposit as security with the local representative of the Government, known as the Federal Reserve agent, collateral at least equal in amount to the notes to be issued. This collateral, as provided by law, may consist only of the following assets: (1) Promissory notes, drafts, bills of exchange, or acceptances, usually referred to as "eligible paper"; (2) gold certificates on hand or due from the United States Treasury; and (3), until June 30, 1939, United States Government securities bought in the open market. In addition to being secured by the pledge of specific collateral, Federal Reserve notes are a first lien on all the assets of the issuing Federal Reserve bank, and a 40-percent reserve in gold certificates must be maintained against them.

In all cases Federal Reserve notes are issued only for an adequate consideration. The currency an individual receives from his local bank is charged against the amount he already has to his credit on the bank's books, and the currency the local bank receives from the Federal Reserve bank is charged against the amount it already has to its credit on the latter's books. Issuing currency for purposes of circulation is at all points, therefore, an exchange of cash for something of equal value.

As of September 2, 1936, the Federal Reserve banks had obtained $4,300,000,000 of Federal Reserve notes, of which $4,000,000,000 were in circulation and $300,000,000 were held in the vaults of the Federal Reserve banks. The collateral held against these notes was as follows:

Gold certificates on hand and due from United States Treasury	$4,301,000,000
United States Government securities	73,000,000
Eligible paper	5,000,000
Total	4,379,000,000

Gold certificates are receipts which are issued to the Federal Reserve banks by the United States Treasury for gold deposited with it in compliance with the Gold Reserve Act of 1934, which required all monetary gold in the United States to be delivered to the Treasury. The Federal Reserve banks have no right to pay out these gold certificates. As indicated, the Federal Reserve banks have pledged $4,300,000,000 of these certificates against $4,000,000,000 of their own notes in circulation. Federal Reserve notes, therefore, at present are virtually substitutes for gold held in the United States Treasury. They constitute about two-thirds of the total of $6,200,000,000 of money in circulation.

The Emergency Banking Act of March 9, 1933, authorized the Federal Reserve banks during the period of the emergency to issue Federal Reserve bank notes, which are to be distinguished from Federal Reserve notes. These notes, when issued, must be secured by at least an equal amount of collateral, which may consist either of direct obligations of the United States or of promissory notes, drafts, bills of exchange, or bankers' acceptances acquired by the Federal Reserve banks under the provisions of the Federal Reserve Act. There are about $50,000,000 of these notes in circulation, but the Federal Reserve banks have deposited a sufficient amount of lawful money with the Treasury to provide for their redemption. No such notes are now being issued.

National bank notes also are no longer being issued. The privilege of issue which national banks formerly had has been discontinued, and the banks have deposited with the Treasury sufficient funds to redeem all their outstanding notes. All other kinds of money—United States notes, silver certificates, and coin—are issued exclusively by the United States Treasury.

Coast Guard Seaplane Base Needed in San Francisco Bay

EXTENSION OF REMARKS
OF
HON. JOHN H. TOLAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1937

Mr. TOLAN. Mr. Speaker, nearly 2 years ago, on June 7, 1935, I introduced a bill in the House requesting the Secretary of the Treasury to maintain a unit of Coast Guard seaplanes as part of the equipment of the Coast Guard on Government Island, Alameda County, Calif., or at the seaplane base of the Oakland Municipal Airport.

At that time I urged the Commandant of the Coast Guard to utilize the authority granted by an act of Congress approved August 29, 1916, and to construct and operate an air station on the San Francisco Bay. At the time of the introduction of my bill, Mr. Speaker, seven stations had been constructed and plans were being completed for an additional station at Port Angeles, Wash.

Information was given me by the Coast Guard that under the previous authority of Congress they had constructed Coast Guard air stations at Salem, Mass.; Cape May N. J.; Charleston, S. C.; St. Petersburg, Fla.; Miami, Fla.; Biloxi, Miss.; and San Diego, Calif. Since that date the Port Angeles station has been completed.

In reality the Atlantic seaboard has thus been given the facilities and the advantages of six Coast Guard air stations and the Pacific coast has received only two stations. Mr. Speaker, the original authorization act fixed the maximum number of stations to be established at 10 and tentative plans are under consideration by the Coast Guard to establish a station on the Great Lakes. At the present time a new air station is being constructed at Floyd Bennett Airport, New York, and when completed the present air station at Cape May, N. J., will be placed out of commission.

To fill the gap between Charleston, S. C., and New York the Coast Guard plans to construct a station somewhere between these two points. When these plans are completed the 10 stations authorized under the original act will have been exhausted.

Under these conditions we brought my bill, H. R. 4893, before the House requesting authority to accept the title to a grant of a site by the city of San Francisco adjacent to their new sea-plane base at the San Francisco Municipal Airport. Carrying a unanimous favorable report of the Committee on Merchant Marine and Fisheries, this authorization bill passed the House unanimously on May 3 and is now up for consideration in the Senate.

The air distance from Port Angeles, Wash., to San Francisco is 749 statute miles and from San Diego to San Francisco is 443 statute miles. This distance prevents the utilization of the services and protection of the Coast Guard air stations at Port Angeles and San Francisco. The establishment of a station at San Francisco will provide the means for effectively meeting public emergencies requiring the assistance of air craft, and for the prosecution of Coast Guard and customs duties in which air-craft facilities are now engaged along other sections of our coast.

In reporting to the Committee on Merchant Marine and Fisheries in reference to my bill, Acting Secretary of the Treasury Stephen B. Gibbons, states:

> The importance and volume of marine and air commerce in the San Francisco Bay region and adjacent territory would suggest the wisdom of affording Coast Guard air service and protection in this area.
>
> The need for the establishment of a Coast Guard air station between San Diego and Port Angeles has been felt by the Coast Guard, and with the view of selecting a suitable site for such a station, if provision be made for its construction, a careful survey was made about a year ago, with the result that the San Francisco Bay region was agreed upon as best serving the requirements

of the Coast Guard. A site for this station has been reserved at the San Francisco Airport and offered to the Coast Guard. The Coast Guard considers this location ideally situated, provided certain dredging be accomplished to permit of the handling of seaplanes.

It is the opinion of this Department that the Government should take advantage of the opportunity of acquiring this site, for which the bill under notice makes provision.

Mr. Speaker, when I introduced my original bill at the beginning of this session of Congress I took into consideration the fact that since my original proposal had been brought to the attention of the Treasury Department they had made an intensive survey of the San Francisco Bay region. They did not feel that sufficient room for a take-off was available near the Oakland airport or adjacent to Government Island in Alameda County.

The present site of the Alameda seaplane base, which accommodates the Pan American Airways Trans-Pacific clipper ships, will not be available to the Coast Guard, as it will soon be taken over by the Navy Department as the site authorized by the last Congress for a naval air station. At the time of the survey the city of San Francisco came forward and offered to grant a site to the United States Coast Guard. It was the decision of the Department that the San Francisco airport was the best location and would most efficiently suit the requirements of the Coast Guard.

Mr. Speaker, it has been my concern to bring a Coast Guard aviation unit to the San Francisco Bay. The San Francisco Bay region has become more hazardous than ever due to the construction of the San Francisco-Oakland Bay Bridge and the Golden Gate Bridge, the increase in the number of small service craft and the increased traffic of land planes operating over the surface of the bay.

The coast of California lacks adequate protection in the form of Coast Guard life-saving stations, and I would like to place in the RECORD a summary of the aids rendered the public in 1935 and 1936 by the Coast Guard aviation activities:

	1935	1936
Square miles of area searched	6,675,782	8,371,212
Miles cruised by Coast Guard planes	500,468	837,096
Hours spent in flight	5,358	8,959
Vessels identified	16,181	51,694
Airplanes identified	2,011	6,836
Response to requests for search	67	118
Persons assisted	26	1,013
Vessels assisted	103	430
Emergency medical cases transported	43	85
Assistance to other Government departments	185	233
Foreign smuggling vessels located	60	70
American smuggling vessels located	40	34
Suspicious airplanes sighted and reported	4	7
Smuggling landing fields located	28	8
Stills loated, reported, and seized	131	402

Mr. Speaker, the general purposes of the Coast Guard include the prevention of smuggling; the enforcement of customs laws; the enforcement of navigation and other laws governing merchant vessels and motorboats; the enforcement of rules and regulations governing the anchorage of vessels; the enforcement of laws relative to oil pollution; the enforcement of laws relative to immigration, quarantine, and neutrality; the saving of life and property along the coast of the United States.

The most efficient manner to discharge these duties in relation to the tremendous commerce centralized in the San Francisco Bay region is to have the available assistance of aviation units, amphibian planes equipped with radio, where search, location, and pursuit of lawless craft can be directed by radio.

I think that the lifesaving features of this service are self-evident as no yachting season comes to a close in our locality without its tragedies and near tragedies due to drifting private boats and holiday accidents. We are annually increasing the air traffic of land planes over the San Francisco Bay. The acquisition by the armed forces of the United States of Hamilton Field, Sunnyvale, and the new Alameda Naval Air Station are bringing hundreds of additional airplanes to our locality. Our rescue facilities must be quick and available at all times.

The Coast Guard air stations on the Pacific coast as constructed at San Diego consist of a hangar, 120 by 120 feet in the clear on the inside, and two lean-tos each 120 by 30 feet. In the lean-tos are administration offices, storerooms, operations offices, and machine and repair shops. A ramp has been built for the handling of seaplanes and a gasoline fueling system installed for the fueling of airplanes. There are necessary aprons, roads, walks, and so forth. Two barracks have been built for the housing of 1 officer of the day, 4 visiting pilots, and 36 enlisted men. The barracks have complete messing facilities. There is also a garage for necessary tractors, trucks, and so forth. At the air station there is radio equipment for use in connection with aircraft in flight and also to form a link in the general Coast Guard radio system. The hangar is constructed of steel and concrete and the barracks buildings are of concrete.

It has been estimated by Government officials that the cost of the San Francisco base will approximate $600,000 and 60 men permanently assigned to duty in the station.

Mr. Speaker, I want it clearly understood by the House that the amendments designating the location of this air station were drafted in committee. For my part, I am satisfied with the Coast Guard's selection of a site. That is their concern and their responsibility. I deem it a privilege to have initiated and participated in bringing a Coast Guard air station to the San Francisco Bay region.

The Late Benjamin Kurtz Focht

EXTENSION OF REMARKS

OF

HON. JOSEPH W. MARTIN, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1937

Mr. MARTIN of Massachusetts. Mr. Speaker, it was with great shock and infinite sadness we learned of the unexpected death of our beloved colleague, BENJAMIN KURTZ FOCHT, on the evening of March 27, 1937.

Only a few days before, he had stood forth boldly in the House, fighting for the economic issues he believed in, and for the security, happiness, and properity of the people of his district, who had many times honored him with high office.

BEN FOCHT was no imitator or "rubber stamp." He was a strong individualist, of that fine type of leadership which made possible the marvelous growth of the American Republic. He had real convictions, formulated through years of experience and study; and, best of all, he never lacked the courage to fight for them no matter how unpopular they might be.

BEN FOCHT was a friendly man. He loved people. He had quick sympathy for those who had felt the hard pressure of calamity. His efforts were untiringly devoted to lifting up the distressed, that they might enjoy more of the sunshine of life. He was especially devoted to one of the greatest problems we have in political life today—old-age security.

It was quite fitting, in his last utterance in this House, that he called attention to his pioneer efforts for a pension for aged people, and pleaded for early legislation to bring needed relief to those old folks who have contributed to the upbuilding of the Nation.

Death has removed a great statesman from among us.

His friendly smile and cheery salutation will greet us no more.

But the memory of BEN FOCHT'S fine life will ever linger with those of us who were privileged to serve with him and enjoy his friendship.

Death Dealing Economy, or Life Giving Investment?

EXTENSION OF REMARKS

OF

HON. JOHN R. MURDOCK

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1937

Mr. MURDOCK of Arizona. Mr. Speaker, in the fierce debate that opened the consideration of the Interior Department appropriation bill, it was repeatedly asserted by the opposition that our national irrigation projects, past, present, and future, had been, were, and would be, an ever-increasing extravagance and sheer waste of public funds. With great vehemence the advocates of economy pointed to our unbalanced National Budget and our present national indebtedness and demanded a halt in such appropriations. Now, I am as much concerned over our national indebtedness and our unbalanced Budget as any Member of this House. However, I would like to inquire, what is real economy?

We have in this country millions yet unemployed. Of course, we would prefer to have private industry call them into employment. I am in favor of voting money for relief, only to the extent of absolute necessity, for I do not want to pauperize our people. Most Americans are respectable and want to work and earn a respectable living. To the extent that the Government is required to furnish funds for employment, I much prefer that it be done in a manner to give us lasting public improvements rather than that it be merely "made work", which is equivalent to charity. I believe that sound and feasible reclamation projects are in the nature of such worth-while public improvements. Certainly, great irrigation and power projects come within that class.

It is true that most of the reclamation projects are west of the Mississippi River, whereas the money needed to materialize them comes from the National Treasury. This is quite obvious to certain Members. However, there are three great facts in connection with this class of national improvements apparently not so obvious to those same Members. In the first place, these great public improvements are self-liquidating. They will pay for themselves many times over. Such appropriations are therefore not a gift but an investment. In the second place, all of the materials and most of the labor used in such great public works must come from the East. For every man employed on the spot several others in remote parts of the country are given employment, and business prospers accordingly. In the third place, according to the best authority on economics, even in times of depression, when the wheels of private industry have slowed down or stopped, it is the duty of the Government to invest Government funds, first, in a wise program of Government building, and then to encourage private building to any feasible and reasonable extent necessary.

In this connection we should note the mutuality of interests among the parts of the country. Do easterners—anyone east of the Rocky Mountains—feel that it would be good business and economy for the country to minimize or stop the exchange of raw products from West to East or of finished products from East to West? Certainly not. That would be very poor business. Now, the promoting of great reclamation projects in the West is but a long-run phase of that mutually profitable business exchange.

The Supreme Court Proposal

EXTENSION OF REMARKS

OF

HON. BYRON N. SCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

ARTICLE BY THURMAN W. ARNOLD, SPECIAL ASSISTANT TO THE ATTORNEY GENERAL

Mr. SCOTT. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following article, A Reply, by Thurman W. Arnold:

[From the American Bar Association Journal for May 1937]

A REPLY—HANDICAPS, UNDER WHICH THE WRITER SUFFERS IN PREPARING ARTICLE FOR THE JOURNAL IN SUPPORT OF PRESIDENT'S PLAN—CAREFUL CONSIDERATION OF THE CONTRIBUTIONS OF EIGHT DISTINGUISHED AND ALARMED LEADERS OF THE BAR IN THE APRIL ISSUE—PRESIDENT STINCHFIELD'S FAITH IN THE ESSENTIAL MALEVOLENCE OF CONGRESS—MR. OLNEY'S CRITICISM OF ATTACKS ON THE COURT'S DECISIONS AND CERTAIN PERTINENT OBSERVATIONS BY JUSTICES M'REYNOLDS AND STONE AND CHIEF JUSTICE HUGHES—MR. LETCHER AND THE POTATO ACT—MR. PEPPER'S GLOOMY ARTICLE—OTHER CONTRIBUTIONS THOUGHTFULLY APPRAISED—THE SIX PROPOSED ADDITIONAL JUSTICES AND THE DISCOVERY OF QUININE—SOME DOGMATIC ASSERTIONS

(By Thurman W. Arnold, professor of law at Yale University; special assistant to the Attorney General)

It is with some reluctance that the writer responds to a request from a member of the Journal's board for an article supporting the President's Supreme Court proposal. In the first place, I argue in a hostile forum, with the satisfaction which comes from making a convert virtually denied me in advance. Secondly, in the articles appearing in the last issue of the Journal the President's proposal is so smothered in symbolism and garnished with poetry that it is difficult to reply in an orderly and logical fashion. Thirdly, I reply to writers who, for the most part, shy at realism, where the Supreme Court is concerned. Such generally recognized premises as that the Constitution is what the Judges say it is, that the Court controls far-reaching matters of social and economic policy, that Judges in their decisions are not above criticism, seem not to be recognized by those to whom such premises should be undeniable. Thus to argue adequately I must prove propositions of which even the layman takes judicial notice. The burden is too great—the time is too short.

Oddly enough, I find myself, an academician, pleading with practical men to be realists. The set-up is wrong.

Fourthly and finally, a reading of the last issue of the Journal has spoiled my disposition. Ordinarily a seriously minded person, I find myself sorely tempted to be otherwise. This is another handicap which confronts me at the start. I will illustrate this handicap by reviewing the dangers which the spokesmen for the majority view of the American Bar Association appear to see in the President's proposal.

In the April issue of this Journal eight distinguished and alarmed leaders of the bar and one editor have made it abundantly clear that the proposal is fundamentally immoral. That being so, it follows that the wages of sin are death. Grave peril of a somewhat unspecific character lies in wait for us. The Nation is about to lose its immortal soul and become at best a bureaucracy, and at worst a tyranny. The whole issue is keyed to a note of warning of impending doom.

For example, President Stinchfield, who contributes the first article, tells us that if we adopt the plan "we shall have government from Washington covering a territory of 130,000,000 people." The superficial observer might think that this was one of the objectives for which the Civil War was fought and therefore had its good points. But President Stinchfield goes on to say: "We must inevitably become a government by bureaucracy * * *." Such mysterious matters, of course, cannot be proved, but President Stinchfield's faith in the essential malevolence of Congress is such that he doesn't think they need any proof. He says: "I think we are in great danger at the moment."

Mr. Olney, who followed Mr. Stinchfield, is also gloomy and sad about the remote future, through whose mists his prophetic vision penetrates without any difficulty. He is particularly worried because he is afraid that labor unions will disappear if the President's proposal is passed. He says that the measure may put them "at the mercy of a President and Congress who choose to pass a law forbidding the persuasion of men to join a union * * *." This seems a very odd thing to worry about just now. However, Mr. Olney shows us how foolish it is for labor to be cheerful about its future right to organize. He says:

"It is no answer to this to say that such a thing could not happen in this country. It has happened elsewhere in countries no less civilized than ours. It has happened in Germany and Italy."

Elsewhere in the article Mr. Olney points out that Germany and Italy are not the only countries which we may become like. We may also become like the South American Republics, of whose judiciary Mr. Olney seems to have a low opinion. The trouble with Germany, Italy, and the South American Republics is that in their blindness they bowed down to the wrong principles, like the heathen. For example, the German people, having a choice between the right principles and the wrong ones, chose the wrong ones. Persecution of the Jews and a subservient judiciary automatically followed (as everyone knew they would). This, Mr. Olney thinks, is tough on Germany; but it is a lucky break for us, because now labor and the underprivileged groups can see the dangers of getting what they want.

The writer is attracted to Mr. Olney's analysis of the complex conditions in Europe and South America because he makes it so simple and easy to understand and shows just why we are on the verge of becoming like these countries. He does not tell us, however, whether, if the President's plan is adopted, we will become like Germany, Italy, and/or the South American Republics separate and in succession, or whether we will resemble all of them at the same time.

Another thing appears to annoy Mr. Olney. There are many people, he says, who claim that the Court has been vetoing laws by decisions which are unwarranted by the language of the Constitution itself. He thinks that it is very wrong to make such a claim. He says:

"* * * How can the Court, in performing its judicial duty in deciding the case do otherwise than decide it in accord with the Constitution and refuse to give the effect to the law in conflict with it and hold such law invalid? And this, and only this, is all that the Supreme Court has ever done."

The truth of the last sentence, we think, is beautifully illustrated by the following remarks of Mr. Justice McReynolds from the bench in the Gold Clause case:

"Nero undertook to exercise that power. Six centuries ago in France it was regarded as a prerogative of the sovereign. * * * It seems impossible to overestimate what has been done here today. The Constitution is gone. * * * The people's fundamental rights have been preempted by Congress. Some day the truth will be seen."

But, in spite of all this, some people persist in claiming that the Court has been declaring laws invalid in a completely unwarranted way. This unfortunate tendency is one of the dangers against which Mr. Olney is warning us in this article. It would not be so bad if such remarks were confined to irresponsible people, but it is dangerous to find them in the highest places. For instance, Mr. Justice Stone, in the A. A. A. case, clearly intimated that the Court had usurped power in the exercise of which they could only be limited by their own economic predilections. And Mr. Chief Justice Hughes was even more outspoken and specific in what the Court was doing in the railway pension case when he said:

"I think the conclusion reached is a departure from sound principles and places an unwarranted limitation upon the commerce clause of the Constitution."

Such attacks on the Court, Mr. Olney says, are "untrue" and the consequences of their being broadcast in public are "mischievous." (In fairness to Mr. Olney, however, it should be said that the general impression one gets from his article is that he is not condemning Mr. Chief Justice Hughes and Mr. Justice Stone, but only those who have the bad taste to repeat the language of these dissenting opinions in public.)

These unfortunate and untrue remarks about the Court not following the Constitution at all times are, however, not the main point of Mr. Olney's article. He points out:

"But untrue as are the attacks upon the Supreme Court and mischievous as are the consequences of their being broadcast to the American people, the danger to the Nation by reason of them is not to be compared with the danger inherent in the proposal to add presently six more members to that Court."

At this point Mr. Olney analyzes the struggle for human liberty. He has some very unkind things to say about the old court of the star chamber and he leaves little doubt in the reader's mind that he disapproves of the way that court carried on. On the other hand, he is enthusiastic about the language of the Declaration of Independence, particularly where it refers to "life, liberty, and the pursuit of happiness." He is quite convinced that the President's proposal not only destroys the Supreme Court but also the Declaration of Independence.

The next article is by Louis A. Lecher, a distinguished member of the Milwaukee Bar. It is evident that he has been thinking along the same lines as Mr. Olney. However, he is more specific. The Potato Act was, he thinks, not only an unwise agricultural measure; it was also a subtly concealed attack on human liberty. I gather from the following quotation that Mr. Lecher thinks that any quota of agricultural products, such as the Jones-Costigan Sugar Act, or even the tariff act, is a threat to human liberty, particularly on Sunday. He asks: "Does the President believe that a regulation which provides that the serving of potatoes to guests at a Sunday dinner shall constitute a criminal offense if not done 'according to statute and regulations issued pursuant thereto' does not deprive our people of their liberties?"

Mr. Lecher points out another specific danger which no one else has thought of. "What", he asks, "would happen to State rights, for example, if the President were to appoint the Honorable John Dickinson * * *." I confess that this is a real body blow because Mr. Dickinson's present position as general solicitor for the Pennsylvania Railroad is such an effective disguise for his "dangerous" ideas.

The next article is by George Wharton Pepper. Mr. Pepper is convinced that the enlargement of the Court in effect amounts to the unconstitutional removal of the existing Justices, even though they are expressly permitted to remain by the act itself. This is an interesting idea, but the writer confesses that he does not understand it very well.

The rest of Mr. Pepper's discussion, however, is quite clear because it deals with the broader issues of freedom and respect for government on which all sound lawyers agree. He says:

"Here the question is not whether A or B shall be elected to political office but whether A and B shall be deprived of their guaranties of civil and religious liberty."

He sees in the plan danger to labor and the Jews and the Catholics and the schools, and points out that professors, like the writer, are foes to education within its own household, because they do not realize that the defeat of the plan is essential to academic freedom. He observes that "Unless labor leaders, Jews, Catholics, educators, and editors come to their senses before it is too late they will find themselves in an America which is anything but a land of the free."

Mr. Pepper's article is particularly gloomy because he shows that so far as this generation is concerned the harm has already been done. When Mr. Roosevelt agreed with the dissenting Justices that the A. A. A. was not forbidden by the Constitution, but was, therefore, destroyed by judicial veto, Mr. Pepper says, "He did more harm in 10 seconds than patriots can repair in a generation." It was Mr. Wallace, however, who drove the last nail in the coffin, according to Mr. Pepper, who says: "When his Secretary of Agriculture publicly criticized the A. A. A. decision as a 'legalized steal' he was subordinating the good of his country to an emotional satisfaction. Such intemperate expressions by men in high place give great encouragement to the lawless element in the country * * *."

There is an interesting paradox here which is difficult to explain to the layman and which even the writer does not understand very well. That paradox is the fact that it is perfectly proper for Justices of the Supreme Court of the United States to write dissenting opinions, but highly dangerous and subversive to repeat the sentiments containing these opinions in public.

Mr. Pepper's fourth and concluding point is as follows:

"But the most dangerous of all the consequences of the President's proposal is the inevitable impairment of respect for government."

This argument has a certain familiarity. The writer recalls that in 1928, the closing days of prohibition, a poll was taken by a national economic organization of prominent lawyers and economists. They were asked to point out what they considered the greatest danger facing America. An overwhelming majority said that it was lack of respect for law. The depression which followed indicated that the lack of respect for law engendered by the prohibition amendment was actually not such a real danger as something else which the distinguished lawyers and economists overlooked at the time—to wit, maldistribution of purchasing power throughout the country. However, "lack of respect" is the kind of argument the older generation always uses against the younger, and therefore it is not surprising to see it bobbing up again in the debate on the President's proposal.

The next big gun to go off is Mr. George Bogert. Mr. George Bogert is a legal scholar like the writer and not a practicing lawyer. This makes him a little more cautious in his predictions of disaster because legal scholars are not closely in touch with the world of affairs and therefore more academic and less practical. However, Mr. Bogert is convinced on the main issue, and that is that "he is forced to see in the new plan something subtly immoral and dishonest * * *." Mr. Bogert is, of course, not the kind of man who is willing to justify immorality of any kind and therefore he is against the plan.

Mr. Donovan then speaks. He analyzes the groups that are in imminent danger from the plan. They are religious groups, racial groups, citizens of foreign descent, labor unions, and persons charged with crime. All of these people would, in Mr. Donovan's opinion, be in a bad way if more Justices were added to the Court under the plan.

Then comes Dean Smith, of Columbia University. He admits that the Supreme Court has "read into the Constitution limitations upon the powers of government not required by its language." He thinks this is a bad thing. However, he believes that when the Supreme Court goes wrong 13 States scattered indiscriminately all over the country should be permitted to perpetuate that error forever by having the power to block an amendment. Of course, as a scholar he knows that the President's plan is constitutional. However, he thinks that it is a very weak point in the Constitution and that the constitutional fathers were very wrong in giving to Congress this power to avoid an impasse between the Court and the legislature. He proves this by quoting Mr. James Bryce, an Englishman, who saw this mistake which the fathers had made and called it "a weak point." Dean Smith now insists that the time has come to create a sort of sentimental

amendment to the Constitution to correct this original blunder of the fathers pointed out by James Bryce. He does not think that this sentimental amendment should be submitted to the people because it is too hard for them to understand. His theory is as follows: Congress should not attempt to exercise a constitutional power over the Court unless it is not only a power that has been given to Congress but also a power that ought to have been given to Congress. In other words, Congress ought not to exercise any constitutional powers which were given but which ought not to have been given, even though in doing so they correct constitutional interpretations which the Court ought not to have made. This point is a very scholarly one and requires a good deal of study. If you read it over and over again several times, it becomes more clear than on the first reading. He is against the plan on scholarly grounds, and for Mr. Roosevelt's general objectives on economic grounds. He is too good a legal scholar to allow his economic ideas to get mixed up with his legal ones.

Hon. Frank E. Atwood, of the Jefferson City bar, fires the last shot in the barrage. Judge Atwood takes a new position. He says: "If nothing more than 'constant infusion of new blood in courts' were intended, the reason assigned would hardly be challenged." By this he means that if the Supreme Court were not giving Congress any trouble, the plan would be all right. It is the use of the President's plan to avoid an impasse between the legislature and the Court, which Judge Atwood thinks is bad. His position is a little like Dean Smith's, except that he thinks that the power of Congress over the personnel of the Court is perfectly all right to exercise when there is no particular occasion for it. He is very much worried about something which he calls "absolute collectivism", which he says has already destroyed the democracies of continental Europe. He closes with a familiar quotation from the well-known poet Naevius.

On finishing Judge Atwood's article, the writer, who had been on the receiving end of this barrage, thought that the firing had ended. However, he soon found that he was mistaken. The editors of the Journal did not consider that these eight heavy legal howitzers were quite sufficient to blow the plan completely out of water; so, to make things absolutely sure, they dropped an editorial bomb on it of more than usual weight and length.

I am glad, however, that this editorial bomb was dropped, because it makes some things clear which had confused me from reading the articles themselves. For instance, Mr. Pepper had said that the plan was really one for the removal of the Judges, in spite of the fact that the proposed statute not only let the Judges stay but preserved their right to vote and to deliver opinions; and Mr. Lecher intimated that the plan might be unconstitutional because it "constitutes an unconstitutional attempt to delegate legislative authority to the very six Justices who are accused by the President of usurping legislative powers." Both of these ideas, and particularly the last, are very complicated, like the fourth dimension, and a little difficult to grasp. I thought at first that Mr. Lecher meant that the decision on the Wagner Labor Act was unconstitutional, because since the act itself was unconstitutional, a decision declaring it constitutional would certainly be unconstitutional. However, the editorial clears the difficulty up very nicely by pointing out that if the new 15-judge Court should declare the President's proposal constitutional because it followed the letter of the Constitution, it would be an unconstitutional decision. The editorial puts it in this way:

"If the proposed act violates the spirit of the Constitution and threatens the break-down of an essential part of it, 'constitutional morality' certainly forbids it. To act under such circumstances is simply to exercise a brute power. And the spirit is more important than the letter. As long as the spirit of the Constitution is followed, there will be small trouble about the letter, and the great instrument and guaranty of our liberties is safe. But when the letter is followed in disregard of the spirit, catastrophe may be near."

The more the writer considers this new doctrine of "constitutional morality", the more he wishes he had thought of it himself. The beauty of this kind of argument is that it makes the Constitution very elastic indeed, so that it can be used on both sides of any moral question without the user being bothered with what the Constitution actually says. However, I do not think it is fair for me to use on my side an argument which was thought up by the opposite side, so I will not do it.

The editorial closes on a high poetic note, as follows:

"It was not made with the mountains;
It is not one with the deep;
Men, not gods, devised it;
Men, not gods, must keep."

I have read this over several times, and am still not quite sure whether it means that more men should be added to the Supreme Court or not. In any event, it is certainly a very lovely thought, beautifully expressed, and quite in keeping with the general atmosphere of the entire issue of the Journal.

I hope that the reader will understand from this brief review of the April issue of the Journal why I was reluctant to introduce a note of doubt or lack of faith in such a revival meeting. I do not wish, however, to end my review of that issue on a critical note. Organizations like the American Bar Association are necessarily as dependent on slogans, symbols, and ceremony as colleges, or churches, or Rotary Clubs. The Supreme Court of the United States has always occupied the central place on the high altar of the American bar. It is obviously as impossible to expect them to be objective and realistic about it as for Communists to be realistic about Karl Marx. The only point I am making is that such an atmosphere makes calm discussion very difficult.

Since the entire opposition is keyed on a note of fundamental moral principle, one cannot hope to carry conviction to those who believe that the President's plan is some sort of social sin. The reasons for urging the plan are practical. The reasons for opposing it are mystical. In such a situtionall I can do is to make the following dogmatic assertions which show why I believe the plan is not only a common-sense measure but also a conservative method of solving an acute problem.

In the first place, I assert that there is absolutely no danger in this country of a repetition of the experiences in Germany, Italy, Russia, Spain, or South America. It is difficult for me to conceive how anyone can really be afraid of such conditions at the beginning of an economic recovery. These conditions are the products of the psychology of misery and defeat. We are emerging into an atmosphere of hope and confidence.

In the second place, I assert that anyone who predicts what will happen in future generations is talking absolute nonsense. The constitutional fathers did not foresee the Civil War. If they had foreseen it, they could have done nothing to prevent it. At the close of the Civil War men could not have predicted the automobile or any of the tremendous changes which are taking place in this country. In 1928 no one had any idea of the extent and magnitude of the depression which was to follow. The posterity argument does not deserve a place in a rational discussion of this problem.

In the third place, I assert that the present Supreme Court of the United States does not present the spectacle of an impartial judicial tribunal operating in ar atmosphere of judicial calm. It has lost the confidence of large sections of the American public because it represents two mutually irreconciliable groups which swing back and forth according to the opinion of one or two men. The very fact that constitutional law is now being referred to as "Roberts' land" indicates the complete lack of faith in the existence of constitutional doctrine as opposed to personal predilections. To take a conspicuous example, I do not see how anyone can deny that constitutional law today is in complete confusion with the Guffey Coal Act decision and the Wagner Labor Act decision, both standing as the law of the land.

In the fourth place, I assert that the Court presents the spectacle of two bitter irreconcilable groups who are attacking each other from the bench, even in as simple a situation as was presented by the Herndon case, where no social or economic policies, but only civil liberty, was involved. Herndon was kept in jail by a 6-to-3 decision. He was liberated by a 5-to-4 decision. He has served years under an indictment against which the Constitution is supposed to protect him. The Court cannot be a battleground between irreconcilable men and preserve its prestige as a judicial body.

In the fifth place, I assert that when a court which is supposed to represent the ideal of rule of law and the symbol of national unity becomes a bitter battleground between opposing political theories, the only remedy is to appoint men on the Court who are sufficiently aware of the function the Court must play among American ideals to exercise adequate judicial statesmanship. No institution torn by such internal dissension can assume the kind of leadership which the Supreme Court of the United States owes to the American people.

More points could, of course, be added and the dogmatism of these assertions could, I think, be removed by more extensive treatment. I see, however, no point in this type of argument here. The real struggle is between practical common sense and moral mysticism. In such a struggle preaching is more effective than detailed facts; analogy is more effective than analysis.

Centuries ago people looked at the human body as they look upon social institutions today. Each organ had its divine function and anyone who intimated that the human constitution was not the best constitution that could have been devised was excommunicated for heresy. In such a climate of opinion the Jesuits discovered a remedy for fever called Peruvian bark, since it was found in Peru. It is now called quinine.

Up to that time the remedy for fever had been bleeding the patient. It was an excellent remedy, because it was at the same time so logical and so disagreeable. It was logical because fever was supposed to be a humor which had gotten into the blood. Obviously it had to be drained out before the patient stood any chance of recovery. More people died of bleeding than of fever. But it was all in a good cause, for were they not getting rid of humors? (I should explain that this was unconscious humor. It was not a deliberate practical joke on the patient, any more than preventing the passage of constitutional minimum-wage laws for 14 years was a deliberate practical joke.)

The fact that this cure for fever was disagreeable added to the faith men had in it. In medicine then, as in government today,

there was great confidence in curative methods which made people suffer, because suffering itself was supposed to be good for people. It gave them character. As the Supreme Court has frequently intimated, we only realize that we have got a Constitution when it pinches and, therefore, great care should be taken not to so construe it that it does not pinch because otherwise we might forget all about it.

Now, of course, argued the wise men of the Middle Ages, a time-honored remedy like bleeding should not lightly be thrown aside in favor of one which simply made the patient feel better. There were also people who disliked the Jesuits, who pointed out that grave danger that if jesuitical remedies were used the world might be plunged into jesuitism—just as today nervous people thunder that if national power is used to solve national problems America will become like Germany, or Italy, or we will grow beards and start drinking vodka like the Russians. Then there was a third group who were learned in the great fundamental principles of medicine handed down by the constitutional doctors of the human constitution. These men proved by exhaustive briefs and research into the medical opinions of the past that Galen, in spite of the fact that he had never heard of quinine, would have been opposed to it on principle and that he was probably turning over in his grave whenever it was mentioned. These learned men also pointed out that quinine was a mere temporary palliative which caused only an artificial recovery. The patient might feel better at the time, but he would really be worse and die later because he had violated the fundamental principles of medicine and left the noxious humors still in the blood. This was easy to prove because they always did die later. What advantage this temporary relief, these great authorities said, if in using it we undermine the sacred and fundamental principles of medicine, destroy our respect for medical authority, turn the world over to the Jesuits, leaving the noxious humours still in the blood. Medical principles are not things which change from day to day.

And so the University of Paris, which occupied in the eyes of learned and conservative people almost the same place that the Supreme Court of the United States does today, banned the use of quinine as a remedy by any physician under its jurisdiction.

Now, the odd thing about this historical incident was that there were many people at the time who knew that quinine was a better remedy for fever than bleeding. They did not think that the fundamental principles of medicine required that it be banned. The witnesses who have testified in opposition to the President's proposal have practically all been sure that the majority of the Supreme Court has been misinterpreting the Constitution. There were many in the Middle Ages who felt the same way about the decree on quinine. But, they said, in spite of this, now is the time for all good men and true to come to the aid of the University of Paris. It is much better, they solemnly intoned, that we undergo any amount of suffering and confusion, even that thousands die, rather than damage the prestige of that great medieval institution. Where would the learning of the Middle Ages be if it were not for the University of Paris? Therefore, if we are to have any principles left, we must not damage the authority of that great institution by any common-sense methods. Medicine is going ahead too fast anyhow, they said, and we have got to watch it in order to keep it back. In this particular effort their success was overwhelming.

It is a long, long time since this incident in the history of medicine occurred. We know now, however, that had more liberal-minded medical authorities been put on its faculty it would not have lost in prestige, but gained. We know that the institutions of the Middle Ages would not have fallen. We know that institutions have sunk and not risen in authority when composed of men of stubborn and mutually irreconcilable views. We know that institutions become in danger when they do not keep up to date, and that no great university, or court, has ever been destroyed by bringing into it men who were abreast of the times.

It is odd that today we can understand the Middle Ages so much better than the times in which we live.

Equality of Treatment for the Territory of Hawaii

EXTENSION OF REMARKS

OF

HON. JOHN J. DEMPSEY

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

RESOLUTION BY HON. JOHN J. DEMPSEY BEFORE THE COMMITTEE ON TERRITORIES OF THE HOUSE OF REPRESENTATIVES

Mr. DEMPSEY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following resolution I introduced at a meeting held by the Committee on Territories of the House of Representatives on May 12, 1937:

Whereas Hawaii is an organized Territory and has been incorporated into the United States as an integral part thereof, and as such is entitled to equality of treatment with other parts of the United States; and

Whereas this committee, after hearings on December 22–29, 1923, approved a bill affirming the right of the Territory of Hawaii to "share upon the same terms and conditions as any of the States" in the benefits of various specified Federal-aid acts, which measure was enacted into law on March 10, 1924 (43 Stat. 17, 18), and recognized the principle of equality of treatment in Federal legislation; and

Whereas it is the duty and province of this committee to see that the rights and interests of the Territory of Hawaii are recognized and respected: Now, therefore, be it

Resolved, That this committee hereby affirms that the Territory of Hawaii is entitled to equality of treatment with the States in all matters of general legislation; and be it further

Resolved, That a copy of this resolution be spread upon the permanent minutes of this committee, and a copy thereof be delivered to each and every committee considering legislation which affects the Territory of Hawaii.

Dedication of Federal Building, Galesburg, Ill.

EXTENSION OF REMARKS

OF

HON. CHESTER THOMPSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

ADDRESS BY HON. JAMES A. FARLEY AT GALESBURG, ILL., APRIL 27, 1937

Mr. THOMPSON of Illinois. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered by Hon. James A. Farley, the Postmaster General of the United States, at the dedication of the new Galesburg, Ill., Federal building, on April 27, 1937:

It is a real pleasure for me to be here in Galesburg today, and have the honor of participating with the citizens of this progressive western Illinois city in the dedication of your new Federal building.

This splendid edifice, which stands as a memorial and symbol of our national strength and unity is the official headquarters in Galesburg of the American Government. It is a building for the use of all the people and one which was erected by the present administration for the purpose of enabling the residents of this community to receive better mail service than they have at any time in the history of the Galesburg post office.

This new Galesburg Federal building is one of hundreds of new post-office buildings that have been and are being constructed throughout the country under the present administration's post-office building program. This particular project was authorized under the act of Congress of June 19, 1934, at which time $192,000 was allotted for the acquisition of land and the construction of a new Federal building for this city.

When the history of the current era is written, I have no doubt but that the public-works program of President Roosevelt, which made this building possible, will be recorded as one of the most important single factors in bringing us out of the recent economic depression which had engulfed the country when President Roosevelt took office 4 years ago.

In inaugurating this program and carrying it through in the face of vigorous opposition and hostile criticism, he made certain that prosperity would reach into every section and corner of the United States. He guarded against one-sided or sectional recovery. The return to better times in our agricultural areas, to which Galesburg and the neighboring countryside so well attest is balanced on the other hand by the revival of trade and industry in our great commercial and industrial centers.

Today we are enjoying the fruits of the wise policies enacted under the able and humane leadership of President Roosevelt during the past 4 years. Our banks are sound and solvent, industry has been restored, the farm markets have been rescued from ruinous prices, and the laboring people of this great Nation are at last enjoying their share of a sane and far-reaching prosperity.

While in Galesburg for the purpose of taking part with you in the dedication of your new post-office building, it is only fitting that I talk to you on the subject of the United States Postal Service.

As for the postal service here in Galesburg, our records at the Post Office Department in Washington indicate that the local post

office was established just 100 years ago, on September 20, 1837, with N. H. Losey as its first postmaster. I was interested in looking back over the early history of Galesburg and its postal service to learn that Postmaster Losey came here as a settler from Whitesboro, in my own State of New York, the year prior to his appointment as postmaster. I was also interested to know that Galesburg derived its name from Rev. George W. Gales, another settler from Whitesboro, who, according to the early history of Illinois, had been appointed to procure settlers for the proposed colony at Galesburg.

The earliest record of postal receipts at the Galesburg post office is for the year 1847, when the net receipts at the local post office totaled only $241. This figure is in striking contrast to the postal receipts at the Galesburg post office for the past year, which amounted to $166,661.

Since the establishment of the Galesburg post office 100 years ago this community has been served by 15 postmasters, including your present postmaster, Ralph Hawthorne, who was appointed on January 16, 1935. In this connection I want to say that I doubt if Galesburg has ever received better mail service than it is receiving today under Postmaster Hawthorne and his staff of loyal employees, all of whom are rendering a fine public service to the citizens of this city.

Since becoming Postmaster General I have participated in the dedication of new post-office buildings in practically every section of the United States, in the course of which I have made a practice of discussing various phases and functions of the Postal Service, many of which are almost unknown to the average citizen.

Owing to the geographical location of Galesburg and its importance as a postal center to the adjacent rural farming communities, I felt that you would be interested in hearing something about the Post Office Department's Rural Mail Service, one of the most important branches of the United States Postal Service, and one which serves approximately 25,000,000 patrons.

The first rural mail service in the United States was established at Charles Town, Halltown, and Uvilla in West Virginia on October 1, 1896, and it was less than 2 months later when the first rural mail route was established in the State of Illinois. This latter route, which operated from the Auburn, Ill., post office, was inaugurated on November 23, 1896.

Rural delivery service out of the Galesburg post office was established on November 1, 1901. The first rural carriers on these routes were W. M. Woolsey, William M. Vanglider, and Daniel C. Knight, according to official Post Office Department records.

At the present time there are four rural routes in operation from the local post office, totaling slightly more than 165 miles, and on which are located more than 800 rural mail boxes.

There are in operation in the State of Illinois 1,856 rural routes, with an average length of approximately 40 miles. The average length of the 33,722 rural routes in operation throughout the country is approximately 41 miles. These routes are served by 33,635 carriers, there being a number of instances in which two triweekly routes from the same office are served on alternate days by one carrier. The average salary of all rural carriers is $2,000 per annum, not including the allowance made to cover the cost of equipment maintenance, which, on an average, is $622 per annum.

There are at present 308 women serving in various parts of the country as regular carriers in the Rural Delivery Service.

Persons holding positions as regular carriers in the Rural Delivery Service are frequently outstanding citizens of their communities. Substitute carriers in the Rural Delivery Service are not in the classified civil service. They are selected, without regard to civil-service requirements by the regular carriers, with the approval of postmasters. However, even the position of substitute rural carrier is sometimes looked upon as an important position in the community. Just recently it came to my attention that a substitute rural carrier at an office in one of the Southern States had been elected as a member of the State legislature. When advised through the postmaster that under the civil-service rules it was necessary to drop his name from the substitute rolls because of his holding a State office, this person addressed a letter to the Department and stated that he could not afford to give up the position of substitute rural carrier, which he had held for over 8 years, and that, if necessary, in order to retain it, he would gladly resign as a member of the State legislature.

The fact that the subject of one of the prize-winning pictures at the biennial exposition now being held at the Corcoran Gallery of Art in Washington is a woman receiving mail at a mail box on a rural-delivery route is but one indication that this branch of the Postal Service is recognized as a feature in the daily life of a very large group of Americans.

Going beyond the Rural Mail Service and taking the Postal Service generally, you know as well as I do that there is hardly an individual in the United States who could carry on his daily pursuits without its help, and I need not inform you that it has been the outstanding factor in the growth and development of this great Nation.

Our post office had its origin in colonial times. As early as 1639 a postmaster was appointed at Boston. The first post road was established in 1672, and in 1691 steps were taken for a unified postal system for all the Colonies, under a postmaster general appointed by the British Crown. In the years before the Revolution the system was gradually extended and improved. Post routes with regular schedules were established in all the Colonies and mail boats were placed in service between American ports and the West Indies. In 1753 Benjamin Franklin was appointed Postmaster General. In 1774, just before the Revolution, he was dismissed by King George for insubordination, but when he left office post roads were running from Maine to Florida and from New York to Canada, and the mail was being carried to and from the British Isles on a monthly schedule. Franklin well understood the value of an enlightened public opinion, and under his administration newspapers and pamphlets were carried in the mails free or at low rates of postage. The post office of his day was a tremendous factor in breaking down the isolating of the separate Colonies, and it had a great deal to do with the creation of the national sentiment which led to the Revolutionary War.

At the time of Washington's inauguration there were post offices in 75 towns and mails were carried by post riders over 1,785 miles of post roads, consisting of one principal route along the seaboard and a number of cross or feeder routes serving the inland towns. There were no envelopes and no postage stamps in those days. The sheet or sheets of a letter were folded and sealed and addressed on the back. Postage was paid in cash, the rate varying from 6 cents a sheet for distances not over 30 miles to 25 cents a sheet for distances greater than 450 miles. Franklin's policy of according low postage rates to newspapers still remained in effect, and during Washington's administration these were carried at 1 cent each, or a cent and a half, according to distance.

The efficiency and usefulness of the Postal Service was greatly increased under our early Presidents. Before the close of Washington's second administration the number of post offices, the mileage of post roads, and the volume of the mails had all increased fivefold, and 15 years after Washington's death there were 3,000 post offices in the United States, the mails were carried over almost 50,000 miles of post roads, and there was scheduled mail service between the centers of population and all the new settlements which were springing up in the inland territory. Newspapers and pamphlets from the eastern cities were freely circulated in the West. Pioneers in this frontier section of the West exchanged letters with their friends and relatives at the seaboard. Mail service was maintained among all sections of the rapidly growing country. The Post Office Department was a factor second to none in the settlement and development of our Nation during the period before the Civil War.

The post office of those times did not function alone in the matter of providing a communication service. It was through the post office that we laid the foundations of our national transportation system. First the stage coaches, and later the railroads and steamship lines, received contracts from the Post Office Department based nominally upon the expeditious handling of the mails, which had as their real object the creation of transportation facilities which were essential to our commercial development. Just before the Civil War, for instance, the Government was occupied in encouraging the settlement of our Pacific coast territory, and in those years a large part of the total postal expenditures was paid out on mail contracts covering ocean and overland services to California and other far Western States. In the year 1859 the Post Office Department spent $2,700,000 to provide mail service for the 650,000 people then living in the States of California and Oregon and the Territories of Utah and Washington, as against $12,300,000 expended to furnish postal facilities for the 30,000 000 of people residing in the rest of the Union. It is not to be supposed, however, that this was in reality an expenditure for postal purposes. More than a million dollars was paid in 1859 to steamship companies and an equal sum to stage lines for carrying the Pacific and overland mails. The main purpose of these payments was to provide a transportation service which would accelerate colonization. The objects were not postal—they were of much broader scope. They included the spread of our population, the extension of our commerce, and the development of our national resources. The post office was not in this instance functioning simply as a machine composed of horses and men and mail bags for the transmission of private correspondence. In that period it was the great pioneer of civilization and progress. It functioned as the patron of trade and industry and labor to build up our great country and to lay a foundation for the security and prosperity of its future generations.

For 60 years after the adoption of the Constitution postage charges were paid in cash by the mail users. Stamps were first provided in 1847, for the greater convenience of patrons in mailing their letters and newspapers. Stamped envelopes were introduced 6 years later, in 1853. The registered mail service was established in 1855. Railway postal cars for the distribution of letters while in transit were first used in 1862. Free delivery in the cities was authorized in 1863, and the money-order system was inaugurated a year later. Postal cards were introduced in 1873 and special delivery in 1885. These added facilities illustrate the policy which has always been pursued by our Government not only to employ the post office as an aid to the development of new territory and new national resources, but constantly to increase the scope of its usefulness to the people in every community.

Four outstanding additions to our postal facilities have been made within the memory of a great many of the present generation. Rural free delivery, which I have already mentioned, was inaugurated in 1896, and by 1907 was in full operation in all parts of the country. Letter carriers now bring to 25,000,000 people on our farms the same house-to-house service which is available to those who live in the great cities. In 1911 the Postal Savings System was founded, and the post office of today is the depository of savings belonging to more than 2,000,000 people and amounting to

more than $1,200,000,000. The year 1913 saw the establishment of the parcel post, largely for the benefit of the farmers and those who reside in small places not reached by railroad or express service. By weight and volume, parcel post now constitutes almost two-thirds of all the mail which the post office handles. The last important addition to postal facilities was the air-mail system, which had its beginnings in 1918 and at the present time embraces routes aggregating 29,000 miles in length. Mails are now flown every day something like 175,000 miles, and there is 15-hour mail service between the Atlantic and Pacific seaboards.

In conclusion, I again want to say that it has been a sincere pleasure for me to meet with the citizens of Galesburg today, and in turning over this new building to you it is my hope that in making use of its facilities you may enjoy unexcelled mail service. At the same time I want to express the hope that in making use of this building you will be reminded of that great leader who made it possible—President Franklin D. Roosevelt.

The $12,000,000,000 Gold Fiasco

EXTENSION OF REMARKS
OF
HON. HAMILTON FISH
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Friday, May 14, 1937

RADIO ADDRESS BY HON. HAMILTON FISH, OF NEW YORK, ON MAY 14, 1937

Mr. FISH. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include my radio speech over the National Broadcasting Co. red network, Friday evening, May 14, 1937:

The gold-buying fiasco of the New Deal is so incredible and fantastic that it is difficult to make the American people understand that they are being mulcted right and left by the foreign gold-producing countries and those nations with large gold reserves. These nations are steadily unloading their gold on us at $35 per ounce, or approximately twice the cost of production.

I state without fear of contradiction that the gold-buying policy of the administration is the height of all New Deal follies. This senseless and ill-advised program is rapidly draining the Treasury and the taxpayers dry, and as long as it continues guarantees huge deficits and an unbalanced Budget.

Since January 30, 1934, when the Gold Reserve Act went into effect, we have purchased over four and three-quarter billions of foreign gold at the absurdly high price of $35 an ounce, presenting to the British Empire, including its dominions, and to Soviet Russia profits estimated at $2,000,000,000 out of the Treasury of the United States.

By establishing and maintaining such a high price for gold we have disrupted the gold markets of the world. Instead of encouraging a normal flow of gold between nations to promote healthy international trade, we are rapidly buying the available supply of this metal and taking it out of circulation. We have already cornered approximately twelve billions, which is over 51 percent of the gold of the world.

This constitutes one of the most amazing acts in history and is apt not merely to give us a financial headache, but, unless stopped at once, it will lead to financial chaos and the world's most expensive funeral.

If we continue this mad policy of accumulating gold such nations as Germany, Italy, Japan, and other nonproducing countries may say we can get along very well on a managed currency and you can keep your gold, as it is no longer necessary as a medium of exchange. Should they adopt such a policy, the value of the gold we are hoarding would be drastically reduced.

I do not question the sincerity or honesty of the gold-buying program of the administration, but rather its crass stupidity and colossal blundering. It is said that hell is paved with good intentions. It is obvious that the United States is holding the bag and being drained of American dollars for gold at twice the cost of production in such enormous quantities that we are compelled to sterilize and bury it in the ground without receiving any benefits whatsoever.

Our gold policy is seriously weakening world trade and destroying the most important force for world recovery. We have set up a veritable golden calf to worship, which is of no more use to us than the one destroyed by Moses. The New Deal has blundered blindly into a golden trap of its own setting and apparently is unable to free itself from its evil consequences. In other words, the Treasury Department has a bear by the tail and cannot let go.

Great Britain owes us $5,000,000,000 in war debts and does not even pay interest on any of it, yet we have given her, including South Africa, Canada, Australia, and India, at least a billion dollars profit through buying her gold within the last 3 years. I estimate that 65 percent of all the gold in the world comes from the British dominions and is mined from fifteen to twenty dollars per ounce. What the cost of mining gold is in Soviet Russia nobody knows, but it is well under that of the British possessions. The American taxpayers have become the "angels" of Great Britain, Soviet Russia, and France, which had a large gold reserve, and we are now helping by our inane policy to finance these countries in their made race for military and naval armaments.

But these are not the only nations unloading their gold upon us at exorbitant profits. The record discloses that practically all nations have joined in the rush to tap the Treasury and the pocketbooks of the American people by selling their gold to us.

I do not ask anyone to take my word for this highly fantastic situation. Here is what the British commercial counselor in Washington wrote some months ago to his Government, which substantiates my remarks that we are subsidizing Great Britain and other gold-producing countries with American dollars squeezed out of our burdened taxpayers and for no advantage or benefit to our own people:

"Much greater price advantages have accrued to the United Kingdom. * * * It is impossible to estimate the indirect profits and stimulation to trade and industry which the United States gold policy has brought in other countries. It is certain that * * * the balance of advantage has heavily favored all British countries. The high price placed on gold and unlimited purchasing by the United States of America are largely responsible for the remarkable prosperity of the Union of South Africa, and consequently for the share which the United Kingdom investments in and exports to South Africa have had in that prosperity. Similar triangular effects are traceable in the case of Australia, Canada, and India."

The quotations are authentic. The document was composed by H. O. Chalkley, C. M. G., C. B. E., British commercial counselor here. He says all this and more:

"In fact", he concludes, "the early British fears that the United States would get any trade advantage over here from gold devaluation have been disproved by the results."

The Chalkley report is dated last December, but was made public in London only a few weeks ago. A British commentator surmises it might have been better if the United Kingdom department of overseas trade had delayed publication for a couple of years more. He "shudders to think of what will happen when American Congressmen get hold of it."

Under this misguided and costly gold policy, almost on a par with the high financing of John Law's Mississippi Bubble, the American people have been turned into milk cows, to be milked by every foreign nation. We have already had an unfortunate experience with the war debts, but at least they originally had some worthy purpose. Later on we were milked by the sale of German bonds and marks to the extent of several billions of dollars, through which Germany paid reparations to France and other countries. We are now being deliberately milked by every nation as a result of the financial blundering and the stupidity of the foreign gold-purchasing policy of the administration.

Foreign investors and speculators buy our securities with their gold and receive the benefit of interest and dividends, whereas we just pay and pay and pay. The gold-hoarding fiasco of $12,000,000,000 is the war-debt fiasco over again and exactly the same amount. Only the future will tell how much we will recover from either of these white elephants.

If we tried to sell the gold back immediately, we would probably not receive more than 50 cents on the dollar. If we lowered our price to $30 an ounce, it would only accentuate the rush to unload on the American Government and would probably cause an overwhelming gold wave to take advantage of even a price of $30 an ounce before it was again reduced.

We already have a plague of gold in the Treasury or buried in the hills of Kentucky. Like Midas of old, everything we touch becomes golden, but, unfortunately, like him, we cannot eat gold; it does not produce interest and in its sterilized form is a white elephant conceived by the brain trusters and radical professors and theorists, without practical financial training or experience.

Our gold policy is dangerous and vicious and bound to be a disastrous boomerang, first, because we have already lost billions in cornering and hoarding gold, and, secondly, because the value of gold or any currency thrives on use and faith but shrivels in disuse and fear.

What can and should be done before we commit financial suicide in buying up all the gold of the world? The only alternatives seem to be either to reduce the American price or stop buying gold from foreign nations. For the time being the latter seems the most advisable course to pursue. I introduced such a resolution in the House a few days ago, which reads as follows:

"Resolved, etc., That the Secretary of the Treasury be, and he is hereby, directed not to import or buy any gold from foreign sources except in payment of merchandise, services, or lawful debts."

We are faced with a serious dilemma, which, unless solved by constructive and prompt action, will inevitably become the single greatest financial embarrassment to the administration's fiscal and monetary policies, and the most costly and disastrous of all New Deal experiments.

Speaking in the House a few weeks ago, I stated that we had bought four billions of dollars of foreign gold since the Gold Reserve Act went into effect, on January 30, 1934. I was using figures 4 months old, and understated the facts. The actual amount, as of May 12, 1937, is approximately $4,750,000,000, or three-

quarters of a billion more than has ever been stated before publicly. But what is a mistake of three-quarters of a billion dollars in dealing with the gigantic gold fiasco? I repeat, it is so fantastic that the public will shrug their shoulders and say, "What difference does one billion more or less make?", or they will say this is a partisan talk and it is too much like a fairy story for us to swallow.

However, I am merely stating the facts, which can easily be verified through the Department of Commerce. There is an old Latin saying, "veritas magna est et praevalebit"—the truth is mighty and will prevail. Sooner or later the truth will prevail, but in the meanwhile we are squandering our resources to buy gold from foreign nations, enriching them and impoverishing ourselves. We are paying $35 an ounce for foreign gold, which is an artificial and arbitrary price that no other country will pay.

The administration blindly continues to borrow money and pay interest on the borrowed money to purchase and hoard enormous quantities of gold that we do not need or want. This vast hoard is sterilized and buried in fortified vaults in Kentucky without benefit to the American people.

We must remember, that gold in itself is of no financial use to us unless it operates to facilitate trade. This gold earns no interest, nor does it feed the hungry. Uncle Sam is now the greatest hoarder of gold in the world, after forbidding by law American citizens from owning or hoarding gold themselves.

We are buying on the average of $5,000,000 in gold every day. The gold problem has been deplorably mismanaged by the administration, and we are now reaping the whirlwind of that folly. How long will the American people stand for being robbed of our inheritance by foreign nations who have repudiated their debts to us?

The national debt is galloping rapidly upward, having passed $35,000,000,000, within the last week, making new high records steadily. The national debt is more than double what it was in 1929, and we are no nearer balancing the Budget today than we were 4 years ago, in spite of the repeated promises and pledges of the President. The Budget has become a political football, to be kicked around and around by the President in a vicious circle, but comes out nowhere. We are still confronted with increasing debts, deficits, and borrowings. The way to balance the Budget is to balance it. There are two direct methods: One by reducing appropriations and the other to stop buying foreign gold.

We have already spent this year a total of $680,000,000 for foreign gold. The money to pay for this gold has come out of the general fund of the Treasury, and is charged to the public debt. At this rate, it will cost the Treasury almost $2,000,000,000 this year, throwing the Budget that much further out of balance, and making the national debt go up like a toy balloon.

How long can the United States continue to be the golden Santa Claus of the world? The brain trusters never envisaged a golden influx that would swamp the Treasury. It has actually become the greatest gold rush in the history of the world at the expense of our people. These half-baked theorists of the New Deal, by setting an arbitrary price of $35 an ounce overvalued gold and made the United States the dumping ground for the gold supply of the world.

I have tried to tell the facts in simple language, so that all may understand where our money is going and the reasons why we continue to have an unbalanced Budget and a rapidly increasing national debt.

The President said in his second inaugural address: "I see one-third of a nation ill-housed, ill-clothed, and ill-nourished." This was after 4 years of the New Deal financial and monetary experiments and naturally reflects seriously on their usefulness. We have poverty in the midst of plenty. We have less bread and more taxes. We have abundant promises, but not the more abundant life that was promised. The housing and the Public Works program to employ labor on useful projects have been scrapped. Why? Because the ruinous gold-buying policy of the administration is causing fantastic deficits and undermining our entire financial structure. Until we stop buying foreign gold at such a high price as to be a magnet for the world gold supply, one-third of the American people are apt to continue to be ill-housed, ill-clothed, and ill-nourished, and both the relief and public-works program will have to be reduced to the minimum and all appropriations cut 10 percent or more if confidence is to be restored and our financial house put in order.

Relief Appropriations

EXTENSION OF REMARKS

OF

HON. ROBERT G. ALLEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

Mr. ALLEN of Pennsylvania. Mr. Speaker, next week we will be called upon to vote funds for relief purposes. There is not a man in Congress who is unwilling to provide for those who are in need. Millions of men are unemployed today through no fault of their own. This is primarily a problem of human rights. It must be considered as such.

The following statistics tell a vivid story. The W. P. A. rolls have been cut drastically during recent months. They are being reduced further each week. How many more can be thrown out of work in your State without serious consequences? The Budget must not be balanced at the expense of the unemployed. There are other ways of doing it. In an extremity, social collapse is more serious than a financial break-down.

Employment on Works Progress Administration projects and relief employment on programs of other agencies financed with Emergency Relief Administration Act funds, Apr. 17, 1937, compared with estimated average employment, fiscal year 1938

State	Apr. 17, 1937	Estimated average fiscal year, 1938 [1]	
		Appropriation of $1,500,000,000	Appropriation of $1,000,000,000
Total	2,254,200	1,700,000	1,050,000
Alabama	31,500	23,700	14,700
Arizona	10,500	7,900	4,900
Arkansas	31,100	23,500	14,500
California	115,800	87,300	53,900
Colorado	27,600	20,800	12,900
Connecticut	19,500	14,700	9,100
Delaware	2,400	1,800	1,100
District of Columbia	8,700	6,600	4,100
Florida	29,000	21,800	13,500
Georgia	33,300	25,100	15,500
Idaho	9,100	6,900	3,800
Illinois	152,800	115,200	71,200
Indiana	67,300	50,800	31,400
Iowa	25,300	19,000	11,800
Kansas	39,400	29,700	18,300
Kentucky	51,300	38,700	23,900
Louisiana	33,100	25,000	15,400
Maine	8,400	6,300	3,900
Maryland	16,800	12,700	7,800
Massachusetts	94,500	71,300	44,000
Michigan	63,100	47,600	29,400
Minnesota	48,500	36,600	22,600
Mississippi	25,700	19,400	12,000
Missouri	82,600	62,300	38,500
Montana	15,700	11,900	7,300
Nebraska	24,900	18,800	11,600
Nevada	2,500	1,900	1,200
New Hampshire	8,200	6,200	3,800
New Jersey	80,000	60,300	37,300
New Mexico	10,500	7,900	4,900
New York City	182,400	137,600	85,100
New York, exclusive of New York City	86,000	64,900	40,100
North Carolina	28,100	21,200	13,100
North Dakota	17,600	13,300	8,200
Ohio	125,500	94,700	58,500
Oklahoma	60,000	45,300	28,000
Oregon	17,500	13,200	8,200
Pennsylvania	214,600	161,800	100,000
Rhode Island	12,000	9,000	5,600
South Carolina	26,700	20,100	12,400
South Dakota	20,700	15,600	9,700
Tennessee	32,500	24,500	15,100
Texas	86,500	65,200	40,300
Utah	10,100	7,600	4,700
Vermont	4,800	3,600	2,200
Virginia	28,200	21,200	13,100
Washington	36,300	27,400	16,900
West Virginia	39,000	29,400	18,200
Wisconsin	52,500	39,600	24,400
Wyoming	4,100	3,100	1,900

[1] Based on an estimated cost of $804 per man-year. The following deductions have been made from the appropriation: National Youth Administration, $75,000,000; Resettlement Administration, $715,000,000; administrative expense of other Federal agencies directly connected with the works program, $38,000,000.

The Late Benjamin K. Focht

EXTENSION OF REMARKS

OF

HON. J. WILLIAM DITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

Mr. DITTER. Mr. Speaker, one of the rare privileges which come to those who serve in the House of Representatives is the privilege of forming lasting friendships, and it is

but natural that sadness comes when these friendships are terminated as a result of the death of a colleague. Long before I became acquainted personally with the Honorable BENJAMIN K. FOCHT I knew of him and of the high regard in which he was held by the people of the community in which he lived and the State which was proud to claim him as one of her sons.

Mr. FOCHT came of a family which had long been identified with the best interests of the State and which had made a contribution of helpfulness during the early days of the Commonwealth. As a young man, Mr. FOCHT became interested in public affairs, exerting an ever-increasing influence for good among those with whom he was associated. He served three terms as a member of the Pennsylvania Assembly and for 4 years ably represented his district in the State senate. During his incumbency he sponsored important legislation which will always stand as a credit to his memory.

At the time of his death he was serving his tenth term in the House of Representatives, in which body he established a reputation for himself as an indefatigable worker, as a courageous crusader, and as a capable Representative of the great Keystone State. He was a stanch Republican and on all occasions guarded jealously the interests of his party, espousing on the floor of the House, and in the newspaper which he published, the cause of good government under a representative democracy. As an editor he won Nation-wide recognition. The interests of his constituents and the advancement of the causes of Pennsylvania were his constant care.

His memory is dear to thousands who delighted to call him a friend. He has reared by his conscientious public service an enduring monument. No greater tribute can we pay to any man than that we believe is justly due our departed colleague, when we say that he was faithful to the trust committed to him by a people whom he delighted to serve.

American or Mexican?

EXTENSION OF REMARKS

OF

HON. JOHN R. MURDOCK

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

Mr. MURDOCK of Arizona. Mr. Speaker, a former generation of our people acquired from Mexico by conquest or purchase the fairest portion of the territory of the Mexican Republic. These acquisitions had formerly been the northern outposts on the remote fringe of New Spain. And now the question confronts us, was this acquisition worth the having, or would our Nation be better off had these lands never been acquired? I am not now considering the ceding of these lands to Mexico, but am merely pointing out that a large portion of this very land might just as well be ceded to Mexico, if we now propose to take the water which belongs on this American land and furnish the water to Mexico.

Water is the most precious mineral in the West. Without this vital necessity in a semiarid and desert land, life cannot exist. There is not enough of this vital necessity to supply all of our needs. Yet, we seem to contemplate a policy which would furnish a large share of the greatest river of the West to the foreigners beyond our border. Some Members of this House may regard it as economy, but I regard it as unparalleled generosity.

The Colorado River has built up an alluvial delta at the head of the Gulf of California. This soil is as rich as the Valley of the Nile. However, prior to the recent completion of the Boulder Dam, the citizens of Mexico had been unable to utilize the Colorado River for irrigation. They had no sites for storage dams, and because of the freakishness of this wild, turbulent, and moody stream, they could not hazard diversion of water from it so as to utilize the rich possibilities of an agricultural empire. Accordingly, that portion of the Mexican Republic lying between Yuma, Ariz., and the Gulf of California had not been developed, excepting an insignificant part of it watered from an American canal that flowed through Mexico to carry water into Imperial Valley, Calif. However, the scene has entirely changed since the completion of the Boulder Dam.

Now that that great engineering marvel, the Boulder Dam, has been finished, to serve as a flood protection for all land along the river from the dam site to the sea, and to generate a given load of electric power, the river ought to have, for all time to come, an even, moderate, regulated flow of such waters as pass through the turbines at the power plant. It is generally considered that about 7,500,000 acre-feet of water will pass annually through the wheels at Boulder Dam. Having produced electric power at that site, what will become of this 7,500,000 acre-feet of water? It will flow down the Colorado River to the Parker and Imperial Diversion Dams. At Parker, a part of it will be diverted to go through a great aqueduct to Los Angeles; at Imperial Dam, a part of it will be diverted to go through the All-American Canal into two valleys of southern California.

California has agreed to limit herself to a little more than 4,200,000 acre-feet annually. Subtracting 4,200,000 acre-feet from 7,500,000 acre-feet, by simple arithmetic, we discover a quantity of water of more than 3,000,000 acre-feet which would either be diverted from the east end of the Imperial Dam or pass over that dam on its way toward the Gulf. A half million good but thirsty acres of American land within the State of Arizona and within the proposed Gila project could use that water, or an equal amount of good but thirsty land in Mexico can use that water. The vital question before the American people at this very moment is, who shall have it? It is up to the Seventy-fifth Congress of the United States to make answer.

Some may say, as was said on the floor of the House a few hours ago in debate—

> Mexico did not contribute one cent of the $114,000,000 put into Boulder Dam. Therefore Mexico is not entitled to reap any benefits therefrom.

Obviously that is true from the moral and legal standpoint. But since when have we repealed the law of gravity? How will this Congress prevent the waters of the Colorado River from flowing down hill? It may be said, as it has been said on the floor of this House within recent hours, "Mexico can acquire no legal title to this water except by treaty agreements between this country and Mexico." Assuming that that is a statement of legal fact, does the gentleman from Colorado [Mr. LEWIS], who made the statement, deny that we would refuse to recognize Mexico's right to water which she had been using when we enter into some future treaty agreement?

That same water law which has grown up in the West and which is so appropriate to the semiarid West, which Colorado herself helped to formulate, which is sometimes known as the Colorado water law but also known as the law of prior appropriation, would inevitably and justly prevail as between the United States and Mexico. That law briefly put is "first in use, first in right." Let Mexico put that water on her land, before it is put on American land, a thing which she is at this moment doing, and it is inevitable that we must recognize her right to it. Thus, more than 3,000,000 acre-feet of water, or enough to irrigate nearly a million acres of land, which is American by right, will be Mexico's by our gift.

The foregoing statement is too brief to be comprehensive. This formerly unoccupied and practically unknown portion of the Mexican Republic in the delta of the Colorado is today a scene of feverish activity. Such crops as cotton and wheat are being grown and greater acreages contemplated by an aggressive, Mexican agrarian policy. These lands in Mexico will be in direct competition with the cotton farmers of our

South and the wheat growers of our Midwest. It must be pointed out that a similar body of land in Arizona, now blistering under the sun and worthless, would have produced lettuce, cantaloupe, citrus, and vegetable products, with that same quantity of water, thus supplementing, rather than competing with, our major American farm products. If, however, the water is consigned to Mexican lands by our policy, the American lands in Arizona will thereby be consigned forever to the desert. After which they will certainly not compete with any other American lands, excepting in producing sagebrush, cacti, jack rabbits, and coyotes. This is not a cry "Wolf, wolf", where there is no wolf, but a solemn statement of verifiable facts designed for the information of, and consideration of, the American Congress.

The Late Foster V. Brown

EXTENSION OF REMARKS

OF

HON. SAM D. McREYNOLDS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

RESOLUTIONS BY THE HAMILTON COUNTY (TENN.) BAR ASSOCIATION

Mr. McREYNOLDS. Mr. Speaker, the Honorable Foster V. Brown, late of Chattanooga, Tenn., was a Member of the House of Representatives of the Fifty-fourth Congress, from the Third Congressional District, of which I now have the honor to represent, and served with great distinction. He died at his home in Chattanooga, Tenn., on March 26, 1937.

He was one of the outstanding lawyers at that bar. The Hamilton County Bar Association recently met in the circuit court room of the Hamilton County Courthouse at Chattanooga, Tenn., and passed certain resolutions relative to the life and service of this distinguished man. They have sent me a copy of these resolutions, and I ask unanimous consent that I may have the privilege of inserting the same in the Appendix of the CONGRESSIONAL RECORD, as an extension of my remarks.

Said resolutions are as follows:

Foster Vincent Brown, the son of Joseph and Mary Thankful Mitchell Brown, was born near Sparta, White County, Tenn., December 24, 1852, and died at his home in Chattanooga, Tenn., on March 26, 1937.

He left surviving him his widow, who was Mrs. Lyda Pope Thomas; their daughter Mary, now Mrs. W. J. Lynch, of Winchester; and five children by a former marriage—Joe Brown, of Chattanooga; Hugh Brown, of Birmingham; Mrs. J. E. Thorpe, of Bryson City, N. C.; Mrs. James McDonald, of Boise, Idaho; and Foster V. Brown, Jr., of the United States Army Air Corps. One daughter, Gladys, late the wife of John G. Martin, died a few years ago.

Mr. Brown's ancestors and relatives, before the Civil War, were Whigs and followers of Henry Clay, and when the question of whether or not Tennessee would secede from the Union was voted on his father and many other relatives voted against the proposition, but when it carried his father cast his lot with his native State and became a major in Col. Ben Hill's regiment in the Confederate Army. He was a gallant soldier, was wounded at Shiloh, but on his recovery returned to the army and served through the war.

Mr. Brown was just a small boy when his father rode away to the war, but he remembered it, and also remembered much that happened during those fearful years.

He received his education at a private school in Hickory Valley, in White County, at Burritt College at Spencer, read law under T. B. Murray at McMinnville, and then attended Cumberland University at Lebanon, where he graduated in law. Shortly thereafter he came to Chattanooga, but on the advice of Judge D. M. Key he went to Jasper to locate and to practice his chosen profession. His funds were low, so he went on the train to Whiteside and from there he started to walk to Jasper. After going 5 or 6 miles he stopped at the home of Maj. P. T. Rankin and requested to be allowed to spend the night, evidently being footsore and weary. He was hospitably received and as it was Saturday evening Mr. Rankin suggested that he wait until Monday, as he was going to Jasper to attend county court and would be glad for him to ride one of his horses the balance of the distance—about 5 miles. This invitation was eagerly accepted. And so on the first Monday in January 1874, he arrived at Jasper and he stated that he thought that he met most of the citizens of the town on the first day. He obtained board at the home of Esq. William Bennett, agreeing to pay the sum of $10 per month, although he seems to have had some doubt as to where the $10 was coming from. However, he was employed to represent one of the leading farmers in a small lawsuit, which he won and received a fee of $10, and this settled the matter of board for the first month.

A. A. Hyde, who was the leading lawyer in Marion County, and about the only one there, told Mr. Brown that he needed a partner; his health was not robust. He had a good practice, a good library, and he felt that Mr. Brown would just suit him, as he was young, vigorous, studious, and was just the partner he wanted. The partnership agreement was that Mr. Brown was to work the first year for his board and washing, which, while it did not allow him any spending money, guaranteed him economic independence for at least a year. Later he was taken into full partnership, and later Mr. Hyde moved to Chattanooga and Mr. Brown succeeded to his practice and had established a good practice of his own.

While living in the home of Mr. Hyde, reading the New York Tribune and probably other like literature, and possibly partly on account of the Whig leanings of his ancestors, but certainly only after a very careful study and consideration, he decided that the stand of the Republican Party for a protective tariff was to the best interest of the Nation, and he announced himself as a Republican. Thereafter, an elector on the Democratic ticket appeared to speak at Jasper—Col. Joe Clift—and there being no one to answer him, as was the custom in those days, the crowd called for an answer and especially called on Mr. Brown. He appeared and made a ringing speech, which was very pleasing to his side, and it was claimed that he had much the better of the argument; and it must have been very good, for later Colonel Clift became a Republican, and he and Mr. Brown spoke from the same platform for the same cause.

In 1884 Mr. Brown was sent as a delegate to the Republican national convention, which nominated James G. Blaine and John A. Logan President and Vice President. He was then sent, in 1900, as a delegate from the State at large, and was a member of the convention that nominated William McKinley and Theodore Roosevelt. He was sent again as a delegate from the Third District in 1916, when Charles Evans Hughes was nominated for President.

In 1886 Mr. Brown was elected attorney general for the fourth circuit, serving a term of 8 years, and was then elected as a Member of the House of Representatives of the Fifty-fourth Congress. In the Fifty-fourth Congress he was made a member of the important Judiciary Committee. He was a valuable Member of Congress; and, while he was a Republican, he, with a large number of other Republicans, supported President Cleveland in his effort to maintain the gold standard and the public credit.

He was frequently urged to run for Governor of the State of Tennessee, but declined to make the race. President Taft appointed him Attorney General of Puerto Rico, which place he resigned that he might come back to Tennessee to practice law.

While only twice a candidate for public office and always successful, he entered into nearly all the campaigns, not as a machine politician but as a patriot and statesman interested in the welfare of his party and his country, and his services as a speaker were in great demand.

While Mr. Brown lived in Jasper he was foremost in civic affairs, was a leader in educational matters, and could be depended upon to lend aid, encouragement, and support. He contributed of his time, talents, and means to the erection of Pryor Institute, a training school erected at Jasper, which furnished high-school facilities and precollege training for boys and girls in Sequatchie Valley and surrounding territory. He was active in church matters, being a Sunday-school teacher and elder in the church, and in fact gave aid, encouragement, and support to all good institutions.

In 1890 he moved to Chattanooga and from that time until his death he resided in this city. He was a leader at the bar, both here and in the surrounding counties, frequently being called away from Chattanooga to participate in the trial of important litigation, especially in the three counties in and some of the counties just west of Sequatchie Valley. It is our belief that there was never a better rounded lawyer than Foster V. Brown. He was at home in any court from the lowest to the highest and had practiced in all.

On coming to Chattanooga Mr. Brown formed a partnership with the late C. D. Clark. About 1894 Mr. Clark was appointed judge of the United States district court and Mr. Brown and Frank Spurlock entered into a partnership in the practice of law, which continued until his death. This has been one of the great law firms of the South and they handled much important and intricate litigation, always representing their clients faithfully and well. The continuance of this partnership for more than 40 years is a splendid commentary of the faithfulness, efficiency, and splendid spirit of both members of the firm. Joe Brown has been a member of this firm many years, and only recently W. D. Spears has joined the firm.

While at Jasper Mr. Brown was a partner with Judge Byron Pope, a splendid lawyer and gentleman, and later formed a partnership with Col. W. D. Spears, which existed until Mr. Brown came to Chattanooga in 1890.

It would be impossible within the length of any ordinary article to tell of the important litigation that he took part in, for to him all the litigation that he was in was important. It seems that he never overlooked anything in a lawsuit. He was always prepared and tried them so easily and so smoothly that it appeared that it was done without preparation. However, he followed the maxim, "There is no excellence without great labor." He was an indefatigable worker and the results were always excellent. He commanded the respect of the courts, the juries, opposing lawyers, and the laity in general because he fought fairly, fought in the open, but always effectively.

In all his speeches he never told an anecdote, he never used a superfluous or unnecessary word. His speeches were short, forceful, powerful, and to the point, and he was eloquent in the sense that "eloquence is reason red hot."

Mr. Brown rendered splendid service during the World War, being a member of the draft board, and of course served without compensation, doing a tremendous work, but carried it on uncomplainingly, giving of himself, his time, and his talents as freely, as fully, and as completely as though he was working for compensation. We feel sure that no man during the trying days of '17 and '18 gave more completely of himself and rendered greater service than Mr. Brown.

We believe, however, that in his chosen field—the law—that he showed the greatest power. This was his first love, his chosen profession, and certainly it never had cause to be jealous of him; in counsel he was careful, learned, and painstaking; in the trial of his cases he was always prepared and he presented his side fairly always, but it seemed that he could always make his facts stand out more boldly in his own behalf and the law always seemed just to fit the facts as he had developed them. He had a wonderful technique in the trial of cases, and those who heard him in the courts were of opinion that he was the peer of any lawyer, and this applied equally to the criminal court, the circuit court, the chancery court, and all of the appellate courts. He never used any subtle arts or devious methods but he went straight to the heart of the lawsuit and convinced courts and juries by his fair presentation of the facts and his unanswerable logic in presenting them of the merit and justness of his client's cause.

A model lawyer has been defined as "One who masters his case, who gives a fair share of his surplus time to the advancement of jurisprudence, who performs his full duty of citizenship, and who is honest with court, client, opposing counsel, and himself."

Certainly Foster V. Brown measured up to this standard.

Be it therefore

Resolved by the Chattanooga and Hamilton County (Tenn.) Bar, That in the death of Foster Vincent Brown we have lost a great lawyer, a friend that we loved, a statesman, a patriot, and a scholar. We regret his passing, but we are thankful that he lived among us; and while we mourn his loss, we recognize the fact that the greatest loss was to his family, he being a tender, loving, and provident husband and father, and in this hour we extend to them our deepest sympathy: Be it further

Resolved, That a copy of this resolution be furnished to the Congress of the United States of America, of which he was formerly a Member, for enrollment upon its records: Be it further

Resolved, That copies of these resolutions be presented to the State and Federal courts and to his family.

FRED B. BALLARD, *Chairman*,
P. H. THACH,
R. B. COOKE,
Memorial Committee

The foregoing is a true and correct copy of resolutions passed by a largely attended meeting of the Chattanooga and Hamilton County Bar Association, which convened in the circuit court room of the Hamilton County courthouse at Chattanooga, Tenn.

AUBREY F. FOLTS, *Secretary*.

The Humane Society

EXTENSION OF REMARKS

OF

HON. JAMES L. QUINN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

ADDRESS BY CHARLES EDWARD RUSSELL BEFORE THE WASHINGTON HUMANE EDUCATION SOCIETY AND THE MEDICAL FREEDOM SOCIETY OF THE DISTRICT OF COLUMBIA, WASHINGTON, D. C.

Mr. QUINN. Mr. Speaker, Charles Edward Russell, a famous American writer and lecturer, delivered an address before the Washington Humane Education Society, April 23. Under leave to extend my remarks I include this address in the RECORD, as follows:

There are many strange things in this world, Mr. Chairman and ladies and gentlemen, and one of them I wish to bring to your serious attention tonight. Here we have in virtually every considerable city in this country an organization with noble, unselfish objects, called the Humane Society, or the Society for the Prevention of Cruelty to Animals, or Animal Rescue League, or Women's League for the Protection of Animals—excellent societies operating with great efficiency. In the old days when we had teamsters, if an ignorant, uneducated teamster beat or maltreated his horse, one of these societies was there to bring him to justice. If a dog strayed on the street, escaped the dog catcher, and was in actual suffering, one of these societies would always relieve it. The hearts of the members are warm and open to the kindliest impressions. Yet all of them together stand by, allow the processes of the most barbarous cruelty to great numbers of dogs and never seem to raise a protest.

The reason for so strange a condition is this: It is generally known to intelligent people that what is called animal experimentation (which is only a euphemism for animal dissection or vivisection) is common and widespread, but we are continually assured that the dogs thus dissected or experimented upon do not suffer because they are always under the influence of anaesthetics before the scalpel is applied to them.

I must confess that for myself I should be perhaps more inclined to be tolerant of these proceedings if the experimenters did not sling that miserable old fiction in my face, because in the great majority of instances there is no use of anaesthetics in these experiments.

For example, in this country we have no records concerning vivisection, the public is excluded from what are called the clinical laboratories (which is only another name for the dissecting room), and we do not know what goes on behind those walls. But in England the law provides that every experiment upon a living animal must be recorded, with the reasons for it, the results, and the method. Therefore, in England they have a record of how much use there is of anesthetics, and in the year 1935, according to these records in the possession of the British Government, there were 736,000 experiments performed upon living animals, in which there were only 34,000 instances where anesthetics were used. Conditions are not different in England and the United States, so we may believe the average here to be about the same; that is, in about 5 percent of the cases anesthetics were used.

But the fact that anesthetics are not and cannot enter into many of these experiments is apparent to anyone that will undertake to read the accounts of animal experimentations that appear from time to time in the medical journals. This constitutes unassailable testimony, this is evidence that cannot be attacked. In many instances the doctors themselves that have performed the experiments are the reporters in these journals, and whosoever has the hardihood to plow through all the sickening tales of horror that result will see that in the majority of instances the nature of the experiment is such that anaesthetics are absolutely impossible.

For instance, when a dog is starved day after day to observe the effects of deficient nutrition upon living tissues, no anesthetics are possible. When they apply boiling water to the back of the neck of a rabbit to observe how much the rabbit suffers, if the rabbit were anesthetized there would be no chance to observe the desired reaction. When they run a dog until he drops of exhaustion to see how long he can run again, there is no chance for anesthesia.

But even in those cases where anesthetics are possible and where the dog is insensible when the scalpel begins upon him, even in those instances they never tell you a word about what the dog suffers when he comes out from the effects of the drug. You must read the doctors' own accounts to realize how terrible those sufferings are.

One of the experiments frequently repeated—for a strange thing about this whole savagery is that they are never content with doing a thing once or having it done in one laboratory, but when it has been done in New York it must be repeated, apparently, in every clinical laboratory all the way to San Diego—was to see whether a dog would live with one kidney. They cut out one kidney and sewed the wound. The record showed this poor dog lived on for months but he lived in agony and finally died. That is the thing that follows all these operations. The dog may not feel the scalpel when he is operated on, but he feels the effects of it for the rest of his life, and of such things the vivisectionists do not tell.

I submit that any process in human affairs that requires persistent lying to enable it to go on is not for men addicted toward honesty to tolerate. If the cause is so bad they have to lie about it, let it be marked at once as hopeless.

Why, then, does animal experimentation continue? Why should there be so much of it? Dr. Hay, who is a good and reasonable authority, has made his investigations, comes to the conclusion that about 400,000 dogs are used every year in the clinical laboratories of the United States. This consumption has lately gone to such lengths that the dog supply is nearly exhausted. Therefore the vivisectors have gone into many cities and obtained the passing of ordinances whereby the dog catcher is to deliver to the clinical laboratory every dog that he finds on the street. Even this does not produce enough to meet the demand for living tissue to place under the scalpel to sate the morbid curiosity of immature minds.

I have asked why we have these things. Part of the question is not easily answered because the reason is psychological. It is

difficult to understand, in all of its length and breadth, unless you have given attention and thought to this phase of the matter; but there is among mankind a certain spirit of the guild. Doctors, though they may quarrel among themselves, when it comes to professional defense will all hang together—and I have seen some of them that I wished might hang separately. But they have a guild spirit. They go to medical schools and they have spent years in the study of the hocus-pocus they are pleased to call medical science, and then they come out into a world, know nothing about the wonderful mysteries they have learned, and thus they are banded together in a spirit of confraternity. Because Simon Flexner, recognized as the first walking delegate of the Doctors' Trade Union, says vivisection is good, thousands of doctors in the United States must echo him, because it is Simon Flexner that says it. That is one reason.

Here is another reason. I don't know whether you have ever stopped to think about the immense growth of the serum business in the United States. Great capital has been invested in it. There are great serum factories and the serum factories use many dogs. The administering of serum remedies, so called, for various diseases, has become a medical fad, and the poor dear doctors, being thus abutted into a blind alley, not knowing anything else to do, follow the lead and say, "We must have serums", and serums are manufactured through the torture of dogs. Therefore, torture the dogs. Thus the capital invested in the serum business becomes one of the explanations for dog torture.

Connected with the serum manufacture are large financial interests, and these having invested money, the business must prosper or there will be no dividend, and this again becomes one of the pivotal factors in perpetuating vivisection.

Then there is to be remembered a mighty and incessant propaganda. If you read the newspapers you must have noticed that on an average of once a week there comes out a spread-head story of some wonderful new discovery in the medical world that is going to be a panacea for some long-continued disease heretofore baffling what they are pleased to call medical science. That is all you hear of it, but the unthinking mind accepts it as something of value really discovered, and has a dim, vague notion that at some time or other this disease that is said to be doomed by medical discovery will really be put out of existence. But you never hear anything more about it.

Nevertheless, next week they will announce another discovery, and it would be interesting if somebody would keep a scrapbook of these successive "discoveries" that week after week flood the columns of the newspapers, and watch for any veritable outcome.

One of the latest is of a truly marvelous nature. We learn now that the sweepings from the floor of a barber shop, the hair that is cut from human heads, if treated in some decoction and combined with the sauce that is used in chop suey, will be a sure cure for cancer. Of course, you can see for yourself how reasonable that is. They take the hair and boil it, and make the sirup, and season it with chop suey, and cure cancer, and a large part of the public is so gullible that this is actually believed.

In July 1925 the world was presumed to be electrified by the news that two chemists in England had at last succeeded in treeing and capturing and putting into captivity the long-sought cancer germs. Glad tidings of great joy. We are now about to abolish cancer.

The week after an announcement appeared that a chemist in Germany had done the same thing before, and he said these two men in England were imposters because he was the real discoverer. Not long after that an American doctor bobbed up and said he had discovered it. They are still discussing who discovered it, but they have never cured with all their discoveries of cancer. They have the germ in captivity, and now they don't know what to do with it any more than they did before. Instead of diminishing cancer in any way, I am grieved to say, statistics show that year after year cancer increases, 400,000 dogs are sacrificed every year in the United States, and they are just as hopeless in the face of cancer as they were before.

The natural question arises, What is the use? But let me not seem too severe upon the practice of vivisection, or unfair, because it is undeniable that vivisection has done something, and I have here a little record of some of its achievements.

I spoke about the dog. Vivisection has shown that a dog will live for several weeks or perhaps months with one kidney. But shall we undertake to cure rheumatism or arthritis with that fact?

Then discovery was made that you can cut off the left hind leg of a rat and then make an incision in the back of another rat and place this amputated leg in the incision and bind it up, and the leg will stick there and grow, and that rat will have five legs. If that doesn't convince you of the value of vivisection I do not know what will.

Another truth they demonstrated with vivisection applies to what I was saying about anesthetics. They took two pigeons and clipped all the feathers from them. Then they placed these pigeons in an ice box and kept them there 24 hours and examined them from time to time, and they made the discovery that pigeons, without any feathers, placed upon ice, grow cold. But this momentous discovery was not allowed to go unsupported. It was printed in the medical journals and somebody wondered if other animals would grow cold in the same way. So they took kittens and clipped the fur off and put them on ice, and the kittens got cold, too, when they were on ice.

I spoke of the experiment in regard to the running of dogs. One was performed in Chicago. They built an apparatus like an everlasting treadmill or something of that kind, and it ran by electricity. The dog was continually stimulated to keep on running. Apparently they wished to see how long he could run before he would drop from weakness, and they made a record, and of course it was added to the rich disclosures of medical science.

In Chicago, again, they fixed up a swimming pool and placed a dog in it and stimulated his action, and they found out how long he could keep swimming before he sank.

Next it was found that a dog could have pneumonia, so they made a number of dogs ill with pneumonia and then the dogs either got well or died. When they got well they gave them pneumonia again and again.

I have mentioned the experiment of the dog with one kidney. The next was to make an incision in the dog's back and plant the kidney in that incision, when it was found that the kidney would adhere and grow there. That was regarded as successful except that a disease developed in the place where the incision was and the dog died. But he did not die until after 33 days of suffering.

Another recent discovery is this, that by taking the larvae of certain insects and treating them in a certain way they can produce an insect that has three eyes instead of two.

In the Government health reports for February and again for this month, you will find accounts of experiments carried on at the United States Naval Medical School, the school of the Naval Service. The object was to investigate a disease called "black tongue." They took several dogs which they regarded as being in good health and strong, and developed this black tongue in five instances. It is a terrible and loathsome disease. It develops sores and conditions so repulsive that even the medical reports say the odor was distressing. In other words, the dog was made slowly to rot away.

When the black tongue disease was at its endurable height they dosed these dogs with some remedy and found that the remedy was a failure. One dog lived for 14 days, one for 15 days, and one for 30 days, and it was recorded that they all lived in agony. But they discovered nothing else except that dogs will die of black tongue, and that was known before.

Another experiment was to rupture violently the heart of a dog by driving a sharp instrument down into it and then recording the pulsations of the heart after it was ruptured. That showed apparently that if you penetrate the heart of a dog the dog will die, but not at once. Whether they thought that they could discover that if they penetrated his heart the dog would live does not appear. At least it was recorded that when the heart of a dog is punctured the dog dies.

So you see it is not fair to say they have discovered nothing by vivisection. They have reaped a large number of priceless facts like these. But what I insist upon is this: That with all of this slaughter and with all of this horrible pain that they have caused, so terrible that few persons outside of the medical profession can read the cold, simple facts reported in the medical journals—while they have done all this year in and year out they have not yet discovered one single, perfect, dependable, infallible cure for one single human ailment, and I stand here and challenge the whole medical profession to show me one. I want to know just one. Where is it and what is it and what will it cure? I want them to show me one single remedy that they have ever produced by the torture of dogs.

And they need not tell me anything about insulin. It is a habit of theirs to throw that word "insulin" at you as something final and unanswerable. The man that produced insulin at Toronto is said to have sacrificed some hundreds of dogs before he made this discovery of insulin, and then it was hailed as the long-sought remedy for diabetes. It has never cured a single case of diabetes. The records show that it has been in use about 12 years, and instead of even diminishing diabetes, the percentage of diabetics and of deaths from diabetes has most startlingly increased under the use of insulin, and they sacrificed those dogs to produce a thing that is worthless.

Where is their cure for rheumatism, for instance? They cannot cure one of the most common of all diseases. They cannot cure Bright's disease; they cannot cure tuberculosis. After all these slaughters they are no nearer to a cure for tuberculosis than they were before.

So far as human interest is concerned, vivisection up to the present moment is the most colossal failure in human experience, and still they go on with it. And they are not satisfied to catch stray dogs on the street, and they are not satisfied to entrap your pet or mine, but now they want to raise dogs on a wholesale basis so that they can have a full supply.

There is one other reason why we have these things. In my deliberate conviction, after all these years of observation, I am sure that a great part of this colossal failure and all this infinite pain is traceable directly to the social system under which we live. For when you come to think about it, could anything be more preposterous than a curative agency that must live only upon the prevalence of disease? The more disease the more employment and the more profit for the doctors. Would it not be much saner, a much more reasonable process, to revert to China, where one pays the doctor when one is well and not when one is sick? If we had that in the United States, I would guarantee there would be no more vivisection and there would be much less disease.

A courageous and humane Member of Congress, Representative QUINN, of Pennsylvania, has introduced a bill to exempt dogs

from any more of these cruel and useless experimentations in the District of Columbia. I urge you to exercise your rights as American citizens and put forth every effort to obtain the passage of that bill, that the Capital of this Nation, which ought to lead all the rest in the ways of civilized life, may be cleared of this blot upon its name. And you have in your hands a powerful weapon that you can use to this most desirable end. Write to your Congressman, and, still more important, write to the press, demanding this reform.

Vocational Education Needs in California

EXTENSION OF REMARKS

OF

HON. H. JERRY VOORHIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

Mr. VOORHIS. Mr. Speaker, a careful survey was made a year ago of the number of high schools which should have vocational-agriculture departments, and did not have them at that time. Only schools which were serving rural areas and in which enrollment was sufficient to justify the services of a full-time teacher were included. The number was found to be 101. Since that date 10 of these schools have established the work, leaving 91 still without departments. In addition to this number, however, there are many smaller schools in which the work could be profitably given on a part-time basis, and about 25 junior colleges which are correctly located to serve young men who will return directly to farming. There are in the State now 155 schools reimbursed under the Smith-Hughes plan. It may be correctly estimated that only about 50 percent of the students needing vocational instruction in agriculture are now being reached.

School statistics show a total of approximately 42,000 boys in the State living on farms between the ages of 14 and 20. Of this number about 28,000 are in school, and for the current year only 7,100 are preparing for farming through systematic high-school courses. It is obvious that about 34,000 young men are on farms in California without systematic training in farming. Of this number, it is estimated that about 70 percent will eventually enter the farming vocation. Thus about 24,000 young men now without any training in improved agriculture will be in the next generation of farmers in California.

Requests for programs and service from various labor and industrial organizations, trade associations, and so forth, are most numerous. We are requested to give additional instruction in farm credit, in cooperative marketing, in the benefits of greater consumption of dairy products, in grading of meats, and in other special fields. The requests come principally from producer organizations, such as the various cooperatives, the Meat Institute, the Dairy Council, and the production-credit associations. Under present conditions, it has been impossible to meet these requests, although the material to be presented would be definitely valuable to the student.

There is a serious need of additional funds for evening schools for adults. As a result of changing economic conditions, drought, and flood, the population of California has been increased by more than a half million in the last few years. These people have drifted to the large centers of population, only to ebb back into smaller communities and to farms. Most of them have never farmed under the irrigation plan necessary in this State.

The opportunities for night schools are almost unlimited, and the expenditure of funds for this purpose can pay equally unlimited dividends. The regional supervisors report that evening classes should be taught in at least 90 of the present 156 schools immediately, with additional adult evening classes as more schools are served.

On top of this, the permanent farmer is in need of just as much help. The new legislation, for soil conservation, for farm credit, for self-help cooperatives, crop stabilization and other plans for the improvement of agriculture, have created an educational problem of great magnitude. That which the farmer does not understand, he rejects. This is equally true of the results of scientific investigations and experiments which result in new methods and materials—unless they are systematically explained to farmers through such a medium as a night school, they do not become effective.

Even beyond this, agriculture itself is changing rapidly. It is necessary to advance even to stand still. New dairy-sanitation laws, plant-quarantine laws, crops-inspection and standardization laws, and so forth, must be taught in addition to improved farming methods.

If the full $14,483,000 is appropriated, California will receive a total of $505,779.52, divided as follows:

Agriculture	$78,462.01
Trade and industrial education	217,230.18
Home economics	109,984.72
Distributive occupations	54,612.33
Teacher training	45,510.28

Plans have been made where California will use this money so that the boys, girls, men, and women who have long been deprived of this training will be given a chance to train themselves, that they may be able to meet the problems of life in the future.

The Home Owner Must Be Saved—A Hearing on My Bill H. R. 6092 Should Be Held Immediately and the Bill Passed

EXTENSION OF REMARKS

OF

HON. HENRY ELLENBOGEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

Mr. ELLENBOGEN. Mr. Speaker, on April 2, 1937, I introduced H. R. 6092, which reduces the interest on H. O. L. C. mortgages from 5 and 6 percent, now being charged, to 3½ percent and spreads over a period of 25 years the installments which the home owner must pay on his H. O. L. C. mortgages.

This bill is similar to H. R. 10638, which I introduced on January 27, 1936, in the Seventy-fourth Congress. Both of these bills have been referred to the Committee on Banking and Currency.

BILL PENDING IN COMMITTEE SINCE JANUARY 27, 1936

The Committee on Banking and Currency has now had this matter under consideration since January 27, 1936. Since that time some 90,000 home owners have had their homes foreclosed by the H. O. L. C., most of them because they were unable to meet the installment payments demanded of them.

COMMITTEE HEARINGS REQUESTED ON H. R. 6092

By letter dated April 24, 1937, addressed to the chairman of the Committee on Banking and Currency, I requested a hearing on H. R. 6092. I renewed this request on May 12, 1937, in the following letter sent to the chairman of the committee:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., May 12, 1937.

Hon. HENRY B. STEAGALL,
Chairman, Committee on Banking and Currency,
House of Representatives.

DEAR MR. STEAGALL: Permit me to call your attention to H. R. 6092, which I introduced in the House, and which provides for the reduction of the rate of interest on H. O. L. C. mortgages from 5 percent and 6 percent, now being charged, to 3½ percent, and for the extension of the date of maturity from 10 and 15 years, as now provided, to 25 years.

As of March 31, 1937, there were 84,385 foreclosures on H. O. L. C. mortgages, with a face value of $331,348,872. The H. O. L. C. Board estimates that by the end of the next fiscal year foreclosures will amount to 20 percent of the loans granted, totaling about $600,000,000.

Naturally it is the purpose of the Home Loan Bank Board in collecting payments due under the H. O. L. C. plan to prevent losses

to the Government, and perhaps even to realize a profit, but the method employed is self-defeating and contrary to the public interest. It may be necessary to foreclose in cases where the property has been abandoned, where the home owner has refused to comply with the terms of his obligation, or where the financial situation of the home owner is beyond repair, but the H. O. L. C. has foreclosed in thousands of cases—and I have proof of it in my own files—where the home owner had employment and was making substantial payments.

Mass foreclosures as a method of saving losses to the H. O. L. C. is self-defeating, because by taking over such a large number of properties the Government is bound to suffer losses in the administration and disposition of these properties. A Government agency centralized in Washington cannot efficiently manage 200,000 small homes situated throughout the country.

My examination of the problem convinces me that the trouble lies in the law itself. The plain fact is that the monthly payments under the H. O. L. C. plan are too large. This is due to the rate of interest, which at present is 5 to 6 percent, and to the fact that the principal must be amortized over a period of 10 or 15 years.

The bill which I introduced in the House of Representatives reduces the rate of interest to 3½ percent and extends the time of payment to 25 years. This will reduce the monthly payments from nearly $8 per thousand per month to about $5. Tens of thousands of home owners who are unable to pay $8 per thousand per month could pay $5, and thus avoid default in their current obligation. If this change in the law would be made, many loans which are now being foreclosed would be in good standing, homes would be saved to their owners, and the Government would be saved a loss.

I have explained this bill in detail in remarks inserted in the CONGRESSIONAL RECORD appearing Monday, May 3, which I am enclosing. I hope you may find it convenient to look over these remarks.

This bill is the same as H. R. 10638, which was introduced on January 27, 1936. Since this matter has been before the committee for some time and the matter of foreclosures is becoming more serious every day, I respectfully request an immediate hearing on H. R. 6092 before the Committee on Banking and Currency.

Very sincerely yours,

HENRY ELLENBOGEN.

Tens of thousands of home owners are desperate. They are unable to meet the high installments which are demanded of them. They will lose their homes unless we act quickly. I hope that the great Committee on Banking and Currency will order immediate hearings on H. R. 6092, so that this matter may have the immediate attention of Congress.

West Virginia Leads the Nation

EXTENSION OF REMARKS
OF
HON. JENNINGS RANDOLPH
OF WEST VIRGINIA
IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

Mr. RANDOLPH. Mr. Speaker, I was very intensely interested recently to come across a comparison of the percentage of eligible voters in the 48 States who voted in the last Presidential election and to find that the State of West Virginia was far ahead of all the others with a percentage of 92.1.

West Virginia, it was reported, has 900,987 people over 21, based on the 1930 census figures, and the total voting in the 1936 election was 829,945. If we were to take into consideration the small number of aliens we have in our State, around 24,000, the percentage would become 94.6.

Naturally, I am proud of the figures as they relate to my own State. However, it is rather appalling when we look at the figures for the entire United States and find that out of the total number of eligible voters only 67.5 percent actually took advantage of this precious right in the last Presidential election. In some of our States we have very low percentages of those eligible to vote who actually did so last November.

The future of our democratic system of government in National as well as State affairs rests with the citizens of the United States. It is only when we have an electorate that acknowledges not only its opportunity to vote but recognizes its responsibility to do so as well that we shall hope to have the fullest expression of the principles of government by the people.

I am placing herewith in the RECORD a table showing the situation with respect to voting in each of the 48 States. This is not intended as a criticism of any individual State. In many States the contests come in primary elections, and for that reason the following percentages are not to be taken too literally. Rather do we find the interparty vote bringing out the greatest interest prior to the general election. I merely present it in the hope that it will be helpful in making our people more vote-conscious and will serve to awaken this 33 percent of our citizens to the duty which is theirs to perform.

Based on 1930 census and vote in 1936 Presidential election

State	Population, 21 years or over	1936 Presidential vote	Percent voting
Alabama[1]	1,348,401	275,743	20.4
Arizona	244,115	124,163	50.8
Arkansas[1]	968,231	179,419	18.5
California	3,864,388	2,638,846	68.2
Colorado	623,523	488,704	78
Connecticut	985,782	690,723	70
Delaware	148,792	127,603	85.7
Florida[1]	866,198	327,420	37.8
Georgia[1]	1,498,567	293,178	19.6
Idaho	246,770	199,628	80.4
Illinois	4,841,763	3,956,522	81.7
Indiana	2,003,019	1,650,897	82.5
Iowa	1,506,129	1,142,733	75.8
Kansas	1,130,224	866,507	76.5
Kentucky	1,422,434	928,199	65.2
Louisiana	1,134,852	329,778	29
Maine	487,125	304,240	62.4
Maryland	996,928	624,898	62.5
Massachusetts[1]	2,686,487	1,840,357	68.5
Michigan	2,939,400	1,805,098	61.4
Minnesota	1,537,983	1,129,975	73.4
Mississippi[1]	1,031,547	162,000	16.2
Missouri	2,269,657	1,828,635	85
Montana	318,611	230,512	72.3
Nebraska	812,450	608,032	74.8
Nevada	60,794	43,848	72.1
New Hampshire	294,055	218,114	74.1
New Jersey	2,512,112	1,820,402	72.4
New York	8,142,851	5,596,308	68.7
New Mexico	216,956	169,136	78
North Carolina	1,542,125	839,462	54.5
North Dakota	358,182	273,716	76.4
Ohio	4,132,251	3,012,525	72.9
Oklahoma	1,287,131	749,740	58
Oregon	621,375	414,021	66.6
Pennsylvania	5,656,770	4,138,105	73.1
Rhode Island	421,197	311,178	73.8
South Carolina[1]	819,384	115,437	14.1
South Dakota	385,808	296,452	76.8
Tennessee[1]	1,418,144	475,534	33.5
Texas[1]	3,220,880	843,482	26.2
Utah	264,498	216,685	81.9
Vermont	220,428	143,689	65.1
Virginia[1]	1,300,893	334,590	25.7
Washington	1,010,167	692,338	68.6
West Virginia	900,987	829,945	92.1
Wisconsin	1,768,818	1,258,712	71.1
Wyoming	132,954	103,382	77.7

[1] States levy a poll tax.

Flood Control

EXTENSION OF REMARKS
OF
HON. OVERTON BROOKS
OF LOUISIANA
IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

ADDRESS BY HON. SAM RAYBURN, OF TEXAS, AT SHREVEPORT, LA., ON APRIL 24, 1937, AND RESOLUTIONS ADOPTED BY THE RED RIVER VALLEY IMPROVEMENT ASSOCIATION

Mr. BROOKS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of the gentleman from Texas [Mr. RAYBURN], delivered on April 24, 1937, before the Red River Valley Improvement

Association, at Shreveport, La., and also resolutions adopted by the association on April 25:

Congressman SAM RAYBURN'S address is as follows:

I am very happy to have the privilege of meeting with you today, a privilege that is accorded to me few times during the sessions of Congress in Washington. I have always stayed pretty close around there when Congress was in session. Now, whether I want to or not, I have to. It is only once in a while the program can be so placed, and I can delegate the authority that is mine at this time to others, so I can get away for a few hours. This is the first time I have been away from Congress an hour since it has been in session, since the 5th of January. I would not be here today except for the very deep interest that has become almost a passion with me in the work you are undertaking, and for the further fact we have had such an unusual session in Washington. The session up to this time has been very tiresome, so I am glad to get away for an hour, anyway. I thank my neighbor and chum, Judge Leslie, for his kind words in presenting me to you.

If we can do all the things we hope to do in developing of navigation, in stopping soil erosion, in bringing about irrigation and flood control and development of power, if we do all these things, we are not going to harm but help this section. I have had 24 years' service in the House of Representatives.

I am sorry not to greet the Governor, but business called him elsewhere. The delegation in Congress now is cooperating 100 percent with those of us who are urging this program and trying to carry it out. My interest in Red River and its improvement goes back many years. It is the dependence of one section of country and one class of people upon another that has brought that about to a very great extent. If the cotton farmers of the Southland, the wheat and corn farmers of the Middle West * * * are not reasonably prosperous, there is unemployment, there are closed factories, there are closed businesses, banks collapse. We show you what that interdependence means to us, merely for 1929, 33,000,000 people engaged in agriculture were without buying power or had buying power reduced to the vanishing point. In 1933, 12,000,000 people had nothing to do—all on account of those people scattered throughout the length and breadth of the land not having buying power * * *. Altogether 75,000,000, or more than 60 percent of the entire population, had their buying power destroyed or reduced to vanishing point. Is there any wonder that business collapsed or more than 4,000 banks of all characters closed their doors, went out of business, held out the meager funds of their depositors? We went about the business of trying to restore this buying power. How far we succeeded is not for me to say, but the recovery has been great. Prosperity is near a normal state and we are moving forward to stability.

We are disappointed in revenues that have come to the Treasury this year or will come this year. We ran $150,000,000 a quarter below expectations of the Treasury Department in the fall of 1936; in other words, we are going to fall $600,000,000 below anticipated revenue that should or would flow into the Treasury if we had gotten the money from taxes and other sources we expected.

A few years ago we surveyed the Red River Valley from Denison to where it flowed into the Mississippi River—that report was not entirely to our liking, land was higher than it has been during the recent survey. Many problems that we faced became pressing. * * *

During the last 20 years I have watched the fertility of soil become depleted, watched soil drift into rivers. If this continues in the future as it has in the past, we soon will be looking for some place to produce the things to clothe and feed us and not think about producing a surplus. The problem of conserving the soil and controlling the rivers is certainly one that should challenge the best thoughts of every patriot in America. We not only have the problem of navigation on Red River, the production of hydroelectric current, but we have the problem of conserving the soil throughout the length and breadth of the land.

I came not as a representative of the Denison Dam project alone—I came here speaking as a friend of Oklahoma and its problems and its projects; I come here speaking as a friend of Arkansas, its problems and its projects; I come here speaking as a friend of Louisiana, its problems and projects; to bespeak cooperation of these four great States, their possibilities, their community of interest, their power in Washington to do the things that ought to be done.

I have been a Member of Congress for 24 years and have never introduced a bill to spend a dollar of Federal money in the district I represent. There seems to be an argument or difference of opinion in the branches of government with reference to who shall make the survey and with reference under whose authority those things should be done. I have appointed many students to West Point and I want somebody who has done jobs of similar type and capable of doing another job * * * not to do something new alone, but to preserve what we had, to reestablish what we had in years gone by. If that report is reasonably favorable, I think I may assure you we shall go places on the improvement of Red River Valley.

* * * The destruction in the recently flood-stricken Ohio Valley, through which I passed en route to Shreveport is possible in the Red River Valley. I am trusting when this survey is made or completed and taken to Washington, it will show that even before the dam at Denison can be finished every particle of available power that is possible for them to produce will be consumed in that area and additional power facilities will of necessity have to come to that community.

* * * Industry follows cheap power. You can take a map of America and you will find operations are leaving the districts where power is high and are moving into those sections where power is plentiful and reasonable.

In New England textile industries concentrated there at least half a century ago, but this has ceased to be and they are moving to the Carolinas and Georgia, where milder climatic conditions exist and power is bountiful and power is cheap. If no electricity is ever manufactured at Red River Dam the dam will be well worth its purpose as a flood-control system. Anything that can be done to stop erosion and floods is a problem that should be a challenge to the thoughts of our best citizens.

You have never seen floods; they are the most destructive thing that can come to any community on earth. They cost as much or more than a complete program of flood control in the valley. We are not fighting any letigimate interest. We want every legitimate interest in all these sections to live and prosper. We want to live and let live. We would deeply appreciate it if they would leave us alone. We want to keep floodwaters off the rich lands of Louisiana so the people of small towns and cities may not be threatened. It will cost $500,000,000 to control the Mississippi and its tributaries. In 1927 we thought we had it arranged where floods would be controlled. In 1927 there was a flood in the lower Mississippi Valley that destroyed a $350,000,000 crop. One flood destroyed more than one-half the amount of money it would take to control floods not only in the lower Mississippi but in all its tributaries. Of course, revenues from increased income would justify control. This program cannot be done in a month or year, but it will take several years. There should be a selective committee, wise enough to exercise the responsibility that will be placed upon them.

Something has to be done in the Ohio Valley. Something must be done in the Red River Valley. Suppose in a period of 10 years we spent $500,000,000 in order to control these floods; that would be a small amount added to the great Budget of this country, which is today more than $7,000,000,000. If these floods can be controlled, if this territory can be preserved, more than $25,000,000 per year would flow into the Treasury of the United States from people who would be protected in that territory * * *.

The President told me last spring there was revolving in his mind a long-term program of the expenditure of $500,000,000 per year for flood control, improvement of navigable rivers, irrigation, etc. I agree 100 percent with that program. I believe this is the improvement that must be planned. We must have a program, and no haphazard business will reach the problem or solve it. However, I congratulate you upon your far-sighted efforts in your resolutions.

If these four States will stand together—all for one and one for all—and not let little jealousies and the priority of projects get mixed up among us, we can get a long way in this problem. Some people of Oklahoma * * * this proposed dam at Denison or believed some other dams above there should be authorized at the same time. There might be a preemption of rights. I do not know that one improvement should or can stand in the way of another great improvement. I went to the President personally and asked him to allot enough money to bring about a survey on some of these creeks and rivers. I feel that way not only about Oklahoma but about Arkansas and Louisiana.

There is a program in lower Red River in the State of Louisiana that has been worked out by Mr. Smitherman and others that we are for 100 percent, and we do want nothing we may do to retard bringing it to a successful end. * * * Whatever position and whatever power I may have in Washington stands ready to put it behind all the program you have inaugurated at the first meeting of this new association. Also, may I repeat that all work cannot be done at one time. Many projects will have priority. If we all stand together in the years to come we can complete all of them. Also, may I say again the problem at this immediate hour in Washington is quite a one. It is a serious matter, a very serious matter, for a business or government for its revenues to run behind its expenditures over a long period of time. It is our hope for the fiscal year 1938—certainly for 1939—we will have a balanced Budget. We hope for it in 1938, feel certain of it in 1939. There is nothing that could happen that will be as bad at this time as another period of inflation; an unbalanced Budget of one-half billion dollars is one of the things that will likely bring it about. Another thing would be people who have cursed everything done to try to bring about recovery would be the ones to benefit by inflation, and they would turn around and damn the administration for bringing about inflation * * *.

* * * To bring about a well-rounded planning for the preservation of the natural resources of the land that has more on them than * * *. In the past natural resources have been gobbled up by private industry.

My thought is, natural resources of the country on top of the ground should be preserved for the benefit and service of all people and not be gobbled up by a private concern. That does not mean Government competition with private industry. It means a sane planning for the generations that are to come—that they may be left some of the things that God gave them in the beginning * * * that the benefits of society shall flow not to a few but to all.

I am glad to pledge to you my best efforts to bring to a successful finish the things that we have uppermost in our minds

today, and to say to you I shall try to keep my hand on the pulse of activity down here and in Washington of the best way to do this job. Let me repeat that unless the generation in which we live and one that is to follow it use better judgment, have better plans for the preservation of natural resources, fertility of soil, that we will go down the time with history that condemned us for being not long-sighted, far-seeing, planning people, but simply vandals. * * *

There are some technical matters that will have to be looked after in Washington. I am not capable of looking after them. I say this association should have some money in the treasury to send men to Washington to present the technical side of the question to the powers. I could get you to these powers, but I cannot argue, because I am not a technician in any sense of the word. Such an association should have a treasury and have money, so if we call for such technicians they can come to Washington and help us.

I am now fretted with the problem of placing the program in the House of Representatives, which is wholly mine, and I am very busy, but the doors of my office are always open. When you come to Washington on problems connected with your ambition today, I shall find some minutes in the day to devote to this. I have had many dreams come true, but if I can live to see this great Red River Valley program achieved it will be the realization of one of the happiest dreams of my life. I think the dam at Denison is the keynote of the situation. If I shall have had a little part in bringing about the building of that mighty project for the service of the people of this whole valley, I will be as proud of it as anything I have been able to do in all my service. Today I dedicate myself to the objects and purposes of this association. If I did not like the President of the United States personally, I would like him politically, but I do like him personally because he and I have a good many things in common. I have done a great many things at his request; he has done a great many things at my request. We have a little laugh every once in a while in January because it happens we were born in the same year and same month of that year, which makes me think he is a very young President.

I do not know what would have happened if he or someone had not come along with vision, purpose, determination, power, ability, and courage to carry that program out. The remarkable thing is the people who in calamity howled out requests for help from Washington when they could not get any further with their efforts and when incomes had been reduced to nothing, * * * when, as a result of his action and leadership, prosperity was restored and incomes mounted, again those that cried loudest to him in distress, raised their voices and began to cry that he was leading us into socialism.

Against the cries of pessimists, in the face of those who hate him, of one who placed bread in their hands, we are not embittered toward them. We are going on with this program of recovery, rehabilitation, of planning, and preservation until it is so complete that it reaches every section and class of people throughout the length and breadth of the Republic. Sometimes, when I get an audience like you, I take too long, so I am going to close by again endorsing your program and purpose and to say what endorsements are made on rivers in circumstances like ours, or navigation, when floods are controlled, we hope and believe our river will be in that program and not trailing in the background.

Resolutions urging the approval of several Red River Valley projects, including flood control, erosion control, and navigation restoration projects, were adopted by the Red River Valley Improvement Association, which met in Washington-Youree Hotel.

The full text of the combined resolutions follows:

Be it resolved, That—

Whereas the several levee boards, drainage boards, Louisiana State Flood Control Committee and its engineers, and the advisory board of the State Public Works Administration have heretofore approved the construction of the projects along the Red River and Atchafalaya River, which projects are intended for the protection of life and property and the improvement of living and economic conditions and to facilitate the use of the lands along the Red River, which projects with the purpose to be served by each and the established cost of the construction thereof are listed hereinbelow; and

Whereas the desirability, economic worth, and feasibility of the said projects have had the repeated consideration and recommendation of the engineers of the above-named bodies and of the engineers and executive committees appointed by the President for the review of all P. W. A. and W. P. A. projects, especially the Mississippi Valley Committee, now the Water Sources Division of the National Resources Board, and have in most instances had the approval of the Corps of Army Engineers, and have been, with the exception of one or two of the projects, included in the omnibus flood-control bill, and have consequently had congressional approval; and

Whereas a review of the necessity for, the economic justification of, and the desirability and feasibility of, the construction of these projects have been carefully studied and reviewed by the Red River Valley Improvement Association, now composed of representatives of the four States of Arkansas, Louisiana, Oklahoma, and Texas: Be it

Resolved, That this association urges that the necessary appropriation be made for the immediate construction of the said below-named projects and that the executive committee and officers of this association be instructed to take such steps and render such assistance to the various levee boards, drainage boards, flood-control committees, and engineers and authorities which lie within its power to secure the construction and completion of the said projects at the earliest possible moment:

Black Bayou Dam, Black Bayou–F	$125,000
Bayou Bodcau diversion, Bayou Bodcau–F	1,893,000
Wallace Lake Dam, Bayou Pierre–F	400,000
Red River Parish levees, Red River–F	180,000
Bayou Pierre ditch, Bayou Pierre–F	300,000
Natchitoches levees, Red River–F	355,000
Saline Point cut-off, Red River–F	67,000
Bayou des Glaises diversion, Bayou des Glaises–F	285,000
Fire Point cut-off, Red River–F	160,000
Caddo Lake Dam, Cypress Creek–F	600,000
Twelve Mile Bayou bank protection–F	49,700
Shreve Island cut-off, Red River–F	600,000
Saline levee district, Red River–F	174,000

That the said Red River Valley Improvement Association urges that steps be made to complete the construction of the west guide or protection levees along the western edge of the flood plain of the Atchafalaya River from the Red River to the Gulf of Mexico, and that in the construction of said guide or protection levee a channel sufficient to intercept and discharge the waters of the intercepted streams be properly constructed with the view of rendering same navigable and be so constructed that the accumulated waters may be ultimately utilized for the irrigation of rice and sugar areas of southwest Louisiana; be it further

Resolved, That the Red River Valley Improvement Association approves the steps already taken by the United States Government in making an erosional and soil-conservation survey of the valley and hinterlands of the Red River Valley and urges that these invaluable surveys be continued until the said survey has been completed and the citizens of this region are made aware of the necessity of and the value of soil conservation and erosional control; be it further

Resolved, That the Red River Valley Improvement Association approves and recommends the action taken by the United States Government in having made a partial survey of the necessity for rural electrification in the Red River Valley, and especially in those urban and rural sections where the use of electricity would add so greatly to the health, happiness, convenience, and economic well-being of the vast, rich, and unserved areas along the Red River itself and its main tributaries. This association recognizes the vast field for the development of hydroelectric power in this vast valley, especially in the States of Arkansas, Oklahoma, and Texas, and directs attention to the fact that the survey of this area shows that a large percentage of the smaller towns, farms, and smaller industrial plants are entirely without electrical service. The United States census of 1930 shows that there is a little more than two and a quarter million people living in Oklahoma and Texas, within 125 miles of the Denison Dam site, and authentic reports show that the use of electric power in Oklahoma and Texas has doubled each 5 years for the last 20 years prior to 1930, and that in spite of the depression the sales of electricity are again at an all-time high; be it further

Resolved by the Red River Valley Improvement Association, That recent surveys of the valley and hinterlands of the Red River Valley show that extensive study should be made of the upper and headwater regions of the valley for the purpose of storing and utilizing the waters of the river and its tributary streams for irrigation; that the rapid use of the vast forest of the middle section and lower section of the valley suggests the urgent necessity for a reforestation and for the protection of the present existing young forest of this area; that the possibilities for wildlife refuges and wild-game preserves in the lake regions and lower sections of the Red River Valley and its outlet, the Atchafalaya River, are unlimited and steps should be taken for the further development of these natural resources and the preservation of the fish, game, and wildlife generally of these regions; be it further

Resolved, That the United States Government through its board of engineers, be requested to make a survey and restudy of the possibilities of the restoration of practical navigation on the Red and Atchafalaya Rivers and their tributary streams, especially the Teche and Vermilion Rivers and Courtableau, Bodcau, and Cypress Bayous, including the restoration of navigation of Twelve Mile Bayou and Caddo Lake to Jefferson, Tex., by the establishment of a simple lock at the Caddo Lake Dam. It appears that the modern tugs and powered barges are so built and designed as to require only 4 to 5 feet of water for practical navigation. The association specially urges that such study include research as to the possibility of connecting the great intercoastal canal system, through the Mississippi, Atchafalaya, and Red Rivers, with the inland waterway which threads the Red River Valley.

Be it resolved, That the Red River Valley Improvement Association, consisting of members from the four States of Arkansas, Louisiana, Oklahoma, and Texas, in meeting assembled at Shreveport, La., on April 24, 1937, recognizes that the proposed Denison Dam for flood control, with the hydroelectric generation plant to be built in conjunction therewith, is recognized as the key project of

the program for the improvement of the entire Red River Valley, principally for the following reasons, to wit:

1. The dam would intercept about half of the total flood volume for this river and reduce it to a harmless stream from Denison to the Mississippi River, it being authoritatively estimated that the flood stage of the river would be reduced at Fulton-Texarkana 10 feet; Shreveport 7 feet, Alexandria 5 feet, Red River Landing 2 feet, and that such flood control would protect 1,600,000 acres of land at a benefit of $25 per acre, or a total of $40,000,000. The construction of the dam proposes an allocation by the Government of $10,000,000 of the cost thereof to the flood-control features.

2. The construction of the proposed hydroelectric generation plant at the Denison Dam would create 40,000 kilowatts of prime power and considerable additional secondary power during the winter and early spring seasons, when additional power would be in demand. Such electricity is needed in the vast area lying within 200 miles of the proposed dam, where many small towns and some of the larger ones, together with farms, dairies, small industrial plants, and oil fields are greatly in need of adequate power and cheaper power. The constant generation of electric power at the Denison Dam would release the year around not less than 5,000 cubic feet per second and as much as 10,000 cubic feet per second of water which would maintain such constant water level on Red River below the dam as would make the practical navigation of the river by modern tugs and powered barges practical the year around.

3. The construction and practical operation of the Denison Dam would make possible and practicable the establishment of the regimen of the river and reduce, if not entirely remove, the necessity for protection against bank cavings, underscouring, and erosion of the banks of the river and render it unnecessary to increase or strengthen the present levees from Denison to the mouth of the river, a distance of more than 500 miles.

4. The construction of the Denison Dam would make possible irrigation in the regions around the Denison Reservoir, and through the constant flow of fresh water in the river would make practicable and feasible the completion of an adequate irrigation system for the rich rice and sugar area lying south of Alexandria and having an area greater than that of the State of Rhode Island.

5. The construction of the Denison Dam would create one of the greatest interior lakes in the United States, would make possible one of the greatest recreational centers west of the Mississippi River, and would create a vast game refuge in an area which is presently practically without such refuge.

6. The construction of the Denison Dam, by preventing overflows, would permit drainage of backwater swamps, or their eventual elimination by evaporation, thus accomplishing effective malarial control in the valley below the dam site, where hundreds of thousands of dollars are now being spent ineffectively for that purpose. The regulated flow of the stream below the dam would solve the sanitary problem for communities along the course of the river, whose sanitary problems are at present constantly becoming more acute during low-water stages of the river.

Farm Tenancy in Oklahoma

EXTENSION OF REMARKS

OF

HON. JACK NICHOLS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 1937

Mr. NICHOLS. Mr. Speaker, I represent an agricultural constituency, and the farmers in my district have been as hard hit as any in the Nation. At least 80 percent of the farms in my district are occupied and cultivated by tenants, and they built up no very large reserves in the years when they made normal crops. With the droughts of recent years and low prices they have lost everything. They have been forced to sacrifice their livestock, and their orchards and berry fields have died out.

Last winter was a dark one indeed in the farming sections of eastern Oklahoma. A large percentage of the children were forced to stay out of school, at least in bad weather, for lack of clothes. Hunger stalked the land. The various relief agencies could not care for more than half of those in direst need.

But the springtime has brought renewed hope and vigor. I get letters from my farmer friends every day telling me of the heroic efforts they have made to feed their families, and of their determination to come back. They are of the stock of the pioneer, the men and women who won the West from the wilderness.

Our people have not been embittered by their experiences; instead they are inclined to thank God for being preserved to this time and for the blessings of rain and sun that they have received this spring.

And I think that their example is a good one. I think that the whole Nation needs a rebirth of faith in the Almighty. We need to get closer to God's plan for the working out of our problems and the conduct of our daily lives. We need to thank Him more for the blessings that we receive, and to take more of our troubles to Him in prayer.

I firmly believe that God's hand is on our Chief Executive and that he has been guided with a wisdom that we cannot understand through our most troublous days. I find that many of my people are firmly convinced of this.

It is natural that those who till the soil should be close to God and be convinced of His intervention in human affairs, for their success or failure is utterly dependent upon the seasons and deliverance from insect pests. The farmers of Oklahoma are just as religious as their forefathers who erected their little log churches when they first came there.

I am hopeful that we will have an old-fashioned revival of real religious worship. We need the spiritual blessings that this would bring. We need the feeling of willingness to care for our brothers in need. Such a revival, I am firmly convinced, will do much to prevent us from falling back into the depths of despair.

The Unmasking in Spain

EXTENSION OF REMARKS

OF

HON. MATTHEW M. NEELY

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, May 17 (legislative day of Thursday, May 13), 1937

EDITORIAL FROM THE WHEELING INTELLIGENCER

Mr. NEELY. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "The Unmasking in Spain", which appeared in the Wheeling Intelligencer on the 7th day of May.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wheeling (W. Va.) Intelligencer of May 7, 1937]

THE UNMASKING IN SPAIN

It is no longer war in bleeding Spain. It is slaughter; cruel, cold, calculated extermination of men, women, and children.

There has been terror on both sides, as always in such a conflict, but nowhere in all the shocking records has one read of such fiendish ferocity as that exhibited by the Nazi aviators at Guernica and Durango, with their leaden hailstorm, poison gas, and incendiary bombs let loose on the fleeing populace of the peaceful and piously Catholic Basque country.

Dictatorship, as represented by Hitler and Mussolini, and the would-be dictator, Franco, has left a fitting memorial before Bilbao, before which liberty-loving and humane people everywhere must stand aghast.

The worst of the Moors, or the most vicious of Spaniards, could not have been capable of such diabolic deeds.

Only dictatorship, as we have come to know it in present days, could have conceived such a plan of stopping short of a military objective to provide "education" for innocent civilians; for mere show, in ghoulish way, that dictators are accustomed to being obeyed and what happens to people when they resist.

Only dictatorship would be capable of conceiving propaganda through the piteous and terrifying sight of streets filled with dead fathers, mothers, and children; of shattered churches and charred homes; of dead nuns, machine-gunned as they ran across a convent garden.

That is what dictatorship, beginning with the persecution of Jews, Catholics, and Protestant religionists at home, and the ruthless raping of Ethiopia, has come to, finally, in Spain. Maddened at the heroic resistance of the Spanish Government, and the Spanish civilian fighters defending their homeland against invading mercenaries, it has torn the mask from its face and displayed itself in all its hideousness.

All other issues in Spain have been sloughed away by this Nazi-Moor-Fascist attack on the Basques.

It has been made plain that the important thing to remember is this:

That Franco and his foreign troops are invaders seeking to overthrow a government that the Spanish people duly elected at

the polls; that regardless of its many mistaken policies, it was a constitutional government.

The situation is no different than if, following one of our elections, these same dictatorships should combine to invade the United States and attempt to set up their idea of how we should be governed.

That, precisely, is what is happening in Spain.

Under the guise of combating communism the old royalist party of wealthy landowners and monarchists are trying to overthrow a government of the people and set up a dictatorship. And Mussolini and Hitler have gladly enlisted as active partners in this foul crime against democracy. Neither, with hands deep-dyed in the blood of mass murder, can longer disavow their responsibility for the flying Nazi vultures raining death on civilians, and with Italian troops, under Italian officers, in the field.

What happened is an assault on humane sensibilities of free people everywhere, and far beyond the borders of Spain the despairing cries of the Basque men for the evacuation of their women and children is being heard, and already English ships are standing to the rescue.

Basque men will stay and fight to the last man, if need be, and the sympathy of all who still love human freedom will be with them. And surely somehow, someway, those saving forces in the world, Christianity, human conscience, decent concepts of humanity, must finally come to their aid. Already we see protest stirring as England and France join efforts to help the stricken refugees. And when once aroused, such forces, as dictators eventually will learn, are stronger than all "the rulers of darkness" and all the arts of execrable fury.

Conservation

EXTENSION OF REMARKS

OF

HON. ROYAL S. COPELAND

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Monday, May 17 (legislative day of Thursday, May 13), 1937

RADIO ADDRESS BY HARRY G. VAVRA, NATIONAL PRESIDENT OF THE EDUCATIONAL CONSERVATION SOCIETY

Mr. COPELAND. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered over the radio by Harry G. Vavra, national president of the Educational Conservation Society and director general of the Conservationists of America.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Friends of the radio audience, it is a real pleasure for me to extend greetings to you on the occasion of American Conservation Week and at the same time commend the heroic work of those agencies and organizations that have been fighting the recent flood menace. We all know of the great loss of life and property which it brought about. Recently the floods were followed by dust storms which jeopardized the health of the people in pneumonia and influenza cases.

In addition to floods and dust storms we are continually faced with such other serious calamities as droughts, forest fires, and pollution of inland and coastal waters. Why? Chiefly because we have been using our natural resources in wasteful and destructive ways. Now we are endeavoring to restore them. It should be emphasized that wise and economical use is better than restoration. Once a natural resource is gone it may be gone forever, and any effort to restore it may prove futile. Such has been the situation with many species of wildlife. Our wildlife is in need of more champions like the late Dr. William T. Hornaday.

We are too prone to forget that the pioneer fur trade which played an important part in our early history, and the fisheries as well as the lumber industry which have been giving employment to great numbers of men are threatened with exhaustion.

We are too prone to forget that our mineral industries which form the keystone to our modern civilization are not inexhaustible either. In fact, we are inclined to forget that our natural resources form the basis of national prosperity, wealth, and happiness, and have great spiritual, aesthetic, healthful, and recreational as well as economic values. They need to be conserved for present and future generations.

The vast and increasing population of the world and the great number of wants and necessities that people living under modern conditions require are using up many of the most important substances and products. Not only will our wastefulness cause want to those that come after us, but we ourselves often suffer without realizing how or why.

Every bit of waste, and needless consumption of that which has cost money or labor to produce is a violation of the principle of conservation. Many people think "of course waste is wrong, but what little I waste makes no difference; it is too small to be worth considering."

Yet if a million or a hundred million others act on this faulty principle the resultant waste will be enormous.

Wastefulness in others is no excuse for our being wasteful ourselves. It would probably usually be useless to try to prevent others from doing as they please, but every person should at least keep free from such guilt herself or himself and avoid setting a bad example.

Almost everything that we need and use has not only cost labor and money to produce, but has used up some product of Nature, which, even though it be an abundant one, we have no right to consume and destroy needlessly or excessively.

Already the supply of some of the important products of Nature is getting lower than economists like to think about.

The supply of crude oil is far from inexhaustible, and the deposits of coal and ore of the important metals which are abundant enough and sufficiently easily mined to be of much commercial value are by no means unlimited. Good timber for lumber is becoming exhausted, and even poor timber available for wood pulp and similar purposes is being used far faster than it is growing. Erosion and neglect are destroying the fertility of our soil.

It would seem at first sight hardly necessary to condemn the mean and selfish principle that excuses waste because "it does not cost me anything", yet this is one of the commonest offenses against the principles of conservation and of right living—one which we all have committed at times, unthinkingly if not deliberately. It has cost somebody time or labor to produce, and it will cost somebody time or labor to replace that which is wasted, not to mention the loss of the materials used in making it.

The child who goes off and leaves a hot-water faucet running or an electric light burning is wasting the coal burned in making the heat or power that is thrown away. That coal is an unreplaceable natural resource.

When the coal is gone it will be gone forever. Aside from that the child is making expense for its parents and diminishing that which they can spend on the needs or pleasures of the members of the family.

Conservation must be a matter of education as well as legislation. The significance of American conservation week is especially brought out by the great number of bills introduced in Congress to protect our natural heritage. Measures have been introduced for the prevention of pollution and floods, for the preservation of scenic beauty, wildlife, and fisheries, for the insurance of a continuous and ample supply of forest products, and securing the benefits of forests in the regulation of water supply and stream flow, and for the prevention of soil erosion. Many laudable proposals to come before Congress such as the one which provides for changing the name of the Interior Department to Department of Conservation, and the resolution calling upon the President of the United States to issue an American conservation week proclamation, reveal the present interest in protecting our natural resources.

We must realize that the surest way of getting protection for ourselves from future droughts, forest fires, and floods, with the consequent loss of life and property, and from deforestation, wildlife extermination, destruction of soil, mineral and water resources as well as of scenic beauty, is to make the rising generation, which in a few years will be in control of the destiny of the Nation, understand these serious facts.

Therefore we should introduce conservation as a regular subject into every school in America. Furthermore, every college or university in America ought to have a special department or school of conservation.

Perhaps one of the most important conservation measures in the history of the United States is the bill providing for Federal cooperation with the States in the promotion of conservation education in the public elementary schools, high schools, colleges, and universities and in paying for the salaries and preparation of teachers, supervisors, and directors of conservation subjects. There is an important need for the establishment of a division of conservation education in the United States Office of Education. We must advance the instruction of our boys and girls as well as adults in the protection of natural resources.

A progressive State department of public instruction has truly stated: "The outcome desired is a shared activity pursued year after year with purpose, interest, and enthusiasm directed toward a goal which moves ever ahead. The work that has been done in these fields has been carried on largely by groups of people with a common interest—clubs, societies, and associations. The school setting should approach this life situation as nearly as possible and the pupils themselves should understand the relationship." The Educational Conservation Society is endeavoring to bring about the desired outcome through promoting the Junior Division of the Conservationists of America (open to elementary- and high-school students) and the Senior Division of the Conservationists of America (open to college and university students). In this connection the society welcomes the cooperation of the Boy Scouts, the Girl Scouts, Junior Audubon Clubs, Waltonian Leagues, garden, women's, and outdoor clubs, as well as other interested groups.

Now to consider what others are doing and what we ought to do to advance the progress of Conservation Week. Special local committees may sponsor various conservation studies on natural resources, and look after the protection of forests, wildlife, and community beautification. Some clubs may stress reforestation and classification of wooded areas as forest land to

protect timber, others may aid in the study of conservation by local schools, many may sponsor stream improvement and restocking projects.

Conservation is a movement in which every person can do his or her part.

You can protect forests by being careful about fires and smoking in them in dry weather.

You can protest wildlife by providing shelter and food, and above all by not needlessly killing it.

You can beautify your community by planting trees, establishing school forests, and cultivating school and home gardens, and preserving the wild flowers as well as by promoting clean-up campaigns.

You can protect health and wildlife as well as the fisheries by fighting pollution of inland and coastal waters which menaces beaches and threatens such sports as fishing and swimming.

You can take an active part by supporting projects for National, State, and local parks, forests, wildlife sanctuaries, and fish hatcheries.

You can cooperate with your Federal and State Governments by obeying the conservation laws and the laws of nature.

On March 12, 1935, President Roosevelt sent me the following message: "Observance of the first week of April as American Conservation Week has my wholehearted endorsement.

"All of our people do not yet fully understand the full significance of conservation as related to our economic existence, although there is a constantly growing realization of this relationship and, in the last few years, the cause of conservation has been advanced notably."

The annual observance is indeed contributing with more effectiveness each year to the conservation of our natural resources for the enjoyment of present and future generations. It is appropriate that Conservation Week is now being observed with appropriate ceremonies in schools, churches, museums, parks, and other suitable places, and that Governors have issued proclamations endorsing the movement. My only regret is that Congress has not as yet adopted an official American Conservation Week resolution even though it has passed the Senate several times. I sincerely hope that Congress will authorize the President of the United States to issue such a proclamation annually, and that a resolution will be passed in time for our next regular Nation-wide observance in April 1938.

Presidential Vetoes

EXTENSION OF REMARKS

OF

HON. E. E. COX

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 1937

LIST COMPILED BY MR. BRINKMAN, OF THE NATIONAL GRANGE

Mr. COX. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following list of Presidential vetoes from George Washington to Franklin D. Roosevelt, furnished me by Mr. Brinkman, of the National Grange:

Presidential vetoes

	Regular	Pocket	Total
George Washington	2		2
James Madison	5	1	6
James Monroe	1		1
Andrew Jackson	7	6	13
John Tyler	8	2	10
James K. Polk	2	1	3
Franklin Pierce	9	1	10
James Buchanan	5	3	8
Abraham Lincoln	1		1
Andrew Johnson	21		21
Ulysses S. Grant	42		42
Rutherford B. Hayes	12		12
Chester A. Arthur	4		4
Grover Cleveland (first term)	302	10	312
Benjamin Harrison	19	22	41
Grover Cleveland (second term)	42	121	163
William McKinley	6	36	42
Theodore Roosevelt	42	40	82
William H. Taft	30	9	39
Woodrow Wilson	33	11	44
Warren G. Harding	5	1	6
Calvin Coolidge	20	29	49
Herbert Hoover	20	15	35
Franklin D. Roosevelt (Seventy-third and Seventy-fourth Congresses)	103	118	221
Total	741	426	
Grand total			1,167

The Constitution and the Court

EXTENSION OF REMARKS

OF

HON. PAT McCARRAN

OF NEVADA

IN THE SENATE OF THE UNITED STATES

Monday, May 17 (legislative day of Thursday, May 13), 1937

ADDRESS BY HON. ROYAL S. COPELAND, OF NEW YORK, AT PHILADELPHIA, PA., ON MAY 10, 1937

Mr. McCARRAN. Mr. President, on May 10, in the city of Philadelphia, the senior Senator from New York [Mr. COPELAND] delivered one of the finest addresses that has been made on the subject of the Supreme Court. I ask that his address be inserted in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is fitting indeed that in the great State of Pennsylvania there should be a meeting like this. Here was written America's Magna Carta. Here it was that the Liberty Bell rang out the signing of the Declaration of Independence. Here it was that Lincoln made his immortal Gettysburg address. It was here, quoting Lincoln, "our fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal."

What is it that insures to every American, equality before the law? Is it that all men are created equal? Is it that a group of soul-stirred patriots met in Philadelphia and so declared? What is it that guarantees the liberty and equality that we posses and are determined to preserve?

It is not the Declaration of Independence; it is not the enactment of laws by the Congress and the several State legislatures; it is not the decisions of the Chief Executive. The cornerstone of our liberties is the Supreme Court of the United States.

It took the Declaration to bind the States together to make possible the waging of a war against oppression. It took the Revolution to win our way to freedom. It took the Constitutional Convention to set up a form of government to make permanent the liberty and equality for which our forefathers bled and died.

Gladstone said of the Constitution written in Philadelphia that "it is the most woderful work ever struck off at a given time by the brain and purpose of man."

It was all that Gladstone said, but, even so, it was not a perfect pronouncement of liberty and equality until the adoption of the bill of rights. In these first 10 amendments to the Constitution lies the real charter of our liberties.

Here is the guarantee that God may be worshipped according to the individual conscience. It is the first amendment to the Constitution that protects the Jew from the abuses that have ruined his happiness and in several countries in Europe sought to kill his religion. In America, so long as the Supreme Court is free and independent, he may worship the God of Israel without let or hindrance.

It will be recalled that before the Revolution Obadiah Holmes was fined heavily and "well whipped" in the streets of Boston for holding a religious service in a house in Lynn. Even in Virginia, Baptists were imprisoned for their faith.

These outrages were committed before we had the Constitution. There was no escape then; but after the Convention of 1787, there was established the guaranty of religious freedom. But even that right has since been suspended temporarily, as I shall indicate shortly. It was the Supreme Court that righted this unlawful assumption of power.

Freedom of the people to assemble together is the privilege of free Americans. It will continue to be until a bigoted and stiff-necked Congress and Chief Executive succeed in tearing away the protecting arms of the Court. Freedom of speech and free assemblage are asserted by the Bill of Rights.

Right of trial by jury is guaranteed by the amended Constitution. It is a right not alone for the rich and influential but for the poorest within our gates. Those colored boys at Scottsboro were saved from illegal execution by the decision of the Court that a fair trial had not been given them.

Without a free press no public can be secure from the evil effects of public and private wrongdoing. The clarion call of the press has saved many a community and State by its due and timely warning against the threatened encroachment of local abuses or ill-conceived legislation.

Freedom of the people peaceably to assemble, and to be secure in person and property—all of these and other human rights are guaranteed by America's Magna Carta.

The Constitution as we have it today sets up what we regard as a perfect government. But what good is that government to the common man unless there is some way to assert, to establish, to defend, and actually to make possible the enjoyment of his rights? These must be preserved even in the fact of legislative encroach-

ments on them, or failure of the executive department to enforce them.

This is not done by appeal to the President of the United States or by his action. The Congress of the United States is beyond the reach of the individual. His sole hope is the Supreme Court of the United States.

That body has neither purse nor sword. But through a century and a half it has been effective. Why? Because the Court has been free and independent. It yields neither to the solicitations of friends nor to the threats of foes. As the great Chief Justice Marshall said of the Court in the Dartmouth College case: "* * * it never can have a motive to do more than its duty * * *. It is not for judges to listen to the voice of persuasive eloquence or popular appeal. We have nothing to do but to pronounce the law as we find it; and having done this, our justifications must be left to the impartial judgment of our country."

Thank God, the impartial judgment of those who have thought through the problem, with all its implications, is that the Court does do its duty. It will continue to do its full duty unless in a moment of weakness the country yields to the demand that the Court bend its judgments to the demands of those who seek dictatorial power. I pray I may not live to see that day. In my opinion, so long as Americans love liberty, that day will never come.

The effect, perhaps the purpose, of the President's scheme to pack the Court is to destroy the independence of the Judges. According to his friends, his purpose is to make the Court responsive to the will of Congress. If this Congress can override the Supreme Court, other Congresses will not permit their purposes to be thwarted. If the Justices are to be subservient to the will of Congress, the Court would no longer afford protection against unconstitutional laws. Then we should no longer have the kind of government the founding fathers established. They had had bitter experience with judges under the domination of the King and the British Parliament. Here in Philadelphia, on July 4, 1776, our forefathers set forth to a "candid world" so that future generations might read and profit thereby, that one of the grave complaints against the King of England was his making judges "dependent upon his will alone for the tenure of their offices and the amount and payment of their salaries."

When the delegates to the Constitutional Convention in this city drafted our charter of liberty, they thought that for all time to come they had utterly destroyed this form of tyranny in America. They planned to put it beyond the power of the President or Congress, or both, either to oust the judges or to bring pressure to bear upon them in the form of salary reductions. The absolute independence of the judiciary was their aim. They were chartering a new government of human liberties and placing in the courts of the land the sacred duty of enforcing respect for such liberties. They sought to make certain that the fundamental rights of American citizens, rich and humble alike, should not be trampled under foot by tyrannical officials or intolerant majorities.

Throughout its history the Supreme Court has independently and fearlessly discharged this duty. The Court's very aloofness from partisan politics and popular clamor has heretofore been considered its crowning virtue—a virtue essential to the impartial interpretation and application of constitutional restrictions. And the wisdom of our forefathers has been amply demonstrated. It is well for us that this is true, because almost every fundamental liberty guaranteed by the Bill of Rights has been violated at one time or another by law of Congress or of some State legislature; the Supreme Court, in the performance of its duty, has had to extend protection against the enforcement of such laws. The right to labor in the field of one's calling, the right not to be tried for a capital crime except upon indictment by a grand jury, the right of trial by jury, the right to be secure in one's person and papers, the right not to be twice put in jeopardy for the same offense, freedom from ex post facto laws and bills of attainder, and the right of every person not to be forced to testify against himself—each of these guarantees has on various occasions been violated by an act of Congress.

At the close of the Civil War the State of Missouri attempted to take away from ministers the right to exercise their divine calling unless they should first take an oath to the effect that they had not aided or even sympathized with the Confederate cause. A Roman Catholic priest who had not taken the oath was convicted and thrown into jail for the high crime of giving absolution and of preaching the gospel in a land boasting of its religious freedom. In those days of passion and prejudice only an independent tribunal of the integrity and character of the Supreme Court could have reached out its protecting arm as the Court did when, in the case of *Cummings* v. *Missouri* (4 Wall. 277), it declared the law unconstitutional. In that terrible era Congress reflected popular sentiment and was itself busily engaged in passing laws establishing military commissions and divesting southerners of their civil and political rights—laws which were also declared unconstitutional by the Supreme Court. We need not go back to that tragic period. It was only recently that the Court, through Justice Brandeis, had to extend protection to the dependents of a disabled veteran because Congress had attempted by the Economy Act to forfeit the proceeds of term insurance which the Government had solemnly agreed to pay.

If the highest Court of the land is to be packed so that all measures enacted into law will be given the stamp of judicial approval, to whom can the people turn for protection when their liberties are invaded by legislative acts?

Let no one be deceived by breast beating and protestations of worthy motives. If we establish the precedent of packing the Court for the purpose of bending it to the will of the President and Congress, it will mean the end of constitutional government. If at any time thereafter the Supreme Court should attempt to reassert its constitutional power as the guardian of the people's liberties, it would only be necessary for a strong President, with a majority in Congress, to increase the number of the Justices for the purpose of nullifying the decision and putting into effect any measure the President and Congress should desire. In such case it could not be alleged that such a procedure was not in keeping with our institutions, because the precedent would have been established. The frantic attempt of the partisans of the President's proposal to construe previous changes in the membership of the Court as attempts to pack the Court shows the importance that would be attached to any frank and outright precedent. No longer would the Constitution be the haven of refuge for the oppressed. It would be an unstable and useless document, the meaning of which would depend entirely upon the complexion of Congress.

With a majority in Congress, all three branches of government could be brought under the dominance of the executive power. It is asserted on behalf of the President that he has not intention of establishing a dictatorship, and this may be accepted as a correct statement of the President's attitude. But he has resorted to means which the Father of his Country characterized as "the customary weapon by which free governments are destroyed." The President does not allay the suspicion of dictatorship when he refers to a "three-horse team", which he would make pull together, giving us to understand that he would crack the whip over all three branches of government.

This issue is too grave to be placed on the basis of party loyalty. Many of those who whole-heartedly sympathize with the President's objectives are opposed to the method which he would employ—a method that has been condemned by every statesman and student of government who has heretofore expressed an opinion on the subject. No matter how meritorious the legislation to be enacted, the price is too great to pay for the sake of speed under the lash of a fancied or real emergency.

The pending proposal strikes at the very vitals of our form of constitutional government. Those of us who would guard our institutions from this fatal thrust are actuated by one desire, and only one. We seek to preserve for posterity the constitutional freedom which we and our forefathers have enjoyed for 150 years.

We are determined that the torch of liberty shall not be snuffed out by impious hands. We are determined that the seeds of alien standards of government shall not take root in America. We want no personal government here. So long as the Constitution is left inviolate and the judges free from dictation, no dictatorship will ever raise its horrid head in our beloved America.

Reorganization of the Supreme Court

EXTENSION OF REMARKS

OF

HON. BENNETT CHAMP CLARK

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Monday, May 17 (legislative day of Thursday, May 13), 1937

ADDRESS BY HON. JOSIAH W. BAILEY, OF NORTH CAROLINA, AT PHILADELPHIA, PA.

Mr. CLARK. Mr. President, I ask unanimous consent that there be inserted in the Appendix of the RECORD an address entitled "The Meaning of the President's Proposal", delivered by the Senator from North Carolina [Mr. BAILEY] at Philadelphia.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Chairman, the proposal of the President concerning the Supreme Court is not a proposal to reorganize that Court; it is not a proposal to aid the Court. It is a proposal to subordinate the Supreme Court to the will of the President. Had the Court upheld the legislation proposed by the President, the proposal would not be before us. In his radio address the President told the people in plain terms that he desired to appoint six new Justices in order to have certain undisclosed legislation upheld as constitutional. He complained of certain decisions on the subject of legislation which had been questioned from the beginning, and affirmed that he must have decisions of a different tenor. The bill did not originate in the Congress. It came boldly from the White House.

Nor is the proposal to be described as a proposal to reform the Supreme Court. More properly it is a proposal to reform the Constitution to the President's conceptions and purposes. The

addition of six Justices is not an end; it is a means to an end—and that end is to have the Constitution interpreted as the President desires. He made that plain in the same radio address. Its effect is to place the President over—not under—the Constitution; and, following his example, any successor might do likewise. Why not? Why allow to one President what we would not allow to another?

This procedure is indefensible. Presidents and Congresses are under the Constitution as interpreted by an independent Court—not by a Court molded to their conceptions of the Constitution. To hold otherwise is to place them above the Constitution, not under it.

It is no wonder that eminent administration leaders have proved themselves unable to defend the proposal. If Mr. Wallace made great promises, Mr. Hopkins hinted of money distribution, Mr. Ickes made his class appeal, Mr. Cummings talked of cases lost, and Mr. Farley talked of party loyalty, it was because there was nothing else to do—no other way to proceed. And if now Mr. Farley talks of patronage and political power, it is because he dares not venture into the regions of argument. Mr. Jackson gave the whole case away when he argued that the Congress is responsible for the Court.

Even the President spoke of the Court as one of the horses in a three-horse team, the Presidency and the Congress being the other two.

Is it really necessary for the American people to tell their President that no man, no power, can put a halter on the Supreme Court—that it is not a thing to be harnessed and driven? If there is a harness in the United States that harness is the Constitution, and it is on us all—people, President, Congress, and Court. We cannot guide it; it guides us. We cannot make it say what it does not mean. We can change it—the people can—and no other can. There is but one power finally to interpret it—the Supreme Court, and if it is to interpret it truly, that Court must be free, must be independent. In no view may it be likened to a horse!

To take any other view is to make a political institution of the Supreme Court—to bring a great institution of conscience and reason down to the pit of politics. If one administration may see the interpretation of its powers by adding Justices to the Court, the next will do no less. We will have to write in our party platforms hereafter what we intend the Constitution to mean, what we propose the Courts shall hold to be true and just, and what the rights of the people shall be from one election to the next. Under such conditions elections would not be worth while—for who would take the chance of voting on the losing side?

That is what is implied in all this talk of "modernizing the Court", "bringing the Constitution up to date" by interpretation and infusing "new blood"—that and nothing less. Any future administration could invoke with equal force the same appeals.

The courts of justice are not in the political category. Policies are one thing; politics are one thing; justice is quite another. Policies and politics are in the category of wise or unwise, but justice is in the category of the moral and spiritual. Policies come from parties, but justice comes from conscience and reason.

Courts guarantee in all events, no matter which party is in power, whether in peace or war, prosperity or poverty, right and justice shall be done—equality shall be preserved. They are the abiding, stabilizing factors in the national life—in all the manifestations of our national life. They affirm the Constitution, come what may. They preserve our unity. But if administrations may alter courts so as to control their decisions, this stabilizing force will at once be destroyed; this unity will be dissolved.

The human race has had enough, one would think, of political courts. The best of men is insecure under them. When Pilate was both governor and supreme judge, the way to Golgotha was made—at the demand of the people—for the noblest and best Being that ever trod this earth—even for Him whom ages of worshippers follow—as the Son of God. And not only He, but many of His followers, have been victims of political courts, William Penn, Obadiah Holmes, William Brewster, and many another here in our land before we had a Constitution and an independent Supreme Court. I would give you no guarantees whatever without a Constitution and an independent judiciary.

What is it that makes men and women free in America? It is the Constitution. And by what means is that freedom affirmed when mighty powers challenge it? It is an independent judiciary. The Milligan case, the Lee case, the Oregon case, the Scottsboro case are monumental instances of thousands equally important; they are memorable warnings no less. Should the law lay its hand upon you or yours tomorrow, to whom would you appeal, save to the court? And if those courts were under control of politics, how vainly would you appeal? And, if not to the Constitution and to independent courts, to whom would you appeal?

As matters stand there are vast ranges of right in which men are greater than the State; but put your Court under Congress and President, and your Constitution under such a Court, and you will have the essence of the totalitarian state, in which the State is all, the man nothing. You will be under the will of men, not under the will of the law. Substitute political control for justice and the only appeal is to force. And consider how little of force there is for you when matched against the mighty powers of government.

I would not have invited this issue. I can but regret that it has been presented. But there is compensation. It has awakened the American spirit—the old-time spirit that is the soul of the greatness of our Republic. We are forgetting our little questions; we are forgetting our party wrangles; we are forgetting our historical prejudices and geographical differences. Throughout this land the millions are uniting in a common cause. We will preserve our Constitution because it preserves our Republic. We will defend our Constitution because it defends our rights. We will uphold our Supreme Court and protect it against all who would violate it because it upholds and protects our Constitution and is, therefore, our only recourse when rights as precious as life itself are challenged. Without apology, without compromise, and without flinching the American people are ready for this struggle. And when it shall have ended this generation and the next will know that the Constitution is secure and over all, that the Court that upholds and affirms it is independent and inviolate, that the Republic of the United States is a constitutional representative republic of freemen, worthy to receive and to maintain the noblest heritage of time—that new order of the ages which was brought forth here just 150 years ago.

Labor Relations

EXTENSION OF REMARKS
OF
HON. HENRY CABOT LODGE, JR.
OF MASSACHUSETTS
IN THE SENATE OF THE UNITED STATES

Monday, May 17 (legislative day of Thursday, May 13), 1937

RADIO ADDRESS BY HON. H. STYLES BRIDGES, OF NEW HAMPSHIRE, ON MAY 16, 1937

Mr. LODGE. Mr. President, I ask unanimous consent to have printed in the RECORD an address dealing with labor relations, delivered by the distinguished Senator from New Hampshire [Mr. BRIDGES] last night over the radio.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

The problem of labor relations, I am sure we will all agree, is one of the most important human problems of the modern world. It demands our sincere and thoughtful consideration. We must try to solve this problem without violence and without civil strife. We must try to solve it without permitting any domination of our American life by any social class among us. We must try to solve it without permitting any domination by the Government. We should solve it in harmony with truly democratic self-governing principles. That is the task of our Federal Government and of our 48 States in this matter.

It should never be forgotten that a part of the task—and a very considerable part—is in the hands of the States. It is, and it should be. We cannot solve the labor problem simply from the top down. We should solve it also—and, indeed, principally—from the bottom up.

I found this to be true while I was Governor of the State of New Hampshire. I took part then in many endeavors having to do with the advancement of the welfare of labor. I became convinced that departments dealing with labor within our States must be developed to a maximum of effectiveness.

In our New Hampshire State Labor Department we erected three major divisions—one dealing with minimum wages for women, one dealing with the reemployment of the unemployed, and one dealing with unemployment insurance.

I felt then, and I feel now, that with minimum wages and working conditions in industries threatened by sweatshop conditions there can never be any return to the unregulated state of affairs that existed in the past. I found that the minimum-wage division of our State labor department was able to have a strong influence upon the improvement of wages even in the days when there was still a legal doubt as to the constitutionality of minimum-wage legislation and when the division's only real weapons were negotiation and publicity. Now that the United States Supreme Court has removed legal obstacles from the path of the States in this respect, I hope that they will all go forward to put a complete stop within their borders to all sweatshop exploitation of all workers.

I entertain a similar hope with regard to unemployment-insurance legislation by the States. Unemployment insurance must not be regarded as a temporary measure designed to meet the emergency of the depression. It must not be regarded as a transitory relief measure. It is part of a permanent general system of social security for the American people. Our States should look at it in that way, and each State should try to make its own unemployment-insurance law increasingly efficient and practical.

I take what I believe to be a just pride in the fact that some time before the passage of the Federal Social Security Act my State of New Hampshire, while I was Governor, enacted an un-

employment-insurance law. This act later became the first such act to qualify under the provisions of the Federal law. I take further pride in the fact that our New Hampshire law has been termed "the best of all the unemployment-compensation laws" by no less an authority than the secretary of the President's Committee on Economic Security.

Let me turn now to the labor policies of the Federal Government. The Federal Government, by legislation, has given its sanction and its support to the principle of collective bargaining. It began doing so in a positive way in 1926. In that year a Republican Congress enacted and a Republican President signed the Railway Labor Act. I want to quote to you one passage from that act. It is this:

"All disputes between a railroad and its employees shall be considered and, if possible, decided in conference between representatives designated respectively by the carriers and the employees. Representatives shall be designated by the respective parties without interference, influence, or coercion exercised by either party over self-organization by the other."

That passage, with its legislative endorsement of collective bargaining, was signed by President Calvin Coolidge. He did not regard it as revolutionary. It is not revolutionary. It is merely a Federal enforcement, in interstate commerce, of a constitutional privilege of all American citizens. The right to collective bargaining, the right to self-organization, has recently been described by the United States Supreme Court as a "fundamental" right. It cannot be questioned by any citizen who loyally accepts our Supreme Court as the final interpreter of our constitutional system. Collective bargaining has grown within the American constitutional system in a perfectly natural and inevitable way.

We must remember that in every such development there are two sides, like the two sides of a coin. One side is the right—the right in this case of collective bargaining. The other side is the social responsibility that goes with that right. Collective bargaining, as sanctioned by the Railway Labor Act of 1926 and by the Labor Relations Law of 1935, gives to labor organizations a vast power. It therefore gives them an equally vast responsibility.

The employer by law in his dealings with his employees must refrain from unfair practices. Labor organizations will surely see that it is to their best interests that they, too, must refrain from unfair practices.

Employers must not hire labor spies and conduct an espionage system against workers. Workers should not seek to gain their goal—no matter how just that goal may be—by such ill-considered action as the sit-down strike. I voted against both these practices in the United States Senate and I shall continue to condemn such errors on the part of either employer or employee.

The process of collective bargaining is now upon a legal basis. A legal basis means a peaceful basis. It means the elimination of violence, of coercion, of intimidation, of unfairness by either side. Labor organizations must accept this responsibility of collective bargaining if they desire successfully to preserve the full rights of collective bargaining.

These rights are to be cherished, I may now say, not only because they are rights but also because private collective bargaining can be made into a safeguard against the greatest evil of modern times. That evil is all-powerful government. Employers and employees must adjust their differences through private endeavor among themselves or inevitably the Government will step in still further to dictate to both of them. I cannot imagine any situation more destructive to our national progress and prosperity than governmental dictations and fixations of all the working conditions of all the industries of all the varied regions of this enormous and complicated country. This would be the hand of death upon our growth toward a larger livelihood for all. To stay that hand from falling upon us we should use every effort possible. The most necessary of all such efforts is the reconciliation of employers and employees through bargaining among themselves. Private collective bargaining can greatly help to prevent Government intervention. I profoundly hope it will.

I would not have you think, however, that I see no field for governmental action in the labor problem. I have already spoken of State governmental action in my own State of New Hampshire regarding unemployment insurance and regarding minimum wages.

I believe firmly that sweatshop exploitation of labor, through excessively small wages or excessively long hours, is damaging to the physical health of the American community, and that therefore the checking of it is properly within the police power of our public authorities. This police power should be exercised primarily, I think, by our local State governments in their several separate legislatures or by compacts through which two or more local State governments act together.

In this matter may I again call your attention to the record of my own State of New Hampshire. I had the honor, while Governor, to sign the document which brought into existence the first interstate compact in our national history for the improvement of the conditions of labor. This compact deals with uniform standards for conditions of employment, particularly with regard to minimum wages. It sets up in each of the signatory States an administrative machine for the determination and enforcement of minimum standards. The signatory States are Massachusetts, New Hampshire, and Rhode Island. A resolution is now before the Congress of the United States for the granting of Federal approval to this first of interstate labor charters. I hope that it may be followed by many others.

We must preserve our local State initiative. We know from experience that local experimentation, if it is successful, spreads with reasonable rapidity into other localities. We should act in this matter first, I think, by States and then by interstate compacts, and we should leave to the Federal Government only those parts of this matter that are unavoidably Federal.

The enemy, I repeat, is a central government dominating all activities by capital and all activities by labor. To combat that enemy, unnatural as it is among our institutions, let us diligently cultivate collective bargaining between the employer and employee and let us also diligently cultivate all sensible and useful legislation by our States severally or in voluntary groups. We shall in that way help to produce in the United States an industrial society more democratic, more free, more humane, and more efficient than any that can be exhibited in any other land.

At this point I want to speak just one word of warning. Neither employer nor employee should forget that there is a general national interest superior to the interest of either one of them alone. The National Government must be kept solvent. It is sound to borrow money for emergencies. It is not sound to borrow money to pay current operating expenditures in reasonably normal times. The Government should adopt the policy of any prudent citizen who does not spend more than he can reasonably earn and who does not borrow more than he may ultimately be able to pay.

The revenue of our Government has been substantially increased. It has now almost doubled the annual income of the previous administration. And despite the enormous increase in revenue and despite increased business activities, we are continuing to pile up large deficits. Unless this situation is corrected and this trend stopped there will be inflation of prices as well as back-breaking taxes. The people of this country have already felt the increased cost of living—higher prices for the necessaries of life. How will it profit the wage earner if his wages do go up 10 percent and the prices of the necessaries of life—as they inevitably must under inflation—go up 20 percent and more?

The employer is not alone an employer and the employee is not alone an employee. They are also citizens. They are interested not only in legislation affecting capital and labor but in the legislative and administrative policies which affect all of our citizens directly and indirectly. Some of the policies of the present administration today, if continued, could give us an inflation which would wipe out all the legitimate profits of business and all the gains labor has obtained through collective bargaining and legislative enactment.

We must take the long-range point of view. Let us realize that our problems are national problems requiring wisdom in thought, unselfishness in spirit, and cooperation in action. In no other way can we progress toward the achievement of that ideal state where there is equal opportunity for all.

In closing may I leave this thought with you. The people of this Nation have one common objective—to make America a better and happier place to live in.

I would ask capital to remember, I would ask labor to remember, I want all of us to remember in this connection the words of a great American President, Theodore Roosevelt, who said:

"This country cannot long be a good place for any of us to live unless it is a good place for all of us to live."

The Cotton Textile Industry

EXTENSION OF REMARKS

OF

HON. JOHN H. BANKHEAD, 2D

OF ALABAMA

IN THE SENATE OF THE UNITED STATES

Monday, May 17 (legislative day of Thursday, May 13), 1937

ADDRESS BY HON. JOHN H. BANKHEAD, 2D, OF ALABAMA, BEFORE THE AMERICAN COTTON MANUFACTURERS' ASSOCIATION ON MAY 13, 1937

Mr. BANKHEAD. Mr. President, I delivered an address to the annual meeting of the American Cotton Manufacturers held in Washington, D. C., on May 13, 1937. I request unanimous consent to have it printed in the Appendix of the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

This association represents one of the largest industries in America. That is true, both from the standpoint of the amount of money invested in the industry and the number of employees. If the production of the raw cotton and its transportation from the farms to the cotton mills and seaports is considered as a part of the cotton textile industry, then I feel sure that this association represents the largest and most important industry in America.

From the best information available $1,600,000,000 are invested in the cotton mills, villages, and other physical property of the industry. Approximately 450,000 people are employed in the cotton

mills of the country. The pay rolls of the cotton mills, if each employee is counted as averaging only $17 a week, amounts to $397,800,000 a year. The money distributed through the cotton mill pay rolls, in addition to supporting those upon the pay rolls and an unknown number of dependent relatives, also brings about a steady flow of money in the channels of trade in the communities where the cotton mills are located.

Approximately two and one-half million families upon cotton farms provide the necessary raw material for the cotton mills. It would be impossible to make an intelligent estimate of the number of people employed in an indirect way and who benefit in an indirect way from the cotton industry. The fact is, that the business conditions and the financial affairs of nearly all people in the Cotton Belt, on the farms, and in the towns, are related directly or indirectly to the annual income of the cotton farmer and to the operations of the cotton mills located in the Cotton Belt. About 72 percent of the cotton textile plants are located in the Southern States. These plants spun 84 percent of the cotton manufactured in the United States in 1936.

Very few people in this country realize the outstanding part that the cotton industry has played in our commerce with the other nations of the world. Since our ports were opened in 1791, to and including 1936, our excess of all exports over all imports in value amounted to $37,360,700,000. Our exports of unmanufactured cotton from the first records in 1802, to and including 1936, in value amounted to $31,138,496,000. Our exports of cotton manufactures since 1826 to and through 1936 amounted to $3,876,741,910. The total value of exports of raw cotton and manufactured cotton since the establishment of the Government amounted to $35,015,237,910. Thus it will be seen that cotton is responsible for all of our favorable balance of trade with all the world since our Government was established, except $2,345,462,090, and but for cotton, all of our world trade would not have enriched this country more than the latter figure. No sort of sophistry, no effort to ignore the fundamental facts involved in our foreign commerce can becloud the monumental record that cotton has made in increasing our national wealth and promoting American commercial prosperity.

The cotton textile manufacturers in very large part have recognized many of the responsibilities which rest upon their shoulders as a result of the position they occupy in the commercial and industrial fabric of our country. This statement is fully supported by the position taken by the management of the cotton-mill industry when the N. I. R. A. was passed during the recent depression. The first code of any consequence was adopted by the cotton-mill manufacturers, and be it said to the credit of the cotton industry that the management agreed, among other things, to shorter hours for the workers in their plants and for a very substantial increase in their weekly wages. The cotton textile code undertook to eliminate cutthroat competition, which is always destructive to any industry and injurious in the long run to the public welfare. It also put the management in position to conserve resources of the business and more equitably divide the benefits of operation between capital and labor. The cotton-mill industry led all of the other large industries in this country in making codes for fair-trade practice and more generous treatment of their employees. That action will stand as a monument down through the years to the good judgment and the fine heart of this large group of men who took into consideration not only the welfare of their stockholders but also the betterment of the condition of their employees.

Many of the improvements in working conditions and in the rates of pay set up under the cotton code have been retained. It is my personal hope that management can go forward and from time to time do more for the workers in the cotton mills. I believe the sentiment I have expressed is really alive in the hearts of an overwhelming majority of the managers of the cotton-mill industry.

Your responsibility does not end when you leave the office and plant of your mills. I believe that you owe a duty also to the producers of the cotton which makes your business possible. You are in position by virtue of your superior business experience and your opportunity to inform yourself upon conditions in trade and commerce and in economics, to give helpful cooperation, and at times leadership, to the great mass of about two and one-half million cotton farmers scattered from Maine to California. They are unorganized; most of them are hewers of wood and drawers of water, braving the hazards of the weather from early morning till dark, and giving their physical strength and endurance, with a mere pittance as a financial return. The average cotton grower receives most of his cash returns from the sale of his cotton. The average cotton farmer produces less than six bales of cotton a year. When cotton is 10 cents a pound, his cash income is less than $300, with which he must support his wife and children for a year. The Southern cotton farmer is the poorest paid worker in all of the mass of American workers. He is in direct competition with the pauper labor in the countries of Asia, Africa, Central and South America, where cotton is produced.

I know that you realize this situation. I know that some of you are deeply sympathetic with the condition of the cotton farmer. During our efforts in Congress to work out a constructive program for the welfare of the cotton producers, I have had the most active cooperation and the most splendid and helpful support from some of the managers of cotton mills in the South. On several occasions, when we had reached a crisis in the effort to pass certain legislation for the benefit of our cotton farmers, some cotton-mill owners in the South came to Washington and gave of their time and valuable experience and good judgment in helping the friends of the farmers in Congress to accomplish their objectives.

The financial status of all the people of the cotton-growing States depends upon the price of cotton from year to year. While cotton, as has been shown, constitutes practically our entire balance of trade with foreign countries, it also constitutes the chief commodity of commerce between the Southern States and the rest of the country. Money flows out of the Cotton Belt every day in the year, going to the industrial and financial areas of the United States. You may go into the largest department store in the South and examine the stock from the basement to the top floor and practically everything in that store, you will find, was produced outside the cotton-producing areas. Millions of dollars move each year from the South to financial centers to pay interest upon loans of all kinds, premiums upon insurance policies, and dividends upon the stocks and bonds of the utilities, and of the large industrial corporations operating in the South. Where does all that money come from? Very few articles of commerce move from the South into other sections of the country. We get a return flow of money in volume but from one source, namely, for the sale of raw and manufactured cotton. Unfortunately, by reason of the low price of cotton, for many years the balance of trade was consistently against the States of the Cotton Belt. That balance of trade has from year to year been converted into interest-bearing indebtedness. The burden has been peculiarly oppressive upon the cotton producers when the price of their cash crop was below the cost of production.

Whether some of our people look upon the farmers as a detached element in our population—as mere struggling and laboring fellow humans—the fact is that every man, woman, and child residing in the Cotton Belt has a direct interest in the welfare of our cotton producers and, therefore, in a reasonable price for each cotton crop. I have often thought that too many of our city population do not visualize and properly appraise the interdependent relations of the country and the city population. Neither can prosper without the other. The city people need an adequate supply of food produced on the farms. They must have cotton goods and their industries must have a trade area in which the consumers are enabled to buy the output of the plants, mills, and mines. I am certain that the cotton mill operators as a whole are anxious to cooperate, not only in bettering the conditions of their own employees, but in working out a program for the stabilization of agriculture and for making life upon farms more comfortable and more prosperous.

The way to accomplish the desired result is a big problem, and it has given not only businessmen, but the best statesmen in the South, anxiety and concern during many long years of adversity and suffering. Unfortunately, numerous obstacles stand in the way of advancing the financial standing of farmers who depend upon cotton as a sole source of cash revenue. As the years have passed, production of cotton in 57 countries of the world has brought competition to cotton producers. Gradually the acreage planted to cotton in foreign countries has increased and in some countries, like Brazil, is still increasing. Substitutes for cotton, like rayon and other commodities have appeared as another serious threat to the market of cotton farmers and cotton-mill operators.

No one but those who are selfishly concerned in the handling of quantities of cotton, regardless of prices and the results upon the people of the South, want to see the cotton farmers forced to enter upon a campaign of reducing the price of cotton low enough to drive out of the field of production the cheap and ignorant laborers in foreign countries—laborers who have never known anything of a decent standard of living. During the period of 12-cent Government loans on cotton, which was a great blessing to the southern farmers, we heard much propaganda to the effect that the price of cotton was then so high it was destroying our cotton export business. Those of us who had studied the situation knew that claim was totally unsound. We knew that reduction in exports was the result of foreign countries snapping up large quantities of cotton when the price was from 5 to 7 cents per pound and carrying it over during the subsequent years. We also knew that foreign consumption conditions were adverse, just as they were in America. When, however, consumption increased in this country and abroad, when the accumulated stocks of cotton in the foreign warehouses had been reduced to the vanishing point, then the export business was very largely increased, notwithstanding the price of cotton was 13 cents and better. In other words, the price did not control export trade. It was governed by the old trade law of supply and demand.

The time may come, however, when substitutes and increased foreign production may force the American cotton producers to a decision between controlling and reducing production to fit the American mill consumption, plus whatever foreign markets may be left to us, or to continue with unlimited production at starvation prices. The best wisdom of the South should be brought together and used in working out, in cooperation with the farmers, a program for cotton production, cotton distribution, and cotton prices. In my judgment no group of people are better fitted to take a leading part in the development of a program that will redound to the welfare of all who are concerned, directly and indirectly, than the cotton manufacturers of the Southern States.

I had earnestly hoped, when 2 years ago Congress set aside 30 percent of the revenues on imports, the sum amounting to more than $100,000,000, and authorized the Secretary of Agriculture to

expend money from that appropriation to aid in the export of manufactured cotton, that a widespread and successful campaign would be instituted to sell manufactured cotton goods in many quarters of the world not now available to us. I do not know of any better way to expend money set aside for the advancement of agriculture than by promoting the increase of manufactured cotton in this country. It has always seemed a tragedy to me that our raw cotton should be distributed over the face of the earth to provide the material for the operation of foreign cotton mills. If, instead of manufacturing 6,000,000 bales a year in this country, we could double our mill output in the United States, we would thereby double the number of employees engaged in that gainful occupation and greatly enlarge the investment of capital. Taxes for the support of local, State, and National governments would correspondingly be increased.

The cotton-mill industry cannot compete throughout the world with pauperized labor engaged in production of cotton and in the manufacture of cotton goods. It is an absolute impossibility for our manufacturers to meet that sort of competition and it is a scandalous and indecent suggestion that our workers on the farms and in the mills should meet the same competition. Unless Government aid in some form is forthcoming, we should face the facts and prepare for a reduction instead of an increase in the exportation of both raw and of manufactured cotton.

I ardently hope that our Secretary of State and our Secretary of Agriculture can find a way to do what Congress expected them to do when the money was voted in 1935 to increase our foreign trade in cotton goods.

There has been much discussion for some years about the domestic-allotment plan. Congress has favored it and has provided money for it, but for some reason nothing has come of it. If we cannot enlarge foreign markets for raw cotton, then we must look to the American cotton mills as the chief consumers for our cotton. Without a very extended development of new uses for cotton and also enlarged foreign markets for cotton goods, we cannot depend upon consumption of more than 6,000,000 bales a year by the mills of the United States. Under the domestic-allotment plan when put into operation the producer will receive benefits upon approximately 6,000,000 bales of the crop, assuming that American consumption continues as it is now.

How can the cotton-mill industry be helpful in working out the idea underlying the domestic-allotment plan? The money must be raised to pay the farmers the difference between the world price and the agreed price for his proportion of the crop domestically consumed.

Let us remember that a strong buying power by the millions of consumers in the Cotton Belt will be the equivalent of regaining lost foreign markets and will also replace cotton-goods consumption where substitutes have invaded the former channels of cotton-textiles trade.

I beg to present for the consideration of the cotton-mill industry a plan which can probably be administered successfully and at the same time will save the collection of taxes by the Government for payment to the farmers under the domestic-allotment plan. The cotton mills are interested in a standardized price for cotton. Of course they do not want the price excessively high, for that would induce buyers' resistance. On the other hand, there is no reason why they should want a price distressingly low for the producers. If all the cotton mills could get their entire supply of cotton at the same price within the limits above suggested, they would thereby eliminate one of the troublesome problems in the operation of their business, namely, the prospect of paying more for their raw cotton than their competitors are required to pay. That would also eliminate the cost of hedging their cotton purchases on the exchange so as to protect them against fluctuations of prices which might work to the advantage of their competitors. It would also tend to stabilize the selling prices of the mill output.

Secretary Wallace has for some time been advocating an ever-normal granary. Under that plan a year's supply of cotton could be bought by the Government at parity price to farmers and held in readiness for delivery, as needed, to the mills. The parity price of cotton at this time is 17 cents a pound. The parity price would be paid whether the world price increased or decreased. The plan suggested would give the cotton mills a standardized price upon which their budget could be based and their sales contracts for the year predicated.

The Secretary of Agriculture, under the proposed plan, would then estimate, under the usual rules of the Department of Agriculture for making such estimates, the quantity of cotton that would be domestically consumed during the crop year, and the percentage that such consumption would bear to the entire crop. For illustration, if consumption of 6,000,000 bales is estimated and 12,000,000 bales of production is estimated then each farmer would be paid the parity price of 17 cents on 50 percent of his crop and the other half of the crop would sell at the world prices. Under this plan, if the world price of cotton is 10 cents per pound the farmers would average 13½ cents for the entire crop. The crop under the suggested plan would yield the farmers $210,000,000 more than if the crop was sold at the world price.

To this group of people, most of whom are without cash between the harvesting seasons, $210,000,000 added to their other return is no mean item.

If the cotton manufacturers are willing to pay the parity price for the cotton spun by them, the Government should cooperate as follows:

(1) Place a tariff upon short-staple cotton and cotton goods to cover the difference between the world price of cotton and the United States parity price, adjusting the tariff on cotton goods to cover the difference in the cost of production here and abroad.

(2) Fix quotas of permissible imports of cotton goods that may be allowed after paying the tariff rates.

(3) Provide that no raw cotton included in the domestic allotment and no goods manufactured therefrom, shall be allowed to move in interstate or foreign commerce unless the parity price has been paid therefor to the producer. A prohibitive windfall tax should be levied in an appropriate way upon earnings derived from processing cotton for which the parity price was not paid. If this organization enters into a compact with the Secretary of Agriculture to pay the parity price I do not believe there would be many chiselers to punish.

(4) Put a prohibitive tax on jute.

(5) Levy a compensatory tax on competing substitutes like rayon.

(6) Pay an export bounty for manufactured cotton goods to enable our cotton mills to secure a reasonable amount of foreign business.

If the cotton producers can get the parity price for their domestic cotton allotment and can continue to receive payments under the Conservation and Domestic Allotment Act, and under that act will cooperate to avoid excessive production, all will be well throughout the Cotton Belt for cotton mills and cotton farmers.

What Is Needed for Flood Control?

EXTENSION OF REMARKS

OF

HON. AUGUSTINE LONERGAN

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Monday, May 17 (legislative day of Thursday, May 13), 1937

ADDRESS BY HON. ROYAL S. COPELAND, OF NEW YORK, BEFORE THE CHAMBER OF COMMERCE OF THE UNITED STATES ON APRIL 27, 1937

Mr. LONERGAN. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address on the subject of flood control delivered by the senior Senator from New York [Mr. COPELAND] at a meeting of the Chamber of Commerce of the United States held at Washington, D. C., April 27, 1937.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Chairman, five ladies, and the United States Chamber of Commerce, it was good of you to cheer a little bit as I got up. If there is anything in the world a United States Senator likes it is applause, and we get little of it. Even the children are taught to be suspicious of us. There was a small boy in the gallery of the Senate the other day for the first time and he happened to be there when the chaplain opened the proceedings. The boy pulled his father's coattail and said, "Papa, is the minister praying for the Senators?"

"No", said his wise father, "he looks at the Senators and prays for the country."

I know exactly how you feel about Senators. I suppose that every man here has more than $1.50; therefore, you are under suspicion when you come to Washington; but I am one Democrat who is willing to associate with men who have money, if I haven't any. You see, I can trust myself, and that makes you safe too!

Mr. Chairman, I have here a lot of papers but these do not represent my speech. They are merely the exhibits and I will use them very briefly, and I hope, to some value in the advancement of the subject under discussion.

I was much interested in what the first speaker said about calling in experts to assist in the formulation of law. You know, I have had a suspicion for a long time that it would be a good thing if we had some experts who would formulate our laws, and then they would have less trouble about getting them through the Supreme Court after they were prepared.

I liked what the last speaker said about the need for definition of the end sought. That is one thing, I believe, that too often in the Congress we neglect. We are too hasty in our legislation. We do not think out in advance just exactly where we are going. Consequently, we do step on the toes of other people in attempting to do some good act. And so I have thought, may I say to you, Doctor, that it is a great disadvantage to a man who has had a scientific training to be a

Member of the Senate. The same sort of argument that seems to convince the Senate, if it were used by a doctor in determining what to do with the patient, would land him in the lock-up inside of 6 months for malpractice. But that is neither here nor there.

I want to talk, by invitation, about what is needed for flood control. As I said, I have various exhibits here. I couldn't bring my most important exhibit. It lies down at Hains Point on the Potomac River—the flood that is now on and the flood which is going on in various parts of this country. The rivers are rising everywhere, and so far as I can see there is no visible effort being made to prevent these floods.

In the 4th of March speech the President said: "The Ohio River and the Dust Bowl are not conversant with the habits of the interstate-commerce clause, but we shall never be safe in our lives, in our property, or in the heritage of our soil until we have somehow made the interstate commerce clause conversant with the habits of the Ohio River and the Dust Bowl. In the campaign of 1936 you and I and all who supported us took notice of the Ohio River and the Dust Bowl. We said, 'Of course, we will continue our efforts for drought and flood control. For these things we have only just begun to fight.'

"Here, too, we cannot afford, either individually or as a party, to postpone or run away from that fight on advice of defeatist lawyers." (I suppose some of them are here.) "Let them try that advice on sweating men, piling sandbags on the levees at Cairo."

Now, Mr. Chairman, the sweating men on the levees at Cairo, if they knew the facts, would know that last year, as you said, for the first time in the history of the Congress we declared a national policy as regards flood control. It doesn't make any difference how good a policy is on paper, it is without value unless you have some money to carry it into effect. We authorized an expenditure of $310,000,000 to be spent over a period of several years, and definitely authorized $50,000,000 to be included in the appropriation bill of last year in order that the work might be under way at this time. Not a cent of that money was appropriated. To my mind one of the most interesting experiences I have ever had in the Congress is the history of that flood-control bill. It was pending before both bodies for a long time, but on the 2d of June the Senate agreed to the conference report and on the 3d of June the House agreed to it. We adjourned on the 20th of June, and the bill was not signed by the President until the 22d of June, 2 days after adjournment.

It isn't the fault of the Congress of the United States that we are not proceeding with the work now. It is due to the peculiar fate which met this bill. I want to make that clear, because I have sometimes been criticized as a coauthor of the law that I didn't get any money to put it into effect.

I have another exhibit, the message of the President on the 20th of April, in which he says: "I recognize the need for flood prevention and control, but it should be realized that to finance such large immediate expenditures as are contemplated by the majority of the flood-control bills now pending in Congress would impose an unjustifiable burden upon the Federal Treasury."

How is this problem of flood control to be dealt with except by congressional action? They are now frightened to death in Cincinnati about the water coming down the river. That water doesn't originate in the State of Ohio; it begins up in New York and in Pennsylvania, and in West Virginia and Kentucky. The problem, in other words, is an interstate problem. Nothing in the world that Cincinnati can do, or that Pittsburgh can do on its own account, can solve the flood-control problem. It is one which must be dealt with nationally. I am just as good a States' rights Democrat as lives in the world today, but I know that it isn't possible for any community or any State to deal with this problem by itself. There must be worked out a method of control which will be effective, and that can only be done by cooperation between the States and by action of the Federal Government.

There is no better example of what I have in mind than the Connecticut River. There were terrible floods on that river last year in Connecticut and Massachusetts. The water didn't fall on the States of Connecticut and Massachusetts that caused those great floods; the water came from New Hampshire and Vermont, from the mountains up there—and unless there can be some system worked out by which reservoirs can be built in New Hampshire and Vermont the States of Massachusetts and Connecticut will suffer forever from these destructive and deadly floods.

There has been worked out an agreement between four New England States. I am really gratified and surprised at the completeness of the agreement, because as I have said, New Hampshire and Vermont have no direct interest in the floods. It has been agreed, as I understand it, that Massachusetts shall pay 60 percent of the expense, Connecticut 30, and each of the States, Vermont and New Hampshire, 5 percent. When this plan is consummated the work will be carried on by the Army engineers to make possible the building of projects necessary for flood control on the Connecticut River. That seems perfectly reasonable to me, but would be impossible without Federal leadership.

But here I have another exhibit: This is known as S. 1440, introduced by Senators BARKLEY and BULKLEY, "A bill to provide for the control of the floodwaters of the rivers of the United States", etc. This bill proposes to set up seven authorities: The Great Lakes-Ohio Valley authority, the Atlantic seaboard authority, the Missouri River authority, the Arkansas Valley authority, the Columbia Valley authority, the Colorado Valley authority, the Mississippi Valley authority, and then, of course, the T. V. A., already in existence.

I don't know how you feel about it, but personally I am quite unwilling to have a lot more "authorities" set up to deal with these problems. I am willing to trust the Board of Army Engineers. For 150 years they have shown their honesty and integrity and scientific capacity, and they are the ones to do this work.

This bill to which I have just referred provides—and I want you to know this, because I want you to help straighten it out—that each Board shall construct, through the Army engineers, but a Board of Engineers that will be like the Supreme Court when they have a lot of wet nurses to take care of them.

Here we have a law—it is the law which sets forth a policy. Let me read briefly from this law: "It is hereby recognized"—I am quoting from the so-called Copeland-Wilson law—"that destructive floods upon the rivers of the United States, upsetting orderly processes and causing loss of life and property, including the erosion of lands, and impairing and obstructing navigation, highways, railroads, and other channels of commerce between the States, constitute a menace to national welfare; that it is the sense of Congress that flood control on navigable waters or their tributaries is a proper activity of the Federal Government in cooperation with States, their political subdivisions, and localities thereof; that investigations and improvements of rivers and other waterways, including watersheds thereof, for flood-control purposes are in the interest of the general welfare; that the Federal Government should improve or participate in the improvement of navigable waters or their tributaries, including watersheds thereof, for flood-control purposes if the benefits to whomsoever they may accrue are in excess of the estimated costs, and if the lives and social security of people are otherwise adversely affected."

That is the declaration of policy. We set forth, further, that in the carrying out of the projects proposed, no project should be actually undertaken unless it had the full approval of the Army Engineers. That Board must bring to Congress in each instance the facts regarding a project in order that it may be demonstrated that the benefits conferred are in excess of the money spent.

Further, it is expected that the localities shall provide the lands, the easements, the rights-of-way for the projects, and for the reservoir sites. In no instance shall the expense to the Government be in excess of one-half of the cost of the work.

Mr. Chairman, that law ought to be carried into effect. We ought to make this year in the pending Army appropriations bill an appropriation sufficient to do a reasonable amount of this work in this coming fiscal year. We should have done it last year. We provided last year for $50,000,000, expecting in a period of 10 years that this work might be completed. This year we ought to appropriate not less than $60,000,000 in order that we may go forward with it and make up for the dereliction of last year.

It isn't possible for the Golden Triangle in Pittsburgh to be saved from destruction year after year by any efforts that the city may make. I have already said that. And that is true of the other cities down the river. And so, in the interest of the general welfare I think it is plainly the duty of the Congress to provide the money to go forward instantly with the correction of this great evil, recurring floods.

You know it is said that lightning never strikes twice in the same place, but it did. We had that great flood last year on the Ohio and we had a great flood this winter on the Ohio. According to all the reports we are going to have another flood this week on the Ohio. To guard the interest of the citizens of the Ohio Valley these projects should go forward.

I have not spoken of the lower Mississippi. I have exactly the same feeling about that. I have no objection at all to the inclusion in the appropriation bill of this project and the other projects in different parts of the country. Forty States were to be benefited by the Copeland-Wilson law, and in my opinion there is no question whatever that we ought to go forward with the work.

I am glad the last speaker spoke about the National Resources Board. I believe in that Board. I think it is right that there should be a governmental body all the time studying the needs of the country, what can be done to prevent soil erosion, what can be done regarding reforestation, what can be done regarding the development of metals and other mineral products which can be used in the United States. I am glad that Governor Pinchot, the pioneer conservationist of the United States, is here. He started a great work which, if it had been continued, would have made a different United States today than we have because of the failure of the country to go forward with the great plans which he presented.

There is no question about our legal power. We have involved here two matters which are given over to the Federal Government—protection of navigation and the protection of interstate commerce. So long as these floods take place on the Mississippi and on the Ohio, of necessity navigation is interfered with, the docks are put out of business, no longer can the merchants take their goods to and from the docks; there can be no question that interstate commerce is interfered with by reason of these great floods. And so, Mr. Chairman, I hope that your great body will exert itself to help promote this national benefit.

I have great ambitions about your group. I happen to live in New York. I have heard your organization condemned "from hell

to breakfast" on the floor of the Senate. I always have a feeling of resentment in my heart when I hear those criticisms. But I do feel that the great chamber of commerce ought not to overlook a matter which I will mention. You are doing well in the protection of business and in the aiding of business. That is right. We need it. I want to see every citizen in the United States privately employed—not on a dole or on relief. It is only when business prospers that this ideal state of affairs can exist. But in addition to your doing that great work, I beg that you will not overlook the human side, the great social side of these problems. They are just as important in the last analysis as the economic side. We are all human beings. Most of us are fathers of children, and grandfathers. We are anxious to have our United States a decent place in which our descendants may live. The great chamber of commerce can render an enormous service to the country, not alone by dealing with these great business and economic problems, but by helping us on the Hill, some of us who share your views regarding these matters, and at the same time helping us because we are also interested in that other side of human existence.

And so, Doctor, I want the National Resources Board to consider not only the material resources of our country but the human resources as well. When all work to that end we will have a better country and be proud of it as we have a right to be, but we want to be prouder of it as the years go on.

Tom Mooney Has Been Denied Due Process of Law as Guaranteed by the Fifth Amendment to the Federal Constitution

EXTENSION OF REMARKS

OF

HON. USHER L. BURDICK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 1937

Mr. BURDICK. Mr. Speaker, looking over the court record of the Tom Mooney trial where he was charged with participating in the bombing of the Preparedness Day parade in San Francisco in 1916, it appears certain that at the close of the trial there was absolutely no evidence connecting Mooney with the crime. Various witnesses testified to seeing Mooney near the scene of the crime, but since the day of that trial the bulk of that testimony has been repudiated.

The principal agency active in the prosecution of this crime was the Law and Order Committee of the San Francisco Chamber of Commerce, and we can easily remember how intensely patriotic most business organizations were preceding and after the declaration of war. We remember, too, that many businessmen who were so patriotic during the war did not fare too badly as to profits.

When the case was merely one of circumstantial evidence, in the first place, bolstered by evidence, all of which has since been repudiated, it would seem that the State of California is doing itself a great injustice by keeping Mooney longer in prison. From a California standpoint there seems to be no intention of freeing Mooney. California is represented by a progressive group here in Congress, and still the California delegation is silent upon this case. Why all this silence?

The judge who tried Mooney has stated more than once that there should have been a new trial. Who should know more about it than the man who tried the case?

It is a long way to California, but from here it looks like the greatest crime committed in the Mooney case is the crime being now committed by the State of California in retaining a man in prison 21 years when even the circumstantial evidence has been repudiated.

In 1917 the principal witness against Mooney, a Mr. Oxman, repudiated his own testimony. At that time the trial judge, Franklin A. Griffin, requested of the attorney general of California to stipulate with Mooney's counsel that a new trial might be had. When the case reached the Supreme Court of the State of California they refused a new trial, on some technical ground, although a written stipulation for a new trial was before them.

The case came before the Supreme Court of the United States on a writ of certiorari, but inasmuch as no Federal question had been raised, the Court dismissed the writ; not, however, without indicating in what way the case could be brought to that Court. That was never done, and the record is silent as to the reason why the case was never brought back to the Supreme Court of the United States.

President Wilson, of his own motion, in September 1917, requested the Mediation Commission to inquire into the Mooney case. This Commission reported to the President on January 18, 1918, refusing to make any findings as to the guilt or innocence of Mooney, but they did recommend that President Wilson use his good offices with the Governor of California to revoke the order for Mooney's execution. This President Wilson did, resulting in the commutation of Mooney's sentence from death to life.

In 1930 the National Commission for Law Observance and Enforcement, familiarly known as the Wickersham Commission, appointed by President Hoover, made inquiries into the Mooney case, but that part of the report was never made public.

As a matter of interpreting the cold letter of the law, no one outside of the State of California has any right to demand the release of Mooney, but if our Constitution is to be interpreted in the light of right and justice instead of the cold, dead letter of "some law", then everyone in this country has the right to ask: "Why is Mooney kept in prison when the evidence against him has been repudiated, when the presiding judge thinks a new trial should be granted, when the assistant prosecutor thinks the case should be retried, when the trial judge asked the attorney general to agree to a new trial, and when the attorney general of California did actually sign and present to the Supreme Court of California a stipulation to that effect?"

The Constitution of the United States (fifth amendment) says:

> No person shall be deprived of life, liberty, or property, without due process of law.

Has due process of law been followed in the Mooney case? Is it due process of law to keep a defendant locked up in prison when the evidence upon which he was convicted has been repudiated? Is it due process of law to refuse a defendant a new trial when the attorney general of a State stipulates in writing that a new trial can and should be had? Is it due process of law to refuse a defendant a new trial when the judge who presided at the trial announced that the subsequent repudiation of the State's evidence warrants a new trial? Somewhere along the line of the proceedings in this case "our due process of law" contained in the Constitution has failed to come to the rescue of one of its citizens.

Every citizen in this country has the right to inquire why. President Wilson had the right to inquire why; President Hoover had the right to inquire why; this Congress now has the right to inquire why. When California came into the Union she promised to obey the Federal Constitution. It is now up to California to strip aside red tape and intricacies of the law and apply justice and reason to this case and actually extend to Mooney and his codefendant the protecting hand of the Federal Constitution.

There is nothing that destroys confidence in courts quite as fast as to admit that a thing should be done, but because of some "technicality", to say it cannot be done under the law. It can be done, and every court in America is clothed with a power higher than mere words of law—it has the power to do justice and equity in all cases, both civil and criminal.

If President Roosevelt does not feel compelled to follow the example of the World War President, Woodrow Wilson, and have this case investigated on his own motion, then this Congress ought to pass a resolution authorizing a congressional investigation. This report should be published. If it is, the people of California will soon right this wrong.

Contributory Old-Age Benefits and Social Security

EXTENSION OF REMARKS
OF
HON. FRANCIS H. CASE
OF SOUTH DAKOTA
IN THE HOUSE OF REPRESENTATIVES
Monday, May 17, 1937

RADIO ADDRESS BY HON. FRANCIS H. CASE, OF SOUTH DAKOTA, ON MAY 16, 1937

Mr. CASE of South Dakota. Mr. Speaker, under permission to extend my remarks I offer the following talk I gave last night over the Columbia Broadcasting System:

Ladies and gentlemen, Thursday I got a letter from a Republican county chairman in South Dakota. He wrote, "I heard John Hamilton and the two Congressmen in that last broadcast. Sure good to know you Republicans are working on a positive program, down there." And then, he added, "Wish you could get in on that series of talks." Well, when he hears me tonight, he won't be any more surprised than I was—a young fellow, new in Congress—when I was asked to talk.

You know, we Republicans have taken a good deal of kidding since last November. "As goes Maine, so goes Vermont", one wit said. And the Nation chuckled

That was all right. That's America for you. Fight; fight hard. Win if you possibly can. If you lose, smile, and start fighting all over again for what you think is right.

WHO MAKES UP THE REPUBLICAN PARTY?

We Republicans in Congress haven't many Members to work with. Despite the fact that 17,000,000 people voted our national ticket, we have just 16 out of 96 United States Senators, just 89 out of 435 Members in the House of Representatives.

Newspaper columnists mourned over us. Loyal members of our own party doubted that we could do much.

Let's see what we have done.

Let's see if our national chairman was right in a recent broadcast when he said, "The Republican Party is not a party of negation", but one that moves and grows, vigorous and positive.

I have time tonight to visit with you on only one subject. To tell you one thing we Republicans have done in this present session of Congress on one very human problem, vitally affecting folks in my own South Dakota and New York's Broadway as well. That vital, human problem is the problem of human security.

During the last campaign, you may have heard that the Republican Party was against social security.

That was ridiculous on the face of it. Figure it out for yourself. Who makes up the Republican Party? Naturally, the men and women in it. What kind of people are they?

The average person living in the United States gets only $1,200 a year, according to the Department of Commerce. In 1935 only 484,000 people reported incomes of $5,000 and over. Let us suppose that everyone of these 484,000 voted the Republican ticket last November—which they did not—that would still leave well over 16,000,000 Republicans of moderate means, with millions of them getting the country's average earning of only $1,200 a year.

These are the men and women who make up the Republican Party—my kind of people, as they say out our way. They are the Republican Party, ordinary people, struggling, worrying, wanting security.

So you see, when political passions have cooled, facts have a devastating way of puncturing propaganda. Now that we have looked at the record and found that we Republicans are just people, too, wanting social security, let's see what the Republicans in Congress have done about this matter of security—addressing ourselves to the one subject of contributory old-age pensions.

IN FAVOR OF SOCIAL SECURITY

In January of this year, a few days after the present session of Congress opened, Republican Senators VANDENBERG, of Michigan, and TOWNSEND, of Delaware—representing the Republicans in the Senate—and Republican Representatives REED of New York and JENKINS of Ohio—representing the Republicans in the House—met with the best specialists that Mr. Hamilton could invite to Washington—specialists who were politically nonpartisan and in favor of social security.

Their studies centered on the part of the law relating to wage taxes for Federal old-age benefits. This disclosed that the money collected by the wage taxes from employers and employees, instead of actually going into a fund from which pensions will be paid automatically, will create a so-called reserve fund, deposited in the National Treasury, which will eventually reach $47,000,000,000; that, as Secretary of the Treasury Morgenthau has testified, these funds will be available to buy Government bonds—borrowed, in other words—for a bookkeeping reduction of the national debt; and that later Congresses will be expected to levy taxes to pay the interest on the bonds and then appropriate the interest revenue to pay the old-age benefits.

These findings resulted in a joint resolution, introduced in the Senate by Senator VANDENBERG and in the House by Representative REED, calling upon the Social Security Board to prepare plans for improving the act:

First, to increase the pensions to those retiring within the next 10 or 20 years, who would have accumulated very little by their pay-roll payments and thus would receive only small monthly benefits.

Second, to commence payment of pensions in 1939, instead of waiting until 1942 as the present law provides. We need security now.

Third, to provide that the pay-roll tax remain at the present level of 2 percent for at least 5 years, instead of increasing to 6 percent by 1949. The studies showed this could be done.

The resolution also asked the Social Security Board to study the possibility of extending the contributory old-age benefits to large groups to whom the door is closed by the present act.

In other words, we want to lower the taxes, but increase, hasten, and extend the benefits by eliminating the costly and needless reserve device and using a pay-as-you-go plan. The $47,000,000,000 bond reserve is dangerous because it stands as a perpetual invitation to maintain an extravagant public debt. Instead of a guaranty of benefits, it could become a device to provide a market for Government bonds, saddling a mounting interest burden onto taxpayers who have already paid in their wage taxes. Such a reserve is not necessary because the Government, unlike a private insurance company, is guaranteed a continuous flow of revenue through taxation.

TESTIMONY OF A DEMOCRATIC NEWSPAPER

The New York Times is a Democratic newspaper. It supported Mr. Roosevelt for election in 1932 and for reelection in 1936. The Times has called the Republican resolutions "a rational and unbiased reconsideration of the Social Security Act" and points out the needless extra cost to the workers and the taxpayers of the huge reserve fund.

Arthur Krock, chief of the New York Times' Washington bureau and admittedly closer to President Roosevelt than any other newspaperman, said—and I quote words from the New York Times of February 3, 1937—The Republicans have "approached the problem as national, nonpartisan, and economic, too worthy to be the object of a political gesture." The Republican resolution, said Mr. Krock (and again I quote his words) "is a sympathetic approach to the Social Security Act with a view to getting essential improvements. It can be seen", he said, "that this is neither sniping nor the old political device of trying to dig a hole for the enemy."

After this praise, Mr. Krock suggested that the resolution might be pigeonholed and forgotten by the New Deal majority.

Was it? It was not. What happened?

On Tuesday, May 11, another dispatch appeared in the New York Times. It said, and I quite the Associated Press: "A Republican movement to revise the Social Security Act brought the appointment today by the Social Security Board and the Senate Finance Subcommittee of an advisory council of 24 to study possible fundamental changes in the law."

Now, the Social Security Board is not a Republican board. There isn't a single Republican on it. The Senate Finance Subcommittee is not a Republican committee. The only Republican member is Senator Vandenberg.

So here we have a factual, unbiased account in a democratic newspaper pointing out that the handful of Republicans in Congress has led the majority party to consider a vital improvement in the Social Security Act.

WE PROPOSE CONSTRUCTIVE COOPERATION

At this point I want to commend the people who are administering the Social Security Act. They, probably more than anyone else, realize the shortcomings of the act as it now stands. And without stubbornness, they have voluntarily agreed to our Republican proposal.

Both groups, those who worked on and those who have accepted the suggestions in good spirit, furnish a splendid example for America today. This attitude of constructive cooperation is what the country needs and what the Republican Party will encourage. We need, in public affairs, the courtesy that respects the sincerity of people with whom we may not always see eye to eye. National name calling is not the road to national unity.

In the West we have an old unwritten law. If a traveler came to a homesteader's shack, he could put up for the night even if the owner was away. He could use his bacon and flour but was expected to wash the dishes. If a stranger came to a miner's cabin and found himself cold and weary, he could build a fire, warm himself, and rest. But before going on his way, he split more kindling so as to leave the pile just as large if not larger than he found it.

That, I think, is the true spirit behind social security. We must not throw onto the backs of the next generation the burdens we should have carried in our own generation. Indeed, we must do better and bring in the day when people can approach old age without worry and without fear. The true spirit of America is the spirit of people on the march, determined that if they themselves do not enter the promised land, at least they will bring their children nearer to it. That must be the spirit behind the service of any political party in America. And it is the spirit of the Republican Party in this program which I have described tonight.

Civilian Conservation Corps

EXTENSION OF REMARKS
OF
HON. WARREN G. MAGNUSON
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Tuesday, May 11, 1937

Mr. MAGNUSON. Mr. Speaker, under leave to extend my remarks in the RECORD relative to H. R. 6551, a bill to establish the Civilian Conservation Corps, under consideration in the Committee of the Whole House, Tuesday, May 11, 1937, and passed by such body on the same date, with sundry amendments, I wish to submit the following supplemental observations to my own remarks and to the debate of that day.

Much was said relative to the benefits to the youth of the Nation from these camps. Having some knowledge of the inner workings, and fully appreciating the tenor of the newly proposed bill, I believe it goes without argument that this phase of the so-called New Deal has been of inestimable value to the participating youth of the Nation. The C. C. C. contains three phases of benefits. One, enhancement of the moral and physical well-being of those enrolled; two, the resulting benefits to our natural resources and future national wealth from the operation; and, three, the relief given to unemployment.

The first result must be conceded, and this direct benefit in turn has a further result, touched upon only lightly in the discussion. This one advantage alone, if figures could be obtained, might well justify the entire cost of the operation of these camps. All of the enrollees are young men between the ages of 17 and 23 years, not only in needy circumstances but without employment. It has often been well said, "They were walking the streets of our cities." Many Members of Congress have at one time served in the capacity of prosecuting attorney and in prosecution work, I am sure, one of the things most forcibly brought to their attention and most bemoaned by them was the number of young men around the age of the enrollees in these camps that became involved in crime. Even as late as 1934 the average age of the inmates in the penitentiaries of the United States was 23 years. The annual crime bill of the United States runs well over a billion dollars. If this figure could be broken down, one would find that at least 50 percent of the cost of this intolerable situation involved the youth of our country. What has been the actual decrease in crime cost by youth since the operation of these camps has not been compiled. Could that be done, some startling facts would evolve. I know, as a former prosecuting attorney in a large metropolitan area, serving a term of office that began just prior to the operation of these camps and ending when they had been established for a considerable period, that in one section of the city alone wherein youth delinquency was the highest, after the recruiting of young boys living in that district to these camps, the situation immediately became more tolerable. It is common knowledge to those with some experience in the crime problem that most youths who become so involved do so not because of any inherent criminal tendencies but because they find themselves without occupation and with too much idle time. Everyone of the enrollees of the C. C. C. camps, being as they are in circumstances that would justify their enrollment, and coming under the necessary specifications, were potential youthful offenders of the laws of our State and Nation. These young men are now beyond that environment. The cost of taking them away from such environment is of minor consequence when compared to the almost assured possibility that trouble lay ahead for most of them had they continued in such circumstances.

It costs as much per capita to maintain a reformatory as a C. C. C. camp. I have talked to many inmates of reformatories. In almost every instance the boy was unemployed, in needy circumstances, and idle at the time he became entangled with the law. And it was distressing to note in cases that some of these inmates had tried to enter the C. C. C. camps. Not that all C. C. C. enrollees would be inmates of reformatories were it not for the C. C. C. camps, but I strongly urge that they, in their past circumstances, were potential candidates through no fault of their own. At the time of the establishment of these camps the Department of Justice was urging three additional Federal reformatories. In the past 4 years that need has been obliterated. In my own State—Washington—the Monroe Reformatory was crowded in 1932; 1937 finds the number of inmates greatly lessened despite increase in population. This same situation must exist in other sections of the Nation, especially in metropolitan centers from whence 45 percent of these enrollees were recruited. I am advised, and this coincides with my conclusions, of the fact that the establishment of these C. C. C. camps, which at one time took care of 2,000,000 needy, is responsible. Can we spend money in any better way? Is not the moral well-being of our youth beyond dollar-and-cents value? I think so and so do you. What have we now? Young men with a different outlook on life, young men filled with the character and thought that has made America great and insures its future.

Consider the fact that the demand for C. C. C. enlistment far exceeds the available vacancies. Why would a young man or his family be so eager to take such a position at a meager financial return if there were available private employment that, at its lowest, would pay more than triple the C. C. C. salary? Lacking job opportunities such a group must perforce be idle or go to school. Financially school is out of the question for a great percentage of these young men. A further large percentage, according to the director in charge and in the opinion of many educators, are unsuited for further formal schooling.

One and eight-tenths percent of the enrollees have been located in my State. Almost all of them are from the streets of large Eastern cities. They have learned to love the Pacific Northwest, with its mountains, forests, streams, islands, bays, and wealth of natural resources. Many of them will remain after their term of enrollment to make new homes in this great, undeveloped section which they, with their own hands, have helped to improve. We of Washington welcome them. We have no fear of their future devotion to good citizenship.

We pass over the second phase of this great project with a few brief remarks. The natural resources of a country constitute its national wealth. The President of the United States had this in mind in the creation of these camps and it was one of the chief motives behind the inception of the idea. When the President proposed the C. C. C. camps in his message to Congress on March 21, 1933, he made this succinct statement:

> I propose to create a Civilian Conservation Corps to be used in simple work, not interfering with normal employment, and confining itself to forestry, the prevention of soil erosion, flood control, and similar projects. I call your attention to the fact that this type of work is of definite, practical value, not only through the prevention of great present financial loss but also as a means of creating future national wealth.

The accomplishments of the corps relative to our national resources have been great and the value of their work to future generations is untold. Reforestation, soil erosion, road building, botanical preservation, and clearing of wilderness have been their main source of work. Camps doing this work have been established in all sections of the country. During the debate numerous Members of Congress gave testimony to accomplishments in their particular localities and reiterated that the benefits from the operation of these camps far exceeded the cost. We, of the Pacific Northwest, probably appreciate this beneficial phase of the project more than in any other section of the country. The last remaining stands of virgin timber lie in our districts. For many years these forests have been ravaged by fires. The loss incurred has run into billions of dollars. It is significant that since the advent of the C. C. C. in the Pacific Northwest, since the establishment of camps and the blazing of trails

and underbrush clearing, these forest fires have decreased approximately 986 percent over previous years. Generally speaking the Pacific Northwest, and particularly the State of Washington which contains the largest of the virgin timber stands, has been without any single grave forest fire since 1933. This one thing alone has convinced the people of that section that the expenditure has been the best forest fire insurance we could have purchased, at a premium remarkably low.

Going into intrinsic values, the work by these boys in enhancing the beauty of our section cannot be estimated. Many of the criticisms of this cost came, as usual, from the minority side, the Republican Members of Congress. Little was said about the returns to our national wealth from these operations in dollars and cents. This may be because the benefits are so great and so far-reaching into the future that no dollars and cents value can be placed upon them. I believe, however, that as time goes on future generations will more than realize that it was a sensible national investment. I quote from Mrs. Roosevelt's column:

> I was interested to find that the C. C. C. camps nearby is one where boys from the lower East Side of New York are learning what the far West is like. The State of Washington is rich in natural resources.

Much of the criticism, to my mind, in view of some of the results already obtained, was in the nature of being penny-wise and pound-foolish.

Of more present importance, however, than the two phases briefly discussed is the question of unemployment among the youth of our Nation. Basically, the emergency necessitating the C. C. C. was that of unemployment, and any discussion in the House relative to the continuation of this legislation must squarely face this problem. Until we solve the problem of unemployment of youth we are responsible for their well-being. The direct responsibility for this solution lies more with this body than any one other single group of people. We have not solved that problem. We cannot, therefore, with good grace conscientiously criticize legislation, the cost, or the motives that create a project to take care of these unemployed youth in as fine a way as possible when we ourselves are more or less responsible for their plight. There are those here today who intimated that we should let these youths shift for themselves. It seems to me that I heard during the course of the afternoon's debate a familiar ring that was once summed up by a former President with the term "rugged individualism." There were those who said the youth of the country could now obtain employment in private business. We know this is not true. We know that today a young man between 17 and 23 years of age, coming out of school, has a more difficult time finding employment than ever before in the history of our country. It was somewhat amusing to hear the critics of this bill make such statements, amusing because we know that even some of these same critics have sons between these very ages, and they know how difficult it is to get them placed in private employment. The Secretary of Labor says:

> To an increasing extent the corps has proved its usefulness in breaking the vicious circle which arises from the fact that youths just out of school are unable to obtain jobs without experience and are unable to get experience without jobs. The Civilian Conservation Corps camps are, in many instances, providing the first work experience for young men who have been unable to find any remunerative employment since leaving school. Both the age of new enrollees and their previous employment records bear this out. Reports to the Department of Labor show that during the past year well over half of the youths selected for the corps under its direction were either 17 or 18 years old. Three-fourths of them have not reached their twenty-first birthday.
>
> Even though, as business conditions improve, the families of these youths may have enough income to support them, the enforced idleness of boys 17 to 21 years of age, who are not interested in further schooling of the traditional type and who are ready and anxious to work, is psychologically undesirable and more far-reaching in its social consequences than dependency in old age. Furthermore, at no time in the lives of these young men does a social investment in their training, physical development, and character building yield more in the way of future social gains than in the years between school and their eventual absorption in normal employment in their home communities.

Unemployment has not been solved. It is still here. Its problem becomes greater as man progresses in our inventive and machine age. The Democrats, my party, have not solved it. We are moving, however, in the right path. The Republicans have done nothing. This is one piece of legislation in the right direction. We are going to continue along this front. American youth is not to be a lost generation. A nation's wealth lies in the character of its young men, its natural resources, and in a contented working people. This legislation preserves all three. The only danger I can see in the project is the implication of tendencies of fascism. But when we weigh that possibility against the necessity of taking care of youth in this manner, with its resulting benefits, we must conclude to go ahead thusly until unemployment is solved. We can only trust that the President of these United States will not allow the set-up to be so abused or misused to the extent of the complete regimentation of American youth. I am confident that we can justify, from past experiences, such faith so placed in him.

These C. C. C. camps strike at the very heart of unemployment among youth, and until we solve that problem they are a necessary part of governmental paternalism to its people, a paternalism that returns to our Nation, in material wealth, many times over the dollars expended and returns to each community former unemployed, needy, and almost helpless young men and women as good, clean, strong Americans.

Proposed Committee Act of 1937

EXTENSION OF REMARKS

OF

HON. CLARENCE F. LEA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1937

Mr. LEA. Mr. Speaker, on the 11th of May 1937, I introduced H. R. 6968, a bill to amend the Securities Act of 1933, by adding a new title to that act providing for the regulation of solicitations and other matters in connection with reorganizations and voluntary readjustments and debt arrangements. The bill proposes that the legislation when enacted shall be known as the Committee Act of 1937.

I annex hereto a brief analysis of the principal provisions of this bill.

It is the purpose of the Committee on Interstate and Foreign Commerce, of which I am chairman, to take up the consideration of this bill as early as the work of the committee will permit.

The purpose of this bill is to give greater protection and more faithful representation to stockholders and bondholders in reorganization proceedings. It applies alike to voluntary and involuntary proceedings, to municipal and foreign debt arrangements, as well as to corporate reorganizations.

The need for legislation of this type is disclosed by the studies of the Securities and Exchange Commission made pursuant to section 211 of the Securities Exchange Act of 1934. In public hearings and in reports to Congress the Commission has shown that under present reorganization procedures it is not only possible but all too common for selfish predatory interests to set themselves up as a so-called protective committee, which purports to represent the interests of the investors, and to solicit and obtain the support of substantial numbers of security holders.

When a business enterprise gets into financial difficulties, or when a readjustment of its capital structure becomes necessary, it is impracticable, if not impossible, for small security holders scattered through many States to take individual action for the protection and enforcement of their rights. Adequate information with respect to the true financial condition of the distressed company may well be unavailable. The expense to individual security holders of individual action is prohibitive. They cannot even communicate with other security holders because the lists of the names and addresses

of the investors are commonly monopolized by the issuing company, its management, or its underwriters.

Thus the unfortunate investor has but little choice. He is largely helpless to help himself. He is at the mercy of self-constituted and self-appointed committees whose objectives are frequently incompatible with the objectives of the investors. He may throw in his lot with those who announce themselves as his protectors—on terms dictated by them—and trust to their fairness and honesty, or he may remain aloof and take his chances on receiving his fair share in the ultimate settlement.

These protective committees have a useful, legitimate function to perform. When they are dominated by such selfish groups their function is perverted, if not destroyed.

Investors require protection against protective committees more interested in enriching themselves from the fees, commissions, and other emoluments incident to the reorganization than in honestly and competently representing the security holders whom they purport to protect. They require protection against reorganization committees whose primary interest is in retaining or gaining control of the reorganized enterprise for the sake of the profits which may accrue to them by reason of that control. They require assurance that committees will have as their major objective the rebuilding of the enterprise, on a sound business basis, for the benefit of stockholders, bondholders, and employees. And they require that this be done expeditiously, efficiently, and economically.

Protective committees are frequently guilty of withholding pertinent information from security holders. Many protective committees are exempt from the disclosure requirements of the Securities Act of 1933, and, so far as committees are concerned, the Securities Exchange Act of 1934 is of limited application. The first step, therefore, in setting up a system of administrative control is to impose disclosure requirements, similar to those of the Securities Act, upon persons who assume to solicit authorizations to represent security holders or to solicit their assents to reorganization plans. Under this bill such persons are required to file a declaration similar to the registration statement required under the Securities Act, and to furnish to the persons solicited a prospectus similar to the Securities Act prospectus.

If the legislation were to be limited to disclosure requirements, however, the Commission would still be powerless, where full disclosure was made, to regulate or control the practices of reorganization committees and the standards of their membership. The Commission's study reveals that, with few exceptions, the management and bankers of the company have been able, through possession of the lists of security holders, to control the selection of protective committees and to dominate their activities. The old management and its underwriters may be interested in concealing possible causes of action against themselves or in preserving for themselves control of the reorganized enterprise and the monetary advantages that flow from such control.

On many occasions committees have had other interests actually adverse to the interests of the security holders they purport to represent. In others they have been dominated by individuals who had no interest but to wrest control of the enterprise from those presently in power. In such cases disclosure of the facts is of little practical utility for, as stated above, the individual investor has no real alternative but to authorize such persons to represent him however gross the conflict of interest and however oppressive the terms dictated by the committee. He is still at the mercy of an unfair committee or an unsound plan. It will be of small comfort for him to know that those who purport to represent him are disqualified. When abuses of this character become persistent and widespread, injury to the capital markets, to investors, and the general public inevitably follows.

Accordingly the system of administrative control proposed by the bill goes beyond mere requirements of disclosure. It provides, through an extension of the refusal and stop-order devices contained in the Securities Act, a means of preventing persons who have palpably conflicting interests from assuming to act in a fiduciary capacity; from reserving to themselves rights, privileges, and immunities inconsistent with their position as fiduciaries, and from usurping unnecessary, arbitrary, and oppressive powers. Where the evil exists and is discovered before the declaration becomes effective a refusal order is issuable under sections 6 or 7, the effect of which is to prevent such solicitation by use of the mails or instruments of interstate commerce.

When the evil does not arise or is not discovered until a later date, a stop order will be issuable under section 9, which has the effect of preventing further solicitation by the use of such means, and of invalidating authorizations or assents previously obtained, unless the Commission otherwise orders. In this way the uncontrolled right of committees to determine their own fees and expenses, to trade in securities of the company and otherwise to profit from their fiduciary position, and provisions relieving the committee from liability for breaches of its fiduciary duties are to be outlawed.

Committees are thus to be prevented from soliciting the deposits of securities where deposits are not necessary, and from imposing unreasonable restrictions on the right to revoke a proxy or deposit. Committees may not solicit assents to a plan which has been proposed by persons who have no bona-fide interest in the reorganization or whose interests obviously conflict with those of the security holders. Nor may a committee prejudice a court's determination as to the fairness of a plan, and deprive security holders of the protection thus afforded, by soliciting and marshaling assents to the plan in advance of such determination.

In addition, except in the case of municipal or foreign-debt arrangements, the Commission is to be vested with the power, and in some cases the duty, of rendering advisory reports with respect to plans. Copies or approved summaries of these reports must be included in the prospectus. The Commission is likewise vested with the power, and in some cases the duty, to intervene in certain judicial proceedings.

Similar abuses have been found to exist in the field of municipal and foreign-debt readjustments and to a degree similar administrative controls are established for committees operating in those fields.

Further protection is afforded to the holders of defaulted foreign bonds by prohibiting the use of the mails or instruments of interstate commerce in the repatriation of such bonds at the reduced prices induced by the default.

COMMITTEE ACT OF 1937—ANALYSIS OF THE BILL BY SECTIONS

Scope of solicitation control: The bill, by section 4 (a) thereof, prohibits the use of the mails or any means or instrumentality of interstate commerce to solicit proxies or deposits in connection with reorganizations or municipal or foreign-debt arrangements, or to solicit proxies, deposits, or assents in connection with voluntary readjustments, except in accordance with certain declaration and prospectus requirements. Persons who cause any such solicitation or who permit the use of their names in any such solicitation are subject to the same requirements. The foregoing provisions are, broadly speaking, comparable to the registration and prospectus requirements of the Securities Act of 1933 with respect to the offering, sale, and delivery after sale of securities (sec. 5 of the Securities Act).

A "proxy" is an authorization to act for or to represent a security holder which involves the exercise of discretion (sec. 2 (15)). A "deposit" is a surrender of custody or possession of a security which constitutes an authorization to act for or to represent a security hold (sec. 2 (16)). And an "assent" is an assent to a plan, or an authorization to assent to a plan, other than an authorization evidenced by a proxy or deposit (sec. 2 (13)).

"Reorganizations" include proceedings for reorganization under section 77B of the Bankruptcy Act and receivership, rehabilitation, and foreclosure proceedings (sec. 2 (5)).

"Municipal-debt arrangements" include modifications and exchanges of securities issued or guaranteed by political subdivisions or public instrumentalities of States or Territories, or any assertion of rights on any such security, but do not include exchanges exclusively for cash (sec. 2 (9)).

"Foreign-debt arrangements" include similar transactions when effected with respect to securities issued or guaranteed by foreign governments or political subdivisions or instrumentalities thereof (sec. 2 (10)).

"Voluntary readjustments" include statutory mergers and consolidations, sales of substantially all the assets of a "person", and modifications or exchanges of securities for which the vote or consent of security holders is required, unless such merger, consolidation, sale, modification, or exchange is effected in the course of a "reorganization" or "debt arrangement." Sales and exchanges exclusively for cash or other property are not included, and in addition, the Commission is empowered to exclude modifications and exchanges which do not have a substantial effect on the security holders. Section 2 (7).

A "plan" is the general arrangement designed to effect a reorganization, voluntary readjustment, or debt arrangement. Sections 2 (6), 2 (8), 2 (11), and 2 (12).

Exemptions: Section 3 (a) exempts certain solicitations from all provisions of the act except sections 16 and 23. Section 16 prohibits solicitation by fraudulent or misleading methods, and "puffing" by ostensibly disinterested persons without disclosing the fact that a consideration is being received by them. Section 23 provides criminal penalties for violations of the act.

Where any person has, prior to the effective date of the bill, obtained assents to a readjustment plan, or proxies or deposits in respect of the support of any plan, from the owners of 50 percent or more of any class of security, any further solicitation of assents, proxies, or deposits in respect of such plan, whether by the same or any other person, is entitled to the exemption provided by section 3 (a) (1).

Solicitations in respect of securities issued or guaranteed by the United States or by Federal instrumentalities, or by any State or Territory or by the District of Columbia, are similarly exempted. Paragraph (7). The exemption provided with respect to securities issued or guaranteed by political subdivisions or public instrumentalities of States applies only to solicitations by the subdivision or instrumentality and its employees, however. It does not cover solicitations by others, including independent contractors or agents not in the regular employ of such subdivision or instrumentality (par. (8)).

Solicitations in connection with reorganizations or readjustments of interstate railroads or in connection with reorganizations or readjustments under the supervision of the Comptroller of the Currency or of banking or insurance commissioners or similar officials, and solicitations in respect of short-term commercial paper and securities of eleemosynary institutions and farmers' cooperatives are also exempted (pars. (2) to (6), inclusive).

Paragraphs (9) and (10) of section 3 (a) are designed to exempt solicitations by a person in respect of securities in which he has a beneficial interest, and solicitations by financial and investment services.

In addition, the Commission may, by rule and regulation, exempt additional classes of solicitations, where the amount of outstanding securities of the class to be solicited is less than $100,000, or where the solicitation is of such a limited character that compliance with the requirements of the bill is not necessary in the public interest or for the protection of investors (sec. 3 (b)).

Finally, provision is made that the act shall not prevent groups of not more than 12 security holders from acting jointly on their own behalf, through a representative or otherwise (sec. 3 (c)).

Declaration machinery: Section 5 of the bill establishes machinery not unlike the registration machinery of the Securities Act (secs. 6, 7, and 8 thereof) for the filing of a declaration and the becoming effective thereof and of amendments thereto. In the case of solicitations of proxies or deposits, the declaration must be filed by the person who is to exercise the authority conferred by such proxy or deposit. In the case of a solicitation of assents in connection with a voluntary readjustment, the declaration may be filed by the person who proposes to solicit, cause to be solicited, or permit the use of his name to solicit such assents. A declarant may designate in his declaration, or in any amendment, persons who are to be authorized to solicit on his behalf. The declaration becomes effective only as to the declarant and such authorized solicitors, and the regular salaried employees of either.

As under the Securities Act, the requirements with respect to the information to be contained in the declaration are set forth in schedules annexed to the bill. Schedule B is applicable in the case of municipal- or foreign-debt arrangements and schedule A is applicable in the case of all other reorganizations and readjustments, voluntary or otherwise. Both schedules outline the information required to be furnished with respect to the issuer, its capital structure and financial condition; the identity of the underwriters of its outstanding securities; the declarant and its affiliations and interests; the purposes for which and terms upon which the solicitation is to be made; the persons proposing the plan and their affiliations; and a detailed description of the plan itself. The Commission is given power to add to or subtract from these requirements as the public interest or the interest of investors requires or permits (secs. 5 (a) (1) and 5 (a) (3)). Further flexibility is given by a provision permitting the omission of information which is not obtainable by the declarant without unreasonable effort or expense, or which rests peculiarly within the knowledge of an independent third party (sec. 5 (a)).

A declaration becomes effective within such reasonable time—but not less than 20 days—after the filing thereof as the Commission may fix by rule and regulation, unless the Commission, having reason to believe that grounds for the issuance of a refusal order exist, issues an order to show cause why the declaration should become effective. If a show-cause order is issued, an opportunity for hearing thereon must be given within 10 days, and within a reasonable time thereafter the Commission is required to enter either an order fixing the date on which the declaration will become effective, or an order under section 6 or section 7 refusing to permit the declaration to become effective as to one or more or all of the persons designated in the declaration (sec. 5 (c)). The grounds for issuance of a refusal order are discussed at a later point in this memorandum.

Exemption from Securities Act: A solicitation which is subject to this bill may also under some circumstances constitute an offering of a security for which registration under the Securities Act of 1933 would be necessary. For example, a solicitation of deposits may constitute an offering of certificates of deposit. And a solicitation in respect of a plan may involve the registration of the securities issued or to be issued under the plan in exchange for securities of the class to be solicited. In order to avoid unnecessary duplication, therefore, section 4 (b) exempts such securities from the necessity of registration under the Securities Act if a declaration is effective as to such solicitation.

Refusal orders; (1) Qualification of declarant: Paragraph (1) of sections 6 (a), 6 (b), and 6 (c) is intended to insure that the declarant is a bona-fide security holder or the direct representative of a bona-fide security holder. Under these paragraphs the Commission must refuse to permit a declaration to become effective unless it finds that the declarant or, if a committee, each member thereof, is the beneficial owner or the representative of a beneficial owner of securities of each of the classes to which the declaration relates, or in the case of municipal or foreign debt arrangements of at least one of such classes. If the declarant proposes to solicit two or more classes of security holders, the Commission must first find that there is no material conflict of interest between such classes or that such action is necessary or appropriate in the public interest or for the protection of investors (par. (2) of secs. 6 (a), 6 (b), and 6 (c)).

A refusal order must also issue in the case of reorganizations or voluntary readjustments unless the Commission finds that neither the declarant nor any member thereof is the issuer or is or was within 1 year prior to the filing of the declaration, a director, officer, partner, or employee of the issuer. Paragraph (3) of section 6 (a) and 6 (b). In the case of a voluntary readjustment, as distinguished from

a judicial reorganization, however, a representative of a majority of the directors elected by a particular class of security holders may solicit members of that class. These provisions give recognition to the fact that the "issuer" is in reality the management, and that the management is the representative only of those who elected it. They also take into account the further fact that when the problems confronting the issuer have become so serious that their solution requires resort to reorganization in the courts, the time has come for the management to give an account of its stewardship to all security holders, including those who elected it, and that its interest, actual or potential, in concealing its possible shortcomings and in retaining its position in the reorganization is such as to disqualify it from soliciting authorizations to act in a representative capacity. Section 10 (a) (4) (C) is intended, among other things, to prevent ready circumvention of the principle embodied in this distinction, through soliciting authorizations or assents to a plan as a voluntary plan, although court proceedings are imminent and in fact follow.

Under paragraph (3) of sections 6 (a), 6 (b), and 6 (c), the Commission is required to find that neither the declarant nor, if the declarant is a committee, any member thereof, is or was an underwriter of any outstanding securities of the issuer, or is or was within 1 year prior to the filing of the declaration a director, officer, partner, or employee of such an underwriter. The underwriter's interest in concealing its possible shortcomings in the flotation of the securities or in its dealings with the issuer, and its interest in preserving its control of the issuer and retaining the emoluments of such control, make it necessary to disqualify it and its officials from acting in a fiduciary capacity with respect to any class of securities of the issuer.

In addition, by paragraphs (3) to (7), inclusive, of section 7, the Commission is authorized to refuse to permit a declaration to become effective if it finds that the declarant or any member thereof owns or represents any securities, claims, or interests, the ownership of which involves a material conflict with the interests of the security holders to be solicited; or if it finds that the declarant or any member thereof stands in such relation to a person who would be disqualified from being a declarant as to make it necessary or appropriate in the public interest or for the protection of investors to disqualify the declarant or such member; or if it finds that the declarant has authorized any person to solicit who would be disqualified from being a declarant; or if it finds that unlawful methods of solicitation have been or are being employed by the declarant or any member thereof or any authorized solicitor.

Refusal orders; (2) solicitations relating to plans: In the case of solicitations of proxies or deposits constituting an authorization to accept, approve, or assent to any plan, and in the case of solicitations of assents to plans of readjustment, the Commission must find that such solicitation is in respect of a specific plan. Sections 6 (a) (6), 6 (b) (5), and 6 (c) (5). These provisions are intended to prevent the solicitation of general authority to assent to a plan which has not yet been formulated. Security holders are thus to be given an opportunity to see what is covered by their assent or authorization to assent. Further protection is given by the restrictions on the purposes for which deposits may be solicited, and the provisions with respect to the terms and conditions on which solicitations may be made, which are referred to below.

In addition, the Commission may refuse to permit a declaration to become effective if it finds that such plan is not being proposed in good faith, or that it is not being properly proposed within the meaning of section 11 or that it does not conform to the requirements of section 12.

Under section 11, the person proposing the plan must be the beneficial owner, or the authorized representative of a beneficial owner, of securities of or claims against the issuer, or a trustee under a trust indenture qualified under the Trust Indenture Act of 1937, or a duly authorized court officer. A plan may be deemed to be improperly proposed if any person proposing the plan, or causing it to be proposed, is an underwriter or is or was within 1 year prior to the filing of the declaration, a director or officer of an underwriter, unless the persons proposing the plan have a substantial security interest in the issuer. In the case of reorganization plans similar restrictions apply to directors and officers of the issuer.

Section 12 requires that the plan make adequate disclosure of arrangements for underwriting, for obtaining additional cash or capital, and for the management of the continuing or reorganized company, and adequate disclosure also of the fees and expenses to be paid and the treatment to be accorded the various classes of security holders.

In the case of reorganizations pending before Federal or State courts, officials or agencies having jurisdiction to pass upon the fairness and equity of the plan, a determination on that issue is a prerequisite to solicitation of authorizations in connection with the support, adoption, or approval of the plan (sec. 6 (a) (5)). And in the case of reorganizations pending before Federal courts, officials, or agencies, the Commission must have been given an opportunity to render an advisory report on the plan in advance of such determination, if the indebtedness of the issuer exceeds $5,000,000. The Court is thus given an opportunity to make an informed determination on the issue of fairness and equity, free from the indefensible pressure of a mass of assents and authorizations solicited before the determination is made. And the security holders are afforded the additional protection of Court scrutiny of the plan before they are called upon to commit themselves. Further, under section 10 (a) (4) (B), provision must be made that the authority conferred by the proxy, deposit, or assent will cease upon rescission of the approval order, or on amendment of the plan, unless the Court finds that such amendment does not materially affect the fairness and equity of the plan.

In order to prevent evasions of the requirements with respect to Court approval of reorganization plans, as well as to protect the security holders solicited from being misled as to the seriousness of the situation, where judicial proceedings are imminent and in fact follow, section 10 (a) (4) (C) requires that all authorizations and assents solicited in respect of a plan as a "voluntary" plan provide that the authority conferred thereby is to terminate if reorganization proceedings are subsequently instituted and, in the case of involuntary proceedings, are not dismissed within 60 days.

Refusal orders. (3) Terms of solicitation: In the case of solicitations of deposits the Commission must find that the authority conferred by such deposit is to be limited to the purposes for which deposits are authorized by section 10 (a) (5). Those purposes are the tender of the deposited securities in order to bid for or purchase property of the issuer at judicial or foreclosure sale, pursuant to the plan, or in order to effect an acceptance of the plan or an exchange of the securities pursuant thereto; and the institution of suits and the collection of partial payments where deposits are necessary for those purposes. The Commission may permit the solicitation of deposits for other purposes, where the Commission deems it necessary for the protection of investors (sec. 10 (a) (5)).

The Commission must also find that adequate provision is being made for the independent review and determination of the fees and expenses of the declarant, and for at least an annual report and accounting by the declarant, in the form required or approved by the Commission, copies of which report and accounting are to be filed with the Commission (secs. 10 (a) (1) and 10 (a) (2)). And the Commission must find that adequate provisions have been made prohibiting the declarant and its members, and their affiliated interests, from trading in securities of the issuer or certificates of deposit therefor, while acting in a fiduciary capacity, or from having or acquiring business relations with the issuer or the successor company, otherwise than as director, officer, or employee (sec. 10 (a) (3)). The provisions with respect to trading by the declarant and its members are reinforced by the express prohibition contained in section 15.

In addition, the Commission may refuse to permit a declaration to become effective, if the solicitation is not subject to

satisfactory limitations on the employment of attorneys having or representing materially conflicting interests, and satisfactory provisions with respect to the rights, powers, duties, and liabilities of the declarant (secs. 7 (8) and 10 (b)).

Refusal orders; (4) other grounds: The Commission may also refuse to permit the declaration to become effective if it finds that the declaration or prospectus does not conform to the requirements of the act or that it contains material misstatements or omissions (secs. 7 (1) and 7 (2)).

Prospectus: Under section 8 the prospectus which is required to accompany or precede the solicitation must contain such of the information contained in the declaration, and such additional information, as the Commission may prescribe. In addition, the prospectus must include a copy or approved summary of any court opinion with respect to the fairness and equity of the plan, and of any report rendered by the Commission with respect to the plan.

Reports by Commission: Under section 13 the Commission is required to render a report on any reorganization plan pending before a Federal court, if the indebtedness of the issuer is $5,000,000 or more, unless the Commission deems that by reason of its status as intervenor it can otherwise present its views to such court.

In addition, the Commission may render a report on any other reorganization plan, upon request of the court which has jurisdiction to approve such plans.

Finally, the Commission may render a report on any plan (other than a plan of debt arrangement) where it appears necessary or appropriate in the public interest or for the protection of investors.

Such reports need contain only such findings or comments as the Commission deems necessary or appropriate, and are advisory only.

Intervention, and so forth: The Commission is empowered by section 14 (a) to intervene in any reorganization proceedings, but in the case of reorganization proceedings pending before a State court, official, or agency, it may do so only with the consent of such court, official, or agency. The Commission is required to intervene in all reorganization proceedings pending before Federal courts, officials, or agencies where the indebtedness exceeds $5,000,000.

Under section 14 (b) the Commission is authorized to act as arbiter between any declarant and the security holders represented by it.

General: Sections 15, 16, and 17 with respect to unlawful trading in securities, unlawful methods of solicitation, and the repatriation of defaulted securities of foreign governments and subdivisions have already been discussed. The remaining sections follow the pattern already established in the three acts now being administered by the Commission. These sections relate to the general powers of the Commission with respect to the issuance of rules and regulations; the administration and enforcement of the act; the right to judicial review of orders of the Commisison; liability for misleading statements; and penalties for violation of the act.

Earmarking Funds for Road Construction in the Relief Appropriation Bill

EXTENSION OF REMARKS

OF

HON. JOHN L. McCLELLAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 14, 1937

Mr. McCLELLAN. Mr. Speaker, in view of the possibility that I will not have an opportunity to address the House while the general emergency relief appropriation bill is under consideration, and because I am vitally interested in the adoption of an amendment that will be offered to this legislation, I desire to call the membership's attention to it and clearly state my views and the reasons why it shall have my support.

Recognizing the necessity for further appropriations to finance the construction of projects in order to provide relief jobs for many still unemployed, and anticipating that this Congress would take some definite action in that respect, on March 5 I introduced H. R. 5371, a bill to furnish employment by providing for emergency construction of public highways and related projects, and for other purposes, the object being to provide jobs on a character of projects that, when constructed, would leave something of lasting benefit and obtain value received for the amount expended.

The provisions of said bill authorized an appropriation of $150,000,000 a year for each of the two fiscal years ending June 30, 1938, and June 30, 1939, respectively; $125,000,000 of which each year was to be expended in the construction of Federal-aid highways and $25,000,000 each year to be used in the construction of secondary or feeder and farm-to-market roads. Under the terms of the bill, these funds, when appropriated, were to be apportioned by the Secretary of Agriculture to the several States by the method provided now under section 21 of the Federal Highway Act for the apportionment of regular Federal-aid funds. The matching of these Federal funds by State funds was not required. This bill was referred to the Committee on Roads.

On May 6 I appeared before the subcommittee of the House Appropriations Committee, having under consideration this general relief appropriation bill, and urged the committee to earmark $150,000,000, or 10 percent of the total amount of the relief appropriation for road purposes to be allocated, apportioned, and expended in the manner provided by the terms of the bill H. R. 5371, which I had introduced.

Thereafter the Roads Committee of the House took up for consideration my bill and referred it to a subcommittee, of which I was chairman. After carefully weighing and considering all the attendant and relevant facts and circumstances and taking into account this huge general appropriation for relief purposes, the subcommittee having under consideration H. R. 5371 concluded that by earmarking funds from the relief appropriation bill for road benefits, as authorized by the bill my subcommittee had under consideration, we would obtain the desired results and that this method or course was the logical one to pursue, rather than report out H. R. 5371. The subcommittee so reported to the Roads Committee and recommended that an effort be made to have the Appropriations Committee earmark $150,000,000 of the relief funds for highway construction. It further recommended that in the event such a provision was not incorporated in the relief bill by the Appropriations Committee, the chairman of the Roads Committee be directed to offer on the floor of the House an amendment to the general emergency relief appropriation bill, which would set aside $150,000,000 of Federal funds for road purposes to be expended under the supervision of the several State highway departments, with the approval of the Federal Bureau of Public Roads in the same manner that Federal-aid moneys are now expended. This report of the subcommittee was unanimously adopted by the Roads Committee, and such an amendment will be offered by the chairman of the Roads Committee pursuant to the authority and directions contained in the resolution thus adopted.

Mr. Speaker, I sincerely hope that this amendment, when presented by Representative CARTWRIGHT, chairman of the Roads Committee, will be accepted by the committee in charge of the general relief appropriation bill, and if not accepted, I trust the membership of this House will overwhelmingly support it and incorporate it in the relief bill.

The justification for the large appropriation that Congress is about to make is predicated solely upon the need to furnish jobs for many able-bodied citizens who are unemployed, in order that they may earn a livelihood. It is not warranted for any other purpose. In providing these jobs it is our duty and our responsibility in selecting them to choose and adopt projects, giving preferred consideration

to the need of the particular classes and kinds of improvements and their permanent value, as well as their location, in order to make the work available where unemployment exists.

It is my judgment that the major portion of these relief funds should be expended for three general purposes—school buildings, roads, and flood control—and I should like to see substantial and definite amounts earmarked and set aside for these purposes. In my judgment Congress will be derelict in its duty if it fails to take such action. I, for one, do not believe that the emergency is so acute as to warrant us writing a blank check for a billion and a half dollars to turn over to emergency agencies to be expended as the heads of those agencies may determine. A great deal of that responsibility can and should be assumed by the Congress. We are just as near and close to the people, to their needs, their problems and local conditions where unemployment exists, as are bureau heads and departmental chiefs, and no one will challenge the truth of the statement that these three purposes—schools, roads, and flood control—stand out over and excel in importance any other class of projects that can be suggested and on which emergency money might be expended to advantage.

There was a time when roads were regarded largely as community projects. Later the interest became more extensive, and the development and progress in means of transportation have made imperative the construction of highways on a scale and of a quality to accommodate and serve motorized travel and commerce. Today as an American citizen I am interested in the roads of every State, and the citizens of every State are concerned about the kind of roads I have in my State. With 25,000,000 of automobiles in the United States, traversing our highways with speed undreamed of a few years ago, and conveying passengers and commerce in numbers and quantities almost beyond calculation, road development and construction command national interest, and the Federal responsibility, with regard to both planning and cost, is constantly increasing.

Mr. Speaker, we are going to spend this money for something. That is the purpose of appropriating it. We can get far more in value if we will expend a substantial amount of it for highways. The amendment that will be proposed will set out $75,000,000 to be expended on Federal-aid roads, $50,000,000 on secondary, feeder, and farm-to-market roads, and $25,000,00 on the elimination of grade crossings. While this money will be expended under the supervision of State highway departments on projects approved by the Bureau of Public Roads, relief labor will be employed. By expending it in this manner, and under this arrangement, the State highway departments will select the projects and roads to be constructed, with the approval of the Bureau of Public Roads, and certainly no one can claim that the W. P. A. or any other agency is in a better position to judge or more competent to select road projects than are the State highway agencies and the Bureau of Public Roads.

There is another advantage in having the money expended through this medium. The State highway departments are already equipped with machinery, much of which stands idle today for lack of adequate funds to finance a program for its use. This machinery could and would be employed. The State agencies would also furnish the technical personnel such as engineers, construction foremen, and such other help as its regular official set-up and personnel would supply. Thus we see the advantage that is gained by having these expenditures made in this fashion. More roads would be improved and more funds would be available to employ a larger number of persons now on relief.

It is estimated that approximately 85 to 87 percent of every dollar expended in road construction, in its final analysis goes for labor. This is a high ratio for labor in the comparative cost, and since that is our objective—to supply jobs—the fact that such a large percent in this class of construction does go to pay wages is very persuasive.

The provision for farm-to-market roads will permit of projects being set up in the rural communities and thus improve that part of the roads used by farmers daily in carrying on their activities. That expended on Federal-aid highways will strengthen and improve and supply many needed links in our present national routes. The elimination of grade crossings will further contribute to the safety of the traveling public and result in the prevention of many accidents and the saving of human lives.

Mr. Speaker, the amendment to be offered by my colleague and the chairman of the Committee on Roads, pursuant to the resolution adopted by such committee, should receive the unanimous support of the membership, and I trust will be written into the law.

America and the Right of Political Asylum

EXTENSION OF REMARKS

OF

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1937

RADIO ADDRESS BY HON. EMANUEL CELLER, OF NEW YORK, ON MAY 18, 1937

Mr. CELLER. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I include my address over stations WOR, New York, and WOL, Washington, D. C., Mutual Broadcasting chain, on Tuesday, May 18, 1937, as follows:

America was discovered by one who was endeavoring to find a new passage to the East. Columbus never realized that he had failed to reach the Orient. If he had known the truth, he would have died a dreadfully disappointed man. Nevertheless, history rates him as one of the greatest men, because he committed this cardinal blunder. Under this mistake, he, and the explorers who followed him, however, opened up to the mass populations of Europe avenues of escape from oppression—economic, religious, and political—for many years to come. Many have been the brave souls who came here from Germany, England, France, Russia, Italy, all actuated by the same motives as our immigrants of today. All were determined to escape religious and political torture and to improve their economic and living conditions. To me it seems anomalous when the descendants of the first settlers "turn up their noses" at recently arrived immigrants. These proud and haughty ones, if they were to trace their ancestry back far enough, might find that, although some call themselves Colonial Dames or Daughters of the American Revolution, they may be descendants of those who came from European almshouses and jails. During colonial times "assisted immigration" was the vogue, if not the accepted practice, in many European nations, which drained their poorhouses and prisons into the Colonies. Over 50,000 criminals were sent to the Thirteen Colonies by Great Britain alone. I often grow impatient when I hear aspersions cast by the descendants of such "indentured" immigrants—particularly upon the recent refugees who come fleeing religious and political persecution, who come here to escape the concentration camps of a Hitlerized Germany, the pillaging and plundering of Polish potentates, the political cruelties of the Italian Fascisti, and the pogroms of Rumania.

Many of the great names of Revolutionary history are those of early settlers who likewise came here to evade torture and persecution—Schuyler from Holland, Herkimer from Germany, John Jay from France, Livingston from Scotland, Clinton from Ireland, Morris from Wales, Baron Steuben from Prussia, Hoffman from Sweden, Haym Solomon from Poland. These men realized that here there was no caste, no autocracy—only democracy, where brains are kings and service and brawn prime ministers.

Political and religious refugees still seek to escape from the leash of oppression, the knout of despotism; Catholics fleeing the scourge of Hitler; the Jews avoiding the cruel despotism of Rumania, and Italians seeking surcease from fascisti evils.

We have always gloried in the fact that our country has been a haven for the oppressed. In New York harbor we have the famous Statue of Liberty. At the base of that glorious monument, perpetually carved in stone, are the words of Emma Lazarus, a famous poetess:

"Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tossed, to me;
I lift my lamp beside the golden door."

I would forever hold up the lamp of welcome to the politically homeless and the victims of cruel political and religious tortures abroad. Our door should always remain open.

In pursuance thereof I have introduced H. R. 5687, a bill to assure political and religious refugees asylum within the United States. It provides: "No alien shall be excluded from admission to or deported from the United States of America if such alien is a refugee for political, racial, or religious reasons from the country of his origin." The bill excludes communists, imbeciles, and those likely to become public charges and those mandatorily excludable under our immigration statutes.

I believe it is a blot upon our escutcheon that the principle of asylum, which has so long been a cornerstone of our democratic institutions, is being daily weakened and, in fact, is being well-nigh destroyed. It is for the purpose of removing that blot that I have introduced this bill, so that there may be perpetuated in this fair land of ours the principle of asylum. To the end also that the tyrants and foes of democracy now stalking unmolestedly abroad may realize we Americans are unafraid and that we wish always to hold wide open the door of welcome to the victims of hate and venom.

Most assuredly a reasonable number of political and religious refugees can be readily taken care of without injury to our economic conditions. I say this despite the economic doldrums into which we have been driven as a result of the depression. I am firmly convinced that these refugees, seeking such harbor and shelter here, upon becoming citizens in our land would be an asset and a benefit to our progress in civilization.

I cannot remind my listeners too strongly of the historic policy of our country—that of affording asylum to political and religious refugees—and emphatically draw their attention to the fact that many of these "tempest tossed" contributed much to the weal and welfare of our land.

Certainly we can do no less than Czechoslovakia. Eduard Benes, now President of Czechoslovakia, in 1933, while its Foreign Secretary, stated:

"Our pride is to offer German refugees a refuge, just as once America, England, and France could pride themselves on offering an asylum to the persecuted."

It is interesting to note that the Czechoslovakian Republic today is sheltering a large number of political refugees from Germany, and that Prague is the center of activities for the German Social Democratic Party, which is outlawed by the Hitler regime.

Sir John Simon, in 1933, while British Secretary of State for Foreign Affairs, in the course of a memorable debate in the House of Commons on German persecutions, said:

"Considerable numbers of people who are endeavoring to leave Germany are applying to enter at our ports, and to spend a time, short or long, in our own country. The House will have noticed the terms of the answer that was given by the Home Secretary the other day, when he was asked a question on this subject and when he assured the House that in accordance with the time-honored traditions of this country, no unnecessary obstacle would be placed in the way of foreigners seeking admission. There are, of course, practical considerations which must be borne in mind. The interests of our own citizens are quite properly put in the foreground of the calculation, but for my part, I proclaim myself as belonging to that school, which holds, on the whole, and with the long view, that the admission to this country of people of good character, who bring their trade and experience with them, is a gain and not a loss to this country. I am sure that at the present time the sentiment of our own people will not wish us to be unfeeling or niggardly in administering that branch of the law."

Camille Chautemps, Minister of the Interior of France, in 1933, said in the French Chamber of Deputies that he reflected the unanimous French spirit when he expressed sympathy for the suffering of hundreds of thousands of men who "find themselves in the positions of pariahs in their country." But more important than expressions of sympathy, he added: "* * * I issued precise instructions, so that those people who came for asylum to our country should be made welcome in accordance with all the traditions of French hospitality." "* * * since the end of the war, political refugees came in large numbers to our country." "Whether they were Russians, Italians, Spaniards, they received, each and every one of them, the best possible welcome."

Those nations were but following the example of prehistoric nations and primitive tribes. The privilege of asylum was always an integral part of the Jewish law, both Biblical and Talmudic. It can be traced to the ancient Greeks and Romans. Canon law preached the desirability of asylum. It always has been part and parcel of the history of Christian states. Hitler, Goering, Goebbels, Mussolini, and other dictators are oblivious to history and the dictates of common humanity. Indeed, they would tear up the pages of canonical law. Even the dictator, Napoleon I, was more merciful. Writing to the Senate of Hamburg, which had yielded to the British Government, in 1799, certain Irish patriots remarked:

"Virtue and courage are the support of states; servility and baseness their ruin. You have violated the laws of hospitality in a manner which would bring the blush of shame to the wandering tribes of the desert."

It is well to recall George Washington's Thanksgiving proclamation of January 1, 1795, when he said:

"* * * humbly and fervently to beseech the kind Author of these blessings * * * to render this country more and more a safe and propitious asylum for the unfortunate of other countries."

In 1784 the Virginia Assembly sought to adopt a religious-assessment bill. James Madison remonstrated and said:

"The proposed establishment is a departure from that generous policy which, offering an asylum to the persecuted and oppressed of every nation and religion, promises a luster to our country and an accession to the number of its citizens. What a melancholy work is the bill of sudden degeneracy: Instead of holding forth an asylum to the persecuted, it is itself a signal of persecution. * * * The magnanimous sufferer under this cruel scourge in foreign regions must view the bill as a beacon on our coast, warning him to seek some other haven, where liberty and philanthropy, in their due extent, may offer a more certain repose from his troubles."

There are many other clarion calls in favor of asylum:

Thomas Jefferson, in his famous Presidential message of December 8, 1801, which sounded the death knell of the alien and sedition laws, said:

"Shall we refuse the unhappy fugitives from distress that hospitality which the savages of the wilderness extended to our forefathers arriving in this land? Shall oppressed humanity find no asylum on this globe?"

Secretary of State Seward, in the Lincoln administration, wrote in 1864:

"That the practice of civilized nations and especially in this country has maintained this privilege of asylum, and that this Nation at least would consider its honor engaged to vindicate it, no one will be disposed to deny. This privilege is understood to embrace refugees from personal oppression and from the consequence of political offenses."

Our course toward Louis Kossuth, the Hungarian patriot, after the abortive Hungarian Revolution of 1848, was very significant. After Austria put down the Hungarian rebellion with Russia's aid, Kossuth and some of his associates fled to Turkey. Austria demanded their extradition. Our Government went out of its way, instructing our minister at Constantinople to intercede for the patriots. Congress passed a special resolution requesting the President to send a public vessel to Turkey to convey Kossuth and his associates to the United States. When Kossuth arrived here he was received as a hero and as the guest of the Nation. He was introduced to both Houses of Congress and presented by the Secretary of State, Daniel Webster, to the President.

Koszta was an associate of Kossuth. Austria demanded his return. Secretary Marcy refused to yield him, and, answering the Austrian charge in September 1853, wrote:

"To surrender political offenders * * * is not a duty; but, on the contrary, compliance with such a demand would be considered a dishonorable subserviency to a foreign power and an act meriting the reprobation of mankind."

Be it remembered that I am making no plea for the admission of Anarchists or Communists. They are excluded by subsisting provisions of our immigration laws, as construed by the courts. I hold no brief for them. I am concerned with troubled Germany and the monsters now ruling that benighted country who are persecuting the liberals, including social democrats, pacifists, internationalists, labor-union leaders, Catholics, Jews, and Masons. I am concerned also that reprobates, ruling other countries, are following the ignoble path trod by that marplot, Hitler, and his gang. They merit the world's reprobation. We must set them the good example and afford a haven of refuge to those who are brave enough to repulse their cruel, idiotic, and asinine activities.

It is well for my listeners to be advised that there is a bitter struggle going on today between the cross and the swastika. On one side all the Christian churches, from the Catholic to the ultra Protestant, united beyond denominational differences by a common peril, all cemented by the necessity of upholding the fundamentals of Christianity, with its liberty of conscience and liberty of confession. On the other side stand Hitler, Goering, Goebbels, pledged to a sort of pagan totalitarian weltanschauung. They wish to set themselves up as gods of Valhalla. They would substitute pitiless heroism for Christian charity in Germany. All priests and ministers who will not bow down in servile obeisance are received with a policeman's club and consigned to concentration camps. Small wonder, therefore, that priests and nuns, ministers, and Masons are fleeing Germany—fleeing the new national socialist paganism. Should we not welcome these brave souls seeking our shelter?

All I seek by my resolution is to afford the unhappy fugitive some welcome and not to deny any alien that hospitality which even the savages of the wilderness extended to our forefathers landing in this country. I simply want to follow Abraham Lincoln, who wrote the Republican Party platform of 1864, wherein was set forth:

"*Resolved*, That foreign immigration, which in the past has added so much to the wealth, development of resources, and increase of power to the Nation, the asylum of the oppressed of all lands, should be fostered and encouraged by a liberal and just policy."

There are many political refugees in this country today. It is difficult to give the exact number. In pursuance of the strict interpretation of immigration statutes they are here illegally, having escaped into this country by way of Canada, Mexico, Cuba, and other routes.

Unfortunately the present administration, as well as the Hoover administration, have refused to distinguish between the cases of political and religious refugees from the general deportation cases. There are some very distressing cases where our own Government has caused the arrest of aliens because of their political opinions and pronouncements and where our Government seeks to deport them to the country of their origin, where, in most cases, long prison terms, or even death, awaits them. In other words, political dissenters are being included among the deportees. This is de-

cidedly wrong, if not tragic. There are instances when the deportees are arrested for activity in the United States against the Governments of Fascist Italy, Nazi Germany, or Cuba. This is decidedly wrong and must stop. The United States shall not voluntarily undertake to deliver to a foreign government one of its own political enemies whose only offense is hostility to the foreign government while here.

While it is true that the Department of Labor has sought to modify the severity of deportation by offering the privilege of voluntary departure, nevertheless that is not the remedy. While it is true that the deportee need not go to the country of his origin—Italy or Germany, for instance—nevertheless he must leave the country. Very likely he is transshipped to another land whose habits and language are strange to him, and where he has no friends or relatives. Furthermore, neither by treaty nor precedent is there any sort of obligation imposed upon the government of the country to which the alien voluntarily departs to offer any sort of haven or asylum to such refugee whom we send forth.

Often, however, the privilege of voluntary departure is denied many aliens. Their only alternative is the prisons and concentration camps of the reactionary countries of their origins. Voluntary departure is not a matter of right—merely a matter of grace.

I will make application shortly to the Committee on Immigration and Naturalization of the House of Representatives for a hearing on my bill. I welcome your comments. If compatible with your views, I urge that you communicate with the chairman of the Committee on Immigration and Naturalization, Congressman SAMUEL DICKSTEIN, requesting immediate consideration of my bill.

Dedication of the Bronx Central Post Office, One Hundred and Forty-ninth Street and Grand Concourse, Bronx, N. Y.

EXTENSION OF REMARKS

OF

HON. EDWARD W. CURLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1937

RADIO ADDRESS BY HON. EDWARD W. CURLEY, OF NEW YORK, ON MAY 15, 1937

Mr. CURLEY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I delivered over the radio on May 15:

Mr. Postmaster, reverend clergy, distinguished guests, ladies and gentlemen, and our mutual friends of the radio audience, it gives me genuine pleasure to joint in this ceremony attending the dedication of this magnificent building to a much-needed public service. For 33 years a continuous effort was made for a Bronx central post office. Every civic organization, public-spirited citizen, political and fraternal organizations, the clergy, and public officials that took active part in the long years of patient effort to secure this Bronx post office deserve the gratitude of the entire population of Bronx County. This is one practical illustration of the truth of the maxim, "Patience is a virtue and always pays dividends." In this case the Bronx central post office is the dividend realized after three decades of investment in patient community effort. I am delighted to be here to give articulate expression to the grateful sentiment of the people of the Bronx, as well as of those engaged in industry and business here. This is just another illustration of Uncle Sam's shrewdness in his recovery program of stimulation of dormant energy by taking communities such as the Bronx into partnership in the construction of such useful service stations.

P. W. A. STIMULATES RECOVERY

During the past 3 years under President Roosevelt the Federal building program included many needed improvements in the Postal Service. Under the law enacted by Congress June 19, 1934, the Democratic administration sponsored an appropriation of $65,000,000 for public-building construction, and on August 12, 1935, Congress appropriated another $60,000,000 for the same purpose. Under these authorizations 713 projects will be erected. Eighty-nine of these are now finished and over 250 more are under contract. These new buildings are under construction all over the country in every State in the Union. Of all the Federal departments the Postal Department is the most important, efficient, and outstanding from the point of public service. Just think of it; last year the Department handled over 22,000,000,000 pieces of mail. Aside from that it indicates the return of business recovery. By virtue of the heavy increase in postal receipts and the relative economic value to the Nation it is a mighty good barometer of good times ahead for the United States of America.

UNITED STATES POSTAL SERVICE HUMANIZED

At this time I believe we should appreciate the humanization of the work of the employees of the Postal Service. I mean, by humanizing, the placing in operation the 40-hour-week law for postal employees, which, in addition, solved the acute problem attending the substitutes, which nearly all have been absorbed into regular employment. The postmasters of the country and their large staff of employees are entitled to the gratitude of the Nation for the efficient and satisfactory manner in which the Department handled the distribution of the veterans' bonus. No other agency could have made such a splendid record of a most difficult job.

As the Representative of the Twenty-second Congressional District, I wish to voice the gratitude of my local constituents who are resident and the businessmen who operate in this section of the Bronx. We feel we have been recognized in a very substantial and concrete manner by President Roosevelt in this field of public service. We know that this Nation under his guidance is safe for democracy. The record is the proof.

HISTORY OF RECORD

If my memory serves me correctly, the history of the campaign to obtain official recognition of the need of a new post office in Bronx County was initiated by the late Congressman Joseph M. Goulden long before it became a county way back over a quarter of a century ago. He introduced a resolution in the Congress on November 24, 1903, to provide for the purchase of the land on which to erect a Federal post-office building. This initial official effort was followed and backed up by former Congressman Henry Bruckner and delegations of Bronx citizens presenting volumes of strengthening petitions, indicating the sentiments of the public on the question. By an act of Congress June 8, 1908, authorization was provided for the purchase of the site on which to erect a Federal building in the Bronx. On May 26, 1910, the property located on the northeast corner of One Hundred and Forty-ninth Street and Mott Avenue (now Grand Concourse) was purchased from the owner, Henry Lewis Morris, for the sum of $100,000. By authority of the act of Congress under date of October 22, 1913, the land adjacent to the aforesaid site was acquired from the owner on July 17, 1914. The owner was Eleanor M. Kelly. The price paid was $175,898.

PRESIDENT ROOSEVELT SUPPLIES MONEY

While there was no let-up in the efforts to convince the Federal authorities of the necessity of the post office, it was not until the present administration took an active interest in the proposition, through the efforts of Postmaster General James A. Farley, that authorization for the erection of the building was secured. Under the act of Congress, June 19, 1934, when funds for public-building construction were made available to the Post Office and Treasury Departments, $1,375,000 was secured for erection of a Federal Government-owned building on the aforesaid Government-owned land. It is worthy of comment to note this achievement was due to the combined efforts of the late Anthony J. Griffin, former Member of Congress from the Twenty-second Congressional District, New York, Postmaster General Farley, and the Secretary of the Treasury of the United States, the Honorable Henry Morgenthau, Jr. In closing permit me to state I only wish former Congressmen Goulden and Griffin were alive today to see the fruits of their efforts to obtain a post-office station building at this very site, finally realized by the dedication of this magnificent structure. Again thanking you who are responsible for this essential public service post-office building, I wish to emphasize the fact it is the practical concrete evidence of patient, efficient performance of public-spirited citizens' cooperation of effort to develop and improve the civilization of Bronx County.

Vocational Education—Money Well Spent

EXTENSION OF REMARKS

OF

HON. BYRON N. SCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1937

Mr. SCOTT. Mr. Speaker, when we reach the section of the Interior Department appropriation bill providing for vocational education an amendment will be offered to increase the appropriation.

I ask members of the Committee to remember that any appropriation by the Federal Government must be matched dollar for dollar by the State receiving the grant.

In addition, may I ask the Members to consider one very beneficial result of vocational education. We may by this activity take people from the lists of the unemployed and the relief rolls.

As evidence of this fact, I submit the results of the efforts of the John Dewey Trade Extension School in Long Beach, Calif., my home town.

Most of the students in a class in metal finishing conducted by Mr. Walter Hunsaker were on relief or unemployed. Unsolicited by me, Mr. Hunsaker has sent me a list

of students who, as a result of the training, have secured employment in private industry.

Twenty-seven were employed by General Motors, 6 were employed by Chrysler Motors, 1 was employed by Willys Motor Co., 19 were employed by Ford Motor Co., 12 were employed by smaller concerns, and 2 are in business for themselves.

Sixty-seven people were taken from the ranks of the unemployed and placed in jobs by one class in one school.

Could you ask for better results? Is not this what we are trying to do?

When results are achieved I believe the money is well spent.

Award of Congressional Medal of Honor to Dr. George E. Holtzapple

EXTENSION OF REMARKS

OF

HON. HARRY L. HAINES

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1937

Mr. HAINES. Mr. Speaker, I have asked the Congress to award a Congressional Medal of Honor to Dr. George E. Holtzapple, of York, Pa., for his great contribution to medical science and humanity, as per my bill, H. R. 1810.

On March 6, 1865, Dr. Holtzapple was called to the bedside of a Mr. Fred Gable, residing in Loganville, York County, Pa., who was suffering with pneumonia. He found the man nearing death from the ravages of this disease, after all known methods had failed to help. Dr. Holtzapple, then only in his fifty-first week as a practicing physician, returned to his office where he gathered together chemicals, test tubes, and a blow torch and equipment to produce oxygen. Returning to the bedside of the victim, and with the help of Mrs. Gable, produced the oxygen, and in 20 minutes the patient showed improvement and later recovered entirely.

As a recognition of his work there is now placed in the Army Medical Museum a sketch depicting the birth of oxygen treatment for pneumonia sufferers as a lasting memento to his work. The story of Dr. Holtzapple's introduction of the oxygen treatment is a tale of triumph by perseverence, science, and confidence over the ills of mankind.

It seems to me to be most fitting that the Congress should award such a medal during the lifetime of this great man.

Dr. Holtzapple was born in York County, Pa., on May 22, 1862. His ancestry goes back to the Revolutionary days. His father, a poor man, was first a shoemaker, when shoes were made by hand, and later a farmer. Dr. Holtzapple attended schools of his birthplace, graduating from the York Collegiate Institute. He took graduate course in philosophy at Lebanon Valley College, located in Anville, Pa., and he was given a degree—doctor of science—by the Susquehanna University in 1925 as a special honor.

He took his medical course at Bellevue Hospital Medical College in New York City, from which he was graduated in 1884, with the degree of doctor of medicine. Later he took post graduate courses at Johns Hopkins Medical School, Baltimore, Md., and the New York Post Graduate Medical School and Hospital. The first 16 years of his medical career were devoted to general practice. Since then his work has been confined to internal medicine. He has been given testimonial dinners by members of his profession in recognition of his services and contributions. He is consulting physician and president of the staff of the York Hospital, and for 24 years has lectured to nurses in training. He is former president of the York County Medical Society, and is a fellow of both the American Medical Association and the American College of Physicians. For many years he has occupied a prominent place in the American Association for the advancement of science. During the World War he was the first physician to offer his services so far as the section of our community is concerned. Because of his eyesight and heart condition he was rejected. However, that did not stop him. He rendered great service at home, as he was chairman of the Medical Advisory Board and was a member of almost every local committee.

He was director in the York County Chapter, American Red Cross, and chairman of the first-aid courses. This fine gentleman deserves all the honor that his generation can bestow upon him while he lives.

As his Representative and by direction of a great host of my constituents I appeal to the Congress for the Medal of Honor, feeling that this fine gentleman richly deserves it.

Norse Anniversary

EXTENSION OF REMARKS

OF

HON. JOSEPH W. MARTIN, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1937

RADIO ADDRESS BY HON. HAROLD KNUTSON, OF MINNESOTA, ON MAY 17, 1937

Mr. MARTIN of Massachusetts. Mr. Speaker, on yesterday our colleague, Mr. KNUTSON, of Minnesota, delivered a talk over a Nation-wide radio hook-up as a part of the one hundred and twenty-third anniversary of the adoption of the constitution of Norway. Under the leave to extend my remarks in the RECORD, I include Mr. KNUTSON'S address, as follows:

This day has a deep significance for those of us who can boast of Norse blood. It is our natal day and marks the anniversary of the adoption of the organic law of old Norway. Today thousands of Americans of Norse ancestry are gathered to commemorate that great event.

The Norseman did not come here that he might have freedom, because he had never been slave or serf. Rather he was drawn here because of the superior advantages to be found—land, opportunity, equality—these were some of the magnets that drew our fathers to these far-away shores.

The early Norseman faced the hardships and dangers of frontier life with all the courage for which his great and brave race has been famed for thousands of years. For him it was much work and little play. There were homes to build—often of sod or logs—and churches to establish, for he came from an enlightened race that believes in education as well as in the tenets that were laid down by the lowly Nazarene nearly 2,000 years ago. Wherever he went he established law and order, for lawlessness and disorder are as foreign to the nature of the Norseman as they are repugnant.

Your true Norseman is adaptable and easily and quickly adjusts himself to new environments; hence he readily became imbued with the great principles upon which this Government was founded. Norsemen have occupied high positions of trust, and I do not recall one who has been false to the trust reposed in him.

My countrymen, the past is a luminous figure on the eastern horizon that we love and revere, but it is to the present and future that we must address ourselves. We are now emerging from a most painful period of readjustment, during which fortunes and savings have been wiped out, homes lost, and values depreciated to a fraction of their former worth. As a result a new order has been inaugurated which marks another milestone in the progress of the American people, and to the promotion and welfare of that new order Americans of Norse ancestry have dedicated themselves without reservation.

Norway is a beautiful land, with her mountains and valleys, forests and waters. God has given that land many advantages which I am sure are appreciated and enjoyed. This summer many thousand Americans of Norse ancestry will visit the old homeland, and they will take with them our best wishes. It is our hope and prayer that Norway, the cradle of modern democracy, will remain true to her best traditions, and we who live in America will continue to be proud that the blood of dauntless vikings courses through our veins.

Vocational Education

EXTENSION OF REMARKS

OF

HON. JOHN J. COCHRAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1937

Mr. COCHRAN. Mr. Speaker, in the Interior Department appropriation bill there is an item for vocational education. No Member of Congress more fully realizes the value of vocational education than I do. This is not only true as to the rural sections but also in the urban centers. In my own city—St. Louis—we have outstanding schools that teach vocational education. We likewise have an excellent trade school that was endowed by one of our leading citizens many years ago, long before the Government entered the field of extending Federal aid for this purpose.

In my 25 years' experience in Washington I have never come in contact with a group that is better organized, from the standpoint of placing its views before Members of Congress, than is this group interested in vocational education. Members of Congress are more reluctant about opposing this group's recommendations than any that comes before them. The interest among the Members in this question is intense.

It is very doubtful if more than a few Members will have an opportunity of expressing their views on this subject when the paragraph is reached in the bill, and it is for that reason that I am now expressing myself and explaining why I intend to support the Appropriations Committee rather than vote for amendments which will be offered increasing the appropriation.

I received the following telegram from the head of one of our large public vocational-education schools in St. Louis:

ST. LOUIS, MO., *May 15, 1937.*

Hon. J. J. COCHRAN,

Member, House of Representatives:

The members of the Missouri Vocational Association interested in vocational training respectfully ask your continued support for the full appropriation of $14,000,000, as provided in the George-Deen Act, when bill is called before the House, probably tomorrow.

E. W. ALEXANDER.

To this telegram I have replied, and in my letter I explain the situation fully and just what the Government has done and what the Appropriations Committee recommends for the next fiscal year. It seems to me any fair-minded person cannot but agree that the committee has been most liberal. It is only fair that the report of the committee the President appointed should be awaited before an attempt is made to increase this amount. Whether we are justified in appropriating more than was appropriated last year is even debatable. The letter I have mailed to Mr. Alexander follows:

MAY 18, 1937.

MR. E. W. ALEXANDER,

Care Hadley Vocational School, St. Louis, Mo.

MY DEAR MR. ALEXANDER: Receipt is acknowledged of your telegram in reference to the vocational educational appropriation. We thought this matter would be settled yesterday, but it has gone over until Wednesday.

No one is more interested in vocational education than I am. I realize its value and have always been a strong supporter of the laws under which it is operated. You probably are aware that under the Smith-Hughes Act there is a permanent appropriation of $7,167,000. A permanent appropriation means that it cannot be touched by Congress unless it is repealed or amended. The Appropriations Committee has no power under such a law to reduce the amount. It does not even appear in the appropriation bill, but when the fiscal year starts the Treasurer under the law grants that amount to vocational education. Under the act that expires this year $3,000,000 additional was appropriated, which was $10,000,000 plus for vocational education. This does not include the money for vocational education for those to be rehabilitated who are injured in industry.

Last year, to take the place of the temporary act which was about to expire, a new authorization was provided in what is called the George-Deen Act. This bill as it came from the committee authorized an appropriation of $6,000,000, which was a 100-percent increase over the then existing law. This bill was amended, however, and when it finally reached the President it carried an authorization of $14,483,000. This amount plus the permanent appropriation of $7,167,000 means that if the full amount was appropriated it would be $21,500,000, which would be in lieu of the $10,167,000 allowed for the present fiscal year. This, you will see, is an increase of over 100 percent. I have had members of the committee that handled this bill in the House tell me that if they thought that the amount would have been increased over $6,000,000 they never would have voted to report the bill out of the committee.

When the recommendations came from the Budget for next year's appropriation, it was for $3,000,000. The committee did something that it rarely does and increased the amount over the Bureau of the Budget recommendation to about 50 percent of the new authorization, or $7,241,500. They figured that if this was enacted into law there would be $14,408,000 available, including the permanent appropriation, which, as you see, was a very liberal increase over the existing appropriation of $10,167,000.

Mr. DEEN, of Georgia, who was the author of the $14,483,000 appropriation, proposes, I understand, to offer an amendment for the full amount. Mr. FULLER, of Arkansas, told me yesterday that he will offer a substitute for 75 percent of the full amount, in lieu of the amendment to be offered by Mr. DEEN.

I am sure you are aware that the President was very reluctant when he signed the George-Deen new authorization act, and at that time he appointed a special committee to consider the entire question of vocational education. That committee has not made its final report, and pending that report the Bureau of the Budget limited its recommendation for next year's appropriation to $3,000,000, under the George-Deen authorization, which is the exact amount that was appropriated for this fiscal year, which ends June 30.

As you know, the President sent a recommendation to the Congress a few weeks ago, calling attention to the Congress of the condition of the Treasury and also advising the Congress that the revenue expected from the new revenue law was several hundred million dollars short of what was anticipated, resulting in a further increase in the deficit. In that message the President urged us to hold appropriations down just as much as we possibly could, and said it was absolutely essential for the welfare of the Government to balance the normal Budget in 1938.

As a strong supporter of vocational education, it is my firm belief that a mistake is being made in trying to increase the amount above the very liberal figure recommended by the House committee, which, as I say, went beyond the recommendations of the Bureau of the Budget, increasing it over 100 percent.

What I really fear is that the President is going to send back one of the appropriation bills to the House and in his veto message will insist that if we are going to continue to increase appropriations that we should provide for additional revenue by increasing taxes. The people of this country at the present time are complaining bitterly about the Federal, State, county, and city taxes they are required to pay—and justly so. Taxes are such a burden now it is hard for one to even attempt to answer their arguments.

I have stood squarely behind the President in his recommendations in the past, and it is my purpose to do so in the future, and I have also supported the recommendations of the Appropriations Committee, and that policy I propose to continue.

Since the President delivered his message I took the initiative in opposing the enactment of two new Federal-aid projects, one which had as its purpose the prevention of stream pollution and the other providing for the distribution of trees and shrubs for reforestation purposes. I was fully in accord with the principles in both bills, but it was because of the President's message and the condition of the Treasury that I opposed the measures.

Much as I am in favor of vocational education, I think it would be a mistake at this time, in view of the financial situation that confronts the administration, to appropriate the full amount authorized under the George-Deen law. It is therefore my purpose to support the recommendation of the Appropriations Committee, which is an increase of more than $4,000,000 over the amount set aside by the Congress during the present fiscal year for vocational education. With kind personal regards, I am,

Sincerely yours,

JOHN J. COCHRAN.

Counselor of the State Department

EXTENSION OF REMARKS

OF

HON. EDITH NOURSE ROGERS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1937

On the bill to create the office of Counselor of the Department of State (S. 2160)

Mrs. ROGERS of Massachusetts. Mr. Speaker, I am strongly in favor of this measure to create the office of Counselor of the Department of State. It seems to be an open secret that Judge R. Walton Moore will be named to

fill the position. I have spoken before of his fine ability. Those of us who served with him in Congress know of his deep interest in the affairs of the Department of State. We remember his long and faithful service while a member of the Foreign Affairs Committee of this House. He is a wonderfully fine gentleman in every sense of the word. As you know, and I know, he is keen minded, alert, and one of the best-informed legal persons in the Department of State. He has been a member of the bar of his native State of Virginia for 57 years, during which time he has been signally honored by being named to many appointive and elective positions.

I hope the enactment of this measure will mean an addition to the established personnel of the Department of State. I do not know of a department in our Government that needs it more. I do not know of a department which operates in a more economical manner than does the Department of State, and this applies to all parts of its ramifications. Especially is more personnel needed in the Foreign Service. There is no question but that the Service is undermanned and underpaid. The Director of the Budget should have made a greater increase in the amount to care for personnel for the coming year. There was a slight increase over the previous year, but not enough. This is one of the services of our Government that helps to pay its own way, through fees received for services rendered, and every one of us who has traveled abroad knows of the character of these services and of the fine spirit in which they are rendered.

The total amount asked for the Department of State activities for the coming fiscal year aggregates $19,234,968.40. In considering this sum, however, it must be remembered that $5,341,896.40 of the amount is not for operating expenses of the Department. It is the United States Government's share in support of various international undertakings in which our Government is obligated by international agreement and by statute to participate. Besides this $5,341,896.40 there must be deducted from the total amount some $3,500,000, which represents consular and passport fees which will be collected in the fiscal year 1938. Combining these sums, we find that the actual draft on the Treasury for the running expenses of the Department and the Foreign Service will be only $10,393,072. This sum is less than the appropriations for any other executive department for the current year, and it represents approximately one-fifth of 1 percent of the total appropriations for the Federal Government for 1937. It is a very small sum to take from the Treasury for the operation of a department of the importance and magnitude of the Department of State and for the maintenance of a Foreign Service with a personnel of over 3,600, with buildings and lands abroad representing an outlay of over $12,000,000.

When the Economy Act was put into operation, our Foreign Service suffered in common with the other regular establishments. Many Foreign Service officers were dropped and their places were not filled because the Department did not have the money to pay them. Before the Economy Act there were 775 officers authorized, but at one time the list dropped to the low point of 650 officers actively on the list. At the present moment there are 691 officers on active service, about 50 of whom are young men with little or no experience. Those in authority in the Service feel that this is a very unsafe condition at the present time. They believe that the Service should be brought back to at least 775 men. Many of the offices in different parts of the world are in charge of clerks who have commissions as vice consuls. They should be in charge of trained career men.

To raise the numerical strength of the Foreign Service would in effect raise its standard of efficiency. There would be an opportunity to provide better training and more progressive experience for the young entering officers. I do not believe in handicapping the Service in any way. I have always maintained it to be one of our best bulwarks of strength for peace. The cool-headed, calm judgment and action of one of our trained Foreign Service officers can keep us out of trouble that might eventually cost us millions of dollars, to say nothing of thousands of lives, if not dealt with properly.

Our trained career officers are men of the very highest type. The distinguished gentleman from New Jersey, Dr. EATON, has spoken of what a fine public servant Wilbur Carr is. Sumner Welles, the Assistant Secretary of State, and the probable future Under Secretary of State, is an expert in the affairs of the Americas, as is Stanley Hornbeck an expert in Far Eastern affairs. The work of these experts is vital in safeguarding the international safety of the United States, as well as preserving our economic well-being. We have had numerous instances in the very recent past of their ability to handle themselves and the affairs of our Nation in times of crisis. We know the work of some of them during the World War—men like Irvin Laughlin, Joseph Grew, Robert Woods Bliss, Hugh Gibson, William Phillips, and many others. We shall not forget the wonderful work of Minister Engert and his courageous wife in Addis Ababa, Ethiopia, when our legation was attacked by a mob of bandits. Nor can we ever forget the wonderful services of that young Foreign Service officer, Eric C. Wendelin, and of his wife, Mrs. Wendelin, who stood shoulder to shoulder with her husband when he stood by his post in Madrid, Spain, until our citizens had the opportunity of leaving that terrible war-stricken city. It was not a political appointee, the Ambassador, who stayed at his post, but a career man, a young secretary. These men—and I mean all of the men in the career service—take a personal pride in their work. They make a life career of their service. Many of them live in dangerous, fever-infested areas and work under conditions entirely incompatible with the remuneration they receive. I hope a way can be found to give them more adequate pay. It would be a sound investment of the Government's money. It would be an added insurance for peace and for our well-being among other nations.

Reorganization of the Federal Judiciary

EXTENSION OF REMARKS

OF

HON. JOSEPH T. ROBINSON

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Wednesday, May 19 (legislative day of Thursday, May 13), 1937

ARTICLE BY MSGR. JOHN A. RYAN

Mr. ROBINSON. Mr. President, I ask unanimous consent to have printed in the RECORD a brief statement published in The Commonweal of the issue of April 16, 1937, from the pen of Msgr. John A. Ryan, relating to the proposal affecting the Supreme Court.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From The Commonweal, Apr. 16, 1937]

THE SUPREME COURT DEBATE—COURT REFORM AND MINORITIES

Some of the objections to the President's proposal for reorganizing the Supreme Court are curious and extraordinary. Possibly the most curious and the most extraordinary is that which is brought forward ostensibly on behalf of religious minorities. It usually takes substantially this form: A few years ago the Supreme Court declared unconstitutional a Nebraska law under which an instructor was prosecuted for teaching the German language in a Lutheran parochial school; a short time later the Court nullified an Oregon law which forbade children below the eighth grade to attend any other than public schools; some day the Supreme Court might again be called upon to review laws of this character and even to pass upon a Federal statute which, under the pretext of promoting the general welfare, would prohibit the existence and functioning of the Catholic Church—or some other church; the religious minorities have a particular interest in preserving the independence of the Supreme Court; therefore, they should oppose the President's plan for reorganizing the Court.

All the foregoing clauses are correct except the last two. As it stands, the second last suggests that religious minorities should

be more concerned about the maintenance of an independent judiciary than any other group in the community. Obviously this is not true. All other minority groups and some majority groups would be in danger of injury if the independence of the courts were destroyed. As for the last sentence in the immediately preceding paragraph, it will not be accepted by any person who examines the facts and probabilities critically or realistically.

So far as I have observed, no one has had the temerity to assert that Mr. Roosevelt will appoint men to the Supreme Court who would uphold any law, State or Federal, that interfered with religious rights. The alleged danger would, therefore, come from the Court at some future time when its personnel had been changed by some future President. The objection that we are now considering assumes that some successor of President Roosevelt would appoint men to the Supreme Bench who were willing to disregard the rights of religious minorities or would be able to compel the Court to commit this political and judicial crime.

While neither of these hypothetical events is either metaphysically or physically impossible, they are both extremely improbable. Nevertheless, we shall assume that something of this sort will happen, say, sometime within the next 20 years. Let us assume first that Congress will enact a statute outlawing parochial schools or otherwise interfering with the civil rights of Catholics. This assumption is, in turn, dependent upon another assumption, namely, the election of a definitely anti-Catholic Congress. Let us assume that this highly improbable event occurs. In passing, it must be noted that the only constitutional provision under which Congress could plausibly enact a bill of this sort is that which authorizes it "to promote the general welfare." The law would be contested before the Supreme Court on the ground that it violates that clause of the fifth amendment which forbids Congress to deprive any person of life, liberty, or property without due process of law. If the Court is sufficiently anti-Catholic or sufficiently under the domination of either Congress or the President, it will uphold the law and thus destroy freedom of education or freedom of religion.

What connection would this deplorable decision have with the Court reorganization proposal advocated by Mr. Roosevelt? How could this proposal reasonably be regarded as in any degree responsible for this future event? By the time it would occur, the personnel of the Court would have been entirely different from what it is now and completely different from what it will be after the appointments desired by Mr. Roosevelt have been made.

Apparently the opponents of the President's proposal that we are now considering would answer that the bad precedent which the President seeks to set up would move a future Congress and President and Supreme Court to render such an unjust decision. It is difficult to take this assertion seriously. Something more than the Roosevelt proposal enacted into law would be required to bring about the election of a bigoted Congress and a bigoted President and a bigoted Court decision. A precedent created today would exert but a feeble influence 20 years hence. On the other hand, if public opinion should become so perverse as to elect such a Congress and such a President, and if the Court should so disregard all previous judicial precedents as to be willing to render such a decision, the Roosevelt precedent would have become totally irrelevant and unnecessary. The bad law would come and the wrong decision would come, regardless of anything that Roosevelt does today. The assumption that Mr. Roosevelt's proposal, if enacted into law, would produce this long-distance revolutionary result is one of the most feeble and unrealistic that has ever been excogitated.

Let us consider now the hypothesis of a State law forbidding the operation of parochial schools. That actually happened a few years ago in the State of Oregon. In this situation there would be no need of any action by Congress. All that is necessary is that some State should enact such a law and that the courts should disregard the decision in the Oregon case and hold that the new statute does not violate the "due-process clause" of the fourteenth amendment. Of course, we have to assume that before the supposed law arrives at the Supreme Court some future President or Presidents have appointed one or more Judges who are either bigoted themselves or completely dominated by a bigoted President. Once confirmed by the Senate, the appointees to the Court would, of course, be under no legal compulsion to obey the President's behests; so we must suppose that they would be following their own inclinations in holding such an unjust statute constitutional. As in the case of the obnoxious Federal statute, we ask here, How could Roosevelt's Court-reorganization proposal influence or become responsible for the future decision that we are considering? We repeat, too, that a Court and President that were determined to produce this civil result would do so anyhow, regardless of remote and feeble precedents.

Whether the deplorable decision concerned a State or a Federal law, it would imply a previous revolution in public opinion concerning civil and religious rights. It would mean that the people had elected a Congress willing to set aside the constitutional guarantees covering these rights, or that they had elected a Senate willing to confirm bigoted Judges or that they were upholding the dictatorial action of a President in dominating the members of the Court. In any of these situations neither favorable nor unfavorable precedents would exert any significant influence.

There is much loose talk today about some future President becoming a dictator. If we are to think with precision and without sloppiness, we must clearly understand what we mean by this term. If we think of a dictator as one who acts entirely within the law and the Constitution and who attains his mastery by persuasion or prestige, we must assume that he has back of him the majority of the people. And that is democracy. If we assume that he disregards the law and the Constitution, then we must suppose either that he has an army at his back which he arbitrarily uses to enforce his decrees or that he has the support of overwhelming public opinion. In either case we have genuine dictatorship. In any event, a Court decision upholding a law which destroyed any of the rights of religious minorities would be impossible without a revolution in public opinion. Given such a revolution, the obnoxious decision would come, regardless of precedents.

In passing, let us point out that those persons ignore both history and psychology who think that the Supreme Court would provide an effective protection against genuine dictatorship. When the favorable conditions arrive a dictator would be able to ignore not only Congress but also the Court and the Constitution.

Moreover, too much reliance is placed by some Catholics upon the Supreme Court as a protector of Catholic rights. So far as I know, the decision in the Oregon School case is the only one in all our history which supports this assumption. It would be more prudent and more democratic to put more trust in the selection of the right kind of legislators than to place all our reliance upon the judiciary. Not the least of the advantages of the former method would be its effect in educating our fellow citizens concerning the reasonableness of our claims.

The menace to Catholic interests from the harmful precedent assumed to be latent in the President's Court reorganization proposal is very much less than that which could easily follow upon any considerable Catholic opposition to the proposal itself. Like other citizens, Catholics can reasonably set themselves against the President's plan for reorganizing the Supreme Court. It is only opposition based upon the hypothetical danger to our religious or educational welfare at some indefinite time in the future that is definitely dangerous. The danger will become acute when a considerable number of our non-Catholic fellow citizens gives expression to some such criticism as the following: "You Catholics have no genuine interest in the welfare of our country. You have no proper sense of proportion. Because of a future, remote, hypothetical, and improbable danger to which the President's Court reorganization proposal has no significant relation, you disregard entirely the present, actual, grave, and public necessity of the legislation which Mr. Roosevelt's proposal would make possible."

Without unduly straining our imaginations, we can picture the following protest from Catholic representatives of labor: "You profess to be greatly afraid of a future, remote, hypothetical, and improbable menace to our common Catholic interests, but you are indifferent to the present grievances and suffering of millions of American workers, Catholic and non-Catholic. The President's Court-reorganization proposal must become law if Congress is to have the power to fix minimum wages and maximum hours. Until these measures are adopted millions of our people will be unable to obtain living wages and other millions will remain unemployed. We, too, think that you have no proper sense of proportion."

I repeat that I am not here thinking of any opposition to the Court-reorganization proposal which is based upon any other reason than its assumed effect as a precedent for interference with the religious or educational rights of minorities. As I have tried to show in the foregoing paragraphs, that argument and that fear are based upon insufficient consideration and insufficient analysis.

Radio and the Law

EXTENSION OF REMARKS

OF

HON. ALBEN W. BARKLEY

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Wednesday, May 19 (legislative day of Thursday, May 13), 1937

ADDRESS OF GEORGE HENRY PAYNE AT NEW YORK CITY, APRIL 30, 1937

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address entitled "Radio and the Law", delivered by Commissioner George Henry Payne before the New York Chapter of the National Lawyers' Guild, on April 30, 1937, at New York City.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It was Sidney Smith who said that there is nothing of which nature has been more bountiful than poets. They swarm, he said, like the spawn of codfish, with a vicious fecundity. Had the reverend doctor lived in Washington in our day, when a new and lucrative industry is forging ahead with cyclonic fury, he would have concluded, I fear, that poets are, as to lawyers, a mild and not unpleasant itch in the face of a devastating plague.

It was remarked one day by a fellow Communications Commissioner that it was impossible to go out into the hall of the Federal Communications Commission's offices in Washington without stepping on a few radio lawyers. I would not say a word in disparagement of the many fine men who have a profession and legal interest in the regulations of the industries coming under the Federal Communications Commission, but just as you have found it is necessary to organize for law reform in the broader and larger field, so reforms among those guilty of champertous practices will be necessary in Washington.

The reform which you have undertaken will be welcomed and cheered by every political and legal student who looks at legal history of the past 150 years with other than Tory prejudices. The protest you are making is not unlike that of Thomas Jefferson, who frequently decried the influence of those members of the bar who were under the reactionary influence of Blackstone.

"In truth", he wrote in 1814, "Blackstone and Hume have made Tories of all England, and are making Tories of those young Americans whose native feelings of independence do not place them above the wily sophistries of a Hume and a Blackstone. These two books have done more toward the suppression of the liberties of man than all the millions of men in arms of Bonaparte and the millions of human lives with the sacrifice of which he will stand loaded before the judgment seat of his Maker."

"Blackstone lawyers" was what Jefferson in another place called them, declaring that they had drifted away from the Whig principles of Coke, and though they called themselves Whigs they understood neither Whiggism nor Republicanism.

But it is not Jefferson and liberals like him alone who have protested the reigning Toryism of both bench and bar. Even those conservative States, Vermont and Maine (then part of Massachusetts) were during the early days of the Republic the scenes of riotous demonstrations, with the rioters carrying signs containing such humorous suggestions as "Hang the lawyers" and "Keep the lawyers out of public office."

But more devastating criticism there came from one greater than Jefferson as an authority on law, and almost as great as Jefferson as a practical reformer of the law. That was Jeremy Bentham, that remarkable Englishman, of whom it has been said that he was "the greatest practical law reformer and the severest critic of existing systems that has ever appeared in any age or any country."

Accusing Blackstone of being the enemy of all reform and the unscrupulous champion of every form of professional chicanery, Bentham points out the utter absurdity of Blackstone's statement that "everything is now as it should be"—a statement no less absurd 150 years ago than it is today, in the face of demands for reform so overwhelmingly expressed at the recent election.

The penalty for this philosophy of reaction has been paid at the cost of human progress not only in this country but in England. There, for years, every humane reform—from Catholic emancipation to giving prisoners on trial for life the benefit of counsel—gave way before the sagacious dictum of Blackstone that "everything is now as it should be."

Every progressive movement, even those to stop children from working 20 hours a day, as abolished by the Reform Act of 1833, was fought by those who believed Blackstone was right. The movement to protect children, women, old age—all were opposed by those Tories who dominated the law and, in furnishing the judges from their own class, dominated the march of progress. The marvelous thing has been the patience of humanity.

In this country for years, the great legal luminaries headed by Chancellor Kent and Joseph Story, waged bitter warfare against the proposal to abolish the property requirement for voting. It is needless to recall many other bitter fights against progress or progressive measures, except as they might stimulate the imagination as to what progress there might have been in social and political reforms had there been a dominating desire to reform—to better rather than to uphold the selfish theory of stubborn reaction "that everything is now as it should be."

In no field is there a greater need for broad and humane consideration of the problems that confront us than in that section of the law that devotes itself to radio. The enormous future, the prospects of wonderful discoveries and developments, make this new art, industry, and science the most attractive of activities. With 27,000,000 receiving sets in existence, practically covering the homes of the country, the responsibility of the men solving its law problems is unique.

How much or how little time there is given among the radio lawyers to weighing this responsibility I would not venture to guess, but I do know that able men of high character, and leaders of what is known as the Federal Communications Commission Bar Association, have come to me to say that certain men are ruining the profession. Then they add, rather pitifully, that they can't do anything about it because no one has the courage to come forward.

The other day an attorney was found to have changed documents in the docket room concerning a case before the Commission through the weakness of a young employee. It was Joseph Choate who said that there are two kinds of lawyers—those who know the law and those who know the judge. Now, they say in Washington that the two kinds are those who know the law and those who know the docket clerk.

It is all rather pitiful; but there is hope. Hope, indeed, when out of the welter of selfishness there is courage and idealism enough to organize such a movement as yours—a truly historic event.

The reform of the legal philosophy that dominates our country today and has dominated England and America since Blackstone's time is inevitable.

I conclude with a great message that has been left to us by John Stuart Mill, one of the disciples of Bentham and one who owed much to Bentham:

"Everyone who has even crossed the threshold of political philosophy knows that on many of its questions the false view is greatly the most plausible, and a large portion of its truths are, and must always remain, to all but those who have specially studied them paradoxes; as contrary in appearance to common sense as the proposition that the earth moves round the sun. The multitude will never believe those truths until tendered to them from an authority in which they have as unlimited confidence as they have in the unanimous voice of astronomers on a question of astronomy. That they should have no such confidence at present is no discredit to them, for where are the persons who are entitled to it? But we are well satisfied that it will be given as soon as knowledge shall have made sufficient progress among the instructed classes themselves to produce something like a general agreement in their opinions on the leading points of moral and political doctrine. Even now, on those points on which the instructed classes are agreed, the uninstructed have generally adopted their opinions."

Military Control of C. C. C. Camps

EXTENSION OF REMARKS

OF

HON. LYNN J. FRAZIER

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Wednesday, May 19 (legislative day of Thursday, May 13), 1937

ARTICLE BY O. G. VILLARD IN OPPOSITION TO THE MILITARY CONTROL OF THE C. C. C. CAMPS

Mr. FRAZIER. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an article by Oswald Garrison Villard in opposition to the military control of C. C. C. camps.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Now that there is a proposal before Congress to make the C. C. C. camps a permanent institution, the question of control becomes of greater and greater importance. Most Americans feel, I think, that the C. C. C. has been one of the most satisfactory phases of the President's New Deal emergency relief measures. It has done wonders for the physique and health of those attending the camps; the practice of sending most of the pay back to those dependent upon the boys at home has meant that relief has really reached those for whom it is intended; and, finally, the work actually achieved by many of the camps is of lasting value practically all over the country.

But this fine record should not hide the fact that these camps are potentially a dangerous weapon for those to get hold of who wish further to militarize the United States or to bring about a Fascist control of this country. It would take very little, indeed, to make them comparable to the forced-labor camps of Germany. Now, so far, the civilian side of the camp administration, headed by Robert Fechner, has done most excellent work in trying to stamp the civilian character of the undertaking upon all its phases.

But, doubtless for reasons of economy at first, the subordinate officers in the camp have been either Regular or Reserve officers. It is my observation—limited, it is true, and therefore, perhaps, not conclusive—that most of the officers now connected with the camps are Reserve officers, and that the purpose of Congress to have them run by active officers who are not actually needed for duty with troops, is, therefore, no longer being lived up to as at the outset. Now, these Reserve officers are young civilians who are called to duty with troops only every other year or so. They are obviously men who have applied for active duty and full Army pay because they could not get jobs elsewhere. If it is merely a question of giving them jobs they could perfectly well be assigned to these camps in their civilian capacity and told not to wear their uniforms.

But behind them stands the War Department, which has from the first ached to get its hands on those camps. It has been proposed by some Army people that these young workers, on passing out of the camps, should be given 3 months' intensive training with rifles and then passed into the Regular Army Reserve and held in that by a regular annual retaining fee of anywhere from $12 a year up. Hence, what the situation calls for, if the C. C. C. is to be permanent, is a complete divorce of these camps from Army control. There is not a single reason why the management of the camps should be distributed among two or three departments of the Government. There is every reason why control should be vested in only one, the Department of the Interior, which is just as competent to run them as is the Army.

More than that, the reputed efforts of the War Department to control the reading matter and the educational programs of the

camps is another vital reason why the War Department should be divorced from all further relationship to the C. C. C. camps. Army officers are notoriously intolerant; they are just as ready in most cases to dictate the reading of young men as are their colleagues in other countries. The fact that the War Department has taken no action against the publication, Happy Days, since its outrageous attack upon Champion of Youth reinforces this point. It is, of course, true that Happy Days is not a Government publication, nor is it supported by any government agency. Nonetheless, it is freely circulated in the camps and therefore may seem to many to have at least the approval of the War Department officials behind its blatant nationalism, its intolerance, and its incitement to violence against the editors of Champion of Youth because its editors do not like the views of the latter publication. The trend of fascism in America is definite and dangerous. We must not let this fine C. C. C. institution be warped so that it will become a ready weapon for the hands of any dictator or group of would-be dictators in this country.

The President and the Court

EXTENSION OF REMARKS

OF

HON. H. STYLES BRIDGES

OF NEW HAMPSHIRE

IN THE SENATE OF THE UNITED STATES

Wednesday, May 19 (legislative day of Thursday, May 13), 1937

ADDRESS BY HON. ROYAL S. COPELAND, OF NEW YORK, APRIL 16, 1937

Mr. BRIDGES. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by the distinguished senior Senator from New York [Mr. COPELAND] at Hanover, N. H., on April 16 relating to the proposal to enlarge the Supreme Court.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Not since the War between the States have the American people been so stirred as they are today. President Roosevelt's proposal, regarded by its opponents as a scheme to "pack" the Court, has excited the Nation. It is regarded as an attack upon America's Magna Carta, the Constitution.

The President, eager to complete his New Deal program for social reform, more liberal labor and agricultural laws, and an almost revolutionary reorganization of government, is unwilling to accept what he regards as too slow, the constitutional method of accomplishing his purpose. He seeks to add 6 members to the Supreme Court, increasing the number from 9 to 15. He does this, he says, in order that it "may function in accord with modern necessities."

A recent writer has said, "The Supreme Court of the United States is the supremest supreme court in all the world." But it has fallen on evil days.

Several of its recent decisions were quite generally unpopular. No one can question that great disappointment and, in some quarters, bitter resentment followed the verdicts of the Court. I should not be candid if I did not acknowledge my own chagrin over the invalidation of the minimum-wage law of my State.

When one feels that something be regarded as vital to human happiness, health, and economic well-being has been destroyed it is natural to be resentful and even bitingly critical of those who might be considered the agents of that destruction. To erect a long-desired building and to have pride in its completion is one thing; to awaken some morning to find the structure in ruins is quite another. The poignancy of the loss causes the owner to overlook the facts that bad judgment in the location of the building and insufficiency of its foundations, or the defective timber in its framework were the real reasons for the disaster.

Changing the court to increase a ruler's power is a practice familiar to the students of history. This political maneuver does not necessarily take the form of adding numbers to an independent bench. Sometimes it is easier to accomplish a given end by subtracting from the membership of the court, or subtracting first and then adding.

For example, James II of England determined to gain ascendancy by enlarging the army, making it subservient to his will by appointing officers who would be governed by his doctrines. He announced that he would grant commissions regardless of the test act, a law which necessitated the taking of an oath of allegiance to English tradition, and regarded by the king as inimical to himself. The officers having been appointed, Parliament demanded the recall of the illegal commissions.

James determined to obtain from the judges what legally he could not get otherwise. To do this he remodeled the bench, dismissing four judges who refused to lend themselves to his scheme. These were replaced by complaisant substitutes. By the high-handed procedure of packing the court he accomplished his purpose.

In these days we are hearing much of "reprisals" and what will happen to Senators and Congressmen who oppose the White House. But there is really nothing new about such threats. Things were much the same in 1687; one official after another who refused to follow the King was dismissed. James was determined to have a compliant Parliament. His cry was: "I am King; I will be obeyed!" He called on the electors to choose such members as would bring to a successful end the policy he had begun.

It is comforting to know that the demands of James came to naught. In the words of John Richard Green, the Oxford historian, "The jury had been packed, the judges were mere tools of the crown, but judges and jury were alike overawed by the indignation of the people at large." In the end James was forsaken by everybody. As a result of his own acts he lost the throne.

To attempt to bend the courts to the will of one man, no matter how great or well beloved, will always be resisted by a free people. It makes no difference, either, whether the plans he has in mind are quite generally approved by the majority of citizens. In the present crisis there is no division of thought as to the importance of new laws to meet new conditions. This is my own view and, in my opinion, it is the consensus of the senatorial group of which I am a member. But it is unthinkable that unconstitutional laws should be declared constitutional by ravishing the Court.

Personally, I favor the taking of immediate steps to amend the Constitution. In saying this, however, I am not unmindful of the lamentable defects of the administration's legislation which was sent to the Congress with instructions to "sign on the dotted line." I refer not to the spirit and worthy intent of the proposals but to the loose and ill-considered form of the proposed legislation.

A few days ago, the Supreme Court unanimously upheld the Frazier-Lemke Farm Mortgage Moratorium Act of 1935. The original Frazier-Lemke Act was invalidated 2 years ago by an opinion, likewise unanimous.

In commenting upon the recent decision, Representative LEMKE, coauthor of the law, said, "I was convinced the Court would uphold the Mortgage Act the way it was written the second time. If Congress would take pains with the laws it drafts, fewer would be declared unconstitutional."

Mr. LEMKE's statement is true as gospel. No better proof is to be found than the actions of the Court in these two decisions.

I happened to be interested in the bill and followed the debate with great care. When it was before us in 1935, the able lawyers of the Senate analyzed its language and gave closest attention to formulating it within constitutional limitations. They prepared a measure of equal value to the farmers that the original act possessed and yet presented it to the Court so well prepared that it received unanimous approval. Mr. LEMKE put his finger on the sore spot. Greater care in the drafting of the welfare and economic laws would change the picture.

The break-down of the President's program is not wholly his fault, of course. The Members of the Congress have taken a solemn oath, well and faithfully to discharge the duties of the office. Surely one of these duties is to do their very best in properly shaping the legislation coming before them for consideration.

The first Frazier-Lemke farm moratorium measure is a notable example of a poorly written, carelessly prepared bill. The New York Times recently said of it: "It is pertinent now to recall that this earlier version was enacted in a great rush at the tag-end of the 1934 session of Congress; that its enactment was forced by the threat of a filibuster made by Huey Long, and that the bill was so crudely drawn that the President said of it, when he signed it, that in some respects it was 'loosely worded.' It now develops that its loose wording made it unconstitutional. It also develops that a little time and effort have been able to correct the fault."

In rendering his opinion for the Court, Justice Brandeis recited the imperfections of the original Frazier-Lemke law. These imperfections necessitated the Court through him, a great liberal, to declare it unconstitutional, which it did by unanimous vote. Congress went over the later bill carefully in its efforts to make it valid, and Justice Brandeis said the Court, "after a full and free discussion, concluded that the bill enacted was free from the objectionable features which had been fatal to the original act."

But in spite of this careful process on the part of the Congress, the Justices inquired whether the new act was perfect in phaseology in that particular section affecting the mortgagor's right to possession. Even now, Mr. Justice Brandeis said it is lacking in clarity. Let me quote: "* * * since the act is not free from doubt * * * we are justified in seeking enlightenment from reports of congressional committees and explanations given on the floor of the House and Senate by those in charge of the measure." He was convinced by this examination that regardless of lack of clarity in draftsmanship, the intent of Congress was clearly set forth in such manner as to make it constitutional. So the unanimous decision against the original act was turned into a unanimous approval of the later act.

When left to itself the Congress does study carefully all phases of a bill, particularly with reference to its constitutionality. Too much legislation during the past 4 years has been forced upon the Congress with a plea for immediate enactment, unchanged in form. It is not astonishing that such bills when enacted into law have met judicial disapproval. It would have been far more astonishing had they been endorsed by the Court.

In words that the man in the street will understand, there has been too much "passing the buck" to the Supreme Court. The Justices cannot put into a law what was not written there; they cannot take from a law those features that make it unconstitutional. They must deal with it as it is presented to the Court.

The President may honestly think that his failure to obtain his whole program is the fault of the Court. With some knowledge

of how his bills were prepared, and with considerable knowledge of how they were passed through Congress, candor compels me to say it is a matter of amazement to me that the constitutional mortality rate has not been higher.

The proposal of the President is astonishing—indeed, to me it is astounding. Let us brush aside the specious argument that the courts are overworked and their calendars are in arrears, because that charge has been definitely disproved. The bald truth reveals what many of the proponents of the President's plan have proclaimed, that his purpose is to bend the Court to his will. By this scheme of adding from one to six Justices at his pleasure he intends to reorganize the Court so that the laws already declared unconstitutional will be reconsidered and by fiat declared to be constitutional. No informed person disputes this.

When the protests against the Court decisions began to be formulated, one of the first criticisms related to the right of the Court to invalidate an act of Congress. Even in circles looked upon as authoritative, it was claimed that no power can be found in the Constitution for setting aside the will of Congress and the President. Here, for example, is the concluding paragraph of a magazine article I recently read:

"It is clear, therefore, from the records of the Convention of 1787, that the founders of the United States Government refused in the Constitutional Convention to give to the judiciary the power to set aside acts passed by the National Legislature."

This statement is anything but true. If we are to go to the bottom of the question, however, we must locate the place in the scheme of government that the fathers assigned to the Supreme Court. To determine what the Constitution means we must pry out from the records of the Convention their real intent. A century and a half having passed, how can reliable testimony as to the facts be adduced?

As I see it, the procedure must be as follows:

We must study the meager records of the Constitutional Convention, read the letters of those who participated, examine the decisions of the Court rendered while most or some of the delegates still lived, and analyze the Constitution itself.

While the Convention had been called to meet in Philadelphia on the 14th of May 1787, a quorum of States did not appear until the 25th. It was not until May 29 that consideration was given to the real purposes of the Convention. On that date Edmund Randolph, to quote the RECORD, "opened the main business." After commenting on the difficulties of the national crisis and pointing out the lamentable weaknesses of the existing Federal system, he presented a series of resolutions, the remedy proposed by Virginia, in which State the idea of the Convention originated.

The ninth of these proposals read as follows:

"That a national judiciary be established, to consist of one or more supreme tribunals, to hold their offices during good behavior, and to receive punctually at stated times fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution."

Many of Randolph's resolutions suffered disaster, but this one came through practically unscathed. Almost no debate centered about it, and what we learn of the attitude of the delegates toward the judiciary attaches to the discussions over another of the Virginia resolutions, no. 8, proposing a "council of revision."

This reads as follows:

"That the Executive and a convenient number of the national judiciary ought to compose a council of revision, with authority to examine every act of the National Legislature before it shall operate, and every act of a particular legislature before a negative thereon shall be final; and that the dissent of the said council shall amount to a rejection, unless the act of the National Legislature be again passed, or that of a particular legislature be again negatived by ——— of the members of each branch."

This plan for what might be called "advisory opinions" by the Supreme Court did not meet with favor. But it did come in for much discussion and repeated debates.

What I wish to point out now is this interesting fact: From the very opening of the Convention, the delegates appear to have accepted the idea of one supreme and all-powerful judicial body, to be the expositor of the laws, and absolutely independent of the other branches of Government. As I shall indicate, it was the deliberate intent of the founders to confer on the judiciary an efficient and complete check upon the executive and the legislative. In the words of Oliver Ellsworth, later Chief Justice, in the Connecticut Convention, January 7, 1788: "This Constitution defines the extent of the power of the General Government. If the general legislature should at any time overleap their limits, the judicial department is a constitutional check. If the United States go beyond their powers, if they make a law which the Constitution does not authorize, it is void; and the judicial power, the national judges, who to secure their impartiality are to be made independent, will declare it to be void."

On the sixth working day of the Convention, we find the first reference to what was to be expected of the Supreme Court. Discussing the proposal for a council of revision, Mr. Eibridge Gerry, of Massachusetts, expressed his doubts as to "whether the judiciary ought to form a part of it, as they will have a sufficient check against encroachments on their own department by their exposition of the laws, which involved a power of deciding on their constitutionality. In some States the judges had (actually) set aside laws as being against the Constitution. This was done, too, with general approbation. It was quite foreign from the nature of their office to make them judges of the policy of public measures."

Mr. King, in seconding the motion of Mr. Gerry to postpone action on the council of revision, said, "The Judges ought to be able to expound the law as it should come before them, free from the bias of having participated in its formation." In passing, may I say this is a very interesting observation because it is an early indication that the judiciary was expected to deal with nothing except the facts of the case as they are presented to the Court.

Madison, according to the notes of Mr. Pierce, made on June 4, in a very able and ingenious speech, "was of the opinion that joining the Judge with the supreme Executive Magistrate would be strictly proper and would by no means interfere with that independence so much to be approved and distinguished in the several departments."

But Pierce continued, "Mr. Dickinson could not agree with gentlemen in blending the national judicial with the Executive because the one is the expounder and the other the executor of the laws."

"Mr. King was of opinion that the judicial ought not to join in the negative of a law (in the council of revision), because the Judges will have the expounding of those laws when they come before them; and they will no doubt stop the operation of such as shall appear repugnant to the Constitution."

Late in July 1787 Mr. Madison was still pressing for favorable action on the proposal for a council of revision. He wanted every possible check against "pursuit of those unwise and unjust measures which constituted so great a portion of our calamities."

He feared that the legislative branch would be an "overmatch" for the other branches. What would he think now if he could witness an effort on the part of executive and legislative to combine against the judiciary to make the Court subservient?

Madison continued: "Experience in all the States had evinced a powerful tendency in the Legislature to absorb all power into its vortex. This was the real source of danger to the American Constitution."

Gerry rushed into the fray, expressing amazement that "this point which had undergone full discussion should be again revived." He protested against "establishing an improper coalition between the executive and judiciary departments. It was making statesmen of the judges. It was making the expositors of the laws the legislators, which ought never to be done."

The overwhelming majority of the Convention desired that the judiciary be left free and independent. They believed that the exposition and interpretation of the laws should be the exclusive function of the Court.

Rather dryly, Mr. Gerry suggested that instead of a council of revision "a better expedient for correcting the laws would be to appoint, as had been done in Pennsylvania, a person or persons of proper skill to draw bills for the legislature." I have heard it hinted on all sides that better-drawn bills for carrying out the social and agricultural measures of the present administration might have met a different fate in the courts. There can be no doubt that Mr. Gerry's ideas expressed in 1787 would have saved many heartaches if they had been applied a century and a half later. It is clearly not the fault of the courts if loosely drawn and hastily passed legislation fails to conform to constitutional standards. I do not absolve the Congress—it was not necessary to sign on the dotted line, but having done so, it must share with the Executive the blame for the present situation.

The trial of the famous case, Marbury against Madison, marked a dramatic end of the attempts at political control of the Supreme Court. Likewise it will stand out forever, we hope, as the final expression of what powers the founding fathers conferred on the Supreme Court.

In every generation there is a man who stands out as the expounder of the Constitution. Fortunately for us we have such a man. I refer to Senator WILLIAM E. BORAH. You may not agree with his political philosophy, you may dispute his position on current legislation, but when it comes to deep insight into the origin, meaning, and application of the Constitution to present-day needs, this great Senator stands above most others.

I want you to hear what the Idaho Senator said about John Marshall and the effect of the Marbury case. This statement completes the testimony as to the nature of the functions assigned to the Supreme Court:

"I understand perfectly that whenever the Court renders a decision of great moment, holding that a statute is in conflict with the Constitution and therefore void, John Marshall is again summoned to the bar of public opinion and denounced as a usurper. That has been going on for over a hundred years. No greater myth was ever paraded before an intelligent people.

"It is an indisputable historic fact that, at the time John Marshall wrote the opinion in Marbury against Madison, announcing the doctrine that a statute in conflict with the Constitution must be held void, this doctrine was well established, and had been for years, in our system of jurisprudence. Years before John Marshall was born it was a settled doctrine in the Colonies that any legislative act of a Colonial legislature must be held void if in conflict with the charter of fundamental law of the Colony. It was a doctrine which grew up with our constitutional history. It was a doctrine which grew up with American law. Over 500 acts of Colonial legislatures were held void under this principle.

"The truth is that the only thing original, or new, in the opinion of Marbury against Madison was the remorseless logic and consummate genius with which Marshall stated the doctrine.

"I must not burden this article with long quotations, but may I say Marshall was a Federalist and Chief Justice Taney was a Jacksonian Democrat; but they were in absolute accord on this question. Taney's place in history has suffered by reason of the Dred Scott decision. Nevertheless, in power of intellect, in moral courage, in legal erudition, he must be placed next to Chief Justice Marshall. Fifty years after Marshall's opinion, without any reference to Marshall's opinion or to any precedents, but relying on the terms of the Constitution, and in one of the great opinions of the Court, he said:

" 'By the very terms of the grant the Constitution is under their (the Court's) view when any act of Congress is brought before them, and it is their duty to declare it void and refuse to execute it if it is not pursuant to the legislative powers conferred upon Congress.'

"But, aside from the precedents preceding the opinion of Chief Justice Marshall, had the Court refused or rejected the power to hold a statute in contradiction to the Constitution void, that would have been in direct violation of the plain terms of the Constitution making the Constitution the supreme law of the land, and that would have been the end of a government under a written constitution. If an act of Congress is equal in force and dignity to the Constitution, then the Constitution is not supreme, whereas, if it is supreme, then it is the simple duty of the Court so to declare when a citizen calls upon the Court to determine whether the Constitution or the statute is to prevail.

"But the real point is not whether Marshall usurped this power; but did anyone usurp this power? Does the Constitution give power to the Court to declare a law void when in contravention to the Constitution?

"This does not seem to me to require any learned argument. The Court cannot of its own initiative declare a law unconstitutional. The Court is powerless to act until the citizen approaches it and says:

" 'By reason of certain laws passed by Congress, I have been injured, I have been imprisoned, I have had my property taken from me, I have been denied the right to assemble with my neighbors and discuss public questions. Laws passed by Congress deprive me of rights guaranteed to me by the Constitution. I ask the Court to protect my rights under the Constitution. These statutes so gravely affecting my interests seem to me to violate the plain terms of the Constitution. What I want to know is, Am I bound by the statutes, or am I protected by the Constitution? I find, according to the Constitution, that this Constitution and the laws of the United States made in pursuance thereof, shall be the supreme law of the land. I contend that these statutes of which I complain were not made in pursuance of the Constitution. I find also that the judicial power extends to all cases in law and equity arising under the Constitution. I am asking for relief, and I invoke the judicial power granted under the Constitution. I want to know why I am made to suffer by an act of Congress which is in violation of the supreme law. This is a legal question which I am presenting to you.'

"Under the circumstances, what must the Court do? If it refuses to act, it violates its supreme duty. If it does act, it has no choice but to uphold the law that is the supreme law.

"If the most unlearned and unskilled person in the land should appear before the Court with such an issue and the most skillful lawyer in the country should appear on the other side, the Court would put aside, as it has often done, the learned arguments and declare that it was bound by the simple terms of the Constitution. I venture to think there is not a person in the United States, Socialist, Communist, Anarchist, or what not, but would, if he were denied any constitutional right under some law passed by a State legislature or by the Congress, at once appeal to the courts to declare such law void.

"It may be well to remember that this denial of the power of the Court to declare a statute unconstitutional was born of partisan politics. It has never been seriously urged except in heated party conflicts in which the Court refused to bend its opinions to conform to partisan demands. Let us place this doctrine of impotency upon the part of the Court where it belongs, and that is with blind partisanship. When you destroy the Court's power, you pull down the pillars of the temple.

"I do not mean to say the decisions of the Court are above criticism or that the people should not be entirely free to express their views touching the decisions of the Court. But I do mean to say that without the power of the Court to declare acts of Congress in contravention to the Constitution void, the Constitution as the supreme law of the land disappears, and we pass from a constitutional government to a parliamentary government or a dictatorial government, and every right, every privilege, every guaranty of personal liberty which the people have written into the Constitution become the playthings of politics, and the Court the cowed slaves of partisan dictation.

"The Supreme Court is not a divine institution, and its members are not always wholly exempt from the influence of politics. But, in my opinion, it is the most nearly perfect human institution yet devised by the wit of man for the dispensation of justice and for the preservation of liberty as defined by the people themselves in the charter under which they have declared their desire to live."

GENERAL WELFARE

In his June 9 radio speech, the President alleges the Supreme Court's neglect of what he calls "the welfare clause." His version of the constitutional power of the Congress is that it "may levy taxes * * * and provide for the common defense and the general welfare of the United States." Let me quote his exact language:

"I hope that you have reread the Constitution of the United States. Like the Bible, it ought to be read again and again.

"It is an easy document to understand when you remember that it was called into being because the Articles of Confederation under which the original 13 States tried to operate after the Revolution showed the need of a national government with power enough to handle national problems. In its preamble the Constitution states that it was intended to form a more perfect Union and promote the general welfare; and the powers given to the Congress to carry out those purposes can be best described by saying that they were all the powers needed to meet each and every problem which then had a national character and which could not be met by merely local action.

"But the framers went further. Having in mind that in succeeding generations many other problems then undreamed of would become national problems, they gave to the Congress the ample broad powers 'to levy taxes * * * and provide for the common defense and general welfare of the United States.'

"That, my friends, is what I honestly believe to have been the clear and underlying purpose of the patriots who wrote a Federal Constitution to create a national government with national power, intended as they said, 'to form a more perfect union * * * for ourselves and our posterity.' "

The most charitable comment on his idea of the welfare clause is that the President is utterly mistaken in his conception or memory of the language. The power in the Congress that he would have his listeners believe really exists is not to be found in the Constitution. What that instrument actually says is this:

"The Congress shall have power to levy and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States."

Let us examine briefly the reasons for the inclusion in the Constitution of this particular clause and attempt to set forth its exact meaning. To this end we turn to the Journal of the Convention, August 21. I quote:

"Governor Livingston, from the Committee of Eleven, to whom was referred the propositions respecting the debts of the several States, and also the militia, entered on the 18th instant, delivered the following report:

" 'The Legislature of the United States shall have power to fulfill the engagements which have been entered into by Congress, and to discharge as well the debts of the United States and the debts incurred by the several States during the late war, for the common defense and general welfare.' "

The origin of this proposal lies in the eighth of the articles of Confederation. There we find that "all charges of war and all other expenses that shall be incurred for the common defense and general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common Treasury."

It must be admitted that many persons less informed than we assume the President is, have distorted the meaning of this clause. It is a discussion which goes back to the lifetime of the framers of the Constitution. In a letter to James Madison, in 1830, Andrew Stevenson said that the terms "common defense" and "general welfare" were still regarded by some as conveying to Congress a substantive and indefinite power.

In reply, under date of November 17, 1830, Mr. Madison wrote at length. I commend to all who are interested in the welfare clause to read this letter carefully. After tracing the origin and history of the clause, as well as its course through the Convention, Madison said:

"If it be asked why the terms 'common defense' and 'general welfare', if not meant to convey the comprehensive power, which taken literally they express, were not qualified and explained by some reference to the particular powers subjoined, the answer is at hand, that although it might easily have been done, yet the omission is accounted for by an inattention to the phraseology, occasioned, doubtless, by its identity with the harmless character attached to it in the instrument from which it was borrowed."

In the writings of Madison is a memorandum relating to the letter I have just mentioned. I find this:

"* * * it was not the intention of the general or of the State conventions to express by the use of the terms 'common defense' and 'general welfare', a substantive and indefinite power; or to imply that the general terms were not to be explained and limited by the specified power, succeeding, in like manner as they were explained and limited in the former Articles of Confederation from which the terms were taken."

In short, there is no foundation for the fear expressed by Richard Henry Lee in letters to Samuel Adams and the Governor of Virginia in 1787, that this clause would permit the "submission to Congress of every object of human legislation." Yet the President in the speech I have mentioned, implied that it might be so used and that he wants a Court which is "willing to enforce the Constitution as written." But there is no comfort to be derived from the general-welfare clause; this is conceded by all the authorities to contain no provision of power to enact any legislation whatever.

It is a limitation upon the taxing power of the United States, and that only.

Let me refer to the decision in the Dartmouth College case. More than a century ago, Chief Justice Marshall noted his discomfiture because he must nullify the acts of the New Hampshire Legislature. These words bring home to us the distress of the present Justices of the Supreme Court. They can well say with Marshall:

"In pronouncing this judgment, it has not for one moment escaped me how delicate, difficult, and ungracious is the task devolved upon us. The predicament in which this Court stands in relation to the Nation at large, is full of perplexities and embarrassments. It is called upon to decide on causes between citizens of different States, between a State and its citizens, and between different States. It stands, therefore, in the midst of jealousies and rivalries of conflicting parties, with the most momentous interests confided to its care. Under such circumstances it never can have a motive to do more than its duty; and I trust it will always be found to possess firmness anough to do that. * * * It is not for Judges to listen to the voice of persuasive eloquence, or popular appeal. We have nothing to do but to pronounce the law as we find it; and having done this, our justification must be left to the impartial judgment of our country."

It is in this spirit we desire to have the Court render its decisions. It must not be moved by the solicitations of friends or the threats of foes. It must be free from approach and above all political influence. So long as it remains the free and independent body the fathers intended it to be, human rights and property rights are safe in the United States.

The President's proposal is of the gravest concern to the rank and file of Americans who enjoy the blessings of freedom from tyranny under our form of government. The rich and powerful have usually found ways and means to protect themselves under any form of government. By the passage of the pending measure, it is the mass of common people in the United States who will suffer, and it will be a mistake which cannot be corrected by Congressional action. The new Justices who will undertake to alter the Constitution by judicial interpretation will take office for life, and Congress could not remove them. It will be powerless to undo the mischief.

The purpose of the proposed law is to make the Supreme Court responsive to the will of Congress. If the present Congress can override the Supreme Court, subsequent Congresses will not permit their purposes to be thwarted. Whether the Justices should continue to be subservient to the will of Congress or should periodically attempt to assert their independence, the Supreme Court would no longer afford protection against unconstitutional laws.

That is not the kind of Government our forefathers established. They had had bitter experience with judges under the domination of the King and the British Parliament. In the Declaration of Independence they set forth to a "candid world", so that future generations might read and profit therefrom, that one of the grave complaints against the King of England was his making judges "dependent upon his will alone for the tenure of their offices and the amount and payment of their salaries."

When the delegates to the Constitutional Convention drafted our charter of liberty they thought they had eliminated this form of tyranny in America for all time to come. They planned to put it beyond the power of the President or Congress, or both, either to oust the judges or to bring pressure to bear upon them in the form of salary reductions. The absolute independence of the judiciary was their aim. They were chartering a new government of human liberties and placing in the courts of the land the sacred duty of enforcing respect for such liberties. They sought to make certain that the fundamental rights of American citizens might not be trampled underfoot by tyrannical officials or intolerant majorities.

Throughout its history the Supreme Court has independently and fearlessly discharged this duty. The Court's aloofness from partisan politics and popular clamor has heretofore been considered its crowning virtue—a virtue essential to the impartial interpretation and application of constitutional restrictions. And the wisdom of our forefathers has been amply demonstrated. Almost every fundamental liberty guaranteed by the Bill of Rights has been violated at one time or another by a law of Congress or of some State legislature. The Supreme Court in the performance of its duty has had to extend protection against the enforcement of such laws. The right to labor in the profession of one's calling, the right not to be tried for a capital crime except upon indictment by a grand jury, the right of trial by jury, the right to be secure in one's person and papers, the right not to be twice put in jeopardy for the same offense, freedom from ex post facto laws and bills of attainder, and the right of every person not to be forced to testify against himself—each of these guaranties has on various occasions been violated by an act of Congress.

At the close of the Civil War the State of Missouri attempted to deprive ministers of the right to exercise their divine calling unless they should first take an oath to the effect that they had not aided or even sympathized with the Confederate cause; a Roman Catholic priest who had not taken the oath was convicted and thrown into jail for the high crime of preaching the gospel in a land boasting of its religious freedom. In those days of passion and prejudice only an independent tribunal of the integrity and character of the Supreme Court could have reached out its protecting arm as the Court did when in the case of *Cummings* v. *Missouri* (4 Wall. 277), it declared the law unconstitutional.

In that terrible era, Congress reflected popular sentiment and was itself busily engaged in passing laws establishing military commissions and divesting southerners of their civil and political rights—laws which were also declared unconstitutional by the Supreme Court. And it was only recently that the Court, through Justice Brandeis, had to extend protection to the dependents of a disabled veteran because Congress had attempted by the Economy Act to forfeit the proceeds of term insurance which the Government had solemnly agreed to pay. If the highest Court of the land is to be packed so that all measures enacted in law will be given the stamp of approval, to whom can the people turn for protection when their liberties are invaded by an act of Congress?

Let no one be deceived by breast beating and protestations of worthy motives. If we establish the precedent of packing the Court for the purpose of bending it to the will of the President and Congress, it will mean the end of constitutional government. If at any time hereafter the Supreme Court should attempt to reassert its constitutional power as the guardian of the people's liberties, it will only be necessary for a strong President with a majority in Congress to increase the number of the Justices for the purpose of nullifying the decision and putting into effect any measure the President and Congress should desire. In such cases it could not be alleged that such a procedure is not in keeping with our institutions, because the precedent would have been established. The frantic attempt of the partisans of the President's proposal to construe previous changes in the membership of the Court as attempts to pack the Court shows the importance that would be attached to any frank and outright precedent. No longer would the Constitution be a haven of refuge for the oppressed. It would be a resilient and unstable document, the meaning of which would depend entirely upon the complexion of Congress.

With a majority in Congress, all three branches of Government could be brought under the dominance of the Executive power. It is asserted on behalf of the President that he has no intention of establishing a dictatorship, and this may be accepted as a correct statement of the President's attitude. But he has resorted to means which the Father of his Country has characterized as the customary weapon by which free governments are destroyed. A man may have no intention of committing burglary, but if he is found with a burglar's tools he cannot complain if he himself is brought under suspicion. The President does not help to allay the suspicion of dictatorship when he refers to a "three-horse team" which he would make pull together, giving us to understand that he would crack the whip over all three branches of Government.

This issue is too grave to be placed on the basis of party loyalty. Many of those who whole-heartedly sympathize with the President's objectives, are opposed to the method which he would employ—a method that has been condemned by every statesman and student of government who has heretofore ever expressed an opinion on the subject. No matter how meritorious the legislation to be enacted, the price is too great to pay for the sake of speed under the lash of a fancied or real emergency. The proposal strikes at the very vitals of our form of constitutional government. Those of us who would guard our institutions from this fatal thrust, are actuated only by a desire to preserve for our posterity the basis of constitutional freedom which we and our forebears have enjoyed for 150 years.